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PROCEEDINGS AND DEBATES OF THE 102^d CONGRESS, SECOND SESSION

SENATE—*Thursday, March 5, 1992*

(Legislative day of Thursday, January 30, 1992)

The Senate met at 10:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. The prayer will be led by the Senate Chaplain, the Reverend Dr. Richard C. Halverson.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

* * * *the love of money is the root of all evil* * * *.—I Timothy 6:10.

Eternal God, perfect in truth, justice and righteousness, this is a hard saying by the Apostle Paul, but its reality is being confirmed in our time. We have watched greed infect our culture, ravage the financial world and threaten the economy. The destructiveness of this evil is immeasurable, and we desperately need healing and a change of priorities.

Jesus said, "No man can serve two masters: for either he will hate the one, and love the other; or else he will hold to the one, and despise the other. Ye cannot serve God and mammon."—Matthew 6:24. How easily we worship mammon, the Semitic word for money, rather than God. How easily money replaces God in our lives and reminds us that the bottom crisis is spiritual, the deepest need is a return to God and transcendent reality.

Patient Father in Heaven, help us comprehend this truth and grant to us the grace to repent of our secular preoccupation with materialism and turn to the living God for restoration and renewal.

In the name of Jesus, the Great Physician. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

Mr. MITCHELL. Mr. President, am I correct in my understanding that the Journal of the proceedings has been approved to date?

The PRESIDENT pro tempore. The Senator is correct.

SCHEDULE

Mr. MITCHELL. Mr. President, there will be a period for morning business until 11:30 a.m., during which Senators will be permitted to speak.

At 11:30, the Senate will return to the consideration of the conference report on the Omnibus Crime Control Act. We began discussion of that matter yesterday. I am deeply disappointed that our Republican colleagues have decided to engage in a filibuster to prevent the Senate from voting on that important crime control legislation.

There has been a lot of political rhetoric about the need to act on crime. The conference report is the result of a bill that has been approved in both the House and Senate. The report itself, the joining of those two bills, was approved by the House, and all that remains to send that bill to the President is for the Senate to approve it.

Were the Senate to do so, as I hope it will, police officers would receive a great deal of assistance. Law enforcement agencies all across the country would be strengthened. Americans would feel more secure against the threat of violence in their daily lives.

I regret very much that our Republican colleagues, as they did last year, have resorted to the tactic of the filibuster to even prevent the Senate from voting on this important measure.

We will continue today. It is my hope that our colleagues will reverse their position, once they understand the importance of action on crime control legislation and at least permit the Senate to vote. If they choose to vote against the crime control legislation, that is, of course, the privilege of any Senator.

But I think it is unfortunate that a bill, which could be on the President's desk tomorrow, the President could sign it and help reduce crime in our society, assist law enforcement agencies, help police in the difficult dangerous tasks they undertake, is being quartered by a minority of Senators. It is clear that a majority of the Senate favors this bill. A minority is preventing the Senate from even voting on the measure, which I think is most unfortunate, given the importance of the matter and all of the political rhetoric on the subject.

Mr. President, we will just continue, and at some point, if our colleagues persist in the filibuster, we will have to try to get the votes to terminate that filibuster and proceed to approve the measure.

We will be back on that at 11:30, and I understand that our colleagues will be present to debate, as I have advised the Republican leader. Obviously, our colleagues have a right under the rules to engage in a filibuster. But if no Senator is present for debate, the question will be put, and our colleagues are on notice of that fact. So they will be required to be present and debate the subject.

RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I reserve the remainder of my leader time, and I reserve all of the leader time of the distinguished Republican leader.

The PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the order, there will now be a period for the transaction of morning business with Senators permitted to speak therein for not to exceed 5 minutes each.

Also under the order, the following Senators are to be recognized: the Senator from Iowa [Mr. GRASSLEY] is recognized for 20 minutes; the Senator from Mississippi [Mr. LOTT] is to be recognized for up to 20 minutes; the Senator from Michigan [Mr. LEVIN] is to be recognized for up to 10 minutes;

• This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

and the Senator from Wyoming [Mr. SIMPSON] will be recognized for up to 5 minutes.

Does the Senator from Iowa seek recognition now that he might take advantage of this order?

PRIVILEGE OF THE FLOOR

Mr. GRASSLEY. Mr. President, I do. I ask unanimous consent that a legislative fellow by the name of Neil Hardman who worked on this subject with me be permitted to be on the floor during my remarks.

The PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

WASTE IN THE MEDICARE PROGRAM

Mr. GRASSLEY. Mr. President, I rise today to call attention to a specific example of the continuing problem that we have in combating waste, fraud, and abuse, which occurs across the spectrum of Federal Government programs.

Mr. President, this waste of taxpayers' much-needed money is both widespread and egregious and, of course, it must come to an end, one program at a time. It is a little bit like, how do you eat 10,000 marshmallows? Obviously, you eat them one at a time.

Today, I would like to focus on one of these programs: on the vast waste in the Medicare Payment Safeguard Program, and it is the focus of a GAO report released February 21 of this year.

I have been concerned about waste in the Medicare Program for obvious reasons, and the GAO Report No. 92-52 entitled "Medicare: Over $1 Billion Should Be Recovered From Primary Health Insurers," does an excellent job of pinpointing serious waste which is occurring and occurring right this very minute.

Mr. President, I ask that a copy of that GAO Report No. 92-52 be printed in the RECORD at the the end of my comments.

The PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GRASSLEY. Before I get into that report, I want to take a moment to thank Senator BENTSEN, the distinguished chairman of the Finance Committee, and Senator PACKWOOD, the ranking member of that committee, for requesting this excellent report.

I look forward to working with these Senators and the rest of the Finance Committee members on a just solution to a very serious problem of not recovering money owed to the Federal Government.

GAO has reported on this problem in the past and later I will talk about some of their previous findings. However their current report very succinctly states the size and scope of the problem and points out the obvious solution.

Mr. President, in order to have a better appreciation for the report's findings, first let me take a moment to explain Medicare payment safeguards and how they work; second, I want to talk about how and why the waste is occurring; and third, I want to talk about the legislation which I will soon introduce to address the problem.

As a matter of routine business, Medicare contractors perform payment safeguard activities which are designed to identify and recover trust fund dollars that are inappropriately paid out on Medicare claims.

These mistakes stem from paying claims where private insurers have primary responsibility, clerical errors, and paying claims which are not authorized. Of course, these safeguards are also designed to root out fraudulent and abusive claims submitted by unscrupulous providers.

Contractor payment safeguard efforts are very much an integral part of normal claims processing and comprise three activities:

First, reviewing all Medicare claims to determine whether the services furnished were medically necessary and appropriate;

Second, auditing cost reports submitted by providers such as home health care agencies and hospitals providing outpatient services, that are reimbursed on a cost basis; and

Third, assuring that Medicare pays beneficiaries' claims only after other responsible insurers have paid what they owe. This is known as the Medicare Secondary Payer Program [MSP], enacted in 1980. The current GAO report focuses on waste in the Medicare Secondary Payer Program.

Mr. President, herein lies the problem that I am addressing this morning. Safeguard funds have been cut from about $358 million in 1989 to about $335 million for 1992. Now, if funding had kept pace with the 11-percent growth in the Medicare Program, the safeguard budget would be $500 million instead of $335 million.

Because safeguard activities are extremely cost effective—returning a high of $30 for every $1 spent in the Medicare Secondary Payer Program to an average of $11 for every $1 spent on combined activities—these cuts have had a profound and compounded effect on program savings.

Mr. President, I want to emphasize I am not talking about spending more money just for the sake of spending more money. I am talking about $1 of taxpayers' money being spent that can return $30 of money that is otherwise being lost to the Federal Treasury.

In fact, GAO found that Medicare contractors have backlogs of claims mistakenly paid totalling over $1 billion. This is $1 billion that should be in the Federal Treasury. In addition to the confirmed backlogs, contractors had reported over 1.1 million beneficiaries who had other insurance.

GAO estimates that when these additional 1.1 million claims are researched an additional $1 billion could be owed to the Medicare trust fund by primary insurers.

Mr. President, this means that over $2 billion owed to Medicare may never be collected because contractors lack adequate resources to recover this money.

A further irony in this situation is that Congress in 1989 strengthened the Health Care Financing Administration's [HCFA's] ability to identify beneficiaries who have other insurance by authorizing data matches between the IRS and Medicare records. Congress did so anticipating additional Medicare savings of $1.6 billion over the next 3 fiscal years.

Unfortunately, at the same time, contractors began sustaining significant budget cuts which will in many instances prevent them from following up on these new leads, as well as leads from other sources.

GAO concludes that this data match could add several million more claims to the existing backlog of mistaken Medicare payments. Mr. President, this could mean that billions of additional dollars are potentially owed to Medicare and given the resource limitations, contractors have little hope of ever recovering this money.

Mr. President, the fiscal year 1992 HHS budget simply will not permit contractors to significantly reduce these backlogs. This budget of $334 million is below fiscal year 1989 levels when claims volume was 27-percent less and it is 22-percent less than what the contractors requested.

In fact, fiscal year 1992 budget cuts have forced contractors to reduce their staffing levels by over 1,000 full-time positions. Of the 451 positions lost in the Medicare part A area, 41 percent were in provider audit units, an important payment safeguard area.

Of the 698 positions lost in the Medicare part B area, 30 percent were in medical utilization and review and Medicare secondary payer units. These forced reductions cannot help but limit efforts to recover money owed to Medicare and of course that is not even the whole story.

The fact is, these are highly trained and knowledgeable people who are being terminated—people who are not so easy to replace. Provider auditors take up to 2 years to train before they are able to begin returning money to the Medicare Program.

Worse yet, it is a well known fact that when these highly trained payment safeguard folks are let go by contractors, they jump the fence and they earn more money by advising hospitals and other providers on how to maximize their reimbursements from the taxpayers or more directly from the Medicare trust fund.

They even take out ads in provider trade journals to publicize their unique skills in this area to help get more of the taxpayers' money. They are so confident, Mr. President, of their ability to increase reimbursements to providers that in many cases they work on a commission basis.

This serious situation cannot be allowed to stand. Contractors must be given more stability to help them carry out their responsibilities more effectively.

This is a penny-wise and pound-foolish budget policy which is costing the taxpayers billions of dollars. With rates of return as high as $30 to $1 it just does not make sense to not fund Medicare payment safeguards.

Furthermore, untold dollars owed to Medicare may be lost because of an HHS regulation which limits the time a contractor has to initiate recovery of a mistaken claim after it identifies the primary insurer. The regulation limits recovery to between 15 and 27 months depending on when the mistaken claim is identified.

Mr. President, I plan to ask the Health Care Financing Administration [HCFA] if trust fund dollars have been lost or are expected to be lost because of this regulation. Here and now I would simply ask HCFA to reexamine the wisdom of a regulation which holds such potentially dire consequences for the taxpayers money.

Mr. President, just to insure an understanding of exactly how budget cuts translate into the waste that is occurring in the Medicare Secondary Payer Program, I would like to cite some specific examples from a previous GAO report.

GAO's findings are based on Medicare contractor field studies—and their findings are very disconcerting.

One contractor had over a 3,000-case backlog where Medicare mistakenly paid about $8.8 million for services to beneficiaries who had private insurance. Because of staffing constraints, the contractor was able to do little to recover the payments.

For one beneficiary alone, GAO identified 153 claims totaling $42,000 which were most likely the responsibility of a private insurer. Again, staffing constraints hampered recovery.

Because of budget cutbacks, HCFA raised the threshold for claims development for a Florida carrier from $50 to $250. This meant that any claim less than $250 was automatically paid without even trying to determine if the beneficiary had private insurance. Claims totaling $34 million were automatically paid while the HCFA directive was in effect. One can only imagine the losses which may have occurred here.

The examples of GAO's findings are too numerous to mention although I believe that those I cited demonstrate effectively why billions of dollars are being wasted each and every year.

As a result of their field audits, GAO recommends strengthening management and fully funding safeguard activities to prevent these substantial losses to the trust funds. The HHS Inspector General has also called attention to this dilemma and has recommended that funding levels and management initiatives be increased.

How in the world can we justify to the American people siphoning off dollars from an activity that produces such a tremendous return on investment? Especially in this case, when it amounts to throwing away the taxpayers' hard earned dollar. It simply cannot be justified because it is just flat out irresponsible.

At least Congress had the wisdom to exempt IRS enforcement activities from any cuts stipulated by the budget agreement. With regard to the Veterans' Administration, a self-sustaining revolving fund was created to identify and recover third party payments similar to those owed in the Medicare Secondary Payer Program.

However, as big as it is and with so much money at stake, Medicare safeguard activities have been left out in the cold in terms of sustained funding, never mind being compensated for growth due to inflation and more importantly, the substantial annual growth in claims workload.

Mr. President, this simply cannot be allowed to continue, especially when you consider the consequences for what has been happening since the cuts began.

I think it is clear that we must correct this funding-related anomaly which results in a waste of the taxpayers' money.

It is also clear that the Health Care Financing Administration needs to take a more hands-on approach in implementing new and effective management controls to seriously reduce the number of claims payment errors.

That is to say, HCFA, and the contractors need to do their level best to end this "pay and chase" scenario by achieving better payment accuracy. The taxpayers money would be much better spent in other areas instead of being used to chase after mistakes.

However, until that day comes—and believe me it must come—we must provide the necessary funding to recover these huge sums of money. It is simply inconceivable to continue our present policy of allowing this waste to continue.

In addition, HCFA and the contractors need to collaborate to design a better management information system to track and report on the status of claims errors. Currently contractors accumulate and report to HCFA monthly data regarding program savings realized under certain provisions. These monthly reports include cost avoided and cost recovered savings, however they do not include data on inventories of claims errors which have been identified but not recovered.

HCFA must begin to collect this information immediately so as to have a better accounting of funds outstanding at any given time.

Quite frankly Mr. President, I wonder about the sum of money outstanding over the past several years which has not, and may never be, identified.

HCFA and the Medicare contractors must first work hard to obtain an accurate accounting of outstanding Medicare trust fund dollars and begin recovery efforts. Then they must work even harder to curtail payment errors in the future.

Mr. President, I have studied this problem carefully and, in the interest of progress, I have talked with the administration, GAO, Medicare contractors, the Congressional Budget Office, and several committees.

As a result of these discussions, I hope to be back on the floor very soon to introduce a bill which will provide a mechanism to effectively address the substantial waste and payment errors which occur annually in the Medicare Program.

It is essential that we recover the large sums of money owed to the Medicare Program and that we take the necessary steps to end the practice of pay and chase in the Medicare Secondary Payer Program.

In this age of information it just does not seem reasonable for Medicare to blindly pay a claim and maybe or maybe not find out that the individual has private health insurance and maybe or maybe not be able to recover the money if he does.

Personally, I am interested in exploring the idea of a third-party liability clearing house whereby the Secretary would establish and maintain a database on Medicare beneficiaries who also have private group health coverage either through their employment or that of a spouse.

This information could be reported to HHS on a regular basis by employers, insurers, States and Federal entities. With this database knowledge Medicare could deny claims where private insurers have primary responsibility instead of mistakenly paying them and hoping they catch and recover the error.

It stands to reason that the more the management side of this equation is improved, such as with a clearing house to reduce payment errors, the less we will have to spend in future years on recovery efforts. And that, Mr. President, should make everyone happy, especially this Senator from Iowa.

Mr. President, for all of the reasons I have cited, I would encourage my colleagues to read GAO Report No. 92-52

and urge them to support my forthcoming bill so that we may help to preserve and protect the Medicare trust funds in an effective, efficient manner.

I yield the floor.

EXHIBIT 1

[U.S. General Accounting Office]

MEDICARE: OVER $1 BILLION SHOULD BE RECOVERED FROM PRIMARY HEALTH INSURERS

(Report to the Committee on Finance, U.S. Senate, February 1991)

GENERAL ACCOUNTING OFFICE,
HUMAN RESOURCES DIVISION,
Washington, DC, February 21, 1991.

B-241122.

Hon. LLOYD BENTSEN,
Chairman, Committee on Finance, U.S. Senate.
Hon. BOB PACKWOOD,
Ranking Minority Member, Committee on Finance, U.S. Senate.

In this report, we respond to your request that we review Medicare contractors' efforts to administer provisions of the Medicare secondary payer (MSP) program. These provisions are intended to make certain that insurers whose coverage is primary pay claims before Medicare. Contractors are responsible for (1) making certain that health providers identify and bill primary insurers, thereby preventing mistaken Medicare payments, and (2) identifying and recovering mistaken payments made before contractors confirmed a beneficiary had other insurance.

We previously reported that contractors were ineffective in identifying primary insurers and avoiding mistaken Medicare payments. We, therefore, recommended actions to improve identification of primary insurers.[1] In this report, we identify contractors' backlogs of mistaken payments and review the effect of recent budget reductions on contractors' efforts, after confirming that beneficiaries have other insurance, to recover these payments from primary insurers.

We did our work relating to budget cuts at three carriers—in Arizona, California, and Nevada—that pay Medicare part B claims for physician, outpatient, laboratory, and certain other medical and health services. At two of these carriers, we determined the extent to which Medicare carriers were recovering mistaken payments by taking random samples of beneficiaries with other insurance.

After we completed our field work at the three carriers, the Health Care Financing Administration (HCFA) surveyed Medicare contractors to determine MSP backlogs. We have included the survey results—which provide nationwide information on unrecovered mistaken payments owed to Medicare—in this report. (See app. I for a more detailed discussion of our objectives, scope, and methodology.)

RESULTS IN BRIEF

Many Medicare contractors have significant backlogs of mistaken payments for Medicare beneficiaries that are unrecovered from primary health insurers. Responding to a HCFA survey, Medicare contractors recently reported backlogs of over $1 billion in beneficiary claims that they confirmed were mistakenly paid.

In addition to the confirmed backlogs, contractors had reported over 1.1 million beneficiaries who had other insurance. However, the contractors had not yet researched previously paid beneficiary claims to determine what amounts Medicare paid that primary insurers should have paid. Our work suggests that once these claims are researched, an additional $1 billion or more in mistaken payments could be owed by primary insurers.

HCFA has recently initiated an effort that will identify additional primary insurers and could add several million more claims to the existing backlogs of mistaken Medicare payments. Furthermore, millions of dollars that primary insurers owe Medicare may be lost because of a Department of Health and Human Services (HHS) regulation. The regulation limits the time a contractor has to initiate recovery action on a claim after it identifies a primary insurer.

Collections of MSP mistaken payments far exceed carriers' cost of recovery. Nevertheless, Medicare contractors advised HCFA that inadequate MSP funding is the reason for the backlogs of mistaken payments. The fiscal year 1992 HHS budget will not permit contractors to significantly reduce the existing backlogs. This budget is (1) below the fiscal year 1989 funding levels, when claims volume was about 27 percent less and contractors did not have huge MSP backlogs, and (2) about 22 percent less than the Medicare contractors requested.

BACKGROUND

Medicare helps pay medical costs for about 35 million aged and disabled persons under a two-part system: part A, which covers inpatient hospital services, home health services, and various other institutional services; and part B, which covers physician, outpatient hospital, and other health services, such as diagnostic tests. HCFA, as part of HHS, administers the Medicare program and is responsible for establishing policy, developing operating guidelines, and ensuring compliance with Medicare legislation. HCFA operates the program with assistance from insurance companies that it contracts with to process and pay claims for covered services. The insurance companies—called intermediaries under part A and carriers under part B—are expected to pay Medicare benefits totaling about $127 billion in fiscal year 1992. The volume of Medicare claims has increased by about 11 percent annually and is expected to exceed 650 million in fiscal year 1992.

In enacting the Medicare program in 1965, the Congress made Medicare the secondary payer for beneficiaries covered by both Medicare and workers' compensation. The Congress made several statutory changes during the 1980s that also made Medicare the secondary payer to certain employer-sponsored group health insurance plans and to automobile and other liability insurance plans. These changes are commonly referred to as the MSP provisions.

Medicare contractors rely on health care providers to obtain data on beneficiaries' health insurance coverage and to identify insurers who should pay before Medicare. The contractors should take two actions after learning that a beneficiary has other insurance. First, contractors should enter a "flag" in their claims-processing system so that Medicare will deny future claims and send them to the beneficiary's insurer. Second, contractors should research the beneficiary's claims history file to determine if Medicare has paid claims after the other insurance went into effect and, if so, attempt recovery.

CONTRACTOR'S MSP BACKLOGS EXCEED $1 BILLION

In April 1991, HCFA instructed contractors to develop a system to identify and report, on a quarterly basis, the number and dollar amount of mistaken payments that were unrecovered because of the lack of funds. Prior to that time, HCFA did not regularly collect or require contractors to identify and report mistaken payments that were owed by primary insurers.[2] Initial contractor reports on backlogs were due by June 1, 1991.

Judging from the first two quarterly reports, contractors have significant backlogs of mistaken payments that should be recovered from primary insurers. In the first report about 50 percent of the contractors identified backlogs of about $990 million. Carriers reported over $179 million in backlogs intermediaries reported over $811 million.[3] The remaining contractors did not provide information on backlogs.

HCFA's analysis of the contractors' reports showed that many contained missing or inaccurate data. For example, some contractors failed to submit complete reports or did not specify the dollar amounts of identified MSP claims. As a result, in late July 1991, HCFA instructed its regional offices to reexamine contractor reports for missing data.

Medicare contractors' second quarterly reports showed backlogs of about $1.14 billion, or about $150 million more than was initially reported. Carriers reported about $155 million in backlogs and intermediaries over $984 million. HCFA found that overall these reports were more accurate than the first ones. About 36 percent of the contractors did not provide information on backlogs.

In addition to the confirmed MSP backlogs, 70 percent of the contractors advised NCFA that they had identified over 1.1 million additional beneficiaries who had other insurance.[4] However, the contractors had not researched these beneficiaries' claims, paid before the contractors confirmed other insurance, to determine amounts paid by Medicare that may be the responsibility of primary insurers. Considering that the average Medicare payment for services provided to enrollees is about $2,800, contractors may have paid more than $1 billion in Medicare claims that are potentially recoverable from primary insurers.

Our work at two carriers shows the magnitude of the problem. At Aetna of Phoenix and Transamerica Occidental of Southern California, we took random samples of 423 beneficiaries who were identified as having other insurance. We found that the carriers had paid one or more claims, totaling $192,161, for 150 of the 423 beneficiaries, before identifying a primary insurer. On the basis of these samples, we estimate that these two carriers made about $36 million in mistaken payments for more than 26,000 Medicare beneficiaries.

HCFA DATA MATCH MAY ADD MILLIONS OF CLAIMS TO MSP BACKLOGS

HCFA has recently initiated a data match that uses Internal Revenue Service (IRS) and Social Security Administration records. Required by the Omnibus Budget Reconciliation Acts of 1989 and 1990, this data match identifies a beneficiary or a spouse with health coverage through an employer-sponsored group health plan.[5] HCFA indicated that identifying spouses with health insurance has been difficult. It believes these spouses make up the largest category of undiscovered MSP savings.

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[1] Medicare: More Hospital Costs Should Be Paid by Other Insurers (GAO/HRD-87-43, Jan. 29, 1987), and Medicare: Incentives Needed to Assure Private Insurers Pay Before Medicare (GAO/HRD-89-19, Nov. 29, 1988).

[2] Medicare: Millions in Potential Recoveries Not Being Sought by Contractors (GAO/T-HRD-91-8, Feb. 26, 1991), presented before the Subcommittee on Oversight, House Committee on Ways and Means.

[3] We reported previously on contractor problems in recovering mistaken payments. Medicare: Millions in Potential Recoveries Not Being Sought by Maryland Contractor (GAO/HRD-91-32, Jan. 25, 1991).

[4] Thirty percent of the contractors did not provide information on beneficiaries who had other insurance.

After beneficiary insurance information is obtained, it will be entered into Medicare's automated claims-processing system to prevent Medicare from mistakenly paying MSP claims. In addition, HCFA will use this information to determine prior mistaken payments. HCFA will give Medicare contractors lists of mistaken payments that should be investigated and, if appropriate, recovered from primary insurers. The data match will help identify additional primary insurers. It could add millions of mistaken payments to the already large backlog.

LIMITED TIME REMAINING FOR RECOVERING MANY MISTAKEN PAYMENTS

Effective November 13, 1989, HHS regulations limit the time Medicare contractors have for initiating recovery of MSP mistaken payment, including those that will be identified by the HCFA data match. These regulations provide, in effect, that once a mistaken payment has been identified, Medicare contractors must inform the primary insurer of its payment responsibilities within 15 to 27 months depending on when in the calendar year the mistaken payment is identified. For example, Medicare contractors had until December 31, 1991, to inform primary insurers that they owe the program about $420 million in mistaken payments that Medicare contractors identified between November 13, 1989, and September 30, 1990. If timely notification has not been given, Medicare will be unable to recover the mistaken payments.

MSP BUDGET REDUCTIONS HAMPER CARRIER COLLECTION OF MISTAKEN PAYMENTS

Nationwide, part B funding for MSP activities was reduced from $38.3 million in fiscal year 1989 to $15.2 million in 1990, a 60-percent reduction. Part B MSP budgets remained about the same in fiscal year 1991. Budget reductions caused HCFA to raise the carriers' dollar threshold for reviewing claims to confirm that another insurer was the primary payer. The threshold went from $50 to $250. Thus, claims of less than $250 were paid without confirming if the beneficiary had other insurance coverage. In addition, HCFA informed carriers in October 1989 that the recovery of mistaken payments would be a low-priority activity, to be conducted as funding permitted. However, carriers were expected to make sure that Medicare did not pay for beneficiaries who had other insurance.

For the carriers we visited, the effect of budget reductions were evident. They were not recovering identified mistaken payments between late October 1989, when their MSP budgets were cut, and March 1991, when we completed our field work. We observed many claims related to the mistaken payments stored in boxes or filing cabinets. In fiscal year 1990, MSP budgets declined and remained below fiscal year 1989 levels. For example, the carriers we visited had MSP budget reductions of 35 to 59 percent.

The three carriers had to make significant MSP staff reductions because of the reduced funding. The MSP full-time staffs were reduced from a combined fiscal year 1989 level of 84.6 to a fiscal year 1990 level of 32.5.

The most severe reduction was made at Blue Shield of California, which went from 33.3 full-time staff to 7. Further, a 1990 review by the HHS Office of Inspector General found that seven carriers had reduced MSP full-time staff from 127 in fiscal year 1989 to 48 in fiscal year 1990. As a result, five of the carriers discontinued MSP recovery activities.[6] HCFA realized the effect of the reduced MSP funding early in fiscal year 1991, when many carriers informed HCFA regional offices that they could not process backlogged MSP cases at current funding levels. Any unanticipated increase in claims, HCFA said, would make the backlogs even greater. HCFA provided about $3.9 million to Medicare contractors in fiscal year 1991 so that they could notify primary insurers about the $240 million in mistaken payments by the December 31, 1991, deadline (see p. 5).

The carriers we visited received additional MSP funding and began efforts to recover mistaken payments during the summer of 1991. Additional fiscal year 1992 funds are needed, they stated, to continue these efforts. However, the HCFA fiscal year 1992 MSP budget is $70 million, or about $20 million less than Medicare contractors requested for MSP activities.[7] The 1992 budget, which includes about $2.9 million for the recovery of mistaken payments, is about $8.0 million below the MSP funding levels in fiscal year 1989. During that time claims volume was about 27 percent less and contractors were not faced with huge MSP backlogs.

BUDGET PROCESS CONSTRAINS CARRIER FUNDING

The Budget Enforcement Act of 1990 imposed new constraints on federal funding. In general, this law provides that federal discretionary spending, which includes Medicare contractor expenditures, be subject to spending limits. Medicare contractor savings achieved through payment safeguard activities, such as MSP, do not count as offsets to any increased spending for additional recoveries.[8] Thus, increased spending for these activities, including MSP recoveries, would require cuts in other federal programs to remain within the established budgetary limits.

The Congress resolved a similar problem, funding IRS enforcement activities, by permitting additional funding for enforcement activities without cutting spending elsewhere. The law provides for discretionary spending limits to be increased if additional appropriations are made for IRS compliance spending. Consistent with the act, the anticipated effect of this budgeting mechanism was to authorize increased expenditures for specific activities likely to produce a reduction in federal spending.

Several times previously, we reported and testified on the need for adequate funding of contractor MSP activities and other payment safeguards that help ensure the accuracy of Medicare payments. In our February 1991 testimony, we said that the proposed fiscal year 1992 funding was insufficient to address the carrier's backlogs of mistaken payments—estimated at about $200 million.

The Health Insurance Association of America, whose membership includes several Medicare contractors, shared our concerns. The association stated that the lack of adequate MSP funding has prevented Medicare contractors from recovering annually hundreds of million of dollars in mistaken payments.[9] Intermediaries and carriers do not have the staff, the association added, to cope with the work load, and HCFA's overall contractor budget is so tight that reallocating sufficient funds from other essential activities to strengthen the MSP effort is impossible.

We previously suggested that the Congress consider establishing a mechanism, similar to that applicable to IRS funding, to facilitate adequate funding of Medicare program safeguard activities.[10]

Additional MSP funding is an appropriate investment that will enable Medicare contractors to recover over $1 billion in mistaken Medicare payments. For example, our work at two carriers shows that collections of mistaken MSP payments far exceeds the carriers' cost of recovery. On the basis of our cost-benefit analysis, we estimate that for every dollar spent, Transamerica Occidental can recover $8.65 and Aetna Life and Casualty can recover $14.65.

CONTRACTORS COULD USE CONTINGENCY FUNDS TO RECOVER MISTAKEN PAYMENTS

While contractors lack the necessary funds to recover mistaken payments, another part of the Medicare budget has grown significantly over the past several years. Historically, an increasing part of the budget has been set aside in a contingency fund to cover unanticipated administrative expenses. The fund, as a line item in the HCFA budget, has grown from $20 million, or 2 percent of the fiscal year 1985 contractor budget, to $257 million, or 15 percent of the 1992 budget.

HCFA monitors contractor expenditures and work loads throughout the year and requests the release of contingency funds. Such requests and the supporting justifications go through HHS and must ultimately be approved by the Office of Management and Budget (OMB). Unused contingency funds are not carried over from year to year.

Contingency funds have been used for unanticipated increases in work load or operating costs. For example, early in fiscal year 1991, HCFA requested that OMB release $101.3 million to fund increases in claims work load and legislatively mandated activities. Included in HCFA's request was $3.1 million for Medicare contractors to process backlogged mistaken payments. Such funds, HCFA estimated, would result in the recovery of about $50 million. During February 1991, OMB released $75 million. However, by reallocating funds within the contractor budget, a HCFA official said, the additional MSP funding was provided and contingency funds were not released.

CONCLUSIONS

In the last decade, the Congress has made several changes to the MSP program. These changes have been made to help reduce Medicare costs by making certain insurers the primary payers for beneficiary services. However, amounts owed by other health insurers are unrecoverd or, in many cases, unidentified even after Medicare contractors have confirmed that beneficiaries have other health insurance that provides primary coverage. Nationwide, large backlogs of mistaken payments remain unrecovered.

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[5] The 1990 act extended the data match program from September 1991 through September 1995.

[6] Office of Inspector General, HHS, testimony presented before the Subcommittee on Oversight, House Committee on Ways and Means (Feb. 26, 1991).

[7] The budget includes $6.6 million for Group Health Incorporated to obtain beneficiary insurance information for the HCFA data match project.

[8] Contractors are required to perform other safeguard activities, including a review of all claims to determine medical necessity and appropriateness and the audit of providers' cost reports that are reimbursed on a cost basis.

[9] Mistaken and Unrecovered Medicare Payments, statement presented to the House of Representatives, Committee on Ways and Means, Subcommittee on Oversight.

[10] Medicare: Further Changes Needed to Reduce Program and Beneficiary Costs (GAO/HRD-91-67, May 15, 1991).

Significant program savings are not being realized because contractors do not have the funds they need to recover MSP mistaken payments. The fiscal year 1992 MSP funding levels are below the amounts provided in fiscal year 1989, yet the number of beneficiary claims is significantly higher, and large backlogs remain. Increase funding of MSP activities is essential if over $1 billion in mistaken payments are to be recovered.

One way to increase MSP funding would be for the Congress to amend the Budget Enforcement Act. The Congress, in debating the need for increased contractor funding, could consider establishing a mechanism to facilitate increased funding of Medicare payment safeguard activities, particularly the recovery of MSP mistaken payments. This recovery would be of substantial benefit to the government.

An alternate solution to the funding problem would be for HCFA to request and for OMB to release a portion of the contingency funds contained in the 1992 budget. Contractors could use these funds to begin recovering amounts owed to Medicare primary insurers.

RECOMMENDATION

We recommend that the Secretary of HHS direct the Administrator of HCFA to initiate a request to OMB to release the necessary contingency funds for use in recovering mistaken payments owed to Medicare.

We do not obtain written agency comments on this report. We did, however, discuss its contents with HCFA officials who agreed with the report's findings and conclusions. We incorporated their comments where appropriate.

We are sending copies of this report to the Secretary of HHS; the Administrator of HCFA; interested congressional committees and subcommittees; the Director, OMB; and other interested parties. Copies will also be made available to others on request.

Please call me on (202) 512–7119 if you or your staffs have any questions concerning this report. Other major contributors are listed in appendix II.

JANET L. SHIKLES,
Director, Health Financing and Policy Issues.

APPENDIX I: OBJECTIVES, SCOPE, AND METHODOLOGY

Our review was directed at MSP activities under the Medicare part B program. It was begun because of a nationwide 60-percent funding reduction in fiscal year 1990. Our objectives were to determine (1) if significant backlogs of unrecovered mistaken MSP payments existed and (2) the effect of the budget cuts on carriers' efforts to recover Medicare mistaken payments after learning that Medicare was not the primary insurer. Our work was carried out at (1) Aetna Life and Casualty Company, a carrier serving Arizona and Nevada; (2) Blue Shield of California, the carrier for Northern California; and (3) Transamerica Occidental Life Insurance Company, the carrier for Southern California.

At all three carriers, we (1) reviewed MSP funding and staff allocations before and after the budget reductions and (2) determined the carrier efforts to identify and recover mistaken MSP payments. We also discussed resource issues with carrier officials, as well as HCFA headquarters and regional staff. We reviewed MSP legislation and HCFA guidance relating to carrier MSP activities.

Using contractor computerized files, we estimated the backlogs of unrecovered mistaken payments at Aetna Life and Casualty Company and Transamerica Occidental Life Insurance Company. We selected random samples of 423 beneficiaries who were identified as having other insurance. We determined the effective date of the beneficiary's primary insurance and reviewed Medicare payment history files (from Jan. 1, 1987, to Sept. 1, 1990) to identify potential mistaken payments made while the other insurance was in effect. Based on our samples, we estimate that these two carriers had about $36 million in unrecovered mistaken payments.[11] These results were discussed with carrier representatives. Where appropriate, we incorporated their comments.

In addition, we developed models to estimate the cost to recover mistaken payments made by Transamerica Occidental and Aetna Life and Casualty. For these carriers, we identified recovery activities (such as researching a beneficiary's claims history, preparing refund requests, processing refunds, or withholding payment on future claims in the amount of the mistaken payment); the time required to complete each activity; and the associated staff costs for each activity. In addition, direct and overhead costs were calculated. We also calculated a cost-benefit ratio for each carrier, based on HCFA estimates that 75 percent of mistaken payments are recoverable. Each carrier reviewed and commented on the costs associated with identification and recovery of mistaken payments. Their comments were considered in our estimates.

After we completed our work at the carriers, HCFA surveyed Medicare contractors to determine unrecovered mistaken payments. We included the survey results in this report but did not review the reporting requirements or assess how each contractor determined its reported backlogs. We did our work between August 1990 and May 1991 in accordance with generally accepted government auditing standards.

APPENDIX II: MAJOR CONTRIBUTORS TO THIS REPORT

Human Resources Division, Washington, D.C.: Susan D. Kladiva, Assistant Director, (202) 512–7106; Alfred R. Schnupp, Assignment Manager.

San Francisco Regional Office: Thomas P. Monahan, Health Issue Area Manager; Randolph D. Jones, Evaluator-in-Charge; Brad C. Dobbins, Evaluator; Dylan A. Jones, Evaluator.

The PRESIDENT pro tempore. The Senator from North Carolina [Mr. SANFORD] is recognized for not to exceed 5 minutes.

DEBT COVERUP

Mr. SANFORD. Mr. President, I want to commend the Washington Post of last week for bringing attention to the confusion about the Federal budget deficit, suggesting that it has become, in their words, a "cosmic mystery," and I quite agree. There were so many different deficit numbers in President Bush's fiscal year 1993 budget proposal that even budget experts had trouble understanding what they meant and where they fit.

It seems to me the best reason for listing so many different deficit numbers—the only reason, the only explanation—is to confuse the people and cover up the honest deficit, which is the annual increase in the Federal debt. The President does not want the public to know how bad things are. Nowhere in the President's 1,713-page budget proposal, weighing more than 6 pounds, was the honest deficit number that could easily be understood—even by children—which reflects the amount that will be spent and must be borrowed, the amount that will be added to the Federal debt in fiscal year 1993. That is an easy, straightforward, honest deficit number for everyone to understand, but that number is nowhere to be found in the President's budget.

Why is it important to have honest deficit numbers that reflect what is added to the Federal debt each year? The President's fiscal year 1993 budget proposal estimates that the Federal debt, subject to the limit at the end of fiscal year 1992, will be $4.053 trillion. This information is found on page 289 of the President's budget.

Using a little math, these numbers show that the President estimates that $464 billion is the true deficit. That is the figure that will be added to the Federal debt in fiscal year 1993, and no wonder he does not want the public to know about it.

And yet in all that array of pages of his budget, the President's deficits do not reflect that. His smallest deficit number, defined in some gobbledygook, is $62 billion, and his largest deficit number, reported in clear figures, is $352 billion. Yet his budget will add $464 billion to the debt this coming year, more than $100 billion above what he claims will be the deficit, and that is hidden from the public.

Honest budget deficits are important because the public deserves to know how much the Federal debt is growing each year. Gramm-Rudman, no matter how well-intended in its conception, turned out to mislead the public into believing that Federal deficits were getting smaller when they were not. The coverup, the misuse of trust fund surpluses was getting larger, and so was the debt. The deficits were not coming down. The coverup was building up.

It is time for the President to report honest annual deficits in his budget proposals. S. 101 requires honest deficit reporting. Taxpaying families want to know the honest deficits, not gobbledygook.

Mr. President, how much time do I have left?

The PRESIDENT pro tempore. The Senator has 40 seconds remaining.

Mr. SANFORD. Mr. President, I ask unanimous consent that I be allowed an additional 2 minutes to make an additional speech.

The PRESIDENT pro tempore. Is there objection? Hearing no objection, the Senator is recognized for 2 minutes and 40 seconds.

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[11] At the 95-percent confidence level, we estimate the unrecovered mistaken payments to be between $22.7 and $51.7 million.

DOUBLE TALK AND NATIONAL DEBT

Mr. SANFORD. Mr. President, my colleague from North Carolina [Mr. HELMS] has come to the floor with great fanfare to point out the size of our national debt. While I agree with his concern and have fought to have this revealed now for years, and I agree with the implications of this debt, his statements ignore any discussion of how we got into such an unenviable position. As my colleagues surely know, the President presents the budget to the Congress. In the past 12 years, no President has submitted a balanced budget.

The historical tables tell us that the cumulative deficits of Presidents Reagan and Bush from the 1982 budget to the President's proposed 1993 budget, including the 6-year period when the Republican Party controlled the U.S. Senate, have exceeded $3 trillion, more than 300 percent in excess of the debt at the expiration of the Carter administration.

It is true, as my colleague almost pointed out, that the Republican Senate voted for half of these deficit budgets and the Democratic majority voted for six of them, but neither could do much about cutting the deficit sent over by Presidents Reagan and Bush. They did, however, Mr. President, make some cuts. The tables clearly show that over this period, the two Presidents requested more than Congress voted to spend, and that fact ought to be known by the public.

One of the hallmarks of these Reagan and Bush budgets is deceit and coverup, when the reserves of Social Security have been wrongly spent and deceitfully reported.

Mr. President, the Reagan and Bush administrations cannot escape primary responsibility for the massive debt with which our children and grandchildren have been burdened. I thank the Chair and yield the floor.

The PRESIDENT pro tempore. What is the desire of the Senate?

Mr. SANFORD. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The point of no quorum having been made, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from Mississippi [Mr. LOTT] is recognized under the order for up to 20 minutes.

Mr. LOTT. Mr. President, I am here today, because I believe we have a tremendous problem which demands our attention now. Our budget system is a farce. There is a saying in this city that we quite often use, "If it ain't broke, don't fix it." But in this case I think our system is broke, and we need to do something about it.

I have introduced legislation, S. 2317, the Budget Process Reform Act, that I believe will go a long way toward overhauling the process and putting some teeth back into it. In 1974, I voted for the Budget Impoundment Act, because I thought we needed some process, some system of adding up the numbers, we needed some teeth in it to try to control spending. I am not sure it ever really had any teeth, but over the years it has been ground down, and basically we are just gumming the process now. So we want to put some teeth back into it. The American public is tired of Congress' fiscal irresponsibility. My constituents and people from all around the country, tell me time and time again the Congress must get the Federal budget deficit under control. The blank check policy has to stop.

To avoid getting enveloped in an omnibus solution, one that would make an already musclebound system even more complicated, I think we should focus separately on the two fundamental components of the budget. The first is the process for development and implementation of a budget, and the second is the actual determination of the taxing and spending levels within that budget.

The Congressional Budget and Impoundment Act of 1974 was intended to place all taxing and spending decisions within the overall context of a budget resolution. The resolution was to be adopted prior to consideration of spending or revenue bills. Although the intentions were good, the process has not worked.

The bill I have introduced this week, S. 2317, identical to H.R. 298 introduced in the House by my friend Congressman CHRIS COX who has done a lot of outstanding work in this area and has already been joined by over 130 cosponsors in the House from both parties. The bill addresses the first component, or the process. Everyone agrees that the present procedure by which Congress is empowered to allocate our vast revenues is impossibly Byzantine, a maze randomly constructed which is stonewalling our ability to govern properly. It is a bureaucratic, extralegal system whose complexity and incomprehensibility shield it from effective scrutiny. The byproduct is an exorbitant Federal budget deficit which has become the fundamental source of America's economic problems.

But that does not mean we should remain hostage to this inefficient, haphazard budget process. We must not throw our hands into the air and do nothing because there are few Senators standing in line to cut specific Federal programs or because decisions are too painful. It is a time for change, and that requires wiping the slate clean. People are demanding a complete refocus, not simply a tinkering with the cogs of the current machinery.

This bill seeks to replace the broken down Congressional budget process in a simplistic, and efficient, businesslike manner. This law will provide an enforcement mechanism with legally binding timetables for adopting spending legislation.

With this budget reform in place, we can then effectively administer the second component of budgeting, the resource allocation process, where and how much do we spend of the taxpayers' money. We will have a structure designed to permit clear, rational, and accountable choices among competing priorities.

This reform is based on accountability and orderliness, the current lack of both have been duly noted by the American public. It ensures that neither Congress or the public is deceived; that last minute authorizations and appropriations are not just stuck inside fiscal legislation, and more importantly, that there is an ironclad agreement in advance on a total budget dollar figure to force Congress to live within its means, much like the rest of America.

The bill has six key provisions:

First, budget first, spend second. No authorization or appropriation bills can be considered until the budget is approved.

Now, authorization committee members, and certainly Appropriations Committee members, would say we cannot wait around on the budget process all year. And quite often the budget is not approved when it is supposed to be. But this bill will address that problem. Budget first and spend second.

Second, a 1-page, 19-function binding budget resolution, a legally binding joint resolution to be enacted by April 15, focusing the budget decisions at a macro level—just the big numbers. Do not get into the line items of the budget. And that is what has been happening over the years. The Budget Committee is encroaching on authorization and appropriations justifiable responsibility. We ought agree on the totals for 19 main budget functional categories. This would simplify the process and make the budget document one that lay men and women could understand.

Third, meet budget guidelines. A super majority will be needed to exceed spending ceilings set annually by the Congress. This will force Congress to spend only what they plan. Accountability becomes clear at this point.

Fourth, enhanced rescission. The President would have the authority to rescind spending proposals exceeding the budget ceilings as scored by the Congressional Budget Office.

It is important to note that there is a safeguard to prevent Congress from holding critically important programs which would easily get a two-thirds vote until late in the process: Deficit spending in any category would subject all spending legislation in that category to a two-thirds vote.

Fifth, pay-as-you-go supplement. Proposed spending increases must have offsets.

Sixth, no baseline budgets. Start budgets with hard, actual numbers, not the current service level, or the prior year's numbers adjusted for inflation.

This is the only place in the world that begins the budgeting process by saying OK, we are going to take last year's number, we are going to add certain other considerations, increase the number of people, adjust for inflation, and we will begin from that point. In other words, we increase the budget right at the start, and then we say well we may roll it back a percent or two and therefore we have cut the amount of spending increase. It makes no sense in the real world.

I believe in this legislation because it requires action early in the process: It does get the President involved. It is done in a macroway without getting into the details that really should be handled by the authorization and appropriations committees.

These proposed procedural changes would have the following effects:

First, early consultation between the administration and Congress;

Second, binding overall budget levels early in the planning process;

Third, give both the President and Congress a voice in establishing spending priorities;

Fourth, tie individual spending to overall budget totals;

Fifth, require explicit decisions on spending beyond agreed levels;

Sixth, provide a clear, understandable process;

Seventh, avoid difficult questions of constitutionality;

Eighth, allow for a bias toward fiscal responsibility, unless Congress and the President choose otherwise; and

Ninth, place the burden for fiscally responsible—but politically difficult—votes on the process, rather than the Members.

This would help eliminate the pork in Federal spending. Projects would be evaluated on their merits, not on their ability to acquire votes.

As we annually translate our Nation's priorities into a Federal budget, we can use this new process to both plan and discipline our spending while still achieving our goals. The final result is a meaningful budget which allows Congress to focus on the effects of the bottom line on the economy and on the tradeoffs which must be made among priorities to control overall levels of spending.

Budget process reform is long overdue. We now have the largest budget deficit in history, wasteful Government spending, and uncontrolled entitlement expenditures. Failure to produce a responsible balanced budget is the result largely of budget process which no longer meets our needs.

I urge my colleagues to seriously consider the Budget Process Reform Act to avoid future carnivals of chaos.

We have now 17 cosponsors of the bill in the Senate. We are hoping it is going to be seriously considered this year in a bipartisan way. I think it will be. I think we should focus on how we can improve the process. If we do not, there is going to be a move to just throw it out altogether and have no Budget Committee or budget process. I think that would be the height of irresponsibility. Let us see if we cannot simplify it and make it work. I urge my colleagues in the Senate to consider this legislation.

Mr. President, so that others can speak who are waiting, I would now like to yield 5 minutes to the distinguished Senator from Iowa.

The PRESIDENT pro tempore. The Senator from Iowa [Mr. GRASSLEY] is recognized for 5 minutes.

Mr. GRASSLEY. Mr. President, I wish to join my colleague, the Senator from Mississippi [Mr. LOTT], in his call to action with respect to the Federal budget process.

This institution, once deeply respected and widely thought to house some of our Nation's greatest minds, has developed a serious credibility problem.

The American people have lost all faith in our ability to act responsibly with the Nation's purse, and frankly, given the exploits of this body and our colleagues on the other side of the Capitol, they have good reason to doubt us.

Week after week, month after month, and year after year, we have made new rules, changed old rules, circumvented other rules, and broken all of the rules.

So while I admit to some degree of mixed emotion in suggesting that we further revise a process we have largely come to ignore, this proposal appeals to me because it strips away layers of political cover and forces us to work with real numbers and real time frames.

It addresses the whole process, from the budget resolution, through baseline development, the appropriations process, each step up through the White House.

Mr. President, as budget deficits begin to top $400 billion and the national debt reaches the $4 trillion mark, we have reached a defining moment for the U.S. Senate and for the Nation.

Will we continue to accept business as usual, or will we stand up to the challenge?

A month ago, President Bush challenged Congress to adopt an economic growth package, and between the two houses we have come up with nothing but political documents which are destined for vetoes.

A week ago, Senator MCCAIN came to the floor with a proposal to give the President line-item, veto-like authority, but we balked at that opportunity as well.

The Senate Budget Committee is charged with the duty of developing a budget resolution before the end of this month, and so far we have not even begun to address that responsibility.

In baseball, three strikes means you are out, and the Democrats in this body have seen three good pitches pass by without even bothering to take the bat off their shoulders.

My fellow colleagues, our spring training is over, and it is time to be more aggressive.

If we are serious about winning this budget game, we need to let someone step up to the plate who will take a few swings at the process, and I along with Senator LOTT and the other cosponsors of this legislation are prepared to do just that.

Let's play ball.

Mr. LOTT. Mr. President, how much time do I have remaining?

The PRESIDENT pro tempore. The Senator from Mississippi has 11 minutes remaining.

Mr. LOTT. Mr. President, I yield 5 minutes to the distinguished Senator from Colorado.

The PRESIDENT pro tempore. The Senator from Colorado [Mr. BROWN] is recognized for 5 minutes.

Mr. BROWN. I thank the Chair. I thank the distinguished Senator from Mississippi for his leadership in budget reform. It is very clear to every American that this Nation needs to reexamine the way we have handled the Nation's budget.

Mr. President, a simple example. I have been in this Chamber and that of the House of Representatives for 11 years now. In the last decade, every single year we have cut defense spending. That has been the rhetoric from both the House and the Senate, and it has been used on the public. And yet the public is shocked to find that even though we have cut defense spending every year, defense spending has doubled, or more than doubled, in the last 10 years. How do you do that?

Well, it takes some creativity, and that is exactly what our budget process has in it. One might also call it fraud. The simple fact is that we set up an artificial, false base on which to make comparisons. Yes, we can claim defense spending cuts every year and double it within 10 years. But that is not honest and the American people know it.

First of all, if we are going to change the budget process, we ought to be honest, and that means that we abandon the current services-based budget and simply make references to the past based on what it was, not on some phony nonsensical comparison. So when we say we are increasing or decreasing the budget from year to year, it ought to mean just that, that we are changing it up or down, not an artificial, phony budget.

So the first principle of this budget bill is truth in budgeting. Second, we ought to live by the budget. Every American understands it. The simple fact is that we have not in the last 10 years had a single year where we have kept spending within the budget.

I am not here to hurl stones. Every Member of this body is subject to pressures, but this Congress ignores its budget. This Budget Act is realistic. It says if we pass a budget we are going to live by it. To exceed the budget would require a two-thirds vote in the Chamber. I believe we will come up with the discipline to make the budget process work if this budget bill passes.

Third, in the past we put pressure on Congress by having appropriations simply stop, Social Security checks do not go out, and the defense of our country crumbles if we did not pass a new appropriations bill. This resulted in a lot of appropriations that simply did not conform with the budget or did not, even worse, comply with any Budget Act at all.

What this bill says is you will not fall off a cliff, if you do not act with regard to appropriations. This bill would provide automatic continuing appropriations at last year's level.

In other words, we do not close down hospitals, or jeopardize our defense, or eliminate Social Security checks, but we do keep the pressure on Congress to act.

Mr. President, this bill introduced by Senator LOTT, is truth in budgeting. It will work. It will help bring things under control. Most importantly, Mr. President, I think it will restore the confidence of the American people in this body.

Mr. LOTT. Mr. President, I would like to ask the Senator from Colorado if he would remain for a moment and involve himself in a little dialog with me.

There are those that might say, you are trying to force the President into this process where he really does not belong. I would challenge anybody to think back and see if you can remember the last time a President's budget passed the Congress. And yet there were speeches made here in the Senate even this morning that said, oh, "the President caused the deficits." The President's budgets never go anywhere; the President is not involved until there is some summit where 17 or so people get in the room and tell the rest of the world where we are going to spend money.

In a final analysis, to quote the chairman of the Appropriations Committee, "it is the appropriations committees, and the budget committees, and the leadership that make the decisions about where money is spent."

Why, regardless of the party, would you want the President involved earlier in this process? Does the Senator have a response?

Mr. BROWN. The Congress is the one that appropriates the money. Not a penny is spent without the initiative of Congress and those items passed by Congress.

But I for one think it is important to involve the President in this process early. He also is involved in signing or vetoing those appropriation bills.

It is important to avoid the last-minute summits out at Andrews Air Force Base. I do not know of a single Member of this body that is pleased with those midnight sessions out there that have come up with distorted budget practices in the last few years.

This bill is a way to make democracy work, not simply to resort to summits out at Andrews.

Mr. LOTT. I certainly share that feeling. There are others who are going to say: "Why are you just tampering with the process?" I would remind them that we did not have a process at all until we passed the bill in 1974, and it has been changed several times, including of course the Gramm-Rudman-Hollings change that had some impact for a while.

I think that in a bipartisan way there are a lot of Senators and Members of the House that would like to see this process improved. And I think it should be done now.

I think we are reaching a point of frustration that is going to force some action.

What does the Senator think about that as a member of the Budget Committee?

Mr. BROWN. The Senator hits the nail on the head. Having served on both budget committees of the House and Senate, I for one think the record speaks clearly for itself. The deficit this year is $3,700 for every man, woman, and child in this country. The simple fact is our plans have not worked.

Second, I think the item that is noticeable is that every budget plan we have passed in the last decade has not been met; has not followed the guidelines. We have exceeded spending in every one of them. There is no question that the current process is broken. It does not work. It does not satisfy the needs of the American people. If we do nothing else, we ought to have a budget process the American people can at least regard as honest.

Mr. LOTT. Senator, it is said, and perhaps it is true in your State, although I do not think it is in mine, that people are not really interested in the budget process, that it is some arcane, inside Congress thing. What they really want is more spending on projects in their districts or States, or they want tax increases or tax cuts, depending on your point of view, and that this budget process is just sort of a side issue nobody really cares about.

Well, I can only remember one instance in my State where somebody said: Increase taxes. Occasionally, I have people say they would like some tax relief, in certain areas, for instance capital gains; but, most of the time I have people ask me: "When are you people going to get your act together on the budget and on deficit spending? It is going to come home to roost one of these days." They know it, but we do not seem to know it.

Mr. BROWN. I must say the people of Colorado are not unlike the people of Mississippi. Whether Democrat or Republican they expect us to change this and get it in order.

I think the experience that former Senator Tsongas is having on the campaign trail for President, some of his success is in part a reflection of the fact that he has brought in to the debate an inspired feeling that he is not talking turkey; that he is being straight with them.

My belief is the American people are way ahead of Congress on this issue. They are willing to face up to hard choices. They are tired of the baloney.

Mr. LOTT. There is one other important point, which I did not touch on in my earlier comments about the Budget Process Reform Act. This bill would also prevent actual or threatened annual shutdowns of the Federal Government; there would be no sequester. Instead, there would be a process in place to allow an automatic reversion to the level of funding for the previous year until the new appropriations bill is passed. The spending could not exceed the functional ceiling established in the budget resolution for that fiscal year without a two-thirds vote. We would no longer have to go through these processes where we have a short-term, CR, continuing resolution, 30 days, or two weeks or whatever. It would be automatic so that people in the Government would know what to expect until the next bill was passed.

Mr. BROWN. I must say I think this aspect of it is one of the better provisions of the Senator's bill. Legislators are faced with the choice of either voting for a bill that is bad, or facing an elimination of all Government services, including defense, excluding the periods of national emergency, and the elimination of mailing Social Security checks. And faced with that fall off the cliff, in effect many legislators in these bodies have voted for appropriations bills that they knew were bad but were better than the alternative.

This reform measure the Senator has introduced makes sure that kind of midnight emergency legislating does not happen.

Mr. LOTT. I thank the Senator from Colorado for joining me this morning. I again urge colleagues to consider this proposal.

I am willing to consider changes and improvements, and I think we will have some additional consideration and some dialog here on the floor of the Senate as the year goes along in this particular area. We need to have budget process reform. We need it now to avoid future carnivals of chaos that we see year after year in the budgeting process.

Mr. President, how much time do I have remaining?

The PRESIDENT pro tempore. The Senator has 50 seconds.

Mr. LOTT. I yield my time.

Mr. LEVIN addressed the Chair.

The PRESIDENT pro tempore. The Senator from Michigan is recognized.

EXTENSION OF MORNING BUSINESS

Mr. LEVIN. Mr. President, I will need 10 minutes reserved, and I ask unanimous consent that morning business be extended for 8 minutes beyond 11:30 so that I may utilize that time.

The PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

The Senator from Michigan [Mr. LEVIN] is recognized for 10 minutes.

Mr. LEVIN. I thank the Chair.

TAX LEGISLATION

Mr. LEVIN. Mr. President, there are both encouraging and discouraging parts of the tax legislation just reported out by the Senate Finance Committee.

On the positive side, it is a much, much better bill than what was proposed by President Bush in his budget submitted in January. By increasing taxes on the wealthiest 1 percent of the population, the Finance Committee bill restores a measure of tax fairness that was so damaged during the 1980's. By not resorting to accounting gimmicks, the Finance Committee bill pays for itself and does it honestly. It does not put us any deeper into debt. That is the good news.

But, I am afraid that the Finance Committee misses an opportunity to help put our economic house in order, by not using a significant part of the revenues from the tax increase on the wealthy to reduce the horrendous structural budget deficit. The Congressional Budget Office [CBO] has recently reported that at the rate we are going, the budget deficit will still be more than $200 billion in 1997. According to CBO, deficits of that size will "cripple economic growth by reducing national savings and capital formation."

That means a less prosperous economy in the future, less investment by business, fewer houses built, fewer cars sold. In a word, fewer good paying jobs.

Deficit-neutral tax legislation like that reported out by the Finance Committee does not address these growth-threatening deficits. Just playing your opponent even when you are already far behind is not the way to win a ball game. It is also not the way to bring the deficit under control, when we are already at an annual minimum of $200 billion in the hole.

It is clear that the American public is concerned about tax fairness and wants us to get our economy moving and restore its long-term health. The tax proposal adopted by the Senate Finance Committee responds only partially. It recognizes that upwards of 80 percent of the American public wants to see the wealthiest 1 percent of the taxpayers, those who saw their income almost double during the 1980's, pay a fair share of the tax burden. But it is an illogical step to go from this essential element of tax fairness to the conclusion that the American public is pounding down the doors of Capitol Hill and asking us to use most of the new revenue from higher tax on the wealthy to pay for $400 tax cuts for middle-income taxpayers.

A poll conducted for the Wall Street Journal-NBC late last year has already shown that when it came to using the peace dividend, the strongest support is for additional spending on programs such as health and education, with deficit reduction second, and a tax cut in last place.

However, it is clear from the way the debate has developed in the intervening months that the most relevant immediate issue is how to use the revenue raised from increasing taxes on the wealthy; that the public wants us to answer that question by adopting middle-income tax cuts is an unarticulated major premise of the tax legislation approved by the Finance Committee.

Based on new information that I have just obtained, the premise is a false one. Here is how the American people, to a polling question asked by Opinion Research Corp. of Princeton, NJ, responded:

How should the revenue raised from increased taxes on people making more than $100,000 a year be used?

The answer to that question: 44 percent of the American people said increase spending on domestic needs, such as health and education; 27 percent said reduce the deficit; and only 22 percent said give a $400 tax cut to middle-class families.

This is a critically important point. Investing in our future and getting our economic house in order are higher priorities among the public than a tax cut.

That was a national poll of 1,000 people taken between February 27 and March 1.

Polls should not govern our actions. The longrun interests of a great nation that intends to stay great should be what guides our decisions on competing policy alternatives. But, at a minimum, we should avoid the folly of taking actions assuming they are popular if the public sentiment is in fact to the contrary.

We should act to help our immediate economic situation and to address our long-term economic health. We should not pass up that opportunity in exchange for a tax cut for about one-third of our middle-income families, a tax cut that is talked about far more within the Washington beltway than it is chosen as an economic remedy outside.

Mr. President, I ask unanimous consent at this point that the question we commissioned Opinion Research Corp. of Princeton, NJ, to ask nationally of 1,000 citizens, a cross-section of Americans, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

QUESTION

If taxes were raised on individuals with incomes of $100,000 or more, which of the following would be the best way for the government to use that additional money?

	Percent
Increase spending on domestic needs, such as health and education	44
Reduce the federal budget deficit	27
Give a $400 tax cut to middle class families	22
None of the above/Don't know	7

Conducted through CARAVAN national telephone omnibus survey of 1006 randomly selected adults 18 years of age and over during the period of February 27 through March 1, 1992.

Mr. LEVIN. Mr. President, I thank the Chair, and I yield the floor.

I suggest the absence of a quorum.

The PRESIDENT pro tempore. The point of no quorum having been made, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. WELLSTONE. Mr. President, I ask unanimous consent to speak as in morning business for 1 minute.

The PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

The Senator from Minnesota is recognized for up to 1 minute.

Mr. WELLSTONE. I thank the Chair.

(The remarks of Mr. WELLSTONE pertaining to the introduction of S. 2320 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, the Federal debt run up by Congress stood at $3,830,561,049,317.97, as of the close of business on Tuesday, March 3, 1992.

As anybody familiar with the U.S. Constitution knows, no President can spend a dime that has not first been authorized and appropriated by the Congress of the United States.

During the past fiscal year, it cost the American taxpayers $286,022,000,000 just to pay the interest on spending approved by Congress—over and above what the Federal Government collected in taxes and other income. Averaged out, this amounts to $5.5 billion every week.

What would America be like today if there had been a Congress that had the courage and the integrity to operate on a balanced budget?

DICK THIGPEN'S WISDOM

Mr. HELMS. Mr. President, I have a very special friend in North Carolina who has been an inspiration to me for at least four decades. His name is Richard E. Thigpen of Charlotte and he has been a leader in our State in business, civic, and religious affairs—and in common sense.

Being a graduate of what is now Duke University, Dick has played an enormous role in the growth of that fine institution. And, I might add, he is proud of Duke's No. 1 basketball team.

I have at hand a letter that Mr. Thigpen wrote on February 17 to the editor of the Wall Street Journal. As I read it, it occurred to me that Senators and others would find it of interest.

Therefore, Mr. President, I ask unanimous consent that the aforementioned letter be printed in the RECORD at the conclusion of my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CHARLOTTE, NC,
February 17, 1992.

EDITOR,
The Wall Street Journal,
New York, NY.

DEAR SIR: "Selling Pessimism" is an apt heading for the review of "The Bankruptcy of America" on Page 14 of the Wall Street Journal on February 11, 1992. We need more optimism; we've recovered before and we will again. "We The People" can correct the angst that clouds the future.

Whether we call the mess we are in a recession or a depression, we cannot push aside the problems of crime, greed, waste and politics as business as usual. There is enough culpability for all. Band-aid measures will not cure the ills of the nation. Strong medicine is needed for survival.

Mr. Cobb ended with an apposite statement:

"So save your money and pay off debts. Teach your children morality. And join the local PTA."

The National Debt is now 3.6 Trillion Dollars on which the annual interest is 304 Billion Dollars. I do not recall any substantial payment on the National Debt since Andrew Mellon was Secretary of the Treasury.

Since our Declaration of Independence, we have coped with problems and moved on to the better life because the determined and dedicated people of the United States were willing to work and pay the price for freedom. "In God We Trust" is on our currency and coins; and "the eye of Providence" is on the Great Seal of the United States.

Many corporations and individuals have taken drastic measures to become more efficient and more profitable. The demands of good government for education, health, security and world peace must be met.

For too long we have tolerated the ever increasing burden of debt. We must act to cut the cost of debt service and provide more funds for essential government services. Congress and the Administration must cut the costs of government by 25 percent, must levy a gross income tax of 25 percent, must levy a surtax of 10 percent to reduce the National Debt.

All of us must do whatever is necessary to keep the United States "the land of the free" and not become the land of debt. We must get off the fast track to bankruptcy, and get back on the straight path to prosperity, security and freedom. We will then be able to enjoy the full life in the greatest nation and help less fortunate people at home and abroad.

Sincerely,

RICHARD E. THIGPEN.

AN END TO A CAMPAIGN

Mr. FORD. Mr. President, I witnessed a statement today that probably was one of the hardest to give these days in the life of my friend and our distinguished colleague, the junior Senator from Nebraska [Mr. KERREY]. Senator KERREY had, as he said, given it his best shot. He had a message that was beginning to grow and very little money to carry him through the costly campaign of running for President.

But in his remarks I think we could not only hear the desires of his people in Nebraska but we could grasp the feeling he had garnered in traveling across this great land of ours of the frustrations of the American people, of their desires, and hopes, and visions for the future.

I am not sure the country is better off because he had to drop out today. I think he had a message which needed to be given.

But I think the Senate may be a great deal better off because Senator KERREY is now back with us. He will bring to this Chamber that fire and that feeling he absorbed in campaigning among the American people. I think he will be able to express in no uncertain terms what he gleaned in his almost 6 months of campaigning throughout the country.

So I say to him, welcome back to the Senate. We look forward to working with him. We look forward to having his input in our decisionmaking process. We look forward to extracting from him what the people feel is in their best interests.

He said in his remarks this morning for us not to accept the frustration of the American people as bitterness but more of a desire to do better. As our main goal as a result of curtailing communism around the world, we dedicate ourselves to better education for our children, that they leave school with a desire to use what they have learned; that we find a way for health care to be given to all our people; that we dedicate ourselves from the military aspects, however keeping our country strong, to the manufacturing of products that will be the envy of the world, and people will want to buy from us, to stimulate the economy.

And, yes, he talked about the crime bill and crime on our streets.

So, Mr. President, I just wanted to take a few moments to say to our distinguished colleague that here is one Senator that thinks he did a good job, and he had a message. Here is one Senator who looks forward to working with him in our effort to be a stronger body, a better institution, as it relates to the welfare of this great land of ours.

So I thank my distinguished friend from Utah for giving me just a moment to say these things about a colleague that I say is a friend of mine and one who I respect and one whose voice I believe will be heard in the next few months in this Chamber.

I now yield the floor.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Utah.

Mr. HATCH. Mr. President, I would like to add a couple of follow-on comments.

I welcome our distinguished colleague back as well. I commend him for being willing to throw his hat into the ring, being willing to go out there any try—and he did try—hard for those months. I have to say that I felt he was going to do much better than he did.

He is a very attractive personality with a lot of ability, and I think presented himself very, very well under the circumstances. I have to have respect for anybody who is willing to get in and do the best he can.

So I welcome him back as well.

I appreciate the remarks from the distinguished majority whip.

JUDGE ROGER WOLLMAN

Mr. PRESSLER. Mr. President, on March 4, 1992, the Senate received the President's nomination of Judge Roger L. Wollman of the U.S. Eighth Circuit Court of Appeals to serve on the U.S. Sentencing Commission. I commend the President for making this most outstanding nomination.

South Dakotans are very proud of Judge Wollman. We were proud of him when he served as Chief Justice of the South Dakota Supreme Court. We were even more proud when President Reagan elevated him to the U.S. Court of Appeals in 1985.

Judge Wollman was the first South Dakotan to serve on the Eighth Circuit Court of Appeals in 25 years. It was my honor to recommend Judge Wollman's appointment to the U.S. Court of Appeals, as well as the U.S. Sentencing Commission.

Mr. President, Judge Roger Wollman is one of the finest public servants in the Nation. He is a brilliant, intelligent man who has given great service to the State of South Dakota and the people of the United States. A skilled and able jurist, Judge Wollman has been an inspiration to the legal profession.

Those who have the pleasure of knowing Judge Wollman, or who have appeared before him in court, often have remarked to me how fortunate we are to have Judge Wollman in public service. Blessed we would be if more people like Judge Wollman were willing to dedicate themselves to a career of public service.

Mr. President, I urge the Senate to confirm this nomination at the earliest opportunity. I ask unanimous consent that an article about Judge Wollman's nomination to the U.S. Sentencing Commission, which appeared in the March 4, 1992, edition of the Rapid City Journal, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

JUDGE WOLLMAN NOMINATED

WASHINGTON.—President Bush has nominated Eighth Circuit Court of Appeals Judge Roger Wollman of South Dakota to the U.S. Sentencing Commission.

Wollman, who was recommended to the commission by Sen. Larry Pressler, R-S.D., will serve a six-year term if confirmed by the Senate. The commission was created by Congress in 1984 to establish sentencing policies and guidelines for the federal criminal justice system.

The commission's seven voting members are appointed by the president and confirmed by the Senate.

Wollman will continue to sit as one of 10 judges on the appeals court in St. Louis, Mo.

Pressler had recommended Wollman for the appeals court to then-President Ronald Reagan. Wollman was confirmed July 19, 1985, and is the first South Dakotan to serve on the court in 25 years.

CONCLUSION OF MORNING BUSINESS

The PRESIDENT pro tempore. Morning business is closed.

OMNIBUS CRIME CONTROL ACT—CONFERENCE REPORT

The PRESIDENT pro tempore. Under the order, the Senate will resume consideration of the conference report accompanying H.R. 3371. The clerk will report.

The legislative clerk read as follows:

The conference report to accompany H.R. 3371, an act to control and prevent crime.

The Senate resumed consideration of the conference report.

Mr. LOTT. Mr. President, I observe a quorum is not present.

The PRESIDENT pro tempore. The Chair will state that if no Senator seeks recognition, it is the duty of the Chair, under the rules, to state the question.

The Senator from Mississippi suggests the absence of a quorum. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KOHL). The Senator from Mississippi [Mr. LOTT].

Mr. LOTT. Mr. President, I rise in opposition to the crime conference report. In many respects, I think it would be better labeled "criminal rights protection conference report." It is not all bad. Some features of it are good.

The point was made in the debate yesterday, how could you oppose this conference report because it does have so many new crimes that are included? It does have some good provisions in it.

But the point is, on the fundamentals, on the big questions, it is weak: In habeas corpus, exclusionary rule, and on the death penalty.

Mr. President, we talk about Supreme Court decisions, legal niceties, lawyer arguments that you hear in the debate here on the floor of the Senate. All that is necessary, and all that is fine. But the question is, What do the people out there in the real world think about crime in this country, and what is being done or what is not being done? Frankly, they are horrified. They think a lot more should be done.

They do not understand why local law enforcement people do not have more tools to do their job. They do not understand how, when they arrest people, they are back on the street the next day or the next week.

They do not understand how, when people are convicted of heinous crimes, or murder, that they go to prison, but because of Federal court decisions they do not go out and work on the highways and byways, like they used to do. They do not raise crops. In some instances, they are told that you cannot put more than one prisoner in a cell.

The American people do not understand all this coddling of prisoners that has been going on in America for the past 30 years. They think lawmakers are to blame. They think the laws are to blame. They think the courts are to blame. They blame the judges. And there is no question in my mind that for 25 or 30 years we have had permissive judges who interpreted the laws that we passed—perhaps correctly—but they seemed to be more worried about the criminal and the rights of the criminal than about the victim, or about society.

Before I came to this city several years ago I had the experience of being a public defender for a brief period of time in my hometown, my home county of Jackson County. Before that, I just basically had done some county court work in domestic relations. I really had not been in the criminal law. But when I got into it, defending those who were charged, I was shocked at how much of the burden of the law is on the prosecutor.

I found it was very easy for me to do my job as the public defender. And I looked at the DA almost in bemusement, because he had all these technical requirements that had been put on him and on law enforcement people. You have to do this. You have to meet this technicality. If you do not, the whole thing is thrown out; this was in 1967 and 1968. Let me tell you, it got worse after that.

The common man and woman does not want to blame anybody. They just want somebody to do something, whether it is the attorney general of the State, the Attorney General of the United States, or the Congress. This conference report does not do enough.

I have heard a lot of discussion back and forth about the niceties in the conference report, what is in it and what is not in it. I see a lot of things that are not in it that I think should be. Maybe I misunderstand it. But let me go through some of the things I understand are not in this bill, or are in this bill.

I also want to emphasize, once again, that for years Congress did not mind when the Supreme Court made it easier for the criminal and tougher on the victim and society. But when we finally get a Federal court system and a Supreme Court that starts making what I consider to be the right decisions—and let me tell you, what the majority of the American people think are the right decisions—then all of a sudden; oh, no, that is not good.

This conference report, as I understand it, would overturn at least 14 major Supreme Court decisions that finally have been dealing with frivolous appeals and endless litigation, not only in death penalty but other areas. So now, when we get a Supreme Court that is doing some good things; oh, no, we do not like it.

But before I read this list, I want to commend the distinguished Senator from Delaware, who will be speaking, I am sure, later on today on the conference report, urging we go ahead and pass it. I think he worked hard. He worked in good faith. I watched him put in long hours last year to hammer together, cobble together what I think was a pretty good crime bill.

Of course, he was aided and nudged and pushed by the distinguished leader on the Judiciary Committee, the Senator from South Carolina. These two men—maybe coming in many instances from divergent viewpoints—came together. And we had a bill, a crime bill, that I voted for. I got some criticism on both sides: You should not have voted for it because it had some gun provisions in there; or: You should not have voted for it because it was not strong enough.

But, basically, it was a big step in the right direction. Even the House, passed a fairly good bill. It was not nearly as good as the Senate bill, but it had some very good provisions.

And then what happened? It went into the deep dark hole of the conference. I know the House Judiciary Committee. I served on the House Judiciary Committee. Let me tell you, I know from where they are coming. They do not want the death penalty. They do not want to get some limits on habeas corpus. They do not want good-faith evidence to be admitted if there is a technical problem. They are worried more about the criminals' rights and society's and victims' rights.

I have seen them, time and time again. I know their past record. I know their voting record. I know them individually and I know what happened.

When Senator BIDEN of Delaware and Senator THURMOND of South Carolina got into the conference, these House conferees would not even support, in some instances, their own House position. They wanted to weaken the House position even further. So that conferees approved this so-called crime conference report, that is estimated to cost $3 billion. And I do not object to that, to authorizing money to do the job that has to be done.

We are going to have to put our money on the line if we are going to deal with crime in this country. We have to do it up and down the board. We have to help local law enforcement people, policemen on the street. We have to help with more funds for DEA. And I am prepared to do that.

I want to take that money from somewhere else in Federal spending. I think crime is a place where we should concentrate. But this bill, authorizing $3 billion for very weak crime provisions, was passed on a Sunday night, November 24, 1991. The crime bill had dragged through the Senate and then the House, for almost a year and then at the end of the session, November 24, 1991, it passed on a straight party line vote. There were some conferees in that room that have prosecutor backgrounds, people who are very strong on law enforcement, people who have worked on this subject for years and years. But, there is something funny about it when it happens on a Sunday night just before we are going out of session for the year on a straight party line vote. That is not the way you pass a crime bill.

But, we can fix that. There is some good stuff in this conference report, but there is not sufficient language in here on the fundamentals of habeas corpus, the death penalty, or the exclusionary rule, and we need to get together. We need to do it now. How much more do we have to tolerate before we act? It is not just recent shootings on Capitol Hill. I was horrified when there was a drive-by shooting of a lady in Northeast Washington, she and her husband were just driving along, and she was shot. I was horrified by what is happening in my own State, my State's capital, Jackson, MS; Greenville, MS; Moss Point, MS. It is all over America, and the people want something done.

The Thurmond crime bill will do the job the way it needs to be done. I think the problem in getting it done is the House and the conference, but we have to deal with that. I urge the leadership of the judiciary committee and the leadership of the Senate to find a forum to make this happen.

Let me tell you what is not in this conference report, some of the things that really bother me. The conference bill rejects the central reform passed by the Senate, which recommended that habeas filings in capital cases be limited to new claims which have not been fully and fairly litigated in State courts. As I noted earlier, it overturns at least 14 Supreme Court cases that limit frivolous appeals and endless litigation in death penalty cases and allows the filing of second or successive petitions for habeas relief when a death penalty inmate simply wants to challenge the validity of his sentence but does not dispute his guilt.

This conference report sets no time limit at all on habeas corpus filings by prisoners in noncapital cases and allows prisoners under sentence of death to delay a full year before applying for Federal habeas corpus. The time limit in the conference report is double the 180-day limit endorsed by the Senate in title XI of S. 1241 or even by the House of Representatives in H.R. 5269. The conference report sets a time limit that is double the limit that was in either House. Where does this new limit come from?

Under the conference report, the courts are barred from appointing counsel in capital cases in all States. The courts are barred. Only defender organizations and comparable entities could appoint lawyers. Why? Is the court not competent to do that? Why do you put it over into the special interest area of defender organizations or similar entities? And imposes also counsel qualification standards for State capital cases which greatly exceed those that Congress has enacted for Federal capital cases.

In cases of substantial noncompliance with these new requirements, or with any performance standards invented by the appointing authority, all existing limits on raising claims that were not presented to the State courts would be waived.

The conference version will result in new claims of alleged technical defects in capital sentencing leading to second, third, fourth, and even subsequent Federal habeas corpus petitions and will even result in prisoners relitigating claims that have been rejected in earlier Federal habeas corpus petitions.

There was a lot of talk yesterday about how this police organization or that law enforcement organization supported the conference report that we are considering. It is interesting to me that the top law enforcement people in the States, the attorneys general, oppose the conference report; 31—16 Republican, 15 Democrat—State attorneys general wrote the President expressing their alarm at the habeas corpus provisions contained in the House-passed bill and urged the President to veto any legislation containing these provisions.

With regard to the death penalty, although this legislation authorizes the death penalty in some 50 Federal offenses, the trial procedures create new rights for defendants which would virtually ensure the death penalty would never really be imposed. This legislation provides for the death penalty in 50 instances, but it sets up mechanisms that make it impossible to implement.

The Senate passed a bill that makes firearm murders a Federal crime punishable by death. Why? Because if you want to do something about firearms being used in crimes, this is a way to do it. You have to exact a real punishment that is enforced. The conference report deletes a provision to allow the death penalty for drug-related killings in the District of Columbia—not just killings, drug-related killings. The conference report rejects the rule approved in Blystone versus Pennsylvania and Bovde versus California under which jurors are instructed to impose the death penalty if they conclude that the aggravating factors in the case outweigh the mitigating factors. Instead, it provides that jurors need never impose the death penalty regardless of their findings concerning aggravating and mitigating factors.

With regard to the exclusionary rule, the Senator from South Carolina [Mr. THURMOND] said the conference agreement substantially narrows the good-faith exception to the exclusionary rule and will result in a significant expansion of criminals' rights to challenge the admissibility of incriminating evidence used against them.

The conference report rejects the proposal contained even in the House bill, weak as it was in many respects. The report adopts instead a provision which codifies the existing good-faith exception for searches involving warrants that the Supreme Court adopted in United States versus Leon. Such a provision provides little reform in this area, and it is pointless since Leon is already the law. Moreover, the conference bill provision is not an accurate codification of Leon and would require the exclusion of more evidence than the existing rules.

The conference report, in another area—just so you will understand it is not just the exclusionary rule, death penalty, or the habeas corpus argument, it is in other areas—the conference report removes numerous mandatory minimum penalties for firearm offenses, other violent crimes, and drug offenses.

Why? Why would we be removing minimum penalties for firearm offenses? Whose idea was it to drop that? Nobody that I can think of would want to drop that. The conference report requires that Federal prisoners be given drug treatment on demand and reduces the sentences of violent criminals upon completion. That is incomprehensible.

Let me just read now what Attorney General William P. Barr wrote with regard to the conference report on November 25, 1991. That is the Monday after the night passage of the bill on Sunday:

> DEAR MR. MINORITY LEADER: I join men and women of law enforcement around the country and victims of crime in voicing my strenuous objections to the so-called "crime bill" reported by the House and Senate conferees this weekend. While law enforcement groups and victims of violent crime cry out for the Congress to move forward aggressively on criminal justice reform, the conferees now propose that we take a significant step backwards. The proposed legislation actually overrules several recent Supreme Court decisions favorable to law enforcement. This conference report does more for those convicted of crimes than it does for those victimized by them.
>
> The American people know that our criminal justice system is failing because convicted criminals are able to escape just punishment through endless delays and repetitive technical legal maneuvering. This abuse has deprived our criminal justice system of any finality: convicted criminals can perpetually reopen and relitigate their cases even when their appeals have been completed and when there is no question as to their guilt. The guilty thus avoid punishment by filing frivolous habeas corpus petitions that drag on for years, consume valuable law enforcement resources, and reopen the wounds of victims and survivors. State law enforcement agencies demand relief. And yet, the conferees now propose that we actually create broad new avenues and new loopholes by which convicted criminals can exploit the system and evade punishment. The conferees propose to make the current situation worse by: 1) overruling certain reasonable limitations recently established by the Supreme Court on successive habeas corpus petitions; 2) imposing substantial costs on the states to fund these frivolous challenges while offering no prospect of finality and no relief to their already overburdened systems; and 3) offering criminals wider opportunities for continued frivolous delays than are allowed even under existing law.
>
> The conferees also propose to step backwards on reasonable reform of the exclusionary rule. By rolling back court decisions which allow for the admissibility of evidence when police have acted in good faith, the conference report will handcuff police and increase the number of criminals who escape justice on legal technicalities.
>
> Finally, in authorizing $3 billion for law enforcement programs, the bill offers only a mirage. Authorization of this funding when there is no appropriation is essentially meaningless. The irony here is that the Congress failed this year to fully fund the President's budget request for law enforcement, slashing it by $472 million—a 64% cut in the increases sought by the President. Dangling the empty promise of more grant programs before the eyes of state law enforcement cannot camouflage a weak crime bill.
>
> In sum, the conferees have let down law enforcement, let down victims, and let down those in Congress who voted for tough anticrime measures. This "whirlwind weekend conference" cannot obscure the fact that the Congress has again failed to deliver on serious criminal law reform. If this bill comes to the President's desk, I will urge him to veto it.

This is a very strong letter. I do not even agree with the part about the funds. Maybe it is a mirage. Maybe there will never be appropriations. It is a fact that Congress many times does not fund the President's request for law enforcement, but I think we are going to have to put our money where our mouths are in this particular case.

Finally, time and again yesterday I heard Presidential politics or partisanship being mentioned. Tell that to Jack Russ, the Sergeant at Arms of the House, a Democrat. Tell that to the family of Tom Barnes, an aide to Senator SHELBY who was murdered inexplicably—by being shot in the head from behind. Tell it to his family. A Democrat. Tell it to so many of the people in this city being killed, so many people in my State being killed. They are not Democrat or Republican, really. They are victims. They are people whose lives are at risk, who are scared to go out of their homes.

What is happening in the streets of this city is indefensible. Maybe we are guilty. Maybe some of our own had to be affected before we would take action, but I have been worrying about it and complaining about it for months and for years.

This is not Presidential politics. This is an urgent matter, a crisis in our Nation's Capital and in our Nation as a whole and we need to address it now. The bill that was introduced by the distinguished Senator from South Carolina was done at his initiative after trying to work across the aisle, working with other Senators, working with the Attorney General. This bill was introduced to try to break this deadlock. We need to do something.

As far as partisan politics, it should not be. There should not have been a party-line vote on that conference report. We should stop this now. If you want to vote on the conference report, fine. I am not voting for this. I am not voting for a show and tell. I am going to vote for something that is real and is tough on criminals in this country. We need to say to Senator BIDEN and Senator THURMOND, go back and try again. Do something more on these repeated appeals and on trying to help the law enforcement people do their jobs; on the death penalty; on firearms, some of these things that were dropped from conference on firearms. I have never been able to imagine whose idea that was.

So it is not Presidential politics from the Senator's standpoint, and it is not partisan politics. I know there are tons of Democrats and Republicans in the Congress and all across America who say enough already. Let us do this job. Let us worry about the law-abiding citizens who are being raped, maimed, and murdered in America and quit shuffling around trying to find some additional way to comfort criminals who are convicted and encouraging them to avoid the swift punishment they deserve and that the American people demand.

Mr. President, I yield the floor.

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from California.

U.S. SECURITY

Mr. CRANSTON. Mr. President, the collapse of the Soviet empire has fundamentally changed the nature of the security threat to the United States.

In the place of an ideologically hostile superpower bristling with weapons of mass destruction, the new threat to American interests comes from a range of international criminal activities.

Terrorism, narcotics, and money-laundering, Mafia-like international cartels, and the proliferation of weapons of mass destruction and weapons technologies have replaced communism as the principal foreign threat to our way of life.

At the same time, the global march to democracy is still impeded or blocked in many countries by oversized military establishments whose main role is one of internal security—the persecution of internal enemies—rather than national defense.

The subordination of local police forces to the military in many of these countries virtually ensures two unhappy results.

The police become demoralized and professionally frustrated because their institutions are run by men who may also be in uniform, but who cannot really speak their language.

And the military inevitably become politicized given their hegemonic participation in internal security—a role we have wisely prohibited our own military here in the United States.

United States efforts to strengthen the administration of justice can help to promote the demilitarization of societies whose armed forces often constitute—even in countries such as Venezuela, with more than three decades of democratic experience—the greatest threat to democracy.

The failure of host country law enforcement discourages needed international investment, as foreign corporations face concerns of physical security and the ability to enforce contracts.

Mr. President, despite this important challenge, U.S. efforts to strengthen international law enforcement efforts are woefully underfunded—particularly when compared to U.S. military assistance programs. They lack a coherent rationale and strategy, and are badly mismanaged.

Mr. President, these conclusions can be drawn after a careful reading of a GAO report, "Foreign Aid: Police Training and Assistance," which my office is releasing today.

The report provides an in-depth review of the training and assistance given to foreign law enforcement agencies and personnel. It focuses on three main issues: the legislative authority for training and assistance, the extent of U.S. activities, and experts' opinions on the management of these programs.

The GAO report should be a bucket of cold water on any illusions that U.S. security policy is up to the task of promoting American security interests in the post-cold-war era. Among the GAO's most important findings:

Despite legislation—section 660 of the Foreign Assistance Act—passed by Congress in 1974, designed to stop U.S. aid to foreign police committing massive rights abuses, there are a dozen exemptions that have been granted to allow some U.S. training and assistance of foreign police, thereby calling into question why section 660 remains on the books.

In fiscal 1990, five U.S. cabinet level departments trained and assisted police from 125 countries at a cost of approximately $117 million. In 46 countries two or more U.S. programs are operating.

Experts consulted expressed concern about the lack of guidance and coordination of U.S. police assistance activities. These concerns included the lack of a clear position on the role of police aid in new and emerging democracies, an absence of clearly defined program objectives and authorities, and a determination of how individual training efforts contribute to overall U.S. interests.

The administration was even unable to offer data on the exact extent or cost of assistance to foreign police.

Nobody knows exactly what we are doing; exactly what we are spending.

Mr. President, these findings call into question the entire cast of U.S. security assistance efforts.

Clearly, programs without clearly defined program objectives and authorities cannot provide the best assistance to foreign legal authorities.

The very dispersion of U.S. efforts—spread out among no less than five Cabinet-level departments—means that needed coordination in this increasingly complex arena is a very ad hoc sort of thing.

It is also clear that the section 660 provision of the Foreign Assistance Act, prohibiting police aid, has become a virtual Swiss cheese of exemptions, and its only real value appears to be as a brake on Department of Defense efforts to hold onto its budget by getting into law enforcement.

As one of those who fought—and would do so again if conditions did not change—to get such a restriction in place in the bad old days of the cold war, I can say that section 660 no longer serves its purposes and issues it addressed then cry out to be dealt with in a more affirmative way.

Liberals and conservatives alike have to rethink old dogmas in this field, and work together to craft programs which meet American security needs and promote democratization.

Mr. President, the report comes as part of a larger request made by my office, and those of the Senator from Indiana [Mr. LUGAR], the Senator from New York [Mr. MOYNIHAN], the Senator from Washington [Mr. ADAMS], and the Senator from South Dakota [Mr. DASCHLE].

The findings of this first study show that old orthodoxies in the security field are not only irrelevant, they are helping to leave the United States without the tools to promote international law enforcement and global demilitarization.

Mr. President, as the GAO notes, while U.S. aid to foreign police forces began in the 1950's, it was greatly expanded in the early 1960's, as concerns grew among U.S. policymakers about rising levels of Communist insurgent activity in the developing world.

Channelled mostly through the AID Office of Public Safety, by 1968 we were spending $60 million annually to train police in 34 countries. With the expansion of such assistance came accusations that the programs turned a blind eye, or worse, to violation of human rights, such as torture and summary execution, by recipient security forces.

"Hidden Terrors," a well-documented book on U.S. police training efforts in Latin America by former New York Times Saigon bureau chief A.J. Langguth, provided a searing indictment of these programs and the men who ran them. In 1979, the New York Times quoted Jesse J. Leaf, a former chief CIA analyst in Iran, as saying that CIA training of the Shah's SAVAK secret police was "based on German torture techniques from World War II."

Mr. President, careful analysis of that period suggests that there were six major flaws in U.S. training.

First, training was provided to so-called friendly anti-Communist regimes, without regard to whether they were dictatorships or not.

Second, law enforcement efforts were subordinated to U.S. counterinsurgency goals. As the GAO noted, U.S. training included such topics as counterinsurgency techniques, weapons use, and Communist ideology. This also meant, in practice, reinforcing the control of recipient countries' militaries over the police.

Third, and this is clearly borne out in the Langguth book, U.S. trainers were not always the best America had to offer.

Fourth, U.S. intelligence agencies were given an important role in the development and execution of these programs.

Fifth, police training was not placed in the broader context of administration of justice, with its emphasis on judicial and prison reform.

And, finally, human rights was rarely a factor in policy considerations at the time.

Spurred by reports that United States trained and equipped police in Iran, Vietnam, Brazil, and other countries were involved in torture, murder, and the suppression of legitimate political activity, I and others in Congress prevailed and we banned foreign aid to police forces in 1974.

This ban remained virtually ironclad until 1985, when Congress authorized the President to support "programs to enhance investigative capabilities conducted under judicial or prosecutorial control" in functioning democracies in the Western hemisphere.

As a result, the Department of Justice—together with the State Department and the Agency for International Development—established the International Criminal Investigative Training Assistance Program [ICITAP]. Operational responsibility was left entirely to ICITAP under the supervision of officials in the Deputy Attorney General's office, with policy guidance provided by the Department of State.

With an annual budget of less than $8 million, ICITAP has trained thousands of police, judges, prosecutors, and other criminal justice personnel from 17 Caribbean island states, 6 Central American nations, as well as Bolivia, Colombia, Peru, and Uruguay. It is important to point out that, under the direction of David "Kris" Kriskovitch, a former FBI special agent, ICITAP has steered clear of any hint of the kind of problems that plagued the old AID Office of Public Safety.

Many observers credit ICITAP with spreading a consciousness of the need for civilianized law enforcement in new and emerging democracies in the region, and the recently agreed-to Salvadoran peace treaty—with its emphasis on the role of a civilianized police force in internal security—is proof of the soundness of this approach.

Unfortunately, the ICITAP Program remains underfunded, overextended, and relegated to playing only a regional role. As we see from the GAO report, it may provide the only bright spot in an area characterized by administration ineptness and neglect.

Mr. President, Will Rogers once remarked that Americans are great at winning wars, but less successful at keeping the peace. Our winning of the cold war has given us an important opportunity to help mankind live in free societies under the rule of law. Democratic governments are natural allies of the United States and free market systems cannot exist unless there are judicial authorities that enforce its rules.

For all the money spent and all the sacrifices made during more than four decades of cold war, the Bush administration has failed to export an institution which lies at the very heart of our success as a democracy—our system of justice.

The new democracies of the world need our expertise and our help in learning how to enforce the rule of law through the professionalization of police departments, prosecutors' offices, the courts system and the prisons. In helping them establish law enforcement and judicial infrastructures, we give them the tools to help them rid their societies of oppression and the virus of militarism.

Whether the issue is the promotion of community-police dialog in South Africa's transition to multiracial democracy or the establishment of a civilian-run police force in war-torn El Salvador, people from those countries look to the United States for leadership, models, and technical assistance.

The relatively small number of renegade or outlaw nations—those engaged in terrorism, drug smuggling or weapons proliferation—in the world means that United States and multilateral efforts in international law enforcement can give a big bang for a relatively small buck.

In doing so, we can also help provide for American security interests in a world which has seen a quantum leap in the internationalization of crime.

Sophisticated international crime is far outpacing the ability of new democracies whose law enforcement institutions are weak, inexperienced, and already overextended by the struggle against ordinary crime.

One of the fastest-growing crime syndicates in the United States is a Russian-controlled organization whose local chiefs are expatriates living in New York.

The recent Bank of Commerce and Credit International [BCCI] scandal shows the difficulties of monitoring the operations of a multinational bank which used the most sophisticated modern business techniques and communications equipment and operated unmolested in dozens of countries.

Both the Italian Mafia and the Colombian drug cartels have found in the cash economies of the newly emerging democracies and their newly private enterprises opportunities for money laundering on a vast scale.

Overseas Chinese criminal enterprises are forming closer ties with United States-based Chinese crime groups, particularly as Chinese syndicates flee Hong Kong to escape China's planned takeover of the crown colony in 1997. The growth of these international criminal organizations requires a coordinated professional response not only in the United States, but from abroad as well.

Despite the unhappy history of U.S. police training programs, there is a growing consensus that improved international law enforcement must become a key U.S. policy objective, both to strengthen the process of democratization abroad and to make Americans more secure at home.

The U.S. model, with its emphasis on the critical distinction between internal security and national defense and progressive concepts such as community-based policing, can and must be aggressively advertised if new and troubled democracies around the world are to survive and prosper.

The 6-year record of ICITAP, which has operated in several difficult situations without a hint of scandal, suggests that police training, when carried out as an integral part of the overall strengthening of the justice system, can enhance local law enforcement efforts abroad; contribute significantly to the process of democratization by putting the police under the control and at the service of the community, and—over time—provide the contacts, good will, and expertise in other countries required to bolster Americans' sense of security both at home and abroad.

Mr. President, current U.S. efforts in strengthening global respect for the rule of law are woefully inadequate. The administration has focused its law enforcement efforts primarily in antiterrorism and antinarcotics assistance. A growing body of literature, of which the GAO report must be seen as a part, suggests these efforts will fail unless they are coupled with assistance to strengthen the justice systems of recipient countries as a whole.

The administration's peculiar insistence on a "military" strategy for the misnamed Andean drug war, a position from which they have seemed to back down from in the San Antonio drug summit, shows the bankruptcy of any course that does not include the justice system as a whole.

It is important to note that, as the GAO report bears out, there is no single agency that is in overall charge of U.S. international administration of justice efforts; there is no single articulate policy or objective that unifies these programs, and the proliferation of programs under several agencies has led to duplication of efforts and complications in implementation. The section 660 provision banning police aid is observed in the breech, and no longer serves the purpose for which it was intended.

Mr. President, as I have consistently pointed out on this floor, the administration's failure to provide leadership in this area has been particularly egregious in the emerging democracies of Eastern Europe. U.S. administration of justice efforts have been limited to a paltry $750,000 Rule of Law Program administered by the U.S. Information Agency [USIA].

A recent request for help in 19 separate areas by Polish Interior Minister Henryk Majewski was finally filled after an ad hoc interagency meeting was held at the State Department at which those attending had to pledge support from money out of their existing budgets.

There is no centrally coordinated effort to meet the needs of these countries, there is virtually no money available to meet their needs, and oversight appears to be planned on a similarly improvised basis.

Yet, the countries of Eastern Europe desperately need help in ridding themselves of the vestiges of the police state organizations left behind by the KGB and the Stasi. They need our support in changing the reality and the perception of the police as institutions of political repression, to that of organizations dedicated to the community's security and the eradication of crime.

Failure of the U.S. Government to develop a comprehensive program of coordinated support has meant that several Eastern European nations have sought help from private law enforcement entrepreneurs operating outside the control or direction of American policymaking and financed by private interests.

Mr. President, clearly greater efforts can and should be made, not just in Eastern Europe, but in the republics of the new Commonwealth of Independent States, in Latin America, Africa, and Asia as well.

I believe that there are four essential caveats which need to be made in order that—in developing programs for the future—the abuses associated with past U.S. police training programs do not happen again.

First, no assistance should be offered to any nation whose leaders have not been democratically elected, or which is not undergoing a meaningful transition to full democracy.

Second, there should be no intelligence agency participation in such training.

Third, those participating as trainers or instructors should be the best available from their professions.

And finally, all police training programs should take place within the context of a larger effort to improve recipient country administration of justice.

To conclude, Mr. President, the growing internationalization of crime requires a commensurate effort by the United States for strategies and programs to combat it. The post-cold-war era will see the emergence of new definitions of security and of threats, and police forces—well trained, well, equipped and conversant with U.S.

standards and practices—must provide the first line of defense of both democracy and the safety of the individuals who reside in it.

I believe an office needs to be set up within the Justice Department that would be responsible for oversight and coordination of all U.S. administration of justice programs, including police training, as well as to develop—in consultation with the State Department—the means to provide comprehensive technical assistance to new and emerging democracies.

It should also be U.S. policy that all security assistance programs reflect the essential distinction embodied in the principle of posse comitatus, whereby civilianized police forces are given the primary responsibility for the maintenance of internal order in the United States. U.S. help in establishing and strengthening of justice systems in these new and emerging democracies must also be conditioned on adherence to international standards of human rights.

Finally, increased efforts in the administration of justice area should be accompanied by a hard look at the rationale for U.S. military assistance programs, to ensure that the armed forces of a recipient country are not competing for control of law enforcement with local civilian police forces.

Mr. President, I ask unanimous consent that a copy of the GAO report be printed in the RECORD, as well as several letters on this important issue.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FOREIGN AID: POLICE TRAINING AND ASSISTANCE

[U.S. General Accounting Office]

(Report to Congressional Requesters, March 1992)

U.S. GENERAL ACCOUNTING OFFICE,
NATIONAL SECURITY AND INTERNATIONAL AFFAIRS DIVISION,
Washington, DC, March 5, 1992.

Hon. ALAN CRANSTON,
U.S. Senate.
Hon. RICHARD LUGAR,
U.S. Senate.
Hon. DANIEL PATRICK MOYNIHAN,
U.S. Senate.
Hon. BROCK ADAMS,
U.S. Senate.
Hon. THOMAS A. DASHLE,
U.S. Senate.

This report partially responds to your request that we review U.S. training and assistance provided to foreign law enforcement agencies and personnel. This report provides information on (1) the legislative authority for providing assistance to foreign law enforcement agencies and personnel, (2) the extent and cost of U.S. activities, and (3) experts' opinions on the management of these programs.

BACKGROUND

The United States began assisting foreign police in the 1950s. The level of assistance expanded in the early 1960s when the Kennedy administration became concerned about growing communist insurgent activities and established a public safety program within the Agency for International Development (AID) to train foreign police. By 1968 the United States was spending $60 million a year to train police in 34 countries in areas such as criminal investigation, patrolling, interrogation and counterinsurgency techniques, riot control, weapon use, and bomb disposal. The United States also provided weapons, telecommunications, transportation, and other equipment. In the early 1970s, the Congress became concerned over the apparent absence of clear policy guidelines and the use of program funds to support repressive regimes that committed human rights' abuses. As a result, the Congress determined that it was inadvisable for the United States to continue supporting any foreign police organizations.

RESULTS IN BRIEF

In 1973 and 1974, the Congress enacted legislation that prohibits U.S. agencies from using foreign economic or military assistance funds to assist foreign police, but it subsequently granted numerous exemptions to permit assistance in some countries and in various aspects of police force development, including material and weapons support, force management, narcotics control, and counterterrorism tactics. The 1974 prohibition did not apply to the use of other funds by agencies such as the Departments of Justice or Transportation to train or assist foreign law enforcement personnel.

We could not determine the total extent or cost of U.S. assistance to foreign police because some agencies do not maintain such data. However, we identified 125 countries that received U.S. training and assistance for their police forces during fiscal year 1990 at a cost of at least $117 million.

Former and current U.S. government officials and academic experts who have been involved with assistance to foreign police forces stated that there is only limited headquarters guidance and coordination of such assistance. Some believe that activities may not be efficiently implemented nor supportive of overall U.S. policy goals.

LEGISLATIVE PROVISIONS ON POLICE ASSISTANCE

In the Foreign Assistance Act of 1973,[1] the Congress prohibited the use of foreign assistance funds for police training and related programs in foreign countries. In December 1974, the Congress added section 660 to the Foreign Assistance Act of 1961 to terminate AID's public safety program and expand the prohibition by stating that:

> On and after July 1, 1975, none of the funds made available to carry out this Act, and none of the local currencies generated under this Act, shall be used to provide training or advice, or provide any financial support, for police, prisons, or other law enforcement forces for any foreign government or any program of internal intelligence or surveillance on behalf of any foreign government within the United States or abroad.[2]

The amendment applies only to funds appropriated to carry out the purposes of the Foreign Assistance Act, and does not apply to other agencies' appropriations. Also, the prohibition does not apply to any activity of the Drug Enforcement Agency (DEA) and Federal Bureau of Investigation (FBI) related to "crimes of the nature of which are unlawful in the United States" or assistance to combat international narcotics trafficking. According to DEA and FBI officials, the exemption permits these agencies to train foreign police. The act also permitted U.S. agencies to complete contracts for police assistance entered into before enactment of the amendment.

In 1981, the Congress began exempting additional activities or specific countries from the prohibition; for example, antiterrorism training, police investigative training, police force development in Panama, and military training to police in the Eastern Caribbean Regional Security System. (See app. I for further information on exemptions to police training.)

POLICE ASSISTANCE

Although some U.S. departments and agencies do not maintain data or regularly report on the extent or cost of assistance they provide to foreign police forces using their own appropriated funds, we identified 125 countries that received such training and assistance during fiscal year 1990 at a cost of about $117 million. U.S. programs providing assistance are the Department of State's International Narcotics Control ($45 million) and Antiterrorism Assistance ($10 million) programs; the Department of Justice's International Criminal Investigative Training Assistance Program ($20 million); and the Department of Defense's program to assist national police forces ($42 million). Two or more programs operate in 46 countries, with most of the funds spent for Latin American and Caribbean police. The Department of Justice also pays for police training from its own appropriated funds, but the Department was unable to identify the extent or cost of such training. (See apps. II and III for further information on assistance provided to foreign police forces.)

CONCERNS ON MANAGEMENT OF ASSISTANCE

Current and former State Department and other government officials, and academic experts who have been involved in assistance to foreign police forces, stated that the U.S. government lacks (1) a clear policy on the role of U.S. assistance to police forces in the new and emerging democracies, (2) clearly defined program objectives, (3) a focal point for coordination and decision-making, and (4) a means for determining whether individual programs and activities support U.S. policy or contribute to overall U.S. interests. They noted that each program is managed individually, and the only place that coordination is occurring is at the U.S. embassy in the country. They expressed concern that in a country with more than one program, activities may be duplicative. One official expressed the opinion that the U.S. government needs to develop national policy guidelines for all police assistance programs to insure that cumulatively they support common objectives. We are continuing to look at these issues in our on-going work (See app. II.)

SCOPE AND METHODOLOGY

We obtained information on U.S. training and assistance provided to foreign law enforcement personnel, reviewed the legislative authority for providing this training and assistance, and identified efforts to coordinate these activities. We did not review program implementation in recipient countries. We interviewed officials and obtained records from AID and the Departments of State, Justice, and Defense, in Washington, D.C.; reviewed legislation and agency legal opinions on foreign police assistance; interviewed academic and legal experts on current U.S. assistance to foreign police; and reviewed literature published on foreign police assistance and AID's public safety program.

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[1] P.L. 93-189, sec. 2, 87 stat. 714, 716.

[2] Foreign Assistance Act of 1974 (P.L. 93-559, sec. 30(a), 88 stat. 1795, 1804).

We conducted this review from August 1991 to January 1992 in accordance with generally accepted government auditing standards. As you requested, we did not obtain written agency comments on this report; however, we discussed it with agency program officials and incorporated their comments where appropriate.

We are sending copies of this report to the Secretaries of State and Defense, the Attorney General, the Administrator of AID, and appropriate congressional committees. We will also make copies available to others upon request.

Please call me at (202) 275-5790 if you or your staff have any questions concerning this report. The major contributors to this report are Donald Patton, Assistant Director, Joan M. Slowitsky, Evaluator-in-Charge; and John Neumann, Evaluator.

HAROLD J. JOHNSON,
Director, Foreign Economic Assistance Issues.

APPENDIX I. LEGISLATIVE EXEMPTIONS TO THE PROHIBITION ON U.S. ASSISTANCE TO FOREIGN POLICE

The Congress has granted numerous exemptions to the 1974 prohibition against assisting foreign police forces. The exemptions generally authorize activities that benefit a specific U.S. goal, such as countering the terrorist threat to U.S. citizens overseas or combating drug trafficking.

INTERNATIONAL SECURITY AND DEVELOPMENT COOPERATION ACT OF 1981

The International Security and Development Cooperation Act of 1981[1] removed the section 660 prohibition on assistance to foreign police forces in Haiti and allowed such assistance for Haiti during fiscal years 1982 and 1983. The purpose was to help stop illegal emigration from Haiti to the United States. Subsequent acts continued this exemption for fiscal years 1984, 1986, and 1987.

INTERNATIONAL SECURITY AND DEVELOPMENT ASSISTANCE AUTHORIZATIONS ACT OF 1983

With the International Security and Development Assistance Authorizations Act of 1983,[2] the Congress authorized an antiterrorism program to train foreign police in the United States. In 1990 Congress relaxed the section 660 restrictions to allow training outside the United States for 30 days or less if it relates to aviation security, crisis management, document screening techniques, facility security, maritime security, protection for very important persons, and handling of detector dogs.[3]

INTERNATIONAL SECURITY AND DEVELOPMENT COOPERATION ACT OF 1985

With the International Security and Development Cooperation Act of 1985[4] addressed a series of police assistance activities. It expanded upon a 1984 act that authorized a judicial reform project in El Salvador and exempted assistance to Salvadoran police in judicial investigative roles from the section 660 prohibition.[5] The 1985 act expanded the judicial reform program and the police training exemption to countries in Latin America and the Caribbean. In 1988 the Congress further expanded the judicial reform program to allow police assistance to promote investigative and forensic skills, develop law enforcement training curricula, and improve administration and management of law enforcement organizations. This act specifically prohibited the Department of Defense (DOD) and the U.S. armed forces from providing training under this program.[6]

The 1985 act also exempted assistance for maritime law enforcement and other maritime skills from the section 660 prohibition, and removed the prohibition for any country that has a long-standing democratic tradition, does not have armed forces, and does not engage in a consistent pattern of gross violations of human rights. The act permitted such countries to receive any type of police assistance.

Finally, the 1985 act authorized assistance to Honduran and El Salvadoran police for fiscal years 1986 and 1987, provided that the President determined and notified the Congress that those countries had made significant progress in eliminating human rights violations. This exemption permitted DOD to train and equip these countries' police forces to respond to acts of terrorism. The exemption was not renewed beyond fiscal year 1987.

INTERNATIONAL NARCOTICS CONTROL ACTS

This series of acts approved certain police assistance activities in Latin America and the Caribbean for narcotics control purposes. The International Narcotics Control Act of 1986 [7] permitted DOD to provide training to foreign police in the operation and maintenance of aircraft used in narcotics control. The International Narcotics Control Act of 1988 [8] expanded DOD's role and allowed it to provide training and weapons and ammunition in fiscal years 1989 and 1990 to foreign police units that are specifically organized for narcotics enforcement in eligible countries in Latin America and the Caribbean. This act also allowed economic support funds to be provided to Colombian police for the protection of judges, government officials, and members of the press against narco-terrorist attacks.

The International Narcotics Control Act of 1989 [9] extended DOD's authority to train and provide defense articles to foreign police units in Bolivia, Colombia, and Peru in fiscal year 1990, provided they are organized specifically for narcotics enforcement. This authority differs from the 1988 act in that it allowed DOD to provide, in addition to weapons and ammunition, other defense articles such as helicopters, vehicles, radios, and personnel gear.

The International Narcotics Control Act of 1990[10] authorized DOD to continue to train and equip police forces in the Andean region in fiscal year 1990. This act was similar to the previous acts in that it permits DOD to train police forces in the operation and maintenance of equipment and in tactical operations in narcotics interdiction and also allowed DOD to provide defense articles to these units. However, it also allows DOD to provide commodities, such as nonmilitary equipment or supplies, to narcotics control police forces. This act also continued the assistance to Colombia to protect against narco-terrorist attacks and extended this assistance to Bolivia and Peru for fiscal year 1991.

URGENT ASSISTANCE FOR DEMOCRACY IN PANAMA ACT OF 1990

In 1990, after the U.S. intervention in Panama, the Congress significantly enhanced the U.S. role in the development of the new police force in Panama. The Urgent Assistance for Democracy in Panama Act of 1990[11] permitted training in areas such as human rights, civil law, and overall civilian law enforcement techniques. The act also permitted DOD, using prior year military assistance funds, to procure defense articles and related services for law enforcement forces in Panama.

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT FOR 1991

The Foreign Operations, Export Financing, and Related Programs Appropriations Act for 1991[12] amended section 660 to allow U.S. assistance to police forces of countries that are members of the regional security system of the Eastern Caribbean. With the exception of Antigua and Barbados, other member countries did not require this exemption to receive assistance because they were covered under the existing exemption that permitted assistance to police forces in countries with long-standing democratic traditions, and no armed forces. Antigua and Barbados have armed forces.

OTHER EXEMPTIONS TO POLICE ASSISTANCE PROHIBITION

In addition to the exemptions previously discussed, there are other authorities that waive the prohibition on assistance to police forces of foreign countries. For example, the President may authorize foreign assistance when "it is important to the security interests of the United States".[13] This allows the President to waive any provision of the Foreign Assistance Act of 1961, including section 660.

APPENDIX II. U.S. ASSISTANCE PROVIDED TO FOREIGN POLICE

ANTITERRORISM ASSISTANCE

The goal of the Department of State's Antiterrorism Assistance Program (ATA) is to improve foreign governments' antiterrorist capabilities to better protect U.S. citizens and interests. In fiscal year 1990, the United States provided antiterrorism assistance to 49 countries at a cost of nearly $10 million. Sixty-two percent of the funds were spent in Latin America, the Caribbean, and Europe, and less than $500,000 was used to purchase equipment. Representative training included judicial protection, protection to very important persons, hostage negotiation, and antiterrorist operations. The Department of State manages the program and contracts with other U.S. government agencies, state or local police departments, and private firms to conduct the training. The Federal Aviation Administration, U.S. Customs Service, the Immigration and Naturalization Service, the Federal Law Enforcement Training Center, and the U.S. Marshals Service are regular trainers. In compliance with legislative requirements, most training takes place in the United States.

In addition to training provided under the ATA program, the Federal Aviation Administration provides aviation security training to a limited number of foreign officials who attend their basic security training courses. The course deals in part with the role of law enforcement in support of passenger screening procedures and airport security programs.

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[1] P.L. 97-113, sec. 721(d), 95 stat. 1519.

[2] P.L. 98-151, sec. 101(b)(2), 97 stat. 968, 972.

[3] Aviation Security Improvement Act of 1990 (P.L. 101-604, title II, sec. 213(b), 104 stat. 3066, 3086).

[4] P.L. 99-83, sec. 712, 99 stat. 190, 244.

[5] Foreign Assistance and Related Programs Appropriations Act of 1984 (P.L. 98-151, sec. 101(b)(1), 97 stat. 964, 966 (1983)).

[6] Foreign Operations, Export Financing, and Related Programs Appropriations Act for 1988 (P.L. 100-202, sec. 579, 101 stat. 1329-181 (1987)).

[7] P.L. 99-570, title II, sec. 2004, 100 stat. 3207-60.

[8] P.L. 100-690, title IV, 102 stat. 4181, 4261.

[9] P.L. 101-231, sec. 3, 103 stat. 1954.

[10] P.L. 101 623, sec. 3(d), 104 stat. 3352.

[11] P.L. 101-243, sec. 101(b), 104 stat. 7.

[12] P.L. 101-513, sec. 594, 104 stat. 2060 (1990).

[13] 22 U.S. C. 2364.

INTERNATIONAL NARCOTICS CONTROL

One of the objectives of the Department of State Bureau of International Narcotics Matters (INM) international narcotics control training program is to strengthen host country enforcement and interdiction capabilities. During fiscal year 1990, INM provided a minimum of $45 million in training and equipment to foreign police, principally in Mexico, Jamaica, Colombia, Ecuador, Peru, Bolivia, Brazil, Venezuela, Pakistan, Thailand, and Turkey. These are all narcotics producing and trafficking countries.

INM reimburses other U.S. government agencies, primarily the Drug Enforcement Agency (DEA), Customs, and Coast Guard, to conduct the actual training. DEA provides narcotics investigative training, Customs teaches air, sea and land port search procedures, and Coast Guard teaches courses in maritime interdiction. Other agencies may also be requested to train on a reimbursable basis in areas where they have specific expertise. For example, DOD provides helicopter training to police in drug trafficking countries. Training is conducted both overseas and in the United States and is reviewed and approved by INM.

In addition, DOD used military assistance funds to train and equip narcotics enforcement police in several drug producing and trafficking countries. Documents provided by DOD show that in fiscal year 1990, DOD provided training and equipment with a value of at least $17 million to Mexico, $1.3 million to Bolivia, $10 million to Colombia, $1 million to Ecuador, and $1 million to Peru. DOD officials informed us that training and equipment valued at more than these amounts may also have been provided. However, documentation was not available at the Washington, D.C., agency headquarters level that specified the amounts for law enforcement activities. The equipment provided consisted of UH-1 helicopters and spare parts, ammunition, small arms, riot control equipment, radios, and miscellaneous personal gear.

INVESTIGATIVE AND INTERNATIONAL POLICE TRAINING

During fiscal year 1986, the Agency for International Development (AID) transferred funds to the Department of Justice (DOJ) to design, develop, and implement projects to improve and enhance the investigative capabilities of law enforcement agencies in the Latin America and the Caribbean region. This was part of AID's effort to reform judicial systems. Using these funds, DOJ established the International Criminal Investigative Training Assistance Program (ICITAP). Operating under State Department oversight, ICITAP has conducted criminal justice sector needs assessments in the region and has expanded its training to include basic police management and police academy development. In fiscal year 1990, ICITAP received $7 million from the Department of State for its regional program. It trained more than 1,000 students from the Caribbean, Central and South America and sponsored 7 conferences. Training includes police management, criminal investigation, crime scene search, and forensic medicine courses. Except for students sent to training programs in the United States, ICITAP training takes place overseas.

The Federal Bureau of Investigations (FBI) also provides limited training for foreign law enforcement officials. Each year approximately 100 international police officials attend the 11-week college level course at the FBI National Academy that includes studies on management and forensic sciences. The FBI pays for the training and subsistence, but does not pay for the students' transportation. Over the last 10 years, more than 1,100 foreign police officials from 89 countries have graduated from this course.

The FBI also established two training courses for foreign police using its own appropriated funds. The first began in 1987 when FBI agents along the Mexican border began training Mexican police to better assist the United States in its investigations. Mexican officers receive a 3-day course in basic law enforcement techniques to include crime scene management, collection and preservation of evidence, hostage negotiations, forensic science, and investigative techniques. Since 1987, over 400 Mexican border police have been trained. FBI officials stated that the FBI plans to establish a training school in Mexico during 1992 at an estimated cost of about $250,000 annually, excluding salaries.

The second course developed by the FBI for foreign police was to provide mid-level management training for police officials from the Pacific Island nations. The 4-week course includes first-line supervision, investigative techniques, and hostage negotiations. During 1991, 52 students graduated from the course held in Guam at a cost to the FBI of about $35,000. About 50 students are expected to attend this course during the spring of 1992.

The FBI also provides other training and assistance to foreign police as requested, but the cost is unknown. For example, the National Center for the Analysis of Violent Crime provided training to Canadian police. The Criminal Investigative Division conducted a training seminar for officers from Italy's three national law enforcement agencies on the use of sensitive investigative techniques such as the operation of confidential sources, undercover operations, and electronic surveillance. The FBI also furnishes on-the-job assistance to governments who request help during particularly difficult or sensitive investigations.

NATIONAL POLICE FORCE DEVELOPMENT

After the U.S. intervention in Panama in December 1989, ICITAP implemented a program to help develop the newly formed Panamanian Public Force using $13.2 million in fiscal years 1990 and 1991 foreign assistance funds. The goal was to develop a professional, civilian national police force that is fully integrated into Panamanian society, capable of protecting its people, and dedicated to supporting the Panamanian constitution, laws, and human rights. Since the program began, ICITAP has trained about 5,500 police officers and provided institutional development assistance, such as help in starting the National Police Academy, improved recruitment procedures, and creating an in-house self-monitoring organization. In addition, ICITAP has worked closely with U.S. Embassy and Panamanian government officials to develop plans and policies appropriate for a police force in a democracy.

COUNTERTERRORISM AND MILITARY ASSISTANCE

DOD supplies a limited amount of military training and assistance to police officials. During fiscal years 1986 and 1987, DOD trained and equipped the El Salvadoran and Honduran police to counter urban terrorist activities. This assistance was authorized in response to the murder of U.S. Marines by terrorists in El Salvador and was managed and delivered by the U.S. Army Military Police. The assistance consisted of training in counterterrorism techniques and the supply of police vehicles, communications, weapons, and other equipment. This effort cost $19.8 million, of which $17 million was provided to El Salvador.

In fiscal year 1990, DOD spent $6.4 million in previously authorized but unused military assistance funds to purchase needed equipment and weapons for Panama's newly formed national police force. Items procured included police vehicles, communications equipment, small arms, and personal gear. This assistance was a one-time, emergency program.

DOD has an ongoing military assistance program to support Costa Rican police. In fiscal year 1990, DOD supplied $431,000 in military equipment and $232,000 in military training to the Costa Rican Civil Guard to help them carry out their responsibility to protect the border regions of the country. DOD provided equipment such as vehicles, personnel gear, and radios, and military training in areas such as coastal operations. Additionally, DOD conducted technical training courses in equipment maintenance and medical skills among others.

DOD, along with the United Kingdom, supports the Eastern Caribbean Regional Security System that was formed after the U.S. intervention in Grenada. The Security System is composed of a few permanently assigned military officers, but largely depends upon island nation police officers who can be called up for military duty in case of emergency. The United States equips and trains these personnel to prepare them for such an eventually. In fiscal year 1990, DOD provided $4.2 million in military assistance funds that were used to purchase equipment such as jeeps, small arms, uniforms, and communications gear. DOD also provided $300,000 for training in special operations, rural patrol, field survival, and surveillance, as well as technical courses in communications, navigation, maintenance, and medicine.

DIFFICULTIES IN DETERMINING COST AND EXTENT OF ASSISTANCE

We could not accurately determine the extent or cost of assistance to foreign police because agencies do not regularly report on assistance funded out of their own budgets, some double counting of students may be occurring and agencies may not be differentiating between assistance provided to police and assistance provided to the military. For example, in response to our request, DOJ began collecting information on its support of foreign police, including data on travel expenses, salaries, and expendable items such as course materials. However, the Department could not assign a dollar value to all of these activities. Other agencies may be conducting similar work of which we are unaware. There also may be some double counting of foreign police trainees. For example, the agency supplying the training and the agency paying for the training may both include the trainees in their reporting systems, such as when ICITAP pays for students attending the FBI academy.

Also, we could not always determine whether a student was a police officer or a military member because some agencies do not collect such data. DOD officials informed us that once they receive permission to train police in a specific activity they do not provide a further accounting breakdown. For example, training provided to the Eastern Caribbean Regional Security System was for law enforcement personnel, although a few trainees may have belonged to military organizations.

CONCERNS EXPRESSED ABOUT POLICE ASSISTANCE

High-level program officials, former U.S. officials, and academic experts identified several issues that they believe affect the effectiveness of foreign police assistance. Their views are presented below; however, we did not verify whether the problems they identified have adversely affected programs in recipient countries.

LIMITED POLICY GUIDANCE OR CENTRAL MANAGEMENT

Officials with whom we spoke stated that overall police training policy guidance at the Washington, DC, headquarters management level was limited. A former U.S. Ambassador in Latin America said that because there is no U.S. policy guidance, each agency pursues its own program agenda, which may not be in concert with long-term U.S. interests. Thus, he said, the U.S. government lacks a mechanism for considering how the various activities contribute to a strategy of fostering democratic institutions or to serving other national interests.

Program managers informed us that each program is managed separately without a mechanism to insure that activities are coordinated and not duplicative. The Coordinator for Counter-Terrorism informed us that the effect of the various pieces of legislation and resulting programs is that there is a lot of disparate police training and some interagency competition, but without anyone in charge. The coordinator believes that this does not serve U.S. interests. He stated that a Policy Coordinating Committee coordinates all antiterrorism assistance delivered by participating agencies such as the FBI and the State Department. He noted however, that the committee does not coordinate with agencies providing police training outside of the ATA umbrella. In addition, although INM, DEA, and the other agencies providing narcotics control assistance coordinate with each other, officials informed us that they do not routinely coordinate with ATA or ICITAP on police assistance activities.

The absence of centralized monitoring or management leaves the focal point for decision-making at the embassy level. However, one program official believed that embassy personnel may be unaware of the full range of programs and training available and may lack expertise in police training. Further, given the multitude of programs, there is no single individual or office within the embassy with the expertise or authority to manage all programs. For example, the ATA program generally is coordinated through the embassy's regional security officer, while ICITAP generally coordinates its activities through a political officer, or directly with the Ambassador, and DEA manages its programs through either an in-country attache or a special narcotics coordinator.

A former U.S. Ambassador in Latin America stated that by allowing so much decision-making authority at the embassy level, the degree of oversight and coordination of police activities is dependent on the priority the Ambassador assigns to these activities. He said that not every Ambassador keeps a close watch on all in-country activities, and that this suggests the need for greater coordination, monitoring, and supervision at the Washington, D.C., level.

PROGRAM OBJECTIVES AND ACTIVITIES DUPLICATED

A State Department official said that because of the proliferation of programs and the overlap in objectives, U.S. agencies may be duplicating efforts. As a result, determining which agency will provide training may depend largely on whether an agency has the resources or takes the initiative. A program officer acknowledged that some foreign officials are receiving similar courses from different agencies and similar program objectives may also result in duplicative administrative and assessment functions. An ATA official stated that although ATA's charter limits its training to antiterrorism, the strategy and objectives of ATA's training parallel those of ICITAP; both want to improve law enforcement capabilities. DEA is also concerned about general enforcement capabilities as part of its drug interdiction activities. However, each agency conducts in-depth force capability and training needs assessments before commencing training.

APPENDIX III. COUNTRIES RECEIVING POLICE ASSISTANCE

Table III.1 shows the countries that have received assistance from the United States for their police forces during fiscal year 1990. The actual level of assistance varies significantly among countries. For example, a country listed as a recipient of INM counternarcotics assistance may have had as few as one participant in a training course, or received many millions of dollars in training and equipment. Assistance listed under the DOJ includes the FBI but not ICITAP. Although ICITAP is a DOJ program, it receives foreign assistance funds channeled through the Department of State. The ATA column includes only antiterrorism assistance managed under that program. The assistance listed under INM includes training provided by DEA, U.S. Coast Guard, and U.S. Customs Service.

TABLE III.1: COUNTRIES RECEIVING POLICE ASSISTANCE IN FISCAL YEAR 1990

	ATA	DOJ	ICITAP	INM	DOD
Africa:					
Botswana				X	
Burkina Faso	X				
Burundi	X			X	
Central African Republic	X			X	
Chad	X			X	
Congo	X				
Cote D'Ivoire	X				
Ethiopia				X	
Gabon	X				
Ghana				X	
Guinea	X			X	
Kenya	X			X	
Mali	X				
Mauritania	X				
Mauritius				X	
Mozambique				X	
Niger	X				
Nigeria				X	
Rwanda				X	
Senegal	X				
Seychelles				X	
Sudan				X	
Tanzania				X	
Togo	X				
Uganda				X	
Zaire	X				
Zambia				X	
Zimbabwe				X	
Latin America and the Caribbean:					
Antigua-Barbuda[1]			X	X	X
Argentina				X	
Bahamas				X	
Barbados[1]	X		X	X	X
Belize			X	X	
Bolivia[2]	X		X	X	X
Brazil				X	
Chile				X	
Colombia[2]	X		X	X	X
Costa Rica	X		X	X	X
Dominica[1]	X		X	X	X
Dominican Republic			X	X	
Ecuador	X			X	X
El Salvador			X	X	
Grenada[1]	X		X	X	X
Guatemala			X	X	
Guyana			X	X	
Haiti				X	
Honduras	X		X	X	
Jamaica	X		X	X	
Mexico[2]		X		X	X
Nicaragua			X		
Panama[2]	X		X	X	X
Paraguay				X	
Peru[2]	X		X	X	X
St. Kitts & Nevis[1]	X		X	X	X
St. Lucia[1]	X		X	X	X
St. Vincent[1]	X		X	X	X
Surinam				X	
Trinidad & Tobago			X	X	
Uruguay				X	
Venezuela				X	
East Asia and Pacific:					
Australia		X		X	
Brunei				X	
Fiji				X	
Hong Kong				X	
Indonesia				X	
Kiribati				X	
Korea				X	
Laos				X	
Malaysia				X	
Marshall Islands		X			
New Zealand				X	
Papua New Guinea				X	
Philippines	X			X	
Samoa				X	
Singapore				X	
Solomon Islands				X	
Taiwan				X	
Thailand	X			X	
Tonga				X	
Tuvalu				X	
Vanuatu	X	X		X	
Europe and Canada:					
Austria				X	
Canada		X			
Cyprus	X			X	
Czechoslovakia	X			X	
Denmark				X	
England		X		X	
Finland				X	
France				X	
Germany		X		X	
Greece				X	
Hungary	X			X	
Iceland				X	
Ireland				X	
Italy		X		X	
Malta				X	
Netherlands		X		X	
Norway				X	
Poland	X			X	
Portugal	X			X	
Spain				X	
Sweden				X	
Turkey	X			X	
United Kingdom				X	
U.S.S.R				X	
Yugoslavia				X	
Near East and South Asia:					
Bahrain				X	
Bangladesh				X	
Egypt	X			X	
India				X	
Israel	X			X	
Jordan	X			X	
Kuwait				X	
Lebanon				X	
Maldives				X	
Nepal				X	
Oman				X	
Pakistan	X			X	
Qatar				X	
Saudi Arabia				X	
Sri Lanka	X			X	
Syria				X	
Tunisia	X			X	
United Arab Emirates				X	
Yemen				X	

[1] These countries are members of the Eastern Caribbean Regional Security System which received a total of $4.5 million in military training and equipment. They also received investigative and other training from ICITAP.

[2] Available data indicates that these countries received at least $5 million in police training and assistance.

U.S. SENATE,
Washington, DC, May 2, 1991.
Hon. RICHARD THORNBURGH,
Attorney General, Department of Justice, Washington, DC.

DEAR DICK: As you know, I have been very interested in the issue of designing U.S. security assistance programs for the post-Cold War period. Obviously, administration of justice and police training form part of the core of programs that might significantly benefit from a hard look at their future, with a view to making them more appropriate for the 1990s.

To this end I, together with four of my colleagues, recently asked the Government Accounting Office to look into both the way the system is currently working, as well as proposals for its reform. Among the issues we asked the GAO to address were the following: the intent and efficacy of current restrictions on civilian police training; the scope, structure and efficacy of existing administration of justice programs, and the compatibility of security assistance training with U.S. models of civil-military and civil-police relations.

I know you have given considerable thought to these issues, and that is my reason for writing to you today. I understand your office is receiving an increasing number of requests from abroad for help in the administration of justice area, particularly in police training and prison reform.

There appears to be a growing need for help in these areas, especially from the emerging democracies of Eastern and Central Europe. Our offices have been in contact on this particular issue before, and I thank you for your support for my bill, S. 552, the "Omnibus Eastern European Security Assistance, Act." I would very much appreciate hearing your views in full on how S. 552 could help meet the need in the Eastern European region, and what more, if anything, needs to be done.

And beyond that, I would like to take this opportunity to get your views on several of the issues we posed to the GAO on the issue of administration of justice:

(1) In what ways might we improve the administration of justice, including police development, in new and emerging democracies?

(2) Concerning the effects of the restrictions mandated by Section 660 of the Foreign Assistance Act on international police training:

(a) How many exemptions currently exist to the Section 660 rule? Given various programs and exemptions, does this confuse recipient governments or agencies about the purposes of U.S. police training? For example, the International Criminal Investigative Training and Assistance Program (ICITAP) is prohibited from teaching surveillance techniques, while other programs are permitted to give this type of instruction as part of their mission.

(b) How different is the context in which police training is currently carried out from that of the 1960s and 1970s? Related to this, what kinds of oversight mechanisms do you believe are necessary to prevent the allegations of abuse which occurred in the past? And how might police training programs be structured so as to anticipate effectively the objections to international police training which resulted in the passage of Section 660?

(c) Currently, most administration of justice programs carried out under Section 534 of the Foreign Assistance Act are administered by the Agency for International Development. The police training and assistance component under Section 534 has been re-delegated to the State Department which allocates funds to the Department of Justice to carry out such programs. There have been doubts expressed about AID's ability to carry out administration of justice programs. There have also been suggestions that all international justice assistance programs be placed under the supervision of the Department of Justice. What is your assessment about such proposals? If it is positive, how would Justice Department leadership in this field result in better and more effective programs?

(d) In your view, how successful a program is the International Criminal Investigative Training and Assistance Program? Is ICITAP, as currently structured, capable of carrying out programs on a world-wide scale? If not what changes are needed to allow it to respond to growing demands for its services outside Central and South America?

(e) What is the current U.S. law enforcement presence in Eastern and Central Europe? How many legal attache posts are there in American embassies there? If there is a need for more, what mission(s) do you see them performing? How many legal attaches are there worldwide, and how do they acquire their expertise? What plans are currently being made to strengthen any perceived gaps in law enforcement efforts in the region by the administration?

(f) If the Department of Justice were to be given a larger role in the area of international administration of justice programs, what efforts do you foresee it making to help host countries make a transition from military-led to civilian-run law enforcement, given the fact that, as has been noted by Congress, the separation of the military from civilian law enforcement functions has historically been a critical element in sustaining democracies around the world?

(g) What role do you see for community-based policing techniques in future police training programs?

I very much appreciate the opportunity to share with you some of my concerns about this increasingly important subject. I look forward to cooperating with you on administration of justice issues as they affect Eastern and Central Europe, and other regions as well. If you have any questions about this letter, please do not hesitate to have a member of your staff call Martin Edwin Andersen, my legislative assistant for foreign policy and defense at 224-8114.

With every good wish, I remain,

Sincerely,

ALAN CRANSTON.

U.S. DEPARTMENT OF JUSTICE,
Washington, DC, September 19, 1991.
Hon. ALAN CRANSTON,
U.S. Senate,
Washington, DC.

DEAR SENATOR CRANSTON: On behalf of the Department of Justice, I would like to respond to your letter which raises questions with regard to the administration of justice and police training in the post Cold War Era. I apologize for any inconvenience our delay in responding may have caused you.

Attorney General Thornburgh did experience a great growth in the incidents of requests for assistance and training from abroad. He also recognized a growing reliance by the Department of Justice on the cooperation of foreign law enforcement organization in combating terrorism, drug trafficking, money laundering and international financial fraud. To facilitate this work, he formed an Office of International Affairs in the Department (a copy of his order is attached). We appreciate your interest in and support for our efforts to improve the effectiveness of international law enforcement.

I would like to respond to the particular questions you have raised.

1. In what ways might we improve the administration of justice, including police development, in new and emerging democracies?

Answer: The move to democratization requires reforms in most public institutions, including those charged with the enforcement and administration of justice. The rules of law and conditions for a democracy are such that effective administration of justice is essential if a new democracy is to survive. If crimes are seen as going unpunished for failure of effective investigation and criminals are perceived to act with impunity, the rule of law and conditions for democracy are undermined. Weak law enforcement institutions can threaten the viability of the democratization process. It is critical that the public have confidence in the criminal justice system of their country.

There are several major areas that can be addressed when determining ways to strengthen judicial systems and professionalize the police.

(A) Enhance judicial and prosecutorial capabilities:

(1) Improvement of the administration of justice depends heavily on judges, and prosecutors as well as police. Judicial training, court administration, and improved access to justice not only eases costly delays, but also builds the public's confidence in the judicial process.

(B) Improve coordination between judges, prosecutors, and the police:

(1) The institutional responsibilities of each of the judicial components must be carefully defined in a new democracy. Each component must learn more about the other and how they can better coordinate and interact. This is especially crucial in the investigation of a crime where lack of coordination can jeopardize an entire investigation.

(C) Improve technical skills of the police to deal with problems of crime prevention and investigation:

(1) In a democracy the public security task falls on the police. They must be seen as a protector of the citizens and not of the ruling authority. Because most of the public security responsibilities in emerging democracies were originally assigned to the military, who answered directly to the ruling authority, most police forces never received basic police instruction and therefore lack proper skills in investigation, especially criminal investigation.

(D) Design safeguards against human-rights abuses:

(1) A professional police force should inspire confidence in law enforcement officials and judicial institutions. These officials and institutions are responsible for guaranteeing fundamental rights, freedom and security. It is essential in the institutional development of every public security force in every democracy, that an instrument be created to ensure that allegations against the police are investigated and the citizenry is advised of the outcome of these investigations.

(2) Emphasis should be placed on respect for human rights during police training and emerging democracies. By doing so, police professionalism will increase and improve human rights records in these countries.

(E) Law enforcement institution building:

(1) Consideration should be given to the development and implementation of training programs in new democracies. This includes the development of curricula, and the creation of police academies separate from the military.

2. Concerning the effects of the restrictions mandated by Section 660 of the Foreign Assistance Act on international police training.

(a) How many exemptions currently exist to the Section 660 rule? Given various programs and exemptions, does this confuse recipient governments or agencies about the purpose of U.S. police training? For example, the International Criminal Investigative Training Assistance Program (ICITAP) is prohibited from teaching surveillance techniques, while other programs are permitted to give this type of instruction as part of their mission.

Answer: Nearly all assistance given by the U.S. Government to foreign law enforcement agencies must be exempted by Congress from Section 660 of the Foreign Assistance Act. Therefore, separate exemptions exist for each U.S. policy initiative designed to improve an aspect of policing in a foreign country. Examples are: Narcotics training, antiterrorism training, criminal investigative training, past International Military Education and Training (IMET) for police in El Salvador and Honduras and current IMET for Panama and the Caribbean region, as well as general police training to Panama. The above is not a complete list of exemptions to Section 660, but does represent the majority of U.S. assistance to foreign police.

A great deal of effort goes into coordinating these programs both in Washington and in the various U.S. embassies; therefore, any new initiatives should be an expansion of the above programs, rather than a new exemption.

(b) How different is the context in which police training is currently carried out from that of the 1960's and 1970's? Related to this, what kinds oversight mechanisms do you believe are necessary to prevent the allegations of abuse which occurred in the past? And how might police training programs be structured so as to anticipate effectively the objections to international police training which resulted in the passage of Section 660?

Answer: A 1989 Congressional Research Service report stated the following concerning the Agency for International Development's Office of Public Safety (OPS), which provided police training during the 1960's and 1970's:

The U.S. based training programs targeted mid-level supervisory officers and senior policy and program personnel, whereas in-country programs trained lower ranking police officers. Although curricula differed according to the targeted trainees, most programs had the dual objectives of institution building and counterinsurgency training. The technical curriculum of the OPS program—emphasizing police management and operations—included training in logistics, police lab techniques, personnel, police community relations, recordkeeping, criminal investigation, patrolling, maintenance and interrogation skills. The counterinsurgency courses emphasized the nature of counterinsurgency, communist ideology, riot control, pistols and weapons use, photography and police communications, chemical munitions, and bomb disposal.

OPS also provided law enforcement equipment to foreign police units. Equipment transfers fell into four categories: telecommunications, transportation, weapons and riot control, and general equipment (e.g. textbooks, training aids, criminal investigation equipment). Most equipment transfers were communication and transportation items.

[Alan K. Yu. U.S. Assistance for Foreign Police Forces (Congressional Research Service)—Library of Congress, July 18, 1989.]

ICITAP's role since its inception in 1986 has been to provide assistance to countries in Latin American and the Caribbean in an effort to strengthen the administration of justice in those countries. Specifically, ICITAP develops and implements:

(1) Programs to enhance professional capabilities to carry out investigative and forensic functions conducted under judicial or prosecutorial control;

(2) Programs to assist in the development of academic instruction and curricula for training law enforcement personnel; and

(3) Programs to improve the administrative and management capabilities of law enforcement agencies, especially their capabilities relating to career development, personnel evaluation, and internal discipline procedures.

The heart of ICITAP's work is teaching basic techniques solely and immediately associated with the conduct of criminal investigations. In addition, ICITAP has developed courses for judges and prosecutors, with the objective of providing them a basic understanding of investigative techniques they can employ in directing investigations. Judges and prosecutors regularly participate in skills courses with the police, as well as receiving their own training from ICITAP. Another central effort is the enhancement of communication and coordination among the components of the criminal justice sector; the opportunity for high level discussions and exchange of views has been provided through regional and national conferences.

A major ICITAP theme in all the works undertaken is the value and necessity of physical evidence in the investigation and adjudication of crimes. The overall objective of ICITAP's forensic science development is to create full service crime laboratories, effective fingerprint repositories, competent forensic pathology, and equipped and proficient crime scene processing teams to support criminal investigations.

Institution building is an implicit benefit of improved criminal investigative ability and increased professionalism by the police and other entities within the criminal justice system. ICITAP's approach is to offer a gamut of courses directly linked to criminal investigations and offered in-country to all levels of officer corps police personnel and judicial and prosecutive professionals. Technical assistance, forensic internships, and equipment donations to police laboratories and crime scene processing units are focused on specific areas of forensic activity. Except in Panama, general policing matters are outside ICITAP's purview, as are any issues related to counterinsurgency or civil disorder control.

Past police assistance and training programs, most notably the OPS, fell victim to allegations of abuse in part because any police assistance program is automatically open to such allegations by the very nature of police activities—the bestowing upon an agency of government the right to use force when necessary to maintain order and public safety. In addition, because one of the stated goals of the OPS was the deterrence of activities deemed hostile to the interest of the United States—including the spread of revolutionary movements—resources and personnel were allocated to address a "counterinsurgency" aspect of police training, causing a public and media perception that OPS conducted intelligence activities.

In the current world situation where poverty and illegal drug activity overshadow ideology, the nature of police training and assistance programs has changed. Ideological objectives have been replaced by the need for professional, competent law enforcement. These programs must strive to be as accessible to States. Police assistance programs must be coordinated at a policy and procedural level with a single decision-making organ to avoid replicating some efforts while overlooking others.

In addition, these activities should be maintained in the hands of public institutions, such as an executive department, subject to full and complete Executive and Congressional review. Periodic accountability reviews conducted by the department's own internal audit/inspection service and the General Accounting Office are required to ensure that the stated mission and actual practice are the game. Above all, such programs must be conducted in the full light of day with full regard for the human rights aspect of policing.

(c) Currently, most administration of justice programs carried out under Section 534 of the Foreign Assistance Act are administered by the Agency for International Development. The police training and assistance component under Section 534 has been re-delegated to the State Department, which allocate funds to the Department of Justice to carry out such programs. There have been doubts expressed about AID's ability to carry out administration of justice programs. There have been suggestions that all international justice assistance programs be placed under the supervision of the Department of Justice. What is your assessment about such proposals? If it is positive, how would Justice Department leadership in this field result in better and more effective programs?

Answer: Both the Department of Justice and the Agency for International Development (AID) can point to historical accounts of criminal justice training. AID managed the Office of Public Safety and The Law and Development Program. Within the Department of Justice, the FBI has trained foreign police officers at its academy since 1936 and DEA has had a strong narcotics training program for foreign officers for the past two decades.

The Department of Justice takes pride in having worked with the Department of State and AID in the Administration of Justice program and stands ready to make available the many in-house resources it has to strengthen criminal justice systems in developing nations. These include the Office of International Affairs, the FBI, DEA, ICITAP, Bureau of Prisons, U.S. Marshals Service, the Advocacy Institute, Immigration and Nationalization Service, Border Patrol, the Bureau of Justice Administration, the Bureau of Justice Statistics and the National Institute of Justice.

(d) In your view, how successful a program is the International Criminal Investigative Training and Assistance Program? Is ICITAP, as currently structured, capable of carrying out programs on a worldwide scale? If not, what changes are needed to allow it to respond to growing demand for its services outside Central and South America?

Answer: ICITAP has proven to be a very successful program. It began in FY 1986 with a budget of $1.5 million and a permanent staff of four; now a permanent staff of 31, contract staff of 40, and some 60 consultants carry out a 20 million dollar program throughout Latin America and the Caribbean. ICITAP's accomplishments have been praised by officials of the State Department and foreign governments.

The current structure provides ICITAP with the flexibility to expand or contract quickly in response to international developments. For example, three months after the Justice Department received its initial allocation of funds from State for the Panama program, ICITAP had a staff of six working out of the U.S. Embassy in Panama City implementing a detailed operational plan that ICITAP had developed. ICITAP takes justifiable pride in being an unbureaucratic, quick-response team of professionals, and could successfully employ its proven techniques in other regions of the world if authorized to do so.

(e) What is the current U.S. law enforcement presence in Eastern and Central Europe? How many legal attache posts are there in American embassies there? If there is a need for more, what mission(s) do you see them performing? How many legal attaches are there worldwide, and how do they acquire their expertise? What plans are currently being made to strengthen any perceived gaps in law enforcement efforts in the region by the administration?

Answer: There is currently no U.S. law enforcement presence in Eastern Europe. In Central Europe the law enforcement presence (sworn officers) is as follows:

Austria: DEA (3), Customs (2).

Germany: DEA (7), Customs (7), FBI (5).

Switzerland: DEA (3), FBI (2).

There is a greater need for additional legal attache posts in Eastern and Central Europe as well as in other parts of the world. As technology and modern transportation render an "ever shrinking world," it is increasingly important that DOJ be represented in the major foreign capitals in order to effectively counter international crime and terrorism.

In connection with the FBI's international mission and due to its standing within the international law enforcement community, the FBI continues to receive numerous requests for assistance on investigative, training, and technical issues. Many foreign government officials, including those of former Eastern bloc nations, have expressed an interest in having permanent FBI representation in their countries to enhance both the level of cooperation and their own agency's professionalism.

Currently there are 18 FBI Legal Attache (Legat) posts located in major U.S. embassies worldwide. These posts are staffed by 46 Legats and Assistant Legats and 41 office assistants. With regard to Europe, the State Department has recently approved a Legat post for Vienna. It is envisioned that this would be a regional post with responsibility also for Hungary and Czechoslovakia.

All Legats are experienced FBI agents with managerial and operational expertise. This expertise is derived primarily from their work-related background in foreign counterintelligence, counterterrorism, drugs, organized crime, and white collar crime. They receive additional training as needed before they leave for their posting, such as language training and State Department briefings.

The Department of Justice is currently examining law enforcement issues in Eastern Europe in an effort to determine how the U.S. can better assist these countries and establish viable civilian law enforcement agencies which will observe the rule of law. Last December the Attorney General visited Hungary and Bulgaria. He also had a number of meetings in Washington with his counterparts from Eastern Europe. We still have much to learn, but these meetings have provided valuable insights to the problems these countries are facing with law enforcement and the evolution to the rule of law. The parallels between Latin America and Eastern Europe are evident and the ICITAP model is ideally suited to be utilized in fostering this evolution.

(f) If the Department of Justice were to be given a larger role in the area of international administration of justice programs, what efforts do you foresee it making to help host countries make a transition from military-led to civilian-run law enforcement, given the fact that, as has been noted by Congress, the separation of the military from civilian law enforcement functions has historically been a critical element in sustaining democracies around the world?

Answer: If the Department of Justice were given a larger role in the international administration of justice programs, it could bring considerable expertise to those programs, over and above the criminal investigation expertise that has been provided for the past five years. As you know, the Department of Justice has substantial expertise in additional areas such as judicial protection; prosecution; witness protection; corrections; civil litigation; immigration; resolution of racial and ethnic conflicts; juvenile justice programs; justice statistics, etc.

In addition, outside the aegis of administration of justice as it is currently structured, the Department of Justice has expertise in drug enforcement and counter-terrorism. Also, it is currently providing some training and assistance which is funded by the State Department's International Narcotics Matters and Anti-Terrorism Assistance program.

(g) What role do you see for community-based policing techniques in future police training program?

Answer: Most of the countries in which ICITAP works are emerging democracies with a legacy of military domination and subsequent involvement in policing activities. There is a general distrust of the police because of their connection with the military, be it direct or indirect. The police tend to be authoritarian and lack social sensitivity, frequently incurring allegations of human rights abuses. For the most part, community/police relations are non-existent and the police lack credibility. ICITAP has found police services are incident-driven, with little thought or consideration given to crime prevention and reduction.

In general, because many police organizations are incident-driven, they react to crime rather than seeking the reasons why crimes occur. With the advent of community-based and problem-solving policing, departments in the United States have begun to explore and implement "proactive" policing techniques (a departure from traditional methods which have isolated the police from the community and narrowly defined their focus). Both community-based and problem-solving policing ideologies promote methods to prevent crime and address the issues that cause crime which is an important consideration in third-world countries where financial and human resources are scarce. Through its programs, ICITAP has attempted to instill a greater awareness for the development of programs which will enhance the relationship between the police and the community and create mechanisms that will enable the police to take a more proactive stance in addressing crime. These changes require a fundamental decentralization of authority and a greater awareness of the underlying conditions which cause crime, including the characteristics of the people involved (victims, suspects, public-at-large; the social setting) in which these people interact in the physical environment and the way the public deals with these conditions in general.

Most police organizations are not prepared to accept change or to implement programs aimed at crime prevention and reduction because this constitutes threat to the status quo and a perceived loss of power and control. However, there is a growing tendency to involve the community in policing to gain broader public support, develop information regarding trends and patterns within a community, and thus anticipate potential problems. Police organizations are slowly recognizing that to effectively carry out their mandate and thus survive as an institution, they must have a supportive public. An example of this can be found in Panama where the National Police are in the process of changing the traditional stationary guard positions to police beats in order to get the police on the streets where they can interact with the public. Also, community relation offices have been created within metropolitan Panama City precincts to encourage better relations with the community. Neighborhood Watch Programs are also being considered. As a result of these programs, ICITAP is beginning to look at its total program with a view toward adapting community-based techniques to other areas.

This, however, involves a substantial change from current practice requiring broad-based public involvement. To strike a balance between the mission to provide police services while protecting and respecting civil liberties, ICITAP courses and technical assistance programs promote respect for human rights and the needs of the community. Since the community-based and problem-solving policing require closer contact with the community it serves, public confidence in the police must be instilled in order for this to work. Ultimately, successful implementation of community-based and problem-solving techniques will render the police more efficient and effective in its efforts to reduce crime. For this to occur, those persons in positions to effect change must agree that changes are necessary and also the challenge and the difficulties involved in strengthening the ties between the police and the community.

Again let me express the Department's gratitude for your interest in supporting international law enforcement assistance and training. If my office may be of further assistance to you or your staff please let me know.

Sincerely,

W. LEE RAWLS,
Assistant Attorney General.

U.S. SENATE,
Washington, DC, April 12, 1991.

Mr. CHARLES A. BOWSHER,
Comptroller General, U.S. General Accounting Office, Washington, DC.

DEAR CHARLES: We are writing you today to ask that your office conduct a comprehensive review of U.S. security assistance programs in the post-Cold War period. The world-wide democratic revolution and the collapse of Soviet expansionism make this effort both timely and significant. As a recent State Department policy paper noted:

"For over forty years the specter of international communism weighed heavily on the structures and priorities of United States economic and security assistance. This global threat to world freedom has finally collapsed. In its wake is the spreading worldwide recognition that freedom can only be sustained by governments whose legitimacy rests firmly on the expressed consent of the governed; that are themselves agents and protectors of individual rights; and that are capable of sustaining an environment conducive to equal economic and political opportunity for all citizens."

This fast-changing world context provides a framework with which our international security assistance must be evaluated. The global democratic revolution has put increased emphasis on issues of civilian control of the military and the need to provide clear-cut and achievable missions for a nation's security forces.

There are several areas of interest we would like the GAO to examine. These include: the mission, purpose and administration of the International Military Education and Training (IMET) program; the intent and efficacy of current restrictions on civilian police training; the career development of U.S. military personnel assigned to international security assistance programs; the scope, structure and efficacy of existing administration of justice programs; the compatibility of security assistance training with U.S. models of civil-military and civil-police relations, and human rights concerns.

In preparing the report we encourage your office to consult civilian governmental agencies, legislative committees, and non-governmental organizations with expertise in the areas of security issues, civil-military relations, police training, administration of justice and human rights in several key countries.

The following are the specific questions we would like to see addressed on each issue:

PURPOSES AND GOALS OF SECURITY ASSISTANCE PROGRAMS IN THE 1990'S

To what extent have U.S. security assistance programs been subject to changes in the past decade to reflect changing world realities such as the end of the Cold war; the importance of world-wide trends towards democratization; the primacy of civilian political control over the military and security forces, and the emergence of new international criminal networks such as the drug cartels? Is military assistance channeled through civilian authorities, rather than relying on military-to-military relationships as we have in the past? If so, how have these changes been effected? Do security assistance programs reflect fundamental strengths of the U.S.'s own successful experience in civil-military relations, such as the difference between internal security and national defense?

Please analyze these questions as they affect Africa; Asia; Latin America and Eastern Europe.

Have security assistance programs been cost-effective? What reforms have been introduced, based on program monitoring to make these programs more cost effective?

ADMINISTRATION OF JUSTICE AND POLICE TRAINING

(a) Is there a coherent policy for improving the administration of justice, including police development, in new and emerging democracies?

(2) Please evaluate the effects of the restrictions mandated by Section 660 of the Foreign Assistance Act on international police training.

(a) How many exemptions currently exist to the Section 660 rule? Please list them. Given various programs and exemptions, does this confuse recipient governments or agencies about the purposes of U.S. police training? For example, International Criminal Investigative Training and Assistance Program (ICITAP) is prohibited from teaching surveillance techniques, while other programs have to teach this to carry out their mission.

(b) How different is the context in which police training is currently carried out from that of the 1960s or 1970s?

(c) How might police training programs be structured so as to anticipate effectively the objections to international police training which resulted in the passage of Section 660?

(d) Do Section 660 restrictions on police training have the effect of encouraging a larger or more comprehensive internal security role by a nation's armed forces?

(3) Currently, most administration of justice programs carried out under Section 534 of the Foreign Assistance Act are administered by the Agency for International Development. The police training and assistance component under Section 534 has been re-delegated to the State Department, which allocates funds to the Department of Justice to carry out such programs. There have been doubts expressed about AID's ability to carry out administration of justice programs. There have also been suggestions that all international justice assistance programs be placed under the supervision of the Department of Justice or some other arrangement. We would like GAO to look at this debate and to make its own evaluation. Among the questions that should be addressed are the following:

(a) Does AID have sufficient personnel it can draw upon with experience in criminal justice or democratic development to address the growing demands for administration of justice programs worldwide? One criticism is that AID does not have staff skilled in prosecution; court administration; criminal case development and monitoring, and criminal and legal procedures. Does this affect their ability to develop and monitor such aspects of administration of justice?

(b) Related to question (3)(a), is AID equipped institutionally to handle sensitive political development issues such as administration of justice? One criticism that is sometimes heard is that AID does not report from the field on political, institutional and legal issues, limiting itself to accounting for disbursements made. Is this valid?

(c) Is AID able to react swiftly to breaking opportunities in the administration of justice area? Some critics complain that it took more than one year after Operation Just Cause for AID to develop and authorize a project paper for the justice sector in Panama. Thus, the criticism runs, while concentrating on project development, the antiquated and overloaded, Panamanian justice system received no technical assistance, training, etc.

(d) AID is also criticized for producing project papers that obligate the agency for five year periods and therefore do not allow for flexibility to take advantage quickly and effectively of new developments in the field. Is this accurate?

(e) To what extent are AID project managers sensitive to successful criminal justice development efforts in other countries? Do the project managers in the field have the technical knowledge required for justice sector activities?

(f) Are AID accounting and reporting requirements concerning institutional grants and loans suitably tailored to the possibilities of judiciary and justice sector ministries?

(4) What arguments might be made for transferring all administration of justice and police training programs to Justice Department jurisdiction? What are the pros and cons of doing so?

(5) How successful a program is the International Criminal Investigative Training and Assistance Program (ICITAP)?

(a) What have been the comments made about ICITAP in on-going U.S. government reviews of programs in the criminal justice sector?

(b) What comments or criticisms have been made of the ICITAP program by:

(1) countries receiving ICITAP assistance, and

(2) local and international human rights organizations?

(c) Is ICITAP, as currently structured, capable of carrying out programs on a worldwide scale? If not, what changes are needed to allow it to respond to growing demands for its services outside Central and South America?

(6) What is the current U.S. law enforcement presence in Eastern Europe? How many legal attache posts are there in American embassies in Eastern and Central Europe? How many are there in Western Europe? How many are there worldwide and who do they acquire their experience? What plans are being made to strengthen any perceived gaps in law enforcement efforts in the region by the United States?

INTERNATIONAL MILITARY EDUCATION AND TRAINING (IMET)

(1) What changes have been made in the IMET program to make it better reflect the changing realities of the post-Cold War world? Please include in the analysis changes in curriculum and those in the country selection process for IMET recipients. With a lessening of tensions in a world, a trend which is likely to continue for some times, what is the rationale for giving IMET to the number of countries that currently receive it?

(2) Current IMET training provides for coursework in civic action. Some have criticized U.S. efforts to promote civic action programs in foreign militaries, saying such training tends to politicize the military and makes it compete with civilian political leaders for scarce financial and technical resources. Please evaluate the appropriateness of these complaints in Africa, Latin America and Asia. How much civic action is taught to IMET recipients? Which countries' recipients receive such training? What evaluations have been made of the effectiveness of these programs in those countries participating in civic action programs?

(3) There have been proposals to extend training in defense and national security issues to qualified civilians in emerging democracies through the IMET program. It is argued that by doing so, the ability of elected officials in these countries to oversee their own military establishments will be increased. What programs are currently offered in IMET, or through other U.S. government agencies, that seek to meet this goal? What are the advantages and the drawbacks of having the IMET program more involved in this area?

(4) To what extent, if any, does IMET training offer to its recipients explicit exposure to the following lessons in the proper management of civil-military relations in the United States:

(a) that the control of the military budget by Congress ensures a close collaborative relationship between civilian political authority and the leadership of the armed forces;

(b) that there is close interaction and contact between civilians and military, and between the four services, throughout our command and control structure;

(c) that scores of civilian-run non-governmental agencies help to inform and to shape military policy, and

(d) that the military has remained at the margins of partisan politics in part because its role in internal security has always been sharply circumscribed.

How are these lessons conveyed to IMET recipients?

Should foreign military sales (FMS) be shifted from the foreign assistance budget to the defense budget?

CAREER DEVELOPMENT OF MILITARY PERSONNEL DETAILED TO SECURITY ASSISTANCE POSTS

Some concern has been expressed that American military personnel assigned to security assistance posts suffer from morale problems relating to their jobs and career paths. One worry is a perceived hostility to security assistance programs in general by sectors of the armed forces. Related to this is a feeling of some working in the field that their participation in this area negatively impacts upon their possibilities for professional advancement. Who is selected for security assistance assignments, and how? What problems or career anxieties exist, if any, among military personnel carrying out these functions? What efforts are currently being made to assure security assistance personnel that their efforts are an important military task? How do career advancement patterns for those involved in security assistance programs compare with other career patterns in the four U.S. armed services?

ANTI-NARCOTICS ENFORCEMENT EFFORTS

The effect of anti-narcotics assistance on democratic institutions and practices in new and emerging democracies has also been questioned. This issue is of particular concern in the nations of the Andean region, as well as in Guatemala.

In Section 1009 of the Defense Authorization legislation for FY91 Congress made two findings on this issue: First, that the separation of military and civilian law enforcement functions has historically been a critical element in democracies around the world, including the United States. And second, that there is a need to determine whether the current policies of the United States unduly emphasize military assistance to Andean countries rather that aid to civilian law enforcement entities carrying out anti-drug efforts in those countries.

We would like the following questions addressed:

(1) How does the role of host country militaries differ from that of police forces in regard to narcotics enforcement? What efforts are being made to help host countries where the military is involved in anti-narcotics efforts make a transition to civilian law enforcement, given the fact that—as noted by Congress—the separation of military and civilian law enforcement functions has historically been a critical element in democracies around the world?

(2) In what ways are host country police forces unable to address specific changes that have been prompted by narcotics production and trafficking in each country?

(3) What kinds and amounts of police and military assistance are being offered to the governments of Peru, Colombia, Bolivia and Guatemala by third countries to help fight narcotics production and trafficking? In what ways does the U.S. government coordinate its efforts with the efforts of these other countries?

(4) What guarantees does the U.S. government require to ensure that U.S. material is used to further U.S. anti-narcotics goals, as distinguished from host country counter-insurgency goals? What is the relationship between anti-narcotics and counter-insurgency activities as carried out by the militaries of Peru, Colombia and Guatemala?

HUMAN RIGHTS

Finally, the protection of human rights continues to be a primary concern in Congress when dealing with security assistance issues. Therefore, we would like the GAO to address the following questions:

(1) What has been the impact of U.S. military training and U.S. military assistance on the propensity of host country governments to investigate and prosecute violations of human rights by recipient government forces? To what degree have officers of host country security forces been punished for their crimes by competent government authorities?

(2) To what degree is training on humanitarian law—war crimes—incorporated into security assistance training programs? How many recipients of U.S. security assistance regularly teach humanitarian law to their own military and security forces? Given that in international and U.S. law human rights is a different concept than "humanitarian law," how is this difference reflected in U.S. training programs, both of Department of Defense security assistance personnel and of host country trainees?

(3) To what degree are human rights incorporated in security assistance training programs and curricula? Please give specifics: time spent on the issue relative to total training time, content of human rights education, and training of Department of Defense personnel in human rights issues in preparation for teaching activities. Also, please differentiate the information on the human rights component of training aimed at Department of Defense security assistance personnel from that aimed at host nation trainees.

Thank you very much in advance for your attention to this request. We ask that you give this project a high priority given its importance as a national security issue. If you have any questions, please do not hesitate to have a member of your staff call Martin Edwin Andersen at 224-8114.

Sincerely,

ALAN CRANSTON.
DANIEL PATRICK MOYNIHAN.
THOMAS A. DASCHLE.
RICHARD LUGAR.
BROCK ADAMS.

Mr. CRANSTON. Mr. President, I yield the floor.

OMNIBUS CRIME CONTROL ACT—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. SEYMOUR. Mr. President, I rise to address the conference report to H.R. 3371, the Violent Crime Control Act.

I listened earlier to the distinguished Senator from Delaware yesterday with great interest. I want to take a moment to respond to some of the remarks that he made, especially with respect to habeas corpus because, after all, what this conference report is about, to a large extent, is a fight over the reform of Federal habeas corpus.

As my colleagues know all too well, the Federal habeas corpus process is a statutory right given to convicted criminals to ensure that the judicial process that led to their conviction was fair. But for death row inmates, habeas corpus means endless delay, volumes of litigation, and the joy of seeing the legal system work against the wishes of the juries or the judges that had sentenced them to death.

For the families and friends of slain crime victims, habeas corpus means no finality, endless pain, and the horror of a legal system that fails to impose society's ultimate sentence.

The bottom line is simple, Mr. President. The death penalty cannot be enforced under the current habeas corpus procedures.

In the last 8 years, each Congress has enacted major anticrime, or antidrug bills, and all are necessary in our battles against violent crime and drug trafficking. But each of these crime bills, dodged the issue of habeas corpus reform, leaving it to the next Congress to make the tough choices on this issue.

Almost a year ago, Mr. President, President Bush challenged this body and the House of Representatives that if in fact our troops could win a ground war in the Persian Gulf in 100 hours, then surely Congress could respond with an adequate crime bill in 100 days. That was almost a year ago.

For our part here in the Senate, Mr. President, we mounted a strong bipartisan majority vote that passed—true habeas reform—only to see in the conference committee when representatives from the Senate and representatives from the House of Representatives got together in the conference committee process, only to see that torn asunder, and to steamroll a conference report that stripped the Senate's habeas provisions and replaced them with the House-passed procedures that are reform in name only.

So what happened is, although we did our job here, we gave it away, we sold the store in conference committee.

Just how bad is the conference report's so-called habeas reform package? Mr. President, it is bad enough to reverse 14 years of responsible Supreme Court decisions, including the landmark Teague ruling, that limits endless delays and frivolous appeals in delay cases. In other words, it is a step backward.

I will tell you this: It is bad enough to allow condemned prisoners to delay a full year before even applying for Federal habeas corpus. And it is bad enough to reject the Senate's proposal that habeas petitions for condemned criminals be limited to new claims that have not been fully and fairly heard in State courts.

It is bad enough, Mr. President, to cause the attorney general of my State, the State of California, to announce that those provisions are "a fraud on the people of California and, most particularly, on the crime victims of the State of California."

In short, Mr. President, these provisions contain enough loopholes, legal trap doors, and other broad definitions to promote new, unnecessary litigation, rather than finality and fairness for those not on death row. The habeas provisions represent an opportunity—though many would argue it is remote—it is an opportunity for them to walk the streets again.

But rather than cut through the legalese, because I am not a lawyer, and I do not intend to imitate one, Mr. President, but let me give my colleagues an example of the problem I am talking about.

For Californians, I sure do not need to recount the brutal murders committed by Charles Manson, Sirhan Sirhan, and the Onion Field killer, Gregory Powell. Californians know these names all too well. They are, in fact, the most notorious killers in California's history.

In each case a jury of Californians decided that these bloody and violent killers deserved nothing less than death. However, liberal judges said the death penalty was inappropriate, and Manson, Sirhan Sirhan, and Powell were all resentenced to life in prison. In other words, the thought was if they cannot be put to death then at least let them rot in prison.

And those violent, bloody killers have in fact remained there for 20 years now without any hope for release. That is until the conference report came to us. You see, Mr. President, the Senator from Utah has convincingly argued that these killers could file a new habeas petition if the conference report's provisions reversing the Supreme Court's holdings on retroactivity were to become law. As we all know, for any violent offender not on death row, a habeas petition represents not delay but a chance at freedom.

The distinguished Senator from Delaware has disputed this argument, offering his own legal views, and certainly I will not challenge him as a distinguished student of the law. But I am sorry. Even if there is the slightest possibility, Mr. President, the slightest possibility that this conference report would result in a murderer's release because of some new right not known at the time he was convicted, I am not going to take that risk. I will not take that much risk to see a Charles Manson let loose to roam the streets of California or any other place in America. I do not think any of us here want to take that risk.

It is my understanding that the attorney general of California, Dan Lungren, agrees with the point made by the Senator from Utah. Now the citizens of California know well and respect the views of our State attorney general. He is also well respected by my colleagues here. His concerns are proof enough that there exists a serious problem in this conference report.

There should not be differences of opinion on matters of this type. If anyone disagrees on this kind of matter, it is so important that we should not proceed with the conference report even, as I said earlier, if there is the slightest possibility. The American people deserve no less and the people of California will accept no less.

Even though I think the juries that sentenced Charles Manson, Sirhan Sirhan, and Powell were right to begin with—and that is they should have had the death penalty—let us make sure they at least remain behind bars. Let us not provide the slightest opportunity for them to be out on the streets permitting them the opportunity to once again create mayhem and murder on our citizens.

I think that we owe that, Mr. President, not only to the citizens we claim to represent, but, more importantly than that, we owe at least that much to the victims and to the families of those victims.

So, despite all of this, there are those in the majority party that claim they have offered reform of the habeas system.

How can we call it reform after the arguments that I have made? Is there any Member of this U.S. Senate who would stand here and vote for something knowing that there was the slightest possibility that a murderer sentenced to life in prison could use this conference report, should it become law, as a loophole to get out on the streets again? I do not think so. I cannot believe that is true.

Although there are some that would disagree with what I have had to say—and I respect their right, including the distinguished Senator from Delaware, to disagree with what I had to say—but unless we can agree unanimously it just seems to me that the prudent course is to not move ahead on this conference report based upon, for one reason, and that is the deformation of the reform, or the alleged reform, of the habeas system.

How can we call it reform, Mr. President, when 31 of the Nation's attorneys general, 16 Republicans, 15 Democrats, concluded last November that the conference report's habeas corpus provisions were a sham? That is bipartisan; 16 Republicans and 15 Democrats, attorneys general of 31 of our Nation's States. How can it be called reform when every district attorney, Democrat and Republican alike, in my State, California, were united in an unprecedented show of support for the habeas corpus provisions before it got over into that conference committee and, as I said, was deformed in the process, stripped?

California district attorneys also concluded that the conference reports habeas corpus provisions are worse, are worse, Mr. President, worse than current law. Amazingly, amazingly the conferees found ways to make the current system even more endless for death row inmates and harder to bear for a crime victim.

If that is the case, I am sure that the 323 inmates on California's death row—yes, Mr. President, I said it correctly—323 inmates on California's death row, they are going to have plenty of free time on their hands, if this conference report becomes law.

Mr. President, I can understand that the Senator from Delaware does not think that the concerns of those 31 attorneys general across the Nation, nor the unanimous opinion of Republican and Democrat district attorneys in my State alike have indicated that they are not all that important. The Senator from Delaware certainly is entitled to his opinion. But I have not seen in my years such unified support in my State of California for their concern about this conference report.

I might add to the Senator from Delaware that if he thinks that there is not somebody out there that is concerned beyond the attorneys general or beyond the district attorneys, let me challenge him to talk to the average Californian out on the street. I would suggest he start with Coleen Campbell.

Coleen Campbell, who represents the family, the mother, of the victims, became enraged with the fact that those 323 inmates on death row could not be given full justice and receive the death penalty and so she joined with hundreds and hundreds of thousands of citizens—not DA's, not attorneys general, just common ordinary citizens—in overwhelmingly passing the crime victims initiative. And one of the key components of that initiative—this was only the third time, by the way, that an overwhelming vote was taken in California in strong support of a death penalty. That has not happened. So Coleen Campbell is in the process, as I speak, of contacting the distinguished Senator from Delaware to tell him there are a lot of people, Mr. President, a lot of little people who are very concerned that in fact what the conference committee did to the habeas corpus reform provisions sets us back when in fact we led everybody to believe we were moving forward, that we were going to tighten it up, that we were going to have a death penalty that worked, one that would be enforced.

No wonder, no wonder the American public is not just dissatisfied with the conduct and the activities of Congress, not just dissatisfied, but totally frustrated and angry. They have every right to be angry.

We told them when we passed that crime bill, and I went home to California and I told Californians that we have reformed habeas corpus, finally, and finally we would see the death penalty carried out in our State, and one or more of those 323 that have sat there year in and year out would finally pay the price. And then to see the conference committee strip those provisions from this bill is disgusting.

If you want to talk to somebody else in California, go talk to the friends and the families of the boys that were brutally murdered by that thug, Robert Alton Harris, who sat on death row for more than 10 years—a decade—singlehandedly—making a mockery of the current habeas process, laughing up his sleeve because he had found a way, as so many others, hundreds of others, have found a way to manipulate the system, to cheat the juries and judges, who in a fair trial, found them guilty and sentenced them to death. They laughed up their sleeves at us. Ask the families of the victims who Robert Alton Harris, in cold-blooded fashion, murdered. Ask them how they feel about this. I will tell you, there would be little doubt they would tell you very strongly about their opposition.

I would be happy to save the Senator from Delaware the problem of going to California and talking to citizens out there to see how they feel about this, and going beyond the Attorneys General—31—and all the DA's who, in California, unanimously are opposed to this thing. I will save him that problem by merely recognizing how frustrated the people of my State of California are and understanding their frustration. They ask, why has there not been one death-row inmate received the death penalty in the State of California since 1967?

Try to explain to the people in California why nationally only 3 percent of those sentenced to death since 1976 have been executed. Try to justify to them why we should support a conference report that makes it easier for a death row inmate to delay his sentence. Try to tell them why the majority party in the U.S. Senate will not let the death penalty be enforced.

Yes; I said Californians are angry and frustrated. They have also lost faith. And I am not referring to California's elected lawyers. I am talking about the law-abiding Californian. I am talking about the little person, the one that just goes about their work, day in, day out, continuing to pay their taxes; the little person that leads a law-abiding life, does not cause anybody any problems, just goes through their life performing as a responsible citizen, not making much mention or much cry or much to-do about anything. Try to tell them and justify to them why we should support a conference report that will, in fact, possibly send a Charles Manson back to the streets.

Well, I do not think you can do that. I do not think you can justify it. I do not think you can explain it. I do not think you can defend it. Because it is wrong. They are fed up, and I am fed up.

I do not need to remind my colleagues that the people of my State ousted two associate judges and the chief justice of the California Supreme Court. Now, that is drastic. That never had happened in our history. But the frustration level had gotten up to here. So Californians did what they could do—like good, law-abiding citizens always do what they can do—at the ballot box. They took out their rage, they took out their anger, and they threw out of office two associate judges plus the chief justice of the State of California's Supreme Court.

Now, those that would support this conference committee report will be doing nothing more than California's Chief Justice Rose Bird did. They will be making the system even worse. They will be saying by their vote to every Californian, "Sorry, you can't enforce the death penalty." The real title to this conference report should not be the Violent Crime Control Act. A better title would be "Rose Bird's Revenge Bill."

So let us be clear. The Democrats' conference report does not reform the habeas process. It deforms it. Indeed, the Democrats are not kidding, Mr. President, when they say their conference report is a tough crime bill. The problem is, it is tough on law enforcement. It is tough on crime victims. And it is tough on law-abiding citizens who want an enforceable death penalty.

That is why this conference report is on a fast track to nowhere. That is why I joined with my good friends from South Carolina, Utah, and Kansas to introduce a new crime control bill that contains, Mr. President, the true habeas reform provisions that we, in a bipartisan fashion, had passed last summer.

We introduced this bill because we do not intend to duck nor destroy habeas reform. We are going to achieve it if we have to stand here until the Sun comes up and the Sun goes down; day in, day out; week in, week out. We will not back away from this commitment. We have come too far. We have waited too long. Now is the time, and we are not going to let the time pass. We will seize this moment.

We are not here—in this new version of the crime bill that we pass—we are not here to just leave it to the next guys on duty. We will not just leave it to the 103d, 104th or 105th Congress to fix or to correct the harms that this conference report will cause. We are not going home and we are not going into the 1992 election saying: Hey, we got a crime bill, we really got tough on crime, when there is a hole big enough for a Mack truck on habeas reform to be driven through.

We are not going to do that. We are here to say to crime victims and members of law enforcement that we of the 102d Congress intend to get the job done, and we are not going to leave until we do. We are here to put an end to the never ending, often frivolous appeals that have made the death penalty a joke. It is nonexistent as punishment. And those 323 inmates that have been sitting on death row in California since 1967 know damn well that is the truth. They laugh at us.

Now, just as important to the new Crime Control Act introduced this week is the fact that it reaches out to help our dedicated cops on the beat. It contains $1 billion for grants to State and local law enforcement, including $150 million for programs to put more cops on the beat. Our new bill also contains $345 million for our dedicated Federal law enforcement officers, as well as an additional $75 million for antiterrorist activities.

And while I am on the subject of funding for law enforcement, let me point out that I understand why law enforcement groups wanted the conference report passed. They need the money.

And that is what they were responding to. There is a price, and we are not going to pay the price of giving away habeas corpus reform so that these dollars—very important dollars—can flow to law enforcement. Given the fact that the conference report anyway is going nowhere fast, I am going to ask law enforcement which bill do they support now. And I know which bill they support because they were in strong support of the bipartisan bill that the U.S. Senate passed last summer before it got mangled and destroyed and deformed in that conference committee.

The new Crime Control Act that we recently introduced also does not ignore the worthwhile provisions that ended up in the conference committee's round file for no reason at all. They just stripped it clean.

Those that support the conference report will tell you that this is the most comprehensive crime legislation ever considered by Congress. Well, absent the comprehensive reforms made in the habeas process, the conference report is a glass half filled with reforms. The conferees, of course, would say, "Take a look at the part that is filled, do not worry about the part we emptied out, just take a look at what we left you." I urge my colleagues to look at what was tossed out, and why was it tossed out? You ought to give a good reason for throwing some of the things out of that bill that were in this because we worked hard, here, in a bipartisan fashion, to put them in there. Why did the conference committee throw them out? Why? Indeed, if I had to grade the conference report, I would give it a "I," for "incomplete."

For example, why did the conferees leave out a provision that I authored that makes a much-needed technical change in the Armed Career Criminals Act? This change was so strongly supported by both sides of the aisle in the Senate that it was passed by voice vote. What would it have done? It would have ensured that violent repeat offenders served the mandatory minimum sentence of 15 years under the Armed Career Criminals Act. This provision had the strong support of local, State, and Federal law enforcement and had the bipartisan support of the California delegation, congressional delegation, and, in fact, was passed by voice vote of this body. But it was left out. Why was it thrown in the ashcan?

The Senator from Delaware says that while this conference report sits idly by, crime continues to run rampant in the streets. Even if the conference report was passed, which it is not going to be passed, crime would still run rampant in my State in large part due to the conferees' refusal to include that technical correction that I authored. So why did they leave it out? Because this is such a tough crime bill? I suggest the opposite is true.

Mr. President, why did the conferees fail to include important increases in penalties against those that criminally exploit our children? These provisions would have increased penalties for distributing drugs to minors, for trafficking in drug-free zones, and would have created a new offense—that I authored, Mr. President—that would strike at those who use minors, who use kids, to commit their crimes. In my State kids as young as 8 to 11 years old are being recruited to serve in drug gangs. The provisions that the conferees left out, they threw in the ashcan, would put those thugs who use and abuse kids to commit these kinds of crimes behind bars for a long, long time.

But why were those provisions left out? Why would they throw them in the ashcan when, in fact, they would receive strong and broad partisan support of this body, the U.S. Senate? Why would they throw them out if they wanted a tough crime bill? And why did the conferees fail to include even their own House crime bill's provisions that doubled the maximum penalty for recidivist rapists, those who rape more than once, and other sex offenders? That provision was carried overwhelmingly by majorities in both the House and the Senate. Why did they leave it out?

I think we are beginning to get the answer to that question. They just did not want a tough crime bill. They wanted a label on it that made it look like a tough crime bill, but when you peek underneath it—nothing there.

Why did the conferees fail to include another provision that I authored that was not too complicated? It was nothing real dramatic, but a step that would impose fines on those who use illegal aliens to commit aggravated felonies and then take the fines that we have collected and use them to identify and deport other criminal aliens after they had served their time. Everybody liked that idea here. In fact, it was passed, once again by a voice vote, totally supported, and it had real bipartisan support. But, once again, the conferees dumped it out. They threw it in the trash can. Why?

I will be frank. Both Senate and House bills contained a number of provisions that were very important to California, but they were left out by the conferees. Given this, and the conferees' failure to address the most important part of that bill, habeas corpus, I do not think any of them would win any crimefighter contests in California.

I can go on and on and question the acts of the conference committee, but the point is clear. In the Democrats' rush to steamroll a crime bill through this Congress, the need for a tough, comprehensive crime bill took a back seat to the desire to put forward a weak, watered-down proposal. The American people and Californians, for my part, do not deserve second best when it comes to enacting measures to combat violent crime and drug trafficking in our schools, our parks, and our neighborhoods. That is why I cannot support this conference report. The Democrats can argue all day long that this conference report is good. But it is not good enough. And I, as one Senator, am not going to stop until we have delivered a bill that is much more like the bill that this House, in a bipartisan fashion, passed out of here.

If what you want is mediocrity, then support that conference report. If what you want is a label that says you are a real crimefighter and you are getting tough on criminals but then when you look underneath you have nothing, it is a sham, go ahead and vote for that conference report.

But, if you want a meaningful bill, a well-balanced bill, a bill that really, really finally will reform habeas corpus in such a way that there will be a real death penalty, a real one to act as a real deterrent, then, in fact, I suggest to my colleagues that what we need to do is to support the crime bill, the Crime Control Act that was introduced earlier this week.

The Crime Control Act cuts across the spectrum of crime from white-collar crime to drug-related crime, from terrorists to gangs, from naked violence on our streets to domestic violence in our homes. It is truly a comprehensive crime control bill which President Bush challenged us almost a year ago to deliver.

So I ask my colleagues to finish what we started last year. Let us send the American people a crime control bill that we can be proud of; nothing second best; not a so-so measure; not a bill that looks good up at the top but has nothing, no teeth in it and no backbone in it as you go through it.

And with respect to habeas corpus, let us finish what was started many years ago to institute habeas reforms that make the death penalty enforceable, not unobtainable. I have said it once before, I will say it again. The number one cause of death for a thug on death row must not be old age. The writing is on the wall.

Those who support the conference report must face one simple fact. The so-called Violent Crime Control Act contained in the conference report is dead. It has received its death sentence and it is in the process of being carried out. The Democrats know it is not going anywhere, but they want to continue this little charade, send it on to the President so the President will veto it, come back here for a veto override attempt, that will fail and then they will say, "Look, look the President vetoed a crime bill that had the death penalty and money for law enforcement. See America, the President is soft on crime."

Well, I have news, the American people—and I tell you for Californians—they are a lot smarter than that. They will see through that veil. They are not going to be fooled by such misguided legislation that has been labeled a crime bill compromise. Sure it is a compromise. Law enforcement, crime victims and their survivors and law-abiding citizens are all compromised by this report. Instead, Mr. President, let us send the Crime Control Act of 1992 to the House of Representatives and then send it to the President.

After all, our job is to reach an agreement on comprehensive legislation that will help, not handcuff, law enforcement in their fight against heinous criminals. We can do that. There is time. The clock has not run out. We had it, we did it last summer. Now let us straighten our backbone and strengthen our will and do it again. Let us get the job done. Thank you, Mr. President.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER (Mr. ROBB). The Chair recognizes the Senator from Utah [Mr. HATCH].

Mr. HATCH. Mr. President, I want to compliment the Senator from California for his remarks with regard to the conference report and possible alternatives to it, because this is serious business. I have to say the conference report leaves a great deal to be desired. Some of my friends across the aisle would have everybody believe that the choice before the Senate is the conference crime bill or no crime bill. That is simply wrong.

The conference bill, I think we have shown over the last couple of days, is fatally flawed and it should die a well-deserved death. The truth, however, is that there is another alternative and that is the Crime Control Act introduced 2 days ago by my good friend and distinguished colleague from South Carolina, Senator THURMOND.

The Republican Crime Control Act contains some positive features of the conference report bill. There are some positive features in the conference report but the Republican Crime Control Act eliminates its decidedly negative features. I assure my colleagues if the conference report is not adopted, the Senate will have an opportunity to vote on a tough anticrime piece of legislation in this session.

Those procriminal features of the conference report include its language on habeas corpus. The conference report rejects the Senate habeas corpus title that was passed overwhelmingly in the Senate. It would have changed a lot of the problems that we have today.

The conference report rejects the Senate's standard that habeas cases can only be brought for claims that have not been fully and fairly litigated already by the States. It overturns at least 14 Supreme Court cases that limit frivolous appeals and endless litigation in death penalty cases. That alone ought to be a reason for voting against the conference report. It allows death row inmates, who do not even dispute their guilt, to file endless challenges to their sentences. That has been going on at a cost of billions of dollars to the taxpayers, to you and me and every other taxpayer in this country, by criminals convicted of murder, basically admitting it, not denying it, and yet filing frivolous appeal after frivolous appeal, hoping they can get a new trial because all the witnesses are dead, gone, intimidated, whatever.

The conference report sets no time limit on filing non-death-penalty habeas cases. It doubles the 180-day limit on death penalty habeas cases passed by the Senate allowing death row inmates to wait a full year after exhausting all direct appeals before even beginning the Federal habeas process. It prohibits State judges from appointing counsel in capital cases by requiring that only public defender organizations and comparable entities can appoint lawyers. It imposes unrealistic counsel qualification standards for State cases that only a few established defenders can meet.

Those unrealistic standards far exceed those that Congress has enacted for Federal capital cases. In other words, it makes it impossible to enforce a Federal capital jury verdict.

If standards are not followed, all procedural defaults are disregarded and current presumption of correctness for a State court fact finding would be reversed. It does not take an extraordinary intellect to realize that the habeas corpus provisions in the conference report were put there by the most liberal members of the House Judiciary Committee and the Senate Judiciary Committee, discarding all the tough-on-crime provisions with regard to habeas. That is reason enough to vote against this conference report.

With regard to the death penalty, although the bill adopts new death penalties—and we heard a lot of ranting and raving about how tough this is on capital crimes because they have listed so many more that can be considered capital crimes—and so although it adopts new death penalties, its procedures are so convoluted that the death penalty will seldom be returned and it will never really be carried out. That alone is a reason to vote against the conference report.

It overturns the case of Blystone versus Pennsylvania. It is a 1990 case, under which jurors are instructed to impose the death penalty if they conclude that the aggravating factors in the case outweigh the mitigating factors. Instead, the bill provides the jurors need never impose the death penalty regardless of their findings concerning aggravating and mitigating factors.

The conference report enacts unanimity requirements for the first time for the jury recommendation on the death penalty. Thus, when only one juror declines to impose the death sentence, regardless of the facts of the case, regardless of how heinous the crime was, the sentence is prohibited, even though all the other jurors want to impose it. Remember, the court already prohibits the prosecutor from objecting to seating jurors who are opposed to the death penalty in the first place and that is of course found in the case of Witherspoon versus Illinois.

Mr. President, I myself would very seldom use the death penalty. I would use it only in the most heinous of cases, and only cases where there are the aggravating circumstances, because I personally think it should only be used very sparingly. On the other hand, I believe the death penalty is a very, very important anticrime measure and it is one that we really ought to impose as punishment for appropriate crimes.

I have heard the distinguished Senator from Delaware flailing his hands in the air saying we have all these 53 death penalty provisions in this wonderful conference report. They are not wonderful death penalty provisions if you cannot enforce them. They are not tough on crime if you cannot enforce them.

And if you add the Federal habeas approach that they have in their conference report, my goodness gracious, you will never be able to enforce whatever death penalty might possibly be given. And a lot of those will be negated by the way they have written the bill and the way they have abolished the requirement that you do not have to have a unanimous jury verdict with regard to imposing the death penalty.

It is nice to talk about being tough on crime, and it is kind of cynical to do so, however, when you know that those sentences can never be, in fact, carried out.

On the exclusionary rule, a lot of Americans are starting to understand the exclusionary rule. The conference report narrows the good faith exception to the exclusionary rule. Many of the people who are arguing for the conference report today did not even want the good faith exception.

But when the Leon case came down, they knew that the Supreme Court had enshrined that in the law. So they now want to narrow the Supreme Court decision of Leon.

The conference report expands the criminals' rights to challenge the admissibility of incriminating evidence used against them. It does not accurately codify the Leon case which was a breath of fresh air, although in my opinion did not go far enough to get rid of allowing people to get off of criminal conduct that they have done on mere technicalities.

The conference report reverses the Leon presumption that police officers are entitled to rely on a magistrate's authorization to search. The conference report reverses the fifth circuit good faith exception which applies in warrantless searches and which is broader than the Leon decision approach, and that is in United States versus Williams, which was decided in 1980.

So the conference report basically hurts the exclusionary rule reforms that have allowed us to stop these criminals from getting off on mere technicalities. That happens in a wide variety of cases. The most easy to understand, of course, is where a long time after the fact witnesses are gone, or the evidence is gone, or it is very difficult to go to another trial where some court reverses on the basis of the exclusionary rule and they exclude all of the evidence that really was necessary to convict the person, or because of the exclusionary rule, the imposition of that rule, there is no way that the case can be proven again in a retrial. That has happened, and it has happened in this country in all too many cases.

The distinguished Senator from Delaware will say it did not happen very much, but that is not the point. Even if he is right, and he is not, that is not the point. The point is we are allowing hardened criminals to get off because of an arbitrary technical rule and that the Supreme Court has tired to resolve and the Williams case was resolved even stronger than the Supreme Court.

Mr. President, sexual violence is something that has affected a lot of people in our society today because there is far too much of that going on.

This conference report, which some say is not such a great anticrime bill, rejects increases in the maximum penalty for recidivist rapists and child molesters. Both Houses passed that provision. Last year the Senate passed it, the House of Representatives passed it, and the liberals in both committees rejected the maximum penalty for recidivist rapists and child molesters.

That to me is amazing. How anybody can stand here and say it was a better bill than what we passed through the Senate I will never understand. The conference report rejects the House provisions providing that the Government gets the same number of preemptory strikes in the choosing of jurors. In other words, it preserves current law that the defense has 10 preemptory strikes and the Government has 6.

Preemptory strikes are very, very important in trial law but especially in criminal trial law. We tried to even it up so that the criminals or the alleged criminals do not have any advantage over the prosecution, and that both be given the same number of preemptory strikes; in other words, the automatic right, short of violation of civil rights, short of discrimination, the automatic right to strike any potential jurors for any reason whatsoever as long as it is not discriminatory.

The House put in there that both the prosecutor and the defense counsel have the same number of preemptory strikes. The conference report would preserve current law which gives the defendant 10 preemptory strikes and gives the prosecutors only 6.

The conference report rejects HIV. For those who do not understand that, that means AIDS testing for Federal sex offenders with disclosure of test results to the victims. That is a provision I sponsored. I am particularly upset that that is not in this conference report. It is reason enough to vote against the conference report.

Why should not the victims of sex offenders be warned and told that the sex offender is HIV positive? If the sex offender is not positive, why should not they be told that, to alleviate the worries and the fears? Why should some woman who has been raped have to have that worry when we can give her some consolation, and when we can give her some scientific information that will help her to know how to handle her problems one way or the other? Why should not we be more concerned about the person raped than we are about the criminal?

Let me tell you. I have been one of the major principal sponsors of the AIDS bills out of the Congress. I think if people watch the debates on those bills, I managed on our side and helped to write them. I think they are right. I see no reason in the world why some poor woman who has been raped by a criminal, and the criminals convicted, should not have an absolute right to have that criminal tested for HIV-positive results, and be told one way or the other whether that criminal was HIV positive.

I think it is time to get tough on rapists and those who commit sexual violence in our society. The bill, as advocated as a tough crime bill by the distinguished Senator from Delaware, does not have that provision in it. In fact, this conference report rejects Senate provisions, provisions we had in our Senate bill last year, before we went to conference, rejects the Senate provisions providing for restitution for victims of rape, child molestation, and child sexual exploitation offenses, whether or not physical injury results from such crime.

He calls that tough on crime?

Let me tell you something. If we cannot put in a tough crime bill provision that provides for restitution for victims of rape, for victims of child molestation, and other child sexual exploitation practices and offenses, whether or not physical injury results, then something is wrong with us. And it is certainly not a tough-on-crime bill with regard to that provision.

We could go on and on here, but let me go into involuntary confessions. In the famous 1991 case of Arizona versus Fulminate, that was a very important case which resolved the problems of involuntary confessions, and that decision was reversed by the conference report.

The Fulminate case simply recognized the commonsense proposition that if there is other independent evidence, such as fingerprints, eyewitnesses or video tapes, that establish guilt beyond a reasonable doubt, then a criminal should not be able to avoid punishment because the circumstances of his confession violated current standards of voluntariness. That is what Fulminate stands for.

Why, if a criminal would be convicted anyway, should the case be thrown out and have to be retried with all of the cost to the Government, all of the cost to the taxpayers, when there was sufficient evidence to convict the criminal anyway? It was a great decision by the Supreme Court, and one that was tough on crime.

Our friends on the other side would do away with that decision. They overrule it.

They call this bill tough on crime? Come on.

This is important stuff. That case was a well-reasoned case. The Supreme Court knew what it was doing. And it simply said if the criminal would have been convicted otherwise, you should not throw it out because of a technicality and forced confession. And sometimes forced confessions are sometimes "forced" confessions. Sometimes good defense counsel can raise almost any issue, and I have to say I commend them for doing it. I have tried a few of these cases myself as a defense counsel. And I have to tell you that the defendant deserves every possible benefit that the defense counsel can give that defendant.

On the other hand, society deserves—where everybody knows the fingerprints were there, everybody has the other objective evidence that would have convicted the defendant anyway—to not have that case thrown out because there may have been an involuntary, coerced confession.

Let me spend a few more minutes on the exclusionary rule with regard to the conference report.

Mr. President, let me just dwell for a moment on one example of why the conference report is unworthy of support. Again, it relates to the exclusionary rule. I have chatted about this in the past. The conference report does not merely fail to enact the President's tough provision on admitting illegally obtained evidence in circumstances justifying an objectively reasonable belief that the search was lawful. It not only fails to codify existing law accurately with respect to the admission of evidence obtained in good-faith reliance on a search warrant.

The conference report will result in freeing murderers, rapists, robbers, and drug dealers who would otherwise be convicted in Texas, Mississippi, Louisiana, Alabama, Georgia, and Florida. Why? Because the courts in those particular States admit illegally obtained evidence seized in circumstances justifying an objectively reasonable belief the search was lawful, even in the absence of a warrant. In this regard, the conference report sets back law enforcement in six Southern States, plain and simple. This is a procriminal provision that the conference report, which they are trying to pass off as tough on crime, contains.

The only people who benefit from this part of the conference report are criminals. If a police officer has an honest and objectively reasonable belief a search is lawful without a warrant, he or she will undertake that search every time, and they should. We want them to. If it is an objectively reasonable belief that the search is lawful, they will go ahead and conduct that search. Throwing out the evidence does not deter an illegal search in the future under those circumstances; it only helps murderers, rapists, robbers, and drug dealers. That is what the conference report does. It puts money in one hand of the police officer to fight crime, and then ties the police officer's hands behind his or her back with these procriminal provisions.

The conference report is a cynical effort to use money provisions to fool the American people into believing this is a tough crime bill. To entice support for the bill, they throw money at the problem, and then skirt the issue of some of these very, very serious criminal legal issues.

What is the point, however, of trying to help police catch more criminals with the added funds if the criminals are going to be let off on technicalities? Why the charade? Because my friends on the other side have a problem. Most of them, in both the House and Senate, who are responsible for this bill—in fact, all of them, I would have to say, maybe with the exception of the distinguished Senator from Delaware, who has to carry their mail—they do not support the tough provisions on the death penalty, habeas corpus reform, and the exclusionary rule. I have to admit that the distinguished Senator from Delaware does not support some of that either. But they want to sound tough. So they put in a death penalty provision which is basically unenforceable. They have a provision labeled exclusionary rule reform, which is much worse than current case law. They have a provision labeled habeas corpus, which is much worse than current law and would allow the repetitive frivolous appeals to go forward.

It takes time to explain this, and we have done it over and over again, only to be met by evasions. But I do not believe that the American people are going to be fooled by this conference report. Neither should the law enforcement people.

Let me take a second and spend some time on the retroactivity provision, as I did yesterday. Mr. President, the conference report contains one of the most dangerous innovations in criminal law. It is section 204 of the habeas corpus title. This section governs the retroactive effect of Supreme Court decisions.

Even though the Senate rejected a similar retroactivity provision last fall, the Senate Democratic conferees agreed to accept House-passed language on this subject.

The question of whether a decision of an appellate court shall have prospective or retroactive effect is intimately connected with the question of whether a criminal conviction can ever be final. It is in the interest of those who are against crime to have those convictions become final at some time.

All habeas petitioners are prisoners whose cases are considered final. They are in the process of attempting to reopen long-finished cases.

Under current law, a defendant whose appeal is pending can generally take advantage of any recent or new court decision that is favorable to him or her. However, once his or her direct appeal is finished, and his or her case is considered final, he cannot avail himself of newly announced court decisions that are designed to govern proceedings in future cases.

This sensible rule is one—and frankly, the only one—that allows the criminal case to achieve any degree of finality. The rule, moreover, is a salutary one, because it encourages the courts to develop new and fairer rules of criminal procedure, free from the fear that a newly prescribed rule will have the effect of opening the jailhouse doors.

The Miranda case of a number of years back is a good example of how these principles work in action. When the Supreme Court laid down new rules which all future defendants could claim, the Court specifically held that the rules would only apply prospectively. How could they have held otherwise? To say that the specific Miranda rules must have been given before the Miranda case had even been decided would have meant that virtually every prisoner in America would have had to have been let out of prison. Had the Supreme Court not had the power to specify that its decision would apply only prospectively, we can certainly assume that it would never have decided Miranda as it did. The same is true of Escobedo versus Illinois and a number of other leading cases in the field of criminal procedure.

But those who advocate congressionally mandated retroactivity would take this power away from the Supreme Court. They would, instead, give to the individual Federal district courts, or that particular Federal district court hearing a habeas petition, the power to overrule the holding of the Court on the question of retroactivity.

They would, moreover, allow the district court to apply new rules retroactively to criminal cases that have already become final, thus opening up for review cases that may have been settled for years or decades and, if they are opened up, they would almost be impossible to try again.

As the Attorney General has observed, this innovation would overrule several leading Supreme Court cases and would "resurrect the chronic problems of unpredictability and lack of reasonable finality of judgments" which those decisions put to rest.

No efficient system of criminal justice can function under such an arrangement. If nothing else, the retroactivity rule contained in this conference report would encourage prisoners to file repetitious petitions simply in the hope that their petition may be heard by a new district court judge, one who may decide the retroactivity issue differently and more selectivity than the previous judge. At least, under the current system, the Supreme Court sets the rules, and they apply nationwide. We do not know how the district courts can sit if you have the conference report and you put an uncertainty in the law that I think is going to be almost impossible to overcome and would open up new ways for hardened criminals to get out of jail.

Congressionally mandated retroactivity is not designed to achieve justice. It has only two objectives. One, to prevent the execution of persons who have been otherwise unsuccessful in preventing the carrying out of their death sentences; and in noncapital cases or non-death-penalty case, to extend and perpetuate the pernicious influence of the liberal decisions of the Warren Court.

The best thing about the Warren Court is that it came to an end. This bill would allow key Warren Court decisions to be applied to criminal cases where even the Warren Court said they should not apply. As liberal as that Court was, it would not have gone as far as this conference report goes to let criminals off and to stop capital punishment and to hurt the criminal justice system.

But there is another more fundamental objection to the congressionally legislated retroactivity.

The Supreme Court's rulings on retroactivity should not be overruled by a single Federal trial judge whenever that judge determines, on whatever basis, that it is just to give the defendant the benefit of a law that the Supreme Court has ruled the defendant should not receive the benefit of. I question whether Congress even has the power to create article III courts that can overrule the decisions of the Supreme Court established by the Constitution. But, even if we do possess that power, it is clearly unwise to exercise it. The decisions of the Supreme Court must be followed by the lower Federal courts; otherwise, there will be chaos in our judicial system. But that is what the conference report allows.

Let me illustrate how the Supreme Court's retroactivity doctrine works in practice and the benefits which flow from it. The doctrine has recently been addressed and clarified by the Supreme Court in the leading case of Teague versus Lane (February 22, 1989). There the Court reaffirmed the long-standing rule—which is also the law in most States—that newly announced rules of criminal procedure do not apply to cases that have already become final. That is the only workable standard of retroactivity in the criminal law. Congress should not now confuse a subject which the Supreme Court has so recently straightened out.

No habeas reform is worth reversing the Teague case. No habeas reform is worth reopening the long-final convictions of every prisoner in America, which is what reversing Teague will have a tendency to do; in fact, will do.

Section 204 of the habeas title proposes to set up criteria by which judges not on the Supreme Court can determine that decisions of the Court should have an effect directly contrary to that which the Court has concluded they should have.

That is clearly unconstitutional. The supremacy clause of article V clearly establishes that the Supreme Court is the final arbiter of such matters, not the 700 or more Federal district court judges.

More importantly, consider the precedent that this bald-faced attempt to tamper with already-decided Supreme Court cases establishes. If Congress does have the power to determine when certain Supreme Court decisions shall apply and when they shall not—despite the Supreme Court having determined otherwise—then Congress will surely have the power to determine who shall be bound by those decisions, what precedential effect they shall have, or any other aspect of the holding with which it might disagree. Why do we not alter the amount of damages if we think the Court has given too little or to much? It would be no more absurd than for Congress to say, as this bill does, that Federal trial judges must follow our standards, and not the Court's standards, in deciding when the Court's decisions shall not be applied prospectively and when they should be applied retroactively.

Someone should call the Guinness Book of World Records. This clearly unconstitutional provision is going to be bounced quicker than any law Congress has every previously passed. Congress simply has no power to tell the Supreme Court what its decisions mean. They are a coequal branch of Government; or shall I say, it is a coequal branch of Government, and we do not have a power to overrule it in this manner.

Nor do we have the power to create article III courts that can overrule the decisions of the Supreme Court established by the Constitution. The decisions of the Supreme Court must be followed by the lower Federal courts; otherwise, there will be chaos in our judicial system.

I might add, there were some people who were on the Constitution subcommittees of the respective two Judiciary Committees who allowed this to occur. To me, it is unbelievable that those committees would do that.

Section 204 of the habeas corpus title would encourage prisoners to file repetitious petitions simply on the hope that their petition may be heard by a new district judge—one who may decide the retroactivity issue differently than the previous judge. Under current law, the Supreme Court sets the rules and they apply nationwide.

They change this by a simple majority vote through a conference report. That is ridiculous; another reason I do not think anybody who believes in the rule of law should be voting for this conference report.

There is another important point to be made about retroactivity. If the Supreme Court cannot adopt new rules of criminal procedure that are prospective only, then it is certain the Court will be less likely to adopt new rules to control the abuses of State and local police which we all agree are essential. The Court's retroactivity doctrine is essential to the development and growth of our law of criminal procedure.

And they would overturn this retroactivity doctrine in the interest of liberal principles of law, principles that disregard the Constitution of the United States. And in the process, the Court, I think, would have a very tough time in the future deciding landmark criminal cases that might be in favor of the defendants who are unjustly convicted or accused.

The reason they will do that is because they are not going to allow us here, or the district courts there, to overrule their well-considered opinions, single judges in the district courts. That is unbelievable, but that is what the conference report does.

Consider the Miranda case, or Escobedo versus Illinois. Both of those cases announced unprecedented new rules of criminal procedure, but the Court specifically noted in each case that the rules were prospective only. They would apply to all cases on appeal but not to those that had already become final; meaning, of course, that Miranda violations would not provide a ground for relief on habeas corpus for criminals who were convicted before Miranda was decided. How could the Court have ruled otherwise? Had it not possessed the flexibility to make Miranda prospective only, the Court's ruling in that case would have opened an unimaginable floodgate of new demands for the release of State prisoners already in confinement, and they would have been released, a lot of them, because they could not have gotten the witnesses together, brought the evidence together, and retried those cases, many of which were old and long-gone cases. The Court would never have issued the Miranda opinion had it not possessed the authority to make its new rule prospective only. We should consider what other similar unforeseen consequences to the development of the law of criminal procedure in this country may lie in store if we adopt today this revolutionary restriction on the authority of the Supreme Court.

It is difficult, I admit, to explain what the retroactivity issue is all about. But imagine how much more difficult it will be to explain to our constituents why it is that infamous criminals will be receiving new trials decades after their convictions:

Does either Senator from Arizona know how he will be able satisfactorily to explain to the citizens of that State why he may have voted for a provision that would probably allow the Tison brothers to receive new trials?

How will the Senators from California explain the new trials that will be sought for Charles Manson and Sirhan Sirhan; for Juan Corona and the Hillside strangler—new trials that will be sought and, in many cases, mandated by this bill's provision that Supreme Court cases never before considered relevant to their trials now must be applied to give them new rights.

I know that I cannot now explain to my own constituents why it is that one man, William Andrews, has been on death row in Utah for 18 years. The whole point of starting this habeas debate was to shorten the ordeal for my State and for the victims of Andrews' unspeakable crimes. Now, instead of debating legislation to shorten the habeas process, we are actually considering evidence to double and triple it.

Section 204—the retroactivity provision—makes the Andrews prosecutors go back to square one. To start all over again.

This is not mere conjecture on my part. Just last year, Andrews' defense attorney announced that he would be asking a Federal court in Utah to free Andrews based on a recently decided 1991 Supreme Court case relating to the composition of juries.

The Supreme Court has already held that this 1991 decision does not apply to persons such as Andrews who were convicted in 1974. Therefore, we know that Andrews will not succeed in being freed from his death sentence on this basis—or do we?

If the bill before this body today is passed, then it is a whole new ball game for William Andrews; it is a whole new ball game for the Charles Mansons and Ted Bundys of the world. This bill tells them that their cases will never be over, so long as the Supreme Court continues to issue new opinions.

Before we get lost in the abstractions of habeas corpus law, before we wear out our hands wringing them over the supposed constitutional rights of vicious murderers, we need to remember the real consequences of serious criminal cases—the deaths, the shattered lives of those left behind, the families who must go on without their fathers or other loved ones.

Most importantly, for today, we must understand how these cases will continue to blight peoples' lives if the retroactivity provision of the conference report, section 204, becomes law.

William Andrews continues to appeal his sentence and has so far succeeded in delaying his execution for 17 years.

But today, at last, the end is in sight. But not if we are so unwise as to pass the conference report. If the retroactivity provision of this bill passes, the Andrews case will never end. Of that I am certain.

In 18 years of appeal, William Andrews has not raised one single meritorious issue on appeal. Not one. But the supporters of this bill now propose to allow Andrews to go back in time to

1978, when his criminal conviction became final, to let him see if he cannot find one more case, one more argument, one more chance to avoid his death sentence.

The proposed repeal of the Supreme Court's retroactivity cases is the greatest gift to prison inmates in America—and it applies to all State prisoners—that has ever been proposed.

That is why the President will veto it. That is why every attorney general of every State that I know of opposes it.

That is why on June 25, 1991, 16 of the elected State attorneys of the State of Florida wrote their Senators, urging them not to vote for any amendment that would repeal or restrict the Supreme Court decision in Teague versus Lane.

Only one habeas amendment considered by this body met the criteria for their support—it was the habeas title of S. 1241 that now lies in the trash bin of the Judiciary committee conference room, replaced by the entirely unacceptable House habeas provisions.

Reversing Teague versus Lane, as the conference report does, will be the greatest gift to prison inmates in years. Every conflict will immediately want to subscribe to U.S. Law Week, so that on Monday mornings he or she can look to see what new decisions have been handed down by the Supreme Court—what new case can be cited in a new habeas petition seeking release from jail and return to the streets.

This issue is not about whether State prisoners are to have one bite of the apple. Every convicted prisoner gets eight or nine bites of the apple on direct appeal and through State postconviction procedures before he even turns to Federal habeas.

But Federal habeas corpus is not about giving prisoners a second bite of the apple, it is about giving prisoners a 10th bite of the apple, even a 20th bite of the apple. If only the problem were as simple as a second bite of the apple. William Andrews has already received 29 bites—but the crime bill conferees have decided to give him just as many chances to appeal again. Reversing the Supreme Court's retroactivity decisions will, in effect, allow William Andrews to start his appeals all over again.

I will allow convicted prisoners a 2d bite of the apple, and a 10th bite too. But I won't give them the whole orchard as the conference report would do.

Mr. President, since 1976, over 3,000 persons have been sentenced to death row, yet only slightly more than 100 of these sentences have been carried out. I am continuously asked by Utah citizens, in letters too numerous to count, what is going on here? What is wrong with our criminal justice system? Well, I think we all know what's wrong—it is the Federal habeas corpus system.

We all know what is wrong—we all know how to fix it. And if we do not know then we have the attorney generals, the prosecutors, and the law enforcement personnel of virtually every jurisdiction on record to tell us.

They all say one thing: Pass habeas reform, but do not overturn the good decisions of the Supreme Court. Do not let the House liberals overturn Teague versus Lane and reopen cases that have been closed for decades.

If any Senator today has any question about whether this conference report is truly a crime bill, they do not have to take my word on it. More importantly, they do not have to accept Senator BIDEN's judgment as to what this bill will do. Call your own State's attorney general and ask him or her. They know the issue, and I am confident as to what their response will be. They know this is no crime bill and that is what most will tell you—Democrat and Republican alike.

Just yesterday, the chairman of the Judiciary Committee directly refuted my assertion that this conference report arguably provides a basis for California inmate to bring a new habeas petition that he could not bring under current law—a habeas petition that has the sole purpose, if granted, of obtaining Manson's release from prison.

Senator BIDEN derided this point, and said that Manson would have no such right. But I understand today that the attorney general of California, Dan Lungren, is of the opinion that Manson might very well be entitled to claim the benefit of 25 years of Supreme Court decisions decided after his conviction became final, if we are so unwise as to pass this conference report. What is most important is this: No one—not even the chairman of the Judiciary Committee—can say for certain that Manson cannot file a new habeas petition under the authority of this conference report. I don't think the people of the State of California should have to accept that uncertainty.

So who should the people of the State of California believe? Myself, Senator BIDEN, or their own attorney general? More important, why should they be forced to accept any law that risks, in any degree, the release of Charles Manson.

When this crime debate began, I expressed the hope that I could someday finally tell the people of the State of Utah that Congress had acted to end the absurdity of endless 15- and 18-year appeals. Now, I realize that I may be faced with trying to explain the absolutely incomprehensible fact—and it is a fact—that the Senate of the United States is today being asked to create a system of legally guaranteed endless appeals—appeals that can last as long as 25 years, as in the Manson case or even as long as 50 years, as in the William Heirens case.

If the conference report becomes law, death by natural causes will provide the only limit on a prisoner's ability to relitigate his conviction and sentence. When we debated this subject early last year, I pointed out that one consequence of the Democratic crime bill was the reopening of the case of Richard Speck, convicted in 1966 of murdering eight Chicago nurses. Since that time, Speck has died in jail, before the Democrats had a chance to reopen his case to see if some subsequent Supreme Court decision could not be found to free him.

If it should happen that this conference report should ever become law, I will at least be thankful that it did not pass last year in time for Richard Speck to put the families of those eight innocent murdered nurses through the unspeakable ordeal of relitigating his case.

I hope, Mr. President, that at some time in the future I may finally provide a favorable answer to my constituents who ask what is wrong with the criminal justice system. I certainly hope that I do not have to tell them that Congress has actually acted to make things worse by passing the conference report. I know that I will never be able to explain that one to them.

Mr. President, I notice the distinguished Senator from Washington is here and would like to speak.

The PRESIDING OFFICER. The Chair recognizes the Senator from Washington [Mr. GORTON].

Mr. GORTON. Mr. President, first I should like to thank my distinguished friend and colleague from Utah for his courtesy to me in this regard, and to commend him on the detailed, technical, and highly accurate analysis of this bill and the reasons for which the conference report should be rejected.

Mr. President, my remarks will be somewhat shorter, but every bit as positive as those of the Senator from Utah.

This conference report is the result of a reprehensible process, a process which has flouted the rules of procedure of both Houses of Congress. The wisdom of those rules, rules which have been violated here, is shown by the substantive result which is before us in the form of this conference report, a so-called crime bill, which in the view of this Senator, inhibits the search for truth on the part of our criminal courts, obstructs justice, frees criminals on technicalities, adds complexity to an already overly complex Criminal Code, and adds to the use of technical defenses. In short, this proposal ignores the calls of our law enforcement agencies—and for that matter of our citizens—for safety, in order to provide aid and comfort to criminals and to provide more employment for lawyers.

Let me first speak briefly as to that process. This body debated amendments to the Criminal Code and requirements with respect to criminal procedure last July, over a period of more than a week. That debate was spirited and serious. We voted on many amendments. This Senator was on the prevailing side of some of those amendments and on the losing side of others.

But no Member could say that the proposals were not seriously considered and debated, and that the final result did not express the will of the Senate, for better or for worse.

Even though I disagreed with some of the provisions of that bill, it did seem to me that it represented a significant step forward in law enforcement and in criminal procedures. Considerably later, months later, very close to the end of the first session of this Congress, the House passed a bill on the same subject. That bill differed from the Senate version in many respects. It included matters which were not included in the Senate bill. It omitted some matters which were included in the Senate bill. It did a better job on some subjects which were considered by both Houses and a poorer job on others. Nevertheless, it, too, represented a serious approach to the problem of criminal law enforcement in the administration of justice.

The conference committee between the two Houses, however, which met nominally shortly before the first session of this Congress, did not consider any of these differences. The members of the minority party from both Houses on the conference committee were called to no meeting, given no drafts, asked for no input, nor, incidentally, were members of the majority party in both Houses who had supported the respective bills passed by those two Houses. A bill written in secret and not presented to the conference committee until immediately before its adoption was rammed down the throats of conferees on both sides without any input into or votes in favor of on the part of members of the minority party in each House. That legislation totally disregarded the actions of either House of Congress with respect to the most important areas and questions at issue. Unlike the debate in either House, it took place behind closed doors and with only a handful of members.

Conference committees are appointed to deal with the differences between the two Houses and, generally speaking, should, under the rules, operate within the parameters of the extremes set by the debate in those two Houses. This bill is not the result of such a process. And that is at least one reason for its substantive shortcomings.

Now, what are those substantive shortcomings? The first is that it is totally misleading to call this a crime bill. It is a "criminal defendant's technical defense bill," properly entitled. While this bill lists 50 different crimes, including some not involving homicide, for which the death penalty is theoretically an appropriate sentence, in fact, the changes in procedures, the overturnings of Supreme Court decisions, will make it practically impossible to impose capital punishment in any case arising under this bill, either in the Federal courts or in State courts which have adopted or readopted capital punishment. It would have been far more honest and straightforward for the draftsmen of this bill to have admitted that they disliked capital punishment and to have attempted to prohibit it expressly by legislation, because that is indirectly what those draftsmen have accomplished.

Second, this bill not only does not streamline the habeas corpus proceedings, not only does not encourage some finality in criminal sentences, most particularly those in capital cases but in others as well, but actually encourages and calls for a more complex and a more unending habeas corpus set of procedures than we have at the present time. This bill overrules or overturns between 1 dozen and 15 decisions of the Supreme Court of the United States which have worked modestly toward the direction of finality in sentencing, modestly in the direction of some kind of limitation on collateral attacks on criminal decisions and sentences in State courts. This bill encourages frivolous appeals rather than to discourage them.

Third, Mr. President, while one of the liveliest debates here in the Senate and in the country as a whole relates to the exclusionary rule, which many Members, most on this side of the aisle and some on the other side of the aisle, would like to extend to good faith seizures of testimony in cases beyond those already authorized by the Supreme Court, this bill actually restricts and narrows the present good faith exception established by the Supreme Court, allows more guilty criminal defendants to go free in the single area of the law in which it is most certain that the barring of evidence from a criminal trial will effect a miscarriage of justice from the point of view of society as a whole.

I repeat, Mr. President, not only have we not expanded the good faith exception in this bill, we have actually narrowed it, making it more difficult for the administration of justice and more difficult to obtain convictions against the obviously guilty.

And, fourth and finally, this bill ignores salutary provisions of the Senate's bill. The conference report fails to include maximum penalties for recidivist rapists and child molesters. It fails to include such penalties despite the inclusion of such penalties in both the Senate and House versions of the original bill. Nor does the conference report contain important language from the Senate bill that provides for restitution to victims of rape, child molestation, and child sexual exploitation offenses. These omissions are ignored in the conference report. They are neither explained nor justified to the victims of such heinous crimes.

Mr. President, this is not a crime control bill. This is a bill opposed almost universally by law enforcement agencies, both at the levels of police and prosecuting attorneys across this country, both Federal and State. It is a bill designed to provide aid and comfort only for those who are engaged in the process of inhibiting the search for truth and justice and who are looking for a greater number of technical defenses to criminal charges than exists in an already overloaded criminal code at the present time.

This bill should not come to a final vote. This bill should not be sent to the President of the United States. This bill should be abandoned in the ashcan of history in the way which it deserves, and the Senate, regrettably, after all of its good work of last summer, should begin again to deal with the serious issues of crime and criminal law enforcement demanded by the citizens of our respective States and of the Nation as a whole.

Mr. KOHL. Mr. President, I rise today for two purposes: first, to urge my colleagues to vote for cloture on this strong, balanced anticrime package before the Senate and at the same time to commend Chairman BIDEN for his efforts on this package; and second, to reiterate my support for the conference provisions on the Brady bill. The conference report, like the Senate bill, combines the best elements of both the Brady and Staggers proposals. Unfortunately, the Republican approach omits the Brady bill entirely.

The sad truth is that violent crime has become a fact of life in American cities.

Indeed, it may be more dangerous to live in America than to serve our country in a foreign war. Fewer than 300 Americans died during the Persian Gulf conflict, more than 480 people were murdered last year in our Nation's capital.

Mr. President, no single legislative change will make our streets safer. A comprehensive approach is needed: more police; tougher laws; more certainty of punishment. But while there is no panacea for our crime problem, there is a crucial step we can take today to reduce the carnage. We can enact the provisions of the Senate-passed Brady bill—a mandatory background check and a uniform waiting period of 5 business days for anyone seeking to buy a handgun. Under our proposal, the waiting period would be in effect for at least 2½ years—and it could only be repealed in each State when an accurate instant check system is in place that would apply to all firearms purchases. In addition, the measure would authorize $100 million to help States upgrade their computerized criminal records.

In the United States, firearms violence is out of control. Guns were responsible for more than 10,000 murders in 1991—a 20-percent increase over 1987. Guns were used in more than 600,000 violent crimes last year. No State is immune to gun-related violence. Last year Wisconsin set a record with more than 230 senseless killings, and most of those murdered were killed with guns.

Mr. President, not all of these weapons were acquired illegally. Indeed, according to the Department of Justice, more than 20 percent of all criminals—roughly 120,000 people a year—obtain their handguns through licensed dealers. That is why the Brady bill is so vital—it would help keep guns out of the hands of criminals and drug traffickers.

But do not just take my word for it; look at who else supports it. Brady has been endorsed by every living former President—including President Reagan. It is supported by every major law enforcement organization. And even the NRA believes it makes sense. Its 1976 publication entitled "On Firearms Control" says:

> A waiting period could help in reducing crimes of passion and in preventing people with criminal records or dangerous mental illness from acquiring weapons.

The Brady approach also enjoys wide support because it would not prevent anyone from buying a gun who is legally entitled to do so. A criminal records check would guarantee that lethal weapons were not sold to individuals with track records of dangerous behavior. A waiting period would ensure that we let people consumed by violent passion cool off. In short, Brady would create only a little inconvenience to law-abiding gun buyers, but it would help save many, many lives.

The Senate passed the Mitchell-Kohl-Gore amendment to Senator METZENBAUM'S Brady bill by a vote of 67-32. The provision which has come out of conference is essentially the Senate bill with technical corrections and a few minor changes. It is not a perfect proposal, nor is the crime bill itself perfect—a compromise seldom is. But we do the American people a disservice, Mr. President, when we allow the struggle for perfection to become the enemy of the good.

I strongly urge my colleagues to support the Brady bill and the conference report, and I commend Chairman BIDEN for crafting this omnibus proposal.

Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER (Mr. DODD). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I have been talking about the retroactivity provisions, the habeas corpus provisions, the exclusionary rule and other matters with regard to the conference report, and why it is not a good anticrime bill. Let me go into just a couple of good illustrations.

One was Ted Bundy, who, of course, had a Utah connection. We followed his career for a long time out there. I have to say we were happy to see justice finally carried out with regard to Ted Bundy. He was on death row for over 10 years before his sentence was finally carried out. It took only 1 week of a Florida court to try and convict him for the murder of Kimberly Leach. He had murdered all kinds of other people as well. One week to try and convict him, yet it took over 10 years for Federal courts to determine that his sentence should be carried out. That is under current habeas corpus law.

But this 10-year period was brief compared to the time Bundy would have served on death row had Senator BIDEN's retroactivity provision been in effect in 1988. Shortly before his execution, Bundy filed a final, unsuccessful habeas petition in the Federal district court.

His claim for relief was simple. A new Supreme Court case handed down the previous week allegedly gave him new rights with respect to the cross-examination of psychiatric witnesses.

The habeas petition was summarily denied in 1988 because the new Supreme Court decision was not given retroactive effect and no Federal trial judge in 1988 had jurisdiction to second guess the Supreme Court on this question.

That dismissal would not have been possible if the Biden retroactivity language became law. In other words, the law was that that decision only applied prospectively and Bundy was not able to avail himself of it. And the Supreme Court upheld it on that basis, and he went to capital punishment and met his just reward.

Had the conference report provision, been in effect, he would have had another right of Federal habeas corpus appeal and frankly would have availed himself of the benefit of that particular matter. And even though he was justly convicted, he very well could have had a new trial on that issue alone and had to go through it again, and the families of these victims would have to go through it again. That is what we are not considering around here, the families of victims, or the victims themselves, as we try to get rid of the death penalty, as we try to come up with these soft-on-crime provisions under the guise that they are tough on crime.

Let me tell you, we have been fighting for this for years, to try to get some strong anticriminal provisions into the Federal code.

The Biden habeas would have kept Bundy's case alive in another respect, because proposed section 2259(b)(2) makes the "ignorance or neglect of counsel" a valid reason for raising a new issue, years after trial.

Bundy, of course, acted as his own counsel. Thus, if the conference report had been the law for Bundy in 1988, Bundy would still be raising new arguments now that he accidentally, negligently, or ignorantly failed to raise at trial a decade earlier. And it would go on and on, as long as we had more and more Supreme Court decisions which we are going to have more and more of.

In affirming the dismissal of Bundy's last habeas petition, the Eleventh Circuit Court of Appeals cited the case of Murray versus Carrier, a 1986 case; seven times they cited it.

Murray versus Carrier is one of the two principal cases that this retroactivity provision is designed to reverse. No one denies that, by the way. I have to say you can look at the Bundy decision decided by the Eleventh Circuit Court of Appeals to ascertain that.

The conference report would change all of that. First, it would give the Ted Bundys of this world a chance to argue before Federal trial judges that they should be given the benefit of any new Supreme Court decision even though the Supreme Court has already concluded otherwise.

Second, it would allow prisoners to raise any new issue that they may have neglected to raise before. Whether the prisoner is right or wrong as to the applicability of the new case or new issue is entirely beside the point. Under the proposed new rule of nonfinality, which this conference report would put into criminal law, the death row inmate's essential purpose of delaying sentence will still be accomplished. In other words, every death row inmate would have automatic rights of appeal, henceforth and forever, if this so-called tough-on-crime provision, which we all know is soft on crime, becomes the law.

I am confident, Mr. President, that far more vicious murderers will die natural deaths of old age than face the consequences of their murders should this wrongheaded provision in the conference report become law. And Ted Bundy would still be alive had that been the law then, and so would every one of the other people who have been executed since.

Again, I will say, that I am not high on capital punishment for every capital case. I believe in capital punishment because it is a deterrent, but I also believe it should only be applied in the most heinous of cases. If you can find one much more heinous than Ted Bundy, or should I say cases more heinous than Ted Bundy's, then I think it should apply.

Let me just talk about our Utah prisoner. I talked about William Andrews before. He committed his crime 17 years ago. He was sentenced to death in the same year. Nobody doubts that he did the murders, but despite 27 separate appeals of his death sentence, he still has not been executed.

On April 2, 1974, two men, Pierre Selby and William Andrews, entered a hi-fi shop in Ogden, UT, a city north of Salt Lake City, the second-largest city in the State, and approached the clerk behind the counter as if they were just customers. When these 2 fled hours later, they left five people dead.

Before committing the murders, Andrews and Selby first tortured their bound and helpless victims, three unsuspecting teenagers who had just happened to be shopping in this very popular store were forced to drink cups of poisonous liquid drain cleaner, Drano, if you will. This is what these fellows did. The father of one of these young people was even forced to pour the deadly Drano down the throat of his own son. When he refused to do so, Selby wrapped an electrical cord around his throat and attempted to strangle him to death. Then while the father struggled for breath, Selby repeatedly kicked a sharp ballpoint pen deep into his ear and destroyed the eardrum in his ear.

Then Andrews and Selby finished methodically. They shot each of their bound victims one by one in the head. Michelle Ainsley, however, was not even granted a swift end to her tortures. Before she was fatally shot, Selby dragged her into the back room and raped her.

We simply cannot begin to imagine the agony of mothers and fathers, wives and husbands, brothers and sisters whose lives were permanently marred, maybe even destroyed, by Pierre Selby and William Andrews. We cannot begin to imagine the permanent damage done to countless lives.

I personally know many wonderful people in Ogden, UT, whose lives are still not completely healed more than 17 years later from this heinous offense. The tragedy in this case is the heinous murderers of innocent victims, five shoppers who were tortured to death.

Before we get lost in abstractions of habeas corpus law, before we wear out our hands wringing them over the supposed constitutional rights of vicious murderers, we need to understand the real consequences of this case, the deaths, the shattered lives of those left behind. The families who have to go on without a father. Most importantly for today, we must understand how this case will be allowed to continue to blight peoples' lives with the retroactivity provisions if the conference report section 1104 become law.

William Andrews continues to appeal his sentence, and has so far succeeded in delaying his execution for 17 years.

But today, at last, the end is in sight, but not if we are so unwise as to pass the conference report. If the retroactivity provision of this conference report passes, the Andrews case will never end, of that I am certain.

In 17 years of appeal, William Andrews has not raised one single meritorious issue on appeal. Not one. But the supporters of this bill now propose to allow Andrews to go back in time to 1978 when his criminal conviction became final to let him see if he cannot find one more case, one more argument, one more chance to avoid his death sentence.

The suppose repeal of the Supreme Court's retroactivity cases is the greatest gift to prison inmates in American and applies to all, not just some, all State prisoners. And I have to say it is a terrible provision.

That is why the president will veto this bill. It is one of the reasons. That is why every attorney general of every State that I know of opposes it.

That is why the president of the Florida Prosecuting Attorneys Association, Joseph D'Alessandro, wrote us last summer to oppose the Senate amendment that contains the retroactivity now embodied in the conference report.

That is why the National District Attorney's Association opposes the principal provision of the conference report.

That is why on June 25, 1991, 16 of the elected State attorneys of the State of Florida wrote their Senators, urging them not to vote for any amendment that would repeal or restrict the Supreme Court decision in *Teague* versus *Lane*. Those 16 prosecutors constitute all of the circuit prosecutors in Florida, except three who could not be contacted on such short notice. They were unanimous in their view.

Only one habeas amendment considered by this body met the criteria for their support. It was the habeas title of S. 1241 that now lies in the trash bin of the Judiciary Committee conference room, replaced by the entirely unacceptable House habeas provisions of the liberal members of the House and Senate Judiciary Committees in spite of the fact that the Senate voted overwhelmingly to change these matters.

Reversing *Teague* versus *Lane*, as the conference report does, will be the greatest gift to prison inmates in years. Every convict will immediately want to subscribe to U.S. Law Week, so that on Monday mornings he or she can look to see what new decisions have been handed down by the Supreme Court: What new case can be cited in a new habeas petition seeking release from jail and return to the streets.

This issue is not about whether State prisoners are to have "one bite of the apple." Every convicted prisoner gets eight or nine bites of the apple on direct appeal and through State postconviction procedures before he even turns to Federal habeas.

But Federal habeas corpus is not about giving prisoners a second bite of the apple, it is about giving prisoners a 10th bite of the apple, even a 20th bite of the apple. If only the problem were as simple as a second bite of the apple.

William Andrews has already received 27 bites, but the crime bill conferees have decided to give him just as many chances to appeal again. Reversing the Supreme Court's retroactivity decisions will, in effect, allow William Andrews to start his appeals all over again.

I will allow convicted prisoners a second bite of the apple, and a 10th bite, too. But I will not give them the whole orchard, as the conference report would do.

Mr. President, since 1976, over 3,000 persons have been sentenced to death row, yet only slighly more than 100 of these sentences have been carried out. I am continuously asked by Utah citizens, in letters too numerous to count, what is going on here? What is wrong with our criminal justice system? Well, I think we all know what is wrong—it's the Federal habeas corpus system.

We all know what is wrong; we all know how to fix it. And if we do not know, then we have the attorneys general, the prosecutors, and the law enforcement personnel of virtually every jurisdiction on record to tell us.

This bill would be the worst thing for law enforcement you could have. Many of the things they claim are tough on crime are without other provisions that let criminals off that are in this bill. They give, on the one hand, tough criminal provisions and take them away on the other, and we think we should not take them away. The bill filed by Senator THURMOND makes them tough and does not take them away.

I have to say that all of these prosecutors, all of these attorneys general, all of these law enforcement personnel who are against this conference report all say one thing: Habeas reform, but do not overturn the good decisions of the Supreme Court. Do not let the House and Senate liberals overturn *Teague* versus *Lane* and reopen cases that have been closed for decades.

If any Senator today has any question about whether this conference report is truly a crime bill, they do not have to take my word on it. Call your own State's attorney general and ask him or her. They know the issue, and I am confident as to what their response will be. They know this is no crime bill and that is what most will tell you—Democrat and Republican alike.

Yet it is being passed off as a tough-on-crime bill because it has lots of money in it. It does have good criminal provisions but they cannot be enforced with these types of laws that they like on the other side.

I hope, Mr. President, that at some time in the future I may finally provide a favorable answer to my constituents who ask what is wrong with the criminal justice system. I hope I can someday finally tell them that Congress has acted to end the absurdity of endless 15- and 18-year appeals.

I certainly hope that I do not have to tell them that Congress has actually acted to make things worse by passing the conference report. I know that I will never be able to explain that one to them.

So I plan to do everything I can to stop it, and I think it ought to be stopped.

Yesterday, the distinguished Senator from Delaware [Mr. BIDEN] denied that the conference report would have any effect on the case of California murderer Charles Manson. I took a different view, and I think most people who have studied this carefully will take a different view. I said we could not say for sure whether Manson could be released if he could find some favorable decision to cite—some decisions decided in the 25 years since his conviction. If nothing else, the conference report gives Manson the incentive to try a new habeas petition; he has nothing to lose by doing so if this conference report becomes the law.

Earlier today, Senator SEYMOUR expressed his reluctance to accept the risks that the conference report might contain the key for Charles Manson to open his jailhouse door. Senator SEYMOUR made the sensible suggestion that unless this Senate was unanimously convinced that the conference report does not reopen long closed cases, we could not responsibly vote to approve the conference report. I certainly agree with that.

In addition, since I began my remarks here today, I have received a letter from the attorney general of California who knows where Manson is residing right now, who knows about his prison sentence, who knows about the murders he committed, who knows what an insane, worthless human being he is.

I would like to share with my colleagues the legal opinion of the attorney general of the State of California, Attorney General Lungren. This is dated March 5, 1992:

STATE OF CALIFORNIA,
Sacramento, CA, March 5, 1992.

Hon. ORRIN G. HATCH,
U.S. Senator, Russell Senate Office Building, Washington, DC.

DEAR SENATOR HATCH: I understand that the question has arisen during the crime bill debate whether the retroactivity provisions in the conference report would allow prisoners such as Charles Manson to file federal habeas petitions based upon the definition of "new rules" in the bill.

My department has concluded that the sweeping retroactivity provisions included in the bill would not foreclose any capital or non-capital prisoner in California from attempting to challenge his conviction based upon new rules developed after the final conviction. In this manner, the conference report overturns current law; promotes repetitious litigation; and destroys the interest in finality obtained under the Teague doctrine. The problem with the conference report is that its definition of a "new rule" is so restrictive that hardly any decision would qualify as a "new rule." Thus, virtually any federal court decision could be applied retroactively. The breadth of the retroactivity provision is not limited to capital cases, but provides new potential avenues of relief for any prisoner—whether he is a mass murderer, rapist, or bank robber. For this reason, the bill may be more appropriately entitled the Prisoner Relief Act.

Therefore, while I am reluctant to suggest to course of action that any particular prisoner might take, I can unequivocally state that the conference report has the potential to provide every individual in the California prison system, including some of the most notorious murderers in our nation's history, an opportunity to pursue fresh rounds of "new rule" litigation. The conference report clearly overturns current law and undermines the Teague doctrine. The importance of the Teague doctrine has been demonstrated in recent cases, including the latest habeas petition brought by Robert Alton Harris, who brutally murdered two San Diego teenagers in 1978 and who confessed seven times. There, the Teague doctrine served as a bar to new claims based upon precedent established after his final conviction was upheld in 1981. Similarly, Horace Butler, who raped and murdered Pamela Lane near Charleston, South Carolina, in 1988 and who also confessed to the murder, was barred from bringing new claims based upon "new rules" developed after his conviction had become final. Under the bill, Butler, Harris, and a host of other convicted murderers could bring yet more claims based on new rules.

The bottom line is that it is simply not worth taking the risk to provide convicted prisoners new opportunities for litigation that are not available under current law. Instead, the Senate should reject the conference report and adopt legislation which will support the interests of law enforcement, provide finality of judgment, and take the interests of victims and their families into account.

Sincerely,
DANIEL E. LUNGREN,
Attorney General.

P.S.—Perhaps the most offensive aspect of this entire debate on the Conference Committee's so-called "crime bill" is the almost total disregard of its impact on crime victims and their families. Isn't it about time that the "world's greatest deliberative body" begin to view the criminal justice system from the perspective of the victims of crime and their families rather than that of criminals convicted and sentenced for society's worst crimes?

I think that is a whale of a letter from the attorney general of the largest populated State in the Union—35 million people. I think he is making it very clear that not only convicted murderers would have a right to assert new rules every time the Supreme Court rules, but everybody in the prison system in California and every other prison system throughout this country would have that right. It would throw the courts into chaos while at the same time making unenforceable most, if not all, capital punishments that are on record.

Need I repeat at this point the well-known epigram that "justice delayed is justice denied"?

Our colleague from Alabama, Senator HEFLIN, has spoken eloquently on this subject, former Supreme Court Chief Justice in Alabama. He said:

> There is no doubt that the problems of finality and integrity in State court judgments * * * have an acute effect on the enforcement of our criminal law. This is not a recent phenomenon. The Bible well describes the tendencies of human nature when it states in Ecclesiastes 8:11: "Because sentence against an evil work is not executed speedily, the heart of the sons of men is fully set to do evil."

As the Bible so often teaches us, in the area of crime and punishment, the fundamental issues of justice do not change.

Mr. President, I have a lot more to say but I understand my distinguished colleague from Arizona is here and he would like to have some time. I am glad to yield the floor at this point.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. Mr. President, I thank my friend from Utah.

Though I find myself in agreement with the distinguished Senator from Utah so many times, I have to say that I do not agree with the Senator's statements here that this conference report is soft on crime, and that we are going to permit people to get out of jail. Even the distinguished citation that the Senator uses from the attorney general of California, Mr. Lungren, is of great interest. Mr. Lungren served in the House of Representatives for I think 10 years, if I am not mistaken. I served on conference committees with him.

We know what is happening here. This has become a political problem, in my judgment, a political problem for those who do not want to see a crime bill passed today, who feel that we should not have a crime bill that is going to appear to be a crime bill that the President has not put his stamp on. I submit, Mr. President, that is the wrong way to approach the problem of ever-increasing crime, violence, and lawlessness that is going on in this country, in this city, in my State of Arizona.

So I rise in support of the conference report. It is one of the most comprehensive crime packages in recent history. I have seen a lot of crime bills pass here in the short 15 years that I have been around, and this is the toughest one that we have ever had. Our House colleagues have passed this measure, and we should also adopt it.

So it is here, folks. It is ready to be launched. There were over 24,000 murders in the United States last year. This country is under siege, and it is time we do something about it.

We have an opportunity to do something about it today or tomorrow when the cloture vote comes about. Yet we find our Republican colleagues are complaining that their provisions were stripped from the conference report. Well, so were mine.

This is not the bill that I would have introduced and that I would like to have seen passed as the national crime bill for 1992. But it is interesting to note that the bulk of this bill has the tools that the law enforcement people want to apply against the criminals of this country.

I had an assault weapons provision in this bill that passed two times in this body, once very narrowly, and the next time it was unanimous without even a contested rollcall vote.

I feel very strongly about that bill. I argued here that maybe this assault weapons provision would really do something to alter the use of these high-velocity weapons in the killing of Americans in our cities and throughout our country, and in the use against law enforcement.

So we debated it here for days. It came down to a very close vote. It passed by two votes and yet it was stripped out of the conference report. I was very disappointed.

So what do you do when you lose something in the conference report that you feel very strongly about? Do you pick up your bag, go home, and say, well, that is it; if I do not get 100 percent of what I want in this bill, then I am going to filibuster it; I am going to see that law enforcement does not have the provisions to take on criminal elements?

I would like to have that assault weapons ban in the bill.

It also had a provision in the bill that I did not support. Yet, I went along with the Senate bill. It had the so-called Brady bill, a awaiting period that I had opposed consistently because I did not think the Federal Government should impose that. I voted against that on the Senate floor.

So I had an opportunity under this process. We all know how it works so I do not even want to go into any of the details.

I had an opportunity to talk against the bill, the Brady bill. I had an opportunity to vote against it. It was passed. And the full bill was passed with my assault weapon provision, with the Brady bill, and we went to conference. And the conference report took out the assault weapon provision.

Did I pick up my bag and go home and say never again? No. Are we going to leave law enforcement stranded? Are we going to let the public go ahead, and be murdered and assaulted? Are we just not going to do anything else because this provision was not in there?

I am not happy with the habeas corpus provision in this conference report. It is not restrictive enough. I expressed my views very clearly on the floor. I voted for the President's proposal that was offered by the distinguished Senator from South Carolina. We did succeed. We did pass that version, which was tougher than the one that is in the bill before us. But in the conference we compromised because we got—I will get to it shortly—53 death penalties. That is something I have fought for around here for 15 years—to see the death penalty reimposed on the Federal level.

I also supported the exclusionary rule that was offered by Senator THURMOND, but that provision did not make it into the conference. We lost that on the floor of the Senate. Senator RUDMAN, the distinguished Senator from New Hampshire, led the effort against the Thurmond provision. He prevailed. I was not happy about that. I did not like that because I had seen the exclusionary rule used firsthand as a prosecutor before I came to this body, both in the Federal courts, and in the State courts. Indeed, I felt that we had to change that. So that was not available as a tool for the defense to throw out the whole case.

The Republicans have resurrected the Thurmond exclusionary rule provision as one of the provisions that justify voting against this bipartisan, I think, effort. And they are making it a partisan effort. The public is going to see that if they have not already.

We lost the cloture vote to bring this up for a vote right before we adjourned in October. We lost it because the Republicans would not vote for this conference report.

The habeas corpus and the exclusionary provisions in the bill are not just the way I would like to see them, but I am willing to live with that, as is every law enforcement organization in America.

So we are not here offering a crime bill that is soft on crime and because the attorney general of California says he does not like it, and a few other prosecutors say we do not like it because it does not have habeas corpus or the exclusionary rule. We have heard time and time again about what law enforcement thinks.

What about the people that are on the frontline on a day-to-day basis protecting you and me and the rest of the citizens? The Fraternal Order of Police, the largest organization of police officers, supports this and says, as the distinguished Senator from Delaware said yesterday how important it was to them, that it was the most important crime bill in recent memory.

The National Association of Police Organizations, the International Association of Chiefs of Police, the International Brotherhood of Police Officers, and the National Sheriffs Association, just to name a few organizations that say give us these tools so that we can do something today, so we do not have to wait and keep getting cut down by the criminal elements in this country.

The conference report provides the largest ever expansion of the Federal death penalty. It will cover 53 offenses that are not covered today. Tell me that is soft on crime? Hogwash. You could not get any tougher on crime. You are going to have the death penalty on murder of Federal law enforcement officers, that you do not have today; murder in the course of a rape; murder for hire; drive-by shooting; death penalty on drug kingpins. Is that tough on crime? Of course it is tough on crime.

It converts 10 closed military bases today into boot camps for youthful offenders, an approach that almost everybody says let us try. This is an effort to do something to make people feel a responsibility once they have been convicted of some crime.

It authorizes 8,000 new prison cells to hold the drug criminals in this country today. Is that tough on crime? Of course, it is. It directs $1 billion to the State and local law enforcement. That is what we need—more cooperation, more funds on the local level to work with the Federal authorities; and this bill does it.

A new effort to combat gang violence is included here. There are new penalties for terrorist acts, and increases in existing penalties for repeat drug offenses, assaults, manslaughter, and crimes against the elderly. Is that tough on crime, to get tough on people who commit and prey on the elderly? That is not soft on crime; it is tough. You are darn right, it is tough.

If this bill becomes law and you prey on the elderly or you commit some of the crimes that are in here, you are going to die if you are convicted of those crimes.

The bill expands aid to crime victims and permits them to speak at the sentencing of their assailants. How many times have any of you heard from your constituents about the need of somebody paying attention to the victims of the crime? Well, here the victim is going to get an opportunity, if this bill passes, to come and tell their story before the sentencing judge imposes sentence. If it is relevant, fine; if it is not, fine. At least, the victim will be considered, perhaps for the first time. That, to me, is getting very tough on crime.

Unlike the President's recently released budget, this proposal does something for law enforcement. It equips and trains 500 new border patrol officers to halt the flow of drugs across the Southwest border. Coming from that part of the country, there is nothing more prominent in our problems right now with drugs in the State of Arizona than the fact that the border patrol has gone down in the last 3 years in personnel on the border from 305 to 249. The last time it was at 305 was in an election year.

Four years ago, the administration pushed in some more border patrol.

And now we are talking about adding a few because it is an election year. This bill adds them permanently, and adds 500, not the 8, that are going to come into Arizona under the President's budget.

This conference report authorizes hundreds of new FBI, DEA, and U.S. attorneys to combat the crimes resulting from the drug epidemic. I know in my State, the U.S. attorneys cannot do all the work with the personnel they have.

My Republican colleagues have introduced their own new and improved crime bill this week. By their own admission, their bill contains virtually everything in the conference report except the few items that they have articulated here.

They have come a long way. Now they agree with the provisions I have mentioned above. Indeed, now they have some of the provisions that I introduced are in there: The National Commission to Support Law Enforcement is in their bill. I would like to thank them for putting it in there. The sports gaming lottery bill is in there; I thank them for putting it in there, just to name a few. All of the death penalties in this conference report are in that Republican bill that has been introduced.

But my Republican colleagues will not accept the conference report because of provisions that many of them even voted for on the Senate floor. That crime bill that did pass this body with the habeas corpus provision, which they supported, and is modified, passed with 26 Republicans. Now we are going to see how many of those Republicans will stand up tomorrow when we have the cloture vote and support passage of a final crime bill that does deal with habeas corpus; not just perfectly the way I want it, but does deal with habeas corpus and adds all these other very important provisions.

They want to play politics with this conference report. Why? I do not know. With that approach, we will never have a crime bill, and our law enforcement people will not be prepared. Who gets hurt? The American public.

Why are our Republican colleagues opposing this bill? It is because they say it is "soft on crime." If anybody wants to talk about being soft on crime, I sure hope my colleagues have taken the time to look at what this administration is doing right now in south Florida.

What I am talking about is simply this. I am talking about the sweetheart plea bargains and agreements that the administration has been handing out, one after another, to some of the most notorious drug kingpins ever arrested and prosecuted in this country.

Why are they treating these drug kingpins like some model citizens? Because their past relationship with Manuel Noriega, the former dictator of Panama, has come back to haunt this administration, and handing out these ridiculous deals and plea bargains as their last resort to convict them.

Well, I hope they convict them. If they cannot convict him without handing out short sentences to some of the biggest drug dealers in the world, then there is something wrong with the administration's policy. This administration's policy is now what is soft on crime. For my colleagues and those in the American public who do not know about this policy, let me give a few examples, illustrated by this chart to my right.

The group the prosecution assembled in the Noriega trial, the group doing it, and the people who are being given these highly visible deals on plea bargaining, sounds like a Who's Who in criminal activities and in drug dealings in the Federal prison system.

Let me tell you about Colonel Del Cid, this gentleman right here, the former Noriega bagman. He was facing 70 years in jail on four courts of drug trafficking and racketeering. Noriega prosecutors dropped three of those counts and recommended a maximum of 19 years instead of the 70 years that he would have received. They also promised not to deport him after he gets out after 19 years. We do not know when he will be on parole.

Ricardo Bilonick had been hunted for years by this country, by our law enforcement officers, for bringing in a 2,100-pound shipment of cocaine in 1984. He should have served 60 years; that is what he should have received when they convicted him. Yet, with parole, he will be out in 7 years, maybe less. Shockingly, our Government has promised to urge other countries that he not be prosecuted. He is a witness in the Noriega case.

Nevertheless, the biggest travesty of all is the sweetheart deal handed down to Carlos Lehder by the Bush administration. Lehder, this person right here, one of the founding members of the famous Colombian drug cartel, and an admitted admirer of Adolf Hitler, is the most notorious cocaine trafficker in the world ever apprehended by anybody.

More than any other individual, Carlos Lehder was responsible for the development, growth, and supply of the cocaine market in the United States. At one time, Lehder was responsible—and attributed by our law enforcement people—for 80 percent of the cocaine that entered the United States.

He is a vicious criminal who is responsible for thousands of deaths in Colombia. The tens of thousands of pounds of cocaine and other drugs he has smuggled into this country has caused unprecedented violence and murder in the streets of America, and created millions of drug addicts and crack babies in our country, and who knows what other countries.

In what was considered the most important drug-trafficking trial in history, Lehder, this person, was convicted in 1988, and sentenced to life imprisonment plus 135 years. That is a pretty good sentence—and I compliment the administration—if they just let it stand.

So how did the narcoterrorist end up testifying for our Government against Noriega? Lehder himself was lobbying for a spot on the Noriega trial as part of the prosecution. At the Noriega trial, Lehder himself stated that he was testifying in behalf of the Government against Noriega in the hopes of winning a reduced sentence that would allow him to return to Colombia, to his home country.

He was transferred out of the country's highest security prison, the Federal prison in Marion, IL. The Justice Department claims that was for personal safety reasons. I have been to that prison. You are safe there. I can tell you, nobody is going to touch you if that is where they put you. How can moving him out of that make it any more secure? The worst thing is he is going to be out on the street before we know it. And he is going to get a reduced sentence. Mark my word, it is coming down, and we will see it here shortly after the end of the trial with Noriega.

We also know that the administration went a long way with Mr. Lehder's wishes to bring eight members of his family into the United States under the Protective Witness Program. I wonder how much that is costing the American taxpayer. At one time the motto of Colombia drug Lords was that "we prefer a grave in Colombia to a jail in the United States." With the new Bush policy on plea bargain agreements, Colombia drug traffickers are requesting deals with this country, "Let me be a witness against whoever you are prosecuting because I know you will let me out of jail. You will let me not be prosecuted by other countries."

Colombia drug lord Pablo Escobar, who surrendered to the Colombian Government in June, is now sitting in his private luxurious prison outside his home town. He continues to run his cocaine empire from within. In late December, Escobar proposed his own deal to the U.S. Government. He wanted to provide evidence against Noriega in exchange for handling over all the evidence we have against him. I am surprised our Government did not do it. Maybe six or seven drug kingpins was just enough that they could swallow and they could not swallow one more.

It was once a stated policy of the administration to prosecute drug kingpins—Carlos Lehder, Escobar, Del Cid, Bilonick, any of the other ones—to the fullest extent possible. That is the kind of policy that I call tough on crime. Clearly, that policy has been replaced by a misguided policy that caters to the most notorious drug traffickers in the world.

Earlier today, my good friend from Mississippi, I understand, claimed that the conference report coddled criminals. I ask my Republican colleagues to explain this policy that I just laid out if you want to talk about coddling criminals. This policy is a Prisoner Protection Act for those who have been convicted of bringing drugs into this country. That is what we have today going on with this Justice Department and the Bush administration.

Last November, we listened to President Bush threaten to veto this conference report. Here we are again today listening to the rhetoric from our good colleagues that this is soft on crime. That is nonsense, and they know it. Yet, under the conference report, if we get to pass it and it becomes the law of this land, there would be no more opportunity for bargaining with the Carlos Lehders or the Pablo Escobars of this world. They would be gone. You know why? Because they would have received the death penalty under these types of convictions right here. He would not be able to bargain for anything.

I hope the American public sees through what is going on here and, indeed, that we are prepared to walk that plank. We, who are offering the conference report, do not claim that it has everything in it, but we can stand up with pride saying these are the tools that American law enforcement want, that the American public wants and that they deserve, and it is about time we move forward and get this behind us.

The PRESIDING OFFICER (Mr. LIEBERMAN). The Senator from Alabama.

TRIBUTE TO HENRY TURNER

Mr. HEFLIN. Mr. President, I want to talk about a public servant, a law enforcement officer. An Alabama journalist once wrote that, fortunately, Washington, DC, is full of those public servants who still get the shivers when the curtain goes up on another day of democracy. They are not jaded or pompous or self-important—not full of high-toned speeches or bombast. Of course, they work for money, but sometimes you get the feeling they might work for more than that. Most of my colleagues know one of these public servants the journalist wrote about to be Officer Henry L. Turner, a long-time member of the Capitol Police Department's fearless five Senate door contingent. I am also fortunate to know this Alabama native, who retired from the force at the end of last month after 20 years of service, as a dear friend.

Henry Turner literally traveled to the ends of the Earth on his journey from his home on the South Side of Birmingham, Alabama, to the corridors of the Nation's Capitol Building. As a young black man coming of age during the late 1940's and early 1950's, he discovered the harsh realities of racial discrimination when he was passed over for a job that he was eminently qualified for. Joining the Army in 1950, he served in Korea with the segregated 24th Infantry Regiment. Six months after his enlistment, Henry found himself in Japan recovering from bullet wounds to his side and legs. He was awarded the Bronze Star and Purple Heart for his bravery in battle.

He made the Army his home and career for the next 20 years, serving in Germany, Japan, Vietnam, Korea, and throughout the United States, retiring as a sergeant first class. A chance encounter with a Capitol policeman led Henry to the job he loved for so many years. He was on a Washington tour when spotted a man he thought he knew. Although the man turned out to be someone else, he was a retired serviceman as well. He told Henry, "If you're retired, you can get up here, too."

From the time he joined the Capitol Police Department in January 1972, Henry had his eye on the Senate door post detail, known as the fearless five. When he got one of the jobs 2 years later, he felt that he had secured the plum position on the force. "This job goes beyond my wildest dreams in terms of meeting people. When the Senate is in session you get a chance to see so much," he said. "I consider it an honor to work here."

During his tenure on the police force, Henry became somewhat of a "good will ambassador-at-large," constantly showing groups around the Capitol, pointing out historical places and artifacts, telling political anecdotes, and answering provocative questions about our history. He became an authority on the legacy of the building itself and on the behind-the-scenes rough and tumble of the legislative process. His files are brimming with dozens of gracious letters of thanks and appreciation from those he has assisted over the years.

The late Carter Manasco, a former Alabama Congressman and long-time public relations executive, once said that Henry was the best ambassador for Alabama there was in Washington; the people he worked with said that since he seemed to always be showing people from his State around, he must be running for Senator himself. Having successfully earned the title of "Alabama Ambassador Extraordinaire," Henry might yet come to prove his former colleagues on the police force right by declaring his candidacy for the U.S. Senate.

Meanwhile, I am proud and thankful to have Henry volunteering in my office part-time in an effort to continue these legendary good will missions for visitors from our State. His warm personality, keen sense of humor, shrewd political acumen, deep sense of history, and infectious laugh all come together to end a much welcomed and unique dynamic to the hectic routine of a Senate office.

Yes, Mr. President, Henry Turner did come a long way after being passed over for a job at that tire-recapping shop all those years ago. Just about all of us in this Chamber, and dozens of our former colleagues, know him by name, and he has met every President since Richard Nixon. He used to carry the key to then-Vice President Bush's ceremonial office right in his pocket.

About 10 years ago, Henry remarked to a news reporter from his hometown that the security and prosperity he found in life was not something he envisioned for himself when growing up in Birmingham. He said,

> I never dreamed I'd be buying a car. I wasn't raised with that. We weren't really poor, but we never had a whole lot at one time. Who would have thought * * * that I'd be up here opening the door to let the U.S. Senate come in to go to work?

Mr. President, I congratulate Henry Turner on his retirement and commend him for this many years of impeccable service and untiring commitment to this body, his country, and his State. I wish Henry all the best for a long, happy, and healthy retirement, one that his wife Gertha, and their son Adrian, who interns in my office periodically, might enjoy with him to its fullest. I ask unanimous consent that a 1986 news article on Henry be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

STOP WHEN HENRY SAYS

(By Randy Quarles)

WASHINGTON.—Birmingham native Henry L. Turner occasionally harks back to his service as an Army sergeant to call cadence, but these days he gives his marching orders to reporters in the U.S. Capitol.

Turner, 57, and four other Capitol Police officers—they're known as the "Fearless Five"—are assigned to guard the second-floor hallway and reception room outside the Senate chamber.

When the Senate is acting on controversial topics, reporters and lobbyists swarm around the Fearless Five's domain to buttonhole arriving or departing lawmakers. That's when Turner and his colleagues really swing into action.

"The most difficult part of the job, whenever there is a roll-call vote, is in keeping the press and lobbyists out of the way so the senators can get in and vote," explained Turner recently.

So Turner has worked out a simple but effective system with the regular Capitol Hill journalists to maintain an open route for senators:

He says, "Hup, two, three, four," and the reporters move.

They know that, despite his broad smile, he means business.

"But I like the press," said Turner during an interview in the Senate Press Gallery, one floor above his usual stomping grounds.

And the press apparently likes Turner, too. During the interview, reporters from the New York Times and other outlets paused to say hello and banter with him.

"They've got a hard job," said Turner, as one of the reporters left after ribbing him for being in the press gallery. He's never had any serious problems with reporters, he said, and usually no one's feathers get ruffled.

Sometimes, though, tempers do flare, Turner said. Lowering his voice, he nodded toward a woman seated at one end of the press room.

"That lady got *mad* yesterday," he said, chuckling.

Turner came to Washington after 21 years in the Army, from which he retired as a sergeant first class with a Purple Heart from the Korean War. He and his wife of 20 years, Gertha, now live in nearby Riverdale, Md., with their 14-year-old son, Adrian.

He has spent most of his 14 years with the Capitol Police outside the Senate chamber, one of the force's most coveted jobs. He reports to work each day an hour before the Senate goes into session, and generally stays as long as the lawmakers do—although if the session goes around the clock, he is spelled late in the evening for a four-hour respite.

"Our primary responsibility is to protect members of Congress and to assist them and their staffs, always keeping security in mind," said Turner.

Security around the Capitol in general has tightened noticeably in recent years, particularly since a bomb exploded late one night in 1983 a few feet from the then-empty Senate chamber. No one was injured in the blast.

Nevertheless, Turner said his routine has remained pretty much the same, because "in our area, security always has been tight."

"We do more work here than anyone else on the Hill, as far as police work," he said with a touch of pride.

One of the job's bonuses for Turner is the opportunity to meet some of the nation's most powerful men and women. He has known every senator who has served since 1972—something few can say.

"I really think it's great when you can stand there and see them come in," said Turner. And when he reads in the newspaper about one of them, he said, "I can associate with such a guy—I know him."

Sen. Howell T. Heflin, D-Ala., of Tuscumbia, praised Turner's dedication to his job.

"He is extremely accommodating and helpful to all the senators," said Heflin. "If there was a poll of all the senators, Henry Turner would rank No. 1 as the most accommodating.

"Besides, he's a good policeman, and that in itself is a high accolade."

Turner frequently goes above and beyond the call of duty to help his fellow Alabamians, too, Heflin continued.

Both Heflin and Sen. Jeremiah Denton, R-Ala., of Mobile, sometimes refer their visitors to Turner for a special tour of the Capitol during his lunch break or other off-duty time.

"He's extremely knowledgeable about the history of the Capitol building and the United States Senate," said Heflin. "Those Alabamians privileged to have had a "Turner Tour" sing his praises to the highest."

Turner would't describe himself as an authority about the Capitol. However, he said, "you get more from me than you do from the regular tour guides."

"I'm a lover of people, anyway," he said. "The more people that are around me, the better it is for me."

The Turners are thinking about retiring to Alabama in another few years, possibly to a small tract of land they own near Opelika. Or they may buy a place with enough land for a good garden somewhere in the Huntsville vicinity, to be near Redstone Arsenal's Army hospital and other services for military retirees, Turner said.

Until then, he wants to stay at the door of the Senate.

I love it. I love my work," said Turner.

Mr. MACK addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Florida.

Mr. MACK. Thank you, Mr. President.

I ask unanimous consent to address the Senate as if in morning business for not to exceed 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

CAPITAL GAINS

Mr. MACK. Mr. President, this recession has made it clear to most Members of Congress—that changes in the tax treatment of capital gains are necessary. I have argued for a long time that a lower capital gains tax rate will create jobs, stimulate new business growth, and boost capital formation. Probably no single policy we can initiate would spur economic growth more than a cut in the capital gains tax rate.

Yet the debate over capital gains has been inflamed by partisan political maneuvering. Even though the tax bills produced by the Democrats in both the House and the Senate have addressed capital gains taxes, the majority party has cynically combined capital gains tax cuts with higher taxes on other income earners:

There is no doubt that the President will veto any tax bill that raises taxes and hurts the country by creating a false class warfare issue. And he is right to veto. Raising taxes is just plain wrong.

I am afraid, however, that we may not see another tax bill this year. I am concerned that the Democrats will sacrifice the livelihoods of Americans in their attempt to gain election year advantage. If this happens, it will mean that the Democrats will have once again blocked attempts by the President and Republicans in Congress to create jobs for Americans.

Fortunately, there is something the President can do about this. It is true that the tax rate on capital gains can be reduced—for all intents and purposes—by subtracting that part of a capital gain that occurs solely because of inflation. And an argument has recently been made that capital gains taxes can be indexed for inflation without having to pass a law.

In an excellent article some weeks ago, economist Paul Craig Roberts reported that:

> The word "cost" in calculating capital gains at the Internal Revenue Service is not defined by statute, but by regulation. The president can cut the capital gains tax rate simply by exercising his authority to change the regulatory definition to index capital gains for inflation. In other words, the cost basis of assets would be adjusted upward to include inflation so that purely nominal rises in price would no longer be subject to taxation as a "capital gain". By subjecting only real gains to tax, the tax rate would fall significantly.

Preventing taxation on inflationary gains not only would reduce the effective capital gains tax rate, but it is a major step in making the Tax Code more fair. Indeed, what could be less fair than current law, where taxpayers are charged for an inflationary increase which does not benefit them at all?

So, I, along with 15 of my colleagues, am sending a letter to President Bush which expresses our support for this regulatory change which we believe he has the authority to make. This change would be a major step toward creating new jobs and capital, and spurring economic growth.

Mr. President I ask unanimous consent that the letter to which I referred be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, February 20, 1992.

Hon. GEORGE W. BUSH,
The White House, Washington, DC.

DEAR MR. PRESIDENT: As you know, a major cause of the high effective tax on capital gains is that inflationary gains—not just real capital gains—are subject to taxation. This is not only bad tax policy, it is fundamentally unfair.

Our understanding is that the flaw in the tax code does not need a legislative correction, but only requires a change in a regulatory definition which is under your authority. In particular, we understand that the Internal Revenue Service definition of the "cost" basis of a capital gain is not defined by statute, but by regulation. That definition could be changed by your authority to include the effects of inflation so that such inflationary gains would no longer be subject to taxation.

Mr. President, we believe it is critical for the recovery of the economy that the decline in values of homes, properties, and businesses throughout the U.S. be stopped. An immediate regulatory change to prevent inflationary gains on capital from being taxed would go far in accomplishing this stability. Just as importantly, it would spur job creation and business growth that is so badly needed for both our short term economic problems and long term international competitiveness.

We urge you to immediately make this regulatory change and end the taxation of inflationary gains on capital assets.

Sincerely,

Connie Mack, Mitch McConnell, John McCain, Jake Garn, Bob Smith, Al D'Amato, Dan Coats, Don Nickles, Steve Symms, Robert Kasten, Conrad Burns, Larry E. Craig, Bob Dole, Malcolm Wallop, Jesse Helms.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Montana.

Mr. BAUCUS. I thank the Chair.

BUILDING A COMPETITIVE U.S. AUTO INDUSTRY

Mr. BAUCUS. Mr. President, a General Motors CEO once said that "what's good for GM is good for America." If what is bad for GM is bad for America, our country is in tough shape.

Because last week, General Motors announced the closing of 12 factories, the first step of a plan that will leave 74,000 American auto workers unemployed. It is estimated that GM's 1991 North American auto operations lost $1 million an hour. Ford and Chrysler also suffered record losses.

The American automobile industry is emblematic of a broader crisis in our Nation: In sector after sector, we are losing our competitive edge. As a consequence, in many cases, affected industries have sought protection to regain lost market share.

But traditional protection, the kind that we ordinarily have enacted in the past, has a poor track record. For the most part, protection only raised the prices paid by consumers. When it expired, the industries were no more competitive and they only demanded more protection at consumer expense.

THE HARLEY DAVIDSON EXPERIENCE

I think there is a better way. And the experience of the motorcycle manufacturer, Harley Davidson, proves import relief properly framed can promote competitiveness. Harley's motorcycles had been famous worldwide. By the 1970's, the company had learned how to make a lot of bikes, but had forgotten how to make them the best.

Harley took two major steps to reverse its misfortunes. First, it sought import protection, and second, it focused on quality control and employee training.

Harley got import relief in the form of higher tariffs. It used the breathing room to overhaul its operation. In the end, Harley Davidson actually ended up urging the Government to end import protection ahead of schedule.

The Harley example demonstrates that we can turn necessity into virtue by requiring competitive improvements in return for import relief. In fact, given Federal budget constraints, conditioned import relief is one of the few tools the U.S. Government can use to promote competitiveness.

THE AUTO EXAMPLE

The American industry that is now most actively seeking protection is the auto industry. Hit by the double whammy of the recession and Japanese competition, Detroit is reeling.

The auto industry is an important part of our economy. According to recent estimates, the auto industry is responsible for 4.5 percent of U.S. GNP and more than 2 million American jobs. The impact of the auto industry stretches beyond Detroit. The American auto industry supports ranging from electronics to steel.

But, as we all know, the auto industry has been experiencing competitive problems. The Japanese share of the United States auto market has steadily risen since the 1960's. And—although they have succeeded in selling cars in Europe and around the world—the Big Three have not been able to crack the Japanese market in return.

Part of the fault lies with the Big Three. But even when we have products Japanese consumers want to buy, an array of Japanese nontariff barriers has kept United States automakers from making the sale.

The American auto industry is certainly not a basket case. And, it is beginning to show some muscle. Perhaps, with a few years of import protection, the Big Three could once again set the standard for the world to meet and save millions of American jobs in the process.

A NEW PLAN FOR AUTOS

Toward that end, I have unveiled a plan—which I intend to introduce as legislation—to improve the competitiveness of the American auto industry. The proposal is built around the simple concept of limited import relief in return for a quid pro quo—for a commitment to build a more competitive car.

First, my proposal establishes a standstill on Japan's current United States sales level. It would limit Japan's share of the United States vehicle market to the current level of imports from Japan, approximately 2 million units, plus the current level of Japanese transplant production. That means roughly 3.6 million units annually. Transplant autos with 70 percent or greater local content will not be counted against the limit.

These limits would be reviewed every 2 years and would be in place for no more than 7 years. These years are to be a chance to catch up with the competition, and not some loophole for continued business as usual. I will demand that the auto industry demonstrate during this period continued increases in production efficiency, product quality, and consumer service—the criteria set by the Commerce Department for awarding the Malcolm Baldrige National Quality Award.

Every 2 years, the International Trade Commission will evaluate the auto industry against these standards. If quality is not steadily increasing, the protection will be terminated.

But the focus will be on results, not on micromanaging the auto industry. The Big Three themselves will make the specific investment decisions.

Further, if the Big Three want temporary import relief, they will have to scale executive compensation to a level more in line with industrial reality than with major league baseball players. Auto executives cannot expect to collect obscene salaries while they lay off U.S. autoworkers.

CONCLUSION

No one should doubt the talent or tenacity of the United States. Thirty years ago, JOHN GLENN, one of our Members, became the first American to orbit the Earth. And less than a decade later, it was an American astronaut, not a Soviet cosmonaut, who took the first walk on the Moon. America won the technology race.

We can bring the determination we brought to the space race to the challenge of building a competitive economy.

We do not have to beat our chests or raise our voices. We just have to do the job, and do it better than we ever have before. And we have to do it right now.

And if U.S. industries come looking for a free ride at consumers' expense, I will stand in their way. We cannot afford any more free rides for the auto industry, the steel industry, or anyone else.

From now on, the price for Government protection has to be building a more competitive industry. Working together, Government and industry can build a more competitive America.

The PRESIDING OFFICER. The Chair recognizes the Senator from Massachusetts [Mr. KERRY].

OMNIBUS CRIME CONTROL ACT—CONFERENCE

The Senate continued with the consideration of the conference report.

Mr. KERRY. Mr. President, I rise to speak on the crime bill, and on the situation that we currently find ourselves in.

I find it somewhat extraordinary, Mr. President, that at a time when the American people have registered such clear and convincing dissatisfaction with the American political process and with the lack of leadership, at a time when in primary after primary they are registering dissatisfaction with the lack of leadership, and when uncommitted seems to win a significant portion of votes that here we are in the U.S. Senate, a year or more after a significant crime bill was passed, and what the American people are watching is the most fundamental, crass, craven, hollow, shallow process of politics being played out on the floor of the Senate.

You even pick up the New York Times, or pick up the Washington Post, and you see a very simple explanation of what is happening here. One side is trying to gain advantage over the other in proving to the American people who is tough on crime. Are we not just terrific?

Meanwhile, yet another American will wind up getting shot in his or her home, or walking down the street, or we will pick up the papers and read about another Capitol Hill employee. That finally brings crime home to people on Capitol Hill—never mind the fact that countless Americans are feeling it every day—when one of our own gets shot. Then the hue and cry goes up.

But more of those crimes will take place while the U.S. Senate watches a Republican minority try to create an impasse in legislation because they do not like one provision of a bill that was tougher than the bill that their President submitted to the U.S. Senate. I think it is a disgrace. They ought to be ashamed of themselves.

Last year the U.S. Senate rejected the President's crime bill by a 56-to-40 vote. And then Senate Democrats uniformly supported the conference bill that happens to be tougher on crime than the bill that the President had, and more balanced with respect to constitutional rights.

Now the Republicans come back, and really what they want is not necessarily to get a crime bill passed, but what they want is those 30-second advertisements. They want the capacity to try to disadvantage somebody in the U.S. Senate while, in reality, it is the American people who are disadvantaged because of the lack of response on the issue of crime.

I sat with a lot of other people on that cold January day 3 years ago when the President of the United States was inaugurated. I listened as our new President characterized drugs as a scourge. And he promised the American people that it would stop. That was a very dramatic moment and we were all filled with a great deal of hope at that period of time.

Not only has the scourge not stopped, Mr. President, but the American people's patience is being tried.

Drug use continues virtually unabated in the United States today. Moreover, violent crime—which is a sinister byproduct of drug activity and drug sales—continues to ravage our neighborhoods and our schools and our communities. The American people legitimately want to know what are you doing about that? Filibustering crime bills? Jockeying with each other for political advantage while kids are dying in the schools of America?

I think the American people have been more than patient enough. They have understood this war is not going to be won overnight. But they also have been promised results, and very few results have been delivered. The American people have been told, again and again, there is light at the end of the tunnel. But so far about the only thing that they have been able to see is a Government that is groping around blindly, apparently directionless.

The problem ultimately for all of us becomes one of credibility. We keep declaring war, and we keep raising the expectations. But then we fail to provide the resources that are necessary.

In the war on drugs we have been told over the course of the last year that we are making progress because middle-class suburban—and I might add largely white—high school seniors do not use drugs to the extent that they did 5 years ago. But the fact is that you can go to any inner city in the United States of America and find out to what degree drugs have increased, and to what degree the drug-related violence among the kids in those cities have increased.

Go to a crack neighborhood just around the corner in Washington, New York, or Boston, and then try to tell people about the positive direction in which we are heading.

I think the last thing in the world we need is the kind of empty political symbolism that is being carried out here at this point in time. We, obviously, do not need a lot of talk about who is toughest on crime. We need leaders who are willing to make tough choices on how to tackle crime.

I heard my colleagues on the other side of the aisle argue that we have doubled the budget for drugs since George Bush became President. That is true. They have doubled the budget on drugs. But that does not answer the question of whether or not they have funded the drug war to the degree that we need to, to be able to legitimately call it a war. And it also does not take into account where we were when we started the doubling.

Where we were when we started the doubling coming out of the impact of President Reagan, who had declared war on drugs in 1983 and then proceeded to cut every single program that might have helped a drug war to have been fought. I am not just talking about social programs. President Reagan consistently zeroed the budget for State and local assistance, all of which was critical to law enforcement. I think it is a matter of record, uncontested, that his drug strategy was a disaster.

Despite the opposition of the President, Congress passed drug bills in 1986 and in 1988. In those drug bills we increased the funding for drug-related programs, but we were not able to fully fund the 1988 drug bill until the summer of 1989.

And it took literally the threat of this Senator's amendment to take funds out of star wars account and put it into the drug wars account to finally get a commitment that we were going to fully fund the drug war. It was then that the Senator from West Virginia [Mr. BYRD] made the commitment that he would find the money and, indeed, he delivered. But because of the opposition of the administration, a full funding of the drug war never, in fact, took place.

So when President Bush says, "Look, I doubled the drug war," what he is really saying is I have begun to catch up for the devastation that was wreaked when I was Vice President and in fact when I was in charge of the drug war, which is what he originally was when Reagan gave him that assignment in 1982.

As a member of the Byrd task force that carried on the negotiation with our Republican counterparts, I well remember how we had to fight tooth and nail with the administration to get any money to fund drugs, let alone the appropriate amount.

We would suggest more money for treatment or education or for State and local assistance and the Republicans would say, "Wait a minute, we have to check with the White House." They would check with the White House, they would come back and say, "The President does not want to spend the money."

So the President was happy to declare war. The President was happy to go through the great process of telling America how he stood for law and order, but he was never willing to put in place the kind of resources necessary to really fight a drug war.

Here we are in 1992. I think we have had something like six declarations of war on drugs. The Republicans—none of them here on the floor right now—want to say that they are tougher on crime. But the fact is that in 1992, only half the kids in the United States of America are getting education about drugs. What does that say to the other half of the kids who do not get the education? That we do not care about them? That they are not important? That they do not have the same future as the other 50 percent? That the war is only for 50 percent of American kids and not for the others? Or is it only for the 50 percent that represent a certain constituency? And so the inner cities are even more hurt today than they ever were before.

What about treatment? How do you make a serious statement about a drug war if more than 50 percent of the people who are addicts cannot even get treatment?

This was something that we were arguing on the floor of the U.S. Senate in 1986, 1987, 1988, 1990, 1991, and now it is 1992 and we are having a filibuster of a crime fighting bill that has $1 billion of local law enforcement aid in it, and it is the cops on the front line who get hurt, and it is the kids on the front line who get shot, and it is the drug addicts on the front line who die, who suffer because of the politics that are being played here now.

What kind of commitment is that to the drug war? It is a rhetorical commitment, Mr. President, the same rhetorical commitment that it has been the entire time.

Just last week we had a photo opportunity drug war. We had an effort by the President who did a repeat of his car salesman trip to Japan, only this time it was the drug salesman trip to San Antonio. President Fujimori arrived and he surprised the President because he called the administration's antidrug strategy in Latin America a failure, and he said that millions of dollars have been wasted and there have not been many results.

During the course of that failed summit, President Bush's approach to getting drugs off our streets remained in fundamental disagreement with the Presidents of Colombia and Bolivia and instead of using our resources to stop the demand of drugs at home, President Bush seeks to instead throw them away on foreign militaries that do not need the money and who cannot see it very effectively.

Mr. President, I think that part of our engagement, unfortunately, speaks for itself. But once again, they try to mislead the American people. They say how much progress there has been in casual drug use. But the problem is that in this past year, the statistics show that that even has started to reverse itself because cocaine is now up in every category of use for the first part of this year and for the first time since 1985.

The fact is that while the drug war generals were meeting in San Antonio, those on the front lines have been engaged in a nonstop firefight in our streets and in our schools, and the fact is that despite hundreds of millions of dollars we are pouring into the Andean drug strategy, coca leaf production is not down, it is up, cocaine manufacturing is up, cocaine traffickers have established new bases of operations throughout our hemisphere and cocaine remains widely available on our streets. The price of cocaine is coming down and the purity of cocaine is going up.

None of us quarrel with the goals of the Andean strategy because international cooperation in a legitimate drug war is certainly essential. Sharing intelligence, going after money-laundering operations is vital, but we are not doing enough of that. Targeting drug kingpins and seizing drug shipments are important. But you can seize all the drug shipments you want in the world, you can brag all you want about the number of tons of drugs that you have intercepted. The fact remains that if the same amount of drugs gets into the United States on demand, it really does not matter how much you interdict, and that is precisely where we are today.

The measurement of success is whether or not cocaine use is down, whether cocaine coming into the United States is down, and the answer is to both of those questions, no, it is not.

I personally believe that many of those hundreds of millions of dollars that are going to the militaries of countries which cannot use them correctly would be far better used in the streets of Boston or New York or Washington for more police or in order to give people the treatment they need and deserve with respect to drug education and drug treatment itself.

Mr. President, I do not think anything underscores more the hypocrisy of the situation we find ourselves in than this argument about habeas corpus and this extraordinary proffering of a so-called Republican crime bill.

Last year, Mr. President, we had two crime bills—the Bush crime bill and the conference report that is before us.

The conference report crime bill suggests a 5-day waiting period before people get people-killing weapons to hold in their hands—the Brady bill. That is 5 days to find out if you are crazy, 5 days to find out if you have had a record in jail, not exactly an intrusion on the Constitution, considering the fact that we do not allow people to have nuclear weapons in their back yards, we do not allow them to buy M-1 tanks, we do not allow them to have howitzers. So why should we not make a judgment about whether or not people have other killing instruments in their hands? Five days, that is all we ask. But that mighty Bush bill had no provision at all, nothing, because they cave in to the gun lobby.

On the death penalty, why that tough Bush bill had 43 or 46 different flavors of death penalty. Democrats outdoing the flavors came up with 53 crimes for which people could be put to death, including gun murders.

There was no provision at all for gun murders in the Bush bill. There is in the conference report before us. Drive-by shootings, there was no provision at all in the mighty Bush bill, but there is in the conference report.

Rape and murder, no provision at all in the Bush bill, but there is in the conference report.

What about for law enforcement, the front lines of law enforcement? The conference report that the Democrats have worked out with the House has $1 billion in aid to State and local law enforcement agencies.

How much money was the Bush bill willing to put in front of the law enforcement community to help them in the assistance? Zero. Zero aid to local communities in the Bush bill.

How about gun-related penalties? as I said, the conference report toughened the penalties for gun use during violent crime, including the death penalty. The mighty Bush bill had no death penalty, and fewer mandatory penalties for gun use.

For rural crime and drugs, there was a conference report provision to provide aid to rural law enforcement for drug treatment. No provision at all in the Bush bill.

Drunk driving, the conference report boosts penalties for drunk driving when a child is present in the vehicle. No provision at all in the Bush bill.

Police corps, an idea which was put together jointly in order to assist in getting police into our communities. Finally, we break through with an intelligent proactive effort to try to deal with crime. Nothing is more important in this country than restoring order in our communities.

I think it is fair to say that there is literally chaos in some communities, and it is chaos which is driving people away from their communities, from having a stake in their communities or from even feeling safe. Nothing is more important than to get people to reinvest themselves into the communities of America.

For a long time in the United States, we made it attractive for people to go into the military. We said that if you join the military and wear a uniform in defense of your Nation, we will give you the GI bill, we will pay for your education, we will give you all kinds of benefits. Now we have a different threat in America, and the threat is right here in our communities and in our streets.

It is a threat that demands we attract the best and the brightest people in all cross-sections of our country in order to serve in the communities as part of law enforcement. Nothing would restore a sense of service better than that, and nothing would be more of an assistance to communities that are hard pressed financially, to be able to hire people to be in the police forces. So we have a police corps in this bill. The Bush bill had no such provision, and sadly that, too, is languishing now while we wait for something to happen.

For victims of crime, there was no provision in the Bush bill; there was in the conference.

For child abuse, there was no provision in the Bush bill; there is in the conference.

For drug prisons, there was no provision in the Bush bill; there is in the conference.

Boot camps for violent offenders of drugs and so forth, in the conference bill there is an effort to try to use excess Federal property to have boot camps. How many years has that been kicking around? How long does it take for us to make that happen? That is being held hostage to politics today.

Here we are with a bill that is tougher on crime than what President Bush proposed, but President Bush will not allow it to go forward because he does not like the gun provision in it and because habeas corpus is somehow a problem.

The Senator from Delaware said it yesterday. It bears repeating. Habeas corpus applies to people who are already in jail. The bill we passed limits their appeals. So the Republicans are holding up a crime bill because they are worried about how people already in jail are being dealt with when the bill before us would put people in jail, keep them in jail, and assist the police in keeping our streets safer and in making our communities stronger.

I do not know whether people have lost their bearings or lost their sense or what, but it is astounding to me that those who are blocking a strong, tough crime bill from passage believe they can gain political advantage by pretending that somehow the American people are going to be fooled in this charade. If there is any lesson of the year 1992, it is that the American people are not being fooled. It appears as if people are fooling themselves here in Washington, believing they can continue business as usual, and not allow themselves or the other people here in Washington to be held accountable for those choices.

Mr. President, it is clear to me that the American people are going to hold us accountable and it is precisely this kind of soft peddling, craven political that has people fed up to the gills and ready for change.

I yield the floor.

Mr. SIMPSON. Mr. President, here we go again, out of chute No. 2.

I spoke Tuesday evening about what effect this conference report would have if it were enacted into law. I rise again today to thank my colleagues from the Judiciary Committee for their leadership on this matter. I have spoken often about the fairness and honor of our chairman, and of my deep respect and admiration for our able ranking member, STROM THURMOND.

I also want to commend the leadership shown by Senator HATCH. I trust that my colleagues in the Senate were listening carefully to what he said on the floor yesterday. He went into great detail to demonstrate that the combined effect of the major titles of the conference report could result in giving the most vile and violent criminals the opportunity to get a new trial—with the resulting possibility of being released on bail—and ultimately giving them the chance to return to the streets to repeat their malicious acts against society.

This conference report includes the most offensive procriminal rights provisions imaginable. President Bush will surely veto this bill—of that, I am sure. You see, during this political year, the game is to come up with new and creative ways to create a false and crude impression about the President and Republicans, in general.

I can already imagine the press releases that will be cranked out if we approve this conference report—President Bush vetoes crime bill. It is tailor-made for campaign rhetoric.

It has been interesting to hear what the distinguished chairman of the Judiciary Committee has said during this debate. He referred to facades and straw men and diversions.

The chairman knows I respect him greatly, but I submit that it is this conference report that is the facade.

This legislation uses money as a facade to demonstrate that we truly are doing something. Well, Mr. President, this bill certainly does something. I am certain, however, that what it does is far from what the American people have been promised.

And, I would also observe that the proponents of the conference committee report deftly use their own straw man. For them, the straw man is guns, gun control, and the NRA.

Well, we see every day how well the toughest gun control laws in the country work in the District of Columbia. Some of our colleagues unfortunately know how poorly those types of laws work from their own painful, personal experience.

Gun control is the straw man here, Mr. President.

This conference report is the facade behind which the Bush bashers are hiding and hoping. They are hoping and praying that the Senate passes this bill because they know that President Bush will do what is best for the law-abiding citizens of this country and that he will veto this bill. Then they will turn the rhetoric up by painting the President as failing to act against street crime.

I trust that such activity will not be necessary; and I trust that my colleagues on both sides of the aisle will accept their responsibility to do what is best for the people and vote against this flawed committee report. Throw it in the dust bin where it belongs, and then let's get to work on real, tough criminal law reform.

Mr. SANFORD. Mr. President, I rise to speak today to urge the Senate to support and agree to the conference report on H.R. 3371, the Violent Crime Control and Law Enforcement Act of 1991. This conference report has been sitting at the desk for over 3 months, waiting for us to act. And I just wish to associate myself with the comments made yesterday by the Judiciary Committee chairman pointing out the toll taken by the public because of our refusal to act; 6,000 murders in 94 days, 1.2 million felonies. What is it that we are waiting for?

Opponents of this very tough, very responsible conference report have said that the conference report is soft on crime. Ridiculous.

The conference report puts more cops on the beat, more prosecutors in our courts, and more prisoners behind bars. One thing is clear, Mr. President. Our efforts on the Federal level are insignificant if they do not convey to the American people that the battle is one that overwhelmingly must be waged and won in the communities and in the neighborhoods of our States. Ninety-five percent of all criminal cases are prosecuted in State courts. It is the State criminal justice systems, the State prosecutors, the State police, the State judges, and the State prisons that bear the greatest burden.

The local law enforcement community must be aided in their response to violent crime. They are increasingly understaffed, ill-equipped, and outgunned. Recognizing the importance of supporting those who are on the front lines of our war on crime, this conference bill authorizes $3 billion for local and State law enforcement agencies. This commitment can hardly be described as soft on crime.

Furthermore, I fail to see how enacting the Brady bill, which the Republican alternative surprisingly overlooks, is soft on crime. Our distinguished majority leader has done much to ensure that the Brady bill is enacted into law. He drafted the compromise which is included in the conference report. This approach combines a waiting period with a mandatory background check and authorizes $40 million to help States update and computerize criminal records.

Let us be perfectly clear about what the Brady bill does. It simply imposes a 5-day waiting period for the purchase of handguns until a national instant check system is developed. It also requires police background checks of gun purchasers in order to keep guns out of the hands of criminals. This is not a radical idea; President Reagan is supportive. Our local police officers support it.

My home State of North Carolina has long had a similar provision on the books and it has been readily accepted by our citizens. Without unduly interfering with anyone's right to own firearms, North Carolina's permit system has provided a check against handgun purchases by felons, drug abusers, mental incompetents, and those seeking in quick anger to win an argument. It has not put to disadvantage any law-abiding citizens, gun dealers, hunters, or NRA members. The Brady bill is a rational and responsible policy that will keep guns out of the wrong hands. Law enforcement officers in my State have told me time and time again that passage of the Brady bill is vital if we are to address crime in any significant way. Supporting our local law enforcement officers, who face danger on a daily basis, is not being soft on crime.

I would also point out that the protections afforded citizens under the writ of habeas corpus and the exclusionary rule are too precious and too important in our society to be cast out under some ill-conceived notion that this streamlining effort will reduce crime. Last November, an editorial in the New York Times noted:

> * * * Senate Republicans and the White House say they are determined to block enactment because the conference refused to accept even stronger > limits on habeas corpus appeals and looser restraints on exclusion of illegally seized evidence. Neither provision has much to do with > the level of crime on the streets. * * *

My final point is that we must begin to make efforts to address the root causes of crime. Reliance on law enforcement solutions is not enough, and that is the clear record of the last dozen years. Charles Dunn, director of the North Carolina State Bureau of Investigation, recently wrote an article for the Charlotte Observer on the most appropriate methods to address the crime epidemic. I ask unanimous consent to include Mr. Dunn's article at the end of my remarks.

The theme of the article is that underlying the entire issue of crime in America are the broader subtexts of our society. I wholeheartedly agree. Improving the opportunity to thrive and to succeed, improving the opportunity to be educated, improving the opportunity to be free from hunger and from want, to have a home and to be secure. These must be the cornerstones for our war on crime. This is where the battle must be waged and won. These are the toughest problems to tackle but tackle them we must if we are to honestly say to the voters back home that we are tough on crime. Let us work to end the hopelessness, the injustice, the poverty, and the destruction that generate violence.

I am pleased that the conference report includes an amendment I offered to require the Commission on Crime and Violence to include as an integral part of its study an examination of the basic causes and elements that contribute to crime. It further requests recommendations for specific proposals for both legislative and administrative actions to reduce crime and the elements that contribute to it. This is an important step in addressing the root causes of crime.

Ending the epidemic of violence and crime that is gripping our country will take efforts on many fronts. A comprehensive attack must use a wide variety of tools and approaches. The conference report before us is a well-reasoned starting point for that response, and most assuredly is not soft on crime. It is, instead, supportive of our local law enforcement officers. It is time to take action and pass this tough and responsible conference report.

Thank you, and I yield the floor.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Charlotte Observer, Feb. 5, 1992]

ADDRESSING CAUSES OF CRIME

(By Charles Dunn)

North Carolina is in a major and growing crime crisis that threatens the personal safety and security of property of every citizen.

No one is immune. Babies are being born addicted to crack. People are being shot in the streets, the elderly are being robbed and beaten in their own homes.

In many counties there are areas where law enforcement cannot protect citizens from illegal drugs, from violence and from the loss of property. Drive-by shootings, gang activities and fear are becoming a way of life for many.

The trend is not encouraging. In 1980 North Carolina ranked 40th in the nation in index crimes per 100,000 people. In 1990 North Carolina ranked 20th. If the trends continue. North Carolina will be one of the 10 most dangerous states by the turn of the century.

This situation will not "just go away" by passing more laws and building more prisons, although they are needed.

While illegal drugs and guns and, now, gangs have made a bad situation worse, the roots of the crime problem lie in our inability or unwillingness to address human needs, particularly those of our children.

HELP FOR FAMILIES

A primary cause is dysfunctional families and a lack of resources in most communities to deal effectively with them.

A disproportionate number of problems come from single-parent families, from families where both parents work full time or more, from families where there is alcohol and/or drug abuse, from families where there is child and/or spouse abuse. North Carolina ranks high in all these areas but provides inadequate support or assistance.

A second cause is lack of intervention and treatment programs for the mentally ill and the substance abusers.

Deinstitutionalization was a good concept. Unfortunately, community and family support programs did not come into being, and many of the mentally ill became street people.

The same plight has affected alcoholics and drug addicts. Too often they can't get help and treatment, and they end up in the street—and then in trouble with the law.

In most counties today, the jail is the largest mental health facility. But it offers no special care and treatment for the mentally ill or substance abusers. If these people could be diverted to treatment facilities, they would have hope of being helped, and jails and prisons would have space for criminals.

Schools also are a cause. Many young people end their academic careers under-educated and unqualified for available jobs. Certainly, there is less hope of finding honest work without at least a high school education.

Coupled with the lack of education is the lack of jobs for young people in rural and urban areas. Too often these unemployed or underemployed people become victims of crime and get messed up with alcohol and/or illegal drugs.

Couple all these causes with the ready availability of guns of all shapes and sizes. Violence is becoming a way of life for many.

AN OVERBURDENED SYSTEM

A final reason for the increase in crime. Resources for the criminal justice system have not increased in proportion to population growth, crime increase or even to keep up with all the new anti-crime and anti-drug legislation.

While arrests continue to increase at about the same rate as crime, law enforcement in North Carolina is generally understaffed by national standards, particularly in some rural areas.

The same holds true for the courts. District attorneys do not have enough assistance, and there are too few judges. Recent figures show we are trying fewer than three of every 100 felony cases. That doesn't deter much crime.

The corrections system is overloaded. Parole and probation officers are carrying impossible caseloads. They can't call, much less meet, all the people they are to supervise. Prisons are filled.

All this translates into criminals being released well before finishing their sentences. Once released, too many get back into crime.

Not enough resources are being provided for the criminal justice system to meet today's demands. If our neighborhoods and homes are to be safe and secure, then federal, state and local governments must find resources to provide adequately for law enforcement, courts, and corrections.

But providing for criminal justice alone is not enough. More must be done to keep people out of crime. Hope and opportunity for every citizen are the keys to personal safety and security of property in North Carolina.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CONRAD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. MIKULSKI). Without objection, it is so ordered.

UNFAIR TRADE NEGOTIATIONS

Mr. CONRAD. Madam President, I rise today to talk about an action by the National Farmers Union, which has called for the resignation of the Secretary of Agriculture, Secretary Madigan.

The National Farmers Union has asked for the Secretary's resignation because he has endorsed the so-called Dunkel text as the basis for agreement in the Uruguay GATT round now being negotiated in Europe. The Dunkel text at GATT, the General Agreement on Tariffs and Trade, will determine the future of American agriculture for the next 5 or 10 years.

Madam President, the reason the National Farmers Union is so upset with the Secretary is because he has now endorsed in principle the Dunkel text, which puts American agriculture at a significant disadvantage.

Madam President, we have heard over and over and over that we ought to support free trade. The administration chants it like a mantra, as though those words, those supposedly magic words—free trade—will alter the landscape and somehow bring back to health the heartland of this country that is so badly hurting after a dozen years of neglect.

Madam President, the reason the National Farmers Union is so concerned about an indication by the Secretary of Agriculture that he will support the so-called Dunkel text is because of what that text means, because of what is included in the words of the text. When I was taught about free trade, I was told that free trade meant that whoever was the most efficient, the most productive, would be the one that got the business. That is what free trade is all about.

Is that what is being talked about in the GATT negotiations? Oh, no. We are not talking anymore about who is the most efficient, who is the most productive. We are talking about something much, much different than that. We are talking about negotiated trade, negotiated trade, and this administration is losing the negotiation.

Madam President, let met just review where we are in this negotiation, where we started and where we are ending up.

This chart shows what commodity support levels are for various commodities in the United States and in the European Community. The dark bars are the support levels in the European Community. The hatched bars are the support levels in the United States. A very interesting picture emerges.

In every one of the commodities, Europe has much higher levels of support for their farmers than we have for ours. For example, in refined sugar, they support their farmers at $30 a hundredweight; our farmers are supported at $21 a hundredweight. In sunflowers, European farmers are supported at $28 a hundredweight; our farmers are supported at $8.80 a hundredweight, a $20 difference. In soybeans, the European farmer gets $15 a bushel, an American farmer less than $5. On durum wheat, the European farmer gets $9.50 a bushel, the American farmer, $4. And on corn, the European farmer gets $5.20, an American farmer gets $2.75.

Madam President, what is happening in the GATT round? Is our side seeking to level the playing field? Are we trying to close the gap between what a European farmer gets and an American farmer? That would make sense. That would be fair, but that is not what is happening.

Hard to believe? Yes; but our Secretary of Agriculture has signed off in principle on a deal that would take equal percentage reductions from these unequal bases.

What is the result? Very simply if you take an equal percentage reduction from an unequal base, you lock in the inequality, you lock in the Europe advantage, you give those European farmers twice as much, in some cases three times as much as an American farmer will get for exactly the same commodity. Is there any wonder that American farmers are upset? Is the any wonder that they feel this administration has sold them out?

Madam President, here are the results of this disastrous deal. The results will be that the European farmer, on sunflowers, will get $22 or $23 a hundredweight, an American farmer will get less than $8; a European farmer, $12 a bushel on soybeans, the American farmer less than 5; the European farmer will get over $8 a bushel for durum wheat, an American farmer, $3.50; and on corn, the European farmer will get $4.70, a bushel, the American farmer, $2.70.

That is not free trade. It is certainly not fair trade. It is negotiated trade and this administration is losing the negotiation.

Is there any wonder that American farmers are upset? Is there any wonder that they feel betrayed? Is there any wonder they feel that they have been sold out?

This cannot stand. You have heard the President say on occasion that this or that cannot stand. Well, this cannot stand. It is not fair. It is not right. And it will hurt the United States. And not just the farmers will be hurt.

Do not, anybody, be misled on that. It will not just be the farmers. One in five jobs in this country is dependent on agriculture and food industry, not just the farmer. It is the truck driver who moves the produce. It is the railroad worker who moves the grain. It is the worker that processes that farm commodity into a final product. It is the people who work in the paper plants that package those products. It is the worker who is in the plastic plant making containers for those products. It is the people who are in the business of selling and marketing those products. It is the people who are in the distribution chain. All of them are threatened, all of them are threatened by a deal that means Europe is in a position to get three times as much for every commodity as the American farmer will receive. Because, if the commodity is grown in Europe that is where the jobs are created.

Madam President, this cannot stand. I am disappointed. More than that, I am deeply disappointed in the Secretary of Agriculture, this Secretary who has been so much better than the last Secretary, so much better. And I understand he has been presented with a fait accompli. I understand that he has been presented with a situation in which this Trade Representative—this Trade Representative, who cares nothing about agriculture, who knows nothing about agriculture—has done over and traded agriculture away like so many cars in order to achieve a result somewhere else.

I understand that he has been put in a corner. That is no excuse, Madam President. Because it is not just him that has been put in the corner, it is very farmer in this country who has been put in a corner.

And our farmers do not have much more to give, Madam President. Our State university did a study that said 1 in 3 grain farmers in my State is going to go under in the next 5 years unless there is a change. Well, this is not the change they had in mind to save that situation.

Madam President, what could be more clear that this is not fair? When a European farmer gets $12 for a bushel of soybeans and for that very same bushel the American farmer gets $5, it is not fair. And we are told that we are to accept that, that it is a good deal for America, that it is free trade. Nonsense. It has nothing to do with free trade.

Madam President, I intend to resist this deal with everything that is in me. I hope that my colleagues will pay attention and will understand what this means, not just to the heartland of America, not just to the farmers, not just to main street of every rural community in the United States, but to the entire economic strength of our Nation. Because that is what is at stake.

Madam President, I thank the Chair. I yield the floor.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

CEO PAY AND THE SEC

Mr. LEVIN. Madam President, in May of last year and January of this year, I chaired hearings on the issue of runaway executive pay in corporate America. These hearings disclosed that the pay of chief executive officers in U.S. corporations is out of line with corporate profits, out of line with other American workers, and out of line with CEO pay in other countries. They disclosed that huge levels of executive pay, unmatched by corporate performance, pose a threat to American competitiveness. And they disclosed that the Federal Government is part of the problem.

In June, I introduced a bill to change the Federal Government practices contributing to runaway pay. My bill, the Corporate Pay Responsibility Act, had three main provisions. First, it directed the Federal Government, through the Securities and Exchange Commission, to stop frustrating stockholder efforts to raise executive pay issues at their own corporations. Second, it required corporations to provide clearer disclosure to stockholders of executive pay levels. Third, it directed the SEC to require corporations giving executives stock options to include that compensation in the company books as an expense, which does not happen today.

Since my hearing in May, hardly a week has gone by without another article detailing another example of sky-high executive pay at a company performing poorly. The public and many members of the business community want corporate executives, whose companies are losing money or laying off workers, to sit in the same boat as workers asked to take pay cuts and benefit reductions. In short, they want executive pay related to corporate performance.

Following introduction of my bill and public hearings, and public expressions of frustration with excessive executive pay, last month Chairman Richard Breeden of the Securities and Exchange Commission announced a reversal in a decades-old policy of the SEC. From now on, Madam President, the SEC will not help corporations block stockholders from circulating advisory proposals on how executive compensation should be set in their companies. That is what the first provision in my bill called for, and I applaud the Chairman's decision.

The Chairman also announced the SEC's intention to address administratively the other two provisions in my bill. He stated that the SEC will soon be issuing a rule to require more comprehensive and clearer disclosure of executive compensation in company proxy statements. Reforms will include a single chart listing all forms of pay, a dollar value for stock options held by executives, and a 3-year salary history—each of which my bill required. The Chairman also directed the SEC's chief accountant to review and report back to the Commission within 120 days on the feasibility and advisability of including stock option compensation in the company books as an expense.

I have always said that the changes required in my bill could be done administratively, and Chairman Breeden could prove me right. But we will not know that for another 120 days, at least, Madam President. So for those who want to know how the SEC announcement affects my intentions relative to the corporate pay responsibility bill, the answer is: It depends upon what actions the SEC finally takes.

This caution is needed, Madam President, because soon after Mr. Breeden made his announcement, the Washington Post reported that some CEO's will not be sitting back and allowing the SEC to change the system that has benefited them. The Post reported on February 21 that, "some of the Nation's largest corporations and premier law firms" have already launched a counterattack to the SEC proposals, claiming that criticisms of excessive executive pay are exaggerated and that stockholders already have all the information and tools they need to stop inappropriate pay at individual companies.

Those claims are wrong. Whether measured against corporate profits, the cost of living, worker salaries, or the salaries of CEO's in other countries, the pay of America's CEO's is out of line and out of whack.

CEO pay has skyrocketed past the pay of other American workers. Compensation experts indicate that, where 15 years ago, CEO pay was 35 times the pay of average American workers, that figure has now climbed to more than 100 times. No other developed country has such a huge pay gap. In Germany, CEO pay is 23 times the pay of average workers. In Japan, the figure is 17 times. In America, it is more than 100 times, which is way out of line with the rest of the world. And it has happened at the same time that corporate profits have stagnated or declined. It is happening in the middle of this recession.

In the past 2 years, the business press has printed a flood of articles about runaway executive pay in corporate America. These articles illustrate the depth of concern in the business community about what is happening. While there may be divisions as to how to solve our economic, health care, and education crises, there appears to be an unusual consensus on the issue of CEO pay. Most agree there has been unacceptable excess.

And not only has CEO pay become an issue in and of itself, it has also become a symbol of the deepening discomfort we are feeling about the values of our society—the fear many of us have that the social disruption we are experiencing is due in part because the rich are indeed getting richer while the rest of America is getting nowhere.

Madam President, as I have said, many members of the business community agree that it is time to rein in runaway executive pay. But there are also some business groups that are fighting the reforms. The Business Roundtable, the largest organization of CEO's in the country, is one of them. When I held hearings on CEO pay issues last May and in January, I invited them to testify, but both times they declined to appear. Now the Business Roundtable is criticizing the SEC for acting in this area.

Madam President, my bill and now the SEC, want to allow the stockholders of America's corporations to be a watchdog on executive pay practices. You heard me right. Until the SEC's announcement last month, stockholders had no right to have their proposals on executive pay—the pay of executives of their own corporations—heard at annual meetings. Now that may be hard to believe, but it is true.

In May, when my Subcommittee on Oversight of Government Management looked at SEC policies on executive pay practices in publicly held corporations, we learned that the SEC was a major roadblock in the way of stockholders having a say on how CEO pay is set in their own corporations. The SEC routinely advised corporations that they were not required to permit such executive compensation proposals to be put to a stockholder vote. In every case presented to the SEC in 1990 in which a corporation did not want to circulate such a proposal, the proposals on executive pay were not considered—and they were not considered with SEC approval. It is hard to believe that in a system based on capitalist principles, that the owners of a corporation were denied even an advisory voice in how much of their money would be paid to their own corporation's executives.

In addition, more than 90 percent of America's publicly held corporations pay their top executives in part with stock options. Stock options are an opportunity to buy company stock at a set price some time in the future. The person who owns a stock option will actually exercise it—that is buy the stock—only when the value of the stock exceeds the price in the option. That allows the option holder to pay for the stock out of the profits of the sale and reap an immediate sizable gain. Few companies outside of the United States use stock options extensively as a form of executive compensation.

But in America, stock option grants mean, frequently, big money for corporate executives. In some cases, CEO's have received what have been called megagrants—options to buy literally millions of shares of stock. The profits can be tremendous for the executive, and yet this form of executive pay is hidden, for the most part, from the view of stockholders and the public.

Although stock options impose real costs on a company, most do not appear on the company books as an expense. They are a freebie in that regard, even though they divert capital from company coffers, dilute the value of shares held by other stockholders and often result in huge compensation for the recipients. In fact, they are even more than a freebie, because at the same time the company does not have to show them as an expense on its books, it is allowed to report them as an expense on its tax returns and take a tax deduction. And their true cost is largely hidden from stockholders. No wonder stock options are such a mushrooming form of compensation for corporate executives.

My bill, S. 1198, would require the cost of stock option compensation to be included in company books as an expense. Chairman Breeden has asked his staff to give him a recommendation for SEC action in this area within 120 days. That is a lot better than the at least 2 years estimated by the Financial Accounting Standards Board at our hearing in January. I told them at that time that I thought we in Congress weren't going to wait that long.

Madam President, again, I am pleased that Chairman Breeden has taken action. He has observed the handwriting on the wall on this issue, and he has understood the wisdom of what it says. I congratulate him for his reform efforts. But the reaction of the Business Roundtable indicates that we have not yet turned the corner on this issue. For that reason, I will be watching closely the debate on the SEC proposals. If the SEC does not take the steps promised in its recent announcement and if it does not agree to require corporations to report executive stock options as an expense in some appropriate manner, I will be returning to the floor to ask for action on S. 1198, the Corporate Pay Responsibility Act. But if as hoped, the SEC follows through on its proposals, I will happily not press my legislation and declare victory.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

JENNINGS RANDOLPH'S BIRTHDAY

REACHING THE 90TH MILESTONE

Mr. BYRD. Madam President, with others who have served in this Chamber over the years, I view the U.S. Senate in part as a large extended family—a family whose Members, in spite of separating distances, are still united to us in memory and in shared past experiences.

In that spirit, then, I know that many of our colleagues will want to join me in wishing former Senator Jennings Randolph the happiest of birthdays on this coming Sunday.

Born in 1902, Senator Randolph will be 90 this weekend.

Senator Randolph and I entered the Senate in 1959—I to fill a full term and he to serve out the remainder of the term of the late Senator Neely from West Virginia.

From 1959 until his retirement in 1984, Senator Randolph proved himself a virtual dynamo, concerned about issues vital to the people of West Virginia and our entire country. Through his energy, his foresight, his congeniality, and his irrepressible spirit, Jennings Randolph made friends of many of those Senators still serving today, as well as men and women in countless numbers across our country.

Jennings Randolph is a man possessed of a boundless love for West Virginia and for our Nation. Both in Government and in his several other fields of interest and expression, he has seemed constantly to be looking for ways to assist other people to achieve their own potential, or for avenues by which his neighbors might attain a better life for themselves.

If events can foreshadow destinies, perhaps Jennings Randolph's destiny was outlined at his birth in 1902.

One of Senator Randolph's father's closest friends was the great William Jennings Bryan.

Jennings was fond of recounting the anecdote that his father was with Bryan shortly after Jennings' birth.

When told of the arrival of a new Randolph male, Bryan asked Mr. Randolph, "Have you named this boy?"

"No," the father replied.

"Then why don't you give him part of my name as a good Democrat?"

So Jennings Randolph received his name from the perennial Presidential candidate, William Jennings Bryan—a name that the younger Randolph never tarnished and that he burnished brilliantly in his own career.

Today, Senator Randolph is living in St. Louis, MO. I am privileged to talk with him by telephone from time to time, and I can assure everybody that Jennings Randolph is still vitally interested in our country and in the causes for which he worked throughout a long and productive career.

I can also assure everybody that a grand portion of Jennings Randolph's heart still centers in this Senate and its activities. Particularly, then, this outstanding West Virginian and continuing colleague of ours will welcome the hearty and sincere birthday wishes that we extend to him on the occasion of his 90th birthday.

Madam President, I yield the floor and suggest the absence of a quorum. I withhold that suggestion.

Mr. THURMOND. Madam President, will the Senator yield?

Mr. BYRD. Yes; I will be glad to.

Mr. THURMOND. Madam President, I just want to associate myself with the able remarks of the distinguished President pro tempore of the Senate. I served with Senator Randolph. I was here when he came and I was here when he left. He is a man of character, a man of integrity, a man of high principle. He was a very capable and dedicated man, and I certainly enjoyed serving with him.

We miss him in the Senate, and I want to say that, in talking with him on many occasions, I enjoyed discussing the time when he served as a teacher and a coach. I served in a similar position earlier in my life. I always looked upon him as a Senator and as a man whom young boys could well emulate. I think he is a good role model for them.

I am very pleased to join the able Senator from West Virginia today, the President pro tempore of the Senate, in his remarks he made about Senator Randolph.

Mr. BYRD. Madam President, I thank my distinguished friend from the State of South Carolina [Mr. THURMOND] for his kind remarks concerning my former colleague, Jennings Randolph. I am sure Jennings Randolph will be pleased to read in the CONGRESSIONAL RECORD the words that have been spoken by Senator THURMOND and he will cherish those words.

Again, I thank my friend for noting the forthcoming birthday of Jennings Randolph and for expressing his good wishes to Senator Randolph on that occasion.

Madam President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. LAUTENBERG). Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. I thank the Chair.

(The remarks of Mr. MCCAIN pertaining to the submission of Senate Resolution 266 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

Mr. MCCAIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. WELLSTONE). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. AKAKA). Without objection, it is so ordered.

CLOTURE MOTION

Mr. MITCHELL. Mr. President, I send a cloture motion to the desk on the conference report accompanying H.R. 3371.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the conference report accompanying H.R. 3371, the Omnibus Crime Control Act:

George Mitchell, Terry Sanford, J.R. Biden, Daniel P. Moynihan, Joe Lieberman, John F. Kerry, Harris Wofford, David Pryor, Jim Sasser, Edward Kennedy, Albert Gore, Charles S. Robb, Bill Bradley, Frank R. Lautenberg, Paul Sarbanes, Jay Rockefeller.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be a period for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

HAPPY BIRTHDAY TO SENATOR JENNINGS RANDOLPH

Mr. ROCKEFELLER. Mr. President, I rise today to ask my colleagues to join me, not only in wishing a very happy 90th birthday to an outstanding individual and retired Member of this body, but in reflecting for just a few moments on the extraordinary political career of Senator Jennings Randolph. A career that spanned 14 years in the House of Representatives and 26 years in the U.S. Senate.

It began in 1932, when at the age of 30, Jennings Randolph was elected to the House of Representatives in the election that carried Franklin Roosevelt to the Presidency in a Democratic landslide. At that very young age, he began immediately addressing the problems that affected his constituency in his beloved West Virginia, while at the same time winning the respect and admiration of his peers.

From the beginning, he became a member of committees through which he could improve the living conditions of the people of West Virginia, such as the House committees dealing with labor and roads and the Mines and Mining Committee, in which he chaired the Subcommittee on Coal. To highlight just a little of his legislative history while in the House of Representatives, he sponsored the Civil Aeronautics Act of 1938, helped to establish the National Air Museum, served as counselor for the National Aeronautical Association, and strongly supported Federal aid to airports and air mail pickup. He supported the merging of the armed services under a single Department of Defense, the New Deal domestic legislation and President Truman's European aid policies.

In the Senate, Jennings Randolph continued his role as congressional leader, serving on such powerful committees as Environment and Public Works, Labor and Human Resources, Select Committee on Small Business and Veterans' Affairs. He was a member of the Senate steel caucus, the Senate coal caucus, The Senate export caucus, the tourism caucus and the wood energy caucus. In the Senate, he proposed legislation to carry on the Federal highways program, supported liberalizing veterans' pensions, voted against efforts to weaken civil rights legislation, supported salary increases for Federal workers and medical aid for the elderly. He supported an increase in the minimum wage, the housing bill, extension of unemployment benefits and Federal aid to schools. He also was a strong advocate for the disabled.

He sponsored the legislation giving 18-year-olds the right to vote, is credited with the passage of the Randolph-Sheppard Act and the establishment of the Peace Academy, and helped to draft the National Labor Relations Act, and the Clean Air and Clean Water Acts. Senator Randolph focused his attention throughout his career on the problems of his State, including its largest industry, coal mining. In 1972, Congress passed a measure sponsored by Senator Randolph liberalizing eligibility standards for benefits to miners with black lung. And you could always count on his fighting for the Appalachian Regional Commission and the Economic Development Administration.

Clearly, the record shows his accomplishments are far too numerous to mention, just as the awards he received over the years would fill several pages.

Senator Jennings Randolph retired from the U.S. Senate in 1985. He is now living in Missouri where he moved to be close to his family. On Sunday, March 8, he will celebrate his 90th birthday.

Mr. President, to be able to celebrate one's 90th birthday is definitely a glorious occasion, as I'm sure all my colleagues would agree. The gift of long life is indeed that, a gift. But to chart the course of one's life so as to enhance the lives of others, to dedicate that life to public service, vastly improving the State and the country you love so much, is without a doubt a noble accomplishment.

I once read that Senator Randolph has been described as a "skillful speaker, with a genial approach, a firm handshake, and a trace of the snake-oil vendor." However he may be described, one thing is certain. West Virginia and these great United States are benefactors of a truly dedicated statesman. Happy birthday, good friend.

APPOINTMENTS BY THE MAJORITY LEADER

The PRESIDING OFFICER. The Chair has two appointments.

The Chair, on behalf of the majority leader, pursuant to Public Law 102–240, appoints the following individuals as members of the National Commission on Intermodal Transportation: Leon Eplan of Georgia, and Wayne Davis of Maine.

The Chair, on behalf of the majority leader, pursuant to Public Law 102–240, appoints the following individuals as members of the Commission To Promote Investment in America's Infrastructure: F. Woodman Jones of Maine, and Frank Hanley of Maryland.

AMENDMENT TO THE FOOD STAMP ACT OF 1977

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 2324, a bill making a technical correction of the Food Stamp Act to include the blind in the category of disabled persons introduced earlier today by Senators LEAHY and DOLE; that the bill be deemed read three times and passed and the motion to reconsider laid upon the table. Further, that any statements relating to this measure be printed in the RECORD at an appropriate place.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 2324), deemed to have been read three times and passed, is as follows:

S. 2324

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXCLUSIONS FROM FOOD STAMP INCOME.

(a) IN GENERAL.—Section 5(d)(16) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)(16)) (as amended by section 903(3) of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (Public Law 102–237)) is further amended by striking "section 1612(b)(4)(B)(iv) of the Social Security Act (42 U.S.C. 1382a(b)(4)(B)(iv))" and inserting "subparagraph (A)(iii) or (B)(iv) of section 1612(b)(4) of the Social Security Act (42 U.S.C. 1382a(b)(4))".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall take effect on the earlier of—

(A) December 13, 1991;

(B) October 1, 1990, for food stamp households for which the State agency knew, or had notice, that a member of the household had a plan for achieving self-support as provided under section 1612(b)(4)(A)(iii) of the Social Security Act (42 U.S.C. 1382a(b)(4)(A)(iii)); or

(C) beginning on the date that a fair hearing was requested under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) contesting the denial of an exclusion for food stamp purposes for amounts necessary for the fulfillment of such a plan for achieving self-support.

(2) LIMITATION ON APPLICATION OF SECTION.—Notwithstanding section 11(b) of the Food Stamp Act of 1977 (7 U.S.C. 2020(b)), no State agency shall be required to search its files for cases to which the amendment made by subsection (a) applies, except where the excludability of amounts described in section 5(d)(16) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)(16)) was raised with the State agency prior to December 13, 1991.

REREFERRAL OF S. 2282

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Commerce Committee be discharged from further consideration of S. 2282, a bill to carry out a highway project in Alabama, and that the bill be referred to the Committee on Environment and Public Works.

The PRESIDING OFFICER. Without objection, it is so ordered.

EWING T. KERR UNITED STATES COURTHOUSE

Mr. MITCHELL. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1889.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1889) entitled "An Act to designate the United States Courthouse located at 111 South Wolcott in Casper, Wyoming as the 'Ewing T. Kerr United States Courthouse'", do pass with the following amendments:

Strike out all after the enacting clause, and insert:

SECTION 1. FINDINGS.

The Congress finds that—

(1) Ewing T. Kerr has dedicated 64 years of his life to the practice of law in the State of Wyoming;

(2) over a period of 36 years, as a Federal district judge, Ewing T. Kerr has embodied the spirit of public service and has been dedicated to upholding the law of the land; and

(3) Ewing T. Kerr deserves recognition, honor, and gratitude.

SEC. 2. DESIGNATION.

The Federal Building and United States Courthouse located at 111 South Wolcott Street in Casper, Wyoming, is designated as the "Ewing T. Kerr Federal Building and United States Courthouse".

SEC. 3. LEGAL REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the

United States to the Federal Building and United States Courthouse referred to in section 1 is deemed to be a reference to the Ewing T. Kerr Federal Building and United States Courthouse.

Amend the title so as to read: "An Act to designate the Federal Building and the United States Courthouse located at 111 South Wolcott Street in Casper, Wyoming, as the 'Ewing T. Kerr Federal Building and United States Courthouse'.".

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate concur in the amendment of the House.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. I move to reconsider.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FRANK M. JOHNSON, JR., UNITED STATES COURTHOUSE

Mr. MITCHELL. Mr. President, I ask that the chair lay before the Senate a message from the House of Representatives on S. 1467.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1467) entitled "An Act to designate the United States Courthouse located at 15 Lee Street in Montgomery, Alabama, as the 'Frank M. Johnson, Jr. United States Courthouse'", do pass with the following amendments:

Strike out all after the enacting clause and insert:

SECTION 1. DESIGNATION.

The Federal Building and United States Courthouse located at 15 Lee Street in Montgomery, Alabama, shall be known and designated as the "Frank M. Johnson, Jr. Federal Building and United States Courthouse".

SEC. 2. REFERENCES.

Any reference in any law, map, regulation, document, paper, or other record of the United States to the Federal Building and United States Courthouse referred to in section 1 shall be deemed to be a reference to the "Frank M. Johnson, Jr. Federal Building and United States Courthouse".

Amend the title so as to read: "An Act to designate the Federal Building and the United States Courthouse located at 15 Lee Street in Montgomery, Alabama, as the 'Frank M. Johnson, Jr. Federal Building and United States Courthouse'."

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate concur in the amendments of the House.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I move to reconsider.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2720. A communication from the Secretary of Agriculture, transmitting a draft of proposed legislation to amend the Act of August 30, 1890 and the Act of March 4, 1907 to eliminate the provisions for permanent annual appropriations to support land grant university instruction in the food and agricultural sciences; to the Committee on Appropriations.

EC-2721. A communication from the Acting General Sales Manager, Foreign Agricultural Service, transmitting, pursuant to law, a report on modifications of the determination of agricultural commodities and quantities available for programming under the Agricultural Trade Development and Assistance Act of 1954; to the Committee on Agriculture, Nutrition and Forestry.

EC-2722. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the Office of Thrift Supervision's financial statements for the period from October 8, 1989, through December 31, 1989; to the Committee on Banking, Housing and Urban Affairs.

EC-2723. A communication from the General Counsel of the Thrift Depositor Protection Oversight Board, transmitting, pursuant to law, a report on the determination for the appointment of a conservator or receiver under the Home Owner's Loan Act; to the Committee on Banking, Housing and Urban Affairs.

EC-2724. A communication from the Secretary of the Energy, transmitting, pursuant to law, the annual report on the Automotive Technology Development Program for Fiscal Year 1991; to the Committee on Energy and Natural Resources.

EC-2725. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the annual determination of the Secretary of State that Israel is not being denied its right to participate in the activities of the International Atomic Energy Agency; to the Committee on Foreign Relations.

EC-2726. A communication from the Chairman of the Board of Governors, Federal Reserve System, transmitting, pursuant to law, the annual report covering the implementation of its administrative responsibilities under the Sunshine Act during calendar year 1991; to the Committee on Governmental Affairs.

EC-2727. A communication from the Executive Director of the United States Holocaust Memorial Council, transmitting, pursuant to law, the annual report on internal control requirements for fiscal year 1991; to the Committee on Governmental Affairs.

EC-2728. A communication from the Chairman of the Merit Systems Protection Board, transmitting, pursuant to law, the report describing the number of appeals submitted to Board, the number processed to completion, and the number not completed by the originally announced to date for fiscal year 1991; to the Committee on Governmental Affairs.

EC-2729. A communication from the Chief Judge of the United States Tax Court, transmitting, pursuant to law, the actuarial reports on the Tax Court Judges' Retirement and Survivor Annuity Plans for the year ending December 31, 1989; to the Committee on Governmental Affairs.

EC-2730. A communication from the Director of the Administrative Office of the United States Court, transmitting, a draft of proposed legislation entitled "The Federal Courts Improvements Act"; to the Committee on the Judiciary.

EC-2731. A communication from the Special Counsel of the United States, transmitting, pursuant to law, the annual report of the Office of Special Counsel under the Freedom of Information Act for calendar year 1991; to the Committee on the Judiciary.

EC-2732. A communication from the Managing Director of the Interstate Commerce Commission, transmitting, pursuant to law, the annual report of the Commission under the Freedom of Information Act for calendar year 1991; to the Committee on the Judiciary.

EC-2733. A communication from the Secretary of the Resolution Trust Corporation, transmitting, pursuant to law, the annual report of the Corporation under the Freedom of Information Act for calendar year 1991; to the Committee on the Judiciary.

EC-2734. A communication from the President of the Thrift Depositor Protection Oversight Board, transmitting, pursuant to law, the annual report of the Board under the Freedom of Information Act for calendar year 1991; to the Committee on the Judiciary.

EC-2735. A communication from the Vice President and General Counsel of the Oversight Investment Corporation, transmitting, pursuant to law, the annual report of the Corporation under the Freedom of Information Act for calendar year 1991; to the Committee on the Judiciary.

EC-2736. A communication from the Chairman of the National Endowment for the Humanities, transmitting, pursuant to law, the annual report of the Endowment under the Freedom of Information Act for calendar year 1991; to the Committee on the Judiciary.

EC-2737. A communication from the General Counsel of the Federal Emergency Management Agency, transmitting, pursuant to law, the annual report on the Agency under the Freedom of Information Act for calendar year 1991; to the Committee on the Judiciary.

EC-2738. A communication from the Chairman of the National Energy Regulatory Commission, transmitting, pursuant to law, the annual report of the Commission under the Freedom of Information Act for calendar year 1991; to the Committee on the Judiciary.

EC-2739. A communication from the Chairman of the Board of Governors, Federal Reserve System, transmitting, pursuant to law, the annual report of the Board under the Freedom of Information Act for calendar year 1991; to the Committee on the Judiciary.

EC-2740. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, the annual report of the Commission under the Freedom of Information Act for calendar year 1991; to the Committee on the Judiciary.

EC-2741. A communication from the First Vice President and Vice Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, the annual report of the Bank under the Freedom of Information Act for calendar year 1991; to the Committee on the Judiciary.

EC-2742. A communication from the Chairman of the National Credit Union Administration, transmitting, pursuant to law, the annual report of the Administration under the Freedom of Information Act for calendar year 1991; to the Committee on the Judiciary.

EC-2743. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report conveying the results of the Comptroller's attempt to audit the Pension Benefit Guaranty Corporation's financial statements for the fiscal years ended September 30, 1991 and 1990; to the Committee on Labor and Human Resources.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BENTSEN (for himself and Mr. PACKWOOD):

S. 2318. A bill to amend title XVIII of the Social Security Act to make technical corrections relating to the Omnibus Budget Reconciliation Act of 1990; to the Committee on Finance.

By Mr. NICKLES (for himself, Mr. REID, Mr. COCHRAN, Mr. BURNS, Mr. DOLE, Mr. HELMS, Mr. GRASSLEY, Mr. STEVENS, and Mr. MCCONNELL):

S. 2319. A bill to require analysis and estimates of the likely impact of Federal legislation and regulations upon the private sector and State and local governments, and for other purposes; to the Committee on Governmental Affairs.

By Mr. WELLSTONE (for himself, Mr. METZENBAUM, and Mr. SIMON):

S. 2320. A bill to amend the Public Health Service Act to provide universal health care to all Americans, and for other purposes; to the Committee on Finance.

By Mr. AKAKA (for himself, Mr. HEFLIN, Mr. JOHNSTON, Mr. WALLOP, Mr. MITCHELL, Mr. MURKOWSKI, Mr. FORD, Mr. GARN, Mr. INOUYE, Mr. SHELBY, Mr. BINGAMAN, Mr. GRAHAM, and Mr. EXON):

S. 2321. A bill to increase the authorizations for the War in the Pacific National Historical Park, Guam, and the American Memorial Park, Saipan, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CRANSTON (for himself, Mr. SPECTER, Mr. DECONCINI, Mr. ROCKEFELLER, Mr. GRAHAM, Mr. AKAKA, Mr. DASCHLE, Mr. SIMPSON, Mr. THURMOND, Mr. MURKOWSKI, and Mr. JEFFORDS):

S. 2322. A bill to increase the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans; to the Committee on Veterans' Affairs.

By Mr. CRANSTON (for himself and Mr. DECONCINI):

S. 2323. A bill to amend title 38, United States Code, to revise the rates of dependency and indemnity compensation payable to surviving spouses of certain service-disabled veterans, to provide supplemental service disabled veterans' insurance for totally disabled veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. LEAHY (for himself and Mr. DOLE):

S. 2324. A bill to amend the Food Stamp Act of 1977 to make a technical correction relating to exclusions from income under the food stamp program, and for other purposes; considered and passed.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SIMON (for himself, Mr. AKAKA, Mr. BUMPERS, Mr. D'AMATO, Mr. DASCHLE, Mr. GRASSLEY, Mr. SANFORD, Mr. SHELBY, and Mr. WOFFORD):

S. Res. 264. Resolution to express the sense of the Senate that people in the United States should plant more trees in their communities; to the Committee on Environment and Public Works.

By Mr. SIMON (for himself, Mr. AKAKA, Mr. BUMPERS, Mr. D'AMATO, Mr. DASCHLE, Mr. GRASSLEY, Mr. SANFORD, Mr. SHELBY, and Mr. WOFFORD):

S. Res. 265. Resolution to express the sense of the Senate that the United Nations should designate 1993 as the "Year of the Tree" in order to encourage the citizens of the world to plant trees; to the Committee on Foreign Relations.

By Mr. MCCAIN (for himself, Mr. D'AMATO, Mr. KERRY, Mr. DECONCINI, Mr. DIXON, Mr. SHELBY, Mr. SMITH, Mr. THURMOND, Mr. LEVIN, Mr. WARNER, Mr. SIMON, Mr. GLENN, Mr. GRAHAM, Mr. BRYAN, Mr. HATCH, Mr. KOHL, Mr. HELMS, Mr. BOND, Mr. AKAKA, and Mr. GRASSLEY):

S. Res. 266. Resolution expressing the sense of the Senate concerning the arms cargo of the North Korean merchant ship Dae Hung Ho; to the Committee on Foreign Relations.

STATEMENTS ON BILLS AND JOINT RESOLUTIONS

By Mr. BENTSEN (for himself and Mr. PACKWOOD):

S. 2318. A bill to amend title XVIII of the Social Security Act to make technical corrections relating to the Omnibus Budget Reconciliation Act of 1990; to the Committee on Finance.

TECHNICAL CORRECTIONS TO THE OMNIBUS BUDGET RECONCILIATION ACT OF 1990

• Mr. BENTSEN. Mr. President, last March, Senator PACKWOOD and I introduced S. 750, the Technical Corrections Act of 1991, a bill to make technical corrections to the Omnibus Budget Reconciliation Act [OBRA] of 1990. Since then, we have received constructive comments on the bill from a number of sources and it is my intention that the Finance Committee take action on S. 750 soon.

It has come to our attention that some insurance companies are suggesting to Medicare beneficiaries that OBRA 1990 includes a provision that was deliberately intended to deny Medicare beneficiaries the ability to make a free choice regarding purchase of health insurance coverage. This information is inaccurate, misdirected, and not constructive.

The provision to which these letters refer was intended to strengthen previous prohibitions on the sale of a Medicare supplemental (Medigap) insurance policy to an individual already covered by another Medigap policy. Unfortunately, while the legislative history supports this narrow intent, a strict reading of the statutory language suggests that the provision may also be interpreted to restrict the sale of other health insurance products with coverage that duplicates Medicare or Medigap benefits.

When this issue first came to our attention last November, Senator PACKWOOD and I sent a letter to the Health Care Financing Administration indicating the intent of the OBRA 1990 conferees, based upon the joint explanatory statement submitted with the conference report accompanying H.R. 5835, was to first, prohibit the sale of a Medigap policy to an individual already covered under a Medigap policy; second, prohibit the sale of a Medigap policy to a Medicaid beneficiary; and third, strengthen the enforcement provisions that were already in the statute.

The bill we introduce today would amend the statutory language. It is our intention to take action on this bill when the Committee on Finance takes up S. 750 this year.•

By Mr. NICKLES (for himself, Mr. REID, Mr. COCHRAN, Mr. BURNS, Mr. DOLE, Mr. HELMS, Mr. GRASSLEY, Mr. STEVENS, and Mr. MCCONNELL):

S. 2319. A bill to require analysis and estimates of the likely impact of Federal legislation and regulations upon the private sector and State and local governments, and for other purposes; to the Committee on Governmental Affairs.

ECONOMIC AND EMPLOYMENT IMPACT ACT OF 1992

Mr. NICKLES. Mr. President, today I along with several of my colleagues are introducing the Economic and Employment Impact Act of 1992 which will require a full disclosure of all costs associated with legislation considered by Congress as well as any regulations promulgated by a Federal agency.

In 1990 the total annual cost of Federal regulation was upward of $562 billion and is projected to be as much as $688 billion by the year 2000. The American taxpayer is very aware of the costs of Government that show up in the Federal budget. However, we are less sensitive to the hidden cost of troublesome legislative and regulatory burdens. According to a report on the cost of regulation done by Thomas Hopkins at the Rochester Institute of Technology, total regulatory cost per household in 1992 will be $4,272 and will rise to $4,647 in the year 2000.

Often, Congress fails to consider how much a new law or regulation increases the cost of products and services to consumers or the loss in jobs when businesses have to cut back in response to growing Federal demands. The Economic and Employment Impact Act will make Congress and the administration aware of the impact, positive and negative, that legislation has on the private sector, individuals, and State and local governments.

The act would require that all legislation considered by Congress be accompanied by an economic and employment impact statement. The statements will contain the positive and negative effects on employment, gross domestic product, the ability of U.S. industries to compete internationally, and the cost to consumers. Further, it would require that final regulations and proposed regulations promulgated by executive branch agencies also be accompanied by such a statement.

To prevent an unwarranted delay in the legislative and regulatory process, a detailed assessment will not be required if a preliminary analysis indicates that the aggregate effect of the legislation is less than $10 million or results in reduced employment of less than 1,000 jobs. Congress may also waive the provisions regarding the impact statement by a three-fifths vote of either House.

Similar legislation was unanimously agreed to in the form of an amendment I authored during the 100th Congress. With that, Congress has sent a signal to our Nation's citizens that it cares about out-of-control Federal mandates and is ready to take steps to rectify its excessive regulation.

I do not believe economic forecasts are perfect and economists are not oracles. However, economists have tools which governments and industries around the world use every day. But today, Congress is not getting the best available economic advice on how a new law or regulation will affect the vast and varied American economy. Congress is not applying these economic tools to the vast number of pressing issues that face the Nation.

Some will say the purpose of this legislation is to hinder the regulatory process, not so. The intent of this legislation is to establish a process to ensure better and more efficient regulation. The process this legislation sets up does not pass judgment on whether a bill or regulation is good or bad but simply completes the formula as Congress considers legislation and the executive branch promulgates regulation.

Mr. Thomas Hopkins, Professor of Economics at the Rochester Institute of Technology, sums it up best in his paper the "Cost of Regulation"; "The point here is simply that enough evidence exists, however incomplete it may be, to suggest that regulatory costs are substantial and growing. The magnitudes are large enough to warrant a more vigorous effort to firm up these cost estimates and to examine regulatory benefits with greater care in the interests of more rational public policy."

While there are many seemingly "good ideas" out there in the form of new legislation, our economy simply cannot absorb every good idea coming down the pike. We must send the American people a positive signal by showing them we will only support "good ideas" that make sense to the economy and employment.

Mr. REID. Mr. President, how many times do we hear or read about the private sector, as well as State and local governments, getting stuck with the tab when mandates are issued by the Federal Government? Legislation passed by Congress and regulations issued by the executive branch are financially strapping businesses and placing many States and localities in precarious budget situations. In many cases, unemployment is the result. Mr. President, this situation must be addressed.

I would never pretend to come before this body and say that we must stop the regulation. Much of the legislation that we pass here is necessary. I don't believe that can be disputed. However, it is also true that when we do pass legislation, we may not know the total economic and employment ramifications that result from our actions.

Today I am introducing bipartisan legislation, along with Senator NICKLES of Oklahoma, that is nothing less than common sense, good government. This legislation will ensure that the American people are fully aware of the impact that Federal legislative and regulatory activity will have on economic growth and employment. It will require that both Congress and the executive branch take responsibility for the fiscal and economic effects that result from our actions. In essence, it will stop us from operating in an economic vacuum.

The Economic and Employment Impact Act of 1992 would require all legislation considered by Congress, and any regulation promulgated by a Federal agency, to be accompanied by an "economic and employment impact statement." The statements will declare the proposals' effects on employment, gross domestic product, consumer costs, and the ability of U.S. industries to compete internationally. These issues would be addressed as they relate to the private sector, individuals, and/or State and local governments.

The economic and employment impact statement required by this legislation will be prepared by the General Accounting Office and accompany each bill, resolution, or conference report before the measure may be reported or otherwise considered on the floor of either House. The legislation will also require Federal departments and agencies to prepare this statement for each regulation and proposed regulation promulgated by that agency and publish the statement in the Federal Register.

To prevent an unwarranted delay in the legislative and regulatory process, a detailed assessment will not be required if a preliminary analysis indicates that the aggregate effect of the legislation is less than $10 million or results in reduced employment of less than 1,000 jobs. Congress may also waive the provisions regarding the impact statement by a three-fifths vote of either House.

Just last week some bankers from Nevada stopped by for their annual visit. They gave me a list of 44 regulatory provisions that Congress alone has passed over the last 5 years. Mr. President, no one would argue that Congress is responsible for the regulation of this industry. The Federal Government is responsible for paying off depositors should a bank fail, and, as a result, must ensure the safety and soundness of the industry. However, were the economic ramifications of these 44 provisions considered? Probably not in all cases.

According to the bankers, complying with Government regulations is costing between $500 million to $1 billion per year, nationwide. I would have to believe that most of these costs are eventually passed on to the customer, either in the form of higher fees or reduced bank credit available to local communities.

In addition, Mr. President, I continue to hear from State, county, and local governments about problems with Federal mandates. The National Association of Counties recently adopted a resolution that among other things states, "Federal assistance to States, counties and municipalities still is declining in real dollar terms while further Federal mandates continue to be imposed." The resolution continues, "It is essential to reduce unfunded mandates and to oppose new mandated programs unless adequate Federal or State funding is provided."

I have to stress that regulation is a necessary evil in our world today. As a member of the Environment and Public Works Committee I am well aware of this fact. It is the duty of Congress to ensure the safety and soundness of the American people. But, Mr. President, lets make these decisions based on the entire picture. Having an economic and employment impact statement that accompanies legislation will allow us to pass measures that will be the least disruptive to economic growth and employment opportunities.

I urge my colleagues to cosponsor the Economic and Employment Impact Act of 1992.

Mr. HELMS. Mr. President, I rise as an original cosponsor of the Economic and Employment Impact Act of 1992 introduced by my distinguished colleagues, Senator NICKLES and Senator REID.

It would be impossible to overestimate the current rapid expansion of government involvement in business in the United States. The majority of public policy changes affecting business-government relations in recent years has unquestionably been in the direction of greater governmental intervention—environmental controls, equal employment opportunity enforcement, consumer product safety regulations, energy restrictions—the list goes on and on. Indeed, when we attempt to look at the emerging business-government relationship from the business executive's viewpoint, we see a very considerable Federal Government presence in what historically have been private affairs.

Mr. President, no one who operates a business today, whether it be the head of a large corporation or the mon-and-pop general store, can escape the multitude of Government restrictions and regulations. His or her costs and profits are affected as much by a bill passed by Congress as by an executive decision in the front office or a customer's decision at the checkout counter. Every industry in the United States is feeling the rising power of government regulation in it's day-today operations.

At first glance, Government imposition—and make no mistake that's exactly what it is—of socially desirable regulations on business through the regulatory process appears to be an inexpensive way of achieving national objectives. This practice apparently costs the Government little, about onepercent of the Federal budget. But the public does not escape paying the costs so easily.

For example, every time the Environmental Protection Agency imposes a more costly method of production on any firm, the cost of the firm's product to the consumer will tend to rise. These high prices represent nothing more than the hidden tax of regulation that is shifted from the Government to the consumer. According to the Center for the Study of American Business at Washington University, on the average, each dollar that Congress appropriates for regulation results in an additional $20 of costs imposed on the private sector of the economy. Mr. President, this is outrageous and should be stopped.

Moreover, to the extent that Government-mandated regulations impose similar costs on all price categories of a given product, such as automobiles, this hidden tax tends to be more regressive than the income or sales tax. According to the Motor Vehicle Manufacturers Association, which tracks the costs of Government-mandated regulations on automobiles, the additional cost of an automobile that is assumed by the consumer in safety and emissions requirements is $2,717.57 per car. This figure does not include the costs for improved warranties, corrosion protection, changes in standard equipment or the requirements of the Occupational Safety and Health Administration and the Equal Employment Opportunity Commission. For a car costing $16,000, this amounts to approximately $1 out of every $8 paid by the consumer for Government regulations. Of course, it is not inevitable that every regulatory activity will increase inflationary pressures. Where regulation generates social benefits in excess of the social costs it imposes, inflationary pressures should be reduced.

Mr. President, because of the rapid proliferation of Government regulatory activity, it would be a useful attempt to measure this phenomenon. Under the provisions of the Economic and Employment Act all legislation considered by Congress would be accompanied by an economic and employment impact statement that would contain both the positive and negative effects on employment, general domestic product, the ability of U.S. industries to compete internationally and the cost to consumers.

To be sure, the intent of this bill is not to unnecessarily delay legislation. Therefore, in cases where a preliminary analysis indicates that the aggregate effect of the legislation is less than $10 million or reduces employment less than 1,000 jobs, a detailed cost-benefit assessment will not be required.

Mr. President, an untold number of bills are considered, and too many approved, by Congress at the demands of the thousands of special interest groups in Washington without the slightest consideration for the American producers and consumers. Well, those are the people I was sent here to represent, not the special interest groups, and they are telling me that they have had enough of Big Brother in Washington.

I concluded long ago that the best thing the Federal Government can do for American businesses, large and small, is to do as little as possible. I recognize that some regulation may be necessary, but that type of Government interference should be kept to a very minimum.

Mr. President, this is good legislation, it's long overdue and, most importantly, it is what the American people want. The very least Congress can do, especially now, is assure the American people that it will not impose regulations that would increase costs to consumers, cost workers their jobs or damage the ability of our industries to compete internationally.

By Mr. WELLSTONE (for himself, Mr. METZENBAUM, and Mr. SIMON):

S. 2320. A bill to amend the Public Health Service Act to provide universal health care to all Americans, and for other purposes; to the Committee on Finance.

UNIVERSAL HEALTH CARE ACT

Mr. WELLSTONE. Mr. President, I rise to introduce the Universal Health Care Act of 1992. This bill sets up a National Health Insurance Program, a single payer system.

This is the companion bill to H.R. 1300, introduced in the House of Representative last year by Congressman MARTY RUSSO. I am pleased to include as original co-sponsors Senator HOWARD METZENBAUM of Ohio and Senator PAUL SIMON of Illinois.

Organizations supporting this bill include Actors Equity; Amalgamated Clothing and Textile Workers Union; American Federation of State, County and Municipal Employees; the American Medical Students Association; American Postal Workers Union; American Public Health Association; Children's Defense Fund; Consumer Federation of America; Citizen Action; Communication Workers of America; Consumers Union; Families U.S.A.; Graphic Artist Guild; International Association of Machinists and Aerospace Workers; International Ladies' Garment Workers; International Union of Electronic, Electrical, Salaried, Machine and Furniture Workers; National Association of Social Workers; National Council of Senior Citizens; Oil; Chemical and Atomic Workers International Union; Physicians for a National Health Program; Public Citizen; the Screen Actors Guild; Transport Workers Union; United Automobile, Aerospace and Agricultural Implement Workers of America; United Electrical, Radio and Machine Workers of America; United Mine Workers.

The goal of this legislation is this: To insure access to affordable, quality health care to every American citizen—regardless of income, regardless of employment status, regardless of current health condition, regardless of age, and to achieve this access in the most efficient and equitable manner. Let's compare this goal to our present realities:

More than 34 million Americans without health insurance—our children, our workers, our farmers, our small business people, our unemployed—a reality.

So many uninsured that there are now more uninsured Americans than at any time since the creation of Medicare and Medicaid in 1965—a reality.

Millions more Americans, increasingly the middle class, with too little insurance—a reality.

Virtually all Americans who do have health insurance are just one job or one illness away from losing their health insurance—a reality.

The United States as the only major industrialized country other than South Africa which fails to guarantee all of its citizens access to medical care—a reality, a disgraceful reality.

Families bankrupted by long-term illnesses, a fate that could befall virtually any one of us at any time—a reality.

A quarter of our health dollar spent on billing and administration, instead of on the actual care of people in need—a reality.

And the number of health administrators rising three times as fast as the number of physicians or other health workers—a reality.

The United States spending more on health care than any other nation, more than 13 percent of our gross national product—a reality.

And the United States projected, on current course, to spend 17 percent of our GNP on health care costs by the year 2000 and 37 percent by the year 2030. This we cannot let become a reality.

We have the most expensive health care system in the world.

The most expensive, and the least popular among developed countries.

The most expensive, and the least comprehensive among developed countries.

The most expensive, and the most confusing and bewildering for consumers and for health care providers.

It will be these realities that will make health care reform a reality. Because the reality is, we have no other choice.

So the question is no longer whether there will be health care reform. The question is what shape that reform will take.

I believe we need fundamental reform—a complete overhaul of a health care system that is too costly, too arbitrary, too unfair.

Think about the system we have today.

Today there are more than 1,500 private health insurance companies. In large part, they compete based on risk selection—that is, insuring only the healthiest individuals they can find—instead of competing on efficiency or service.

We have let a private industry, the private insurance industry, write the rules, make the decisions about who gets insurance and who must go without.

And what has the insurance industry decided about who gets care and who does not? The industry has decided that it will seek to maximize its profits by insuring only well people.

People who are most in need of medical care frequently cannot get health insurance.

No one—no one—in our country has a guarantee that their private health insurance will be there when they need it.

This is ludicrous. This is absurb. This turns the very concept of insurance on its head. We are moving toward the day when you can only get insurance when you can demonstrate that you won't need it.

This isn't to say that insurance companies operate with bad intent. What I'm saying is insurance companies are operating in a system with perverse incentives.

It is time to make sense out of the system.

And so today I introduce the Universal Health Care Act of 1992.

A National Health Insurance Program is the simplest, most efficient, most equitable way to reform our health care system. The concept is to streamline and simplify the administration of health care and perserve and enhance consumer choice in the delivery of health care.

A national health insurance system would be funded through a single source, the Government, but administered in large part through the States.

There would be no barriers to care, no gaps in coverage. The Government would become the sole health insurer. Consumers would simply show their national health card to receive health care from the health provider of their choice. Everyone would be entitled to the same benefits, and these would not change when a person changed jobs or moved to a different State. No one would lose coverage because they got sick.

This bill contains a comprehensive package of benefits, including hospital and physician care, long-term care, prescription drugs, preventive care, and defined mental health benefits.

Services would be delivered through the same sources as today: Private doctors and nurses, health maintenance organizations, clinics, nursing homes, hospitals.

In other words, the Federal Government—with contributions from the States—would finance the system but would not run the clinics, the doctors' offices, the hospitals.

An emphasis would be placed on primary and preventive care. This would allow us to address health problems before they become more serious—and more expensive.

The National Health Insurance Program would allow us to better plan how and where to spend our health care dollars so that we invest our resources where they are most needed. Unfortunately, today we often invest our health care dollars where the money can return the highest investment. This results in an oversupply of high-technology equipment and facilities in some areas—and total lack of necessary investment in other areas. And we have created a system of disincentives for health care providers to practice in areas that are in the most need of their services.

The bill requires that in setting reimbursement rates for health care providers the government encourage the location of providers in rural and medically underserved areas. In addition, the bill requires that one of the factors that must be considered in setting State health care budgets and capital budgets is the geographic distribution of each State's population, particulary the proportion of the population residing in rural or medically underserved areas.

In large measure, the cost of a National Health Insurance Program could be borne by the savings gained from administrative efficiences and other cost control measures.

In fact, a report released last year by the General Accounting Office found that adoption of a single payer system like Canada's in the United States would save an estimated $67 billion a year in adminstrative costs, far more than necessary to pay for insurance for all uninsured Americans.

Another study published by the New England Journal of Medicine found that we could save even more money if we were as efficient as Canada in administering our health care system, perhaps more than $100 billion a year.

I firmly believe that it will be the potential for cost control and cost savings which will drive the health care debate and drive health care reform.

And it is this potential for cost savings which is in large part responsible for the growing support—inside and outside Washington—for a single payer system because the fact is that there is no longer any serious debate that a single payer system offers the greatest potential for cost savings of any reform proposal.

It is this cost saving potential which has the ability to bring together unusual coalitions in support of a single payer system.

And what will be the cost of a national health care system?

The most realistic answer to this question is that we can achieve universal access through a national health care system for the same level of spending as today.

The money will be spent in different ways from today. We will save money in administrative costs, and we will plow that money back into medical care.

And the money will be raised in different ways from today. There will be no more spending for insurance premiums for covered benefits. There will be no more out-of-pocket spending. Instead, we will be publicly financing the system.

Yes, I'm talking about raising taxes to finance the system. But these new taxes will be offset by reduced private spending for health insurance. And these taxes will be dedicated to a national health trust fund to insure that these taxes are spent on health care, and only on health care.

So we will have higher taxes, but not higher spending for health care. In fact, many people will spend less for health care under a national single payer system.

For example, a typical family of four earning $27,400 would have a net savings of more than $1,400. A family of four earning $39,200 would have a net savings of more than $1,600. And a family of four earning $54,000 would have a net savings of $1,700.

This is very achievable.

The GAO report that I mentioned earlier estimated that we would save $67 billion in administrative costs in the first year of a single payer system.

The GAO also found that it would cost about $64 billion in additional spending to pay for insuring the uninsured and providing additional services to those currently with insurance. So there would be a net savings nationwide of about $3 billion.

A more recent study by the CBO, using some different assumptions from GAO, found that we would have a net savings of $26 billion under a single payer system. In other words, taking into account both the increased savings from administrative costs and increased spending to cover the uninsured and underinsured, we would save $26 billion a year.

Over time, our savings would be even more dramatic—because the system will provide us with a mechanism for drastically reducing the rate of increase for health care spending. In part, this is accomplished by providing that health care spending will be allowed to increase only as much as the annual percentage increase in GNP.

In 5 years, the plan would save the Nation over $900 billion in health care spending.

A National Health Insurance Program can live up to its billing. This is a program that can work.

It does work in our neighbor to the north, Canada. We need to study the Canadian example, learn from its successes and failures and use American innovation and technology to establish the finest—and most efficient and equitable—health system.

No one is saying we should adopt the Canadian system wholesale in the United States. We must preserve the strengths of our health care system—our HMO plans, our centers of excellence, our technological advances.

Now we have all heard some scare stories about the Canadian system. These stories have been greatly exaggerated.

The truth is, polls show Canadians to be more satisfied with their health care system than citizens in any other country. And polls show Americans to be the least satisfied.

What about the issue of rationing?

The truth is the United States already rations health care—in "irrational ways," according to the Journal of the American Medical Association. At present, we ration health care by ability to pay, by health status, and by employment status. People who cannot afford health insurance do not get the same health care as others. People who need health care the most because of serious illness are blacklisted; they cannot get private health insurance because of pre-existing conditions. And people who are self-employed or who work for or own small businesses or who are unemployed are often unable to get insurance.

Under a national health insurance system, we will waste billions and billions fewer dollars—billions now spent unnecessarily on bureaucracy and administration. And we will be able to spend this money on care.

A National Health Insurance Program would grant every citizen equal access to health care. Medical care would depend on a professional assessment of medical need rather than on insurance status. And the National Health Insurance Program would give us the framework for reasoned planning and decisionmaking about how to invest and spend our health care dollars.

In the Senate this session, the debate over reform has focused to a large extent on the HealthAmerican legislation introduced by the Democratic leadership, S. 1227.

I share the goals of the leadership bill—universal access to health care and cost containment.

But I have some different thoughts about how best to achieve these goals. I am concerned about the HealthAmerica bill's linkage of health care coverage to employment status. This employer mandate, pay or play approach, can lead to a two-tier system which can be inefficient and inequitable.

An employer mandate bill like HealthAmerica also cannot control health care costs as efficiently as a single payer system. Without the ability to strictly control costs, I worry about our ability to pay for health insurance.

I am also concerned about the benefit package in HealthAmerica. There is not enough emphasis given to primary and preventive care. There is no coverage for long-term care. Nor is there coverage for prescription drugs.

All this said, however, HealthAmerica is a major step forward. Achieving universal access and some cost control through an employer mandate system may be an interim solution to our crisis.

And so I voted for HealthAmerica when it passed out of the Labor Committee in January. And I am particularly pleased to note that the bill was significantly changed—and strengthened—by the Labor Committee.

One amendment puts in place a system of mandatory cost containment—mandatory rate setting and other measures aimed at achieving expenditure targets for the nation as a whole and for specific health care sectors. A second amendment is one that I proposed which allows individual States to opt out of the employer mandate system and set up statewide single payer systems.

With these two amendments, HealthAmerica becomes a fundamentally improved bill.

Still, I believe the ultimate answer to our crisis of access and our crisis of cost is a national single payer system, a national health insurance program.

This national health insurance proposal won't pass Congress this year—but it is what we should be aiming for, what I will be fighting for, as we march forward.

And I will be working to improve this legislation, for this is certainly not my final word on health care reform.

I believe we need to give more thought to the delivery of services to ensure more efficient delivery of services, more emphasis on primary and preventive care and more emphasis on community-based care.

We also need to give more thought to how to eliminate unnecessary and inappropriate care, which accounts for billions upon billions of dollars of wasteful spending.

And we need to give more thought about how to define the package of mental health benefits. The bill I introduce today limits these benefits by days of care. But there is a tremendous amount of policy work underway right now on how to remove arbitrary limitations on these benefits while at the same time putting in place a system to protect against unnecessary treatment. And I know we will come up with a better solution to this issue.

Together we must work to improve and refine our idea.

Together we must work to solve our crisis of access.

Together we must work to solve our crisis of cost.

Together we must work together to make reform a reality.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2320

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE, TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as "Universal Health Care Act of 1992".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title.
Sec. 2. National health insurance program.
Sec. 3. Financing.
Sec. 4. Termination of other programs.
Sec. 5. Effective date for benefits.

SEC. 2. NATIONAL HEALTH INSURANCE PROGRAM.

(a) REQUIREMENT.—The Public Health Service Act is amended—

(1) by redesignating title XXVII (42 U.S.C. 300cc et seq.) as title XXVIII; and

(2) by inserting after title XXVI the following new title:

"TITLE XXVII—NATIONAL HEALTH INSURANCE PROGRAM

"PART A—ELIGIBILITY AND ENTITLEMENT

"SEC. 2701. ELIGIBILITY AND ENTITLEMENT.

"(a) IN GENERAL.—Every individual who is a resident of the United States and is a citizen or national of the United States or lawful resident alien (as defined in subsection (c)) is entitled to health insurance benefits under this title for each month in which the individual meets such condition.

"(b) Treatment of Certain Nonimmigrants.—

"(1) In general.—The Secretary may make eligible to enroll for coverage for health benefits under this title such classes of aliens admitted to the United States as nonimmigrants as the Secretary may provide.

"(2) Consideration.—In providing for eligibility under paragraph (1), the Secretary shall consider reciprocity in health care benefits offered to individuals described in subsection (a) who are nonimmigrants in other foreign states, and such other factors as the Secretary deems appropriate.

"(c) Lawful Resident Alien Defined.—In this section, the term 'lawful resident alien' means an alien lawfully admitted for permanent residence and any other alien lawfully residing permanently in the United States under color of law, including an alien granted asylum or with lawful temporary resident status under section 210, 210A, or 245A of the Immigration and Nationality Act.

"SEC. 2702. ENROLLMENT.

"(a) In General.—The Secretary shall provide a mechanism for the enrollment of individuals entitled to benefits under this title and, in conjunction with such enrollment, the issuance of a national health insurance card which may be used for purposes of identification and processing of claims for benefits under this title.

"(b) Enrollment at Birth or Immigration.—The mechanism under subsection (a) shall include a process for the automatic enrollment of individuals at the time of birth in the United States or at the time of immigration into the United States or other acquisition of lawful resident status in the United States. Such mechanism shall also provide for the enrollment of eligible individuals as of January 1, 1994.

"PART B—BENEFITS

"SEC. 2711. SCOPE OF BENEFITS.

"(a) In General.—Except as provided in the succeeding provisions of this part, the benefits provided to an individual by the program established by this title shall consist of entitlement to have payment made on the individual's behalf for benefits necessary or appropriate for the maintenance of health or for the diagnosis or treatment or rehabilitation following injury, disability or disease, as follows:

"(1) Inpatient and outpatient hospital care, except that treatment for a mental disorder and drug and alcohol abuse treatment services are subject to the special limitations described in paragraphs (11) and (12).

"(2) Services of health care professionals who are authorized to provide such services under State law, except that treatment for a mental disorder and drug and alcohol abuse treatment services are subject to the special limitations described in paragraphs (11) and (12).

"(3) Diagnostic testing services.

"(4) Pre-natal, post-natal and well-baby care.

"(5)(A) Preventive services in accordance with a schedule to be established by the Secretary in consultation with experts in preventive medicine and public health and taking into consideration those preventive services recommended by the Preventive Services Task Force and published as the Guide to Clinical Preventive Services. Such schedule shall include the periodicity with which the preventive services shall be provided, taking into consideration the cost-effectiveness of appropriate preventive care. At a minimum such schedule shall include—

"(i) well-child care;

"(ii) pap smears;

"(iii) mammograms;

"(iv) colorectal examinations; and

"(v) examinations for prostate cancer.

"(B) Such schedule shall be revised not less frequently than once every 5 years, in consultation with experts in preventive medicine and public health.

"(6) Prescription drugs and biologicals.

"(7) Dental care.

"(8) Vision care.

"(9) Nursing facility services.

"(10) Hospice care.

"(11)(A) Inpatient care for a mental disorder, limited to 45 days per year, except that days of partial hospitalization or residential care may be substituted for days of inpatient care according to a ratio established by the Secretary.

"(B) Outpatient psychotherapy and counseling for a mental disorder, limited to 20 visits per year provided by a provider who is acting within the scope of State law and who—

"(i) is a physician; or

"(ii) meets standards established by the Secretary and is a duly licensed or certified clinical psychologist, clinical social worker, or equivalent mental health professional, or a clinic or center providing duly licensed or certified mental health services.

"(12) Drug and alcohol abuse or dependency treatment services provided under a treatment program approved by the State and meeting State qualification standards, subject to an annual limitation of 45 inpatient days and 20 outpatient visits.

"(13) Home and community-based services, limited to individuals—

"(A) over 18 years of age determined (in a manner specified by the Secretary)—

"(i) to be unable to perform, without the assistance of an individual, at least 2 of the following 5 activities of daily living (or who has a similar level of disability due to cognitive impairment)—

"(I) bathing;

"(II) eating;

"(III) dressing;

"(IV) toileting; and

"(V) transferring in and out of a bed or in and out of a chair; or

"(ii) due to cognitive or mental impairments, requires supervision because the individual behaves in a manner that poses health or safety hazards to himself or herself or others; or

"(B) under 19 years of age determined (in a manner specified by the Secretary) to meet such alternative standard of disability for children as the Secretary develops.

"(14) Such other medical or health care items or services as the Secretary determines to be appropriate.

"(b) No Deductibles or Coinsurance.—There shall be no coinsurance, deductibles, or copayments applicable to the covered benefits referred to in subsection (a).

"(c) Certifications for Certain Services.—

"(1) In general.—Except as provided with respect to eligible organizations under section 2772(a)(10), payment for services furnished an individual by a provider of services may be made only to providers of services which have entered into a participation agreement and only if the conditions described in section 1814(a) or 1835(a) of the Social Security Act have been met with respect to services to which such sections applied.

"(2) Special rules.—In applying—

"(A) section 1814(a)(2)(B) of the Social Security Act as provided for under this subsection, in lieu of the certification described in that section with respect to post-hospital extended care services, there must be a certification with respect to nursing facility services that the services are or were required to be given because the individual needs or needed nursing care or skilled rehabilitation services which as a practice matter can only be provided in a nursing facility on an inpatient basis; and

"(B) section 1814(a)(2)(C) of such Act as provided for under this subsection, the certifications that the individual is or was confined to the individual's home and that the care be on an intermittent basis shall not apply.

"(3) Certification for home and community-based services.—With respect to home and community-based services, there shall be required a certification of the type described in section 1814(a) of the Social Security Act as to the facts that the individual provided the service is within the limitations described in subsection (a)(13) and, except for the provision of such services, is at risk of institutionalization.

"(d) State Financing of Supplemental Services.—An individual State, acting under section 2731(c), may at the option of such State provide for the coverage of additional health benefits or for the expanded eligibility of persons entitled to health insurance benefits. The cost of any such additional benefits or expanded eligibility shall be absorbed by the individual State and not by the Federal Government.

"(e) Mental Health.—

"(1) Commission.—The Secretary shall establish a commission to study and prepare and submit to the appropriate committees of Congress a report containing recommendations concerning the manner in which the benefits for mental disorders and drug and alcohol abuse or dependency treatment services should be modified to best meet the objectives of this title.

"(2) Composition.—The Secretary shall, not later than January 1, 1993, appoint individuals to serve on the commission established under paragraph (1). Such commission shall be composed of—

"(A) health care economists,

"(B) representatives of the multi-disciplinary range of providers of the services described in paragraph (1);

"(C) consumers of such services; and

"(D) advocacy groups representing consumers of such services.

"SEC. 2712. EXCLUSIONS.

"(a) In General.—Except as otherwise provided in this section, the provisions of section 1862 of the Social Security Act shall apply to payments made under this title in the same manner as such provisions apply to payments made under part A or part B of title XVIII of such Act.

"(b) Exceptions.—Under this title, the limitations specified in paragraphs (7) and (12) of section 1862(a) of the Social Security Act and the provisions of section 1862(b) of such Act shall not apply, and the limitations under paragraph (1) of such section 1862(b) shall not apply to preventive health services that the Secretary determines to be appropriate for the prevention of illness or disease.

"SEC. 2713. APPROVED PRESCRIPTION DRUGS, DEVICES AND EQUIPMENT.

"(a) Establishment of List.—The Secretary shall establish a list of approved prescription drugs and biologicals, durable medical equipment and therapeutic devices and equipment (including eyeglasses, hearing aids, and prosthetic appliances), that the Secretary determines are important for the maintenance or restoration of health or of employability or self-management and eligible for coverage under this title.

"(b) Considerations and Conditions.—In establishing the list under subsection (a), the Secretary shall take into consideration the efficacy, safety and cost of each item contained on such list, and shall attach to any item such conditions as the Secretary determines appropriate with respect to the circumstances under which, or the frequency with which, the item may be prescribed.

"(c) Exclusions.—The Secretary may exclude reimbursement under this title for ineffective, unsafe or overpriced products where better alternatives are determined to be available.

"Part C—Payments

"SEC. 2721. PAYMENTS FOR HOSPITAL SERVICES AND NURSING FACILITY SERVICES.

"(a) Based on Approved Budget.—

"(1) In general.—In the case of hospital services and nursing facility services, payment under this title shall be based on an annual budget for the operating expenses of the institution that shall be submitted to, and approved by, the Secretary (or the State in accordance with section 2731(c)) in a form and manner specified by the Secretary. Such approved budgets—

"(A) shall take into account amounts that are reasonable and necessary in the efficient provision of necessary hospital services and nursing facility services;

"(B) shall not include amounts properly allocable to services that are not hospital services or nursing facility services, respectively;

"(C) shall be consistent with the national and State health budgets established by the Secretary; and

"(D) shall not include capital-related items and direct medical education.

Payment under such budget shall only be changed to reflect changes in the volume or type of services if such changes are significantly different than the volume or type of such services assumed in the approval of the budget.

"(2) Periodic payments.—The provisions of section 1815 of the Social Security Act (other than subsection (e)) shall apply to payments under this title in the same manner as they applied to payments under part A of title XVIII of such Act.

"(3) Submittal to state advisory boards.—Each hospital, nursing facility, or other institutional provider shall submit the budget of such institution to the State advisory board (appointed under section 2736) for the State in which the institution is located prior to the approval of such budget by the Secretary (or the State under section 2731(c)).

"(b) Budgeting for Capital and Medical Education Expenditures.—Items in budgets prepared under subsection (a) for capital-related items and for direct medical education shall only be approved if such amounts are consistent with the portion of the national and State health budgets established under subsections (c) and (d) of section 2732.

"(c) Modification of the Prospective Payment Assessment Commission.—The Prospective Payment Assessment Commission, instead of conducting activities described in section 1886 of the Social Security Act, shall advise the Secretary concerning the approval of budgets under this section and shall annually prepare and submit to the Congress and the Secretary a report containing the recommendations of the Commission concerning—

"(1) the most appropriate manner in which the budget approval process should be modified to best meet the objectives of this title; and

"(2) global budgets and fee schedules established under section 2723 for the payment of facility-based outpatient services.

"SEC. 2722. PAYMENTS FOR OTHER FACILITY-BASED SERVICES.

"(a) In General.—Payment under this title for home health services, hospice care, home and community-based services, and facility-based outpatient services (other than those described in section 2721) shall be based on—

"(1) a budget (of the type described in section 2721(a)(1)) for the facility that is submitted to, and approved by, the Secretary (or State under section 2731(c)) in a form and manner specified by the Secretary;

"(2) a fee schedule established by the Secretary;

"(3) a capitation payment schedule that is submitted to, and approved by, the Secretary (or State under section 2731(c); or

"(4) an alternative prospective payment method that is submitted to, and approved by, the Secretary (or State under section 2731(c)),

as selected by the facility for each reimbursement period and approved by the Secretary (or State under section 2731(c)). Such payments shall not include payments for capital-related items, except as provided in subsection (b).

"(b) Consideration in Establishment of Fee Schedules, etc.—A fee schedule, capitation schedule or alternative prospective payment method established under subsection (a)(2) for facility-based outpatient services shall—

"(1) take into account the payment amounts established under section 2723 for any related professional services; and

"(2) provide an amount for capital-related costs if the costs are consistent with the national and State capital budgets established under section 2732(c), but only in the case of services either—

"(A) for which payment of a facility-related component is provided under title XVIII of the Social Security Act; or

"(B) for which the Secretary determines that such a component is appropriate to assure access to outpatient services in appropriate facilities.

"(c) Limit on Payment for Home and Community-Based Services.—Payments under this title for home and community-based services with respect to any individual may not exceed 65 percent of the average amount of payment that would have been made for the individual if the individual were a resident of a nursing facility in the same area in which the services are provided.

"(d) Long-Term Care Payment Review Commission—

"(1) Establishment.—

"(A) In general.—The Director of the Congressional Office of Technology Assessment shall provide for the appointment of a Long-Term Care Payment Review Commission (hereafter referred to in this subsection as the 'Commission') to be composed of individuals with national recognition for their expertise in health care economics and related fields for nursing facility services, home health services, hospice care, and home and community-based services.

"(B) Appointments.—Members of the Commission shall first be appointed not later than January 1, 1993, for a term of 3 years, except that the Director may provide initially for such shorter terms as will insure that (on a continuing basis) the terms of no more than one-third of the number of members expire in any year. Appointments shall be made without regard to the provisions of title 5, United States Code, governing appointments in the competitive service.

"(C) Membership.—Members of the Commission shall include health care economists, representatives of providers and manufacturers of such services, and consumers of such services.

"(2) Functions.—The Commission shall advise the Secretary concerning the payment amounts for long-term care established under section 2721 and this section and shall annually prepare and submit to Congress and the Secretary an annual report containing the recommendations of the Commission concerning the manner in which global budgets and fee schedules should be modified to best meet the objectives of this title.

"(e) Ensuring the Provision of Operating Funds.—In determining the rate of reimbursement under this section, and in developing and implementing a payment system for providers, the Secretary (or the State in accordance with section 2731(c)) shall permit a reasonable, fixed rate of return, independent of those operating expenses necessary to fulfill the objectives of this title. The Secretary (or the State in accordance with section 2731(c)) shall ensure that no portion of payments received under this section, in excess of that portion attributable to such reasonable rate of return, shall be diverted to profits.

"SEC. 2723. PAYMENTS FOR SERVICES OF HEALTH CARE PROFESSIONALS.

"(a) In General.—Payment under this title for the services of health care professionals shall be based on a fee schedule established by the Secretary.

"(b) Use of National Relative Value Scale.—Such schedule shall—

"(1) vary the payment amount among different services based on the relative value of the input factors to provide the services;

"(2) vary among different areas, for the portion of the payment relating to the goods and services provided, based on reasonable differences in the prices for goods and services among the different areas; and

"(3) be consistent with the national health budget established by the Secretary.

In establishing such schedule, the Secretary shall take into account the fee schedules established under section 1848 of the Social Security Act, without regard to the update factor provided under that section.

"(c) Modification of the Physician Payment Review Commission.—

"(1) Redesignation.—The Commission established under section 1845 of the Social Security Act is renamed the 'Professional Payment Review Commission' (hereafter referred to in this subsection as the 'Commission') and is continued for purposes of carrying out this subsection.

"(2) Additional members.—The Director of the Congressional Office of Technology Assessment shall increase the membership of the Commission to such number as may be necessary to include the representation of nurses and other health care professionals whose services are paid for on the basis of a relative-value fee schedule established under this section, and shall consult with the Physician Payment Review Commission, the General Health Care Review Commission, and other appropriate provider organizations.

"(3) Alternative functions.—The Commission, instead of conducting activities of the type described in section 1845 of the Social Security Act, shall advise the Secretary concerning the fee schedules established under this section and shall annually prepare and submit to Congress and the Secretary a report containing recommendations concerning the manner in which fee schedules should be modified to best meet the objectives of this title.

"SEC. 2724. PAYMENTS FOR OTHER ITEMS AND SERVICES.

"(a) IN GENERAL.—Payment under this title for items and services not described in section 2723 shall be made on the basis of fee schedules established by the Secretary consistent with the national health budget established by the Secretary. In establishing such schedules, the Secretary shall consult with the Commission established under subsection (b).

"(b) GENERAL HEALTH CARE PAYMENT REVIEW COMMISSION.—

"(1) ESTABLISHMENT.—

"(A) IN GENERAL.—The Director of the Congressional Office of Technology Assessment shall provide for the appointment of a General Health Care Payment Review Commission (hereafter referred to in this subsection as the 'Commission'), to be composed of individuals with national recognition for their expertise in health care economics and related fields for items and services for which payment is made under a fee schedule established under this section, representatives of providers and manufacturers of such items and services, and representatives of consumers of these items and services.

"(B) APPOINTMENTS.—Members of the Commission shall first be appointed not later than January 1, 1993, for a term of 3 years, except that the Director may provide initially for such shorter terms as will insure that (on a continuing basis) the terms of no more than one-third of the number of members expire in any year. Appointments shall be made without regard to the provisions of title 5, United States Code, governing appointments in the competitive service.

"(C) MEMBERSHIP.—Membership on the Commission shall include health care economists, representatives of providers and manufacturers of such items and services, and representatives of consumers of these items and services.

"(2) FUNCTIONS.—The Commission shall advise the Secretary concerning the fee schedules established under this section and shall annually prepare and submit to Congress and the Secretary a report containing recommendations on the manner in which fee schedules should be modified to best meet the objectives of this title.

"SEC. 2725. USE OF FISCAL AGENTS.

"(a) IN GENERAL.—The Secretary (or the State in accordance with section 2731(c)), through the use of competitive bidding procedures, may enter into such contracts with qualified entities as the Secretary (or the State in accordance with section 2731(c)) determines to be appropriate for the processing of claims under this title. The Secretary may provide for a process for entering into separate contracts under this section for claims processing under this title, but in no case may more than one contract be entered into for any State.

"(b) FUNCTIONS.—Under contracts entered into under this section, the entity with which the contract is entered into may carry out such functions as are authorized for fiscal intermediaries and carriers under title XVIII of the Social Security Act as the Secretary (or the State in accordance with section 2731(c)) determines to be appropriate.

"SEC. 2726. MANDATORY ASSIGNMENT.

"(a) IN GENERAL.—Payments for benefits under this title shall constitute payment in full for such benefits and the entity furnishing an item or service for which payment is made under this title shall accept such payment as payment in full for the item or service and may not accept any payment or impose any charge for any such item or service other than accepting payment in accordance with this title.

"(b) ENFORCEMENT.—If an entity knowingly and willfully charges an individual for an item or service or accepts payment in violation of subsection (a), the Secretary may apply sanctions against the entity in the same manner as sanctions could have been imposed under section 1842(j)(2) of the Social Security Act for a violation of section 1842(j)(1) of such Act.

"SEC. 2727. NO PAYMENTS TO MOST FEDERAL PROVIDERS OF SERVICES.

"No payment may be made under this title to any Federal provider of services (other than such a provider of the Indian Health Service and other than such a provider of the Department of Veterans Affairs) which the Secretary determines is providing services to the public generally as a community institution or agency, and no such payment may be made to any provider of services for any item or service which such provider is obligated by a law of, or a contract with, the United States to render at public expense.

"SEC. 2728. REPORTING SYSTEMS.

"(a) ESTABLISHMENT OF SYSTEM.—Not later than January 1, 1993, the Secretary shall establish a system for the reporting, by hospitals and other providers of services under this title, of information (including information on patient care) sufficient to provide for the review and approval of budgets of hospitals, skilled nursing facilities, and other facilities under this part and the development of fee schedules for services under this part.

"(b) BASIS.—The system established under subsection (a) shall be based on the standardized electronic cost reporting format placed into effect under section 1886(f)(1)(B) of the Social Security Act and the uniform reporting standards established under section 4007(c) of the Omnibus Budget Reconciliation Act of 1987.

"(c) REQUIREMENT.—Notwithstanding any other provision of this title, a hospital or other provider of services under this title that fails to file reports on a timely basis in accordance with the system established under this section shall not be eligible for payments under this title.

"SEC. 2729. RURAL AND MEDICALLY UNDERSERVED AREAS.

"In establishing payment procedures for providers under this part the Secretary (or State under section 2731(c)) shall construct such schedules in a manner that would encourage providers to practice or locate in rural and medically underserved areas.

"PART D—ADMINISTRATION

"SEC. 2731. GENERAL PROVISIONS.

"(a) THROUGH HCFA.—The Secretary, acting through the Administrator of the Health Care Financing Administration, shall administer the program under this title.

"(b) USE OF STATE-LEVEL OFFICES.—The Secretary shall provide for the establishment or designation of an office in each State that shall be responsible for the administration of this title in that State.

"(c) USE OF STATES.—If a State submits a request to the Secretary to administer this title in that State, the Secretary shall provide for the State administration of the provisions of this title within that State as the Secretary determines appropriate to meet the objectives of this title, unless and until the State fails to comply with such requirements. A State with a request approved under this subsection shall have the authority to establish operating budgets, capitation rates or alternative prospective payment methods for providers in the State. Any State administering this title under a request approved under this subsection shall submit its State budget (including individual institutional budgets) to the Secretary to assure compliance with the national health budget and this title.

"SEC. 2732. NATIONAL AND STATE HEALTH BUDGETS.

"(a) IN GENERAL.—For each calendar year the Secretary shall establish a national health budget and, for each State, a State health budget that specifies—

"(1) the level and application of expenditures to be made under this title in the year in the United States and in the State, respectively; and

"(2) the amount in and source of revenues of the National Health Trust Fund in such year.

Each State health budget established by the Secretary under this subsection shall be based solely on—

"(A) the population of the State;

"(B) reasonable differences in the prices for goods and services;

"(C) any special social, environmental, or other condition affecting health status or the need for health care services; and

"(D) the geographic distribution of the State's population, particularly the proportion of the population residing in rural or medically underserved areas.

"(b) EXPENDITURE LEVEL.—The total level of expenditures to be specified in the national health budget under subsection (a) for a year may not exceed the level of expenditures for covered benefits under this title made in the year preceding the effective date of this title increased in a compounded manner for each succeeding year (up to the year involved) by the annual percentage increase in the gross national product for the preceding year.

"(c) INSTITUTIONAL CAPITAL BUDGET.—

"(1) IN GENERAL.—Each national health budget established under subsection (a) shall include an amount for total expenditures for capital-related items, provide for State capital budgets and specify the general manner in which such expenditures for capital-related items are to be distributed among the different types of facilities.

"(2) FACTORS.—Each State capital budget under this section shall be established based solely on—

"(A) the population of the State;

"(B) reasonable differences in the prices for goods and services, as such differences affect the prices of the appropriate capital goods;

"(C) any special social, environmental, or other condition affecting health status or the need for health care services; and

"(D) the geographic distribution of the State's population, particularly the proportion of the population residing in rural or medically underserved areas.

"(d) HEALTH TRAINING BUDGET.—Each national health budget established under subsection (a) shall include an amount for total expenditures for direct medical education expenses for institutions receiving payments under budgets approved under section 2721 and for facility-based outpatient services for which payments are made under section 2722. Such budgets shall specify the general manner in which such expenditures are to be taken into account, shall be based on a national plan for training of medical personnel developed by the Secretary that shall emphasize training for primary and preventive care, and shall provide for State budgets for direct medical education expenses. Payments under such budgets for such expenditures shall take into account the method for payment for direct medical education expenses as described in section 1886(h) of the Social Security Act.

"SEC. 2733. NATIONAL HEALTH TRUST FUND.

"(a) ESTABLISHMENT.—There is hereby created on the books of the Treasury of the United States a trust fund to be known as the 'National Health Trust Fund' (hereafter in this section referred to as the 'Trust Fund') that shall consist of such gifts and bequests as may be made as provided in section 201(i)(1) of the Social Security Act and such amounts as may be deposited in, or appropriate to, such fund as provided for in this part.

"(b) APPROPRIATIONS INTO TRUST FUND.—

"(1) TAXES.—There are hereby appropriated to the Trust Fund for each fiscal year (beginning with fiscal year 1994), out of any moneys in the Treasury not otherwise appropriated, amounts equivalent to 100 percent of—

"(A) the taxes imposed by sections 3101(b), 3101(c), 3111(b), and 3111(c) of the Internal Revenue Code of 1986 with respect to wages reported to the Secretary of the Treasury or his delegate pursuant to subtitle F of such Code after January 1, 1994, as determined by the Secretary of the Treasury by applying the applicable rates of tax under such sections to such wages (such wages shall be certified by the Secretary of Health and Human Services on the basis of records of wages established and maintained by the Secretary of Health and Human Services in accordance with such reports);

"(B) the taxes imposed by sections 1401(b) and 1401(c) of such Code with respect to self-employment income reported to the Secretary of the Treasury on tax returns under subtitle F of such Code, as determined by the Secretary of the Treasury by applying the applicable rates of tax under such sections to such self-employment income (such self-employment income shall be certified by the Secretary of Health and Human Services on the basis of records of self-employment established and maintained by the Secretary of Health and Human Services in accordance with such returns); and

"(C) the aggregate increase in tax liabilities under chapter 1 of the Internal Revenue Code of 1986 which is attributable to the application of the amendments made by section 3(a) of the Universal Health Care Act of 1992.

The amounts appropriated under the preceding sentence shall be transferred from time to time (but not less frequently than monthly) from the general fund in the Treasury to the Trust Fund, such amounts to be determined on the basis of estimates by the Secretary of the Treasury of the taxes, specified in the preceding sentence, paid to or deposited into the Treasury. Proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or were less than the taxes specified in such sentence.

"(2) STATE FUNDS.—There are hereby appropriated into the Trust Fund such amounts as are paid by States under section 2734.

"(3) LONG-TERM CARE/HEALTH CARE PREMIUMS.—There are also transferred and deposited into the Trust Fund long-term care/health care premiums imposed under section 3(g) of the Universal Health Care Act of 1992.

"(c) INCORPORATION OF PROVISIONS.—The provisions of subsections (b) through (i) of section 1817 of the Social Security Act shall apply to the Trust Fund under this title in the same manner as they applied to the Federal Hospital Insurance Trust Fund under part A of title XVIII of such Act.

"(d) INCORPORATION OF OTHER TRUST FUNDS.—Any amounts remaining in the Federal Hospital Insurance Trust Fund or the Federal Supplementary Medical Insurance Trust Fund after the settlement of claims for payments under title XVIII of the Social Security Act have been completed, shall be transferred into the National Health Trust Fund.

"SEC. 2734. STATE MAINTENANCE OF EFFORT PAYMENTS.

"(a) CONDITION OF COVERAGE.—Notwithstanding any other provision of this title, no individual who is a resident of a State is eligible for benefits under this title for a month in a calendar year, unless the State provides (in a manner and at a time specified by the Secretary) for payment to the National Health Trust Fund in the month of the sum of—

"(1) the product of $7.083 and the number of residents who are residents of the State and otherwise eligible for benefits under this title in the month; and

"(2) 85 percent of 1/12 of the amount specified in subsection (b) for the year;

or, if less, 1/12 of the limiting amount specified in subsection (c).

"(b) MAINTENANCE OF EFFORT AMOUNT.—The amount of payment specified in this subsection for a State for a year is equal to the amount of payment (net of Federal payments) made by a State under its State plan under title XIX of the Social Security Act for the year preceding the effective date of this title, increased for the year involved by the compounded sum of the percentage increase in the gross national product of the State for each year after that year and up to the year before the year involved.

"(c) LIMITING AMOUNT.—For purposes of subsection (a), the limiting amount specified in this subsection—

"(1) for 1994, is the total amount of payment made by a State (net of any Federal payments made to the State) for health care in 1993; or

"(2) for any subsequent year, is the amount specified in this subsection for the State for the previous year increased for the year involved by the compounded sum of the percentage increase in the gross national product of the State for each year after 1992 and up to the year before the year involved.

"SEC. 2735. NATIONAL ADVISORY BOARD.

"(a) IN GENERAL.—The Director of the Congressional Office of Technology Assessment (hereafter in this section referred to as the 'Director' and the 'Office', respectively) shall provide for the appointment of a National Health Advisory Board (hereafter in this section referred to as the 'Board') to advise the Secretary respecting the implementation of this title. Members of the Board shall first be appointed no later than January 1, 1992, for a term of 3 years, except that the Director may provide initially for such shorter terms as will insure that (on a continuing basis) the terms of no more than 7 members expire in any year.

"(b) COMPOSITION.—The Board shall be composed of 21 individuals, appointed by the Director (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service). Such individuals shall include persons with national recognition for their expertise in health and related fields, physicians and other health professionals, administrators of health care facilities, providers of nonprofessional items and services, health care economists, and representatives of consumers of health care.

"SEC. 2736. STATE ADVISORY BOARDS.

"(a) APPOINTMENT.—

"(1) IN GENERAL.—For each State, the Secretary (or the Governor, in accordance with section 2731(c)) shall provide for appointment of a State advisory board (hereafter referred to in this section as the 'board') to advise the Secretary respecting the implementation of this title in the State.

"(2) BUDGET REVIEW.—Each board shall review, and submit comments to the Secretary concerning, budgets of hospitals, nursing facilities, and other institutional providers in the State submitted for approval by the Secretary. Such review shall take into account the State health budgets to be established by the Secretary under section 2732.

"(b) COMPOSITION.—Each board shall be composed of 15 individuals, and shall include individuals who have expertise in health care as well as representatives of consumers, providers, and the State government. Each member shall be appointed for a term of 3 years, except that members first appointed to each such board shall be appointed for such shorter terms as will assure (on a continuing basis) that the terms of no more than 5 members expire in any year.

"(c) CONSULTATION.—Each board shall conduct its activities in consultation with the Governor of the State involved.

"PART E—MISCELLANEOUS

"SEC. 2771. DEFINITIONS.

"(a) INCORPORATION OF MEDICARE DEFINITIONS.—Except as otherwise provided in this section, the definitions contained in section 1861 of the Social Security Act (other than subsections (v), (y), and (z)) shall apply for purposes of this title in the same manner as such definitions applied for purposes of title XVIII of such Act.

"(b) ADDITIONAL DEFINITIONS.—As used in this title:

"(1) HOME AND COMMUNITY-BASED SERVICES.—The term 'home and community-based services' means the services described in paragraphs (1) through (9) of section 1929(a) of the Social Security Act provided by an entity certified as meeting the applicable standards specified in subsections (f), (g), and (h) of section 1929 of such Act pursuant to a plan of care.

"(2) NURSING FACILITY SERVICES.—The term 'nursing facility services' has the meaning given the term extended care services in section 1861(h) of the Social Security Act if the word 'skilled' were omitted throughout.

"(3) NURSING FACILITY.—The term 'nursing facility' has the meaning given such term in section 1819(a) of the Social Security Act if paragraph (1) of section 1919(a) of such Act were substituted for paragraph (1) of that section.

"SEC. 2772. INCORPORATION OF MISCELLANEOUS MEDICARE-RELATED PROVISIONS.

"(a) PROVISIONS IN TITLE XVIII.—The following provisions of the Social Security Act shall apply to this title in the same manner as they applied to title XVIII of such Act as of the date of the enactment of this title:

"(1) Section 1819 (relating to requirements for, and assuring quality of care in, skilled nursing facilities), except that—

"(A) any reference in the section to a 'skilled nursing facility' is deemed a reference to a 'nursing facility'; and

"(B) the term 'nursing facility' has the meaning given such term in section 1919(a).

"(2) Section 1846 (relating to intermediate sanctions for providers of clinical diagnostic laboratory tests).

"(3) Sections 1863 through 1865 (relating to consultation with State agencies and other organizations to develop conditions of participation for providers of services, use of State agencies to determine compliance by providers of services with conditions of participation, and effect of accreditation).

"(4)(A) Subject to subparagraph (B), section 1866 (relating to agreements with providers of services).

"(B)(i) The provisions of section 1866(a)(1)(N) shall not apply.

"(ii) Under section 1866(a)(2), a provider of services may not impose any charge for covered items and services under this title.

"(iii) In the case of a hospital, the provider agreement under section 1866 shall prohibit a hospital from denying care to any individual on any ground other than the hospital's inability to provide the care required.

"(5) Section 1867 (relating to examination and treatment for emergency medical conditions and women in labor).

"(6) Section 1869 (relating to determinations and appeals).

"(7) Section 1870 (relating to overpayment on behalf of individuals and settlement of claims for benefits on behalf of deceased individuals).

"(8) Sections 1871 through 1874 (relating to regulations, application of certain provisions of title II of the Social Security Act, designation of organization or publication by name, and administration).

"(9)(A) Subject to subparagraph (B), section 1876 (relating to payments to health maintenance organizations and competitive medical plans) shall apply to individuals entitled to benefits under this title in the same manner as it applies to individuals entitled to benefits under part A, and enrolled under part B, of title XVIII of the Social Security Act.

"(B) In applying section 1876 under this title—

"(i) the provisions of such section relating only to individuals enrolled under part B of title XVIII of the Social Security Act shall not apply;

"(ii) subject to subparagraph (C), any reference to a Trust Fund established under title XVIII of such Act and to benefits under such title is deemed a reference to the National Health Trust Fund and to benefits under this title;

"(iii) subject to subparagraph (C), the adjusted average per capita cost and adjusted community rate shall be determined on the basis of benefits under this title; and

"(iv) subsection (f) shall not apply.

"(C) For purposes of subparagraph (B), benefits under this title may, at the option of an eligible organization, not include benefits for nursing facility services that are not post-hospital extended care services and benefits for home and community-based services.

"(10) Section 1877 (relating to limitation on certain physician referrals).

"(11) Section 1878 (relating to the provider reimbursement review board), except that the hearings pursuant to such section shall be on the approval of budgets under section 2721 of this title rather than the determination of payment amounts under title XVIII of the Social Security Act.

"(12) Section 1891 (relating to conditions of participation for home health agencies; home health quality).

"(13) Section 1892 (relating to offset of payments to individuals to collect past-due obligations arising from breach of scholarship and loan contract).

"(b) Title XI Provisions.—The following provisions of the Social Security Act shall apply to this title in the same manner as they applied to title XVIII of such Act:

"(1) Sections 1124, 1126, and 1128 through 1128B (relating to fraud and abuse).

"(2) Section 1134 (relating to nonprofit hospital philanthropy).

"(3) Section 1138 (relating to hospital protocols for organ procurement and standards for organ procurement agencies).

"(4) Section 1142 (relating to research on outcomes of health care services and procedures), except that any reference in such section to a Trust Fund is deemed a reference to the National Health Trust Fund.

"(5) Part B of title XI of the Social Security Act (relating to peer review of the utilization and quality of health care services).

"(c) Other Provisions.—The provisions of subsections (g) and (i) of section 201 of the Social Security Act shall apply to this title and the National Health Trust Fund in the same manner as they applied to title XVIII of such Act and the Federal Hospital Insurance Trust Fund.

"SEC. 2773. PRIVATE HEALTH INSURANCE.

"Private insurance for health care services may be offered or sold to cover only those health care benefits not covered under this title.".

(b) Conforming Amendments.—

(1) Sections 2701 through 2714 of the Public Health Service Act (42 U.S.C. 300cc through 300cc–15) are redesignated as sections 2801 through 2814, respectively.

(2) Sections 465(f) and 497 of such Act (42 U.S.C. 286(f) and 289(f)) are amended by striking out "2701" each place that such appears and inserting in lieu thereof "2801".

SEC. 3. FINANCING.

(a) Increase in Top Corporate Income Tax Rate.—

(1) In general.—subparagraph (C) of section 1(b)(1) of the Internal Revenue Code of 1986 (relating to tax imposed on corporations) is amended by striking "34 percent" and inserting "38 percent".

(2) Effective date.—The amendment made by this subsection shall apply to taxable years beginning after December 31, 1995.

(b) Increase in Individual Income Taxes.—

(1) In general.—Section 1 of such Code (relating to tax imposed) as amended by striking subsections (a) through (e) and inserting the following:

"(a) Married Individuals Filing Joint Returns and Surviving Spouses.—There is hereby imposed on the taxable income of—

"(1) every married individual (as defined in section 7703) who makes a single return jointly with his spouse under section 6013, and

"(2) every surviving spouse (as defined in section 2(a)), a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $32,450	15% of taxable income.
Over $32,450 but not over $78,400.	$4,867.50, plus 30% of the excess over $32,450.
Over $78,400 but not over $200,000.	$18,652.50, plus 34% of the excess over $78,400.
Over $200,000	$59,996.50 plus 38% of the excess over $200,000.

"(b) Heads of Households.—There is hereby imposed on the taxable income of every head of a household (as defined in section 2(b)) a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $26,050	15% of taxable income.
Over $26,050 but not over $67,200.	$3,907.50, plus 30% of the excess over $26,500.
Over $67,200 but not over $171,500.	$16,252.50, plus 34% of the excess over $67,200.
Over $171,500	$51,714.50, plus 38% of the excess over $171,500.

"(c) Unmarried Individuals (Other Than Surviving Spouses and Heads of Households).—There is hereby imposed on the taxable income of every individual (other than a surviving spouse as defined in section 2(a) or the head of a household as defined in section 2(b)) who is not a married individual (as defined in section 770) a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $19,450	15% of taxable income.
Over $19,450 but not over $47,050.	$2,917.50, plus 30% of the excess over $19,450.
Over $47,050 but not over $120,000.	$11,197.50, plus 34% of the excess over $47,050.
Over $120,000	$36,000.50, plus 38% of the excess over $120,000.

"(d) Married Individuals Filing Separate Returns.—There is hereby imposed on the taxable income of every married individual (as defined in section 7703) who does not make a single return jointly with his spouse under section 6013, a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $16,225	15% of taxable income.
Over $16,225 but not over $39,200.	$2,433.75, plus 30% of the excess over $16,225.
Over $39,200 but not over $100,000.	$9,326.25, plus 34% of the excess over $39,200.
Over $100,000	$29,998.25, plus 38% of the excess over $100,000.

"(e) Estates and Trusts.—There is hereby imposed on the taxable income of—

"(1) every estate, and

"(2) every trust,

taxable under this subsection a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $5,450	15% of taxable income.
Over $5,450 but not over $14,150.	$817.50, plus 30% of the excess over $5,450.
Over $14,150 but not over $25,000.	$3,427.50, plus 34% of the excess over $14,150.
Over $25,000	$7,116.50, plus 38% of the excess over $25,000.".

(2) Effective date.—The amendment made by this subsection shall apply to taxable years beginning after December 31, 1995.

(c) Increase in Employer Hospital Insurance Tax; Repeal of Dollar Limitation on Amount of Wages Subject to Employee and Employer Hospital Insurance Taxes.—

(1) Employee tax.—Subsection (b) of section 3101 of such Code is amended by striking "equal to" and all that follows and inserting "equal to 1.45 percent of the wages (as defined in section 3121(a) without regard to paragraph (1) thereof) received by him with respect to employment (as defined in section 3121(b)).".

(2) Employer tax.—Subsection (b) of section 3111 of such Code is amended by striking "equal to" and all that follows and inserting "equal to 7.5 percent of the wages (as defined in section 3121(a) without regard to paragraph (1) thereof) paid by him with respect to employment (as defined in section 3121(b)).".

(3) Self-employment tax.—Subsection (b) of section 1401 of such Code is amended by striking "a tax as follows:" and all that follows and inserting "a tax equal to 7.5 percent of the amount of the self-employment income (as defined in section 1402(b) without regard to paragraph (1) thereof) for such taxable year.".

(4) Railroad retirement taxes.—Subparagraph (A) of section 3231(e)(2) of such Code is

amended by adding at the end thereof the following new clause:

"(iii) LIMITATION NOT TO APPLY TO TAXES EQUIVALENT TO HOSPITAL INSURANCE TAXES.—Clause (i) shall not apply to—

"(I) so much of the rate applicable under section 3201(a) or 3221(a) (as the case may be) as does not exceed the rate of tax in effect under section 3101(b), and

"(II) so much of the rate of tax applicable under section 3211(a)(1) as does not exceed the rate of tax in effect under section 1401(b).".

(5) TECHNICAL AMENDMENTS.—

(A) Subsection (b) of section 1402 of such Code is amended by striking "the applicable contribution base (as determined under subsection (k))" and inserting "the contribution and benefit base (as determined under section 230 of the Social Security Act)".

(B) Section 1402 of such Code is amended by striking subsection (k).

(C) Paragraph (1) of section 3121(a) of such Code is amended—

(i) by striking "applicable contribution base (as determined under subsection (x))" each place it appears and inserting "contribution and benefit base (as determined under section 230 of the Social Security Act)", and

(ii) by striking "such applicable contribution base" and inserting "such contribution and benefit base".

(D) Section 3121 of such Code is amended by striking subsection (x).

(E) Clause (i) of section 3231(e)(2)(B) of such Code is amended to read as follows:

"(i) TIER 1 TAXES.—Except as provided in clause (ii), the term 'applicable base' means for any calendar year the contribution and benefit base determined under section 230 of the Social Security Act for such calendar year.".

(F) Paragraph (3) of section 6413(c) of such Code is amended to read as follows:

"(3) SEPARATE APPLICATION FOR HOSPITAL INSURANCE TAXES.—Paragraphs (1) and (2) shall not apply to—

"(A) the tax imposed by section 3101(b) (or any amount equivalent to such tax), and

"(B) so much of the tax imposed by section 3201 as is determined at a rate not greater than the rate in effect under section 3101(b).".

(G) Sections 3122 and 3125 of such Code are each amended—

(i) by striking "section 3111" each place it appears and inserting "section 3111(a)", and

(ii) by striking "applicable contribution base limitation" and inserting "contribution and benefit base limitation".

(6) EFFECTIVE DATE.—The amendments made by this subsection shall apply to 1995 and later calendar years.

(d) ADDITIONAL STATE AND LOCAL EMPLOYEES SUBJECT TO HOSPITAL INSURANCE TAX.—

(1) IN GENERAL.—Paragraph (2) of section 3121(u) of such Code is amended by striking subparagraphs (C) and (D).

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to remuneration paid after December 31, 1994.

(e) INCREASE IN INCOME TAXES ON SOCIAL SECURITY BENEFITS.—

(1) INCREASE IN AMOUNT OF BENEFITS TAKEN INTO ACCOUNT.—Subsections (a) and (b) of section 86 of such Code is amended by striking "one-half" each place it appears and inserting "85 percent".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years beginning after December 31, 1994.

(f) SECTION 15 NOT TO APPLY.—No amendment made by this section shall be treated as a change in a rate of tax for purposes of section 15 of the Internal Revenue Code of 1986.

(g) LONG-TERM CARE/HEALTH CARE PREMIUM FOR THE ELDERLY.—

(1) IN GENERAL.—Except as provided in paragraph (2), each individual who at any time in a month is 65 years of age or older and is eligible for benefits under title XXVII of the Public Health Service Act in the month shall pay a long-term care/health care premium for the month of $55.

(2) EXCEPTION FOR LOW-INCOME ELDERLY.—The Secretary of Health and Human Services shall provide a process whereby individuals with an adjusted gross income which does not exceed $8,500 (or $10,700 in the case of joint adjusted gross income in the case of a married individual) are not liable for the premium imposed under paragraph (1).

(3) COLLECTION OF PREMIUM.—The premium imposed under this subsection shall be collected in the same manner (including deduction from Social Security checks) as the premium imposed under part B of title XVIII of the Social Security Act was collected under section 1840 of such Act as of the date of the enactment of this Act.

(4) DEPOSIT INTO NATIONAL HEALTH TRUST FUND.—Premiums collected under this subsection shall be transferred to and deposited into the National Health Trust Fund in the same manner as premiums collected under section 1840 of the Social Security Act were transferred and deposited into the Federal Supplementary Medical Insurance Trust Fund.

(h) SENSE OF THE SENATE.—It is the sense of the Senate that the chairman of the Committee on Finance of the Senate should recommend to the Senate additional provisions with respect to the Internal Revenue Code of 1986 that may be necessary to assist in meeting the funding requirements of this Act.

SEC. 4. TERMINATION OF OTHER PROGRAMS.

(a) MEDICARE.—

(1) IN GENERAL.—Notwithstanding any other provision of law, no benefits shall be available under title XVIII of the Social Security Act for any item or service furnished after December 31, 1994.

(2) TRANSITION.—In the case of inpatient hospital services and extended care services during a continuous period of stay which began before January 1, 1995, and which had not ended as of such date, the Secretary of Health and Human Services shall provide for continuation of benefits under title XVIII of the Social Security Act until the end of the period of stay.

(b) MEDICAID.—No payments shall be made to a State under section 1903(a) of the Social Security Act with respect to medical assistance for items or services furnished after December 31, 1994.

(c) FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM.—No benefits shall be made available under chapter 89 of title 5, United States Code, for any part of a coverage period occurring after December 31, 1994.

(d) CHAMPUS.—No benefits shall be made available under sections 1079 and 1086 of title 10, United States Code, for items or services furnished after December 31, 1994, for which any payment may be made under title XXVII of the Public Health Service Act.

(e) VETERANS' BENEFITS.—No benefits shall be available under chapter 17 of title 38, United States Code, for items or services furnished after December 31, 1994, for which payment may be made under title XXVII of the Public Health Service Act, except that nothing in this subsection may be construed to decrease benefits or services, including exclusive use of veterans hospitals, that are available to veterans on the day prior to the date of enactment of this Act.

SEC. 5. EFFECTIVE DATE FOR BENEFITS.

Title XXVII of the Public Health Service Act shall apply to items and services furnished on or after January 1, 1995.

By Mr. AKAKA (for himself, Mr. HEFLIN, Mr. JOHNSTON, Mr. WALLOP, Mr. MITCHELL, Mr. MURKOWSKI, Mr. FORD, Mr. GARN, Mr. INOUYE, Mr. SHELBY, Mr. BINGAMAN, Mr. GRAHAM, and Mr. EXON):

S. 2321. A bill to increase the authorizations for the War in the Pacific National Historical Park, Guam, and the American Memorial Park, Saipan, and for other purposes; to the Committee on Energy and Natural Resources.

ADDITIONAL FUNDING FOR THE AMERICAN MEMORIAL PARK AND THE WAR IN THE PACIFIC PARK

• Mr. AKAKA. Mr. President, the summer of 1994 will mark the 50th anniversary of the capture of the Marianas Islands and the liberation of Guam, sites of two of the largest land battles of the Pacific campaign on what is now United States territory. Nearly 6,000 U.S. soldiers and civilians gave their lives in this conflict.

Today I am introducing legislation, along with Senators HEFLIN, JOHNSTON, WALLOP, MITCHELL, MURKOWSKI, FORD, GARN, INOUYE, SHELBY, BINGAMAN, GRAHAM, and EXON to ensure that appropriate facilities are established at the two national historical parks in the Pacific which commemorate the sacrifices of United States Armed Forces during World War II. With these facilities in place, we will have an appropriate site to stage ceremonies in the summer of 1994 honoring the brave soldiers who achieved victory as well as provide a lasting remembrance of these events for years to come.

Mr. President, in the publicity surrounding the activities at Pearl Harbor last December 7, we have perhaps overlooked another important semicentenary that will occur less than 3 years hence. In the summer of 1994, we will commemorate the 50th anniversary of the liberation of Guam and the capture of the Marianas Islands, including Saipan and Tinian, from Japanese forces during the latter stages of World War II. These dearly bought victories, in which thousands of soldiers and civilians on both sides gave their lives, are representative of the island-hopping campaign which characterized the unique, ferocious war in the Pacific theater, and which led to the eviction of enemy forces from strategic island groups in the Central and Southwest Pacific and, eventually, to the surrender of Japan.

Unfortunately, Mr. President, despite the significance of the Mariannas campaign, and in spite of the river of blood spilled there by American servicemen, Congress has provided only minimal funding to establish and maintain these historic battlesites. As a consequence of our neglect, these national historical parks have been in a state of continuous disrepair. Rust corrodes the tanks and cannon that are on public display; weeds and grasses cover roads, walkways, and fences; historic battlefields are disappearing under dirt and vegetation; and graffiti mars visitor signs and the walls of the few existing park buildings.

These are national parks that ostensibly honor the memory of the approximately 5,700 United States troops killed or missing and the 21,900 wounded in the Marianas campaign, men like our own distinguished colleague from Alabama, Senator HEFLIN, who participated in these operations. Their families and descendants, as well as the thousands of marines and soldiers who survived unscathed, for whom the words Saipan, Tinian, and Guam are synonymous with courage, duty, and sacrifice, live in every corner of our Nation. Each of us probably has many constituents whose lives were directly affected by the fight to free Guam and invade Saipan and Tinian. Thus, each of us has a duty to ensure that those who fought for freedom on our behalf are properly honored—albeit belatedly, but honored nonetheless.

The 50th anniversary of these battles will soon be upon us. Unfortunately, little has been done to construct the facilities necessary for a proper interpretation of these watershed battles of the Pacific war. I fear that unless Congress enacts this legislation in the near future, the 50th anniversary of these battles will come as a grave disappointment to veterans returning to these sites just 2 years from now.

Mr. President, from now through 1994, I intend to join several other colleagues in a concerted effort to secure the funds necessary to render the Guam and Saipan parks presentable for the 50th anniversary of the Marianas campaign. The bill I am introducing today will raise the authorized funding levels for the American Memorial Park in Saipan and the War in the Pacific National Historical Park in Guam from the current level of $500,000 and $3 million, respectively, to $8 million each. As such, my legislation is an integral part of this effort. If my colleagues believe that what was worth fighting for in the Marianas in 1944 is now also worth honoring nearly 50 years later, I urge them to cosponsor this bill. If they believe that the manner in which we treat those who fought and died in our behalf is a reflection of our own national character, then I ask them to work with me to see these battlefield parks become a lasting memorial to the Marianas campaign.

Thank you, Mr. President. I ask consent that a copy of my bill as well as a short precis of the Marianas campaign, prepared by Robert Goldich of the Congressional Research Service, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2321

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

Congress finds that—

(1) June 15 through August 10, 1994, marks the 50th anniversary of the Mariana campaign of World War II in which United States forces captured the Japanese islands of Saipan and Tinian and liberated the United States Territory of Guam from Japan;

(2) an attack during this campaign by the Japanese combined fleet, aimed at annihilating the United States forces that had landed on Saipan, led to the battle of the Philippine Sea, which resulted in a crushing defeat for the Japanese by United States naval forces and the destruction of the effectiveness of the Japanese carrier-based airpower;

(3) the recapture of Guam liberated one of the few pieces of United States territory that was occupied by the enemy during World War II and restored United States Government to more than 20,000 native Guamanians;

(4) units of the United States Army, Navy, Marine Corps, and Coast Guard fought with great bravery and sacrifice, suffering casualties of approximately 5,700 killed and missing and 21,900 wounded in action;

(5) United States forces succeeded in destroying all Japanese garrisons in Saipan, Tinian, and Guam, which resulted in Japanese military casualties of 54,000 dead and 21,900 taken prisoner;

(6) Guamanians, notably members of the Navy Insular Force Guard and volunteer militia, bravely resisted the invasion and occupation of their island, and ultimately assisted in the expulsion of Japanese forces from Guam;

(7) at the hands of the Japanese, the people of Guam—

(A) were forcibly removed from their homes;

(B) were relocated to remote sections of the island;

(C) were required to perform forced labor and faced other harsh treatment, injustices, and death; and

(D) were eventually placed in concentration camps and subjected to retribution when the liberation of their island became apparent to the Japanese;

(8) the seizure of the Mariana Islands severed Japanese lines of communication between Japan proper and those remaining Japanese bases and forces in the Central Pacific south of the Mariana Islands and in the South Pacific as well;

(9) the Mariana Islands provided large island areas on which advance bases could be constructed to support further operations against Japanese possessions and conquered territories such as Iwo Jima and Okinawa, the Philippines, Taiwan, and the south China coast, and ultimately against the Japanese home islands;

(10) the Mariana Islands provided, for the first time during the war, island air bases from which United States land-based airpower could reach Japan itself; and

(11) the air offensive staged from the Mariana Islands against Japanese cities and economic infrastructure helped shorten the war and vitiate the need for the invasion and capture of the Japanese home islands.

SEC. 2. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) an appropriate commemoration of the 50th anniversary of the Mariana campaign should be planned; and

(2) the Secretary of the Interior should take all necessary steps to ensure that two visitors centers to provide appropriate facilities for the interpretation of the events described in section 1 are completed, one at the War in the Pacific National Historical Park and one at the American Memorial Park, before June 15, 1994, the beginning of the 50th anniversary of the campaign.

SEC. 3. WAR IN THE PACIFIC NATIONAL HISTORICAL PARK.

Section 6(k) of the Act entitled "An Act to authorize appropriations for certain insular areas of the United States, and for other purposes", approved August 18, 1978 (92 Stat. 493; 16 U.S.C. 410dd(k)), is amended by striking "$500,000" and inserting "$8,000,000".

SEC. 4. AMERICAN MEMORIAL PARK.

Section 5(g) of the Act entitled "An Act to authorize appropriations for certain insular areas of the United States, and for other purposes", approved August 18, 1978 (92 Stat. 492), is amended by striking "$3,000,000" and inserting "$8,000,000".

[From the Congressional Research Service, Oct. 30, 1991]

THE U.S. SEIZURE OF THE MARIANAS JUNE–AUGUST 1944[1]

(By Robert L. Goldich, Specialist in National Defense, Foreign Affairs and National Defense Division)

INTRODUCTION AND SUMMARY

Between June 15 and August 10, 1944, U.S. forces captured the Japanese islands of Saipan and Tinian, and liberated the U.S. territory of Guam—all together comprising some of the larger Mariana Islands—from the Japanese. U.S. casualties totalled approximately 5,700 killed and missing in action (KIA/MIA) and 21,900 wounded in action (WIA). The Japanese garrisons on all three islands were virtually annihilated, losing 54,000 dead and 2,900 prisoners. At the time of the ground operations, a major naval battle—the Battle of the Philippine Sea—was fought, which largely eliminated remaining Japanese naval airpower as well as sinking several major Japanese naval combatants.

The seizure of the Marianas severed Japanese lines of communication between Japan proper and those remaining Japanese bases and forces in the Central Pacific south of the Marianas and in the South Pacific as well. It provided, for the first time, island air bases from which U.S. land-based airpower could reach Japan itself. It provided large island areas on which advance bases could be constructed to support further operations against Japanese possessions and conquered territories such as Iwo Jima and Okinawa, the Philippines, Taiwan and the south China coast, and ultimately against the Japanese home islands. Finally, the recapture of Guam liberated one of the few pieces of U.S. territory that was actually conquered by the enemy during World War II and restored U.S. government to over 20,000 native Guamanians.

BACKGROUND

The Marianas were Spanish possessions prior to the Spanish-American War of 1898. In the aftermath of that war, the victorious United States annexed Guam, and the other two islands were sold by Spain to Germany in 1899. Japan, which participated in World

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[1] See Major Works Consulted, below, for basic sources used in preparing this report.

War I on the side of the Allies, captured Saipan and Tinian from Germany in 1914 and retained control of them after World War I ended.

Planning for the possibility of a U.S.-Japanese conflict became a major preoccupation of the U.S. Armed Forces as soon as the United States became a major territorial power in the Pacific in 1898, with the acquisition of the Philippines, Guam, American Samoa, and Hawaii. It had long been recognized that the Marianas occupied a critical strategic location in any contingent naval war between the United States and Japan, occupying as they do the center of a quadrilateral whose defining points are the Japanese home islands, the Philippines, Hawaii, and New Guinea.

There was little doubt, therefore, after the swift Japanese advance into the South and Central Pacific in 1941–1942 that U.S. forces would have to seize the Marianas. The islands were a significant Japanese defensive bastion, and their central location, as well as their desirability as sites for U.S. bases, made it impossible to bypass them. The issue was when they could be attacked and taken. The Cairo-Tehran Conferences of late 1943, held between President Franklin D. Roosevelt, British Prime Minister Churchill, and Soviet leader Joseph Stalin, resulted in a planning schedule for invasion of the Marianas on October 1, 1944.

However, several U.S. Pacific victories enabled this schedule to be advanced by several months. Between November 1943 and February 1944 U.S. forces seized key Japanese bases in the Gilbert (Tarawa, Makin) and Marshall (Kwajalein, Roi-Namur, and Eniwetok) Islands, bringing U.S. bases to within slightly over 1,000 miles of the Marianas. It was also decided to bypass rather than attack major Japanese strongholds at Truk, in the Caroline Islands, south of the Marianas. Accordingly, in March 1944 the Joint Chiefs of Staff ordered that the Marianas attack begin on June 15, 1944. The invasion plans finalized in May 1944 called for Saipan to be assaulted on June 15; once Saipan was secure, Tinian, only three miles south of Saipan, would be seized. Tentatively, Guam would be invaded on June 18, 1944, only three days after the landings on Saipan.

SAIPAN

After the fall of the Marshall Islands in February 1944 the Japanese realized that the Marianas would almost certainly be the next American objective in the Central Pacific. Between February and May 1944 the week Japanese garrisons on Saipan, Tinian, and Guam were heavily reinforced with combat troops. U.S. submarines prevented some, but not most, Japanese troops and equipment sent to the islands from reaching their destination.

To seize Saipan from an estimated 18,000 Japanese (31,000 were actually on the island), the U.S. had earmarked the 2nd and 4th Marine divisions. The Army's 27th Infantry Division was in general reserve for all Marianas operations, but most planning assumed it would probably be employed on Saipan. The three divisions plus supporting units totalled 71,000 Marines and soldiers. The two Marine divisions would attack across beaches on the southwestern corner of the island. Once securely ashore, the 2nd Marine Division, on the left (north) would turn northwards and conquer northern Saipan, while the 4th Marine Division on the right (south) would seize the southern third of the island.

By June 15, 1944, 25,000 Japanese Army and 6,000 Navy troops were on Saipan. Those beaches deemed suitable by the Japanese for a U.S. amphibious landing were heavily fortified and mined, and guarded by powerful forces. At this stage of the war, Japanese defensive doctrine still stressed defeat of American landings on the beach, rather than fighting a costly delaying action against the Americans once they had landed (as would be the case later in the war in the Palau Islands, the Philippines, Iwo Jima, and Okinawa).

After two days of naval gunfire and aerial attacks on the Japanese fortifications and troop dispositions, the two Marine divisions made their amphibious landing on the Saipan beaches on the morning of June 15. Despite the preparatory bombardment, it soon became apparent that Japanese resistance was formidable. In fact, D-Day on Saipan involved some of the heaviest casualties sustained by any U.S. division, Army or Marine Corps, in a single day during the entire war. Japanese artillery, mortars, machine guns, and small arms, fired from well-fortified positions largely invisible to the Marines, took a heavy toll of the assault Marines. The 2nd Marine Division sustained about 1,600 casualties on June 15. This was almost as many as it lost on the first day at Tarawa, November 20, 1943, more than the 1st Marine Division lost on the first day at Peleliu on September 15, 1944, and comparable to the number of Marines killed or wounded in the 4th and 5th Marine Divisions on the first day at Iwo Jima, February 19, 1945. The 4th Marine Division lost "only" 900–1,000 men killed or wounded on the first day at Saipan. Nonetheless, the Marines were on the island to stay, and Japanese counterattacks the first night failed to dent their beachhead.

Between June 16 and June 21, the American forces seized the southern third of Saipan, except for a small pocket of Japanese resistance on the southeastern tip of the island at Nafutan Point. The two Marine divisions were then reoriented northwards, to attack and destroy the formidable Japanese positions in central Saipan. The Army's 27th Infantry Division was landed to reinforce the Marines, largely due to the heavy casualties suffered by the Marine divisions. In six days of battle, the 2nd Marine Division had sustained 2,500 casualties and the 4th Marine Division over 3,600.

Between June 22 and June 30, the three U.S. divisions slowly fought their way through heavily wooded, hilly areas which constituted the heart of Japanese resistance on Saipan. The 2nd Marine Division seized Mount Tapotchau, the commanding geographical feature on Saipan, in moving roughly 1½ miles in eight days; the 27th Division and the 4th Marine Division gained between two and five miles through terrain with accurate, unpleasant characterizations such as Death Valley and Purple Heart Ridge. In addition, on the night of 26–27 June, the Japanese pocketed at Nafutan Point broke out in a desperate banzai charge, attacking rear areas and artillery units and ultimately losing over 550 dead in a suicidal assault far behind the front lines of the main battle.

By June 30, the backbone of Japanese resistance in central Saipan had been broken. The Japanese withdrew to their final defensive lines in northern Saipan; patrols ranged several thousands yards to the front of the American lines but found only small groups of the enemy. However, the two Marines divisions had paid dearly for their successes. In two weeks of combat, the 2nd and 4th Marine Divisions had each sustained 4,500 casualties. Because 80–90% of all losses were incurred by the 6,400 Marines in each division's 27 rifle companies—the basic close-in infantry fighting units—these figures indicate that those rifle companies had lost almost two-thirds of their men since D-Day. Because no Marine infantry replacements had yet arrived, Marines from support units were channeled into the infantry to replace casualties. Although the Army's 27th Division had not participated in the costly D-Day landing, it had lost almost 1,900 men itself.

Between July 1 and July 7, the 2nd Marine Division was withdrawn from combat, because the U.S. command wanted it to begin preparing for the invasion of Tinian. The 4th Marine Division and the 27th Division continued attacking the Japanese, and pocketed those remaining in the northern tip of the island. The last days of the Saipan battle were marked by two horrific developments. First, early on the morning of July 7, thousands of Japanese launched a suicidal mass attack on two isolated battalions of the 27th Division. "The soldiers fought for their lives as tremendous masses of the enemy flooded into a 300-yard gap between the battalions, discovered by enemy patrols the night before."[2] Overrunning the two battalions, the Japanese charged south into American artillery positions; the Americans fired their guns pointblank into the Japanese until they ran out of ammunition and the numerical weight of the Japanese assault was too great. The artillerymen then disabled their guns and retreated south, where they reached blocking positions held by other Army troops and Marines. The banzai charge cost the two Army infantry battalions 400 dead and 500 wounded (probably well over 50% of their strength); over 4,300 Japanese corpses were counted.

Second, in the aftermath of the continuing advance of the Marines (the Army's 27th Division was withdrawn into reserve after the banzai charge), with virtually all of the island in American hands, the Japanese repeated their World War II propensity for suicide rather than surrender. Not only did the few remaining Japanese soldiers and sailors kill themselves with their weapons as often as they would fire on U.S. Marines, but the Marines witnessed terrible sights of suicidal Japanese civilians. At Marpi Point on the northwestern corner of the island, "Hundreds of Japanese civilians, fearful of the Americans, committed suicide by jumping from the seaside cliffs. Some took their children with them. Efforts to stop them fell upon ears deafened by Japanese propaganda. Fortunately, many civilians had previously surrendered amicably, entrusting their fate to Marine and Army civil affairs officers, and were grateful for the care and safety found in the internment camps."[3]

On July 9, after 25 days of battle, the U.S. command declared the island secured, although Japanese stragglers continued to be rounded up or killed until the end of the war—and for many years thereafter. U.S. casualties totalled 3,600 KIA and MIA and 13,100 WIA. About 2,000 Japanese prisoners were taken; the other 29,000 Japanese troops on the island were killed. Both U.S. and Japanese leaders tended to agree about the significance of the American victory. Marine Lt. Gen. Holland M. Smith, commander of the Saipan landing force, stated that the capture of Saipan was "the decisive battle of the Pacific offensive," and that its seizure

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[2] Henry I. Shaw, Jr., Bernard C. Nalty, and Edwin T. Turnbladh. Central Pacific Drive. History of U.S. Marine Corps Operations in World War II. Volume III. Washington, Historical Branch, G-3 Division, Headquarters, U.S. Marine Corps. 1966: 340.

[3] Ibid.: 345.

"breached Japan's inner defense line, destroyed the main bastions, and opened the way to the home islands."[4] The verdict of Japanese Prime Minister Hideki Tojo, whose government was soon to fall—partly in response to the loss of the Marianas—was more succinct: "Hell is on us."

TINIAN

There was never any doubt that Tinian would have to be seized by U.S. forces. Only three miles south of Saipan, its continued possession by the Japanese would have left U.S. bases and facilities on the former island vulnerable to bombardment and raids. In addition, Tinian was relatively flat, and therefore the best suited of the Marianas for airfields from which U.S. long-range bombers could strike the Japanese home islands.

U.S. plans called for the 2nd and 4th Marine Divisions, after a two-week respite from the costly Saipan campaign, to launch an amphibious attack against Tinian. In reserve, also similar to the Saipan order of battle, was the 27th Infantry Division.

The major problem confronting the U.S. command was where on Tinian the assault Marines should land. The island has only three beaches "worthy of the name."[5] The largest and best-suited for amphibious operations is on the southwestern corner of the island, near Tinian Town, the major "city" on the island. A much smaller beach lies directly across Tinian from the southwestern beaches, on the southeastern side of the island. On the far northwestern corner of Tinian are two small beaches, one 60 and the other 160 yards wide. After great deliberation and careful clandestine reconnaissance, the Marine and Navy amphibious planners decided to land on the northern beaches, on the assumption that the Japanese would not believe that U.S. forces could support a massive amphibious assault across such narrow beaches. In addition, the northern beaches were very close to southern Saipan, easing movements of supplies and troops between the two islands, and enabling Saipan-based U.S. artillery to support the initial U.S. assault. The decision to attack the northern beaches was a gamble, because determined Japanese opposition, combined with the narrowness of the beaches, could lead to disaster, with the Marines jammed into the beaches and unable to move beyond them under Japanese fire.

To maintain the element of tactical surprise, the Marines and other services were careful to do nothing which would lead the Japanese to believe that the attack would come across the northern beaches. Artillery and air support, air and ground reconnaissance were detected at all areas of Tinian, not just the northern beaches. The U.S. decision was fully justified by events. The Japanese commander of the 8,900 Japanese troops on Tinian expected the Americans to come across the southwestern beaches, possibly the southeastern ones, and had constructed fortifications and disposed his troops accordingly.

U.S. artillery began firing on Tinian only five days after the initial landings on Saipan, on June 20. On July 12, it was agreed that D-Day for Tinian would be July 24. On July 23, heavy U.S. artillery bombardments and air strikes against targets all over the island began, and the assault components of the 4th Marine Division boarded landing craft for the short journey of a few miles from Saipan to Tinian.

D-Day at Tinian, July 24, was an immense contrast to the bloody D-Day on Saipan over five weeks earlier. Two regiments of the 4th Marine Division landed on the northern beaches and rapidly pushed inland against light resistance. Marine casualties totalled 15 dead and 225 wounded, less than a tenth of D-Day losses on Saipan. On the night of July 24-25, a hastily-mounted Japanese counterattack was utterly smashed; over 1,200 counted Japanese dead in front of the 4th Marine Division's positions constituting fully one-seventh of the entire Japanese force on the island. The American decision to land on the narrow northern beaches had been fully vindicated.

On July 25-26, the 2nd Marine Division was landed and joined the 4th Marine Division in a steady drive south. While Japanese resistance was fierce in some places and at some times, from the perspective of higher commanders the battle went much more smoothly than the conquest of Saipan. By July 31, remaining Japanese organized resistance had been compressed into a small, thin strip of land against the southeastern coast of Tinian. After two more days of combat, marked by occasional last-ditch banzai charges, but mercifully not by the mass suicide of Japanese civilians seen on Saipan, Tinian was declared secure on August 1, 1944.

"A statement like that, however, was a sort of partial truth on any Pacific territory captured from the Japanese. On Tinian, even more than elsewhere, the residue of the enemy force was troublesome. Some of the Japanese soldiers preferred self-destruction to surrender, but the proportion of soldiers and civilians that committed suicide was smaller than on Saipan. The Japanese soldier that chose to live was a die-hard type, able to hide out for months."[6] Thus, one regiment of the 2nd Marine Division that remained on the island to flush out Japanese stragglers lost about 40 killed and 125 wounded between August 1, 1944 and January 1, 1945, killing 500 Japanese after the official "securing" of the island.

Total U.S. casualties on Tinian totalled approximately 300 KIA and 1,600 WIA; although figures vary depending on the sources consulted, it appears that all of the 8,900 Japanese on the island were eventually killed except for slightly over 300 prisoners taken. The least costly of the three Marianas islands battles, Tinian arguably resulted in the greatest dividends for the further prosecution of the war, due to its suitability for airfield construction to support the strategic air offensive against Japan.

GUAM

It has originally been planned that U.S. forces would assault Guam on June 18, 1944, only three days after the initial landings on Saipan. However, several developments required the postponement of the Guam operation for over a month. First, by June 15 the prospects of an approaching naval battle with the Japanese—what became the American victory in the Battle of the Philippine Sea during June 19-20—forced U.S. naval commanders to redeploy their ships away from the Marianas to meet the approaching Japanese fleet. The Japanese naval threat had to be neutralized before the U.S. Navy could cover and support a major amphibious landing on Guam. Second, the ferocity of Japanese resistance on Saipan required the commitment of the entire 27th Infantry Division, in reserve for the entire Marianas operation. Another Army unit—the 77th Infantry Division, in Hawaii—would have to be committed to Guam. Finally, it was not clear until early July that the 77th Division, or parts of it, would not be needed on Saipan as well. All of these factors led to the postponement of the invasion of Guam until July 21, 1944.

In preparing for the liberation of Guam, American planners had to take several factors into account which did not apply to Saipan and Tinian. "Guam is the largest island north of the equator between Hawaii and the Philippines. With an area of 225 square miles, it is three times the size of Saipan and measures 30 miles long by 4 to 8½ miles wide."[7] Its size posed both problems and opportunities for maneuver, delay, and logistical support not found on the smaller islands.

As a U.S. possession, Guam was going to be liberated, not conquered by U.S. forces. There were about 24,000 native Guamanians on the island in 1944, and the U.S. command had to be prepared to provide for the restoration of services and adequate living standards to people who had remained almost uniformly loyal throughout almost three years of Japanese occupation:[8]

"Slightly over a hundred were of mixed American and Chamorro [native Guamanian] parentage and had been jailed as soon as the Japanese occupied the island. The rest of the population suffered some organized maltreatment and abuse in the early days of Japanese rule, but this appeared to have gradually tapered off. However, rigid food rationing, forced labor, confiscation of property without compensation, exclusion from business enterprises, and a score of lesser deprivations and humiliations kept the native population sullen and restive during the period of Japanese occupation. In June 1943 all able-bodied men between the ages of fourteen and sixty were forced to work for the occupation army, and women were ordered to replace the men in the fields. After the American air raid of 11 June [1944], large numbers of natives fled to the hills. Many were rounded up by Japanese military police and placed in camps * * * The Guamanians were clearly poor raw material for collaborationism, and there is no evidence that the Japanese made any successful attempt to reconstruct them to that end."

As was the case with Saipan and Tinian, the Japanese did not begin preparing to defend Guam against American assault until February-March 1944, after the fall of the Marshall Islands. Japanese defensive preparations were not as extensive as those on Saipan—certainly not in proportion to the size of the island. By late July 1944, the Guam garrison totalled about 18,500 Japanese troops, compared to the 30,000 that had been on Saipan. Unfortunately for the Marines making the assault landings on Guam, however, the terrain of the island—the locations of suitable beaches, harbors, and airfields—limited American options. Furthermore, having invaded the island themselves in December 1941, the Japanese had studied Guam from the point of view of likely objectives for an amphibious assault. When the Marines came ashore, therefore, they would do so into the heart of Japanese defensive positions fortifications, and troops on Guam.

All of the beaches to be attacked were on the western side of Guam. Those beaches north of the Orote Peninsula, which jutted out into the ocean in a western direction from the center of western Guam, would be the objectives of the 3rd Marine Division. The 1st Provisional Marine Brigade, composed of two Marine infantry regiments and supporting arms and services, and therefore consisting of the equivalent of ⅔ of a division (a Marine division having three infantry regiments at full strength), would attack the beaches south of the peninsula.

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[4] Gen. Holland M. Smith, USMC (Ret.), and Percy Finch. *Coral and Brass*. New York, Charles Scribner's Sons, 1949: 181.

[5] Shaw, Nalty, and Turnbladh, Central Pacific Drive: 358.

[6] Ibid.: 421.

[7] Ibid.: 439.

[8] **Philip A. Crowl. Campaign in the Marianas. The War in the Pacific. United States Army in World War II. Washington, Office of the Chief of Military History, Department of the Army, 1960: 332.**

The D-Day air and naval bombardment of the Guam beaches was both heavier and more precise than that directed against the Saipan beaches, due to the disappointing results of the Saipan bombardment and the heavy losses the Marines sustained on Saipan D-Day. However, the Japanese on both the northern beaches (being attacked by the 3rd Marine Division) and the southern beaches (the 1st Marine Brigade) still had plenty of fight left in them when the first amphibious assault vehicles headed for the shore the morning of July 21, 1944.

Resistance was heaviest on the left flank and the center of the 3rd Marine Division's attack zone. Here the Marines had to attack up steep cliffs that rose just behind the beaches—cliffs that included many caves which proved impervious to the preassault air and naval bombardment. Nonetheless, by the end of D-Day the 3rd Marine Division was ashore all along the line at the cost of about 160 Marines KIA and MIA and 540 WIA. Supplies and supporting artillery were ashore, and the troops of the 3rd Marine Division began bracing themselves for the usual Japanese counterattack.

Resistance was less intense, but still substantial, on the southern beaches. Although the 1st Marine Brigade was not facing the cliffs and caves of the 3rd Marine Division, numerous Japanese defenders made its task a difficult one. Japanese artillery and mortars inflicted many casualties on the beaches, and the artillery fire continued as brigade troops moved inland. However, by early evening the two Marine regiments of the brigade were ashore at the cost of about 350 Marine casualties, and one of the three regiments of the Army's 77th Infantry Division, as well as both Marine and Army artillery, was ashore by the early morning of July 22.

Surprisingly, it was the southern beachhead that was hit by a full-scale Japanese counterattack on the night of July 21–22, not the more vulnerable positions of the 3rd Marine Division in the north. By dawn of July 22, the 1st Marine Brigade had killed over 600 Japanese at the cost of about 50 dead and 100 wounded of its own, and virtually annihilated an attacking Japanese regiment.

Between July 22 and July 24 the 1st Marine Brigade turned north, reinforced eventually by the entire 77th Infantry Division, and sealed off the Orote Peninsula, which separated the northern and southern beachheads. At the same time, the 3rd Marine Division gained very little ground due to extremely rough terrain and fierce Japanese resistance. By the close of July 24, the first four days of battle on Guam had cost the Marine brigade 220 KIA and MIA and 700 WIA. The 3rd Marine Division had lost over 400 KIA and MIA and almost 1,300 WIA.

By the evening of July 25, the 3rd Marine Division was in bad shape. It had sustained almost two thousand battle casualties since landing on Guam; "the division lines had been stretched more than 9,000 yards. The regiments and battalions had almost no reserves to call on, and even [the] division had only one depleted battalion in reserve. Should the enemy choose this time and place for an organized counterattack, the situation for the Marines could hardly have been worse. Unfortunately, the Japanese did so choose."[9]

During the night of July 25–26, the equivalent of two-thirds of a Japanese division struck the lines of the 3rd Marine Division in a characteristic banzai charge. At the same time, a smaller Japanese counterattack was launched from the Orote Peninsula against the 1st Marine Brigade. Although the fighting was heavy, and seesawed back and forth in the 3rd Marine Division sector, by the morning of July 26 the Japanese attackers had been virtually annihilated. An estimated 3,500 Japanese were killed on Guam during the few hours of the counterattack. This Japanese failure "broke the back" of Japanese resistance on Guam, as the Japanese commander acknowledged in radio messages to Tokyo.

The rest of the battle for Guam consisted of two main actions. Between July 25 and July 30 the 1st Marine Brigade captured the Orote Peninsula from stubborn Japanese defenders who, cut off from their fellows on the rest of the island, nonetheless went down fighting, losing over 1,600 dead (compared to 150 Marine KIA and MIA and 720 WIA) in the process. Simultaneously, the 3rd Marine Division and the Army's 77th Infantry Division, committed as a full division for the first time, swung to their left and drove toward the northern end of Guam. Once 77th Division reconnaissance patrols had determined that there were no substantial Japanese forces in southern Guam, both American divisions attacked northwards. By August 10, 1944, the island had been secured, although stragglers continued to surrender—or be killed—until the end of the war, and some did not come out of the jungles until the 1960s and 1970s. U.S. casualties on Guam totalled 1,900 KIA/MIA and 7,100 wounded; although precise figures vary, it appears that with the exception of about 500 prisoners, the entire Japanese garrison of 18,500 was killed or died.

CONCLUDING OBSERVATIONS

The successful capture of Saipan and Tinian, and the liberation of Guam, represented the maturation of U.S. amphibious warfare doctrine and techniques. These operations marked the culmination of decades of careful thinking by U.S. Marine planners about how to wrest heavily-defended island targets from a determined Japanese foe. By the time Guam was secured, there was confidence that any Japanese-held island—including any of the Japanese home islands—could be attacked and taken by American forces, albeit frequently at very high cost in American casualties.

The seizure of the Marianas, therefore, did more than (1) breaching another set of Japanese defenses that stood between U.S. forces and the Japanese home islands and (2) providing air bases from which U.S. land-based bombers could strike at Japan proper. The Marianas operations ended with the U.S. Armed Forces confident about ultimate victory—confidence they would need for the even more costly, and more ferocious Central Pacific island battles yet to come—Peleliu in September–December 1944, Iwo Jima in February–March 1945, and Okinawa in April–June 1945. That confidence would have been put to the greatest test of all had the United States been required to invade and capture the southern Japanese home island of Kyushu on November 1, 1945, as planned in the summer of 1945, or even occupy the central home island of Honshu, with an invasion tentatively planned for March 1, 1946.

Most believe that what made the invasion of Japan proper unnecessary was, in large part, the strategic air offensive against Japan staged from the Marianas. Massive airfield development on all the islands, but especially Tinian, provided the bases from which U.S. Army Air Forces B-29 bombers mounted huge air raids against Japanese cities and economic infrastructure, beginning in late 1944 but accelerating in February–March 1945. The catastrophic effects of this conventional bombing campaign, combined with the atomic bombings of Hiroshima and Nagasaki in August 1945 (also staged from Tinian), ultimately tipped the scales within the Japanese government in favor of surrender in mid-August.

MAJOR WORKS CONSULTED

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By Mr. CRANSTON (for himself, Mr. SPECTER, Mr. DECONCINI, Mr. ROCKEFELLER, Mr. GRAHAM, Mr. AKAKA, Mr. DASCHLE, Mr. SIMPSON, Mr. THURMOND, Mr. MURKOWSKI, and Mr. JEFFORDS):

S. 2322. A bill to increase the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans; to the Committee on Veterans' Affairs.

VETERANS' SURVIVORS' COMPENSATION IMPROVEMENT ACT OF 1992

Mr. CRANSTON. Mr. President, as the chairman of the Committee on Veterans' Affairs, I am introducing today S. 2322, the proposed Veterans Compensation Cost-of-Living Adjustment Act of 1992. I am joined in doing so by a bipartisan group of Veterans' Affairs Committee members—Senators SPECTER, DECONCINI, ROCKEFELLER, GRAHAM, AKAKA, DASCHLE, SIMPSON, THURMOND, MURKOWSKI, and JEFFORDS.

SUMMARY

Mr. President, this bill would increase, effective December 1, 1992, the rates of compensation paid to veterans with service-connected disabilities and of dependency and indemnity compensation [DIC] paid to the survivors of certain service-disabled veterans. The rates would increase by the same percentage as the increase in Social Security and VA pension benefits. The compensation COLA would become effective on the same date that the increase for those benefits takes effect.

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[9] Ibid: 363–64.

Mr. President, we have a fundamental obligation to address the needs of the 2.2 million service-disabled veterans and 340,000 survivors who depend on these compensation programs. The needs of these veterans and survivors are uniquely related to veterans' affairs. In my 23 years in the Senate, I consistently have led the effort to provide COLA's in compensation and DIC benefits in order to ensure that the value of these top-priority service-connected VA benefits is not eroded by inflation. Most recently, Congress enacted Public Law 102-152 on October 30, 1992, providing a 3.7-percent increase in these same benefits, effective December 1, 1991.

The Congressional Budget Office currently estimates that the December 1, 1992, Social Security and VA pension COLA will be 3.2 percent. This is a preliminary estimate, though, and I expect the actual increase will be different than this estimate. The President's budget estimated in January that the increase would be 3 percent. The Congressional Budget Office estimates that a 3.2-percent COLA would cost $339 million in budget authority and $305 million in outlays over current law.

INDEXING

Mr. President, I am pleased to note that this year the administration has not proposed legislation that Reagan and Bush administrations previously advocated that would index the veterans' compensation COLA. Last year, the Senate voted 71 to 24 against an amendment to the fiscal year 1992 veterans' COLA bill, S. 775, that would have indexed the COLA. That vote represented an overwhelming rejection of the proposal to eliminate the Congress' control over the veterans' compensation COLA. I am hopeful that this issue finally has been laid to rest.

NORMAL ROUNDING OF RATES

Mr. President, the bill that I am introducing today does not include, as did S. 775 last year, a provision to require that—for the purposes of the sequestration baseline under section 257(b) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended by section 13101(e) of the Budget Enforcement Act of 1990—the COLA for each rate of compensation be assumed to be rounded to the nearest whole dollar. The OMB cost estimate for the COLA bill Congress enacted last fall and the administration's fiscal year 1993 budget conform that OMB has changed its rule and now follows the correct rounding rule as clarified in S. 775. The provision thus no longer is necessary.

As my colleagues know, the Budget Enforcement Act gave the Office of Management and Budget responsibility for determining the sequestration baseline for the new pay-as-you-go budget rules. The new rules require sequestration of certain direct spending funds by the amount equal to net spending—new direct spending minus any offsetting new receipts or spending reductions—in excess of the direct spending that otherwise would have occurred under current law and certain established practices.

Last year, the committee learned in VA's testimony for our June 12, 1991, hearing on S. 775, that OBM's fiscal year 1992 baseline assumed that all veterans' compensation rate increases would be rounded down to the next lower whole dollar. This could have had the effect of attributing direct-spending costs, which could have triggered a sequestration, to COLA legislation that provided for normal rounding of compensation rates. However, the Social Security and VA-pension COLA's, on which the increases in the rates of compensation are based, actually were just 3.7 percent—lower than the 5.2-percent estimate in the OMB baseline. This totally fortuitous circumstance enabled the Congress to enact a full, normally rounded COLA that avoided the threat of a sequester.

OMB's fiscal year 1992 baseline could have forced the Congress to make significant cuts in other programs in order to provide a full, normally rounded compensation COLA to service-disabled veterans and their survivors. Had the OMB baseline accurately predicted the 3.7-percent COLA for fiscal year 1992, enactment of a normally rounded 3.7-percent COLA would have been scored by OMB as exceeding the pay-as-you-go rule by $21 million in fiscal year 1992 and almost $25 million for each year thereafter under OMB's rule. Each year's difference would be additive, so that, at that rate, the OMB rule could have forced cuts of over $230 million during fiscal years 1992–95.

Mr. President, I am pleased that the Senate did not sit by idly while OMB unilaterally imposed a rule that treated those who were disabled as a result of service to their country worse than recipients of Social Security and other Federal benefits periodically adjusted by law. Senate passage, without dissent, of the provision in S. 775 to require scorekeeping based on normal rounding sent OMB a clear message that its rule was unacceptable.

Thus, I am very pleased to note that Secretary Derwinski has confirmed that the fiscal year 1993 budget submission includes a proposed compensation COLA that assumes normal rounding. I believe that the attention that our committee and the Senate focused on this issue last year was at least partially responsible for OMB's apparent change of heart on the COLA rounding rule.

CONCLUSION

Mr. President, I am proud that Congress has provided annual increases in VA compensation rates every fiscal year since 1976, and I urge all of my colleagues to continue to support these regular increases.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2322

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION RATE INCREASES.

(a) IN GENERAL.—(1) The Secretary of Veterans Affairs shall, as provided in paragraph (2), increase, effective December 1, 1992, the rates of and limitations on Department of Veterans Affairs disability compensation and dependency and indemnity compensation.

(2)(A) The Secretary shall increase each of the rates and limitations in sections 1114, 1115(1), 1162, 1311, 1311, and 1314 of title 38, United States Code, that were increased by the amendments made by the Veterans' Compensation Amendments of 1991 (Public Law 102–3; 105 Stat. 7). The increase shall be made in such rates and limitations as in effect on November 30, 1992, and shall be by the same percentage that benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 1992, as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).

(B) In the computation of increased rates and limitations pursuant to subparagraph (A), amounts of $0.50 or more shall be rounded to the next higher dollar amount and amounts of less than $0.50 shall be rounded to the next lower dollar amount.

(b) SPECIAL RULE.—The Secretary may adjust administratively, consistent with the increases made under subsection (a), the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85–857 (2 Stat. 1263) who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

(c) PUBLICATION REQUIREMENT.—At the same time as the matters specified in section 215(i)(2)(D) of the Social Security Act (42 U.S.C. 415 (i)(2)(D)) are required to be published by reason of a determination made under section 215(i) of such Act during fiscal year 1992, the Secretary shall publish in the Federal Register the rates and limitations referred to in subsection (a)(2)(A) as increased under this section.

By Mr. CRANSTON (for himself and Mr. DECONCINI):

S. 2323. A bill to amend title 38, United States Code, to revise the rates of dependency and indemnity compensation payable to surviving spouses of certain service-disabled veterans, to provide supplemental service disabled veterans' insurance for totally disabled veterans, and for other purposes; to the Committee on Veterans' Affairs.

VETERANS' SURVIVORS' BENEFITS IMPROVEMENT ACT OF 1992

Mr. CRANSTON. Mr. President, as the chairman of the Committee on Veterans' Affairs, I am introducing S. 2323, the proposed Veterans' Survivors' Benefits Improvement Act of 1992. I am joined in doing so by the ranking Democratic member of our committee, Senator DECONCINI.

Mr. President, this legislation would make major changes in VA's system of dependency and indemnity compensation paid to survivors of veterans who die from service-connected conditions. Most agree that the current system, which provides DIC payments based on the pay grade, or rank, of the deceased veteran, is unfair and in need of major revisions. Our bill would establish a base rate of DIC, with additional amounts based on the length of the deceased veteran's service and the average amount of compensation the veteran received during the 5 years preceding the veteran's death. The bill also would increase the amount of service disabled life insurance available to totally disabled veterans and contains provisions that offset the costs of the bill, so that the bill has no net cost under the pay-as-you-go budget rules.

I have been working on this legislation for more than a year, with the cooperation and assistance of many interested veterans' organizations, benefits experts, and others. I recently circulated a discussion draft of the bill to many interested organizations and individuals, and we will continue to seek constructive input on this important legislation. Further modifications are under consideration. I have scheduled a hearing for March 20 on this bill and on the fiscal year 1993 veterans' compensation COLA, which I also am introducing today.

Mr. President, I urge all of my colleagues to join in supporting this legislation.

Mr. President, I ask unanimous consent that a summary of the bill and the text of the bill be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF THE DIC REFORM BILL

This discussion draft would reform the Department of Veterans Affairs Dependency and Indemnity Compensation (DID) program as follows:

1. Provide eligible surviving spouses with a basic DIC rate of $650 a month, plus additional amounts, as described below, in recognition of the length and severity of the veteran's disability and the length of the veteran's service.

2. Provide additional monthly DIC equal to 10 percent of the average monthly disability compensation that the veteran received during the five years preceding his or her death. The average monthly compensation would equal the total compensation the veteran received or was entitled to receive during the five-year period, divided by 60 (5 yrs x 12 months/yr). The calculation of average monthly compensation would not include any additional compensation the veteran received for aid and attendance under section 1114(r) of title 38, United States Code; for dependent children under section 1115; or for a clothing allowance under section 1162. The Secretary would have to prescribe regulations to adjust the calculation for inflation to ensure it is based on the current value of the compensation benefits that were paid to the veteran during the five-year period.

3. Provide additional monthly DIC based on the length of the deceased veteran's military service. For 20 or more years of service, the surviving spouse would receive an additional $60 a month; for at least 10 years, but less than 20 years, the amount would be $40 a month; for at least five years, but less than 10 years, the amount would be $20 a month; and for less than five years, no additional amount would be paid.

4. Provide a special transitional rate of DIC for the first full month following the month of the veteran's death. The amount payable for the month after the veteran's death would be either 50 percent of the disability compensation paid to the deceased veteran for the last full month before the veteran's death, or the amount of DIC calculated under the new DIC provisions, whichever is greater.

5. Provide payment of a full month's disability compensation for the month during which the veteran died. (Current law terminates disability compensation at the beginning of the month during which the veteran died.)

6. Increase the additional amount payable under section 1311(b) of title 38 to a surviving spouse with dependent children of the deceased veteran from the current level of $71 a month for each child to $100 during FY 1993, $150 during FY 1994, and $200 thereafter.

7. Apply the new provisions to DIC paid to eligible surviving spouses of veterans who died on or after October 1, 1992. Surviving spouses of veterans who died before that date would receive either their current DIC payment or the amount calculated under the proposed reform provisions, whichever is greater.

8. Provide eligibility for up to $15,000 in additional Service Disabled Veterans' Insurance (SDVI) for totally disabled veterans who qualify under section 1912 of title 38 for a waiver of premiums. The veteran must apply for the additional coverage within the one-year period beginning on the month after the bill is enacted or within one year after VA notified or notifies the veteran that he or she is eligible for a waiver of premiums. The veteran would have to pay the regular premium for the additional amount of SDVI.

The draft legislation also contains provisions to offset the costs of the DIC and insurance provisions, as required by the "pay-as-you-go" rule in the Budget Enforcement Act of 1990 (title XIII of Public Law 101-508). These provisions would:

1. Make permanent section 8003 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508), which limits pension payments to $90 a month for Medicaid-eligible veterans receiving VA needs-based pension who have no dependents and who are in nursing homes participating in Medicaid.

2. Expand section 8003 of OBRA to cover similarly situated veterans' survivors who are receiving VA pension. This provision is substantively identical to section 4 of S. 775, which the Senate passed on November 20, 1991.

3. Extend by one year, to September 30, 1993, authority provided under section 8051 of OBRA that allows VA to obtain data from the Social Security Administration and the Internal Revenue Service to verify that those who apply for or receive VA needs-based pension do not exceed income limitations.

S. 2323

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.

(a) SHORT TITLE.—This Act may be cited as the "Veterans' Survivors' Benefits Improvement Act of 1992".

(b) REFERENCES TO TITLE 38.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 2. REVISION OF RATES OF DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES OF VETERANS.

(a) DEATHS OF VETERANS BEFORE OCTOBER 1, 1992.—Subsection (a) of section 1311 is amended—

(1) by inserting "(1)" before "Dependency"; and

(2) by inserting at the end the following new paragraphs:

"(2) Subject to subsections (b) through (d) and except as provided in paragraph (3), dependency and indemnity compensation shall be paid to surviving spouses of veterans whose deaths occur before October 1, 1992, at the rates provided in paragraph (1).

"(3) Each surviving spouse referred to in paragraph (2) for whom the rate of dependency and indemnity compensation payable under subsection (e)(2) exceeds the rate of such compensation payable under paragraph (1) shall be paid dependency and indemnity compensation at the rates specified in subsection (e)(2).".

(b) DEATHS ON OR AFTER OCTOBER 1, 1992.—Section 1311 is amended by adding at the end the following new subsections:

"(e)(1) Subject to subsections (b) through (d), the rates of dependency and indemnity compensation payable for deaths occurring on or after Octber 1, 1992, shall be determined under this subsection.

"(2) The amount of dependency and indemnity compensation payable to the surviving spouse of a deceased veteran under this paragraph shall be the sum of—

"(A) $650;

"(B) an amount that is equal to 10 percent of the average monthly compensation paid to the veteran during the five years before the veteran's death; and

"(C) an amount equal to the following:

"(i) In the case of a veteran who completed a period of active military, naval, or air service of twenty years or more, $60.

"(ii) In the case of a veteran who completed a period of such service of ten years or more but less than twenty years, $40.

"(iii) In the case of a veteran who completed a period of such service of five years or more but less than ten years, $20.

"(3)(A) For the purposes of paragraph (2), the term 'average monthly compensation' means the amount that is determined by dividing by 60 the total amount of compensation, if any, which a deceased veteran received or was entitled to receive under chapter 11 of this title (other than under sections 1114(4), 1115, and 1162) during the five-year period preceding the date of the veteran's death.

"(B) In calculating the average monthly compensation of a veteran under subparagraph (A), the Secretary shall adjust for inflation to the later of October 1, 1992, or the date on which a claim for compensation is filed under this chapter the rate of compensation in each of the five years preceding the date of the veteran's death. The Secretary shall prescribe the manner of adjustments for inflation under this paragraph.

"(f) Dependency and indemnity compensation shall be paid to a surviving spouse for the first full calendar month following the death of a veteran in an amount that is the greater of—

"(1) 50 percent of the amount of compensation under chapter 11 of this title which the veteran received or was entitled to receive for the last full month prior to the date of the veteran's death; and

"(2) the amount payable in the case of such veteran to subsection (e)(2).".

(c) ADDITIONAL DIC FOR CHILDREN.—(1) Section 1311(b) is amended by striking out "$71 for each such child" and inserting in lieu thereof "$100 for each such child during fiscal year 1993, $150 for each such child during fiscal year 1994, and $200 for each such child during each fiscal year thereafter".

(2) The amendment made by paragraph (1) shall take effect on October 1, 1992.

SEC. 3. DATE OF DISCONTINUATION OF COMPENSATION IN THE CASE OF THE DEATH OF A VETERAN.

Section 5112 is amended—

(1) in subsection (b), by striking out "The" in the matter preceding clause (1) and inserting in lieu thereof "Except as provided in subsection (c), the";

(2) by redesignating subsection (c) as subsection (d); and

(3) by inserting after subsection (b) the following new subsection:

"(c) The effective date of a discontinuance of compensation by reason of the death of a payee shall be the last day of the month in which such death occurs.".

SEC. 4. SUPPLEMENTAL SERVICE DISABLED VETERANS' INSURANCE FOR TOTALLY DISABLED VETERANS.

(a) IN GENERAL.—Subchapter I of chapter 19 is amended by inserting after section 1922 the following new section:

"§ 1922A. Supplemental service disabled veterans' insurance for totally disabled veterans

"(a) Any person insured under section 1922(a) of this title who qualifies for a waiver of premiums under section 1912 of this title is eligible, as provided in this section, for supplemental insurance in an amount not to exceed $15,000.

"(b) To qualify for supplemental insurance under this section a person must file with the Secretary an application for such insurance not later than the end of (1) the one-year period beginning on the first day of the first month following the month in which this section is enacted, or (2) the one-year period beginning on the date that the Department notifies the person that the person is entitled to a waiver of premiums under section 1912 of this title.

"(c) Supplemental insurance granted under this section shall be granted upon the same terms and conditions as insurance granted under section 1922(a) of this title, except that such insurance may not be granted to a person under this section unless the application is made for such insurance before the person attains 65 years of age.

"(d) No waiver of premiums shall be made in the case of any person for supplemental insurance granted under this section.".

"(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 19 is amended by inserting after the item relating to section 1922 the following new item:

"1922A. Supplemental service disabled veterans' insurance for totally disabled veterans.".

SEC. 5. REDUCTION IN PENSION FOR VETERANS AND VETERANS' SURVIVORS WHO ARE RECEIVING MEDICAID-COVERED NURSING HOME CARE.

(a) REDUCTION IN PENSION.—Paragraph (2) of section 5503(f) is amended to read as follows:

"(2)(A) Not more than $90 per month may be paid under chapter 15 of this title to or for any person described in subparagraph (B) for any period that a nursing facility furnishes such person with services covered by a Medicaid plan. The restriction in the preceding sentence applies to periods after the month of the person's admission to the nursing facility.

"(B) A person referred to in subparagraph (A) is a person—

"(i) who is covered by a Medicaid plan for services furnished such person by a nursing facility; and

"(ii) who is (I) a veteran who has neither spouse nor child, or (II) a surviving spouse who has no child.".

(b) CONFORMING AMENDMENTS.—Section 5503(f) is amended as follows:

(1) In paragraph (3)—

(A) by striking out "a veteran" and inserting in lieu thereof "a person referred to in paragraph (2)(A)"; and

(B) by striking out "such veteran under paragraph (2) of this subsection" and inserting in lieu thereof "such person under such paragraph".

(2) In paragraph (4)—

(A) by striking out "A veteran" and inserting in lieu thereof "A person referred to in paragraph (2)(A)";

(B) by striking out "the veteran" both places it appears and inserting in lieu thereof "the person"; and

(C) by striking out "the veteran's" and inserting in lieu thereof "the person's".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on October 1, 1992, and apply with respect to months after September 1991.

(d) DELETION OF EXPIRATION DATE.—Section 5503(f) is amended by striking out paragraph (6).

SEC. 6. EXTENSION OF CERTAIN AUTHORITY TO CARRY OUT INCOME VERIFICATION.

(a) TITLE 38.—Section 5317(g) is amended by striking out "September 30, 1992" and inserting in lieu thereof "September 30, 1993".

(b) INTERNAL REVENUE CODE OF 1986.—Section 6103(l)(7)(D)(viii) of the Internal Revenue Code of 1986 is amended in the second sentence of the flush material by striking out "September 30, 1992" and inserting in lieu thereof "September 30, 1993".

ADDITIONAL COSPONSORS

S. 523

At the request of Mr. SIMON, the names of the Senator from Rhode Island [Mr. PELL] and the Senator from Washington [Mr. ADAMS] were added as cosponsors of S. 523, a bill to authorize the establishment of the National African-American Memorial Museum within the Smithsonian Institution.

S. 765

At the request of Mr. BREAUX, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 765, a bill to amend the Internal Revenue Code of 1986 to exclude the imposition of employer social security taxes on cash tips.

S. 799

At the request of Mr. NICKLES, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 799, a bill to amend the Davis-Bacon and the Service Contract Act of 1965 to exempt from such Acts tenants of federally related housing who participate in the construction, alteration, or repair of their residences, and for other purposes.

S. 843

At the request of Mr. BREAUX, the name of the Senator from California [Mr. SEYMOUR] was added as a cosponsor of S. 843, a bill to amend title 46, United States Code, to repeal the requirement that the Secretary of Transportation collect a fee or charge for recreational vessels.

S. 866

At the request of Mr. BREAUX, the names of the Senator from Idaho [Mr. SYMMS] and the Senator from Indiana [Mr. COATS] were added as cosponsors of S. 866, a bill to amend the Internal Revenue Code of 1986 to clarify that certain activities of a charitable organization in operating an amateur athletic event do not constitute unrelated trade or business activities.

S. 1028

At the request of Ms. MIKULSKI, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 1028, a bill to authorize increased funding for international population assistance and to provide for a United States contribution to the United Nations Population Fund.

S. 1102

At the request of Mr. MOYNIHAN, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 1102, a bill to amend title XVIII of the Social Security Act to provide coverage of qualified mental health professionals services furnished in community mental health centers.

S. 1128

At the request of Mr. GLENN, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 1128, a bill to impose sanctions against foreign persons and United States persons that assist foreign countries in acquiring a nuclear explosive device or unsafeguarded special nuclear material, and for other purposes.

S. 1179

At the request of Mr. JOHNSTON, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 1179, a bill to stimulate the production of geologic-map information in the United States through the cooperation of Federal, State, and academic participants.

S. 1357

At the request of Mr. BREAUX, the names of the Senator from Mississippi [Mr. COCHRAN], the Senator from Virginia [Mr. WARNER], and the Senator from New Hampshire [Mr. RUDMAN] were added as cosponsors of S. 1357, a bill to amend the Internal Revenue Code of 1986 to permanently extend the treatment of certain qualified small issue bonds.

S. 1379

At the request of Mr. NICKLES, his name was added as a cosponsor of S. 1379, a bill to prohibit the payment of Federal benefits to illegal aliens.

At the request of Mr. EXON, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 1379, supra.

S. 1565

At the request of Mr. GRAHAM, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 1565, a bill to amend the Federal Aviation Act of 1958 to ensure fair treatment of airline employees in connection with route transfers.

S. 1572

At the request of Mr. BREAUX, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 1572, a bill to amend title XVIII of the Social Security Act to eliminate the requirement that extended care services be provided not later than 30 days after a period of hospitalization of not fewer than 3 consecutive days in order to be covered under part A of the Medicare Program, and to expand home health services under such program.

S. 1658

At the request of Mr. NICKLES, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 1658, a bill to require the Secretary of Labor, with respect to contracts covering federally financed and assisted construction, and labor standards provisions applicable to nonconstruction contracts subject to the Contract Work Hours and Safety Standards Act, to ensure that helpers are treated equitably, and for other purposes.

S. 1698

At the request of Mr. SARBANES, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 1698, a bill to establish a National Fallen Firefighters Foundation.

S. 1786

At the request of Mr. SPECTER, his name was added as a cosponsor of S. 1786, a bill to amend the Internal Revenue Code of 1986 to more accurately codify the depreciable life of semiconductor manufacturing equipment.

S. 1842

At the request of Mr. DASCHLE, the name of the Senator from Colorado [Mr. WIRTH] was added as a cosponsor of S. 1842, a bill to amend title XIX of the Social Security Act to provide for Medicaid coverage of all certified nurse practitioners and clinical nurse specialists services.

S. 1860

At the request of Mr. GRASSLEY, the name of the Senator from New Jersey [Mr. BRADLEY] was added as a cosponsor of S. 1860, a bill to amend part A of title IV of the Social Security Act to remove barriers and disincentives in the program of aid to families with dependent children so as to enable recipients of such aid to move toward self-sufficiency through microenterprises.

S. 1866

At the request of Mr. KENNEDY, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 1866, a bill to promote community based economic development and to provide assistance for community development corporations, and for other purposes.

S. 1962

At the request of Mr. ADAMS, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 1962, a bill to amend the Civil Rights Act of 1991 to apply the Act to certain workers, and for other purposes.

S. 1965

At the request of Mr. GORTON, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 1965, a bill to amend the Clean Water Act to provide global environmental protection incentives and enhanced competitiveness of domestic business.

S. 1970

At the request of Mr. DURENBERGER, the names of the Senator from New Jersey [Mr. BRADLEY] and the Senator from North Carolina [Mr. SANFORD] were added as cosponsors of S. 1970, a bill to expedite the naturalization of aliens who served with special guerilla units in Laos.

S. 1998

At the request of Mr. EXON, the names of the Senator from Massachusetts [Mr. KERRY], the Senator from Maryland [Ms. MIKULSKI], and the Senator from Washington [Mr. ADAMS] were added as cosponsors of S. 1998, a bill to adopt the Airline Consumer Protection and Competition Emergency Commission Act of 1991.

S. 2009

At the request of Mr. PACKWOOD, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 2009, a bill to amend the Internal Revenue Code of 1986 to modify certain provisions relating to the treatment of forestry activities.

S. 2103

At the request of Mr. GRASSLEY, the name of the Senator from Colorado [Mr. WIRTH] was added as a cosponsor of S. 2103, a bill to amend title XVIII of the Social Security Act to provide for increased medicare reimbursement for nurse practitioners, clinical nurse specialists, and certified nurse midwives, to increase the delivery of health services in health professional shortage areas, and for other purposes.

S. 2104

At the request of Mr. GRASSLEY, the name of the Senator from Colorado [Mr. WIRTH] was added as a cosponsor of S. 2104, a bill to amend title XVIII of the Social Security Act to provide for increased medicare reimbursement for physical assistance, to increase the delivery of health services in health professional shortage areas, and for other purposes.

S. 2151

At the request of Mr. GRAHAM, the name of the Senator from Georgia [Mr. FOWLER] was added as a cosponsor of S. 2151, a bill to amend the Internal Revenue Code of 1986 to allow a credit for the purchase of a principal residence by a first-time home buyer.

S. 2169

At the request of Mr. LAUTENBERG, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 2169, a bill making supplemental appropriations for programs in the fiscal year that ends September 30, 1992, that will provide near-term improvements in the Nation's transportation infrastructure and long-term benefits to those systems and to the productivity of the United States economy.

S. 2205

At the request of Mr. LEAHY, the names of the Senator from Oregon [Mr. HATFIELD] and the Senator from New Mexico [Mr. BINGAMAN] were added as cosponsors of S. 2205, a bill to amend the Public Health Service Act to provide for the establishment or support by States of registeries regarding cancer, to provide for a study regarding the elevated rate of mortality for breast cancer in certain States, and for other purposes.

S. 2236

At the request of Mr. SIMON, the names of the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Maine [Mr. MITCHELL], and the Senator from Oklahoma [Mr. BOREN] were added as cosponsors of S. 2236, a bill to amend the Voting Rights Act of 1965 to modify and extend the bilingual voting provisions of the act.

S. 2244

At the request of Mr. THURMOND, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 2244, a bill to require the construction of a memorial on Federal land in the District of Columbia or its environs to honor members of the Armed Forces who served in World War II and to commemorate United States participation in that conflict.

S. 2278

At the request of Mr. SHELBY, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 2278, a bill to amend section 801 of the act entitled "An Act to establish a code of law for the District of Columbia," approved March 3, 1901, to require life imprisonment without parole, or death penalty, for first degree murder.

S. 2290

At the request of Mr. WIRTH, the names of the Senator from Pennsylvania [Mr. WOFFORD] and the Senator from Massachusetts [Mr. KERRY] were added as cosponsors of S. 2290, a bill to require public disclosure of examination reports of certain failed depository institutions.

S. 2305

At the request of Mr. THURMOND, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 2305, a bill to control and prevent crime.

S. 2317

At the request of Mr. LOTT, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 2317, a bill to amend the Congressional Budget and Impoundment Control of 1974 to reform the budget process, and for other purposes.

SENATE JOINT RESOLUTION 166

At the request of Mr. DOLE, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of Senate Joint Resolution 166, a joint resolution designating the week of October 6 through 12, 1991, as "National Customer Service Week."

SENATE JOINT RESOLUTION 230

At the request of Mr. REID, the names of the Senator from Florida [Mr. GRAHAM], the Senator from Indiana [Mr. LUGAR], the Senator from Oregon [Mr. PACKWOOD], and the Senator from New Jersey [Mr. BRADLEY] were added as cosponsors of Senate Joint Resolution 230, a joint resolution providing for the issuance of a stamp to commemorate the Women's Army Corps.

SENATE JOINT RESOLUTION 231

At the request of Mr. THURMOND, the names of the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Vermont [Mr. LEAHY], and the Senator from Texas [Mr. BENTSEN] were added as cosponsors of Senate Joint Resolution 231, a joint resolution to designate the month of May 1992, as "National Foster Care Month."

SENATE JOINT RESOLUTION 248

At the request of Mr. CONRAD, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of Senate Joint Resolution 248, a joint resolution designating August 7, 1992, as "Battle of Guadalcanal Remembrance Day."

SENATE JOINT RESOLUTION 250

At the request of Mr. GRAHAM, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of Senate Joint Resolution 250, a joint resolution to designate February 1992 as "National Grapefruit Month."

SENATE JOINT RESOLUTION 257

At the request of Mr. LAUTENBERG, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of Senate Joint Resolution 257, a joint resolution to designate the month of June 1992, as "National Scleroderma Awareness Month."

SENATE JOINT RESOLUTION 263

At the request of Mr. SARBANES, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of Senate Joint Resolution 263, a joint resolution to designate May 4, 1992, through May 10, 1992, as "Public Service Recognition Week."

SENATE CONCURRENT RESOLUTION 70

At the request of Mr. SANFORD, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of Senate Concurrent Resolution 70, a concurrent resolution to express the sense of the Congress with respect to the support of the United States for the protection of the African elephant.

SENATE CONCURRENT RESOLUTION 80

At the request of Mr. SIMON, the names of the Senator from Illinois [Mr. DIXON], the Senator from Washington [Mr. ADAMS], the Senator from Rhode Island [Mr. PELL], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Maine [Mr. MITCHELL], and the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors of Senate Concurrent Resolution 80, a concurrent resolution concerning democratic changes in Zaire.

SENATE CONCURRENT RESOLUTION 89

At the request of Mr. KERRY, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of Senate Concurrent Resolution 89, a concurrent resolution to express the sense of the Congress concerning the United Nations Conference on Environment and Development.

SENATE RESOLUTION 246

At the request of Mr. DOLE, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of Senate Resolution 246, a resolution on the recognition of Croatia and Slovenia.

SENATE RESOLUTION 249

At the request of Mr. D'AMATO, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of Senate Resolution 249, a resolution expressing the sense of the Senate that the United States should seek a final and conclusive account of the whereabouts and definitive fate of Raoul Wallenberg.

SENATE RESOLUTION 258

At the request of Mr. SIMON, the names of the Senator from Massachusetts [Mr. KENNEDY], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Virginia [Mr. ROBB], and the Senator from North Carolina [Mr. SANFORD] were added as cosponsors of Senate Resolution 258, a resolution expressing the sense of the Senate regarding needed action to address the continuing state of war and chaos and the emergency humanitarian situation in Somalia.

SENATE RESOLUTION 264—RELATING TO PLANTING TREES IN AMERICAN COMMUNITIES

Mr. SIMON (for himself, Mr. AKAKA, Mr. BUMPERS, Mr. D'AMATO, Mr. DASCHLE, Mr. GRASSLEY, Mr. SANFORD, Mr. SHELBY, and Mr. WOFFORD) submitted the following resolution; which was referred to the Committee on Environment and Public Works:

S. RES. 264

Whereas trees use carbon dioxide in the atmosphere to produce oxygen, which people need in order to live;

Whereas by acting as both shade and windbreaks, trees can save energy;

Whereas trees and forests filter air pollution, provide wildlife habitat, protect watershed areas, prevent soil erosion, and reduce noise pollution;

Whereas tree planting projects contribute to an enhanced sense of community, better understanding among neighbors, and a greater degree of control over the structure of a neighborhood;

Whereas trees provide recreational benefits;

Whereas trees provide beauty and diversity to both rural and urban settings;

Whereas disease and pollution kill millions of city trees each year; and

Whereas there are presently at least 100 million sites available around homes and in towns and cities in the United States where tree planting would improve energy efficiency: Now, therefore, be it

Resolved, That it is the sense of the Senate that people in the United States should plant more trees in their communities.

SENATE RESOLUTION 265—RELATING TO THE YEAR OF THE TREE

Mr. SIMON (for himself, Mr. AKAKA, Mr. BUMPERS, Mr. D'AMATO, Mr. DASCHLE, Mr. GRASSLEY, Mr. SANFORD, Mr. SHELBY, and Mr. WOFFORD) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 265

Whereas planting trees is one of the best and easiest ways to help reduce global warming and other environmental problems;

Whereas trees use carbon dioxide in the atmosphere to produce oxygen, which people need in order to live;

Whereas by acting as both shade and windbreaks, trees can save energy;

Whereas trees and forests filter air pollution, provide wildlife habitat, protect watershed areas, prevent soil erosion, and reduce noise pollution;

Whereas tree planting projects contribute to an enhanced sense of community, better understanding among neighbors, and a greater degree of control over the structure of a neighborhood;

Whereas trees provide recreational benefits;

Whereas trees provide beauty to both rural and urban settings; and

Whereas expanding the numbers of healthy trees and forests and restoring natural ecosytems produce environmental and economic benefits that continue for decades: Now, therefore, be it

Resolved, That it is the sense of the Senate that the United Nations should designate 1993 as the "Year of the Tree" in order to encourage the citizens of the world to plant trees.

• Mr. SIMON. Mr. President, it is my pleasure today to introduce, along with my colleagues Senators GRASSLEY, SANFORD, WOFFORD, AKAKA, and DASCHLE, two sense of the Senate resolutions. One is to encourage Americans to plant more trees in their communities. The second is to encourage the United Nations to designate 1993 as the "Year of the Tree," in order to inspire people around the world to plant trees. Our message: Individual action can make a difference.

My family and I have a very special tradition we keep on general election and primary election days. We get together at our home in Makanda, IL, and plant a tree. This event is an opportunity for our family to make a lasting contribution to a better world.

All across the Nation, Americans are learning about environmental problems and solutions that can be achieved through individual action. People at my town meetings tell me they want to find out more about what they can do, as families, classrooms, and individuals, to make a difference. This is very encouraging.

Planting trees is one of the best and easiest ways to have an impact on improving our environment. By using carbon dioxide in the atmosphere to produce oxygen, trees help reduce global warming. Trees help save energy by acting as shade in the summer and windbreaks in the winter. They filter air pollution, provide wildlife habitat, protect watershed areas, prevent soil erosion, and reduce noise.

Many communities and neighborhoods have tree planting projects. These projects contribute to an enhanced sense of community and a better understanding among neighbors. Trees are essential elements of a community. If we are really going to clean up our environment, more and more people have to work at it, both in our country and around the world.

I would also like to point out that the American Forestry Association recommends the following steps when planting a tree.

First, locate a clear, open site for your tree, with generous rooting area and good drainage.

Second, loosen and blend the soil in the entire planting area 6-10 inches deep. In the center, dig a hole at least as wide, but only as deep as the root ball.

Third, remove tree from burlap or container and place on solidly packed soil so that the root collar—where the tree's main stem meets the roots—is slightly above the surrounding grade.

Fourth, backfill hole and lightly pack the soil into place around the tree.

Fifth, spread a 2- to 3-inch layer of mulch in the entire area, keeping a 6- to 8-inch distance from the tree trunk.

Sixth, stake tree so that it can flex in the wind. Attach stake to tree using discarded rubber innertubes. Remove them after 6 months.

Seventh, water thoroughly, but do not flood the hole. Water twice a week during dry periods.

I hope more people, including lawmakers, will take a more active interest in planting trees. I urge my colleagues to support these resolutions.•

SENATE RESOLUTION 266—RELATING TO THE ARMS CARGO OF THE NORTH KOREAN MERCHANT SHIP "DAE HUNG HO"

Mr. MCCAIN (for himself, Mr. D'AMATO, Mr. KERRY, Mr. DECONCINI, Mr. DIXON, Mr. SHELBY, Mr. SMITH, Mr. THURMOND, Mr. LEVIN, Mr. WARNER, Mr. SIMON, Mr. GLENN, Mr. GRAHAM, Mr. BRYAN, Mr. HATCH, Mr. KOHL, Mr. HELMS, Mr. BOND, Mr. AKAKA, and Mr. GRASSLEY) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 266

Whereas Israel is the leading democracy in the Middle East, is America's closest strategic ally in the region, and is a principal participant in the Middle East Peace Conference;

Whereas Israel's security is a major concern to the Senate as it seeks to influence the debate on United States foreign policy in the Middle East;

Whereas in the post-Cold War era, the central element in United States relations with other countries must be an effort to stem the sale of advanced weapons technology to aggressor nations;

Whereas without secure borders for Israel, peace in the Middle East is impossible, and Israel's borders are not secure in an era of weapons proliferation;

Whereas Syria is on the Secretary of State's list of countries that sponsor terrorism;

Whereas the regime of Hafez Al Assad is undemocratic and brutal and has continued to support elements of the Palestinian community most opposed to Secretary Baker's current peace initiative;

Whereas Syria ordered $5.6 billion of new arms between 1987 and 1990 and received delivery of $14.5 billion during the same period;

Whereas Syria has purchased North Korean missiles, components, and arms-related technology since the end of the Persian Gulf War; and

Whereas the North Korean merchant ship Dae Hung Ho is about to deliver $100,000,000 worth of SCUD-C missiles and missile-related technology to Syria: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the President, the member countries of the Missile Technology Control Regime (MTCR), the participants of the Middle East Peace Conference, and the international community in general should use the international sanction of condemnation to prevent the delivery of SCUD missiles and missile-related technology to Syria by the North Korean merchant ship Dae Hung Ho; and

(2) out of respect for Israel's security, Syria should demonstrate its desire for peace and acceptance of Israel's right to exist by terminating its agreement with North Korea for delivery of the cargo of Dae Hung Ho.

SEC. 2. For purposes of this resolution, the term "Missile Technology Control Regime" or "MTCR" means the policy statement among the United States, the United Kingdom, the Federal Republic of Germany, France, Italy, Canada, and Japan, announced on April 16, 1987, to restrict sensitive missile-relevant transfers.

SEC. 3. The Secretary of the Senate shall transmit a copy of this resolution to the President.

Mr. MCCAIN. Mr. President, I rise today to focus the Senate's attention on the voyage of the *Dae Hung Ho*, a North Korean merchant ship carrying arms to the Middle East.

The resolution that I have submitted for referral resolves:

That it is the sense of the Senate that—

(1) the President, the member countries of the Missile Technology Control Regime (MTCR), the participants of the Middle East Peace Conference, and the international community in general should use the international sanction of condemnation to prevent the delivery of SCUD missiles and missile-related technology to Syria by the North Korean merchant ship Dae Hung Ho; and

(2) out of respect for Israel's security, Syria should demonstrate its desire for peace and acceptance of Israel's right to exist by terminating its agreement with North Korea for delivery of the cargo of Dae Hung Ho.

In early February, the *Dae Hung Ho* left North Korea for Syria carrying $100 million worth of Scud C missiles and related equipment. The new Scud C missiles, which have a range of 360 miles, supplement a similar shipment last year of 20 Scud C's, and like the earlier shipment, will enhance Syria's ability to strike anywhere in Israel from a position deep inside its own borders.

A great deal has been said since the start of Secretary Baker's Middle East peace initiative on October 30 about confidence building measures. It has frequently been alleged by the press and others that the Israelis have been reluctant to reassure their neighbors of their peaceful intentions. On the other hand, the failure of Hafez al-Assad to reassure Israel of his intentions have been virtually ignored.

How do Syrian arms purchases since the end of the gulf war instill confidence in the peace process? How does the voyage of the *Dae Hung Ho* instill confidence in the peace process?

Where is the international outrage as this North Korean ship steams toward the Middle East with its lethal cargo?

In June of 1991, 20 Korean built Scud C missiles were delivered to Syria. In August of 1991, Syria ordered an additional 54 Scud C missiles and a brigade of missile launchers valued between $200 and $400 million. This is where we stood at the start of the Madrid Conference. Now it appears that the North Koreans are following up on their part of the latest destabilizing bargain with Syria.

The people of Israel are very familiar with scud missiles. We all remember scenes of Israelis huddled together in their basements wearing gas masks. We all remember the images of Israeli school girls with their lunchpails in one hand and their gas masks in the other.

The events of the gulf war revealed a vulnerability that an entire generation of Israelis had never experienced. The destruction caused by Saddam Hussein reminded older generations of days of even greater vulnerability.

By not condemning the delivery of scud missiles to Syria, we are asking the Israelis to live with that vulnerability. At the same time we are asking, that despite their vulnerability, they become involved in the give and take of negotiations with their neighbors.

Our inaction on this matter and the lack of international pressure on Syria defy logic and defy humanity. Our silence on the course of the *Dae Hung Ho* is inconsistent with the demands being placed on the Israelis in connection with the peace conference and shows contempt for the needs of the Israeli people. Peace is impossible in the Middle East without sovereign and secure borders. Sovereign and secure borders are impossible in an era of proliferation.

With this in mind, this resolution, as I mentioned, calls the President of the United States, the signatories of the missile technology control regime, the participants in the Middle East Peace Conference and the international community in general to publicly condemn this delivery of scud C missiles and related technology to Syria.

I am further asking that the United States Senate express its insistence that Syria demonstrate its desire for peace and acceptance of Israel's right to exist by refusing delivery of the missiles. I am simply asking for a confidence-building measure to reinforce the peace process.

I for one am not convinced of Syria's desire for peace. I was not convinced by Farouk Chara's tirade in Madrid. I was not convinced by Syria's invasion of Lebanon and the curious security arrangement by which Syrian dominance is established in Lebanon, but Shi'ite terrorists are still permitted to operate against Israel. I certainly have not been convinced by Hafez Assad's historic rejection of peace with Israel and his support of terrorist organizations vehemently opposed to the current process.

One such terrorist, George Habash, is convalescing at his home in Damascus following his highly publicized and justified expulsion from Paris. This gives me no comfort at all. I am not convinced.

However, I am convinced that proliferation is incompatible with peace in the Middle East and with the security of Israel. I am also convinced that we can confront the problem of proliferation successfully only if we make it the central element of our relations with other nations.

The merchants of death, such as North Korea, must be stopped. The arms sales of North Korea threaten to destabilize the Middle East and threaten to derail the first real opportunity for peace since Camp David. The North Korean authorities are the last of a dying breed. They are contemptuous of the freedom of man and are contemptuous of international stability. In fact, they thrive on oppression and instability and terror.

Their buyers must be stopped as well. Continuing to arm for war against Israel is not a legitimate way for Syria to address its grievances with Israel. The Israeli Government has a right to be alarmed. The Israeli people have a right to be skeptical of the peace process if it masks the intentions of Syria and sweeps massive arms purchases under the rug.

How can we ask anyone in this country and in the international community to take our efforts to stem proliferation and established peace in the Middle East seriously, if we remain silent on the course and cargo of one ship, the *Dae Hung Ho?*

Mr. President, given the urgency of the situation, I am hopeful that we can act on this resolution, and I would ask unanimous consent that the resolution be referred to the appropriate committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOTICE OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for my colleagues and the public that an oversight hearing has been scheduled before the Committee on Energy and Natural Resources.

The purpose of the oversight hearing is to receive testimony on the status of implementation of the Department of Energy's Civilian Nuclear Waste Program mandated by the Nuclear Waste Policy Act of 1982 and its 1987 amendments.

The hearing will take place on Tuesday, March 31, at 9:30 a.m. in room SD-366 of the Dirksen Senate Office Building, First and C Streets NE., Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the printed hearing record should send their comments to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. Attention: Mary Louise Wagner.

For further information, please contact Mary Louise Wagner of the committee staff at (202) 224-7569.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON ENVIRONMENTAL PROTECTION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Environmental Protection, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Thursday, March 5, beginning at 9:30 a.m., to conduct a hearing on a new recycling proposal for the Resource Conservation and Recovery Act reauthorization.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CHILDREN, FAMILY, DRUGS AND ALCOHOLISM

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Children, Family, Drugs and Alcoholism of the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Thursday, March 5, 1992, at 9:30 a.m., for a hearing on "Solutions for the New Economy: Jobs and Families."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Thursday, March 5, 1992, at 9:30 a.m., in open session, to receive testimony from the unified commands on their regional military strategy and operational requirements, and the amended Defense authorization request for fiscal year 1993 and the future year defense plan.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, March 5, at 10 a.m. to hold a hearing on "Strategic Nuclear Reductions in a Post-Cold War World."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, March 5, 1992, at 10 a.m. to conduct a hearing on the "Resolution Trust Corporation Operations and Its Affordable Housing Program."

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FEDERAL SERVICES, POST OFFICE, AND CIVIL SERVICE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Federal Services, Post Office, and Civil Service, Committee on

Governmental Affairs, be authorized to meet during the session of the Senate on Thursday, March 5, 1992, on S. 316, Garnishment Equalization Act of 1991.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS, AND FORESTS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks, and Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, March 5, 1992, at 2 p.m., to receive testimony on S. 1755, a bill to reform the concessions policies of the National Park Service, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

DESALINATION

• Mr. SIMON. Mr. President, Last summer, the Environment and Public Works Committee held a hearing on my bill, S. 481, the Water Research Act. The purpose of this legislation is to once again recommit the Federal Government to supporting research and development efforts with the ultimate aim of developing low-cost, affordable desalting technology.

Many times I have laid out the arguments as to why I believe this is a wise and valuable use of Government funds. An article from Engineering Times entitled, "Drought Whets Appetite for More Desalination," clearly demonstrates I am not alone in this belief. I urge my colleagues to read the article and think of all the benefits to be gained by having this technology be made more widely available.

I ask the attached article be entered into the RECORD.

The article follows:

[From Engineering Times, September 1991]

DROUGHT WHETS APPETITE FOR MORE DESALINATION

The continuing drought in the west and the search for new water in some eastern communities has Congress eyeing a renewed role for the federal government in desalination research. Legislation introduced in the House and Senate would increase funds for research and establish demonstration programs.

Federally sponsored programs in the 1950s helped lead to the newer desalination technique of reverse osmosis and to advances in distillation, an older technology. Except for participation in some scattered demonstration projects, federal support for desalination research was discontinued in 1982. "Since then, only incremental refinements have been made to the existing technology," says Rep. Rick Boucher (D-Va.), chairman of the House Subcommittee on Science.

The process of purifying salty or brackish water remains expensive. Desalting seawater generally costs $4 to $6 per 1000 gallons, while purifying brackish water can cost $1.50 to $2.50. Worldwide, the two principal desalination techniques used are multistage flash distillation (65%) and reverse osmosis (25%). Ion exchange, freezing, and electrodialysis are other methods.

IMPROVEMENTS

According to water experts, reverse osmosis could be improved with advances in membrane technology, among other things. Multistage filtration requires research and development to improve heat transfer, and upgrade the chemicals and corrosion-resistant materials involved.

A bill introduced by Sen. Paul Simon (D-Ill.) would authorize $90 million for three years of research and unspecified funds for an additional two years thereafter. It would direct the Interior Department to oversee a basic research program aimed at lowering the costs of desalination.

After three years, the Interior Department would recommend which technologies should be demonstrated. A similar bill has been introduced in the House.

In testimony before the science subcommittee, Wayne Marchant, chief of research and laboratory services at the Bureau of Reclamation, said that while the Administration supports the intent of the legislation, it was concerned with the amount and pace of funding. "It is important not to create the impression that generous funding guarantees rapid progress," said Marchant. He recommended that demonstration projects move forward at the discretion of the Secretary of the Interior.

In addition, Marchant said federal participation should be considered only when the marketplace is unable or unwilling to advance technology into commercial use. He proposed the federal government's role be one of guidance direction, and prevention of duplicate efforts.

A number of thirsty communities in California have undertaken desalination projects, including Santa Barbara and Santa Catalina Island. Santa Barbara recently approved construction of a $25-million plant that may provide 2.4 billion gallons of water per year.

In the international arena, the potential for regional conflicts stemming from water shortages points to a need for advances in desalination technology, say water experts. The Middle East has almost 60% of the world's desalination capacity.•

INTERNATIONAL PEN PALS

• Mr. WARNER. Mr. President, I would like to call the attention of my Senate colleagues to the fine work being done by the Loudoun Country Day School of Leesburg, VA, in support of International Pen Pals.

These young people are interested in corresponding with their peers around the world, and in encouraging all young Americans to become involved in this worthwhile endeavor.

In these times of remarkable change in Eastern Europe, the former Soviet Union and elsewhere, who among us does not believe in the critical importance of communication among the world's peoples?

Who doubts that when we fail to communicate, we risk dire consequences—particularly those of us who have lived through the rise of the nuclear age, and four decades of the cold war?

And who would question that, although that long superpower rivalry may have ended, the need to understand and tolerate other cultures is, if anything, greater today?

The fine art of letter-writing—like language itself—is best learned at a young age, and I commend these Loudoun Country Day School students for their interest in it.

While modern communications technology is, perhaps, a blessing, it is best for us all to practice those skills required to express ourselves by letter. This is not simply a matter of sentimentality or nostalgia among the older generation.

The telephone is fast, easy, efficient—but fleeting.

A letter, on the other hand, is deeply personal and lasting. It is an ideal means of building a bridge of understanding among people—even between individuals who have never met.

I am reminded of a phrase used by President Woodrow Wilson in Paris after World War I had ended.

Wilson said:

> I have felt that quick comradeship of letters which is a very real comradeship, because it is a comradeship of thought and of principle.

Wilson was speaking of his written correspondence with Frenchmen whom, until that time, he had never met.

Today, more than 70 years later, I think Wilson's phrase—"quick comradeship"—still aptly describes the special relationship that a program such as International Pen Pals seeks to encourage.

As Wilson knew, a letter is a special and a powerful instrument that can leap geographical barriers, overcome political boundaries, and even mend damaged friendships.

Presidents Thomas Jefferson and John Adams worked hard together to win independence for this country, but partisan differences later came between them.

They remained estranged for years.

Finally, after both men had retired—Adams to Quincy, MA, and Jefferson to Monticello—they began to write letters to one another.

They covered every subject you can imagine: Gardening, horseback riding, even sneezing as a cure for hiccups. But they also touched on important, substantive issues—as President Reagan once described it, "the last thoughts, the final hopes of two old men, two great patriarchs, for the country that they had helped to found and loved so deeply."

> It carries me back,

Jefferson said of this correspondence with his friend,

> to the times when, beset with difficulties and dangers, we were fellow laborers in the same cause, struggling for what is most valuable to man: his right to self-government.

Mr. President, International Pen Pals is a valuable and worthwhile experiment, and I wish these students from Virginia well.•

A CITIZEN OF NEW JERSEY CALLS FOR U.S.-EC COOPERATION

• Mr. BRADLEY. Mr. President. I was pleased to see a recent article by Mr. Ben Palumbo in Roll Call, our own local paper on Capitol Hill. Ben is a familiar face to most veterans of the congressional process, but he is especially well-known to those of us who represent New Jersey.

He has had a strong personal, professional, and political relationship with our State throughout his life. In addition, Mr. Palumbo has been active in the international sphere advising the delegation of the European Community in Washington on trade issues, and counseling the California Foundation on the Environment and the Economy which sponsors conferences between United States business, political and union leaders and their counterparts in the European Community.

I think this article presents some provocative views that deserve serious consideration by U.S. trade policy negotiators.

Mr. President, I ask that the text of Mr. Ben Palumbo's article appear at this point in the RECORD.

The article follows:

[From the Roll Call]

AFTER MAASTRICHT: EUROPE'S GREATER OPPORTUNITY FOR UNITED STATES

(By Benjamin L. Palumbo)

What was the meaning of the summit that the 12 nations of the European Community held in Maastricht in the Netherlands in December 1991?

The waning of nationalism? The end of ideology? Acceptance of a new international economic reality? Victory for the farsighted statesmen, from both sides of the Atlantic, who believed in a united Europe even as it lay devastated, depleted, dependent?

Symbolically, it was all of the above. And more. Imagine that the Franco-Prussian War of 1870 began a political "Ice Age" in Europe.

That it unleashed glaciers which expanded inexorably, accelerated by the two World Wars, until they blanketed Europe, leaving the continent prostrate, its politics frozen into a left-right ice mold.

But then imagine the first hint of a thaw: a tiny drop of water created by the warmth of the U.S. Marshall Plan. The drop turned into a rivulet with the formation of the European Coal and Steel Community in 1951, and by the time of the signing of the Treaty of Rome in 1957 creating the European Economic Community, the glaciers began their long retreat.

Today the Ice Age is over, and throughout Europe a new political spring is evident as the success of the Maastricht summit and the near-completion of the economic integration plan targeted for later this year attest.

Unfolding before us is one of the greatest events of our time, perhaps eclipsing the collapse of communism.

We Americans seem unable to grasp fully what has happened. Perhaps this is because it does not have the dramatic impact of the fall of the Berlin Wall, and we tend to suffer from a certain impatience with things that take time.

Also, we are still mostly an untraveled lot. Too many of our citizens haven't seen the rebirth of Europe; nor have America's media give adequate coverage to this phenomenon. To the extent we have thought at all about international relations, we have for too long been focused on the Cold War, the Middle East, and, lately, our trade problems with Japan. In fact, we seem today to be mesmerized by the Japanese challenge.

But the rise of a united Europe is an event of far greater importance to the United States than the frictions evident in our relationship with Japan.

The aggregate numbers are striking. In 1991, the flow of visitors between the U.S. and the EC was 14.1 million; between the U.S. and Japan, 4.3 million. Two-way investment between the U.S. and the EC totaled $417.9 billion; between the U.S. and Japan, $104.5 billion. Two-way trade between the U.S. and the EC was $190 billion; between the U.S. and Japan, $132 billion.

Very few Americans know we have a trade surplus with Europe, while everyone knows we have a deficit with the Japanese.

The figures cited above do not include those for the United States and the six member countries of the European Free Trade Area (EFTA): Austria, Finland, Iceland, Norway, Sweden, and Switzerland. As EFTA is on the verge of joining the single market of the EC, the imbalance is even greater. Without EFTA, the EC is big enough—340 million well-educated, highly skilled, healthy, productive people. With EFTA, we will be looking at a free market of almost 400 million people with whom our relationship has been longer, deeper, and closer than with any other part of the world; with whom our economic and trade relations have been easier; and from whom we have absorbed much of what we are in law, language, culture, and economics.

It is not Japan bashing to recall both these numbers and the depth of our European relationships. Rather, it is a summons to reality. The point is that the opportunities and the challenges for the US are greater with Europe than with Japan. And dealing with Japan's far more closed economy and anti-competitive economic arrangements may be accomplished more easily by cooperation between the US and the EC than by uncoordinated retaliatory measures.

For example, anti-trust has been rooted in our history for almost a century. The EC is now vigorously applying what it calls "competition policy" against excessive market concentrations. Our mutual interests, our deep interdependence, our shared understandings should allow us to negotiate an agreement on rules of competition for all to play by, as indeed the EC has already proposed.

Should the Japanese wish to participate, well and good. But should we agree and they opt out, the consequences would be serious. A binding agreement between the US and the EC resting on a vigorous antitrust policy would, by definition, be the rules for the richest market in the world—650 million consumers. Thus, the US/EC rules would be everyone's rules; those who ignored them would do so at great cost.

The significance of the Maastricht summit is that the ability of the EC to act and negotiate as a unit has taken a quantum leap. This is not to say that a monolith has been created. Its political and economic leaders will no more march in lock-step than do our own. But just as the effect of our Constitution was to strengthen the central government by diminishing, but not eliminating, the power states held under the old Articles of Confederation, the effect of Maastricht is similar.

The 1957 Treaty of Rome was the product of far-sighted politicians who ached to end the European cycles of war and destruction, and who pulled their business leaders along. But the single European act of 1986 which strengthened the institutions of the EC, and the establishment of the goal of a truly integrated economy by 1992, were examples of Europe's business leadership reacting to the threat of international competition and pushing their political leaders along.

What is important to us is that the competition about which they are most concerned is not American but Japanese; not because the American competition is weak, but because Europeans and Americans have a more common understanding about the rules of competition and how economic activity should take place.

The Maastricht summit reflects an enormous determination to achieve European unity. It sets goals for monetary union, and a single currency. It establishes a framework for a common foreign policy and ultimately a common defense policy. And it does all this while carefully preserving the rights of the EC's member-states through requirements for a weighed majority or unanimity on important decisions.

The skeptics have been confounded. Now the oblivious must awaken to this new European reality and seek a partnership in which we together face the world's problems.

BANK AND THRIFT DISCLOSURE ACT OF 1992

• Mr. PRYOR. Mr. President, I am proud to be an original cosponsor to the Bank and Thrift Disclosure Act of 1992 because I believe it will provide the sunshine that will help disinfect the rotten savings and loan mess which our country now faces. It is estimated that taxpayers will eventually have to spend $200 billion to clean up the S&L mess. This is an enormous amount, by anyone's standards.

This bill will require public disclosure of the regulators' examination reports on savings and loans that later failed and were sold in the 1988 deals. Also, it will prohibit the FDIC from secretly settling lawsuits arising from the failure of those institutions.

Making the examination reports of failed institutions public will provide valuable information which could help us learn how to prevent future failures. Moreover, the provisions will give regulators greater incentive to promptly correct problems they find at institutions, since the public will be able to hold them accountable for failures that could have been prevented.

By throwing open the windows and letting in the light, we can expose the S&L board members and officers who were allowed to recklessly toss money into the hands of their rich, greedy friends. Money insured by taxpayers was used to finance high risk deals. Once 1980's high times hit hard times these deals went bad and the U.S. Government was called in to bail them out. We can also expose the regulators who ignored tell-tale signs of shady deals and imminent failure.

The Government has sued some of the people responsible for this mess. However, all too often these lawsuits end in secret settlements for far less money than was specified in the original suit. Neither the regulator's reports nor the information surrounding the settlement is available to the public at this time. The "Bank and Thrift Disclosure Act of 1992" will remedy that situation.

Settlements can be in the best interest of the taxpayers in some cases, but as long as they are footing the bill for the cleanup, taxpayers have a right to know the details of these settlements.

American taxpayers deserve respect, that is why I have introduced the "Taxpayers Bill of Rights 2" and why I fully support disclosure of S&L examination reports. We have already passed along a great debt to our children and grandchildren. It is time we took this small but important step to bring everything into the light of day, to prevent future failtures, and to stop escalating cleanup costs.•

A POLITICAL HISTORY OF THE CIVIL WAR IN ANGOLA, 1974–1990

• Mr. PRYOR. Mr. President, recently William Martin James III, an associate professor of political science at Henderson State University in Arkadelphia, AR, announced publication of his book, "A Political History of the Civil War in Angola, 1974–1990."

This book, published by the Institute for Soviet and East European Studies at the University of Miami, focuses on the political history of Angola and the possibilities that the country can become an economic power because of its large land area and resources and small population.

Martin James holds bachelor of arts and master of arts degrees in political science from the University of Arkansas and a doctorate degree from the Catholic University here in Washington.

It has been my good fortune to know Martin James and his wife, Susie, who works in my Little Rock office, and their family for a number of years. Martin is an aggressive college professor who daily strives to instill in his students a zest for learning.

I commend Martin James first—of what I am certain will be many—book to my colleagues, to foreign policy analysts, African area specialists, and to scholars of postcolonial history.•

REFERENDUM IN BOSNIA-HERCEGOVINA

• Mr. DECONCINI. Mr. President, last weekend the Government of the Yugoslav Republic of Bosnia-Hercegovina organized a referendum in order to put to the people of that Republic the question of where their future lies—in a new Yugoslav State or as an independent and sovereign Republic.

Following a meeting I had in Washington in February with the President of Bosnia-Hercegovina, Alija Izetbegovic, Representative STENY HOYER and I—as cochairs of the Helsinki Commission—decided to accept an invitation from the Government of that Republic to send members of the Commission staff to observe the referendum. David Evans, senior adviser to the Commission, and Bob Hand, the staff member responsible for Yugoslav affairs, spent a total of about 5 days in Bosnia-Hercegovina, examining the overall political and economic situation in that Republic in addition to observing the referendum itself.

Unfortunately, during the last day of their visit, the capital of Bosnia-Hercegovina, Sarajevo, was surrounded by barricades set up by militant Serbian groups who are opposed to any separation of the Republic from the Republic of Serbia, regardless of the will of the people. These groups boycotted the referendum, and, when realizing that the results of the referendum would state clear support for independence, they decided to resort to threats and perhaps even the use of force to pressure the Government of Bosnia-Hercegovina to nullify the results.

In light of this situation, the Commission staff and other foreign observers were unable to give any preliminary report on their findings before leaving Sarajevo. Indeed, their last day in that city was spent trying to learn how they were going to be able to depart safely in light of the barricades and widespread shooting, which led to a number of deaths.

The two Commission observers nevertheless had prepared a statement for that day, March 2, written before the barricades went up. I would like to insert this statement into the RECORD, because it explains what they did, where they went, whom they met, and what they saw. Their basic conclusion is that the referendum was a legitimate expression of the will of the majority of the people of that Republic.

In the very near future, the Commission will release a full report on the referendum, how it was conducted, and its results. In the meantime, I thought it important to share these initial conclusions with my colleagues, because, while most of the barricades have been removed, tensions are still high in Bosnia-Hercegovina, and full-scale violence could erupt at any time.

The population of Bosnia-Hercegovina is extremely diverse—is has been called a Yugoslavia within Yugoslavia—and the Republic will have to find a consensus among its people on how it will now proceed. But it is important for us to realize that, no matter how one views the conflict in Yugoslavia, Bosnia-Hercegovina has in no way been its source. Instead, that Republic has been trying to deal with the realities of Yugoslavia's breakup in order to keep from becoming the conflict's bloodiest victim. The leaders of Bosnia-Hercegovina, I believe, are seeking to maintain the peace, and to establish a democratic political system in which all peoples, regardless of nationality, can live together.

Times will likely continue to be difficult for Bosnia-Hercegovina, which has no history has an independent state. It therefore deserves our full support. I can think of no better way to express this support than to respond positively to the results of the referendum and recognize the independence of Bosnia-Hercegovina. Those countries that have recognized Slovenia and Croatia should recognize Bosnia-Hercegovina as well as Macedonia, and the United States should follow suit. We should also encourage as best we can the further democratic development of that Republic, which will be essential if the main nationalities there—Moslems, Serbs, and Croats—are to find real peace with each other.

STATEMENT BY THE U.S. HELSINKI COMMISSION OBSERVERS OF THE REFERENDUM IN BOSNIA-HERCEGOVINA

SARAJEVO, March 2, 1992.—At the conclusion of their five-day visit to Bosnia-Hercegovina to observe that republic's referendum on independence, David Evans and Robert Hand, members of the staff of the U.S. Commission on Security and Cooperation in Europe (Helsinki Commission), made the following statement:

"We came to observe the referendum in Bosnia-Hercegovina at the direction of Representative STENY HOYER and Senator DENNIS DECONCINI, Co-Chairs of the Helsinki Commission, who have been deeply concerned that the senseless conflict which has tragically torn Yugoslavia apart might spread to this diverse and centrally located republic. Reports of tensions between ethnic groups in some regions of the republics, as well as of possible outside agitation of these tensions by neighboring republics, added greatly to this concern.

"Our presence here, therefore, intended to do two things: to help ensure through international observation that the referendum was conducted smoothly, freely, and openly; and to demonstrate the strong interest of the Helsinki Commission in seeing the future of Bosnia-Hercegovina beyond the referendum determined in a peaceful and democratic way. This, the Commission believes, can best be done by respecting the principles of the Helsinki Final Act, especially those relating to respect for obligations under international law; the inviolability of frontiers; non-use of force; respect for human rights and freedoms; and the equal rights and self-determination of peoples. These principles should be fully applied by the Yugoslav republics in their relations with each other, just as they are in relations between CSCE states.

"During the course of our visit, we met with political leaders at the republic and local levels who represent, combined, the interests of all three main national groups residing in Bosnia-Hercegovina. Among these were several members of the collective presidency of the republic, the mayors of Banja Luka and Mostar and representatives of various political parties. We also held talks with members of the Office for Foreign Observers of the republic's Referendum Commission, as well as with observers from the European Community and other concerned countries. We also spoke with several private individuals, such as journalists and shopkeepers, asking them their views on the referendum and the future of Bosnia-Hercegovina. On the days of the referendum, we visited many polling stations in and around Sarajevo, Banja Luka, and Mostar, and in several towns and villages in between.

"It is, of course, much too early to draw final conclusions on this referendum and the manner in which it was conducted. We have been seeking the observations of others to add to our own, and the Commission will issue a report on our findings in Washington in the near future.

"We can, however, factually state some of the things we saw or heard while observing the referendum. Generally, the media in Bosnia-Hercegovina seems to be relatively free and open, allowing various views in the referendum to be expressed. We also felt that the referendum was properly organized and carried out by the authorities, allowing the public a free choice. We did note, however, that these conditions varied somewhat from one region of the republic to another.

"We were concerned about the impact of the call of the Serbian Democratic Party to boycott the referendum, and the refusal of some officials to cooperate in preparing for and administering the referendum. These actions may have intimidated eligible voters, especially ethnic Serbs, who may otherwise have participated in the referendum, and made it more difficult for many others who did intend to participate. Among the regions where we observed the referendum, these actions seemed to have had a particularly negative impact in and around Banja Luka. While we could not agree with the reasons for such actions, we appreciated the willingness of those supporting them to explain them to us, and we also noted their calls on their followers not to disrupt the referendum.

"Unfortunately, the period leading up to and including the days of the referendum was held was marred by violence, which included bombing and shootings, the widescale tearing down of posters and other intimidating public activities, which impacted negatively on the referendum. Despite these obstacles, the final result of the referendum, based on our own observations, should be considered a legitimate reflection of the will of the majority of the people of this republic.

"With the referendum now over, we hope the international community and the other Yugoslav republics will acknowledge the results and respond to them positively and in accordance with the Helsinki Principles. Recognizing that significant differences still remain within Bosnia-Hercegovina, we hope that all sides will seek solutions through constructive dialogue and democratic processes—not through confrontation and violence. We do believe that these differences can be overcome if there is, on all sides, the desire and determination to do so.

"Finally we would like to thank the Office for Foreign Observers for facilitating our visit, and Portuguese Ambassador Moriera de Andrade, who coordinated the work of the various observer delegations in a way that maximized their effectiveness. And we want to thank all the people of Bosnia-Hercegovina whom we met, who made our stay so enjoyable and informative. We wish all the people of this republic a peaceful, democratic and prosperous future. Thank you."•

THE 50TH WEDDING ANNIVERSARY OF DORIS AND PHIL BECHTEL

• Mr. D'AMATO. Mr. President, I rise today to congratulate Doris and Phil Bechtel on the occasion of their 50th wedding anniversary. This is a milestone that very few couples are able to attain. Fifty years ago today, at 7 p.m. at St. Matthew's Lutheran Church in Baltimore, MD, Doris and Phil were married. After the wedding and reception, they left on a 2 a.m. train for a 3-week honeymoon to Charleston, SC, where Phil, an Army lieutenant, was stationed before going to the Pacific. This Saturday, March 7, Doris, known as Lubby, and Phil will be celebrating this memorable occasion with their family and friends at the Johns Hopkins University Club in Baltimore, MD.

March 1942 was a very dark and uncertain time for the young people of our country. We had recently been shocked by the Japanese sneak attack on Pearl Harbor, and we were engaged in global war against massive totalitarian forces. Our young people, such as Doris and Phil, needed a great deal of courage and faith to start a life together, but they had this, and were successful.

I am especially glad that they did, since their son Phil, is my legislative director, and their daughter-in-law Anne Miano, works on the Senate Appropriations Committee. Doris and Phil are fortunate to have another son, Jim, and his wife Peggy, who live on Maryland's Eastern Shore, and are the proud grandparents of Laura Ann, age 9, Emily Louise, almost 3, and Matthew Edward, 16 months.

Once again, congratulations and best wishes to the Bechtels, their family and friends.•

TRIBUTE TO LEO V. DONOHUE AND HENRY J. BECKER, JR.

• Mr. LIEBERMAN. Mr. President, today the friends of Leo V. Donohue and Henry J. Becker, Jr., will be gathering at Capra's Restaurant in Newington, CT, to honor the pair's quarter century of service to the people of our great State.

Leo and Henry, a Democrat and a Republican, respectively, were Connecticut's State auditors for the past 25 years. They came into State government on the same day, July 1, 1967, and they retired together last Friday, February 28. During those years, the two compiled a record of tremendous accomplishment. Oftentimes they were a thorn in the side of agency heads, Governors, and other public officials. But the pain for them usually spelled relief for the State's taxpayers. With sharp pencils, calculators, and a keen eye for inefficient, improper, or illegal behavior, Leo and Henry scrutinized virtually every nook and cranny of State government and issued detailed, public reports about what was wrong, and what should be done to correct it.

It is probably impossible to calculate how much money Leo Donohue and Henry Becker saved the taxpayers of Connecticut by exposing waste, fraud, and abuse, but it is fair to say that if they had been paid on a percentage basis, they would both be multimillionaires today. From keeping an eye on no-show employees to tracing Federal dollars inappropriately spent on water coolers, Leo and Henry have been the eyes and ears for the public, shedding light on hidden problems and urging traditionally slow bureaucracies to move quickly to fix what's broken.

Mr. President, negative stories about State employees are legion in newspapers and on radio and television these days. Some criticism is certainly deserved, but by and large State employees are decent, hard-working people who labor anonymously for the public good. To those who are skeptical about government workers, I hold up the example of Leo V. Donohue and Henry J. Becker, Jr., as examples of what is truly good about public service and the people engaged in our profession.

Working hard, without the fanfare many public officials enjoy, Leo and Henry simply did their jobs, and did them better than anyone could have expected.

Mr. President, at this point in the RECORD, I would like to insert an excellent profile of Leo Donohue and Henry Becker that was published by Lisa Marie Pane of the Associated Press on February 24.

The profile follows:

NATION'S ONLY AUDITING DUO BALANCED POLITICS WITH NUMBER CRUNCHING

(By Lisa Marie Pane)

HARTFORD, CT.—If a television show were made about Connecticut's two state auditors, Leo V. Donohue and Henry J. Becker Jr. could play one's Joe Friday to the other's Bill Gannon: purveyors of truth in government who went after "just the facts."

For a quarter century, the nation's only auditing duo snared bad guys in their dragnet of fiscal probes.

They caught a governor using federal money to buy water coolers. They nailed a state treasurer for allowing his wife and daughter to bill thousands of dollars to his state telephone credit card.

They uncovered evidence that the head veterans official had used state money to buy a waterbed, bar stools and other furnishings for his home and then watched when he resigned in disgrace.

They nailed a deputy commissioner at the Department of Motor Vehicles for failing to show up for work for long stretches at a time, thanks to an eagle-eyed staff auditor who noticed the guy's parking space was always empty.

But never, it seemed, did this Democrat-and-Republican team allow political leanings to get in the way of their jobs. No one was spared their scrutiny.

Yes, ma'am. Just the facts, ma'am.

Leo and Henry. Henry and Leo. Few talk about one without mentioning the other in the same sentence.

Donohue's wiry with a shock of gray hair; Becker is stocky with baby-fine hair that is slicked back and thinning. Both live in Avon. They started the same day July 1, 1967. And now they're retiring together, on Friday.

Their doors were always open to reporters and politicians, alike. Even the door between their two attached offices has always been open, so Donohue can see Becker, and Becker can see Donohue.

They've been separated just once in that time for two years when Donohue became the state's finance director for Gov. John Dempsey.

Connecticut is the only state in the nation that appoints two state auditors, one a Republican and the other a Democrat, to look over the books.

Becker and Donohue say an accounting background is helpful. But political insight, knowledge of the inner workings of government and a sleuth's curiosity about seemingly inconsequential details like virgin snow covering a deputy commissioner's parking space are the real keys to doing the job right.

"You don't just look at the numbers," Donohue said.

Donohue, 67, the Democratic member of the combo who is noted for his dry wit and sense of the one-liner, once quipped: "My wife calls us Goody Four Shoes. We walk softly and carry a big pencil."

Becker, a 63-year-old Republican and the more serious and reserved of the two with a fondness for American history, once framed the motto: "Old auditors never die. They just become unbalanced."

They've scored a few victories during their tenure as Connecticut's two top financial watchdogs. And along the way, they've had their share of very public and very heated run-ins with state officials from governor on down.

Gov. Ella T. Grasso, a Democrat who served from 1975 to 1980, was once criticized by the auditors for using federal money to buy water coolers. She would grow exasperated by their meticulous and unflagging quest for financial truth.

"Anytime I see you two, it's trouble," Grasso used to say.

"She did not graciously accept criticism," Donohue said recently.

Becker hasn't had it easy with members of his party either.

There's been a Republican governor just four years in the time Becker has served. And that one, former Gov. Thomas J. Meskill, now a federal judge, never seemed pleased with his fellow Republican from the start.

Meskill had campaigned on a platform calling for the auditors duties to be expanded from financial audits to both financial and performance audits. Then, when he became governor, he vetoed legislation that would've done just that.

Becker didn't hide his displeasure. "I publicly said the Democrats ignored this for years and now he didn't want it either," Becker recalled.

"From that point on, things were pretty cool," he said.

If Donohue and Becker consistently won over one group, it was the Capitol press corps.

"Henry was never too fond of Meskill. Leo called it as it was right through the Democrats," says James Mutrie Jr., a retired Capitol reporter who has known the two for decades.

The pair rarely, if ever, independently tipped off reporters to scandals in state government. But even before state freedom of information laws were enacted, Becker and Donohue never denied the media access to their public records. And, when asked about one indiscretion or another, both were candid in their remarks.

They found the media helpful in applying pressure to errant officials.

In the early 1970s, they issued a report critical of the Department of Children and Youth Services. But they never heard back from the commissioner until six months later when a newspaper reporter wrote about it.

The article was out on the newsstands at noon. "By 1:30 we had a response," Donohue said.

"We only have the power to recommend," Becker explained.

It's the media who can help push their cause. But Becker's and Donohue's frankness often sparked bitter battles with the latest public official whose questionable conduct was aired in the press.

The pair's run-ins with former Treasurer Henry E. Parker were especially notorious.

Parker a Democrat whose wife and daughter were found to have used his state telephone credit card to bill more than $2,000 worth of calls, and who also was criticized for proposing legislation that some said would guarantee state jobs to political appointees even after he left state government once fired off a scathing, four-page letter to Becker.

"With you, there always seems to be two levels of communication. There is, on the one hand, the high sounding rhetoric of helpfulness and concern contained in your official correspondence and reports; then there is your character assassination approach in 'soul baring' sessions you have exhibited with selective members of the news media," Parker wrote.

Later, Parker was much more complimentary.

"It's a comfort to me that they are there," Parker was once quoted as saying.

Connecticut has had an auditors' office since the 1600s. The dual-party positions were created in 1702. Most other states appoint or elect just one auditor, where often the office is subjected to attacks that partisanship is the chief motivator.

Becker and Donohue are credited with being fair and with ushering their office of 80 staff auditors into modern times.

"They have created that institution," said Lorraine M. Aronson, the former welfare commissioner and now the governor's deputy budget director. "I've had good audits and bad audits from them and never once did I think I was not treated fairly."

Donohue, who has an accounting degree, first joined state government in 1945 when he was a 20-year-old kid fresh out of the Army. He had never gotten a driver's license until the day he was offered a job as a driver with the Department of Motor Vehicles.

Along the way, he's been a state budget examiner, and an advisor to governors and top political leaders.

Becker, whose educational background is in public administration, has worked for the state for more than 30 years, starting with the former Highway Department. He also worked for the Greater Hartford Chamber of Commerce and the Connecticut Public Expenditures Council.

They are both fonts of knowledge about the political characters who have made their way through Connecticut government history.

"This was a splendid marriage that honors everything good with state government and public service," says Charles F.J. Morse, a former Capitol reporter and now an aide to Gov. Lowell P. Weicker Jr.

So far, the pair hasn't had any confrontations with the often-combative Weicker, a Republican-since turned-independent whom both knew when he was a freshman state legislator in 1963.

"I'm sure at some point in four years, if we were here, we would run into some problems because we've certainly had them with every other governor," Becker said.

So any parting advice for their successors, whoever they may be from the scads of politicians who are clamoring for the post?

The duo who gave state officials advice for decades whether they wanted it or not were uncharacteristically reserved.

"Only if they ask for it," Donohue said.

"Yeah," Becker said.•

RECOGNIZING THE APPOINTMENT OF GREGORY L. HERSHBERGER

• Mr. D'AMATO. Mr. President, I rise today to note the appointment of Gregory L. Hershberger as the first warden of the Metropolitan Detention Center [MDC] in Brooklyn, NY. Greg has been a career Bureau employee for 14 years and brings outstanding leadership experience to his new assignment.

Mr. Hershberger was born in Lincoln, NE, in 1949. He holds a bachelor's degree in sociology from the University of Nebraska (1971) and a master's degree in criminal justice from Washington State University (1978). He has held previous Bureau of Prisons assignments, at MCC Chicago, ILL; USP Terra Haute, IN; Central Office, Washington, DC, associate warden, FCI El Reno, OK; and warden, FCI Otisville, NY. Prior to joining the Bureau of Prisons, he was a Nebraska State probation officer.

Gregory Hershberger has had an outstanding career with the Federal Bureau of prisons and I commend him on his new appointment.•

HATE CRIMES

• Mr. SIMON. Mr. President, in 1990, I sponsored the Hate Crimes Statistics Act, which required the Attorney General to systematically collect hate crime statistics that will provide information on trends and help us to better predict and prevent such unconscionable acts. Hatred based on race, religion, ethnic background, and sexual orientation seems to be growing. Over the next few months, I intend to speak out often on this subject, bringing to the Senate's attention a few of the tragic incidents of serious concern to us all.

Today, I rise to address specifically the murder of Yasuo Kato, a Japanese businessman in Camarillo, CA. Mr. Kato was stabbed to death in his garage with an 8-inch hunting knife on February 24, just over a week ago, as he was unloading groceries from his car. Two weeks earlier, an unidentified white male had confronted Mr. Kato in his own home, demanding money and blaming Japan for the recession and for the loss of his job. According to the victim's son, Toshiyuki Kato, as the man left he screamed, "I'm going to kill you. I'm going to get you. I know where you live." The victim was a martial arts champion who once had instructed Japanese police cadets. Yet, he died without any signs of attempting to defend himself.

This incident reminds us of the case of Vincent Chin, a Chinese-American, who was beaten to death with baseball bats by two unemployed auto workers in Detroit in the early 1980's. The reason for Mr. Chin's violent death was also the belief by the killers that he was Japanese and had somehow caused their unemployment. Fears have been voiced in the past few weeks that current anti-Japanese rhetoric based upon trade friction might encourage similar crimes now. With Yasuo Kato's death, that prediction may have been tragically fulfilled.

Mr. President, I believe that hate crimes are increasing due to the uncertainty and fear many people have concerning our economy. In this climate, Japan bashing becomes extremely tempting to many who aspire to leadership in this country. As the U.S. Commission on Civil Rights concluded, in a report issued just last week, political leaders have done little to diffuse escalating racial tensions, and some political candidates have even exacerbated racial tensions by using racial rhetoric in their campaigns. Politicians exploit our economic fears by pointing the finger at people who can be easily distinguished because they look different and speak a different language than most Americans. Business leaders take advantage of these fears by blaming others for our problems. This is racial scape-goating of the worst kind. It is coming from Democrats and Republicans; from those who are considered liberal and those who are considered conservative. In this atmosphere, racial violence can almost be expected. And Asian-Americans will bear the brunt of the resentment that we create.

How many even remember the name or position of the Japanese Government official who criticized American workers? His remarks were ill-advised, but they do not justify making an entire race responsible for maligning Americans. When a British company bought Holiday Inn, "America's Innkeeper", did we worry that America was being bought up by the British? British investments in the United States continue to be far greater than Japanese investments. When Canadian Robert Campeau drove Bloomingdale's into bankruptcy, did we complain about those "sneaky foreigners" from the North? No; but somehow, when the blame is pointed at someone of a different color, it is all too easy to generalize and create resentment against the entire race. That is what is happening with Asians, and we must do our best to bring it to a halt.

Already, Japanese-American community centers have been attacked and vandalized. Asian-American community leaders say that the general hostility toward Asians is the worst that it has been in decades. People have been spit on in the streets, and hurtful epithets yelled across the street, over the phone, and into answering machines. And in Los Angeles, Japanese-American Girl Scouts selling their cookies outside a supermarket were rejected by a man who told them: "I only buy from American girls."

Racial scape-goating only increases resentment and fear. It brings out the worst in all of us. Mr. President, this problem is not going to go away. Japan is going to remain our economic competitor for many years to come. We must learn to deal with Japan not as one people against another people, but as one country's government dealing with another country's government. When Yasuo Kato died, all of America may have been victimized. No one in America should have to fear harm simply because of his race or national origin. If we are not more careful with what we say, the United States will become not a kinder, gentler place, but a more frightening and more dangerous one.•

THE 100TH ANNIVERSARY OF ST. ADALBERT'S CHURCH

• Mr. D'AMATO. Mr. President, it is with great pleasure that I announce to you the 100th anniversary of St. Adalbert's Parish, in Queens County, NY.

St. Adalbert's was founded as a parish in November 1892 by a small group of Polish immigrants seeking the "American dream." The reason for the founding of this parish, at least at the beginning, was to respond to the needs of the Polish-speaking people of Elmhurst, Maspeth, and the surrounding areas. In 1896, the Conventional Franciscan Friars were asked by the bishop to administer the parish and have been doing so ever since.

Today St. Adalbert's parish is a veritable melting pot of culture, ethnic diversity, and deep-rooted Catholic beliefs in God and country. St. Adalbert's ministers to a very changing neighborhood of Polish, Irish, Italian, Korean, Filipino, and other Asian extractions.

St. Adalbert's will be celebrating their centenary for the whole year of 1992. The celebration will culminate in a special ceremony held for the parish-community on Sunday, November 15, 1992, to note the importance of this anniversary to the people of Queens.

It is because of the commitment of the Franciscan Friars and of each member of the congregation that the warm glow of God's love has been welcomed to the city of Elmhurst. Churches, in serving the needs of our communities, protecting family values, and sharing the message of the Lord, provide each of us with a foundation of strength and spirit in these trying times. As a U.S. Senator, I commend the entire congregation for their dedication to the goals and aspirations of St. Adalbert's Parish.

I salute St. Adalbert's Roman Catholic Church, indeed the entire parish, for their many years of success in service to their community. Congratulations on your 100 years and I wish you many more years of continued success and prosperity.•

BUILDING A COMPETITIVE U.S. AUTO INDUSTRY

• Mr. BAUCUS. Mr. President, a GM CEO once said, "what's good for GM is good for America." If what is bad for GM is bad for America, our country is hurting.

Last week, GM announced the closing of 12 factories, the first step of a plan that will leave 74,000 American autoworkers unemployed. It is estimated that GM's 1991 North American auto operations lost $1 million an hour.

Ford and Chrysler also suffered record losses.

The American automobile industry is emblematic of a broader crisis in our Nation: In sector after sector, we are losing our competitive edge.

AMERICA'S COMPETITIVE DECLINE

In the fifties and sixties, American-made automobiles, steel, and electronic products set the standard for the rest of the world. But by the early eighties, those standards were set by German cars, Korean steel, and Japanese electronics products.

But instead of improving quality, many industries sought protection from imports. For the most part, the import protection the Government handed out to industries such as textiles, steel, machine tools, and autos, only raised the prices paid by consumers and allowed the executives of uncompetitive industries to line their pockets.

When the protection expired, the industries were no more competitive and they only demanded more protection at consumer expense.

But the burden of improving U.S. competitiveness should not fall entirely on industry. The Government must also find a better way to do its job.

THE HARLEY DAVIDSON EXPERIENCE

I think we can. And the experience of Harley Davidson proves import relief can promote competitiveness and not reward laziness. Harley's motorcycles had been famous worldwide . The company had learned how to make a lot of bikes, but by the seventies they had forgotten how to make them the best.

Harley took two major steps to reverse its misfortunes. First, it sought import protection, and second, it focused on quality control and employee training.

You know the rest. Harley got import relief in the form of higher tariffs. It used the breathing room the tariffs provided to overhaul its operation. It revamped its management, and started building motorcycles people wanted again, motorcycles people trusted again. And Harley Davidson actually ended up urging the Government to end import protection ahead of schedule.

We have learned enough to know that industry requests will come and that some will be politically impossible to resist. But we can turn necessity into virtue by requiring competitive improvements in return for import relief. Given budget constraints, conditioned import relief is one of the few tools the U.S. Government can use to promote competitiveness.

We must keep in mind that when an industry comes to the Government asking for protection, it is really asking for billions of dollars out of consumers pockets.

In the future, if a U.S. industry requests import protection, we must demand that the industry invest in improving its competitiveness in exchange. If the industry is not willing to make that investment, the request for protection should be denied.

THE AUTO EXAMPLE

The American industry that is now most actively seeking protection is the auto industry. Hit by the double whammy of the recession and Japanese competition, Detroit is reeling.

The auto industry is an important part of our economy. According to recent estimates, the auto industry is responsible for 4.5 percent of U.S. GNP and more than 2 million American jobs. The impact of the auto industry stretches beyond Detroit. The American auto industry supports industries ranging from electronics to steel.

But, as we all know, the auto industry has been experiencing competitive problems. The Japanese share of the U.S. auto market has steadily risen since the 1960's. Today, if the sales to U.S. rental car fleets are excluded, the Big Three hold only about a 60-percent share of the U.S. auto market.

And—although they have succeeded in selling cars in Europe and around the world—the Big Three have not been able to crack the Japanese market in return.

Part of the fault is their own. If the Big Three want to sell cars in Japan, they will have to work at it and build cars tailored to Japanese consumers. But even when we have products Japanese consumers want to buy, like the Jeep Cherokee, an array of Japanese nontariff barriers has kept United States automakers from making the sale.

In short, the playing field is still not level. The American auto industry is certainly not a basket case. On a level playing field, it is beginning to show some real competitive muscle.

Perhaps, with a few years of import protection, the Big Three could once again set the standard for the world to meet and save millions of American jobs in the process.

A NEW PLAN FOR AUTOS

Toward that end, I have unveiled a plan—which I intend to introduce as legislation—to improve the competitiveness of the American auto industry.

The proposal is built around the simple concept of short-term import relief in return for a commitment to build a more competitive industry.

First, my proposal establishes a standstill on Japan's current United States sales level. It would limit Japan's share of the United States vehicle market to the current level of imports from Japan, approximately 2 million units, plus the current level of Japanese transplant production. That means roughly 3.6 million units annually. Transplant autos with 70 percent or greater local content won't be counted against the limit.

These limits would be reviewed every 2 years and would be in place for no more than 7 years.

But these years should be used as a chance to catch up with the competition, and not some loophole for continued business-as-used-to-be. My proposal, in return for import protection, requires that the Big Three truly make quality Job 1 throughout the industry.

I will demand that the auto industry demonstrate continued increases in production efficiency, product quality, and customer service—the criteria set by the Commerce Department for awarding the Malcolm Baldrige National Quality Award. The emphasis will be on results—building better cars.

Every 2 years, the International Trade Commission will evaluate the auto industry against these standards. If quality isn't steadily increasing, the protection will be terminated.

In order to meet these tough standards and build better cars, the auto industry must continue to reinvest in their production facilities, worker training, and research and development. But the focus will be on results, not on micromanaging the auto industry. The Big Three themselves will make the specific investment decisions.

Further, if the Big Three want temporary import relief, they will have to scale executive compensation to a level more in line with industrial reality than with major league baseball. Auto executives cannot expect to collect obscene salaries while they lay off U.S. autoworkers.

These are realistic measures. They are not mandatory. If the American auto industry believes it can turn itself around without further import restraints, that is fine. More power to them. But if import restraints are to be imposed, major continuing improvement is the price.

CONCLUSION

No one should doubt the talent or tenacity of the United States. Thirty years ago, JOHN GLENN became the first American to orbit the Earth. And less than a decade later, it was an American astronaut, not a Soviet cosmonaut, who took the first walk on the Moon. America won the technology race.

And we can win the economic race. We can bring the determination we brought to the space race to the challenge of building a competitive economy.

We do not have to beat our chests or raise our voices. We just have to do the job, and do it better than we ever have before.

And we have to do it right now.

And if U.S. industries come looking for a free ride at consumers expense, I will stand in their way. We cannot afford any more free rides for the auto industry, the steel industry, or anyone else.

From now on, the price for Government protection has got to be building a more competitive industry. Working together, Government and industry can build a more competitive America.•

OUTSTANDING HIGH SCHOOL SENIORS 1992

• Mr. D'AMATO. Mr. President, today I rise to pay tribute to the outstanding academic performances of Kimberly Hamlin and Rebecca Gleason. Each has been selected 1992 Shell Century Three Leaders which recognizes America's best and brightest student leaders.

In addition to her classroom achievements at West Genesee High School in Camillus, Miss Hamlin has displayed leadership in a range of activities. She is president of the student council and cocaptain of the varsity tennis team. She is also a member of Students Against Driving Drunk, the ski club, the school orchestra, and is an editor of the school newspaper. She is a National Merit scholar.

In her community, Hamlin has volunteered for St. Camillus and the Maxwell Memorial Library, and is active in her church youth group.

"To * * * help ease racial and gender strife it is imperative that we instill in our children an appreciation for all cultures and a thirst for unbiased knowledge. Law makers and leaders in society should encourage and enforce this approach to learning," wrote Hamlin in her projection for innovative leadership.

Miss Gleason also excels beyond the classroom at Cohoes High School in Cohoes. She participates in numerous academic and athletic organizations. She is editor of the yearbook, president of the Spanish club, and was most valuable player on the varsity basketball team her junior year.

In her community, Gleason is a member of Explorers Post 647 and participates on a substance abuse task force. She is active in her church youth group.

"The American attitude needs to make academic excellence a priority. Children learn from their surroundings. We must stop giving them pro athletes to admire and give them teachers to respect," wrote Gleason in her projection for innovative leadership.

As corecipients of a $1,500 college scholarship, Miss Hamlin and Miss Gleason win an all-expense-paid trip to Shell Century Three Leaders national conference in colonial Williamsburg, VA, March 21–25. Along with the other national scholarship winners, they will analyze and offer solutions to issues confronting America in the next century. They will also compete for a $10,000 college scholarship.

I ask that my colleagues join me in congratulating Kimberly and Rebecca for their accomplishments and with them the best of luck as future leaders of America.●

ORDERS FOR FRIDAY, MARCH 6, AND TUESDAY, MARCH 10, 1992

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 11 a.m. on Friday, March 6; that on Friday, the Senate meet in pro forma session only; that at the close of the pro forma session, the Senate stand in recess until 9:30 a.m. on Tuesday, March 10; that following the prayer, the Journal of proceedings be approved to date; that following the time for the two leaders, there be a period for morning business not to extend beyond 10 a.m., with Senators permitted to speak therein for up to 5 minutes each and with Senator HATFIELD recognized for up to 5 minutes; that at 10 a.m. on Tuesday, the Senate proceed to the consideration of Calendar No. 303, S. 792, a bill to reauthorize the Indoor Radon Abatement Act of 1988, and that the bill be considered under the following limitations: that the only amendments in order, other than the committee-reported substitute, be the following, that they be first-degree amendments except where noted and considered under the time limits specified:

A Burdick technical amendment, 5 minutes;

A Smith amendment regarding radon, 10 minutes;

A Wallop amendment regarding public health effects and a Wallop amendment regarding radon in public schools; that the two Wallop amendments be subject to relevant second-degree amendments; that there be 30 minutes for debate on the bill and committee substitute, inclusive; that the time be equally divided and controlled in the usual form.

I further ask unanimous consent that on Tuesday, the Senate stand in recess from 12:30 p.m. until 2:15 p.m. in order to accommodate the respective party conferences; that upon disposition of S. 792, or no later than 3 p.m., and without intervening action or debate, the Senate proceed to the consideration of H.R. 4210, a bill to provide tax relief for American families; further, that no call for the regular order displace H.R. 4210.

I further ask unanimous consent that immediately following disposition of H.R. 4210, without any intervening action or debate, the Senate proceed to vote on the motion to invoke cloture on the conference report on H.R. 3371, the Omnibus Crime Control Act; and that, if cloture is not invoked, the conference report be displaced; following the granting of this request I shall send the cloture motion to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the agreement is as follows:

Ordered, That at 10:00 a.m. on Tuesday, March 10, 1992, the Senate proceed to the consideration of S. 792, a bill to reauthorize the Indoor Radon Abatement Act of 1988, with the only amendments in order, other than the committee-reported substitute, to be the following, that they be first degree amendments, except where noted, and considered under the time limitations specified:

Burdick, technical amendment, 5 minutes;
Smith, amendment regarding radon, 10 minutes;
Wallop, amendment regarding Public Health effects; and
Wallop, amendment regarding radon in public schools.

Ordered further, That the 2 Wallop amendments be subject to relevant second degree amendments.

Ordered further, That there be 30 minutes for debate on the bill and committee substitute, inclusive, with the time to be equally divided and controlled in the usual form.

Ordered further, That upon disposition of S. 792, or no later than 3:00 p.m. on Tuesday, March 10, 1992, and without intervening action or debate, the Senate proceed to the consideration of H.R. 4210, a bill to provide tax relief for American families.

Ordered further, That on Tuesday, March 10, 1992, the consideration of H.R. 4210 be for debate only, with no amendments or votes thereon in order.

Ordered further, That at 10:00 a.m. on Wednesday, March 11, 1992, when the Senate resumes consideration of H.R. 4210, the Senator from Arkansas (Mr. Pryor) be recognized to offer an amendment relative to prescription drugs.

Ordered further, That no call for the regular order displace H.R. 4210.

Ordered further, That immediately following disposition of H.R. 4210, and without any intervening action or debate, the Senate proceed to vote on the motion to invoke cloture on the conference report on H.R. 3371, the Omnibus Crime Control Act, and if cloture is not invoked, the conference report be displaced.

ORDERS FOR WEDNESDAY, MARCH 11, 1992

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business on Tuesday, it stand in recess until 9:30 a.m. on Wednesday, March 11; that following the prayer, the Journal of proceedings be deemed approved to date; that following the time for the two leaders there be a period for morning business not to extend beyond 10 a.m., with Senators permitted to speak therein for up to 5 minutes each, with Senator SIMPSON, or his designee, recognized for up to 5 minutes; that at 10 a.m., the Senate resume consideration of H.R. 4210, and that Senator PRYOR be recognized to offer an amendment relative to prescription drugs.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. MITCHELL. Mr. President and Members of the Senate, I would like now to review the effects of the agreement which has just been reached, and in the process advise Senators of the schedule of the next several days so that Senators can plan accordingly.

There will be only a pro forma session of the Senate tomorrow with no rollcall votes. The Senate will not be in session on Monday.

On Tuesday, at 10 a.m., the Senate will take up the radon bill under an agreement limiting the number of amendments to four, two of which have already been agreed to, and I understand that of the remaining two, one is likely to be agreed to.

Although there is no time limitation on those amendments, it is my hope and expectation that the Senate will complete action on that measure prior to the recess of the Senate for the party conferences at 12:30 on Tuesday and that the votes—and it now appears there will be two votes, one on an amendment and one on final passage, possibly three if a second-degree amendment is offered—will occur after the party caucuses.

So Senators should be aware that there is the likelihood of votes occurring on Tuesday, immediately after the party caucuses, with respect to the radon bill.

As soon as that bill is disposed of, or in any event no later than 3 p.m., the Senate will turn to the tax bill, H.R. 4210, as recently reported by the Senate Finance Committee.

There will be debate only on that bill on Tuesday. There will be no votes on the tax bill and no amendments will be offered on that day.

Several Senators have requested the opportunity to speak on the tax bill. They should be prepared to do so from 3 p.m. on Tuesday throughout that day.

At 10 a.m. on Wednesday, the Senate will return to consideration of the tax bill, and amendments will then be in order, and under the agreement Senator PRYOR will be recognized to offer his amendment.

We anticipate that there will continue to be debate and votes on Wednesday and Thursday and, if necessary, on Friday to complete action on the tax bill.

Senators should be prepared for sessions late into the evening, and for as long as it takes to finish the tax bill next week. It is our intention that we will complete action on the tax bill next week whatever that takes in terms of the Senate's being in session, late in the evening, Friday if necessary, and Friday evening if necessary.

When we complete action on the tax bill, immediately thereafter and without any intervening action or debate, we will then have a cloture vote on the conference report on the Omnibus Crime Control Act which has been the subject of debate in the Senate for the past 2 days.

That will complete the action that is contemplated pursuant to this agreement.

Mr. President, I thank the distinguished Republican leader for his cooperation in working out this agreement. And I now yield to invite any comments he may wish to make on the matter.

Mr. DOLE. As I understand, following action on the conference report, if cloture is not invoked, then we would be back on the Corporation for Public Broadcasting bill.

Mr. MITCHELL. That is correct, unless for some reason the radon bill is not completed prior to 3 p.m. on Tuesday, then we would be back to finish radon, and then go to the Corporation for Public Broadcasting bill.

Mr. DOLE. Second, I know Senator PRYOR, according to the agreement, will lay down the first amendment on Wednesday morning. It may be that the Senator from Oregon [Mr. PACKWOOD] may want to make a statement. I am certain he can work that out with Senator PRYOR.

Mr. MITCHELL. I am certain there will be no problem. Senator BENTSEN will manage the bill. Senator PRYOR will be debating his amendment. And I feel certain, although I have not discussed this with either of them, that they will be prepared to accommodate Senator PACKWOOD in that regard.

Mr. DOLE. Senator PACKWOOD will be managing the bill on this side. So we are ready to go.

Mr. MITCHELL. Mr. President, I again thank my colleague.

Senators, I repeat so there can be no misunderstanding about this, should be prepared for late night sessions every night next week from Tuesday on, and to stay in session for as long as it takes to complete action on the tax bill, and have the cloture vote on the crime conference report.

MODIFICATION TO THE UNANIMOUS-CONSENT AGREEMENT

Mr. President, I ask unanimous consent that the agreement be modified to provide within the agreement that the consideration of the tax bill on Tuesday be for debate only, that no amendments be in order at that time, and that no votes occur with respect to the tax bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL TOMORROW AT 11 A.M.

Mr. MITCHELL. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess as previously ordered.

There been no objection, the Senate, at 7:19 p.m., recessed until tomorrow, Friday, March 6, 1992, at 11 a.m.

HOUSE OF REPRESENTATIVES—*Thursday, March 5, 1992*

The House met at 10 a.m.

The Reverend Faouzi Elia, pastor, St. Sharbel Maronite Catholic Church, Peoria, IL, offered the following prayer:

Let us pray. Almighty God, it was Your divine will to grant the civic leaders of the United States of America, the merciful and generous mother to all nations, the power to lead with honesty and respect, the wisdom to teach with love, the knowledge to advise with sincerity, the authority to govern with justice, the wealth to give with generosity, the talents to share with self-denial, the humility to serve with a Christian spirit, the love to make peace in every nation.

May our leaders bring justice and hope to the homeless, to the needy, to the persecuted, and to the refugees.

I pray to God to bless this great country and the people of this country, to bless the Members of this Congress, their families and friends.

May this loving country, the leader of the free world, continue to bring peace to all nations, especially to my homeland, Lebanon. May the suffering people of Lebanon, under Your protection and guidance, continue to enjoy their independence, freedom, sovereignty, and integrity. May God, through Your power, wisdom, and decisions, save my homeland, Lebanon, from any destruction or invasion. May the people of that country never see again war, nor persecution, nor famine, nor occupation, nor poverty.

May this great Nation, under one God, always be a beacon of freedom, justice, and liberty to the people of all nations.

May God bless you and bless our beloved country, America. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentlewoman from Kansas [Mrs. MEYERS] come forward and lead the House in the Pledge of Allegiance.

Mrs. MEYERS of Kansas led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation, under God, indivisible, with liberty and justice for all.

FATHER FAOUZI ELIA

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, our prayer today was offered by a distinguished member of my home community, Father Faouzi Elia, pastor of St. Sharbel's Church in Peoria, and I want the Members to know just a little bit about him.

Father Elia was born in Lebanon. He finished college studies in his native country and in 1970 entered the Pontifical Institute of the University of the Vatican. He completed his theological studies in Rome in 1976.

During that time he worked as an interpreter at the Vatican in French, Italian, and Arabic. He has a B.S. degree in philosophy from Our Lady of Lebanon College, and a license in theology from the Pontifical Institute.

He was ordained in Chicago, IL, and before coming to my home community served in Houston, TX.

Father Elia is not only a spiritual leader but is actually involved in community affairs. Since he has come to our home town he has inspired leadership and inspiration in the building of a community hall, a church building, and the St. Sharbel Apartments for the Elderly.

He is an expert on Middle Eastern affairs, to whom I turn for advice and guidance on many issues.

Mr. Speaker, it is a very great pleasure then for me to welcome a very revered religious leader and community leader, and as I would have to say, more importantly for me personally, a dear personal friend, to have him open our session with a prayer and to welcome him to this House of Representatives.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair announces that it will limit 1-minute statements to an additional eight on each side.

JUDGE EDWARD DEVITT: DISTINGUISHED ST. PAUL JURIST

(Mr. VENTO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VENTO. Mr. Speaker, I rise to inform my colleagues of the death of U.S. District Court Judge and former Member of Congress, Edward J. Devitt, of Minnesota.

Judge Devitt died this past Monday, March 2, at the age of 80. He was his active, gregarious self, the spirited Irish-American personality, much loved, and a good friend to all. He especially will be remembered March 17, 1992, St. Patrick's Day. Judge Devitt's distinguished career of public service spanned over 57 years, from his election at age 24 as a municipal judge in East Grand Forks, MN, his appointment as an assistant Minnesota attorney general, his service in the U.S. Navy during World War II, his election to the U.S. House of Representatives from Minnesota's Fourth Congressional District, and finally his service on the Federal bench in Minnesota from 1954 to 1981. During the past decade, Judge Devitt continued to serve as a very active senior status Federal judge.

Judge Devitt was aptly described by his colleague on the Federal bench, Judge Donald Alsop, as "a giant among Federal judges." When he was appointed to the Federal bench by President Eisenhower in 1954, he was, at age 43, one of the youngest Federal judges in the Nation. He was known as a tough, pragmatic but fairminded judge. The cases over which he presided involved football players, massive insurance fraud, kidnapings, the so-called Minnesota 8 draft protesters, career criminals, and just last year, the trial of Walter Leroy Moody, Jr., who was convicted of using pipe bombs to murder a Federal judge in Alabama and a civil rights attorney in Georgia.

Edward J. Devitt was born on May 5, 1911, in the Dayton's Bluff neighborhood of St. Paul. He attended Van Buren Grade School with two other boys who later went on to distinguished careers in the law; Warren Burger, who became Chief Justice of the Supreme Court, and Harry Blackmun, who became an Associate Justice of the Supreme Court. Judge Devitt graduated from St. John's University in Collegeville, MN, and the University of North Dakota Law School.

In addition to his duties as a Federal judge, Edward Devitt was concerned throughout his career with improving the administration of justice in the Federal court system. He chaired a committee of the American Bar Association that developed fair trial and free press guidelines after observing that the Supreme Court had reversed several criminal convictions because defendants' rights to fair trials had been tainted. Judge Devitt also expressed his concerns about determinate sentencing by noting that he thought the Federal system was too rigid while the State court systems were too loose.

In recognition of his leadership role in the Federal judiciary, the Devitt Award was created and is presented annually to the Federal judge who is selected as the foremost judge in our Nation.

Mr. Speaker, Judge Devitt also served one term, from 1946 to 1948, as a Member of the House of Representatives from St. Paul. His tenure in elective politics, however, was a brief interlude in a career that was devoted to the practice of law and the judiciary. I know that my fellow Minnesotans would join me in extending our sympathy to his family on his passing, as well as our appreciation for his lifetime dedication to public service for the people of Minnesota and the Nation.

DEMOCRATS SHOW TRUE COLORS

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise an extend his remarks.)

Mr. BALLENGER. Mr. Speaker, you don't need to look too far beneath the surface of Democratic rhetoric about tax fairness and concern for the middle class to see their true colors. Last week the Democrats passed yet another huge tax increase.

Their solution in the Democrat tax increase bill: a temporary, 2-year tax credit. Apparently, the evils of a decade of voodoo economics can be reversed in a mere 2 years. Further, the credit is capped at $200 for individuals and $400 for couples. The American people are outraged at the suggestion that at a mere 55 cents a day is presented as a legitimate solution to the woes of the average taxpayer. Yet, the deceptive tactics of the majority do not stop at this insult.

While the Democratically proposed tax credit may be temporary, their means of financing are quite the opposite. In exchange for giving the middle class a mere glimpse at tax relief, the Democrats would permanently increase the top income rate from 31 to 35 percent, increase the alternative minimum tax from 24 to 25 percent, impose a 10-percent surtax on millionaires, extend the phaseout of the personal exemption and itemized deductions, and prohibit businesses from deducting executive salaries over $1 million. Not only do the American people find the Democratic proposal ridiculous, they can also see first hand how nonsensical their thinking is. For instance, if the Democrats are successful in preventing businesses from paying their executives over $1 million, who will be subject to the millionaire surtax?

Mr. Speaker, the Democrats have shown their true colors, and as usual, the concern they express for the middle class is only rhetoric. Congress has only 15 days before the March 20 deadline. The American people want action now.

IT IS THE 1990'S: IT IS THE DEMOCRATS

(Mr. SMITH of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Florida. Mr. Speaker, last night in this Chamber the President of the United States had his budget presented to the American people and to the Members of Congress. That budget, which he had sent to us a month ago touting his plan for the future of this country, got 42 votes out of 435. Even the members of his own party could not bring themselves, by a margin of 1 in 4, to vote for this budget.

That budget last night, that met the fate it deserved, was a cruel hoax on the American people, perpetuating the bad policy of 12 years of Reagan-Bush economics.

The Democratic budget alternative, which will be on the floor today, which will be voted on today and we hope passed, is the future for this country, creating jobs, creating economic growth, and restoring sanity in the understanding of what this country needs to strive for.

Mr. Speaker, let me just say that the President's budget shows obviously he has exhausted his ideas and it is time for the Democrats. It is the 1990's. It is the Democrats.

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GIVE THE GOVERNMENT BACK TO THE PEOPLE

(Mr. THOMAS of Wyoming asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMAS of Wyoming. Mr. Speaker, the United States of America was founded on the premise that its people have the freedom and the ability to control their own destiny. Today, our huge bureaucracy has infringed on this concept. The left has seemingly failed to understand that the combination of increasingly higher taxes and an exploding budget has made it harder for every American to enjoy those freedoms which are supposed to be self-evident. The Democrats in Congress passed yet another huge tax increase bill last week.

Let us give the Government back to the people. It's time to stop running a Government that is influenced by a select few in the think tanks of the liberal elite and instead answer to the people. We need a Government that will provide economic growth while protecting their right to the pursuit of happiness. We, the Government in behalf of the people, have 15 days to do just that. This package will give the American people what they want. By cutting wasteful spending and, most important of all, by cutting taxes we can give the people back their Government as well as their personnel freedoms. Let us work together to pass a jobs creation package and show Americans, and the world, that democracy works.

Mr. Speaker, there are only 15 days left until the March 20 deadline for Congress to finally act on a real growth package.

INTRODUCTION OF RESOLUTION ESTABLISHING SELECT COMMITTEE ON VIOLENCE

(Mr. STOKES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STOKES. Mr. Speaker, I am introducing today a House Resolution which will establish a Select Committee on Violence. All indicators suggest, without equivocation, that violence in the United States has reached epidemic proportions. It is an issue which affects all Americans and permeates every aspect of American life, affecting our families, schools, hospitals, prisons, courtrooms, and churches like no other issue. The time has come for Congress to provide expanded leadership in addressing this crisis.

Just a few weeks ago, funeral services were held here in the Capitol for a 25-year-old Hill staffer, Tom Barnes, who was shot in the head near his Capitol Hill home. The young man had left his home to go get a cup of coffee at a nearby grocery store. He never made it. Initial reports indicated that the shooting was an act of random violence. More recent reports furnished by the police state that he was the victim of a hold-up attempt. No matter what the precipitating factor, most agree that the death of this young man, who was a legislative assistant to Senator RICHARD SHELBY, was both senseless and untimely.

In one sense, his death serves as a reminder of the violence, the assaults, rapes, and homicides taking place right here on Capitol Hill. In a broader sense, it is a reflection of the type of violence that is tearing this country apart. Like those who mourn the loss of Tom Barnes, thousands of parents, siblings, and others across the Nation are attempting to come to grips with the insanity of violence as they mourn the untimely violent deaths of their loved ones.

Listen for a moment to these dramatic statistics. The Federal Bureau of Investigation reports that violent crime—murder, rape, robbery, and assault—increased by 10 percent in the United States last year, setting the record for the bloodiest year in our Nation's history. The record murder toll of 1990 left more than 23,200 Americans killed. Records also were set for rape, robbery, and assault. All told, an unprecedented total of nearly 2 million Americans were the victims of a violent crime last year. This total means that more than 200 Americans were attacked by a violent criminal in every hour of every day of 1990. Compare this to 1960, when fewer than 35 Americans were victimized every hour.

Within the last 30 years, between 1960 and 1990, the Senate Judiciary Committee reports that violent crime increased 12 times faster than the population. During this period, the population grew by about 41 percent, while the violent crime total increased by about 516 percent. Murder grew nearly 4 times, rape more than 12 times, and assault grew 13 times faster than the rate of population growth.

The increase in violent crime in this country has set a world record. We are the most violent and self-destructive nation on Earth.

As indicated previously, during 1990, no nation had a higher rate of rape than this country. Last year, American women were times more likely to be raped than European women. In 1990, the incidence of rape was 20 times higher than it was in Portugal; 26 times higher than in Japan; 15 times higher than in England; 8 times higher than in France, 23 times higher than in Italy, and 46 times higher than in Greece.

In terms of robbery, the difference in its occurrence here in this Nation, as opposed to other countries is absolutely staggering. In 1990, the United States robbery rate was nearly 150 times higher than in Japan, 47 times higher than in Ireland, and over 100 times higher than in Greece.

Furthermore, in 1990, no nation had a higher murder rate than ours. In fact, no other nation was even close. Americans are dying from unnecessary violent death in unprecedented numbers. The U.S. murder rate quadrupled Europe's. Consider, for example, last year, murders in this country were more than double the murder rate in Northern Ireland, which is being ravaged by a civil war. More specifically, in 1990, homicide in the United States was 11 times that of Japan, nearly 9 times that of England, over 4 times that of Italy, and 9 times that of Egypt and Greece.

In reference to the issue of homicide, I would like to share with you an observation made by Dr. Onwuachi-Saunders, of the Centers of Disease Control. During the Congressional Black Caucus health braintrust last September, a forum which I chair annually on behalf of the Congressional Black Caucus, she said:

> In the last year, the Nation mobilized and went to war. Less than 200 Americans died on battlefields in the Middle East. During the same time period, over 24,000 Americans died as a result of homicide or interpersonal violence on American soil. Although we have won the war abroad, we are losing the battle at home.

In this country, daily, we hear accounts of innocent children wounded in drive-by shootings, schools overrun by gangs with weapons, and other atrocities destroying human life. Just a couple of months ago, right here in Washington, I read of a 15-year-old teenager who was arrested for fatally shooting a volunteer firefighter because he did not like the music the victim was playing in his car. The week prior to that shooting, another teenager was arrested for fatally shooting a young women while she was riding as a passenger in a car. Police reports suggest that the youth shot the woman, "because he felt like killing somebody."

In terms of those precipitating factors leading to assault or murder, I remember a few years ago when I struggled to understand how a youth could kill someone over tennis shoes, a leather coat, a look. Today, I am absolutely confounded by the fact that many times, heinous, coldblooded acts of violence are occurring for no apparent reasons at all.

Data compiled by the Federal Bureau of Investigation reveals that teens are bearing the brunt of the Nation's murder epidemic. The murder rate among young adults is rising more than five times faster than for the population in general. In fact, between 1985 and 1990, the risk of murder among 15- to 19-year-olds rose by 103 percent. For the total population it rose by only 19 percent.

Overall, the homicide rate for all males ages 15 to 34 in the United States ranges from 17 to 283 times higher than the rate for young males in other industrialized countries. For young African-American and Hispanic males, the disproportionate rate of violence-related deaths is even more pronounced. According to the Centers for Disease Control, for young African-American males between the ages of 15 to 32, homicide is the leading cause of death. In fact, it accounts for 42 percent of all African-American male deaths. For young African-American females, the CDC reports that, homicides accounted for 26 percent of all deaths. Homicide is the leading cause of death for both African-American males and females 15 to 25 years of age.

Contrast these statistics with the fact that nationally African-Americans accounted for 44 percent of all murder victims, but only comprise 12 percent of the population.

In the Hispanic community, young males between the ages of 16 and 30 also are disproportionately affected. Out of this group, Puerto Rican males have the highest incidence, and one of the highest rates in the Nation, with 114.2 deaths per 100,000.

We do not have to look to the Nation's Capital for documentation of senseless death by homicide. In Cleveland, OH, a city that I represent in Congress, and throughout the State of Ohio, there are plenty of stories which can be told. On November 21, the news show "48 Hours" reported on violence in several cities across the Nation—Miami, San Francisco, and Cleveland. A local advocate for violence prevention, Mike Walker, was interviewed as part of that exposé. During his interview, he noted that parts of Cleveland "are as bad as the Middle East and South America."

In the United States, Ohio ranks as one of the top seven States hit by the greatest increases in murder; 730 murders are estimated for 1991, representing a 10-percent increase over 1990's number of 663.

Moreover, I think it is important to note that in the State of Ohio, the county in which Cleveland sits, Cuyahoga County, from 1979 to 1987, had the highest rate of homicides in the State per 100,000 population, with 15.3 percent of all deaths classified as homicides. Another 13.7 percent of all deaths in Cuyahoga County were classified as suicide. Of the 221 homicides which occurred in Cuyahoga County during 1990, the coroner reports that 73 percent of these deaths were nonwhite.

At least one national expert, James Alan Fox from Northeastern University, reports that:

> The increase in violence that we are beginning to witness and should continue to see for a number of years to come is a consequence of what I call the "baby boomerang effect." Simply, the post-World War II baby boomers grew up and had children, and their children will be entering their teens during the 1990's. This Nation should prepare itself for increasing problems of teen crime, teen pregnancy, and youth unemployment, many of which subsided during the 1980's when the adolescent population was shrinking.

When we look at data compiled between 1960 and 1990, it is clear that a boom in the teenage population contributes to record numbers of teen killers and teen victims. Violent crime, however, is not the result of demographics alone. The availability of deadly drugs and deadly weapons, poverty, unemployment, illiteracy, and broken homes, help to heighten our young people's propensity toward peril. The situation will worsen unless we take decisive action now.

Over the years, I have been a strong supporter of crime control measures. On one occasion, I accompanied a street patrol operation in the King-Kennedy Housing project in Cleveland. I witnessed first hand the effects that drugs and violence have had on neighborhoods throughout America.

The need for expansion of law enforcement activities in communities across the country is apparent. As noted by the Senate Judiciary Committee in its March 1991 report, "Fighting Crime in America: An Agenda for the 1990's," the flow of military-style assault weapons onto our Nation's streets means that all too often the superior firepower belongs to criminals, not law enforcement. Not only is law enforcement being outgunned by criminals, but they are also outnumbered. This report notes that:

> In 1950, the Nation had more than three sworn police officers for every one violent crime. But in 1990, the Nation had fewer than one sworn police officer for every three violent crimes.

Not only is the occurrence of violence a criminal issue, because of the injuries and death associated with violence, it is now considered to be one of our Nation's leading health problems. Therefore, in order to win the war on crime, we also must look at innovative treatment and prevention strategies. We ultimately must deal with the underlying rage which fuels the violence plaguing our Nation. Then, and only then can we effectively address the behavior and its outcome. Something more than the detention and execution of youth is needed if we are to attack this epidemic.

It is for this reason that I am introducing this legislation to create a Select Committee on Violence. It is time that Congress exhibited the leadership and commitment needed to develop comprehensive prevention strategies. So far, we have taken an approach to this issue which focuses more on punishment than on prevention.

Consider, for example, that for fiscal year 1992, almost $10 billion was appropriated for the Department of Justice, which oversees our Nation's law enforcement activities, including the Bureau of Prisons, the Drug Enforcement Administration, and the Federal Bureau of Investigation. Conversely, for those national health programs with a specific focus on violence, preliminary data provided by the Office of Minority Health [OMH] indicates that all of the public health service agencies, with a current budget totaling more than $16.5 billion, funded approximately 19 projects that addressed homicide, suicide, and unintentional injury during fiscal years 1989 and 1990. Data compiled by OMH indicates that approximately $4 million was awarded during this period. Of this amount, an estimated $1.8 million was targeted to minorities.

Within the last year, I have attempted to address this issue as a member of the Labor-HHS-Education Appropriations Subcommittee. I authored language as a part of the report accompanying the fiscal year 1992 appropriations measure which directed the Centers for Disease Control to develop, implement, and evaluate community-based programs designed to reduce the incidence and health consequences of youth violence in minority and low-income communities. The language also recommends that CDC support violence prevention activities targeting incarcerated youth.

It is my understanding that this is the first-time that the Department of Health and Human Services has received this type of direction from Congress regarding the funding of the agency's violence reduction and prevention activities.

Also, in December, in coordination with Federal and State agencies, I sponsored a national symposium in Cleveland titled, "From Analysis to Action: Youth Violence Prevention in the State of Ohio." Experts from across the Nation were teamed up with State and local officials to develop strategies focused on the implementation of a State-wide plan on the prevention of violence among African-American and Hispanic youth. Issues addressed included victimization, ethnic variations, political responses, gang violence, and the role of the criminal justice system.

Because of what I have learned as a result of these initial efforts, and as evidenced by recent accounts of violence across this Nation—in the suburbs, rural areas, as well as in the inner-cities—it is clear that much more needs to be done.

Specifically, under the House resolution I am introducing today, Congress would establish a Select Committee, which shall have authority to: First, conduct a continuing oversight and review of the problems associated with all types of violence; second, to study the use of all practical means and methods of encouraging the development of public and private programs and policies directed toward violence prevention and treatment strategies; third, to develop policies that would encourage the coordination of both governmental and private programs designed to reduce homicides, assaults, and suicides, particularly in those areas where certain groups are disproportionately affected by violence.

In drafting this measure, there are several individuals and organizations which have allowed me to draw upon their expertise, and who have helped to give this issue the attention it deserves. I would like to briefly mention these individuals and organizations: the Centers for Disease Control in Atlanta, the Office of Minority Health for the Department of Health and Human Services, the Ohio Commission on Minority Health, the Morehouse School of Medicine, and many others including, but not limited to, Dr. Rueben Warren, Dr. Mark Rosenberg, Dr. Chukwudi Onwuachi-Saunders, Dr. Carl Bell, Dr. Beverly Coleman Miller, Dr. Deborah Prothrow-Stith, Dr. Boyd James, Ms. Brenda Muhammed, Ms. Lydia Watts, Dr. Pedro Noguera, and the Honorable Jerome Hornblass.

Mr. Speaker, every Member of this body is familiar in some way with the violence that is plaguing our communities. Moreover, many of us know someone who has been the victim, and in some instances a perpetrator, of a violent attack. It is clear that incarceration of offenders, and the bandaging and burial of victims are ineffective antidotes for this epidemic.

In closing, I would like to share with you an excerpt taken from Deborah Prothrow-Stith's book, "Deadly Consequences." Dr. Prothrow-Stith is a nationally recognized expert on violence prevention and is an assistant dean at the Harvard School of Public Health. In her book, she quotes a woman whose two sons were shot in the same incident. One died, and one did not. The woman is quoted as saying:

> The children who are dying are real kids * * * they are real kids, from real families. Some were doing foolish things, and some were just caught in the wrong place at the wrong time. But all kids have a right to make mistakes. All kids have the right to live. Somebody has to wake up and see that our children are dying. My child is dead. Your child could be next.

As Dr. Prothrow-Stith notes, it is time we paid attention to these frightening words. Our courts, jails, emergency rooms, school rooms, and family assistance programs are all feeling the pressure of this swelling epidemic. The very future of our Nation depends on how we address the issue of violence. In its simplest, and most complex, terms it truly is a matter of life and death.

Mr. Speaker, I ask all of my colleagues to join me in the cosponsorship and ultimate passage of this legislation.

FULL DISCLOSURE ON HOUSE BANK SCANDAL

(Mr. BOEHNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOEHNER. Mr. Speaker, I rise today out of concern about what is about to happen to this institution. Recent press reports indicate that over 300 Members of Congress were involved in bouncing checks in this House bank that we used to have. Recent press reports indicate over 100 Members have bounced over $100,000 worth of checks, and yet the reports in the last few days indicate that the Ethics Committee that is investigating this may release only the names of 25 people.

Mr. Speaker, there is only one way to resolve all of this controversy, and that is to release all of the names of those people who were involved, and to release to each of those Members their account history in the House bank. Anything short of full disclosure will not end this controversy. Anything short of full disclosure will not convince the American people that we are willing to level with them, and all of this will only serve to fuel the wave of voter resentment against this institution.

MAIL ORDER BANKRUPTCY

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, America has another mail order phenomenon. For $19.95 you can buy your own, do-it-yourself bankruptcy kit. That is right, for $19.95 you can go belly up all on your own from chapters 13 to 11 right down to chapter 7.

Maybe the reason for that is Congress keeps passing budgets that force people to go bankrupt. What do we really do about foreign aid, what do we do about the defense of these other nations while we are bankrupt, folks? Basically, nothing. Congress cannot make the tough decisions.

Let us tell it like it is. In fact, this budget this year is not a blueprint for America's future, it is an ongoing eulogy, a continuing obituary of America's decline.

Congress had better wise up and make the tough decisions, and this Black Congressional Caucus budget is about the only one that makes some sense as far as NATO is concerned.

FULL DISCLOSURE ON RUBBERGATE

(Mr. NUSSLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NUSSLE. Mr. Speaker, it was about 5 months ago that a group of us asked for full disclosure on what has become known as Rubbergate, or the check kiting scheme that was happening in the House of Representatives. It was discovered that 8,331 checks were bounced by Members of Congress for a period of 1 year, and now, 5 months later, we will finally have the opportunity to let the truth be known.

Or will we? Is full disclosure still the sane answer? The people back in Iowa believe so, Mr. Speaker. The people across this country who write to me and say, "Jim, get out there and fight for us, fight for full disclosure," they think it is the right thing to do.

This is the people's House, Mr. Speaker. That is what I was told when I came here and raised my right hand and took an oath. They told me this was the people's House.

Then let the people decide. This is the House where that has to happen. This is the only place where we can police ourselves. Or can we? That is the issue that we will be addressing this next week.

The Ethics Committee has done their work. They are now ready to release their report. But after that report is released, we all need time to take a look at it and decide what track we are going to take. Are we going to police ourselves, Mr. Speaker, or are the people of this country going to believe that we covered this matter up?

Mr. Speaker, let the people decide. Full disclosure on this matter.

EDUCATION IS A PRIORITY FOR ALL OUR CHILDREN

(Mr. STALLINGS asked and was given permission to address the house for 1 minute and to revise and extend his remarks.)

Mr. STALLINGS. Mr. Speaker, as a school teacher and college instructor, my commitment to quality in our classrooms is unshakable. Education—from preschool to college—is not just a privilege for the few; it is a priority for all of our children.

If we are to give our kids the needed edge in today's global economy, our commitment to education must be second to none in this year's budget.

Around us a vastly different world is taking shape—the cold war was ended, new economic powers are rising, and nations' borders are being redrawn to reflect these changes. And so this year, we have an historic opportunity to reevaluate our priorities in light of this new world.

I say plainly: We cannot afford to shortchange education. Funding for educational opportunities, like Headstart, must be a priority.

The key to preparing our children for tomorrow is to provide them with the tools they need to learn today. That is why Headstart is important to so many of our children.

Headstart gives 4-year-olds a chance to learn—by getting them ready to learn. It's a proven success.

But in Idaho, my home State, children in almost half of our counties do not have access to Headstart programs. We must do better.

Our current funding for Headstart is helping a few while so many others are ignored. It is not enough for President Bush to say we're going to fully fund Headstart. We must get every eligible child involved. We must broaden the scope to include 3- and 5-year-olds. We must continue to strengthen the program.

Headstart is but one of the ways to restore quality to our schools. It gives us children eager to learn. But what good are eager children if our classrooms are substandard?

That is why we must follow through with our commitment to Impact Aid for local school districts.

As a public lands State, Idaho has a unique partnership with the Federal Government. In our State, many school districts depend on the Federal Government to compensate them for the impact of this Federal land on their budget.

However, this year the President wants to ignore more than 12,000 schoolchildren in Idaho. By breaking his promise to these local schools, the President would cost Idaho school districts nearly $1.5 million.

This is a promise we can't afford to break.

I have long been a supporter of Impact Aid for Idaho schools. The funding goes where the folks at home need it. We cannot afford to cut our kids off when their education is on the line.

In Idaho, boys and girls are taught to spend their money wisely and to keep future needs in mind. Today I rise to ask the Congress to do the same. Education is a good buy today and an important investment in tomorrow.

URGING PRESIDENT BUSH TO RECOGNIZE NEW NATIONS OF CROATIA AND SLOVENIA

(Mrs. MEYERS of Kansas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MEYERS of Kansas. Mr. Speaker, I rise today to urge the President to recognize the new nations of Croatia and Slovenia. The people of these countries have voted for freedom and democracy in honest elections. The new governments have agreed to the standards on democracy and human rights that the President and Secretary Baker put forward as criteria for recognition. They have proven they will be responsible members of the international community.

This policy of nonrecognition is not only wrong, it hurts our international competitiveness. The European Community has lifted its trade sanctions on the two countries. Their investors now have the opportunity to enter these new markets. The United States is missing a golden opportunity for new export markets. The Slovenian-American and Croatian-American communities would give America a solid advantage in competing with the Europeans and Japanese for this market as the new nations establish capitalist economies. The Serbian-American community could help free Serbia from its Communist shackles once peace comes to the region. We cannot afford to throw away this opportunity.

As long as different ethnic groups are forced to stay together in artificial states, there will be violence as they concentrate on their grievances against each other rather than on how they can cooperate. Croatia and Slovenia are independent countries—45 other nations have recognized them, and I urge the President to extend diplomatic recognition to Croatia and Slovenia.

□ 1020

AN AMERICAN CAMERA

(Mr. ROEMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROEMER. Mr. Speaker, the President claims to be the person that will create jobs for Americans and make this country No. 1 again. But he has been slow to use the authority of his position to preserve, protect, and create these jobs. And the citizens of the United States don't want to wait another 10 months until January and certainly can't wait another 4 years to be able to work.

Congress has an obligation to act now, and I am proposing that we create a program that I call centers for advancing manufacturing and education in rebuilding America [CAMERA].

Mr. Speaker, the CAMERA Program will create centers for excellence around the country that will retrain our workers, educate business people in becoming and remaining competitive, and identifying and supporting innovative technology that will maintain America's manufacturing base.

All of this will be done in partnership with our university system, creating access to education programs that will help our workers not only to stay employed, but to grow and prosper. American industry will be able to remain the indisputable world leader in output and productivity.

Mr. Speaker, the CAMERA Program is a snapshot of America's future, and I invite my colleagues to begin creating such a program now.

CONGRESS URGED TO PASS ECONOMIC GROWTH PACKAGE BY MARCH 20 DEADLINE

(Mr. HANCOCK asked and was given permission to address the House for 1 minute.)

Mr. HANCOCK. Mr. Speaker, the American people have spoken. When asked in a recent poll; who do you blame for the economic woes of the country, they overwhelmingly pointed the finger at Congress.

Once again it shows they are looking for Congress to put aside partisan differences and place the American people first. The country deserves at least this much. But House Democrats are not paying any attention. Last week, they passed a huge tax increase, the second tax increase in 2 years.

Mr. Speaker, there is a time and a place for partisanship, now is neither. It is time we put the person on the unemployment line, the couple looking to buy that first home or car or the elderly widow who is afraid to sell that piece of property for fear she will be eaten up by an unfair capital gains tax rate, first.

I urge my colleagues to heed the economist's warning and pass an economic growth package by the March 20 deadline. If we do not, the American people will hold us accountable.

To paraphrase an old saying, now is the time for all good men and women to put aside partisan politics and come to the aid of their country.

Mr. Speaker, we have only 15 days left to pass a real jobs creation bill.

PRESIDENT SHOULD FREE CABINET TO DO THEIR JOBS

(Mr. McCLOSKEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCLOSKEY. Mr. Speaker, is it not just too bad that with all the problems of the United States, the President does not think being a Cabinet officer is a full-time job?

Authoritative reports indicate that the 3-day rule is not an administrative procedure or an official act. It is the administration's requirement that certain Cabinet officials spend 3 days a week out in the hustings.

Cabinet officials are political appointments. It is perfectly fine, even a noble enterprise, for them to be politically active. But we have massive economic, governmental, and societal challenges. We need the departmental secretaries addressing these problems, not incessantly drumming up support for the President.

National Journal's Congress Daily has reported that at least one busy Cabinet member views this order with much annoyance.

Mr. Speaker, the President should free the Cabinet to do their jobs.

Mr. Speaker, I am including for the RECORD one paragraph from the February 28, 1992, Congress Daily as follows:

> In the wake of Patrick Buchanan's surprise showing in the New Hampshire GOP primary, the White House has issued instructions to several Cabinet members requiring them to step-up their campaign appearances on behalf of President Bush, according to a key GOP congressional source. The source added that the instructions—dubbed the "Three Day Rule"—mandate that all Cabinet members travel at least three days a week to urge support for the president's renomination. The source said at least one busy Bush surrogate views the rule with annoyance, especially because the requirement will remain in effect until the end of the primary season.

FULL DISCLOSURE IS VITAL

(Mr. DOOLITTLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOOLITTLE. Mr. Speaker, today the Chaplain prayed that we as Members of the House might act with honesty and courage.

Today the Ethics Committee will receive the resolution from the subcommittee relative to the House bank scandal and to the recommendations concerning those Members who have abused the bank.

Today, in the Roll Call newspaper, we read:

> While disclosure could involve releasing the names of abusers, it could also mean sending them personal letters and leaving it up to the Members themselves to handle the matter, subject to the pressures of the political marketplace, sources said. Still, sources believe that a straight public announcement of a relatively small number of abusers is more likely.

Also, in today's Washington Post, page A12, we read:

> The potential political damage that could arise from publication of the names of major transgressors has caused the House leadership to look for ways to dampen the impact of any disclosures.

Mr. Speaker, I join in the Chaplain's prayer, once again, and ask for honesty and courage as the House Committee on Standards of Official Conduct acts in this matter.

I believe full disclosure is vital.

OUR GOVERNMENT MUST WORK FOR THE PEOPLE

(Mr. MINETA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MINETA. Mr. Speaker, recently I spoke with you and my colleagues here about our need to address the shrinking resources of Federal departments and agencies and the resulting, sometimes drastic effect on our constituents.

Our district offices are too often the last chance—sometimes the only change—for Americans to get the help they need from the Federal Government. It is our job, Mr. Speaker, to see that they get that help.

Mr. Speaker, it does no good for Congress to talk about entitlements if the Office of Social Security is not answering its telephones.

It does no good for Congress to talk about stopping sexual discrimination or racial prejudice it the EEOC has a 2-year backlog of cases.

And the record is replete with many other examples.

Mr. Speaker, our Government must work for the people, else the people will lose faith in it. It is the job of this House and this Congress to stop that from happening.

All of us—Democrats and Republicans—should be able to agree on that.

PEOPLE OF AMERICA WANT FULL DISCLOSURE

(Mr. SANTORUM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SANTORUM. Mr. Speaker, today the House Ethics Committee is going to decide what to do with the House bank scandal.

There is an article in last week's New York Times, "Congress anxiously awaits to see House Bank's deadbeat list." I am quoting from the article; it says:

> If the Democratic leadership has its way, only a few Members at most will be identified as repeatedly overdrawing their accounts by amounts in excess of their month's salary.

That is an abuser.

I think we all know, and the American people know, that is at a minimum an abuser.

What we have is a system here that is decayed and corrupt, and we need to do something about it.

I know this is a very difficult decision for the leadership of the House, because there are a lot of Members here who are gnashing their teeth and wringing their hands about this, but when we took the oath of office, Mr. Speaker, when you took the oath of office, you did not take the oath of office to protect and defend your colleagues. You took the oath of office to protect and defend and be honest with the people in your community and your district and the people of America.

Own up to the people of America and what they want in this institution: full disclosure.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MCNULTY). The Chair has entertained eight 1-minute statements by Members from both sides of the aisle pursuant to the Speaker's instructions.

CONCURRENT RESOLUTION ON THE BUDGET—FISCAL YEAR 1993

The SPEAKER pro tempore. Pursuant to House Resolution 386 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the concurrent resolution, House Concurrent Resolution 287.

□ 1029

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the concurrent resolution (H. Con. Res. 287) setting forth the congressional budget for the U.S. Government for the fiscal years 1993, 1994, 1995, 1996, and 1997, with Mr. MFUME (Chairman pro tempore) in the chair.

The Clerk read the title of the concurrent resolution.

The CHAIRMAN pro tempore (Mr. MFUME). When the Committee of the Whole rose on Wednesday, March 4, 1992, the amendment offered by the gentleman from Ohio [Mr. GRADISON], had been disposed of.

It is now in order to consider amendment No. 3 printed in House Report 102-451.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. TOWNS

Mr. TOWNS. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN pro tempore. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. TOWNS: Strike all after the resolving clause and insert in lieu thereof the following:

That the budget for fiscal year 1993 is established, and the appropriate budgetary levels for fiscal years 1994, 1995, 1996, and 1997 are hereby set forth.

RECOMMENDED LEVELS AND AMOUNTS

SEC. 2. (a) The following budgetary levels are appropriate for the fiscal years beginning on October 1, 1992, October 1, 1993, October 1, 1994, October 1, 1995, and October 1, 1996:

(1) The recommended levels of Federal revenues are as follows:

Fiscal year 1993: $1,168,200,000.

Fiscal year 1994: $1,264,807,000.

Fiscal year 1995: $1,347,300,000.

Fiscal year 1996: $1,431,600,000.

Fiscal year 1997: $1,508,100,000.

and the amounts by which the aggregate levels of Federal revenues should be increased are as follows:

Fiscal year 1993: $0.

Fiscal year 1994: $0.

Fiscal year 1995: $0.

Fiscal year 1996: $0.

Fiscal year 1997: $0.

and the amounts for Federal Insurance Contributions Act revenues for hospital insurance within the recommended levels of Federal revenues are as follows:

Fiscal year 1993: $85,300,000,000.

Fiscal year 1994: $91,200,000,000.

Fiscal year 1995: $96,800,000,000.

Fiscal year 1996: $102,900,000,000.

Fiscal year 1997: $109,200,000,000.

(2) The appropriate levels of total new budget authority are as follows:

Fiscal year 1993: $1,203,104,000.

Fiscal year 1994: $1,176,216,000.

Fiscal year 1995: $1,178,463,000.

Fiscal year 1996: $1,191,098,000.

Fiscal year 1997: $1,235,996,000.

(3) The appropriate levels of total budget outlays are as follows:

Fiscal year 1993: $1,198,479,000.

Fiscal year 1994: $1,213,857,000.

Fiscal year 1995: $1,228,109,000.

Fiscal year 1996: $1,253,654,000.

Fiscal year 1997: $1,297,746,000.

(4) The amounts of the deficits are as follows:

Fiscal year 1993: $322,366,000.

Fiscal year 1994: $262,029,000.

Fiscal year 1995: $204,053,000.

Fiscal year 1996: $157,382,000.

Fiscal year 1997: $137,058,000.

(5) The appropriate levels of the public debt are as follows:

Fiscal year 1993: $4,480,000,000.

Fiscal year 1994: $4,884,100,000.

Fiscal year 1995: $5,236,400,000.

Fiscal year 1996: $5,581,600,000.

Fiscal year 1997: $5,982,500,000.

(6) The appropriate levels of total Federal credit activity for the fiscal years beginning on October 1, 1992, October 1, 1993, October 1, 1994, October 1, 1995, and October 1, 1996, are as follows:

Fiscal year 1993:

(A) New direct loan obligations, $19,700,000,000.

(B) New primary loan guarantee commitments, $13,300,000,000.

Fiscal year 1994:

(A) New direct loan obligations, $19,900,000,000.

(B) New primary loan guarantee commitments, $114,300,000,000.

Fiscal year 1995:

(A) New primary loan guarantee commitments, $19,900,000,000.

(B) New primary loan guarantee commitments, $117,200,000,000.

Fiscal year 1996:

(A) New direct loan obligations, $20,100,000,000.

(B) New primary loan guarantee commitments, $120,200,000,000.

Fiscal year 1997:

(A) New direct loan obligations, $20,500,000,000.

(B) New primary loan guarantee commitments, $123,100,000,000.

(b) The Congress hereby determines and declares the appropriate levels of budget authority and budget outlays, and the appropriate levels of new direct loan obligations and new primary loan guarantee commitments for fiscal years 1993 through 1997 for each major functional category are:

(1) National Defense (050):

Fiscal year 1993:

(A) New budget authority, $238,838,000,000.

(B) Outlays, $275,529,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority, $217,809,000,000.

(B) Outlays, $251,334,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget authority, $187,464,000,000.

(B) Outlays, $217,525,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1996:

(A) New budget authority, $162,060,000,000.

(B) Outlays, $191,582,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $167,900,000,000.

(B) Outlays, $175,583,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(2) International Affairs (150):

Fiscal year 1993:

(A) New budget authority, $20,110,000,000.

(B) Outlays, $17,046,000,000.

(C) New direct loan obligations, $2,900,000,000.

(D) New primary loan guarantee commitments, $8,100,000,000.

Fiscal year 1994:

(A) New budget authority, $19,694,000,000.

(B) Outlays, $16,624,000,000.

(C) New direct loan obligations, $3,000,000,000.

(D) New primary loan guarantee commitments, $8,400,000,000.

Fiscal year 1995:

(A) New budget authority, $20,403,000,000.

(B) Outlays, $17,222,000,000.

(C) New direct loan obligations, $3,100,000,000.

(D) New primary loan guarantee commitments, $8,700,000,000.

Fiscal year 1996:

(A) New budget authority, $21,070,000,000.

(B) Outlays, $17,842,000,000.

(C) New direct loan obligations, $3,200,000,000.

(D) New primary loan guarantee commitments, $9,000,000,000.

Fiscal year 1997:

(A) New budget authority, $21,861,000,000.

(B) Outlays, $18,484,000,000.

(C) New direct loan obligations, $3,300,000,000.

(D) New primary loan guarantee commitments, $9,300,000,000.

(3) General Science, Space, and Technology (250):

Fiscal year 1993:

(A) New budget authority, $18,582,000,000.

(B) Outlays, $17,121,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority, $19,251,000,000.

(B) Outlays, $18,002,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget authority, $19,883,000,000.

(B) Outlays, $18,650,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1996:

(A) New budget authority, $20,626,000,000.

(B) Outlays, $19,321,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $21,369,000,000.

(B) Outlays, $20,617,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(4) Energy (270):

Fiscal year 1993:

(A) New budget authority, $5,466,000,000.

(B) Outlays, $5,095,000,000.

(C) New direct loan obligations, $2,100,000,000.

(D) New primary loan guarantee commitments, $200,000,000.

Fiscal year 1994:

(A) New budget authority, $5,663,000,000.

(B) Outlays, $5,278,000,000.

(C) New direct loan obligations, $2,200,000,000.

(D) New primary loan guarantee commitments, $300,000,000.

Fiscal year 1995:

(A) New budget authority, $5,849,000,000.

(B) Outlays, $5,468,000,000.

(C) New direct loan obligations, $2,300,000,000.

(D) New primary loan guarantee commitments, $300,000,000.

Fiscal year 1996:

(A) New budget authority, $6,067,000,000.

(B) Outlays, $5,665,000,000.

(C) New direct loan obligations, $2,400,000,000.

(D) New primary loan guarantee commitments, $300,000,000.

Fiscal year 1997:

(A) New budget authority, $6,286,000,000.

(B) Outlays, $5,869,000,000.

(C) New direct loan obligations, $2,500,000,000.

(D) New primary loan guarantee commitments, $300,000,000.

(5) Natural Resources and Environment (300):

Fiscal year 1993:

(A) New budget authority, $21,886,000,000.

(B) Outlays, $20,579,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority, $22,674,000,000.

(B) Outlays, $21,320,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget authority, $23,418,000,000.

(B) Outlays, $22,087,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1996:

(A) New budget authority, $24,293,000,000.

(B) Outlays, $22,883,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $25,169,000,000.

(B) Outlays, $23,706,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(6) Agriculture (350):

Fiscal year 1993:

(A) New budget authority, $17,935,000,000.

(B) Outlays, $18,208,000,000.

(C) New direct loan obligations, $8,800,000,000.

(D) New primary loan guarantee commitments, $6,600,000,000.

Fiscal year 1994:

(A) New budget authority, $18,581,000,000.

(B) Outlays, $18,863,000,000.

(C) New direct loan obligations, $8,700,000,000.

(D) New primary loan guarantee commitments, $6,700,000,000.

Fiscal year 1995:

(A) New budget authority, $19,190,000,000.

(B) Outlays, $19,543,000,000.

(C) New direct loan obligations, $8,300,000,000.

(D) New primary loan guarantee commitments, $6,700,000,000.

Fiscal year 1996:

(A) New budget authority, $19,908,000,000.

(B) Outlays, $20,246,000,000.

(C) New direct loan obligations, $8,100,000,000.

(D) New primary loan guarantee commitments, $6,800,000,000.

Fiscal year 1997:

(A) New budget authority, $20,625,000,000.

(B) Outlays, $20,975,000,000.

(C) New direct loan obligations, $8,100,000,000.

(D) New primary loan guarantee commitments, $6,900,000,000.

(7) Commerce and Housing Credit (370):

Fiscal year 1993:

(A) New budget authority, $59,326,000,000.

(B) Outlays, $63,030,000,000.

(C) New direct loan obligations, $3,600,000,000.

(D) New primary loan guarantee commitments, $60,400,000,000.

Fiscal year 1994:

(A) New budget authority, $14,842,000,000.

(B) Outlays, $15,837,000,000.

(C) New direct loan obligations, $3,700,000,000.

(D) New primary loan guarantee commitments, $62,500,000,000.

Fiscal year 1995:

(A) New budget authority, $13,189,000,000.

(B) Outlays, $16,407,000,000.

(C) New direct loan obligations, $3,800,000,000.

(D) New primary loan guarantee commitments, $64,600,000,000.

Fiscal year 1996:

(A) New budget authority, $13,682,000,000.

(B) Outlays, $16,998,000,000.

(C) New direct loan obligations, $4,000,000,000.

(D) New primary loan guarantee commitments, $66,800,000,000.

Fiscal year 1997:

(A) New budget authority, $14,175,000,000.

(B) Outlays, $17,610,000,000.

(C) New direct loan obligations, $4,100,000,000.

(D) New primary loan guarantee commitment, $69,000,000,000.

(8) Transportation (400):

Fiscal year 1993:

(A) New budget authority, $43,020,000,000.

(B) Outlays, $36,328,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority, $44,569,000,000.

(B) Outlays, $38,828,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget authority, $46,031,000,000.

(B) Outlays, $40,476,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1996:

(A) New budget authority, $47,752,000,000.

(B) Outlays, $40,324,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $49,473,000,000.

(B) Outlays, $41,777,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(9) Community and Regional Development (450):

Fiscal year 1993:

(A) New budget authority, $11,877,000,000.

(B) Outlays, $8,279,000,000.

(C) New direct loan obligations, $1,300,000,000.

(D) New primary loan guarantee commitments, $400,000,000.

Fiscal year 1994:

(A) New budget authority, $14,842,000,000.

(B) Outlays, $10,131,000,000.

(C) New direct loan obligations, $1,300,000,000.

(D) New primary loan guarantee commitments, $400,000,000.

Fiscal year 1995:

(A) New budget authority, $12,708,000,000.

(B) Outlays, $10,496,000,000.

(C) New direct loan obligations, $1,400,000,000.

(D) New primary loan guarantee commitments, $400,000,000.

Fiscal year 1996:

(A) New budget authority, $13,183,000,000.

(B) Outlays, $9,190,000,000.

(C) New direct loan obligations, $1,400,000,000.

(D) New primary loan guarantee commitments, $400,000,000.

Fiscal year 1997:

(A) New budget authority, $13,659,000,000.

(B) Outlays, $9,521,000,000.

(C) New direct loan obligations, $1,500,000,000.

(D) New primary loan guarantee commitments, $400,000,000.

(10) Education, Training, Employment, and Social Services (500):

Fiscal year 1993:

(A) New budget authority, $59,089,000,000.

(B) Outlays, $52,988,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $15,200,000,000.

Fiscal year 1994:

(A) New budget authority, $61,216,000,000.

(B) Outlays, $59,040,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $15,700,000,000.

Fiscal year 1995:

(A) New budget authority, $63,255,000,000.

(B) Outlays, $58,730,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $16,100,000,000.

Fiscal year 1996:

(A) New budget authority, $65,589,000,000.

(B) Outlays, $58,817,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $16,400,000,000.

Fiscal year 1997:

(A) New budget authority, $67,952,000,000.

(B) Outlays, $60,936,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $16,600,000,000.

(11) Health (550):

Fiscal year 1993:

(A) New budget authority, $121,309,000,000.

(B) Outlays, $111,991,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $300,000,000.

Fiscal year 1994:

(A) New budget authority, $125,676,000,000.

(B) Outlays, $116,023,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $300,000,000.

Fiscal year 1995:

(A) New budget authority, $129,801,000,000.

(B) Outlays, $119,830,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $300,000,000.

Fiscal year 1996:

(A) New budget authority, $134,653,000,000.

(B) Outlays, $124,310,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $300,000,000.

Fiscal year 1997:

(A) New budget authority, $139,505,000,000.

(B) Outlays, $128,790,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $300,000,000,000.

(12) Medicare (570):

Fiscal year 1993:

(A) New budget authority, $127,726,000,000.

(B) Outlays, $130,613,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority, $132,324,000,000.

(B) Outlays, $142,800,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget authority, $136,667,000,000.

(B) Outlays, $158,700,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1996:

(A) New budget authority, $141,776,000,000.

(B) Outlays, $178,900,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $146,885,000,000.

(B) Outlays, $200,400,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(13) Income Security (600):

Fiscal year 1993:

(A) New budget authority, $214,018,000,000.

(B) Outlays, $203,007,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority, $221,723,000,000.

(B) Outlays, $210,315,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget authority, $228,999,000,000.

(B) Outlays, $217,217,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1996:

(A) New budget authority, $237,560,000,000.

(B) Outlays, $225,338,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $246,121,000,000.

(B) Outlays, $233,458,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(14) Social security (650):

Fiscal year 1993:

(A) New budget authority, $305,028,000,000.

(B) Outlays, $302,097,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority, $316,009,000,000.

(B) Outlays, $0.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget authority, $326,380,000,000.

(B) Outlays, $323,244,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1996:

(A) New budget authority, $338,581,000,000.

(B) Outlays, $335,328,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $350,782,000,000.

(B) Outlays, $347,412,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(15) Veterans Benefits and Services (700):

Fiscal year 1993:

(A) New budget authority, $37,870,000,000.

(B) Outlays, $36,523,000,000.

(C) New direct loan obligations, $1,100,000,000.

(D) New primary loan guarantee commitments, $28,200,000,000.

Fiscal year 1994:

(A) New budget authority, $39,233,000,000.

(B) Outlays, $37,838,000,000.

(C) New direct loan obligations, $1,000,000,000.

(D) New primary loan guarantee commitments, $22,100,000,000.

Fiscal year 1995:

(A) New budget authority, $40,521,000,000.

(B) Outlays, $37,838,000,000.

(C) New direct loan obligations, $1,000,000,000.

(D) New primary loan guarantee commitments, $20,100,000.

Fiscal year 1996:

(A) New budget authority, $42,036,000,000.

(B) Outlays, $40,541,000,000.

(C) New direct loan obligations, $1,000,000,000.

(D) New primary loan guarantee commitments, $20,200,000,000.

Fiscal year 1997:

(A) New budget authority, $43,551,000,000.

(B) Outlays, $42,001,000,000.

(C) New direct loan obligations, $1,000,000,000.

(D) New primary loan guarantee commitments, $20,300,000,000.

(16) Administration of Justice (750):

Fiscal year 1993:

(A) New budget authority, $14,677,000,000.

(B) Outlays, $14,354,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority, $15,205,000,000.

(B) Outlays, $14,871,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget authority, $15,704,000,000.

(B) Outlays, $15,359,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1996:

(A) New budget authority, $16,291,000,000.

(B) Outlays, $15,933,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $16,879,000,000.

(B) Outlays, $16,507,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(17) General Government (800):

Fiscal year 1993:

(A) New budget authority, $13,467,000,000.

(B) Outlays, $13,662,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority, $13,952,000,000.

(B) Outlays, $14,154,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget authority, $14,410,000,001.

(B) Outlays, $14,618,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1996:

(A) New budget authority, $14,948,000,000.

(B) Outlays, $15,933,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $15,487,000,000.

(B) Outlays, $15,711,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(18) Net interest (900):

Fiscal year 1993:

(A) New budget authority, $214,146,000,000.

(B) Outlays, $214,146,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority, $231,800,000,000.
(B) Outlays, $262,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:
(A) New budget authority, $243,000,000,000.
(B) Outlays, $278,700,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

Fiscal year 1996:
(A) New budget authority, $253,900,000,000.
(B) Outlays, $295,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

Fiscal year 1997:
(A) New budget authority, $264,000,000,000.
(B) Outlays, $311,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

(19) Allowances (920):

Fiscal year 1993:
(A) New budget authority, $3,795,000,000.
(B) Outlays, $0.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:
(A) New budget authority, $0.
(B) Outlays, $0.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:
(A) New budget authority, $0.
(B) Outlays, $0.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

Fiscal year 1996:
(A) New budget authority, $0.
(B) Outlays, $0.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

Fiscal year 1997:
(A) New budget authority, $0.
(B) Outlays, $0.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

Undistributed Offsetting Receipts (950):

Fiscal year 1993:
(A) New budget authority, −$40,034,000,000.
(B) Outlays, −$40,034,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:
(A) New budget authority, −$40,300,000,000.
(B) Outlays, −$40,300,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:
(A) New budget authority, −$42,000,000,000.
(B) Outlays, −$42,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

Fiscal year 1996:
(A) New budget authority, $44,400,000,000.
(B) Outlays, $44,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

Fiscal year 1997:
(A) New budget authority, −$45,000,000,000.
(B) Outlays, −$45,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

The CHAIRMAN pro tempore. Under the rule, the gentleman from New York, [Mr. TOWNS] will be recognized for 4 hours and a Member opposed will be recognized for 4 hours.

The Chair recognizes the gentleman from New York [Mr. TOWNS].

□ 1030

Mr. TOWNS. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. PANETTA], the chairman of the Committee on the Budget.

Mr. PANETTA. Mr. Chairman, I thank the gentleman for yielding me this time. In this time I am going to try to advise the Members where I think the course of debate will take us in terms of times for votes.

We are beginning at 10:30. If the full 8 hours are used, that takes us to roughly 6:30.

I would anticipate that we would not use the full 8 hours. If that is the case, then the likelihood is that we may perhaps get to a vote on this issue sometime in the 5 to 6 o'clock timeframe. An hour then would be used for debate on the final disposal of the budget resolution. I would suspect that hour would be used, so I guess my best guidance to the Members would be perhaps final disposal of the issue perhaps by sometime around 7 o'clock this evening.

Mr. TOWNS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I thank the Chair for this opportunity to discuss the budget jointly proposed as an alternative for fiscal year 1993 by the Progressive Caucus and the Congressional Black Caucus.

We present this budget as a guide for the challenge of the new realities facing the people in a world of new realities. The new realities faced by this country have been shaped by the changes of the old realities. We cannot turn away from the fact that the political and economic conventional wisdom which formed the geopolitics of the previous 4 decades of the American landscape are now gone. The threat posed by the Soviet Union and the Warsaw Pact countries is as dead as the ideology of communism which gave it birth. Yet this threat is rapidly being replaced by another threat to the national security—unemployment, homelessness, illegal drug trafficking and violence. And unlike the Soviet Union, these threats are not on distant shores from faceless and nameless enemies—there is no evil empire at the forefront or in the background. These threats are on our own shores, in our own homes, carried on the shoulders of our people and living in the hearts of our own children. It can be seen in the faces of millions of unemployed Americans who are no longer counted in the official statistics because they have been out of a job so long that they are no longer showing up on the computers. The Labor Dept. officially calls them discouraged. But if you look in their faces, as I have, what you will see it not merely some kind of malaise. It is the fear, anxiety and hopelessness of people who feel forgotten and betrayed by their leaders. As Pogo said—"We have seen the enemy and it is us." It is us if we fail to take this opportunity to turn around the economic and social development of this country. It is us if we fail to use the power and authority vested in us by the Constitution, law and the will of the people. It is us if we fail to provide jobs to the jobless, food to the hungry, homes to those living on the street; education to those eager to learn and training to those yearning to work. It is us if we fail to seize this day, this moment, this opportunity, to correct some major mistakes that we made over several years.

The budget that we offer today, seeks to restore the pride of all Americans and maintain the greatness of this country—by taking into account the changed face of the world—and the strained face of this Nation. The TOWNS-DELLUMS alternative looks at every sector of this Nation—urban and rural; factory, farm and service sectors; rich, middle class and poor; black, Hispanic, Asian native American, white and native American and tries to provide help to a suffering people. This budget is not only good for minorities and women, but for all Americans who have felt the pain of a tight economy. Our mission and our duty as Members of Congress and Members of the Congressional Black Caucus is to provide the relief that they seek.

Today we will talk a great deal about the positive effects that this initiative will have for native Americans and Americans of African-Hispanic and Asian descent. We will talk about the positive effects that this budget will have on their lives. It may seem that we are focused on them, but make no mistake they will not be the only beneficiaries. If our plan is adopted America will be the beneficiary. But we will focus on these groups of Americans because for the last 2 decades, they have been forgotten and neglected in the economic policies of this country. We will talk about the cruel economic realities that affect our communities—I am talking about realities that cannot be cured by quite fixes or a lot of rhetoric. We are talking about things that need to be fixed, which this budget addresses.

I hope that my colleagues will seize this moment to move this country in a new direction.

Mr. Chairman, at this time I would like to pause and yield to a gentleman who over the last 3½ months has worked day and night to formulate this budget, one who has been the conscience of this Congress down through the years, making certain that those who were left out and locked out would be able to come in.

So, Mr. Chairman, at this time I yield as much time as he may consume to the gentleman from California [Mr. DELLUMS].

Mr. DELLUMS. Mr. Chairman, first let me thank my distinguished colleague, the gentleman from New York [Mr. TOWNS] for his very generous remarks, and secondly simply to say that I rise today with a great sense of pride and pleasure to have assumed the responsibility on behalf of the Members of the Congressional Black Caucus and my distinguished colleagues of the Progressive Caucus to attempt to establish the framework for a new budget that will allow us to march forward into the 21st century.

My job today will be to attempt to set the stage for this debate; but prior to doing that, I would like to make an observation that is extremely painful to me. If you will note, we are about the business and have been over the last 24 hours or so of debating the national budget for this country for this year and into the future, but there are very few Members of the House of Representatives who are here today prepared to engage us in a substantive, serious and dignified debate on the future of this Nation and America's role in the world.

I would secondly observe that even in the Press Gallery, we find that on such an auspicious occasion that there are literally no members of the press here to report to the American people a desire on the part of serious Members of this House to grapple with the substantive problems of this country.

I make those observations with a great sense of embarrassment and a great sense of pain. Having said that, I would like to move forward.

Mr. Chairman, I wakened about 4 a.m. this morning and prayed that in some way I would have the strength to communicate to you, Mr. Chairman, and to my colleagues and through the Chair to the American people the significance of this moment.

As I have said on the floor on more than one occasion over the last few days that this moment within which we find ourselves, in my opinion, is not a political moment. It is not a partisan moment, but an incredibly historic moment. Most of us spend our lives as politicians tinkering at the margins, Mr. Chairman, of policies that pre-date us, feeling our impotency each day, each week, each year that we serve the American people in this legislature, but we now have this extraordinary opportunity, for if I had come to the floor just a short while back and said the Berlin Wall will crumble without a shot being fired, that the Warsaw Pact will evaporate and vanish from the radar screen, that the hammer and sickle will no longer fly over the Kremlin, that it will be replaced by a red, white, and blue flag, that the Soviet Union as we have known it will dissipate, will evaporate, and that a noncommunist will be the President of Russia, most people would think that I have taken flight from my senses.

□ 1050

But the fact of the matter is that those are the realities. So this is an incredible moment to grapple with each other on substantive matters.

Mr. Chairman, to further set the stage, we came into this budget with four alternatives, two offered by my distinguished colleagues on that side of the aisle and two by my distinguished colleagues on this side of the aisle. My distinguished colleague from New York [Mr. TOWNS], I, and others visited with the Speaker just a few short days ago, and we said, "Mr. Speaker, this moment is so extraordinary, pregnant with so much potential, because there is so much pain and economic and social dislocation in this Nation and such extraordinary developments in the world, that we ought to take some time to slow this process down and focus the American people and focus our colleagues on a budget for this Nation. Let's take some time to debate it."

He then said, "What kind of time are you talking about?" We said, "Well, since there are four proposals, Mr. Speaker, let each proposal see the full light of day, let each proposal be debated one day. Let the Republican alternative offered by the distinguished gentleman from California on the other side of the aisle be debated all day, let's look at the merits, the pros and the cons, which is what this is all about, and let's then allow President Bush's budget to be exposed to the scrutiny of 435 Members of Congress. Let's look at the efficacy or the lack thereof, the strength or the lack thereof of those proposals for an entire day. Then have a vote. Let's then expose the Congressional Black Caucus to the full light of day, let us grapple with each other, let's engage each other and then the budget proposal." But an extraordinary thing occurred. We appeared to be the only ones prepared to stand out here all day and to expose our ideas to our colleagues and say, "'Take us on,'" because we have no problem with disagreement. That is what the political process is all about, the give and take of different values, different principles, different ideologies, different analyses, different views.

So, that is what brings us here today with this budget, with 8 hours.

Now, no other budget even asked for that amount of time. We are proud of this product. We have worked diligently. We call our budget a budget for new world realities and for rebuilding America.

Mr. Chairman, I have been waiting 21 years for this moment, and have suffered in these Chambers for 21 years, doing battle as Don Quixote, tinkering at the margins, but now we have this extraordinary moment.

So, we want to take this opportunity to speak. Mr. Chairman, I not only want to speak to you and my colleagues, I want to speak to America, to those mothers and fathers who are frightened to death that drugs and violence are harming their children and their communities, and I want to talk with those parents who feel that our contribution to education in this country is not equipping their children to grapple and cope with the rapidly changing world. I want to talk with those senior citizens who feel the fear of advancing years, who are concerned about the future of this economy and the fabric of our society.

I want to talk with those American people who live in communities where the factories have closed down, major corporations have laid off thousands of people.

I want to talk with those people, those American people, those American people who never thought, Mr. Chairman, in their lifetimes that they would be welfare recipients, because in some way they felt that the great American dream would give them employment until they chose to retire, now finding themselves in long lines wrapped around street corners throughout America to obtain a mere pittance to survive for themselves and their children.

I want to talk with all of those American people, to help them understand the significance of this moment and the fact that there are Members of Congress prepared to grapple substantively with these serious issues. The fact that many of us who are the architects of this budget happen to be black is simply that; but this is a national budget. This is a budget for the entire America, as my colleague who spoke before me so eloquently pointed out.

Mr. Chairman, we stepped forward after a 3½-month process, and we then said we want to put forward to the American people a four-point program. One, let us shake off the straitjacket of the 1990 budget agreement that locked us into a 5-year budgeting process that has now been overcome by events. The world has changed since that time. The budget agreement is an antiquated document. We cannot allow ourselves to simply march forward in lock step to a proposal that no longer is relevant.

Therefore, at a minimum, we should bring down the walls that separate the military budget from the domestic budget, to allow us to realter the national priorities of this Nation. But we would not discuss this matter or deliberate on this matter today; that will be taken care of subsequently.

A second part of our proposal was to look at our taxing structure, not in an effort to energize the economy, because we have listened carefully to economists, left, right and center, who do not believe you can really truly energize this economy through the tax structure.

Our approach was to approach taxes on a tax equity basis, to tax those extraordinarily wealthy people who benefited over the past 10 or 12 years with exorbitant, extraordinary tax breaks and the corporate elite—the top 10 percent that earn 90 percent of the wealth of this Nation—to give back some of the multibillions of dollars that they benefited over that period of time, and give it to the working and middle-class people of this country in the form of tax equity.

But events have overtaken us in that regard. The House has acted on a tax proposal which leaves us then with the other two parts of our program.

One, against the backdrop of a reality of a changing world, let us step back and write a new military budget based on the new realities of the world.

The military budget reflects our national security needs, which in turn reflects what our thoughts are about the threats to the United States. Let us do that in realistic terms and write a new military budget. And if there is a so-called peace dividend, then let us begin to address the myriad social and economic problems that we abandoned as we allowed our military budget to skyrocket to, at one point, $312 billion per annum, and begin to redirect those resources to rebuild the economic infrastructure, increase education, generate employment, deal with the health problems of the Nation and many other social problems and economic realities that require our urgent attention.

To the first point, rebuilding a new military budget: Mr. Chairman, for four and a half decades the guiding light that has stimulated America's high level of military readiness for that period of time was the Soviet threat and the potential for fighting a war in Europe with the Warsaw Pact, for four and a half decades.

On January 22 of this year the director of the Central Intelligence Agency, Mr. Gates, the director of the Defense Intelligence Agency, Lieutenant General Clapper, made the following interesting and, in my opinion, pointed observation: One, the former Soviet Union military capability on the decline; Russian weapon procurement down by 80 percent—80 percent; Soviet investment in research and development on military technology down by 30 percent; former Soviet strategic capability on the decline; and, finally, paraphrasing from Lieutenant General Clapper, director of the Defense Intelligence Agency, that the former Soviet Union poses no significant threat, and I repeat for purposes of emphasis, no significant threat to the United States or to NATO.

□ 1050

Conclusion: The Warsaw Pact no longer exists. It has vanished off the radar screen as a threat to this Nation. The Soviet Union that has acted as the big bogeyman for $300 billion military budgets has now so significantly reduced, and declined and diminished that any reasonable person has come to the conclusion that they pose no major threat.

In fact, Mr. Chairman, the president of Russia came to the United States and not only said that he is not interested in continuing to be our adversary, but he said:

> I want to be your friend. And, incidentally, if you have any food, we need it to feed our people, and, if you perceive us as a nuclear threat, Mr. President, American people, we're prepared to go even below your proposal to bring greater stability and a sense of peace to the world.

Mr. Chairman, what is the significance of these two threats, now either having disappeared or dissipated?

Using the baseline of $301 billion, which is what the Committee on the Budget, what everyone, is using, it is where we have been for the past decade: approximately $300 billion per annum. I say to my colleagues and the American people, "You need to know that we have been spending between 50 and 70 percent of that $300 billion on two threats, the Warsaw Pact and the Soviet Union. Now you don't have to be a Ph.D. in mathematics to do simple arithmetic. Fifty to seventy percent of $300 billion means that on an annual basis we have been spending between $150 and $210 billion per year on those two threats—$210 billion.

Now, if one of those threats where we have been spending, and it is reports from the Pentagon, not RON DELLUMS' articulation, $150 billion a year, that threat is now vanished, the Soviet Union dissipated, I ask, "We can't find some money out of that $210 billion in a post-cold-war, post-Soviet Union environment, to redirect to address the myriad economic, and social pain and dislocation?" That staggers the imagination. It boggles the mind.

Mr. Chairman, the President of the United States stood right here just a few weeks ago and stated to us and to the American people that he was prepared to cut over a 5-year period $50 billion from the military budget. Conclusion: Even the President understands that the world has changed and that the military budget has to be reduced.

The only question for debate now is: How much? What are our real national security needs? What is the threat? And what force do we see out there in the outyears? It is no longer a debate of whether it is going down. The President of the United States said it is going down. So now an honest and legitimate debate can be: Is it enough?

Mr. Chairman, my response is: "No; it is not enough, because that means that the President has singularly stated to the American people that, out of that $210 billion that we have used as a threat to the American people, out of that only a $10 billion reduction per year can take place." That means that roughly one-sixth of the budget will be reduced over a 5-year period, which means that five-sixths of the budget will remain.

Question: "How do you justify five-sixths of the budget remaining from 70 percent of the threat that has either been reduced or diminished? That's only a 17-percent reduction, but 70 percent of the threat is either gone or significantly removed."

The answer was, "Well, Mr. Chairman, we don't know where the next Noriega or Saddam Hussein is coming from." Understand what that means. That means that we are saying that we will keep in place five-sixths of the military budget to prepare for a Panama, and an Iraq, and a Korea that will pose five times the threat that the Soviet Union and the Warsaw Pact posed that acted as the linchpin for our high level of military readiness for four-and-a-half decades. Mr. Chairman, Members of the Committee, that defies understanding.

And now we hear our colleagues saying again, using cold war rhetoric and worst-case-scenario politics that got us into this position in the first place—for 21 years they have been telling me. "The Russians are coming, the Russians are coming, the Russians are coming. We can't cut the military budget." But I would observe, Mr. Chairman, that finally the Russians actually did come. They came to America. But they came and sat down in the back of the Committee on Armed Services' room in peace. They came asking for assistance. They did not come fighting a war. But here we are now again in a worst-case scenario.

I would ask, "Do you, Mr. Chairman; do you, Members of this body; do you, American people, actually believe that we need to spend five-sixths of $300 billion preparing to simultaneously, and that's the theory here, fight a war in Panama, fight an equivalent war in Iraq, fight a war in Korea, and fight a war in the former Soviet Union that might be based on a civil war conflict—simultaneously three or four wars that we'd be fighting all together?" Again I would suggest to my colleagues that that is a flight into fantasy, that again it is a worst-case-scenario notion.

Now they are saying the greatest fear is uncertainty. So I would ask, "Do you really believe that, Mr. Chairman, that we actually would be fighting three or four wars simultaneously?" I do not believe that. We looked out there, and we said, based on a number of lessons, that we can significantly reduce the military budget. In fact, we said that within 4 years we could cut this military budget in half.

Now I might add parenthetically, Mr. Chairman, that former Director of the

Central Intelligence Agency, William Colby, suggested we cut it in half in 5 years. We simply got there 1 year earlier, so this is no extraordinary idea, to cut the budget in half within 4 years.

We did not come to that one-half in an arbitrary way. We looked at a changing world. We saw a reduced threat. We looked at the lessons of the Persian Gulf war.

What are the lessons of the Persian Gulf war? We amassed 500,000 troops in the desert. Yet, Mr. Chairman, members of the committee, within hours, with a massive technological capability, we rendered the Iraqi Army helpless without 500,000 troops fighting, as we have contemplated war in the past. We fought this war in a very different way. We used Stealth technology, we used guided munitions, we used smart bombs and saturation bombing. The fact of the matter is that, if any American people watched that war unfold on CNN, they should have become as frightened as I was because we had an opportunity to see the future of war, and the future of war is not men against men and women against women in the battlefield shooting from behind trees. The war of the future is highly technological. The war of the future is standoff capability with smart weaponry.

Ponder for a moment what would happen to us in that kind of a war. It staggers the imagination. It should frighten us to the bottom of the soles of our feet. But what it means is that a whole notion of force structure has to change, that we must abandon old thinking. We do not need all of the troops that we need. If the Iraqis, as the President said to the American people, were the fourth largest standing army in the world, and we are now preparing with a major military budget in a post-cold-war environment to fight Third World countries, name the Third World countries that have a military force anywhere near what the Iraqis had. And within a matter of hours we gained air superiority, within a matter of days we had killed so many people that it should stagger the imagination and render everyone self-conscious about the insanity of war as a way of solving problems, but, recognizing that the world is not a totally peaceful place, we set out a minimum of 4 years to reduce these forces.

I say, "For every weapon system that you purchase that you do not need, every troop that you deploy out there that you do not need, you rob our children of education, you rob our workers of employment.

□ 1100

You rob the social and economic fabric of this Nation of the resources it needs to repair itself, to give our children a dream and a vision for the future."

We start with a $50 billion cut in budget authority in fiscal year 1993, but we take the long view. We recognize that the world does not change overnight. This is a major first step.

Mr. Chairman, if the question to me is: Is there a peace dividend in a post-cold war, post-Soviet Union environment, I will give an answer. Within 60 seconds I will lay before you $1 trillion, not $1 million, not $1 billion but $1 trillion in now-year dollars, real money, no smoke and mirrors, no accounting procedures, real money in now-year dollars that we can use as a peace dividend to begin to address the myriad social problems in this country.

How do we do that? If we start with a $300 billion budget and in 4 fiscal years, to fiscal year 1996, we reduce that military budget to one-half, $150 billion, starting with a $50 billion cut in fiscal year 1993, we save $400 billion that we normally would have been spending on defense that in a post-cold war, post-Soviet Union environment we no longer have to spend on the military.

A reasonable person can understand that. That is $400 billion. If we decide to level-spend at $150 billion for the next 4 fiscal years, 1997 through fiscal year 2000—that is 4 additional years at $150 billion off a baseline of $300 billion—we save $150 billion each year for 4 years. Four times $150 billion is $600 billion. Now, $600 billion plus $400 billion in an 8-year period is $1 trillion. That is $1 trillion, Mr. Chairman. So the answer is, yes, there is a peace dividend.

To digress for a moment, when I first came here in 1971, I took the well of the House and I said that we must reorder the national priorities of this Nation and begin to address the myriad social and economic problems and human pain in this country. I remember vividly one of my colleagues walked up to me after I had spoken in the well with some sense of self-consciousness and fear and trepidation after one of the early speeches in my then budding career as a Member of the House of Representatives, and my colleague patted me on the back and congratulated me for an eloquent statement about the human condition. "But," he said, "Mr. DELLUMS, you are very naive."

I said, "What do you mean?"

He said, "I would like to join you in solving the problems of this Nation, but you don't understand the Soviet threat and the Communist menace. We don't have the time nor the energy nor the money at this point to solve these problems. We have to put them off the table for a while while we address the Soviet threat and the Communist menace. We don't have the money to do it."

Twenty-one years later, I confront my colleagues and I challenge them, Mr. Chairman. I say to the American people that the Soviet threat is gone. The Warsaw Pact has vanished off the screen.

So I ask, "What is your rationale now? I have just given you $1 trillion over an 8-year period to the year 2000 as a peace dividend. So don't tell me there is no money there." So I ask, Mr. Chairman, "What is your rationale now?"

I have been waiting 21 years with some significant pain. So here we are. We cannot avoid this moment. This moment is pregnant with the potential for tremendous change. The American people look at the Congress with hope and anxiety, hope that we will grapple with the issues and anxiety that maybe we will not.

But we offer a proposal. We say that we can write a military budget that addresses our military security needs in very real terms, and that even in doing so we can free up $1 trillion to begin to address the myriad problems of this country.

For those who say we are not interested in reducing the deficit, here is my response: We are responsible people. Our budget reduces the deficit significantly, and in conservative terms it takes it down to slightly over $100 billion by 1997. That is conservative because there are a number of factors that contribute to the deficit.

Inflation, Mr. Chairman, contributes to the deficit. Our proposal says, let us rebuild America's economic infrastructure, let us generate employment, and let us put people back to work. When they are working, they pay taxes and the deficit starts to come down.

The rising military budget that is capital intensive, as opposed to being labor intensive, is now on the down curve. Our budget says we can take it down to one-half, and then if we wish, we can level it out to the year 2000, so that contributes to reducing the deficit.

We said that a tax equity package makes sense to us. That would contribute to reducing the deficit. The skyrocketing cost of health care is contributing to the deficit. I recognize we are in the primitive stages of a debate on health, but at least it is now back on the front burner. The American people have demanded that we address health, and if we are ever able to come to terms with giving the American people access to quality health care, where the cost is captured and controlled and affordable to the American people, we will further reduce the deficit.

The S&L crisis contributed to the deficit. We take it off budget, but the fact of the matter is that we have to take some money to pay for it. I hope that is a temporary solution.

As I said, we are showing you a trillion dollars. We are prepared to take some part of that trillion dollars and contribute some cash money to contribute to lowering the deficit. Then, with the rest of it, we want to respond to the pain of the American people.

What are the American people saying? They are saying, "We want jobs." Our response is that we take a significant portion of this money, and let us begin to rebuild America's economic infrastructure.

Studies show that if we would just begin to rebuild America's railroads, Mr. Chairman, we would generate in excess of a million jobs. If we made American cities a monument to our genius and our humanity rather than a monument to our insanity, we would generate employment.

If we would agree to address the housing needs of this country, we would recognize that someone has to build the houses, repair the homes, and maintain housing units, and with ancillary employment we would generate jobs.

If we would agree to expand our potential in education and reach out to our children, they would begin to dream again. Studies that just came across the wire yesterday pointed out that most American children do not believe that they will inherit a world as good as the world their parents inherited. That is frightening. It means that we have ripped from our own children the hopes and the dreams that they could go beyond their own parents. Many of our parents, in the quiet and solitude of their own minds and their homes, feel that they are about to turn over a world to their children that in no way allows them to come close to what they received. Our theories have always been that we will give our children a better world than the world that was given to us.

The way we generate employment is not in a vacuum. We cannot generate a jobs program in a vacuum, Mr. Chairman. The way we generate employment is when a society commits itself to solving other problems and in the commitment to solve those problems generates employment.

Our industrial base is declining. Our economic base is deteriorating. If we agree to address that problem, we are going to generate employment. Our economic infrastructure is collapsing. To rebuild it generates employment.

□ 1110

Dealing with the myriad other social problems, we generate employment. That is our effort. That is our desire. Let us now reshape the priorities of this country.

Finally, there is going to be a great deal of pain, I would say to my colleagues, as the military budget goes down. There is no question, because as troops come home and they are deactivated and demobilized they become unemployed. As we shut down plants that build bombs and planes that are no longer necessary, there are real human beings out there building those systems.

In my 21-plus years in the national Congress no one has ever walked up to me, Mr. Chairman, and said, "I demand a job building a bomb." No one has ever said that to me. No one has ever said, "Mr. Chairman, I demand a job building an MX missile. I must have it."

What they have said to all of us, "I demand the right as a dignified American citizen to work, to feed my children, to raise my family, and to function with dignity and pride in this Nation."

I believe that the American people, given the option to build transit cars or B-2 bombers, would opt to build transit cars. It gives them employment. It is in their long-term interest, because it is environmentally sound and they turn over an environmentally safe world to their children.

What am I saying? Economic conversion must be the centerpiece of this major point job departure as we strike out toward the 21st century. We have often used economic conversion as a throw-away line, "If we convert from a wartime economy to a peacetime economy."

Studies show for every dollar we spend on the nonmilitary side of the budget we generate more employment than we do on the military side. One is capital-intensive, one is labor-intensive. We all know that.

Now we are faced with the reality in a post-Soviet Union post-cold war environment of actually making the motion of conversion a reality. How do we really do that? Now it is no longer speechmaking, it is real. We have to confront it. We must now take our scientific genius, our Ph.D's, our engineers, our scholars, our business community people, our economic development people, our workers, our community people, our citizens and bring them together to address this issue.

Remember just a few weeks ago when a major controversy occurred in Los Angeles, when one of the political bodies there gave a contract to the Japanese to build mass transit cars? Great political furor arose. That body withdrew the contract. But think about that. Here is a classic example of the need for economic conversion. Why were the Japanese better able to build an efficient transit car? Because their government contributed to technology development. Their government did not leave it just to the corporations to decide what research and development are necessary. They said, "We, the government, must participate in the process of research and development and technology development to enhance the quality of life."

We have the genius and the acumen and the capability and the working capacity in this Nation to build whatever we need to build, but we must take the political step and put our economic might behind making economic conversion a reality, not simply a political throwaway line that we make on the stump to gain immediate applause.

Our budget challenges this Nation to that point. We attempt to address conversion inside the military and outside. For those young people coming home from the military, let us write a new GI bill. Let us have housing allowances. Let us have unemployment compensation for them. Let us have training. Let us give them the opportunity. Let us not just drop them out.

We should not be as insensitive to the pain, as the military budget goes down, as many of my colleagues were when the military budget went up, as many of us were screaming that in the aftermath of a rapidly rising military budget we are going to have homeless, helpless, jobless, and poverty-stricken people and children without dreams and without hope.

Our budget attempts to reconcile both levels of pain, economic conversion as the budget goes down, to address the pain and dislocation of people. These are not statistics, they are real human beings.

Let us also address the pain as the budget went up, because we left behind millions of American people.

To summarize, Mr. Chairman, this, as I said before, is not a political moment. I would say to my colleagues, this is not a partisan moment. We have marched into the well year in and year out, attempting to challenge our colleagues to a higher level of discussion and debate. This moment dictates that. It must happen.

We cannot allow ourselves to just get into the battle of Republican versus Democrat and engaging in stump speeching. We have to grapple with the realities of the world, the realities of this Nation.

In the time that my colleague has generously given me to lay out the parameters of our budget we have said, "Here is a budget for the new world realities," and we are prepared to discuss and debate and talk about those issues. We hope that the time is not taken to simply bash another proposal. Grapple with us. We spent 3½ months to write a budget that we are prepared to defend and we are prepared to challenge our colleagues. Do not use the time to engage in a debate on another budget that is not before us. Dignify us and dignify this moment.

We are prepared to take them on not in a partisan and political way, but in an intellectually honest way and in the comity of give and take that ought to be the order of the day on this floor.

We said to the Members that the budget can be reduced. We said to the Members that there is a peace dividend. We said to the Members that it can be redirected so that we can simultaneously face the reality of the world as it is changing and also address the human condition on our people in a substantive and powerful way.

With those remarks, Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The Chair will note that the Chair has recognized two

Members, the gentleman from New York [Mr. TOWNS] and the gentleman from California [Mr. DELLUMS] in support of the amendment.

Does any Member rise in opposition?

Mr. GRADISON. Yes, Mr. Chairman.

The CHAIRMAN. The gentleman from Ohio [Mr. GRADISON] is recognized for 4 hours.

Mr. GRADISON. Mr. Chairman, I yield such time as he may consume to the gentleman from Georgia [Mr. GINGRICH] the distinguished Republican whip.

Mr. GINGRICH. Mr. Chairman, let me say first of all that I appreciate very much the gentleman from Ohio [Mr. GRADISON], the distinguished ranking member, allowing me to take such time as necessary.

Let me say to my colleagues on the other side that I take very seriously what I think they are trying to get at, and that I came here today, and a number of my colleagues have said, "Please do not take any time. Let us yield back our 4 hours. Let us get out of town early."

As the Members know, I tried to come in earlier to give us the maximum amount of time to debate today. I take very seriously what the Members are trying to accomplish, and I am going to, frankly, speak at some length. I hope my colleagues will not object.

My only, I guess, mild concern about the earlier comments of the gentleman from California [Mr. DELLUMS], my good friend, is that I note the same lack of serious participation on his side of the aisle that we have on our side. The gentleman earlier commented on the lack of Republican involvement. I just want to point out that in some ways I wish the leadership from both sides were more aggressive here.

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. GINGRICH. I am happy to yield to the gentleman from California.

Mr. DELLUMS. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I place no political or partisan characterization on it. I simply said my observation was that there is not participation in this House at this significant moment. I concur in the gentleman's comment.

Mr. GINGRICH. Mr. Chairman, I want to start by saying that I want to, for a little while, lay out an intellectual framework. I deliberately have changed my schedule to be able to do this today, because I really hope as people all over America read this record, and I know that they are deliberately, earnestly, and sincerely laying out a record and creating a framework of thought, and I deliberately wanted to create an alternative analysis and engage in a dialog.

For a little while I am going to lay out a framework. Then I will be glad for such time as seems appropriate, without being too repetitive, to genuinely open up a dialog.

Let me say I take very, very seriously both the intellectual arguments of the gentleman from California [Mr. DELLUMS] and the intense passionate cry from the hearts of virtually every Member on the Democratic side who will speak during these hours. I do not see how any decent human being can look at the worst problems of poverty and the worst problems of failure in American society and not have a level of anguish which should engage them mentally and morally and in terms of their courage to address the problems.

I want to say I respect deeply the emotional commitment, the integrity, and the intensity with which those Members on the Democratic side will speak before we get to a vote on their amendment.

I am only going to talk briefly about your amendment, but I do not think that is the essence of what you are trying to say. I think that while you have labored hard on this budget, you do not expect it to pass, but you do expect it to be a framework for debate about how we solve America's problems.

□ 1120

I want to challenge my dear friend from Berkeley who came here as one of the great revolutionaries and radicals of his time, who has gradually matured into a senior subcommittee chairman, and has become one of the more important Members of the collective leadership of this body. Not that he is not in his heart still willing to be radical, but to some extent now, he is a cultured and well dressed radical.

Mr. DELLUMS. I was actually born in Oakland, sir.

Mr. GINGRICH. The gentleman from Oakland. I thought at one point you had served in Berkeley in the city council. I read a little bit about you. I know that you try as much as you can to claim roots, and I know that you have some family in Texas, and we can talk about all of that. The point is that I am going to argue for a couple of minutes is that I have been more of a revolutionary today than you are, and you can listen for a while and then decide later if I failed the test. And I am going to argue three levels—political, intellectual, and economic.

Politically, part of our difference I believe is whether we should raise taxes on working Americans to transfer the money to government bureaucracy, or whether in fact if your primary interest is helping the poor and creating jobs and establishing opportunity we should find a way to rethink the whole structure of our Tax Code, and particularly to help rising, younger entrepreneurs, and particularly to help small businesses, because those are, to a peculiar degree, the primary way in which minorities rise. It is precisely accelerating the emergency of entrepreneurs and by encouraging the growth of small business, which is the way historically that people who are in minority status, whether it was the Irish Catholics at the turn of the century, the Italian Catholics in the 1930's, or somebody who is black, Hispanic, or Asian today, business in the end is the primary driving force for truly becoming wealthy in America.

Intellectually my concern is, and I try to say it as simple as I can, is the central problem in American government resources or restructuring. My good friend, I think, would argue it is largely resources. If there was enough money, New York City would work. If we could shrink the Pentagon by 50 percent and take the money and transfer it to Oakland and Detroit and New York, they would work dramatically better.

I am going to argue today that the No. 1 problem in American government is restructuring, in fact revolutionary restructuring. My good friend mentioned the Japanese. Let me suggest if you read the MIT study, "The Machine That Changed The World," which is essentially a study of Toyota, but also it takes a look at 95 other auto plants around the planet, that book, "The Machine That Changed The World," argues that it is an entire restructuring, psychologically, culturally, and in management which makes Toyota so dramatically better. And an analogous American example is one from the Wall Street Journal, a story on Tuesday about Chrysler, in which, it has a long section on how much Chrysler has had to change internally.

I would argue that city government in America, and when we talk about poverty I know my good friend from Mississippi is going to speak presently, and there is a great deal of rural poverty, but when we talk about the most bleak and desperate examples of poverty in America, we are consistently talking about our biggest cities. They are unbelievably tragic for those who are poor. Therefore, I think there is a challenge intellectually to talk about.

Analytically I would question, and this is one place where I may at the very end, if we have time, engage in a little bit of questioning about the defense bill, but I want to ask four questions. How much can we disarm, a legitimate place to debate? How fast can we disarm? What does demobilization cost us in unemployment, in chaos, and in changed lives? How dangerous will the world remain, and what forces will we need in a dangerous world?

I agree entirely with my good friend from California that that core debate is a legitimate debate that we have. We have won the cold war. After victory comes some level of demobilization, and I believe the burden is in fact on the Pentagon to explain and defend its size, its force structure, and its missions. I think what the gentleman is asking there is totally reasonable as the beginning of a dialog. I have some question in his budget with whether or not as a realistic management question, even if we agree on the wisdom of that speed of demobilization, whether or not we could do it. I will say, however, at the risk of strengthening your argument, between 1815 and 1816 the Royal Navy declined from 141,000 to 19,000, and by 1817, 94 percent of the active duty officers were no longer in service. Having beaten Napoleon, the British radically demobilized. I am not saying that that is good. I would not defend it. But I would argue, at least precisely in the spirit of intellectual clarity and boldness that the gentleman is trying to present, that it is the Pentagon that has to defend why that is not valid, and that the burden has to be on the Military Establishment and the military analysts to explain the size of the threat and the danger. And we may get that, but I think that is secondary.

Let me say, while I think that makes it hard to vote for your budget, I think the core of your passion is how do we help the poor. How do we restructure an opportunity society where the poorest child, the smallest minority, the most desperate neighborhood is drawn into America. That is a question which can be answered without fighting over the Pentagon. So I want to come back and focus.

I am going to raise the following theoretical framework: I believe we have crippled ourselves. I said "we," not you. We have crippled ourselves because we segment American government in society into a series of tunnels. And then we as leaders at the top in Washington, we peer down a tunnel. We have a tunnel called welfare, a tunnel called crime and drugs, a tunnel called education, and then we have a tunnel called health. We can go down the list. We have Jack Kemp's tunnel called housing.

I believe that the first core problem we face is that we have to break down the tunnels and realize we have that large room called human beings living in a neighborhood. We cannot talk about education without prenatal care, because without prenatal care we are going to have too many children who are born underweight, and we are going to have enormous problems educating them. We cannot talk about education without talking about breakfast and lunch service, because if they are not fed, and they live in a single head of household family, and nobody really nurtures them, they are not going to be able to learn very much because they are too hungry. We cannot talk about growing up in an inner city without talking about violence and drugs, because if you literally cannot walk out the door, as in the tragic case of the young girl who said in the New York Times last year, "I am afraid to look out of my window because I don't want to get shot in the face," and she was 6 years old, then we cannot talk about solving that.

So I walk all the way around the system we now have and suggest that we need one room called human beings in a neighborhood. Then we need to think through how we integrate and pull together all of those aspects that are necessary for every American to have the opportunity that the Declaration of Independence and the Preamble of the Constitution guarantee. So that is my first point. And to some extent I would suggest while you have a start here that I would love, I would cherish the opportunity to work with all Members of the Congress who care most about helping the poor, and genuinely erasing the blackboard. I used to be a teacher so I always think of blackboards. Erase the blackboard and start with people, and come back to services and systems. That is the first point.

So I would argue that it is restructuring that is the issue, and revolutionary restructuring.

My second point would be that the core value structure, and I am sure on this the gentleman is going to want to come back and take me on, but the core value structure of those who most authentically care about the poor has been, for legitimate, historical reasons, less open to the rules of productivity than hopefully they will be. I will tell you candidly, I believe this is partly an outgrowth of the civil rights movement when the business and productive communities of America walked off from their responsibilities, and when the only help that those who cared passionately about breaking down segregation could find were from those on the left who intellectually disputed the basic pattern of capitalism. I would say to my dearest friends who care about the poor, look at the lesson of Russia, Hungary, Czechoslovakia, and Poland, and ask yourself if you are going to try to have Yeltsin be productive, and if we are going to try to teach them how to break down and have debureaucratization, entrepreneurship, free enterprise, and incentive, are there a set of principles that we want to say to Eastern Europe that we also want to say to the south Bronx? Are there a set of principles that we want to say to Poland that we also want to say to Detroit?

□ 1130

Are they in fact very similar? I will give you one example that I think that everyone who cares about the inner city all ought to take seriously.

We ought to find a way to radically advantage poor entrepreneurs in the inner city. If that means the Government, for example, would take up their matching on FICA, if that means the Government would, in effect, have no tax on them for 5 years as long as they are creating jobs, if that would mean a wide range of radical incentives that say you create jobs in our poorest neighborhoods and you will get rich and, yes, I know that for some of our friends the idea of advocating wealth is frightening, but I think the truth is all across the planet socialism and communism as intellectual models are disintegrating, and the truth is that incentives work. Whether they are good or bad in terms of the abstract, they work. They work for baseball players, they work for basketball players. I want to argue that they could work for establishing job creation in our poorest neighborhoods.

And so my second argument, first having suggested we want a big room to talk this thing through involving holistically all of the human community in the neighborhood, all the services, and all the systems.

My second argument is, and my second challenge is, to those who most care about the poorest: Let us take the daring risk. I will walk into a room of negotiation and conversation and invention, and I will stipulate that I have to bear the burden as a Republican leader of trying to solve problems for the poorest, least advantaged, most discriminated against, and weakest members of our society. Would you then be willing to suspend your disbelief in incentives and in economics and in Adam Smith and Alexander Hamilton, and let us brainstorm together and try to design an incentive-driven system that maximizes the growth of jobs and opportunities and that, again, is designed in totality?

Let me tell you what I mean by totality. I do not care how much profit there is, opening a factory in the inner city, if you think you are going to get shot walking to your car, you will not do it. So it has to be a total package.

My third challenge is the core structure of big-city government. Now, what I am going to say is going to sound hostile, and I do not mean for it to. I do not know how to say this without people being unhappy, but I will tell you bluntly, and I said the same thing to General Motors. If General Motors does not continue to go through a cultural revolution, they will disappear in the next 15 years, because the cultural model is wrong. They cannot compete with Toyota. They cannot even compete with Ford and Chrysler if Ford and Chrysler made the transformation and they do not.

I am a disciple of Edwards Deming. I believe in what he taught the Japanese. And, remember, Deming is an American. We are not asking anybody to become a Shinto believer. We are not asking anybody to study Confucius. We are not asking anybody to eat rice and fish as a diet.

Quality was invented by Schuhart at AT&T in the 1920's. It was taught by Deming in the 1950's to the Japanese, and by Juran and others. It is an American concept of productivity taught by Americans, and Deming is 92 years old and lives near here. He would be thrilled to be invited someday by the Black Caucus to spend a half-day with them.

This is a man who transformed Japan. He is, frankly, a curmudgeon. He is pretty crusty. He thinks, at 92, he knows and we do not. He likes us to listen and he talks. Some of his ideas are not totally what I believe in.

But when you sit at the feet of history, and you realize that over a 50-year period, he has changed an entire country and, as a patriot, he is working desperately to change our country, it is a pretty amazing moment. I spent 7½ hours with him the day after Thanksgiving. At 92 years of age, he teaches a 4-day, 10-hour seminar, and when I take Deming's concept of quality and I apply it to any big city government in America, if fails totally. It is simply a disgrace to the taxpayer.

But let me show you how untraditional I am as a conservative. A great failure of big city bureaucracy and big city welfare state is not what it costs the middle-class taxpayer. The great tragedy is what it costs the human being who does not get the goods and services at the bottom of the ladder. The great tragedy when a school does not work is not my children and I working to pay taxes to subsidize the failed school, the great cost is the children who walk in in September to a building we know will fail, who walk out in May having been failed. And they are the ones who will pay with their lives, because we have not had the courage.

One brief aside: I once had dinner with Curtis LeMay. He was in his eighties at the time. LeMay said, and we spent 5 hours talking about World War II and what he had done, and LeMay said the reason people thought he was ruthless was when he was in command in England for about 6 months, he realized one day that a good friend of his had been failing and that he, LeMay, had not replaced that man because he just could not turn to his friend and say, "You have trained all of your life. You have risen to be a general, and you have to go home and take on a training command, because you are incompetent to lead a combat unit." And LeMay said what got to the core of his heart was that several hundred young men had died because, as a commanding general, LeMay had not had the moral courage to look that friend in the face and say, "You have failed." And he said that the rest of his career when he faced the tough decisions and he said, "Do I look rough and ruthless to my friends, or do I kill young men," he never, ever again chose killing young men as the way out.

Now, let me say the same thing about big cities. I do not have anything personally against any mayor in America. I do not know most of them. I have a good friend who is the mayor of Atlanta, the last two mayors of Atlanta, who as you know alternate, and I do not know what Andy is going to do next, but Andy and Maynard have both been friends of mine. I think they are both very smart men. They both make a lot of money when they are in the private sector. They are both doing fine.

My problem is with the system, not with individuals. It is with the system.

Now, let me show you what got me to believe that. I terrified my friends on this side of the aisle who want to go home later on today, because I brought these books, and I want to assure the distinguished chairman of the Committee on the Budget I will not read all of these.

These three volumes are a report done by Governor Tom Kean on the schools of Jersey City. Governor Tom Kean is regarded by many as a moderate Republican, and by some even potentially as a liberal Republican, although I deny that, because there are no liberal Republicans. But he is a man who cares passionately about the poor. He is a man who got over 60 percent of the black vote when he ran for election, and he is a man who worked hard to revolutionize politics in his State to bring everybody into the 21st century.

When you read these reports, and I have read large chunks of these reports while he was still governor. It is part of what made me a revolutionary. You discover, for example, that in Jersey City the machine was using school district jobs as patronage. They had one $54,000-a-year inspector of fire equipment who had not been to work in 2½ years, because the machine said he got the job because he is politically important, do not bother him, so there were high schools, and this is not GINGRICH, this is not a rightwinger from Georgia picking on New Jersey, this is the Governor's report on Jersey City schools. There were high schools which had second floor fire extinguishers that had no good chemicals, because for 2½ years this guy had taken $54,000 a year, robbed the people, robbed the poor, robbed the children, and he was endangering their lives.

This is not a random act. All of you know it is not random. You know that all through the core structure of our cities, just as in some of our greatest industrial corporations, there are self-serving bureaucracies that no longer force themselves to behave ethically toward the very people they are supposed to take care of.

Now, I sense from your side that we could have a good dialogue, and I am not going to do what I was tempted to do. I have article after article, not out of Reader's Digest, which has the most devastating recent article on how the unions stole the Big Apple in January, not out of Reader's Digest, out of the New York Times, out of various New Jersey publications, proof over and over of the systemic collapse. I am not going to try to spend time on that, because I do not think it is worthy of this dialogue. I may come some night and do a special order or two.

What I would rather do is close with this thought, and I have tried to keep this at a very analytical level: First, we have to take moral responsibility for every poor person in this country, all of us, Democrat, Republican, liberal, conservative, Member of the Congress, member of the executive branch, and we have to confess we have been failing. The failure is obvious, and I will be glad to have any citizen of any background who wants to challenge me, I will take them into part of Atlanta, part of Oakland, part of Philadelphia, part of Washington. How can you not say we have been failing? How could you watch any evening, any two evenings of television news for any major metropolitan area and not say to yourself, "This country is not succeeding the way I want it to"? I stipulate that.

Second, I believe the failure begins with our stove-piping the problems instead of putting them all in one room and dealing with them as a holistic unit.

Third, I believe there is a core philosophical augment we have to talk out, because I believe until those who love the poor and care the most about the poor are prepared to adopt a model that accelerates the development of wealth and that accelerates the development of real income among the poor and accelerates the creation of jobs, we are not going to get there.

Socialism does not work as a model, because it is aberrant to the way humans work. We are stuck. It may not be a good system, and it may not be an ideal system, but we are stuck with some form of capitalism in the Adam Smith sense, because it seems to be the only system over time which tends to work.

Lastly, no model will work until we have the moral courage to address the core structural problems of big-city systems.

□ 1140

By the way, I apply that right down the street here. I not only think that Mayor Dinkins has to redefine New York City government. I think President Bush has to redefine the Federal Government. I think almost everything I am saying about the bureaucratic inertia and the waste and the ineffectiveness of cities is represented to a smaller extent in terms of what is happening over there.

So I appreciate the patience and the attention and the sense of interest and dialog. I will be glad to yield some time and have a dialog, if that is appropriate. I do not want to cut the gentleman off. I know he has a number of important speakers.

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. GINGRICH. I am glad to yield to my friend, the gentleman from California.

Mr. DELLUMS. First, Mr. Chairman, I thank the gentleman for yielding to me.

Let me just say I appreciate the fact that the gentleman has come to the floor of this body to engage the members of the Congressional Black Caucus and the Progressive Caucus on this budget. That it seems to me is to the gentleman's credit.

I have often said that if we are prepared to come to this body intellectually honest, irrespective of our ideological positions, at least we can start to engage each other where we have legitimate differences and where we have agreements; so I appreciate the fact that the gentleman is here.

Let me just start with the gentleman's latter point about big cities. Someone much older and much wiser than this gentleman has said that all politics are local, because at some point all politics manifest themselves at the local level; so whatever we do at the Federal level, at some point reflects itself at the local level.

The problems of poverty, unemployment, and homelessness and inadequate education, housing, et cetera, manifest themselves at the local level. The gentleman and I both know that over the past 10 or 12 years specifically we have engaged in major draconian cutbacks in Federal services which has reflected itself at the local level, but we have never reduced the tax burden. We simply said that the Federal Government is not going to spend as much money on education. The Federal Government is not going to spend as much money on housing. The Federal Government is not going to spend as much money in a variety of different areas because, one, we are busy building up the military budget, and two, we are busy reducing the deficit.

So what happened? Those problems continue to be there, so we placed the tax burden not on the Federal level, we reduced it and placed it at the State and local level.

So a number of the issues that the gentleman raises simply are manifestations of shifting the tax burden, shifting the finance burden, when the problems continue to manifest themselves. So a number of our cities have begun to deteriorate, not because of their mismanagement, but because they lack the necessary resources to address the problems at the local level where people are feeling the pain.

So if, indeed, you are the mayor of a city attempting to address the problems of poverty, unemployment, homelessness, drug addiction, and violence, and the Federal Government has withdrawn from a major commitment, I do not care how bright and eloquent and articulate with whatever management style you have, lacking the resources from the Federal Government is not going to look well.

Second, when you mention socialism versus capitalism, that is a discussion we could have, but in this budget we have placed before you a trillion-plus dollar budget for this entire country.

We have said, for example, throughout this budget that we are spending on jobs that solve real problems.

As a matter of fact, I said in very specific terms that the way to generate employment is to commit yourself to solving other kinds of problems, and in that regard you will indeed generate employment.

Second, and specifically in this budget, we placed $3 billion in economic conversion, a large portion of it going to small business to assist in that economic conversion, with new technology development and efforts to stimulate them into developing research that would eventually generate technology that would enhance the quality of life.

And finally, very specifically in this budget, we place $723 million over and above current spending that specifically is focused on minority business development, which goes to the question of entrepreneurship that the gentleman raised.

The third point I want to make is on this issue of an integrated approach. We totally agree with the gentleman on that. We have been saying in the past that a number of our problems are symptomatic of the tragic nature of the priorities of this country. The gentleman is absolutely right. You cannot deal with the problems of drugs in a vacuum, because the problem of drugs is a problem that is multifaceted. You have to deal with the economic implication, the political implication, the health implication, et cetera, so the gentleman is absolutely correct.

What we attempt to do in this budget is to take that aggregate approach and say let us begin to address all of the problems of this country, because many of them have gone begging as we decided to spend the Soviet Union into oblivion with a massive military budget buildup.

Let us for the sake of this discussion give President Reagan the benefit of that. Let us say, "OK. You spent the Soviet Union into oblivion."

But the point of it is that we are going down the same rathole and that is what brings us to this moment, and since we won that cold war, since there is no Soviet Union, let us take those resources and begin to solve the problems of people that went begging in the past.

Finally, let me just take on a major part of the assumption, because it has been the guiding post of the economic ideology of my colleagues, particularly on the other side of the aisle. Supply side economics, or what some of us euphemistically refer to as the trickle-down theory. It goes very simply. If you put a substantial amount of money into the hands of the business community and the wealthy in America, they will reinvest, expanding the industrial and economic base of the Nation, achieving new technologies, expanding in great areas which will generate employment, people will go to work, their lives will be radically changed.

So what happened over the past 12 years with supply-side economics and the trickle-down theory?

We put a lot of money through the tax system, through deregulation, into the hands of the corporate wealthy and to wealthy people in this country.

Did they expand the industrial base? No. The industrial base is on the decline.

Did we expand the economy? No, we did not.

What did they do with the money? They went to the stock market and started playing junk bond economics. They started playing paper economics. They started engaging in corporate takeovers. We did not expand the industrial base in this country and the money did not trickle down, because we did not employ more people.

Why are we in a recession at this point? Unless I am crazy, everybody in America understands that. So the wealthy did not expand the base. The wealthy went out there and got wealthier. The poor got poorer, and our middle class started to decline.

So while I understand the gentleman's point, I do not agree with supply side economics.

The theory upon which this entire budget is based is that what this economy desperately needs is a shocking important dose of Keynesian economics where we take the peace dividend from the military budget and invest it in this economy, which will generate employment, generate entrepreneurship, stimulate new technology development, and move this economy forward.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding to me, because I think the gentleman from California is laboring under some misimpressions about what took place over the last 12 years.

The fact is that during the decade of the 1980's, this country did create 21 million jobs. The industrial base in this country did not decline. In fact, we had the same industrial base in this country that we had in 1950. That means not that we have as many people working in that industrial base, but that the industrial base itself is the same as it was 40 years ago.

What we have seen is the rise of entrepreneurial activity. We had an explosion of small business creation, of entrepreneurship during the 1980's, an absolute explosion. It was the biggest such creation in the history of mankind. Those businesses created the jobs in the society. That is where the 21 million jobs came from.

Now, 85 percent of all jobs that are created in this country are created in that entrepreneurial sector.

The gentleman says that had nothing to do with supply side economics, that supply side economics did not work. I would tell the gentleman that if we look at the tax cut of 1981, it worked magnificently; however, we loaded a few things on during the 1980's that have led to the present recession.

In 1983, we loaded on a massive increase in Social Security taxes. Most of the Congress voted for those Social Security taxes in order to bail out a bankrupt system that had been driven to bankruptcy by prolific spending practices in this Congress and elsewhere.

In 1986, we added to that tax burden again with the so-called Tax Reform Act, that in addition to cutting tax rates, which it did some of, also raised taxes on investments, such as the capital gains tax. In addition to that, it hit real estate, one of the principal industries in the country with a triple whammy.

□ 1150

It ended passive loss treatment. It did the capital gains destruction. And in addition it changed the depreciation schedules. It was a triple whammy against them.

Then, when we began to see the decline, including that of financial institutions as we undermined the real estate base in the late 1980's, as we saw that begin to pull down the economy that had been growing up until then, the greatest growth, the greatest peacetime expansion in the economy in the history of this country, as that began to deteriorate, what did we do in 1990? We raised taxes again.

Then finally we drove the economy over the brink, and that resulted in the present recession.

Now, it was the tax increases during the 1980's that brought about the recession, not the fact that you had supply-side economics that did not work. Supply-side economics worked just as we said it would; it brought down inflation, it brought down the impact of joblessness in this society by creating jobs and increasing productivity.

Now, it seems to me that that is a model then that ought to be looked at, and we ought to look at what caused that model to fail. What caused the model to fail is when we increased the taxes and thereby brought it down.

I would also suggest that, as the gentleman then turns around and suggests that the solution for the 1990's is to go back to the system that got us in trouble by the early 1980's, and that is to take all of the money that you can possibly find anywhere in the Government and put it into Government programs.

We started that in the 1960's. That was the Lyndon Johnson Great Society model. Take all of the money that you can possibly find in society and dump it into social programs, dump it into Government spending, and somehow that will ultimately trickle down, I would say to the gentleman, to the local level and we would end up with a better society out of it.

The Great Society has proven to be a massive failure. We now have the academicians who have taken a look at the results of the Great Society and found that it is an absolutely massive failure.

Before we went into the Great Society, with the kinds of controls that we imposed on the Federal level, neighborhoods worked in most parts of the country. City neighborhoods were in fact vital. But with the Great Society, what we encouraged was political machines in the city to concentrate more and more power in the city hall and thereby drove out of their ability to survive the neighborhood structures.

We also, because of the expansion of welfare, managed to drive down the value of the American family, and the disintegration of the American family is seen by most practitioners across the country as being the single biggest problem that the cities face.

In fact, President Bush indicated the other day that a group of mayors went to see him, they came from all philosophies and from all political backgrounds, and they told him the one single thing that they agreed upon, all of these people, was that the city problems stem from the disintegration of the American family. And that is a problem that is, in large part, created by a welfare system that has said that you are better off not having a family together but are better off to have the family disintegrate and we will pay you for that disintegration.

Now, those are problems that were created by this idea that you can spend money at the Federal level and have it trickle down to the local level and have it work. The fact is one of the few places still working in the country today are the small communities across the country that have not been impacted by a lot of that Great Society behavior. And they are still working and they are still vital, and they are still places where people want to live.

What we need to have is a system that says we go back to the idea of community structure, much as the small towns, make it work in the cities and neighborhood structures and that you can do that best, I would say to the gentleman from California, by putting money in the hands of people who work and need it.

But the more we at the Federal level take money away from them and put it into the pockets of bureaucrats in the name of doing good, the more we impact upon the communities' ability to survive.

Mr. Chairman, that is my concern with the budget that you put forth. The budget that you have put forward is a budget designed to take virtually all of the savings we now are going to get out of defense and put it into domestic spending programs and some bureaucracy in Washington will decide how to spend. That is what happens on these programs, vast sums of money end up being peeled off by bureaucrats at the Federal, State, and local levels before it reaches the people who need the help. That is a Government problem that we now face after the Great Society.

Mr. DELLUMS. If the gentleman would yield, I respect the gentleman, but I think that latter argument is extremely disingenuous. While I think it is a good stump speech, I do not think it is appropriate on the floor where we are attempting to engage each other seriously and substantively. What our budget is——

Mr. WALKER. Reclaiming my time, the gentleman has indicated that it is disingenuous for me to talk about something from my philosophical point of view. I believe that is exactly what the gentleman's budget does. You know, I think I have the right to give my analysis. The gentleman has for some time given his analysis of it.

Mr. DELLUMS. If the gentleman will yield further, what I am saying when I mentioned disingenuous, I am prepared to address the gentleman's arguments, when he said that we put money into the hands of a number of bureaucrats, that is the only specific focus point I was attempting to address, because in this budget we are not talking about financing bureaucrats.

What we are saying is that the American people are crying out for these problems to be solved.

Now, the corporations are not going to solve the educational problems of this country. That is high on the American people's list. If you are going to generate employment, you have to have a plan to do it.

Let me respond just quickly.

Mr. WALKER. Can I make a point very quickly on what the gentleman is saying? The fact is that all of this money will go through some bureaucracy. The fact is, when you look at the Great Society programs, we ended up with the Great Society spending about $36,000 a year for ever poor person in the country and only about $12,000 of that was getting to the poor people. Now that means that somewhere along the line two-thirds of the money was being peeled off, it was being peeled off by bureaucracies and by people who were nonpoor. So, it seems to me there is very clearly a case where Government expenditures make a big difference in all of this.

Mr. DELLUMS. I thank the gentleman for yielding further. Let me just make one focus point. Let us take the gentleman's argument to its logical extreme: For the past 10 years we have allocated about $300 billion per year to the Pentagon. The gentleman never made that argument about bureaucrats spending that kind of money.

Mr. WALKER. Oh, yes, I did, oh, yes, I did.

Mr. DELLUMS. Not building B-2 bombers, building MX missiles, weapons we do not need and nuclear weapons that create great danger to the planet that any sane person would not want to develop?

Mr. WALKER. If the gentleman would allow me to reclaim my time, I have indeed come to this floor and made those arguments.

Mr. DELLUMS. You joined me in stopping the B-2 bomber? The MX missile? The Trident submarine?

Mr. WALKER. The gentleman wants to talk about particular programs. The philosophical point is, do I think bureaucrats waste money in the Pentagon? And I will tell you that, yes, I do, and I have made those arguments on the floor.

Mr. GINGRICH. Mr. Chairman, I yield to the gentleman from California [Mr. PANETTA], the chairman of the Committee on the Budget.

Mr. PANETTA. I thank the gentleman from Georgia for yielding to me.

First of all I want to thank the gentleman from Georgia for the debate that I think he has begun, out of sincerity and respect for trying to establish some kind of dialog on the issues that confront this country, and in the very least I think he has approached it in a substantive manner and not just a partisan manner, and for that I thank him.

I do think some of the issues he raised are legitimate and need to be discussed. Certainly I think the issue of whether or not we focus on one room and recognize that these issues are all related, is extremely important in terms of trying to understand that these are not problems that can simply be focused on either in terms of just health care or just education or just crime or just this or that; that you have to look at these issues as a unit and how they affect families and how they affect working people and how they affect our society generally. I do not dispute that.

I think the core value issue is an area where, frankly, I really think the American people believe that we do want a productive society, we do want a society in which their children have a better life. But we also want a society which reaches out with compassion to those who cannot make it or who have not made it.

I mean, you cannot just simply move away from the problems that are there. People are being impacted in our cities, there are hungry children in our society, there are individuals who do not get sufficient health care, there are the homeless. You cannot walk away from that problem.

Mr. GINGRICH. I agree with the gentleman. Let me give you an example of how fundamentally different I think we are, though, on exactly the question of how do you help the poor.

The Atlanta Constitution in January asked in a South-wide poll, "Do you believe ablebodied adults who receive money from the Government should be required to work, including women with young children?" Among Southern blacks, as broken out in the poll, it was 82 to 11. Why? Because 82 percent of the community feel that creating a core cultural value of earning resources is a very, very important part of life.

Now, I would suggest to you that giving people money does not in the long run help them. It is better than starving, but in fact it is ethically and morally destructive and degrading and that going to some system of mandatory work requirement, including having day care which is part of the work requirement, would in fact be more helpful both financially, without taking a penny away which is currently going into the system, making sure that every person got at least as much as they are currently getting but integrating into that a work ethic requirement, would, I think, actually improve the quality of life and the quality of the cultural existence of the people you most want to help.

□ 1200

Mr. PANETTA. Mr. Chairman, if the gentleman would yield, I think the gentleman needs to visit some soup kitchens, and needs to visit some homeless shelters and talk to the people there. I have. We have had a subcommittee in which the gentleman from Missouri [Mr. EMERSON] and I visited throughout the country, talked to the people there. That is the last place they want to be. It is the last place they want to be. They do want a job.

Mr. GINGRICH. I would ask my colleague, "So why can't we then move a system of mandatory work through the Congress?"

My point is I do not want to get into details today except to say to the gentleman, "That's the kind of structural reform that I think is unavoidably necessary and that I think we have to make."

Mr. Chairman, I yield to the gentleman from California [Mr. CUNNINGHAM] who I think has to leave in a minute. This will give him a chance to comment.

Mr. CUNNINGHAM. Mr. Chairman, I thank the gentleman from Georgia [Mr. GINGRICH] for yielding, and I do not want to point fingers either, and I am not going to, but I would like to give my colleagues some of my views about the direction we are going, and one is in economics, and the other one is in defense of this country for which I served for about 21 years.

Mr. Chairman, I do take seriously my colleague's concerns, the concerns of the gentleman from California [Mr. PANETTA], of poverty. As he is well aware, in San Diego, in some parts of San Diego, like all the major cities, we do have soup kitchens with Father Joe and a lot of the areas that we need help with, and there are people down there that can work, but that have not worked, that do not have the opportunity to work, and I agree with the gentleman from Georgia [Mr. GINGRICH], my friend, that those are the areas in which we need to work, like Jack Kemp's enterprise zones and HOPE programs where people can own their own homes and so on. But I am not going to get into that so much today.

Back a couple of years ago I went to Florida, and I helped Senator CONNIE MACK in a race, and in that race one of the defense companies paid their dividend in $2 bills, and in a matter of 3 days the entire State of Florida was covered with $2 bills, and I do not care if they are selling pizzas, or real estate, or cars, or soup kitchens. The dollar from those defense industries went into the economy of those States, and I think especially on the east coast and in my State, California, where we receive a large portion of those defense contracts, it is very critical, and I think that, when we take a look at what we want to do or what Congress is attempting to do by taking down the walls and changing defense spending over into discretionary spending, it would be economically unsound at the rate that I think in which this amendment is trying to do, although I do agree we can cut defense over a period of time. If we cut more than the $50 billion, where is it going to come from?

I talked to Secretary Garrett and Secretary Cheney yesterday. We are already cutting 236,000 active duty personnel. Those additional cuts would come, not from the equipment that the gentleman is talking about, but the 49 percent, which is over 300,000 personnel, active duty military.

Now that person that is working is getting a paycheck. They are also paying their taxes, and at the same time one of the things that Congress is trying to do is look at a health care plan for everybody. If they are working and active in industry, they have a health benefit. They are also paying into the general fund, which is called taxes. If we fire them or let off this million folks, then we are exacerbating the same problem that Congress looked at just a month ago with the unemployment where we wanted to spend $7.5 billion to either increase the deficit or increase taxes, and now we are already causing more of a problem.

So, when my colleagues say, "a peace dividend," in my opinion a lot of that dividend goes to pay people that are not working which enhances and/or creates more people in the soup kitchens instead of helping the problem, and getting us back, and getting America to work, and let alone the subcontracts that are affected, the pizza shops, the car dealers and the rest of it that are affected, and I think it would be disastrous.

Take a look all over the country, at Rohr, at General Dynamics and McDonnell Douglas and all the subcontractors that are affected. These are jobs. These are people that will not be going to the soup kitchen, and I will be happy to yield in just a moment, and I think it is important that, when we take a look at what put us into this recession and the big problems we are in right now, the 1986 tax bill which was a disaster for small business, the 1990 tax bill which increased taxes, and some of our liberal Republicans even voted for that rascal, which was a big mistake, but it has put us in a position right now that we are going to have a difficult time.

The S&L's, as my friend from California mentioned in his talk, has been a disaster. It is going to cost—we are talking about cutting $50 billion. The S&L alone is going to cost $500 billion, and the head of the GAO said that just last week in San Diego where estimates are up to $1 trillion. I would love to use that in the programs the gentlemen are looking at right now.

Mr. TOWNS. Mr. Chairman, will the gentleman yield?

Mr. GINGRICH. I yield to the gentleman from New York.

Mr. TOWNS. Mr. Chairman, let me just do two things. First of all, I would like to respond to the gentleman from Georgia [Mr. GINGRICH] by saying that he indicated he would like to sit down with the caucus, and we would welcome that, and I would look forward to arranging for us to have the dialog. I think that is very, very important, and we welcome it.

Let me also respond to the gentleman from California [Mr. CUNNINGHAM]. As the gentleman knows, we talked about a trillion dollars in this budget. We are talking about this budget now, and this budget creates more jobs, and we are talking about in the military, talking about creating a GI bill that really works, that provides educational opportunities, that will make it possible for us to compete with those countries that we have a trade deficit with. This is the kind of thing this budget will do. This budget does not bring about pain. This budget eliminates pain.

So, Mr. Chairman, I say to the gentleman, "I think that the comments that you have made, if you read this budget, I think that we can count on your vote."

Mr. CUNNINGHAM. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I yield to the gentleman from California.

Mr. CUNNINGHAM. Mr. Chairman, what I am saying is that the pain it has caused is from the lack of jobs that we lose by cutting defense at that rate before we can have conversion over the civilian country, and I say to the gentleman from New York [Mr. TOWNS], "If you look at the history in the last 6 months, I'm sure you've walked your precincts, just like I have. 20 percent of all of my shopping centers are empty, and those are jobs, because we have plants in San Diego like Rohr, like General Dynamics that are moving, like McD. that are going overseas for money, and what we want to do is take a look at when we cut defense over a period of time."

I am still not satisfied. I saw Yeltsin last week yelling, "You need to give me money or the Communists are going to take over." Well, we have patted ourselves on the back, and this will also give us the amount of time to see that—as the gentleman knows, that Wall has not been very long, and we need to take a look at how and what kind of a rate, and like the gentleman from Georgia [Mr. GINGRICH], my friend, mentioned, that it is the Pentagon's responsibility. I agree with that, and I would like to address that in the second part of my remarks.

Mr. DELLUMS. Mr. Chairman, will the gentleman yield so I could make one comment to that?

Mr. GINGRICH. Very briefly.

Mr. DELLUMS. One comment on that:

In a "Dear Colleague" I sent out to my colleagues, I want to quote very briefly from that "Dear Colleague." We pointed out to our colleagues that in a recent study it showed that an annual average transfer of $70.5 billion from the military budget to education, infrastructure and other critical needs would generate an annual net gain of nearly 577,000 jobs on an average over a 4-year period. Moreover, the GNP was shown to grow by an average of $17.6 billion annually, and that is the basis upon which we have written this budget, to say, "If you invest in these programs, you generate employment, you reduce the deficit, you increase the GNP."

Mr. GINGRICH. Mr. Chairman, I yield very briefly to the gentleman from California [Mr. CUNNINGHAM], my friend.

Mr. CUNNINGHAM. Mr. Chairman, I would like to respond to the gentleman from California [Mr. DELLUMS], my friend. I say to him, "I didn't vote for the President's budget because it cut education so much, it increased taxes, and it increased spending. I don't think that your amendment will pass. I think the A and B of the Democrat Party also increases spending and increases taxes, and I would ask my friend to have the same heart and not vote for the Democratic plan as well."

Mr. GINGRICH. I want to wrap up and yield back so that the gentleman from New York [Mr. TOWNS] can have some of his people speak, and I appreciate his patience, but let me make a couple of quick points.

First, I think I do at one level disagree with my friends about the, quote, lack of resources at the local level, close quote. I would point out that New York City's personnel budget alone is $13.3 billion. It is larger than the entire budget of 47 States. I would say, second, that in terms of helping the poor and in terms of food, the gentleman from California earlier made the comment about the number of things he had worked on with the gentleman from Missouri [Mr. EMERSON]. I would also note, I believe, there are 96 different Federal programs that relate to food, there are 96 different little bureaucracies, each with their own little zone, each with their own paperwork, each with their own regulations.

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Third, I want to quote briefly from Vice President QUAYLE's speech last Thursday night to the Economic Club in New York. He said, and I quote:

> As we seek our economic security in this uncertain world, we must learn what works and what doesn't. Let us look at this great city. It attests to what becomes of those who put their faith in the benevolence of the state. In what should be a liberal paradise, what do we find instead?
>
> Honest, ambitious, hard-working New Yorkers struggling to pay the highest local taxes in America—about $1,600 per person.
>
> A business tax three times greater than that paid by businesses in Chicago and Los Angeles.
>
> One in every eight people on the dole.
>
> Taxpayers investing $7,000 a year for each public school student, compared to $3,000 per student in private schools. The taxpayers' investment in education gets a high-school graduation rate of 38 percent. That means 62 percent don't finish on time.
>
> Liberal economics may prevail here, but it sure doesn't work here. It's estimated that by 1994, a total of 320,000 private sector jobs will be lost in New York City. When the taxpayers meekly protest these high taxes, the liberal deep-thinkers snap back that we lack "compassion" for the working man. But the working man is usually the one most hurt by this kind of thinking. Now, I know: it's an election year. And I don't pretend to be entirely non-partisan. But ladies and gentleman, I am not appealing to party affiliation. I'm appealing to reason and tragic experience: the liberal vision of a happy, productive, and content welfare state hasn't even worked on 22 square miles of the most valuable real estate in the world.
>
> You don't build economic strength by taxing economic strength. If you tax wealth, you diminish wealth. If you diminish wealth, you diminish investment. The fewer the investments, the fewer jobs.

Mr. Chairman, let me just say in closing that I have three citations for staff and for people who later on read this RECORD and for those watching on C-SPAN. First, "The Other Path—The Invisible Revolution of the Third World" by Hernando de Soto, probably the most powerful book on helping the poor written in the last 20 years. It is about Peru, but, frankly, it is about Miami or Washington, about Philadelphia or New York. And I would commend in particular the introductory foreword by Mario Vargas Llosa, which is a brilliant statement of why a lawyer-dominated bureaucratic welfare state fails.

Second, "City for Sale," by Jack Newfield and Wayne Barrett, an incredible book on the scale of corruption in New York.

And third, "New York Unbound, the City and Politics of the Future," by Peter Salins as the editor, which is an effort to apply new ideas and new approaches to saving New York, because the truth is that New York is our greatest city. We cannot afford as a country to let our cities die. Those who are conservative cannot walk off, and those who are liberal cannot just blindly defend.

We have to join together, and I look forward to working with my friend, the gentleman from New York, and the gentleman from California, arranging some meetings, with totally no holds barred and no records. Let us just erase the board and talk together. I thank the gentleman for the integrity, the intensity, and the sincerity he brings to what is a serious and deeply felt appeal to do better for the poor in America.

Mr. TOWNS. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. DELLUMS].

Mr. DELLUMS. Mr. Chairman, first let me just say to the gentleman from Pennsylvania that my effort here is hopefully to try to bring us to a high level of discussion and debate. We have legitimate differences, and let us have our legitimate differences.

Our budget here is a first step down the road that I think will impact this Nation for at least the next 8 to 10 years. So this is a very important step. If we quibble with any of the details here, fine, but let us sit down and talk about it.

This is a broad outline for taking this country in a new direction. I understand we have philosophical differences, because one of the glaring points that needs to be made here when we start talking about welfare relates to the problems we are confronting right at this moment.

Our welfare rolls are expanding right now. Why are they expanding? Because IBM is laying off, the automobile industry is laying off, airlines are laying off, factories are closing, corporations are dwindling, and food stamps are expanding. All these things are happening because people do not have jobs. We do not have to be brilliant to understand that when people do not have jobs, they are going to attempt to survive, and if there are programs out there to help them survive, they are going to move toward them.

If we want to reduce the welfare rolls, there is a very simple response: generate employment. I believe in the human spirit. I believe in the dignity of the human being. I think that when people are given an opportunity, they will want to work, they will want to get out there, but if we do not have any jobs out there for them, where are they going to go?

Our budget is designed to generate employment. That is the whole part of it.

Another major aspect of welfare is children. Are we going to put them out there?

We have to write a budget that speaks to expanding the economic infrastructure of this country.

If we generate employment, I will guarantee that the welfare rolls are going to go down and the deficit is going to go down if the GNP goes up.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. DELLUMS. I am happy to yield to the gentleman from Pennsylvania, and I certainly want the gentleman to understand that I did not mean in any way to be disrespectful of him.

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding.

This is the only difference we have, and I was not trying to get to the minutia of the budget. I was only trying to deal with the general philosophy of it. My only point is that the gentleman's way of achieving that is by having the money go through government agencies. I understand the gentleman sincerely believes that this is a way of doing good things, and I respect his opinion on that.

My philosophy tells me that if we want get those kinds of jobs in society, what we want to do is take the wealth that we have that is now being spent on other things and put that back by giving it to the people who work and invest in America rather than sending it through government agencies. That is the difference we have.

Mr. WASHINGTON. Mr. Chairman, I yield 15 minutes to the gentleman from Mississippi [Mr. ESPY].

Mr. ESPY. Mr. Chairman, I thank the gentleman from Texas for yielding time to me.

Mr. Chairman, I would like to say that this has been an interesting debate so far. I think that this is a very necessary debate. This budget is a very necessary budget to come before this body at this time.

Mr. Chairman, I want to congratulate the gentleman from California [Mr. DELLUMS] who, in concert with the gentleman from New York [Mr. TOWNS], has crafted a budget that we think is doable, we think is credible, and we think is full of integrity. I also want to thank the leadership which allowed, through the Committee on Rules, the time so we can have this debate. I also want to thank the members of the Budget Committee for allowing the range of options we are discussing today.

Just in dispute with some of the things said on the other side of the aisle just a minute ago with regard to this budget, that it is a job-killing budget, let me cite specifically that this particular budget, the CBC alternative authorizes an additional $723 million in small business and minority business assistance through the SBA, because we all realize in looking at any study ever done that small business is the engine that creates jobs and growth in this country. Eighty percent of the jobs created in this country are created through small business defined as businesses employing 50 or fewer people. So we create jobs with this budget. There are a lot of things I would like to say in response to some of the things that the distinguished minority whip said with regard to welfare. I think that on this side of the aisle Members will find we are just as frustrated and disgusted with some of the current welfare applications as anyone else in this body, and there are specific means to try to combat that in this CBC alternative budget and in the Democratic budget resolution, to try some innovative things to help people develop assets to get away from just a consumption-based theory.

But I am not going to speak about that in specifics. I want to turn my attention to the overall aspects of this particular CBC alternative and progressive budget.

Mr. Chairman, the chairman of the Committee on the Budget said many times yesterday that a budget is not just about numbers, but a budget is more fundamentally about people. I would submit to my colleagues that among all the budgets discussed on yesterday, the Gradison budget, the Bush budget—which failed, and understandably so—and then the Democratic budget resolution, both A and B, of all the budgets discussed and which will be discussed today, this alternative budget, this progressive budget, Mr. Chairman, is the one that does the most for people.

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I guess you can all it budget C, and that C stands for choices, and that C stands for challenges.

The choices we make will determine the quality of education that our children will receive. The choice that we will make is the pace at which our economy will rebound and recover. Challenges to, frankly, the quality of life, improving that quality of life for those who live in our inner cities and those who live in our rural areas.

So, Mr. Chairman, this budget is the C budget, the choice budget, the challenge budget, and the choices we make will determine if this American dream will be restored for millions in our country, or if this growing national nightmare will only grow darker and more ominous for many among us.

Now more than ever before the American people are demanding, Mr. Chairman, that we take care of them at home. Why?

If you look at what happened in the Soviet Union, we can look on a remarkable chain of events. The Soviet people rose up and demanded change from a system that they determined is an indigenous system that was old and tired, spent, and wasting inordinate amounts of their GNP on weapons and weapons systems and old tired notions of military dominance.

Over there in the Soviet Union the people said to their leaders, they said, "Hey, we got some great bombs, but what about bread? And, yes, we have troops stationed throughout Eastern Europe, but we are trooping on to economic disaster. And about our invasion of Afghanistan, why did we go there? Why did we do that? That is unjust, that is immoral, that is unwise, and that is inappropriate. Why don't we refocus more of our GNP on economic security, on prosperity, on hope and happiness and jobs in our own system that create some real wages and an ability to live?"

In other words, Mr. Chairman, the people over there were just simply saying to their government and to its leaders, what about us?

Well, in our country our people are beginning to ask the same old question. What about us? In election after election the American people have been sending messages that we must begin to heed. They are tired of seeing their communities wither and die. They are tired of seeing jobs go overseas. They are tired of the violence and drugs in our inner cities and our rural areas. They are tired of schools that do not educate their children, and they are tired of an out-of-control health care system that leaves 40 million Americans without the ability to see a doctor.

They do not know we have to have 1 out of every 10 Americans on food stamps. Just as our distinguished colleague said from California, the food stamp rolls are increasing. They are increasing. We do not have to have one out of every five children in our country in poverty. We do not have to have millions of our people wandering around our cities like vagabonds. We do not have to have dilapidated shacks and housing in districts like mine, where 30 percent of the folks still lack plumbing. Where in America in 1992 some still have to get rain water from culverts. Some have to take rusty buckets and go to a stream 6 or 7 miles away and drop that bucket into a muddy stream just to get water to take home to try to purify to wash their teeth so the children can go to school in the morning.

I think that we have a better Nation than that. So this particular budget allows us to transfer some funds from an old system in another world and another day, and transfer these much needed funds we think to much better goals.

Most of all, Mr. Chairman, our people are tired of a government which is either unable or unwilling to make the changes required to meet the serious challenges that we face. They are tired of our Nation being paralyzed by the mistakes and captured by the debates of the past. They want bold action to address the problems we face today, and to secure our country's future.

So, Mr. Chairman, this budget for new world realities, as we call it, represents that bold action. This budget is not being presented just for rhetorical purposes only. I only would like our colleagues to take time to read this budget. It took a lot of time for the gentleman from California to help to fashion this budget, along with the entire Progressive Caucus and Black Caucus. It is a reasonable budget. It is a doable budget. It is a credible budget. It is a budget that is full of integrity, and I think one that every Member of this body should take very seriously.

But most of all, this budget for new world realities reflects a crucial need to change our priorities, to change our thinking and our spending in line with the new realities which confront us in the world today.

Mr. Chairman, for the last 40 years our national policy and our budget has been set and has been focused on one undergirding, overriding proposition, and it has been said before in debate. That proposition was that the Russians are coming, the Russians are coming, the Russians are coming.

But, Mr. Chairman, it is clear today that the Russians are no longer coming, but the Japanese, the Germans, the South Koreans, and our other economic competitors are already here.

The cold war is over and we have won, but our celebration is muted because our Nation has paid a bitter price for that victory. The cold war's victims are the homeless on our streets, the unfed or the underfed children in our families, the sick, the disabled, the elderly left without access to affordable health care, and the deteriorating infrastructure of a nation that has lost a major share of the commercial markets in the world, markets that we must regain.

The cold war's victims are working and middle-income taxpayers, whose taxes have been increased to pay the burden of defending the free world, while wealthy Americans who have benefited most from the defense buildup have paid less and less.

So now that the post-World War II era is over, the question our Nation faces is will we change our priorities sufficiently to meet these new world realities? Or will we remain wedded, like an estranged marriage, to policies of the past, and, in the process, sacrifice our future?

The budget from the other side of the aisle I believe really does not take into account the full scope of the unprecedented changes in the world. I believe, to this gentleman, their budgets just continue to pretend that the pain and suffering being endured by millions of Americans today does not demand any kind of a bold response. The budget presented by those on the other side of the aisle would continue to disarm our economy, continue to disinvest in America, and I believe continue to take us down the road to ruin.

So the committee budget, which I also support, takes an important step in the right direction. It recognizes the new realities in the world, and it recognizes and begins to recognize the growing needs that we have here at home.

But, Mr. Chairman, this budget that we speak of today continues further down that road. It goes even further in the right direction. It does make deeper cuts in defense spending than those proposed by the House Committee on Armed Services. It makes deeper reductions. But in the view of this gentleman, not unrealistic reductions.

For fiscal year 1993 it retains $239 billion for defense. I think that that is certainly an adequate amount to ensure our Nation's security, especially in this radically changing world.

Overall, the CBC and Progressive budget saves $50 billion in budget authority and $21 billion in defense outlays for fiscal year 1993. Now, that is a real peace dividend that the American people deserve and that our country deserves.

Mr. Chairman, it does so while providing funding to help military families and the communities which are undergoing a transition as a result of these defense cuts. It provides $8 billion for a severance, pension, and job training package for released military personnel. It provides $3 billion in defense savings for investment in plant restructuring, retooling, job training and income support for communities in transition. And it provides $3.25 billion to reform veteran services.

By realizing this peace dividend, our budget will allow the Nation to invest more in education, more in jobs, and in our infrastructure.

This is a time when we realize that the middle income folks are being hurt. The cost of a college education is out of reach. This budget would provide an additional $2.5 billion increase over fiscal year 1992 spending, adjusted for inflation.

When millions of young people are unemployed and unemployable, this budget would provide a $2 billion increase for the Job Training Partnership Act and Job Corps, which is a proven program, like the WIC Program and like Head Start, which saves young lives, and which is cost effective, because it saves $1.46 for every dollar that we spend.

Mr. Chairman, when only 31 percent of the children eligible for Head Start are actually enrolled, this budget would increase Head Start by $2.1 billion and give thousands more children the early childhood education they need to escape poverty. So with this budget, this is the only budget that will fully fund Head Start by 1995.

Mr. Chairman, I could stand here another 5 minutes, and I will not. I will just say it just comes down to this: in Mississippi there is a story we are fond of telling about a smart-alecky kid who thought he could fool an old blind man.

So he went to a bush and he found a bird. And he thought he would play a joke on the blind man. He said, "Blind man, blind man, tell me: this bird in my hand, is it alive or is it dead?"

☐ 1230

You see, he thought it was a good joke in any fashion, because if the blind man had said, "Old boy, that bird is alive," he had planned to crush it between his two hands and kill it. If he had said, "Old boy, that bird is dead," he had planned to open his hands and let it fly away. In any response he would have had a good joke, he thought. But in addition to that man being blind, he was also very wise, because he said, "My son, my son, the answer is in your hands."

I could say the same thing to my colleagues today. The President stood here just a few months ago, up here, and drew a line in the sand with regard to reductions in the defense budget. He said, "$50 billion by the next 5 years, this low and no lower," I tell my colleagues, that is a line in the sand that we must cross. I think the American public deserves us to cross it, and they in fact want us to cross it.

We cannot continue to spend away our future by running massive deficits. That is true. But neither can we continue to neglect our future by refusing to make the investments in our people, in our economy, in our infrastructure that allows us to move into a new and challenging future.

I would just conclude, Mr. Chairman, by saying we can no longer afford not to take care of our needs at home. Every day we delay only means that the eventual costs in money, but most importantly in pain for our citizens, will be that much more.

For the past 40 years our Nation has devoted the lion's share of our energy and resources to meeting the challenge that we face from abroad. Now is the time to meet the challenges that we face at home. So the question before this House today, in considering this alternative budget, is not whether we can afford to transfer more funds from defense to domestic needs. The question really, and more importantly, is we cannot afford not to do it.

I say to my colleagues today, we have one budget that we dismissed yesterday. We have the Budget Committee alternative A and B, but this is budget C. I just say to my colleagues, "The answer is in your hands."

Mr. GRADISON. Mr. Chairman, I yield 7 minutes to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Chairman, I thank my friend, the gentleman from Mississippi [Mr. ESPY]. I have enjoyed listening to him. I agree with him on many points, that we do need to create jobs, but I would disagree on one point. I do not think the Soviet Union and the people rose up because there was increased spending on defense. To my knowledge they rose up to fight against communism. They rose up because they do not have the freedoms that we enjoy.

The defense system in the United States is about one one-hundredths of the Soviet Union's. The defense now in this country is smaller than when Pearl Harbor was bombed, and the President is attempting to reduce that even more and take a look at economic conversion over a long period of time.

I think instead, as I addressed in the first portion of this talk, that we need to attack the other end of the horse, what got us here and what cut the jobs in the first place, things like the 1986 tax bill where we raised taxes, and eliminated preferential treatment for capital gains; the 1990 tax bill, which most of the conservative Republicans voted against, but it still was a disaster; and the S&L debacle, which if it costs us $500 billion, I am sure we could increase jobs and do a lot of the same things we could without cutting the defense of this country and the support, and we need to take a look over a long period of time.

The gentleman from Georgia [Mr. GINGRICH], the minority whip, said that the defense cuts and the missions were really in the hands of the Pentagon. I agree with that. I spent a large portion of my life in the military. I was on the Seventh Fleet staff. I worked on the Sixth Fleet staff for the defense of not only the Middle East but all of the Southeast Asia countries. I have flown everything that is in the U.S. inventory and most of the things that are in the Soviet inventory.

When it comes to cuts in defense and their impact, and from working in OP O-5, which is APN, Procurement, I have a background. But people like Schwarzkopf and the admirals and generals that are there have a much more broad knowledge of what our needs are than myself.

Let me give you a perspective from my view. It is that I not only flew combat in Vietnam but I flew in Israel, as well, and I know what the requirements are of our military men and women. I talked to the economy before, but now I would like to talk about the defense of this country as I see it and what is important.

When I flew in Vietnam I was not flying against the Soviet Union. When we flew in Korea we were not flying against the Soviet Union. When we flew in Desert Storm we were not flying against the Soviet Union, or acting in a military operation against the Soviet Union. But we were fighting Soviet technology, Soviet equipment, French equipment, U.S. equipment on the other side that even our own country had given to the enemy, and those technologies and the threat of nuclear weapons of other countries that aided and abetted the countries that are potential enemies.

That is another area I think we need to take a look at. That is why I do not support selling F-15's to the Middle East right now, because I think if either side increases those expenditures it could be devastating as well.

I also do not support any country that is developing nuclear weapons. I think we need to reduce our nuclear weapons inventory and balance it with what the former Soviet Union and what the Republics are doing, and to cut those things that are a threat.

That is why in your budget when I look at SDI, I can remember the Scud missiles coming in at Israel. I do not want, my friend from California [Mr. DELLUMS], and I am sure you do not, we do not want missiles someday coming in at the State of California or any other great State and not have the capability to defend against it. Because if people are in a soup kitchen or in a mansion, it is not going to make any difference where that weapon is going to hit. I do feel SDI in this budget is very critical and these are things we need to take a look at.

I also think Third World countries are not going to send a missile at us. They are going to park a tanker in San Diego Harbor, L.A. Harbor, or New York Harbor and explode it, just to send a message. We need to defend somehow against that. I do not know how you do that, other than retaining a strong national defense.

I know for every $1 billion in defense spending, we create about 40,000 jobs. It is important as well to us. I would ask the gentleman from California [Mr. DELLUMS], my good friend, to come down to San Diego to NAS Miramar, and I will take you through the Top Gun School, through the adversary schools where we train our pilots. The reason I want you to do that, my friend, is that I want to show you kids and professionals that are sitting doing nothing because they do not have the fuel to fly.

We want a smaller force, we want a readiness force, and we want it well equipped. Right now they are not flying. They are having to fly what we call an FFRP, a Fleet Fighter Readiness Program, from San Diego instead of deploying, because they do not have the temporary duty money to deploy the squadrons to do it. Instead, we are having to spend $150,000 flying airplanes because we cannot afford $25 a day for TAD funding for housing. That is an interim program that we have to solve there, too.

What I am saying is we need to run the military more like business, and we need to run the Congress more like business. Those are areas that I think we can save and help with.

Right now, with the current defense cut of $50 billion that the President wants to look at, we are having to build an airplane or look at an airplane, the F–18E/F, that is less capable than an airplane that we already have today, and will be better than an airplane that we have in the year 2010. The F–14 could go faster, it can drop more bombs, it has a better weapons system, but even today, last session, we cut the requirements to add to the F–14 system. We cannot even shoot the current missile inventory that we have with that. We cannot even fire the weapons we have created today without weapons systems, whereas with the F–18 radar we can shoot a missile further than the radar will see, because of budgetary constraints.

What I am saying is that when we look at defense and those cuts, we need to be very picky. There are some areas that all of us support in cutting in defense, but we also have to take a look at what the real threat is. I remember Yeltsin just last week saying, "The Communists are coming, the Communists are coming again. You need to give us money." If that is the case, if we cut everything right now, my friend, I think we are going to be in sad shape.

If we look at the AX and the F–22, and I do not have the time to go into those things, we will debate on our committee, but I think that those are areas that are of serious concern to me in defense.

I would ask my friends from the other side of the aisle that when we take a look at the real problems in the country, and we are trying to create jobs, let us get a banking bill out of this Congress. Between now and the election, we are at an impasse. We cannot solve these problems with the banking bill we passed.

We passed the weakest possible crime bill.

I would ask on these things, just like when we are talking about inner cities and keeping people out of welfare and soup kitchens that are on drugs, let us pass one of the drug bills of the gentleman from New York [Mr. SOLOMON]; for example, as in our own Post Office, with our own employees and our own Congressmen. Those things fail.

□ 1240

So I support a lot of the things that the gentleman on the other side of the aisle has offered, the A and B plan. I do not think the C budget will pass. But I would ask Members to take a serious look at the Democratic proposal because I think it does increase taxes, increases spending, and has some of the same problems that the 1986 and 1990 bill did.

I ask my friends from the other side of the aisle not to support those.

Mr. GRADISON. Mr. Chairman, I yield 11 minutes to the gentleman from Arizona [Mr. KOLBE], a member of the Committee on the Budget.

Mr. KOLBE. Mr. Chairman, today we are discussing the budget proposal brought to us by the Black Caucus. It is one of the alternatives that we have in the budget proposals that we are considering yesterday and today.

I did not yesterday have a chance to direct my remarks, because of the time limitations, to the proposal put forward by the majority on the Budget Committee. Thus, most of my remarks today are directed to that and to the alternative that is contained in the President's budget proposal. But I think the comments that I make are really very much apropos to the proposal that we are considering in this debate, because this is really a matter of establishing some priorities.

As I look at the proposal that we have from the budget majority, and I serve on that committee, it looks a little bit like going to a restaurant and ordering dinner. Just as the waiter comes up and gives you the specials for the day, and tells you what the soup du jour is, we are hearing today that we have a budget du jour, a budget special. This is a little bit unusual, this majority resolution that we have been considering. It is very unusual for a budget resolution. In fact, as far as I can determine, it is the first of its kind that has ever been offered. And of course, the reason we are seeing it is because there is an unwillingness on the part of the Democrat majority to take responsibility, to give the House a definitive recommendation about what we ought to do about the fire walls or the budget caps. Or if we move the metaphor from the restaurant to the football field, I think we can safely say that the majority punted in this case.

Why should a budget resolution approved by the majority, brought to this floor by the majority be any different than a crime bill or the Family and Medical Leave Act? In that case the Judiciary Committee and the Education and Labor Committee had no difficulty asking members to express a preference for one approach or the other in the committee. These committees had no difficulty presenting the House with a single bill. Of course, the Rules Committee always has an option to provide for the consideration of alternative substitutes or of amendments. That is the way the process works. We were elected to Congress to make some choices, yes, Mr. Chairman, some tough choices, not to avoid them.

The Republicans on the Budget Committee urged that we separate or divide the question between plan A and plan B—plan B to keep the firewalls, plan A to take them down—during markup in the Budget Committee. But the majority refused to do that, refused to even State a preference for whether we should keep the caps or not.

Mr. Chairman, I say it is a sad day for leadership in this body when we cloak it in that kind of irresolute behavior. So what do we have in the schizophrenic resolution that comes to us from the majority? We have two different budget blueprints, plan A, which will spend the peace dividend as though it is some kind of free money, and plan B that would keep the budget caps and apply the savings to the deficit. So we have the fire walls, as they are called, up, and we have the fire walls down.

The choice between the two budgets depends on a vague, and some would say impossible, prospect that we might enact a separate bill to modify the current law that prohibits shifting money, at least in the coming fiscal year, from defense cuts to domestic spending. But it gets worse than that, because Chairman ASPIN, from the Armed Services Committee, suggested four different defense options, A, B, C, and D. No decision there either for the House. And so if my probability theory is correct, if I remember correctly from my days of taking statistic in school, we are up to eight different scenarios, eight possible budgets. And if we keep going in this direction, pretty soon we could have enough permutations in the budget for every man, woman and child to have his or her own budget. Take your pick. Satisfy anyone or satisfy everyone.

Mr. Chairman, that is not leadership. I went on record a long time ago saying that the budget caps ought to be retained, and defense savings ought to be used to reduce the budget deficit, period. The most important domestic agenda for this country has to come from budget discipline, not from new spending.

So that is what this debate today and yesterday on all of these alternatives really is about, leadership and some discipline. It is no wonder we find that the President saying he made a mistake in agreeing to the 1990 budget summit. He thought he made a deal. But the majority seems to have a different idea of what a deal is. Their idea is what is ours stays in, but your positions adopted in the budget summit are open for renegotiation at any time.

The Budget Committee majority failed miserably when it came to exercising discipline. Consider just a few of the following:

Item: During markup, the Democrats rejected amendments that would have offered more than $15 billion in deficit reduction in fiscal year 1993.

Item: The budget majority rejected the President's entitlement savings outright, and amendments offered to slow entitlement spending while offering none of their own, even after talking a good game about the importance of entitlement restraint in a report issued by the committee only 2 months ago. The report is entitled "Restoring America's Future: Preparing the Nation for the 21st Century." Let me quote just one sentence from that report. "The concept of an entitlement cost cap is strongly endorsed by the committee." But no such cap will be found here.

Item: They rejected amendments to means test entitlements for the wealthy while just hours before, on the same day they claimed victory on an economic growth package taxing the so-called rich.

Item: The budget majority rejected recommending hard defense numbers, offering, as I suggested earlier, a potpourri of choices, A, B, C, D defense plans. More avoidance of decisionmaking.

Item: When it came to reducing the foreign aid account by $3.2 billion, a responsible, a well-thoughtout reduction that would have kept the aid for our vital national security areas, but would have reduced it from the wasteful programs. That too was rejected.

Is it any wonder we are facing a $399 billion deficit this year? It was only 1½ years ago that the Budget Enforcement Act was enacted into law. Now, as fast as you can say the word spend, there are Members advocating tearing down the firewalls that separate discretionary categories so that they can spend an illusory peace dividend on domestic investments. It is as though you have a $5,000 credit card debt and only $100 a month to start paying it off. Then one month your take home pay goes up by $25. Any prudent person would use that $25 to pay down the whopping debt that he or she has. But not the majority on the Budget Committee, not under option A. No; they would consider that new money, free money, and they are going to spend it.

We have an obligation in this House to stop this addictive behavior, to stop this compulsive spending, to make real efforts to reduce our Federal budget deficit. Defense savings should be directed toward deficit reduction, not new Federal spending. Mandatory and entitlement spending, which accounts for nearly two-thirds of all of our spending, must be reigned in. No amount of defense or discretionary domestic cuts will balance the budget, and our discretionary account should not increase above the spending caps. That is just an open invitation to make the deficit worse and worse.

I oppose the alternative that we are considering here today because of the damage it would do to our national defense. I oppose the majority's budget resolution which we will vote on later.

□ 1250

I am only sorry that the committee that I serve on could not have assumed a leadership role and presented the House with a blueprint for fiscal responsibility.

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. KOLBE. I yield to the gentleman from California.

Mr. DELLUMS. Mr. Chairman, I appreciate my colleague's remarks, and I just want to specifically focus on his statement about leadership, because, you know, the gentleman indicated earlier that he was not going to specifically speak to the proposal before the body now which is the Congressional Black Caucus/Progressive Caucus budget, but, rather, to the other budget.

I am simply saying that we have attempted to assert leadership. The gentleman may respectfully disagree, and I respect that, because that is what this process is all about, the give and take of different ideas, but I think the gentleman must agree that we attempted to assert some leadership. We stepped out there. You know, we did not have option A, B, C, D, E, F, G. We said this is the nature of the world as we perceive it. These are the solutions that we perceive. We put together a document here, and we put it in everybody's hands, 435 Members of Congress, and we said that we are prepared to debate it in the full light of day for 8 hours.

The President did not even want you guys to bring his budget up for 8 hours, and that is not a partisan statement. That is just a factual statement. So I think we have assumed some leadership here by saying we will not only put these ideas out here, we will expose them to the full light of public discussion.

I think the gentleman has had to admit, whether he agrees with us or not, that he cannot lump us into not assuming leadership, because we stand here prepared to assume leadership, and I think we have asserted leadership.

Mr. KOLBE. Mr. Chairman, I thank the gentleman for his statement. I would be happy to concede that. While I do not agree with his proposal, what the gentleman has done has been to bring a substantive proposal, well thought out. But the priorities may be all wrong as far as I am concerned.

Mr. DELLUMS. I respect that.

Mr. KOLBE. It is a well-thoughtout proposal that deserves to be considered and debated. However, the gentleman and I know that the underlying budget we are going to consider here today that came out from the committee that I serve on is the one that is ultimately going to be the budget of the House of Representatives. That is why I directed my remarks there, but I congratulate my friend and colleague from California for taking leadership and proposing a budget that at least gets us into an intellectual discussion, particularly in the area of defense, as to where our spending priorities should be.

Mr. DELLUMS. I thank the gentleman for his remarks.

Mr. WHEAT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we have a number of speakers who wish to speak about the CBC budget, and we will be proceeding in short order to them.

I want to take a few moments, before we do that, to thank the people who have brought this budget forward, the chairman of the Congressional Black Caucus, the gentleman from New York [Mr. TOWNS], for the leadership he has provided and, of course, the distinguished gentleman from California [Mr. DELLUMS], who serves on the Committee on Armed Services, who has done the bulk of the work in pulling together the CBC budget, and to pull together an entire budget for this Nation is an immense technical challenge, and for that alone I think these two Members deserve to be congratulated.

But I think more importantly, they deserve to be congratulated for the political courage that they have shown by pulling together this budget, and I say political courage, because they have chosen to do something that has only been dreamed about in this country for over a decade.

We all talked about a peace dividend. In fact, we have talked about it for at least 10 years in this country, and we all agree there will be some peace dividend now. In fact, the President of the United States came to us and stood on the floor of this Congress and said that he was prepared to offer defense cuts of approximately $10 billion a year, about $50 billion over the time period that he was examining for us, and that seemed like a lot to the people who were listening. To most of America, it seemed like a significant sum of money.

Unfortunately, that is not enough to address the problems that we have had grow immensely in this country over the last 10 years. It is not enough to provide health care for the 40 million Americans who may work for a living who have no access to health care. It is not enough to take care of the homeless population of this country, one-third of whom, I might mention, are veterans who have served this country in overseas conflicts. It is not enough to take care of the hungry population of this country, a population that barely existed 10 years ago.

So what we have developed as an alternative is the Congressional Black Caucus/Progressive Caucus budget, a budget that proposes not $50 billion in military savings until the end of the century but an astounding $1 trillion in military savings.

Some people may think that $1 trillion is much too much to ask for, that it is too good to be true, that it is an unrealistic proposition, but I think once you begin to examine how the military budget has been driven over the years, you begin to see that it is not only feasible, it is practical.

The military budget in this country has been driven by the Soviet threat. It has been driven by the fact that we needed to contain communism. In fact, this has been the central tenet of American foreign policy since World War II.

Yesterday, in the Committee on Rules, we had speakers who referred to the fact that it has been a bipartisan philosophy that as far back as President Carter we have had Presidents pushing a huge defense buildup to meet the Soviet threat and to put pressure on the Soviet system. Well, regardless of how it has happened or why it has happened, the pressure did exist on the Soviet system. Some say that our spending forced the Soviets over the edge.

Mr. Chairman, that may very well be true, because it is obvious that dramatic changes have occurred in the world, but there is no need for us to follow the Soviets over the edge.

I had the opportunity to go to visit the Soviet Union right before the glasnost and perestroika became daily words in the Soviet system. One thing that I noted was but for the defense establishment, the Soviet society was not a match for the United States in any area, in agriculture, in manufacturing, in education, in housing. They could not begin to compete with the United States, and the reason they could not was they had devoted far too high a percentage of their resources on a military budget.

Unfortunately, we have followed the Soviets in that path, and we have devoted a significant percentage of our resources to a military budget, albeit with a good reason, that we needed to defend against the Soviet threat.

Mr. Chairman, well, surely, in the face of the dramatic changes that have occurred in the Eastern bloc nations, when the Soviet threat is certainly not what it was 1, 10, 20 years ago, there is some significant saving we can find as a result of the fact that we do not have to meet that challenge on a daily basis.

Last year as we were beginning to talk about a peace dividend, some people came forward and said, "Well, despite the fact that the Soviet threat is not there, we need to be able to spend an increasing amount of money on defense to meet other regional challenges around the world," and they pointed to the situation in the Persian Gulf and the war we had with Iraq.

Mr. Chairman, I voted against that war. I thought that the United States and the United Nations could give more time for economic sanctions to work. But be that as it may, I thought it was an impressive demonstration of the fact that the President of the United States did have the ability to get other nations in the world to join together in a coalition to carry out whatever strategy this new world order could create, and we were very successful militarily. We wiped out what was at that time the fourth largest armed force on the face of the Earth.

Mr. Chairman, we have faced the challenges. We have defeated the Soviet system in the cold war. We have defeated other regional challenges in the hot war.

This is not to suggest that we do not need a continuing military expenditure, but since the major challenges have been met, we do not need the same size military expenditure.

I would like to point out one more thing in regard to that entire process. Everyone began to focus on the new world order during that time, but after the war was over, people began to look home again. The question was not what about this new world reality, this new world order. The question became: What about the old American dream?

Mr. Chairman, the last 20 years when we have devoted our resources to the military have seen the dissipation of that American dream. In many cases that wonderful dream has become a nightmare, and that is the problem that this CBC budget attempts to address today. It wants to answer the question of whether a nurse's child will have health care and be able to go to a hospital, whether a carpenter's son will be able to buy a home in this country, whether an autoworker's child will ever be able to buy and afford an American car. Those are the kinds of questions that face this country now, not the outward look at the rest of the world.

We have our responsibilities, but we are meeting those responsibilities?

The place we are failing is here at home, and, Mr. Chairman, now is the time to focus on the old American dream, and the Congressional Black Caucus/Progressive Caucus budget is the blueprint for that dream.

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. WHEAT. I am happy to yield to the gentleman from California.

□ 1300

Mr. DELLUMS. Mr. Chairman, I thank the gentleman for yielding to me.

First, let me just compliment the gentleman for an outstanding statement. I concur in everything the gentleman has said. I just want to underscore again for the purposes of emphasis two very significant points that the gentleman raised.

With respect to the Persian Gulf, the President did come before the American people and talked about the new world order, which contemplated greater international cooperation, realizing that there were other nations in the world that could come together, that the United Nations, the family of nations, could come together to begin to look at ways of resolving conflicts without the United States continuing to assume the notion of Pax Americana, but if you look at the President's proposal, it is still based on the notion that we have to continue to be the bully of the world, the police officer to the world, the 911 of the world, the mercenary of the world, when in fact we live in an international context, so the gentleman is right. If you put together the changing world situation, the significant diminution of the Soviet threat, the virtual total disappearance of the Warsaw Pact as a threat, the lessons of the Persian Gulf, the notions of greater internationalization and greater burden sharing, those are all rationalizations for a significant reduction in the military budget.

The second point, the gentleman raised the issue rhetorically in his remarks, that given those major threats vanishing off the radar screen, could we not cut some money? Well, as the gentleman well knows, the base line for our military budget is $301 billion. Everybody is using that figure. The military budget rose to that level for at least a decade.

Now, with the Soviet threat and the Persian Gulf threat, we have been spending between $150 and $210 billion per annum on those two threats alone, and I repeat again that one does not have to be a brilliant Ph.D. to realize that $210 billion worth of threat is either gone or significantly reduced, that only talking about a reduction of $10 billion is an absurdity. It is an absolute sham.

So when we talk about a cut of $50 billion in the first year, this is no radical idea. Clearly, with East Germany and West Germany now having united, where is the threat? But we have been spending $150 billion a year there. When you add in the amount of money we spend, the $70 billion to defend Korea and to defend Japan, those are major, major contributions of our military budget at a time when the American people understand precisely what it is that we understand, that the world has changed. It ought to produce a savings and we ought to take those savings and reinvest them in America, and I thank the gentleman for yielding to me just to follow up on those remarks.

Mr. WHEAT. Mr. Chairman, I thank the gentleman for his further explanation, because when people hear the huge numbers we are talking about, I think some people misunderstand the situation and believe that we are talking about cutting into the basic security of this Nation; but as the gentleman has rightfully pointed out, the security of this Nation is maintained not only in the continuing appropriations we would have for our military, but in the new reality of a lessened threat around the world.

Since the gentleman is standing, I would like to ask him to further elaborate on the conversion possibilities that are talked about in this budget, because I grew up in a military family and have military bases around my area, and a number of Members do. Members are concerned that there is going to be a worsening economic situation as a result of the fact that we are going to be withdrawing money from the military.

Now, I understand that there is a higher multiplier effect from money that is spent in the nondefense industry as opposed to the money that is spent in the defense industry, so in fact if we take that same money that we were spending in the defense industry, as I understand it, and put it to use in the domestic civilian industries, that we will actually get more bang for the buck—no pun intended—that we will get more jobs produced as a result, instead of less jobs produced; but I and many others are concerned about the direct impact on the military personnel who will be leaving the services as a result of the cutbacks in military spending, and I would be happy to have the gentleman address that point, and I yield to the gentleman.

Mr. DELLUMS. Well, Mr. Chairman, that is a very significant point and one that we have attempted to address with care, with compassion, and with substance.

First of all, when you look at the military budget, the military budget is a response to our national security needs. Our national security needs are based upon our perception of interests and threats to us.

Now, given the fact that two major threats have now been removed from the table, it means that our national security needs, first, are changed. It means that the threat level has changed, which means that our military budget also has to change.

If the cornerstone of that threat has been the Soviet Union and the Warsaw Pact and that is gone, that means that national security needs are going to be reduced and the military budget is going to go down. The military budget is not a jobs bill. It is a response to our legitimate national security needs, but when you bring the military budget down, there are people who are in the military who will be deactivated and become unemployed. There are people who build weapons systems and carrying out contracts, those contracts are cancelled and they are not employed. We cannot afford to turn our backs on them. These are real human beings. They are American citizens. They have been either working in the military or working on weapons systems that relate to the military.

Now, as that budget goes down, there is going to be that level of pain and economic dislocation. We step up in this budget and say let us face that issue cleanly and in real terms in two ways. Let us deal with it in the context of the military. Let us also deal with it in the civilian sector.

On the military side, we say let us write a brand new GI bill for a number of these young people who will be coming home, provide them with the same opportunities that this gentleman received when this gentleman came back from the Marine Corps, too many years ago to talk about on the floor, and let us write a new GI bill to give them the opportunity to either go back to college or to gain greater training. Let us expand their training opportunities, but let us provide them with housing allowances so that when they come back they are not just dumped into American society. Let us give them unemployment benefits.

On the other side, since the military budget is going down we have to create in this society economic conversion opportunities that allow people to work, enhancing the quality of life in a more peace-oriented society.

So there we said let us take some of the peace dividend and begin to rebuild America's economic infrastructure. Not only does that allow us to be competitive in the world marketplace, it generates massive numbers of employment.

Second, when we attempt to put money into solving social problems other than rebuilding the economic infrastructure, that also generates employment.

Studies show that what we are attempting to do would generate on an annual basis minimally over 400,000 jobs which then provides an opportunity for people coming out of the military to go into civilian life with employment opportunities there, and we have got to start down that road.

Conversion is not an easy proposition, but as I said before, I have never met a person that demanded a job building a weapons system. People want to work. So we have got to provide them with an opportunity in a society where the military budget is going down, rather than to build B-2 bombers or MX missiles, build other resources that enhance the quality of human life.

So Mr. Chairman, we are very sensitive to the conversion issue and specifically in this budget we also place $3 billion to directly address the issue of conversion.

So in conclusion, we are sensitive to it. We want to address it. There was not a great deal of caring when the military budget went up in the suffering that our constituents paid, but we are not cavalier in that regard. We recognize the pain as it is going down, and we attempt with fiscal policy and structural policy to address the issue of conversion in very specific ways. That is our response to the gentleman's question.

Mr. WHEAT. Mr. Chairman, I thank the gentleman for his response and for his clear analytical approach to this matter. I think the gentleman has developed a very rational basis on which to base a military and a national budget and I certainly intend to be supportive of this budget.

I hope that we can today, during the debate, persuade other Members of the good common sense that this budget makes, as well as the fact that this budget attempts to set a new rationale for spending in this country that will be more focused on the people and the priorities of this Nation as they ought to be, instead of the outdated priorities of the cold war era, and I thank the gentleman.

Mr. DELLUMS. Mr. Chairman, I appreciate the gentleman's remarks.

Mr. WHEAT. Mr. Chairman, I yield 10 minutes to the distinguished gentlewoman from Michigan [Mrs. COLLINS].

Mrs. COLLINS of Michigan. Mr. Chairman, I thank the gentleman for yielding this time to me.

As we examine each of the various budget proposals, I ask each of you to consider the real state of this Nation. For those of you from districts not deeply affected by the recession, look beyond your district boundaries. In many areas of the country the average education level is eighth grade, and unemployment rates are well over 10 percent. In these same areas, hundreds of homeless visit soup kitchens and shelters each day and night, bridges and roads lay in ruins, and business after business enters bankruptcy. I ask you to look at communities like these, and make a decision to financially assist the areas of this country that suffer from the worst economic conditions.

Although your own communities may not suffer from these problems I have described, distressed areas affect everyone's lives. You see homeless on the streets around you, crime pervades in your cities, and long lines of unemployed and jobseekers cannot help but affect you psychologically. If we do not pay to fix these problems now, they can only get worse.

The alternative budget presents each of us the opportunity to help this country make the changes it needs now for a healthy future. Not only is this a measure that will aid our Nation's education system, build homes, roads, and other structures, and create new businesses, but this is a budget that will promote long-term, lasting growth and prosperity, I urge every Member of this body to support the alternative budget, and vote for its passage.

In my own district in Detroit, the unemployment rate hovers around 30 percent. School dropout rates are as high as 40 percent. Homes lay abandoned as industries disappear at a rapid rate. About 250 homeless visit soup kitchens and warmth shelters each and every day. The infrastructure in many areas of Detroit has crumbled, as it has in many older cities, and is in great need of repair.

However, there is a ray of hope, and an opportunity for improving Detroit's chance of survival. A revival is on Detroit's horizon. Without Federal funds, however, the chances of a recovery are minimalized. The people of Detroit, like the people in many other cities in the United States, need money to attract new businesses, to fix their infrastructure, and to give their children a chance to succeed through education.

America needs to begin reinvesting in America. The alternative budget presents us with an occasion to fix our schools, to build our businesses, to revitalize our infrastructure, and to create a long-term solution to over a decade of economic hardships.

Not only does the alternative budget possess the contents to produce this result, but the plan pays for itself. A short-term investment will create tens of thousands of jobs, produce new revenue through taxation, and get this economy rolling once more.

The alternative budget creates a more comprehensive, long-term approach than any of the other proposals we have considered. This budget looks to futuristic technologies for the answer to massive unemployment and international competitiveness. This budget invests in our children's education, so that they will be able to understand, and evolve these futuristic markets. This budget creates jobs, but at the same time rebuilds our houses and infrastructure.

When the surface transportation bill became law, this country took a step in the right direction for helping itself. The $151 billion included in this bill will not only put hundreds of thousands of people to work, but it will rebuild the roads and bridges in such desperate need of repair. The problem is that we have ignored other areas that are of equal or more importance to our recovery. We need to invest in education, business, health care, and future markets.

The momentum that this budget would create in a city like Detroit would be like that of a high-speed train. I can envision a future for Detroit where the manufacturing base consists of products like magnetically levitated trains, alternatively fueled vehicles, and high-definition television. Surrounding these industry facilities would be a diverse group of small businesses. As these businesses developed, more people would want to move to the neighborhoods in the cities surrounding their workplaces, and with this, more parks and public meeting areas would develop. Detroit's renaissance center would serve as the cultural and commercial center of the city, and would be as safe as any gathering place in our Nation's cities.

I see all of these things, and more, for Detroit, but not without Federal funding for grants to businesses, for new educational programs, and for infrastructure projects. Again, the alternative budget provides the funding necessary to promote the recovery of cities like Detroit, and rural areas hardest hit by the recession.

In the 1930's and 1940's, World War II did to Europe what years of neglect have done to the United States today. A crumbled infrastructure was only an outward sign that Europe had been crushed economically and psychologically. The United States helped bring Europe back into the modern world by supplying the equivalent of $70 billion in today's dollar for Europe's recovery following the war. Europe's current thriving market and relatively strong economic and social conditions are due in large part to this investment of American dollars. This foreign aid program, known as the Marshall plan, was one of the United States most successful foreign policies.

The United States needs its own economic recovery policy, a policy like the policies developed under the Marshall plan to rebuild this country. The alternative budget provides the opportunity to create long-term, cost-effective answers to our worst economic conditions, and is in many ways consistent with U.S. policy following World War II.

We have been given the occasion to downsize this Nation's defenses, and to give hard-working people in the defense sector the goal of building America's future in a more technologically advanced world. These industries need assistance for converting their efforts to more constructive, future-oriented endeavors. We can no longer afford to continue to build weapons for the sake of having something to build. There are new markets, markets that are more meaningful to helping our society. We need to tap into these future industries and use all of our human resources to produce commodities that are salable in a world market.

The defense cuts proposed in the alternative budget are deep, but necessary. Just as the former Soviet Union has been given shock therapy to convert to a capitalistic society, the United States needs its own shock therapy to break away from a society that functions around its defense sector. Although the cuts are deep, they are not damaging to the safety of this country. We can afford to downsize our military even further than advocated in the other budget.

Mr. Chairman, I urge my colleagues to support these heightened defense cuts. I urge my colleagues to support solutions that advocate our Nation's long-term recovery.

□ 1310

Mr. KOLBE. Mr. Chairman, I yield 17 minutes to the distinguished gentleman from Illinois [Mr. PORTER], a member of the Committee on Appropriations.

Mr. PORTER. I thank the distinguished gentleman from Arizona for yielding to me.

Mr. Chairman, I wish to speak on our economic situation generally.

Mr. Chairman, our country has made a series of mistakes throughout the 1980's in economic policies, fiscal policies, tax policy; but the most egregious error it has made is to allow its national indebtedness to rise from $1 to $3.7 trillion, with no end in sight.

Mr. Chairman, a lady came up to me at a public meeting recently, handed me a sheet of paper, and it showed that just to service a debt of $3.7 trillion is costing the U.S. Government and the U.S. taxpayer $3,000 per second; per second, Mr. Chairman.

The average young American entering the work force today is being handed a bill by his or her Government for $200,000 in excess taxes that that individual, that young person is going to have to pay throughout his or her working lifetime just to service the interest on the debt that has been run up in the last 12 years. That is $200,000 for the average American worker to pay over 50 years, just to service the debt, $200,000 that that person might have used to buy a home or to educate his or her children or to invest in a small business.

No, Mr. Chairman, that money is going, instead, to Washington to serve this huge burden of red ink that we have placed upon our children and our grandchildren, and we still do not have the courage to stanch the flow of it and get our fiscal house in order.

The 1980's, Mr. Chairman, was a decade of debt, personal debt that individuals ran up on their credit cards, consuming almost everything that they earned, saving very little, buying foreign goods, effecting a transfer to foreign investors allowing them to come in and buy up American resources, a decade where businesses ceased paying attention to the antitrust laws, which were not enforced, a decade of leveraged buyouts, golden parachutes, and resulting in huge amounts of debt on corporate books. And what did we get from all of that as a society? Not very much, Mr. Chairman. We got a great deal of corporate debt, a short-term mentality, with management looking over their shoulders watching those who were creeping up who would purchase their businesses, a mentality not to make quality goods and services but rather to protect oneself from the corporate takeover. It's hard to see what it got for us.

☐ 1320

Mr. Chairman, in Washington, Congress and the administration did the same thing. We passed a Gramm-Rudman law saying that we cared about deficits, but deficits rose, and rose, and rose throughout the decade as we used smoke and mirrors, rosy economic projections, all kinds of subterfuges to declare victory each year and go home as if there was no problem.

No progress was made throughout the 1980's, Mr. Chairman. It got worse, and worse, and worse.

Everyone in Washington, of course, is for reducing the deficit, but, Mr. Chairman, they are for reducing the deficit provided it is done on someone else's priorities. The political realities were gridlock, no progress, rising deficits, and now this huge burden of government, personal and business indebtedness has gotten to the point where it has dragged our economy into recession.

Rather our individual reaction to all of this debt caused people to stop spending so heavily about 1½ years ago. They found the financial ground under their feet unstable. They looked at their financial system, as S&L's were going under and banks were threatened. They looked at foreign competition in many cases eating American industries alive. They watched in fascination as communism fell but the resulting instability in the world situation added to their worry and made them more conscious of their relatively precarious financial situation.

Mr. Chairman, they did the right thing. They began paying off their own debt, getting their credit cards down, getting their own financial houses in order, and American businesses, recognizing the threat of competition, began to make themselves lean and mean and competitive, getting their inventories pared down, their debt brought under control, and unfortunately, their work forces in many cases were pared, and putting themselves in the most competitive mode they possibly can, recognizing their financial situation and that in the world.

So what should Government do? Mr. Chairman, Government had darn well get its fiscal house in order as well. And yet what are we doing? We are looking for a quick fix to this economic situation that took 12 years to build through trillions of dollars of new debt.

Is there any quick fix? No, Mr. Chairman, there is no quick fix. There is $380 billion of debt this year alone, not even counting the S&L crisis. Do we have any option of a quick fix? Of course not. We lost that option. We let it go.

What we have to do to solve these problems is to get back to the economic basics. There is no easy way out. It took ourselves 12 years to dig this hole, and now we are paying the price, and now we are going to have to get ourselves back with our economic head screwed on and do what we should have done a long time ago.

Mr. Chairman, the 1980's was a decade of consumption. Some call it a decade of greed. Whatever my colleagues prefer to call it, we did not save and invest, we did not invest in America, we did not protect our jobs. We consumed, and our jobs were lost. We lost our economic independence as a country in the 1980's because we allowed the Japanese, and the British, and the Germans, and others to buy up our resources as we bought their products, and they became the owners of too much of this country.

Is that healthy for America? No, it is not healthy for America. We have to go back to encouraging savings and investment and rebuilding our economic foundations. We have to go back and encourage exporting. Do my colleagues realize that the United States is the greatest exporting Nation in the world? No, it is not Japan, it is not Germany. Germany is second; Japan is third. The United States is the greatest exporter. But to stay that way, we are going to have to encourage export as well.

But most importantly, Mr. Chairman, most importantly, we must get our fiscal house in order, and it cannot be done quickly, but it can be done. It must be done. The burden of debt is dragging this economy down and destroying jobs and opportunities for Americans. People across the economic spectrum are paying the price. People at the margin in the economic spectrum are paying the highest price. It is most difficult for them. We have let all the American people down, but mostly those people.

I proposed in 1984, 1985, 1986, and 1987 that we get control of our huge deficits by freezing spending by function, that is, defense, agriculture, transportation, et cetera forcing ourselves within those functions of government to choose the priorities that were most important and seeing this as a fair way of addressing this problem, requiring contribution by almost every sector of our American society. By 1987, I finally convinced the Committee on Rules that they should allow my budget to come to the floor. When it did, it was debated at length, and it got 64 votes, 64 people of courage who saw this as a problem and who saw it as an equitable way of solving it.

But as a whole the House of Representatives had no courage, no stomach. Things looked rosey. Why worry about tomorrow? They said, "Let's let it go. We don't have to really deal with this problem."

Mr. Chairman, we are going to have to stop saying that we can solve this problem on someone else's priorities. We are going to have to stop saying what we will not do to address the problem. We are going to have to start saying what we will and must do. We are going to have to pull ourselves together as a nation to make all this happen right. We are going to have to call on all of the American people to contribute to its solution, and, Mr. Chairman, it is not going to be easy.

Mr. Chairman, we are going to have to stop in this Chamber serving every special interest, and I do not use that word at all in a pejorative sense. I use it in a descriptive sense. There are many wonderful special interests in America that do deserve to be served, but we have got to stop serving the special interests and be responsible for the bottom line.

Mr. Chairman, when I came to Congress a dozen years ago, I sat down with one of the then senior Members, a gentleman from Illinois named John Erlenborn. I said to him, "You know, I think that we are voting so irresponsibly in this Chamber, John. Why is this?"

He said:

> John, you know it's kind of strange. Fifteen years or so ago we used to take almost all of our votes in this Chamber by tellers. We just walked past and got counted. There were not many recorded votes and people voted a lot more responsibly because they didn't see their job as simply serving important and worthy special interests. They saw their job as being responsible for the country, for the bottom line, for the result.

Yes, since that time, special interests have had access to votes which are in almost every case recorded. They can easily publicize what we do. They can identify their friends and enemies, and they do. They can let their constituencies know who those friends and enemies are, and, Mr. Chairman, I am not at all proposing that we go back to fewer recorded votes. No, I am saying that we are going to have to create in this Chamber, and they are going to have to create in the other Chamber across the rotunda, an environment of responsibility for the country, not just for special interests, but for this process as a whole.

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If we keep serving special interests, if we keep desiring to be 100 percent on everybody's list and be everybody's friend, I guarantee that we will continue to drop into this quagmire of stagnation with few jobs being created, with American industry not being competitive, and with the Government sucking up all the capital available running huge deficits and consuming far more than it takes in in revenues.

This, Mr. Chairman, is a very, very serious problem for our country, and it must be addressed.

The exercise of the tax bill has begun. It passed the House. It is going to pass the Senate and it is going to conference. The President is going to veto it, and the veto is going to be sustained. We will have all postured politically and stated our philosophies over and over again. And then what is going to happen? We will be back at that point to square one.

This budget does not require the signature of the President. It is not needed. The majority party is going to put into place the budget it wants. The only thing we can say about the process is that we have at least started at an early time. It is not really going to help address the long-term needs of our country.

We are going to have to decide that getting our fiscal house in order is the highest priority for our country, and that this is a crisis we are in. This is not going to go away. It is going to hang around for the long term unless we have the guts and the courage to address it and do what needs to be done to solve it and give something of ourselves and our interests to its solution.

We are going to have to forego the posturing. We are going to have to forego some of our own priorities. We are going to offer something of our priorities to solve this problem. We cannot live with it any longer. It is eating us alive. It is eating up our budget. The interest on the debt is now the third largest of all the functions of Government. It is the only one that rose during the 1980's in terms of a percentage of the budget as it crowded out spending in other areas.

Mr. Chairman, we must have the courage of our convictions. We must look to the interests of our Nation and not to serving special interests. We have to get this budget under control.

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. PORTER. I yield to the gentleman from California.

Mr. DELLUMS. Mr. Chairman, let me first compliment the gentleman for his comments. I realize the gentleman is making a broader economic statement than focusing on the budget that has been offered by my distinguished colleagues who are the members of the Congressional Black Caucus. But first let me just say that I do respect the gentleman, and I do remember in 1987 when the gentleman offered his proposal.

There have been a number of occasions when this gentleman has agreed with the gentleman from Illinois. I admired the gentleman for his courage both in the proposal he has often offered and in the stands he has taken. It has required him sometimes to stand alone on the other side of the aisle. So I compliment the gentleman for his integrity and his courage.

I wanted to focus on the gentleman's comments about the deficit and just say to the gentleman that in the context of the budget that is being offered on the floor today we do address the deficit. The gentleman stated in 1987 that he had a way of trying to address the deficit. What we are saying in this budget is that we are now debating fiscal year 1993. The difference from 1993 to 1987 is that the cold war is over. The cold war was going on in 1987. The Soviet Union has now dissipated. The Soviet Union was a reality in 1987. So what our budget does is attempt to define over an 8-year period a $1 trillion peace dividend.

We are prepared to put some of that cash money, real money, not smoke and mirrors, to the deficit.

Second, what is another contributing factor to the deficit? A military budget that is going up and that is capital intensive as opposed to labor intensive. We start to bring the military budget down.

Another contributing factor is the recession itself. People who go back to work pay taxes and the deficit starts to come down. Our budget makes an effort to place billions of dollars in the infrastructure dealing with the social and economic dislocation of the country which starts to bring it down.

Another contributor to the deficit, as the gentleman points out, is the S&L crisis. As a matter of bookkeeping, we can take that off budget, but the gentleman and I both know that has an impact. That is the implication. I hope that is temporary, and I hope we get our hands on it.

But what is one of the most significant contributors to the conflict? The skyrocketing cost of health care. Even with the $1 trillion that we locate in 8 years, if we do not get a handle on the skyrocketing cost of health care, the deficit is going to go through the ceiling. We are in the primitive stages of a debate on health care, but if we can come to grips with accessible, affordable health care that gets a handle on control of cost, that deficit is going to go down.

So to summarize, Mr. Chairman, I thank the gentleman for yielding to me. What I am trying to say to him is that I respect his remarks, and that the Congressional Black Caucus is focusing on the deficit in a very substantial, multidimensional fashion.

Mr. WHEAT. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from California [Mr. DIXON].

Mr. DIXON. Mr. Chairman, I thank the gentleman from Missouri for yielding time to me.

Mr. Chairman, I rise today in support of the Congressional Black Caucus alternative budget for fiscal year 1993.

The disappearance of the Soviet military threat provides an opportunity to transform our economy from a cold war economy to one which responds to the real problems facing our Nation.

An effective, efficient transportation system is crucial to maintaining America's economic competitiveness. Many Americans use public transportation to get to work, to health care and to the marketplace.

The CBC budget addresses this problem by establishing a program of financial assistance and economic incentives to create opportunities for public-private partnerships. These partnerships will make the domestic railcar industry more competitive, create jobs, and promote economic growth in the United States.

This budget also contains increased funds for economic conversion, providing for vocational training and education for skilled workers and technicians previously employed in industries with declining labor markets.

Mr. Chairman, through initiatives such as this we can boost America's economic growth and competitiveness, provide real jobs, and focus valuable resources on issues which affect all Americans.

The CBC alternative budget provides a sound blueprint for regaining our Nation's competitive edge and for improving the quality of life for all Americans. I urge my colleagues to support it.

During the early 1970's, there were at least a half dozen U.S. firms that were in the business of building railcars. Today there is only a single domestic railcar manufacturer. Despite the interest in developing a high-speed rail service in the United States, there are no domestic manufacturers of rail cars to compete with the new generation of high-speed trains being produced by the French, Germans, and Japanese.

A primary cause for the decline of our domestic rail industry has been a lack of sufficient investment in research and development during the past decade. This lack of investment reflects an overall domestic problem. U.S. private and public investment in R&D lags far behind that of other major industrialized nations.

The CBC alternative budget recognizes the importance of a safe and effective transportation system. It increases Federal transportation funding by $3.25 billion over the budget resolution and by $3.29 over the Bush budget. It provides substantial increases for the operation of mass transportation systems, railroad capital improvements, highways and highway safety.

The CBC alternative budget also provides $25 million to fund legislation I introduced last month to improve the competitiveness of America's rail car industry.

Every year our Federal Government spends millions to help local areas acquire railcars for public transit systems. Almost all of those funds support foreign railcar suppliers rather than our very own domestic manufacturers.

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Mr. KOLBE. Mr. Chairman, I yield 7 minutes to the distinguished gentleman from Pennsylvania [Mr. CLINGER].

Mr. CLINGER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I want to discuss procedural reform, budget reform that I think would benefit all of the budget proposals that we have before us yesterday and today, and that is to talk about the concept of capital budgeting.

The Federal deficit we all agree is viewed as the Nation's No. 1 fiscal problem. Yet our present system of a cash-based, unified budget makes absolutely no distinction between operating expenses and capital investments. This can lead to some very, very costly mistakes.

Operating expenses and capital assets differ, markedly differ, in that capital assets such as buildings, roadways, airports, have a long life and provide future benefits to the society. Operating expenses provide no future benefits. They are part of the cost of operating the Federal Government.

Single-number focus on the Federal deficit based on the premise that all outlays and debt are the same, whether for capital investments or operating expenses. The aggregating of capital assets and operating expenses into the same pot leads to very uneconomical decisions.

For example, under the present rules, a $10 million outlay for a highway, such as we have authorized in the bill earlier this year, contributes to the deficit the same as a $10 million outlay for jet fuel. Yet clearly the road has future value. The jet fuel is consumed all within the same year.

Likewise credit programs, such as direct loans and loan guarantees, are also a form of capital assets, in that they provide a form of future return. Yet under our present budget rules, an outlay of $10 million as a direct loan contributes to the deficit the same as $10 million in grants, even though the $10 million in direct loans does not in fact represent $10 million in costs to the Government.

But what are the practical advantages of moving toward a capital budget? First, it would definitely produce a clearer picture of the composition of Federal expenditures and correct what I think is a budget bias against physical capital investments.

Second, the capital budget would more accurately report the costs of the Federal Government's credit programs. The estimated subsidy costs of direct loan guarantees would be reported in the operating budget. And third, a capital budget would help focus public attention on the Nation's physical infrastructure needs. It would also lead to the practice of depreciating assets and would encourage replacement planning.

Capital budgeting has a lot of supporters, but it has some detractors. Perhaps the biggest fear expressed by detractors is that a capital budget would somehow detract from human services programs. That is, that a capital budget places too much emphasis on brick and mortar projects, and thus shifts focus away from social service programs that do in fact reap future returns by encouraging development of healthy minds and bodies. I am talking about whether it is school lunch, prenatal care, education, all of those programs clearly also have a capital component.

These programs are just as fundamental to our Nation's future, and I would propose we also explore the proposition of developing a concept of human capital spending, just as we do for physical assets.

I would also suggest that we can develop a capital budget as a component of our current unified budget. I think it would be counterproductive and give the appearance of cooking the books if we were to use two sets of numbers in our budget process. Rather, by working within our present unified budget, we will nevertheless be able to distinguish between spending for assets versus spending to cover operating expenses. I think we will be better able to target scarce financial resources in this way.

My intent, frankly, in seeking time to speak on this suggestion is to suggest that we really need to be much better informed than we presently are about tough spending decisions confronting Congress.

We have been talking for years about the urgency to repair deteriorating inventory of bridges, roads, water, and wastewater treatment systems. But instead of tackling this problem on a crisis-by-crisis basis, capital budgeting would allow us to adopt a much more orderly process, a much more rational process, for addressing these needs.

During the late 1980's the General Accounting Office completed several major reports on the capital budgeting process. They enthusiastically endorsed the concept that I am talking about here this afternoon. The Budget Committee in its report on the budget resolution for last year, fiscal year 1991, included a section in its appendix discussing the pros and cons of capital budgeting, and I want to thank the committee for its interest then, and encourage them to continue to work with GAO and OMB.

In one of their reports, GAO cited the fact that 37 States employ capital budgeting. Just about every business in this country, large or small, uses capital budgeting as a tool to measure the depreciation of their assets and to plan for orderly replacement of those assets.

We, the Federal Government, which is the largest consumer of goods and services in our national economy, presently are unable, literally unable, to measure our consumption of capital assets.

I want to urge again that this is a concept, an idea, whose time I think has more than come. It is an idea that I think would give us a much better tool in measuring what it is really costing us to operate the Federal Government, versus what represents investments in the future of the United States.

Mr. Chairman, I would encourage support for this worthwhile idea.

Mr. TOWNS. Mr. Chairman, I yield 6 minutes to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Chairman, in my 15 years in Congress, I have always supported the Black Caucus budget because it was the best budget. Sometimes we give titles and we talk in generic terms. I want to zero in on just one area, and there are so many areas why this budget is the best budget, honestly. But I want to zero in on one area.

I am very, very pleased to see that in this alternative budget they cut the figure of research for the Defense Department, and they give that money to the area of health.

Mr. Chairman, let me be very specific. Right now American taxpayers pay $36 billion on how to find more creative ways for cruise missiles and cluster bombs, et cetera. By the way, the technology used in the Persian Gulf crisis was 1960's and 1970's technology. So we are way ahead of the eight ball when it comes to these areas. So we spend $36 billion.

The American people ought to know that what we spend to find cures for diseases is only $8½ billion. Ninety percent of all research funded programs in this country related to health are Government sponsored.

I think most Americans would like to find a cure for cancer so that every child was immunized against cancer. I think most Americans would like to know more about heart disease and would like to have women included in clinical trials so that we understand the difference in terms of hormonal influences on our health care.

I think most Americans want to know why we only spend $8½ billion for health research, but $36 billion for R&D research for more creative ways to find violent weaponry and so on.

What the Black Caucus budget does is take $11 billion out. They still have $25 billion left for R&D for the Pentagon to find creative ways for those weapons, and they transfer that to the area of health. So what we have now is $25 billion for Pentagon research, and about $20 billion still left for health research.

Mr. Chairman, what do we want to find cures for? Why is it that 1 out of 11 men get prostate cancer, including some of our leaders?

Mrs. SCHROEDER. Mr. Chairman, will the gentlewoman yield?

Ms. OAKAR. I would be happy to yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Chairman, I would like to thank the gentlewoman from Ohio [Ms. OAKAR] for everything she has done and everything she has said, and tell everybody here, I want to make her blush, it is her birthday. We are really glad you are here. You are a great national treasure. Thank you for reminding us how important the health care issues are in this budget.

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Ms. OAKAR. Mr. Chairman, I thank the gentlewoman from Colorado [Mrs. SCHROEDER]. Maybe with the proper research I would live a little longer.

Mr. Chairman, why is it we have 1 out of 11 men with prostate cancer and we have really very few dollars in the budget at NIH, the National Institutes of Health, to find a cure for prostate cancer?

One out of nine women have breast cancer. These are epidemic diseases, my friend. Yet we spend about $100 million in finding more knowledge about breast cancer. Ovarian cancer. We do not even have an early detection method for ovarian cancer. The list goes on.

Alcoholism. We do not even have research for women who happen to be alcoholics, and we should find a way to lick that disease, besides, and find out the reasons why people are more prone to diseases like drugs and alcohol.

All I am trying to say is that this is so sensible, this is so sensible, this budget. It is so sensible to say, "Let us reinvest in people. Let us reinvest in people, not necessarily in weapons." Yet they still allow more money for reinvestment in weapons, and not as much money for the research areas of health.

Mr. Chairman, I just want to say one final thing. If we cannot do as a Nation what we ought to do in finding cures for diseases, as the Black Caucus budget would allow us to have that flexibility, shame on us. Americans expended $90 billion for Alzheimer's disease, and yet we will only spend about $100 to $200 million to find a cure. Four out of five grants recommended by the National Institutes of Health to get funded so we can lick some of these deseases, and by the way, bring down the cost of health care, are rejected by NIH, not because they want to but because they do not have the dollars. So transferring this money from creative ways, more creative weapons, to finding cures for diseases is the right approach.

That is why we ought not to talk about the Black Caucus budget in generic terms. We ought to say line for line, and the American people want to know exactly what is in the budget. It is a great budget. I compliment the gentleman from California, and all the Black Caucus members, actually, for this terrific budget, so we really have an option.

Mr. DELLUMS. Mr. Chairman, will the gentlewoman from Ohio yield to me?

Ms. OAKAR. I am delighted to yield to the gentleman from California.

Mr. DELLUMS. Mr. Chairman, I appreciate the fact that the gentlewoman from Ohio has zeroed in on this particular area. We did reduce military research and investment by in excess of $11 billion. We then place in excess of $12 billion over and above current services in the health area. Let me just break down very quickly where we put that additional $12 billion.

We put $10 billion for health care services to those who are without health care coverage or the means to secure health services, $10 billion. We put $250 million for drug abuse education and research. We put $1.1 billion over and above current services for HIV-AIDS research, which challenges this entire country.

Ms. OAKAR. If the gentleman would yield, it is an epidemic.

Mr. DELLUMS. We put $500 million over and above current services for AIDS treatment. We put $500 million over and above current services for prevention, dietary health education.

So we did attempt to make some significant shifts to enhance the quality of life. Thank you for focusing on that.

Ms. OAKAR. I compliment the gentleman.

Mr. KOLBE. Mr. Chairman, I yield 6 minutes to the gentleman from Florida [Mr. LEWIS].

Mr. LEWIS of Florida. Mr. Chairman, I thank the gentleman for yielding time.

Mr. Chairman, I rise in strong opposition to the substitute. As we all know, this substitute is an annual event, providing an opportunity for this Chamber's so-called progressives to take the floor and tell us the virtues of big government.

I find the term "progressive" interesting. You would think it meant a new, vibrant, and exciting ideal for our Nation. However, we all know what it has come to mean.

It means more of the same failed policies. The welfare state, the punishment of success, dependency on government, and the politics of class envy.

Over the last 30 years, we have spent hundreds of billions of dollars on these programs, and we have seen the results—decaying inner cities, reliance on the State, and the breakdown of family values.

Now, to correct these problems, they want more of the same. In other words, more bureaucracy and more money from the taxpayer.

Of course, we hear the familiar strains of alleged cuts over the last 12 years. These programs have not been cut. Some of the growth has been constrained, but they are larger than ever—and they continue to fail.

One of the most hollow refrains of this debate is that it is for our children. I only wish they shared the same concern for these same children who are being saddled with the largest debt in world history.

We are currently $4 trillion in debt. We are more than broke. We are so far in debt that, with interest, we can run $100 billion surplusses for the next half century and still owe money.

If this debate is about people, as the Budget Committee chairman said, we are obligated to avoid leaving these same people with this mountain of debt. It shouldn't matter whether you will still be in office.

Mr. Chairman, there is nothing progressive about this budget. Tenant ownership, choice in schools, enterprise zones and self-dependency. These are progressive ideas. Not larger government.

Let's reject this outdated and bloated budget, along with the Democrat's budget. We owe at least that much to our children and grandchildren. That is one debt we can pay.

Mr. Chairman, I would like to pull a line from the gentleman from California in one of his National Democrat Conventions. "That the responsibility is here to work for black people, white people, yellow people, red people. That is what we have a responsibility to do."

We should be here working as Republicans and Democrats and Hispanic caucus and Black Caucus in the interests of the people. That is what we were sent here to do. We have got to get together and start doing this. If we do not do this, we are going to continue to have separate budgets and nothing passed in the interests of the people of this country or the children of this country.

Mr. DELLUMS. Mr. Chairman, will the gentleman from Florida yield to me?

Mr. LEWIS of Florida. I am happy to yield to the gentleman from California.

Mr. DELLUMS. Mr. Chairman, just to set the record straight, there are four budget alternatives that were presented here, two on the side of the distinguished gentleman from Florida [Mr. LEWIS], and two on this side of the aisle.

I might recall that the title of this budget, though it was written by predominantly Black Caucus members in association with other Members of Congress who do refer to themselves as progressive Members, we do, and we do take pride in that, the title of this budget is "A Budget for New World Realities and for Rebuilding America."

So what we are attempting to do here is to write a budget for the entire United States. The fact that the gentleman writes a Republican budget I would assume is a budget for Republicans and Democrats. Blacks can write a budget that speaks to all people in this country. That is exactly what we have attempted to do. Where we have differences, let us have legitimate differences. This is not some narrowly constrained budget. The fact that it was written by us does not mean it is a black budget. It is a national budget.

We have documented here, for 3½ months of concerted effort, significant detail. We were prepared to put this budget out here in the full light of day for 8 hours.

I might just add that President Bush did not want to put his budget out here for 8 hours. We are prepared to stand public scrutiny, discuss the budget. Where the gentleman has legitimate differences, let us have those legitimate differences.

The point I am simply trying to make to the gentleman is this is indeed a national budget, so I hope there was no implication that I could misconstrue that meant that the gentleman was putting a racial connotation on this budget simply by virtue of the fact that Black Caucus members sat down and wrote this budget.

I would ask the gentleman if he would respond to that.

Mr. LEWIS of Florida. Mr. Chairman, I would be only to happy to respond. If anybody is going to bring race into the discussion, then I would suggest the gentleman from California is doing that. I certainly have not intended to bring that in.

Mr. DELLUMS. Mr. Chairman, I was just trying to understand the gentleman's comment. That is all.

Mr. LEWIS of California. My comment was, in bringing your statement from a national convention in, that we have to look at all alternatives. And I think that the gentleman will agree with that.

Mr. DELLUMS. Absolutely.

Mr. LEWIS of Florida. I will also borrow another statement from a friend of the gentleman from California:

> We as Democrats, Republicans, Black Caucus, Hispanics, Independents, should be looking for common ground on this budget in the interests of the people of this country.

□ 1400

Mr. DELLUMS. If the gentleman will yield briefly, one of the reasons why we brought this budget here for 8 hours is to attempt to engage our colleagues, to see if we could find common ground. I am sure the gentleman would agree with me, to debate a budget for 30 minutes, or 1 hour, or 2 hours certainly does not give time to explore common ground. We thought that maybe with an 8-hour discussion maybe we could find some common ground. So it is in that human spirit that we offer this budget.

I am an advocate of the coalition, so the gentleman is absolutely correct. That is why we think this budget can stand the full light of scrutiny, and Members across the various lines that divide us should join us in supporting it.

Mr. TOWNS. Mr. Chairman, I yield 4 minutes to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I would hope that we would adopt this budget that was put together by the Congressional Black Caucus and the House Progressive Caucus. It is the only budget that allows us to address two things: First of all, the future of this country, and secondly, the despair in this country.

It is the only budget that set us on a road to recovery, recovery from the misery that millions and millions of Americans feel in this country on a daily basis as they realize that they cannot obtain a first-class education for their children, no matter what neighborhood they live in; as they realize that many of their children are going to school hungry, no matter what neighborhood they live in; as college graduates search the want ads for job opportunities and realize that jobs are being foreclosed. One in seven in California is on unemployment, and 30 percent of the welfare in California is now as a result of the recession. Millions of families are falling to the ground to be crashed upon by despair.

This is the only budget that offers relief. This is the only budget that offers a plan for the future, not for today's political problem, not to try to get by the constraints we have put on ourselves, to finesse the walls, to finesse the budget, but it is about solving the problems.

We tried it Mr. Bush's way. We tried it Mr. Reagan's way. We have now been left with a country with dramatically higher unemployment than when they started, with more homeless people, with an education system in shambles, with more children dying in the first year of life than before, with the absence of opportunity for economic growth, and a society saddled by debt, as has been referred to so very often, because rather than pay as he goes, the Republicans chose to borrow. We tripled our household debt, business debt, and governmental debt in a decade, and the carrying charges are wearing down our economy. And in that process the absence of opportunity is wearing down our families.

There is a belief on the Republican side of the aisle that somehow you can generate savings and smaller deficits by withdrawing services. If we cut low-income housing, then low-income people will go away. If we cut nutritional programs, hungry people will go away. If we cut psychiatric services, crazy people will go away.

It does not happen that way. Time and again it has been documented in this country by Government, by the private sector, by the nonprofit sector, across the board, the answer and the savings are in the extension of services.

It is in the extension of services, of a nutrition program that reduces the cost of hungry children in an education setting. It is the extension of the Head Start Program that reduces the cost of a child not prepared to go to school. It is the extension of psychiatric services that holds a family together that is stressed. It is the extension of drug treatment for an addicted person that reduces the long-term care costs for that person. It is the extension of maternal and child health care that reduces the cost of the death and the destruction of newborn babies in this country and their families.

We cannot cut our way to the kinds of savings that the Republican budget, the President's budget, reflects because that only results in misery, not in the answer to the long-term problems of this country. I would hope that Members would support this budget.

Mr. GRADISON. Mr. Chairman, I yield 6 minutes to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Chairman, I appreciate the opportunity to take just a couple of minutes to talk about the budget. My friend from California just talked, and I am sure we all share a similar goal, but it is interesting how differently we view the way to get there. The gentleman from California obviously sees the road to success with big government providing all of the programs. I see it a little differently, and I rise to talk a little bit about budgets, because I presume budgets are designed to give some direction as to where we are going. They are designed to plan for movement, they plan for expenditures. They are a short-term plan, to be sure, because this is an annual budget, and the Congress changes from time to time. But if a budget is to be in a direction, frankly I have not come across the budget in this past 2 days that I think goes in the direction that I would like to go.

Let me tell Members what I support. I think we should have less government rather than more. I think we should work to develop an environment in which the private sector can prosper rather than to handicap it. I think we should have less taxes rather than more, and leave the money in the hands of the citizens of this country.

I think we ought to be working to reduce the deficit, not to increase the deficit. It seems to me if we are going to have more jobs, which is really the answer to where we are, they are in the private sector. Wealth is created in the private sector. Wealth is not created in the Government. There can be no jobs in the Government sector until we take the money from the wealth that is created in the private sector to pay for them.

But these budgets do not do that. These budgets call indeed for more government, for more spending, and I understand that. It is simply a different view. I do not think that is the view that has brought us where we are. I do not think those are the kinds of basic principles that have made this the strongest country in the world. Listening to my friend from California, one would not think that is the case. It is the case. This is the strongest country. Of course we are not where we want to be, but we are the best country in the world, and I would hope all Members agree with that.

Mr. OWENS of New York. Mr. Chairman, will the gentleman yield?

Mr. THOMAS of Wyoming. I am glad to yield to the gentleman from New York.

Mr. OWENS of New York. Mr. Chairman, we all agree that this is the best country in the world. I would like for the gentleman to explain how he feels that our budget increases the Government. We are reducing drastically the defense budget. The Government runs the defense apparatus. It is the Government that runs it, and the expenditures that we would make with the money saved from the defense budget going to many sectors of our economy, most of it to the private sector.

We are going to provide more services for human beings, but the private sector will run it.

Mr. THOMAS of Wyoming. I am not talking about doing services. I am talking about reducing the size of government so that we can do more in the private sector. I would like to see one where the fire walls are not taken down in your Democratic proposal so that we reduce more.

So I guess the point I am trying to make, and I do not expect everyone to understand, is that I think there are some principles which have made this country great. I think it is less government rather than more. I think it is encouragement for the private sector rather than more restrictions, more taxes. I think the gentleman would agree that is where jobs come from. I think we ought to have less taxes rather than more and leave the money in the hands of the people so that they can spend it. I think we ought to be reducing the deficit.

I have watched the deficit, as you have, for a very long time. I have not been here long, but we have not done well with the deficit. You have not done well. I have not done well. For years, as citizens, we watched it, paid no attention to it. Now it has gotten to where it has taken all of the capital out for our growing potential, and now we are paying 25 percent of our debt as debt service expenses.

We want more jobs instead of looking for safety nets. We want to be producing jobs, and that all results in more personal freedom and people being able to decide for themselves how they spend their money, where they work, when they work, and how they invest. These are the kinds of things we ought to be doing rather than saying we know how to do it better, and we will take the money and we will do it through the Government.

So I am simply saying that if this is a direction, this is not the direction that I would choose.

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. THOMAS of Wyoming. I am glad to yield to the gentleman from California.

Mr. DELLUMS. Mr. Chairman, I thank my colleague for yielding.

First, let me say I appreciate the gentleman's sincerity, and as I have said before, we can intellectually and politically differ on these matters.

First, let me just say when the gentleman said we have not done as well on the deficit, those of us in the Congressional Black Caucus have offered alternative budgets, and this is perhaps one of the best kept secrets in America, that would have reduced the deficit significantly for over a decade now.

□ 1410

So we are out here saying you have not done it in the past, take us on this time.

But with respect to the gentleman's issue of less government, let us think that through for a moment, because the American people generally when you say let us have less government, they say fine, but then when you start talking specifically, are you saying we should not do as much as a government to protect our environment, should we do less as a government to protect our consumers, should we do less as a government to create a safe and healthy workplace, should we do less in education, and that is a governmental function, should we do less in rebuilding the infrastructure, less in health education? Suddenly we are not talking about less government.

Mr. THOMAS of Wyoming. Mr. Chairman, I know the gentleman can go through this whole litany. But let me tell him something: Most of the things that he is talking about he is not happy with.

We have increased the expenditure for education, we have increased the expenditure for all of these items over the years, we have, and the gentleman knows of that. The point is that maybe we need to take a look at doing some things differently. The idea that the gentleman is unhappy, for example, and let me use education for the gentleman's friend from California, education, he says, is a failure.

So what do we want to do? Continue to put more money doing the same thing that we have been doing before.

I am suggesting that we need to make some changes. We need to deliver these services in a different way. If they are a failure and if you do not like them, and you obviously do not, why do we not try to do something different?

I appreciate my friend, and I appreciate the exchange. I have a little different point of view; this budget does not go the direction that I would like to go.

Mr. DELLUMS. I respect our differences.

I thank the gentleman.

Mr. OWENS of New York. Mr. Chairman, I yield myself 1 minute, to make the following statement, that we would like to move into a section in this debate which focuses primarily on education.

We have two speakers who will take about 20 minutes to make general statements, and after that, I would like to respectfully request that the opposition invite to the floor some Members who would like to particularly engage us on the subject of education which we will be discussing after 20 minutes have passed and these other two speakers have made their statements, the gentleman from New Jersey [Mr. PAYNE], the gentlewoman from Washington [Mrs. UNSOELD], and the gentleman from Illinois [Mr. HAYES], who are all members of the Committee on Education and Labor, and we will be discussing education, and we would certainly like to have persons who want to talk about education engage us.

Mr. Chairman, I yield 10 minutes to the gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I am very proud today to be here as a member of the Progressive Caucus working in alliance with the Congressional Black Caucus, because for many years millions of people throughout this country, when they tried to find some sense in what was going on in terms of budgetary policy, they looked at the Congressional Black Caucus for sense, and we formed the Progressive Caucus, many of us, because we believe that the Government is no longer representing ordinary people, that there are radical changes in terms of the political situation in this world, and that we think it is time to understand that just as the world is changing fundamentally, we have got to fundamentally change the priorities of this country.

If there has ever been a time in the modern history of this country to give hope to tens and tens of millions of Americans who have lost hope, now is the time, and this is the budget that does it.

It makes no sense to me to be spending $130 billion a year defending Western Europe against a nonexistent enemy when, at the same time, we have 5 million children in our own country who are hungry, we have 2 million people in our country who are sleeping out on the streets, we have an educational system which is failing, and an infrastructure which needs massive repair, a health-care system which is not working.

Now, if the American people want to understand what today is about, let me tell you that the debate we are having today is the most important debate that this Congress is going to be having.

Are you concerned about the issue of health care? Are you concerned that 85 million Americans have no health insurance or only partial insurance?

Most of us are in agreement that the only real solution to the health care crisis is going to be a single-payer national health care system guaranteeing health care to all people, but until we get there, what this budget does is put $10 billion—real dollars—into health care so that we can begin to provide health care for those who do not have it.

Mr. Chairman, we have heard for years about the crisis in education. We have an educational President. But are you concerned that 25 percent of our kids are dropping out of high school? Are you concerned that millions of low-income and working-class kids cannot afford to go to college?

This budget puts $2.6 billion more into education. That is real dollars.

We have heard a lot of talk about how wonderful the Head Start Program is. This budget puts real money into Head Start, puts $2 billion more into Head Start and moves us in the direction of finally creating a situation where every kid in America can take advantage of the Head Start Program.

People are concerned about juvenile delinquency. They are concerned about our kids turning to drugs. They are concerned about the hopelessness that our young people feel from Vermont to Harlem.

This budget puts $2 billion into job-training programs so that we can say to our young people, "Do not give up hope, do not turn to drugs. This is an opportunity for you to get real employment and earn a real wage."

One of the ironies of what goes on in this body—and this is an issue I feel very strongly about—is when some people want to go to war, they take out the bands, they take out the big flags, and they say to the young men and women of this country, "We have got a war for you. Go on over there." But 40 or 50 years after that war when our veterans are 60, or 70, or 80 and they need help in the veterans' hospitals, we have forgotten about these people, no more big bands, no more big parades. This budget recognizes the sacrifice made by our veterans. We have got $2 billion to go to veterans' medical care and to other programs for our veterans.

This program recognizes the decline in family farming throughout Vermont and throughout this country and does away with the special assessments that the 1990 budget agreement placed on family farmers.

This budget provides for a GI bill of rights.

This budget puts real money into housing, into unemployment compensation, into transportation.

My friends and fellow Americans, the cold war, thank God, is over, but there are some people who, despite the fact that the Soviet Union no longer exists, despite the fact that the Warsaw Pact no longer exists, they still want to put all kinds of money into absurd weapons systems and into defending nations that no longer need defending and that are wealthier than we are.

The only difference that I have with this budget is that the title is wrong. The title for this budget should be that this is a budget of hope, this is a budget that says to working people, elderly people, poor people, and the vast majority of people in our country—millions of whom have given up on the political system, millions of whom no longer vote, no longer believe that this institution can represent their interests—what this budget says is that this Government is prepared to stand with you, the elderly, the homeless, the children, the working people who are seeing a decline in their standard of living.

And I say to my friends who still want the budget money to go into weapons, want an inflated military budget, now is the time to rethink, to rethink the direction of this country.

Mr. Chairman, there is no issue, no issue that we are going to be debating that is more important than this issue.

This Nation is a great country, but clearly we have lost our way in the last 10 to 20 years.

We can regain our way. We must change our fundamental priorities. We must give hope to those people who have lost hope.

I beg of my fellow Members of Congress, speak to the American people who are losing faith in this institution, in the Government. Stand with the working people, elderly people, and poor people. We can do it. Now is the time for fundamental change in priorities, and this budget does it.

I am proud that the Progressive Caucus is working with the Black Caucus. Let us go forward, and let us give hope to the American people.

Mr. OWENS of New York. Mr. Chairman, I yield 10 minutes to the gentlewoman from California [Ms. WATERS].

□ 1420

Ms. WATERS. Mr. Chairman. It is with great pride that I rise to support the Congressional Black Caucus, Progressive Caucus alternative budget proposal. I would like to sincerely congratulate the gentleman from California [Mr. DELLUMS] for his thoughtfulness, his courage, and his commitment in bringing this budget forward. It is rare that I cast a vote with as much enthusiasm as I will on behalf of this budget resolution.

I would also like to thank Congressman TOWNS for his leadership of the Black Caucus, and for his work in developing this budget. We all owe both of you a tremendous debt of gratitude.

Mr. Chairman, a budget reflects our national priorities. No other single document outlines the real values of our Nation as our budget does.

The budget is the bottom line. The budget is not rhetoric, it's dollars and cents. You cannot hide behind numbers the way you can words.

So each year, we in Congress are asked to put our money where our mouth is. This is the time for all the members who talk about education, who talk about jobs, who talk about health care, who talk about veterans, who talk about the peace dividend—to put up, or shut up.

We have before us the one budget alternative that reflects the new world order. The Congressional Black Caucus/Progressive Caucus budget is the only budget which provides a fundamental shift in priorities to match the fundamental changes in the world.

I would like to take a few moments to compare our budget with the President's proposal. The contrast is striking and reflects dramatically different views of how our country should look.

Our budget cuts $150 billion from the military budget in the next 4 years. The President's cuts a mere $50 billion over 5 years.

The President says there will be no peace dividend. That is only true in the absence of political leadership.

The peace dividend resulting from the CBC budget would be $1 trillion in military savings by the turn of the century. For anyone who cares about solving social problems, for anyone who cares about reducing the deficit, for anyone who cares about fundamentally strengthening our economy—this is your budget.

Our budget proposes an additional $12 billion for health care compared to the President's budget. The CBC alternative sets aside funds to fund any health care plan that Congress agrees upon because we believe health care reform is a fundamental priority for this country.

Our budget increases community and regional development funding by almost $4 billion over the President's proposal. Moreover, our budget adds $3.3 billion to the President's request for transportation programs. Everyone talks about how our infrastructure and our cities are crumbling—our budget does something about it.

Our rural communities are struggling. The rural poor have been devastated by Reagan-Bush policies. Our budget adds $2.5 billion to the agriculture account over the President's request. We must give family farmers a chance to survive—and the CBC budget does.

In education, our budget adds $4 billion in education funds for student loans and block grants to the States.

We fully fund Head Start, another $2 billion increase. Our budget is the education budget, not President Bush's.

In housing, we add $5 billion for low- and moderate-income housing construction and rehabilitation programs. Instead of transferring funds from real housing programs into Jack Kemp's HOPE initiative—as the President's budget requests, our budget truly empowers people by creating desirable homes for low-income people. Up to 3 million Americans are homeless. Tenant ownership does nothing to help these people. Housing funds were reduced by 75 percent in the 1980s, yet the President only takes housing proposals from proven housing programs, to promote a phony one, HOPE, which does nothing to address the real problems of poor people.

With respect to veterans, there are real differences between our approach and the President's.

Let me briefly highlight some of Bush's cutback proposals:

There are $800 million in unidentified cost savings in housing programs, thereby reducing funding for housing programs overall by 67 percent.

Increasing the fees, from three-fourths of 1 percent to 1¼ percent, for veterans to secure a VA home loan.

Expands the groups required to make medical copayments, including, for the first time, some service-connected veterans.

Eliminates $50 million in travel benefits for veterans living within 50 miles of a VA health care facility.

Cuts $45 million from State veterans nursing home construction.

And, $43 million cut from vocational rehabilitation programs.

The President has proposed robbing Peter to pay Paul in his budget request. His modest increase in the medical budget is offset by the reductions I have mentioned.

Our budget rescinds these cutbacks, but it does much more. I would like to read a letter we received this morning from the Disabled American Veterans, a highly-respected and active veterans advocacy organization. Let me read that letter to you now:

DISABLED AMERICAN VETERANS,
Washington, DC March 5, 1992.

Mr. Edolphus Towns,
Chairman, Congressional Black Caucus, Washington, DC.

DEAR CHAIRMAN TOWNS: On behalf of the more than 1.3 million members of the Disabled American Veterans (DAV) and its Ladies' Auxiliary, I take this opportuntiy to express our sincere appreciation and gratitude to the Congressional Black Caucus for your recognition of the critical funding needs of the Department of Veterans Affairs (VA).

As you so aptly stated in your Fiscal Year 1993 Alternative Budget, "During the decade of the '80s, veterans' benefits were reduced significantly, in a real sense breaching the commitment the nation made to veterans as a recompense to their willingness to risk life and limb for country. These cuts have impacted many veterans in dire ways, particularly as regards to their health care needs."

We in the DAV know first hand how difficult it is to obtain quality VA health care and benefits delivery in a timely fashion. Our members continue to be subjected to nine-month waits for clinic appointments; delays in receiving medications and medical supplies; closed access to medical care because of staffing and equipment shortages; busy signals when calling the VA for benefits information and assistance; long delays in the adjudication of benefit claims; and the inability to receive vocational rehabilitation at the time it is most needed.

The $3.25 billion increase over the President's request for VA benefits and services in Fiscal Year 1993, called for by the Congressional Black Caucus, will go a long way toward improving the quality of VA health care and benefits' delivery deserved by our nation's service-connected disabled veterans, their dependents and survivors. Truly, the Alternative Budget put forth by the Congressional Black Caucus for Fiscal Year 1993 demonstrates, in a most meaningful way, its commitment to our nation's veterans population for their sacrifices in defense of this great nation.

Again, Chairman Towns, I thank you and the members of the Congressional Black Caucus for your efforts in recognizing the critical funding shortages in the Administration's Fiscal Year 1993 VA budget request.

Sincerely,

CLEVELAND JORDAN,
National Commander.

As has been talked about, the cornerstone of this budget proposal is a $50 billion reduction in military spending this year. No other budget being offered today makes such a significant downpayment on the peace dividend.

Some are complaining that we cut too much, too soon. I cannot understand this logic. In 1979, at the height of the cold war, our military budget was $179 billion. Today, at the end of the cold war, we are told that the $240 billion in defense spending proposed in this bill is unsafe.

I have heard people say that we cannot be caught unarmed the way we were after World War II—and therefore, we must continue to spend $300 billion a year in defense. This is an argument without foundation. The world is dramatically different from 45 years ago. We have the technological capability to monitor the production of any potential nuclear weapons facility. To suggest that this country would sit back and watch another country build a nuclear arsenal that could threaten our national security is ludicrous.

Others have suggested that we cannot cut the military budget too fast because it would cost jobs. More than any other budget, by far, the CBC budget alternative addresses the transition from a military to a peacetime economy.

It is inevitable that this country must make such an economic transition. To suggest that we wait, or that we continue to spend hundreds of billions of dollars on programs that we do not need is silly.

This budget looks forward. This budget reinvests significant amounts of defense savings back into the people and communities that have depended on military spending for their economic well-being. No other budget proposal contains the structural, transitional investment that is absolutely critical for the new world. Instead of saying we can't cut the military because of job loss, we propose to deal with this economic dislocation now, not later.

We achieve this objective in the following ways:

Up to $8 billion of the $9 billion in savings in troop reductions will go directly into a package of severance pay, pension benefits, and job training for the thousands of men and women who have chosen the military as their career.

The $3 billion in savings will be invested in plant restructuring, retooling, job training and income support for communities with military-dependent economies. This money will be used to help laborers who have devoted their lives to the production of military hardware. Literally thousands of communities have come to depend on the existence of a particular weapons system.

The other budgets before us recognize the need for economic conversion—it is obvious. But this budget makes a real investment in the new economy.

In the new world order, we simply do not need big ticket, strategic war items. Even President Bush has conceded that. We owe these workers and communities transition assistance as we move to the future.

Last, as I mentioned earlier, $3.25 billion will go toward veterans services, with $2 billion for improvements in the veterans care system and $1.25 billion for veterans' housing, job training, and education.

This budget's peace dividend is directed to military workers and families. Who, more than they, deserves to share in our cold war victory?

This country's economy must change. A reliance on a military-industrial complex that no longer reflects our national interest is wasteful, narrow minded and ultimately unfair to this Nation's work force.

What we have done in the Congressional Black Caucus/Progressive Caucus budget is visionary. We confront the economic realities that will come as our military winds down. This budget does not simply cut military spending and forget about the consequences. It offers a real, honest response to the changes that will occur in military structure. It would be irresponsible to offer a program of military spending reductions without safeguards for military employees, economic conversion and veterans benefits. But this proposal has both.

I came to Congress in the hopes that we were entering a new era. The peace dividend is the only hope in areas like south central Los Angeles, which I represent.

That is why this budget is so important. It is the only budget with hope for those who are being left out. In Los Angeles, we have a highly successful program called Teen Post, which is a gang and drug prevention program.

In the late 1960's Teen Post was highly visible and accessible in our community. It operated 150 centers for these at risk youth. The program offered a variety of services and recreational activities for our kids to keep them busy, to keep them occupied, to keep them from falling prey to a destructive lifestyle.

Today, due to funding shortages, Teen Post only operates five centers in all of Los Angeles. It is a tragedy. Anyone who reads the newspaper knows that gangs and drugs continue to plague our streets.

Now is the time to invest in programs like Teen Post. This budget does that. We have put $300 million into a program so that all cities who have gang-related problems can duplicate the successful efforts of our Los Angeles program.

That is why the peace dividend is so important. Without it, we cannot offer our people hope. Only with a dramatic shift in priorities can we finally tackle the social problems which plague so many areas of this country.

I am proud of this budget. I am proud of the work of RON DELLUMS and ED TOWNS. This is the first chance I will have to support a CBC budget alternative, and it could be the most significant vote I cast.

I plead with my colleagues to change the direction of this Nation. We are at an apex in history. If we do not do it now, it will be too late for millions of Americans. I urge support for the Congressional Black Caucus/Progressive Caucus alternative budget proposal.

The CHAIRMAN pro tempore (Mr. WHEAT). The time of the gentlewoman from California has expired.

Mr. OWENS of New York. Mr. Chairman, I yield 1 additional minute to the gentlewoman.

Ms. WATERS. Mr. Chairman, I appreciate the additional time.

Let me close by saying, I have not been able to get into all of the areas that I would like to discuss, but I did have an opportunity to highlight what is happening with veterans, because as a new Member of Congress serving on the Veterans' Affairs Committee, I have been shocked and surprised at the plight of veterans.

□ 1430

When I talk about this portion of the budget, it is simply to show you that you must question the President, you must wonder what he is thinking when he not only cuts back on children and seniors and those that he promised to have a safety net for, but when he cuts back on veterans and relegates them to homelessness and lack of health care, you have got to take a look at what we are doing and recognize this is the budget with the peace dividend directed to those who deserve it, this is the budget that says, "America, you owe it to our Americans to take that money that you don't need in the military anymore and insure that working men and women who have made the sacrifices," so aptly described by the gentleman from California [Mr. DELLUMS] "are given an opportunity to have a decent quality of life." At the forefront of that line should be the veterans.

Mr. OWENS of New York. Mr. Chairman, I yield myself 13 minutes to open the discussion on education as a priority in this budget for new world realities.

I do not think we can repeat too often the fact that this budget moves forward on the assumption that there is a peace dividend of $1 trillion, $1 trillion, to be realized between now and the year 2000. In other words, over the next 8 to 10 years we will save, by reducing the military budget, save a trillion dollars.

Now, we could use a part of that for the deficit. There is enough there to take a hunk for the deficit, to help lower the deficit; but we also very much need to use a large part of it for education.

Education has to be a priority. Education is the means toward the end for everything we do, including our national security. Education becomes the No. 1 item in our national security as we go forward toward the new world order.

The new world order is here already, it is in motion. The Japanese know this. Their superior education system has given them an advantage in the area of competitiveness.

The Germans know this. Everybody realizes the importance of education, but we do not seem to realize it.

The education budget in the last 10 years, the Federal share of the education budget, has gone down from 8 percent when Ronald Reagan took office as President to 6 percent now. Education has always been a local and State matter. We will not change that. But to have the Federal Government spending 2 percent less in 1992 than it spent in 1980 is a scandal, especially since both Presidents, both of our previous Presidents, have always talked about education as a priority. The present administration has made education a No. 1 priority. But we are talking about education without offering any resources.

We think that it is not unreasonable to claim at least one-fourth of the peace dividend, one-fourth of a trillion dollars over the next 8 to 10 years for education.

It was not luck that we won the gulf war, the war against Iraq, with a minimum of casualties; it was not luck, it was a combination of years and years of research and development which produced the high-technology weapons that made that war a new kind of war, with a minimum of American casualties.

Mr. Chairman, it was not by accident that we got the Patriot missile. The Patriot missile cost a lot of money, not just to manufacture, not the tin, not the ingredients, the physical ingredients that went into it, but the research and development that went into it, the training of the people who operated it. Tremendous amounts of money had to be spent to reach that level of competence. It will be no less with education.

There are people who repeatedly say, "You can't solve problems by throwing money at them." Of course, you cannot solve problems just by throwing money at them; you also cannot solve problems unless you spend some money, unless you commit resources. Our refusal to commit resources to education shows that we do not understand what the new world order is to be all about. We can fall on our faces, as the previous speaker says, we can go over the cliff just like the Soviet Union. The Soviet Union was a superpower yesterday, now it is no more. The bigger they are the harder they fall. And this Nation can fall, too, if we do not understand that behind every activity in this modern, complex society is education.

We are increasing the budget for education, not because we got some ideas off the street or we dreamed it last night; the increases that are proposed in this budget are based on some assumptions that have been gathered in from a number of different educational organizations. The increases are based on assumptions that will be clearly stated in a master plan that is being prepared by the educational brain trust of the Congressional Black Caucus right now for presentation to the full caucus within 2 weeks. It is a master plan for the improvement of education.

The administration has a master plan of a certain kind, called America 2000. America 2000 unfortunately is a public relations gimmick; it is a lot of talk, a lot of slogans, its mood is stated but there is not a single discussion of a budget in America 2000. So, it cannot be serious.

American 2000 seeks to jawbone the American people into believing that something is being done about education. In the meantime, while America 2000 is being sold to the rest of the country, we have never had such a tremendous number of cutbacks in local school districts all over America. The overwhelming majority of the school districts are being forced to institute tremendous cutbacks in their expenditures for education. The overwhelming majority of children in America today are going to schools which are inferior to the schools they went to 2 years ago as a result of these budget cuts. There is no end in sight.

Now, it is always stated when you talk about education and budget cuts, that that is a local and State matter. You know, they act as if the Federal Government is annoyed at being presented with this dilemma of budget cuts across the country with respect to school boards and their budgets.

Education is as much as a national security matter as any other activity engaged in by this Government, and all of the funds of the Government come from the same place. There is no Federal money over here and State money over here and local money over there; it is all taxpayers' money. It all comes from the taxpayers at the local level, out of their pockets.

All we are doing when we say the Federal Government should have a greater participation in education matters is saying, "Give us back our money. Put the money back into the communities for education. At the same time, we will help the national security of the Nation."

We also assume in discussion of this education budget that it is not divorced from the concerns about our economy, which is sliding downhill. The economy needs some stimulus. Whenever people talk about stimulus, they act as if the only way to stimulate the economy is to build more bridges and highways and roads. That is ridiculous. You can stimulate the economy by having the Government interject money in a number of ways, and human services is one of those ways, and certainly education is one of those ways.

There is a lot of concern about the fact that we are going to move too rapidly and close down military bases and downsize the military and all those poor people are going to be thrown out of work in the defense industry and the soldiers will be thrown out of work. There is a whole lot of crying for people who have had it very good over the past 10 or 20 years.

They do not have to suffer. We can have a conversion program that takes care of the retraining of those people.

We have to understand, as far as our economy is concerned, every time we cut a defense job, every time we cut a job which is related to the military, we are creating more jobs in the civilian sector. To buttress this, I want to offer a study that everybody can get, anybody who wants to follow up and check the documentation for the statements that I am making. The study is entitled "Converting the American Economy: The Economic Effects of an Alternative Security Policy." It was published in 1991, it is current, by Employment Research Associates, of Lansing, Michigan. This is a study you can get.

It estimates that the net annual gain of 477,000 jobs could be achieved by cutting the military budget outlays, starting at $35 billion in 1991 and increasing to $105 billion in 1994.

This study shows that for every $1 billion in military cuts, 24,000 jobs are lost. For every $1 billion, however, you pick up in the civilian sector 31,000 jobs, which means you gain 6,800 jobs for every billion dollars that is shifted from the military to the civilian. They give some concrete examples in the area of education. In education, in our military budget we do have pre-K teachers and K-6 teachers, and in that area we will lost 8,730 teachers in the military, cut from the military budget.

☐ 1440

Teachers who are cut from the military budget, but we will gain 81,970. In the civilian sector, for a net increase of 73,240 teaching jobs, for prekindergarten to sixth grade. From 7th to 12th grade we will gain 39,270 jobs, and on it goes. Librarians, educational administrators; all these people have some equivalents who are employed in the military sector will be lost, but we gain many more for a total of 198,150 jobs in the education sector alone that would be gained.

The entire chart is as follows:

SUMMARY OF ECONOMIC IMPACT FACTORS

A study entitled "Converting The American Economy: The Economic Effects of an Alternative Security Policy" published in 1991 by Employment Research Associates of Lansing, Michigan estimates that a net annual gain of 477,000 jobs could be achieved by cutting the military budget outlays starting at 35 billion dollars in 1991 and increasing to 105 billion dollars in 1994. This study shows that for every one billion dollars in military cuts, 24,000 jobs are lost; for every one billion dollars spent on civilian investments 31,000 jobs are generated. We thus gain 6,800 jobs for every billion dollars transferred from military spending to civilian investment. For education these projections show the following:

SAMPLE OF JOBS RELATED TO EDUCATION AND YOUTH

Category	Military jobs lost	Civilian gains	Net increase
Pre K and K–6 teachers	−8,730	+81,970	+73,240
7–12 teachers	−4,740	+44,010	+39,270
Post-secondary education teachers	−2,940	+11,230	+8,290
NEC teachers, counselors, institutions	−7,690	+44,290	+36,600
Librarians	−1,120	+4,640	+3,520
Educational administrators	−1,300	+7,850	+6,550
Social and recreation workers	−3,940	+34,620	+30,680
Total			198,150

NONPERSONNEL EDUCATIONAL ECONOMIC STIMULANTS PROJECTED

Category	Current annual Federal expenditures	Projected annual Federal expenditures needed
Public school construction (combined recommendations of the NEA, AFT, Carnegie Foundation and Education Writers of America).	Impact aid school construction—$27,000,000. Asbestos hazard abatement—$46,200,000.	$6,000,000,000 (3 Sea-Wolf submarines) proposed Federal share is ½ of total needed.
College/university construction (recommendations of Association of Physical Plant Administrators and National Association of Colleges/Universities).	Loans and grants to support construction and renovation—$62,300,000.	$3,000,000,000 (1 aircraft carrier) ½ of total needed.
DayCare/Headstart facility construction (areas with the largest eligible populations presently lack adequate facilities).	None (Federal funds may not be used for construction).	$1,000,000,000 (½ Sea-Wolf submarine).
Public library construction (American Library Assn. survey of 17 States indicate backlog of $1,050,000,000 projection for 50 States is $4,000,000,000 over 10 years).	Title II of Library Services and Construction Act—$19,200,000.	$500,000,000 (¼ Sea-Wolf submarine).
Employment retraining facilities (massive program needed for economic conversion training).	None	No data available (most retraining programs presently conducted by local education agencies and private agencies).
Books for classroom use.	19 percent of chapter 2 block grant is spent for books—$68,200,000.	$1,000,000,000—$20 for each of 50,000,000 preschool and school age children (½ Sea-Wolf submarine).
Instructional video tapes (according to the Association of American Publishers the expenditures for audio-visual and other non-text materials was $178,600,000.	No data available	$1,000,000,000—an amount equal to the recommended book budget in order to update instruction methods (½ Sea-Wolf submarine).
Instructional and laboratory equipment (the Office of Technology Assessment estimates that only 4 percent of the total instructional time of students is spent using computers).	Office of Technology Assessment estimates in fiscal year 1987—$186,000,000.	$1,000,000,000 per year until ratio of 1 computer for every 3 school children is reached (½ Sea-wolf submarine).

Mr. Speaker, I also would like to point out that to jumpstart the economy—to jumpstart the economy in the nonpersonnel sector let us look at what we will do if we start constructing schools. We have a backlog of school construction, and, if we spent, and these figures are taken from the NEA, the AFT, the Carnegie Foundation, and the Education Writers of America. We are presently spending in the Federal Government $27 million on impact aid to school districts that are impacted under the Federal impact district.

A special hazard to debate, and also another $46.2 billion for a total of $68—I mean $73 billion being put into construction and repair at this point by the Federal Government. We need about $6 billion a year, and $6 billion a year, by the way, is the cost of three Sea Wolf submarines.

Now I have heard people say we should continue to build Sea Wolf submarines because those people have jobs and we need to keep their jobs. That is a very expensive welfare program. To build weapon systems like Sea Wolf submarines is an expensive welfare program. Let us put them on the regular welfare and offer some jobs raking leaves.

There are some people who say that there are many jobs out there. My welfare recipients say they cannot find them. But, if they find the jobs, I am sure they are not going to pay the same wage they paid to build Sea Wolf submarines.

On and on it goes. College and university construction, day care, Head Start construction, public library construction.

I also want to point out that other groups like the National Citizens Commission for African American Education have made proposals that we come to the rescue of our schools right away. Let us not wait until the year 2000. There is a crisis in the schools right now.

We need a billion dollars for nonrecurring immediate expenditures right now, for supplies, for equipment, to relieve the burden that our schools are faced with now.

We are talking about creating world-class schools in America 2000 without having a world-class delivery system. We are going to have world-class standards and world-class tests. We test the children to see if they measure up to the standard, but we do not provide the kind of schools, the teachers, the equipment that they need in order to meet up to those standards. We want to interject money right away. This budget will do that.

This budget calls for research and development, an initiative which is comparable to the problem. We should be spending about 1 percent of the total education budget, which is for the whole country. We are spending about $360 billion in education, State, Federal, and local, which means about $3.6 billion should be invested in research and development, if we followed what private industry does, an example set by private industry. We are spending less than $100 million for research and development in education. There are initiatives that we should be taking which we ought to understand can only be taken if we transfer the money from the military budget into the civilian priorities, and education has to be one of those major priorities.

I close out by saying that in the budget it is hard to specifically find out what is happening with education. The Education Department cloaks their concerns and their priorities in fog. It is hard to find out what they are doing. They want to proceed with deals and want to intimidate people in the legislative branch to get what they want. It is never clear what they are doing, but we have some clear proposals that have been offered, and they are mentioned in this budget.

H.R. 4041 deals with research—4014 I mean deals with research initiative. There is another initiative which the gentleman from Louisiana [Mr. JEFFERSON] will talk about later on. These are the concrete things that relate directly to the initiatives that are provided for in this new realities budget.

It is a new world order, Mr. Chairman, and we cannot go into a new world order unless we make education the very highest priority.

Mr. GRADISON. Mr. Chairman, I have no requests for time at this point, and we reserve the balance of our time.

Mr. OWENS of New York. Mr. Chairman, I yield 6 minutes to the gentleman from New Jersey [Mr. PAYNE].

Mr. PAYNE of New Jersey. Mr. Chairman, I want to commend my colleague, the gentleman from California [Mr. DELLUMS], for his excellent presentation and for his diligent work on shaping the Black Caucus alternative budget and the Progressive Caucus for their work to develop America's real strength, our human potential. I also congratulate the gentleman from New York [Mr. TOWNS], the chairman of the Congressional Black Caucus, for requesting adequate time to discuss this important budget.

Mr. Chairman, as a member of the House Education and Labor Committee, I firmly believe that the economic and social structure of our Nation will crumble in the years ahead unless we reorder our priorities. Providing our young people with a solid education and with job skills is not just a lofty goal—it is absolutely essential if the United States of America is to remain competitive in a high-technology, global workplace.

We must ensure excellence in education at all levels from pre-school through graduate school. It is essential that we address the problems in the schools that are facing the greatest obstacles—our urban schools.

Every day when the school bell rings, America's urban children enter a world of fear and violence. The ideal of the classroom as a safe haven for learning and expanding horizons eludes the children of our cities.

Most recently, tragedy struck at Thomas Jefferson High School in Brooklyn when a 15-year-old student shot two of his fellow students to death in the school hallway. Just 30 minutes before a scheduled visit from the mayor of New York, Mayor Dinkins was to take place.

Unfortunately, this was by no means an isolated incident. In fact, 50 young people have lost their lives in the neighborhood surrounding the school over the past 5 years.

Homicide is the second leading cause of death among adolescents and young people ages 15 to 24. On a yearly basis, about 1.8 million teenagers are the victims of violent crimes.

In order to solve the problems facing urban schools, we must also address the underlying social problems that young people in urban America face every day—violence at home and in the streets, inadequate housing and health care, and the abundance of illegal drugs in their communities.

Mr. Chairman, last fall a man by the name of Jonathan Kozol, who is an author and educator, testified about his visits to public schools around the Nation. His findings were contained in a book he wrote entitled "Savage Inequalities," which exposes the huge disparities in the quality of public education that American school children receive, depending on the neighborhood where they live.

He verified the substandard, and downright shameful, conditions in city schools. In contrast to their counterparts in the suburbs, urban school students do not enjoy modern equipment, a well-rounded curriculum, and nice surroundings.

In fact, Mr. Kozol found that the school in the south Bronx attended by Gen. Colon Powell has a barrel to catch water on rainy days. It has been there for as long as anyone at the school can remember. This is in a neighborhood where the rate of infant death is higher than in Bangladesh.

In East St. Louis, Martin Luther King Jr., High School had to be evacuated after sewage flowed into the kitchen.

In Chicago city schools, there is so much difficulty recruiting teachers that low-paid substitute teachers represent one-quarter of the teaching force, and each day, thousands of children come to school to find they have no teacher at all.

Mr. Chairman, we can certainly do better than this. In a country like ours, which has met so many challenges, which is leading the way in exploration of outer space, we can certainly upgrade these disgraceful conditions in our public schools.

Now that we are witnessing the end of the cold war era, let's channel some of our resources away from the military and in the direction of education. It seems to me that our Government's huge military build up of the past decade has in many ways made our Nation weaker, not stronger.

Valuable resources have been channeled away from the basic building blocks which have traditionally been the source of our strength—education, job training, housing, and community and economic development.

All American youngsters need to have some hope that if they persevere and finish school, they have a chance of securing a decent job. Because the United States is losing many of our long time sources of employment, such as manufacturing jobs, we also have to invest in retraining programs.

Our budget alternative would accomplish these goals through the following actions:

We would increase education block grants to the States by $1.35 billion, and

We would provide first-year funding of the $1.5 billion Urban Schools of America Act, H.R. 1669, at $150 million.

This will assist urban local educational agencies in improving student achievement and meeting the national education goals established in this bill.

We would fund an at-risk youth, gang prevention initiative, at $300 million;

We would increase higher education student financial aid by $2.564 billion to enable more of our young people to overcome the financial obstacles to furthering their education;

We would provide $73.5 million to improve and expand the Federal educational research, development, and dissemination capability as provided for in H.R. 4014;

We would increase our training and employment account (Job Training Partnership Act and Job Corps) by $2 billion;

We would fund $1 billion for economic conversion retraining associated with the military build-down; and

Finally, we would place Head Start on the path to full funding by fiscal year 1995 by providing an additional $2.1 billion from current services.

Mr. Chairman, these are sound proposals which represent an attempt to rebuild America by fully developing the potential of our children and young people.

Statistics indicate that we have been failing to help our children achieve their full potential. Among American 13-year-olds, 27 percent cannot add, subtract, multiply, and divide using whole numbers; 42 percent cannot search for specific information, interrelate ideas, and make generalizations about text they have just read.

Even in schools in the top one-third of math achievement, only 10 percent of seniors are able to solve problems involving geometry, algebra, and beginning statistics.

Mr. Chairman, we cannot continue on this course if America is to retain its greatness. I urge my colleagues to think about the future, to think about the dreams that we had as youngsters and ask ourselves if today's children don't deserve the right to have those same dreams.

I hope that my colleagues will support this budget alternative to lift the expectations of our children and to restore strength to our Nation.

☐ 1450

Mr. OWENS of New York. Mr. Chairman, I yield 6 minutes to the gentleman from Illinois [Mr. HAYES].

Mr HAYES of Illinois. Mr. Chairman, I rise to express my full support for the passage of the Congressional Black Caucus' quality of life budget, which we are considering today as an amendment in the nature of a substitute to House Concurrent Resolution 287, the congressional budget resolution for fiscal year 1993. I want to commend the CBC chairman, ED TOWNS, as well as my friend and colleague, RON DELLUMS, for their endless efforts in bringing this resolution to the floor.

I rise also, Mr. Chairman, to encourage that my colleagues take a very close look at this alternative budget. We are not wasting time. We are not just going through the motions. We, here in the House of Representatives, are always full of rhetoric. We talk about the needs of children and families—everyone is in support; we talk about the needs of the elderly—everyone jumps on the bandwagon; and we talk about eradicating poverty—everyone signs on as cosponsors. I want to know why it is then so difficult to back up the rhetoric with strong support for a budget which reflects more clearly the values which the majority of our country hold.

The quality-of-life budget enhances proven social service programs while creating new initiatives especially in job training and education. The proposal most importantly modifies our Tax Code, ensuring fiscal responsibility to encourage deficit reduction efforts. Finally, the CBC budget promotes appropriate reductions in the military by eliminating unnecessary missile programs like the B-2 bomber and the Trident II nuclear submarine.

The CBC budget is fiscally sound, programmatically sensible, and morally right. It is a budget which shows that spending for crucial social programs can be maintained and increased where needed, while our national security does not have to be compromised. Most importantly, this alternative budget shows us that deficits can be reduced at the same time that we tend to the needs of this Nation.

As you make your decision today whether or not to support this proposal, please know that this is not a black budget, it is a human budget—a budget that is designed to reach out to those that are in need of some attention in this great Nation of ours. While we send our money worldwide in an attempt to spread democracy throughout the world, I implore you to support this budget today so that democracy can be spread right here in these United States to those who are being neglected, to those who are victims of poverty, to those with no health insurance, to those who do not have equal access to an education, to those who are hungry, and to those who are homeless.

Today, I would like to focus my comments specifically on two aspects of this resolution—education and jobs. In many ways the two issues are uniquely tied. I have always said that education is the key to truly moving this country forward. However, this Nation's education system is in crisis. Our children are not being prepared for the job market that awaits them.

The dropout rate for African-Americans and Latinos in high school in this country is astronomical. In my district, the dropout rate looms somewhere near 50 percent for public school children and I am certain that other urban and rural centers suffer comparably. Despite minority enrollment gains over the years, little progress has been made in attempts to achieve parity in college participation. As a member of the Education and Labor Committee, I am concerned that slowly but surely a higher education is becoming a financial impossibility for the majority of all Americans.

I am pleased that the CBC budget heartily embraces the Urban Schools of America Act, H.R. 1669, which reinvests in this Nation's urban schools. Additionally, the resolution fully funds the Head Start Program by fiscal year 1995. As you know, Head Start provides critical services to disadvantaged youngsters, but sadly does not begin to serve the numbers that are eligible. Other provisions in the CBC budget provides funds for at-risk youth to keep them in school, and provides an increase in student financial aid for college bound students. Education must be one of this Nation's top priorities, and the CBC budget truly addressed this need.

There is no doubt in my mind that this Nation needs a national jobs program. It is my belief that everyone that wants to work should be able to secure a decent paying job. I have always believed that it is better to pay people to do work than to pay them to languish in unemployment. As you know, currently we are paying more and more people to stayed unemployed. However, the workers of this Nation do not want to receive unemployment compensation, food stamps, or other forms of public assistance. They want a job and to be productive citizens. There are currently almost 9 million Americans unemployed. In my city of Chicago there are almost 9 percent unemployed workers in the metropolitan areas, and with the economic crisis in my district, I am certain that the number unemployed on the south side of Chicago is near 20 percent and growing.

Earlier this year, I introduced a jobs bill, H.R. 4122, the Infrastructure Improvement and Job Opportunities Act. This legislation provides funding for the support and training of the unemployed on local infrastructure projects. I view this approach as a critical component of the efforts to lift this country out of the current depression.

I am pleased that the basic premise of my bill has been incorporated in this year's CBC budget. Funds to create jobs for the unemployed should be a top priority. We must put Americans back to work and in turn make this Nation competitive once again.

Finally, Mr. Chairman, I want to note that the CBC budget is premised on the need to break the budget agreement. It is time that Congress stop all of the rhetoric. We must substantially reduce the military budget to free up dollars to address this country's unmet domestic needs, such as jobs, education, health care, housing, and crime. So, as I stand in support of the passage of this resolution, I, also, express my strong support for approving the Budget Process Reform Act, which we will consider next week. Last year's budget agreement is no longer an adequate blueprint for this country's economic future. Instead of continued emphasis on military spending at the expense of deserving domestic priorities, we should set forth a blueprint for reinvestment in education, health, employment, housing, and crime prevention programs. There needs to be an alternative direction for America that addresses real human needs and human potential by enhancing proven social programs and creating new opportunities in education and job training.

In closing, I want to thank my colleagues of the CBC for again answering the call of the people and accepting the responsibility of drafting this very important resolution. I encourage all of my colleagues, particularly those persons of conscience here in the Congress, to vote for the passage of the CBC fiscal year 1993 quality-of-life budget.

Mr. OWENS of New York. Mr. Chairman, I yield 4 minutes to the gentlewoman from Illinois [Mrs. COLLINS].

□ 1500

Mrs. COLLINS of Illinois. Mr. Chairman, I rise in strong support of the budget alternative offered by my colleagues in the Congressional Black Caucus and Progressive Caucus.

Since I began serving in Congress in 1973, I have looked forward to the moment when we could begin debating America's fiscal priorities without the specter of the Soviet Union complicating the debate. When we could ask how many mouths we can feed rather than how many missiles we could build. Yes, and when we could ask how many Americans we could teach rather than how many Russians we could kill. That day has finally come, but the President's budget is the same old, tired, warmed-over defense-oriented dribble of supply-side economics, which has so devastated this country, and more importantly has resulted in the under education of our children.

Well I am pleased to say that through the efforts of my good colleagues RON DELLUMS and ED TOWNS, and their staffs, we have been presented with a budget which recognizes who really lost the cold war. Certainly not the Russians, Mr. Chairman. The folks who are on the losing side are working Americans and their children, who footed the bill for the unconscionable defense buildup of the past decade and who have been tantalized by the prospect of a grand peace dividend, only to be once again let down by the President and his desire to stick yet another pin in his economic voodoo doll.

Today we have the opportunity to make a clean and distinct break with the past decade's misguided and miscalculated budget priorities, Mr. Chairman. We can once and for all repudiate the evils of Reaganomics and help all of those Americans—and they are a vast, vast number—who were so ill-served by the past two administrations.

You see, Mr. Chairman, my constituents on Chicago's west side aren't basking in the glory of the cold war victory, or Desert Storm. They are too busy licking their wounds inflicted by past Reagan and Bush budgets. Blacks and Hispanics served this country loyally and in disproportionate numbers in the military during the past decade, and now are being hung out to dry by George Bush and his alleged kinder and gentler America. And that's not all. Their little kids are being denied child care, their teenagers are not being taught the levels of math and science basics needed to compete scholastically with kids in other parts of the world, and their young adults are being denied a fair chance to receive a college education.

The Towns-Dellums alternative is the only budget proposal which truly recognizes the drastically reduced security threat to the United States posed by other nations, and realizes that the true threat to our national security is from within our own borders—from our own budget short-sightedness, as evidenced by the inferior education we are giving our children.

The CBC budget will reduce our military spending by over $50 billion next year and reinvest those crucial funds back into America. Now, my colleagues on the other side of the aisle would say that we have to keep our guard up and our military strong. I don't argue that point. But, Mr. Chairman, what good is all of that expensive hardware going to be if there is nothing left here at home to defend? Our cities are in chaos, our children are malnourished, and our schools are underfunded, but the Air Force has a shiny new plane. Go figure.

I want to focus primarily, Mr. Chairman, on the plight of American education and how our children have been shortchanged during the Reagan-Bush era. As chairwoman of the Subcommittee on Commerce, Consumer Protection, and Competitiveness, I have the opportunity to work on legislation which affects how our firms compete overseas. Time and time again I have been told by business leaders that if there is one investment which could make American firms more competitive, it's education. If we can teach our children basic math and science skills, and assure that future workers are able to function in a modern society, American firms could compete in any market.

Unfortunately, the policies of the 1980's failed to realize this link, or at least swept it under the rug in hopes that nobody would notice. Who can forget the "Education President's" call for full funding of Head Start? Yes, we read the President's lips and were duped by his apparent concern for America's children. But in 2 years he has not delivered on that implied promise to strengthen our education system. The CBC budget, however, delivers. It provides an additional $2.1 billion for crucial Head Start programs for preschool children, and places it well on the way to full funding. The CBC budget increases aid to students of higher education by $2.5 billion over current levels, and increases education block grants to the States by $1.35 billion.

Our children are being robbed, Mr. Chairman, of their minds and of their futures. They are being robbed because this country values B-2 bombers more than it does A-plus grades. This alternative budget recognizes this travesty and acts decisively. In fact, this budget calls for nearly $10 billion more than the President requests for all categories of education, including job retraining and employment programs to help dislocated workers.

I saw a bumper sticker on a car the other day which sort of sums up how out of touch our national priorities were during the 1980's. It said, "Let's put our defense budget into education, and make the Air Force hold a bake sale for a new bomber." Mr. Chairman, our schools are forced to sell cookies to survive, and that must change, and will change, under the CBC budget.

Mr. Chairman, our children are powerless to argue on their behalf. They have no voice, no strength, no vote, but it is upon them, who we will rely to carry this country into the 21st century. Let's give them the opportunity to reach their full potential through education. Let's not shortchange them with token increases in education spending such as the President proposes.

Education is not, however, the only priority to which this budget shifts some of our bloated defense budget. It addresses healthcare and infrastructure and veterans and housing. But education, I believe, is the cornerstone to the development of a new America. Just think what problems could be eliminated if our children only had access to information and educational resources. All of our country's major problems can in some way or another be traced to a simple lack of understanding and education. Drugs, teenage pregnancy, crime, racism, poor health.

We always hear how much it will cost to try and eliminate all of these problems through government action. Well, my friends, what will it cost if we don't? If we do not make some radical changes today, we will be well on our way to finding out.

I urge my colleagues to support this alternative budget.

Mr. OWENS of New York. Mr. Chairman, I yield 7½ minutes to the gentleman from Louisiana [Mr. JEFFERSON], a member of the Committee on Education and Labor.

Mr. JEFFERSON. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, it is arguable whether the Budget Enforcement Act of 1990 was ever rationally arrived at. But this much is not subject to argument. To arrive at the spending caps and firewalls which are its supposed genius, the question of what level of Federal expenditures is reasonably calculated to meet the needs of the Nation's people was never asked. No, the needs of the people did not drive the policy decisions represented by the Budget Enforcement Act. Rather, the question that drove the agreement was less rational, indeed it was an arbitrary one. The question was, without regard to the level of expenditures needed to meet the Federal Government's legitimate responsibility to the American people, what rules can we adopt that are calculated to reduce the budget and hold the line on Federal expenditures? Particularly was this true in the area of the education budget.

While the Federal Government has never had the full responsibility for the education of our people in this country, it has admitted of two overriding policy directions that belong particularly to it. The Federal Government has staked out for itself in the field of education, the responsibility to ensure access to education for everyone, that is to say, an opportunity to be educated, and to provide equity in educational offerings, that is to say, equal educational opportunity. Did these two policies drive the budget decisions in the Budget Enforcement Act of 1990? I think not. These budget decisions that have affected education so negatively over the past few years, and that will continue to affect it in the future unless changed, were not policy driven, but purely deficit driven and therefore do not reflect a rational approach to reach the educational needs of Americans.

Adding to this problem, since the arbitrary and self-imposed budget agreement was enacted forbidding the transfer of savings from defense to domestic needs, the world has undergone a dramatic transformation. Just as the crumbling Berlin wall has become the symbol of this international change and progress, the crumbling of the so called budget firewalls that now prevent America from capitalizing on the peace dividend must become the new symbol of domestic change and hope for the Nation's future. It would be a shame if a half-decade of restructuring and the recent rapid change in the world, that the only response we as Americans can muster is to keep our rigid and outdated list of priorities intact. This is not a response worthy of Congress nor the people it represents.

If we accept that the walls must come down, the question becomes what do we do with the peace dividend? Do we use it for deficit reduction or do we use it to address the domestic problems everyone agrees have reached cataclysmic proportions. The Towns-Dellums budget alternative gives us the only opportunity as between the alternatives before us to do both. In a recent New York Times survey 70 percent of Americans said that savings in defense spending should be retargeted to domestic needs. Another 30 percent said that it should be applied to deficit reduction. I concur with the American people, and so does the Towns-Dellums alternative. Now is the opportunity to realize the rewards of peace.

The Towns-Dellums budget alternative is responsive to the world we live in today. It provides a unique strategy for capitalizing on the peace dividend and an unparalleled opportunity to make the needed short- and long-term investments in our Nation's human resources. There is no other budget vehicle before us now that permits the investment in education that our Nation so desperately needs. Investing in higher education will help us to achieve our shorter term goals of putting skilled workers in the labor force and boosting the economy, while investing in education on the elementary and secondary levels will increase our longer term goals of sustained economic growth and competitiveness.

Over 30 years ago, President Kennedy stated that "only the well educated man or woman is equipped to work in an age of technology and to be a good citizen in an age of complexity." Our world is much more complex today than Kennedy could have imagined but his words ring even more true in present day America. We know beyond a doubt than an educated work force is vital if we are to have a high growth economy and a high skill, high wage work force. Today an individual with a college degree earns nearly three times as much as a high school drop-out. Postsecondary education is a high yield investment, and if there is one area in education where there is broad agreement, it is that America has the premier higher education system in the world. We know it works. We have more students enrolled in postsecondary education than any other major industrialized country. But over the last 10 years college costs have more than doubled, increasing twice the rate of family income. College is becoming less accessible to more students. The gap between family resources and college costs has steadily widened and the ability of Federal student aid to close the gap has steadily eroded. The aspirations of qualified students to attend college are being snuffed out. Access to higher education and equity in the policies for which our Federal Government is responsible have been frustrated.

Seventy-three percent of Americans believe that a college degree is very important, but 87 percent believe that rising costs will soon place a college education out of their reach. The House Education and Labor Committee has put together a bill targeted to help students overcome financial barriers to higher education. The major way in which the bill does this is through an increase in the Pell grant. Today the maximum Pell grant award only covers about 25 percent of the cost of college attendance, when it was originally intended to be the foundation of student financial aid. What has instead become the foundation of student aid is the guaranteed student loan. The result of this shift from grants to loans is that middle- and low-income students now struggling to attend college have become a new generation of indentured servants. Since 1980, student indebtedness has increased 300 percent. The increased need to borrow has adversely impacted students' decisions to attend college and has contributed to the rise in loan defaults. And even worse, the rules on borrowing have priced many out of even this limited, often onerous access to higher education.

We have an excellent higher education bill that addresses all the vital issues such as costs, access, and minority participation in higher education; a bill that is prevented from coming to the floor because it breaks the outdated budget agreement; a bill that could be paid for through the Towns-Dellums budget alternative.

The best long-term investment we can make in this country is the education of those who will be our future workers, leaders, and scholars—the children in our elementary and secondary schools today. Our schools are failing our children, and no place is this more evident than in our inner cities. Today urban preschool children have half the access to early childhood development programs as their suburban counterparts. Teacher shortages are 2.5 times greater than in other school systems. The dropout rate in urban schools is 67.6 percent higher than either suburban or rural schools. The litany of other urban school ailments is familiar to us all: Low student achievement, illiteracy, teen pregnancy, violence, drug abuse, inadequate teaching materials, dwindling financial resources, and deteriorating facilities.

The quality of public education in the Nation's major urban areas has a direct effect on the economic development of our inner cities and will determine the country's economic competitiveness and academic standing in the world community. By the year 2000, one-third of the work force will be minority. Urban schools enroll 30 percent of the Hispanics and 40 percent of the

African-Americans that will comprise this work force. It costs America's businesses $21 million each year to provide remedial education to high school graduates. Unless we act expeditiously, the problems facing our urban schools will become prevalent in all the Nation's schools.

The Towns-Dellums budget substitute would provide a funding opportunity for the Urban Schools of America Act which is targeted to help innercity schools meet the demands of the future in several ways. First, the bill authorizes $1.5 billion in formula grants to hard-pressed city school systems to fund local programs that help meet our national education goals and form partnerships with business and community groups. Second, it authorizes funds to repair aging urban school facilities, one-third of which are over 50 years old. Third, the USA bill authorizes $1 million for research on urban education, and provides city schools with resources to strengthen their own capabilities. Under the USA bill school districts are given the flexibility to design programs that best meet their needs. The unique accountability measures ensure that schools demonstrate progress. The Urban Schools of America Act has been widely embraced. It has the support of 90 cosponsors in the House as well as 50 national organizations. The only factor preventing its movement through the process has been cost. Investing in our youth is how we make the peace dividend more than a catch phrase.

The Towns-Dellums budget alternative emphasizes the interrelatedness of education, jobs, economic prosperity, and a sound budget plan. As Americans we need to expand our notion of job creation. We seem to think that the only way in which jobs are created is when business can keep costs down, profits high and can afford to hire new employees. We must begin to understand, and to behave as if we understand that education creates jobs. It's through education that we produce the engineers and scientists that create the products and technologies that business in turn manufactures and sells. It is through education that we generate workers skilled enough to run our corporations and operate our computers. Jobs are not just created by investments in incentives to business, but through investments in education.

If the resources we devote to education is a fundamental test of our national vision, then our record on education of the last decade indicates that our vision has been clouded and our priorities need reordering. We need not today to agree that the Reagan-Bush administrations made a mistake by shifting precious resources away from domestic programs to the military to embrace the Towns-Dellums alternative. It is enough that we agree not to make a strategic error at this time by refusing to reinvest in our human infrastructure through the approach of Towns-Dellums. I urge each Member of Congress to support this thoughtful and visionary budget alternative.

□ 1510

Mr. OWENS of New York. Mr. Chairman, I yield 7 minutes to the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. Mr. Chairman, let me take this opportunity to thank my colleagues, and more specifically, the gentleman from California [Mr. DELLUMS] and the gentleman from New York [Mr. TOWNS], for giving this Nation an opportunity to have an option to what can be considered business as usual. It gives the Congress an opportunity to take another look at the position that we find ourselves in.

Not too long ago the President of the United States, in speaking before us in the State of the Union, in a most insensitive way, indicated that those that were ridiculing his capital gains tax cut in fact reminded him of someone that just stayed awake at night, worried that someone was having a good time.

It is true that the rich of this country for the last 12 years have been having a good time. They have been having a party, and they have been getting drunk off of tax cuts and tax loopholes, and the poor of this country have really had the hangover and the deficit.

It seems as though 12 years ago there was a design to take us back to where we were during the time of the Depression and before the New Deal, to make certain that the Federal Government will be out of housing, will be out of education, and out of those programs that we had taken for granted.

How was this done by the Reagan-Bush-Quayle administration? It was done in such a way as to dramatically reduce the 90-percent income tax from the Kennedy years to 28 percent, the corporate from 48 percent down to 35 percent, and we were led to understand at that time that by doing this we would broaden the tax base so local and State governments would be able to tax more, and that the priorities of deciding what the people really needed would no longer be at the national level but would be at the local level, and that we should rely on the private sector, our churches and nonprofit organizations, to fill this gap that opened when the Federal Government was removing itself.

I tell you this President has asked us to depend on a thousand points of light, but the President has not given us any batteries to work on. Because as a result of this Draconian cut in social services and the sharp increase in our military expenditures, we have seen the results of that with millions of people being turned out on our streets, our hospitals filled with people that have no health coverage, and so many people without jobs and without hope that they have no alternative except to find something to ease their pain, and that something far too often has been alcohol and other narcotics.

Presidents will tell us just to say no. Other people would give us coloring books. Others would believe that the way we handle this is with the death penalty or to put more people in jail. But I tell you that as we look at the deficit that we have today we have to recognize that building in America is not just in bombs, it is not just in planes, it is not just in plants, it is not just in equipment. What makes a nation great are its people. That is what makes it great.

If we would take a look at people, we would find out that these people would rather warehouse people in jails rather than educate them in schools. When America, the land of opportunity, becomes a place that is known as a place that has more people in jail per capita than any nation in the world, including the Republic of South Africa, then it takes the Dellums-Towns budget to tell America to stop, let us take a look at where we spend our resources, let us see where we are going, let us make America productive, let us make America competitive.

The Office of Management and Budget, not the Democratic National Committee, the Office of Management and Budget says the drug problem is costing America in lost productivity, in lost revenue, $300 billion a year. That is the kind of waste that keeps the deficit here.

But there is one way to beat it, and that is what is in this alternative package, to give our youngsters an opportunity to remain in school, to make the schoolrooms places of learning rather than having them be shooting galleries, to make certain when you arrest someone, arrest them to give them the opportunity to improve and to make some contribution to society.

To expose our children just to 10 or 20 years in jail, to offer them just the opportunity to be raped and abused, to return them to the general society worse than when they went in, if the jails are not really providing anything, since 70 percent of them are going to return in 3 to 5 years, then for God's sake, invest in the schools and not in the jails, invest in job training to make certain that these people can be productive and make certain that our drug treatment programs are not substitute drugs but substitute opportunity, and an opportunity to make a meaningful contribution.

What we have done in this budget is to try to bring some equity and fairness into the tax system, to make certain that those people that have gotten drunk at the party of tax reduction and tax preferences have a little equity in paying back; that we put a 10-percent tax just on the millionaires, and a 38-

percent tax on joint returns that are above $225,000, and to bring some relief to the middle class, to reduce the Social Security burdens, and to increase in a small percent the corporate responsibility.

Bringing this equity, investing in people, means what? That the base that we broaden, and it is not just a tax base, we broaden in the opportunity for Americans to get an education, to participate, and to give back to this great Nation.

Those of us who are the recipients of the GI bill know what this means. We give it to the veterans of the Persian Gulf, but we also give it to all Americans to say that,

> You shall not be denied an education. You shall not be denied health care, but you shall be given an opportunity to participate in this great Republic, the greatest nation in the world.

Mr. OWENS of New York. Mr. Chairman, I yield 3½ minutes to the gentlewoman from Washington [Mrs. UNSOELD].

□ 1520

Mrs. UNSOELD. Mr. Chairman, I thank my colleagues who have put together this very fine proposal.

The world is a radically different place from what it was just a few years ago. It will take bold steps to keep pace with these fundamental changes or we'll be left behind.

We face both historic opportunities and difficult challenges. The collapse of communism and the end of the cold war enable us to safely shift billions from nonproductive military spending to investments in our economy and our people. At the same time, we face tough economic competition from the Pacific rim and Europe, and after a dozen years of Reaganomics, we are burdened by a nearly $4 trillion debt and weakened economic institutions.

This is the new reality we face and these profound changes require a dramatic shift in our budget priorities. Let's not waste time timidly tinkering with the status quo. It's time for a major overhaul.

Some will claim that we cannot find defense savings without compromising our security. They are living in the past. The fact is we are the world's only military superpower—the only nation that has the will and the ability to project military force anywhere on the globe. That will not change with this budget proposal.

What must change is the misguided notion that weaponry is the definitive instrument of national strength. As the world's only superpower, the threat to American security now rests in the threat to our international competitiveness.

Plans A and B would move us in the right direction, but they do not adequately reflect how fundamentally the world has changed requiring a fundamental reordering of our priorities, but plans A and B would find only 2 percent in additional defense savings when compared with the President's proposal. Two percent off a cold war budget is simply not enough.

The Black Caucus budget will eliminate weapon systems that have no role to play in America's future. The B2, star wars, the SSN21, and the F22 were all designed with the Soviet threat in mind. Our objective must be to maintain a strong conventional defense as well as the ability to deter any future nuclear power. This budget proposal will do that. It is clear that the bureaucrats in the Pentagon are sleepwalking, designing a military force designed to meet threat that no longer exist.

I want to add a brief note about our Nation's veterans. Under Reagan and Bush our veterans' health care facilities have been hit time and time again. The Towns proposals firmly reiterates that America must meet its commitment to our veterans.

This budget makes education a real priority—something the President and others talk about, but never follow through with when it comes to funding. It's time to look at education as a long-term investment in our future. It's time to make it a fiscal priority.

We cannot make the changes without looking for long-term economic gains rather than short-term political gains. This budget starts at the beginning by proposing a $2.1 billion increase in Head Start funding—$1.5 more than the President proposed. We all know this program works—that it helps prepare at-risk youth for a lifetime of learning—but we've been falling behind in our commitment to move toward full funding by fiscal year 1994. A sum of $2.1 billion may sound like a lot of money now—but we know that for every dollar we invest today we'll save $6 down the line.

But Head Start can't solve all of our problems. This budget follows through by increasing education block grant funds to States, investing in our urban schools, and funding intervention programs for at-risk youth. Money we invest at this early stage can mean the difference between these children becoming productive members of society, or taking resources from it.

Finally, this budget puts a priority on higher education by providing financial aid for students of all ages who attend trade and technical schools, colleges, and universities. It also invests in training and retraining programs for those who are trying to cope with a changing economy. Providing financial assistance to people who want to learn new skills so they can take advantage of new opportunities is money well spent. We learned through the GI bill that investments we make in these programs pay back in the form of higher revenue for years to come.

All Americans who are ready and willing to work hard for a paycheck have access to jobs. People are crying out for jobs—not for handouts. We need to provide them opportunities to help rebuild our country by investing in our infrastructure—roads, bridges, schools, and libraries. If people have the opportunity to work hard, they won't need to resort to welfare.

For the first time in over 50 years we as a Nation have a golden opportunity to refocus and redirect our priorities. No longer do we have to devote such a massive share of our national budget to protecting against a superpower rival. Instead, we can redouble our efforts in addressing some of the very real problems our Nation must tackle if it is to maintain its position as the preeminent world power. Only with the vibrant economy will we be able to maintain a strong and healthy middle class and expand that group to include a greater share of those Americans for whom the American dream has to date proved elusive.

This is a time of challenge. And, you know, we Americans respond to challenge. We're going to use our good old American ingenuity to put our country, our communities back on track; to inspire our kids to excel. The Towns amendment responds to that challenge to carry America into a new century. I urge its adoption.

Mr. DELLUMS. Mr. Chairman, may I inquire as to the remaining time on this side of the aisle?

The CHAIRMAN. The gentleman from California [Mr. DELLUMS] has 1 hour and 30 seconds remaining.

Mr. DELLUMS. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I would just like to admonish my colleagues that we have a list of about 15 or more Members who wish to speak in the remaining hour, and there are some Members who are not on the list who I would assume are coming over. So unfortunately, in this latter stages of the debate, we are going to have to limit our colleagues to approximately 3 minutes.

Mr. Chairman, with that admonishment, I am pleased to yield 3 minutes to my distinguished colleague, the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Chairman, I thank the gentleman for yielding me the time. I just want to say I think the reason there is so much debate on this budget is we ought to stop and think about where we are. We turned down the gold standard budget yesterday. It only got 60 votes. Then came the President's budget. It got 42 votes. In any other country, the government would have fallen.

Now we are here. This is the third budget. I think the real name for this budget is the vision budget. We have a President who is on the ropes, and the amazing thing is there is no one even in the ring with him yet. I think we have shown that by how we have dealt with the budget.

What this budget does, it admits to the American people that we became what President Eisenhower warned us about. We became a military-industrial complex. This budget shows us a way to reinvest and get this economy moving again.

We hear from the other side that these are big programs, this is welfare, this is everything. Let me remind Members that President Roosevelt never had a welfare program. He had a jobs program. This budget is in the true spirit of President Roosevelt, because it is talking about how to get people the skills to have those jobs, how we get industry the tax credits and the research and the development and the technology conversion so they can go forward with the jobs. This is a massive conversion bill and a skill-building bill.

To get this economy moving we know we have to have four things. We have to have the best education, and we do not have it. This budget works toward it.

We have to have the best technology. We only have it in defense. This helps us convert it to the other areas where people are buying it.

It says we must have the best infrastructure. We know we do not have it. But this budget helps us move toward getting it.

And we need flexible capital markets, and this budget helps do that and targets investment and gets jobs moving.

So what you do is you look at the end of the cold war and you say we must move to these areas where there is tremendous pent-up demand. To keep spending in the same old way is terribly inflationary and only, only spends lots of money and gets very little results for it, and does not get America ready for the 21st century.

I have been a supporter of the Black Caucus budget for a long, long time. It always has had the lowest debts, and the greatest vision. But this time more than ever it is desperately needed by this country as we see the cold war meltdown and when we have just finished a decade where economists tell us there were two choices in the 1980's. If you wanted to be upwardly mobile you should not have children because you could not be both, and something is wrong with that. We are really jeopardizing our future by this.

This is the way we get back on track. I commend everyone and urge a vote for this budget with vision.

Mr. SANTORUM. Mr. Chairman, I yield myself 4 minutes.

I would say in response to the gentlewoman from Colorado, I think it needs to be pointed out that President Eisenhower would not be in any fear of this being a military-industrial budget. Only 19 percent of this year's budget goes to defense. Back when Mr. Eisenhower was President it was well over 50 percent.

The gentlewoman says she has supported the budget because it has the lowest debt. Of the Democratic plan A with the fire walls up, and the President's budget and this budget, this budget has the highest deficit number, even though it makes dramatic cuts in defense.

Mrs. SCHROEDER. Mr. Chairman, will the gentleman yield?

Mr. SANTORUM. I am glad to yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. I am glad that the gentleman mentioned that, because what my point was was that Eisenhower warned us about all of our industry becoming military related, and I think every economist has pointed out that the difference between today and the end of every other war was we have had a much larger civilian-industrial base that people could job shift to. Right now we almost need to recreate that, because rather than moving to Texas to get the job they have to move to Tokyo.

Mr. SANTORUM. I agree with the gentlewoman. But I think one of the major things we have to do to build that industrial complex is to stop soaking up all of the money and spending it here in Washington and doing something about the deficit reduction so that we can put that money back into America to create that industrial complex.

Mrs. SCHROEDER. Will the gentleman yield again?

Mr. SANTORUM. I am happy to yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. I think then that this is the budget for the gentleman from Pennsylvania because it has the lowest debt.

Mr. SANTORUM. No, no, it has the highest debt.

Mrs. SCHROEDER. And it moves us toward converting and getting those tax credits to people so that they can take the high technology base we have built in defense and in our Government labs that we are so proud of and transfer it into areas where we are making consumer products.

□ 1530

Mr. SANTORUM. Reclaiming my time, again, this is the highest deficit of any of the budgets being proposed, and it does nothing to put the money back into the hands of the small-business people that create jobs, and that is one reason I oppose it.

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. SANTORUM. I am happy to yield to the gentleman from California.

Mr. DELLUMS. Mr. Chairman, first of all, I am sure that the gentleman is a well-prepared Member of Congress, and I know that he read every single page of the Congressional Black Caucus budget, and if he got to the last page, he would realize that in 1997 we take the budget deficit down to $137 billion, which all people have indicated is a very conservative figure, because we put massive amounts of money into jobs, and when people work, they bring the deficit down even further.

I would suggest to the gentleman that in the 5-year view, we bring this budget deficit down further and faster than any budget presented. None of the other budgets project out to 5 years to the extent that we have and bring the deficit down, and I would just say to my colleague, first, that that is not true; second, I would say to him that if he looked at our budget again, we put several hundred millions of dollars into small business, into minority business, and just on its face, the gentleman's remarks are not true, and the document is there for him, read it, look at it. I hope at some point later in the debate the gentleman will stand and correct himself.

Mr. SANTORUM. I will look at the document. I have the document right here for me. It says very clearly when you look at total function in 1993, the deficit number is higher than the President's; it is higher than the baseline. I mean, that is all the predictions about what happens 5 years from now, let us go back 5 years ago, and project what the deficit was supposed to be this year, and we were supposed to be at zero deficit. Let us talk about what we know about for sure, which is what is going to happen next year. Those are the real numbers we have to deal with, and it is an increase in the deficit.

What I am saying is that we need to lower that deficit to allow private industry to be able to have the capital available to expand.

Mr. Chairman, I reserve the balance of my time.

Mr. DELLUMS. Mr. Chairman, I will respond to the gentleman later at the close of the debate.

Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Pennsylvania [Mr. FOGLIETTA].

Mr. FOGLIETTA. Mr. Chairman, I rise in support of the Black Caucus budget.

After spending $11 trillion on defense, the cold war is over. We need new thinking, new ideas, a new vision. We do not need a cut-rate version of the same old thinking.

The people look to us today to provide this vision. The Black Caucus budget responds to their calls.

The Black Caucus budget knows that security begins at home. While the threat from the old Soviet Union has disappeared, the threats from within are growing every day.

Our neighborhoods are being killed by crack dealers, and haunted by the homeless. These are people left behind by the Reagan-Bush policies of the 1980's.

As Chairman PANETTA said yesterday, these budgets are not about numbers or figures. They are about people. Let's invest in the people, our people.

By reducing the military budget by 50 percent over the next 4 years, the Black Caucus budget frees up $400 billion to meet our domestic needs. Four hundred billion dollars can make a real difference.

The Black Caucus budget makes a real difference in our neighborhoods by investing in community development.

It provides funding to fix our roads and improve our mass transit systems. And it devotes desperately needed dollars to build and improve housing opportunities.

The Black Caucus budget puts Americans back to work by investing in new job creation programs and job training. It pays for economic conversion programs to move people from the Pentagon assembly lines to jobs which produce real products to benefit us all.

The budget provides funding to heal our sick health care system. It pays for programs to make health care available to more Americans.

And it reinforces the fight against AIDS and drug abuse—the plagues of our age.

Most importantly, the Black Caucus budget invests in our future—our children. It increases funding for Head Start. It makes improvements in our sagging schools. And it invests in new programs to get at-risk kids off the streets and into the classroom.

Finally, this is not an antimilitary bill. We will still have the weapons we need to counter the threats of the 21st century. RON DELLUMS and I know that as members of the Armed Services Committee.

My colleagues, this budget has the right vision, it has the right focus. It provides the weapons we need to fight the real threat this country faces and helps meet the challenges of the next century. Vote "yes" on the Black Caucus budget.

Mr. DELLUMS. Mr. Chairman, I yield 3½ minutes to the distinguished gentleman from New York [Mr. FLAKE].

Mr. FLAKE. Mr. Chairman, in the midst of the cold war, we agreed upon the Budget Enforcement Act of 1990, which mandates spending caps and budget walls between defense spending and discretionary domestic spending. However, today the cold war is over and the cold war budget is obsolete and the walls must come down. Today we are engaged in a war on the homefront: unemployment; inadequate health care; homelessness; failing infrastructure; and recovering from years of domestic cuts made in the Reagan-Bush administrations. Therefore, it is our responsibility as elected officials to enact a homefront war budget which reflects the real needs of this country's citizens. I believe the Congressional Black Caucus alternative budget provides the appropriate response. It is time to break down the walls and take this opportunity to invest in this Nation's future through infrastructure, our children, and our economy.

I commend the President for acknowledging that due to recent world transformation, it is finally time to cut the bloated defense budget. However, in fiscal 1993, the President's recommendation for defense spending level is $6.6 billion higher in budget authority and $4.2 billion higher in outlays than the levels recommended in the committee's resolution's plan A and B. Even better, the Black Caucus recommends reducing fiscal year 1993 defense budget authority by $49.6 billion and defense outlays by $20.7 billion below the caps set in the budget agreement. The President's modest proposal is out of sync with the new world situation, especially in light of our current bleak domestic condition. In addition, because the President's proposal does not change the rules of the Budget Enforcement Act, there will be insufficient funds in the domestic discretionary to merely maintain fiscal year 1992 funding.

The Congressional Dellum-Towns Black Caucus has put together a budget which adequately addresses the needs of this Nation. The budget resolution is the first step in establishing the spending priorities of our Nation. It is imperative to remember that we are determining more than numbers, we are determining the future of this Nation and the fate of millions of human beings.

HOUSING

I firmly believe that this Nation must be resolved to end the deterioration in the quality of life for millions of Americans, especially in the area of housing. Further, as Federal Representatives, it is our responsibility to provide decent and affordable housing opportunities. The single greatest way to address our Nation's societal ills is through the implementation of a sound human investment policy which has as its centerpiece the provision of safe, decent and affordable housing for all Americans. Proper housing provides more than shelter, it provides the stability and environment necessary to enable learning to take place, and for people to establish a sense of community.

Since the early 1930's, when this country faced the Great Depression, the Federal Government has played a role in meeting housing needs. Until 1981, this role grew rapidly, as did the bipartisan consensus supporting it. This Federal role existed because the leadership of this country realized that the Government should be involved along with the market to meet the affordable housing needs of all the Nation's people. Somewhere along the way, however, priorities changed and thus today, after 40 years of Federal housing programs, for each low-income household living in subsidized housing, there are three others who need housing assistance but can not obtain it. Further, since 1970, the cost of housing has risen four times faster than income.

The past two administrations and their budgets have largely accepted and acted upon the assumption that there is simply no way to adequately meet our low-income housing needs. The housing conditions of this country are too important and too demanding to cut community development and affordable housing programs by more than 16 percent from the 1992 levels, as the President proposes. Further, to fund housing programs for a prolonged period without properly addressing housing needs serves to make a bad situation worse. The assumption that there is simply no way to meet our housing needs is a self fulfilling prophecy unless we make a commitment to provide the necessary funds. By doing so we would begin to provide adequate housing, especially low-income housing. I am pleased that the alternative budget proposes $5 billion for low- and moderate-income housing construction and rehabilitation grant program.

We can no longer allow further disinvestment to occur in our neighborhoods, communities, or the increasing loss of affordable housing stock and the exclusion of poor and middle-income working people from housing and vital human services. If we allow for unabated decay to the infrastructure of our society, we will have no base upon which to build lasting economic development. If we can spend over $160 billion to bail out the savings and loan industry, we can surely make a sufficient, sound and long term investment in this country's community and infrastructure development. We need a healthy and productive population to develop the economic prosperity that we so desperately desire to our world wide competitiveness.

I believe the Progressive budget makes a serious attempt to provide adequate shelter for the million households on waiting lists for housing assistance and the 100,000 children who are homeless today. It is disgraceful that in America two million people sleep on the streets each year. With hundreds of homeless people huddled on sewer grates in the Nation's Capital and in the White House's backyard, I don't understand how the President can eliminate programs such as the Emergency Shelter Grant Program, which since 1986, has provided assistance to more than 2,000 shelters around the country, by more than 75 percent.

Today we must consider the long term effects of this budget resolution vote. We must enact legislation with priorities which remembers the millions of hidden, invisible Americans in the dark and into a temporary shelter, out from under bridges, in cars, abandoned houses or homeless shelters to the daylight of promise and hope, supported by the funding necessary to make our dreams for America a reality. We must give all of our children a chance to learn. We must bring all of our people out of the Third World existence that they have been relegated to inside the wealthiest Nation on Earth. I believe the budget for new world realities and for rebuilding America is the budget which reflects this goal.

Mr. DELLUMS. Mr. Chairman, I yield 3 minutes to my distinguished colleague, the gentleman from Pennsylvania [Mr. BLACKWELL].

Mr. BLACKWELL. Mr. Chairman, I stand before you today to share my concerns and thoughts about the economy and how the Congressional Black Causus' alternative budget for fiscal year 1993 would impact upon it.

Mr. Chairman, this country is presently in a bad state of affairs, whereby right before our very eyes as if a magic show were being performed by David Copperfield or the Great Houdini, the American dream is turning into an American nightmare. What is most distressing, Mr. Chairman, is the story about John Doe who has worked for more than 30 years on the same job as an automobile sales person in an automobile plant.

On Monday, in a lively manner, whistling as usual, John reaches for his time card to clock in and, instead, to his amazement, he finds a pink slip that provides him with little, if any, notice that due to the recession, the auto plant is being forced out of business. For the balance of the day, John's major thought of the day: "This has to be a nightmare for this really can't be happening!"

John wonders to himself: "Where will I get the dignity and still be able to face myself in the mirror after I tell Mary that I've lost my job after so many years and all that I have done for that company?" Less than a year later, John has lost his wife through divorce because he is perceived by Mary and members on her side of the family as a husband incapable of providing support for his family; the mortgage on his house has been foreclosed.

His car has been repossessed because of his failure to tender car payments. For anyone who is interested, John can be found in the shelter for the homeless along with countless others who are similarly situated; however, he is no longer wondering whether what he experienced just 3 months ago was a nightmare or reality; John is literally living a nightmare. Mr. Chairman, this is a sad but true account of what our Nation is faced with this very instance.

Let me say then, Mr. Chairman, that any measure which stimulates the demand to combat the recession and, at the same time, addresses the economy's slow growth is the right policy. Mr. Chairman, this is an argument for rapid action, not inaction.

That action demands that we set a new course upon which our Nation must travel—a course which recognizes more compassionately and comprehensively our past failures in alleviating the pain of those who, like John Doe, suffer from homelessness, illness without access to medical care, frustrated educational opportunities, drug abuse, violence in the community, and economic collapse.

Mr. Chairman, I fully support the Congressional Black Caucus' alternative fiscal year 1993 budget for new world realities as the CBC alternative seeks to promote the economic growth and vitality of this country.

Mr. Chairman, the CBC has worked hard to present a budget that would establish military spending at levels sufficient for our national security, that would maintain our national tradition of progressive taxation, that would provide adequate funding for important social programs, and that would have the lowest budget deficit projections of any of the various budget proposals.

This proposal, Mr. Chairman, comprehensively responds to the administrations' past and present failures to combat the harsh actuality of poverty, unemployment, homelessness, and economic insecurity. Mr. Chairman, the CBC's plan takes advantage of the window of opportunity that new world conditions offer for serious cuts in military spending.

The Congressional Black Caucus has worked to find progressive solutions to advance the cause of human dignity and social advancement. Mr. Chairman, this plan deals honestly in its appraisal of all of our contending national needs and professes the wisdom to resist the easy course.

Mr. Chairman, the economy of this country is suffering. In reality, many go to bed at night and wake up the next morning to find that after 30 years, the ordeal of the previous night's slumber is actually real. The CBC has firsthand knowledge of many such instances and recognizes fully that, today, Americans are losing their jobs in greater numbers than any time since the Great Depression.

This is simply unacceptable for my constituents, and others across the country. That is why my colleagues and I in the Congress must act now to save American jobs and lead the way to sound economic recovery for all people of this country.

Mr. Chairman, jump starting the economy by cutting taxes is one way out of the economic muddle. Cutting personal income taxes—by decreasing rates or increasing the personal exemption—will allow Americans to keep more of the money they earn. I believe, Mr. Chairman, that much of that money will be used to make purchases that have in the past been delayed by hard economic conditions.

At present, the purchase of new homes, cars, refrigerators, VCR's, and other things of this nature have been put on hold. The idea I mentioned previously, I feel, will revive ailing industry, and it will, in turn, increase orders to manufacturers, who will hire additional people to meet the rising demand.

What's more, Mr. Chairman, we make substantial steps in the right direction by accepting the realization that for every dollar spent excessively on military-related matters, that same dollar could have been spent to rebuild our bridges so that people of this country can be removed from the potential risk of harm they might otherwise suffer from an unattended collapsing bridge.

Those wasted military dollars would be better spent on the enhancement of the educational system of this country which at present is an embarrassment even when compared to those Third World countries thought to be primitive in their thinking and technological progress.

Mr. Chairman, at the very least, some of the wasted funds could certainly be utilized to provide free school lunches for students whose parents are indigent or otherwise financially incapable of providing lunch money for them.

Indeed, every weapon system that we do not need but which we continue to fund will rob our citizens of their health care programs, our Nation of the opportunity to ensure that we can feed, clothe, and care for those who are homeless in our midst.

Mr. Chairman, a recent news article stated that, "[W]hile Democrats used to target their message to the poor and the underprivileged, they now are striving to appeal to the middle class."

The article proceeded further to recognize my commitment to champion the cause for the poor during my tenure in the U.S. Congress just as I did in the Philadelphia City Council. The sad thing now, Mr. Chairman, is that the so-called working class has now become the equivalent of the poor and we have witnessed the destruction of the working class.

Mr. Chairman, it is because of that commitment that I made to the poor upon taking public office that I unequivocally support the CBC alternative budget whereby the hope of decent affordable housing for Jane Doe is not an impossible dream and it is not an impossible dream to rehabilitate recreation centers across the country making them more appealing for our youth so that they can choose between hanging out on the streets getting into trouble or engaging in some form of constructive activity.

To that end, Mr. Chairman, I feel strongly that the relief offered by this alternative proposal will foster long-term enhancement of our Nation's productive capacity, including job creation, education, training, research and development, and many such measures.

Therefore, I agree and support the Congressional Black Caucus' proposal which instructs that we significantly reduce military spending to levels which match our new national security needs, reinvest these newly available resources on our education, infrastructure, health and other urgent needs, and provide tax equity by redistributing the wealthy's tax breaks to the working and middle-class taxpayers.

Mr. Chairman, America is in deep trouble. No doubt, the CBC alternative budget will help to straighten out that trouble—not only for Afro-Americans, but for Hispanics, Asians, Caucasians, Indians, and people of all color. Therefore, Mr. Chairman, I urge my colleagues to join me in support of the Congressional Black Caucus fiscal year 1993 alternative budget.

□ 1540

Mr. DELLUMS. Mr. Chairman, I yield 3 minutes to my distinguished colleague, the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, a year ago at this time we had the most popular President in American history with a 93-percent approval rating, better than the high water marks of FDR. At this time last year, the President submitted a budget calling for in excess of $300 billion worth of deficit.

Now, the reason why I am bringing that up is that I want to say today that the greatest sin in the history of the White House was that small room of advisers that looked at that President and said, "With this great popularity, don't muddy the water. Just go in there and submit a budget, Mr. President, because you will be re-elected."

Well, let me tell you what, it is a new ball game. That mistake cost this country our future. Had he submitted one that would have moved us toward discipline and said, "Congress, give me your figures," we would have been moving off today in the right direction today, but we are not.

Any one of these budgets will probably hit $500 billion worth of debt next year, a half a trillion dollars. I am only going to vote for one.

I want to congratulate the Black Caucus, because at least within this management of debt scenario, they try and develop a people's program for our country.

What is left, Mr. Chairman? What bothers me, we still do not do anything about foreign aid. I want to take $7 billion from foreign aid—I want you to listen to this, I want the help of the Black Caucus, and I want to reprogram $4 billion to revenue sharing for cities and counties and $3 billion for our schools, with a 10-percent advantage to inner city schools.

If you are telling me you do not have the money, I am going to buy it. I am not going to try and rewrite your budgets. I am going to try in the appropriation process to take $7 billion from overseas and put it back home.

I congratulate the Black Caucus. The Iron Curtain has turned into a vegetable strainer. The Berlin Wall is a speed bump, and we are still fighting unnamed Communists.

Thank God, there is some sanity here. I would wish that most Members would look carefully at all the budgets and look at the people element in this budget.

Mr. DELLUMS. Mr. Chairman, I yield 3 minutes to my distinguished colleague, the gentleman from Illinois [Mr. EVANS].

Mr. EVANS. Mr. Chairman, with the changes we are seeing in the Communist bloc countries in Eastern Europe, most of my constituents in western and central Illinois really wonder why the President wants to continue to spend massive amounts of money to maintain massive troop deployments in Germany and to build weapons systems that were designed to counter a Soviet threat. With the withering of that Soviet threat, I believe we can, as many of the speakers have proposed, reinvest in America, in education, workers' retraining, infrastructure improvement, and veterans' programs, and it is on veterans' issues that I would like to focus.

Tonight, perhaps as many as 250,000 veterans will be homeless in our country, and twice that many may be homeless sometime this year. The people who survived the desert war in Southwest Asia or the jungles of Southeast Asia now find that they have to fight the war on the brutal streets of the homeless in America. This means that veterans comprise about one-third of the homeless male population in our country, and yet veterans only receive about 5 percent of the money that is allocated for homelessness under the Stewart-McKinney Act.

Now, I do not want to see a redistribution of those funds. I want to see an increase in those funds, because even the program that we do have that are not targeted to veterans do help veterans and we need to increase that commitment.

We have also seen the deterioriation of the VA hospital system programs, both for the service-connected and the nonservice-connected veterans who have to use that system, people who have gone to the VA for decades, many of them, people who for the most part do not have health insurance and they have had continuity and care from the VA providers for quite a long time.

The major veterans' organizations are starting to recognize the problems that they are facing. Chairman TOWNS of the Congressional Black Caucus received a letter from one of the major veterans' organizations, the Disabled American Veterans, which Congresswoman MAXINE WATERS put into the RECORD, but I want to read a paragraph or two from the letter, which goes on to say:

DISABLED AMERICAN VETERANS,
Washington, DC, March 5, 1992.

Mr. EDOLPHUS TOWNS,
Chairman, Congressional Black Caucus, Washington, DC.

DEAR CHAIRMAN TOWNS: On behalf of the more than 1.3 million members of the Disabled American Veterans (DAV) and its Ladies' Auxiliary, I take this opportunity to express our sincere appreciation and gratitude to the Congressional Black Caucus for your recognition of the critical funding needs of the Department of Veterans Affairs (VA).

As you so aptly stated in your Fiscal Year 1993 Alternative Budget, "During the decade of the '80s, veterans' benefits were reduced significantly, in a real sense breaching the commitment the nation made to veterans as a recompense to their willingness to risk life and limb for country. These cuts have impacted many veterans in dire ways, particularly as regards to their health care needs."

We in the DAV know first hand how difficult it is to obtain quality VA health care and benefits delivery in a timely fashion. Our members continue to be subjected to nine-month waits for clinic appointments; delays in receiving medications and medical supplies; closed access to medical care because of staffing and equipment shortages; busy signals when calling the VA for benefits information and assistance; long delays in the adjudication of benefit claims; and the inability to receive vocational rehabilitation at the time it is most needed.

The $3.25 billion increase over the President's request for VA benefits and services in Fiscal Year 1993, called for by the Congressional Black Caucus, will go a long way toward improving the quality of VA health care and benefits' delivery deserved by our nation's service-connected disabled veterans, their dependents and survivors. Truly, the Alternative Budget put forth by the Congressional Black Caucus for Fiscal Year 1993 demonstrates, in a most meaningful way, its commitment to our nation's veteran population for their sacrifices in defense of this great nation.

Again, Chairman Towns, I thank you and the members of the Congressional Black Caucus for your efforts in recognizing the critical funding shortages in the Administration's Fiscal Year 1993 VA budget request.

Sincerely,

CLEVELAND JORDAN,
National Commander.

Another major veterans' organization, the American Legion, sent each and every one of us in Congress a letter, while not specifically endorsing this budget proposal, expressing its deep disappointment over the two budget resolutions. The letter reads as follows:

THE AMERICAN LEGION,
Washington, DC, March 3, 1992.

DEAR REPRESENTATIVE: The American Legion is deeply disappointed over the two budget resolution options now pending in the House. Both of them—characterized individually as Plan A (invest defense savings) and Plan B (stay within the walls)—absolutely ignore the needs of the nation's veterans.

At this time last year, our entire nation was breathing a collective sign of relief that the Persian Gulf War was over. While most of the nation was planning for "welcome home" ceremonies, many congressional members were beginning to look for ways to spend the expected "peace dividend". It's now obvious that those men and women who achieved the peace through their devoted military service and personal sacrifice are near the bottom of the list of dividend recipients.

Even Plan A, the option designed to invest defense savings, would allocate only 2.5 percent of the projected savings total to veterans programs. Of the 13 domestic program recipients under that plan, 8 of them would receive more of the defense savings than veterans programs.

Hundreds of thousands of men and women are now being forced out of the military into a stagnant job market, and there is recent evidence that even Persian Gulf War veterans are among the nation's homeless. Despite these circumstances, Plan A would use defense savings to dramatically increase Pell Grant educational assistance while doing virtually nothing for veterans who are GI Bill participants. The same option would provide almost $2 billion for expanded WIC and homeless services, but it recommends no money for VA's already-strapped homeless programs.

The American Legion urges you to take advantage of this opportunity to rearrange the nation's domestic budgetary priorities and, in so doing, to support the principle that veterans have the first claim to any savings attributable to a "peace dividend".

Sincerely,

DOMINIC D. DIFRANCESCO,
National Commander.

So Mr. Chairman, I urge my colleagues to support this proposal.

Mr. DELLUMS. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Ohio [Mr. STOKES].

Mr. STOKES. Mr. Chairman, I would like to commend the chairman of the Congressional Black Caucus, the gentleman from New York [Mr. TOWNS] and the gentleman from California [Mr. DELLUMS] for bringing the Congressional Black Caucus budget to the floor today.

Repeatedly, the administration's budget proposals have revealed with an uncanny clarity that the President simply does not understand the many problems facing American people. In recent months, we have witnessed the end of the cold war and the dissolution of the Soviet Union. These developments have made it possible for us to refocus our energies on domestic issues, such as employment, health, housing, and education. However, rather than seizing on the opportunity to address the special needs of poor and middle class persons, the administration proposes to serve us another plate of warmed-over Reaganomics. Our economy is struggling with a recession. In the inner cities of many States, we are in a depression. The President's proposal fails to address the current dismal economic state of affairs confronting our Nation, including increased unemployment and poverty. Human life and quality of life issues continue to go unanswered.

The Bush budget would fund domestic discretionary programs at roughly the same spending caps set by the 1990 budget agreement. Reductions in defense spending would be a nominal $4.8 billion and entitlement programs such as Medicare would be cut by more than $32.2 billion over a 5-year period.

Mr. Chairman, while the resolution proposed by the House Budget Committee is a vast improvement over the President's budget, it is the opinion of the Congressional Black Caucus that more can be done—that more needs to be done—that more must be done. Briefly, the CBC proposal will reduce fiscal year 1993 defense budget authority by $49.6 billion and defense outlays by $20.7 billion below the caps established by the 1990 budget enforcement agreement. The substitute also calls for tax relief for middle- and working-class families that would be paid for by tax increases on the wealthy and corporations. As a practical matter, enactment of the substitute will require enactment of legislation to eliminate the firewalls established by the 1990 budget agreement, so that savings from defense spending can be used to meet domestic needs.

In the areas of health and human services the elimination of these firewalls is paramount. According to the children's defense fund, more than 13 million American children live in poverty. Fewer of our children are vaccinated against wholly preventable diseases than in the past. For immunization of nonwhite children, the United States now lags behind 59 other countries, including Albania, Botswana, and Jamaica. In 1990, more than 40 percent—a total of 25 million—under the age of 18, lacked employer health coverage, even though more than 85 percent of all children lived in working families.

In addition to these trends, African-Americans and other minorities suffer an estimated 60,000 excess deaths annually. This disparity is even more alarming when we include in this discussion the numbers of African-Americans who are uninsured. African-Americans and Hispanics have accounted for 55 percent of the increase in the number of Americans added to the rolls of the uninsured between 1977 and 1987.

The CBC alternative would address these issues by providing: First, $10 billion for health care services to those who are without health care coverage or the means to secure health services; second, $250 million for drug-abuse education and prevention; third, $1.1 billion for HIV/AIDS research; fourth, $500 million for aids treatment; fifth, $500 million for preventive and dietary health education; and sixth, $1.5 million for Federal research agencies minority scholarship and loan repayment program.

In addition to these initiatives, the CBC substitute will provide substantially more funding in the areas of education, community development, transportation, job training, the environment, and the reduction of gang-related violence. Social Security and Medicare would be maintained at current service levels.

Mr. Chairman, in addressing the many issues facing this country, particularly the concerns of those in need of jobs, health care, education, and training, this is a time for confrontation, not retreat. The Congress is obligated to pick up the gauntlet the President has ignored, and exhibit the willingness and wherewithal to meet these challenges. The CBC alternative does what the President has failed to do—produce a budget which addresses the real needs of our Nation.

I am proud of the Congressional Black Caucus for the leadership it is giving to the Congress on this issue and I urge all of my colleagues to support the CBC alternative.

□ 1550

Mr. DELLUMS. Mr. Chairman, it is now my pleasure to yield 3 minutes to the distinguished gentlewoman from Hawaii [Mrs. MINK].

Mrs. MINK. I thank the gentleman for yielding this 3 minutes to me.

Mr. Chairman, 2 years ago when I contemplated running for Congress and returning back here to address the issues of the Nation, I dreamt of this opportunity to come to the well and to discuss in a meaningful way possible funding of all the programs the people of this country aspire to, but until this moment have always felt there were other priorities, other issues that always overtook their concerns.

For the first time since I have been here, having the opportunity to debate this alternative budget presented to us by the Congressional Black Caucus, I feel a sense of inspiration that there is something to look forward to, that all the people out there that write to us and agonize over the failures of our educational system, over the deficits of our health system, of the agony of the homeless, of the people who need housing and all the other assistance programs in our country, not to mention the millions today who are unemployed, for whom a job prospect is the wildest possible dream that they could have tomorrow. I hesitated a few days ago to vote for the tax alternative because it seemed to me that the words on a piece of paper that directed itself to the long view in the future, the trickle-down impacts of a tax bill, did not address the question of jobs tomorrow.

I look to this budget process as the opening wedge opportunity for all of us to finally look to the American people and say that jobs is what the budget process is all about, jobs and a building of the internal national security of our programs, built upon a confidence in our educational system. That is what the Congressional Black Caucus has presented to us.

We know perfectly well that the world has changed in the last 2 years and that it is perfectly legitimate to talk about building down our defense budget by a mere $50 billion when we are allocating $300 billion, and to take that $50 billion in a very modest way and to put that back into a jobs program and an education program and a training program and a housing program and a health program makes all the sense to me.

In my own committee, the Committee on Education and Labor, I thought: "Well, in my way I would like to fund about $5 billion each year for the next 5 years in educational programs."

This budget, I am so pleased to say, comes up with nearly $10 billion in education programs, $1 billion in education block grants, $2 billion in Job Corps, $2 billion in Head Start and $1.2 billion for the GI bill of rights.

These are the measures that expand opportunity in our country and build a lasting foundation for jobs and employment and internal security, which is what the budget process ought to be.

Mr. GRADISON. Mr. Chairman, I yield 8 minutes to the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. I thank the gentleman for yielding this time to me.

Mr. Chairman, I spoke last evening against the President's budget, and I rise today to say that the budget offered by the Democratic Budget Committee is marginally better than the President's with respect to deficits, but it is still sadly out of touch with what is needed to seriously address the budget crisis in this country. I'm going to vote no.

It is more than a little frustrating to be a part of Government today when we have a President who offers no leadership to reduce these crippling budget deficits, and when Congress is content to quibble over shades of small differences in budgets that don't really deal with these same crippling deficits.

Let me be clear. My criticism is aimed at both sides. We have a President who is charting a dangerous fiscal policy, and we have a Congress without the courage to confront the President and without the courage to stand up and prescribe strong medicine to put this country back on track. It is one thing for the President and Congress to make honest mistakes. But it is another thing for the President and the Congress to deliberately ignore the danger of a fiscal policy that I believe will cripple this country's economic future.

Let me be clear about the size of the deficits we are discussing. This year the deficit is expected to be about $473 billion. In the President's proposed budget, this year and the coming 5 years we will see budget deficits totalling $2.21 trillion. At the end of 1997, we will have a Federal debt of $6 trillion which will saddle our children and their children with a burden that they cannot overcome. I did not vote for the President's proposed budget, and I will not vote for the Budget Committee's budget. Both are out of touch with reality.

Is there a better way? Of course. It requires political guts, and it requires leadership. We could decide that we will not accept deficits totaling a billion dollars a day—every day for 6 years. We could decide to force a reconciliation in this country about what the American people want from their Government and what they are willing to pay for. We could decide that we are not going to pay for our allies' defense anymore, and save nearly $100 billion a year. We could decide to be serious about waste in the Federal Government, and Lord knows there is plenty of it. And we could start tackling deficits and waste as aggressively as we wage turf battles here in Congress, or do battle with the executive branch of Government.

The fact is the American people don't respect this Government because we are unwilling to offer bold solutions and take bold action to put this country back on track.

Yes, I understand there are some people in this country who send conflicting messages to their public servants. They want all of the spending programs, and they also want lower taxes, and the deficit reduced at the same time. It can't work that way. We need to decide to pay for what we spend. We need to ask two questions about public spending. Do we need it, and can we afford it? If the answer in either case is "no", then we can't keep spending.

I came to Congress believing I could make a difference, and wanting to change public policy in a number of areas. I still believe I can make that difference. If I didn't believe that, I wouldn't have the energy to wage the fights in public policy in which I am involved. But the institution of government is becoming too big, too wasteful, and too difficult to change. The American people are justifiably angry, because every time they turn around, there is another idiotic rule or regulation that stems from a well-intentioned law. There is another item of public spending that on its face seems totally unjustifiable. And there is inertia to virtually everything Government does that protects itself and resists change. I am as frustrated and as angry as most Americans about where we find ourselves and where we are headed, and I will not participate in business as usual. I will not vote for budgets or appropriations bills that continue down the road we are now on.

I have only one vote here in Congress, but with that vote, I demand a change. I demand leadership from the White House and from Congress to face facts, to sober up, and to develop a plan for this country's future that thinks big, and gives America a chance again.

Yes, I want to be one of those who supports investments in America. I see a hundred things that need to be done, and the sooner the better. But, just like a family or a business, or county, or a State, this Government cannot invest money it does not have. Investments come from savings, and savings come from an account that reconciles income with spending in a manner that produces the extra money available for investment.

Ogden Nash wrote a little four line poem that can probably be used as a metaphor for the President and Congress on fiscal policy. The poem is about a man who drinks too much, and a woman who nags. It goes:

He drinks because she scolds, he thinks.
She scolds because he drinks, she thinks.
And neither will admit what is really true.
He's a drunk, and she's a shrew.

We need to understand that we're all responsible for this problem. I am convinced that if enough of us say no, that we won't accept business as usual, that we won't accept $2 trillion in additional debt, then we can change things. I am convinced that this country has its best days still ahead of it. If only the President and all of us in Congress will stand and exhibit some courage to change the way things are done here in Washington, then we will put our country back on track. That we will and that we can do that is my hope. We need change, and we need it soon.

☐ 1600

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. DORGAN of North Dakota. I yield to the gentleman from California.

Mr. DELLUMS. Mr. Chairman, the assumption, the conclusion, that one might draw casually listening to the remarks of the gentleman from North Dakota [Mr. DORGAN] is as if the members of the Congressional Black Caucus and the Progressive Caucus are ignorant to the points the gentleman raises, and I know the gentleman, and I respect the gentleman, knows full well that is not the case. We have attempted to address the issue of the deficit. We said in an 8-year period there is a trillion dollar peace dividend.

Mr. Chairman, I am willing to enter into a discussion with the gentleman from North Dakota [Mr. DORGAN], or any Member of this Congress, to figure out how much of that $1 trillion over an 8-year period in cash money we should contribute to the deficit. I am prepared to do that. We have said that on the record, for the record, in the RECORD.

Second, we are saying that one of the factors that contribute to the deficit is the recession itself. Our approach at-

attempts to take us out of the recession. I say to the gentleman, "If you have a legitimate intellectual and political difference to us on how to do that, then I can respect it. But we've attempted to address the issue of the deficit and probably have tried to do it with more direction than anyone else."

Just one additional point on the deficit. The gentleman and I both agreed that one of the major contributing factors to the deficit is the skyrocketing cost of health. The gentleman knows that, and this gentleman knows that. We are spending in excess of $800 billion. Costs are out of control. Most people have indicated that, even if we found the trillion dollars in peace dividends, and we do not get a handle on health care costs in this country, all that money could be soaked up just dealing with that aspect of it. So, when the gentleman talks about the deficit, we also have to deal with all aspects of it. We attempted to do that.

Finally, I would hope the gentleman from North Dakota [Mr. DORGAN] would not be saying to me what has been said to me for 21 years: We want to solve the social and economic problems, but we are fighting the Soviet threat. Now I hear us saying we want to solve the social and economic problems, but it is the deficit. So, has the deficit now replaced the Soviet Union as the threat, or would the gentleman enter into a balanced approach of some money to the deficit and some money to the priorities of the country, and I am sure he will.

Mr. DORGAN of North Dakota. Mr. Chairman, I appreciate the comments of the gentleman from California [Mr. DELLUMS], and he knows that my feeling is that he is not ignorant of any of these points. That was not my intention to suggest that.

This is not the deficit we were talking about 5 or 8 years ago. This is a 500-pound gorilla. We are talking about deficits of enormous proportions, and my colleagues know that it is interesting that every year I have been here the same discussion ensues about the deficit. It is the sort of discussion he said, "Well, we'll discuss it later, about whether we're able to make this investment in human potential." It is always that we will discuss later what we will do about the deficit.

The problem is the deficit this year we are in is going to be $473 billion. The projection is, under the administration's budget, and to a lesser extent on the other two budgets, spending $1 billion a day, 7 days a week, 52 weeks a year for 6 straight years, ending with a $6 trillion debt.

Now I am telling my colleague in my judgment this country will not get well with that kind of a fiscal policy. Some way, somehow, someone, someday has to stand up and change it.

Mr. DELLUMS. Mr. Chairman, I thank the gentleman from North Dakota [Mr. DORGAN] for his generosity.

Mr. GRADISON. Mr. Chairman, I yield such time as he may consume to the gentleman from Maryland [Mr. MFUME].

Mr. MFUME. Mr. Chairman, for the last 6 hours I have been detained in a closed session, in a meeting of the Committee on Standards of Official Conduct in a matter of great importance that has reached some sort of consequence. As a result, I was not able to be here to participate in this debate. I support wholeheartedly, and I have worked toward the passage of this budget by the Congressional Black Caucus.

Mr. Chairman, I rise in support of the Congressional Black Caucus and the Progressive Caucus' quality of life alternative budget. Having just returned from the streets of my congressional district, I can attest first hand that the citizens of my State are being severely affected by our Nation's economic downturn.

The people of my district also delivered me a message. This message speaks to the extent and the nature of the ongoing suffering throughout our Nation.

Like never before State and local governments are tightening their fiscal belts and reorganizing their administrative departments just to cope with the increased demands caused by the recession and dwindling Federal support for domestic programs.

Mr. Chairman, yesterday I received some very disturbing information from the Maryland Governor's office. According to the Governor, more citizens have joined Maryland's welfare rolls than ever before. This increase has astonishingly seen the largest increase within one of our State's wealthier counties.

Additionally, a whopping 10 percent of the people in Maryland are on Medicaid, with the numbers steadily increasing. I am sure that other States are experiencing the same, and America runs the risk of seriously jeopardizing our future potential by not giving the people of this Nation what they both want and need.

Over the past few years I have worked increasingly with the Governor of Maryland and the mayor of Baltimore and Baltimore county executive to provide increased funding for housing and community development. Most of these efforts have centered particularly around economic austerity measures and economic stabilization.

Mr. Chairman, it behooves me how the administration can submit a budget request with a $500 million reduction in community development block grants, reductions in Medicaid and VA benefits without taking the plight of our Nation's States and local governments into account.

I support the Congressional Black Caucus/Progressive Caucus alternative because it discards the concept that America must keep a high defense budget to ward off unforeseen dangers in the world.

For me, the unforseen danger arises when our children do not have proper preparation to compete in the job market. The threats occurs when we do not have a national energy plan to address our dependency on foreign energy supplies.

Additionally, the greatest threat is the lack of dignity and confidence in Government that an unemployed worker feels when he or she is unable to work or even receive an extension in unemployment benefits.

Mr. Chairman, I support the large defense savings in the alternative budget because our Nation must begin the task of economic conversion and retraining. My State has a large defense industry and many spinoff jobs related to this industry. The spillover in the economy from the layoffs of defense jobs presents a formidable challenge.

As Congress prepares to tackle this challenge, we must always remember that there have been darker days. But if there is one thing that I have learned in my years as an elected official is that you must always feed and assist your people.

Former House Speaker Thomas "Tip" O'Neil coined the phrase "All politics is local." Well, if we don't heed the words of this great sage, we may risk damaging the public's image of this institution.

The question facing Congress during these trying economic times is the same question that has always faced national leaders What is the role of Government intervention and who should benefit? If you support helping the people you cannot overlook the Congressional Black Caucus/Progressive Caucus alternative.

Mr. Chairman, I want people of this Nation to feel secure and know that their leaders are debating their interests and concerns on the floor of this very House. America needs us today more than they have perhaps in the last 50 years.

I hear the pleas for help and pledge to do all I can to fix the economic machinery and do the right thing for America.

Mr. GRADISON. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Chairman, as my colleagues know, I have listened patiently to the debate on this substitute amendment that would decimate our national defense posture even more than does the Democrat budget that will be before us next. We went through all this for 7 hours up in the Committee on Rules yesterday. I do not know all of the details of this substitute and how it would affect the 2 million young men and women who presently serve in our military, but I do know how the Democrat budget would affect them.

As my colleagues know, I met with Secretary Richard Cheney yesterday morning, and we talked about all of these amendments. We talked about the amendment of the gentleman from California [Mr. DELLUMS], and I have great respect for the gentleman, as he knows. But Secretary Cheney told me, "GERRY, you know, if the Democrat budget is enacted, it's going to be a disaster."

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And he went on to enlighten me as to the reasons why. The one thing that struck me then and that struck me later as I sat in my office for the last 3 hours listening to this debate was the talk about jobs. We discussed the issue of jobs yesterday in the Rules Committee, and I was so taken aback and I felt so offended because so many people where insinuating or inferring that military jobs are not real jobs, that a military career is not an honorable career. They seemed to be saying that because a military career is associated with the words "war" and "death," somehow it is not an honorable career. I really just became very upset.

But what Dick Cheney told me—and we all have great respect for him; there is not a partisan bone in his body—was that under his proposal to Congress and in the President's budget they are going to be cutting our defense budget by 25 percent over the next 5 years. That alone is going to require laying off or furloughing 25 percent of the 2 million military personnel we have today serving our country. Twenty-five percent of 2 million is 500,000 over a period of 5 years. That is what the President's budget does; and that is hard enough. But the Democrat budget before us would increase that figure to 500,000 in just 1 year.

I do not know how many Members have kids or family members in the military, but 500,000 people are going to be laid off in the next 12 months without jobs to fall back on. Just think about that.

Mr. AuCOIN. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I am glad to yield to my good friend, the gentleman from Oregon.

Mr. AuCOIN. Mr. Chairman, I appreciate the gentleman's yielding.

I am sure the gentleman is not making the argument that the defense budget of this country ought to be a jobs program. I think it ought to be tailored, and I would think the gentleman would agree, with the threat that exists in the world today. So if the gentleman is critical of the extent of the cuts on the military spending side that he sees in this alternative, I would like to know what the nature of the threat is that he sees that justifies higher numbers.

I have seen the wall fall. I think America has seen Eastern Europe grow independent. The Soviet Union is no longer the Soviet Union. There is no longer a Warsaw Pact. There are unilateral cutbacks in offensive strategic nuclear weapons.

I have great respect for the gentleman, but to stand on the floor and simply talk about job losses is a little bit like, it seems to me, in post-revolutionary France talking about the number of people being laid off who used to make guillotines. They decided to do away with guillotines and the job loss was accepted in post-revolutionary France because there was a better way to employ people.

I think we are making the argument today that there is a better way to employ people than building MX missiles or weapons systems that are beyond what we need to defend America, and I think that is the way we ought to structure our defense budget.

Mr. Chairman, I think the gentleman would agree or I hope he would agree, but I do not hear him arguing that way.

Mr. SOLOMON. Mr. Chairman, let me say that the gentleman has so inspired me that I am going to give him an answer, and I hope he stays around and listens because I am going to speak to that very issue. I am going to talk about the need to provide an adequate defense for America and at the same time provide these jobs. I am so inspired by this debate that I am going to give the speech that I gave last night to the National Veterans of Foreign Wars. We had, I think, over 100 members from Oregon out of the 2,500 present last night, and they all got up and cheered after I finished saying what I am about to say again now.

So I am sure the gentleman will appreciate that, and I will send him a copy of this speech. I did receive last night the Congressional Award. It is one of the finest awards that I have ever received in my life, and I have received most of them from all the major veterans' organizations over the last 5, 6, and 7 years.

But let me just tell you what I told them. I just happen to have the speech here, and I really appreciate the gentleman's getting me excited enough to give it.

I told the Veterans of Foreign Wars that their greatest accomplishment in the 1980's was their never-ending support of the peace-through-strength philosophy for a strong national defense second to none. "And we are going to keep it that way, guys." The peace-through-strength concept stopped international communism dead in its tracks. It brought the Soviet Union to its knees, as the gentleman mentioned, and it is the very reason that democracy is breaking out all over this world today. It is the very reason that our military in magnificent fashion, led by Gen. Norman Schwarzkopf, was so successful in Operation Desert Storm. And we can be so proud of those young men and women and the wherewithal we gave them to fight with because of the peace-through-strength policy.

I went on to tell them—and I will get to the point now that I am going to make—that the threat to American freedom is still present. Does anybody think it is not there? Yes, the Berlin Wall has fallen thanks to Ronald Reagan and peace-through-strength and this Congress which backed him up. The former Soviet Union is no more.

But, Mr. Chairman, the cold, hard fact is that tens of thousands of armed nuclear missiles are still pointed at America, nuclear warheads pointed at your city and mine, at my children and your grandchildren. Four million Soviet troops are still in uniform, and they are still armed with all the conventional weapons. They remain in uniform, and the new Russian confederacy is still volatile. It is still hostile. It is still unstable. Nobody knows the future of it. Nobody knows what is going to happen to that so-called new Russian confederacy.

Mr. Chairman, there is something else out there. The gentleman from California [Mr. DELLUMS] is serving on the Intelligence Committee, and he has the same information that I have. We know there is the very serious threat that no less than 10, and maybe even more, anti-American terrorist countries have a nuclear missile capability or are on the verge of having a nuclear missile capability.

I ask the gentleman to go upstairs to the Intelligence Committee and see what they say about Libya and what is happening there. And I say to my friends that any one of those countries would not hesitate for a minute to launch a sneak terrorist attack on Americans both here in the United States and overseas, where our people do not have the ability to protect themselves.

And, of course, there is something else we need to be concerned about. I hear all this stuff about the cold war being over, and, yes, we have made great strides. But we know there is something still out there that is called deadly atheistic communism, which still enslaves nearly half the population of the world.

The last time I looked, Cuba was still enslaved, so was North Korea and Vietnam, and over a billion people in mainland China.

Mr. Chairman, as I told the VFW the other night, this is why we must never let down our guard. We must never again let America go undefended as we did in 1941, on December 7, and we are not going to.

Mr. AuCOIN. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I cannot yield until I have finished. I will be more than glad to yield later. We reserved some time over here so we could have a little give and take. I really enjoy this, and I do have great respect for the gentleman.

We must absolutely continue to maintain a peace-through-strength national defense that can guarantee the protection of America and our interests overseas.

Yes, while we are still protecting America, we can reduce our defense budget within reason, but only within reason, as Secretary Cheney and Gen. Colin Powell have recommended. And, yes, most of those savings should go to reducing the unconscionable deficit that is ruining the economy and causing unemployment around the country.

Mr. AuCOIN. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. No; I will be glad to yield when I am through, and that will not be very much longer now.

I might say this to the gentleman: If there are any defense savings that are not applied to reducing the deficit, they ought to go—and I will work toward this with every ounce of strength I have—directly toward restoring the Department of Veterans Affairs Hospital and Health Care Programs to a funding level that will guarantee our Nation's obligations to provide the highest quality medical care to any—I repeat, any—sick and disabled veterans. And we will do it in veterans' hospitals, not under a so-called national health care program that wipes out all the veterans' hospitals. I say to my colleagues, "That ain't going to happen."

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Mr. Chairman, we are getting to the point that the gentleman from Oregon [Mr. AuCoin] brought up, the issue about job programs in the military. I am going to tell you about that. Mr. Chairman, I am going to tell you about that.

We must fight to make sure that the future veterans of America, including the young men and women serving in our all-volunteer military today—all volunteer, every one of them brave and young volunteers—continue to be—and this goes back to Desert Storm—continue to be the brightest, the best educated, the best trained, the best equipped, and the most highly motivated young men and women that I have ever seen in the military. And I have been associated in one way or another with it for 40 years.

Mr. Chairman, we must make absolutely sure that these volunteers, coming from the inner cities of America, coming from the suburbs, coming from the farms, coming from all across America, have an opportunity—listen to these words—an opportunity to serve proudly and honorably in the military. And these are honorable jobs. These are not makeshift, unreal jobs. I get furious when I hear that.

Mr. Chairman, the military is where the young men and women serving today can accumulate up to $25,000—listen to this now—$25,000 of educational benefits through the Montgomery GI bill. The gentleman from Mississippi [Mr. Montgomery] and I helped put that bill through, and hundreds of thousands of young men and women are taking advantage of it who never would have had the chance.

Mr. Chairman, this is my whole point that I want to make: we talk about job programs and the need to teach our kids something. If they enter our military today, these kids learn something desperately needed in America today: they learn how to be good citizens.

I know a lot of people do not associate the military with good citizenship. Well, let me tell you about it. In today's military our young people learn things all too often neglected in our schools today, for whatever reason. Our teachers have to spend 75 percent of their time parenting because these poor kids do not have two parents at home. They are lucky if they have one, and many of them do not have any.

Mr. Chairman, do you know what they learn in the military? They learn, my friends, discipline, and they learn respect. They learn teamwork, and they learn responsibility.

Think about those words. They learn about the importance of being polite and courteous. Polite and courteous. They learn to live by the rule of law, quite often for the first time in their entire lives. These young kids of 18, 19, and 20, were never taught what the rule of law means, how to be law-abiding citizens.

Do you know something else so terribly important? They learn not—I repeat, not—to use illegal drugs. My God, is that not wonderful? We all know what has happened to drug use in the military, where it has been reduced from 25 percent of personnel in 1982, down to 4 percent today.

That is our military. That is the kind of kids we have today. They learn the meaning of words like pride and patriotism.

I know, someone will say, "You are waving the flag." Those words to me mean more than anything else in the world.

And let me tell you something else: they even—more often than not—learn a little religion. What do you think about that? In the military. In this awful, awful military that some people talk about, they learn about religion.

I have talked with our military personnel. I have talked to them in Brooklyn and South Bronx. I met with them over in Saudi Arabia. Many of them are from inner cities, from broken homes, from middle-class America, from all walks of life. They join the military, they become good citizens, and they learn these terribly, terribly important principles they somehow missed back home and they somehow did not get in school.

Mr. Chairman, this brings me to my very point. When their enlistment is over, when they have turned in their uniforms, when their service is done, they return to where? They return back home to Brooklyn or the South Bronx, or to Boston, MA, or to my hometown of Glens Falls, NY, or wherever they came from And they take with them these ingrained principles that I have just outlined. I do not have to repeat them all. They take with them those ingrained principles. And they spread them throughout their community, throughout their town, and they teach it to their peers and to the younger generation.

Mr. Chairman, I have great respect for everybody in this body, on both sides of this aisle. I really do. You are fine men and women. But I just get so exercised when I hear people knocking our military.

We are not going to allow this defense budget to be debated. We will maintain a strong national defense. We are going to do that. It will guarantee that jobs in our military are real. They are not fiction. They are just as real, Mr. Chairman, as our jobs. As a matter of fact, America could do without any one of us, but it cannot do without our military young men and women serving today.

Mr. Chairman, please excuse me for being so exercised, but I just had to let Members know how I feel. I hope Members will defeat this amendment and the Democrat budget and instead support Dick Cheney and Colin Powell, the people who really know what we need to maintain.

Mr. AuCOIN. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Oregon.

Mr. AuCOIN. Mr. Chairman, I appreciate the gentleman yielding.

Mr. Chairman, I think it is a sad state for any society that we paint a future for that society in which the young children acquire all the virtues and values that the gentleman from New York [Mr. Solomon] has just described only if they pick up arms.

Mr. SOLOMON. Oh, no.

Mr. AuCOIN. Mr. Chairman, what this budget does that we are proposing is to invest in education and Head Start. We are talking about increasing Pell grants for the acquisition of skills in college so that our kids can acquire not only values, but the kind of training that will meet the new threat, the threat in the 21st century. That is a security threat just as real as any we knew in the cold war, that long twilight struggle that JFK described. And that threat is an economic threat, one that comes out of the Pacific rim, one that comes out of Europe. It is an economic threat in which our workers can be dislocated if we do not train our workers and make them the highly skilled workers they are going to have to be in order to compete and command the jobs that a thriving economy provides.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, I thank my friend from New York for yielding.

Mr. Chairman, I am impressed, seriously, with the passion and commitment of the gentleman from New York [Mr. Solomon] to the brave young people who do volunteer. Obviously there are benefits. There are also risks. People that volunteer know at any time they may be put at risk and have their lives disrupted.

But I was impressed, seriously, with the description of the gentleman from New York [Mr. SOLOMON] of the beneficial effects of the military experience. I think that is right.

Mr. Chairman, I think one of the things that those of us that may think it should be small ought to be very careful not to do in any way is to denigrate the military. All those things the gentleman from New York [Mr. SOLOMON] said are correct.

But as the gentleman described the importance of the military experience, the advantages it can mean for our young men and women, the ability to which it can help improve them, I do have to ask him, does the gentleman not agree then that it is a good thing that if any of the young people in this country are prepared to abide by the rules of the military—follow all the rules and deal with them—that they ought to be given that opportunity? Will the gentleman from New York [Mr. SOLOMON] agree with that?

Mr. SOLOMON. Mr. Chairman, reclaiming my time, I do not know if I really understood the question. But I think I agree with the concept of what the gentleman from Massachusetts [Mr. FRANK] is saying.

Mr. FRANK of Massachusetts. Mr. Chairman, if the gentleman will yield further, the question is whether or not we ought to have a uniform rule that the enormous valuable experience that the gentleman from New York [Mr. SOLOMON] has described, the ability to serve your country and benefit from it at the same time, ought to be available to anyone who would participate.

I would say to the gentleman that that is why many of us feel that an exclusion based upon people's sexuality is in fact an unfair denial of that opportunity. I would ask the gentleman from New York [Mr. SOLOMON] and others to consider, as the gentleman talked quite eloquently, passionately, and correctly, in my judgment, about what an important aspect of the citizenship experience that is, whether or not it is unwise to deny that in a blanket way to a significant class of our fellow citizens, no matter how much they might be able to comply with the rules?

Mr. Chairman, I would ask the gentleman from New York [Mr. SOLOMON] what he thought about that?

Mr. SOLOMON. Mr. Chairman, reclaiming my time, I just think the military is an all-volunteer military, and certainly law-abiding American citizens should be allowed in our military. I support the existing standards that allow any qualified, able-bodied American to serve honorably in our Armed Forces.

At the same time, I do not mean to in any way try to insinuate that our military is made up of young kids who come from just the inner cities or just broken homes, because, as I said in my remarks, they come from a real cross-section of America.

□ 1630

But the point is that when they do go home, they return home as good citizens and they are able to teach this to the new generation. I just think it is so terribly important.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield one last time?

Mr. SOLOMON. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Again, I am sure the gentleman from New York was not going to try to insinuate anything, because I have known the gentleman for 11 years, and he is not an insinuator. He is occasionally a table-pounder, but he is always up front, and insinuation is not one of the gentleman's habits.

I appreciate what the gentleman said. I want to say to my friend, the gentleman from New York, that that is why many of us are deeply troubled by a policy that says to gay men and lesbians that no matter to what extent they are prepared to abide by the rules, like anybody else, they are absolutely from the outset unable to participate in that important experience, and that is why I would appeal to my friend to rethink that policy, because I think he more than anybody I have heard recently has pointed out how unfair that can be to young men and women who are prepared to be treated like everyone else and are denied the opportunity he has so eloquently described.

Mr. AUCOIN. Mr. Chairman, will the gentleman yield to me?

Mr. SOLOMON. I would be glad to yield to the gentleman from Oregon, but I think I am out of time.

Mr. AUCOIN. Mr. Chairman, if the gentleman has the time, I would like the gentleman from New York to just respond to this question again. I listened very carefully after I asked the gentleman to describe the new national military security risk as we have come out of the cold war era and faced this brave new world. What I really heard him talk about were the values that come and the benefits that come to people who serve.

Mr. SOLOMON. That might not ordinarily be there.

Mr. AUCOIN. I do not dispute the fact that there are values and benefits that come when one serves, because I did serve. I volunteered and served for 3 years myself.

Mr. SOLOMON. Yes; I know the gentleman did.

Mr. AUCOIN. But, Mr. Chairman, that is no argument for building a large standing army.

Mr. SOLOMON. Absolutely not.

Mr. AUCOIN. If we took that to its logical extreme, we would quadruple the Army and starve every other part of our forces. Our forces, notwithstanding those benefits to the individuals who served proudly, ought to be designed against a threat.

When I joined the Subcommittee on Defense of the Committee on Appropriations, I was told that our military budget was designed and the foundation of it was that we would be prepared to fight a global nuclear war, that we would be able to fight it on a prolonged basis, and that we would be able to prevail. I guess that means to win.

However ridiculous that might have been at the time it was proposed, I would submit that fighting, preparing, and investing our resources today in a military budget that is unchanged substantially from where it was in the cold war to in fact fight a global, protected nuclear war in which we think we could win makes absolutely no sense in the world.

The threat has changed. Because it has changed, with no denigration whatsoever to the proud people in uniform, I think we can make valid arguments that the investments in the military ought to be reduced and we ought to transfer those investments into human capital, the kind of human capital that is going to be the next test for America's security. It is the economic threat coming out of Europe, coming out of Japan, that will determine whether or not we remain a superpower in an economic sense. That is the nature of the security threat we need to face today.

If we continue to overinvest in the military, walking backward into the future, we will be a muscle-bound blind giant and we will be defeated on the economic battlefield. That is what frightens the death out of the American people, workers who are dislocated today and who worry about what their future is tomorrow. Do not tell them that the Army is their answer, because that is not their answer.

We need to train engineers, we need to train mathematicians, we need to train high-technology people, we need to train people working in steel and rebuilding these basic industries here. That is what this budget is beginning to do, and the President's budget, regrettably, the one the gentleman from New York supports, does not do. So I thank the gentleman for listening to my questions.

Mr. SOLOMON. The gentleman from Oregon makes very cogent remarks and he knows I have deep respect for him. We are not talking that much differently, except for my point that it is always better to be overprepared than underprepared. Any time we have been underprepared it has always cost tens of thousands more lives; and Desert Storm is the perfect example for being well prepared.

With the peace-through-strength policy that we developed, when we gave the military the Stealth bomber, when we gave it the F-17 fighter bomber, when we gave it the Patriot missile, the Tomahawk missile, and the night vision that the enemy did not have, we came out of the Persian Gulf with less than 500 deaths on the battlefield. God forbid there were any, but there were so few because we were well prepared.

We are not going to let ourselves be unprepared. We are going to keep a strong national defense. A 25-percent cut recommended by President Bush and by Secretary Cheney and Colin Powell is reasonable, while still being able to defend America's interest.

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I am glad to yield to my good friend, the gentleman from California.

Mr. DELLUMS. Mr. Chairman, I thank the gentleman for yielding. I tried to listen diligently to my colleagues. I respect the gentleman's point of view. I respect his passion. I would simply like to respond on two points.

No. 1, on this side of the aisle, certainly to those of us who are the proponents of this budget, "antimilitary" is a non sequitur. That is not how we arrived at our position.

The logic of our position is very straightforward. We are saying that the military budget is not a jobs bill, the military budget is a response to our legitimate national security needs.

Mr. SOLOMON. I agree.

Mr. DELLUMS. Our national security needs are based upon our objective assessment of what our threats are out there. We said, as the threat has now either vanished, on the one hand, Warsaw Pact, or diminished, on the other hand, the Soviet Union, that our national security needs have now changed as a result of the changing threat assessment, and that means a diminished threat, because for four and one-half decades the Soviet Union-Warsaw Pact has been the linchpin of a high level of military readiness for all that period of time, so the threat is now down, and the curve of the military budget will go down.

But we are also practical people. We understand if we are going to activate troops or we are going to cancel military weapons contracts that is going to mean people are unemployed. That is real.

Persons who will be dislocated as a result of the military budget going down, because it is a legitimate response to our national security needs, are a matter of concern. Our response to that in very legitimate terms is to deal with a robust effort in economic conversion, on the one hand economic conversion in the context of the military itself. We said in that regard we ought to have a new GI bill, make it aggressive and progressive like the GI bill the gentleman from New York and I went to school on.

Mr. SOLOMON. That is right.

Mr. DELLUMS. When we came back from the military. We ought to have a housing allowance.

Mr. SOLOMON. The gentleman from California was a good marine, too.

Mr. DELLUMS. I thank the gentleman. I do not talk about that very often, but that is part of my life as well.

We also ought to have housing allowances. We ought to have job training. We ought to have opportunity for people.

On the other side of it, as we convert from a military budget that exceeded $300 billion in a world that seems to be screaming out for peace, that one way to capture these folks is to create new opportunities on the nonmilitary side of the economy.

So when the gentleman says that these are real jobs in the military, we do not quarrel with that. We are simply saying if the military budget is going to go down because the threat level has gone down and our national security interests have changed, that if those persons are going to be replaced then let us replace them with other kinds of jobs on the nonmilitary side of the sector.

The final point, we are not talking about makeshift employment. My philosophical view is this. A society cannot generate jobs in vacuum. We generate employment as a byproduct of our commitment to address other social problems. When we expand education, we will generate employment. When we deal with housing in this country, we will generate employment. When we engage in mass transit system development, we will generate employment. When we rebuild American cities that are decaying on a daily basis, we generate employment. When we rebuild the economic infrastructure of this country, we generate employment.

Those are not makeshift jobs, those are jobs that will increase the quality of life in this country and enhance our competitiveness on an international basis, and that is indeed the cornerstone, the linchpin, the underpinnings of the budget we have offered and laid out here for the American people to look at for 8 consecutive hours.

I thank the gentleman for allowing me to make that statement.

Mr. SOLOMON. Mr. Chairman, I will include for the RECORD as part of my statement the statement of the Director of the Central Intelligence Agency before the Committee on Foreign Affairs in the House of Representatives, on February 25, 1992.

I just wish that every Member of the House could take the time to read this report. It talks about military posture, it talks about the prospects for arms control treaties, it talks about the proliferation of weapons of mass destruction.

It talks about the danger of technology leakage from the Soviet successor states going into these terrorist states that I was mentioning earlier. It goes on to talk about China, mainland China, having been such an important exporter of ballistic missiles, nuclear reactors, and related technology. These are facts. I could go on and on with this report, but time is running out.

STATEMENT OF THE DIRECTOR OF CENTRAL INTELLIGENCE BEFORE THE FOREIGN AFFAIRS COMMITTEE, U.S. HOUSE OF REPRESENTATIVES, FEBRUARY 25, 1992

Mr. Chairman, I welcome this opportunity to discuss some of the foreign issues relating to our national security and other national interests.

I will look first at developments in Russia and the other Soviet successor states.

I'll then turn to the issue of proliferation of weapons of mass destruction.

After that I'll mention developments in regions where our country has vital interests.

Finally, I will talk about other issues and areas where our government, and consequently the Intelligence Community, is deeply engaged.

PART I—THE SOVIET SUCCESSOR STATES

Political and economic developments

The reforms in the successor states face rough sledding. Though Russian President Yel'tsin still enjoys considerable popular support, opposition is mounting to the pace and scope of the economic reform program. Russian Vice President Rutskoy has called the program a prescription for disaster and urged the imposition of an emergency regime.

The freeing of prices earlier this year resulted in modest boosts in the availability of goods, but scarcities remain widespread and many items are now beyond the reach of those with diminishing incomes.

Only minor progress has been achieved so far toward privatization. Economic reformers in Russia, Ukraine, and the other republics confront resistance from local leaders—many of them holdovers from the old regime—who oppose economic and political reform.

Despite these troubling signs, the Russian leadership appears committed to staying the course. The Yel'tsin government has raised wages, pensions, and some social welfare spending in an effort to blunt domestic criticism, but so far it has not compromised on his basic program.

Signs in the other former Soviet republics of a commitment to reforms are encouraging. As in Russia, however, those efforts must overcome the challenge of an increasingly vocal, and hostile, opposition to marketization and democratization.

Members of the Commonwealth differ strongly about its role. All believe the CIS should control the strategic nuclear weapons. Beyond that, there appears to be little agreement.

The Russian leadership has argued that the Commonwealth should have a broad role in coordinating economic, military, and foreign policy.

Other republics, particularly Ukraine, think the only CIS role should be to control the strategic nuclear forces.

Most of the republics, wary that Russia will dominate the CIS, are pursuing bilateral ties with other states. But we think the successor states will find they need the CIS—or some alternative multilateral mechanism—to coordinate mutual economic activity.

The potential for conflict is rising. Despite some longstanding ethnic animosities and the rapidity of political and economic change, there has been relatively little ethnic conflict during the past few months. The increasing level of violence in the

Transcaucasus, however, is just one indication of the many simmering ethnic tensions that pose a long-term threat to the stability of the former Soviet republics.

The continuing dispute between Russia and Ukraine over the disposition of the Black Sea Fleet and the nature of the Commonwealth is just one indicator that the road to establishing stable, cooperative interrepublic relations will be difficult. Although republic leaders recognize the need to cooperate, they continue to have fundamental differences over the sharing of power and resources.

Furthermore, even if the leaders are willing to compromise, now that the coercive restraints on their conduct have been swept away, many citizens of the new states are venting long-suppressed ethnic animosities: they are not yet ready to embrace ethnic harmony, even if it is in their economic self-interest.

All the successor states want good relations with the United States. Consequently, they have assured us of their commitment to economic and political reform, continued adherence to international agreements—particularly arms control agreements, and observance of human rights. Several areas of concern, remain, however. The members of the Commonwealth have not yet resolved all matters regarding ratification and implementation of arms control agreements. I will say more about this in a moment. They also continue to disagree over how to divide up the debt of the former U.S.S.R.

Military developments

The strategic forces are still formidable, but we foresee a reduction in strategic forces to well below START levels and major alterations in military doctrine, force goals, weapons requirements, and operations.

President Yel'tsin has proposed an arms control agenda that include a reduction to 2,000–2,500 strategic warheads, less than half the level permitted by START.

Conscription shortfalls are beginning to affect even the strategic forces. Some units of the elite Strategic Rocket Forces are, by their own admission, at least 50 percent under strength. The submarine force is experiencing training deficiencies and an outflow of junior officers.

Operational deployments of many elements of the strategic forces appear to have declined.

On the other hand, some strategic force development and production programs are continuing.

SS–18 ICBMs continue to be produced in Ukraine and deployed in Russian and Kazakhstan. Production may cease after the current run; Ukranian officials claim there are no new production orders.

As of earlier this month, road-mobile SS–25 ICBMs continued to be produced in Russia. Some were deployed in Russia and Byelarus as late as last December.

In addition, several new strategic ballistic missiles are still in development.

The general purpose forces are fragmenting. They are at their lowest readiness level in decades.

These forces are being subjected to enormous material, psychological, and political pressures as the new republics reform their economic and political systems and sort out their interrelationships. Ukraine, Azerbaijan, and Moldova reject the idea of the CIS controlling the majority of the general purpose forces; they intend to form independent national forces from former Soviet units and equipment based on their territories. At the recent meeting of the CIS heads of state in Minsk, Byelarus reiterated its intention to have its own army but agreed to participate in a joint CIS force for a transitional period.

Complicating the relationship is the distribution of the former Soviet military units, equipment, and infrastructure in Russia, Ukraine, and Byelarus. As a result of Soviet military deployments during the Cold War, Ukraine and Byelarus now have what Russian leaders regard as disproportionately large shares of these assets. They believe that Russia's larger size and greater global status justify giving it more of these assets than the leaders of the other republics want to give up.

The former Soviet Union's nuclear weapons are being consolidated into Russia. Many of the tactical nuclear weapons have already been transferred there; by the late 1990s, all of the remaining strategic nuclear weapons will probably be in Russia as well. Currently, several thousand nuclear weapons are still located at well-secured installations in other republics.

But we face a period of uncertainty as Russia and the other nuclear republics sort out possession of the weapons and establish new structures and procedures for controlling and operating them. For now, Yeltsin and the General Staff retain control over all nuclear weapons through an elaborate and effective system of safeguards operated in the name of the CIS by the Ministry of Defense and the General Staff. But the military is being subjected to unprecedented stresses that the control system was not designed to absorb. The responsible personnel have many of the same economic problems and nationalist aspirations as their civilian countrymen.

Dismantling nuclear weapons will be difficult and costly and will take many years. There are several facilities capable of this task, all located in Russia. We are working with the Russians on ways to expedite the elimination of thousands of nuclear weapons.

Meanwhile, even a diminishing strategic arsenal will still be capable of devastating the United States or other countries. Therefore, as long as there is any possibility that turmoil in the region could stimulate the emergence of a new, hostile regime, the remaining strategic weapons will constitute a danger to us.

Defense spending is plummeting. For the first quarter of this year, Russia's defense budget amounts to about 50 billion rubles. Annualized and adjusted for inflation, it would be about a third as large as last year's official defense budget for the entire Soviet Union. If the other CIS members contributed proportional shares, which we think unlikely, the total would be about half of Soviet defense spending last year. At Yeltsin's behest, parliament has cut military procurement spending in the first quarter by about 85 percent.

Although work continues at defense plants and R&D organizations, many defense enterprises have experienced funding shortfalls since last autumn, when republics stopped contributing to the union budget. They have also had to cope with loss of priority status, supply disruptions, and rising prices for raw materials and components. Enterprises have been trying to compensate by introducing or increasing output of nonmilitary goods, but most are having little success, leading them to look to arms exports as a source of needed revenue.

Prospects for the Arms Control Treaties

Prospects for implementation of the START Treaty appear reasonably good, given Russian leadership and control of strategic nuclear forces. The Governments of Russia, Ukraine, Byelarus, and Kazakhstan have declared their intent to abide by the START Treaty. Officials of the new states support the Treaty, because it provides a mechanism to ensure that reductions in strategic weaponry are accomplished in a prescribed manner and timeframe.

We anticipate some failures to meet Treaty deadlines and confusion over localional restrictions, required notifications, and inspection procedures. But these difficulties will be an outgrowth of the unsettled conditions in the new countries rather than calculated efforts to evade provisions of the Treaty.

The detailed inspection procedures were designed to inhibit cheating, but that will be less of a concern than anticipated, at least for the next several years. The successor states lack both the motive and the economic wherewithal to engage in militarily significant cheating; moreover, because of their greater openness compared with the former Soviet Union, cheating would be much harder to conceal.

Ratification and implementation of the CFE Treaty face greater hurdles. Even though the successor states have declared their intention to abide by the Treaty's terms, they disagree on how to divide up the equipment allocated to the former Soviet Union under the CFE Treaty. They are under pressure to resolve the outstanding issues by July, when the CSCE summit is scheduled.

Implementing the CFE verification measures, such as information exchanges and on-site inspections, will be complicated by the need to deal with eight states rather than one. As with the START Treaty, however, the likelihood that militarily significant cheating could occur without being detected has become insignificant.

PART II—PROLIFERATION OF WEAPONS OF MASS DESTRUCTION

Today, more than 20 countries may have or may be developing nuclear, biological, or chemical weapons and the means to deliver them. Several have goals inimical to US interests.

As you know, we try in many ways to prevent the spread of technologies associated with weapons of mass destruction. But this is difficult, because many of them are so-called "dual use technologies"—that is, they have legitimate civilian applications. Unduly restricting trade in these technologies would mean limiting the ability of developing nations to modernize. For example, chemicals used to make nerve agents are also used to make plastics and pesticides. A modern pharmaceutical industry could produce biological warfare agents as easily as vaccines and antibiotics. Much of the technology needed for a ballistic missile program is the same as that needed for a space launch program.

The threat from weapons of mass destruction is increasing. Currently, only China and the CIS have surface-to-surface missiles that can reach US territory directly. We do not expect any other countries to develop the capability to threaten US territory with air- or missile-delivered special weapons for at least another decade. But there is a growing threat to Europe, the Middle East, and Asia.

US or multinational forces deployed abroad could face an increased threat of air-delivered nuclear weapons before the end of the decade. In addition, several countries already have missiles and rockets that could carry nuclear warheads; in coming years other countries will acquire such missiles, and some may try to arm them with nuclear warheads.

Most of the major countries in the Middle East have chemical weapon development programs, and some already have stockpiles that could be used against civilians or poorly defended military targets. Most countries have not yet equipped their delivery systems to carry weapons of mass destruction, but over the next decade, many countries—from North Africa through South Asia—will do so if international efforts to curtail this fail.

North Korea and possibly other countries may export extended-range missiles and the technology to produce them. Countries with special weapons that succeed in buying these missiles will accelerate the special weapons arms race already under way in the Middle East and South Asia.

The danger of technology leakage from Soviet successor states

Our government is leading an international effort to prevent, or at least minimize, the leakage of special weapons, materials, and knowhow from the Soviet successor states. President Yel'tsin and most of the other republic leaders have announced policies to prevent a hemorrhaging of technology, especially in the nuclear realm. Notwithstanding numerous reports and rumors, we are not aware of any significant transfer of such technology so far. But life has become so difficult in the successor republics, for both industries and individuals formerly associated with Soviet special-weapons programs, that we fear some may listen to the siren songs of Third World states that want such weapons.

The potential brain drain is probably the greatest danger. We estimate that nearly a million Soviets were involved in nuclear weapons programs in one way or another, but probably only a thousand or two have the knowhow to design nuclear weapons. Probably a few thousand have knowledge or skills applicable to the development and production of biological weapons. We worry most about individuals whose skills have no civilian-job counterpart, such as nuclear weapons designers and BW experts, for whom assistance mechanisms have not yet been put in place. They were well treated under the Soviet system, and will find it hard to get comparable positions now. Most Soviet scientists who want to emigrate probably would prefer to settle in the West, but the West probably cannot absorb all of them.

But some technology transfers will be legitimate. We expect the former Soviet Union's defense industrial sector to market dual-use technologies, notably for nuclear power and space launch vehicles. For example, Russian and Ukranian producers of space-launch vehicles are marketing launch services. ICBM producers are offering the SS-25 and other ICBMs as space launchers. Other nations with ambitious weapons development programs are certain to try to exploit the opportunity to get some of the world's most advanced weapons technology and materials at bargain prices.

I should add that other highly sophisticated, but less controlled, "conventional" military technologies and weapons may also be made available for export by various successor states. Technologies particularly in demand include stealth, counterstealth, thermal-imaging, and electronic warfare. Weapons in demand include fuel-air explosives, precision guided munitions, and advanced torpedoes.

Overview of major proliferators

Iraq is still a major proliferation threat. Saddam built formidable programs in all four special weapons areas. Desert Storm significantly damaged Iraq's special weapons production programs, and the UN Special Commission has worked diligently to eliminate what remained of them. But we believe Baghdad has been able to preserve significant elements of each of the special weapons programs, and, of course, Iraq's scientists and engineers retain their knowhow. So, once again Iraq is free to begin rebuilding its special weapons capabilities, it will not have to start from scratch.

The nuclear weapon development program would need the longest time to recover, perhaps a few years, because even though Iraq retains its nuclear knowhow and some equipment, much of the infrastructure for the production of fissile material would have to be rebuilt.

Much of the chemical weapons production infrastructure would also have to be rebuilt, but we believe Saddam may have preserved enough production capability to resume producing chemical agents almost immediately.

The biological weapons program also was damaged, but some critical equipment escaped damage during the war. Because only a small amount of equipment is needed, in the absence of sanctions the Iraqis could be producing BW materials in a matter of weeks after a decision to do so.

We believe the Iraqis have been able to preserve some Scud-missiles, along with much Scud and Condor production equipment. Before they could resume production, however, they might need to get additional equipment from abroad.

Iran is building up its special weapons capabilities as part of a massive, across-the-board effect to develop its military and defense industries.

Iran continues to shop Western markets for nuclear and missile technology and is trying to lure back some of the technical experts the Khomeini regime drove abroad during the 1980s. Increasingly, however, Iran has turned to Asian sources of military and technical aid, and it probably hopes contacts in Kazakhstan will allow it to tap into Soviet weapons technology. Tehran's principal sources of special weapons since the Iran-Iraq war have been North Korea for regular- and extended-range Scuds and China for battlefield missiles, cruise missiles, ballistic missile technology and components, and nuclear technology.

Syria, too, has turned to North Korea. Because Damascus has been unable to get SS-23s from the Soviet Union, it acquired an extended range Scud missile from P'yongyang. It also appears to be seeking assistance from foreign firms to improve its CW or BW warhead technology.

Libya is also trying to expand its special weapons capabilities, but with only mixed success. We estimate that the production facility at Rabta produced and stockpiled as much as 100 tons of chemical agents before the Libyans cleaned it up, perhaps in preparation for the long-awaited public opening of the facility to demonstrate its alleged function of producing legitimate pharmaceuticals. But the plant is still capable of producing chemical agents. In any case, we believe the Libyans are constructing another chemical weapon production facility—one they hope will escape international attention.

In addition, for several years the Libyans have been trying to build a BW facility but without much success. We believe they would need foreign help to establish a significant BW program.

Thanks in part to US efforts, the Libyans are having difficulty finding foreign help. Persistent international efforts to deny Libya access to nuclear, BW, and delivery system technology have forced Qadahfi to turn to the less advanced technology and less trustworthy sources available on gray and black markets in the developing world. As a result, Libya is still unable to project its power very far. Both Russia and China have rejected Libya's efforts to purchase missiles with longer range than the Scuds it already possesses. Tripoli is now shopping diligently for an alternative source: South Korea has alleged that North Korea may be the answer.

Algeria is nearly finished building a nuclear reactor it bought from China. Both the Algerians and Chinese have assured us the reactor will be used only for peaceful purposes, but the secrecy that attended the arrangement leaves us with some lingering suspicions. The International Atomic Energy Agency and the Algerian Government have recently completed an agreement to safeguard the reactor. The IAEA Board of Governors will review the agreement at its next meeting, after which more information on the safeguards will be available.

India and Pakistan continue their race to develop weapons of mass destruction. Not only do both countries have nuclear weapon and ballistic missile programs, they have recently pursued chemical weapons as well. We have no reason to believe that either country maintains assembled nuclear bombs, much less that either has deployed them. But such weapons could be assembled quickly, and both countries have combat aircraft that could be modified to deliver them in a crisis. One hopeful sign is that both have publicly agreed to certain confidence-building measures, such as not attacking each others' nuclear facilities.

Our government continues to oppose exports of space launch vehicle or advanced computer technology to either country because of the high probability that such technology would end up in a long-range ballistic missile program.

North Korea constitutes one of the world's major proliferation threats. P'yongyang depends on arms sales for much of its hard currency earnings. It has produced and sold copies of the Soviet Scud missile to several Middle Eastern countries. It has sold modified, longer-range Scuds to Iran and Syria. P'yongyang is developing a much larger missile, one with a range of at least 1,000 kilometers.

In addition, P'yongyang has been building an infrastructure that can, without input from abroad, produce weapons grade fissile material from scratch. It has domestic uranium mines. At Yongbyon it has constructed two nuclear reactors whose sole purpose appears to be to make plutonium. One of these reactors has been operating for four years; the second, much larger reactor, may start up this year. Nearly completed is another facility at Yongbyon that can reprocess reactor fuel to recover the plutonium. Even after North Korea accumulates enough plutonium, making a device would require several additional steps that could take months or even years.

Last December, North and South Korea negotiated an agreement-in-principle for a nuclear-free peninsula. Each side has committed itself not to "test, manufacture, produce, receive, possess, store, deploy, or use" nuclear weapons. Both sides also agreed not to have nuclear reprocessing or uranium enrichment facilities. There are grounds for questioning the North's sincerity, given that it has not yet even admitted the existence of, much less declared, the plutonium production reactors and reprocessing facility at the Yongbyon nuclear research center.

Moreover, verification procedures remain to be worked out. The validity of the North-South nuclear accord depends on the inspection regime P'yongyang ultimately accepts. Historically, North Korea has not been forthcoming in this area. It signed the Nuclear Nonproliferation Treaty in December 1985, and was thereby obligated to declare and place all nuclear facilities under safeguards. Only last month, however, did P'yongyang get around to signing a safeguards agreement. So we wonder when the North Koreans will accept meaningful on-site inspections that could allay our suspicions.

Some aspects of P'yongyang's behavior so far could be interpreted as an effort to continue nuclear weapon development despite its public statements favoring a nuclear-free peninsula. Several milestones coming up in the next few months, including declaration of nuclear facilities and agreement on inspection protocols, should reveal whether the North is sincere or not.

Where North Korea is concerned, moreover, we have to worry not only about the consequences for stability in Northeast Asia if it acquires nuclear weapons, but also about the possibility that P'yongyang might put nuclear materials and related technologies on the international market. In the past, they have been willing to sell anything that could earn hard currency.

China has been an important exporter of ballistic missiles, nuclear reactors, and related technology. Beijing is developing two solid-fuel SRBMs, the M-9 and M-11, which exceed the range and payload limits of the Missile Technology Control Regime (300 kilometers and 500 kilograms). In the past, Beijing offered to sell these missiles, claiming that their range and payload parameters did not exceed the MTCR guidelines. More recently, the Chinese have indicated that they would honor the MTCR parameters and guidelines if certain US Government sanctions are lifted.

Last fall, China announced its intention to ratify the Nuclear Nonproliferation Treaty. Once it has done so, it will be obligated to require all recipients of its nuclear equipment to adhere to IAEA safeguards. China has long been a supplier of nuclear technologies in the Third World but has not always required recipients to adhere to safeguards.

These commitments by China attest to the importance it attaches to relations with the United States. Because China values the US market and desires continued Western investment and access to Western technology, and because Beijing and Washington have compatible foreign policy objectives in a number of regions, including Cambodia and Korea, China wants a solid working relationship with the United States.

There is certain to be continuing debate in Beijing over the pros and cons of accommodating US and international interests on sales of military and nuclear equipment and technology. But by adhering to the Nuclear Nonproliferation Treaty and MTCR guidelines. Beijing would become a formal supporter of both regimes. It would be a major step forward for international cooperation against the proliferation of weapons of mass destruction.

PART III—COUNTRIES AND REGIONS WHERE U.S. INTERESTS ARE ENGAGED

Prospects for Saddam Husayn

A year after Desert Storm Saddam Husayn's control of Iraq's territory and people is eroding, mainly because he has not been able to extract his country from the grip of U.N. sanctions. Saddam has demonstrated an impressive capability to adapt and survive, but he now faces mounting unease within his inner circle and the Sunni Arab community, long his prime base of support.

Saddam's support is eroding among key segments of Iraq's population, including important tribal and family groups within the military and security services. They have become disaffected by the deteriorating economic conditions, the uneven distribution of food and medical supplies, and the lack of progress toward restoring a reasonable standard of living for most Iraqis.

The Kurdish uprising in the north and the Shia uprising in the south are also troublesome for Saddam, because they deflect resources that he could otherwise use to shore up support in his core constituencies. We do not believe, however, that either the Kurdish or Shia insurgencies threaten his regime directly.

Despite signs that discontent with Saddam's leadership is greater than ever before, fear and intimidation continue to prevent his opponents from acting individually, while disunity and the pervasive security system impede the formation of a collective opposition. Consequently, we cannot say whether—much less when—public frustration or political and military defections will lead to his overthrow.

Prospects for the Arab-Israeli peace talks

The talks are reducing the threat of open conflict between Arabs and Israelis. The willingness of most parties to come to the negotiating table to discuss economic and environmental issues, as well as territorial disputes and formulas for troop withdrawals, adoption of confidence building measures, international recognition and normalization of relations makes another Arab-Israeli war in the near term less likely.

The recent Israeli assassination of Hizballah leader Abbas Musawi and attacks on Palestinian camps and Hizballah strongholds in Lebanon are not likely to derail the peace process, at least not right away. The major participants in the talks, despite continuing concerns about both procedural and substantive issues, remain committed to the process and appear unwilling to pay the price for being the first to bring about its demise.

To avenge Musawi's death, we expect Hizballah to step up terrorist attacks against Israeli targets, and the more radical Palestinian factions also may join in. The Israelis can be expected to retaliate forcefully, perpetuating the cycle of alternating violence. In such an atmosphere, public positions harden and it becomes increasingly difficult, especially for Arab governments and the Palestinians, to justify their continued participation in the peace process. In addition, members of official Arab delegations increasingly will fear for their personal safety.

What lies ahead for Cuba?

Cuba's glacial progress toward Utopia appears to have ground to a halt again. Fidel Castro is facing unprecedented challenges to his regime's survival. With the end of substantial economic subsidies provided for decades by the Soviet Union, the Cuban economy is plunging. Factories are closing, and growing numbers of people are being moved to agricultural work camps. The regime is now using beasts of burden to replace agricultural equipment and bicycles to supplement the crippled mass transit system. Meanwhile, as opposition from human rights activities and other emerging pockets of dissent increases, the regime has been responding with more brutal repression.

Threats to democracy in Latin America

The rest of Latin America has enjoyed a dramatic transformation to elected civilian government, and there is a growing move away from statist to free market economic systems. These trends still face serious challenges in some countries, however.

In Peru, the Fujimori administration confronts a combination of highly threatening and intractable problems. It has the daunting mission of attempting to implement comprehensive and effective programs to address serious economic, insurgency, human rights, and narcotics problems simultaneously. The threat to stability is exacerbated by the growing involvement of two powerful leftist and anti-U.S. terrorist and insurgent groups in narcotics activities. The Sendero Luminoso, in particular, is a savage guerrilla organization that has gained sway over large areas of the Peruvian countryside and is increasingly active in Lima.

In Venezuela, President Perez remains firmly committed to economic reform despite social unrest and the attempted military coup early this month. Most of the military remained loyal to the President and the democratic system, and the people of Venezuela did not support the rebels. Nevertheless, the incident demonstrates that even stable democracies in the region remain vulnerable to the pressures generated by economic modernization.

PART IV—OTHER AREAS OF NATIONAL SECURITY IMPORT

Aside from what we might call the traditional issues of national security, other issues that could threaten our national interests are demanding our attention. An attribute they have in common is that they cannot be resolved simply through the application of military force or diplomacy. Following are some examples:

International crime, including terrorism, narcotics trafficking, theft of technology, and the potential for massive sabotage of computer and information systems.

International economic problems, including energy security, unfair trade practices, the difficulties facing the GATT, collapsing economies, and massive public debt.

Problems affecting the viability of societies, such as overpopulation, hunger, and the spread of AIDS and other devastating diseases.

Environmental problems, associated with pollution and degradation of the air, land, and sea, including disposal of nuclear waste and other toxic materials, deforestation, desertification, destruction of fisheries, global warming, and ozone depletion.

The last part of my presentation will be a kind of whirlwind tour of some of these issue areas. I do this to demonstrate the really broad range of U.S. interests and involvement abroad and to emphasize the growing importance to our national security of nonmilitary issues.

U.S. citizens and property will remain frequent targets of foreign terrorists during the coming two years.

State sponsored terrorism has declined considerably in the past year or two, owing mostly to concerted international pressure on sponsors such as Libya and Iraq, but it remains a serious threat, because international terrorist groups supported by such states retain their capabilities. Among the state sponsors, Iran has become the most active, sponsoring attacks mostly against its own dissidents abroad as well as against Israeli interests.

Meanwhile, for mostly local reasons, anti-U.S. terrorism by domestic leftwing groups has increased in recent years in a number of countries, particularly in Greece, Turkey, Peru, and the Philippines.

International events and developments sometimes stimulate terrorism. In the coming months, for example, positive developments in the Arab-Israeli peace process would be likely to trigger terrorist attacks by Palestinian or other opponents of such progress. Basque separatist terrorism is a potentially serious threat at the Olympic Games in Barcelona this summer.

The news on the counternarcotics front is mixed. Significant progress in countering the cocaine trade has been made in the past two years, though cocaine remains our country's principal illicit narcotics problem. Meanwhile, however, we are losing ground to the heroin traffickers.

Cocaine seizures in Latin America more than doubled between 1989 and 1991. The growth in coca cultivation has leveled off, and traffickers are under growing government pressure. These successes reflect increased efforts by Latin American leaders to address the domestic threats posed by the spread of drugs and related violence. It also reflects increased cooperation between the United States and the key producing and transit countries in the hemisphere.

Nevertheless, the cocaine traffickers will continue to diversify their transshipment methods and routes, and Latin American leaders will be challenged to improve the effectiveness of their judicial systems in dealing with the drug trade. U.S. leadership and assistance, along with a sustained, long-term commitment by the international community will be necessary to continue to make progress.

Heroin supplies to the United States will increase substantially over the next few years. Southeast Asia has emerged as the main source, producing more than half of the heroin consumed in the United States. Southwest Asia and Mexico also supply substantial amounts. Colombian cocaine producers are beginning to produce heroin since it is more lucrative than cocaine. Nevertheless, many governments besides the United States face mounting public pressure to take action against heroin. As a result, the prospects for international cooperation on controlling heroin production and transshipment are improving.

Economic issues have become primary determinants of our national well-being. The General Agreement on Tariffs and Trade, or GATT, is a good example of such an issue. With foreign trade now amounting to almost a quarter of our GDP, our economic interests require a successful conclusion to the Uruguay Round of GATT negotiations. Indeed, most of the world would benefit from such a result.

Disagreements over the European Community's agricultural support system have been a stumbling block at the Uruguay Round. The United States, along with other agricultural exporters, such as Australia, Canada, and Brazil, want the EC members to sharply cut their export subsidies and reform agricultural policies that encourage overproduction. Most EC members recognize that the inefficient and costly system must be reformed but want to proceed at a gradual pace.

U.S. interests are closely tied to mounting international environmental problems. Issues such as possible global warming, ozone depletion, shrinking forests, growing deserts, and the need to do a better job of disposing of hazardous waste are forcing governments worldwide to negotiate new international accords. The problems are complicated by conflicting interests and incomplete and even contradictory scientific data. Nevertheless, it is already clear that traditional national security aims need now to be augmented by a new level of bilateral and regional cooperation to deal with issues of air, water, and soil pollution that cross international frontiers.

Population growth and migration will cause great social stresses in the coming decades. The political and economic systems of many developing countries are already overburdened by runaway population growth. Except for Asia and Latin America, where family planning programs are making some headway, most less-developed countries face even more rapid population growth in the years ahead as today's infants reach maturity. One major source of instability will be the growing numbers of young people whose expectations will be higher than ever before as a result of improvements in health care and education, but who will be frustrated as they compete for fewer opportunities.

Ironically, many industrialized countries have the opposite problem: population growth rates that are so low in some countries the population could actually decline. Fewer and fewer workers will have to provide for more and more older citizens. One solution, of course, is immigration from overpopulated parts of the world. But many of the countries that need workers have relatively homogeneous populations which are not ready to incorporate large numbers of foreigners into their societies as full citizens. Thus, some countries facing a labor shortage may be neither willing nor able to absorb as many foreign workers as would be needed to resolve it.

But depending on large numbers of immigrant workers who are denied full rights of citizenship is inherently destabilizing. Members of the European Community received more immigrants between 1988 and 1990 than during the entire previous decade. Not coincidentally, hostility towards immigrants has increased markedly in some of these countries.

Africa is on the frontline in the race between progress and population growth. With the world's highest rates of population growth, Africans are finding it increasingly difficult to generate enough jobs or produce enough food and goods to maintain life at even a subsistence level. Population growth also contributes to environmental degradation. Continual pressure to bring new land under cultivation combined with outmoded agricultural practices and inadequate conservation, has led to steady destruction of Africa's forests. How much this contributes to global warming is not clear, but it reduces biodiversity—the variety of genetic material available for pharmaceutical and agricultural research.

As you know, our country is spending about a billion dollars in aid to Africa this year, even though no country there threatens our national security.

Our interests are humanitarian: we don't want people to starve, or die in droves from diseases such as AIDS.

Our interests are protective: twice in the past two years our country has had to send troops to an African country to evacuate U.S. and other foreign citizens who were in danger from the collapse of public order.

Our interests are practical: if we are going to provide aid, it makes sense to try to send help before fragile democracies crumble, before weak economies collapse, before divided societies disintegrate.

Sub-Saharan Africa remains politically volatile despite the end of warfare in Angola and Ethiopia last year.

In Sudan, the government's rigidly Islamist policies are prolonging the civil war.

Anarchy in Somalia has produced one of the world's worst humanitarian crises.

Chad is an ethnic tinderbox, perennially vulnerable to Qadhafi, the regional arsonist.

After destroying a functional society, the fighting in Liberia has spilled over into Sierra Leone and threatens to disrupt the stability of other neighboring states.

Mozambique is moving toward a political settlement, but the civil war continues to take a huge toll on civilians and to disrupt neighboring countries.

Yet democratization has brought peaceful transitions of power through elections in Zambia, Benin, Sao Tome, and Cape Verde. Though there are risks:

Popular expectations may outpace the ability of fragile governments to deliver.

Voters will resent painful but necessary economic austerity programs.

As demonstrated in the Horn of Africa, longstanding rivalries could surface, leading to seemingly endless conflict or secessionism.

Africans under economic duress may surrender tender democracies to Islamic extremists.

South Africa's effort to craft a truly democratic and equitable multiracial society resonates strongly in our own country. Key South African leaders appear committed to working out a more equitable system. Discussions of transitional arrangements and a new constitution are vital steps forward. But endemic violence threatens to halt progress. The violence may be exacerbated by the whites-only referendum scheduled for next month, in which de Klerk will seek a mandate to continue the reconciliation process.

The scourge of AIDS is now worst in Sub-Saharan Africa, but it is spreading at an alarming rate throughout the world. We estimate a cumulative total of over 10 million cases by the end of the decade. During the 1990s, AIDS in the Caribbean countries will proceed to a scale comparable to that of Africa, with similar dire results. In India, Thailand and Brazil, AIDS is a major threat on the horizon and will contribute significantly to an estimated 45 million infections worldwide by the year 2000. The impact of AIDS in the 1990s will be far greater than in the 1980s, weakening elites and inflicting significant social and economic damage.

I could continue to describe other important areas the Intelligence Community is following. For example, I have hardly mentioned the countries of Europe or the Pacific rim, on whose cooperation and good will our country's prosperity so heavily depends. I haven't mentioned the international technology race, or energy security, or the growing financial interdependence of modern societies. It's tough to give a global briefing nowadays.

Instead, however, I would like to close with this observation. All historical experience suggests to us that, while the revolutionary upheavals we have seen and experienced have succeeded in breaking us loose from the past, the final shape of the future is far from established. We should expect continuing change and upheaval around the world—aftershocks, if you will—before the form and patterns of a new era settle into place.

Our national security institutions, especially defense and intelligence, must change—and they are changing dramatically—to meet the new and different challenges of this new and different world. But our changes must also conform to the reality of an unstable, unpredictable, dangerously over-armed, and still-transforming world, not yet the world of our hopes and dreams. We must avoid the costly mistake of 1919, 1945, 1953, and 1975 in thinking that we can disengage from the world and of too quickly disarming ourselves—of letting our hopes and our weary impatience overshadow our judgment, good sense, and historical realism.

Now I would be happy to answer any questions that I can address in open session.

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Mr. DELLUMS. Mr. Chairman, it is a pleasure to yield 4 minutes to my distinguished colleague, the gentleman from Tennessee [Mr. FORD].

Mr. FORD of Tennessee. Mr. Chairman, I would like to thank my colleagues of the Congressional Black Caucus and the House Progressive Coalition for their tireless efforts in completing such a thorough budget. You should be commended for seizing the opportunity to use the changes in the world order to create change in the social order of America using the budget process. The stated purpose of this alternative budget is to respond to the complete failure of the Bush administration budget approach to take advantage of the window of opportunity opened by making meaningful cuts in military spending.

George Bush and his cohorts would have you believe that the Democratic Congress is responsible for all the economic lamentations of the Nation. Or, he would tell you that the responsibility lies in a fork-tailed devil monster who has been looming in our backyards for years. This year, the monster incited by the Reagan/Bush administrations, moved into your homes and took them! It has invaded the American workplace, taking our jobs and gobbling up the manufacturing sector and the banking industry.

If you adopt the President's version of the budget, we would again fall prey to the supply side trickle down rhetoric that has, in fact, laid off our workers and closed our plants.

Today, we have the opportunity to adopt a budget proposal, as drafted by the Congressional Black Caucus and the Progressive Caucus, that will bring parity and equity to our system by taking advantage of the huge cuts in defense spending.

The Black Caucus budget has been drafted to benefit all working-class Americans—those who have stood in line for welfare payments and those who have called our offices to voice concern about the plight of the Nation and the economy. It has provided a revenue neutral tax package that directs its benefits to the working and middle-class taxpayer by a progressive tax plan in keeping with the history of this Nation. It would increase the marginal tax rate to 33 percent and create a 38 percent marginal tax rate for individuals earning more than $150,000 a year. I realize that the people on the other side of the aisle consider that to be a moderate income rate, but to many of the constituents of my district, $150,000 a year is more than adequate to live well.

Instead of raising revenue from the worn pocketbooks for this Nation's grandmothers' Social Security checks, the CBC budget would raise the wage cap on Social Security wages to the current level of the wage cap for the Medicare tax. In fact, the revenues gained from this proposal by a 0.2 percent reduction in the wage tax rate in the first year and a 0.4 percent decease in the wage tax in future years.

The media has reported the upper-income taxpayers' dissatisfaction with increased tax rates and their threats that a larger tax burden will stop growth and thwart our Nation's ability to grow.

Mr. Chairman, this budget must be adopted if taxing the rich will bring equity to the system by requiring that they repay some of the wealth they have accumulated from the lenient tax policies of the past 8 years. The poor and middle class will finally be atoned. Congress who has received the message of the American people and recognizes that it must act now to ensure that their welfare and well-being is important. This measure does just that by converting the dependent child tax deduction to a tax credit.

The Preamble of the Constitution of the United States of America states that the Federal Government will provide for the economy, defense, promote the general welfare, and secure the blessings of posterity. President Bush has kept one part of the bargain by providing our Nation with defense, but what has happened to the general welfare? What has happened to our poor, our weak, our needy?

To the cheering crews at the 1988 Republican Convention, George Bush declared his mission to create 38 million jobs in 8 years. Instead, the Nation is facing a 7.1 percent unemployment rate.

It is estimated that the Bush economic package would create 500,000 new jobs in 1992. Sadly, the Bush plan is a drop in the bucket. For the last 2 months, the Bureau of Labor statistics has estimated that over 400,000 have filed for unemployment each week.

The United States has some of the world's most highly advanced health care resources; the world's best equipped hospitals and some of the best trained health professionals. At its finest, the American health care system can deliver unmatched quality—but only for those who can afford it. For those who cannot, the health care system has become a system careening out of control. Health care costs have skyrocketed dramatically, and more and more Americans find themselves denied that quality and affordable care they need.

What we need is reform of our current health care system that creates a comprehensive, universally available single payer system. Such reform is long overdue. The current health care system fails to address people of color. African-Americans, Hispanics, native Americans, and Asian-Americans are much more likely to suffer higher mortality and infant/mortality rates; our workers are more likely to be uninsured for health care; and we are more likely to be poor.

I commend President Bush for allocating $684 million, a $90 million increase from his 1992 budget funding to expand health clinics and migrant health clinics; and his $109.5 billion allocated in budget authority and $108.2 billion in outlays for health programs, which is approximately $14 billion above the 1992 level.

However, the most glaring drawback to the President's health care plan is that it does virtually nothing to control health cost—the single greatest problem in our health care system.

The number of deaths from preventable illnesses is at an all-time high. The lack of progress in providing minorities affordable health care is one of our Nation's most pressing problems and one of the greatest challenges facing us as policymakers.

Inadequate health care access and inferior treatment combine to discourage many minorities from seeking any type of health care until it is too late. But the root of the problem lies in the lack of money for basic health care.

In his budget the President needs to direct his efforts toward bridging the gap between the level of health care provided to those in need. His budget does not seriously attempt to address America's crisis in health care.

In order to meet the urgent needs of the American people, the CBC budget would provide $10 billion in funds to provide health care services to those who are without coverage and other means to secure health services. Our budget would also provide $500 million in consumer health programs with special attention to dietary and community mental health and enhancing family community violence prevention.

It appears that the message communicated so clearly by the Persian Gulf war has been forgotten. We must decrease our dependence on foreign oil. It is vital that we explore the use of alternative fuels, not only to ensure our national security, but to lessen the likelihood of an environmental catastrophe, and to conserve our natural resources.

Instead of following the administration's commitment to opening the Arctic wildlife refuge to oil drilling and investing in nuclear fission power, we need to redirect our investment toward research of renewable energy, alternative fuels, and energy conservation.

The use of renewable energy sources—solar, wind, hydroelectric, and geothermal energy—will decrease our dependence on exhaustible energy sources and create minimal pollution. Increased funding for conservation needs to become a priority. Becoming an energy-efficient nation will reduce our foreign oil dependency, as will research in alternative fuels.

The Congressional Black Caucus alternative budget begins to address our Nation's energy needs. It reduces R&D in nuclear fission by 25 percent, increases R&D for alternative fuels by $218 million, and increases funding for conservation by $123 million.

My colleagues, please seriously consider adoption of this measure for the sake of America. We must beat down the monster the administration's poor choices have kept alive.

This budget not only addresses the society's present ills, but will provide the needed boost to propel our Nation into the dynamic and global community.

Mr. Chairman, I urge my colleagues to take a very close look and give deep consideration to adopting the Congressional Black Caucus and the House Progressive Coalition budget today.

Mr. GRADISON. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr GEKAS]

Mr. GEKAS. Mr. Chairman, I thank the gentleman for yielding time to me. I have looked through the budget that has been presented here, and it makes sense in a great number of ways, there is no denying that.

I would like to ask a specific question. I have found nothing in here, and perhaps it exists, about the transition from the military bases which necessarily will have to, even with our ongoing program and with whatever the gentleman proposes, would have to be closed, as to whether or not there is any drawdown moneys or transfer moneys from the Pentagon budget to clean up hazardous waste sites that are created by the abandonment by the Pentagon of its own military bases that would be included in any shrinking of the Pentagon apparatus. I would like to know that, because I think it is very important, and if the gentleman from California can give me an answer, I would yield for that purpose.

Mr. DELLUMS. If the gentleman will yield, yes. He has asked a very good question. We placed $3.7 billion in toxic waste cleanup on military facilities in our budget so that they can be used for a higher and better purpose for civilians in the event that the military bases are closed.

The gentleman is correct, toxic waste is a problem. We put in $3.7 billion to deal with it.

Mr. GEKAS. I could not locate it here, and separately, if the gentleman could just point it out to me, I will not take up the time of the House to do it. But if indeed then this budget should fail, and we go on to other things, I am asking the gentleman if he is willing to pursue a Chamber-wide effort to pluck out this particular proposal and see if it will run on its own merits, along with some other vehicle that might fly if indeed this should fail.

Mr. DELLUMS. Mr. Chairman, I will come back to my distinguished colleague and we will show him the place in the budget where that $3.7 billion is.

Mr. Chairman, it is my pleasure to yield 3 minutes to the distinguished gentleman from Oregon [Mr. DEFAZIO]

Mr. DEFAZIO. Mr. Chairman, I think we can find some small grounds for agreement here.

The cold war with the Soviet Union is over, and for 45 years we were the defenders of the free world.

The generation that fought and won the Second World War with such energy and determination turned America's war machine into the greatest economic engine the world had ever seen. Through the Marshall plan, we rebuilt friend and foe alike, we opened our market to their goods. The 20th century became known as the American century.

But now, as that century draws to a close, there are those who say our time has passed, America cannot compete anymore, our technology is lagging, our factories are obsolete. Some have even called our workers lazy.

It is clear we cannot rest on our past laurels or our past victories. As the competition of the 20th century was military and the cold war, the new threat, the competition of the 21st century will be economic.

The challenge for us today is to recognize that changes in the world demand changes here at home. We must turn our attention back home and embark on a Marshall plan for the Americas that will begin to rebuild our manufacturing base, invest in our people, and provide for our young folks to succeed.

Tomorrow belongs to those who seize the opportunities of today. Just when we need it, we have the opportunity. The end of the cold war gives us a chance to rebuild our Nation. If we ignore, if we lose this opportunity, we will condemn ourselves and our children to live in a second-rank Nation.

The Congressional Black Caucus budget best addresses the real needs of our future. The President's budget abandons the future to continued cold war with an enemy that no longer exists. The Bush budget accelerates the disinvestment of the 1980's.

The CBC budget recognizes the needs of the future and puts us on the path to economic vitality.

The choice is clear, two paths, more of the same for the Pentagon as funded at cold war levels, or a Pentagon and a military adequate to meet the changed threat and $10 billion more for education, training, and employment.

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The same for the Pentagon cold war levels of spending, or $3.5 billion more for community and regional development.

The same for the Pentagon cold war levels of funding, or $14 billion more for health care in America.

The same cold war levels of spending for the Pentagon, or another $5 billion to better house Americans.

Cold war levels of spending for the Pentagon, or $2 billion more to make America energy independent and more secure.

The same for the Pentagon, or another $3.5 billion for transportation.

And all of that, all of that investment, all that gain for the American people, and a decrease in the deficit. It sounds too good to be true, but it is not. Put our money where our mouth is, let us invest in America, put America back to work, rebuild the country, vote for the CBC budget.

Mr. DELLUMS. Mr. Chairman, I yield 3 minutes to the distinguished gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. Mr. Chairman, I thank my friend, the gentleman from California, for yielding me this time.

Mr. Chairman, up until this budget came before us, I felt a little bit like Alice in Wonderland. I felt that the other budgets did not really deal with the realities of our time, and just listening to the gentleman from New York [Mr. SOLOMON] a couple of minutes ago as he got so agitated about communism and the need we have to stay tough and strong against communism, communism has be discredited, Mr. Chairman. We are in a different time, in a different place. People want to be like us. Russia wants to join NATO.

There is no more Warsaw Pact, and our biggest enemies, our biggest enemies today, are joblessness and homelessness and children who are in trouble and jobs that are going overseas, Mr. Chairman, and jobs that are not being created because we do not have any strategy and any plan.

What is so wonderful about this document and why I am so pleased to rise again in favor of it is because it has that vision. It has that strategy. It has that plan that no one else is really presenting.

You know, I waited to hear our President during the State of the Union Address, and he said, "I am about to tell you about my plan for this economy. I am calling it Operation Domestic Storm." So I listened for the winds of the storm, the winds of change. I listened very hard to the President, and when he got finished, I said, "You know what, I do not think that was Operation Domestic Storm. I think that was Operation Domestic Sprinkle." Because really there were no winds of change. There was no vision.

In this Congressional Black Caucus budget and the Progressive budget, there is that vision that we so desperately need.

I think it is time we say to our allies what I have recently said to my kids who are in their twenties: "We love you. We will always be there for you. We are your best friend. But pay your fair share."

Forty-five years of picking up the military bills for Europe and Japan, and they are terrific and we will always be there for them, but now is the time for them to pay their fair share, because, guess what, while we have been picking up the tab for their military, they have been educating their children, they have been supporting their industries with an enlightened industrial policy, they have been taking care of health care for their people. They do not have people without health care; they do not have people at the emergency room door. Because why? Uncle Sam has been paying their bills.

I want to go back to being Uncle Sam. I do not want to be Uncle Sucker anymore.

It is time to take care of our own. This budget does it. I am proud to stand in favor of it.

Mr. DELLUMS. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Indiana [Mr. JACOBS].

Mr. JACOBS. Mr. Chairman, on this alternative budget, I am reminded of the fellow who had a date with Siamese twins and was asked if he had a good time. He said, "Yes and no."

There are things in the alternative budget that I do not like particularly. There are things in all the budgets I do not particularly like. But there is one thing in the alternative budget that I really like, and that is a recognition of just what our situation is in NATO.

Even at the height of the cold war, it did not make a lot of sense for the United States to maintain 300,000 American military personnel and their dependents in Europe, because it was costing then about $175 billion a year. Right now I would say it is probably costing at least one-third of the defense budget.

Now, you say that that is a great way to waste money, but remember, it does not just waste money. It contributes mightily to the balance-of-payments deficit of our country just as though you had bought $125 billion worth of Toyotas or Hondas. That is a bad idea.

Now, you go to the military experts and say what were the 300,000 for in the first place. They could not stop a juggernaut from the East rolling across Europe. Well, I will tell you why we maintained them over there, because they are hostages to prove to the Europeans that if the Russians are coming, the Russians are coming and attack, and an attack that never happened, if the Russians are coming, that we will use our nuclear weapons to protect the people of Europe. This proves it to them.

I said, "OK, if you are going to use hostages, if that is your theory, call up Raquel Welch." You remember "The Odyssey" and Homer and all that writing, the Face That Launched a Thousand Ships, pay her a billion a year to sit around in Germany someplace. She can be the hostage. That will prove to the Europeans that we will use our nuclear weapons.

We are here now, no cold war, no Warsaw Pact, still hanging in there with a balance-of-payments deficit, still hanging in there with all of these people over there in Europe.

All right, let me just finish with this: there was a fellow who showed his friend through his house one time. He said, "Here is the new house; here is our family room; here is our dining room, and here is the kitchen." And they went into the study, and there was a woman sitting on the sofa kissing some man, and he said, "That is my wife," and so they went on into the kitchen, and they sat down at the kitchen table and the host took a pot of coffee and poured a cup for his friend and poured a cup for himself, and the friend could not stand it anymore. He said, "What about the guy in the dining room?" And the host said, "Let him get his own coffee."

Now, that is the way I feel about the Europeans who are rich as can be. We are the biggest debtor nation on Earth. I am for this substitute.

Mr. DELLUMS. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Oregon [Mr. AUCOIN].

Mr. AUCOIN. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I want to remind my colleagues what a budget for a country and for a society is. It is not just a ledger. It is not just a column of numbers with subtotals and grand totals. It is that, of course. But it is a lot more than that.

Because what a budget truly is for a nation, for a society, is a strategic document. It is a strategic document that affects the lives of every single citizen in an economic sense and in a social sense.

Before us today is an alternative to the strategic document of the Reagan and Bush years, a strategic document that I would call the grand heist of the 1980's, where we had the largest transfer of wealth from the middle class and from the working poor to the richest of the rich, perhaps in my lifetime.

I just want to show my colleagues who benefited from the budget policies of the 1980's. This chart, based on data from the Congressional Budget Office, shows where the budget priorities of the past 11 years have gotten us. The richest 1 percent of families received 60 percent of the aftertax income gain and 14 percent of the aftertax income gain went to families in the top 2- to 5-percent bracket. And those with incomes in the top 6 percent to 20 percent received 20 percent of the aftertax income gain during this time.

So, in terms of the wealth that was generated, based on the strategic budgets of the Reagan-Bush years, that is who won, and I want to tell you who the victims are. The victims are dislocated workers, hard-working Americans who have lost their jobs throughout Oregon and across this Nation. The victims are the middle class—which has shrunk by 20 percent during this past decade. When we pass this budget today, we'll be making a strong statement that Robin Hood in reverse must stop. It makes no sense for middle-income Americans to pay for the lifestyles of the rich and famous.

I say it is time for a change.

The tax and budget policies of the Reagan and Bush administrations have allowed the millionaires in this country to rob hard-working Americans of their jobs, their savings, and their future. Since 1977 to 1989, the income of the super rich has grown by 77 percent. At the same time, the income of the average American family was barely keeping up with inflation. And, it's no surprise that low-income families have lost big.

What's the result? In Oregon, more than 121,700 people are out of work. More than 13 million children in this country—1 in 5—live in poverty. Thirty-seven million Americans have no health coverage. Every night, at least 1,000 children are without a home to sleep in. We're only able to serve about one-third of the children eligible for Head Start.

Nearly 20 percent of the Nation's students don't finish high school, and only 40 percent of our high school graduates go on to college. This is the tab that every American has to pay for the decade of letting the good times roll for a few high rollers.

So what's the answer? Let's face it. There isn't one right answer—there are a lot of right answers. Much of the problem lies with the private sector where corporate executives are making millions while closing plants, moving operations overseas, and laying off thousands of workers. We've simply got to stop rewarding these activities through massive tax cuts.

Mr. Chairman, this budget we are debating today is the first budget we are presented with in the post-cold war era. It poses this question: Do we continue to defend ourselves against enemies that no longer exist, or do we begin to arm ourselves for the economic war that we truly do face today and will face in the 21st century? I think it should be the latter, and I think that is why these alternative budgets are so imperative.

Our Nation's threat today comes not from an evil empire, but from within our own borders. We are unable today in America to compete in the global marketplace. Our economy has stalled. People have seen their standards of living sink and now they are afraid of losing their jobs and their homes. We need a change.

We stand at a crossroads—a crossroads between the cold war and a new century. Between a narrow vision stuck in cold war thinking, and bold leadership focused on tomorrow.

This Congress must get beyond the rhetoric of an administration that refuses to face the fact that people across this country are confused, afraid, and are concerned about their future and the future of their children. It's time to show the American people that this House has listened and is prepared to seize the day and chart a new course for this Nation. We can begin by recognizing that the cold war is over and that Reaganomics has meant real pain and suffering for America's working families.

Here in this House, the people's House, this budget vote is an opportunity to answer some of the questions. Our national budget must set new priorities. It must move our economy forward, create jobs, invest in education, and ensure a recovery that will last. It must provide relief to our children, families, and communities.

That's why we must rip up the obsolete 1990 budget agreement and start fresh. It's now time for real cuts in defense spending. I support a military cut of 60 percent over the next 5 years, freeing up $1.1 trillion by the year 2000. What better legacy could we provide our children then to start the 21st century with good schools, health care that works, and an economic base that means real jobs with real family wages?

We must begin that journey today. Both the Black Caucus budget and the Democratic alternative, which doesn't come close to the defense cuts that I support, set us on that road. In my home State of Oregon, the Democratic alternative would mean access to basic health and nutrition programs for kids. It would mean better schools, and it would mean that 3,000 more poor children will get food through the WIC Program.

It would mean 6,000 more students will get financial aid to go to college. It would mean 3,500 more people will get job training. And even the Democratic alternative would mean that our schools will get real help—8,000 more students can get vocational training. We could enroll 700 more children in Head Start programs.

The Democratic alternative would mean over $11.6 million to Oregon schools to help improve the educational performance of low-income and special needs students.

Mr. Chairman, in 10 years, the test of our leadership will be whether we have a nation of healthy, well-educated children and productive workers, whether our families have hope for the future and are able to care for themselves, whether other countries fear the power and ability of the American worker. This is our challenge. We have the resources. Do we have the courage to stand and deliver?

Mr. DELLUMS. Mr. Chairman, I yield 3 minutes to my distinguished colleague, the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Chairman, I want to congratulate my colleagues in the Congressional Black Caucus for a very thoughtful piece of work and for the work of the gentleman who is managing the time; the gentleman from California [Mr. DELLUMS] has been consistently thoughtful and precise in the military area.

I want to address one aspect of this, if I can. Obviously, I cannot do it all at once.

I think many of my colleagues have made very clear the extent to which the threat has diminished substantially and the extent to which we have a right to ask our wealthy allies to get off the dole. I do not think there is much doubt that in 5 years from now if we have a military half of what we now have we would be by far the strongest nation in the world and well able by a considerable margin to defend ourselves.

We had a war with Iraq which lasted less time than any I have heard from the Secretary of Defense in testimony. We are told we have to be careful about the next level of threat, like Iran. Iran lost a war to Iraq. I do not think we are being unserious when we say a military half our current size would be well able to protect us.

So then the argument is, but what about the economic effect of cutting the military? Note that that argument comes from people who have from the time of the 1980's regarded almost all aspects of Government spending as a severe drain on the economy. We have got one of the great acts of gymnastics in American history being performed in this Chamber today. Members who for years have treated Government as a subtraction from the sum of economic activity have suddenly discovered in public works an economic virtue heretofore unknown to them. All of a sudden this Government which causes economic problems, which was a drain on the economy, which held back growth, is in fact the best way to make jobs. It is the Government which is not only the best way to make jobs, but the best way to educate young people, to enspirit them, to teach them the values of family and patriotism.

I welcome my conservative colleagues as converts to recognizing that government, along with the private sector, has a distinct positive role in our society; but sometimes when people become converts, they go from one extreme to the other without stopping at an appropriate middle point.

Yes, money spent by the Government on the military has some job-creating aspects, but over the long haul, it is a less efficient way to do that than many other ways.

We must not confuse two aspects. There is a short-term degree of pain that will come whenever you make very substantial cuts. Some of us, when Members here were voting for the Gramm-Latta bill which threw people out of work, terminated programs abruptly, severely reduced services, we tried to make that point. Apparently some of our friends were a little slow on the uptake, so it took up until now to get our point.

We agree that there is a problem when people are thrown out of work, and we have provisions in the budget here and any other budget that I have supported that would deal with it; but over the long term, when you consider two points, first the largest amount of dollars in this economy's budget are spent overseas in the military budget; more money is spent overseas and not among the poor, but among the wealthy. Bring that money home and you will stimulate the American economy.

Second, as Alan Greenspan said when I asked him the question, "Reducing the military and using that money elsewhere"—and there is the flaw in their logic. They assume that if we reduce the military, the money will be put somewhere in a very big mattress.

The fact is we are not spending it. We are redirecting it, some to the private sector, some to the public sector.

As Alan Greenspan noted, military spending is primarily insurance spending. It is money you spend in the hope you will not have to use it. By taking a reduction there, plausibly over the long haul, Members should note, reflecting the expertise of the gentleman from California, this budget cuts budget authority for the long haul much, much more than it cuts the short-term outlays.

It is in fact a responsible way to improve the American economy by shifting resources, not burying them, to more productive uses.

Mr. DELLUMS. Mr. Chairman, I yield such time as he may consume to the gentleman from the Virgin Islands [Mr. DE LUGO].

Mr. DE LUGO. Mr. Chairman, I thank the gentleman for yielding this time to me.

I rise in strong support of the Black Caucus alternative budget. I want to commend the floor manager, the gentleman from California, and I also want to commend the gentleman from New York [Mr. Towns], who worked on crafting this budget for us.

Mr. Chairman, in spite of its name, the Congressional Black Caucus alternate budget is not a black budget.

Instead, it is a visionary blueprint for a post cold war America.

It is a document that examines the financial resources available to our Nation now that the Soviet threat is no more. And it examines these resources in light of the pressing human problems with which millions of good and decent Americans must grapple every day—homelessness, joblessness, and a loss of our competitive standing around the world.

The Congressional Black Caucus alternate budget recognizes the economic crisis facing America. This budget tackles the crisis head-on and reflects a bedrock belief in the inherent greatness of this country.

There are serious economic challenges facing our country, Mr. Chairman, and this budget addresses them with courage and vision.

It does this by injecting urgently needed equity into our tax system.

It does this by boosting the American worker's competitiveness in the international arena.

It does this by ensuring that the young bright minds of our country receive the high quality of education that they deserve.

And it does this without compromising one iota of our national security.

The 21st century demands that America be at the cutting edge of technology, Mr. Chairman. The 21st century demands that the American people have a health care system on par with that of our major trading partners. And the 21st century demands that the U.S. Government face up to its responsibilities to get our economy moving again. The Congressional Black Caucus budget meets all of these challenges and I commend Chairman Ed Towns of New York for leading us in crafting this alternate budget.

Mr. DELLUMS. Mr. Chairman, I yield 3 minutes to the gentleman from Georgia [Mr. Lewis].

Mr. LEWIS of Georgia. Mr. Speaker, I want to thank my friend and colleague from California for yielding this time to me and congratulate him for all of his hard work on this proposal.

Mr. Chairman, the Towns-Dellums proposal is fair, it is appropriate, and it is just in light of the revolutionary changes that we have witnessed on this planet during the past few years.

I agree, the cold war is over. The Berlin Wall is down. The Soviet empire does not exist anymore. The Russians are not coming. They are gone.

This budget is saying that war is obsolete as a tool of our foreign policy.

This budget is saying, this proposal is saying the time has come for us to stop spending so much of our limited resources on building more bombs, more missiles, and more guns. This budget is saying let us rebuild America, let us rebuild our infrastructure, and provide housing for the homeless.

This budget, this proposal is saying let us educate all of our children.

It is saying let us provide comprehensive health care for all Americans.

This budget is saying let us take care of the elderly, the disabled.

In essence, this budget is saying let us look out for those who have been left out and left behind.

This budget is also saying let us clean up the environment and leave this little planet a little cleaner, a little safer, a little greener.

With this budget proposal, we look ahead to the future with a sense of vision, with a sense of purpose, with a sense of direction. With this budget we will rebuild America. We will build a new America and we will seek to build a new world, a world at peace with itself.

I ask you, my colleagues on both sides of the aisle, to support the Towns-Dellums budget amendment.

□ 1710

Mr. DELLUMS. Mr. Chairman, let me compliment my distinguished colleague for an extraordinary statement.

Mr. Chairman, I yield 3 minutes to my distinguished colleague, the gentlewoman from the District of Columbia [Ms. Norton].

Ms. NORTON. Mr. Chairman, may I begin by thanking the distinguished gentleman from California [Mr. Dellums] for the process he has so eloquently and analytically initiated here this day.

Mr. Chairman, I come before this body with what I believe to be the most dramatic evidence of the disinvestment of the United States of America over the last dozen years in the American people. We have disinvested most where we have needed to invest the most, in the counties, in the cities, and towns of the United States.

Mr. Chairman, this chart dramatically points up that decline, a decline, I submit, worse than any decline we have seen in Federal revenue.

Moreover, the Congressional Black Caucus budget seeks, in a very partial and moderate way, to make up for this catastrophic disinvestment but to begin what will surely be too slow a process to restore some balance in our expenditures.

During the last dozen years, while we have been reading the lips of those who brought us to this point, we have been paying for what the Federal Government paid for in 1981. After all, these are the years in which we have seen the outpouring of unprecedented problems. In 1980, there was no outbreak of AIDS; in 1980, the drug culture had not taken root; in 1980, we had not seen drive-by shootings. It is in these places where we have seen them, and while I would never make the case that there is a direct correlation between investment and crime, I would surely make the case that the disinvestment, particularly from the cities of the United States, is certainly not unrelated to the terrible crime those cities have experienced.

This very day, I became a cosponsor of the bill of the gentleman from Ohio [Mr. Stokes] for a Select Committee on Violence, a committee that will try to bring sanity to the discussion of crime in the cities.

Mr. Chairman, we have seen Federal assistance to priority municipal programs dropped from almost $50 billion in 1981 to $19.1 billion in 1990. That includes money for transit, for sewage and the rest, and this does not.

There is a bill sponsored by Mr. Conyers, the Local Partnership Act of 1992, which would try to make up, to begin to make up, for this 40-percent decline in our investment where it is needed the most.

Mr. Chairman, your effort helps us to get our balance, to see what has been lost, so that we can begin a process that already we now see is too late to begin. But too late is better than never. The CBC budget allows us to begin too late, and I appreciate the process that you have begun for us.

Mr. DELLUMS. Mr. Chairman, it is now my pleasure to yield 1 minute to the distinguished gentleman from Illinois [Mr. Savage].

Mr. SAVAGE. I thank the gentleman for yielding.

Mr. Chairman, I just rise to commend the chairman of the Congressional Black Caucus, our spokesman on this matter on the floor, my good colleague from California, of the Progressive Caucus of the House, for proposing this alternative, particularly because here they have their priorities straight. They substantially reduce the defense budget to provide for education, housing, job needs, and also propose to cut the military portion of our foreign aid and to reallocate it to a fair amount for Africa and the Caribbean.

I urge my colleagues to support this alternative.

Mr. DELLUMS. I thank my colleague.

Mr. Chairman, it is now my distinct pleasure to yield 2½ minutes to the distinguished gentlewoman from California [Ms. Pelosi].

Ms. PELOSI. Mr. Chairman, I thank the gentleman for yielding this time to me and commend him for his leadership on this very important issue before us today. I commend him and the Congressional Black Caucus for this alternative budget.

Mr. Chairman, I rise today in strong support of the Congressional Black Caucus-Progressive Caucus alternative budget. I am pleased to join with my esteemed colleagues, Representatives Towns and Dellums in bringing this budget for new realities and for rebuilding America to the floor today.

For decades, we lived in a world framed by the parameters of the cold war. It was a world of them and us. We are seeing in our lives fundamental, world shaking changes which have brought physical, ideological, and economic walls down. Some of these changes go well beyond what many could have even imagined or begun to hope for. Because of these changes, we are fortunate to have the opportunity to restructure the nature of our national policy and spending priorities. We cannot let this opportunity go by unheeded.

There is a great deal at stake here at home. If we do not act affirmatively to change dramatically our spending priorities, we will do the future of this Nation a grave disservice. The parameters have shifted. The world of them and us we must confront today is our own domestic agenda. Our enemies are poverty, ignorance, and social injustice. If we do the hard work of addressing these problems, our global competitiveness will improve automatically.

We have the opportunity now, to make the priorities of this budget reflect the values of the people of this country. We must ask ourselves, what kind of America do we want?

In today's America, more than 13 million children live in poverty. This is 3 million more children than were poor in 1980. One in every five children in America is poor. In our cities, the number rises to one in three children. Is this the kind of America we want?

In today's America, more than 100,000 children are homeless every night. At the same time, the foster care system is overwhelmed by constantly increasing numbers of children in need of care. About 406,000 children are in foster care—almost a 50-percent increase from the mid-1980's. For a country that prides itself on family values, is this the kind of America we want?

In today's America, 40 percent of all American children younger than 18 lacked employer-based health insurance coverage, despite the fact that the majority of them are in working families. Of the 46 million children who have had private health insurance coverage during 1990, approximately 43 percent will experience some period without health coverage by the end of this year. Is this the kind of America we want?

This alternative budget answers these questions with a resounding no and proposes a sound and realistic way to reshape our national budget to meet our pressing needs. It would make significant and responsible cuts in defense spending, partnered with serious and effective economic conversion plans to shift our emphasis from the military to the people. At the same time, it would provide much needed spending for our children, for health care, for housing, and for education. It would increase funding for Head Start by $2.1 billion; for education by over $4 billion; for community development block grants by $834 million; and in addition to significantly increasing the funding levels necessary to maintain current services in health programs, would provide $10 billion for a new program to provide health care services to those without them, as well as increasing AIDS research funding by $1.4 billion and AIDS treatment funding by $500 million.

We must search our souls as well as our pockets as we determine this Nation's funding priorities. I urge my colleagues to fight against the increasing polarization between the wealthy and the poor in this Nation, to fight the tide of us and them, and to act today to pass a budget to meet the needs of the people of this Nation. We expect the best of our children, how can we provide all of our children with anything but the best? What we have provided, so far, falls far short. I urge my colleagues to support this alternative budget. It recognizes that we are living in a new world and promotes the values we need to thrive in it.

Mr. DELLUMS. I thank the gentlewoman.

Mr. Chairman, I yield 3 minutes to the distinguished coauthor of the budget alternative before the body at this time, the gentleman from New York [Mr. TOWNS].

Mr. TOWNS. Mr. Chairman, I thank the gentleman for yielding time to me.

I would like to first commend the gentleman and the members of the Congressional Black Caucus and members of the Progressive Caucus for all the work they have done over the past few months.

Mr. Chairman, I would like to say that this is a fair budget, and I hope our colleagues will look at it and make the decision to support it.

Mr. Chairman, our Nation's economy is currently teetering on a cliff. But if we are strong and regain our direction and steady our balance, we will not fall. But make no mistake, if we look away, we will take a headlong plunge.

I submit to you that today we have the opportunity to make the worst times of unemployment, homelessness, inadequate access to health care and a crumbling infrastructure into a spring of hope for all Americans and especially our children. We all can remember our childhood. Maybe some of us can remember the Depression. These were tough times. But we must all recognize that the current realities of our children's lives are bleak at best. Here are the realities:

Bread for the World's Institute on Hunger and Development estimates that in this country 13 million children go to bed hungry every night because of inadequate resources for food programs.

We talk about the scourge of crack on our children yet we have not considered the long-term effects of the scourge of poverty. On February 7, 1991, the New York Times reported that it is difficult, if not impossible to differentiate symptoms of poverty, malnutrition, and inadequate prenatal care from those of prenatal crack exposure.

In 1990, the Joint Center for Political and Economic Studies released a study showing that changing employment opportunities determine the fate of children.

Of all families, young black families have lost the most ground.

This is a fair budget—for all Americans, the income gap between rich and poor widened in the 1980's with average incomes increasing 122 percent for the top 1 percent of households but falling 10 percent for the bottom 20 percent.

We must change the economic reality of America before the underclass becomes deeply entrenched and deeply embittered. We can only do this by breaking down the artificial wall which we imposed in the budget—a wall built upon the philosophical foundation that the world would not change. But it has. And just as surely as the walls which separated East Germany from West Germany were made to fall—these walls must also fall. On one side of the wall we have astronomical defense spending where there is no threat to American peace and freedom and on the other side of the wall we have a depleted economy and the highest unemployment rate in recent memory. The wall must fall because American industry must be given an opportunity to pursue a domestic buildup with the same zeal which permitted a military buildup. The walls must fall because the foundations are gone. The walls must fall because they are no longer keeping Congress within a discipline, but are keeping the American people out of prosperity. The survival and prosperity of the average American today and in the future depends on our ability to take on the same kind of peacetime conversion of resources now as we did following World War II. We must mobilize to save our national agenda with the same zeal that we used to save Kuwait. Once the walls are torn down, we can begin to build roads, bridges, homes, jobs, and lives by distributing money from programs which world events have rendered obsolete to projects which are vital to the lifeblood of many communities.

The world has changed. We must have the courage and foresight to change with it. America has been a world leader for the 20th century. We can maintain our position of prominence if we use this moment to invest in our future through investing in education for our people and research, development, and capital for our industries. Today, by supporting the Towns-Dellums budget we will preserve our role as world leaders.

□ 1720

Mr. GRADISON. Mr. Chairman, may I inquire of the gentleman from California [Mr. DELLUMS] if he is prepared to make a closing statement at this point?

The CHAIRMAN pro tempore [Mr. MFUME]. Yes.

Mr. DELLUMS. Mr. Chairman, unless the Chair corrects me, as I understand it, we have 2 minutes remaining. By a previous agreement with my distinguished colleague, the gentleman from Ohio [Mr. GRADISON], if he would yield 5 minutes to us, that would give us 7 minutes. It would be my intention to yield 3 minutes to the gentleman from Texas [Mr. WASHINGTON], I would take the final 4 minutes, and that would close off debate on our side.

Mr. GRADISON. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. DELLUMS], and I yield back such other time beyond that as may be remaining on our side.

Mr. DELLUMS. Mr. Chairman, I thank the gentleman from Ohio [Mr. GRADISON] for his generosity.

Mr. Chairman, I yield 3 minutes to my distinguished colleague, the gentleman from Texas [Mr. WASHINGTON].

Mr. WASHINGTON. Mr. Chairman, I thank the distinguished gentleman from California [Mr. DELLUMS], my friend, for yielding this time to me. What I will try to do in the 3 minutes for the people who have not had an opportunity to watch for the last 7 hours that we have been here talking about this is to summarize, and I realize that 3 minutes is not nearly enough time to summarize.

Mr. Chairman, I say to my colleagues, "If you believe that our best and brightest scientists could be put to work in this country curing diseases like breast cancer, and AIDS and Alzheimer's disease; instead of building bombs, helping to cure our problems in our environment and find new technologies and new fuels, conserve our resources, build sewage plants, deal with pollution and agriculture research, then now is the time for America. If you believe that our best industries should be building televisions, and VCR's and computers instead of buying them from people abroad, and building railroad coaches, and mass transit systems, and commercial and private airplanes instead of bombers, then now is the time. If you believe that our industry can and should find housing and build housing for our people, help rebuild our family farmers, then now is the time for America. If you believe that our military men and women ought to be allowed to teach in our urban and rural schools where we don't have enough teachers, to work in our hospitals in urban and rural America where they are closing every day, to retrain each other and be given an opportunity for new job training, then now is the time. If you believe that the best problem solvers who solve all the problems for the rest of the world can be put to work building our educational system, keeping Medicare for our older people, eliminating gang violence, doing something about drugs, fully funding Head Start, keeping Social Security where people can live an honest, decent existence, building up veterans benefits, then now is the time to stand up for America."

Mr. Chairman, that is the choice. No one who has an opportunity to vote can go home and say, "We didn't have a choice." They have military spending cuts of $50 billion on one side that ought and should be directed to the people in this country. If there ever was a time to stand up for America, to stand up for our own, to work for the people inside our borders, then now is the time. Now is the time to stand up for America.

George Wallace said a long time ago, and I say it today, "Stand up for America. Have the courage to do what's right. Vote for this budget, not because of whoever's name is on it, but because you have an opportunity to redirect the interests of our Government from the military-industrialist complex to the pride that we once had after World War II."

I thank the gentleman from California [Mr. DELLUMS] for the time.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from California [Mr. DELLUMS] for 4 minutes to close the debate.

Mr. DELLUMS. Mr. Chairman and members of the committee, we have now come to the closing moments of this debate. As I have said on more than one occasion, perhaps the most important activity that we can engage in as public officials is to adopt a national budget because where a nation puts its money is a statement about its priorities, which in turn is a statement about its values.

Mr. Chairman, we have attempted in bringing a budget to our colleagues to lay out what we perceive to be our values. We understand that there will be Members on both sides of the aisle that will have legitimate intellectual, political and economic differences with what we have stated. But at least we have taken this moment to say to our colleagues, "Let's rise above our partisanship, let's rise above our political views and come together realizing the magnificence of the historical moment within which we find ourselves."

This is a moment pregnant with great potential. On a personal note, I have been waiting 21 years for this moment, to be able to come into this well and say, "There's no longer the Communist menace and the Soviet threat, so let's not use that as a rationalization for not addressing the myriad social and economic problems that have plagued this Nation for decades and now manifest themselves in extraordinary pain and misery as we move forward into the 21st century."

Mr. Chairman, we have expended between $150 and $210 billion per annum focusing on a Warsaw Pact threat that no longer exists, a Soviet Union threat that has grossly diminished. If we can spend on an annual basis each year for the last 10 years between $150 and $210 billion looking at a threat that is no longer there, can we not now in 1993 take $50 billion and redirect it to begin to address the human condition of our Nation? To give our children back their dreams? To give our workers back their work? To give our Nation back its pride? Not building B-2's and MX's, but building a magnificent way of life?

Mr. Chairman, our budget is an effort to say, "Let's rebuild the economic infrastructure of this Nation. Let's reinvest in the human potential of our children and the American people. We don't need to continue to go down this road in lockstep, in cold war politics. It's over. The Warsaw Pact no longer exists. The Soviet Union no longer exists."

I say to my colleagues, "Let's seize this great moment, seize this great moment to take a major step in a radically new direction."

Mr. Chairman, I thank each and every one of my colleagues on both sides of this aisle, irrespective of their political views, for dignifying this moment, for coming here and engaging us in a substantive and serious debate. It was not substantive enough, not serious enough, not embracing enough, my colleagues, but it was a start, and understand that we are here for the long haul. If it took us 21 years to get to this moment, if it takes us 21 more, we are going to keep hammering home until we wake up to the reality that the war of the future is not nuclear weapons, and fighting communism and beating up on the Soviet Union, but fighting against homelessness, and helplessness, and human misery, and unemployment and all the significant problems that we need to address.

I say to my colleagues, "This budget we put before you is, A, a new reality, a new world reality budget; B, an effort to reinvest in America, and I thank you for this moment and thank you for your support."

Mr. CONYERS. Mr. Chairman, I rise and commend the excellent work of the members of the Congressional Black Caucus in preparing this fiscal year 1993 budget alternative, Mr. TOWNS for his leadership of the caucus this Congress, and Mr. DELLUMS for his tireless effort spearheading the creation of this important document.

This is perhaps the most important annual activity of the Congressional Black Caucus—the preparation of a blueprint that represents the best in American values; a statement of the direction this country needs to take to rebuild our economy, restore fairness and balance to our priorities, redefine the meaning of national security, and provide compassion and opportunity to all our citizens. One has to start with the budget of the Nation, which represents nearly one-quarter of all spending in this economy.

Mr. Chairman, we have three major deficits in this country—a deficit of the spirit, a deficit in our social and economic fabric caused by a decade of disinvestment, and a deficit of the budget. I believe this budget addresses all three deficits.

DEFICIT OF THE SPIRIT

The Federal budget not only sets a course for the Nation, it also states the values we hold dear, and the dreams we aspire to. Once again our President, like the President before him, has proposed a budget that favors the rich and leaves crumbs for the rest of America. His budget and its tax program would once again put a strong wind at the backs of wealthy investors, and a headwind of hurricane force against hardworking Americans.

Frankly, I'm fed up with the arrogant and cynical leadership from the White House which continues to run the Government as if it were a playground for millionaires, rather than at the service of all Americans. The Congressional Black Caucus budget will reverse such a selfish and constricted view of the world, and bring Americans together, rather than divide us.

DEFICIT IN OUR SOCIAL AND ECONOMIC FABRIC

Mr. Chairman, we have just come through a decade of disinvestment. Reaganomics I and II have bushwhacked the economy and starved critical areas of investment that would promote economic growth, make us more competitive in the world, aid people in need, and reduce the deficit.

This deficit has raised the crime rate, contributed to the decline of our family structure, and resulted in increased racism. The cold war was borne on the backs of families, low-income and working Americans.

We would need to spend $77 billion more for investment programs in 1993 than the President has proposed just to get us back to the 1980 level of Federal spending on investment. We are not talking poor people's programs here, Mr. Chairman. We're talking about infrastructure, education, job training, science and technology, economic development, and selected health and housing programs.

DEFICIT OF THE BUDGET

Mr. Chairman, for too long the poor have been scapegoated as the cause of the budget deficit. In his State of the Union Address the President made an assault on welfare recipients as if they were the cause of the budget deficit.

There are three main causes of the deficit, all due to Republican policies of the 1980's:

Tax breaks for the rich: Some estimate $750 billion in giveaways were made;

Huge increases in military spending: doubling of the budget; and

Deregulation, which created the $500 billion S&L debacle, and the declining economy have caused the deficit to balloon.

There are two, interrelated solutions to the deficit:

First, we need to make the economy grow faster to increase revenues. The only way to do that is to increase investments in people, technology, and infrastructure to make our workers productive and our economy strong. This requires us to spend money in the short term to save money in the long term. This is a fundamental of all healthy businesses.

Second, we need the resources to make those new investments and to directly start paying off the deficit. There are only two ways to get those resources—raise taxes or reduce the military budget.

LET GO OF THE COLD WAR

The President's budget shaves only $44 billion off a proposed $1.5 trillion military budget over the next 5 years. That's a cut of only 3 percent. The excuses for these levels of spending have vanished. The Warsaw Pact has collapsed—we don't need to protect West Germany from East Germany. The Soviet Union has disintegrated—the hammer and sickle flag no longer flies over the Kremlin. The last time I looked the Russian leader was a capitalist, not a Communist.

We can let go of the President's plans to spend as much as $42 billion a year for nuclear weapons. We don't need many of these weapons any more.

We can let go of the President's plans to spend as much as $86 billion a year for the defense of Europe. Europe can defend itself, from itself.

We can let go of the President's plans to spend $32 billion for the defense of Japan and Korea. Japan and Korea have grown rich under our expensive defensive shield. Let them defend themselves.

We no longer need to defend Germany and Japan from a Soviet threat that no longer exists while they win over our markets. We can do better. We can safely cut defense. We can make the hard choices and terminate weapons we no longer need.

The Congressional Black Caucus budget does better. It makes the hard choices and chooses wisely. And the thrust of the Black Caucus budget is supported by recognized defense experts. For instance, the Brookings Institution Foreign Policy Director John Steinbruner estimates that we can cut the military budget in half over the next 5 years and realize defense savings of $500 to $700 billion over the course of the decade and $100 billion each year, thereafter. Dr. Steinbruner has proposed a Brookings budget that comes very close to the plan advanced today by the Congressional Black Caucus.

We can do better than the President. We can do better than trimming 3 percent off the Pentagon budget. Let go of the cold war. Come on up to the new realities.

And let's not forget that we need economic conversion to cushion the hardship to families and communities caused by defense cutbacks. The CBC budget provides for this.

LOCAL PARTNERSHIP ACT

The Congressional Black Caucus budget calls for $2 billion in fiscal year 1993 for the Local Partnership Act [LPA], H.R. 3601, as compared to nothing under the concurrent resolution recommended by the Committee on the Budget.

The CBC budget is preferable because the LPA addresses two problems which everyone agrees must be solved. One is the recession, and the other is the impact of converting to an economy that is not dependent on the cold war.

We are clearly in a recession. The number of full-time jobs in the country has declined by 2,300,000 since May 1990. While many economists believe the recession will end this year, these same economists last spring said that the recession would end last year. It would, therefore, be prudent for us to prepare to further stimulate the economy this fall if these economists are again wrong in their forecasts.

Testimony before the Committee on Government Operations confirms what every local newspaper is reporting: The recession is squeezing the finances of local governments, which are confronted by lower tax receipts and greater demand for public services.

Title I of the LPA, as approved last week by the Subcommittee on Human Resources and Intergovernmental Relations, Committee on Government Operations, authorizes an appropriation for fiscal year 1992 and fiscal year 1993 of $15 billion to be sent directly to 39,000 local governments. The money is to be sent to the local governments by the Secretary of the Treasury within 60 days after it is appropriated, and the local governments must return the funds to Washington if they are not actually spent within a year. The local government must rehire laid off workers, restore services, or expand programs that are overburdened because of the recession. The funds must be spent on education, public safety, health, social services such as emergency food and shelter, and programs mandated by the Federal Government such as the Federal Water Pollution Control Act and the Americans With Disabilities Act.

The LPA has several advantages. It will get the money out quickly. The formula allocates the money to the parts of the country where unemployment is the highest, and this includes areas hurt by cuts in the defense budget. The formula also allocates more funds to local governments with more low-income residents, and it rewards local self-help, by giving more funds to local governments that impose high taxes relative to residents' income. The Congressional Budget Office estimates that title I of the LPA will create 325,000 new jobs this year.

In conclusion, the Local Partnership Act is a way of helping to end the recession by lifting the fiscal siege of our local governments.

CONCLUSION

This is an alternative that members should support. The merits are on its side. The changing world argues for it. Everyone intuitively knows that today we need to be bold, that we need to be courageous. This is how we can do it.

It is a budget that recognizes what the President has failed to recognize: That we have fundamentally two economic problems, one short term and the other long term. In the short term this budget creates the necessary economic stimulus and jobs. And if you care about jobs, it will crate many more than any other offered.

This alternative also begins the process of long-term investments in human needs, education, health care, and jobs. The neglect of these investments, together with trickle-down economics, have created an economic mudslide in the past decade.

We today have two options: We can lead or we can follow a dramatically changing world. The President's budget does not lead; it's simply more of the same budgetary policy that's not working. The CBC alternative charts a new course. Let's get this country moving again with it.

Mr. FORD of Michigan. Mr. Chairman, I rise in strong support for the Black Caucus budget substitute offered to day by Mr. TOWNS and Mr. DELLUMS. This budget substitute offers a true vision of this Nation's future and is the only real product before the House which makes the genuine hard choices required of leadership.

The Towns-Dellums substitute would allow this Nation to reap the greatest benefit from the peace dividend. By redirecting Pentagon savings of $2.6 billion toward student financial assistance, the substitute would make college a reality for the children of millions of hardworking American families.

By redirecting Pentagon savings of $1.4 billion toward education block grants to States, the substitute will provide the impetus for educational reform for every American public school, not just for a select few.

By redirecting Pentagon savings of $2.1 billion toward Head Start, the substitute will make full funding for this critical school readiness program possible by fiscal year 1995.

By redirecting Pentagon savings of $2 billion toward training and employment programs, and an additional $1 billion for an economic conversion retraining program associated with reductions in military spending, the substitute will bring jobs to the unemployed and hope to the displaced and will allow this Nation to retool for a peacetime economy.

Mr. Chairman, the Towns-Dellums substitute offers bold leadership on a day when our President is apologizing for what may have inadvertently been taken for leadership in the budget agreement for this Nation's future 2 years ago. True leadership does not come cheaply. True leadership means a willingness to lead. True leadership means never having to say you're sorry.

It is time that we got on with leading this country into the future by investing in America now. I urge my colleagues to join me in supporting the Towns-Dellums substitute.

Mr. COYNE. Mr. Chairman, I believe the House must face reality. We cannot meet the basic needs of the American people unless we tear down the artificial budget walls established in 1990.

Let no one doubt that defense spending will be cut. Both the changing international scene and our own domestic needs require this action. The only question is how we will choose to allocate the billions of dollars saved through defense spending reductions.

The 1990 budget agreement protects defense, domestic, and international spending by building paper walls that prohibit using savings in one area to meet real needs in another. These budget walls perpetuate Federal spending priorities which do not reflect the post-cold-war world.

I support using these defense spending savings to meet the priority needs of the American people. Under the House budget plan A, the House can provide increased funding for vital programs such as education, Head Start, nutrition programs for women and children, transportation, health care, and job training. At the same time, we will still provide for deficit reduction.

Unless the House accepts this plan, funding for basic domestic programs will be $6.4 billion less than what is needed to simply maintain current services. All of the savings from defense cuts would go to deficit reduction, but at what price?

We must choose whether schoolchildren will have the resources they require to learn, and whether mothers and their infants will have food. We must choose whether we will rebuild our Nation's crumbling infrastructure, and provide workers with the skills they need to succeed in today's economy.

I support deficit reduction, but I cannot turn my back on the needs of American families. Under plan A, walls down, we can begin to serve these families and still use part of the defense savings to reduce the deficit. Plan B, walls up, means a real reduction in services. It is the men, women, and children of our own communities who will suffer unless we tear down the budget walls. The walls must come down now to build a stronger America.

Still, the debate on the budget resolution is more than simply a debate over budget walls. It is also a debate over the size of the peace dividend.

While the House Budget Committee's plan A points in the right direction by bringing down the budget walls, it does not go far enough in providing a sufficient peace dividend to meet the basic needs of America. The problem is that the recommended level of defense spending—$287.2 billion—does not reflect actual defense requirements. Under plan A, defense spending will still be too high to provide the savings needed to invest in America's future.

What we need is defense spending that is driven by the real national security threat we face today. The Congressional Black Caucus budget substitute offered by Representatives TOWNS and DELLUMS offers the House a defense budget which reflects the reality of a post-cold-war world. I believe that a $275.5 billion defense budget is more than adequate to meet U.S. defense needs at a time when we stand unchallenged as the world's only true superpower.

The Towns-Dellums substitute would use these savings to provide the resources vitally needed to build a stronger and more just America. This proposal would provide the funds needed to educate our children, rebuild our Nation's industrial base, train our workers, and provide jobs for Americans.

The House must choose whether we will respond to the needs of Americans who want a job and a better standard of living for their families. We no longer face a cold war threat, but we do face an economic threat.

Mr. Chairman, the time has come to put taxpayer's dollars to work where they will do the most good. The time has come to bring down the walls and enact a budget which serves the needs of the American people.

Mr. ROYBAL. Mr. Chairman, I rise in support of the Towns-Dellums/Black Caucus substitute to House Concurrent Resolution 287, the congressional budget resolution for fiscal year 1993. Of all the plans submitted in the committee resolution and in amendments to the resolution, the Black Caucus substitute would support the largest increase in domestic spending. This increase would be funded by a cut in defense spending, one significantly greater than that found in the committee resolution. In addition to much-needed increases in entitlement and domestic discretionary spending, this substitute would offer tax relief for middle-income and working class families.

With the collapse of the Soviet threat, the world has entered into dramatically different circumstances than those that existed during the cold war. Though a strong defense should remain a budgetary priority, we must refocus our primary energy on building a strong domestic economy. In order to spur our economic growth, immediate investment in our Nation's infrastructure through housing construction, transportation improvement and community and regional development must be provided.

The time has come to address the serious economic conditions which have brought hardship to so many Americans. To accomplish this vital goal, increased funding for health, education and job-training programs is urgently needed. The funding levels contained in some of the plans offered for this budget resolution would place these programs in jeopardy, leaving them millions of dollars short of what is needed just to maintain current services, let alone expand services to those who lack them. The Black Caucus substitute offers the highest levels of funding for these priority programs.

The enactment of this substitute, and certain other budget resolution plans that have been offered, depends on the elimination of the firewalls established by the 1990 budget agreement to allow the transfer of funds from defense to domestic needs. I also offer my unconditional support for the passage of this legislation. The creation of the divided spending categories was based on dramatically different international and domestic conditions than those that exist today and our budgetary system must be modified accordingly.

I call on my colleagues to join me in support of the Towns-Dellums/Black Caucus substitute to the congressional budget resolution for fiscal year 1993.

Mr. WEISS. Mr. Chairman, I rise in strong support for the Congressional Black Caucus alternative budget. I would like to commend Congressmen TOWNS and DELLUMS for offering an alternative budget that reflects a more realistic and forward-thinking picture of Federal budget priorities, and I would urge my colleagues to vote in favor of this very important amendment.

I would also like to recognize the efforts of Chairman PANETTA and the Budget Committee for putting together a budget that lays a good foundation by which the CBC alternative budget is able to depart in a more progressive fashion. It is encouraging to see the Budget Committee move in a direction that many of us have pursued for years, but at a time when deep cuts in defense spending can lead to real investment in America, neither plan A nor plan B offers enough of a substantive change to meet the immediate and desperate challenges that currently face our society.

For 40 years, the American taxpayer paid for a massive defense buildup in the hopes that one day we could reap the benefits of a peaceful world. Today the new world has arrived. The cold war is over, democracy is sweeping the globe and the enemy of my people, is now my friend. Yet again each American is asked to be patient and wait a little longer. Meanwhile, the ground below is quickly crumbling, the surrounding air is increasingly thin, and no one has offered a plan to stabilize a very unstable America.

I fought for years to design policies that would put defense savings to prudent use once the cold war ended. I have introduced numerous economic conversion bills and last year I introduced a bill to add flexibility to the Budget Enforcement Act. Both issues are the primary topics of today's debate, because changes in the world has brought us to this point. And yet only the CBC budget truly addresses these topics in a substantive manner.

When the President officially ended the cold war during the State of the Union speech, I waited, as did most Americans, for him to launch a new era of Pax Americana. I expected new investment programs that are the natural dividends of four decades of sacrifices—deep cuts in defense, new infrastructure projects, a progressive health care and more money for education. Instead his budget proposals were as if he had forgotten the very words he had just spoken. As if the cold war had not ended; as if the social problems did not exist; as if the Federal deficit was an imaginary demon.

But how many signs does the President need before he is convinced that problems in America have reached critical mass. How many more families will be thrown out on our city streets, before we make real investments in public housing? How many more international education competitions will American children rank last, before we make concrete investments in America's educational system? How many more young people will die a violent death, before we put real investments into programs that offer economic alternatives to crime?

The President's budget provides no answers, and only proves that he is out of touch with America. It continues to speak to the status quo, and rejects the reality of our current situation. It reduces Pell grants by 400,000 instead of expanding educational opportunities; it cuts 42,000 mass transit jobs instead of supporting increases in inner city transportation; and it eliminates 1.3 million households from programs that give low-income families access to energy, instead of investing programs to help these American citizens. It continues policies that divide our country, instead of promoting policies that unite the nation.

Today, however, we have the opportunity to vote on an amendment that admits our vulnerabilities and offers an alternative that can turn this country around. The CBC budget gives the American people dividends on some of the investments made over four decades. It is a budget that is inclusive, not one that excludes. It is a proposal that places the future of this country on the shoulders of everyone, and not just those who have carried America for the past 12 years.

The CBC budget amendment creates an incremental ripple effect unseen in the history of massive defense spending. It cuts defense spending by only $49 billion in 1993, reduces defense spending by $400 billion over 5 years and still leaves a strong and ready military. It eliminates large and costly weapons programs and creates tens of thousands of jobs, in hundreds of different and diverse fields. It dramatically increases domestic discretionary spending and never exceeds the budget deficit targets set up in 1990.

Reducing spending on fat-cat defense contractors, it instead uses $15 billion in defense savings to put people back to work in manufacturing jobs, and provides $3 billion in defense savings for the conversion of defense industries into productive commercial enterprises.

Reducing spending on Trident subs and rail garrison missiles, it instead uses $5 billion in savings to build better mass transit systems, and improve roads, highways, and bridges.

The CBC alternative budget takes us farther down the road of progress in 1 year, than we traveled in the last 10. It gives us the foundation to move onto the next decade, and gives us the resources to rebuild the areas where we are weak.

Contrary to critical opinion, the CBC alternative does not forsake one Government priority over another. But strikes a balance between social programs, military might and deficit reduction. It returns fairness to a tax rate lost in the 1980's, and returns Government back to the many instead of the few.

Mr. Chairman, it is time for America to do what is good for America. It is time to stop fighting the old battles and to begin to fight the new fights. And it is time that we fight those battles together. When President Kennedy said "ask not what your country can do for you, but what you can do for your country," he was not talking to those who made under $75,000 a year. He meant each and every American.

I hope that we can make the right decision today and pass a budget that can give us the opportunity to succeed in a world where economic strength has far outpaced military might. I urge my colleagues to pass this amendment.

Mr. SERRANO. Mr. Chairman, I rise today in support of the budget for new world realities and for rebuilding America, the alternative offered by the Congressional Black Caucus, of which I am proud to be an associate member, and the House Progressive Caucus. I am proud to have an opportunity to take part in this long overdue restructuring of this Nation's agenda.

For far too long, our Government, in the hands of Republican administrations, has operated under a set of priorities which seem to me and many others in this body, to be incredibly misguided. We have battled year after year to sustain funding for programs that meet the fundamental needs of the citizens of this country, against administrations that put the interests of a few above the prosperity, and even survival of the many people among us who need help.

It is time for this battle to end. No longer can anyone point to the threat of communism taking over the world as a justification for unnecessary and expensive weapons systems and defense programs. No longer can anyone ignore the crime and chaos that result from the Federal Government's abandonment of our cities. We work every day in the middle of this crime and chaos, right here on Capitol Hill. It is time for everyone here to wake up and face the fact that unless we address the root cause, which is poverty, we will be unable to do anything about our problems. The reasons for diverting such an enormous amount of our resources to defense are gone, and the reasons for the firewalls in the 1990 budget agreement are gone, too.

When some of us fight to fund the programs we believe are most important, we hear a lot about the budget deficit. I understand the importance of the Federal budget deficit. However, we have money to spend. The President's budget calls upon us to spend $1.52 trillion. Now, we in Congress must decide whether the President's spending priorities are our own. I know they are not mine. This debate is about how best to use the resources we have to benefit this country and its people.

When we are asked to spend billions of dollars to prop up and then bail out poorly managed banks and thrifts, nobody asks us to find a way to pay for it. The administration borrows the money and adds to the debt and the deficit, and then turns around and says, well, look at our huge debt. Look at our huge deficit. We cannot afford to repair our public housing, our mass transit infrastructure, our public schools. We cannot afford to maintain the health benefits we have promised to the disabled and the elderly. We cannot afford to take care of those who are unable to feed and clothe their children, or to provide treatment to those who are struggling to overcome drug and alcohol dependency. They will have to fend for themselves, because we have other priorities.

On this day, Mr. Chairman, we must reorder the priorities that brought on the crisis of widespread homelessness, the priorities that have given our children epidemics of tuberculosis and measles, diseases which this country conquered long ago, and the priorities that have allowed a new and fatal disease, AIDS, to spread unchecked throughout our Nation. On this day, we must bring this Nation's government back to all the people.

I am here today to speak for the priorities of my people of the South Bronx. I am here to speak for the mothers who are giving birth to babies already carrying the HIV virus, for the children who sleep at night with no heat in the winter, and have no clean, lighted place to do their homework, and are threatened with irrational violence every day in their schools and around their homes. The people I speak for are Americans, and this is their Government, too. They should not have been made to pay the price for the administration's borrowing for the defense buildup. But they were the ones who paid. The end of the cold war came about because of their involuntary sacrifice of shelter, education, and health, and now we must insist that the benefits from the end of the cold war be theirs as well as the sacrifices.

Mr. Chairman, I call on my colleagues to support this budget. It is not only the fairest and most just proposal before us, but it is also the best for this country. More than any other proposal before us, this budget will help us to rebuild this Nation by mobilizing our most valuable resource, the American people.

Mr. MINETA. Mr. Chairman, I rise in strong support of the Towns-Dellums substitute to the committee budget resolution and I urge my colleagues to cast their votes in favor of the amendment.

I commend my colleagues of the Black Caucus for their efforts. More than anything else, the Black Caucus alternative budget is about investing in our future. It is about ensuring that our quality of life will be maintained into the 21st century. It is about guaranteeing that our children will have the same opportunities we had to succeed and prosper in a global economy.

The collapse of the Soviet Union as a military threat now can allow us to rechannel our defense budget into programs that will help our economy grow and begin to make long-term investments in programs essential to future vitality.

Industrial research and development, education, helping workers employed by the defense industry to take their skills to the civilian sector, public health—investment in these areas now will make sure that we can compete in a new world order in which economic strength, not military confrontation, will win our country's battles.

A key sector in which we must invest is our transportation infrastructure.

During the last session, the Congress rewrote the Nation's transportation programs in the form of the Intermodal Surface Transportation Efficiency Act of 1991, or ISTEA.

During the debate on that legislation, it became extremely clear that underfunding of transportation improvements around the country could mean economic suicide in the future because a new world order increasingly values the ability to compete and quality of life above all else.

Mr. Chairman, the President would have us cut vital transportation programs and endanger the future of the new course we have crafted for our Nation's infrastructure.

I believe that keeping the authorization levels as close to those in the ISTEA legislation is crucial if we are to fund programs which include highway and transit capital projects as well as motor carrier and other safety improvements, transportation research and developments, and the availability of much-needed funds for implementing Federal mandates such as the Clean Air Act and the Americans With Disabilities Act.

I would like to especially emphasize the importance of fully funding our Federal transit programs. The ISTEA carefully balances highway and transit funding in a way which will reduce urban and suburban congestion, which has doubled over the last decade, and which will reduce air pollution. Underfunding transit programs will skew this careful balance reached by the Congress and the President in the ISTEA legislation.

The Towns-Dellums amendment would add $2 billion in grants and operating expenses for the Urban Mass Transit Administration. It would enhance railroad safety and efficiency. It would improve our air safety.

I believe that the Black Caucus budget alternative adheres to the spirit of the Transportation bill and would lead to economic growth, job creation, and better economic competitiveness. I urge my colleagues to support the Towns-Dellums amendment.

Mr. DELLUMS. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. All time has expired.

The question is on the amendment in the nature of a substitute offered by the gentleman from New York [Mr. TOWNS].

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. VOLKMER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 77, noes 342, not voting 15, as follows:

[Roll No. 40]

AYES—77

Abercrombie
Alexander
Atkins
AuCoin
Blackwell
Bonior
Boxer
Bruce
Clay
Collins (IL)
Collins (MI)
Conyers
Coyne
DeFazio
Dellums
Dixon
Edwards (CA)
Espy
Evans
Fascell
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Hayes (IL)
Jacobs
Jefferson
Kennedy
Kildee
Kopetski
Lehman (FL)
Lewis (GA)
Markey
Martinez
McDermott
Mfume
Miller (CA)
Mineta
Mink
Moakley
Nagle
Neal (MA)
Oakar
Oberstar
Olver
Owens (NY)
Pastor
Payne (NJ)
Pelosi
Perkins
Peterson (MN)
Rahall
Rangel
Roybal
Sabo
Sanders
Savage
Scheuer
Schroeder
Serrano
Stark
Stokes
Studds
Swift
Thornton
Torres
Towns
Traficant
Traxler
Unsoeld
Vento
Washington
Waters
Weiss
Wheat
Wyden

NOES—342

Ackerman
Allard
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Anthony
Applegate
Archer
Armey
Aspin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boehner
Borski
Boucher
Brewster
Brooks
Broomfield
Browder
Brown
Bryant
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Combest
Condit
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Cramer
Crane
Cunningham
Darden
Davis
de la Garza
DeLauro
DeLay
Derrick
Dickinson
Dicks
Dingell
Donnelly
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Early
Eckart
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Ewing
Fawell
Fazio
Feighan
Fields
Fish
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennelly
Kleczka
Klug
Kolbe
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lightfoot
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Marlenee
Martin
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Myers
Natcher
Neal (NC)
Nichols
Nowak
Nussle
Obey
Olin
Orton
Oxley
Packard
Pallone
Panetta
Parker
Patterson
Paxon
Payne (VA)
Pease
Penny
Peterson (FL)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Ramstad
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schiff
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stearns
Stenholm
Stump
Swett
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torricelli
Upton
Valentine
Vander Jagt
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waxman
Weber
Weldon
Williams
Wilson
Wise
Wolf
Wolpe
Wylie
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—15

Annunzio
Chandler
Dannemeyer
Dooley
Dymally
Ireland
Lipinski
Livingston
Ortiz
Owens (UT)
Quillen
Russo
Sundquist
Whitten
Yates

☐ 1753

The Clerk announced the following pairs:

On this vote:

Mr. Dymally for, with Mr. Annunzio against.

Mr. Yates for, with Mr. Ortiz against.

Mr. BENNETT and Mr. OXLEY changed their vote from "aye" to "no."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore (Mr. MFUME). It is now in order to return to the additional period of general debate on House Concurrent Resolution 287.

Pursuant to the rule, the gentleman from California [Mr. PANETTA] will be recognized for 30 minutes, and the gentleman from Ohio [Mr. GRADISON] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Chairman, I will take this time to advise the Members that it is not the intent of the majority to try to use all of our time. Our hope is to try to arrive at a vote on the resolution by a quarter to 7. There is no motion to recommit allowed under the rule, so we could proceed immediately to a vote the resolution itself.

Mr. Chairman, I yield 3½ minutes to the distinguished gentleman from Wisconsin [Mr. ASPIN].

Mr. ASPIN. Mr. Chairman, I would like to just take a moment of the Committee of the Whole here to talk about an important part of this budget resolution which we have before us, which is the defense number. There have been a number of comments in the last 2 days by Members who have claimed that the only way we can make further cuts in the defense budget, further cuts below where the President is, is by making cuts that none of us in this room want to make. We are talking about making cuts in personnel below where the President is cutting. There have been numbers tossed about about how we may have to cut another 300,000 active duty personnel next year.

Mr. Chairman, I would like to go on record at this point in stating that the people have greatly underestimated the ability of the Committee on Armed Services and the Committee on Appropriations to find responsible reductions in a $281 billion budget.

There are places to find a cut of $7 billion in budget authority and $5 billion in outlays in a $282 billion cut without cutting the kinds of things that people have been talking about and the kinds of things we are worried about here.

The Committee on Armed Services, if directed by the House through the budget resolution, can and will make responsible, smart cuts in the President's defense request for the year 1993. A prescription for drawing our forces down smartly would include the following elements, and these will include the following elements of the Committee on Armed Services that will come to the floor following this budget resolution if the House approves this budget resolution.

First of all, we will protect military personnel. There will be no cuts in that budget below the numbers that the President has already prescribed for 1993.

☐ 1800

Second, we will protect the readiness, which is very very important to make sure we do not have a hollow army.

There are two other things that we will protect. We will protect key defense industries and we will protect defense technologies. Those are the outlines of the kinds of things that we will be protecting when we move the President's budget cuts from minus $7 billion in budget authority to minus $15 billion.

Let me tell Members some of the things we will be looking at to cut. We will first of all look at overseas spending and burden sharing. That is one primary area that we will look for cuts. Second, we will look at overhead, and the third item that we will look at is excess stocks. I think a number of Members in the House have already noted the "60 Minutes" program which called attention to the excess stocks and the problems that we have with them.

Mr. Chairman, just to wrap up, I hope the Members will remember this debate when we bring the authorization to the floor sometime later this spring, because all of the comments about the gloom and doom that will accompany this budget resolution will be proven wrong when the authorization bill comes to the floor in April or May.

I thank the gentleman for yielding me the time.

Mr. GRADISON. Mr. Chairman, I yield such time as he may consume to the gentleman from Arizona [Mr. STUMP].

Mr. STUMP. Mr. Chairman, I rise in opposition to this budget resolution.

Mr. Chairman, I can see very little merit in this resolution package. It forces the Federal Government to spend a billion dollars a day more than it takes in, which is objectionable enough. But, it could also double the huge cuts in defense that the President already calls for.

I am very concerned over the depth of the defense cuts already proposed by our President and the impact on our defense posture, military personnel, workers in the defense industry, and our economy. Accelerating these cuts in the face of continuing and unforeseeable threats to our national security would be irresponsible.

As ranking member of the Committee on Veterans' Affairs, I must point out to my colleagues that the package does not support veterans.

The most deserving, appropriate group to benefit from a peace dividend has been reduced to an afterthought in this budget resolution. Let me be very clear on this point: This measure is far from generous to veterans. In plan A—the peace dividend plan—the $400 billion deficit plan—veterans who fought the wars and secured the peace receive an embarrassing 2 percent of the peace dividend.

There are, unfortunately, Members of this body who will use veterans issues to promote their own social agenda, but when we need them to support veterans programs with adequate funding, they are nowhere to be seen. They spend their so-called peace dividend on every program under the sun—and then throw crumbs to our Nation's war veterans.

Let us discuss health care: This Nation made a commitment to meet the health needs of veterans. However, the administration's fiscal year 1993 budget is approximately $300 million short of current services, though services have already been cut back considerably. Such shortfall does not take into account the near billion dollar backlog in procurement of new and replacement medical equipment, salary increases for essential medical personnel, and unanticipated and unprecedented cost increases of pharmaceutical products. Veterans health care programs received $100 million of the total $15 billion peace dividend plan—or less than 1 percent.

Let us discuss those who were disabled while fighting for the peace dividend: Inadequate staffing levels have played a major role in the declines in both the quality and timeliness of benefits claims processing. At VA regional offices in fiscal year 1991, only 23.6 percent of original compensation claims were being processed within 90 days. Mr. Chairman, veterans are not getting their benefits in a timely manner because there aren't enough people to process them. Compensation programs for service disabled veterans do not benefit from the peace dividend plan, but there is a $125 million peace dividend to administer Medicare and a $131 million peace dividend to administer Social Security.

Let's discuss education: in interview after interview during the Persian Gulf war, young soldiers, sailors, airmen, and marines cited the opportunity to earn education benefits, and learning a skill while serving their country, as their primary reasons for enlisting in the military. Our remarkable success during desert storm demonstrated conclusively that the All-Volunteer Force is made up of the men and women the Armed Forces need—the best and the brightest—and a principal reason these individuals chose to enter the armed services was to earn education benefits. We promised our military personnel that, in exchange for honorable service, we would provide them the means to go to school, to further their education, and to increase their individual productivity. Neither the current nor the previous administration budgeted for an increase in GI bill benefits since 1984, but education benefits for those who never served will increase $2 billion, courtesy of the peace dividend plan.

And let us discuss the homeless: studies indicate that at least one-third of America's homeless are veterans, however VA is appropriated only one-twentieth of McKinney Homeless Act funds. For many of these veterans, psychiatric and medical problems exacerbate circumstances which have led to their living on the streets. The administration's Fiscal Year 1993 VA Budget for homeless programs is $34.5 million, which is less than 1 percent of the CBO freeze estimate for housing and homeless programs. Veterans homeless programs do not benefit from the peace dividend plan, but housing and homeless programs receive over 10 percent of the peace dividend plan.

One year ago, Members of this body made speech after speech in support of veterans, especially those who served in the Persian Gulf. Some were nothing more than varnished apologies for forgetting the veterans of the Vietnam war. They promised that veterans would not be forgotten again.

So let's review how this proposal spends the peace dividend and once again forgets the veterans: only $100 million for veterans' healthcare, compared to $188 million for the National Science Foundation, $200 million for NASA, $439 million for mass transit, and $352 million to the IRS—I guess even the Federal Government pays a tax.

VA medical research receives $20 million from the peace dividend plan, but $300 million is budgeted for NIH research programs and another $300 million is specifically identified for AIDS research. Or compare the $20 million for VA medical research to the $21 million for Amtrak, the $25 million for the National Health Service Corps, or the $22 million payment to the District of Columbia government.

Were the promises of support for veterans made a year ago truly empty or does this body feel that veterans deserve better?

I urge my colleagues to defeat this measure. The whole country will fare better if the Congress demonstrates seriousness about reducing the deficit. But if we compulsively must spend a "peace dividend," then spend it on those who won it for us—our Nation's veterans.

Mr. GRADISON. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Illinois [Mr. MICHEL], the Republican leader.

Mr. MICHEL. Mr. Chairman, the majority is presenting one budget that has two options, plans A and B. Some prefer to call this the Chinese restaurant school of budgetmaking: One from column A, two from column B.

Whatever it is called, the Democrats will not even allow a vote for either plans A or B.

Plan A, the one with mushi pork, assumes that the budget discipline that established three spending categories for defense, international and domestic programs be abandoned in 1993.

Under plan A, anticipated defense savings below the cap would go to increase other spending and not to reduce the deficit.

But the bill required to change the law on these spending caps has not even been scheduled for a vote until next week, if then. And if it passes, it is definitely going to be vetoed.

So this is not even a case of putting the cart before the horse. This is a case of buying the cart when you are not going to have a horse to pull it.

Then we have plan B, the one with egg drop soup. It assumes that the budget discipline will be maintained.

Both plans A and B of the Democratic budget agree on one point: Deep defense cuts in the first year, double the additional defense cuts proposed by the President.

If we look behind the glossy rhetoric about all the goodies that can be had with larger defense cuts, we will find this ugly little fact. That is that we will have, if the Democrats' defense budget becomes a reality, an extra 300,000 active duty military personnel who would have to be cut from the rolls in 1993 over and above the 236,000 that the President has already decided on. If we look at the current figures, we are probably reducing our Armed Forces by about 15,000 a month, and if we look at the unemployment rolls around the country and how much they are going up, it may be just practically a direct offset. It means real pain to real people. But I would also suggest, even more important, the Democrat's plan destroys the Secretary of Defense's efforts to orchestrate an orderly build-down of our defenses as he has so well laid it out for us time and time again in committee meetings, and yes, in ad hoc meetings with Members on both sides of the aisle.

Another little fact Members should know about this budget is that it ignores the Democratic tax bill that we passed just last week. Last week we were told in the House that the tax bill that the Democrats narrowly passed was a defining vote for their party. But the numbers in this Democratic budget do not even reflect the policies of that tax bill.

That will give Members some idea of how serious the Democrats are around here about economic policy.

What does this Democratic budget tell us, you might ask? It clearly tells us the Democrats in the House cannot make really tough choices. They cannot say no to anyone except the Commander in Chief and the men and women of our Armed Forces who will be the first victims of this Democratic budget.

The Democratic Party has not given this country a popular leader since 1960 and has not had a new idea since 1932. This incapacity for leadership is reflected in their budget.

Mr. Chairman, perhaps the best way to describe the Democratic budget is to take a page from history.

When Catherine the Great made her grand progress through Russia, she was delighted to see clean and tidy villages. And what she did not know was that those villages, frankly, were mere facades hastily erected by her adviser, Potemkin, to disguise atrocious conditions. And ever since then, any facade or show designed to hide an undesirable fact or condition has been known as a Potemkin village.

The Democratic budget is a Potemkin village with a vengeance. I would urge my colleagues to tear down this facade and vote against the Democratic budget, plan A or B and plan X, if they have that one ready to go before this debate is over.

Mr. PANETTA. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Pennsylvania [Mr. MURTHA].

Mr. MURTHA. Mr. Chairman, I intend to vote for this budget resolution but I still think the defense reductions are too severe.

Over the years, I have heard Members rant and rave on the floor of the House about too many defense budget cuts, and that we are not putting enough money in defense. We have cut in the last 10 years over $150 billion out of the defense budget. Members got up on the floor and complained vigorously about that reduction. We feel these cuts were justified and were selective for the best results.

Usually the budget resolution as it went over from the House usually cut too much from defense, and we were quite concerned about it.

If this were the final budget resolution, I would not vote for it because I feel there is too much of a cut for defense. But I know it will be rectified. I know that before the thing is in its final version, we will have more money in the budget itself.

Let me tell the Members the pain that the troops are going through. What we have tried to do over the years was fashion a budget that sets priorities so that our Armed Forces take care of the people. The people are really the key in the budget that we fashion. We want good people and we want them to be well trained.

Take the 24th Division that fought in Korea. They were poorly trained and poorly equipped. They lost thousands of people in Korea in the beginning days. Conversely, in Saudi Arabia, the 24th Division, in combat in 100 hours lost less than 50 people because they were well trained, well equipped, and had high morale.

Right now those same troops that served in Desert Storm are being sent back home, after being deployed from Europe they are now being sent back home. We are transferring people so fast from Europe right now that they have to leave their household goods for somebody else to pack up. We cannot return people from Europe any faster and we cannot put people out in the economy any faster than we are doing now.

There is some money that we can cut from defense. Personnel is not the place to get those cuts. Readiness is not the place to get those cuts. We have to guard against excessive cuts, and we have just voted down what I consider an excessive cut in defense levels.

I think we can find reductions to maintain a smaller, well trained force, with the transportation necessary to get that force overseas, and with the support people we need. We need the C-17's and the sealift capability to get those people overseas.

□ 1810

I recently talked to a commander who told me that the troops that were transferred to Saudi Arabia from Europe, then back to Europe were then transferred to the United States and did not even have housing. They had to take the children out of the schools before the school year was completed and send them back to the United States. The troops and their families are housed in temporary quarters and will have to be transferred to permanent housing in the future.

There is no way that we can accept the type of cuts that have been recommended. Usually every budget resolution that has gone from the House side has had too little money for defense. In the end, we have come up with what I felt was the right amount of money. I expect this to be the case now.

One of the proudest days I had this year was walking down the street ahead of the troops from the Desert Storm operation as the honorary grand marshal in the parade in Pittsburgh attended by 250,000 people. Even with over $150 billion worth of cuts over the past 10 years, we had a force that was adequate, a force that was ready, a force that was well equipped, and a force that did a phenomenal job. I was proud of our troops.

Congress seldom gets credit.

So I am convinced that even though this resolution is inadequate, even though there is not enough money for defense in this budget resolution as it leaves the House, I am willing to vote for it, because I know it will be increased.

I urge the Members to move the process forward. We need to move the budget resolution forward and get it settled as quickly as possible. Then the Committee on Armed Services can act and the Defense Appropriations Committee can finally pass the funding legislation that takes care of the people in the armed services and the equipment that is necessary to prevent a war.

Mr. GRADISON. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. MARTIN], a member of the Committee on Armed Services.

Mr. MARTIN. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I want to draw attention to what the gentleman from Pennsylvania [Mr. MURTHA], my dear friend and admired colleague, just had to say. I agree with a lot of what he had to say, and a few things I do not agree with, and some things that my chairman, the gentleman from Wisconsin [Mr. ASPIN], had to say.

Secretary Cheney, I think has studied this thing rather well. Notwithstanding the protestations of others to the contrary, you are going to understand, my colleagues, what it means when we fire another 300,000 volunteers that we are ultimately going to need from our armed services over the next 18 months.

They are going to be calling your offices as well as mine. There is no way to come down as quickly as this budget resolution calls for without digging deeply and viciously into the personnel account as well as the O&M account.

People say down the line, "Call us back and see how we are doing." Right now, you are writing the end of the career of a lot of people that we are going to need, a lot of people who have served us well.

Mr. STENHOLM. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Chairman, I rise in support of House Concurrent Resolution 287, the fiscal year 1993 budget resolution.

The Democratic budget is a fiscally sound, disciplined plan. It reduces spending wherever possible, it does not violate the budget agreement, and it attacks the deficit—at least 25 percent of any defense savings will go toward deficit reduction.

Our budget takes our financial limitations into consideration, and then shifts our priorities so that we can focus on our current needs. It reflects the changes taking place both in America and throughout the world.

Our defense spending is $4.2 billion less than the President wants it to be. But it is based on the House Armed Services Committee's updated defense strategy, and addresses our military challenges in this new international environment. Our budget then takes these savings and applies a portion of them to attacking the deficit. It also allows us to reinvest defense savings in economic conversion—including job training for displaced military personnel and defense workers. And the budget includes a 5-percent decrease in funding for both Congress and the President's office.

However, our budget does not sacrifice our critical domestic programs in order to achieve these ends. Unlike the President, we cannot ask our most vulnerable citizens—the unemployed, the underinsured, our senior citizens and retirees, our veterans, our children—to bear the brunt of this burden. Too many Americans are hurting for us to expect them to pay our way out of this financial hole.

What the Democratic budget does is reorder our priorities and, in areas where the President cut critical funding, we either restore or increase it. This includes protecting important programs in health care, job training, housing, nutrition, mass transit, and energy assistance. Our budget rejects all of the President's proposed cuts for Medicare, Federal employees, and veterans.

We put our money into preventive measures that will save us money down the road—medical research, health care, energy conservation, small business financing. Our budget enables us to invest in our important resources—our people, our communities, our infrastructure—and, at the same time, begin to wrestle with this overwhelming deficit.

Chairman PANETTA and the members and staff of the House Budget Committee are to be commended for their outstanding efforts in putting this strategy together. It proves that we can tighten our belts and meet our present, critical needs while we plan for and invest in our future.

Mr. STENHOLM. Mr. Chairman, I yield such time as he may consume to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Chairman, I rise in support of the resolution offered by the Committee on the Budget.

I rise today in support of House Concurrent Resolution 287, the fiscal year 1993 budget resolution offered by the Democrats on the House Budget Committee and its distinguished chairman, LEON PANETTA.

What we have with this resolution is our Nation's first real peace dividend. As we all know, the world, along with our Nation's security needs, has changed dramatically in the past few years. In response to this change, our armed services chairman has identified $15 billion in further defense cuts which does not hurt our national security posture one iota, nor does it cause undue hardship on our already beleaguered military industrial base.

The Budget Committee has crafted this $15 billion into a thoughtful package of priorities which few people—on either side of the aisle—can argue with. It allocates much-needed extra funding into such areas as Head Start and Elementary, Secondary, and Higher Education. In health care $400 million is added to the Women, Infants and Children Program; AIDS and veterans' health care receive a much-needed boost; and $150 million is allocated to fully fund our Nation's childhood immunization program—probably the most cost-effective health program we have in America. Finally, this budget resolution allocates more money to infrastructure repair, mass transit, job training, and housing.

This resolution maintains some of the basic tenets of budget discipline in that it conforms to spending limits of the 1990 Budget Enforcement Act; it reduces the deficit with a portion of the defense reductions; gimmicks—such as accrual accounting—are not used to pay for spending increases or tax cuts; and we don't give the shaft to Medicare, veterans, or our civil servants.

For those of us in this body who want to stick to the original Budget Act and devote all of our savings to deficit reduction, I offer a few points. First, when this agreement was signed, there was nobody who could have predicted that 18 months later our Nation would be in the dire straits that it is in right now in the areas of health care, education, and employment. While $2 billion of this agreement will go toward deficit reduction, $13 billion will go to those sectors of our population that missed out on the largess of the 1980's.

Second, voting for this resolution doesn't mean going back on a promise, but realigning our national priorities. Polls show that when offered a peace dividend, the American public doesn't want an insignificant tax cut or meager payment on the debt. Rather, they want to direct it to those sectors of our society that desperately need the help. This resolution does just that. When I ran for office, I didn't offer my position on every vote or issue I would take, and neither did any of my colleagues. I did promise that I would represent the needs and concerns of my constituents. By voting for this resolution I will represent the greatest need of my constituents, and the Members of this body can do the same.

Would I like to have $100 billion to allocate to reducing the budget deficit, you bet. But we don't have $100 billion, we have $15 billion and it is time that we reprioritize the needs of our Nation and take some of this peace dividend and direct it to where the American people want it to go. If we allocated all this $15 billion to debt reduction, it would symbolize a pay down of three-tenths of 1 percent on the total debt or provide interest payments for 18 days. Such a limited amount can surely give us more bang for our buck when directed to other priority needs.

Mr. Chairman, now is the time that we address some of the most pressing needs of our

Nation. We need help—right now—in childhood immunizations, AIDS research, and infrastructure repair. This resolution will help us do just that.

Mr. STENHOLM. Mr. Chairman, I yield 3 minutes to the gentleman from South Carolina [Mr. SPRATT].

Mr. SPRATT. Mr. Chairman, I support the budget resolution before us.

I would like to underscore two points I made yesterday. The first is the relatively small difference between what the President wants to spend on defense and what this budget resolution would allow.

The second point is my own firm conviction that we can make these added cuts without trimming personnel any more than the President himself has proposed.

When it comes to defense, here is what this debate is about: it is about taking $6.6 billion off the President's mark for BA, and then in turn taking $4.2 billion off his mark for outlays. In percentage terms, what the Committee on the Budget is talking about is a 2.3-percent cut in budget authority, that is all, 2.3 percent, and in outlays, the cut is even less. In the outlays, the cut off the President's mark would be 1.4 percent.

Now, surely, surely, we are not going to take the President's budget of $291 billion uncritically and say, "This much and no more," and not even give it a good scrub.

I assure you, if we scrub this budget, we can find 2.3 percent of it that does not need to be spent next year.

These numbers in function 050 for defense are not plugs. They were not pulled out of thin air by the Committee on the Budget. They were given to us, recommended to us, by the chairman of the Committee of Armed Services himself. The gentleman from Wisconsin [Mr. ASPIN] did not give these budget numbers for fiscal year 1993 to us without first doing a full scrub of the budget himself and deciding whether or not, as he just told us, we could do this, we could take these cuts, without digging further into personnel or damaging readiness, two of the areas that we want to protect and that we are going to protect.

The gentleman from Wisconsin [Mr. ASPIN] has just told us that he is convinced himself that we can cut defense spending next year by $4.2 billion and still protect personnel and still protect readiness.

Let me give you a few examples of how we can do it. The fiscal year 1993 request for O&M, operations and maintenance, is $84.5 billion. That is a lot of money by anybody's reckoning. Out of this amount of money, the services buy spares and replacement parts and inventory. In January of this year, the General Accounting Office told us in a report that over the last decade the Department of Defense had accumulated an enormous inventory worldwide in depots and warehouses everywhere worth at cost $250 billion, up $150 billion over the last 10 years. That is inventory on hand.

Based on its study, the GAO told us that we can cut inventory for secondary small items by at least $5 billion next year, fiscal year 1992, and not even know the difference.

This one proposal alone would cover most of our BA reduction and most of our outlay reduction.

Mr. Chairman, clearly in a budget of $291 billion, saving 2.3 percent is not an impossible goal. We can do it, and we should do it, by passing this budget resolution.

Mr. GRADISON. Mr. Chairman, I yield 1 minute to the gentleman from South Carolina [Mr. SPENCE], a member of the Committee on Armed Services.

Mr. SPENCE. Mr. Chairman, I will vote against the Budget Committee's resolution for a number of reasons. I will briefly mention one.

Now I understand what building defense from the bottom up means—gut it to fit the world of the illusionists, who think it is safer to skimp on defense, then gamble we can fight and win the next war.

Gamble by shelving weapons technology and idling the defense industrial base. Even worse, gamble at tossing hundreds of thousands of stunned service men and women into a wobbly economy.

We can, and should, reduce the defense budget, but not with cuts of this magnitude. It bankrupts the Nation's defense, and does more harm to an already weak economy.

This proposal doubles the President's proposed cuts. His plan is better, but also cuts too deep. At least, it uses defense savings to reduce a budget deficit swollen by years of Federal spending sprees.

Every service chief says that cutting our fighting forces too fast will not enable us to fight and win a future two-front war. We should listen to them, rather than turning over this country's survival to bean counters who know the cost of everything and the value of nothing.

It is people in uniform who count most in this debate. Their ranks are being thinned too fast. We have to find better ways to gradually reduce the world's finest fighting force. And we can do it for a lot less than the millions in aid sent to Russia, and the billions we give others in foreign aid.

For almost 50 years, we kept our Armed Forces strong, averting a world war. Why rush to stop doing the very thing that produces peace?

Mr. PANETTA. Mr. Chairman, I yield 30 seconds to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Chairman, I simply want to rise in support of the bill, and I want to thank the chairman, the gentleman from California [Mr. PANETTA], and I understand the gentlewoman from New York [Ms. SLAUGHTER] for putting in the report a very important statement.

I would just want to reiterate to my colleagues that it says that the committee assumes an increase of $500 million for the purpose of making up the deficit in women's health research, and then you nail all of these terrible diseases that have not been fully explored in terms of finding a cure and arresting those diseases. I want to thank the chairman and thank all of you for doing that. That is a real important statement.

□ 1820

Mr. PANETTA. Mr. Chairman, I thank the gentlewoman for her kind statement.

Mr. Chairman, I yield 3 minutes to the gentleman from New Jersey [Mr. ROE].

Mr. ROE. Mr. Chairman and my colleagues, I want to make an observation today, if I may. I have listened as intently as everybody else has around here during this past day and yesterday. We listened to the eloquent speeches made by everybody on both sides of the aisle, in my judgment. The fact of the matter is I think it is one of the finest debates that I have heard in my 22 years here in the House.

There was something that came through here that I would like to share with you all. I think what came through was the interest and the sincerity of purpose and the deep concern of each individual Member. Many spoke of frustrations and irritations in the different areas they saw the direction to go, but let me share something with you which I think is terribly important.

Last year we worked the entire year and used 57 members of the Committee on Public Works, plus 100 Members of staffs of all committees, to write a Transportation bill.

Now, by God, you voted 372 Members of this House to 47 in favor of the Intermodal Transportation bill. The only bill you have before you where there are real jobs is the Transportation bill. Each and every one of you in each one of your districts in each State is based upon real jobs, 2 million jobs.

Now, in candor, let us look at the facts. We have before us in the budget we are considering now the committee level or Congress's level for transportation for the highway transportation part of the bill. They are jobs in your districts. All of the tax discussions and the nonsense that we have been talking about does not create one new job. The only bill you have is that bill.

Therefore, if you are going to carry that bill out, you have got to fund the bill. That is what this issue is about.

Now, I am going to speak well about the Budget chairman and the Budget

Committee, because they restored back the full amount of money that you voted for, three-quarters or 80 percent of this House, in passing that Transportation bill. They have provided the resources for it in this budget area.

I must take a little bit of umbrage, however, because the Budget Committee did not include the full level they should have included in the transit part of the bill. The transit part of the bill is critically important. It is a billion dollars short, and even though it is a billion dollars short, I intend to vote for this Budget resolution because what we have now is the only jobs bill in the Congress of the United States.

You have spoken about tax bills. You have spoken about the points of view, that those tax bills did not create real jobs, and again what we are talking about is putting people back to work in this country.

The CHAIRMAN pro tempore (Mr. MFUME). The time of the gentleman from New Jersey has expired.

Mr. PANETTA. Mr. Chairman, I yield 1 additional minute to the gentleman from New Jersey.

Mr. ROE. Mr. Chairman, the gentleman gives me one more minute, and I will try to conclude on that basis. Forgive me if I am being a little bit testy.

You also voted 2½ cents and you extended the gas tax to provide the real money to do this particular transportation bill.

So I would hope when you evaluate in your minds, set aside the partisan politics. My father taught me something, that half of nothing is nothing.

The only thing, looking at every face in this room, that you can take back to your districts and your respective States now is funding the transportation bill. It is the only true jobs bill we have. Those are the real jobs.

The committee is working on other legislation now, an accelerated Public Works bill which in a month's time we will bring before this body for its consideration, but let me close on this point.

When all is said and done, people cannot pay taxes, you cannot increase the wealth of this country, you cannot provide the resources you are talking about, unless you create the new wealth. For every dollar we spend in capital construction and infrastructure, we create $10 in increase in our economic capacity and capability of this Nation.

So I would hope that you would set aside the arguments. Vote for one thing for sure, that is this budget resolution, and vote for the jobs that this country needs.

Mr. GRADISON. Mr. Chairman, I yield 3 minutes to the gentleman from Missouri [Mr. SKELTON].

Mr. SKELTON. Mr. Chairman, I wish in all sincerity that I could support my friend and colleague, the chairman of the Committee on the Budget, and the budget that is before us. I cannot do this.

I spent a great deal of time, Mr. Chairman, working on what we should have as a national defense. I followed the suggestion of our outstanding chairman of the Committee on Armed Services, the gentleman from Wisconsin [Mr. ASPIN] on my own, with a great deal of help from staff, military and civilian experts that I built up on what we need in the way of national defense.

Mr. Chairman, this budget would start us on a slippery slope of returning to where we were in those sad days of unpreparedness between the First World War and the Second, the time of Korea in 1950 and to the days when those of us who are serving here found ourselves with a hollow military. We cannot do that.

This is an historic opportunity, Mr. Chairman, for us, the Members of Congress, to reverse the historical trend, to do something about staying militarily strong; cut where we can. We have already cut the military budget 25 percent over 5 years and cutting an additional $50 billion in addition thereto. Without that, we cannot proceed if we cut that any further.

I might add that with the budget proposal agreement suggested by the Secretary of Defense, we have already cut 32 percent of the Active Duty Army.

Yes, there will be armories closed. Yes, there will be Reserve units shut down. Yes, you will send the brave sergeant who did a good job in Kuwait and Iraq back home with a pink slip; but more important than that, you will set a trend for us in the days and years ahead that could prove dangerous in this kaleidoscope of history, the future of which is never predictable. We did not predict Pearl Harbor. We did not predict North Korea coming into the South. We did not predict Saddam Hussein going into Kuwait.

Let us cut with ration and reason. Let us do it wisely. Let us not do it precipitously.

For my friend who said that he would vote for this, but would not vote for it if it were the final budget, I say that I for one, Mr. Chairman, regretfully cannot vote for it.

Mr. PANETTA. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, we have come to the close of this debate. I want to thank the Members who participated and also thank the Members for their patience during this debate. It is a debate about the budget of the United States.

As I have said often, our budget is not just an issue dealing with numbers. It is an issue dealing with people and with the priorities of this country.

It is also an issue dealing with the business of the Nation and our responsibility to produce a budget so that we can continue the business of the Nation.

□ 1830

There are Members here, as I have said, who would not vote for any budget resolution, A, B, C, D, E, or F. They are prepared to vote against any resolution; they are prepared to talk about the problem of the deficit, they are prepared to talk about the problems that confront our country, but they are not prepared to make tough choices.

The President's budget is brought to the floor, and 119 Representatives walk away from it; only 42 votes up on the board for the President's budget. And yet the arguments here are, "Oh, the President's numbers are fine on defense, we want to stick with the President's numbers on defense." They do not even support the President's budget.

So there are Members here who are not going to vote for any budget, and I do not address my remarks to those Members because the American people want leadership here, not people who run and hide in the trenches.

The issue here is the budget that confronts this country and the priorities that we need to confront and the choices that need to be made. This is the earliest that a budget resolution has been brought to the floor.

Yes, we have faced uncertainties here. I do not know what is going to happen on the Conyers bills or the walls legislation, but that is coming to a vote next week.

My responsibility as chairman of the Committee on the Budget and the members of that committee is not to present a budget here that is suddenly going to become irrelevant; it has got to be a budget that we can rely on. That is why we presented the paths that are presented here; both, both clearly distinguish themselves from the President's budget and both adhere to budget discipline, both are within the spending ceilings that were provided by the budget and, indeed, we reduce the deficit below the President's numbers and get rid of that accounting gimmick that was part of the President's budget.

This resolution also is fair. We do not include cuts on Medicare or on veterans or on civil servants or on other areas like mass transit as the President included. And most importantly, we make an investment. I have heard the arguments about defense. What is here is $287 billion for defense spending. Is there anybody here who is going to tell me that is not enough? We averaged $263 billion during the cold war years. Please, do not use the arguments of fear, the arguments of panic. We have heard those before.

I remember "Cap" Weinberger saying, "Oh, you can't cut anything or you are going to lose the Marine Corps."

Please, now is the time for some rational numbers and for some careful timing, and that is why we chose the numbers selected by the chairman of the Committee on Armed Services. There are no personnel cuts involved with that number.

And, my God, we have already increased the area of maintenance and readiness with warehouses, to the tune of $260 billion. You cannot get $5 billion out of that area? Certainly we can. And that does not cut into the bone of our defense system.

The time has come to make that evaluation. And the time has come to put some resources into education, into health care and into investments on infrastructure within our society.

Mr. Chairman, we have a changed world; this is a new era. The American people are angry because they look at us and we act as if there is no change out there, as if suddenly we are stuck in the status quo.

Please, exercise some leadership here, provide some new direction.

This budget gives us the chance to do that. Vote for it, vote for it because it is in the interest of the people, vote for it because it is in the interest of doing the business of the Nation.

Mr. Chairman, I reserve the balance of my time.

Mr. GRADISON. Mr. Chairman, I yield such time as he may consume to the gentleman from Virginia [Mr. BATEMAN].

Mr. BATEMAN. Mr. Chairman, I thank the gentleman for yielding, and I rise in opposition to the pending budget proposal for its deep cuts in our national defense.

Mr. GRADISON. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. I thank the gentleman for yielding this time to me.

Mr. Chairman, I would like to address my friend from California: First of all, if you give us a bill that will decrease taxes, if you give us a bill that will decrease spending and reduce military with economic conversion time and also one that balances the future threat, then, yes, we will vote for it.

I say to the gentleman from New Jersey [Mr. ROE], I would like to say that the gentleman says this is a jobs bill. How does the gentleman plan on cutting 300,000 military jobs and call that a jobs bill? When we are already cutting 236,000 jobs.

You are going to come back and ask for the President to give you more money for unemployment for a million people and you will increase the deficit with more than $7.5 billion, like you did in the past one.

Mr. Chairman, what we need is a bill. I did not support the President's bill because neither side of the aisle would get together and come up with a rational bill that decreased taxes and decreased spending. This one does not, and I am not going to support it.

Let the same people that ran Desert Storm make the determination of what they need, not the bean counters.

Mr. GRADISON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, in more than 30 years in public office, I have learned how to count votes. My side is going to lose this vote. I can accept this, but I want to say that what saddens me tonight is to see the budget process sink to the level it has.

I do not blame the Democrats, at least not entirely. The Budget Committee in the House of Representatives has evolved to become an important instrument of the respective leaderships, and that is true on both sides of the aisle. This is perfectly appropriate, institutionally, although I am convinced we could do a better job for the country by at least trying to develop a bipartisan budget.

Since its inception in 1974, the congressional budget process has had its ups and downs. My analysis is that the "ups" were when times were good, budgetwise, and that the "downs" were when things got tough, budgetwise. When we had the perverse benefits of high inflation in the late seventies, revenues literally tumbled in, and when these revenue longfalls were combined with unexplainable spending shortfalls, mostly in defense, the deficit seemed smaller. This, in turn, made passing real budget resolutions relatively easy.

Back then, we could also have it both ways. The Democratic majority could cash in on these positive events even though they disguised a disastrous economic policy. In short, budgeting was anything but painful.

Today, we can still have it both ways. Now, times are tougher, and budgeting is hard, but there is no risk to the process because necessity is the mother of invention. And this is a highly inventive budget if nothing else.

Yet, budgeting ought to be tough because budgeting, by definition, means choosing how to allocate scarce resources among competing demands. Unfortunately, the tricks we keep coming up with in order to pretend this isn't so are actually a testament of our lack of political will to face the task.

And let me be clear—there is little that is scientific or even objective about budgeting. Budgeting has always been primarily political and it always will be. This is as it should be.

What bothers me—a lot—is the form the politics of budgeting has taken. This is not a partisan statement. I have listened with great care to the debate and, at bottom, both sides are accusing the other of gimmickery—of having it both ways—in short, of an unwillingness to make tough decisions. And, you know, both sides may be right.

What goes around comes around. This so-called budget resolution allows Democrats to have it both ways in every respect. For example, this two-headed hydra allows them to avoid choosing between more or less defense spending, between more or less domestic spending, and between more or less entitlement spending. They can even avoid choosing between conflicting overall budgets.

We all know that this is not what budgeting is supposed to be. This Is not budgeting—this is simply a disingenuous attempt to be all things to all people. If it works, it will be to the detriment of the American people.

Mr. Chairman, as I said at the outset, I can count votes. So, I congratulate my colleagues for their cleverness, and I acknowledge that all of us—indeed that this institution itself—share in the blame.

□ 1840

Mr. Chairman, I reserve the balance of my time.

Mr. PANETTA. Mr. Chairman, I have only one speaker remaining. Has the gentleman from Ohio [Mr. GRADISON] yielded back his time?

Mr. GRADISON. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Chairman, I appreciate the gentleman from Ohio yielding time to me, and I want to associate myself with the remarks of the gentleman and support the work that he has done on this committee.

Mr. Chairman, for the 38th straight year, a Democrat-led House of Representatives is offering budget alternatives to run the Government of the United States. You would think after 37 years of practice, they would get it right. Obviously, they haven't. In fact, they may be on the verge of establishing a record for the longest and least productive learning curve in history.

Admittedly, putting together a trillion dollar budget is complicated. But it's not the failure to grasp the complex problems that bothers me. What concerns me is that the Democrats don't appear to have learned even the most basic things about our country's needs. Mr. Chairman, they just don't get it.

All of their budget proposals follow the same old pattern—whatever you do, increase revenue; that is, increase taxes; then reduce defense—not reduce the deficit, reduce defense; and finally, spend more, spend more on favorite social programs.

Mr. Chairman, they just don't get it. One of the basics that is of particular concern to me and my district is the need for a strong defense. Several times in this century we have had the opportunity to reduce our defense expenditures—but every time we have gone overboard, and every time we have paid a price. You would think after seeing the results of this excess time and time again that the Democrats would have learned a lesson.

Mr. Chairman, they just don't get it. The President has submitted a plan for a well-organized, prudent downsizing of our armed services. It will reduce spending on defense by $50 billion over the next 5 years. But even that isn't enough for the Democrats. For fiscal year 1993, they are recommending more than twice the cuts that the President recommends. Then instead of using those added cuts to reduce the deficit, no, Mr. Chairman, one more time they attack defense to use the money for more social spending—not to reduce the deficit. Mr. Chairman, they just don't get it.

The Democrats say they want to help the working men and women of this country. Let them come to my district in southern California and tell the marines of 29 Palms, the airmen and women of George Air Force Base, and the soldiers of Fort Irwin why their jobs aren't important.

Let them come to Barstow, CA, and tell the working family who owns the small corner grocery store or restaurant why their customers aren't coming in anymore.

Mr. Chairman, the Democrats say they are the workingman's friend. The problem is, they just don't seem to understand that to be a working man or woman, you have to have a job. Jobs, are created not by more social spending, but by incentives to save and invest in business instead. Jobs are created by reducing the deficit, not by more taxes and more spending.

Mr. Chairman, the Democrats, who have run Congress for almost all of the last 50 years, just don't get it.

Mr. GRADISON. Mr. Chairman, I yield back the balance of my time.

Mr. PANETTA. Mr. Chairman, I yield 5 minutes to the majority leader, the gentleman from Missouri [Mr. GEPHARDT], to conclude the debate.

Mr. GEPHARDT. Mr. Chairman, we debate this budget at a time when the economic policy of this country literally seems to be floundering before us.

Last night the President's budget was voted down by over 100 Members of his own party. Only one out of five Americans now believe we are moving in the right direction.

The prosperity that we grew up with under Eisenhower, Kennedy, Johnson, and Nixon has disappeared over the last 20 years, and it has been replaced by a growing inequality between the people that are the richest 1 percent in this country, leaving the middle class and the poor more embattled, more impoverished and more dissatisfied.

Moreover, Mr. Chairman, there are enormous changes going on in this world today—economic and political transformations that are shaking this country to its core.

At this time of startling change, the comfortable, the easy and the secure thing is for us to do nothing, to shirk our responsibility, and to accommodate ourselves to the status quo.

The easy thing would be for us to tinker at the margin, deny the upheaval, and make no controversial moves.

If there is a lesson to be learned in this unique year, it is that these choices aren't available to us any more.

A few days ago the President seemed to repudiate the budget summit agreement that we reached in 1990. I think that was the wrong thing to do. I think we need to say to the American people, "We made some hard decisions then, and we'll stick with them." But I also think we have to say to the American people that the world has changed and we have to be willing to change.

And so, this budget—so skillfully crafted by Chairman PANETTA and the Budget Committee—asks us to make a historic departure. It argues for new priorities and new directions.

Our budget acknowledges the end of the cold war and the persistence of regional threats. It builds a strong defense from the ground up. And it takes funds allocated to battles that will no longer be fought, and invests them in the material strength of the United States of America—so that we will be able to fight the economic battles of the post cold war world.

Our budget frees up about $100 billion over the next 5 years, and we propose using that money to reduce the deficit and strengthen our country.

Our budget provides $1 billion to help defense workers and defense companies, and communities like mine to manage the transition from the cold war to the post cold war world. We believe in defense conversion, and we think we have to do something about it.

So, this is a different budget because these are extraordinary times that demand fundamental change.

This budget says: We've buried communism, and we must not cling to cold war weapons systems. It says we've nurtured Japan and Europe to maturity, and we must not starve the education and training programs our students and workers need to compete.

This budget says to the thousands of defense workers and veterans who have been discharged that we will not disregard critical investments to make the transition to a peaceful, civilian economy.

This budget says: No more gimmicks, no more Reaganomics, no more cold war weapons, and no more status quo. More important, this budget says: We're in a recession, and we must begin the urgent task of national reconstruction, recovery and renewal.

This is a good budget. This is a budget for the time of peril and promise in which we live. If we're going to change this country, and I think we must, if we are going to make the economy grow, if we are going to restore optimism and hope for our people, these are the decisions, these are the choices, and this is the budget we must pass.

Mr. Chairman, I urge Members to vote for the Democrat budget.

Mr. MATSUI. Mr. Chairman, I rise in support of the budget resolution before us today. This budget presents us with the opportunity to make an increased investment in programs that serve our citizens.

The Budget Committee was faced with some hard choices this year. The 1990 budget agreement imposed strict limits on spending, and this budget resolution accommodates those restrictions.

Whether we ultimately enact plan A or plan B, this budget succeeds in directing our Nation's investment in human potential through programs such as Head Start, childhood immunizations, and nutrition services. This budget represents the priorities in which we should be investing our resources.

Given the magnitude of the changes that have taken place around the world, it is now the time to reorder our Nation's priorities. No longer do we need to build up weapons systems to protect ourselves from threats overseas. The challenge before us now is to develop weapons against illiteracy, ill-health, and poor nutrition. I believe the budget resolution on the floor today provides us with this opportunity.

One critical area in which this budget meets the needs of the Nation's most vulnerable citizens is in funding for the Social Security Administration. This budget, under both plans A and B, contains additional money to improve the Social Security Administration's ability to process claims for disability, SSI, and Medicare benefits. This money is long overdue. There is presently a backlog of over 800,000 individuals who have filed claims with SSA. This figure is expected to rise to 1.3 million by the end of 1993. SSA estimates that without these additional funds, the waiting period for processing of claims could increase from 3 to 7 months. I am pleased to see this increased funding.

This budget provides a choice to Members as to whether they want to use savings in defense spending to increase investment in domestic programs, or whether those savings should go purely to deficit reduction. Members will have the opportunity to make that choice next week when the House considers legislation to break the firewalls.

I urge my colleagues to support this budget resolution and to support the Conyers bill when it comes to the floor next week. It is our obligation to improve our investment in these programs, and this budget resolution lives up to this challenge.

Mr. REED. Mr. Chairman, it is with regret that I rise in opposition to the Democratic budget resolution.

As many of my colleagues have stated today, this budget resolution dramatically demonstrate and contrasts the priorities of the Democratic Party versus those of the President. Where the President wants to slash funding for education and worker retraining, we increase it; where the President provides no funds for economic conversion efforts, we do; where the President's budget fails to realize the need for increased health care funding, we do; where the President wants to slash funding for the low-income home energy assistance program which has helped keep thousands of Rhode Island families warm, the Democratic budget resolution doesn't turn off the heat; and where the President says no to mass transit and job creation, we say all aboard.

While the Democratic budget resolution reflects the goals of fairness and building a better future, it does include one of the President's proposals which I cannot accept in light of its devastating impact on the welfare of the people of Rhode Island. I am speaking of the President's proposed recision of funding for the second and third Seawolf submarines. The Budget Committee has included language which lends credence to the President's request to end funding for a program that Congress has already authorized and funded.

The President's recision proposal pulls the rug out from under the workers who helped win the cold war. Instead of a peace dividend, they get a pink slip. If the President were to ask me what my recision request would entail, I could easily come up with more than four times his $6.6 billion solely by cutting the $29 billion spent on European bases. I also believe that the President's calculated savings from the Seawolf recision are invalid, but I also believe he is jeopardizing the future of our capability to build submarines.

Mr. Chairman, increased funding for head start, Pell grants, WIC, job training, environmental restoration, veterans programs, health care, AIDS research, mass transit, economic development, housing, and infrastructure, are all extremely important to our future. Although I support these goals and plan to work during the appropriations process to achieve them, I deeply regret that I can not support this budget resolution.

Mr. FAZIO. Mr. Chairman, I rise today in support of House Concurrent Resolution 287, the fiscal year 1993 budget resolution.

The Democratic budget is a fiscally sound, disciplined plan. It reduces spending wherever possible, it does not violate the budget agreement, and it attacks the deficit, at least 25 percent of any defense savings will go toward deficit reduction.

Our budget takes our financial limitations into consideration, and then shifts our priorities so that we can focus on our current needs. It reflects the changes taking place both in America and throughout the world.

Our defense spending is $4.2 billion less than the President wants it to be. But it is based on the House Armed Services Committee's updated defense strategy, and addresses our military challenges in this new international environment. Our budget then takes these savings and applies a portion of them to attacking the deficit. It also allows us to reinvest defense savings in economic conversion, including job training for displaced military personnel and defense workers. And the budget includes a 5-percent decrease in funding for both Congress and the President's office.

However, our budget does not sacrifice our critical domestic programs in order to achieve these ends. Unlike the President, we cannot ask our most vulnerable citizens—the unemployed, the underinsured, our senior citizens and retirees, our veterans, our children—to bear the brunt of this burden. Too many Americans are hurting for us to expect them to pay our way out of this financial hole.

What the Democratic budget does is reorder our priorities and, in areas where the President cut critical funding, we either restore or increase it. This includes protecting important programs in health care, job training, housing, nutrition, mass transit, and energy assistance. Our budget rejects all of the President's proposed cuts for Medicare, Federal employees, and veterans.

We put our money into preventive measures that will save us money down the road: medical research, health care, energy conservation, small business financing. Our budget enables us to invest in our important resources—our people, our communities, our infrastructure—and, at the same time, begin to wrestle with this overwhelming deficit.

Chairman PANETTA and the members and staff of the House Budget Committee are to be commended for their outstanding efforts in putting this strategy together. It proves that we can tighten our belts and meet our present, critical needs while we plan for and invest in our future.

Mr. GOSS. Mr. Chairman, I could stand here today and tick off all the things that were wrong with the 1990 budget agreement: higher taxes, illusory spending cuts, ceilings that were too high to begin with. About the only positive aspect of the agreement were the firewalls, presumably put in place to contain spending. Less than 2 years later, here we are to break the budget agreement, and for what? Are we going to repeal the taxes? No; are we going to institute real spending cuts? No; are we going to institute comprehensive budget reform? No; we're here today for all the wrong reasons, breaking the one part of the budget agreement that made some semblance of sense.

Today, the tax and spenders want to go after $50 billion in defense savings that should go to deficit reduction. Their solution: "Break the budget agreement, tear down the firewalls so the money can be spent." I owe no allegiance to this agreement, I voted against it in 1990, and I don't support it now. The fact remains, however, that the firewalls between the budget categories could be the only remnant of fiscal sanity and discipline left in this institution. Tearing them down would result in less accountability and more spending of money we don't have.

There is more than the question of breaking an agreement here, there is a dangerous message being sent to the American people about the lengths to which the majority will go to pursue their agenda with the taxpayers money. If they want to get your money and the rules won't let them, they'll just change the rules.

It doesn't work the other way though. If you try to take money out of the Government's hands by repealing bad tax policy, like the luxury tax or the boat user fee, you might as well be moving a mountain.

There have been enormous changes in the world, and it's appropriate that we take into account these new international realities when determining budgetary priorities. But there are troubling budget realities here at home as well, the worst of which is the expected $400 billion deficit we will run this year. This deficit would be reduced by $50 billion if we could exercise even a minimum of fiscal control, doing more to improve our economic outlook than any Government spending program could hope to accomplish. Regrettably, however, it appears one thing hasn't changed, and that is this body's voracious appetite for spending at the expense of the economic health of this Nation.

Make no mistake, this is Congress unmasked and at its most greedy. Today's debate gives the American people a rare, sharply focused look into the differences between us: When given the opportunity, do we spend? Or do we save and invest? My constituents are telling me that Government spends too much, and I agree with them.

A wise newspaper editorial said that the deficit is the running casualty score in the ongoing war between the people's right to pursue their dreams with their own money, and the Government's insistence to pursue it's ambitions with the people's money. If these walls come down, the American people will have lost another battle in this war.

Mr. KYL. Mr. Chairman, I rise in opposition to House Concurrent Resolution 287, the budget resolution for 1993.

Mr. Chairman, I want to remind my colleagues that this House passed a $1.17 trillion budget resolution for fiscal year 1990. It was supposed to reduce the Federal budget deficit to the $100 billion target set in the Gramm-Rudman-Hollings law. But, the actual deficit ultimately amounted to $220.4 billion after all spending and tax legislation had cleared the Congress for the year.

For fiscal year 1991, the House of Representatives passed a $1.2 trillion budget resolution. It embodied the famed budget summit agreement that was supposed to produce almost 500 billion dollars' worth of deficit reduction over 5 years.

The Gramm-Rudman-Hollings deficit target was $64 billion for fiscal year 1991. Yet despite both Gramm-Rudman-Hollings and the summit agreement, the actual deficit ultimately totaled $268.7 billion.

And again for fiscal year 1992, the House passed a $1.4 trillion budget resolution that optimistically projected a deficit of $278.8 billion. The summit agreement had virtually repealed Gramm-Rudman-Hollings, and ironically in the year that the original Gramm-Rudman-Hollings law was supposed to produced a balanced budget, Congress not only breached the $278.8 billion deficit in the summit agreement, but produced an actual deficit that will amount to somewhere between $348.3 and $400 billion.

The budget resolutions of 1989, 1990, and 1991 were a hoax on the American people. I was one of those Members who voted against each of them.

The reason they all failed was that Congress failed time and again to address the real cause of the budget deficit—excessive Government spending. It was the 1990 budget agreement in particular that both increased taxes and unleashed the greatest domestic spending spree in U.S. history.

As bad as each of those budgets were, though, this budget resolution before us today is even worse. It represents nothing short of a white flag of surrender in the fight to reduce the budget deficit.

It is the product of a congressional majority plagued by infighting and indecision.

The Budget Committee actually produced a budget resolution made up of two complete budget resolutions. Which of the two is to control?

Plan A proposes that any savings from the defense budget be spent on other programs. The problem is, there are no real savings to spend. Anything we don't spend on defense simply means the Government will have to borrow less next year. And, the deficit will still amount to $398.2 billion.

Plan B proposes to apply defense savings to deficit reduction, but still leaves a deficit of $391.4 billion.

This is simply a blueprint for economic disaster.

Mr. Chairman, American families are suffering in recession. Many are out of work or are being laid off. Others fear for the loss of their jobs. Many just can't make ends meet. People are hurting.

Yet last week, the House passed a tax bill that the National Center for Policy Analysis projects will result in the loss of another 100,000 jobs. This week, the Democrat majority brings us a budget with no solution to the Nation's economic problems, but which permits an unprecedented hemorrhaging of the budget for the foreseeable future.

This has got to change. This is the reason that a balanced budget/spending limitation amendment to the Constitution is needed. The majority has neither the courage nor the will to resolve this deficit problem. It's time for the Constitution to be amended to force Congress to do what it won't—balance the budget.

Mr. Chairman, I tell my colleagues to say "no" to this budget resolution. It is another hoax. It's wrong. It won't work. It should be rejected.

Mr. SAXTON. Mr. Chairman, while we weigh recommendations and priorities for spending, we must not lose sight of the human dimension of cutting the size of the base force. Secretary Cheney and General Powell make compelling arguments from a national security perspective that the base force is the minimum force necessary to guarantee our security in a very uncertain world. The human cost of cutting the base force also must be kept in mind.

I have looked into the faces of both service members and civilian employees of the Department of Defense and seen the uncertainty and anguish when they are faced with the end of their careers. These men and women made a commitment to the defense of this country. They delivered the goods last year in Desert Storm. Now many of them will have to leave. If further cuts in defense manpower reduce this base force, wholesale reductions in force will be necessary.

The recommendations of the Budget Committee, whether you chose plan A or B, would nearly double the already drastic cuts called for by the administration with dramatic effect on manpower levels. Based on a force structure alternative proposed by Chairman ASPIN, the resolution would eliminate an additional 235,000 active and reserve personnel and an undetermined number of DoD civilians.

How do we tell a midcareer officer or noncommissioned officer their services are no longer required? Voluntary separation would not be an option. We would have to fire volunteers who, for a decade or more, have given faithful and honorable service and expected to continue their services until they reached an honorable and well-deserved retirement. We have a moral obligation to these warriors who have dedicated themselves to the defense of this country.

We must not forget the civilian employees, no less committed to national defense. It is no easier to look welders or budget analysts in the eye and tell them they don't have a job. Let us not lose sight of the fact that while there are layoffs in other industries, most of these people have skills not much in demand in the private sector. Like their uniformed counterparts, they made a choice to serve.

In the debate over this budget we must remember these great Americans. Preserve the base force.

Mr. GREEN of New York. Mr. Chairman, I rise to express my opposition to House Concurrent Resolution 287, the fiscal year 1993 budget resolution. Again, the Budget Committee has abrogated its responsibility and presented the House with a budget resolution that avoids tough choices and uses legerdemain to obscure fiscal reality.

Since the Budget Committee was unable to reach a consensus on whether to use the peace dividend for new spending or deficit reduction, the budget resolution provides for an unprecedented two plan approach. Under the budget resolution, plan A would spend 70 percent of fiscal year 1993 defense savings, while plan B would earmark all defense savings for deficit reduction. Plan A would only take effect if the Budget Reform Act of 1992—which seeks to tear down the budget walls established under the 1990 budget enforcement agreement—is law when conferees are appointed to resolve differences in the House and Senate adopted budget resolutions.

Although the House has yet to vote on the Budget Reform Act, many of my colleagues know that the President has already signalled that he would veto the bill, and it is highly unlikely that either chamber will be able to override. Thus in this election year I think it is apparent that this budget resolution does nothing more than tantalize the American people with the prospect of more spending on popular domestic programs such as education, job training, housing, WIC, Head Start, and mass transit, when in reality the Appropriation's Committee will not be able to deliver.

Moreover, it is important to note that the peace dividend is not extra money that can be reprogrammed. Until the $400 billion budget deficit is erased, spending cuts anywhere will produce no real dividends, they will only reduce losses.

While I oppose the budget resolution because it fails to make tough choices, I do support the committee's recommendation to double the President's proposed defense cuts. With the dramatic changes that have taken place in Eastern Europe and the dissolution of the Soviet Union, I also think it is imperative for the Congress to revisit the spending caps set forth under the 1990 budget agreement. However, after a decade of unprecedented budget deficits, I believe that we must take full advantage of this historic opportunity to use the peace dividend largely to reduce the budget deficit.

While reducing our budget deficit remains a difficult and elusive goal, it is essential. It is alarming that at present we are spending more to pay interest on our debt—projected at $315 billion annually—than we do on all domestic discretionary programs. If it were not for past indulgent overspending we would have twice as much money available to help the homeless, fight AIDS, improve education, and rebuild our Nation's ailing infrastructure. Let's remember that reducing the deficit is an investment in America's future.

Furthermore, I am concerned that beyond assuming some unspecified savings the budget resolution completely ignores entitlement reform. If one were to look at the changes that have transpired since the 1960's with regard to the Federal budget, one trend stands out. Mandatory or entitlement spending has grown from 28 percent of the budget under President Kennedy to over 50 percent today. Therefore, any efforts to reduce our budget deficit must target, and not ignore, mandatory spending.

As a Member who has served on the Appropriations Committee for over a decade, I am well aware of the current restraints on the domestic discretionary spending account. Like many, I support increased funding for education, housing, mass transit, AIDS research, and other vital domestic programs. However, unlike the Budget Committee, I believe that we must make some difficult choices especially if we are forced to work with existing resources. For example, I have long advocated canceling NASA's space station. Such a move would save billions, which could be spent on vital domestic initiatives.

In closing, I encourage my colleagues to vote against the fiscal year 1993 budget resolution because it fails to make tough choices and does not adequately address the priority of deficit reduction. Both are necessary if we are ever going to provide a budget with the resources that address the needs and concerns of the American people.

Mr. BUSTAMANTE. Mr. Chairman, Members of the House, today we will consider the Democratic budget resolution.

I am pleased to say that our budget resolution is a good one.

And I am especially pleased to say that it draws clear lines between Democrats and Republicans, between Democrats and the administration.

The Democratic budget reinvests in America. It creates jobs, provides housing, nutritional assistance, and loans for higher education.

It helps low-income families pay their energy bills. It provides improved health care for our veterans.

This is a good resolution, unlike the President's budget which was soundly rejected yesterday.

Don't believe the negative rhetoric you'll hear today. Our budget is a good one.

It should and will be passed.

Mr. RIGGS. Mr. Chairman, it is clear to me that the budgetary process is in need of comprehensive reform, therefore I must regrettably oppose all five budget bills before this body.

I'm drawing my own line over the red ink. All five budget bills have one thing in common: They rely on mortgaging our children's future through continued deficit spending.

I cannot support legislation that ignores fundamental problems with the budget process and ensures a continued cycle of deficit spending. We need serious restructuring of the budgetary process, a budget perestroika, that puts our house in order so that we can face the challenges of the future.

Congress has to get serious about wasteful Government spending and deficit reduction through budget perestroika, a restructuring of how we do business which I see would consist of three major elements:

First, a long-term commitment to deficit reduction combined with a flexible spending freeze to restore the confidence of taxpayers in the ability of Congress to get our fiscal house in order.

Second, budget containment through a two step budgetary process. Budget caps would be set early in the process that can be reduced in the case of revenue shortfalls and increased when there are revenue surpluses.

And finally, an increase in revenues through elimination of tax loopholes, except those which benefit broad segments of society, and the replacement of present tax policies, which encourage tax avoidance and evasion, with a simplified system of taxation.

These are all sound fiscal practices, but they are especially relevant now as we face the three converging economic challenges: the recession, the end of the cold war, and our debt-burdened society.

In this situation, the old standby economic medicine has gone bad in the bottle. We can no longer spend our way out of a recession.

I am not saying that we must develop such a spartan budget that we eliminate all the necessary services that only Government can provide. The Federal Government will always have a vital role in maintaining a strong defense, ensuring environmental protection, and providing essential services to those least able to help themselves.

But Congress needs to adjust to the realities of the 90's and begin to solve problems, not perpetuate or create them. Therefore, along with a restructuring of how we develop our budget, we need to change our budget priorities.

We should examine further cuts in defense spending once we have formulated a defense strategy to deter belligerent governments in Korea and the Middle East, and to deal with the unstable situation in the Commonwealth of Independent States and nuclear proliferation problems with China.

We must replace welfare and housing programs that offer band-aid approaches and encourage Government dependency with programs that promote personal responsibility and empower individuals to provide for themselves.

Congress must shift spending to increase research and development of alternative energy sources and clean burning fuels to ensure America's energy independence and improve the environment.

We must support long-term cost-effective programs that prevent rather than react to social problems, such as a wellness approach to health care.

Finally, there must be a dramatic movement toward a qualitative, performance-based approach to Government that emphasizes quality services; micromanagement and employee accountability; incentives for wise spending including the elimination of the Government's end of the year spend-it-or-lose-it policy; and increased competitive bidding contracting of Government services.

I regret the necessity to reject all the budget proposals, but the time has come for budget peristroika. By saying no today, I am beginning a positive process of change for tomorrow.

Mr. WOLPE. Mr. Chairman, I intend to vote in support of the budget resolution that has been produced by the House Budget Committee because I believe that it is far more responsive to the myriad challenges America faces in the post-cold-war-era then the budget the President has proposed.

Mr. Chairman, ours is a country in crisis. We have an economy in tatters, the consequence of too many years of self-indulgent spending and short-term profit taking at the expense of the savings and investment critical to long-run economic performance. Declining rates of productivity growth did not begin with the Reagan year, but the supply-side economic policies of the past dozen years certainly worsened an already bad situation. After all of the tax breaks that were given to both businesses and to individuals—particularly to persons at the upper end of the economic ladder—productivity today is down; investment is down; unemployment is up; deficits are at an unprecedented high; America has moved from the position of the world's largest creditor nation to that of the world's largest debtor nation; and American workers continue to be victimized by the undermining of America's ability to compete in the international marketplace.

Mr. Chairman, the erosion of America's economic strength has been sharply intensified by the spending and taxing priorities of the past dozen years. It would not be particularly productive at this point to debate the wisdom of the huge military buildup that occurred over this period. But we need to understand the costs that the United States incurred, particularly in relationship to our principal trading partners and competitors. While we have been spending between 6 and 7 percent of America's wealth in defending the rest of the world, our allies were spending far less: in Europe, defense expenditures amounted to roughly 3 percent or less of the national product of our allies; in Japan, the comparable figure was 1 percent. And, while we were busy providing the defense umbrella for both Europe and Asia in these years, our allies were taking their resources and investing them in new plants and equipment, in research and development, in new technologies, in education, in worker training and retraining. By contrast, America dramatically reduced its expenditures in all of these areas, the very areas most critical to economic performance. When Ronald Reagan took office in 1981, investments in such areas as infrastructure, education, job training, and scientific research accounted for 13.8 percent of all Federal budget authority; today, by contrast, investment in such areas represents only 9.4 percent of the Federal budget. Is it any wonder—given the fundamental shift in American budget priorities that occurred the past dozen years—that America's competitiveness has declined so sharply?

Mr. Chairman, the major threat to America is no longer a hostile and powerful Soviet Union; it is the threat of internal decay. What we are left with today—after 12 years of supply-side economics—is collapsing productivity, a declining standard of living, and widening inequalities, the likes of which we have not seen since the years of the Great Depression. In the last decade, for example, 60 percent of the income growth that occurred in this country went to the richest 1 percent of Americans. Consequently, today the wealthiest 1 percent, 2½ million Americans, bring in more income than the bottom 40 percent, or some 100 million Americans.

The product of this economic deterioration is new social unrest: intensifying racial and ethnic and class conflicts represent an immediate and growing threat to our domestic peace and tranquility. Make no mistake about it: There is a direct relationship between the sense of diminished opportunities and increased hopelessness, on the one hand, and all of the social pathology manifested in the rising tide of drug abuse, crime and violence. Americans everywhere feel increasingly out of control, unable to protect themselves or their families, and anxious about their futures.

Nowhere is the emerging social crisis more evident than when we look at the status of American children. Today, there are over 330,000 children who are homeless; the suicide rate for teenagers has tripled since 1960; and we have one of the highest infant mortality rates in the industrialized world. Indeed, we can't even ensure the safety of our kids in their homes or on the streets. Each day in the United States an average of 10 youngsters are shot dead.

Mr. Chairman, we are a society and a nation in crisis. And incrementalism will simply not be a sufficient response to the challenges we face. What is needed is a fundamental reordering of national priorities. And the good news is that the end of the cold war—the collapse of the Soviet Union and of the Warsaw Pact—provide us with an opportunity to achieve this fundamental redirection.

The real question before us is whether we will have the courage and the vision to get beyond the perspectives and ways of thinking forged in the years of the cold war to realize the full potential of a changing world. The real question is whether we will have the courage to challenge those bureaucratic and other vested interests that still offer up every conceivable rationalization for holding on to the status quo and resisting fundamental change. The real question is whether we will seize the opportunity that is before us.

Mr. Chairman, today we have that opportunity before us: An opportunity to reap the rewards of the end of the cold war; an opportunity to change course and reinvest in America. Unlike the Bush budget which looks to the past, the budget resolution before us today turns the corner to our future by reordering our national priorities.

Unlike the President's budget, the House Democratic Budget targets our Nation's resources to investments that will create jobs, contribute to long-term increases in productivity and incomes, and produce a far more secure and prosperous future for all Americans.

The resolution increases funding above the President's recommendations for preschool, elementary and secondary education, and for higher education tuition assistance. And it addresses the costs of the recession and the short-term costs of reduced defense spending through an increase in job training funds for young adults and displaced workers.

The Democratic budget invests more in health care than would the President, especially for nutrition and preventative programs that will save the public huge sums in the long run by keeping people healthy. It also funds higher levels of research in medical science and technology, particularly in such areas as cancer, AIDS, cardiovascular disease, and underresearched medical problems affecting women.

Finally, the resolution will help create jobs, spur economic growth, and help our economy make an adjustment away from defense to nondefense applications. It provides additional funding for science and technology, and for research into critical energy conservation and renewable energy programs. It provides increased financing for small businesses and it funds infrastructure investments well above the President's recommendations.

All of these funding changes are buttressed by a stiff budget discipline: The budget resolution provides more deficit reduction than required by the Budget Enforcement Act of 1990, it achieves a lower deficit than proposed by the President, and it avoids the gimmickry the President resorted to in his budget. The House Democratic budget achieves greater savings in the defense function, and then dedicates a third of those savings to deeper deficit reduction and the remainder to pressing domestic needs.

Mr. Chairman, the President's budget looks to the past, while the Democratic budget looks to the future. The Democratic budget recognizes the changes that have taken place in this world of ours, and redirects some of the resources that have been directed overseas to the task of rebuilding and renewing America. The dividends realized from this change in course will be realized in a stronger and more prosperous and secure America.

I urge my colleagues to join me in support of the budget resolution that has been reported by the House Budget Committee.

Mrs. LLOYD. Mr. Chairman, I rise in support of House Concurrent Resolution 287, the budget resolution, approved by the House Budget Committee, which controls spending for the fiscal year beginning this coming October 1.

This budget resolution follows on the heels of the 1990 budget summit agreement I supported to help put the fiscal books of the Federal Government in order. That measure called for $496.3 billion in deficit reduction through fiscal year 1995. The budget resolution conforms to the overall spending limits of the 1990 budget agreement and achieves a lower deficit than that proposed by the President. It makes choices that are tough, but this action is necessary for the economic future of the Nation.

It reinvests in America through programs in health, education, jobs and long-term growth. The President's $14 billion cut in Medicare is rejected, as well as a $3.5 billion cut in veterans programs. The deficit reduction it provides will in the long run raise national saving, investment, economic growth and living standards. It will free the resources now going to pay the interest on the national debt for investments in the Nation's infrastructure and job creation.

The debt burden has a tremendous impact on the fiscal and economic well-being of the Nation. This year, the Federal Government will borrow close to $400 billion to run its programs, with the interest on our cumulative debt taking almost one budget dollar in seven. This crushing debt continues to stifle economic growth and burden future generations. We must use the historic opportunity provided by the end of the cold war to reduce our deficit. This is the most responsible and responsive step we can take to turn the economy around.

Since the budget resolution is somewhat more complicated this year, it's important to look at how the resolution is framed. In addition to the spending reductions contained in the 1990 Budget Enforcement Act, there was a lesser known provision which established spending caps in three categories, domestic, defense, and foreign aid. The budget summit agreement prohibits spending transfers between these firewalls or areas of spending.

The budget resolution provides for a two-track approach to the 1993 budget. Plan A assumes that the firewalls separating defense, international and domestic discretionary spending are removed in 1993, a year early, and that defense savings are available for additional domestic spending. Plan B assumes that the walls remain in place.

A bill removing the walls is expected to follow the budget resolution to the House floor. If this subsequent legislation is adopted, plan A would be implemented. If it isn't enacted by the time House-Senate conferees go to work, plan B is effective. The budget resolution leaves the options open at this time.

Under plan A some of the savings achieved from defense cuts go to deficit reduction, some to domestic initiatives. Under plan B, the savings all go to deficit reduction.

I strongly support plan B—using savings from the so-called peace dividend for deficit reduction and I will oppose the subsequent legislation to remove the walls between defense and nondefense spending. I feel that we should maintain the fiscal discipline imposed by the 1990 budget summit agreement. My concern is that if we move to one overall spending cap, total spending may be higher than if the three separate caps were maintained. If we keep the firewalls up, the chances are much greater that the defense savings can be used to reduce the Federal deficit.

I feel the Nation would be far better served if we use the savings from the peace dividend to keep the deficit down. The burden of deficit reduction is shared by all of us. The national debt has tripled in just 10 years helping to plunge the economy into recession. Yearly interest payments on the debt cripple our ability to make desperately needed investments in manufacturing, transportation, education, and other areas.

If we are to build new businesses, and provide incentives for growth and job creation, we must stop the flow of tax dollars used to pay off old debts. That's why I will continue to support efforts to confront our deficit problem head on. The mounting federal debt can no longer be ignored. It must be addressed. I urge my colleague to work with me to bring down the deficit. Support the House Budget Committee resolution and oppose the effort to tear down the budget summit agreement's spending walls.

Mr. FRANKS of Connecticut. Mr. Chairman, Congress is again presented with an array of budget choices. While only one will prevail, they must all be debated. I will not be voting for any of the budgets being debated here today.

I will vote against the budget offered by the Democrats for it proposes an unprecedented tax increase and the removal of the firewalls established by the 1990 budget agreement. If the taxpayers are stuck with the tax increases included in the 1990 budget agreement, then Congress should be stuck with the spending caps and walls that the agreement included. If these were not reasons enough to vote against the Democrat budget, the Democrats decided to propose two different budgets, refusing to choose one which they will pursue. While I am encouraged by the effort shown to include the concerns of members who want to see the deficit taken under control, I have little reassurance that the Democrats have any intention of pursuing plan B after the bill is passed.

The overall reason I will vote against all budgets proposed during the debate is that I believe the defense cuts proposed have been made hastily. The effect of such drastic cuts, such as proposed by the Democrats and the Dellums-Towns alternative budget, will prolong the recession and stagnate the economy. I also don't believe that this country is now free of a threat to our national security.

I am concerned that the proposed defense budgets have been presented without much thought or consideration. The House Armed Services Committee has been waiting for the 180-day study to come out of the Department of the Navy. We hope this study will tell us what effect the President's proposal to cut the remaining two Seawolf submarines will have on our national security and our defense industrial base. How can we accurately design our force structure without the results of this study or a possible threat assessment? Neither of these important issues has been addressed. I fear that when the next conflict arises, we will not be prepared. What it all comes down to is readiness. Historically this country has not been able to restructure and resize our Armed Forces successfully. Every time we have attempted this we have created a hollow force. If we hope to maintain two shipyards, we must consider the affect these cuts will have on our industrial base.

I think a mood has developed in this Congress to cut numbers/dollars recklessly under the guise of helping our economy, but the reality is they are cutting peoples jobs and in effect hurting our economy. These same individuals feel there is no more threat that the fall of communism in the Soviet Union means the evil empire is gone. Perhaps it is gone, but the weapons it once created are not. While we may now feel that these weapons are currently under control, I don't think any of us can assure this country that they will be forever under control. Can we guarantee that when there is turmoil, or uprising in the former Soviet Union because of the economy, that the weapons will not be used or sold on the market to other third world countries? If these individuals prove to be successful in their election year move, I fear we are all in for dangerous and economically difficult times.

While making drastic cuts in defense spending, no budget made enough of an adjustment in funding for job training programs. Many military personnel will be dismissed. Many military contractors and their employees will go out of business due to weapons cancellations. These people will need job training to make the transition from a defense economy to a peace time economy. Careful planning in this area has not yet occurred. In addition, the passage of last week's economic growth legislation will do little to expand the economy in areas which could absorbs these workers.

The President's budget also contains large cuts in Federal assistance to cities and States. The Community Services Block Grant Program was cut completely. Last year alone Connecticut received $4.4 million to support the administration of local community action agencies which assisted low-income residents. This year they will receive nothing if the President's budget were enacted. Funding for the Community Development Block Grant Program was also cut. Again Connecticut programs will suffer from Federal cuts. Cities and States are already struggling to meet current service demands. During the recession demands for services funded in part by Federal funds have risen. In the midst of all this the Federal Government proposes cutting funds for the programs that support these individuals. I cannot support this effort.

I would like to express my support for the increases in spending the President's budget recommends for the Head Start Program, the Women, Infant, and Children [WIC] Program, infrastructure projects, and research and development, which will assist in the long-term growth and prosperity of this country. I am also in strong support of the increase for Project Hope in the President's budget. Connecticut would receive about $9.8 million for this program as compared to $3.5 million in fiscal year 1992, allowing many more families to achieve their dream of owning their own home.

In summary, Mr. Chairman, the defense cuts proposed by each budget proposal were made in haste. Insufficient time and consideration was given to the effects such cuts would have on the employment sector and the defense industrial base. I cannot support these cuts which did not receive proper planning. I will not vote for any of the budgets presented on the House floor during this debate.

Mr. HUGHES. Mr. Chairman, despite the fact that we have three different budget proposals before us, I cannot find one that adequately deals with the pressing challenges facing our Government.

We are faced with several clearly defined problems that must be addressed squarely for our Nation to prosper. We have a huge budget deficit, with a national debt that is weighing upon the entire economy. More and more of our children live in poverty, and our educational system is failing to give them the skills they need to be competitive workers in a demanding global economy. Our commercial infrastructure has suffered from a decade of neglect, and we have numerous problems with our health care system, including a tragic AIDS epidemic.

Normally we would respond to a recession like this one by increasing Government spending to meet the greater public needs and to prime the economy and get it moving. Unfortunately, we squandered the good times of the mid-eighties, ran huge deficits even as the economy grew, and we are now mired in debt and are paying the price for those excessive policies.

It is important to keep in mind the full consequences of a deficit. The Government must make up for the deficit by borrowing those funds, $400 billion under President Bush's fiscal 1993 budget proposal. And where does that money come from? It comes from the same private investors who would otherwise be investing in private businesses. At a time when both parties are offering tax plans to encourage more investment, increased deficit spending is drawing huge amounts of money out of the private economy to buy the Treasury bills that finance our debt.

If we want real investment in the private sector—enough to create jobs—we have to cut spending to reduce the deficit. To get our economy moving and to prepare our industries to compete in the next century, we also have to focus the remaining scarce resources on the most critical needs: Health care, education, infrastructure, technology development, and industrial competitiveness. None of the budget proposals before us today do that in a reasonable fashion.

In the past few years, the largest threat to our national security, the Soviet Union, has dissolved. Roughly 40 percent of our military spending in the 1980's was directly focused on countering the Soviet threat and much of the remaining 60 percent was related to it. Most of that spending is no longer needed or justified.

In addition, last year we destroyed most of the tanks and artillery belonging to Iraq—formerly the fourth largest army in the world. The combined reduction of Soviet and Iraqi forces drastically reduces the possible threats our Armed Services may need to counter, but you would never know it if you looked at the President's or the Budget Committee's proposals.

President Bush's budget calls for only a 1.6-percent reduction in defense outlays below current services levels, and his long-term defense plans would leave 150,000 U.S. troops in Europe through the end of 1995. Even the cuts proposed by the Budget Committee only amount to a 3-percent reduction.

While we need to achieve more savings in the military budget, the Black Caucus proposal is excessive if not unrealistic in calling for cutting defense outlays by 7 percent and budget authority by 17 percent. Reducing our military structure requires environmental cleanups at closed bases, severance payments to personnel, and other transitional expenses. Because these and other costs reduce the short-term savings from closing bases and canceling programs, such cuts in 1 year would be too drastic.

The American public is demanding that we focus on the pressing problems here at home. However, these budget proposals are floating in space—literally. President Bush and the Budget Committee both propose cutting many areas of domestic spending while increasing foreign aid and NASA's space programs.

America needs an industrial policy to convert our great research capabilities into productive technologies. Rather than spending $2 billion on the space station we need to develop new manufacturing technologies to put Americans to work here on Earth. Rather than spending $37 million on mapping the Moon, we need to make sure that our kids can read a map.

Just as the changes in the world have reduced our need for military spending, those changes have reduced the need for spending over $7 billion on military aid to other countries. Our local police departments, courts, and prisons could certainly use some additional funds to fight the war on drugs.

Perhaps the greatest foreign threat to national security may now be the weakness, rather than the strength, of the former Soviet Union. In the new Commonwealth of Independent States [CIS] and the other former Soviet Republics there is a dangerous blend of poverty, chaos, and advanced weapons. Soviet scientists and military commanders may well sell their weapons and weapons technology to terrorist nations if the alternative is poverty.

We can either help new CIS develop free markets and stable democratic governments, or we can run the risk of seeing advanced Soviet weapons and nuclear and chemical weapons technology in the hands of terrorists and Third World dictators. While the President has proposed $620 million in aid to the CIS over 18 months, this amount is less than the cost of one B–2 bomber. We can do much more to enhance our security by shifting some funds from untested weapons like the B–2 to helping the Soviets destroy their weapons and convert their weapons factories to peaceful commercial uses so that no more weapons are built.

Though I will vote against all three proposals for the reasons outlined above, there are some good things in these budgets. The Democratic plan A increases education funding by 15 percent, Head Start by 36 percent, WIC by 15 percent, Community Development Block Grants by 3 percent, AIDS-related programs by 22 percent, job training by 17 percent, and highway and mass transit programs by 14 percent. These initiatives will help ease the pain of the recession and get the economy headed in the right direction. At the same time, however, I do have serious concerns about the Government's ability to manage that much growth in some of those programs in 1 year.

Despite these increases, we will be forced to cut these important programs in the future if we do not balance the budget because of rising interest payments on the national debt. Cutting defense, foreign aid, and space projects could help us on this front. President Bush is also correct in calling for greater restraint in the growth of Medicare spending.

Medicare premiums and payroll contributions fall far short of covering the cost of the program. In fact, 75 percent of Medicare part B costs are paid out of general tax dollars. President Bush is correct to propose that individuals with incomes over $100,000 per year should pay their own Medicare part B premiums. Medicare is one of the fastest growing areas of Federal spending, and we must control Medicare costs if we are to reduce the deficit.

I believe we need a budget that better reflects the urgent needs of today. We need to cut at least another $10 to $12 billion from defense, foreign aid, and space programs. Most of those cuts should be used to reduce the deficit and free up capital for private investment, and about 30 to 40 percent should be targeted to our most pressing domestic needs. At the same time, we need to develop a tax bill that will similarly use tax incentives to direct private resources toward investment and job creation.

Mr. Chairman, the budget resolution is merely the first step in a long budget process, and I urge my colleagues to carefully consider where our resources can do the most for our economy as we enter the authorization and appropriations process. I hope the conference with the Senate moves our country in the directions I propose, for I believe that these steps are the only way to put America back to work and ensure our competitiveness in the years ahead.

Mr. KLECZKA. Mr. Chairman, as the House nears a vote today on the budget resolution for fiscal year 1993, we are reminded of the critical impact our budget priorities have on the direction of the economy.

We are struggling to overcome a long recession, in which millions of American workers have lost jobs or fear losing them. We are responding to changes in the Soviet Union which allow us to modify our strategic planning. We are reordering our funding priorities to get this country back on the right track.

A key component of the budget resolution is the defense recommendation. Thankfully, the end of the cold war provides us with a true peace dividend, about $14 billion in budget authority and $9 billion in outlays for fiscal year 1993. This is a unique opportunity which allows us to reinvest in our tense economy. This opportunity relies on support for a subsequent change in the 1990 budget act allowing a shift of defense savings to domestic priorities. Since this change will be debated separately, the House budget plan is structured into a plan A, which assumes defense savings will be reinvested in the economy, and plan B, which assumes defense savings will be used only for deficit reduction. As an original cosponsor of legislation (H.R. 3732) removing the walls separating defense and domestic spending, plan A has my support.

Converting from the huge defense buildup of the past decade to a modern defense strategy clearly is not without difficulties, especially for those employed in the defense industry. In response, House Concurrent Resolution 287 targets an additional $1 billion in retraining and employment assistance for dislocated defense workers.

Regarding job opportunities for those struggling through the economic downturn, the budget resolution invests in funding items which will create employment, as many as 400,000 new jobs. For instance, the House budget resolution provides more support for highways, transit, community development, and housing. This will not only improve the infrastructure and fight homelessness, but could create jobs for 338,000 Americans.

Both plan A and plan B reject unfair cuts in Medicare, veterans and Federal employee benefits. President Bush requested a $13.9 billion cut in Medicare, and $3.5 billion cut in veterans programs over 5 years. The House budget plan restores support for these programs, and recommends $2 billion in other entitlement savings for fiscal year 1993.

House Concurrent Resolution 287 also rejects the President's reductions in mass transit, Amtrak, low-income energy assistance, elderly and disabled housing, economic development, and other budget items. The House budget plan provides greater investment in infrastructure, in human capital programs like job training and education, and health care for infants, struggling parents, immunizations, AIDS, and other health research.

Without question, we must work with limited resources. However, we can better meet this challenge by adopting the recommendations of the House budget resolution, which will provide needed public investment and jobs, and retool our economy to be competitive in a changing world. I urge your support for House Concurrent Resolution 287.

Mr. McMILLEN of Maryland. Mr. Chairman, I rise in support of plan B of the Democratic budget proposal. In this season of budget politics, and fiscal gimmickry, this package is a serious effort to address the needs of the country in a fiscally responsible manner.

The budget proposal contains funding for domestic needs, a strong defense, stays within the caps of the 1990 budget agreement, and makes significant steps toward deficit reduction. While the overall differences are not that great, the programmatic emphasis in each of the packages does reflect a fundamental difference in priorities.

The Democratic package contains increases in Head Start, education, economic conversion, infrastructure, and other areas. It is this type of investment in our future that will determine our long-term well-being. To pay for these increases, the budget plan cuts legislative and executive branch costs, and saves money through Federal work force attrition and other areas.

Furthermore, the plan does not include the Medicare cuts which the President's package contained, nor the taxation of annuities, of credit unions or of securities inventories which were also in the President's package. Plan B also does not resort to accounting gimmicks to reach its deficit reduction targets. It also reduces the deficit to a greater extent than provided by the administration's budget.

Mr. Chairman, I am not supporting plan A, and consequently, the elimination of the firewalls, for a few reasons. First, I don't believe we should be backing away from the 1990 budget agreement and the fiscal discipline which it created. Eliminating the firewalls would be a breach of what little discipline we have in the budget process, and I don't see that as a responsible action, regardless of how the money is to be spent.

Federal spending is up to 25.2 percent of gross domestic product this year as opposed to 22.1 percent just 4 years ago. This kind of spending is simply unsustainable.

Second, plan A increases spending over and above the increases authorized by plan B. Third, elimination of the firewalls would result in a faster military drawdown than would be prudent either economically or militarily. Fourth, and most important, these extra increases do little to invest in America's immediate future. It does very little to create jobs, to build roads, sewers, fix bridges or earn any kind of economic return. We would almost be better off returning the peace dividend to State and local authorities to make needed investments in infrastructure.

If we are going to provide any new spending, it has to be in capital investment, and should meet the same requirements which the States or which businesses require of their capital programs. Plan A does not do that, and I do not think the American people will support the continued spending embodied in plan A.

I would like to support plan A. Everyone would like to see more funding for worthy projects. But, regardless of their merit we cannot continue borrowing money to pay for programs with no serious plan as to how to pay for them. While this assuages our conscience, it will ultimately bankrupt the country.

Let me turn briefly to defense. Many have raised concerns that the defense figures contained in the budget will somehow gut the preparedness of the country. This is ludicrous. To begin with, there is only a 2.5-percent difference between the House proposal and the President's proposal. If 2.5 percent will somehow cut the heart out of an enterprise which spends hundreds of billions of dollars annually, there is something seriously wrong with the Pentagon. Furthermore, the House Budget Committee based its figure on the Armed Services Committee recommendations, which in turn was the result of a thorough review of our defense needs and force structure requirements.

While the details have yet to be worked out, it is clear that the thrust is sound. The Armed Services Committee has put a good deal of effort in reevaluating the fundamental threats and contingencies in the international arena, and has based our military procurement and structure on the types of conflicts we are likely to face, and does not base spending on a threat which has passed.

A good example of this is the money spent on defending Western Europe. Fifty years after World War II, we are still spending well over $150 billion to maintain significant forces in Western Europe, Korea, and Japan. The President's package continues this trend. Unfortunately, this is a luxury we can no longer afford.

The State of Maryland, collectively, contributed over $5 billion on Federal military spending, which is more than it spent as a State on education. Furthermore, this means that the State spent roughly $2.5 billion defending Western Europe and Japan. I am a stalwart advocate of a strong defense, but I am against wasted resources.

The President's base force policy does not fit the new world order. It is still fighting the Soviets, and attempts to continue spending in all categories at lower levels. This can only result in a hollowing-out of our forces.

What we need is a restructured defense, one that can do more with less. It will need to have a smaller active component, better balanced, with an emphasis on support forces, technological development, and integration. To achieve this end, there will be a need to rely upon strong and capable reserves, and a greater effort to eliminate waste. The Armed Services Committee approach is in tune with these realities.

In conclusion, let me reiterate my support for plan B of the Democratic budget package. I have a strong record on defense, and have always supported a high level of defense spending. I also pride myself of being a fiscal conservative, and have made tough votes in both of these areas.

The American public has sent a clear message to the Congress that they do not want the peace dividend squandered. Frankly, they don't trust us. They think that we'll take all the money we cut from the defense budget, do nothing to reduce the deficit, and continue on a fiscally irresponsible policy of promising everything, and sending the bill to the American taxpayer. This is our opportunity to respond to that message and say, "We hear you." Mr. Speaker, I urge my colleagues to vote in favor of the long-term interests of the Nation—vote in favor of the budget package which continues funding of all programs at intelligent levels and directs the defense spending cuts toward deficit reduction. Plan B meets these requirements, and I am pleased to be a supporter.

Mr. PANETTA. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I am surprised to hear—although perhaps I should not be surprised—that the minority may move to divide the question. The gentleman from Ohio [Mr. GRADISON] has not even indicated that to me, but I think it is only in fairness to the Members that we get some indication as to whether or not that would be the case because Members are anxious to get home.

Mr. Chairman, I yield to the gentleman from Ohio for that purpose. Would he advise us as to his intention?

Mr. GRADISON. Mr. Chairman, at the appropriate time we will follow the rules. It is our intention to do that on the floor, as we attempted to do it unsuccessfully in the committee.

Mr. PANETTA. Mr. Chairman, reclaiming my time, let me just say to the Members that I think the members of the Committee on the Budget deserve the respect of having a vote on the resolution as we brought it to the floor. If the move is to divide it, then I would ask Members to support both votes.

I will tell the Members I regret that there may be two votes, but that is the minority's decision. I would just ask the Members on our side to please stick with the committee and vote aye on both proposals.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. MFUME). Under the rule, the Committee rises.

Accordingly the Committee rose, and the Speaker having resumed the chair, Mr. MFUME, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the concurrent resolution (H. Con. Res. 287) setting forth the congressional budget for the U.S. Government for the fiscal years 1993, 1994, 1995, 1996, and 1997, pursuant to House Resolution 386, he reported the concurrent resolution back to the House.

The SPEAKER. Under the rule, the previous question is ordered.

Mr. GRADISON. Mr. Speaker, I demand a division of the question on the resolution and specifically ask for a separate vote on section 3. Pending the determination of the Chair as to the resolution's divisibility, I would like to be heard on that question.

The SPEAKER. The gentleman may not debate a demand which has not been subject to a point of order.

Section 3 is subject to a division of the question, and a separate vote will be held on that portion of the concurrent resolution.

PARLIAMENTARY INQUIRIES

Mr. GEPHARDT. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. GEPHARDT. Mr. Speaker, I would simply ask the Chair to clarify this decision and the fact that there will be a separate vote on both parts of this budget.

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The SPEAKER. The demand has been made that there be a division of the question and a separate vote on section 3. The Chair has ruled and is prepared to put the question in a divided form, the two parts of the vote to occur immediately without further intervening debate, so that what would normally have been accomplished in a single vote on the adoption of the resolution will now require two votes.

Mr. GEPHARDT. I thank the Chair.

The SPEAKER. This vote will be on sections 1, 2, and 4. The second vote will be on section 3.

Mr. SOLOMON. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. SOLOMON. With respect to the Chair's statement, we just could not hear on this side of the aisle. Let me just state it as I understood it.

My parliamentary inquiry is that the Chair has held that the question is divisible and, therefore, the first vote would occur on sections 1, 2, and 4, the so-called plan A no firewalls budget, and Members then would have a separate vote on which to express themselves as to whether or not they want a budget without firewalls. I am just asking for clarification because I thought that is what the Chair said.

The SPEAKER. The gentleman is going beyond a parliamentary inquiry. The Chair has ruled that the demand for a division of the question is in order, and the Chair will put the question separately.

Mr. PANETTA. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. PANETTA. Mr. Speaker, is it not true that if both passed, the resolution would unify both so that the decision ultimately as to what path would be taken will be voted on next week?

The SPEAKER. The gentleman is correct.

The question is on sections 1, 2, and 4 of House Concurrent Resolution 287.

Without objection the yeas and nays are ordered.

There was no objection.

The vote was taken by electronic device, and there were—yeas 215, nays 201, not voting 19, as follows:

[Roll No. 41]

YEAS—215

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (TX)
Annunzio
Anthony
Aspin
Atkins
AuCoin
Bacchus
Beilenson
Berman
Bevill
Bilbray
Blackwell
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Cardin
Carper
Clay
Clement
Collins (MI)
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Downey
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Engel
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gaydos
Gephardt
Gibbons
Glickman
Gonzalez
Gordon
Guarini
Hall (OH)
Hamilton
Harris
Hatcher
Hayes (IL)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Hoyer
Hubbard
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Kanjorski
Kaptur
Kennedy
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lantos
LaRocco
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Long
Lowey (NY)
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moody
Moran
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Owens (NY)
Panetta
Pastor
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickle
Poshard
Price
Rahall
Rangel
Ray
Richardson
Roe
Rose
Rostenkowski
Roybal
Sabo
Sanders
Sangmeister
Savage
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sharp
Sikorski
Skaggs
Slattery
Slaughter
Smith (FL)
Smith (IA)
Solarz
Spratt
Stallings
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Vento
Volkmer
Washington
Waters
Waxman
Weiss
Wheat
Williams
Wilson
Wise
Wolpe
Wyden
Yatron

NAYS—201

Allard
Allen
Andrews (NJ)
Applegate
Archer
Armey
Ballenger
Barnard
Barrett
Barton
Bateman
Bennett
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Broomfield
Bunning
Burton
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Carr
Chapman
Clinger
Coble
Coleman (MO)
Coleman (TX)
Combest
Condit
Coughlin
Cox (CA)
Crane
Cunningham
DeLauro
DeLay
Dickinson
Doolittle
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Edwards (TX)
Emerson
English
Ewing
Fawell
Fields
Fish
Franks (CT)
Gallegly
Gallo
Gejdenson
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Goodling
Goss
Gradison
Grandy

Green
Gunderson
Hall (TX)
Hammerschmidt
Hancock
Hansen
Hastert
Hayes (LA)
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Horton
Houghton
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
James
Johnson (CT)
Johnson (TX)
Jontz
Kasich
Kennelly
Klug
Kolbe
Kyl
Lagomarsino
Lancaster
Laughlin
Leach
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lloyd
Lowery (CA)
Luken
Machtley
Marlenee
Martin
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Montgomery
Moorhead
Morella
Morrison
Myers
Nichols
Nussle
Orton
Oxley
Packard

Pallone
Parker
Patterson
Paxon
Petri
Pickett
Porter
Pursell
Ramstad
Ravenel
Reed
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Rowland
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Staggers
Stearns
Stump
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Valentine
Vander Jagt
Visclosky
Vucanovich
Walker
Walsh
Weber
Weldon
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—19

Baker
Boehner
Chandler
Collins (IL)
Dannemeyer
Davis
Dooley

Dymally
Ireland
Jacobs
Lipinski
Livingston
Ortiz
Owens (UT)

Quillen
Russo
Sundquist
Whitten
Yates

Mr. HUCKABY changed his vote from "yea" to "nay."

So sections 1, 2, and 4 of House Concurrent Resolution 287 were agreed to.

The SPEAKER. The question is on section 3 of House Concurrent Resolution 287.

Without objection, the yeas and nays are ordered.

There was no objection.

The vote was taken by electronic device, and there were—yeas 224, nays 191, not voting 20, as follows:

[Roll No. 42]

YEAS—224

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (TX)
Annunzio
Anthony
Aspin
Atkins
AuCoin
Bacchus
Beilenson
Berman
Bevill
Bilbray
Blackwell
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bryant
Bustamante
Cardin
Carper
Clay
Clement
Collins (MI)
Condit
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Downey
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Engel
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gaydos
Gephardt
Gibbons
Glickman
Gonzalez
Gordon
Grandy

Guarini
Hall (OH)
Hall (TX)
Hamilton
Harris
Hatcher
Hayes (IL)
Hefner
Hoagland
Hochbrueckner
Horn
Hoyer
Hubbard
Huckaby
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Kanjorski
Kaptur
Kennedy
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lantos
LaRocco
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lloyd
Long
Lowey (NY)
Luken
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moody
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver

Owens (NY)
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickle
Poshard
Price
Rahall
Rangel
Ray
Richardson
Roe
Rose
Rostenkowski
Roybal
Sabo
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sharp
Shays
Sikorski
Skaggs
Slattery
Slaughter
Smith (FL)
Solarz
Spratt
Stallings
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Valentine
Vento
Volkmer
Washington
Waters
Waxman
Weiss
Wheat
Wilson
Wise
Wolpe
Wyden
Yatron

NAYS—191

Allard
Allen
Andrews (NJ)
Applegate
Archer
Armey
Ballenger
Barnard
Barrett
Barton
Bateman
Bennett
Bentley
Bereuter
Bilirakis

Bliley
Boehlert
Boehner
Broomfield
Bruce
Bunning
Burton
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Carr
Chapman
Clinger

Coble
Coleman (MO)
Coleman (TX)
Combest
Coughlin
Cox (CA)
Crane
Cunningham
DeLauro
DeLay
Dickinson
Doolittle
Dorgan (ND)
Dornan (CA)
Dreier

Duncan
Edwards (OK)
Edwards (TX)
Emerson
English
Ewing
Fawell
Fields
Fish
Franks (CT)
Gallegly
Gallo
Gejdenson
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Goodling
Goss
Gradison
Green
Gunderson
Hammerschmidt
Hancock
Hansen
Hastert
Hayes (LA)
Hefley
Henry
Herger
Hertel
Hobson
Holloway
Hopkins
Horton
Houghton
Hughes
Hunter
Hutto
Hyde
Inhofe
Jacobs
James
Johnson (CT)
Johnson (TX)
Jontz
Kasich

Kennelly
Klug
Kolbe
Kyl
Lagomarsino
Lancaster
Laughlin
Leach
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lowery (CA)
Machtley
Marlenee
Martin
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Montgomery
Moorhead
Myers
Nichols
Nussle
Orton
Oxley
Pallone
Paxon
Petri
Pickett
Porter
Pursell
Ramstad
Ravenel
Reed
Rhodes
Ridge
Riggs
Rinaldo
Ritter

Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Rowland
Sanders
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Staggers
Stearns
Stump
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vander Jagt
Visclosky
Vucanovich
Walker
Walsh
Weber
Weldon
Williams
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—20

Baker
Chandler
Collins (IL)
Dannemeyer
Davis
Dooley
Dymally

Ireland
Lipinski
Livingston
Ortiz
Owens (UT)
Packard
Quillen

Regula
Russo
Sundquist
Thomas (GA)
Whitten
Yates

□ 1927

The Clerk announced the following pairs:

On this vote.

Mr. Dooley for, with Mr. Chandler against.

Mrs. Collins of Illinois for, with Mr. Quillen against.

Mr. CONYERS changed his vote from "nay" to "yea."

So section 3 of House Concurrent Resolution 287 was agreed to.

The result of the vote was announced as above recorded.

GENERAL LEAVE

Mr. PANETTA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material, on House Concurrent Resolution 287, the concurrent resolution just agreed to.

The SPEAKER pro tempore (Mr. MFUME). Is there objection to the request of the gentleman from California?

There was no objection.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H. CON. RES. 287, CONCURRENT RESOLUTION ON THE BUDGET—FISCAL YEAR 1993

Mr. PANETTA. Mr. Speaker, I ask unanimous consent that in the engrossment of House Concurrent Resolution 287, the Clerk be authorized to correct section numbers, punctuation, and cross references, and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in agreeing to the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

PERSONAL EXPLANATION

Mr. MCMILLEN of Maryland. Mr. Speaker, I wish to clarify for the RECORD regarding a vote I cast regarding House deliberations on House Concurrent Resolution 247, the fiscal year 1993 budget resolution. On rollcall vote No. 41, I inadvertently voted "yea," when my intention was to vote "nay."

I thank you for the opportunity to correct this discrepancy.

PERSONAL EXPLANATION

Mr. DOOLEY. Mr. Speaker, because I was traveling to my district in California, I missed two rollcall votes. Had I been present and voting, I would have voted "yea" on rollcall No. 41 and "yea" on rollcall No. 42.

PERSONAL EXPLANATION

Mr. JACOBS. Mr. Speaker, let the RECORD show that on the first of these two series in the division votes I inserted my card in the machine at the southeast corner of the Chamber and cast a vote, and it was not recorded. The vote I cast was "nay."

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3400 AND H.R. 3869

Mr. ZELIFF. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 3400 and H.R. 3869.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Hampshire?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 255

Mr. GLICKMAN. Mr. Speaker, I ask unanimous consent to withdraw my name as a cosponsor of the bill, H.R. 255.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kansas?

There was no objection.

□ 1930

LEGISLATIVE PROGRAM

(Mr. SOLOMON asked and was given permission to address the House for 1 minute.)

Mr. SOLOMON. Mr. Speaker, I ask for this time for the purpose of engaging the majority leader in a colloquy about the schedule next week, if the majority leader would be good enough to explain the schedule for the rest of the week and for next week.

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I am happy to yield to the gentleman from Missouri.

Mr. GEPHARDT. Mr. Chairman, I thank the gentleman for yielding.

Obviously, the business for today is finished. There will be no more votes for today. There will not be votes on tomorrow.

On Monday, March 9, the House will meet at noon, and there will not be legislative business.

On Tuesday, March 10, the House will meet at noon to consider one bill under suspension, but the recorded vote on the suspension will be postponed until Wednesday, March 11. That bill is S 2047, to establish a commission to commemorate the bicentennial of the establishment of the Democratic Party of the United States.

On Wednesday, March 11, the House will meet at 2 p.m. to consider H.R. 2212, regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, veto override, 1 hour of debate.

On Thursday, March 12, and the balance of the week, the House will meet at 11 a.m. and will take up H.R. 3732, the Budget Process Reform Act of 1992, subject to a rule.

Mr. SOLOMON. Mr. Speaker, I would say to the majority leader that we, the Republican Party, being the benevolent party, will not object to your Democrat bill coming up on Tuesday.

Mr. GEPHARDT. I thank the gentleman. We would be happy to have our friends on the other side join in at least debating if not voting for that bill.

Mr. SOLOMON. I thank the gentleman.

On Thursday, March 12, there is a possibility we will bring up the budget Process Reform Act, and amendments have to be filed by Monday on that. But as I understand it, that is probably going to be open, subject to an open rule. Is that the majority leader's understanding?

Mr. GEPHARDT. If the gentleman will yield further, I have not had a chance to discuss that with the chairman of the Committee on Rules. I will try to get an answer to that to the gentleman as quickly as possible.

Mr. SOLOMON. The report handed out at a press conference by the ethics committee earlier had mentioned there could be an ethics bill up on March 9, and that is not on the schedule. Is that a possibility?

Mr. GEPHARDT. If the gentleman will yield, it will not be up on March 9, and as to when it will come up, we will have to be in contact with the minority leader and with the minority ranking member on the ethics committee.

Mr. SOLOMON. I do not think the gentleman alluded to the Friday schedule. Are there apt to be votes on Friday, does he know?

Mr. GEPHARDT. If the gentleman will yield, I do not think there will need to be votes on Friday, but it is impossible at this point to know that for sure, and Members should be advised that there is a possibility that there could be votes on Friday.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I am happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, the letter out of the Ethics Committee clearly stated that the ethics matter would be dealt with during the week of March 9. Now, am I hearing now that that is subject to change, that that may not happen next week?

Mr. GEPHARDT. If the gentleman will yield, I did not say it would not be dealt with next week. It will be dealt with next week, but I do not know on which day. We have to consult with the minority leader and the ranking member.

Mr. SOLOMON. I certainly thank the majority leader for enlightening the membership.

Mr. GEPHARDT. I would just say to the gentleman further that we will be consulting with the minority about whether views will be filed and when they will be filed, and that will be a determinant of when the bill will come up.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman very much.

ADJOURNMENT TO MONDAY, MARCH 9, 1992

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Monday next.

The Speaker pro tempore (Mr. MFUME). Is there objection to the request of the gentleman from Missouri?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 3337, 1992 WHITE HOUSE COMMEMORATIVE COIN ACT

Mr. TORRES. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3337) to require the Secretary of the Treasury to mint coins in commemoration of the 200th anniversary of the White House, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. McCANDLESS. Mr. Speaker, reserving the right to object, and I am not objecting, I rise solely to inform the balance of the House Members here and those who may be watching that the minority is in concurrence with request of the subcommittee chairman.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. McCANDLESS. Further reserving the right to object, I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, do I understand that the action that we are taking would strike the Senate amendment, namely, the amendment which calls for the redesign of the coins, and then take the bill to conference? Is that what we are doing?

Mr. TORRES. Mr. Speaker, will the gentleman yield further?

Mr. McCANDLESS. Further reserving the right to object, I yield to the gentleman from California.

Mr. TORRES. Mr. Speaker, the gentleman is correct.

Mr. WALKER. If the gentleman will yield further, the action of the House would have the effect in the House of striking the language that would cause the redesign of the coins?

Mr. TORRES. Mr. Speaker, if the gentleman will yield further, the gentleman is correct.

Mr. McCANDLESS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees and reserves the right to appoint additional conferees: Messrs. TORRES; HUBBARD; BARNARD; WYLIE; and McCANDLESS.

There was no objection.

DEFINITION OF DIFFERENCES BETWEEN REPUBLICANS AND DEMOCRATS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. WALKER] is recognized for 5 minutes.

Mr. WALKER. Mr. Speaker, it is sometimes said by people outside the realm of politics that there is no fundamental difference between the two political parties, they all say the same things, believe the same things, and all we get is candidates who sound and look the same.

I think it is clear in some of these things that have happened here in the last couple of days that there are major differences between the two parties. I would submit to you that the Democrats have more and more defined themselves as the party of government, welfare, and taxes, and more and more it is becoming apparent that the Republican Party is the party of family, work, and opportunity, and that we divide very clearly along those lines when we get policy issues before us such as we have seen in the last couple of days as we have debated the budget.

It is very clear in the debates that took place in this Chamber today that the Democrats do believe that good things come when you spend more money, that good things come from bigger and bigger government; the more you expand the size of the Government, the better off you are, the more you give to people on welfare programs, the better off they are, and that we need lots more taxes in order to pay for those kinds of benefits.

The Republican Party, I think, has made it clear that what we believe is that strong families, supported by strong work and the opportunities to work and opportunities to invest in that work, are what produce the healthy economy, a healthy country, and a healthy society.

□ 1940

It has been very clearly demonstrated, as the Democrats have reacted in the last couple days to President Bush's statement that he made a mistake in 1990 when he signed into the budget a deal that raised taxes. Immediately the majority leader, the Speaker, and the prominent Democrats in this body came forward and blasted the President for reneging on the budget deal.

In fact, the majority leader in his speech on the budget here today talked about the fact that the President had reneged on the budget deal by saying that he made that mistake. The President made it quite clear that he thought it was a mistake to have raised taxes, because the President now sees the consequences of that decision.

But the Democrats are saying, well, that was a good decision. In fact the Speaker in his statement on this said that that decision to raise taxes in 1990 "was a wise decision at the time and a wise decision today."

I wonder how many of the American people believe it was a wise decision to raise taxes. The President now understands it was not so wise. The Democrats do not, but then they are the party of taxes.

Now, the point here that should be made is that the Democrats are also not faithful to the budget deal. If it was in fact the President reneging on the budget deal in a vacuum, that would be one thing, but the Democrats are going to bring to us a bill next week to tear down the firewalls within the budget. In fact, the budget today anticipated they might well do that; so when they suggest that what they are doing is being faithful to the budget deal, that is not true. What they are being faithful to is the taxes that were in the budget deal, but as for the spending restraints that were in the budget deal, they were to back out of the spending restraints in the budget deal and keep only the taxes, and they criticize the President who wants to get rid of the taxes and keep the spending restraints.

I think that makes it very clear where the two parties are. The Democrats are the party of government, more and more government, more and more government spending. They are the party of welfare, more and more welfare spending, so therefore more and more government spending; more and more taxes in order to pay for that spending.

The Republican Party is for family, work, and opportunity. The only way you can get there is with lower taxes.

The President now recognizes that what happened in 1990, despite his best intention, was wrong, that we should not have raised taxes and had an adverse impact on the American people. We should not have raised taxes and impeded the ability of society to produce more, and we should not have raised taxes and impeded the ability of the society to produce more opportunities for more people. That is the difference between the two parties.

The President now recognizes it was a mistake to raise taxes. The Democrats still do not see that it was. They are always for greater and greater taxation of American workers and the American people.

VACATING SPECIAL ORDER AND GRANTING SPECIAL ORDER

Mr. DORNAN of California. Mr. Speaker, a sad mistake. I had signed up for 5 minutes, but it appears I have a 60-minute special order lurking out there for a long time.

Mr. Speaker, I ask unanimous consent to waive my 60 minutes, vacate it and have a 5-minute special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

TRIBUTE TO A WONDERFUL FATHER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 5 minutes.

Mr. DORNAN of California. Mr. Speaker, today is one of those days in life that makes a person think about their own mortality and how short life really is. My father lived to be almost 83 years of age, just a few days short of his 83d birthday. He ended a long and fruitful life. Today is the 100th anniversary of his birth. He was 8 years older than my mother, so this is the first time that one of my parents comes to my attention as having been born a full century ago in another time, the beginning of what was called then the gay nineties.

I never realized I would be serving in the Congress of the United States to reach an anniversary like this. I have got a picture here of my father. Of course, anybody who follows the proceedings, Mr. Speaker, cannot see something like this because our cameras are forbidden to move in for closeups; but it is my dad as a young captain in World War I with the American Expeditionary Forces. He had three of what we now call Purple Hearts. Then they were called wound chevrons, two for poison gas, one for shrapnel in his face.

I am one of those people who can truly say with my intellect and from the bottom of my heart that Harry Joseph Dornan was the greatest man I ever knew.

I was impressed when my colleague, the gentleman from Michigan, Mr. DALE KILDEE, came to the well one day, I cannot even remember what the debate as about, but he spoke about his father, his father being a humble working American and his love for his fellow men, that he was a union organizer, and he said he saw his father go to church every day of his life, what in the Catholic Church is called a daily communicant, saw him say a rosary every night, and it brought tears to my eyes, because I watched my father go to church every day of his life. We used to tease him in his late seventies and early eighties that he was the oldest altar boy in the Archdiocese of Los Angeles, because if he looked up at the altar and the priest was alone or was with only one altar boy, he would always walk up, go right into the sacristy and come out on the altar and serve.

He also was one of the most generous people I have ever known in my life. I watched him stay up at night, Mr. Speaker, writing checks to charities, and as an Irish son of someone born in Ireland, his father was 4 years of age when he came over with my father's grandfather, Patrick Dornan, with eight children. I actually found this gravestone in Newburgh, NY, with Patrick Dornan and all of the children's names listed on it, and here was my grandfather, William Dornan, my dad's father, the youngest of the eight kids, 4 years of age, 1848. My grandfather, my father's father, married at 47, my dad at 37, so there is a whole generation I will skip in there.

But I remember my dad telling me about his youth, racing cars before World War I, building businesses after he came home at 26 years of age from World War I, giving up on his beloved Manhattan and New York City to take his family to California, racing down to the track at Beverly Hills High School in his seventies and racing and sometimes beating high school youngsters.

The example he set in business and as a father to me, to my brother, Don, my older brother, and my brother, Dick, is something we treasure.

I am again one of these fortunate people who can say that my mother, who died at the young age of 67, was the greatest woman I have ever met.

My heart breaks for youngsters around this country who have no parents or one parent or who spend their whole lives wondering why their parents never hugged them or never used those three simple little words, "I love you."

When my dad would write these charity checks, and I forgot to mention that these charities he selected were Indian missions, native American, first American missions in the South, and to black organizations, what then would have been Negro organizations. He did this selflessly, beyond what anybody would call normal tithing, and he always used to kid, when I asked him about it, he would say, "Oh, I'm making up for the sins of my youth."

Shortly before he died, about 2 or 3 weeks, this is in January 1975, I told him I was going to run for Congress again. I had made four false starts, and he said, "Bobby, boy, I think you will make it this time. I won't be around, but I will be perched on your shoulder."

He said, "I'll tell you something, son. Try as hard as you can, because it all seems like 3 weeks."

I said, "What seems like 3 weeks, Dad?"

He said, "My entire life."

He said, "I don't know if I will make my 83d birthday," he said, "but I had one life before World War I, one life between the wars, your mother was taken from me in God's wisdom and I have had another life since here in California."

And he said, "But it's 3 weeks, that's all. Some people don't get that. All my friends are dead. I'm the last of my gang."

He said, "I left the city I loved because it fell apart on me. I left the party I loved because it fell apart on me. I was raised by a Democrat who became a Republican in 1940, my mother also," and he said, "You're going to be called to account for this. What grieves me about this world is that it is such a dangerous place to raise children."

He said, "I want to start an organization before I am finished called the Society for the Uplifting of American Youth."

I wrote it down. I said, "Dad, there is no acronym there. We'll have to get a better name so we get some kind of kicky initials in there."

And he said, "Well, until something better comes along."

That night he designed the stationery and gave it to me.

He said, "Raising a child in this country is so different than the 1890's, the 1920's, the 1930's, the 1940's, the 1950's."

He said, "It's a dangerous place. I shudder for my 15 grandchildren."

Now, three of those grandchildren, mine. Each of his sons had five children. They are old enough to have given me and my Sally eight grandkids.

He thought it was going to be a tough world for his 15 grandchildren. I shudder for my eight grandchildren, and I think the one issue, and I will close on this, Mr. Speaker, that Harry Joseph Dornan will be most upset about, having a son in the Congress of the United States, is that in this Chamber we talk about economics, that has been going on all day long. We talk about foreign affairs and defense. That has been going on all day, all week. It will go on all year, but we never really talk about traditional values and the destruction of the American family in this country.

□ 1950

Harry Joseph Dornan, born March 5, 1892, I thank God for giving you to me. What a lucky son.

TRIBUTE TO CYRENE BAKKE DEAR

The SPEAKER pro tempore (Mr. MFUME). Under a previous order of the House, the gentleman from Kentucky [Mr. HUBBARD] is recognized for 5 minutes.

Mr. HUBBARD. Mr. Speaker, I take this opportunity to pay tribute to Cyrene Bakke Dear, an outstanding lady, a retired Washington newspaper columnist and retired officer of a family communications company, who died at the age of 95 on March 1.

Newspapers across the Nation have noted the many accomplishments of Cyrene Dear and her death last Sunday.

One of the most impressive news accounts regarding the life of Cyrene Dear appeared in yesterday's edition of the Washington Post.

I quote the obituary from the Washington Post:

> Cyrene Bakke Dear, 95, a retired Washington newspaper columnist and retired officer of a family communications company, died

of cardiac arrest March 1 at the Georgetown retirement home in Washington.

Before retiring in 1986, she had been a vice president of Dear Publications and Radio Inc., which included small newspapers in the South and Midwest. Her column, which had run in the family publications over the years as "D.C. Current" and "Washington Siren," included not only Washington commentary, but stories about her travels abroad.

She was a member of the Woman's National Democratic Club, the National Press Club and the American Society of Newspaper Editors. She had served as an elder of Georgetown Presbyterian Church.

Mrs. Dear, who had lived in Washington since 1960, was a native of North Dakota. She was a graduate of a state teachers' college in Greeley, Colo., and attended the University of Chicago. Before coming here, she had taught in a one-room school in Colorado, was executive director of the Colorado Tuberculosis League and headed the Council of Social Agencies in Jersey City, N.J.

Her husband, J. Albert Dear, died in 1959. Survivors include three sons, David, of Bethesda, and Ralph and Walt, both of Henderson, Ky.; 14 grandchildren, and six great-grandchildren.

It was my pleasure to visit with the many members of the Dear family this morning at Georgetown Presbyterian Church prior to the funeral.

I first met Cyrene Dear in 1974 at Henderson, KY, the third largest city in my congressional district where her sons Walt Dear and Ralph Dear live. Ever since meeting Cyrene Dear I have liked and admired her.

Cyrene Dear was an intelligent, progressive, and personable lady who had many admirers and friends.

Truly, during the 95 years of Cyrene Dear's life, she contributed much to make this country a better place in which to live.

My wife Carol and I extend to the many members of the Dear family our sympathy upon the death of Cyrene Bakke Dear.

REPORT BY COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT WITH RESPECT TO BOUNCED CHECKS

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Indiana [Mr. BURTON] is recognized for 60 minutes.

Mr. BURTON of Indiana. Mr. Speaker, first of all, to my colleague, the gentleman from California [Mr. DORNAN], that was a very touching remembrance of his father. I think that it made a real impression on most all of us. I hope that one day when I am gone, my son and my daughters will remember me as he remembers his father.

Mr. Speaker, I got some disturbing news today, and I think this is going to be disturbing to the people of this country who watch what goes on in this body.

We all heard about the bounced checks that have taken place over the past several years that were brought to light not too long ago. And the Ethics Committee was charged with the responsibility of investigating this and bringing to light those Members who routinely bounced checks at the House bank.

Well, the Committee on Standards of Official Conduct today issued a preliminary report. It sent a "Dear Colleague" around to all of us telling us what they were going to do. And it certainly did not meet my expectations and I am very confident it is not going to meet the expectations of the people of this country.

They want to know which Members were bouncing those checks on a routine basis.

Now, what the committee came up with was a definition of what a significant amount of check bouncing was and what that sufficient amount was defined to be was the amount of the Member's next paycheck to be deposited during the month.

So, if you bounced a check for less than, say, $5,000 in the month, it was not a significant amount. Are not $5,000, $4,000, $3,000 in a month significant amounts? I beg to differ. They are significant amounts.

And they further went on, and I will read right out of the "Dear Colleague" that they sent. They said:

> The committee further determined that such significant overdrafts were repeated and routine when they occurred in at least 20 percent of the months that a Member had an account at the bank. Thus, if one had an account for the full 39-month period of this inquiry, one would have had to overdraw by the significant amount at least once in each of 8 months.

But if their overdraft during those 8 months was less than the amount they deposited each month out of their pay check, which is about $5,000 or $6,000, then it did not count.

So, a guy could have for 8 months out of that 39-month period have an overdraft of $2,000 or $3,000, and it would not count. So, a lot of people are not going to be made known to the public who routinely bounced checks. Now, people in this country who go to their bank and bounce checks of this amount on a routine basis are going to be in big, big trouble. But if you bounce checks at the House bank for an amount less than what your monthly paycheck would be, your net monthly paycheck would be, then there is not going to be any problem. I think that is terrible.

They said the committee would publicly disclose the names and the pertinent account information for those found to abuse their banking privileges. Well, there were a lot of people that do not qualify under this rule or this decision made by the Ethics Committee who ought to be brought to light. And the problem is this: The American people think very poorly of the Congress of the United States, they think very badly about everybody in this town right now, from the White House all the way through the Congress. And for us to in any way cover this up will only diminish the way people look at us in the Congress. It has got to be brought to the attention of everybody in this body and to the attention of the people in this country. We have to make full disclosure, full disclosure. If somebody bounced a check of a small amount, then they can go back to their constituents and say, "I bounced a check for $20," or $30 or $40. I believe the people of this country will understand that.

But if somebody bounced checks in the amount of $2,000, $3,000, $4,000, many times over a period of 39 months, then, by golly, they ought to be taken to task. And this does not cover that. Many of these people are going to get away with bloody murder, and it is going to bring discredit and disrepute on the House of Representatives, and that should not occur.

I would like to say to my friends on the Ethics Committee they ought to go back to the drawing boards and come back with a resolution that will make full disclosure, full disclosure. I do not want a black eye. I did not bounce any checks. But this is going to give us all a black eye because you will not know who bounced checks, because only a very small number of those who bounced checks are going to be made public. That is wrong.

As I said before, if it is a small check that was bounced, I think you can go back to your constituents and make a case that that was a mistake. But if it was a $2,000 overdraw for 6, 7, 8, 9, or 10 months, then I think you have got big problems.

□ 2000

So, Mr. Speaker, if we are going to bring the credibility of the House of Representatives back up to where it should be, if we are going to make the people of this country respect the Congress of the United States, then we cannot sweep this under the rug. We have got to make full disclosure, and I urge the Committee on Standards of Official Conduct to do so.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. YATES (at the request of Mr. GEPHARDT), for today, on account of illness.

Mr. ORTIZ (at the request of Mr. GEPHARDT), for today after 2 p.m., on account of official business.

Mr. HYDE (at the request of Mr. MICHEL), on March 3, on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. WALKER) to revise and extend their remarks.)

Mr. HUNTER, for 5 minutes, today.

Mr. WALKER, for 5 minutes, today.

Mr. INHOFE, for 5 minutes, on March 10 and 11.

Mr. EWING, for 5 minutes, on March 10 and 11.

(The following Members (at the request of Mr. MCNULTY) to revise and extend their remarks and include extraneous material:)

Mr. MOAKLEY, for 5 minutes, today.

Mr. HUBBARD, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. ANDREWS of Maine, for 30 minutes, on March 10.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. WALKER) and to include extraneous matter:)

Mr. SCHULZE.
Mr. CUNNINGHAM.
Mr. BROOMFIELD.
Mr. LEWIS of California.
Mr. GINGRICH.
Mr. GREEN of New York.
Mr. BLILEY.
Mrs. MORELLA.
Mr. SOLOMON.
Ms. ROS-LEHTINEN.
Mr. MICHEL.
Mr. MCEWEN.

(The following Members (at the request of Mr. MCNULTY) and to include extraneous matter:)

Mr. PALLONE.
Mrs. KENNELLY.
Mr. ATKINS, in two instances.
Mr. RANGEL.
Mr. LEVINE of California.
Mr. SCHEUER.
Mr. HAMILTON.
Mr. DONNELLY.
Mr. STUDDS.
Mr. SMITH of Florida.
Mr. BONIOR.
Mr. SOLARZ, in two instances.
Mr. WOLPE.
Mr. NOWAK.
Mr. SCHUMER.
Mr. PASTOR.
Mr. FASCELL, in two instances.
Ms. SLAUGHTER.
Mr. HOYER.
Mr. TRAFICANT.
Mr. MARKEY, in three instances.
Mr. ROYBAL.
Mr. SKELTON.
Mr. OLVER.
Mr. WILLIAMS.

ADJOURNMENT

Mr. BURTON of Indiana. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 1 minute p.m.), under its previous order, the House adjourned until Monday, March 9, 1992, at 12 noon.

OATH OF OFFICE, MEMBERS, RESIDENT COMMISSIONER, AND DELEGATES

The oath of office required by the sixth article of the Constitution of the United States, and as provided by section 2 of the act of May 13, 1884 (23 State.22), to be administered to Members, Resident Commissioner, and Delegates of the House of Representatives, the text of which is carried in 5 U.S.C. 3331:

> "I, A B, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose or evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God."

has been subscribed to in person and filed in duplicate with the Clerk of the House of Representatives by the following Member of the 102d Congress, pursuant to the provisions of 2 U.S.C. 25:

ANTONIO J. COLORADO, Resident Commissioner, Puerto Rico.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3016. A letter from the Secretary of the Army, transmitting notification that a major defense acquisition program has breached the unit cost by more than 15 percent, pursuant to 10 U.S.C. 2433; to the Committee on Armed Services.

3017. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-165, "District of Columbia Uniform Commercial Code—Funds Transfers Act of 1992," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

3018. A communication from the President of the United States, Transmitting a report on developments since his last report of July 9, 1991, concerning the national emergency with respect to Libya, pursuant to 50 U.S.C. 1641(c) (H. Doc. No. 102-199); to the Committee on Foreign Affairs and ordered to be printed.

3019. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original report of political contributions of Joseph Gerard Sullivan, Virginia, to be Ambassador to Nicaragua, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

3020. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of Presidential Determination No. 92-17, Drawdown From DOD Stocks for Counternarcotics Assistance for Mexico; to the Committee on Foreign Affairs.

3021. A letter from the Director, U.S. Information Agency, transmitting a report of activities under the Freedom of Information Act for calendar year 1991, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3022. A letter from the Administrator, Federal Aviation Administration, transmitting the administration's status report on improvements to the FAA Airmen and Aircraft Registry System, pursuant to Public Law 100-690, section 7207(d) (102 Stat. 4428); to the Committee on Public Works and Transportation.

3023. A letter from the Department of Commerce, Department of State, transmitting a draft of proposed legislation to promote international dolphin protection; jointly, to the Committee on Merchant Marine and Fisheries and Foreign Affairs.

3024. A letter from the Competitiveness Policy Council, Chairman, transmitting the Council's analysis and recommendations on the overall competitiveness of the American economy, pursuant to 15 U.S.C. 4803; jointly, to the Committees on Education and Labor, Banking, Finance and Urban Affairs, Science, Space, and Technology, Energy and Commerce, and Ways and Means.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ROE (for himself (by request), Mr. MINETA, Mr. HAMMERSCHMIDT, and Mr. SHUSTER):

H.R. 4392. A bill to amend title 49, United States Code, to impose a 1-year moratorium on rate tariff filing requirements for motor common carriers of property, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. HALL of Texas (for himself, Mr. ANDREWS of Texas, Mr. ANTHONY, Mr. ARCHER, Mr. BACCHUS, Mr. BARTON of Texas, Mr. BENNETT, Mr. BRYANT, Mr. BUSTAMANTE, Mr. CHAPMAN, Mr. COLEMAN, of Texas, Mr. COMBEST, Mr. DELAY, Mr. EDWARDS of Texas, Mr. ERDREICH, Mr. FIELDS, Mr. FROST, Mr. GEREN of Texas, Mr. GREEN of New York, Mr. HARRIS, Mr. JOHNSON of Texas, Mr. LAUGHLIN, Mr. MCGRATH, Mr. PICKLE, Mr. ORTIZ, Mr. ROWLAND, Mr. SARPALIUS, Mr. SMITH of Texas, Mr. STENHOLM, Mr. THOMAS of Georgia, Mr. TOWNS, Mr. WASHINGTON, and Mr. WILSON):

H.R. 4393. A bill to amend title XVIII of the Social Security Act to require the Secretary of Health and Human Services to consult with State medical societies in revising the geographic adjustment factors used to determine the amount of payment for physicians' services under part B of the Medicare Program, to require the Secretary to base geographic-cost-of-practice indices under the program upon the most recent available data, and for other purposes; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. JONES of North Carolina (for himself, Mr. STUDDS, Mr. KOPETSKI, Mr. PERKINS, Mr. HUBBARD, Mr. CARDIN, Mr. WILSON, Mr. JEFFERSON, Mr. MRAZEK, Mr. LEWIS of Florida, Mr. KOLTER, Mr. HORTON, Mr. PETERSON of Minnesota, Mr. EVANS, Ms.

KAPTUR, Mr. MOODY, Mr. HERTEL, Mrs. LOWEY of New York, Mr. CHAPMAN, Mr. FROST, Mr. SARPALIUS, Mr. PALLONE, Mr. PASTOR, Mr. ACKERMAN, Mr. BACCHUS, Mr. LANTOS, Mr. KILDEE, Mr. MCNULTY, Mr. ROE, Mr. BONIOR, Mr. ABERCROMBIE, and Mr. BRYANT):

H.R. 4394. A bill to amend title 46, United States Code, to require merchant mariners' documents for certain seamen; to the Committee on Merchant Marine and Fisheries.

By Mr. BLILEY:

H.R. 4395. A bill to amend title 18, United States Code, to extend the application of Federal prohibitions relating to harassment and intimidation victims and witnesses of crimes to victims and witnesses of crimes in the District of Columbia, and for other purposes; to the Committee on the Judiciary.

H.R. 4396. A bill to provide expanded penalties for individuals convicted of crimes of violence in the District of Columbia or of distributing drugs in the vicinity of schools in the District of Columbia, to revise standards for bail and pretrial detention in the District of Columbia, and for other purposes; jointly, to the Committees on the District of Columbia and the Judiciary.

By Mr. CAMPBELL of California:

H.R. 4397. A bill to authorize the Administrator of the Small Business Administration to make disaster loans to persons who have suffered economic injury directly attributable to the commission of a bank fraud offense; to the Committee on Small Business.

By Mr. ERDREICH:

H.R. 4398. A bill to remove outdated limitations on the acquisition or construction of branch buildings by Federal Reserve banks which are necessary for bank branch expansion if the acquisition or construction is approved by the Board of Governors of the Federal Reserve System; to the Committee on Banking, Finance and Urban Affairs.

By Mr. GREEN of New York (for himself, Mr. MRAZEK, and Ms. PELOSI)

H.R. 4399. A bill to prohibit all United States military and economic assistance for Turkey until the Turkish Government takes certain actions to resolve the Cyprus problem and complies with its obligations under international law; to the Committee on Foreign Affairs.

By Mr. SKELTON (for himself, Mr. LAFALCE, Mr. HANCOCK, Mr. IRELAND, Mr. MAVROULES, Mr. WYDEN, Mr. SISISKY, Mr. LANCASTER, Mr. TORRES, Mr. BILBRAY, Mr. MACHTLEY, and Mr. PASTOR):

H.R. 4400. A bill to provide the Administrator of the Small Business Administration continued authority to administer the Small Business Innovation Research Program, and for other purposes; to the Committee on Small Business.

By Mr. GUARINI (for himself, Mr. BILBRAY, Mr. MARKEY, Mr. DAVIS, Ms. LONG, and Mr. ROSE):

H.R. 4401. A bill to extend until January 1, 1999, the existing suspension of duty on Tamoxifen citrate; to the Committee on Ways and Means.

By Mr. GUARINI:

H.R. 4402. A bill to extend until January 1, 1995, the existing suspension of duty on methyl and ethyl parathion and on dimethoate; to the Committee on Ways and Means.

H.R. 4403. A bill to suspend until January 1, 1995, the duty on Levodopa; to the Committee on Ways and Means.

By Mr. HEFLEY (by request):

H.R. 4404. A bill to withdraw and reserve certain public lands and minerals within the State of Colorado for military uses, and for other purposes; jointly, to the Committees on Interior and Insular Affairs and Armed Services.

By Mrs. KENNELLY:

H.R. 4405. A bill to amend the Internal Revenue Code of 1986 to repeal the provision which includes unemployment compensation in income subject to tax; to the Committee on Ways and Means.

By Mr. PACKARD:

H.R. 4406. A bill to amend the Interstate Commerce Act to modify the Interstate Commerce Commission's regulatory responsibilities over the trucking industry, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. PERKINS:

H.R. 4407. A bill entitled, "Employment and Economic Growth Act"; to the Committee on Education and Labor.

By Mr. PICKLE (for himself and Mr. DAVIS):

H.R. 4408. A bill to require the Secretary of Defense and the Secretary of a military department to consider the needs of retired members of the Armed Forces, their dependents, and reservists who are served by a military medical facility whenever the Secretaries consider whether to close the facility or reduce the level of services provided at the facility; to the Committee on Armed Services.

By Mr. STUDDS (for himself, Mr. JONES of North Carolina, Mr. YOUNG of Alaska, and Mr. DAVIS):

H.R. 4409. A bill to reauthorize the national marine sanctuaries program, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. TRAFICANT:

H.R. 4410. A bill to amend the Internal Revenue Code of 1986 to reinstate a 10-percent domestic investment tax credit and to provide a credit for the purchase of domestic durable goods, and for other purposes; jointly, to the Committees on Ways and Means and Energy and Commerce.

H.R. 4411. A bill to establish a Buy-American Fund to encourage American consumers to purchase products bearing a "made in America" label, to create guidelines for the use of "made in America" labels, and to protect against the misuse of such labels, and for other purposes; to the Committee on Energy and Commerce.

By Mr. HUGHES (for himself, Mr. MOORHEAD, Mr. SYNAR, Mr. COBLE, Mr. GLICKMAN, and Mr. SANGMEISTER):

H.R. 4412. A bill to amend title 17, United States Code, relating to fair use of copyrighted works; to the Committee on the Judiciary.

By Mr. WILLIAMS:

H.R. 4413. A bill to require a 2-year moratorium on the burning of hazardous wastes in cement kilns, and to provide for a study by the Administrator of the Environmental Protection Agency; to the Committee on Energy and Commerce.

By Ms. SLAUGHTER (for herself and Mr. MILLER of California):

H.J. Res. 433. Joint resolution designating October 1992 as "National Domestic Violence Awareness Month"; to the Committee on Post Office and Civil Service.

By Mr. EDWARDS of Oklahoma:

H. Con. Res. 288. Concurrent resolution placing numerical and funding limitations on certain employee positions in the House of Representatives and the Senate; to the Committee on House Administration.

By Mr. GEKAS:

H. Con. Res. 289. Concurrent resolution expressing the sense of the Congress that the environmental cleanup of military installations should be a priority use of savings resulting from reductions in defense spending so that such installations can be made available for civilian use in the future; to the Committee on Armed Services.

By Mr. STOKES (for himself, Ms. WATERS, Mrs. COLLINS of Michigan, Mr. FORD of Tennessee, Mr. BLACKWELL, Mr. DIXON, Mr. DYMALLY, Mr. ESPY, Mr. FLAKE, Mr. PAYNE of New Jersey, Mr. OWENS of New York, Mr. TOWNS, Ms. NORTON, Mr. SAVAGE, Mr. DELLUMS, Mrs. BOXER, Mr. CONYERS, Mrs. COLLINS of Illinois, and Mr. LEWIS of Georgia):

H. Res. 390. Resolution to establish the Select Committee on Violence; to the Committee on Rules.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 65: Mr. HUGHES.

H.R. 78: Mr. ARCHER and Mr. ARMEY.

H.R. 394: Mr. GEREN of Texas.

H.R. 589: Mr. RANGEL.

H.R. 602: Mr. PICKETT.

H.R. 722: Mr. QUILLEN, Mr. ROYBAL, and Mr. SAVAGE.

H.R. 723: Mr. QUILLEN, Mr. ROYBAL, and Mr. SAVAGE.

H.R. 793: Mr. FOGLIETTA, Mr. SPRATT, Mr. VOLKMER, Mr. MURPHY, Mr. LUKEN, Ms. KAPTUR, and Mr. HENRY.

H.R. 911: Mr. SCHEUER, Mr. RAMSTAD, Mr. ZELIFF, Mrs. ROUKEMA, Mr. DOOLEY, Mr. SMITH of Oregon, and Mr. ALLEN.

H.R. 1063: Mr. DOOLEY and Mr. MOAKLEY.

H.R. 1072: Mr. HAYES of Illinois.

H.R. 1073: Mr. HAYES of Illinois.

H.R. 1110: Mr. JEFFERSON.

H.R. 1124: Mr. GORDON, Mr. BRUCE, and Mr. LIVINGSTON.

H.R. 1190: Mr. TRAFICANT.

H.R. 1322: Mr. MARLENEE.

H.R. 1430: Mr. OWENS of Utah.

H.R. 1771: Mr. HANSEN, Mr. HEFLEY, and Mr. STEARNS.

H.R. 1774: Mr. SAWYER.

H.R. 2017: Mr. FROST, Mr. RANGEL, and Mr. DELLUMS.

H.R. 2070: Mr. NOWAK, Mr. GOODLING, Mr. COSTELLO, Mr. QUILLEN, Mr. LEWIS of California, and Mr. ROE.

H.R. 2227: Mr. PAYNE of Virginia.

H.R. 2248: Mr. PAYNE of Virginia, Mr. BENNETT, and Mr. MCHUGH.

H.R. 2288: Mr. WELDON.

H.R. 2333: Mr. DERRICK.

H.R. 2363: Mr. LEWIS of Georgia and Mrs. MORELLA.

H.R. 2410: Mr. BARTON of Texas, Mr. RICHARDSON, Mr. RAMSTAD, Mr. WEBER, Mrs. VUCANOVICH, Mr. HASTERT, Mr. MCCRERY, Mr. INHOFE, Mr. MCCOLLUM, and Mr. HOLLOWAY.

H.R. 2420: Mr. RITTER.

H.R. 2470: Mr. FIELDS.

H.R. 2678: Mr. ENGEL and Mr. LEVINE of California.

H.R. 2766: Mr. FAWELL.

H.R. 2776: Mr. LAGOMARSINO and Mr. RINALDO.

H.R. 2819: Mr. VOLKMER, Mr. PENNY, and Ms. LONG.

H.R. 2840: Mr. COLEMAN of Texas, Mr. LEWIS of Georgia, and Mr. SAVAGE.

H.R. 2890: Mr. HOYER.

H.R. 2945: Mr. PETERSON of Florida and Mr. HOPKINS.

H.R. 3067: Mr. BROWN.

H.R. 3071: Mr. BRUCE.

H.R. 3145: Mr. PACKARD.

H.R. 3164: Mr. HANSEN, Mr. FRANKS of Connecticut, Mr. NEAL of North Carolina, Mr. DORNAN of California, Mr. MCGRATH, Ms. NORTON, and Ms. PELOSI.

H.R. 3285: Mr. ANDREWS of New Jersey, Mr. BRYANT, and Mr. KOSTMAYER.

H.R. 3349: Mr. SUNDQUIST.

H.R. 3360: Mr. WALKER.

H.R. 3395: Mr. CRAMER and Mr. FRANKS of Connecticut.

H.R. 3441: Mr. CHAPMAN.

H.R. 3462: Mr. LENT, Mrs. MINK, Mr. AUCOIN, Mr. MARTINEZ, Mr. HUGHES, Mr. DELLUMS, and Mr. ANDREWS of New Jersey.

H.R. 3493: Mr. DOOLITTLE, Mr. GOSS, Mr. WALSH, and Mrs. VUCANOVICH.

H.R. 3534: Mr. SCHEUER.

H.R. 3536: Mr. SCHEUER.

H.R. 3571: Mr. CONDIT, Mr. CRAMER, and Ms. HORN.

H.R. 3592: Mr. KOSTMAYER and Mr. Wilson.

H.R. 3636: Mr. ANDERSON, Mr. CARDIN, Mr. NEAL of Massachusetts, Mr. ESPY, Mr. BUSTAMANTE, Mr. DOOLEY, and Mr. Borski.

H.R. 3654: Mr. BUNNING, Mr. CUNNINGHAM, Mr. GALLEGLY, Mr. KYL, Mr. KOLBE, Mr. LUKEN, Mr. MARLENEE, Mr. MOODY, Mr. MORRISON, Mr. OBEY, Mr. PERKINS, Mr. PORTER, Mr. RAVENEL, Mr. ROGERS, Mr. SANTORUM, Mr. SISISKY, and Mr. STOKES.

H.R. 3675: Mr. LEHMAN of Florida, Mr. NEAL of North Carolina, and Mrs. BOXER.

H.R. 3677: Mr. LIPINSKI and Mr. JOHNSON of South Dakota.

H.R. 3680: Mr. RAVENEL.

H.R. 3698: Mr. KLECZKA.

H.R. 3850: Mr. RITTER, Mr. INHOFE, Mr. BREWSTER, Mr. IRELAND, Mr. GALLO, Mr. MFUME, Mr. DOOLITTLE, Mr. GINGRICH, Mr. HOLLOWAY, Mr. CALLAHAN, Mr. ORTON, and Mr. BROOMFIELD.

H.R. 3927: Mr. RICHARDSON.

H.R. 3956: Mr. WAXMAN, Mr. WILSON, Mr. MILLER of California, Mr. ANDREWS of Maine, Mr. FROST, Mrs. UNSOELD, Mr. ROYBAL, Mr. DE LUGO, Mrs. BOXER, Mr. FRANK of Massachusetts, Mr. DELLUMS, and Mr. STARK.

H.R. 3986: Ms. KAPTUR, Mr. ESPY, Mr. JONES of North Carolina, Mrs. COLLINS of Michigan, Mr. DURBIN, and Mr. SMITH of New Jersey.

H.R. 3989: Mr. DWYER of New Jersey and Mrs. BOXER.

H.R. 3990: Mrs. BOXER.

H.R. 3992: Mr. DWYER of New Jersey and Mrs. BOXER.

H.R. 4046: Mr. STARK, Mr. NEAL of North Carolina, Mr. HAYES of Illinois, Mr. WALSH, Mr. HEFNER, Mr. LEHMAN of Florida, Mr. JONES of North Carolina, Mr. WYDEN, Mr. LANCASTER, Mr. RIGGS, Mr. AUCOIN, Mr. LEVIN of Michigan, Mr. GUNDERSON, Mr. ROWLAND, Ms. KAPTUR, Mr. MATSUI, Mr. LEWIS of Georgia, Mr. VALENTINE, and Mr. PRICE.

H.R. 4114: Mr. SENSENBRENNER and Mr. MILLER of California.

H.R. 4131: Mr. MARTINEZ, Mr. KOLTER, Mr. WILSON, and Mr. WELDON.

H.R. 4144: Mr. SMITH of Iowa.

H.R. 4149: Mr. FROST.

H.R. 4158: Mr. OWENS of New York and Mr. MARTINEZ.

H.R. 4207: Mr. KOLBE.

H.R. 4211: Mr. NOWAK, Mr. LENT, Mr. FAWELL, Mr. GOSS, Mr. KYL, and Ms. MOLINARI.

H.R. 4214: Mr. JOHNSON of South Dakota, Mr. FRANK of Massachusetts, Ms. NORTON, Mr. STUDDS, Mr. ATKINS, Mr. TOWNS, Mr. SCHUMER, Mr. LAFALCE, Mr. SCHEUER, and Mr. SMITH of Florida.

H.R. 4271: Mr. STARK, Mr. KILDEE, Mr. HYDE, Mr. MAVROULES, Mr. FROST, Mr. FRANK of Massachusetts, Mr. ANNUNZIO, Mr. MCGRATH, Mr. CUNNINGHAM, Mr. HERTEL, Mr. DWYER of New Jersey, Mr. FISH, Mr. SMITH of New Jersey, Mr. MORRISON, and Mr. SCHUMER.

H.R. 4277: Mr. JEFFERSON.

H.R. 4278: Mr. NAGLE and Mr. RICHARDSON.

H.R. 4279: Mr. JONTZ, Mr. LEACH, Mr. WISE, Mr. DOOLEY, and Mr. LEWIS of Florida.

H.R. 4315: Mr. KYL, Mr. DORNAN of California, and Mr. CONDIT.

H.R. 4344: Mr. APPLEGATE.

H.J. Res. 81: Mr. DOOLITTLE.

H.J. Res. 272: Mr. NUSSLE, Mr. SAWYER, Mr. CARR, Mr. OXLEY, and Mr. THOMAS of California.

H.J. Res. 290: Mr. ANDREWS of New Jersey.

H.J. Res. 336: Mr. FASCELL, Mr. ATKINS, Mr. OBERSTAR, Mr. MILLER of California, Mr. MCNULTY, Mr. FEIGHAN, Mr. MCGRATH, Mr. MAVROULES, and Mr. STARK.

H.J. Res. 351: Mr. BRYANT.

H.J. Res. 354: Mr. QUILLEN, Mr. MCDERMOTT, Mr. BURTON of Indiana, Mr. FOGLIETTA, Mr. KOPETSKI, and Ms. SNOWE.

H.J. Res. 367: Mr. DICKS and Mr. MILLER of Washington.

H.J. Res. 371: Mr. DURBIN, Mr. FALEOMAVAEGA, Mr. GINGRICH, Mr. HORTON, Mr. JACOBS, Mr. JENKINS, Mrs. LLOYD, Mr. OXLEY, Ms. PELOSI, Mr. ROBERTS, Mr. WALSH, Mr. WEBER, Mr. WILSON, Mr. WOLF, Mr. WYLIE, Mr. ANDERSON, Mr. DICKINSON, Mr. DICKS, Mr. FEIGHAN, Mr. FORD of Tennessee, Mr. GUNDERSON, Mr. LEWIS of Florida, Mr. SAXTON, Mr. SKELTON, Mr. SMITH of Oregon, Mr. STAGGERS, and Mr. YATES.

H.J. Res. 378: Mr. EMERSON.

H.J. Res. 384: Mr. PAXON, Mr. KLUG, Mr. CAMPBELL of California, and Mr. HALL of Texas.

H.J. Res. 390: Mr. GILCHREST.

H.J. Res. 394: Mr. SAWYER and Mr. MINETA.

H.J. Res. 411: Mr. MAVROULES, Mr. QUILLEN, Mr. DE LA GARZA, and Mr. FAZIO.

H.J. Res. 427: Mr. SOLOMON, Mr. GREEN of New York, Mr. HOUGHTON, Mr. HORTON, Mr. PAXON, Mr. WALSH, Mr. LENT, Mr. BOEHLERT, Mr. MARTIN, Mr. RIDGE, Mr. BILIRAKIS, Mr. THOMAS of California, Mr. ALLEN, Mr. RANGEL, Mr. GUARINI, Ms. OAKAR, Mr. GEPHARDT, Mr. SAXTON, Mr. ZIMMER, Mr. COX of California, Mr. SKEEN, Mr. MYERS of Indiana, Mr. PETRI, Mr. BROOMFIELD, Mr. MILLER of Ohio, Mr. WYLIE, Mr. RICHARDSON, Mr. WYDEN, Mr. TORRES, Mr. MRAZEK, Mr. SERRANO, Mr. MCCANDLESS, Mr. YATRON, and Mr. HUGHES.

H. Con. Res. 180: Mr. JEFFERSON and Mr. FEIGHAN.

H. Con. Res. 224: Mr. ANDREWS of New Jersey, Mr. PENNY, Mr. ENGEL, and Mr. BEREUTER.

H. Con. Res. 233: Mr. SMITH of New Jersey, Mrs. PATTERSON, Mr. MCCANDLESS, Mr. GINGRICH, Mr. FRANKS of Connecticut, Mr. MCGRATH, Mr. IRELAND, Mr. LIGHTFOOT, Mr. KLUG, Mr. GALLEGLY, Mr. LANCASTER, Mr. NICHOLS, Mr. STEARNS, Mr. MATSUI, Mr. GILLMOR, and Mr. TAYLOR of Mississippi.

H. Con. Res. 246: Mr. ANDREWS of New Jersey, Mr. BORSKI, Mr. GUARINI, Mr. HARRIS, Mr. JENKINS, Mr. KANJORSKI, Ms. LONG, Mr. NAGLE, Mr. ROYBAL, Mr. TORRICELLI, and Mr. WOLPE.

H. Con. Res. 274: Mr. LIPINSKI, Mrs. VUCANOVICH, Mr. WELDON, Mr. BILIRAKIS, Mr. HOCHBRUECKNER, and Mr. ZIMMER.

H. Con. Res. 279: Mr. DEFAZIO and Mr. FROST.

H. Res. 376: Mr. WALSH, Mr. GINGRICH, and Mr. OXLEY.

H. Res. 377: Mr. GOSS.

H. Res. 387: Mr. DORGAN of North Dakota, Mr. KOSTMAYER, Mr. DEFAZIO, Mr. BONIOR, Mr. SIKORSKI, Mr. MACHTLEY, Mr. RICHARDSON, Mr. KLUG, Ms. HORN, and Mr. ANDREWS of Maine.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 255: Mr. GLICKMAN.

H.R. 3400: Mr. ZELIFF.

H.R. 3869: Mr. ZELIFF.

EXTENSIONS OF REMARKS

A TRIBUTE TO THE LATE JEAN YAWKEY

HON. JOHN JOSEPH MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 5, 1992

Mr. MOAKLEY. Mr. Speaker, I rise today to pay tribute to the late Jean Yawkey who died of a stroke on February 27. For the past 59 years, Mrs. Yawkey has been the matriarch of the Boston Red Sox. Her involvement with the Sox began in 1933 when her husband Tom bought the team and began building what has become one of the classiest franchises in major league baseball. After her husband's death in 1976, Mrs. Yawkey assumed the position of part owner in the team's front office and carried on the Yawkey legacy of kindness and generosity toward everyone associated with the Red Sox organization. The world of baseball mourns her passing as too does the city of Boston, for she did so much for so many.

Not only did she commit her resources to bring great baseball to Boston but also to many charities in the Boston area. Her longtime association with the Jimmy Fund and the Dana Farber Cancer Institute is legendary. Through her late husband's foundation and her own, millions of dollars have been donated to the Jimmy Fund and other charitable organizations. These donations were just another extension of the Yawkey tradition of benevolence toward others. She was loved by all who knew her, both fans and players alike. An avid fan of the game, Mrs. Yawkey loved her Red Sox. At Fenway Park, she was always a fixture in her box seats keeping score of the game during Red Sox home stands.

From her vantage point in Fenway, she witnessed many great players come and go, Ted Williams, Carl Yazstremski, and Johnny Pesky to name a few. The performances of these players on the field fill our minds with memories of Red Sox triumphs and heartaches. Jean Yawkey was there for all of them, the good times and the bad. She treated all of her players with the respect they deserved and in return received lifelong devotion and admiration. The great ones, Carl Yazstremski and Ted Williams loved her like a mother. Current team members speak of her fondly and pay tribute to her kindness and devotion to the team.

You can be sure that as spring rolls around and the baseball season begins again, that Jean Yawkey will be in the thoughts and hearts of each player.

She never had the chance to see her beloved team win a World Series, but the Red Sox's time will come, and when it does you can bet that Jean Yawkey will be looking down and keeping score, rooting for her Boston Red Sox.

WHAT PRESIDENT BUSH SHOULD DO AT THIS CRITICAL MOMENT

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 5, 1992

Mr. BROOMFIELD. Mr. Speaker, as Yogi Berra used to say: "It ain't over 'til it's over." In a few words, that's the import of a thoughtful commentary on the cold war that former President Richard Nixon sent to me recently.

President Nixon has been a leading figure in international politics from virtually the beginning of the post-World War II era until today. He believes that while the Communists may have lost the cold war, the West has not yet won it.

Should President Yeltsin's reforms not succeed, President Nixon believes the West could face a new, more dangerous despotism based on extremist Russian nationalism.

This is a critical moment for world peace, he believes, and America should be doing more to ensure that Yeltsin's reforms succeed. Otherwise we may be forced to engage in a new cold war, losing the ability to focus sufficient time and energies on solving our domestic problems.

President Nixon suggests that we help Yeltsin in six crucial ways, but that we share the burden of foreign aid with other industrialized nations that are better able to afford it.

What America can provide is its world leadership, which he says President Bush brilliantly demonstrated in mobilizing the coalition for the gulf war.

These comments on President Bush's leadership put me in mind of a New York Times op-ed article by former Education Secretary William J. Bennett that appeared today. Bennett argues that President Bush should reclaim foreign policy as an issue in this year's Presidential contest.

That's good advice. Coverage of the 1992 campaign seems to be proceeding on the assumption that the next President will spend all of his waking hours grappling with domestic policy issues. That assumption runs against the experience of every President who has served in the last 50 years.

Here are two thoughtful commentaries that I hope will be carefully read in the White House. The implication of both of these commentaries is that good Government can be good politics, and vice versa. And that a President who is such a gifted world leader would do well to play to his strong suit—for the sake of his Presidency and for the sake of world peace.

Mr. Speaker, I insert the two articles in the RECORD.

HOW TO LOSE THE COLD WAR

While the candidates have addressed scores of significant issues in the presidential campaign, the most important issue since the end of World War II—the fate of the political and economic reforms in Russia—has been virtually ignored. As a result, the United States and the West risk snatching defeat in the cold war from the jaws of victory.

We have heard repeatedly that the cold war has ended and that the West won it. This is only half true. The Communists have lost the cold war, but the West has not yet won it. Communism collapsed because its ideas failed. Today, the ideas of freedom are on trial. If they fail to produce a better life in Russia and the other former Soviet republics, a new and more dangerous despotism will take power, with the people trading freedom for security and entrusting their future to old hands with new faces.

We are at a watershed moment in history. The historical significance of the democratic revolution in the Soviet Union compares only with events like the defeat of Napoleon at Waterloo in 1815, the Versailles Peace Conference in 1919, and the creation of NATO and the Marshall Plan in 1948. A century of stability in Europe, the drift toward World War II in the 1920s and 1930s, and a half century of successful containment of the Soviet Union were all determined by how the statesmen of the major powers responded to these critical moments. While opportunities and dangers on that same order of magnitude face us today, the West has failed so far to seize the moment to shape the history of the next half century.

Russia is the key to success. It is there that the final battle of the cold war will be won or lost. The stakes could not be higher. If freedom succeeds in Russia—if President Yeltsin's economic reforms succeed in creating a successful free-market economy—the future will hold the promise of reduced spending on arms, cooperation in coping with crises around the world, and economic growth through expanded international trade. More important, freedom's success will reverberate in the world's last isolated strongholds of communism—North Korea, Cuba, Vietnam, and China. Their leaders will face irresistible pressures to take the first steps toward political reform.

If Yeltsin fails, the prospects for the next fifty years will turn grim. The Russian people will not turn back to communism. But a new, more dangerous despotism based on extremist Russian nationalism will take power. We must remember that even before communism, Russia had an expansionist tradition dating back seven centuries. The leaders of a new despotism, who have already been organizing themselves to take over in the event that Yeltsin's reforms fail, will stoke nationalist passions and exploit the tendency of the Russian people to turn to the strong hand—even to dictatorship—during times of troubles.

If a new despotism prevails, everything gained in the great peaceful revolution of 1991 will be lost. War could break out in the former Soviet Union as the new despots use force to restore the "historical borders" of Russia. The new East European democracies would be imperiled. China's totalitarians would breathe a sigh of relief. The new Russian regime—whose leaders would cozy up to the Soviet Union's former clients in Iraq, Syria, Libya, and North Korea—would

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

threaten our interests in hot spots around the world. It would sell conventional weapons, ballistic missiles, and nuclear technology to any buyer. A new Russian despotism inspired by imperial nationalism shorn of the baggage of the dying faith of communism would be even more dangerous than Soviet totalitarianism.

If freedom fails in Russia, we will see the tide of freedom that has been sweeping over the world begin to ebb, and dictatorship rather than democracy will be the wave of the future.

In light of the stakes involved, the West must do everything it can to help President Yeltsin succeed. Yeltsin has been maligned by friends of freedom in the West who should have known better. Some say that he is not democratic enough politically, others that he is not smart enough intellectually, and still others that he is not smooth enough socially. A few who dismissed him as a boob in the past now seem to be hoping for his failure so that they can claim to have been proved right. That thinking is not worthy of the world's only superpower.

Like all strong leaders who try to make a difference, Yeltsin is not perfect. He has made serious mistakes. But he is an extraordinary historic figure. He is the first Russian leader in history chosen through free elections. Unlike Gorbachev, he has irrevocably repudiated socialism as well as communism. He risked his life in facing down a gang of card-carrying killers in the coup attempt in August 1991. He recognized the independence of the Baltic states and the other republics of the former Soviet Union. He abandoned the Russian imperial tradition—throwing away the keys of what Lenin called the "jailhouse of nations"—by dissolving the Soviet Union and forging the voluntary Commonwealth of Independent States. He risked his enormous popularity by embarking on painful free-market economic reforms, including the indispensable first step of allowing astronomical price rises. He has moved decisively toward privatization of Soviet enterprises and decollectivization of Soviet agriculture, steps Gorbachev refused even to consider. He has completely cut off the $15 billion in foreign aid and trade subsidies that Gorbachev in his 1990 budget continued to provide to Cuba and other anti-American Communist losers in the developing world. He has not only matched but exceeded the cuts in nuclear weapons proposed by President Bush.

The bottom line is that Yeltsin is the most pro-Western leader of Russia in history. Moreover, whatever his flaws, the alternative of a new despotism would be infinitely worse.

What has the United States and the West done so far to help Russia's first democratic, free-market oriented, non-expansionist government? We have provided credits for the purchase of agricultural products. We have held a photo-opportunity international conference of fifty-seven foreign secretaries that was long on rhetoric but short on action. We are sending sixty cargo-planes of surplus food and medical supplies leftover from the Persian Gulf War. We have decided to send two hundred Peace Corps volunteers—a generous action if the target of our aid were a small country like Upper Volta but mere tokenism if applied to Russia, a nation of almost 200 million people covering one-seventh of the world's landmass. This is a pathetically inadequate response in light of the opportunities and dangers we face in the crisis in the former Soviet Union.

What is to be done? To meet the moment, the West must step up to the task of helping President Yeltsin's government in six crucial ways:

We must provide humanitarian food and medical aid to get Russia through the critical months until Yeltsin's reforms have a chance to start working.

We must create a "free enterprise corps" that will send thousands of Western managers to Russia to infuse newly independent enterprises with free-market know-how.

We must reschedule Soviet debt incurred during the Gorbachev era and defer interest payments until the new market economy begins to function.

We must allow greater access to Western markets for Russia's exports.

We must be ready to join with others to provide tens of billions of dollars for currency stabilization through the IMF or other means as soon as Russia reins in the growth of its money supply.

We must create a single Western-led organization to assess Soviet needs and coordinate wide-ranging governmental and private aid projects, as the United States did when embarking on the rebuilding of Western Europe after World War II.

In light of the depth of the Russian economic crisis, there is no time to lose. Those who would put off major action on these fronts until the next international aid conference in July 1992 could find that this is too little and too late.

Can we afford these initiatives? As Herb Stein has pointed out, "The United States is a very rich nation. We are not rich enough to do everything, but we are rich enough to do everything important." Forty-three years ago, the United States alone helped its allies and enemies in Europe and Japan recover from World War II. A strong case can be made that the United States has carried the burden of foreign aid and world leadership for long enough and that it is time for Europe and Japan to assume the major financial burden in helping Russia and the other former Soviet republics. But the United States as the strongest and richest nation in the world must provide the leadership.

At the same time, we must be willing to bear our share of the burden. To play in this game, we must have a seat at the table. To get a seat in the table, we must be ready to put some chips in the pot. The stakes are high, and we are playing as if it were a penny ante game.

It is a tough call politically. Opinion polls indicate that foreign policy rates only in the single digits among issues that voters consider to be important. The American people overwhelmingly oppose all foreign aid because they want to see that money spent on solving our problems at home. But the mark of great political leadership is not simply to support what is popular but to make what is unpopular popular if that serves America's national interest. In addition, what seems politically profitable in the short term may prove costly in the long term. The hot-button issue in the 1950s was, "Who lost China?" If Yeltsin goes down, the question of "who lost Russia" will be an infinitely more devastating issue in the 1990s.

Those who oppose aid argue that charity begins at home. I agree. But aid to Russia and other reformist republics of the former Soviet Union is not charity. We must recognize that what helps us abroad helps us at home. If Yeltsin is replaced by a new aggressive Russian nationalist, we can kiss the peace dividend good-bye. Not only would the world become more dangerous, but our defense and foreign policies would also become far more expensive. Tinkering with the tax code or launching new domestic initiatives will have little economic significance if a new hostile despotism in Russia forces the West to rearm. On the positive side, if Yeltsin succeeds, a free-market Russia will provide an opportunity for billions of dollars in trade, which will create millions of jobs in the United States. Most important, a democratic Russia would be a non-expansionist Russia, freeing our children and grandchildren in the next century of the fear of armed conflict because democracies do not start wars.

President Bush is uniquely qualified to meet this challenge. The brilliant leadership he demonstrated in mobilizing the coalition abroad and the American people at home to win victory in the Persian Gulf War can ensure that the cold war will end not just with the defeat of communism but also with the victory of freedom.

[From the New York Times, Mar. 5, 1992]

BE PRESIDENTIAL—PUSH FOREIGN POLICY

(By William J. Bennett)

WASHINGTON.—Patrick Buchanan is a thorn in George Bush's side, and he will remain so. In this season of political discontent, the President faces an almost automatic protest vote of 30-something percent.

But he is not the issue. The Administration's political challenge, still, is to find definition and a clear raison d'être for a second term. The good news is that what was self-inflicted can be self-corrected.

The President took a step in that direction when he admitted that the 1990 tax increase was a mistake. This was the first move toward re-establishing a broken bond of trust and making a credible case against Congress. The President now needs to follow up. Here are some suggestions:

1. Pursue a Pennsylvania Avenue strategy. George Bush should run an engaged, aggressive strategy up and down Washington's Main Street. The President should, among other things, index capital gains against inflation; exercise the line-item veto; campaign for term limits; veto the House Democratic tax bill; throw the full weight of his office behind radical education reform and school choice, and urge legal reforms and deregulation.

If the President is to seize the domestic initiative, he needs to do so through the force of political conviction. Exerting executive authority through a series of Presidential acts will allow him to regain political ball control, marginalize the Buchanan candidacy, demonstrate that he is serious about governing (and not simply presiding) and win back the confidence of conservatives.

2. Reclaim foreign policy as an issue. International relations is the arena in which George Bush is the most sure-footed and confident.

We face challenges in the wider world, including the turmoil and instability after the implosion of the Soviet empire, continued unrest in the Persian Gulf region, the difficult negotiations between Israel and Arab nations and the ever-increasing threat of the proliferation of chemical, biological and nuclear weapons.

Why did President Bush's strategists decide to throw away his political trump card, foreign policy? Public opinion polls, no doubt. But this President showed how well he could shape public opinion when he led a reluctant nation to war in the gulf.

After prevailing in the twilight struggle against Communism, it is not inevitable that Americans will become indifferent to world events or succumb to the mindless appeal of "Come Home, America." In that vital national seminar, the President can teach and do so by articulating a coherent case for why an active international presence and responsible defense policy are still in our national—and economic—interest. To these ends, the Administration should:

Push hard to conclude the new round of GATT agreements.

Threaten to veto deeper cuts in defense budget, which is already the smallest military budget as a share of the economy since the 1930's.

Press hard for the development and deployment of a Strategic Defense Initiative.

Recognize the critical American stake in Boris Yeltsin's success in Russia through a greater willingness to offer the essential political and economic support he needs.

Fundamentally change our posture toward Israel, approving the $10 billion loan guarantees and supporting Israel's security, instead of insisting on territorial concessions.

Entering his final campaign, George Bush would do well to reflect on the words of the historian Teddy White. "The forces that run in American politics in our age are many and varied," he wrote. "Yet one man must make them all clear enough for the American people to vote and express their desire. He is the President . . . what the President of today decides becomes the issue of tomorrow. He calls the dance."

It is still President Bush's dance to call.

TRIBUTE TO PROFESSOR S. SCHOENBAUM

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 5, 1992

Mr. SOLARZ. Mr. Speaker, it is my pleasure to pay tribute to S. Schoenbaum, distinguished professor of Renaissance Studies at the University of Maryland, on the occasion of his 65th birthday, March 6, 1992.

Although England claims William Shakespeare as its national poet, no one has more thoroughly and scrupulously presented Shakespeare's life to view than this American scholar. His books, "William Shakespeare: A Documentary Life," "William Shakespeare: Records and Images, Shakespeare's Lives," and "Shakespeare: The Globe and the World" among them, are exemplars of critical scholarship that gain added lustre by appealing to the general reader and erudite reader alike.

In testimony to Professor Schoenbaum's international renown, he was invited to provide the program notes for Sir Peter Hall's production of "The Merchant of Venice," starring Dustin Hoffman: while his soft, New York-accented voice has carried his vast knowledge ot Shakespeare and his age to gatherings of scholars around the world.

However, what truly distinguished Professor Schoenbaum is that, in the tradition of Thomas Jefferson, his mind is ever open to new ideas, just as his door is always open to scholars who seek the benefits of his knowledge, counsel, and friendship. It is in recognition of his contributions to our intellectual life and the honor he has brought the United States that I salute him on this occasion.

LASTING MIDDLE-CLASS TAX RELIEF

HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 5, 1992

Mr. ATKINS. Mr. Speaker, while I rise today in support of the Democratic tax plan, I must express my concern that the plan does not go far enough to provide true and lasting tax fairness for the middle class.

As it is structured the bill would give wage earners a credit of 20 percent of their Social Security taxes in 1992 and 1993. While it is a step in the right direction, it is a temporary measure only. It is apparent to me that strong lasting reform is desperately needed. While this bill does provide that the wealthy pay their fair share, by raising the top tax rate and instituting a surtax on millionaires, such measures are insufficient to provide lasting relief for those who were squeezed the most by 12 years of Reaganomics. The bill does not provide a long-term plan which ensures equitable tax treatment.

I believe that any true reform bill must include a plan such as the one that has been put forward by Senator MOYNIHAN. Rather than providing a temporary tax credit, that plan would permanently reduce Social Security taxes. It would strengthen the financing of the Social Security Program, stimulate the economy, and provide a fair tax cut to 132 million workers and 6 million employers and self-employed individuals.

Simple fairness demands that the average American worker get a break. In constant 1982 dollars, average weekly earnings actually decreased $6.00 in the last 31 years from $261.92 in 1960 to $255.89 in 1991. Meanwhile, FICA taxes rose steadily during the Reagan/Bush years, dealing another blow to the struggling working class. It was wrong in the 1980's when we cut income taxes for the better off and raised payroll taxes for the low- and middle-class workers.

A Social Security tax cut would address the issue of tax fairness for the middle class in the most direct way. Rising payroll taxes in the 1980's were the cause of this increased tax burden. If we want to ease the middle-class tax burden, it makes the most sense to attack the problem at its source—high payroll taxes. It's time that we take a step toward restoring tax equity for the forgotten average worker. I urge my colleagues to support such strong and lasting reform when the House and Senate meet in conference.

THE TRAGEDY OF BLACK LUNG

HON. ROBERT E. WISE, JR.

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 5, 1992

Mr. WISE. Mr. Speaker, I would like to introduce for the RECORD a statement written by Mike South, a constituent from Beards Fork, WV. Those who have been exposed to the devastating effects of black lung realize how it affects the lives of victims and their families.

For those who have not been exposed to individuals with black lung, please read Mr. South's account of what it is like to live with this disabling condition. I encourage my colleagues to keep Mr. South's comments in mind as Congress considers important legislation that will affect the lives of thousands of miners across the Nation.

STATEMENT OF MIKE SOUTH

To those who are members of this committee, we, the living and dead victims of Black Lung, appeal to your sense of humanity.

Those who do not suffer from lung disease can in no way know the agony that it puts families through. When you mention a person suffering from lung disease it involves the whole family. The spouse who tries to take over the tasks once done by her husband who once did all the heavy physical chores.

The children who sit and watch their father pant and gasp for breath from such simple tasks as eating or speaking; and the man himself who suffers even more than his family realizes.

He suffers in ways that others may consider foolish, especially his wife and children. He feels that he is no longer an asset to his family. He can no longer provide monetarily for the support of his family. He is nothing! He goes to doctors, but with little or no results, for his lungs worsen with time. He takes his breathing treatments four times a day and stays on oxygen as recommended by his physician but yet he still sees his condition worsen as time goes by.

There are times during the long breathless nights that he lies awake thinking how much longer he has to endure the suffering he is going through. Times when he gasps for breath and is asked if he is all right and he responds "yes". When in truth he often wonders if this might be his last gasp of life.

I would not be afraid to wager that not a person in this room knows what it is like to get up from your bed and walk 10 ft. to your bathroom and be breathless before you get to the toilet. To take a shower and have to rest several times during the procedure. To step out of the shower and into a thick terry cloth robe because you haven't the breath to towel yourself dry. And, when you dress, it seems like it takes forever to pull on your trousers and especially to try to tie your shoes.

The longing to be able to do at least a modicum of the things that you used to do in the past before death took hold of your life. A slow and agonizing death that takes away so many of life's simple pleasures. Not being able to play with your children or pet. The fire and passion that was so much a part of your life has been replaced by sedentary depression.

Many breathless hours are spent trying to do tasks that used to take minutes to accomplish. No more cutting the lawn, because you cannot push, or even less, walk behind the mower. Maintenance on the cars and home is out of the question.

Your life now consists of oxygen tubing and its 50 ft. life line. A line that you curse day after day. Your world consists of a 50 ft. radius in which you drag your life line like an extension cord. A cord that you sometimes wish were attached to the coal company executives and members of the Department of Labor.

If only they could spend 24 hours in your shoes. To get a taste of how worthless and lifeless your existence is. I wonder if then they would change their attitude towards those who suffer from lung disease.

I think not. They sit back and take their apathetic stance hoping the victims will die before any Black Lung claim is settled. And when the victim dies the claim goes with him, for the widow stands no chance to prove the existence of Black Lung in her dead spouse.

The parties involved know the hardships and years that are spent trying to prove that they are the "walking dead".

Some men spend anywhere from eight to sixteen years being shuffled from doctor to doctor trying to obtain evidence that company doctors say does not exist. I often wonder how these physicians can sleep at night, but I guess they just "blanket" themselves with the money given them by the coal companies.

It has to be the love of money and greed that fuels these physicians and companies, for compassion has no part to play. Human suffering (physical) is supposed to be alleviated by the healing compassionate hands of a physician; instead, these hands are stained "green" from the dyes of money and greed.

This stain has put many a miner in an early grave. A stain that has spread and engulfed a whole nation that has turned its back on the suffering that exists in the "death" of a miner. A "death" that means nothing to any one except the miner's family and friends. A nation that has put a man on the moon and won countless wars, yet the suffering still continues for the coal miner. A miner who has helped in all the endeavors this county has put forth. Yet when he is down with failed health, he is spurned by the nation that he helped lead to such greatness. A nation that is complacent in its attitude, that it does not affect me, it does not exist.

To the powers that be; listen I beseech you. Take a walk in my weary shoes and pass HR 1637; for without it countless numbers of deserving men and their families will suffer in the quagmire of red tape involved in the present system. A system established for the behest of big business and not the men, without whom they would not exist.

And, as they reap their enormous profits, they hire lawyers to protect their greed. A greed that does not encompass compassion for the men who die for their dollars. So, in reality, they trade "dollars for death" and think none the less for it. Has the nation become so callous that greed overrides everything that is supposed to be the make-up of human existence? Has common decency and compassion gone by the way of the grave? I would hope not, but from my point of view, it has; for it seems that the plight of the coal miner is forever to exist in poverty and suffering.

Could this distinguished body exist on $600 a month? I think not. Yet, that is all the monthly benefits that a miner receives from Black Lung. Some gentlemen pay $600 or more for their suits, yet a miner is asked to survive a month on that amount.

Members of Congress say they cannot sustain their lifestyle on less than $115 thousand dollars a year.

Slip on my size 8 shoes and live on my yearly income, and then ask for a raise. It comes to mind the words, "I once complained of no new shoes, till I saw the man who had no feet".

So remember, without good lungs *you* cannot perform your daily tasks, for without them the gift of speech means nothing. Pass HR 1637 and let those who deserve their right to breath, breathe a little easier. Thank you.

MAKE JAPAN PLAY BY THE RULES

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 5, 1992

Mr. SCHULZE. Mr. Speaker, the following March 3, 1992, letter to the editor of the Washington Post, authored by T. Boone Pickens, chairman of Mesa, Inc., and president of Boone Co., sheds valuable light on the recent decision by U.S. Attorney General, William Barr, to use United States antitrust laws to combat Japan's importation of its corporate cartel—or keiretsu—practices into America.

As Mr. Pickens correctly points out, Attorney General Barr's decision is right on track. It states boldly that from this point on the Justice Department is going to enforce the Sherman Antitrust Act, which has already been enforced against United States corporations for over 100 years, against Japanese and, if appropriate, other foreign corporations allegedly violating such act. In other words, all firms operating in the United States, be they American or foreign, will be subject to the same scrutiny under the Sherman Act. That sounds eminently fair to me.

With your permission, Mr. Speaker, I insert the text of Mr. Pickens' letter into the Congressional Record immediately following my remarks, and hope that our colleagues will take the time to read it.

Make Japan Play by the Rules

(By Boone Pickens)

I take exception to The Post's Feb. 25 editorial concerning Attorney General William Barr's decision to use the Sherman Anti-Trust Act against Japanese keiretsus. Why "keep the process of trade negotiations moving along steadily," as The Post suggests, when it's clear that negotiations are at a standstill? Whoever wrote the editorial knows little about Japan. Rhetoric and philosophy, which are what The Post's editorial seems to espouse, have gotten us nowhere so far, and that's not about to change. It's time to level the playing field by backing our words and ideas with tangible actions.

The attorney general's recent decision to begin enforcing the Sherman Anti-Trust Act against Japan's corporate cartels, or keiretsus, is a breath of fresh air in the suffocating world of trade talks. It is increasingly clear that these keiretsus block not only free trade with Japan but also fair competition here at home, where keiretsus have become one of Japan's leading exports.

For the first time in what seems like ever, a high-ranking American official has stated the obvious: Let's demand of Japan the same rules we demand of America. What's wrong with that?

During our more than 200 years as a free market, the United States has adopted a series of laws and regulations guaranteeing that the interests and rights of workers, investors, consumers and competitors are protected and treated fairly. While these rules may not be perfect, they are the rules, and they have for the most part worked.

With the world marketplace becoming more interdependent, isn't it reasonable that the United States insist that everyone play by the same rules? This is not a question of enforcing some American cultural condition in Japan or the rest of the world. Rather, it is a question of fairness. The American public would never stand idly by if, in the upcoming summer Olympics, some teams were permitted to field seven players in basketball while we only got five.

Some apologists of Japan's cartels have argued that the United States should adopt keiretsu-like structures. "They're efficient," these experts argue. I agree, they are. The keiretsus have efficiently kept most American business out of Japan. They've also efficiently kept prices high for Japanese consumers, dividends meager for shareholders and working conditions horrible for Japanese workers. If efficiency is what everyone wants, I'll be happy to demonstrate how efficiently I could run a monopoly.

With each new political and financial scandal coming out of Japan, it's apparent what this efficient system has wrought—corruption. And if my history is right, that's why Congress more than 100 years ago passed the Sherman Anti-Trust Act—to protect our free markets from the corruption that comes from monopolies and cartels.

I have no fear that the American worker and American business can compete against anybody in the world. All Washington has to do is insist that everyone play by the same rules, and then get out of the way. Attorney General Barr is on the right track.

(The writer is chairman of MESA Inc., a natural gas producer, and president of Boone Co., an investment firm that waged an unsuccessful 2½-year battle to gain representation as the largest shareholder of Japan's Koito Manufacturing.)

BILL LEHMAN'S KINDNESS

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 5, 1992

Mr. SMITH of Florida. Mr. Speaker, I was saddened to hear that my dear friend Bill Lehman, one of the Nation's most effective legislators, has decided to retire at the end of the year.

Bill has served the people of the 17th District of Florida with skill, compassion, and kindness. His kind become rarer with each passing year, and the House will miss him.

On March 1, Miami Herald political editor Tom Fiedler wrote an eloquent and touching tribute to a man whose humanitarianism should not go unnoticed. I am inserting into the Record the column for the benefit of my colleagues.

Bill Lehman's Acts of Kindness

(By Tom Fiedler)

How do you measure a worthy career in public service? For some in Congress, success might be weighed in the stacks of legislation to which their names are attached, the written legacy of a life's work.

For others, there are the tangible monuments to their ability to break off a piece of the federal budget for the folks back home. They are counted in bridges, highways, federal buildings—often with the sponsor's name attached—that spring up in a congressional district over the course of the lawmaker's tenure.

There is nothing undeserving of such things. And using either measure, Congressman William Lehman of Biscayne Park, whose district slices across northeastern

Dade County, could step down satisfied that his successes would stack up favorably against virtually any member of Congress.

His presence in Washington since 1972 has in many ways transformed the face of Metropolitan Miami with such projects as Metrorail, the People Mover, the modern bridges over Biscayne Bay, improvements at the Port of Miami and the airports in Miami and Fort Lauderdale, to name a few.

The Coast Guard's evolution as an anti-drug force is largely Lehman's work. And he was at the center of painstaking steps taken over the past two decades to foster a respect for human rights in South and Central America.

But there is yet another way to assess a career that may be of even greater importance. That is, by the acts of personal kindness, often unheralded, that touch the lives of others.

On such a measure, Lehman knows few peers. And I suspect that's precisely the standard against which he judges himself.

Bill Lehman stunned his colleagues, his staff, his friends on Tuesday when he left a subcommittee hearing he had been presiding over, went to the House floor and in a no-nonsense statement, announced that he would not seek re-election.

At 78 and still struggling against the paralyzing effects of a stroke he suffered more than a year ago, Lehman quietly explained later that he felt he wasn't capable of serving his constituents with the full measure they should expect. It was an act of tremendous public humility and dignity, an act that is all too rare in the political arena.

But then again, we have come to know that Lehman, the former "Alabama Bill" used-car dealer who studied writing at Oxford and Harvard, is a rare human being who never forgot that the first obligation of those in power is to be of service to those who aren't.

"Liberals too often are trying to do things for the masses, rather than for the individual," he once told an interviewer. "That's why I try to help the individual."

The stories of people who benefited from Lehman's quiet acts would run for many pages. Some have been reported; most have not. But all say something about the spirit that guided his service.

John Schelble, Lehman's aide, recalls being with his boss at Parkland Hospital's trauma center in North Miami Beach a few years ago when an emergency-room nurse came up to Lehman and asked if he remembered her.

"No, I'm afraid you'll have to refresh my memory," he said.

She told him that she had been a student of his when he taught English in the 1960s. One day, she said, he came upon her while she was looking quite despondent and he asked what her concern was.

She said she told him that she and her boyfriend couldn't go to the senior prom because her boyfriend had no car. Lehman's solution: Lend them one of his.

To Lehman, it seemed such a natural act that he never gave it a second thought. To the emergency-room nurse many years later, it was an act of generosity she would never forget.

There are the stories, never told, about the destitute and sick people who come to Lehman's office seeking help navigating the federal bureaucracy in the hope of getting benefits that might help them treat their problem. And when Lehman's efforts to assist come to naught, the people find themselves being taken to the congressman's own doctor or dentist for the care they need—while he foots the bill.

Many already know of the Cuban political prisoners that Lehman, this unremitting liberal, was able to bring back from Havana and of the Cuban families he helped reunite. And we have written about the time that the congressman smuggled a heart valve into the old Soviet Union so a citizen there could have life-saving surgery.

But few stories are as touching as that of Debora Benchoam Rogers, nor as revealing about Lehman's personal warmth. Debora was a 16-year-old high school student in Buenos Aires when, on a winter night in 1977, plainclothes policemen blasted down the door to the family's apartment and, behind a fusillade of bullets, burst into the bedroom where she and her 17-year-old brother had been sleeping.

One of the policemen fired two shots into the boy's body, apparently killing him immediately. The others grabbed Debora, shackled and gagged her, then took her to a police station, a descent into hell. This petite teenager would spend the next 4½ years in various cells, subjected to harassment, interrogation and, of course, robbed of whatever joys her youth may have held.

Debora was a victim of Argentina's "dirty war," the attempt by right-wing elements to eradicate threats to the military-backed government that had toppled Isabel Peron. She was never charged with any crime, however.

In all those years, however, Debora's spirit never cracked. Word of this remarkable girl, who clung to dignity through her Jewish faith, spread outside Argentina and eventually reached Lehman.

He arranged a trip to Argentina as a member of the House Appropriations Committee's subcommittee on foreign operations and, through the Argentine foreign minister, was able to meet with Debora in her cell.

Lehman recalled being captivated by her courage, her sense of humor and perspective. He left intent on getting her out. Months later, following top-level negotiations between the two countries, the Argentine government agreed to release Debora with one condition:

That she leave with Lehman as her legal guardian and go to the United States. They also extracted a promise from Lehman that he wouldn't publicize the case in a way that would embarrass the Argentine government.

Lehman agreed. So in November 1981 the young Argentine woman came with him to Miami where the line between guardian and congressman quickly blurred. She moved into a home that compensated in love what it lacked in language skills.

"Bill is like a second father to me," Debora said several years later.

With Lehman's help, Debora finished high school, graduated from Georgetown University with a degree in political science and is today completing work on a doctoral dissertation at Columbia University. The dissertation, ironically, is on "Creativity as a tool of psychological survival in concentration camps."

I called Debora Thursday night in Buenos Aires, where she has returned to complete work on the paper. She hadn't heard of Lehman's decision to retire.

"Bill is, for me, my family in the United States. And he's still my family," she said.

"Most of my interest in human rights was inspired by him. His values show a lot of humanity all around."

Lehman attributes what political skills he has to having been a used-car salesman. For some people, that would sound like the setup for a punch line. But not to him.

"When I was selling used cars, I always tried to be on the same level as the person I was trying to sell the car to without being a phony," Lehman said in a 1989 interview.

Over the course of the 20 years he spent in Congress, many people might criticize Lehman for his staunchly liberal voting record. But nobody called him a phony.

THE 25TH ANNIVERSARY OF JOINT ACTION COMMUNITY SERVICE, INC.

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 5, 1992

Mr. HOYER. Mr. Speaker, in 1989, we celebrated the 25th anniversary of a great success story—the Job Corps. Today I want to call attention to the 25th anniversary celebration of Joint Action in Community Service, Inc., on Monday, March 9, 1992 at the Ritz-Carlton here in the Nation's Capital.

JACS was formed by a coalition of national religious leaders who represented the National Conference of Catholic Charities, National Catholic Community Service, Society of St. Vincent De Paul, U.S. Catholic Conference, National Council of Churches and the United Methodist Church. National in scope, yet local in force, JACS works in partnership with the Job Corps Training Program.

With a volunteer force representing all 50 States, Puerto Rico and the U.S. Virgin Islands, JACS has been and is committed to the key principles of volunteerism and collaboration. Over the years, more than 34,000 volunteers have been recruited and trained by JACS to offer encouragement and to provide critical hometown, individualized assistance to over 500,000 young people when they leave Job Corps and return home to their communities. The Job Corps Program has done and continues to do what we should strive to do better to serve as a link with the private business community together with labor and community leaders to provide young people who are disadvantaged with the education and job skills necessary to enter the work force and become self-sufficient. In thousands of documented cases, this personal one-on-one assistance has meant the difference between success and failure; between a life of poverty and dependence, and one of responsible self-sufficiency for former Job Corps students as they adjust to the transition from Job Corps training back into the community.

Celebrating JACS is celebrating the spirit of volunteerism; people working to help people work. JACS offers self respect necessary to embrace the future. I congratulate JACS for their steadfastness in shaping dreams for those whose worlds are far from the ideal.

I am proud of the work JACS has performed for 25 years. JACS' vision is to continue its commitment to serve those in need through individualized assistance.

JACS works to ensure that the disadvantaged youth served will become responsible, self-reliant, employable members of their communities and through their positive attitude and behaviors, will become inspirations and role models for others in similar circumstances.

Mr. Speaker, many of my colleagues support the Job Corps Program because we know it works. As we take time to celebrate the 25th anniversary of joint action in community service we are reminded that the personal commitment of JACS volunteers is why it works.

PUBLIC HOUSING PROBLEMS FACING THE ELDERLY

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 5, 1992

Mr. DONNELLY. Mr. Speaker, I rise today to call attention to H.R. 3425, legislation I introduced last September, to insure safe and affordable public housing for the elderly. This is a national problem, and I urge all of my colleagues who are interested in safe and affordable elderly-only housing to cosponsor H.R. 3425. This issue needs immediate attention. I am enclosing for the RECORD two articles from the Wilmington DE News-Journal, on this subject. As one article notes, "The policy must be changed before public housing for the elderly in America has been destroyed."

ACT NOW TO SAVE ELDERLY HOUSING

Doris Bunte, the executive director of the Boston Housing Authority, answers her own phone, so when she picked it up some weeks ago she got the shocking news directly. One of the residents in a public housing residence for the elderly had just had a baby in her apartment.

Doris was relieved that all had turned out well, but after the moment passed, she realized how absurd the situation was.

"Someone had had a baby in one of my elderly developments, and I thought, it can't be an elderly development if some of the residents can still be having babies. This is a real problem," she said.

Doris had just experienced another phenomenon of the "New Elderly Family." The bureaucrats of the department of Housing and Urban Development (and therefore also your local housing authority) have decided that young handicapped people, including those who are mentally ill, are officially "elderly families" and therefore eligible for elderly housing.

Bunte, a former state legislator from the Roxbury section of Boston, has a reputation for being a hard-headed liberal with a heart that encompasses the neediest of the needy. But several months ago she picked up her phone and called U.S. Rep. Brian J. Donnelly, D-Mass. They had a conversation about what brought about the mixing of mentally ill young people and old people in senior housing. By the time it was over, U.S. Rep. Donnelly, (who was one of Doris' colleagues in the Massachusetts House), was embarked on a course that will, hopefully, restore the integrity of public housing for the elderly, a concept that had been a government policy from the days of Franklin D. Roosevelt.

Rep. Donnelly has introduced a bill in Congress to make it legal to have "age specific" public housing.

"I don't think mixing old people and the mentally ill young together in housing is good policy," says Rep. Donnelly.

"Nobody told us this was happening. And I think I understand why. The policy defies all rules of common sense."

Bunte says she has a simple solution: Continue to house handicapped elderly people in elderly housing and begin to house the younger handicapped people in public housing for families.

"There is no argument that these people need housing," she says. "I like to think that someone with good intentions tried to ensure that some people who are helpless had an opportunity for housing. But they screwed it up because they didn't separate them by age group.

"The law as it is now written pits two segments of the needy against one another, and I think that is unfair. They are running the elderly out of their own developments. It is essentially changing the population of elderly housing. And it is happening everywhere. It is a national issue.

Bunte and Donnelly want to reestablish age 62 as the minimum requirement for eligibility to public housing specifically designated for elderly people.

"We don't have a lot of time. Here in Boston, 60 percent of those moving into my elderly developments are younger handicapped people," says Bunte. "At the rate we are going, I'm afraid this problem is not going to get addressed until elderly developments are no longer primarily occupied by the elderly. When that happens—and it already has in some places—elderly who are afraid to live among younger mentally ill people will have no place to go."

How did this strange development occur under the noses of public housing administrators who should have known better?

There was a point several years ago when most elderly public housing had vacancies, partly because HUD had tightened eligibility requirements to guarantee space for the most needy. When advocates for the mentally ill discovered this phenomenon, they began to pressure HUD to allow handicapped people to use the "excess" elderly housing. They succeeded beyond their wildest dreams.

The trickle became a flood about three years ago, but as Bunte says, most housing administrators, being socially conscious, were afraid to speak out in opposition because they didn't want to be seen as being against the mentally ill.

It is now time to speak out. The policy must be changed before public housing for the elderly in America has been destroyed.

TRAGIC GAPS IN MENTAL HEALTH CARE

(By Norman Lockman)

One of the toughest problems facing mental health professionals trying to implement de-hospitalization is find housing for their clients. And one of the greatest gaps is the one that now exists between reality and what those professionals wish were happening to unstabilized mentally ill people living in the community.

It is true that many, perhaps even a majority, of the mentally ill people being treated in the community are doing fine. It is not they we are worried about. It is the few whose untreated disruptive behavior is impacting lives of people who should not have to bear the burden.

Nowhere is the impact of unstabilized mentally ill people living in the community more sharply drawn than in the Wilmington Housing Authority's four high-rise apartments housing senior citizens. Those four buildings, Crestview Apartments on North Market Street, Baynard Apartments of 18th Street, Lincoln Towers on Gilpin Avenue and Electra Arms on Broom Street have a total of 523 units, almost all of them occupied. Approximately 20 percent of those are occupied by mentally ill people, including most of the 120 clients who were steered to the housing authority and are still being monitored by the state's Division of Alcohol, Drug Abuse and Mental Health.

A few years ago, the federal government ruled that 15 percent of all public housing units had to be set aside for handicapped people. In practice, most of those people are handicapped by mental illness. In Wilmington, a decision was made to place most of the mentally ill people into the high rises designed for senior citizens. Many of them function well, but many do not.

The result is a bizarre mix of terrified senior residents and strange behaving unsupervised mentally ill younger people. It's a mixture that makes no sense except among payroller bureaucrats who wouldn't recognize common sense if it was about to fall on them.

The mental health professionals concentrate on the fact that the majority of "deinstitutionalized" people are doing quite well in such settings. Too many ignore the fact that in such a small world it takes only a few loose cannons to devastate the battle field.

On paper, the system looks good. Division officials try to choose only people who can handle independent living; the housing authority has the power to screen out any they have doubts about; security has been stepped up; an additional social worker has been added; managers are being trained to spot problems among the mentally ill and they are empowered to evict problem residents.

That system isn't working.

The selection procedures, both those of the mental health professionals and the housing authority, don't even come close to weeding out disruptive people Security is spread too thin. There are only two social workers. Building managers already have their hands full with administrative tasks. Electra Arms wants a full time mental health professional.

The fear among the older residents is palpable. The fear may be exaggerated, as some mental health professionals insist, but the fear is a reality in these people's lives. They are being told that they can protect themselves by organizing "high-rise watches" to keep an eye on each other and to report problems. Most are too scared to participate. And here's some reasons why:

At Crestview a mentally ill resident solicited quarters from the older residents sitting in the lobby by kicking them on the shins. Security discovered it only after the victims had become too afraid to continue to use their favorite sitting area.

At Electra Arms, a young man known for bizarre behavior and dress and feared for his habit of staring fixedly at older residents, tried to poison himself by swallowing a 9-volt battery. He then leaped to his death from the 11th floor one day last June.

Visitation rights are being abused by some mentally ill residents who allow homeless friends, some of whom have been rejected for residency, to sleep in their apartments.

What has happened, good intentions not withstanding, is that Wilmington's once top-notch public housing for senior citizens is in danger of becoming unlivable because of unsupervised, unstabilized mentally ill residents. The mental health system, faced with a lack of adequate community facilities to make its dehospitalization drive work as fantasized, is burdening yet another system not designed to deal with its clients.

And once again, as with the homeless poor who must compete for resources with unstabilized mentally ill people, another group of vulnerable citizens, this time old ones, who are suffering.

Strange priorities.

BIOGRAPHY OF OSCEOLA

HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 5, 1992

Mr. FALEOMAVAEGA. Mr. Speaker, through Public Law 102–188 (S.J. Res. 217, H.J. Res. 342), Congress and the President designated 1992 as the "Year of the American Indian." This law pays tribute to the people who first inhabited the land now known as the continental United States. Although only symbolic, this gesture is important because it shows there is sympathy in the eyes of a majority of both Houses of the Congress for those Indian issues which we as a Congress have been struggling with for over 200 years. In support of the "Year of the American Indian," and as part of my ongoing series this year, I am providing for the consideration of my colleagues a short biography of Osceola of the Seminole Tribe who led the battle against a forced move from Florida. This biography was taken from a U.S. Department of the Interior publication entitled "Famous Indians, A Collection of Short Biographies."

OSCEOLA (CREEK)

In 1832 a few members of the Seminole tribe of Florida signed an agreement with U.S. Government officials which was to become hated among the Seminoles as the Treaty of Payne's Landing.

Under it, within 3 years the entire tribe would surrender all its Florida lands, move to Indian territory (Oklahoma), and there join members of the Creek tribe. These harsh terms became even more hateful with a later declaration that no Negro would be allowed to accompany the tribe west. For more than 20 years the Seminoles had given refuge to the escaped slaves of both Indian and white owners, had in turn enslaved them and intermarried with them. The no-Negro decree would mean the breaking up of many Seminole families.

Most members of the tribe indignantly repudiated the treaty. As time for removal neared, their resistance to it intensified under the leadership of Osceola, a handsome young Indian of Creek and possibly some European ancestry.

Osceola was less than 30 at the time, and not a chief either by election or inheritance, but was acknowledged as the Seminoles' strong man. He had fully demonstrated his courage and intelligence as a warrior during fights against General Jackson and his men in the First Seminole War (1819). Osceola expressed open contempt for the 1832 treaty and repeatedly refused to sign it, despite pressure from Gen. Wiley Thompson, its chief sponsor.

Continuing his effort to get unanimous Seminole approval, General Thompson called together a group of tribal leaders in 1835. Most of the chiefs who opposed the treaty stood by silently, refusing to take the pen offered them, but Osceola furiously plunged his hunting knife into the paper, declaring that he would never agree to the treaty's terms, and would do all he could to encourage Seminole resistance. Thompson had Osceola arrested, put into irons, and imprisoned.

The wily Osceola quickly got himself released by pretending that he had changed his mind about the treaty and would sign it. As soon as he was free, he began to organize his resistance campaign.

Osceola was too experienced to attempt open battle against the whites' superior military power. Instead, he formed small parties of Indian warriors, instructed them to cause Government forces as much irritation as they could, kill when possible, and then vanish into the wilderness. Women, children, and the old and sick of the tribe were hidden in the depths of the Florida swamps. The leading Seminole signer of the treaty, Charlie Amathla, was killed.

So successful was Osceola's guerrilla warfare that U.S. troops were sent into the field. On Christmas Eve, 1835, more than 100 soldiers under Major Dade set out from the military post at Fort King, confident of capturing the Seminoles' leader. Three days later all but three were dead, having been ambushed and cut down by Osceola and his men. The Indian leader went on to avenge the despised Payne's Landing Treaty by killing General Thompson and four other officers. The Second Seminole War had begun.

For the next 7 years a deadly game of cat and mouse was played in the Florida swamps and Everglades, as the U.S. Army tried to catch Osceola and his people. Immediately after the December massacres, 700 men, sent to bring in the most-wanted Indian, faced Osceola and his warriors in the battle of the Ouithlacoochee River. After heavy losses on both sides, the Indians were forced to retreat, but Osceola, although wounded, escaped.

Officer after officer, and more and more troops, went to Florida to bring in the elusive Osceola, who remained invisible. In May of 1837, Gen. T. S. Jesup, latest in a long line of commanders sent to bring the Seminole War to and end, called a peace council attended by Osceola and some 3,000 Indians. Jesup was so sure of success that he had 24 transports standing by, ready to take the Seminoles west. But Osceola got wind of the plot. The next morning, every Indian had vanished.

"No Seminole proves false to his country, nor has a single instance ever occurred of a first-rate warrior having surrendered," wrote the frustrated Jesup. Failing to capture Osceola in battle or through "peacemaking" tactics, Jesup finally succeeding in seizing Osceola only by violating a flag of truce under which the Indian leader was awaiting Jesup for a conference requested by the General. Osceola and a group of his followers were imprisoned in Fort Moultrie, Fla.

The Swamp Fox could not endure captivity, and rapidly wasted away in prison. Within 3 months, in January of 1838, Osceola died.

The Second Seminole War was to go on for 4 more years, as a succession of military leaders declared that the Seminoles could never be defeated. The Indians came out of the swamp only in the fall of 1841, rather than forfeit the lives of a group of their tribesmen, who had been captured and held as hostages. After a peace treaty in 1842, most of the Seminoles moved to Indian territory.

Several bands refused to move. Their descendants (some of whom, although unrelated to the great resistance leader, bear the name "Osceola") are still there, making up today's Seminoles of Florida.

THE STATE OF THE ECONOMY

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 5, 1992

Mr. GINGRICH. Mr. Speaker, I hope all my colleagues will read the following speech Vice President QUAYLE presented to the New York Economic Club on February 27. He challenges the basic principles of the welfare state that dominates our country today.

REMARKS OF VICE PRESIDENT QUAYLE TO THE NEW YORK ECONOMIC CLUB

Thank you, ladies and gentlemen. Dick Voel, thank you for the kind introduction.

In the last ten days I have been in Delaware, Maryland, Georgia twice, North and South Dakota, Colorado, and Minnesota. There is only one issue on the minds of the people—the economy and jobs. Job security is especially an issue for new sectors of the economy that have been somewhat insulated in the past—like insurance, financial institutions, and the media.

The starting point for any discussion these days has to reference the end of the cold war. Today, in place of one great threat, there are many smaller, less recognizable threats. And today, more than ever before, other nations look to America for leadership. Who will take up this responsibility if we refuse it—Germany? Japan? China?

No, America is engaged in the world's economy, and there is no going back. Nor should anyone want to go back. One of the immediate imperatives in global economics and politics is the successful conclusion of the GATT negotiations. I can't think of anything worse than replacing the cold war with a trade war. Yet, the political dynamics around the world are threatening the conclusion of this agreement. As we seek economic expansion at home, one of the keys will be exports abroad.

No longer will competition be limited between New York and Los Angeles. It will be global competition—lots of it. And we should welcome competition.

And, let me add, we do not promise to "protect" our economy. We believe in stimulating our economy. "Protection" is the cry of the weak and insecure. America did not make its way this far in the world by cowering behind barriers. Our credo is not, "Take cover!" but "Let the competition come." Where others will compete freely and fairly, so will we.

What a tragedy it would be, ladies and gentlemen, if America were to lead in the triumph of free-market capitalism—only to lose faith in it ourselves. Historians looking back on our time would shake their heads in amazement that such a sad thing could happen at such a happy moment in our national life.

But I wonder if there is not a hint of that loss of faith in what we're hearing now from some quarters. All the world has spent the last two generations experiencing what works in economics, and what doesn't. What elevates man, and what oppresses and debases him.

It was our fate and good fortune to watch the great collectivist experiment from outside the laboratory. But those millions of souls who had to endure it—they are our witnesses. And what they tell is simple and unequivocal: socialism, or any glossed-over variation of it, won't work. It will diminish, destroy, and devour resources, instead of creating and building. In man's economic life, the State may be an uneasy ally but never a friend.

As we seek our economic security in this uncertain world, we must learn what works and what doesn't. Let us look at this great city. It attests to what becomes of those who put their faith in the benevolence of the state. In what should be a liberal paradise, what do we find instead?

Honest, ambitious, hard-working New Yorkers struggling to pay the highest local taxes in America—about $1,600 per person.

A business tax three times greater than that paid by businesses in Chicago and Los Angeles.

One in every eight people on the dole.

Taxpayers investing $7,000 a year for each public school student, compared to $3,000 per student in private schools. The taxpayers' investment in education gets a high-school graduation rate of 38 percent. That means 62 percent don't finish on time.

Liberal economics may prevail here, but it sure doesn't work here. It's estimated that by 1994, a total of 320,000 private sector jobs will be lost in New York City. When the taxpayers meekly protest these high taxes, the liberal deep-thinkers snap back that we lack "compassion" for the working man. But the working man is usually the one most hurt by this kind of thinking. Now, I know: it's an election year. And I don't pretend to be entirely non-partisan. But ladies and gentlemen, I am not appealing to party affiliation. I'm appealing to reason and tragic experience: the liberal vision of a happy, productive, and content welfare state hasn't even worked on 22 square miles of the most valuable real estate in the world.

You don't build economic strength by taxing economic strength. If you tax wealth, you diminish wealth. If you diminish wealth, you diminish investment. The fewer the investments, the fewer jobs.

Congress will have a classic battle over taxes in the next few weeks * * *. A Republican approach and a Democratic approach * * *.

The Democratic approach holds out a temporary tax cut—right along with a permanent tax increase. For a family of four, this bold plan would offer a savings of about a quarter a day per person.

Today the Democrats in Congress passed their tax bill surprise of surprises, it is nothing more than a $100-million tax increase on the American worker. In 1990, the President signed the Democratic Congress' tax increase, and the country got a recession. This time, the President will veto the Democratic Congress' tax increase and demand that his jobs package be passed.

You know, these last few days I've been asked a lot about the message from New Hampshire. The message is simple and direct: The people are fed up with Washington. They're fed up with big government. They're fed up with high taxes. They're fed up with government regulations. And they are fed up with our bad economy. We agree with that message.

Now let's look at the President's plan. No, it would not make our troubles disappear. But it will steer us along the right road. Put simply, the plan will:

Establish, immediately, a $5,000 tax credit for first-time home buyers. Our real estate incentives alone will generate as many as 415,000 new jobs in six months.

Give priority to all pro-growth government projects, especially in construction.

Place a moratorium on all new Federal regulations that might hinder economic growth.

And, finally, something that matters to every American who owns a home, a farm, a business, or has a small investment—or needs a job: cut the tax on capital gains.

Let me pause here with a personal thought about Congress and how it operates. In the category of baring one's economic soul, the most frustrating public policy problem that I've faced in my 15 years in office is the Federal budget deficit.

When I graduated from college in 1969, the Federal budget was $184 billion and we had a surplus. This year the Federal budget will be $1.5 trillion and the deficit is projected to be close to $400 billion. Whether there was a Republican President or a Democratic President, the Congress has been unwilling to get serious about spending restraint.

In fact, more and more our whole congressional system favors excessive spending. The appropriations bills that are annually heaved upon the President's desk contain more than 1,600 pages. Congress is very good at giving the President 75 or 80 percent of what he wants, and then adding 20 or 25 percent of what he doesn't want. And it's this part of the budget that causes so many of our fiscal problems.

A philosopher wrote many centuries ago: "Our peril comes from those who seek to please us, rather than to serve us." He could have been speaking of our modern Congress.

We have Members of Congress who have been there 30, 40, even 50 years. The problem is that our Congress has become insulated, out of touch with reality, but very proficient in getting re-elected because of the goodies they dispense.

According to Common Cause, only 6 percent of House Members will face financially competitive races, and about 98 percent seeking re-election will be re-elected—primarily because there is no genuine competition. To get spending under control, we need serious reform in Congress—and I'm not just talking about the line-item veto.

Congress thinks it is good for the Nation to limit the President to two terms. The argument for this is, of course, that too much power, for too long, has a way of making people arrogant and even corrupt. Well, it sure does. And if it is good for the Nation to limit our President to two terms, then it is good for the Nation to limit the terms of Congress as well.

Speaking of reforms and competitiveness, I'm compelled to mention our civil justice reform package. My competitiveness council has identified legal reform as a very serious competitiveness issue. An American business spends 15 times more for product liability costs than a Japanese or German business. That, my friends, is a competitiveness disadvantage, and we are determined to do something about it.

As you may know, I went before the American Bar Association a few months ago, and in my quiet, humble way tried to suggest that a reform or two might be in order. Well, never have I witnessed such a spontaneous outpouring of warmth and affection * * *

Ladies and gentlemen, I mean my friends the lawyers no harm. Their calling can be among the most valuable and noble in a free society. Just think about it. America has 5 percent of the world's population. Do we really need 70 percent of the world's lawyers? There were 18 million civil lawsuits filed in 1989. Were all those really necessary?

And more to the point, do you know how great a burden all this litigation places on our economy? Altogether, about $300 billion. We're the most litigious society in the world and we need a legal system more efficient, less costly, and more fair. It's estimated that a larger percentage of the costs of making a car goes into the company's legal bills than into buying metal.

In hope of improving this situation, the President and I have proposed the civil justice reform plan. It would limit punitive damages, speed up the delivery of justice, and discourage frivolous lawsuits. These are practical, common-sense reforms and would in no way compromise our sense of justice. Whether they will meet the standards of lawyers—62 of whom now sit in the Senate—is unfortunately another matter.

One of your past speakers, Churchill, reminded us that, "we make a living by what we get * * * but we make a life by what we give."

Hard times shake our confidence, cloud our vision, divide us just when unity, is most needed. But amid all the bickering and posturing in Washington, I believe there remains a simple, unselfish ideal worth fighting for. The credo expressed long ago by Thomas Wolfe:

To every man, regardless of his birth, his
golden opportunity;
To every man, the right to live,
To work,
To be himself
And to become whatever thing his manhood
and his vision can combine to make
—This, seeker, is the promise of America.

Thank you, Good night. And God bless you.

EDUCATION OPPORTUNITY ENHANCEMENT ACT

HON. ROBERT E. WISE, JR.

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 5, 1992

Mr. WISE. Mr. Speaker, it is no secret that students today face two very difficult problems when it comes to higher education—too few students can afford to go to college and too few college graduates earn enough to repay their student loans. That is why I recently introduced legislation that would make it easier for more Americans to receive financial assistance for education—legislation which attacks both of these problems.

This legislation expands eligibility for Pell grants and Stafford loans. It increases the maximum Pell grant from $3,100 to $4,500 and it increases the minimum Pell award from $200 to $400. This means that students are eligible for more money through Pell grants.

In my State, we have a situation where bright, talented individuals have to leave the State after graduation because there are too few high paying job opportunities. One reason graduates need higher paying jobs is to help repay huge student loans. By providing students with a larger percentage of grants and a smaller percentage of loans, I hope to lower their debt ratio as they start their new careers. This legislation can help break the cycle of student debt and spiraling wages required to pay for that debt.

This legislation also changes the way expected family contributions are calculated. Ownership of principal residences, family farms, and small businesses will no longer work against families by being counted in their financial aid asset formula. As a result, families who have lower incomes but own their own home, farm or small business will not be penalized.

One of the most important things this legislation does is to allow working students from low-income families to use their income to help support their families without being penalized when they apply for financial aid. This bill would reinstate an offset for working students that existed in previous Pell grant computations. This provision would help more students qualify for all types of financial aid—both grants and loans.

The needs analysis formulas for all types of financial aid are being combined for administrative simplicity. Currently, in calculations for Pell grants, if the available income from the family is calculated to be a negative number, that number can offset income earned by the student. This bill would reinstate that offset in the new, combined needs analysis formula, helping students from lower-income families who work to help support their families.

Mr. Speaker, today it is popular to talk about competitiveness and building an economic infrastructure. To successfully accomplish this we must allow more people more access to education with less of a debt burden. This is a vital component in our Nation's economic growth today and our Nation's future tomorrow.

DEDUCTIBILITY OF STUDENT LOAN INTEREST

HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 5, 1992

Mr. ATKINS. Mr. Speaker, while I rise today in support of the Democratic tax plan, I must express my concern that the plan does not go far enough to make college education more affordable for middle-income students and their families.

As it is structured, the bill would allow families to subtract only 15 percent of the interest on student loans—up to $300 for single people and up to $500 for a married couple. This means that those just entering the job market are still saddled with significant debts. The escalating cost of education places an enormous strain on our students. Higher education is rapidly becoming inaccessible to low- and middle-income families. Interest payments on these loans can virtually wipe out a new graduate's income.

That is why, along with 142 of my colleagues, I am a cosponsor of a bill introduced by Representative SCHULZE, which makes the interest on these loans fully deductible.

The Tax Reform Act of 1986 reclassified student loan interest as consumer interest and made it nontax deductible. It made no distinction between interest incurred because of a vacation to the Mediterranean and that incurred because of payment toward a college education.

The tax plan under consideration today allows parents to make penalty free IRA withdrawals for tuition expenses. It is an important first step, but many families do not have IRA's on which to fall back. Or, the IRA's are insufficient to pay for the full cost of postsecondary school education. And, in any case, fathers and mothers and grandparents should not have to give their retirement savings to educate their children and grandchildren.

Parents and their children are forced to rely upon student loans, not because they want to, but because the expense of education requires such dependence.

If we are to grow and prosper as a Nation we must reinvest in our future. Education is the primary building block of that future. An investment in education is one which will provide returns for years to come. Moreover, we now recognize that our economic viability as a Nation depends upon producing the human resources that only education can provide. As the costs of education rise higher and higher, it is more important than ever to provide relief to those who, in attaining an education for themselves, also provide for the future of their country. Only in this way may we ensure an educated work force for America's future. Mr. Speaker, I strongly urge the inclusion of full tax deductibility of educational loans when this bill returns from the Senate.

THE FORMOSAN ASSOCIATION FOR PUBLIC AFFAIRS

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 5, 1992

Mr. SOLARZ. Mr. Speaker, I am extremely pleased to extend my hearty congratulations to the officers, board members, staff, chapter leaders, and members of the Formosan Association for Public Affairs on the occasion of its 10th anniversary.

The creation of FAPA in 1982 under the leadership of my good friend Dr. Trong Chai was an important event in the life of the Taiwanese-American community. It signaled the engagement of that community in the American political system in efforts both to protect the community's interests in America and to enhance the prospects for democracy and human rights on Taiwan itself. That such an engagement occurred so quickly after the arrival of significant numbers of Taiwanese in our country is quite remarkable.

Over the past decade, FAPA has joined the ranks of other American ethnic organizations which seek to play an active and constructive role in our country's political life. In the process, it has made a profound contribution both to the welfare of the Taiwanese community in the United States and to the shaping of American policy toward the Asian region in a way that enhances the ability of the people on Taiwan to shape their future.

I am very pleased to have been associated with FAPA since its founding in 1982 in promoting these important objectives. I look forward to many more years of fruitful cooperation.

THE TAX BILLS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 5, 1992

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, March 4, 1992, into the CONGRESSIONAL RECORD:

THE TAX BILLS

Last week the House took up three alternative tax packages. The first incorporated all of the President's tax proposals included in his State of the Union address and his budget submission, including an increase in the personal exemption for children, a tax credit for first-time homebuyers, and a deep cut in capital gains taxes. The second was a substitute crafted by House Republicans that had fewer provisions, dropping, among other things, the President's proposal to increase the exemption for children. These two packages were defeated in the House by wide margins, largely because they were projected to significantly increase the deficit. The main vote was on the Democratic tax package, which passed by a vote of 221 to 209. The debate now shifts to the Senate.

Outline of democratic package: The tax package approved by the House has two main goals: improving tax fairness and boosting the economy. To improve the fairness of the tax code, it would provide middle-income tax relief through a two-year, refundable tax credit on social security taxes that would provide up to $200 per year for singles and $400 for couples. That tax cut would be paid for by permanently increasing the top income tax rate from 31% to 35% (which would apply only to individuals with taxable income over $85,000 and families with taxable income over $145,000), imposing a 10% tax surcharge on those making more than $1 million per year, and extending a phase-out of deductions and exemptions for high-income taxpayers.

In an effort to boost economic growth, it contains a variety of tax incentives, including a cut in capital gains taxes by exempting the portion of such gains due to inflation and an extra first-year deduction for businesses for the cost of newly purchased equipment. It would allow real estate professionals to deduct their rental losses from their active income, and make permanent the research tax credit.

The package has been estimated to lose revenue over the first two years, but reduce the deficit by $14 billion over the six-year period through 1997.

Merits: The House-approved package has several positive features. First, it would restore some equity to the tax code, giving middle-income taxpayers most of the tax cuts after a decade in which upper-income taxpayers received most of the tax breaks. Second, it is more fiscally responsible than the alternative tax packages, which were estimated to increase the budget deficit by tens of billions of dollars over six years. Third, several of its tax incentives—from making the research tax credit permanent to providing a tax credit for student loans—are reasonable. Fourth, it highlights the different emphases of the two parties when it comes to tax policy, in terms of favoring upper-income taxpayers or the middle class.

Drawbacks: Yet in the end I voted against the package for the following reasons:

First, my primary reason was that the package has the wrong focus. Important as restoring some equity to the tax code and trying to stimulate the economy during this recession are, they are not the main problems facing the nation. Our major effort really should be boosting long-term growth, and that means our priorities should be on reducing the budget deficit and making important long-term investments—in infrastructure, research, education, training, children. Stagnant productivity growth exceeds all other problems. What Americans want most now are jobs and improvements in their standards of living, and this package is not designed for that.

Second, the package seeks contradictory aims. It tries to stimulate a weak economy without increasing the deficit. That cannot be done. Overall, the stimulus proposed in the package would have only a modest impact on getting the U.S. out of the current recession.

Third, the modest economic stimulus from the package may also be too late. Most forecasts suggest that the recession will end later this year because of actions already taken by the Federal Reserve to lower interest rates. If so, the tax changes in this package could kick in after the recession is already over. The overwhelming consensus of economists is that another rate cut by the Fed would be a far more useful tonic to this recession than a tax cut.

Fourth, the overall impact on tax equity would be small. Although the House-passed tax package makes a good effort at trying to restore some equity and fairness to the tax code through the two-year tax credit for middle-income Americans costing $46 billion, its various tax incentives cost some $29 billion over six years plus more thereafter, and would benefit primarily the wealthy.

Fifth, the package would worsen the budget deficit. Although crafted to have a positive impact on the deficit over six years, it is still the case that over the next two years—when the federal government will be running annual deficits in the $300-400 billion range—the package will lose some $30 billion. Moreover, estimates of the revenue loss from tax breaks—such as from indexing capital gains or from the passive loss provision—always seem to turn out to be to optimistic. And perhaps most importantly, the hugely optimistic assumption at the heart of the package is that in the midst of the next election year, 1994, Congress will let the middle-income tax cut lapse. I think that is highly unlikely. Instead, it would almost certainly be extended, and unless some painful offsetting cuts are made, that could drastically increase the deficit. The risks that the deficit created by this package would grow are substantial.

Sixth, the additional revenue gained from the higher taxes on the wealthy, some $73 billion over six years, is an enormous sum that should not be squandered. It far exceeds the President's proposed peace dividend from the collapse of the Communist threat, and under the House-passed plan it would be used for a tax break of about a dollar a day that few people are clamoring for and that is unlikely to do much to help the economy. It is more wisely used for long-term investment in infrastructure and education and for deficit reduction.

Finally, this vote was to a large extent political maneuvering. There is no chance that President Bush would sign the House-passed tax package into law. It is a political response to the political challenges laid down by President Bush in his State of the Union address. What is really needed at this time is statesmanship and a real plan to deal with the biggest challenges facing the American economy, not partisan games.

STATEMENT HONORING HOMESTEAD AIR FORCE BASE ON ITS 50TH ANNIVERSARY

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 5, 1992

Mr. FASCELL. Mr. Speaker, I rise today to honor Homestead Air Force Base on its 50th anniversary. To commemorate this great milestone in the history of our Armed Forces, the State of Florida, and the national defense of our own United States, I offer the following proclamation:

Whereas Homestead Air Force Base which, since its inception in September of 1942, has been a defense stronghold for our nation, helping to guide American forces to victory in World War II, as well as playing a pivotal role in the Cold War and developments in Cuba;

Whereas Homestead Air Force Base, less than 200 miles from the coast of Cuba, has proven to be an invaluable asset in monitoring activity on the island and, in October of 1962, when it was discovered that the Soviet Union was positioning medium-range missiles on Cuba, Homestead led the American crusade against the spread of the Communist specter;

Whereas Homestead Air Force Base has proven its worthiness to the United States, and really to all free lands, by continually standing ready to project air power around the globe while still maintaining an operational, ready Tactical Air Force;

Whereas Homestead also participated in the Vietnam War and has trained countless members of our Air Force during the past fifty years;

Whereas, on its 50th anniversary, Homestead Air Force Base stands more ready and able than ever to assist in the tactical defense of our country through its superior personnel, resources and geographical location;

Whereas bases such as Homestead will always be of the utmost use to our nation as we seek to ensure our national security and assist other countries in their fights for free rule: Now, therefore, I ask our colleagues to join me in proclaiming March 21, 1992, a day of celebration commending and saluting Homestead Air Force Base on its 50th anniversary;

Offering profound thanks to the officers, enlisted men and women and civilians who are on duty this day and to the thousands who came before them these past fifty years;

Acknowledging that Homestead Air Force Base has been, is, and will continue to be a great defense, educational, social and economic contributor to Homestead, the state of Florida and the country, and

Recognizing that Homestead Air Force Base and the men and women who serve there have earned a rightful place in the political and military annals of a grateful nation.

HER AIM IS TO EVEN-UP GRAMMY SCORE

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 5, 1992

Mr. RANGEL. Mr. Speaker, I rise to call to the attention of my colleagues the following article by Earl Caldwell, which appeared in the New York Daily News on Monday, February 24, 1992.

In this article, Mr. Caldwell describes the tireless efforts of New York State Assemblywoman Geraldine Daniels, who represents the 70th District, in Harlem, to have that community's contribution to our Nation's musical history recognized.

HER AIM IS TO EVEN-UP GRAMMY SCORE

Hers was another side in the "we want our piece of the action" argument. This time it came from Assemblywoman Geraldine Daniels. Her target was the National Academy of Recording Arts and Sciences, the organization that sponsors the Grammy Awards.

The way it turned out, Geraldine Daniels didn't win.

The Grammy Awards are going ahead as scheduled tomorrow night at Radio City Music Hall. Only a thin slice of the Grammy action figures to get as far north as Harlem. But even though that's the case, Assemblywoman Daniels didn't exactly come away from her fight a loser.

"This was a beginning," she said. "And I want the Academy and the world to know that Harlem will continue its fight to have more of the Grammy week events."

All of it is about "a piece of the action." Just a week ago, the NAACP announced it was urging blacks not to buy Japanese cars, explaining that Japan's car makers did not hire blacks at the same level that American companies do and that Japan car makers also gave few dealerships to blacks. The "Don't buy Japanese" decision was the NAACP's strategy to pressure Japan for "a piece of the action."

The "piece of the action" demand goes back to the 1960s. Leaders of civil-rights organizations found that blacks suffered in some ways as a result of integration. Their feeling was something like this: We lost our black businesses, and then we got shut out of the major businesses. Large white concerns got our money through integration, and we were left with nothing, not even jobs. We got no piece of the action.

So the battles began. In the late '60s the Rev. Jesse Jackson and his organization, Operation Push, signed "fair-share" agreements with major corporations. The NAACP soon followed with similar agreements. When the economy was going strong, the fair-share agreements had an impact. Once the economy began to slow, the old "we want our piece of the action" arguments resurfaced. One of the voices heard was Geraldine Daniels' as she took on the Academy and the Grammys.

The "piece of the action" Daniels wanted had nothing to do with recognition; she was looking for dollars.

The Grammy Awards is one of the big specials from the entertainment world that brings a lot of money to a city. Some estimates are that the Grammys can pump as much as $60 million into a city's economy. In 1972, in 1975, in 1981, in 1988 and in 1991, New York had the Grammys. That meant all the money that's a part of the package was spent in New York.

What put Geraldine Daniels into a mood to fight was realizing, as she says, that "not a dime" of the Grammy money that came into New York in all of those years was spent in Harlem.

So with the Grammys in New York again this year, Daniels was determined to have a different history written for that money.

In the state Legislature, she represents the 70th District, which is Central Harlem. Her office on 125th St. is just a few blocks from the Apollo Theatre. In telling of what Harlem did for the world of music, Daniels starts at the Apollo. So many artists started there and introduced so much music there that still feeds the music industry. Daniels asks, "So why shouldn't Harlem be recognized? Why shouldn't some of the Grammy events be televised from the Apollo, so the world can see what this community gave to the music?"

All of it was her way of saying what Jesse Jackson and Benjamin Hooks said before. Daniels was saying that by bringing some of the Grammy show to Harlem, in turn, the community gets its fair share of the $60 million pot.

In leading her fight, Daniels confronted Michael Green, who heads the Academy of Recording Arts and Sciences. He found a lot of ways to say that Daniels was right in her argument. "Harlem is most definitely an important birthing and nurturing center for many uniquely American music styles," he acknowledged.

But for 1992, Harlem got only a small part of the Grammy action. "But it's not over," Daniels says. "We hope the Grammys come back in 1993. We are ready to continue the fight." What she didn't say is that it is happening that way now on a lot of fronts.

INTRODUCTION OF THE EMPLOYMENT AND ECONOMIC GROWTH ACT

HON. CARL C. PERKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 5, 1992

Mr. PERKINS. Mr. Speaker, today I am introducing a bill to address the true crisis of this recession—unemployment. This bill, the Employment and Economic Growth Act, is designed to provide temporary, emergency employment and training for the unemployed with the greatest need and to assist communities in alleviating social and infrastructure deterioration.

There is no more important issue facing our country than the crises of unemployment and economic dislocation. The U.S. economy slipped into a recession in July 1990, where it has remained for the longest period since the 1930's depression. The jobless rate grew from 5.4 percent to 7.1 percent in just the last 19 months, and the unemployed population surged from 6.8 million to 8.9 million. In addition to the jobless, at least another 1.2 million are discouraged workers who have stopped looking for work, and an estimated 6.7 million work part time, because no full time work is available.

Numerous proposals have been introduced by a number of my colleagues to help create jobs and stimulate the economy. The bill I am introducing today has one distinct difference from the others. This act uses an existing local service delivery system in the Job Training Partnership Act [JTPA] to expedite the expenditure of funds—enabling us to put people back to work with little or no delay.

One of the principal criticisms of previous employment creation programs has been the extensive delay in spending job funds and placing individuals. Under the Emergency Jobs Act of 1983, the GAO estimated that only one-third of the funds had been spent by the end of the 1980's recession, a full 15 months after the funds had been appropriated. In local JTPA programs, working relationships have already been developed with employers, service providers, and educators, and can be expanded with relative ease. In addition, this bill would encourage placement in community service jobs, such as in child care and education services, which do not require as much planning and design as public works jobs.

Hardly a day goes by that the media is not reporting a massive layoff or factory closing. In the past few weeks, General Motors announced that a staggering 74,000 employees will permanently lose their jobs over the next few years; at IBM 20,000 employees will be laid off; and at DuPont another 10,000 will be laid off.

Many economists have predicted that the economy should turn around by mid-summer, but this will not eliminate the existing poverty and unemployment in our country. The creation of jobs is as essential to rebuilding lives, as it is to rebuilding and renovating neighborhood streets, housing, parks, and schools. This act would authorize $5 billion in 1992 to create an estimated 360,000 jobs for the unemployed for a maximum of 1 year. I recognize that there are still millions more unemployed, but I intend this proposal to be a modest first step toward relieving the economic woes of the unemployed.

Finally, I would like to extend a special note of thanks to Richard E. Johnson, retiring counsel to the Committee on Education and Labor, for his assistance in developing this legislation. Dick Johnson has been a good friend and trusted advisor to me and my staff on the Subcommittee on Employment Opportunities, and he will be sorely missed.

Mr. Speaker, attached is a summary of this bill that I would ask to be printed in the RECORD in its entirety immediately following my remarks.

THE EMPLOYMENT AND ECONOMIC GROWTH ACT

(Introduced by Carl C. Perkins)

The Employment and Economic Growth Act is designed to provide temporary, emergency employment and training for the unemployed with the greatest need and to assist communities in their efforts to address social and infrastructure deterioration.

The Secretary of Labor shall make grants to states and service delivery areas (SDAs) to fund local jobs projects. Of the appropriated amount, 90% shall be for state allocation to SDAs, based on formula factors targeting substantial unemployment and poverty. The remaining 10% is the Secretary's discretionary fund which is to be used for grants to SDAs experiencing long-term or high unemployment or poverty.

Not less than 70% of the funds allocated to the SDAs must be used for wages and employment benefits, with not more than 15% of the funds allocated for benefits. No more than 25% of funds can be used for on-the-job training. No more than 10% of funds may be used for tools, supplies and equipment. Administrative and assessment expenditures are limited to 10% of funds; and supportive services (i.e., education, training, transportation, child care) are limited to 20% of funds.

Eligible participants must be over 16 years of age and unemployed for 30 days or working part time because of being displaced from a full time position. Targeted unemployed individuals with priority include: Unemployment Insurance recipients for at least 3 months, cash welfare recipients, basic skills deficient, veterans, the homeless, and other groups defined to be at risk.

Participant wages shall not be less than the minimum wage plus 30%, or the amount of public assistance an eligible participant receives plus 15%, or the prevailing wage for a construction job (under Davis-Bacon), whichever is higher. An eligible participant may not be employed for more than 40 hours or 5 days a week and may be employed in no other job for over 20 hours a week. Benefits shall be comparable to prevailing benefits at the employment site. All eligible participants are also eligible for supportive services. JTPA benefits and labor standards are required where applicable.

SDAs must use funds for community service or community improvement job programs, employing individuals for not more than a year. Supplemental job training plans must be submitted to the governor for approval and shall include a description of prioritized community needs, jobs to be filled, work to be done, the duration of projects, and assurances of participant assessments. Participants who do not have high school diplomas will be required to enroll in a basic skills or high school program and work toward a diploma or a GED. For one half day each week participants will be required to seek unsubsidized employment through the use of the job placement services in coordination with local employment service offices.

Community service jobs may be contracted with local nonprofit, governmental, or community-based organizations to improve services to community residents. Community improvement jobs may include the repair, maintenance, and rehabilitation of public facilities or public lands.

The number of supervisory personnel is limited to one-tenth of participants employed. Funds may not be used for activities such as revolving loans, capitalizing businesses, and economic development.

Secretary has 30 days to notify recipients of funds appropriated. SDAs have 30 days to develop requests for proposals for service providers. SDAs or service providers have 30 days to assess and place eligible applicants.

In FY 1992, there is $5 billion authorized for this Act, and such sums thereafter for each qualifying fiscal year. A qualifying fiscal year is if during a 6 month period, the national unemployment rate raises more than 1%. With full funding, an estimated 360,000 unemployed would be provided jobs.

JUSTICE DELAYED IS JUSTICE DENIED

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 5, 1992

Mr. CUNNINGHAM. Mr. Speaker, I rise today to once again urge that the House enact a strong anticrime bill with meaningful habeas corpus reform. I believe the measure passed by the House last year is inadequate and insulting to the millions of Americans who have been victimized by crime.

I wanted to call the attention of my colleagues to an excerpt from California Attorney General Daniel Lungren's "State of Public Safety 1992" address.

Attorney General Lungren helped to organize the campaign for habeas corpus reform last year, marshaling a broad coalition which included a majority of all State attorneys general, all 58 of California's district attorneys, law enforcement, and other interest groups. His leadership is making a real difference in California, but as he points out, California's efforts to improve public safety have been stymied by this House's failure to act.

Mr. Speaker, justice delayed is justice denied. The House should move quickly to reopen this question and enact a tough, anticrime bill which the American people demand and the President can support.

EXCERPT OF REMARKS BY HON. DANIEL E. LUNGREN, CALIFORNIA ATTORNEY GENERAL

No approach to crime can be complete, nor can the public's faith in our justice system be fully restored, until we implement the death penalty in California.

Last year, the state Supreme Court upheld 24 out of 25 death sentences. In 1990, it upheld 25 out of 27. That's a far cry from the record of the Rose Bird Court which overturned virtually every death sentence.

Unfortunately, the public removed the Rose Bird barrier only to find another obstacle adding to the interminable delay—repetitive habeas corpus appeals in federal courts. Those courts are under a duty to provide fair and prompt hearings, a duty which was underscored most recently by the U.S. Supreme Court in a strongly worded message to the 9th Circuit Court of Appeals, which covers California.

I applaud the Supreme Court's action, but we need to go further. We need a federal crime bill which contains provisions to limit the number of death sentence appeals and set time limits on the process.

Last year, I led an effort—which was joined by all of California's district attorneys and a majority of the nation's Attorneys General and throughout the law enforcement community—to advocate these measures in the United States Congress. With the courageous assistance of victims and their families, we won substantial reforms in the Senate, only to watch our efforts sabotaged late last year in the House of Representatives. We will carry the fight forward this year. In the words of Winston Churchill, we will "never, never, never give in."

RULE OF LAW IN UKRAINE

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 5, 1992

Mr. HOYER. Mr. Speaker, newly independent Ukraine is making determined progress toward becoming a democratic state. Indeed, Ukraine's very act of independence has been dubbed a "ballot box revolution." It was achieved peacefully—through a popular referendum in which over 90 percent of those voting supported independence. Ukraine, along with nine other independent states of the former Soviet Union, has also recently joined the CSCE, and has pledged to live up to CSCE's human rights commitments. Ukraine, even prior to independence, was making encouraging progress in the area of human rights, and especially minority rights. Nevertheless, profound challenges remain for Ukraine in its transition from a command legal system to a rule-of-law state which would ensure human rights for the individual and underpin a free market economy.

Mr. Speaker, United States Claims Court Judge Bohdan A. Futey has made several recent visits to Ukraine to advise on its legal transition, most recently in January with a representative of the State Department's Bureau of Human Rights and Humanitarian Affairs. I ask that Judge Futey's February 11, Wall Street Journal article, "Ukraine's Legal Revolution," which describes both the current changes and challenges ahead, be submitted into the RECORD.

[From the Wall Street Journal Europe, Feb. 11, 1992]

UKRAINE'S LEGAL REVOLUTION

(By Bohdan A. Futey)

Since the collapse of the Berlin Wall Western attention has been riveted on eastern Europe's transition from a command to a market economy. Meanwhile, political economists have largely neglected the transition from a command legal system to the rule of law—despite the fact that a legal transition must underpin and structure any economic changes there.

The nations of eastern Europe have long been ruled by a heavy hand from above. If they are to enjoy the benefits of liberty, including economic benefits, they will need legal systems that allow those benefits to flourish from below. But that legal transition will be no less difficult than the economic one.

Recent developments in Ukraine reflect some of those difficulties. Two months ago, Ukrainian citizens voted overwhelmingly in favor of their country's independence from the Soviet Union. Dubbed a "ballot box revolution," the Dec. 1 referendum was a popular ratification of the parliament's Declaration of Independence—proclaimed shortly after the August coup attempt in Moscow—and its declaration of sovereignty a year earlier.

Ukraine has thus begun its legal revolution with due respect for the democratic principle: political legitimacy comes from the bottom up, not from the top down. But the formal, political legitimacy rooted in popular sovereignty is only half the equation—and the easier half at that, especially when driven by the fever for independence that 70 years of tyranny engenders. Now the hard work begins that will be needed to secure the substantive legal legitimacy that "rule of law" denotes.

QUESTIONS OF SOVEREIGNTY

Standing in the way of that work, however, are two immediate problems. First, while the Ukrainian people have established their de jure sovereignty, it is too early to be confident that de facto sovereignty is secure. The disputes between Moscow and Kiev over the Black Sea Fleet and the divisions in the ranks of the military between those who have pledged allegiance to Ukraine and those who will return to Russia are only the surface manifestations. Underlying these reconfigurations of the Soviet military are territorial issues. In early January, for example, the Russian parliament recommended a review of Khrushchev's 1954 decision that Crimea belonged within Ukraine's borders. Until these "international" issues are settled, they can only distract the Ukrainian people from the pressing need to establish their domestic order on a sound legal footing.

A second problem frustrating this domestic agenda is that a large portion of Ukraine's leaders, especially in parliament and the courts, are carry-overs from the old order. And many of them, by training and habit, to say nothing of interest, stand in the way of establishing anything like the rule of law as we know it. Nowhere was this more clear than with members of the current judiciary with whom I recently met. Given that one of their principal interests was to find out who assigns housing to judges in the U.S., you know they have a long way to go. Already, the concerns of the judicial elite with housing, telephones, purchasing privileges and the like have found their way into legislation. Before a legal order suited for a free society can arise, leaders who understand that order must come to the fore.

That need points to the deeper cultural issues that must be overcome in all of the nations of the former Soviet Union. For underlying any legal system is a legal culture. In the West, that culture developed over centuries, especially in the private sector. A private bar, dedicated to securing the rule of law that enabled a vast private sector to grow and flourish, was the animating force behind ordered liberty. But in Ukraine today there is no private bar as we would think of it, and only an inchoate legal culture to sustain such a bar and be sustained by it.

Soviet rule systematically destroyed nearly everything that was private in Ukraine—using Soviet "law," the law of command, to do so. Once the procurator and local party boss gave the command, the judge carried it out—with the "defense" counsel, an employee of the state, resigned to an administrative role. Given that history of "telephone justice," as it came to be known. Is it any wonder that for many Ukrainians the idea of an independent judiciary is little understood—and even less appreciated?

Yet for all this, there is a hope and confidence in Kiev that one does not see in Moscow—at least to the same extent. As they begin to build their legal culture, many of Ukraine's new leaders—members of Rukh, the Ukrainian Popular Movement—are drawing from their experience as dissidents over the long and often brutal struggle for independence. During the Brezhnev crackdown, but especially following the signing of the Helsinki Accords in 1975, Ukrainian intellectuals and activists repeatedly tried to work within the confines of Soviet law to insist upon a rule of law. Having developed a healthy respect for the regularity and consistency that are central to the rule of law, those new leaders are now trying to build upon these ideas.

Although parliament is now focusing on the immediate problem of creating and reinforcing institutions to protect Ukraine's sovereignty and independence—from military forces to a Ukrainian currency—work is also underway toward creating new, constitutional institutions of government. Right now, government in Ukraine is composed largely by institutions from the old order. But a parliamentary committee on the constitution is drafting a new one that they hope to circulate among European and American constitutional law experts this month. If present plans hold, a final document could be ready for ratification by fall.

Speaking about the draft constitution before a Dec. 26 conference of Ukrainian judges, President Leonid Kravchuk strongly endorsed the separation of powers and the creation of an independent judiciary as a third, co-equal branch of government. Legislation has already reduced the once-powerful Procurator General's Office, stripping it of many of its court oversight functions. And the concept of trial by jury has sparked great interest, although judges from the old guard remain skeptical.

While institution building is underway, so too are changes in the substantive law—the rules by which Ukraine will be governed. Here, classic conflicts are arising between those who want to preserve much of the old order—"legitimized" by local institutions rather than received by "diktat" from Moscow—and those who want to move to a free, private, market society. Not surprisingly, the nomenklatura is in the former camp since they have the most to lose from any moves toward a market—at least in the short run.

RUDIMENTARY ENFORCEMENT

Fortunately, liberals appear to be in the ascendant. Legislation was passed last fall to protect foreign investment and to enable the formation of economic partnerships. At the moment, however, these are limited, rudimentary changes, "enforced" more by political connections than by the rule of law. Continued movement in this direction is needed. Privatization and a property law to secure it must be the first orders of business.

In Russia we are seeing what happens when privatization is postponed while prices are set free: The increase in supply that free prices are meant to encourage never materializes because only private suppliers, who stand to profit from rising prices, will respond with greater production. If those problems are to be avoided in Ukraine a law of property, and a closely related law of contracts, must be established quickly. Ukraine will doubtless follow the European code method in this since there is too little time to allow for an Anglo-American style common law to evolve. If that private law is to be enforced, however, it is imperative that an appropriate judicial system also be established and a private bar emerge.

But the business of nation building has begun. In all of this, Ukraine, like every other country in transition, can benefit from sound Western advice, especially from the private sector that has so much to gain from thriving societies to the east. The past year has seen epic change in the former Soviet Union. Now is the time to help keep that change on course.

MESSAGE OF HATRED AND RESENTMENT IS ALIVE AND WELL

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 5, 1992

Mr. WOLPE. Mr. Speaker, a message of hatred and resentment is alive and well in this country of ours. It has many messengers and many different guises. It is seldom as direct and overt as a white hood and robe, or a swastika. But it is the same essential message of racism and bigotry—whether it takes the form of a campaign commercial, or it is conveyed through a deceptive attack on civil rights legislation. It is a message that plays upon the fears and prejudices of an increasingly alienated, vulnerable, and insecure population. It seeks to divide people, to sow hatred, and to sow distrust.

Mr. Speaker, it is a message that is working. It worked in Mississippi a few months ago. A race there did not attract the national attention of the Louisiana race because the candidate in Mississippi did not have in his history the overt symbols of a Klan membership and a Nazi swastika. But the code words deployed were essentially the same as those used in Louisiana—and they were effective. And the message worked earlier in North Carolina—where 2 years ago a television commercial successfully stigmatized affirmative action programs as providing unfair advantages to unqualified minorities. Indeed, is there anyone who doubts that even now there are scores of highly paid political consultants out there pouring feverishly over the Presidential primary election returns and post-election polls, seeking ways to manipulate racial fears and prejudices even more subtlely and effectively in the elections ahead of us. Because in a society that has never really come to terms with the issue of race, it is a tactic that works.

Race has been described as the principal fault-line of the American political system. But in the sixties and seventies, the emergence of a mass civil rights movement gave testimony to the deep yearning of Americans to come to terms with that part of our history that was so at variance with American ideals. The voices of leaders such as Martin Luther King, Cesar Chavez, and John Kennedy inspired all of us to dare to believe that we could in fact create a more just society and a more peaceful world. And, as America celebrated the passage of the Civil Rights Act of 1964, the Voting Rights Act of 1965, and the Fair Housing Act of 1968, the structure of law and custom that had made minority Americans second-class citizens and closed them out of the key institutions of the society began to change. These legislative achievements did not occur without struggle, but they gave expression to the determination of the vast majority of the American people to address the deep-seated racial inequities of our society.

But if we look around America today, it appears that all that we have worked so hard to achieve in past decades is now at risk. Racial and ethnic tensions have intensified. Our society is increasingly polarized along racial, ethnic, and economic lines. And now we see certain of our leaders and would-be leaders, instead of working to bring us together, playing upon our racial fears and prejudices and developing race-based political strategies. All of us need to be very clear about how high the stakes of this cynical game really are: The effort to manipulate racial divisions for political advantage will ultimately prove enormously destructive to the entire Nation.

Yet most white Americans, recent public opinion surveys indicate, are increasingly receptive to these race-based negative appeals. They feel that the most egregious forms of racism and discrimination are a thing of the past. Moreover, as America's economic strength has eroded, white anxieties about their own economic status and future have intensified. Middle-income Americans, in particular, are being squeezed as never before, and they are frightened—for themselves and for members of their families. So it is not surprising that they have become increasingly resentful of affirmative action programs that, in their view, are designed to give to minority Americans unfair and unjustifiable special advantages.

Given some dramatic changes that have occurred in the past three decades, current white perceptions are understandable. Increasing numbers of blacks have in fact been elected to local governments, state legislatures, and the Congress. Colin Powell is but one of a long list of African-Americans that have risen to prominence within America's military establishment. The doors of corporate America have opened—and black college graduates find themselves in demand. More blacks have entered the Nation's middle-class, with the percentage of black families with incomes over $50,000 at its highest point ever, about 10 percent.

But as significant and hopeful as these developments have been, the harsh reality is that they have not touched the lives of the vast majority of minority Americans. Over two centuries of racial subordination and discrimination have taken their toll, and significant racial inequities persist. For the most part, African and Hispanic Americans continue to lack the education, the skills and the resources to take advantage of the opportunities created by civil rights legislation. Minorities can now seek redress in the courts if they are discriminated against in their efforts to secure decent housing, but few have the resources to purchase housing outside of their ghettoized communities. Minorities can go to court if they experience job discrimination, but few have the education and skills to land the better paying jobs; the number of middle-class minority families may have increased, but 30 percent of black Americans continue to live in poverty, three times the percentage for whites. Black college graduates may be in demand, but the number of African-Americans entering and finishing college is actually declining. Indeed, continued racial inequities are literally a matter of life and death: A black baby is twice as likely to die within its first year of life as a white infant, and African-Americans have over 6 years lesser life expectancy than white Americans.

That is the reality—but that is not the way the world appears to middle-class working Americans. These folks have seen their own living standards steadily erode this past decade. They have seen their hard-earned tax dollars go to finance tax cuts for the rich and programs targeted at those who are even poorer than they. They have seen their jobs eliminated or threatened by foreign competition, and they are struggling to send their children to college or to provide medical care for themselves and the members of their families. These Americans have their own legitimate set of grievances—and they have come to feel increasingly powerless, the victims of economic and political forces they cannot control.

In a very real sense, America is at a turning point. We can either continue down the path of race-based political strategies, a path that can only lead to deeper inequalities, greater divisiveness, and more intense conflict and violence—or we can begin to address—by action, not by lip service—the real issues that confront all Americans, that transcend the boundaries of race and ethnicity, and that will permit us to forge a new sense of national unity and common purpose. We can either opt for a politics that manipulates our divisions, that feeds multiple hatreds and resentments, or we can opt for a politics that offers a unifying vision of a more fair and secure future for all Americans.

Mr. Speaker, my hope is that as we all reflect on the political turbulence that is swirling all around us, we Americans will come to recognize that just as we will all be losers if racial conflict becomes more intense and more violent, so we will all be winners if we can move aggressively to attack the problems that are making all Americans feel threatened and insecure.

Our Nation faces challenges on many fronts, but surely none is more serious or troubling than America's economic decline. All Americans—whites no less than minorities—will be hurt if this decline cannot be arrested. The real enemy of beleaguered workers today is not affirmative action programs designed to overcome a legacy of race prejudice and discrimination, but an economy that does not provide secure employment for all Americans. The solution is not to fight over who gets the limited number of jobs available, but to create more jobs and to train people to fill them.

This last point deserves special emphasis. For it is increasingly clear that the only means by which America will be able to hold its own in international competition in the years ahead will be the development of a better educated, more highly skilled work force. When our educational system leaves large numbers of people unable to perform in a modern economy, we all lose. And it doesn't matter whether the uneducated and unskilled are black or white or brown. If our economy continues to lose ground to our trade competitors in Europe and Asia, we will all pay an increasingly heavy price. But if we can turn this economy of ours around, if we can reinvigorate our educational system, if we can insure that American workers will be given the necessary training and skills, if we can regain our competitive edge—then we will all win.

Thinking about issues of social conflict in win-win terms is often difficult. As author Stephen Covey observes, most of us "have been deeply scripted in the win/lose mentality since birth." It is often taken as a gift that one person's victory is another person's defeat. But, in Covey's words, "* * * most of life is not a competition. We don't have to live each day competing with our spouse, our children, our co-workers, our neighbors, and our friends. 'Who's winning in your marriage?' is a ridiculous question. If both people aren't winning, both are losing."

"Most of life," Covey continues, "is an interdependent, not an independent, reality, and most results you want depend on cooperation between you and others. And the win/lose mentality is dysfunctional to that cooperation."

And so it is with the politics of race. Whenever we think black gains mean white losses, or that the security of whites depends upon continued black subordination, we are still in a win/lose mentality—which ultimately means we all lose.

Mr. Speaker, if ever there were a time for Americans to be united, surely it is now. If ever there were a time for Americans to be reminded of our interdependence, surely it is now. If ever there were a time for our national leaders to remind us, not of our differences, but of what we as Americans hold in common, surely it is now. It matters not whether one is black or white or Hispanic or Asian or Arab; it matters not whether one is Protestant or Jew or Catholic or Moslem. What does matter is that we are Americans all—believing in the American dream of a just and open society, in which all might live out their lives in dignity and security, and in which every individual will be free to realize his or her fullest potential.

It is clear that the key to turning things around, to creating a more secure and hopeful future for all Americans, is to make those public investments essential to economic performance. There is so much work to be done: We should be investing, now, in education, in job training, in research and development, in environmental cleanup, in the rebuilding of our public infrastructure, in constructing a system of national health insurance, in restoring blighted urban areas. Instead of allowing ourselves to be played off against each other, we must insist on an aggressive domestic agenda that would address the underlying problems that feed the anxiety of Americans and fuel racial and ethnic conflict.

Mr. Speaker, there is no question that the message of David Duke will be heard again in the weeks and months ahead. But I am convinced that the vast majority of Americans will reject this message, as long as they believe that their grievances will be addressed, that their Government will begin to respond to the needs and aspirations of all Americans for a better and more secure future. Most Americans understand the dangers that the David Dukes of our country represent—and in Louisiana voters turned out in record numbers to overwhelmingly repudiate the racism and bigotry of the Duke candidacy. Likewise, in Pennsylvania, when voters were offered a positive alternative to do-nothing domestic policies—an alternative responsive to the needs of working-class Americans for tax relief, for national health insurance, and for a more secure economic future—they produced one of the most extraordinary political upsets of the decade. Neither outcome was predicted: Only a couple of weeks ago, many commentators were saying a Duke victory was almost inevitable. And, in Pennsylvania, a political unknown began with a 44-point deficit in the polls. What an eloquent testament to the power of an aroused citizenry, motivated not by a divisive appeal to racial fears and prejudices, but by a unifying sense of new hope and possibility.

Mr. Speaker, the past two decades have seen a dramatic withdrawal from political participation throughout our Nation. Some commentators have read this decline in political activity as symptomatic of voter apathy and indifference. I don't buy it. It is not indifference or apathy that has turned off the voters, but rather a profound sense of political powerlessness. Americans everywhere have come to believe that the Government is divorced from their real needs and concerns, and that average citizens simply don't count for much—particularly in comparison with powerful economic interests. And, while this sense of impotence is understandable, particularly given the unresponsive nature of our political institutions the past several years, it has also produced a self-fulfilling prophecy: Feeling powerless, people have become powerless. Fewer people have been voting, or petitioning, or demonstrating or, for that matter, even reading the newspapers.

Mr. Speaker, the real lesson that we must take from Louisiana and Pennsylvania is that people do count, and that we can make a difference, a profound difference. When we register and vote we have the power to change our path, our Nation, our future. We, all of us, have the power—and we are now beginning to use it.

INTRODUCTION OF OMNIBUS CRIME LEGISLATION FOR THE DISTRICT OF COLUMBIA

HON. THOMAS J. BLILEY, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 5, 1992

Mr. BLILEY. Mr. Speaker, today I am introducing omnibus crime legislation for the Nation's Capital. In recent days, the murder of a member of the Senate staff, the assault of Senator CONRAD's wife, and the attempted murder of the Sergeant-at-Arms of the House of Representatives has focused new attention on the problem of crime in the District of Columbia. These crimes which have so closely touched the Congress provide but a glimpse at the immense human cost that crime has exacted from the people who reside in the shadow of the Capitol dome and only hint at the catastrophic failure of the District to control the crime epidemic that now engulfs it.

Under home rule, front line responsibility for crime in the District rests with the Mayor and the Council. Yet, the Constitution vests ultimate responsibility for the Federal city with the Congress. If local authorities are unable or unwilling to take appropriate action to bring crime under control in the near term, then the Congress must act.

Mr. Speaker, it has become clear that, for whatever reason, local authorities either cannot or will not take the action that is needed to stop the killing on the streets of our capital. Indeed, not only has the city failed to take necessary action against crime, they are now proposing to cripple the local judiciary. Incredibly, the Mayor has recommended cuts in the fiscal year 1992 superior court budget that has forced the chief judge of that court to suspend all jury trials in August and will result in funds for Criminal Justice Act attorneys for indigent defendants to run out in September. How can the city expect the Congress to take its anticrime efforts seriously if they will not even provide for jury trials and legal representation for criminal defendants by the Constitution?

The time for promises is over and the time for antics and posturing has long since past. It is time for Congress to take matters into its own hands and to act now.

In 1991, 489 individuals were the victims of homicide in the District of Columbia. Since 1986, the homicide rate in the District has increased each year while the average age of homicide victims has decreased. Over all, since 1986 the number of killings occurring in the District has increased 252 percent. Moreover, in 1990 alone, there were more than 27,000 violent crimes and more than 92,000 crimes of all descriptions committed within the District of Columbia. For whatever reason, local leaders—despite much protest to the contrary—have been unable to stop the killing.

As with violent crime throughout the Nation, violent crime in the Nation's Capital disproportionately affects the most vulnerable members of society: the young, the poor, and ethnic and racial minorities.

According to a 1988 report of the Bureau of Justice Statistics of the U.S. Department of Justice, the victims of violent crime are predominantly young, poor, and black or Hispanic. Incredibly, the lifetime chance of being a homicide victim is 1 in 30 for black men. That compares with a 1 in 179 lifetime chance for white men. After accidents, homicide is the leading cause of death for men and women between the ages of 15 and 34. According to the same report, when calculated by households, over 30 percent more black households are victimized by all types of crime than white households; and 40 percent more Hispanic households are victimized by crime than are non-Hispanic households.

Today, whether you are rich or poor, whether you are black or white, if you are a law abiding citizen who lives in the Nation's capital, you are forced for safety's sake to live behind locked doors and barred windows while the lawless are free to roam the streets with impunity. The inability of the District to get control over the homicide rate over the past 6 years is itself sufficient reason for Congress to step in and exercise its constitutional authority.

On behalf of all of the residents of the District of Columbia, and on behalf of all citizens of our Nation who visit their Nation's capital, Congress should no longer tolerate the intolerable. And Congress should no longer accept the word of local officials who promise to produce results or to quit but do neither.

Mr. Speaker, my legislation takes a broad approach involving tougher penalties for violent crimes, tougher restrictions on bail, increased rights for the victims of violent crime, and increased judicial resources.

First, this legislation will tighten the District's bail laws to keep violent criminals off the streets. Time and again, the innocent fall prey to violent criminals who are awaiting trial for another serious felony. According to the U.S. Attorney's Office, between January 1989 and January 1991, more than a third of all defendants charged with a violent crime and released on bail committed another crime while on release. During that same time period, approximately 3,000 bench warrants were issued for individuals who committed a violent crime or drug felony while on release.

Second, my legislation would provide a mandatory term of life imprisonment without parole for individuals convicted of first degree murder. Such legislation has been buried in committee in the D.C. city council. If the council will not act to protect the citizens of the District, Congress can and should do so.

Third, the legislation provides stiffer penalties for individuals committing crimes involving drugs or firearms near schools and playgrounds and for illegal distribution of firearms to minors.

Fourth, Mr. Speaker if a youth is old enough to pull a trigger like an adult, he is old enough to be punished like an adult—my bill would lower the age at which juveniles who commit violent crimes may be tried as adults to 14 years of age.

Fifth, the legislation would repeal the Youth Offender Corrections Act—the Congress repealed the Federal equivalent of that law years ago. Simply put, most violent criminals are young adults who should be held fully responsible for the pain which they inflict upon the innocent.

Sixth, this legislation would make applicable to the District existing tough Federal laws against witness intimidation and strengthen current D.C. laws against assaulting law enforcement officers.

Seventh, my legislation would strengthen the rights of violent crime victims. Victims should have the right to appear and be heard at sentencing and the right to notice when the defendant is released on bail, parole, furlough, or when the defendant escapes custody. These rights are available to crime victims in a majority of States and should be available to victims in the Nation's Capital.

Eighth, my legislation would provide an increased authorization to the local trial courts provide four new judgeships—two this year and two next year—and make technical amendments to the jurisdiction of superior court commissioners to allow more judges to be shifted to criminal cases.

Finally, my legislation would require the District to hold a referendum on the death penalty. Under the provisions of the bill, a death penalty for heinous murders would go into effect in the District unless the votes choose to reject it.

Mr. Speaker, it was my hope that local officials would have seen their way clear to undertake many or all of these reforms through the mechanism available to them under home rule. Yet for the past 6 years we have watched the killing fields in the District grow bloodier and the list of those who have fallen victim to criminal predation grow longer and these reforms simply grow evermore overdue.

Mr. Speaker, the time for action is now. I call on my colleagues on the District of Columbia Committee to quickly mark up my bill and to bring it to the floor—even if ultimately with a negative recommendation—so that the full House will have a chance to debate and vote upon its provisions.

CONGRESS MUST BE VERY CAREFUL WITH ITS POWER

HON. JON KYL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 5, 1992

Mr. KYL. Mr. Speaker, the Congress can wield great power when it wants to. Our committees have the capability of calling people before them, as much as for effect as for effecting the basis for legislation. The term "McCarthyism" springs from an abuse of congressional power. Therefore, Congress must be very careful to always use its power in appropriate ways, giving due attention to the effect its actions may have on others.

The column below, which appeared in the Phoenix Gazette on March 1, 1992, illustrates the power of Congress and the need to be careful in its exercise. I commend it to my colleagues.

[From the Phoenix Gazette, Mar. 1, 1992]

SYMINGTON SCOURGING "NOTHING PERSONAL, JUST BUSINESS"

(By John Kolbe)

Gov. Fife Symington's epiphany on the long road to becoming a full-fledged politician—or at least understanding the game as it's played in Washington—may have come before a U.S. House banking subcommittee the other day.

That's when the panel chairman, Democratic Rep. Carroll Hubbard, told him to "lighten up."

Symington was there to respond to the panel's politically inspired probe into the failure of Southwest Savings, where he served as a director for 12 years until 1984, and there was very little lightness in his presentation.

His lengthy blast at the Resolution Trust Corp. fairly bristled with hyperbole and unconcealed rage: "A sneak attack, a political smear * * * RTC's campaign to discredit me * * * broken promises, false allegations, lies * * * public ridicule and humiliation * * * ruining reputations and careers * * * trampling individual rights * * * tyranny.

And Congress, he added, is far from innocent, for it is "a party to this effort (to discredit Symington) because scandal is the favorite game in town."

This cut uncomfortably close to the quick, which is why Hubbard suggested a lighter mood.

In one sense, Hubbard's admonition was sound advice, Symington, by his own choice, is a prominent member of the political community, and as such, a ripe target for any on-the-make bureaucrat or headline-hunting pol with a little ammunition, however innocuous.

Maybe not always fair game, but a prize animal nonetheless, and the season is 365 days long. Being shot at goes with the territory, and he might as well get used to it before he gets terminal ulcers.

Besides, he's starting to sound a lot like Charlie Keating, which should not be the goal of an upwardly mobile politician.

That much said, however, Hubbard's condescending put-down also revealed more than the chairman probably intended about how Congress views its own work. Loosely translated, what he was saying was this:

"Don't take it so seriously, governor. We certainly don't. Throwing around accusations and messing with people's lives (preferably those of the opposing party) is what we do here. We do it because it's easier, and much safer politically (for us, not you), than grappling with serious policy issues, which require us to take unpopular positions. We're just using you to get some attention for ourselves and gain some clout for the committee. If it hurts you, that's too bad, but that's the price of public office."

Tessio, the loyal family hit man of "The Godfather," had another way of saying the same thing: "It's nothing personal. Just business."

Such reassurance, of course, wasn't very comforting to a guy with a piano wire around his neck, and more than it is to a governor whose political future (not to mention financial well-being) is under serious attack from a huge federal agency and a Congress hot in pursuit of scapegoats.

If Hubbard were serious about the issues and not just scoring political points (which, of course, he isn't), he might pursue these possible lines of inquiry:

Who at the RTC was responsible for criminally leaking to The Washington Post (1) a damaging memo containing allegations of self-dealing against Symington (which were apparently so flimsy they were discarded in drafting the lawsuit), and (2) a copy of the lawsuit, only hours after RTC lawyers warned defendants not to reveal its contents to anyone?

Why does the agency continue to refuse to release that memo? A document that's been in the newspaper (thanks to the agency itself) can hardly be called "privileged" any more.

Why, in a 34-month investigation, didn't the RTC once question the governor about his activities as a director? And why, when the agency notified the other directors of its intention to sue them, did it fail to notify Symington? Why did it renege on its own repeated verbal and written promises by refusing to meet with his attorneys before the suit was filed?

Why does the suit allege that Symington didn't quit the board until March 1984, when his letter of resignation was dated Jan. 30? Bank regulators (RTC's predecessors) acknowledged his departure two weeks after the letter.

Why does the 53-page complaint repeatedly accuse Symington (along with his co-defendants) of breaching his fiduciary duty with several large loans to major developers (including Westcor and Tucson's George Mehl), when they were all approved months or years after he resigned from the board?

Hubbard won't pursue them, because Congress isn't any more serious about probing agencies that keep it supplied with fresh scandals than it is the S&L mess itself, which it helped create.

So what was he up to? Here's a clue. Although the RTC has sued 32 thrifts and scores of directors in the wake of the $500 billion S&L debacle, only one—a Republican governor from Arizona—was hauled before the cameras and had his integrity attacked.

No big deal, the chairman assured him. It's all in good fun. As Tessio might say, just business.

CONGRATULATING OLYMPIAN KEITH TKACHUK

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 5, 1992

Mr. MARKEY. Mr. Speaker, I rise today to congratulate one of the Olympians from my district who competed in Albertville, France during February. Keith Tkachuk, a resident of Medford, MA, was a member of the U.S. hockey team that surprised us all with its skill and tenacity in the 16th Winter Olympics.

As a hockey player at my alma mater, Malden Catholic High School, Keith was a 4-year letterman. In his junior season as a Lancer, Keith scored 46 points, and was named the team's most valuable player. He was further honored as a Catholic conference all-star. Although Keith suffered debilitating injuries his senior year, he demonstrated his determination by overcoming both a broken ankle and strained ligaments in his knee to continue on as a great hockey player.

On the national and international level, Keith was honored by being chosen to play on a U.S. select 17 team that played the Soviets in a three-game series. The following summer, he was invited to the U.S. Junior Team Tryout Camp at Colorado Springs. Further, Keith played his freshman year for the perennial powerhouse Boston University Terriers hockey team.

It is a testament to Keith Tkachuk to know that he was the youngest member of the U.S. squad, especially after having seen him playing against the professional teams of Europe. Keith displayed an aggressive perseverance that belied his age, and we are proud to have had him represent our country and our area.

I congratulate Keith Tkachuk on his success in the 16th Winter Olympics, he is a credit to the Bay State and the United States of America.

BANNING IVORY, SAVING ELEPHANTS

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 5, 1992

Mr. SCHEUER. Mr. Speaker, the African elephant was near extinction because of rampant poaching which was driven by an escalating ivory trade. In 10 years, the total African elephant population declined to 609,000 from a 1979 estimate of 1.3 million.

At the 1989 meeting of the Convention on International Trade in Endangered Species [CITES], 76 nations including 20 African nations voted to list the African elephant in its appendix I, banning all international trade in ivory and other elephant parts and products. U.S. leadership was crucial to achieving this ban.

Since this ban was adopted, elephant poaching in many areas has dropped dramatically, there has been little movement of ivory in the world market, and the price of ivory has dropped. The moratorium on the ivory trade is protecting African elephant populations.

But, this endangered pachyderm is in jeopardy once again. CITES nations meeting this week in Japan are considering a proposal by five South African nations to downlist the African elephant to appendix II. This would, in effect, lift the ban and allow the African elephant once again to fall victim to the world ivory trade.

Yesterday, the Senate Committee on Foreign Relations reported a concurrent resolution to support the full protection of the African elephant through the unqualified listing of all African elephant populations on appendix I of CITIES.

The House must maintain its commitment to the survival of this majestic animal and support the House concurrent resolution (H. Con. Res. 256) which I introduced and was referred to the Committee on Merchant Marine and Fisheries.

African elephants have a history spanning 5 million years but without our support to limit trade, their time will run out.

SALUTE TO OREGON CITY PIONEERS AND LAKE OSWEGO LADY LAKERS GIRLS' BASKETBALL TEAMS

HON. MIKE KOPETSKI

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 5, 1992

Mr. KOPETSKI. Mr. Speaker, I rise today to salute the members of the Oregon City Pioneers and Lake Oswego Lady Lakers Girls' Basketball Teams who met in the Oregon class 4A high school girls' basketball tournament last weekend. In a hard fought game, Oregon City came back from a 14-point deficit to beat Lake Oswego 47–44 to win its first State championship. I am submitting an article from the Oregon City Enterprise-Courier which chronicles this exciting game.

Mr. Speaker, I also want to point out that three high schools, Oregon City, Lake Oswego, and Lakeridge, from the Three Rivers League were the top three finishers in the State class 4A high school division. This is the first time in the 17-year history of the State tournament that this occurred. This is a true testament to the caliber of the girls' basketball program and the dedication of the student-athletes in the Three Rivers League.

Mr. Speaker, I want to recognize all the student-athletes and coaches for both the Oregon City Pioneers and the Lake Oswego Lady Lakers.

The Oregon City Pioneers: Amy Alcorn (G), Jenny Gordon (PG), Sylvia Olvera (W), Mindi Loiodici (G), Dina Haselip (P), Tammy Arnold (P), Heidi Alderman (W), Jenny Criteser (P), Diana Smith (P), Alison Newman (G), Ingrid McCoy (G/F/W), J.J. Richmond (C/F), Brad Smith, head coach; Carl Tinsley, assistant coach; Ken Alcorn, assistant coach; Stephanie Coughlin, assistant coach; and Liz Damon, assistant coach.

The Lake Oswego Lady Lakers: Heidi Hackenbruck (F), Mary Scotty (G), Kerry Schultz (F), Mindy Campbell (G), Kari Steele (G), Wendy Berg (G), Jaime Ellis (G), Laura Savage (F), Cynthia Lewis (F-G), Stacey Berg (F), Caroline Rich (F), Laura Martin (F), Gary Lavender, head coach; Craig Hynes, assistant coach; Mike Scotty, assistant coach; Reid Segal, assistant coach; Sharlene Brells, assistant coach; Lisa Segal, student assistant; and Meredith McGrew, student assistant.

All of these student-athletes are winners. They are winners today and I'm confident they will continue to be winners throughout their lives.

PIONEERS CAPTURE FIRST CAGE CROWN IN O.C. HISTORY

(By John Denny)

PORTLAND.—The Oregon City Pioneers did themselves and their community proud Saturday in the championship game of the 1992 state 4A high school girls basketball tournament, rallying from a 16-point second-half deficit to drop Three Rivers League rival Lake Oswego, 47–44.

With the spectacular comeback, the top ranked Pioneers earned the first state championship in girls basketball in the history of the sport at their school.

The Pioneers had placed at state seven times before, but the championship had always eluded them.

Oregon City was state runnerup in 1987 and 1988. The Pioneers placed third in 1991, fourth in 1983 and 1990, and fifth in 1981 and 1989.

The manner in which the Pioneers pulled out the state title game made their state championship all the more gratifying. It was a team effort. Every player on the team contributed, both those on the floor and those on the bench.

They never lost heart, and they continued to give their all, even when the circumstances made the situation appear incredibly bleak.

It appeared extremely likely that the Pioneers were destined to finish second fiddle a third time when they found themselves trailing 34–18 early in the third quarter.

The No. 3 ranked Lakers had just gone on a 21–3 scoring binge during a 9-minute stretch that began at the start of the second period. The Pioneers had gone 1-for-11 from the field and they had committed several turnovers during that span.

Lake Oswego appeared to have the game well in hand, still leading by 14 points, at 38–24, with 3:26 remaining in the third quarter.

But that's when the Pioneers said enough is enough, and they began to chip away at the Lakers' seemingly insurmountable lead.

Apparently content to sit on their lead, the Lakers turned from the up-tempo offense that had gained them their advantage, to a more patient game.

The change in strategy proved extremely costly, because the Pioneers became the aggressors, and the momentum of the game began to change. Oregon City went on to outscore Lake Oswego 23–6 in the final 11 minutes of the game.

Early in the fourth quarter, Oregon City senior post Dina Haselip intercepted a Laker pass in the lane and turned it into two points at the free throw line when she was fouled taking the ball to the basket at the other end of the floor. That made the score 41–32 Lake Oswego.

With just over seven minutes left to play, Haselip answered a Laker miss with a baseline jumper in traffic, and it was a 41–34 ball game.

The two teams traded free throws. Then senior playmaker Jenny Gordon added fuel to the Pioneer comeback with a steal near the Laker basket.

Gordon fired an outlet pass to sophomore guard Amy Alcorn near mid-court. Alcorn pushed the ball ahead to a streaking Haselip, who completed the play with an uncontested fast-break layup. The basket cut Lake Oswego's lead to 42–37.

Lake Oswego junior forward Kerry Schultz threw up a brick, and the Pioneers went on the run again. Alcorn hit freshman post Tammy Arnold with a crisp pass under the basket; Arnold canned the layup, and it was a 42–39 ball game.

Schultz found the basket from the outside for Lake Oswego, making the score 44–39. But Gordon was fouled and made both ends of a one-and-one, pulling Oregon City back to within three.

Gordon followed with a major defensive play. The Lakers were playing keep away near midcourt, when Gordon challenged Lake Oswego junior guard Mary Scotty one-on-one and came up with a clean steal.

With a smile on her face, Gordon raced to the basket for a fast-break layup that trimmed the Laker lead to 44–43.

With 3:06 remaining, Oregon City's aggressive half-court trapping defense forced Laker junior guard Kari Steele to travel.

Haselip scored inside off a great baseline pass from Ingrid McCoy, and the Pioneers were ahead for the first time since early in the second quarter, leading 45–44, with 2:44 left to play.

The Lakers were not without their scoring opportunities down the stretch.

Berg missed from 3-point range with just over two minutes remaining. Scotty stole the ball back moments later, and the Lakers had renewed life.

Scotty missed on an outside shot with 1:40 left, but a teammate collected the long rebound.

The Lakers continued to wind time off the clock, until Berg drove the baseline with just under 20 seconds remaining. Her layup missed the mark, but Arnold was there to gather in the rebound.

Berg, in apparent frustration at missing the shot, fouled Arnold.

Arnold swished both of her gifters, and the Pioneers had a more comfortable lead, at 47–44, with 16 seconds left to play.

Arnold followed with one of the top defensive plays of the game at the other end of the floor. Lake Oswego's Cynthia Lewis, a player with great quickness, drove the lane from the top of the key. The apparent strategy was for Lewis to blow by Oregon City defenders for a layup, or at the very least, a two-shot foul.

However Arnold had other plans. As Lewis began her drive, Arnold knocked the ball loose and into the hands of Haselip.

Haselip was immediately fouled. She missed the front end of a one-and-one with five seconds remaining. But it mattered little, because Lake Oswego could not get off a good shot before the final buzzer.

Haselip finished up with a game-high 24 points, connecting with 10-for-15 accuracy from the field. She tallied 16 of Oregon City's 29 points in the second half, to lead the Pioneers in their dramatic comeback.

Lewis led a balanced Lake Oswego attack with 10 points. She also had five steals.

Lewis also hauled down a game-high 10 rebounds to lead her club to a 26–23 edge on the backboards. Haselip had eight rebounds to lead Oregon City.

The Pioneers outshot the Lakers percentagewise both from the field and from the free throw line. The Pioneers went 17 for 38 (.447) from the field and 13 for 21 (.619) from the line. They were 10-of-17 (.588) from the field in the second half.

The Lakers were 18-of-44 (.409) from the field and 8-of-15 (.533) from the line.

With the win, the Pioneers finished the year at 25–1. Lake Oswego finished up at 22–5.

The victory over Lake Oswego was Oregon City's 12th victory in a row.

Oregon City	15	3	12	17	47
Lake Oswego	13	17	11	3	44

Oregon City Scoring—Dina Haselip 24, Tamany Arnold 9, Jenny Gordon 6, Heidi Alderman 6, J.J. Richmond 2, Amy Alcorn, Ingrid McCoy, Sylvia Olvera, Mindi Loiodici, Jenny Cristeser, Diana Smith, Alison Newman.

Lake Oswego scoring—Cynthia Lewis 10, Mary Scotty 9, Wendy Berg 7, Kerry Schultz 6, Heidi Hackenbruck 4, Kari Steele 4, Jaime Ellis, 4, Mindy Campbell, Laura Savage, Stacy Berg, Caroline Rich, Laura Martin.

INTRODUCTION OF LEGISLATION TO REMOVE UNEMPLOYMENT COMPENSATION FROM FEDERAL INCOME TAXATION

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 5, 1992

Mrs. KENNELLY. Mr. Speaker, I am introducing legislation today that would eliminate the taxation of unemployment compensation benefits.

The Tax Reform Act of 1986 made all unemployment compensation taxable effective December 31, 1986. Prior to the 1986 act, only a portion of unemployment compensation benefits was taxable. As is evident from the countless hours this body has spent over the past year in the course of enacting two extensions of unemployment benefits, the economy is still in a severe recession. While the unemployment rate nationally was 7.1 percent in December, it was 7.3 percent in Connecticut—a 9-year high. Connecticut has lost 120,200 jobs since February 1989. This figure is even higher in some States.

Thousands of my constituents have been hit with a triple whammy—they have lost their jobs, they have seen their incomes drop because unemployment compensation only partially makes up for work, and they now find that they have to pay taxes on unemployment compensation. As we approach April 15, many of these individuals find themselves in an even more precarious situation as they discover that because there has been no withholding they must somehow find a way to pay the tax.

Therefore, the legislation I am proposing today would eliminate the tax on unemployment compensation benefits received after December 31, 1991. It is my hope that we can enact this legislation when we consider permanent changes to the unemployment compensation system later in the year. I would urge my colleagues' support.

CONGRATULATING OLYMPIAN NANCY ANN KERRIGAN

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 5, 1992

Mr. MARKEY. Mr. Speaker, I proudly rise today to congratulate one of the Olympians from my district who completed in the 16th Winter Olympics in Albertville, France this past month. Nancy Ann Kerrigan represents the best America has to offer, and her stunning performance was one of grace, beauty, and unmatched athletic prowess. Nancy Kerrigan captured the hearts of all us watching women's figure skating with her bronze medal winning performance.

A resident of Stoneham, MA, Nancy began skating at age 6, and for 15 years has worked long and hard to become a national rising star. Her grueling daily workouts on the ice have resulted in her outstanding athletic ability, as well as painful back and neck problems. Undeterred, she worked harder to make her dream of becoming an Olympic champion a reality. In 1988, she placed first in the New England Seniors Championship and later placed first in the National Collegiate Championship. She has won numerous competitions throughout the last 3 years. .Just before the Olympic games in January of this year, Nancy won the silver medal at the National Championships in Orlando, FL.

At only 22, Nancy is not only is a world-class professional figure skater, but also a student working toward her business degree from Emmanuel College in Boston. She embodies the true American heroine, a superb athlete and exemplary scholar.

Those of us who are familiar with Nancy's past successes were not surprised by her inspirational performance in Albertville. I am confident that this is only the beginning of Nancy Kerrigan's remarkable athletic career and I am honored to have this opportunity to pay tribute to her. I extend my best wishes to a true Olympic champion.

RESTORING UNITY AND PEACE TO CYPRUS

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 5, 1992

Mr. GREEN of New York. Mr. Speaker, for years Congress has deplored the continued division of Cyprus. Despite our best efforts, however, the crisis for that island nation remains unresolved. With the cold war over, the United States must now step up the pressure to reach a solution to outstanding regional problems such as this. The international community stood united and resolute behind the rule of law last year in the war with Iraq, and that stand proved victorious. With United States leadership, we can bring that same determination and sense of purpose to this outstanding conflict, so that Cypriot national sovereignty can at last be restored.

For nearly two decades, some 35,000 Turkish troops have remained in Cyprus, prohibiting that nation from finding a political solution to its problems. My message today is simple—Turkey must remove its troops immediately, so that all parties may work toward a peaceful resolution of the Cyprus problem.

Turkish troop presence on Cyprus is unjust and in violation of international law. The situation has dragged on for 17 years without resolution, leaving a nation divided and a population embattled. The international community has repeatedly condemned the Turkish occupation of the island's northern third, and several United Nations resolutions have called for the immediate withdrawal of those troops. While I agree with President Bush that the United States cannot dictate terms in resolving the question of Cyprus, I do believe that American strength and resolve must be applied to the problem of Cyprus, and that this untenable situation must end.

For that reason, today I am introducing, along with Representatives MRAZEK and PELOSI, legislation to withhold United States military and economic assistance from Turkey so long as that nation continues to occupy Cyprus illegally. Turkey receives over $500 million in United States aid annually. We must use that aid as leverage to achieve a Turkish withdrawal from Cyprus. Since the 1974 invasion of Cyprus by Turkish troops, our Nation has provided nearly $6 billion in military aid to Turkey, and yet virtually no progress has been made in convincing the Turks to cease their occupation of Cyprus. The United States must use our political and economic muscle to back up the efforts of the United Nations to reach a just settlement of the Cyprus problem.

Shortly after the gulf war, the problem of Cyprus commanded the full attention of President George Bush, who met in Turkey with that nation's President Turgut Ozal on July 20, 1991, the 17th anniversary of the Turkish invasion of Cyprus. I commend President Bush for the interest and activity he has given to this problem, but I believe the President must go further and assign the highest priority to the Cyprus problem in all United States discussions with the Turkish leadership.

Cyprus must be permitted to benefit from the greater atmosphere of peace and freedom that is sweeping across so much of Europe. Cypriots, both Greek and Turkish, deserve to be free of the hostilities that have plagued their land for over 15 years. Let us erase the green line and bring an end to the division of Cyprus. Let us work to restore the civil liberties for the people of Cyprus. Clearly, the Turkish military presence must end, so that the citizens of Cyprus may at last enjoy peace and reunification.

In closing, I encourage my colleagues to join Representatives MRAZEK, PELOSI, and me in sponsoring this important legislation. United States policy must not perpetuate the division of Cyprus, but rather, we must provide a catalyst for unification. We must let the Turkish Government know loud and clear that finding a solution to Cyprus is paramount in defining the future of United States relations with Turkey.

H.R. 4394, REGARDING MERCHANT MARINES' DOCUMENTATION

HON. WALTER B. JONES

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 5, 1992

Mr. JONES of North Carolina. It may be hard to believe, but there are vessels operating in waters of the United States with crewmembers who are not required to demonstrate their fitness for duty. Allowing undocumented seamen to work on these vessels unnecessarily increases the potential for injury or death of other waterway users. In addition, since many of these vessels transport oil or hazardous substances, any accident puts this Nation at risk for serious environmental damage to our shores and natural resources.

Today, as a first step in correcting this dangerous problem, I am introducing a bill to require these undocumented crewmembers on tugs, towboats, and barges to meet Coast Guard standards for employment.

Current Law prohibits employment of a merchant seaman on a vessel over 100 gross tons unless that person has a merchant mariner's document issued by the U.S. Coast Guard. To qualify for this document, the individual must submit to drug testing, undergo a Federal Bureau of Investigation criminal record check, allow the Coast Guard to review driving records information contained in the National Driver Register, complete 60–90 days of seatime, and provide proof of commitment for employment.

These important safeguards do not apply to certain personnel on vessels under 100 gross tons, so thousands of undocumented seamen escape any kind of Coast Guard regulation or oversight. Even more shocking, an individual whose documents have been revoked or suspended for alcohol or drug abuse may end up employed on one of these vessels.

According to Coast Guard statistics, approximately 57 percent of towboat casualties between 1981 and 1987 were caused by personnel. The Coast Guard defines "personnel causes" to include factors such as lack of training and experience, intoxication, improper safety precautions, and operator error.

From these figures, it is obvious that the number of accidents should drop if the Coast Guard had some authority to ensure that only qualified seamen were employed on these vessels. My bill provides this authority by increasing the number of crewmembers on tugs, towboats, and barges required to have merchant mariners' documents.

While we cannot prevent every accident on our waterways, we can reduce the chances of one occurring. Enactment of this bill will increase navigational safety and alleviate one element of jeopardy for our shore environments.

A TRIBUTE TO OPERATION PEDRO PAN

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 5, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I am delighted to bring to my colleagues' attention the Operation Pedro Pan Group, a group of individuals who are committed to helping some of south Florida's children. What is most special about this group of individuals is that they were all children of Operation Peter Pan. They were part of the thousands of frightened, unaccompanied Cuban children who came to the United States and had nowhere to go. Operation Peter Pan calmed these children, took care of them, and talked about being brave and proud because they represented their Cuban homeland.

Many years later, these children, who are all now adults, have launched Operation Pedro Pan Group to care for the children of south

Florida who desperately need love and care. In the closeness and unity of their shared experiences as unaccompanied Cuban children, they now have committed to help the children of today.

Operation Pedro Pan Group's objectives include to sponsor aid, promote, and assist programs that benefit children in need. Their first project is to help with the development of the Children's Village, a project of Catholic Community Services which provides a home-like atmosphere for children up to age 18. Another goal for Operation Pedro is to document their history and develop a directory of Peter Pans.

Last month, Operation Pedro Pan started a tradition of meeting for breakfast on the last Saturday of every month. In March, Operation Pedro Pan will be hosting an encounter seminar with the objective of sharing their common experiences.

I am especially pleased to recognize the people of Operation Pedro Pan Group. I wish to commend Lynn Guarch-Pardo, Gerardo Simms, Alfonso Garcia, Elisa Vilano Chovel, Silvia Gonzalez Munoz, Guillermo Rodriguez, and Fulvia Almeida Morris for their tremendous efforts to continue the pride and strength that was witnessed during Operation Peter Pan.

THE NATIONAL MARINE SANCTUARIES REAUTHORIZATION ACT OF 1992

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 5, 1992

Mr. STUDDS. Mr. Speaker, today I am introducing legislation that will reauthorize one of this Nation's most important marine environmental protection programs—the National Marine Sanctuaries Program.

Since 1972, the National Marine Sanctuaries Program has worked to accomplish what was once thought to be impossible—the protection of special areas of the marine environment for conservation and multiple use. This program has worked against the odds from the start, attempting to manage existing sanctuaries and designate new ones with grossly inadequate funding and with relatively little backing from its parent body, the National Oceanic and Atmospheric Administration.

In spite of these hurdles, the Sanctuaries Program now encompasses 10 very special areas of our Nation's marine environment, thanks in large part to its championship by many of my colleagues in the Congress and to the tremendous grassroots support for marine sanctuaries. Within these sanctuaries—from California's Channel Islands to North Carolina's wreck of the U.S.S. *Monitor,* from Massachusetts' Stellwagen Bank—I may be a bit premature on this one but ever optimistic—to Florida's Keys—environmentalists, scientists, fishermen, and others work together to conserve the fragile marine environment and its resources for future generations.

For coastal Massachusetts, effective marine conservation is an essential building block of our economy and our future. Without it, we risk losing the fishing and tourism industries that have served so well and so long as our economic foundation. The sanctuaries program itself is a solid contributor to the goal of dependable marine conservation, and it deserves our support.

That is not to say that it doesn't need improvement. The National Marine Sanctuaries Reauthorization Act, which I am introducing on behalf of myself and my colleagues, Mr. YOUNG, Mr. JONES, and Mr. DAVIS, would strengthen NOAA's ability to conserve marine resources effectively and reaffirms the program's commitments to research and education. It takes the important step of defining NOAA's authority to manage activities outside of sanctuary boundaries that are likely to injure sanctuary resources. This bill also streamlines a lengthy and cumbersome designation process. Perhaps most importantly, it authorizes the kind of funding this program so desperately needs to conduct even its most basic functions.

In short, Mr. Speaker, the National Marine Sanctuaries Program is very much worth our endorsement, and I urge my colleagues to join me in supporting its reauthorization.

INTRODUCTION OF THE MEDICARE GEOGRAPHIC DATA ACCURACY ACT OF 1992

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 5, 1992

Mr. HALL of Texas. Mr. Speaker, today I, along with many of my colleagues, are introducing the Medicare Geographic Data Accuracy Act of 1992, which will require the Health Care Financing Administration to use current, accurate, and regularly updated data when computing the geographic-cost-of-practice indices, or GPCI, in conjunction with the new Medicare payment system.

This would seem to be a humble request. Shouldn't even require congressional action. As my grandson and Saturday Night Live fans would say, "Not".

What if I invented a new car, a politically correct car, that was more fuel efficient, environmentally cleaner, safer, and more available to buyers?

You'd buy it. We did. And so did the doctors in my State, and other States represented by those sponsoring this bill today. But, now we've got a dose of buyer's remorse. We've discovered that we've bought a new unit with 10-year-old parts and a drive train that only works in certain States. It's a new looking car equipped with junk parts and the same old problems * * * spewing out pollutants and breaking down right when you accelerate onto the freeway.

When the Federal Government trotted out its new Medicare payment reform system, the RBRVS, they promised to deliver, in 187 or so pages of regulations, a design that would equalize the large payment disparities between urban and rural settings and between specialized and primary care services. One of the multipliers, as they call it, in this elaborate formula is supposed to modify the RBRVS to account for the obvious differences of practice costs across our country * * * costs of office rent, employee wages, and medical malpractice insurance, for example. True to bureaucratic fashion, it has an acronym as well—GPCI.

But the number crunchers in Baltimore took the quick and dirty route—one of their words of art—in building the scientific data base, using that term loosely, for their GPCI. The data is ancient—sometimes a decade old, doesn't measure what it pretends to, and in no way even remotely reflects the actual costs of practicing medicine in places as diverse as New York City and Rockwall, TX.

The practice costs for office rent are based on rental data from a 1987 study by the U.S. Department of Housing and Urban Development of suburban apartment rents.

The practice costs for employee wages are based on a 20-percent sample of clerical workers and nurses from the 1980 census.

Physician work is from the 1980 census of average hourly earnings of nonphysician professionals, like teachers and engineers.

Medical liability costs are from a company that, in Texas, underwrites only a couple of hundred out of 30,000 plus doctors, and only for low-risk office type practices.

The legislation we are introducing today simply requires current, accurate data, and regular updates of that data.

When the Federal Government tinkers with Medicare, it is fooling around with one of our most vulnerable constituencies. A seemingly minor statistical adjustment in Washington, barely making a peep or whimper, goes off like a sonic boom of seismic proportions when its multiplied across 50 States and millions of elderly people. We should at least be sure that what we launch from here is truthful, reliable, and accurate.

The doctors in Texas and other States as varied as California, New York, Alabama, Florida, Arkansas and Georgia did, in fact, ask the Health Care Financing Administration [HCFA] to clean up their statistical act. In so many words, HCFA replied, "Make me."

This bill makes them do the right thing.

We respectfully request the favorable consideration of this modest, budget neutral repair to the "new" Medicare fee system formula so that all the moving parts of this shiny new model are in perfect working order. We would like to be able to issue a warranty to the physicians and Medicare beneficiaries in our respective States so that they won't be taken for a ride by their Government.

THE 225TH ANNIVERSARY OF LENOX, MA

HON. JOHN W. OLVER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 5, 1992

Mr. OLVER. Mr. Speaker, I rise today to honor Lenox, MA, which is celebrating its 225th anniversary this year. Lenox is known for its rich and diverse cultural history. Tanglewood in Lenox is the summer home of the Boston Symphony Orchestra as well as popular musical artists, both contemporary and classical. Lenox is a wonderful place to live. Lenox is known as the gathering place for its growing arts, tourism attractions, and resorts.

Lenox was first incorporated in 1767 and held its first town meeting on March 11, 1767. Lenox town government predates the United States. The Appalachian trail in the Berkshires travels through town.

The Lenox Board of Selectmen have declared March 11, 1992, as a great day of celebration honoring the town's 225th anniversary. The town has many events planned throughout this year to celebrate this historic occasion.

Lenox is a town with a proud history deeply rooted in the Berkshires. I hope all my colleagues will join me in honoring this Berkshire town's 225th anniversary.

SMALL BUSINESS INNOVATION DEVELOPMENT AMENDMENT ACT OF 1992

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 5, 1992

Mr. SKELTON. Mr. Speaker, I rise to introduce the Small Business Innovation Development Amendment Act of 1992. Eleven of my colleagues have joined me as original cosponsors of this legislation which seeks to improve on the successful Small Business Innovation Research Program. First and foremost, our bill would reauthorize and increase the SBIR Program. In addition, our bill would increase the emphasis which the program places on the commercial potential of Federal research and development. And finally, the amendments we propose would enhance the protection for participating small businesses.

Mr. Speaker, the Small Business Innovation Research Program has been in operation for a decade. If you consider the pilot program, the concept has been successfully providing top quality research to the Federal Government for over 15 years. It is one of the most studied and most copied programs that the United States runs. Nations such as Japan, Italy, Germany, Switzerland, Canada, and Great Britain have shown an interest in the program and in some cases, adopted similar programs.

The concept is a simple one: Building on our knowledge that small businesses are often more focused and more imaginative than large firms, the Federal Government should harness small business ingenuity in a special program. A large number of small awards are made to small firms who believe that they can help the Federal Government perform a research task. Once the research is done, it is thoroughly reviewed by experts in the field and, if the idea shows promise, a larger award is made to develop the idea and perhaps build a prototype. Finally, the best ideas developed in this way have achieved astonishing success in finding their way to the marketplace. Commercialization has been achieved either through sales to the Federal Government, in outright production and incorporation into products and services, or through licensing agreements.

The process makes it as simple as possible for small business to involve themselves in Federal research. As a result, benefits are provided to the Government, to the participating small business, and to the public at large. Not only do we think of new ways to squeeze more bang out of each buck since small businesses are remarkably efficient—program participants also generate jobs and exports that dramatically help our economy; they developed weapons and defense systems that served our troops well in Desert Storm; they have helped us to improve our health care and to explore outer and inner space. The program has already produced billions of dollars in sales and financing commitments to private industries and billions more are projected.

We needn't only take the word of small businesses for the success of the program. All of the participating agencies, no matter how reluctant they originally were in joining the program, now endorse it heartily. In fact, 53 percent of the project officers in the field who run research programs felt that SBIR would be more likely to produce commercial products than other Federal research, versus 12 percent who did not.

Large industries know the value of having small businesses perform research. In fact over the last decade, they have doubled their use of small firms for research and development while Federal small business use has remained constant.

The bill we introduce today, Mr. Speaker, seeks to correct that situation by increasing the amount of research that must be done by small firms and then encouraging those firms to develop products that can compete on world markets. This bill reaffirms that the best ideas, including the SBIR Program, can be found right here at home.

MICHAEL H. HUDSON

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 5, 1992

Mr. MICHEL. Mr. Speaker, the many friends of Mike Hudson were saddened to learn of his untimely death last week. For many years, Mike had been a confidant and adviser to public figures in Illinois, and was widely respected for his knowledge, his professionalism, and his love for our State and its people.

We first got to know Mike when he served Gov. Dick Ogilvie of Illinois in the early 1970's. Throughout the years, he was always willing to take the time and effort to provide advice and assistance on issues involving Illinois.

At the time of his death, Mike was vice president, public affairs, of the Illinois Tool Works, Inc., in Glenview, IL. He was a member of many organizations, including the Chicago Area Public Affairs Group and the Foundation for Public Affairs, and was former chairman of the National Association of Manufacturers Public Affairs Steering Committee.

Our great democratic system needs the participation of its citizens if it is going to do the work of freedom. For many years, Mike helped make democracy work in Illinois, in official and nonofficial capacities. We all will miss him and our condolences go to his wife, Linda, and his son, Buell.

HATE VIOLENCE CONDEMNED

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 5, 1992

Mrs. MORELLA. Mr. Speaker, I rise today to express my outrage over an act of hate and violence which was inflicted Tuesday upon two young black women in Montgomery County, MD. The women were allegedly chased and attacked by two white males who were later taken into custody. One woman escaped physical harm when taken into the home of two good citizens who called police. The second had her clothes ripped from her and was doused with lighter fluid, after which her assailant attempted to light her on fire. Fortunately, police arrived and thwarted these actions.

It is unconscionable that, after almost 30 years following the passage of the Civil Rights Act, we are still faced so pathetically with the ignorance and hate of racism. Black women often suffer double discrimination as they become the targets of hate because of their sex, as well as their race. It is imperative that we continue our efforts to educate our youth on the value and beauty of diversity, but, at the same time, our laws must reflect a societal condemnation for racial intolerance and all hate crimes. This unfortunate incident is yet another example of our need to pass the Violence Against Women Act and other legislation which will assist in making this country safer for women.

A TRIBUTE TO BRUCE HAYDEN AND THE SPECTRUM PROGRAMS

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 5, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I wish to acknowledge Mr. Bruce Hayden for his work at the Spectrum Programs during the past 22 years in which he has dedicated his life to the war against drugs. Mr. Hayden's commitment to those who suffer from substance abuse is certainly commendable. His work is a challenge to him and to those he helps and his work is their hope for a better life. Those who come to Spectrum for help are not only his clients, but also his friends. In a Miami Herald article entitled "Stint as Drug Volunteer Turns Into a Life's Work," Bea L. Hines reports:

> When Bruce Hayden joined the staff at Spectrum Programs, bell-bottom pants and long hair were in. Heroin and LSD were big. Nobody had heard of crack cocaine.
>
> That was 1970. Today, Hayden, executive director of the largest substance-abuse treatment program in South Florida, celebrates 20 years of service to Spectrum.
>
> Hayden came to South Florida as a VISTA volunteer, after graduating from St. Mary's College in California. He was stationed in Fort Lauderdale, assigned to work with teenage runaways. A new substance-abuse program had just opened.
>
> "I volunteered to work as a counselor there," Hayden said. "The idea was to spend just a couple of years here and head back to California."

This week, Hayden, 44, reflected on the victories, challenges and changes he has encountered.

"This could be a depressing job," he said. "But * * * there has never been a lack of challenge. The client population we work with is pleasurable. They don't all make it, but we get an opportunity to see real, lifelong changes. That makes it for me."

One victory, he said, is how "educated" the general population has become about substance abusers.

"It used to be that people thought drugs only affected a certain class of society. The message was hard to get across that drugs know no class," he said.

The progress is evident, Hayden said, in the number of drug-free work places, the curriculum in schools, parental involvement and in television programs that include drug-free messages.

"Communication is happening that didn't happen even 10 years ago. Today, even the Department of Corrections has developed substance-abuse programs because 70 percent of the people coming into the prison system have a drug problem," he said.

Although there are four other substance-abuse programs in South Florida, Spectrum is the only one that is accredited by both the Joint Commission on the Accreditation of Health Care Organizations and the American Corrections Association.

In the 21 years since it started, more than 12,000 people have gone through Spectrum.

Hayden said that Spectrum's success can be measured by the number of clients who have completed the program and taken charge of their lives.

Count among them Doreen Barton, 46, and Warren Samet, 43.

Both came to Spectrum in the mid-'70s, strung out on drugs. They found the help they needed—and a friend in Hayden.

"He is a mentor and a friend," said Barton, who came to Spectrum as a heroin addict. "He is running a program that does not have a popular clientele. Yet he stands up for us."

Barton became the administrator of quality insurance training for Spectrum.

Samet said he finally came to Spectrum for help after missing four previous appointments. After a year in the program, Hayden encouraged Samet to get a job as a social worker.

"I've been working here 11 years now," Samet said. "And the biggest single reason I'm still here is because of his leadership. We are treated with respect and given room to grow."

Samet is supervisor of admissions for a program called Treatment Alternative to Street Crime at Spectrum.

"As my mother would say, 'Bruce Hayden is a mensch.' That's Yiddish for human being," Samet said.

How has Hayden lasted for 20 years at a job that causes burnout for many others?

"I guess people who get burned out can't see the light at the end of the tunnel. And also, maybe I'm just a little bit crazy. But I've always been able to see that light, no matter how dim."

Mr. Speaker, Mr. Hayden's lifelong commitment to the troubled lives of others has made a significant impact in the war against drugs and it has certainly made a difference in the lives of those who have come to him for help. His tireless efforts to rid our streets and our community of deadly substances are undeniably changing many lives.

CONGRATULATIONS OLYMPIAN JOE SACCO

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 5, 1992

Mr. MARKEY. Mr. Speaker, I rise today to recognize one of the Olympians from my district who competed in Albertville, France this past month. Joe Sacco of Medford, MA, was a member of the U.S. Olympic Hockey Team that thrilled the entire country with its performance at the winter Olympics.

Joe Sacco has displayed the hard-working, persistent attitude that we saw on the ice in Albertville all of his life. He was a first line left wing all 4 years at Medford High School. Joe set the Greater Boston League scoring record while becoming the first Mustang to ever score over 200 points in his career. He was chosen to the Boston Globe All Scholastic Team during his junior and senior years, and also played for Team Massachusetts for two seasons.

Joe continued his winning ways at Boston University, playing both left and right wing. He was named the "Most Improved Player" as a freshman, and then "Most Valuable Player" 2 years later. He also tied the Terrier team record for game winning goals during his sophomore year.

Joe was selected to play on the U.S. Junior Team competing at the World Junior Championships in Alaska, where he scored four times and had two assists. He also served on the North's team at the 1989 National Sports Festival in Oklahoma City.

It was no surprise to see Joe Sacco selected to the U.S. Olympic Hockey Team after his success in Massachusetts. It was a pleasant surprise to see the team do so well in international competition, taking fourth place amongst a field of traditional hockey superpowers.

Joe also recently scored his first goals in the National Hockey League, where he is currently playing for the Toronto Maple Leafs.

I would like to congratulate Joe Sacco on his success and thank him for representing his country so admirably during the 16th winter Olympics in Albertville, France. I wish him good luck in the NHL.

HOOSIC VALLEY SENIOR CITIZENS, CELEBRATING 25TH ANNIVERSARY, REPRESENT WHAT IS BEST ABOUT AMERICA

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 5, 1992

Mr. SOLOMON. Mr. Speaker, I rise to pay tribute to some of the most special and valued citizens of the 24th Congressional District of New York, the members of the Hoosic Valley Senior Citizens.

This organization of people aged 55 and older in the towns of Schaghticoke and Pittstown was founded in 1967 and will celebrate its 25th anniversary on April 14.

Over its quarter-century of existence, the Hoosic Valley Senior Citizens have provided untold benefits to the older residents of the area, including social activities, educational programs and advocacy on behalf of the needs of seniors.

Most of all, however, they embody collectively all of the vital contributions which seniors everywhere in America have made to our Nation, from raising families to keeping alive the values and sense of patriotism which have made America great.

Mr. Speaker, I ask you and all Members of this House of join with me, not only in saluting the Hoosic Valley Senior Citizens on their silver anniversary, but in thanking them on behalf of a grateful nation for all that they have done and continue to do for America.

MENTALLY DISABLED VETERANS

HON. H. MARTIN LANCASTER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 5, 1992

Mr. LANCASTER. Mr. Speaker, last month the mentally disabled incompetent service-connected veterans won a victory when the southern district of New York granted a preliminary injunction that prohibits the Department of Veterans Affairs from implementing a provision of law that suspends benefits for certain service-connected disability to certain "incompetent veterans." Subsequently, Secretary Derwinski ordered that benefits be restored to the affected individuals.

It makes sense to continue the benefits until September 30, 1992 when the provision in the law expires. However, the Department of Justice has filed a motion for an expedited appeal on the preliminary injunction, which was granted by the Court of Appeals for the Second Circuit. As a result, the plaintiffs were given barely 3 weeks—to March 13—to prepare their arguments. By appealing the preliminary injunction, the administration is merely postponing substantive review of the merits through a procedural gambit. If successful, it will have the effect of once again subjecting the plaintiffs to denial of the benefits they need while further depriving them of their day in court.

Legislation that I have introduced, H.R. 1473, with my colleague, Congressman BOB DORNAN of California, would reinstate this benefit. However, I and many of the colleagues in this House on both sides of the aisle who have cosponsored H.R. 1473, feel that the suspension of this benefit is not only discriminatory against the mentally ill, but also appears to make reductions in the budget by cutting benefits to those who are least able to defend the merits of this reduction. Balancing the budget by reducing service-connected disability compensation benefits of disabled veterans cannot be justified under any circumstances. To single out the most vulnerable and defenseless category of disabled veterans, the mentally incompetent, defines all reason and compassion. Requiring mentally incompetent disabled veterans to deplete their modest savings in order to qualify for benefits awarded in service of their country is cruel to their families, unconscionable and reeks of ingratitude.

U.S. District Judge Shirley Wohl Kram found that the current status is based on "irrational discrimination against the mentally disabled."

This is a bipartisan effort and I urge the 150 Members of this body who have cosponsored our legislation, and others who have not, to convince the administration to advise the Department of Justice to withdraw their appeal of the preliminary injunction. Prolonging resolution of this unfortunate situation will do nothing but subject these veterans and their loved ones to prolonged uncertainty and suffering.

COMMENDATION FOR PEPSI COLA OF PROVO AND SALT LAKE CITY

HON. BILL ORTON

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 5, 1992

Mr. ORTON. Mr. Speaker, recently, it was my privilege to present Pepsi Cola of Provo and Pepsi Cola of Salt Lake City, UT a certificate of appreciation for their efforts in recycling. The recycling campaign, which was entitled "Reuse it or Lose it" featured special labels which highlighted recycling facts. They were distributed locally on Pepsi cans through the month of November. Pepsi distributed over 1 million cases through Utah and Colorado.

The information was designed to stimulate the consumer's interest in recycling. Among those I found especially interesting were facts such as, the energy saved from recycling a single aluminum can will operate a TV set for 3 hours, making cans from recycled aluminum uses 90-percent less energy than making them from scratch, and recycling creates six times as many jobs as do land fills and incinerators. I commend Pepsi Cola for their recycling efforts and I think it was especially important that they targeted young people, whose future quality of life will depend on our wise stewardship of our natural resources.

ERNIE AND REGINA GOLDBERGER HONORED WITH THE TIFERET AWARD BY BETH JACOB CONGREGATION

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 5, 1992

Mr. LEVINE of California. Mr. Speaker, on Wednesday March 11, 1992, Ernie and Regina Goldberger, respected leaders of the southern Californian Jewish community, will be honored with Beth Jacob Congregation's Tiferet Award in recognition of their foresight and devotion to the congregation and community.

Over the years, the Goldbergers have been closely identified with UJA and with State of Israel bonds. As past principal of Hebrew school, vice president of Hillel Hebrew Academy, and a member of the Board of Bureau of Jewish Education, Ernie Goldberger has been consistently dedicated and committed to Jewish education. The Goldbergers are active in Yeshiva University and Chabad as well.

Mr. Goldberger dedicates nearly all of his spare time to Beth Jacob congregation, serving as a member of the board and as an officer for many years. He currently serves as financial secretary. He has served as president of the West Coast Union of Orthodox Jewish Congregations of America, and is a founding vice president of the West Coast Diamond Dealers Club.

In all of their endeavors, Ernie and Regina Goldberger share the support of their children, Sam and Yosie, and Yosie's wife, Sharon. I ask that my colleagues in the House of Representatives join me now in congratulating and honoring Ernie and Regina Goldberger on this most wonderful occasion.

TRIBUTE TO SISTER KAREN DIETRICH RECIPIENT OF 1991 PRESIDENTIAL AWARD FOR EXCELLENCE IN SCIENCE TEACHING

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 5, 1992

Mr. PALLONE. Mr. Speaker, I rise today to pay tribute to Sister Karen Dietrich of Belmar, NJ. Sister Karen has been selected as a recipient of the 1991 Presidential Award for Excellence in Science and Mathematics Teaching.

Sister Karen is a teacher of sophomore and senior science courses at St. Rose High School in Belmar. She has been recognized for both her outstanding ability in the classroom and her many contributions to her profession. Over the 9 years she has been at St. Rose High School, Sister Karen has devoted much of her time and energy to improving the quality of scientific education. In her role as department chair, she helps new teachers learn the ropes. Sister Karen has spoken at many in-service trainings, sharing her expertise and knowledge of effective teaching styles with other faculties. The Governor of New Jersey selected her from among teachers across the State to write a section of a State-sponsored biology textbook.

Everyone who knows Sister Karen is thrilled that her achievements have been recognized by the Presidential Award for Excellence. All the sisters of St. Joseph of Chestnut Hill, PA, can take great pride in their gift to us of such an outstanding teacher. Mr. and Mrs. Joseph Dietrich of Ewing Township, Sister Karen's parents, have traveled to Washington to be with their daughter as she receives the Presidential Award.

Of course, the people who know best just how richly Sister Karen deserves the Presidential Award are the many students who have studied with her over the years at St. Rose High School. I join them in congratulating Sister Karen and in wishing her continued success in all her endeavors.

A TRIBUTE TO DANNY HALL AND HIS GARDEN AT WHISPERING PINES ELEMENTARY

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 5, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to acknowledge the gardening work of Mr. Danny Hall at Whispering Pines Elementary School in Miami. Mr. Hall has been a source of motivation and encouragement to the students, teachers and even the parents of students at Whispering Pines. Through his gardening he has made the school grounds quite special, and the response has been remarkable. His colleagues and the students at Whispering Pines enjoy his kindness and thoughtfulness as well as his beautiful plants and flowers. It seems Mr. Hall has made a home for himself and his friends. Jon O'Neill of the Miami Herald reports:

> At first glance, Whispering Pines Elementary looks more like a botanical garden than it does a school.
>
> The front of the building features more than eight little gardens, surrounded by rocks and dotted with poinsettias, palms and other trees. The rest of the school at 18929 SW 89th Road is also lush with flowers, trees and gardens.
>
> School custodian Danny Hall has created the gardens during the past five years and labors over them every day.
>
> "I'm just trying to create a special atmosphere," said Hall, 49. "I love doing this. It shows people that I care, and it brightens up everyone's day."
>
> Principal Eduardo Rivas, who started at the school three years ago, liked Hall's work so much he assigned him to care for the grounds full time.
>
> "He's really incredible," Rivas said. "He doesn't stop. He's constantly asking to work on special projects, and he ends up volunteering a lot of his own time. He's really become a fixture here."
>
> That is obvious whenever the friendly custodian walks down the hall. A chorus of "Hi, Mr. Hall" rings out from students, teachers and parents, and many stop to compliment him on the landscaping.
>
> "The flowers and things make me feel good," said Sophia Hulst, a 10-year-old fifth-grader. "It makes our school look so much cleaner and prettier."
>
> Kelvin Watson, 11, agreed.
>
> "I think they're nice," the fifth-grader said. "Our school looks different than most other schools."
>
> Hall has no real experience in horticulture or landscaping, and he is modest about the work he has done at Whispering Pines. He gives a lot of credit to Rivas and head custodian Lula Coley. But he admits the gardens have become a personal mission.
>
> "Everyone tells me I've got a green thumb," he said. "It's just something I kind of took a liking to. I just hope it makes everyone feel proud."
>
> Originally from Chicago, Hall worked at Portland Cement for 15 years before starting at Whispering Pines in 1986. At the time, Nereida Santa-Cruz was principal there.
>
> "I looked at the grounds, and they were nude," he said. "I asked if I could try to brighten them up, and she really supported me."
>
> Hall does a lot of work on his own. He makes numerous forays to nurseries around

South Dade, looking for plants to add to his growing gardens. Rivas once went with him.

"It was amazing," the principal said. "He went up and down Krome Avenue, stopped at every nursery and somehow convinced the people there they needed to donate plants to the school."

Recently, Hall picked up more than 100 poinsettias from a nursery. To get them to the school, he took out the back seat and the passenger seat in his car and installed some makeshift shelves.

Hall says everything—the extra hours, the work in the hot sun, the car modifications—are worth it.

"The people here, especially the kids, really make my day," he said. "So I do it for all of them."

Mr. Speaker, I am proud of Mr. Hall's beautiful work at Whispering Pines. It is his thoughtfulness and dedication to his work as well as his commitment to serve our community that has earned him his success and the many friendships he has made at Whispering Pines. I would also like to acknowledge Principal Eduardo Rivas and past principal Nereida Santa-Cruz for giving Mr. Hall this wonderful opportunity and for supporting his terrific green thumb.

A TRIBUTE TO MICHAEL GIAMBATTISTA

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 5, 1992

Mr. BONIOR. Mr. Speaker, today I am privileged to congratulate an outstanding public servant who is retiring after 35 years with the Michigan Employment Security Commission, Michael Giambattista.

For over three decades, he has worked patiently and professionally to ensure the economic security of Michigan's working men and women. Michael has earned the respect and admiration of his coworkers who unanimously think of him as fair and dedicated. Michael has carried his responsibilities even further by working closely with city and local governments as well as the Job Partnership Training Act [JPTA] to create a climate of hope and opportunity for our displaced workers.

Mr. Speaker, on all accounts, Michael Giambattista has served his community with distinction and honor. On this special occasion, I ask that my colleagues join me in saluting this fine individual and extend to him our best wishes in all his future endeavors.

HAZARDOUS WASTE BURNING

HON. PAT WILLIAMS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 5, 1992

Mr. WILLIAMS. Mr. Speaker, today I am introducing H.R. 4413, requiring a 2-year moratorium on the burning of hazardous waste in cement kilns, and requiring the EPA to study the effects of handling, storing, and burning these wastes on human health and the environment.

Mr. Speaker, the striking and most memorable feature of the Gallatin Valley and the community of Bozeman is that it is pristine. The people of Bozeman are tenacious in their ownership and pride in the Gallatin. They know they've got a good thing in Bozeman, and they are understandably concerned that a permit may be issued, at any time, to burn hazardous wastes at an existing cement kiln plant on one end of the valley.

We Montanans are and ought to remain skeptical about the safety of burning hazardous wastes, which include oil sludges from refineries, contaminated soils from wood preserving, mining, refining, and other industrial Superfund sites. We want evidence that mixing such materials together and feeding them into a high temperature burner will not result in the releasing of dangerous materials through the smokestack and into the Big Sky.

Our skepticism is reasonable: When Montanans have asked what specifically is known about the specific airborne pollutants involved with burning these materials, the answer is always uncertain; neither governmental nor company officials know what the environmental effect will be because it depends on the combination of materials being burned at a given time.

Mr. Speaker, this bill simply assures that we will have 2 years in which to take a time out in order to find out. We want EPA to determine the implications of burning these wastes. We want EPA to review their existing regulations pertaining to boilers and furnaces and tell us if they are adequate in assuring the safety of these projects.

Montanans and all Americans are reasonable in wanting to find appropriate solutions to the problems we have with hazardous materials. We ask only that full information be available prior to making a decision which could have a serious effect on their living environment. This bill takes us in that direction.

CONGRESSMAN GERALD SOLOMON RECEIVES VFW CONGRESSIONAL AWARD

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 5, 1992

Mr. McEWEN. Mr. Speaker, I wish to congratulate my colleague Congressman GERALD SOLOMON of New York, for receiving the 1992 Veterans of Foreign Wars Congressional Award.

Those who have served in the defense of freedom choose to give GERALD SOLOMON the VFW's highest award not only because of all he has done to help America's 27 million veterans, but because of his contributions toward strengthening our Nation's security.

I have had the honor of serving with Congressman SOLOMON on the House Veterans Affairs Committee and now on the Rules Committee. I congratulate him on this most deserved award, and commend his acceptance speech to my colleagues:

REMARKS BY GERALD B.H. SOLOMON, VETERANS OF FOREIGN WARS ANNUAL DINNER, MARCH 3, 1992

Commander-in-Chief, Bob Wallace, your lovely wife Dianne, distinguished officers, and members of the veterans of foreign wars, national President Mary Sears and our auxiliary, distinguished Members of the House and Senate, outstanding voice of democracy participants, ladies and gentlemen.

Four years ago, at your VFW convention in Chicago, I was deeply honored to have been the recipient of your VFW Commander-in-Chief's gold medal award.

But this evening, I am even more proud and privileged to receive the VFW's highest citation, the Congressional Award.

Proud, because it allows me to join with those other Select Members of the House and Senate, many of them here with us this evening, who have received this covetous award for what they have done for their country and for the veterans of this great Nation.

But, Commander Wallace, I am even more proud because this award comes from an organization of over 2 million brave men and women, over two thousand of them here this evening, all of whom, during times of great peril of war, risked their own lives in defense of their country, and in defense of freedom and democracy for all mankind.

Commander Wallace, the men and women of your organization are the true heros, who not only served their country in uniform, but continue to do so as Members of the Veterans of Foreign Wars, a group that is always in the forefront of efforts to develop and maintain adequate veterans benefit programs.

Mr. Commander, the community work carried out by your local VFW posts in hometowns all across America is legendary.

And your promotion of pride, patriotism, and good citizenship, as exemplified by your nationwide "Voice of Democracy Program" and these wonderful, young people here tonight, are an inspiring and proud example to all Americans.

And Mr. Commander, the American people are grateful for what you and your organization have done, and continue to do for America.

This Nation has a great memory, and will never forget those who labored mightily in its cause, who suffered hardship in its defense, or became disabled in its preservation.

No, America will not forget, nor will veterans ever forget because those who wear the proud label of "veteran" have great memories.

They are memories of pain, glory, and honor.

They are memories of the horror of war and the preservation of freedom.

They are memories we must never forget * * * because those memories are the very reason we are the greatest, freest Nation on earth.

And it is those memories that brought about the VFW's greatest accomplishment during the 1980's.

And that was your never-ending support of the peace through strength philosophy of a strong national defense second to none.

That peace through strength concept stopped international communism dead in its tracks, it brought the Soviet Union to its knees; and it is the very reason that democracy is breaking out all over Europe and around the world.

And it is the very reason that our military, in magnificent fashion, and led by Gen. Norman Schwartzkopf, was so successful in Operation Desert Storm.

But, my fellow veterans, even though we have been successful, the war is not over.

The threat to American freedom is still there. Yes, the Berlin Wall has fallen and the former Soviet Union is no more, but the cold fact is that tens of thousands of armed nuclear warheads are still aimed at American cities.

Four million Soviet troops still remain in uniform and the new Russian confederacy is highly volatile and unstable * * * and no one knows the future, or who will control it.

There is also the very serious threat that no less than ten hostile anti-American terrorist countries either have (or are on the verge of having) nuclear missile capacity * * * and any one of them would not hesitate a moment to launch a sneak terrorist attack on Americans, both here and overseas.

And of course we all know that deadly atheistic communism still enslaves almost half of the world population in places like Cuba, North Korea, Vietnam, and Mainland China.

And my fellow veterans that means the job is not done * * * the war is not over.

And that is why we must never let down our guard. We must never again leave America undefended, as we did on December 7, 1941.

That is why we must absolutely continue to maintain a peace through strength and strong national defense, that can guarantee the protection of American interests both at home and abroad.

Yes, while still protecting America's interest, we can reduce our defense budget within reason, as Secretary Cheney and Gen. Colin Powell have recommended.

And, yes, most of those savings should be used to reduce the unconscionable deficit that is ruining our Nation's economy.

But, any of that savings that is not applied to the deficit ought to go directly towards restoring the Department of Veterans Affairs Hospital and Health Care Programs to a funding level that will guarantee our Nation's obligation to provide the highest quality medical care to any, I repeat any, sick or disabled veteran, and do it in veterans hospitals * * * where only veterans are served.

And so my fellow veterans, the fight is on. We must fight with all our might to see that our military budget is not decimated.

We must fight to make sure that the future veterans of America, the young men and women serving in our all voluntary military today, continue to be the brightest, the best educated, the best trained, the best equipped, and some of the most highly motivated soldiers ever to serve.

We must make sure that these volunteers, coming from the inner cities of America, from the suburbs, from the farms, from all across America, have an opportunity to pursue an honorable and proud military career.

Where they can accumulate up to $25,000 of educational benefits through the Montgomery GI Bill.

And where they can learn something desperately needed in America today * * * how to be good citizens.

In today's military, our young people learn things all too often neglected in our homes and schools.

They learn discipline and respect.

They learn teamwork and responsibility.

They learn the importance of being polite and courteous.

They learn to live by the rule of law.

They learn not to use illegal drugs.

They learn the meaning of the words pride and patriotism.

And more often than not they even get a little religion.

Yes, every year, hundreds of thousands of these kids, many from the inner cities, from broken homes, from middle class America, join the military, become good citizens * * * and they learn these terribly important principles they, somehow, missed at home or in school.

And when their enlistment is over, when their service is done, they turn in their uniforms and return home, bringing these ingrained principles along with them, to be spread about their community, and taught to the younger generations to come.

Yes, these men and women are no longer soldiers, sailors, marines or airmen, they now have a new responsibility.

They have now joined one of the most important groups of people in America, a group that is, without doubt, the most responsible for making America the greatest and freest Nation on Earth.

It is the group represented by all of you gathered here tonight, those who have earned the right to proudly call themselves veterans of the Armed Forces of the United States of America.

Thanks to them, America is No. 1!

Commander Wallace, on behalf of all veterans, I gratefully accept this cherished congressional award.

God bless you * * * and God bless America.

THE FISCAL YEAR 1993 BUDGET RESOLUTION

HON. BILL ORTON

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 5, 1992

Mr. ORTON. Mr. Speaker, today the House adopted a budget resolution for the next fiscal year. This completes a critical 2-week process in which we have made major tax and budget decisions that affect all Americans.

I vote against final adoption of House Concurrent Resolution 287, the budget resolution as reported by the House Budget Committee. I also voted against the three substitute budgets. I would like to take this opportunity to explain my reasoning behind these actions.

Quite simply, I cannot in good conscience support any budget resolution that produces a deficit in the range of $325 billion. The debate this week has centered almost entirely on a question of spending priorities—primarily, how we allocate spending between defense and domestic projects. While this is an important decision, it fails to ask the more fundamental question of how we can bring down spending in line with revenues.

With the exception of the Dannemeyer substitute—which relies on refinancing gimmicks and unrealistic Medicare/Medicaid cuts—all three of the budget alternatives contemplate a deficit in the range of $325 to $331 billion. As a result, there is effectively no opportunity for me or other Members to vote for a budget that makes a serious effort to make real spending cuts. The only choices involve business as usual.

Such inaction on the deficit is unacceptable. The deficit for the current fiscal year is estimated by the President to be just short of $400 billion. This is a figure of unprecedented proportion. If we continue along this path, our national debt will overwhelm the economy. The result is a mortgage on our children's future, the crowding out of the private sector from financial markets, and an increasing fiscal straitjacket.

Instead, we need to make hard choices on real spending cuts and work toward a balanced budget. To be sure, certain factors will move us in this direction automatically. Three years from now we will presumably not need to spend the approximately $75 billion we are spending this year on the banking, savings, and loan bailout. And, a full employment economy may increase tax revenues and lower spending on unemployment insurance and other support programs.

But we have to do more. To start with, consider defense. There is near unanimous agreement in Congress that the collapse of the Soviet Union and the end of the cold war gives us an unprecedented opportunity. The House Armed Services Committee has undertaken an extensive analysis on the question of military preparedness. Based on a realistic appraisal of the need to sustain a number of foreseeable military operations at the same time, Chairman ASPIN has recommended that we can make significant funding reductions and still maintain force readiness. The Budget Committee's reduction in defense spending of $15 billion in budget authority and $10 billion in outlays next year is based on Chairman ASPIN'S recommendations. These recommendations foresee cuts of some $100 billion over the next 5 years, while maintaining readiness to conduct a Desert Storm-type operation simultaneously with other military scenarios. I support this level of defense reduction, and feel that the President's budget in this area is too timid in taking advantage of the current state of world affairs.

However, it is in the use of this peace dividend that I part company with many of my colleagues. Under the 1990 budget agreement, we created the firewalls in an effort to enforce fiscal discipline. Under the firewalls, cuts in spending in one category could not be added back to another category, if doing so would break the budget cap in that second category. Since we are at or near the caps on domestic spending, many Members in Congress want to tear down the firewalls and allow three quarters of the defense savings to be poured back into domestic spending.

I oppose this approach and believe that 100 percent of the peace dividend should be used to reduce the deficit. Shortly after adoption of the budget resolution, the House will be considering H.R. 3732, the Budget Process Reform Act. This bill would tear down the firewalls and allow us to spend the peace dividend. I plan to vote against this bill. Eighteen months is far too short a period of time to give up the small degree of fiscal discipline created by the 1990 budget act.

The decade of the 1980's has dulled our senses. We have become accustomed to borrow and spend policies in which we borrowed trillions of dollars to pay for a military buildup. Now that we are able to reduce our large expenditures on defense, we characterize it as a dividend. It is not a dividend; it is only money that we will not have to borrow to spend.

I recognize that this position may be characterized as being heartless. I know that we are experiencing a recession and that it is attractive to advocate increased social spending to cushion the hard times. But, aren't we being more heartless to our children and future generations if we saddle them with so much debt that ten or twenty years from now, we cannot even afford basic Government programs, such as Social Security or education?

We must act now. There are many other areas in which we can make measured, but real spending cuts. Currently, entitlements are rising at an astronomical pace. Reforms are necessary. Welfare reform is an example. The State of Utah has instituted real changes in their welfare system that are working to cut costs drastically. We should apply these types of changes at the Federal level. In the areas of Medicare and Medicaid, we need to take steps to keep costs under control. This does not mean rolling back eligibility or cutting back on quality of care. But it does mean increased attention to curbing the causes of runaway health costs.

Domestic spending is another area where cuts should be made. I am not one of those who claim that we can balance the budget simply by cutting back on wasteful domestic spending, as some of my Republican colleagues seem to believe. But, it is true that significant savings can be achieved. I serve on the Democratic Caucus Task Force on Government Waste. Our preliminary report estimates that there are $65 to $85 billion in savings that can be achieved in the first year alone from specific actions.

The President has recommended the termination of some 261 substandard projects and 246 programs in his fiscal year 1993 budget. Some of the projects targeted for termination are in my congressional district. Their deletion would undoubtedly cause some pain or economic distress. Nevertheless, I could support termination of these projects, provided that all projects and programs on the President's list were deleted. The problem, however, is that many Members of this body complain endlessly about pork barrel spending, but flinch when it comes to any specific cuts in their own district. The result is that virtually nothing is ever cut. As I have indicated, I for one would be willing to support cuts for projects in my district as a tradeoff for comparable cuts nationwide. We all must sacrifice and share the pain of cuts if we are ever to make progress on deficit spending.

Is it possible for the Congress to make the hard choices I have outlined to cut the budget? As a first term Congressman, I am not so cynical as to proclaim that it will never happen. At the same time, I have been here long enough to realize that Congress needs a push in the right direction.

That is why in addition to advocating spending cuts, I also support a wide range of budget process and Federal management reforms. To begin with, we need a constitutional amendment to mandate a balanced budget. No organization can achieve certain goals without a statement from the top defining those goals. The budget being adopted today, with a deficit of $325 billion, is the wrong statement to make.

Other needed reforms include enhanced Presidential rescission or impoundment power, in order to permit the President to delete wasteful spending projects; sunset laws to review and eliminate outdated programs; capital budgeting to encourage long-term planning; and a revision of the Federal bureaucracy, in order to adopt management and efficiency techniques common in the private sector.

In conclusion, I am disappointed that I was unable to support any of the budget plans. But I have not given up on the process. I intend to work constructively to support appropriate Government spending. At the same time, I cannot and will not compromise on the need to restore fiscal sanity to our process of budgeting and spending. I believe that our future economic well-being hangs in the balance.

A CONGRESSIONAL SALUTE TO MS. ELOISE BUSSIO

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 5, 1992

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to an exceptional woman whom I greatly admire, Ms. Eloise Bussio. On Friday, March 6, 1992, Ms. Bussio will retire after 24 years of dedicated service to the Los Angeles Unified School District [LAUSD].

Upon graduation from the University of California, San Francisco with an R.N., B.S., and P.H.N. in 1957, Eloise immediately entered the University of California at Berkeley and received her M.S. degree in June 1959. She began her career as an assistant head nurse with Alameda County Hospital in psychiatric emergency admitting. She was quickly promoted to head nurse in June 1960.

For the past 7 years, Eloise has served as the field coordinator of school nursing for the LAUSD. Her position was a demanding but rewarding one, and her duties included the orientation and supervision of all nurses with the system. She was also instrumental in coordinating a program designed to assist individuals with exceptional needs. Prior to this post, Ms. Bussio was a school nurse for 17 years with the Los Angeles city schools.

As dedicated to her community as she is to nursing, Eloise is a board member for the Toberman Settlement House. In addition, she is an honorary life member of the PTA and the recording secretary for the Council of School Nurses. These noteworthy contributions to her profession and community have not gone unnoticed, Eloise has been chosen as Staff Member of the Year and has been honored with the Outstanding Service Award.

My wife, Lee, joins me in extending our thanks to Ms. Eloise Bussio in recognition of her contributions to our schools and community. She is a very special individual who has devoted her talents and energies to making our school system a healthier and happier environment. We wish her all the best in the years to come.

NATIONAL FARMWORKER ADVOCATE HALL OF FAME AWARD PRESENTED TO JOHN DAVID ARNOLD, PH.D.

HON. ED PASTOR

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 5, 1992

Mr. PASTOR. Mr. Speaker, in January of this year, Dr. John Arnold was named as a recipient of the National Farmworker Advocate Hall of Fame Award. I would like to call my colleagues' attention to the achievements of my longtime friend. John Arnold has spent much of his life exemplifying what America was built on. He has demonstrated commitment, valor, and honor with his unsurpassed efforts. John's work originated with the working people of Arizona, and improving the working conditions of Arizona's farmworkers.

The contributions that John Arnold made to improve the housing, training, and job placement of the farmworkers will be well noticed far into the future. John's commitment started in 1954, when he began to employ his bilingual talents as a volunteer in order to improve the lives of the Mexican farm laborers. Perhaps one of John's most recognizable feats was the founding of PPEP [Portable Practical Educational Preparation], an organization that was designed to provide instruction in practical educational experience which prepared the farmworkers to acquire basic survival skills.

His untiring efforts focused on improving the lives and welfare of farmworkers. His commitment to their cause endures and his work on their behalf goes on.

Congratulations, John, on your achievement.

MILITARY MEDICAL FACILITIES LEGISLATION

HON. J.J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 5, 1992

Mr. PICKLE. Mr. Speaker, today I am introducing legislation which would direct the Department of Defense to take into account the needs of retirees and reservists when considering whether or not to close a military medical facility.

Under a current Defense Department directive, DOD can only consider the needs of active duty personnel when deciding whether to close a military medical facility. At a time when the military is drawing down under the base closure process and many active duty service men and women are being asked to take early retirement or transfer to Reserve status, this directive creates an unintended penalty on areas of the country which have substantial concentrations of military retirees and reservists.

Many of our military hospitals and pharmacies were built nearly 50 years ago and the populations around the facilities has changed considerably since that time. In some areas of the country there are too many medical facilities and in other areas too few. In my district there is only one veterans' hospital, yet there are 65,000 veterans and 30,000 military retirees.

To close a hospital on the strict basis of active duty personnel needs fails to take into consideration the needs of the thousands who would otherwise be deprived.

My bill does not require the Defense Department to keep all military medical facilities open. It simply directs DOD to decide on a case-by-case basis whether or not to close a particular facility based on the needs of all of the users of the facility.

THE SYRIAN BUILD-UP

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 5, 1992

Mr. LEVINE of California. Mr. Speaker, Syria's military buildup, financed by the Saudis, raises not only serious questions about Syria's commitment to Arab-Israeli peace talks, it also underscores the difficulty in implementing a multilateral arms restraint regime for the Middle East. As William Safire reports in his commentary China's "Hama Rules" (New York Times, 3/5/92), the President's policy toward proliferating countries like China undermines his own arms control efforts. By vetoing the bill that would link China's missile restraint to MFN status, the President has acquiesced in the continuing flow of sophisticated arms and technology to dangerous proliferators.

In fact, the administration's current policy is now allowing our own dual-use technology—that which has both military and civilian application—to get into the hands of terrorist countries. I recently introduced legislation, H.R. 4378, which places a flat-out prohibition on the transfer of dual-use technology to terrorist countries. If we are to tell countries like China and Russia not to sell Scud missiles or SU-24 aircraft to Syrai and Iran, then the United States must ensure that our own policy restricts the flow of dangerous technology and arms to this volatile region.

I urge my colleagues to review the following report of the administration's latest foreign policy blunder.

CHINA'S "HAMA RULES"

(By William Safire)

WASHINGTON.—When Syria's dictator, Hafez al-Assad, decided to deal with an intifada of Muslim fundamentalists in 1982, he did not bother with rubber bullets, deportations or the killing of a neighboring terrorist leader.

On the contrary, he leveled his guns on the city of Hama and wiped out its center. About 20,000 people were bulldozed into mass graves. All such rules of firm dealing are now called "Hama Rules."

Hama has been largely rebuilt and repopulated with Assad loyalists and Syrian soldiers. South of the town is a facility under construction of interest to the world's nonproliferation agencies because it has been repeatedly visited by delegations of Chinese missile technologists. These scientists shuttle between the secret Hama plant and another, larger facility under construction at Aleppo.

Parts of the Aleppo plant are being built underground. Its expert workers underwent training in China last year. Some suspect that the Aleppo plant will produce surface-to-surface missiles.

The Hama plant, say these sources, is supposed to make sophisticated guidance systems for these missiles. It may also be improving the accuracy of the Scud-C missiles, with a range of 400 miles, sold to Syria last March by North Korea with Saudi financing.

The intelligence on the recent visits to the Syrian sites by the Chinese groups is, I think, "hard"; but the purpose of the new secret plants has not yet been confirmed.

If the Chinese have been contributing to the indigenous Syrian missile production, it would mean that Congress was right and the President wrong about the best way to stop China from helping increase the risk of war in the Middle East.

Last Nov. 17, after giving Chinese leaders diplomatic condonation by paying a visit to Beijing, Secretary of State Baker announced "clear gains in the fields of proliferation and trade." He told reporters this meant that the Chinese had agreed not to export M-9 missiles to Syria.

One week later, if my information is correct, the Chinese secretly agreed to help the Syrians construct their own missiles locally. This included the supply of Chinese equipment needed to assemble the advanced weaponry.

The plot: China would live up to the letter of its agreement with the U.S.—holding back the Pershing-type M-9's—but violate its spirit by making it possible for Syria to deliver destruction in a locally produced missile of equivalent range.

On Feb. 10, 1992, the Chinese scientists secretly visited the plants at Aleppo and Hama.

On Feb. 22, President Bush announced he would lift a ban on the export of satellite parts and highspeed computers to China. The ban had been imposed, according to Senator George Mitchell, "when a secret sale of Chinese missile launchers to Pakistan was revealed."

Next day, as its supervisory delegation was returning secretly from Syria, Beijing announced that "China will act in accordance with the Missile Control Technology Regime * * * in its export of missiles and missile technology."

Meanwhile, the U.S. Congress has been concerned about sales by China of missiles to Syria and nuclear technology to Iran. To discourage any backing away from commitments made by China on the Baker visit, a bill was passed to cut off Most Favored Nation status it Beijing reneged on its promises.

This week, on March 2, unaware of—or unworried about—possible Chinese participation in local Syrian missile production, President Bush vetoed the bill linking China's missile restraint to M.F.N. status. The Senate vote to override was 59 to 39, six votes short of the two-thirds needed.

Might six more senators, if informed of the Chinese circumvention of agreements touted by Secretary Baker even as the voting took place, have voted to override?

This sort of story is difficult for a journalist to check out; Hama's off limits for me. But I remember how a concern for verification two years ago constrained me from writing about Iraqi nuclear development for months. (At first that story was universally derided; it has since been confirmed.)

So I pose the question with appropriate caveats. What are those Chinese scientists doing in Syria?

THE DEMOCRATIC BUDGET

HON. TIM VALENTINE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 5, 1992

Mr. VALENTINE. Mr. Speaker, I was chairing a hearing of the Technology and Competitiveness Subcommittee during nearly all of the debate on the Democratic tax and economic growth proposal last week and was thus unable to come to the Chamber to speak on that bill. I supported the Democratic substitute and want to explain the reasons for my vote.

The tax and economic growth legislation we considered last week placed many Members in a serious quandary.

My dilemma, and that of other Members, arose because this bill represents our failure to take advantage of a historic opportunity. This is the best chance we are likely to have for the foreseeable future to address our No. 1 economic problem—the Federal budget deficit.

Mr. Speaker, like nearly all Members, I am not opposed to the prospect of being identified as one who cuts taxes. I want to reduce the tax burden on the citizens I represent whenever possible. I particularly like the idea of reducing taxes for middle class individuals and families.

At the same time, I believe that the greatest help we can offer to the middle class and to the entire Nation would be a significant reduction in the budget deficit. No other single action would do more to build confidence in the American economy or send a clear signal that we are serious about putting our economic house in order.

While the Democratic substitute represents a modest stab at deficit reduction over the next 5 years, I believe that we should do much more. At a time when we can finally cut defense spending significantly, we could attack the deficit in a way that every American would understand. Such a direct assault on the deficit, in my view, would do more for the middle class than the temporary tax reduction included in this bill.

Despite these misgivings, I find much of real value in the Democratic proposal. First, even on the question of the deficit, it clearly accomplishes much more than either of the alternatives. The very last action we should take is to increase the deficit—and that is exactly what would happen under the Republican plans. Under the Democratic substitute, we are at least starting—again—down the road to long-term deficit reduction.

Second, the Democratic proposal injects more fairness and equity into the Tax Code. This bill will begin to reverse the trend of the past decade in which the richest Americans paid less in Federal taxes while middle and lower income citizens paid more.

Especially in these difficult economic times, it is absolutely essential that those with the most resources bear their fair share of the burden. This plan raises desperately-needed revenue without raising taxes for the vast majority of Americans or for those citizens who can least afford it.

Third, while I do not believe that this bill will jump-start the economy out of the current recession, it does contain a number of provisions that will promote investment, economic growth, and job creation.

The Democratic substitute will encourage businesses to invest in research and development, in their employees' education and training, and in new, modern equipment. Over time, these investments will improve productivity and competitiveness and support the jobs of the coming decades.

The investment tax allowance, the research and development tax credit, the modification of the passive loss rules for real estate operations, the accelerated corporate alternative minimum tax depreciation, and the increased writeoff for new equipment purchased by small business will all provide relief to businesses that need it.

Small businesses will also benefit from the permanent extension of the 25-percent deduction for health insurance for self-employed individuals. This is clearly an improvement over the President's proposal to extend the uncertainty for small business owners by continuing this provision temporarily.

In short, Mr. Speaker, the Democratic substitute creates more opportunity for more Americans. The more flexible Individual Retirement Account will help people buy homes, educate themselves and their children, and meet unexpected medical expenses. Permanently extending the exclusion for employer-provided education and adding a tax credit for 15 percent of interest on student loans will allow more Americans to prepare for the careers of the 21st century.

The Democratic proposal also contains a reasonable compromise on the contentious issue of the capital gains tax. Indexing the gain taxed for new capital assets will protect citizens from being taxed on illusory profits that are due solely to inflation.

Finally, institutions that depend on charitable donations, such as universities, will benefit from the provision that allows a tax deduction of the fair market value, rather than the original cost, for gifts of appreciated property.

For those reasons, I voted for the Democratic substitute. I hope that passage of this plan can be coupled with a commitment to take bold and unambiguous steps to reduce the deficit in the coming weeks. If middle class Americans deserve tax relief—and they do—then the entire country deserves relief from the crushing burden of our deficit and debt.

NATIONAL DOMESTIC VIOLENCE AWARENESS MONTH

HON. LOUISE M. SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 5, 1992

Ms. SLAUGHTER. Mr. Speaker, for the past 3 years the month of October has been commemorated as National Domestic Violence Awareness Month, and today I am introducing this resolution to make this designation in 1992. Ten women are killed every day because of domestic violence, and each year, it is responsible for 100,000 days of hospitalization, 30,000 emergency department visits, and 40,000 visits to physicians. While anyone can be the victim of domestic violence, in 95 percent of the cases the victims are women.

Domestic violence leaves no one untouched. Police spend one-third to one-half of their time investigating domestic violence calls. Urban and rural women of all racial, social, religious, ethnic, and economic groups are affected. Fifty percent of all women will experience physical violence in an intimate relationship, and in 25 percent of those relationships, the battering is continual.

National Domestic Violence Awareness Month creates the opportunity to support victims of violence, and to recognize the efforts of those who work to end the battering. Domestic violence is a daily reality. Victims need to know they can escape these brutal conditions, and our society must be adequately prepared to rescue the victims. Right now, half of all counties in the United States have no battered women's programs. There are three times as many animal shelters Nationwide as shelters for battered women.

Awareness is crucial if we wish to break the cycle of violence. Violence is a learned behavior. Children who have witnessed abuse or who have been abused are 1,000 times more likely to abuse their own spouse or child than children who have not been exposed to abuse. We must make it clear that domestic violence is a crime and unacceptable in our communities.

Often it is easier to pretend that this type of violent behavior does not exist, but closing one's eyes does not make the problem disappear. I urge my colleagues to join me and Congressman GEORGE MILLER in cosponsoring this resolution to designate October 1992 as National Domestic Violence Awareness Month. Recognizing the widespread nature of domestic violence and educating our country about its detrimental and long-term effects can help end the tragedy of domestic violence.

A TRIBUTE TO KAREN JO DOTSON

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 5, 1992

Mr. LEWIS of California. Mr. Speaker, in our lives, each of us is touched by special individuals whose spirit of giving and caring for others sets them apart from others. My longtime dear friend, Karen Jo Dotson of San Bernardino, CA, is one such person. Karen, who has literally devoted her life to community service, will be appropriately honored by many of our close friends and family on Saturday.

Karen was born in Canton, OH in 1942. She later moved to New York where she attended Long Beach High School and worked as a supervisor at a garment factory. Karen moved to California 21 years ago and has spent the last 18 years managing some of the areas finest establishments.

Karen is best known, however, as the lady that never says no. She has earned this reputation over the years for her boundless enthusiasm and willingness to help others. For the last 14 years, she has committed her time and energy to the Multiple Sclerosis Society. Over the years, she has also committed herself to the Bethlehem House—a shelter for battered women and abused children—the Make a Wish Foundation Golf Tournament, the Arthritis Foundation, the local firefighters association, and other organizations.

If there are things Karen is most known for, they are her willingness to listen, to take people in under her wing, and to lend a helping hand. She has made, and continues to make, a real difference in the lives of many people in need.

Karen is a beautiful woman and a lovely lady. She is mother to her two daughters, Tamara Clark and Kellie Whittaker, and a proud grandmother of grandchildren, Kellie Jo and Wesley. Her brothers, Blaine and Blakely, live in Florida and New York.

Mr. Speaker, I ask that you join me, our colleagues, and the many dear friends of Karen Jo Dotson in recognizing this remarkable lady for her lifelong spirit of giving. Her years of dedication and community service are certainly worthy of recognition by the House of Representatives today.

THE 17TH ANNUAL BROOKLYN IRISH-AMERICAN PARADE

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 5, 1992

Mr. SCHUMER. Mr. Speaker, March 22, 1992, marks the 17th annual Brooklyn Irish-American Parade, honoring the cultural, educational, and historical contributions of Brooklyn's Irish-American community.

It is with pride that I join my constituents in celebrating the culture and ancestry of the Irish people, who maintained strong ties to their country despite numerous hardships, including religious persecution, famine, colonial occupation, and political oppression.

This parade pays tribute not only to the accomplishments of the Irish people, but also to the cultural diversity and richness of Brooklyn.

The members of the Brooklyn Irish-American Parade Committee deserve special recognition for their hard work and dedication; in particular, Mr. Peter Tuohy, this year's grand marshal, and his family must be commended for all they have done to ensure the success of this year's parade.

The parade will take place on the historic site of the Battle of Brooklyn, where Irish freedom fighters gave their lives to secure American independence.

ST. ROSE OF LIMA CATHOLIC PARISH CELEBRATES 100TH ANNIVERSARY

HON. RICHARD J. DURBIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 5, 1992

Mr. DURBIN. Mr. Speaker, I rise to congratulate St. Rose of Lima Catholic parish in Quincy, IL, on its 100th anniversary in March of this year. The parish was formed in 1892 for the English speaking Irish in the northwest part of Quincy. They had been served by German language churches and parish schools before the new parish was formed. The new parish was named for the first person born in the New World to be raised to sainthood, St. Rose of Lima, Peru.

The financially depressed year of 1892, just before the panic of 1893, was a Presidential election year, just like this year of 1992. Grover Cleveland was running against incumbent Benjamin Harrison, who had unseated him 4 years earlier. In the heat of Harrison's campaign, the Know-Nothing organizations were being revived. The Know-Nothings discriminated against the Irish and Catholics in employment and government, forcing them to take the lowest paying jobs to survive.

Nevertheless, the Irish of St. Rose undertook to build a church and school. They had faced persecution in Ireland, where it was a crime to teach Catholic children to read and write. The result was a large proportion of illiteracy among the Catholic Irish. The Catholic Irish in America were resolved to correct this condition.

On election day, November 8, 1892, Cleveland defeated Harrison and became the 24th as well as the 22d President. Adlai Stevenson, of Illinois, became Vice President. Before the end of the month the first church of St. Rose had been completed. The people of St. Rose were able to worship in their own church and to receive comfort and strength from the sacraments in their own parish. The school opened January 3, 1893.

There were only 125 families in the parish at first. But their numbers grew rapidly, and 20 years later, in 1912, they built a new church, one of the most beautiful in a city of beautiful churches. Through the years, the parish has grown and prospered, and it is thriving today.

Through the years, graduates of St. Rose School have gone on to college and outstanding careers in business, government, the courts, and science. They even number among their graduates a beauty contest winner who became Miss Quincy.

The parish has set the date of March 15 to open the centennial officially. There will be a solemn High Mass that morning celebrated by Bishop Daniel L. Ryan, bishop of the diocese, and a dinner that evening in the parish hall.

The present greatly loved pastor, Francis Damian Lee, will celebrate his golden anniversary as a priest on April 5. During this centennial year many activities are planned for the parish and for its friends in the city and country.

Mr. Speaker, I salute the pastor and the parishioners of St. Rose of Lima on the 100th anniversary of the founding of their parish.

TRIBUTE TO THE MALOONER

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 5, 1992

Mr. TRAFICANT. Mr. Speaker, I would like to take this opportunity to pay tribute to the writers and creators of the Malooner, a publication by students at Youngstown State University in my 17th District in Ohio.

This piece of literature shows excellence in organization and creativity. I was proud to read its contents and even entertained by its graphic art and easygoing style.

With former Student Government President Brian Fry and other distinguished students including coeditor and artist Tom Welsh, art editor Steve Bobovnik, as well as Dan Lucas, Duane Price, David Mularchik, Christopher Byrne, Mike Yonkura, Rebecca Tally, Steve Farkas, Elaine Arvan, and Judy Terlecki, the Malooner was established as a representation of the student concerns. The Malooner encompasses the interviews and editorials from the campus on national issues, social controversies and local opinions. The unique characteristic of this publication is its creative approach to these issues. The magazine forgoes the traditional layout in favor of college lingo and friendly interpretations. For the student or alumni, the piece is illuminating and inviting.

I also compliment the writers of the Malooner for including local talent and artistic events in the work. I believe that the Malooner provides inspiration to other students signaling the overall increased awareness by the students at Youngstown State of the artistic and governmental issues in our midst.

Again, Mr. Speaker I rise on this occasion to congratulate the writers of the Malooner at Youngstown State University in my 17th District of Ohio.

SENATE—*Friday, March 6, 1992*

(Legislative day of Thursday, January 30, 1992)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by the Honorable TIMOTHY E. WIRTH, a Senator from the State of Colorado.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 6, 1992.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TIMOTHY E. WIRTH, a Senator from the State of Colorado, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. WIRTH thereupon assumed the chair as Acting President pro tempore.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate stands in recess until the hour of 9:30 a.m. on Tuesday, March 10, 1992.

RECESS UNTIL TUESDAY, MARCH 10, 1992, AT 9:30 A.M.

Thereupon, at 11 o'clock and 38 seconds a.m., the Senate recessed, under the order of Thursday, March 5, 1992, until Tuesday, March 10, 1992, at 9:30 a.m.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

HOUSE OF REPRESENTATIVES—*Monday, March 9, 1992*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

When decisions overwhelm and patience is strained, we pray, gracious God, for a spirit of calm and assurance. May the bounty of Your blessings so touch our thoughts and our words that we sense Your presence with us at all the moments of life. Remind us that the substance of the spiritual is more powerful than all that we so easily measure or observe, that the life that is focused on the reality of faith and hope and love gives a stability and strength to all our decisions and sustains us in the depths of our souls, now and evermore. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Missouri [Mr. SKELTON] come forward and lead the House in the Pledge of Allegiance.

Mr. SKELTON led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

COMMUNICATION FROM THE HONORABLE BOB MICHEL, REPUBLICAN LEADER

The SPEAKER laid before the House the following communication from the Honorable BOB MICHEL, Republican leader:

OFFICE OF THE REPUBLICAN LEADER,
Washington, DC, March 6, 1992.

Hon. THOMAS S. FOLEY,
Speaker of the House, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to Sec. 201(B)(ii) of Public Law 101-445, I hereby appoint the following as a member of the National Nutrition Monitoring Advisory Council:

Honorable Marlene E. Marschall, Commissioner of Health, Minneapolis, Minnesota.

Sincerely,

BOB MICHEL,
Republican Leader.

LET US NOT FORGET AMERICA'S SCIENTISTS

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous material.)

Mr. RICHARDSON. Mr. Speaker, at a time when America's nuclear scientists are being laid off by defense cuts because of the declining Soviet threat, the United States Department of Energy is hiring Soviet scientists to work on nuclear fusion and space missile defense.

The export of American jobs has reached an all time low. We are now displacing our best and brightest, American scientists. What do the hundreds of American scientists at Los Alamos, Sandia, Oak Ridge, and our other national laboratories facing possible layoffs think of this practice? They have been toiling against the Soviet bear for years. Because of these scientists we won the cold war. What is their reward? They may be fired and replaced by Russian scientists.

Mr. Speaker, the United States Government has proceeded with hiring of Soviet scientists after the deal we announced that is closing a major fission facility at Los Alamos Laboratory threatening 400 possible jobs. Last year DOE shut down a valuable nuclear fusion project at Los Alamos. What is next? Are we going to hire the old Soviet politburo to replace the United States Congress?

While I know this may sound appealing to some, let us not get carried away by our newfound love for the former Soviet Union. Let us not forget our own.

Mr. Speaker, I will be taking appropriate action to remedy this situation in the days ahead.

I include for the RECORD the following newspaper articles:

[From the Washington Post, Mar. 7, 1992]

U.S. TO HIRE RUSSIANS FOR FUSION STUDIES

(By Thomas W. Lippman)

The United States and Russia, already partners in a long-term effort to develop an inexhaustible source of cheap, clean energy through nuclear fusion, have taken cooperation to a new level: Some Russian scientists are going on Uncle Sam's payroll.

The State and Energy departments confirmed yesterday that the Energy Department will pay $90,000 in a one-year contract to buy the services of 116 physicists at a Moscow laboratory.

Under the agreement, first reported in the trade journal Inside Energy, the scientists will conduct fusion experiments that were scheduled but now cannot be carried out for lack of funds, U.S. officials said. The United States will receive the data from the experiments.

"If they had a healthy, well-funded program, we would have had people there, they would have had people here and we would have collaborated," said N. Anne Davies, director of the Energy Department's fusion research program. "They weren't going to be able to do [their experiments]. But when they said they could run the program for less than $100,000 a year, they got our attention."

"It's obviously something we support," State Department spokesperson Margaret Tutwiler said. She said the fusion agreement is separate from the U.S. effort to find useful work and adequate wages for scientists formerly employed by the Soviet Union's nuclear weapons program. The United States has pledged $25 million toward establishing an institute where former weapons scientists could find peaceful work that would help them resist temptation to emigrate to nations seeking nuclear weapons capability.

The fact that $90,000 will be sufficient to fund a year's work by 116 leading scientists speaks volumes about the current economic conditions in Russia. The Energy Department is spending $337 million this year on its fusion energy program, which amounts to an international effort to build a machine that would replicate the energy-generating properties of the sun: Atoms of an isotope of hydrogen, which is universally available at virtually no cost, would be heated under intense pressure until they fused, releasing energy that would be captured to make electricity.

Scientists know how to produce energy through fusion, but existing machines have not been able to produce more energy than they consume.

Under an earlier agreement, Russia is a partner with the United States, the European Community and Japan in developing the proposed International Thermonuclear Experimental Reactor (ITER) intended to demonstrate feasibility of fusion energy.

Energy Secretary James D. Watkins has told Congress that the schedule calls for development of ITER to be followed by operation of a demonstration power plant by 2025 and operation of a commercial fusion powered electric generating plant by 2040.

Davies said the scientists hired under the new contract will not be working on the ITER design, but conducting experiments on existing machines, called "tokamaks" from their Russian acronym, that are more powerful than either of the two existing U.S. reactors.

The Russians "have some unique capabilities," she said. "They have higher power and frequency than we have available." The scientists at the Kurchatov Institute of Atomic Energy in Moscow will be working on a tokamak designated T-10, which, according to Davies, has "a different geometry" from U.S. machines.

Tokamaks, invented by scientists in what was the Soviet Union, are reactors in which an intense magnetic field confines the compressed hydrogen fuel in a doughnut-shaped cavity. Experiments in U.S. and Russian tokamaks are aimed at developing the scientific and engineering basis for building ITER, which will be "the first place we fully ignite a [gas] plasma, that is, make it burn [until] it sustains itself like a star," said Robert W. Conn, director of the Institute of Plasma and Fusion Research at UCLA.

[From the Washington Times, Mar. 7, 1992]

U.S. EMPLOYS RUSSIANS FOR NUCLEAR FUSION WORK

The United States has hired Russian scientists to unlock the mysteries of nuclear fusion and is considering working with the former Soviet Union to develop a space missile defense, U.S. officials said yesterday.

In Moscow, meanwhile, a U.S. Senate delegation led by Armed Services Committee Chairman Sam Nunn opened four days of talks on converting Russian defense plants to civilian uses and dismantling the Soviet nuclear arsenal.

Department of Energy spokesman Phil Keif said Washington was paying $90,000 for the services of 116 fusion researchers at the prestigious but financially pressed Kurchatov Institute of Atomic Energy in Moscow. It is the first known American employment of scientists from the Commonwealth of Independent States.

"We've obviously been working with the Soviets for a long time anyway, and they were in trouble with this institute [for nuclear] fusion," Mr. Keif told Reuters news agency in a telephone interview. "These guys are top-notch fusion scientists, we don't want them to drop off. It's an amazing bargain."

Mr. Keif could not confirm that a contract had been officially signed, but he said the Russian scientists were already working under conditions of the contract, which provides them with $65 a month, more than seven times the unofficial national average monthly rate in the former Soviet Union.

The aim is to fashion machines that would, sometime in the 21st century, produce a new kind of nuclear energy that is cheap, clean and virtually inexhaustible.

In Moscow, the Senate delegation is scheduled to meet senior government officials in Russia, Ukraine and Belarus—three of the four republics with strategic nuclear weapons—during a five-day visit.

Mr. Nunn, Georgia Democrat, praised Ukraine's pledge to transfer all its nuclear weapons to Russia for dismantling by July. Ukraine aims to become a nuclear-free country.

Mr. Nunn said the delegation also wants to work with republics to avoid the spread of nuclear, chemical and other high-technology weapons. He said the senators were interested in how members of the C.I.S. were centralizing control of their tactical and nuclear weapons.

Western governments have expressed concern since the collapse of the Soviet Union that countries like Libya and Iraq might offer its nuclear scientists attractive salaries to help them make nuclear devices.

In a move designed to counter those fears, nuclear scientists in the former Soviet Union published a statement yesterday defending their integrity.

"Recently . . . a number of reports have appeared stating that nuclear physicists engaged in research on nuclear weapons are receiving offers to work in countries interested in building atomic bombs," the statement said.

"We . . . state that there is no more reason to question the personal and professional integrity and responsibility of our colleagues than that of specialists from the U.S., Britain, France and China, where work on nuclear research is conducted."

The statement, published by the Itar-Tass news agency, acknowledged that the situation of scientists, engineers and nuclear specialists gave cause for concern. It also welcomed Russian and Western moves to adapt their skills to peacetime uses.

In another development, the European Community yesterday signaled its desire to match a U.S. pledge of $25 million to help keep former Soviet nuclear scientists under control, but EC officials said Japan must do the same.

A plan proposed by Germany, the United States and Russia, and endorsed last month by the EC, would create an International Science and Technology Center to keep the scientists busy and prevent them from being snapped up by Third World states with nuclear ambitions.

EC officials say one possibility is to enroll the scientists in programs to help Ukraine, Belarus or Kazakhstan dismantle their nuclear weapons if the former Soviet states wish to do so.

A CALL FOR FUNDAMENTAL CHANGE OF MANAGEMENT OF THE HOUSE OF REPRESENTATIVES

(Mr. THOMAS of Wyoming asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMAS of Wyoming. Mr. Speaker, I have been in this body now for something less than 3 years. When I first came, as a matter of fact, I was the last Member to be sworn in by the previous Speaker, Jim Wright. There had been great troubles here and I had assumed that perhaps the troubles would be over.

Unfortunately, the management troubles in this House are not over. We have bank troubles, including reluctance to open the fact book to the people about the bank. We have post office troubles, troubles apparently known about for some time and nothing has been done about it. We have spending troubles, both internal, and troubles, of course, with the budget. It is no wonder people are fed up with the Congress. I do not blame them.

Now I understand comes a recommendation from some of the Democratic leadership that we install a new level of bureaucracy; that we in fact put in another patronage position that would simply fit into what we already have.

Mr. Speaker, I do not believe that is the question. We need a fundamental change here. We do not need someone else appointed by the same people to be accountable to the same people that have brought us where we are. What we need is to change the people if they are not doing the job. What we need to have is a fundamental change in accountability, a fundamental change in the auditing that has taken place in this House.

Mr. Speaker, it is time for change. It is time for change to take place on the floor of this House.

AMERICA STILL NEEDS A STRONG MILITARY

(Mr. HUTTO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUTTO. Mr. Speaker, the clamor to draw down the military does not bode well for the United States of America. We have had bad experiences in disarming after several conflicts in our Nation's history. Sure, there have been some very encouraging things that have happened over the last few years, like the falling of the Berlin Wall, the move by the Eastern bloc nations toward democratization, and yes, the breakup of the Soviet Union, but there are still threats there.

Who would have thought just a short while before it happened that we would have 500,000 troops in the Middle East? And they did a great job for us. We know that there are other threats there, and in the Soviet Union or the Commonwealth of Independent States, as it is now called, there are some 30,000 warheads that have not been dismantled. Saddam Hussein is still there. The Qadhafis of the world are still there.

As the leader of the free world, Mr. Speaker, we have to maintain a strong military for deterrence and in defense of freedom. Caution must be used in this drawdown. We have already embarked on a 25-percent drawdown. The President has added $50 billion in cuts on that. I say that that is far enough. It causes too much pain and suffering for us to throw the military, the uniformed military as well as civilians, out of the job market.

Let us exercise caution in the drawdown of our military.

KENTUCKY SHOWS LEADERSHIP IN CAMPAIGN FINANCE REFORM

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, my political career began in the Kentucky State senate. I am always proud when my former colleagues have done what I consider to be an excellent legislative job. They did so last week by passing by a very broad 31 to 7 vote a statewide campaign reform bill. That bill, among other things, puts overall limits on campaign spending, limits the amount of money which any individual candidate can raise from political action committees, and limits the amount of money which political action committees can contribute into a campaign, and it provides a beginning, an experiment, with limited public financing of campaigns.

Mr. Speaker, to your everlasting credit you have led the charge in this Chamber and in this Congress for campaign reform of a very substantial nature. The campaign reform activities which Kentucky has engaged in parallel the activities we have in our bills pending in this House and in the Congress.

I hope the work Gov. Brereton C. Jones and State Senator Mike Maloney have done at home will be followed quickly by passage in this Congress of substantial campaign reform. I believe nothing by itself will raise voter confidence, increase the respect and the credibility of this body more than to pass effective campaign reform.

□ 1210

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC,
March 6, 1992.

Hon. THOMAS S. FOLEY,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House at 4:42 p.m. on Friday, March 6, 1992 and said to contain a message from the President wherein he transmits his statement with regard to the attached Summary Report of the 1991 White House Conference on Libraries and Information Services.

With great respect, I am
Sincerely yours,
DONALD K. ANDERSON,
Clerk, House of Representatives.

SUMMARY REPORT OF 1991 WHITE HOUSE CONFERENCE ON LIBRARY AND INFORMATION SERVICES—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Education and Labor:

To the Congress of the United States:

I am pleased to transmit to you the Summary Report of the 1991 White House Conference on Library and Information Services and my recommendations on its contents as mandated by the Congress in Public Law 100-382, section 4.

The world has changed dramatically since the last White House Conference on Library and Information Services. The thirst for freedom has swept aside the acceptance of tyranny. New and amazing technologies have made ideas accessible to everyone. Books, faxes, computer disks, and television and news broadcasts have ended the reign of ignorance and helped create a whole new world of enterprise, competition and, with it, intellectual growth.

Library and information services are vital because they help ensure a free citizenry and a democratic society. It was appropriate that the 1991 Conference addressed three major themes of great concern to our own society: literacy, productivity, and democracy. These three issues are now more important than ever as we work to raise our Nation's educational level, to make the American work force preeminent in the world, and to serve as an example to the rest of the world regarding the benefits of a democratic society. We live in exciting times with our world changing daily. Not only are we on the verge of revolutions in educational practice and workplace improvements, but technology is helping to change the very way in which we learn and work. Library and information services are at the center of this change with new sophisticated technologies that not only improve the quality of information but actually make it more accessible to the people who need it. It was the realization that library and information services are in a period of rapid change that prompted the establishment of the 1991 White House Conference on Library and Information Services.

Participants at the White House Conference considered the themes of literacy, productivity, and democracy, and how library and information services can contribute significantly to the achievement of those goals. The 984 delegates to the Conference included librarians, information specialists, and community leaders. They represented all the States and territories and the Federal library community. Prior to the Conference, there had been innumerable pre-Conference forums involving more than 100,000 Americans. These meetings produced 2,500 initial proposals regarding library and information services. The Conference delegates deliberated on 95 consolidated proposals before making their final recommendations. I wish to commend the National Commission on Libraries and Information Science for its key role in making the Conference a success. The recommendations, thoughtfully considered by the delegates to the Conference, are intended to help frame national library and information service policies for the 1990s.

THE IMPORTANCE OF LIBRARY AND INFORMATION SERVICES

Library and information services have always played a significant role in our society. From colonial times forward, our libraries have acquired, preserved, and disseminated information to Americans. Today libraries and information services are expanding their roles and, with the advent of new technology, changing the ways in which we use and share information. As we move toward the new century, we should acknowledge the contributions that libraries have made and will continue to make in the years ahead.

A particular strength of our libraries and information services is that they are locally controlled. Whether in the public or private sector, these services are best maintained at the local level where they can be most responsive to citizens and where they can adapt to new local needs. Likewise, the States have a long tradition of fostering the development and expansion of library services to all citizens. In combination, both local and State governments are the primary supporters of our Nation's libraries and information services. The Federal role in library and information services has been one of encouraging and leveraging State and local support to expand the availability of library services to all Americans.

LITERACY

The quest for the future begins with literacy. Literacy is a goal that we must make every effort to achieve. It has been estimated that 23 million adult Americans are functionally illiterate, lacking skills beyond the fourth-grade level, with another 35 million semiliterate, lacking skills beyond the eighth-grade level. The effects of illiteracy in this Nation are staggering as people find themselves shut out of opportunities and as our governments struggle to find ways to assist these disadvantaged individuals.

My Administration is committed to improving education for all Americans. With broad bipartisan support, we are moving rapidly to implement strategies to achieve our six National Education Goals. These Goals, developed cooperatively with the Nation's Governors, address critical education issues ranging from ensuring our children start school ready to learn and attaining a 90 percent high school graduation rate, to being first in the world in math and science, demonstrating competency in core subject areas, and ensuring safe, disciplined, and drug-free schools. Goal five states that by the year 2000, "Every adult in America will be literate and will possess the skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship." As we pursue education reform across America, one of our emphases must be on a literate America. To that end, I have consistently worked for an increase in Federal efforts for literacy programs. Our national education strategy, AMERICA 2000, is designed to help achieve all of the goals, and libraries, serving as community centers, can therefore play a major role in helping communities and schools across the country reach the goals.

The Conference recommendations include several statements that also address the literacy issue. I would urge the Members of Congress to review these suggestions carefully and to consider them in any future deliberations regarding literacy and library and information services.

PRODUCTIVITY

Today's workplace demands a new definition of the term productivity. Rather than a traditional perspective that measures the production of items, we must recognize that we now live in an Information Age. In today's Information Age, many of our workers are knowledge workers who create and use information in totally new environments and in totally new ways. What we must do is to ensure that these workers achieve maximum productivity in their efforts.

The White House Conference recommendations regarding productivity are varied and far-reaching. Of perhaps greatest significance is the support shown for a national network for information sharing. The recent passage of the High-Performance Computing Act of 1991 responds directly to this recommendation and is a major step in the direction of increased productivity for American workers. Other recommendations address copyright statutes and business information centers, both of which would have a positive impact upon the efforts of American business and employees.

My Administration is committed to the full employment and increased productivity of the American work force. We can, and we must, become the most skilled work force in the world if we are to remain preeminent in today's global economy. Throughout the Federal Government, efforts are being made to bring to Americans the kinds of resources that they need to improve their on-the-job effectiveness. For example, within the Department of Education, an information resource for teachers, parents, and communities is being developed. To be known as SMARTLine, this data base will contain the best of education research and practice. This resource will be available locally—through schools and community libraries—to educators and parents who want to improve classroom instruction methods and to raise the education levels of our children.

DEMOCRACY

An informed populace is a great guarantee that our democratic way of life will continue and flourish. Recent events have shown us that people in other countries are struggling to emulate what we have known for the past two centuries. The free flow of information in countries all over the world and especially in Eastern Europe has played a strategic role in releasing people from the bondage of ignorance.

Library and information services provide an infrastructure by which we can obtain information and can contribute to our democratic way of life. In our country, there are more than 30,000 public, academic, and special libraries, and there are an estimated 74,000 school libraries and media centers. These library and information centers are the links between our citizens and the information that they need. These libraries provide the kind of ongoing education that each man, woman, and child will need in order to remain a fully productive and fully participating citizen.

The 1991 White House Conference on Library and Information Services has generated many worthwhile recommendations. Clearly these ideas illustrate not only the changing role of libraries, but also the revolutionary changes affecting our own society. As our culture changes, so must the institutions that serve it. The Conference Report makes it clear that library and information services are changing rapidly in response to an increasingly complex and global society. As we strive for a more literate citizenry, increased productivity, and stronger democracy, we must make certain that our libraries and information services will be there to assist us as we lead the revolution for education reform. As I stated in my speech at the White House Conference, "Libraries and information services stand at the center of this revolution."

GEORGE BUSH.

THE WHITE HOUSE, *March 6, 1992.*

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair wishes to make a statement.

On rollcall 41 and rollcall 42, as shown in the RECORD of March 5, 1992, it appears that the yeas and nays were ordered by unanimous consent on adoption of the divided portions of House Concurrent Resolution 287. In fact, the Chair put the question on the adoption of those portions of House Concurrent Resolution 287 to a vote by electronic device without first putting the question by a voice vote and without first asking whether one-fifth of those present supported a demand for the yeas and nays.

The Chair was in error in so ordering the vote to be taken by the yeas and nays without first going through the required procedure, but at the time members of the committee on both sides of the aisle were on their feet, and the Chair assumed that a demand for a record vote would be made immediately by one or the other of the members of the committee. When the Chair ordered the vote to be taken as he did, no objection was raised by either side of the House, and the House was implicitly granting unanimous consent for the vote to be taken by the yeas and nays, and the Parliamentarian suggested the RECORD should so reflect that.

THE COMPONENTS THAT HAVE MADE THIS COUNTRY STRONGEST IN THE WORLD

The SPEAKER. Under a previous order of the House, the gentleman from Wyoming [Mr. THOMAS] is recognized for 5 minutes.

Mr. THOMAS of Wyoming. Mr. Speaker, for the last several weeks this House has addressed itself to the question of economic growth and the budget, and properly. We have addressed ourselves to jobs and how do we best move in the direction of strengthening the economy and what do we do about strengthening the availability of jobs. I think that is the proper thing that we should be talking about, and we should be looking for solutions.

Too often we find ourselves debating issues, when we are talking about solutions.

This country has long been recognized as the most preeminent powerful country in the world. We find now in the great changes of the last several years almost all of the countries in the world adapting to our system of government, adapting to a market economy, moving away from a command economy, adapting themselves to a democracy, moving away from totalitarian government. I think that is a great honor to us, to the American people that have made this system the strongest system in the world in 200 years.

We have provided more things for more people and at the same time retained more personal freedom than any country in the world.

So as we change and as we look for ways, I think we ought to take a look at what it is that has made us great. It seems to me that there are a number of things. One is our encouragement for the private sector and the market system. Another is taxes; we have generally kept them low and kept the money in the pockets of the citizens. The third is profit: Profit has been the motivation that has caused the economic engine that we have to drive to provide us the opportunity to do other things.

The size of government, the relative size of government—ours has been relatively small.

Mr. Speaker, my point is that I think we ought to take a look at those components that have made this country the strongest country in the world and when we move toward strengthening this economy even more and moving it to where we would like rather than spending all of our energy with the kind of safety net sort of things that deal with the fact that the economic engine is not going, that we move to cause it to go. That is not to say that we do not need safety nets. Of course, we need unemployment, of course, we need welfare. But we need it to be based on the notion that it is a temporary assistance and that we provide jobs to move people into the private sector.

Jobs are created in the private sector.

We have overburdened our private sector, it seems to me, with regulatory problems and taxes. We need to talk about moving away from those kinds of things and providing the incentives through tax incentives, through removal of regulations, through making them less costly, to cause jobs to be developed.

Taxes: Certainly increasing taxes are not good for the economy. We need to leave taxes in the hands of investors, taxes in the hands of consumers, so that we can, indeed, provide jobs in the private sector profits. There is nothing wrong with profit. Profit is what drives this economy. Profit is what has made us successful.

We begin sometimes to think that profit is an unhealthy kind of thing. On the contrary, it is profits that are healthy.

Size of government: We continue to make it larger, larger, larger. It all has to be taken from the private sector before there is any money for it.

We should have some goals, it seems to me, for fundamental changes. One is that we ought to provide in this system quality jobs for everyone who wants to work. We do that in the private sector. We ought to provide a quality education for everyone who wants to learn. We ought to provide health care for all of our citizens. Those ought to be the goals of this Government, and we need to make some fundamental changes to restrict and to cause our interests and our energies to be in the areas that made this country strong and will continue to make it the best nation in the world.

EXPRESSION OF OUTRAGE OVER AN ACT OF HATE AND VIOLENCE

(Mrs. MORELLA asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MORELLA. Mr. Speaker, I rise today to express my outrage over an act of hate and violence which was inflicted last week upon two young black women in Montgomery County, MD. The women were allegedly chased and attacked by two white males who were later taken into custody. One woman escaped physical harm when taken into the home of two good citizens who called police. The second had her clothes ripped from her and was doused with lighter fluid, after which her assailant attempted to light her on fire. Fortunately, police arrived and thwarted these actions.

It is unconscionable that, after almost 30 years following the passage of the Civil Rights Act, we are still faced so pathetically with the ignorance and hate of racism. Black women often suffer double discrimination as they become the targets of hate because of their sex, as well as their race. It is imperative that we continue our efforts to educate our youth on the value and beauty of diversity, but, at the same time, our laws must reflect a societal condemnation for racial intolerance and all hate crimes. This unfortunate incident is yet another example of our need to pass the Violence Against Women Act and other legislation which will assist in making this country safer for women.

□ 1220

MY ADVICE TO THE PRIVILEGED ORDERS

The SPEAKER pro tempore (Mr. VOLKMER). Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, I continue the presentation to my colleagues in the CONGRESSIONAL RECORD on the policies, or rather what has been called policy, but contradictory and I think to the detriment of the national interest, with respect to the executive branches principally, though not quite altogether disassociated from some either congressional indifference or abdication making it possible to have the rather sad and tragic tale of the relationship with Iraq, and the fact that the documentation that I am presenting today and which I will append at the end of the special order clearly reveals that in retrospect there was good reason to conclude that Iraq and its leader, Saddam Hussein, had every reason to believe that they were pursuing what they have long pursued, which was their claim to those areas that are in the present country known as Kuwait ever since the partition of part of the Middle East or the Persian Gulf.

The tragic thing is that we have not learned anything, and I will demonstrate why from this rather woeful narration of terrible foreign policy errors, and involving again in the background and lurking as sort of a fertile ground floor contradictory policy individuals who in effect and morally speaking had a conflict of interest and should not have been making the decisions they did and should have recused themselves at the time, which they did not, and Presidents who for whatever reason in their structured inner council arrangements were indifferent to what was going on just right around them or in the basement of the White House.

Now, all this presentation is for the purpose of showing how banking and financial activities, both national and domestic as well as international, are at the bottom of the whole series of tragic developments, not only in this and almost everything else that we can consider to be a continuing matter of concern for our national interests, and this is where we come in, the Banking Committee.

Now, as I have said before, we first in the name of the committee looked into this almost 2 years ago. As a matter of fact, it was 3 years ago that I noticed a small item in the Wall Street Journal indicating that an agency bank of a foreign bank, known as the Italian Bank, BNL, which means Banca Nazionale del Lavor, which is really again Italian Government owned.

This is the thing that all through the consideration in our committee from the beginning and the first International Banking Act in 1978 which I caused to bring about after the hearings that I had caused to have in San Antonio, my home town, in 1975 and the fact that our country is very vulnerable and has no regulatory oversight method of accountability for this huge amount of money now known as Foreign Bank or Foreign Financial, which amounts to a huge $800 billion and which, of course, at any given moment can have a tremendous impact on whatever we do as a domestic policy matter. This is the reason for the concern. We are not interested in trying to show up the ineptness or the clumsiness or the negligence per se of personnel, other than as it has resulted in a very dangerous situation as far as the framework of regulatory accountability that our country still fails to provide.

Now, today's statement will show that the administration repeatedly misled the Congress and the American people about the use of the CCC, the Commodity Credit Corporation guaranteed program for Iraq, and which was the reason my eye caught that little article saying that $3 billion worth of letters of credit for Iraq were being issued through the Atlanta, GA, agency of this Italian bank. It seemed to me even then that amount of billions of dollars, and to my distress I discovered that was just one of the last crunches of letters of credit, that the sum total would amount to $5 billion.

Now, I think the undesirable part of that is that those letters of credit issued on the basis of the guarantee through the CCC are taxpayer-guaranteed, so the taxpayer now has a bill of somewhere around $3 billion being dumped in its lap. I use the $3 billion that would feed our domestic needs in the very committee that I chair, because we have jurisdiction of everything from housing to economic stabilization, otherwise known as wage and price controls and, of course, the community or the infrastructure of the community development. That is our jurisdiction.

I can tell you what we could do with the money that this reflects for such things as the distressful homelessness problem which is basically a critical shelter or housing problem that has grown up in the last 10 years.

So when we look at it from that standpoint, that viewpoint, of course we consider it a matter of urgency that we plug those crevices in our laws that make it possible for these activities, plus many others that we know and suspect, such as drug money laundering that are financed through just a small amount or segment of this huge $800 billion that is loose in our country. It can be multiplied tremendously and quickly, and through the use of the banking system, through not only the Italian bank, which in turn used the Morgan Bank, for instance, as its syndicator, that is the fancy word that is used, and then the Morgan Bank in turn found methods to involve German banks, French banks, and believe it or not, our old friend the BCCI.

There again, we have our laws and we had a few amendments this last November when we passed the Banking Act of 1991, but it is not enough.

☐ 1230

We were able to get the Federal Reserve Board to go along only after we had these revelations, and over the protest of the Attorney General, who was trying to get us to drop the hearings. So, it has not been easy.

Even now we have not had access to the documents that the committee subpoenaed. We were able to prevail, in a unanimous committee, to subpoena over 100 documents from Federal Reserve, State Department, CIA. And it is strange that some of these agencies that you would think would say, "We are not about to," like the CIA, have been more or less forthcoming than some of the others, even the Federal Reserve. But through one of those fateful things that some of the documents we could not get from the Fed we were able to get from our colleagues, from the Italian Senate and its distinguished chairman, Senator Carta, who is heading an investigative committee on this matter; that is, BNL and its letters of credit to Iraq, and others, its involvement with BCCI, because it is going to cost the Italian taxpayers about $2 billion, as well.

So, through him and his generosity we got the documents that the Federal Reserve said we could not have because they were, of course, over in Rome. Anyway, we got them.

It helped considerably because it rounded out a fuller picture of the intricacies of this very byzantine arrangement.

Now, we have proved that the administration engaged in a policy permitting such things as intelligence-sharing with Iraq, which had started during the war between Iraq and Iran.

Now, when you look at it from that standpoint and at the time that it began after President Reagan took Iraq off the list of nations labeled as terrorist nations, that opened the gates under our laws to everything, commercial, every other kind of intercourse.

But at that time it was feared that Iraq might lose that war and Iran was looked upon as the more undesirable element that would seriously and maybe perhaps for the foreseeable future, disturb whatever it is they call the balance of power in the Middle East.

Rightly or wrongly, the decision was made to aid Iraq, even to the point of intelligence-sharing, through the CIA and other intelligence/Contra agencies, with Iraq.

The unfortunate thing is that on the other hand and in order to evade the 1982 Boland Act restricting appropriated funds from going down to the Contras in Nicaragua, the administration then turns around and, through its agents, Israel, was able to contact Iran and promised and in fact delivered armament.

So, we found ourselves thinking we were so smart we could lend money and credit and intelligence, and also supplies in pretty substantial amount and prevailed on other countries to send armament to Iraq, but they, too, were also providing Iran, and so did we, with the so-called Iran/Contra scandal.

Naturally, with our traditional contempt for other peoples whom we consider inferior, we did not guess that each one of those countries would know that we were playing such a duplicitous role. Of course, it did.

Besides, we did not seem to be sensitive to the history, and that is that Iraq and Israel had been in a state of war since 1948–49, and were then.

The additional fact that Iran is not an Arabic nation, it is a non-Arabic nation, and the fact that Syria, which had been considered the most implacable enemy there as far as Israel is concerned, through the Lebanon situation, was the only Arab nation to go against Saddam Hussein. But if anybody thinks it was done in the name of any noble purpose and not because of this very, very complicated power struggle that is ceaseless and has been from time immemorial in the Middle East, just does not know what the facts are.

And when I reported last week that as long ago as 7 or 8 months ago—mind you, it was more than that, about 9 months ago, shortly after the so-called end of the Desert Storm—that Syria obtained 300 improved Scuds from North Korea. So I was interested to see, 3 days later, last week, the President—I guess he was answering some questions—saying, "We are intervening and protesting to North Korea to see if we can prevail upon them to stop sending Scuds to the Middle East," meaning Iran.

Well, North Korea—does North Korea produce those Scuds? That is a question I would like to have answered. The improved Scuds? Those are Russian-derived.

But on the other hand, even with all of this, we still have not learned anything. Our policy with respect to North Korea, for instance, our policy with respect to China, the People's Republic of China, which is the last communist, or rather is the largest communist stronghold in the world, and the fact that even as late as last year we had our National Security Adviser going to China and coming back and saying, "Well, you know, they have promised they are going to abide and that they are not sending any more armaments to the Middle East."

Well, China had been visited by three Secretaries of Defense, three Presidents, and on each one of those they promised they were not going to send arms to the Middle East. On one of them they got the license to manufacture the Silkworm missile. Now, that is American. We gave it to Red China.

So, as late as a year ago more or less, we have the National Security Adviser going and saying, "Oh, they have now promised to stop." But they had said they stopped 2 years before.

So, we constantly want to be deceived and fooled, and we have lost control of that, anyway.

But it should have been obvious the moment we began this sort of schizophrenic combination of what passes for diplomatic commerce, we had all the agencies from the Commodity Credit Corporation to the Export-Import Bank to the Department of Commerce and 80 of our big corporations running over to see how much they could get over in Iraq, but losing sight of the fact that as far as the geopolitical situation was concerned, as I said a few minutes ago, a state of war still exists and has existed since 1948 with the State of Israel.

So, today what I want to bring out is how this, as a continuing problem, not having learned anything, still further compounds our dilemma as far as our international financial relations are concerned.

Recall that these countries work through what they call their central bank; the Central Bank of Iraq, for instance. But in those countries the officers are interchangeable. Saddam Hussein's son-in-law was both the secretary or minister for military procurement as well as commerce and as well as dictating in the name of the Central Bank of Iraq.

Now, the bad part of our laws is, as the Federal Reserve tells us, "We can't give you information, because in this reciprocal world we can't tell you what the central banks and who is behind those Central Bank deposits."

So, it is entirely possible as I am speaking right here that Saddam Hussein could have millions of dollars squirreled away in their own banking system, without any of our agencies really knowing that, right now as I am speaking.

It sounds incredible, but sometimes they say truth is stranger than fiction.

Now, what I have here now is the documentation showing the so-called Iraq options paper, which means that the administration made a decision to continue the intelligence-sharing at least until May 1990.

□ 1240

Remember, Mr. Speaker, it was on August 2 that Iraq invaded Kuwait. But as late as May we still had, even through the Iraqi war with Iran had ended, it had terminated, and supposedly and in fact the disturbing thing is that, when Mr. Robert Gates was being questioned by the Senate for appointment as a Director of the CIA, he told the Senators that that in fact had happened, that with the termination of the war, why they had no further intelligence exchanges. But the same Mr. Robert Gates was in charge of the national security and the intelligence with CIA at the time.

Mr. Speaker, these papers show that the national security and the State Department were using the intelligence-sharing arrangements with Iraq as a foreign policy tool and raises a myriad of new questions about the scope and the duration of the intelligence-sharing arrangements with Iraq.

Now mind you, as long as that continued, remember, with the interchangeability and these countries' government not like ours; they do not have separation of powers or anything that the financial and the banking is inextricably linked, and, if they have access to our intelligence resources, what were those resources? Has the Congress ever been given a report? If so, I do not know about it.

In 1984, with Iraq being considered in serious jeopardy of losing that war with Iran, President Reagan signed a national security decision directive authorizing the CIA to engage in a limited intelligence-sharing program with Iraq. At that time Mr. Robert Gates was a Deputy Director for intelligence at the CIA, and he had overall responsibility for preparing the intelligence to be shared under this arrangement. In April 1986, 2 years later, the intelligence-sharing authority was further modified by the National Security Council to allow for the sharing of additional types of information related to the results of Iraq's military operations, which means procurement and everything else. In October 1986 the authority was modified again to permit yet additional types of information to flow to Iraq. Like what? What would be those additional informational flows?

Now by October 1986, Mr. Gates was the Deputy Director of the CIA. In recent congressional testimony he stated that in 1986 he had delegated the management of the intelligence-sharing arrangement with Iraq to Richard Kerr. Until today the public believes that the intelligence-sharing arrangements with Iraq ended in 1988 with the end of the Iraq-Iran war.

Now the Senate report indicates, and this was of October 24, last year, 1991, that the Senate Select Committee on Intelligence released a report entitled "Nomination of Robert M. Gates to be Director of Central Intelligence." This report contains a section entitled, "Sharing Intelligence with the Government of Iran." This section provides the Congress and the American public with details of the administration's policy of sharing intelligence information with Iraq.

Regarding this intelligence-sharing arrangement the report concludes, and I quote, "that intelligence sharing continued on a sporadic basis until 1988, when the war between Iraq and Iran ended." A second passage backs up the assertion that intelligence sharing with Iraq ended in 1988, the passage which deals with the nature of the intelligence-sharing arrangement. It indicates that the intelligence information provided to Iraq was related solely to the Iran-Iraq war, and it reads, and I quote, that United States assistance was limited to providing intelligence and advice with respect to the pursuit of the war, end of quote. Since Iraq and Iran ended their pursuit of war by agreeing to a cease-fire in August 1988, this passage provides additional support to indicate that the sharing arrangement with Iraq ended in 1988.

The Senate report is misleading because the Committee on Banking, Finance and Urban Affairs has these documents that the intelligence-sharing arrangement did not end in 1988.

In April 1990, then-National Security Deputy Director Robert Gates presided over an NSC deputy's committee meeting on Iraq. The meeting was called to discuss the rapidly deteriorating relations between the United States and Iraq and the explore ways to forestall that deterioration. Now this is in April 1990.

After the meeting, a list of policy options for dealing with Iraq was crafted by the Near East and South Asia section of the State Department. The list was referred to as the Iraq option paper. The options paper, dated May 16, 1990, contains a menu of Government programs that the administration can supposedly use as leverage to mitigate Iraq's increasingly belligerent actions.

On May 16, 1990, the State Department forwarded the paper to NSC Director Brent Scowcroft. The cover sheet accompanying the option paper states, and I quote, "that attached is a paper containing a list of options for responding to recent actions and statements by the Government of Iraq." It was prepared at the request of the deputy's committee which met on April 16:

> We ask that you pass this paper to Robert Gates for his review and circulate it to obtain the views of the deputy's committee members and concerned agencies in advance of further discussions by the deputy's committee.

The paper contains over a dozen policy options, and under each is a short summary of the props and cons related to the pursuit of each particular option. One of the more prominent political options listed in the paper deals with the United States-Iraq intelligence cooperation programs, and it states this: "Intelligence cooperation. Intelligence exchanges have waned," waned, not stopped, "since the gulf war cease-fire. Pro: They will provide Iraq with limited information and Iranian military activity that would be missed. Con: Ending this contact would close off our very limited access to the important segments of the Iraqi establishment." Obviously the intelligence-sharing program between the United States and Iraq was still operational as of May 16, 1990.

On May 29, 1990, 13 days later, a second NSC deputy's committee meeting was convened to go over the options paper and to develop a strategy for dealing with Iraq. The meeting was held at the White House situation room. The agenda for the meeting shows a meeting to be comprised of three segments, as follows:

Segment 1, intelligence update presented by CIA: segment 2, review of United States-Iraq programs and policy options presented by the State Department; and, segment 3, summary presented by Robert Gates.

Taken together, the April and the May 1990 NSC deputy's committee meeting show that of course Mr. Gates played a key role in the formulation of the Bush administration's policies toward Iraq. They also reveal the awareness of the intelligence-sharing arrangements between Iraq and the United States.

Now in September 1990 the Senate Intelligence Committee began an investigation to determine if the Congress was properly notified about the intelligence-sharing agreement with Iraq so that during the 1991 confirmation hearing the issue of intelligence sharing with Iraq received additional attention.

□ 1250

I have quoted from the pertinent sections.

The Senate committee found no evidence in the report that they had that indicated Robert Gates himself took any action to keep the oversight committee from being informed. The revelation that Mr. Gates was aware that the intelligence-sharing arrangement between the United States and Iraq was ongoing at least until May 16, 1990, raises these new questions about his role as Deputy Director of the NSC between 1989 and 1991.

In the setting of the NSC Deputy's Committee meetings, the options paper illustrates that the United States-Iraq intelligence-sharing arrangement was thought of and used as a foreign policy tool.

Now, these are very basic things, and I have said repeatedly that we have gotten into trouble in our country when we stray from basics, basics involving everything from fundamental constitutional provisos and guidances and precedents to either judgmental decisionmaking matters.

I am going to quote from Senator HOWARD METZENBAUM of Ohio. He said this during the floor consideration of the nomination:

> The Iraq case provides a clear example of why the intelligence committees have a right to be concerned about liaison relationships * * * now we have CIA agreement on an important point. When intelligence liaison goes beyond routine cooperation and is used by the NSC as a tool of foreign policy, the intelligence committees shall be informed as a matter of course.

The revelation that intelligence-sharing with Iraq continued well into 1990 also raises new questions about the administration's reporting to the Senate and House Intelligence Committees. Based on the fact that the Senate committee report on the Gates nomination contains that fact that shows differently, I just do not know to what extent the Senate was informed.

That the United States was engaged in intelligence-sharing with Iraq well into 1990 raises a myriad of policy questions. At a minimum, it raises new questions about the scope and duration of that sharing arrangement. It raises new questions about the testimony that Mr. Gates gave, and besides that, this is in my book the fundamental question: Under what authority was the intelligence-sharing arrangement with Iraq carried out? Was the CIA involved in the post-cease-fire intelligence-sharing arrangement? What role did the State Department and the NSC play in the arrangement, and what did they know?

Did the post-cease-fire intelligence liaisons with Iraq require the administration to inform the Congress of such activities? Did the intelligence-sharing policy send Saddam Hussein the wrong signal? I conclude that it did.

I think when we look at these things from an overall bird's-eye view, we can see why. Saddam Hussein, together with his precedessor leaders in Iraq, had always contended that that portion of Kuwait that they claim had been wrongfully subdivided by the British when the British were in power properly belong to Iraq.

So here we have this very intimate relationship, and a very costly one, between the United States and Iraq, obviously saying, "You are the side we favor."

Why should we have been so surprised? In fact, before the outbreak of the shooting, of course, then we read about the rather contradictory reported behavior of Ambassador Glaspie and how she had this conversation with Saddam Hussein, and in effect Saddam Hussein said, "You know, we are grateful for your understanding and your support."

So obviously we were not really evaluating all of the ingredients of that equation over there.

Now, what was the gain to the United States for sharing intelligence with Iraq? What was the gain to the United States for going on these huge taxpayer-guaranteed outlays, not only through the Commodity Credit Corporation but the Export-Import Bank? It was in the name of balancing our international trade account and getting U.S. businesses involved. Many of them did get involved, but there was cupidity on the part of our policymakers and some American citizens and businessmen who failed to realize that they were being taken, that Saddam Hussein was interpreting that as obtaining out of 3 billion or so of those letters of credit of the total 5 that Iraq defaulted on, at least half of that that went to direct arms procurement and chemical weapons procurement.

There was the big gun, the giant gun whose inventor was assassinated in Belgium. That was very close to realization, and the money that was going to complete that was part of the money raised in the United States and funneled through these corporations in a way that really should have been quickly recognized as going not to provide grain and food but armaments, not only traditional armaments but sophisticated devices, nuclear, with computers and what not.

I brought this out last year, that as a matter of fact the Defense Department had clearly warned the Export-Import Bank. We did not have documentation showing they had done the same thing with the CCC, but I am sure it did happen because we had what I would call the interagency committees that met. That included Agriculture, the State Department, and the CIA, and they sat there, and the military intelligence and the Defense Department intelligence actually warned the State Department. But it was the State Department that dominated, and as I showed last week and week before last, we had then-Vice President Bush and later Secretary Baker actually intervening on behalf of these credits and pushing and actually lobbying very strongly. So we had the State Department dominating in some cases, and to the detriment of what would be considered the sum total of the national defense interests, these are important oversights, and as I say, the overarching background being our financial and banking resources and activities as the actual base or predicate.

Everything that happens eventually has a financial or a banking premise, even the hostage taking in Iran, as I pointed out earlier.

I am going to more or less round this out by quoting the chairman of the Senate Intelligence Committee. I am quoting here:

> I am a believer in the oversight process because it is virtually the only way that the American people—not Members of Congress, but the American people, with their elected representatives acting on their behalf—

Well, of course, we are supposed to be representing the American people—

> have to make sure that the most secret programs of our Government are operated in a way which is not only cost-effective, but perhaps even more important, consistent with the basic bedrock values to which we are committed as Americans, and that the law and the Constitutional processes be followed. We had the tragedy in this country of the Iran-Contra affair because this was a failure to notify the oversight committees.

□ 1300

I will end the quote there, because I think that is very naive. Obviously it was not to notify, but to deceive the committees in the Congress, to evade the law passed by Congress known as the Boland Act.

Mr. Speaker, I will continue this at a later time and end up by presenting the suggested legislation we will be recommending for first our committee, and hopefully my colleagues in the full House of Representatives.

Mr. Speaker, I include for the RECORD the National Security Council document dated May 18, 1990, referred to earlier:

NATIONAL SECURITY COUNCIL,
Washington, DC, May 18, 1990.

Memorandum for:

Dr. Carnes Lord, Assistant to the Vice President for National Security Affairs.

Mr. Robert Kimmitt, Under Secretary of State for Political Affairs, Department of State.

Mr. Charles Dallara, Assistant Secretary for International Affairs, Department of the Treasury.

Mr. Paul Wolfowitz, Under Secretary of Defense for Policy, Department of Defense.

Mr. Dennis Kloske, Under Secretary for Export Administration, Department of Commerce.

Mr. Richard T. Crowder, Under Secretary for International Affairs and Commodity Programs, Department of Agriculture.

Mr. Richard J. Kerr, Deputy Director of Central Intelligence, Central Intelligence Agency.

Admiral David E. Jeremiah, Assistant to the Chairman, Joint Chiefs of Staff.

Subject: NSC/Deputies Committee Review of PCC Paper on Iraq (S).

In response to the NSC/Deputies Committee meeting of April 16, the PCC has prepared an options paper on Iraq (Tab A), listing all U.S. economic and political programs that might be used to respond to recent Iraqi actions and statements. Based on your consideration of the options outlined in the PCC paper, I would like to have your agency's position on options for those programs for which your agency is responsible or in which you have a direct interest by noon Wednesday, May 23. (S)

If you have any further questions, the NSC point of contact is Ms. Sandra Charles, 395-3552. (U)

BRENT SCOWCROFT
Assistant to the President for National Security Affairs.

U.S. DEPARTMENT OF STATE,
Washington, DC, May 16, 1990.

Memorandum for: Brent Scowcroft, The White House.

Subject: Options Paper on Iraq.

Attached is a paper containing a list of options for responding to recent actions and statements by the Government of Iraq. It was prepared at the request of the Deputies Committee, which met on April 16, 1990. We ask that you pass this paper to Robert Gates for his review, and circulate it to obtain the views of Deputies Committee members and concerned agencies in advance of further discussion by the Deputies Committee.

J. STAPLETON ROY,
Executive Secretary.

IRAQ: OPTIONS PAPER

The following list of options for responding to recent actions and statements by Iraq was prepared at the request of the NSC Deputies Committee, which met on April 16, 1990. The only intention is to be comprehensive: the list does not advocate any particular option or group of options. It offers a range of choices from the largely symbolic to a virtually total economic embargo and political break with Iraq. (A non-proliferation PCC will develop specific options for steps in the area of export controls and licensing.)

ECONOMIC

Ban Oil Purchases: The largest benefit Iraq receives from the United States is through our oil purchases, which could total more than $3 billion in 1990. PRO: Oil provides the wherewithal for Iraq's efforts to develop its own non-conventional military production capacity. A total ban on U.S. oil purchases would have some short-term impact. CON: In the longer run, Iraq would soon find other buyers. Such action might also have an impact on U.S. oil prices.

CCC Program: This is the largest program we currently have with Iraq. All the sanctions legislation on the Hill, aside from Inouye-Kasten, exempts CCC. PRO: Since Iraq's record of repayment on CCC-guaranteed loans is good and USDA's review will probably give Iraq a fairly clean bill of health, suspension of CCC at this point would be a strong political statement. CON: It would violate our policy against using food as a political weapon and hit some U.S. agricultural exporters hard. It might also lead Iraq to default on CCC-insured loans. Other countries would sell these commodities to Iraq.

Exim: In January the President waived the statutory prohibition on Exim programs with Iraq. The program could be cut off by rescinding or suspending the waiver. PRO: It would be a clear, relatively easy to accomplish public gesture containing a political message. CON: The Exim facility is not essential to the Iraqis, but its suspension would harm some U.S. producers.

Licensing/Trade: Current controls on exports to Iraq are already very restrictive, but new controls could be added to ban sale of all possible dual use items. Congress is considering new controls to ban such sales to all states in the region, including Iraq. A non-proliferation PCC will look at possible options in this area in the near future.

Full Trade Embargo: PRO: It would send a strong signal. CON: This would mean a virtual end to relations with Iraq. Our allies would not go along and, indeed, would jump in to take our place wherever they could.

POLITICAL-BILATERAL

Reduce Embassy Staff: PRO: Withdrawing our Ambassador or reducing Embassy staff (with parallel reductions at the Iraqi Embassy here) would clearly demonstrate our displeasure to the Iraqis. CON: It would further limit our ability to work in Baghdad and strain an Embassy staff that is already short-handed. Removing other Embassy staff (the DATT, for example) would not impress the Iraqis but could seriously reduce mission effectiveness.

Cultural: USIS runs several programs, including a self-sustaining and very popular English instruction program and a small number of exchanges. It also plans to help establish a Baghdad headquarters for U.S. archeologists working in Iraq. PRO: Cutting these programs would be a symbolic gesture. CON: Its only substantive impact would be on the persons involved.

Drug Enforcement: Iraq had its first-ever consultations with DEA this year and expressed interest in getting DEA training for a small number of police officers. PRO: Cancellation of the training would, again, have some symbolic importance. CON: It would have little practical effect for the Iraqi Government.

Intelligence Cooperation: Intelligence exchanges have waned since the Gulf War ceasefire. PRO: They still provide Iraq with limited information on Iranian military activity that would be missed. CON: Ending this contact would close off our very limited access to this important segment of the Iraqi establishment.

Presidential Message: Saddam Hussein likes the personal touch. PRO: A carefully crafted message from the President could be effective if it hit hard on our key concerns, proliferation and regional tension (conflict through a miscalculation by either Iraq or Israel), but also emphasized a continued desire for improved relations. CON: It could be construed here as being soft on Saddam.

Iraqi Opposition: The political opposition to Saddam and the Ba'ath Party, such as it is, is down-at-the-heels, mostly in exile, and (apart from some Kurds) lacks a following in Iraq. We could, nonetheless, find some public way to acknowledge it—the Kurds especially. There is little to recommend this option.

POLITICAL-MULTILATERAL

Move Toward Normalization with Iran: PRO: A change in policy toward a more neutral or even pro-Iranian stance in international fora (UNSC, IMF, World Bank, etc.) would be a strong signal. CON: It also would send paranoia-meters in Baghdad off the end of the scale. It would raise basic questions about our policy in the Gulf and the region as a whole that would have to be addressed here. Iraq's reaction would be unpredictable.

Isolate Iraq: We could use diplomatic pressure with our friends in Cairo, Amman, and Sanaa to encourage resistance to Iraq's efforts to make itself a political and military leader of the Arab World. PRO: This would help limit Iraq's influence. CON: It could bring an unpredictable reaction from Baghdad and could, in fact, backfire in important Arab capitals.

Human Rights: We could sponsor or encourage further action on Iraq's human rights record bilaterally and in a number of international fora. PRO: We have already criticized Iraq's human rights policies on the record, and Saddam is clearly sensitive to such criticism. CON: It would be difficult to get Nonaligned support for further action on Iraq in international organizations. Saddam has demonstrated time and again that he will not allow public pressure, especially from foreigners, to influence his behavior.

Joint Action with Allies: Possible joint action on Iraq would be an appropriate subject for consultations with our allies and for consideration at the Houston Economic Summit. PRO: Concerted steps by the United States, Western Europe and Japan on such issues as technology transfer would be of much greater concern for the Iraqis than anything the U.S. might do unilaterally. CON: Consensus on concrete measures would be difficult to achieve, and failure to agree on serious joint action could even encourage the Iraqis to ignore our concerns.

DRAFT: NEA/MGA:JRMcGhee.

SENGAGEN 282 4/25/90 x76111.

CLEAR: NEA/NGA:LEPope; NEA:EWGnehm; NEA:JHKelly.

NATIONAL SECURITY COUNCIL,
Washington, DC, May 24, 1990.

Memorandum for:

Mr. Carnes Lord, Assistant to the Vice President for National Security Affairs.

Mr. Stapleton Roy, Executive Secretary, Department of State.

Ms. Emily L. Walker, Executive Secretary, Department of Treasury.

Col. George P. Cole, Jr., Executive Secretary, Department of Defense.

Mr. Robert S. Ross, Jr., Executive Assistant to the Attorney General, Department of Justice.

Ms. Susan Nelson, Executive Assistant to the Secretary, Department of Agriculture.

Mr. Joseph S. Casper, Director of Executive Secretariat, Department of Commerce.

Brig. Gen. Thomas E. White, Jr., Executive Assistant to the Chairman, Joint Chiefs of Staff.

Mr. Lawrence Sandall, Executive Secretary, Central Intelligence Agency.

Subject: NSC/Deputies Committee Meeting on Iraq (S).

There will be a meeting of the NSC/Deputies Committee on Tuesday, May 29, at 4:30 p.m. in the White House Situation Room to discuss U.S. policy options for Iraq. An agenda for the meeting is attached. (S)

Please notify my office of your agency's participants (principal plus one) for this meeting. (U)

WILLIAM F. SITTMANN,
Executive Secretary.

THE NSC/DEPUTIES COMMITTEE MEETING

Date: May 29, 1990.

Location: White House Situation Room.

Time: 4:30–5:30 p.m.

IRAQ

Agenda

I. Intelligence Update, CIA.

II. Review of U.S.-Iraqi Programs and Policy Options, State.

III. Summary, Robert Gates.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. NICHOLS) to revise and extend their remarks and include extraneous material:)

Mr. RIGGS, for 5 minutes, on March 10 and 12.

Mr. RIGGS, for 60 minutes, on March 11.

Mr. SANTORUM, for 60 minutes, on March 18.

Mr. HANCOCK, for 5 minutes, on March 11.

Mr. THOMAS of Wyoming, for 5 minutes, today.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. EDWARDS of California, for 5 minutes, on March 10.

Mr. FAZIO, for 60 minutes, on April 7.

Mr. GONZALEZ, for 60 minutes, on March 10.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Member (at the request of Mr. NICHOLS) and to include extraneous matter:)

Mr. MICHEL.

(The following Members (at the request of Mr. GONZALEZ) and to include extraneous matter:)

Mr. ANDERSON in 10 instances.

Mr. GONZALEZ in 10 instances.

Mr. BROWN in 10 instances.

Mr. ANNUNZIO in six instances.

Mr. PASTOR.

Mr. LANTOS in two instances.

Mr. LIPINSKI in two instances.

Mr. KLECZKA.

Mr. BONIOR.

Mr. BACCHUS.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 996. An act to authorize and direct the Secretary of the Interior to terminate a reservation of use and occupancy at the Buffalo National River, and for other purposes; and

S. 2184. An act to establish the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation, and for other purposes.

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock p.m.) the House adjourned until tomorrow, Tuesday, March 10, 1992, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3025. A letter from the Acting Assistant Secretary for Science and Education, Department of Agriculture, transmitting the 1990 Annual Report on the Food and Agricultural Sciences, pursuant to U.S.C. 3123(f)(2)(F); to the Committee on Agriculture.

3026. A letter from the Deputy Director, Defense Research and Engineering, Department of Defense, transmitting summaries outlining two additional projects recommended for fiscal year 1992 funding, pursuant to 10 U.S.C. 2350a(g); to the Committee on Armed Services.

3027. A letter from the General Counsel, Department of Defense, transmitting a draft of proposed legislation to amend chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), to improve the quality and efficiency of the military justice system; to the Committee on Armed Services.

3028. A letter from the General Counsel, Department of the Treasury, transmitting a draft of proposed legislating to amend the Asian Development Bank Act to authorize consent to, and authorize appropriations for, the U.S. contribution to the fifth replenishment of the resources of the Asian Development Fund, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

3029. A letter from the Secretary of Education, transmitting notice of final priorities for fiscal year 1992—special projects and demonstrations for providing vocational rehabilitation services to individuals with severe handicaps, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

3030. A letter from the Secretary of Health and Human Service, transmitting the Family Planning and 5-Year Plan reports for fiscal year 1990, pursuant to 42 U.S.C. 300a-6a(a); to the Committee on Energy and Commerce.

3031. A letter from the Secretary, Interstate Commerce Commission, transmitting notification that the Commission has extended the time period for issuing a final decision in ex parte No. 346, rail general exemption authority—miscellaneous agricultural, commodities—petition of G&T Terminal Packaging Co., Inc. et al, to revoke Conrail exemption, pursuant to 49 U.S.C. 11345(e); to the Committee on Energy and Commerce.

3032. A letter from the Chairman, Federal Election Commission, transmitting proposed regulations governing the allocation of Federal and non-Federal expenses, pursuant to 2 U.S.C. 438(d); to the Committee on House Administration.

3033. A letter from the Director, Financial Services, Library of Congress, transmitting a report on the activity of the Capitol Preservation Fund for coin sale surcharges and gift and sales of art, property and money for the month of January 1992 and the period April 1, 1991 through January 31, 1992; to the Committee on House Administration.

3034. A letter from the Assistant Attorney General for Legislative Affairs, Department of Justice, transmitting copies of the report of the Attorney General regarding activities initiated pursuant to the Civil Rights of Institutionalized Persons Act during fiscal years 1990 and 1991, pursuant to 42 U.S.C. 1997f; to the Committee on the Judiciary.

3035. A letter from the Assistant Attorney General for Legislative Affairs, Department of Justice, transmitting comments on H.R. 1717; to the Committee on the Judiciary.

3036. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the President's memorandum of justification regarding the drawdown of defense articles and services for Mexico, pursuant to 22 U.S.C. 2411; jointly, to the Committees on Appropriations and Foreign Affairs.

3037. A letter from the President and CEO, Resolution Trust Corporation, transmitting the January 1992 report on the status of the review required by section 21A(b)(11)(B) of the Federal Home Loan Bank Act and the actions taken with respect to the agreements described in such section, pursuant to Public Law 101-507, section 519(a) (104 Stat. 1386); jointly, to the Committee on Banking, Finance and Urban Affairs and Appropriations.

3038. A letter from the Deputy Assistant Secretary, Department of the Interior, transmitting a draft of proposed legislation to withdraw and reserve certain public lands and minerals within the State of Colorado for military uses, and for other purposes; jointly, to the Committees on Interior and Insular Affairs and Armed Services.

3039. A letter from the Acting Administrator, Federal Aviation Administration, transmitting the report of progress on developing and certifying the traffic alert and collision avoidance system, covering the period of October through December 1991, pursuant to 49 U.S.C., app. 1348 note; jointly, to the Committee on Public Works and Transportation and Science, Space, and Technology.

3040. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to provide for the continued improvement and expansion of the Nation's airports and airways, and for other purposes; jointly, to the Committees on Public Works and Transportation and Science, Space, and Technology.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Submitted March 6, 1992]

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 2056. A bill to amend the Tariff Act of 1930 to require that subsidy information regarding vessels be provided upon entry within customs collection districts and to provide effective trade remedies under the countervailing and antidumping duty laws against foreign-built ships that are subsidized or dumped; with an amendment (Rept. 102-284, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of rule X the following action was taken by the Speaker:

[Submitted March 6, 1992]

The Committees on Energy and Commerce and Public Works and Transportation discharged from further consideration of H.R. 2941. Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. MAVROULES:

H.J. Res. 434. Joint resolution designating April 2, 1992, as "Chuck Taylor Day"; to the Committee on Post Office and Civil Service.

By Mr. MURTHA (for himself, Mr. HAMILTON, Mr. SOLARZ, Mr. SHAYS, and Mr. RAVENEL):

H. Res. 391. Resolution expressing the sense of the House of Representatives regarding the signing of the agreements for a formal cease-fire in El Salvador, and for other purposes; to the Committee on Foreign Affairs.

By Mr. YOUNG of Alaska:

H. Res. 392. Resolution commemorating the 20th anniversary of the Iditarod Trail Sled Dog Race, an event which pays tribute to the Iditarod Trail and the history of Alaska; to the Committee on Post Office and Civil Service.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 124: Mr. JOHNSON of South Dakota.

H.R. 1456: Mr. RICHARDSON.

H.R. 1637: Mr. YATES and Mr. ROGERS.

H.R. 1987: Ms. DELAURO, Mr. HOCHBRUECKNER, Mr. ANDREWS of Maine, Mr. ABERCROMBIE, Mr. TORRES, Mr. LAFALCE, Mr. EVANS, and Mr. FAZIO.

H.R. 2385: Mr. MFUME.

H.R. 2452: Mr. SWETT.

H.R. 2806: Mr. GORDON, Mr. CLEMENT, and Mr. WALSH.

H.R. 2872: Mr. MOORHEAD.

H.R. 3360: Ms. OAKAR, Mr. MOLLOHAN, and Mrs. BYRON.

H.R. 3780: Mr. SWETT, Mr. JONTZ, and Mr. PENNY.

H.R. 3809: Mr. WAXMAN, Mr. MCMILLEN of Maryland, and Mr. LIPINSKI.

H.R. 3846: Mr. KOSTMAYER and Mr. WELDON.

H.R. 4100: Mr. OBEY, Mr. RANGEL, and Mr. MANTON.

H.R. 4107: Mr. GUARINI.

H.R. 4169: Mr. TAUZIN.

H.R. 4212: Mr. BEREUTER, Mr. STAGGERS, and Mr. WISE.

H.R. 4224: Mr. FIELDS, Mr. STEARNS, Mr. ZIMMER, Mr. WALSH, and Mr. EWING.

H.R. 4239: Mr. MARTIN and Mr. RANGEL.

H.R. 4250: Mr. SCHUMER and Mr. RINALDO.

H.R. 4256: Mr. SCHIFF and Mr. ROE.

H.R. 4275: Mr. HASTERT, Mr. FRANK of Massachusetts, Mr. RANGEL, Mr. HORTON, and Mr. JACOBS.

H.R. 4369: Mr. NICHOLS, Mr. THOMAS of Wyoming, Mr. OXLEY, and Mr. ALEXANDER.

H.R. 4378: Mr. LANTOS.

H.J. Res. 390: Mr. LANCASTER.

H. Con. Res. 232: Mr. KENNEDY.

H. Con. Res. 248: Mr. JEFFERSON and Mr. WOLPE.

H. Res. 332: Mr. LEWIS of Florida.

H. Res. 359: Mr. ANDREWS of Maine, Mr. JONES of Georgia, and Mr. DWYER of New Jersey.

H. Res. 377: Mr. SKAGGS.

H. Res. 384: Mr. HANSEN, Mr. THOMAS of Georgia, Mr. BOEHLERT, and Mr. MARTIN.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

142. The SPEAKER presented a petition of the Chicago Housing Partnership, Chicago, IL, relative to a moratorium on certain HUD regulations; which was referred to the Committee on Banking, Finance and Urban Affairs.

EXTENSIONS OF REMARKS

TRIBUTE TO SENATOR JENNINGS RANDOLPH OF WEST VIRGINIA ON THE OCCASION OF HIS 90TH BIRTHDAY

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 9, 1992

Mr. RAHALL. Mr. Speaker, it is a privilege for me to raise in tribute to a great American, whom I am proud to call a friend, a mentor, and a former colleague, Senator Jennings Randolph of West Virginia, now retired.

The occasion we are acknowledging is the Senator's 90th birthday which he celebrated on Sunday, March 8, 1992, and on which day I talked personally with him and marveled at the strength in his voice.

In years past, in my commentary I have proudly told and retold the tales about the dedication and hard work that permitted this able statesman to achieve the heights of public service that he achieved during his 40-year tenure in Washington. And justly so, I spoke in a voice tinged with pride, of the many socioeconomic benefits that flowed from the public service efforts of Jennings Randolph. Much of his work was intended for the greater good of all humankind, but most special were the benefits he was able to provide for his beloved West Virginians.

Mr. Speaker, for those who have heard those past tributes we have made to Jennings Randolph, they will clearly recall that he began his tenure as a Member of the House of Representatives in 1933, and served ably during the historic first 100 days of the Presidency of Franklin Delano Roosevelt. Today's tribute to Senator Randolph is not to repeat the litany of his many legislative and personal achievements and other triumphs of his life, but to speak of his close relationship with President Roosevelt, and of Senator Randolph's own last public speech, in 1988, made shortly before he placed himself in a personal care home near his son and his grandchildren in Missouri.

If Senator Randolph were here today, standing in the familiar well of the House, he would tell you that his friend and early mentor, President Franklin Roosevelt, was called upon by his country to expend his energies and his talents on making war, when he was in fact a prince of peace.

Jennings Randolph, too, was a prince of peace—even though he stood with his President in declaring war against the Japanese after the bombing of Pearl Harbor. Early in his congressional career, in 1945, after the harrowing war which victimized, and finally killed, his friend and mentor Franklin Roosevelt, Jennings Randolph began pursuing the establishment of an arm of Government committed to peacemaking. He proposed first a Department of Peace—and he did so in 1945 when we still had the Department of War. The Department of War was changed to the Department of Defense in 1948. Later, Senator Randolph proposed a cabinet level Secretary of Peace—and later an Academy of Peace.

But it was not until he was near to retirement in 1984 that Congress enacted into law the establishment of the U.S. Institute of Peace, along with the Jennings Randolph International Peace Scholars Exchange Program. At the time of its creation, there was much talk about naming the Peace Institute for Senator Randolph. He would not permit it—for he wanted it to be or become the "peace arm" of the U.S. Government, not a shrine or think tank named after a Member of Congress. But if he had been made to name the Institute after someone, Senator Randolph would have named it for Franklin D. Roosevelt.

Senator Randolph revered Franklin Roosevelt, and saw him as a visionary—more so than any of the other eight Presidents Senator Randolph served under—from Truman to Eisenhower, Kennedy to Johnson, Nixon to Ford, Ford to Carter, and last Carter to Reagan.

It was during the Reagan Presidency, when Randolph was pushing his Institute of Peace idea toward enactment, that he received a call in the middle of a Labor and Human Resources Committee markup. When Senator Randolph was told that President Reagan was on the line, Randolph waved the staffer away with the statement: "'* * * well, tell the President I am busy here * * * will have to call him back." Eyes wide, the staffer careened off to tell the White House operator that President Reagan would have to wait.

Senator Randolph was not being rude, or out of line, he was just being himself. He was a Senator, he was busy carrying out his work as the ranking Democrat on the Labor and Human Resources Committee, and his committee was about to begin its markup. First on the agenda that day was a matter close to the heart of Senator Randolph—that of agreeing to a budget waiver that would permit the Senator's Peace Institute bill to be brought to the floor of the Senate for consideration. As soon as the Peace Institute budget waiver was agreed to by the committee, Senator Randolph said: "I will speak to the President now if someone will get him on the phone for me."

When President Reagan came on the line, Randolph apologized for not taking his earlier call, but told President Reagan that while he, the President, could oppose the Peace Institute all he wanted to—which Reagan was strongly denying—that he—Randolph—was not about to do so, not even to take a call from the President himself while the committee in the next room was voting on a measure that held the Institute's very future in its hands. Reagan never did publicly support creation of the Institute but, once Congress acted in the affirmative, he signed the measure into law in October 1984.

On July 3, 1988, Senator Jennings Randolph made his last public appearance and speech in Gettysburg, PA, standing on the same ground where another famous President, Abraham Lincoln, had stood while making more words immortal. The Senator spoke in Gettysburg in commemoration of the 50th anniversary of the Eternal Light Peace Memorial, and he spoke of the death of Franklin Roosevelt, but he also spoke of his life. In his speech in 1988, Senator Jennings Randolph told his audience about the last speech prepared for President Roosevelt to deliver, but that he died before he could do so. And then Senator Randolph proceeded to deliver the 1945 Roosevelt speech to a waiting audience.

Senator Randolph believed that the words of President Roosevelt in 1945 were still relevant 50 years later, in 1988. I believe they still are, in 1992. For this reason, and in further tribute to him, Mr. Speaker, I insert the last public speech given by Senator Jennings Randolph hereafter in the RECORD.

In conclusion, I want to say to Senator Randolph: Senator I am as much in awe of your lifetime of achievement today as I was in 1976 when I was about to be sworn in as the (then) youngest Member of the House of Representatives. My respect for you has grown over the years.

More than anything else, I am proud to be associated, as a West Virginian and as a Member of this House, with your record of leadership. The RECORD will reveal that you acted always with clarity of thought; that you believed deeply in the inherent abilities and talents that lie within every American; that you were able to lead others, not through outrageous or revolting words or deeds, or through belicosity or belligerence, but simply, with an honest expression of confidence made quietly, a silent gesture or salute, a humorous anecdote, and if absolutely necessary, a gentle rebuke.

You treated all of us with the characteristic wit and wisdom of a true gentleman, embodying the finest traditions of the House and of the Senate, and of this great country.

Senator, as you read my words, and as you read many other tributes to you in the CONGRESSIONAL RECORD, put there by your many friends and former colleagues in the House and Senate, please know that I hope your 90th birthday is the happiest one yet, and that I wish you many, many, many more to come.

REMARKS BY HON. JENNINGS RANDOLPH, JULY 3, 1988

It was an end of an era, the end of the stewardship of a very remarkable man who led a prostrate nation out of the depths of its worst depression and then harnessed the resources of free men and women to defeat the most serious threat we had ever known to peace and human rights. Franklin Roosevelt was a casualty of that war.

As sorrowful as that memory of 38 years ago may be, I recall a nation and a world beginning a new era during which we would

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

strive to fulfill the commitment made by our commander-in-chief. He said these words: "We look forward to a world founded upon our essential human freedoms: The first is freedom of speech and expression * * * The second is freedom of every person to worship God in his own way * * * The third is freedom from want, which means economic understandings which will secure to every nation a healthy peacetime life for its inhabitants * * * The fourth is freedom from fear, which means a worldwide reduction of armaments to such a point, and in such a thorough fashion, that no nation will be in a position to commit an act of physical aggression against any neighbor anywhere in the world."

Franklin Roosevelt was forced to expend his enormous energies and talents in pursuit of war, but he was by every measure a prince of peace. His speeches and writings during those years of bitter conflict underscored his crusade to secure peace and human liberty.

During this entire time, we were troubled and the waters were rough. Franklin Roosevelt understood the sea. No navigator ever distinguished himself on a calm sea. That happens only when the person who understands troubled waters and rough times places his hand on the tiller and hopes that people everywhere, in a sense, can do it, too.

Elsewhere on the globe, menacing forces were on the rise. During the late 1930's, the accelerating expansionism of Hitler and Mussolini in Europe and Africa, continuation of Japanese warfare against China and the Axis alliance formed by Germany, Italy, and Japan foretold the outbreak of World War II.

After the collapse of France in 1940 and the start of the Nazi assault against Great Britain, in early 1941 Roosevelt launched an extensive lend-lease program on behalf of the Allies, which included Britain, Free France, China, and the Soviet Union.

The day after the surprise Japanese attack on Pearl Harbor on December 7, 1941, the United States declared war on the Axis powers and began an all-out global effort to defeat them. Roosevelt mobilized the nation, defined war aims, and coordinated and conferred with other Allied heads of state.

Franklin Roosevelt literally was now commander-in-chief of the U.S. fighting forces. His rendezvous with destiny was at hand. Enormous will and reservoir of strength were required of him to conduct the war effort and govern at home.

Roosevelt was not content, we must remember, to guide our nation and free world from the safe confines of the White House, Hyde Park, or Warm Springs. Truly, he operated as a commander in the field traveling to Casablanca, Tehran, Quebec, Cairo, and Yalta to coordinate the war effort and, most importantly in his mind, secure a program of peace and human rights once the conflict was successfully concluded.

As the Allies moved closer to victory, Roosevelt devoted much more energy and time to the establishment of the United Nations. To reconcile to the maximum extent the conflicting demands, the national interests, the pursuits of power and territorial demands, particularly in negotiating with Stalin, required the great persuasion and patience that this president could muster. The United Nations became his dream, an international organization dedicated to the pursuit of peace and human rights. He did not, as we know, live to see that dream become a reality or to witness the victory in war for which he had worked so long and hard. On April 12, 1945, at the age of 63, Franklin Roosevelt died in Warm Springs, Georgia. He was to have given a speech in St. Louis, Missouri on April 13. I have read the remarks our great president prepared. I quote from them so that you may understand the depth of his concern for the people of the world if we did not learn to live together in a world, "Where time and distance are no more.

I continue to quote from his undelivered speech: "We as Americans, do not choose to deny our responsibility, nor do we intend to abandon our determination that, within the lives of our children and our children's children, there will not be a third world war.

"We seek peace, enduring peace. More than that an end to this brutal, inhuman and thoroughly impractical method of settling the differences between governments.

"The work my friends is peace. More than an end to this war—an end to the beginnings of all wars. Yes, an end forever, to this impractical, unrealistic settlement of the differences between governments by the mass killing of peoples.

"Today we move against the terrible scourge of war—as we go forward toward the greatest contribution that any generation of human beings can make in this world—the contribution of lasting peace. I ask you to keep up your faith."

President Roosevelt, in his own hand, added, "The only limit to our realization of tomorrow will be our doubts of today. Let us move forward with strong and active faith."

It is my belief that, at long last, we have the first shaping of an instrument through which a more peaceful world may be achieved, and President Roosevelt's dream fulfilled. In June of 1945, I introduced a bill to establish what was then called a Department of Peace. Such a department would have the responsibility of formulating and publicizing educational programs for promoting better understanding of the other peoples of the world and better understanding of the fundamental principles of international relations and of cooperation among nations.

On October 19, 1984, thirty nine years later, President Ronald Reagan signed the United States Institute of Peace Act, and thus created an institution to develop and disseminate knowledge about the peaceful resolution of international conflict. In 1986 the presidential nominees to the Institute's Board of Directors were sworn into office by Chief Justice Warren Burger, in his private chambers. On February 25th of that same year the Institute's Board of Directors, to which I am the senior advisor, held their first meeting before a standing-room-only audience. The doors of the Institute officially opened on April 14, 1986, and work commenced.

I firmly believe that the United States Institute of Peace will allow us to realize the hope that Franklin Roosevelt once expressed as, "* * * an end to the beginnings of all wars," a hope symbolized by this Eternal Light Peace Memorial which he dedicated 50 years ago today, and which we now rededicate with the same hope for a world of peace.

BAKER'S SLEDGEHAMMER DIPLOMACY AGAINST ISRAEL

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 9, 1992

Mr. LEVINE of California. Mr. Speaker, the following commentary by William Safire, "Humiliating Israel," New York Times, March 2, 1992, outlines the damaging effects of the Bush administration's sledgehammer diplomacy against our only democratic ally in the Middle East. By refusing to accept even a congressional compromise on the humanitarian loan guarantees for Israel—deducting from the guarantees the amount Israel spends on West Bank and Gaza settlements—this administration is, as Safire puts it, holding hostage Jews fleeing from feared pogroms and persecution in the former Soviet Union.

Safire also correctly observes that in its refusal to compromise and insistence that the President must have the discretion to suspend the loan guarantees at any time, the administration has usurped the power to formulate Middle East policy from the Congress. By failing to distinguish friend and foe in this region, the administration is walking a dangerous path.

I strongly urge my colleagues to review this insightful analysis.

[From the New York Times, Mar. 2, 1992]

HUMILIATING ISRAEL

(By William Safire)

WASHINGTON.—The depth of James Baker's anti-Israel animus was displayed last week when he complained to Congress, "Nobody else is asking us for $10 billion in addition to the $3 billion to $4 billion we give every year with no strings attached."

That was a lie twice over. Secretary Baker is a lawyer who weighs his every word. He knows that Israel asks only for a cosigner on a loan from private banks, has offered to pay the 2 or 3 percent set-aside costs and is by no means "asking us for $10 billion."

He knows, too, that $1.2 billion a year comes right back to us as repayment for military aid we "sold" Israel to offset our sales of advanced jets and tanks to its enemies. And most of the economic aid is for goods that must be purchased in the U.S. So much for "no strings" from an Administration that just forgave Egypt's $7 billion debt.

The Iceman of Foggy Bottom is prepared to practice such deception to accomplish one goal: to limit the settlement of the West Bank to Arabs only. The majority of Jews in Israel believe that would lead to an independent P.L.O. state at their jugular.

To this war-inviting end, Mr. Bush has taken two steps that would have been anathema to any previous U.S. President:

First, he has held hostage Jews fleeing from feared pogroms in Russia and Ukraine. Unless Israel knuckles under to Mr. Bush about the West Bank, there will be no help in borrowing money to house the refugees.

Second, he is unabashedly seeking to topple the Government of an ally. His message to Israelis is unmistakable: Vote out Mr. Shamir and his party of the right—or else.

How can he get away with this strong-arm stuff? Why isn't he concerned about public opinion and Congressional reaction?

Here's why: On the left he has the editorial support of our leading liberal newspapers; on the right, he sees The Wall Street Journal's news pages savaging Israel's supporters in the U.S.

In the Congress, he euchred Senator Patrick Leahy, overseer of foreign aid appropriations, into what the Vermont Democrat thought was a compromise that would assert mutual interests: deducting from the loan guarantee the amount Israel chose to spend on settlements on disputed land.

But now President Bush's operatives are gleefully passing the word that they have compromised that compromise. They will let Congress authorize the loan guarantee—but only if it gives the President and Mr. Baker the power to withhold its use if Israel does not obey the Bush Administration's West Bank diktats.

Such an abdication of responsibility would transfer power from Congress to the executive branch concerning Mideast affairs (and be a step in the direction of a line-item veto, which every President seeks).

Too many supporters of Israel in the U.S. are persuaded that it's O.K. for Mr. Bush to direct a labor victory, because they think Yitzhak Rabin will stop the settlements, hand over the West Bank and call that peace.

But Mr. Rabin is on the record against political settlements—not settlements needed for Israel's security, which he supported as Prime Minister in the 70's. He is no Peres patsy. If a Labor-Likud unity government emerges, as is likely, Mr. Bush would be infuriated at its refusal to accept his Solomonic decision to cut Israel's territory in half.

If Mr. Bush succeeds in turning the Leahy compromise into a Leahy double-cross. Mr. Baker will tell Israel: "Take it and leave it." Take the guarantee to borrow the refugee-housing money and leave the West Bank to exclusive Arab development—and, ultimately, Arab sovereignty.

No self-respecting nation can accept such a dishonorable deal. Better to withdraw the guarantee request and let the Russian refugees live in tent cities—call them "Bushvilles"—throughout the West Bank. Perhaps televised suffering will appeal to the world's conscience.

Mr. Bush put a leash on Israel when it wanted to respond to Iraqi Scud attacks. He has been trying to bring Israel to heel by electing his choice of a Prime Minister. And now he wants Congress to let him force the people of Israel—desperate to house refugees from feared religious persecution—to sit up and beg.

Too much. In trying to humiliate the only free nation in the Middle East, George Bush and his hatchetman at State demean us all.

MIRACLE ON THE EMBARCADERO

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 9, 1992

Mr. LANTOS. Mr. Speaker, on the Embarcadero in San Francisco, a miracle is taking place everyday. That miracle is called the Delancey Street Foundation, a highly innovative drug and alcohol rehabilitation facility that is literally saving lives by instilling hope in the hearts of society's castaways.

To merely call Delancey Street a halfway house is to belie its imaginative and dynamic approach to rehabilitation. Serving 700 adult and juvenile residents, the organization is run by Mimi Silbert, one of the most courageous and remarkable woman I have ever encountered.

She runs Delancey Street Foundation singlehandedly—her only partners in rehabilitating the residents are the residents themselves. She works with the absolute bottom rung of our society: addicts, prostitutes, con men, thieves, felons. But rising from the ashes of addiction and despair, the lost find new life at the Delancey Street Foundation.

The mission of Delancey Street is best described by Mimi Silbert herself:

> The people who come to Delancey Street are pretty much the ones who should be here: they're nasty, vicious, really anti-social, self-destructive, self-hating, and other-hating people * * * We don't change people for the inside out. We change them from the outside in. You act as if you're decent, as if you're kind and good. And eventually you learn to become all of those things * * *
>
> We spend a lot of time caring. The way the place is structured, they have to care, because there's no staff, only me. They have to care for each other, or they will die.
>
> The horror of Delancey Street is that when people split, leave early, they don't make it for one reason or another, they're soon dead. Literally, we fight for lives. We have success because we believe in something larger than ourselves; we plan all the time, talk incessantly about how we need to prepare for the kids now standing on street corners, kids we don't know but who are going to need help. We build not for ourselves but for them, for the future.

In 1989, the foundation embarked on a bold and glorious experiment. With limited financial resources, the residents—former convicts, addicts, and former lost souls—built from scratch a $30-million, three-acre complex of living space, shops, restaurants, and a fitness center along the waterfront on the Embarcadero. I recently had lunch at this exquisite new facility. It was quite an experience.

It is difficult to convey just how deeply moved and impressed I am with the mission and accomplishments of Delancey Street. Indeed, a personal visit to the facility is the best way to grasp the miracle that renews the lives of its residents.

The facilities are merely a concrete, external projection of the spectacular work they do in restoring, enhancing, and glorifying human lives. The dignity and grace of manners, warmth, and enthusiasm of each person associated with the foundation is reflected in the sparkle, cleanliness, and elegance of the buildings, courtyards, and dining rooms.

Delancey Street is without a doubt one of the best rehabilitation programs in the Nation, if not the world. Attesting to its great success, programs similar to Delancey Street have been cropping up all over the country, and the Department of Justice is studying it as a model for its own rehabilitation program.

Mimi speaks of the transformations she has witnessed:

> It's unbelievable to see 40-year-olds, coming from despair, regaining childlike wonder, getting hope, learning how to care for the first time. That moment of wonder, this little something they never thought they could do. There's nothing more wonderful.

Mr. Speaker, it is said in the Talmud that—

> * * * Whoever saves a soul is as though he saved a universe.

Delancey Street, under the inspiring leadership of Mimi Silbert, is saving many souls, many worlds. I would like to publicly express my deep gratitude to Mimi for enriching our world by lighting so many bright and beautiful candles where there was only darkness before.

CONGRESS, NOT THE SUPREME COURT, SHOULD DECIDE THE FATE OF HABEAS CORPUS

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 9, 1992

Mr. EDWARDS of California. Mr. Speaker, the U.S. Supreme Court is continuing to chip away at habeas corpus with the intent to eliminate it. In a disturbing move, the Court has ordered the parties in a Virginia case, Wright versus West, to argue whether Federal courts should defer to State court judgments in habeas corpus cases. This issue is the very one Congress has been actively considering and is at the heart of the habeas corpus provision contained in H.R. 3371, the omnibus crime bill conference report that the House passed just last November and that the Senate is currently debating. In a letter to the editor of the New York Times, Morton Stavis, the president of the Center for Constitutional Rights, states that where habeas corpus is concerned, Congress, not the Supreme Court, should have the last word. I share his view and hope that my colleagues will read this letter and understand the role that Congress has to protect one of our most important constitutional rights.

[From the New York Times, Mar. 2, 1992]

CONGRESS CAN RIGHT HIGH COURT'S ERRORS

To the Editor:

The Rehnquist Court is threatening a major step backward. Almost 40 years ago, the Supreme Court ruled that those convicted in a state court could have full review of their Federal constitutional claims in a Federal court by the use of the ancient writ of habeas corpus. Not until then did state court criminal proceedings effectively become governed by the Federal Constitution.

The Rehnquist Court has been chipping away at that ruling and is preparing to wipe it out completely. Last December, the Court ordered lawyers in a case to be argued next month to brief the question whether Federal courts should defer to a state court's determination or make their own independent determination of claims of Federal constitutional violations. Deference to a state court means that Federal constitutional protections are finally determined by state court judges, who because of institutional pressures are often less sensitive to constitutional claims than Federal judges.

Lest it be thought that all this is relevant only to scruffy criminals not entitled to society's sympathy or concern, the 40-year-old decision to which I refer overruled the approach of the Leo Frank case decided in 1915. Frank, a young Jewish man operating a factory in Georgia, was tried and convicted of murder by a Georgia court and sentenced to death. Though the trial was a travesty, as recounted in the dissenting opinion of Justice Oliver Wendell Holmes, the majority of the Supreme Court deferred to the Georgia courts—the procedure Chief Justice Rehnquist is trying to restore.

Incidentally, about five years ago, the Georgia Legislature acknowledged that Frank was not guilty. That did not help him much. After the Supreme Court sustained the death sentence, the Governor of Georgia, reacting to the unfairness of the trial, commuted the sentence to life imprisonment. A mob then stormed the jail where Frank was incarcerated, seized and lynched him.

Despite the assumption that the Supreme Court has the last word, that is not the case. Most of the backward looking decisions by the Court involve interpretation of statutes, not constitutional determinations. Thus, Congress can overrule Supreme Court decisions, as it did in recent years in the Civil Rights Restoration Act of 1987 and the Civil Rights Act of 1991.

On habeas corpus, the House of Representatives passed a bill that continues existing law, but the Senate bill would go along with President Bush's proposal, which is essentially what Chief Justice Rehnquist seeks to achieve. The main point is that Congress—not the Supreme Court—has the last word. Thus, the people through their representatives can have impact.

If the Supreme Court continues to move backward, it is inviting a steady stream of corrective legislation.

MORTON STAVIS,
President,
Center for Constitutional Rights.

NEW YORK, February 14, 1992.

TRIBUTE TO MARY ANN PREVRATIL FOR HER 40TH ANNIVERSARY WITH OLYMPIC FEDERAL SAVINGS ASSOCIATION

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 9, 1992

Mr. LIPINSKI. Mr. Speaker, it gives me great pleasure to recognize Ms. Mary Ann Prevratil who celebrated her 40th anniversary with Olympic Federal Savings Association in Berwyn, IL, on February 25, 1992. During her years of service, Ms. Prevratil has held a variety of positions including clerical assistant, loan collector, assistant secretary, supervisor of loan collections, supervisor of mortgage services, and branch loan officer. Today, she serves as a savings counselor in the new accounts department of the Berwyn branch.

Ms. Prevratil's commitment to the community goes beyond the workplace. She is currently the membership chairperson of the West Suburban Business and Professional Women's organization and also acts as second vice president for the Czechoslovakian Savings and Loan League.

Mary Ann Prevratil is a model of service and commitment to Olympia Federal Savings Association. I urge my colleagues to join me in applauding her exemplary record and saluting her dedication to her community. I wish her continued success at Olympia Federal Savings Association and in every endeavor.

CONGRESS GOES TO HEXAGON

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 9, 1992

Mr. LEWIS of California. Mr. Speaker, on Wednesday, March 11 at 8 p.m., some very talented Members of Congress and staff will participate in an event rich in tradition, the 38th annual performance of Hexagon.

For the past 37 years, Hexagon has produced an original comedy musical and satirical revue with proceeds raised going to Washington area charities. Through last year's effort involving over 400 volunteers, Hexagon raised over $80,000 for Martha's Table, which feeds the area homeless. This year's proceeds will be donated to St. John's Child Development Center.

The lawmaker's comical evening on stage is being called, "Congress Goes to Hexagon." Representatives PAT ROBERTS, JIM MORAN, BEN JONES, CONNIE MORELLA, BILL HEFNER, CLAUDE HARRIS, SCOTT KLUG, and Senators LARRY CRAIG and CONRAD BURNS are expected to perform.

I encourage my colleagues to make time in their busy schedules for a very enjoyable evening supporting a most worthwhile cause.

CELEBRATING HADASSAH'S 80TH ANNIVERSARY

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 9, 1992

Mr. SCHEUER. Mr. Speaker, I would like to take this opportunity to congratulate Hadassah on its 80th anniversary. With 385,000 members in 1,500 chapters, Hadassah is the largest Jewish women's volunteer group in the Nation.

Eighty years ago, in 1912, 12 members of the Daughters of Zion Study Circle decided, under the leadership of Henrietta Szold, to expand into a national organization devoted to promoting education in America as well as public health and nurse training in Israel—then called Palestine.

Henrietta Szold, in addition to founding Hadassah, was a Jewish scholar, editor, and pioneer Zionist.

Mr. Speaker, Hadassah is best known, of course, for its world-class hospitals and programs for medical training in Israel. The Hadassah Medical School at the Hebrew University on Mt. Scopus in Jerusalem was Israel's first undergraduate medical school. The Hadassah Medical Organization established Israel's first comprehensive center for cancer diagnosis, therapy, treatment, and research. And the Hadassah Hebrew University Hospital at Ein Karem is Israel's pre-eminent bone marrow and heart transplant center.

Mr. Speaker, Hadassah has also been deeply involved in other aspects of Jewish life. It has run a top-flight educational system in Israel for more than 45 years. Its College of Technology in Jerusalem trains students in the fields of education, health, medicine, and hard science.

Since 1934, Hadassah's Youth Aliyah program has graduated tens of thousands of children who came to Israel from the Soviet Union, Ethiopia, South America, Syria, Iran and other Middle Eastern nations that didn't want them. Throughout the years, Youth Aliyah has provided such recent arrivals with agricultural and vocational training, secondary education, and the promise of university study.

Through the Jewish National Fund, Hadassah has reclaimed thousands of acres of farmland in Israel. Hadassah has aided in the construction of water retention dams, provided funds to plant millions of trees, and helped establish recreational parks throughout the State of Israel. These efforts have transformed a Middle Eastern desert wilderness into a veritable garden.

Mr. Speaker, it is remarkable how much Hadassah has done in just 80 years. Today I salute its past accomplishments and wish it great continued success in the years to come.

NEED FOR UNINSURED HEALTH PLAN

HON. JIM BACCHUS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 9, 1992

Mr. BACCHUS. Mr. Speaker, I rise today to share with you the story of June Messner, who I met in the intensive care unit at Cape Canaveral Hospital in Rockledge, FL, on January 14, 1992. June is experiencing, first hand, the terror, demoralization, and desperation of needing emergency health care services without the financial security of health insurance. Caught in the burdensome bureaucracy of our Nation's health care system, her story should be a lesson for us all.

I believe every American should have the right to quality, affordable health care. I believe it is essential that we create a health care system that is fair, that we can afford, and that makes quality health care available to all Americans. Mr. Speaker, I respectfully submit June's letter to the CONGRESSIONAL RECORD for my colleagues to read. Until people such as June can live without fear of financial ruin and medical neglect, our work on the national health care issue is far from over.

COCOA BEACH, FL,
January 22, 1992.

Hon. JIM BACCHUS,
Cannon House Office Bldg.,
Washington, DC.

DEAR CONGRESSMAN BACCHUS: You may not remember me, but I was the woman in the intensive Care Unit at Cape Canaveral Hospital when you and your entourage dropped in for a visit in an effort to help your Bill for hospitalization for people who are uninsured. You said I was a perfect candidate to interview. How right you were.

The little boy you also interviewed, who was in the same situation, won out, and I'm happy about that, because he will have a better start in life.

First of all Congressman Bacchus, never get deathly ill on a Saturday night at 11 p.m. when your doctor's too tired to come to the hospital, examine you and admit you! I now understand that my doctor was leaving for vacation the morning after I was admitted and he was too tired to come and see me!! "Put the woman in the ICU for six days, let the nurses take care of her and when I return I'll see her in my office!!" must have been what he told the nurses. I can only thank the nurses for a job WELL DONE!

Once the hospital discovered that I had no hospitalization, I was taken out of the ICU and put into a room for six days and nights, again being taken care of by nurses and high technology drugs. For a total of nine days, while hospitalized, I saw an assistant doctor for a total of 15 minutes!! He would come to my room, look me over and in 12 seconds was gone again. I could have gone home, taken medications and received help from my family until I got better and not have to worry about paying an enormous hospital bill. I don't have the extra income to afford being ill, but I'll have to find it someplace so that I can pay the hospital.

I work for Courtenay Springs Village (a retirement village) on Merritt Island, Florida. The residents and my supervisors showed me more concern than the doctor, but that's okay. I did get better thanks to the nurses and thanks to you I won't get lost in the shuffle of big business.

I will get stronger and have to work for another five years just to pay off the hospital, and maybe, just maybe I won't get sick again and will be able to rest and relax and enjoy my life after 65 years of hard work.

Folks don't stop to think they'll get sick. They don't stop to think they'll run out of time, they just go on with life.

Thank you Congressman Bacchus for making me feel like a human being, and for understanding the plight of the uninsured and for trying to make a difference. If my situation helps only one person, then it was worth getting sick. I will work hard for another five years to pay my hospital bill, and maybe then I too can retire.

Thank you kindly for your concern Congressman Bacchus.

Sincerely,

J.G.M., Patient,
ICU, Cape Canaveral Hospital.

P.S.: Thought you'd like to know, Congressman Bacchus, after nine days in the hospital, I still haven't seen my doctor, he's still on vacation!

MADELEINE SNEDDEN: AN 80-YEAR-OLD PEORIAN PLAYS A VITAL ROLE IN THE RECORDS DEPARTMENT

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 9, 1992

Mr. MICHEL. Mr. Speaker, I would like to bring to the attention of our colleagues the hard work and dedication of Madeleine Snedden. Madeleine Snedden is an 80-year-old chief deputy registrar in the vital records department of the Peoria City/County Health Department.

Madeleine is a processor of death certificates and has been with the department for 27 years. People who know and work with her consider her "as sharp as a tack". She is not about to retire and receives great support from her doctor who tells her to keep going.

At this point I wish to insert into the RECORD an article by Jo Ann Newberg of the Peoria Journal Star, "A Woman for the Record Books."

A WOMAN FOR THE RECORD BOOKS

80-YEAR-OLD PEORIAN PLAYS A VITAL ROLE IN RECORDS DEPARTMENT

(By Jo Ann Newberg)

Madeleine Snedden, 80, chief deputy registrar in the vital records department of the Peoria City/County Health Department, is not about to retire.

With a twinkle in her eye, this lively processor of death certificates says the only way she will leave her job is when the morticians carry her out.

"I think if I retire, I'll sit down and die, I wouldn't want to get out of bed. My doctor, Fritz Heinzen, says to keep going."

Judy Smith of Wright & Salmon Mortuary, who is in the office to collect death certificates, says Snedden is "as sharp as a tack and just as good as the day I started coming in here 17 years ago."

Snedden has been with the Health Department for 27 years. She recalls that long-ago day when she started her job as being very traumatic. "The first death certificate I signed—we didn't have stamps back then—was for my favorite aunt who lived with my mother. I signed them for my sister, my mother and sisters-in-law."

At one time, Snedden handled both birth and death certificates. Each year, births outnumber deaths in Peoria County by a margin of 2 to 1. Now birth documents are processed by deputy registrar Alice Mills. Robert L. Murray is registrar and head of the Health Department.

When she isn't hard at work, Snedden enjoys listening to music, playing solitaire or watching ballgames on television. Her favorite teams are the Chicago Cubs and the Bears.

She lives with her daughter and son-in-law, Judy and Ed Bruggeman, parents of Bridget and Gretchen. Her other daughter and son-in-law are Mary and Gary Steiner. Their children are Gary Jr., Jennifer, Stefanie and Kathleen.

"Kathleen plays soccer and basketball. She's on an all-city traveling team. She's in eighth grade at St. Bernard's, but plays with a team out at Notre Dame. She's quite a little ball player."

Snedden and her husband, Russell, had two sons and a daughter who died. Russell died at age 50. "He was an electrician. He dropped dead on Christmas Day in 1962. We didn't even know he had heart trouble."

Snedden's 80th birthday was Feb. 15. She and Health Department co-workers celebrated a day early on Valentine's Day. Now a "Happy Birthday" banner hangs on the wall behind her desk, along with scores of cards.

"Cindy Marvin is my boss; she's head of epidemiology," Snedden says. "She couldn't be nicer. I'm not a party person, but they decided to have one. Cindy was afraid I would be offended and called me about it. She was too chicken to come in person. They had food from Trefzger's because they know that's my favorite bakery. I got my favorite flowers, red roses, from (Peoria County Coroner) Herb Buzbee. He's like my own kid."

Snedden attributes her longevity to giving up smoking 20 years ago and not drinking alcohol. "My daughter says clean living does it. Now I go to bed fairly early. I can't sit up and watch the news anymore. I get up at 5:45 every morning. I'm slower getting ready, though."

In 80 years, Snedden has seen a lot of changes in Peoria. She's bothered by deteriorating neighborhoods on the East Bluff, where she's always lived, and thinks progress in Peoria has slowed. "Instead of going forward, they're going backwards."

She's interested in national politics and plans to write in the name of Mario Cuomo for president.

"I think George is kinda for the rich man, but I think Barbara is a cute lady, real nice. She tickles me. Of course, George is a nice man. I got a birthday card from him and from Bob Michel. All you have to do is write to Washington, and they send them out. I know George didn't sign it, because George and Barbara had the same signature."

BIOGRAPHY OF COCHISE

HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 9, 1992

Mr. FALEOMAVAEGA. Mr. Speaker, through Public Law 102–188—Senate Joint Resolution 217, House Joint Resolution 342—Congress and the President designated 1992 as the Year of the American Indian. This law pays tribute to the people who first inhabited the land now known as the continental United States. Although only symbolic, this gesture is important because it shows there is sympathy in the eyes of a majority of both Houses of the Congress for those Indian issues which we as a Congress have been struggling with for over 200 years. In support of the Year of the American Indian, and as part of my ongoing series this year, I am providing for the consideration of my colleagues a short biography of Cochise, a principal chief of the Apache Tribe who is known for his skills as a warrior. This biography was taken from a U.S. Department of the Interior publication entitled "Famous Indians, A Collection of Short Biographies."

COCHISE (APACHE)

The wild Chiricahua Apaches of Arizona territory, although almost constantly battling their traditional enemies, the Mexicans, were not unfriendly to American settlers of the 1850's, and some members of the band even worked for them as woodcutters at the stagecoach station in Apache Pass.

But in 1861, when the child of a settler's family was abducted, Chiricahuas were assumed to be guilty. Six of their chiefs, among them the youthful leader Cochise, were called in for questioning by troops from the 7th Cavalry. A white flag of truce flew over the commander's tent in which they met.

As the Apaches steadfastly denied their guilt and refused to confess to the crime, the commander ordered them seized and arrested. One Chiricahua was killed, and four others were held, but Cochise, cutting through the side of the tent, escaped, three bullets in his body.

Cochise at once began a campaign to avenge his tribesmen, who, following his escape, had been hanged by federal troops. He directed Apache bands in attacks up and down the territory which were so ferocious that the troops were forced to retreat. For a time Arizona was at the mercy of the triumphant Indians. A territorial newspaper, the Arizonian, reported in August 1861: "We are hemmed in on all sides by the unrelenting Apache. Within but 6 months, nine-tenths of the whole male population have been killed off, and every ranch, farm, and mine in the country has been abandoned in consequence."

With the recall of troops from Arizona forts for Civil War duty in the East, the Apaches were convinced that they would succeed in preventing Americans from settling in Apacheland. By the end of 1862, Gen. James Carleton and an army of 3,000 California volunteers marched into southeastern Arizona to put down the Apaches and reestablish communications between the Pacific Coast and the East. Cochise, Mangas Coloradas (a leading Apache chief of the Mimbreño band), and their warriors defended Apache Pass against the Californians until forced to give way before the howitzers of white volunteers.

With the death in prison of Mangas Coloradas "while attempting to escape" the red-hot bayonet of a white soldier, Cochise became principal chief of the Apaches. As troops returned to Arizona territory following the Civil War, an all-out drive to exterminate the Apaches got underway.

Driven into the mountains, Cochise, with not more than 200 warriors, was to hold the U.S. Army at bay for over 10 years. The Apache chief and his men were tough, skillful warriors, constantly alert, and able to vanish as if by magic. Although they were forced deeper and deeper into their mountain hideaways, they continued to carry on guerilla warfare. White settlements, ranches, and mines were reestablished, but no Apache band was ever captured, and the Chiricahuas' raids continued.

In June of 1871, the famed Indian fighter, Gen. George Crook, took command of the Department of Arizona, under orders to restore peace and law to the territory and subdue the Apaches. Despite his military skill, Crook was a fair and just man who did not believe in exterminating the Indians. He recognized the Apaches' just claims, respected their ability as warriors, and dealt honorably with them. He won their respect in return.

Crook determined to fight fire with fire. Since alliances among Apaches as a whole had never been strong, he was able to win over a good many warriors, whom he then used to fight those who remained hostile. Crook's Apache scouts became famous, and within a few months, most of the Indians had been brought onto reservations. Cochise himself surrendered in September, 1871.

The following spring, resisting transfer to the newly established Tularosa Reservation in New Mexico, Cochise and some 200 followers escape. But when the Chiricahua Reservation (later discontinued) was established in Arizona in the summer of 1872, he again gave himself up. There the great Apache leader lived peacefully until his death in the summer of 1874. A few hundred Apache "renegades" were still at large. War against them went on until the end of that year, when Crook could claim—for a time—that peace had been restored to Arizona territory.

MARKING THE ANNIVERSARY OF THE SUPPRESSION OF TIBET BY CHINA—THE UNITED NATIONS AND THE ADMINISTRATION TURN A BLIND EYE

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 9, 1992

Mr. LANTOS. Mr. Speaker, it seems that the United Nations has decided to celebrate the anniversary of the March 10, 1959, Tibetan uprising against brutal and illegal Chinese rule by turning its back on the people of Tibet. By refusing to place China under special investigation for its repeated abuse of human rights in that illegally occupied country, the U.N. Commission on Human Rights has embarrassed and discredited itself.

Unfortunately, Mr. Speaker, that action was taken with the support of the U.S. administration. The White House continues to follow a double standard on human rights: Other nations must observe human rights—but not China. I am appalled by the administration's shortsighted and wrong headed policies toward the butchers of Beijing.

In the same vein, the United Nations has apparently taken to heart the accusations of China's representative that the West is trying to boost the Tibetan separatist movement by fabricating human rights issues. How utterly outrageous and disgusting.

The state of affairs in Tibet today is a political, human rights, and cultural nightmare. Indeed, no one need fabricate Chinese human rights abuses in Tibet.

Since China's invasion of Tibet, arbitrary arrest and detention is pronounced for those who peacefully advocate independence. Numerous human rights groups have documented hundreds of cases of torture of peaceful Tibetan demonstrators.

China has settled millions of its own people in Tibet to the point where Chinese now outnumber Tibetans in their own homeland. Chinese immigrants receive special subsidies including higher wages, lengthy vacations, and educational benefits.

Many Tibetans are deprived of education, or are forced to attend schools where all classes are taught in Mandarin Chinese. Given the imposition of this foreign language, Tibetan students are at a distinct disadvantage. The Tibetan language has been suppressed in all sectors of public life. All official forms must be completed in Chinese, forcing Tibetans to seek the assistance of interpreters.

Prior to the Chinese invasion, Buddhist monasteries were the centers of tradition and formal education. Almost all of Tibet's 6,000 monasteries have since been razed, their invaluable collections of religious statuary either melted down or sold. Religious paintings, wall hangings, scrolls, and texts have been destroyed. Traditional religious practice is now forbidden.

While I am shocked by the U.N.'s decision to officially ignore the rape of the Tibetan people, I am not completely surprised. Its decision to coddle the decrepit leadership of China is not unprecedented. One need only look at the Bush administration's misguided and immoral policy toward that outlaw nation.

Why should anyone, including the United Nation stand up for the rights of Tibetans when the official policy of the United States, as forwarded by the administration, systematically refuses to oppose or condemn, in word or deed, the terrible human rights violations committed by Chinese leaders?

The President's policy is strongly opposed by a majority of Congress. These are not merely partisan differences. Foes of the administration's policy cover the entire political spectrum of both parties. Yet in the face of this opposition, the President continues to cling to his realpolitik position on relations with this outlaw nation. Following his enigmatic course of action, last week he again vetoed legislation that would place eminently reasonable conditions on the renewal of most-favored-nation trading status for China.

I say his policy has failed. The consequences of that failure are as real as they are tragic. They can be measured in human suffering and deprivation.

And now, Mr. Speaker, following the lead of the administration, the United Nations has turned a blind eye toward the crimes of China in Tibet. How sad it is that the United Nations has abdicated its responsibility to protect, defend, and advance the inherent rights of all mankind—including Tibetans.

Mr. Speaker, given the nonchalant response by both the administration and the United Nations to the horror taking place in Tibet it is imperative that the U.S. Congress redouble this effort in fighting for justice for the people of Tibet. I call on my colleagues to join me in expressing outrage against the administration's immoral policies and the United Nation's recent acquiescence to the brutality in Tibet.

A TRIBUTE TO JAMES K. GUTHRIE

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 9, 1992

Mr. LEWIS of California. Mr. Speaker, I would like to bring to your attention today the outstanding contributions and fine public service of James K. Guthrie, the 1992 recipient of the Golden Baton Award. He will be honored by the Inland Empire Symphony Orchestra in recognition of his leadership role in fostering music for the cultural benefit of the people of the Inland Empire.

James Guthrie was born in 1914 and developed an interest in music at a very young age. His involvement in the arts has spanned many decades, and began long before his graduation from the University of Redlands. At the age of 15, he became conductor of the Redlands Bowl and founded San Bernardino's first community symphony when he was 16.

Jim's musical accomplishments are many and varied. He is the founder of the San Bernardino Valley Community Concert Association and has served as conductor of the San Jose Symphony Orchestra, the Riverside Symphony, and as musical director and conductor of the Mt. San Jacinto College Symphony Orchestra. In addition, he has appeared as guest conductor of the Los Angeles Philharmonic, the Hollywood Bowl Orchestra, the New York Philharmonic, the Vancouver Symphony, the Pittsburgh Symphony, and as musical director of the Greek Theater in Los Angeles. He has conducted the National Grand Opera Company in New York, as well as on Broadway, and at Carnegie Hall. He has also served as head of the San Bernardino Valley College music department and has taught music at the University of Redlands.

Over the years, Jim has also been active in a number of other professional endeavors and been involved in numerous community service organizations. He worked as writer and editor for the San Bernardino Sun and was the newspaper's publisher for 4 years. He has also served as the chairman of the California Arts Commission, president of the National Orange Show, and as an administrator of the National Endowment for the Arts and Humanities in Washington, DC.

Mr. Speaker, Jim Guthrie has enriched the lives of many people through sharing his wonderful talent and gift of music. He has given to the community, and also to individuals, by teaching other musicians and giving them the opportunity to be heard. On a personal note, I would like to wish Jim and his wife, Jane, all the best in the years ahead. I ask that you join me and our colleagues as we honor the fine achievements of Jim Guthrie as he is awarded the Golden Baton Award.

MYASTHENIA FOUNDATION HONORS RICHARD E. LEWIS WITH THE LIFETIME ACHIEVEMENT AWARD

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 9, 1992

Mr. LEVINE of California. Mr. Speaker, today I rise in honor of Mr. Richard Lewis and his lifetime commitment to supporting medical care for patients with Myasthenia Gravis, an autoimmune disease which interferes with the ability of muscles to respond to signals from the nerves.

Mr. Lewis, chairman and CEO of the Accountants Overload Group, is a long-term board member and current president of the California chapter of the Myasthenia Gravis Foundation. His years of work with the foundation have helped to enable the California chapter to provide information, education, and referral to patients with the disease. The chapter also sponsors a drug-bank for the necessary and expensive daily medication on which patients rely, that is not covered by most health insurance plans. In 1991, the California chapter distributed $175,000 for research and patient care to UCLA, USC, Standford, and other hospitals and universities.

A creative and dynamic entrepreneur, Mr. Lewis pioneered the concept of providing temporary accounting personnel to companies throughout southern California, resulting in the creation of the Accountants Overload Group. Mr. Lewis' other philanthropic activities include serving on the board of Miller Children's Hospital as well as work with the United Way, Starbright Foundation, and the United States Holocaust Memorial Museum. He also established the FurLuv Foundation which donates stuffed animals to hospitalized children and institutionalized elderly throughout the Nation.

It is an honor to bring to the attention of my colleagues in the House of Representatives the significant achievements of Mr. Richard E. Lewis. I ask that you join me in extending to Mr. Lewis my heartiest congratulations and best wishes for continued success.

TRIBUTE TO GEORGE FURGALA ON HIS 107th BIRTHDAY

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 9, 1992

Mr. LIPINSKI. Mr. Speaker, it gives me great pleasure to pay tribute to an extraordinary resident of my congressional district, Mr. George Furgala. On March 12, 1992, Mr. Furgala will turn 107 years old, an accomplishment worthy of special recognition.

George Furgala was born in Galicia, Poland, in 1885, he served in the Austro-Hungarian Army in the war against Russia in 1905. In 1910, he migrated to the United States settling in Chicago's Bridgeport neighborhood and later moving to Brighton Park. Mr. Furgala worked for R.R. Donnelley & Sons printing plant for 26 years and retired in 1951. Most of all, however, he is known for his knowledge of faith and religion which he has shared with others for over 70 years and which has led him to travel throughout the country and the world. Mr. Furgala has three children, Joseph, Walter, and Rose, and many grandchildren and great-grandchildren. Needless to say, his family is very proud of him.

George Furgala's commitment to his community and family is impressive and deserving of special recognition and honor. I am sure that my colleagues will join me in congratulating George Furgala for his many years of selfless dedication, loyalty, professionalism, and priceless contributions to his community. His son Walter has said that George imitates a popular television commercial—he "keeps on going and going and going." I wish him well on his 107th birthday and hope his life continues to be an adventure full of pleasant memories.

TRIBUTE TO NATALIE COLE

HON. MAXINE WATERS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 9, 1992

Ms. WATERS. Mr. Speaker, I would like to recognize and pay tribute to the remarkable achievements of Natalie Cole. Natalie accomplished stunning successes at this year's Grammy Awards. She received seven awards for her most recent album, "Unforgettable," in which she sings many of the records that made her father famous. Highlighting the awards were honors for Best Song, Best Record and Best Album of the Year. Among hits such as "Route 66," "Mona Lisa," and "When I Fall In Love", Ms. Cole's stylish finale pays a heartwarming tribute to her father in an electronically produced duet of her and her father in "Unforgettable."

A role model for many aspiring young singers, Natalie Cole has a long track record in the music industry as a hard working singer. Anyone who knows Natalie Cole knows she has earned all of her success. Amazingly, Natalie has accomplished much in a short period of time. From her debut album in which she sang "Inseparable" to her latest "Unforgettable" duet with her father, it is apparent that Ms. Cole will set new standards as a talented artist, role model and loving daughter. I wish her all the best in the future.

A BIRTHDAY SALUTE TO RONNIE LOPEZ

HON. ED PASTOR

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 9, 1992

Mr. PASTOR. Mr. Speaker, I wish to extend birthday greetings to a dear friend and supporter of mine, Mr. Ronnie Lopez of Phoenix, AZ. I ask my colleagues to join me in offering this salute.

Mr. Lopez has distinguished himself in both public service and private enterprise. In the years I have known Ronnie, he has committed himself to making the lives of Arizonans better and the State of Arizona a better place to live.

In 1969 Mr. Lopez was a field representative for the Arizona Civil Rights Commission. The following year Mr. Lopez became the president and chief executive officer for Chicanos Por La Causa, a multitask organization aimed at improving the lives of Hispanics. In 1973 Mr. Lopez became a justice of the peace in Maricopa County. His outstanding service to the people of Arizona continued as Mr. Lopez became executive assistant and then chief of staff for former Arizona Governor Bruce Babbitt. Mr. Lopez has also held important positions in campaigns. He was the national treasurer for the Babbitt for President campaign in 1988, the national deputy campaign manager for Mondale for President in 1984, and the finance chairman for my campaign.

Mr. Lopez also sits on many boards. He is a board member for the Security Pacific Bank, and is chairman of its public affairs committee. He is the chairman of the board of directors of the Arizona Veterans Memorial Coliseum. He is a board member of AELMAC, a student loan organization and chairman of its compensation committee. Ronnie has also served as chairman of the board of Harvard's John F. Kennedy School of Government Hispanic journal policy.

My colleagues, these are but a few of the many things that Ronnie Lopez has done for his fellow Americans. He has been active in countless other activities and introduced many young individuals to the political process.

Mr. Lopez has long been a close friend of mine. We grew up together in Claypool, AZ and have had a lasting friendship since. Ronnie, congratulations on your birthday and on your many, many unparalleled accomplishments. It is a privilege to call you my friend and I thank you for the help you have given to me and fellow Arizonans for many years.

DR. GORDON GUYER: THE PRIDE OF MICHIGAN STATE UNIVERSITY

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, March 9, 1992

Mr. PURSELL. Mr. Speaker, it is with mixed emotions that I bring to your attention the upcoming retirement of my good friend, Dr. Gordon E. Guyer, vice president of Michigan State University. Gordon's remarkable career at MSU has spanned nearly four decades and included work associated with agriculture, environment, economics, and his favorite, entomology.

Dr. Guyer received his three degrees from Michigan State University, and went on to become an instructor, professor, dean, consultant, and after fulfilling an appointment by Michigan's Governor to be director of natural resources, he returned to his beloved MSU serving as vice president for governmental affairs.

Hundreds of awards and articles of special recognition have been bestowed upon Gordon Guyer, and he has served on local, State, national and international professional association and society boards. The U.S. Department of Agriculture has shared with the State of Michigan in receiving the talented skills of Dr. Guyer. His service has included work in the countries of Australia, China, Brazil, and Africa, to name only a few. Dr. Guyer is also the author of more than 70 scientific papers on aquatic ecology, insect control technology, integrated pest control, public policy, and international agriculture.

Michigan State University will greatly miss the daily presence of Dr. Gordon Guyer. His dedication, enthusiasm, and delight with life has earned the respect and admiration of friends and colleagues alike. We are all hope that Gordon and his lovely wife Norma will find this special time in their life to be filled with good fortune and an abundance of happiness to share with their wonderful family.

Mr. Speaker, although Gordon Guyer is retiring from Michigan State, we can only hope our paths will cross with his many times in the future. His career has been not only colorful and constructive, but gives courage to the rest of us. For that, we can all be thankful.

TRIBUTE TO IMHOTEP GARY BYRD: A MASTER COMMUNICATOR

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 9, 1992

Mr. TOWNS. Mr. Speaker, today I want to acknowledge a very special individual who has been involved in broadcasting and community endeavors for the past 27 years in the tristate area, Mr. Imhotep Gary Byrd. Mr. Byrd has been a mainstay in the black community. And on March 14, at the world renowned Apollo Theatre in Harlem, NY, his friends, family, and colleagues will pay tribute to him and celebrate his birthday.

Imhotep has been a voice for truth, fairness, and compassion, while performing his labor of love over the airwaves of WWRL and WLIB radio stations in New York. Black radio listeners in the New York area are ardent fans of this dynamic human being who is generally known as the master communicator.

Mr. Byrd's endeavors have not been limited to working exclusively as the executive producer and host of Global Black Experience GBE on WLIB radio, 1190 AM. He is also a poet, recording artist, and writer. However, the hallmark of Imhotep Gary Byrd is his deep sense of pride in his African heritage, and his dedication to making positive contributions to his community. I introduce this gentleman to my colleagues with immense pride and honor, because his vision of using the airwaves as a constructive means to educate and uplift his people has been our good fortune for the past 27 years. On behalf of my fellow New Yorkers, it is a pleasure to acknowledge his contributions and to wish him a very happy birthday.

TRIBUTE TO RALPH A. LIBERATO

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, March 9, 1992

Mr. BONIOR. Mr. Speaker, I am very pleased to join the UFCW local 876 in honoring an impressive leader in Detroit's labor movement and a deeply committed friend of the working men and women of our community, Ralph Liberato.

In many ways, Mr. Liberato has come to symbolize our dedication to fairness and justice in the work place and society. At a time when our country is struggling to preserve its industrial base, Ralph has been an important figure in the labor movement. His long record of distinguished service has proven him to be a natural and effective leader. His vision and leadership have always impressed those of us who have had the privilege to know and work with him. His contributions will be truly missed.

Mr. Speaker, on this special occasion of his retirement, I ask that my colleagues join me in saluting Ralph Liberato's many years of service and dedication to the labor community in metro Detroit.

NATURAL LAW AND STATES' RIGHTS

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 9, 1992

Mr. EDWARDS of California. Mr. Speaker, how the Supreme Court will interpret the 9th and 10th amendments raises further concerns about the fate of our Bill of Rights. The seventh editorial in the series that appeared in the Atlanta Constitution shows us the detrimental impact that recent court rulings will have on the rights of privacy and on States' rights. I hope that you share my concerns.

Article IX: The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

Article X: The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

[From the Atlanta Constitution, Dec. 14, 1991]

ON NATURAL LAW AND STATES' RIGHTS

(This is the seventh in a series of editorials leading to the 200th anniversary Sunday of the Bill of Rights.)

At his confirmation hearings last summer, U.S. Supreme Court Justice Clarence Thomas was repeatedly questioned about his belief in natural law. That's because the Ninth Amendment, reflecting the natural-law faith of the Founders, opens the door for the court to recognize rights not specified in the Constitution.

The trouble with recognizing these unenumerated rights "retained by the people" is that they could be anything. Would-be Justice Robert Bork dismissed the amendment as "a water blot on the Constitution." It might better be seen as a Roschachian ink blot, forming rights according to the eye of the beholder.

The only time the Ninth Amendment has crept into the court's jurisprudence is in the privacy decisions guaranteeing access to contraceptive devices and abortions. And even there, the majority chose to derive a right to privacy from enumerated rights such as the Fourth Amendment's prohibition of unreasonable searches and seizures.

At his hearings, Justice Thomas abjured natural law, at least as a basis for adjudication, and his conservative colleagues show no interest in recognizing new personal rights. Indeed, the court now seems poised to do away entirely with the recognized privacy right to an abortion.

By contrast, a major rehabilitation appears to be in store for the 10th Amendment, which reserves to the states those powers not belonging to the federal government.

Last June, the court went out of its way to use the 10th Amendment to uphold a Missouri law requiring state judges to retire at age 70. (A similar law is now being contested in Georgia.) In the face of clear congressional intent to prevent age discrimination by state government, the court reserved to states the right to exempt state officials from the 1967 Age Discrimination in Employment Act.

It is telling that the court's new interest in states' rights comes in a case denying an individual's anti-discrimination rights in state employment. As it restricts federal control in the name of joint sovereignty, the court hews to its prevailing pro-government philosophy.

TRIBUTE TO THE WASHINGTON URBAN LEAGUE

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 9, 1992

Ms. NORTON. Mr. Speaker, it is with great pleasure that I ask you and my distinguished colleagues to join me in recognizing the continuing contributions of the Washington Urban League in this city. On March 11, 1992, the League's executives, members, and supporters will come together to celebrate the 12th Annual Whitney M. Young, Jr. Dinner, honoring the late civil rights leader, and prompting me to proudly call their exceptional efforts to your attention.

The Urban League's agenda, which includes job training, education, youth services, elderly health care, and vital advocacy programs, is even more critically important to the District during this time of severe economic recession. Under the exceptionally able leadership of its dedicated President, Maudine Cooper, the League continues to carry out its mission "to secure equal rights . . . and to increase the economic and political empowerment of blacks and other minorities in the Washington metropolitan area."

Mr. Speaker, it is with great pride that I salute the Washington Urban League for its tireless efforts on behalf of our city. I know you will want to join with me in wishing them continued success in their future endeavors.

JUDGE JOSEPH SCHNEIDER

HON. SIDNEY R. YATES

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 9, 1992

Mr. YATES. Mr. Speaker, an eminent Chicago jurist and my very good friend, Judge Joseph Schneider, has announced that he is leaving the bench in Chicago to become special master to the U.S. district court.

Judge Schneider has had a most distinguished career, and I want to wish him every success in his important new assignment. His remarkable judicial career spans 28 years, and he is now the presiding judge of the county division of the circuit court of Cook County.

During his years of service, the judge has earned a national reputation for his work in championing the rights of the mentally ill. He has served as vice chairman of the American Bar Association Commission on the Mentally Disabled and was chairman of the ABA Commission project to research legal issues affecting the mentally retarded and developmentally disabled.

During the Carter administration, Judge Schneider served as a member of the President's Commission on Mental Health Task Force. In Illinois he served as chairman of the Governor's Commission to Revise the Mental Health Code, and in 1976 he was honored by the Illinois Association of Mental Health for his outstanding service on behalf of the mentally handicapped. Judge Schneider is also a member of the board of trustees of the Mental Health Law project and was the chairman of the National Center of State Courts Task Force on Guidelines for Involuntary Civil Commitment.

His vast experience, splendid judicial temperament, and dedication will serve him well in his new capacity with the U.S. district court, where he will monitor and guide the fundamental reforms that are required to make the Illinois Department of Children and Family Services meet its responsibilities to the State's poor and disadvantaged.

STOP THE TRADE IN BLACK BEAR GALLBLADDERS

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, March 9, 1992

Mrs. BENTLEY. Mr. Speaker, 2 weeks ago, several hundred leading wildlife experts met for 2 days in Montana to discuss ways to halt the export of bear gallbladders into the Asian marketplace. According to testimony delivered at the Ninth International Conference on Bear Research and Management, the price of bear gallbladder often exceeds that of gold in some Asian countries by a factor of 10. And, according to some wildlife investigators, many Asian brokers now offer prospective clients an opportunity to view the gallbladder being removed from a soon-to-be-destroyed bear.

However, an increasing quantity of bear gallbladder used for medicines and aphrodisiacs no longer originates in Asia. Mr. Speaker, the American people need to understand that a significant portion of the bear gallbladder for sale in South Korea, Japan, or Taiwan is coming from places like the Shenandoah Valley or the Berkshire Mountains in Massachusetts.

Mr. Speaker, this issue is one that has not yet generated the national outcry that it should, primarily due to the fact that collection of hard statistics continues to present certain problems. In a country with tens of millions of acres of national parks and forests, the changes of stumbling across a mutilated bear carcass in the forest remains somewhat slim. However, the number of bear gallbladders that have been collected by undercover law enforcement officers in sting operations over the past 5 years is staggering and obviously, indicative of a larger problem.

I remain convinced that we need to accelerate efforts to prevent the further destruction of our domestic bear population, which is why I plan to introduce legislation later in the week. In addition, three major news articles on this subject have recently appeared in the Washington Post, the Boston Globe, and the Philadelphia Inquirer. I think that they will be of immense value to my colleagues and I insert them into the RECORD.

[From the Boston Globe, Mar. 2, 1992]

GRISLY TRADE IMPERILS WORLD'S BEARS—THRIVING ASIAN BLACK MARKET IN PAWS, GALLBLADDERS NOW TARGETING ANIMALS IN THE UNITED STATES

(By Sy Montgomery)

The bizarre reports were considered isolated cases when they first surfaced four or five years ago. Like something from an Edgar Allen Poe horror story, park rangers stumbled across the carcass of an American black bear in Tennessee's Shenandoah National Forest with its paws and gallbladder missing. Then they found a second mutilated bear, and then a third.

The slaughter appeared at first to be ritualistic, but it was not. Investigators soon determined that the animals were being killed for a grisly and fast growing black market trade in Asia: Their gallbladders are sold as medical cure-alls and their paws are served in restaurants as gourmet delicacies.

Only in recent months, however, have law officers come to realize the scope of the trade, a business that in effect is sanctioned in parts of this country: Eight states—Maine, New Hampshire and Vermont among them—permit the sale and export of bear parts.

"It's a major industry," said Adam O'Hara, who heads the US Fish and Wildlife Department's special operations branch. And it's an industry that's driving a global frenzy of bear poaching that wildlife authorities say could decimate bear populations throughout the world.

All five of Asia's bear species are already so rare that captive animals are being farmed for their valued parts and their bile. All but two of the world's eight bear species are in danger of extinction. As Asia's bears disappear, wildlife specialists say, Oriental merchants will increasingly target North American bears.

"The demand for bears' body parts is every bit as severe as that for rhino horn and elephant ivory," said Kurt Johnson, senior program officer for Traffic USA, the wildlife trade monitoring unit of World Wildlife Fund-US. Driven by Asia's economic boom, the price of bear gallbladders is 18 times that of gold. In South Korea, bear gallbladder is more lucrative, gram of gram, than the trade in top-quality heroin.

"The fate of bears of the world will be decided in the next 10 to 20 years," says biologist Christopher Servheen, co-chairman of the Bear Specialist Group of the International Union for the Conservation of Nature and co-author of a report on the World Wildlife Funds' investigation in 11 Asian countries.

Since the report's publication in December, conservationists have been viewing the trade with increasing alarm.

"Unless we find ways to slow the bear trade soon, entire populations of Asian bears will be lost before we even have a chance to document that they were ever there," Judy Mills, senior author of the report, told 400 bear specialists gathered in Missoula, Mont., last week for the Ninth International Conference on Bear Research and Management. "There are less than one million bears of all species on Earth and more than one billion potential bear-parts consumers—you do the math."

Asian officials are so certain of bears' imminent extinction that the government of China has developed "farms" to meet the medical demand for gallbladders. Even though that country banned the serving of bear paws in 1989, the black market is so flagrant that soft-fried black bear was being offered to patrons of the Beijing Zoo in March of 1990, according to a report in the Business Times of Singapore. "This is the place where people come to see animals, so doesn't it make sense that you can also try them?" one zoo restaurant worker was quoted as saying.

In South Korea, Mills found bear paw on menu at the Seoul Hilton—at $700 a serving.

"What's happening in Asia is a blueprint for what will happen to bears in this country," Mills predicts. Because North America has the world's last big bear populations, the market will turn increasingly to the United States and Canada to satisfy the burgeoning demand.

At a motel parking lot in Amesbury four years ago, for instance, a single black marketeer offered 218 bear gallbladders to an undercover agent. That meeting was part of a sting operation, called Operation Berkshire, that was investigating illegal trade in bear parts in Massachusetts, Connecticut and Florida and out-of-season bear poaching in New Hampshire and Maine. The last of the 28 poachers and smugglers nabbed in that operation was convicted Feb. 21.

"Right now the trade in parts of American black bear is not so high," said George Schaller, director for science of Wildlife Conservation International. "But when you see what is happening in China, this can turn around immediately. Within a few years, bear populations can be seriously affected here."

Conservationists and wildlife organizations are attacking the problem on a number of fronts. In Congress, they have found an ally in Rep. Helen Bentley, a Maryland Republican who plans this spring to introduce legislation to outlaw the export of bear body parts. "Unless we help the Fish and Wildlife Service and other government agencies crack down on this outrageous activity, we will be visiting the last of our black bears in zoos," Bentley said in a recent interview.

And over the next two weeks, conservationists will be pushing for tighter international trade regulations in Japan at the annual meeting of the 113 signatory nations to the Convention on International Trade in Endangered Species of Wild Fauna and Flora

(CITES). Proposed regulations would require import and export permits for American black bear body parts, a proposal the U.S. government opposes, and provide some protections for Siberian brown bear.

Under the existing CITES treaty, trade is outlawed in all Asian bear species except the brown bear. Polar bears (whose gallbladders and meat are not sought because of their "fishy" taste) and some populations of brown bear may be traded with import and export permits.

International trade in American black bear parts is largely unrestricted, however, because eight states—New York, Virginia, West Virginia, Idaho, Wyoming and the three in northern New England tier—allow their sale and export.

Because it is impossible to tell an American black bear's gallbladder from that of a protected species, conservationists say, traders can claim the organs come from legally hunted animals. "Those eight states are causing the problem," says World Wildlife's Johnson, "both a problem for the states around them, and for bears around the world."

The U.S. Fish and Wildlife Service objects to the CITES proposal on grounds that U.S. black bear populations are healthy, that implementing the laws would be too costly and that American black bears would be better protected by interstate cooperation than by international treaty.

At the Fish and Wildlife Service, O'Hara acknowledges that his agency and state agencies "did not see this problem coming.

"But now, everyone who has bears clearly recognizes the problem. This is a major priority and we're working closely with states to bring this under control."

Others say that is not enough.

The World Society for the Protection of Animals has gathered more than 250,000 signatures on petitions in support of the CITES proposal, including thousands from Asian countries actively involved in the bear trade. At its Montana meeting, the International Bear Association passed a resolution in support of the stricter laws.

"This is the only way in which the look-alike problem in the gallbladder trade will ever be eliminated," Mills and Servheen wrote.

"We were able to order bear-based medicine over the telephone from New York and have it delivered to our doorstep by the US Postal Service," they reported. In Seattle, Oriental suppliers place newspaper ads picturing bears and their gallbladders. In Alaska, guides accept gallbladders as tips from hunters instead of money.

American black bears are found in 32 US states and in Canada, but their numbers are difficult to estimate because bears are solitary and forest-dwelling. They are considered one of only two species of bear—the other is the polar—not presently threatened with extinction. Over much of the United States, the populations are thought to be stable or growing. Massachusetts, for instance, harbors about 750 black bears, the result of a steady population increase that began about 20 years ago.

But some US populations have already felt the impact of the bear parts market. Black bears in Louisiana are so depleted that the US Fish and Wildlife Service in January added them to the list of threatened species. Black bear numbers are also believed to be declining in Tennessee; university researchers there have lost study animals to the bear parts trade.

These are areas, notes O'Hara, where bear hunting (in and out of season) has long been popular; traditionally, hunters often treed the bears with their dogs but did not shoot them. Now that the body parts market is so lucrative, he says, "these guys have an incentive to kill those bears rather than let them go."

According to Fish and Wildlife figures, 40,000 American black bears are legally killed each year in this country. Estimates on the illegal kill range from 20,000 to 40,000, and there is no national tally of arrests for illegal trade.

Asia's sun bear, sloth bear, panda and black bears are all endangered, and some populations will be extinct within the decade, the World Wildlife report warns.

Mills and Servheen found that some dealers ask poachers to provide a videotape documenting the removal of the gallbladder. They described bear banquets where young bears were slowly lowered into tanks of hot water and drowned while guests watch, assured their meal is fresh. At a rest area along a Connecticut highway where Fish and Wildlife agent Richard Moulton posed as a gallbladder merchant, he watched one Oriental buyer suck on a fresh gallbladder; she said she could determine from the flavor whether it was bear.

Bear body parts have been used in Oriental cuisine and medicine since 3400 BC, Mills and Servheen note. Bear gallbladder, along with rhino horn, is one of the most coveted ingredients in the Chinese pharmacopoeia. Dried gallbladder is used in creams, ointments, capsules, tinctures and suppositories to combat ailments ranging from hemorrhoids to liver cancer; some bear meat, particularly the paw, is said to prevent colds and detoxify the body.

"Bear-eating tours," in which the liver is eaten raw, the meat grilled and the blood drunk, are offered in Bangkok's Chinatown, Mills and Servheen found. So powerful is the belief in bear meat's tonic powers that 30 bears were smuggled out of Thailand to South Korea to fortify Korean athletes for the 1988 Olympic Games, a Bangkok forestry official told the investigators.

Unlike rhino horn, however, the medicinal properties of bear gallbladders appear to be real, for some ailments at least. Mills and Servheen cited two 1990 articles in the medical journals Gastroenterology and Digestive Disease on laboratory tests showing that the active ingredient in bear bile, ursodeoxyholic acid (UDCA), safely dissolves gall stones. One US practitioner of Asian medicine told Mills only surgery is as effective against hemorrhoids as an ointment made from bear gallbladder.

A synthetic form of UDCA has been marketed in Japan under the trade name "Urso" since 1957 as an over-the-counter tonic to ease digestive problems and prevent hangovers. "It is so cheap that people in Korea and Japan do not believe it is as effective," as the real thing, and it does not compete well, an official for Tokyo Tanabe, the maker, told Mills and Servheen.

To satisfy demand for the real thing, China in the late 1980s began establishing bear farms. Housed singly in tiny iron cages, more than 8,000 bears are milked of their bile through surgically implanted taps in a process that observers say is plainly painful to the animals.

Bile from captive animals, although more respected than synthesized UDCA, is also disparaged. Neither substitute is likely to satisfy the demand for gallbladders from wild bears, concluded the World Wildlife investigators, "any more than cubic zirconium will satisfy the demand for diamonds."

[From the Philadelphia Inquirer, Mar. 1, 1992]

DEMAND FOR BEAR PARTS HITS HOME IN POCONOS

(By Bill Ordine)

In a place where homicide is exceptionally common, the circumstances in the murder of Haeng Gu Lee in New York City were decidedly uncommon.

Lee was stabbed five times and his throat was slashed in his Brooklyn apartment in October. But it wasn't the manner in which Lee died that made his death unusual, but rather the suspected motive.

Police say the 39-year-old Korean businessman was probably killed for his large cache of black-bear gallbladders, some of which might have come from animals that once roamed the mountains of Pennsylvania.

Some Asians prize bear gallbladders for their medicinal use and as a reputed aphrodisiac. As a result, the demand for bear gallbladders has recently driven the price for the organs to astronomical levels. Though the sale of edible game parts from animals taken in the wild is outlawed in Pennsylvania, the sale of animal organs is legal in New York and Lee had been a supplier in the local Korean community, as well as nationally, for years.

The several dozen bear gallbladders taken from Lee's apartment were worth $400 to $600 each on the domestic market, according to law enforcement estimates. Sold in a powdered form in pharmacies in Asia, they could be worth 39 times as much.

"This is obviously a unique and challenging case," said New York Detective Thomas Dades who is investigating the slaying. 'We're dealing with a subject that's pretty foreign to us, but we do know that the use of bear gallbladders is surprisingly popular and there's a lot of money involved."

That some of Lee's inventory came from Pennsylvania black bears is a strong possibility. Pennsylvania has the second-largest bear population in the Northeast United States next to Maine, and the Poconos have become a favorite haunt for suppliers to New York City's Asian market.

In January, an 18-month investigation by the Pennsylvania Game Commission bore fruit as officers cited seven people, all of Asian extraction, for either illegally buying or possessing animal parts.

The commission's investigation of illegal trafficking in wildlife parts began in the fall of 1990 when potential buyers began frequenting the check stations where hunters register the bears they have killed during the state's three-day hunting season.

Commission authorities chased the buyers from the check stations, but that did not deter the traffickers, who merely set up shop a mile or so down the road.

According to James Beard, an assistant director with the commission's bureau of law enforcement, the antics of the traffickers bordered on the comic.

"We have videotape of these people all wanting to have their picture taken with a dead bear, holding its head up or holding the paws. They all wanted a turn." Beard said, "They use the pictures as a selling point . . . that the gallbladder they're selling comes from this particular bear."

In January, authorities filed charges against the seven people—including a man and woman from Elkins Park, Montgomery County—after searches of a motel-restaurant in Paradise Township, a grocery store near Stroudsburg and two private homes yielded contraband including bear gallbladders.

The resulting citations were for summary offenses that carry fines and no jail terms.

So far, two people have pleaded guilty and have been fined a total of $20,838; four cases are pending, and a warrant has been issued for a New Jersey man who cannot be located.

Judy Mills, an investigator for the World Wildlife Fund, finds the penalties relatively meager and certainly not much of a deterrent. In her own 18-month inquiry into the illicit bear-parts market throughout Asia, Mills discovered that a bear gallbladder, freeze-dried and powdered, could be sold overseas for more than $200 a gram. That works out to a yield of $15,000 to $25,000 for a single gallbladder.

"The populations of the Asian black and brown bears have been decimated," Mills said. "In Korea, the handful of bears left are a national monument, and it is illegal to sell anything from an Asian bear. But those countries still permit the importation of North American bears. With prices like that, you can imagine the pressure that will be put on the bear population here."

George Adam O'Hara, a special agent with the U.S. Fish and Wildlife Service, said that bears in parts of the United States where hunting is not as tightly regulated as in Pennsylvania are already being hit hard.

"Pennsylvania does a good job; a big factor is that they don't allow hound hunting. But undercover, I've seen drop points right here in Virginia where 200, 300 bear galls from all over the country changed hands," he said.

The chemical produced by bear gallbladders is ursodeoxycholic acid (UDCA), and bear gallbladders have been used as a popular ingredient in Oriental medicine for 3,000 years to relieve human liver and gallbladder disorders. The Japanese have been able to synthesize UDCA, but traditionalists still crave the real thing.

To meet the demand for UDCA, the Chinese have begun to "farm" bears, keeping them penned in tight, restrictive cages and surgically inserting a tube directly into the animal's gallbladder to "milk" the valuable chemical.

So far, though, the most expedient way for Asian users to obtain bear gallbladders is to import them from North America, where three-quarters of the world's approximately one million bears still prowl.

Last week, bear experts from around the world met at a conference of the International Bear Association (IBA) in Missoula, Mont. At the conference, Mills and her husband, Chris Servheen, a biologist, presented a paper detailing the findings of their investigations.

"Imagine this," Mills said. "There are about one million bears in the world, and there are one billion potential users of bear galls."

The IBA governing body went on to recommend to the Convention on International Trade and Endangered Species of Flora and Fauna (CITES), a conservation group that spawns treaties between governments, that it place the North American black bear on a list that would require origination documentation for imported bear parts. CITES meet this month in Kyoto, Japan.

Proponents of placing the North American black bear in such a category say that it would help slow the killing of Asian bears—whose gallbladder are almost indistinguishable from those of their North American cousins—because merchants can easily pass off Asian bear gallbladders as those of North American bears. The listing, proponents say, would at least discourage poaching in this country.

Still, the recommendation is not universally embraced, even among conservationists. For instance, Pennsylvania Game Commission bear expert Gary Alt is skeptical that the special listing would help much.

Alt is considered the most knowledgeable person in the state when it comes to bears. He knows the personal history of many of them, and his tireless work in conservation management helped triple Pennsylvania's bear population from 2,500 in the late 1970s to 7,500 today.

Alt said he believed the listing "just adds a layer of bureaucracy and much more paperwork to the task of managing wildlife, and it may invite a lot of litigation because there is no evidence that the North American bear population has been reduced. I don't think this helps the animals or the people—unless you happen to be an attorney."

"I've asked the question, 'How many game protectors are finding bears in the forest with the gallbladders removed and their paws cut off?' [Bear paws are an Asian soup delicacy.] It's just not happening very much, and although it's an individual atrocity when it happens, statistically, it's not even measurable."

Commission law enforcement officials agree that there has been little, if any, evidence of outright poaching in the state for the purpose of supplying the Asian market with bear parts. But they are concerned that the arrests in January may have been just the opening shot of an assault on Pennsylvania's bear population.

"Poaching—taking bears out of season, killing them in their dens, setting out bait—has been our concern," said David Overcash, a wildlife conservation officer in Monroe County who was part of the January operation.

"Locals hear about how much money is involved, and you don't know how that will make a difference. If the prices I've seen are right, you could kill 10 bears, hop a plane [to Asia] and make a quick quarter-of-a-million dollars."

Said Beard, "Considering the demand out there for the gallbladders, people are going to [use] every means possible to get bear."

Including, apparently, the murder of Haeng Gu Lee.

[From the Washington Post, Mar. 2, 1992]

SETTING CITES ON GALLBLADDER TRADE—DEMAND FOR BEAR ORGANS IN EASTERN CULTURES SPURS POACHING IN NORTH AMERICA

(By Sean Kelly)

As the eighth biennial meeting of the 112-nation Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) begins today in Kyoto, Japan, one of the hottest topics under discussion will be bears' gallbladders.

So great is the demand for the organs, which are prized in some Eastern cultures for their presumed medicinal powers, that it has caused a precipitous decline in the number of Asiatic bears, and may be threatening populations in North America.

Traders in South Korea, China, Japan and Taiwan, the largest consumers of bear gallbladders and other bear parts, have been looking for new ways to supplement their dwindling supply of black and brown bears to support extensive demand for the organs.

According to the U.S. Fish and Wildlife Service, South Korean dealers have been paying poachers in the United States top dollar for North American black bear gallbladders. In Alaska, brown bear trophy hunters often tip their guides in bear gallbladders instead of money.

Recently, Fish and Wildlife Service sources said, numerous bear carcasses from which only the animals' gallbladders had been extracted have been found in the United States and Canada. There is no way to determine how widespread the practice is.

According to agency reports, the trade in bears and bear parts has become so lucrative that opportunists have succeeded in substituting pig gallbladders for the real thing. As a result, to ensure the validity of their purchases, Asian businessmen have begun requesting videotape evidence of black bear gallbladder extraction.

Black and brown bears are only two of about 150 species that will be discussed at CITES meeting, but they are representative of the extraordinary complexity and multibillion-dollar scope of world commerce in plants and animals.

CITES was created in 1975 to address the problems. Signatories to the international treaty, which was designed to monitor and control trade in threatened species, subspecies or distinct animal and plant populations, meet every two years to update and revise their policies.

LISTINGS BY SEVERITY OF THREAT

CITES lists animals in one of three categories, depending on how severely a species is thought to be threatened. Wildlife listed in Appendix I is banned from commercial trade by participating nations. When the African elephant was listed on Appendix I in 1989, for example, international trade in ivory dropped dramatically. This year, there is a proposal to change the elephant's listing to Appendix II, the category in which regulated trade is permitted.

Appendix III listings are self-imposed restrictions instituted by individual countries, which may or may not choose to grant export and import permits for listed species. Appendix III listings do not require joint approval by CITES member nations.

At this year's meeting, CITES members will review the biological status and listing category of many species traded on the commercial market, including, exotic birds, tropical fish, marine mammals, reptiles, primates and cats, and plants such as the Venus flytrap, Brazilian rosewood and African teak.

Representatives will also debate various controversial proposals, including one by the Swedish government to ban trade in the Atlantic bluefin tuna, whose numbers have been greatly reduced by commercial fishing.

Also expected to be controversial is Denmark's proposal this year to list the North American black bear in Appendix II. Denmark is making the effort at the request of U.S. conservation groups, who often solicit the aid of CITES member nations when they cannot obtain the cooperation of the federal government.

The U.S. government officially opposes listing the bear, which is not considered endangered in North America, arguing that Canada's listing of the bear in Appendix III provides sufficient trade regulation.

But G. Adam O'Hara, a law enforcement agent with the Fish and Wildlife Service, said the poaching of the North American black bear continues to be a significant problem that is too widespread to combat at current enforcement staff levels.

Listing the bear, however, would not necessarily affect South Korea or Taiwan, two of the major consumers of bear gallbladders: Neither is a member of CITES. In those two countries, as in some other Asian medical traditions, preparations made from bear gallbladders are often used to treat a number of ailments, including fever and chronic illness of the liver, gallbladder, spleen and stomach. Such treatments also are used for hemorrhoids, jaundice and hepatitis. Some doctors also prescribe them for colic.

Because of the high value and extensive demand for such products, "the whole medicinal trade," which includes such exotic items as rhino horn, deer antler and tiger penis (believed to be aphrodisiacs in some cultures), is "inherently the most difficult wildlife trade area for us now to control," said Ginette Himley, a director of Traffic U.S.A., a branch of the World Wildlife Fund that monitors the trade in wild animals.

No one is sure how profitable the trade is, but there are chilling clues. Last Oct. 22, the New York Times reported that a Korean-American animal trader was stabbed to death in his Brooklyn apartment, where he was robbed of an undetermined number of bear gallbladders, which he kept in three freezers.

DRAINING BILE FROM LIVE BEARS

In addition, there are reports that the animals are placed in "bear farms" and used as living sources for bile. The Associated Press reported from Seoul last July on the outcry that followed a Korean TV expose showing "live bears being cut open to have plastic hoses inserted into their gallbladders to drain out the bile," which was then sold for as much as $70 a teaspoon.

According to one American researcher, North American bears have been exported to South Korea for that purpose. "I have seen American black bears in South Korean bear farms," said Judy A. Mills, who along with her husband, Christopher Servheen, spent 18 months investigating the Asian trade in bears and bear parts. Their study was sponsored by the World Wildlife Fund.

"There are Koreans who are coming to bear auctions in the United States and buying up bears," Mills said. "In fact, they're doing so to the point where a lot of people in North America can no longer afford to bid against them because they're willing to pay so much money." Her study maintains that bear farming, which ensures renewable stocks of bear bile without killing the animals, is practiced in North Korea, South Korea and China.

Bears farmed for bile, she said, are kept in small cages, where a catheter-like tube is surgically inserted into the animal's gallbladders. The bile then drains into a plastic collection bag. At one farm, Mills said, the liquid was removed and placed in three small plastic bottles, which were immediately packed in ice and sold to buyers for about $1,700 apiece.

Other countries involved in trade in bears and bear parts, according to Mills's study, include Laos, Malaysia, Nepal, Singapore, Thailand, Bangladesh, Bhutan, Myanmar (formerly Burma), Cambodia, India, Indonesia, Sri Lanka and Vietnam.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, March 10, 1992, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MARCH 11

9:00 a.m.

Labor and Human Resources

To hold business meeting, to mark up S. 2062, Equal Remedies Act of 1991, S. 1962, to revise the Civil Rights Act of 1991 to apply the Act to certain workers, S. 600, Child Labor Amendments, S. 2055, Job Training and Basic Skills Act of 1991, and other pending calendar business.

SD-430

9:30 a.m.

Armed Services

Defense Industry and Technology Subcommittee

To hold hearings on ways in which the United States can strengthen its support of manufacturing technology programs being undertaken by the Department of Defense.

SR-222

Commerce, Science, and Transportation

Communications Subcommittee

To hold hearings on S. 1101, to require the Federal Communications Commission (FCC) to prescribe standards for AM stereo radio broadcasting, an FCC rulemaking proposal relating to radio ownership rules, and other related issues.

SR-253

Governmental Affairs

Oversight of Government Management Subcommittee

To hold hearings to review the Department of Defense inventory, focusing on the purchasing practices of the Pentagon.

SD-342

10:00 a.m.

Banking, Housing, and Urban Affairs

To hold oversight hearings on the Resolution Trust Corporation, focusing on minority and women contracting, Western Storm, and asset disposition.

SD-538

Veterans' Affairs

To hold hearings on proposed legislation to improve the availability of treatment of veterans for post-traumatic stress disorder.

SR-418

2:00 p.m.

Foreign Relations

To hold hearings to examine the situation in the former Soviet Union.

SD-419

MARCH 12

9:30 a.m.

Energy and Natural Resources

Business meeting, to consider pending calendar business.

SD-366

Rules and Administration

To hold hearings on S. 523, to establish the National African-American Memorial Museum within the Smithsonian Institution.

SR-301

Small Business

To hold hearings on the President's proposed budget request for fiscal year 1993 for the Small Business Administration, and on proposed legislation authorizing funds for the fiscal year 1992 supplemental budget request.

SR-428A

10:00 a.m.

Banking, Housing, and Urban Affairs

To hold hearings on the impact of the President's proposed budget request for fiscal year 1993 on the banking industry and the Bank Insurance Fund.

SD-538

Labor and Human Resources

Education, Arts, and Humanities Subcommittee

To hold hearings on S. 1275, authorizing funds through fiscal year 1996 for the Office of Educational Research and Improvement.

SD-430

10:30 a.m.

Rules and Administration

To hold hearings on S.J. Res. 259, providing for the appointment of Barber B. Conable, Jr. as a citizen regent of the Board of Regents of the Smithsonian Institution.

SR-301

11:00 a.m.

Rules and Administration

To hold hearings on proposed legislation authorizing funds for fiscal years 1993 through 1997 for the American Folklife Center of the Library of Congress.

SR-301

11:30 a.m.

Judiciary

Business meeting, to consider pending calendar business.

SD-106

2:00 p.m.

Foreign Relations

To hold hearings on the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal (Treaty Doc. 102-5).

SD-419

To hold hearings on S. 1275, authorizing funds through fiscal year 1996 for the Office of Educational Research and Improvement.

SD-430

10:30 a.m.

Rules and Administration

To hold hearings on S.J. Res. 259, providing for the appointment of Barber B. Conable, Jr. as a citizen regent of the Board of Regents of the Smithsonian Institution.

SR-301

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To hold hearings on proposed legislation authorizing funds for fiscal years 1993 through 1997 for the American Folklife Center of the Library of Congress.

SR-301

11:30 a.m.

Judiciary

Business meeting, to consider pending calendar business.

SD-106

2:00 p.m.

Foreign Relations

To hold hearings on the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal (Treaty Doc. 102-5).

SD-419

Select on Intelligence

To resume hearings on S. 2198, to reorganize the United States intelligence community to provide for the improved management and execution of United States intelligence activities.

SD–G50

4:00 p.m.

Foreign Relations

Business meeting, to consider the nominations of Robert C. Frasure, of West Virginia, to be Ambassador to Estonia, Darryl Norman Johnson, of Washington, to be Ambassador to Lithuania, Ints M. Silins, of Virginia, to be Ambassador to Latvia, and Parker W. Borg, of Minnesota, to be Ambassador to the Union of Burma (Myanmar).

S–116, Capitol

MARCH 13

10:00 a.m.

Finance

International Trade Subcommittee

To hold hearings to review the Administration's objectives and current progress in the Structural Impediments Initiative.

SD–215

MARCH 17

9:00 a.m.

Armed Services

Strategic Forces and Nuclear Deterrence Subcommittee

To hold hearings on proposed legislation authorizing funds for fiscal year 1993 for the Department of Defense, focusing on command, control, communications, and intelligence matters.

SR–222

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To hold hearings to examine an overview of NASA's budget for fiscal year 1993.

SR–253

10:00 a.m.

Appropriations

Agriculture and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Agriculture, focusing on the Food and Nutrition Service, and the Human Nutrition Information Service.

SD–138

Appropriations

Defense Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the United States Air Force.

SD–192

MARCH 18

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To hold hearings to examine NASA's space station and launch issues.

SR–253

Select on Indian Affairs

To resume oversight hearings on the implementation of the Indian Gaming Regulatory Act (IGRA).

SH–216

10:00 a.m.

Appropriations

Transportation Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Federal Highway Administration, Department of Transportation.

SD–192

Appropriations

Treasury, Postal Service, General Government Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of the Treasury, and the Executive Office of the President.

SD–116

MARCH 19

9:30 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the National Science Foundation, and the Office of Science Technology Policy.

SD–124

Energy and Natural Resources

Public Lands, National Parks and Forests Subcommittee

To hold hearings on S. 684, to strengthen the preservation of the Nation's historic heritage and resources.

SD–366

10:00 a.m.

Appropriations

Commerce, Justice, State, and Judiciary Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Justice.

S–146, Capitol

MARCH 20

10:00 a.m.

Appropriations

Agriculture and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Agriculture, focusing on the Farmers Home Administration, the Federal Crop Insurance Corporation, the Rural Electrification Administration, and the Rural Development Administration.

SD–138

Veterans' Affairs

To hold hearings on S. 2322, to increase the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans, and S. 2323, to revise title 38, U.S. Code, to revise the rates of dependency and indemnity compensation payable to surviving spouses of certain service-disabled veterans, and to provide supplemental service disabled veterans' insurance for totally disabled veterans.

SR–418

MARCH 24

10:00 a.m.

Environment and Public Works

To hold hearings on the President's proposed budget request for fiscal year 1993 for the Environmental Protection Agency.

SD–406

MARCH 25

9:30 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Neighborhood Reinvestment Corporation, and the National Credit Union Administration.

SD–116

Select on Indian Affairs

To hold hearings on S. 1752, to provide for the development, enhancement, and recognition of Indian tribal courts.

SR–485

10:00 a.m.

Appropriations

Commerce, Justice, State, and Judiciary Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Federal Communications Commission, and the Securities and Exchange Commission.

S–146, Capitol

Appropriations

Transportation Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1992 for the National Highway Traffic Safety Administration, and the Research and Special Programs Administration, both of the Department of Transportation.

SD–138

Appropriations

Treasury, Postal Service, General Government Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Internal Revenue Service, Department of the Treasury, and the U.S. Postal Service.

SD–116

MARCH 26

9:30 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Environmental Protection Agency, and the Council on Environmental Quality.

SD–G50

Governmental Affairs

Oversight of Government Management Subcommittee

To hold hearings on S. 2279, to provide for the disclosure of lobbying activities to influence the Federal Government.

SD–342

MARCH 27

10:00 a.m.

Appropriations

Agriculture and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Agriculture, focusing on the Animal and Plant Inspection Service, the Food Safety and Inspection Service, and the Agricultural Marketing Service.

SD–138

MARCH 31

9:30 a.m.

Energy and Natural Resources

To hold oversight hearings on the implementation of the Department of Energy's civilian nuclear waste program mandated by the Nuclear Waste Policy Act.

SD-366

APRIL 1

9:30 a.m.

Select on Indian Affairs

To hold hearings on proposed legislation to authorize funds for programs of the Indian Health Care Improvement Act.

SR-485

10:00 a.m.

Appropriations

Commerce, Justice, State, and Judiciary Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Commerce.

S-146, Capitol

Appropriations

Treasury, Postal Service, General Government Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Office of National Drug Control Policy, and the U.S. Secret Service, Department of the Treasury.

SD-116

APRIL 2

9:30 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Federal Deposit Insurance Corporation, and the Resolution Trust Corporation.

SD-116

Commerce, Science, and Transportation

Consumer Subcommittee

To hold hearings on S. 664, to require that health warnings be included in alcoholic beverage advertisements.

SR-253

10:00 a.m.

Appropriations

Transportation Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the National Transportation Safety Board.

SD-138

APRIL 3

10:00 a.m.

Appropriations

Agriculture and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Agriculture, focusing on the Agricultural Stabilization and Conservation Service, the Foreign Agricultural Service, the General Sales Manager, and the Soil Conservation Service.

SD-138

APRIL 7

10:00 a.m.

Appropriations

Agriculture and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Agriculture, focusing on the Commodity Futures Trading Commission, the Food and Drug Administration, the Farm Credit Administration, and the Farm Credit System Assistance Board.

SD-138

Appropriations

Commerce, Justice, State, and Judiciary Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Federal Bureau of Investigation, and the Drug Enforcement Administration, Department of Justice.

S-146, Capitol

APRIL 8

9:30 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the AMVETs, American Ex-POWs, Jewish War Veterans, Non-Commissioned Officers Association, National Association for Uniformed Services, and Society of Military Widows.

SD-106

10:00 a.m.

Appropriations

Treasury, Postal Service, General Government Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Office of Management and Budget, the Office of Personnel Management, and the Executive Residence.

SD-116

APRIL 9

9:30 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the National Aeronautics and Space Administration.

SD-G50

10:00 a.m.

Appropriations

Commerce, Justice, State, and Judiciary Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the National Oceanic and Atmospheric Administration, and the Small Business Administration.

S-146, Capitol

Appropriations

Transportation Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for Amtrak, and the Federal Railroad Administration, Department of Transportation.

SD-138

APRIL 29

10:00 a.m.

Appropriations

Commerce, Justice, State, and Judiciary Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the U.S. Information Agency, and the Board for International Broadcasting.

S-146, Capitol

APRIL 30

9:30 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Housing and Urban Development.

SD-G50

10:00 a.m.

Appropriations

Transportation Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Federal Transit Agency, and the Washington Metropolitan Area Transit Authority.

SD-138

MAY 7

9:30 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Veterans Affairs, and the Court of Veterans Affairs.

SD-124

10:00 a.m.

Appropriations

Transportation Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the U.S. Coast Guard, Department of Transportation.

SD-138

MAY 14

9:30 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Federal Emergency Management Agency.

SD-124

10:00 a.m.

Appropriations

Transportation Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Federal Aviation Administration, Department of Transportation.

SD-138

MAY 21

9:30 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the National Community Service, and the Points of Light Foundation.

SD-116

10:00 a.m.

Appropriations

Transportation Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the General Accounting Office.

SD-138

MAY 22

9:30 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Housing and Urban Development and certain related agencies.

SD-138

HOUSE OF REPRESENTATIVES—*Tuesday, March 10, 1992*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Let us learn from one another, gracious God, and be concerned about each others' needs, remembering one another in our thoughts and prayers. We know that we live in families and communities and are dependent on others for sustenance and spiritual encouragement. In this moment of prayer we recall with honor and thanksgiving those in whose communities we have lived and by whose nourishment we have been fed with heavenly grace and peace. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from New Mexico [Mr. SCHIFF] please come forward and lead the House in the Pledge of Allegiance.

Mr. SCHIFF led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2324. An act to amend the Food Stamp Act of 1977 to make a technical correction relating to exclusions from income under the food stamp program, and for other purposes.

The message also announced that the Senate agrees to the amendments of the House to the bill (S. 1467), "An act to designate the United States Courthouse located at 15 Lee Street in Montgomery, Alabama, as the 'Frank M. Johnson, Jr. United States Courthouse'."

The message also announced that the Senate agrees to the amendments of the House to the bill (S. 1889), "An act to designate the United States Courthouse located at 111 South Wolcott in Casper, Wyoming as the 'Ewing T. Kerr United States Courthouse'."

The message also announced that, pursuant to Public Law 102–240, the Chair, on behalf of the majority leader, appoints F. Woodman Jones of Maine and Frank Hanley of Maryland, as members of the Commission to Promote Investment in America's Infrastructure.

The message also announced that, pursuant to Public Law 102–240, the Chair, on behalf of the majority leader, appoints Leon Eplan of Georgia and Wayne Davis of Maine, as members of the Commission on Intermodal Transportation.

INTRODUCTION OF THE DEMOCRACY CORPS ACT

(Mr. MCCURDY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MCCURDY. Mr. Speaker, today I am introducing legislation which will offer a bold alternative to recent suggestions on how we should respond to the crisis of the post-Soviet world. This legislation, the Democracy Corps Act of 1992, has bipartisan support and poses a challenge to those who call for America to "come home" and who may cause us to fumble a once-in-a-lifetime opportunity: a chance to help reshape the political and economic future of our former adversary.

The Democracy Corps Act will send teams of professional Americans to the new republics to help democratic reformers in the Commonwealth of Independent States build the democratic and free market institutions that must serve as the foundation for lasting change in these societies. This bill is premised on the fact that free market economies in the republics of the former Soviet Union cannot be sustained without institutions that provide for civil law, property rights, education, and effective public administration.

Mr. Speaker, this legislation builds on the concept the United States employed after World War II when we successfully established some 50 "America Houses" in western Germany. These teams of Americans will work out of "Democracy Houses" and remain in the CIS for 2 years to provide expertise in the development of democratic institutions and the free market. The Democracy Corps will close down after 5 years and, therefore, not create a new Federal bureaucracy.

Mr. Speaker, it is clear that the crisis facing the new, independent republics goes beyond the need to create free market economies and overcome the shortages of food and medicine we so often read about. We have attempted to alleviate some of those humanitarian concerns. But decades of totalitarian rule have traumatized the vast peoples of these countries not only in economics terms but also in their social and political attitudes about the role of government in a free society. Unless those attitudes and values are changed, the prospects for a peaceful transition to democracy in the former Soviet Union are unlikely.

It is in our national interest to ensure that this transition is successful. This legislation is an attempt to move this process forward, and I urge my colleagues to cosponsor the Democracy Corps Act.

DEPARTMENT OF MANUFACTURING AND COMMERCE ACT OF 1992

(Mr. HENRY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HENRY. Mr. Speaker, a national strategy for maintaining and strengthening the U.S. industrial base is essential for our Nation's future economic well-being. The global economy poses challenges that are as important to meet today as were the military challenges of our past. We can only maintain our preeminence as an industrialized nation if the Federal Government and the private sector come together as never before to keep our manufacturing base competitive in the international marketplace.

There is no single cure for our dilemma. The recession has prompted a number of simplistic calls for protectionist and isolationist policies. While we must get tough with our trading partners to ensure a level playing field for all U.S. manufacturers, it is dangerous and irresponsible to suggest that foreign trade barriers are solely to blame for our economic woes.

As attractive as rhetoric bashing our trade partners is to some Members of Congress, the fact is that Washington needs to take strong policy actions on a number of fronts to ensure an America that competes, not one that retreats from the global market.

Not only must we break down those barriers that keep U.S. goods out of foreign markets; we need to press forward on reforms that will lower the cost of capital, liability, and health care for U.S. companies. We need to fa-

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

cilitate technology development. More importantly, we need to formulate policies that will create an efficient means of transferring and applying new technologies from our labs and universities to the manufacturing sector.

We must develop an educational system that will enable future employees to quickly adapt to a continually changing high-technology workplace. Likewise, we need to improve our work force training systems for today's employees. These are critical areas that need to be addressed if we are truly going to improve our industrial competitiveness.

But because we have no coherent strategy or Government office speaking for U.S. manufacturers, we often lose sight of how important our industrial base is to the Nation. Manufacturing is the force that creates jobs, drives economic growth and innovation, determines our standard of living, and ensures our national security. As such, the time has come for the Congress and the administration to end the debate over whether or not we should have an industrial policy. We have one. The only question is whether or not it is coherently articulated, visionary, and comprehensive.

If we choose to open or close our doors to Japanese automobiles, for example, that is part of our industrial policy. If we create a perverse tax incentive system that penalizes savings, that is part of our industrial policy. If we maintain a liability system that forces a machine tool manufacturer to spend five times more on liability insurance than he does on research and development, that too is part of our industrial policy. Before today, though, we were failing to face up to the fact that Government action or inaction has a great impact on our industrial sector. We have lacked a disciplined strategy to ensure our economic well-being into the next century.

Regardless of whether we call it an industrial policy or simply a competitive strategy, as some people have suggested, we must now focus on how we might better coordinate our Federal policies so that they are developed and modified to the benefit of American manufacturers.

As is called for in the legislation I am introducing today, I believe our first step in this process should be to rename the Department of Commerce as the Department of Manufacturing and Commerce. This change must be more than symbolic. It must change the tone of the adversarial dialog that has long existed between Government and industry. It must also help redirect our policies and priorities toward manufacturing and foster the type of public-private partnership that will be increasingly necessary in the world marketplace of the 21st century.

A number of existing Federal programs are aimed at supporting our manufacturing base, and others could be used to do so. But they are often disjointed, duplicative, and difficult to approach—particularly for small manufacturers. Therefore, my proposal would also set up a Manufacturing Advisory Commission to examine the Federal agencies, programs, and offices charged with overseeing manufacturing-oriented research and development, technology transfer, education, and trade policies. This Commission would make recommendations on which programs and offices that are critical to the manufacturing sector should be consolidated into a single Office of Manufacturing.

Over the past several months, I have toured a number of the manufacturing facilities in Michigan. I have listened to scores of complaints and concerns about what the Federal Government is and isn't doing to help them survive. While some manufacturers point to education reform, some to technology application, and still more to trade policy, the underlying sentiment is that it is time for governmental action that puts manufacturing into the forefront of Federal policy decisions. A Manufacturing and Commerce Department would do so.

The feeling out there is that we not only have to compete against growing foreign competition, but we must contend with a Government that's working against us. A manufacturer who recently testified before the Technology and Competitiveness Subcommittee put it this way: "There are times when most of us in manufacturing truly believe that there has been a subsurface dislike toward, and distrust of us. If the Congress and the administration can positively change the tone of the relationship—toward a partnership—it is my belief that this will go a long way toward insuring the future success of manufacturing in the United States."

A Department of Manufacturing and Commerce cannot fix all that is wrong or maintain all that is right with our industrial sector. However, it will set us on the proper course and create a foundation from which we can build a coherent economic competitiveness strategy.

PERMISSION FOR COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT TO FILE PRIVILEGED REPORT

Mr. MCHUGH. Mr. Speaker, I ask unanimous consent that the Committee on Standards of Official Conduct have until midnight tonight to file a privileged report.

The SPEAKER pro tempore (Mr. FLAKE). Is there objection to the request of the gentleman from New York?

There was no objection.

LEGISLATION TO LOWER AMERICA'S UNEMPLOYMENT RATE

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, reports tell us that there is a 7.3 percent unemployment rate in the Nation, a totally unacceptable level of unemployment. Something has to be done.

I have two suggestions which I think are doable, and which I believe would have an effect on that rate by reducing it and putting America back to work.

One thing I would like to see happen, Mr. Speaker, is passage of a public works bill. I realize that over a period of some time people have been reluctant to support public projects because these somehow produce leaning-on-shovels kinds of jobs. Actually they are very important and very fulfilling jobs.

There is a bill sponsored by the gentleman from New Jersey [Mr. ROE] that would create many public jobs. The county of Jefferson, the city of Louisville, have 100 million dollars' worth of programs ready to go that could fit under that bill. I hope that bill passes.

I also think, Mr. Speaker, the Tax Fairness and Economic Growth bill should have in it a first-time home-buyer tax credit which I think would jump-start the housing industry and give young Americans a piece of the rock.

So certainly 7.3 percent unemployment is unacceptable. We can lower the rate, and we should win these two pieces of legislation.

JUST SAY IT: $1.5 TRILLION

(Mr. DELAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DELAY. Mr. Speaker, just say it, $1.5 trillion, $1.5 trillion. Don't you like the way it just rolls off of your lips. For some, it takes almost no effort to say $1.5 trillion, it is painless.

Mr. Speaker, even though my colleagues on the other side of the aisle do not find it bothersome to pass a $1.5 trillion budget agreement, the American people will. For they are the ones who pay for this obscene budget by the sweat of their brow.

I am tired of the politics-as-usual crowd robbing Peter to pay Paul. They do not seem to realize that when you take from Peter to pay Paul, Peter ends up laying off Paul. If the ill-advised budget agreement of 1990 taught us anything, it is the lesson that when you destroy growth incentives in the workplace, the workplace becomes a no-place. Instead of going to the assembly line, workers go to the unemployment line.

The Democrat tax and spend budget package uses sleight-of-hand techniques to deceive the American people.

Is that the best my colleagues on the other side of the aisle can do for those they claim to represent, the middle-class, a 2-year tax credit? Come on, the American people deserve more from their elected leaders. They deserve real incentives, real tax relief, and real opportunities, not tax credits in exchange for a $77.5 billion tax increase. My constituents are choking to death on increased taxes. They can not stand further "Democrat" prosperity.

Mr. Speaker, we have only 10 days until the March 20 deadline. Congress has the power to make a meaningful difference in the lives of all Americans. Pass the President's economic growth package and pass out a ray of hope.

THE WRONGFUL DEPORTATION ACTION BY U.S. IMMIGRATION SERVICE

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, I must say my patience is really running out with the Immigration Service in Denver. On Christmas Eve they delivered a deportation notice to a new widow with a 4-year-old child who was an American citizen. Meanwhile, they have been saying any day they are going to come take her away.

It turns out that the reason she is having all these problems was a prior lawyer gave her very poor advice. There are all sorts of ways Immigration could deal with this, by giving her humanitarian parole, but they refused the pleas, they refused to answer them, and they just seem to want to go their own way.

□ 1210

I want to say that this young woman is now going to be one of the honorary members of our St. Patrick's Day parade in Denver, CO, because everyone in Denver is really incensed about how this woman is being treated.

I certainly hope the Immigration Service takes it upon themselves to review their files, understand what a humanitarian role is all about and really try and reclaim some honor in this incredible case that has gone on and on much too long.

LEGISLATION TO REPEAL SCHOLARSHIP TAX

(Mr. LEWIS of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Florida. Mr. Speaker, the 1986 Tax Reform Act contained many harmful provisions, but fortunately not all of them have been strictly enforced by the IRS. Among these is the provision which taxes college scholarship money used to cover room and board.

Unfortunately, recent newspaper reports say that the IRS is dusting off this provision and may begin enforcing it. The last thing any of us needs in the midst of this recession is a tax increase, even if it is one that was passed 6 years ago.

I'm taking the floor today to urge my colleagues to take pre-emptive action. I am asking you to cosponsor legislation I am introducing to repeal the scholarship tax.

Scholarship money used for tuition and fees, books, and supplies, is still tax-free. Scholarship funds used to pay room and board are just as necessary, and should also be tax-free.

At a time when we are so concerned about our education system and providing our students access to college, we do not need to add to our problems by taxing scholarships.

It's difficult enough for most students to scrape together the money to go to college. Once they have won a scholarship, they do not need Uncle Sam stepping in and demanding a cut.

Let us stop the IRS from enforcing a tax that should never have been passed. Cosponsor my bill to repeal the scholarship tax.

UNITED STATES RESPONSIBLE FOR OWN ECONOMIC WOES

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute.)

Mr. APPLEGATE. Mr. Speaker, when is America going to wake up? We tend to want to bash the Japanese for bringing all their products into this country and buying this country, but it is not their fault. It is our fault. It is the Congress and the administration and we that allow all of this to happen.

If Members have ever read the cartoon, Pogo, he says, "I have seen the enemy, and he is us."

This administration had better start to address the problems that confront this country on trade, on competitiveness, on what we are going to do about research and development, on educating our kids to keep them here so that they can compete instead of inviting our industries to go overseas to take advantage of cheap labor, to allow them to restrict our productivity. Let me tell my colleagues something. The newest unemployment rate is at 7½ percent for the United States and going up. I saw a bumper sticker recently and it said, "Saddam Hussein still has his job. What about you?"

This is an election year, folks, and I think we had better start listening to the people who put us in office.

PUTTING ASIDE PARTISANSHIP TO PASS PRESIDENT'S ECONOMIC PACKAGE

(Mr. COX of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COX of California. Mr. Speaker, there are now only 10 days left before the deadline of March 20 that President Bush set for the liberals in Congress to back off of partisan politics and deliver an economic growth package to his desk.

Is it not ironic that the center pieces of the President's program have a majority in this Congress sponsoring them, and yet we cannot schedule them for a floor vote? On passive loss, over 300 Members of Congress have sponsored legislation to permit once again real estate professionals to deduct so-called passive losses. A capital gains rate reduction commands a majority in this House and in the other body. Tax-free withdrawals from IRA accounts for first-time home buyers has well over 300 sponsors. It would take us 15 minutes to schedule a vote on these items.

Let us not lard it up with all of the other $1.5 trillion worth of spending that the liberals in Congress have included in their budget that passed last week. That budget, I should add, has a built in $300 billion deficit.

There is not much question that the Democrats are still the tax and spend party they have always been. But there is still time, 10 days before the President's deadline, to change and join with us on the other side of the aisle. And there is certainly time between now and the election to stop being the tax and spend party and instead provide jobs and economic growth for the unemployed and other Americans.

TIME TO GET THE OMNIBUS CRIME BILL TO THE PRESIDENT'S DESK

(Mr. SCHIFF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHIFF. Mr. Speaker, because of recent events right here in the Capitol Hill area of Washington, many of my colleagues have been demanding more and more effective efforts against the crime problem. We have a device to do that. Both the House of Representatives and the other body have passed their versions of an omnibus crime bill.

Where is that bill today? It got sidetracked in a conference where the majority decided that it would only entertain their proposals and not work with the other side of the aisle, and that doomed the bill at that time to a stalemate.

Mr. Speaker, violent crime is all across the United States, and it is right outside the door of this Chamber. It is time that we set aside partisanship and do something about it, and that means to get the anticrime bill back on track and send it to the White House.

□ 1220

SPENDING THE PEACE DIVIDEND

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. DELAY] is recognized for 60 minutes.

Mr. DELAY. Mr. Speaker, I take the well of the House for my special order to discuss some things that are starting to come out as a result of passing out of this House a most egregious budget that raises taxes and gives no incentives whatsoever for growth, especially if you cut taxes in one hand and take away that increase in capital by taxing Americans with the other hand. There is absolutely no growth potential there, and that is supposed to be the growth package that the Democrats are going to send to the President before the deadline of March 20 in order to stimulate growth in this country and put us into a climate of creating jobs and creating growth.

Of course, last week it was very evident that the leadership of this House does not have even their own committees well in hand because we had to vote on two options of budgets last week, a plan A and a plan B, because they could not decide on either one of them, and they passed two budgets, one based on breaking down the budget agreement of 1990 and breaking down the firewalls so that they can take the peace dividend and spend it on other programs, and what we are going to try to show today is that all that is doing is once again last week they raised taxes, and this week they want to increase spending, and here we go again, the same business as usual. The American people get the shaft.

Mr. Speaker, it is amazing to me that people really think that there is a peace dividend. The Republican Study Committee produced a paper on March 5 entitled "Spending the Peace Dividend," and I would like to start with that paper, because I think it is very well written and pretty well outlines the problem as we see it today.

In 1990 the Democrats in Congress negotiated this budget deal with President Bush. In exchange for raising taxes, Congress agreed to accept the separate spending caps on defense, international, and domestic discretionary spending through the fiscal year of 1993, and beginning in 1994, the three categories will be merged into one with a single overall cap on spending.

However, the Democrats are now calling for an early end to the separate spending caps. They hope that by breaking down the firewalls between defense and domestic programs, they will be able to spend the peace dividend. Unfortunately, the Democrats' desire to spend the "peace dividend" is based on two flawed assumptions. First, the defense cuts proposed by President Bush are a mere pittance in the face of the extravagant Reagan defense buildup. Second, domestic spending is being starved by the austere spending caps imposed by the 1990 budget agreement.

Now, historically defense spending rises in response to a military crisis and falls when the crisis ends. The peace dividend represents the amount of money made available for other purposes by the reduction in defense spending.

In the past both the rise and the fall in defense spending occurs in a very short period of time. For example, during World War II, defense spending rose from $75 billion in 1940 to $871 billion in 1945. By 1949 defense spending had fallen to $94 billion. During the Korean war, defense spending rose from $94 billion in 1949 to a peak of $359 billion in 1953 before dropping to $265 billion in 1957. During the Vietnam war, defense spending increased to $343 billion in 1968 before dropping to $258 billion in 1972.

Unlike the three previous cycles, the Reagan defense buildup was not a direct response to armed conflict involving U.S. military forces. In fact, the Reagan buildup actually started under President Carter. Defense outlays had been on a steady decline ever since the withdrawal of United States troops from Vietnam. By 1978 defense outlays had fallen to 4.8 percent of the gross domestic product, the GDP, the lowest level since the end of World War II.

Under Carter, defense outlays rose to 5.3 percent of GDP by the time that he had left office in 1981. That represents an increase of $37 billion.

Under President Reagan the defense outlays peaked in 1986 at 6.5 percent of GDP. In constant dollars, defense spending peaked in 1987 at $343 billion. Measured on the same basis as the three previous defense buildups, this represents a $52 billion increase.

In theory, the money saved from reducing defense spending can either be returned to the taxpayers in the form of lower taxes and reduced borrowing or it can be used to finance other Government spending.

Congress has shown a growing propensity to spend the peace dividend. After World War II Congress increased domestic spending by 8 cents for every dollar in defense spending. This level rose to 25 cents after the Korean war. After the Vietnam war, Congress spent $1.09 in domestic spending for every $1 in defense savings.

Following the Reagan buildup, Congress spent $2.30 for every dollar in defense savings. Under President Bush's proposed budget, defense outlays will fall to 4.7 percent of GDP in 1993, which is lower than when President Carter took office.

By 1997 defense outlays are projected to decline to 3.6 percent of GDP. That represents the lowest level in defense spending since 1940.

Now, in constant dollars, defense spending will decline to $246 billion in 1997. That represents a $97 billion decline from its peak in 1987 and a cumulative $512 billion decrease since 1989 when President Bush took office.

Now, President Bush has already proposed a substantial reduction in defense spending, and calls for further defense cuts are based on the claim that domestic discretionary spending is being starved by the austere spending caps imposed by the 1990 budget agreement, when, in fact, under the President's budget domestic discretionary spending is projected to increase by almost $15 billion this year. That is the largest single-year increase since 1978.

The 1990 budget agreement left plenty of room for growth in discretionary domestic spending. By breaking down those firewalls, Congress will destroy any possibility of restraint in future years. While the projected increase in domestic discretionary spending is dramatic, the growth in total domestic spending is almost unbelievable.

Under the President's budget proposal, total domestic spending will rise to $975 billion in 1997. That is $256 billion higher than the amount spent in 1989, and cumulatively total domestic spending is projected to increase by $1.3 trillion above the level when President Bush took office.

Based on the President's budget proposal, domestic spending will rise by $2.55 for every dollar in defense cuts. Unfortunately, given the track record of the Democrats in Congress, the picture will likely get even worse.

The President routinely blames Congress for increasing Federal spending. The Democrats, in turn, point out that if the President was really interested in a balanced budget that he would submit one. However, after clearing away all of the rhetoric, one fact is clear: For the past 10 years, this Congress has routinely sent less than the President requested for defense and more than he requested for everything else.

From 1982, the first budget submitted by President Reagan, through 1991, the last year for which final numbers are available, Congress spent $95 billion less than the President requested for defense and $628 billion more on everything else.

So during the decade of the 1980's Congress consistently spent less than the President requested for defense while spending more than he requested on everything else.

□ 1230

Now that the President has joined together in calling for lower defense spending, the temptation to spend defense money on other programs is greater than ever. However, contrary to the public perception, Congress is already spending the peace dividend at a record pace. President Bush's budget projects that by 1997 defense spending will decline to its lowest level since 1940, measured as a percent of GNP or as a percent of the total Federal outlays. Additional defense cuts below this level should be based on the national security need, not on a desire to fund more domestic spending.

Furthermore, any enthusiasm for a peace dividend should be tempered by Congress' track record to date. American taxpayers can hardly afford $2.55 in domestic spending for every dollar in defense cuts.

Mr. Speaker, what I tried to show here, through the help of the Republican Study Committee, is that if we look at what happened last week, where they raised another huge amount of taxes to the tune of some $77.5 billion and made some attempt to put some growth incentives in there, gave a piddling amount of tax cuts for the middle class—trying to buy off the middle class—and you tie that increase of taxes, taking away from the private sector and putting it into the public sector, and make suggestions of destroying the firewalls so they can take the peace dividend, which does not exist, and spend it on their domestic programs, we can see what is happening here. Indeed, they have raised taxes on one hand, and now this week they are going to have a bill on this floor that removes the spending restraints.

This is the only good thing that came out of the budget agreement of 1990. They are going to remove those spending restraints so they will have an excuse to increase their domestic spending. In fact, this morning, just earlier today, I had group after group coming into my office and salivating over their prospects of getting even more of an increase in their spending budgets than they originally thought would happen this year. They are all over this Hill today and they will probably be all over this Hill until this matter is resolved, putting pressure on Members of Congress to spend money on these special little programs that everybody loves. But I have got to tell the American people, Mr. Speaker, that we do not have the money. There is no peace dividend. When you are running $400 billion in deficits per year, there is no peace dividend. It was spent many years ago. All they want is an excuse to increase spending, especially in an election year, so they can buy off their constituencies to vote for them during this election year. That is the whole goal behind what we are seeing, and it is just amazing to me.

Mr. Speaker, I had to sort of borrow from that grand gentleman from Texas [Mr. ARMEY], the ranking member on the Joint Economic Committee, this material. He has just released these two charts that show what is going on. The American people are being deceived by the majority of this House. The Republican staff on the Joint Economic Committee did a little research on the budget packages, the two growth packages that were presented last week, and I think these two pictures are indeed worth a thousand words. This is a chart that is entitled "Growth Versus Malaise," and what it shows, as the Democrats have proposed to raise taxes, is the effects that the two bills, the Republican alternative in the black and the Democrat alternative on the bottom, would have. It shows what the effect will be on the gross domestic product and what the effect of the growth in this country would be of the two proposals.

On the one hand, we see the Democrat proposal, and over the 5-year period of the two plans it shows that in the first year it loses $3 billion. In the next year the economy loses $8.5 billion, the next year $14.8 billion, and in the next year it loses $19 billion, and the next year $16.9 billion, and then in 1997, if we adhere to this—and we have never adhered to any 5-year plan longer than 18 months—in the last year the economy will have lost $16.3 billion.

Yet if we had passed the Republican plan, we can see above the line the marks of the increase in the economy that would happen as a result of the Republican alternative. We did not raise taxes. What we talked about was cutting capital gains, giving a first-time homebuyer credit, and those kinds of things, and the chart shows that in the first year the economy would increase by almost $13 billion, by $38 billion in the next year, $67 billion in the next, and an increase of almost $93 billion in the next, and an increase in the next of $121 billion, and then in the last year the economy would increase $143 billion.

What does that mean in terms of jobs? Well, it is obvious to anybody with a third grade education that if the economy is losing growth and is in a decline or is losing its increase in growth, jobs are not created at the same rate as if the economy was increasing.

In the chart on the far end entitled "Jobs Creation Versus Destruction," the two lines are compared and we can see that is the extrapolation from what happens to the economy and what happens to jobs. And what happens to jobs in this country is that we lose under the Democrat plan 21,000 jobs in 1992, 62,000 in 1993, 71,000 in 1994, 81,000 in 1995, all the way to losing 103,000 jobs in 1997, whereas if we had passed and made into law the Republican plan, we can see that we increase jobs by 84,000 in the first year, 220,000 the next year, 353,000 the next, 479,000 the next, and then in the last year we increase jobs by 593,000.

There is a real difference between the philosophies of government here, and I think the American people are going to look at the philosophies of government because we are going to make sure that the American people understand what is happening in this Congress as a result of who controls this Congress, Mr. Speaker.

What is happening on the one hand is that we have the age-old FDR-type New Dealism philosophy. In fact, we have heard Members come down here doing "1 minutes," talking about using government to build infrastructure. Infrastructure is very important, but it is not a jobs program. Jobs are created in the short terms of those contracts, but they are not meaningful and lasting. The only way we can create jobs in this country is to allow the American people to hang onto more of their money so that consumers can purchase items when they feel driven to do so and can choose what items they want in their purchases. Then the American businessman and woman can risk their capital and invest in new companies and thereby create more new jobs.

The philosophy on our side of the aisle is that we need a growth package that actually stimulates the economy, but most importantly, in the long run what it does is create a climate in which Americans are free and have economic freedom to build a greater economy. We are shutting down and strangling the economy by raising more taxes and spending more because everyone knows the Government cannot efficiently spend money, and certainly the Government does not risk money in investments that create jobs.

□ 1240

But if you increase the scope of the government, then indeed what you have is pulling out the very lifeblood of our economy, putting it into an efficient system and you are strangling and bleeding our economic engine to the point that it cannot create jobs. That is what is happening in America today. It has nothing to do with the kinds of claims that have been made on the floor of the House where the rich got richer, the poor got poorer, which is another subject that I could get into. Suffice it to say that that is another way of deceiving the American people.

It is amazing that those who claim that the rich got richer and the poor got poorer use the timeframe from 1977, which is the Carter administration, to 1989, the end of the Reagan administration, yet they blame the Reagan administration for 8 years out of that 12 years that they use as the basis for their argument.

Well, the American people are not stupid, they can recognize a sham once they get involved in it and start reading it.

So, the reason I took this special order, Mr. Speaker, was to try to point out or at least begin to point out that, No. 1, there is no peace dividend. You cannot have a peace dividend if you have a $400 billion deficit. It was already spent by Congress years ago.

Indeed what is happening is—what the Democrats in this Congress are proposing is that for every dollar of defense spending that we cut, they want to spend $2.55 on their favorite domestic programs. The end result from raising taxes last week and increasing spending as a result of the tax that will be taken on the floor of the House this week, the American people once again are the losers.

So, Mr. Speaker, we are not going to lay down and roll over and allow this to happen without the American people understanding it. And I think they will speak in November.

WHO SAYS CRIME DOES NOT PAY?

(Mr. AUCOIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. AUCOIN. Mr. Speaker, who says crime does not pay? You know, if you are really rich and George Bush is President, it pays a lot.

Case in point: Yesterday, in an abrupt about-face, Federal banking regulators settled with the junk bond king Michael Milken. Even his own lawyers admit the settlement will leave him and his family with $475 million; $475 million.

Just think about it, it is living proof that the 1980's were a decade of greed, they were a decade of get your own while you can, they were a form of Robin Hood in reverse.

This settlement of $475 million is nearly twice what we spend as a nation to prosecute the S&L fraud every year. It is almost enough to vaccinate every needy kid in this country. It is a year's worth of special classes for 31,000 disabled kids in my State of Oregon.

The Milken case is Reaganomics on parade. And this settlement is one more example of the rest of us picking up the tab for the lifestyles of the rich and famous.

When it comes to what the gentleman from Texas just talked about, about voters having a voice, to say something about these current affairs come November, I am here to say this case is going to be one of those matters in which voters are going to have a very lot to say.

SOME CONCLUSIONS AND OBSERVATIONS ON THE BUDGET DEBATE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maine [Mr. ANDREWS] is recognized for 30 minutes.

Mr. ANDREWS of Maine. Mr. Speaker, I have just completed in the last few months my first year as a Member of the Congress of the United States, and I am in the midst, along with other Members of this institution, of my second budget debate.

Mr. Speaker, I have come to some conclusions and observations as I have been through this first year and as I grapple with the budget decisions that we are now facing, and I would like to share some of them with you.

Mr. Speaker, there are moments in this body that this Congress actually sits down and does the very difficult work of analyzing issues, openly and honestly, and actually tries to grapple with those issues not in terms of partisan politics or the battle for 10-second sound bites or what advantage or disadvantage this or that may have on the next election, but there are times when Members of this body actually look into their minds and into their hearts and debate an issue on the basis of what is good for the country and what they really think is the right direction for this Nation.

We saw that spirit live very, very eloquently at this rostrum during the gulf war, when this Congress had to come to terms with probably the most serious decision that any Congress can ever make, and that is the decision to send young men and young women into harm's way.

There are times when that spirit and that focus and that clarity and that sincerity makes its way onto this floor on other issues. But too often, Mr. Speaker, that spirit does not live here and we have challenges and scapegoating and finger-pointing and blaming when we should have responsibility, analysis, openness, and a coming to terms of disagreements and analyzing seriously the issues that confront us.

I would like to take, as an illustration of that, an issue that really demands that kind of approach with our Nation's budget. Last week, for those of you who were paying attention to the debate on the budget, you saw examples of all kinds of debate tactics and strategies on this floor. I think you saw examples of some of the best and some of the worst of our congressional debate.

Some of the best actually occurred, I believe, when the Congressional Black Caucus of this Congress came forward with a proposal for a budget, outlining priorities, outlining spending cuts, and making a proposal for this Congress to take a new direction.

During that debate there were actually moments when Members of the other side who disagreed with the Congressional Black Caucus did not stand and finger-point; they asked questions, they attempted to analyze, and there was a sincere attempt to come to terms with the differences between each side and to try to reconcile differences between each side.

☐ 1250

Mr. Speaker, what emerged from that debate was a very key, I think, analysis of what some of the problems are that afflict this body and the debate that often we get engaged in. We heard from one side that, yes, that have a lot of compassion for the people who hurt in this country, and they are preparing and defending social programs that can help those people.

In fact, the gentleman from Georgia [Mr. GINGRICH] actually stood and said that he admired and respected that response to the plight of so many in this country. But he offered a challenge, and that is for my side of the aisle, the Democrat side of the aisle, and particularly the Congressional Black Caucus, to think perhaps more in terms of what he described as capitalism in the Adam Smith sense, and he criticized the approach of solving problems through government bureaucracy and, instead, proposed that we need to focus our attention more on economic productivity. If we could focus our attention on economic productivity, the issues and the concerns that were being discussed so eloquently from the Congressional Black Caucus could be resolved.

Now I think that was a very positive moment here in the U.S. House of Representatives, two sides coming to terms with two different philosophies and approaches, two sides that were sympathetic to the point of view of the other, in an attempt to truly come to terms with one another.

Mr. Speaker, the gentleman from California [Mr. DELLUMS] in particular sought to find that ground. As a matter of fact, there was an invitation by the Congressional Black Caucus to the gentleman from Georgia [Mr. GINGRICH] and others to sit down and discuss those issues further.

I would like to take up the issue of economic productivity and economic strength and propose that perhaps there is some common ground between those who believe that this country has failed to meet its basic responsibilities to its people and has failed to make critical investments in this country, and those who believe that the key to the success of this country and the resolution of so many of our problems is economic productivity. Now what do I mean?

As my colleagues know, we have a problem that is not only a problem for this body, but a problem on Pennsylvania Avenue, in fact a problem in corporate boardrooms all across the country, that too often the vision that is used to address and solve problems is extremely short term. It is in terms of what is going to happen in the next election or the next quarterly profit sheets that are going to be coming out. Too often we fail to look at the long-term economic implications of our decisions and ask the basic question: What will be the long-term implications of budget decision, both in terms of the budget of this Congress, as well as the economy is this country, and, because we fail to ask that question because we forget to frame our debate in terms of our future, we end up bogged down in meaningless debates, and we have terms that really are not going to help us to solve our budget problems.

Mr. Speaker, I think that, if we were to look at this Nation and address seriously the concerns of those who believe in economic productivity, we would look at our budget in a fundamentally different way. We would start asking the question of, if we invest in this education program, what is going to be the return on that investment, both economically and in terms of a budget, not just in this budget year. We know it is going to cost money, but down the road what is it going to generate for this country? If we ask a question about a capital investment, roads, bridges, rail systems, water and sewage treatment systems, and we ask the question, not just what is the impact of this budget decision on this budget, but the impact for this Nation and for this economy long term, we could begin to have a debate about the direction that this country is going and the direction that this country should be going. We have got to distinguish between capital investment that is going to generate a turn in productivity for this Nation in economic strength and regular operating expenses.

Now this is not a radical notion. I have spent just about every single weekend back home in Maine, and I serve on the Committee on Small Business, and I spend quite a bit of that time traveling to many of the small businesses in the State, and, as my colleagues know, it does not take long, when we start talking about what decisions have to be made in a business in order to make that business strong, to start to understand that making a distinction between long-term investment and short-term operating expenses makes a great deal of sense.

I say to my colleagues, imagine, if you will, taking over a business that used to be very profitable but is now in serious trouble. Your job is to turn that business around. What do you do? Well, I would suggest, after talking to many business people in my district, that you're going to do at least two things. No. 1, you're going to look at your expense sheet, and you're going to look at the expenses that you're incurring, and you're going to ask yourself: is this expense absolutely critical to the strength and the health of my business, and, if you find an expenditure that isn't, it may be very difficult to do, but, if you're going to survive as a company, you're going to have to make the difficult decision of stopping that spending that has no relationship to the productivity of your company. Now it may mean saying good-bye to a vendor that you've had for a very long time. It may mean some very painful layoffs. It may mean some very difficult decisions. But if you're going to survive as a company, you're going to have to be willing to make those tough decisions.

Now you're also going to have to look, however, just as importantly, at your business in terms of where you want that business to be. It's called a business plan, and the business plan has a goal, and you look at the things you're going to have to do in terms of investment in that company in order to reach that goal. It could mean new equipment for your company. It could mean a new plant. It could mean training or retraining some of your workers. It could mean a number of different types of investments. But you know, if you're going to achieve your goal and if you're going to put your strategy to work, you're going to have to make investments.

Mr. Speaker, I ask my colleagues, why can't we in the U.S. Congress look at our budget in much the same way? Why do we have to have budget categories that don't distinguish between operating expenses that we may not be able to afford and capital investments that we're going to need if we're going to build productivity for this country? Instead we have budget categories that I believe are obsolete to the goal of getting this country's economy moving again.

Make no mistake. In my view the only way that we are going to solve the budget crisis of this Nation is through economic strength and productivity, and, in order to achieve that, we are going to have to have an economic and productivity strategy for America that involves both holding the line and cutting spending that we do not need on the operating side, as well as making investments in productivity on the capital investment side.

Now we all know, because we have heard from many economists who have testified before this session of Congress, that there is a direct relationship between productivity and private investment from our business world and public capital investment. There is a direct relationship. As my colleagues know, there are all kinds of theories that float around this place, trickle-down, and supply-side, and this tax scheme and that tax scheme.

□ 1300

But we know from experience that if you make capital investments that are going to make the ground on which business operates fertile, you are going to generate private investment. That road, that bridge, that rail system, that sewer line, that water system, that good education system, that first-class training system, those are public investments that generate investment from the private sector. You need both in order for the economy to work, and it does not work if you have the two sides pointing fingers at one another, blaming one another for the collapse of the economy. Both sides have to work together.

This is not a radical idea. We heard in testimony by the Economic Policy Institute of Washington, DC, the testimony of the president of that economic institute, Dr. Jeff Faux, that while Japan was investing over 5 percent of its gross national product to these basic public investments, basic public capital investments, we in the United States were investing less than 1 percent in our infrastructure, our public capital infrastructure.

In my State of Maine at Bates College a professor of economics by the name of Dr. David Aschauer testified in a recent study that he did that if this Nation were to maintain its level of public capital investment at the same level that we made that public capital investment 20 years ago as a percentage of our gross national product, and we continued that public investment right through into today, this would be the result, according to his study. Productivity growth in the United States would be 50 percent higher than it is today; the average profit rate for our businesses would be 22 percent higher; and the rate of private investment would be 19 percent higher than it is today.

In other words, we are being denied the benefit of strong, robust economic growth today, because the wrong decisions about public capital investment were made yesterday.

My point to this Congress as we discuss our budget is that our children and our grandchildren are going to suffer even more tomorrow if we fail to make those critical public capital investment decisions today.

Now, we all may differ as to exactly what those capital investments would be. We all may differ as to what the key might be to economic growth and productivity. But the fact of the matter is that if we restructure our debate in terms of meeting clear goals for America, in terms of economic strength and productivity, and we are not afraid of public investment as a vehicle to get that economic strength and productivity, we could engage in that kind of open debate without the ideological blinders that so often appear on the floor of this Chamber and without the partisan political fingerpointing that oftentimes takes us away from the point of a budget debate that is directed toward the strength of this economy.

When you talk about clear goals for America, economic goals, directions of where we must go, just like that business, we need to have a business plan based upon clear goals. One of the words you hear floating around here, or terms floating around the Congress, is "industrial policy." There goes industrial policy.

We cannot have industrial policy, because industrial policy means that the

Government is deciding who the winners and who the losers are going to be in our economy. We need to have a government that is totally divorced of those kinds of decisions and totally divorced of economic activity.

Well, the reason that our major economic competitors are doing so well is because they do not spend hours and hours haranguing about the term "industrial policy." They understand that unless the Government has a clear vision and a clear goal and works cooperatively with the private sector, their nations are not going to be able to compete as effectively as they might. So they work together and they establish areas of their economy that they want to be second to none. They make investments in the infrastructure necessary to drive that economy, and they make investments in their children's education and training and retraining of their workers. Finally, they generate a direct dividend on that investment through their productivity and growth.

Now, we can stand here all we want and can point fingers at them and blame them for their productivity and their growth and competitiveness in the international marketplace, or we can stop and ask ourselves, are perhaps we framing our debate here in this country in the wrong terms? Perhaps we should not be making those gross distinctions between private and public over here, and never the twain shall meet. Perhaps we should be talking about a cooperative, focused, clear debate and discussion to make those two sides work together so that we can achieve the kind of economic competitiveness that this country so richly deserves and so desperately needs.

We know that job performance rises with education. That is not debatable. We know that. We know that in the first 2 years after training, the productivity of a worker rises four or five times faster than their rate of compensation. That is productivity. And we know that investing in smaller class sizes in our elementary schools and our secondary schools increases the reading and math scores of our children.

But we also know that the United States ended in the decade of the 1980's spending proportionately less on grades K through 12 education than our major international competitors.

We also know that for every dollar that we invest in child immunizations, we can save this Nation $10 in medical costs down the road.

We know that for every dollar that we invest in preschool education and preparedness, such programs like Head Start, we can save $5 to $6 in future costs. Those are real savings, real budget savings. But they only occur when you are willing to make investments and when you are willing to look beyond the next election and into the next few years and into the next few generations, to look for the return on investment that those kinds of spending decisions can make for this country.

We have a one-size-fits-all budget category, like domestic discretionary spending, that completely blurs the distinction between investments we need for tomorrow and budget items, operating expenses, that we just cannot afford to make during tough economic times.

Mr. Speaker, I certainly believe that if we are going to move forward in solving the budget crisis of this country and addressing the economic crisis of this country, we have got to start using budget categories in terms that make sense, in terms of turning this country around.

I would submit that domestic discretionary spending, quote/unquote, as a budget category, everything but the kitchen sink fits into that as far as domestic spending, does not do the job, does not make the distinction between those two kinds of investments, does not give us the chance to have a debate upon the kind of future that we are building for our children, the kind of capital investments we need for our economy, the kind of budget decisions we have to make in our operating side so we can save taxpayer dollars down the road.

We cannot even have that debate if we use budget categories and criteria that are obsolete to what I think should be the real business of this city and of this institution and of our economy—getting this Nation moving again.

Mr. Speaker, we are going to hear a lot of discussion and a lot of debate in the next few days and the next few weeks that is going to try to polarize this institution and Americans. We are going to hear about the public sector versus the private sector. We are going to hear government described as inherently incompetent and bad, or inherently good and able.

We are going to hear talk about the business sector, the private sector of this country, as being either greedy or self-serving, or the key to our salvation.

What we end up with when we debate our Nation's future and our congressional budget and our economy in those terms is a failure to see the forest for the trees.

□ 1310

We fail to recognize that the key to this country's future is not government and it is not business. It is people, and we need both business and government, and the private sector, to tap the tremendous resources of the people of this country and create the economic strength and security that we need.

That is going to mean, No. 1, taking off the ideological blinders. It means that we have to recognize, all of us, the key to our budget crisis, that is, the key to solving our budget crisis, is through economic strength and economic productivity. We also have to recognize, no matter what side of the aisle we sit on, that to be productive we not only have to stop spending on things that we cannot afford. We also have to be willing to make investments in things that we critically need for our future.

In short, we need a productivity strategy for America. We need some clear goals. We need a clear strategy. We need a budget that is based upon that strategy and upon those goals. We need a process that recognizes both the need for investment and the need for savings in our operating budget size.

During the debate last week we heard several times the name of Adam Smith resounding in these Halls. In fact, there was one reference to capitalism in the Adam Smith sense. Adam Smith maintained that spending, public spending for public works and for education, is just as important a function of government as national defense and justice.

Ladies and gentlemen, we have ended the cold war era and find ourselves on the edge of a new era of history. Part of that new era of history means a fundamental redefinition of what national security is, what national strength is, and what international leadership is.

National strength and security and international leadership is not going to be based in the post-cold war era on the number of intercontinental ballistic missiles that we have in our nuclear arsenal. The strength and security of this country and the ability of this Nation to lead the world is going to be based upon the strength and the vitality of our economy and the well-being of our people. If we are going to do the right thing for this country in this post-cold war era and if we are going to do the right thing for our children, and if we are going to truly make this Nation the great Nation that it can become for future generations, then we have got to look beyond the next election in our budget debate. We have got to look beyond the next quarterly spread sheets when the private sector looks at investment decisions. We have got to look beyond the old and obsolete terminology of the budget categories in our current budget and look to a future that is based upon the economic strength and vitality that we so readily need.

Mr. Speaker, let us have a budget process that helps us to debate the issues as they really stand before this Nation. Let us have a process that helps us to make clear and responsible decisions not just for ourselves and for our constituents at home, but for our children and our children's children and generations of Americans to come.

It is time for a new era. It is time for Congress to lead that era.

AMERICA NEEDS SOUND TAX POLICY GOALS

The SPEAKER pro tempore (Mr. FLAKE). Under a previous order of the House, the gentleman from Pennsylvania [Mr. SCHULZE] is recognized for 30 minutes.

Mr. SCHULZE. Mr. Speaker, we have heard a lot lately about tax plans. Every President has his tax plan. The Democrats have a proposal. Everybody else has their ideas on what we should do with taxes. So I have asked for this time to spend a few minutes to discuss tax policy goals.

Usually when we talk about tax policy and tax policy goals people's eyes roll back in their heads, and they think that it is such an esoteric subject that "it really does not affect me." But it seems to me it is about time people started paying attention to tax policy goals.

When we look at these, we first of all I think have to look at the year 2010 and say, "What kind of United States of America do we want for our children and grandchildren in the year 2010?" When I do that, I want an America which is dynamically exporting. We must be an exporting Nation.

We have to be a manufacturing Nation. Service? Yes, we need service, and I am sure a lot of you have read "Megatrends" and "Future Shock" and these very learned books on the direction our economy is going and how we are inexorably grinding toward the service economy.

It seems to me that we must retain a manufacturing base. We could only export service and services for so long, and we can only be the serviceman of the world for so long.

So when we look at tax policy it seems to me that we must have a tax policy which would have as one of its goals a vital or revitalized manufacturing base in the United States of America.

If we are going to have that manufacturing base, these policy goals must include tax policies which would tilt the playing field towards exports. If we look at our tax structure today and compare it with our major trading partners, we would see that our tax policy is slanted more towards favoring imports than it is towards favoring exports. If we could tilt that playing field I would, but I would be satisfied just to level the playing field so that our manufacturers or our exporters would have the same opportunities to export their products and/or services to the rest of the world or to our major trading partners as our trading partners have to export goods and services into our economy.

I think that we must have as one of our policy goals to enhance exports from the United States. Should we be a total service economy? I do not think so. There are many who would say that we had no choice in the matter, that we are moving toward a service economy and we will be the serviceman of the world. I think through the correct tax policies we can revitalize our manufacturing base.

One of our goals must be to have a simplified tax structure. I might parenthetically insert here that you can sort of divide tax policy into individual income taxes and business taxes. I am concentrating today on the business portion of our tax structure and tax policy.

We must look at simplicity. I remember seeing a photograph where one company, in sending its tax return to the IRS, had a stack of papers 7½ feet high. There have been many studies, one not too long ago, which showed that the cost to the businesses in America to send $1 to the IRS was 56 cents. There are others which indicate that it costs more than that.

□ 1320

In 1983 there was an estimate that it was approximately 66 cents for each dollar of revenue raised, and given the increase in complexity since then, we have had DEFRA, TEFRA, OBRA, COBRA, an entire alphabet soup of tax changes since that time, so I saw another estimate that it costs as much as $1.05 in some instances for every dollar that business sends to the IRS.

So we have to have simplicity. I would like to quote Larry Gibbs who is the former Commissioner of IRS from February 1990 when he said,

> * * * an incredible 153 separate amendments to the Internal Revenue Code in the last 15 years, an average of more than 10 separate changes each year for the last decade and one-half, each year's changes seemingly more voluminous than the last—ERTA, TEFRA, DEFRA, REA, TAMRA, COBRA, OBRA, and of course the 1986 act, just to mention a few.

Larry Gibbs, the former IRS Commissioner, said that in February of 1990.

Dr. Jane Gravelle of the Congressional Research Service said, the cost of economic distortions in the corporate tax and again I quote, "was 97 percent the size of the tax revenue." Ninety-seven percent. Is that simplicity? No, it is not simplicity.

Many businessmen have to figure their taxes three times. Nearly everybody has to figure their tax at least twice, and some more than three times. Some legitimately have to keep two or three separate sets of books, which used to be unheard of. So we have increased the complexity of our Tax Code.

Estimates are that we bring in somewhere between $100 and $110 billion a year from the corporate structure in taxes. If somewhere between that 97 percent and a 66 percent, say 80 percent were saved, think of what corporate America could do to modernize if we could make the Tax Code more efficient and allow them to use that money for other purposes. So simplicity must be a goal of tax policy in the coming years.

We have one other problem. As a member of the Oversight Subcommittee of the Ways and Means Committee we have for the past couple of years been looking into a topic called transfer pricing. Transfer pricing is when a foreign corporation will set up a wholly owned subsidiary in the United States and sell products to that subsidiary which in turn sells them to the people of America. But at the end of a year, no matter how much business they do, whether it is $100 million or $500 million, they just do not make any money, they do not make any profit. The products are priced so that they just about break even.

This phenomenon is called transfer pricing. There are those who believe this is sort of a plot that the foreign producer prices his product high enough or so high when it comes into the United States that the wholly owned subsidiary cannot make a profit and, therefore, pays no taxes in the United States of America. It has been estimated that we lose in taxes anywhere between $30 billion and $50 billion a year because of transfer pricing.

I had a meeting with the judges of a tax court to discuss transfer pricing quite some time ago. They said, "Congressman, what you're asking us to do as attorneys, as lawyers, and those learned in the law, is to try to render a decision on those who are making what could be a wholly business decision. Suppose someone, for competitive reasons, wanted to lower his prices and penetrate a market. Now that is a perfectly legitimate way to price your products, and so you are asking us to crawl inside their mind and try to determine whether they are insidiously trying to avoid paying taxes in the United States of America or whether they are just trying to increase their market share by a legitimate merchandising method."

So it is very difficult to say to the judges and the IRS that we want them to stop this. In fact, the IRS now has a special group, and I am sure that it is costing us hundreds of thousands of dollars. We are having some success. Whether we will collect any money I am not sure. But we are having some success in proving in certain instances that transfer pricing was employed in order to avoid taxes in the United States of America.

But as we look at tax policy over the next 10, 15, or 20 years, we want to devise our tax structure so that it will not be easy for those who would perhaps try to use this device to avoid taxation in the United States, that it would not be easy for them to employ this device so that they could avoid paying taxes, and we would not have to spend thousands or hundreds of thousands of dollars chasing down documents, and in some instances sending agents to foreign countries to look at minutes of meetings, having them translated, argue over translation. It is an extremely complex area. So as we develop tax policy goals for the year 2000 and beyond, I want to make sure that we keep transfer pricing in mind and that we develop a tax structure that would negate such machinations.

Another problem that we have seen in the past decade is a plethora of mergers and acquisitions, mergers and acquisitions which sometimes were designed for the tax ramifications alone. I think that we should discourage that type of merger and acquisition. But at the same time, we have to make sure we do not discourage legitimate mergers and acquisitions. If a company wants to purchase another company in order to penetrate additional markets or expand their lines or to round out their merchandising capability, and they intend to benefit from them, that is a legitimate goal and one that we should smile upon and say yes, we want you to do that, especially if it will make them more efficient and make them more profitable.

But mergers and acquisitions which are taken solely for the reason to either raid a pension fund or for tax ramifications or the tax writeoff ramifications of that acquisition should not be encouraged. We know that a fair number of businesses today are suffering under huge overhang of debt because of a foolish merger or a foolish acquisition.

□ 1330

So we should try in tax policy to discourage those nonlegitimate types of business activities.

We absolutely have to keep in mind, as a goal, reduction of the cost of capital. We want American business to enlarge. We want them to grow. We want them to become more productive, and in order for them to do that, they should have available to them relatively low-priced, low-cost capital.

Since 1981 the statistics show the cost of capital in the United States of America has increased by 80 percent. Our cost of capital in the United States of America is twice as much as it is in Japan. The cost of capital in the United States is 60 percent more than it is in Britain.

Why is cost of capital important? Most people, I think, even city dwellers, have at one time or another used a post hole digger, and it is pretty hard work for those who have not used a post hole digger. I think there are two types. There is an auger that you screw into the ground, and there is another that you spread the tines and dig the dirt out of the post hole. Well, a man working diligently for an 8- or 9-hour day can probably, with decent soil, dig maybe 20 post holes a day, but with an investment of capital, that same man, if you can buy a $60,000 tractor with a power takeoff and put an auger on it, that same individual can probably drill 100 post holes in a day, five times as much.

That capital investment, that purchase of that equipment, and when we talk about capital gains, maybe whoever invests that money to make that man more efficient is going to make a few dollars, amen, because it protects his job. I do not care how we get there, but what we have to keep in sight in our long term policy goals in taxation is to lower the cost of capital in the United States of America.

Mr. GEKAS. Mr. Speaker, will the gentleman yield on that point?

Mr. SCHULZE. I am happy to yield to the gentleman from Pennsylvania, my colleague.

Mr. GEKAS. As always, my colleague from Pennsylvania touches upon matters of fiscal policy and tax policy that are right on point, and his long tenure, of course, in the Committee on Ways and Means gives him that special brand of background that permits him to talk with more than just the average knowhow.

On the question of the cost of capital, is not the great debate about all of these various tax plans that are being thrown around in the Capital these days, are we not missing the boat when we cannot make clear to the people of the United States that in order to fire up this economy we have got to incite people into a position, business people and investors, where they can invest, because that investment with a proper return to them, just like the gentleman says, let them become millionaires, but with a proper tooling of our fiscal policy to allow these people to invest?

Every time they invest, they sow the possibilities of new jobs. Is that not what it is all about? When we give capital-gains treatment, special tax treatment, toward these large investments, even though they may in the long run reap some profit, my gosh, God forbid profit, are they not in the process also of creating, again, the atmosphere for new jobs? Is that not what the gentleman is trying to get across? Is that not what we who support capital-gains formation and lower interest rates, the cost of capital, are we not interested in new jobs thereby?

Mr. SCHULZE. The gentleman is exactly right, and I thank him for his addition.

Mr. GEKAS. I thank the gentleman for allowing me to speak on the subject, and I would like to join with him in whatever initiatives the gentleman wishes to put on the books.

Mr. SCHULZE. I thank the gentleman for that. Yes, he is right, that the reduction in capital gains is one way to lower the cost of capital.

There are other methods of reducing the cost of capital. The targeted investment tax credit is probably maybe even a more exact method of increasing capital in specific areas, or lowering the cost of capital. Some of our foreign trading partners have other methods of reducing the cost of capital that probably would not apply to us in our free society.

Some of them dictate or control the amount of interest paid on specific saving documents or instruments. The investing people in the United States of America would not stand for that type of control, but if a government wants to say the workers of America can invest in one type of saving instrument and on that type of saving instrument will be paid a 3-percent interest rate and nothing higher, you can see that would create a huge poll of low-cost money for those who wish to borrow it. There are devices like that available to other nations around the world which are not available to us in the United States of America.

As we look at our long-term tax-policy goals, I think the reduction of the cost of capital is one of them. Now, along with that, we want to encourage modernization and encourage more efficient production and productive facilities.

You might say, is that not the same as reducing the cost of capital? Well, not necessarily, because there are other ways to do that.

In the Democrat tax proposal, they expanded the dollar amount of expending for small businesses. I think that went from $10,000 to $25,000. Such a move would encourage, in a small way, modernization and increased productivity on a relatively small scale, but imagine the productivity increases if we developed a tax policy which would allow every business in America to expense every purchase that they made, that if a steel producer wanted to buy a new rolling mill, if they wanted to put in a new electric heating system or melting system, if they wanted to modernize a rolling mill or an integrated operation and they expense that cost immediately, write it off that year, the incentive that that would be to modernize, it would be a tremendous incentive, and as I look at tax policy for the future, we want to do everything we can to encourage modernization, because that will tie in with our other goals of being an exporting nation, of increasing our productivity, and the bottom line is, of course, to provide employment opportunities with the opportunity for upward mobility to all of our people.

Are we going to do that if we are the servicemen of the world? Well, we might if we also at the same time, and the previous speaker here this evening was talking about this, this afternoon, was talking about education, and that is a very important component of our society.

But I think we have to provide jobs for everyone in the spectrum, and we do have to enhance education, because we are going to be in a competitive world, but we also want to provide jobs, or at least the opportunity for a job, for everyone in our society.

□ 1340

And so when we do that, that means that we have got to encourage the enhancement of productivity, we have got to encourage investments in new, modernized facilities, we have got to do it across the board.

So, what did we talk about? We have talked about a goal of a year, somewhere between 2000 and 2010, of being a dynamic manufacturing society with job opportunities for all, by being an exporting nation exporting our goods and services around the world, with markets open to us around the world.

We have talked about enhancing our service economy, yes, along with our manufacturing base. We have talked about simplification as a tax goal. We have talked about the leveling of the playing field in international trade so that our producers have the same opportunity to sell into foreign markets as foreign producers have to sell into our markets.

We have talked a little bit about transfer pricing again; that is kind of dampening the opportunity for foreign nations to game our structure, to game our systems, so that they avoid the payment of taxation.

We have talked about reducing the cost of capital, we have talked about encouraging modernization, increasing productivity. We should do all that, remember, to protect our basic programs, such as social security. We have got to enhance and protect our social security system. If we do all that, it might require something that I have called economic patriotism; we have got to stand up and say what is good for the United States of America, what is good for our children and our grandchildren, what will provide them with the same opportunities that we have had because of those who went before.

So, I would hope that all of us on both sides of the aisle would perhaps give some thought to tax policy goals, and I would hope in future weeks that I will perhaps continue this and be a little more explicit in each of those areas and see if we can work together to develop a package which would achieve those goals and perhaps increase a large degree of economic patriotism.

DEPOSIT INSURANCE REFORM ACT OF 1992

The SPEAKER pro tempore (Mr. FLAKE). Under a previous order of the House the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, I realize today that the Speaker pro tempore is performing a duty over and above the call in that he has volunteered to preside during what we call special orders or the closing proceedings of the session of the House.

Mr. Speaker, today I rise because of the fact that I have introduced the Deposit Insurance Reform Act of 1992.

Mr. Speaker, I will append at the end of my statement the bill which is now known as H.R. 4415, to be included in the RECORD.

Mr. Speaker, the fact is that I have been a member of the Committee on Banking, Finance and Urban Affairs since I had the great honor of being elected to the U.S. House of Representatives, about 30½ years ago, when I assigned to the Banking Committee, and have remained there since then. Of course, since 1988 or 1989, officially on January 3, I have been discharging the functions of the chairman of that committee and also chairman of the Subcommittee on Housing and Community Development, of which our distinguished Speaker pro tempore is one of the most effective members, from New York, on both the subcommittee and the full committee level.

Today what I have done is introduce a reform that I have been seeking since the last Congress, which I think is the foremost need if we are going to prevent an out-and-out collapse of this unique but somewhat—in fact, very much—distorted system known as the deposit insurance fund system.

Now, it seems to me that after what we have been experiencing and what some of us, I do not use the word prophesy, because it was not a prophecy, it was a prediction based on facts, based on what we who would be interested in these statistics as members of the Banking Committee were charged with knowing. So, I have been speaking out on this subject matter for quite a number of years and also because I recall vividly as if it were today, effective in 1980, the increase in the amount to be insured in an insured depository institution from $40,000 to $100,000.

Through sheer accident I happened to have been on the floor that afternoon; there were no more than 10 Members present. And the reason I was here was the same reason I am here today. I was waiting to be recognized on the special order that day, when I noticed that the chairman of the subcommittee then, and the following year he was to be chairman of the full committee, but he was chairman of the subcommittee that had jurisdiction of the subject matter because that subcommittee is the Subcommittee on Financial Institutions, Supervision and Regulation. To my amazement, I was sitting right in front of where I am speaking here when I heard the gentleman, the subcommittee chairman, ask for recognition and asked that the Senate bill, I forget its number, be taken from the Speaker's desk and brought up immediately for consideration.

When I heard that it was the Senate bill that had been entertained in the Senate in obedience to one that the House had passed but which I knew the Senate was appending nongermane matter to, as they can under their rule, increasing the amount of coverage, well, I knew we had not had any hearings on it. So, I went to the then-staff director who accompanied the chairman and asked him, and he smiled. I said, "What is this all about?" He just smiled. There were no copies.

So, I had to go to the desk and obtain the copy. Well, while I was looking at it, the motion was made under a unanimous consent request to go ahead and accept the Senate amendments and proceed otherwise in accepting the Senate bill and sending it back to the Senate.

I was amazed when I was reading it to find that obviously the main thrust of that request was to increase the insured amount of deposits from $40,000 to $100,000. I knew we had no hearings on the matter, had no evidence or anything.

But I was particularly sensitive to that because we had had two failures that at that time were very sparse, other than in some circles received very little attention. One was a Franklin National Bank. It was a harbinger, it was a shadow of events coming in the future.

There you had the same combination that we have had since then, but except now in an endemic profusion and in an environment that is hostile to stability where we need it the most, which is in our financial structures and entities and markets.

Nevertheless, it so happened. That was the only consideration that was ever given to that jump-rise. Now, I was not interested in the amount. I knew the argument that inflation this, inflation that, and that it was about time that some increase be given.

□ 1350

When the House bill passed out, it had an increase from $40 to $50,000. But when the Senate appended that incremental increase, that, of course, aroused my concern.

Now the reason I was concerned, to repeat, was that these banks that had failed through a combination of things; the Franklin Bank was the biggest one at the time, and there was nobody assuring me that the same could not happen again. The thing that disturbed me was that the Federal Reserve Board, at a net cost of several billion dollars, or almost several billion, at least a billion and a half, which was really up to that time quite unheard of, actually attempted to bail that bank out, and I raised the question of why and is this the function, as I am raising the question now. Is it the function of the insurance fund to go out and hand pick which institutions it would not only give help, in the sense of giving them a direct outlay, allowing them to stay alive, even though they are dead as a doornail, and, at the same time, for the first time—now up to now I have been able to come before my colleagues and say, "Look. Now that we have all these failures, there's no way we can get around keeping the word of the government," and that is providing the money to the funds; first, the S&L fund known as FSLIC, and now, of course, the BIF or the bank insurance fund, so it can pay out the depositors.

What the people do not know, and many of my colleagues seem to be amazed when I tell them, is that the way they have been paying out has been to pay the uninsured. That is those that have money, a hundred thousand. Well, how many of those are there around? The average deposit in our country is not even $9,000. That is average, median average. So, where is all that payout money going?

So, we had the staff perform a study, a very valuable study, more than a year ago in which we brought out that the FDIC and the others—well, the FDIC as agent, which we made it, closing out S&L's as well, was paying out 99 percent of the depositors. Well, what does that mean? If the average deposit in our country is less than—it is around $8,500, then who is getting that money? Well, it is the sophisticated professional agents of these bank deposits who are sharp enough to know when to pull and who are sharp enough to know that they are going to get their money even if it is over a million or $2 million.

Mr. Speaker, that was never the intent of Congress then, or since, or now. Never have our Congresses passed a law or amended a statute saying that more than that stated amount should be paid out. But it has been done, it continues to be done, and what I want is to address that, as I have wanted for 3 years and have not succeeded.

Mr. Speaker, this is a real issue, yet that is not what the editors of the newspapers tell us is the issue, and then we have, of course, some segments of the banking industry who feel that, unless they are protected some way; that is what they call small, and in some cases the definition of "small" varies from the big ones because of the so-called doctrine of too-big-to-fail, which shortly after that 1980 act incrementally, exponentially, the amount of the covered insurance deposit happened in the shape and form of the Continental Illinois of Chicago where it collapsed in a matter of 3 days when the Japanese and the German investors pulled $8.3 billion out of that bank in 3 days. It collapsed. That was the immediate cause.

The underlying causes were many and manifold, but it was then that Chairman Volcker, the famous Chairman of the Federal Reserve Board—I was excoriated because I dared put in an impeachment resolution to Mr. Volcker. Well, I did it because I wanted to draw attention to what was going on. I wanted to draw attention to how there was this incestuous relationship between what was supposed to be the regulator and certain segments of the banking industry. Not all, just the top. And I pointed out incessantly that the Federal Reserve Board in its wanted independence, when it wants to, is actually not a Federal agency. It is a creature of an obedient tool, the commercial banking system of our country.

But in reality what that translates to is that it is obedient, and it is sensitive and responding to the needs of those top seven or eight big, giant, megabanks we have had, and now with the mergers this country is getting we are headed to the greatest concentration of financial and banking resources in the history of this country.

Mr. Speaker, this is the basic issue since the founding of this Nation, and we are witnessing a complete obfuscation of that sort of fear or that lack of confidence in great overweaning concentrations of that kind of power without accountability, and how do the people get accountability other than through their elected agents and representatives, both in the Congress as well as in the White House? Where else can they go?

But I am sorry to say, because it is the proudest thing I can say with my membership to this great deliberative body, but it is sadness that I feel overwhelming to say that both the Congress and the President seem to have abdicated the Federal Reserve Board as visualized, the Federal Reserve as the fiscal agent of the Treasury. That is not the case.

Just look at who is printing our money. It is the Federal Reserve Board. Every dollar bill or note, every five-dollar bill or note, ten-dollar bill, twenty-dollar bill, fifty-dollar bill, hundred-dollar bill does not say Treasury note. It says Federal Reserve. That means that we are at great risk.

Mr. Speaker, it used to be called Government printing presses pulling out money like some popcorn machine spewing popcorn. Today nobody says anything, and we cannot because there is no question about it. The whole premise of the setup visualized by the 1913 Federal Reserve Act has been perverted.

The reason I introduced an impeachment resolution was very simple. It was to bring attention to the fact that there was no accountability, that the destiny and the future of the financial and banking freedom of the American people was being lost. It was losing control and has. There is no use arguing about that.

Mr. Speaker, it has reached a point where a person such as I has to come up here vainly attempting to bring back to the prime congressional intent a reform of the deposit insurance system. It seems to me that I am on the defensive. How many allies do we have in or out of the Congress? In or out of the committee? How many editorials have come out saying—all I know is one newspaper in Florida. Why, when we tried to offer an amendment to just minimally reform this abuse, our opponents flashed and had hundreds of copies of the Washington Post editorial saying, "That's not the issue you ought to be worried with. You ought to be worried about powers. You, the Congress, will have to give the banking system powers to restore them to health."

Mr. Speaker, this is what we are still hearing, as if it were up to Congress, and, after the fiasco and the horrible dilemma that has been created by that mischievous, fallacious conclusion reflected in the 1980 financial depository institution, the regulatory act and the 1982 so-called Garn-St Germain act, it is exactly what they got.

☐ 1400

That is what I said then. I was the only one in the committee who was against that. I was the only one that went to the Rules Committee to argue against what the chairman was presenting. How do you think I felt arguing before the Rules Committee and having my chairman sitting behind me cursing me underneath his breath? The only danger there was that I would lose my pink temper and turn around and knock his head off. Fortunately, I did not, and I am glad I did not.

But the proof is the dilemma we are in. It is not a question of saying, "I told you so." That has never been satisfactory to me. I feel it is incumbent upon us who are charged with knowledge to do more than just speak up, and that is to try to bring about some effective change to what is obviously leading this country and its people down the primrose path of financial and economic serfdom and slavery. We have gone pretty much that way.

Not to get into tangential issues, but as proof patent of how complacent and sleepy-headed we are, where are all these financial experts? Where are all those who wrote those editorials? Where were they in 1980 and 1982? The pitch they had, together with all the industry and the Members of Congress, was that "you've got to pass these laws and give them power so they can be saved."

I said, "You're not saving them. You are dooming them. What you are doing is opening the sluice gates to the old speculators who all through our history have been present."

Why do we have laws? Why do we have government if it is not for the fact that it is a tacit admission that we will always have creditors, we will always have wolves in human form?

We have got to regulate. We have got to watch. When we give the bankers the power to create money or credit, do you mean to tell me that we should not regulate? The banking class is the most privileged in our country. Under our fractional reserve system it has the power to create money, to create credit.

What am I asking for in this bill? Very simply, it is not even to totally protect all depositors. Its purpose is to protect the small depositors, the bulk of those who do not have the means to investigate the safety of a given investment or to diversify their risks across a variety of investments. The deposit insurance system has been distorted. Not only has it been distorted, it has been out-and-out corrupted, and it has become depleted and insolvent.

I pointed this out years ago. How can we call this an insurance fund if we have allowed over 3 trillion dollars' worth of deposits in commercial banks alone? I am not counting credit unions or S&Ls. That is just the commercial banking system. That is over 3 trillion dollars' worth of insured deposits, with a broken fund, insolvent and bankrupt. Is that an insurance fund?

I have been saying this for years. The first time I came on this floor and brought out the statistics which for the first time revealed that we had the potential for disaster was in August 1979. Who listened? Well, I will give some credit, and may his soul rest in peace. There was only one who apparently looked at the RECORD or saw that speech when it was brought to his attention. We did not have TV coverage then. I have been using what we call this great privilege of special orders since the first time after I got sworn into the Congress 30 years ago, to be exact, 30 years and 3 months to the day.

So when you have and you continue to get an expansion in the base of exposure of that fund or any fund, you do not have to be an accountant to know it is bankrupt if the extension is constant as to its exposure and liability and the other side of that ledger, that is, the amount in the fund is not protected or increased in accordance.

So I brought that out in 1979, and I brought out another fact. I brought out in August 1979 the fact that the leading banks in New York in a matter of 1½ years had gone from about $3 billion to over $47 billion in loans at that time to countries that I knew could not pay. Of course, it is always greed. I was then a subcommittee chairman, and I was for 10 years a chairman of the Subcommittee on International Finance. Now, many of these special interest lobbyists are powerful, and they prevailed for many years. They could not fight my election to chairman 3 years ago, but they were there. They did try to make some movement in that direction, but up until then what they would be content with doing was saying, "How could this guy even be considered as a potential chairman? Why, he has no expertise in banking. He never sat on these subcommittees. His expertise is in housing."

Of course, they overlooked the fact that I was the progenitor and the cause of why we got the first international banking law to protect the people, at least minimally at the time, in 1978. And they forgot, except those who are the gullible or those who want to believe it or could swallow it, that if you are a member of a full committee, even though you may be assigned to a certain segment of subcommittees, you are on the full committee and the full committee has to act on every action of the subcommittees, so I would have to be sitting there with every flow of legislation coming out of the other subcommittees. But on top of that and then, of course, being malicious, they never were about to go to the RECORD and see wherein I had participated.

In any event, that is still the case. I still have to face the animosity and the malice of those who are entrenched. We are dealing now with several trillions of dollars on the table, and we know that when you have that kind of money, you are going to have a lot of things happen. The only thing up to now is that we have these powerful segments and we are in a pluralistic world, thank God, but they are so powerful and they are in such a conflicting environment that they cannot get the muscle to ram through a 100 percent in one account without the other side showing a kind of negativism or neutralizing. But what happens is that what the Congress and the committee should have been doing for more than 30 years never got done, and that is the constructing, the creation, the reshaping, and the restructuring of our outworn, contradictory, overlapping, ridiculous so-called system of regulation, regulatory control. Part of it goes back to right after the Civil War. Obviously, after 1945, and particularly after 1960, it was our duty on that committee to face the facts. It was a drastically new world. The new technological expansion of knowledge, like instantaneous electronic communication, was bound to impact on our banking system.

□ 1410

How would we handle it? What was going to be the impact on the dual system, the State and Federal banking systems?

Those are the issues, what kind of banking system do we want for America? Do we want to have one like in England, France, or Germany, where you have just three or four biggy, biggy banks? They call them all purpose banks, or full service banks.

This is what some want here. Fortunately, the bulk of our banks are not interested. In the meanwhile, to even compound it and make it worse, the banks are complaining, and so are other depository institutions, because of what they call new capital requirements or reserve requirements.

Some of them think maybe the Congress had something to do with it. Of course not. Most of what they are complaining about now was a result of an international agreement, the so-called Basel Agreement, from Basel, Switzerland.

But what was that agreement based on? They called the meeting for the purpose of having convergence of capital standards.

Do you mean that a rookie from the Federal Reserve Board was sent over there to negotiate with the Bank of International Settlements, the BIS, the real power in this world ever since after World War I, and of which we are not a voting member?

That commission that forged the so-called agreement on convergence of capital standards was called the Cooke Commission, named after the Bank of England official.

But they snookered the United States. Did the Congress have anything to do with it? No, we did not. This is an Executive action. It was something the Federal Reserve Board, as one of the chief banking regulators, did, and, of course, also the monetary agency.

In other countries they would say it is a central bank, but it is not really. Because if we take Germany, where you have an entirely different tradition, culture, historically and everything else, the German bankers belong to what they call a private bank, like maybe the Bundesbank is a central bank, but you also have three private banks.

But those bankers are not like ours. They look upon themselves also as ex-officio policy partners of the Government.

The reason we are having all these scandals on some of these so-called foreign banks, which is what this is also about, is, that unlike our system, most of those banks are government owned.

Do we want to have that system? What is it America needs in the way of a banking system today? Do we want to be headed to this great, great concentration of banking power? What do we need?

What about the dual system? There are some Members in Congress, and some without, who say their day is gone. The day of the State-chartered banks and all of that should have been finished.

Well, is that what we want? I am just one. I am not the committee, I am just the chairman thereof, and I am not smart enough to tell you how it is. All I can tell is that those areas in which we have clear and preeminent jurisdiction, and therefore responsibility for at least trying to be knowledgeable, is not to defend the banks. What has happened over the years is that even editors seem to think that the Congress is here at the beck and call and for the convenience and aid of the bankers.

Well, let me say we are not. At least I have never looked at it that way. We are here to look after the greatest interest of the greatest number, and in banking matters to the safety and soundness and stability of our system.

America has always had to have a stable, safe, and sound banking system.

Now we have the shock waves, of what? Puzzlement, fear. Fear is no good. Fear is borne of ignorance. But if you fear long enough, you are going to do something. That means loss of confidence.

No system, whether it is ours or the world's, or European, can stand the loss of confidence. Particularly banking. It is based on confidence.

It is just like our public service. I do not have to tell my colleagues that that very, very fine crystal known as credibility, confidence, once lost, once shattered, is impossible to regain.

We know that we can go out and tell one thousand truths. But get caught in one lie, and you have lost credibility.

The name of the game is that, confidence, credibility. If the people lose confidence and credibility in the safety and soundness of this system, what are you going to do? Work out a crisis?

I do not think we are responsible if we wait and not anticipate. I have always been a firm believer in anticipation, anticipatory preparation, so that at least you would have some pincers to handle that hot potato that you know full well is going to come.

Now, in this particular bill here, actually I just feel so pathetically ashamed, because it is minimal. Most people think of deposit insurance coverage as being limited to $100,000. But a family of four can obtain up to $1.4 million in insurance coverage in an unlimited number of institutions.

That is what they call disaggregation of accounts. That is the fancy word for that.

The indiscriminate bailing out of insurance coverage has allowed banks and thrifts to gamble with the taxpayers' money. In fact, they have made the deposit insurance system an entitlement program, entitlement for the banks and their well-being, rightful or wrongful.

This legislation takes one small step toward what? What is the law? Where did this doctrine of "too big to fail" come out of?

Well, in the case of Continental, where the Federal put in $6 billion, if this had happened in another country we would have said that country had nationalized that bank.

But not us. Oh, no, it was private enterprise. We are going to keep it private.

But who? All of the biggies that have the muscle and the political influence. What about the little ones? Yes, they have gone out.

In my State of Texas we have had more banks fail than S&L's, and that is the record throughout the country. Of course, there were many more banks. We have lost some 5,000 banks in just less than 2 years in this country.

Now, do you mean we should sit here and say, oh, well, it is going to all come out all right, if we just whistle past that cemetery, and just say to ourselves it will be all right if we just sit and wait?

It is not going to be all right. It is going to be everything but all right.

At no time has this Congress approved any amendment empowering any regulatory agency to pay out over that stated legal sum in the law. But it started in 1984, with Continental Illinois. Mr. Volcker announced that he would use every single power and resource this country had to save that bank and others. He came before the committee. I had 5 minutes. I asked him one question.

☐ 1420

I said, "But, Mr. Volcker, to what extent will you go if you have a succession of big banks failing?"

He said, "I will use every single resource of this country."

This is on the record. This is in the printed hearing of that day's occasion, not what I am saying now in retrospect.

So I then tried to get the chairman to have hearings on the legality of the empowerment of a regulator to do that and pay out more than $100,000. That deal also enabled the man or several of the men who had led that institution to its downfall to go out with golden parachutes of $2 million a year pension. It was not until Chairman Seidman came aboard in 1987, that they put a stop or at least what they could and to the extend they could to the golden parachutes. But the Continental Illinois, look at the record. I could not prevail.

I could not prevail because then as now in some areas, marginalize him. If you ignore him, you know in our country you can have censorship more than like they do in a totalitarian country, or even in England, they have a Ministry of Information and Censorship, as we saw clearly when we had the Falklands incident. But in our country we have the first amendment.

We must remember, the mother country does not. In our country, though, if an event or an occurrence is not reported, how do people know? Is it not then a nonevent? And this is what has been happening.

In some cases, I do not blame the newspaper or the news media because in our system and particularly in the Congress, unless there is debate, unless there is the clash of opinions, it is difficult for the outsider, even a very knowledgeable newspaper reporter, to really fathom.

I am not completely exculpating our news dissemination agencies from informing the people as they should have. I brought out the fact that when the Hunt brothers of Texas, the billionaires, tried to corner the silver market, of course they did what the Federal Reserve agents did.

They went over to England where for 500 years the silversmiths and goldsmiths in England have, I think they know what they are doing, after 400 or 500 years. And the Hunt brothers, in their naivete, thought they could corner the silver market.

In 1869, after the Civil War, Jay Gould and Jim Fiske tried to corner the gold market. And at that time the corruption was rampant, too. And they used President Grant's brother-in-law, Mrs. Grant's brother, and what happened was you had that Black Friday of 1869. They caused the depression at that time.

Well, we had not too much different except this time it was international, the Hunt brothers.

Now, the bad part was that in order to try to corner that silver market, the Hunt brothers tried over $200 billion worth of banking resources. This is where we have gone wrong in our country. Banks used to be chartered. But since the 1950's and the merger acts, banks have been founded on our systems of banks other than through chartering.

The old charter laws used to be very basic. They would say, a bank, if needed, shall be chartered for public need and convenience, not for profit. Of course, you are going to make profit in business. Business without profit is like candy without sugar. We know that.

But what I am talking about is, they fundamentally stated the basic purpose for a bank charter, the great privilege to create money in our country. And that was for public need and convenience.

What public need and convenience? To fire and stoke the engine and furnaces of industry and manufacturing and small business. Our banks retired from that after the 1960's and their so-called transnational developments. The Japanese never have stopped investing in their own industry. Our bankers have. Our bankers went into the high leveraged buyouts.

And like the case of the Hunt brothers, they lost their shirt. And so I put the impeachment resolution after Mr. Volcker, Chairman of the Federal Reserve Board, met in what they thought would be a secret meeting in a Florida hotel with the Hunt brothers and the chairman then of the Citibank or Citicorp, the Walter Wristin, who of course was trying to protect the bank's exposure in that ill-begotten deal.

Well, the rest is history. The stock market is in the dilemma it is because all those factors that were in the equation before 1932 were coming into place as early as the late 1970's and that is what I reported in my special order of August 1979. And then-Chairman Arthur Burns called me the next day after the RECORD was printed and invited me to have breakfast with him the next morning, and I did.

And I knew we were headed for trouble when he wrung his hands and he said, "You are right. And when I tried to tell the bankers at their convention in Honolulu, they almost ran me out of the room."

And I said, "You are chairman of the Federal Reserve Board. You can do a lot about it."

He said, "I don't know what I can do."

I said, "Yes, you can. You have section 14(b) of the Federal Reserve Board. You can demand the reserves."

And I said, "In this case where they are lending Peru," I said, "Peru, it won't even pay the interest."

And he said, "Well, I must say, I agree with you. You are right."

Well, when I walked out of there and this powerful man saying there was not anything he could do, I knew we were headed for trouble. That was August 1979.

Now, what I did was say, "Look, I have added the capitalization structure." That is, what is their capital, their assets in each of those banks? I said, the total assets of these 9 banks is less than their exposure on those foreign country loans.

I said, "Now, I am not a banker, but gosh, how can these big-shot bankers expose that way?"

The answer at that time was, "Oh, this is Arab oil money recycled." I said, "I do not care what it is. These are deposits that have been placed in these banks that you are lending out. You are not acting as an investment adviser to an Arab sheikh. He has got your deposits, and they amount to quite a considerable number of billions of dollars."

Anyway, I hope and I trust that somehow even in an election year, we can get some attention to this desperately needed act of reform that will reemphasize the fact that if the regulators usurp their power in the too-big-to-fail exertion of that doctrine through them, they did so ultra vires, that is, beyond their scope of proper authority.

I could never get my predecessor chairmen to have hearings on that, nor could I ever get the proper legal authorities of the Government. After all, where does one go to ask that question and evaluate it?

□ 1430

The Congress made much progress in limiting the scope of deposit insurance coverage and the attendant liability of the insurance funds when it enacted the Federal Deposit Insurance Corporation Improvement Act of 1991 last November. That bill, to a certain extent, limited the too-big-to-fail policy. I say "to a certain extent." It went long way in doing that, and the only reason we were able to get it was because we had those circumstances happening last year in which the Federal Reserve Board had put in $100 million to the failed Lincoln Savings and Loan. Can you imagine?

We got that, but we also have the least cost resolution of failed insured depository institutions, limited the availability of pass-through deposit insurance coverage for bank investment contracts and other pension plan deposits, and restricted the ability of institutions to accept broker deposits. The insurance coverage amendments contained in the Deposit Insurance Reform Act of 1992 legislation are necessary, this is this bill, to further reduce the liabilities facing the Federal Deposit Insurance Fund and the American taxpayer, and to restore the congressional intent.

Mr. Speaker, I will include at the end of the remarks the Deposit Insurance Reform Act of 1992, a section-by-section analysis, and H.R. 4415, for the benefit of my colleagues who will find it in the RECORD tomorrow.

H.R. 4415—DEPOSIT INSURANCE REFORM ACT OF 1992, SECTION-BY-SECTION ANALYSIS

SECTION 1. SHORT TITLE

"Deposit Insurance Reform Act of 1992"

SECTION 2. AGGREGATION OF DEPOSITS

This section limits Federal deposit insurance to $100,000 per individual per insured depository institution. Specifically, the section amends section 11(a)(1) of the Federal Deposit Insurance Act to require the Federal Deposit Insurance Corporation (FDIC) aggregate all deposits registered under the same taxpayer or employer identification number for purposes of determining the $100,000 limit.

Joint accounts must be attributed equally, unless otherwise specified in account records. Revocable trust accounts must be attributed to the grantor of the account. Deposits maintained by an agent, custodian or person in a similar capacity on behalf of a principal must be attributed to the principal.

New section 11(a)(1)(C)(v) permits the FDIC to issue regulations to make other attributions consistent with the insurance purposes of the Federal Deposit Insurance Act.

The Act requires all deposits to be registered under the taxpayer identification number or employer identification number of each depositor.

The effective date of the amendment is January 1, 1995.

Note that section 11(a)(3) of the Federal Deposit Insurance Act, providing separate insurance coverage for certain pension and profit-sharing plan deposits and IRA's, is not amended by this Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Deposit Insurance Reform Act of 1992".

SEC. 2. AGGREGATION OF DEPOSITS.

(a) IN GENERAL.—Section 11(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(1)) is amended—

(1) in subparagraph (B), by striking "(C) and (D)" and inserting "(C), (D), and (E)";

(2) by redesignating subparagraph (D) as subparagraph (E); and

(3) by striking subparagraph (C) and inserting the following new subparagraphs:

"(C) AGGREGATION OF DEPOSITS.—For the purpose of determining the net amount due to any depositor under subparagraph (B), the Corporation shall aggregate the amounts of all deposits in the insured depository institution which are maintained by a depositor or by others for the benefit of the depositor, as follows:

"(i) Deposits registered under the same taxpayer identification number or employer identification number of one depositor shall be attributed to that depositor.

"(ii) Deposits registered under the taxpayer identification number or employer identification number of more than one depositor shall be attributed equally, unless otherwise specified in the deposit account records, among those depositors.

"(iii) Deposits consisting of a revocable trust or similar account shall be attributed to the settlor or grantor of the deposit account.

"(iv) Deposits maintained by an individual or entity (including an insured depository institution) acting as an agent, custodian, nominee, conservator or in a similar capacity on behalf of a principal (other than an insured depository institution) shall be attributed to such principal.

"(v) Such other attribution to a depositor as the Board of Directors determines by regulation not to be unduly burdensome and costly to calculate; provided that the depositor has control over the deposit account and that such attribution would be consistent with the insurance purposes of this Act.

"(D) DEPOSITOR IDENTIFICATION.—

"(i) IDENTIFICATION NUMBER.—All deposits shall be registered under the taxpayer identification number or employer identification number of each depositor.

"(ii) CONSIDERATION OF ADDITIONAL INFORMATION.—For the purpose of aggregating and attributing deposits under this paragraph, the Corporation may consider additional information contained in the records of the insured depository institution or made available by the depositor.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 1995.

INCREASING DANGER IN THE NAGORNO-KARABAGH STRUGGLE

The SPEAKER pro tempore (Mr. FLAKE). Under a previous order of the House, the gentleman from Utah [Mr. OWENS] is recognized for 5 minutes.

Mr. OWENS of Utah. Mr. Speaker, I do not often presume upon the time of the House, but my return last evening from Armenia has led me to take this time to discuss what is a very grave and serious situation.

I just returned last evening from a 48-hour visit to Armenia, and conversations with ranking public officials, including President Levon Ter-Petrosian, Prime Minister Gagik Haratunian, and several members of the Armenian Cabinet. In addition I have spoken with a great many other officials and dozens of residents of that beleaguered country. I tried without success for 2 days to visit the enclave of Nagorno-Karabagh by helicopter, but weather and military action combined to make that impossible, to my great regret. Just before I arrived, Azeri forces shot a helicopter evacuating wounded Armenian women and children.

My assignment as a member of the Foreign Affairs Committee Subcommittee on Europe and the Middle East was to ascertain relevant facts and information about conditions there. But my first humanitarian concern was the well-being of the people of that country, more than 3½ million people, who have been victimized for many years by a cruel blockade of most of their food, fuel and other essential resources by the Azerbaijani Government in complete derogation of international law and the charter of the United Nations. It is an irresponsible, reprehensible attempt to bring improper pressure on behalf of their own military action by raising dramatically the level of human suffering among Armenians in both Armenia and Nagorno Karabagh.

Stories of a fierce battle in and around the Azerbaijani town of Khojaly in Nagorno-Karabagh, said to have occurred on or about February 26, were beginning to circulate in the world's press just before my departure from Washington on March 4. Gruesome pictures and reports of the alleged killing of Azeri women and children by troops of the Nagorno-Karabagh Armenian army and irregulars were being publicized. This became an important issue for me to explore while in Armenia.

I conducted many interviews and held many conversations while in Armenia about the grave charges being made, surveyed and read much of the world's press and spoke at length with several newspaper and television correspondents who had actually visited the town of Khojaly shortly after February 26, and interviewed military wounded who had been in the area.

As a result of that inquiry, I have come to believe that a serious breach of human rights did in fact occur at that time, that innocent Azeri women and children were killed, apparently by Nagorno Karabagh Armenians on or about February 26. The number killed has been grossly exaggerated; still, virtually all objective observers place the number of dead at approximately 125 to 200, with at least two-thirds being Azeri regular and irregular army troops.

But whatever the number of dead and wounded, a great tragedy has occurred in what is a continuing sorry and pitiful litany of outrageous incidents of cruelty in that struggle for control of that small mountainous area in Azerbaijan populated by Armenian ethnics.

We must all condemn the gross departure from universally accepted standards of war: that the lives of innocent nonbelligerent men, women and children are to be protected. There is little enough of military warfare which bears any resemblance to civility. That practice, above all others, must be respected and departures from it must be condemned.

For those of you who are not familiar with recent events in Khojaly, you should know that just as Baroness Cox of the House of Lords warned us, the Azeris began launching hundreds of GRAD missiles from Khojaly into Stepanakert, the capital. This shelling leveled approximately 50 percent of that capital city, population 80,000. The shelling destroyed hospitals, homes and the Parliament building and killed unknown numbers of its Armenian residents.

If the killings were perpetrated by Armenians, as it appears, they were undisciplined troops from among the Nagorno Karabagh Armenians, acting contrary to usual standards and practices for military engagements which otherwise have been scrupulously adhered to by the Armenian soldiers of Nagorno Karabagh. I deeply regret those killings and condemn the events which culminated in that deplorable travesty.

But the facts are not clear. The American press has relied on Azeri and Turkish accounts to claim that Armenians massacred 1,000 innocent civilians. Yet French, Russians, British, and other independent eyewitness journalists have categorically refuted these reports. They place the total death toll at no more than 200—including military and civilian personnel—and they refute charges that Armenians massacred or mutilated any of the dead. Florence David of French television Canal Linq has described "how the myth of a massacre was concocted by the Azeris."

I have today dispatched a letter to Artur Mkrtichian, president of Nagorno Karabagh, calling upon him and other responsible officials to appoint a commission of impartial and objective individuals of international reputation to conduct an inquiry and report the results thereof to him and to the public. Second, I have suggested to him that he pledge that guilty personnel, if the inquiry finds that in fact such a breach of human rights took place, will be arrested, charged and brought before an appropriate military tribunal. The Armenians, in sharp contrast to the Azeris, have consistently investigated, tried, and punished individuals who, even under the pressures of war, have committed crimes. Only after such an investigation in this case can the world be reassured that the Armenians of Nagorno Karabagh will act with responsibility in their struggle for self determination and independence.

I was chairman of the delegation of congressional observers at the Armenian independence referendum last September. I am also the prime sponsor of legislation to preclude further American diplomatic recognition of Azerbaijan, economic assistance or favorable trade with the United States until the blockade of Armenia and Nagorno Karabagh is lifted and human rights restored. This legislation currently has 43 co-sponsors. That blockade of Armenia is an on-going gross breach of human rights, it is contrary to international law and the United Nations Charter, is considered an act of war and is causing widespread life threatening suffering.

The United States Department has chosen to ignore those violations, in complete derogation of the preconditions for human rights which Secretary Baker earlier assured us must be adhered to before any of the former Soviet Republics would be diplomatically recognized by this country. The Secretary of State is so anxious to build a counter force against Iran from among the Muslim republics and Turkey that he has forgotten the lessons from Iraq.

When America ignores serious human rights violations in pursuit of political purposes, as the administration did in dealing with Saddam Hussein prior to the Kuwait invasion, we lose. That is what is being done in Azerbaijan and Armenia today by the U.S. State Department. I deplore our refusal to insist that Azerbaijan drop its blockade of Armenia and Nagorno Karabagh before we grant Azerbijan full diplomatic recognition and American economic assistance.

I also wish to point out that no one has charged that the Armenian Government of President Levon Ter-Petrosian was involved in the tragic events at Khojaly.

There is increasing danger that the struggles and battles in the enclave of Nagorno Karabagh could bring the two countries of Armenia and Azerbaijan into direct conflict. There is also a more remote likelihood that other countries in the region, most likely Turkey, could enter such an engagement against Armenia. Above all else, we must hope that negotiations can begin immediately to contain this ancient dispute. It is to be hoped that Russian President Boris Yeltsin, who represents the only effective arbitration force in the area will continue his efforts. We all pray that those involved will be successful in averting the full scale blood bath which otherwise looms for that area.

THE REPUBLICAN PARTY IS MAINSTREAM AMERICA

The SPEAKER pro tempore (Mr. FLAKE). Under a previous order of the House, the gentleman from Oklahoma

[Mr. INHOFE] is recognized for 10 minutes.

Mr. INHOFE. Mr. Speaker, in light of the chain of events of the past few weeks, I feel compelled to share with you some conclusions that I have come to concerning the voting behavior of the Democrat and Republican Parties. Because a majority of the media is liberal and not sensitive to conservative causes, there is a distorted message going around America. That message somehow wants to erroneously convey that the Democrat Party is the party of the people.

Interestingly enough, just the reverse is true. It has just occurred to me over the last few months that virtually everything that mainstream America is enthusiastic about is something that has been consistent with the Republican philosophy and not the Democrat philosophy.

What I am saying, and not in a smug way, is that clearly the Republican Party espouses the principles that are agreed to by mainstream America. The Democrat Party, which has been in power in Congress and has run the show for five decades, is no longer understanding of or sympathetic to the feelings and the needs and the desires of mainstream America.

Mainstream America wants a strong national defense, wants voluntary prayer in school, wants tough penalties for crime, and wants a constitutional balanced-budget amendment. Mainstream America does not want federally subsidized abortions, flag desecration, and bureaucratic harassing overregulation of our lives and our businesses.

How do we know that mainstream America has these desires? We know because polling data is very clear. Specifically, according to a January 1992 CBS News-New York Times poll, 67 percent of Americans say it is still important for the United States to maintain a strong military. According to an October 1991 Times-CNN poll, 78 percent of Americans favor allowing children to say prayers in public school. According to an August 1988 CBS News-New York Times poll, 78 percent of Americans favor a constitutional amendment requiring the Federal Government to balance its budget.

According to the Los Angeles Times in a November 1987 survey, federally subsidized abortions are opposed by 64 percent of the people. In a March 1990 CBS News-New York Times poll, flag desecration was opposed by 83 percent of those surveyed. According to a March 1991 National Victim's Center poll, 80 percent of all Americans favor expediting the appeals process for death penalty cases. And, according to a February 1992 Times-Mirror poll, 65 percent of Americans agree that government is involved too much in their lives.

With that overwhelming message being sent by the American people through these national polls, wouldn't it be reasonable to assume that Congress would listen and act in accordance with these desires? Well, at least one party does—the Republican Party. In every case, without exception, when these issues are brought to a vote in Congress, the desires of the American people are overwhelmingly supported by the Republicans and are rejected by the Democrats.

But, don't take my word for it. Let's look at the record. I will present documentation that shows when each of these seven subjects has been brought up, an overwhelming majority of Republicans have supported mainstream America, while a confusingly high number of Democrats have voted in direct opposition to what most Americans want. On page H 3400 of the May 22, 1991 CONGRESSIONAL RECORD, we find a vote before Congress on an amendment for a strong national defense. The vote failed by a margin of 161 to 265, right down party lines. The Democrats voted to weaken our defense system and the Republicans voted to strengthen it.

On May 9, 1989, there was an amendment that passed in the 101st Congress favoring prayer in school and less than half of the House Democrats supported it. In this Congress, on June 5, 1991, there was a vote that dealt specifically with reducing Federal spending thereby balancing the budget, and that failed 171 to 255, right down party lines. An amendment that provided use of Federal military hospitals for abortions passed the House by a margin of 220 to 208 on May 22, 1991, right down party lines. Back in the 101st Congress, a measure to constitutionally protect the U.S. flag failed by a vote of 254–177 on June 21, 1990, right down party lines. Ninety percent of the House Republicans voted in favor of the measure. On November 13, 1991, by a margin of 253 to 177, the Democrats voted to place further governmental regulation on our lives and businesses. On a vote of 208 for and 218 against, a measure to stiffen criminal penalties failed on October 17, 1991. All but nine of the soft-on-crime votes were Democrats. And finally, during last year's defense authorization debate on May 22, 1991, Democrats in Congress voted by a margin of 268 to 161 to make irresponsible cuts in this Nation's defense systems. These are but a few of a multitude of votes that could be used to demonstrate the relative voting behavior of the Democrat and Republican Party philosophies that occur on a weekly basis.

It is unfortunate that the liberal Democrat majority, that has had absolute control of Congress over the past few decades has developed ingenious deceptive mechanisms in the institution to hide their votes. This enables them to make the people at home believe that they are supporting their position while opposing it in Congress. It is an attitude that the leadership of Congress seems to know more about the needs and desires of the people than the people themselves know.

A good example is the method used to hide their votes from the people concerning a balanced budget amendment to our Constitution. Shortly after it was discovered in a USA Today poll in 1987 that over 80 percent of the people in America want a balanced-budget amendment to the Constitution, House Joint Resolution 268 was introduced. House Joint Resolution 268 immediately gained 246 coauthors from over the Nation. I can just envision, at the town hall meetings back home, a liberal Democrat standing up and holding House Joint Resolution 268 in his hand saying, "See here, ladies and gentlemen. This is my name as cosponsor of House Joint Resolution 268." What the Congressman didn't tell these people is that he has no intentions of allowing House Joint Resolution 268 to come up for a vote. How does this Congressman, who is trying to make the people back home believe that he is supporting a budget-balancing amendment to the Constitution, keep from having to vote on it?

It is very simple, the Speaker merely puts it in a committee and then makes a deal with the committee chairman not to bring it up for consideration. The only way that it can be brought up for consideration is for a discharge petition to be signed by 218 Members of Congress. The discharge petition is in the Speaker's desk and must be signed during the course of a legislative day. However, the names of those individuals who sign a discharge petition are kept secret and if a Member discloses the names of other Members who sign the discharge petition, he can be disciplined to the extent of expulsion from membership of the House of Representatives. So House Joint Resolution 268 had 240 cosponsors, but only 140 Members were willing to sign the discharge petition.

Pretty cozy, huh? The Congressman can falsely represent his position to the people at home and never have to vote on the issue. I might add that there is a happy ending to that House Joint Resolution 268 story. Several of us contacted a national publication. While the publication knew we couldn't divulge the names of those who signed the discharge petition, they agreed to print the names of the individuals who coauthored House Joint Resolution 268, but did not sign the discharge petition. We found a loophole in the corrupt institutional system that protects Congressmen from their electorate and as a result of that, we were able to immediately force it out onto the floor and we missed passing a balanced-budget amendment to the Constitution by only seven votes.

These corrupt institutional arrangements have been put in place by the liberal Democratic leadership over the past few decades and it's time that they be stopped.

So, mainstream America, we know that you want a strong national defense, tough crime laws, voluntary prayer in school, and a constitutional balanced-budget amendment and we know that you do not want federally subsidized abortions, flag desecration, and more overregulation of your lives and businesses. We Republicans hear you loud and clear and we are solidly behind you with our voices and our votes.

It is time for America to wake up and understand who is in support of mainstream America and all that it stands for—it is the Republican Party. The Republican Party is mainstream America.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. McCathran, one of his secretaries.

□ 1450

RESCISSIONS OF BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102–201)

The SPEAKER pro tempore (Mr. FLAKE) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Appropriations and ordered to be printed:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report 30 rescission proposals, totaling $2.1 billion in budgetary resources.

The proposed rescissions affect the Department of Commerce, Defense, Health and Human Services, Housing and Urban Development, the Interior, and Transportation. The details of these rescission proposals are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 10, 1992.*

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. SCHIFF) to revise and extend their remarks and include extraneous material:)

Mr. DELAY, for 60 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

(The following Member (at the request of Mr. GONZALEZ) to revise and extend his remarks and include extraneous material:)

Mr. OWENS of Utah, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. SCHIFF) and to include extraneous matter:)

Mr. DICKINSON.
Mr. GALLEGLY in three instances.
Mr. GEKAS.
Ms. SNOWE.
Mr. GILMAN in two instances.
Mr. EMERSON.
Mr. BONIOR.
Mr. FALEOMAVAEGA in five instances.
Mr. PEASE.
Mr. FASCELL in two instances.
Mr. CONYERS.
Mr. HOYER.

ADJOURNMENT

Mr. INHOFE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 51 minutes p.m.), the House adjourned until tomorrow, Wednesday, March 11, 1992, at 2 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3041. A letter from the Secretary of Agriculture, transmitting a report on the Rural Housing Demonstration Housing Program, pursuant to 42 U.S.C. 1476(b); to the Committee on Banking, Finance and Urban Affairs.

3042. A letter from the Secretary of Housing and Urban Development, transmitting a draft of proposed legislation to amend the United States Housing Act of 1937; to the Committee on Banking, Finance and Urban Affairs.

3043. A letter from the Auditor, District of Columbia, transmitting a copy of a report entitled "Follow-up Review of the Department of Housing and Community Development's Property Management Administration Systems of Maintenance Practices and Financial Controls: FY 1983–FY 1985," pursuant to D.C. Code, section 47–117(d); to the Committee on the District of Columbia.

3044. A letter from the White House Conference on Indian Education, Director, transmitting the report of the White House Conference on Indian Education and statement thereon, pursuant to 25 U.S.C. 2001 note; to the Committee on Education and Labor.

3045. A letter from the Secretary of Education, transmitting notice of final priorities for fiscal year 1992—special projects and demonstrations for providing supported employment services to individuals with handicaps, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

3046. A letter from the Secretary of Education, transmitting notice of final priorities for fiscal year 1992—projects with industry, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

3047. A letter from the Secretary of Education, transmitting notice of final priorities for fiscal year 1992—vocational rehabilitation service projects for American Indians with handicaps, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

3048. A letter from the Secretary of Education, transmitting notice of final priorities for fiscal year 1992—vocational rehabilitation service projects program for migratory agricultural and seasonal farmworkers with handicaps, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

3049. A letter from the Secretary of Education, transmitting notice of final priorities for fiscal year 1992—rehabilitation long-term training, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

3050. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting its quarterly report concerning human rights activities in Ethiopia, covering the period July 15 through October 14, 1991 and the period October 15, 1991 through January 14, 1992, pursuant to Public Law 100–456, section 1310(c) (102 Stat. 2065); to the Committee on Foreign Affairs.

3051. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed license for the export of major defense equipment sold commercially to Kuwait (transmittal No. MC–8–92), pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

3052. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of Presidential Determination No. 92–16 concerning Angola, pursuant to 22 U.S.C. 2364(a)(1); to the Committee on Foreign Affairs.

3053. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the semiannual reports for the period April 1991 to September 1991 listing voluntary contributions made by the U.S. Government to international organizations, pursuant to 22 U.S.C. 2226(b)(1); to the Committee on Foreign Affairs.

3054. A communication from the President of the United States, transmitting his determination that continued nuclear cooperation with the European Atomic Energy Community [EURATOM] is needed in order to achieve U.S. nonproliferation objectives and to protect our common defense and security, pursuant to 42 U.S.C. 2155(a)(2) (H. Doc. No. 102–200); to the Committee on Foreign Affairs and ordered to be printed.

3055. A letter from the Comptroller General, General Accounting Office, transmitting the list of all reports issued or released in January 1991, pursuant to 31 U.S.C. 719(h); to the Committee on Government Operations.

3056. A letter from the Committee for Purchase From the Blind and Other Severely Handicapped, transmitting a report of activities under the Freedom of Information Act for calendar year 1991, pursuant to 5 U.S.C. 552(e); to the Committee on Government Operations.

3057. A letter from the Chairman, Commodity Futures Trading Commission, transmitting a report of activities under the Freedom of Information Act for calendar year 1991, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3058. A letter from the Chairman, Consumer Product Safety Commission, transmitting a report of activities under the

Freedom of Information Act for calendar year 1991, pursuant to 5 U.S.C. 552(e); to the Committee on Government Operations.

3059. A letter from the Equal Employment Opportunity Commission, transmitting a report of activities under the Freedom of Information Act for calendar year 1991, pursuant to 5 U.S.C. 552; to the Committee on Government Operations.

3060. A letter from the Executive Director, Federal Energy Regulatory Commission, transmitting notice of proposed changes to an existing system of records, pursuant to 5 U.S.C. 552a(r); to the Committee on Government Operations.

3061. A letter from the Executive Director, Federal Retirement Thrift Investment Board, transmitting a report of activities under the Freedom of Information Act for calendar year 1991, pursuant to 5 U.S.C. 552(e); to the Committee on Government Operations.

3062. A letter from the National Archives, transmitting a report of activities under the Freedom of Information Act for calendar year 1991, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3063. A letter from the Director, National Science Foundation, transmitting a report of activities under the Freedom of Information Act for calendar year 1991, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3064. A letter from the Executive Director, Pension Benefit Guaranty Corporation, transmitting a report of activities under the Freedom of Information Act for calendar year 1991, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3065. A letter from the Chairman, Securities and Exchange Commission, transmitting a report of activities under the Freedom of Information Act for calendar year 1991, pursuant to 5 U.S.C. 552(b); to the Committee on Government Operations.

3066. A letter from the Director, Selective Service, transmitting a report of activities under the Freedom of Information Act for calendar year 1991, pursuant to 5 U.S.C. 552(b); to the Committee on Government Operations.

3067. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3068. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3069. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3070. A letter from the Secretary, Department of Transportation, transmitting recommendations for implementing vessel traffic service systems, pursuant to Public Law 101–380, section 4107(b)(2) (104 Stat. 514); to the Committee on Merchant Marine and Fisheries.

3071. A letter from the Chairman, Merit Systems Protection Board, transmitting the Board's report entitled "Federal First-Line Supervisors: How Good Are They?"; to the Committee on Post Office and Civil Service.

3072. A letter from the Department of the Army, transmitting copies of the report of the Secretary of the Army on civil work activities for fiscal year 1991, Department of Army Corps of Engineers extract report of the Walla Walla district; to the Committee on Public Works and Transportation.

3073. A letter from the Secretaries of Defense and Veterans Affairs, Departments of Defense and Veterans Affairs, transmitting a report on the implementation of the health resources sharing portion of the Department of Veterans Affairs and Department of Defense Health Resources Sharing and Emergency Operations Act for fiscal year 1991, pursuant to 38 U.S.C. 8111; jointly, to the Committees on Armed Services and Veterans' Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calender, as follows:

Mr. McHugh: Committee on Standards of Official Conduct. House Resolution 393. Resolution instructing the Committee on Standards of Official Conduct to disclose the names and pertinent account information of those Members and former Members of the House of Representatives who the committee finds abused the privileges of the House Bank, and to provide to other Members information regarding their House Bank accounts. (Rept. 102–452). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5, of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. SWIFT (for himself, Mr. Ritter, Mr. Manton, Mr. Richardson, Mr. Slattery, Mr. Pease, and Mr. Andrews of Maine):

H.R. 4414. A bill to establish an Intercity Rail Passenger Capital Improvement Trust Fund, and for other purposes; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. GONZALES:

H.R. 4415. A bill to amend the Federal Deposit Insurance Act to establish a measure for determining deposit insurance coverage that is fair to depositors and taxpayers, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. WHITTEN (for himself, Mr. Murtha, Mr. Smith of Iowa, Mr. Yates, Mr. Bevill, Mr. Alexander, Mr. Traxler, Mr. Lehman of Florida, Mr. Dixon, Mr. Fazio, Mr. Hefner, Mr. AuCoin, Mr. Coleman of Texas, Mr. Mollohan, Ms. Pelosi, Mr. Gonzalez, Mr. Brown, Mr. Miller of California, Mr. Conyers, Mr. Dellums, Mr. Nowak, Mr. Kildee, Mr. Frank of Massachusetts, Mr. Kopetski, Mr. Kanjorski, Mr. Torres, Mr. Ford of Tennessee, Mr. DeFazio, Mrs. Unsoeld, and Mr. Martinez):

H.R. 4416. A bill making dire emergency appropriations to create essential productive jobs, to strengthen short-term economic recovery, to boost long-run economic expansion, and to provide assistance to those who have been adversely affected by the economic downturn for the fiscal year ending September 30, 1992, and for other purposes; to the Committee on Appropriations.

By Mr. HENRY (for himself, Mr. Valentine, Mr. Lewis of Florida, and, Mrs. Johnson of Connecticut):

H.R. 4417. A bill to rename the Department of Commerce as the Department of Manufacturing and Commerce, and for other purposes; jointly, to the Committees on Energy and Commerce, Science, Space, and Technology, Education and Labor, and Ways and Means.

By Mr. LEWIS of Florida:

H.R. 4418. A bill to amend the Internal Revenue Code of 1986 to restore the prior law exclusion for scholarships and fellowships; to the Committee on Ways and Means.

By Mr. McCURDY (for himself, Mr. Gephardt, Mr. Hyde, Mr. Solarz, Mr. Hoyer, Mr. Gilman, Mr. Bereuter, and Mr. Jones of Georgia):

H.R. 4419. A bill to provide for a Democracy Corps to mobilize and coordinate the expertise and resources of United States citizens in providing targeted assistance to support the development of democratic institutions and free market economies in the former Soviet republics and the Baltic States; to the Committee on Foreign Affairs.

By Mr. OWENS of Utah:

H.R. 4420. A bill to improve budgetary information by requiring that the unified budget presented by the President contain an operating budget and a capital budget, distinguish between general funds, trust funds, and enterprise funds, and for other purposes; jointly, to the Committees on Government Operations and Rules.

By Ms. SNOWE:

H.R. 4421. A bill to establish a comprehensive recovery program for communities, businesses, and workers adversely affected by the closure or realignment of military installations; jointly, to the Committees on Armed Services, Energy and Commerce, Ways and Means, Government Operations, Banking, Finance and Urban Affairs, Education and Labor, and Public Works and Transportation.

By Mr. SYNAR (for himself, Mr. Moody, Mr. Kleczka, Mr. Aspin, Mr. Petri, and Mr. Gunderson):

H.R. 4422. A bill to establish a Federal facilities energy efficiency bank to improve energy efficiency in federally owned and leased facilities, and for other purposes; jointly, to the Committees on Energy and Commerce and Government Operations.

By Mr. CONYERS:

H.J. Res. 435. Joint resolution to provide for the issuance of a commemorative postage stamp in honor of Louis "Satchmo" Armstrong; to the Committee on Post Office and Civil Service.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

340. By the SPEAKER: Memorial of the House of Representatives of the State of Michigan, relative to the Little Traverse Bay Bands of Odawa Indians; to the Committee on Interior and Insular Affairs.

341. Also memorial of the Senate of the State of New York, relative to the 200th anniversary of the U.S. Bill of Rights; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 78: Mr. JOHNSON of Texas.

H.R. 371: Mr. SANTORUM.

H.R. 608: Mr. HOCHBRUECKNER and Mr. BENNETT.

H.R. 609: Mr. FRANK of Massachusetts and Mr. PETERSON of Minnesota.

H.R. 639: Mrs. VUCANOVICH.

H.R. 905: Mr. TRAFICANT.

H.R. 1004: Mr. FRANKS of Connecticut and Mr. SUNDQUIST.

H.R. 1124: Mr. SISISKY.

H.R. 1251: Mr. HYDE, Mrs. BENTLEY, and Mr. MCMILLEN of Maryland.

H.R. 1252: Mrs. BENTLEY and Mr. MCMILLEN of Maryland.

H.R. 1253: Mr. HYDE and Mr. MCMILLEN of Maryland.

H.R. 1473: Mr. STAGGERS and Mr. BOEHNER.

H.R. 1774: Mr. JEFFERSON.

H.R. 2083: Mr. MILLER of Washington and Mr. GORDON.

H.R. 2200: Mr. TAYLOR of North Carolina.

H.R. 2214: Mr. IRELAND.

H.R. 2452: Mr. BACCHUS.

H.R. 2832: Mr. REED.

H.R. 2872: Mr. GALLEGLY and Mr. JONES of North Carolina.

H.R. 2966: Mr. MILLER of California and Mr. LEWIS of Georgia.

H.R. 3026: Mr. MILLER of California, Ms. PELOSI, Mr. MAVROULES, Mr. KENNEDY, and Mr. COX of Illinois.

H.R. 3173: Mr. DERRICK.

H.R. 3330: Mr. BEREUTER.

H.R. 3475: Ms. WATERS, Mr. TOWNS, Mr. AUCOIN, and Mr. OWENS of Utah.

H.R. 3476: Ms. WATERS, Mr. LEHMAN of Florida, Mr. TOWNS, Mr. RAMSTAD, Mrs. LLOYD, Mr. LAFALCE, Mr. KLUG, and Mr. OWENS of Utah.

H.R. 3887: Mr. JONTZ.

H.R. 3952: Mr. SPRATT and Mr. CLINGER.

H.R. 3986: Mr. JOHNSON of South Dakota, Mr. MCMILLAN of North Carolina, and Mr. GUARINI.

H.R. 4013: Mr. KANJORSKI.

H.R. 4051: Mr. MCNULTY, Ms. LONG, and Mrs. UNSOELD.

H.R. 4109: Mr. MARKEY, Mr. ATKINS, Mr. JOHNSON of South Dakota, Mr. ROE, Mr. LIVINGSTON, and Ms. NORTON.

H.R. 4190: Mr. STENHOLM, Mr. CRANE, Mr. SYNAR, and Mr. CHAPMAN.

H.R. 4198: Mr. FIELDS, Mr. HUGHES, Mr. MANTON, and Mr. SMITH of Florida.

H.R. 4228: Mr. MILLER of Ohio, Mr. JEFFERSON, Mr. HOCHBRUECKNER, Mr. DWYER of New Jersey, Mr. KOLTER, and Mrs. ROUKEMA.

H.R. 4234: Mr. JEFFERSON and Mr. RIGGS.

H.R. 4243: Mr. KOPETSKI, Mr. FROST, Mr. VOLKMER, and Mr. GEPHARDT.

H.R. 4351: Mr. JEFFERSON, Mr. HERGER, Mr. KANJORSKI, and Mr. HYDE.

H.J. Res. 371: Mr. ALEXANDER, Mr. BARNARD, Mr. BILIRAKIS, Mr. BROWN, Mr. DOOLITTLE, Mr. DUNCAN, Mr. EVANS, Mr. GONZALEZ, Mr. LEVIN of Michigan, Mr. LEWIS of California, Mr. LOWERY of California, Mr. ROWLAND, Mr. SABO, Mr. BENNETT, Mr. CALLAHAN, Mr. CARR, Mr. CLEMENT, Mr. LEHMAN of Florida, Mr. SAWYER, Mr. SCHEUER, and Mr. WEISS.

H.J. Res. 388: Mr. SABO, Mr. MCNULTY, Mr. FAZIO, Mr. ARCHER, Mr. JOHNSON of South Dakota, Mr. ATKINS, and Mr. CRAMER.

H.J. Res. 410: Mr. SYNAR, Mr. PANETTA, Mr. ANDREWS of Texas, Mr. ORTON, Mr. COX of Illinois, Mr. BALLENGER, Mr. FAWELL, Mr. HENRY, Ms. HORN, Mrs. UNSOELD, and Mr. YOUNG of Florida.

H.J. Res. 424: Mr. LANTOS, Mr. OWENS of New York, Mr. LAGOMARSINO, Mr. DYMALLY, Mr. MONTGOMERY, Mr. LAFALCE, Mr. MILLER of California, Mr. MCDADE, Mr. HUGHES, Mr. MCMILLEN of Maryland, Mr. GUARINI, Ms. PELOSI, Mr. LANCASTER, Ms. NORTON, Mr. OWENS of Utah, Mr. QUILLEN, Mr. RAVENEL, and Mr. STAGGERS.

H.J. Res. 430: Mr. MARTIN, Mr. MRAZEK, Mr. MURPHY, Mr. STARK, Mr. ANDREWS of New Jersey, Ms. HORN, Mr. OWENS of Utah, Mr. PERKINS, Mr. PICKETT, Mr. APPLEGATE, Mr. RIGGS, Mr. RAVENEL, Mr. ANDREWS of Maine, Mr. MCNULTY, Mr. JOHNSON of South Dakota, Mr. EDWARDS of Texas, Mr. SCHUMER, Mr. MILLER of California, Mr. SOLOMON, Mr. STOKES, Mr. RANGEL, Mr. ROE, Mr. BROWDER, Mr. FALEOMAVAEGA, Mr. FEIGHAN, Mr. TRAXLER, Mr. VOLKMER, Mr. WALSH, Mr. LEHMAN of Florida, Mr. SERRANO, and Mr. TOWNS.

H. Con. Res. 89: Mr. SWETT and Mr. MCMILLEN of Maryland.

H. Con. Res. 192: Mr. MAZZOLI, Mrs. MINK, Mr. MAVROULES, Mr. FISH, Mr. NOWAK, Mr. GUARINI, Mr. ANDERSON, Mrs. BOXER, Mr. JONTZ, Mr. NEAL of Massachusetts, Mr. MOODY, Mr. NEAL of North Carolina, Mr. MYERS of Indiana, Mr. VISCLOSKY, Mr. TAYLOR of Mississippi, Mr. BERMAN, Mr. GLICKMAN, and Mr. ENGLISH.

H. Con. Res. 224: Ms. ROS-LEHTINEN and Mr. LEACH.

H. Con. Res. 276: Mr. SAWYER, Mrs. BENTLEY, Mr. COLEMAN of Texas, Mr. TOWNS, Mr. ANDREWS of New Jersey, Mr. CLEMENT, Mr. BREWSTER, Mr. BEVILL, Mr. BROWDER, Mr. LENT, Mr. POSHARD, Mr. GUARINI, Mr. BUSTAMANTE, Mr. CALLAHAN, Mr. DONNELLY, Mr. DOOLITTLE, Mr. FROST, Mr. MONTGOMERY, Mr. FEIGHAN, Mr. HOYER, Mr. ESPY, Mr. ANNUNZIO, Mr. DORNAN of California, Mr. DOWNEY, Mr. GUNDERSON, Mr. HEFNER, Mr. RITTER, Mr. HORTON, Mr. WILSON, Mr. ROE, Mr. LAGOMARSINO, Mr. SMITH of Florida, Mr. FASCELL, Mr. BATEMAN, Mr. MCDADE, Mr. MCMILLEN of Maryland, Mr. HUGHES, Mr. LANCASTER, Ms. NORTON, Mr. OWENS of Utah, Mr. SOLOMON, Mr. HALL of Texas, Mr. LAFALCE, Mr. QUILLEN, Mr. RAVENEL, Mr. RIGGS, Mr. ROSTENKOWSKI, Mr. ERDREICH, and Mr. STAGGERS.

H. Res. 376: Mr. CRANE, Mr. KLUG, Mr. FAWELL, Mr. JACOBS, Mr. MCMILLAN of North Carolina, and Mr. SOLOMON.

H. Res. 391: Mr. MOAKLEY.

SENATE—*Tuesday, March 10, 1992*

(Legislative day of Thursday, January 30, 1992)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. The prayer will be led by the Chaplain, the Reverend Dr. Richard C. Halverson.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Therefore shall a man leave his father and his mother, and shall cleave unto his wife: and they shall be one flesh.—Genesis 2:24.

God of creation, we need constantly to be reminded that marriage is God's idea, not the invention of a clever sociologist who decided that it would be a good way to organize society. History teaches us that as the family disintegrates, society disintegrates. Help us all, Lord, to take our families seriously. Forgive us for making our career a mistress, causing us to neglect spouses and children. Help the Senators, as national leaders, to be examples of what God intended marriage and family to be.

Father in heaven, bless our families. Help us to take time, make time, for them. Intervene in our family relationships, that there may be healing and reconciliation. Teach us, Lord, that spouse and children deserve priority over everything else in life, except God Himself.

We pray in the name of Jesus, the Heavenly Bridegroom. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

Mr. MITCHELL. Mr. President, am I correct in my understanding that the Journal of the proceedings has been approved to date?

The PRESIDENT pro tempore. The Senator is correct.

SCHEDULE

Mr. MITCHELL. Mr. President, this morning, the period for morning business will extend until 10 o'clock a.m., during which time Senators will be permitted to speak for up to 5 minutes each. Once morning business closes at 10, the Senate will proceed to the consideration of S. 792, the radon control bill. This measure will be considered under a unanimous-consent agreement reached last week and printed in the RECORD.

The agreement provides that only four first-degree amendments are in order to the bill with two of those subject to relevant second-degree amendments. I am advised by staff that all of the amendments have been worked out on this measure, and that the Senate could complete action on it in an expeditious manner. Any votes which may occur on the bill will not occur prior to 2:15 p.m. today.

The Senate will recess today from 12:30 p.m. until 2:15 p.m. in order to accommodate the respective party conferences. Upon reconvening at 2:15, the Senate will complete action on the radon bill, if any action is necessary at that time, and then proceed to the consideration of H.R. 4210, a bill to provide tax relief for American families. Consideration of this bill today will be for debate only, as provided under the unanimous-consent agreement to which I previously referred.

On tomorrow, Wednesday morning, when the tax bill comes before the Senate at 10 a.m., Senator PRYOR will be recognized to offer an amendment. Therefore, Mr. President, during today's session, the Senate will consider the radon bill, and I hope and expect that action will be completed on that measure promptly today. Any votes which may occur with respect to that bill will occur after 2:15 p.m. Following that, there will be debate only on H.R. 4210, with amendments in order, beginning at 10 o'clock tomorrow morning.

As a reminder to Senators of the Senate schedule for the remainder of the week, as I have just indicated, amendments are in order to the tax bill beginning at 10 a.m. on Wednesday, and I anticipate that other amendments will be offered. The Senate will be in session late during every evening this week in our effort to conclude action on the bill this week. There will be debate only today, and Senators who wish to speak on the measure are urged to do so today, once the Senate takes up the bill. We will remain in session this evening for as long as any Senator wishes to address the Senate on that subject. Tomorrow and Thursday, I expect there to be lengthy sessions, depending, of course, on the number of amendments offered.

When the Senate completes action on H.R. 4210, the Senate will then vote immediately on the motion to invoke cloture on the conference report accompanying H.R. 3371, the omnibus crime bill.

So with the exception of today, during which time there will be no rollcall votes prior to 2:15 p.m., rollcall votes may occur at any time during the remainder of the week. Senators are alerted to expect lengthy sessions.

AUTHORIZING TESTIMONY BY A SENATE EMPLOYEE

Mr. MITCHELL. Mr. President, on behalf of myself and the distinguished Republican leader, Senator DOLE, I send to the desk a resolution on authorization for testimony by a Senate employee and ask for its immediate consideration.

The PRESIDENT pro tempore. The clerk will state the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 267) to authorize testimony by an employee of the Senate in United States versus Alan Roy Mountain.

The PRESIDENT pro tempore. Is there objection to the immediate consideration of the resolution.

There being no objection, the Senate proceeded to consider the resolution.

Mr. MITCHELL. Mr. President, a Senate employee who works on my staff has been subpoenaed to testify as a witness at a criminal proceeding concerning threats to members of my staff. The following resolution would authorize the employee's testimony in this matter.

The PRESIDENT pro tempore. The question is on agreeing to the resolution.

The resolution (S. Res. 267) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 267

Whereas, in the case of United States v. Alan Roy Mountain, No. Cr. No. 91-00006, pending in the United States District Court for the District of Maine, the United States has caused to be issued a subpoena for the testimony of Mary Leblanc, an employee of the Senate on the staff of Senator Mitchell;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved, That Mary Leblanc is authorized to testify in United States v. Alan Roy

Mountain, except concerning matters for which a privilege should be asserted.

Mr. MITCHELL. Mr. President, I yield the floor.

Mr. CRANSTON addressed the Chair.

The PRESIDENT pro tempore. The Senator from California is recognized for not to exceed 5 minutes.

PENTAGON PLAN WOULD MAKE UNITED STATES WORLD POLICE

Mr. CRANSTON. Mr. President, the Pentagon has secretly drafted a detailed 46-page plan that would make our country the world's only real policeman. This Pentagon plan would keep military spending sky high, costing American taxpayers more than $1 trillion over the next 5 years.

Huge military spending would go on and on under this plan, despite our victory in the cold war, despite the collapse of the Warsaw Pact and the Soviet Union—our principal perceived enemy over 70 years—and despite the Soviet Union's replacement by 15 republics that are friendly to us and struggling to establish free societies and free economies.

Huge military spending would go on and on under the secret Pentagon plan, despite the deficit that is crippling our society and undermining our economy; and despite the crying need to restrain excessive military spending so we can begin to invest what we so desperately need in health care, education, protecting the environment and other neglected and underfunded needs here at home; and perhaps most of all, the sickness of our economy that presently devastates the living standards of so many, many Americans.

This Pentagon plan was classified but it has just been leaked apparently by an unknown official who thought the American people should be aware of it and the Congress aware of it before the Bush administration makes it the official doctrine of the United States.

The plan is designed to make sure that everyone in the world understands that the United States intends to remain the world's No. 1 military power, the one, the only main honcho on the world block, the global big enchilada.

The plan insists that the United States "will retain the preeminent responsibility" for dealing directly with such problems and dangers as "access to vital raw materials, primarily Persian Gulf oil; proliferation of weapons of mass destruction and ballistic missiles; threats to U.S. citizens from terrorism or regional or local conflict, and threats to U.S. society from narcotic trafficking."

That includes the use of military force where the United States alone, if necessary, deems it called for.

Cooperative responsibility for coping with such threats with friends and allies and the United Nations? I say, yes. But "preeminent responsibility" by the United States alone, I say, no. What kind of "collective security," and what kind of "new world order" is that?

And where should the United States exert its "preeminent responsibility" according to the Pentagon plan? Among the places it mentions are Western Europe, Eastern Europe, the Middle East, East Asia, Southwest Asia, and Latin America. What is left in the world?

The only places they have not included in our police beat are Africa, the Arctic, and the Antarctic.

I agree wholeheartedly, of course, that the United States must protect our vital interests, that we must work with our friends, allies, and the democracies of the world to ensure our mutual security, but we must not act alone, in the Pentagonese language of the defense plan, as a hegemony. Frankly I had to look up that word in the dictionary. It refers to one possessing hegemony, preponderant influence or authority. I did not even know how to exactly pronounce the word.

The Pentagon warns us to beware that some other nation may have ambitions to become a hegemony. Fair enough. But to fair paraphrase Pogo, we should be sure that the enemy we are so worried about is not us.

The United Nations has been doing very well of late in its new and important peacekeeping role. We should encourage it. We should strengthen it.

Before we spend more than $1 trillion to exert our "preeminent responsibility" all over the globe, it would be a good deal smarter simply to pay up the $407 million we owe the United Nations in past dues and peacekeeping assessments. By withholding that money we owe the United Nations, we are undermining its capacity to cope with threats to the peace. Paying the United Nations what we owe it could be one of the best investments we have ever made.

And, finally, I agree with Mikhail Gorbachev and Richard Nixon who have both warned in recent days that if we do not do more to aid the new republics of the former Soviet Union we may witness a disastrous failure of freedom over there. That could lead to the tragic emergence of a new totalitarianism in the form of the former U.S.S.R., a totalitarianism that could pose new and costly threats to world peace.

We spend trillions of dollars on defense during the long long cold war. The investment of relatively small sums to advance the cause of freedom over there now could prevent the rise of a new dictatorship that could force us to spend more over here in the future to cope with the renewed threats that such a new dictatorship could impose on us and our friends and allies.

Mr. President, I yield the floor.

RESERVATION OF LEADER TIME

Mr. CRANSTON. Mr. President, I ask unanimous consent that the remainder of the majority leader's time be reserved and all of the Republican leader's time be reserved.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Missouri is recognized for not to exceed 5 minutes.

ROBERT HYLAND

Mr. DANFORTH. Mr. President, Robert Hyland died at his home last Thursday night after a battle with cancer. He was a great man. He was a person of greatness in many different ways, and by anyone's definition. To know him was to know an amazing human being.

At the conclusion of my remarks, I will ask that Bob Hyland's biography appear in the RECORD. I encourage my colleagues to examine his life and work and to reflect on how much a person can accomplish.

Bob Hyland was a towering presence in the broadcasting industry. He was an inexhaustible source of civic and community leadership in St. Louis. He was dedicated to his family and church. He was committed to doing good works.

Accomplishment was the hallmark of Bob Hyland. He got things done.

He was a visionary. But he was not content with setting noble goals. He insisted on bringing visions to life.

He was an individual of the highest personal and ethical values. But he was not content with being good. He insisted on doing good.

He was a brilliant motivator of people and used this gift with generosity and daring. He motivated those around him to do great things. People who spent time around Bob Hyland got involved in things that mattered. He motivated countless individuals in many different ways—to make St. Louis a better place for all its people; to create in KMOX Radio a standard of excellence that is legendary in the industry and recognized nationally and internationally; to do good work in daily life; to get involved in opportunities for service to others.

I cannot remember being with Bob Hyland when he was not involved in a major project, formulating a new challenge, or working with his singular intensity on something important to KMOX, his family or his church, or a dear friend, or good works in the community, or economic development.

He was a dynamo. A person who came to work long before dawn, who left such a wonderful legacy to his beloved St. Louis, had to be a dynamo. Bob Hyland was a treasure to his family and his many friends, to his community, and to his profession. He cannot be replaced. But he will be remembered for many, many years to come. I feel certain that the force of his personality and the magnitude of his accomplishments will motivate countless people to push themselves to make the world a better place.

Mr. President, I ask unanimous consent that Mr. Hyland's résumé be printed in the RECORD.

There being no objection, the résumé was ordered to be printed in the RECORD, as follows:

ROBERT HYLAND, SENIOR VICE PRESIDENT, CBS RADIO

Robert Hyland could be characterized as both Mr. St. Louis and Mr. Broadcasting. Senior Vice President of CBS Radio, he is a man noted for many contributions—both to broadcasting and his community. He is active in numerous professional, civic, cultural, educational and social organizations, and he is prominently involved in many activities devoted to the St. Louis area—its people, its growth and its service. He is regarded as one of the nation's leading examples of a civic-minded business executive.

CIVIC AND COMMUNITY ACCOMPLISHMENTS

His efforts cover a broad range of industry and community interests. In 1990, he was named to the Missouri-St. Louis Metropolitan Airport Authority by Governor John Ashcroft, where he was named Chairman. He is Chairman of the Board of Lindenwood College, Chairman of the Board of Regional Medical Center; President of the St. Louis Zoological Commission; and a member of Civic Progress. He is Chairman of the Board of St. Anthony's Medical Center, a long-established hospital in St. Louis which moved, through his efforts, to a new facility in south St. Louis County. He also founded the Hyland Center and the Hyland Adolescent Center for the treatment of alcohol and drug abuse within the St. Anthony's medical complex. He also serves as a board member of the St. Patrick Center in St. Louis, the St. Louis Chapter of the NAACP and the St. Louis Urban League. He is past Chairman of the St. Louis Regional Commerce and Growth Association (Chamber of Commerce); past Chairman of Downtown St. Louis, Inc.; Past President of the Missouri Broadcasters Association.

Mr. Hyland is active in a large number of cultural and civic activities. For several years, he served as Chairman of the Municipal Theater Association and he headed its Fiftieth Anniversary Committee. Prior to the Board Chairmanship, he was elected to the Presidency for an unprecedented four-year term, and he was instrumental in developing the current format for the theater's season, featuring productions direct from Broadway. He is a member of the Board of Directors of the St. Louis Symphony Society, and has served as Chairman of the County Pops Concert Series. He is a member of the Commission on the Arts for the State of Missouri. He is a member of the Board of Directors of Operation Food Search; Pride, Inc.; Kilo Diabetes and Vascular Research Foundation; Mother of Good Counsel Nursing Home and is on the Advisory Board for the Good Samaritan Network.

Mr. Hyland has played a prominent role in many important governmental and community projects. In October, 1969, he was named to the 10th Annual Class of the Missouri Academy of Squires by Governor Warren E. Hearnes for accomplishments in the community. He was a founding member of the Jefferson National Expansion Memorial Association, the committee responsible for the development of the "Gateway to the West" Arch, the 630-foot stainless steel monument on the St. Louis riverfront. He was appointed Chairman of the Board of the Jefferson National Expansion Memorial Association in 1988. In 1986, he was appointed to the Bi-State Panel on Bridges by Missouri Governor John Ashcroft and Illinois Governor Jim Thompson.

He has been a member of the Board of Directors of the Major Case Squad of Greater St. Louis since 1985. In 1973, he was appointed to the Missouri Energy Council by Governor Christopher S. Bond; and 1975, to the Committee for the Missouri Action Plan for Public Safety. He served as Chairman of Old Newsboys Day in 1976, as well as Chairman of the Midwest Boy Scout/Girl Scout Bicentennial Celebration and continues to serve as Executive Vice President of the St. Louis Area Council, Boy Scouts of America. Since 1977, he has served as Chairman of the Steering Committee for the Annual Mayor's Prayer Breakfast.

Mr. Hyland is a leader in a variety of civic and social organizations. He is past President and Founder of the Media Club of St. Louis and was instrumental in the development of the design of the new quarters for the club atop the Laclede Gas Building. He is President of the Knights of the Cauliflower Ear, a group of prominent business and professional men; past President of the Advertising Club of St. Louis; past President and Founder of the Stadium Club; past President of the St. Louis Sports Hall of Fame. He is a member of the Knights of Malta. He serves as a member of the Board of Directors of Boatmen's Bancshares and Wetterau Inc.

HONORS AND AWARDS

During his tenure, KMOX Radio has received many national honors: Golden Bell Awards and Gabriel Awards as the nation's outstanding radio station from the Catholic Broadcasters Association; three Headliner Awards; Ohio State Awards; George Foster Peabody Awards; the United States Conference of Mayors' Award for Outstanding Community Service; Gavel Awards from the American Bar Association; the Janus Award from the Mortgage Bankers Association of America; Association of Trial Lawyers of America Awards; the Associated Press Broadcasters National Award; the Edward R. Murrow Award from the National Radio and Television News Directors Association; the Robert F. Kennedy Journalism Award; the first Medical Journalism Award; the University of Missouri Honor Award for distinguished service to journalism; and one of the first National Association of Broadcasters' Crystal Awards for public service.

In recognition of his personal efforts in the industry and the community, Robert Hyland has received numerous commendations including the 1990 National Association of Broadcasters (NAB) Service Award in recognition of his lifetime of continuous service to radio; 1990 Media Person of the Year Award presented by the St. Louis Metropolitan Press Club; Magistral Knight of the Sovereign Military Order of Malta by Pope Paul IV; the 1988 St. Louis Man of the Year Award; he was awarded an honorary Doctor of Law Degree from Lindenwood College in 1965; an honorary Doctor of Law Degree from the University of Missouri-St. Louis, 1985; and an honorary Doctor of Public Service Degree from his alma mater, St. Louis University in 1987; the Right Arm of St. Louis Award from the St. Louis Regional Commerce and Growth Association (Chamber of Commerce) in 1986; the Henry Shaw Award from the Missouri Botanical Garden, 1983; the San Francisco State University Broadcasting Preceptor Award for leadership and creativity in the industry, 1977; Abe Lincoln Award from the Southern Baptist Radio and Television Commission for outstanding service to the industry and to the community; the St. Louis Award for outstanding contributions to the St. Louis community, 1975; Excellence in Governance Award from the Missouri Hospital Association, 1985; the B'nai B'rith Brotherhood Through Sports Award; the Community Service Award for his "contribution toward betterment of the black community and mankind" by the Negro History Week Awards Committee; and the "Outstanding Young Man of St. Louis" Award from the Junior Chamber of Commerce of Metropolitan St. Louis. In 1980, he was named Churchman of the Year by the Religious Heritage of America for "contributions to the religious life of our country;" and was also awarded Business Leader of the Year by the Harvard Business School Club for "achieving outstanding business success." He was named the Sales Executive of the Year in 1979 by the Sales and Marketing Executives of Greater St. Louis and was awarded the Silver Beaver Award for distinguished service to youth by the Boy Scouts of America in 1976.

He has received numerous commendations from such organizations as the St. Louis Metropolitan Police Department; the American Law Enforcement Officers Association; the International Society for General Sematics; Morality in Media; Urban League of St. Louis; NAACP, St. Louis Branch; Veterans of Foreign Wars of the United States; Muscular Dystrophy Association; Lions International; United States Coast Guard; American Cancer Society; United States Navy; National Youth Development Foundation; Human Development Corporation; United Way of Greater St. Louis; Department of Public Safety; Missouri Department of Natural Resources; St. Louis Ambassadors; St. Louis Opportunities Industrialization Center.

ACHIEVEMENTS IN BROADCASTING

Mr. Hyland was named Regional Vice President, CBS Radio, in 1973, the first such designation in the CBS Organization. This appointment followed 14 years as Vice President of CBS Radio and General Manager of KMOX and KMOX/FM. In 1987, he was appointed to Senior Vice President, CBS Radio, as well as General Manager of KMOX and KHTR which later changed its call letters to KLOU. Under his leadership, KMOX became one of the most outstanding and most respected radio stations in the United States. It is a station consistently looked up to in the broadcasting industry as a leader in responsible and innovative programming.

There are many industry "firsts" to Hyland's credit. In February 1960, he inaugurated AT YOUR SERVICE, KMOX Radio's trend to "Talk-broadcasting." Throughout the broadcasting industry—in this country and internationally—KMOX Radio's dialogue format has been adopted by an estimated 2,000 other stations in such countries as Japan, Australia, Canada, West Germany and Mexico.

KMOX is known for its innovations. KMOX Radio was the first CBS-owned radio or television station to editorialize, and the first to endorse a candidate. It was the first station in the nation to use the Conelrad warning system for severe weather conditions, a plan later adopted nationally by the United States Weather Bureau. KMOX was one of the first radio stations in the country to establish and sponsor "Call For Action," an off-the-air volunteer service program which began in 1975, offering much-needed assistance to individuals throughout the St. Louis area. KMOX was the first commercial station in the nation to broadcast a college course, and the first station to broadcast from both houses of the Missouri legislature.

Son of the late beloved "Surgeon-General of Baseball," Dr. Robert Hyland, Sr., Hyland has long been associated with the greats of baseball and the entire world of sports, and he has carried through his interest in sports as a broadcasting executive. Under his leadership, KMOX Radio has become the nation's leading sports station, offering play-by-play broadcasts of the Football Cardinals, both in St. Louis and after they moved to Phoenix; St. Louis Cardinal Baseball; the St. Louis Blues Hockey and the University of Missouri football and basketball. KMOX was the first radio station to broadcast complete professional baseball and football games from outside the continental limits of the United States (Baseball Cardinals vs Far Eastern All Stars, and Football Cardinals vs San Diego Chargers). Mr. Hyland has assembled at KMOX Radio one of the most talented and highly acclaimed sports staffs in the nation, and in addition to its extensive regularly-scheduled sports coverage, KMOX presents numerous live sports specials from throughout the country.

Mr. DANFORTH. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The point of no quorum having been made, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SYMMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Idaho is recognized for not to exceed 5 minutes.

Mr. SYMMS. I thank the Chair.

(The remarks of Mr. SYMMS pertaining to the introduction of S. 2326 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

MASSACHUSETTS ATHLETES IN THE 1992 WINTER OLYMPICS

Mr. KENNEDY. Mr. President, the people of Massachusetts take pride in the fact that our State contributed one of the largest contingents of athletes of the U.S. winter Olympic team.

All of these athletes deserve great credit for their achievements. Somerville's Paul Wylie and Stoneham's Nancy Kerrigan dazzled everyone in winning their silver and bronze medals in the figure skating competition. And Andover's Sharon Petzold won a bronze medal in ballet skiing, which was a demonstration sport at Albertville.

In addition, we were all inspired by the play of the ice hockey team—half of whom are from Massachusetts. Especially outstanding was the brilliant goal-tending of Fitchburg's Ray LeBlanc.

The other athletes from Massachusetts who represented the United States in the 1992 winter Olympic games also performed with great skill and dedication, and I commend them all:

Alpine skiing: Krista Schmidinger of Lee and Heidi Voelker of Pittsfield.

Figure skating: Todd Eldredge of Chatham.

Ice dancing: Rachel Mayer of Wellesley and Peter Breen of Brockton.

Speedskating: Eric Flaim of Pembroke and Chris Shelley of Waltham.

Luge: Tim Wiley of Lexington.

Ice hockey: Greg Brown of Southborough, Ted Donato of Dedham, Scott Gordon of Easton, Steven Heinze of North Andover, Shawn McEachern of Waltham, Marty McInnis of Hingham, Joe Sacco of Medford, Tim Sweeney of Boston, Keith Tkachuk of Medford, C.J. Young of Waban, and Scott Young of Clinton.

DISTRICT COURT DECISION MISINTERPRETS LEGISLATIVE INTENT

Mr. GARN. Mr. President, in my years of public service, I have been continuously troubled by court decisions that have ignored legislative intent, and that reverse the policies that we in the legislative branch have sought to establish. This happens over and over again, and each time the results are undesirable. Judges are appointed to interpret the law, not to create it. Until that principle becomes a reality we will be forced to spend our time revisiting issues that should have been settled long ago.

Last month, the Federal district court in Utah reached a decision that represents an egregious example of what I am complaining about. In this case the court's opinion directly conflicted with a statute that was passed only a few months prior. As a result of this ruling, literally millions of Americans will be denied the opportunity to significantly lower their interest expenses, and unfair practices will be protected.

The case involves an amendment to the Federal Deposit Insurance Corporation Improvement Act that I authored, and that was adopted by the Senate Banking Committee without objection on August 2, 1991.

The amendment in question states that:

> No person obligated to provide services to an insured deposit institution at the time the RTC is appointed conservator or receiver for the institution shall fail to provide those services to any person to whom the right to receive those services was transferred by the RTC after August 9, 1989, unless the refusal is based on the transferee's failure to comply with any material term or condition of the original obligation.

The amendment was discussed in the Senate Banking Committee's report that was issued on October 1, 1991, in which it was made clear that the amendment applied retroactively, and that it covered "membership rights in associations"; that is, credit card membership rights. The amendment was later adopted by the full Senate on November 21, 1991. During the House-Senate conference, I made the proposal that the conference committee adopt this provision, a proposal that was eventually accepted after considerable debate by members of the conference.

The genesis for this amendment was well known to all of the members on the conference committee. In 1990, Sears, Roebuck & Co. acquired a failed savings and loan association in the State of Utah from the RTC. One of the assets acquired in this transaction was the savings and loan association's membership rights in Visa. Sears intended to use these membership rights to offer millions of consumers a new, low interest, no annual fee, Visa card to be called Prime Option. However, when Visa learned of Sears' plan, they refused to issue the cards, and protracted antitrust litigation ensued. Pending the outcome of this antitrust litigation, millions of consumers are being denied the benefits of low interest credit cards. It was for this reason that the Bankcard Holders of America, a consumer organization that focuses on credit card issues, endorsed my amendment and urged that it not be weakened in any manner.

Of greater concern, the attempt by Visa to refuse to honor its agreement with the savings and loan association, just because the association was acquired by Sears, sets a very deleterious precedent for the RTC. The membership agreement with Visa was an asset of the failed thrift association. When the RTC sells a thrift to another company, it can receive more for the thrift if the acquiring party has some assurance that all of the assets it purchases will retain their value after the sale. Thus, the ability of Visa or any other credit card issuer to unilaterally cut off services to an acquiring institution creates market uncertainty for the thrift, thereby lowering the eventual recovery to the U.S. taxpayer from the resolution.

The significance of this factor cannot be overstated. The RTC holds billions of dollars of assets of all types and description. It is absolutely critical that the RTC have the ability to sell assets without undue hindrance, and without clouds being placed on the value or continued validity of the asset after it is sold. The amendment was intended to protect acquirors of RTC property, especially when the property purchased is in nontangible form, such as the right to issue a credit card, the right to receive computer services, or the right to maintain relationships with particular vendors. The importance of this amendment to the RTC was clearly recognized, and that agency strongly supported my amendment.

Obviously, the only way to legislatively provide this protection, and to add certainty to the marketplace, is to establish in law the rule that vendors and other contractors cannot unfairly terminate contractual rights with an acquiring company, and to make this right enforceable by that successor company. If the right to require continued performance was only enforceable by the RTC, the acquiring company would have no assurance that its rights would be adequately protected after the sale, and therefore the legislative remedy would be almost meaningless.

There was no question in my mind, or in any other Member's mind, that this amendment would apply to the Sears-Visa dispute, and to resolve the issue other than the antitrust issues in favor of the consumer. This is why, and that is the only logical reason why, the amendment was made retroactive to August 9, 1989.

This is why I stated during the conference committee deliberations that the amendment "will prohibit Visa or anyone else in a similar position from acting unilaterally to strip an asset sold by the RTC of its value * * * it does involve Sears and both of us have been very open about that * * *."

This is why Congressman SCHUMER explained during conference committee deliberations:

> Visa is excluding this little bank from its network on a technicality at the behest of all the other large banks so that they can't issue their low interest rate credit cards. And what the legislation attempts to do is undo that situation.

This is why Senator D'AMATO stated during the conference committee meeting that with respect to the Sears-Visa litigation, the amendment will "in essence, say that this sale must be consummated and that you don't have a right to cut a person off."

Finally, this is why Chairman GONZALEZ, in opposing the amendment, stated repeatedly that he can't accept the amendment because "it involves litigation, it would impact ongoing litigation."

Despite these clear statements of congressional intent and basis upon which the conference committee acted, the district court in Utah ruled that this amendment was not intended to provide a legal right that could be enforced by the litigants in the dispute between Sears and Visa.

Mr. President, I realize that other Members of Congress made conflicting statements about the intent of this amendment on the floor of their respective bodies following completion of the conference committee deliberations. Many of these statements were made by Members who were not part of the conference committee. Many of these statements were made after the conference committee report had been accepted by the legislative body in which they sit. Other Members were concerned that the amendment not interfere with the prosecution of the antitrust litigation. Most of these statements were not even actually given on the floor, but were simply written documents inserted in the CONGRESSIONAL RECORD. But the fact remains that I authored this amendment and it was adopted without change.

To disregard my views in favor of the belated statements of other Members, including some who were not even on the conference committee is not a sound basis on which to make a decision. It violates well established principles of statutory construction that the views of the author of an amendment should be given substantial weight, and are more authoritative than statements of other Members. (See, for example, *North Haven Board of Education* v. *Bell*, 456 U.S. 512 (1982).) The decision also ignores the Supreme Court's instruction that the statements of opponents of a legislative measure that is enacted are "not the most reliable indications of congressional intent." *(Bryant* v. *Yellen*, 448 U.S. 911 (1980).)

The district court's decision was wrong. It ignores the intent of the Congress. It invites those opposed to the majority view to find a Member, any Member, to attempt to subvert the will of the entire Congress. And in this case, it led to a result that this is harmful to consumers, to the RTC and to the U.S. taxpayer.

REFORMING HEALTH INSURANCE

Mr. DURENBERGER. Mr. President, I rise today to express my total frustration with the failings of the private health insurance industry.

Mr. President, there are many plans for health care reform now pending before Congress. Despite their differences, there is a strong consensus on one issue—reform of insurance in the small group market.

Not long ago, most health insurance was community rated. That meant that everyone in the community paid the same premium regardless of health status or other demographic factors. However, in the late seventies and early eighties, as commercial insurers began to increase their share of the health insurance market, a clear trend began to emerge. Community rating has largely disappeared and been replaced by experience rating where the cost of a health insurance premium relates directly to a person's health status.

As a result of this rating change, commercial insurers have designed insurance packages for young, healthy individuals and have screened out most people with prior health conditions. Many commercial operators have seen a chance for a quick buck and sold policies in this manner. These aggressive underwriting tactics have led to excessive rate increases, policy cancellations, and limited coverage. This has been called the spiral of exclusion and it has disfigured the marketplace.

Mr. President, I have introduced several small group health insurance market reform bills. Most recently I joined the distinguished chairman of the Finance Committee, Senator BENTSEN, in introducing S. 1872, the Bentsen-Durenberger Better Access to Affordable Health Care Act. This is a bipartisan effort with 24 Senate cosponsors. The Finance Committee reported that bill last week as part of the tax bill. Although that tax bill will never become law, I believe that before this year S. 1872 will be signed into law.

However, Mr. President, it is not just the small group market that is broken. The entire health insurance market is failing. A front page article in the March 4, New York Times entitled "New Insurance Practice: Dividing the Sick From Well" spells out the problem that is pervading the entire market.

The article describes how the unacceptable rating practices that have infected the small group market are spreading to group networks. Dividing the sick from the well, Mr. President, is experience rating pure and simple.

The article describes the traumas of a young family in California whose insurance premiums have jumped to $16,000 a year because one of their children has a kidney problem. And this family was part of a large group policy network. As the article points out: "When it comes to coverage, there is no longer safety in numbers."

Mr. President, no one in this country should be asked to pay $16,000 for a health insurance policy. But since the industry refuses to change its rating practices, I will soon be introducing legislation that will extend the small group reforms in 1872 and S. 700 to all commercial insurance.

Mr. President, I ask unanimous consent that the New York Times article I referred to be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Mar. 4, 1992]

NEW INSURANCE PRACTICE: DIVIDING SICK FROM WELL

(By Gina Kolata)

In a new practice, some health insurance companies are starting to divide the sick from the well, even in large groups that were once a bastion of security in a tumultuous industry.

Families in large groups had always felt that if they had been part of the group for at least six months or a year, their medical costs would be covered and their premiums would remain stable. But now, some insurance companies are dramatically raising rates for sick people, and even for people they think may become sick.

The result, said Dr. Norman Daniels, an ethicist at Tufts University who is an expert on health insurance, is that "no one in this country with private health insurance coverage who is in any kind of group plan is free from the kind of uncertainty that competition is producing."

He added, "We are beginning to see that people who have the greatest access to health care in this country are at risk."

$16,000 ANNUAL PREMIUM

No one knows how common it is for insurance companies to raise the rates for the sick in large groups, which usually consist of employees at big corporations or members of special-interest organizations. But the experience of Kathleen Renshaw of Leucadia, Calif., and others shows that the problem, once thought to be limited to small groups, is spreading to large groups as well.

Ms. Renshaw finally admitted defeat in her struggle to keep group health insurance for her family when the annual premium reached $16,000 a year. Her problem is her 8-year-old daughter, Marisa, an exuberant child who swims on a team and takes singing lessons.

But Marisa has only one kidney, and it does not fully function. She needs regular checkups and may face kidney failure in the future. When the family's insurance company learned of the problem, which doctors discovered when Marisa was 3, it began doubling the family's health insurance premiums each year, the maximum increase allowed by California law.

WHO IS AT RISK?

Finally, the family could no longer pay. And no other company would insure them. Along with Marisa, Ms. Renshaw, her husband, William Harvey, and their 4-year-old daughter, Kirsten, who has no medical problems, were out in the cold even though they had been part of a large group with health insurance.

Ms. Renshaw and Mr. Harvey never thought they would be without health insurance. They both have jobs, they bought group health insurance through the alumni association at the University of California at San Diego, and they always paid their premiums.

"I thought that when you pay insurance, the insurance companies will pay for you when you get sick," Ms. Renshaw said. It was a shock to learn otherwise, she said.

Dr. Donald Light, a sociologist who is professor of health policy at the University of Medicine and Dentistry of New Jersey, said the family's experience was "a tragic example of the spiral of exclusion that is spreading through the entire health care industry."

The Renshaw family fell victim to a practice that Dr. Light calls policy churning. Each year, the company would raise its rates. At the same time, it invited its members to reapply for an attractive low rate for new subscribers. But people who were sick or had a pre-existing condition were turned down for the lower rate when they reapplied, forcing them to accept whatever rate the company would impose.

Dr. Light said group insurance programs until recently covered any member who became ill. The costs for the sick people were spread over the entire group. But the new trend changes the rules so that group members who become sick or, the company suspects, may become sick, have to pay much more for their coverage.

Dr. Light said the practice began in small groups, like self-insured small businesses, in the mid- to late 1980's. While it is still most common in small groups, he said, it is spreading to larger and larger groups. The group that Ms. Renshaw and Mr. Harvey joined had thousands of families.

Dr. Daniels said practices that weed out the sick are the insurance industry's way of remaining competitive by selling insurance at low rates to people who are well. "What's really at work are a set of economic factors," he said. Insurers realize that people who are healthy will shop around for the lowest rates they can get, so insurers have to compete with each other to attract this healthy, income-generating group. The sicker people, however, cannot shop around because no other company will take them or will charge them rates at least as high as they are currently paying. So, Dr. Daniels said, "insurers have underwriting procedures to sort people out."

The administrator of the alumni group insurance, Association Consultants Inc. of Chicago, said that the group had offered attractive low rates to new subscribers, forcing members of the group to reapply regularly or pay much more. But, said William Richard Floyd, the vice president of Association Consultants, the group had no recourse. "The greatest fear any plan has is that new applicants will stop coming in," he said. "If you stop that flow, the plan will terminate because of poor experience."

Dr. Uwe Reinhardt, an economist at Princeton University, said the insurance problems that beset Ms. Renshaw's family were a graphic example of why he calls the American system health "unsurance" rather than health insurance. He added that these problems show why health care has become a potent issue in the current election campaign.

Donald B. White, a spokesman for the Health Insurance Association of America, which represents commercial insurance companies, said that what happened to Ms. Renshaw's family was unacceptable. And he said it was because of cases like hers that "we and everyone else are proposing reforms that would change the laws so that could not happen again."

Mr. White said most problems are with small groups, so the insurance association has proposed legislation to change that market. It wants Federal laws to guarantee that high-risk people in small groups can buy insurance at a cost that is no more than 50 percent of the average premium. Senator Lloyd Bentsen, Democrat of Texas, has introduced a bill in Congress that would prevent the exclusion of sicker individuals from health insurance coverage sold to small businesses and would prevent small groups from canceling policies of sicker people.

But these remedies do not address the situation that Ms. Renshaw and Mr. Harvey faced because they were not insured with a small group.

Ms. Renshaw said that she and her husband purchased their insurance after Marisa was born. Mr. Harvey, who is self-employed in the construction industry, had no employer to offer insurance and neither did Ms. Renshaw, who until recently worked as a photographer and is now a substitute teacher.

Marisa, however, was not a healthy baby. She failed to gain weight as she should have and no one knew why. Finally, when Marisa was 3, her doctor discovered that she had just one kidney and it had been permanently damaged by a urinary tract infection.

A year later, the family's insurance premiums started to escalate. In two increases over the course of the year, the rate soared from $1,552 a year to $5,080 a year. The company did say, however, that Ms. Renshaw and Mr. Bradley could reapply for insurance and, if accepted, get a lower rate. They applied and were rejected, meaning they were stuck with the soaring rates. "That was how they separated the sick people from the well people," Ms. Renshaw said.

To reduce their premiums, Mr. Harvey dropped out of the program and went uninsured. That brought the premium to $3,160 a year.

But the next year, in February 1989, the rate was increased again to $4,420 a year. In February 1990, it rose to $8,844 a year, payable quarterly. "We made two of those payments, but it was getting to the point where our health insurance was as much as our mortgage," Ms. Renshaw said. Then, she said, she got a telephone call from the company saying it was raising the rate to $16,000 a year.

In desperation, Ms. Renshaw tried calling her alumni association but, she said, they offered no help and, "eventually they stopped returning my calls." She said she also called members of the California Assembly. "They said, 'That's too bad. You should start a grass roots petition,'" she recalled.

Ms. Renshaw and Mr. Harvey tried to find another company to insure the family, but none would. The best they could do was get minimal coverage for their daughters. They said they were told by the companies that they could get coverage for the family if Marisa's kidney was excluded, but the cost of paying for all of Marisa's sonograms and checkups for her kidney as well as the health insurance premiums would reach at least $7,000 a year. They could not afford it, Ms. Renshaw said.

LIMITED COVERAGE NOW

Through a catastrophic health insurance plan of the California Children Services, Marisa is now covered for major problems with her kidney, but nothing else. And this coverage, Ms. Renshaw said, is available only if a family of four has an income of $40,000 or less. But if Ms. Renshaw gets a full-time teaching job, which she has been seeking, the family would be disqualified by its income. In that case, she said, "our next option is a divorce."

Kirsten is covered by an individual Blue Cross policy with a $1,500 deductible. But the policy excludes payments for her sinuses, because she has had two sinus infections. And it will not cover any problems with her eyes because Ms. Renshaw once took her to an ophthalmologist, mistakenly thinking that her eyes were crossed.

Ms. Renshaw said her search for insurance has led her to get a teaching certificate, rather than one in marriage and family counseling, which she preferred, because she does not want to be self-employed. As a teacher, she reasoned, she would have a chance of getting insurance though the school system. And she is putting off having a baseline mammogram until after she gets insurance for the family, afraid that if the mammogram detects any suspicious lumps in her breast, she would fail to get insurance.

As she applies for a teaching position, Ms. Renshaw said that she is afraid to mention Marisa's kidney problem. "I might not get a job," she said.

And she and her husband live in terror of illness because medical bills could easily bankrupt them. "I'm afraid we'll lose our house," Ms. Renshaw said. "That's the only thing we have."

UNDER SECTION 9 OF THE CONCURRENT RESOLUTION ON THE BUDGET

Mr. SASSER. Mr. President, I hereby submit revised budget authority allocations to the Senate Committee on Finance and aggregates under section 9 of the concurrent resolution on the budget, House Concurrent Resolution 121.

Section 9(a) of the budget resolution states:

> **SEC. 9. DEFICIT-NEUTRAL RESERVE FUND FOR FAMILY AND ECONOMIC SECURITY INITIATIVES IN ACCORDANCE WITH PROVISIONS OF THE SUMMIT AGREEMENT.**
>
> 1(a) INITIATIVES TO IMPROVE THE HEALTH AND NUTRITION OF CHILDREN AND TO PROVIDE FOR SERVICES TO PROTECT CHILDREN AND STRENGTHEN FAMILIES.—
>
> (1) IN GENERAL.—Budget authority and outlays may be allocated to a committee or committees for legislation that increases funding to improve the health and nutrition of children and to provide for services to protect children and strengthen families within such a committee's jurisdiction if such a committee or the committee of conference on such legislation reports such legislation, if, to the extent that the costs of such legislation are not included in this concurrent resolution on the budget, the enactment of such legislation will not increase the deficit (by virtue of either contemporaneous or previously passed deficit reduction) in this resolution for fiscal year 1992, and will not increase the total deficit for the period for fiscal years 1992 through 1996.
>
> (2) REVISED ALLOCATIONS.—Upon the reporting of legislation pursuant to paragraph (1), and again upon the submission of a conference report on such legislation (if a conference report is submitted), the Chairman of the Committee on the Budget of the Senate may file with the Senate appropriately revised allocations under sections 302(a) and 602(a) and revised functional levels and aggregates to carry out this subsection. Such revised allocations, functional levels, and aggregates shall be considered for the purposes of the Congressional Budget Act of 1974 as allocations, functional levels, and aggregates contained in this concurrent resolution on the budget.
>
> (3) REPORTING REVISED ALLOCATIONS.—The appropriate committee may report appropriately revised allocations pursuant to sections 302(b) and 602(b) to carry out this subsection.

Subsection (c) of section 9 of the budget resolution provides:

> (c) CONTINUING IMPROVEMENTS IN ONGOING HEALTH CARE PROGRAMS AND PHASING-IN OF HEALTH INSURANCE COVERAGE FOR ALL AMERICANS.—
>
> (1) IN GENERAL.—Budget authority and outlays may be allocated to a committee or committees for legislation that increases funding to make continuing improvements in ongoing health care programs or to begin phasing-in health insurance coverage for all Americans within such a committee's jurisdiction if such a committee or the committee of conference on such legislation reports such legislation, if, to the extent that the costs of such legislation are not included in this concurrent resolution on the budget, the enactment of such legislation will not increase the deficit (by virtue of either contemporaneous or previously passed deficit reduction) in this resolution for fiscal year 1992, and will not increase the total deficit for the period of fiscal years 1992 through 1996.
>
> (2) REVISED ALLOCATIONS.—Upon the reporting of legislation pursuant to paragraph (1), and again upon the submission of a conference report on such legislation (if a conference report is submitted), the Chairman of the Committee on the Budget of the Senate may file with the Senate appropriately revised allocations under sections 302(a) and 602(a) and revised functional levels and aggregates to carry out this subsection. Such revised allocations, functional levels, and aggregates shall be considered for the purposes of the Congressional Budget Act of 1974 as allocations, functional levels, and aggregates contained in this concurrent resolution on the budget.
>
> (3) REPORTING REVISED ALLOCATIONS.—The appropriate committee may report appropriately revised allocations pursuant to sections 302(b) and 602(b) to carry out this subsection.

On March 3, 1992, the Finance Committee reported S. 2325. S. 2325 includes a provision that increases the Earned Income Tax Credit for low-income families with children. This provision would "increase funding to improve the health and nutrition of children"—in the words of section 9(a) of the budget resolution—by targeting an increase in the refundable tax credit for lower income working families with children.

S. 2325 also includes extension of Medicare benefits to cover a number of preventive care services, including influenza immunizations, tetanus-diphtheria boosters, and well-child care. S. 2325 also includes provisions that create two new entities—the Coal Industry Retiree Health Benefits Corporation and the 1991 Benefit Fund—to replace two coal industry health funds that are experiencing financial difficulties. These provisions will ensure that retired coal miners, their widows, and their dependents continue to receive the health benefits for which they contracted. In the words of section 9(c) of the budget resolution, these two provisions "increase funding to make continuing improvements in ongoing health care programs."

S. 2325 also meets the other requirement of section 9 of the budget resolution that—

> To the extent that the costs of such legislation are not included in this concurrent resolution on the budget, the enactment of such legislation will not increase the deficit * * * in this resolution for fiscal year 1992, and will not increase the total deficit for the period of fiscal years 1992 through 1996.

As S. 2325 complies with the conditions set forth in the budget resolution, under the authority of sections 9(a)(2) and 9(c)(2) of the resolution, I hereby file with the Senate appropriately revised budget authority allocations under sections 302(a) and 602(a) and revised functional levels and aggregates to carry out this subsection.

I ask unanimous consent that the revised budget authority allocations be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REVISED BUDGET RESOLUTION AGGREGATES AND ALLOCATIONS

[In millions of dollars]

	1992	1992–96
Resolution aggregates:		
Budget authority	1,270,740	
Outlays	1,201,728	
Revenues	850,528	4,834,555
Allocations to the Committee on Finance:		
Budget authority	491,371	2,831,953
Outlays	487,464	2,809,684

IRRESPONSIBLE CONGRESS? HERE'S TODAY'S BOXSCORE

Mr. HELMS. Mr. President, the Federal debt run up by Congress stood at $3,851,877,758,136.39, as of the close of business on Friday, March 6, 1992.

As anybody familiar with the U.S. Constitution knows, no President can spend a dime that has not first been authorized and appropriated by the Congress of the United States.

During the past fiscal year, it cost the American taxpayers $286,022,000,000 just to pay the interest on spending approved by Congress—over and above what the Federal Government collected in taxes and other income. Averaged out, this amounts to $5.5 billion every week.

What would America be like today if there had been a Congress that had the courage and the integrity to operate on a balanced budget?

TRIBUTE TO JOHN E. ALLEN, JR.

Mr. SPECTER. Mr. President, on February 25, 1992, the city of Philadelphia, my home, was diminished with the passing of John E. Allen, Jr., the founder and artistic director of Freedom Theater.

Mr. Allen, who started Freedom Theater 26 years ago, was an extraordinary human being. He was a director, an actor, a playwright, a scholar and, most of all, a humanitarian, a person who saw dignity and worth in every human being and who tried to make this statement in the many productions that he brought to the theater over the years.

Freedom Theater is more than a place where dramas are presented. Because of John Allen, it is a beacon of hope in an area suffering from the many insidious maladies that afflict the inner-city areas of our Nation's metropolises. He put on shows that inspired young African-Americans with pride and that made them aware of the possibilities of life. He did this with the gifts he possessed: talent, enthusiasm, a love of life, and a quenchless belief that good theater could make a difference in the quality of life of its community.

In anyone's life, the important question is always: Did he or she make a difference? Was living better for others in any way because of their contact with this person? In the case of John

Allen, the answer has to be a unanimous and resounding "Yes." John Allen made a tremendous difference for those fortunate enough to have known and worked with him and for those who had access to his artistry.

All of these mourn his passing. So, too, the city of Philadelphia to which he gave so much and which is now bereft of his gifts.

It is therefore fitting that the U.S. Senate take note of the many contributions of John Allen to his community and to his art with the hope that Freedom Theater will continue its important work despite this great loss.

VERMONT'S FOREST PRODUCTS INDUSTRY

Mr. LEAHY. Mr. President, my farm in Middlesex, VT, has been in the Leahy family for several decades. Like other Vermont farms, it was initially cleared of its native forests to produce crops and provide pasture. But, like many once productive farms it has reverted back to forest.

Interestingly, only 20 percent of Vermont was forested in the late 1800's while 80 percent was cleared. Today the opposite is true with nearly 80 percent of Vermont being forested and 20 percent being cleared.

With the decline in the number of farms since World War II—due to increased urbanization, development, and agricultural trends—Vermont's forest products industry has picked up the slack to the point where it now represents 12 percent of the gross State product.

As I walk the Leahy farm and look to the Green Mountains in the distance, I am always struck by the beauty our forests provide. Yet, I am also struck by history and the people who toiled to clear the forests in order to support their families and feed the region. There is a special sense of comfort in knowing that forests are renewable and with proper care our forest lands will be sustained for future generations.

A few years ago, consulting forester Jim Wilkinson and I walked the woods of my family's farm. Jim talked about the role management can play in making my forests healthier, more productive, and more supportive of wildlife. Eventually, Jim laid out a management plan to help me accomplish my goals as a forest landowner.

This experience on my own land and a recent discussion with some interested members of Vermont's forestry community got me thinking about the role our forests play in the Green Mountain State's economy.

Many do not realize the important role forest products play in our economy. Forest products are the No. 1 valued agricultural crop in the Nation. According to the American Forest Council, forest products produced $2.9 billion in earnings and employed 18.3 thousand Americans in 1988.

In Vermont, the forest products industry ranks second only to electronics in our manufacturing sector. There are 700 logging, sawmill, and trucking firms:

Employing 3,300 people;
Providing $48 million in payroll; and
Producing $108 million in sales.

Forty-five percent of the timber sawed in Vermont is consumed in Vermont by some 400 secondary manufacturing firms. These manufacturers produce many products, from furniture to wooden bowls. These Vermont firms:

Employ 6,400 employees;
Provide $128 million in payroll; and
Produce $300 million in sales.

Moreover, economists believe each primary and secondary manufacturing job induces two more jobs through spending on local businesses such as the grocery stores, automobile sales and repairs, insurance companies, and the many other goods and services we require to maintain our quality of life. If you take this category into consideration, an estimated 30,000 people are economically linked to the forest products industry in Vermont.

Of course, we could not have an industry without a supply of timber.

There are 4.4 million forested acres in Vermont—77 percent is held by small landowners, 8 percent by corporate landowners, 9.3 percent by State and local landowners, and 6 percent by the Federal Government.

Many of the private lands are managed for timber production with assistance from various Federal and State financial and technical programs. The forest products industry's American Tree Farm System also provides assistance to landowners who want to manage their land for timber production.

Last year, Vermonters harvested over 200 million board feet from these lands—about 5 percent of this harvest came from the Green Mountain National Forest, according to the Vermont Department of Forests, Parks, and Recreation.

Herein, lies the challenge we Vermonters must meet. The national forests are owned by the public and must be managed for multiple uses. I have long supported nonintensive timber management on the Green Mountain National Forest because our public lands are the only place to concentrate benefits—such as wilderness, certain fish and wildlife habitat protection and restoration, watershed protection, and recreational opportunities—benefits that cannot be found or are not found on private lands.

The importance of timber supply must be balanced with these nonmarket uses—both need to be protected for future generations. The National Forest Management Act, Endangered Species Act, National Environmental Policy Act, and citizens rights to question Federal agency actions help achieve this balance.

However, with 94 percent of Vermont's timber supply located on non-Federal lands, there is much we can do to promote the forest products industry. These opportunities include:

Fully funding State and private forestry programs that were authorized in the forestry title of the 1990 farm bill;

Rethinking the roll of capital gains and passive loss rules as they relate to forest land management;

Assuring landowners that State, not Federal, environmental laws apply to those who receive financial forest management assistance through such programs as Stewardship Incentives and Forest Legacy.

Healthy forests and a healthy forest-based economy have been and must continue to be an important part of Vermont's future.

I know at times Vermonters argue over what are seen as conflicting forest management objectives. That is what a democracy is all about. All Vermonters are partners with a responsibility to work together to assure that public and private lands provide a healthy balance of benefits—economic and environmental—according to what each is best suited to do.

ALZHEIMER'S DISEASE

Mr. SPECTER. Mr. President, on February 3, 1992, I visited the Neurophysics Laboratory at the University of Pittsburgh's Graduate School of Public Health. During my visit, I had the opportunity to met with Jay W. Pettegrew, M.D., director of the Alzheimer's Disease Research Center, and several relatives of people suffering from Alzheimer's. I found these individuals' perspectives to be worth consideration by Members of the Congress as we look to the appropriations bill for Labor, Health and Human Services and Education for fiscal year 1993 in our allocation of resources, including Alzheimer's disease. I ask that these individuals' statements be included in the RECORD following my remarks, because their comments give direction to the path Congress should take in dealing with this illness.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SPECTER. Mr. President, currently about 4 million Americans suffer from Alzheimer's disease. This illness is severely debilitating. It kills brain cells causing gradual loss of memory and reasoning abilities and eventually leads to death. Alzheimer's strike 1 of every 10 Americans over age 65 and nearly half of those over age 85. Studies show that unless we find a way to cure or prevent Alzheimer's disease, 14 million Americans will be stricken by this devastating illness by the middle of the next century.

Alzheimer's devastates the sufferer as well as his or her family members, both emotionally and financially. This hardship is surprisingly common—affecting one out of every three families in our country. Currently estimated at more than $90 billion a year, the cost of Alzheimer's is skyrocketing. Thus, a major concern for such families is their ability to afford the cost of long-term care and medical treatment. It is clear to me that containing such health care costs is paramount to reform in most areas of our Nation's health care system.

I believe that if we invested more money in research for treatment and cures now, the savings down the road will be significant. Not only would we save money, but also we would alleviate the suffering of so many Americans with Alzheimer's, as well as their families. The estimates for savings is very significant. Reports show that just a 5-year delay in the onset of Alzheimer's could save $40 billion presently spent on care. In addition, research on Alzheimer's may lead to a simple, accurate diagnostic test that would save as much as $1 billion a year that Medicare now spends for such diagnosis. The development of effective drug treatments could also save an estimated $76 billion over the next 25 years.

The progress that has been made thus far in Alzheimer's epidemiology is promising. In my own State of Pennsylvania, the research being done by the University of Pittsburgh Alzheimer's Disease Research Program is very promising. Dr. Pettegrew described to me the laboratory's use of a magnetic resonance spectroscopy, which can isolate the molecule responsible for contributing to Alzheimer's disease. Isolating this molecule has enabled researchers to begin developing means to shut off the production of the Alzheimer's molecule, thus preventing the activation of the disease. This investigation shows promise in our ability to stop the onset of Alzheimer's and is indicative of the effectiveness and worthiness of prioritizing Federal spending on Alzheimer's research.

Mr. President, it is clear that the treatment of and the cure for this devastating disease are both urgently needed to relieve the suffering afflicting so many lives.

EXHIBIT 1

UNIVERSITY OF PITTSBURGH,
February 19, 1992.

Senator ARLEN SPECTER,
Federal Building, Pittsburgh, PA.

DEAR SENATOR SPECTER: I want to thank you for visiting the University of Pittsburgh on February 3, 1992 and giving us the opportunity to share with you some of our thoughts, goals and research findings concerning Alzheimer's disease (AD). The research and support programs are part of our National Institute on Aging funded Alzheimer's Disease Research Center (ADRC) and Leadership and Excellence in Alzheimer's Disease (LEAD) award. I would like to reiterate several points which we discussed during your brief visit.

1) Magnitude of the AD Problem: There are an estimated 4 million AD patients at this time in the United States; this number is expected to increase to 14 million by the year 2040. The kind of comprehensive care that is needed for advanced AD patients currently costs approximately $200 per day. If one uses this same cost estimate of $200 per day for the year 2040, this equals a cost of $1.02 trillion for the health care of the projected number of AD patients in this country. The financial cost therefore will be extremely burdensome.

2) AD is generally viewed as a disease of the elderly; this is a myth. The fundamental molecular changes that culminate in the devastating symptoms of AD probably start decades before the onset of any symptoms and probably start sometime in middle age (in the 40's and 50's). By the time symptoms occur, there already is widespread and severe damage to brain cells and cellular membranes which are the vital communication centers of the brain. Because there is widespread damage prior to the onset of symptoms, therapeutic strategies aimed at treating only the symptoms will have relatively little impact on the course of the disease.

3) Approaches must be developed to identify those individuals who have the beginning molecular changes in their brains but still have no symptoms. Then research must be directed at designing drugs that can slow or completely stop these molecular changes and thereby prevent the disease.

4) We have identified a class of molecules called phosphomonoesters (PME) which are found in high abundance in the newborn developing brain and are used as building blocks for nerve cell membranes. It is the cellular membranes which are the "communication centers" of the brain and during the growth and development of the brain there is a great increase in the numbers and complexities of these communication centers. After this growth phase, the levels of the PME dramatically drop as there is no further "hard wiring" of the brain; the levels of the PME then normally remain low throughout the rest of life. In AD the production of PME is again inexplicably turned on to the high levels observed in the developing brain. While the high PME levels are normal in the developing brain, high PME levels in the mature adult brain create "mischief". At these high levels, one of these PME has now been shown to shut down the communication centers which serve short term memory and this provides an explanation for the loss of short term memory which is such an early and prominent finding in AD. As the levels of the PME continue to build, this same PME may have the potential to act indirectly as a toxin and selects certain brain cells for damage and death; it is these same nerve cells which are targeted for cellular damage and death in AD. As AD progresses there is widespread degeneration of the nerve cell membranes which results in an increase in the levels of another class of molecules (phosphodiesters, PDE) which are the breakdown products of membranes.

5) We have demonstrated that the levels of the PME and PDE can be determined in the brains of living human subjects by the noninvasive technique of magnetic resonance spectroscopy (MRS). Using this technique, we have recently shown that the levels of the PME are high early in AD and then drop as the levels of PDE rise. In vivo MRS, therefore, has the potential to demonstrate molecular changes in the brains of asymptomatic individuals and, thereby, would be useful in identifying these individuals who could potentially benefit from drugs designed to prevent AD.

I wish to thank you for taking time from your busy schedule to visit with us and hope that our interchange was informative and useful to you.

Sincerely,

JAY W. PETTEGREW, M.D.,
Professor of Psychiatry, Neurology and Health Services Administration; Director, Neurophysics Laboratory; Director, Alzheimer's Disease Research Center.

STATEMENT FOR SUBMISSION INTO THE CONGRESSIONAL RECORD

My name is Ellen Berliner. My husband, Arthur, has Alzheimer's Disease. As a participant in a research study, I was asked to contact friends and business associates who might remember times when my husband behaved in a way that they felt was inconsistent with his character. Such changes were first noted in the early 1070's, but no one knew then that they derived from an organic illness. Eventually he was unable to work and in 1979, his disease was diagnosed as Alzheimer's Disease. Care at home ultimately proved unmanageable; stress and exhaustion taking their toll on me and our children.

As a veteran, my husband had access to the Veteran's Affairs hospital system where he remained from 1986 until present. Apparently, as an austerity effort on the part of the VA, he was recently discharged to a private nursing home. The VA will only cover six months of care in the nursing home for this now totally helpless man. After that I am responsible.

The above experiences have led me to conclude that Alzheimer's Disease patients and their families are in dire need of relief, I offer the following suggestions for consideration. Firstly, real savings will occur in the future only if Federal funding remains at a high enough level to keep researchers going until they find the cause, treatment and cure of this disease so that the entire nightmare of personal suffering and ruinous costs to individuals and this nation come to a stop.

Additionally, the VA must continue to be funded at a level adequate to support the care of all veterans. Shifting the fiscal burden of care to other federal programs and/or to the family members of the patent (draining the financial savings of many families who must foot their own bill for care) discounts the very lives of those who have served America in all her wars.

STATEMENT FOR THE RECORD

The following is a statement from the daughter of a 90 year-old woman in the final stages of Alzheimer's disease. The mother is a resident of a local nursing home.

"The State requirement of 2.3 hours of nursing home care per 24-hour shift means that Alzheimer's patients, especially those in advanced stages of the disease, are not receiving the basic care they require. They sit in wheel chairs or lie unattended for hours, unable to feed themselves, call for assistance, change themselves or otherwise protect their remaining health. Family members must themselves provide care or hire others to feed, bathe, and change their family members, since the nursing home time commitment of 2.3 hours of care per patient is totally inadequate for even very basic care. There is not enough time in 2.3 hours to feed, change, turn, bathe, and move her.

For the last four years, I have been going to the nursing home twice a day to feed my mother her breakfast and dinner since the nursing home staff do not have the time to make sure my mother receives the nourishment and fluids she needs. With personal money, I have hired a caregiver to feed lunch to my mother. My mother's food has to be cut thinly or blended, but the nursing home does not have time to do that, so I take my food processor and prepare the food myself. My mother is now dehydrated because of the problems in feeding her, but no extra help is available. My family and I have spent more than $100,000 to provide basic care to my mother in addition to the Medicare reimbursement the nursing home has received.

Medicaid reimbursement to the nursing home is $12 less per day than the nursing home costs. Since Medicaid does not meet the full cost, the nursing home has to absorb the difference. The nursing home manager tells me that an increase in both the state time requirement and in Medicaid reimbursement would enable the nursing home to hire more staff to make sure my mother receives the necessities of food, bathing, and movement.

My mother now has a urinary infection with skin breakdown due to wet diapers not being changed. My mother should not have to suffer from a deterioration in her condition due to poor care and from inattention because the nursing home is not receiving sufficient money to care for her better.

My mother has twice fallen flat on her face in the wheel chair because she had not been properly restrained (no leg rests and the Posey restrain around her torso and not her upper body). She suffered a broken wrist when she fell off a commode after an aide let go of her to fix a wheel chair. She suffered two strokes following the falls. I have seen obvious neglect in the care of my mother and other patients, including recently when an aide nearly gave medications to my mother that had been prescribed for her roommate.

I am completely stressed out from caring for my mother and I am outraged by the attitude that 'writes off' people 'warehoused' in nursing homes. Once you are elderly, especially if you can't take care of yourself as is the case with Alzheimer's disease, you're forgotten.

I have contacted various local and state government offices to urge that the 2.3 hours of care be increased and that Medicaid funding be expanded so that my mother receives the care with dignity to which she's entitled. I implore Senator Specter to reevaluate the time requirements for nursing home care and to work toward increasing the Medicaid daily reimbursement for nursing home care, especially for patients with Alzheimer's. By the way, 50% of people in nursing homes have Alzheimer's.

If more people saw what actually happens to Alzheimer's patients in nursing homes instead of reading about it, they would never forget the sights before their eyes and they would never let themselves or a loved one suffer through the circumstances—if they could help it. I hope Senator Specter can help the situation.

STATEMENT FOR INCLUSION IN THE CONGRESSIONAL RECORD

My husband died two years ago after more than a decade of slow progressive dementia and physical deterioration. He had been bright, witty and articulate. Gradually, he lost his ability to do simple arithmetic, read, dress himself, or understand television or sports.

Eventually, he required constant supervision and care. First he attended a day care center, then he remained at home with a health aide. I took over when I came home from work and experienced the "thirty-six hour day." He could no longer walk or feed himself by the time he had to enter a Veteran's Affairs hospital, almost three years prior to his death.

Competent and qualified neurologists and geriatricians agreed that my husband's symptoms indicated Alzheimer's Disease. No tests are available to confirm this with 100% accuracy. It was a shock therefore, to learn after autopsy, that he had actually suffered from an atypical form of Parkinson's Disease which mimicked Alzheimer's Disease.

STATEMENT

These comments regarding Alzheimer's Disease from George Boyle, 106 Briarwood Drive, Pittsburgh, PA 15235, phone 412-371-7682.

I was thrust into the role of caregiver back in 1980 when my wife, Jean, a well educated, working professional nurse started to gradually lose her memory and her ability to do the ordinary things of daily living. Her condition deteriorated over the past 12 years to a point where now she is completely incapable of any physical or mental activity and requires 24 hour personal care.

We have always carried Blue Cross and Blue Shield health coverage and now, with Jean's disability, she is covered by Medicare. None of this, however, has any provision for payment of the cost of long-term personal care that is necessary in Jean's present state and will continue as long as she lives. The cost of this personal care must be borne by me personally and is depleting my financial resources and threatens to leave no cushion for my own retirement.

A provision in Medicare for this type of long-term care would be a blessing to myself and thousands like me who are being financially depleted due to the long-term effects of Alzheimer's Disease. If Medicare is not the answer, then some form of national assistance grant for victims of catastrophic illness should be enacted. It hurts to work all your life, raise and educate six children, and then lose all you have worked for to a disease like Alzheimer's.

ALUMINUM COMPANY OF AMERICA,
Pittsburgh, PA, February 25, 1992.

MS. LESLIE DUNN,
Alzheimers Disease Research Center, Pittsburgh, PA.

DEAR MS. DUNN: In response to Senator Specter's request, I am writing the following brief summary of our family's experience with my mother, Thelma Sigar.

Members of our family first began discussing possible problems with my mother's memory in 1988. It began as very simple items such as being confused about social engagements or not remembering facts relayed on a telephone conversation. As things became gradually more noticeable over a two-year period, we inquired of a family physician who recommended us to the ADRC. During the five years that she has been enrolled in the program, we have seen a gradual decline in her mental faculties. In 1987, she was living alone, working full-time in our family business, and participating in many charity and social activities. In addition, she would travel to Florida for vacation during the winter. However, each year we saw a diminishment in these capabilities. First was her inability to travel alone on an airplane. Second, a major trauma occurred in 1989 when, after several small traffic accidents, we decided that she was no longer able to drive. This was a very difficult period for the family since my mother had been very independent as far as going to work and attending her various meetings. The ADRC was able to refer us to a professional evaluator who gave my mother tests and confirmed our decision. After this date, she continued to go to work on her own by using the ACCESS system of senior citizen public transportation. Gradually, though, we found it necessary to employ someone to pick her up from work and make sure that she was able to do her shopping and get home.

During the last year, my mother has undergone a rapid degradation of her memory and other cognitive facilities. It seems hard to remember that just one year ago she was working full-time. Today, it is necessary to have someone living with her full-time. She could no longer use any type of public transportation and, indeed, could not be left alone in a supermarket to do her own shopping. Telephone conversations have become much more difficult, and it is necessary to speak to her full-time care-giver in order to transmit any kind of information.

The family is fortunate to have the financial capabilities to handle personal care in this situation. We often talk about what would happen if this were not the case. There is no medical insurance or Medicare that pays for any of the personal care necessary for her. It certainly would take the full-time care of someone to watch her even at this medium stage of Alzheimers Disease, and that would mean someone in this family giving up employment and spending that time period with her. In addition, the strain on a family member during that kind of an arrangement is very difficult. For our family, the worst part lies ahead as we expect another five or six years of continuing diminishment until she reaches the stage of not being able to care for herself in even the simplest physical manner. We expect that our expenditures will be $30-$33,000 a year over this time period for her care. In addition, there is even the greater loss of having a healthy, vibrant person "disappear" before your eyes.

During the course of our discussions with Senator Specter, we determined that even with his proposals the total amount of money spent for research per patient in the United States during 1991 was approximately $60. It would seem that even a simple cost benefit analysis would reveal that a much larger expenditure would actually be "profitable" when compared to the necessary outlays for public assistance and lost contributions of family members who are forced to stay at home rather than work in the productive sector. I would suggest that you follow-up on the opportunity to present Alzheimers research as a profit opportunity rather than an additional public expenditure. If I can be of any further help, please call me at 412-553-3632.

Sincerely,

KENNETH R. SIGER.

THE 75TH ANNIVERSARY OF BOYS TOWN

Mr. EXON. Mr. President, I rise to pay special recognition to the 75th anniversary of Boys Town. Boys Town is a national treasure, founded in 1917 when a Roman Catholic priest, Father Edward Flanagan, borrowed $90 to rent a home at 25th and Dodge Streets in Omaha, NE, for wayward boys. In the 75 years that have passed since then, Boys Town has been unrelenting in its care for society's troubled boys and girls. To paraphrase Father Flanagan: The work continues because it is God's work.

Anyone who wasn't already familiar with Boys Town and the work it does for children instantly learned of them after MGM made a movie called "Boys Town" in 1938 starring Mickey Rooney and Spencer Tracy. Tracy won the Academy Award for his performance in the movie and later gave his Oscar to Father Flanagan. Today, the Boys Town statue of two brothers and their slogan: "He ain't heavy, Father, * * * he's my brother" earn instant recognition.

Over these past 75 years, Boys Town has directly touched the lives of 18,000 kids from all over the United States who have lived at the original Boys Town campus, spread over 1,300 acres on the western edge of Omaha. In addition, Boys Town has reached thousands of other children and families in crisis through a national crisis hotline and by opening offices, homes, shelters, or programs in nine other States and the District of Columbia, which I had the privilege of helping to announce this year. Although it still remains "Boys" Town, girls have been admitted since 1979. And in 1991, for the first time ever, a 16-year-old girl was elected mayor. Although founded by a Catholic priest, Boys Town has always been open to children of all races and religions.

I am pleased to bring the 75th anniversary of Boys Town to the attention of the U.S. Congress. I know my colleagues join me in wishing Boys Town success in their continued work on behalf of society's most innocent victims—our abused, neglected, and homeless children.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. ROBB). The period for morning business is now closed.

INDOOR RADON ABATEMENT REAUTHORIZATION ACT

The PRESIDING OFFICER. Under the previous order the Senate will take up consideration of S. 792, which the clerk will report.

The bill clerk read as follows:

A bill (S. 792) to reauthorize the Indoor Radon Abatement Act of 1988, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Environment and Public Works, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indoor Radon Abatement Reauthorization Act of 1991".

SEC. 2. NATIONAL GOALS.

Section 301 of the Toxic Substances Control Act (15 U.S.C. 2661) is amended—

(1) in the heading, by striking "NATIONAL GOAL" and inserting NATIONAL GOALS";

(2) by inserting "(a) RADON LEVELS.—" before the first sentence of the section; and

(3) by adding at the end the following new subsection:

"(b) TESTING.—It is the goal of the United States that all homes, schools, and Federal buildings be tested for radon.".

SEC. 3. DEFINITIONS.

Section 302 of the Toxic Substances Control Act (15 U.S.C. 2662) is amended by adding at the end the following new paragraphs:

"(5) The term 'residential dwelling' means—

"(A) a single-family dwelling or a one-family dwelling unit in a structure containing not more than four separate residential dwelling units, each such unit used or occupied, or intended to be used or occupied, wholly or partly, as the home or residence of one or more persons; or

"(B) a single-family or one-family dwelling unit on the subground, ground, or first-floor-above-ground level of a multi-unit residential structure.

"(6) The term 'multi-unit residential structure' means a building containing more than four separate residential dwelling units, each such unit used or occupied, or intended to be used or occupied, wholly or partly, as the home or residence of one or more persons.

"(7) The term 'contract for the sale of residential real property' means any contract or agreement whereby one party agrees to purchase from another party any interest in real property improved by one or more residential dwelling units used or occupied, or intended to be used or occupied, wholly or partly, as the home or residence of one or more persons.

"(8) The term 'applicable mortgage loan' includes any loan (other than temporary financing such as a construction loan) that—

"(A) is secured by a first lien on residential real property (including individual units of condominiums and cooperatives); and

"(B) either—

"(i) is insured, guaranteed, made, or assisted by any agency of the Federal Government, including the Department of Housing and Urban Development, the Veterans Administration, and the Farmers Home Administration; or

"(ii) is intended to be sold by an originating mortgage institution to any federally chartered secondary mortgage market institution.

"(9) The term 'originating mortgage institution' means any lender that provides federally insured, guaranteed, made, or assisted mortgage loans, or sells mortgage loans to a federally chartered secondary mortgage market institution.

"(10) The term 'federally chartered secondary mortgage institution' means an institution chartered by Congress that buys mortgages from originating financial institutions and resells them to investors, including the Federal National Mortgage Association, the Government National Mortgage Association, and the Federal Home Loan Mortgage Association.

"(11) The term 'Administrator' means the Administrator of the United States Environmental Protection Agency.

"(12) The term 'Business day' means any day other than a Saturday, a Sunday, a Federal holiday, a State holiday in the State in which the affected residential property is located, or a State holiday in the State or States in which the buyer or seller resides.

"(13) The term 'person' means an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, or an interstate body.

"(14) The term "direct Federal financial assistance" means assistance in financing a residential dwelling provided by the Federal Housing Administration, Farmers Home Administration, and the Department of Veterans Affairs.

"(15) The term "Federal building" means any building that—

"(A) is used primarily as an office building, school, hospital, or residence, and

"(B) owned, leased, or operated by any Federal agency.".

SEC. 4. PRIORITY RADON AREAS.

Title III of the Toxic Substances Control Act (15 U.S.C. 2661 et seq.) is amended—

(1) by redesignating sections 303 through 311 as sections 304 through 312, respectively; and

(2) by inserting after section 302 the following new section:

"SEC. 303. PRIORITY RADON AREAS.

"(a) DESIGNATION OF AREAS.—The Administrator shall, designate as expeditiously as possible but no later than January 1, 1992, areas as priority radon areas, and revise, as appropriate thereafter, the designations.

"(b) STANDARD FOR DESIGNATION.—The Administrator shall designate an area as a priority radon area in any case where the Administrator determines that there is a reasonable likelihood that the average radon level in the area is likely to exceed the national average radon level by more than a de minimis amount.

"(c) FACTORS.—In designating priority radon areas, the Administrator shall consider the most current available information at the time of such designation, including—

"(1) the national assessment of radon conducted pursuant to section 118(k) of the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. 7401 note);

"(2) surveys of school buildings conducted pursuant to section 308;

"(3) surveys of Federal buildings conducted pursuant to section 310;

"(4) surveys of work places conducted pursuant to section 318; and

"(5) any other information, including other radon measurements and geological data, as the Administrator determines to be appropriate.".

SEC. 5. CITIZEN'S GUIDE.

(a) SCHEDULE.—Section 304(a) of the Toxic Substances Control Act (15 U.S.C. 2663(a)) (as redesignated by section 4 of this Act) is amended by striking "June 1, 1989" and inserting "January 1, 1992".

(b) ACTION LEVELS.—Section 304(b)(1) of the Toxic Substances Control Act (15 U.S.C. 2663(b)(1)) (as redesignated by section 4 of this Act) is amended—

(1) by inserting "(A)" after "ACTION LEVELS.—"; and

(2) by adding at the end the following new subparagraphs:

"(B) The citizen's guide shall state the national goals established in this title, and shall estimate the average national ambient outdoor radon level. The guide shall also indicate the health benefits of reducing indoor radon levels to ambient outdoor levels.

"(C) The citizen's guide shall establish a target action point indicating a level of indoor radon that is, in the judgment of the Administrator, as close to the national ambient outdoor radon level as can be achieved consistently in existing, single family homes through the application of readily available and generally affordable radon mitigation technologies and practices.".

(c) INFORMATION.—Section 304(b)(2) of the Toxic Substances Control Act (15 U.S.C. 2663(b)(2)) (as redesignated by section 4 of this Act) is amended by adding at the end the following new subparagraph:

"(F) The location of priority radon areas and the likelihood of radon levels above the target

action point within and outside of priority radon areas.".

SEC. 6. MODEL CONSTRUCTION STANDARDS.

(a) TECHNICAL AMENDMENTS.—(1) Section 305 of the Toxic Substances Control Act (15 U.S.C. 2664) (as redesignated by section 4 of this Act) is amended—

(A) by inserting "(a) STANDARDS.—" before the first sentence of the section;

(B) by inserting "(b) CONSULTATION.—" before the second sentence of the section;

(C) by inserting "(c) GEOGRAPHIC DIFFERENCES.—(1)" before the fourth sentence of the section;

(D) by striking the fifth sentence of the section; and

(E) by inserting "(d) IMPLEMENTATION.—" before the sixth sentence of the section.

(2) Section 305 of the Toxic Substances Control Act (15 U.S.C. 2664) (as redesignated by section 4 of this Act) is amended by adding at the end the following new subsection:

"(e) SCHEDULE.—The Administrator shall publish final radon control standards and techniques for residential dwellings and make such techniques available to the public and the building industry not later than January 1, 1992, and for multiunit residential structures and schools by not later than January 1, 1994.".

(b) OBJECTIVES.—Section 305 of the Toxic Substances Control Act (15 U.S.C. 2664) (as redesignated by section 4 of this Act) is amended by adding at the end of subsection (c) (as designated by subsection (a)(1) of this section) the following new paragraph:

"(2)(A) Model standards and techniques shall indicate a range of effective radon control measures, practices, and techniques, that apply to original construction of a wide variety of building types, locations, conditions, and circumstances, and shall indicate the general range of radon control achievable by such measures individually and in combination with other measures.

"(B) At a minimum, the Administrator shall establish minimum radon reduction measures, practices, and techniques for new construction for the purpose of determining compliance with this section. Such radon standards shall be designed to achieve indoor radon levels in homes less than the target action point established pursuant to section 304(b)(1)(C).".

(c) FEDERALLY ASSISTED HOUSING.—Section 305 of the Toxic Substances Control Act (15 U.S.C. 2664) (as redesignated by section 4 of this Act, and as amended by subsection (a)(2) of this section) is amended by adding at the end the following new subsection:

"(f) FEDERALLY ASSISTED HOUSING.—The appropriate Federal official shall require that any residential dwelling or multiunit residential structure constructed more than two years after the date of the establishment of new construction standards pursuant to this section or the date of enactment of this section, whichever is later, in an area designated by the Administrator as a priority radon area or more than two years after the designation of an area as a priority radon area, whichever is later, shall be constructed in accordance with the radon control standards established pursuant to subsection (c)(2)(B), before providing any direct Federal financial assistance.".

(d) DESIGN AWARDS AND CERTIFICATION.—Section 305 of the Toxic Substances Control Act (15 U.S.C. 2664) (as redesignated by section 4 of this Act, and as amended by subsection (c) of this section) is amended by adding at the end the following new subsection:

"(g) DESIGN AWARDS.—(1) The Administrator shall establish a radon design awards program.

"(2) The radon design awards program shall provide for awards for the best residential design incorporating radon control or mitigation standards in categories of residential design to be determined by the Administrator.".

(e) RELATIONSHIP TO STATE AND LOCAL STANDARDS.—Section 305 of the Toxic Substances Control Act (15 U.S.C. 2664) (as redesignated by section 4 of this Act, and as amended by subsection (d) of this section) is amended by adding at the end the following new subsection:

"(h) RELATIONSHIP TO STATE AND LOCAL STANDARDS.—The standards published pursuant to this section shall not preempt the use of any State or local building standard if the State or local standard is equally effective in reducing radon levels as the standards published pursuant to this section.".

SEC. 7. TECHNICAL ASSISTANCE.

(a) ACTIVITIES.—Section 306(a) of the Toxic Substances Control Act (15 U.S.C. 2665(a)) (as redesignated by section 4 of this Act) is amended by adding at the end the following new paragraphs:

"(9) Development of a model State program to provide radon information to renters of housing, including the dissemination to State and local tenant and other organizations.

"(10) Assistance to State agencies and other organizations concerning the assessment and mitigation of radon in public water supplies.

"(11) Assistance to State agencies and other organizations to facilitate prompt adoption and effective enforcement of new construction standards for reducing radon levels developed pursuant to section 305.

"(12) Development of testing guidelines for multiunit residential structures and multistory buildings not later than six months after the date of enactment of this paragraph and development of mitigation guidelines not later than three years after the date of enactment of this paragraph.

"(13) Issuance of guidance to States on appropriate elements of State radon measurement and mitigation certification programs.".

(b) PROFICIENCY TESTING.—(1) Section 306(a)(2) of the Toxic Substances Control Act (15 U.S.C. 2665(a)(2)) (as redesignated by section 4 of this Act) is amended by striking "voluntary".

(2) Section 306(e)(2) of the Toxic Substances Control Act (15 U.S.C. 2665(e)(2)) (as redesignated by section 4 of this Act) is amended to read as follows:

"(2) CHARGE IMPOSED.—To cover the operating costs of the proficiency rating program, the Administrator shall impose charges on persons applying for a proficiency rating. For fiscal years 1992, 1993, 1994, 1995 and 1996 the amount of fees collected under this paragraph shall be for the purpose of offsetting up to 50 percent of the costs of operating the program. After fiscal year 1996, the Administrator may apply such amounts to defray more than 50 percent of the program's operating costs. No charges may be imposed on State and local governments. In the case of a State with authority to implement radon device, measurement, and mitigation proficiency programs, the State may impose charges consistent with charges which would have been imposed by the Administrator. Any such funds collected by a State may be used to provide State match for Federal grants pursuant to section 307 of this title.".

SEC. 8. GRANT ASSISTANCE.

(a) APPLICATION.—Section 307(b) of the Toxic Substances Control Act (15 U.S.C. 2666(b)) as redesignated by section 4 of this Act) is amended by adding at the end the following new paragraph:

"(6) A description of the State's efforts to develop a mandatory radon proficiency program consistent with sections 306(a)(2) and 314.".

(b) ELIGIBLE ACTIVITIES.—Section 307(c) of the Toxic Substances Control Act (15 U.S.C. 2666(c)) (as redesignated by section 4 of this Act) is amended by adding at the end the following new paragraphs:

"(11) Technical assistance to public water supply systems concerning mitigation of radon in public water supplies, and public education and information activities to assist homeowners in the assessment and mitigation of radon in private drinking water supplies.

"(12) Activities to adopt model new construction standards for reducing radon levels developed pursuant to section 305 to the State and assure the implementation of such standards in the State.

"(13) Technical and financial assistance to non-profit public interest groups to encourage radon testing and mitigation at local levels.

"(14) Targeting outreach and technical assistance activities to licensed child care facilities in priority radon areas.

"(15) Notwithstanding the limitation in subsection (i)(4), payment, in the form of grants or loans, of costs of implementing remediation measures necessary to prevent levels of radon in school buildings above the target action point identified pursuant to section 304(b)(1)(C): Provided, That such payments are made in consideration of the financial need of the applicant.

"(16) Payment of costs of conducting radon tests required pursuant to section 308(d): Provided, That such payments shall be made only in the case of a local educational agency that received assistance payment pursuant to paragraph (15).".

(c) PREFERENCE TO CERTAIN STATES.—Section 307(d) of the Toxic Substances Control Act (15 U.S.C. 2666(d)) (as redesignated by section 4 of this Act) is amended—

(1) by striking "1991" and inserting "1993"; and

(2) by inserting before the period ", or have adopted equally effective standards".

(d) FEDERAL SHARE.—Section 307(f) of the Toxic Substances Control Act (15 U.S.C. 2666(f)) (as redesignated by section 4 of this Act) is amended by striking "in the third year" and inserting "in each succeeding year".

(e) ASSISTANCE TO LOCAL GOVERNMENTS.—Section 307(g) of the Toxic Substances Control Act (15 U.S.C. 2666(g)) (as redesignated by section 4 of this Act) is amended—

(1) by striking "and (6)" and inserting "(6), (11), (12), (14), (15), and (16),"; and

(2) by inserting "(1)" after "GOVERNMENTS.—"; and

(3) by adding at the end the following new paragraph:

"(2) Any remediation plans for reducing radon in school buildings implemented pursuant to this section shall be reviewed for consistency with EPA guidance by the school officials responsible for authorizing these types of structural changes.".

(f) INFORMATION.—Section 307(h) of the Toxic Substances Control Act (15 U.S.C. 2666(h)) (as redesignated by section 4 of this Act) is amended by adding at the end the following new paragraph:

"(4) Any State receiving funds under this section shall investigate consumer complaints about radon services that violate the Environmental Protection Agency or State radon proficiency program. An appropriate official of the State shall advise the Administrator of any person who violates the requirements of section 314.".

(g) AUTHORIZATION.—Section 307(j) of the Toxic Substances Control Act (15 U.S.C. 2666(j)) (as redesignated by section 4 of this Act) is amended by striking paragraph (5).

SEC. 9. RADON IN SCHOOLS.

Section 308 of the Toxic Substances Control Act (15 U.S.C. 2667) (as redesignated by section 4 of this Act) is amended by adding at the end the following new subsections:

"(c) GUIDELINES.—(1) Not later than one year after the date of enactment of this subsection,

the Administrator shall publish guidelines on testing for and remediating radon in school buildings.

"(2) After the publication of guidelines pursuant to this subsection, testing and remediation carried out pursuant to this section shall be conducted in a manner consistent with such guidelines.

"(3) Any radon testing or remediation of school buildings conducted prior to the publication of guidelines pursuant to this subsection shall be considered to meet the requirements of this section if the testing or remediation is conducted consistent with any interim guidance published by the Administrator or by a State (in any case where the Administrator determines that such guidelines are substantially consistent with the guidelines published under this subsection).

"(d) Requirement for Radon Testing.—(1) Not later than two years after the designation by the Administrator of an area as a priority radon area, each local educational agency located in whole or in part in such designated area shall conduct tests for radon in each school building owned or operated by the local educational agency.

"(2) The Administrator may extend the schedule for testing for radon pursuant to this subsection to the date two years from the date of publication of testing guidelines pursuant to subsection (c).

"(3) The results of any tests conducted pursuant to this section by a local educational agency shall be available for public review in the administrative offices of the local educational agency during normal business hours. The local educational agency shall notify parent, teacher, and employee organizations of the availability of such results and shall send the results to the Administrator and the agency of the State that implements radon programs.

"(4) Any radon testing conducted pursuant to this section shall be supervised by a person who has received instruction pursuant to an Environmental Protection Agency or equivalent State approved program, as determined by the Administrator, and shall use radon measurement devices and methods approved by the radon proficiency program established pursuant to sections 306(a)(2) and 314.".

SEC. 10. REGIONAL RADON TRAINING CENTERS.

Section 309(b) of the Toxic Substances Control Act (15 U.S.C. 2668(b)) (as redesignated by section 4 of this Act) is amended by adding at the end the following new sentence: "The regional radon training centers are authorized to provide training to State and local building code officials, contractors, and others in the building community, on the model construction standards and techniques published pursuant to section 305.".

SEC. 11. FEDERAL BUILDINGS.

Section 310 of the Toxic Substances Control Act (15 U.S.C. 2669) (as redesignated by section 4 of this Act) is amended by adding at the end the following new subsection:

"(g) Radon Assessment and Mitigation Plan.—(1) Not later than January 1, 1994, the Administrator shall submit to Congress a plan describing activities to be undertaken by appropriate Federal agencies to assess and mitigate radon in Federal buildings.

"(2) The Administrator shall consult with the heads of affected Federal agencies in the development of the plan required pursuant to this subsection.

"(3) The plan required pursuant to this subsection shall, at a minimum—

"(A) include a list of each Federal building and an indication of the results of any radon tests for such buildings conducted to date;

"(B) specify those Federal buildings for which assessment and mitigation will be undertaken on an expedited basis based on consideration of—

"(i) the radon levels in the buildings;

"(ii) the number of people exposed to high radon levels; and

"(iii) the susceptibility of the building to mitigation.

"(C) specify the schedule for mitigation in each building in which radon levels exceed the target action level specified in section 303(b)(1)(C); and

"(D) specify the Federal agency responsible for the building, the estimated costs of mitigation, and the source of funds for assessment and mitigation actions.

"(4) At a minimum, each Federal agency that is responsible for Federal buildings shall assure that—

"(A) all schools and residences are assessed to determine radon levels by not later than January 1, 1996;

"(B) all other Federal buildings are assessed to determine radon levels by not later than January 1, 1998; and

"(C) in the case of a Federal building with radon levels above the target action point established by the Administrator pursuant to section 304(b)(1)(C), measures designed to achieve radon levels at or below the target action point are implemented by not later than two years after the applicable deadline for assessment specified in this paragraph.

"(5) In implementing radon assessment and mitigation activities, Federal agencies shall employ as contractors private firms certified by the Administrator as proficient pursuant to section 306(a)(2).

"(6) Not later than two years after the submittal of the plan required pursuant to this subsection, the Administrator shall submit to Congress a report on actions taken to implement the plan.".

SEC. 12. RADON INFORMATION.

Title III of the Toxic Substances Control Act (15 U.S.C. 2661 et seq.) (as amended by section 4 of this Act) is further amended by adding at the end the following new section:

"SEC. 313. RADON-RELATED INFORMATION.

"(a) Information Document.—(1) Not later than 180 days following the date of enactment of this section, the Administrator, in consultation with real estate groups and real estate financial institutions, citizen groups, and other groups that the Administrator determines to be appropriate, shall develop a written document containing radon-related information.

"(2) The document shall include, at a minimum—

"(A) information indicating the health risk associated with different levels of radon exposure consistent with the health information in the citizen's guide;

"(B) information regarding the advisability of undertaking measures to mitigate dangerous levels of radon;

"(C) information regarding appropriate Federal and State agencies that can provide further information on the health risk from radon, and a list of firms or other entities approved by the Environmental Protection Agency for purposes of radon detection and mitigation; and

"(D) recommended Environmental Protection Agency radon testing procedures that will provide quality measurements in conjunction with a real estate transaction.

"(3) A copy of such document shall be provided by every originating mortgage institution to each person from whom it receives or for whom it prepares a written application for an applicable mortgage loan. Such document shall be made available not later than five business days after such application is received or prepared.

"(4) No federally chartered secondary mortgage institution may purchase any mortgage loan originating twelve or more months after the date of enactment of this section unless such secondary mortgage institution requires, by contract or otherwise, that the originating mortgage institution shall comply with the radon information distribution requirements imposed under this section, in originating mortgages to be purchased by such secondary mortgage market institution.

"(5) For purposes of this section, a document may be printed and distributed by each originating mortgage institution if the form and content of the document meet the requirements of this section and the document is approved by the Administrator.

"(b) Validity of Contracts and Liens.—Nothing in this section shall affect the validity or enforceability of any sale or contract for the sale of residential real property or any loan, loan agreement, mortgage, or lien made or arising in connection with an applicable mortgage loan.

"(c) Relationship to Other Laws.—Nothing in this section shall annul, alter, affect, or exempt any person subject to this section from complying with the laws of any State with respect to the provision of radon-related information, except to the extent that the Administrator determines that any such law is inconsistent with this section, and then only to the extent of the inconsistency.".

SEC. 13. MANDATORY RADON PROFICIENCY PROGRAM.

Title III of the Toxic Substances Control Act (15 U.S.C. 2661 et seq.) (as amended by section 12 of this Act) is further amended by adding at the end the following new section:

"SEC. 314. MANDATORY RADON PROFICIENCY PROGRAM.

"(a) Mandatory Participation.—Effective two years after the date of the enactment of this section, no person shall offer radon measurement devices or radon measurement or mitigation services to the public unless such person has successfully completed the Environmental Protection Agency's radon proficiency program, or appropriate portions thereof.

"(b) Statutory Construction.—Nothing in this section shall be construed to apply to governmental units or nonprofit organizations that provide a radon service for their own use and do not provide that service for commercial purposes.

"(c) Delegation to States.—(1) The Administrator shall administer the mandatory proficiency program consistent with the Guidance to States on Radon Certification of the Enviromental Protection Agency.

"(2) The Administrator is authorized to enter into any agreement or other arrangement with any State for the purpose of delegating its radon proficiency program, including enforcement provisions, or any other part thereof, to such State, provided that a State program is consistent with the Federal program.

"(d) Prohibited Acts.—It shall be unlawful for any person to—

"(1) fail or refuse to comply with this section, or any rule or regulation promulgated or order issued pursuant to this section; or

"(2) fail or refuse to—

"(A) establish or maintain records as required by the Administrator or by a State where the Administrator has entered into an agreement or other arrangement under subsection (c);

"(B) submit reports, notices, or other information, as required by the Administrator or by a State where the Administrator has entered into an agreement or other arrangement under subsection (c);

"(C) permit entry or inspection by the Administrator, or by a State where the Administrator has entered into an agreement or other arrangement under subsection (c); or

"(D) permit access to or copying of records by a State where the Administrator has entered into an agreement or other arrangement under subsection (c).".

SEC. 14. MEDICAL COMMUNITY OUTREACH.

Title III of the Toxic Substances Control Act (15 U.S.C. 2661 et seq.) (as amended by section 13 of this Act) is further amended by adding at the end the following new section:

"SEC. 315. MEDICAL COMMUNITY OUTREACH.

"(a) IN GENERAL.—The Administrator, in cooperation with the Secretary of Health and Human Services, shall develop and implement an outreach program to provide information about radon to the medical community.

"(b) INFORMATION.—(1) The Administrator, in consultation with the Secretary of Health and Human Services and the Surgeon General, shall develop informational material concerning radon tailored to doctors in general practice and in specialties related to lung cancer. Such information shall, at a minimum—

"(A) explain the health threats posed by exposure to radon;

"(B) explain the association of radon with smoking and other causes of lung cancer;

"(C) identify appropriate steps to take to determine exposure to radon in the home; and

"(D) identify sources of additional information.

"(2) Not later than one year after the date of enactment of this section, the Administrator shall transmit the information developed pursuant to this section to—

"(A) doctors in the United States in general practice;

"(B) doctors in specialties related to lung cancer;

"(C) all doctors employed by the Federal Government;

"(D) all hospital administrators; and

"(E) other physicians and officials determined by the Administrator to be appropriate.

"(c) REPORT.—Not later than two years after the date of enactment of this section, the Administrator, in consultation with the Secretary of Health and Human Services, shall report to Congress concerning the implementation of this section and recommendations for measures to improve radon information dissemination to the medical community.".

SEC. 15. FEDERAL HOUSING.

Title III of the Toxic Substances Control Act (15 U.S.C. 2661 et seq.) (as amended by section 14 of this Act) is further amended by adding at the end the following new section:

"SEC. 316. FEDERALLY OWNED AND ASSISTED HOMES, SCHOOLS, AND BUILDINGS.

"(a) FEDERALLY FUNDED CONSTRUCTION.—Not later than six months after the publication of priority radon areas required by section 303, or the publication of model construction standards required by section 305, whichever is later, the head of each Federal agency shall adopt such procedures as may be necessary to assure that any new Federal building or that any school constructed with Federal financial assistance, in a priority radon area, shall conform to the model construction standards required by section 305.

"(b) FEDERALLY ASSISTED HOUSING.—The Secretary of Housing and Urban Development, in cooperation with the Administrator, shall, not later than one year after the date of enactment of this Act, disseminate in priority radon areas information on the health threats posed by radon, proper methods of testing for radon, and techniques for mitigating elevated radon levels—

"(1) public housing and Indian housing assisted under the United States Housing Act of 1937 (42 U.S.C. 1401 et seq.); and

"(2) tenants in housing units funded by housing assistance programs administered by the Secretary.".

"(c) RESEARCH.—The Secretary of Housing and Urban Development shall undertake a program of radon research, consisting of research on—

"(1) radon distribution and mitigation within multiunit residential structures in conjunction with the Administrator;

"(2) landlord liability;

"(3) predicting radon hazards in new multiunit residential structures on particular lands; and

"(4) such other research as both the Secretary of Housing and Urban Development and the Administrator consider appropriate.

"(d) TESTING REQUIREMENT.—(1) Beginning 6 months after the publication of Radon Priority Areas required by this title, any residential dwelling or multi-unit structure owned by a Federal department or agency, or any Government corporation in a Radon Priority Area shall be tested for radon before a sales contract to sell the home is signed.

"(2) Any radon testing conducted pursuant to this section shall be supervised by a person who has received instruction pursuant to an Environmental Protection Agency or equivalent State approved program, as determined by the Administrator, and use radon measurement devices and methods approved by the radon proficiency program established pursuant to section 306(a)(2).

"(3) Radon testing conducted within a 5-year period prior to acquisition by a Federal department or agency, or any Government corporation or Government controlled corporation, shall satisfy the requirements of this section if the test otherwise meets the requirements of paragraph (2).

"(4) The results of a radon test required pursuant to this section shall be made available to potential buyers of any homes described in paragraph (1) before a sales contract to sell the home is signed.".

SEC. 16. NATIONAL RADON EDUCATIONAL EFFORTS.

Title III of the Toxic Substances Control Act (15 U.S.C. 2661 et seq.) (as amended by section 15 of this Act) is further amended by adding at the end the following new section:

"SEC. 317. NATIONAL RADON EDUCATIONAL CAMPAIGN.

"The Administrator is authorized to establish a national educational campaign to increase public awareness about radon health risks and motivate public action to reduce radon levels, including the use of funds for the purchase and production of public educational materials.".

SEC. 17. RADON IN WORK PLACES.

Title III of the Toxic Substances Control Act (15 U.S.C. 2661 et seq.) (as amended by section 16 of this Act) is further amended by adding at the end the following new section:

"SEC. 318. RADON IN WORK PLACES.

"(a) STUDY OF RADON IN WORK PLACES.—

"(1) AUTHORITY.—The Administrator shall conduct a study for the purpose of determining the extent of radon contamination in the Nation's work places.

"(2) SURVEY.—In conducting such study, the Administrator shall design a survey that, when completed, allows Congress to characterize the extent of radon contamination in work places. The survey shall include testing from a representative sample of work places in each priority radon area and shall include additional testing, to the extent resources are available for such testing. The survey also shall include any reliable testing data supplied by States, schools, or other parties.

"(3) ASSISTANCE.—The Administrator shall make available to the appropriate agency of each State, as designated by the Governor of such State, guidance and data detailing the risks associated with high radon levels, technical guidance and related information concerning testing for radon within work places, and methods for reducing radon levels.

"(4) DIAGNOSTIC AND REMEDIAL EFFORTS.—The Administrator is authorized to select from high-risk areas identified in paragraph (2), work places for purposes of enabling the Administrator to undertake diagnostic and remedial efforts to reduce the levels of radon in such work places. Such diagnostic and remedial efforts shall be carried out with a view to developing technology and expertise for the purpose of making such technology and expertise available to any work place and the several States.

"(5) REPORT.—Not later than two years after the date of enactment of this Act, the Administrator shall submit a report setting forth the results of the study conducted pursuant to this section.

"(b) AUTHORIZATION.—For the purpose of carrying out the provisions of paragraph (a)(4), there are authorized to be appropriated such sums, not to exceed $500,000, as may be necessary. For the purpose of carrying out this section other than paragraph (a)(4), there are authorized to be appropriated such sums, not to exceed $2,000,000, as may be necessary.".

SEC. 18. PREEMPTION.

Title III of the Toxic Substances Control Act (15 U.S.C. 2661 et seq.) (as amended by section 17 of this Act) is further amended by adding at the end the following new section:

"SEC. 319. PREEMPTION.

"(a) CONSTRUCTION OF PROVISIONS AS NOT PREEMPTING OTHER LAWS.—Nothing in this title shall be construed, interpreted, or applied to preempt, displace, or supplant any other Federal or State law, whether statutory or common.

"(b) AWARD OF COSTS AND DAMAGE AWARDS.—Nothing in this title shall be construed or interpreted to preclude any court from awarding costs and damages associated with the testing or mitigation of radon contamination, or a portion of such costs, at any time.

"(c) CONSTRUCTION OF PROVISIONS AS NOT PROHIBITING MORE STRINGENT STATE REQUIREMENTS.—Nothing in this title shall be construed or interpreted as preempting a State, with respect to radon within such State, from establishing any liability or more stringent requirement that is equal to or more stringent than those included in this title.

"(d) CREATION OF CAUSE OF ACTION.—Nothing in this title creates a cause of action or in any other way increases or diminishes the liability of any person under any other law.

"(e) EFFECT OF PROVISIONS IN CIVIL ACTIONS FOR DAMAGES.—It is not the intent of Congress that this subsection, or rules, regulations, or orders issued pursuant to this subsection, be interpreted as influencing, in either the plaintiff's or defendant's favor, the disposition of any civil action for damages relating to radon. This subsection does not affect the authority of any court to make a determination in any adjudicatory proceedings under applicable State law with respect to the admission into evidence or any other use of this title or rules, regulations, or orders issued pursuant to this title.".

SEC. 19. ENFORCEMENT.

Title III of the Toxic Substances Control Act (15 U.S.C. 2661 et seq.) (as amended by section 18 of this Act) is further amended by adding at the end the following new section:

"SEC. 320. ENFORCEMENT.

"(a) CIVIL PENALTIES.—(1) Any person violating section 313 or 314 shall be liable to the United States for a civil penalty in an amount not to exceed $25,000 for each such violation.

"(2)(A) A civil penalty under this section shall be assessed by the Administrator by an order made on the record after opportunity for a hearing in accordance with section 554 of title 5,

United States Code. Before issuing such an order, the Administrator shall give written notice to the person to be assessed a civil penalty under such order and provide such person an opportunity to request, not later than 15 days after the date the notice is received by such person, a hearing on the order.

"(B) In determining the amount of a civil penalty, the Administrator may take into account the nature, circumstances, extent, and gravity of the violation or violations and, with respect to the violator, ability to pay, effect on ability to continue to do business, any history of prior such violations, the degree of culpability, and such other matters as justice may require.

"(C) The Administrator may compromise, modify, remit, with or without conditions, any civil penalty that may be imposed under this subsection. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the firm charged.

"(3) Any person who requested a hearing under this section respecting the assessment of a civil penalty and who is aggrieved by an order assessing a civil penalty may file a petition for judicial review of such order with the United States Court of Appeals for the District of Columbia Circuit or for any other circuit in which such person resides or transacts business. Such a petition may only be filed within the 30-day period beginning on the date the order making such assessment was issued.

"(4) If any person fails to pay an assessment of a civil penalty—

"(A) after the order making the assessment has become a final order and if such person does not file a petition for judicial review of the order in accordance with paragraph (3); or

"(B) after a court in an action brought under paragraph (3) has entered a final judgment in favor of the Administrator,

the Attorney General shall recover the amount assessed (plus interest at currently prevailing rates from the date of the expiration of the 30-day period referred to in paragraph (3) or the date of such final judgment, as the case may be) in an action brought in any appropriate district court of the United States. In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review.

"(b) Compliance Orders.—(1) If the Administrator finds on the basis of information made available, that any person, firm, or organization is in violation of this Act, the Administrator shall proceed under the authority under subsection (2) of this section, or notify the person, firm, or organization in which the violation occurred. If, beyond the thirtieth day after the notification of the Administrator, the State has not commenced appropriate enforcement action, the Administrator may issue an order requiring compliance or such other relief as the Administrator may find appropriate, or bring civil action in accordance with paragraph (4) of this subsection.

"(2) If the Administrator finds, on the basis of information made available, that any person, firm, or organization is in violation of requirements of the Act, the Administrator may issue an order requiring such person, firm, or organization to comply with such requirement or such other relief as the Administrator may find appropriate, or shall bring civil action in accordance with paragraph (4) of this subsection.

"(3) Any order issued under this subsection shall be by personal service, shall state with reasonable specificity the nature of the violation, and shall specify a time for compliance not to exceed thirty days. Such orders shall take into account the seriousness of the violation and any good faith efforts to comply with applicable requirements.

"(4) The Administrator is authorized to commence a civil action for appropriate relief, including a permanent or temporary injunction, of any violation for which he is authorized to issue a compliance order under paragraph (1) of this subsection. Any action under this subsection may be brought in the district court of the United States in the district in which the defendant is located or resides or is doing business, and such court shall have jurisdiction to restrain the violation and require compliance. Notice of the commencement of such action shall be given immediately to the appropriate State.".

SEC. 20. CITIZEN SUITS.

Title III of the Toxic Substances Control Act (15 U.S.C. 2661 et seq.) (as amended by section 19 of this Act) is further amended by adding at the end the following new section:

"SEC. 321. CITIZEN SUITS.

"(a) In General.—Except as provided in subsection (b), any person may commence a civil action—

"(1) against any person (including (A) the United States, and (B) any other governmental instrumentality or agency to the extent permitted by the 11th amendment to the Constitution) who is alleged to be in violation of this title or any rule promulgated thereunder, to restrain such violation; or

"(2) against the Administrator to compel the Administrator to perform any act or duty under this Act that is not discretionary.

Any civil action under paragraph (1) shall be brought in the United States district court for the district in which the alleged violation occurred or in which the defendant resides or in which the defendant's principal place of business is located. Any action brought under paragraph (2) shall be brought in the United States District Court for the District of Columbia, or the United States district court for the judicial district in which the plaintiff is domiciled. The district courts of the United States shall have jurisdiction over suits brought under this section, without regard to the amount in controversy or the citizenship of the parties. In any civil action under this subsection, process may be served on a defendant in any judicial district in which the defendant resides or may be found and subpoenas for witnesses may be served in any judicial district.

"(b) Limitation.—No civil action may be commenced—

"(1) under subsection (a)(1) to restrain a violation of this Act, or rule or order under this Act—

"(A) before the expiration of sixty days after the plaintiff has given notice of such violation—

"(i) to the Administrator; and

"(ii) to the person who is alleged to have committed such violation; or

"(B) if the Administrator has commenced and is diligently prosecuting a proceeding to require compliance with this Act or with such rule or order, or if the Attorney General has commenced and is diligently prosecuting a civil action in a court of the United States to require compliance with this Act or with such rule or order, but if such proceeding or civil action is commenced after the giving of notice, any person giving such notice may intervene as a matter of right in such proceeding or action; or

"(2) under subsection (a)(2) before the expiration of sixty days after the plaintiff has given notice to the Administrator of the alleged failure of the Administrator to perform an act or duty that is the basis for such action.

Notice under this subsection shall be given in such manner as the Administrator shall prescribe by rule.

"(c) In General.—(1) In any action under this section, the Administrator, if not a party, may intervene as a matter of right.

"(2) The court, in issuing any final order in any action brought pursuant to subsection (a), may award costs of suit and reasonable fees for attorneys and expert witnesses if the court determines that such an award is appropriate. Any court, in issuing its decision in an action brought to review such an order, may award costs of suit and reasonable fees for attorneys if the court determines that such an award is appropriate.

"(3) Nothing in this section shall restrict any right that any person (or class of persons) may have under any statute or common law to seek enforcement of this Act, or any rule or order under this Act, or to seek any other relief.

"(d) Consolidation.—When two or more civil actions brought under subsection (a) involving the same defendant and the same issues or violations are pending in two or more judicial districts, such pending actions, upon application of such defendants to such actions that is made to a court in which any such action is brought, may, if such court in its discretion so decides, be consolidated for trial by order (issued after giving all parties reasonable notice and opportunity to be heard) of such court and tried in—

"(1) a district that is selected by such defendant and in which one of such actions is pending;

"(2) a district that is agreed upon by stipulation between all the parties to such actions and in which one of such actions is pending; or

"(3) a district that is selected by the court and in which one of such actions is pending.

The court issuing such an order shall give prompt notification of the order to the other courts in which the civil actions consolidated under the order are pending.".

SEC. 21. AUTHORIZATIONS OF APPROPRIATIONS.

(a) Technical Assistance.—Section 306(f) of the Toxic Substances Control Act (15 U.S.C. 2665(f)) (as redesignated by section 4 of this Act) is amended by striking "and 1991." and inserting "1991, 1992, 1993, and 1994.".

(b) Grant Assistance.—Section 307(j)(1) of the Toxic Substances Control Act (15 U.S.C. 2666(j)(1)) (as redesignated by section 4 of this Act) is amended by inserting before the period ", and $15,000,000 for each of fiscal years 1992, 1993, and 1994".

(c) School Remediation.—Section 307(j) of the Toxic Substances Control Act (15 U.S.C. 2666(j)) (as redesignated by section 4 of this Act) is amended—

(1) by striking paragraph (5); and

(2) by adding at the end the following new paragraphs:

"(5) Of funds appropriated pursuant to this subsection for fiscal years 1992, 1993, and 1994, not more than one-third shall be used to implement radon remediation measures for local educational agencies pursuant to paragraphs (15) and (16) of subsection (c).

"(6) Of funds appropriated pursuant to this subsection for fiscal years 1992, 1993, and 1994, the Administrator may reserve an amount up to 2 percent or $200,000, whichever is the greater, for the purposes of making grants to local educational agencies for the implementation of measures to reduce radon levels: Provided, That any such local educational agency is prohibited by State law from receiving grant assistance from the State: Provided further, That the local educational agency provides not less than 50 percent of the cost of implementing such measures from non-Federal sources.".

(d) Regional Training Centers.—Section 309(f) of the Toxic Substances Control Act (15 U.S.C. 2668(f)) (as redesignated by section 4 of this Act) is amended by inserting before the period ", and $1,500,000 for each of fiscal years 1992, 1993, and 1994".

SEC. 22. TECHNICAL AMENDMENTS.

(a) Table of Contents.—The table of contents in section 1 of the Toxic Substances Control Act (15 U.S.C. 2601 note) is amended—

(1) by redesignating the items relating to sections 303 through 311 as 304 through 312, respectively;

(2) by inserting after the item relating to section 302 the following new item:

"Sec. 303. Priority radon areas.";
and

(3) by adding at the end the following new items:

"Sec. 313. Radon-related information.
"Sec. 314. Mandatory radon proficiency program.
"Sec. 315. Medical community outreach.
"Sec. 316. Federally owned and assisted homes, schools, and buildings.
"Sec. 317. National radon educational campaign.
"Sec. 318. Radon in work places.
"Sec. 319. Preemption.
"Sec. 320. Enforcement.
"Sec. 321. Citizen suits.".

(b) RADON MITIGATION DEMONSTRATION PROGRAM.—Section 118(k)(2) of the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. 7401 note) is amended—

(1) by adding at the end of subparagraph (A) the following: "The demonstration program also shall include the development and evaluation of innovative, low-cost techniques to achieve ambient radon concentrations in existing structures with low to moderate radon levels and in new structures, and the development and demonstration of radon mitigation technology for multistory buildings.".

(2) by striking subparagraph (B); and

(3) by redesignating subparagraph (C) as subparagraph (B).

SEC. 23. REPORT TO CONGRESS ON PROMOTING RADON TESTING.

(a) EVALUATION.—The Administrator of the Environmental Protection Agency, in consultation with the Secretary of Housing and Urban Development, the Secretary of Agriculture, and the Secretary of Veterans Affairs, shall evaluate existing efforts to promote radon testing in the Nation's homes and ways to increase radon testing.

(b) REPORT.—(1) The Administrator shall report to Congress by October 1, 1993, on the effectiveness of alternative strategies to promote radon testing. The strategies shall include—

(A) grants to support the development of radon testing strategies by States;

(B) financial incentives to homeowners;

(C) testing and disclosure of radon levels during real estate marketing;

(D) public education programs;

(E) distributing radon information during real estate marketing; and

(F) distributing radon information with utility bills.

(2) In preparing the report, the Administrator shall consult with concerned parties including public interest groups, health officials, radon testing industries, realtors, home builders, utilities and the States.

The PRESIDING OFFICER. Under the previous order, time for the debate on the bill and the committee substitute is limited to 30 minutes equally divided and controlled in the usual form.

Amendments in order to the committee substitute to S. 792 are: amendment by the Senator from North Dakota [Mr. BURDICK], a technical amendment in the first degree, no second-degree in order, for 5 minutes; amendment by the Senator from New Hampshire [Mr. SMITH], a first-degree on radon, no second-degree, 10 minutes; and two amendments by the Senator from Wyoming, a first-degree amendment on public health, no time limit, and relevant second-degree amendments are in order; and a first degree on radon in public schools, no time limit, second-degree amendments are in order.

The Chair recognizes the Senator from New Jersey [Mr. LAUTENBERG].

Mr. LAUTENBERG. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator is recognized accordingly.

Mr. LAUTENBERG. Mr. President, I acknowledge the presence of my colleague from Minnesota, Senator DURENBERGER, with whom I worked very closely on many environmental issues and whose assistance here has been invaluable.

Mr. President, I rise in support of S. 792, the Indoor Radon Abatement Reauthorization Act of 1992. This bill will reauthorize and strengthen the radon testing, mitigation, and education programs we enacted in 1988.

Mr. President, radon is a known killer. It attacks us in our homes, our schools, and our work places. Radon is one of the most serious environmental health risks facing the country today.

The evidence is overwhelming. A 1990 report by the EPA Science Advisory Board, an expert panel of scientists which provides technical advice to the EPA Administrator, identified radon and other indoor air pollutants as posing relatively high risks to human health compared to other environmental threats.

At a Superfund Subcommittee hearing in 1989, Assistant Surgeon General Vernon Houk said that the evidence of the health threat posed by radon is the strongest of any environmental contaminant.

The evidence Assistant Surgeon General Houk referred to involves lung cancer deaths to miners caused by radon. A 1990 National Academy of Sciences report on radon concluded that this mine data can be used to estimate the risks in our homes and schools from radon exposure.

Based on this report, EPA has reestimated the risk posed by radon to 7,000 to 30,000 lung cancer deaths a year with a mean estimate of 14,000 cancer deaths. That makes radon the second leading cause of lung cancer behind smoking.

In 1988, EPA and the Surgeon General's Office issued a national health advisory urging people to test their homes after survey results showed that one in four homes in 17 States surveyed had elevated radon levels. And in April of 1989, EPA completed a pilot survey to measure radon levels in 130 schools across the country. This survey found that one in five classrooms had elevated radon levels and that over half of the schools tested had at least one classroom with elevated radon levels.

In New Jersey, the Department of Environmental Protection and Energy has estimated the 320 New Jerseyans will die of lung cancer each year from radon, making it by far the most serious environmental cause of cancer to State residents.

It is no wonder that the Department of Health and Human Services, in Healthy People 2000, the Nation's health strategy, identified increased radon testing as one of just three environmental health goals for the country.

Fortunately, it is relatively inexpensive to test for elevated levels of radon. Home tests cost as little as $10 and mitigation efforts for elevated levels of radon, while not cheap, are in the reach of most homeowners. EPA estimates that the average cost to test a school is roughly $1,000 and that the average mitigation cost is only a few thousand dollars per school.

The Congress has consistently expressed its concern about radon and has taken steps to define the scope of the health threat and to develop strategies to address that threat.

Legislation I wrote, which was included in the 1986 Superfund Amendments and Reauthorization Act, required EPA to conduct a nationwide radon survey and develop radon mitigation measures. Radon research legislation which Senator MITCHELL and I wrote also was included in that bill.

In 1988, the Congress passed the Indoor Radon Abatement Act to require EPA to establish a comprehensive radon abatement program.

Under that bill, EPA was required to provide grants to States to initiate radon programs and provide technical assistance to those programs, establish a voluntary radon testing proficiency program, update the radon citizens guide, conduct a national survey of radon in schools, establish model radon construction standards, and initiate a program to study radon in Federal buildings.

That same year, the Congress also included provisions I authored to require HUD to develop a radon testing and mitigation policy in its multistory buildings in the Stewart B. McKinney Homeless Assistance Amendments Act of 1988. This bill was developed as a result of a GAO report, "Indoor Radon: Limited Federal Response To Reduce Contamination in Housing," prepared at my request. The report showed that the Federal housing agencies were doing very little to address radon.

Mr. President, EPA has developed a good program of developing information about the threat posed by radon, and testing and mitigation methods. But the problem is that too few people are investing in a simple radon test. And this is posing a serious health threat. The principal problem here is that radon is odorless, it is tasteless, it is invisible, and people just do not take the threat seriously.

S. 792 extends the authorization for the Indoor Radon Abatement Act. And S. 792 will expand efforts to encourage testing and mitigation.

It includes provisions from S. 779 introduced by Senator MITCHELL, S. 791 introduced by Senator CHAFEE and S. 575, the Radon Testing For Safe Schools Act which I introduced.

S. 792 will increase radon information dissemination efforts. Radon information will be provided to home purchasers prior to a real estate transfer. HUD will disseminate radon information to public and Indian housing authorities. EPA will develop a model State program to provide radon information to tenant organizations.

And EPA will establish a medical community radon outreach program.

S. 792 will make mandatory the existing voluntary radon proficiency program. This will mean that no one will be able to offer radon measurement devices or radon measurement or mitigation services without successfully completing an EPA or State radon proficiency program. This will protect consumers who want to test their homes for radon or who want to undertake radon mitigation efforts.

S. 792 requires testing of schools in radon prone areas and provides Federal assistance to reduce radon levels. And it authorizes a nationwide survey of radon in work places.

It also requires the development of a Federal building radon mitigation plan.

S. 792 prohibits Federal loans assistance for new homes in radon prone areas unless the home is built to meet radon construction standards. And it requires Federal buildings and schools financed by the Federal Government to meet the model standards.

Mr. President, I want to thank Senator BURDICK, the chairman of our committee, Senator CHAFEE, the committee's ranking minority member, Senator DURENBERGER, the ranking Republican on the Superfund Subcommittee, and our majority leader, Senator MITCHELL, who has been a leader in efforts to protect human health from air pollution, for their support of this legislation.

Mr. President, this is the second bill the Senate will consider in this Congress to address the threat posed by indoor air pollutants. Last year we overwhelmingly passed S. 455, the Indoor Air Quality Act.

Today, we can pass legislation to reduce the health threat posed by radon in a cost-effective manner. I urge my colleagues to join in supporting the effort to rid our Nation of the danger posed by radon.

The PRESIDING OFFICER. Who yields time?

Mr. DURENBERGER. I yield myself 5 minutes.

The PRESIDING OFFICER. Senator DURENBERGER is recognized for up to 5 minutes.

PRIVILEGE OF THE FLOOR

Mr. DURENBERGER. Mr. President, I ask unanimous consent that privilege of the floor be granted to Karyn L. Gimbel on a temporary basis for the pendency of this action. She is assigned to the Environment and Public Works Committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURENBERGER. Mr. President, I am here at the request of my colleague, Senator CHAFEE of Rhode Island who, as the chairman pointed out, is the ranking member of the subcommittee but could not be here today for the passage of this bill, of which he is an original cosponsor, and also the sponsor of a companion bill, S. 791.

Mr. President, I am pleased to join with my colleague, Senator LAUTENBERG, in presenting the Radon Reauthorization Abatement Act to the Senate this morning.

Radon, as indicated already, is a serious threat to public health in the United States. Radon is a colorless, odorless gas that is discharged from the soil into the ambient air, but also into and through the foundations of buildings. It can become concentrated inside of buildings.

Radon is a radioactive substance. As it decays it emits radioactive particles. When radon is breathed into the lungs these decay products can cause damage to the lung and the beginning of lung tumor, that is lung cancer.

The Environmental Protection Agency believes that radon is the second leading cause of lung cancer in the United States, exceeded only by smoking. EPA estimates that approximately 20,000 lung cancer cases per year are caused by radon exposure.

This is an indoor air pollution problem. The risks from radon are highest when we are inside our homes, schools, and workplaces. The threat is not spread evenly across the whole country. Some geological formations have more radioactive soil and bedrock than others and the radon risk is higher in these areas.

I happen to represent a State in which the bedrock is particularly susceptible to elevated risks of radon.

The Environmental Protection Agency has set a so-called action level for radon in homes and other buildings. It is a yellow light warning that elevated risks may be present when the action level is exceeded. EPA believes that approximately 10 percent of the homes in the United States may exceed this action level. In States with high radon soil concentrations, that percentage may double.

We can protect ourselves against the radon threat. The first step is to have your home tested for radon. Relatively inexpensive test kits are now available. They can be purchased at the grocery store or the hardware store. They are very easy to use.

But only 5 percent of American homes have been tested. Actions by the Congress, by EPA and by some of the States have given the radon problem high visibility in recent years. But only 5 percent of homes have been tested. We must do much better than that.

If a home is tested and a problem is found, if radon in a home exceeds EPA's action level, there are steps that homeowners can take to reduce the risk. This is a case where prevention to improve health is possible, if people would take the simple steps to become informed about the radon problem and have their homes tested.

Information on radon mitigation measures can be obtained from the EPA. It can be obtained from State health departments and from other sources like your community library.

The legislation that we are considering today reauthorizes a modest partnership between the Federal Government and the States to focus public attention on the problem. The bill will assure that more public schools and Federal buildings get tested for radon. It will improve the capacity of contractors to correct problems when they are discovered. It will assure better construction in high radon areas in the future and it will assure that home buyers are informed about the health consequences of radon.

But real advances in public health protection will only be realized if the American public takes action. This is a public health problem, and it depends totally on the cooperation of every person, every home owner, for its solution. People, especially those living in high radon areas, should test their homes for radon.

Mr. President, this legislation is the result of work by many Members of this body. I would like especially to call attention to the role played by my colleague, Senator JOHN CHAFEE of Rhode Island, on the bill. As I said, he cannot be with us this morning, but I did want my colleagues and others to know of his deep interest in the subject. I have already pointed out that he is the author of S. 791, which is titled the Radon Information Act, and many of the provisions of that bill are included in the legislation we are now considering.

Senators LAUTENBERG and MITCHELL should also be commended here today for the leadership that they have provided over several years on this public health problem.

Mr. President, I yield the floor.

Mr. BURDICK. Mr. President, I rise today in support of the passage of S. 792, the Indoor Radon Abatement Reauthorization Act. The Committee on Environment and Public Works has heard testimony over the course of the past 5 years documenting the serious health effects of radon and indoor air pollution.

S. 792 addresses these health effects in several ways. The bill amends the

Toxic Substances Control Act [TSCA] by extending EPA's authorization of radon information, technical assistance and training programs through 1994. The bill directs EPA to designate as priority radon areas localities in which the average radon level is likely to exceed the national average. The bill authorizes a wide range of measures to increase public information, on radon health threats, to prevent radon in new homes, and to provide financial assistance to State programs.

I comment our colleague, Senator FRANK LAUTENBERG, for crafting this vital legislation. The Senator from New Jersey has focused the attention of the Committee on Environment and Public Works on this pressing public health problem and effectively marshalled support for S. 792. I am grateful for his efforts.

I also acknowledge the work of three staff members who have aided the Senate in its consideration of this legislation. Jeff Peterson, Rick Erdheim, and Rich Innes have worked for many months in developing this important bill. I thank them for their good work.

Mr. President, my home State of North Dakota has documented elevated radon levels in several areas of the State. S. 792 will do much to address this national public health problem. I urge my colleagues to support this much-needed reauthorization.

Mr. WOFFORD. Mr. President, I am pleased that the Senate is considering S. 792, the Indoor Radon Reauthorization Act. I commend the bill's sponsor, Senator LAUTENBERG, for his leadership in bringing this important legislation to the Senate floor in a timely manner. I am proud to serve with him, Chairman BURDICK and the majority leader on the Environment and Public Works Committee and to join with them as a cosponsor of this legislation.

Unfortunately, the Bush administration again demonstrates its penny-wise and pound-foolish approach to the problems facing American families in their own homes and communities by opposing this legislation. Unlike the President, we in Pennsylvania know that we cannot bury our heads in the sand and hope that the problem of radon will go away. After all it is right there in the sand with us. And we believe that Government has the obligation to help do something about it.

The fact is that radon is an acute problem in several areas of my State, threatening our families' health and quality of life. In fact, the discovery of high levels of radon in Pennsylvania during the 1980's led to the national awareness of radon hazards. Witnesses from the Pennsylvania Department of Environmental Resources testified before the Senate Environment and Public Works Committee that over 10,000 single-family dwellings in Pennsylvania have radon screening levels in excess of 100 picocuries/liter, which is a level well above the concentrations allowed in uranium mines. Clearly, this places our people at unnecessary risk.

Pennsylvania has developed a comprehensive program to fight the effects of radon. The State department of environmental resources has a telephone hotline that receives an average of 1,000 calls each month. The State also published a series of informational documents on radon and its potential health effects, as well as lists of individuals and firms certified by the State for radon testing or abatement.

But Pennsylvanians should not have to fight this battle alone. This legislation helps ensure that they won't have to. It expands the Federal effort to combat the hazards associated with radon exposures. The extension of the Environmental Protection Agency grant program will provide Federal matching funds to States on a 50-50 basis, helping States like Pennsylvania continue their work in identifying and abating radon hazards.

In addition, S. 792 addresses the need to identify the extent of radon in our schools. The separate authorization contained in this bill will assure that funds are available in grants and loans to schools for the purpose of reducing the radon threat. By first identifying priority radon areas, EPA can more effectively manage radon abatement funds for our Nation's schools.

Mr. President, prevention is always better, and less expensive, than solving an existing problem. This legislation, by directing EPA to issue model radon construction standards for single family homes, aims to prevent the accumulation of radon before it reaches levels that may present a health threat.

In addition to the prevention features of S. 792, the education and medical outreach provisions are beneficial to those who live in areas where radon has been discovered. Because the health threats of radon may not be known throughout the medical community, it is important for the EPA to increase awareness of its dangers and ways to combat its effects on human health.

Finally, Mr. President, this legislation demonstrates that partnerships between the Federal Government and States can lead to tangible improvements in the lives of Americans. Apparently, the administration is unwilling to fully support this kind of effective partnership. That is unfortunate, because radon does pose a threat in many areas of my State of Pennsylvania. Aggressive efforts by the State along with financial and technical assistance from the Federal Government have created a sound structure to combat these threats.

This legislation builds on the foundation laid in the Indoor Radon Abatement Act of 1988. The reauthorization contained in S. 792 will enhance our ability to protect the health of our families and well as the value of their homes from the threats of radon. I hope that the administration will see the light and support this legislation, and I commend its passage to my colleagues.

AMENDMENT NO. 1702

(Purpose: To clarify and improve certain provisions relating to indoor radon abatement)

Mr. LAUTENBERG. Mr. President, I want to now go to the committee amendments. I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG] for Mr. BURDICK, proposes an amendment numbered 1702.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 11, line 5, strike "1991" and insert "1992".

On page 14, line 6, strike "Business" and insert "business".

On page 14, line 24, strike "and".

On page 15, strike line 2 and insert the following: eral agency, and

"(C) is occupied by the Library of Congress, is part of the White House, or is the residence of the Vice President, and

"(D) is included in the definition of "Capitol Buildings' under section 16(a) of the Act entitled 'An Act to define the area of the United States Capitol Grounds, to regulate the use thereof, and for other purposes', approved July 31, 1946 (40 U.S.C. 193m).".

On page 15, line 18 and 19, insert "indoor" before "radon" each place it appears.

On page 16, line 14, strike "(15 U.S.C. 2663(a))".

On page 16, strike lines 15 and 16 and insert the following:

by section 4 of this Act) is amended—

(1) by striking "June 1, 1989," and inserting "January 1, 1992,"; and

(2) by inserting ", in consultation with the Director of the Centers for Disease Control of the Department of Health and Human Services," after "Administrator" in the last sentence of the subsection.

On page 17, line 13, strike "(15 U.S.C. 2663(b)(2))".

On page 17, line 21, strike "(15 U.S.C. 2664)".

On page 17, after line 24, insert the following new subparagraph:

(B) by inserting "and periodically update" after "develop";

On page 18, strike lines 1 and 2 and insert the following new subparagraph:

(C) by striking the second sentence of the section and inserting the following new subsection:

"(b) CONSULTATION.—In developing and updating standards and techniques pursuant to subsection (a), the Administrator shall consult with—

"(1) the Secretary of Housing and Urban Development;

"(2) organizations that are involved in establishing national building construction standards and techniques; and

"(3) national organizations that represent homebuilders and State and local housing agencies (including public housing agencies).'';

On page 18, line 3, strike ''(C)'' and insert ''(E)''.

On page 18, line 6, strike ''(D)'' and insert ''(F)''.

On page 18, line 8, strike ''(E)'' and insert ''(G)''.

On page 18, line 11, strike ''(15 U.S.C. 2664)''.

On page 18, line 17, insert ''by'' before ''not later''.

On page 18, line 21, strike ''(15 U.S.C. 2664)''.

On page 19, line 12, insert ''require the use of reasonably available and economically achievable techniques, and to'' after ''be designed to''.

On page 19, line 14, insert ''where possible by using these techniques'' after ''304(b)(1)(C)''.

On page 19, line 16, strike ''(15 U.S.C. 2664)''.

On page 20, lines 8 and 20, strike ''(15 U.S.C. 2664)'' each place it appears.

On page 21, line 6, strike ''(15 U.S.C. 2665(a))''.

On page 21, strike lines 10 through 12 and insert ''disseminate radon information to State and local tenant organizations.''.

On page 22, line 3, strike ''certification'' and insert ''proficiency''.

On page 22, line 5, strike ''(15 U.S.C. 2665(a)(2))''.

On page 22, line 9, strike ''(15 U.S.C. 2665(e)(2))''.

Beginning on page 22, line 8, strike all through page 23, line 3, and insert the following:

(2) Section 306(e) of the Toxic Substances Control Act (as redesignated by section 4 of this Act) is amended—

(A) by redesignating paragraph (2) as paragraph (2)(A); and

(B) by adding after paragraph (2)(A), as so redesignated, the following new subparagraphs:

''(B)(i) Except as otherwise provided in clause (ii), for the purposes of this paragraph, the term 'small business' means a corporation, partnership, or unincorporated business that—

''(I) has 150 or fewer employees; and

''(II) for the 3-year period preceding the date of the assessment, has an average annual gross revenue from radon measurement and mitigation activities in an amount that does not exceed $40,000,000.

''(ii) If, after consultation with the Small Business Administration, the Administrator determines that a modification of the definition of 'small business' under clause (i) is appropriate to characterize small businesses associated with radon measurement and mitigation, the Administrator shall, by regulation, modify the definition in such manner as the Administrator determines to be appropriate.

''(C) The Administrator shall consider reductions of such charges for small businesses pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

''(D) No charges may be imposed on State and local governments. In the case of a State which is administering a radon proficiency program pursuant to section 314(c), the State may impose charges consistent with charges which would have been imposed by the Administrator. Any amounts collected by a State as charges under this paragraph may be used as part of the non-Federal share of a grant awarded pursuant to section 307 of this title.''.

On page 23, line 6, strike ''(15 U.S.C. 2666(b))''.

On page 23, line 13, strike ''(15 U.S.C. 2666(c))''.

On page 24, strike line 19 and insert the following: ment pursuant to paragraph (15).

''(17) Educational programs for members of the housing industry concerning the model construction standards and techniques published pursuant to section 305.

''(18) Financial assistance to conduct surveys to improve the precision of priority radon areas.''.

On page 24, beginning on line 21, strike ''(15 U.S.C. 2666(d))''.

On page 25, line 4, strike ''(15 U.S.C. 2666(f))''.

On page 25, beginning on line 8, strike ''(15 U.S.C. 2666(g))''.

On page 25, line 23, strike ''(15 U.S.C. 2666(h)''.

On page 26, line 8, strike ''(15 U.S.C. 2666(j))''.

On page 26, line 13, strike ''(15 U.S.C. 2667)''.

On page 27, line 3, insert ''in a manner'' before ''consistent''.

On page 27, line 23, strike ''the availability of''.

On page 28, beginning on line 9, strike ''(15 U.S.C. 2668(b))''.

On page 28, beginning on line 18, strike ''(15 U.S.C. 2669)''.

On page 31, line 6, insert ''the Secretary of Housing and Urban Development, national organizations that represent State and local housing agencies (including public housing agencies),'' before ''real estate''.

On page 32, line 1, insert ''and reliable'' before ''measurements''.

On page 34, line 4, insert ''in a manner'' before ''consistent''.

On page 35, line 23, strike ''and'' and insert a comma.

On page 35, line 23, insert ''and the Director of the Centers for Disease Control'' before ''shall''.

On page 38, strike lines 2 though 7 and insert the following: ''mitigating elevated radon levels to public housing agencies and Indian housing authorities, as defined in paragraphs (6) and (11), respectively, of section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)), and to owners and managers of other housing assisted under other provisions of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) and the National Housing Act (12 U.S.C. 1701 et seq.).''.

On page 38, line 19, after the period, insert an ending quotation mark and a period.

Beginning on page 38, line 20, strike all through page 39, line 19.

On page 40, line 2, strike ''is authorized to'' and insert ''shall''.

On page 40, line 3, strike ''educational'' and insert ''education''.

On page 40, line 3, insert ''and is authorized to enter into cooperative agreements'' before ''to increase public awareness''.

On page 40, line 14, insert ''the Director of the National institute for Occupational Safety and Health of the Department of Health and Human Services, in consultation with the'' before ''Administrator''.

On page 40, line 14, insert a comma after ''Administrator''.

On page 40, line 17, insert ''the Director of the National Institute for Occupational Safety and Health of the Department of Health and Human Services and'' before ''the Administrator''.

On page 40, line 18, strike ''design'' and insert ''be jointly responsible for designing''.

Beginning on page 40, line 24, strike ''The survey'' and all that follows through page 41, line 17.

On page 41, line 18, strike ''(5)'' and insert ''(3)''.

On page 41, line 19, strike ''the Administrator'' and insert ''the Director of the National Institute for Occupational Safety and Health of the Department of Health and Human Services, in consultation with the Administrator,''.

On page 41, beginning on line 22, strike ''For the purpose'' and all that follows through the period on line 25.

On page 42, line 1, strike ''other than paragraph (a)(4)''.

On page 43, line 25, insert ''or who provides false information concerning compliance with section 305(f) to an appropriate Federal official,'' before ''shall be liable''.

Beginning on page 47, strike line 23 and all that follows through page 48, line 3, and insert the following new paragraphs:

''(1) against the United States in any case where the United States is alleged to be in violation of section 305(f), 310, or 316, or any rule promulgated thereunder, to restrain such violation;

''(2) against any person who is alleged to be in violation of section 308, 313, or 314, or any rule promulgated thereunder, to restrain such violation; or

On page 48, line 4, strike ''(2)'' and insert ''(3)''.

On page 51, line 13, strike ''(15 U.S.C. 2665(f)''.

On page 51, lines 15 and 20, strike ''and 1994'' each place it appears and insert '', 1994, and 1995''.

On page 51, line 22, strike ''(15 U.S.C. 2666(j))''.

On page 52, lines 4, 10, and 25, strike ''and 1994'' each place it occurs and insert '', 1994, and 1995''.

On page 52, line 22, strike ''(15 U.S.C. 2668(f))''.

Beginning on page 53, strike line 15 and all that follows through page 54, line 2, and insert the following:

(1) in subparagraph (A)—

(A) by inserting ''develop and'' after ''to''; and

(B) adding at the end of the subparagraph the following new sentence: ''The demonstration program shall include the development and evaluation of innovative low-cost techniques to reduce radon concentrations in existing structures, including structures with low to moderate radon levels, and in new structures, and the development and demonstration of radon mitigation technology for multistory buildings.''.

Mr. LAUTENBERG. Mr. President, the committee amendment contains technical changes and responds to suggestions made by the Banking Committee's Housing Subcommittee, the Budget Committee, the Education Committee's Labor Subcommittee and others.

At the request of the Housing Subcommittee, we require EPA to consult with the Department of Housing and Urban Development in establishing the model radon construction standards and in developing the residential housing radon document which will be given to home buyers at the time they purchase a house.

The Budget Committee raised concerns about the budgetary impact of two provisions in the bill. One provision would have required HUD to test any houses it owns in radon priority areas and make the results of that test available to prospective buyers before the house could be sold.

This provision responds to the concern that GAO first raised in 1988 that HUD had no radon policy. As a result of the GAO report, I included a provision in the 1988 McKinney Act amendments requiring HUD to develop a testing and mitigation policy for its multistory housing. The policy which HUD announced last year is totally inadequate. It merely called for additional radon research and no testing or mitigation at its properties. At our hearing on S. 792, both EPA and GAO testified that additional research was not necessary before HUD could begin to test and, where appropriate, mitigate elevated levels of radon at its properties. So I included language in S. 792 requiring HUD to test the properties it owned in radon priority areas for radon and to disclose the results to potential buyers of the properties.

Fortunately, HUD has reversed its policy. Secretary Kemp wrote me in January that HUD would initiate a testing and mitigation program at its properties. I ask unanimous consent that a copy of this letter be included in the RECORD at the end of my remarks.

The PRESIDING OFFICER. Without objection it is so ordered.

(See exhibit 1.)

Mr. LAUTENBERG. Because of HUD's policy reversal, and concerns about the budgetary impact raised by the Budget Committee, the committee amendment deletes this requirement from the bill.

The Budget Committee also was concerned about a provision which would have reduced the fee charged to those participating in the voluntary proficiency program. This fee, which was designed to recover the full cost of the proficiency program, was imposed in the original 1988 Indoor Radon Abatement Act.

Because the radon testing and mitigation industry is made up of small businesses, the industry has raised concerns that the radon proficiency fee would drive many of its members out of the industry. S. 792 proposed to reduce the impact of the fee on the radon industry by reducing the required cost recovery by 50 percent.

The committee amendment responds to Budget Committee concerns about the budgetary impact of this provision by deleting the 50-percent cost recovery provision. Instead, the amendment requires EPA to comply with the provisions of the Regulatory Flexibility Act to attempt to reduce the impact of the fee on small businesses. The definition of small businesses is based on a definition Congress adopted in the Federal Insecticide, Fungicide, and Rodenticide Act.

At the request of the Labor Subcommittee, the committee amendment requires the National Institute for Occupational Safety and Health rather than EPA to conduct the radon survey of workplaces. EPA would be responsible with NIOSH for designing the survey.

The committee amendment contains other provisions which were suggested by organizations which are interested in radon. It extends the authorization of appropriations for another year through fiscal year 1995. It requires EPA to consult with the Centers for Disease Control in developing the Citizen's Guide for Radon and in establishing the medical outreach program. It allows States to use State radon grant funds to conduct radon surveys to improve the precision of EPA's designation of radon priority areas. And it adopts a provision included in the Indoor Air Quality Act to extend the Federal building program to the White House, the Vice President's quarters and the Congress.

Finally, the amendment makes a number of changes to respond to concerns raised by the National Association of Home Builders. The NAHB has taken a constructive role in addressing the threat that radon poses in the Nation's houses by conducting research and developing radon mitigation techniques.

S. 792 provides that the Federal Government cannot provide a loan for a newly constructed home in a radon priority area unless the house is built consistently with the EPA radon construction standards. These standards are prescriptive and not performance based standards. To make this clear, the committee amendment requires that the standards be based on reasonably available and economically achievable techniques.

To help builders understand the construction standards, the committee amendment provides that State radon grants can be used for educational programs for the homebuilding industry. And EPA would be required to continue to work with the NAHB to improve the model construction standards.

S. 792 does not impose any liability on a home builder who chooses not to build a home consistent with the model construction standards in a radon priority area. The Federal Government simply will not provide a loan to purchase that house. The committee amendment maintains this lack of liability except if a builder provides false information regarding compliance with the radon construction standards to the Federal Government.

The committee amendment specifies that the citizen suit provisions of S. 792 can be used against the United States and other persons for violations of certain provisions of the act. Suit can be brought against the United States only for violations of the act dealing with providing loans to purchase new homes, section 305; Federal buildings, section 310; and federally owned or assisted housing, section 316. Suits can be brought against any other person for violations of provisions regarding radon in schools, section 308; disseminating radon information to home buyers, section 313; and the mandatory proficiency program, section 314.

This provision makes clear that citizens cannot use the citizen suit provisions of this act against home builders.

States remain free to determine the effect that compliance with the EPA model radon construction standards or any State standards has no liability issues. New Jersey, which has adopted a State radon construction standard for the radon prone area of the State, provides that anyone who builds a home or school in compliance with the State standard is not liable for any damages which may result from the presence of radon in the home or school. Such a liability system might encourage greater use of the model construction standards. States remain free under S. 792 to adopt an approach similar to New Jersey. State grant assistance provided for under section 307(c)(12) of the revised Indoor Radon Abatement Act can be used by a State to develop a liability system similar to New Jersey.

Mr. President, I want to thank other committees interested in the bill for their cooperation. I also want to thank the National Association of Home Builders, the National Association of Realtors, the American Association of Radon Scientists and Technologists, the American Lung Association, the American Academy of Pediatrics, the Consumer Federation of America, the National Education Association, and the National Parent Teacher Association for their assistance in developing S. 792. And I urge Senators to support the committee amendment.

EXHIBIT 1

U.S. DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT,
Washington, DC, January 8, 1992.

Hon. FRANK R. LAUTENBERG,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This letter is in response to the Senate Committee Report on the 1992 VA-HUD-Independent Agencies Appropriation Act requesting a revised Departmental policy regarding the testing and mitigation of radon in HUD-assisted multifamily buildings.

The Senate Committee expressed concern that the Department's policy recommendations to the Congress contained in a report submitted in April 1991 did not, in the committee's view, satisfy the requirements of Section 1091 of the McKinney Homeless Assistance Amendments Act of 1988. That Act required the Department to submit a policy for research, education, testing and mitigation dealing with radon contamination in certain HUD-assisted multifamily housing.

In response to the Committee's request, the Department will initiate a program of testing and mitigation in 1992. As a first step, the Department will, as quickly as possible, test and, as necessary, mitigate all HUD-owned multifamily buildings in EPA designated "high radon" areas. All additional HUD-owned multifamily units in these high radon areas that subsequently come into inventory will also receive priority for testing and mitigation.

Initiating a full testing and mitigation program in HUD-owned multifamily units has a number of advantages. Because these properties are under the control of HUD, the Department will be better able to refine and develop techniques for testing and mitigation prior to expanding efforts into additional segments of the assisted multifamily stock. During this initial phase, the Department will be able to develop a final testing protocol. The testing program should also provide HUD with additional information regarding intrabuilding radon distribution and will enable the Department to better target and prioritize subsequent efforts to buildings that are "at risk", i.e. to those most likely to have high radon levels in all units in the building. HUD also should be better able to estimate radon testing costs.

Effective mitigation of the balance of the assisted multifamily stock requires the Department to plan for and reserve adequate funds under a number of programs. Mitigating HUD-owned units should provide opportunity to control for many cost variables, such as adjustments that may be necessary to heating, ventilating and air conditioning systems and thereby identify accurately the costs of mitigation.

The Department expects to complete these initial efforts quickly so that it may proceed to a fuller program of testing and mitigation of the balance of the assisted multifamily stock. Depending upon the nature of the information gathered during this initial phase, the second phase of testing and mitigation efforts might possibly be the high risk types of buildings that are located in high radon areas, or, alternatively, all remaining units in the HUD-owned inventory.

The Senate Committee Report also requires the Department to submit, within 6 months of enactment, a report on implementation of this revised policy of testing and mitigation. Please be assured that the Department intends to fully comply with both the spirit and language of the Committee report.

Very sincerely yours,

JACK KEMP,
Secretary.

Mr. LAUTENBERG. Mr. President, these technical changes have been cleared by the minority. Therefore, Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate. If not, the question is on agreeing to the amendment.

The amendment (No. 1702) was agreed to.

Mr. LAUTENBERG. I move to reconsider the vote.

Mr. DURENBERGER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LAUTENBERG. Mr. President, I yield the floor. I believe the Senator from New Hampshire has an amendment he wants to offer.

The PRESIDING OFFICER. Who seeks recognition?

Mr. SMITH addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Hampshire, Mr. SMITH. Under the previous agreement, the Senator is permitted to offer a first-degree amendment. The Senator is recognized, accordingly, for up to 10 minutes.

AMENDMENT NO. 1703

(Purpose: To provide for the application of multimedia risk assessment procedures for the implementation of National Primary Drinking Water Regulations for Radionuclides)

Mr. SMITH. I thank the Chair. I thank my colleagues, Senator LAUTENBERG and Senator DURENBERGER, for their courtesy and an indication they will accept the amendment.

I do have an amendment at the desk which I would offer at this time, Mr. President.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from New Hampshire [Mr. SMITH], for himself and Mr. SEYMOUR, proposes an amendment numbered 1703.

Mr. SMITH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

"SEC.   . Prior to promulgating any national primary drinking water regulation for radionuclides under the Safe Drinking Water Act, the Administrator of the Environmental Protection Agency shall conduct a multimedia risk assessment of radon considering: (a) the relative risk of adverse human health effects associated with various pathways of exposure to radon; (b) the relative costs of controlling or mitigating exposure to radon from each pathway; and (c) the relative costs for radon control or mitigation experienced by households, communities and other entities including the costs experienced by small communities as the result of such regulation. Such an evaluation shall consider the risks posed by the treatment or disposal of any wastes produced by water treatment. Upon completion of this risk assessment, the Administrator shall report his findings to the Senate Committee on Environment and Public Works and the House Committee on Energy and Commerce. Nothing in this section shall modify or be the basis for an extension of any statutory or court-ordered deadline for the promulgation of such regulation.".

Mr. SMITH. Mr. President, as my colleagues may be aware, on July 18, 1991, the Environmental Protection Agency proposed rules placing limits on radon in drinking water. These rules, which are under the jurisdiction of the Safe Drinking Water Act, would require that community and nontransient, noncommunity water systems provide water having no more than 300 picoCuries per liter of radon. While I would not disagree that radon in drinking water is an important health concern, I believe that the 300 pCi/l set by the EPA is too low.

Presently, the EPA has a voluntary guideline that would limit the level of indoor radon to no more than 4 pCi/l from all sources. Using the EPA's water-to-air ratio of 10,000 to 1, it would take, in theory, 40,000 pCi/l of radon in water to create 4 pCi/l in the air, assuming that water was the sole contributor. Yet, not only is water a small contributor to overall indoor radon levels, but a 1,000 pCi/l level in water—three times the proposed standard—would contribute only .01 pCi/l to the indoor radon level.

I am also concerned that the EPA's estimated cost for the implementation of the radon rule—with a capital cost of $1.6 billion, and an annual operating cost of $180 million—is too low. According to the American Water Works Association, the overall cost of the radon rule will be $20 billion in capital costs and $2.7 billion in annual costs. It should also be remembered that these figures do not take into account the dozens of other water rules that communities and water suppliers must comply with.

Regardless of whose figures you believe, it is clear that small communities and townships will clearly bear the greatest financial burden from this proposed rule. Indeed, in my home State of New Hampshire, 96.5 percent of the 2,746 community wells cannot currently meet the proposed standard of 300 pCi/l. Even if the EPA adopted a less stringent standard of 1,000 pCi/l, 75 percent of the wells in my State would not meet this proposed radon rule.

Mr. President, we have mandated that our communities meet a variety of safe drinking water rules, the cost of expensive landfill requirements, the expense of more stringent sewage treatment facilities, and in many instances, the cost of cleaning up Superfund sites—all with very little Federal funding. Prior to establishing new Federal regulatory mandates, we need to conduct adequate risk assessment to determine the most significant health and environmental risks, so that we can fund these programs in the priority of their risk, rather than in the priority of their political expediency.

On January 29, 1992, the chairman of the executive committee of the EPA Science Advisory Board, Mr. Raymond C. Loehr, in a letter to EPA Administrator William Reilly, stated that:

> Radon in drinking water is a very small contributor to radon risk except in rare cases and the committee suggests that the Agency focus its efforts on primary rather than secondary sources of risk. The Agency should conduct a full multimedia risk assessment of the various options for regulating radon in drinking water.

Mr. President, at this time I ask unanimous consent to print that letter in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

ENVIRONMENTAL PROTECTION AGENCY,
Washington, DC, January 29, 1992.

Subject: Reducing Risks from Radon; Drinking Water Criteria Documents.

Hon: WILLIAM K. REILLY,
Administrator, Environmental Protection Agency, Washington, DC.

DEAR MR. REILLY: The Radiation Advisory Committee of the Science Advisory Board has reviewed several radon-related issues brought to it by the Agency during the past year-and-a-half.[1] The Committee has also commented extensively on the criteria documents supporting the proposed regulations for radionuclides in drinking water.[2] As a result of their reviews and the proposed National Primary Drinking Water Regulations for Radionuclides[3], the Committee is writing to convey its concern about the inconsistent approach within the Agency regarding reducing risks from radon exposures in homes. This issue illustrates a larger concern that the Agency is not effectively applying the recommendations set forth in the Science Advisory Board Report Reducing Risk: Setting Priorities and Strategies for Environmental Protection (subsequently referred to as Reducing Risk).

The purpose of this letter is two-fold: (a) to address the fragmented and inconsistent approach regarding reduction of radon risk and (b) to provide our closing comments on the revised drinking water criteria documents that support the proposed regulations.

THE PROPOSED DRINKING WATER REGULATION IN RELATION TO THE REDUCING RISK REPORT

The Committee realizes that the technical aspects are only one of many factors that must be considered in making policy determinations and that the Agency has already given significant thought to these issues in preparing the proposed regulation for radon in drinking water. However, the Radiation Advisory Committee would like to express its views on the relative risks addressed by the proposed regulation vis a vis other radon risks reviewed by the Committee and offer its views as well on what its technical observations mean for matters of policy.

TECHNICAL OBSERVATIONS

The Agency has recognized that there is a serious question about the regulation of radon in drinking water. After considerable deliberation, the Office of Drinking Water has proposed to regulate it in the manner adopted for other contaminants under the Safe Drinking Water Act; that is, at an approximate lifetime risk level of 10^{-4}. The chief risk due to radon in water is its release into the air and subsequent inhalation, as opposed to ingestion of waterborne radon. Thus a 10^{-4} risk level (averaged over smokers and non-smokers) translates into about 0.03 Pci/L in air, or approximately 300 Pci/L in water. That air concentration is more than 100 times smaller than the Agency's voluntary guideline of 4 Pci/L for indoor radon concentrations. It also well within the natural year-to-year variation in indoor radon concentrations in average houses. As part of the Indoor Radon Abatement Act (Public Law 100-551) the Congress defined the goal of achieving an indoor radon level equal to the natural outdoor level, which is 0.1–0.5 Pci/L depending on the area of the country (NCRP Report No. 94). This goal is a factor of 8–40 below the indoor radon action level, but about a factor of 10 higher than the indoor radon level corresponding to the proposed regulation for radon in drinking water.

The Agency estimates that about 5% of the total indoor radon in homes served by ground water is due to radon released from household water use. (In homes served by surface water supplies, only a fraction of a percent of the indoor radon will be due to water use). Data in the radon criteria document indicate that approximately 10–30% of the population that relies on ground water sources is exposed to water with radon concentrations above the proposed maximum contaminant level of 300 Pci/L. Overall, about 1% of the total indoor radon in areas with ground water supplies would be addressed by adopting the current proposal.

Although some point estimates of parameters have been employed here, the Committee is well aware of, and wishes to bring to your attention again, the uncertainties in parameters and models employed in the Agency's assessments. Full consideration of uncertainties is called for in the Reducing Risk report and is an essential part of the evaluations that the Committee recommends below. The Committee urges appropriate action to assure that the risk assessment fully considers the uncertainties.

POLICY CONSIDERATIONS AND RECOMMENDATIONS

The radon exposure situation reflects the fragmentation of environmental policy identified in Reducing Risk. The tactics and goals of different laws designed to address radon exposures are not consistent. Efforts within the Agency to reduce radon risks, while not uncoordinated, are rooted in programmatic areas that respond to different laws.

The field of radiation protection relies on the principle of optimization, which the Committee believes is in harmony with Reducing Risk, particularly with Recommendation 4:

"EPA should reflect risk-based priorities in its strategic planning processes. *The Agency's long range plans should be driven not so much by past risk reduction efforts or by existing programmatic structures, but by ongoing assessments of remaining environmental risks, the explicit comparison of those risks, and the analysis of opportunities available for reducing risks* (italics ours)."

Optimization, like the philosophy espoused in Reducing Risk, means that we should apply our limited resources to the more important risks.

Frankly, radon in drinking water is a very small contributor to radon risk except in rare cases and the Committee suggests that the Agency focus its efforts on primary rather than secondary sources of risk. The Agency should conduct a full multi-media risk assessment of the various options for regulating radon in drinking water. Such an evaluation would include the risks posed by the treatment or disposal of any wastes produced by water treatment. It would also consider the effects of releases of other volatile compounds during treatment. (This is currently cited as an ancillary benefit of treatment without analysis of the overall result.)

The Committee understands that the Safe Drinking Water Act requires the Agency to develop regulations for radionuclides in drinking water. The Committee further realizes that a management structure based on media/pollutants may make recommendations that involve different perspection difficult to implement. However, if the Agency, the Congress, and the country are going to grapple seriously with the concepts in Reducing Risk, then it is precisely this type of issue that must be confronted directly, openly, and creatively.

CLOSING COMMENTS ON THE REVISED DRINKING WATER CRITERIA DOCUMENTS

The Committee would also like to comment on some aspects of the criteria documents prepared in support of the proposed regulations. Reviews of two earlier drafts of the associated criteria documents have been performed.[2] Following the Committee's review in the summer of 1990, the Office of Drinking Water, with the assistance of the Office of Radiation Programs, revised the criteria documents supporting the proposed regulation. The Committee does not wish to undertake a detailed formal review of the third set of criteria documents. The fundamental scientific questions were discussed in the previous reviews, cited above. The Committee stands by its original positions and believes that the Agency could further improve the scientific credibility of the criteria documents by adopting its recommendations.

The new set of documents is more complete and individual reports now include more explanation of the options considered, selection criteria, and possible alternative choices. The Agency was less successful in implementing the Committee's advice on uncertainty analysis. Although each criteria document now includes a chapter discussing uncertainty, the content of those chapters is very qualitative and is not the rigorous technical analysis envisioned by the Committee. Overall document quality and clarity are still inadequate for reports that are intended to be the technical bulwark for Agency decisions.

Broad scope assessments, of the type recommended above for radon, are also needed for other of the proposed regulations. The Agency's analyses should include the risks resulting from the concentration of radium, uranium, and other radionuclides in wastes resulting from water treatment. These include the risks to workers involved in disposal activities and the risks of disposal itself. A complete picture of the costs and benefits of implementing these regulations is needed. The importance of cost-effective treatment is stressed in Section V of the proposed regulations, but evaluation of the net benefit of the proposals is far from comprehensive.

The Committee appreciates the hard work of the Offices of Drinking Water and Radiation Programs. We thank them for briefings and presentations that have aided our reviews.

In closing, the Committee strongly encourages the Agency to review its proposed drinking water regulations in light of Recommendation 4 of the *Reducing Risk* report and to prepare comprehensive analyses of the complex questions that arise. We look forward to receiving a reply that delineates your planned response to these challenging issues.

RAYMOND C. LOEHR,
Chair, Executive Committee, Science Advisory Board.
ODDVAR F. NYGAARD,
Chair, Radiation Advisory Committee.
PAUL G. VOILLEQUE,
Chair, Drinking Water Subcommittee, Radi-

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[1] Relationship Between Short- and Long-term Correlations for Radon Tests (EPA-SAB-RAC-92-008); Revised Radon Risk Estimates and Associated Uncertainties (EPA-SAB-RAC-LTR-92-003); Draft Citizen's Guide to Radon (EPA-SAB-RAC-LTR-92-005).

[2] Report to the Administrator on a Review of the Office of Drinking Water Assessment of Radionuclides in Drinking Water and Four Draft Criteria Documents (SAB-RAC-87-035); Review of the Office of Drinking Water's Criteria Documents and Related Reports for Uranium, Radium, Radon, and Manmade Beta-gamma Emitters (EPA-SAB-RAC-92-009).

[3] National Primary Drinking Water Regulations: Radionuclides: Proposed rule. Federal Register, 56:33050-33127, 18 July 1991.

ation Advisory Committee.

Mr. SMITH. Mr. President, the purpose of my amendment is to respond to the recommendations of the EPA Science Advisory Board. In particular, my amendment would require the Administrator of the EPA to conduct a multimedia risk assessment of radon considering the relative risk of adverse human health effects associated with various radon pathways, the relative costs of controlling radon exposure from these pathways, and the relative costs these controls will impose on households, communities, and other entities. Additionally, my amendment specifically requires the Administrator to review the costs that will be experienced by small communities as a result of the radon regulation, and to report these findings to Congress.

Put quite simply, Mr. President, my amendment requires the EPA to look at the costs and benefits of treating radon in water and help focus resources on sources and levels of radon that post the greatest risk.

Due to opposition from some Senators, I removed language from an earlier draft of this amendment which would have specifically required the Administrator to consider this analysis in determining the maximum containment level for radon. While this language is not contained in my amendment, I believe that the results of a risk assessment should consider the relative risk of radon in water to the relative risk of radon in the air and address them appropriately. Further, I expect that this new assessment will be reviewed by the EPA Science Advisory Board so that Congress can get a true picture of this problem.

Mr. President, the issue of the regulation of radon in water is an important one, and although I believe my amendment will provide the information necessary to allow Congress to rationally assess the needs for these controls, this amendment is not a solution. These proposed rules will cost our Nation a great deal of money in order to address the proportionally small risk of radon exposure. I believe we should follow appropriate risk assessment to ensure our limited funds are spent on these issues that truly represent a health and environmental risk.

In conclusion, I thank my colleagues for their assistance. I believe this amendment is an important first step in addressing this problem, and I urge its immediate consideration.

Mr. LAUTENBERG. Mr. President, we are prepared to accept the amendment. The provision will not delay any statutory or court-ordered deadline pursuant to the Safe Drinking Water Act.

The amendment very simply, as described by the Senator from New Hampshire, requires EPA to develop and report to the Congress specific multimedia risk information on radon prior to promulgating the national primary drinking water regulations for radionuclides.

So we have no objection on this side.

Mr. DURENBERGER. Mr. President, if my colleagues do not have any objection, I will take slightly longer to acknowledge the contribution that Senator SMITH has made, and to outline the problem that we have before us.

I am going to do that because I was the Senate author of the legislation that led to the regulations for radon in drinking water that my colleague from New Hampshire has described. I managed the 1986 amendments to the Safe Drinking Water Act here on the floor of the Senate, and chaired the conference with the House. So I have some familiarity with the issues that have been raised.

I wanted to assure my colleague that this is going to take a minute or two to do at the end of which I am going to recommend what my colleague from New Jersey has already indicated, that the Senate accept the amendment by my colleague from New Hampshire.

But I want to for the sake of the record, and for those who have expressed the concern that our colleague has so well articulated here today, share a little bit of the background that we have in sort of the fundamental dilemma in the structure of the Safe Drinking Water Act, because it divides the people of this country into two groups—the big city group and the small town group. Many of us represent a lot of the latter. Even though they are only 20 percent of the total population, we represent quite a few of the latter.

Protecting drinking water quality is mostly a question of infrastructure, the building of water supply and treatment systems that provide safe public water. In our larger cities it is possible to build a very good drinking water supply and a treatment system that can deliver safe water at a cost of just a few dollars per family. Because the cost of the capital investment in a big city gets spread over a large number of people for a very long time, you can get high quality drinking water in a big city relatively cheaply.

But that same level of protection attempted in a small community leads to very large costs. It could be hundreds of dollars per family per year. That is simply because there is only a small population to serve the retired debt of the infrastructure capital investment that goes into the drinking water.

So, this is the dilemma for the Federal Government as it tries to set a national drinking water standard. If we set the standard based on what the big cities can afford, then families in small communities are hard pressed to pay for the same level of protection.

On the other hand, if the standard is set at a level that is not as stringent, at a level that reflects affordability for a very small town, then the bulk of the population that live in the large cities, 80 percent of all Americans who get their drinking water from these large systems, will not be getting the health protection that they could otherwise afford. The health risks from drinking water would be higher for the 80 percent than they would choose, or that they could afford.

So Congress was fully aware of the dilemma when it enacted the original Save Drinking Water Act in 1974, and when it was reauthorized in 1986, and on both of those occasions ended up requiring that the standards be set according to the level of protection that large cities could afford.

That is the very clear requirement in the law. EPA is to set the national standards to maximize the health protection that can be afforded by the 80 percent of our people who live in large cities.

The Safe Drinking Water Act contains provisions that recognize and attempt to mitigate the cost problems that small communities may face. There are variance and exception provisions all of which can be applied to small communities. The period for compliance can be lengthened to accommodate the particular capital investment needs of the community. There are other steps that can be used to ease the costs.

I have to say having observed the implementation of the act for a long period that these safeguards have not been implemented with any consistent sense of purpose by the EPA or by the States.

We also have a program run by the Farmers Home Administration. It provides grants and loans to small communities to build drinking water supply and treatment systems. Each year this Congress makes a substantial appropriation for this program, and the size of the appropriation as a practical matter has grown in recent years.

So in summary, in the past, Congress has chosen to impose drinking water standards that reflect the level of health protection that people in large cities can afford. Those standards have been imposed on the whole Nation, large city and small.

I suppose we could have chosen a different course. We could have gone with a small community standard. We could have authorized more relaxed standards that provide less health protection. In fact, in the very regulation under discussion here, it appears that EPA in contravention of the law, relaxed the standard to reflect affordability for small communities.

Although some are complaining that the standard proposed for radon by EPA will be too expensive for some communities, if EPA had actually followed the clear direction of the law, the standards would have been even tighter.

Why should it be? Because as we have already heard this morning radon causes cancer. Because in some communities the exposure to radon from drinking water can be a significant risk. Because the 80 percent of the population that receives its drinking water from large city systems could easily afford better water with less cancer risk.

Let us not forget in this debate the American public wants safer drinking water, and that the American public is willing to pay for it. The American public today spends $2 billion a year for bottled water. They apparently do not have sufficient confidence in the quality of the public supply. So they spend $2 billion a year bringing bottled water home for drinking water purposes. That is a huge expenditure. And Mr. President, I would argue it is some measure of the public demand for safe water supplies.

We might also have authorized EPA to set two standards, one for large cities and one for small. We could solve the dilemma that way. We could ask rural Americans, those who live in our small towns, to accept a higher health risk from their drinking water than their city cousins experience.

As someone who represents a rural State, I have never been in favor of that approach. I do not want two Americans, one urban and one rural. When we are dealing with something as basic as drinking water, I have always believed that we have an obligation to give the whole population on equal level of protection.

So the solution I prefer is to find a way to equalize the burden between communities through fees and grants. I have proposed legislation that would impose a fee of 2 cents per thousand gallons of water on the water delivered by large systems.

In my legislation, the revenue generated by that fee, which would be about $125 million a year, would then be used to support the capital investment necessary to upgrade the drinking water supply of small communities and to repair private wells. Twenty million Americans still live outside of the protection of the Safe Drinking Water Act because they draw their water from private rather than public supplies.

Since the average price for drinking water in the United States is about $1.30 per thousand gallons, the 2 cents would be a small fee on the 80 percent living in the large cities to provide high quality, safe drinking water for all Americans. We can certainly reach that objective for less than the $2 billion that the public already spends for bottled water.

So, Mr. President, I must say there is opposition to my solution to the drinking water dilemma. Much of the water used in the United States is consumed by big industries. They would pay a substantial part of their 2 cents, thousand gallon fee. So they are all opposed to it.

Furthermore, the managers of the medium-sized systems—that is, the cities of 10,000 to 25,000 people—are also reluctant to pay a fee for this kind of a subsidy.

Many of the small systems that would receive aid are subdivisions built just outside the city limits of medium-sized cities, largely for the purpose of avoiding assessments and taxes that come from being inside the city limits. Of the 39,000 public water systems in the Nation, 4,000 are of that type.

The water department managers do not have much sympathy with the water quality problems that are brought on by building a subdivision to avoid city water and sewage charges.

With that background, Mr. President, as I indicated earlier, I want to commend my colleague, Senator SMITH, for his concern for this problem. I mean it is a real concern for real people, who live in small towns all over this country. I have tried to express the concern that I have today not only for their economic health but for their real health as well.

So I am going to recommend that the Senate accept the amendment by the Senator from New Hampshire. I am sympathetic with the concerns that bring him to the floor. The information that is required to be developed by his amendment will be useful in understanding the future of the drinking water program. He was not a Member of the Senate when we considered these issues in 1986. He is now, and he is a most valued member of the Committee on Environment and Public Works, and I look forward to working with him and Senator LAUTENBERG as these questions are considered in the next reauthorization. With his assistance, I am sure we will make progress in solving the dilemma I tried to bring to my colleagues today.

Mr. SEYMOUR. Mr. President, I rise in strong support of the Smith-Seymour amendment to require the Environmental Protection Agency to conduct a multimedia risk assessment of radon before it promulgates any radionuclide regulation under the Safe Drinking Water Act. In light of the ever increasing regulatory burden facing our Nation's municipal governments, it seem only reasonable to require the EPA to get a better feel for the risk associated with radon in drinking water before it regulates it.

In July 1991, EPA proposed a 300 picoCurie per liter standard for radon in drinking water. Such a standard would cost California $3.7 billion to meet. No one would question even this enormous expenditure if it could be shown that such a standard would significantly reduce the risk of radon exposure for Californians. Unfortunately, that is simply not the case. Tap water only contributes one to 5 percent of indoor radon contamination. EPA's own Scientific Advisory Board has stated that radon in drinking water is a very small contributor to the overall risk of radon exposure.

Our Nation is faced with many environmental and public health problems. We cannot afford to waste our valuable resources on expensive efforts that do little to protect the public's health. The Smith-Seymour amendment will help assure that the EPA views radon risk reduction in a more holistic manner. It is my hope that such a more balanced approach will yield greater environmental benefit at a lower cost.

I would like to take this opportunity to thank Senator SMITH for sponsoring this important measure, and the managers of S. 792 for accepting it. I believe this measure strengthens the Indoor Radon Abatement Reauthorization Act of 1991, and with its addition I intend to fully support the bill.

Mr. SMITH addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH. Mr. President, I neglected to mention that Senator SEYMOUR was an original cosponsor of this legislation, and I also ask unanimous consent that Senator WALLOP be added as a cosponsor of the legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. Is there further debate?

The question is on agreeing to the amendment.

The amendment (No. 1703) was agreed to.

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote.

Mr. DURENBERGER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SYMMS. Mr. President, I ask unanimous consent that I might speak for 10 minutes on the bill.

The PRESIDING OFFICER. Is there objection?

There being no objection, the Senator is recognized for up to 10 minutes.

Mr. SYMMS. Mr. President, I have been concerned about indoor air quality for many years now in the Congress. As far back as 1974, when we had our first big wave of legislation to start stressing conservation of the building codes and so forth, and Congress dived headlong into pushing the public into sealing public buildings airtight, and then they pressured the American citizens to lock themselves into little bubbles within their own homes, I said then we should go slow about change and that forcing the public into these sealed homes until we know a little more about what happens to air quality.

Congress, in its zeal and so-called wisdom in the early 1970's, at the time of the first boycott with respect to oil and energy supplies and higher escalating energy costs, acted anyway.

Now we have before us a bill that addresses some of these problems. People have found out in time that a little fresh air inside buildings saves a lot of problems with respect to air quality.

The bill, for the most part, is a well-balanced, measured response. The bill does, however, put forward some new, aggressive research initiatives and clarifies the objections of the Federal Indoor Air Quality Response Act and gets some information out to those people who may need it. So that part of the bill, on the whole, is not a bad thing.

I guess I should put it this way: I think this is unneeded legislation. But I also say to my colleagues who are here before the Senate pushing this legislation, on a scale of 1 to 10 on legislation that would be detrimental to the economy of the country, this is low on the scale. I did not think it will do any good. It is going to increase spending and help break the budget, and it is part of the reason we have a $300-billion deficit.

But I do think that there can be some meritorious comments made on behalf of our colleagues pushing this legislation, who want to make sure that people have the basic understanding of what radon levels mean, and where the national radon education program comes into effect. We cannot just tell folks a given radon level and expect they will know it is good or bad.

In the past, we have drastically overstated effects. I think what we need in all of these pieces of legislation is more sound science—more sound science. I think that if you go to Canada and look at the standards there as compared to here, you get quite a different story.

Mr. President, I think it also needs to be said here on the floor that the administration does oppose the enactment of S. 792. The bill's prescriptive and regulatory requirements will duplicate programs without significantly lowering the radon qualities and levels.

The bill will also undermine programs designed to provide States with the flexibility to develop self-sustaining and cost-effective specific programs.

The Federal Government is already undertaking numerous programs to address elevated radon levels in buildings. The EPA provides a wide range of technical assistance to help States identify and mitigate elevated radon in residents, workplaces, and schools. The EPA is also working with other Federal agencies to develop policies for federally run programs.

The bill would inappropriately reauthorize the State radon program as a federally subsidized program. This reauthorization is contrary to the original intent of the existing 3-year startup program, Mr. President. The program was designed with Federal assistance after 3 years by gradually increasing the State's share. While the administration would not oppose a 1-year extension at a reduced Federal share, it opposes the longer extension.

The bill's unfocused requirements that definitions will result in overcontrol and excessive societal costs where radon levels are relatively low.

These definitions of priority radon areas and target action points are too broad and ignore the work that EPA and other agencies have already done to determine these areas.

The bill's prescriptive regulatory approach is premature, given the state of scientific and technical expertise in mitigating radon. S. 792 will unnecessarily insert the Federal Government into areas that have traditionally been the province of States and local governments. I am sure that does not slow down the intent of those who are in favor of this legislation, but I think it is something that should be considered.

With respect to the cost—and I know in terms of the legislation that passes this Congress, one almost hesitates to get up and talk about a bill that is as small in terms of spending as this one. But it is millions and millions of dollars, Mr. President, and this is the fundamental problem that we have here with respect to scoring this bill as pay as you go.

S. 792 will increase spending. It is subject to the pay-as-you-go requirement of the Omnibus Budget Reconciliation Act of 1990. The budget point of order applies in both the House and Senate against any bill that is not fully under CBO scoring. If, contrary to the administration's recommendation, the Senate waives any such point of order that applies to S. 792, the effect of enactment of this legislation would be included in a look-back, pay-as-you-go sequester report at the end of the congressional session.

OMB's preliminary scoring estimates of this bill are presented in the table that I will read from.

In 1992, it will be $16 million; 1993, $5 million; 1994, $5 million; 1995, $5 million; and 1992–95, a total of $31 million.

So, as I say, in terms of costs here, it is not as bad as many pieces of legislation. But the principal point I think should be understood by my colleagues is that, as in many instances, this radon problem is already being looked at and undertaken by EPA and many State indoor air quality agencies throughout the country.

I believe the country would probably be better off not to spend the $31 million. Raise the issue, let the public find out about it. Let the States worry about this problem, and let EPA do what they have been doing with respect to an education program to the public so that people are aware of it.

Basically, one way to avoid some of the problems is to have a little fresh air and circulation inside of houses. It is not all that complicated, but it is one of those things that we have brought largely on ourselves.

This bill speaks to a problem that was brought upon the American people by earlier actions of Congress.

I would be remiss, also, if I did not compliment my colleague from New Hampshire for his amendment, which I think is a substantial improvement to the legislation with respect to water quality.

Mr. President, I ask unanimous consent that at the end of my remarks, a Warren Brookes article of June 25, 1990, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Times, June 25, 1990]

IRRATIONAL TOXIC GOAL

(By Warren Bookes)

If Congress and the Environmental Protection Agency get their way, American homeowners will have to spend $1 trillion to bring the radon levels in their houses down to natural background levels. Those levels are 70 percent lower than even the present EPA danger target and they are the ludicrous goal set by Congress as an amendment to the 1988 Toxic Substances Control Act.

A paper in this month's Journal of Environmental Science and Technology says: "The implications of measures needed to achieve this goal are staggering. Even if it is technically feasible, the costs would be prohibitively large, on the order of $1 trillion ($10,000 to $16,000 per household times 70 million households)."

Yet, as the paper points out, less than 3 percent of total risks of radon exposure are among those who do not smoke. That's fewer than 500 people per year nationwide. Ninety seven percent comes from smoking and radon. In other words, nonsmokers make up 60 percent of the population but only 3 percent of the radon risk.

The author of this paper is William Nazaroff of Lawrence Berkeley Laboratory at the University of California. He and his colleague, Anthony Nero, are generally regarded as the nation's foremost experts on radon risk and its mitigation.

Mr. Nazaroff's paper is a scorching indictment of the EPA and Congress for a radon policy that "is developing without careful analysis of the premises and objectives for controlling risk in the indoor environment."

In short, we have here a replay of Congress and the EPA's asbestos disaster, where billions are being misspent because of a failure to accurately identify real risk. In that case as well, much of the miscalculation of asbestos risk was failure to identify the 88 percent role of smoking in the original study of asbestos exposure.

At the heart of the radon risk problem is the fact that although the current risk estimates project some 16,000 cancer deaths from this source, "only 3 percent of this mortality rate (about 500 cases) is projected to occur among individuals who have never smoked." Even that is based on models which deliberately overstate risk by at least 10 to 100 times or more, suggesting an insignificant public health risk.

The respected Journal of Health Physics will soon publish a study by Dr. Linda Titus Ernstoff of the University of Pittsburgh and Dr. Thomas Gerusky of the Pennsylvania Department of Health, which shows that among a sample of 800 residents of very high radon exposure homes in the infamous, "Reading Prong"—10 times the EPA danger level—there was no evidence of raised lung cancer death rates.

Partly because of this kind of data, Pennsylvania has adopted an official policy of offering professional testing help only to those whose basement canister readings are above 20 picocuries per liter. That's five times the EPA level of 4 picocuries per liter and is the same level now used in Canada to detect possible remediation targets.

The economic significance of this is huge. At 20 picocuries per liter, less than 80,000 U.S. homes would need radon mitigation at a cost of about $150 million or about 0.1 percent of the cost of meeting the EPA's current standard, which targets 8 million to 10 million homes. Mr. Nazaroff also suggests that the Canadian 20 picocureis per liter level would make more sense.

One reason, he says, is that "More than 90 percent of the lung-cancer risk associated with radon could be controlled by eliminating smoking without any changes in radon concentrations."

He estimates even the total cost of meeting present EPA standards of 4 picocuries per liter is about $20 billion. He points out that "A reduction by about 3 percent in the number of cigarette smokers would reduce the annual mortality due to lung cancer by the same amount as a radon-mitigation program" at current standards.

As Mr. Nazaroff puts it, "From a public health perspective, the goal of reducing lung cancer incidence may be more easily met by changing the population's smoking habits rather than by aggressive measures to reduce indoor radon concentrations."

This is reinforced by the work of University of Pittsburgh radiation physicist Bernard Cohen. He looked at 411 U.S. counties and discovered the correlations between lung cancer deaths and radon levels are on the average negative—higher radon levels are associated with lower lung cancer deaths. A similar lack of correlation has been just reported in a study of more than 200,000 medical records in Florida.

Mr. Nazaroff says, "It has not yet been possible and will be difficult in the future to demonstrate a compelling association between environmental radon exposure and lung cancer rates."

In the March 1990 issue of Epidemiology, Fanny Ennever of the Case Western Reserve School of Medicine says the lifetime risk of lung cancer for someone never exposed to radon (at EPA danger levels) and who has never smoked is 1.1 percent. That risk only rises to 1.5 percent from 40 years of exposure to EPA's radon danger levels! By contrast, the lifetime risk for the full-time smoker is 12.3 percent which rises to 15.8 percent with radon exposure. She concludes: "Ceasing to smoke is considerable more beneficial than easing radon exposure"—and a whole lot less costly.

RADON AND LUNG CANCER DEATHS

	From all causes	From radon
Current population (1986):		
Never smoked	5,000	500
Former smokers	57,600	6,500
Current smokers	67,800	8,700
Total	130,400	15,700

Source: Lawrence Berkeley Laboratory, University of California, William Nazaroff.

The PRESIDING OFFICER. Who yields time?

Mr. LAUTENBERG. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. LAUTENBERG. The time that the Senator from Idaho just used was in response to a unanimous-consent request; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. LAUTENBERG. Therefore, it does not come off the bill, nor does it come from the amendment that Senator WALLOP will offer; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that we extend the time that we are going to have on the bill by another 20 minutes; 10 minutes equally divided.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Who yields time?

Mr. LAUTENBERG. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator is recognized for 3 minutes.

Mr. LAUTENBERG. Mr. President, I want to very quickly respond to our colleague from Idaho in terms of his warm support for this legislation.

We heard very critical comments by the Senator. I want to very quickly go to the issue of direct spending. CBO has declared that the bill will not result in direct spending because of the committee amendment that was introduced and approved by the Senate this morning.

So, to the Senator from Idaho, I would just mention that the issue of direct spending has been taken care of. There was a technical amendment accepted by the Senate. So that eliminated the problem of direct spending.

The other issue, Mr. President, is whether we need a significant effort by the Federal Government to deal with the health problems caused by exposure to radon or whether, as described by my friend and colleague from Idaho, it is an unneeded, unnecessary, insignificant—I do not have the whole list of adjectives that were used. The issue is whether or not we are serious when we talk about protecting the public health.

We have a statement by the Assistant Surgeon General, Dr. Houk, who agrees with EPA that somewhere between 7,000 and 30,000 lung-cancer deaths a year result from radon. Unfortunately, people are not alarmed because they do not see it; they do not smell it; and they do not taste it. Therefore, it is not significant.

Mr. President, I yield myself 5 additional minutes, on top of the 3 that I have already expended.

The PRESIDING OFFICER. The Senator is recognized for an additional 5 minutes.

Mr. LAUTENBERG. Mr. President, we are looking at a health threat that in terms of lung cancer is second only to smoking. And yet the Senator casually dismisses this threat to the lives of so many, to the health costs for dealing with lung cancer caused by radon and the threats to children who ingest air at a higher rate. I would ask the Senator whether or not he thinks we ought to ignore the problem of radon in schools. There are very few States around this country that do not have a significant radon threat.

I took a trip to Sweden in 1985 to see how that nation deals with the radon problem. They do not permit houses or buildings to be built unless they deal first with the exposure to radon. They take it seriously. I know the Senator too well to believe that he would want to casually dismiss this kind of a health threat.

We have labels on cigarettes. We can label the threat posed by radon by simply testing the homes. We are not talking about major costs. We do all kinds of things to protect the public health. So why is this suddenly something that is so trivialized and dismissed? I do not understand.

Mr. SYMMS. Mr. President, will my colleague yield?

The PRESIDING OFFICER. Does the distinguished Senator from New Jersey yield to the Senator from Idaho for a question?

Mr. LAUTENBERG. I am happy to yield.

Mr. SYMMS. Mr. President, I in no way want to trivialize the intent or motives of our colleagues on the committee, but I would just point out there is substantial evidence that comes from the other side that indicates that it may not be 20 million lung cancers caused by radon.

Mr. LAUTENBERG. Twenty thousand.

Mr. SYMMS. Twenty thousand. There is not substantial evidence of that.

To back that up, Mr. President, I refer to the Warren Brookes article that has been printed in the RECORD. It speaks to that issue and speaks to some of the overstatements that we often hear. And EPA's own remarks, Mr. President, do not say that anyone is getting lung cancer from radon. They say they have suspicion, but they do not really know.

I thank my colleague.

Mr. LAUTENBERG. Mr. President, the debate about the seriousness of radon has been dealt with very clearly. In 1990, a report by the EPA Science Advisory Board which—I mentioned in my opening remarks—an expert panel of scientists which provide technical advice to the EPA Administrator, identified radon and other indoor air pollutants as posing relatively high risks to human health, compared to other environmental threats.

So I think that with the scientific evidence, we no longer have a debate about the seriousness of radon as a health threat.

Mr. President, I yield the floor at this point.

The PRESIDING OFFICER. Who yields time?

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Wyoming [Mr. WALLOP].

AMENDMENT NO. 1704

(Purpose: To clarify and improve certain provisions relating to indoor radon abatement)

Mr. WALLOP. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wyoming [Mr. WALLOP] proposes an amendment numbered 1704.

Mr. WALLOP. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

"SEC. 322. PERIODIC REASSESSMENT OF HEALTH RISKS.

The Administrator, in consultation with the heads of the National Academy of Sciences and the Centers for Disease Control, shall conduct a program to reassess, on a periodic basis, the human health risks associated with radon exposure.".

On page 36, line 4, before the semicolon, insert "and include a summary of scientific evidence that demonstrates the human health effects of exposure to radon".

On page 53, between lines 11 and 12, strike the item relating to section 321 and insert the following new items:

"Sec. 321. Citizens suits.

"Sec. 322. Periodic Reassessment of Health Risks.".

On page 55, after line 6, insert the following new section:

SEC. 24. PERIODIC REASSESSMENT OF HEALTH RISKS.

Title III of the Toxic Substances Control Act (15 U.S.C. 2661 et seq.) is amended by adding at the end thereof the following new section:

Mr. WALLOP. Mr. President, I thank the majority leader for his civility in allowing me to go ahead with the amendment.

Mr. President, the Senate is once again engaged in one of our most persistent, one of our most contentious and certainly one of our most expensive debates, the quest for an acceptable level of risk for inhabiting our planet. Risk comes in many forms. We face physical threats, such as driving a car, emotional threats, such as a personal failure or loss, and environmental threats, such as eating an apple sprayed with Alar.

One philosophy of government insists that we should develop a zero-risk society through government regulation. The economic cost of the regulation becomes a secondary issue. It is not surprising that the greatest government burden on our economy today is the cost of environmental regulations. The Hansen report estimates that this regulatory activity cost $400 billion annually.

No doubt there is a need for environmental regulation and standards. But we do sometimes lose our way. Recall the poor fellow we had standing stark naked next to the chainlink fence surrounding a coal-fired powerplant 24 hours a day for 70 years. The purpose was to determine a Federal standard for exposure to emissions from powerplants using high sulfur coal. By requiring scrubbers on all power plants, we may have saved that fellow standing by the fence from lung cancer. But, in the meantime, he caught a terminal case of pneumonia.

We will never eliminate risk. What we should do is focus on real hazards, real threats. Tuberculosis is a example of a real and immediate problem. We thought we have virtually eradicated TB in this country. But it is back, and it is causing life-threatening health problems in many communities. Obviously, our public health agencies should respond to what some have described as an epidemic of TB.

TB is a known, measurable, and containable risk. But, many health risks are unknown, obscure, or latent. In response to such environmental health threats, we have relied on questionable scientific methodology. For instance, in banning saccharin, the Federal Government relied on research which studied the effects of giving rats 1,000 times the normal daily dosage of saccharin. Of course the rats got sick, and the Feds banned saccharin. But, after massive costs to the industry and years of conflict over the research, a mistake was admitted and the ban was lifted.

More recently, animal studies demonstrated that dioxin is an extremely toxic carcinogen to some animals. Once again, a serious health effect was extrapolated to humans. When dioxin was discovered in the soil at Times Beach, MO, the Centers for Disease Control recommended evacuation of the town. The Federal Government paid $36 million for the community, and a $200 million cleanup was begun.

Families were destroyed, divorces occurred, old people were uprooted from homes and put in retirement centers prematurely. But a $200 million cleanup started

However by 1989, Vernon Houk, head of the CDC's Center for Environmental Health told a congressional committee that new evidence suggests that the risk of dioxin had been vastly overstated. Sometimes, even the scientific method does not provide the correct, or at least the total answer.

But, problems with the data has never deterred Congress from enacting legislation to regulate. Later this year, attempts will be made to label oil and gas drilling muds as toxic wastes, based on the wish that the muds are a health hazard. If this were ever to become law, have we improved public health and reduced risk? No. But we have fulfilled the environmentalists' dream of stopping all domestic oil and gas drilling.

Congress also bases decisions on inadequate scientific data. We banned virtually all uses of all forms of asbestos because of health risks based in part on studies of exposure in shipyards during World War II. After an expensive effort in the schools and elsewhere, questions have been raised about whether all forms of asbestos are a health hazard. One hundred years ago, it was discovered that asbestos was the most common mineral in Wyoming. The airborne levels exceed that in any building that exists in America. I wonder whether my State would have ever been settled if there had been an EPA back in 1892.

Our latest adventure in health risks involves radon. Much of the data on health effects is based on studies of uranium miners in Western States, such as Wyoming, back in the 1950's and 1960's. For many years, the miners worked in unvented underground mines. Many also smoked. The level of lung disease was above the national average, so a new, serious health risk was determined. The congressional response is an expensive effort to eradicate this indoor air pollutant.

Radon gas, as a byproduct of radioactive decay, does have health effects. The issues are, first, whether there is a serious, prevalent public health threat, and, second, what cost should society undertake in response to this threat. Two years ago, a paper by William Nazaroff in the Journal of Environmental Science and Technology stated, "The implications of measures needed to achieve this goal (of reducing indoor radon levels to natural background levels) are staggering. Even if it is technically feasible, the costs would be prohibitively large" about $10,000 to $16,000 per household, for a total of $1 trillion. Fortunately, the Senate has scaled back its ambitions, and we will only focus on radon testing and information on mitigation. A colloquy I had with the sponsor, Senator LAUTENBERG, discusses this program from the perspective of public schools.

The Nazaroff paper also points out for over 60 percent of the population, they face less than 3 percent of the lung cancer risks from radon exposure. Why? Because they do not smoke. The radon risk, whether with uranium miners or other exposed groups, is most intense for those who smoke.

As Nazaroff states:

> More than 90 percent of the lung cancer risk associated with radon could be controlled by eliminating smoking without any changes in radon concentrations. A reduction by about 3 percent in the number of cig-

arette smokers would reduce the annual mortality due to lung cancer by the same amount as a radon-mitigation program.

The solution to the radon risk is simple. We do not need a new, expensive program to renovate our homes and schools, we need an effective program to reduce smoking. We do not need billboards with skull and bones imposed over a radon canister, as have recently appeared around Casper, WY. We do need accurate science, and responsible legislation.

I would ask unanimous consent that two articles published last fall in the Cato Institute publication, "Regulation," on the science of health effects and on the radon threat appear at the end of my remarks. Also, that a letter explaining the administration's position on S. 792 also be included in the RECORD.

The PRESIDING OFFICER (Mr. KOHL). Without objection, it is so ordered.

(See exhibit 1.)

EXHIBIT 1

[From Cato Review of Business & Government, Fall 1991]

THE PERIOD AND PROMISE OF RISK ASSESSMENT

(By Richard B. Belzer)

Unfortunately, the practice of risk assessment by the federal government routinely departs from the academic ideal. Federal risk assessments continue to rely on conservative models and assumptions that effectively intermingle important policy judgments with science. This often makes it difficult to discern serious hazards from trivial ones, and it distorts the ordering of the government's regulatory priorities. These distortions typically lead to disproportionate investments in reducing very small threats to health and life. In some cases these distortions may actually increase net health and safety risks.

Widely acknowledged problems that continue to plague the practice of risk assessment in the federal government were described in the 1990 edition of the Regulatory Program of the United States, an annual publication of the Office of Management and Budget. The issues were not new, nor was the forum original inasmuch as previous editions of the Regulatory Program had raised similar concerns. But the unusual candor of the 1990 edition provoked a storm of controversy within federal regulatory agencies. The policy issues kindled by risk assessment, which for years had been relegated to obscure scientific journals, had finally become visible to the highest levels of the federal government.

The 1990 Regulatory Program highlighted three concerns. First, the continued reliance on "reasonable worst-case" assumptions distorts risk assessment and yields estimates that may overstate the expected level of risk by several orders of magnitude. Second, the assumptions embedded in risk assessments impart arbitrary "margins of safety" for which there is no scientific basis. The choice of an appropriate margin of safety is a value judgment that should remain the province of responsible risk management officials, and it is inappropriate to conceal it within ostensibly scientific risk assessments. Third, current risk assessment procedures distort the regulatory priorities of the federal government and direct scarce resources toward reducing trivial carcinogenic risks while failing to address more substantial threats to life and health.

Cancer risk assessment has become extraordinarily controversial over the past few years. It has been subjected to the crescendo of criticism by prominent scientists, risk assessment professionals, and policy analysts. Defenders of the faith have responded in kind by challenging the arguments of the accusers with gusto and occasional vitriol. It remains an open question whether risk assessment can survive this internecine warfare.

Despite these battles over its underlying validity, quantitative risk assessment plays an increasingly important role in the federal government's management of risks. Public confidence in the government's scientific objectivity never has been so important. Policymakers and risk management officials need high-quality risk assessment to assure an effective ordering of regulatory priorities and to maintain (or perhaps to restore) public confidence in the risk management process. As former EPA Administrator William D. Ruckelshaus noted in 1983, "risk assessment . . . must be based on scientific evidence and scientific consequences only. Nothing will erode public confidence faster than the suspicion that policy considerations have been allowed to influence the assessment of risk."

CURRENT RISK ASSESSMENT PROCEDURES

Risk assessments of chemical substances in general (and possible carcinogens in particular) consist of a mixture of facts, models, and assumptions. Facts are beyond dispute, of course, but there is considerable debate concerning the scientific merits of the models and assumptions commonly used in risk assessment. In some cases a scientific consensus has developed to support a particular model or assumption, but in many other instances certain models and assumptions are relied on simply because they reflect past practices. Put simply, no scientific basis exists for some of the most critical models and assumptions used to assess cancer risk.

These models and assumptions generally lead to a substantial overestimate of risks. That is, they lead to estimates of a "reasonable worst case" rather than provide information about the typical or average level of risk. This bias arises within the procedures used to estimate both hazard and exposure. In fact, additional biases are embedded in so many steps that in the final result risk assessments often exceed by orders of magnitude the risk posed to the average exposed individual.

Several procedures generally used to extrapolate the results from animal tests to human risk are explicitly and intentionally biased. Therefore, risk assessors often characterize estimates as "upper-bound excess lifetime cancer risks." The term upper bound means that there is a small (but known) probability that the true (but unknown) risk actually exceeds the value specified. Of course, the true risk is just as likely to be as small as a corresponding lower bound, which may be zero. Similarly, the caveat "lifetime" is added to reflect the assumption that exposure to the substance in question occurs continuously for seventy years.

It is also important to recognize that these estimates refer to "excess" cancer risks. The average American's lifetime risk of cancer is approximately one in four. One-third of this risk is attributable to smoking; another one-sixth is related to diet. All other causes, including environmental, occupational, and dietary exposures to carcinogens and aging, thus pose an average lifetime cancer risk of one in eight. When a risk assessment is published that suggests that a particular substance poses an "excess" cancer risk of one in 10,000, this means that the lifetime risk of cancer faced by the average non-smoking American exposed to this substance may be increased by as much as one tenth of one percent.

Choosing between Animal Tests and Epidemiology.—Animal testing enables scientists to estimate risks before human health effects become evident. Animal tests can also be conducted under tightly controlled laboratory conditions that allow exposure to be carefully calibrated. In contrast, epidemiological studies must rely on less accurate exposure measures, some of which (such as recall) are inherently biased. It is also easier to control for confounding factors that would systematically alter risk estimates with laboratory animal tests than with epidemiological studies.

For these reasons, combined with an ethical aversion to delaying action until human "body counts" are available, animal studies are the dominant source of risk assessment data. Unfortunately, animal testing also suffers from serious limitations. Laboratory controls are by no means complete or sufficient. They generally fail to control for total caloric intake, for example, which has been associated with an increased incidence of tumors independent of exposure to possible toxins. Even more important, there is no generally accepted scientific basis for extrapolating low-dose human cancer risks from high-dose rodent bioassays. Current practice reflects a collection of scientific conventions for which there is little more scientific support today than there was over a decade ago when the procedures where first developed.

Despite these problems, properly conducted animal tests and epidemiological studies both have useful roles to play in quantitative risk assessment. Indeed, they are complementary. The usual weaknesses of epidemiological investigations—unreliable exposure data, confounding effects—are readily avoided in laboratory tests on animals. Conversely, the weaknesses of animal tests—problematic extrapolation from higher to low doses, arbitrary conversion of animal exposure to human equivalents—do not arise in epidemiological studies. Careful risk assessments incorporate both kinds of analysis to ensure that the emerging pictures are themselves internally consistent.

Current practice among federal regulatory agencies departs significantly from this ideal. Animal tests are often preferred to epidemiological studies when the former suggest higher risks. In a recently proposed regulations concerning cadmium, for example, the Occupational Safety and Health Administration (OSHA) proposed a new permissible exposure limit based on a risk assessment derived from an animal test rather than from a high-quality epidemiological investigation. OSHA rationalized its preference by pointing to the animal study's superior control of exposure and its capacity to predict tumors at multiple sites. Animal tests inherently have these advantages over epidemiological studies, however, so the conditions under which OSHA would rely on human rather than animal data are unclear. But the more important question is whether OSHA was also influenced by the fact that the data from the animal test predicted low-dose cancer risks ten times greater than the data obtained from the epidemiological study.

Biases Embedded in Cancer Risk Assessment.—In many important ways the judgment that enter into animal-based risk assessments are intended to amplify the resulting estimate of risk.

Sensitive Test Animals.—Animal bioassays rely on homogeneous, genetically sensitive strains of rats and mice. This enhances the power of the test to detect abnormalities such as cancer. Certain animal strains have high rates of spontaneous tumor formation, however, and some scientists question whether observing elevated tumor rates in such animals provides useful information in estimating human cancer risk. Despite these concerns, cancer risk assessments often proceed on the assumption that elevated tumor rates found in sensitive animals are sufficient to conclude that a substance is likely to be a human carcinogen.

The use of sensitive animal strains is not suggestive of bias per se, however. Rather, the bias arises because federal risk analysts often select the combination of species, strain, and gender that yielded the most significant tumorigenic response, and disregard all other results. Because there is no scientific basis for making such determinations, this practice cannot avoid imparting bias to federal agency risk assessments.

Severe Testing Conditions.—Current risk assessment protocols require the use of very high doses in animal tests. One group of animals is exposed to the highest dose that can be administered without inducing chronic excessive morbidity or mortality—the so-called maximally tolerated dose. A second group is exposed to one-half of this dose, and a third group (if there is one) is exposed to one-fourth of the dose. Typically, all of these doses greatly exceed the level of exposure encountered by human populations.

Unfortunately, high doses may induce cancer for reasons unrelated to biological mechanisms that operate at low doses. At the maximally tolerated dose substances often cause severe inflammation and chronic cell killing. These doses may induce cancer simply because of chronic toxicity. For example, formaldehyde administered at the maximally tolerated dose causes nasal tumors in rats. These tumors appear to result from the inflammation of the nasal passage tissues. It is unclear whether the observed response is due to high-dose toxicity or perhaps to some other characteristic of the test species since the observed tumor rates exceed by a factor of twelve the rates found in the next-most-sensitive species tested.

Some scientists have concluded that it is not scientifically credible to use the results from rodent tests performed at the maximally tolerated dose to estimate human health risks arising from exposure to low doses. By one estimate, about half of all chemicals tested at the maximally tolerated dose cause tumors in animal tests, and this ratio appears to be the same whether the chemical in question is natural or synthetic. Two-thirds of these positive results drop out at a dose equal to one-half the maximally tolerated dose, however. This leads some scientists to ask whether other factors besides mutation (cell proliferation, for example) may be the underlying mechanism behind high-dose carcinogenesis. Such questions have led to considerable pressure within the scientific community to reconsider whether maximally tolerated dose administration is appropriate for estimating human cancer risks.

Conversion from Animals to Humans.—When relying on animal tests to estimate human cancer risks, scientists must convert exposures in the test animal to human dose-equivalents. The two most common conversion formulas involve body weight and surface area, and there are scientific reasons for choosing either approach in individual cases. The surface area approach leads to estimates of risk that are between seven and twelve times greater than those that derive from the body-weight methods, however, and despite the ambiguity of the underlying science, EPA guidelines require the use of the surface-area method except in extraordinary cases.

Federal risk analysts have been working for some time to resolve the dispute concerning the appropriate conversion factor. This is both a welcome development and a potential problem. Although it is indisputable that scientific consensus is desirable on this issue, the anticipated resolution—using body weight raised to the two-thirds power—appears to be more of a political compromise than a scientific consensus. A uniform assumption based on non-scientific concerns may bury this legitimate scientific dispute within the risk assessment process and leave risk management officials and the public unaware of one more significant area of scientific uncertainty.

Selective Use of Alternative Studies.—Federal risk assessment guidelines recommend that relevant animal studies be considered irrespective of whether they reveal a positive relationship. These guidelines give appropriately greater credence to studies that show a positive response than to studies that are ambiguous or negative. In practice, however, a single positive study may overwhelm a host of negative studies.

A recent example of the selective use of alternative studies is the EPA's decision to ban the plant growth regulator daminozide (Alar). The scientific basis for this decision was a single positive animal bioassay. According to the EPA's cancer risk assessment guidelines, overcoming such a classification requires, at a minimum, two "essentially identical" studies showing no positive relationship. In the case of Alar, however, a more stringent test appears to have been applied. Three high-quality studies failed to show significant effects, but they received little or no apparent weight in the classification decision. In cancer risk assessment, once a statistically significant positive result has been obtained in one test species, strain, or gender, the statistical burden of proof shifts to the no-effect hypothesis. Because it is logically impossible to prove a negative, however, these procedures establish a virtually irrebuttable presumption in favor of the carcinogenesis hypothesis.

A more defensible approach is to assign weights explicitly to each relevant study that meets the minimum standards of scientific quality. Such a procedure would actively seek to incorporate in a scientifically appropriate manner all the information available at the time a decision must be made. Risk analysts shy away from such a process because they consider any weights to be subjective emendations lacking scientific basis. Although this concern is certainly valid, the absence of an explicit weighting system leads to an equally subjective but hidden implicit weighting scheme. A weight-of-evidence procedure with documented weights would reflect the informed judgment of respected scientists, whereas the existing procedure is both undocumented and politically unaccountable.

The Choice of Dose-Response Model.—Having selected a single data set from among the laboratory animal tests, risk analysts must then extrapolate low-dose human risks from the data generated by high-dose animal tests. They use mathematical models to do this.

No single mathematical model is accepted as generally superior for extrapolating from high to low doses. Rather than be a scientific footnote to the risk assessment process, however, the choice of model thus becomes an important policy issue. For example, when OSHA used five different dose-response models to estimate cancer risks from cadmium, risks at moderate doeses varied by a factor of 100. At doses in the range of the proposed exposure limit, two of the five models yielded excess lifetime cancer risk estimates on the order of of one in 1,000, a level often regarded by policymakers as unacceptable. Two other models predicted essentially zero risk, however. Since none of the five models enjoys a biologically superior basis for estimating low-dose risks, the choice of dose-response model became a critical policy decision.

The preferred procedure under such circumstances would be to explicitly develop a subjectively derived "best" estimate or risk distribution while fully informing both political officials and the general public as to the uncertainties involved. In the case of OSHA's cadmium proposal, however, this practice was not followed. Agency staff used a multistage model to determine whether low-dose exposures constituted a significant risk and estimated both the baseline risks and the benefits from regulation solely on the basis of this embedded policy choice.

The multistage model is the most commonly used method for estimating low-dose risks. Various features of the model typically cause it to produce high risk estimates even when the data are poor or inconsistent. Morever, it yields higher risk estimates than many other models that have equal scientific plausibility. The linearized multistage model, a special version of the multistage model, is much more inherently conservative than the multistage model because it is explicitly and intentionally biased. Some agencies routinely use the linearized multistage model despite (or perhaps because of) its additional inherent bias. This practice lacks any basis in either biology or statistics. Ironically, the degree of hidden bias is greatest where the true risk is the lowest.

Advocates of the linearized multistage model argue that it offers important advantages over alternatives. For example, they say that it is more "stable" than alternative models and that this stability is a desirable trait in the face of uncertainty. In addition, proponents contend that using the same model across a variety of chemicals provides a "yardstick" for comparing relative potencies and thus for ranking relative risks. Finally, advocates of this model argue that it is prudent risk assessment practice to err on the side of caution when dealing with potentially carcinogenic substances. None of these arguments has any merit.

The observed statistical "stability" in the linearized multistage model arises because the model is insensitive to the data it is supposed to fit. Stability arises from an intentional specification error, not from any desirable characteristic of the model. By constraining the data to fit the model, risk analysts implicitly display greater scientific confidence in the model than in the underlying data.

The yardstick argument in favor of the linearized multistage model fails because it institutionalizes these systematic biases. Any rank-ordering of chemical hazards based on this model will be biased in theory as well as in practice. An especially pernicious use of the yardstick argument is the assertion that it enables government agencies to set regulatory priorities. Besides the structural bias implied in the model, further bias occurs because the model fails to take account of human exposure. This failure virtually guarantees that regulatory priorities will be misordered. For example, in the air toxics title of the recently enacted Clear Air Act amendments, Congress gave special consideration to the cancer risks said to be associated with dioxins. It is reasonable to believe that the congressional concern about dioxin was motivated substantially by the very high potency estimate for one of those chemicals—an estimate that is widely believed by scientists to be a gross overestimate of the true risk.

Proper model specification is the foundation of modern statistical methods, so challenges to the multistage model should be expected and encouraged as better data and improved models become available. Indeed, change is a hallmark of scientific inquiry; policies that institutionalize any particular model specification effectively stifle scientific advancement.

In practice, however, use of other models is generally discouraged. For a risk assessment to be based on an alternative model, there must be substantial scientific evidence supporting the alternative. Instead of incorporating the latest scientific information and statistical procedures, current federal agency practices discourage such advancements by communicating a generic mistrust of alternatives. The resulting value judgments embedded in the multistage models were never explicitly approved by risk management officials. In many cases government officials charged with making difficult regulatory decisions are never even aware of the implicit policy judgments of staff risk analysts.

Biases Embedded in Human Exposure Estimates.—It is a generally accepted principle of exposure assessment that estimates should be based on realistic scenarios, with appropriate consideration of uncertainty. Nevertheless, regulatory agencies often rely heavily on "reasonable worst-case" environmental conditions, base human health assessments on the so-called maximum exposed individual, and assume that exposure occurs constantly over an entire lifetime, even when it is intermittent or short-lived. Each of these assumptions tends to overstate the estimate of average human risk. In combination these biases are multiplied so that the final result is a cascade of biases that may mislead policymakers and create undue public alarm. Most disturbing, perhaps, is that excessive bias in risk assessment encourages regulatory initiatives that promise more protection from the ravages of cancer than policymakers can possibly deliver.

"Reasonable Worst-Case" Exposure Conditions.—When exposure data are available, they often relate to unusually sensitive environments or highly contaminated conditions. But agencies frequently use these data to estimate regional or nationwide environmental exposures under the false assumption that unusual localized circumstances apply rather generally.

In a recently proposed rule governing the allowable level of synthetic organic chemicals in drinking water, the EPA estimated the level of existing contamination by using a handful of state studies. These studies had been undertaken to measure contamination levels at previously identified "hot spots," not to characterize nationwide exposures. Nevertheless, data from these studies were extrapolated nationwide. After combining modelling assumptions, hot spot data, and conservative potency estimates derived from the hazard assessment process described earlier, the EPA estimated a baseline cancer incidence of seventy-four cases per year. But the true incidence is very likely to be much lower simply because of the extreme environmental conditions on which nationwide exposure estimates were based.

The "Maximum Exposed Individual."—Risk analyses must also consider the conditions under which humans may be exposed. Actual exposure varies considerably depending on location, population mobility, and a host of other factors. But exposure estimates are often based on the "maximum exposed individual," a hypothetical person whose exposure represents the worst case." Exposures to environmental contaminants are generally assumed to occur twenty-four hours each day for seventy years. Occupational cancer risks are based on an analogous construct—a hypothetical worker who is exposed at the permissible exposure limit eight hours per day, five days per week, fifty weeks per year over a forty-five-year working lifetime. Risks to the entire exposed population are often estimated by assuming that all are exposed at levels equivalent to the maximum exposure—a statistical absurdity that imparts a substantial and quantifiable bias.

Risk assessments focused on the drinking water pathway offer another example of exposure bias. First, adults are assumed to drink two liters of tap water per day, but the average adult consumes only 1.4 liters of all beverages per day, less than half of which is drinking water. Second, the full daily consumption of drinking water is assumed to come from the same contaminated source, but the average adult spends more than one-half of all waking hours away from home. Finally, exposure is assumed to occur for seventy years, but the average person spends just nine years at any one residence. Each of these assumptions may be plausible for a small subset of the exposed population, but the likelihood that anyone is accurately characterized by all three is extremely remote. Indeed, these three assumptions lead to estimates that exceed the average level of exposure by a factor of more than fifty.

The design of cleanup plans for hazardous waste sites offers another example in which biased assumptions are used to estimate human exposure. The procedures give special weight to unusually sensitive subpopulations, such as children, pregnant women, the elderly, and those with chronic illnesses. Children's exposure is generally estimated by assuming that half of nearby households include children and that one child from each household plays at the hazardous waste site. Soil ingestion exposures are based on children who intentionally eat dirt. For air exposures, all nearby residents are assumed to spend the entire day within the contaminated zone. Dermal exposures are similarly calculated on the basis of worst-case conditions and assumptions.

A common defense for these biased exposure assumptions is that risk assessments often fail to measure risks from all relevant pathways. Risk assessors thus account for what they cannot estimate by intentionally exaggerating what they can. This was the case for many years because analytic methods for some pathways were considered excessively primitive. More recently, however, federal risk analysts have working diligently to capture multiple pathways. It is now quite common to see risk assessments that estimate risks from inhalation, dermal absorption, and ingestion through drinking water, meat, milk, home-grown vegetables, and locally caught fish. These efforts to analyze pathways comprehensively have not diminished the use of conservative exposure assumptions, however. These assumptions are simply extended to the additional pathways. The resulting exposure scenario combines the reasonable worst case from each pathway into a mega-worst case.

Assumptions versus Real-World Exposure Data.—These exposure assumptions are typically used in lieu of real-world data, even when such data exist. Risk estimates are only as good as the data and assumptions used to create them, and even small biases in assumed exposure levels can result in substantial overestimates of average risk.

For example, regulatory agencies may not have statistically reliable real-world data on pesticide residues in agricultural products, and they also may not know the proportion of a given crop that has been treated with a particular pesticide. A common resolution of these uncertainties is to assume that residues are equal to the regulatory "tolerance" (the maximum level allowed to be present in food sold in interstate commerce) and that 100 percent of the relevant crop has been treated. Both assumptions are likely to overstate actual exposure, but they are encouraged by agency guidance as mechanisms intended to produce inflated estimates of risk.

When data are available, the extent of this bias becomes evident. In a recent pesticide review the EPA reduced its earlier upperbound excess lifetime cancer risk estimate by a factor of 100 when its exposure assumptions were replaced with real-world data. The EPA then still acknowledged that upperbound risks were probably overstated because field tests were performed on the basis of applications at the maximum legal rate and as close to harvest as the label permits. Similarly, feeding studies assumed that animal diets were dominated by feedstuffs containing relatively high residues, such as almond hulls and raisin waste. As the EPA noted, even if these assumptions accurately reflected typical animal diets, they would do so only for portions of California where almonds and raisins are grown. Nationwide extrapolations based on these unusual diets significantly overstate average exposure.

IMPLICATIONS OF BIASED RISK ASSESSMENT FOR REGULATORY DECISIONMAKING

The primary purpose of risk assessment is to provide data and analysis that can serve as the foundation for making risk management decisions. This requires the synthesis of information concerning risks and exposure levels into a coherent package that can be used to develop regulatory options. Decisionmakers can then use risk estimates as inputs in their regulatory analysis.

Unfortunately, risk information tends to be presented in ways that frustrate regulatory analysis and mislead decisionmakers. First, the substantial uncertainties underlying risk estimation are generally discarded in favor of reporting only point estimates. Decisionmakers are thus led to believe that scientists have determined the actual level of human cancer risk. Second, the point estimates provided do not represent the expected values of the underlying risk distributions. Instead, they are laden with biases. Both of these factors imply that regulatory choices may differ systematically from what they would have been if decisionmakers had been fully and accurately informed.

Failure to Quantify Uncertainty.—Scientists agree that uncertainties should be quantified and presented to decisionmakers as part of the risk assessment package. In practice, regulatory proposals that utilize risk assessment rarely provide this information, nor do they analyze the implications of uncertainty. Virtually all risk assessments prepared in support of regulatory decisionmaking identify only the upper-bound risk estimates.

The difference between upper-bound and expected-value estimates may be considerable. The EPA's current upper-bound risk estimate for dioxin may be 5,000 times greater than the expected-value estimate. The upper-bound risk estimate for perchloroethylene (the primary solvent in dry cleaning) exceeds the expected value estimate by a factor of about 35,000. the significance of these distortions becomes evident only when agencies strive to avoid them. For example, the EPA's recent decision to ban asbestos relied on epidemiological data rather than animal studies and on the geometric mean from a collection of studies rather than the highest risk estimate available. These simple improvements in risk assessment combined to reduce the estimated risk of lung cancer by a factor of ten and the estimated risk of mesothelioma by a factor of twenty.

In many instances decisionmakers are not informed that risk estimates differ because of underlying methodological and policy choices. In the EPA's draft proposed rule limiting emissions from coke ovens, for example, cancer risks were estimated on the basis of the linearized multistage model described above. In previous rules involving similar types of risks, however, the EPA has used a maximum likelihood procedure designed to identify the expected value of the dose-response mode. Unsurprisingly, the linearized multistage model projected higher risks. To the extent that decisionmakers were not informed that the higher risk estimate was largely due to the use of a different extrapolation procedure rather than to any fundamental change in scientific knowledge, choices based on this risk assessment were likely to reflect misunderstanding rather than science.

Some risk estimates are so large as to defy all reason and common sense. In a recent decision to list spent wood-preserving chemicals as hazardous wastes, the EPA provided a table listing all of the contaminants in the waste stream, the levels of these constituent chemicals, and the calculated groundwater risks based on specified but arbitrary dilution and attenuation factors. When the risks posed by these individual contaminants are summed, they yield an estimated upper-bound excess lifetime cancer risk of forty-two. This implies that an individual exposed to the diluted form of this waste stream could expect to die from cancer every two years for seventy years.

Misordered Priorities, Perverse Outcomes.—Logically, one would expect that routine exaggeration of likely risks would lead to inefficient regulatory choices. Decisionmakers, convinced that a certain substance or activity poses a significant threat to public health, may well take actions that they would otherwise resist. Nevertheless, decisionmakers would still be able to establish sensible priorities as long as all risk estimates were equally exaggerated.

Federal risk analysts are not consistent in their assessments of different risks, however. This makes it difficult to determine which activities pose the greater risks or to establish reasonable priorities for regulatory action. The bias in risk assessment is especially severe with respect to carcinogens. It is thus reasonable to expect that other health and safety risks tend to receive relatively less attention and weight than they would if different types of risk were measured more consistently. Society implicitly bears greater total risks because the bias in cancer risk assessment has misordered regulatory and budgetary priorities.

Conservative risk assessments can lead to truly bizarre regulatory decisions. When the EPA established its new "toxicity characteristic for hazardous waste," the agency also identified twenty-five organic chemicals that, if detected above specified thresholds, would render a waste stream "hazardous." This designation is significant because it triggers expensive treatment and disposal requirements. Biased risk assessment procedures dictated very low thresholds for these organics.

Several months after promulgating the regulation, the EPA learned that common chlorofluorocarbons (CFCs) may contain trace levels of carbon tetrachloride and choroform—two of the twenty-five organic chemicals listed. Further, under previously established EPA rules the act of removing these CFCs from refrigeration units for recycling made them "solid wastes." Thus, anyone seeking to reclaim CFCs rather than to vent them to the atmosphere faced a rather difficult decision. The required testing of these "solid wastes" would trigger a "hazardous waste" designation and the full weight of expensive regulation under the Resource Conservation and Recovery Act. These burdens could be avoided only by doing the wrong thing—venting the refrigerants to the atmosphere.

After discovering this problem, the EPA moved quickly to suspend the application of the toxicity characteristic to CFCs, but the event symbolizes the perversities that can result from conservative risk assessment. As it happens, the same CFC compounds that would have been hazardous wastes if reclaimed from refrigeration units are also used as inert propellants in a variety of pharmaceuticals—including the inhalers that asthmatics rely on to breathe freely.

Finally, the use of biased risk estimates may actually increase individual risk, even in situations in which cancer is the only concern. Regulatory actions taken to address what are in fact insignificant threats may implicitly tolerate or ignore risks that are far more serious. For example, before it was banned, ethylene dibromide (EDB) was used as a grain and soil fumigant to combat vermin and molds. Vermin transmit disease, and molds harbor the natural and potent carcinogen aflatoxin B. The estimated human cancer risk from the aflatoxin contained in one peanut butter sandwich is about seventy-five times greater than a full day's dietary risk from EDB exposure. By eliminating the relatively small hazard from EDB, federal officials may have intensified the relatively potent threat of aflatoxin.

STRATEGIES FOR IMPROVING RISK ASSESSMENT

The practice of risk assessment is extremely complex and fraught with controversy. The underlying problem is inherently difficult to analyze, and the stakes involved are enormous. Seemingly innocuous choices made in assessing risk often have huge consequences.

The problems identified here do not imply that risk assessment should be abandoned, although increasing dissatisfaction with the process has intensified the pressures to do so. For risk assessment to survive as a useful component of regulatory analysis and decision making, dramatic changes must occur that will restore its credibility and relevance.

Renewed Commitment to Separating Science from Policy.—First, heroic efforts must be made to separate science from policy. Criticisms leveled more than a decade ago by the National Academy of Sciences are still unanswered. Risk assessment remains a seamless web of science and value judgment that is impenetrable by the average citizen and wholly lacking in public accountability. Confidence in government as a risk management institution cannot improve until the credibility of risk assessment as a scientific enterprise is restored.

Regulatory agencies tend to be institutionally resistant to change. Scientific advancements in risk assessment methodology that implicitly cast doubt upon earlier decisions are particularly distressing. Although this phenomenon characterizes many institutions, it appears to be especially pernicious with regard to regulatory agencies and risk assessment. Thus, a formulaic approach to risk assessment has evolved in which departures from the accepted pattern are inherently controversial simply because they are different. The process needs to be reopened to admit a wider variety of new ideas, hypotheses, and results.

Develop Risk Distributions in Lieu of Point Estimates.—Perhaps the single most important reform needed is the replacement of upper-bound estimates with risk distributions. There are a variety of analytic methods available for estimating distributions and retaining the uncertainties of risk analysis. While these methods were computationally quite difficult a decade ago, contemporary computer technology is more than adequate for the task.

Besides enabling risk analysts to communicate uncertainty, risk distributions are compatible with efforts to incorporate all the available information. Risk assessments would be far less sensitive to individual assumptions, model choices, and data, and they would reflect scientific and statistical advancements more quickly.

The role played by decisionmakers would be enhanced in such a setting. If decisionmakers wanted to choose a very cautious strategy, they could do so and explicitly apply a margin of safety in the final decision. The public and affected parties would also benefit from knowing the full risk distribution and its expected value, rather than learning only an alarming estimate implicitly derived from the distribution's upper tail.

Sensitivity Analysis of Major Parameters and Assumptions.—In the short run, risk assessments would be substantially improved if analysts performed sensitivity analyses on those parameters and assumptions that are believed to dominate the outcome. This is the conventional practice in benefit-cost analysis where both sides of the economic ledger are often characterized by considerable uncertainty. There is no reason why federal risk assessments should not be so rigorous as the economic analyses that agencies perform in support of regulatory decisionmaking.

CONCLUSION

Risk assessment lies at a crucial stage in its evolution. Whether it will survive as a useful policymaking instrument will ultimately depend on whether the risk assessment profession responds to long-standing concerns such as those discussed here. An objective observer could well interpret the pattern of bias—as extensive, pernicious, and resistant to reform as it appears to be—as a malignant invasion of such magnitude that the organism cannot be saved. Whether risk assessment ultimately survives will depend on whether the methodology (and its practitioners) can adapt to the changing needs of policy officials and decisionmakers and can incorporate the latest advances in science.

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RADON TODAY: THE ROLE OF FLIMFLAM IN PUBLIC POLICY

(By Philip H. Abelson)

The Environmental Protection Agency and some members of Congress are embarked on a questionable radon program that will entail great costs and produce trivial benefits. The costs include huge financial expenditures for renovation and new construction in schools, residences, large buildings, and federal buildings, as well as fees for litigation. The program also will cause needless anxiety for millions of people.

In its warnings to the public and in its guidelines the EPA adopts what it calls a conservative approach. It gives credence to the piece of evidence or analysis that implies the greatest risk or danger. Solid evidence that the risk is minimal is disregarded. As a result of that approach to asbestos, radon, and industrial chemicals, our country is on the road to wasting a trillion dollars or more to obtain negligible health benefits.

This article will analyze the shaky scientific basis on which the EPA has set goals for radon levels. It will provide evidence that EPA estimates of the carcinogenicity of radon at low levels are unreliable, and it will describe some of the efforts of the EPA to frighten the public.

The EPA has issued many statements about the number of lung cancer deaths attributable to radon. The numbers vary but are of the order of 16,000 per year, with an upper limit of 43,200 per year. The numbers are not supported by epidemiological studies, but are based on limited data derived mainly from experiences of uranium miners. The data, many of which are based on high exposures in dusty unventilated mines, have been extrapolated to low doses in relatively dust-free living rooms.

Shortly after World War II, the Atomic Energy Commission embarked on a high-priority program to develop domestic sources of uranium. A high price was established for crude uranium-containing ores. John Morgan, a purchasing agent for the Atomic Energy Commission in the early days, observed that many truck drivers and other amateurs had used geiger counters to prospect for uranium. As result, a substantial number of the prospectors became millionaire miners. Indeed, about 2,000 small mines were soon producing uranium. Morgan called the mines "dog holes" since in many cases the opening were scaled to a size more comfortable for dogs than for humans. The early mines were not ventilated. Howard L. Kusnetz, who as an officer of the U.S. Public Health Service from 1951 to 1971 monitored conditions in the uranium mines of the Colorado Plateau and developed improved methods of radon determination, told of primitive conditions in the small mines in which he crawled to measure radon levels. He spoke of the early difficulties of obtaining reliable results and stated that many of the reported measurements were made by miners. Their data were not reliable and tended to understate exposures.

The vast majority of the miners were smokers. In the cramped mine quarters, all those present inhaled the smoke. But during the 1950s the small unventilated mines contained more than cigarette smoke and radon. There were also nitrogen oxides and mineral dusts. The dust itself contained uranium and its decay products. Beyond the effects of radiation were the lung irritant effects of the dust itself. It is well known that asbestos workers who smoked had a greatly enhanced frequency of lung cancer. In any event, conditions in the mines were not conducive to good health. Silicosis, chronic obstructive pulmonary disease, and other noncancerous lung pathologies were noted in nonsmokers. The miners—smokers and nonsmokers—were exposed to pathology-inducing mineral irritants not present in one's home.

The EPA's statements on the carcinogenicity of radon and its decay products depend heavily on a report of a committee of the National Research Council—the so-called BEIR IV report. That report is largely based on a survey of literature relevant to uranium miners on the Colorado Plateau and includes references before 1987. It is a careful study, but it can be no more reliable than the fragmentary data available to the committee. A table in the document indicates how poorly radon exposures were monitored during the 1950's. For example, in 1955 radon was measured in only four of more than 2000 mines. In the interval from 1951 to 1958 the fraction of mines monitored seldom exceeded about 7 percent. The committee did recognize that the data and models on which they based their report were controversial. The council's report concluded: "In summary, a number of sources of uncertainty may substantially affect the committee's risk projections; the magnitude of uncertainty associated with each of these sources cannot readily be quantified. Accordingly, the committee acknowledges that the total uncertainty in its risk projection is large."

The one conclusion of the report that is valid beyond doubt is that at high doses of radon, miners who are cigarette smokers experience an enhanced incidence of lung cancer. The data with respect to nonsmokers are less impressive. Only small numbers of cancers are involved in this cohort.

In its projections to estimate dangers associated with low exposures, the committee made the conventional assumption that risk is a linear function of dose. That is, one can extrapolate from high-dose effects to predict those at low doses. This assumption has never been proved.

Many epidemiological surveys and various surgeon General's reports have linked cigarette smoking with the incidence of lung cancer and other pathologies. Each year about 140,000 smokers die of lung cancer. In the days before smoking became prevalent (from 1920 to 1930) lung cancer was a rare disease. Radon levels in residences then were comparable to or greater than those now existing. In fact, the average radon levels experienced by people in the early 1900s were probably considerably higher than those of today. Radon is formed in soil and accumulates in households largely through leakage through the basement or bottom floor. Amounts of radon are greatest at the lowest floor level and much lower higher up. In today's apartment living residents receive much lower exposures than in the past. The historical data indicate that with moderate exposure to radon, nonsmokers are not subject to lung cancer. Rosalyn Yalow, a Nobel laureate, reported: "According to American Cancer Society statistics the age-adjusted lung cancer death rates in 1930 were 5 per 100,000 for males and 2.5 per 100,000 for females. At the present time, the rates are about 15-fold higher for men and 10-fold higher for women." The increased death rate is clearly linked to increased smoking.

The EPA has estimated that among a total of 140,000 lung cancer deaths, as an upper limit as many as 43,200 might be due to radon. Such a large number—whether 43,200, 20,000 or 16,000—should be glaringly evident in the population from even a casual epidemiological survey. A large number of homes have been monitored. The EPA has provided data for levels of radon in thirty-four states. Five states in the Midwest, including Iowa, have the highest radon levels. Taken together, those states were recorded as having about twice the national level. The lung cancer incidence in those five highest radon states was reported as only about 80 percent of the national average, however. Studies in other regions by Dr. Bernard Cohen and Dr. Ralph Lapp have yielded similar results. Lapp compared rates of lung cancer deaths in counties in New Jersey. Some counties over the Reading Prong have very high radon levels. Atlantic Coastal Plain counties have low radon levels. Warren County has thirteen times as much radon as the Coastal Plain counties, but rates of lung cancer deaths were the same in both regions. Moderate but higher than average levels of radon correlate with beneficial lessening of the incidence of lung cancer. This is a finding that appears to hold elsewhere in the world.

Doctor Yalow has also commented on the epidemiological findings: "In the three states with the highest mean radon levels in home living areas (Colorado, North Dakota, Iowa: 3.9, 3.5, 3.3 pCi/liter respectively), the lung cancer death rate averages 41 per 100,000, and in the three states with the lowest radon levels (Delaware, Louisiana, California: 0.75, 0.96, 0.97 pCi/liter respectively), the rate averages 66 per 100,000."

The observation that small doses of radiation need not be harmful is counter to a widely accepted hypothesis of radiation biophysicists. But the hypothesis was created more than fifty years ago at a time of ignorance because of the absence of solid data. Actually, some experimental data indicate no effect or a beneficial effect for small radiation exposures. While it is known that ionizing radiation creates free oxygen radicals and can injure chromosomes, it is now known that repair mechanisms exist. Moreover, it has been shown that low-level radiations make the cells less susceptible to subsequent high doses of radiation. This adaptive response has been attributed to the induction of a chromosomal break-repair mechanism that can repair much of the damage when cells are exposed to high doses of radiation.

We know that when humans engage in physical exercise, their metabolism increases. This creates an enhanced level of free oxygen radicals, some of which react to destroy the integrity of DNA. But the existing repair mechanisms are effective. As a result, the exercise is overall beneficial to health.

Evidence for absence of a carcinogenic effect of radiation and radon at moderately elevated doses was also provided by an epidemiological study financed by the U.S. National Cancer Institute and conducted in China. In some Chinese rural provinces little movement of population occurs, and there are areas where the soils contain unusually large amounts of uranium and thorium minerals. Thus, it is feasible to compare the effects of radiation on highly exposed and low-level control populations. The radiation levels differed by a factor of three. In both instances populations of 70,000 were involved. Although the numbers of lung cancer cases in both groups were small, the controls had more lung cancer than the highly exposed persons. There was about twice as much cancer of all kinds in the controls as in the highly exposed population.

A crucial assumption underlying many of the regulatory standards issued by the EPA is that substances toxic at high levels are also injurious at low levels approaching zero. That is, one extrapolates from high levels to low levels by using a linear approach. The EPA uses this assumption to estimate the effect of radon as well as the effects of chemicals that are carcinogenic in animals at very high exposure levels. But the error of this approach is becoming increasingly apparent through experiments that produce data that do not fit the linear model. A striking illustration comes from human stomach cancer caused by excessive ingestion of table salt. If the EPA were consistent in its regulatory program, the known occurrence of salt-induced stomach cancer should lead to a ban on the use of table salt. A number of trace elements that are absolutely essential to life are carcinogenic at high doses. Pharmacologists have long stated that it is the dose that make the poison.

The EPA has no solid evidence that low levels of radon cause lung cancer, especially in nonsmokers. Epidemiological evidence (part of it gathered by the EPA) indicates the contrary. In addition, authorities in the United Kingdom and Canada do not share the EPA's view of the extent of the hazards posed by radon. In the United Kingdom radon levels in Cornwall and Devon are four times as great as the national average, but the incidence of lung cancer in those two areas is 15 percent less than the nation's average. The Canadians also have a history of radiation and health research. They have experience with high levels of radon in Manitoba and elsewhere. They have set the exposure level at which remediation is required at five times that of the EPA.

Despite such information, the EPA has chosen to rely on the questionable linear extrapolation of questionable data obtained from miners' exposures to radon to calculate effects in a quite different residential environment. In fact, the EPA seems to have become so convinced of the validity of its point of view that it has been taking strong measures to brainwash and alarm the public. It appears to have adopted the view that the end justifies the means. That is, the goal of reducing exposure to radon justifies using inaccurate data and inflicting psychological trauma.

THE EPA'S PUBLIC MISINFORMATION CAMPAIGN

An elevated incidence of lung cancer in uranium miners was well known before 1980. The existence of areas with high radon levels was also known. The EPA gave no urgency to those facts until about 1985, when high radon concentrations were detected in homes on the Reading Prong in Pennsylvania. A burst of activity followed, and soon the EPA made statements to the effect that radon is the second leading cause of lung cancer.

The public did not respond in great numbers to the EPA's 1986 Citizen's Guide to Radon or to subsequent public urgings. The public's lack of response has led the EPA to resort to motivational efforts that depend less on truth and education and more on creating public anxiety.

In the autumn of 1988, then EPA administrator Lee Thomas appeared on national television to say that up to a third of U.S. homes had excessive radon levels. That is, the exposure levels exceeded the EPA action level of four pCi per liter. That statement conflicted with scientific studies showing that only about one-fifteenth of homes had levels exceeding four pCi per liter. From time to time the EPA issued a variety of different estimates on the fraction of homes with excessive levels. Estimates often were obtained by nonrandom state surveys that oversampled in areas with high radon levels.

The effort to motivate the public became increasingly shrill. With absolutely no proof, the agency compared the effects of radon to those of smoking. The EPA asserted that daily exposure to four pCi per liter of radon produced a lung cancer risk comparable to smoking up to half a pack of cigarettes a day. William Reilly, administrator of the EPA, revised this estimate to more than 10 cigarettes a day in an October 1989 news conference. There was no scientific basis for such a remark; no new facts had been developed to warrant a change from earlier estimates. What is inexcusable is that the statement did not differentiate between radon's effects on smokers and nonsmokers.

A continuing series of statements by the EPA led to media coverage and in turn to congressional interest in radon. One result was legislation establishing a virtually impossible goal for the EPA of reducing residential levels of radon to the level in the outside air. The EPA has repeatedly taken the position that no level of radon is safe, and the cost of reaching the congressional goal has been estimated at about a trillion dollars. Nearly every home owner in the country would be adversely affected, most without benefit.

The key to creating action-producing anxiety is to work through mothers. When they are told that their children are at risk, they tend to respond decisively. That was observed during the asbestos scare, when large sums of money were spent to remove asbestos from schools. To create anxiety about radon, the EPA adopted a model that alleges that children are three times as susceptible to radon as are adults. Jay Lubin has written that "the proposition that children are at greater risk is currently unsupported." He based his statement on a study that was made on Chinese miners who had been first exposed to radon while under the age of thirteen. He also cited a BEIR V report on radon that stated that "the model for respiratory cancer does not depend upon age at exposure."

Despite the lack of evidence that children are particularly at risk, in 1989 the EPA participated in a campaign with the Advertising Council to exploit parents' concern for their children so as to frighten them into implementing EPA recommendations. A thirty-second television spot was created and repeatedly run. Dr. Anthony Nero, a physicist specializing in radon matters at Lawrence Berkeley Laboratory, wrote: "In the TV spot a family is seen in front of their television set. A voice says that high radon in one's home is like having hundreds of chest X rays a year. Flashes occur 7 or 8 times causing the entire skeleton of a child, safe in his mother's * * * lap, to appear before us. It isn't only the child's chest that is exposed to X rays. It's his entire skeleton, flashing at the rate of a thousand times an hour (a million times a year)—conveying a palpable danger of death. The frequent flashes showing us a dead child are not intended to inform, but to cause undue fear, moving people to action with the threat of death. This is terrorism."

Additional details concerning the relationship of the EPA and the Advertising Council appear in a briefing document entitled "Radon Media Campaign." The document was apparently constructed from Xeroxed copies of slides uses to brief the EPA some time in the autumn of 1990. One section of the briefing asked, "Why an Advertising Campaign?" The answers were: radon has become "old news"; the public is apathetic about radon—although most people have heard of it, fewer than 5 percent of homes nationwide have been tested; and sustained media coverage is needed to motivate public action. Another section, headed "Advertising Research Findings," noted that radon is not perceived as a serious risk, that only educated self-starters are taking action, and that smoking comparisons are not effective. It went on to suggest that an easy first step is needed and pointed out that the major problem is denial: more information results in more denial. A following section, titled "Keys to Over-coming Denial," called for relating radon risks to others in the household, personalizing radon with relevant, tangible comparisons, eliminating unnecessary information, and using strong and unsettling messages. Those last two recommendations bear emphasis. In other words they say, "Do not inform them; scare them".

In August 1990 the EPA circulated a draft of a proposed revised Citizen's Guide to Radon. The subtitle to the draft was Don't Let A Dangerous Intruder Invade Your Home. The document employed the "scare them" strategy; it was designed to raise anxiety rather than to present facts. Many reviewers of the draft denounced the strategy as inappropriate. In the November 9, 1990, publication of Inside EPA one reviewer reportedly castigated the agency's use of emotional motivational language to spur public action on radon as "little more than a euphemism for misrepresentation and obfuscation." Another reviewer described the draft guide as "a clever example of deceptive advertising and a distortion of scientific fact." Other reviewers compared the guide to "an advertisement for radon contractors," criticized "improperly presented scientific information, omission, and just plain fictitious statements," and suggested that the guide should "emphasize much more that people should stop smoking." A frequently recurring criticism related to the lack of credibility the EPA would have for publishing such an alarmist guide. One reviewer wrote: "[T]he long-term negative effects of the alarmist approach as presented by this guide are not evaluated. One should not underrate the need to retain credibility." As a result of largely scathing comment about the draft of the 1990 Citizen's Guide, the document was not issued. A revision is in progress, however.

The repeated concern about the guide's destruction of the credibility of the federal government was also present in other correspondence. Scare tactics that employ demonstrably inaccurate data are bad public policy. In the case of radon such tactics have proved ineffective. For more than five years, the EPA has attempted to scare people into testing for radon. The efforts have been fostered by a tremendous amount of media coverage, but only about 5 percent of the public has responded. Even with the ghastly thirty-second TV spot showing children's skeletons, the response was not great. Is the public becoming jaded after a long series of scary media coverage of environmental matters?

The answer may lie in another direction—does the individual believe that a risk is being imposed by others? A substantial fraction of the population smokes, although the public has been repeatedly informed of the great hazard of lung cancer. When told of miniscule hazards from chemicals emitted by industry, however, smokers react strongly, for the risk is imposed by others. In contrast, radon is produced by Mother Nature, so it cannot be very bad.

Many scientists and physicians have suggested that if the EPA were really determined to diminish lung cancer deaths due to radon, it would engage in a campaign to reduce smoking. Reducing the number of smokers by a few percent would more effectively improve health than would a frontal attack on radon that would cost hundreds of billions of dollars.

One strategy designed to diminish exposures to radon that has been partially implemented has to do with real estate sales. Increasingly, owners find that to sell their homes they must test for radon and remediate if necessary. Were the EPA to lower the radon exposure levels that would require remedial action to meet congressional goals of a level equivalent to that of the outside air, the costs of remediation would become enormous. In that event, the EPA would surely come under angry scrutiny. The best policy would be for the EPA to abandon attempts to frighten all the citizens and instead concentrate on identifying those areas of the country and the circumstances in which high levels of radon prevail.

Levels of radon are variable around the country, and in areas where the uranium content is high, the radon hazard is correspondingly elevated. In limited areas the levels of radon in homes are at least 100 times higher than the national average. Scientists have repeatedly urged the EPA to focus its efforts on attaining remediation in those areas. Legislation now pending in Congress mandates such efforts.

One of the weaknesses of the EPA is that it seems unable to learn. Its basic policies were set nearly twenty years ago. Whenever a risk is identified, the EPA takes what it calls a conservative approach. This entails developing worst-case scenarios and giving credence to sloppy data if they indicate a greater risk. Experiments that later show that no risk exists are disregarded. Very rarely indeed has the EPA loosened regulations on the basis of new, valid scientific data. With respect to radon, new data could be obtained. An epidemiological survey could establish the extent to which, if any, nonsmokers are affected by ambient levels of radon. Some millions of dollars devoted to such a study would be a better investment than spending billions of dollars on recommendations that might merely be a waste of money. Since the EPA has not shown the alacrity to foster such a study, another agency such as the National Institutes of Health or the Department of Energy should be assigned the task.

OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, February 25, 1992.

STATEMENT OF ADMINISTRATION POLICY

(S. 792—Indoor Radon Abatement Reauthorization Act of 1991—Lautenberg of New Jersey and four others)

The Administration opposes enactment of S. 792. The bill's prescriptive and costly regulatory requirements would duplicate existing Federal programs without significantly lowering indoor air radon levels. The bill would also undermine programs designed to provide States with the flexibility to develop self-sustaining, cost-effective, and location-specific programs.

The Federal Government is already undertaking numerous programs to address elevated radon levels in buildings. The Environmental Protection Agency's (EPA) Radon Action Program provides a wide range of technical assistance to help States identify and mitigate elevated radon in residences, work places, and schools. EPA also is working with other Federal agencies to develop radon policies for federally run housing programs.

The bill would inappropriately reauthorize the State Radon grant program as a permanent federally subsidized program. This reauthorization is contrary to the original intent of the existing three-year start-up grant program. The program was designated to end Federal assistance after three years by gradually increasing the State share. While the Administration would not oppose a one-year extension at a reduced Federal share, it opposes a longer extension.

The bill's unfocused requirements and definitions will result in over-control and excessive societal costs where radon levels are relatively low. The definitions of "Priority Radon Areas" and "target action point" are too broad and ignore the work that EPA and other agencies have already done to determine areas with a high probability of elevated radon levels. The Administration opposes any change to the existing radon guidelines without first going through the appropriate scientific review process.

The bill's prescriptive regulatory approach is premature given the current state of scientific and technical expertise on mitigating radon. Some of the techniques developed for mitigating radon have been successfully applied in schools and large buildings. However, more research is needed, particularly in multifamily residences, to develop and refine these techniques, and a regulatory approach for mitigating radon problems in large buildings is premature at this time.

S. 792 would unnecessarily insert the Federal Government into areas that have traditionally been the province of State and local governments. It is inappropriate for the Federal Government to interfere with State and local control of the housing market by regulation, forcing them to adopt Federal minimum radon building standards. The bill may supersede successful State and local government programs designed to reflect the particular needs of their jurisdictions.

SCORING FOR PURPOSES OF PAY-AS-YOU-GO

S. 792 would increase direct spending; therefore, it is subject to the pay-as-you-go requirement of the Omnibus Budget Reconciliation Act of 1990 (OBRA). A budget point of order applies in both the House and the Senate against any bill that is not fully offset under CBO scoring. If, contrary to the Administration's recommendation, the Senate waives any such point of order that applies against S. 792, the effects of enactment of this legislation would be included in a look back pay-as-you-go sequester report at the end of the congressional session.

OMB's preliminary scoring estimates of this bill are presented in the table below. Final scoring of this legislation may deviate from these estimates. If S. 792 were enacted, final OMB scoring estimates would be published within five days of enactment, as required by OBRA. The cumulative effects of all enacted legislation on direct spending will be issued in monthly reports transmitted to the Congress.

Estimates for pay-as-you-go

Outlays:	*Millions* *Millions*
1992	$16
1993	5
1994	5
1995	5
Total	31

Mr. WALLOP. The amendment I am offering today would provide the medical community with more extensive information on the radon health effects research. It would also require EPA to conduct further research on the health effects of radon exposure. It is a response to the need for more thorough analysis of the health effects on our general population from exposure to radon. I appreciate the assistance of the staff of the Environment and Public Works Committee in working out this amendment. And, I urge the adoption of the amendment.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, we have agreed to accept this amendment. I confirm what I said in my opening statement, that there is overwhelming evidence with proof substantiating that radon presents a serious health risk. The National Academy of Sciences has already issued two reports confirming the extent of the problem. EPA continues to work with the NAS, the National Academy of Sciences, and Centers for Disease Control to further refine radon risk estimates.

The amendment offered, however, by the Senator from Wyoming is consistent with existing EPA efforts. It would require EPA to work with the National Academy and to work with the Centers for Disease Control to periodically update the estimates of public health risks caused by exposure to radon. It would also require EPA to include in its medical outreach program a summary of scientific evidence demonstrating the human health effects of exposure to radon.

So I support the Wallop amendment and ask that it be agreed to.

Mr. DURENBERGER addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Minnesota.

Mr. DURENBERGER. Mr. President, the chairman of the committee and the manager of this bill has accurately stated the view of our colleague's amendment and, on behalf of the minority, I recommend its adoption, and I compliment my colleague from Wyoming for his contribution to the legislation.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 1704) was agreed to.

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DURENBERGER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WALLOP. Mr. President, I just offer my thanks to the chairman and ranking member. One of the reasons I felt it was important is illustrated in a letter that I received yesterday from the Acting Regional Administrator of EPA, Denver region, region 8, which contains the following sentence:

> Although there is not yet consensus on what concentration level of radon gas in the air creates a health risk, scientists do agree that this can be dangerous if not detected and properly addressed.

And enclosed is a pamphlet from the EPA on radon which is fraught with comments. They simply do not know. I think the thrust of this amendment is to require them to base as much as possible on scientific efforts and not the emotional outcry that has arisen.

RADON IN SCHOOLS

Mr. WALLOP. In section 9 of the bill, EPA is required to publish guidelines on remediating radon in school buildings. Would the remediation guidelines require renovation or new construction by the schools? Have any cost estimates been prepared on the average cost per school to comply with the guidelines?

Mr. LAUTENBERG. S. 792 takes a right-to-know approach to radon in schools. It requires testing by schools in priority radon areas and disclosure of the results. But it does not mandate any mitigation. That decision is left up to the school districts. So no renovation or new construction of schools is required by S. 792.

To encourage those schools with elevated radon levels to undertake these efforts, the bill authorizes $5 million per year to assist needy schools. Any mitigation efforts undertaken with this Federal assistance must be conducted consistent with EPA school mitigation guidelines. The guidelines themselves would not require either extensive renovation or new construction. Basic techniques used to reduce radon in schools are similar to standard methods to reduce radon in homes. Adjustments to the heating, ventilation, and air conditioning system will sometimes resolve the problem.

EPA estimates that it will cost on average $1,000 to test a school and a few hundred to $15,000 for mitigation.

Mr. WALLOP. The bill requires remediation to be carried out in accordance with EPA guidelines. Is this, in effect, a mandated activity by EPA with which the local school districts will have to comply?

Mr. LAUTENBERG. S. 792 requires that remediation carried out pursuant to the bill and funded by EPA must be consistent with EPA remediation guidelines. As I indicated, the bill does not require schools to undertake mitigation efforts.

Mr. WALLOP. As the chairman is aware, there is a great deal of concern in my State over the actions of some contractors and consultants involved in asbestos removal. In some cases their mistakes have been very costly to local school districts. What safeguards are being taken in this bill to ensure that school districts do not experience the same problem with radon consultants? If the federally certified consultants are in error in their actions, is there provision for EPA to assume the cost of the error rather than the school district?

Mr. LAUTENBERG. I am aware of the Senator's concern. Under S. 792 EPA will administer a mandatory radon proficiency program. EPA already has developed two proficiency programs designed to help the public and school officials find reliable radon contractors, and to set performance requirements for the radon industry.

EPA is required to issue guidance to States to establish a radon proficiency program. And we authorize EPA to delegate the proficiency program to the States and authorize States to use their radon grant funds to establish these programs. So it may be that a State rather than EPA will be responsible for implementing the proficiency program. Schools can arrange to have their own employees certified under the program. Through its regional radon training centers, EPA has developed a special training course for school facility managers. And EPA is developing technical radon diagnostic and mitigation documents for school administrators and facility managers to assist their selection of contractors.

As I said, S. 792 does not require mitigation efforts. If a school has a high radon reading but is concerned about error, it can retest. And in any event, the school is not required to mitigate radon levels.

Mr. WALLOP. S. 792 requires EPA to designate radon priority areas. Areas in which there is a reasonable likelihood that the average radon level is likely to exceed the national average radon level by more than a de minimis amount are to be designated priority radon areas. Could the Senator explain what this means?

Mr. LAUTENBERG. S. 792 conserves scarce Federal resources by requiring EPA to focus on those areas which, on the basis of test results, present the greatest risks from radon. Under S. 792, EPA would designate priority radon areas and require certain efforts to be focused in those areas.

Under this definition, EPA would designate areas in which the average radon measurement is above the national average. But we have given EPA some flexibility in this definition by allowing EPA to exclude areas which are above the national average by only a de minimis amount. EPA would have some discretion in determining what a de minimis amount is.

Mr. WALLOP. I want to be assured that EPA radon standards are not based on worst-case exposure, extrapolating risks of exposure to radon gas by underground miners in poorly ventilated mines to risks of exposure in residential and school environments. Is this accurate, and will EPA be required by the bill to update their assessment of risk to reflect the actual risk of exposure in a home or school setting?

Mr. LAUTENBERG. Radon health risk estimates are based on estimates of actual population exposure to radon in the residential environment. Radon health risks are not based on worst-case exposure.

Further, the radon risk assessment already has been adjusted to account for the differences between underground mines and homes based on an extensive study by the National Academy of Sciences concluded last year. This study confirmed that epidemiological studies of underground miners can be used to estimate risk in homes but recommended that EPA lower its population risk estimate by 20–30 percent to account for the differences in the two environments. EPA has incorporated these findings into its radon risk estimates. Based on this report, EPA has reestimated the risk posed by radon to 7,000–30,000 lung cancer deaths a year with a mean estimate of 14,000 cancer deaths.

EPA is continuing to work with the National Academy of Sciences and the Centers for Disease Control to further refine radon risk estimates. Such efforts include the examination of ongoing residential epidemiological studies which may further refine the understanding of residential radon risks.

I expect EPA to continue to evaluate the threat posed by radon based on the best available evidence.

Mr. President, I ask unanimous consent that letters of support from the National Association of Home Builders, the National Educational Association, the National Parent Teachers Association, and editorials from two New Jersey newspapers in support of radon testing in schools be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL ASSOCIATION OF
HOME BUILDERS,
Washington, DC, March 6, 1992.

Hon. FRANK LAUTENBERG,
Chairman, Subcommittee on Superfund, Ocean and Water Protection, Washington, DC.

DEAR CHAIRMAN: On behalf of the National Association of Home Builders, I am writing to convey our support for S. 792, the Indoor Radon Abatement Reauthorization Act.

While S. 792 reauthorizes existing radon programs, it also takes a responsible step forward in dealing with a number of more far-reaching radon issues, such as implementation of EPA's Model Construction Standards at the state and local level, greater information dissemination requirements and designation of high radon areas for regulation. We are grateful for having the opportunity to provide input into the drafting of provisions directly affecting the home building industry.

We also appreciate your patience and willingness to give our members the time necessary to work through some of the provisions in S. 792 with the Environmental Protection Agency (EPA). While I can not speak for EPA, the experience was a productive and educational one for NAHB. We look forward to assisting EPA in implementing the Model Construction Standards in accordance with the resolution passed by NAHB in January.

Again, thank you and your staff person, Ric Erdheim, for the good will and cooperation shown to NAHB.

Respectfully yours,

ROBERT "JAY" BUCHERT.

NATIONAL EDUCATION ASSOCIATION,
Washington, DC, March 6, 1992.

DEAR SENATOR: On behalf of the two million-member National Education Association, I strongly urge you to vote for S. 792, the Indoor Radon Abatement Reauthorization Act.

Among the provisions of S. 792 is a requirement that all schools located in areas of high radon concentration test for elevated levels of radon gas. NEA strongly supports this particular provision and opposes any amendment to delete or weaken it.

Radon is widely agreed to be among the most serious environmental health problems. Not only EPA, but the American Medical Association, the American Lung Association, the Surgeon General, and the Centers for Disease Control agree that radon is the most critical indoor carcinogen to be dealt with in this century. Indeed, radon is the second leading cause of lung cancer, resulting in as many as 20,000 deaths a year.

Requiring schools to test for hazardous levels of radon is critical, because children may be more susceptible than adults to adverse health effects from radon. in addition, an EPA survey of radon in schools conducted in 16 states, found more than half of all schools tested had at least one classroom with unsafe levels of radon. The highest reading was equivalent to exposing children to over 10,000 chest x-rays per year!

S. 792 gives schools in high priority radon areas two years to conduct these tests and authorizes up to $5 million per year in financial assistance to help needy schools pay for needed radon mitigation and testing activities.

The health of our nation's schoolchildren is far too precious to endanger from unhealthy levels of radon in schools. Enactment of S. 792 represents a crucial step to ensure a healthy and safe environment in school buildings. Votes on this issue may be used in NEA's Legislative Report Card for the 102nd Congress.

Sincerely,

DEBRA DELEE,
Director of Government Relations.

THE NATIONAL PTA,
Chicago, Ill, March 5, 1992.

DEAR SENATOR: On behalf of the 7 million parents, teachers, students and other child advocates who are members of the National PTA, I am writing to urge your support of S. 792, the Indoor Radon Abatement Reauthorization Act.

Radon is considered the number one environmental cancer risk, ranking second only to cigarette smoking as a cause of lung cancer fatalities. As is suspected with most environmental hazards, children are more susceptible to the adverse health effects of exposure to radon. In 1988, the Environmental Protection Agency issued a national radon health advisory promoting radon testing in homes, and now the Agency also recommends that all schools be tested for radon as well. In fact, an EPA survey of schools in 16 states showed that a majority of schools tested had unsafe levels of radon in at least one classroom.

S. 792 would require local education agencies to test school buildings in areas designated to have high levels of radon, and create a financial assistance program to help schools mitigate high levels of radon. Further, the bill would require that parents be notified of radon hazards, and renew the Environmental Protection Agency's (EPA) existing radon programs.

Parents have the right to know if the school buildings their children attend are safe from environmental hazards. Schools will not know if their buildings are safe without testing. If schools find hazards, they can initiate relatively simple corrective actions to lower the radon levels.

The National PTA strongly supports legislative efforts to address environmental health hazards in schools. We urge you to support S. 792, and to oppose any weakening amendments that are offered to the bill.

Sincerely,

ARLENE ZIELKE,
Vice-President for Legislative Activity.

[From the Bergen (NJ) Record, May 29, 1989]

RADON ALERT FOR SCHOOLS

Schools have no immunity from the radon problems that plague many homes across northern New Jersey. Yet some schools fail to carry out the easy, inexpensive tests that would show whether students are in danger because of the colorless, odorless gas that has been linked to lung cancer. Sen. Frank Lautenberg, D-N.J., is on the right track with a bill that would require testing of all schools in high-risk radon areas by 1993.

Since students spend many hours a day in school, radon there poses a special risk. And Assistant Surgeon General Vernon N. Houk told a recent congressional hearing that children's lungs are especially susceptible to damage from radon. This is especially significant in northern New Jersey, where decaying deposits of uranium and radium have produced high levels of radon in many communities. A recent state survey of 69 schools in 11 counties found at least one school in every county had dangerously high radon levels.

Mr. Lautenberg is right that testing should be required. Perhaps, as he suggests, the federal government should provide $10 million to pay for testing in high-risk areas. Perhaps schools themselves should pick up the costs, estimated at only about $1,000 per school. But whoever pays the bill, failure to test will lead to unacceptable health risks for schoolchildren.

[From the Star-Ledger, July 16, 1989]

RADON IN THE CLASSROOM

In a disturbing revelation, the federal Environmental Protection Agency (EPA) found increasing levels of dangerous radon in schools throughout the country, including New Jersey, which was included in a survey of 130 schools in 16 states.

EPA Administrator William Reilly, in announcing the survey results, said it is important to "understand both the seriousness of the risk and the relative simplicity of testing for and fixing the problem." Nationally, 54 percent of the schools tested had at least one room in which radon levels exceeded the standard used to determine if there is a health risk, which prompted Mr. Reilly's concern.

An estimated 400,000 homes in northern and central portions of New Jersey could contain unhealthy levels of radon. State environmental officials have urged that homes be tested and have told school administrators for the past two years that schools should also be checked.

School districts in the Garden State are not required by law to check for radon or to provide information to the state, although state Department of Environmental Protection officials believe many schools have conducted tests.

Radon, the colorless, odorless, naturally occurring gas formed by the radioactive decay of uranium, is found in soil, rocks and some groundwater supplies. Studies indicate that indoor exposure to radon may cause up to 20,000 lung cancer deaths per year—second only to smoking.

The radon survey was required under a 1988 law promoted by Rep. James Florio (D-1st Dist.) and Sen. Frank Lautenberg (D-N.J.), a commendable piece of legislation. Mr. Reilly was wise to personally bring this potentially hazardous condition to the attention of the American public and advise districts to do ongoing testing, ensuring that radon levels do not exceed healthful limits. It would be wise if the testing were made mandatory, with the results forwarded to the state as a means of determining followup and corrective measures.

New Jersey does not presently have a problem of major proportions, but preventive steps are essential. The last thing anyone wants is children exposed to dangerous elements. Continuous testing and remedial action could prevent a lot of grief in the long run.

The PRESIDING OFFICER. Are there further amendments?

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the majority leader.

Mr. MITCHELL. Mr. President, I rise in strong support of legislation to reauthorize the Indoor Radon Abatement Act.

Almost 5 years ago, I learned of the serious health threats posed by exposure to naturally occurring radon gas in the air indoors. Dangerous radon levels exist throughout the country, but radon is an especially serious problem in my home State of Maine. Recent surveys indicate that 30 percent of Maine homes have elevated radon levels.

The Congress responded to this problem by passing radon legislation which I introduced. For the past several years, this legislation has guided the Environmental Protection Agency and States to improve the public's understanding of radon health threats and to support other needed efforts to reduce radon exposures.

I am pleased that we have before us today legislation to extend and expand the radon program. I commend Senator LAUTENBERG, the sponsor of this bill, for his tireless efforts to advance this legislation. I also thank Senator CHAFEE for his thoughtful and constructive contributions to the bill.

Radon is a naturally occurring, radioactive gas that can seep indoors, cause damage to lung tissue, and increase the risk of lung cancer. According to EPA, radon may cause 14,000 lung cancer deaths in the United States each year.

Over the past several years, EPA has conducted surveys of radon in homes in 34 States. These surveys indicate that one in five homes nationwide may have radon at levels above the EPA recommended action level. In some States, the percentage of homes with radon above the recommended action level is even higher. Based on this survey date, EPA has recommended that every detached home in the United States be tested for radon.

In April 1989, EPA reported the results of a preliminary assessment of radon levels in schools. EPA Administrator William Reilly stated at that time—

> Indoor radon is one of the major environmental health threats facing Americans, and I am now recommending that schools nationwide be tested.

The EPA survey included a total of 130 schools in 16 States. Of these schools, 54 percent had at least one room with radon levels above the EPA recommended action level. A total of 3,000 rooms were tested in the survey and 19 percent had radon at levels above the EPA action level and three percent were found to have levels five times higher than the EPA action level.

The Indoor Radon Abatement Act, passed by the 100th Congress, established a foundation for efforts to reduce radon exposures. The act provides for technical assistance and grants to States to start up radon response programs, authorizes EPA to certify private radon measurement and mitigation firms, provides for development of model building codes to control radon, authorizes creation of regional radon training centers, and directs the EPA to conduct testing for radon in schools and Federal buildings.

Last year, the Environment and Public Works Committee started the process of reauthorizing radon legislation.

Senator LAUTENBERG introduced bills calling for radon testing in schools and expansion of the key elements of the existing statute. His bill, S. 792, proposed new initiatives, including making adoption of new construction standards a priority for the award of State grants; requiring that new Federal buildings and schools be built to new construction standards; requiring a national radon education campaign; and requiring EPA to conduct a survey of radon in workplaces.

Senator CHAFEE introduced provisions making the existing voluntary radon testing program mandatory and requiring radon information to be available to buyers at the time of sale of a home.

In addition, I introduced legislation reauthorizing existing programs and adding several new elements including requirements for the development and implementation of radon new construction standards, requirements for radon testing and mitigation in Federal buildings, clarification of authority for publication of radon information and the Citizen's Guide, and a new initiative for radon information outreach to the medical community.

Today we have before us an amended version of S. 792 which includes the best provisions of each of our bills. This bill builds on the success we have had with the existing program. It also revises and expands the program to address critical needs, such as reducing radon in schools, and preventing radon problems through improved home construction techniques.

I am especially pleased that the bill will continue the grants to support State radon programs. This grant assistance is critical to a number of States, including my home State of Maine.

Mr. President, this legislation is an effective and workable approach to a significant public health problem and I urge my colleagues to give it their full support.

Mr. President, it had been my intention to obtain an unanimous-consent agreement governing the disposition of this bill to accommodate Senator CHAFEE. But I am now advised we are still awaiting clearance on the Republican side. So I will withhold the request until that clearance is obtained.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, just to acknowledge the majority leader's comments, I express my gratitude to him both for his statement and for his consideration for those on our side. I indicated earlier my colleague from Rhode Island could not be here and would not be here. But our colleague from Pennsylvania, the senior Senator, Senator SPECTER, would like to come to the floor and make a brief speech, a 5-minute speech, if he can do it.

Mr. MITCHELL. Mr. President, if I might say, this proposed agreement would not preclude that. What I intend to propose, as soon as we get clearance, is simply that between 2:15 and 2:30 there be 15 minutes of debate, 10 minutes under the control of Senator CHAFEE, 5 under Senator LAUTENBERG'S control, and that we vote at 2:30 on the bill. There would still be time this morning for any Senator who wished to address this subject to do so.

I will withhold the request at this time. I understand it is being cleared on the Republican side. The intention of this is to accommodate Senator CHAFEE.

Mr. DURENBERGER. Mr. President, we would have no objection on this side.

Mr. LAUTENBERG. Mr. President, while the majority leader is still on the floor, I would like to thank him for his support, his comments, and for his persistence in dealing with the radon issue. Maine, like New Jersey and so many other States, has a serious problem with the presence of radon. Wherever there is uranium in the soil, the potential exists for this invisible gas to invade homes, schools, and buildings and pose a health threat.

So I want to thank the majority leader and note that his contribution to the investigation of radon, the threats that it poses, and the concern for schools, has been consistent and I join him in hoping that this bill will pass.

Mr. President, as we discuss this bill, some suggest that maybe we are making a mountain out of a molehill. I want to take a few minutes this morning just to recall what it is that triggered off this concern and this interest in this very serious problem.

Radon gas had been known as a health threat to miners. The discovery of lung cancer in miners introduced the concerns that surround radon.

It was never thought, as I understand, to be the kind of problem permeating from the soil that we later discovered. We thought this was confined to people who mined minerals, coal, and were buried in the bowels of the Earth as they did their job.

But one day in 1984 in the State of Pennsylvania, a man named Stanley Watras, who worked for a nuclear powerplant, passed through a routine radiation inspection that the utility had to check for radioactivity on the person's body. There was a shocking response. The fact is that this man had very high levels of radioactive indications on his body. They checked because the utility was concerned that there may have been a problem within the plant that exposed this man to this kind of condition.

Lo and behold, they found out that his home was in a radon belt that extended from Pennsylvania through New Jersey into New York, where uranium was deposited in the soil. And that was the first opportunity that we had to really identify the threat radon poses in homes, schools, and buildings.

We heard a lot of debate this morning about whether or not this threat is serious, whether or not we ought to spend all this money, whether or not it is worth the effort, and whether or not this is another program to expand the Government bureaucracy.

But I ask any of those who question the validity of this legislation whether they have had discussions with parents, with teachers, with families of those who work in school buildings to see whether or not we just ought to pass it by; avoiding the alleged additional bungling bureaucracy. Certainly there is not a parent in the country who would say: Listen, do not bother with radon because it really has not been proven to be serious. Even though the EPA and the Assistant Surgeon General have ascertained it is responsible for somewhere between 7,000 and 30,000 lung cancer deaths a year, and everyone knows that lung cancer has one of the poorest records of survivability among the various forms of cancer that develop.

Ask any of those families, those citizens whether or not it is worth getting involved. I think the answer will be an overwhelming yes. I would be willing to pose that question, realizing that I might look pretty silly, to ask a parent whether or not it would be a bad idea to test, for not a lot of money, radon in schools and homes. And my own home in Montclair, NJ, had some radon exposure. We had it tested. It was in the corner of the house beneath the porch. It was determined the risk in that case was not significant. But only a few blocks from me the Federal Government under Superfund has spent a great deal of money to get rid of that radon contaminated earth. It happens to be from a man-made cause. There was a dump from a watchmaker in the 1920's who used radium on the dials and there are about a dozen homes where the families had to be uprooted, where the property values just sunk, and the problem was very severe in this particular area.

We have overwhelming evidence of the threat posed by radon. As a consequence, Mr. President, I think it is urgent that we go ahead and pass this legislation.

We have agreement pretty much in the Senate. I am responding principally to some of the suggestions made this morning about the relatively low importance of this legislation. I think it is important. I think citizens across the country will regard it as an important matter. Radon is evident in almost every State in the country. In some of the States a very significant number of homes have elevated levels of radon gas present.

Mr. President, I will continue to urge my colleagues to support this reauthorization. At the moment, I will suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LAUTENBERG. Mr. President I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. LAUTENBERG. Mr. President, on behalf of the majority leader, I ask unanimous consent that at 2:15 today, the Senate resume consideration of S. 792 and that there be 15 minutes remaining for debate on the bill, with the time controlled as follows: From 2:15 to 2:25 under the control of Senator CHAFEE, and the remaining 5 minutes under my control; that no amendments or motions be in order; that when the time is used or yielded back, the Senate, without intervening action or debate, adopt the committee substitute, as amended, and vote on final passage of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

MORNING BUSINESS

Mr. LAUTENBERG. Mr. President, on behalf of the majority leader, I ask unanimous consent that there now be a period for morning business, with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Minnesota [Mr. DURENBERGER] is recognized.

THE DEATH OF FORMER ISRAELI PRIME MINISTER, MENACHEM BEGIN

Mr. DURENBERGER. Mr. President, yesterday, our friends in Israel laid to rest a true national hero. Former prime minister Menachem Begin was one of Israel's founding fathers. He struggled to achieve the Zionist dream while in Poland, the country of his birth. He fought for independence in British mandatory Palestine in the 1940's. He led in the political opposition for many years after that. Menachem Begin served his country and his people as prime minister from 1977 to 1983.

In his greatest achievement, Menachem Begin led his country to a historic peace with Egypt, which remains Israel's only neighbor to formally accept its existence. Begin and Egyptian President Anwar Sadat shared the Nobel Peace Prize for that crowning achievement of both their careers.

Menachem Begin never wavered from his single-minded purpose of doing what he thought was best for his people.

Indeed, by the force of his will and determination, Menachem Begin helped shape history.

In many ways, of course, Menachem Begin led a very controversial life. Clearly, not every one agreed with his ideas, tactics, or his policies. But everyone, across the political spectrum in Israel, and throughout the world, agrees that Menachem Begin always remained true and faithful to his principles. Nothing ever deflected him from his singular pursuit of securing a Jewish state and ensuring its continued survival and prosperity.

Few people knew better than Menachem Begin did the imperative for establishing a secure homeland for the Jewish people. Having grown up in Poland, he and his beloved wife fled the Nazis in 1939. Although his wife managed to reach Palestine, Begin was imprisoned by the Soviet Union for his past activities in Zionist youth organizations. It was only in 1941, after serving 1 year of an 8-year sentence, that he was released from prison, because his services were needed by Stalin to fight off the Germans.

In a personal tragedy that deeply influenced his future actions, he lost his parents and a brother to the Nazi Holocaust. He knew firsthand the unspeakable horrors being perpetrated against the Jewish nation and so many others.

Menachem Begin lived his life to ensure that that would never happen again.

As a leader of the armed opposition to British mandatory rule, Begin took many controversial actions, some of which were opposed even by other Jews and Jewish organizations. For good or ill, Menachem Begin never strayed from his single-minded determination to ensure the creation and continued survival of a Jewish national state. Only in this way could Jews ensure that never again would another holocaust befall them.

After Israel achieved independence in 1948, Begin became a leader in the political opposition. His views were rarely mainstream, but Begin never deviated from the course his principles demanded. He always had the courage to remain true to his convictions.

Soon after becoming Prime Minister in 1977, Menachem Begin recognized an opening for peace with Egypt that President Sadat had courageously created. He seized that opportunity, and he and Sadat made history by forging a first-ever peace treaty between Israel and an Arab neighbor. These two courageous leaders would share the Nobel Peace Prize for their efforts to forge a peace that remains in force to this day.

As well, Mr. President, as we continue our struggle today to ensure the destruction of Iraq's capacity for weapons of mass destruction, let us not forget that it was Menachem Begin who took the bold action to destroy Iraq's major nuclear facility in 1981. That action was harshly criticized at the time, including by the United States. Begin was undaunted by the severe international condemnation, apparently confident that history would prove his action correct.

I think we can all agree now that that decision was indeed correct. Today, instead of being critical, we can be thankful that Israel had that kind of leader who made that daring strike.

Nevertheless, this courageous leader was soon embroiled in the most bruising controversy of his political career. Begin ordered the invasion of Lebanon in 1982 in order to destroy PLO operations there that were continuously endangering the lives of Israeli civilians in northern Israel. It was a costly enterprise, in terms of Israeli and Arab casualties, but also in terms of Israel's vision of itself and its place among nations. This is a controversy that followed Menachem Begin to his grave.

Mr. President, whatever one's views are of his life, Menachem Begin has earned his place in history. He demonstrated throughout his life the courage of his convictions, the determination to achieve his objectives, and the constancy of purpose that so few others have managed.

Let me conclude with a quote from yesterday's Washington Post: "Those who met and observed him say Begin seemed to identify his survival with that of the Jews as a people and that he steadfastly kept that single goal before him, regardless of how history might judge him or his actions. All else was secondary."

Mr. President, we share in the grief and mourning of our friends in Israel. In his death, we commemorate the life of a great Israeli leader. May he rest in peace and serenity. He has earned nothing less.

Mr. President, I ask unanimous consent to have printed in the RECORD an editorial and an op ed from this morning's Washington Post.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Mar. 10, 1992]

MENACHEM BEGIN

It was difficult, even at moments when he was at his most vexing and pugnacious, not to harbor a certain admiration for the integrity of Menachem Begin. In an age—was there ever any other?—when so many politicians changed position in the slightest breeze, the former Israeli prime minister represented a rare constancy and devotion to personal principle. The odds were almost always against him, but that never diminished his ardor to do what he considered right for his people. His style was that of another period and place, but what he delivered was quintessentially of his time.

His role in creating Israel in 1948 is still a matter of controversy, as many critics in Israel and elsewhere are still reluctant to credit his leadership of an underground movement against the British, and his sometimes terroristic activity, for the birth of the Jewish state. But Mr. Begin himself was never in doubt that his Holocaust-learned readiness to fight for his Zionist beliefs tipped the balance. In this instance, as was his habit, he left the compromising to others.

A turn of the political wheel finally brought Mr. Begin and his Likud Party to power in 1977. Egypt's Anwar Sadat found himself terminally prickly—though he did have his courtly side—but also reliable and strong enough to fashion, with Jimmy Carter's help, the first Arab-Israeli peace agreement. Thus did a rigid radical right-winger accomplish an immense strategic feat, neutralizing Israel's most powerful foe, that had eluded Israel's liberal Labor establishment through four wars over nearly 30 years.

In 1982 Menachem Begin conducted, or at least let loose, the invasion of Lebanon that in its bloodiness and inconclusiveness severely strained his relations with the United States and led to his stepping down in the following year. He fought the war to crush the threat posed by Palestinians struggling, as he himself had earlier struggled, to claim a state on the land contested between them. Mr. Begin never understood that his goal of annexing the West Bank with its predominantly hostile Arab population was consistent neither with obtaining full peace for Israel in its region nor maintaining full democracy in the Jewish state. Still, his contribution in helping to start negotiations between Israel and his hostile neighbors was enormous and historic.

[From the Washington Post, Mar. 10, 1992]

MENACHEM BEGIN: SHAPED BY HOLOCAUST

(By David Ignatius)

Menachem Begin told me in July 1982, before the war in Lebanon had gone sour on him, that when he retired he planned to write a book, to be called "The Generation of Holocaust and Redemption."

"This is my generation," Begin said during an interview that day, outlining the chapters of his book. "I survived 10 wars, two world wars, Soviet concentration camp, five years in the underground as a hunted man and 26 years in opposition in the [Israeli] parliament. Twenty-six years, never losing faith in a cause."

And how would Begin end his book? "People ask me sometimes the question, 'How would you like to be remembered?'" he said. "Perhaps I will end the book with this. And the answer is, as a decent man. No more."

Begin never published the book, but in a sense it was unnecessary. For Begin's entire life was the story of that generation—of the impossible tragedy of the Holocaust, and the impossible triumph of Israel.

The last time I saw Begin was a year later, in August 1983. By then, he was the Lion in Winter, gaunt and sad-eyed, brooding about the war in Lebanon that had gone so badly wrong. A man who had devoted his career to saving Jewish lives and making Israel more secure was now caught in a war that was daily killing Jews, without adding to Israel's security. For Menachem Begin, that recognition must have been agony.

"The truth is that he is sad," said Yehiel Kadishai, Begin's personal secretary and comrade from the Irgun underground, when I asked about his melancholy boss. "It's true. There is a deep sadness in his heart. He is a person who can't show a laughing face when there is sadness in his heart."

Begin's aides explained that he couldn't take his mind off the continuing Israel death toll in Lebanon. He would ask each day for the latest casualty figures, for the details of how each soldier had died. When his aides tried to change the subject, he would steer them back to the death and destruction.

A few weeks later, Begin was gone. He resigned as prime minister on Sept. 15, 1983, telling his colleagues he could not continue. He spent the rest of his life as a virtual recluse, surfacing only occasionally—but never to explain or complain.

The Begin I got to know during two long interviews for The Wall Street Journal was a different person from the unsmiling, unyielding man Americans met on their television screens. He was an old-world gentleman who dressed in a formal business suit even when everyone else in Israel was wearing an open-neck sport shirt; a lawyer who worked in an office lined with Israeli texts, a Jewish encyclopedia and a "Jane's" guide to military weapons around the world.

And he was funny. That was the great shock about Menachem Begin; he was funny like Mel Brooks' 2,000 Year-Old Man. When I once mentioned to him that I had just read his book, "The Revolt," he responded: "What? You were having trouble sleeping, maybe?" When a colleague once asked him what had been the greatest achievement of the Jewish people during their long history, Begin gave him a cockeyed look and deadpanned: "The day of rest."

Begin knew who his enemies were: The Palestine Liberation Organization, which he always called the "so-called PLO." He explained during my first conversation with him, in July 1981: "My language is 'so-called PLO.' Not because of the 'P' and not because of the 'O.' They may stay. Because of the 'L.' What kind of a liberation is it to try to destroy a people, and all the time to turn the weapons against the civilian population?"

He talked about the old man from the town of Nahariya who had recently been killed by the PLO's Soviet-made Katyusha rockets, and the way he described it reminded his listener that for Begin, the Holocaust was always present in memory, something that had happened just before yesterday.

"Amongst the people who got killed by the Katyushas was a man age 68," Begin said. "Yes, he lived for several years in Auschwitz, if I may say so. And then he survived Auschwitz and came to this land, or he came back to the land of his forefathers. And here, 36 years after the end of the war, and after he had survived Auschwitz, the Soviet-supplied Katyusha—supplied to a neo-Nazi organization, which killed a Jew because he is a Jew—it got him."

That was the essential Begin. He was born into his generation of holocaust and redemption, and it was foolish of the Americans, let alone the Arabs, to imagine that they could ever sweet-talk Begin out of it, and into a sense of security and confidence that his entire history denied.

What if Yasser Arafat were to announce (as he later did) that he accepted Israel's right to exist? Here is how Begin, wary to the end of his days, answered that question in 1982.

"It would be a deception," he said. "I wouldn't believe Hitler, or Goering, or Goebbels, and I will not believe Mr. Arafat, or Farouk Khaddoumi, or Abu Iyad. They proved to us in writing, in deeds, in speeches that they are bent on the destruction of Israel. And no nation will ever agree to commit suicide."

Mr. DURENBERGER. Mr. President, I yield the floor.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey [Mr. LAUTENBERG] is recognized.

Mr. LAUTENBERG. Mr. President, the Senator from Minnesota made some very significant and, I think, eloquent remarks about Prime Minister Menachem Begin, ex-Prime Minister. I think the title followed him to his grave even though he was not formally sitting in the prime minister's chair.

I had the privilege, Mr. President, of meeting Mr. Begin several times. I was in Israel when President Sadat visited on that historic occasion. I was there when he broke all the rules, broke all of the taboos—and went directly to Israel to make peace.

It was quite a stirring moment not just in the history of Israel but in the history of mankind; in that sworn enemies, avowed combatants, were able to sit down at a table, finally, when the will prevailed and obtain peace.

In those discussions, under Prime Minister Begin's stewardship, much was exchanged for peace. The Israelis gave back the Sinai Desert which they had captured in the 1973 war, including oil wells. The significant supply of oil in the Sinai would have been enough to allow Israel self-sufficiency in her energy needs. For peace, Israel gave back enormous amounts of territory including a town called Yamit in which people had settled and infrastructure had been built, including houses and schools and stores, all kinds of facilities.

Mr. Begin was known by some as a terrorist. We know that he was a person deeply imbued with a commitment to his own people.

He ordered, in the interest of peace, that that town of Yamit, built on the Mediterranean, just in, now, the eastern reaches of Egypt, be evacuated. They physically carried residents out of that town, destroyed the buildings that they had built that were of value. The residents did not want to turn that over—and give back the Sinai, but they did. A year or so ago in the final settlement of a border on the Gulf of Aqaba, Israel conceded a very sensitive, new boundary because they wanted peace. They wanted more than anything to save the lives of their young people.

Now, Mr. President, as we look at the discussions underway purportedly leading to peace, we do not have the same kind of a gathering or a meeting that we had had between President Sadat and Prime Minister Begin.

President Sadat paid a terrible price for his peace overtures. He died at the hands of assassins. We were all shocked; all dismayed. His widow continues in search of peace in the area, and lectures regularly in the United States, as does his daughter. Sadat paid a terrible price for wanting to make peace, but he made it. And there were no preconditions.

Mr. President, this peace conference that is taking place now ought also to be conducted without preconditioning.

We do not need the heavy hand of the administration saying settlements are the greatest obstacle to peace and, therefore, we ought not to help Israel in a humanitarian mission to help to provide for absorption of new immigrants. Instead, what we have done is entered into the peace discussions in a material and detrimental way by not saying to the parties: Sit down, talk, as did Prime Ministers Begin and Sadat, and talk about peace and how you get there without preconditions.

Mr. President, the territories were taken in response to a war, a war against Israel, in which the mission of her enemies was to destroy the country and to, as often said, "Drive the Jews into the sea; exterminate them; eliminate the Jewish State."

Mr. DURENBERGER. I wonder if my colleague will yield for a minute.

Mr. LAUTENBERG. Sure.

Mr. DURENBERGER. Mr. President, I appreciate the opportunity to be here and to listen to my colleague talk about both his personal experiences and his commitment. And I think I understand the appropriateness of the message he is leaving with all of us now.

Because I must be elsewhere, much as I would like to continue to engage in this—he is expressing many of the feelings that I have—I did want to thank him for sharing the personal experiences he had. I was reminded, as my colleague from New Jersey was speaking, of the first time I went with—this happened to be right after the Camp David conference—I went with former colleague from Connecticut, Senator Ribicoff, and with Bob Strauss.

We went to Egypt, and we spent some time having our eyes opened there, with the help of President Sadat; and then to Israel, to meet with President Begin, Prime Minister Begin. I was struck by how little these two adversaries had really known about each other, until one of them offered to open up a personal relationship.

I was struck, too, because of the tough image that I had of Prime Minister Begin up to that point, and what a large heart he had, and how he demonstrated that in his discussion of what he was learning about President Sadat; what he was learning about the Egyptian people; what he was learning about the conditions under which the Egyptian people were living in their country.

And I think that probably one of the lessons I took away from that was that it always takes a special relationship between world leaders to bring about the kind of relationship on which you are going to build peace. It does not take the artificialities of outside-determined conditions and a variety of priorities set by other people. It really does take sort of a confidence and a trust, that obviously these two men had built between themselves, in order to lay the foundation for this peace.

And right now, my sense is—and I perhaps think it is the sense of the Senator from New Jersey—that that trust between the people involved, which is so essential on which to rebuild the foundation for the future in the Middle East, is starting to get a little shaky, for whatever reason; and that unless somebody starts to move fairly quickly to bring those people back together and to build the relationship that Menachem Begin and Anwar Sadat built with each other, you are not going to see more than that one Arab country join in an effort to bring peace to the Middle East, and thus, for many of us, peace to the world.

I thank my colleague for yielding.

Mr. LAUTENBERG. Mr. President, I thank my colleague once again for his thoughtful remarks, because we are talking about a significant world leader passing from the scene. It is an appropriate time to reflect on what that individual's life meant as we contemplate discussions for peace in the troubled area. I started to say that in the defensive war of 1967, the Israelis ended up with the territories because they were responding to a threat to obliterate the State of Israel and to try to remove her from the face of the Earth.

That experience conditioned the Israelis; they learned something. They learned that they had to take care of themselves, that they had to be prepared for any eventuality. Because, let us say, for the population of some 4 to 5 million, surrounded by a population of more than 100 million, some of those countries very rich in resources, they had to further survival.

This is a time now to mark Prime Minister Begin's departure by taking a vow that this will be the time to put aside any preconditions, encourage the parties to go to the table, and wind up in the direction of peace.

Senator DURENBERGER said it: Nobody ever believed, when Begin came to office, that this hardliner, tough guy who fought for survival would ever make peace. Instead, when it was eye to eye, face to face with his counterpart in Egypt, they managed to strike an agreement. Yes, President Carter's intervention and helping hand made an enormous difference. But the fact is that peace was obtained.

That is what ought to be happening here, Mr. President. We ought not to be discussing territories or settlements; we ought to be encouraging the parties to get together to resolve those issues. There is a serious discussion about housing loan guarantees taking place. I think they ought to be conducted apart from the discussion of the territories or settlements.

We can debate the humanitarian obligation that the United States has to provide those housing loan guarantees at no cost to the American public, since we for decades insisted that the Soviet Union, as it then existed, permit people to emigrate freely. That is the condition we required for trade and commerce, and we stayed fast with that.

Finally, as a result of Mr. Gorbachev's tries, and encouragement by then President Reagan and the Congress, we arrived at a condition where people were free to emigrate. President Bush encouraged it very significantly as well.

Mr. LEAHY. Will the Senator yield for a comment?

Mr. LAUTENBERG. Yes.

Mr. LEAHY. I would note to the distinguished Senator from New Jersey, who is one of the leaders on this issue on settlements and loan guarantees, on the question of loan guarantees, I had made a proposal which the distinguished ranking member of the Subcommittee on Foreign Operations, Senator KASTEN, has agreed to. It has to be either vetoed, or signed by the President, should it be passed; we have no way of guaranteeing anybody's votes except ours.

There is a proposal that Senator KASTEN and I are willing to agree on. The Leahy-Kasten proposal has been given to the administration, and we are asking them for their reaction. I have told them that I want a definitive answer. It will either be signed, were it to be passed by the Congress—not an easy step, when a majority of the people in this country oppose loan guarantees. Should it be passed, would it be signed or vetoed?

In any event, within the next few days, our committee, the Subcommittee on Appropriations, will meet, and that question will be presented to us. I mention this because a number of Senators have asked what is happening on this. The Senator from New Jersey, of course, has been one of the most active in trying to work out this situation. I know of his deep, abiding concern.

Incidentally, the part that I heard of his expression of the tremendous step toward peace that former Prime Minister Begin took, I happen to agree with—the step he took, that President Sadat took, and I think the tremendous courage and stick-to-itiveness of former President Jimmy Carter.

It was one of those moments in history, a somewhat finer moment, where you had three people willing to put aside decades—generations, perhaps—of thinking in other ways, with distrust and animosity, and all the rest, and came together not for their own personal benefit but for the benefit of their countries—our country in the case of President Carter, Prime Minister Begin's country in his case, and President Sadat's country in his.

I hope that the same kind of effort will be used on both sides in the ongoing peace talks. The fact of having them is a tremendous step forward, but it is not enough. Ultimately, peace should come, and there are tremendous opportunities in the Middle East for both the Arab world and for Israel, but it is an opportunity that only comes about through cooperation and the removal of the threat of war. There are some parties who think that takes a huge leap of faith, who think we will never get to that. There are a lot of other parties that can work to it and should.

The question of loan guarantees will be settled one way or another, at least at the committee level, in the next few days. I hope the compromise that I had proposed, and which Senator KASTEN accepts, can be agreed to and can be signed because it will still be a long row to get it through the Senate, get it through a committee of conference, and get it through both parties after that. So it is not a done deal even with it.

But I would like to see that issue settled because I agree with the Senator from New Jersey that that should not be something that tangles up the peace process. There are enough serious issues within the peace process to be negotiated without the actions of the U.S. Congress tangling it up. I agree with that, and I thank the Senator from New Jersey for yielding his time.

Mr. LAUTENBERG. Mr. President, I thank the Senator from Vermont for his comments. He has tried very hard. We are old friends, and we have had some difficult moments. His job is to try to fashion a compromise. I reserve the right, as do all of us, to stand up for what we believe is an obligation, but he has the job, the Senator from Vermont, as chairman of the Subcommittee on Foreign Operations, to fashion an arrangement that can survive. I know he has had a very tough time in dealing with the administration on one side and with those on the other side who think the United States ought to provide humanitarian relief unconditionally. So his efforts have been significant. I hope that he will be able to succeed in getting an acceptable bill through the subcommittee and through the committee. I sit on the subcommittee and I would like to continue working with him to determine what constitutes an acceptable bill.

There is one thing I would just like to say to my friend and colleague in terms of the comment that he made that people are overwhelmingly opposed to these housing loan guarantees. I do not think the case has been presented, Mr. President. I do not think that there have been those advocates standing up there and saying, "Listen, Israel, for decades now, in her very short history has saved perhaps thousands of American lives and billions of American dollars."

Where would we have been if Saddam Hussein had the nuclear capability that was being developed in 1981 when the Israelis intervened by bombing the reactor at Osiraq. Yes, there was universal condemnation and criticism at the time. Inside the Pentagon, however, they were cheering because they knew how significant that action was going to be.

Mr. LEAHY. Mr. President, will the Senator yield for one observation one more time?

Mr. LAUTENBERG. I yield.

Mr. LEAHY. I agree with the Senator. A lot can be made and done to make the case. When the Leahy-Kasten compromise makes it to the floor of the Senate, I will certainly expect the Senator and others to make their case because we have to.

Mr. LAUTENBERG. I hope there will be an acceptable proposal on the floor.

Mr. LEAHY. I think the compromise itself will not be a popular one. I think it is a wise one. I think it is a just one. I think it speaks both to the significant interest of the United States and the significant interest of Israel, and when it makes it to the floor, then we are going to also have to make a case and the case will have to be made in the other body.

Mr. LAUTENBERG. We will be working together if there is an acceptable proposal.

Mr. LEAHY. I thank the Senator.

Mr. LAUTENBERG. Mr. President, I do not think the impatience of the democratic presence of Israel in the Middle East has meant to the United States has been clearly articulated. I stand here today talking about only America's interests, what is good for America, what is good for our country. We want to preserve our position of international leadership.

We have been battered from pillar to post now, whether it is on the economic front, perhaps even the diplomatic front, criticism today by President Nixon of President Bush's action in terms of Russia. We want those new democracies to survive. We have a very important stake in that area, and we hope that we will be able to see a boldness on the part of the President in remaining in the forefront of the international body so that we can preserve the leadership role for America.

But, Mr. President, we cannot do that if we suddenly turn our back on an ally who has been there for us for decades; an ally who helped us maintain a degree of stability in a region that would have, in my view, gone up in flames in earlier times were it not for Israel there to unite the enmity of the Arab countries.

We concluded a war just about a year ago, Mr. President, in the Persian Gulf in which America survived with glory and with honor at the time. We had over 500,000 of our best young people there, and they did their job quickly and effectively. The fact is that we did not bring democracy to that area. You have not seen the Kuwaiti Government ask the Palestinians, who lived there and earned a living there, and invite them back into their community. These human beings who have families and have homes and still want to make a life for themselves.

In Saudi Arabia we see constant repression by the monarchy. We know there has been a recent attempt to democratize. If one reads between the lines, however, one sees that the king is not giving away the store by a long shot. And, further, we won the war in 100 days, but Saudi Arabia has not been able to pay its bill to the United States. They still owe us over $1 billion, or did as of last week, on a pledge they made to pay for the cost of saving their country. It is like the parents of the kidnaped child who said, "Listen, return my kid and I will pay you as soon as I get the money." We should have demanded cash up front. That is the least they could have done. It cost us a fortune; we lost people. Yes, it was a relatively small number, but every one of those young people who died, died a hero or heroine, and their families still mourn. So it was not without cost. And the least those so-called friends of ours could have done was ponied up and paid their bills when they were due. Everyone knows that Saudi Arabia does not have any problem getting cash. Just look at the homes that the royal family has and the profligate spending that they engage in. Pay your bills, that is what I say.

Mr. President, today we are reminded by the death of Prime Minister Menachem Begin about the sacrifices that were made on behalf of democracy in the Middle East. But we also have to remember those occasions, like in 1970 when the Jordanian King turned artillery fire on Palestinians living on the east side of the Jordan River and they swam and they walked across Jordan seeking refuge in Israel. The avowed enemy was where they turned to to protect themselves and their families.

So we have an interest, Mr. President, to try to keep this democracy strong. She has been a dependable ally. She has asked for housing loan guarantees, and it may come as a surprise, but the United States has been providing guarantees for the last 5 years in excess of $10 billion to Arab countries, including $2 billion to Kuwait. We underwrote their loans unconditionally and said, "Look, these guys will pay their debt."

We have been doing that without any political condition. And that is the way we ought to do it with Israel's request. We ought to make sure that Israel pays her bills—that is her responsibility—but we ought to help provide a refuge and a haven and a home for those who now live in the former Soviet Union who are threatened by the rise of nationalism, antisemitism and other acts of racism.

And there would not be a more appropriate time to see that happen, Mr. President, than as we acknowledge the passing of a leader, someone who, as we heard from Senator DURENBURGER, defended his people, defended his country, and died with honor and dignity.

I was in Oslo, Norway, invited to see the award of the Nobel Peace Prize to President Sadat and Prime Minister Begin. It was a very touching ceremony. It is really touching when you think about it. If one wants to talk about how people can resolve differences, a reference is always made to Israel and Egypt. People say, well, if Israel and Egypt can do it, then anybody can do it, because there were no more bitter enemies then those two countries. There was no greater loss of life in terms of the size of their population than the wars between those countries.

And so as we look at the recent past, we have to also look to a future and say, America, stand up. There is a humanitarian need you ought to address.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, in general, this bill is a quite straightforward reauthorization of an existing program.

Several amendments to the original act have been made. However, the administration remains opposed to this bill for a number of reasons, primarily due to its prescriptive and costly regulatory requirements and the possibility of duplication with existing Federal programs.

Further, there is a question that this act may not significantly lower indoor air radon levels.

This brings up my specific concern with the bill. Are we, in fact, addressing the greatest risk posed by exposure to radon first, thus efficiently and effectively allocating scarce resources?

For this reason, I wholeheartedly support Senator SMITH's and Senator WALLOP's amendments.

Senator SMITH's amendment requires the Environmental Protection Agency [EPA] to conduct a multimedia risk assessment of radon prior to promulgating any national primary drinking water regulation for radionuclides under the Safe Drinking Water Act.

The EPA's Radiation Advisory Committee of the Science Advisory Board wrote to Administrator Reilly on January 29, 1992, 6 weeks ago, that the proposed National Primary Drinking Water Regulations for Radionuclides, proposed rule in the July 18, 1991, Federal Register, revealed an inconsistent approach within the EPA regarding reducing risks from radon exposures in homes.

The EPA's own Science Advisory Board is seriously concerned that the recommendations set forth in the Science Advisory Board report, "Reducing Risk: Setting Priorities and Strategies for Environmental Protection," were not applied in this rulemaking.

The Radiation Advisory Committee further recommended that EPA "conduct a full multimedia risk assessment of the various options for regulating radon in drinking water. Such an evaluation would include the risks posed by the treatment or disposal of any wastes produced by water treatment."

What this means is that since radon in drinking water represents only 1 percent of total exposure to radon that regulating radon in drinking water to the proposed 300 picoCuries per liter standard may not be the most cost-effective program.

Further, the equivalency between air radon levels and water radon levels is 10,000 to 1. This means that if the air radon level is 1 picoCurie per liter then the equivalent water level is 10,000 picoCuries per liter.

Given that background levels for radon are 0.1 to 0.5 picoCuries per liter outdoors and 1 to 2 picoCuries indoors the equivalent drinking water level would be 10,000 to 20,000.

One may easily conclude that the proposed 300 picoCuries per liter is disproportionately minuscule and certainly should be revised proportionately to the indoor radon level—to the 3,000 picoCuries per liter range.

In my own State of Wyoming, tests have been conducted in all 23 counties for indoor residential radon readings. Sixty percent of all homes tested fall below the EPA indoor air action level of 4 picoCuries per liter, yet the proposed rule would require expensive treatment for water serving these homes, even though radon in the water contributes less than five percent to the radon level in the air. This rule would require removal of radon in drinking water to a level of .03 in air. There seems to be a contradiction in our policies.

In looking at nine tests on homes and schools in Laramie County, all pass the recommended EPA indoor air level but not one can meet EPA's proposed drinking water radon limit of 300 picoCuries per liter.

Mr. President, I would point out that radon in drinking water is not a concern when ingested but when it escapes as a gas from the water and is inhaled. The geology of Wyoming, as well as most other States—produces radon in the soil and the gas mixes with well water—the primary source of drinking water in Wyoming.

We need to deal with the problem of radon, there is no question about that. What we must do, however, is make sure that we have the policy direction under control; that we are not just throwing money at a small portion of a problem that requires a comprehensive solution; that we consider the economic impacts of our good intentions. Therefore, I firmly support the Smith amendment because I believe that it accomplishes these goals. Thank you. With those significant amendments I shall support the bill.

I would like to submit several documents for the RECORD, and ask unanimous consent that they be printed after these remarks.

First, EPA Science Advisory Board letter of January 29, 1992; Second, the February 28, 1992, Statement of Administration policy; Third, the October 15, 1991, letter from the Wyoming Public Health Sanitarians Association to the EPA; and Fourth, the March 9, 1992, letter from the Wyoming Department of Health.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ENVIRONMENTAL PROTECTION AGENCY,
Washington, DC, January 29, 1992.

Subject: Reducing Risks from Radon; Drinking Water Criteria Documents.

Hon. WILLIAM K. REILLY,
Administrator, Environmental Protection Agency, Washington, DC.

DEAR MR. REILLY: The Radiation Advisory Committee of the Science Advisory Board has reviewed several radon-related issues brought to it by the Agency during the past year-and-a-half.[1] The Committee has also commented extensively on the criteria documents supporting the proposed regulations for radionuclides in drinking water.[2] As a result of these reviews and the proposed National Primary Drinking Water Regulations for Radionuclides[3], the Committee is writing to convey its concerns about the inconsistent approach within the Agency regarding reducing risks from radon exposures in homes. This issue illustrates a larger concern that the Agency is not effectively applying the recommendations set forth in the Science Advisory Board report *Reducing Risk: Setting Priorities and Strategies for Environmental Protection* (subsequently referred to as *Reducing Risk*).

The purpose of this letter is two fold: (a) to address the fragmented and consistent approach regarding reduction of radon risk and (b) to provide our closing comments on the revised drinking water criteria documents that support the proposed regulations.

THE PROPOSED DRINKING WATER REGULATION IN RELATION TO THE REDUCING RISK REPORT

The Committee realizes that the technical aspects are only one of many factors that must be considered in making policy determinations and that the Agency has already given significant thought to these issues in preparing the proposed regulations for radon in drinking water. However, the Radiation Advisory Committee would like to express its views on the relative risks addressed by the proposed regulation *vis a vis* other radon risks reviewed by the Committee and offered its views as well on what its technical observations mean for matters of policy.

TECHNICAL OBSERVATIONS

The Agency has recognized that there is a serious question about the regulations of radon in drinking water. After considerable deliberation, the Office of Drinking Water has proposed to regulate it in the manner adopted for other contaminants under the Safe Drinking Water Act; that is, at an approximate lifetime risk level of 10^{-4}. The chief risk due to radon in water is its release into the air and subsequent inhalation, as opposed to ingestion of waterborne radon. Thus a 10^{-4} risk level (averaged over smokers and non-smokers) translates into about 0.03 Pci/L in air, or approximately 300 Pci/L in water. That air concentration is more than 100 times smaller than the Agency's voluntary guideline of 4 Pci/L for indoor radon concentrations. It is also well within the natural year-to-year variation in indoor radon concentrations in average houses. As part of the Indoor Radon Abatement Act (Public Law 100-551) the Congress defined the goal of achieving an indoor radon level equal to the natural outdoor level, which is 0.1–0.5 Pci/L depending on the area of the country (NCRP Report No. 94). This goal is a factor of 8–40 below the indoor radon action level, but about a factor of 10 higher than the indoor radon level corresponding to the proposed regulation for radon in drinking water.

The Agency estimates that about 5% of the total indoor radon in homes served by ground water is due to radon released from household water use. (In homes served by surface water supplies, only a fraction of the percent of the indoor radon will be due to water use.) Data in the radon criteria document indicate that approximately 10–30% of the population that relies on ground water sources is exposed to water with radon concentrations above the proposed contaminant level of 300 Pci/L. Overall, about 1% of the total indoor radon in areas with ground water supplies would be addressed by adopting the current proposal.

Although some point estimates of parameters have been employed here, the Committee is well aware of, and wishes to bring to your attention again, the uncertainties in parameters and models employed in the Agency's assessments. Full consideration of uncertainties is called for in the *Reducing Risk* report and its an essential part of the evaluations that the Committee recommends below. The Committee urges appropriate action to assure that the risk assessment fully considers the uncertainties.

POLICY CONSIDERATIONS AND RECOMMENDATIONS

The radon exposure situation reflects the fragmentation of environmental policy identified in *Reducing Risk*. The tactics and goals of different laws designed to address radon exposures are not consistent. Efforts within the Agency to reduce radon risks; while not uncoordinated, are rooted in programmatic areas that respond to different laws.

The field of radiation protection relies on the principle of optimization, which the Committee believes is in harmony with *Reducing Risk*, particularly with Recommendation 4:

EPA should reflect risk-based priorities in its strategic planning processes. *The Agency's long range plans should be driven not so much by past risk reduction efforts or by existing programmatic structures, but by ongoing assessments of remaining environmental risks, the explicit comparison of those risks, and the analysis of opportunities available for reducing risks* (italics ours).

Optimization, like the philosophy espoused in *Reducing Risk*, means that we should apply our limited resources to the more important risks.

Frankly, radon in drinking water is a very small contributor to radon risk except in rare cases and the Committee suggests that the Agency focus its efforts on primary rather than secondary sources of risk. The Agency should conduct a full multi-media risk assessment of the various options for regulating radon in drinking water. Such an evaluation would include the risks posed by the treatment of disposal of any wastes produced by water treatment. It would also consider the effects of releases of other volatile compounds during treatment. (This is currently cited as an ancillary benefit of treatment without analysis of the overall result.)

The Committee understands that the Safe Drinking Water Act requires the Agency to develop regulations for radionuclides in drinking water. The Committee further realizes that a management structure based on media/pollutants may make recommendations that involve different perspectives difficult to implement. However, if the Agency, the Congress, and the country are going to grapple seriously with the concepts in *Reducing Risk*, then it is precisely this type of issue that must be confronted directly, openly, and creatively.

CLOSING COMMENTS ON THE REVISED DRINKING WATER CRITERIA DOCUMENTS

The Committee would also like to comment on some aspects of the criteria documents prepared in support of the proposed regulations. Reviews of two earlier drafts of the associated criteria documents have been performed. Following the Committee's review in the summer of 1990, the Office of Drinking Water, with the assistance of the Office of Radiation Programs, revised the criteria documents supporting the proposed regulation. The Committee does not wish to undertake a detailed formal review of the third set of criteria documents. The fundamental scientific questions were discussed in the previous reviews, cited above. The Committee stands by its original positions and believes that the Agency could further improve the scientific credibility of the criteria documents by adopting its recommendations.

The new set of documents is more complete and individual reports now include more explanation of the options considered, selection criteria, and possible alternative choices. The Agency was less successful in implementing the Committee's advice on uncertainty analysis. Although each criteria document now includes a chapter discussing uncertainty, the content of those chapters is very qualitative and is not the rigorous technical analysis envisioned by the Committee. Overall document quality and clarity are still inadequate for reports that are intended to be the technical bulwark for Agency decisions.

Broad scope assessments, of the type recommended above for radon, are also needed for other of the proposed regulations. The Agency's analyses should include the risks resulting from the concentration of radium, uranium, and other radionuclides in wastes resulting from water treatment. These include the risks to workers involved in disposal activities and the risks of disposal itself. A complete picture of the costs and benefits of implementing these regulations is needed. The importance of cost-effective treatment is stressed in Section V of the proposed regulations, but evaluation of the net benefit of the proposals is far from comprehensive.

The Committee appreciates the hard work of the Offices of Drinking Water and Radiation Programs. We thank them for briefings and presentations that have aided our reviews.

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[1] Relationship Between Short- and Long-term Correlations for Radon Tests (EPA-SAB—RAC-92-008); Revised Radon Risk Estimates and Associated Uncertainties EPA-SAB-RAC-LTR-92-003); Draft Citizen's Guide to Radon (EPA-SAB-RAC-LTR-92-005).

[2] Report to the Administrator on a Review of the Office of Drinking Water assessment of Radionuclides in Drinking Water and four Draft Criteria Documents (SAB-RAC-87-035); Review of Office of Drinking Water's Criteria Documents and Related Reports for Uranium, Radium, Radon, and Manmade Beta-gamma Emitters (EPA-SAB-RAC-92-009).

[3] National Primary Drinking Water Regulations: Radionuclides: Proposed rule. Federal Register, 56:33050-33127, 18 July 1991.

In closing, the Committee strongly encourages the Agency to review its proposed drinking water regulations in light of Recommendation 4 of the *Reducing Risk* report and to prepare comprehensive analyses of the complex questions that arise. We look forward to receiving a reply that delineates your planned response to these challenging issues.

RAYMOND C. LOEHR,
Chair, Executive Committee, Science Advisory Board.
ODDVAR F. NYGAARD,
Chair, Radiation Advisory Committee.
PAUL G. VOILLEQUE,
Chair, Drinking Water Subcommittee, Radiation Advisory Committee.

OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, February 28, 1992.

STATEMENT OF ADMINISTRATION POLICY

(S. 792—Indoor Radon Abatement Reauthorization Act of 1991—Lautenberg of New Jersey and four others)

The Administration opposes enactment of S. 792. The bill's prescriptive and costly regulatory requirements would duplicate existing Federal programs without significantly lowering indoor air radon levels. The bill would also undermine programs designed to provide States with the flexibility to develop self-sustaining, cost-effective, and location-specific programs.

The Federal Government is already undertaking numerous programs to address elevated radon levels in buildings. The Environmental Protection Agency's (EPA) Radon Action Program provides a wide range of technical assistance to help States identify and mitigate elevated radon in residences, work places, and schools. EPA also is working with other Federal agencies to develop radon policies for federally run housing programs.

The bill would inappropriately reauthorize the State Radon grant program as a permanent federally subsidized program. This reauthorization is contrary to the original intent of the existing three-year start-up grant program. The program was designed to end Federal assistance after three years by gradually increasing the State share. While the Administration would not oppose a one-year extension at a reduced Federal share, it opposes a longer extension.

The bill's unfocused requirements and definitions will result in over-control and excessive societal costs where radon levels are relatively low. The definitions of "Priority Radon Areas" and "target action point" are too broad and ignore the work that EPA and other agencies have already done to determine areas with a high probability of elevated radon levels. The Administration opposes any change to the existing radon guidelines without first going through the appropriate scientific review process.

The bill's prescriptive regulatory approach is premature given the current state of scientific and technical expertise on mitigating radon. Some of the techniques developed for mitigating radon have been successfully applied in schools and large buildings. However, more research is needed, particularly in multifamily residences, to develop and refine these techniques, and a regulatory approach for mitigating radon problems in large buildings is premature at this time.

S. 792 would unnecessarily insert the Federal Government into areas that have traditionally been the province of State and local governments. It is inappropriate for the Federal Government to interfere with State and local control of the housing market by regulation, forcing them to adopt Federal minimum radon building standards. The bill may supersede successful State and local government programs designed to reflect the particular needs of their jurisdictions.

SCORING FOR PURPOSES OF PAY-AS-YOU-GO

S. 792 would increase direct spending; therefore, it is subject to the pay-as-you-go requirement of the Omnibus Budget Reconciliation Act of 1990 (OBRA). A budget point of order applies in both the House and the Senate against any bill that is not fully offset under CBO scoring. If, contrary to the Administration's recommendation, the Senate waives any such point of order that applies against S. 792, the effects of enactment of this legislation would be included in a look back pay-as-you-go sequester report at the end of the congressional session.

OMB's preliminary scoring estimates of this bill are presented in the table below. Final scoring of this legislation may deviate from these estimates. If S. 792 were enacted, final OMB scoring estimates would be published within five days of enactment, as required by OBRA. The cumulative effects of all enacted legislation on direct spending will be issued in monthly reports transmitted to the Congress.

Estimates for pay-as-you-go

Outlays:	*Millions*
	Millions
1992	$16
1993	5
1994	5
1995	5
Total	31

STATE OF WYOMING,
DEPARTMENT OF HEALTH,
Cheyenne, WY, October 15, 1991.

COMMENTS CLERK—RADIONUCLIDES,
Drinking Water Standards Division, Office of Ground Water and Drinking Water (WH-550D), Environmental Protection Agency, Washington, DC.

DEAR SIR OR MADAM: The Wyoming Public Health Sanitarians Association (WPHSA) is an organization concerned with environmental health and sanitation issues, particularly those with impact in the State of Wyoming. In response to 40 CFR, Part 141 and 142, Federal Register dated Thursday, July 18, 1991, we would like to state our opposition to the Radon-222 drinking water standard of 300 pCi/L. We recommend that a level, somewhere between the National average of 750 pCi/L and 3,000 pCi/L (the MCL for England) be adopted. England's socialized medicine should be aware of increased health risks.

Our opposition is based on the following facts:

(1) The present technology methods vary between 50% and 95% effective depending upon the type of radon treatment system. All of these, aeration, GAC and decay storage, have inherent technical problems which have yet to be addressed in order to adequately ensure that the sanitation of an otherwise potable water supply is not compromised during a radon reduction process.

(2) We do further oppose that at levels of 300 pCi/L, that Chapter 6 of the "Radon Technologies for Mitigators," an EPA publication, states that if limits are set between 200 and 2,000 pCi/L as an MCL, radon could easily become one of the most treated for contaminants in drinking water. This is based on their assumption that the average radon concentration for most wells is approximately 750 pCi/L. There is concern that treatment for other contaminants in a water system other than for the radon, that the introduction of pathogenic bacteria by using aeration treatment would be an unacceptable risk. Present technology would require "3 or 4 passes to treat the water" and cause a need for chlorination after aeration treatment to ensure that no bacterial contamination has been introduced or sustained through the radon treatment process.

(3) Using the accepted ratio of 10,000 pCi/L in water to transfer to 1 pCi/L in air, it would take a waterborne radon level concentration in excess of 5 million to equate to the two working level months allowable by EPA for radon workers in the industry using a 30 minute water exposure twice a day.

(4) In our experience with testing in Laramie County, Wyoming, the mean average minus outliers on 9 wells is 2,203 pCi/L. The median for the same sample data set is 1,315 pCi/L.

(5) In reference to a publication in the Health Physics Journal, 1984, Dundulis, et al, "Individual potable water supplies containing 222 Rn concentrations as high as 400,000 pCi/L do not significantly increase the probability of stomach or intestinal cancer as defined by the Beir III risk estimates."

(6) The radon in drinking water typical variation ranges on an order of 2 to 3 magnitudes on a daily basis as cited in the EPA "Radon Technologies for Mitigator Handbook." Because of this, it is necessary that multiple samples be taken in order to ensure an adequate average.

We do believe that the data which we have been able to examine speaks strongly in opposition of the proposed 300 pCi/L for the reasons cited above. Thank you for the availability to comment on this Federal Register.

Sincerely,

LINDA D. STRATTON,
President, Wyoming Public Health Sanitarians Association.

DEPARTMENT OF HEALTH,
STATE OF WYOMING,
Cheyenne, WY, March 9, 1992.

BRIDGETT O'GRADY,
National Water Resources Association, Washington, DC.

DEAR MS. O'GRADY: We are sending the summaries that you requested about indoor air radon in Wyoming. Although these readings are not directly related to water and radon, we have preliminarily found that those houses that had elevated indoor radon levels often have a well that is also elevated, but most of our home samples (2532) were not on a private well system.

Our position is based on only about a dozen results in Laramie County. A graph is also included outlining 9 of these results. As you can see there was not one well which would have passed the low-end proposed Radon limit of 300 pCi/L. However, the minimal water radon contamination was not solely responsible for the elevated indoor radon contamination levels. Furthermore, other than the Radon level, all these wells have potable water supplies and are presently untreated water sources.

I hope this data is useful to you. Please call if we can supply any other information.

Sincerely,

JAN HOUGH,
Coordinator, Radon Project.

INDOOR RESIDENTIAL RADON READING WYOMING—1987, 1990, 1991

	< 4 pCi/L	4–19 pCi/L	20–99 pCi/L	100–199 pCi/L	200 and > pCi/L	
1	33	10	0	0	0	43
2	448	255	59	17	10	789
3	93	153	13	0	0	259
4	53	21	2	0	0	76
5	67	29	1	0	0	97
6	40	12	0	0	0	52
7	55	52	3	0	0	110
8	16	7	1	0	0	24
9	24	6	0	0	0	30
10	49	18	3	0	0	70
11	53	6	1	0	0	60
12	36	48	8	0	0	92
13	21	9	0	0	0	30
14	9	9	0	0	0	18
15	24	11	0	0	0	35
16	23	5	0	0	0	28
17	72	17	2	0	0	91
18	23	7	0	0	0	30
19	16	4	0	0	0	20
20	170	44	1	0	0	215
21	21	12	2	0	0	35
22	95	107	32	1	0	235
23	79	12	2	0	0	93
Total	1520	854	130	18	10	2532
Percentage radon results	60	34	5	0.7	0.3	100

Note.—All reported readings were short-term charcoal measurements reported to the Wyoming Department of Environmental Health, Radon program.

Mr. WALLOP. Mr. President, in the debate earlier today on S. 792, the indoor radon bill, I mentioned a recent letter I received from Jack McGraw, the Acting Regional Administrator of EPA in region VIII. This is the Rocky Mountains region which includes my State of Wyoming. The letter solicited my support for radon testing. It seems that all the tactics to scare people into testing their homes, and undergoing renovations, have failed. So, now, they want me to test my home for radon.

I did not have the testing canister when I was home in Big Horn, WY, this past weekend. I have it here in my office. I thought I would leave it on my desk here in the Senate, but the instructions state it should not be left in a windy atmosphere.

While I was home, I did notice the other part of the EPA radon campaign. Huge billboards with the skull and bones imprinted over the word "radon" have been erected across Wyoming. This fear-inducing effort not only poisons rational debate, but resembles an act of piracy. Rather than a crime on the high seas, this is deceit on the high plains.

In his letter, Mr. McGraw states, "* * * there is not yet consensus on what concentration level of radon gas in the air creates a health risk * * *." Yet the attached "Citizen's Guide to Radon" explains that testing and mitigation should be undertaken to avoid the threat of lung cancer. In a rather questionable passage, the guide reports that 85 percent of the 130,000 annual deaths from lung cancer results from smoking. Above this parenthetical statement, the guide states that up to 20,000 annual deaths are due to radon exposure. This accounts for the remaining 15 percent of lung cancer deaths. So, all lung cancers result from either smoking or radon exposure. This would frighten any homeowner or parent into seeking immediate radon testing and mitigation in a home or school.

As I discussed earlier today, the science on the health effects of radon is still an area of dispute. Currently, EPA is working with the National Academy of Sciences on the so-called BIER 6 study, which would be a new review of the risks of radon exposure. The amendment I included to this bill also pushes for more accurate science on health effects. I hope this desire for accuracy also permeates EPA.

I ask unanimous consent that Mr. McGraw's letter, and the "Citizen's Guide" be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ENVIRONMENTAL PROTECTION AGENCY,
Denver, CO, March 3, 1992.

Hon. MALCOLM WALLOP,
U.S. Senator,
Casper, WY.

DEAR SENATOR WALLOP: I'm writing to ask your participation in our Regional Radon Awareness Campaign. EPA, in cooperation with state radon programs, has made continuous strides in increasing public awareness of the serious health risk from radon gas. Although there is not yet consensus on what concentration level of radon gas in the air creates a health risk, scientists do agree that radon gas can be dangerous if not detected and properly addressed.

Your demonstrating how easy it is to test for the gas by testing your Wyoming home would greatly aid us in our efforts. EPA will publicize your participation as a leader in this public health protection campaign. Our news release would announce only your willingness to test for radon, not the test results.

In anticipating your willingness to participate, I have enclosed a charcoal canister with instructions on how to test your home and a copy of the "Citizen's Guide to Radon."

Tammy Kozak of our Radiation Programs staff will be contacting your office next week to answer any questions you might have. If you have comments or questions about radon or the test that you would like to discuss prior to her call, please do not hesitate to call me or Tammy at (303) 293-0977.

Sincerely,

JACK W. MCGRAW,
Acting Regional Administrator.

A CITIZEN'S GUIDE TO RADON: WHAT IT IS AND WHAT TO DO ABOUT IT

WHAT IS RADON?

Radon is a radioactive gas which occurs in nature. You cannot see it, smell it, or taste it.

WHERE DOES RADON COME FROM?

Radon comes from the natural breakdown (radioactive decay) of uranium. Radon can be found in high concentrations in soils and rocks containing uranium, granite, shale, phosphate, and pitchblende. Radon may also be found in soils contaminated with certain types of industrial wastes, such as the by-products from uranium or phosphate mining.

In outdoor air, radon is diluted to such low concentrations that it is usually nothing to worry about. However, once inside an enclosed space (such as a home) radon can accumulate. Indoor levels depend both on a building's construction and the concentration of radon in the underlying soil.

HOW DOES RADON AFFECT ME?

The only known health effect associated with exposure to elevated levels of radon is an increased risk of developing lung cancer. Not everyone exposed to elevated levels of radon will develop lung cancer, and the time between exposure and the onset of the disease may be many years.

Scientists estimate that from about 5,000 to about 20,000 lung cancer deaths a year in the United States may be attributed to radon. (The American Cancer Society expects that about 130,000 people will die of lung cancer in 1996. The Surgeon General attributes around 85 percent of all lung cancer deaths to smoking.)

Your risk of developing lung cancer from exposure to radon depends upon the concentration of radon and the length of time you are exposed. Exposure to a slightly elevated radon level for a long time may present a greater risk of developing lung cancer than exposure to a significantly elevated level for a short time. In general, your risk increases as the level of radon and the length of exposure increase.

HOW CERTAIN ARE SCIENTISTS OF THE RISKS?

With exposure to radon, as with other pollutants, there is some uncertainty about the amount of health risk. Radon risk estimates are based on scientific studies of miners exposed to varying levels of radon in their work underground. Consequently, scientists are considerably more certain of the risk estimates for radon than they are of those risk estimates which rely solely on studies of animals.

To account for the uncertainty in the risk estimates for radon, scientists generally express the risks associated with exposure to a particular level as a range of numbers. (The risk estimates given in this booklet are based on the advice of EPA's Science Advisory Board, an independent group of scientists established to advise EPA on various scientific matters.)

Despite some uncertainty in the risk estimates for radon, it is widely believed that the greater your exposure to radon, the greater your risk of developing lung cancer.

HOW DOES RADON CAUSE LUNG CANCER?

Radon, itself, naturally breaks down and forms radioactive decay products. As you breathe, the radon decay products can become trapped in your lungs. As these decay products break down further, they release small bursts of energy which can damage lung tissue and lead to lung cancer.

WHEN DID RADON BECOME A PROBLEM?

Radon has always been present in the air. Concern about elevated indoor concentrations first arose in the late 1960's when homes were found in the West that had been built with materials contaminated by waste from uranium mines. Since then, cases of high indoor radon levels resulting from industrial activities have been found in many parts of the country. We have only recently become aware, however, that houses in various parts of the U.S. may have high indoor radon levels caused by natural deposits of uranium in the soil on which they are built.

DOES EVERY HOME HAVE A PROBLEM?

No, most houses in this country are not likely to have a radon problem; but relatively few houses do have highly elevated levels. The dilemma is that, right now, no one knows which houses have a problem and which do not. You may wish to call your state radiation protection office to find out if any high levels have been discovered in your area.

Many states, as well as the federal government, are sponsoring work to identify areas of the country which are likely to have indoor radon problems. However, early results from this work are inconclusive. If you are concerned that you may have an indoor radon problem, you should consider having your home tested.

HOW DOES RADON GET INTO A HOME?

Radon is a gas which can move through small spaces in the soil and rock on which a house is built. Radon can seep into a home through dirt floors, cracks in concrete floors and walls, floor drains, sumps, joints, and tiny cracks or pores in hollow-block walls.

Radon also can enter water within private wells and be released into a home when the water is used. Usually, radon is not a problem with large-community water supplies, where it would likely be released into the outside air before the water reaches a home. (For more information concerning radon in water, contact your state's radiation protection office.)

In some unusual situations, radon may be released from the materials used in the construction of a home. For example, this may be a problem if a house has a large stone fireplace or has a solar heating system in which heat is stored in large beds of stone. In general, however, building materials are not a major source of indoor radon.

HOW IS RADON DETECTED?

Since you cannot see or smell radon, special equipment is needed to detect it. The two most popular, commercially-available radon detectors are the charcoal canister and the alpha track detector. Both of these devices are exposed to the air in your home for a specified period of time and sent to a laboratory for analysis.

Charcoal canisters.—Test period: 3 to 7 days, Approximate cost: $10 to $25 for one canister.

Alpha Track Detectors.—Minimum Test Period: 2 to 4 weeks, Approximate cost: $20 to $50 for one detector; discounts for multiple detectors.

There are other techniques—requiring operation by trained personnel—which can be used to measure radon levels, but such techniques may be more expensive than the devices shown above.

Your measurement result will be reported to you in one of two ways. Results from devices which measure radon decay products are reported as "Working Levels" (WL). Results from devices which measure concentrations of radon gas are reported as "picocuries per liter" (pCi/l).

HOW CAN I GET A RADON DETECTOR?

Homeowners in some areas are being provided with detectors by their state or local government. In many areas, private firms offer radon testing. Your state radiation protection office may be able to provide you with information on the availability of detection devices or services.

The U.S. Environmental Protection Agency conducts a Radon Measurement Proficiency Program. This voluntary program allows laboratories and businesses to demonstrate their capabilities in measuring indoor radon. The names of firms participating in this program can be obtained from your state radiation protection office or from your EPA regional office.

HOW SHOULD RADON DETECTORS BE USED?

Obtaining a useful estimate of the radon level in your home may require that several detectors be used to make measurements in different areas. Following the steps below should provide the information needed as you decide whether or not further action is advisable. (In making radon measurements, you should be sure to follow the instructions of the manufacturer as to the proper exposure period for the particular device you are using.)

Step One.—The screening measurement

The first step you should take is to have a short-term "screening" measurement made to give you an idea of the highest radon level in your home. Thus, you can find out quickly and inexpensively whether or not you have a potential radon problem.

The screening measurement should be made in the lowest livable area of your home (the basement, if you have one). All windows and doors should be closed for at least 12 hours prior to the start of the test, and kept closed as much as possible throughout the testing period. This is necessary to keep the radon level relatively constant throughout the testing period. Because of the need to keep the windows closed as much as possible, we recommend that you make short-term radon measurements during the cool months of the year.

Step Two. Determining the need for further measurements

In most cases, the screening measurements are not a reliable measure of the average radon level to which you and your family are exposed. Since radon levels can vary greatly from season to season as well as from room to room, the screening measurement only serves to indicate the potential for a radon problem. Depending upon the result of your screening measurement, you may need to have follow-up measurements made to give you a better idea of the average radon level in your home.

The following guidance may be useful to you in determining the urgency of your need for follow-up measurements.

If your screening measurement result is greater than about 1.0 WL or greater than about 200 pCi/l, you should perform follow-up measurements as soon as possible. Expose the detectors for no more than one week. Doors and windows should be closed as much as possible during testing. You should also consider taking actions (see page 13) to immediately reduce the radon levels in your home.

If your screening measurement result is about 0.1 WL to about 1.0 WL, or about 20 pCi/l to about 200 pCi/l, perform follow-up measurements. Expose detectors for no more than three months. Doors and windows should be closed as much as possible during testing.

If your screening measurement result is about 0.02 WL to about 0.1 WL or about 4 pCi/l to about 20 pCi/l, perform follow-up measurements. Expose detectors for one year, or make measurements of no more than one week duration during each of the four seasons.

If your screening measurement result is less that about 0.02 WL or less than about 4 pCi/l, follow-up measurements are probably not required. If the screening measurement was made with the house closed up prior to and during the testing period, there is relatively little chance that the radon concentration in your home will be greater than 0.02 WL, or 4 pCi/l as an annual average.

Step Three. The follow-up measurement

Follow-up measurements will provide you with a relatively good estimate of the average radon concentration to which you and your family are exposed. We strongly recommend that you make follow-up measurements before you make any final decisions about whether to undertake major efforts to permanently correct the problem.

Follow-up measurements should be made in at least two lived-in areas of your home. If your home has lived-in areas on more than one floor, you should make measurements in a room on each of the floors. An example is to take a measurement in the living room on the first floor and another in a second-floor bedroom. The results of the follow-up measurements should be averaged together.

WHAT DO MY TEST RESULTS MEAN?

The results of your follow-up measurements provide you with an idea of the average concentration throughout your home. The actual risk you face depends upon the amount of time you are exposed to this concentration.

Another way to think about the risk associated with radon exposure is to compare it with the risk from other activities. The chart below gives an idea of how exposure to various radon levels over a lifetime compares to the risk of developing lung cancer from smoking and from chest x-rays. The chart also compares these levels to the average indoor and outdoor radon concentrations.

As you look at the chart, be sure to use the proper radon-level column for your results (either WL or pCi/l).

RADON RISK EVALUATION CHART

Estimated number of lung cancer deaths due to radon exposure (out of 1000)	pCi/l	WL	Comparable exposure levels	Comparable risk
400 to 770	200	1	1000 times average outdoor level.	More than 60 times non-smoker risk. 4 pack-a-day smoker.
270 to 630	100	0.5	100 times average indoor level.	2000 chest x-rays per year.
120 to 380	40	0.2		
60 to 210	20	0.1	100 times average outdoor level.	2 pack-a-day smoker.
30 to 120	10	0.05	10 times average indoor level.	1 pack-a-day smoker. 5 times non-smoker risk.
13 to 50	4	0.02		
7 to 30	2	0.01	10 times average outdoor level.	200 chest x-rays per year.
3 to 13	1	0.005	Average indoor level.	Non-smoker risk of dying from lung cancer.
1 to 3	0.2	0.001	Average outdoor level.	20 chest x-rays per year.

HOW QUICKLY SHOULD I TAKE ACTION?

In considering whether and how quickly to take action based on your test results, you may find the following guidelines useful. EPA believes that you should try to permanently reduce your radon levels as much as possible. Based on currently available information, EPA believes that levels in most homes can be reduced to about 0.02 WL (4 pCi/l).

If your results are about 1.0 WL or higher, or about 200 pCi/l or higher:

Exposures in this range are among the highest observed in homes. Residents should undertake action to reduce levels as far below 1.0 WL (200 pCi/l) as possible. We recommend that you take action within several weeks. If this is not possible, you should determine, in consultation with appropriate state or local health or radiation protection officials, if temporary relocation is appropriate until the levels can be reduced.

If your results are about 0.1 to about 1.0 WL, or about 20 to about 200 pCi/l:

Exposures in this range are considered greatly above average for residential structures. You should undertake action to reduce levels as far below 0.1 WL (20 pCi/l) as possible. We recommend that you take action within several months.

If your results are about 0.02 to about 0.1 WL, or about 4 pCi/l to about 20 pCi/l:

Exposures in this range are considered above average for residential structures. You should undertake action to lower levels to about 0.02 WL (4 pCi/l) or below. We recommend that you take action within a few years, sooner if levels are at the upper end of this range.

If your results are about 0.02 WL or lower, or about 4 pCi/l or lower:

Exposures in this range are considered average or slightly above average for residential structures. Although exposures in this range do present some risk of lung cancer, reductions of levels this low may be difficult, and sometimes impossible, to achieve.

Remember: There is increasing urgency for action at higher concentrations of radon. The higher the radon level in your home, the faster you should take action to reduce your exposure. If you find elevated radon concentrations in your home, you should take the relatively easy, short-term actions described on page 13.

ARE THERE OTHER FACTORS I SHOULD CONSIDER?

Most of the risk information given in this pamphlet, as well as the recommendations for taking corrective action, are based on the general case. Your individual living patterns could influence your assessment of your risk, and your decisions about the need for further action. Your answers to the following questions may help you evaluate your personal risk.

Does anyone smoke in your home? Scientific evidence indicates that smoking may increase the risk of exposure to radon. In addition, smoking significantly increases your overall risk of lung cancer.

Do you have children living at home? Although there are no studies of children exposed to radon to determine whether they are more sensitive than adults, some scientific studies of other types of radiation exposure indicate that children may be more sensitive. Consequently, children could be more at risk than adults from exposure to radon.

How much time does any family member spend at home? The risk estimates given in this pamphlet assume that 75 percent of a person's time is spent at home. If you or your family spend more or less time at home, you should take this into consideration.

Does anyone sleep in your basement? Since radon concentrations tend to be greater on the lower levels of a home, a person who sleeps in the basement is likely to face a greater risk than a person who sleeps in a second-floor bedroom.

How long will you live in your home? The risk estimates in this booklet are based on the assumption that you will be exposed to the radon level found in your home for roughly 70 years. As you evaluate your potential risk, therefore, you might consider the total amount of time you expect to live in your home. But remember: other houses you have lived in—or will live in—may have the same or higher radon levels.

HOW CAN I REDUCE MY RISK FROM RADON?

Your risk of lung cancer from exposure to radon depends upon the amount of radon entering your home and the length of time it remains in your living areas. Listed below are some actions you might take to immediately reduce your risk from radon. These actions can be done quickly and with minimum expense in most cases.

Stop smoking and discourage smoking in your home. By doing so, you should reduce your family's overall chance of developing lung cancer, as well as reducing your family's risk from radon exposure.

Spend less time in areas with higher concentrations of radon, such as the basement.

Whenever practical, open all windows and turn on fans to increase the air flow into and through the house. This is especially important in the basement.

If your home has a crawl space beneath, keep the crawl-space vents on all sides of the house fully open all year.

While the above actions will help reduce your risk from radon, they generally do not offer a long-term solution. You can find more information about permanent, cost-effective solutions to a radon problem in the EPA publication, *Radon Reduction Methods: A Homeowner's Guide.* A copy of this booklet may be obtained from your state radiation protection office or from your EPA regional office.

Before undertaking major modifications to your home, we recommend that you consult with your state radiation protection office to obtain whatever specific advice or assistance they may be able to provide for your particular situation.

SOURCES OF INFORMATION

If you would like further information or explanation on any of the points mentioned in this booklet, you should contact your state radiation protection office.

If you have difficulty locating this office, you may call your EPA regional office listed below. They will be happy to provide you with the name, address, and telephone number for your appropriate state contact.

STATE—EPA REGION

Alabama—4, Alaska—10, Arizona—9, Arkansas—6, California—9, Colorado—8, Connecticut—1, Delaware—3, District of Columbia—3, Florida—4, Georgia—4, Hawaii—9.

Idaho—10, Illinois—5, Indiana—5, Iowa—7, Kansas—7, Kentucky—4, Louisiana—6, Maine—1, Maryland—3, Massachusetts—1, Michigan—5, Minnesota—5, Mississippi—4.

Missouri—7, Montana—8, Nebraska—7, Nevada—9, New Hampshire—1, New Jersey—2, New Mexico—6, New York—2, North Carolina—4, North Dakota—8, Ohio—5, Oklahoma—6, Oregon—10.

Pennsylvania—3, Rhode Island—1, South Carolina—4, South Dakota—8, Tennessee—4, Texas—6, Utah—8, Vermont—1, Virginia—3, Washington—10, West Virginia—3, Wisconsin—5, Wyoming—8.

EPA REGIONAL OFFICES

EPA Region 1, Room 2203, JFK Federal Building, Boston, MA 02203, (617) 223-4845.

EPA Region 2, 26 Federal Plaza, New York, NY 10278, (212) 264-2515.

EPA Region 3, 841 Chestnut Street, Philadelphia, PA 19107, (215) 597-4084.

EPA Region 4, 345 Courtland Street, NE, Atlanta, GA 30365, (404) 881-3776.

EPA Region 5, 230 South Dearborn Street, Chicago, IL 60604, (312) 353-2205.

EPA Region 6, 1445 Ross Avenue, Dallas, TX 75202-2733, (214) 655-7208.

EPA Region 7, 726 Minnesota Avenue, Kansas City, KS 66101, (913) 236-2803.

EPA Region 8, Suite 500, 999 18th Street, Denver, CO 80202, (303) 293-1709.

EPA Region 9, 215 Fremont Street, San Francisco, CA 94105, (415) 974-8076.

EPA Region 10, 1200 Sixth Avenue, Seattle, WA 98101, (206) 442-7660.

RECESS UNTIL 2:15 P.M. TODAY

Mr. LAUTENBERG. Mr. President, on behalf of the majority leader, I ask unanimous consent that the Senate stand in recess until 2:15 p.m. today.

There being no objection, the Senate, at 12:02 p.m., recessed until 2:16 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. ADAMS].

INDOOR RADON ABATEMENT REAUTHORIZATION ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, the senior Senator from Pennsylvania has asked for time from time that was allotted to Senator CHAFEE, 10 minutes. I now would yield the floor to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized under the time of the Senator from Rhode Island.

The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, the distinguished Senator from Rhode Island has now come to the floor, so I would ask him for 4 minutes so that I may speak.

Mr. CHAFEE. Fine.

The PRESIDING OFFICER. The Senator is recognized for 4 minutes.

Mr. SPECTER. Mr. President, I support this legislation because I have seen firsthand the very serious problem posed by radon. In fact, it was a Pennsylvanian, Mr. Stanley Watras, who first alerted the Nation to this very significant issue.

In 1984, Mr. Watras, of Boyertown, PA, a construction engineer, walked into the Limerick nuclear power plant where he worked and immediately set off Limerick's radiation alarm. The alarm signaled that he had been contaminated by radiation beyond the level of safety.

Naturally there was quite a bit of consternation as to what had happened. Later it was found that air samples from Mr. Watras' home revealed an extraordinary concentration of radon gas.

I visited the area in Boyertown, PA, which is right adjacent to Reading, PA. That city gave us the Reading prong, which is the site where radon is located. That is a territory running from Reading, PA, and through New Jersey, New York, and up into Connecticut.

My investigation in Pennsylvania disclosed to me that radon was, indeed, a very serious problem. It is a colorless odorless gas, which emanates from decaying uranium deposits and seeps into homes from air and water. It is a leading cause of lung cancer and is estimated to be responsible for up to 20,000 deaths a year.

Following the work which I did in Pennsylvania on the issue, Senator Hunt and I introduced legislation in the 99th Congress, Senate bill 2710, on August 1, 1986; and I followed that with similar legislation in the 100th Congress, Senate bill 1067, introduced on April 22, 1987. Later that session I joined with the distinguished Senator from New Jersey, Senator LAUTENBERG, and the distinguished Senator from Rhode Island, Senator CHAFEE, and the distinguished Senator from Maine, Senator MITCHELL, in pressing for legislation which was ultimately enacted into law.

I believe that this is important legislation, Mr. President. Procedures for the protection against radon, where Federal assistance to the States to inform people what the problem is and give them information to cure the problem, is vitally important.

I will not take time now to describe the scope of the act. But I do believe it is an important piece of legislation. I am glad to lend my words of support.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. Who seeks recognition? The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator from Rhode Island has 7 minutes remaining.

Mr. CHAFEE. Mr. President, I would like to give 3 of those minutes to Senator DOMENICI. I do not believe he has any time reserved, has he?

The PRESIDING OFFICER. He has not.

Mr. CHAFEE. I would like to give 3 of those minutes to Senator DOMENICI. Thus I have 4 minutes.

I think if we ask the Senators on the floor what they are interested in as far as health care goes, there may be differences as to approach and different programs but I think every Senator would agree that one of the big steps we can take is in preventive medicine. In other words, keeping people healthy. Or, phrasing it another way, keeping them from getting ill.

One of the statistics that is shocking in this is the National Academy of Sciences issued a report in which the academy estimated that the annual number of lung cancer deaths in the United States attributable to radon in a single year are 16,000.

Mr. President, that is an incredible statistic. In other words, this corroborates the EPA information, which is that radon gas is the second-leading cause of lung cancer following smoking.

We are all aware of the dangers of smoking. But this Academy report points out so vividly that the annual number of lung cancer deaths, as I say, in the United States, is 16,000 a year. What can we do about it?

This legislation goes a long way, with a very modest amount of money, toward tackling this problem.

I want to pay tribute to the distinguished Senator from New Jersey, and the majority leader, Senator MITCHELL, and a member of our committee, Senator SPECTER, who has been very active in this area for many, many years, as he pointed out, and others. I have been fortunate enough to have the opportunity to participate in this likewise.

I would just like to point out a couple of features of this legislation that I believe will be of interest. The first is that potential home buyers, those who are getting a mortgage of some type, getting assistance with their financing, at the time they approach the financing institution will be provided with information about the health risk associated with radon gas. This will be a little pamphlet. It will not mandate that it has to be taken at the home. It will not require that the purchaser do anything. But it alerts the purchaser to the potential dangers that arise. Then it is up to the purchaser to work it out with the seller for a test on the property, should the purchaser so choose.

The second step we mandate in this legislation is that those firms that are in the business of radon testing—and there are a lot of firms out there who hold themselves out as radon testers, or those firms that offer what we call radon mitigation services—those firms that will come to you, who have a home, who have gotten the little cannister from the EPA, and tested—it is very easy to test the radon in your own home—when you find the levels are too high, you want to know what to do about it. So you go to a firm that holds itself out as a radon mitigation firm.

And all too often these firms do not know anything about mitigating the dangers or the hazards that arise from radon gas—how to properly install the vents, for example; how to install fans, for example, to eradicate the gas.

So this legislation provides that those firms which hold themselves out either as testers or as mitigators must receive a license from the EPA.

EPA has identified radon gas as the second leading cause of lung cancer after smoking. Last year the National Academy of Sciences issued a report in which it estimated the annual number of lung cancer deaths attributable to radon at 16,000.

The legislation before us requires that information be provided to prospective homebuyers at the time of purchase, when they are most likely to take action to test for radon. Less than a year ago, EPA estimated that only 5 percent of homes nationwide had been tested for radon, and a substantial number of these homes were tested at the time of purchase. This legislation will ensure that homeowners have the facts—that they know about the health risk associated with radon, how to test and, if necessary, where to find a reputable contractor to assist in mitigation.

The home sale transaction provides an excellent opportunity to educate and inform prospective homebuyers about radon. A major obstacle to testing among the general public is apathy. Radon is colorless and odorless, and its harmful effects are not felt, on average, for 20 years. Yet, data from the Environmental Law Institute suggests that this apathy towards testing is most likely to be overcome during the purchase of a home. Presented in the home sales context, both the home seller and home buyer's apathy can be transformed into self-protective action. Just as the home buyer tests for the presence of termites or structural flaws, he will also want to ensure the house is free from elevated levels of radon. Likewise the home seller will want to make his home desirable to prospective purchasers, and protect himself from future litigation.

In 1989, approximately 3.4 million residential mortgages were originated in the United States by various mortgage institutions, including banks and savings and loan institutions. This bill will require that each originating mortgage institution provide prospective home buyers with concise, easy to understand information on radon. This information will be developed by EPA in consultation with real estate groups, real estate financial institutions, the Department of Housing and Urban Development, and citizen groups. Armed with this information, I believe homebuyers will take the necessary steps to rid their homes of radon, and provide a safe indoor environment for their families. I would like to point out, Mr. President, that this is not the heavy hand of Government. This is arming people with information, and allowing them to make decisions about what steps to take.

A related problem, Mr. President, is that homeowners currently do not have a great deal of confidence that radon measurement devices are providing accurate results. The General Accounting Office completed a report in August of 1990 which highlighted some of the problems with companies which produce and analyze radon measurement devices, such as the charcoal canister used to test homes. In summary, GAO concluded that many of these companies do not have an adequate quality assurance program, and that the radon measurements they report back to homeowners could have a high degree of error. Further, since most States do not have regulations covering radon mitigation, as they do for asbestos removal, the cleanups attempted by many radon companies are ineffectual, and there are few follow-up procedures to assure the radon contamination has been remedied.

Although EPA runs a voluntary proficiency testing program, GAO reported that even after companies fail EPA's test, they continue to market their products.

GAO recommended that measurement companies:

Be required to pass the EPA proficiency testing program before marketing their devices; and

Demonstrate the existence of adequate quality assurance programs as a condition of participating in the EPA proficiency testing program.

The legislation we are considering today acts on both of these recommendations, and will ensure that important, health-based decisions are made on the basis of reliable test results.

Senator MITCHELL and Senator LAUTENBERG have been very active in their support of radon legislation through the year. I commend their efforts. I hope my colleagues will join with me in supporting this worthwhile legislation.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from New Mexico [Mr. DOMENICI].

Mr. DOMENICI. Mr. President, I wonder if Senator CHAFEE, before he leaves the floor, might answer a question. I do not know that I need my 3 minutes.

Could I ask the Senator, with reference to this radon protection bill, first, do we know how much it is going to cost?

Mr. CHAFEE. Oh, yes. The total appropriation is, over the 3 years, $61 million that has been authorized; over 3 years.

Mr. DOMENICI. Second, radon is there now in the country, in some homes. It might be in some new homes. Does this legislation in any way create a liability where one does not exist today?

Mr. CHAFEE. No.

Mr. DOMENICI. So if someone some years from now claims that they have contracted a disease or an ailment, be it cancer or otherwise, and say it came from radon, am I to believe that they will prove their case separate and apart from anything set forth in this legislation?

Mr. CHAFEE. That is correct. I suppose that you could follow this along. This legislation provides there shall be radon testing of the schools. I suppose somebody could say that as a result of this legislation, a school was tested and that school tested very, very high in radon; that that was brought to the attention of the school authorities, say the school board, and the school board said, "Well, we do not choose to do anything about it. Forget it." I suppose if you stretch that, there is some way in which a pupil in later years could claim, or parent could claim, that as a result of the negligence of the school board, that the child subsequently contracted lung cancer.

Mr. DOMENICI. Might I ask—and I ask this of either the chairman or Senator CHAFEE. I see the chairman standing on the floor.

Let me ask, is there any comparison at all with what might happen in our schools and in public buildings because of this radon definition and goal that might compare with the asbestos cleanup that has occurred?

Mr. CHAFEE. No; I think not. We can discuss the asbestos thing and whether the schools went way further than they were required to do, but that is a separate subject. I would say, first of all, there is a vast difference in what it takes to mitigate the damage.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from New Jersey has the remaining time.

Mr. LAUTENBERG. I thank the Chair.

I want to express my thanks to the Senator from Rhode Island. Senator CHAFEE has worked very hard on the radon issue. He and I authored the radon schools amendment which is designed to get radon, this threatening material, out of our schools.

Earlier, we heard a comment by the Senator from Idaho [Mr. SYMMS] who cited an article by a commentator, Warren Brookes, who argued that the threat of radon is overblown.

It is the Brookes article that is overblown and full of inaccuracies.

I ask unanimous consent that a letter written by Michael Shapiro, EPA Deputy Administrator for Air and Radiation, which addresses these inaccuracies, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RADON: A VERY REAL HEALTH THREAT

DEAR EDITOR: Warren Brookes' March 8, 1990 commentary on radon, "Killer or Minimal Risk," that appeared in your paper contains many disturbing inaccurate statements and conclusions. Radon, contrary to the opinion expressed in the article, is a very real health threat. Radon is one of only a handful of substances known to cause cancer in humans. The Environmental Protection Agency (EPA) estimates that radon contributes to about 20,000 lung cancer deaths annually in the United States.

EPA's position is supported by the National Academy of Sciences, the U.S. Surgeon General, the American Medical Association, and the Centers for Disease Control. These organizations have all identified radon as a serious health threat. In addition, reports from the World Health Organization, the National Council on Radiation Protection and Measurement, and the American Lung Association confirm that radon is a serious health risk.

Mr. Brookes' commentary attempts to refute the conclusions of these organizations. However, in doing so, the commentary presents much information that is inaccurate or untrue.

The commentary cited many studies which compared regional lung cancer rates with regional radon levels. These crude calculations present many problems. Primarily, average radon levels do not reflect an individual lung cancer victim's exposure to radon. Additionally, these studies do not account for smoking habits, age, or length of exposure of the people who died of lung cancer. This is like deciding that warm weather is bad for you if you found that death rates in Florida were higher than in Maine.

The commentary also used a study of two Chinese provinces with extremely low levels of radon and only 5 lung cancer deaths. This study was used to assert that radon does not cause lung cancer and to criticize EPA's risk estimates. In fact, EPA's risk estimates are based on large studies including 700 lung cancer deaths in a population of 27,000 miners exposed to radon. Only 200 lung cancer deaths would normally be expected in this population.

The commentary also stated that lung cancer deaths only occurred in these miners at radon levels 3,000 times greater than EPA's action level in homes. This is wrong. In fact, many homes have radon levels that would expose residents of five to fifty years to more radon than miners who contracted lung cancer.

The commentary also falsely portrayed England's public health policy on radon. The commentary implied that "England was willing to wait until 1993 for the results of [a particular large] study" before taking action on the radon problem. Contrary to this assertion, England is taking fast action against radon. In fact, Great Britain's National Radiation Protection Board has just reduced their radon action level for existing homes from 10 to 5 picocuries per liter (pCi/L). (EPA's current action level is 4 pCi/L.) Great Britain has also set a limit of less than 3 PCi/L in new homes.

The commentary also attempted to use data on radon levels in Iowa to question EPA radon risk estimates. It suggested that EPA estimates would predict 200 more lung cancer deaths in Iowa from radon alone than actually occurred from all causes in 1988. This is not true. The author incorrectly combined national and state data to estimate annual radon lung cancer deaths in Iowa. Even if this approach had been valid, the calculation was performed incorrectly. The author arrived at 1,600 annual lung cancer deaths; correct calculations would have led to 400 annual deaths. Thus, not only was an invalid procedure used, the calculations were incorrect.

There is solid scientific proof of radon's serious health effects. There is evidence of elevated radon levels in homes throughout the country. Millions of people will continue to be exposed to dangerous levels of radiation until homes with radon problems are identified. Fortunately, radon is a health hazard with a simple solution. EPA and the Surgeon General have recommended that most homes be tested for radon. Houses with high levels should be fixed. Delaying prudent public health actions until the evidence is even more compelling than now would be irresponsible.

MICHAEL H. SHAPIRO,
Deputy Assistant Administrator for Air and Radiation, Environmental Protection Agency.

Mr. LAUTENBERG. Mr. President, at a hearing on the radon in schools legislation that I chaired in 1990, I asked Dr. Vernon Houk of the Centers for Disease Control to characterize the evidence concerning the health threat posed by radon. This is his response:

> The evidence of radon is the strongest of any environmental contaminant because our extrapolations and our estimates are based upon human observations at the level that we're talking about at risk. There is no room for debate on this issue, Senator LAUTENBERG. Anybody who tells you differently is ill-informed, deceitful, or both.

Mr. President, the National Academy of Sciences, the U.S. Surgeon General, the Centers for Disease Control, the American Medical Association, and the World Health Organization all support EPA's concern about the threat posed by exposure to radon. But despite this risk, EPA estimates that only 5 percent of our Nation's homes have been tested for radon.

Radon is a silent killer; it is odorless, tasteless, and invisible. So people are inclined to dismiss the threat, and the warnings that we hear about so often. So we have to significantly increase efforts to expand public awareness of the threat posed by radon.

When we have increased awareness and funding for other diseases, we greatly reduce their impact on our people. For example, stroke deaths related to hypertension have declined 55 percent from 1972 to 1984, and vaccines and public awareness programs surrounding measles, mumps, and rubella have reduced their incidence 99 percent since the 1960's.

S. 792 includes a number of programs to address the lack of attention given to radon.

So I urge my colleagues to vote for the bill.

Once again, I want to thank Senator BURDICK, the chairman of the Environment and Public Works Committee; Senator CHAFEE, who is the ranking member of the committee; the majority leader; and Senator DURENBERGER for their assistance in moving S. 792.

I want to thank the staff, which has worked so hard on both S. 792 and S. 455, the Indoor Air Quality Act, which the Senate passed last session. The staff people, Mike Shields and Jeff Peterson, from the Environment and Public Works Committee, majority staff; and from the minority staff, Rich Innes and Jimmie Powell; and Ric Erdheim, my able assistant from my staff.

I yield the time, Mr. President. I assume that we are ready to vote.

The PRESIDING OFFICER. All time has been yielded or used. All time has expired.

The question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote by which the amendment, as amended, was agreed to.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time.

The PRESIDING OFFICER. The bill having been read for the third time, the question is, Shall it pass?

On the question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from New Mexico [Mr. BINGAMAN], the Senator from Illinois [Mr. DIXON], the Senator from Iowa [Mr. HARKIN], the Senator from Hawaii [Mr. INOUYE], and the Senator from Georgia [Mr. NUNN] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Indiana [Mr. COATS], the Senator from Mississippi [Mr. COCHRAN], the Senator from Utah [Mr. JEFFORDS], the Senator from Indiana [Mr. LUGAR], the Senator from Oklahoma [Mr. NICKLES], the Senator from Oregon [Mr. PACKWOOD], and the Senator from Virginia [Mr. WARNER] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 82, nays 6, as follows:

[Rollcall Vote No. 37 Leg.]

YEAS—82

Adams
Akaka
Baucus
Bentsen
Biden
Bond
Boren
Bradley
Breaux
Brown
Bryan
Bumpers
Burdick
Byrd
Chafee
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Glenn
Gore
Gorton
Graham
Gramm
Grassley
Hatch
Hatfield
Heflin
Hollings
Johnston
Kassebaum
Kasten
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Mack
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Seymour
Shelby
Simon
Simpson
Smith
Specter
Stevens
Thurmond
Wellstone
Wirth
Wofford

NAYS—6

Burns
Craig
Garn
Helms
Symms
Wallop

NOT VOTING—12

Bingaman
Coats
Cochran
Dixon
Harkin
Inouye
Jeffords
Lugar
Nickles
Nunn
Packwood
Warner

So the bill (S. 792), as amended, was passed, as follows:

S. 792

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indoor Radon Abatement Reauthorization Act of 1992".

SEC. 2. NATIONAL GOALS.

Section 301 of the Toxic Substances Control Act (15 U.S.C. 2661) is amended—

(1) in the heading, by striking "NATIONAL GOAL" and inserting NATIONAL GOALS";

(2) by inserting "(a) RADON LEVELS.—" before the first sentence of the section; and

(3) by adding at the end the following new subsection:

"(b) TESTING.—It is the goal of the United States that all homes, schools, and Federal buildings be tested for radon.".

SEC. 3. DEFINITIONS.

Section 302 of the Toxic Substances Control Act (15 U.S.C. 2662) is amended by adding at the end the following new paragraphs:

"(5) The term 'residential dwelling' means—

"(A) a single-family dwelling or a one-family dwelling unit in a structure containing not more than four separate residential dwelling units, each such unit used or occupied, or intended to be used or occupied, wholly or partly, as the home or residence of one or more persons; or

"(B) a single-family or one-family dwelling unit on the subground, ground, or first-floor-above-ground level of a multi-unit residential structure.

"(6) The term 'multi-unit residential structure' means a building containing more than four separate residential dwelling units, each such unit used or occupied, or intended to be used or occupied, wholly or partly, as the home or residence of one or more persons.

"(7) The term 'contract for the sale of residential real property' means any contract or agreement whereby one party agrees to purchase from another party any interest in real property improved by one or more residential dwelling units used or occupied, or intended to be used or occupied, wholly or partly, as the home or residence of one or more persons.

"(8) The term 'applicable mortgage loan' includes any loan (other than temporary financing such as a construction loan) that—

"(A) is secured by a first lien on residential real property (including individual units of condominiums and cooperatives); and

"(B) either—

"(i) is insured, guaranteed, made, or assisted by any agency of the Federal Government, including the Department of Housing and Urban Development, the Veterans Administration, and the Farmers Home Administration; or

"(ii) is intended to be sold by an originating mortgage institution to any federally chartered secondary mortgage market institution.

"(9) The term 'originating mortgage institution' means any lender that provides federally insured, guaranteed, made, or assisted mortgage loans, or sells mortgage loans to a federally chartered secondary mortgage market institution.

"(10) The term 'federally chartered secondary mortgage institution' means an institution chartered by Congress that buys mortgages from originating financial institutions and resells them to investors, including the Federal National Mortgage Association, the Government National Mortgage Association, and the Federal Home Loan Mortgage Association.

"(11) The term 'Administrator' means the Administrator of the United States Environmental Protection Agency.

"(12) The term 'business day' means any day other than a Saturday, a Sunday, a Federal holiday, a State holiday in the State in which the affected residential property is located, or a State holiday in the State or States in which the buyer or seller resides.

"(13) The term 'person' means an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, or an interstate body.

"(14) The term "direct Federal financial assistance" means assistance in financing a residential dwelling provided by the Federal Housing Administration, Farmers Home Administration, and the Department of Veterans Affairs.

"(15) The term "Federal building" means any building that—

"(A) is used primarily as an office building, school, hospital, or residence,

"(B) owned, leased, or operated by any Federal agency, and

"(C) is occupied by the Library of Congress, is part of the White House, or is the residence of the Vice President, and

"(D) is included in the definition of 'Capitol Buildings' under section 16(a) of the Act entitled 'An Act to define the area of the United States Capitol Grounds, to regulate the use thereof, and for other purposes', approved July 31, 1946 (40 U.S.C. 193m).".

SEC. 4. PRIORITY RADON AREAS.

Title III of the Toxic Substances Control Act (15 U.S.C. 2661 et seq.) is amended—

(1) by redesignating sections 303 through 311 as sections 304 through 312, respectively; and

(2) by inserting after section 302 the following new section:

"SEC. 303. PRIORITY RADON AREAS.

"(a) DESIGNATION OF AREAS.—The Administrator shall, designate as expeditiously as possible but no later than January 1, 1992, areas as priority radon areas, and revise, as appropriate thereafter, the designations.

"(b) STANDARD FOR DESIGNATION.—The Administrator shall designate an area as a priority radon area in any case where the Administrator determines that there is a reasonable likelihood that the average indoor radon level in the area is likely to exceed the national average indoor radon level by more than a de minimis amount.

"(c) FACTORS.—In designating priority radon areas, the Administrator shall consider the most current available information at the time of such designation, including—

"(1) the national assessment of radon conducted pursuant to section 118(k) of the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. 7401 note);

"(2) surveys of school buildings conducted pursuant to section 308;

"(3) surveys of Federal buildings conducted pursuant to section 310;

"(4) surveys of work places conducted pursuant to section 318; and

"(5) any other information, including other radon measurements and geological data, as the Administrator determines to be appropriate.".

SEC. 5. CITIZEN'S GUIDE.

(a) SCHEDULE.—Section 304(a) of the Toxic Substances Control Act (as redesignated by section 4 of this Act) is amended—

(1) by striking "June 1, 1989," and inserting "January 1, 1992,"; and

(2) by inserting ", in consultation with the Director of the Centers for Disease Control of the Department of Health and Human Services," after "Administrator" in the last sentence of the subsection.

(b) ACTION LEVELS.—Section 304(b)(1) of the Toxic Substances Control Act (as redesignated by section 4 of this Act) is amended—

(1) by inserting "(A)" after "ACTION LEVELS.—"; and

(2) by adding at the end the following new subparagraphs:

"(B) The citizen's guide shall state the national goals established in this title, and shall estimate the average national ambient outdoor radon level. The guide shall also indicate the health benefits of reducing indoor radon levels to ambient outdoor levels.

"(C) The citizen's guide shall establish a target action point indicating a level of indoor radon that is, in the judgment of the Administrator, as close to the national ambient outdoor radon level as can be achieved consistently in existing, single family homes through the application of readily available and generally affordable radon mitigation technologies and practices.".

(c) INFORMATION.—Section 304(b)(2) of the Toxic Substances Control Act (as redesignated by section 4 of this Act) is amended by adding at the end the following new subparagraph:

"(F) The location of priority radon areas and the likelihood of radon levels above the target action point within and outside of priority radon areas.".

SEC. 6. MODEL CONSTRUCTION STANDARDS.

(a) TECHNICAL AMENDMENTS.—(1) Section 305 of the Toxic Substances Control Act (as redesignated by section 4 of this Act) is amended—

(A) by inserting "(a) STANDARDS.—" before the first sentence of the section;

(B) by inserting "and periodically update" after "develop";

(C) by striking the second sentence of the section and inserting the following new subsection:

"(b) CONSULTATION.—In developing and updating standards and techniques pursuant to subsection (a), the Administrator shall consult with—

"(1) the Secretary of Housing and Urban Development;

"(2) organizations that are involved in establishing national building construction standards and techniques; and

"(3) national organizations that represent homebuilders and State and local housing agencies (including public housing agencies).";

(D) by inserting "(c) GEOGRAPHIC DIFFERENCES.—(1)" before the fourth sentence of the section;

(E) by striking the fifth sentence of the section; and

(F) by inserting "(d) IMPLEMENTATION.—" before the sixth sentence of the section.

(2) Section 305 of the Toxic Substances Control Act (as redesignated by section 4 of this Act) is amended by adding at the end the following new subsection:

"(e) SCHEDULE.—The Administrator shall publish final radon control standards and techniques for residential dwellings and make such techniques available to the public and the building industry by not later than January 1, 1992, and for multiunit residential structures and schools by not later than January 1, 1994.".

(b) OBJECTIVES.—Section 305 of the Toxic Substances Control Act (as redesignated by section 4 of this Act) is amended by adding at the end of subsection (c) (as designated by subsection (a)(1) of this section) the following new paragraph:

"(2)(A) Model standards and techniques shall indicate a range of effective radon control measures, practices, and techniques, that apply to original construction of a wide variety of building types, locations, conditions, and circumstances, and shall indicate the general range of radon control achievable by such measures individually and in combination with other measures.

"(B) At a minimum, the Administrator shall establish minimum radon reduction measures, practices, and techniques for new construction for the purpose of determining compliance with this section. Such radon standards shall be designed to require the use of reasonably available and economically achievable techniques, and to achieve indoor radon levels in homes less than the target action point established pursuant to section 304(b)(1)(C) where possible by using these techniques.".

(c) FEDERALLY ASSISTED HOUSING.—Section 305 of the Toxic Substances Control Act (as redesignated by section 4 of this Act, and as amended by subsection (a)(2) of this section) is amended by adding at the end the following new subsection:

"(f) FEDERALLY ASSISTED HOUSING.—The appropriate Federal official shall require that any residential dwelling or multiunit residential structure constructed more than two years after the date of the establishment of new construction standards pursuant to this section or the date of enactment of this section, whichever is later, in an area designated by the Administrator as a priority radon area or more than two years after the designation of an area as a priority radon area, whichever is later, shall be constructed in accordance with the radon control standards established pursuant to subsection (c)(2)(B), before providing any direct Federal financial assistance.".

(d) DESIGN AWARDS AND CERTIFICATION.—Section 305 of the Toxic Substances Control Act (as redesignated by section 4 of this Act, and as amended by subsection (c) of this section) is amended by adding at the end the following new subsection:

"(g) DESIGN AWARDS.—(1) The Administrator shall establish a radon design awards program.

"(2) The radon design awards program shall provide for awards for the best residential design incorporating radon control or mitigation standards in categories of residential design to be determined by the Administrator.".

(e) RELATIONSHIP TO STATE AND LOCAL STANDARDS.—Section 305 of the Toxic Substances Control Act (as redesignated by section 4 of this Act, and as amended by subsection (d) of this section) is amended by adding at the end the following new subsection:

"(h) RELATIONSHIP TO STATE AND LOCAL STANDARDS.—The standards published pursuant to this section shall not preempt the use of any State or local building standard if the State or local standard is equally effective in reducing radon levels as the standards published pursuant to this section.".

SEC. 7. TECHNICAL ASSISTANCE.

(a) ACTIVITIES.—Section 306(a) of the Toxic Substances Control Act (as redesignated by section 4 of this Act) is amended by adding at the end the following new paragraphs:

"(9) Development of a model State program to disseminate radon information to State and local tenant organizations.

"(10) Assistance to State agencies and other organizations concerning the assessment and mitigation of radon in public water supplies.

"(11) Assistance to State agencies and other organizations to facilitate prompt adoption and effective enforcement of new construction standards for reducing radon levels developed pursuant to section 305.

"(12) Development of testing guidelines for multiunit residential structures and multistory buildings not later than six months after the date of enactment of this paragraph and development of mitigation guidelines not later than three years after the date of enactment of this paragraph.

"(13) Issuance of guidance to States on appropriate elements of State radon measurement and mitigation proficiency programs.".

(b) PROFICIENCY TESTING.—(1) Section 306(a)(2) of the Toxic Substances Control Act (as redesignated by section 4 of this Act) is amended by striking "voluntary".

(2) Section 306(e) of the Toxic Substances Control Act (as redesignated by section 4 of this Act) is amended—

(A) by redesignating paragraph (2) as paragraph (2)(A); and

(B) by adding after paragraph (2)(A), as so redesignated, the following new subparagraphs:

"(B)(i) Except as otherwise provided in clause (ii), for the purposes of this paragraph, the term 'small business' means a corporation, partnership, or unincorporated business that—

"(I) has 150 or fewer employees; and

"(II) for the 3-year period preceding the date of the assessment, has an average annual gross revenue from radon measurement and mitigation activities in an amount that does not exceed $40,000,000.

"(ii) If, after consultation with the Small Business Administration, the Administrator determines that a modification of the definition of 'small business' under clause (i) is appropriate to characterize small businesses associated with radon measurement and mitigation, the Administrator shall, by regulation, modify the definition in such manner as the Administrator determines to be appropriate.

"(C) The Administrator shall consider reductions of such charges for small businesses pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

"(D) No charges may be imposed on State and local governments. In the case of a State which is administering a radon proficiency program pursuant to section 314(c), the State may impose charges consistent with charges which would have been imposed by the Administrator. Any amounts collected by a State as charges under this paragraph may be used as part of the non-Federal share of a grant awarded pursuant to section 307 of this title.".

SEC. 8. GRANT ASSISTANCE.

(a) APPLICATION.—Section 307(b) of the Toxic Substances Control Act (as redesignated by section 4 of this Act) is amended by adding at the end the following new paragraph:

"(6) A description of the State's efforts to develop a mandatory radon proficiency program consistent with sections 306(a)(2) and 314.".

(b) ELIGIBLE ACTIVITIES.—Section 307(c) of the Toxic Substances Control Act (as redesignated by section 4 of this Act) is amended by adding at the end the following new paragraphs:

"(11) Technical assistance to public water supply systems concerning mitigation of radon in public water supplies, and public education and information activities to assist homeowners in the assessment and mitigation of radon in private drinking water supplies.

"(12) Activities to adopt model new construction standards for reducing radon levels developed pursuant to section 305 to the State and assure the implementation of such standards in the State.

"(13) Technical and financial assistance to non-profit public interest groups to encourage radon testing and mitigation at local levels.

"(14) Targeting outreach and technical assistance activities to licensed child care facilities in priority radon areas.

"(15) Notwithstanding the limitation in subsection (i)(4), payment, in the form of grants or loans, of costs of implementing remediation measures necessary to prevent levels of radon in school buildings above the target action point identified pursuant to section 304(b)(1)(C): *Provided*, That such payments are made in consideration of the financial need of the applicant.

"(16) Payment of costs of conducting radon tests required pursuant to section 308(d): *Provided*, That such payments shall be made only in the case of a local educational agency that received assistance payment pursuant to paragraph (15).

"(17) Educational programs for members of the housing industry concerning the model construction standards and techniques published pursuant to section 305.

"(18) Financial assistance to conduct surveys to improve the precision of priority radon areas.".

(c) PREFERENCE TO CERTAIN STATES.—Section 307(d) of the Toxic Substances Control Act (as redesignated by section 4 of this Act) is amended—

(1) by striking "1991" and inserting "1993"; and

(2) by inserting before the period ", or have adopted equally effective standards".

(d) FEDERAL SHARE.—Section 307(f) of the Toxic Substances Control Act (as redesignated by section 4 of this Act) is amended by striking "in the third year" and inserting "in each succeeding year".

(e) ASSISTANCE TO LOCAL GOVERNMENTS.—Section 307(g) of the Toxic Substances Control Act (as redesignated by section 4 of this Act) is amended—

(1) by striking "and (6)" and inserting "(6), (11), (12), (14), (15), and (16),"; and

(2) by inserting "(1)" after "GOVERNMENTS.—"; and

(3) by adding at the end the following new paragraph:

"(2) Any remediation plans for reducing radon in school buildings implemented pursuant to this section shall be reviewed for consistency with EPA guidance by the school officials responsible for authorizing these types of structural changes.".

(f) INFORMATION.—Section 307(h) of the Toxic Substances Control Act (as redesignated by section 4 of this Act) is amended by adding at the end the following new paragraph:

"(4) Any State receiving funds under this section shall investigate consumer complaints about radon services that violate the Environmental Protection Agency or State radon proficiency program. An appropriate official of the State shall advise the Administrator of any person who violates the requirements of section 314.".

(g) AUTHORIZATION.—Section 307(j) of the Toxic Substances Control Act (as redesignated by section 4 of this Act) is amended by striking paragraph (5).

SEC. 9. RADON IN SCHOOLS.

Section 308 of the Toxic Substances Control Act (as redesignated by section 4 of this Act) is amended by adding at the end the following new subsections:

"(c) GUIDELINES.—(1) Not later than one year after the date of enactment of this subsection, the Administrator shall publish guidelines on testing for and remediating radon in school buildings.

"(2) After the publication of guidelines pursuant to this subsection, testing and remediation carried out pursuant to this section shall be conducted in a manner consistent with such guidelines.

"(3) Any radon testing or remediation of school buildings conducted prior to the publication of guidelines pursuant to this subsection shall be considered to meet the requirements of this section if the testing or remediation is conducted in a manner consistent with any interim guidance published by the Administrator or by a State (in any case where the Administrator determines that such guidelines are substantially consistent with the guidelines published under this subsection).

"(d) REQUIREMENT FOR RADON TESTING.—(1) Not later than two years after the designation by the Administrator of an area as a priority radon area, each local educational agency located in whole or in part in such designated area shall conduct tests for radon in each school building owned or operated by the local educational agency.

"(2) The Administrator may extend the schedule for testing for radon pursuant to this subsection to the date two years from the date of publication of testing guidelines pursuant to subsection (c).

"(3) The results of any tests conducted pursuant to this section by a local educational agency shall be available for public review in the administrative offices of the local educational agency during normal business hours. The local educational agency shall notify parent, teacher, and employee organizations of such results and shall send the results to the Administrator and the agency of the State that implements radon programs.

"(4) Any radon testing conducted pursuant to this section shall be supervised by a person who has received instruction pursuant to an Environmental Protection Agency or equivalent State approved program, as determined by the Administrator, and shall use radon measurement devices and methods approved by the radon proficiency program established pursuant to sections 306(a)(2) and 314.".

SEC. 10. REGIONAL RADON TRAINING CENTERS.

Section 309(b) of the Toxic Substances Control Act (as redesignated by section 4 of this Act) is amended by adding at the end the following new sentence: "The regional radon training centers are authorized to provide training to State and local building code officials, contractors, and others in the building community, on the model construction standards and techniques published pursuant to section 305.".

SEC. 11. FEDERAL BUILDINGS.

Section 310 of the Toxic Substances Control Act (as redesignated by section 4 of this Act) is amended by adding at the end the following new subsection:

"(g) RADON ASSESSMENT AND MITIGATION PLAN.—(1) Not later than January 1, 1994, the Administrator shall submit to Congress a plan describing activities to be undertaken by appropriate Federal agencies to assess and mitigate radon in Federal buildings.

"(2) The Administrator shall consult with the heads of affected Federal agencies in the development of the plan required pursuant to this subsection.

"(3) The plan required pursuant to this subsection shall, at a minimum—

"(A) include a list of each Federal building and an indication of the results of any radon tests for such buildings conducted to date;

"(B) specify those Federal buildings for which assessment and mitigation will be undertaken on an expedited basis based on consideration of—

"(i) the radon levels in the buildings;

"(ii) the number of people exposed to high radon levels; and

"(iii) the susceptibility of the building to mitigation.

"(C) specify the schedule for mitigation in each building in which radon levels exceed the target action level specified in section 303(b)(1)(C); and

"(D) specify the Federal agency responsible for the building, the estimated costs of mitigation, and the source of funds for assessment and mitigation actions.

"(4) At a minimum, each Federal agency that is responsible for Federal buildings shall assure that—

"(A) all schools and residences are assessed to determine radon levels by not later than January 1, 1996;

"(B) all other Federal buildings are assessed to determine radon levels by not later than January 1, 1998; and

"(C) in the case of a Federal building with radon levels above the target action point established by the Administrator pursuant to section 304(b)(1)(C), measures designed to achieve radon levels at or below the target action point are implemented by not later than two years after the applicable deadline for assessment specified in this paragraph.

"(5) In implementing radon assessment and mitigation activities, Federal agencies shall employ as contractors private firms certified by the Administrator as proficient pursuant to section 306(a)(2).

"(6) Not later than two years after the submittal of the plan required pursuant to this subsection, the Administrator shall submit to Congress a report on actions taken to implement the plan.".

SEC. 12. RADON INFORMATION.

Title III of the Toxic Substances Control Act (15 U.S.C. 2661 et seq.) (as amended by section 4 of this Act) is further amended by adding at the end the following new section:

"SEC. 313. RADON-RELATED INFORMATION.

"(a) INFORMATION DOCUMENT.—(1) Not later than 180 days following the date of enactment of this section, the Administrator, in consultation with the Secretary of Housing and Urban Development, national organizations that represent State and local housing agencies (including public housing agencies), real estate groups and real estate financial institutions, citizen groups, and other groups that the Administrator determines to be appropriate, shall develop a written document containing radon-related information.

"(2) The document shall include, at a minimum—

"(A) information indicating the health risk associated with different levels of radon exposure consistent with the health information in the citizen's guide;

"(B) information regarding the advisability of undertaking measures to mitigate dangerous levels of radon;

"(C) information regarding appropriate Federal and State agencies that can provide further information on the health risk from radon, and a list of firms or other entities approved by the Environmental Protection Agency for purposes of radon detection and mitigation; and

"(D) recommended Environmental Protection Agency radon testing procedures that will provide quality and reliable measurements in conjunction with a real estate transaction.

"(3) A copy of such document shall be provided by every originating mortgage institution to each person from whom it receives or for whom it prepares a written application for an applicable mortgage loan. Such document shall be made available not later than five business days after such application is received or prepared.

"(4) No federally chartered secondary mortgage institution may purchase any mortgage loan originating twelve or more months after the date of enactment of this section unless such secondary mortgage institution requires, by contract or otherwise, that the originating mortgage institution shall comply with the radon information distribution requirements imposed under this section, in originating mortgages to be purchased by such secondary mortgage market institution.

"(5) For purposes of this section, a document may be printed and distributed by each originating mortgage institution if the form and content of the document meet the requirements of this section and the document is approved by the Administrator.

"(b) VALIDITY OF CONTRACTS AND LIENS.—Nothing in this section shall affect the validity or enforceability of any sale or contract for the sale of residential real property or any loan, loan agreement, mortgage, or lien made or arising in connection with an applicable mortgage loan.

"(c) RELATIONSHIP TO OTHER LAWS.—Nothing in this section shall annul, alter, affect, or exempt any person subject to this section from complying with the laws of any State with respect to the provision of radon-related information, except to the extent that the Administrator determines that any such law is inconsistent with this section, and then only to the extent of the inconsistency.".

SEC. 13. MANDATORY RADON PROFICIENCY PROGRAM.

Title III of the Toxic Substances Control Act (15 U.S.C. 2661 et seq.) (as amended by section 12 of this Act) is further amended by adding at the end the following new section:

"SEC. 314. MANDATORY RADON PROFICIENCY PROGRAM.

"(a) MANDATORY PARTICIPATION.—Effective two years after the date of the enactment of this section, no person shall offer radon measurement devices or radon measurement or mitigation services to the public unless such person has successfully completed the Environmental Protection Agency's radon proficiency program, or appropriate portions thereof.

"(b) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to apply to governmental units or nonprofit organizations that provide a radon service for their own use and do not provide that service for commercial purposes.

"(c) DELEGATION TO STATES.—(1) The Administrator shall administer the mandatory proficiency program in a manner consistent with the Guidance to States on Radon Certification of the Enviromental Protection Agency.

"(2) The Administrator is authorized to enter into any agreement or other arrangement with any State for the purpose of delegating its radon proficiency program, including enforcement provisions, or any other part thereof, to such State, provided that a State program is consistent with the Federal program.

"(d) PROHIBITED ACTS.—It shall be unlawful for any person to—

"(1) fail or refuse to comply with this section, or any rule or regulation promulgated or order issued pursuant to this section; or

"(2) fail or refuse to—

"(A) establish or maintain records as required by the Administrator or by a State where the Administrator has entered into an agreement or other arrangement under subsection (c);

"(B) submit reports, notices, or other information, as required by the Administrator or by a State where the Administrator has entered into an agreement or other arrangement under subsection (c);

"(C) permit entry or inspection by the Administrator, or by a State where the Administrator has entered into an agreement or other arrangement under subsection (c); or

"(D) permit access to or copying of records by a State where the Administrator has entered into an agreement or other arrangement under subsection (c).".

SEC. 14. MEDICAL COMMUNITY OUTREACH.

Title III of the Toxic Substances Control Act (15 U.S.C. 2661 et seq.) (as amended by section 13 of this Act) is further amended by adding at the end the following new section:

"SEC. 315. MEDICAL COMMUNITY OUTREACH.

"(a) IN GENERAL.—The Administrator, in cooperation with the Secretary of Health and Human Services, shall develop and implement an outreach program to provide information about radon to the medical community.

"(b) INFORMATION.—(1) The Administrator, in consultation with the Secretary of Health and Human Services, the Surgeon General, and the Director of the Centers for Disease Control shall develop informational material concerning radon tailored to doctors in general practice and in specialties related to lung cancer. Such information shall, at a minimum—

"(A) explain the health threats posed by exposure to radon and include a summary of scientific evidence that demonstrates the human health effects of exposure to radon;

"(B) explain the association of radon with smoking and other causes of lung cancer;

"(C) identify appropriate steps to take to determine exposure to radon in the home; and

"(D) identify sources of additional information.

"(2) Not later than one year after the date of enactment of this section, the Administrator shall transmit the information developed pursuant to this section to—

"(A) doctors in the United States in general practice;

"(B) doctors in specialties related to lung cancer;

"(C) all doctors employed by the Federal Government;

"(D) all hospital administrators; and

"(E) other physicians and officials determined by the Administrator to be appropriate.

"(c) REPORT.—Not later than two years after the date of enactment of this section, the Administrator, in consultation with the Secretary of Health and Human Services, shall report to Congress concerning the implementation of this section and recommendations for measures to improve radon information dissemination to the medical community.".

SEC. 15. FEDERAL HOUSING.

Title III of the Toxic Substances Control Act (15 U.S.C. 2661 et seq.) (as amended by section 14 of this Act) is further amended by adding at the end the following new section:

"SEC. 316. FEDERALLY OWNED AND ASSISTED HOMES, SCHOOLS, AND BUILDINGS.

"(a) FEDERALLY FUNDED CONSTRUCTION.—Not later than six months after the publication of priority radon areas required by section 303, or the publication of model construction standards required by section 305, whichever is later, the head of each Federal agency shall adopt such procedures as may be necessary to assure that any new Federal building or that any school constructed with Federal financial assistance, in a priority radon area, shall conform to the model construction standards required by section 305.

"(b) FEDERALLY ASSISTED HOUSING.—The Secretary of Housing and Urban Development, in cooperation with the Administrator, shall, not later than one year after the date of enactment of this Act, disseminate in priority radon areas information on the health threats posed by radon, proper methods of testing for radon, and techniques for mitigating elevated radon levels to public housing agencies and Indian housing authorities, as defined in paragraphs (6) and (11), respectively, of section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)), and to owners and managers of other housing assisted under other provisions of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) and the National Housing Act (12 U.S.C. 1701 et seq.).

"(c) RESEARCH.—The Secretary of Housing and Urban Development shall undertake a program of radon research, consisting of research on—

"(1) radon distribution and mitigation within multiunit residential structures in conjunction with the Administrator;

"(2) landlord liability;

"(3) predicting radon hazards in new multiunit residential structures on particular lands; and

"(4) such other research as both the Secretary of Housing and Urban Development and the Administrator consider appropriate.".

SEC. 16. NATIONAL RADON EDUCATIONAL EFFORTS.

Title III of the Toxic Substances Control Act (15 U.S.C. 2661 et seq.) (as amended by section 15 of this Act) is further amended by adding at the end the following new section:

"SEC. 317. NATIONAL RADON EDUCATIONAL CAMPAIGN.

"The Administrator shall establish a national education campaign and is authorized to enter into cooperative agreements to increase public awareness about radon health risks and motivate public action to reduce radon levels, including the use of funds for the purchase and production of public educational materials.".

SEC. 17. RADON IN WORK PLACES.

Title III of the Toxic Substances Control Act (15 U.S.C. 2661 et seq.) (as amended by section 16 of this Act) is further amended by adding at the end the following new section:

"SEC. 318. RADON IN WORK PLACES.

"(a) STUDY OF RADON IN WORK PLACES.—

"(1) AUTHORITY.—The Director of the National Institute for Occupational Safety and Health of the Department of Health and Human Services, in consultation with the Administrator, shall conduct a study for the purpose of determining the extent of radon contamination in the Nation's work places.

"(2) SURVEY.—In conducting such study, the Director of the National Institute for Occupational Safety and Health of the Department of Health and Human Services and the Administrator shall be jointly responsible for designing a survey that, when completed, allows Congress to characterize the extent of radon contamination in work places. The survey shall include testing from a representative sample of work places in each priority radon area and shall include additional testing, to the extent resources are available for such testing.

"(3) REPORT.—Not later than two years after the date of enactment of this Act, the Director of the National Institute for Occupational Safety and Health of the Department of Health and Human Services, in consultation with the Administrator, shall submit a report setting forth the results of the study conducted pursuant to this section.

"(b) AUTHORIZATION.—For the purpose of carrying out this section there are authorized to be appropriated such sums, not to exceed $2,000,000, as may be necessary.".

SEC. 18. PREEMPTION.

Title III of the Toxic Substances Control Act (15 U.S.C. 2661 et seq.) (as amended by section 17 of this Act) is further amended by adding at the end the following new section:

"SEC. 319. PREEMPTION.

"(a) CONSTRUCTION OF PROVISIONS AS NOT PREEMPTING OTHER LAWS.—Nothing in this title shall be construed, interpreted, or applied to preempt, displace, or supplant any other Federal or State law, whether statutory or common.

"(b) AWARD OF COSTS AND DAMAGE AWARDS.—Nothing in this title shall be construed or interpreted to preclude any court from awarding costs and damages associated with the testing or mitigation of radon contamination, or a portion of such costs, at any time.

"(c) CONSTRUCTION OF PROVISIONS AS NOT PROHIBITING MORE STRINGENT STATE REQUIREMENTS.—Nothing in this title shall be construed or interpreted as preempting a State, with respect to radon within such State, from establishing any liability or more stringent requirement that is equal to or more stringent than those included in this title.

"(d) CREATION OF CAUSE OF ACTION.—Nothing in this title creates a cause of action or in any other way increases or diminishes the liability of any person under any other law.

"(e) EFFECT OF PROVISIONS IN CIVIL ACTIONS FOR DAMAGES.—It is not the intent of Congress that this subsection, or rules, regulations, or orders issued pursuant to this subsection, be interpreted as influencing, in either the plaintiff's or defendant's favor, the disposition of any civil action for damages relating to radon. This subsection does not affect the authority of any court to make a determination in any adjudicatory proceedings under applicable State law with respect to the admission into evidence or any other use of this title or rules, regulations, or orders issued pursuant to this title.".

SEC. 19. ENFORCEMENT.

Title III of the Toxic Substances Control Act (15 U.S.C. 2661 et seq.) (as amended by section 18 of this Act) is further amended by adding at the end the following new section:

"SEC. 320. ENFORCEMENT.

"(a) CIVIL PENALTIES.—(1) Any person violating section 313 or 314 or who provides false information concerning compliance with section 305(f) to an appropriate Federal official, shall be liable to the United States for a civil penalty in an amount not to exceed $25,000 for each such violation.

"(2)(A) A civil penalty under this section shall be assessed by the Administrator by an order made on the record after opportunity for a hearing in accordance with section 554 of title 5, United States Code. Before issuing such an order, the Administrator shall give written notice to the person to be assessed a civil penalty under such order and provide such person an opportunity to request, not later than 15 days after the date the notice is received by such person, a hearing on the order.

"(B) In determining the amount of a civil penalty, the Administrator may take into account the nature, circumstances, extent, and gravity of the violation or violations and, with respect to the violator, ability to pay, effect on ability to continue to do business, any history of prior such violations, the degree of culpability, and such other matters as justice may require.

"(C) The Administrator may compromise, modify, remit, with or without conditions, any civil penalty that may be imposed under this subsection. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the firm charged.

"(3) Any person who requested a hearing under this section respecting the assessment of a civil penalty and who is aggrieved by an order assessing a civil penalty may file a petition for judicial review of such order with the United States Court of Appeals for the District of Columbia Circuit or for any other circuit in which such person resides or transacts business. Such a petition may only be filed within the 30-day period beginning on the date the order making such assessment was issued.

"(4) If any person fails to pay an assessment of a civil penalty—

"(A) after the order making the assessment has become a final order and if such person does not file a petition for judicial review of the order in accordance with paragraph (3); or

"(B) after a court in an action brought under paragraph (3) has entered a final judgment in favor of the Administrator, the Attorney General shall recover the amount assessed (plus interest at currently prevailing rates from the date of the expiration of the 30-day period referred to in paragraph (3) or the date of such final judgment, as the case may be) in an action brought in any appropriate district court of the United States. In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review.

"(b) COMPLIANCE ORDERS.—(1) If the Administrator finds on the basis of information made available, that any person, firm, or organization is in violation of this Act, the Administrator shall proceed under the authority under subsection (2) of this section, or notify the person, firm, or organization in which the violation occurred. If, beyond the thirtieth day after the notification of the Administrator, the State has not commenced appropriate enforcement action, the Administrator may issue an order requiring compliance or such other relief as the Administrator may find appropriate, or bring civil action in accordance with paragraph (4) of this subsection.

"(2) If the Administrator finds, on the basis of information made available, that any person, firm, or organization is in violation of requirements of the Act, the Administrator may issue an order requiring such person, firm, or organization to comply with such requirement or such other relief as the Administrator may find appropriate, or shall bring civil action in accordance with paragraph (4) of this subsection.

"(3) Any order issued under this subsection shall be by personal service, shall state with reasonable specificity the nature of the violation, and shall specify a time for compliance not to exceed thirty days. Such orders shall take into account the seriousness of the violation and any good faith efforts to comply with applicable requirements.

"(4) The Administrator is authorized to commence a civil action for appropriate relief, including a permanent or temporary injunction, of any violation for which he is authorized to issue a compliance order under paragraph (1) of this subsection. Any action under this subsection may be brought in the district court of the United States in the district in which the defendant is located or resides or is doing business, and such court shall have jurisdiction to restrain the violation and require compliance. Notice of the commencement of such action shall be given immediately to the appropriate State.".

SEC. 20. CITIZEN SUITS.

Title III of the Toxic Substances Control Act (15 U.S.C. 2661 et seq.) (as amended by section 19 of this Act) is further amended by adding at the end the following new section:

"SEC. 321. CITIZEN SUITS.

"(a) IN GENERAL.—Except as provided in subsection (b), any person may commence a civil action—

"(1) against the United States in any case where the United States is alleged to be in violation of section 305(f), 310, or 316, or any rule promulgated thereunder, to restrain such violation;

"(2) against any person who is alleged to be in violation of section 308, 313, or 314, or any rule promulgated thereunder, to restrain such violation; or

"(3) against the Administrator to compel the Administrator to perform any act or duty under this Act that is not discretionary.

Any civil action under paragraph (1) shall be brought in the United States district court for the district in which the alleged violation occurred or in which the defendant resides or in which the defendant's principal place of business is located. Any action brought under paragraph (2) shall be brought in the United States District Court for the District of Columbia, or the United States district court for the judicial district in which the plaintiff is domiciled. The district courts of the United States shall have jurisdiction over suits brought under this section, without regard to the amount in controversy or the citizenship of the parties. In any civil action under this subsection, process may be served on a defendant in any judicial district in which the defendant resides or may be found and subpoenas for witnesses may be served in any judicial district.

"(b) LIMITATION.—No civil action may be commenced—

"(1) under subsection (a)(1) to restrain a violation of this Act, or rule or order under this Act—

"(A) before the expiration of sixty days after the plaintiff has given notice of such violation—

"(i) to the Administrator; and

"(ii) to the person who is alleged to have committed such violation; or

"(B) if the Administrator has commenced and is diligently prosecuting a proceeding to require compliance with this Act or with such rule or order, or if the Attorney General has commenced and is diligently prosecuting a civil action in a court of the United States to require compliance with this Act or with such rule or order, but if such proceeding or civil action is commenced after the giving of notice, any person giving such notice may intervene as a matter of right in such proceeding or action; or

"(2) under subsection (a)(2) before the expiration of sixty days after the plaintiff has given notice to the Administrator of the alleged failure of the Administrator to perform an act or duty that is the basis for such action.

Notice under this subsection shall be given in such manner as the Administrator shall prescribe by rule.

"(c) IN GENERAL.—(1) In any action under this section, the Administrator, if not a party, may intervene as a matter of right.

"(2) The court, in issuing any final order in any action brought pursuant to subsection (a), may award costs of suit and reasonable fees for attorneys and expert witnesses if the court determines that such an award is appropriate. Any court, in issuing its decision in an action brought to review such an order, may award costs of suit and reasonable fees for attorneys if the court determines that such an award is appropriate.

"(3) Nothing in this section shall restrict any right that any person (or class of persons) may have under any statute or common law to seek enforcement of this Act, or any rule or order under this Act, or to seek any other relief.

"(d) CONSOLIDATION.—When two or more civil actions brought under subsection (a) involving the same defendant and the same issues or violations are pending in two or more judicial districts, such pending actions, upon application of such defendants to such actions that is made to a court in which any such action is brought, may, if such court in its discretion so decides, be consolidated for trial by order (issued after giving all parties reasonable notice and opportunity to be heard) of such court and tried in—

"(1) a district that is selected by such defendant and in which one of such actions is pending;

"(2) a district that is agreed upon by stipulation between all the parties to such actions and in which one of such actions is pending; or

"(3) a district that is selected by the court and in which one of such actions is pending.

The court issuing such an order shall give prompt notification of the order to the other courts in which the civil actions consolidated under the order are pending.".

SEC. 21. AUTHORIZATIONS OF APPROPRIATIONS.

(a) TECHNICAL ASSISTANCE.—Section 306(f) of the Toxic Substances Control Act (as redesignated by section 4 of this Act) is amended by striking "and 1991." and inserting "1991, 1992, 1993, 1994, and 1995.".

(b) GRANT ASSISTANCE.—Section 307(j)(1) of the Toxic Substances Control Act (as redesignated by section 4 of this Act) is amended by inserting before the period ", and $15,000,000 for each of fiscal years 1992, 1993, 1994, and 1995.".

(c) SCHOOL REMEDIATION.—Section 307(j) of the Toxic Substances Control Act (as redesignated by section 4 of this Act) is amended—

(1) by striking paragraph (5); and

(2) by adding at the end the following new paragraphs:

"(5) Of funds appropriated pursuant to this subsection for fiscal years 1992, 1993, 1994, and 1995, not more than one-third shall be used to implement radon remediation measures for local educational agencies pursuant to paragraphs (15) and (16) of subsection (c).

"(6) Of funds appropriated pursuant to this subsection for fiscal years 1992, 1993, 1994, and 1995, the Administrator may reserve an amount up to 2 percent or $200,000, whichever is the greater, for the purposes of making grants to local educational agencies for the implementation of measures to reduce radon levels: *Provided*, That any such local educational agency is prohibited by State law from receiving grant assistance from the State: *Provided further*, That the local educational agency provides not less than 50 percent of the cost of implementing such measures from non-Federal sources.".

(d) REGIONAL TRAINING CENTERS.—Section 309(f) of the Toxic Substances Control Act (as redesignated by section 4 of this Act) is amended by inserting before the period ", and $1,500,000 for each of fiscal years 1992, 1993, 1994, and 1995.".

SEC. 22. TECHNICAL AMENDMENTS.

(a) TABLE OF CONTENTS.—The table of contents in section 1 of the Toxic Substances Control Act (15 U.S.C. 2601 note) is amended—

(1) by redesignating the items relating to sections 303 through 311 as 304 through 312, respectively;

(2) by inserting after the item relating to section 302 the following new item:

"Sec. 303. Priority radon areas.";

and

(3) by adding at the end the following new items:

"Sec. 313. Radon-related information.
"Sec. 314. Mandatory radon proficiency program.
"Sec. 315. Medical community outreach.
"Sec. 316. Federally owned and assisted homes, schools, and buildings.
"Sec. 317. National radon educational campaign.
"Sec. 318. Radon in work places.
"Sec. 319. Preemption.
"Sec. 320. Enforcement.
"Sec. 321. Citizens suits.
"Sec. 322. Periodic Reassessment of Health Risks.".

(b) RADON MITIGATION DEMONSTRATION PROGRAM.—Section 118(k)(2) of the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. 7401 note) is amended—

(1) in subparagraph (A)—

(A) by inserting "develop and" after "to"; and

(B) by adding at the end of the subparagraph the following new sentence: "The demonstration program shall include the development and evaluation of innovative low-cost techniques to reduce radon concentrations in existing structures, including structures with low to moderate radon levels, and in new structures, and the development and demonstration of radon mitigation technology for multistory buildings.".

(2) by striking subparagraph (B); and

(3) by redesignating subparagraph (C) as subparagraph (B).

SEC. 23. REPORT TO CONGRESS ON PROMOTING RADON TESTING.

(a) EVALUATION.—The Administrator of the Environmental Protection Agency, in consultation with the Secretary of Housing and Urban Development, the Secretary of Agriculture, and the Secretary of Veterans Affairs, shall evaluate existing efforts to promote radon testing in the Nation's homes and ways to increase radon testing.

(b) REPORT.—(1) The Administer shall report to Congress by October 1, 1993, on the effectiveness of alternative strategies to promote radon testing. The strategies shall include—

(A) grants to support the development of radon testing strategies by States;

(B) financial incentives to homeowners;

(C) testing and disclosure of radon levels during real estate marketing;

(D) public education programs;

(E) distributing radon information during real estate marketing; and

(F) distributing radon information with utility bills.

(2) In preparing the report, the Administrator shall consult with concerned parties including public interest groups, health officials, radon testing industries, realtors, home builders, utilities and the States.

SEC. 24. PERIODIC REASSESSMENT OF HEALTH RISKS.

Title III of the Toxic Substances Control Act (15 U.S.C. 2661 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 322. PERIODIC REASSESSMENT OF HEALTH RISKS.

The Administrator, in consultation with the heads of the National Academy of Sciences and the Centers for Disease Control, shall conduct a program to reassess, on a periodic basis, the human health risks associated with radon exposure.".

SEC. 25. RADIONUCLIDES, PRIMARY DRINKING WATER REGULATIONS.

Prior to promulgating any national primary drinking water regulation for radionuclides under the Safe Drinking Water Act, the Administrator of the Environmental Protection Agency shall conduct a multimedia risk assessment of radon considering: (a) the relative risk of adverse human health effects associated with various pathways of exposure to radon; (b) the relative costs of controlling or mitigating exposure to radon from each pathway; and (c) the relative costs for radon control or mitigation experienced by households, communities and other entities including the costs experienced by small communities as the result of such regulation. Such an evaluation shall consider the risks posed by the treatment or disposal of any wastes produced by water treatment. Upon completion of this risk assessment, the Administrator shall report his findings to the Senate Committee on Environment and Public Works and the House Committee on Energy and Commerce. Nothing in this section shall modify or be the basis for an extension of any statutory or court-ordered deadline for the promulgation of such regulation.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, I am aware that under the prior order the Senate is now to turn to the consideration of H.R. 4210. I ask unanimous consent that the Senator from Montana be recognized to address the Senate for 6 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, first I thank the distinguished majority leader and the distinguished chairman for making this time available.

CANADA LUMBER

Mr. BAUCUS. Mr. President, the United States Commerce Department announced last week that it would begin collecting a 14.5-percent duty on lumber imports from Canada to offset Canadian lumber subsidies.

I believe this determination is a vindication of the claims that the American lumber industry has made regarding Canadian subsidies. The decision will save the jobs of thousands of lumber mill workers and keep hundreds of American mills open.

As chairman of the Senate Finance Committee's International Trade Subcommittee, I have observed the workings of American trade laws for many years.

But I have never before witnessed such an egregious effort to bring outside political pressure to bear on a quasi-judicial decision as this.

The Canadian Federal Government, the Canadian provincial governments, and the Canadian lumber industry have hired at least 12 United States law firms and several lobbying firms to present their side of this issue to the United States Government and the press. All told, it is reported that Canada has spent more than $20 million attempting to influence this decision.

In a highly inappropriate step, Canadian officials even met with the United States Secretary of State and the President's National Security Advisor to request their intervention in the Commerce Department deliberations.

The Canadian Embassy even saw fit to hold a press briefing to blast the Commerce Department's decision before it was announced.

I cannot hope to counter this torrent of Canadian spin control, but I would like to make four simple points that I believe are central to consideration of this issue.

CANADA BROKE ITS WORD

First, this entire countervailing duty proceeding was caused by Canada's decision to unilaterally terminate a trade agreement with the United States.

From 1986 until October 1991, Canada agreed that it did extend a subsidy to lumber producers and collected an export tax on lumber shipments to the United States to offset the subsidy.

Until the day it terminated the agreement, Canada effectively conceded that Canadian subsidies were continuing by collecting export taxes on lumber shipments from three of the four lumber-producing Provinces.

Had the agreement not been terminated by Canada, this dispute would not have arisen.

CANADA SUBSIDIZES LUMBER

Second, Canada continues to extend large and increasing subsidies to its lumber industry. In 1986, the Commerce Department made a similar preliminary ruling that Canadian lumber subsidies amounted to 15 percent of the value of Canadian lumber shipped to the United States.

The U.S. industry argued at the time that this figure was low. And since that time, Canadian lumber subsidies have risen.

Canada extends two separate subsidies to its lumber industries: artificially low stumpage payments and the log export ban.

Canada sells stumpage rights—the right to cut trees from government land—at a small fraction of the market value of those rates. Stumpage rights are extended to the Canadian timber industry for as little as one-tenth the market value of the lumber. Normally, stumpage rights are sold at about one-fourth to one-half of their market value.

Even a former Canadian Minister of Forests, Mr. Jack Kempf, has stated that: "Nothing basic has changed in British Columbia.* * * Payment, for stumpage rights to the provincial treasury from the forest companies, is still unacceptably low."

The effect of this subsidy is to encourage more timber cutting in Canada and to allow the Canadian lumber industry to undersell its American competition by as much as 5 to 20 percent.

The issue of the subsidy provided by Canada's export ban on logs was not included in the 1986 subsidy calculation. But a recent economic analysis concluded that log export restrictions artificially limit demand for Canadian logs, lowers log prices, and amount to a subsidy of an additional 10–30 percent.

THE U.S. ACTION IS SANCTIONED BY INTERNATIONAL LAW

Third, the countervailing duty on Canadian lumber in no way violates United States commitments under international trade agreements.

In fact, there is a subsidy code to the General Agreement on Tariffs and Trade that explicitly defines subsidies as an unfair trade practice and sanctions the imposition of duties to offset them.

The Canadian Free-Trade Agreement also explicitly sanctions such duties. But the Canadian Free-Trade Agreement is not relevant in this dispute; United States efforts to enforce Canada's commitment to collect an export tax is explicitly exempted from the FTA by article 2009 of that agreement. The dispute settlement panels established under the FTA have no jurisdiction over the softwood lumber issue.

But while criticizing the United States for violating its international obligations, Canada has threatened to counterretaliate against the United States. If carried out, such retaliation would in itself be a blatant violation of the GATT.

CANADA'S SUBSIDIES ARE A TRADE BARRIER

Finally, it is important to remember that the real trade barrier at issue here is not the United States duty, but the Canadian subsidies.

Subsidies are every bit as much a trade barrier as tariffs or quotas. And the right—in fact, responsibility—of the U.S. Government to offset these subsidies with countervailing duties is recognized under both U.S. and international law.

As the United States lumber industry has often said, if the Canadian Government wants the duty on Canadian timber eliminated it need only allow the free market to set timber prices.

CONCLUSION

The din of rhetoric from north of the border should not be allowed to distort one simple truth: Canada's unfair subsidies are threatening the jobs of 10,000 American lumber workers.

If Canada truly wants free trade in lumber, it need only end its subsidies and the United States will end its duties. But until that time the United States has no alternative but to offset Canadian timber subsidies.

I applaud the Commerce Department for a courageous and appropriate decision in the softwood lumber case.

Mr. President, I yield the floor and again thank the distinguished chairman of the committee for making this time available.

TAX FAIRNESS AND ECONOMIC GROWTH ACT

The PRESIDING OFFICER (Mr. LIEBERMAN). Under the previous order the Senate will now proceed to the consideration of H.R. 4210 which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4210) to amend the Internal Revenue Code of 1986 to provide incentives for increased economic growth and to provide tax relief for families.

The Senate proceeded to consider the bill, which had been reported from the Committee on Finance, with an amendment to strike all after the enacting clause, and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE, ETC.

(a) SHORT TITLE.—This Act may be cited as the "Family Tax Fairness, Economic Growth, and Health Care Access Act of 1992".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) SECTION 15 NOT TO APPLY.—No amendment made by this Act shall be treated as a change in a rate of tax for purposes of section 15 of the Internal Revenue Code of 1986.

(d) UNDERPAYMENT OF ESTIMATED TAX.—No addition to tax shall be made under section 6654 or 6655 of the Internal Revenue Code of 1986 for the 1st required installment beginning in 1992 with respect to any underpayment to the extent such underpayment was created or increased by any amendment made by this Act. Any reduction in an installment by reason of the preceding sentence shall be recaptured by increasing the amount of the 1st succeeding required installment by the amount of such reduction.

(e) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title, etc.

TITLE I—FAIR TAX TREATMENT OF WORKING FAMILIES

Sec. 1001. Tax credit for children.
Sec. 1002. Simplification and expansion of earned income tax credit.
Sec. 1003. Extension of targeted jobs credit.

TITLE II—PROMOTION OF LONG-TERM ECONOMIC GROWTH

Subtitle A—Increased Savings

PART I—RETIREMENT SAVINGS INCENTIVES

SUBPART A—RESTORATION OF IRA DEDUCTION

Sec. 2001. Restoration of IRA deduction.
Sec. 2002. Inflation adjustment for deductible amount.
Sec. 2003. Coordination of IRA deduction limit with elective deferral limit.

SUBPART B—NONDEDUCTIBLE TAX-FREE IRAS

Sec. 2011. Establishment of nondeductible tax-free individual retirement accounts.

PART II—PENALTY-FREE DISTRIBUTIONS

Sec. 2021. Distributions from certain plans may be used without penalty to purchase first homes or to pay higher education or financially devastating medical expenses.
Sec. 2022. Contributions must be held at least 5 years in certain cases.

Subtitle B—Improved Educational Opportunities

PART I—INCOME DEPENDENT EDUCATION ASSISTANCE

Sec. 2101. Income dependent education assistance.
Sec. 2102. Collection of loans.

PART II—WORKFORCE TRAINING

SUBPART A—STANDARDS OF EXCELLENCE IN WORKFORCE TRAINING

Sec. 2111. Purpose.
Sec. 2112. Amendment to Wagner-Peyser Act.

SUBPART B—YOUTH SKILLS TRAINING AND EDUCATION PARTNERSHIPS

Sec. 2113. Short title.
Sec. 2114. Tax exemption for contributions to youth skills training and education partnerships.
Sec. 2115. Augmented deduction for youth skills training and education contributions by businesses.

SUBPART C—STUDY

Sec. 2116. Joint Labor Department and Treasury Department study.

PART III—OTHER EDUCATION INCENTIVES

Sec. 2121. Credit for interest on education loans.
Sec. 2122. Income exclusion for education bonds expanded.
Sec. 2123. Employer-provided educational assistance.
Sec. 2124. Disclosures of information for veterans benefits.

Subtitle C—Better Access to Affordable Health Care

PART I—IMPROVEMENTS IN HEALTH INSURANCE AFFORDABILITY FOR SMALL EMPLOYERS

Sec. 2201. Increase in deductible health insurance costs for self-employed individuals.
Sec. 2202. Grants to States for small employer health insurance purchasing programs.
Sec. 2203. Study of use of medicare rates by private health insurance plans.

PART II—IMPROVEMENTS IN HEALTH INSURANCE FOR SMALL EMPLOYERS

SUBPART A—STANDARDS AND REQUIREMENTS OF SMALL EMPLOYER HEALTH INSURANCE REFORM

Sec. 2211. Standards and requirements of small employer health insurance.

SUBPART B—TAX PENALTY ON NONCOMPLYING INSURERS

Sec. 2221. Excise tax on premiums received on health insurance policies which do not meet certain requirements.

SUBPART C—STUDIES AND REPORTS

Sec. 2231. GAO study and report on rating requirements and benefit packages for small group health insurance.

PART III—IMPROVEMENTS IN PORTABILITY OF PRIVATE HEALTH INSURANCE

Sec. 2241. Excise tax imposed on failure to provide for preexisting condition.

PART IV—HEALTH CARE COST CONTAINMENT

Sec. 2251. Establishment of health care cost commission.
Sec. 2252. Federal certification of managed care plans and utilization review programs.
Sec. 2253. Additional funding for outcomes research.

PART V—MEDICARE PREVENTION BENEFITS

Sec. 2261. Coverage of certain immunizations.
Sec. 2262. Coverage of well-child care.
Sec. 2263. Demonstration projects for coverage of other preventive services.
Sec. 2264. OTA study of process for review of medicare coverage of preventive services.
Sec. 2265. Financing of additional benefits.

PART VI—OZONE-DEPLETING CHEMICALS

Sec. 2271. Increased base tax rate on ozone-depleting chemicals and expansion of list of taxed chemicals.

PART VII—HEALTH CARE OF COAL MINERS

Sec. 2281. Short title.
Sec. 2282. Findings and declaration of policy.
Sec. 2283. Coal industry health benefits program.

Subtitle D—Capital Gain Provisions

PART I—PROGRESSIVE CAPITAL GAIN RATES

Sec. 2301. Progressive capital gain rates.

Sec. 2302. Increase in holding period required for long-term capital gain treatment.

Sec. 2303. Recapture under section 1250 of total amount of depreciation.

PART II—SMALL BUSINESS STOCK

Sec. 2311. 50-percent exclusion for gain from certain small business stock.

Subtitle E—Investment in Real Estate

PART I—FIRST-TIME HOMEBUYER CREDIT

Sec. 2401. Credit for purchase of new principal residence by first-time homebuyer.

PART II—MODIFICATION OF PASSIVE LOSS RULES

Sec. 2411. Modification of passive loss rules.

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Sec. 5000. Short Title.

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Sec. 5101. Notification of reasons for termination or denial of installment agreements.
Sec. 5102. Administrative review of denial of request for, or termination of, installment agreement.

Subtitle C—Interest

Sec. 5201. Expansion of authority to abate interest.
Sec. 5202. Extension of interest-free period for payment of tax after notice and demand.

Subtitle D—Joint Returns

Sec. 5301. Requirement of separate deficiency notices in certain cases.
Sec. 5302. Disclosure of collection activities.
Sec. 5303. Joint return may be made after separate returns without full payment of tax.
Sec. 5304. Representation of absent divorced or separated spouse by other spouse.

Subtitle E—Collection Activities

Sec. 5401. Notice of proposed deficiency.
Sec. 5402. Modifications to lien and levy provisions.
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Sec. 5501. Phone number of person providing payee statements required to be shown on such statement.
Sec. 5502. Civil damages for fraudulent filing of information returns.
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Subtitle G—Modifications to Penalty for Failure to Collect and Pay Over Tax

Sec. 5601. Trust fund taxes.
Sec. 5602. Disclosure of certain information where more than 1 person subject to penalty.
Sec. 5603. Penalties under section 6672.

Subtitle H—Awarding of Costs and Certain Fees

Sec. 5701. Commencement date of reasonable administrative costs.
Sec. 5702. Interim notice requirement.
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Sec. 5704. Failure to agree to extension not taken into account.
Sec. 5705. Effective date.

Subtitle I—Other Provisions

Sec. 5801. Required content of certain notices.
Sec. 5802. Relief from retroactive application of Treasury Department regulations.
Sec. 5803. Required notice of certain payments.
Sec. 5804. Unauthorized enticement of information disclosure.

TITLE I—FAIR TAX TREATMENT OF WORKING FAMILIES

SEC. 1001. TAX CREDIT FOR CHILDREN.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to personal credits) is amended by inserting after section 25 the following new section:

"SEC. 25A. CREDIT FOR CHILDREN.

"(a) GENERAL RULE.—In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to $300 multiplied by the number of qualifying children of the taxpayer for the taxable year.

"(b) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 1992, the dollar amount contained in subsection (a) shall be increased by an amount equal to—

"(1) such dollar amount, multiplied by

"(2) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins by substituting 'calendar year 1991' for 'calendar year 1989' in subparagraph (B) thereof.

If any increase determined under the preceding sentence is not a multiple of $50, such increase shall be rounded to the next lowest multiple of $50.

"(c) PHASE-OUT OF CREDIT FOR TAXPAYERS WITH INCOME OVER $50,000.—

"(1) IN GENERAL.—In the case of an eligible individual with an adjusted gross income in excess of $50,000 for any taxable year, the amount of the credit allowed under subsection (a) shall be reduced (but not below zero) by the amount determined under paragraph (2).

"(2) AMOUNT OF REDUCTION.—

"(A) IN GENERAL.—The amount determined under this paragraph equals the amount which bears the same ratio to the credit (determined without regard to this subsection) as—

"(i) the excess of—

"(I) the taxpayer's adjusted gross income for such taxable, over

"(II) $50,000, bears to

"(ii) $20,000.

"(B) ROUNDING.—Any amount determined under this paragraph which is not a multiple of $10 shall be rounded to the next lowest $10.

"(3) ADJUSTED GROSS INCOME.—Adjusted gross income of any taxpayer shall be determined—

"(A) after application of sections 86 and 469, and

"(B) without regard to sections 135 and 911.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) ELIGIBLE INDIVIDUAL.—The term 'eligible individual' has the meaning given to such term by section 32(c)(1) (determined without regard to subparagraph (B)).

"(2) QUALIFYING CHILD.—The term 'qualifying child' has the meaning given to such term by section 32(c)(3), determined—

"(A) without regard to subparagraph (C)(ii) thereof, and

"(B) by substituting '16' for '19' in subparagraph (C)(iii) thereof.

"(3) CERTAIN OTHER RULES APPLY.—Subsections (d) and (e) of section 32 shall apply."

(b) CONFORMING AMENDMENT.—The table of sections for such subpart A is amended by inserting after the item relating to section 25 the following new item:

"Sec. 25A. Credit for children."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 1002. SIMPLIFICATION AND EXPANSION OF EARNED INCOME TAX CREDIT.

(a) EARNED INCOME TAX CREDIT INCREASED.—Subparagraph (C) of section 32(b)(1) (relating to basic earned income credit) is amended to read as follows:

"(C) PERCENTAGES.—For purposes of this paragraph—

"(i) IN GENERAL.—Except as provided in clause (ii), the percentages shall be determined as follows:

"In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
1 qualifying child	23	16.43
2 or more qualifying children	26.75	19.10

"(ii) TRANSITION PERCENTAGES.—

"(I) For taxable years beginning in 1992, the percentages are:

"In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
1 qualifying child	17.6	12.57
2 or more qualifying children	20.15	14.39

"(II) For taxable years beginning in 1993:

"In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
1 qualifying child	18.5	13.21
2 or more qualifying children	21.25	15.17."

(b) REPEAL OF INTERACTION WITH MEDICAL EXPENSE DEDUCTION.—Section 213 (relating to medical, dental, etc., expenses) is amended by striking subsection (f).

(c) REPEAL OF INTERACTION WITH DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED.—Paragraph (3) of section 162(l) is amended to read as follows:

"(3) COORDINATION WITH MEDICAL DEDUCTION.—Any amount paid by a taxpayer for insurance to which paragraph (1) applies shall not be taken into account in computing the amount allowable to the taxpayer as a deduction under section 213(a)."

(d) REPEAL OF SUPPLEMENTAL YOUNG CHILD CREDIT.—

(1) IN GENERAL.—Section 32(b)(1) (relating to supplemental young child credit) is amended by striking subparagraph (D).

(2) CONFORMING AMENDMENT.—Clause (i) of section 3507(C)(2)(B) (relating to advance amount tables) is amended by striking "(without regard to subparagraph (D) thereof)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 1003. EXTENSION OF TARGETED JOBS CREDIT.

(a) IN GENERAL.—Paragraph (4) of section 51(c) (relating to termination) is amended by striking "June 30, 1992" and inserting "December 31, 1993".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to individuals who begin work for the employer after June 30, 1992.

TITLE II—PROMOTION OF LONG-TERM ECONOMIC GROWTH

Subtitle A—Increased Savings

PART I—RETIREMENT SAVINGS INCENTIVES

Subpart A—Restoration of IRA Deduction

SEC. 2001. RESTORATION OF IRA DEDUCTION.

(a) IN GENERAL.—Section 219 (relating to deduction for retirement savings) is amended by striking subsection (g) and by redesignating subsection (h) as subsection (g).

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subsection (f) of section 219 is amended by striking paragraph (7).

(2) Paragraph (5) of section 408(d) is amended by striking the last sentence.

(3) Section 408(o) is amended by adding at the end thereof the following new paragraph:

"(5) TERMINATION.—This subsection shall not apply to any designated nondeductible contribution for any taxable year beginning after December 31, 1992."

(4) Subsection (b) of section 4973 is amended by striking the last sentence.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 2002. INFLATION ADJUSTMENT FOR DEDUCTIBLE AMOUNT.

(a) IN GENERAL.—Section 219, as amended by section 2001, is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) COST-OF-LIVING ADJUSTMENTS.—

"(1) IN GENERAL.—If the cost-of-living amount for any calendar year is equal to or greater than $500, then each applicable dollar amount (as previously adjusted under this subsection) for any taxable year beginning in any subsequent calendar year shall be increased by $500.

"(2) COST-OF-LIVING AMOUNT.—The cost-of-living amount for any calendar year is the excess (if any) of—

"(A) $2,000, increased by the cost-of-living adjustment for such calendar year, over

"(B) the applicable dollar amount in effect under subsection (b)(1)(A) for taxable years beginning in such calendar year.

"(3) COST-OF-LIVING ADJUSTMENT.—For purposes of this subsection—

"(A) IN GENERAL.—The cost-of-living adjustment for any calendar year is the percentage (if any) by which—

"(i) the CPI for such calendar year, exceeds

"(ii) the CPI for 1991.

"(B) CPI FOR ANY CALENDAR YEAR.—The CPI for any calendar year shall be determined in the same manner as under section 1(f)(4).

"(4) APPLICABLE DOLLAR AMOUNT.—For purposes of this subsection, the term 'applicable dollar amount' means the dollar amount in effect under any of the following provisions:

"(A) Subsection (b)(1)(A).

"(B) Subsection (c)(2)(A)(i).

"(C) The last sentence of subsection (c)(2)."

(b) CONFORMING AMENDMENTS.—

(1) Section 408(a)(1) is amended by striking "in excess of $2,000 on behalf of any individual" and inserting "on behalf of any individual in excess of the amount in effect for such taxable year under section 219(b)(1)(A)".

(2) Section 408(b)(2)(B) is amended by striking "$2,000" and inserting "the dollar amount in effect under section 219(b)(1)(A)".

(3) Section 408(j) is amended by striking "$2,000".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 2003. COORDINATION OF IRA DEDUCTION LIMIT WITH ELECTIVE DEFERRAL LIMIT.

(a) IN GENERAL.—Section 219(b) (relating to maximum amount of deduction) is amended by *adding at the end thereof the following new paragraph:*

"(4) COORDINATION WITH ELECTIVE DEFERRAL LIMIT.—The amount determined under paragraph (1) or subsection (c)(2) with respect to any individual for any taxable year shall not exceed the excess (if any) of—

"(A) the maximum amount of elective deferrals of the individual which are excludable from gross income for the taxable year under section 402(g)(1), over

"(B) the amount so excluded."

(b) CONFORMING AMENDMENT.—Section 219(c) is amended by adding at the end thereof the following new paragraph:

"(3) CROSS REFERENCE.—

"For reduction in paragraph (2) amount, see subsection (b)(4)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

Subpart B—Nondeductible Tax-Free IRAs

SEC. 2011. ESTABLISHMENT OF NONDEDUCTIBLE TAX-FREE INDIVIDUAL RETIREMENT ACCOUNTS.

(a) IN GENERAL.—Subpart A of part I of subchapter D of chapter 1 (relating to pension, profit-sharing, stock bonus plans, etc.) is amended by inserting after section 408 the following new section:

"SEC. 408A. SPECIAL INDIVIDUAL RETIREMENT ACCOUNTS.

"(a) GENERAL RULE.—Except as provided in this section, a special individual retirement account shall be treated for purposes of this title in the same manner as an individual retirement plan.

"(b) SPECIAL INDIVIDUAL RETIREMENT ACCOUNT.—For purposes of this title, the term 'special individual retirement account' means an individual retirement plan which is designated at the time of establishment of the plan as a special individual retirement account.

"(c) TREATMENT OF CONTRIBUTIONS.—

"(1) NO DEDUCTION ALLOWED.—No deduction shall be allowed under section 219 for a contribution to a special individual retirement account.

"(2) CONTRIBUTION LIMIT.—The aggregate amount of contributions for any taxable year to all special individual retirement accounts maintained for the benefit of an individual shall not exceed the excess (if any) of—

"(A) the maximum amount allowable as a deduction under section 219 with respect to such individual for such taxable year, over

"(B) the amount so allowed.

"(3) SPECIAL RULES FOR QUALIFIED TRANSFERS.—

"(A) IN GENERAL.—No rollover contribution may be made to a special individual retirement account unless it is a qualified transfer.

"(B) LIMIT NOT TO APPLY.—The limitation under paragraph (2) shall not apply to a qualified transfer to a special individual retirement account.

"(d) TAX TREATMENT OF DISTRIBUTIONS.—

"(1) IN GENERAL.—Except as provided in this subsection, any amount paid or distributed out of a special individual retirement account shall not be included in the gross income of the distributee.

"(2) EXCEPTION FOR EARNINGS ON CONTRIBUTIONS HELD LESS THAN 5 YEARS.—

"(A) IN GENERAL.—Any amount distributed out of a special individual retirement account which consists of earnings allocable to contributions made to the account during the 5-year period ending on the day before such distribution shall be included in the gross income of the distributee for the taxable year in which the distribution occurs.

"(B) ORDERING RULE.—

"(i) FIRST-IN, FIRST-OUT RULE.—Distributions from a special individual retirement account shall be treated as having been made—

"(I) first from the earliest contribution (and earnings allocable thereto) remaining in the account at the time of the distribution, and

"(II) then from other contributions (and earnings allocable thereto) in the order in which made.

"(ii) ALLOCATIONS BETWEEN CONTRIBUTIONS AND EARNINGS.—Any portion of a distribution allocated to a contribution (and earnings allocable thereto) shall be treated as allocated first to the earnings and then to the contribution.

"(iii) ALLOCATION OF EARNINGS.—Earnings shall be allocated to a contribution in such manner as the Secretary may by regulations prescribe.

"(iv) CONTRIBUTIONS IN SAME YEAR.—Under regulations, all contributions made during the same taxable year may be treated as 1 contribution for purposes of this subparagraph.

"(C) CROSS REFERENCE.—

"For additional tax for early withdrawal, see section 72(t).

"(3) QUALIFIED TRANSFER.—

"(A) IN GENERAL.—Paragraph (2) shall not apply to any distribution which is transferred in a qualified transfer to another special individual retirement account.

"(B) CONTRIBUTION PERIOD.—For purposes of paragraph (2), the special individual retirement account to which any contributions are transferred shall be treated as having held such contributions during any period such contributions were held (or are treated as held under this subparagraph) by the special individual retirement account from which transferred.

"(4) SPECIAL RULES RELATING TO CERTAIN TRANSFERS.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, in the case of a qualified transfer to a special individual retirement account from an individual retirement plan which is not a special individual retirement account—

"(i) there shall be included in gross income any amount which, but for the qualified transfer, would be includible in gross income, but

"(ii) section 72(t) shall not apply to such amount.

"(B) TIME FOR INCLUSION.—In the case of any qualified transfer which occurs before January 1, 1994, any amount includible in gross income under subparagraph (A) with respect to such contribution shall be includible ratably over the 4-taxable year period beginning in the taxable year in which the amount was paid or distributed out of the individual retirement plan.

"(e) QUALIFIED TRANSFER.—For purposes of this section, the term 'qualified transfer' means a transfer to a special individual retirement account from another such account or from an individual retirement plan but only if such transfer meets the requirements of section 408(d)(3)."

(b) EARLY WITHDRAWAL PENALTY.—Section 72(t), as amended by section 2021(c), is amended by adding at the end thereof the following new paragraph:

"(8) RULES RELATING TO SPECIAL INDIVIDUAL RETIREMENT ACCOUNTS.—In the case of a special individual retirement account under section 408A—

"(A) this subsection shall only apply to distributions out of such account which consist of earnings allocable to contributions made to the account during the 5-year period ending on the day before such distribution, and

"(B) paragraph (2)(A)(i) shall not apply to any distribution described in subparagraph (A)."

(c) EXCESS CONTRIBUTIONS.—Section 4973(b) is amended by adding at the end thereof the following new sentence: "For purposes of paragraphs (1)(B) and (2)(C), the amount allowable as a deduction under section 219 shall be computed without regard to section 408A."

(d) CONFORMING AMENDMENT.—The table of sections for subpart A of part I of subchapter D of chapter 1 is amended by inserting after the item relating to section 408 the following new item:

"Sec. 408A. Special individual retirement accounts."

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

(2) QUALIFIED TRANSFERS IN 1992.—The amendments made by this section shall apply to any qualified transfer during any taxable year beginning in 1992.

PART II—PENALTY-FREE DISTRIBUTIONS

SEC. 2021. DISTRIBUTIONS FROM CERTAIN PLANS MAY BE USED WITHOUT PENALTY TO PURCHASE FIRST HOMES OR TO PAY HIGHER EDUCATION OR FINANCIALLY DEVASTATING MEDICAL EXPENSES.

(a) IN GENERAL.—Paragraph (2) of section 72(t) (relating to exceptions to 10-percent additional tax on early distributions from qualified retirement plans) is amended by adding at the end thereof the following new subparagraph:

"(D) DISTRIBUTIONS FROM CERTAIN PLANS FOR FIRST HOME PURCHASES OR EDUCATIONAL EXPENSES.—Distributions to an individual from an individual retirement plan, or from amounts attributable to employer contributions made pursuant to elective deferrals described in subparagraph (A) or (C) of section 402(g)(3) or section 501(c)(18)(D)(iii)—

"(i) which are qualified first-time homebuyer distributions (as defined in paragraph (6)); or

"(ii) to the extent such distributions do not exceed the qualified higher education expenses (as defined in paragraph (7)) of the taxpayer for the taxable year."

(b) FINANCIALLY DEVASTATING MEDICAL EXPENSES.—

(1) IN GENERAL.—Section 72(t)(3)(A) is amended by striking "(B),".

(2) CERTAIN LINEAL DESCENDANTS AND ANCESTORS TREATED AS DEPENDENTS.—Subparagraph (B) of section 72(t)(2) is amended by striking "medical care" and all that follows and inserting "medical care determined—

"(i) without regard to whether the employee itemizes deductions for such taxable year, and

"(ii) by treating such employee's dependents as including—

"(I) all children and grandchildren of the employee or such employee's spouse, and

"(II) all ancestors of the employee or such employee's spouse."

(3) CONFORMING AMENDMENT.—Subparagraph (B) of section 72(t)(2) is amended by striking "or (C)" and inserting ", (C) or (D)".

(c) DEFINITIONS.—Section 72(t) is amended by adding at the end thereof the following new paragraphs:

"(6) QUALIFIED FIRST-TIME HOMEBUYER DISTRIBUTIONS.—For purposes of paragraph (2)(D)(i)—

"(A) IN GENERAL.—The term 'qualified first-time homebuyer distribution' means any payment or distribution received by an individual to the extent such payment or distribution is used by the individual before the close of the 60th day after the day on which such payment or distribution is received to pay qualified acquisition costs with respect to a principal residence of a first-time homebuyer who is such individual or the spouse, child, or grandchild of such individual.

"(B) QUALIFIED ACQUISITION COSTS.—For purposes of this paragraph, the term 'qualified ac-

quisition costs' means the costs of acquiring, constructing, or reconstructing a residence. Such term includes any usual or reasonable settlement, financing, or other closing costs.

"(C) FIRST-TIME HOMEBUYER; OTHER DEFINITIONS.—For purposes of this paragraph—

"(i) FIRST-TIME HOMEBUYER.—The term 'first-time homebuyer' means any individual if—

"(I) such individual (and if married, such individual's spouse) had no present ownership interest in a principal residence during the 2-year period ending on the date of acquisition of the principal residence to which this paragraph applies, and

"(II) subsection (h) or (k) of section 1034 did not suspend the running of any period of time specified in section 1034 with respect to such individual on the day before the date the distribution is applied pursuant to subparagraph (A)(ii).

"(ii) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as when used in section 1034.

"(iii) DATE OF ACQUISITION.—The term 'date of acquisition' means the date—

"(I) on which a binding contract to acquire the principal residence to which subparagraph (A) applies is entered into, or

"(II) on which construction or reconstruction of such a principal residence is commenced.

"(D) SPECIAL RULE WHERE DELAY IN ACQUISITION.—If any distribution from any individual retirement plan fails to meet the requirements of subparagraph (A) solely by reason of a delay or cancellation of the purchase or construction of the residence, the amount of the distribution may be contributed to an individual retirement plan as provided in section 408(d)(3)(A)(i) (determined by substituting '120 days' for '60 days' in such section), except that—

"(i) section 408(d)(3)(B) shall not be applied to such contribution, and

"(ii) such amount shall not be taken into account—

"(I) in determining whether section 408(d)(3)(A)(i) applies to any other amount, or

"(II) for purposes of subclause (II) of subparagraph (A)(i).

"(7) QUALIFIED HIGHER EDUCATION EXPENSES.—For purposes of paragraph (2)(D)(ii)—

"(A) IN GENERAL.—The term 'qualified higher education expenses' means tuition, fees, books, supplies, and equipment required for the enrollment or attendance of—

"(i) the taxpayer,

"(ii) the taxpayer's spouse, or

"(iii) the taxpayer's child (as defined in section 151(c)(3)) or grandchild,

at an eligible educational institution (as defined in section 135(c)(3)).

"(B) COORDINATION WITH SAVINGS BOND PROVISIONS.—The amount of qualified higher education expenses for any taxable year shall be reduced by any amount excludable from gross income under section 135."

(d) CONFORMING AMENDMENTS.—

(1) Section 401(k)(2)(B)(i) is amended by striking "or" at the end of subclause (III), by striking "and" at the end of subclause (IV) and inserting "or", and by inserting after subclause (IV) the following new subclause:

"(V) the date on which qualified first-time homebuyer distributions (as defined in section 72(t)(6)) or distributions for qualified higher education expenses (as defined in section 72(t)(7)) are made, and".

(2) Section 403(b)(11) is amended by striking "or" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", or", and by inserting after subparagraph (B) the following new subparagraph:

"(C) for qualified first-time homebuyer distributions (as defined in section 72(t)(6)) or for the payment of qualified higher education expenses (as defined in section 72(t)(7))."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to payments and distributions after December 31, 1991.

SEC. 2022. CONTRIBUTIONS MUST BE HELD AT LEAST 5 YEARS IN CERTAIN CASES.

(a) IN GENERAL.—Section 72(t), as amended by section 2011(b), is amended by adding at the end thereof the following new paragraph:

"(9) CERTAIN CONTRIBUTIONS MUST BE HELD 5 YEARS.—

"(A) IN GENERAL.—Paragraph (2)(A)(i) shall not apply to any amount distributed out of an individual retirement plan (other than a special individual retirement account) which is allocable to contributions made to the plan during the 5-year period ending on the date of such distribution (and earnings on such contributions).

"(B) ORDERING RULE.—For purposes of this paragraph, distributions shall be treated as having been made—

"(i) first from the earliest contribution (and earnings allocable thereto) remaining in the account at the time of the distribution, and

"(ii) then from other contributions (and earnings allocable thereto) in the order in which made.

Earnings shall be allocated to contributions in such manner as the Secretary may prescribe.

"(C) SPECIAL ACCOUNTS.—For rules applicable to special individual retirement accounts under section 408A, see paragraph (8)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions (and earnings allocable thereto) which are made after December 31, 1992.

Subtitle B—Improved Educational Opportunities

PART I—INCOME DEPENDENT EDUCATION ASSISTANCE

SEC. 2101. INCOME DEPENDENT EDUCATION ASSISTANCE.

(a) IN GENERAL.—Part D of title IV of the Higher Education Act (20 U.S.C. 1087 et seq.) is amended to read as follows:

"PART D—INCOME DEPENDENT EDUCATION ASSISTANCE

"SEC. 451. PURPOSE.

"It is the purpose of this part to establish a direct loan program for eligible students enrolled in institutions of higher education with income contingent repayment of such loans occurring through the Secretary of the Treasury.

"SEC. 452. PROGRAM AUTHORIZED.

"(a) IN GENERAL.—The Secretary is authorized to carry out a program that—

"(1) makes loans to eligible students at institutions of higher education to enable such students to study at such institutions; and

"(2) establishes an account for each borrower of such a loan, and collects repayments on such loans, in accordance with section 59E of the Internal Revenue Code of 1986.

"(b) DESIGNATION.—

"(1) PROGRAM.—The program assisted under this part shall be known as the 'income dependent education assistance program'.

"(2) LOANS.—Loans made under this part shall be known as 'self-reliance loans'.

"(c) PAYMENTS.—The Secretary shall make payments to a participating institution on the basis of the estimated borrowing needs (provided to the Secretary by such institution) of the students at such institution pursuant to guidelines developed by the Secretary.

"(d) RELATION TO OTHER FEDERAL PROGRAMS.—A participating institution shall continue to be eligible to participate in all other programs assisted under this title.

"SEC. 453. ELIGIBILITY.

"(a) STUDENT ELIGIBILITY.—All eligible students enrolled at a participating institution are eligible to receive self-reliance loans without regard to financial need.

"(b) NEEDS TEST FOR STUDENTS.—Notwithstanding any other provision of law, an eligible student shall not receive a self-reliance loan in any fiscal year unless such student's eligibility for assistance under section 428 and subpart 1 of part A has been assessed.

"(c) SELECTION OF INSTITUTIONS FOR PARTICIPATION.—

"(1) IN GENERAL.—From among institutions of higher education that have submitted applications under this part and are eligible to participate in part B loan programs, the Secretary shall select institutions of higher education for participation in the income dependent education assistance program.

"(2) SELECTION OF DIVERSE SCHOOLS.—The Secretary shall select institutions of higher education for participation in the income dependent education assistance program in a manner so as to represent a cross-section of institutions of higher education by educational sector, length of academic program, default experience, annual loan volume, highest degree offered, enrollment size, and geographic location.

"(3) INITIAL SELECTION OF INSTITUTIONS.—The Secretary shall select 500 institutions of higher education for participation in the income dependent education assistance program not later than May 1, 1993, except that the Secretary shall select institutions such that the volume of new student borrowing under this part does not exceed the amounts under paragraph (4) for any fiscal year.

"(4) OBLIGATION OF FUNDS.—The Secretary shall obligate funds as necessary to make self-reliance loans in dollar amounts which in the aggregate do not exceed $450,000,000 in fiscal year 1994, $550,000,000 in fiscal year 1995, $650,000,000 in fiscal year 1996 and $900,000,000 in fiscal year 1997.

"SEC. 454. APPLICATION AND AGREEMENT.

"(a) APPLICATION.—Each institution of higher education desiring to participate in the income dependent education assistance program shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

"(b) AGREEMENT REQUIRED.—Each institution of higher education chosen by the Secretary to participate in the income dependent education assistance program shall enter into an agreement with the Secretary for the receipt of funds under this part. Such agreement shall provide for the establishment of a self-reliance loan program at such institution under which such institution agrees to—

"(1) originate self-reliance loans to students, follow procedures specified by the Secretary in disbursing such loans, accept liability stemming from mismanagement of such loans, submit annual audit information, and participate in evaluations conducted by the Secretary or organizations chosen by the Secretary;

"(2) provide the Secretary at least once each month with a list of self-reliance loan recipients and promptly notify the Secretary of changes in the enrollment status of any such loan recipient;

"(3) comply with the provisions of part B relating to loan origination, disclosure, and other matters which the Secretary determines are not inconsistent with the provisions of this part;

"(4) transfer the promissory note and other evidence of such loan as specified by the Secretary to the Secretary or the Secretary's agent within 30 days after the origination of such loan;

"(5) comply with the reporting requirements established by the Secretary;

"(6) ensure that the note or the evidence of indebtedness on such loans shall be the property of the Secretary and that the institution will act as the agent of the Secretary for the purpose of making such loans;

"(7) counsel borrowers with regard to repayment options for self-reliance loans at the time that the borrower leaves the institution of higher education; and

"(8) contain such additional information, terms and conditions as the Secretary may prescribe to protect the fiscal interests of the United States and to ensure effective administration of the self-reliance loan program.

"SEC. 455. TERMS OF SELF-RELIANCE LOANS.

"(a) BORROWING LIMITS.—

"(1) ANNUAL LIMIT.—A student may not receive self-reliance loans in any fiscal year in excess of—

"(A) $5,000 in the case of an undergraduate student; and

"(B) $15,000 in the case of a graduate student.

"(2) MAXIMUM BORROWING LIMIT.—(A) The maximum amount of self-reliance loans—

"(i) an undergraduate student may borrow is $25,000; and

"(ii) a graduate student may borrow is $30,000.

"(B) The maximum amount of self-reliance loans a student may borrow shall not exceed $30,000.

"(C) The maximum amount of loans a student may borrow under this part and parts B and E shall not exceed the applicable limitations on aggregate indebtedness contained in section 428(b)(1)(B), except that, for a student determined to be independent for purposes of section 428A, the maximum amount of loans such student may borrow under this part and parts B and E shall be increased by the amount borrowed under this part not to exceed $10,000.

"(3) COST OF ATTENDANCE.—(A) No student shall receive self-reliance loans in any fiscal year in an amount which exceeds such student's cost of attendance for such year.

"(B) The amount of financial assistance a student receives under this part in any fiscal year, when combined with student financial assistance received under other parts of this title for such fiscal year, shall not exceed such student's cost of attendance for such fiscal year.

"(b) INTEREST RATE.—

"(1) IN GENERAL.—The interest rate on self-reliance loans shall be established at the time that the loan is made and shall be equal to the average market yield on 10-year and 30-year marketable obligations of the United States.

"(2) TIMING AND FREQUENCY.—The Secretary shall establish the interest rate for self-reliance loans at the same time and with the same frequency as the Secretary establishes interest rates for the Supplement Loans for Students program described in section 428A.

"(3) CONSOLIDATION OF LOANS.—In the case of a student with 2 or more self-reliance loans with respect to a continuous period of study—

"(A) the Secretary shall treat all such loans as 1 loan, and

"(B) the interest rate on such loan shall be equal to the weighted average of the interest rates for all such loans.

"SEC. 456. REPAYMENT PROVISIONS.

"(a) IN GENERAL.—A self-reliance loan shall be repaid through the income tax collection system in accordance with section 59E of the Internal Revenue Code of 1986.

"(b) REPAYMENT TERMS.—

"(1) IN GENERAL.—A borrower of a self-reliance loan or loans shall repay such loan or loans by devoting to repayment 7 percent of such borrower's adjusted gross income, except that the Secretary shall allow a borrower the option of devoting to repayment—

"(A) 3, 5, or 7 percent of such borrower's adjusted gross income in the case of a borrower who enters repayment with low indebtedness under this part, as determined by the Secretary; and

"(B) 5 or 7 percent of such borrower's adjusted gross income in the case of a borrower who enters repayment with moderate indebtedness under this part, as determined by the Secretary.

"(2) SECRETARY'S DETERMINATION OF INDEBTEDNESS LEVELS.—The Secretary shall make the determination of low indebtedness and moderate indebtedness described in subparagraphs (A) and (B) of paragraph (1) in a manner such that the average borrower described in each such subparagraph is projected to repay self-reliance loans over a similar number of years as the average borrower with high indebtedness is projected to repay self-reliance loans under the method described in the matter preceding subparagraph (A) of paragraph (1).

"(3) REPAYMENT STATUS.—

"(A) IN GENERAL.—A borrower is in repayment status with respect to any loan for any taxable year in the repayment period.

"(B) REPAYMENT PERIOD.—For purposes of subparagraph (A), the repayment period is the period—

"(i) beginning with the taxable year following the taxable year in which the student first ceases (after the loan was incurred) to be enrolled in an institution of higher education on at least half-time basis, and

"(ii) ending with the earlier of—

"(I) the 24th taxable year following the taxable year described in clause (i), or

"(II) the taxable year in which the loan is repaid.

"(4) SPECIAL RULE.—No repayment of a self-reliance loan shall be due in any taxable year in which the borrower is not required to file a Federal income tax return under section 6012 of the Internal Revenue Code of 1986.

"(5) DETERMINATION OF ADJUSTED GROSS INCOME.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'adjusted gross income' has the meaning given to such term by section 62 of the Internal Revenue Code of 1986.

"(B) MARRIED INDIVIDUALS.—A borrower who marries an individual who has not received a self-reliance loan, and who files a joint income tax return, shall make repayments on the basis of the adjusted gross income shown on such return.

"(C) MARRIED FILING SEPARATELY.—In the case of a married individual filing a separate return, adjusted gross income shall include adjusted gross income of the individual's spouse.

"(c) PREPAYMENTS.—A borrower may prepay all or part of a self-reliance loan to the Secretary without a penalty.

"(d) CANCELLATION FOR DEATH AND DISABILITY.—The Secretary shall discharge the liability to repay a self-reliance loan in the event of death or total permanent disability of a borrower.

"(e) RULES RELATING TO BANKRUPTCY.—

"(1) IN GENERAL.—A self-reliance loan shall not be dischargeable in a case under title 11 of the United States Code.

"(2) CERTAIN AMOUNTS MAY BE POSTPONED.—If any individual receives a discharge in a case under title 11 of the United States Code, then the Secretary may postpone any amount of the portion of the liability of such individual on any self-reliance loan which is attributable to amounts required to be paid on such loan for periods preceding the date of such discharge.

"SEC. 457. RESPONSIBILITIES OF THE SECRETARY.

"(a) TERMS AND CONDITIONS.—The Secretary shall promulgate the terms and conditions of a self-reliance loan not otherwise specified in this part.

"(b) ENFORCEMENT.—The Secretary shall have the same authority to limit, suspend or terminate an institution of higher education's ability to participate in the income dependent education assistance program as the Secretary has to terminate an institution of higher education's participation under a part B loan program. The Secretary may specify by regulation additional criteria the Secretary shall use to monitor the performance of participating institutions.

"(c) CENTRAL DATA SYSTEM.—

"(1) IN GENERAL.—The Secretary shall develop and administer a central data system for use in administering self-reliance loans. Such data system shall—

"(A) permit borrowers to secure information on their accounts;

"(B) on at least an annual basis, provide each self-reliance borrower with a statement of account balance and information on prepayment options;

"(C) permit the processing of borrower payments received, including the generation of confirmations to borrowers, and

"(D) provide to each self-reliance borrower not later than January 31 of each calendar year the amount of interest paid on self-reliance loans during the second preceding calendar year.

"(2) SPECIAL RULE.—Any borrower who receives a notice under subparagraph (B) or (D) of paragraph (1) and who believes such notice contains an error of statement or omission, or asserts a debt for which the borrower is not obligated or to which the borrower desires to raise a defense or excuse, shall file an objection thereto with the Secretary within 60 days after receipt of such notice. The Secretary shall, within 30 days of receipt of such an objection, affirm, adjust, or withdraw such certification and send notice thereof to the borrower and to the Secretary of the Treasury. Such decision shall be reviewable by an appropriate district court of the United States as a final agency decision.

"(d) STATEMENTS.—

"(1) IN GENERAL.—The Secretary shall, not later than January 1 of each year, certify to the Secretary of the Treasury each borrower who is in repayment status on such date, and the percentage applicable to the borrower under section 456(a)(1).

"(2) AMOUNTS COLLECTED.—The Secretary of the Treasury shall certify to the Secretary the amounts collected with respect to each self-reliance borrower.

"(e) STANDARD FORMS AND DATA FORMATS.—The Secretary shall develop standard forms and data formats for use by institutions of higher education and borrowers regarding self-reliance loans.

"(f) IMPLEMENTATION REPORT.—The Secretary, in consultation with the Secretary of the Treasury, not later than 1 year after the date of enactment of this part, shall provide a report to the Congress describing the implementation of the income dependent education assistance program, especially the steps taken to implement the loan repayment provisions described in section 456, and identifying problems that require legislative action.

"(g) ANNUAL REPORT.—The Secretary, beginning January 1, 1995, shall provide an annual report to the Congress evaluating the implementation and administration of the income dependent education assistance program and identifying problems that require legislative action.

"(h) EVALUATION.—Not later than January 1, 1997, the Secretary, in consultation with the Secretary of the Treasury, shall make a report to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate evaluating the income dependent education assistance program. Such report shall—

"(1) analyze the administrative burden and cost imposed on the Departments of Education and Treasury by the income dependent education assistance program;

"(2) analyze the administrative capacity of the Departments of Education and Treasury to

operate a self-reliance loan program at all institutions of higher education;

"(3) analyze the administrative and financial obstacles that may preclude all institutions of higher education from operating a self-reliance loan program and make recommendations for corrective action;

"(4) analyze the complexity of the income dependent education assistance program for institutions of higher education and students in comparison with the complexity of part B loan programs for institutions and students participating in loan programs under part B;

"(5) determine whether borrowers are better informed about their loan obligation under this part compared to other part B loan programs;

"(6) analyze the impact of the income dependent education assistance program on repayments, delinquencies, and defaults;

"(7) make any recommendations for legislative action that may be needed to facilitate the implementation of the income dependent education assistance program to all eligible institutions of higher education;

"(8) publish the cost of tuition and the cost of attendance at each participating institution and analyze changes in such costs compared to such changes occurring in institutions of higher education that do not participate in the income-dependent education assistance program;

"(9) analyze the ability of the Department of Education to serve students in accordance with the income dependent education assistance program;

"(10) analyze the effect of borrowing under the income dependent education assistance program on part B loan programs, including the effect on—

"(A) the socioeconomic status of students participating in part B loan programs;

"(B) the lenders, guarantee agencies and secondary markets participating in part B loan programs; and

"(C) the rate of defaults in part B loan programs;

"(11) analyze the feasibility of including individuals over age 50 in the program while insuring repayment before retirement;

"(12) recommend criteria to govern institutional eligibility for the program if it is continued or expanded; and

"(13) analyze the program in terms of its relative effectiveness as part of an overall program of higher education assistance which would include benefits earned through national and community service, taking into account the findings and conclusions of the Commission on National Services under the National and Community Service Act.

"(i) OVERSIGHT RESPONSIBILITY AND DELEGATION.—The Secretary shall be responsible for all oversight of participating institutions.

"SEC. 458. DEFINITIONS.

"For purposes of this part—

"(1) the term 'cost of attendance' has the same meaning given to such term by section 472;

"(2) the term 'eligible student' means a student who is a United States citizen and has attained the age of 17 but not the age of 51;

"(3) the term 'institution of higher education' means an institution of higher education (as such term is defined in section 481(a)) which has demonstrated the administrative and fiscal capacity to carry out the provisions of this part; and

"(4) the term 'participating institution' means an institution of higher education having an agreement with the Secretary pursuant to section 454(b).

"SEC. 459. TERMINATION.

"No loans shall be made under this part for any fiscal year beginning after September 30, 1997."

SEC. 2102. COLLECTION OF LOANS.

(a) IN GENERAL.—Subchapter A of chapter 1 (relating to determination of tax liability), as amended by section 3002, is amended by adding at the end thereof the following new part:

"PART IX—EDUCATIONAL LOAN REPAYMENT

"Sec. 59E. Educational loan repayment.

"SEC. 59E. EDUCATIONAL LOAN REPAYMENT.

"(a) GENERAL RULE.—If this section applies to an individual for any taxable year, there is hereby imposed for the taxable year (in addition to any other amount imposed by this title) a self-reliance loan repayment installment equal to the amount determined under subsection (c).

"(b) INDIVIDUALS TO WHOM SECTION APPLIES.—This section applies to any individual for a taxable year if—

"(1) such individual is in repayment status with respect to any self-reliance loan (as determined under section 456(b) of the Higher Education Act), and

"(2) such individual is required (without regard to this section) to file an income tax return under section 6012.

"(c) AMOUNT OF INSTALLMENT.—For purposes of this section—

"(1) IN GENERAL.—The amount of any self-reliance loan repayment installment for any taxable year shall be equal to the applicable percentage of the individual's adjusted gross income for the taxable year.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage with respect to any individual shall be equal to the percentage determined under section 456(b)(1) of the Higher Education Act.

"(3) ADJUSTED GROSS INCOME.—

"(A) MARRIED FILING JOINTLY.—In the case of married individuals filing a joint return, adjusted gross income shall be the amount shown on the return even if this section applies to only 1 of the individuals.

"(B) MARRIED FILING SEPARATELY.—In the case of a married individual filing separately, adjusted gross income shall include adjusted gross income of the individual's spouse.

"(d) COORDINATION WITH OTHER PROVISIONS.—

"(1) HIGHER EDUCATION ACT.—For purposes of computing interest on a self-reliance loan—

"(A) TIME WHEN PAYMENT DEEMED MADE.—Any amount paid under subsection (a) with respect to any taxable year which is paid—

"(i) on or before the due date (without regard to any extension) for filing the return for such taxable year shall be treated as having been paid on the last day of the taxable year, and

"(ii) after such due date shall be treated as paid on the last day of the following taxable year.

"(B) INTEREST UNDER THIS TITLE.—Any interest imposed under this title which is properly allocable to an amount required to be paid under subsection (a) shall be treated for purposes of the Higher Education Act (and this title) as interest paid on the self-reliance loan to which it relates. For purposes of this paragraph, any addition to tax under section 6654 shall be treated as interest.

"(2) TREATMENT AS TAX.—

"(A) SUBTITLE F.—For purposes of subtitle F, the self-reliance loan repayment installment under subsection (a) shall be treated as if it were a tax imposed by section 1.

"(B) SECTION 15 NOT TO APPLY.—Section 15 shall not apply to the self-reliance loan repayment installment under subsection (a).

"(C) NOT TREATED AS TAX FOR CERTAIN PURPOSES.—The self-reliance loan repayment installment under subsection (a) shall not be treated as a tax imposed by this chapter for purposes of determining—

"(i) the amount of any credit allowable under this chapter, or

"(ii) the amount of the minimum tax imposed by section 55.

"(e) DEFINITIONS AND SPECIAL RULES.—

"(1) SELF-RELIANCE LOAN.—For purposes of this section, the term 'self-reliance loan' has the meaning given such term by section 452(b)(2) of the Higher Education Act.

"(2) REFERENCES TO HIGHER EDUCATION ACT.—Any reference in this section to the Higher Education Act shall be treated as a reference to such Act as in effect on the date of the enactment of this section.

"(3) COORDINATION.—The Secretary shall enter into such agreements with the Secretary of Education as are necessary to carry out the provisions of this section."

(b) INCOME FROM DISCHARGE OF INDEBTEDNESS.—Section 108(a)(1) is amended by striking "or" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", or", and by adding at the end the following new subparagraph:

"(D) the discharge is a discharge of a self-reliance loan by reason of the expiration of the 25-taxable-year period under subsection (b)(3)(B)(i) of section 456 of the Higher Education Act."

(c) CLERICAL AMENDMENT.—The table of parts for subchapter A of chapter 1 is amended by adding at the end thereof the following new item:

"Part IX. Educational loan repayment."

(d) OBLIGATION OF FUNDS.—

(1) EDUCATION.—The Secretary of Education shall obligate funds for administrative costs under this part which in the aggregate do not exceed zero in fiscal year 1992, $40,000,000 in fiscal year 1993, and $20,000,000 in each of fiscal years 1994, 1995, 1996, and 1997.

(2) TREASURY.—The Secretary of the Treasury shall obligate funds for administrative costs under this part which in the aggregate do not exceed zero in fiscal year 1992, $1,000,000 in fiscal year 1993, $7,500,000 in fiscal year 1994, $4,500,000 in fiscal year 1995, $3,600,000 in fiscal year 1996, and $4,000,000 in fiscal year 1997.

(3) REDUCED APPROPRIATIONS.—If the level under paragraph (1) or (2) for any fiscal year exceeds the amount appropriated under such paragraph for such fiscal year, such excess may not be appropriated for any other purpose.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

PART II—WORKFORCE TRAINING

Subpart A—Standards of Excellence in Workforce Training

SEC. 2111. PURPOSE.

It is the purpose of this subpart to amend the Wagner-Peyser Act to—

(1) stimulate the adoption of a voluntary national system of occupational certification by establishing an independent national board to develop a system of industry-based, occupational proficiency standards and certifications of mastery for occupations within each major industry and occupations that involve more than 1 industry, for which no recognized training standards currently exist; and

(2) encourage the formation of youth skills training and education partnerships by establishing standards for youth skills training and education programs.

SEC. 2112. AMENDMENT TO WAGNER-PEYSER ACT.

The Wagner-Peyser Act (29 U.S.C. 49 et seq.) is amended—

(1) by inserting before section 1, the following:

"TITLE I—FEDERAL EMPLOYMENT SERVICE",

(2) by designating sections 1 through 15 as sections 101 through 115, respectively, and

(3) inserting at the end thereof, the following new title:

"TITLE II—WORKFORCE TRAINING

"Subtitle A—Professional and Technical Standards for Workforce Training

"SEC. 201. ESTABLISHMENT OF NATIONAL BOARD.

"(a) In General.—There is established a National Board for Professional and Technical Standards (hereafter referred to in this section as the 'National Board').

"(b) Composition.—

"(1) In general.—The National Board shall be composed of 24 members appointed in accordance with paragraph (2)(A), of which 8 members shall be representatives of business and industry, 8 members shall be representatives of organized labor, and 8 members shall be representatives of educational institutions and technical associations the expertise of which reflects a broad cross section of industries and occupations. Representatives of organized labor shall be selected from among individuals recommended by recognized national labor federations.

"(2) Membership.—

"(A) Appointments.—Members of the National Board shall be appointed as follows:

"(i) 6 members (2 from each class of appointees described in paragraph (1)) shall be appointed by the Speaker of the House of Representatives, upon the recommendations of the Majority and Minority Leaders of the House, respectively;

"(ii) 6 members (2 from each class of appointees described in paragraph (1)) shall be appointed by the President pro tempore of the Senate, upon the recommendations of the Majority and Minority Leaders of the Senate, respectively;

"(iii) 6 members (2 from each class of employees described in paragraph (1)) shall be appointed by the Secretary of Labor; and

"(iv) 6 members (2 from each class of appointees described in paragraph (1)) shall be appointed by the Secretary of Education.

"(B) Ex officio members.—The Secretary of Labor and the Secretary of Education shall serve as ex officio members of the National Board.

"(3) Term.—Each member of the National Board shall be appointed under paragraph (2)(A) for a term of 4 years, except that of the initial members of the Board appointed under such paragraph, 12 (3 from each class of appointees described in paragraph (1)) shall be appointed for a term of 2 years in the manner prescribed in clauses (i) through (iv) of paragraph 2(A).

"(c) Chairperson and Vice Chairperson.—The National Board shall elect a Chairperson and 2 Vice Chairpersons (each representing a different 1 of the classes of appointees described in paragraph (1)) from among its members described in subsection (b)(2)(A), each of whom shall serve for a term of 1 year. The position of Chairperson shall rotate among the classes of appointees described in subsection (c)(1).

"(d) Compensation and Expenses—

"(1) Compensation.—Members of the National Board who are not regular full-time employees of the United States Government shall serve without compensation.

"(2) Expenses.—While away from their homes or regular places of business on the business of the National Board, members of such Board may be allowed travel expenses, including per diem in lieu of subsistence, as is authorized under section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

"(e) Staff.—The National Board shall appoint an Executive Director who shall be compensated at a rate determined by the Board that shall not exceed the maximum rate of basic pay payable for GS-15 of the General Schedule, and who may appoint such staff as is necessary.

"SEC. 202. ADVISORY COMMITTEES.

"(a) Establishment.—The National Board shall establish advisory committees for each major industry and for major occupations that involve more than 1 industry, and shall appoint individuals to serve as members of such committees from among nominations submitted by participants in each such industry or occupation. Each such committee shall include equal numbers of representatives from each of the 3 classes of representatives described in section 201(b)(1). Representatives of organized labor shall be selected from among individuals nominated by recognized national labor organizations representing employees in such industry or occupation.

"(b) Duties.—Each advisory committee established under subsection (a) shall, for each major industry or occupation for which such committee is established—

"(1) develop recommendations for proficiency standards for occupations within such industry or for such occupation that are linked to internationally accepted standards, to the extent practicable;

"(2) develop assessments to measure competencies for such occupations;

"(3) develop and recommend 2- to 5-year curricula for achieving such competencies that include structured work experiences and related study programs leading to technical and professional certificates or associate degrees; and

"(4) evaluate the implementation of the proficiency standards, assessments, and curricula developed under this subsection and make recommendations for revision, where appropriate.

"(c) Limitation.—No advisory committee established pursuant to this section shall be authorized to develop proficiency standards, assessments, or curricula for any industry or occupation for which recognized apprenticeship standards exist.

"(d) FACA Not Applicable.—The provisions of the Federal Advisory Committee Act shall not apply to the advisory committees established under this section.

"SEC. 203. DEADLINES.

"(a) In General.—Not later than December 31, 1993, the National Board shall identify at least 30 industrial or occupational categories and develop proficiency standards, assessments, and curricula for such industries or occupations.

"(b) Completion of Categories.—The National Board shall develop a program to ensure that the proficiency standards, assessments, and curricula for all remaining identified industrial or occupational categories are completed not later than January 1, 1997.

"SEC. 204. ATTAINMENT OF STANDARDS.

"Proficiency standards developed under this title shall be formulated in such a manner that the attainment of such standards is likely to meet the requirements for transferable credit and enable a student to continue such student's education and training, with a special emphasis on transferability among States.

"SEC. 205. AVAILABILITY.

"The proficiency standards, assessments, and curricula developed in accordance with this title for an industry or occupation shall be made available for voluntary use by institutions of postsecondary education offering professional and technical education, labor organizations, trade and technical associations, employers and labor-management organizations providing formalized training, private training providers, and any other organizations likely to benefit from such proficiency standards, assessments, and curricula.

"SEC. 206. AUTHORIZATION OF APPROPRIATIONS.

"(a) In General.—There are authorized to be appropriated to carry out this subtitle, $15,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1997.

"(b) Availability.—Amounts appropriated under subsection (a) shall remain available until expended."

"Subtitle B—Youth Skills Training and Education Programs

"SEC. 211. YOUTH SKILLS TRAINING AND EDUCATION PROGRAMS.

"(a) Youth Skills Training and Education Programs.—A program shall qualify as a youth skills training and education program under this subtitle for purposes of section 501(c)(26) of the Internal Revenue Code of 1986 if such program—

"(1) provides eleventh and twelfth grade students with the opportunity to voluntarily enter into a course of study that integrates academic instruction with supervised on-the-job training and instruction in the workplace in a curriculum designed to lead to a high school diploma and to qualify the student for further education or an advanced technical or professional training program;

"(2) provides each student, upon completing such program, with assistance in seeking post-program employment and further education and training in such student's program field;

"(3) is certified by a State or local educational agency as meeting the educational standards established and approved by such agency; and

"(4) is certified by a State agency responsible for occupational training as meeting the requirements of subsections (b) through (k).

"(b) Training Standards.—The requirements of this subsection are met if—

"(1) the program conforms with the relevant industrial or occupational proficiency standards and assessments established by the National Board for Professional and Technical Standards under subtitle A of this title, or, if such standards and assessments are not available, the program is likely to provide student participants with broad-based competencies and transferable skills suitable for career progression within the industries or trades in which the student is employed; or

"(2) the program provides training through an apprenticeship program registered with the Department of Labor, Bureau of Apprenticeship Training, or with a State apprenticeship agency recognized by such Bureau.

"(c) School Coordinator.—The requirements of this subsection are met if the program provides that each participating school in such program designates a school official or counselor to coordinate the work and education aspects of each participating student's program and makes regularly scheduled visits to the work sites where participating students are employed.

"(d) Written Training Agreement.—The requirements of this subsection are met if the program provides that employers employing students in such program enter into written agreements signed by the student, the student's parent or guardian, the school official responsible for coordination of the program, and the employer, setting forth the type of work to be performed, the wages and benefits to be paid by the employer, the hours of work, the ratio of hours at work to hours in school, the type and amount of training to be provided by the employer, the type and amount of on-the-job supervision to be provided by the employer, the competencies and skills the student is expected to acquire, and any other goals and objectives of the training.

"(e) Review and Evaluation.—The requirements of this subsection are met if the program provides for systematic review and evaluation of the student's progress in job performance, acquisition of work-related competencies and skills, and related academic instruction, and for the maintenance of appropriate progress records.

"(f) LABOR STANDARDS.—The requirements of this subsection are met if the program provides for the following:

"(1) WAGES.—The wage paid to participating students by the employer in the program is not less than the minimum wage prescribed by the Fair Labor Standards Act, unless a higher wage is required by other applicable Federal law, State law, respective regulations, or by a collective bargaining agreement.

"(2) BENEFITS AND WORKING CONDITIONS.—Students employed by participating employers are provided benefits and working conditions at the same level and to the same extent as other employees working a similar length of time and doing the same type of work.

"(3) WORKPLACE HEALTH AND SAFETY.—Students are provided with adequate and safe equipment and a safe and healthful workplace consistent with all health and safety standards established under applicable State and Federal law, and provides health and safety training for participating students on the job and in related coursework.

"(4) WORKERS' COMPENSATION.—To the extent that a State workers' compensation law is applicable, workers' compensation benefits in accordance with such law are available with respect to work-related injuries suffered by participating students. To the extent that such law is not applicable, insurance coverage of injuries suffered by such participants is secured in accordance with requirements prescribed by the organization administering the program.

"(5) PROHIBITED OCCUPATIONS.—No student participating in the program is assigned to work in any occupation prohibited for minors of the student's age under the Fair Labor Standards Act (29 U.S.C. 210 et seq.) and regulations promulgated thereunder, or any other applicable Federal, State or local law.

"(g) NONDISCRIMINATION.—The requirements of this subsection are met if the program provides that no individual is excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of, or in connection with, the program because of race, color, religion, sex, national origin, age, handicap, or political affiliation, or belief.

"(h) NONDISPLACEMENT.—The requirements of this subsection are met if the program provides that employment or use of a student participating in such program does not result in the displacement of any other employed worker (including partial displacement such as a reduction in hours of work, wages, or employment benefits), nor does the student perform any services or duties or engage in activities that were previously or would otherwise be assigned to or performed by any—

"(1) employee who is on layoff or is otherwise subject to a reduction in force; or

"(2) employee who is on strike or is involved in a lockout.

"(i) RECORDS AND REPORTS.—The requirements of this subsection are met if—

"(1) the name, address, and bylaws of the organization operating the program, the name and address of each school participating in such program, the name and address of each employer contributing to such program, copies of the certifications required under paragraphs (3) and (4) of subsection (a), and a copy of the registration required under subsection (j), if applicable, is kept at the State or local educational agency office;

"(2) a copy of the written training agreement for each student participating in the program is kept at the State or local educational agency office; and

"(3) the records required under paragraphs (1) and (2) are kept for a period of 3 years and are available for inspection or transcription to representatives of the Internal Revenue Service and to representatives of the Department of Labor, Wage and Hour Division.

"(j) NONDUPLICATION.—The requirements of this subsection are met if the program does not establish, operate, maintain, or assist a training program for any trade, skill, craft, or occupation for which there is an existing apprenticeship or training program duly registered with the United States Department of Labor, Bureau of Apprenticeship Training, for the same or similar trade, skill, craft or occupation, unless such training program conforms with apprenticeship program standards published by the Secretary of Labor and is registered with and approved by the Bureau of Apprenticeship or a State apprenticeship agency recognized by the Bureau.

"(k) QUALIFIED USE OF CONTRIBUTIONS.—The requirements of this subsection are met if the program prohibits the use of contributions to the organization administering the program for employment training expenses or compensation of student participants."

Subpart B—Youth Skills Training and Education Partnerships

SEC. 2113. SHORT TITLE.

This subpart may be cited as the "Youth Skills Training and Education Partnerships Act."

SEC. 2114. TAX EXEMPTION FOR CONTRIBUTIONS TO YOUTH SKILLS TRAINING AND EDUCATION PARTNERSHIPS.

(a) IN GENERAL.—Subsection (c) of section 501 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by adding at the end thereof the following new paragraph:

"(26) Any organization if—

"(A) organized and operated solely for purposes of administering a program which qualifies as a youth skills training and education program under subtitle B of title II of the Wagner-Peyser Act,

"(B) controlled by a board of directors consisting of—

"(i) representatives of employers contributing to such program;

"(ii) for each employer representative, 1 representative of such employer's nonmanagerial, nonsupervisory employees, to be selected by the authorized bargaining representative of such employees (if any);

"(iii) representatives of schools and higher education institutions participating in the program; and

"(iv) representatives of State or local governments, and

"(C) such organization does not pay for, and prohibits the use of any contributions for employment training expenses or compensation for any student participating in such program.

The representatives described in clauses (i) and (ii) of subparagraph (B) shall not constitute more than 50 percent of the members of the board of directors."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 2115. AUGMENTED DEDUCTION FOR YOUTH SKILLS TRAINING AND EDUCATION CONTRIBUTIONS BY BUSINESSES.

(a) IN GENERAL.—Section 170 (relating to charitable, etc., contributions and gifts) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) TREATMENT OF YOUTH SKILLS TRAINING AND EDUCATION CONTRIBUTIONS.—

"(1) IN GENERAL.—For purposes of this section, in the case of an eligible business, 150 percent of any amount paid in cash to a youth skills training and education partnership shall be treated as a charitable contribution.

"(2) DEFINITIONS.—

"(A) YOUTH SKILLS TRAINING AND EDUCATION PARTNERSHIP.—The term 'youth skills training and education partnership' means an organization described in section 501(c)(26).

"(B) ELIGIBLE BUSINESS.—The term 'eligible business' means any corporation or partnership."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

Subpart C—Study

SEC. 2116. JOINT LABOR DEPARTMENT AND TREASURY DEPARTMENT STUDY.

Within 3 years of the date of the enactment of this Act, the Secretary of Labor, the Secretary of Education and the Secretary of the Treasury, or their delegates, shall jointly study the effects of the amendments made by this part and shall report the results of such study and any recommendations for further legislative action to improve such effects to the Committee on Labor and Human Resources and the Committee on Finance of the Senate and the Committee on Education and Labor and the Committee on Ways and Means of the House of Representatives.

PART III—OTHER EDUCATION INCENTIVES

SEC. 2121. CREDIT FOR INTEREST ON EDUCATION LOANS.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 22 the following new section:

"SEC. 23. INTEREST ON EDUCATION LOANS.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 15 percent of the interest paid by the taxpayer during the taxable year on any qualified education loan.

"(b) MAXIMUM CREDIT.—The credit allowed by subsection (a) for the taxable year shall not exceed $300.

"(c) LIMITATION ON TAXPAYERS ELIGIBLE FOR CREDIT.—No credit shall be allowed by this section to an individual for the taxable year if a deduction under section 151 with respect to such individual is allowed to another taxpayer for the taxable year beginning in the calendar year in which such individual's taxable year begins.

"(d) LIMIT ON PERIOD CREDIT ALLOWED.—

"(1) TAXPAYER AND TAXPAYER'S SPOUSE.—Except as provided in paragraph (2), a credit shall be allowed under this section only with respect to interest paid on any qualified education loan which is allocable to the first 48 months during which interest accrued on such loan. For purposes of this paragraph, any loan and all refinancings of such loan shall be treated as 1 loan.

"(2) DEPENDENT.—If the qualified education loan was used to pay education expenses of an individual other than the taxpayer or the taxpayer's spouse, a credit shall be allowed under this section for any taxable year with respect to such loan only if—

"(A) a deduction under section 151 with respect to such individual is allowed to the taxpayer for such taxable year, and

"(B) such individual is at least a half-time student with respect to such taxable year.

"(e) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED EDUCATION LOAN.—The term 'qualified education loan' means any indebtedness incurred to pay qualified higher education expenses—

"(A) which are incurred on behalf of the taxpayer, the taxpayer's spouse, or a dependent of the taxpayer,

"(B) which are paid or incurred within a reasonable period of time before or after the indebtedness is incurred, and

"(C) which are attributable to education furnished during a period during which the recipient was at least a half-time student.

Such term includes indebtedness used to refinance indebtedness which qualifies as a qualified education loan. The term 'qualified education loan' shall not include any indebtedness owed to a person who is related (within the meaning of section 267(b) or 707(b)(1)) to the taxpayer.

"(2) QUALIFIED HIGHER EDUCATION EXPENSES.—The term 'qualified higher education expenses' means the cost of attendance (as defined in section 472 of the Higher Education Act of 1965, 10 U.S.C. 1087ll, as in effect on the day before the date of the enactment of this Act) of the taxpayer, the taxpayer's spouse, or a dependent of the taxpayer at an eligible educational institution. For purposes of the preceding sentence, the term 'eligible educational institution' has the same meaning given such term by section 135(c)(3), except that such term shall also include an institution conducting an internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility which offers postgraduate training.

"(3) HALF-TIME STUDENT.—The term 'half-time student' means any individual who would be a student as defined in section 151(c)(4) if 'half-time' were substituted for 'full-time' each place it appears in such section.

"(4) DEPENDENT.—The term 'dependent' has the meaning given such term by section 152.

"(f) SPECIAL RULES.—

"(1) DENIAL OF DOUBLE BENEFIT.—No credit shall be allowed under this section for any amount for which a deduction is allowable under any other provision of this chapter.

"(2) SELF-RELIANCE LOANS.—For purposes of the credit allowed under this section and the deduction allowed under section 162(h)(2)(E), interest paid on a self-reliance loan (as defined in section 452(b)(2) of the Higher Education Act) shall be treated as paid in the taxable year beginning in the calendar year following the calendar year in which such interest was paid.

"(3) MARITAL STATUS.—Marital status shall be determined in accordance with section 7703."

(b) OPTIONAL DEDUCTION FOR INTEREST ON EDUCATION LOANS.—Paragraph (2) of section 163(h) (defining personal interest) is amended by striking "and" at the end of subparagraph (D), by redesignating subparagraph (E) as subparagraph (F), and by inserting after subparagraph (D) the following new subparagraph:

"(E) any interest paid on a qualified education loan (as defined in section 23(e)) during the period described in section 23(d), unless a credit or deduction is taken with respect to such interest under any other provisions of this chapter, and".

(c) CLERICAL AMENDMENT.—The table of sections for such subpart A is amended by inserting after the item relating to section 22 the following new item:

"Sec. 23. Interest on education loans."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to qualified education loans (as defined in section 23(e) of the Internal Revenue Code of 1986) the first payment on which is due in taxable years beginning after December 31, 1991.

SEC. 2122. INCOME EXCLUSION FOR EDUCATION BONDS EXPANDED.

(a) IDENTIFYING INFORMATION REQUIRED.—Section 135(b)(2) is amended to read as follows:

"(2) IDENTIFYING INFORMATION REQUIRED WITH RESPECT TO INDIVIDUAL FOR WHOM EXPENSES PAID.—No amount shall be allowed as an exclusion under subsection (a) unless the taxpayer includes the name, address, and taxpayer identification number of the person for whom qualified higher education expenses were paid on the return on which the exclusion is claimed."

(b) ELIMINATION OF AGE RESTRICTION.—Section 135(c)(1) (defining qualified United States savings bonds) is amended—

(1) by striking subparagraph (B),

(2) by inserting "and" at the end of subparagraph (A), and

(3) by redesignating subparagraph (C) as subparagraph (B).

(c) EXCLUSION EXPANDED TO ALL INDIVIDUALS.—Subparagraph (A) of section 135(c)(2) (defining qualified higher education expenses) is amended to read as follows:

"(A) IN GENERAL.—The term 'qualified higher education expenses' means tuition and fees required for enrollment or attendance of any individual at an eligible educational institution."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds redeemed after December 31, 1991.

SEC. 2123. EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE.

(a) IN GENERAL.—Subsection (d) of section 127 (relating to educational assistance programs) is amended by striking "June 30, 1992" and inserting "December 31, 1993".

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 103 of the Tax Extension Act of 1991 is hereby repealed.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years ending after June 30, 1992.

SEC. 2124. DISCLOSURES OF INFORMATION FOR VETERANS BENEFITS.

(a) IN GENERAL.—Section 6103(l)(7)(D) (relating to program to which rule applies) is amended by striking "September 30, 1992" in the last sentence and inserting "September 30, 1998".

(b) CONFORMING AMENDMENT.—Section 5317(g) of title 38, United States Code, is amended by striking "September 30, 1992" and inserting "September 30, 1998".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on September 30, 1992.

Subtitle C—Better Access to Affordable Health Care

PART I—IMPROVEMENTS IN HEALTH INSURANCE AFFORDABILITY FOR SMALL EMPLOYERS

SEC. 2201. INCREASE IN DEDUCTIBLE HEALTH INSURANCE COSTS FOR SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—Paragraph (1) of section 162(l) (relating to special rules for health insurance costs of self-employed individuals) is amended by striking "25 percent" and inserting "100 percent (25 percent for taxable years beginning during 1992)".

(b) EXTENSION.—Paragraph (6) of section 162(l) (relating to termination) is amended by striking "June 30, 1992" and inserting "December 31, 1994".

(c) CONFORMING AMENDMENT.—Section 110(a) of the Tax Extension Act of 1991 is amended by striking paragraph (2).

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 2202. GRANTS TO STATES FOR SMALL EMPLOYER HEALTH INSURANCE PURCHASING PROGRAMS.

(a) IN GENERAL.—The Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall make grants to States that submit applications meeting the requirements of this section for the establishment and operation of small employer health insurance purchasing programs.

(b) USE OF FUNDS.—Grant funds awarded under this section to a State may be used to finance administrative costs associated with developing and operating a group purchasing program for small employers, such as the costs associated with—

(1) engaging in marketing and outreach efforts to inform small employers about the group purchasing program, which may include the payment of sales commissions;

(2) negotiating with insurers to provide health insurance through the group purchasing program; or

(3) providing administrative functions, such as eligibility screening, claims administration, and customer service.

(c) APPLICATION REQUIREMENTS.—An application submitted by a State to the Secretary must describe—

(1) whether the program will be operated directly by the State or through one or more State-sponsored private organizations and the details of such operation;

(2) any participation requirements for small employers;

(3) the extent of insurance coverage among the eligible population, projections for change in the extent of such coverage, and the price of insurance currently available to these small employers;

(4) program goals for reducing the price of health insurance for small employers and increasing insurance coverage among employees of small employers and their dependents;

(5) the approaches proposed for enlisting participation by insurers and small employers, including any plans to use State funds to subsidize the cost of insurance for participating employers; and

(6) the methods proposed for evaluating the effectiveness of the program in reducing the number of uninsured in the State and on lowering the price of health insurance to small employers in the State.

(d) GRANT CRITERIA.—In awarding grants, the Secretary shall consider the potential impact of the State's proposal on the cost of health insurance for small employers and on the number of uninsured, and the need for regional variation in the awarding of grants. To the extent the Secretary deems appropriate, grants shall be awarded to fund programs employing a variety of approaches for establishing small employer health insurance group purchasing programs.

(e) PROHIBITION ON GRANTS.—No grant funds shall be paid to States that do not meet the requirements of title XXI of the Social Security Act with respect to small employer health insurance plans, or to States with group purchasing programs involving small employer health insurance plans that do not meet the requirements of such title.

(f) ANNUAL REPORT BY STATES.—States receiving grants under this section must report to the Secretary annually on the numbers and rates of participation by eligible insurers and small employers, on the estimated impact of the program on reducing the number of uninsured, and on the price of insurance available to small employers in the State.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 1993, 1994, and 1995, such sums as may be necessary for the purposes of awarding grants under this section.

(h) SECRETARIAL REPORT.—The Secretary shall report to Congress by no later than January 1, 1995, on the number and amount of grants awarded under this section, and include with such report an evaluation of the impact of the grant program on the number of uninsured and price of health insurance to small employers in participating States.

SEC. 2203. STUDY OF USE OF MEDICARE RATES BY PRIVATE HEALTH INSURANCE PLANS.

(a) IN GENERAL.—Not later than January 1, 1993, the Secretary of Health and Human Serv-

ices (hereafter in this section referred to as the "Secretary") shall study and report to the Congress on the feasibility and desirability of the Secretary establishing payment rates, based upon medicare payment rules, for optional use by private health insurers. In developing the study, the Secretary shall take into account the findings and views of the Prospective Payment Assessment Commission and the Physician Payment Review Commission.

(b) PROVISIONS OF STUDY AND REPORT.—The study and report shall evaluate—

(1) the appropriateness of using medicare payment rules to determine payments for services furnished to non-medicare populations (with particular emphasis on services furnished to children);

(2) the potential impact on private health insurance premiums, national health spending, and access to health care services (by medicare beneficiaries and others) of requiring health care providers and practitioners to accept such payment rates as payment in full if the optional use of such rates is available—

(A) to all private health insurance and employer health benefit plans, or

(B) only to private health insurance sold to small employers or small employer health benefit plans; and

(3) the advantages and disadvantages of alternative mechanisms for enforcing such rates when private insurers opt to use them.

PART II—IMPROVEMENTS IN HEALTH INSURANCE FOR SMALL EMPLOYERS

Subpart A—Standards and Requirements of Small Employer Health Insurance Reform

SEC. 2211. STANDARDS AND REQUIREMENTS OF SMALL EMPLOYER HEALTH INSURANCE.

The Social Security Act is amended by adding at the end the following new title:

"TITLE XXI—STANDARDS FOR SMALL EMPLOYER HEALTH INSURANCE AND CERTIFICATION OF MANAGED CARE PLANS

"PART A—GENERAL STANDARDS; DEFINITIONS

"APPLICATION OF REQUIREMENTS TO SMALL EMPLOYER HEALTH INSURANCE PLANS

"SEC. 2101. (a) PLAN UNDER STATE REGULATORY PROGRAM OR CERTIFIED BY THE SECRETARY.—An insurer offering a health insurance plan to a small employer in a State on or after the effective date applicable to the State under subsection (b) shall be treated as meeting the requirements of this title if—

"(1) the Secretary determines that the State has established a regulatory program that provides for the application and enforcement of standards meeting the requirements under section 2102 to meet the requirements of part B of this title; and

"(2) if the State has not established such a program or if the program has been decertified by the Secretary under section 2102(b), the health insurance plan has been certified by the Secretary (in accordance with such procedures as the Secretary establishes) as meeting the requirements of part B of this title.

"(b) EFFECTIVE DATES.—

"(1) IN GENERAL.—Except as specified in paragraph (2) and provided in paragraph (3), the standards established under section 2102 to meet the requirements of part B of this title shall apply to health insurance plans offered, issued, or renewed to a small employer in a State on or after January 1, 1994.

"(2) EXCEPTION FOR LEGISLATION.—In the case of a State which the Secretary identifies, in consultation with the NAIC, as—

"(A) requiring State legislation (other than legislation appropriating funds) in order for insurers and health insurance plans offered to small employers to meet the standards under the program established under subsection (a), or

"(B) having a legislature which does not meet in 1993 in a legislative session in which such legislation may be considered,

the date specified in this paragraph is the first day of the first calendar quarter beginning after the close of the first regular legislative session of the State legislature that begins on or after January 1, 1994. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular legislative session of the State legislature.

"(3) REQUIREMENTS APPLIED TO EXISTING POLICIES.—In the case of a health insurance plan in effect before the applicable effective date specified in paragraph (1) or (2), the requirements referred to in subsections (a) and (b) of section 2112 shall not apply to any such plan, or any renewal of such plan, before the date which is 2 years after such effective date.

"(c) REPORTING REQUIREMENTS OF STATES.—Each State shall submit to the Secretary, at intervals established by the Secretary, a report on the implementation and enforcement of the standards under the program established under subsection (a)(1) with respect to health insurance plans offered to small employers.

"(d) MORE STRINGENT STATE STANDARDS PERMITTED.—Except as provided in subsections (b)(8) and (c)(4) of section 2113, a State may implement standards that are more stringent than the standards established to meet the requirements of part B of this title.

"(e) LIMITED WAIVER OF RATING REQUIREMENTS.—The Secretary may waive requirements with respect to subsections (b) and (e) of section 2112 in the case of a State with equally stringent but not identical standards in effect prior to January 1, 1992.

"ESTABLISHMENT OF STANDARDS

"SEC. 2102. (a) ESTABLISHMENT OF STANDARDS.—

"(1) ROLE OF THE NAIC.—The Secretary shall request that the NAIC—

"(A) develop specific standards, in the form of a model Act and model regulations, to implement the requirements of part B of this title; and

"(B) report to the Secretary on such standards,

by not later than September 30, 1992. If the NAIC develops such standards within such period and the Secretary finds that such standards implement the requirements of part B of this title, such standards shall be the standards applied under section 2101.

"(2) ROLE OF THE SECRETARY.—If the NAIC fails to develop and report on the standards described in paragraph (1) by the date specified in such paragraph or the Secretary finds that such standards do not implement the requirements under part B of this title, the Secretary shall develop and publish such standards, by not later than December 31, 1992. Such standards shall then be the standards applied under section 2101.

"(3) STANDARDS ON GUARANTEED AVAILABILITY.—The standards developed under paragraphs (1) and (2) shall provide alternative standards for guaranteeing availability of health insurance plans for all small employers in a State as provided in section 2111(c).

"(4) GUIDELINES FOR DEMOGRAPHIC RATING FACTORS.—The standards developed under paragraphs (1) and (2) shall include guidelines with respect to rating factors used by insurers to adjust premiums to reflect demographic characteristics of a small employer group.

"(b) PERIODIC SECRETARIAL REVIEW OF STATE REGULATORY PROGRAM.—The Secretary periodically shall review State regulatory programs to determine if they continue to meet and enforce the standards referred to in subsection (a). If the Secretary initially determines that a State regulatory program no longer meets and enforces such standards, the Secretary shall provide the State an opportunity to adopt a plan of correction that would bring such program into compliance with such standards. If the Secretary makes a final determination that the State regulatory program fails to meet and enforce such standards and requirements after such an opportunity, the Secretary shall decertify such program and assume responsibility under section 2101(a)(2) with respect to plans in the State.

"(c) GAO AUDITS.—The Comptroller General of the United States shall conduct periodic reviews on a sample of State regulatory programs to determine their compliance with the standards and requirements of this title. The Comptroller General of the United States shall report to the Secretary and Congress on the findings of such reviews.

"DEFINITIONS

"SEC. 2103. (a) HEALTH INSURANCE PLAN.—As used in this title, the term 'health insurance plan' means any hospital or medical service policy or certificate, hospital or medical service plan contract, health maintenance organization group contract, or a multiple employer welfare arrangement, but does not include—

"(1) a self-insured group health plan;

"(2) a self-insured multiemployer group health plan; or

"(3) any of the following offered by an insurer—

"(A) accident only, dental only, vision only, disability only insurance, or long-term care only insurance,

"(B) coverage issued as a supplement to liability insurance,

"(C) medicare supplemental insurance as defined in section 1882(g)(1),

"(D) workmen's compensation or similar insurance, or

"(E) automobile medical-payment insurance.

In the case of a multiple employer welfare arrangement that is fully insured, the requirements of this Act shall only apply to the insurer of the arrangement.

"(b) INSURER.—As used in this title the term 'insurer' means any person that offers a health insurance plan to a small employer.

"(c) GENERAL DEFINITIONS.—As used in this title:

"(1) APPLICABLE REGULATORY AUTHORITY.—The term 'applicable regulatory authority' means—

"(A) in the case of a health insurance plan offered in a State with a program meeting the requirements of part B of this title, the State commissioner or superintendent of insurance or other State authority responsible for regulation of health insurance; or

"(B) in the case of a health insurance plan certified by the Secretary under section 2101(a)(2), the Secretary.

"(2) SMALL EMPLOYER.—The term 'small employer' means, with respect to a calendar year, an employer that normally employs more than 1 but less than 51 eligible employees on a typical business day. For the purposes of this paragraph, the term 'employee' includes a self-employed individual.

"(3) ELIGIBLE EMPLOYEE.—The term 'eligible employee' means, with respect to an employer, an employee who normally performs on a monthly basis at least 30 hours of service per week for that employer.

"(4) NAIC.—The term 'NAIC' means the National Association of Insurance Commissioners.

"(5) STATE.—The term 'State' means each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

"PART B—SMALL EMPLOYER HEALTH INSURANCE REFORM

"GENERAL REQUIREMENTS FOR HEALTH INSURANCE PLANS ISSUED TO SMALL EMPLOYERS

"SEC. 2111. (a) REGISTRATION WITH APPLICABLE REGULATORY AUTHORITY.—Each insurer

shall register with the applicable regulatory authority for each State in which it issues or offers a health insurance plan to small employers.

"(b) GUARANTEED ELIGIBILITY.—

"(1) IN GENERAL.—No insurer may exclude from coverage any eligible employee, or the spouse or any dependent child of the eligible employee, to whom coverage is made available by a small employer.

"(2) WAITING PERIODS.—Paragraph (1) shall not apply to any period an eligible employee is excluded from coverage under the health insurance plan solely by reason of a requirement imposed by an employer applicable to all employees that a minimum period of service with the small employer is required before the employee is eligible for such coverage.

"(c) GUARANTEED AVAILABILITY.—

"(1) IN GENERAL.—Subject to the succeeding provisions of this subsection, an insurer that offers a health insurance plan to small employers located in a State must meet the standards adopted by the State described in paragraph (2).

"(2) STANDARDS ON GUARANTEED AVAILABILITY.—

"(A) IN GENERAL.—In order to implement the requirements of this title, the standards developed under paragraphs (1) and (2) of section 2102(a) shall—

"(i) require that a State adopt a mechanism for guaranteeing the availability of health insurance plans for all small employers in the State,

"(ii) specify alternative mechanisms, including at least the alternative mechanisms described in subparagraph (B), that a State may adopt, and

"(iii) prohibit marketing or other practices by an insurer intended to discourage or limit the issuance of a health insurance plan to a small employer on the basis of size, industry, geographic area, expected need for health services, or other risk factors.

"(B) ALTERNATIVE MECHANISMS.—The alternative mechanisms described in this subparagraph are:

"(i) A mechanism under which the State—

"(I) requires that any insurer offering a health insurance plan to a small employer in the State shall offer the same plan to all other small employers in the State or in the portion of the State established as the insurer's geographic service area (as approved by the State), and

"(II) requires the participation of all such insurers in a small employer reinsurance program established by the State.

"(ii) A mechanism under which the State—

"(I) requires that any insurer offering a health insurance plan to a small employer in the State shall offer the same plan to all other small employers in the State or in the portion of the State established as the insurer's geographic service area (as approved by the State), and

"(II) permits any such insurer to participate in a small employer reinsurance program established by the State.

"(iii) A mechanism under which the State requires that any insurer offering a health insurance plan to a small employer in the State shall participate in a program for assigning high-risk groups among all such insurers.

"(iv) A mechanism under which the State requires that any insurer that—

"(I) offers a health insurance plan to a small employer in the State, and

"(II) does not agree to offer the same plan to all other small employers in the State or in the portion of the State established as the insurer's geographic service area (as approved by the State),

shall participate in a program for assigning high-risk groups among all such insurers.

"(C) STATE ADOPTION OF CERTAIN STANDARDS.—A regulatory program adopted by the State under section 2101 must provide—

"(i) for the adoption of one of the mechanisms described in clauses (i) through (iv) of subparagraph (B), or

"(ii) for such other program that guarantees availability of health insurance to all small employers in the State and is approved by the Secretary.

"(D) STANDARDS FOR NONCOMPLYING STATES.—The Secretary, in consultation with the Secretary of the Treasury, shall develop requirements with respect to guaranteed availability to apply with respect to insurers located in a State that has not adopted the standards under section 2102 and who wish to apply for certification under section 2101(a)(2).

"(3) GROUNDS FOR REFUSAL TO RENEW.—

"(A) IN GENERAL.—An insurer may refuse to renew, or (except with respect to clause (iii)) may terminate, a health insurance plan under this part only for—

"(i) nonpayment of premiums,

"(ii) fraud or misrepresentation,

"(iii) failure to maintain minimum participation rates (consistent with subparagraph (B)), or

"(iv) repeated misuse of a provider network provision.

"(B) MINIMUM PARTICIPATION RATES.—An insurer may require, with respect to a health insurance plan issued to a small employer, that a minimum percentage of eligible employees who do not otherwise have health insurance are enrolled in such plan if such percentage is applied uniformly to all plans offered to employers of comparable size.

"(d) GUARANTEED RENEWABILITY.—

"(1) IN GENERAL.—An insurer shall ensure that a health insurance plan issued to a small employer be renewed, at the option of the small employer, unless the plan is terminated for a reason specified in paragraph (2) or in subsection (c)(3)(A).

"(2) TERMINATION OF SMALL EMPLOYER BUSINESS.—An insurer is not required to renew a health insurance plan with respect to a small employer if the insurer—

"(A) elects not to renew all of its health insurance plans issued to small employers in a State; and

"(B) provides notice to the applicable regulatory authority in the State and to each small employer covered under a plan of such termination at least 180 days before the date of expiration of the plan.

In the case of such a termination, the insurer may not provide for issuance of any health insurance plan to a small employer in the State during the 5-year period beginning on the date of termination of the last plan not so renewed.

"(e) NO DISCRIMINATION BASED ON HEALTH STATUS FOR CERTAIN SERVICES.—

"(1) IN GENERAL.—Except as provided under paragraph (2), a health insurance plan offered to a small employer by an insurer may not deny, limit, or condition the coverage under (or benefits of) the plan based on the health status, claims experience, receipt of health care, medical history, or lack of evidence of insurability, of an individual.

"(2) TREATMENT OF PREEXISTING CONDITION EXCLUSIONS FOR ALL SERVICES.—

"(A) IN GENERAL.—Subject to the succeeding provisions of this paragraph, a health insurance plan offered to a small employer by an insurer may exclude coverage with respect to services related to treatment of a preexisting condition, but the period of such exclusion may not exceed 6 months. The exclusion of coverage shall not apply to services furnished to newborns.

"(B) CREDITING OF PREVIOUS COVERAGE.—

"(i) IN GENERAL.—A health insurance plan issued to a small employer by an insurer shall provide that if an individual under such plan is in a period of continuous coverage (as defined in clause (ii)(I)) with respect to particular services as of the date of initial coverage under such plan, any period of exclusion of coverage with respect to a preexisting condition for such services or type of services shall be reduced by 1 month for each month in the period of continuous coverage.

"(ii) DEFINITIONS.—As used in this subparagraph:

"(I) PERIOD OF CONTINUOUS COVERAGE.—The term 'period of continuous coverage' means, with respect to particular services, the period beginning on the date an individual is enrolled under a health insurance plan, title XVIII, title XIX, or other health benefit arrangement including a self-insured plan which provides benefits with respect to such services and ends on the date the individual is not so enrolled for a continuous period of more than 3 months.

"(II) PREEXISTING CONDITION.—The term 'preexisting condition' means, with respect to coverage under a health insurance plan issued to a small employer by an insurer, a condition which has been diagnosed or treated during the 3-month period ending on the day before the first date of such coverage (without regard to any waiting period).

"REQUIREMENTS RELATED TO RESTRICTIONS ON RATING PRACTICES

"SEC. 2112. (a) LIMIT ON VARIATION OF PREMIUMS BETWEEN BLOCKS OF BUSINESS.—

"(1) IN GENERAL.—The base premium rate for any block of business of an insurer (as defined in section 2103(b)(1)) may not exceed the base premium rate for any other block of business by more than 20 percent.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to a block of business if the applicable regulatory authority determines that—

"(A) the block is one for which the insurer does not reject, and never has rejected, small employers included within the definition of employers eligible for the block of business or otherwise eligible employees and dependents who enroll on a timely basis, based upon their claims experience, health status, industry, or occupation,

"(B) the insurer does not transfer, and never has transferred, a health insurance plan involuntarily into or out of the block of business, and

"(C) health insurance plans offered under the block of business are currently available for purchase by small employers at the time an exception to paragraph (1) is sought by the insurer.

"(b) LIMIT ON VARIATION IN PREMIUM RATES WITHIN A BLOCK OF BUSINESS.—For a block of business of an insurer, the highest premium rates charged during a rating period to small employers with similar demographic characteristics (limited to age, sex, family size, and geography and not relating to claims experience, health status, industry, occupation, or duration of coverage since issue) for the same or similar coverage, or the highest rates which could be charged to such employers under the rating system for that block of business, shall not exceed an amount that is 1.5 times the base premium rate for the block of business for a rating period (or portion thereof) that occurs in the first 3 years in which this section is in effect, and 1.35 times the base premium rate thereafter.

"(c) CONSISTENT APPLICATION OF RATING FACTORS.—In establishing premium rates for health insurance plans offered to small employers—

"(1) an insurer making adjustments with respect to age, sex, family size, or geography must apply such adjustments consistently across small employers (as provided in guidelines developed under section 2102(a)(4)), and

"(2) no insurer may use a geographic area that is smaller than a county or smaller than an area that includes all areas in which the first three digits of the zip code are identical, whichever is smaller.

"(d) LIMIT ON TRANSFER OF EMPLOYERS AMONG BLOCKS OF BUSINESS.—

"(1) IN GENERAL.—An insurer may not transfer a small employer from one block of business to another without the consent of the employer.

"(2) OFFERS TO TRANSFER.—An insurer may not offer to transfer a small employer from one block of business to another unless—

"(A) the offer is made without regard to age, sex, geography, claims experience, health status, industry, occupation or the date on which the policy was issued, and

"(B) the same offer is made to all other small employers in the same block of business.

"(e) LIMITS ON VARIATION IN PREMIUM INCREASES.—The percentage increase in the premium rate charged to a small employer for a new rating period (determined on an annual basis) may not exceed the sum of the percentage change in the base premium rate plus 5 percentage points.

"(f) DEFINITIONS.—In this section:

"(1) BASE PREMIUM RATE.—The term 'base premium rate' means, for each block of business for each rating period, the lowest premium rate which could have been charged under a rating system for that block of business by the insurer to small employers with similar demographic or other relevant characteristics (limited to age, sex, family size, and geography and not relating to claims experience, health status, industry, occupation or duration of coverage since issue) for health insurance plans with the same or similar coverage.

"(2) BLOCK OF BUSINESS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'block of business' means, with respect to an insurer, all of the small employers with a health insurance plan issued by the insurer (as shown on the records of the insurer).

"(B) DISTINCT GROUPS.—

"(i) IN GENERAL.—Subject to clause (ii), a distinct group of small employers with health insurance plans issued by an insurer may be treated as a block of business by such insurer if all of the plans in such group—

"(I) are marketed and sold through individuals and organizations that do not participate in the marketing or sale of other distinct groups by the insurer,

"(II) have been acquired from another insurer as a distinct group, or

"(III) are provided through an association with membership of not less than 25 small employers that has been formed for purposes other than obtaining health insurance.

"(ii) LIMITATION.—An insurer may not establish more than six distinct groups of small employers.

"(f) FULL DISCLOSURE OF RATING PRACTICES.—

"(1) IN GENERAL.—At the time an insurer offers a health insurance plan to a small employer, the insurer shall fully disclose to the employer all of the following:

"(A) Rating practices for small employer health insurance plans, including rating practices for different populations and benefit designs.

"(B) The extent to which premium rates for the small employer are established or adjusted based upon the actual or expected variation in claims costs or health condition of the employees of such small employer and their dependents.

"(C) The provisions concerning the insurer's right to change premium rates, the extent to which premiums can be modified, and the factors which affect changes in premium rates.

"(2) NOTICE ON EXPIRATION.—An insurer providing health insurance plans to small employers shall provide for notice, at least 60 days before the date of expiration of the health insurance plan, of the terms for renewal of the plan. Such notice shall include an explanation of the extent to which any increase in premiums is due to actual or expected claims experience of the individuals covered under the small employer's health insurance plan contract.

"(g) ACTUARIAL CERTIFICATION.—Each insurer shall file annually with the applicable regulatory authority a written statement by a member of the American Academy of Actuaries (or other individual acceptable to such authority) certifying that, based upon an examination by the individual which includes a review of the appropriate records and of the actuarial assumptions of the insurer and methods used by the insurer in establishing premium rates for small employer health insurance plans—

"(1) the insurer is in compliance with the applicable provisions of this section, and

"(2) the rating methods are actuarially sound.

Each insurer shall retain a copy of such statement for examination at its principal place of business.

"REQUIREMENTS FOR SMALL EMPLOYER HEALTH INSURANCE BENEFIT PACKAGE OFFERINGS

"SEC. 2113. (a) BASIC AND STANDARD BENEFIT PACKAGES.—

"(1) IN GENERAL.—If an insurer offers any health insurance plan to small employers in a State, the insurer shall also offer a health insurance plan providing for the standard benefit package defined in subsection (b) and a health insurance plan providing for the basic benefit package defined in subsection (c).

"(2) MANAGED CARE OPTION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), if an insurer offers any health insurance plan to small employers in a State and also offers a managed care plan in the State or a geographic area within the State to employers that are not small employers, the insurer must offer a similar managed care plan to small employers in the State or geographic area.

"(B) SIZE LIMITS.—An insurer may cease enrolling new small employer groups in all or a portion of the insurer's service area for a managed care plan if it ceases to enroll any new employer groups within the service area or within a portion of a service area of such plan.

"(b) STANDARD BENEFIT PACKAGE.—

"(1) IN GENERAL.—

"(A) PACKAGE DEFINED.—Except as otherwise provided in this section, a health insurance plan providing for a standard benefit package shall be limited to payment for—

"(i) inpatient and outpatient hospital care, except that treatment for a mental disorder, as defined in subparagraph (B)(i), is subject to the special limitations described in clause (v)(I);

"(ii) inpatient and outpatient physician services, as defined in subparagraph (B)(ii), except that psychotherapy or counseling for a mental disorder is subject to the special limitations described in clause (v)(II);

"(iii) diagnostic tests;

"(iv) preventive services limited to—

"(I) prenatal care and well-baby care provided to children who are 1 year of age or younger;

"(II) well-child care;

"(III) Pap smears;

"(IV) mammograms; and

"(V) colorectal screening services; and

"(v)(I) inpatient hospital care for a mental disorder for not less than 45 days per year, except that days of partial hospitalization or residential care may be substituted for days of inpatient care; and

"(II) outpatient psychotherapy and counseling for a mental disorder for not less than 20 visits per year provided by a provider who is acting within the scope of State law and who—

"(aa) is a physician; or

"(bb) is a duly licensed or certified clinical psychologist or a duly licensed or certified clinical social worker, a duly licensed or certified equivalent mental health professional, or a clinic or center providing duly licensed or certified mental health services.

"(B) DEFINITIONS.—For purposes of this paragraph:

"(i) MENTAL DISORDER.—The term 'mental disorder' has the same meaning given such term in the International Classification of Diseases, 9th Revision, Clinical Modification.

"(ii) PHYSICIAN SERVICES.—The term 'physician services' means professional medical services lawfully provided by a physician under State medical practice acts, and includes professional services provided by a dentist, licensed advanced-practice nurse, physician assistant, optometrist, podiatrist, or chiropractor acting within the scope of their practices (as determined under State law) if such services would be treated as physician services if furnished by a physician.

"(2) AMOUNT, SCOPE, AND DURATION OF CERTAIN BENEFITS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B) and in paragraph (3), a health insurance plan providing for a standard benefit package shall place no limits on the amount, scope, or duration of benefits described in subparagraphs (A) through (C) of paragraph (1).

"(B) PREVENTIVE SERVICES.—A health insurance plan providing for a standard benefit package may limit the amount, scope, and duration of preventive services described in subparagraph (D) of paragraph (1) provided that the amount, scope, and duration of such services are reasonably consistent with recommendations and periodicity schedules developed by appropriate medical experts.

"(3) EXCEPTIONS.—Paragraph (1) shall not be construed as requiring a plan to include payment for—

"(A) items and services that are not medically necessary;

"(B) routine physical examinations or preventive care (other than care and services described in subparagraph (D) of paragraph (1)); or

"(C) experimental services and procedures.

"(4) LIMITATION ON PREMIUMS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), an insurer issuing a health insurance plan providing for a standard benefit package shall not require an employee to pay a monthly premium which exceeds 20 percent of the total monthly premium.

"(B) PART-TIME EMPLOYEE EXCEPTED.—In the case of a part-time employee, an insurer issuing a health insurance plan providing for a standard benefit package may require that such an employee pay a monthly premium that does not exceed 50 percent of the total monthly premium.

"(5) LIMITATION ON DEDUCTIBLES.—

"(A) IN GENERAL.—Except as permitted under subparagraph (B), a health insurance plan providing for a standard benefit package shall not provide a deductible amount for benefits provided in any plan year that exceeds—

"(i) with respect to benefits payable for items and services furnished to any employee with no family member enrolled under the plan, for a plan year beginning in—

"(I) a calendar year prior to 1993, $400; or

"(II) for a subsequent calendar year, the limitation specified in this clause for the previous calendar year increased by the percentage increase in the consumer price index for all urban consumers (United States city average, as published by the Bureau of Labor Statistics) for the 12-month period ending on September 30 of the preceding calendar year; and

"(ii) with respect to benefits payable for items and services furnished to any employee with a family member enrolled under the standard benefit package plan, for a plan year beginning in—

"(I) a calendar year prior to 1993, $400 per family member and $700 per family; or

"(II) for a subsequent calendar year, the limitation specified in this clause for the previous calendar year increased by the percentage increase in the consumer price index for all urban consumers (United States city average, as published by the Bureau of Labor Statistics) for the 12-month period ending on September 30 of the preceding calendar year.

If the limitation computed under clause (i)(II) or (ii)(II) is not a multiple of $10, it shall be rounded to the next highest multiple of $10.

"(B) WAGE-RELATED DEDUCTIBLE.—A health insurance plan may provide for any other deductible amount instead of the limitations under—

"(i) subparagraph (A)(i), if such amount does not exceed (on an annualized basis) 1 percent of the total wages paid to the employee in the plan year; or

"(ii) subparagraph (A)(ii), if such amount does not exceed (on an annualized basis) 1 percent per family member or 2 percent per family of the total wages paid to the employee in the plan year.

"(6) LIMITATION ON COPAYMENTS AND COINSURANCE.—

"(A) IN GENERAL.—Subject to subparagraphs (B) through (D), a health insurance plan providing for a standard health benefit package may not require the payment of any copayment or coinsurance for an item or service for which coverage is required under this section—

"(i) in an amount that exceeds 20 percent of the amount payable for the item or service under the plan; or

"(ii) after an employee and family covered under the plan have incurred out-of-pocket expenses under the plan that are equal to the out-of-pocket limit (as defined in subparagraph (E)(ii)) for a plan year.

"(B) EXCEPTION FOR MANAGED CARE PLANS.—A health insurance plan that is a managed care plan may require payments in excess of the amount permitted under subparagraph (A) in the case of items and services furnished by nonparticipating providers.

"(C) EXCEPTION FOR IMPROPER UTILIZATION.—A health insurance plan may provide for copayment or coinsurance in excess of the amount permitted under subparagraph (A) for any item or service that an individual obtains without complying with procedures established by a managed care plan or under a utilization program to ensure the efficient and appropriate utilization of covered services.

"(D) EXCEPTIONS FOR MENTAL HEALTH CARE.—In the case of care described in paragraph (1)(E)(ii), a health insurance plan shall not require payment of any copayment or coinsurance for an item or service for which coverage is required by this part in an amount that exceeds 50 percent of the amount payable for the item or service.

"(7) LIMIT ON OUT-OF-POCKET EXPENSES.—

"(A) OUT-OF-POCKET EXPENSES DEFINED.—As used in this section, the term 'out-of-pocket expenses' means, with respect to an employee in a plan year, amounts payable under the plan as deductibles and coinsurance with respect to items and services provided under the plan and furnished in the plan year on behalf of the employee and family covered under the plan.

"(B) OUT-OF-POCKET LIMIT DEFINED.—As used in this section and except as provided in subparagraph (C), the term 'out-of-pocket limit' means for a plan year beginning in—

"(i) a calendar year prior to 1993, $3,000; or

"(ii) for a subsequent calendar year, the limit specified in this subparagraph for the previous calendar year increased by the percentage increase in the consumer price index for all urban consumers (United States city average, as published by the Bureau of Labor Statistics) for the 12-month period ending on September 30 of the preceding calendar year.

If the limit computed under clause (ii) is not a multiple of $10, it shall be rounded to the next highest multiple of $10.

"(C) ALTERNATIVE OUT-OF-POCKET LIMIT.—A health insurance plan may provide for an out-of-pocket limit other than that defined in subparagraph (B) if, for a plan year with respect to an employee and the family of the employee, the limit does not exceed (on an annualized basis) 10 percent of the total wages paid to the employee in the plan year.

"(8) LIMITED PREEMPTION OF STATE MANDATED BENEFITS.—No State law or regulation in effect in a State that requires health insurance plans offered to small employers in the State to include specified items and services other than those specified by this subsection shall apply with respect to a health insurance plan providing for a standard benefit package offered by an insurer to a small employer. A State law or regulation requiring the coverage of newborns, adopted children or other specified categories of dependents shall continue to apply.

"(c) BASIC BENEFITS PACKAGE.—

"(1) IN GENERAL.—A health insurance plan providing for a basic benefit package shall be limited to payment for—

"(A) inpatient and outpatient hospital care, including emergency services;

"(B) inpatient and outpatient physicians' services;

"(C) diagnostic tests; and

"(D) preventive services (which may include one or more of the following services)—

"(i) prenatal care and well-baby care provided to children who are 1 year of age or younger;

"(ii) well-child care;

"(iii) Pap smears;

"(iv) mammograms; and

"(v) colorectal screening services.

Nothing in this paragraph shall prohibit a basic health benefit package from including coverage for treatment of a mental disorder.

"(2) COST-SHARING.—Each health insurance plan providing for the basic benefit package issued to a small employer by an insurer may impose premiums, deductibles, copayments, or other cost-sharing on enrollees of such plan.

"(3) OUT-OF-POCKET LIMIT.—Each health insurance plan providing for a basic benefit package shall provide for a limit on out-of-pocket expenses.

"(4) LIMITED PREEMPTION OF STATE MANDATED BENEFITS.—No State law or regulation in effect in a State that requires health insurance plans offered to small employers in the State to include specified items and services other than those described in this subsection shall apply with respect to a health insurance plan providing for a basic benefit package offered by an insurer to a small employer. A State law or regulation requiring the coverage of newborns, adopted children or other specified categories of dependents shall continue to apply.".

Subpart B—Tax Penalty on Noncomplying Insurers

SEC. 2221. EXCISE TAX ON PREMIUMS RECEIVED ON HEALTH INSURANCE POLICIES WHICH DO NOT MEET CERTAIN REQUIREMENTS.

(a) IN GENERAL.—Chapter 47 (relating to taxes on group health plans) is amended by adding at the end thereof the following new section:

"SEC. 5000A. FAILURE TO SATISFY CERTAIN STANDARDS FOR HEALTH INSURANCE.

"(a) GENERAL RULE.—In the case of any person issuing a health insurance plan to a small employer, there is hereby imposed a tax on the failure of such person to meet at any time during any taxable year the applicable requirements of title XXI of the Social Security Act. The Secretary of Health and Human Services shall determine whether any person meets the requirements of such title.

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—The amount of tax imposed by subsection (a) by reason of 1 or more failures during a taxable year shall be equal to 25 percent of the gross premiums received during such taxable year with respect to all health insurance plans issued to a small employer by the person on whom such tax is imposed.

"(2) GROSS PREMIUMS.—For purposes of paragraph (1), gross premiums shall include any consideration received with respect to any accident and health insurance contract.

"(3) CONTROLLED GROUPS.—For purposes of paragraph (1)—

"(A) CONTROLLED GROUP OF CORPORATIONS.—All corporations which are members of the same controlled group of corporations shall be treated as 1 person. For purposes of the preceding sentence, the term 'controlled group of corporations' has the meaning given to such term by section 1563(a), except that—

"(i) 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a)(1), and

"(ii) the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.

"(B) PARTNERSHIPS, PROPRIETORSHIPS, ETC., WHICH ARE UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, all trades or business (whether or not incorporated) which are under common control shall be treated as 1 person. The regulations prescribed under this subparagraph shall be based on principles similar to the principles which apply in the case of subparagraph (A).

"(c) LIMITATION ON TAX.—

"(1) TAX NOT TO APPLY WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No tax shall be imposed by subsection (a) with respect to any failure for which it is established to the satisfaction of the Secretary that the person on whom the tax is imposed did not know, and exercising reasonable diligence would not have known, that such failure existed.

"(2) TAX NOT TO APPLY WHERE FAILURES CORRECTED WITHIN 30 DAYS.—No tax shall be imposed by subsection (a) with respect to any failure if—

"(A) such failure was due to reasonable cause and not to willful neglect, and

"(B) such failure is corrected during the 30-day period beginning on the 1st date any of the persons on whom the tax is imposed knew, or exercising reasonable diligence would have known, that such failure existed.

"(3) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive relative to the failure involved.

"(d) DEFINITIONS.—For purposes of this section:

"(1) HEALTH INSURANCE PLAN.—The term 'health insurance plan' means any hospital or medical service policy or certificate, hospital or medical service plan contract, health maintenance organization group contract, or a multiple employer welfare arrangement, but does not include—

"(A) a self-insured group health plan;

"(B) a self-insured multiemployer group health plan; or

"(C) any of the following:

"(i) accident only, dental only, vision only, disability only, or long-term care only insurance,

"(ii) coverage issued as a supplement to liability insurance, "(iii) medicare supplemental insurance as defined in section 1882(g)(1),

"(iv) workmen's compensation or similar insurance, or

"(v) automobile medical-payment insurance.

In the case of a multiple employer welfare arrangement that is fully insured, this Act shall only apply to the insurer of the arrangement.

"(2) SMALL EMPLOYER.—The term 'small employer' means, with respect to a calendar year, an employer that normally employs more than 1 but less than 51 eligible employees on a typical business day. For the purposes of this paragraph, the term 'employee' includes a self-employed individual.

"(3) ELIGIBLE EMPLOYEE.—The term 'eligible employee' means, with respect to an employer, an employee who normally performs on a monthly basis at least 30 hours of service per week for that employer.

"(4) PERSON.—The term 'person' means any person that offers a health insurance plan to a small employer, including a licensed insurance company, a prepaid hospital or medical service plan, a health maintenance organization, or in States which have distinct insurance licensure requirements, a multiple employer welfare arrangement.".

(b) NONDEDUCTIBILITY OF TAX.—Paragraph (6) of section 275(a) (relating to nondeductibility of certain taxes) is amended by inserting "47," after "46,".

(c) CLERICAL AMENDMENTS.—The table of sections for such chapter 47 is amended by adding at the end thereof the following new item:

"Sec. 5000A. Failure to satisfy certain standards for health insurance.".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a) and (c) shall take effect on the date of the enactment of this Act.

(2) NONDEDUCTIBILITY OF TAX.—The amendment made by subsection (b) shall apply to taxable years beginning after December 31, 1991.

Subpart C—Studies and Reports

SEC. 2231. GAO STUDY AND REPORT ON RATING REQUIREMENTS AND BENEFIT PACKAGES FOR SMALL GROUP HEALTH INSURANCE.

(a) IN GENERAL.—The Comptroller General of the United States shall study and report to the Congress by no later than January 1, 1995, on—

(1) the impact of the standards for rating practices for small group health insurance established under section 2112 of the Social Security Act and the requirements for benefit packages established under section 2113 of such Act on the availability and price of insurance offered to small employers, differences in available benefit packages, the number of small employers choosing standard or basic packages, and the impact of the standards on the number of small employers offering health insurance to employees through a self-funded employer welfare benefit plan; and

(2) differences in State laws and regulations affecting the availability and price of health insurance plans sold to individuals and the impact of such laws and regulations, including the extension of requirements for health insurance plans sold to small employers in the State to individual health insurance and the establishment of State risk pools for individual health insurance.

(b) RECOMMENDATIONS.—The Comptroller General shall include in the report to Congress under this section recommendations with respect to adjusting rating standards under section 2112 of the Social Security Act—

(1) to eliminate variation in premiums charged to small employers resulting from adjustments for such factors as claims experience and health status, and

(2) to eliminate variation in premiums associated with age, sex, and other demographic factors.

PART III—IMPROVEMENTS IN PORTABILITY OF PRIVATE HEALTH INSURANCE

SEC. 2241. EXCISE TAX IMPOSED ON FAILURE TO PROVIDE FOR PREEXISTING CONDITION.

(a) IN GENERAL.—Chapter 47 (relating to taxes on group health plans), as amended by section 2221, is amended by adding at the end thereof the following new section:

"SEC. 5000B. FAILURE TO SATISFY PREEXISTING CONDITION REQUIREMENTS OF GROUP HEALTH PLANS.

"(a) GENERAL RULE.—There is hereby imposed a tax on the failure of—

"(1) a group health plan to meet the requirements of subsection (e), or

"(2) any person to meet the requirements of subsection (f),

with respect to any covered individual.

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—The amount of the tax imposed by subsection (a) on any failure with respect to a covered individual shall be $100 for each day in the noncompliance period with respect to such failure.

"(2) NONCOMPLIANCE PERIOD.—For purposes of this section, the term 'noncompliance period' means, with respect to any failure, the period—

"(A) beginning on the date such failure first occurs, and

"(B) ending on the date such failure is corrected.

"(3) CORRECTION.—A failure of a group health plan to meet the requirements of subsection (e) with respect to any covered individual shall be treated as corrected if—

"(A) such failure is retroactively undone to the extent possible, and

"(B) the covered individual is placed in a financial position which is as good as such individual would have been in had such failure not occurred.

For purposes of applying subparagraph (B), the covered individual shall be treated as if the individual had elected the most favorable coverage in light of the expenses incurred since the failure first occurred.

"(c) LIMITATIONS ON AMOUNT OF TAX.—

"(1) TAX NOT TO APPLY WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No tax shall be imposed by subsection (a) on any failure during any period for which it is established to the satisfaction of the Secretary that none of the persons referred to in subsection (d) knew, or exercising reasonable diligence would have known, that such failure existed.

"(2) TAX NOT TO APPLY TO FAILURES CORRECTED WITHIN 30 DAYS.—No tax shall be imposed by subsection (a) on any failure if—

"(A) such failure was due to reasonable cause and not to willful neglect, and

"(B) such failure is corrected during the 30-day period beginning on the first date any of the persons referred to in subsection (d) knew, or exercising reasonable diligence would have known, that such failure existed.

"(3) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive relative to the failure involved.

"(d) LIABILITY FOR TAX.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the following shall be liable for the tax imposed by subsection (a) on a failure:

"(A) In the case of a group health plan other than a self-insured group health plan, the issuer.

"(B)(i) In the case of a self-insured group health plan other than a multiemployer group health plan, the employer.

"(ii) In the case of a self-insured multiemployer group health plan, the plan.

"(C) Each person who is responsible (other than in a capacity as an employee) for administering or providing benefits under the group health plan, health insurance plan, or other health benefit arrangement (including a self-insured plan) and whose act or failure to act caused (in whole or in part) the failure.

"(2) SPECIAL RULES FOR PERSONS DESCRIBED IN PARAGRAPH (1)(C).—A person described in subparagraph (C) (and not in subparagraphs (A) and (B)) of paragraph (1) shall be liable for the tax imposed by subsection (a) on any failure only if such person assumed (under a legally enforceable written agreement) responsibility for the performance of the act to which the failure relates.

"(e) NO DISCRIMINATION BASED ON HEALTH STATUS FOR CERTAIN SERVICES.—

"(1) IN GENERAL.—Except as provided under paragraph (2), group health plans may not deny, limit, or condition the coverage under (or benefits of) the plan based on the health status, claims experience, receipt of health care, medical history, or lack of evidence of insurability, of an individual.

"(2) TREATMENT OF PREEXISTING CONDITION EXCLUSIONS FOR ALL SERVICES.—

"(A) IN GENERAL.—Subject to the succeeding provisions of this paragraph, group health plans may exclude coverage with respect to services related to treatment of a preexisting condition, but the period of such exclusion may not exceed 6 months. The exclusion of coverage shall not apply to services furnished to newborns.

"(B) CREDITING OF PREVIOUS COVERAGE.—

"(i) IN GENERAL.—A group health plan shall provide that if an individual under such plan is in a period of continuous coverage (as defined in clause (ii)(I)) with respect to particular services as of the date of initial coverage under such plan (determined without regard to any waiting period under such plan), any period of exclusion of coverage with respect to a preexisting condition for such services or type of services shall be reduced by 1 month for each month in the period of continuous coverage without regard to any waiting period.

"(ii) DEFINITIONS.—As used in this subparagraph:

"(I) PERIOD OF CONTINUOUS COVERAGE.—The term 'period of continuous coverage' means, with respect to particular services, the period beginning on the date an individual is enrolled under a health insurance plan, title XVIII or XIX of the Social Security Act, or other health benefit arrangement (including a self-insured plan) which provides benefits with respect to such services and ends on the date the individual is not so enrolled for a continuous period of more than 3 months.

"(II) PREEXISTING CONDITION.—The term 'preexisting condition' means, with respect to coverage under a group health plan, a condition which has been diagnosed or treated during the 3-month period ending on the day before the first date of such coverage without regard to any waiting period.

"(f) DISCLOSURE OF COVERAGE, ETC.—Any person who has provided coverage (other than under title XVIII or XIX of the Social Security Act) during a period of continuous coverage (as defined in subsection (e)(2)(B)(ii)(I)) with respect to a covered individual shall disclose, upon the request of a group health plan subject to the requirements of subsection (e), the coverage provided the covered individual, the period of such coverage, and the benefits provided under such coverage.

"(g) DEFINITIONS.—For purposes of this section—

"(1) COVERED INDIVIDUAL.—The term 'covered individual' means—

"(A) an individual who is (or will be) provided coverage under a group health plan by virtue of the performance of services by the individual for 1 or more persons maintaining the plan (including as an employee defined in section 401(c)(1)), and

"(B) the spouse or any dependent child of such individual.

"(2) GROUP HEALTH PLAN.—The term 'group health plan' has the meaning given such term by section 5000(b)(1).".

(b) CLERICAL AMENDMENT.—The table of sections for such chapter 47 is amended by adding at the end thereof the following new item:

"Sec. 5000B. Failure to satisfy preexisting condition requirements of group health plans.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 1992.

PART IV—HEALTH CARE COST CONTAINMENT

SEC. 2251. ESTABLISHMENT OF HEALTH CARE COST COMMISSION.

(a) IN GENERAL.—There is hereby established a Health Care Cost Commission (in this subtitle referred to as the "Commission"). The Commission shall be composed of 11 members, appointed by the President by and with the advice and consent of the Senate. The membership of the Commission shall include individuals with nationally recognized expertise in health insurance, health economics, health care provider reimbursement, and related fields. The President shall provide for appointment of individuals to the Commission within 6 months of the date of enactment of this Act and in appointing such individuals to the Commission, the President shall assure representation of consumers of health services, large and small employers, State and local governments, labor organizations, health care providers, health care insurers, and experts on the development of medical technology.

(b) TERMS.—

(1) CHAIRMAN.—The term of the Chairman shall be coincident with the term of the President.

(2) OTHER MEMBERS OF THE COMMISSION.—Except as provided in paragraph (1), members of the Commission shall be appointed to serve for terms of 3 years, except that the terms of the members first appointed shall be staggered so that the terms of no more than 4 members expire in any year.

(3) VACANCIES.—Individuals appointed to fill a vacancy created in the Commission shall be appointed only for the unexpired portion of the term for which the individual's predecessor was appointed.

(c) DUTIES.—

(1) ANNUAL REPORT.—

(A) IN GENERAL.—The Commission shall report annually to the President and the Congress on national health care costs. Such report shall be made by March 30 of each year and shall include information on—

(i) levels and trends in public and private health care spending by type of health care service, geographic region of the country, and public and private sources of payment;

(ii) levels and trends in the cost of private health insurance coverage for individuals and groups;

(iii) sources of high and rising health care costs, including inflation in input prices, demographic changes and the utilization, supply and distribution of health care services; and

(iv) comparative trends in other countries and reasons for any differences from trends in the United States.

(B) ASSESSMENT AND RECOMMENDATIONS.—The report shall also analyze and assess the impact of public and private efforts to reduce growth in health care spending, and shall include recommendations for cost containment efforts.

(2) NATIONAL UNIFORM CLAIMS FORMS AND REPORTING STANDARDS.—

(A) IN GENERAL.—As part of its first annual report, the Commission shall, taking into account recommendations by the Secretary of Health and Human Services, recommend—

(i) a national uniform claims form for use by health care providers and individuals in submitting claims to private health insurers and the medicare and medicaid programs;

(ii) national standards for reporting of insurance information including coverage benefits, copayments, and deductibles;

(iii) national standards for uniform reporting by health care providers of information including clinical diagnoses, services provided, and costs of services; and

(iv) a strategy and schedule for implementing national use of such claims forms and reporting standards by January 1, 1996.

(B) RELEVANT FACTORS.—In developing its recommendations, the Commission shall consider—

(i) the potential use of electronic cards or other technology that allows expedited access to medical records, insurance, and billing information;

(ii) the need for patient confidentiality; and

(iii) special implementation issues including those concerning providers in rural and inner-city areas.

(C) REPORT.—The Commission shall report annually and make recommendations with respect to—

(i) the progress made toward national implementation of uniform claims forms and reporting standards; and

(ii) other approaches to minimize the impact of administrative costs on national health spending.

(3) STANDARDS FOR MANAGED CARE.—The Commission shall make recommendations to the Secretary of Health and Human Services for the development and ongoing review of standards for managed care plans and utilization review programs (as defined under section 2114 of title XXI of the Social Security Act).

(d) MISCELLANEOUS.—

(1) AUTHORITY.—The Commission may—

(A) employ and fix compensation of an Executive Director and such other personnel (not to exceed 25) as may be necessary to carry out its duties (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service);

(B) seek such assistance and support as may be required in the performance of its duties from appropriate Federal departments and agencies;

(C) enter into contracts or make other arrangements, as may be necessary for the conduct of the work of the Commission (without regard to section 3709 of the Revised Statutes (41 U.S.C. 5)); and

(D) make advance, progress, and other payments which relate to the work of the Commission.

(2) COMPENSATION.—While serving on the business of the Commission (including traveltime), a member of the Commission shall be entitled to compensation at the per diem equivalent of the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code; and while so serving away from the member's home and regular place of business, a member may be allowed travel expenses, as authorized by the Chairman of the Commission. Physicians serving as personnel of the Commission may be provided a physician comparability allowance by the Commission in the same manner as Government physicians may be provided such an allowance by an agency under section 5948 of title 5, United States Code, and for such purpose subsection (i) of such section shall apply to the Commission in the same manner as it applies to the Tennessee Valley Authority.

(3) ACCESS TO INFORMATION, ETC.—The Commission shall have access to such relevant information and data as may be available from appropriate Federal agencies and shall assure that its activities, especially the conduct of original research and medical studies, are coordinated with the activities of Federal agencies. The Commission shall be subject to periodic audit by the General Accounting Office.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 2252. FEDERAL CERTIFICATION OF MANAGED CARE PLANS AND UTILIZATION REVIEW PROGRAMS.

Title XXI of the Social Security Act, as added by title II of this Act, is amended by adding at the end the following part:

"PART C—FEDERAL CERTIFICATION OF MANAGED CARE PLANS

"FEDERAL CERTIFICATION OF MANAGED CARE PLANS AND UTILIZATION REVIEW PROGRAMS

"SEC. 2114. (a) VOLUNTARY CERTIFICATION PROCESS.—

"(1) CERTIFICATION.—The Secretary shall establish a process for certification of managed care plans meeting the requirements of subsection (b)(1) and of utilization review programs meeting the requirements of subsection (b)(2).

"(2) QUALIFIED MANAGED CARE PLAN.—For purposes of this title, the term 'qualified managed care plan' means a managed care plan that the Secretary certifies, upon application by the program, as meeting the requirements of this section.

"(3) QUALIFIED UTILIZATION REVIEW PROGRAM.—For purposes of this title, the term 'qualified utilization review program' means a utilization review program that the Secretary certifies, upon application by the program, as meeting the requirements of this section.

"(4) UTILIZATION REVIEW PROGRAM.—For purposes of this title, the term 'utilization review program' means a system of reviewing the medical necessity, appropriateness, or quality of health care services and supplies covered under a health insurance plan or a managed care plan using specified guidelines. Such a system may include preadmission certification, the application of practice guidelines, continued stay review, discharge planning, preauthorization of ambulatory procedures, and retrospective review.

"(5) MANAGED CARE PLAN.—

"(A) IN GENERAL.—For purposes of this title the term 'managed care plan' means a plan operated by a managed care entity as described in subparagraph (B), that arranges for the financing and delivery of health care services to persons covered under such plan through—

"(i) arrangements with participating providers to furnish health care services;

"(ii) explicit standards for the selection of participating providers;

"(iii) organizational arrangements for ongoing quality assurance and utilization review programs; and

"(iv) financial incentives for persons covered under the plan to use the participating providers and procedures provided for by the plan.

"(B) MANAGED CARE ENTITY DEFINED.—For purposes of this title, a managed care entity includes a licensed insurance company, hospital or medical service plan, health maintenance organization, an employer, or employee organization, or a managed care contractor as described in subparagraph (C), that operates a managed care plan.

"(C) MANAGED CARE CONTRACTOR DEFINED.—For purposes of this title, a managed care contractor means a person that—

"(i) establishes, operates or maintains a network of participating providers;

"(ii) conducts or arranges for utilization review activities; and

"(iii) contracts with an insurance company, a hospital or medical service plan, an employer, an employee organization, or any other entity providing coverage for health care services to operate a managed care plan.

"(6) PARTICIPATING PROVIDER.—The term 'participating provider' means a physician, hospital, pharmacy, laboratory, or other appropriately licensed provider of health care services or supplies, that has entered into an agreement with a managed care entity to provide such services or supplies to a patient covered under a managed care plan.

"(7) REVIEW AND RECERTIFICATION.—The Secretary shall establish procedures for the periodic review and recertification of qualified managed care plans and qualified utilization review programs.

"(8) TERMINATION OF CERTIFICATION.—The Secretary shall terminate the certification of a qualified managed care plan or a qualified utilization review program if the Secretary determines that such plan or program no longer meets the applicable requirements for certification. Before effecting a termination, the Secretary shall provide the plan notice and opportunity for a hearing on the proposed termination.

"(9) CERTIFICATION THROUGH ALTERNATIVE REQUIREMENTS.—

"(A) CERTAIN ORGANIZATIONS RECOGNIZED.—An eligible organization as defined in section 1876(b), shall be deemed to meet the requirements of subsection (b) for certification as a qualified managed care plan.

"(B) RECOGNITION OF ACCREDITATION.—If the Secretary finds that a State licensure program or a national accreditation body establishes a requirement or requirements for accreditation of a managed care plan or utilization review program that are at least equivalent to a requirement or requirements established under subsection (b), the Secretary may, to the extent he finds it appropriate, treat a managed care plan or a utilization review program thus accredited as meeting the requirement or requirements of subsection (b) with respect to which he made such finding.

"(b) REQUIREMENTS FOR CERTIFICATION.—

"(1) MANAGED CARE PLANS.—The Secretary, in consultation with the Health Care Cost Commission, shall establish Federal standards for the certification of qualified managed care plans, including standards related to—

"(A) the qualification and selection of participating providers;

"(B) the number, type, and distribution of participating providers necessary to assure that all covered items and services are available and accessible to persons covered under a managed care plan in each service area;

"(C) the establishment and operation of an ongoing quality assurance program, which includes procedures for—

"(i) evaluating the quality and appropriateness of care;

"(ii) using the results of quality evaluations to promote and improve quality of care; and

"(iii) resolving complaints from enrollees regarding quality and appropriateness of care;

"(D) the provision of benefits for covered items and services not furnished by participating providers if the items and services are medically necessary and immediately required because of an unforeseen illness, injury, or condition;

"(E) the qualifications of individuals performing utilization review activities;

"(F) procedures and criteria for evaluating the necessity and appropriateness of health care services;

"(G) the timeliness with which utilization review determinations are to be made;

"(H) procedures for the operation of an appeals process which provides a fair opportunity for individuals adversely affected by a managed care review determination to have such determination reviewed;

"(I) procedures for ensuring that all applicable Federal and State laws designed to protect the confidentiality of individual medical records are followed; and

"(J) payment of providers for the expenses associated with responding to requests for information needed to conduct a utilization review.

"(2) QUALIFIED UTILIZATION REVIEW PROGRAMS.—The Secretary, in consultation with the Health Care Cost Commission, shall establish Federal standards for the certification of qualified utilization review programs, including standards related to—

"(A) the qualifications of individuals performing utilization review activities;

"(B) procedures and criteria for evaluating the necessity and appropriateness of health care services;

"(C) the timeliness with which utilization review determinations are to be made;

"(D) procedures for the operation of an appeals process which provides a fair opportunity for individuals adversely affected by a utilization review determination to have such determination reviewed;

"(E) procedures for ensuring that all applicable Federal and State laws designed to protect the confidentiality of individual medical records are followed; and

"(F) payment of providers for the expenses associated with responding to requests for information needed to conduct a utilization review.

"(3) APPLICATION OF STANDARDS.—

"(A) IN GENERAL.—Standards shall first be established under this subsection by not later than 24 months after the date of the enactment of this section. In developing standards under this subsection, the Secretary shall—

"(i) review standards in use by national private accreditation organizations and State licensure programs;

"(ii) recognize, to the extent appropriate, differences in the organizational structure and operation of managed care plans; and

"(iii) establish procedures for the timely consideration of applications for certification by managed care plans and utilization review programs.

"(B) REVISION OF STANDARDS.—The Secretary shall periodically review the standards established under this subsection, taking into account recommendations by the Health Care Cost Commission, and may revise the standards from time to time to assure that such standards continue to reflect appropriate policies and practices for the cost-effective and medically appropriate use of services within managed care plans and utilization review programs.

"(c) LIMITATION ON STATE RESTRICTIONS ON QUALIFIED MANAGED CARE PLANS AND UTILIZATION REVIEW PROGRAMS.—

"(1) IN GENERAL.—No requirement of any State law or regulation shall—

"(A) prohibit or limit a qualified managed care plan from including financial incentives for covered persons to use the services of participating providers;

"(B) prohibit or limit a qualified managed care plan from restricting coverage of services to those—

"(i) provided by a participating provider; or

"(ii) authorized by a designated participating provider;

"(C) subject to paragraph (2)—

"(i) restrict the amount of payment made by a qualified managed care plan to participating providers for items and services provided to covered persons; or

"(ii) restrict the ability of a qualified managed care plan to pay participating providers for items and services provided to covered persons on a per capita basis;

"(D) prohibit or limit a qualified managed care plan from restricting the location, number, type, or professional qualifications of participating providers;

"(E) prohibit or limit a qualified managed care plan from requiring that items and services be authorized by a primary care physician selected by the covered person from a list of available participating providers;

"(F) prohibit or limit the use of utilization review procedures or criteria by a qualified utilization review program or a qualified managed care plan;

"(G) require a qualified utilization review program or a qualified managed care plan to make public utilization review procedures or criteria;

"(H) prohibit or limit a qualified utilization review program or a qualified managed care plan from determining the location or hours of operation of a utilization review, provided that emergency services furnished during the hours in which the utilization review program is not open are not subject to utilization review;

"(I) require a qualified utilization review program or a qualified managed care plan to pay providers for the expenses associated with responding to requests for information needed to conduct utilization review, other than as provided in standards for qualified managed care plans and qualified utilization review programs;

"(J) restrict the amount of payment made to a qualified utilization review program or a qualified managed care plan for the conduct of utilization review;

"(K) restrict access by a qualified utilization review program or a qualified managed care plan to medical information or personnel required to conduct utilization review;

"(L) define utilization review as the practice of medicine or another health care profession; or

"(M) require that utilization review be conducted (i) by a resident of the State in which the treatment is to be offered or by an individual licensed in such State, or (ii) by a physician in any particular specialty or with any board certified specialty of the same medical specialty as the provider whose services are being rendered.

"(2) EXCEPTIONS TO CERTAIN REQUIREMENTS.—

"(A) SUBPARAGRAPH (C).—Subparagraph (C) shall not apply where the amount of payments with respect to a block of services or providers is established under a statewide system applicable to all non-Federal payors with respect to such services or providers.

"(B) SUBPARAGRAPHS (L) AND (M).—Nothing in subparagraphs (L) or (M) shall be construed as prohibiting a State from (i) requiring that utilization review be conducted by a licensed health care professional or (ii) requiring that any appeal from such a review be made by a licensed physician or by a licensed physician in any particular specialty or with any board certified specialty of the same medical specialty as the provider whose services are being rendered.

"(3) RELATIONSHIP TO MEDICAID PROGRAM.—Nothing in paragraph (1) shall be construed as prohibiting a State from imposing requirements on managed care plans or utilization review programs that are necessary to conform with the requirements of title XIX of the Social Security Act with respect to services provided to, or with respect to, individuals receiving medical assistance under such title.".

SEC. 2253. ADDITIONAL FUNDING FOR OUTCOMES RESEARCH.

Section 1142(i) of the Social Security Act is amended—

(1) in paragraph (1), to read as follows:

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this section—

"(A) $175,000,000 for fiscal year 1992;

"(B) $225,000,000 for fiscal year 1993;

"(C) $275,000,000 for fiscal year 1994; and

"(D) $300,000,000 for fiscal year 1995."; and

(2) in paragraph (2), by striking out "70 percent" and inserting in lieu thereof "50 percent".

PART V—MEDICARE PREVENTION BENEFITS

SEC. 2261. COVERAGE OF CERTAIN IMMUNIZATIONS.

(a) IN GENERAL.—Section 1861(s)(10) of the Social Security Act (42 U.S.C. 1395x(s)(10)) is amended—

(1) in subparagraph (A), by striking "and, subject to section 4071 of the Omnibus Budget Reconciliation Act of 1987, influenza vaccine and its administration; and" and inserting a comma; and

(2) by adding at the end the following new subparagraphs:

"(C) influenza vaccine and its administration, and

"(D) tetanus-diphtheria booster and its administration;".

(b) LIMITATION ON FREQUENCY.—Section 1862(a)(1) of such Act (42 U.S.C. 1395y(a)(1)) is amended—

(1) in subparagraph (E), by striking "and" at the end;

(2) in subparagraph (F), by striking the semicolon at the end and inserting ", and"; and

(3) by adding at the end the following new subparagraph:

"(G) in the case of an influenza vaccine, which is administered within the 11 months after a previous influenza vaccine, and, in the case of a tetanus-diphtheria booster, which is administered within the 119 months after a previous tetanus-diphtheria booster;".

(c) CONFORMING AMENDMENT.—Section 1862(a)(7) of such Act (42 U.S.C. 1395y(a)(7)) is amended by striking "and paragraph (1)(B) or under paragraph (1)(F)" and inserting "or under subparagraph (B), (F), or (G) of paragraph (1)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to influenza vaccines administered on or after October 1, 1992, and tetanus-diphtheria boosters administered on or after January 1, 1993.

SEC. 2262. COVERAGE OF WELL-CHILD CARE.

(a) IN GENERAL.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)) is amended—

(1) by striking "and" at the end of subparagraph (O);

(2) by striking the semicolon at the end of subparagraph (P) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(Q) well-child services (as defined in subsection (ll)(1)) provided to an individual entitled to benefits under this title who is under 7 years of age;".

(b) SERVICES DEFINED.—Section 1861 of such Act (42 U.S.C. 1395x) is amended—

(1) by redesignating the subsection (jj) added by section 4163(a)(2) of the Omnibus Budget Reconciliation Act of 1990 as subsection (kk); and

(2) by inserting after subsection (kk) (as so redesignated) the following new subsection:

"WELL-CHILD SERVICES

"(ll)(1) The term 'well-child services' means well-child care, including routine office visits, routine immunizations (including the vaccine itself), routine laboratory tests, and preventive dental care, provided in accordance with the periodicity schedule established with respect to the services under paragraph (2).

"(2) The Secretary, in consultation with the American Academy of Pediatrics, the Advisory Committee on Immunization Practices, and other entities considered appropriate by the Secretary, shall establish a schedule of periodicity which reflects the appropriate frequency with which the services referred to in paragraph (1) should be provided to healthy children.".

(c) CONFORMING AMENDMENTS.—(1) Section 1862(a)(1) of such Act (42 U.S.C. 1395y(a)(1)), as amended by section 2261(b), is amended—

(A) in subparagraph (F), by striking "and" at the end;

(B) in subparagraph (G), by striking the semicolon at the end and inserting ", and"; and

(C) by adding at the end the following new subparagraph:

"(H) in the case of well-child services, which are provided more frequently than is provided under the schedule of periodicity established by the Secretary under section 1861(ll)(2) for such services;".

(2) Section 1862(a)(7) of such Act (42 U.S.C. 1395y(a)(7)), as amended by section 2261(c), is amended by striking "or (G)" and inserting "(G), or (H)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to well-child services provided on or after January 1, 1993.

SEC. 2263. DEMONSTRATION PROJECTS FOR COVERAGE OF OTHER PREVENTIVE SERVICES.

(a) ESTABLISHMENT.—The Secretary of Health and Human Services (hereafter referred to as the "Secretary") shall establish and provide for a series of ongoing demonstration projects under which the Secretary shall provide for coverage of the preventive services described in subsection (c) under the medicare program in order to determine—

(1) the feasibility and desirability of expanding coverage of medical and other health services under the medicare program to include coverage of such services for all individuals enrolled under part B of title XVIII of the Social Security Act; and

(2) appropriate methods for the delivery of those services to medicare beneficiaries.

(b) SITES FOR PROJECT.—The Secretary shall provide for the conduct of the demonstration projects established under subsection (a) at the sites at which the Secretary conducts the demonstration program established under section 9314 of the Consolidated Omnibus Budget Reconciliation Act of 1985 and at such other sites as the Secretary considers appropriate.

(c) SERVICES COVERED UNDER PROJECTS.—The Secretary shall cover the following services under the series of demonstration projects established under subsection (a):

(1) Glaucoma screening.

(2) Cholesterol screening and cholesterol-reducing drug therapies.

(3) Screening and treatment for osteoporosis, including tests for bone-mass measurement and hormone replacement therapy.

(4) Screening services for pregnant women, including ultrasound and chlamydial testing and maternal serum alfa-protein.

(5) One-time comprehensive assessment for individuals beginning at age 65 or 75.

(6) Prostate-specific antigen (PSA) testing.

(7) Other services considered appropriate by the Secretary.

Not more than one such service shall be covered at each site.

(d) REPORTS TO CONGRESS.—Not later than October 1, 1994, and every 2 years thereafter, the Secretary shall submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives describing findings made under the demonstration projects conducted pursuant to subsection (a) during the preceding 2-year period and the Secretary's plans for the demonstration projects during the succeeding 2-year period.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Federal Supplementary Medical Insurance Trust Fund for expenses incurred in carrying out the series of demonstration projects established under subsection (a) the following amounts:

(1) $4,000,000 for fiscal year 1993.

(2) $4,000,000 for fiscal year 1994.

(3) $5,000,000 for fiscal year 1995.

(4) $5,000,000 for fiscal year 1996.

(5) $6,000,000 for fiscal year 1997.

SEC. 2264. OTA STUDY OF PROCESS FOR REVIEW OF MEDICARE COVERAGE OF PREVENTIVE SERVICES.

(a) STUDY.—The Director of the Office of Technology Assessment (hereafter referred to as the "Director") shall, subject to the approval of the Technology Assessment Board, conduct a study to develop a process for the regular review for the consideration of coverage of preventive services under the medicare program, and shall include in such study a consideration of different types of evaluations, the use of demonstration projects to obtain data and experience, and the types of measures, outcomes, and criteria that should be used in making coverage decisions.

(b) REPORT.—Not later than 2 years after the date of the enactment of this section, the Director shall submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives on the study conducted under subsection (a).

SEC. 2265. FINANCING OF ADDITIONAL BENEFITS.

(a) PREMIUMS FOR 1993–1995.—Section 1839(e)(1)(B) of the Social Security Act (42 U.S.C. 1395r(e)(1)(B)) is amended—

(1) in clause (iii) by striking "$36.60" and inserting "$36.70",

(2) in clause (iv) by striking "$41.10" and inserting "$41.20", and

(3) in clause (v) by striking "$46.10" and inserting "$46.20".

(b) PREMIUMS FOR 1996–1997.—(1) Section 1839 of the Social Security Act (42 U.S.C. 1395r) is amended by adding at the end the following new subsection:

"(g) Except as provided in subsections (b) and (f), the monthly premium otherwise determined, without regard to this subsection, for each individual enrolled under this part shall be increased by 10 cents for each month in 1996 and 1997.".

(2) Section 1839 of such Act (42 U.S.C. 1395r) is amended—

(A) in subsection (a)(2), by striking "(b) and (e)" and inserting "(b), (e), and (g)",

(B) in subsection (a)(3), by striking "subsection (e)" and inserting "subsections (e) and (g)", and

(C) in subsection (b), by striking "determined under subsection (a) or (e)" and inserting "otherwise determined under this section (without regard to subsection (f))".

PART VI—OZONE-DEPLETING CHEMICALS

SEC. 2271. INCREASED BASE TAX RATE ON OZONE-DEPLETING CHEMICALS AND EXPANSION OF LIST OF TAXED CHEMICALS.

(a) IN GENERAL.—Paragraph (1) of section 4681(b) (relating to amount of tax) is amended to read as follows:

"(B) BASE TAX AMOUNT.—The base tax amount for purposes of subparagraph (A) with respect to any sale or use during a calendar year before 1996 with respect to any ozone-depleting chemical is the amount determined under the following table for such calendar year:

Calendar year:	Base Tax Amount: Base Tax Amount:
1992	$1.85
1993	2.75
1994	3.65
1995	4.55."

(b) CONFORMING AMENDMENTS.—

(1) RATES RETAINED FOR CHEMICAL USED IN RIGID FOAM INSULATION.—The table in subparagraph (B) of section 4682(g)(2) (relating to chemicals used in rigid foam insulation) is amended—

(A) by striking "15" and inserting "13.5", and

(B) by striking "10" and inserting "9.6".

(2) FLOOR STOCK TAXES.—

(A) Subparagraph (C) of section 4682(h)(2) (relating to other tax-increase dates) is amended by striking "1993, and 1994" and inserting "1993, 1994, and 1995, and July 1, 1992".

(B) Paragraph (3) of section 4682(h) (relating to due date) is amended—

(i) by inserting "or July 1" after "January 1", and

(ii) by inserting "or December 31, respectively," after "June 30".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable chemicals sold or used on or after July 1, 1992.

PART VII—HEALTH CARE OF COAL MINERS

SEC. 2281. SHORT TITLE.

This part may be cited as the "Coal Industry Retiree Health Benefit Act of 1991".

SEC. 2282. FINDINGS AND DECLARATION OF POLICY.

(a) FINDINGS.—The Congress finds that—

(1) coal provides a significant portion of the energy used in the United States;

(2) the production, transportation and use of coal affects interstate and foreign commerce and the national public interest;

(3) a significant portion of the national work force has been employed in the production of coal for interstate and foreign commerce and in the national interest;

(4) the Government of the United States has regulated the coal industry, employment in the industry, and the provision of retirement benefits within the industry;

(5) the continued well-being and security of employees, retirees and their dependents within the coal industry are directly affected by the provision of health benefits to retirees and their dependents;

(6) for many decades, the provision of adequate health care for retirees has been an essential element in maintaining a stable and strong coal industry as an important component in a strong United States economy;

(7) an important element in the privately maintained benefit plans now experiencing financial difficulty has been the provision of health benefits for retirees of companies no longer in business; and

(8) withdrawals of contributing employers from privately maintained benefit plans under collective bargaining agreements derived from an agreement with the United States, covering retirees within the coal industry, result in substantially increased funding burdens for employers that continue to contribute to such plans, adversely affect labor-management relations and the stability and strength of the coal industry, and impair the provision of health care to retirees.

(b) ADDITIONAL FINDINGS.—The Congress further finds that—

(1) it is necessary to modify and reform the current private benefit plan structure for retirees within the coal industry in order to stabilize the provision of health care benefits to such retirees; and

(2) it is necessary to supplement the current private benefit plan structure with a benefit protection program that will assure continued funding and contain program costs.

(c) DECLARATION OF POLICY.—It is hereby declared to be the policy of this part—

(1) to remedy problems that discourage the provision, funding, and delivery of health care to coal industry retirees;

(2) to provide reasonable protection for the health benefits of coal industry retirees;

(3) to require use of state-of-the-art cost containment and managed care measures as part of the overall package of health care delivery and financing; and

(4) to provide a financially self-sufficient program for the provision of retiree health benefits in the coal industry.

SEC. 2283. COAL INDUSTRY HEALTH BENEFITS PROGRAM.

(a) IN GENERAL.—The Internal Revenue Code of 1986 is amended by adding at the end thereof the following new subtitle:

"Subtitle J—Coal Industry Health Benefits

"CHAPTER 99. Coal industry health benefits.

"CHAPTER 99—COAL INDUSTRY HEALTH BENEFITS

"SUBCHAPTER A. Coal Industry Retiree Health Benefits Corporation.

"SUBCHAPTER B. Eligibility for and payment of benefits.

"SUBCHAPTER C. Other provisions.

"Subchapter A—Coal Industry Retiree Health Benefit Corporation

"Sec. 9701. Establishment of the Corporation.

"Sec. 9702. Directors of Corporation.

"Sec. 9703. Powers; tax status.

"Sec. 9704. Operation of Corporation.

"SEC. 9701. ESTABLISHMENT OF THE CORPORATION.

"There is hereby created the Coal Industry Retiree Health Benefit Corporation (hereafter in this chapter referred to as the 'Corporation'), which shall be a governmental body corporate under the direction of a board of directors. Within the limitations of law and regulation, the board of directors shall determine the general policies that govern the operations of the Corporation. The principal office of the Corporation shall be in the District of Columbia or at any other place determined by the Corporation.

"SEC. 9702. DIRECTORS OF CORPORATION.

"(a) APPOINTMENT.—The board of directors of the Corporation shall consist of 5 persons, who shall be appointed by the Secretary of Labor. The board shall at all times have the following as members:

"(1) 2 persons from employers in the coal-mining industry (only 1 of whom shall be from an entity that is or was a settlor of a plan described in section 404(c));

"(2) 1 person from an organization that represents coal industry employees (and that is or was a settlor of a plan described in section 404(c));

"(3) 1 person from another labor organization representing employees (whether or not in the coal industry); and

"(4) 1 other person who shall serve as the chairman.

"(b) TERMS OF OFFICE, SUCCESSORS.—Each director shall be appointed for a term of 3 years, except for the initial term. The initial terms of the directors shall be as follows:

"Coal industry employee representative (section 404(c) settlor)	4 years
"Coal-mining industry employer (section 404(c) settlor)	3 years
Other employee representative	3 years
Other coal-mining industry employer	2 years
Chairman	1 year.

A vacancy on the board shall be filled in the same manner as the original appointment was made. Any director appointed to fill a vacancy occurring prior to the expiration of the term for which the predecessor was appointed shall be appointed for the remainder of such term. A director may serve after the expiration of a term until a successor has taken office.

"(c) QUORUMS.—Vacancies on the board shall not impair the powers of the board to execute the functions of the Corporation so long as there are 3 members in office. The presence of 3 members shall constitute a quorum for the transaction of the business of the board.

"(d) INDEPENDENT AUDIT.—The Corporation shall annually employ an independent certified or licensed public accountant who shall examine and audit the books and financial transactions of the Corporation. The Corporation shall, not later than June 30 of each year, submit to the Congress a report describing the activities of the Corporation under this chapter.

"(e) ADOPTION OF BYLAWS; AMENDMENT; ALTERATION; PUBLICATION IN THE FEDERAL REGISTER.—As soon as practicable, but not later than 180 days after the date of the enactment of this chapter, the board shall adopt initial bylaws and rules relating to the conduct of the business of the Corporation. Thereafter, the board may alter, supplement or repeal any existing bylaw or rule, and may adopt additional bylaws and rules from time to time as may be necessary. Any bylaw or rule relating to the conduct or business of the Corporation shall be adopted in compliance with the Administrative Procedure Act, including the notice and comment provisions thereof.

"SEC. 9703. POWERS; TAX STATUS.

"(a) POWERS OF CORPORATION.—The Corporation shall have power—

"(1) to adopt, alter, and use a corporate seal;

"(2) to have succession until dissolved by Act of Congress;

"(3) to make and enforce such bylaws, rules, and regulations as may be necessary or appropriate to carry out the purposes or provisions of this chapter;

"(4) to make and perform contracts, agreements, and commitments;

"(5) to prescribe and impose fees and charges for services by the Corporation;

"(6) to settle, adjust, and compromise, and with or without consideration or benefit to the Corporation, to release or waive in whole or in part, in advance or otherwise, any claim, demand, or right of, by, or against the Corporation;

"(7) to sue and be sued, complain and defend, in any State, Federal, or other court;

"(8) to acquire, take, hold, and own, and to deal with and dispose of any property;

"(9) to determine its necessary expenditures and the manner in which the same shall be incurred, allowed, and paid, and to appoint, employ, and fix and provide for the compensation and benefits of officers, employees, attorneys, and agents;

"(10) to borrow funds from the United States Treasury for startup and operating costs;

"(11) to collect delinquent accounts; and

"(12) to execute instruments, to incur liabilities, and to do any and all other acts and things as may be necessary or incidental to the conduct of its business and the exercise of all other rights and powers granted to the Corporation by this chapter.

"(b) EXEMPTION FROM TAXATION.—The Corporation, its property, its franchise, capital, reserves, surplus, and its income (including but not limited to, any income of any fund established under section 9704(f)), shall be exempt from all taxation now or hereafter imposed by *the United States (other than taxes imposed under chapter 21, relating to the Federal Insurance Contributions Act and chapter 23, relating to the Federal Unemployment Tax Act) or by any State or local taxing authority, except that any real property and any tangible personal property (other than cash and securities) of the Corporation shall be subject to State and local taxation to the same extent according to its value as other real and tangible personal property is taxed.*

"(c) CORPORATION AS AGENCY.—Notwithstanding section 1349 of title 28 or any other provision of law—

"(1) the Corporation shall be deemed to be an agency included in sections 1345 and 1442 of such title 28;

"(2) all civil actions to which the Corporation is a party shall be deemed to arise under the laws of the United States, and the district courts of the United States shall have original jurisdiction of all such actions, without regard to amount or value; and

"(3) any civil or other action, case or controversy in a court of a State, or any court other than a district court of the United States, to which the Corporation is a party may at any time before the trial thereof be removed by the Corporation to the United States district court for the district and division embracing the place where the same is pending, or if there is no such district court, to the district court of the United States for the district in which the principal office of the Corporation is located, by following any procedure for removal of causes in effect at the time of such removal. No attachment or execution shall be issued against the Corporation or any of its property before final judgment in any State, Federal, or other court.

"(d) REPORT TO CONGRESS.—No later than 5 years after the effective date of this chapter, the Corporation shall present a report to Congress on its activities, including an evaluation of the effectiveness of the Corporation in achieving its goals, and recommending any changes to this chapter as it considers beneficial. At such time, Congress shall review the activities and operations of the Corporation.,

"SEC. 9704. OPERATION OF CORPORATION.

"(a) INVESTIGATORY AUTHORITY.—

"(1) The Corporation may make such investigations as it deems necessary to enforce any provision of this chapter or any rule or regulation thereunder, and may require or permit any person to file with it a statement in writing, under oath or otherwise as the Corporation shall determine, as to all the facts and circumstances concerning the matter to be investigated.

"(2) The Corporation shall keep strictly confidential all information received relating to—

"(A) trade secrets or financial or commercial information pertaining specifically to a given person, the disclosure of which could cause competitive injury to such person, or

"(B) personnel or medical data or similar data, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy,

unless the portions containing such matters, information, or data have been excised, but may use such information to the extent necessary to enforce the premium obligation imposed under subsection (g).

"(b) DISCOVERY POWERS VESTED IN BOARD OR DESIGNATED OFFICERS.—For the purpose of any investigation described in subsection (a), or any other proceeding under this chapter, the board or any officer designated by the board, may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence and require the production of any books, papers, correspondence, memoranda or other records which the Corporation deems relevant or material to the inquiry.

"(c) CONTEMPT.—In case of contumacy by, or refusal to obey, a subpoena issued to any person, the Corporation may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on (or where such person resides or carries on business) in requiring the attendance and testimony of witnesses and the production of books, papers, correspondence, memoranda and other records. The court may issue an order requiring such person to appear before the Corporation, and to produce records or to give testimony related to the matter under investigation or in question. Any failure to obey such order of the court may be punished by the court as a contempt thereof. All process in any such case may be served in the judicial district in which such person is an inhabitant or may be found.

"(d) COOPERATION WITH GOVERNMENTAL AGENCIES.—In order to avoid unnecessary expense and duplication of functions among government agencies, the Corporation may make such arrangements or agreements for cooperation or mutual assistance in the performance of its functions under this chapter as is practicable and consistent with law. The Corporation may utilize the facilities or services of any department, agency or establishment of the United States or of any State or political subdivision of a State, including the services of any of its employees, with the lawful consent of such department, agency or establishment. The head of each department, agency or establishment of the United States shall cooperate with the Corporation and, to the extent permitted by law, provide such information and facilities as it may request for its assistance in the performance of its functions under this chapter.

"(e) CIVIL ACTIONS.—

"(1) Civil actions may be brought by the Corporation for appropriate relief, legal or equitable or both, to enforce the provisions of this chapter.

"(2) Except as otherwise provided in this chapter, if an action is brought in a district court of the United States, it may be brought in the district where the Corporation is administered, where the violation took place, or where a defendant resides or may be found, and process may be served in any other district where a defendant resides or may be found.

"(3) The district courts of the United States shall have jurisdiction of actions brought by the Corporation under this chapter without regard to the amount in controversy in any such action.

"(4)(A) An action under this subsection may not be brought after the later of—

"(i) 6 years after the date on which the cause of action arose; or

"(ii) 3 years after the applicable date specified in subparagraph (B).

"(B) The applicable date specified in this subparagraph is the earliest date on which the Corporation acquired or should have acquired actual knowledge of the existence of such cause of action.

"(C) For purposes of this paragraph, in an action by the Corporation to collect premiums due under this chapter, the cause of action shall be treated as having arisen no earlier than the date on which the premium was due.

"(5) In any action brought under this chapter, whether to collect premiums, penalties (in the amount determined by the Corporation, which shall be no greater than the greater of interest on the unpaid premium or 20 percent of the amount of the unpaid premium), or interest (at the rate determined by the Corporation) or for any other purpose, in which a judgment in favor of the Corporation is awarded, the court shall award the Corporation its costs and reasonable counsel fees.

"(f) ESTABLISHMENT OF COAL INDUSTRY RETIREE BENEFIT FUND.—

"(1) Except as provided in paragraph (2), the Corporation shall establish a Coal Industry Retiree Benefit Fund (hereafter in this chapter referred to as the 'Fund'). All amounts received by the Corporation shall be deposited in the Fund, and all expenditures made by the Corporation shall be made out of the Fund.

"(2) The Corporation shall transfer to the Secretary of the Treasury for deposit in the general fund of the Treasury of the United States any portion of the premiums received under subsection (g) which are allocable to the portion of such premiums which are imposed to offset Federal revenue losses by reason of deductions being allowed under chapter 1 with respect to such premiums.

"(3) Except as otherwise provided in this chapter, the balance of the Fund shall at any time consist of the aggregate at such time of the following items:

"(A) Cash on hand or on deposit.

"(B) Amounts invested in United States Government or agency securities.

"(g) IMPOSITION OF PREMIUM PAYMENT OBLIGATION.—

"(1)(A) There is hereby imposed on each person that produces bituminous coal for use or for sale the obligation to pay to the Corporation an hourly premium equal to—

"(i) in the case of bituminous coal produced in an eastern State, 99 cents on each hour worked in coal production work by such person's employees, or

"(ii) in the case of bituminous coal produced in a western State, 15 cents on each hour worked in coal production work by such person's employees.

"(B)(i) There is hereby imposed on bituminous coal imported to the United States, for use or for sale, a per-ton premium obligation to be paid to the Corporation. Such premium is intended to be equivalent to the premium imposed on domestically produced bituminous coal.

"(ii) The amount of the per-ton premium shall be the tonnage equivalent of the hourly premium imposed pursuant to subparagraph (A). The initial amount of the per-ton premium shall be 25 cents per ton of coal imported to the United States for use or sale.

"(iii) For purposes of this subparagraph, the 'tonnage equivalent' shall mean a premium rate assessed upon each ton of coal imported to the United States that is equivalent to the hourly premium, based upon typical productivity as determined under rules established by the Corporation. Prior to the establishment of such rules, the tonnage equivalent to the hourly premium shall be the percentage of the hourly premium specified by the Corporation.

"(iv) In the event an importer of bituminous coal has reason to believe that the amount of the tonnage equivalent determined pursuant to the preceding clauses does not accurately reflect the actual productivity involved in producing coal, such importer may provide evidence to the Corporation demonstrating such inaccuracies. The Corporation shall reevaluate the tonnage equivalent premium amount for the complaining importer, and shall take such evidence into account.

"(v) For purposes of this subparagraph, the term 'ton' means 2,000 pounds, and the term 'United States' means any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and the Outer Continental Shelf lands defined in the Outer Continental Shelf Lands Act (43 U.S.C. 1331–1343).

"(C)(i) In addition to the amounts specified in subparagraphs (A) and (B), each last signatory operator and each other employer referred to in this subparagraph shall pay to the Corporation an annual per beneficiary premium. The

amount of the annual per beneficiary premium shall be product of the total number of orphan miners, spouses, surviving spouses, and dependents (determined under section 9711) attributable to such last signatory operator or employer and the per beneficiary premium as calculated in clause (iii).

"(ii) For purposes of this subparagraph, an orphan miner (and his spouse, surviving spouse and dependents) shall be attributable—

"(I) to an employer if his employment with such employer resulted in his eligibility under section 9711(b)(1)(E); or

"(II) to a last signatory operator meeting the conditions described in section 9723(6) with respect to such orphan miner.

"(iii)(I) The Corporation shall establish the amount of the per beneficiary premium each year, which shall be equal to the quotient of the projected cost of operating the Corporation during the succeeding year divided by the total number of orphan miners, spouses, surviving spouses, and dependents receiving benefits during the current year. In projecting the cost of operating the Corporation, the anticipated benefit experience and administrative expenses as a whole, and amounts needed to eliminate any accumulated deficit, shall be taken into account.

"(II) The Corporation shall have the power to adjust the amount of the annual per beneficiary premium where necessary to take into account unanticipated changes in the cost of the operating the Corporation, unanticipated changes in the number of orphan miners, spouses, surviving spouses, and dependents attributable to the last signatory operator or employer, or both.

"(III) As of the date any per beneficiary premium obligation is due under this subparagraph, the persons described in section 9723(5) (B) and (C) with respect to any last signatory operator or employer shall be treated as such last signatory operator or employer, and shall be jointly and severally liable for such obligation.

"(iv) A last signatory operator shall have no liability under this subparagraph if—

"(I) as of November 5, 1990, and for all periods thereafter, such last signatory operator, and the persons described in section 9723(5) (B) and (C) with respect to such last signatory operator, have ceased all involvement in the mining, production, preparation, marketing, sale, distribution, transportation, leasing or licensing of coal; and

"(II) such last signatory operator, and the persons described in section 9723(5) (B) and (C) with respect to such last signatory operator, were, in the aggregate, involved in the production of fewer than 50,000 tons of coal during each of the 3 years immediately preceding the cessation of such involvement.

The limitation of liability set forth in the preceding sentence shall cease to apply at any time that a last signatory operator, or any persons described in section 9723(5) (B) and (C) with respect to such last signatory operator, ceases to meet the conditions described in subclause (I).

"(v) The annual per beneficiary premium shall be payable in equal monthly installments, due by the tenth day of each month. In no event shall a last signatory operator be obligated to pay a per beneficiary premium for an individual for any month for which the last signatory operator has paid its required assessment for such individual under section 9713(d).

"(vi) A last signatory operator shall have no liability under this subparagraph if as of January 1, 1992, and for all periods thereafter, such last signatory operator and the persons described in section 9723(5) (B) and (C) with respect to such last signatory operator, have ceased all involvement in the production, sale, distribution, transportation, or use in processes for producing products of the operator and such persons, of bituminous or sub-bituminous coal (other than the sale or leasing of any interest in coal reserves).

"(2)(A) In the event that a person required to make payments under paragraph (1) fails to do so, the Corporation shall assess liability against the person, based upon the Corporation's estimate of the person's liability.

"(B) No later than 90 days after the assessment of liability by the Corporation, the person may request administrative review of the Corporation's assessment, in accordance with procedures adopted by the Corporation.

"(C) Notwithstanding the pendency of administrative review of any assessment of liability, the person shall, no later than 30 days after the assessment of such liability, pay all amounts required by the assessment in accordance with any payment schedule applied by the Corporation. In the event a person fails to make such payments, all amounts owed by the person shall become immediately due and payable.

"(D) In the event the person that has made payments in accordance with subparagraph (C) is ultimately determined, in accordance with subparagraph (B), to have paid in excess of the amounts actually due, the person shall receive a refund of such excess amounts, with interest.

"(3) The Corporation shall have the power to adjust the amount of the premiums imposed under subparagraphs (A)(i) and (B) of paragraph (1) where necessary to enable the provision of benefits under section 9712. Any such adjustment shall reflect the reduction in Federal revenues by reason of deductions being allowed under chapter 1 with respect to such premiums.

"(4) Premiums owed under subparagraphs (A) and (B) of paragraph (1) shall be due on the tenth day of each calendar month immediately following the month in which the coal is produced or imported, and shall be paid to the Corporation in accordance with forms and schedules promulgated by the Corporation.

"(5) The premium obligation imposed under this section shall take effect on the date of the enactment of this chapter. Premiums paid under this section shall be deemed to be fully deductible under this title without regard to any limitation on deductibility set forth in this title.

"(6) For purposes of this subsection—

"(A) the term 'bituminous coal' means coal classified as bituminous coal according to the publication of the American Society for Testing and Materials under the title 'Standard Classification of Coals by Rank' (ASTM D 388–91a), as in effect on the date of the enactment of this chapter, and

"(B) the term "Eastern States" includes Alabama, Connecticut, Delaware, the District of Columbia, Florida, Georgia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and Wisconsin; and

"(C) the term "Western States" includes Alaska, Arizona, Arkansas, California, Colorado, Hawaii, Idaho, Iowa, Kansas, Louisiana, Minnesota, Missouri, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming.

"Subchapter B—Eligibility for and Payment of Benefits

"Sec. 9711. Eligibility; orphan miners.
"Sec. 9712. Payment of benefits.
"Sec. 9713. Establishment of Coal Industry 1991 Benefit Fund.
"Sec. 9714. Obligation of last signatory operator to provide benefits to retirees.
"Sec. 9715. Transition benefits; premium nonpayment; transfers between 1991 Fund and Corporation.

"SEC. 9711. ELIGIBILITY; ORPHAN MINERS.

"(a) In General.—Any person who is an orphan miner, as defined in subsection (b), or who meets the conditions set forth in subsection (c), shall be eligible to receive benefits provided by the Corporation pursuant to section 9712, except that no person shall be eligible to receive benefits from the Corporation because of a failure to receive benefits resulting from a temporary labor dispute.

"(b) Orphan Miner Status.—For purposes of this section—

"(1) An orphan miner is any person who—

"(A)(i) as of the date of enactment of this chapter, was eligible to receive benefits as a retiree from a plan described in section 9721(d) (or, but for the enactment of this chapter, would be eligible to receive benefits as a retiree from the plan described in section 9721(d)(2)(A)), and

"(ii) is not receiving benefits as a retiree from a plan described in section 9721(d) or from the plan established pursuant to section 9713;

"(B) is not described in subparagraph (A), but was eligible to receive benefits as a retiree from the plan established pursuant to section 9713 and is not receiving benefits from such plan;

"(C)(i) is receiving a pension from the defined benefit pension plan maintained pursuant to the agreement described in section 9723(7) (other than the plan described in section 9721(c)),

"(ii) but for the enactment of this chapter, would be eligible to receive medical benefits as a retiree as of February 1, 1993, from the plan described in section 9721(d)(2)(B), and

"(iii) is not receiving medical benefits as a retiree from the plan described in section 9721(d)(2)(B) or from any other plan;

"(D)(i) is receiving a pension from the defined benefit pension plan maintained pursuant to the agreement described in section 9723(7) (other than the plan described in section 9721(c));

"(ii) as of February 1, 1993, had earned 20 years of credited service under such plan;

"(iii) is at any time after beginning to receive such pension not receiving retiree medical benefits equal to the benefits in effect at that time under the plans described in section 9712(b)(3); and

"(iv) meets the eligibility requirements for retiree medical benefits then in effect under such plans; or

"(E)(i) was eligible as a result of coal production work performed in the bituminous, sub-bituminous or lignite coal industry to receive retiree medical benefits from a health care plan that met the requirements of subparagraphs (D) and (E) of paragraph (2);

"(ii) initially ceased to receive retiree medical benefits on or after the date of enactment of this chapter, despite continued eligibility therefore;

"(iii) had been receiving such benefits from a plan that had been in existence for at least 3 years prior to the cessation of benefits; and

"(iv) was included in a category of retirees that had been eligible to receive benefits for at least 3 years prior to the cessation of benefits.

"(2) For purposes of paragraph (1)(E), the following rules shall apply:

"(A) Eligibility is continuing where benefits ceased incident to an employer's cessation of operations, but is not continuing where benefits ceased pursuant to a lawful termination or modification of a plan (under circumstances other than a cessation of operations).

"(B) In the case of any individual who has 20 years of credited service under a defined benefit pension plan maintained pursuant to the agreement described in section 9723(7), or who was otherwise eligible to receive retiree medical benefits from a single employer health care plan pursuant to a coal wage agreement, all health care plans in which such individual was a participant during a period of such credited service or during such period of eligibility shall be taken

into account in determining whether the 3-year tests have been met.

"(C) In the case of an employer that established a new health care plan as a replacement for a prior plan, such prior plan shall be taken into account in determining whether the 3-year tests have been met.

"(D) A health care plan meets the requirements of this subparagraph if the employer maintaining the plan, a labor organization representing the employees of the employer, or an employee of the employer submits a copy of the plan to the Corporation within 180 days from the later of—

"(i) the date of establishment of the plan; or

"(ii) the date of enactment of this chapter.

"(E) A health care plan meets the requirements of this subparagraph if the employer maintaining the plan, a labor organization representing the employees of the employer, or an employee of the employer submits a copy of any amendment or modification to the plan to the Corporation within 180 days from the later of—

"(i) the date of such amendment or modification; or

"(ii) the date of enactment of this chapter.

"(c) ELIGIBILITY OF SPOUSES AND DEPENDENTS.—

"(1) A spouse, surviving spouse or dependent of an orphan miner or a deceased coal miner meets the conditions of this section if such individual was eligible to receive benefits from a plan described in section 9721(d) as of the date of enactment of this chapter, and is not receiving benefits from that plan or from the plan established pursuant to section 9713.

"(2) A spouse, surviving spouse or dependent of an orphan miner or a deceased coal miner meets the conditions of this section if such individual is not described in paragraph (1), but was eligible to receive benefits from the plan established pursuant to section 9713 and is not receiving benefits from such plan.

"(3) In the case of any spouse, surviving spouse or dependent of an orphan miner described in subsection (b)(1)(A) or (b)(1)(C) of this section, eligibility shall be based upon the rules set forth in the plans described in section 9721(d) as of the date of enactment of this chapter. In the case of any spouse, surviving spouse or dependent of an orphan miner described in subsection (b)(1)(D), eligibility shall be based upon the rules set forth in individual employer plans maintained pursuant to the agreement described in section 9723(7) on the date that the orphan miner first became eligible for benefits from the Corporation. In all other cases, eligibility shall be based upon the rules of the plan that was or would have been applicable to the orphan miner or deceased coal miner for the 3-year period preceding eligibility for benefits from the Corporation. The Corporation is authorized to promulgate regulations consistent with this paragraph establishing the eligibility of other spouses, surviving spouses and dependents of orphan miners or deceased coal miners for health benefits.

"(d) REENROLLMENT OF ORPHAN MINERS AND BENEFICIARIES.—The Corporation and the joint board of trustees of the plan established pursuant to section 9713 shall cooperate to review the eligibility of individuals under this section. Pending such review, any individual receiving benefits from a plan described in section 9721(d) as of the date of enactment of this chapter shall be presumed to meet the first part of the eligibility tests of subsections (b)(1)(A) and (c)(1). However, no individual shall be considered eligible to receive benefits provided by the Corporation unless a determination is made that such individual in fact met or meets all eligibility requirements necessary to receive benefits as required under subsection (b) or (c). No individual shall be eligible under subsection (b)(1)(A) or (c)(1) if such individual was finally determined to be ineligible to receive benefits from a plan described in section 9721(d) prior to the date of enactment of this chapter.

"SEC. 9712. PAYMENT OF BENEFITS.

"(a) IN GENERAL.—The Corporation shall provide medical benefits to orphan miners, their spouses, surviving spouses and dependents, who meet the eligibility requirements of section 9711, and shall provide coverage for death benefits to orphan miners eligible for such benefits. The board shall establish schedules of benefits applicable to classes of orphan miners, their spouses, surviving spouses and dependents, in accordance with this section. All benefit obligations of the Corporation shall be contingent upon the continued imposition of an hourly premium payment obligation as specified in section 9704(g)(1)(A).

"(b) BENEFIT LEVELS.—

"(1) An orphan miner eligible for benefits pursuant to section 9711(b)(1)(A) or 9711(b)(1)(C) shall be entitled to benefit coverage that is substantially the same as (but not exceeding) the coverage provided by the plans described in section 9721(d) as of the date of enactment of this chapter, and shall be subject to all limitations of such coverage. Such orphan miner shall also be eligible for death benefits, which shall be equal to the death benefits provided as of the date of enactment of this chapter under the plan described in section 9721(c).

"(2) An orphan miner eligible for benefits pursuant to section 9711(b)(1)(B) or 9711(b)(1)(E) shall be entitled to a level of benefits and benefit coverage that is substantially the same as (but not exceeding) the retiree benefit coverage applicable to him immediately preceding his eligibility for benefits from the Corporation, and shall be subject to all limitations of such coverage. Notwithstanding the foregoing, the following rules shall apply:

"(A) The level of benefits and benefit coverage provided under this paragraph shall not exceed that which is provided under paragraph (1) of this subsection.

"(B) In determining the retiree benefit coverage applicable to an orphan miner for purposes of this paragraph, the Corporation shall disregard any increases or decreases in benefits or benefit coverage that were in effect for fewer than 3 years preceding the orphan miner's eligibility for benefits from the Corporation, except that—

"(i) any death benefit applicable to an orphan miner as a result of 1991 amendments to the agreement described in section 9723(7) shall not be disregarded; and

"(ii) increases or decreases in benefits or benefit coverage that were the subject of a collective bargaining agreement shall not be disregarded.

"(3) An orphan miner eligible for benefits pursuant to section 9711(b)(1)(D) shall be entitled to a level of benefits and benefit coverage equivalent to the level of benefits and benefit coverage, if any, provided under individual employer plans maintained pursuant to the agreement described in section 9723(7) on the date that the orphan miner first became eligible for benefits from the Corporation, and shall be subject to all limitations of such coverage.

"(4) An individual eligible for benefits pursuant to section 9711(c) shall be entitled to medical benefit coverage that does not exceed the medical benefit coverage that is or would have been applicable to the coal miner through whom the individual claims eligibility, and the individual shall be subject to all limitations of such coverage.

"(5) The Corporation may make increases to its schedules of benefits that are desirable for efficiency of administration, except that such adjustments to benefits may not result in an increase in cost to the Corporation or an increase in any premium under section 9704(g).

"(6) Notwithstanding any other provision of law, to the extent a participant or beneficiary who is eligible for benefits from the Corporation is also eligible for benefits under title XVIII or XIX of the Social Security Act, or under any other plan maintained by a State or the Federal Government or any agency or subdivision thereof, or pursuant to any State or Federal law in existence on the date of enactment of this chapter or thereafter enacted, benefits under such titles or under such other plan shall be considered to be primary to benefits provided by the Corporation, and shall be provided without regard to any benefits provided by the Corporation. In such case, the benefits provided by the Corporation shall be reduced so that the total benefits paid from all sources shall not exceed the total allowable expense for the covered good or service.

"(c) MANDATORY MANAGED CARE.—The Corporation shall develop managed care rules which shall be applicable to the payment of benefits under this section. The rules shall preserve freedom of choice while reinforcing managed care network use by allowing a point of service decision as to whether a network medical provider will be used. Major elements of such rules shall include, but not be limited to—

"(1) implementing formulary for drugs and subjecting the prescription program to a rigorous review of appropriate use;

"(2) obtaining a unit price discount in exchange for patient volume and preferred provider status, with the amount of the potential discount varying by geographic region;

"(3) limiting benefit payments to physicians to the medicare allowable charge, while protecting beneficiaries from balance billing by providers;

"(4) utilizing Medicare's 'appropriateness of service' protocols in the claims payment function where they are more stringent;

"(5) creating mandatory utilization review (UR) procedures, but placing the responsibility to follow such procedures on the physician or hospital, not the beneficiaries;

"(6) selecting the most efficient physicians and state-of-the-art utilization management techniques, including ambulatory care techniques, for medical services delivered by the managed care network; and

"(7) utilizing a managed care network provider system as practiced in the health care industry at the time medical services are needed (point-of-service) in order to receive maximum benefits available under this section.

Any managed care or cost containment program shall have as its primary goal the provision of quality medical care. In no event shall any such program result in the reduction of the quality of care provided to participants and beneficiaries consistent with sound medical practice.

"(d) EFFECTIVE DATE.—Benefits shall be payable under this section as of January 1, 1992. Pursuant to section 9715, the Corporation shall pay the trustees of the plans described in section 9721(d) and the plan established pursuant to section 9713 for all benefit and administrative costs expended with respect to eligible orphan miners, spouses, surviving spouses and dependents, from the effective date to the date that such individuals are transferred to the Corporation.

"(e) ELECTIVE COVERAGE.—

"(1) An employer may elect to provide retirement health coverage to its employees by meeting the following conditions:

"(A) The employer must employ workers in the coal industry.

"(B) The employer agrees to pay an annual premium, as determined by the Corporation, sufficient to provide retirement health coverage to all of its employees who perform classified work as determined under the agreement described in section 9723(7), or any successor agreement, who

have worked a total of 20 years, including both service with that employer, service for any other employer described in this subsection, and service for any other employer that is credited for purposes of eligibility by a plan described in section 404(c).

"(C) The employer is not currently obligated by a collective bargaining agreement to make contributions to the plan established pursuant to section 9713.

"(D) The employer's election, once made, is irrevocable.

"(2) Upon the retirement of an employee of an employer described in paragraph (1), with 20 or more years of service, upon such terms and conditions as established by the Corporation, such employee and his or her dependents shall receive benefits, upon such terms and conditions as determined by the Corporation.

"SEC. 9713. ESTABLISHMENT OF UNITED MINE WORKERS OF AMERICA 1991 BENEFIT FUND.

"(a) MERGER OF RETIREE BENEFIT PLANS.—

"(1) As soon as practicable after the enactment of this chapter, and in no event later than 60 days, the settlors of the plans described in section 9721(d) shall cause such plans to be merged, and shall appoint a joint board of trustees to manage the operation and administration of the merged plan. The merged plan shall be known as the United Mine Workers of America 1991 Benefit Fund (hereinafter referred to as the '1991 Fund'). The 1991 Fund shall be an employee welfare benefit plan within the meaning of section 3(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(1)) and a multiemployer plan within the meaning of section 3(37) of such Act (29 U.S.C. 1002(37)).

"(2) The settlors shall design the structure and administration of the 1991 Fund. The settlors may at any time and for any reason change the number and identity of the members comprising the board of trustees of the 1991 Fund.

"(b) ELIGIBILITY.—

"(1) The following individuals shall be eligible to receive benefits from the 1991 Fund:

"(A) Any individual who, as of the date of enactment of this chapter, was eligible to receive benefits from the plan described in section 9721(d)(2)(A) (or who, but for the enactment of this chapter, would be eligible for benefits from such plan), and with respect to whom the last signatory operator is and remains signatory to an agreement that is described in section 9723(7) or that contains provisions relating to pension and health care benefits that are the same as those contained in such agreement.

"(B) Any individual who retired from classified employment under an agreement that is described in section 9723(7) or that contains provisions relating to pension and health care benefits that are the same as those contained in such agreement, and any spouse, surviving spouse or dependent of such retiree, with respect to whom the last signatory operator makes an election prior to February 1, 1993, to pay premiums to the 1991 Fund for such benefits and is and remains signatory to an agreement that is described in section 9723(7) or that contains provisions relating to pension and health care benefits that are the same as those contained in such agreement. Any election made pursuant to this subparagraph must cover, at a minimum, all of the last signatory operator's retirees who retired from classified employment as of February 1, 1993.

"(2) No individual shall be eligible under subparagraph (A) of paragraph (1) unless the joint board of trustees of the 1991 Fund determines that such individual in fact met all eligibility requirements of the plan described in section 9721(d)(2)(A) as of the date of enactment of this chapter. Any individual who was finally determined to have been ineligible for benefits from a plan described in section 9721(d)(2)(A) prior to such date of enactment shall be ineligible under subparagraph (A) of paragraph (1).

"(c) BENEFITS.—

"(1) Except as otherwise provided in this subsection, health care benefits provided under the 1991 Fund shall be identical to the benefits provided under the plans described in section 9721(d). The 1991 Fund shall provide coverage for death benefits to retirees, equal to the death benefits provided under the plan described in section 9721(c).

"(2) The joint board of trustees of the 1991 Fund shall develop managed care rules, subject to section 9714(b), which shall be applicable to the payment of benefits under this section. The rules shall preserve freedom of choice while reinforcing managed care network use by allowing a point of service decision as to whether a network medical provider will be used. The board of trustees shall permit any last signatory operator subject to section 9714 to utilize the managed care and cost containment rules and programs developed pursuant to this paragraph, at the election of such last signatory operator. Major elements of such rules shall include, but not be limited to—

"(A) implementing formulary for drugs and subjecting the prescription program to a rigorous review of appropriate use;

"(B) obtaining a unit price discount in exchange for patient volume and preferred provider status, with the amount of the potential discount varying by geographic region;

"(C) limiting benefit payments to physicians to the medicare allowable charge, while protecting beneficiaries from balance billing by providers;

"(D) utilizing medicare's 'appropriateness of service' protocols in the claims payment function where they are more stringent;

"(E) creating mandatory utilization review (UR) procedures, but placing the responsibility to follow such procedures on the physician or hospital, not the beneficiaries;

"(F) selecting the most efficient physicians and state-of-the-art utilization management techniques, including ambulatory care techniques, for medical services delivered by the managed care network; and

"(G) utilizing a managed care network provider system as practiced in the health care industry at the time medical services are needed (point-of-service) in order to receive maximum benefits available under this section.

Any managed care or cost containment program shall have as its primary goal the provision of quality medical care. In no event shall any such program result in the reduction of the quality of care provided to participants and beneficiaries consistent with sound medical practice.

"(3) Notwithstanding any other provision of law, to the extent a participant or beneficiary who is eligible for benefits from the 1991 Fund is also eligible for benefits under title XVIII or XIX of the Social Security Act, or under any other plan maintained by a State or the Federal Government or any agency or subdivision thereof, or pursuant to any State or Federal law in existence on the date of enactment of this chapter or thereafter enacted, benefits under such titles or under such other plan shall be considered to be primary to benefits provided by the 1991 Fund and shall be provided without regard to any benefits provided by the 1991 Fund. In such case, the benefits provided by the 1991 Fund shall be reduced so that the total benefits paid from all sources shall not exceed the total allowable expense for the covered good or service.

"(d) ASSESSMENTS.—

"(1) As of November 30 of each plan year, the joint board of trustees of the 1991 Fund shall set a monthly assessment for each person required to pay assessments pursuant to paragraph (2). The monthly assessment for each such person shall be equal to 1/12 of the product of—

"(A) the projected cost of operating the 1991 Fund during the succeeding plan year (less any assets received from a plan described in section 9721(c) and any other surplus assets) divided by the number of participants and beneficiaries for the current plan year; and

"(B) the projected number of the 1991 Funds' eligible participants and beneficiaries attributable to such person, determined as of the nearest November 1.

In projecting the cost of operating the 1991 Fund, the board of trustees shall take into account the anticipated benefit experience and administrative expenses of the 1991 Fund as a whole, and amounts needed to eliminate any accumulated deficit. The monthly assessment determined under this paragraph shall be verified by an independent auditor, and shall continue in effect for each month of the succeeding plan year, except that the joint board of trustees shall determine a monthly assessment for any new contributor or other person for whom a monthly assessment has not been established, and a revised monthly assessment for any last signatory operator that makes the election described in subsection (b)(1)(B) and with respect to which new participants and beneficiaries become eligible for benefits. Any new monthly assessment or revised monthly assessment shall be based upon the number of projected participants and beneficiaries attributable to the contributor as of the date the new or revised assessment is made. Each person required to pay assessments pursuant to paragraph (2) shall continue to pay to the plans described in section 9721(d) the contributions required under the applicable coal wage agreement, until the first month for which the assessment described in this paragraph in set. In no event shall a person required to pay assessments pursuant to paragraph (2) be required to make any payment to the 1991 Fund for the same period for which a contribution to a plan described in section 9721(d) is required.

"(2) Each last signatory operator with respect to any person described in subsection (b)(1)(A), and each last signatory operator with respect to any person described in subsection (b)(1)(B) that has agreed to provide benefits coverage through the 1991 Fund, shall pay to the 1991 Fund for each month the assessment determined by the joint board of trustees pursuant to paragraph (1). The assessments paid under this section shall be deemed to be fully deductible under this title without regard to any limitation on deductibility set forth in this title.

"(3) Either of the settlors shall have the right to audit the accounts, books and records, and operation of the 1991 Fund, at any time and for any reason, upon reasonable notice to the joint board of trustees. The joint board of trustees shall cooperate fully with the settlors in connection with any such audit and shall make available appropriate personnel and records deemed necessary by the auditors for inspection and copying at reasonable times and places.

"(4) Each last signatory operator obligated to pay assessments to the 1991 Fund pursuant to paragraph (2) shall be bound by all of the provisions of the plan and trust documents establishing and governing the 1991 Fund.

"(5) As of the date any assessment owed under this subsection is due, the persons described in section 9723(5) (B) or (C) with respect to any last signatory operator shall be treated as such last signatory operator and shall be jointly and severally liable for such assessment.

"(e) EXCLUSIVE OBLIGATION.—Except as provided in this chapter, no employer that was a signatory to the 1978 or any subsequent coal wage agreement and that had an obligation to provide health care benefits to coal mine retirees

shall be obligated to provide benefits to individuals covered by the plans described in section 9721(d), or to make contributions to any plan described in section 9721(d), or to the 1991 Fund, with respect to work performed or coal mined after the date of enactment of this chapter, or to pay withdrawal liability to a plan described in section 9721(d) as a result of the change in the contribution obligation required by this chapter.

"SEC. 9714. OBLIGATION OF LAST SIGNATORY OPERATOR TO PROVIDE BENEFITS TO RETIREES.

"(a) DURATION OF OBLIGATION.—The last signatory operator of any individual receiving retiree health care benefits as of February 1, 1993 (including retiree, spouse, surviving spouse and dependent benefits) from an individual employer plan maintained pursuant to a coal wage agreement (or who has applied for such benefits as of February 1, 1993, and has met every eligibility requirement for such benefits as of such date) shall provide retiree health care benefits to such individual equal to the benefits required to be provided by such last signatory operator's individual employer plan as of January 1, 1992, as limited by any managed care or cost containment rules of the type described in sections 9712(c) and 9713(c)(2), and subject to subsection (b), for as long as the last signatory operator remains in business. The existence, level and duration of benefits provided to a last signatory operator's former employees (and their spouses, surviving spouses and dependents), other than those described in this subsection, who are or were covered by a coal wage agreement, shall only be as determined by and subject to collective bargaining or lawful unilateral action, except that this subsection shall not be construed to impair the eligibility of any individual described in section 9711(b)(1)(D) for the benefit coverage described in section 9712(b)(3).

"(b) MANAGED CARE PROVIDER SYSTEM QUALITY CONTROL.—Any managed care provider system adopted by a last signatory operator as permitted under subsection (a), or by the joint board of trustees of the 1991 Fund, pursuant to section 9713(c)(2), shall be subject to the following requirements of this subsection:

"(1) The settlors shall establish a medical peer review panel, which shall determine standards of quality for managed care provider systems. Standards of quality shall include accessibility to medical care, taking into account that accessibility requirements may differ depending upon the nature of the medical need. Each settlor shall have the power to appoint and remove 2 individuals who shall serve on the panel. A panel member shall be either a medical practitioner knowledgeable in managed care, or an individual who is expert in managed care.

"(2) Each last signatory operator and the joint board of trustees of the 1991 Fund shall submit a description of any managed care provider system to the panel prior to implementation of the system, and shall, on the same date or prior to such submission, provide notice of the submission to the participants of the affected employee benefit plan or plans. The last signatory employer or the joint board of trustees may implement the proposed system on a provisional basis on or after the 120th day after the submission to the panel, unless the panel issues a preliminary determination that the system has not been shown to meet the requisite standards. The requirements of this paragraph shall not apply to a last signatory operator electing to utilize the managed care provider system established by the 1991 Fund if the panel has issued a favorable determination for such system.

"(3)(A) Upon receipt of a submission by a last signatory operator or by the joint board of trustees, the panel shall conduct a preliminary examination of the managed care provider system. In the event that the preliminary review reveals a failure to show compliance with established standards such that provisional implementation by a last signatory operator or by the joint board of trustees may be detrimental to participants subject to the system, the panel shall, within 120 days of the submission, issue a preliminary determination that the system has not been shown to meet the requisite standards.

"(B) Within 240 days from the date of any submission, the panel shall issue a final determination of whether the system has been shown to meet the established standards of quality. In the event of a negative determination, the panel shall list specific steps that may be taken by the last signatory operator or by the joint board of trustees to qualify the system under the established standards.

"(C) The first-named settlor in section 9723(8) shall have the authority to review submissions made under paragraph (2), and to designate the order in which such submissions shall be considered by the panel.

"(D) In the event that the members of the panel deadlock on a determination to be made under this paragraph, they shall, by majority vote, appoint a neutral person, who would be qualified to serve as a panel member, to break such deadlock.

"(4) In the event of a negative determination by the panel, the last signatory operator shall have the options described in subparagraph (A), (B), or (C), and the joint board of trustees shall have the options described in subparagraphs (A) and (B):

"(A) implementing the specific steps outlined by the panel pursuant to paragraph (3);

"(B) consistent with the requirements of this subsection, establishing a new managed care provider system that meets the requisite standards; or

"(C) electing to utilize the managed care provider system established by the 1991 Fund if the panel has issued a favorable determination for such system.

"(5) The panel shall develop rules for the periodic review of determinations made, except that reviews shall be no more frequent than once every 3 years; and for the reconsideration of any prior determination upon a showing that the managed care provider system does not or has ceased to meet the established standards. The panel may take into account written complaints received from affected participants and beneficiaries, but the authority of the panel shall be limited to determining the continued qualification of a managed care provider system under the established standards, and shall not extend to resolving claims of medical malpractice or any other issue.

"(6) The panel shall withhold from all persons not connected with the conduct of a reconsideration or review described in paragraph (5) (other than the first-named settlor in section 9723(8)) all information relating to the subject of any written complaint received by an affected participant or beneficiary; and may not be compelled in any Federal, State, or local civil, criminal, administrative, legislative, or other proceedings to identify such information. Notwithstanding the foregoing, the panel shall provide the last signatory operator or the joint board of trustees of the 1991 Fund with a copy of any written complaint relating to a managed care provider system maintained by such last signatory operator or joint board of trustees.

"(7)(A) The panel, any person acting as a member or staff to the panel, any person under a contract or other formal agreement with the panel, and any person who participates with or assists the panel with respect to any action taken pursuant to this subsection, shall not be liable in damages under any law of the United States or of any State (or political subdivision thereof) with respect to the action. The preceding sentence shall not apply to damages under any law of the United States or any State relating to the civil rights of any person or persons, including the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) and the Civil Rights Acts (42 U.S.C. 1981 et seq.). Nothing in this subparagraph shall prevent the United States or any attorney general of a State from bringing an action, where such an action is otherwise authorized.

"(B) Notwithstanding any other provision of law, no person (whether as a witness or otherwise) providing information to the panel regarding the competence or professional conduct of a physician shall be held, by reason of having provided such information, to be liable in damages under any law of the United States or of any State (or political subdivision thereof) unless such information is false and the person providing it knew that such information was false.

"(8) The joint board of trustees of the 1991 Fund and each last signatory operator that makes a submission pursuant to subsection (b)(2) shall be liable for reasonable fees assessed by the panel in connection with the review of managed care provider systems.

"(c) SATISFACTION OF OBLIGATIONS.—Subject to the provisions of sections 9711 and 9713, the obligations of a last signatory operator under this section may be satisfied for any period with respect to any individual by payment of the required assessment under section 9713(d) or the premium under section 9704(g)(1)(C), or by the provision of the required benefits under an individual employer plan.

"(d) CONTROL GROUP LIABILITY.—As of the date that any benefit obligation owed pursuant to this section is due, the persons described in section 9723(5) (B) and (C) with respect to any last signatory operator shall be treated as such last signatory operator, and shall be jointly and severally liable for such benefit obligation.

"SEC. 9715. TRANSITION BENEFITS; PREMIUM NONPAYMENT; TRANSFERS BETWEEN 1991 FUND AND CORPORATION.

"(a) PAYMENT OF BENEFITS TO ORPHAN MINERS.—The plans described in section 9721(d) and the 1991 Fund shall continue to provide benefits to orphan miners, spouses, surviving spouses and dependents described in section 9711 (b) and (c), until the end of the second month beginning after the effective date of section 9712(d). Such orphan miners, spouses, surviving spouses and dependents shall be transferred to the Corporation as of the first day of the third month following the effective date of section 9712(d). The defined benefit pension plans maintained pursuant to the agreement described in section 9723(7) shall, on behalf of the Corporation and the 1991 Fund, continue to provide death benefits to orphan miners described in section 9711(b) and to retirees described in section 9713(b)(1) until the end of the second month beginning after the effective date of section 9712(d). Such pension plans shall have no liability for death benefits for the orphan miners described in section 9711(b), or for the retirees described in section 9713(b)(1), as of the first day of the third month following the effective date of section 9712(d). The Corporation may elect to pay the plans described in section 9721(d), the 1991 Fund, or the defined benefit pension plans maintained pursuant to the agreement described in section 9723(7) to continue to provide transition benefits after the end of the second month beginning after the effective date of section 9712(d), and for a period not to exceed 6 months. If the Corporation so elects, it shall pay such plans all amounts necessary to enable the provision of benefits and to cover all costs of administration associated with the provision of benefits. The schedule for such payments shall be determined by the boards of trustees of the plans, and may require advance

payments. Amounts paid pursuant to this subsection shall not be included in the amounts to be reimbursed pursuant to subsection (b).

"(b) REIMBURSEMENT OF COST FOR TRANSITION BENEFITS.—No later than the first day of the fourth month after the effective date of section 9712(d), the Corporation shall reimburse the plans described in section 9721(d) and the 1991 Fund, with interest, for the amounts of benefits paid and administrative expenses incurred pursuant to subsection (a). No later than the first day of the fourth month after the effective date of section 9712(d), the Corporation and the 1991 Fund shall reimburse the defined benefit pension plans maintained pursuant to the agreement described in section 9723(7), with interest, for the amount of death benefits paid and administrative expenses incurred pursuant to subsection (a).

"(c) ACCESS TO RECORDS.—The joint boards of trustees of the plans described in section 9721(d) and the 1991 Fund shall share with the Corporation all records, files and documents related to the orphan miners, spouses, surviving spouses and dependents transferred to the Corporation, to the extent necessary for the Corporation to administer the payment of benefits to such individuals.

"(d) PREMIUM NONPAYMENT.—

"(1) No individual shall be eligible for benefits from the 1991 Fund during any month for which the assessments required under section 9713(d) have not been paid by such individual's last signatory operator. Such individual shall be immediately eligible to receive benefits from the Corporation and the Corporation shall have a cause of action against such individual's last signatory operator for the per beneficiary premium imposed under section 9704(g)(1)(C).

"(2) The 1991 Fund shall continue to treat an individual described in paragraph (1) as if he or she were eligible for benefits until the end of the third month for which an assessment due has not been paid. If the last signatory operator with respect to such individual has not paid its assessments due by the end of such month (with such interest and liquidated damages imposed by the board of trustees in their discretion, up to the amounts provided in section 9722(d)(2) (B) and (C)), the 1991 Fund shall notify the Corporation that the individual is transferred to the Corporation pursuant to paragraph (1), and the Corporation shall reimburse the 1991 Fund, with interest, for any benefits paid to or on behalf of such individual for all months for which assessments have not been paid.

"Subchapter C—Other Provisions

"Sec. 9721. Determination and disposition of excess assets.

"Sec. 9722. Civil enforcement.

"Sec. 9723. Definitions.

"Sec. 9724. Sham transactions.

"SEC. 9721. DETERMINATION AND DISPOSITION OF EXCESS PENSION ASSETS.

"(a) DETERMINATION OF EXCESS PENSION ASSETS.—

"(1) Within 30 days after the enactment of this chapter, the joint board of trustees of the plan described in subsection (c) shall, through the independent actuaries of the plan, calculate the amount of the excess pension assets. The trustees of the plan described in subsection (c) shall recalculate the excess pension assets at any time that they are directed to do so by the settlors.

"(2) Immediately following the calculation (or recalculation) of the excess pension assets, the trustees of the plan described in subsection (c) shall segregate the excess pension assets from the remaining assets of such plan. The segregated excess pension assets (including all earnings thereon) shall be held in the plan until disbursed pursuant to subsection (b).

"(b) DISPOSITION OF EXCESS PENSION ASSETS.—Notwithstanding any other provision of law, the excess pension assets (including all earnings thereon) shall be expended in the following order:

"(1) Fifty million dollars shall be added to the general assets of the Corporation.

"(2) The deficits in the plans described in subsection (d) as of the date of enactment of this chapter shall be reduced to zero.

"(3) Fifty million dollars shall be added to the general assets of the 1991 Fund.

"(4) The remainder of the excess pension assets, if any, shall be added to the general assets of the 1991 Fund, at such times and in such amounts as may be directed by the settlors.

"(c) PLAN CONTAINING EXCESS PENSION ASSETS.—A plan is described in this subsection if it is a pension plan and—

"(1) it is a plan described in section 404(c) or a continuation thereof; and

"(2) participation in the plan is substantially limited to individuals who retired prior to January 1, 1976.

"(d) RELATED WELFARE PLANS.—A plan is described in this subsection if—

"(1) it is a plan described in section 404(c) or a continuation thereof; and

"(2) it provides health benefits to retirees and beneficiaries of the industry which maintained the plan described in subsection (c); and

"(A) participation in the plan is substantially limited to individuals who retired prior to January 1, 1976; or

"(B) participation in the plan is substantially limited to individuals who retired on or after January 1, 1976.

"(e) TAX TREATMENT, VALIDITY OF TRANSFER OF EXCESS PENSION ASSETS.—

"(1) No deduction shall be allowed under this title with respect to the expenditure of excess pension assets pursuant to subsection (a), but such transfer shall not adversely affect the deductibility (under applicable provisions of this title) of contributions previously made by employers or amounts hereafter contributed by employers to the plans described in subsection (c) or (d), or to the 1991 Fund.

"(2) The expenditure of excess pension assets pursuant to subsection (b)—

"(A) shall not be treated as an employer reversion from a qualified plan for purposes of section 4980, and

"(B) shall not be includible in the gross income of any employer maintaining a plan described in subsection (c).

"(3) Neither the segregation of excess pension assets pursuant to subsection (a)(2), the expenditure of excess pension assets pursuant to subsection (b), nor any direction made by the settlors pursuant to subsection (a)(1) or (b)(4) shall be deemed to violate or be prohibited by any provision of law, or to cause the settlors, joint board of trustees, employers or any related person to incur or be subject to taxes, fines, or penalties of any kind whatsoever.

"SEC. 9722. CIVIL ENFORCEMENT.

"(a) Civil actions may be brought by the 1991 Fund for appropriate relief, legal or equitable or both, to enforce the provisions of this chapter.

"(b) Except as otherwise provided in this chapter, where such an action is brought in a district court of the United States, it may be brought in the district where the 1991 Fund is administered, in the district where the violation took place, or where a defendant resides or may be found, and process may be served in any other district where a defendant resides or may be found.

"(c) The district courts of the United States shall have jurisdiction of actions brought by the 1991 Fund under this chapter without regard to the amount in controversy in any such action.

"(d)(1) In any action brought under subsection (a) (other than an action described in paragraph (2)), the court in its discretion may award to the 1991 Fund all or a portion of the costs of litigation, including reasonable attorneys' fees, incurred by the 1991 Fund in connection with such action.

"(2) In any action by the 1991 Fund to enforce section 9713(d)(2), in which a judgment in favor of the 1991 Fund is awarded, the court shall award the 1991 Fund—

"(A) the unpaid assessments;

"(B) interest on the unpaid assessments;

"(C) an amount equal to the greater of—

"(i) interest on the unpaid assessments; or

"(ii) liquidated damages in the amount of 20 percent of the amount determined by the court under subparagraph (A);

"(D) reasonable attorneys' fees and costs of the action, to be paid by the defendant; and

"(E) such other legal or equitable relief as the court deems appropriate.

For purposes of this paragraph, interest on unpaid assessments shall be determined by using the rate provided under the rules of the 1991 Fund, or, if none, the rate prescribed under section 6621.

"(e)(1) Except as provided in paragraph (2), an action under this subsection may not be brought after the later of—

"(A) 6 years after the date on which the cause of action arose; or

"(B) 3 years after the earliest date on which the 1991 Fund acquired or should have acquired actual knowledge of the existence of such cause of action.

"(2) In the case of fraud or concealment, the period described in paragraph (1)(b) shall be extended to 6 years after the applicable date.

"(f) Any person who is an employer, a last signatory operator, a person described in section 9723(5) (B) or (C) with respect to an employer or last signatory operator, a bituminous coal industry retiree, or any spouse, surviving spouse or dependent of a bituminous coal industry retiree, and is adversely affected by any act or omission of any party under this chapter, or who is an employee organization of which such a coal industry retiree is a member, or an employer association of which such an employer is a member, may bring an action for appropriate equitable relief in the appropriate court.

"(1) During the pendency of any proceeding under this subsection by an employer, employer association, last signatory operator, or person described in section 9723(5) (B) or (C) with respect to an employer or last signatory operator, all potentially affected retirees, spouses, surviving spouses and dependents eligible for benefits from the 1991 Fund shall be transferred to the Corporation, which shall—

"(A) provide such benefits as would have been provided from the 1991 Fund, and

"(B) have and exercise all of the rights and obligations of the 1991 Fund with respect to—

"(i) the collection of assessments relating to such retirees and spouses, surviving spouses and dependents, and

"(ii) the defense of the proceeding.

"(2) In the event that a last signatory operator or other person pays to the 1991 Fund the assessments required pursuant to section 9713(d) for any month during the pendency of a proceeding described in paragraph (1), the 1991 Fund, and not the Corporation, shall be responsible for providing any benefits required to be paid for that month to eligible individuals under section 9713(b).

"(g) In any action brought under subsection (f), the court may award all or a portion of the costs and expenses, including reasonable attorneys' fees, incurred in connection with such action to any party that prevails or substantially prevails in such action.

"(h) This subsection shall be the exclusive means for bringing actions against the Corporation or the 1991 Fund under this chapter.

"(i)(1) Except as provided in paragraph (2), an action under this subsection may not be brought after the later of—

"(A) 6 years after the date on which the cause of action arose; or

"(B) 3 years after the earliest date on which the plaintiff acquired or should have acquired actual knowledge of the existence of such cause of action.

"(2) In the case of fraud or concealment, the period described in paragraph (1)(B) shall be extended to 6 years after the applicable date.

"(j) The district courts of the United States have jurisdiction of actions brought under this subsection without regard to the amount in controversy.

"(k) In any suit, action or proceeding in which the 1991 Fund is a party, in any State court, the 1991 Fund may, without bond or security, remove such suit, action, or proceeding from the State court to the United States district court for the district or division in which such suit, action or proceeding is pending by following any procedure for removal now or hereafter in effect.

"SEC. 9723. DEFINITIONS.

"For purposes of this chapter—

"(1) The term 'coal production work' shall mean work in which an individual engages in physical operations consisting of the mining, preparation, handling, processing, cleaning and loading of coal, including removal of overburden and coal waste, the transportation of coal (except by waterway or rail not owned by an employer engaged in the production of coal), repair and maintenance work normally performed at a mine site or central shop of an employer engaged in the production of coal, maintenance of gob piles and mine roads, construction of mine or mine-related facilities including the erection of mine tipples and sinking of mine shafts or slopes performed by employees of the employer engaged in the production of coal, and work of the type customarily related to the foregoing; except that the term shall not mean managerial, supervisory, warehouse, clerical or technical work, unless such work is performed subject to a coal wage agreement binding the employer engaged in the production of coal.

"(2) The term 'coal wage agreement' shall mean—

"(A) the National Bituminous Coal Wage Agreement;

"(B) any agreement substantially identical or substantially similar to such agreement, but only if, as of the date of enactment of this chapter, such agreement provided for contributions to be made to the plans described in section 9721(d); or

"(C) any other agreement entered into between an employer in the bituminous coal industry and the United Mine Workers of America that requires the provision of health benefits to retirees of such employer, eligibility for which is based on years of service credited under a plan established by the settlors and described in section 404(c) or a continuation of such plan.

"(3) The term 'credited service' shall have the same meaning as determined under the applicable defined benefit pension plan, but only if such service was of the type used to determine eligibility under the plan described in section 9721(d)(2)(B).

"(4) The term 'excess pension assets' shall mean the excess of the current value of plan assets (as defined in section 3(26) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(26)) of the plan described in section 9721(c) over the actuarial present value of all benefits for all plan participants under such plan, determined as of the date of enactment, in accordance with the actuarial assumptions and methods which reflect the plan actuary's best estimate of anticipated experience under such plan, except that where excess pension assets are recalculated as required under section 9721(a)(1), the amount of excess pension assets shall be determined as of the July 1 next preceding the date of the recalculation.

"(5) A last signatory operator shall be considered to be in business for purposes of this chapter if any of the following conducts or derives revenue from any business, whether or not within the coal industry—

"(A) such last signatory operator;

"(B) any member of the controlled group of corporations (within the meaning of section 414(b)) of such last signatory operator; or

"(C) any trade or business which is under common control (as determined under section 414(c)) with such last signatory operator.

If a last signatory operator is no longer in business and there is no successor, the relationships described in paragraphs (2) and (3) shall be determined at the time it ceased to be in business.

"(6)(A) The term 'last signatory operator' shall mean, with respect to any orphan miner or other coal industry retiree eligible for medical benefits, a person that meets or at one time met the following conditions:

"(i) A person meets the conditions of this clause if such person is—

"(I) an owner, lessee or other person who operates, controls or supervises a coal mine;

"(II) an independent contractor who operates, controls or supervises a coal mine; or

"(III) in the event a person described in (I) or (II) is no longer in business, any successor to such person, except that a purchaser shall not be considered to be a successor with respect to any orphan miner or other coal industry retiree eligible for medical benefits, if responsibility for the medical benefits of such orphan miner or other coal industry retiree was retained by the seller in the purchase and sale transaction.

"(ii) A person meets the conditions of this clause if such person or, in the case of a person described in clause (i)(III), such person's predecessor—

"(I) was a signatory to a 1978 coal wage agreement, or any subsequent coal wage agreement; and

"(II) was the last coal industry employer of such orphan miner or other retiree.

"(B) Notwithstanding subparagraph (A), if, as of the date of enactment of this chapter, a person has assumed or retained responsibility for retiree medical benefit obligations for individuals who retired from employment under a coal wage agreement, then such person shall be treated as the last signatory operator with respect to such individuals for purposes of this chapter, and any person from whom such responsibility was assumed shall not be treated as the last signatory operator.

"(C) For purposes of this chapter, the last signatory operator of any orphan miner or other coal industry retiree shall be considered to be the last signatory operator with respect to such orphan miner's or other coal industry retiree's spouse, surviving spouse and dependents, if any.

"(7) The term 'National Bituminous Coal Wage Agreement' shall mean the collective bargaining agreement negotiated by the settlors.

"(8) The term 'settlors' means the United Mine Workers of America and the Bituminous Coal Operators' Association, Inc. (hereinafter referred to as the 'BCOA'), except that if the BCOA ceases to exist, members of the BCOA representing more than 50 percent of the tonnage membership of BCOA on the date of enactment of this Act shall collectively be considered a settlor.

"SEC. 9724. SHAM TRANSACTIONS.

"If a principal purpose of any transaction is to evade or avoid liability under this chapter, this chapter shall be applied (and liability shall be imposed) without regard to such transaction. A bona fide, arm's-length sale of an entity subject to liability under this chapter to an unrelated party (within the meaning of section 4204(d) of the Employee Retirement Income Security Act of 1974, as amended), shall not by itself be sufficient to establish a principal purpose to evade or avoid liability within the meaning of this section."

(b) CONFORMING AMENDMENT.—The table of subtitles for the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new subtitle:

"Subtitle J. Coal Industry health benefits."

Subtitle D—Capital Gain Provisions

PART I—PROGRESSIVE CAPITAL GAIN RATES

SEC. 2301. PROGRESSIVE CAPITAL GAIN RATES.

(a) IN GENERAL.—Section 1(h) (relating to maximum capital gains rate) is amended to read as follows:

"(h) PROGRESSIVE CAPITAL GAINS RATE.—

"(1) IN GENERAL.—If a taxpayer has qualified capital gain for any taxable year, then the tax imposed by this section shall be equal to the sum of—

"(A) a tax computed at the rates and in the same manner as if this subsection had not been enacted on taxable income reduced by the amount of qualified capital gain, plus

"(B) the excess (if any) of—

"(i) a tax computed under the substitute table on taxable income, over

"(ii) a tax computed under the substitute table on taxable income reduced by the amount of qualified capital gain.

"(2) SUBSTITUTE TABLES.—

"(A) IN GENERAL.—In the case of any taxable year ending after January 31, 1992, the Secretary shall prescribe a substitute table for each of the tables under subsections (a), (b), (c), (d), and (e).

"(B) METHOD OF PRESCRIBING TABLES.—The tables under subparagraph (A) for any taxable year shall be the tables in effect without regard to this subsection, adjusted by—

"(i) substituting the capital gain rates for the rates of tax contained therein, and

"(ii) modifying the amounts setting forth the tax to the extent necessary to reflect the adjustments under clause (i).

"(C) CAPITAL GAIN RATES.—For purposes of subparagraph (B)(i), the capital gain rates shall be determined as follows:

"If the rate of tax is:	***The capital gain rate is:***
15 percent	*5 percent*
28 percent	*19 percent*
31 percent	*23 percent*
36 percent	*28 percent.*

"(3) QUALIFIED CAPITAL GAIN.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified capital gain' means net capital gain determined without regard to any gain taken into account in computing the exclusion under section 1202 (relating to gain from sale of small business stock).

"(B) TRANSITION RULE.—In the case of any taxable year beginning before February 1, 1992, and ending on or after such date, qualified capital gain shall be equal to the lesser of—

"(i) net capital gain, or

"(ii) net capital gain determined by taking into account only gain or loss properly taken into account for the portion of the taxable year after January 31, 1992.

If the amount under clause (i) exceeds the amount under clause (ii) for such taxable year, the rate of tax under this section shall not exceed 28 percent with respect to such excess.

"(C) SPECIAL RULE FOR PASS-THRU ENTITIES.—

"(i) IN GENERAL.—In applying subparagraph (B) with respect to any pass-thru entity, the de-

termination of when gain is properly taken into account shall be made at the entity level.

"(ii) PASS-THRU ENTITY DEFINED.—For purposes of clause (i), the term 'pass-thru entity' means—

"(I) a regulated investment company,

"(II) a real estate investment trust,

"(III) an S corporation,

"(IV) a partnership,

"(V) an estate or trust, and

"(VI) a common trust fund."

(b) TREATMENT OF COLLECTIBLES.—

(1) IN GENERAL.—Section 1222 is amended by inserting after paragraph (11) the following new paragraph:

"(12) SPECIAL RULE FOR COLLECTIBLES.—

"(A) IN GENERAL.—Any gain or loss from the sale or exchange of a collectible shall be treated as a short-term capital gain or loss (as the case may be), without regard to the period such asset was held. The preceding sentence shall apply only to the extent the gain or loss is taken into account in computing taxable income.

"(B) TREATMENT OF CERTAIN SALES OF INTEREST IN PARTNERSHIP, ETC.—For purposes of subparagraph (A), any gain from the sale or exchange of an interest in a partnership, S corporation, or trust which is attributable to unrealized appreciation in the value of collectibles held by such entity shall be treated as gain from the sale or exchange of a collectible. Rules similar to the rules of section 751(f) shall apply for purposes of the preceding sentence.

"(C) COLLECTIBLE.—For purposes of this paragraph, the term 'collectible' means any capital asset which is a collectible (as defined in section 408(m) without regard to paragraph (3) thereof)."

(2) CHARITABLE DEDUCTION NOT AFFECTED.—

(A) Paragraph (1) of section 170(e) is amended by adding at the end thereof the following new sentence: "For purposes of this paragraph, section 1222 shall be applied without regard to paragraph (12) thereof (relating to special rule for collectibles)."

(B) Clause (iv) of section 170(b)(1)(C) is amended by inserting before the period at the end thereof the following: "and section 1222 shall be applied without regard to paragraph (12) thereof (relating to special rule for collectibles)".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to taxable years ending after January 31, 1992.

(2) COLLECTIBLES.—The amendments made by subsection (b) shall apply to dispositions after January 31, 1992.

SEC. 2302. INCREASE IN HOLDING PERIOD REQUIRED FOR LONG-TERM CAPITAL GAIN TREATMENT.

(a) IN GENERAL.—

(1) CAPITAL GAIN.—Paragraphs (1) and (3) of section 1222 (relating to other terms relating to capital gains and losses) are each amended by striking "1 year" and inserting "2 years".

(2) CAPITAL LOSSES.—Paragraphs (2) and (4) of section 1222 are each amended by striking "1 year" and inserting "2 years".

(b) CONFORMING AMENDMENTS.—The following provisions are each amended by striking "1 year" each place it appears and inserting "2 years":

(1) Section 166(d)(1)(B).

(2) Section 422(a)(1).

(3) Section 423(a)(1).

(4) Section 584(c).

(5) Subsections (a), (b), and (c) of section 631.

(6) Section 642(c)(3).

(7) Paragraphs (1) and (2) of section 702(a).

(8) Section 818(b)(1).

(9) Section 852(b)(3)(B).

(10) Section 856(c)(4)(A).

(11) Section 857(b)(3)(B).

(12) Paragraphs (11) and (12) of section 1223.

(13) Subsections (b), (d), and subparagraph (A) of subchapter (e)(4) of section 1233.

(14) Section 1234(b)(1).

(15) Section 1235(a).

(16) Subsections (b) and (g)(2)(C) of section 1248.

(c) TECHNICAL AMENDMENTS.—

(1) Section 7518(g)(3)(B) is amended by striking "6 months" and inserting "2 years".

(2) Section 1231 (b)(3)(B) is amended by striking "12 months" and inserting "24 months".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 2303. RECAPTURE UNDER SECTION 1250 OF TOTAL AMOUNT OF DEPRECIATION.

(a) GENERAL RULE.—Subsections (a) and (b) of section 1250 (relating to gain from disposition of certain depreciable realty) are amended to read as follows:

"(a) GENERAL RULE.—Except as otherwise provided in this section, if section 1250 property is disposed of, the lesser of—

"(1) the depreciation adjustments in respect of such property, or

"(2) the excess of—

"(A) the amount realized (or, in the case of a disposition other than sale, exchange, or involuntary conversion, the fair market value of such property), over

"(B) the adjusted basis of such property,

shall be treated as gain which is ordinary income. Such gain shall be recognized notwithstanding any other provision of this subtitle.

"(b) DEPRECIATION ADJUSTMENTS.—For purposes of this section, the term 'depreciation adjustments' means, in respect of any property, all adjustments attributable to periods after December 31, 1963, reflected in the adjusted basis of such property on account of deductions (whether in respect of the same or other property) allowed or allowable to the taxpayer or to any other person for exhaustion, wear and tear, obsolescence, or amortization (other than amortization under section 168 (as in effect before its repeal by the Tax Reform Act of 1976), 169, 185 (as in effect before its repeal by the Tax Reform Act of 1986), 188 (as in effect before its repeal by the Revenue Reconciliation Act of 1990), 190, or 193). For purposes of the preceding sentence, if the taxpayer can establish by adequate records or other sufficient evidence that the amount allowed as a deduction for any period was less than the amount allowable, the amount taken into account for such period shall be the amount allowed."

(b) MAXIMUM RATE ON RECAPTURE AMOUNT.—Section 1 (relating to tax imposed) is amended by adding at the end the following new section:

"(i) MAXIMUM RATE OF TAX ON SECTION 1250 RECAPTURE AMOUNTS.—If a taxpayer has any amount treated as ordinary income under section 1250 for any taxable year, then the tax imposed by this section shall not exceed the sum of—

"(1) a tax computed at the rates and in the same manner as if this subsection had not been enacted on the greater of—

"(A) taxable income reduced by the amount treated as ordinary income under section 1250, or

"(B) the amount of taxable income taxed at a rate below 31 percent, plus

"(2) a tax of 31 percent of the amount of taxable income in excess of the amount determined under paragraph (1)."

(c) LIMITATION IN CASE OF INSTALLMENT SALES.—Subsection (i) of section 453 is amended—

(1) by striking "1250" the first place it appears and inserting "1250 (as in effect on December 31, 1991)", and

(2) by striking "1250" the second place it appears and inserting "1250 (as so in effect)".

(d) CONFORMING AMENDMENTS.—

(1) Subparagraph (E) of section 1250(d)(4) is amended—

(A) by striking "additional depreciation" and inserting "amount of the depreciation adjustments", and

(B) by striking "ADDITIONAL DEPRECIATION" in the subparagraph heading and inserting "DEPRECIATION ADJUSTMENTS".

(2) Subparagraph (B) of section 1250(d)(6) is amended to read as follows:

"(B) DEPRECIATION ADJUSTMENTS.—In respect of any property described in subparagraph (A), the amount of the depreciation adjustments attributable to periods before the distribution by the partnership shall be—

"(i) the amount of gain to which subsection (a) would have applied if such property had been sold by the partnership immediately before the distribution at its fair market value at such time, reduced by

"(ii) the amount of such gain to which section 751(b) applied."

(3) Subsection (d) of section 1250 is amended by striking paragraph (10).

(4) Section 1250 is amended by striking subsections (e) and (f) and by redesignating subsections (g) and (h) as subsections (e) and (f), respectively.

(5) Paragraph (4) of section 50(c) is amended to read as follows:

"(4) RECAPTURE OF REDUCTION.—For purposes of sections 1245 and 1250, any reduction under this subsection shall be treated as a deduction allowed for depreciation."

(6) Clause (i) of section 267(e)(5)(D) is amended by striking "section 1250(a)(1)(B)" and inserting "section 1250(a)(1)(B) (as in effect on December 31, 1991)".

(7)(A) Subsection (a) of section 291 is amended by striking paragraph (1) and redesignating paragraphs (2), (3), (4), and (5) as paragraphs (1), (2), (3), and (4), respectively.

(B) Subsection (c) of section 291 is amended to read as follows:

"(c) SPECIAL RULE FOR POLLUTION CONTROL FACILITIES.—Section 168 shall apply with respect to that portion of the basis of any property not taken into account under section 169 by reason of subsection (a)(4)."

(C) Section 291 is amended by striking subsection (d) and redesignating subsection (e) as subsection (d).

(D) Paragraph (2) of section 291(d) (as redesignated by subparagraph (C)) is hereby repealed.

(E) Subparagraph (A) of section 265(b)(3) is amended by striking "291(e)(1)(B)" and inserting "291(d)(1)(B)".

(F) Subsection (c) of section 1277 is amended by striking "291(e)(1)(B)(ii)" and inserting "291(d)(1)(B)(ii)".

(8) Subsection (d) of section 1017 is amended to read as follows:

"(d) RECAPTURE OF DEDUCTIONS.—For purposes of sections 1245 and 1250—

"(1) any property the basis of which is reduced under this section and which is neither section 1245 property nor section 1250 property shall be treated as section 1245 property, and

"(2) any reduction under this section shall be treated as a deduction allowed for depreciation."

(9) Paragraph (5) of section 7701(e) is amended by striking "(relating to low-income housing)" and inserting "(as in effect on December 31, 1991)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to dispositions after January 31, 1992, in taxable years ending after such date.

PART II—SMALL BUSINESS STOCK

SEC. 2311. 50-PERCENT EXCLUSION FOR GAIN FROM CERTAIN SMALL BUSINESS STOCK.

(a) GENERAL RULE.—Part I of subchapter P of chapter 1 (relating to capital gains and losses) is *amended by adding at the end thereof the following new section:*

"SEC. 1202. 50-PERCENT EXCLUSION FOR GAIN FROM CERTAIN SMALL BUSINESS STOCK.

"(a) GENERAL RULE.—Gross income shall not include 50 percent of any gain from the sale or exchange of qualified small business stock held for more than 5 years.

"(b) QUALIFIED SMALL BUSINESS STOCK.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this section, the term 'qualified small business stock' means any stock in a corporation which is originally issued on or after February 1, 1992, if—

"(A) as of the date of issuance, such corporation is a qualified small business, and

"(B) except as provided in subsections (d) and (e), such stock is acquired by the taxpayer at its original issue (directly or through an underwriter)—

"(i) in exchange for money or other property (not including stock), or

"(ii) as compensation for services (other than services performed as an underwriter of such stock).

"(2) ACTIVE BUSINESS REQUIREMENT.—Stock in a corporation shall not be treated as qualified small business stock unless, during substantially all of the taxpayer's holding period for such stock, such corporation meets the active business requirements of subsection (d).

"(3) CERTAIN PURCHASES BY CORPORATION OF ITS OWN STOCK.—

"(A) IN GENERAL.—Stock issued by a corporation shall not be treated as qualified small business stock if such corporation has purchased or purchases any of its stock within the 2-year period beginning 1 year before the date of the issuance of such stock.

"(B) EXCEPTION WHERE BUSINESS PURPOSE.—Subparagraph (A) shall not apply where the issuing corporation establishes that there was a business purpose for the purchase of the stock and such purchase is not inconsistent with the purposes of this section.

"(C) MEMBERS OF AFFILIATED GROUP.—For purposes of this paragraph, the purchase by any corporation which is a member of the same affiliated group (within the meaning of section 1504) as the issuing corporation of any stock in any corporation which is a member of such group shall be treated as a purchase by the issuing corporation of its stock.

"(c) QUALIFIED SMALL BUSINESS.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified small business' means any domestic corporation if—

"(A) the aggregate capitalization of such corporation (or any predecessor thereof) at all times on or after February 1, 1992, and before the issuance did not exceed $100,000,000, and

"(B) the aggregate capitalization of such corporation immediately after the issuance (determined by taking into account amounts to be received in the issuance) does not exceed $100,000,000.

"(2) AGGREGATE CAPITALIZATION.—For purposes of paragraph (1), the term 'aggregate capitalization' means the excess of—

"(A) the amount of cash and the aggregate adjusted bases of other property held by the corporation, over

"(B) the aggregate amount of the short-term indebtedness of the corporation.

For purposes of the preceding sentence, the term 'short-term indebtedness' means any indebtedness which, when incurred, did not have a term in excess of 1 year.

"(3) LOOK-THRU IN CASE OF SUBSIDIARIES.—In determining whether a corporation meets the requirements of this subsection—

"(A) stock and debt of any subsidiary (as defined in subsection (d)(4)(C)) held by such corporation shall be disregarded, and

"(B) such corporation shall be treated as holding its ratable share of the assets of such subsidiary and as being liable for its ratable share of the indebtedness of such subsidiary.

"(d) ACTIVE BUSINESS REQUIREMENT.—For purposes of this section—

"(1) IN GENERAL.—For purposes of subsection (b)(2), the requirements of this subsection are met for any period if during such period—

"(A) the corporation is engaged in the active conduct of a trade or business,

"(B) substantially all of the assets of such corporation are used in the active conduct of a trade or business, and

"(C) such corporation is an eligible corporation.

"(2) SPECIAL RULE FOR CERTAIN ACTIVITIES.—For purposes of paragraph (1), if, in connection with any future trade or business, a corporation is engaged in—

"(A) start-up activities described in section 195(c)(1)(A),

"(B) activities resulting in the payment or incurring of expenditures which may be treated as research and experimental expenditures under section 174, or

"(C) activities with respect to in-house research expenses described in section 41(b)(4),

such corporation shall be treated with respect to such activities as engaged in (and assets used in such activities shall be treated as used in) the active conduct of a trade or business. Any determination under this paragraph shall be made without regard to whether a corporation has any gross income from such activities at the time of the determination.

"(3) ELIGIBLE CORPORATION.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'eligible corporation' means any domestic corporation; except that such term shall not include—

"(i) any corporation predominantly engaged in a disqualified business,

"(ii) any corporation the principal activity of which is the performance of personal services,

"(iii) a DISC,

"(iv) a corporation with respect to which an election under 936 is in effect,

"(v) any regulated investment company, real estate investment trust, or REMIC,

"(vi) any cooperative, and

"(vii) in the case of a corporate shareholder, any corporation which at any time was a subsidiary (as defined in paragraph (4)(C)) of such corporate shareholder.

"(B) DISQUALIFIED BUSINESS.—The term 'disqualified business' means—

"(i) any banking, insurance, financing, or similar business,

"(ii) any farming business (other than the business of raising or harvesting trees), and

"(iii) any business of operating a hotel, motel, or restaurant or similar business.

"(4) STOCK IN OTHER CORPORATIONS.—

"(A) LOOK-THRU IN CASE OF SUBSIDIARIES.—For purposes of this subsection, stock and debt in any subsidiary corporation shall be disregarded and the parent corporation shall be deemed to own its ratable share of the subsidiary's assets, and to conduct its ratable share of the subsidiary's activities.

"(B) PORTFOLIO STOCK OR SECURITIES.—A corporation shall be treated as failing to meet the requirements of paragraph (1) for any period during which more than 10 percent of the value of its assets (in excess of liabilities) consist of stock or securities in other corporations which are not subsidiaries of such corporation (other than assets described in paragraph (5)).

"(C) SUBSIDIARY.—For purposes of this paragraph, a corporation shall be considered a subsidiary if the parent owns more than 50 percent of the combined voting power of all classes of stock entitled to vote, or more than 50 percent in value of all outstanding stock, of such corporation.

"(5) WORKING CAPITAL.—For purposes of paragraph (1)(B), any assets which—

"(A) are held for investment, and

"(B) are to be used to finance future research and experimentation or working capital needs of the corporation,

shall be treated as used in the active conduct of a trade or business.

"(6) MAXIMUM REAL ESTATE HOLDINGS.—A corporation shall not be treated as meeting the requirements of paragraph (1) for any period during which more than 10 percent of the total value of its assets is real property which is not used in the active conduct of a trade or business. For purposes of the preceding sentence, the ownership of, dealing in, or renting of real property shall not be treated as the active conduct of a trade or business.

"(7) COMPUTER SOFTWARE ROYALTIES.—For purposes of paragraph (1), rights to computer software which produces income described in section 543(d) shall be treated as an asset used in the active conduct of a trade or business.

"(e) STOCK ACQUIRED ON CONVERSION OF PREFERRED STOCK.—If any stock is acquired through the conversion of other stock which is qualified small business stock in the hands of the taxpayer—

"(1) the stock so acquired shall be treated as qualified small business stock in the hands of the taxpayer, and

"(2) the stock so acquired shall be treated as having been held during the period during which the converted stock was held.

"(f) TREATMENT OF PASS-THRU ENTITIES.—

"(1) IN GENERAL.—Any amount included in income by reason of holding an interest in a pass-thru entity shall be treated as gain described in subsection (a) if such amount meets the requirements of paragraph (2).

"(2) REQUIREMENTS.—An amount meets the requirements of this paragraph if—

"(A) such amount is attributable to gain on the sale or exchange by the pass-thru entity of stock which is qualified small business stock in the hands of such entity and which was held by such entity for more than 5 years, and

"(B) such amount is includible in the gross income of the taxpayer by reason of the holding of an interest in such entity which was held by the taxpayer on the date on which such pass-thru entity acquired such stock and at all times thereafter before the disposition of such stock by such pass-thru entity.

"(3) LIMITATION BASED ON INTEREST ORIGINALLY HELD BY TAXPAYER.—Paragraph (1) shall not apply to any amount to the extent such amount exceeds the amount to which paragraph (1) would have applied if such amount were determined by reference to the interest the taxpayer held in the pass-thru entity on the date the qualified small business stock was acquired.

"(4) PASS-THRU ENTITY.—For purposes of this subsection, the term 'pass-thru entity' means—

"(A) any partnership,

"(B) any S corporation,

"(C) any regulated investment company, and

"(D) any common trust fund.

"(g) CERTAIN TAX-FREE AND OTHER TRANSFERS.—For purposes of this section—

"(1) IN GENERAL.—In the case of a transfer of stock to which this subsection applies, the transferee shall be treated as—

"(A) having acquired such stock in the same manner as the transferor, and

"(B) having held such stock during any continuous period immediately preceding the transfer during which it was held (or treated as held under this subsection) by the transferor.

"(2) TRANSFERS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to any transfer—

"(A) by gift,

"(B) at death,

"(C) from a partnership to a partner of stock with respect to which the requirements of subsection (f) are met at the time of the transfer (without regard to the 5-year holding requirement), or

"(D) to the extent that the basis of the property in the hands of the transferee is determined by reference to the basis of the property in the hands of the transferor by reason of section 334(b), but only if requirements similar to the requirements of subsection (f) are met with respect to the stock.

"(3) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of section 1244(d)(2) shall apply for purposes of this section.

"(4) INCORPORATIONS AND REORGANIZATIONS INVOLVING NONQUALIFIED STOCK.—

"(A) IN GENERAL.—In the case of a transaction described in section 351 or a reorganization described in section 368, if a qualified small business stock is transferred for other stock, such transfer shall be treated as a transfer to which this subsection applies solely with respect to the person receiving such other stock.

"(B) LIMITATION.—This section shall apply to the sale or exchange of stock treated as qualified small business stock by reason of subparagraph (A) only to the extent of the gain (if any) which would have been recognized at the time of the transfer described in subparagraph (A) if section 351 or 368 had not applied at such time.

"(C) SUCCESSIVE APPLICATION.—For purposes of this paragraph, stock treated as qualified small business stock under subparagraph (A) shall be so treated for subsequent transactions or reorganizations, except that the limitation of subparagraph (B) shall be applied as of the time of the first transfer to which subparagraph (A) applied.

"(D) CONTROL TEST.—Except in the case of a transaction described in section 368, this paragraph shall apply only if, immediately after the transaction, the corporation issuing the stock owns directly or indirectly stock representing control (within the meaning of section 368(c)) of the corporation whose stock was transferred.

"(h) BASIS RULES.—

"(1) STOCK EXCHANGED FOR PROPERTY.—For purposes of this section, in the case where the taxpayer transfers property (other than money or stock) to a corporation in exchange for stock in such corporation—

"(A) such stock shall be treated as having been acquired by the taxpayer on the date of such exchange, and

"(B) the basis of such stock in the hands of the taxpayer shall in no event be less than the fair market value of the property exchanged.

"(2) BASIS OF S CORPORATION STOCK.—For purposes of this section, the adjusted basis of stock in an S corporation shall in no event be less than its adjusted basis determined without regard to any adjustment to the basis of such stock under section 1367.

"(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including regulations to prevent the avoidance of the purposes of this section through split-ups or otherwise."

(b) EXCLUSION TREATED AS PREFERENCE FOR MINIMUM TAX.—

(1) IN GENERAL.—Subsection (a) of section 57 (relating to items of tax preference) is amended by adding at the end thereof the following new paragraph:

"(8) EXCLUSION FOR GAINS ON SALE OF CERTAIN SMALL BUSINESS STOCK.—An amount equal to the amount excluded from gross income for the taxable year under section 1202."

(2) CONFORMING AMENDMENT.—Subclause (II) of section 53(d)(2)(B)(ii) is amended by striking "and (6)" and inserting "(6), and (8)".

(c) CONFORMING AMENDMENTS.—

(1)(A) Section 172(d)(2) (relating to modifications with respect to net operating loss deduction) is amended to read as follows:

"(2) CAPITAL GAINS AND LOSSES OF TAXPAYERS OTHER THAN CORPORATIONS.—In the case of a taxpayer other than a corporation—

"(A) the amount deductible on account of losses from sales or exchanges of capital assets shall not exceed the amount includable on account of gains from sales or exchanges of capital assets; and

"(B) the exclusion provided by section 1202 shall not be allowed."

(B) Subparagraph (B) of section 172(d)(4) is amended by inserting ", (2)(B)," after "paragraph (1)".

(2) Paragraph (4) of section 642(c) is amended to read as follows:

"(4) ADJUSTMENTS.—To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain described in section 1202(a), proper adjustment shall be made for any exclusion allowable to the estate or trust under section 1202. In the case of a trust, the deduction allowed by this subsection shall be subject to section 681 (relating to unrelated business income)."

(3) Paragraph (3) of section 643(a) is amended by adding at the end thereof the following new sentence: "The exclusion under section 1202 shall not be taken into account."

(4) Paragraph (4) of section 691(c) is amended by striking "1201, and 1211" and inserting "1201, 1202, and 1211".

(5) The second sentence of paragraph (2) of section 871(a) is amended by inserting "such gains and losses shall be determined without regard to section 1202 and" after "except that".

(6) The table of sections for part I of subchapter P of chapter 1 is amended by adding after the item relating to section 1201 the following new item:

"Sec. 1202. 50-percent exclusion for gain from certain small business stock."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to stock issued on or after February 1, 1992.

Subtitle E—Investment in Real Estate

PART I—FIRST-TIME HOMEBUYER CREDIT

SEC. 2401. CREDIT FOR PURCHASE OF NEW PRINCIPAL RESIDENCE BY FIRST-TIME HOMEBUYER.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits), as amended by section 2121, is amended by inserting after section 23 the following new section:

"SEC. 24. PURCHASE OF NEW PRINCIPAL RESIDENCE BY FIRST-TIME HOMEBUYER.

"(a) ALLOWANCE OF CREDIT.—

"(1) IN GENERAL.—In the case of a first-time homebuyer, there shall be allowed as a credit against the tax imposed by this chapter an amount equal to 10 percent of the purchase price of an eligible principal residence purchased by the taxpayer during a portion of the taxable year which occurs within the eligibility period.

"(2) MAXIMUM CREDIT.—The credit allowed by subsection (a) to the taxpayer shall not exceed $5,000.

"(b) ELIGIBLE PRINCIPAL RESIDENCE.—For purposes of subsection (a), the term 'eligible principal residence' means a principal residence—

"(1) the original use of which begins with the taxpayer, and

"(2) which is the first principal residence purchased by the taxpayer during the eligibility period.

"(c) FIRST-TIME HOMEBUYER.—For purposes of this section—

"(1) IN GENERAL.—The term 'first-time homebuyer' means any individual unless such individual or such individual's spouse had a present ownership interest in any principal residence at any time during the 3-year period ending on the date of the purchase of the residence referred to in subsection (a).

"(2) UNMARRIED JOINT OWNERS.—An individual shall not be treated as a first-time homebuyer with respect to any residence unless all the individuals purchasing such residence with such individual are first-time homebuyers.

"(3) ALLOCATION OF LIMITS.—All individuals purchasing a residence shall be treated as 1 individual for purposes of determining the maximum credit under subsection (a), and such maximum credit shall be allocated among such individuals under regulations prescribed by the Secretary.

"(4) CERTAIN INDIVIDUALS INELIGIBLE.—The term 'first-time homebuyer' shall not include any individual if, on the date of the purchase of the residence, the period of time specified in section 1034(a) is suspended under subsection (h) or (k) of section 1034 with respect to such individual.

"(d) OTHER DEFINITIONS.—For purposes of this section—

"(1) ELIGIBILITY PERIOD.—

"(A) IN GENERAL.—The term 'eligibility period' means the period beginning after January 31, 1992, and ending before January 1, 1994.

"(B) BINDING CONTRACTS.—A residence shall be treated as purchased during the eligibility period if—

"(i) during the eligibility period, the purchaser enters into a binding contract to purchase the residence, and

"(ii) the purchaser purchases and occupies the residence before the close of the 90-day period beginning on the date the contract was entered into.

For purposes of clause (i), a contract shall not fail to be treated as binding merely because it is contingent on financing or on the condition of the residence.

"(2) PURCHASE.—The term 'purchase' means any acquisition of property, but only if—

"(A) the property is not acquired from a person whose relationship to the person acquiring it would result in the disallowance of losses under section 267 or 707(b), and

"(B) the basis of the property in the hands of the person acquiring it is not determined—

"(i) in whole or in part by reference to the adjusted basis of such property in the hands of the person from whom acquired, or

"(ii) under section 1014(a) (relating to property acquired from a decedent).

"(3) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as when used in section 1034.

"(4) PURCHASE PRICE.—The term 'purchase price' means the adjusted basis of the residence on the date of its acquisition.

"(e) CARRYOVER OF UNUSED CREDIT.—

"(1) IN GENERAL.—If—

"(A) the credit allowable under subsection (a) exceeds

"(B) the limitation imposed by section 26(a) reduced by the sum of the credits allowable under sections 21, 22, and 23,

such excess shall be carried to the succeeding taxable year and shall be allowable under subsection (a) for such succeeding taxable year.

"(2) 5-YEAR LIMIT ON CARRYFORWARD.—No amount may be carried under paragraph (1) to any taxable year after the 5th taxable year after the taxable year in which the residence is purchased.

"(f) RECAPTURE OF CREDIT FOR CERTAIN DISPOSITIONS.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), if the taxpayer disposes of property with respect to the purchase of which a credit was allowed under subsection (a) and such disposition occurs at any time within 36 months after the date the taxpayer acquired the property as his principal residence, then the tax imposed under this chapter for the taxable year in which the disposition occurs is increased by an amount equal to the amount allowed as a credit for the purchase of such property.

"(2) ACQUISITION OF NEW RESIDENCE.—If, in connection with a disposition described in paragraph (1) and within the applicable period prescribed in section 1034, the taxpayer purchases a new principal residence, then paragraph (1) shall not apply and the tax imposed by this chapter for the taxable year in which the new principal residence is purchased is increased to the extent the amount of the credit that could be claimed under this section on the purchase of the new residence (were such residence the first residence purchased during the eligibility period) is less than the amount of credit claimed by the taxpayer under this section.

"(3) DEATH OF OWNER; CASUALTY LOSS; INVOLUNTARY CONVERSION; ETC.—Paragraph (1) shall not apply to—

"(A) a disposition of a residence made on account of the death of any individual having a legal or equitable interest therein occurring during the 36-month period referred to in paragraph (1),

"(B) a disposition of the old residence if it is substantially or completely destroyed by a casualty described in section 165(c)(3) or compulsorily or involuntarily converted (within the meaning of section 1033(a)), or

"(C) a disposition pursuant to a settlement in a divorce or legal separation proceeding where the residence is sold or the other spouse retains the residence as a principal residence."

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1, as amended by section 2121, is amended by inserting after the item relating to section 23 the following new item:

"Sec. 24. Purchase of new principal residence by first-time homebuyer."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending on or after February 1, 1992.

PART II—MODIFICATION OF PASSIVE LOSS RULES

SEC. 2411. MODIFICATION OF PASSIVE LOSS RULES.

(a) GENERAL RULE.—Section 469 (relating to passive activity losses and credits limited) is amended by redesignating subsections (l) and (m) as subsections (m) and (n), respectively, and by inserting after subsection (k) the following new subsection:

"(l) SPECIAL RULES FOR REAL ESTATE ACTIVITIES.—

"(1) CERTAIN ACTIVITIES TREATED AS NOT PASSIVE.—

"(A) IN GENERAL.—If the taxpayer meets the requirements of paragraph (2) for the taxable year, all—

"(i) activities consisting of the performance of qualified real estate services, and

"(ii) rental activities with respect to qualified real property,

shall be treated as a single activity which is not a passive activity.

"(B) EXCEPTION.—

"(i) IN GENERAL.—Paragraph (1) shall not apply with respect to any activity with respect to any real property originally placed in service after March 3, 1992 (whether or not by the taxpayer).

"(ii) SUBSTANTIAL RENOVATIONS.—For purposes of clause (i), any real property substantially renovated after March 3, 1992, shall be treated as originally placed in service after such date. For purposes of this clause, property shall be treated as substantially renovated if, during any 24-month period beginning after such date, additions to basis with respect to the property exceed an amount equal to the adjusted basis of the property at the beginning of the 24-month period.

"(C) LIMITATION ON INCOME WHICH RENTAL ACTIVITY LOSSES OR CREDITS MAY OFFSET.—The aggregate losses from all activities described in subparagraph (A)(ii) for which a deduction is allowed for any taxable year shall not exceed the sum of—

"(i) the aggregate income from such activities, plus

"(ii) the net income from passive activities to which this subsection does not apply, plus

"(iii) an amount equal to 80 percent of the lesser of—

"(I) the net income from activities described in subparagraph (A)(i), or

"(II) the taxable income of the taxpayer determined without regard to any item of income, gain, loss, or deduction allocable to activities described in subparagraph (A)(ii).

Any passive activity credits from activities described in subparagraph (A)(ii) shall not be allowed to the extent such credits exceed the regular tax liability of the taxpayer allocable to the amounts described in clauses (i), (ii), and (iii).

"(D) TREATMENT OF SUSPENDED LOSSES AND CREDITS.—In the case of any unused deductions or credits from activities described in subparagraph (A)(ii)—

"(i) subsection (f) shall not apply, but

"(ii) such deductions or credits shall be treated as from such activities for purposes of applying subparagraph (C).

"(2) REQUIREMENTS.—A taxpayer meets the requirements of this paragraph for any taxable year if the taxpayer materially participates during such taxable year in activities referred to in subparagraphs (A) and (B) of paragraph (1) (as determined under subsection (h) by treating all of such activities as a single activity).

"(3) QUALIFIED REAL ESTATE SERVICES.—For purposes of this subsection, the term 'qualified real estate services' means services in the construction, substantial renovation, and management of real property or in the lease-up and sale of qualified real property.

"(4) QUALIFIED REAL PROPERTY.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified real property' means any real property if during the taxable year the taxpayer actively participates in rental activities with respect to such property.

"(B) ACTIVE PARTICIPATION.—For purposes of subparagraph (A), active participation shall be determined under subsection (i)(6), except that subparagraph (A) thereof shall be applied by substituting 'a de minimis portion' for 'less than 10 percent (by value)'.

"(5) SPECIAL RULE.—For purposes of this subsection—

"(A) NON-OWNER EMPLOYEES.—Qualified real estate services shall not include any services performed by an individual as an employee unless the employee owns more than a de minimis interest in the employer.

"(B) CLOSELY HELD C CORPORATIONS.—This subsection shall not apply to any interests held by a closely held C corporation."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1991.

PART III—PROVISIONS RELATING TO REAL ESTATE INVESTMENTS BY PENSION FUNDS

SEC. 2421. REAL ESTATE PROPERTY ACQUIRED BY A QUALIFIED ORGANIZATION.

(a) MODIFICATIONS OF EXCEPTIONS.—Paragraph (9) of section 514(c) (relating to real property acquired by a qualified organization) is amended by adding at the end thereof the following new subparagraphs:

"(G) SPECIAL RULES FOR PURPOSES OF THE EXCEPTIONS.—Except as otherwise provided by regulations—

"(i) SMALL LEASES DISREGARDED.—For purposes of clauses (iii) and (iv) of subparagraph (B), a lease to a person described in such clause (iii) or (iv) shall be disregarded if no more than 20 percent of the leasable floor space in a building is covered by the lease and if the lease is on commercially reasonable terms.

"(ii) COMMERCIALLY REASONABLE FINANCING.—Clause (v) of subparagraph (B) shall not apply if the financing is on commercially reasonable terms. For purposes of this clause, financing shall be treated on commercially reasonable terms if the downpayment is at least 15 percent of the sales price and the interest rate is at least 150 percent of the applicable Federal rate determined under section 1274(d).

"(H) QUALIFYING SALES OUT OF FORECLOSURE BY FINANCIAL INSTITUTIONS.—

"(i) IN GENERAL.—In the case of a qualifying sale out of foreclosure by a financial institution, except as provided in regulations, clauses (i) and (ii) of subparagraph (B) shall not apply with respect to financing provided by such institution for such sale.

"(ii) QUALIFYING SALE.—For purposes of this clause, there is a qualifying sale out of foreclosure by a financial institution where—

"(I) a qualified organization acquires foreclosure property from a financial institution and the financial institution treats such property as property which is not a capital asset,

"(II) the stated principal amount of the financing provided by the financial institution does not exceed the amount of the outstanding indebtedness (including accrued but unpaid interest) of the financial institution with respect to the foreclosure property immediately before the acquisition referred to in clause (iv), and

"(III) the value (determined as of the time of the sale) of the amount pursuant to the financing that is determined by reference to the revenue, income, or profits derived from the property does not exceed 25 percent of the value of the property (determined as of such time).

"(iii) FINANCIAL INSTITUTION.—For purposes of this subparagraph, the term 'financial institution' means—

"(I) any financial institution described in section 581 or 591(a),

"(II) any other corporation which is a member of an affiliated group (as defined in section 1504(a)) which includes an institution referred to in subclause (I) but only if such other corporation is subject to supervision and examination by the same Federal or State agency as the institution referred to in subclause (I), and

"(III) any person acting as a conservator or receiver of an entity referred to in subclause (I) or (II).

"(iv) FORECLOSURE PROPERTY.—For purposes of this subparagraph, the term 'foreclosure property' means any real property acquired by the financial institution as the result of having bid on such property at foreclosure, or by operation of an agreement or process of law, after there was a default (or a default was imminent) on indebtedness which such property secured."

(b) INTERESTS IN MORTGAGES NOT TREATED AS REAL PROPERTY.—

(1) IN GENERAL.—Paragraph (9) of section 514(c) is amended—

(A) by adding the following new sentence at the end of subparagraph (A): "For purposes of this paragraph, an interest in a mortgage shall in no event be treated as real property.", and

(B) by striking the last sentence of subparagraph (B).

(2) EXCEPTION.—Paragraph (9) of section 514(c), as amended by subsection (a), is amended

by adding at the end the following new subparagraph:

"(I) QUALIFIED MORTGAGE INTEREST TREATED AS REAL PROPERTY.—

"(i) IN GENERAL.—The last sentence of subparagraph (A) shall not apply to any qualified mortgage investment during the 30-month period beginning on the date such investment is acquired.

"(ii) QUALIFIED MORTGAGE INVESTMENT.—For purposes of this subparagraph, the term 'qualified mortgage investment' means any interest in 1 or more mortgages—

"(I) acquired after January 31, 1992, and before January 1, 1994, from a financial institution described in section 581 or 591(a) which is in conservatorship or receivership, or the conservator or receiver of such an institution,

"(II) with respect to which there is no acquisition indebtedness other than financing provided by the person described in subclause (I), and

"(III) the acquisition indebtedness provided by such person is less than 50 percent of the sales price with respect to such interest."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to acquisitions on or after February 1, 1992.

SEC. 2422. SPECIAL RULES FOR INVESTMENTS IN PARTNERSHIPS.

(a) MODIFICATION TO ANTI-ABUSE RULES.—Paragraph (9) of section 514(c) (as amended by section 2421) is amended by adding at the end thereof the following new subparagraph:

"(J) PARTNERSHIPS NOT INVOLVING TAX AVOIDANCE.—

"(i) DE MINIMIS RULE FOR CERTAIN LARGE PARTNERSHIPS.—The provisions of subparagraph (B) shall not apply to an investment in a partnership having at least 250 partners if—

"(I) interests in such partnership were offered for sale in an offering registered with the Securities and Exchange Commission,

"(II) at least 50 percent of each class of interests in such partnership is owned by individuals who are not disqualified persons, and

"(III) the principal purpose of partnership allocations is not tax avoidance.

The Secretary may disregard inadvertent failures to meet the requirements of subclause (II).

"(ii) DISQUALIFIED PERSONS.—For purposes of this subparagraph, the term 'disqualified person' means any person described in clause (iii) or (iv) of subparagraph (B) and any person who is not a United States person."

(b) REPEAL OF SPECIAL TREATMENT OF PUBLICLY TRADED PARTNERSHIPS.—Subsection (c) of section 512 is amended—

(1) by striking paragraph (2),

(2) by redesignating paragraph (3) as paragraph (2), and

(3) by striking "paragraph (1) or (2)" in paragraph (2) (as so redesignated) and inserting "paragraph (1)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership interests acquired on or after February 1, 1992.

SEC. 2423. TITLE-HOLDING COMPANIES PERMITTED TO RECEIVE SMALL AMOUNTS OF UNRELATED BUSINESS TAXABLE INCOME.

(a) GENERAL RULE.—Paragraph (25) of section 501(c) is amended by adding at the end thereof the following new subparagraph:

"(G)(i) An organization shall not be treated as failing to be described in this paragraph merely by reason of the receipt of any income which is incidentally derived from the holding of real property.

"(ii) Clause (i) shall not apply if the amount of gross income described in such clause exceeds 10 percent of the organization's gross income for the taxable year unless the organization establishes to the satisfaction of the Secretary that the receipt of gross income described in clause (i) in excess of such limitation was inadvertent and reasonable steps are being taken to correct the circumstances giving rise to such income."

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 501(c) is amended by adding at the end thereof the following new sentence: "Rules similar to the rules of subparagraph (G) of paragraph (25) shall apply for purposes of this paragraph."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 2424. EXCLUSION FROM UNRELATED BUSINESS TAX OF GAINS FROM CERTAIN PROPERTY.

(a) GENERAL RULE.—Subsection (b) of section 512 (relating to modifications) is amended by adding at the end thereof the following new paragraph:

"(16) Notwithstanding paragraph (5)(B), there shall be excluded all gains or losses from the sale, exchange, or other disposition of any real property if—

"(A) such property was acquired by the organization from—

"(i) a financial institution described in section 581 or 591(a) which is in conservatorship or receivership, or

"(ii) the conservator or receiver of such an institution,

"(B) such property is designated by the organization within the 6-month period beginning on the date of its acquisition as property held for sale,

"(C) such sale, exchange, or disposition occurs before the later of—

"(i) the date which is 30 months after the date of the acquisition of such property, or

"(ii) the date specified by the Secretary in order to assure an orderly disposition of property held by persons described in subparagraph (A), and

"(D) while such property was held by the organization, such property was not substantially improved or renovated and there were no substantial development activities with respect to such property.

For purposes of this paragraph, an interest in a mortgage shall be treated as real property."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to property acquired on or after February 1, 1992.

SEC. 2425. EXCLUSION FROM UNRELATED BUSINESS TAX OF CERTAIN FEES AND OPTION PREMIUMS.

(a) LOAN COMMITMENT FEES.—Paragraph (1) of section 512(b) (relating to modifications) is amended by inserting "amounts received or accrued as consideration for entering into agreements to make loans," before "and annuities".

(b) OPTION PREMIUMS.—The second sentence of section 512(b)(5) is amended by inserting "or real property" before the period.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received on or after February 1, 1992.

SEC. 2426. EXCLUSION FROM UNRELATED BUSINESS TAX OF CERTAIN HOTEL RENTAL INCOME.

(a) IN GENERAL.—Section 512(b)(3) (relating to rents) is amended by adding at the end the following new subparagraph:

"(D)(i) Notwithstanding subparagraph (B), there shall be excluded under subparagraph (A) all rents from any real property described in clause (ii).

"(ii) Property is described in this clause if it is a hotel or motel with respect to which the predominant portion of accommodations is used by transients and—

"(I) which is acquired on or after February 1, 1992, from a financial institution described in section 581 or 591(a) which is in conservatorship or receivership, or from the conservator or receiver of such an institution, and

"(II) which is designated by the organization within the 6-month period beginning on the date of its acquisition as property held for sale.

"(iii) Clause (i) shall not apply to any real property unless, during the 30-month period beginning on the date of acquisition—

"(I) the organization sells such property, or

"(II) the organization enters into a contract with an independent contractor to provide all related services in connection with the property, and such contract does not permit the organization to derive or receive any income from the independent contractor (within the meaning of section 856(d)(2)(C)).

"(iv) If clause (iii)(II) applies to any property, clause (i) shall apply to rents from such property only during the continuous period beginning with the date the property is acquired and ending on the earlier of—

"(I) the first date after the 30-month period described in clause (iii) on which a contract described in clause (iii)(II) is not in effect, or

"(II) the date on which the property is sold."

(b) EFFECTIVE DATE.—The amendment made by this section applies to property acquired after January 31, 1992.

PART IV—OTHER PROVISIONS

SEC. 2431. INCREASE IN RECOVERY PERIOD FOR NONRESIDENTIAL REAL PROPERTY.

(a) GENERAL RULE.—Paragraph (1) of section 168(c) is amended by striking "31.5 years" in the item relating to nonresidential real property in the table contained therein and inserting "40 years".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to property placed in service by the taxpayer after February 12, 1992.

(2) EXCEPTION.—The amendments made by this section shall not apply to property placed in service by the taxpayer before January 1, 1995, if—

(A) the taxpayer or a qualified person entered into a binding written contract to purchase or construct such property before February 13, 1992, or

(B) the construction of such property was commenced by or for the taxpayer or a qualified person before February 13, 1992.

For purposes of this paragraph, the term "qualified person" means any person who transfers his rights in such a contract or such property to the taxpayer but only if the property is not placed in service by such person before such rights are transferred to the taxpayer.

SEC. 2432. LOW-INCOME HOUSING CREDIT.

(a) EXTENSION.—

(1) IN GENERAL.—

(A) Paragraph (1) of section 42(o) (relating to termination of low-income housing credit) is amended—

(i) by inserting ", for any calendar year after 1993" after "paragraph (2)",

(ii) by striking "to any amount allocated after June 30, 1992" in subparagraph (A), and

(iii) by striking "June 30, 1992" in subparagraph (B) and inserting "1993".

(B) Paragraph (2) of section 42(o) is amended—

(i) by striking "July 1, 1992" each place it appears and inserting "1994",

(ii) by striking "June 30, 1992" in subparagraph (B) and inserting "December 31, 1993",

(iii) by striking "June 30, 1994" in subparagraph (B) and inserting "December 31, 1995", and

(iv) by striking "July 1, 1994" in subparagraph (C) and inserting "January 1, 1996".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to periods ending after June 30, 1992.

(b) MODIFICATIONS.—

(1) CARRYFORWARD RULES.—

(A) IN GENERAL.—Clause (ii) of section 42(h)(3)(D) (relating to unused housing credit carryovers allocated among certain States) is amended by striking "the excess" and all that follows and inserting "the excess (if any) of the unused State housing credit ceiling for the year preceding such year over the aggregate housing credit dollar amount allocated for such year."

(B) CONFORMING AMENDMENT.—The second sentence of section 42(h)(3)(C) (relating to State housing credit ceiling) is amended by striking "clauses (i) and (iii)" and inserting "clauses (i) through (iv)".

(2) 10-YEAR ANTI-CHURNING RULE WAIVER EXPANDED.—Clause (ii) of section 42(d)(6)(B) (defining federally assisted building) is amended by inserting ", 221(d)(4)," after "221(d)(3)".

(3) LIMITATION ON ELIGIBLE BASIS OF UNITS.—Paragraph (5) of section 42(d) (relating to special rules for determining eligible basis) is amended by adding at the end thereof the following new subparagraph:

"(D) MAXIMUM LIMIT PER UNIT.—

"(i) IN GENERAL.—Notwithstanding any other provision of this section, and before the application of subparagraph (C), the eligible basis of each unit of any building shall not exceed $124,875.

"(ii) INFLATION ADJUSTMENT.—For any calendar year beginning after 1992, the dollar amount referred to in clause (i) shall be increased by an amount equal to—

"(I) such dollar amount, multiplied by

"(II) the cost-of-living adjustment determined under section 1(f)(3), for such calendar year, by substituting 'calendar year 1991' for 'calendar year 1989' in subparagraph (B) thereof.

If any dollar amount after being increased under paragraph (1) is not a multiple of $10, such dollar amount shall be rounded to the nearest multiple of $10 (or, if such dollar amount is a multiple of $5, such dollar amount shall be increased to the next higher multiple of $10)."

(4) UNITS WITH CERTAIN FULL-TIME STUDENTS NOT DISQUALIFIED.—Subparagraph (D) of section 42(i) (relating to definitions and special rules) is amended to read as follows:

"(D) CERTAIN STUDENTS NOT TO DISQUALIFY UNIT.—A unit shall not fail to be treated as a low-income unit merely because it is occupied—

"(i) by an individual who is—

"(I) a student and receiving assistance under title IV of the Social Security Act, or

"(II) enrolled in a job training program receiving assistance under the Job Training Partnership Act or under other similar Federal, State, or local laws, or

"(ii) entirely by full-time students if such students are—

"(I) single parents and their children and such parents and children are not dependents (as defined in section 152) of another individual, or

"(II) married and file a joint return."

(5) TREASURY WAIVERS OF CERTAIN DE MINIMIS ERRORS AND RECERTIFICATIONS.—Subsection (g) of section 42 (relating to qualified low-income housing projects) is amended by adding at the end thereof the following new paragraph:

"(8) WAIVER OF CERTAIN DE MINIMIS ERRORS AND RECERTIFICATIONS.—On application by the taxpayer, the Secretary may waive—

"(A) any recapture under subsection (j) in the case of any de minimis error in complying with paragraph (1), or

"(B) any annual recertification of tenant income for purposes of this subsection, if the entire building is occupied by low-income tenants."

(6) BASIS OF COMMUNITY SERVICE AREAS INCLUDED IN ADJUSTED BASIS.—Paragraph (4) of section 42(d) (relating to special rules relating to determination of adjusted basis) is amended—

(A) by striking "subparagraph (B)" in subparagraph (A) and inserting "subparagraphs (B) and (C)",

(B) by redesignating subparagraph (C) as subparagraph (D), and

(C) by inserting after subparagraph (B) the following new subparagraph:

"(C) BASIS OF PROPERTY IN COMMUNITY SERVICE AREAS INCLUDED.—The adjusted basis of any building located in a qualified census tract shall be determined by taking into account the adjusted basis of property (of a character subject to the allowance for depreciation) used in functionally related and subordinate community activity facilities if—

"(i) the size of the facilities is commensurate with tenant needs,

"(ii) the use of such facilities is predominantly by tenants and employees of the building owner, and

"(iii) not more than 20 percent of the building's eligible basis is attributable to the aggregate basis of such facilities."

(7) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection shall apply to—

(i) determinations under section 42 of the Internal Revenue Code of 1986 with respect to housing credit dollar amounts allocated from State housing credit ceilings after June 30, 1992, or

(ii) buildings placed in service after June 30, 1992, to the extent paragraph (1) of section 42(h) of such Code does not apply to any building by reason of paragraph (4) thereof, but only with respect to bonds issued after such date.

(B) WAIVER AUTHORITY.—The amendments made by paragraphs (2) and (5) shall take effect on the date of the enactment of this Act.

SEC. 2433. QUALIFIED MORTGAGE BONDS.

(a) IN GENERAL.—Subparagraph (B) of section 143(a)(1) (defining qualified mortgage bond) is amended by striking "June 30, 1992" and inserting "December 31, 1993".

(b) MORTGAGE CREDIT CERTIFICATES.—Subsection (h) of section 25 (relating to interest on certain home mortgages) is amended by striking "June 30, 1992" and inserting "December 31, 1993".

(c) EFFECTIVE DATES.—

(1) BONDS.—The amendment made by subsection (a) shall apply to bonds issued after June 30, 1992.

(2) CERTIFICATES.—The amendment made by subsection (b) shall apply to elections for periods after June 30, 1992.

Subtitle F—Other Incentives

PART I—SPECIAL DEPRECIATION ALLOWANCE

SEC. 2501. SPECIAL DEPRECIATION ALLOWANCE FOR CERTAIN EQUIPMENT ACQUIRED IN 1992.

(a) IN GENERAL.—Section 168 (relating to accelerated cost recovery system) is amended by adding at the end the following new subsection:

"(j) SPECIAL ALLOWANCE FOR CERTAIN EQUIPMENT ACQUIRED IN 1992.—

"(1) ADDITIONAL ALLOWANCE.—In the case of any qualified equipment—

"(A) the depreciation deduction provided by section 167(a) for the taxable year in which such equipment is placed in service shall include an allowance equal to 10 percent of the adjusted basis of the qualified equipment, and

"(B) the adjusted basis of the qualified equipment shall be reduced by the amount of such deduction before computing the amount otherwise allowable as a depreciation deduction under this chapter for such taxable year and any subsequent taxable year.

"(2) QUALIFIED EQUIPMENT.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified equipment' means property to which this section applies—

"(i) which is section 1245 property (within the meaning of section 1245(a)(3)),

"(ii) the original use of which commences with the taxpayer on or after February 1, 1992,

"(iii) which is—

"(I) acquired by the taxpayer on or after February 1, 1992, and before January 1, 1993, but only if no written binding contract for the acquisition was in effect before February 1, 1992, or

"(II) acquired by the taxpayer pursuant to a written binding contract which was entered into on or after February 1, 1992, and before January 1, 1993, and

"(iv) which is placed in service by the taxpayer before July 1, 1993.

"(B) EXCEPTIONS.—

"(i) ALTERNATIVE DEPRECIATION PROPERTY.—The term 'qualified equipment' shall not include any property to which the alternative depreciation system under subsection (g) applies, determined—

"(I) without regard to paragraph (7) of subsection (g) (relating to election to have system apply), and

"(II) after application of section 280F(b) (relating to listed property with limited business use).

"(ii) ELECTION OUT.—If a taxpayer makes an election under this clause with respect to any class of property for any taxable year, this subsection shall not apply to all property in such class placed in service during such taxable year.

"(C) SPECIAL RULES RELATING TO ORIGINAL USE.—

"(i) SELF-CONSTRUCTED PROPERTY.—In the case of a taxpayer manufacturing, constructing, or producing property for the taxpayer's own use, the requirements of clause (iii) of subparagraph (A) shall be treated as met if the taxpayer begins manufacturing, constructing, or producing the property on and after February 1, 1992, and before January 1, 1993.

"(ii) SALE-LEASEBACKS.—For purposes of subparagraph (A)(ii), if property—

"(I) is originally placed in service on or after February 1, 1992, by a person, and

"(II) is sold and leased back by such person within 3 months after the date such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback referred to in subclause (II).

"(D) COORDINATION WITH SECTION 280F.—For purposes of section 280F—

"(i) AUTOMOBILES.—In the case of a passenger automobile (as defined in section 280F(d)(5)) which is qualified equipment, the Secretary shall increase the limitation under section 280F(a)(1)(A)(i), and decrease each other limitation under subparagraphs (A) and (B) of section 280F(a)(1), to appropriately reflect the amount of the deduction allowable under paragraph (1).

"(ii) LISTED PROPERTY.—The deduction allowable under paragraph (1) shall be taken into account in computing any recapture amount under section 280F(b)(2)."

(b) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Section 56(a)(1)(A) (relating to depreciation adjustment for alternative minimum tax) is amended by adding at the end the following new clause:

"(iii) ADDITIONAL ALLOWANCE FOR EQUIPMENT ACQUIRED IN 1992.—The deduction under section 168(j) shall be allowed."

(2) CONFORMING AMENDMENT.—Clause (i) of section 56(a)(1)(A) is amended by inserting "or (iii)" after "(ii)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service on or after February 1, 1992, in taxable years ending on or after such date.

PART II—MODIFICATIONS TO MINIMUM TAX

SEC. 2502. TEMPORARY REPEAL OF PREFERENCE FOR CONTRIBUTIONS OF APPRECIATED PROPERTY.

(a) TEMPORARY REPEAL.—

(1) IN GENERAL.—Paragraph (6) of section 57(a) is amended by adding at the end the following new subparagraph:

"(C) TERMINATION.—This paragraph shall not apply to any contribution during 1992 or 1993."

(2) CONFORMING AMENDMENT.—Subparagraph (B) of section 57(a)(6) is amended by striking the last sentence.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to contributions after December 31, 1991.

(b) ADVANCE DETERMINATION OF VALUE OF CHARITABLE GIFTS.—

(1) IN GENERAL.—The Secretary of the Treasury or his delegate shall develop and implement a procedure under which the Secretary's position as to the value of tangible personal property would be determined for Federal income tax purposes prior to the transfer of such property to a charitable organization.

(2) REPORT.—Not later than December 31, 1992, the Secretary of the Treasury shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives with respect to the development of the procedure under paragraph (1) and the timetable for its implementation.

(c) STUDY OF CORPORATE SPONSORSHIP PAYMENTS.—

(1) IN GENERAL.—The Secretary of the Treasury or his delegate shall conduct a study of the tax treatment of corporate sponsorship payments received by tax-exempt organizations in connection with athletic and other events, including the ramifications of Announcement 92-15, 1992—5 I.R.B. 51.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives the results of the study under paragraph (1).

SEC. 2503. MINIMUM TAX TREATMENT OF CERTAIN ENERGY PREFERENCES.

(a) MODIFICATION OF ADJUSTED CURRENT EARNINGS.—Clause (i) of section 56(g)(4)(D) is amended by striking "The" and inserting "In the case of an integrated oil company (as defined in section 291(b)(4)), the".

(b) MODIFICATIONS OF ENERGY PREFERENCE ADJUSTMENT.—

(1) IN GENERAL.—Subparagraph (A) of section 56(h)(3) is amended to read as follows:

"(A) 50 percent of the intangible drilling cost preference, plus".

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 56(h) is amended by inserting "(as defined in section 291(b)(4))" after "company".

(B) Paragraph (4) of section 56(h) is amended to read as follows:

"(4) INTANGIBLE DRILLING COST PREFERENCE.—For purposes of this subsection, the term 'intangible drilling cost preference' means the amount by which alternative minimum taxable income would be reduced if it were computed without regard to section 57(a)(2)."

(C) Section 56(h) is amended by striking paragraph (6) and by redesignating paragraphs (7) and (8) as paragraphs (6) and (7).

(c) NET INCOME LIMITATION.—Subparagraph (A) of section 57(a)(2) is amended by adding at the end the following new sentence: "In the case of a taxpayer other than an integrated oil company (as defined in section 291(b)(4)), the preceding sentence shall be applied by substituting '70 percent' for '65 percent' ".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 2504. ELIMINATION OF ACE DEPRECIATION ADJUSTMENT.

(a) IN GENERAL.—Clause (i) of section 56(g)(4)(A) (relating to depreciation adjustments for computing adjusted current earnings) is amended by adding at the end the following new sentence: "The preceding sentence shall not apply to property placed in service on or after February 1, 1992, and the depreciation deduction with respect to such property shall be determined under the rules of subsection (a)(1)(A)."

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to property placed in service on or after February 1, 1992, in taxable years ending after such date.

(2) COORDINATION WITH TRANSITIONAL RULES.—The amendments made by this section shall not apply to any property to which paragraph (1) of section 56(a) of the Internal Revenue Code of 1986 does not apply by reason of subparagraph (C)(i) of such paragraph (1).

PART III—EXTENSION OF OTHER EXPIRING TAX PROVISIONS

SEC. 2505. EXTENSION OF RESEARCH CREDIT.

(a) IN GENERAL.—Subsection (h) of section 41 (relating to credit for increasing research activities) is amended—

(1) by striking "June 30, 1992" each place it appears and inserting "December 31, 1993"; and

(2) by striking "July 1, 1992" each place it appears and inserting "January 1, 1994".

(b) CONFORMING AMENDMENT.—Subparagraph (D) of section 28(b)(1) is amended by striking "June 30, 1992" and inserting "December 31, 1993".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after June 30, 1992.

SEC. 2506. EXTENSION OF SMALL ISSUE BONDS.

(a) IN GENERAL.—Subparagraph (B) of section 144(a)(12) (relating to termination dates) is amended by striking "June 30, 1992" and inserting "December 31, 1993".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to bonds issued after June 30, 1992.

SEC. 2507. EXTENSION OF ENERGY INVESTMENT CREDIT FOR SOLAR AND GEOTHERMAL PROPERTY.

(a) IN GENERAL.—Subparagraph (B) of section 48(a)(2) (relating to energy percentage) is amended by striking "June 30, 1992" and inserting "December 31, 1993".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after June 30, 1992.

SEC. 2508. EXCISE TAX ON CERTAIN VACCINES.

(a) TAX.—Paragraphs (2) and (3) of section 4131(c) (relating to tax on certain vaccines) are each amended by striking "1992" each place it appears and inserting "1994".

(b) TRUST FUND.—Paragraph (1) of section 9510(c) (relating to expenditures from Vaccine Injury Compensation Trust Fund) is amended by striking "1992" and inserting "1994".

(c) STUDY.—The Secretary of the Treasury, in consultation with the Secretary of Health and Human Services, shall conduct a study of—

(1) the estimated amount that will be paid from the Vaccine Injury Compensation Trust Fund with respect to vaccines administered after September 30, 1988, and before October 1, 1994,

(2) the rates of vaccine-related injury or death with respect to the various types of such vaccines,

(3) new vaccines and immunization practices being developed or used for which amounts may be paid from such Trust Fund, and

(4) whether additional vaccines should be included in the vaccine injury compensation program.

The report of such study shall be submitted not later than January 1, 1994, to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on the date of the enactment of this Act.

SEC. 2509. CERTAIN TRANSFERS TO RAILROAD RETIREMENT ACCOUNT.

Subsection (c)(1)(A) of section 224 of the Railroad Retirement Solvency Act of 1983 (relating to section 72(r) revenue increase transferred to certain railroad accounts) is amended by striking "with respect to benefits received before October 1, 1992".

SEC. 2510. EXTENSION OF TAX CREDIT FOR ORPHAN DRUG CLINICAL TESTING EXPENSES.

(a) IN GENERAL.—Subsection (e) of section 28 (relating to clinical testing expenses for certain drugs for rare diseases or conditions) is amended by striking "June 30, 1992" and inserting "December 31, 1993".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending after June 30, 1992.

PART IV—REPEAL OF CERTAIN LUXURY EXCISE TAXES; TAX ON DIESEL FUEL USED IN NONCOMMERCIAL MOTORBOATS

SEC. 2511. REPEAL OF LUXURY EXCISE TAXES OTHER THAN ON PASSENGER VEHICLES.

(a) IN GENERAL.—Subchapter A of chapter 31 (relating to retail excise taxes) is amended to read as follows:

"Subchapter A—Luxury Passenger Automobiles

"Sec. 4001. Imposition of tax.

"Sec. 4002. 1st retail sale; uses, etc. treated as sales; determination of price.

"Sec. 4003. Special rules.

"SEC. 4001. IMPOSITION OF TAX.

"(a) IMPOSITION OF TAX.—There is hereby imposed on the 1st retail sale of any passenger vehicle a tax equal to 10 percent of the price for which so sold to the extent such price exceeds $30,000.

"(b) PASSENGER VEHICLE.—

"(1) IN GENERAL.—For purposes of this subchapter, the term 'passenger vehicle' means any 4-wheeled vehicle—

"(A) which is manufactured primarily for use on public streets, roads, and highways, and

"(B) which is rated at 6,000 pounds unloaded gross vehicle weight or less.

"(2) SPECIAL RULES.—

"(A) TRUCKS AND VANS.—In the case of a truck or van, paragraph (1)(B) shall be applied by substituting 'gross vehicle weight' for 'unloaded gross vehicle weight'.

"(B) LIMOUSINES.—In the case of a limousine, paragraph (1) shall be applied without regard to subparagraph (B) thereof.

"(c) EXCEPTIONS FOR TAXICABS, ETC.—The tax imposed by this section shall not apply to the sale of any passenger vehicle for use by the purchaser exclusively in the active conduct of a trade or business of transporting persons or property for compensation or hire.

"(d) EXEMPTION FOR LAW ENFORCEMENT USES, ETC.—No tax shall be imposed by this section on the sale of any passenger vehicle—

"(1) to the Federal Government, or a State or local government, for use exclusively in police, firefighting, search and rescue, or other law enforcement or public safety activities, or in public works activities, or

"(2) to any person for use exclusively in providing emergency medical services.

"(e) INFLATION ADJUSTMENT.—

"(1) IN GENERAL.—In the case of any calendar year after 1991, the $30,000 amount in subsection

(a) and section 4003(a) shall be increased by an amount equal to—

"(A) $30,000, multiplied by

"(B) the cost-of-living adjustment under section 1(f)(3) for such calendar year, determined by substituting 'calendar year 1990' for 'calendar year 1991' in subparagraph (B) thereof.

"(2) Rounding.—If any amount as adjusted under paragraph (1) is not a multiple of $100, such amount shall be rounded to the nearest multiple of $100 (or, if such amount is a multiple of $50 and not of $100, such amount shall be rounded to the next highest multiple of $100).

"(f) Termination.—The tax imposed by this section shall not apply to any sale or use after December 31, 1999.

"SEC. 4002. 1ST RETAIL SALE; USES, ETC. TREATED AS SALES; DETERMINATION OF PRICE.

"(a) 1st Retail Sale.—For purposes of this subchapter, the term '1st retail sale' means the 1st sale, for a purpose other than resale, after manufacture, production, or importation.

"(b) Use Treated as Sale.—

"(1) In general.—If any person uses a passenger vehicle (including any use after importation) before the 1st retail sale of such vehicle, then such person shall be liable for tax under this subchapter in the same manner as if such vehicle were sold at retail by him.

"(2) Exemption for further manufacture.—Paragraph (1) shall not apply to use of a vehicle as material in the manufacture or production of, or as a component part of, another vehicle taxable under this subchapter to be manufactured or produced by him.

"(3) Exemption for demonstration use.—Paragraph (1) shall not apply to any use of a passenger vehicle as a demonstrator for a potential customer while the potential customer is in the vehicle.

"(4) Exception for use after importation of certain vehicles.—Paragraph (1) shall not apply to the use of a vehicle after importation if the user or importer establishes to the satisfaction of the Secretary that the 1st use of the vehicle occurred before January 1, 1991, outside the United States.

"(5) Computation of tax.—In the case of any person made liable for tax by paragraph (1), the tax shall be computed on the price at which similar vehicles are sold at retail in the ordinary course of trade, as determined by the Secretary.

"(c) Leases Considered as Sales.—For purposes of this subchapter—

"(1) In general.—Except as otherwise provided in this subsection, the lease of a vehicle (including any renewal or any extension of a lease or any subsequent lease of such vehicle) by any person shall be considered a sale of such vehicle at retail.

"(2) Special rules for long-term leases.—

"(A) Tax not imposed on sale for leasing in a qualified lease.—The sale of a passenger vehicle to a person engaged in a passenger vehicle leasing or rental trade or business for leasing by such person in a long-term lease shall not be treated as the 1st retail sale of such vehicle.

"(B) Long-term lease.—For purposes of subparagraph (A), the term 'long-term lease' means any long-term lease (as defined in section 4052).

"(C) Special rules.—In the case of a long-term lease of a vehicle which is treated as the 1st retail sale of such vehicle—

"(i) Determination of price.—The tax under this subchapter shall be computed on the lowest price for which the vehicle is sold by retailers in the ordinary course of trade.

"(ii) Payment of tax.—Rules similar to the rules of section 4217(e)(2) shall apply.

"(iii) No tax where exempt use by lessee.—No tax shall be imposed on any lease payment under a long-term lease if the lessee's use of the vehicle under such lease is an exempt use (as defined in section 4003(b)) of such vehicle.

"(d) Determination of Price.—

"(1) In general.—In determining price for purposes of this subchapter—

"(A) there shall be included any charge incident to placing the article in condition ready for use,

"(B) there shall be excluded—

"(i) the amount of the tax imposed by this subchapter,

"(ii) if stated as a separate charge, the amount of any retail sales tax imposed by any State or political subdivision thereof or the District of Columbia, whether the liability for such tax is imposed on the vendor or vendee, and

"(iii) the value of any component of such article if—

"(I) such component is furnished by the 1st user of such article, and

"(II) such component has been used before such furnishing, and

"(C) the price shall be determined without regard to any trade-in.

"(2) Other rules.—Rules similar to the rules of paragraphs (2) and (4) of section 4052(b) shall apply for purposes of this subchapter.

"SEC. 4003. SPECIAL RULES.

"(a) Separate Purchase of Vehicle and Parts and Accessories Therefor.—Under regulations prescribed by the Secretary—

"(1) In general.—Except as provided in paragraph (2), if—

"(A) the owner, lessee, or operator of any passenger vehicle installs (or causes to be installed) any part or accessory on such vehicle, and

"(B) such installation is not later than the date 6 months after the date the vehicle was 1st placed in service,

then there is hereby imposed on such installation a tax equal to 10 percent of the price of such part or accessory and its installation.

"(2) Limitation.—The tax imposed by paragraph (1) on the installation of any part or accessory shall not exceed 10 percent of the excess (if any) of—

"(A) the sum of—

"(i) the price of such part or accessory and its installation,

"(ii) the aggregate price of the parts and accessories (and their installation) installed before such part or accessory, plus

"(iii) the price for which the passenger vehicle was sold, over

"(B) $30,000.

"(3) Exceptions.—Paragraph (1) shall not apply if—

"(A) the part or accessory installed is a replacement part or accessory,

"(B) the part or accessory is installed to enable or assist an individual with a disability to operate the vehicle, or to enter or exit the vehicle, by compensating for the effect of such disability, or

"(C) the aggregate price of the parts and accessories (and their installation) described in paragraph (1) with respect to the vehicle does not exceed $200 (or such other amount or amounts as the Secretary may by regulation prescribe).

"(4) Installers secondarily liable for tax.—The owners of the trade or business installing the parts or accessories shall be secondarily liable for the tax imposed by this subsection.

"(b) Imposition of Tax on Sales, Etc., Within 2 Years of Vehicles Purchased Tax-Free.—

"(1) In general.—If—

"(A) no tax was imposed under this subchapter on the 1st retail sale of any passenger vehicle by reason of its exempt use, and

"(B) within 2 years after the date of such 1st retail sale, such vehicle is resold by the purchaser or such purchaser makes a substantial nonexempt use of such vehicle,

then such sale or use of such vehicle by such purchaser shall be treated as the 1st retail sale of such vehicle for a price equal to its fair market value at the time of such sale or use.

"(2) Exempt use.—For purposes of this subsection, the term 'exempt use' means any use of a vehicle if the 1st retail sale of such vehicle is not taxable under this subchapter by reason of such use.

"(c) Parts and Accessories Sold With Taxable Article.—Parts and accessories sold on, in connection with, or with the sale of any passenger vehicle shall be treated as part of the vehicle.

"(d) Partial Payments, Etc.—In the case of a contract, sale, or arrangement described in paragraph (2), (3), or (4) of section 4216(c), rules similar to the rules of section 4217(e)(2) shall apply for purposes of this subchapter."

(b) Technical Amendments.—

(1) Subsection (c) of section 4221 is amended by striking "4002(b), 4003(c), 4004(a)" and inserting "4001(d)".

(5) Subsection (d) of section 4222 is amended by striking "4002(b), 4003(c), 4004(a)" and inserting "4001(d)".

(3) The table of subchapters for chapter 31 is amended by striking the item relating to subchapter A and inserting the following:

"Subchapter A. Luxury passenger vehicles."

(c) Effective Date.—The amendments made by this section shall take effect on February 1, 1992.

SEC. 2512. TAX ON DIESEL FUEL USED IN NONCOMMERCIAL MOTORBOATS.

(a) General Rule.—

(1) Paragraph (2) of section 4092(a) (defining diesel fuel) is amended by striking "or a diesel-powered train" and inserting ", a diesel-powered train, or a diesel-powered motorboat".

(2) Paragraph (1) of section 4041(a) is amended—

(A) by striking "diesel-powered highway vehicle" each place it appears and inserting "diesel-powered highway vehicle or diesel-powered motorboat", and

(B) by striking "such vehicle" and inserting "such vehicle or motorboat".

(3) Subparagraph (B) of section 4092(b)(1) is amended by striking "commercial and noncommercial vessels" each place it appears and inserting "vessels for use in an off-highway business use (as defined in section 6421(e)(2)(B))".

(b) Exemption for Use in Fisheries or Commercial Navigation.—Subparagraph (B) of section 6421(e)(2) is amended to read as follows:

"(B) Uses in motorboats.—The term 'off-highway business use' does not include any use in a motorboat; except that such term shall include any use in—

"(i) a vessel employed in the fisheries or in the whaling business, and

"(ii) a motorboat in the active conduct of—

"(I) a trade or business of commercial fishing or transporting persons or property for compensation or hire, or

"(II) any other trade or business unless the motorboat is used predominantly in any activity which is of a type generally considered to constitute entertainment, amusement or recreation."

(c) Retention of Taxes in General Fund.—

(1) Taxes imposed at highway trust fund financing rate.—Paragraph (4) of section 9503(b) (relating to transfers to Highway Trust Fund) is amended—

(A) by striking "and" at the end of subparagraph (A),

(B) by striking the period at the end of subparagraph (B) and inserting ", and", and

(C) by adding at the end thereof the following new subparagraph:

"(C) there shall not be taken into account the taxes imposed by sections 4041 and 4091 on diesel fuel sold for use or used as fuel in a diesel-powered motorboat."

(2) TAXES IMPOSED AT LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.—Subsection (b) of section 9508 (relating to transfers to Leaking Underground Storage Tank Trust Fund) is amended by adding at the end thereof the following new sentence: "For purposes of this subsection, there shall not be taken into account the taxes imposed by sections 4041 and 4091 on diesel fuel sold for use or used as fuel in a diesel-powered motorboat."

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 1992.

PART V—OTHER PROVISIONS

SEC. 2513. TREATMENT OF EMPLOYER-PROVIDED TRANSPORTATION BENEFITS.

(a) EXCLUSION.—Subsection (a) of section 132 (relating to exclusion of certain fringe benefits) is amended by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting ", or", and by adding at the end thereof the following new paragraph:

"(5) qualified transportation fringe."

(b) QUALIFIED TRANSPORTATION FRINGE.—Section 132 is amended by redesignating subsections (f), (g), (h), (i), (j), and (k) as subsections (g), (h), (i), (j), (k), and (l), respectively, and by inserting after subsection (e) the following new subsection:

"(f) QUALIFIED TRANSPORTATION FRINGE.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified transportation fringe' means any of the following provided by an employer to an employee:

"(A) Transportation in a commuter highway vehicle if such transportation is in connection with travel between the employee's residence and place of employment.

"(B) Any transit pass.

"(C) Qualified parking.

"(2) LIMITATION ON EXCLUSION.—The amount of the fringe benefits which are provided by an employer to any employee and which may be excluded from gross income under subsection (a)(5) shall not exceed—

"(A) $60 per month in the case of the aggregate of the benefits described in subparagraphs (A) and (B) of paragraph (1), and

"(B) $160 per month in the case of qualified parking.

"(3) BENEFIT NOT IN LIEU OF COMPENSATION.—Subsection (a)(5) shall not apply to any qualified transportation fringe unless such benefit is provided in addition to (and not in lieu of) any compensation otherwise payable to the employee.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) TRANSIT PASS.—The term 'transit pass' means any pass, token, farecard, voucher, or similar item entitling a person to transportation (or transportation at a reduced price) if such transportation is—

"(i) on mass transit facilities (whether or not publicly owned), or

"(ii) provided by any person in the business of transporting persons for compensation or hire if such transportation is provided in a vehicle meeting the requirements of subparagraph (B)(i).

"(B) COMMUTER HIGHWAY VEHICLE.—The term 'commuter highway vehicle' means any highway vehicle—

"(i) the seating capacity of which is at least 6 adults (not including the driver), and

"(ii) at least 80 percent of the mileage use of which can reasonably be expected to be—

"(I) for purposes of transporting employees in connection with travel between their residences and their place of employment, and

"(II) on trips during which the number of employees transported for such purposes is at least ½ of the adult seating capacity of such vehicle (not including the driver).

"(C) QUALIFIED PARKING.—The term 'qualified parking' means parking provided to an employee on or near the business premises of the employer or on or near a location from which the employee commutes to work by transportation described in subparagraph (A), in a commuter highway vehicle, or by carpool.

"(D) TRANSPORTATION PROVIDED BY EMPLOYER.—Transportation referred to in paragraph (1)(A) shall be considered to be provided by an employer if such transportation is furnished in a commuter highway vehicle operated by or for the employer.

"(E) EMPLOYEE.—For purposes of this subsection, the term 'employee' does not include an individual who is an employee within the meaning of section 401(c)(1).

"(5) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 1992, the dollar amounts contained in paragraph (2)(A) and (B) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins by substituting 'calendar year 1991' for 'calendar year 1989' in subparagraph (B) thereof.

If any increase determined under the preceding sentence is not a multiple of $1, such increase shall be rounded to the next lowest multiple of $1.

"(6) COORDINATION WITH OTHER PROVISIONS.—For purposes of this section, the terms 'working condition fringe' and 'de minimis fringe' shall not include any qualified transportation fringe (determined without regard to paragraph (2))."

(c) CONFORMING AMENDMENT.—Subsection (i) of section 132 (as redesignated by subsection (b)) is amended by striking paragraph (4) and redesignating the following paragraphs accordingly.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to benefits provided after December 31, 1991.

(2) PARKING LIMIT.—The limitation of subparagraph (B) of section 132(f)(2) of the Internal Revenue Code of 1986 (as amended by this section) shall only apply to benefits provided for months beginning after the date of the enactment of this Act.

SEC. 2514. TARIFF CLASSIFICATION OF LIGHT TRUCKS.

(a) IN GENERAL.—The Additional United States Notes for chapter 87 of the Harmonized Tariff Schedule of the United States is amended by redesignating note 2 as note 3 and inserting after note 1 the following new note:

"2. Any passenger van, multipurpose van, sport utility vehicle, or other Jeep-type vehicle with a g.v.w. not exceeding 3.85 metric tons and a basic vehicle frontal area of 4.1805 square meters or less which is—

"(a) designed primarily for transportation of property or is a derivation of such a vehicle;

"(b) equipped with special features enabling off-street or off-highway operation and use; or

"(c) suitable for cargo-carrying purposes or other nonpassenger-carrying purposes through the removal of seats by means installed for that purpose by the manufacturer of the vehicle or with simple tools, such as screwdrivers and wrenches, so as to create a flat, floor level surface extending from the forwardmost point of installation of the seats to the rear of the vehicle's interior;

shall be classified under heading 8704."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to merchandise entered, or withdrawn from warehouse for consumption, after the 15th day after the date of the enactment of this Act.

TITLE III—PAYMENT OF FAIR SHARE BY HIGH-INCOME TAXPAYERS

Subtitle A—Treatment of Wealthy Individuals

SEC. 3001. INCREASE IN TOP MARGINAL RATE UNDER SECTION 1.

(a) GENERAL RULE.—Section 1 (relating to tax imposed) is amended by striking subsections (a) through (e) and inserting the following:

"(a) MARRIED INDIVIDUALS FILING JOINT RETURNS AND SURVIVING SPOUSES.—There is hereby imposed on the taxable income of—

"(1) every married individual (as defined in section 7703) who makes a single return jointly with his spouse under section 6013, and

"(2) every surviving spouse (as defined in section 2(a)),

a tax determined in accordance with the following table:

"If taxable income is:	**The tax is:**
Not over $35,800	15% of taxable income.
Over $35,800 but not over $86,500.	$5,370, plus 28% of the excess over $35,800.
Over $86,500 but not over $175,000.	$19,566, plus 31% of the excess over $86,500.
Over $175,000	$47,001, plus 36% of the excess over $175,000.

"(b) HEADS OF HOUSEHOLDS.—There is hereby imposed on the taxable income of every head of a household (as defined in section 2(b)) a tax determined in accordance with the following table:

"If taxable income is:	**The tax is:**
Not over $28,750	15% of taxable income.
Over $28,750 but not over $74,150.	$4,312.50, plus 28% of the excess over $28,750.
Over $74,150 but not over $162,500.	$17,024.50, plus 31% of the excess over $74,150.
Over $162,500	$44,413, plus 36% of the excess over $162,500.

"(c) UNMARRIED INDIVIDUALS (OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLDS).—There is hereby imposed on the taxable income of every individual (other than a surviving spouse as defined in section 2(a) or the head of a household as defined in section 2(b)) who is not a married individual (as defined in section 7703) a tax determined in accordance with the following table:

"If taxable income is:	**The tax is:**
Not over $21,450	15% of taxable income.
Over $21,450 but not over $51,900.	$3,217.50, plus 28% of the excess over $21,450.
Over $51,900 but not over $150,000.	$11,743.50, plus 31% of the excess over $51,900.
Over $150,000	$42,154.50, plus 36% of the excess over $150,000

"(d) MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—There is hereby imposed on the taxable income of every married individual (as defined in section 7703) who does not make a single return jointly with his spouse under section 6013, a tax determined in accordance with the following table:

"If taxable income is:	**The tax is:**
Not over $17,900	15% of taxable income.
Over $17,900 but not over $43,250.	$2,685, plus 28% of the excess over $17,900.
Over $43,250 but not over $87,500.	$9,783, plus 31% of the excess over $43,250.
Over $87,500	$23,500.50, plus 36% of the excess over $87,500.

"(e) ESTATES AND TRUSTS.—There is hereby imposed on the taxable income of—

"(1) every estate, and

"(2) every trust,

taxable under this subsection a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $3,500	15% of taxable income.
Over $3,500	$525, plus 36% of the excess over $3,500."

(b) Conforming Amendments.—

(1) Section 541 is amended by striking "28 percent" and inserting "36 percent".

(2)(A) Subsection (f) of section 1 is amended—

(i) by striking "1990" in paragraph (1) and inserting "1992", and

(ii) by striking "1989" in paragraph (3)(B) and inserting "1991".

(B) Subparagraph (B) of section 32(i)(1) is amended by striking "1989" and inserting "1991".

(C) Subparagraph (C) of section 41(e)(5) is amended by striking "1989" each place it appears and inserting "1991".

(D) Subparagraph (B) of section 63(c)(4) is amended by striking "1989" and inserting "1991".

(E) Subparagraph (B) of section 68(b)(2) is amended by striking "1989" and inserting "1991".

(F) Subparagraphs (A)(ii) and (B)(ii) of section 151(d)(4) are each amended by striking "1989" and inserting "1991".

(G) Clause (ii) of section 513(h)(2)(C) is amended by striking "1989" and inserting "1991".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 3002. SURTAX ON INDIVIDUALS WITH INCOMES OVER $1,000,000.

(a) General Rule.—Subchapter A of chapter 1 (relating to determination of tax liability) is amended by adding at the end thereof the following new part:

"PART VIII—SURTAX ON INDIVIDUALS WITH INCOMES OVER $1,000,000

"Sec. 59B. Surtax on section 1 tax.

"Sec. 59C. Surtax on minimum tax.

"Sec. 59D. Special rules.

"SEC. 59B. SURTAX ON SECTION 1 TAX.

"In the case of an individual who has taxable income for the taxable year in excess of $1,000,000, the amount of the tax imposed under section 1 for such taxable year shall be increased by 10 percent of the amount which bears the same ratio to the tax imposed under section 1 (determined without regard to this section) as—

"(1) the amount by which the taxable income of such individual for such taxable year exceeds $1,000,000, bears to

"(2) the total amount of such individual's taxable income for such taxable year.

"SEC. 59C. SURTAX ON MINIMUM TAX.

"In the case of an individual who has alternative minimum taxable income for the taxable year in excess of $1,000,000, the amount of the tentative minimum tax determined under section 55 for such taxable year shall be increased by 2.4 percent of the amount by which the alternative minimum taxable income of such taxpayer for the taxable year exceeds $1,000,000.

"SEC. 59D. SPECIAL RULES.

"(a) Treatment of Married Individuals Filing Separate Returns.—In the case of a married individual (within the meaning of section 7703) filing a separate return for the taxable year, sections 59B and 59C shall be applied by substituting '$500,000' for '$1,000,000'.

"(b) Coordination With Other Provisions.—The provisions of this part—

"(1) shall be applied after the application of subsections (h) and (i) of section 1, but

"(2) before the application of any other provision of this title which refers to the amount of tax imposed by section 1 or 55, as the case may be."

(b) Clerical Amendment.—The table of parts for subchapter A of chapter 1 is amended by adding at the end the following new item:

"Part VIII. Surtax on individuals with incomes over $1,000,000."

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 3003. EXTENSION OF OVERALL LIMITATION ON ITEMIZED DEDUCTIONS FOR HIGH-INCOME TAXPAYERS.

Section 68 (relating to overall limitation on itemized deductions) is amended by striking subsection (f).

SEC. 3004. EXTENSION OF PHASEOUT OF PERSONAL EXEMPTION OF HIGH-INCOME TAXPAYERS.

Section 151(d)(3) (relating to phaseout of personal exemption) is amended by striking subparagraph (E).

SEC. 3005. MARK TO MARKET INVENTORY METHOD FOR SECURITIES DEALERS.

(a) General Rule.—Subpart D of part II of subchapter E of chapter 1 (relating to inventories) is amended by adding at the end thereof the following new section:

"SEC. 475. MARK TO MARKET INVENTORY METHOD FOR DEALERS IN SECURITIES.

"(a) General Rule.—Notwithstanding any other provision of this subpart, the following rules shall apply to securities held by a dealer in securities:

"(1) Any security which is inventory in the hands of the dealer shall be included in inventory at market value.

"(2) In the case of any security which is not inventory in the hands of the dealer and which is held at the close of any taxable year—

"(A) the dealer shall recognize gain or loss as if such security were sold on the last business day of such taxable year, and

"(B) any gain or loss shall be taken into account for such taxable year.

Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence. The Secretary may provide by regulations for the application of this paragraph at times other than the times provided in this paragraph.

"(b) Exceptions.—

"(1) In general.—Subsection (a) shall not apply to—

"(A) any security held for investment,

"(B) any security described in subsection (c)(2)(C) which is originated or acquired by the taxpayer in the ordinary course of a trade or business of the taxpayer and which is not held for sale, and

"(C) any hedge with respect to—

"(i) a security to which subsection (a) does not apply, or

"(ii) a position or a liability which is not a security in the hands of the taxpayer.

"(2) Identification required.—Any security shall not be treated as described in subparagraph (A), (B), or (C) of paragraph (1), as the case may be, unless such security is clearly identified in the dealer's records as being described in such subparagraph before the close of the day on which it was acquired, originated, or entered into (or such other time as the Secretary may by regulations prescribe).

"(3) Securities subsequently held for sale.—If, at any time after the close of the day on which any security described in paragraph (1) was acquired, originated, or entered into (or such other time as the Secretary may by regulations prescribe)—

"(A) such security is held for sale to customers in the ordinary course of a taxpayer's trade or business, or

"(B) such security is held as a hedge of a security to which subsection (a) applies,

such security shall not be treated as described in such paragraph as of such time.

"(4) Special rule for property held for investment.—To the extent provided in regulations, subparagraph (A) of paragraph (1) shall not apply to any security described in subparagraph (D) or (E) of subsection (c)(2) which is held by a dealer in such securities.

"(c) Definitions.—For purposes of this section—

"(1) Dealer in securities defined.—The term 'dealer in securities' means a taxpayer who—

"(A) regularly purchases securities from or sells securities to customers in the ordinary course of a trade or business; or

"(B) regularly offers to enter into, assume, offset, assign or otherwise terminate positions in securities with customers in the ordinary course of a trade or business.

"(2) Security defined.—The term 'security' means any—

"(A) share of stock in a corporation;

"(B) partnership or beneficial ownership interest in a widely held or publicly traded partnership or trust;

"(C) note, bond, debenture, or other evidence of indebtedness;

"(D) notional principal contract, including any interest rate or currency swap, but not including any other commodity-linked notional principal contract;

"(E) evidence of an interest in, or a derivative financial instrument in, any security described in subparagraph (A), (B), (C), or (D), including any option, forward contract, short position, and any similar financial instrument in such a security (but not including any contract to which section 1256(a) applies); and

"(F) position which—

"(i) is not a security described in subparagraph (A), (B), (C), (D), or (E),

"(ii) is a hedge with respect to such a security, and

"(iii) is clearly identified in the dealer's record as being described in this subparagraph before the close of the day on which it was acquired or entered into (or such other time as the Secretary may by regulations prescribe).

"(3) Hedge.—The term 'hedge' includes any position which reduces the dealer's risk from interest rate or price changes, or currency fluctuations.

"(d) Special Rules.—For purposes of this section—

"(1) Certain rules not to apply.—The rules of sections 263(g) and 263A shall not apply to securities to which subsection (a) applies.

"(2) Improper identification.—If, under subsection (b)(2) or (c)(2)(F)(iii), a taxpayer at any time—

"(A) identifies any security or position as being described in such subsection and such security or position is not so described as of such time, or

"(B) a taxpayer fails to identify a security or position which is so described at the time such identification is required,

the provisions of subsection (a) shall apply to such security, except that only gain shall be taken into account for any taxable year.

"(e) Regulatory Authority.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including rules to prevent the use of year-end transfers, related parties, or other arrangements to avoid the provisions of this section."

(b) Clerical Amendment.—The table of sections for subpart D of part II of subchapter E of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 475. Mark to market inventory method for dealers in securities.".

(c) Effective Date.—

(1) In general.—The amendments made by this section shall apply to all taxable years ending on or after December 31, 1993.

(2) Change in method of accounting.—In the case of any taxpayer required by this section to change its method of accounting for any taxable year—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as made with the consent of the Secretary, and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account ratably over the 10-taxable year period beginning with the first taxable year ending on or after December 31, 1993.

SEC. 3006. DISALLOWANCE OF DEDUCTION FOR CERTAIN EMPLOYEE REMUNERATION IN EXCESS OF $1,000,000.

(a) General Rule.—Section 162 (relating to trade or business expenses) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) Certain Excessive Employee Remuneration.—

"(1) In general.—No deduction shall be allowed under this chapter for employee remuneration with respect to any covered employee to the extent that the amount of such remuneration for the taxable year with respect to such employee exceeds $1,000,000.

"(2) Covered employee.—For purposes of this subsection—

"(A) In general.—Except as otherwise provided in this paragraph, the term 'covered employee' means any employee of the taxpayer who is an officer of the taxpayer.

"(B) Exception for employee-owners of personal service corporations.—The term 'covered employee' shall not include any employee-owner (as defined in section 269A(b)) of a personal service corporation (as defined in section 269A(b)).

"(C) Former employees.—The term 'covered employee' includes any former employee who had been a covered employee at any time while performing services for the taxpayer.

"(3) Employee remuneration.—For purposes of this subsection—

"(A) In general.—The term 'employee remuneration' means, with respect to any covered employee for any taxable year, the aggregate amount allowable as a deduction under this chapter for such taxable year (determined without regard to this subsection) for remuneration for services performed by such employee (whether or not during the taxable year).

"(B) Remuneration.—For purposes of subparagraph (A), the term 'remuneration' includes any remuneration (including benefits) in any medium other than cash, but shall not include—

"(i) any payment referred to in so much of section 3121(a)(5) as precedes subparagraph (E) thereof,

"(ii) amounts referred to in section 3121(a)(19), and

"(iii) any benefit provided to or on behalf of an employee if at the time such benefit is provided it is reasonable to believe that the employee will be able to exclude such benefit from gross income under section 132.

"(4) Treatment of certain employers.—

"(A) In general.—All employers treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (n) of section 414 shall be treated as a single employer for purposes of this subsection.

"(B) Clarification of officer definition.—Any officer of any of the employers treated as a single employer under subparagraph (A) shall be treated as an officer of such single employer."

(b) Effective Date.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1991.

Subtitle B—Administrative Provisions

SEC. 3101. INDIVIDUAL ESTIMATED TAX PROVISIONS.

(a) General Rule.—Section 6654(d)(1)(C)(ii) (relating to amount of required installment) is amended by striking the flush sentence immediately following subclause (III).

(b) Computation of Adjusted Gross Income for Estates and Trusts.—Subsection (l) of section 6654 (relating to estates and trusts) is amended by adding at the end thereof the following new paragraph:

"(5) Special rule for computing adjusted gross income.—For purposes of subsection (d)(1)(C)(ii), the adjusted gross income of an estate or trust shall be computed in accordance with section 67(e)."

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 3102. CORPORATE ESTIMATED TAX PROVISIONS.

(a) General Rule.—Subsection (d) of section 6655 (relating to amount of required installments) is amended—

(1) by striking "90 percent" each place it appears in paragraph (1)(B)(i) and inserting "95 percent",

(2) by striking "90 PERCENT" in the heading of paragraph (2) and inserting "95 PERCENT", and

(3) by striking paragraph (3).

(b) Conforming Amendments.—

(1) Clause (ii) of section 6655(e)(2)(B) is amended by striking the table contained therein and inserting in lieu thereof:

"In the case of the following required installments:	The applicable percentage is:
1st	23.75
2nd	47.5
3rd	71.25
4th	95."

(2) Clause (i) of section 6655(e)(3)(A) is amended by striking "90 percent" and inserting "95 percent".

(3) Paragraph (1) of section 6655(e) is amended by striking "paragraphs (2) and (3)" in the parenthetical and inserting "paragraph (2)".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 3103. DISALLOWANCE OF INTEREST ON CERTAIN OVERPAYMENTS OF TAX.

(a) General Rule.—Subsection (e) of section 6611 is amended to read as follows:

"(e) Disallowance of Interest on Certain Overpayments.—

"(1) Refunds within 45 days after return is filed.—If any overpayment of tax imposed by this title is refunded within 45 days after the last day prescribed for filing the return of such tax (determined without regard to any extension of time for filing the return) or, in the case of a return filed after such last date, is refunded within 45 days after the date the return is filed, no interest shall be allowed under subsection (a) on such overpayment.

"(2) Refunds after claim for credit or refund.—If—

"(A) the taxpayer files a claim for a credit or refund for any overpayment of tax imposed by this title, and

"(B) such overpayment is refunded within 45 days after such claim is filed,

no interest shall be allowed on such overpayment from the date the claim is filed until the day the refund is made.

"(3) IRS initiated adjustments.—Notwithstanding any other provision, if an adjustment, initiated by or on behalf of the Secretary, results in a refund or credit of an overpayment, interest on such overpayment shall be computed by subtracting 45 days from the number of days interest would otherwise be allowed with respect to such overpayment."

(b) Effective Dates.—

(1) Paragraph (1) of section 6611(e) of the Internal Revenue Code of 1986 (as amended by subsection (a)) shall apply in the case of returns the due date for which (determined without regard to extensions) is on or after July 1, 1992.

(2) Paragraph (2) of section 6611(e) of such Code (as so amended) shall apply in the case of claims for credit or refund of any overpayment filed on or after July 1, 1992 regardless of the taxable period to which such refund relates.

(3) Paragraph (3) of section 6611(e) of such Code (as so amended) shall apply in the case of any refund paid on or after July 1, 1992 regardless of the taxable period to which such refund relates.

TITLE IV—SIMPLIFICATION PROVISIONS

Subtitle A—Provisions Relating to Individuals

SEC. 4101. SIMPLIFICATION OF RULES ON ROLLOVER OF GAIN ON SALE OF PRINCIPAL RESIDENCE IN CASE OF DIVORCE.

(a) Treatment in Case of Divorces.—Subsection (c) of section 1034 is amended by adding at the end thereof the following new paragraph:

"(5) If—

"(A) a residence is sol by an individual pursuant to a divorce or marital separation, and

"(B) the taxpayer used such residence as his principal residence at any time during the 2-year period ending on the date of such sale,

for purposes of this section, such residence shall be treated as the taxpayer's principal residence at the time of such sale."

(b) Effective Date.—The amendment made by this section shall apply to sales of old residences (within the meaning of section 1034 of the Internal Revenue Code of 1986) after the date of the enactment of this Act.

SEC. 4102. PAYMENT OF TAX BY CREDIT CARD.

(a) General Rule.—Section 6311 is amended to read as follows:

"SEC. 6311. PAYMENT BY CHECK, MONEY ORDER, OR OTHER MEANS.

"(a) Authority To Receive.—It shall be lawful for the Secretary to receive for internal revenue taxes (or in payment for internal revenue stamps) checks, money orders, or any other commercially acceptable means that the Secretary deems appropriate, including payment by use of credit cards, to the extent and under the conditions provided in regulations prescribed by the Secretary.

"(b) Ultimate Liability.—If a check, money order, or other method of payment so received is not duly paid, the person by whom such check, or money order, or other method of payment has been tendered shall remain liable for the payment of the tax or for the stamps, and for all legal penalties and additions, to the same extent as if such check, money order, or other method of payment had not been tendered.

"(c) Liability of Banks and Others.—If any certified, treasurer's, or cashier's check (or other guaranteed draft), or any money order, or any other means of payment that has been guaranteed by a financial institution (such as a guar-

anteed credit card transaction) so received is not duly paid, the United States shall, in addition to its right to exact payment from the party originally indebted therefor, have a lien for—

"(1) the amount of such check (or draft) upon all assets of the financial institution on which drawn,

"(2) the amount of such money order upon all the assets of the issuer thereof, or

"(3) the guaranteed amount of any other transaction upon all the assets of the institution making such guarantee,

and such amount shall be paid out of such assets in preference to any other claims whatsoever against such financial institution, issuer, or guaranteeing institution, except the necessary costs and expenses of administration and the reimbursement of the United States for the amount expended in the redemption of the circulating notes of such financial institution.

"(d) PAYMENT BY OTHER MEANS.—

"(1) AUTHORITY TO PRESCRIBE REGULATIONS.—The Secretary shall prescribe such regulations as the Secretary deems necessary to receive payment by commercially acceptable means, including regulations that—

"(A) specify which methods of payment by commercially acceptable means will be acceptable,

"(B) specify when payment by such means will be considered received,

"(C) identify types of nontax matters related to payment by such means that are to be resolved by persons ultimately liable for payment and financial intermediaries, without the involvement of the Secretary, and

"(D) ensure that tax matters will be resolved by the Secretary, without the involvement of financial intermediaries.

"(2) AUTHORITY TO ENTER INTO CONTRACTS.—Notwithstanding section 3718(f) of title 31, United States Code, the Secretary is authorized to enter into contracts to obtain services related to receiving payment by other means where cost beneficial to the government and is further authorized to pay any fees required by such contracts.

"(3) SPECIAL PROVISIONS FOR USE OF CREDIT CARDS.—If use of credit cards is accepted as a method of payment of taxes pursuant to subsection (a)—

"(A) except as provided by regulations, subject to the provisions of section 6402, any refund due a person who makes a payment by use of a credit card shall be made directly to such person, notwithstanding any other provision of law or any contract made pursuant to paragraph (2),

"(B) any credit card transaction shall not be considered a 'sales transaction' under the Federal Truth-in-Lending Act (15 U.S.C. 1601 et seq.),

"(C) all nontax matters as defined by regulations prescribed under paragraph (1)(C), including billing errors as defined in section 161(b) of such Act, shall be resolved by the person tendering the credit card and the credit card issuer, without the involvement of the Secretary, and

"(D) the provisions of sections 161(e) and 170 of such Act shall not apply."

(b) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 64 is amended by striking the item relating to section 6311 and inserting the following:

"Sec. 6311. Payment by check, money order, or other means."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 4103. MODIFICATIONS TO ELECTION TO INCLUDE CHILD'S INCOME ON PARENT'S RETURN.

(a) ELIGIBILITY FOR ELECTION.—Clause (ii) of section 1(g)(7)(A) (relating to election to include certain unearned income of child on parent's return) is amended to read as follows:

"(i) such gross income is more than the amount described in paragraph (4)(A)(ii)(I) and less than 10 times the amount so described,".

(b) COMPUTATION OF TAX.—Subparagraph (B) of section 1(g)(7) (relating to income included on parent's return) is amended—

(1) by striking "$1,000" in clause (i) and inserting "twice the amount described in paragraph (4)(A)(ii)(I)", and

(2) by amending subclause (II) of clause (ii) to read as follows:

"(II) for each such child, 15 percent of the lesser of the amount described in paragraph (4)(A)(ii)(I) or the excess of the gross income of such child over the amount so described, and".

(c) MINIMUM TAX.—Subparagraph (B) of section 59(j)(1) is amended by striking "$1,000" and inserting "twice the amount in effect for the taxable year under section 63(c)(5)(A)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 4104. SIMPLIFIED FOREIGN TAX CREDIT LIMITATION FOR INDIVIDUALS.

(a) GENERAL RULE.—Section 904 (relating to limitations on foreign tax credit) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) SIMPLIFIED LIMITATION FOR CERTAIN INDIVIDUALS.—

"(1) IN GENERAL.—In the case of an individual to whom this subsection applies for any taxable year, the limitation of subsection (a) shall be the lesser of—

"(A) 25 percent of such individual's gross income for the taxable year from sources without the United States, or

"(B) the amount of the creditable foreign taxes paid or accrued by the individual during the taxable year (determined without regard to subsection (c)).

No taxes paid or accrued by the individual during such taxable year may be deemed paid or accrued in any other taxable year under subsection (c).

"(2) INDIVIDUALS TO WHOM SUBSECTION APPLIES.—This subsection shall apply to an individual for any taxable year if—

"(A) the entire amount of such individual's gross income for the taxable year from sources without the United States consists of qualified passive income,

"(B) the amount of the creditable foreign taxes paid or accrued by the individual during the taxable year does not exceed $200, and

"(C) such individual elects to have this subsection apply for the taxable year.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) QUALIFIED PASSIVE INCOME.—The term 'qualified passive income' means any item of gross income if—

"(i) such item of income is passive income (as defined in subsection (d)(2)(A) without regard to clause (iii) thereof), and

"(ii) such item of income is shown on a payee statement furnished to the individual.

"(B) CREDITABLE FOREIGN TAXES.—The term 'creditable foreign taxes' means any taxes for which a credit is allowable under section 901; except that such term shall not include any tax unless such tax is shown on a payee statement furnished to such individual.

"(C) PAYEE STATEMENT.—The term 'payee statement' has the meaning given to such term by section 6724(d)(2).

"(D) ESTATES AND TRUSTS NOT ELIGIBLE.—This subsection shall not apply to any estate or trust."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1991.

SEC. 4105. TREATMENT OF PERSONAL TRANSACTIONS BY INDIVIDUALS UNDER FOREIGN CURRENCY RULES.

(a) GENERAL RULE.—Subsection (e) of section 988 (relating to application to individuals) is amended to read as follows:

"(e) APPLICATION TO INDIVIDUALS.—

"(1) IN GENERAL.—The preceding provisions of this section shall not apply to any section 988 transaction entered into by an individual which is a personal transaction.

"(2) EXCLUSION FOR CERTAIN PERSONAL TRANSACTIONS.—If—

"(A) nonfunctional currency is disposed of by an individual in any transaction, and

"(B) such transaction is a personal transaction,

no gain shall be recognized for purposes of this subtitle by reason of changes in exchange rates after such currency was acquired by such individual and before such disposition. The preceding sentence shall not apply if the gain which would otherwise be recognized exceeds $200.

"(3) PERSONAL TRANSACTIONS.—For purposes of this subsection, the term 'personal transaction' means any transaction entered into by an individual, except that such term shall not include any transaction to the extent that expenses properly allocable to such transaction meet the requirements of section 162 or 212 (other than that part of section 212 dealing with expenses incurred in connection with taxes)."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 4106. EXCLUSION OF COMBAT PAY FROM WITHHOLDING LIMITED TO AMOUNT EXCLUDABLE FROM GROSS INCOME.

(a) IN GENERAL.—Paragraph (1) of section 3401(a) (defining wages) is amended by inserting before the semicolon the following: "to the extent remuneration for such service is excludable from gross income under such section".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to remuneration paid after December 31, 1992.

SEC. 4107. EXPANDED ACCESS TO SIMPLIFIED INCOME TAX RETURNS.

(a) GENERAL RULE.—The Secretary of the Treasury or his delegate shall take such actions as may be appropriate to expand access to simplified individual income tax returns and otherwise simplify the individual income tax returns.

(b) REPORT.—Not later than the date 1 year after the date of the enactment of this Act, the Secretary of the Treasury or his delegate shall submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, a report on his actions under subsection (a), together with such recommendations as he may deem advisable.

SEC. 4108. TREATMENT OF CERTAIN REIMBURSED EXPENSES OF RURAL MAIL CARRIERS.

(a) IN GENERAL.—Section 162 (relating to trade or business expenses), as amended by section 3006, is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) TREATMENT OF CERTAIN REIMBURSED EXPENSES OF RURAL MAIL CARRIERS.—

"(1) GENERAL RULE.—In the case of any employee of the United States Postal Service who performs services involving the collection and delivery of mail on a rural route and who receives qualified reimbursements for the expenses

incurred by such employee for the use of a vehicle in performing such services—

"(A) the amount allowable as a deduction under this chapter for the use of a vehicle in performing such services shall be equal to the amount of such qualified reimbursements; and

"(B) such qualified reimbursements shall be treated as paid under a reimbursement or other expense allowance arrangement for purposes of section 62(a)(2)(A) (and section 62(c) shall not apply to such qualified reimbursements).

"(2) DEFINITION OF QUALIFIED REIMBURSEMENTS.—For purposes of this subsection, the term 'qualified reimbursements' means the amounts paid by the United States Postal Service to employees as an equipment maintenance allowance under the 1991 collective bargaining agreement between the United States Postal Service and the National Rural Letter Carriers' Association. Amounts paid as an equipment maintenance allowance by such Postal Service under later collective bargaining agreements that supersede the 1991 agreement shall be considered qualified reimbursements if such amounts do not exceed the amounts that would have been paid under the 1991 agreement, adjusted for changes in the Consumer Price Index (as defined in section 1(f)(5)) since 1991."

(b) TECHNICAL AMENDMENT.—Section 6008 of the Technical and Miscellaneous Revenue Act of 1988 is hereby repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 4109. EXEMPTION FROM LUXURY EXCISE TAX FOR CERTAIN EQUIPMENT INSTALLED ON PASSENGER VEHICLES FOR USE BY DISABLED INDIVIDUALS.

(a) IN GENERAL.—Paragraph (3) of section 4004(b) of the Internal Revenue Code of 1986 (relating to separate purchase of article and parts and accessories therefor) is amended—

(1) by striking "or" at the end of subparagraph (A),

(2) by redesignating subparagraph (B) as subparagraph (C), and

(3) by inserting after subparagraph (A) the following new subparagraph:

"(B) the part or accessory is installed on a passenger vehicle to enable or assist an individual with a disability to operate the vehicle, or to enter or exit the vehicle, by compensating for the effect of such disability, or".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 11221(a) of the Omnibus Budget Reconciliation Act of 1990.

Subtitle B—Pension Simplification

PART I—SIMPLIFIED DISTRIBUTION RULES

SEC. 4201. TAXABILITY OF BENEFICIARY OF QUALIFIED PLAN.

(a) IN GENERAL.—So much of section 402 (relating to taxability of beneficiary of employees' trust) as precedes subsection (g) thereof is amended to read as follows:

"SEC. 402. TAXABILITY OF BENEFICIARY OF EMPLOYEES' TRUST.

"(a) TAXABILITY OF BENEFICIARY OF EXEMPT TRUST.—Except as otherwise provided in this section, any amount actually distributed to any distributee by any employees' trust described in section 401(a) which is exempt from tax under section 501(a) shall be taxable to the distributee, in the taxable year of the distributee in which distributed, under section 72 (relating to annuities).

"(b) TAXABILITY OF BENEFICIARY OF NONEXEMPT TRUST.—

"(1) CONTRIBUTIONS.—Contributions to an employees' trust made by an employer during a taxable year of the employer which ends with or within a taxable year of the trust for which the trust is not exempt from tax under section 501(a) shall be included in the gross income of the employee in accordance with section 83 (relating to property transferred in connection with performance of services), except that the value of the employee's interest in the trust shall be substituted for the fair market value of the property for purposes of applying such section.

"(2) DISTRIBUTIONS.—The amount actually distributed or made available to any distributee by any trust described in paragraph (1) shall be taxable to the distributee, in the taxable year in which so distributed or made available, under section 72 (relating to annuities), except that distributions of income of such trust before the annuity starting date (as defined in section 72(c)(4)) shall be included in the gross income of the employee without regard to section 72(e)(5) (relating to amounts not received as annuities).

"(3) GRANTOR TRUSTS.—A beneficiary of any trust described in paragraph (1) shall not be considered the owner of any portion of such trust under subpart E of part I of subchapter J (relating to grantors and others treated as substantial owners).

"(4) FAILURE TO MEET REQUIREMENTS OF SECTION 410(b).—

"(A) HIGHLY COMPENSATED EMPLOYEES.—If 1 of the reasons a trust is not exempt from tax under section 501(a) is the failure of the plan of which it is a part to meet the requirements of section 401(a)(26) or 410(b), then a highly compensated employee shall, in lieu of the amount determined under this subsection, include in gross income for the taxable year with or within which the taxable year of the trust ends an amount equal to the vested accrued benefit of such employee (other than the employee's investment in the contract) as of the close of such taxable year of the trust.

"(B) FAILURE TO MEET COVERAGE TESTS.—If a trust is not exempt from tax under section 501(a) for any taxable year solely because such trust is part of a plan which fails to meet the requirements of section 401(a)(26) or 410(b), this subsection shall not apply by reason of such failure to any employee who was not a highly compensated employee during—

"(i) such taxable year, or

"(ii) any preceding period for which service was creditable to such employee under the plan.

"(C) HIGHLY COMPENSATED EMPLOYEE.—For purposes of this paragraph, the term 'highly compensated employee' has the meaning given such term by section 414(q).

"(c) RULES APPLICABLE TO ROLLOVERS FROM EXEMPT TRUSTS.—

"(1) EXCLUSION FROM INCOME.—If—

"(A) any portion of the balance to the credit of an employee in a qualified trust is paid to the employee in an eligible rollover distribution,

"(B) the distributee transfers any portion of the property received in such distribution to an eligible retirement plan, and

"(C) in the case of a distribution of property other than money, the amount so transferred consists of the property distributed,

then such distribution (to the extent so transferred) shall not be includible in gross income for the taxable year in which paid.

"(2) MAXIMUM AMOUNT WHICH MAY BE ROLLED OVER.—In the case of any eligible rollover distribution, the maximum amount transferred to which paragraph (1) applies shall not exceed the portion of such distribution which is includible in gross income (determined without regard to paragraph (1)).

"(3) TRANSFER MUST BE MADE WITHIN 60 DAYS OF RECEIPT.—Paragraph (1) shall not apply to any transfer of a distribution made after the 60th day following the day on which the distributee received the property distributed.

"(4) ELIGIBLE ROLLOVER DISTRIBUTION.—For purposes of this subsection, the term 'eligible rollover distribution' means any distribution to an employee of all or any portion of the balance to the credit of the employee in a qualified trust; except that such term shall not include—

"(A) any distribution which is part of a series of substantially equal periodic payments (not less frequently than annually) made—

"(i) for the life (or life expectancy) of the employee or the joint lives (or joint life expectancies) of the employee and the employee's designated beneficiary, or

"(ii) for a specified period of 10 years or more, and

"(B) any distribution to the extent such distribution is required under section 401(a)(9).

"(5) TRANSFER TREATED AS ROLLOVER CONTRIBUTION UNDER SECTION 408.—For purposes of this title, a transfer resulting in any portion of a distribution being excluded from gross income under paragraph (1) to an eligible retirement plan described in clause (i) or (ii) of paragraph (8)(B) shall be treated as a rollover contribution described in section 408(d)(3).

"(6) SALES OF DISTRIBUTED PROPERTY.—For purposes of this subsection—

"(A) TRANSFER OF PROCEEDS FROM SALE OF DISTRIBUTED PROPERTY TREATED AS TRANSFER OF DISTRIBUTED PROPERTY.—The transfer of an amount equal to any portion of the proceeds from the sale of property received in the distribution shall be treated as the transfer of property received in the distribution.

"(B) PROCEEDS ATTRIBUTABLE TO INCREASE IN VALUE.—The excess of fair market value of property on sale over its fair market value on distribution shall be treated as property received in the distribution.

"(C) DESIGNATION WHERE AMOUNT OF DISTRIBUTION EXCEEDS ROLLOVER CONTRIBUTION.—In any case where part or all of the distribution consists of property other than money, the taxpayer may designate—

"(i) the portion of the money or other property which is to be treated as attributable to amounts not included in gross income, and

"(ii) the portion of the money or other property which is to be treated as included in the rollover contribution.

Any designation under this subparagraph for a taxable year shall be made not later than the time prescribed by law for filing the return for such taxable year (including extensions thereof). Any such designation, once made, shall be irrevocable.

"(D) TREATMENT WHERE NO DESIGNATION.—In any case where part or all of the distribution consists of property other than money and the taxpayer fails to make a designation under subparagraph (C) within the time provided therein, then—

"(i) the portion of the money or other property which is to be treated as attributable to amounts not included in gross income, and

"(ii) the portion of the money or other property which is to be treated as included in the rollover contribution,

shall be determined on a ratable basis.

"(E) NONRECOGNITION OF GAIN OR LOSS.—In the case of any sale described in subparagraph (A), to the extent that an amount equal to the proceeds is transferred pursuant to paragraph (1), neither gain nor loss on such sale shall be recognized.

"(7) SPECIAL RULE FOR FROZEN DEPOSITS.—

"(A) IN GENERAL.—The 60-day period described in paragraph (3) shall not—

"(i) include any period during which the amount transferred to the employee is a frozen deposit, or

"(ii) end earlier than 10 days after such amount ceases to be a frozen deposit.

"(B) FROZEN DEPOSITS.—For purposes of this subparagraph, the term 'frozen deposit' means any deposit which may not be withdrawn because of—

"(i) the bankruptcy or insolvency of any financial institution, or

"(ii) any requirement imposed by the State in which such institution is located by reason of the bankruptcy or insolvency (or threat thereof) of 1 or more financial institutions in such State. A deposit shall not be treated as a frozen deposit unless on at least 1 day during the 60-day period described in paragraph (3) (without regard to this paragraph) such deposit is described in the preceding sentence.

"(8) DEFINITIONS.—For purposes of this subsection—

"(A) QUALIFIED TRUST.—The term 'qualified trust' means an employees' trust described in section 401(a) which is exempt from tax under section 501(a).

"(B) ELIGIBLE RETIREMENT PLAN.—The term 'eligible retirement plan' means—

"(i) an individual retirement account described in section 408(a),

"(ii) an individual retirement annuity described in section 408(b) (other than an endowment contract),

"(iii) a qualified trust, and

"(iv) an annuity plan described in section 403(a).

"(9) ROLLOVER WHERE SPOUSE RECEIVES DISTRIBUTION AFTER DEATH OF EMPLOYEE.—If any distribution attributable to an employee is paid to the spouse of the employee after the employee's death, the preceding provisions of this subsection shall apply to such distribution in the same manner as if the spouse were the employee; except that a trust or plan described in clause (iii) or (iv) of paragraph (8)(B) shall not be treated as an eligible retirement plan with respect to such distribution.

"(d) TAXABILITY OF BENEFICIARY OF CERTAIN FOREIGN SITUS TRUSTS.—For purposes of subsections (a), (b), and (c), a stock bonus, pension, or profit-sharing trust which would qualify for exemption from tax under section 501(a) except for the fact that it is a trust created or organized outside the United States shall be treated as if it were a trust exempt from tax under section 501(a).

"(e) OTHER RULES APPLICABLE TO EXEMPT TRUSTS.—

"(1) ALTERNATE PAYEES.—

"(A) ALTERNATE PAYEE TREATED AS DISTRIBUTEE.—For purposes of subsection (a) and section 72, an alternate payee who is the spouse or former spouse of the participant shall be treated as the distributee of any distribution or payment made to the alternate payee under a qualified domestic relations order (as defined in section 414(p)).

"(B) ROLLOVERS.—If any amount is paid or distributed to an alternate payee who is the spouse or former spouse of the participant by reason of any qualified domestic relations order (within the meaning of section 414(p)), subsection (c) shall apply to such distribution in the same manner as if such alternate payee were the employee.

"(2) DISTRIBUTIONS BY UNITED STATES TO NONRESIDENT ALIENS.—The amount includible under subsection (a) in the gross income of a nonresident alien with respect to a distribution made by the United States in respect of services performed by an employee of the United States shall not exceed an amount which bears the same ratio to the amount includible in gross income without regard to this paragraph as—

"(A) the aggregate basic pay paid by the United States to such employee for such services, reduced by the amount of such basic pay which was not includible in gross income by reason of being from sources without the United States, bears to

"(B) the aggregate basic pay paid by the United States to such employee for such services. In the case of distributions under the civil service retirement laws, the term 'basic pay' shall have the meaning provided in section 8331(3) of title 5, United States Code.

"(3) CASH OR DEFERRED ARRANGEMENTS.—For purposes of this title, contributions made by an employer on behalf of an employee to a trust which is a part of a qualified cash or deferred arrangement (as defined in section 401(k)(2)) shall not be treated as distributed or made available to the employee nor as contributions made to the trust by the employee merely because the arrangement includes provisions under which the employee has an election whether the contribution will be made to the trust or received by the employee in cash.

"(4) NET UNREALIZED APPRECIATION.—

"(A) AMOUNTS ATTRIBUTABLE TO EMPLOYEE CONTRIBUTIONS.—For purposes of subsection (a) and section 72, the amount actually distributed to any distributee from a trust described in subsection (a) shall not include any net unrealized appreciation in securities of the employer corporation attributable to amounts contributed by the employee (other than deductible employee contributions within the meaning of section 72(o)(5)). This subparagraph shall not apply to a partial distribution to which subsection (c) applies.

"(B) AMOUNTS ATTRIBUTABLE TO EMPLOYER CONTRIBUTIONS.—In the case of any lump sum distribution which includes securities of the employer corporation, subparagraph (A) shall apply to the net unrealized appreciation attributable to that part of the distribution which consists of securities of the employer corporation attributable to amounts other than the amounts contributed by the employee. In accordance with rules prescribed by the Secretary, a taxpayer may elect, on the return of tax on which a lump sum distribution is required to be included, not to have this subparagraph and subparagraph (A) apply to such distribution.

"(C) DETERMINATION OF AMOUNTS AND ADJUSTMENTS.—For purposes of subparagraphs (A) and (B), net unrealized appreciation and the resulting adjustments to basis shall be determined in accordance with regulations prescribed by the Secretary.

"(D) LUMP SUM DISTRIBUTION.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'lump sum distribution' means the distribution or payment within one taxable year of the recipient of the balance to the credit of an employee which becomes payable to the recipient—

"(I) on account of the employee's death,

"(II) after the employee attains age 59½,

"(III) on account of the employee's separation from service, or

"(IV) after the employee has become disabled (within the meaning of section 72(m)(7)),

from a trust which forms a part of a plan described in section 401(a) and which is exempt from tax under section 501 or from a plan described in section 403(a). Subclause (III) of this clause shall be applied only with respect to an individual who is an employee without regard to section 401(c)(1), and subclause (IV) shall be applied only with respect to an employee within the meaning of section 401(c)(1). For purposes of this clause, a distribution to two or more trusts shall be treated as a distribution to one recipient. For purposes of this paragraph, the balance to the credit of the employee does not include the accumulated deductible employee contributions under the plan (within the meaning of section 72(o)(5)).

"(ii) AGGREGATION OF CERTAIN TRUSTS AND PLANS.—For purposes of determining the balance to the credit of an employee under clause (i)—

"(I) all trusts which are part of a plan shall be treated as a single trust, all pension plans maintained by the employer shall be treated as a single plan, all profit-sharing plans maintained by the employer shall be treated as a single plan, and all stock bonus plans maintained by the employer shall be treated as a single plan, and

"(II) trusts which are not qualified trusts under section 401(a) and annuity contracts which do not satisfy the requirements of section 404(a)(2) shall not be taken into account.

"(iii) COMMUNITY PROPERTY LAWS.—The provisions of this paragraph shall be applied without regard to community property laws.

"(iv) AMOUNTS SUBJECT TO PENALTY.—This paragraph shall not apply to amounts described in subparagraph (A) of section 72(m)(5) to the extent that section 72(m)(5) applies to such amounts.

"(v) BALANCE TO CREDIT OF EMPLOYEE NOT TO INCLUDE AMOUNTS PAYABLE UNDER QUALIFIED DOMESTIC RELATIONS ORDER.—For purposes of this paragraph, the balance to the credit of an employee shall not include any amount payable to an alternate payee under a qualified domestic relations order (within the meaning of section 414(p)).

"(vi) TRANSFERS TO COST-OF-LIVING ARRANGEMENT NOT TREATED AS DISTRIBUTION.—For purposes of this paragraph, the balance to the credit of an employee under a defined contribution plan shall not include any amount transferred from such defined contribution plan to a qualified cost-of-living arrangement (within the meaning of section 415(k)(2)) under a defined benefit plan.

"(vii) LUMP-SUM DISTRIBUTIONS OF ALTERNATE PAYEES.—If any distribution or payment of the balance to the credit of an employee would be treated as a lump-sum distribution, then, for purposes of this paragraph, the payment under a qualified domestic relations order (within the meaning of section 414(p)) of the balance to the credit of an alternate payee who is the spouse or former spouse of the employee shall be treated as a lump-sum distribution. For purposes of this clause, the balance to the credit of the alternate payee shall not include any amount payable to the employee.

"(E) DEFINITIONS.—For purposes of this paragraph—

"(i) SECURITIES.—The term 'securities' means only shares of stock and bonds or debentures issued by a corporation with interest coupons or in registered form.

"(ii) SECURITIES OF THE EMPLOYER.—The term 'securities of the employer corporation' includes securities of a parent or subsidiary corporation (as defined in subsections (e) and (f) of section 425) of the employer corporation.

"(f) WRITTEN EXPLANATION TO RECIPIENTS OF DISTRIBUTIONS ELIGIBLE FOR ROLLOVER TREATMENT.—

"(1) IN GENERAL.—The plan administrator of any plan shall, when making an eligible rollover distribution, provide a written explanation to the recipient of the provisions under which such distribution will not be subject to tax if transferred to an eligible retirement plan within 60 days after the date on which the recipient received the distribution.

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) ELIGIBLE ROLLOVER DISTRIBUTION.—The term 'eligible rollover distribution' has the same meaning as when used in subsection (c) of this section or paragraph (4) of section 403(a).

"(B) ELIGIBLE RETIREMENT PLAN.—The term 'eligible retirement plan' has the meaning given such term by subsection (c)(8)(B)."

(b) REPEAL OF $5,000 EXCLUSION OF EMPLOYEES' DEATH BENEFITS.—Subsection (b) of section 101 is hereby repealed.

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 55(c) is amended by striking "shall not include any tax imposed by section 402(e) and".

(2) Paragraph (8) of section 62(a) (relating to certain portion of lump-sum distributions from pension plans taxed under section 402(e)) is hereby repealed.

(3) Paragraph (4) of section 72(o) (relating to special rule for treatment of rollover amount) is amended by striking "sections 402(a)(5), 402(a)(7)" and inserting "sections 402(c)".

(4) Paragraph (2) of section 219(d) (relating to recontributed amount) is amended by striking "section 402(a)(5), 402(a)(7)" and inserting "section 402(c)".

(5) Paragraph (20) of section 401(a) is amended by striking "qualified total distribution described in section 402(a)(5)(E)(i)(I)" and inserting "distribution to a distributee on account of a termination of the plan of which the trust is a part, or in the case of a profit-sharing or stock bonus plan, a complete discontinuance of contributions under such plan".

(6) Section 401(a)(28)(B) (relating to coordination with distribution rules) is amended by striking clause (v).

(7) Subclause (IV) of section 401(k)(2)(B)(i) is amended by striking "section 402(a)(8)" and inserting "section 402(e)(3)".

(8) Subparagraph (B)(ii) of section 401(k)(10) (relating to distributions that must be lump-sum distributions) is amended to read as follows:

"(ii) LUMP SUM DISTRIBUTION.—For purposes of this subparagraph, the term 'lump sum distribution' means any distribution of the balance to the credit of an employee immediately before the distribution."

(9) Section 402(g)(1) is amended by striking "subsections (a)(8)" and inserting "subsections (e)(3)".

(10) Section 402(i) is amended by striking ", except as otherwise provided in subparagraph (A) of subsection (e)(4)".

(11) Subsection (j) of section 402 is amended by striking "(a)(1) or (e)(4)(J)" and inserting "(e)(4)".

(12)(A) Clause (i) of section 403(a)(4)(A) is amended by inserting "in an eligible rollover distribution (within the meaning of section 402(c)(4))" before the comma at the end thereof.

(B) Subparagraph (B) of section 403(a)(4) is amended to read as follows:

"(B) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of paragraphs (2) through (7) of section 402(c) shall apply for purposes of subparagraph (A)."

(13)(A) Clause (i) of section 403(b)(8)(A) is amended by inserting "in an eligible rollover distribution (within the meaning of section 402(c)(4))" before the comma at the end thereof.

(B) Paragraph (8) of section 403(b) is amended by striking subparagraphs (B), (C), and (D) and inserting the following:

"(B) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of paragraphs (2) through (7) of section 402(c) shall apply for purposes of subparagraph (A)."

(14) Section 406(c) (relating to termination of status as deemed employee not to be treated as separation from service for purposes of limitation of tax) is hereby repealed.

(15) Section 407(c) (relating to termination of status as deemed employee not to be treated as separation from service for purposes of limitation of tax) is hereby repealed.

(16) Paragraph (1) of section 408(a) is amended by striking "section 402(a)(5), 402(a)(7)" and inserting "section 402(c)".

(17) Clause (ii) of section 408(d)(3)(A) is amended to read as follows:

"(ii) no amount in the account and no part of the value of the annuity is attributable to any source other than a rollover contribution (as defined in section 402) from an employee's trust described in section 401(a) which is exempt from tax under section 501(a) or from an annuity plan described in section 403(a) (and any earnings on such contribution), and the entire amount received (including property and other money) is paid (for the benefit of such individual) into another such trust or annuity plan not later than the 60th day on which the individual receives the payment or the distribution; or".

(18) Subparagraph (B) of section 408(d)(3) (relating to limitations) is amended by striking the second sentence thereof.

(19) Subparagraph (F) of section 408(d)(3) (relating to frozen deposits) is amended by striking "section 402(a)(6)(H)" and inserting "section 402(c)(7)".

(20) Subclause (I) of section 414(n)(5)(C)(iii) is amended by striking "section 402(a)(8)" and inserting "section 402(e)(3)".

(21) Clause (i) of section 414(q)(7)(B) is amended by striking "402(a)(8)" and inserting "402(e)(3)".

(22) Paragraph (2) of section 414(s) (relating to employer may elect to treat certain deferrals as compensation) is amended by striking "402(a)(8)" and inserting "402(e)(3)".

(23) Subparagraph (A) of section 415(b)(2) (relating to annual benefit in general) is amended by striking "sections 402(a)(5)" and inserting "sections 402(c)".

(24) Subparagraph (B) of section 415(b)(2) (relating to adjustment for certain other forms of benefit) is amended by striking "sections 402(a)(5)" and inserting "sections 402(c)".

(25) Paragraph (2) of section 415(c) (relating to annual addition) is amended by striking "sections 402(a)(5)" and inserting "sections 402(c)".

(26) Subparagraph (B) of section 457(c)(2) is amended by striking "section 402(a)(8)" in clause (i) thereof and inserting "section 402(e)(3)".

(27) Section 691(c) (relating to coordination with section 402(e)) is amended by striking paragraph (5).

(28) Subparagraph (B) of section 871(a)(1) (relating to income other than capital gains) is amended by striking "402(a)(2), 403(a)(2), or".

(29) Paragraph (1) of section 871(b) (relating to imposition of tax) is amended by striking "section 1, 55, or 402(e)(1)" and inserting "section 1 or 55".

(30) Paragraph (1) of section 871(k) is amended by striking "section 402(a)(4)" and inserting "section 402(e)(2)".

(31) Subsection (b) of section 877 (relating to alternative tax) is amended by striking "section 1, 55, or 402(e)(1)" and inserting "section 1 or 55".

(32) Subsection (b) of section 1441 (relating to income items) is amended by striking "402(a)(2), 403(a)(2), or".

(33) Paragraph (5) of section 1441(c) (relating to special items) is amended by striking "402(a)(2), 403(a)(2), or".

(34) Subparagraph (A) of section 3121(v)(1) is amended by striking "section 402(a)(8)" and inserting "section 402(e)(3)".

(35) Subparagraph (A) of section 3306(r)(1) is amended by striking "section 402(a)(8)" and inserting "section 402(e)(3)".

(36) Subsection (a) of section 3405 is amended by striking "PENSIONS, ANNUITIES, ETC.—" from the heading thereof and inserting "PERIODIC PAYMENTS.—".

(37) Subsection (b) of section 3405 (relating to nonperiodic distribution) is amended—

(A) by striking "the amount determined under paragraph (2)" from paragraph (1) thereof and inserting "an amount equal to 10 percent of such distribution"; and

(B) by striking paragraph (2) (relating to amount of withholding) and redesignating paragraph (3) as paragraph (2).

(38) Paragraph (4) of section 3405(d) (relating to qualified total distributions) is hereby repealed.

(39) Paragraph (8) of section 3405(d) (relating to maximum amounts withheld) is amended to read as follows:

"(8) MAXIMUM AMOUNT WITHHELD.—The maximum amount to be withheld under this section on any designated distribution shall not exceed the sum of the amount of money and the fair market value of other property (other than securities of the employer corporation) received in the distribution. No amount shall be required to be withheld under this section in the case of any designated distribution which consists only of securities of the employer corporation and cash (not in excess of $200) in lieu of financial shares. For purposes of this paragraph, the term 'securities of the employer corporation' has the meaning given such term by section 402(e)(4)(E)."

(40) Subparagraph (A) of section 4973(b)(1) is amended by striking "sections 402(a)(5), 402(a)(7)" and inserting "sections 402(c)".

(41) Paragraph (4) of section 4980A(c) (relating to special rule where taxpayer elects income averaging) is amended to read as follows:

"(4) ONE-TIME ELECTION FOR CERTAIN DISTRIBUTIONS.—If the taxpayer elects the application of this paragraph for any calendar year, paragraph (1) shall be applied for such calendar year as if the limitation under paragraph (1) were equal to 5 times such limitation determined without regard to this paragraph. No election may be made under this paragraph by any taxpayer if this paragraph applied to the taxpayer for any preceding calendar year."

(42) Subparagraph (C) of section 7701(j)(1) is amended by striking "section 402(a)(8)" and inserting "section 402(e)(3)".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

(2) ROLLOVERS.—The provisions of section 402(c) of the Internal Revenue Code of 1986 (as added by subsection (a)), and any amendment of any other provision of such Code relating to such provision, shall apply to distributions after the date of the enactment of this Act.

(3) RETENTION OF CERTAIN TRANSITION RULES.—Notwithstanding any other provision of this section, the amendments made by this section shall not apply to distributions to employees described in section 1122 (h)(3) or (h)(5) of the Tax Reform Act of 1986.

SEC. 4202. SIMPLIFIED METHOD FOR TAXING ANNUITY DISTRIBUTIONS UNDER CERTAIN EMPLOYER PLANS.

(a) GENERAL RULE.—Subsection (d) of section 72 (relating to annuities; certain proceeds of endowment and life insurance contracts) is amended to read as follows:

"(d) SPECIAL RULES FOR QUALIFIED EMPLOYER RETIREMENT PLANS.—

"(1) SIMPLIFIED METHOD OF TAXING ANNUITY PAYMENTS.—

"(A) IN GENERAL.—In the case of any amount received as an annuity under a qualified employer retirement plan—

"(i) subsection (b) shall not apply, and

"(ii) the investment in the contract shall be recovered as provided in this paragraph.

"(B) METHOD OF RECOVERING INVESTMENT IN CONTRACT.—

"(i) IN GENERAL.—Gross income shall not include so much of any monthly annuity payment under a qualified employer retirement plan as does not exceed the amount obtained by dividing—

"(I) the investment in the contract (as of the annuity starting date), by

"(II) the number of anticipated payments determined under the table contained in clause (iii) (or, in the case of a contract to which subsection (c)(3)(B) applies, the number of monthly annuity payments under such contract).

"(ii) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of paragraphs (2) and (3) of subsection (b) shall apply for purposes of this paragraph.

"(iii) NUMBER OF ANTICIPATED PAYMENTS.—

"If the age of the primary annuitant on the annuity starting date is:	**The number of anticipated payments is:**
Not more than 55	300
More than 55 but not more than 60	260
More than 60 but not more than 65	240
More than 65 but not more than 70	170
More than 70	120

"(C) ADJUSTMENT FOR REFUND FEATURE NOT APPLICABLE.—For purposes of this paragraph, investment in the contract shall be determined under subsection (c)(1) without regard to subsection (c)(2).

"(D) SPECIAL RULE WHERE LUMP SUM PAID IN CONNECTION WITH COMMENCEMENT OF ANNUITY PAYMENTS.—If, in connection with the commencement of annuity payments under any qualified employer retirement plan, the taxpayer receives a lump sum payment—

"(i) such payment shall be taxable under subsection (e) as if received before the annuity starting date, and

"(ii) the investment in the contract for purposes of this paragraph shall be determined as if such payment had been so received.

"(E) EXCEPTION.—This paragraph shall not apply in any case where the primary annuitant has attained age 75 on the annuity starting date unless there are fewer than 5 years of guaranteed payments under the annuity.

"(F) ADJUSTMENT WHERE ANNUITY PAYMENTS NOT ON MONTHLY BASIS.—In any case where the annuity payments are not made on a monthly basis, appropriate adjustments in the application of this paragraph shall be made to take into account the period on the basis of which such payments are made.

"(G) QUALIFIED EMPLOYER RETIREMENT PLAN.—For purposes of this paragraph, the term 'qualified employer retirement plan' means any plan or contract described in paragraph (1), (2), or (3) of section 4974(c).

"(2) TREATMENT OF EMPLOYEE CONTRIBUTIONS UNDER DEFINED CONTRIBUTION PLANS.—For purposes of this section, employee contributions (and any income allocable thereto) under a defined contribution plan may be treated as a separate contract."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply in cases where the annuity starting date is after December 31, 1992.

SEC. 4203. QUALIFIED PLANS MUST PROVIDE FOR TRANSFERS OF CERTAIN DISTRIBUTIONS TO OTHER PLANS.

(a) QUALIFICATION REQUIREMENT.—Section 401(a) (relating to requirements for qualification) is amended by adding after paragraph (30) the following new paragraph:

"(31) CERTAIN DISTRIBUTIONS MUST BE MADE IN FORM OF TRANSFER TO OTHER PLAN.—A trust shall not constitute a qualified trust under this section unless the plan of which it is a part meets the requirements of section 417A."

(b) TRANSFER REQUIREMENTS.—

(1) IN GENERAL.—Subpart B of part I of subchapter D of chapter 1 (relating to special rules) is amended by adding at the end thereof the following new section:

"SEC. 417A. REQUIRED TRANSFERS OF CERTAIN PLAN DISTRIBUTIONS.

"(a) GENERAL RULE.—A plan meets the requirements of this section only if all applicable distributions from the plan are made in the form of a direct trustee-to-trustee transfer to an eligible transferee plan.

"(b) APPLICABLE DISTRIBUTION.—For purposes of this section—

"(1) IN GENERAL.—The term 'applicable distribution' means any distribution from a plan in excess of $500 which, without regard to this section, would be distributed directly to a participant or to the beneficiary of a participant.

"(2) EXCEPTIONS.—The term 'applicable distribution' shall not include any of the following:

"(A) Any distribution described in section 72(t)(2)(A) (other than clause (i), (ii), or (v) thereof) or section 72(t)(2)(C).

"(B) Any distribution on or after the date the employee attains age 55.

"(C) Any distribution on or after the death of the employee other than to the surviving spouse of the employee.

"(D) In the case of a profit-sharing or stock bonus plan, a distribution upon hardship of the employee.

"(E) Any distribution of any employee contribution other than accumulated deductible contributions (within the meaning of section 72(o)(5)).

"(F) Any distribution the proceeds of which are used to repay any loan to the employee from the plan with respect to which the employee is in default.

"(c) ELIGIBLE TRANSFEREE PLAN.—For purposes of this section—

"(1) IN GENERAL.—The term 'eligible transferee plan' means an individual retirement plan designated by the employee in such form, and at such time, as the transferor plan may prescribe.

"(2) DESIGNATION BY PLAN.—

"(A) IN GENERAL.—Each plan shall provide a method for the designation of an eligible transferee plan if an employee does not designate a plan under paragraph (1).

"(B) DESIGNATION BY TRUSTEE.—The trustee shall designate the eligible transferee plan under the method prescribed under subparagraph (A) in cases—

"(i) where the employee does not designate, or

"(ii) where the transfer in accordance with an employee's designation is not practicable.

"(3) TRANSFERS TO QUALIFIED TRUSTS.—Except as otherwise provided in regulations, an eligible transferee plan shall include an employee's trust described in section 401(a) and exempt from tax under section 501(a) which is designated as provided in paragraph (2) and which—

"(A) is part of a defined contribution plan, and

"(B) provides for the acceptance of the distribution from the transferor plan.

"(d) SPECIAL RULES FOR TREATMENT OF TRANSFERS.—

"(1) WITHDRAWALS BEFORE DUE DATE.—

"(A) IN GENERAL.—For purposes of this title, if, during the distribution period with respect to any applicable distribution, the employee receives a distribution from the eligible transferee plan of any portion of the applicable distribution (and any income allocable thereto), the distribution from the eligible transferee plan shall be treated as if it were a distribution from the transferor plan in the taxable year of receipt by the employee.

"(B) DISTRIBUTION PERIOD.—For purposes of this paragraph, the term 'distribution period' means the period beginning on the date of the transfer and ending on the due date (including extensions) for the return of tax for the taxable year of the employee in which the date of transfer occurs.

"(2) SPOUSAL BENEFICIARIES.—For purposes of this section, in the case of an applicable distribution to the surviving spouse of an employee, the surviving spouse shall be treated in the same manner as an employee.

"(e) REPORTS.—

"(1) NOTICE TO EMPLOYEES.—The trustee of a plan shall notify each employee before any applicable distribution of the requirements of this section, including the time and manner of making a designation under subsection (c)(1).

"(2) AMOUNTS TRANSFERRED.—The trustee of a transferor plan shall notify the employee of the amount of any direct trustee-to-trustee transfer."

(2) CONFORMING AMENDMENT.—The table of sections for subpart B of part I of subchapter D of chapter 1 is amended by inserting after the item relating to section 417 the following new item:

"Sec. 417A. Required transfers of certain plan distributions."

(c) EXCLUSION FROM INCOME.—

(1) IN GENERAL.—Subsection (e) of section 402 (relating to taxability of beneficiary of employees' trust), as amended by section ______, is amended by adding at the end the following new paragraph:

"(5) DIRECT TRUSTEE-TO-TRUSTEE TRANSFERS.—In the case of a plan described in section 401(a) to which the requirements of section 417A apply, any amount transferred in a direct trustee-to-trustee transfer in accordance with section 417A shall not be includible in gross income for the taxable year of such transfer."

(2) DIRECT TRANSFERS FROM EMPLOYEE ANNUITIES.—

(A) QUALIFIED ANNUITY PLANS.—

(i) Paragraph (2) of section 404(a) (relating to employees' annuities) is amended by striking "and (27)" and inserting "(27), and (31)".

(ii) Subsection (a) of section 403 (relating to taxability of beneficiary under a qualified annuity plan) is amended by adding at the end the following new paragraph:

"(5) DIRECT TRANSFERS TO INDIVIDUAL RETIREMENT PLANS.—Rules similar to the rules of sections 402(e)(5) and 417A shall apply with respect to annuity contracts described in paragraph (1), and such contracts shall, for purposes of section 417A(c)(3), be treated in the same manner as a trust described in such section."

(B) ANNUITY CONTRACTS PURCHASED BY SECTION 501(C)(3) ORGANIZATIONS OR PUBLIC SCHOOLS.—Subsection (b) of section 403 (relating to taxability of beneficiary under annuity purchased by section 501(c)(3) organization or public school) is amended by adding at the end the following new paragraph:

"(13) DIRECT TRUSTEE-TO-TRUSTEE TRANSFERS.—Rules similar to the rules of sections 401(a)(31) and 417A and section 402(e)(5) shall apply with respect to annuity contracts described in paragraph (1), and such contracts shall, for purposes of section 417A(c)(3), be treated in the same manner as a trust described in such section."

(d) OTHER AMENDMENTS.—

(1) CERTAIN TRANSFERS NOT TREATED AS REDUCTIONS IN BENEFITS.—Section 411(d)(6)(B) (relating to accrued benefit not to be decreased by amendment) is amended by adding at the end the following new sentence: "Except as otherwise provided in regulations, the requirements of clause (ii) shall not be treated as violated solely by reason of a direct trustee-to-trustee transfer required by section 417A."

(2) SERVICE DISREGARDED WHERE DISTRIBUTION IS PERMITTED.—

(A) IN GENERAL.—Subparagraph (B) of section 411(a)(7) (relating to effect of certain distributions) is amended—

(i) in the matter preceding clause (i), by striking "he has received";

(ii) in clause (i), by inserting "the employee has received" after "(i)", and by striking "or";

(iii) in clause (ii), by inserting "the employee has received" after "(ii)", and by striking "receive." and inserting "receive, or";

(iv) by inserting after clause (ii) the following:

"(iii) a direct trustee-to-trustee transfer described in section 417A has been made from the plan."; and

(v) in the last sentence, by striking "Clause (ii)" and inserting "Clauses (ii) and (iii)".

(B) BUYBACK RULES.—Subparagraph (C) of section 411(a)(7) (relating to repayment of subparagraph (B) distributions) is amended by adding at the end the following new sentence: "For purposes of this subparagraph, a direct trustee-to-trustee transfer referred to in subparagraph (B)(iii) with respect to a participant shall be treated as a distribution received by the participant."

(3) NOTICE TO RECIPIENTS OF DISTRIBUTIONS ELIGIBLE FOR ROLLOVER TREATMENT.—Paragraph (1) of section 402(f) (relating to written explanation to recipients of distributions eligible for rollover treatment) is amended—

(A) by striking "when making an eligible rollover distribution, provide a written explanation to the recipient" and inserting "when making an eligible rollover distribution or a direct trustee-to-trustee transfer, provide to the recipient of the distribution or the person with respect to whom the transfer is made a written explanation of"; and

(B) by inserting ", or the income tax consequences of a direct trustee-to-trustee transfer provided in accordance with the applicable requirements of sections 417A, 403(e)(5), and 403(b)(13), respectively" before the end period.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions in plan years beginning after December 31, 1993.

SEC. 4204. REQUIRED DISTRIBUTIONS.

(a) IN GENERAL.—Section 401(a)(9)(C) (defining required beginning date) is amended to read as follows:

"(C) REQUIRED BEGINNING DATE.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'required beginning date' means April 1 of the calendar year following the later of—

"(I) the calendar year in which the employee attains age 70½,

"(II) the calendar year in which the employee retires.

"(ii) EXCEPTION.—Subclause (II) of clause (i) shall not apply—

"(I) except as provided in section 409(d), in the case of an employee who is a 5-percent owner (as defined in section 416) with respect to the plan year ending in the calendar year in which the employee attains age 70½, or

"(II) for purposes of section 408(a)(6) or (b)(3).

"(iii) ACTUARIAL ADJUSTMENT.—In the case of an employee to whom clause (i)(II) applies who retires in a calendar year after the calendar year in which the employee attains age 70½, the employee's accrued benefit shall be actuarially increased to take into account the period after age 70½ in which the employee was not receiving any benefits under the plan.

"(iv) EXCEPTION FOR GOVERNMENTAL AND CHURCH PLANS.—Clauses (ii) and (iii) shall not apply in the case of a governmental plan or church plan. For purposes of this clause, the term 'church plan' means a plan maintained by a church for church employees, and the term 'church' means any church (as defined in section 3121(w)(3)(A)) or qualified church-controlled organization (as defined in section 3121(w)(3)(B))."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to years beginning after December 31, 1992.

PART II—INCREASED ACCESS TO PENSION PLANS

SEC. 4211. MODIFICATIONS OF SIMPLIFIED EMPLOYEE PENSIONS.

(a) INCREASE IN NUMBER OF ALLOWABLE PARTICIPANTS FOR SALARY REDUCTION ARRANGEMENTS.—Section 408(k)(6)(B) is amended by striking "25" each place it appears in the text and heading thereof and inserting "100".

(b) MODIFICATION OF PARTICIPATION REQUIREMENTS.—Section 408(k)(2)(B) is amended to read as follows:

"(B) has at least 1 year of service (as determined under section 411(a)(5)) with the employer, and".

(c) REPEAL OF PARTICIPATION REQUIREMENT.—Section 408(k)(6)(A) is amended by striking clause (ii) and by redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively.

(d) ALTERNATIVE TEST.—Clause (iii) of section 408 (k)(6)(A) is amended by adding at the end thereof the following new flush sentence:

"The requirements of the preceding sentence are met if the employer makes contributions to the simplified employee pension meeting the requirements of sections 401(k)(11) (B) or (C), 401(k)(11)(D), and 401(m)(10)(B)."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1992.

SEC. 4212. TAX EXEMPT ORGANIZATIONS ELIGIBLE UNDER SECTION 401(k).

(a) GENERAL RULE.—Subparagraph (B) of section 401(k)(4) is amended to read as follows:

"(B) STATE AND LOCAL GOVERNMENTS NOT ELIGIBLE.—A cash or deferred arrangement shall not be treated as a qualified cash or deferred arrangement if it is part of a plan maintained by a State or local government or political subdivision thereof, or any agency or instrumentality thereof. This subparagraph shall not apply to a rural cooperative plan."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to plan years beginning on or after December 31, 1992, but shall not apply to any cash or deferred arrangement to which clause (i) of section 1116(f)(2)(B) of the Tax Reform Act of 1986 applies.

SEC. 4213. DUTIES OF SPONSORS OF CERTAIN PROTOTYPE PLANS.

(a) IN GENERAL.—The Secretary of the Treasury may, as a condition of sponsorship, prescribe rules defining the duties and responsibilities of sponsors of master and prototype plans, regional prototype plans, and other Internal Revenue Service preapproved plans.

(b) DUTIES RELATING TO PLAN AMENDMENT, NOTIFICATION OF ADOPTERS, AND PLAN ADMINISTRATION.—The duties and responsibilities referred to in subsection (a) may include—

(1) the maintenance of lists of persons adopting the sponsor's plans, including the updating of such lists not less frequently than annually,

(2) the furnishing of notices at least annually to such persons and to the Secretary or his delegate, in such form and at such time as the Secretary shall prescribe,

(3) duties relating to administrative services to such persons in the operation of their plans, and

(4) other duties that the Secretary considers necessary to ensure that—

(A) the master and prototype, regional prototype, and other preapproved plans of adopting employers are timely amended to meet the requirements of the Internal Revenue Code of 1986 or of any rule or regulation of the Secretary, and

(B) adopting employers receive timely notification of amendments and other actions taken by sponsors with respect to their plans.

PART III—NONDISCRIMINATION PROVISIONS

SEC. 4221. DEFINITION OF HIGHLY COMPENSATED EMPLOYEES.

(a) IN GENERAL.—Paragraph (1) of section 414(q) (defining highly compensated employee) is amended to read as follows:

"(1) IN GENERAL.—The term 'highly compensated employee' means any employee who—

"(A) was a 5-percent owner at any time during the year or the preceding year, or

"(B) had compensation for the preceding year from the employer in excess of $50,000.

The Secretary shall adjust the $50,000 amount under subparagraph (B) at the same time and in the same manner as under section 415(d)."

(b) SPECIAL RULE WHERE NO EMPLOYEES TREATED AS HIGHLY COMPENSATED.—Paragraph (2) of section 414(q) is amended to read as follows:

"(2) SPECIAL RULE IF NO EMPLOYEE DESCRIBED IN PARAGRAPH (1).—If no employee is treated as a highly compensated employee under paragraph (1), the highest paid officer for the year shall be treated as a highly compensated employee. The preceding sentence shall not apply for purposes of section 401 (k) or (m) and shall not apply with respect to employees of an employer described in section 457(e)(1)."

(c) TREATMENT OF FAMILY MEMBERS.—Paragraph (6) of section 414(q) is hereby repealed.

(d) CONFORMING AMENDMENTS.—

(1) Paragraphs (4), (5), (8), and (12) of section 414(q) are hereby repealed.

(2)(A) Section 414(r) is amended by adding at the end thereof the following new paragraph:

"(9) EXCLUDED EMPLOYEES.—For purposes of this subsection, the following employees shall be excluded:

"(A) Employees who have not completed 6 months of service.

"(B) Employees who normally work less than 17½ hours per week.

"(C) Employees who normally work not more than 6 months during any year.

"(D) Employees who have not attained the age of 21.

"(E) Except to the extent provided in regulations, employees who are included in a unit of employees covered by an agreement which the Secretary of Labor finds to be a collective bargaining agreement between employee representatives and the employer.

Except as provided by the Secretary, the employer may elect to apply subparagraph (A), (B), (C), or (D) by substituting a shorter period of service, smaller number of hours or months, or lower age for the period of service, number of hours or months, or age (as the case may be) specified in such subparagraph."

(B) Subparagraph (A) of section 414(r)(2) is amended by striking "subsection (q)(8)" and inserting "paragraph (9)".

(3) Paragraph (17) of section 401(a) is amended by striking the last sentence.

(4) Subsection (l) of section 404 is amended by striking the last sentence.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1992, except that an employer may elect not to have such amendments apply to years beginning in 1993.

SEC. 4222. ELECTION TO TREAT BASE PAY AS COMPENSATION.

(a) IN GENERAL.—Section 414(s) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) ELECTION TO USE BASE PAY.—An employer may elect to determine an employee's compensation solely by reference to that portion of the employee's compensation attributable to such employee's base pay. Such election shall apply for purposes of all applicable provisions and to all employees and, once made, may be revoked only with the consent of the Secretary."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning after December 31, 1992.

SEC. 4223. MODIFICATION OF ADDITIONAL PARTICIPATION REQUIREMENTS.

(a) GENERAL RULE.—Section 401(a)(26)(A) (relating to additional participation requirements) is amended to read as follows:

"(A) IN GENERAL.—In the case of a trust which is a part of a defined benefit plan, such trust shall not constitute a qualified trust under this subsection unless on each day of the plan year such trust benefits at least the lesser of—

"(i) 25 employees of the employer, or

"(ii) the greater of—

"(I) 40 percent of all employees of the employer, or

"(II) 2 employees (or if there is only 1 employee, such employee)."

(b) SEPARATE LINE OF BUSINESS TEST.—Section 401(a)(26)(G) (relating to separate line of business) is amended by striking "paragraph (7)" and inserting "paragraph (2)(A) or (7)".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by this section shall apply to years beginning after December 31, 1991.

(2) ELECTION.—A plan may elect to have the amendment made by this section apply as if such amendment was included in the amendment made by section 1112(b) of the Tax Reform Act of 1986. Such election shall be made at such time, and in such form, as the Secretary of the Treasury may prescribe.

SEC. 4224. NONDISCRIMINATION RULES FOR QUALIFIED CASH OR DEFERRED ARRANGEMENTS AND MATCHING CONTRIBUTIONS.

(a) ALTERNATIVE METHODS OF SATISFYING SECTION 401(k) NONDISCRIMINATION TESTS.—Section 401(k) (relating to cash or deferred arrangements) is amended by adding at the end thereof the following new paragraph:

"(11) ALTERNATIVE METHODS OF MEETING NONDISCRIMINATION REQUIREMENTS.—

"(A) IN GENERAL.—A cash or deferred arrangement shall be treated as meeting the requirements of paragraph (3)(A)(ii) if such arrangement—

"(i) meets the contribution requirements of subparagraph (B) or (C), and

"(ii) meets the notice requirements of subparagraph (D).

"(B) MATCHING CONTRIBUTIONS.—

"(i) IN GENERAL.—The requirements of this subparagraph are met if, under the arrangement, the employer makes matching contributions on behalf of each employee who is not a highly compensated employee in an amount not less than—

"(I) 100 percent of the elective contributions of the employee to the extent such elective contributions do not exceed 3 percent of the employee's compensation, and

"(II) 50 percent of the elective contributions of the employee to the extent that such elective contributions exceed 3 percent but do not exceed 5 percent of the employee's compensation.

"(ii) RATE FOR HIGHLY COMPENSATED EMPLOYEES.—The requirements of this subparagraph are not met if, under the arrangement, the matching contribution with respect to any elective contribution of a highly compensated employee at any level of compensation is greater than that with respect to an employee who is not a highly compensated employee.

"(iii) ALTERNATIVE PLAN DESIGNS.—If the matching contribution with respect to any elective contribution at any specific level of compensation is not equal to the percentage required under clause (i), an arrangement shall not be treated as failing to meet the requirements of clause (i) if—

"(I) the level of an employer's matching contribution does not increase as an employee's elective contributions increase, and

"(II) the aggregate amount of matching contributions with respect to elective contributions not in excess of such level of compensation is at least equal to the amount of matching contributions which would be made if matching contributions were made on the basis of the percentages described in clause (i).

"(C) NONELECTIVE CONTRIBUTIONS.—The requirements of this subparagraph are met if, under the arrangement, the employer is required, without regard to whether the employee makes an elective contribution or employee contribution, to make a contribution to a defined contribution plan on behalf of each employee who is not a highly compensated employee and who is eligible to participate in the arrangement in an amount equal to at least 3 percent of the employee's compensation.

"(D) NOTICE REQUIREMENT.—An arrangement meets the requirements of this paragraph if, under the arrangement, each employee eligible to participate is, within a reasonable period before any year, given written notice of the employee's rights and obligations under the arrangement which—

"(i) is sufficiently accurate and comprehensive to appraise the employee of such rights and obligations, and

"(ii) is written in a manner calculated to be understood by the average employee eligible to participate.

"(E) OTHER REQUIREMENTS.—

"(i) WITHDRAWAL AND VESTING RESTRICTIONS.—An arrangement shall not be treated as meeting the requirements of subparagraph (B) or (C) unless the requirements of subparagraphs (B) and (C) of paragraph (2) are met with respect to employer contributions.

"(ii) SOCIAL SECURITY AND SIMILAR CONTRIBUTIONS NOT TAKEN INTO ACCOUNT.—An arrangement shall not be treated as meeting the requirements of subparagraph (B) or (C) unless such requirements are met without regard to subsection (l), and, for purposes of subsection (l), employer contributions under subparagraph (B) or (C) shall not be taken into account.

"(F) OTHER PLANS.—An arrangement shall be treated as meeting the requirements under subparagraph (A)(i) if any other plan maintained by the employer meets such requirements with respect to employees eligible under the arrangement."

(b) ALTERNATIVE METHODS OF SATISFYING SECTION 401(m) NONDISCRIMINATION TESTS.—Section 401(m) (relating to nondiscrimination test for matching contributions and employee contributions) is amended by redesignating paragraph (10) as paragraph (11) and by adding after paragraph (9) the following new paragraph:

"(10) ALTERNATIVE METHOD OF SATISFYING TESTS.—

"(A) IN GENERAL.—A defined contribution plan shall be treated as meeting the requirements of paragraph (2) with respect to matching contributions if the plan—

"(i) meets the contribution requirements of subparagraph (B) or (C) of subsection (k)(11),

"(ii) meets the notice requirements of subsection (k)(11)(D), and

"(iii) meets the requirements of subparagraph (B).

"(B) LIMITATION ON MATCHING CONTRIBUTIONS.—The requirements of this subparagraph are met if—

"(i) matching contributions on behalf of any employee may not be made with respect to an employee's contributions or elective deferrals in excess of 6 percent of the employee's compensation,

"(ii) the level of an employer's matching contribution does not increase as an employee's contributions or elective deferrals increase, and

"(iii) the matching contribution with respect to any highly compensated employee at a specific level of compensation is not greater than that with respect to an employee who is not a highly compensated employee."

(c) YEAR FOR COMPUTING NONHIGHLY COMPENSATED EMPLOYEE PERCENTAGE.—

(1) CASH OR DEFERRED ARRANGEMENTS.—Clause (ii) of section 401(k)(3)(A) is amended—

(A) by striking "such year" and inserting "the plan year", and

(B) by striking "for such plan year" and inserting "the preceding plan year".

(2) MATCHING AND EMPLOYEE CONTRIBUTIONS.—Section 401(m)(2)(A) is amended—

(A) by inserting "for such plan year" after "highly compensated employee", and

(B) by inserting "for the preceding plan year" after "eligible employees" each place it appears in clause (i) and clause (ii).

(d) SPECIAL RULE FOR DETERMINING AVERAGE DEFERRAL PERCENTAGE FOR FIRST PLAN YEAR, ETC.—

(1) Paragraph (3) of section 401(k) is amended by adding at the end thereof the following new subparagraph:

"(E) For purposes of this paragraph, in the case of the first plan year of any plan, the amount taken into account as the average deferral percentage of nonhighly compensated employees for the preceding plan year shall be—

"(i) 3 percent, or

"(ii) if the employer makes an election under this subclause, the average deferral percentage of nonhighly compensated employees determined for such first plan year."

(2) Paragraph (3) of section 401(m) is amended by adding at the end thereof the following: "Rules similar to the rules of subsection (k)(3)(E) shall apply for purposes of this subsection.".

(e) DISTRIBUTION OF EXCESS CONTRIBUTIONS.—

(1) Subparagraph (C) of section 401(k)(8) (relating to arrangement not disqualified if excess contributions distributed) is amended by striking "on the basis of the respective portions of the excess contributions attributable to each of such employees" and inserting "on the basis of the amount of contributions by, or on behalf of, each of such employees".

(2) Subparagraph (C) of section 401(m)(6) (relating to method of distributing excess aggregate contributions) is amended by striking "on the basis of the respective portions of such amounts attributable to each of such employees" and inserting "on the basis of the amount of contributions on behalf of, or by, each such employee".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1992.

PART IV—MISCELLANEOUS SIMPLIFICATION

SEC. 4231. TREATMENT OF LEASED EMPLOYEES.

(a) REPLACEMENT OF HISTORICAL TEST WITH CONTROL TEST.—Subparagraph (C) of section 414(n)(2) is amended to read as follows:

"(C) such services are performed by such person under the control of the recipient."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1983.

SEC. 4242. ELIMINATION OF HALF-YEAR REQUIREMENTS.

(a) IN GENERAL.—Each of the following provisions are amended by striking "age 59½" and inserting "age 59":

(1) Section 72(q)(2)(A).
(2) Section 72(q)(3)(B)(i).
(3) Section 72(q)(3)(B)(ii).
(4) Section 72(t)(2)(A)(i).
(5) Section 72(t)(4)(A)(ii)(I).
(6) Section 72(t)(4)(A)(ii)(II).
(7) Section 72(v)(2)(A).
(8) Section 401(k)(7)(C).
(9) Section 402(e)(4)(D)(i)(II).
(10) Section 403(b)(7)(A)(ii).
(11) Section 403(b)(11)(A).
(12) The heading for section 403(b)(11).
(13) Section 4978(d)(1)(B).

(b) OTHER PROVISIONS.—Each of the following provisions is amended by striking "70½" and inserting "70":

(1) Section 219(d)(1).
(2) The heading for section 219(d)(1).
(3) Section 401(a)(9)(B)(iv)(I).
(4) Section 401(a)(9)(C)(i)(I).

(5) Section 401(a)(9)(C)(ii)(I).

(6) Section 401(a)(9)(C)(iii).

(7) Section 408(b).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1992.

SEC. 4233. MODIFICATIONS OF COST-OF-LIVING ADJUSTMENTS.

(a) IN GENERAL.—Section 415(d) (relating to cost-of-living adjustments) is amended to read as follows:

"(d) COST-OF-LIVING ADJUSTMENTS.—

"(1) IN GENERAL.—The Secretary shall adjust annually—

"(A) the $90,000 amount in subsection (b)(1)(A), and

"(B) in the case of a participant who separated from service, the amount taken into account under subsection (b)(1)(B),

for increases in the cost-of-living in accordance with regulations prescribed by the Secretary.

"(2) METHOD.—

"(A) IN GENERAL.—The regulations prescribed under paragraph (1) shall provide for adjustment procedures which are similar to the procedures used to adjust benefit amounts under section 215(i)(2)(A) of the Social Security Act.

"(B) PERIODS FOR ADJUSTMENT OF DOLLAR AMOUNT.—For purposes of paragraph (1)(A)—

"(i) IN GENERAL.—The adjustment with respect to any calendar year shall be based on the increase in the applicable index as of the close of the calendar quarter ending September 30 of the preceding calendar year over such index as of the close of the base period.

"(ii) BASE PERIOD.—For purposes of clause (i), the base period is the calendar quarter beginning October 1, 1986.

"(C) BASE PERIOD FOR SEPARATIONS.—For purposes of paragraph (1)(B), the base period is the last calendar quarter of the calendar year preceding the calendar year in which the participant separated from service.

"(3) ROUNDING.—Any amount determined under paragraph (1) (or by reference to this subsection) shall be rounded to the nearest $1,000, except that the amounts under sections 402(g)(1) and 408(k)(2)(C) shall be rounded to the nearest $100."

(b) EFFECTIVE DATE.—The amendments made by this section apply to adjustments with respect to calendar years beginning after December 31, 1992.

SEC. 4234. PLANS COVERING SELF-EMPLOYED INDIVIDUALS.

(a) AGGREGATION RULES.—Section 401(d) (relating to additional requirements for qualification of trusts and plans benefiting owner-employees) is amended to read as follows:

"(d) CONTRIBUTION LIMIT ON OWNER-EMPLOYEES.—A trust forming part of a pension or profit-sharing plan which provides contributions or benefits for employees some or all of whom are owner-employees shall constitute a qualified trust under this section only if, in addition to meeting the requirements of subsection (a), the plan provides that contributions on behalf of any owner-employee may be made only with respect to the earned income of such owner-employee which is derived from the trade or business with respect to which such plan is established."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1992.

SEC. 4235. FULL-FUNDING LIMITATION OF MULTIEMPLOYER PLANS.

(a) FULL-FUNDING LIMITATION.—Section 412(c)(7)(C) (relating to full-funding limitation) is amended—

(1) by inserting "or in the case of a multiemployer plan," after "paragraph (6)(B),", and

(2) by inserting "AND MULTIEMPLOYER PLANS" after "PARAGRAPH (6)(B)" in the heading thereof.

(b) VALUATION.—Section 412(c)(9) is amended—

(1) by inserting "(3 years in the case of a multiemployer plan)" after "year", and

(2) by striking "ANNUAL VALUATION" in the heading and inserting "VALUATION".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1991.

SEC. 4236. ALTERNATIVE FULL-FUNDING LIMITATION.

(a) IN GENERAL.—Subsection (c) of section 412 (relating to minimum funding standards) is amended by redesignating paragraphs (8) through (11) as paragraphs (9) through (12), respectively, and by adding after paragraph (7) the following new paragraph:

"(8) ALTERNATIVE FULL-FUNDING LIMITATION.—

"(A) GENERAL RULE.—An employer may elect the full-funding limitation under this paragraph with respect to any defined benefit plan of the employer in lieu of the full-funding limitation determined under paragraph (7) if the requirements of subparagraphs (C) and (D) are met.

"(B) ALTERNATIVE FULL-FUNDING LIMITATION.—The full-funding limitation under this paragraph is the full-funding limitation determined under paragraph (7) without regard to subparagraph (A)(i)(I) thereof.

"(C) REQUIREMENTS RELATING TO PLAN ELIGIBILITY.—

"(i) IN GENERAL.—The requirements of this subparagraph are met with respect to a defined benefit plan if—

"(I) as of the 1st day of the election period, the average accrued liability of participants accruing benefits under the plan for the 5 immediately preceding plan years is at least 80 percent of the plan's total accrued liability,

"(II) the plan is not a top-heavy plan (as defined in section 416(g)) for the 1st plan year of the election period or either of the 2 preceding plan years, and

"(III) each defined benefit plan of the employer (and each defined benefit plan of each employer who is a member of any controlled group which includes such employer) meets the requirements of subclauses (I) and (II).

"(ii) FAILURE TO CONTINUE TO MEET REQUIREMENTS.—

"(I) If any plan fails to meet the requirement of clause (i)(I) for any plan year during an election period, the benefits of the election under this paragraph shall be phased out under regulations prescribed by the Secretary.

"(II) If any plan fails to meet the requirement of clause (i)(II) for any plan year during an election period, such plan shall be treated as not meeting the requirements of clause (i) for the remainder of the election period.

If there is a failure period described in subclause (I) or (II) with respect to any plan, such plan (and each plan described in clause (i)(III) with respect to such plan) shall be treated as not meeting the requirements of clause (i) for any of the 10 plan years beginning after the election period.

"(D) REQUIREMENTS RELATING TO ELECTION.—

"(i) IN GENERAL.—The requirements of this subparagraph are met if—

"(I) FILING DATE.—Notice of such election is filed with the Secretary (in such form and manner and containing such information as the Secretary may provide) by January 1 of any calendar year, and is effective as of the 1st day of the election period beginning on or after January 1 of the following calendar.

"(II) CONSISTENT ELECTION.—Such an election is made for all defined benefit plans maintained by the employer or by any member of a controlled group which includes the employer.

"(ii) TRANSITION PERIOD.—In the case of any election period beginning after December 31, 1991, and before January 1, 1994, the requirements of clause (i) shall not apply and the requirements of this subparagraph are met with respect to such election period if—

"(I) FILING DATE.—Notice of election is filed with the Secretary by December 31, 1992.

"(II) INFORMATION.—The notice sets forth the name and tax identification number of the plan sponsor, the names and tax identification numbers of the plans to which the election applies, the limitation under paragraph (7) (determined with and without regard to this paragraph), and a signed certification by an officer of the employer stating that the requirements of this paragraph have been met.

"(E) TERM OF ELECTION.—Any election made under this paragraph shall apply for the election period.

"(F) OTHER CONSEQUENCES OF ELECTION.—

"(i) NO FUNDING WAIVERS.—In the case of a plan with respect to which an election is made under this paragraph, no waiver may be granted under subsection (d) for any plan year beginning after the date the election was made and ending at the close of the election period with respect thereto.

"(ii) FAILURE TO MAKE SUCCESSIVE ELECTIONS.—If an election is made under this paragraph with respect to any plan and such an election does not apply for each successive plan year of such plan, such plan shall be treated as not meeting the requirements of subparagraph (C) for the period of 10 plan years beginning after the close of the last election period for such plan.

"(G) DEFINITIONS.—For purposes of this paragraph—

"(i) ELECTION PERIOD.—The term 'election period' means the period of 5 consecutive plan years beginning with the 1st plan year for which the election is made.

"(ii) CONTROLLED GROUP.—The term 'controlled group' means all persons who are treated as a single employer under subsection (b), (c), (m), or (o) of section 414.

"(H) PROCEDURES IF ALTERNATIVE FUNDING LIMITATION REDUCES NET FEDERAL REVENUES.—

"(i) IN GENERAL.—At least once with respect to each fiscal year, the Secretary shall estimate whether the application of this paragraph will result in a net reduction in Federal revenues for such fiscal year.

"(ii) ADJUSTMENT OF FULL-FUNDING LIMITATION IF REVENUE SHORTFALL.—If the Secretary estimates that the application of this paragraph will result in a more than insubstantial net reduction in Federal revenues for any fiscal year, the Secretary—

"(I) shall make the adjustment described in clause (iii), and

"(II) to the extent such adjustment is not sufficient to reduce such reduction to an insubstantial amount, shall make the adjustment described in clause (iv).

Such adjustments shall apply only to defined benefit plans with respect to which an election under this paragraph is not in effect.

"(iii) REDUCTION IN LIMITATION BASED ON 150 PERCENT OF CURRENT LIABILITY.—The adjustment described in this clause is an adjustment which substitutes a percentage (not lower than 140 percent) for the percentage described in paragraph (7)(A)(i)(I) determined by reducing the percentage of current liability taken into account with respect to participants who are not accruing benefits under the plan.

"(iv) REDUCTION IN LIMITATION BASED ON ACCRUED LIABILITY.—The adjustment described in this clause is an adjustment which reduces the percentage of accrued liability taken into account under paragraph (7)(A)(i)(II). In no event may the amount of accrued liability taken into account under such paragraph after the adjustment be less than 140 of current liability."

(b) ALTERATION OF DISCRETIONARY REGULATORY AUTHORITY.—Subparagraph (D) of section 412(c)(7) is amended by striking "provide—" and all that follows through "(iii) for" and inserting "provide for".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 4237. DISTRIBUTIONS UNDER RURAL COOPERATIVE PLANS.

(a) DISTRIBUTIONS AFTER CERTAIN AGE.—Section 401(k)(7) is amended by adding at the end thereof the following new subparagraph:

"(C) SPECIAL RULE FOR CERTAIN DISTRIBUTIONS.—A rural cooperative plan which includes a qualified cash or deferred arrangement shall not be treated as violating the requirements of section 401(a) merely by reason of a distribution to a participant after attainment of age 59½."

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 1011(k)(9) of the Technical and Miscellaneous Revenue Act of 1988.

SEC. 4238. TREATMENT OF GOVERNMENTAL PLANS.

(a) DEFINITION OF COMPENSATION.—

(1) LIMITATIONS ON BENEFITS AND CONTRIBUTIONS UNDER QUALIFIED PLANS.—Subsection (k) of section 415 (regarding limitations on benefits and contributions under qualified plans) is amended by inserting at the end of the following new paragraph:

"(3) DEFINITION OF COMPENSATION FOR GOVERNMENTAL PLANS.—For purposes of this section, in the case of a governmental plan (as defined in section 414(d)), the term 'compensation' includes, in addition to the amounts described in subsection (c)(3), any amount which is contributed by the employer pursuant to a salary reduction agreement and which is not includible in the gross income of an employee under section 125, 402(e)(3), 403(b), 414(h)(2), or 457."

(2) OTHER USES.—Paragraph (2) of section 414(s) (defining compensation) is amended—

(A) by inserting "subsection (h) or" before "section 125", and

(B) by striking ", or 403(b)" and inserting ", 403(b), or 457".

(b) COMPENSATION LIMIT.—Subsection (b) of section 415 is amended by inserting at the end the following new paragraph:

"(11) SPECIAL LIMITATION RULE FOR GOVERNMENTAL PLANS.—In the case of a governmental plan (as defined in section 414(d)), subparagraph (B) of paragraph (1) shall not apply."

(c) TREATMENT OF CERTAIN EXCESS BENEFIT PLANS.—

(1) IN GENERAL.—Section 415 is amended by inserting after subsection (l) the following new subsection:

"(m) TREATMENT OF QUALIFIED GOVERNMENTAL EXCESS BENEFIT ARRANGEMENTS.—

"(1) GOVERNMENTAL PLAN NOT AFFECTED.—In determining whether a governmental plan (as defined in section 414(d)) meets the requirements of this section, benefits provided under a qualified governmental excess benefit arrangement shall not be taken into account.

"(2) INCOMING ACCRUING TO PLAN.—For purposes of section 115, income accruing to a governmental plan in respect of a qualified governmental excess benefit arrangement (or to a trust maintained solely for the purpose of providing benefits under such arrangement) shall be treated as income derived from the exercise of an essential governmental function.

"(3) TAXATION OF PARTICIPANT.—For purposes of this chapter—

"(A) the taxable year or years for which amounts in respect of a qualified governmental excess benefit arrangement are includible in gross income by a participant, and

"(B) the treatment of such amounts when so includible by the participant, shall be determined as if such qualified governmental excess benefit arrangement were treated as a plan for the deferral of compensation which is maintained by a corporation not exempt from tax under this chapter and which does not meet the requirements for qualification under section 401.

"(4) QUALIFIED GOVERNMENTAL EXCESS BENEFIT ARRANGEMENT.—For purposes of this subsection, the term 'qualified governmental excess benefit arrangement' means a portion of a governmental plan if—

"(A) such portion is maintained solely for the purpose of providing to participants in the plan that part of the participant's annual benefit (otherwise payable under the terms of the plan) in excess of the limitations on benefits imposed by this section,

"(B) under such portion no election is provided at any time to the participant (directly or indirectly) to defer compensation, and

"(C) benefits described in subparagraph (A) are not paid from a trust forming a part of such governmental plan unless such trust is maintained solely for the purpose of providing such benefits."

(2) CONFORMING AMENDMENT.—Paragraph (2) of section 457(f) is amended by striking "and" at the end of subparagraph (C), by striking the period after subparagraph (D) and inserting ", and", and by inserting at the end thereof the following new subparagraph:

"(E) a qualified governmental excess benefit arrangement described in section 415(m)."

(d) EXEMPTION FOR SURVIVOR AND DISABILITY BENEFITS.—Paragraph (2) of section 415(b) is amended by inserting at the end the following new subparagraph:

"(I) EXEMPTION FOR SURVIVOR AND DISABILITY BENEFITS PROVIDED UNDER GOVERNMENTAL PLANS.—Subparagraph (B) of paragraph (1), subparagraph (C) of this paragraph, and paragraph (5) shall not apply to—

"(i) income received from a governmental plan (as defined in section 414(d)) as a pension, annuity, or similar allowance as the result of the recipient becoming disabled by reason of personal injuries or sickness, or

"(ii) amounts received from a governmental plan by the beneficiaries, survivors, or the estate of an employee as the result of the death of the employee."

(e) REVOCATION OF GRANDFATHER ELECTION.—Subparagraph (C) of section 415(b)(10) is amended by adding at the end thereof the following new sentences: "If all employers maintaining a plan consent, a plan may revoke an election under the preceding sentence if such revocation is filed with the Secretary not later than the last day of the 3rd plan year beginning after the date of the enactment of this sentence. Such revocation shall apply to all plan years for which the election was in effect, except that the limitations under this section for any amount paid by the plan in a taxable year ending after revocation of such election with respect to benefits attributable to a preceding taxable year during which such election was in effect shall be determined as if such amount had been received in such preceding taxable year."

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a), (b), (c), and (d) shall apply to taxable years beginning after the date of enactment. The amendments made by subsection (e) shall apply with respect to revocations adopted after the date of enactment of this section.

(2) TREATMENT FOR YEARS BEGINNING BEFORE DATE OF ENACTMENT.—A governmental plan (as defined in section 414(d) of such Code) shall be treated as satisfying the requirements of section 415 of such Code for all taxable years beginning before the date of the enactment of this Act.

SEC. 4239. USE OF EXCESS ASSETS OF BLACK LUNG BENEFIT TRUSTS FOR HEALTH CARE BENEFITS.

(a) GENERAL RULE.—Paragraph (21) of section 501(c) is amended to read as follows:

"(21)(A) A trust or trusts established in writing, created or organized in the United States, and contributed to by any person (except an insurance company) if—

"(i) the purpose of such trust or trusts is exclusively—

"(I) to satisfy, in whole or in part, the liability of such person for, or with respect to, claims for compensation for disability or death due to pneumoconiosis under Black Lung Acts,

"(II) to pay premiums for insurance exclusively covering such liability,

"(III) to pay administrative and other incidental expenses of such trust in connection with the operation of the trust and the processing of claims against such person under Black Lung Acts, and

"(IV) to pay accident or health benefits for retired miners and their spouses and dependents (including administrative and other incidental expenses of such trust in connection therewith) or premiums for insurance exclusively covering such benefits, and

"(ii) no part of the assets of the trust may be used for, or diverted to, any purpose other than—

"(I) the purposes described in clause (i),

"(II) investment (but only to the extent that the trustee determines that a portion of the assets is not currently needed for the purposes described in clause (i)) in qualified investments, or

"(III) payment into the Black Lung Disability Trust Fund established under section 9501, or into the general fund of the United States Treasury (other than in satisfaction of any tax or other civil or criminal liability of the person who established or contributed to the trust).

"(B) No deduction shall be allowed under this chapter for any payment described in subparagraph (A)(i)(IV) from such trust.

"(C) Payments described in subparagraph (A)(i)(IV) may be made from such trust during a taxable year only to the extent that the aggregate amount of such payments during such taxable year does not exceed the lesser of—

"(i) the excess (if any) (as of the close of the preceding taxable year) of—

"(I) the fair market value of the assets of the trust, over

"(II) 110 percent of the present value of the liability described in subparagraph (A)(i)(I) of such person, or

"(ii) the excess (if any) of—

"(I) the sum of a similar excess determined as of the close of the last taxable year ending before the date of the enactment of this subparagraph plus earnings thereon as of the close of the taxable year preceding the taxable year involved, over

"(II) the aggregate payments described in subparagraph (A)(i)(IV) made from the trust during all taxable years beginning after the date of the enactment of this subparagraph.

The determinations under the preceding sentence shall be made by an independent actuary using actuarial methods and assumptions (not inconsistent with the regulations prescribed under section 192(c)(1)(A)) each of which is reasonable and which are reasonable in the aggregate.

"(D) For purposes of this paragraph—

"(i) The term 'Black Lung Acts' means part C of title IV of the Federal Mine Safety and Health Act of 1977, and any State law providing compensation for disability or death due to pneumoconiosis.

"(ii) The term 'qualified investments' means—

"(I) public debt securities of the United States, *"(II) obligations of a State or local government which are not in default as to principal or interest, and*

"(III) time or demand deposits in a bank (as defined in section 581) or an insured credit union (within the meaning of section 101(6) of the Federal Credit Union Act, 12 U.S.C. 1752(6)) located in the United States.

"(iii) The term 'miner' has the same meaning as such term has when used in section 402(d) of the Black Lung Benefits Act (30 U.S.C. 902(d)).

"(iv) The term 'incidental expenses' includes legal, accounting, actuarial, and trustee expenses."

(b) Exception From Tax on Self-Dealing.—Section 4951(f) is amended by striking "clause (i) of section 501(c)(21)(A)" and inserting "subclause (I) or (IV) of section 501(c)(21)(A)(i)".

(c) Technical Amendment.—Paragraph (4) of section 192(c) is amended by striking "clause (ii) of section 501(c)(21)(B)" and inserting "subclause (II) of section 501(c)(21)(A)(ii)".

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 4240. REPORTS OF PENSION AND ANNUITY PAYMENTS.

(a) Amendments Related to Definition of Information Return.—

(1) Subparagraph (A) of section 6724(d)(1) is amended—

(A) by redesignating clauses (iv) through (vii) as clauses (vi) through (ix),

(B) by inserting after clause (iii) the following new clause:

"(v) section 6047(d) (relating to reports by employers, plan administrators, etc.),",

(C) by redesignating clauses (i) through (iii) as clauses (ii) through (iv), and

(D) by inserting before clause (ii) (as so redesignated) the following new clause:

"(i) section 408(i) (relating to individual retirement account and simplified employee pension reports),".

(2) Paragraph (1) of section 6724(d) is amended by adding at the end thereof the following new sentence: "For purposes of clauses (i) and (v) of subparagraph (A), such term shall include only those statements filed with the Secretary with respect to information required to be supplied to both the Secretary and the recipient of the payment."

(b) Amendments Related to Definition of Payee Statement.—

(1) Paragraph (2) of section 6724(d) is amended—

(A) by redesignating subparagraphs (H) through (S) as subparagraphs (J) through (U),

(B) by inserting after subparagraph (G) the following new subparagraph:

"(I) section 6047(d) (relating to reports by employers, plan administrators, etc.),",

(C) by redesignating subparagraphs (A) through (G) as subparagraphs (B) through (H), and

(D) by inserting before subparagraph (B) (as so redesignated) the following new subparagraph:

"(A) section 408(i) (relating to individual retirement account and simplified employee pension reports),".

(2) Paragraph (2) of section 6724(d) is amended by adding at the end thereof the following new sentence: "For purposes of subparagraphs (A) and (I), such term shall only include statements with respect to information required to be supplied to both the Secretary and the recipient of the payment."

(c) Amendments Related to Reports of Designated Distribution.—

(1) Subsection (i) of section 408 is amended by inserting "aggregating $10 or more" after "distributions".

(2) Section 6047(d)(1) is amended by adding at the end thereof the following sentence: "However, no returns or reports shall be required with respect to payments of designated distributions aggregating less than $10 to any person in any year."

(d) Technical Amendments.—

(1) Paragraph (1) of section 6047(f) is amended by striking "section 6652(e)" and inserting "sections 6652(e), 6721, and 6722".

(2) Subsection (e) of section 6652 is amended by adding at the end thereof the following: "However, failures to file returns and statements also described in section 6724(d)(1) or 6724(d)(2) shall be subject to penalties under part II of chapter 68B of this subtitle, and not under this section."

(e) Effective Date.—The amendments made by this section shall apply to returns and statements required to be filed after December 31, 1992.

SEC. 4241. CONTRIBUTIONS ON BEHALF OF DISABLED EMPLOYEES.

(a) All Disabled Participants Receiving Contributions.—Section 415(c)(3)(C) is amended by adding at the end thereof the following: "If a defined contribution plan provides for the continuation of contributions on behalf of all participants described in clause (i) for a fixed or determinable period, this subparagraph shall be applied without regard to clauses (ii) and (iii)."

(b) Effective Date.—The amendments made by this section shall apply to years beginning after December 31, 1992.

SEC. 4242. AFFILIATED EMPLOYERS.

(a) In General.—For purposes of Treasury Regulations section 1.501(c)(9)-2(a)(1), employers shall be deemed to be affiliated if they satisfy the requirements of subsection (b).

(b) Affiliation.—The requirements of subsection (b) shall be satisfied with respect to employers if—

(1) the employers are in the same line of business,

(2) the employers act jointly to perform tasks that are integral to the activities of each of the employers,

(3) the employers act jointly to such an extent that the joint maintenance of a voluntary employees' beneficiary association is not a major part of the employers' joint activities, and

(4) a substantial number of the employers are exempt from tax under subtitle A of the Internal Revenue Code of 1986.

(c) Effective Date.—The amendments made by this section shall apply to years beginning before, on, or after the date of the enactment of this section.

SEC. 4243. DISAGGREGATION OF UNION PLANS.

(a) In General.—Paragraph (3) of section 410(b) (relating to exclusion of certain employees) is amended by adding at the end thereof the following new sentence: "At the election of an employer, subparagraph (A) (and the exclusion of employees described in subparagraph (A) for purposes of section 401(a)(4) and 414(r)) shall not apply to a unit of employees who benefit under the plan on the same terms."

(b) Conforming Amendment.—Paragraph (4) of section 401(a) is amended by inserting "and except as provided in section 410(b)(3)," after "paragraph,".

(c) Effective Date.—The amendments made by this section shall apply to years beginning after December 31, 1992.

SEC. 4244. UNIFORM RETIREMENT AGE.

(a) Discrimination Testing.—Paragraph (5) of section 401(a) (relating to special rules relating to nondiscrimination requirements) is amended by adding at the end thereof the following new subparagraph:

"(F) Social Security Retirement Age.—For purposes of testing for discrimination under paragraph (4)—

"(i) the social security retirement age (as defined in section 415(b)(8)) shall be treated as a uniform retirement age, and

"(ii) subsidized early retirement benefits and joint and survivor annuities which are based in whole or in part on an employee's social security retirement age (as so defined) shall be treated as being available to employees on the same terms."

(b) Effective Date.—The amendments made by this section shall apply to years beginning after December 31, 1992.

SEC. 4245. SPECIAL RULES FOR PLANS COVERING PILOTS.

(a) General Rule.—

(1) Subparagraph (B) of section 410(b)(3) is amended to read as follows:

"(B) in the case of a plan established or maintained by one or more employers to provide contributions or benefits for air pilots employed by one or more common carriers engaged in interstate or foreign commerce or air pilots employed by carriers transporting mail for or under contract with the United States Government, all employees who are not air pilots."

(2) Paragraph (3) of section 410(b) is amended by striking the last sentence and inserting the following new sentence: "Subparagraph (B) shall not apply in the case of a plan which provides contributions or benefits for employees who are not air pilots or for air pilots whose principal duties are not customarily performed aboard aircraft in flight."

(b) Effective Date.—The amendments made by subsection (a) shall apply to years beginning after December 31, 1992.

SEC. 4246. NATIONAL COMMISSION ON PRIVATE PENSION PLANS.

(a) Establishment.—There is hereby established a commission to be known as the National Commission on Private Pension Plans (in this section referred to as the "Commission").

(b) Membership.—

(1) The Commission shall consist of—

(A) 6 members to be appointed by the President;

(B) 6 members to be appointed by the Speaker of the House of Representatives; and

(C) 6 members to be appointed by the President pro tempore of the Senate.

(2) The appointments made pursuant to subparagraphs (B) and (C) of paragraph (1) shall be made in consultation with the chairmen of the committees of the House of Representatives and the Senate, respectively, having jurisdiction over relevant Federal pension programs.

(c) Duties and Functions of Commission; Public Hearings in Different Geographical Areas; Broad Spectrum of Witnesses and Testimony.—

(1) It shall be the duty and function of the Commission to conduct the studies and issue the report required by subsection (d) of this section.

(2) The Commission (and any committees that it may form) may conduct public hearings in order to receive the views of a broad spectrum of the public on the status of the Nation's private retirement system.

(d) Report to the President and Congress; Recommendations.—The Commission shall submit to the President, to the Majority Leader and the Minority Leader of the Senate, and to the Majority Leader and the Minority Leader of the House of Representatives a report no later than September 1, 1994, reviewing existing Federal incentives and programs that encourage and protect private retirement savings. The final report shall also set forth recommendations where appropriate for increasing the level and security of private retirement savings.

(e) Time of Appointment of Members; Vacancies; Election of Chairman; Quorum; Calling of Meetings; Number of Meetings; Voting; Compensation and Expenses.—

(1)(A) Members of the Commission shall first be appointed not later than December 31, 1992, for terms ending on September 1, 1994.

(B) A vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the vacant position was first filled.

(2) The Commission shall elect 1 of its members to serve as Chairman of the Commission.

(3) A majority of the members of the Commission shall constitute a quorum for the transaction of business.

(4) The Commission shall meet at the call of the Chairman.

(5) Decisions of the Commission shall be according to the vote of a simple majority of those present and voting at a properly called meeting.

(6) Members of the Commission shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the Commission.

(f) Executive Director and Additional Personnel; Appointment and Compensation; Consultants.—

(1) The Commission shall appoint an Executive Director of the Commission. In addition to the Executive Director, the Commission may appoint and fix the compensation of such personnel as it deems advisable. Such appointments and compensation may be made without regard to the provisions of title 5, United States Code, that govern appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title that relate to classifications and the General Schedule pay rates.

(2) The Commission may procure such temporary and intermittent services of consultants under section 3109(b) of title 5, United States Code, as the Commission determines to be necessary to carry out the duties of the Commission.

(g) Time and Place of Hearings and Nature of Testimony Authorized.—In carrying out its duties, the Commission, or any duly organized committee thereof, is authorized to hold such hearings, sit and act at such times and places, and take such testimony, with respect to matters for which it has a responsibility under this section, as the Commission or committee may deem advisable.

(h) Data and Information From Other Agencies and Departments.—

(1) The Commission may secure directly from any department or agency of the United States such data and information as may be necessary to carry out its responsibilities.

(2) Upon request of the Commission, any such department or agency shall furnish any such data or information.

(i) Support Services by General Services Administration.—The General Services Administration shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

(j) Authorization of Appropriations.—There are authorized to be appropriated through fiscal year 1994, such sums as may be necessary to carry out this section for each of fiscal years 1992, 1993, and 1994.

(k) Donations Accepted and Deposited in Treasury in Separate Fund; Expenditures; Gift or Bequest to or for Use of United States.—

(1) The Commission is authorized to accept donations of money, property, or personal services. Funds received from donations shall be deposited in the Treasury in a separate fund created for this purpose. Funds appropriated for the Commission and donated funds may be expended for such purposes as official reception and representation expenses, public surveys, public service announcements, preparation of special papers, analyses, and documentaries, and for such other purposes as determined by the Commission to be in furtherance of its mission to review national issues affecting private pension plans.

(2) For purposes of Federal income, estate, and gift taxation, money and other property accepted under paragraph (1) of this subsection shall be considered as a gift or bequest to or for the use of the United States.

(3) Expenditures of appropriated and donated funds shall be subject to such rules and regulations as may be adopted by the Commission and shall not be subject to Federal procurement requirements.

(l) Public Surveys.—The Commission is authorized to conduct such public surveys as it deems necessary in support of its review of national issues affecting private pension plans and, in conducting such surveys, the Commission shall not be deemed to be an "agency" for the purpose of section 3502 of title 44, United States Code.

SEC. 4247. DATE FOR ADOPTION OF PLAN AMENDMENTS.

If any amendment made by this Act requires an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after January 1, 1994, if—

(1) during the period after such amendment takes effect and before such first plan year, the plan is operated in accordance with the requirements of such amendment, and

(2) such plan amendment applies retroactively to such period.

Subtitle C—Treatment of Large Partnerships

PART I—GENERAL PROVISIONS

SEC. 4301. SIMPLIFIED FLOW-THROUGH FOR LARGE PARTNERSHIPS.

(a) General Rule.—Subchapter K (relating to partners and partnerships) is amended by adding at the end thereof the following new part:

"PART IV—SPECIAL RULES FOR LARGE PARTNERSHIPS

"Sec. 771. Application of subchapter to large partnerships.
"Sec. 772. Simplified flow-through.
"Sec. 773. Computations at partnership level.
"Sec. 774. Other modifications.
"Sec. 775. Large partnership defined.
"Sec. 776. Special rules for partnerships holding oil and gas properties.
"Sec. 777. Regulations.

"SEC. 771. APPLICATION OF SUBCHAPTER TO LARGE PARTNERSHIPS.

"The preceding provisions of this subchapter to the extent inconsistent with the provisions of this part shall not apply to a large partnership and its partners.

"SEC. 772. SIMPLIFIED FLOW-THROUGH.

"(a) General Rule.—In determining the income tax of a partner of a large partnership, such partner shall take into account separately such partner's distributive share of the partnership's—

"(1) taxable income or loss from passive loss limitation activities,

"(2) taxable income or loss from other activities,

"(3) net capital gain (or net capital loss)—

"(A) to the extent allocable to passive loss limitation activities, and

"(B) to the extent allocable to other activities,

"(4) tax-exempt interest,

"(5) applicable net AMT adjustment separately computed for—

"(A) passive loss limitation activities, and

"(B) other activities,

"(6) general credits,

"(7) low-income housing credit determined under section 42,

"(8) rehabilitation credit determined under section 47,

"(9) foreign income taxes, and

"(10) the credit allowable under section 29.

"(b) Separate Computations.—In determining the amounts required under subsection (a) to be separately taken into account by any partner, this section and section 773 shall be applied separately with respect to such partner by taking into account such partner's distributive share of the items of income, gain, loss, deduction, or credit of the partnership.

"(c) Treatment at Partner Level.—

"(1) In General.—Except as provided in this subsection, rules similar to the rules of section 702(b) shall apply to any partner's distributive share of the amounts referred to in subsection (a).

"(2) Income or Loss From Passive Loss Limitation Activities.—For purposes of this chapter, any partner's distributive share of any income or loss described in subsection (a)(1) shall be treated as an item of income or loss (as the case may be) from the conduct of a trade or business which is a single passive activity (as defined in section 469). A similar rule shall apply to a partner's distributive share of amounts referred to in paragraphs (3)(A) and (5)(A) of subsection (a).

"(3) Income or Loss From Other Activities.—

"(A) In General.—For purposes of this chapter, any partner's distributive share of any income or loss described in subsection (a)(2) shall be treated as an item of income or expense (as the case may be) with respect to property held for investment.

"(B) Deductions for Loss Not Subject to Section 67.—The deduction under section 212 for any loss described in subparagraph (A) shall not be treated as a miscellaneous itemized deduction for purposes of section 67.

"(4) Treatment of Net Capital Gain or Loss.—For purposes of this chapter, any partner's distributive share of any gain or loss described in subsection (a)(3) shall be treated as a long-term capital gain or loss, as the case may be.

"(5) Minimum Tax Treatment.—In determining the alternative minimum taxable income of any partner, such partner's distributive share of any applicable net AMT adjustment shall be taken into account in lieu of making the separate adjustments provided in sections 56, 57, and 58 with respect to the items of the partnership. Except as provided in regulations, the applicable net AMT adjustment shall be treated, for purposes of section 53, as an adjustment or item of tax preference not specified in section 53(d)(1)(B)(ii).

"(6) General Credits.—A partner's distributive share of the amount referred to in paragraph (6) of subsection (a) shall be taken into account as a current year business credit.

"(d) Operating Rules.—For purposes of this section—

"(1) Passive Loss Limitation Activity.—The term 'passive loss limitation activity' means—

"(A) any activity which involves the conduct of a trade or business, and

"(B) any rental activity.

For purposes of the preceding sentence, the term 'trade or business' includes any activity treated as a trade or business under paragraph (5) or (6) of section 469(c).

"(2) Tax-Exempt Interest.—The term 'tax-exempt interest' means interest excludable from gross income under section 103.

"(3) Applicable Net AMT Adjustment.—

"(A) In General.—The applicable net AMT adjustment is—

"(i) with respect to taxpayers other than corporations, the net adjustment determined by using the adjustments applicable to individuals, and

"(ii) with respect to corporations, the net adjustment determined by using the adjustments applicable to corporations.

"(B) NET ADJUSTMENT.—The term 'net adjustment' means the net adjustment in the items attributable to passive loss activities or other activities (as the case may be) which would result if such items were determined with the adjustments of sections 56, 57, and 58.

"(4) TREATMENT OF CAPITAL GAINS AND LOSSES.—

"(A) EXCLUSION FOR CERTAIN PURPOSES.—In determining the amounts referred to in paragraphs (1) and (2) of subsection (a), any net capital gain or net capital loss (as the case may be) shall be excluded.

"(B) ALLOCATION RULES.—The net capital gain shall be treated—

"(i) as allocable to passive loss limitation activities to the extent the net capital gain does not exceed the net capital gain determined by only taking into account gains and losses from sales and exchanges of property used in connection with such activities, and

"(ii) as allocable to other activities to the extent such gain exceeds the amount allocated under clause (i).

A similar rule shall apply for purposes of allocating any net capital loss.

"(C) NET CAPITAL LOSS.—The term 'net capital loss' means the excess of the losses from sales or exchanges of capital assets over the gains from sales or exchange of capital assets.

"(5) GENERAL CREDITS.—The term 'general credits' means any credit other than the low-income housing credit, the rehabilitation credit, the foreign tax credit, and the credit allowable under section 29.

"(6) FOREIGN INCOME TAXES.—The term 'foreign income taxes' means taxes described in section 901 which are paid or accrued to foreign countries and to possessions of the United States.

"(e) SPECIAL RULE FOR UNRELATED BUSINESS TAX.—In the case of a partner which is an organization subject to tax under section 511, such partner's distributive share of any items shall be taken into account separately to the extent necessary to comply with the provisions of section 512(c)(1).

"(f) SPECIAL RULES FOR APPLYING PASSIVE LOSS LIMITATIONS.—If any person holds an interest in a large partnership other than as a limited partner—

"(1) paragraph (2) of subsection (c) shall not apply to such partner, and

"(2) such partner's distributive share of the partnership items allocable to passive loss limitation activities shall be taken into account separately to the extent necessary to comply with the provisions of section 469.

The preceding sentence shall not apply to any items allocable to an interest held as a limited partner.

"SEC. 773. COMPUTATIONS AT PARTNERSHIP LEVEL.

"(a) GENERAL RULE.—

"(1) TAXABLE INCOME.—The taxable income of a large partnership shall be computed in the same manner as in the case of an individual except that—

"(A) the items described in section 772(a) shall be separately stated, and

"(B) the modifications of subsection (b) shall apply.

"(2) ELECTIONS.—All elections affecting the computation of the taxable income of a large partnership or the computation of any credit of a large partnership shall be made by the partnership; except that the election under section 901 shall be made by each partner separately.

"(3) LIMITATIONS, ETC.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), all limitations and other provisions affecting the computation of the taxable income of a large partnership or the computation of any credit of a large partnership shall be applied at the partnership level (and not at the partner level).

"(B) CERTAIN LIMITATIONS APPLIED AT PARTNER LEVEL.—The following provisions shall be applied at the partner level (and not at the partnership level):

"(i) Section 68 (relating to overall limitation on itemized deductions).

"(ii) Sections 49 and 465 (relating to at risk limitations).

"(iii) Section 469 (relating to limitation on passive activity losses and credits).

"(iv) Any other provision specified in regulations.

"(4) COORDINATION WITH OTHER PROVISIONS.—Paragraphs (2) and (3) shall apply notwithstanding any other provision of this chapter other than this part.

"(b) MODIFICATIONS TO DETERMINATION OF TAXABLE INCOME.—In determining the taxable income of a large partnership—

"(1) CERTAIN DEDUCTIONS NOT ALLOWED.—The following deductions shall not be allowed:

"(A) The deduction for personal exemptions provided in section 151.

"(B) The net operating loss deduction provided in section 172.

"(C) The additional itemized deductions for individuals provided in part VII of subchapter B (other than section 212 thereof).

"(2) CHARITABLE DEDUCTIONS.—In determining the amount allowable under section 170, the limitation of section 170(b)(2) shall apply.

"(3) COORDINATION WITH SECTION 67.—In lieu of applying section 67, 70 percent of the amount of the miscellaneous itemized deductions shall be disallowed.

"(c) SPECIAL RULES FOR INCOME FROM DISCHARGE OF INDEBTEDNESS.—If a large partnership has income from the discharge of any indebtedness—

"(1) such income shall be excluded in determining the amounts referred to in section 772(a), and

"(2) in determining the income tax of any partner of such partnership—

"(A) such income shall be treated as an item required to be separately taken into account under section 772(a), and

"(B) the provisions of section 108 shall be applied without regard to this part.

"SEC. 774. OTHER MODIFICATIONS.

"(a) TREATMENT OF CERTAIN OPTIONAL ADJUSTMENTS, ETC.—In the case of a large partnership—

"(1) computations under section 773 shall be made without regard to any adjustment under section 743(b) or 108(b), but

"(2) a partner's distributive share of any amount referred to in section 772(a) shall be appropriately adjusted to take into account any adjustment under section 743(b) or 108(b) with respect to such partner.

"(b) DEFERRED SALE TREATMENT OF CONTRIBUTED PROPERTY.—

"(1) TREATMENT OF PARTNERSHIP.—In the case of any contribution of property to which this subsection applies—

"(A) the basis of such property to the partnership shall be its fair market value as of the time of such contribution, and

"(B) section 704(c) shall not apply to such property.

"(2) TREATMENT OF CONTRIBUTING PARTNER.—

"(A) IN GENERAL.—In the case of any partner who makes a contribution of property to which this subsection applies—

"(i) such partner shall recognize the precontribution gain or loss from such property as provided in this paragraph, and

"(ii) appropriate adjustments to the basis of such partner's interest in the partnership shall be made for the amounts recognized under this paragraph.

"(B) CHARACTER.—The character of any gain or loss recognized under this paragraph shall be determined by reference to the character which would have resulted if the property had been sold to the partnership at the time of the contributions; except that any gain or loss recognized under subparagraph (C)(i) shall be treated as ordinary income or loss, as the case may be.

"(C) TRANSACTIONS AT PARTNERSHIP LEVEL.—

"(i) DEPRECIATION, ETC.—If any partnership deduction for depreciation, depletion, or amortization is increased by reason of an increase in the basis of any property under paragraph (1), the contributing partner shall recognize so much of the precontribution gain with respect to such property as does not exceed the increase in such deduction. If there is a precontribution loss, a similar rule shall apply to any decrease in such a deduction.

"(ii) DISPOSITIONS.—

"(I) IN GENERAL.—Except as otherwise provided in this clause, any precontribution gain or loss with respect to any property (to the extent not previously taken into account under this paragraph) shall be recognized by the contributing partner if the partnership makes any disposition of the property.

"(II) DISTRIBUTIONS TO CONTRIBUTING PARTNER.—No gain or loss shall be recognized under subclause (I) by reason of any distribution of the contributed property to the contributing partner (and subparagraph (D)(ii) shall not apply to any such distribution). In any such case, no adjustment shall be made under section 734 on account of such distribution and the adjusted basis of such property in the hands of the contributing partner shall be its adjusted basis immediately before the contribution properly adjusted for gain or loss previously recognized under this paragraph.

"(iii) YEAR FOR WHICH AMOUNT TAKEN INTO ACCOUNT.—Any amount recognized under this subparagraph shall be taken into account for the partner's taxable year in which or with which ends the partnership taxable year of the deduction or disposition.

"(D) TRANSACTIONS AT PARTNER LEVEL.—

"(i) IN GENERAL.—If the contributing partner makes a disposition of any portion of his interest in the partnership, a corresponding portion of any precontribution gain or loss which was not previously taken into account under this paragraph shall be recognized for the partner's taxable year in which the disposition occurs. The preceding sentence shall not apply to a disposition at death.

"(ii) TREATMENT OF CERTAIN DISTRIBUTIONS.—If—

"(I) the amount of cash and the fair market value of property distributed to a partner, exceeds

"(II) the adjusted basis of such partner's interest in the partnership immediately before the distribution (determined without regard to any adjustment under subparagraph (A)(ii) resulting from such distribution),

the contributing partner shall recognize so much of any precontribution gain as does not exceed such excess.

"(iii) SPECIAL RULE.—Except as provided in clause (ii)(II), any basis adjustment under subparagraph (A)(ii) resulting from any gain or loss recognized under this subparagraph shall be treated as occurring immediately before the disposition or distribution involved.

"(E) SECTION 267 AND 707(b) PRINCIPLES TO APPLY.—No loss shall be recognized under subparagraph (C)(ii) or (D) by reason of any disposition (directly or indirectly) to a person related (within the meaning of section 267(b) or 707(b)(1)) to the contributing partner.

"(F) TREATMENT OF CERTAIN NONTAXABLE EXCHANGES.—

"(i) SECTION 1031 AND 1033 TRANSACTIONS.—If the disposition referred to in subclause (I) of

subparagraph (C)(ii) is an exchange described in section 1031 or a compulsory or involuntary conversion within the meaning of section 1033—

"(I) the amount of gain or loss recognized by the contributing partner under such subclause (I) shall not exceed the gain or loss recognized by the partnership on the disposition, and

"(II) the replacement property shall be treated as the contributed property for purposes of this paragraph.

For purposes of the preceding sentence, the term 'replacement property' means the property the basis of which is determined under section 1031(d) or 1033(b), whichever is applicable.

"(ii) CONTRIBUTIONS TO CONTROLLED PARTNERSHIP.—If the disposition referred to in subclause (I) of subparagraph (C)(ii) is a contribution of the property to another partnership which is a controlled partnership—

"(I) the rules of subclause (I) of clause (i) shall apply, and

"(II) the partnership shall be treated as continuing to hold the contributed property so long as the other partnership continues to be a controlled partnership and continues to hold such property.

For purposes of the preceding sentence, the term 'controlled partnership' means any partnership in which the partnership making the disposition owns more than 50 percent of the capital interest or profits interest.

"(3) PRECONTRIBUTION GAIN OR LOSS.—For purposes of this subsection—

"(A) PRECONTRIBUTION GAIN.—The term 'precontribution gain' means the excess (if any) of—

"(i) the fair market value of the contributed property as of the time of the contribution, over

"(ii) the adjusted basis of such property immediately before such contribution.

"(B) PRECONTRIBUTION LOSS.—The term 'precontribution loss' means the excess (if any) of the amount referred to in clause (ii) of subparagraph (A) over the amount referred to in clause (i) of subparagraph (A).

"(4) CONTRIBUTIONS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to any contribution of property (other than cash) which is made by any partner to a partnership if—

"(A) as of the time of such contribution, such partnership is a large partnership, or

"(B) such contribution is to a partnership reasonably expected to become a large partnership.

This subsection shall not apply to any contribution made before the date of the enactment of this part.

"(c) CREDIT RECAPTURE DETERMINED AT PARTNERSHIP LEVEL.—

"(1) IN GENERAL.—In the case of a large partnership—

"(A) any credit recapture shall be taken into account by the partnership, and

"(B) the amount of such recapture shall be determined as if the credit with respect to which the recapture is made had been fully utilized to reduce tax.

"(2) METHOD OF TAKING RECAPTURE INTO ACCOUNT.—A large partnership shall take into account a credit recapture by reducing the amount of the appropriate current year credit to the extent thereof, and if such recapture exceeds the amount of such current year credit, the partnership shall be liable to pay such excess.

"(3) DISPOSITIONS NOT TO TRIGGER RECAPTURE.—No credit recapture shall be required by reason of any transfer of an interest in a large partnership.

"(4) CREDIT RECAPTURE.—For purposes of this subsection, the term 'credit recapture' means any increase in tax under section 42(j) or 50(a).

"(d) PARTNERSHIP NOT TERMINATED BY REASON OF CHANGE IN OWNERSHIP.—Subparagraph (B) of section 708(b)(1) shall not apply to a large partnership.

"(e) PARTNERSHIP ENTITLED TO CERTAIN CREDITS.—The following shall be allowed to a large partnership and shall not be taken into account by the partners of such partnership:

"(1) The credit provided by section 34.

"(2) Any credit or refund under section 852(b)(3)(D).

"(f) TREATMENT OF REMIC RESIDUALS.—For purposes of applying section 860E(e)(6) to any large partnership—

"(1) all interests in such partnership shall be treated as held by disqualified organizations,

"(2) in lieu of applying subparagraph (C) of section 860E(e)(6), the amount subject to tax under section 860E(e)(6) shall be excluded from the gross income of such partnership, and

"(3) subparagraph (D) of section 860E(e)(6) shall not apply.

"(g) SPECIAL RULES FOR APPLYING CERTAIN INSTALLMENT SALE RULES.—In the case of a large partnership—

"(1) the provisions of sections 453(l)(3) and 453A shall be applied at the partnership level, and

"(2) in determining the amount of interest payable under such sections, such partnership shall be treated as subject to tax under this chapter at the highest rate of tax in effect under section 1 or 11.

"SEC. 775. LARGE PARTNERSHIP.

"(a) GENERAL RULE.—For purposes of this part—

"(1) IN GENERAL.—Except as otherwise provided in this section or section 776, the term 'large partnership' means, with respect to any partnership taxable year, any partnership if the number of persons who were partners in such partnership in such taxable year or any preceding partnership taxable year beginning after December 31, 1992, equaled or exceeded 250. To the extent provided in regulations, a partnership shall cease to be treated as a large partnership for any partnership taxable year if in such taxable year fewer than 100 persons were partners in such partnership.

"(2) ELECTION FOR PARTNERSHIPS WITH AT LEAST 100 PARTNERS.—If a partnership makes an election under this paragraph, paragraph (1) shall be applied by substituting '100' for '250'. Such an election shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.

"(b) SPECIAL RULES FOR CERTAIN SERVICE PARTNERSHIPS.—

"(1) CERTAIN PARTNERS NOT COUNTED.—For purposes of this section, the term 'partner' does not include any individual performing substantial services in connection with the activities of the partnership and holding an interest in such partnership, or an individual who formerly performed substantial services in connection with such activities and who held an interest in such partnership at the time the individual performed such services.

"(2) EXCLUSION.—For purposes of this part, the term 'large partnership' does not include any partnership if substantially all the partners of such partnership—

"(A) are individuals performing substantial services in connection with the activities of such partnership or are personal service corporations (as defined in section 269A(b)) the owner-employees (as defined in section 269A(b)) of which perform such substantial services,

"(B) are retired partners who had performed such substantial services, or

"(C) are spouses of partners who are performing (or had previously performed) such substantial services.

"(3) SPECIAL RULE FOR LOWER TIER PARTNERSHIPS.—For purposes of this subsection, the activities of a partnership shall include the activities of any other partnership in which the partnership owns directly an interest in the capital and profits of at least 80 percent.

"(c) EXCLUSION OF COMMODITY POOLS.—For purposes of this part, the term 'large partnership' does not include any partnership the principal activity of which is the buying and selling of commodities (not described in section 1221(1)), or options, futures, or forwards with respect to such commodities.

"(d) SECRETARY MAY RELY ON TREATMENT ON RETURN.—If, on the partnership return of any partnership, such partnership is treated as a large partnership, such treatment shall be binding on such partnership and all partners of such partnership but not on the Secretary.

"SEC. 776. SPECIAL RULES FOR PARTNERSHIPS HOLDING OIL AND GAS PROPERTIES.

"(a) EXCEPTION FOR PARTNERSHIPS HOLDING SIGNIFICANT OIL AND GAS PROPERTIES.—

"(1) IN GENERAL.—For purposes of this part, the term 'large partnership' shall not include any partnership if the average percentage of assets (by value) held by such partnership during the taxable year which are oil or gas properties is at least 25 percent. For purposes of the preceding sentence, any interest held by a partnership in another partnership shall be disregarded, except that the partnership shall be treated as holding its proportionate share of the assets of such other partnership.

"(2) ELECTION TO WAIVE EXCEPTION.—Any partnership may elect to have paragraph (1) not apply. Such an election shall apply to the partnership taxable year for which made and all subsequent partnership taxable years unless revoked with the consent of the Secretary.

"(b) SPECIAL RULES WHERE PART APPLIES.—

"(1) COMPUTATION OF PERCENTAGE DEPLETION.—In the case of a large partnership, except as provided in paragraph (2)—

"(A) the allowance for depletion under section 611 with respect to any partnership oil or gas property shall be computed at the partnership level without regard to any provision of section 613A requiring such allowance to be computed separately by each partner,

"(B) such allowance shall be determined without regard to the provisions of section 613A(c) limiting the amount of production for which percentage depletion is allowable and without respect to paragraph (1) of section 613A(d), and

"(C) paragraph (3) of section 705(a) shall not apply.

"(2) TREATMENT OF CERTAIN PARTNERS.—

"(A) IN GENERAL.—In the case of a disqualified person, the treatment under this chapter of such person's distributive share of any item of income, gain, loss, deduction, or credit attributable to any partnership oil or gas property shall be determined without regard to this part. Such person's distributive share of any such items shall be excluded for purposes of making determinations under sections 772 and 773.

"(B) DISQUALIFIED PERSON.—For purposes of subparagraph (A), the term 'disqualified person' means, with respect to any partnership taxable year—

"(i) any person referred to in paragraph (2) or (4) of section 613A(d) for such person's taxable year in which such partnership taxable year ends, and

"(ii) any other person if such person's average daily production of domestic crude oil and natural gas for such person's taxable year in which such partnership taxable year ends exceeds 500 barrels.

"(C) AVERAGE DAILY PRODUCTION.—For purposes of subparagraph (B), a person's average daily production of domestic crude oil and natural gas for any taxable year shall be computed as provided in section 613A(c)(2)—

"(i) by taking into account all production of domestic crude oil and natural gas (including such person's proportionate share of any production of a partnership),

"(ii) by treating 6,000 cubic feet of natural gas as a barrel of crude oil, and

"(iii) by treating as 1 person all persons treated as 1 taxpayer under section 613A(c)(8) or among whom allocations are required under such section.

"SEC. 777. REGULATIONS.

"The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this part."

(b) Clerical Amendment.—The table of parts for subchapter K of chapter 1 is amended by adding at the end thereof the following new item:

"Part IV. Special rules for large partnerships."

SEC. 4302. SIMPLIFIED AUDIT PROCEDURES FOR LARGE PARTNERSHIPS.

(a) General Rule.—Chapter 63 is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER D—TREATMENT OF LARGE PARTNERSHIPS

"Part I. Treatment of partnership items and adjustments.

"Part II. Partnership level adjustments.

"Part III. Definitions and special rules.

"PART I—TREATMENT OF PARTNERSHIP ITEMS AND ADJUSTMENTS

"Sec. 6240. Application of subchapter.

"Sec. 6241. Partner's return must be consistent with partnership return.

"Sec. 6242. Procedures for taking partnership adjustments into account.

"SEC. 6240. APPLICATION OF SUBCHAPTER.

"(a) General Rule.—This subchapter shall only apply to large partnerships and partners in such partnerships.

"(b) Coordination With Other Partnership Audit Procedures.—

"(1) In general.—Subchapter C of this chapter shall not apply to any large partnership other than in its capacity as a partner in another partnership which is not a large partnership.

"(2) Treatment where partner in other partnership.—If a large partnership is a partner in another partnership which is not a large partnership—

"(A) subchapter C of this chapter shall apply to items of such large partnership which are partnership items with respect to such other partnership, but

"(B) any adjustment under such subchapter C shall be taken into account in the manner provided by section 6242.

"SEC. 6241. PARTNER'S RETURN MUST BE CONSISTENT WITH PARTNERSHIP RETURN.

"(a) General Rule.—A partner of any large partnership shall, on the partner's return, treat each partnership item attributable to such partnership in a manner which is consistent with the treatment of such partnership item on the partnership return.

"(b) Underpayment Due to Inconsistent Treatment Assessed as Math Error.—Any underpayment of tax by a partner by reason of failing to comply with the requirements of subsection (a) shall be assessed and collected in the same manner as if such underpayment were on account of a mathematical or clerical error appearing on the partner's return. Paragraph (2) of section 6213(b) shall not apply to any assessment of an underpayment referred to in the preceding sentence.

"(c) Adjustments Not To Affect Prior Year of Partners.—

"(1) In general.—Except as provided in paragraph (2), subsections (a) and (b) shall apply without regard to any adjustment to the partnership item under part II.

"(2) Certain changes in distributive share taken into account by partner.—

"(A) In general.—To the extent that any adjustment under part II involves a change under section 704 in a partner's distributive share of the amount of any partnership item shown on the partnership return, such adjustment shall be taken into account in applying this title to such partner for the partner's taxable year for which such item was required to be taken into account.

"(B) Coordination with deficiency procedures.—

"(i) In general.—Subchapter B shall not apply to the assessment or collection of any underpayment of tax attributable to an adjustment referred to in subparagraph (A).

"(ii) Adjustment not precluded.—Notwithstanding any other law or rule of law, nothing in subchapter B (or in any proceeding under subchapter B) shall preclude the assessment or collection of any underpayment of tax (or the allowance of any credit or refund of any overpayment of tax) attributable to an adjustment referred to in subparagraph (A) and such assessment or collection or allowance (or any notice thereof) shall not preclude any notice, proceeding, or determination under subchapter B.

"(C) Period of limitations.—The period for—

"(i) assessing any underpayment of tax, or

"(ii) filing a claim for credit or refund of any overpayment of tax,

attributable to an adjustment referred to in subparagraph (A) shall not expire before the close of the period prescribed by section 6248 for making adjustments with respect to the partnership taxable year involved.

"(D) Tiered structures.—If the partner referred to in subparagraph (A) is another partnership or an S corporation, the rules of this paragraph shall also apply to persons holding interests in such partnership or S corporation (as the case may be); except that, if such partner is a large partnership, the adjustment referred to in subparagraph (A) shall be taken into account in the manner provided by section 6242.

"(d) Addition to Tax for Failure to Comply With Section.—

"For addition to tax in case of partner's disregard of requirements of this section, see part II of subchapter A of chapter 68.

"SEC. 6242. PROCEDURES FOR TAKING PARTNERSHIP ADJUSTMENTS INTO ACCOUNT.

"(a) Adjustments Flow Through to Partners for Year in Which Adjustment Takes Effect.—

"(1) In general.—If any partnership adjustment with respect to any partnership item takes effect (within the meaning of subsection (d)(2)) during any partnership taxable year and if an election under paragraph (2) does not apply to such adjustment, such adjustment shall be taken into account in determining the amount of such item for the partnership taxable year in which such adjustment takes effect. In applying this title to any person who is (directly or indirectly) a partner in such partnership during such partnership taxable year, such adjustment shall be treated as an item actually arising during such taxable year.

"(2) Partnership liable in certain cases.—If—

"(A) a partnership elects under this paragraph to not take an adjustment into account under paragraph (1),

"(B) a partnership does not make such an election but in filing its return for any partnership taxable year fails to take fully into account any partnership adjustment as required under paragraph (1), or

"(C) any partnership adjustment involves a reduction in a credit which exceeds the amount of such credit determined for the partnership taxable year in which the adjustment takes effect,

the partnership shall pay to the Secretary an amount determined by applying the rules of subsection (b)(4) to the adjustments not so taken into account and any excess referred to in subparagraph (C).

"(3) Offsetting adjustments taken into account.—If a partnership adjustment requires another adjustment in a taxable year after the adjusted year and before the partnership taxable year in which such partnership adjustment takes effect, such other adjustment shall be taken into account under this subsection for the partnership taxable year in which such partnership adjustment takes effect.

"(4) Coordination with part II.—Amounts taken into account under this subsection for any partnership taxable year shall continue to be treated as adjustments for the adjusted year for purposes of determining whether such amounts may be readjusted under part II.

"(b) Partnership Liable for Interest and Penalties.—

"(1) In general.—If a partnership adjustment takes effect during any partnership taxable year and such adjustment results in an imputed underpayment for the adjusted year, the partnership—

"(A) shall pay to the Secretary interest computed under paragraph (2), and

"(B) shall be liable for any penalty, addition to tax, or additional amount as provided in paragraph (3).

"(2) Determination of amount of interest.—The interest computed under this paragraph with respect to any partnership adjustment is the interest which would be determined under chapter 67—

"(A) on the imputed underpayment determined under paragraph (4) with respect to such adjustment, or

"(B) for the period beginning on the day after the return due date for the adjusted year and ending on the return due date for the partnership taxable year in which such adjustment takes effect (or, if earlier, in the case of any adjustment to which subsection (a)(2) applies, the date on which the payment under subsection (a)(2) is made).

Proper adjustments in the amount determined under the preceding sentence shall be made for adjustments required for partnership taxable years after the adjusted year and before the year in which the partnership adjustment takes effect by reason of such partnership adjustment.

"(3) Penalties.—A partnership shall be liable for any penalty, addition to tax, or additional amount for which it would have been liable if such partnership had been an individual subject to tax under chapter 1 for the adjusted year and the imputed underpayment determined under paragraph (4) were an actual underpayment (or understatement) for such year.

"(4) Imputed underpayment.—For purposes of this subsection, the imputed underpayment determined under this paragraph with respect to any partnership adjustment is the underpayment (if any) which would result—

"(A) by netting all adjustments to items of income, gain, loss, or deduction and—

"(i) if such netting results in a net increase in income, by treating such net increase as an underpayment equal to the amount of such net increase multiplied by the highest rate of tax in effect under section 1 or 11 for the adjusted year, or

"(ii) if such netting results in a net decrease in income, by treating such net decrease as an overpayment equal to such net decrease multiplied by such highest rate, and

"(B) by taking adjustments to credits into account as increases or decreases (whichever is appropriate) in the amount of tax.

For purposes of the preceding sentence, any net decrease in a loss shall be treated as an increase in income and a similar rule shall apply to a net increase in a loss.

"(c) ADMINISTRATIVE PROVISIONS.—

"(1) IN GENERAL.—Any payment required by subsection (a)(2) or (b)(1)(A)—

"(A) shall be assessed and collected in the same manner as if it were a tax imposed by subtitle C, and

"(B) shall be paid on or before the return due date for the partnership taxable year in which the partnership adjustment takes effect.

"(2) INTEREST.—For purposes of determining interest, any payment required by subsection (a)(2) or (b)(1)(A) shall be treated as an underpayment of tax.

"(3) PENALTIES.—

"(A) IN GENERAL.—In the case of any failure by any partnership to pay on the date prescribed therefor any amount required by subsection (a)(2) or (b)(1)(A), there is hereby imposed on such partnership a penalty of 10 percent of the underpayment. For purposes of the preceding sentence, the term 'underpayment' means the excess of any payment required under this section over the amount (if any) paid on or before the date prescribed therefor.

"(B) ACCURACY-RELATED AND FRAUD PENALTIES MADE APPLICABLE.—For purposes of part II of subchapter A of chapter 68, any payment required by subsection (a)(2) shall be treated as an underpayment of tax.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) PARTNERSHIP ADJUSTMENT.—The term 'partnership adjustment' means any adjustment in the amount of any partnership item of a large partnership.

"(2) WHEN ADJUSTMENT TAKES EFFECT.—A partnership adjustment takes effect—

"(A) in the case of an adjustment pursuant to the decision of a court in a proceeding brought under part II, when such decision becomes final,

"(B) in the case of an adjustment pursuant to any administrative adjustment request under section 6251, when such adjustment is allowed by the Secretary, or

"(C) in any other case, when such adjustment is made.

"(3) ADJUSTED YEAR.—The term 'adjusted year' means the partnership taxable year to which the item being adjusted relates.

"(4) RETURN DUE DATE.—The term 'return due date' means, with respect to any taxable year, the date prescribed for filing the partnership return for such taxable year (determined without regard to extensions).

"(5) ADJUSTMENTS INVOLVING CHANGES IN CHARACTER.—Under regulations, appropriate adjustments in the application of this section shall be made for purposes of taking into account partnership adjustments which involve a change in the character of any item of income, gain, loss, or deduction.

"(e) PAYMENTS NONDEDUCTIBLE.—No deduction shall be allowed under subtitle A for any payment required to be made by a large partnership under this section.

"PART II—PARTNERSHIP LEVEL ADJUSTMENTS

"Subpart A. Adjustments by Secretary.

"Subpart B. Claims for adjustments by partnership.

"Subpart A—Adjustments by Secretary

"Sec. 6245. Secretarial authority.

"Sec. 6246. Restrictions on partnership adjustments.

"Sec. 6247. Judicial review of partnership adjustment.

"Sec. 6248. Period of limitations for making adjustments.

"SEC. 6245. SECRETARIAL AUTHORITY.

"(a) GENERAL RULE.—The Secretary is authorized and directed to make adjustments at the partnership level in any partnership item to the extent necessary to have such item be treated in the manner required.

"(b) NOTICE OF PARTNERSHIP ADJUSTMENT.—

"(1) IN GENERAL.—If the Secretary determines that a partnership adjustment is required, the Secretary is authorized to send notice of such adjustment to the partnership by certified mail or registered mail. Such notice shall be sufficient if mailed to the partnership at its last known address even if the partnership has terminated its existence.

"(2) FURTHER NOTICES RESTRICTED.—If the Secretary mails a notice of a partnership adjustment to any partnership for any partnership taxable year and the partnership files a petition under section 6247 with respect to such notice, in the absence of a showing of fraud, malfeasance, or misrepresentation of a material fact, the Secretary shall not mail another such notice to such partnership with respect to such taxable year.

"(3) AUTHORITY TO RESCIND NOTICE WITH PARTNERSHIP CONSENT.—The Secretary may, with the consent of the partnership, rescind any notice of a partnership adjustment mailed to such partnership. Any notice so rescinded shall not be treated as a notice of a partnership adjustment, for purposes of this section, section 6246, and section 6247, and the taxpayer shall have no right to bring a proceeding under section 6247 with respect to such notice. Nothing in this subsection shall affect any suspension of the running of any period of limitations during any period during which the rescinded notice was outstanding.

"SEC. 6246. RESTRICTIONS ON PARTNERSHIP ADJUSTMENTS.

"(a) GENERAL RULE.—Except as otherwise provided in this chapter, no adjustment to any partnership item may be made (and no levy or proceeding in any court for the collection of any amount resulting from such adjustment may be made, begun or prosecuted) before—

"(1) the close of the 90th day after the day on which a notice of a partnership adjustment was mailed to the partnership, and

"(2) if a petition is filed under section 6247 with respect to such notice, the decision of the court has become final.

"(b) PREMATURE ACTION MAY BE ENJOINED.—Notwithstanding section 7421(a), any action which violates subsection (a) may be enjoined in the proper court, including the Tax Court. The Tax Court shall have no jurisdiction to enjoin any action under this subsection unless a timely petition has been filed under section 6247 and then only in respect of the adjustments that are the subject of such petition.

"(c) EXCEPTIONS TO RESTRICTIONS ON ADJUSTMENTS.—

"(1) ADJUSTMENTS ARISING OUT OF MATH OR CLERICAL ERRORS.—

"(A) IN GENERAL.—If the partnership is notified that, on account of a mathematical or clerical error appearing on the partnership return, an adjustment to a partnership item is required, rules similar to the rules of paragraphs (1) and (2) of section 6213(b) shall apply to such adjustment.

"(B) SPECIAL RULE.—If a large partnership is a partner in another large partnership, any adjustment on account of such partnership's failure to comply with the requirements of section 6241(a) with respect to its interest in such other partnership shall be treated as an adjustment referred to in subparagraph (A), except that paragraph (2) of section 6213(b) shall not apply to such adjustment.

"(2) PARTNERSHIP MAY WAIVE RESTRICTIONS.—The partnership shall at any time (whether or not a notice of partnership adjustment has been issued) have the right, by a signed notice in writing filed with the Secretary, to waive the restrictions provided in subsection (a) on the making of any partnership adjustment.

"(d) LIMIT WHERE NO PROCEEDING BEGUN.—If no proceeding under section 6247 is begun with respect to any notice of a partnership adjustment during the 90-day period described in subsection (a), the amount for which the partnership is liable under section 6242 (and any increase in any partner's liability for tax under chapter 1 by reason of any adjustment under section 6242(a)) shall not exceed the amount determined in accordance with such notice.

"SEC. 6247. JUDICIAL REVIEW OF PARTNERSHIP ADJUSTMENT.

"(a) GENERAL RULE.—Within 90 days after the date on which a notice of a partnership adjustment is mailed to the partnership with respect to any partnership taxable year, the partnership may file a petition for a readjustment of the partnership items for such taxable year with—

"(1) the Tax Court,

"(2) the district court of the United States for the district in which the partnership's principal place of business is located, or

"(3) the Claims Court.

"(b) JURISDICTIONAL REQUIREMENT FOR BRINGING ACTION IN DISTRICT COURT OR CLAIMS COURT.—

"(1) IN GENERAL.—A readjustment petition under this section may be filed in a district court of the United States or the Claims Court only if the partnership filing the petition deposits with the Secretary, on or before the date the petition is filed, the amount for which the partnership would be liable under section 6242(b) (as of the date of the filing of the petition) if the partnership items were adjusted as provided by the notice of partnership adjustment. The court may by order provide that the jurisdictional requirements of this paragraph are satisfied where there has been a good faith attempt to satisfy such requirement and any shortfall of the amount required to be deposited is timely corrected.

"(2) INTEREST PAYABLE.—Any amount deposited under paragraph (1), while deposited, shall not be treated as a payment of tax for purposes of this title (other than chapter 67).

"(c) SCOPE OF JUDICIAL REVIEW.—A court with which a petition is filed in accordance with this section shall have jurisdiction to determine all partnership items of the partnership for the partnership taxable year to which the notice of partnership adjustment relates and the proper allocation of such items among the partners (and the applicability of any penalty, addition to tax, or additional amount for which the partnership may be liable under section 6242(b)).

"(d) DETERMINATION OF COURT REVIEWABLE.—Any determination by a court under this section shall have the force and effect of a decision of the Tax Court or a final judgment or decree of the district court or the Claims Court, as the case may be, and shall be reviewable as such. The date of any such determination shall be treated as being the date of the court's order entering the decision.

"(e) EFFECT OF DECISION DISMISSING ACTION.—If an action brought under this section is dismissed other than by reason of a rescission under section 6245(b)(3), the decision of the court dismissing the action shall be considered as its decision that the notice of partnership adjustment is correct, and an appropriate order shall be entered in the records of the court.

"SEC. 6248. PERIOD OF LIMITATIONS FOR MAKING ADJUSTMENTS.

"(a) GENERAL RULE.—Except as otherwise provided in this section, no adjustment under this subpart to any partnership item for any

partnership taxable year may be made after the date which is 3 years after the later of—

"(1) the date on which the partnership return for such taxable year was filed, or

"(2) the last day for filing such return for such year (determined without regard to extensions).

"(b) EXTENSION BY AGREEMENT.—The period described in subsection (a) (including an extension period under this subsection) may be extended by an agreement entered into by the Secretary and the partnership before the expiration of such period.

"(c) SPECIAL RULE IN CASE OF FRAUD, ETC.—

"(1) FALSE RETURN.—In the case of a false or fraudulent partnership return with intent to evade tax, the adjustment may be made at any time.

"(2) SUBSTANTIAL OMISSION OF INCOME.—If any partnership omits from gross income an amount properly includible therein which is in excess of 25 percent of the amount of gross income stated in its return, subsection (a) shall be applied by substituting '6 years' for '3 years'.

"(3) NO RETURN.—In the case of a failure by a partnership to file a return for any taxable year, the adjustment may be made at any time.

"(4) RETURN FILED BY SECRETARY.—For purposes of this section, a return executed by the Secretary under subsection (b) of section 6020 on behalf of the partnership shall not be treated as a return of the partnership.

"(d) SUSPENSION WHEN SECRETARY MAILS NOTICE OF ADJUSTMENT.—If notice of a partnership adjustment with respect to any taxable year is mailed to the partnership, the running of the period specified in subsection (a) (as modified by the other provisions of this section) shall be suspended—

"(1) for the period during which an action may be brought under section 6247 (and, if a petition is filed under section 6247 with respect to such notice, until the decision of the court becomes final), and

"(2) for 1 year thereafter.

"Subpart B—Claims for Adjustments by Partnership

"Sec. 6251. Administrative adjustment requests.

"Sec. 6252. Judicial review where administrative adjustment request is not allowed in full.

"SEC. 6251. ADMINISTRATIVE ADJUSTMENT REQUESTS.

"(a) GENERAL RULE.—A partnership may file a request for an administrative adjustment of partnership items for any partnership taxable year at any time which is—

"(1) within 3 years after the later of—

"(A) the date on which the partnership return for such year is filed, or

"(B) the last day for filing the partnership return for such year (determined without regard to extensions), and

"(2) before the mailing to the partnership of a notice of a partnership adjustment with respect to such taxable year.

"(b) SECRETARIAL ACTION.—If a partnership files an administrative adjustment request under subsection (a), the Secretary may allow any part of the requested adjustments.

"(c) SPECIAL RULE IN CASE OF EXTENSION UNDER SECTION 6248.—If the period described in section 6248(a) is extended pursuant to an agreement under section 6248(b), the period prescribed by subsection (a)(1) shall not expire before the date 6 months after the expiration of the extension under section 6248(b).

"SEC. 6252. JUDICIAL REVIEW WHERE ADMINISTRATIVE ADJUSTMENT REQUEST IS NOT ALLOWED IN FULL.

"(a) IN GENERAL.—If any part of an administrative adjustment request filed under section 6251 is not allowed by the Secretary, the partnership may file a petition for an adjustment with respect to the partnership items to which such part of the request relates with—

"(1) the Tax Court,

"(2) the district court of the United States for the district in which the principal place of business of the partnership is located, or

"(3) the Claims Court.

"(b) PERIOD FOR FILING PETITION.—A petition may be filed under subsection (a) with respect to partnership items for a partnership taxable year only—

"(1) after the expiration of 6 months from the date of filing of the request under section 6251, and

"(2) before the date which is 2 years after the date of such request.

The 2-year period set forth in paragraph (2) shall be extended for such period as may be agreed upon in writing by the partnership and the Secretary.

"(c) COORDINATION WITH SUBPART A.—

"(1) NOTICE OF PARTNERSHIP ADJUSTMENT BEFORE FILING OF PETITION.—No petition may be filed under this section after the Secretary mails to the partnership a notice of a partnership adjustment for the partnership taxable year to which the request under section 6251 relates.

"(2) NOTICE OF PARTNERSHIP ADJUSTMENT AFTER FILING BUT BEFORE HEARING OF PETITION.—If the Secretary mails to the partnership a notice of a partnership adjustment for the partnership taxable year to which the request under section 6251 relates after the filing of a petition under this subsection but before the hearing of such petition, such petition shall be treated as an action brought under section 6247 with respect to such notice, except that subsection (b) of section 6247 shall not apply.

"(3) NOTICE MUST BE BEFORE EXPIRATION OF STATUTE OF LIMITATIONS.—A notice of a partnership adjustment for the partnership taxable year shall be taken into account under paragraphs (1) and (2) only if such notice is mailed before the expiration of the period prescribed by section 6248 for making adjustments to partnership items for such taxable year.

"(d) SCOPE OF JUDICIAL REVIEW.—Except in the case described in paragraph (2) of subsection (c), a court with which a petition is filed in accordance with this section shall have jurisdiction to determine only those partnership items to which the part of the request under section 6251 not allowed by the Secretary relates and those items with respect to which the Secretary asserts adjustments as offsets to the adjustments requested by the partnership.

"(e) DETERMINATION OF COURT REVIEWABLE.—Any determination by a court under this subsection shall have the force and effect of a decision of the Tax Court or a final judgment or decree of the district court or the Claims Court, as the case may be, and shall be reviewable as such. The date of any such determination shall be treated as being the date of the court's order entering the decision.

"PART III—DEFINITIONS AND SPECIAL RULES

"Sec. 6255. Definitions and special rules.

"SEC. 6255. DEFINITIONS AND SPECIAL RULES.

"(a) DEFINITIONS.—For purposes of this subchapter—

"(1) LARGE PARTNERSHIP.—The term 'large partnership' has the meaning given to such term by section 775 without regard to section 776(a).

"(2) PARTNERSHIP ITEM.—The term 'partnership item' has the meaning given to such term by section 6231(a)(3).

"(b) PARTNERS BOUND BY ACTIONS OF PARTNERSHIP, ETC.—

"(1) DESIGNATION OF PARTNER.—Each large partnership shall designate (in the manner prescribed by the Secretary) a partner (or other person) who shall have the sole authority to act on behalf of such partnership under this subchapter. In any case in which such a designation is not in effect, the Secretary may select any partner as the partner with such authority.

"(2) BINDING EFFECT.—A large partnership and all partners of such partnership shall be bound—

"(A) by actions taken under this subchapter by the partnership, and

"(B) by any decision in a proceeding brought under this subchapter.

"(c) PARTNERSHIPS HAVING PRINCIPAL PLACE OF BUSINESS OUTSIDE THE UNITED STATES.—For purposes of sections 6247 and 6252, a principal place of business located outside the United States shall be treated as located in the District of Columbia.

"(d) TREATMENT WHERE PARTNERSHIP CEASES TO EXIST.—If a partnership ceases to exist before a partnership adjustment under this subchapter takes effect, such adjustment shall be taken into account by the former partners of such partnership under regulations prescribed by the Secretary.

"(e) DATE DECISION BECOMES FINAL.—For purposes of this subchapter, the principles of section 7481(a) shall be applied in determining the date on which a decision of a district court or the Claims Court becomes final.

"(f) PARTNERSHIPS IN CASES UNDER TITLE 11 OF THE UNITED STATES CODE.—The running of any period of limitations provided in this subchapter on making a partnership adjustment (or provided by section 6501 or 6502 on the assessment or collection of any amount required to be paid under section 6242) shall, in a case under title 11 of the United States Code, be suspended during the period during which the Secretary is prohibited by reason of such case from making the adjustment (or assessment or collection) and—

"(1) for adjustment or assessment, 60 days thereafter, and

"(2) for collection, 6 months thereafter.

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this subchapter, including regulations—

"(1) to prevent abuse through manipulation of the provisions of this subchapter, and

"(2) providing that this subchapter shall not apply to any case described in section 6231(c)(1) (or the regulations prescribed thereunder) where the application of this subchapter to such a case would interfere with the effective and efficient enforcement of this title.

In any case to which this subchapter does not apply by reason of paragraph (2), rules similar to the rules of sections 6229(f) and 6255(f) shall apply."

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 63 is amended by adding at the end thereof the following new item:

"SUBCHAPTER D. Treatment of large partnerships."

SEC. 4303. DUE DATE FOR FURNISHING INFORMATION TO PARTNERS OF LARGE PARTNERSHIPS.

(a) GENERAL RULE.—Subsection (b) of section 6031 (relating to copies to partners) is amended by adding at the end thereof the following new sentence: "In the case of a large partnership (as defined in sections 775 and 776(a)), such information shall be furnished on or before the first March 15 following the close of such taxable year."

(b) TREATMENT AS INFORMATION RETURN.—Section 6724 is amended by adding at the end thereof the following new subsection:

"(e) SPECIAL RULE FOR CERTAIN PARTNERSHIP RETURNS.—If any partnership return under sec-

tion 6031(a) is required under section 6011(e) to be filed on magnetic media or in other machine-readable form, for purposes of this part, each schedule required to be included with such return with respect to each partner shall be treated as a separate information return."

SEC. 4304. RETURNS MAY BE REQUIRED ON MAGNETIC MEDIA.

Paragraph (2) of section 6011(e) (relating to returns on magnetic media) is amended by adding at the end thereof the following new sentence:

"The preceding sentence shall not apply in the case of the partnership return of a large partnership (as defined in sections 775 and 776(a)) or any other partnership with 250 or more partners."

SEC. 4305. EFFECTIVE DATE.

(a) GENERAL RULE.—Except as provided in subsection (b), the amendments made by this part shall apply to partnership taxable years ending on or after December 31, 1992.

(b) SPECIAL RULE FOR SECTION 4304.—In the case of a partnership which is not a large partnership (as defined in sections 775 and 776(a) of the Internal Revenue Code of 1986, as added by this part), the amendment made by section 4304 shall only apply to partnership taxable years ending on or after December 31, 1998.

PART II—PROVISIONS RELATED TO TEFRA PARTNERSHIP PROCEEDINGS

SEC. 4311. TREATMENT OF PARTNERSHIP ITEMS IN DEFICIENCY PROCEEDINGS.

(a) IN GENERAL.—Subchapter C of chapter 63 is amended by adding at the end thereof the following new section:

"SEC. 6234. DECLARATORY JUDGMENT RELATING TO TREATMENT OF ITEMS OTHER THAN PARTNERSHIP ITEMS WITH RESPECT TO AN OVERSHELTERED RETURN.

"(a) GENERAL RULE.—If—

"(1) a taxpayer files an oversheltered return for a taxable year,

"(2) the Secretary makes a determination with respect to the treatment of items (other than partnership items) of such taxpayer for such taxable year, and

"(3) the adjustments resulting from such determination do not give rise to a deficiency (as defined in section 6211) but would give rise to a deficiency if there were no net loss from partnership items,

the Secretary is authorized to send a notice of adjustment reflecting such determination to the taxpayer by certified or registered mail.

"(b) OVERSHELTERED RETURN.—For purposes of this section, the term 'oversheltered return' means an income tax return which—

"(1) shows no taxable income for the taxable year, and

"(2) shows a net loss from partnership items.

"(c) JUDICIAL REVIEW IN THE TAX COURT.—Within 90 days, or 150 days if the notice is addressed to a person outside the United States, after the day on which the notice of adjustment authorized in subsection (a) is mailed to the taxpayer, the taxpayer may file a petition with the Tax Court for redetermination of the adjustments. Upon the filing of such a petition, the Tax Court shall have jurisdiction to make a declaration with respect to all items (other than partnership items and affected items which require partner level determinations as described in section 6230(a)(2)(A)(i)) for the taxable year to which the notice of adjustment relates, in accordance with the principles of section 6214(a). Any such declaration shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.

"(d) FAILURE TO FILE PETITION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), if the taxpayer does not file a petition with the Tax Court within the time prescribed in subsection (c), the determination of the Secretary set forth in the notice of adjustment that was mailed to the taxpayer shall be deemed to be correct.

"(2) EXCEPTION.—Paragraph (1) shall not apply after the date that the taxpayer—

"(A) files a petition with the Tax Court within the time prescribed in subsection (c) with respect to a subsequent notice of adjustment relating to the same taxable year, or

"(B) files a claim for refund of an overpayment of tax under section 6511 for the taxable year involved.

If a claim for refund is filed by the taxpayer, then solely for purposes of determining (for the taxable year involved) the amount of any computational adjustment in connection with a partnership proceeding under this subchapter (other than under this section) or the amount of any deficiency attributable to affected items in a proceeding under section 6230(a)(2), the items that are the subject of the notice of adjustment shall be presumed to have been correctly reported on the taxpayer's return during the pendency of the refund claim (and, if within the time prescribed by section 6532 the taxpayer commences a civil action for refund under section 7422, until the decision in the refund action becomes final).

"(e) LIMITATIONS PERIOD.—

"(1) IN GENERAL.—Any notice to a taxpayer under subsection (a) shall be mailed before the expiration of the period prescribed by section 6501 (relating to the period of limitations on assessment).

"(2) SUSPENSION WHEN SECRETARY MAILS NOTICE OF ADJUSTMENT.—If the Secretary mails a notice of adjustment to the taxpayer for a taxable year, the period of limitations on the making of assessments shall be suspended for the period during which the Secretary is prohibited from making the assessment (and, in any event, if a proceeding in respect of the notice of adjustment is placed on the docket of the Tax Court, until the decision of the Tax Court becomes final), and for 60 days thereafter.

"(3) RESTRICTIONS ON ASSESSMENT.—Except as otherwise provided in section 6851, 6852, or 6861, no assessment of a deficiency with respect to any tax imposed by subtitle A attributable to any item (other than a partnership item or any item affected by a partnership item) shall be made—

"(A) until the expiration of the applicable 90-day or 150-day period set forth in subsection (c) for filing a petition with the Tax Court, or

"(B) if a petition has been filed with the Tax Court, until the decision of the Tax Court has become final.

"(f) FURTHER NOTICES OF ADJUSTMENT RESTRICTED.—If the Secretary mails a notice of adjustment to the taxpayer for a taxable year and the taxpayer files a petition with the Tax Court within the time prescribed in subsection (c), the Secretary may not mail another such notice to the taxpayer with respect to the same taxable year in the absence of a showing of fraud, malfeasance, or misrepresentation of a material fact.

"(g) COORDINATION WITH OTHER PROCEEDINGS UNDER THIS SUBCHAPTER.—

"(1) IN GENERAL.—The treatment of any item that has been determined pursuant to subsection (c) or (d) shall be taken into account in determining the amount of any computational adjustment that is made in connection with a partnership proceeding under this subchapter (other than under this section), or the amount of any deficiency attributable to affected items in a proceeding under section 6230(a)(2), for the taxable year involved. Notwithstanding any other law or rule of law pertaining to the period of limitations on the making of assessments, for purposes of the preceding sentence, any adjustment made in accordance with this section shall be taken into account regardless of whether any assessment has been made with respect to such adjustment.

"(2) SPECIAL RULE IN CASE OF COMPUTATIONAL ADJUSTMENT.—In the case of a computational adjustment that is made in connection with a partnership proceeding under this subchapter (other than under this section), the provisions of paragraph (1) shall apply only if the computational adjustment is made within the period prescribed by section 6229 for assessing any tax under subtitle A which is attributable to any partnership item or affected item for the taxable year involved.

"(3) CONVERSION TO DEFICIENCY PROCEEDING.—If—

"(A) after the notice referred to in subsection (a) is mailed to a taxpayer for a taxable year but before the expiration of the period for filing a petition with the Tax Court under subsection (c) (or, if a petition is filed with the Tax Court, before the Tax Court makes a declaration for that taxable year), the treatment of any partnership item for the taxable year is finally determined, or any such item ceases to be a partnership item pursuant to section 6231(b), and

"(B) as a result of that final determination or cessation, a deficiency can be determined with respect to the items that are the subject of the notice of adjustment,

the notice of adjustment shall be treated as a notice of deficiency under section 6212 and any petition filed in respect of the notice shall be treated as an action brought under section 6213.

"(4) FINALLY DETERMINED.—For purposes of this subsection, the treatment of partnership items shall be treated as finally determined if—

"(A) the Secretary enters into a settlement agreement (within the meaning of section 6224) with the taxpayer regarding such items,

"(B) a notice of final partnership administrative adjustment has been issued and—

"(i) no petition has been filed under section 6226 and the time for doing so has expired, or

"(ii) a petition has been filed under section 6226 and the decision of the court has become final, or

"(C) the period within which any tax attributable to such items may be assessed against the taxpayer has expired.

"(h) SPECIAL RULES IF SECRETARY INCORRECTLY DETERMINES APPLICABLE PROCEDURE.—

"(1) SPECIAL RULE IF SECRETARY ERRONEOUSLY MAILS NOTICE OF ADJUSTMENT.—If the Secretary erroneously determines that subchapter B does not apply to a taxable year of a taxpayer and consistent with that determination timely mails a notice of adjustment to the taxpayer pursuant to subsection (a) of this section, the notice of adjustment shall be treated as a notice of deficiency under section 6212 and any petition that is filed in respect of the notice shall be treated as an action brought under section 6213.

"(2) SPECIAL RULE IF SECRETARY ERRONEOUSLY MAILS NOTICE OF DEFICIENCY.—If the Secretary erroneously determines that subchapter B applies to a taxable year of a taxpayer and consistent with that determination timely mails a notice of deficiency to the taxpayer pursuant to section 6212, the notice of deficiency shall be treated as a notice of adjustment under subsection (a) and any petition that is filed in respect of the notice shall be treated as an action brought under subsection (c)."

(b) TREATMENT OF PARTNERSHIP ITEMS IN DEFICIENCY PROCEEDINGS.—Section 6211 (defining deficiency) is amended by adding at the end thereof the following new subsection:

"(c) COORDINATION WITH SUBCHAPTER C.—In determining the amount of any deficiency for purposes of this subchapter, adjustments to partnership items shall be made only as provided in subchapter C."

(c) CLERICAL AMENDMENT.—The table of sections for subchapter C of chapter 63 is amended by adding at the end thereof the following new item:

"Sec. 6234. Declaratory judgment relating to treatment of items other than partnership items with respect to an oversheltered return.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 4312. PARTNERSHIP RETURN TO BE DETERMINATIVE OF AUDIT PROCEDURES TO BE FOLLOWED.

(a) IN GENERAL.—Section 6231 (relating to definitions and special rules) is amended by adding at the end thereof the following new subsection:

"(g) PARTNERSHIP RETURN TO BE DETERMINATIVE OF WHETHER SUBCHAPTER APPLIES.—

"(1) DETERMINATION THAT SUBCHAPTER APPLIES.—If, on the basis of a partnership return for a taxable year, the Secretary reasonably determines that this subchapter applies to such partnership for such year but such determination is erroneous, then the provisions of this subchapter are hereby extended to such partnership (and its items) for such taxable year and to partners of such partnership.

"(2) DETERMINATION THAT SUBCHAPTER DOES NOT APPLY.—If, on the basis of a partnership return for a taxable year, the Secretary reasonably determines that this subchapter does not apply to such partnership for such year but such determination is erroneous, then the provisions of this subchapter shall not apply to such partnership (and its items) for such taxable year or to partners of such partnership."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 4313. PROVISIONS RELATING TO STATUTE OF LIMITATIONS.

(a) SUSPENSION OF STATUTE WHERE UNTIMELY PETITION FILED.—Paragraph (1) of section 6229(d) (relating to suspension where Secretary makes administrative adjustment) is amended by striking all that follows "section 6226" and inserting the following: "(and, if a petition is filed under section 6226 with respect to such administrative adjustment, until the decision of the court becomes final), and".

(b) SUSPENSION OF STATUTE DURING BANKRUPTCY PROCEEDING.—Section 6229 is amended by adding at the end thereof the following new subsection:

"(h) SUSPENSION DURING PENDENCY OF BANKRUPTCY PROCEEDING.—If a petition is filed naming a partner as a debtor in a bankruptcy proceeding under title 11 of the United States Code, the running of the period of limitations provided in this section with respect to such partner shall be suspended—

"(1) for the period during which the Secretary is prohibited by reason of such bankruptcy proceeding from making an assessment, and

"(2) for 60 days thereafter."

(c) TAX MATTERS PARTNER IN BANKRUPTCY.—Section 6229(b) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) SPECIAL RULE WITH RESPECT TO DEBTORS IN TITLE 11 CASES.—Notwithstanding any other law or rule of law, if an agreement is entered into under paragraph (1)(B) and the agreement is signed by a person who would be the tax matters partner but for the fact that, at the time that the agreement is executed, the person is a debtor in a bankruptcy proceeding under title 11 of the United States Code, such agreement shall be binding on all partners in the partnership unless the Secretary has been notified of the bankruptcy proceeding in accordance with regulations prescribed by the Secretary."

(d) EFFECTIVE DATES.—

(1) SUBSECTIONS (a) AND (b).—The amendments made by subsections (a) and (b) shall apply to partnership taxable years with respect to which the period under section 6229 of the Internal Revenue Code of 1986 for assessing tax has not expired on or before the date of the enactment of this Act.

(2) SUBSECTION (c).—The amendment made by subsection (c) shall apply to agreements entered into after the date of the enactment of this Act.

SEC. 4314. EXPANSION OF SMALL PARTNERSHIP EXCEPTION.

(a) IN GENERAL.—Clause (i) of section 6231(a)(1)(B) (relating to exception for small partnerships) is amended to read as follows:

"(i) IN GENERAL.—The term 'partnership' shall not include any partnership having 10 or fewer partners each of whom is an individual (other than a nonresident alien), a C corporation, or an estate of a deceased partner. For purposes of the preceding sentence, a husband and wife (and their estates) shall be treated as 1 partner."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 4315. EXCLUSION OF PARTIAL SETTLEMENTS FROM 1 YEAR LIMITATION ON ASSESSMENT.

(a) IN GENERAL.—Subsection (f) of section 6229 (relating to items becoming nonpartnership items) is amended—

(1) by striking "(f) ITEMS BECOMING NONPARTNERSHIP ITEMS.—If" and inserting the following:

"(f) SPECIAL RULES.—

"(1) ITEMS BECOMING NONPARTNERSHIP ITEMS.—If",

(2) by moving the text of such subsection 2 ems to the right, and

(3) by adding at the end thereof the following new paragraph:

"(2) SPECIAL RULE FOR PARTIAL SETTLEMENT AGREEMENTS.—If a partner enters into a settlement agreement with the Secretary with respect to the treatment of some of the partnership items in dispute for a partnership taxable year but other partnership items for such year remain in dispute, the period of limitations for assessing any tax attributable to the settled items shall be determined as if such agreement had not been entered into."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 4316. EXTENSION OF TIME FOR FILING A REQUEST FOR ADMINISTRATIVE ADJUSTMENT.

(a) IN GENERAL.—Section 6227 (relating to administrative adjustment requests) is amended by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and by inserting after subsection (a) the following new subsection:

"(b) SPECIAL RULE IN CASE OF EXTENSION OF PERIOD OF LIMITATIONS UNDER SECTION 6229.—The period prescribed by subsection (a)(1) for filing of a request for an administrative adjustment shall be extended—

"(1) for the period within which an assessment may be made pursuant to an agreement (or any extension thereof) under section 6229(b), and

"(2) for 6 months thereafter."

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

SEC. 4317. AVAILABILITY OF INNOCENT SPOUSE RELIEF IN CONTEXT OF PARTNERSHIP PROCEEDINGS.

(a) IN GENERAL.—Subsection (a) of section 6230 is amended by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULE IN CASE OF ASSERTION BY PARTNER'S SPOUSE OF INNOCENT SPOUSE RELIEF.—

"(A) Notwithstanding section 6404(b), if the spouse of a partner asserts that section 6013(e) applies with respect to a liability that is attributable to any adjustment to a partnership item, then such spouse may file with the Secretary within 60 days after the notice and demand (or notice of computational adjustment) is mailed to the spouse a request for abatement of the assessment specified in such notice. Upon receipt of such request, the Secretary shall abate the assessment. Any reassessment of the tax with respect to which an abatement is made under this subparagraph shall be subject to the deficiency procedures prescribed by subchapter B. The period for making any such reassessment shall not expire before the expiration of 60 days after the date of such abatement.

"(B) If the spouse files a petition with the Tax Court pursuant to section 6213 with respect to the request for abatement described in subparagraph (A), the Tax Court shall only have jurisdiction pursuant to this section to determine whether the requirements of section 6013(e) have been satisfied. For purposes of such determination, the treatment of partnership items under the settlement, the final partnership administrative adjustment, or the decision of the court (whichever is appropriate) that gave rise to the liability in question shall be conclusive.

"(C) Rules similar to the rules contained in subparagraphs (B) and (C) of paragraph (2) shall apply for purposes of this paragraph."

(b) CLAIMS FOR REFUND.—Subsection (c) of section 6230 is amended by adding at the end thereof the following new paragraph:

"(5) RULES FOR SEEKING INNOCENT SPOUSE RELIEF.—

"(A) IN GENERAL.—The spouse of a partner may file a claim for refund on the ground that the Secretary failed to relieve the spouse under section 6013(e) from a liability that is attributable to an adjustment to a partnership item.

"(B) TIME FOR FILING CLAIM.—Any claim under subparagraph (A) shall be filed within 6 months after the day on which the Secretary mails to the spouse the notice and demand (or notice of computational adjustment) referred to in subsection (a)(3)(A).

"(C) SUIT IF CLAIM NOT ALLOWED.—If the claim under subparagraph (B) is not allowed, the spouse may bring suit with respect to the claim within the period specified in paragraph (3).

"(D) PRIOR DETERMINATIONS ARE BINDING.—For purposes of any claim or suit under this paragraph, the treatment of partnership items under the settlement, the final partnership administrative adjustment, or the decision of the court (whichever is appropriate) that gave rise to the liability in question shall be conclusive."

(c) TECHNICAL AMENDMENTS.—

(1) Paragraph (1) of section 6230(a) is amended by striking "paragraph (2)" and inserting "paragraph (2) or (3)".

(2) Subsection (a) of section 6503 is amended by striking "section 6230(a)(2)(A)" and inserting "paragraph (2)(A) or (3) of section 6230(a)".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

SEC. 4318. DETERMINATION OF PENALTIES AT PARTNERSHIP LEVEL.

(a) IN GENERAL.—Section 6221 (relating to tax treatment determined at partnership level) is amended by striking "item" and inserting "item

(and the applicability of any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item)".

(b) Conforming Amendments.—

(1) Subsection (f) of section 6226 is amended—

(A) by striking "relates and" and inserting "relates,", and

(B) by inserting before the period ", and the applicability of any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item".

(2) Clause (i) of section 6230(a)(2)(A) is amended to read as follows:

"(i) affected items which require partner level determinations (other than penalties, additions to tax, and additional amounts that relate to adjustments to partnership items), or".

(3)(A) Subparagraph (A) of section 6230(a)(3), as added by section 3317, is amended by inserting "(including any liability for any penalty, addition to tax, or additional amount relating to such adjustment)" after "partnership item".

(B) Subparagraph (B) of such section is amended by inserting "(and the applicability of any penalties, additions to tax, or additional amounts)" after "partnership items".

(C) Subparagraph (A) of section 6230(c)(5), as added by section 3317, is amended by inserting before the period "(including any liability for any penalties, additions to tax, or additional amounts relating to such adjustment)".

(D) Subparagraph (D) of section 6230(c)(5), as added by section 3317, is amended by inserting "(and the applicability of any penalties, additions to tax, or additional amounts)" after "partnership items".

(4) Paragraph (1) of section 6230(c) is amended by striking "or" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", or", and by adding at the end thereof the following new subparagraph:

"(C) the Secretary erroneously imposed any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item."

(5) So much of subparagraph (A) of section 6230(c)(2) as precedes "shall be filed" is amended to read as follows:

"(A) Under paragraph (1) (A) or (C).—Any claim under subparagraph (A) or (C) of paragraph (1)".

(6) Paragraph (4) of section 6230(c) is amended by adding at the end thereof the following: "In addition, the determination under the final partnership administrative adjustment or under the decision of the court (whichever is appropriate) concerning the applicability of any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item shall also be conclusive.

Notwithstanding the preceding sentence, the partner shall be allowed to assert any partner level defenses that may apply or to challenge the amount of the computational adjustment."

(c) Effective Date.—The amendments made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 4319. PROVISIONS RELATING TO COURT JURISDICTION, ETC.

(a) Tax Court Jurisdiction to Enjoin Premature Assessments of Deficiencies Attributable to Partnership Items.—Subsection (b) of section 6225 is amended by striking "the proper court." and inserting "the proper court, including the Tax Court. The Tax Court shall have no jurisdiction to enjoin any action or proceeding under this subsection unless a timely petition for a readjustment of the partnership items for the taxable year has been filed and then only in respect of the adjustments that are the subject of such petition."

(b) Jurisdiction to Consider Statute of Limitations With Respect to Partners.—Paragraph (1) of section 6226(d) is amended by adding at the end thereof the following new sentence:

"Notwithstanding subparagraph (B), any person treated under subsection (c) as a party to an action shall be permitted to participate in such action (or file a readjustment petition under subsection (b) or paragraph (2) of this subsection) solely for the purpose of asserting that the period of limitations for assessing any tax attributable to partnership items has expired with respect to such person, and the court having jurisdiction of such action shall have jurisdiction to consider such assertion."

(c) Tax Court Jurisdiction to Determine Overpayments Attributable to Affected Items.—

(1) Paragraph (6) of section 6230(d) is amended by striking "(or an affected item)".

(2) Paragraph (3) of section 6512(b) is amended by adding at the end thereof the following new sentence:

"In the case of a credit or refund relating to an affected item (within the meaning of section 6229), the preceding sentence shall be applied by substituting the periods under sections 6229 and 6230(d) for the periods under section 6511(b)(2), (c), and (d)."

(d) Venue on Appeal.—

(1) Paragraph (1) of section 7482(b) is amended by striking "or" at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting ", or", and by inserting after subparagraph (E) the following new subparagraph:

"(F) in the case of a petition under section 6234(c)—

"(i) the legal residence of the petitioner if the petitioner is not a corporation, and

"(ii) the place or office applicable under subparagraph (B) if the petitioner is a corporation."

(2) The last sentence of section 7482(b) is amended by striking "or 6228(a)" and inserting ", 6228(a), or 6234(c)".

(e) Other Provisions.—

(1) Subsection (c) of section 7459 is amended by striking "or section 6228(a)" and inserting ", 6228(a), or 6234(c)".

(2) Subsection (o) of section 6501 is amended by adding at the end thereof the following new paragraph:

"(3) For declaratory judgment relating to treatment of items other than partnership items with respect to an oversheltered return, see section 6234."

(f) Effective Date.—The amendments made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 4320. TREATMENT OF PREMATURE PETITIONS FILED BY NOTICE PARTNERS OR 5-PERCENT GROUPS.

(a) In General.—Subsection (b) of section 6226 (relating to judicial review of final partnership administrative adjustments) is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) Treatment of premature petitions.—If—

"(A) a petition for a readjustment of partnership items for the taxable year involved is filed by a notice partner (or a 5-percent group) during the 90-day period described in subsection (a), and

"(B) no action is brought under paragraph (1) during the 60-day period described therein with respect to such taxable year which is not dismissed,

such petition shall be treated for purposes of paragraph (1) as filed on the last day of such 60-day period."

(b) Effective Date.—The amendment made by this section shall apply to petitions filed after the date of the enactment of this Act.

SEC. 4321. BONDS IN CASE OF APPEALS FROM TEFRA PROCEEDING.

(a) In General.—Subsection (b) of section 7485 (relating to bonds to stay assessment of collection) is amended—

(1) by inserting "penalties," after "any interest,", and

(2) by striking "aggregate of such deficiencies" and inserting "aggregate liability of the parties to the action".

(b) Effective Date.—The amendment made by this section shall take effect as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

SEC. 4322. SUSPENSION OF INTEREST WHERE DELAY IN COMPUTATIONAL ADJUSTMENT RESULTING FROM TEFRA SETTLEMENTS.

(a) In General.—Subsection (c) of section 6601 (relating to interest on underpayment, nonpayment, or extension of time for payment, of tax) is amended by adding at the end thereof the following new sentence: "In the case of a settlement under section 6224(c) which results in the conversion of partnership items to nonpartnership items pursuant to section 6231(b)(1)(C), the preceding sentence shall apply to a computational adjustment resulting from such settlement in the same manner as if such adjustment were a deficiency and such settlement were a waiver referred to in the preceding sentence."

(b) Effective Date.—The amendment made by this section shall apply to settlements entered into after the date of the enactment of this Act.

Subtitle D—Foreign Provisions

PART I—SIMPLIFICATION OF TREATMENT OF PASSIVE FOREIGN CORPORATIONS

SEC. 4401. REPEAL OF FOREIGN PERSONAL HOLDING COMPANY RULES AND FOREIGN INVESTMENT COMPANY RULES.

(a) General Rule.—The following provisions are hereby repealed:

(1) Part III of subchapter G of chapter 1 (relating to foreign personal holding companies).

(2) Section 1246 (relating to gain on foreign investment company stock).

(3) Section 1247 (relating to election by foreign investment companies to distribute income currently).

(b) Exemption of Foreign Corporations From Accumulated Earnings Tax and Personal Holding Company Rules.—

(1) Accumulated earnings tax.—Subsection (b) of section 532 (relating to exceptions) is amended—

(A) by striking paragraph (2) and inserting the following:

"(2) a foreign corporation, or",

(B) by striking ", or" at the end of paragraph (3) and inserting a period, and

(C) by striking paragraph (4).

(2) Personal holding company rules.—Subsection (c) of section 542 (relating to exceptions) is amended—

(A) by striking paragraph (5) and inserting the following:

"(5) a foreign corporation,",

(B) by striking paragraphs (7) and (10) and by redesignating paragraphs (8) and (9) as paragraphs (7) and (8), respectively,

(C) by inserting "and" at the end of paragraph (7) (as so redesignated), and

(D) by striking "; and" at the end of paragraph (8) (as so redesignated) and inserting a period.

(c) Treatment of Certain Service Contracts Under Subpart F.—

(1) Paragraph (1) of section 954(c) (defining foreign personal holding company income) is amended by adding at the end thereof the following new subparagraph:

"(F) Personal service contracts.—

"(i) Amounts received under a contract under which the corporation is to furnish personal

services, if some person other than the corporation has the right to designate (by name or by description) the individual who is to perform the services, or if the individual who is to perform the services is designated (by name or by description) in the contract.

"(ii) Amounts received from the sale or other disposition of such contract.

This subparagraph shall apply with respect to amounts received for services under a particular contract only if at some time during the taxable year 25 percent or more in value of the outstanding stock of the corporation is owned, directly or indirectly, by or for the individual who has performed, is to perform, or may be designated (by name or by description) as the one to perform, such services. For purposes of the preceding sentence, the attribution rules of section 544 shall apply, determined as if any reference to section 543(a)(7) were a reference to this subparagraph."

(2) Clause (iii) of section 904(d)(2)(A) is amended by striking "and" at the end of subclause (III), by striking the period at the end of subclause (IV) and inserting ", and", and by adding at the end thereof the following new subclause:

"(V) any income described in section 954(c)(1)(F) (relating to personal service contracts)."

SEC. 4402. REPLACEMENT FOR PASSIVE FOREIGN INVESTMENT COMPANY RULES.

(a) GENERAL RULE.—Part VI of subchapter P of chapter 1 (relating to treatment of certain passive foreign investment companies) is amended to read as follows:

"PART VI—TREATMENT OF PASSIVE FOREIGN CORPORATIONS

"Subpart A. Current taxation rules.
"Subpart B. Interest on holdings to which subpart A does not apply.
"Subpart C. General provisions.

"Subpart A—Current Taxation Rules

"Sec. 1291. Stock in certain passive foreign corporations marked to market.
"Sec. 1292. Inclusion of income of certain passive foreign corporations.

"SEC. 1291. STOCK IN CERTAIN PASSIVE FOREIGN CORPORATIONS MARKED TO MARKET.

"(a) GENERAL RULE.—In the case of marketable stock in a passive foreign corporation which is owned (or treated under subsection (g) as owned) by a United States person at the close of any taxable year of such person—

"(1) If the fair market value of such stock as of the close of such taxable year exceeds its adjusted basis, such United States person shall include in gross income for such taxable year an amount equal to the amount of such excess.

"(2) If the adjusted basis of such stock exceeds the fair market value of such stock as of the close of such taxable year, such United States person shall be allowed a deduction for such taxable year equal to the lesser of—

"(A) the amount of such excess, or

"(B) the unreversed inclusions with respect to such stock.

"(b) BASIS ADJUSTMENTS.—

"(1) IN GENERAL.—The adjusted basis of stock in a passive foreign corporation—

"(A) shall be increased by the amount included in the gross income of the United States person under subsection (a)(1) with respect to such stock, and

"(B) shall be decreased by the amount allowed as a deduction to the United States person under subsection (a)(2) with respect to such stock.

"(2) SPECIAL RULE FOR STOCK CONSTRUCTIVELY OWNED.—In the case of stock in a passive foreign corporation which the United States person is treated as owning under subsection (g)—

"(A) the adjustments under paragraph (1) shall apply to such stock in the hands of the person actually holding such stock but only for purposes of determining the subsequent treatment under this chapter of the United States person with respect to such stock, and

"(B) similar adjustments shall be made to the adjusted basis of the property by reason of which the United States person is treated as owning such stock.

"(c) CHARACTER AND SOURCE RULES.—

"(1) ORDINARY TREATMENT.—

"(A) GAIN.—Any amount included in gross income under subsection (a)(1), and any gain on the sale or other disposition of marketable stock in a passive foreign corporation, shall be treated as ordinary income.

"(B) LOSS.—Any—

"(i) amount allowed as a deduction under subsection (a)(2), and

"(ii) loss on the sale or other disposition of marketable stock in a passive foreign corporation to the extent that the amount of such loss does not exceed the unreversed inclusions with respect to such stock,

shall be treated as an ordinary loss. The amount so treated shall be treated as a deduction allowable in computing adjusted gross income.

"(2) SOURCE.—The source of any amount included in gross income under subsection (a)(1) (or allowed as a deduction under subsection (a)(2)) shall be determined in the same manner as if such amount were gain or loss (as the case may be) from the sale of stock in the passive foreign corporation.

"(d) UNREVERSED INCLUSIONS.—For purposes of this section, the term 'unreversed inclusions' means, with respect to any stock in a passive foreign corporation, the excess (if any) of—

"(1) the amount included in gross income of the taxpayer under subsection (a)(1) with respect to such stock for prior taxable years, over

"(2) the amount allowed as a deduction under subsection (a)(2) with respect to such stock for prior taxable years.

The amount referred to in paragraph (1) shall include any amount which would have been included in gross income under subsection (a)(1) with respect to such stock for any prior taxable year but for section 1293.

"(e) COORDINATION WITH SECTION 1292.—This section shall not apply with respect to any stock in a passive foreign corporation—

"(1) which is U.S. controlled,

"(2) which is a qualified electing fund with respect to the United States person for the taxable year, or

"(3) in which the United States person is a 25-percent shareholder.

"(f) TREATMENT OF CONTROLLED FOREIGN CORPORATIONS WHICH ARE SHAREHOLDERS IN PASSIVE FOREIGN CORPORATIONS.—In the case of a foreign corporation which is a controlled foreign corporation (or is treated as a controlled foreign corporation under section 1292) and which owns (or is treated under subsection (g) as owning) stock in a passive foreign corporation—

"(1) this section (other than subsection (c)(2) thereof) shall apply to such foreign corporation in the same manner as if such corporation were a United States person, and

"(2) for purposes of subpart F of part III of subchapter N—

"(A) any amount included in gross income under subsection (a)(1) shall be treated as foreign personal holding company income described in section 954(c)(1)(A), and

"(B) any amount allowed as a deduction under subsection (a)(2) shall be treated as a deduction allocable to foreign personal holding company income so described.

"(g) STOCK OWNED THROUGH CERTAIN FOREIGN ENTITIES.—Except as provided in regulations—

"(1) IN GENERAL.—For purposes of this section, stock owned, directly or indirectly, by or for a foreign partnership or foreign trust or foreign estate shall be considered as being owned proportionately by its partners or beneficiaries. Stock considered to be owned by a person by reason of the application of the preceding sentence shall, for purposes of applying such sentence, be treated as actually owned by such person.

"(2) TREATMENT OF CERTAIN DISPOSITIONS.—In any case in which a United States person is treated as owning stock in a passive foreign corporation by reason of paragraph (1)—

"(A) any disposition by the United States person or by any other person which results in the United States person being treated as no longer owning such stock, and

"(B) any disposition by the person owning such stock,

shall be treated as a disposition by the United States person of the stock in the passive foreign corporation.

"(h) COORDINATION WITH SECTION 851(b).—For purposes of paragraphs (2) and (3) of section 851(b), any amount included in gross income under subsection (a) shall be treated as a dividend.

"(i) TRANSITION RULES.—

"(1) INDIVIDUALS BECOMING SUBJECT TO U.S. TAX.—If any individual becomes a United States person in a taxable year beginning after December 31, 1992, solely for purposes of this section, the adjusted basis (before adjustments under subsection (b)) of any marketable stock in a passive foreign corporation owned (or treated as owned under subsection (g)) by such individual on the first day of such taxable year shall be treated as being the greater of its fair market value on such first day or its adjusted basis on such first day.

"(2) MARKETABLE STOCK HELD BEFORE EFFECTIVE DATE.—

"(A) IN GENERAL.—If any marketable stock in a passive foreign corporation is owned (or treated under subsection (g) as owned) by a United States person on the first day of such person's first taxable year, beginning after December 31, 1992—

"(i) paragraph (2) of section 1294(a) shall apply to such stock as if it became marketable during such first taxable year; except that—

"(I) section 1293 shall not apply to the amount included in gross income under subsection (a) to the extent such amount is attributable to increases in fair market value during such first taxable year, and

"(II) the taxpayer's holding period shall be treated as having ended on the last day of the preceding taxable year for purposes of allocating amounts under section 1293(a)(1)(A), and

"(ii) such person may elect to extend the time for the payment of the applicable section 1293 deferred tax as provided in subparagraph (B).

"(B) ELECTION TO EXTEND TIME FOR PAYMENT.—

"(i) IN GENERAL.—At the election of the taxpayer, the time for the payment of the applicable section 1293 deferred tax shall be extended to the extent and subject to the limitations provided in this subparagraph.

"(ii) TERMINATION OF EXTENSION.—

"(I) DISTRIBUTIONS.—If any distribution is received with respect to any stock to which an extension under clause (i) relates and such distribution would be an excess distribution within the meaning of section 1293 if such section applied to such stock, then the extension under clause (i) for the appropriate portion (as determined under regulations) of the applicable section 1293 deferred tax shall expire on the last *day prescribed by law (determined without regard to extensions) for filing the return of tax for the taxable year in which the distribution is received.*

"(II) REVERSAL OF INCLUSION.—If an amount is allowable as a deduction under subsection (a)(2) with respect to any stock to which an extension under clause (i) relates and the amount so allowable is allocable to the amount which gave rise to the applicable section 1293 deferred tax, then the extension under clause (i) for the appropriate portion (as determined under regulations) of the applicable section 1293 deferred tax shall expire on the last day prescribed by law (determined without regard to extensions) for filing the return of the tax for the taxable year for which such deduction is allowed.

"(III) DISPOSITIONS, ETC.—If stock in a passive foreign corporation is disposed of during the taxable year, all extensions under clause (i) for payment of the applicable section 1293 deferred tax attributable to such stock which have not expired before the date of such disposition shall expire on the last date prescribed by law (determined without regard to extensions) for filing the return of tax for the taxable year in which such disposition occurs. To the extent provided in regulations, the preceding sentence shall not apply in the case of a disposition in a transaction with respect to which gain or loss is not recognized (in whole or in part), and the person acquiring such stock in such transaction shall succeed to the treatment under this section of the person making such disposition.

"(iii) OTHER RULES.—

"(I) ELECTION.—The election under clause (i) shall be made not later than the time prescribed by law (including extensions) for filing the return of tax imposed by this chapter for the first taxable year referred to in subparagraph (A).

"(II) TREATMENT OF LOANS TO SHAREHOLDER.—For purposes of this subparagraph, any loan by a passive foreign corporation (directly or indirectly) to a shareholder of such corporation shall be treated as a distribution to such shareholder.

"(C) CROSS REFERENCE.—

"For provisions providing for interest for the period of the extension under this paragraph, see section 6601.

"(D) APPLICABLE SECTION 1293 DEFERRED TAX.—For purposes of this paragraph, the term 'applicable section 1293 deferred tax' means the deferred tax amount determined under section 1293 with respect to the amount which, but for section 1293, would have been included in gross income for the first taxable year referred to in subparagraph (A). Such term also includes the tax imposed by this chapter for such first taxable year to the extent attributable to the amounts allocated under section 1293(a)(1)(A) to a period described in section 1293(a)(1)(B)(ii).

"(3) SPECIAL RULES FOR REGULATED INVESTMENT COMPANIES.—

"(A) IN GENERAL.—If any marketable stock in a passive foreign corporation is owned (or treated under subsection (g) as owned) by a regulated investment company on the first day of such company's first taxable year beginning after December 31, 1992—

"(i) section 1293 shall not apply to such stock with respect to any distribution or disposition during, or amount included in gross income under this section for, such first taxable year, but

"(ii) such company's tax under this chapter for such first taxable year shall be increased by the aggregate amount of interest which would have been determined under section 1293(c)(3) if section 1293 were applied without regard to this subparagraph.

"(B) DISALLOWANCE OF DEDUCTION.—No deduction shall be allowed to any regulated investment company for the increase in tax under subparagraph (A)(ii).

"SEC. 1292. CURRENT INCLUSION OF INCOME OF CERTAIN PASSIVE FOREIGN CORPORATIONS.

"(a) PASSIVE FOREIGN CORPORATIONS WHICH ARE U.S. CONTROLLED.—

"(1) TREATMENT UNDER SUBPART F.—

"(A) IN GENERAL.—If a passive foreign corporation is United States controlled, then for purposes of subpart F of part III of subchapter N—

"(i) such corporation, if not otherwise a controlled foreign corporation, shall be treated as a controlled foreign corporation,

"(ii) the term 'United States shareholder' means, with respect to such corporation, any United States person who owns (within the meaning of section 958(a)) any stock in such corporation,

"(iii) the entire gross income of such corporation shall, after being reduced under the principles of paragraph (5) of section 954(b), be treated as foreign base company income, and

"(iv) sections 970 and 971 shall not apply.

Except as provided in regulations, the preceding sentence shall also apply for purposes of section 904(d).

"(B) SPECIAL RULES.—If any taxpayer is treated as being a United States shareholder in a controlled foreign corporation solely by reason of this section—

"(i) section 954(b)(4) (relating to exception for certain income subject to high foreign taxes) shall not apply for purposes of determining the amount included in the gross income of such taxpayer under section 951 by reason of being so treated with respect to such corporation, and

"(ii) the amount so included in the gross income of such taxpayer under section 951 with respect to such corporation shall be treated as long-term capital gain to the extent attributable to the net capital gain of such corporation.

"(2) U.S. CONTROLLED.—For purposes of this subpart, a passive foreign corporation is United States controlled if—

"(A) such corporation is a controlled foreign corporation determined without regard to this subsection, or

"(B) at any time during the taxable year more than 50 percent of—

"(i) the total combined voting power of all classes of stock of such corporation entitled to vote, or

"(ii) the total value of the stock of such corporation,

is owned directly or indirectly by 5 or fewer United States persons.

"(3) CONSTRUCTIVE OWNERSHIP RULES FOR PURPOSES OF PARAGRAPH (2)(B).—For purposes of paragraph (2)(B), the attribution rules provided in section 544 shall apply, determined as if any reference to a personal holding company were a reference to a corporation described in paragraph (2)(B) (and any reference to the stock ownership requirement provided in section 542(a)(2) were a reference to the requirement of paragraph (2)(B)); except that—

"(A) subsection (a)(4) of such section shall be applied by substituting 'Paragraphs (1), (2), and (3)' for 'Paragraphs (2) and (3)',

"(B) stock owned by a nonresident alien individual shall not be considered by reason of attribution through family membership as owned by a citizen or resident alien individual who is not the spouse of the nonresident alien individual and who does not otherwise own stock in the foreign corporation (determined after the application of such attribution rules other than attribution through family membership), and

"(C) stock of a corporation owned by any foreign person shall not be considered by reason of attribution through partners as owned by a citizen or resident of the United States who does not otherwise own stock in the foreign corporation (determined after the application of such attribution rules and subparagraph (A), other than attribution through partners).

"(b) TAXPAYERS ELECTING CURRENT INCLUSION AND 25-PERCENT SHAREHOLDERS.—

"(1) IN GENERAL.—If a passive foreign corporation which is not United States controlled is a qualified electing fund with respect to any taxpayer or the taxpayer is a 25-percent shareholder in such corporation, then for purposes of subpart F of part III of subchapter N—

"(A) such passive foreign corporation shall be treated as a controlled foreign corporation with respect to such taxpayer,

"(B) such taxpayer shall be treated as a United States shareholder in such corporation, and

"(C) the modifications of clauses (iii) and (iv) of subsection (a)(1)(A) and of subparagraph (B) of subsection (a)(1) shall apply in determining the amount included under such subpart F in the gross income of such taxpayer (and the character of the amount so included).

For purposes of section 904(d), any amount included in the gross income of the taxpayer under the preceding sentence shall be treated as a dividend from a foreign corporation which is not a controlled foreign corporation.

"(2) QUALIFIED ELECTING FUND.—For purposes of this subpart, the term 'qualified electing fund' means any passive foreign corporation if—

"(A) an election by the taxpayer under paragraph (3) applies to such corporation for the taxable year of the taxpayer, and

"(B) such corporation complies with such requirements as the Secretary may prescribe for purposes of carrying out the purposes of this subpart.

"(3) ELECTION.—

"(A) IN GENERAL.—A taxpayer may make an election under this paragraph with respect to any passive foreign corporation for any taxable year of the taxpayer. Such an election, once made with respect to any corporation, shall apply to all subsequent taxable years of the taxpayer with respect to such corporation unless revoked by the taxpayer with the consent of the Secretary.

"(B) WHEN MADE.—An election under this subsection may be made for any taxable year of the taxpayer at any time on or before the due date (determined with regard to extensions) for filing the return of the tax imposed by this chapter for such taxable year. To the extent provided in regulations, such an election may be made later than as required in the preceding sentence where the taxpayer fails to make a timely election because the taxpayer reasonably believes that the corporation was not a passive foreign corporation.

"(4) 25-PERCENT SHAREHOLDER.—For purposes of this subpart, the term '25-percent shareholder' means, with respect to any passive foreign corporation, any United States person who owns (within the meaning of section 958(a)), or is considered as owning by applying the rules of section 958(b), 25 percent or more (by vote or value) of the stock of such corporation.

"Subpart B—Interest on Holdings To Which Subpart A Does Not Apply

"Sec. 1293. Interest on tax deferral.

"Sec. 1294. Definitions and special rules.

"SEC. 1293. INTEREST ON TAX DEFERRAL.

"(a) TREATMENT OF DISTRIBUTIONS AND STOCK DISPOSITIONS.—

"(1) DISTRIBUTIONS.—If a United States person receives an excess distribution in respect of stock to which this section applies, then—

"(A) the amount of the excess distribution shall be allocated ratably to each day in the taxpayer's holding period for the stock,

"(B) with respect to such excess distribution, the taxpayer's gross income for the current year shall include (as ordinary income) only the amounts allocated under subparagraph (A) to—

"(i) the current year, or

"(ii) any period in the taxpayer's holding period before the first day of the first taxable year of the corporation which begins after December 31, 1986, and for which it was a passive foreign corporation, and

"(C) the tax imposed by this chapter for the current year shall be increased by the deferred tax amount (determined under subsection (c)).

"(2) DISPOSITIONS.—If the taxpayer disposes of stock to which this section applies, then the rules of paragraph (1) shall apply to any gain recognized on such disposition in the same manner as if such gain were an excess distribution.

"(3) DEFINITIONS.—For purposes of this subpart—

"(A) HOLDING PERIOD.—The taxpayer's holding period shall be determined under section 1223; except that—

"(i) for purposes of applying this section to an excess distribution, such holding period shall be treated as ending on the date of such distribution, and

"(ii) if section 1291 applied to such stock with respect to the taxpayer for any prior taxable year, such holding period shall be treated as beginning on the first day of the first taxable year beginning after the last taxable year for which section 1291 so applied.

"(B) CURRENT YEAR.—The term 'current year' means the taxable year in which the excess distribution or disposition occurs.

"(b) EXCESS DISTRIBUTION.—

"(1) IN GENERAL.—For purposes of this section, the term 'excess distribution' means any distribution in respect of stock received during any taxable year to the extent such distribution does not exceed its ratable portion of the total excess distribution (if any) for such taxable year.

"(2) TOTAL EXCESS DISTRIBUTION.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'total excess distribution' means the excess (if any) of—

"(i) the amount of the distributions in respect of the stock received by the taxpayer during the taxable year, over

"(ii) 125 percent of the average amount received in respect of such stock by the taxpayer during the 3 preceding taxable years (or, if shorter, the portion of the taxpayer's holding period before the taxable year).

For purposes of clause (ii), any excess distribution received during such 3-year period shall be taken into account only to the extent it was included in gross income under subsection (a)(1)(B).

"(B) NO EXCESS FOR FIRST YEAR.—The total excess distributions with respect to any stock shall be zero for the taxable year in which the taxpayer's holding period in such stock begins.

"(3) ADJUSTMENTS.—Under regulations prescribed by the Secretary—

"(A) determinations under this subsection shall be made on a share-by-share basis, except that shares with the same holding period may be aggregated,

"(B) proper adjustments shall be made for stock splits and stock dividends,

"(C) if the taxpayer does not hold the stock during the entire taxable year, distributions received during such year shall be annualized,

"(D) if the taxpayer's holding period includes periods during which the stock was held by another person, distributions received by such other person shall be taken into account as if received by the taxpayer,

"(E) if the distributions are received in a foreign currency, determinations under this subsection shall be made in such currency and the amount of any excess distribution determined in such currency shall be translated into dollars,

"(F) proper adjustment shall be made for amounts not includable in gross income by reason of section 959(a) or for which a deduction is allowable under section 245(c), and

"(G) if a charitable deduction was allowable under section 642(c) to a trust for any distribution of its income, proper adjustments shall be made for the deduction so allowable to the extent allocable to distributions or gain in respect of stock in a passive foreign corporation.

For purposes of subparagraph (F), any amount not includible in gross income by reason of section 551(d) (as in effect on January 1, 1992) or 1293(c) (as so in effect) shall be treated as an amount not includible in gross income by reason of section 959(a).

"(c) DEFERRED TAX AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—The term 'deferred tax amount' means, with respect to any distribution or disposition to which subsection (a) applies, an amount equal to the sum of—

"(A) the aggregate increases in taxes described in paragraph (2), plus

"(B) the aggregate amount of interest (determined in the manner provided under paragraph (3)) on such increases in tax.

Any increase in the tax imposed by this chapter for the current year under subsection (a) to the extent attributable to the amount referred to in subparagraph (B) shall be treated as interest paid under section 6601 on the due date for the current year.

"(2) AGGREGATE INCREASES IN TAXES.—For purposes of paragraph (1)(A), the aggregate increases in taxes shall be determined by multiplying each amount allocated under subsection (a)(1)(A) to any taxable year (other than the current year) by the highest rate of tax in effect for such taxable year under section 1 or 11, whichever applies.

"(3) COMPUTATION OF INTEREST.—

"(A) IN GENERAL.—The amount of interest referred to in paragraph (1)(B) on any increase determined under paragraph (2) for any taxable year shall be determined for the period—

"(i) beginning on the due date for such taxable year, and

"(ii) ending on the due date for the taxable year with or within which the distribution or disposition occurs,

by using the rates and method applicable under section 6621 for underpayments of tax for such period.

"(B) DUE DATE.—For purposes of this subsection, the term 'due date' means the date prescribed by law (determined without regard to extensions) for filing the return of the tax imposed by this chapter for the taxable year.

"(C) SPECIAL RULE.—For purposes of determining the amount of interest referred to in paragraph (1)(B), the amount of any increase in tax determined under paragraph (2) shall be determined without regard to any reduction under section 1294(d) for a tax described in paragraph (2)(A)(ii) thereof.

"SEC. 1294. DEFINITIONS AND SPECIAL RULES.

"(a) STOCK TO WHICH SECTION 1293 APPLIES.—

"(1) IN GENERAL.—Except as otherwise provided in this paragraph, section 1293 shall apply to any stock in a passive foreign corporation unless—

"(A) such stock is marketable stock as of the time of the distribution or disposition involved, or

"(B)(i) with respect to each of such corporation's taxable years which begin after December 31, 1992, and include any portion of the taxpayer's holding period in such stock—

"(I) such corporation was U.S. controlled (within the meaning of section 1292(a)(2)), or

"(II) such corporation was treated as a controlled foreign corporation under section 1292(b) with respect to the taxpayer, and

"(ii) with respect to each of such corporation's taxable years which begin after December 31, 1986, and before January 1, 1993, and include any portion of the taxpayer's holding period in such stock, such corporation was treated as a qualified electing fund under this part (as in effect on January 1, 1992) with respect to the taxpayer.

"(2) TREATMENT WHERE STOCK BECOMES MARKETABLE.—If any stock in a passive foreign corporation becomes marketable stock after the beginning of the taxpayer's holding period in such stock, section 1293 shall apply to—

"(A) any distributions with respect to, or disposition of, such stock in the taxable year of the taxpayer in which it becomes so marketable, and

"(B) any amount which, but for section 1293, would have been included in gross income under section 1291(a) with respect to such stock for such taxable year in the same manner as if such amount were gain on the disposition of such stock.

"(3) ELECTION TO RECOGNIZE GAIN WHERE COMPANY BECOMES SUBJECT TO CURRENT INCLUSIONS.—

"(A) IN GENERAL.—If—

"(i) a passive foreign corporation first meets the requirements of clause (i) of paragraph (1)(B) with respect to the taxpayer for a taxable year of such taxpayer which begins after December 31, 1992,

"(ii) the taxpayer holds stock in such company on the first day of such taxable year, and

"(iii) the taxpayer establishes to the satisfaction of the Secretary the fair market value of such stock on such first day,

the taxpayer may elect to recognize gain as if he sold such stock on such first day for such fair market value.

"(B) ADDITIONAL ELECTION FOR SHAREHOLDER OF CONTROLLED FOREIGN CORPORATIONS.—

"(i) IN GENERAL.—If—

"(I) a passive foreign corporation first meets the requirements of subclause (I) of paragraph (1)(B)(i) with respect to the taxpayer for a taxable year of such taxpayer which begins after December 31, 1992,

"(II) the taxpayer holds stock in such corporation on the first day of such taxable year, and

"(III) such corporation is a controlled foreign corporation without regard to this part,

the taxpayer may elect to be treated as receiving a dividend on such first day in an amount equal to the portion of the post-1986 earnings and profits of such corporation attributable (under regulations prescribed by the Secretary) to the stock in such corporation held by the taxpayer on such first day. The amount treated as a dividend under the preceding sentence shall be treated as an excess distribution and shall be allocated under section 1293(a)(1)(A) only two days during periods taken into account in determining the post-1986 earnings and profits so attributable.

"(ii) POST-1986 EARNINGS AND PROFITS.—For purposes of clause (i), the term 'post-1986 earnings and profits' means earnings and profits which were accumulated in taxable years of the corporation beginning after December 31, 1986, and during the period or periods the stock was held by the taxpayer while the corporation was a passive foreign corporation.

"(iii) COORDINATION WITH SECTION 959(e).—For purposes of section 959(e), any amount treated as a dividend under this subparagraph shall be treated as included in gross income under section 1248(a).

"(C) ADJUSTMENTS.—In the case of any stock to which subparagraph (A) or (B) applies—

"(i) the adjusted basis of such stock shall be increased by the gain recognized under subparagraph (A) or the amount treated as a dividend under subparagraph (B), as the case may be, and

"(ii) the taxpayer's holding period in such stock shall be treated as beginning on the first day referred to in such subparagraph.

"(b) Rules Relating to Stock Acquired From a Decedent.—

"(1) Basis.—In the case of stock of a passive foreign corporation acquired by bequest, devise, or inheritance (or by the decedent's estate), notwithstanding section 1014, the basis of such stock in the hands of the person so acquiring it shall be the adjusted basis of such stock in the hands of the decedent immediately before his death (or, if lesser, the basis which would have been determined under section 1014 without regard to this paragraph).

"(2) Deduction for estate tax.—If stock in a passive foreign corporation is acquired from a decedent, the taxpayer shall, under regulations prescribed by the Secretary, be allowed (for the taxable year of the sale or exchange) a deduction from gross income equal to that portion of the decedent's estate tax deemed paid which is attributable to the excess of (A) the value at which such stock was taken into account for purposes of determining the value of the decedent's gross estate, over (B) the basis determined under paragraph (1).

"(3) Exceptions.—This subsection shall not apply to any stock in a passive foreign corporation if—

"(A) section 1293 would not have applied to a disposition of such stock by the decedent immediately before his death, or

"(B) the decedent was a nonresident alien at all times during his holding period in such stock.

"(c) Recognition of Gain.—Except as otherwise provided in regulations, in the case of any transfer of stock in a passive foreign company to which section 1293 applies, where (but for this subsection) there is not full recognition of gain, the excess (if any) of—

"(1) the fair market value of such stock, over

"(2) its adjusted basis,

shall be treated as gain from the sale or exchange of such stock and shall be recognized notwithstanding any provision of law. Proper adjustment shall be made to the basis of property for gain recognized under the preceding sentence.

"(d) Coordination With Foreign Tax Credit Rules.—

"(1) In general.—If there are creditable foreign taxes with respect to any distribution in respect of stock in a passive foreign corporation—

"(A) the amount of such distribution shall be determined for purposes of section 1293 with regard to section 78,

"(B) the excess distribution taxes shall be allocated ratably to each day in the taxpayer's holding period for the stock, and

"(C) to the extent—

"(i) that such excess distribution taxes are allocated to a taxable year referred to in section 1293(a)(1)(B), such taxes shall be taken into account under section 901 for the current year, and

"(ii) that such excess distribution taxes are allocated to any other taxable year, such taxes shall reduce (subject to the principles of section 904 and not below zero) the increase in tax determined under section 1293(c)(2) for such taxable year by reason of such distribution (but such taxes shall not be taken into account under section 901).

"(2) Definitions.—For purposes of this subsection—

"(A) Creditable foreign taxes.—The term 'creditable foreign taxes' means, with respect to any distribution—

"(i) any foreign taxes deemed paid under section 902 with respect to such distribution, and

"(ii) any withholding tax imposed with respect to such distribution,

but only if the taxpayer chooses the benefits of section 901 and such taxes are creditable under section 901 (determined without regard to paragraph (1)(C)(ii)).

"(B) Excess distribution taxes.—The term 'excess distribution taxes' means, with respect to any distribution, the portion of the creditable foreign taxes with respect to such distribution which is attributable (on a pro rata basis) to the portion of such distribution which is an excess distribution.

"(C) Section 1248 gain.—The rules of this subsection also shall apply in the case of any gain which but for this section would be includible in gross income as a dividend under section 1248.

"(e) Attribution of Ownership.—For purposes of this subpart—

"(1) Attribution to United States persons.—This subsection—

"(A) shall apply to the extent that the effect is to treat stock of a passive foreign corporation as owned by a United States person, and

"(B) except as provided in paragraph (3) or in regulations, shall not apply to treat stock owned (or treated as owned under this subsection) by a United States person as owned by any other person.

"(2) Corporations.—

"(A) In general.—If 50 percent or more in value of the stock of a corporation (other than an S corporation) is owned, directly or indirectly, by or for any person, such person shall be considered as owning the stock owned directly or indirectly by or for such corporation in that proportion which the value of the stock which such person so owns bears to the value of all stock in the corporation.

"(B) 50-percent limitation not to apply in certain cases.—For purposes of determining whether a shareholder of a passive foreign corporation (or whether a United States shareholder of a controlled foreign corporation which is not a passive foreign corporation) is treated as owning stock owned directly or indirectly by or for such corporation, subparagraph (A) shall be applied without regard to the 50-percent limitation contained therein.

"(C) Family and partner attribution for 50-percent limitation.—For purposes of determining whether the 50-percent limitation of subparagraph (A) is met, the constructive ownership rules of section 544(a)(2) shall apply in addition to the other rules of this subsection.

"(3) Partnerships, etc.—Except as provided in regulations, stock owned, directly or indirectly, by or for a partnership, S corporation, estate, or trust shall be considered as being owned proportionately by its partners, shareholders, or beneficiaries (as the case may be).

"(4) Options.—To the extent provided in regulations, if any person has an option to acquire stock, such stock shall be considered as owned by such person. For purposes of this paragraph, an option to acquire such an option, and each one of a series of such options, shall be considered as an option to acquire such stock.

"(5) Successive application.—Stock considered to be owned by a person by reason of the application of paragraph (2), (3), or (4) shall, for purposes of applying such paragraphs, be considered as actually owned by such person.

"(f) Other Special Rules.—For purposes of this subpart—

"(1) Time for determination.—Stock held by a taxpayer shall be treated as stock in a passive foreign corporation if, at any time during the holding period of the taxpayer with respect to such stock, such corporation (or any predecessor) was a passive foreign corporation. The preceding sentence shall not apply if the taxpayer elects to recognize gain (as of the last day of the last taxable year for which the company was a passive foreign corporation) under rules similar to the rules of subsection (a)(3)(A).

"(2) Application of subpart where stock held by other entity.—Under regulations—

"(A) In general.—In any case in which a United States person is treated as owning stock in a passive foreign corporation by reason of subsection (e)—

"(i) any transaction which results in the United States person being treated as no longer owning such stock,

"(ii) any disposition of such stock by the person owning such stock, and

"(iii) any distribution of property in respect of such stock to the person holding such stock,

shall be treated as a disposition by, or distribution to, the United States person with respect to the stock in the passive foreign corporation.

"(B) Amount treated in same manner as previously taxed income.—Rules similar to the rules of section 959(b) shall apply to any amount described in subparagraph (A) in respect of stock which the taxpayer is treated as owning under subsection (e).

"(C) Coordination with section 951.—If, but for this subparagraph, an amount would be taken into account under section 1293 by reason of subparagraph (A) and such amount would also be included in the gross income of the taxpayer under section 951, such amount shall only be taken into account under section 1293.

"(3) Dispositions.—Except as provided in regulations, if a taxpayer uses any stock in a passive foreign corporation as security for a loan, the taxpayer shall be treated as having disposed of such stock.

"Subpart C—General Provisions

"Sec. 1296. Passive foreign corporation.

"Sec. 1297. Special rules.

"SEC. 1296. PASSIVE FOREIGN CORPORATION.

"(a) In General.—For purposes of this part, except as otherwise provided in this subpart, the term 'passive foreign corporation' means any foreign corporation if—

"(1) 60 percent or more of the gross income of such corporation for the taxable year is passive income,

"(2) the average percentage of assets (by value) held by such corporation during the taxable year which produce passive income or which are held for the production of passive income is at least 50 percent, or

"(3) such corporation is registered under the Investment Company Act of 1940, as amended (15 U.S.C. 80a–1 to 80b–2), either as a management company or as a unit investment trust.

A foreign corporation may elect to have the determination under paragraph (2) based on the adjusted bases of its assets in lieu of their value. Such an election, once made, may be revoked only with the consent of the Secretary.

"(b) Passive Income.—For purposes of this section—

"(1) In general.—Except as otherwise provided in this subsection, the term 'passive income' means any income which is of a kind which would be foreign personal holding company income as defined in section 954(c) without regard to paragraph (3) thereof.

"(2) Exceptions.—Except as provided in regulations, the term 'passive income' does not include any income—

"(A) derived in the active conduct of a banking business by an institution licensed to do business as a bank in the United States (or, to the extent provided in regulations, by any other corporation),

"(B) derived in the active conduct of an insurance business by a corporation which is predominantly engaged in an insurance business and which would be subject to tax under subchapter L if it were a domestic corporation,

"(C) which is interest, a dividend, or a rent or royalty, which is received or accrued from a related person (within the meaning of section 954(d)(3)) to the extent such amount is properly allocable (under regulations prescribed by the Secretary) to income of such related person which is not passive income, or

"(D) any foreign trade income of a FSC.

For purposes of subparagraph (C), the term 'related person' has the meaning given such term by section 954(d)(3) determined by substituting 'foreign corporation' for 'controlled foreign corporation' each place it appears in section 954(d)(3).

"(3) TREATMENT OF INCOME FROM CERTAIN ASSETS.—To the extent that any asset is properly treated as not held for the production of passive income for purposes of subsection (a)(2), all income from such asset shall be treated as income which is not passive income.

"(c) LOOK-THROUGH IN CASE OF 25-PERCENT OWNED CORPORATION.—If a foreign corporation owns (directly or indirectly) at least 25 percent (by value) of the stock of another corporation, for purposes of determining whether such foreign corporation is a passive foreign corporation, such foreign corporation shall be treated as if it—

"(1) held its proportionate share of the assets of such other corporation, and

"(2) received directly its proportionate share of the income of such other corporation.

"SEC. 1297. SPECIAL RULES.

"(a) UNITED STATES PERSON.—For purposes of this part, the term 'United States person' has the meaning given to such term by section 7701(a)(30).

"(b) CONTROLLED FOREIGN CORPORATION.—For purposes of this part, the term 'controlled foreign corporation' has the meaning given such term by section 957(a).

"(c) MARKETABLE STOCK.—For purposes of this part—

"(1) IN GENERAL.—The term 'marketable stock' means—

"(A) any stock which is regularly traded on—

"(i) a national securities exchange which is registered with the Securities and Exchange Commission or the national market system established pursuant to section 11A of the Securities and Exchange Act of 1934, or

"(ii) any exchange or other market which the Secretary determines has rules adequate to carry out the purposes of this part, and

"(B) to the extent provided in regulations, stock in any foreign corporation which is comparable to a regulated investment company and which offers for sale or has outstanding any stock of which it is the issuer and which is redeemable at its net asset value.

"(2) SPECIAL RULE FOR REGULATED INVESTMENT COMPANIES.—In the case of any regulated investment company which is offering for sale or has outstanding any stock of which it is the issuer and which is redeemable at its net asset value, all stock in a passive foreign corporation which it owns (or is treated under section 1291(g) as owning) shall be treated as marketable stock for purposes of this part. Except as provided in regulations, a similar rule shall apply in the case of any other regulated investment company.

"(d) OTHER SPECIAL RULES.—For purposes of this part—

"(1) CERTAIN CORPORATIONS NOT TREATED AS PASSIVE.—A corporation shall not be treated as a passive foreign corporation for the 1st taxable year such corporation has gross income (hereinafter in this paragraph referred to as the 'start-up year') if—

"(A) no predecessor of such corporation was a passive foreign corporation,

"(B) it is established to the satisfaction of the Secretary that such corporation will not be a passive foreign corporation for either of the 1st 2 taxable years following the start-up year, and

"(C) such corporation is not a passive foreign corporation for either of the 1st 2 taxable years following the start-up year.

"(2) CERTAIN CORPORATIONS CHANGING BUSINESSES.—A corporation shall not be treated as a passive foreign corporation for any taxable year if—

"(A) neither such corporation (nor any predecessor) was a passive foreign corporation for any prior taxable year,

"(B) it is established to the satisfaction of the Secretary that—

"(i) substantially all of the passive income of the corporation for the taxable year is attributable to proceeds from the disposition of 1 or more active trades or businesses, and

"(ii) such corporation will not be a passive foreign corporation for either of the 1st 2 taxable years following the taxable year, and

"(C) such corporation is not a passive foreign corporation for either of such 2 taxable years.

For purposes of section 1296(c), any passive income referred to in subparagraph (B)(i) shall be treated as income which is not passive income and any assets which produce income so described shall be treated as assets producing income other than passive income.

"(3) TREATMENT OF CERTAIN FOREIGN CORPORATIONS OWNING STOCK IN 25-PERCENT OWNED DOMESTIC CORPORATION.—

"(A) IN GENERAL.—If a foreign corporation owns at least 25 percent (by value) of the stock of a domestic corporation, for purposes of determining whether such foreign corporation is a passive foreign corporation, any qualified stock held by such domestic corporation shall be treated as an asset which does not produce passive income (and is not held for the production of passive income) and any amount included in gross income with respect to such stock shall not be treated as passive income.

"(B) QUALIFIED STOCK.—For purposes of subparagraph (A), the term 'qualified stock' means any stock in a C corporation which is a domestic corporation and which is not a regulated investment company or real estate investment trust.

"(4) TREATMENT OF CORPORATION WHICH WAS A PFIC.—A corporation shall be treated as a passive foreign corporation for any taxable year beginning before January 1, 1993, if and only if such corporation was a passive foreign investment company under this part as in effect for such taxable year.

"(5) SEPARATE INTERESTS TREATED AS SEPARATE CORPORATIONS.—Under regulations prescribed by the Secretary, where necessary to carry out the purposes of this part, separate classes of stock (or other interests) in a corporation shall be treated as interests in separate corporations.

"(e) TREATMENT OF CERTAIN LEASED PROPERTY.—For purposes of section 1296(a)(2)—

"(1) IN GENERAL.—Any tangible personal property with respect to which the foreign corporation is the lessee under a lease with a term of at least 12 months shall be treated as an asset actually held by such corporation.

"(2) DETERMINATION OF VALUE.—

"(A) IN GENERAL.—The value of any asset to which paragraph (1) applies shall be the lesser of—

"(i) the fair market value of such property, or

"(ii) the unamortized portion (as determined under regulations prescribed by the Secretary) of the present value of the payments under the lease for the use of such property.

"(B) PRESENT VALUE.—For purposes of subparagraph (A), the present value of payments described in subparagraph (A)(ii) shall be determined in the manner provided in regulations prescribed by the Secretary—

"(i) as of the beginning of the lease term, and

"(ii) except as provided in such regulations, by using a discount rate equal to the applicable Federal rate determined under section 1274(d)—

"(I) by substituting the lease term for the term of the debt instrument, and

"(II) without regard to paragraph (2) or (3) thereof.

"(3) EXCEPTIONS.—This subsection shall not apply in any case where—

"(A) the lessor is a related person (as defined in the last sentence of section 1296(b)(2)) with respect to the foreign corporation, or

"(B) a principal purpose of leasing the property was to avoid the provisions of this part.

"(f) ELECTION BY CERTAIN PASSIVE FOREIGN CORPORATIONS TO BE TREATED AS A DOMESTIC CORPORATION.—

"(1) IN GENERAL.—For purposes of this title, if—

"(A) a passive foreign corporation would qualify as a regulated investment company under part I of subchapter M if such passive foreign corporation were a domestic corporation,

"(B) such passive foreign corporation meets such requirements as the Secretary shall prescribe to ensure that the taxes imposed by this title on such passive foreign corporation are paid, and

"(C) such passive foreign corporation makes an election to have this paragraph apply and waives all benefits which are granted by the United States under any treaty and to which such corporation would otherwise be entitled by reason of being a resident of another country,

such corporation shall be treated as a domestic corporation.

"(2) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of paragraphs (2), (3), (4)(A), and (5) of section 953(d) shall apply with respect to any corporation making an election under paragraph (1).

"(g) SPECIAL RULES FOR CERTAIN TAXPAYERS.—

"(1) TAX-EXEMPT ORGANIZATIONS.—In the case of any organization exempt from tax under section 501—

"(A) this part shall apply to any stock in a passive foreign corporation owned (or treated as owned under section 1294(e)) by such organization only to the extent that a dividend on such stock would be taken into account in determining the unrelated business taxable income of such organization, and

"(B) to the extent that this part applies to any such stock, this part shall be applied in the same manner as if such organization were not exempt from tax under section 501(a).

"(2) TREATMENT OF STOCK HELD BY POOLED INCOME FUND.—If stock in a passive foreign corporation is owned (or treated as owned under section 1294(e)) by a pooled income fund (as defined in section 642(c)(5)) and no portion of any gain from a disposition of such stock may be allocated to income under the terms of the governing instrument of such fund—

"(A) section 1293 shall not apply to any gain on a disposition of such stock by such fund if (without regard to section 1293) a deduction would be allowable with respect to such gain under section 642(c)(3),

"(B) subpart A shall not apply with respect to such stock, and

"(C) in determining whether section 1293 applies to any distribution in respect of such stock, such stock shall be treated as failing to qualify for the exceptions under section 1294(a)(1).

"(h) INFORMATION FROM SHAREHOLDERS.—Every United States person who owns stock in any passive foreign corporation shall furnish with respect to such corporation such information as the Secretary may prescribe.

"(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this part, including regulations—

"(1) providing that gross income shall be determined without regard to section 1293 for such purposes as may be specified in such regulations, and

"(2) to prevent avoidance of the provisions of this part through changes in citizenship or residence status."

(b) INSTALLMENT SALES TREATMENT NOT AVAILABLE.—Paragraph (2) of section 453(k) is amended by striking "or" at the end of subparagraph (A), by inserting "or" at the end of subparagraph (B), and by adding at the end thereof the following new subparagraph:

"(C) stock in a passive foreign corporation (as defined in section 1296) if section 1293 applies to such sale,".

(c) TREATMENT OF MARK-TO-MARKET GAIN UNDER SECTION 4982.—

(1) Subsection (e) of section 4982 is amended by adding at the end thereof the following new paragraph:

"(6) TREATMENT OF GAIN RECOGNIZED UNDER SECTION 1291.—For purposes of determining a regulated investment company's ordinary income—

"(A) notwithstanding paragraph (1)(C), section 1291 shall be applied as if such company's taxable year ended on October 31, and

"(B) any ordinary gain or loss from an actual disposition of stock in a passive foreign corporation during the portion of the calendar year after October 31 shall be taken into account in determining such company's ordinary income for the following calendar year.

In the case of a company making an election under paragraph (4), the preceding sentence shall be applied by substituting the last day of the company's taxable year for October 31."

(2) Subsection (b) of section 852 is amended by adding at the end thereof the following new paragraph:

"(10) SPECIAL RULE FOR CERTAIN LOSSES ON STOCK IN PASSIVE FOREIGN CORPORATIONS.—To the extent provided in regulations, the taxable income of a regulated investment company (other than a company to which an election under section 4982(e)(4) applies) shall be computed without regard to any net reduction in the value of any stock of a passive foreign corporation to which section 1291 applies occurring after October 31 of the taxable year, and any such reduction shall be treated as occurring on the first day of the following taxable year."

(3) Subsection (c) of section 852 is amended by inserting after "October 31 of such year" the following: ", without regard to any net reduction in the value of any stock of a passive foreign corporation to which section 1291 applies occurring after December 31 of such year,".

(d) TREATMENT OF CERTAIN PREVIOUSLY TAXED AMOUNTS.—Subsection (e) of section 959 is amended—

(1) by adding at the end thereof the following new sentence: "A similar rule shall apply in the case of amounts included in gross income under section 1293 (as in effect on January 1, 1992).", and

(2) by striking "AMOUNTS PREVIOUSLY TAXED UNDER SECTION 1248" in the subsection heading and inserting "CERTAIN PREVIOUSLY TAXED AMOUNTS".

SEC. 4403. TECHNICAL AND CONFORMING AMENDMENTS.

(a) GENERAL RULE.—

(1) Paragraph (2) of section 171(c) is amended—

(A) by striking ", or by a foreign personal holding company, as defined in section 552", and

(B) by striking ", or a foreign personal holding company".

(2) Section 312 is amended by striking subsection (j).

(3) Subsection (m) of section 312 is amended by striking ", a foreign investment company (within the meaning of section 1246(b)), or a foreign personal holding company (within the meaning of section 552)" and inserting "or a passive foreign corporation (as defined in section 1296)".

(4) Subsection (e) of section 443 is amended by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(5) Clause (ii) of section 465(c)(7)(B) is amended to read as follows:

"(ii) a passive foreign corporation with respect to which the stock ownership requirements of section 1292(a)(2)(B) are met, or".

(6) Subsection (b) of section 535 is amended by striking paragraph (9).

(7) Subsection (d) of section 535 is hereby repealed.

(8) Paragraph (1) of section 543(b) is amended by inserting "and" at the end of subparagraph (A), by striking ", and" at the end of subparagraph (B) and inserting a period, and by striking subparagraph (C).

(9) Paragraph (1) of section 562(b) is amended by striking "or a foreign personal holding company described in section 552".

(10) Section 563 is amended—

(A) by striking subsection (c),

(B) by redesignating subsection (d) as subsection (c), and

(C) by striking "subsection (a), (b), or (c)" in subsection (c) (as so redesignated) and inserting "subsection (a) or (b)".

(11) Paragraph (2) of section 751(d) is amended by striking "subsection (a) of section 1246 (relating to gain on foreign investment company stock)" and inserting "section 1291 (relating to stock in certain passive foreign corporations marked to market)".

(12) Subsection (b) of section 851 is amended by striking the sentence following paragraph (4)(B) which contains a reference to section 1293(a).

(13) Subsection (d) of section 904 is amended by striking paragraphs (2)(A)(ii), (2)(E)(iii), and (3)(I).

(14)(A) Subparagraph (A) of section 904(g)(1) is amended to read as follows:

"(A) Any amount included in gross income under section 951(a) (relating to amounts included in gross income of United States shareholders)."

(B) The paragraph heading of paragraph (2) of section 904(g) is amended by striking "AND FOREIGN PERSONAL HOLDING OR PASSIVE FOREIGN INVESTMENT COMPANY".

(15) Section 951 is amended by striking subsections (c), (d), and (f), and by redesignating subsection (e) as subsection (c).

(16) Paragraph (1) of section 986(c) is amended by striking "or 1293(c)".

(17) Paragraph (3) of section 989(b) is amended by striking ", 551(a), or 1293(a)".

(18) Paragraph (5) of section 1014(b) is hereby repealed.

(19) Subsection (a) of section 1016 is amended by striking paragraph (13) and by redesignating the following paragraphs accordingly.

(20) Paragraph (3) of section 1212(a) is amended—

(A) by striking subparagraph (A),

(B) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively, and

(C) by amending subparagraph (D) to read as follows:

"(C) for which it is a passive foreign corporation."

(21) Section 1223 is amended by striking paragraph (10) and by redesignating the following paragraphs accordingly.

(22) Subsection (d) of section 1248 is amended by striking paragraphs (5) and (7).

(23)(A) Subsection (a) of section 6035 is amended by striking "foreign personal holding company (as defined in section 552)" and inserting "passive foreign corporation with respect to which the stock ownership requirements of section 1292(a)(2)(B) are met".

*(B) The section heading for section 6035 is amended by striking "**foreign personal holding companies**" and inserting "**closely held passive foreign corporations**",.*

(C) The table of sections for subpart A of part III of subchapter A of chapter 61 is amended by striking "foreign personal holding companies" in the item relating to section 6035 and inserting 'closely-held passive foreign corporations".

(24) Subparagraph (D) of section 6103(e)(1) is amended by striking clause (iv) and redesignating clauses (v) and (vi) as clauses (iv) and (v), respectively.

(25) Subparagraph (B) of section 6501(e)(1) is amended to read as follows:

"(B) CONSTRUCTIVE DIVIDENDS.—If the taxpayer omits from gross income an amount properly includible therein under section 951(a), the tax may be assessed, or a proceeding in court for the collection of such tax may be done without assessing, at any time within 6 years after the return was filed."

(26) Section 4947 and section 4948(c)(4) are each amended by striking "556(b)(2)," each place it appears.

(b) CLERICAL AMENDMENTS.—

(1) The table of parts for subchapter G of chapter 1 is amended by striking the item relating to part III.

(2) The table of sections for part IV of subchapter P of chapter 1 is amended by striking the items relating to sections 1246 and 1247.

(3) The table of parts for subchapter P of chapter 1 is amended by striking the item relating to part VI and inserting the following:

"Part VI. Treatment of passive foreign corporations."

SEC. 4404. EFFECTIVE DATE.

(a) GENERAL RULE.—Except as otherwise provided in this section, the amendments made by this part shall apply to—

(1) taxable years of United States persons beginning after December 31, 1992, and

(2) taxable years of foreign corporations ending with or within such taxable years of United States persons.

(b) DENIAL OF INSTALLMENT SALES TREATMENT.—The amendment made by section 3402(b) shall apply to dispositions after December 31, 1992.

(c) BASIS RULE.—The amendments made by this part shall not affect the determination of the basis of any stock acquired from a decedent in a taxable year beginning before January 1, 1993.

PART II—TREATMENT OF CONTROLLED FOREIGN CORPORATIONS

SEC. 4411. GAIN ON CERTAIN STOCK SALES BY CONTROLLED FOREIGN CORPORATIONS TREATED AS DIVIDENDS.

(a) GENERAL RULE.—Section 964 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new subsection:

"(f) GAIN ON CERTAIN STOCK SALES BY CONTROLLED FOREIGN CORPORATIONS TREATED AS DIVIDENDS.—

"(1) IN GENERAL.—If a controlled foreign corporation sells or exchanges stock in any other foreign corporation, gain recognized on such sale or exchange shall be included in the gross income of such controlled foreign corporation as a dividend to the same extent that it would have been so included under section 1248(a) if such controlled foreign corporation were a United States person. For purposes of determining the amount which would have been so includible, the determination of whether such other foreign corporation was a controlled foreign corporation shall be made without regard to the preceding sentence.

"(2) SAME COUNTRY EXCEPTION NOT APPLICABLE.—Clause (i) of section 954(c)(3)(A) shall not apply to any amount treated as a dividend by reason of paragraph (1).

"(3) CLARIFICATION OF DEEMED SALES.—For purposes of this subsection, a controlled foreign

corporation shall be treated as having sold or exchanged any stock if, under any provision of this subtitle, such controlled foreign corporation is treated as having gain from the sale or exchange of such stock.".

(b) Amendment of Section 904(d).—Clause (i) of section 904(d)(2)(E) is amended by striking "and except as provided in regulations, the taxpayer was a United States shareholder in such corporation".

(c) Effective Dates.—

(1) The amendment made by subsection (a) shall apply to gain recognized on transactions occurring after the date of the enactment of this Act.

(2) The amendment made by subsection (b) shall apply to distributions after the date of the enactment of this Act.

SEC. 4412. AUTHORITY TO PRESCRIBE SIMPLIFIED METHOD FOR APPLYING SECTION 960(b)(2).

(a) General Rule.—Paragraph (2) of section 960(b) is amended by adding at the end thereof the following new sentence: "The Secretary may prescribe regulations requiring the use of simplified methods set forth in such regulations for determining the amount of the increase referred to in the preceding sentence."

(b) Effective Date.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 4413. MISCELLANEOUS MODIFICATIONS TO SUBPART F.

(a) Section 1248 Gain Taken Into Account in Determining Pro Rata Share.—

(1) In general.—Paragraph (2) of section 951(a) (defining pro rata share of subpart F income) is amended by adding at the end thereof the following new sentence: "For purposes of subparagraph (B), any gain included in the gross income of any person as a dividend under section 1248 shall be treated as a distribution received by such person with respect to the stock involved."

(2) Effective date.—The amendment made by paragraph (1) shall apply to dispositions after the date of the enactment of this Act.

(b) Basis Adjustments In Stock Held by Foreign Corporation.—

(1) In general.—Section 961 (relating to adjustments to basis of stock in controlled foreign corporations and of other property) is amended by adding at the end thereof the following new subsection:

"(c) Basis Adjustments in Stock Held by Foreign Corporation.—Under regulations prescribed by the Secretary, if a United States shareholder is treated under section 958(a)(2) as owning any stock in a controlled foreign corporation which is actually owned by another controlled foreign corporation, adjustments similar to the adjustments provided by subsections (a) and (b) shall be made to the basis of such stock in the hands of such other controlled foreign corporation, but only for the purposes of determining the amount included under section 951 in the gross income of such United States shareholder (or any other United States shareholder who acquires from any person any portion of the interest of such United States shareholder by reason of which such shareholder was treated as owning such stock, but only to the extent of such portion, and subject to such proof of identity of such interest as the Secretary may prescribe by regulations)."

(2) Effective date.—The amendment made by paragraph (1) shall apply for purposes of determining inclusions for taxable years of United States shareholders beginning after December 31, 1992.

(c) Determination of Previously Taxed Income In Section 304 Distributions, Etc.—

(1) In general.—Section 959 (relating to exclusion from gross income of previously taxed earnings and profits) is amended by adding at the end thereof the following new subsection:

"(f) Adjustments for Certain Transactions.—If by reason of—

"(1) a transaction to which section 304 applies,

"(2) the structure of a United States shareholder's holdings in controlled foreign corporations, or

"(3) other circumstances,

there would be a multiple inclusion of any item in income (or an inclusion or exclusion without an appropriate basis adjustment) by reason of this subpart, the Secretary may prescribe regulations providing such modifications in the application of this subpart as may be necessary to eliminate such multiple inclusion or provide such basis adjustment, as the case may be."

(2) Effective date.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(d) Clarification of Treatment of Branch Tax Exemptions or Reductions.—

(1) In general.—Subsection (b) of section 952 is amended by adding at the end thereof the following new sentence: "For purposes of this subsection, any exemption (or reduction) with respect to the tax imposed by section 884 shall not be taken into account."

(2) Effective date.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1986.

PART III—OTHER PROVISIONS

SEC. 4421. EXCHANGE RATE USED IN TRANSLATING FOREIGN TAXES.

(a) Accrued Taxes Translated by Using Average Rate for Year to Which Taxes Relate.—

(1) In general.—Subsection (a) of section 986 (relating to translation of foreign taxes) is amended to read as follows:

"(a) Foreign Income Taxes.—

"(1) Translation of accrued taxes.—

"(A) In general.—For purposes of determining the amount of the foreign tax credit, in the case of a taxpayer who takes foreign income taxes into account when accrued, the amount of any foreign income taxes (and any adjustment thereto) shall be translated into dollars by using the average exchange rate for the taxable year to which such taxes relate.

"(B) Exception for taxes not paid within following 2 years.—

"(i) Subparagraph (A) shall not apply to any foreign income taxes paid after the date 2 years after the close of the taxable year to which such taxes relate.

"(ii) Subparagraph (A) shall not apply to taxes paid before the beginning of the taxable year to which such taxes relate.

"(C) Exception for inflationary currencies.—To the extent provided in regulations, subparagraph (A) shall not apply to any foreign income taxes the liability for which is denominated in any currency determined to be an inflationary currency under such regulations.

"(D) Cross reference.—

"For adjustments where tax is not paid within 2 years, see section 905(c).

"(2) Translation of taxes to which paragraph (1) does not apply.—For purposes of determining the amount of the foreign tax credit, in the case of any foreign income taxes to which subparagraph (A) of paragraph (1) does not apply—

"(A) such taxes shall be translated into dollars using the exchange rates as of the time such taxes were paid to the foreign country or possession of the United States, and

"(B) any adjustment to the amount of such taxes shall be translated into dollars using—

"(i) except as provided in clause (ii), the exchange rate as of the time when such adjustment is paid to the foreign country or possession, or

"(ii) in the case of any refund or credit of foreign income taxes, using the exchange rate as of the time of the original payment of such foreign income taxes.

"(3) Foreign income taxes.—For purposes of this subsection, the term 'foreign income taxes' means any income, war profits, or excess profits taxes paid or accrued to any foreign country or to any possession of the United States."

(2) Adjustment when not paid within 2 years after year to which taxes relate.—Subsection (c) of section 905 is amended to read as follows:

"(c) Adjustments to Accrued Taxes.—

"(1) In general.—If—

"(A) accrued taxes when paid differ from the amounts claimed as credits by the taxpayer,

"(B) accrued taxes are not paid before the date 2 years after the close of the taxable year to which such taxes relate, or

"(C) any tax paid is refunded in whole or in part,

the taxpayer shall notify the Secretary, who shall redetermine the amount of the tax for the year or years affected.

"(2) Special rule for taxes not paid within 2 years.—In making the redetermination under paragraph (1), no credit shall be allowed for accrued taxes not paid before the date referred to in subparagraph (B) of paragraph (1). Any such taxes if subsequently paid shall be taken into account for the taxable year in which paid and no redetermination under this section shall be made on account of such payment.

"(3) Adjustments.—The amount of tax due on any redetermination under paragraph (1) (if any) shall be paid by the taxpayer on notice and demand by the Secretary, and the amount of tax overpaid (if any) shall be credited or refunded to the taxpayer in accordance with subchapter B of chapter 66 (section 6511 et seq.).

"(4) Bond requirements.—In the case of any tax accrued but not paid, the Secretary, as a condition precedent to the allowance of the credit provided in this subpart, may require the taxpayer to give a bond, with sureties satisfactory to and approved by the Secretary, in such sum as the Secretary may require, conditioned on the payment by the taxpayer of any amount of tax found due on any such redetermination. Any such bond shall contain such further conditions as the Secretary may require.

"(5) Other special rules.—In any redetermination under paragraph (1) by the Secretary of the amount of tax due from the taxpayer for the year or years affected by a refund, the amount of the taxes refunded for which credit has been allowed under this section shall be reduced by the amount of any tax described in section 901 imposed by the foreign country or possession of the United States with respect to such refund; but no credit under this subpart, or deduction under section 164, shall be allowed for any taxable year with respect to any such tax imposed on the refund. No interest shall be assessed or collected on any amount of tax due on any redetermination by the Secretary, resulting from a refund to the taxpayer, for any period before the receipt of such refund, except to the extent interest was paid by the foreign country or possession of the United States on such refund for such period."

(b) Authority To Use Average Rates.—

(1) In general.—Subsection (a) of section 986 (relating to foreign taxes) is amended by adding at the end thereof the following new paragraph:

"(3) Authority to permit use of average rates.—To the extent prescribed in regulations, the average exchange rate for the period (specified in such regulations) during which the taxes or adjustment is paid may be used instead of the exchange rate as of the time of such payment."

(2) Determination of average rates.—Subsection (c) of section 989 is amended by striking

"and" at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting ", and", and by adding at the end thereof the following new paragraph:

"(6) setting forth procedures for determining the average exchange rate for any period."

(3) CONFORMING AMENDMENTS.—Subsection (b) of section 989 is amended by striking "weighted" each place it appears.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxes paid or accrued in taxable years beginning after December 31, 1991.

SEC. 4422. ELECTION TO USE SIMPLIFIED SECTION 904 LIMITATION FOR ALTERNATIVE MINIMUM TAX.

(a) GENERAL RULE.—Subsection (a) of section 59 (relating to alternative minimum tax foreign tax credit) is amended by adding at the end thereof the following new paragraph:

"(3) ELECTION TO USE SIMPLIFIED SECTION 904 LIMITATION.—

"(A) IN GENERAL.—In determining the alternative minimum tax foreign tax credit for any taxable year to which an election under this paragraph applies—

"(i) subparagraph (B) of paragraph (1) shall not apply, and

"(ii) the limitation of section 904 shall be based on the proportion which—

"(I) the taxpayer's taxable income (as determined for purposes of the regular tax) from sources without the United States (but not in excess of the taxpayer's entire alternative minimum taxable income), bears to

"(II) the taxpayer's entire alternative minimum taxable income for the taxable year.

"(B) ELECTION.—

"(i) IN GENERAL.—An election under this paragraph may be made only for the taxpayer's first taxable year which begins after December 31, 1992, and for which the taxpayer claims an alternative minimum tax foreign tax credit.

"(ii) ELECTION REVOCABLE ONLY WITH CONSENT.—An election under this paragraph, once made, shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 4423. MODIFICATION OF SECTION 1491.

(a) GENERAL RULE.—So much of chapter 5 (relating to tax on transfers to avoid income tax) as precedes section 1492 is amended to read as follows:

"CHAPTER 5—TREATMENT OF TRANSFERS TO AVOID INCOME TAX

"Sec. 1491. Recognition of gain.

"Sec. 1492. Exceptions.

"SEC. 1491. RECOGNITION OF GAIN.

"In the case of any transfer of property by a United States person to a foreign corporation as paid-in surplus or as a contribution to capital, to a foreign estate or trust, or to a foreign partnership, for purposes of this subtitle, such transfer shall be treated as a sale or exchange for an amount equal to the fair market value of the property transferred, and the transferor shall recognize as gain the excess of—

"(1) the fair market value of the property so transferred, over

"(2) the adjusted basis (for purposes of determining gain) of such property in the hands of the transferor."

(b) CONFORMING AMENDMENTS.—

(1) Section 1057 is hereby repealed.

(2) Section 1492 is amended to read as follows:

"SEC. 1492. EXCEPTIONS.

"The provisions of section 1491 shall not apply—

"(1) If the transferee is an organization exempt from income tax under part I of subchapter F of chapter 1 (other than an organization described in section 401(a)),

"(2) To a transfer described in section 367, or

"(3) To any other transfer, to the extent provided in regulations in accordance with principles similar to the principles of section 367 or otherwise consistent with the purpose of section 1491."

(3) Section 1494 is hereby repealed.

(4) The table of sections for part IV of subchapter O of chapter 1 is amended by striking the item relating to section 1057.

(5) The table of chapters for subtitle A is amended by striking "Tax on" in the item relating to chapter 5 and inserting "Treatment of".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers after the date of the enactment of this Act.

SEC. 4424. MODIFICATION OF SECTION 367(b).

(a) GENERAL RULE.—Paragraph (1) of section 367(b) is amended to read as follows:

"(1) IN GENERAL.—In the case of any transaction described in section 332, 351, 354, 355, 356, or 361 in which the status of a foreign corporation as a corporation is a general condition for nonrecognition by 1 or more of the parties to the transaction, income shall be required to be recognized to the extent provided in regulations prescribed by the Secretary which are necessary or appropriate to prevent the avoidance of Federal income taxes. This subsection shall not apply to a transaction in which the foreign corporation is not treated as a corporation under subsection (a)(1)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to transfers after December 31, 1993.

Subtitle E—Other Income Tax Provisions

PART I—PROVISIONS RELATING TO SUBCHAPTER S CORPORATIONS

SEC. 4501. DETERMINATION OF WHETHER CORPORATION HAS 1 CLASS OF STOCK.

(a) GENERAL RULE.—Paragraph (4) of section 1361(c) is amended to read as follows:

"(4) DETERMINATION OF WHETHER CORPORATION HAS 1 CLASS OF STOCK.—For purposes of subsection (b)(1)(D), a corporation shall be treated as having 1 class of stock if all outstanding shares of stock of the corporation confer identical rights to distributions and liquidation proceeds. The preceding sentence shall apply whether or not there are differences in voting rights among such shares."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1982.

SEC. 4502. AUTHORITY TO VALIDATE CERTAIN INVALID ELECTIONS.

(a) GENERAL RULE.—Subsection (f) of section 1362 (relating to inadvertent terminations) is amended to read as follows:

"(f) INADVERTENT INVALID ELECTIONS OR TERMINATIONS.—If—

"(1) an election under subsection (a) by any corporation—

"(A) was not effective for the taxable year for which made (determined without regard to subsection (b)(2)) by reason of a failure to meet the requirements of section 1361(b) or to obtain shareholder consents, or

"(B) was terminated under paragraph (2) or (3) of subsection (d),

"(2) the Secretary determines that the circumstances resulting in such ineffectiveness or termination were inadvertent,

"(3) no later than a reasonable period of time after discovery of the circumstances resulting in such ineffectiveness or termination, steps were taken—

"(A) so that the corporation is a small business corporation, or

"(B) to acquire the required shareholder consents, and

"(4) the corporation, and each person who was a shareholder in the corporation at any time during the period specified pursuant to this subsection, agrees to make such adjustments (consistent with the treatment of the corporation as an S corporation) as may be required by the Secretary with respect to such period,

then, notwithstanding the circumstances resulting in such ineffectiveness or termination, such corporation shall be treated as an S corporation during the period specified by the Secretary."

(b) LATE ELECTIONS.—Subsection (b) of section 1362 is amended by adding at the end thereof the following new paragraph:

"(5) AUTHORITY TO TREAT LATE ELECTIONS AS TIMELY.—If—

"(A) an election under subsection (a) is made for any taxable year (determined without regard to paragraph (3)) after the date prescribed by this subsection for making such election for such taxable year, and

"(B) the Secretary determines that there was reasonable cause for the failure to timely make such election,

the Secretary may treat such election as timely made for such taxable year (and paragraph (3) shall not apply)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to elections for taxable years beginning after December 31, 1982.

SEC. 4503. TREATMENT OF DISTRIBUTIONS DURING LOSS YEARS.

(a) ADJUSTMENTS FOR DISTRIBUTIONS TAKEN INTO ACCOUNT BEFORE LOSSES.—

(1) Subparagraph (A) of section 1366(d)(1) is amended by striking "paragraph (1)" and inserting "paragraphs (1) and (2)(A)".

(2) Subsection (d) of section 1368 is amended by adding at the end thereof the following new sentence:

"In the case of any distribution made during any taxable year, the adjusted basis of the stock shall be determined with regard to the adjustments provided in paragraph (1) of section 1367(a) for the taxable year."

(b) ACCUMULATED ADJUSTMENTS ACCOUNT.—Paragraph (1) of section 1368(e) (relating to accumulated adjustments account) is amended by adding at the end thereof the following new subparagraph:

"(C) NET LOSS FOR YEAR DISREGARDED.—

"(i) IN GENERAL.—In applying this section to distributions made during any taxable year, the amount in the accumulated adjustments account as of the close of such taxable year shall be determined without regard to any net negative adjustment for such taxable year.

"(ii) NET NEGATIVE ADJUSTMENT.—For purposes of clause (i), the term 'net negative adjustment' means, with respect to any taxable year, the excess (if any) of—

"(I) the reductions in the account for the taxable year (other than for distributions), over

"(II) the increases in such account for such taxable year."

(c) CONFORMING AMENDMENTS.—Subparagraph (A) of section 1368(e)(1) is amended—

(1) by striking "as provided in subparagraph (B)" and inserting "as otherwise provided in this paragraph", and

(2) by striking "section 1367(b)(2)(A)" and inserting "section 1367(a)(2)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions in taxable years beginning after December 31, 1991.

SEC. 4504. OTHER MODIFICATIONS.

(a) TREATMENT OF S CORPORATIONS UNDER SUBCHAPTER C.—Subsection (a) of section 1371 (relating to application of subchapter C rules) is amended to read as follows:

"(a) APPLICATION OF SUBCHAPTER C RULES.—Except as otherwise provided in this title, and except to the extent inconsistent with this sub-

chapter, subchapter C shall apply to an S corporation and its shareholders."

(b) S CORPORATIONS PERMITTED TO HOLD SUBSIDIARIES.—

(1) IN GENERAL.—Paragraph (2) of section 1361(b) (defining ineligible corporation) is amended by striking subparagraph (A) and by redesignating subparagraphs (B), (C), (D), and (E) as subparagraphs (A), (B), (C), and (D), respectively.

(2) CONFORMING AMENDMENTS.—

(A) Subsection (c) of section 1361 is amended by striking paragraph (6).

(B) Subsection (b) of section 1504 (defining includible corporation) is amended by adding at the end thereof the following new paragraph:

"(8) An S corporation."

(c) ELIMINATION OF PRE-1983 EARNINGS AND PROFITS.—

(1) IN GENERAL.—If—

(A) a corporation was an electing small business corporation under subchapter S of chapter 1 of the Internal Revenue Code of 1986 for any taxable year beginning before January 1, 1983, and

(B) such corporation is an S corporation under subchapter S of chapter 1 of such Code for its first taxable year beginning after December 31, 1991,

the amount of such corporation's accumulated earnings and profits (as of the beginning of such first taxable year) shall be reduced by an amount equal to the portion (if any) of such accumulated earnings and profits which were accumulated in any taxable year beginning before January 1, 1983, for which such corporation was an electing small business corporation under such subchapter S.

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (3) of section 1362(d) is amended—

(i) by striking "subchapter C" in the paragraph heading and inserting "accumulated",

(ii) by striking "subchapter C" in subparagraph (A)(i)(I) and inserting "accumulated", and

(iii) by striking subparagraph (B) and redesignating the following subparagraphs accordingly.

(B)(i) Subsection (a) of section 1375 is amended by striking "subchapter C" in paragraph (1) and inserting "accumulated".

(ii) Paragraph (3) of section 1375(b) is amended to read as follows:

"(3) PASSIVE INVESTMENT INCOME, ETC.—The terms 'passive investment income' and 'gross receipts' have the same respective meanings as when used in paragraph (3) of section 1362(d)."

(iii) The section heading for section 1375 is amended by striking "subchapter c" and inserting "accumulated".

(iv) The table of sections for part III of subchapter S of chapter 1 is amended by striking "subchapter C" in the item relating to section 1375 and inserting "accumulated".

(C) Clause (i) of section 1042(c)(4)(A) is amended by striking "section 1362(d)(3)(D)" and inserting "section 1362(d)(3)(C)".

(d) ADJUSTMENTS TO BASIS OF INHERITED S STOCK TO REFLECT CERTAIN ITEMS OF INCOME.—Subsection (b) of section 1367 (relating to adjustments to basis of stock of shareholders, etc.) is amended by adding at the end thereof the following new paragraph:

"(4) ADJUSTMENTS IN CASE OF INHERITED STOCK.—

"(A) IN GENERAL.—If any person acquires stock in an S corporation by reason of the death of a decedent or by bequest, devise, or inheritance, section 691 shall be applied with respect to any item of income of the S corporation in the same manner as if the decedent had held directly his pro rata share of such item.

"(B) ADJUSTMENTS TO BASIS.—The basis determined under section 1014 of any stock in an S corporation shall be reduced by the portion of the value of the stock which is attributable to items constituting income in respect of the decedent."

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1991.

(2) SUBSECTION (d).—The amendment made by subsection (d) shall apply in the case of decedents dying after the date of the enactment of this Act.

PART II—ACCOUNTING PROVISIONS

SEC. 4511. MODIFICATIONS TO LOOK-BACK METHOD FOR LONG-TERM CONTRACTS.

(a) LOOK-BACK METHOD NOT TO APPLY IN CERTAIN CASES.—Subsection (b) of section 460 (relating to percentage of completion method) is amended by adding at the end thereof the following new paragraph:

"(6) ELECTION TO HAVE LOOK-BACK METHOD NOT APPLY IN DE MINIMIS CASES.—

"(A) AMOUNTS TAKEN INTO ACCOUNT AFTER COMPLETION OF CONTRACT.—Paragraph (1)(B) shall not apply with respect to any taxable year (beginning after the taxable year in which the contract is completed) if—

"(i) the cumulative taxable income (or loss) under the contract as of the close of such taxable year, is within

"(ii) 10 percent of the cumulative look-back taxable income (or loss) under the contract as of the close of the most recent taxable year to which paragraph (1)(B) applied (or would have applied but for subparagraph (B)).

"(B) DE MINIMIS DISCREPANCIES.—Paragraph (1)(B) shall not apply in any case to which it would otherwise apply if—

"(i) the cumulative taxable income (or loss) under the contract as of the close of each prior contract year, is within

"(ii) 10 percent of the cumulative look-back income (or loss) under the contract as of the close of such prior contract year.

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) CONTRACT YEAR.—The term 'contract year' means any taxable year for which income is taken into account under the contract.

"(ii) LOOK-BACK INCOME OR LOSS.—The look-back income (or loss) is the amount which would be the taxable income (or loss) under the contract if the allocation method set forth in paragraph (2)(A) were used in determining taxable income.

"(iii) DISCOUNTING NOT APPLICABLE.—The amounts taken into account after the completion of the contract shall be determined without regard to any discounting under the 2nd sentence of paragraph (2).

"(D) CONTRACTS TO WHICH PARAGRAPH APPLIES.—This paragraph shall only apply if the taxpayer makes an election under this subparagraph. Unless revoked with the consent of the Secretary, such an election shall apply to all long-term contracts completed during the taxable year for which such election is made or during any subsequent taxable year."

(b) MODIFICATION OF INTEREST RATE.—

(1) IN GENERAL.—Subparagraph (C) of section 460(b)(2) is amended by striking "the overpayment rate established by section 6621" and inserting "the adjusted overpayment rate (as defined in paragraph (7))".

(2) ADJUSTED OVERPAYMENT RATE.—Subsection (b) of section 460 is amended by adding at the end thereof the following new paragraph:

"(7) ADJUSTED OVERPAYMENT RATE.—

"(A) IN GENERAL.—The adjusted overpayment rate for any interest accrual period is the overpayment rate in effect under section 6621 for the calendar quarter in which such interest accrual period begins.

"(B) INTEREST ACCRUAL PERIOD.—For purposes of subparagraph (A), the term 'interest accrual period' means the period—

"(i) beginning on the day after the return due date for any taxable year of the taxpayer, and

"(ii) ending on the return due date for the following taxable year.

For purposes of the preceding sentence, the term 'return due date' means the date prescribed for filing the return of the tax imposed by this chapter (determined without regard to extensions)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contracts completed in taxable years ending after the date of the enactment of this Act.

SEC. 4512. SIMPLIFIED METHOD FOR CAPITALIZING CERTAIN INDIRECT COSTS.

(a) GENERAL RULE.—Subsection (i) of section 263A (relating to regulations) is amended by striking "and" at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting ", and", and by adding at the end thereof the following:

"(3) regulations providing that allocations of costs of any administrative, service, or support function or department may be made on the basis of the base period percentage of the current costs of such function or department.

For purposes of paragraph (3), the term 'base period percentage' means, with respect to any function or department, the percentage of the costs of such function or department during a base period specified in regulations which were allocable to property to which this section applies."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

PART III—TAX-EXEMPT BOND PROVISIONS

SEC. 4521. REPEAL OF $100,000 LIMITATION ON UNSPENT PROCEEDS UNDER 1-YEAR EXCEPTION FROM REBATE.

Subclause (I) of section 148(f)(4)(B)(ii) (relating to additional period for certain bonds) is amended by striking "the lesser of 5 percent of the proceeds of the issue or $100,000" and inserting "5 percent of the proceeds of the issue".

SEC. 4522. EXCEPTION FROM REBATE FOR EARNINGS ON BONA FIDE DEBT SERVICE FUND UNDER CONSTRUCTION BOND RULES.

Subparagraph (C) of section 148(f)(4) is amended by adding at the end thereof the following new clause:

"(xvii) TREATMENT OF BONA FIDE DEBT SERVICE FUNDS.—If the spending requirements of clause (ii) are met with respect to the available construction proceeds of a construction issue, then paragraph (2) shall not apply to earnings on a bona fide debt service fund for such issue."

SEC. 4523. AUTOMATIC EXTENSION OF INITIAL TEMPORARY PERIOD FOR CONSTRUCTION ISSUES.

Subsection (c) of section 148 (relating to temporary period exception) is amended by adding at the end thereof the following new paragraph:

"(3) EXTENSION OF INITIAL TEMPORARY PERIOD FOR CONSTRUCTION ISSUES.—If—

"(A) at least 85 percent of the available construction proceeds (as defined in subsection (f)(4)(C)) of a construction issue (as defined in such subsection) are spent as of the close of the initial temporary period (determined without regard to this paragraph), and

"(B) the issuer reasonably expects (as of the close of such period) that the remaining available construction proceeds of such issue will be spent within 1 year after the close of such period,

then such initial temporary period shall be extended 1 year."

SEC. 4524. AGGREGATION OF ISSUES RULES NOT TO APPLY TO TAX OR REVENUE ANTICIPATION BONDS.

Section 150 (relating to definitions and special rules) is amended by adding at the end thereof the following new subsection:

"(f) TAX OR REVENUE ANTICIPATION BONDS TREATED AS SEPARATE ISSUES.—For purposes of this part, if—

"(1) all of the bonds which are part of an issue are qualified 501(c)(3) bonds or bonds which are not private activity bonds, and

"(2) any portion of such issue consists of tax or revenue anticipation bonds which are reasonably expected to meet the requirements of section 148(f)(4)(B)(iii),

then such portion shall, subject to appropriate allocations specified in regulations prescribed by the Secretary, be treated as a separate issue."

SEC. 4525. ALLOCATION OF INTEREST EXPENSE OF FINANCIAL INSTITUTIONS TO TAX-EXEMPT INTEREST.

(a) EXCEPTION FROM PRO RATA ALLOCATION OF INTEREST EXPENSE OF FINANCIAL INSTITUTIONS TO TAX-EXEMPT INTEREST FOR SMALL ISSUERS INCREASED TO $25,000,000.—

(1) IN GENERAL.—Subparagraphs (C) and (D) of section 265(b)(3) (relating to exception for certain tax-exempt obligations) are each amended by striking "$10,000,000" each place it appears and inserting "$25,000,000".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to obligations issued in calendar years beginning after December 31, 1992.

(b) DEDUCTIBILITY AVAILABLE TO PARTICIPANTS IN POOLED ISSUES.—

(1) IN GENERAL.—Subparagraph (A) of section 265(b)(3) is amended by inserting "and any qualified tax-exempt pooled obligation acquired after December 31, 1992," after "after August 7, 1986,".

(2) QUALIFIED TAX-EXEMPT POOLED OBLIGATION DEFINED.—Section 265(b)(3) is amended by adding at the end thereof the following new subparagraph:

"(G) QUALIFIED TAX-EXEMPT POOLED OBLIGATION.—For purposes of subparagraph (A), the term 'qualified tax-exempt pooled obligation' means a tax-exempt obligation—

"(i) which is issued after December 31, 1992,

"(ii) which is not a private activity bond (as defined in section 141),

"(iii) which is designated by the issuer for purposes of this paragraph, and

"(iv) the proceeds of which are used exclusively (other than to pay the issuance costs of such obligation) to acquire from the issuer obligations—

"(I) which satisfy the requirements of this paragraph but are not designated for purposes of this paragraph, and

"(II) the weighted average maturity of which equals or exceeds the weighted average maturity of such obligation."

SEC. 4526. TAX TREATMENT OF 501(c)(3) BONDS SIMILAR TO GOVERNMENTAL BONDS.

(a) IN GENERAL.—Subsection (a) of section 150 (relating to definitions and special rules) is amended by striking paragraphs (2) and (4), by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2) EXEMPT PERSON.—

"(A) IN GENERAL.—The term 'exempt person' means—

"(i) a governmental unit, or

"(ii) a 501(c)(3) organization, but only with respect to its activities which do not constitute unrelated trades or businesses as determined by applying section 513(a).

"(B) GOVERNMENTAL UNIT NOT TO INCLUDE FEDERAL GOVERNMENT.—The term 'governmental unit' does not include the United States or any agency or instrumentality thereof.

"(C) 501(c)(3) ORGANIZATION.—The term '501(c)(3) organization' means any organization described in section 501(c)(3) and exempt from tax under section 501(a)."

(b) REPEAL OF QUALIFIED 501(c)(3) BOND DESIGNATION.—Section 145 (relating to qualified 501(c)(3) bonds) is repealed.

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (3) of section 141(b) is amended—

(A) by striking "government use" in subparagraph (A)(ii)(I) and subparagraph (B)(ii) and inserting "exempt person use",

(B) by striking "a government use" in subparagraph (B) and inserting "an exempt person use",

(C) by striking "related business use" in subparagraph (A)(ii)(II) and subparagraph (B) and inserting "related private business use",

(D) by striking "RELATED BUSINESS USE" in the heading of subparagraph (B) and inserting "RELATED PRIVATE BUSINESS USE", and

(E) by striking "GOVERNMENT USE" in the heading thereof and inserting "EXEMPT PERSON USE".

(2) Subparagraph (A) of section 141(b)(6) is amended by striking "a governmental unit" and inserting "an exempt person".

(3) Paragraph (7) of section 141(b) is amended—

(A) by striking "government use" and inserting "exempt person use", and

(B) by striking "GOVERNMENT USE" in the heading thereof and inserting "EXEMPT PERSON USE".

(4) Section 141(b) is amended by striking paragraph (9).

(5) Paragraph (1) of section 141(c) is amended by striking "governmental units" and inserting "exempt persons".

(6) Section 141 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) CERTAIN ISSUES USED TO PROVIDE RESIDENTIAL RENTAL HOUSING FOR FAMILY UNITS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), for purposes of this title, the term 'private activity bond' includes any bond issued as part of an issue if any portion of the net proceeds of the issue are to be used (directly or indirectly) by an exempt person described in section 150(a)(2)(A)(ii) to provide residential rental property for family units.

"(2) EXCEPTION FOR BONDS USED TO PROVIDE QUALIFIED RESIDENTIAL RENTAL PROJECTS.—Paragraph (1) shall not apply to any bond issued as part of an issue if the portion of such issue which is to be used as described in paragraph (1) is to be used to provide—

"(A) a residential rental property for family units if the first use of such property is pursuant to such issue,

"(B) qualified residential rental projects (as defined in section 142(d)), or

"(C) property which is to be substantially rehabilitated in a rehabilitation beginning within the 2-year period ending 1 year after the date of the acquisition of such property.

"(3) SUBSTANTIAL REHABILITATION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), rules similar to the rules of section 47(c)(1)(C) shall apply in determining for purposes of paragraph (2)(C) whether property is substantially rehabilitated.

"(B) EXCEPTION.—For purposes of subparagraph (A), clause (ii) of section 47(c)(1)(C) shall not apply, but the Secretary may extend the 24-month period in section 47(c)(1)(C)(i) where appropriate due to circumstances not within the control of the owner.

"(4) CERTAIN PROPERTY TREATED AS NEW PROPERTY.—Solely for purposes of determining under paragraph (2)(A) whether the 1st use of property is pursuant to tax-exempt financing—

"(A) IN GENERAL.—If—

"(i) the 1st use of property is pursuant to taxable financing,

"(ii) there was a reasonable expectation (at the time such taxable financing was provided) that such financing would be replaced by tax-exempt financing, and

"(iii) the taxable financing is in fact so replaced within a reasonable period after the taxable financing was provided,

then the 1st use of such property shall be treated as being pursuant to the tax-exempt financing.

"(B) SPECIAL RULE WHERE NO OPERATING STATE OR LOCAL PROGRAM FOR TAX-EXEMPT FINANCING.—If, at the time of the 1st use of property, there was no operating State or local program for tax-exempt financing of the property, the 1st use of the property shall be treated as pursuant to the 1st tax-exempt financing of the property.

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) TAX-EXEMPT FINANCING.—The term 'tax-exempt financing' means financing provided by tax-exempt bonds.

"(ii) TAXABLE FINANCING.—The term 'taxable financing' means financing which is not tax-exempt financing."

(7) Section 141(f), as redesignated by paragraph (6), is amended—

(A) by adding "or" at the end of subparagraph (E),

(B) by striking ", or" at the end of subparagraph (F), and inserting in lieu thereof a period, and

(C) by striking subparagraph (G).

(8) The last sentence of section 144(b)(1) is amended by striking "(determined" and all that follows to the period.

(9) Clause (ii) of section 144(c)(2)(C) is amended by striking "governmental unit" and inserting "exempt person".

(10) Section 146(g) is amended—

(A) by striking paragraph (2), and

(B) by redesignating the remaining paragraphs after paragraph (1) as paragraphs (2) and (3), respectively.

(11) The heading of section 146(k)(3) is amended by striking "GOVERNMENTAL" and inserting "EXEMPT PERSON".

(12) The heading of section 146(m) is amended by striking "GOVERNMENT" and inserting "EXEMPT PERSON".

(13) Subsection (h) of section 147 is amended to read as follows:

"(h) CERTAIN RULES NOT TO APPLY TO MORTGAGE REVENUE BONDS AND QUALIFIED STUDENT LOAN BONDS.—Subsections (a), (b), (c), and (d) shall not apply to any qualified mortgage bond, qualified veterans' mortgage bond, or qualified student loan bond."

(14) Section 147 is amended by striking paragraph (4) of subsection (b) and redesignating paragraph (5) of such subsection as paragraph (4).

(15) Subparagraph (F) of section 148(d)(3) is amended—

(A) by striking "or which is a qualified 501(c)(3) bond", and

(B) by striking "GOVERNMENTAL USE BONDS AND QUALIFIED 501(C)(3)" in the heading thereof and inserting "EXEMPT PERSON".

(16) Subclause (II) of section 148(f)(4)(B)(ii) is amended by striking "(other than a qualified 501(c)(3) bond)".

(17) Clause (iv) of section 148(f)(4)(C) is amended—

(A) by striking "a governmental unit or a 501(c)(3) organization" each place it appears and inserting "an exempt person", and

(B) by striking "qualified 501(c)(3) bonds,".

(18) Subparagraph (A) of section 148(f)(7) is amended by striking "(other than a qualified 501(c)(3) bond)".

(19) Paragraph (2) of section 149(d) is amended—

(A) by striking "(other than a qualified 501(c)(3) bond)", and

(B) by striking "CERTAIN PRIVATE" in the heading thereof and inserting in lieu thereof "PRIVATE".

(20) Section 149(e)(2) is amended—

(A) by striking "which is not a private activity bond" in the second sentence and inserting "which is a bond issued for an exempt person described in section 150(a)(2)(A)(i)", and

(B) by adding at the end thereof the following new sentence: "Subparagraph (D) shall not apply to any bond which is not a private activity bond but which would be such a bond if the 501(c)(3) organization using the proceeds thereof were not an exempt person."

(21) The heading of subsection (b) of section 150 is amended by striking "Tax-Exempt Private Activity Bonds" and inserting "Certain Tax-Exempt Bonds".

(22) Paragraph (3) of section 150(b) is amended—

(A) by inserting "owned by a 501(c)(3) organization" after "any facility" in subparagraph (A),

(B) by striking "any private activity bond which, when issued, purported to be a tax-exempt qualified 501(c)(3) bond" in subparagraph (A) and inserting "any bond which, when issued, purported to be a tax-exempt bond, and which would be a private activity bond if the 501(c)(3) organization using the proceeds thereof were not an exempt person", and

(C) by striking the heading thereof and inserting "BONDS FOR EXEMPT PERSONS OTHER THAN GOVERNMENTAL UNITS.—".

(23) Paragraph (5) of section 150(b) is amended—

(A) by striking "private activity" in subparagraph (A),

(B) by inserting "and which would be a private activity bond if the 501(c)(3) organization using the proceeds thereof were not an exempt person" after "tax-exempt bond" in subparagraph (A),

(C) by striking subparagraph (B) and inserting the following new subparagraph:

"(B) such facility is required to be owned by an exempt person, and", and

(D) by striking "GOVERNMENTAL UNITS OR 501(C)(3) ORGANIZATIONS" in the heading thereof and inserting "EXEMPT PERSONS".

(24) Section 150, as amended by section 4525, is amended by adding at the end thereof the following new subsection:

"(g) Certain Rules To Apply to Bonds for Exempt Persons Other Than Governmental Units.—

"(1) In general.—Nothing in section 103(a) or any other provision of law shall be construed to provide an exemption from Federal income tax for interest on any bond which would be a private activity bond if the 501(c)(3) organization using the proceeds thereof were not an exempt person unless such bond satisfies the requirements of subsections (b) and (f) of section 147.

"(2) Special rule for pooled financing of 501(c)(3) organization.—

"(A) In general.—At the election of the issuer, a bond described in paragraph (1) shall be treated as meeting the requirements of section 147(b) if such bond meets the requirements of subparagraph (B).

"(B) Requirements.—A bond meets the requirements of this subparagraph if—

"(i) 95 percent or more of the net proceeds of the issue of which such bond is a part are to be used to make or finance loans to 2 or more 501(c)(3) organizations or governmental units for acquisition of property to be used by such organizations,

"(ii) each loan described in clause (i) satisfies the requirements of section 147(b) (determined by treating each loan as a separate issue),

"(iii) before such bond is issued, a demand survey was conducted which shows a demand for financing greater than an amount equal to 120 percent of the lendable proceeds of such issue, and

"(iv) 95 percent or more of the net proceeds of such issue are to be loaned to 501(c)(3) organizations or governmental units within 1 year of issuance and, to the extent there are any unspent proceeds after such 1-year period, bonds issued as part of such issue are to be redeemed as soon as possible thereafter (and in no event later than 18 months after issuance).

A bond shall not meet the requirements of this subparagraph if the maturity date of any bond issued as part of such issue is more than 30 years after the date on which the bond was issued (or, in the case of a refunding or series of refundings, the date on which the original bond was issued)."

(25) Section 1302 of the Tax Reform Act of 1986 is repealed.

(26) Subparagraph (C) of section 57(a)(5) is amended by striking clause (ii) and redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively.

(27) Paragraph (3) of section 103(b) is amended by inserting "and section 150(f)" after "section 149".

(28) Paragraph (3) of section 265(b) is amended—

(A) by striking clause (ii) of subparagraph (B) and inserting the following:

"(ii) CERTAIN BONDS NOT TREATED AS PRIVATE ACTIVITY BONDS.—For purposes of clause (i)(II), there shall not be treated as a private activity bond any obligation issued to refund (or which is part of a series of obligations issued to refund) an obligation issued before August 8, 1986, which was not an industrial development bond (as defined in section 103(b)(2) as in effect on the day before the date of the enactment of the Tax Reform Act of 1986 (or a private loan bond (as defined in section 103(o)(2)(A), as so in effect, but without regard to any exemption from such definition other than section 103(o)(2)(A))))."; and

(B) by striking "(other than a qualified 501(c)(3) bond, as defined in section 145)" in subparagraph (C)(ii)(I).

(f) Effective Date; Special Rule.—The amendments made by this section shall apply to bonds issued after December 31, 1992.

(2) SPECIAL RULE FOR CERTAIN BONDS ISSUED AFTER DATE OF ENACTMENT.—

(A) In general.—The amendments made by this section shall not apply to any bond which—

(i) is issued after the date of the enactment of this Act, and

(ii) is part of an issue which is subject to any transitional rule under subtitle B of title XIII of the Tax Reform Act of 1986.

(B) Election out.—This paragraph shall not apply to any issue with respect to which the issuer elects not to have this paragraph apply.

SEC. 4527. AUTHORITY TO TERMINATE REQUIRED INCLUSION OF TAX-EXEMPT INTEREST ON RETURN.

Subsection (d) of section 6012 (relating to tax-exempt interest required to be shown on return) is amended by adding at the end thereof the following new sentence: "The Secretary may by regulations provide that the preceding sentence shall not apply in any case in which the Secretary determines that the disclosure of such interest is not useful for tax administration."

SEC. 4528. REPEAL OF EXPIRED PROVISIONS.

(a) Paragraph (2) of section 148(c) is amended by striking subparagraph (B) and by redesignating subparagraphs (C), (D), and (E) as subparagraph (B), (C), and (D), respectively.

(b) Paragraph (4) of section 148(f) is amended by striking subparagraph (E).

SEC. 4529. EFFECTIVE DATE.

Except as otherwise provided, the amendments made by this subtitle shall apply to bonds issued after the date of the enactment of this Act.

PART IV—ELECTION OF ALTERNATIVE TAXABLE YEARS

SEC. 4531. ELECTION OF TAXABLE YEAR OTHER THAN REQUIRED TAXABLE YEAR.

(a) Limitations on Taxable Years Which May Be Elected.—Subsection (b) of section 444 (relating to limitations on taxable years which may be elected) is amended to read as follows:

"(b) Taxable Year Must Be Same as Reporting Period.—If an entity has annual reports or statements—

"(1) which ascertain income, profit, or loss of the entity, and

"(2) which are—

"(A) provided to shareholders, partners, or other proprietors, or

"(B) used for credit purposes,

the entity may make an election under subsection (a) only if the taxable year elected covers the same period as such reports or statements."

(b) Period of Election.—Section 444(d)(2) (relating to period of election) is amended to read as follows:

"(2) Period of election.—

"(A) In general.—An election under subsection (a) shall remain in effect until the partnership, S corporation, or personal service corporation terminates the election and adopts the required taxable year.

"(B) CHANGE NOT TREATED AS TERMINATION.—For purposes of subparagraph (A), a change from a taxable year which is not a required taxable year to another such taxable year shall not be treated as a termination."

(c) Exception for Trusts.—Section 444(d)(3) (relating to tiered structures) is amended by adding at the end thereof the following new subparagraph:

"(C) Exception for certain structures that include trusts.—An entity shall not be considered to be part of a tiered structure to which subparagraph (A) applies solely because a trust owning an interest in such entity is a trust all of the beneficiaries of which use a calendar year for their taxable year."

(d) Regulations.—Subsection (g) of section 444 (relating to regulations) is amended to read as follows:

"(g) Regulations.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section, including regulations—

"(1) to prevent the avoidance of the provisions of this section through a change in entity or form of an entity,

"(2) to prevent the carryback to any preceding taxable year of a net operating loss (or similar item) arising in any short taxable year created pursuant to an election or termination of an election under this section, and

"(3) to provide for the termination of an election under subsection (a) if an entity does not continue to meet the requirements of subsection (b)."

SEC. 4532. REQUIRED PAYMENTS FOR ENTITIES ELECTING NOT TO HAVE REQUIRED TAXABLE YEAR.

(a) Additional Required Payment.—

(1) In general.—Section 7519(b) (defining required payment) is amended to read as follows:

"(b) Required Payment.—For purposes of this section—

"(1) In general.—The term 'required payment' means, with respect to any applicable election year of a partnership or S corporation, an amount equal to the excess (if any) of—

"(A) the adjusted highest section 1 rate, multiplied by the net base year income of the entity, over

"(B) the net required payment balance.

For purposes of paragraph (1)(A), the term 'adjusted highest section 1 rate' means the highest rate of tax in effect under section 1 as of the close of the first required taxable year ending within such year, plus 2 percentage points.

"(2) ADDITIONAL PAYMENT FOR NEW APPLICABLE ELECTION YEARS.—

"(A) IN GENERAL.—In the case of a new applicable election year, the required payment shall include, in addition to any amount determined under paragraph (1), the amount determined under subparagraph (C).

"(B) NEW APPLICABLE ELECTION YEAR.—For purposes of this section, the term 'new applicable election year' means any applicable election year—

"(i) with respect to which the preceding taxable year was not an applicable election year, or

"(ii) which covers a different period than the preceding taxable year by reason of a change described in section 444(d)(2)(B).

If any year described in the preceding sentence is a short taxable year which does not include the last day of the required taxable year, the new applicable election year shall be the taxable year following the short taxable year.

"(C) ADDITIONAL AMOUNT.—For purposes of subparagraph (A), the amount determined under this subparagraph shall be—

"(i) in the case of a year described in subparagraph (B)(i), 75 percent of the required payment for the year, and

"(ii) in the case of a year described in subparagraph (B)(ii), 75 percent of the excess (if any) of—

"(I) the required payment for the year, over

"(II) the required payment for the year which would have been computed if the change described in subparagraph (B)(ii) had not occurred.

"(D) REQUIRED PAYMENT.—For purposes of this paragraph, the term 'required payment' means the payment required by this section (determined without regard to this paragraph)."

(2) DUE DATE.—Paragraph (2) of section 7519(f) (defining due date) is amended to read as follows:

"(2) DUE DATE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the amount of any required payment for any applicable election year shall be paid on or before May 15 of the calendar year following the calendar year in which the applicable election year begins.

"(B) SPECIAL RULE WHERE NEW APPLICABLE ELECTION YEAR ADOPTED.—In the case of a new applicable election year, the portion of any required payment determined under subsection (b)(2) shall be paid on or before September 15 of the calendar year in which the applicable election year begins."

(3) PENALTIES.—

(A) IN GENERAL.—Section 7519(f)(4) (relating to penalties) is amended by adding at the end thereof the following new subparagraph:

"(D) FAILURE TO PAY ADDITIONAL AMOUNT.—In the case of any failure by any entity to pay on the date prescribed therefore the portion of any required payment described in subsection (b)(2) for any applicable election year—

"(i) subparagraph (A) shall not apply, but

"(ii) the entity shall, for purposes of this title, be treated as having terminated the election under section 444 for such year and changed to the required taxable year."

(B) CONFORMING AMENDMENT.—Section 7519(f)(4)(A) is amended by striking "In" and inserting "Except as provided in subparagraph (D), in".

(4) REFUNDS.—Section 7519(c)(2)(A) (relating to refund of payments) is amended to read as follows:

"(A) an election under section 444 is not in effect for any year but was in effect for the preceding year, or".

(5) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 7519(c) is amended—

(i) by striking "subsection (b)(2)" and inserting "subsection (b)(1)(B)", and

(ii) by striking "subsection (b)(1)" and inserting "subsection (b)(1)(A)".

(B) Subsection (d) of section 7519 is amended by striking paragraph (4) and redesignating paragraph (5) as paragraph (4).

(b) OTHER DEFINITIONS AND SPECIAL RULES.—

(1) REFUND.—Paragraph (3) of section 7519(c) (relating to date on which refund payable) is amended in the matter preceding subparagraph (A) by striking "on the later of" and inserting "by the later of".

(2) DEFERRAL RATIO.—The last sentence of paragraph (1) of section 7519(d) is amended to read as follows: "Except as provided in regulations, the term 'deferral ratio' means the ratio which the number of months in the deferral period of the applicable election year bears to the number of months in the applicable election year."

(3) NET INCOME.—Paragraph (2) of section 7519(d) is amended by adding at the end the following new subparagraph:

"(D) EXCESS APPLICABLE PAYMENTS FOR BASE YEAR.—In the case of any new applicable election year, the net income for the base year shall be increased by the excess (if any) of—

"(i) the applicable payments taken into account in determining net income for the base year, over

"(ii) 120 percent of the average amount of applicable payments made during the first 3 taxable years preceding the base year."

(4) DEFERRAL PERIOD.—Paragraph (1) of section 7519(e) (defining deferral period) is amended to read as follows:

"(1) DEFERRAL PERIOD.—Except as provided in regulations, the term 'deferral period' means, with respect to any taxable year of the entity, the months between—

"(A) the beginning of such year, and

"(B) the close of the first required taxable year (as defined in section 444(e)) ending within such year."

(5) BASE YEAR.—

(A) IN GENERAL.—Paragraph (2)(A) of section 7519(e) (defining base year) is amended to read as follows:

"(A) BASE YEAR.—The term 'base year' means, with respect to any applicable election year, the first taxable year of 12 months (or 52–53 weeks) of the partnership or S corporation preceding such applicable election year."

(B) CONFORMING AMENDMENT.—Paragraph (2) of subsection (g) of section 7519 is amended to read as follows:

"(2) there is no base year described in subsection (e)(2)(A) or no preceding taxable year described in section 280H(c)(1)(A)(i)."

(c) INTEREST.—Section 7519(f)(3) (relating to interest) is amended to read as follows:

"(3) INTEREST.—For purposes of determining interest, any payment required by this section shall be treated as a tax, except that interest shall be allowed with respect to any refund of a payment under this section only for the period from the latest date specified in subsection (c)(3) for such refund to the actual date of payment of such refund."

SEC. 4533. LIMITATION ON CERTAIN AMOUNTS PAID TO EMPLOYEE-OWNERS OF PERSONAL SERVICE CORPORATIONS.

(a) CARRYOVER OF NONDEDUCTIBLE AMOUNTS.—Subsection (b) of section 280H (relating to carryover of nondeductible amounts) is amended to read as follows:

"(b) CARRYOVER OF NONDEDUCTIBLE AMOUNTS.—Any amount not allowed as a deduction for a taxable year pursuant to subsection (a) shall be allowed as a deduction in the succeeding taxable year."

(b) MINIMUM DISTRIBUTION REQUIREMENT.—Paragraph (1) of section 280H(c) is amended to read as follows:

"(1) IN GENERAL.—A personal service corporation meets the minimum distribution requirements of this subsection if the applicable amounts paid during the deferral period of the taxable year equal or exceed the lesser of—

"(A) 110 percent of the product of—

"(i) the applicable amounts paid during the first preceding taxable year of 12 months (or 52–53 weeks), divided by 12, and

"(ii) the number of months in the deferral period of the taxable year, or

"(B) 110 percent of the amount equal to the applicable percentage of the adjusted taxable income for the deferral period of the taxable year."

(c) DISALLOWANCE OF NOL CARRYBACKS.—Subsection (e) of section 280H (relating to disallowance of net operating loss carrybacks) is amended by striking "to (or from)" and inserting "from".

(d) CONFORMING AMENDMENT.—Subparagraph (A) of section 280H(f)(3) (relating to deferral period) is amended by striking "section 444(b)(4)" and inserting "section 7519(e)(1)".

SEC. 4534. EFFECTIVE DATE.

The amendments made by this Act shall apply to taxable years beginning after December 31, 1991.

PART V—COOPERATIVES

SEC. 4541. TREATMENT OF CERTAIN LOAN REQUIREMENTS.

(a) IN GENERAL.—Subparagraph (C) of section 501(c)(12) is amended by striking "or" at the end of clause (i), by striking the period at the end of clause (ii) and inserting ", or", and by adding at the end the following new clause:

"(i) from the prepayment of any loan under section 2387 of the Food, Agricultural, Conservation, and Trade Act of 1990 (as in effect on January 1, 1992)."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning before, on, or after the date of the enactment of this Act.

SEC. 4542. COOPERATIVE SERVICE ORGANIZATIONS FOR CERTAIN FOUNDATIONS.

(a) IN GENERAL.—Section 501 (relating to exemption from tax on corporations, certain trusts, etc.), is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) COOPERATIVE SERVICE ORGANIZATIONS FOR CERTAIN FOUNDATIONS.—

"(1) IN GENERAL.—For purposes of this title, if an organization—

"(A) is organized and operated solely for purposes referred to in subsection (f)(1),

"(B) is comprised solely of members which are exempt from taxation under subsection (a) and are—

"(i) private foundations, or

"(ii) community foundations as to which section 170(b)(1)(A)(vi) applies,

"(C) has at least 20 members,

"(D) does not at any time after the second taxable year beginning after the date of its organization, or, if later, the date of the enactment of this subsection, have a member which holds more than 10 percent (by value) of the interests in the organization,

"(E) is not controlled by any one member and does not have a member which controls another member of the organization, and

"(F) permits members of the organization to require the dismissal of any of the organization's investment advisors, following reasonable notice, upon a vote of the members holding a majority of interest in the account managed by such advisor, then such organization shall be treated as an organization organized and operated exclusively for charitable purposes.

"(2) TREATMENT OF INCOME OF MEMBERS.—If any member of an organization described in paragraph (1) is a private foundation (other than an exempt operating foundation, as defined in section 4940(d)), such private foundation's allocable share of the capital gain net income and gross investment income of the organization for any taxable year of the organization shall be treated, for purposes of section 4940, as capital gain net income and gross investment income of such private foundation (whether or not distributed to such foundation) for the taxable year of such private foundation with or within which the taxable year of the organization described in paragraph (1) ends.

"(3) APPLICABLE EXCISE TAXES.—Subchapter A of chapter 42 (other than sections 4940 and 4942) shall apply to any organization described in paragraph (1)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 4543. TREATMENT OF CERTAIN AMOUNTS RECEIVED BY A COOPERATIVE TELEPHONE COMPANY.

(a) NONMEMBER INCOME.—

(1) IN GENERAL.—Paragraph (12) of section 501(c) (relating to list of exempt organizations) is amended by adding at the end thereof the following new subparagraph:

"(E) In the case of a mutual or cooperative telephone company (hereafter in this subparagraph referred to as the 'cooperative'), 50 percent of the income received or accrued directly or indirectly from a nonmember telephone company for the performance of communication services by the cooperative shall be treated for purposes of subparagraph (A) as collected from members of the cooperative for the sole purpose of meeting the losses and expenses of the cooperative."

(2) CERTAIN BILLING AND COLLECTION SERVICE FEES NOT TAKEN INTO ACCOUNT.—Subparagraph (B) of section 501(c)(12) is amended by striking "or" at the end of clause (iii), by striking the period at the end of clause (iv) and inserting ", or", and by adding at the end thereof the following new clause:

"(v) from billing and collection services performed for a nonmember telephone company.".

(3) CONFORMING AMENDMENT.—Clause (i) of section 501(c)(12)(B) is amended by inserting before the comma ", other than income described in subparagraph (E)".

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning before, on, or after the date of the enactment of this Act.

(5) NO INFERENCE AS TO UNRELATED BUSINESS INCOME TREATMENT OF BILLING AND COLLECTION SERVICE FEES.—Nothing in the amendments made by this subsection shall be construed to indicate the proper treatment of billing and collection service fees under part III of subchapter F of chapter 1 of the Internal Revenue Code of 1986 (relating to taxation of business income of certain exempt organizations).

(b) TREATMENT OF CERTAIN INVESTMENT INCOME OF MUTUAL OR COOPERATIVE TELEPHONE COMPANIES.—

(1) IN GENERAL.—Paragraph (12) of section 501(c) (relating to list of exempt organizations) is amended by adding at the end thereof the following new subparagraph:

"(F) In the case of a mutual or cooperative telephone company, subparagraph (A) shall be applied without taking into account reserve income (as defined in section 512(d)(2)) if such income, when added to other income not collected from members for the sole purpose of meeting losses and expenses, does not exceed 35 percent of the company's total income."

(2) PORTION OF INVESTMENT INCOME SUBJECT TO UNRELATED BUSINESS INCOME TAX.—Section 512 is amended by adding at the end thereof the following new subsection:

"(d) INVESTMENT INCOME OF CERTAIN MUTUAL OR COOPERATIVE TELEPHONE COMPANIES.—

"(1) IN GENERAL.—In determining the unrelated business taxable income of a mutual or cooperative telephone company described in section 501(c)(12)—

"(A) there shall be included, as an item of gross income derived from an unrelated trade or business, reserve income to the extent such reserve income, when added to other income not collected from members for the sole purpose of meeting losses and expenses, exceeds 15 percent of the company's total income, and

"(B) there shall be allowed all deductions directly connected with the portion of the reserve income which is so included.

"(2) RESERVE INCOME.—For purposes of paragraph (1), the term 'reserve income' means income—

"(A) which would (but for this subsection) be excluded under subsection (b), and

"(B) which is derived from assets set aside for the repair or replacement of telephone system facilities of such company."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 4544. TAX TREATMENT OF COOPERATIVE HOUSING CORPORATIONS.

(a) SECTION 277 NOT TO APPLY TO COOPERATIVE HOUSING CORPORATIONS.—Section 277(b) (relating to exceptions) is amended by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting a comma and "or", and by adding at the end thereof the following new paragraph:

"(5) which for the taxable year is a cooperative housing corporation described in section 216(b)(1) (determined without regard to section 143(k)(9)(E))."

(b) APPLICATION OF RULES RELATING TO TAX TREATMENT OF COOPERATIVES.—

(1) PATRONAGE EARNINGS MAY BE OFFSET ONLY BY PATRONAGE LOSSES.—Section 1388(a) is amended by adding at the end the following new sentence: "In no event shall any patronage losses of an organization described in section 277(b)(5) be used to offset earnings which are not patronage earnings."

(2) PATRONAGE EARNINGS AND LOSSES OF COOPERATIVE HOUSING CORPORATIONS.—Section 1388 is amended by adding at the end the following new subsection:

"(k) PATRONAGE EARNINGS OR LOSSES DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The terms 'patronage earnings' and 'patronage losses' mean earnings and losses, respectively, which are derived from business done with or for patrons of the organization.

"(2) SPECIAL RULES FOR COOPERATIVE HOUSING CORPORATION.—In the case of a cooperative housing corporation, the following earnings shall be treated as patronage earnings:

"(A) Interest on reasonable reserves established in connection with the corporation, including reserves required by a governmental agency or lender.

"(B) Income from laundry and parking facilities to the extent attributable to use of the facilities by tenant-stockholders and their guests.

"(C) In the case of a limited equity cooperative housing corporation, rental income from other than tenant-stockholders to the extent attributable to any project operated by the corporation.

"(3) DEFINITIONS.—For purposes of paragraph (2)—

"(A) COOPERATIVE HOUSING CORPORATION.—The term 'cooperative housing corporation' has the meaning given such term by section 216(b)(1) (without regard to section 143(k)(9)(E)).

"(B) LIMITED EQUITY COOPERATIVE HOUSING CORPORATION.—The term 'limited equity cooperative housing corporation' means a cooperative housing corporation with respect to which the requirements of clause (i) of section 143(k)(9)(D) are met at all times during the taxable year.

"(C) TENANT-STOCKHOLDER.—The term 'tenant-stockholder' has the meaning given such term by section 216(b)(2)."

(3) CONFORMING AMENDMENT.—Section 1388(j) is amended by striking paragraph (4).

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

(2) NO INFERENCE.—Nothing in the provisions of this section shall be construed as a change in the treatment of income derived by any cooperative housing corporation, or any corporation operating on a cooperative basis under section 1381 of the Internal Revenue Code of 1986, and the treatment of such income for any year to which the amendments made by this section does not apply shall be made as if this section had not been enacted.

SEC. 4545. TREATMENT OF SAFE HARBOR LEASES INVOLVING RURAL ELECTRIC COOPERATIVES.

(a) IN GENERAL.—In the case of a rural electric cooperative described in section 1381(a)(2)(C) of the Internal Revenue Code of 1986, any interest income in connection with a transaction involving qualified leased property which was treated as a lease under section 168(i) of the Internal Revenue Code of 1986 (as in effect before the amendments made by the Tax Reform Act of 1986) or any corresponding prior provision of law shall be offset by any rental expense in connection with such transaction before allocation of such income or expense to members and nonmembers of such cooperatives for purposes of such Code.

(b) EFFECTIVE DATE.—The provisions of subsection (a) shall apply to taxable years beginning before, on, or after the date of the enactment of this Act.

PART VI—EMPLOYMENT

SEC. 4551. CREDIT FOR PORTION OF EMPLOYER SOCIAL SECURITY TAXES PAID WITH RESPECT TO EMPLOYEE CASH TIPS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits) is amended by adding at the end the following new section:

"SEC. 45. CREDIT FOR PORTION OF EMPLOYER SOCIAL SECURITY TAXES PAID WITH RESPECT TO EMPLOYEE CASH TIPS.

"(a) GENERAL RULE.—For purposes of section 38, the employer social security credit determined under this section for the taxable year is an amount equal to the excess employer social security tax paid or incurred by the taxpayer during the taxable year.

"(b) EXCESS EMPLOYER SOCIAL SECURITY TAX.—For purposes of this section, the term 'excess employer social security tax' means any tax paid by an employer under section 3111 with respect to tips received by an employee during any month, to the extent such tips—

"(1) are deemed to have been paid by the employer to the employee pursuant to section 3121(q), and

"(2) exceed the amount by which the wages (excluding tips) paid by the employer to the employee during such month are less than the total amount which would be payable (with respect to such employment) at the minimum wage rate applicable to such individual under section 6(a)(1) of the Fair Labor Standards Act of 1938 (deter-

mined without regard to section 3(m) of such Act).

"(c) DENIAL OF DOUBLE BENEFIT.—No deduction shall be allowed under this chapter for any amount taken into account in determining the credit under this section."

(b) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—

(1) IN GENERAL.—Subsection (b) of section 38 of such Code (relating to current year business credit) is amended by striking "plus" at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting ", plus", and by adding at the end the following new paragraph:

"(8) the employer social security credit determined under section 45(a)."

(2) LIMITATION ON CARRYBACKS.—Subsection (d) of section 39 of such Code (relating to transitional rules) is amended—

(A) by redesignating the paragraph added by section 11511(b)(2) of the Revenue Reconciliation Act of 1990 as paragraph (1),

(B) by redesignating the paragraph added by section 11611(b)(2) of such Act as paragraph (2), and

(C) by adding at the end the following new paragraph:

"(3) NO CARRYBACK OF SECTION 45 CREDIT BEFORE ENACTMENT.—No portion of the unused business credit for any taxable year which is attributable to the employer social security credit determined under section 45 may be carried back to a taxable year ending before the date of the enactment of section 45."

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end the following new item:

"Sec. 45. Employer social security credit."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to tips received (and wages paid) after the date of the enactment of this Act.

SEC. 4552. ELIMINATION OF DEDUCTION FOR CLUB MEMBERSHIP FEES.

(a) IN GENERAL.—Section 162 (relating to trade or business expenses), as amended by sections 3006 and 4108, is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

"(o) CLUB MEMBERSHIP DUES.—No deduction shall be allowed under this chapter for amounts paid or incurred for membership in any club organized for business, pleasure, recreation, or other social purpose."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to dues paid after the date of the enactment of this Act.

SEC. 4553. CLARIFICATION OF EMPLOYMENT TAX STATUS OF CERTAIN FISHERMEN.

(a) AMENDMENTS OF INTERNAL REVENUE CODE OF 1986.—

(1) DETERMINATION OF SIZE OF CREW.—Subsection (b) of section 3121 (defining employment) is amended by adding at the end thereof the following new sentence:

"For purposes of paragraph (20), the operating crew of a boat shall be treated as normally made up of fewer than 10 individuals if the average size of the operating crew on trips made during the preceding 4 calendar quarters consisted of fewer than 10 individuals."

(2) CERTAIN CASH REMUNERATION PERMITTED.—Subparagraph (A) of section 3121(b)(20) is amended to read as follows:

"(A) such individual does not receive any cash remuneration other than as provided in subparagraph (B) and other than cash remuneration—

"(i) which does not exceed $100 per trip;

"(ii) which is contingent on a minimum catch; and

"(iii) which is paid solely for additional duties (such as mate, engineer, or cook) for which additional cash remuneration is traditional in the industry,".

(b) AMENDMENT OF SOCIAL SECURITY ACT.—

(1) DETERMINATION OF SIZE OF CREW.—Subsection (a) of section 210 of the Social Security Act is amended by adding at the end thereof the following new sentence:

"For purposes of paragraph (20), the operating crew of a boat shall be treated as normally made up of fewer than 10 individuals if the average size of the operating crew on trips made during the preceding 4 calendar quarters consisted of fewer than 10 individuals."

(2) CERTAIN CASH REMUNERATION PERMITTED.—Subparagraph (A) of section 210(a)(20) of such Act is amended to read as follows:

"(A) such individual does not receive any additional compensation other than as provided in subparagraph (B) and other than cash remuneration—

"(i) which does not exceed $100 per trip;

"(ii) which is contingent on a minimum catch; and

"(iii) which is paid solely for additional duties (such as mate, engineer, or cook) for which additional cash remuneration is traditional in the industry,".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to remuneration paid after December 31, 1992.

(2) SPECIAL RULE.—The amendments made by this section shall also apply to remuneration paid after December 31, 1984, and before January 1, 1993, unless the payor treated such remuneration (when paid) as being subject to tax under chapter 21 of the Internal Revenue Code of 1986.

PART VII—OTHER PROVISIONS

SEC. 4561. CLOSING OF PARTNERSHIP TAXABLE YEAR WITH RESPECT TO DECEASED PARTNER.

(a) GENERAL RULE.—Subparagraph (A) of section 706(c)(2) (relating to disposition of entire interest) is amended to read as follows:

"(A) DISPOSITION OF ENTIRE INTEREST.—The taxable year of a partnership shall close with respect to a partner whose entire interest in the partnership terminates (whether by reason of death, liquidation, or otherwise)."

(b) CLERICAL AMENDMENT.—The paragraph heading for paragraph (2) of section 706(c) is amended to read as follows:

"(2) TREATMENT OF DISPOSITIONS.—".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership taxable years beginning after December 31, 1991.

SEC. 4562. REPEAL OF SPECIAL TREATMENT OF OWNERSHIP CHANGES IN DETERMINING ADJUSTED CURRENT EARNINGS.

(a) GENERAL RULE.—Paragraph (4) of section 56(g) (relating to adjustments) is amended by striking subparagraph (G) and by redesignating the following subparagraph as paragraph (G).

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to ownership changes after December 31, 1991.

SEC. 4563. AUTHORIZATION FOR BUREAU OF LAND MANAGEMENT USE OF REFORESTATION TRUST FUND.

Section 303 of Public Law 96–451 (16 U.S.C. 1606a) is amended—

(1) in subsection (b)—

(A) in paragraph (2), by striking "$30,000,000" and inserting "$45,000,000"; and

(B) by adding at the end thereof the following new paragraphs:

"(4) Of the amounts transferred to the Trust Fund under paragraph (1) in any fiscal year—

"(A) $30,000,000 shall be allocated and made available to the Secretary of Agriculture; and

"(B) the remaining balance shall be allocated and made available to the Secretary of the Interior.

"(5)(A) If the remaining balance allocated and made available to the Secretary of the Interior under paragraph (4)(B) is less than $15,000,000 in any fiscal year, the Secretary of the Treasury shall transfer to the Trust Fund and make available to the Secretary of the Interior, in accordance with subparagraph (B), an amount equal to the difference between $15,000,000 and the remaining balance.

"(B) The amount transferred pursuant to subparagraph (A) shall be obtained as follows:

"(i) 93⅓ percent of the amount shall be taken from the Federal portion of the Bureau of Land Management timber receipt payments from the Coos Bay Wagon Road grant lands in Oregon; and

"(ii) the remainder of the amount shall be taken from the Federal portion of the Bureau of Land Management timber receipt payments from public domain lands in the States.";

(2) in the first sentence of subsection (c)(1) by inserting "and the Secretary of the Interior" after "Secretary of Agriculture";

(3) in subsection (d)—

(A) by striking "available" and inserting "available to the Secretary of Agriculture"; and

(B) by striking "amounts" and inserting "amounts that were available to the Secretary of Agriculture but"; and

(4) by adding at the end thereof the following new subsection:

"(e)(1) In accordance with paragraph (2), the Secretary of the Interior may obligate, in each fiscal year, such sums as are available to the Secretary of the Interior in the Trust Fund to supplement expenditures of the Bureau of Land Management for, in order of priority—

"(A) reforestation and forest development of public lands administered by the Secretary of the Interior acting through the Bureau of Land Management, including projects to improve the overall health and productivity of the forest ecosystem;

"(B) negotiation and implementation of cooperative relationships, including the acquisition of voluntary cooperative conservation easements, when such relationships promote or enhance successful reforestation or forest development or contribute to the long-term productivity of the forest ecosystem; and

"(C) properly allocable administrative costs of the Federal Government for the activities described in subparagraphs (A) and (B).

"(2) The Secretary of the Interior shall allocate the sums described in paragraph (1) as follows:

"(A) $14,000,000 for Oregon and California Railroad and Coos Bay Wagon Road grant lands in Oregon; and

"(B) $1,000,000 for public domain lands, to be allocated among the States in which the lands are located by taking into account, in order of priority—

"(i) the level of timber sales (measured in board feet) from the public domain lands within each State in the previous calendar year;

"(ii) the amount of reforestation backlog in the State;

"(iii) the need for planting as part of the reforestation program; and

"(iv) the need for forest development as part of the reforestation program."

SEC. 4564. REPEAL OF INVESTMENT RESTRICTIONS APPLICABLE TO NUCLEAR DECOMMISSIONING FUNDS.

(a) IN GENERAL.—Subparagraph (C) of section 468A(e)(4) (relating to special rules for nuclear decommissioning funds) is amended by striking "described in section 501(c)(21)(B)(ii)".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 4565. MODIFICATION OF CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.

(a) IN GENERAL.—Subparagraph (A) of section 29(c)(2) (relating to gas from geopressured brine, etc.) is amended by adding at the end the following new sentence: "If the Federal Energy Regulatory Commission ceases to make the determinations described in the preceding sentence, the Secretary shall make such determinations in accordance with section 503 of such Act."

(b) CONFORMING AMENDMENT.—Section 29(c)(2)(A) is amended by inserting "(as in effect before its repeal by the Natural Gas Wellhead Decontrol Act of 1989) after "Natural Gas Policy Act of 1978".

Subtitle F—Estate And Gift Tax Provisions

SEC. 4601. CLARIFICATION OF WAIVER OF CERTAIN RIGHTS OF RECOVERY.

(a) AMENDMENT TO SECTION 2207A.—Paragraph (2) of section 2207A(a) (relating to right of recovery in the case of certain marital deduction property) is amended to read as follows:

"(2) DECEDENT MAY OTHERWISE DIRECT.—Paragraph (1) shall not apply with respect to any property to the extent that the decedent in his will (or a revocable trust) specifically indicates an intent to waive any right of recovery under this subchapter with respect to such property."

(b) AMENDMENT TO SECTION 2207B.—Paragraph (2) of section 2207B(a) (relating to right of recovery where decedent retained interest) is amended to read as follows:

"(2) DECEDENT MAY OTHERWISE DIRECT.—Paragraph (1) shall not apply with respect to any property to the extent that the decedent in his will (or a revocable trust) specifically indicates an intent to waive any right of recovery under this subchapter with respect to such property."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to the estates of decedents dying after the date of the enactment of this Act.

SEC. 4602. ADJUSTMENTS FOR GIFTS WITHIN 3 YEARS OF DECEDENT'S DEATH.

(a) GENERAL RULE.—Section 2035 is amended to read as follows:

"SEC. 2035. ADJUSTMENTS FOR CERTAIN GIFTS MADE WITHIN 3 YEARS OF DECEDENT'S DEATH.

"(a) INCLUSION OF CERTAIN PROPERTY IN GROSS ESTATE.—If—

"(1) the decedent made a transfer (by trust or otherwise) of an interest in any property, or relinquished a power with respect to any property, during the 3-year period ending on the date of the decedent's death, and

"(2) the value of such property (or an interest therein) would have been included in the decedent's gross estate under section 2036, 2037, 2038, or 2042 if such transferred interest or relinquished power had been retained by the decedent on the date of his death,

the value of the gross estate shall include the value of any property (or interest therein) which would have been so included.

"(b) INCLUSION OF GIFT TAX ON GIFTS MADE DURING 3 YEARS BEFORE DECEDENT'S DEATH.—The amount of the gross estate (determined without regard to this subsection) shall be increased by the amount of any tax paid under chapter 12 by the decedent or his estate on any gift made by the decedent or his spouse during the 3-year period ending on the date of the decedent's death.

"(c) OTHER RULES RELATING TO TRANSFERS WITHIN 3 YEARS OF DEATH.—

"(1) IN GENERAL.—For purposes of—

"(A) section 303(b) (relating to distributions in redemption of stock to pay death taxes),

"(B) section 2032A (relating to special valuation of certain farms, etc., real property), and

"(C) subchapter C of chapter 64 (relating to lien for taxes),

the value of the gross estate shall include the value of all property to the extent of any interest therein of which the decedent has at any time made a transfer, by trust or otherwise, during the 3-year period ending on the date of the decedent's death.

"(2) COORDINATION WITH SECTION 6166.—An estate shall be treated as meeting the 35 percent of adjusted gross estate requirement of section 6166(a)(1) only if the estate meets such requirement both with and without the application of paragraph (1).

"(3) SMALL TRANSFERS.—Paragraph (1) shall not apply to any transfer (other than a transfer with respect to a life insurance policy) made during a calendar year to any donee if the decedent was not required by section 6019 (other than by reason of section 6019(a)(2)) to file any gift tax return for such year with respect to transfers to such donee.

"(d) EXCEPTION.—Subsection (a) shall not apply to any bona fide sale for an adequate and full consideration in money or money's worth.

"(e) TREATMENT OF CERTAIN REVOCABLE TRUSTS.—For purposes of this section and section 2038, any transfer from any portion of a trust with respect to which the decedent was the grantor during any period when the decedent held the power to revest in the decedent title to such portion shall be treated as a transfer made directly by the decedent."

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter A of chapter 11 is amended by striking "gifts" in the item relating to section 2035 and inserting "certain gifts".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to the estates of decedents dying after the date of the enactment of this Act.

SEC. 4603. CLARIFICATION OF QUALIFIED TERMINABLE INTEREST RULES.

(a) GENERAL RULE.—

(1) ESTATE TAX.—Subparagraph (B) of section 2056(b)(7) (defining qualified terminable interest property) is amended by adding at the end thereof the following new clause:

"(v)(i) TREATMENT OF CERTAIN INCOME DISTRIBUTIONS.—An income interest shall not fail to qualify as a qualified income interest for life solely because income for the period after the last distribution date and on or before the date of the surviving spouse's death is not required to be distributed to the surviving spouse or to the estate of the surviving spouse."

(2) GIFT TAX.—Paragraph (3) of section 2523(f) is amended by striking "and (iv)" and inserting ", (iv), and (vi)".

(b) CLARIFICATION OF SUBSEQUENT INCLUSIONS.—Section 2044 is amended by adding at the end thereof the following new subsection:

"(d) CLARIFICATION OF INCLUSION OF CERTAIN INCOME.—The amount included in the gross estate under subsection (a) shall include the amount of any income from the property to which this section applies for the period after the last distribution date and on or before the date of the decedent's death if such income is not otherwise included in the decedent's gross estate."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to the estates of decedents dying, and gifts made, after the date of the enactment of this Act.

(2) APPLICATION OF SECTION 2044 TO TRANSFERS BEFORE DATE OF ENACTMENT.—In the case of the estate of any decedent dying after the date of the enactment of this Act, if there was a transfer of property on or before such date—

(A) such property shall not be included in the gross estate of the decedent under section 2044 of the Internal Revenue Code of 1986 if no prior marital deduction was allowed with respect to such a transfer of such property to the decedent, but

(B) such property shall be so included if such a deduction was allowed.

SEC. 4604. TREATMENT OF PORTIONS OF PROPERTY UNDER MARITAL DEDUCTION.

(a) ESTATE TAX.—Subsection (b) of section 2056 (relating to limitation in case of life estate or other terminable interest) is amended by adding at the end thereof the following new paragraph:

"(10) SPECIFIC PORTION.—For purposes of paragraphs (5), (6), and (7)(B)(iv), the term 'specific portion' only includes a portion determined on a fractional or percentage basis."

(b) GIFT TAX.—

(1) Subsection (e) of section 2523 is amended by adding at the end thereof the following new sentence: "For purposes of this subsection, the term 'specific portion' only includes a portion determined on a fractional or percentage basis."

(2) Paragraph (3) of section 2523(f) is amended by inserting before the period at the end thereof the following: "and the rules of section 2056(b)(10) shall apply".

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendment made by subsection (a) shall apply to the estates of decedents dying after the date of the enactment of this Act.

(B) EXCEPTION.—The amendment made by subsection (a) shall not apply to any interest in property which passes (or has passed) to the surviving spouse of the decedent pursuant to a will (or revocable trust) in existence on the date of the enactment of this Act if—

(i) the decedent dies on or before the date 3 years after such date of enactment, or

(ii) the decedent was, on such date of enactment, under a mental disability to change the disposition of his property and did not regain his competence to dispose of such property before the date of his death.

The preceding sentence shall not apply if such will (or revocable trust) is amended at any time after such date of enactment in any respect which will increase the amount of the interest which so passes or alters the terms of the transfer by which the interest so passes.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to gifts made after the date of the enactment of this Act.

SEC. 4605. TRANSITIONAL RULE UNDER SECTION 2056A.

(a) GENERAL RULE.—In the case of any trust created under an instrument executed before the date of the enactment of the Revenue Reconciliation Act of 1990, such trust shall be treated as meeting the requirements of paragraph (1) of section 2056A(a) of the Internal Revenue Code of 1986 if the trust instrument requires that all trustees of the trust be individual citizens of the United States or domestic corporations.

(b) EFFECTIVE DATE.—The provisions of subsection (a) shall take effect as if included in the provisions of section 11702(g) of the Revenue Reconciliation Act of 1990.

SEC. 4606. OPPORTUNITY TO CORRECT CERTAIN FAILURES UNDER SECTION 2032A.

(a) GENERAL RULE.—Paragraph (3) of section 2032A(d) (relating to modification of election and agreement to be permitted) is amended to read as follows:

"(3) MODIFICATION OF ELECTION AND AGREEMENT TO BE PERMITTED.—The Secretary shall prescribe procedures which provide that in any case in which the executor makes an election under paragraph (1) (and submits the agreement referred to in paragraph (2)) within the time prescribed therefor, but—

"(A) the notice of election, as filed, does not contain all required information, or

"(B) signatures of 1 or more persons required to enter into the agreement described in paragraph (2) are not included on the agreement as filed, or the agreement does not contain all required information,

the executor will have a reasonable period of time (not exceeding 90 days) after notification of such failures to provide such information or signatures."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to the estates of decedents dying after the date of the enactment of this Act.

SEC. 4607. REPEAL OF CERTAIN THROWBACK RULES APPLICABLE TO DOMESTIC TRUSTS.

(a) ACCUMULATION DISTRIBUTIONS.—

(1) IN GENERAL.—Section 665 is amended by adding at the end the following new subsection:

"(f) ACCUMULATION DISTRIBUTIONS AFTER 1992.—For purposes of this subpart—

"(1) IN GENERAL.—In the case of a qualified trust, the accumulation distribution for any taxable year beginning after December 31, 1992, shall be computed without regard to any undistributed net income attributable to any taxable year beginning after December 31, 1992.

"(2) QUALIFIED TRUST.—For purposes of this subsection, the term 'qualified trust' means any trust other than—

"(A) a foreign trust, or

"(B) a trust created before March 1, 1984, unless it is established that the trust would not be aggregated with other trusts under section 643(f) if such section applied to such trust."

(2) CONFORMING AMENDMENT.—Subsection (b) of section 665 is amended by inserting "except as provided in subsection (b)," after "subpart,"

(b) PROPERTY TRANSFERRED TO TRUSTS.—Subsection (e) of section 644 is amended by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting ", or ", and by adding at the end the following new paragraph:

"(5) in the case of a qualified trust (as defined in section 665(f)(2)), any sale or exchange of property after December 31, 1992."

(c) EFFECTIVE DATES.—

(1) ACCUMULATION DISTRIBUTION.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1992.

(2) TRANSFERRED PROPERTY.—The amendments made by subsection (b) shall apply to sales or exchanges after December 31, 1992.

Subtitle G—Excise Tax Simplification

PART I—FUEL TAX PROVISIONS

SEC. 4701. REPEAL OF CERTAIN RETAIL AND USE TAXES.

(a) IN GENERAL.—Section 4041 is amended to read as follows:

"SEC. 4041. SPECIAL MOTOR FUELS AND NONCOMMERCIAL AVIATION GASOLINE.

"(a) SPECIAL MOTOR FUELS.—

"(1) IN GENERAL.—There is hereby imposed a tax on benzol, benzene, naphtha, liquefied petroleum gas, casing head and natural gasoline, or any other liquid—

"(A) sold by any person to an owner, lessee, or other operator of a motor vehicle or a motorboat for use as a fuel in such motor vehicle or motorboat, or

"(B) used by any person as a fuel in a motor vehicle or motorboat unless there was a taxable sale of such liquid under subparagraph (A).

"(2) RATE OF TAX.—The rate of the tax imposed by this subsection shall be the aggregate rate of tax in effect under section 4081 at the time of such sale or use.

"(3) CERTAIN FUELS EXEMPT FROM TAX.—The tax imposed by this subsection shall not apply to gasoline (as defined in section 4082), diesel fuel (as defined in section 4092), kerosene, gas oil, or fuel oil.

"(4) REDUCED RATES OF TAX ON CERTAIN FUELS.—

"(A) QUALIFIED METHANOL AND ETHANOL FUEL.—

"(i) IN GENERAL.—In the case of any qualified methanol or ethanol fuel—

"(I) the Highway Trust Fund financing rate applicable under paragraph (2) shall be 5.4 cents per gallon less than the otherwise applicable rate (6 cents per gallon less in the case of a mixture none of the alcohol in which consists of ethanol), and

"(II) the Leaking Underground Storage Tank Trust Fund financing rate applicable under paragraph (2) shall be 0.05 cent per gallon.

"(ii) QUALIFIED METHANOL OR ETHANOL FUEL.—The term 'qualified methanol or ethanol fuel' means any liquid at least 85 percent of which consists of methanol, ethanol, or other alcohol produced from a substance other than petroleum or natural gas.

"(iii) TERMINATION.—Clause (i) shall not apply to any sale or use after September 30, 2000.

"(B) NATURAL GAS-DERIVED METHANOL OR ETHANOL FUEL.—

"(i) IN GENERAL.—In the case of natural gas-derived methanol or ethanol fuel—

"(I) the Highway Trust Fund financing rate applicable under paragraph (2) shall be 5.75 cents per gallon, and

"(II) the deficit reduction rate applicable under paragraph (2) shall be 1.25 cents per gallon.

"(ii) NATURAL GAS-DERIVED METHANOL OR ETHANOL FUEL.—The term 'natural-gas derived methanol or ethanol fuel' means any liquid at least 85 percent of which consists of methanol, ethanol, or other alcohol produced from natural gas.

"(C) OTHER FUELS CONTAINING ALCOHOL.—

"(i) IN GENERAL.—Under regulations prescribed by the Secretary, in the case of any liquid at least 10 percent of which consists of alcohol (as defined in section 4081(c)(3)), the Highway Trust Fund financing rate applicable under paragraph (2) shall be the comparable rate under section 4081.

"(ii) LATER SEPARATION.—If any person separates the liquid fuel from a mixture of the liquid fuel and alcohol to which clause (i) applies, such separation shall be treated as a sale of the liquid fuel. Any tax imposed on such sale shall be reduced by the amount (if any) of the tax imposed on the sale of such mixture.

"(iii) TERMINATION.—Clause (i) shall not apply to any sale or use after September 30, 2000.

"(D) LIQUEFIED PETROLEUM GAS.—The rate of tax applicable under paragraph (2) to liquefied petroleum gas shall be determined without regard to the Leaking Underground Storage Tank Trust Fund financing rate under section 4081.

"(5) EXEMPTION FOR OFF-HIGHWAY BUSINESS USE.—No tax shall be imposed by paragraph (1) on liquids sold for use or used in an off-highway business use (within the meaning of section 6420(f)).

"(b) NONCOMMERCIAL AVIATION GASOLINE.—

"(1) IN GENERAL.—There is hereby imposed a tax on gasoline—

"(A) sold by any person to an owner, lessee, or other operator of an aircraft for use as a fuel in such aircraft in noncommercial aviation, or

"(B) used by any person as a fuel in an aircraft in noncommercial aviation unless there was a taxable sale of such gasoline under subparagraph (A).

The tax imposed by this paragraph shall be in addition to any tax imposed by section 4081.

"(2) RATE OF TAX.—The rate of the tax imposed by paragraph (1) on any gasoline is the excess of 15 cents a gallon over the sum of the Highway Trust Fund financing rate plus the deficit reduction rate at which tax was imposed on such gasoline under section 4081.

"(3) NONCOMMERCIAL AVIATION.—For purposes of this subsection, the term 'noncommercial aviation' means any use of an aircraft other than use in a business of transporting persons or property for compensation or hire by air. Such term includes any use of an aircraft, in a business described in the preceding sentence, which is properly allocable to any transportation exempt from the taxes imposed by sections 4261 and 4271 by reason of section 4281 or 4282.

"(4) EXEMPTION FOR FUELS CONTAINING ALCOHOL.—No tax shall be imposed by this subsection on any liquid at least 10 percent of which consists of alcohol (as defined in section 4081(c)(3)).

"(5) EXEMPTION FOR CERTAIN HELICOPTER USES.—No tax shall be imposed by this subsection on gasoline sold for use or used in a helicopter for purposes of providing transportation with respect to which the requirements of subsection (e) or (f) of section 4261 are met.

"(6) REGISTRATION.—Except as provided in regulations prescribed by the Secretary, if any gasoline is sold by any person for use as a fuel in an aircraft, it shall be presumed for purposes of this subsection that a tax imposed by this subsection applies to the sale of such gasoline unless the purchaser is registered in such manner (and furnished such information in respect of the use of the gasoline) as the Secretary shall by regulations provide.

"(7) GASOLINE.—For purposes of this subsection, the term 'gasoline' has the meaning given such term by section 4082.

"(8) TERMINATION.—Paragraph (1) shall not apply to any sale or use after December 31, 1995.

"(c) EXEMPTION FOR FARM USE.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, no tax shall be imposed under this section on any liquid sold for use or used on a farm for farming purposes (determined in accordance with paragraphs (1), (2), and (3) of section 6420(e)).

"(2) TERMINATION.—Except with respect to so much of the tax imposed by subsection (a) as is determined by reference to the Leaking Underground Storage Tank Trust Fund financing rate under section 4081, paragraph (1) shall not apply after September 30, 1999.

"(d) EXEMPTIONS FOR STATE AND LOCAL GOVERNMENTS, SCHOOLS, EXPORTATION, AND SUPPLIES FOR VESSELS AND AIRCRAFT.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, no tax shall be imposed under this section on any liquid sold for use, or used, in an exempt use described in paragraph (4), (5), (6), or (7) of section 6420(b).

"(2) TERMINATION.—Except with respect to so much of the tax imposed by subsection (a) as is determined by reference to the Leaking Underground Storage Tank Trust Fund financing rate under section 4081, after September 30, 1999, paragraph (1) shall not apply to exempt uses described in paragraph (4) and (5) of section 6420(b).

"(e) EXEMPTION FOR USE BY CERTAIN AIRCRAFT MUSEUMS.—Under regulations prescribed by the Secretary, no tax shall be imposed under this section on any liquid sold for use or used in an exempt use described in section 6420(b)(11)."

(b) CERTAIN ADDITIONAL PURCHASERS OF FUEL TREATED AS PRODUCERS.—

(1) IN GENERAL.—Subparagraph (C) of section 4092(b)(1) is amended to read as follows:

"(C) REDUCED-TAX PURCHASERS TREATED AS PRODUCERS.—Any person to whom any fuel is sold in a sale on which the amount of tax otherwise required to be paid under section 4091 is reduced under section 4093 shall be treated as the producer of such fuel. The amount of tax imposed by section 4091 on any sale of such fuel by such person shall be reduced by the amount of tax imposed under section 4091 (and not credited or refunded) on any prior sale of such fuel."

(2) CONFORMING AMENDMENT.—Subsection (b) of section 4093 is amended by inserting "(as defined in section 4092(b) without regard to paragraph (1)(C) thereof)" after "producer".

SEC. 4702. REVISION OF FUEL TAX CREDIT AND REFUND PROCEDURES.

(a) REFUNDS TO CERTAIN SELLERS OF DIESEL FUEL AND AVIATION FUEL.—

(1) IN GENERAL.—Paragraph (2) of section 6416(b) is amended by striking "4091 or 4121" and inserting "4121 or 4091; except that this paragraph shall apply to a person selling diesel fuel or aviation fuel for a use described in the first sentence if such person meets such requirements as the Secretary may by regulations prescribe".

(2) LIMITATIONS ON AMOUNT OF TAX ONLY HIGHWAY TRUST FUND FINANCING RATE TO BE REFUNDABLE.—Paragraph (2) of section 6416(b) is amended by adding at the end thereof the following new sentence: "This paragraph shall not apply to the taxes imposed by sections 4081 and 4091 with respect to any use to the same extent that section 6420(a) does not apply to such use by reason of paragraph (1) or (2) of section 6420(c)."

(b) CONSOLIDATION OF REFUND PROVISIONS; REPEAL OF CONSENT REQUIREMENT FOR REFUND OF FUEL TAXES TO CROPDUSTERS, ETC.—Section 6420 (relating to gasoline used on farms) is amended to read as follows:

"SEC. 6420. CERTAIN TAXES ON FUELS USED FOR EXEMPT PURPOSES.

"(a) IN GENERAL.—Except as otherwise provided in this section, if any fuel on which tax was imposed under section 4041, 4081, or 4091 is used in an exempt use, the Secretary shall pay (without interest) to the ultimate purchaser of such fuel the amount equal to the aggregate tax imposed on such fuel under such sections.

"(b) EXEMPT USES.—For purposes of this section, the term 'exempt use' means—

"(1) in the case of diesel fuel, use other than as a fuel in a diesel-powered highway vehicle or a diesel-powered motorboat,

"(2) in the case of aviation fuel, use other than as a fuel in an aircraft,

"(3) in the case of gasoline or aviation fuel, use in an aircraft other than in noncommercial aviation (as defined in section 4041(b)),

"(4) use by any State, any political subdivision of a State, or the District of Columbia,

"(5) use by a nonprofit educational organization (as defined in section 4221(d)(5)),

"(6) export,

"(7) use as supplies for vessels or aircraft (within the meaning of section 4221(d)(3)),

"(8) use on a farm for farming purposes (within the meaning of subsection (e)),

"(9) use in an off-highway business use (within the meaning of subsection (f)),

"(10) use in qualified bus transportation (within the meaning of subsection (g)),

"(11) use by an aircraft museum (within the meaning of subsection (h)),

"(12) use in a nonpurpose use (within the meaning of subsection (i)),

"(13) use in a helicopter for purposes of providing transportation with respect to which the requirements of subsection (e) or (f) of section 4261 are met, and

"(14) use in producing a mixture of a fuel if at least 10 percent of such mixture consists of alcohol (as defined in section 4081(c)(3)) and if such mixture is sold or used in the trade or business of the person producing such mixture.

Paragraph (14) shall not apply with respect to any mixture sold or used after September 30, 2000.

"(c) LIMITATIONS ON AMOUNT OF PAYMENT.—

"(1) NO REFUND OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND TAXES IN CERTAIN CASES.—Subsection (a) shall not apply to so much of the taxes imposed by sections 4081 and 4091 as are attributable to a Leaking Underground Storage Tank Trust Fund financing rate in the case of—

"(A) fuel used in a train, and

"(B) fuel used in any aircraft (except as supplies for vessels or aircraft within the meaning of section 4221(d)(3)).

"(2) NO REFUND OF DEFICIT REDUCTION TAX ON DIESEL FUEL USED IN TRAINS.—Subsection (a) shall not apply to so much of the tax imposed by section 4091 as is attributable to a deficit reduction rate in the case of diesel fuel used in a diesel-powered train.

"(3) NO REFUND OF PORTION OF TAX ON DIESEL FUEL USED IN CERTAIN BUSES.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the rate of tax taken into account under subsection (a) with respect to diesel fuel used in qualified bus transportation (within the meaning of subsection (g)(1)) shall be 3.1 cents per gallon less than the aggregate rate of tax imposed on such fuel by section 4091.

"(B) EXCEPTION FOR SCHOOL BUS TRANSPORTATION.—Subparagraph (A) shall not apply to fuel used in an automobile bus while engaged in transportation described in subsection (g)(1)(B).

"(C) EXCEPTION FOR CERTAIN INTRACITY TRANSPORTATION.—Subparagraph (A) shall not apply to fuel used in any automobile bus while engaged in furnishing (for compensation) intracity passenger land transportation—

"(i) which is available to the general public, and

"(ii) which is scheduled and along regular routes,

but only if such bus is a qualified local bus.

"(D) QUALIFIED LOCAL BUS.—For purposes of this paragraph, the term 'qualified local bus' means any local bus—

"(i) which has a seating capacity of at least 20 adults (not including the driver), and

"(ii) which is under contract with (or is receiving more than a nominal subsidy from) any State or local government (as defined in section 4221(d)) to furnish such transportation.

"(4) ALCOHOL FUELS.—

"(A) IN GENERAL.—In the case of a fuel used as described in subsection (b)(14) and on which tax was imposed at regular tax rate, the rate of tax taken into account under subsection (a) with respect to the fuel so used shall equal the excess of the regular tax rate over the incentive tax rate.

"(B) REGULAR TAX RATE.—The term 'regular tax rate' means—

"(i) in the case of gasoline, the aggregate rate of tax imposed by section 4081 determined without regard to subsection (c) thereof,

"(ii) in the case of diesel fuel, the aggregate rate of tax imposed by section 4091 on such fuel determined without regard to subsection (c) thereof, and

"(iii) in the case of aviation fuel, the aggregate rate of tax imposed by section 4091 on such fuel determined without regard to subsection (d) thereof.

"(C) INCENTIVE TAX RATE.—The term 'incentive tax rate' means—

"(i) in the case of gasoline, the aggregate rate of tax imposed by section 4081 with respect to fuel described in subsection (c)(1) thereof,

"(ii) in the case of diesel fuel, the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (c)(1)(B) thereof, and

"(iii) in the case of aviation fuel, the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (d)(1)(B) thereof.

"(5) GASOHOL USED IN NONCOMMERCIAL AVIATION.—If—

"(A) tax is imposed by section 4081 at the rate determined under subsection (c) thereof on gasohol (as defined in such subsection), and

"(B) such gasohol is used as a fuel in any aircraft in noncommercial aviation (as defined in section 4041(b)),

the payment under subsection (a) shall be equal to 1.4 cents (2 cents in the case of gasohol none of the alcohol in which consists of ethanol) per gallon of gasohol so used.

"(d) TIME FOR FILING CLAIMS; PERIOD COVERED.—

"(1) GENERAL RULE.—Except as provided in paragraphs (2) and (3), not more than one claim may be filed under this section by any person with respect to fuel used (or a qualified diesel powered highway vehicle purchased) during his taxable year; and no claim shall be allowed under this paragraph with respect to fuel used (or a qualified diesel powered highway vehicle purchased) during any taxable year unless filed by the purchaser not later than the time prescribed by law for filing a claim for credit or refund of overpayment of income tax for such taxable year. For purposes of this subsection, a person's taxable year shall be his taxable year for purposes of subtitle A.

"(2) EXCEPTIONS.—

"(A) IN GENERAL.—If as of the close of any quarter of a person's taxable year, $750 or more is payable under this section to such person with respect to fuel used (or a qualified diesel powered highway vehicle purchased) during such quarter or any prior quarter of such taxable year (and for which no other claim has been filed), a claim may be filed under this section with respect to fuel so used (or qualified diesel powered highway vehicles so purchased).

"(B) TIME FOR FILING CLAIM.—No claim filed under this paragraph shall be allowed unless filed during the first quarter following the last quarter included in the claim.

"(3) SPECIAL RULE FOR GASOHOL CREDIT.—

"(A) IN GENERAL.—A claim may be filed for gasoline used to produce gasohol (as defined in section 4081(c)(1)) for any period—

"(i) for which $200 or more is payable by reason of subsection (b)(14), and

"(ii) which is not less than 1 week.

"(B) PAYMENT OF CLAIM.—Notwithstanding subsection (a), if the Secretary has not paid a claim filed pursuant to subparagraph (A) within 20 days of the date of the filing of such claim, the claim shall be paid with interest from such date determined by using the overpayment rate and method under section 6621.

"(e) USE ON A FARM FOR FARMING.—For purposes of subsection (b)(8)—

"(1) IN GENERAL.—Fuel shall be treated as used on a farm for farming purposes only if used—

"(A) in carrying on a trade or business,

"(B) on a farm situated in the United States, and

"(C) for farming purposes.

"(2) FARM.—The term 'farm' includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards.

"(3) FARMING PURPOSES.—Fuel shall be treated as used for farming purposes only if used—

"(A) by the owner, tenant, or operator of a farm, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife, on a farm of which he is the owner, tenant, or operator;

"(B) by the owner, tenant, or operator of a farm, in handling, drying, packing, grading, or storing any agricultural or horticultural commodity in its unmanufactured state; but only if such owner, tenant, or operator produced more than one-half of the commodity which he so *treated during the period with respect to which claim is filed;*

"(C) by the owner, tenant, or operator of a farm, in connection with—

"(i) the planting, cultivating, caring for, or cutting of trees, or

"(ii) the preparation (other than milling) of trees for market, incidental to farming operations; or

"(D) by the owner, tenant, or operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment.

"(4) CERTAIN FARMING USE OTHER THAN BY OWNER, ETC.—In applying paragraph (3)(A) to a use on a farm for any purpose described in paragraph (3)(A) by any person other than the owner, tenant, or operator of such farm—

"(A) the owner, tenant, or operator of such farm shall be treated as the user and ultimate purchaser of the fuel, except that

"(B) if the person so using the fuel is an aerial or other applicator of fertilizers or other substances and is the ultimate purchaser of the fuel, then subparagraph (A) of this paragraph shall not apply and the aerial or other applicator shall be treated as having used such fuel on a farm for farming purposes.

"(f) OFF-HIGHWAY BUSINESS USE.—For purposes of subsection (b)(9)—

"(1) IN GENERAL.—The term 'off-highway business use' means any use by a person in a trade or business of such person or in an activity of such person described in section 212 (relating to production of income) otherwise than as a fuel in a highway vehicle—

"(A) which (at the time of such use) is registered, or is required to be registered, for highway use under the laws of any State or foreign country, or

"(B) which, in the case of a highway vehicle owned by the United States, is used on the highway.

"(2) USES IN MOTORBOATS.—The term 'off-highway business use' does not include any use in a motorboat; except that such term shall include any use in—

"(A) a vessel employed in the fisheries or in the whaling business, and

"(B) for purposes of the tax imposed under section 4091, a motorboat in the active conduct of—

"(i) a trade or business of commercial fishing or transporting persons or property for compensation or hire, or

"(ii) any other trade or business unless the motorboat is used predominantly in any activity which is of a type generally considered to constitute entertainment, amusement or recreation.

"(g) QUALIFIED BUS TRANSPORTATION.—For purposes of subsection (b)(10)—

"(1) IN GENERAL.—Fuel is used in qualified bus transportation if it is used in an automobile bus while engaged in—

"(A) furnishing (for compensation) passenger land transportation available to the general public, or

"(B) the transportation of students and employees of schools (as defined in the last sentence of section 4221(d)(7)(C)).

"(2) LIMITATION IN THE CASE OF NONSCHEDULED INTERCITY OR LOCAL BUSES.—Paragraph (1)(A) shall not apply in respect of fuel used in any automobile bus while engaged in furnishing transportation which is not along regular routes unless the seating capacity of such bus is at least 20 adults (not including the driver).

"(h) USE BY AN AIRCRAFT MUSEUM.—For purposes of subsection (b)(11)—

"(1) IN GENERAL.—Fuel is used by an aircraft museum if it is used in an aircraft or vehicle owned by such museum and used exclusively for purposes set forth in paragraph (2)(C).

"(2) AIRCRAFT MUSEUM.—For purposes of this subsection, the term 'aircraft museum' means an organization—

"(A) described in section 501(c)(3) which is exempt from income tax under section 501(a),

"(B) operated as a museum under charter by a State or the District of Columbia, and

"(C) operated exclusively for the procurement, care, and exhibition of aircraft of the type used for combat or transport in World War II.

"(i) USE IN A NONPURPOSE USE.—For purposes of subsection (b)(12), fuel is used in a nonpurpose use if—

"(1) tax was imposed by section 4041 on the sale thereof and the purchaser—

"(A) uses such fuel other than for the use for which it is sold, or

"(B) resells such fuel, or

"(2) tax was imposed by section 4081 on any gasoline blend stock or product commonly used as an additive in gasoline and the purchaser establishes that the ultimate use of such blend stock or product is not to produce gasoline.

"(j) ADVANCE REPAYMENT OF INCREASED DIESEL FUEL TAX TO ORIGINAL PURCHASERS OF DIESEL-POWERED AUTOMOBILES AND LIGHT TRUCKS.—

"(1) IN GENERAL.—Except as provided in subsection (d), the Secretary shall pay (without interest) to the original purchaser of any qualified diesel-powered highway vehicle an amount equal to the diesel fuel differential amount.

"(2) QUALIFIED DIESEL-POWERED HIGHWAY VEHICLE.—For purposes of this subsection, the term 'qualified diesel-powered highway vehicle' means any diesel-powered highway vehicle which—

"(A) has at least 4 wheels,

"(B) has a gross vehicle weight rating of 10,000 pounds or less, and

"(C) is registered for highway use in the United States under the laws of any State.

"(3) DIESEL FUEL DIFFERENTIAL AMOUNT.—For purposes of this subsection, the term 'diesel fuel differential amount' means—

"(A) except as provided in subparagraph (B), $102, or

"(B) in the case of a truck or van, $198.

"(4) ORIGINAL PURCHASER.—For purposes of this subsection—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'original purchaser' means the first person to purchase the qualified diesel-powered vehicle for use other than resale.

"(B) EXCEPTION FOR CERTAIN PERSONS NOT SUBJECT TO FUELS TAX.—The term 'original purchaser' shall not include any State or local government (as defined in section 4221(d)(4)) or any nonprofit educational organization (as defined in section 4221(d)(5)).

"(C) TREATMENT OF DEMONSTRATION USE BY DEALER.—For purposes of subparagraph (A), use as a demonstrator by a dealer shall not be taken into account.

"(5) VEHICLES TO WHICH SUBSECTION APPLIES.—This subsection shall only apply to qualified diesel-powered highway vehicles originally purchased after January 1, 1985, and before January 1, 1995.

"(6) BASIS REDUCTION.—For the purposes of subtitle A, the basis of any qualified diesel-powered highway vehicle shall be reduced by the amount payable under this subsection with respect to such vehicle.

"(k) INCOME TAX CREDIT IN LIEU OF PAYMENT; OTHER SPECIAL RULES.—

"(1) INCOME TAX CREDIT IN LIEU OF PAYMENT.—

"(A) PERSONS NOT SUBJECT TO INCOME TAX.—Payment shall be made under this section only to—

"(i) the United States or an agency or instrumentality thereof, a State, a political subdivision of a State, or any agency or instrumentality of one or more States or political subdivisions, or

"(ii) an organization exempt from tax under section 501(a) (other than an organization required to make a return of the tax imposed under subtitle A for its taxable year).

"(B) EXCEPTION.—Subparagraph (A) shall not apply to a payment of a claim filed under paragraph (2) or (3) of subsection (d).

"(C) ALLOWANCE OF CREDIT AGAINST INCOME TAX.—

"For allowances of credit against the income tax imposed by subtitle A for fuel used by the purchaser in an exempt use, see section 34.

"(2) APPLICABLE LAWS.—

"(A) IN GENERAL.—All provisions of law, including penalties, applicable in respect of the tax with respect to which a payment is claimed under this section shall, insofar as applicable and not inconsistent with this section, apply in respect of such payment to the same extent as if such payment constituted a refund of overpayments of such tax.

"(B) EXAMINATION OF BOOKS AND WITNESSES.—For the purpose of ascertaining the correctness of any claim made under this section, or the correctness of any payment made in respect of any such claim, the Secretary shall have the authority granted by paragraphs (1), (2), and (3) of section 7602(a) (relating to examination of books and witnesses) as if the claimant were the person liable for tax.

"(3) COORDINATION WITH SECTION 6416, ETC.—No amount shall be payable under this section to any person with respect to any fuel if the Secretary determines that the amount of tax for which such payment is sought was not included in the price paid by such person for such fuel. The amount which would (but for this sentence) be payable under this section with respect to any fuel shall be reduced by any other amount which the Secretary determines is payable under this section, or is refundable under any other provision of this title, to any person with respect to such fuel.

"(4) REGULATIONS.—The Secretary may by regulations prescribe the conditions, not inconsistent with the provisions of this section, under which payments may be made under this section.

"(l) FUELS.—For purposes of this section, the terms 'gasoline', 'diesel fuel', and 'aviation fuel' have the respective meanings given such terms by sections 4082 and 4092.

"(m) TERMINATION.—Except as otherwise provided in this section, this section shall not apply to any liquid purchased after September 30, 1999. The preceding sentence shall not apply to taxes attributable to any Leaking Underground Storage Tank Trust Fund financing rate."

SEC. 4703. AUTHORITY TO PROVIDE EXCEPTIONS FROM INFORMATION REPORTING WITH RESPECT TO DIESEL FUEL AND AVIATION FUEL.

(a) RETURNS BY PRODUCERS AND IMPORTERS.—Subparagraph (A) of section 4093(c)(4) (relating to returns by producers and importers) is amended by striking "Each producer" and inserting "Except as provided by the Secretary by regulations, each producer".

(b) RETURNS BY PURCHASERS.—Subparagraph (C) of section 4093(c)(4) (relating to returns by purchasers) is amended by striking "Each person" and inserting "Except as provided by the Secretary by regulations, each person".

SEC. 4704. TECHNICAL AND CONFORMING AMENDMENTS.

(1) Sections 6421 and 6427 are hereby repealed.

(2) Section 34 is amended to read as follows:

"SEC. 34. EXCISE TAXES ON FUEL USED FOR EXEMPT PURPOSES.

"There shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the excess of—

"(1) the aggregate amount payable to the taxpayer under section 6420 (determined without regard to section 6420(k)(1)) with respect to—

"(A) exempt uses (as defined in section 6420(b)) during such taxable year, and

"(B) qualified diesel-powered highway vehicles purchased during such taxable year, over

"(2) the portion of such amount for which a claim payable under section 6420(d) is timely filed."

(3) Subsection (c) of section 40 is amended by striking "subsection (b)(2), (k), or (m)" and inserting "subsection (a)(4) or (b)(4)"

(4) Paragraph (2) of section 451(e) is amended by striking "section 6420(c)(3)" and inserting "section 6420(e)(3)".

(5) Clause (i) of section 1274(c)(3)(A) is amended by striking "section 6420(c)(2)" and inserting "section 6420(e)(2)".

(6) Sections 874(a) and 1366(f)(1) are each amended by striking "gasoline and special" and inserting "taxable".

(7) Paragraph (2) of section 882(c) is amended by striking "gasoline" and inserting "taxable fuels".

(8) Subsection (b) of section 4042 is amended by striking paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(9) Subsection (b) of section 4082 is amended by striking "special fuels referred to in section 4041" and inserting "special motor fuels referred to in section 4041(a)".

(10) Section 4083 is amended to read as follows:

"SEC. 4083. CROSS REFERENCE.

"For provision allowing a credit or refund for gasoline used for exempt purposes, see section 6420."

(11) Subsections (c)(2) and (d)(2) of section 4091 are each amended by striking "section 6427(f)(1)" and inserting "section 6420(b)(14)".

(12) Paragraph (1) of section 4093(c) is amended by striking "by the purchaser" and all that follows and inserting "by the purchaser in an exempt use (as defined in section 6420(b) other than paragraph (14) thereof)."

(13) Subparagraph (C) of section 4093(c)(2) is amended by striking "section 6427(b)(2)(A)" and inserting "section 6420(c)(3)(A)".

(14) Clause (i) of section 4093(c)(4)(C) is amended to read as follows:

"(i) whether such use was an exempt use (as defined in section 6420(b)) and the amount of fuel so used,".

(15) Section 4093 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) USE BY PRODUCER OR IMPORTER.—If any producer or importer uses any taxable fuel, then such producer or importer shall be liable for tax under section 4091 in the same manner as if such fuel were sold by him for such use."

(16) Subsection (f) of section 4093, as redesignated by paragraph (15), is amended to read as follows:

"(e) CROSS REFERENCE.—

"For provision allowing a credit or refund for fuel used for exempt purposes, see section 6420."

(17) Section 6206 is amended to read as follows:

"SEC. 6206. SPECIAL RULES APPLICABLE TO EXCESSIVE FUEL TAX REFUND CLAIMS.

"Any portion of a payment made under section 6420 which constitutes an excessive amount (as defined in section 6675(b)), and any civil penalty provided by section 6675, may be assessed and collected as if—

"(1) it were a tax imposed by the section to which the claim relates, and

"(2) the person making the claim were liable for such tax. The period for assessing any such portion, and for assessing any such penalty, shall be 3 years from the last day prescribed for filing the claim under section 6420."

(18) Subparagraph (A) of section 6416(a)(2) is amended by striking "(relating to tax on special fuels)" and inserting "(relating to special motor fuels and noncommercial aviation gasoline)".

(19) Paragraph (2) of section 6416(b) is amended—

(A) in the matter preceding subparagraph (A) by striking "subsection (a) or (d) of section 4041" and inserting "section 4041(a)", and

(B) in subparagraph (F) by striking "special fuels referred to in section 4041" and inserting "special motor fuels referred to in section 4041(a)".

(20) Paragraph (9) of section 6504 is amended to read as follows:

"(9) Assessments to recover excessive amounts paid under section 6420 (relating to certain taxes on fuels used for exempt purposes) and assessments of civil penalties under section 6675 for excessive claims under section 6420, see section 6206."

(21) Subsection (h) of section 6511 is amended by striking paragraphs (5) and (6), by redesignating paragraph (7) as paragraph (6), and by inserting after paragraph (4) the following new paragraph:

"(5) For limitations in the case of payments under section 6420 (relating to certain taxes on fuels used for exempt purposes), see section 6420(d)."

(22) Subsection (c) of section 6612 is amended by striking "6420 (relating to payments in the case of gasoline used on the farm for farming purposes) and 6421 (relating to payments in the case of gasoline used for certain nonhighway purposes or by local transit systems)" and inserting "and 6420 (relating to certain taxes on fuels used for exempt purposes)".

(23) Subsection (a) of section 6675 is amended by striking "section 6420 (relating to gasoline used on farms), 6421 (relating to gasoline used for certain nonhighway purposes or by local transit systems), or 6427 (relating to fuels not used for taxable purposes)" and inserting "section 6420 (relating to certain taxes on fuels used for exempt purposes)".

(24) Paragraph (1) of section 6675(b) is amended by striking ", 6421, or 6427, as the case may be,".

(25) Section 7210 is amended by striking "sections 6420(e)(2), 6421(g)(2), 6427(j)(2)" and inserting "sections 6420(k)(3)(B)".

(26) Section 7603, subsections (b) and (c)(2) of section 7604, section 7605, and 7610(c) are each amended by striking "section 6420(e)(2), 6421(g)(2), 6427(j)(2)," each place it appears and inserting "section 6420(k)(2)(B)".

(27) Sections 7605 and 7609(c)(1) are each amended by striking "section 6420(e)(2), 6421(g)(2), or 6427(j)(2)" and inserting "section 6420(k)(2)(B)".

(28) Paragraph (1) of section 9502(b) is amended by striking "subsections (c) and (e) of section 4041 (taxes on aviation fuel)" and inserting "section 4041(b) (relating to taxes on noncommercial aviation gasoline)".

(29) Paragraph (2) of section 9502(d) is amended by striking "fuel used in aircraft" and all that follows and inserting "fuel used in aircraft, under section 6420 (relating to certain taxes on fuels used for exempt purposes)."

(30) Paragraph (1) of section 9502(e) is amended by striking "4041(c)(1) and".

(31) Subparagraph (A) of section 9503(b)(1) is amended to read as follows:

"(A) section 4041 (relating to special motor fuels and noncommercial aviation gasoline),".

(32) Paragraph (4) of section 9503(b) is amended to read as follows:

"(4) CERTAIN ADDITIONAL TAXES NOT TRANSFERRED TO HIGHWAY TRUST FUND.—For purposes of paragraphs (1) and (2), the taxes imposed by sections 4041, 4081, and 4091 shall be taken into account only to the extent attributable to the Highway Trust Fund financing rates under such sections."

(33)(A) Clause (i) of section 9503(c)(2)(A) is amended to read as follows:

"(i) the amounts paid before July 1, 1996, under section 6420 (relating to certain taxes on fuels used for exempt purposes) on the basis of claims filed for periods ending before October 1, 1995, and".

(B) For purposes of section 9503(c)(2)(A)(i) of the Internal Revenue Code of 1986, the reference to section 6420 shall be treated as including a reference to sections 6420, 6421, and 6427 of such Code as in effect before the enactment of this Act.

(34) Clause (ii) of section 9503(c)(2)(A) is amended by striking "gasoline, special fuels, and lubricating oil" each place it appears and inserting "taxable fuels".

(35) Subparagraph (D) of section 9503(c)(4) is amended by striking "section 4041(a)(2)" and inserting "section 4041(a)".

(36) Subparagraph (A) of section 9503(e)(5) is amended by striking "section 6427(g)" and inserting "section 6420(j)".

(37) Paragraph (1) of section 9508(b) is amended to read as follows:

"(1) taxes received in the Treasury under section 4041 (relating to special motor fuels and noncommercial aviation gasoline) to the extent attributable to the Leaking Underground Storage Tank Trust Fund financing rates applicable under such section,".

(38) Subparagraph (A) of section 9508(c)(2) is amended by striking "equivalent to—" and all that follows and inserting the following: "equivalent to—

"(i) amounts paid under section 6420 (relating to certain taxes on fuels used for exempt purposes), and

"(ii) credits allowed under section 34,

with respect to so much of the taxes imposed by sections 4041, 4081, and 4091 as are attributable to the Leaking Underground Storage Tank Trust Fund financing rates applicable under such sections."

(39) The table of sections for subpart C of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 34 and inserting the following:

"Sec. 34. Excise taxes on fuels used for exempt purposes."

(40) The table of sections for subchapter B of chapter 31 is amended by striking the item relating to section 4041 and inserting the following:

"Sec. 4041. Special motor fuels and noncommercial aviation gasoline."

(41) The table of sections for subpart A of part III of subchapter A of chapter 32 is amended by striking the item relating to section 4083 and inserting the following:

"Sec. 4083. Cross reference."

(42) The table of sections for subchapter B of chapter 65 is amended by striking the items relating to sections 6421 and 6427 and by striking the item relating to section 6420 and inserting the following new item:

"Sec. 6420. Certain taxes on fuels used for exempt purposes."

(43) The table of sections for subchapter A of chapter 63 is amended by striking the item relating to section 6206 and inserting the following new item:

"Sec. 6206. Special rules applicable to excessive fuel tax refund claims."

SEC. 4705. EFFECTIVE DATE.

The amendments made by this part shall take effect on January 1, 1993.

PART II—PROVISIONS RELATED TO DISTILLED SPIRITS, WINES, AND BEER

SEC. 4711. CREDIT OR REFUND FOR IMPORTED BOTTLED DISTILLED SPIRITS RETURNED TO DISTILLED SPIRITS PLANT.

(a) IN GENERAL.—Paragraph (1) of section 5008(c) (relating to distilled spirits returned to bonded premises) is amended by striking "withdrawn from bonded premises on payment or determination of tax" and inserting "on which tax has been determined or paid".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4712. AUTHORITY TO CANCEL OR CREDIT EXPORT BONDS WITHOUT SUBMISSION OF RECORDS.

(a) IN GENERAL.—Subsection (c) of section 5175 (relating to export bonds) is amended by striking "on the submission of" and all that follows and inserting "if there is such proof of exportation as the Secretary may by regulations require."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4713. REPEAL OF REQUIRED MAINTENANCE OF RECORDS ON PREMISES OF DISTILLED SPIRITS PLANT.

(a) IN GENERAL.—Subsection (c) of section 5207 (relating to records and reports) is amended by striking "shall be kept on the premises where the operations covered by the record are carried on and".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4714. FERMENTED MATERIAL FROM ANY BREWERY MAY BE RECEIVED AT A DISTILLED SPIRITS PLANT.

(a) IN GENERAL.—Paragraph (2) of section 5222(b) (relating to production, receipt, removal, and use of distilling materials) is amended to read as follows:

"(2) beer conveyed without payment of tax from brewery premises, beer which has been lawfully removed from brewery premises upon determination of tax, or".

(b) CLARIFICATION OF AUTHORITY TO PERMIT REMOVAL OF BEER WITHOUT PAYMENT OF TAX FOR USE AS DISTILLING MATERIAL.—Section 5053 (relating to exemptions) is amended by redesignating subsection (f) as subsection (i) and by inserting after subsection (e) the following new subsection:

"(f) REMOVAL FOR USE AS DISTILLING MATERIAL.—Subject to such regulations as the Secretary may prescribe, beer may be removed from a brewery without payment of tax to any distilled spirits plant for use as distilling material."

(c) CLARIFICATION OF REFUND AND CREDIT OF TAX.—Section 5056 (relating to refund and credit of tax, or relief from liability) is amended—

(1) by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) BEER RECEIVED AT A DISTILLED SPIRITS PLANT.—Any tax paid by any brewer on beer produced in the United States may be refunded or credited to the brewer, without interest, or if the tax has not been paid, the brewer may be relieved of liability therefor, under regulations as the Secretary may prescribe, if such beer is received on the bonded premises of a distilled spirits plant pursuant to the provisions of section 5222(b)(2), for use in the production of distilled spirits.", and

(2) by striking "or rendering unmerchantable" in subsection (d) (as so redesignated) and inserting "rendering unmerchantable, or receipt on the bonded premises of a distilled spirits plant".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4715. REPEAL OF REQUIREMENT FOR WHOLESALE DEALERS IN LIQUORS TO POST SIGN.

(a) IN GENERAL.—Section 5115 (relating to sign required on premises) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) section 5681 is amended by striking ", and every wholesale dealer in liquors," and by striking "section 5115(a) or".

(2) Subsection (c) of section 5681 is amended—

(A) by striking "or wholesale liquor establishment, on which no sign required by section 5115(a) or" and inserting "on which no sign required by", and

(B) by striking "or wholesale liquor establishment, or who" and inserting "or who".

(3) The table of sections for subpart D of part II of subchapter A of chapter 51 is amended by striking the item relating to section 5115.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 4716. REFUND OF TAX TO WINE RETURNED TO BOND NOT LIMITED TO UNMERCHANTABLE WINE.

(a) IN GENERAL.—Subsection (a) of section 5044 (relating to refund of tax on unmerchantable wine) is amended by striking "as unmerchantable".

(b) CONFORMING AMENDMENTS.—

(1) Section 5361 is amended by striking "unmerchantable".

(2) The section heading for section 5044 is amended by striking "UNMERCHANTABLE".

(3) The item relating to section 5044 in the table of sections for subpart C of part I of subchapter A of chapter 51 is amended by striking "unmerchantable".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4717. USE OF ADDITIONAL AMELIORATING MATERIAL IN CERTAIN WINES.

(a) IN GENERAL.—Subparagraph (D) of section 5384(b)(2) (relating to ameliorated fruit and berry wines) is amended by striking "loganberries, currants, or gooseberries," and inserting "any fruit or berry with a natural fixed acid of 20 parts per thousand or more (before any correction of such fruit or berry)".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4718. DOMESTICALLY-PRODUCED BEER MAY BE WITHDRAWN FREE OF TAX FOR USE OF FOREIGN EMBASSIES, LEGATIONS, ETC.

(a) IN GENERAL.—Section 5053 (relating to exemptions) is amended by inserting after subsection (f) the following new subsection:

"(g) REMOVALS FOR USE OF FOREIGN EMBASSIES, LEGATIONS, ETC.—

"(1) IN GENERAL.—Subject to such regulations as the Secretary may prescribe—

"(A) beer may be withdrawn from the brewery without payment of tax for transfer to any customs bonded warehouse for entry pending withdrawal therefrom as provided in subparagraph (B), and

"(B) beer entered into any customs bonded warehouse under subparagraph (A) may be withdrawn for consumption in the United States by, and for the official and family use of, such foreign governments, organizations, and individuals as are entitled to withdraw imported beer from such warehouses free of tax.

Beer transferred to any customs bonded warehouse under subparagraph (A) shall be entered, stored, and accounted for in such warehouse under such regulations and bonds as the Secretary may prescribe, and may be withdrawn therefrom by such governments, organizations, and individuals free of tax under the same conditions and procedures as imported beer.

"(2) OTHER RULES TO APPLY.—Rules similar to the rules of paragraphs (2) and (3) of section 5362(e) of such section shall apply for purposes of this subsection."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4719. BEER MAY BE WITHDRAWN FREE OF TAX FOR DESTRUCTION.

(a) IN GENERAL.—Section 5053 is amended by inserting after subsection (g) the following new subsection:

"(h) REMOVALS FOR DESTRUCTION.—Subject to such regulations as the Secretary may prescribe, beer may be removed from the brewery without payment of tax for destruction."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4720. AUTHORITY TO ALLOW DRAWBACK ON EXPORTED BEER WITHOUT SUBMISSION OF RECORDS.

(a) IN GENERAL.—The first sentence of section 5055 (relating to drawback of tax on beer) is amended by striking "found to have been paid" and all that follows and inserting "paid on such beer if there is such proof of exportation as the Secretary may by regulations require."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4721. TRANSFER TO BREWERY OF BEER IMPORTED IN BULK WITHOUT PAYMENT OF TAX.

(a) IN GENERAL.—Part II of subchapter G of chapter 51 is amended by adding at the end thereof the following new section:

"SEC. 5418. BEER IMPORTED IN BULK.

"Beer imported or brought into the United States in bulk containers may, under such regulations as the Secretary may prescribe, be withdrawn from customs custody and transferred in such bulk containers to the premises of a brewery without payment of the internal revenue tax imposed on such beer. The proprietor of a brewery to which such beer is transferred shall become liable for the tax on the beer withdrawn from customs custody under this section upon release of the beer from customs custody, and the importer, or the person bringing such beer into the United States, shall thereupon be relieved of the liability for such tax."

(b) CLERICAL AMENDMENT.—The table of sections for such part II is amended by adding at the end thereof the following new item:

"Sec. 5418. Beer imported in bulk."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the 180th day after the date of the enactment of this Act.

PART III—OTHER EXCISE TAX PROVISIONS

SEC. 4731. AUTHORITY TO GRANT EXEMPTIONS FROM REGISTRATION REQUIREMENTS.

(a) IN GENERAL.—The first sentence of section 4222 (relating to registration) is amended to read as follows: "Except as provided in subsection (b), section 4221 shall not apply with respect to the sale of any article by or to any person who is required by the Secretary to be registered under this section and who is not so registered."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to sales after the 180th day after the date of the enactment of this Act.

SEC. 4732. SMALL MANUFACTURERS EXEMPT FROM FIREARMS EXCISE TAX.

(a) IN GENERAL.—Section 4182 (relating to exemptions), is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) SMALL MANUFACTURERS, ETC.—

"(1) IN GENERAL.—The tax imposed by section 4181 shall not apply to any article described in

such section if manufactured, produced, or imported by a manufacturer, producer, or importer who manufactures, produces, or imports less than 50 of such articles during the calendar year.

"(2) CONTROLLED GROUP.—Persons who are members of the same controlled group of corporations shall be treated as 1 manufacturer, producer, or importer. For purposes of the preceding sentence, the term 'controlled group of corporations' has the meaning given to such term by section 1563(a), except that 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in such section.".

(b) EFFECTIVE DATE; REFUNDS.—

(1) EFFECTIVE DATE.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer after September 30, 1983.

(2) WAIVER OF STATUTE OF LIMITATIONS.—In the case of any taxable year ending before the date of the enactment of this Act—

(A) the period for claiming a credit or refund of any overpayment of tax resulting from the application of the amendments made by this section shall not expire before the date which is 1 year after the date of the enactment of this Act, and

(B) if, after the application of subparagraph (A), credit or refund of any overpayment of tax resulting from the application of the amendments made by this section is prevented at any time before the close of such 1-year period by the operation of any law or rule of law (including res judicata), credit or refund of such overpayment (to the extent attributable to the application of the amendments made by this section) may, nevertheless, be made or allowed if claim therefor is filed before the close of such 1-year period.

SEC. 4733. REPEAL OF EXPIRED PROVISIONS.

(a) PIGGY-BACK TRAILERS.—Section 4051 is amended by striking subsection (d) and by redesignating subsection (e) as subsection (d).

(b) DEEP SEABED MINING.—

(1) Subchapter F of chapter 36 (relating to tax on removal of hard mineral resources from deep seabed) is hereby repealed.

(2) The table of subchapters for chapter 36 is amended by striking the item relating to subchapter F.

Subtitle H—Administrative Provisions

PART I—GENERAL PROVISIONS

SEC. 4801. SIMPLIFICATION OF DEPOSIT REQUIREMENTS FOR SOCIAL SECURITY, RAILROAD RETIREMENT, AND WITHHELD INCOME TAXES.

(a) IN GENERAL.—Subsection (g) of section 6302 (relating to deposits of social security taxes and withheld income taxes) is amended to read as follows:

"(g) DEPOSITS OF SOCIAL SECURITY, RAILROAD RETIREMENT, AND WITHHELD INCOME TAXES.—

"(1) GENERAL RULE.—Except as otherwise provided in this subsection—

"(A) employment taxes attributable to payments on Wednesday, Thursday, or Friday of any week shall be deposited on or before the following Tuesday, and

"(B) employment taxes attributable to payments on Saturday, Sunday, Monday, or Tuesday of any week shall be deposited on or before the following Friday.

"(2) SMALL DEPOSITORS.—

"(A) IN GENERAL.—If any person is a small depositor for any calendar quarter, such person shall make deposits of employment taxes attributable to payments during any month in such quarter on or before the 15th day of the following month.

"(B) SMALL DEPOSITOR.—For purposes of this subsection, a person is a small depositor for any calendar quarter if, for each calendar quarter in the base period, the amount of employment taxes attributable to payments made by such person during such calendar quarter was $12,000 or less. For purposes of the preceding sentence, the base period for any calendar quarter is the 4 calendar quarters ending with the second preceding calendar quarter.

"(C) CESSATION AS SMALL DEPOSITOR.—A person shall cease to be treated as a small depositor for a calendar quarter after any day on which such person is required to make a deposit under paragraph (3).

"(3) LARGE DEPOSITORS.—Notwithstanding paragraphs (1) and (2), if, on any day, any person has $100,000 or more of employment taxes for deposit, such taxes shall be deposited on or before the next day.

"(4) SAFE HARBOR.—

"(A) IN GENERAL.—A person shall be treated as depositing the required amount of employment taxes in any deposit if the shortfall does not exceed the greater of—

"(i) $100, or

"(ii) 2 percent of the amount of employment taxes required to be deposited in such deposit (determined without regard to this paragraph).

Such shortfall shall be deposited as required by the Secretary by regulations.

"(B) SHORTFALL.—For purposes of this paragraph, the term 'shortfall' means, with respect to any deposit, the excess of the amount of employment taxes required to be deposited in such deposit (determined without regard to this paragraph) over the amount (if any) thereof deposited on or before the last date prescribed therefor.

"(5) DEPOSIT REQUIRED ONLY ON BANKING DAYS.—If taxes are required to be deposited under this subsection on any day which is not a banking day, such taxes shall be treated as timely deposited if deposited on the first banking day thereafter.

"(6) EMPLOYMENT TAXES.—For purposes of this subsection, the term 'employment taxes' means the taxes imposed by chapters 21, 22, and 24.

"(7) SUBSECTION TO APPLY ONLY TO REQUIRED DEPOSITS.—This subsection shall not apply to employment taxes which are not required to be deposited under the regulations prescribed by the Secretary under this section.

"(8) REGULATIONS.—The Secretary may prescribe regulations—

"(A) specifying employment tax deposit requirements for persons who fail to comply with the requirements of this subsection,

"(B) specifying circumstances under which a person shall be treated as a small depositor for purposes of this subsection notwithstanding that such person is not described in paragraph (2)(B),

"(C) specifying modifications to the provisions of this subsection for end-of-quarter periods, and

"(D) establishing deposit requirements for taxes imposed by section 3406 which apply in lieu of the requirements of this subsection."

(b) CONFORMING AMENDMENT.—Section 226 of the Railroad Retirement Solvency Act of 1983 is hereby repealed.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts attributable to payments made after December 31, 1992.

SEC. 4802. SIMPLIFICATION OF EMPLOYMENT TAXES ON DOMESTIC SERVICES.

(a) THRESHOLD REQUIREMENT FOR SOCIAL SECURITY TAXES.—

(1) Subparagraph (B) of section 3121(a)(7) (defining wages) is amended to read as follows:

"(B) cash remuneration paid by an employer in any calendar year to an employee for domestic service in a private home of the employer, if the cash remuneration paid in such year by the employer to the employee for such service is less than $300. As used in this subparagraph, the term 'domestic service in a private home of the employer' does not include service described in subsection (g)(5);"

(2) Subparagraph (B) of section 209(a)(6) of the Social Security Act is amended to read as follows:

"(B) Cash remuneration paid by an employer in any calendar year to an employee for domestic service in a private home of the employer, if the cash remuneration paid in such year by the employer to the employee for such service is less than $300. As used in this subparagraph, the term 'domestic service in a private home of the employer' does not include service described in section 210(f)(5)."

(3) The second sentence of section 3102(a) is amended—

(A) by striking "calendar quarter" each place it appears and inserting "calendar year", and

(B) by striking "$50" and inserting "$300".

(b) COORDINATION OF COLLECTION OF DOMESTIC SERVICE EMPLOYMENT WITH COLLECTION OF INCOME TAXES.—

(1) IN GENERAL.—Chapter 25 (relating to general provisions relating to employment taxes) is amended by adding at the end thereof the following new section:

"SEC. 3510. COORDINATION OF COLLECTION OF DOMESTIC SERVICE EMPLOYMENT TAXES WITH COLLECTION OF INCOME TAXES.

"(a) GENERAL RULE.—Except as otherwise provided in this section—

"(1) returns with respect to domestic service employment taxes shall be made on a calendar year basis,

"(2) any such return for any calendar year shall be filed on or before the 15th day of the fourth month following the close of the employer's taxable year which begins in such calendar year, and

"(3) no requirement to make deposits (or to pay installments under section 6157) shall apply with respect to such taxes.

"(b) DOMESTIC SERVICE EMPLOYMENT TAXES SUBJECT TO ESTIMATED TAX PROVISIONS.—

"(1) IN GENERAL.—Solely for purposes of section 6654, domestic service employment taxes imposed with respect to any calendar year shall be treated as a tax imposed by chapter 2 for the taxable year of the employer which begins in such calendar year.

"(2) ANNUALIZATION.—Under regulations prescribed by the Secretary, appropriate adjustments shall be made in the application of section 6654(d)(2) in respect of the amount treated as tax under paragraph (1).

"(3) TRANSITIONAL RULE.—For purposes of applying section 6654 to a taxable year beginning in 1992, the amount referred to in clause (ii) of section 6654(d)(1)(B) shall be increased by 90 percent of the amount treated as tax under paragraph (1) for such taxable year.

"(c) DOMESTIC SERVICE EMPLOYMENT TAXES.—For purposes of this section, the term 'domestic service employment taxes' means—

"(1) any taxes imposed by chapter 21 or 23 on remuneration paid for domestic service in a private home of the employer, and

"(2) any amount withheld from such remuneration pursuant to an agreement under section 3402(p).

For purposes of this subsection, the term 'domestic service in a private home of the employer' does not include service described in section 3121(g)(5).

"(d) EXCEPTION WHERE EMPLOYER LIABLE FOR OTHER EMPLOYMENT TAXES.—To the extent provided in regulations prescribed by the Secretary, this section shall not apply to any employer for any calendar year if such employer is liable for any tax under this subtitle with respect to remuneration for services other than domestic service in a private home of the employer.

"(e) AUTHORITY TO ENTER INTO AGREEMENTS TO COLLECT STATE UNEMPLOYMENT TAXES.—

"(1) IN GENERAL.—The Secretary is hereby authorized to enter into an agreement with any State to collect, as the agent of such State, such State's unemployment taxes imposed on remuneration paid for domestic service in a private home of the employer. Any taxes to be collected by the Secretary pursuant to such an agreement shall be treated as domestic service employment taxes for purposes of this section.

"(2) TRANSFERS TO STATE ACCOUNT.—Any amount collected under an agreement referred to in paragraph (1) shall be transferred by the Secretary to the account of the State in the Unemployment Trust Fund.

"(3) SUBTITLE F MADE APPLICABLE.—For purposes of subtitle F, any amount required to be collected under an agreement under paragraph (1) shall be treated as a tax imposed by chapter 23.

"(4) STATE.—For purposes of this subsection, the term 'State' has the meaning given such term by section 3306(j)(1)."

(2) CLERICAL AMENDMENT.—The table of sections for chapter 25 is amended by adding at the end thereof the following:

"Sec. 3510. Coordination of collection of domestic service employment taxes with collection of income taxes."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to remuneration paid in calendar years after 1992.

SEC. 4803. USE OF REPRODUCTIONS OF RETURNS STORED IN DIGITAL IMAGE FORMAT.

(a) IN GENERAL.—Paragraph (2) of section 6103(p) (relating to procedure and recordkeeping) is amended by adding at the end thereof the following new subparagraph:

"(D) REPRODUCTION FROM DIGITAL IMAGES.—For purposes of this paragraph, the term 'reproduction' includes a reproduction from digital images."

(b) STUDY.—The Comptroller General of the United States shall conduct a study of available digital image technology for the purpose of determining the extent to which reproductions of documents stored using that technology accurately reflect the data on the original document and the appropriate period for retaining the original document. Not later than 1 year after the date of the enactment of this Act, a report on the results of such study shall be submitted to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

SEC. 4804. REPEAL OF AUTHORITY TO DISCLOSE WHETHER PROSPECTIVE JUROR HAS BEEN AUDITED.

(a) IN GENERAL.—Subsection (h) of section 6103 (relating to disclosure to certain Federal officers and employees for purposes of tax administration, etc.) is amended by striking paragraph (5) and by redesignating paragraph (6) as paragraph (5).

(b) CONFORMING AMENDMENT.—Paragraph (4) of section 6103(p) is amended by striking "(h)(6)" each place it appears and inserting "(h)(5)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to judicial proceedings pending on, or commenced after, the date of the enactment of this Act.

SEC. 4805. REPEAL OF SPECIAL AUDIT PROVISIONS FOR SUBCHAPTER S ITEMS.

(a) GENERAL RULE.—Subchapter D of chapter 63 (relating to tax treatment of subchapter S items) is hereby repealed.

(b) CONSISTENT TREATMENT REQUIRED.—Section 6037 (relating to return of S corporation) is amended by adding at the end thereof the following new subsection:

"(c) SHAREHOLDER'S RETURN MUST BE CONSISTENT WITH CORPORATE RETURN OR SECRETARY NOTIFIED OF INCONSISTENCY.—

"(1) IN GENERAL.—A shareholder of an S corporation shall, on such shareholder's return, treat a subchapter S item in a manner which is consistent with the treatment of such item on the corporate return.

"(2) NOTIFICATION OF INCONSISTENT TREATMENT.—

"(A) IN GENERAL.—In the case of any subchapter S item, if—

"(i)(I) the corporation has filed a return but the shareholder's treatment on his return is (or may be) inconsistent with the treatment of the item on the corporate return, or

"(II) the corporation has not filed a return, and

"(ii) the shareholder files with the Secretary a statement identifying the inconsistency,

paragraph (1) shall not apply to such item.

"(B) SHAREHOLDER RECEIVING INCORRECT INFORMATION.—A shareholder shall be treated as having complied with clause (ii) of subparagraph (A) with respect to a subchapter S item if the shareholder—

"(i) demonstrates to the satisfaction of the Secretary that the treatment of the subchapter S item on the shareholder's return is consistent with the treatment of the item on the schedule furnished to the shareholder by the corporation, and

"(ii) elects to have this paragraph apply with respect to that item.

"(3) EFFECT OF FAILURE TO NOTIFY.—In any case—

"(A) described in subparagraph (A)(i)(I) of paragraph (2), and

"(B) in which the shareholder does not comply with subparagraph (A)(ii) of paragraph (2),

any adjustment required to make the treatment of the items by such shareholder consistent with the treatment of the items on the corporate return shall be treated as arising out of mathematical or clerical errors and assessed according to section 6213(b)(1). Paragraph (2) of section 6213(b) shall not apply to any assessment referred to in the preceding sentence.

"(4) SUBCHAPTER S ITEM.—For purposes of this subsection, the term 'subchapter S item' means any item of an S corporation to the extent that regulations prescribed by the Secretary provide that, for purposes of this subtitle, such item is more appropriately determined at the corporation level than at the shareholder level.

"(5) ADDITION TO TAX FOR FAILURE TO COMPLY WITH SECTION.—

"For addition to tax in the case of a shareholder's negligence in connection with, or disregard of, the requirements of this section, see part II of subchapter A of chapter 68."

(c) CONFORMING AMENDMENTS.—

(1) Section 1366 is amended by striking subsection (g).

(2) Subsection (b) of section 6233 is amended to read as follows:

"(b) SIMILAR RULES IN CERTAIN CASES.—If a partnership return is filed for any taxable year but it is determined that there is no entity for such taxable year, to the extent provided in regulations, rules similar to the rules of subsection (a) shall apply."

(3) The table of subchapters for chapter 63 is amended by striking the item relating to subchapter D.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 4806. CLARIFICATION OF STATUTE OF LIMITATIONS.

(a) IN GENERAL.—Subsection (a) of section 6501 (relating to limitations on assessment and collection) is amended by adding at the end thereof the following new sentence: "For purposes of this chapter, the term 'return' means the return required to be filed by the taxpayer (and does not include a return of any person from whom the taxpayer has received an item of income, gain, loss, deduction, or credit)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

PART II—TAX COURT PROCEDURES

SEC. 4811. OVERPAYMENT DETERMINATIONS OF TAX COURT.

(a) APPEAL OF ORDER.—Paragraph (2) of section 6512(b) (relating to jurisdiction to enforce) is amended by adding at the end the following new sentence: "An order of the Tax Court disposing of a motion under this paragraph shall be reviewable in the same manner as a decision of the Tax Court, but only with respect to the matters determined in such order."

(b) DENIAL OF JURISDICTION REGARDING CERTAIN CREDITS AND REDUCTIONS.—Subsection (b) of section 6512 (relating to overpayment determined by Tax Court) is amended by adding at the end the following new paragraph:

"(4) DENIAL OF JURISDICTION REGARDING CERTAIN CREDITS AND REDUCTIONS.—The Tax Court shall have no jurisdiction under this subsection to restrain or review any credit or reduction made by the Secretary under section 6402."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 4812. AWARDING OF ADMINISTRATIVE COSTS.

(a) RIGHT TO APPEAL TAX COURT DECISION.—Subsection (f) of section 7430 (relating to right of appeal) is amended by adding at the end the following new paragraph:

"(3) APPEAL OF TAX COURT DECISION.—An order of the Tax Court disposing of a petition under paragraph (2) shall be reviewable in the same manner as a decision of the Tax Court, but only with respect to the matters determined in such order."

(b) PERIOD FOR APPLYING TO IRS FOR COSTS.—Subsection (b) of section 7430 (relating to limitations) is amended by adding at the end the following new paragraph:

"(5) PERIOD FOR APPLYING TO IRS FOR ADMINISTRATIVE COSTS.—An award may be made under subsection (a) for reasonable administrative costs only if the prevailing party files an application for such costs before the 91st day after the date on which the party was determined to be the prevailing party under subsection (c)(4)(B)."

(c) PERIOD FOR PETITIONING OF TAX COURT FOR REVIEW OF DENIAL OF COSTS.—Paragraph (2) of section 7430(f) (relating to right of appeal) is amended—

(1) by striking "appeal to" and inserting "the filing of a petition for review with", and

(2) by adding at the end the following new sentence: "If the Secretary sends by certified or registered mail a notice of such decision to the petitioner, no proceeding in the Tax Court may be initiated under this paragraph unless such petition is filed before the 91st day after the date of such mailing."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to civil actions or proceedings commenced after the date of the enactment of this Act.

SEC. 4813. REDETERMINATION OF INTEREST PURSUANT TO MOTION.

(a) IN GENERAL.—Paragraph (3) of section 7481(c) (relating to jurisdiction over interest determinations) is amended by striking "petition" and inserting "motion".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 4814. APPLICATION OF NET WORTH REQUIREMENT FOR AWARDS OF LITIGATION COSTS.

(a) IN GENERAL.—Paragraph (4) of section 7430(c) (defining prevailing party) is amended by adding at the end thereof the following new subparagraph:

"(C) SPECIAL RULES FOR APPLYING NET WORTH REQUIREMENT.—In applying the requirements of section 2412(d)(2)(B) of title 28, United States Code, for purposes of subparagraph (A)(iii) of this paragraph—

"(i) the net worth limitation in clause (i) of such section shall apply to—

"(I) an estate but shall be determined as of the date of the decedent's death, and

"(II) a trust but shall be determined as of the last day of the taxable year involved in the proceeding, and

"(ii) individuals filing a joint return shall be treated as 1 individual for purposes of clause (i) of such section, except in the case of a spouse relieved of liability under section 6013(e)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to proceedings commenced after the date of the enactment of this Act.

PART III—AUTHORITY FOR CERTAIN COOPERATIVE AGREEMENTS

SEC. 4821. COOPERATIVE AGREEMENTS WITH STATE TAX AUTHORITIES.

(a) GENERAL RULE.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new section:

"SEC. 7524. COOPERATIVE AGREEMENTS WITH STATE TAX AUTHORITIES.

"(a) AUTHORIZATION OF AGREEMENTS.—The Secretary is hereby authorized to enter into cooperative agreements with State tax authorities for purposes of enhancing joint tax administration. Such agreements may provide for—

"(1) joint filing of Federal and State income tax returns,

"(2) single processing of such returns,

"(3) joint collection of taxes (other than Federal income taxes), and

"(4) such other provisions as may enhance joint tax administration.

"(b) SERVICES ON REIMBURSABLE BASIS.—Any agreement under subsection (a) may require reimbursement for services provided by either party to the agreement.

"(c) AVAILABILITY OF FUNDS.—Any funds appropriated for purposes of the administration of this title shall be available for purposes of carrying out the Secretary's responsibility under an agreement entered into under subsection (a). Any reimbursement received pursuant to such an agreement shall be credited to the amount so appropriated.

"(d) STATE TAX AUTHORITY.—For purposes of this section, the term 'State tax authority' means agency, body, or commission referred to in section 6103(d)(1)."

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end thereof the following new item:

"Sec. 7524. Cooperative agreements with State tax authorities."

TITLE V—TAXPAYER BILL OF RIGHTS 2

SEC 5000. SHORT TITLE.

This title may be cited as the "Taxpayer Bill of Rights 2".

Subtitle A—Taxpayer Advocate

SEC. 5001. ESTABLISHMENT OF POSITION OF TAXPAYER ADVOCATE WITHIN INTERNAL REVENUE SERVICE.

(a) GENERAL RULE.—Section 7802 (relating to Commissioner of Internal Revenue; Assistant Commissioner (Employee Plans and Exempt Organizations)) is amended by adding at the end thereof the following new subsection:

"(d) OFFICE OF TAXPAYER ADVOCATE.—

"(1) IN GENERAL.—There is established in the Internal Revenue Service an office to be known as the 'Office of the Taxpayer Advocate'. Such office, including all problem resolution officers, shall be under the supervision and direction of an official to be known as the 'Taxpayer Advocate' who shall be appointed by and report directly to the Commissioner of Internal Revenue. The Taxpayer Advocate shall be entitled to compensation at the same rate as the Chief Counsel for the Internal Revenue Service.

"(2) FUNCTIONS OF OFFICE.—

"(A) IN GENERAL.—It shall be the function of the Office of Taxpayer Advocate to—

"(i) assist taxpayers in resolving problems with the Internal Revenue Service,

"(ii) identify areas in which taxpayers have problems in dealings with the Internal Revenue Service,

"(iii) to the extent possible, propose changes in the administrative practices of the Internal Revenue Service to mitigate problems identified under clause (ii), and

"(iv) identify potential legislative changes which may be appropriate to mitigate such problems.

"(B) ANNUAL REPORTS.—

"(i) OBJECTIVES.—Not later than October 31 of each calendar year after 1991, the Taxpayer Advocate shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the objectives of the Taxpayer Advocate for the following calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information.

"(ii) ACTIVITIES.—Not later than December 31 of each calendar year after 1991, the Taxpayer Advocate shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the activities of the Taxpayer Advocate during the fiscal year ending during such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information, and shall—

"(I) identify the initiatives the Taxpayer Advocate has taken on improving taxpayer services and Internal Revenue Service responsiveness,

"(II) contain recommendations received from individuals with the authority to issue taxpayer assistance orders (within the meaning of section 7811(f)),

"(III) contain a summary of at least 20 of the most serious problems encountered by taxpayers, including a description of the nature of such problems,

"(IV) contain an inventory of the items described in subclauses (I), (II), and (III) for which action has been taken and the result of such action,

"(V) contain an inventory of the items described in subclauses (I), (II), and (III) for which action remains to be completed and the period during which each item has remained on such inventory,

"(VI) contain an inventory of the items described in subclauses (II) and (III) for which no action has been taken, the period during which each item has remained on such inventory, the reasons for the inaction, and identify any Internal Revenue Service official who is responsible for such inaction,

"(VII) identify any Taxpayer Assistance Order which was not honored by the Internal Revenue Service in a timely manner, as specified under section 7811(b),

"(VIII) contain recommendations for such administrative and legislative action as may be appropriate to resolve problems encountered by taxpayers, and

"(IX) include such other information as the Taxpayer Advocate may deem advisable.

"(3) RESPONSIBILITIES OF COMMISSIONER OF INTERNAL REVENUE SERVICE.—The Commissioner of Internal Revenue shall establish procedures requiring a formal response to all recommendations submitted to the Commissioner by the Taxpayer Advocate."

(b) CONFORMING AMENDMENTS.—

(1) Section 7811 (relating to taxpayer assistance orders) is amended—

(A) by striking "the Office of Ombudsman" in subsection (a) and inserting "the Office of the Taxpayer Advocate", and

(B) by striking "Ombudsman" each place it appears (including in the headings of subsections (e) and (f)) and inserting "Taxpayer Advocate".

(2) The heading for section 7802 is amended to read as follows:

"SEC. 7802. COMMISSIONER OF INTERNAL REVENUE; ASSISTANT COMMISSIONERS; TAXPAYER ADVOCATE."

(3) The table of sections for subchapter A of chapter 80 of subtitle F is amended by striking the item relating to section 7802 and inserting the following new item:

"Sec. 7802. Commissioner of Internal Revenue; Assistant Commissioners; Taxpayer Advocate."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5002. EXPANSION OF AUTHORITY TO ISSUE TAXPAYER ASSISTANCE ORDERS.

(a) TAXPAYER'S HARDSHIP.—Section 7811(a) (relating to authority to issue) is amended by striking "significant".

(b) TERMS OF ORDERS.—Subsection (b) of section 7811 (relating to terms of taxpayer assistance orders) is amended—

(1) by inserting "within a specified time period" after "the Secretary", and

(2) by striking "cease any action" and inserting "cease any action, take any action".

(c) LIMITATION ON AUTHORITY TO MODIFY OR RESCIND.—Section 7811(c) (relating to authority to modify or rescind) is amended to read as follows:

"(c) AUTHORITY TO MODIFY OR RESCIND.—Any Taxpayer Assistance Order issued by the Taxpayer Advocate under this section may be modified or rescinded only by the Taxpayer Advocate, the Commissioner, or any superior of either."

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

Subtitle B—Modifications to Installment Agreement Provisions

SEC. 5101. NOTIFICATION OF REASONS FOR TERMINATION OR DENIAL OF INSTALLMENT AGREEMENTS.

(a) TERMINATIONS.—Subsection (b) of section 6159 (relating to extent to which agreements remain in effect) is amended by adding at the end thereof the following new paragraph:

"(5) NOTICE REQUIREMENTS.—The Secretary may not take any action under paragraph (2), (3), or (4) unless—

"(A) a notice of such action is provided to the taxpayer not later than the day 30 days before the date of such action, and

"(B) such notice includes an explanation why the Secretary intends to take such action.

The preceding sentence shall not apply in any case in which the Secretary believes that collection of any tax to which an agreement under this section relates is in jeopardy."

(b) DENIALS.—Section 6159 (relating to agreements for payment of tax liability in installments) is amended by adding at the end thereof the following new subsection:

"(c) NOTICE REQUIREMENTS FOR DENIALS.—The Secretary may not deny any request for an installment agreement under this section unless—

"(1) a notice of the proposed denial is provided to the taxpayer not later than the day 30 days before the date of such denial, and

"(2) such notice includes an explanation why the Secretary intends to deny such request.

The preceding sentence shall not apply in any case in which the Secretary believes that collection of any tax to which a request for an agreement under this section relates is in jeopardy."

(c) CONFORMING AMENDMENT.—Paragraph (3) of section 6159(b) is amended to read as follows:

"(3) SUBSEQUENT CHANGE IN FINANCIAL CONDITIONS.—If the Secretary makes a determination that the financial condition of a taxpayer with whom the Secretary has entered into an agreement under subsection (a) has significantly changed, the Secretary may alter, modify, or terminate such agreement."

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date 6 months after the date of the enactment of this Act.

SEC. 5102. ADMINISTRATIVE REVIEW OF DENIAL OF REQUEST FOR, OR TERMINATION OF, INSTALLMENT AGREEMENT.

(a) GENERAL RULE.—Section 6159 (relating to agreements for payment of tax liability in installments), as amended by section 5101, is amended by adding at the end thereof the following new subsection:

"(d) ADMINISTRATIVE REVIEW.—The Secretary shall establish procedures for an independent administrative review of denials of requests for, or terminations of, installment agreements under this section."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

Subtitle C—Interest

SEC. 5201. EXPANSION OF AUTHORITY TO ABATE INTEREST.

(a) GENERAL RULE.—Paragraph (1) of section 6404(e) (relating to abatement of interest in certain cases) is amended—

(1) by striking "any error or delay" each place it appears and inserting "any unreasonable and excessive error or delay",

(2) by striking "in performing a ministerial act" each place it appears,

(3) by striking "may abate" and inserting "shall abate (or refund)",

(4) by inserting "the taxpayer has fully cooperated in resolving outstanding issues," after "taxpayer involved,", and

(5) by adding at the end thereof the following new sentence: "In order to allow the taxpayer to develop the facts of such error or delay, the Internal Revenue Service shall provide to the taxpayer, within 30 days of the taxpayer's written request (in such form as the Secretary provides), all information and copies of relevant records in the possession of the Internal Revenue Service with respect to such taxpayer's case."

(b) CLERICAL AMENDMENT.—The subsection heading for subsection (e) of section 6404 is amended by striking "ASSESSMENTS" and inserting "ABATEMENT".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to interest accruing with respect to deficiencies or payments for taxable years beginning after the date of the enactment of this Act.

SEC. 5202. EXTENSION OF INTEREST-FREE PERIOD FOR PAYMENT OF TAX AFTER NOTICE AND DEMAND.

(a) GENERAL RULE.—Paragraph (3) of section 6601(e) (relating to payments made within 10 days after notice and demand) is amended to read as follows:

"(3) PAYMENTS MADE WITHIN SPECIFIED PERIOD AFTER NOTICE AND DEMAND.—If notice and demand is made for payment of any amount and if such amount is paid within 21 days (10 days if the amount for which such notice and demand is made equals or exceeds $100,000) after the date of such notice and demand, interest under this section on the amount so paid shall not be imposed for the period after the date of such notice and demand."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply in the case of any notice and demand given after the date 6 months after the date of the enactment of this Act.

Subtitle D—Joint Returns

SEC. 5301. REQUIREMENT OF SEPARATE DEFICIENCY NOTICES IN CERTAIN CASES.

(a) GENERAL RULE.—Paragraph (2) of section 6212(b) (relating to address for notice of deficiency) is amended to read as follows:

"(2) JOINT INCOME TAX RETURN.—In the case of a joint income tax return filed by a husband and wife, any notice of deficiency (described in paragraph (1)) may be a single joint notice, except that if—

"(A) such spouses did not file a joint return with each other for the most recent taxable year for which data are available on the master files of the Internal Revenue Service, or

"(B) the Secretary has been notified by either spouse that separate residences have been established,

then, in lieu of the single joint notice, a duplicate original of the joint notice shall be sent by certified mail or registered mail to each spouse at such spouse's last known address."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date 6 months after the date of the enactment of this Act.

SEC. 5302. DISCLOSURE OF COLLECTION ACTIVITIES.

(a) GENERAL RULE.—Subsection (e) of section 6103 (relating to disclosure to persons having material interest) is amended by adding at the end thereof the following new paragraph:

"(8) DISCLOSURE OF COLLECTION ACTIVITIES WITH RESPECT TO JOINT RETURN.—If any deficiency of tax with respect to a joint return is assessed and the individuals filing such return are no longer married or no longer reside in the same household, upon request in writing of either of such individuals, the Secretary shall disclose in writing to the individual making the request whether the Secretary has attempted to collect such deficiency from such other individual, the general nature of such collection activities, and the amount collected."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 5303. JOINT RETURN MAY BE MADE AFTER SEPARATE RETURNS WITHOUT FULL PAYMENT OF TAX.

(a) GENERAL RULE.—Paragraph (2) of section 6013(b) (relating to limitations on filing of joint return after filing separate returns) is amended by striking subparagraph (A) and redesignating the following subparagraphs accordingly.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 5304. REPRESENTATION OF ABSENT DIVORCED OR SEPARATED SPOUSE BY OTHER SPOUSE.

(a) IN GENERAL.—Section 7605 (relating to time and place of examination) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) REPRESENTATION OF ABSENT DIVORCED OR SEPARATED SPOUSE BY OTHER SPOUSE.—In the case of an examination of an individual with respect to a joint income tax return filed by such individual and the individual's spouse who is no longer married to such individual or no longer resides in the same household and is absent from such examination, the individual may not represent the absent spouse at the examination unless the absent spouse acknowledges such representation in writing."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

Subtitle E—Collection Activities

SEC. 5401. NOTICE OF PROPOSED DEFICIENCY.

(a) IN GENERAL.—Subchapter B of chapter 63 (relating to assessment) is amended by inserting after section 6211 the following new section:

"SEC. 6211A. NOTICE OF PROPOSED DEFICIENCY.

"(a) IN GENERAL.—If, after the examination of a return, the Secretary determines that there may be a deficiency in respect of any tax imposed by subtitle A or B or chapter 41, 42, 43, 44, or 45, the Secretary shall send a notice of proposed deficiency to the taxpayer by certified mail or registered mail to an address as determined under section 6212(b).

"(b) TIMING OF NOTICE.—

"(1) IN GENERAL.—The mailing of the notice of proposed deficiency shall precede any mailing of a deficiency notice under section 6212 by at least 60 days.

"(2) AGREEMENT TO SUSPEND PERIOD OF LIMITATIONS.—If less than a 6-month period remains in the period of limitations provided in section 6501, 6502, or 6229, the taxpayer may agree, in writing, to a period of suspension of such period of limitations in order to allow the Secretary to send a notice of proposed deficiency.

"(c) NO NOTICE IN JEOPARDY ASSESSMENT.—Paragraph (1) shall not apply if the Secretary makes a jeopardy assessment."

(b) CONFORMING AMENDMENT.—Section 6503 (relating to suspension of running of period of limitation) is amended by inserting after subsection (i) the following new subsection:

"(j) SUSPENSION PENDING NOTICE.—The running of the period of limitations provided in section 6501, 6502, or 6229 on the making of assessments or the collection by levy or a proceeding in court, in respect of any deficiency defined in section 6211A(a) shall be suspended for any period described in section 6211A(b)(2)."

(c) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 63 is amended by inserting after the item relating to section 6211 the following new item:

"Sec. 6211A. Notice of proposed deficiency."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect with respect to deficiencies determined on or after 1 year after the date of the enactment of this Act.

SEC. 5402. MODIFICATIONS TO LIEN AND LEVY PROVISIONS.

(a) WITHDRAWAL OF CERTAIN NOTICES.—Section 6323 (relating to validity and priority against certain persons) is amended by adding at the end thereof the following new subsection:

"(j) WITHDRAWAL OF NOTICE IN CERTAIN CIRCUMSTANCES.—

"(1) IN GENERAL.—The Secretary may withdraw a notice of a lien filed under this section and this chapter shall be applied as if the withdrawn notice had not been filed, if the Secretary determines that—

"(A) the filing of such notice was premature or otherwise not in accordance with administrative procedures of the Secretary,

"(B) the taxpayer has entered into an agreement under section 6159 to satisfy the tax liability for which the lien was imposed by means of installment payments, unless such agreement provides otherwise,

"(C) the withdrawal of such notice will facilitate the collection of the tax liability, or

"(D) with the consent of the taxpayer or the Taxpayer Advocate, the withdrawal of such notice would be in the best interests of the taxpayer and the United States.

Any such withdrawal shall be made by filing notice thereof at the same office as the withdrawn notice.

"(2) Notice to credit agencies, etc.—Upon written request by the taxpayer with respect to whom a notice of a lien was withdrawn under paragraph (1), the Secretary shall promptly make reasonable efforts to notify credit reporting agencies, and financial institutions specified in such request, of the withdrawal of such notice. Any such request shall be in such form as the Secretary may prescribe."

(b) Return of Levied Property in Certain Cases.—Section 6343 (relating to authority to release levy and return property) is amended by adding at the end thereof the following new subsection:

"(d) Return of Property in Certain Cases.—If—

"(1) any property has been levied upon, and

"(2) the Secretary determines that—

"(A) the levy on such property was premature or otherwise not in accordance with administrative procedures of the Secretary,

"(B) the taxpayer has entered into an agreement under section 6159 to satisfy the tax liability for which the levy was imposed by means of installment payments, unless such agreement provides otherwise,

"(C) the return of such property will facilitate the collection of the tax liability, or

"(D) with the consent of the taxpayer or the Taxpayer Advocate, the return of such property would be in the best interests of the taxpayer and the United States,

the provisions of subsection (b) shall apply in the same manner as if such property had been wrongly levied upon, except that no interest shall be allowed under subsection (c)."

(c) Modifications in Certain Levy Exemption Amounts.—

(1) Fuel, etc.—Paragraph (2) of section 6334(a) (relating to fuel, provisions, furniture, and personal effects exempt from levy) is amended—

(A) by striking "If the taxpayer is the head of a family, so" and inserting "So", and

(B) by striking "$1,650 ($1,500 in the case of levies issued during 1989)" and inserting "$1,700".

(2) Books, etc.—Paragraph (3) of section 6334(a) (relating to books and tools of a trade, business, or profession exempt from levy) is amended by striking "$1,100 ($1,050 in the case of levies issued during 1989)" and inserting "$1,200".

(3) Indexed for inflation.—Section 6334 (relating to property exempt from levy) is amended by adding at the end thereof the following new subsection:

"(f) Inflation Adjustments.—

"(1) In general.—In the case of any calendar year beginning after 1993, each dollar amount referred to in paragraphs (2) and (3) of subsection (a) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3), for such calendar year, by substituting 'calendar year 1992' for 'calendar year 1989' in subparagraph (B) thereof.

"(2) Rounding.—If any dollar amount after being increased under paragraph (1) is not a multiple of $10, such dollar amount shall be rounded to the nearest multiple of $10 (or, if such dollar amount is a multiple of $5, such dollar amount shall be increased to the next higher multiple of $10)."

(d) Effective Dates.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) Exempt amounts.—The amendments made by subsection (c) shall take effect with respect to levies issued after December 31, 1992.

SEC. 5403. OFFERS-IN-COMPROMISE.

(a) General Rule.—Subsection (a) of section 7122 (relating to compromises) is amended by adding at the end thereof the following new sentence: "The Secretary may make such a compromise in any case where the Secretary determines that such compromise would be in the best interests of the United States.".

(b) Review Requirements.—Subsection (b) of section 7122 (relating to records) is amended by striking "$500." and inserting "$50,000. However, such compromise shall be subject to continuing quality review by the Secretary.".

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5404. NOTIFICATION OF EXAMINATION.

(a) In General.—Subsection (b) of section 7605 (relating to restrictions on examination of taxpayer) is amended by inserting "No examination described in subsection (a) shall be made unless the Secretary notifies the taxpayer in writing by mail to an address determined under section 6212(b) that the taxpayer is under examination and provides the taxpayer with an explanation of the process as described in section 7521(b)(1)." before "No taxpayer".

(b) Conforming Amendment.—Paragraph (1) of section 7521(b) (relating to safeguards) is amended by striking "or at".

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5405. MODIFICATION OF CERTAIN LIMITS ON RECOVERY OF CIVIL DAMAGES FOR UNAUTHORIZED COLLECTION ACTIONS.

(a) Standard of Conduct.—Subsection (a) of section 7433 (relating to civil damages for certain unauthorized collection actions) is amended by striking "recklessly or intentionally" and inserting "negligently, or recklessly or intentionally,".

(b) Dollar Limits With Respect to Standard of Conduct.—Section 7433(b) (relating to damages) is amended—

(1) by inserting ($1,000,000, in the case of reckless or intentional disregard) after "$100,000", and

(2) by inserting "negligent, or" before "reckless or intentional" in paragraph (1).

(c) Effective Date.—The amendments made by this section shall apply to actions by officers or employees of the Internal Revenue Service after the date of the enactment of this Act.

SEC. 5406. SAFEGUARDS RELATING TO DESIGNATED SUMMONS.

(a) Standard of Review.—Subparagraph (A) of section 6503(k)(2) (defining designated summons) is amended by redesignating clauses (i) and (ii) as clauses (ii) and (iii), respectively, and by inserting before clause (ii) (as so redesignated) the following new clause:

"(i) the issuance of such summons is preceded by a review of such issuance by the regional counsel of the Office of Chief Counsel for the region in which the examination of the corporation is being conducted,".

(b) Notice Requirements for Issuance.—Section 6503(k) is amended by adding at the end thereof the following new paragraph:

"(4) Notice requirements.—With respect to any summons referred to in paragraph (1)(A) issued to any person other than the corporation, the Secretary shall promptly notify the corporation, in writing, that such summons has been issued with respect to such corporation's return of tax."

(c) Effective Date.—The amendments made by this section shall apply to summons issued after the date of the enactment of this Act.

Subtitle F—Information Returns

SEC. 5501. PHONE NUMBER OF PERSON PROVIDING PAYEE STATEMENTS REQUIRED TO BE SHOWN ON SUCH STATEMENT.

(a) General Rule.—The following provisions are each amended by striking "name and address" and inserting "name, address, and phone number of the information contact":

(1) Section 6041(d)(1).
(2) Section 6041A(e)(1).
(3) Section 6042(c)(1).
(4) Section 6044(e)(1).
(5) Section 6045(b)(1).
(6) Section 6049(c)(1)(A).
(7) Section 6050B(b)(1).
(8) Section 6050H(d)(1).
(9) Section 6050I(e)(1).
(10) Section 6050J(e).
(11) Section 6050K(b)(1).
(12) Section 6050N(b)(1).

(b) Effective Date.—The amendments made by subsection (a) shall apply to statements required to be furnished after December 31, 1992 (determined without regard to any extension).

SEC. 5502. CIVIL DAMAGES FOR FRAUDULENT FILING OF INFORMATION RETURNS.

(a) General Rule.—Subchapter B of chapter 76 (relating to proceedings by taxpayers and third parties) is amended by redesignating section 7434 as section 7435 and by inserting after section 7433 the following new section:

"SEC. 7434. CIVIL DAMAGES FOR FRAUDULENT FILING OF INFORMATION RETURNS.

"(a) In General.—If any person willfully files a false or fraudulent information return with respect to payments purported to be made to any other person, such other person may bring a civil action for damages against the person so filing such return.

"(b) Damages.—In any action brought under subsection (a), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the greater of $5,000 or the sum of—

"(1) any actual damages sustained by the plaintiff as a proximate result of the filing of the false or fraudulent information return (including any costs attributable to resolving deficiencies asserted as a result of such filing), and

"(2) the costs of the action.

"(c) Period for Bringing Action.—Notwithstanding any other provision of law, an action to enforce the liability created under this section may be brought without regard to the amount in controversy and may be brought only within 6 years after the filing of the false or fraudulent information return.

"(d) Information Return.—For purposes of this section, the term 'information return' means any statement described in section 6724(d)(1)(A)."

(b) Clerical Amendment.—The table of sections for subchapter B of chapter 76 is amended by striking the item relating to section 7434 and inserting the following:

"Sec. 7434. Civil damages for fraudulent filing of information returns.

"Sec. 7435. Cross references."

(c) Effective Date.—The amendments made by this section shall apply to false or fraudulent information returns filed after the date of the enactment of this Act.

SEC. 5503. REQUIREMENT TO VERIFY ACCURACY OF INFORMATION RETURNS.

(a) General Rule.—Section 6201 (relating to assessment authority) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) Required Reasonable Verification of Information Returns.—In any court proceeding, if a taxpayer asserts a reasonable dispute with respect to any item of income reported on an information return filed with the Secretary under chapter 61 by a third party and the taxpayer has fully cooperated with the Secretary, the Secretary, in presenting evidence of the deficiency based on such information return, shall present reasonable evidence of such deficiency in addition to such information return."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

Subtitle G—Modifications to Penalty for Failure To Collect and Pay Over Tax

SEC. 5601. TRUST FUND TAXES.

(a) IN GENERAL.—Section 6672 (relating to failure to collect and pay over tax, or attempt to evade or defeat tax) is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) PRELIMINARY NOTICE AND DECLARATORY JUDGMENT PROCEEDING.—

"(1) PRELIMINARY NOTICE.—No penalty shall be imposed under subsection (a) unless the Secretary notifies the taxpayer in writing by mail to an address as determined under section 6212(b) that the taxpayer shall be subject to an assessment of such penalty and provides the taxpayer with an explanation of the declaratory judgment process under paragraph (3).

"(2) TIMING OF NOTICE.—The mailing of the notice described in paragraph (1) shall precede any notice and demand of any penalty under subsection (a) by at least 60 days.

"(3) DECLARATORY JUDGMENT.—

"(A) IN GENERAL.—In a case of an actual controversy involving a determination by the Secretary with respect to the taxpayer's liability for the penalty imposed under subsection (a), upon the filing of an appropriate pleading, the Tax Court may make a declaration with respect to such liability. Any such declaration shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.

"(B) EXHAUSTION OF ADMINISTRATIVE REMEDIES.—The Tax Court shall not issue a declaratory judgment or decree under this paragraph in any proceeding unless it determines that the petitioner has exhausted administrative remedies available to the petitioner within the Internal Revenue Service.

"(C) TIME FOR BRINGING ACTION.—No proceeding may be initiated under this paragraph by any person unless the pleading is filed before the 31st day after the day the notice under paragraph (1) is mailed to such person."

(b) CONFORMING AMENDMENTS.—Section 6672 is amended—

(1) by striking paragraphs (4) and (5) of subsection (c) (as redesignated by this section), and

(2) by adding at the end thereof the following new subsections:

"(e) SUSPENSION OF RUNNING OF PERIOD OF LIMITATIONS ON COLLECTION.—The running of the period of limitations provided in section 6502 on the collection by levy or by a proceeding in court in respect to any penalty under subsection (a) shall be suspended for the period during which the Secretary is prohibited from collecting the penalty by levy or a proceeding in court.

"(f) JEOPARDY COLLECTION.—If the Secretary makes a finding that the collection of the penalty is in jeopardy, nothing in this section shall prevent the immediate collection of such penalty."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply in the case of failures after the date of the enactment of this Act.

SEC. 5602. DISCLOSURE OF CERTAIN INFORMATION WHERE MORE THAN 1 PERSON SUBJECT TO PENALTY.

(a) IN GENERAL.—Subsection (e) of section 6103 (relating to disclosure to persons having material interest), as amended by section 402, is amended by adding at the end thereof the following new paragraph:

"(9) DISCLOSURE OF CERTAIN INFORMATION WHERE MORE THAN 1 PERSON SUBJECT TO PENALTY UNDER SECTION 6672.—If the Secretary determines that a person is liable for a penalty under section 6672(a) with respect to any failure, upon request in writing of such person, the Secretary shall disclose in writing to such person—

"(A) the name of any other person whom the Secretary has determined to be liable for such penalty with respect to such failure, and

"(B) whether the Secretary has attempted to collect such penalty from such other person, the general nature of such collection activities, and the amount collected."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 5603. PENALTIES UNDER SECTION 6672.

(a) PUBLIC INFORMATION REQUIREMENTS.—The Secretary of the Treasury or the Secretary's delegate (hereafter in this section referred to as the "Secretary") shall take such actions as may be appropriate to ensure that employees are aware of their responsibilities under the Federal tax depository system, the circumstances under which employees may be liable for the penalty imposed by section 6672 of the Internal Revenue Code of 1986, and the responsibility to promptly report to the Internal Revenue Service any failure referred to in subsection (a) of such section 6672. Such actions shall include—

(1) printing of a warning on deposit coupon booklets and the appropriate tax returns that certain employees may be liable for the penalty imposed by such section 6672, and

(2) the development of a special information packet.

(b) BOARD MEMBERS OF TAX-EXEMPT ORGANIZATIONS.—

(1) VOLUNTARY BOARD MEMBERS.—The penalty under section 6672 of the Internal Revenue Code of 1986 shall not be imposed on unpaid, volunteer members of any board of trustees or directors of an organization referred to in section 501 of such Code to the extent such members do not participate in the day-to-day or financial operations of the organization.

(2) DEVELOPMENT OF EXPLANATORY MATERIALS.—The Secretary shall develop materials explaining the circumstances under which board members of tax-exempt organizations (including voluntary members) may be subject to penalty under section 6672 of such Code. Such materials shall be made available to tax-exempt organizations.

(3) IRS INSTRUCTIONS.—The Secretary shall clarify the instructions to Internal Revenue Service employees on the application of the penalty under section 6672 of such Code with regard to voluntary members of boards of trustees or directors of tax-exempt organizations.

(c) PROMPT NOTIFICATION.—To the maximum extent practicable, the Secretary shall notify all persons who have failed to make timely and complete deposit of any taxes of such failure within 30 days after the date on which the Secretary is first aware of such failure.

Subtitle H—Awarding of Costs and Certain Fees

SEC. 5701. COMMENCEMENT DATE OF REASONABLE ADMINISTRATIVE COSTS.

(a) IN GENERAL.—The second sentence of section 7430(c)(2) (defining reasonable administrative costs) is amended to read as follows:

"Such term shall only include costs incurred on or after the earlier of (i) the date of the notice of proposed deficiency under section 6211A or similar notice of assessment or proposed assessment, or (ii) the date of the notice of deficiency."

(b) CONFORMING AMENDMENT.—Clause (i) of section 7430(c)(7)(B) (defining position of United States) is amended to read as follows:

"(i) the date of the notice of proposed deficiency under section 6211A or similar notice of assessment or proposed assessment, or".

SEC. 5702. INTERIM NOTICE REQUIREMENT.

Paragraph (4) of section 7430(c) (defining prevailing party) is amended by adding at the end thereof the following new subparagraph:

"(C) INTERIM NOTICE.—Once a taxpayer substantially prevails as described in subparagraph (A)(ii) and in order to allow such taxpayer to develop the facts relating to the position of the United States, the Internal Revenue Service shall provide to the taxpayer, within 30 days of the taxpayer's written request (in such form as the Secretary provides), all information and copies of relevant records in the possession of the Internal Revenue Service with respect to such taxpayer's case and the substantial justification for the position taken by the Internal Revenue Service."

SEC. 5703. INCREASED LIMIT ON ATTORNEY FEES.

Paragraph (1) of section 7430(c) (defining reasonable litigation costs) is amended by inserting after clause (iii) the following:

"In the case of any calendar year beginning after 1981, the dollar amount referred to in clause (iii) shall be increased by an amount equal to such dollar amount, multiplied by the cost-of-living adjustment determined under section 1(f)(3), for such calendar year, by substituting 'calendar year 1980' for 'calendar year 1989' in subparagraph (B) thereof. If any dollar amount after being increased under the preceding sentence is not a multiple of $10, such dollar amount shall be rounded to the nearest multiple of $10 (or, if such dollar amount is a multiple of $5, such dollar amount shall be increased to the next higher multiple of $10)."

SEC. 5704. FAILURE TO AGREE TO EXTENSION NOT TAKEN INTO ACCOUNT.

Paragraph (1) of section 7430(b) (relating to requirement that administrative remedies be exhausted) is amended by adding at the end thereof the following new sentence: "Any failure to agree to an extension of the time for the assessment of any tax shall not be taken into account for purposes of determining whether the prevailing party meets the requirements of the preceding sentence."

SEC. 5705. EFFECTIVE DATE.

The amendments made by this subtitle shall apply in the case of notices made and proceedings commenced after the date of the enactment of this Act.

Subtitle I—Other Provisions

SEC. 5801. REQUIRED CONTENT OF CERTAIN NOTICES.

(a) GENERAL RULE.—Subsection (a) of section 7522 (relating to content of tax due, deficiency, and other notices) is amended by striking "shall describe the basis for, and identify" and inserting "shall set forth the adjustments which are the basis for, and shall identify".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to notices sent after the date 6 months after the date of the enactment of this Act.

SEC. 5802. RELIEF FROM RETROACTIVE APPLICATION OF TREASURY DEPARTMENT REGULATIONS.

(a) IN GENERAL.—Subsection (b) of section 7805 (relating to rules and regulations) is amended to read as follows:

"(b) RETROACTIVITY OF REGULATIONS.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), any temporary or proposed regulation issued by the Secretary shall apply prospectively from the date of publication of such regulation in the Federal Register.

"(2) CONGRESSIONAL AUTHORIZATION.—The prospective only treatment of paragraph (1) may be superseded by a specific legislative grant from Congress authorizing the Secretary to prescribe *the effective date with respect to a statutory provision.*

"(3) ELECTION TO APPLY RETROACTIVELY.—The Secretary may provide for any taxpayer to elect to apply any temporary or proposed regulation retroactively from the date of publication of such regulation in the Federal Register.

"(4) APPLICATION TO FINAL REGULATIONS.—The Secretary may provide that any final regulation relating to any temporary or proposed regulation take effect from the date of publication of such temporary or proposed regulation in the Federal Register."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to—

(1) any temporary or proposed regulation published on or after February 20, 1992, and

(2) any temporary or proposed regulation published before February 20, 1992, and published as a final regulation after such date.

SEC. 5803. REQUIRED NOTICE OF CERTAIN PAYMENTS.

If any payment is received by the Secretary of the Treasury or the Secretary's delegate (hereafter in the section referred to as the "Secretary") from any taxpayer and the Secretary cannot associate such payment with any outstanding tax liability of such taxpayer, the Secretary shall make reasonable efforts to notify the taxpayer of such inability within 60 days after the receipt of such payment.

SEC. 5804. UNAUTHORIZED ENTICEMENT OF INFORMATION DISCLOSURE.

(a) IN GENERAL.—Part I of chapter 75 of subtitle F (relating to crimes, other offenses, and forfeitures) is amended by adding at the end thereof the following section:

"SEC. 7217. UNAUTHORIZED ENTICEMENT OF INFORMATION DISCLOSURE.

"Any officer or employee of the United States who defers or offers to defer, or forgives or offers to forgive, the determination or collection of any tax due to an attorney, certified public accountant, or enrolled agent representing a taxpayer, in exchange for information concerning such taxpayer, shall be guilty of a felony, and upon conviction thereof, shall be fined not more than $5,000, or imprisoned not more than 5 years, or both, together with the costs of the prosecution."

(b) CLERICAL AMENDMENT.—The table of sections for part I of chapter 75 of subtitle F is amended by adding at the end thereof the following new item:

"Sec. 7217. Unauthorized enticement of information disclosure."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to actions after the date of the enactment of this Act.

Mr. BENTSEN. Mr. President, today the Senate begins to work on a tax bill that tries to bring about three objectives. One, to bring about more fairness to the Tax Code. Two, to provide some real incentives to get this economy moving again. And three, to do it all without busting the budget, and to do it within the discipline of the budget agreement.

Enactment of this legislation is going to help middle-income families. It is going to help those families that wait for the supermarket ads and look for the coupons to be able to take them to the grocery store before they decide which groceries to buy that week and which not to; families that, when they start thinking about their kids going to college, look more at the economic assistance for the student than they do at the academic qualities of that college to start with; families that, when they have a child who is running a fever and they have to go to a doctor, realize they are making not just a medical decision but they are making a financial decision.

Recent studies show that middle-income families have to work a month longer than they did a decade ago in order to make ends meet. Parents have 40 percent less discretionary time. That means less time with their children and all the problems that result therefrom.

The cost of feeding, clothing, and educating our children have risen, but middle-income Americans are having to work harder just to stay in place. This proposal is aimed specifically at those families that have taken the hardest hit over the last decade and they are middle-income families with children, those that have seen their taxes go up and their incomes go down.

We are looking for honest answers that will create jobs and opportunity for the long term. We are doing this in a fiscally responsible manner. And we are doing our part to try to comply with the President's directive by getting this legislation before him by a March 20 deadline, the deadline that he has laid down.

This was not an easy package to put together. The easy way would have been to resort to the shifting sand of creative accounting that the administration's proposal was built upon.

But we insisted it would not be a budget buster. Democrats in the Finance Committee were unanimous in agreeing that every item in this bill had to be paid for. And it is. This bill pays for itself. It does not add a nickel to the Federal deficit over the next 6 years. In fact, it lowers that deficit by $6.5 billion during that period.

We are not shifting the cost back to the working families of America. Nor are we shifting the costs on to our children. That is because, unlike the President's plan, we paid for every tax cut in our bill.

According to the Congressional Budget Office, the President's proposal would increase the deficit by $27 billion over those 5 years—break that budget agreement wide open.

After reading a deficit-increasing proposal like that, you have to conclude that the administration's computers that calculated it must have been struck by the Michelangelo virus.

What this legislation will do is start putting fairness into our tax system. At the heart of the bill is a permanent $300 tax credit for each child, each year until that child turns 16. For a family of four making the median income, which in this country today is $35,000, a family of four—two children—that is a $600 tax reduction, a 25-percent cut in their income tax bill.

Oh, I know to some that sounds like peanuts, inside the Beltway, but I will tell you it is serious money to a family in Abilene, TX, or Aurora, IL, or any number of places around this country. For a child born this year, that is nearly $5,000 by the time he or she gets a driver's license. With $5,000 per child, a family can have better quality day care; help pay the orthodontist, buy better health insurance, or pay for medical expenses that are not covered. Or they could set aside that money to pay for college expenses. If it is invested at 8 percent, that $300 credit each year would add up to $15,000 by the time that child was ready to go to college. About 20 million middle-income families would benefit from that tax credit alone. Millions more would benefit from other tax provisions.

It would restore the fully deductible IRA's for all American workers, allow early withdrawals to buy a house, go to college, fight a costly illness. Those are the provisions of the Bentsen-Roth IRA bill. And I am delighted to see my cosponsor on that bill chairing the representation of the minority. We have some 78 Senators on that bill; bipartisan support for it.

It would establish, also, a fair, progressive capital gains tax cut. It gives 65 percent of the benefits to people who earn less than $100,000 a year. And it would simplify and expand the earned income tax credit to help families where the parents work but at low-paying jobs.

This bill takes a good first step toward dealing with our Nation's health care crisis, focusing on the small business owners, the millions of Americans who work for small business.

In traveling across Texas and meeting with small business employers and their employees, listening to their concerns, their first response when finances get tight is to raise the deductible. Then they arise the coinsurance. Then they drop the dependents. And then they drop the policy altogether because last year health insurance premiums went up 24 percent and the year before that 24 percent—almost 50 percent in 2 years. So small business says, "We just cannot stop it; we cannot handle it."

This bill includes the Better Access to Health Care Act—a bipartisan measure that I introduced last October with Senators DURENBERGER, MITCHELL, ROCKEFELLER, PRYOR, RIEGLE, and others. This bill takes some important steps to address problems in our health care system. More than 34 million Americans, most of whom have jobs or live in families where someone works, lacks health insurance and needs our help.

We are stepping up to that issue of "job lock," the problem when someone has a preexisting condition, or has a spouse that does, or they have a dependent that does, and they cannot change jobs. They hear of a better offer but they cannot really consider it because they are afraid they will not get the coverage, the health insurance, in that next job. Or you have some insurance companies that will come in and say, "Look, we can take 23 of your employees but that 24th one, that woman there with the heart condition, we cannot take her." Yet she is the one who probably needs it the most. It puts a stop to that. It stops those insurance companies who "cherry pick" only the healthiest workers for a company red line companies—denying insurance to all their workers there.

Workers and their family members will be protected from gaps in health insurance coverage when they change jobs. New rules will be established for health insurance sold to small businesses so that individual employees, or their dependents, cannot just be singled out and excluded from the coverage. Their policies cannot be canceled when someone gets sick. Farmers and other self-employed taxpayers will be able to deduct 100 percent of their health insurance premiums.

A Health Care Cost Commission will be created to advise the President and the Congress on ways to make health care more affordable and more accessible.

These actions are not a substitute for comprehensive overall health reform, but they are first steps. We can agree on that while the debate on comprehensive reform continues. Comprehensive change is needed and this is a step toward it, not a substitute for it. But the fact is, right now there is no agreement on what form a comprehensive solution should take. There is agreement, bipartisan agreement, that these provisions we are talking about here will make a difference.

After we have introduced this bill, the President can then incorporate many of the proposals in our legislation into a health care reform bill of his own.

So once again we are trying to bring about a bipartisan solution to help move this country forward. Some Republicans have taken to calling this bill a tax increase. It is not. It is revenue neutral. For every tax increase, there is a tax cut. It is no more a tax increase that President Reagan's tax reform legislation was in 1986. His bill, like the bill the Finance Committee reported to the Senate, it raised some taxes in order to lower others.

Our bill will mean that higher taxes will be paid by a few—fewer than 800,000 people at the top of the income scale—in order to cut taxes for the 31 million American families who would benefit from the child tax credit, from the earned income tax credit, and progressive capital gains provisions.

Those whose taxes would increase are the same group who enjoyed a $16,000-a-year tax cut in the eighties. The President dismisses our tax cut for middle-income Americans as insignificant. How can he say that a 25 percent income tax cut for a family of four, average income family, has little meaning, while simultaneously staking his Presidency on opposition to a 5-percent tax increase for those earning more than $175,000?

Let me give an example of that. Mr. President, do you know what the tax rate is for people making $35,000 a year, as compared to someone making $1 million, the difference in the rate? It is 3 percent. That is the difference in the rate.

When we are talking about putting this legislation into effect, it will still mean that this country will have a substantially smaller top-income tax rate than will our principal economic competitors like Japan and Germany, who have a 50- and 53-percent rate.

I think the way we have addressed this is a fair and fiscally responsible way for putting some fairness back into the tax system. The plan would increase that marginal tax rate from 31 to 36 percent for families with a taxable income of over $175,000. That is taxable income. That is after you remove all the deductions. That means the gross income is certainly higher than that.

Back in 1985, I can recall that President Reagan proposed a 35-percent rate on everyone earning more than $70,000. We are keeping the rate at 28 percent for the vast majority of those taxpayers. We are also asking for a 10-percent surtax on the most fortunate, those who have an income of over $1 million a year.

Even with these changes, the wealthiest Americans will remain far ahead of where they were in the sixties, when the top tax bracket was 91 percent; and in the seventies, when it was 70 percent. The top bracket will be approximately half the seventies rate and, again, remains substantially lower than top rates of our principal economic competitors. If the President feels that is veto bait, so be it. I am more than happy to let the American people decide that one.

Instead, though, I hope the President will change his mind. If he wants people to believe his March 20 deadline represents a real desire for action and not just an arbitrary rhetorical marker, he should regard our effort to enact this legislation. If he will just quit worrying about Pat Buchanan, the President will see this bill for what it is: An honest effort at finding a solution. For despite the differences that attract these headlines, the deep, dark secret about this bill is that it seeks common ground among Congress and the President, among Democrats and Republicans.

The health provisions that the President has endorsed are included. He proposed a seven-point growth program. We accepted all seven, with some minor modifications, and that includes his cherished capital gains cut. His State of the Union proposal on capital gains turned out to be so far off the mark that the administration was forced to amend it in the budget.

But their proposal would have given 66 percent of the benefits to people with incomes over $200,000—66 percent to less than 1 percent of the people. Our proposal gives 66 percent to those making under $100,000.

Americans really want results. They do not want bickering. We keep hoping this economy is going to rebound. Economists have been telling us that the recovery is just 6 months away. They have been telling us that for 18 months now. One of these days, they are going to be right, and I sure hope it is soon. Some hopeful signs of recovery were overpowered by the news last Friday, though, when our unemployment rate soared to 7.3 percent in February. That is the highest it has been in more than 6 years.

We are laying the foundation for real jobs and prosperity in the future. This legislative package stimulates savings and investment. It makes it easier to save for college, easier to get and pay back a college loan. It addresses some of the serious health care problems that are facing working Americans.

Throughout our history, America has meant opportunity, the chance for a step up in life. But opportunity sure became a scarce commodity in the eighties. Today we are talking about turning that one around. This bill can help Americans better cope with today's financial pressures and shore up our economy to provide our children with a better future.

Over the past decade, the middle-income families with children saw their taxes go up while their incomes went down by an average of $1,600. It is only right that we pass this legislation to bring their taxes down and restore a measure of fairness to our tax system.

Mr. President, I yield the floor.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Delaware [Mr. ROTH].

Mr. ROTH. Mr. President, with baseball season quickly approaching, there is a story about the remarkable Lou Gehrig that I believe might help us put some perspective on this tax debate. One day, in the last inning of a critical game, Gehrig let the umpire call the third strike on him. The fans were outraged at the call. From the point of view of those in the grandstands, Gehrig appeared equally upset. He threw down his bat and muttered something to the umpire.

It was totally out of character for Gehrig. Shortly after the game, as Lou Gehrig left the clubhouse, a reporter asked him what he was complaining about to the umpire. Gehrig answered: "I wasn't complaining. I simply told him that I'd give a million dollars for another chance at that last ball."

Here we are, Mr. President, at the bottom of the ninth in a critical game of our own. In the balance are jobs for Americans and a strong competitive future for America. Nothing less. And what we do on the floor of this Senate will either send the ball sailing into the bleachers over the centerfield wall, or—if we continue to let politics get the best of us—will find us taking the third strike on a full count without even swinging the bat. If that happens, how many of us—like Lou Gehrig—will find ourselves muttering that we would give a million dollars for another chance at the ball.

We cannot afford to miss.

And frankly, I am of the opinion that we will not. I believe that each one of us realizes what's at stake in this tax debate. Plain and simple, the issue is one of jobs—jobs for today and jobs in a competitive U.S. economy tomorrow. The question is how do we come together as political parties with differing agendas—especially in this election year—to do, not what is politically expedient, but to do what is right for the American people? How do we give American workers, American families, American commerce the hope and promise being sought?

These are the questions, and they go far beyond politics. They cut to the very core of America's future. And as a consequence, they demand the very best effort we have to offer.

We cannot continue to let politics get in the way of progress. And, Mr. President, they are getting in the way. Is there any question why voters are disheartened, frustrated and even angry. Frankly, I cannot blame them. What they are asking for is what—because of politics only—Congress is showing itself unable to deliver. Americans want us to forge a program that promises jobs, growth and a bright—internationally competitive—future.

It can be done. It has been done before.

To paraphrase the great John Dickenson, Delaware's representative to the Continental Congress: Politics will mislead us; Experience must be our guide. And we, Mr. President, have that experience. And I am here today to ask my colleagues to return with me to the basics of good government.

That is what this tax debate should be about. Putting one more bandage over an infected wound simply because we're in an election year—and because Congress might be able to fool some of the people for nothing more than political gain—is not only wrong; in this crucial game, it is also dangerous.

America is still dazed from Congress' last bandage—the record-setting tax increase of 1990. That increase—according to its outspoken proponents—was supposed to cure the wound. It was supposed to cut the deficit. It was supposed to ignite the economy. Only last week, President Bush admitted it was one of the most regrettable mistakes of his first term. In each and every case, that tax increase had the opposite effect. The deficit is today at a record high. Following the increase, the economy dipped deeper into recession. And Government waste and inefficiency continues unabated.

Let experience be our guide. Compare the outcome of that tax increase to the outcome of the Roth-Kemp tax cuts of 1981. Within months after Roth-Kemp began to take effect, the economy was on a rebound—real Gross Domestic Product was growing almost 4 percent in 1983 and almost 7 percent in 1984. The unemployment rate fell by more than 2 percentage points in the first full year after the Roth-Kemp tax cuts took effect. By the end of 1984, four million additional jobs had been created and real median family income had begun a rebound that would reach 13 percent by the end of the expansion.

On the other hand, after the recordsetting tax increase of 1990, employment dropped by over a million jobs, median family income declined $709 in 1990 alone, and real GDP bottomed out.

It is important to mention here that following Roth-Kemp, Treasury revenues were at an all-time high. Between 1980 and 1990, Federal revenues climbed $514 billion. The problem is that unchecked congressional spending grew even faster—$661 billion over the same period. The difference between these two numbers completely explains the increase in the deficit during this time and proves that the deficit problem is not that Americans are under taxed—or that the Treasury is starved of revenue; the problem is that Congress cannot control its insatiable appetite for spending.

The problem, Mr. President, resides in this body, and over there in the House of Representatives. The problem is not with the taxpayer. The problem is not with small businesses and farmers struggling to stay alive amid a sea of tax increases and over regulation. The problem is here. And the problem must be solved here!

I know that some try to dismiss the Reagan, Roth-Kemp expansion years as a decade of greed—a decade of over-indulgence—a decade of deficits. If that is good for their politics, let them continue to distort the truth. The honest know otherwise. Charitable giving, economic growth, and Federal revenues were at an all time high. Across the board, Americans were better off. And if we will set aside politics and return to the fundamental principles we embraced in 1981, Americans will be better off again.

All the bashing of the Reagan expansion years—popular in the liberal community—relies almost entirely on disinformation coming from sources such as the Congressional Budget Office. And the American people know this. They know that the years following Roth-Kemp were much more secure than those following the 1990 tax increase. That is why Congress is facing the cynicism it is today; that is why Congress—if we are to promote jobs, growth and opportunity, if we are to prepare America for a bright economic future—must set aside partisan politics and find a consensus on real tax incentives for a lasting recovery.

Unfortunately, there are those who seek to undermine our effort. These are the big-spending liberals—those out of touch with mainstream America—those who will do almost anything to augment their power base. To them I respond not so much in anger as with sorrow. They have got to come clean before we can make meaningful progress on this critical debate. They have thrown truth as well as history out the window to embrace deliberately fabricated erroneous statistics to tell a story that just is not true.

Even last week, Joint Economic Committee Republicans exposed a horrendous mistake—and subsequent coverup—by the liberal-controlled CBO. In trying to prove that during the record-setting economic recovery of the 1980's the rich got richer while the poor got poorer, CBO—along with the liberal-controlled Joint Tax Committee—made a gross error of $134 billion. One hundred and thirty-four billion dollars.

The CBO and Joint Tax Committee's estimate of capital gains income was off by over 100 percent. How in the world can the liberals be expected to make reasonable and rational economic policy when their own economists are off by over 100 percent, when they try to cover up an error of $134 billion? Frankly, I do not blame the economists who made the mistake. Under the system as it is now, they are paid by the liberals—the masters whom they serve.

When the big-spending liberals—for political reasons—say this is the outcome we want: we want to prove that the rich are getting richer while the poor are getting poorer, and we do not care how you bend the numbers. The economists are only doing what their politicians are telling them.

But when those numbers come to this floor and are used to make economic policy that will significantly affect the well-being of American families—the future competitive strength of our economy—that is when, as Benjamin Disareli said, lies, damn lies, and politicized statistics must be exposed. In the name of fairness, I encourage all my colleagues on the other side of the aisle to look into these fraudulent statistics before you determine the course of future economic policy.

I encourage you to read an honest and insightful article by the well-respected Stanford economist, Thomas Sowell, that appeared in Forbes magazine. I ask unanimous consent that this article and the other one appear in the RECORD following my remarks, but I would also like to read a very telling passage.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. ROTH. According to Dr. Sowell:

> Statistics on income distribution are a much more reliable guide to political fashions than to economic reality. In an era when indignation has become a way of life, statistics are defined and compiled in ways that exaggerate income at the top and understate income at the bottom.

Then, referring to the exact CBO report I have cited, Dr. Sowell writes:

> Recently, a much-publicized study by the Congressional Budget Office set off predictable cries in the media that the rich were getting richer and the poor were getting poorer. But the definitions and statistical methods used reveal more than numbers themselves.
>
> First, of all, most of the $184 billion in Government welfare benefits to low-income Americans simply does not get counted. Food stamps, public housing and Medicaid are among the noncash benefits that are left out.
>
> At the other end of the income distribution, capital gains are treated in the CBO statistics in a way that would get a student flunked in elementary economics or statistics.

Dr. Sowell goes on to explain exactly what the CBO did to politicize the statistics. And frankly, what they did, should raise the dander of every responsible American. To those Americans the reason why the liberals refuse to come clean is simple: They want your money.

The liberals in Congress honestly believe they can spend your money better than you can spend it. Frankly, that's just what the bosses in the Kremlin thought up until a few years ago. And that inflated opinion by the liberals in Congress is at the very foundation of this tax debate.

For meaningful progress—to get the results the American people want—we have to break the mold. We have to literally redefine the tax debate.

We are not here to decide what Congress should do with its money, with revenue it has earned through honest labor. We are here to decide how to responsibly use the money allocated to Government by the American people. And I think the liberals in Congress—those who have succeeded in defining this debate—have forgotten that.

This is not their money we are talking about. They did not earn it. It does not belong to them. The U.S. Government has no money of its own. The Government is not a profitable corporate entity. It is not a small business struggling to survive. It is not a hard-working lineman or a diligent woman on a factory floor. It is not a teacher in a classroom, or a homemaker administering to the needs of family.

But from what I have heard so far in this tax debate, you'd think the Government was deciding what to do with its money and that the hard-working, risk-taking, family-supporting taxpayer had little if any say in the matter. Worse yet, you would think that the money of these hard-working Americans—the taxes Congress has yet to levy—was already being taken for granted.

Well, that is wrong. It is dead wrong. And as we consider how the trusted funds needed to run government—needed to provide essential services and provide for the common defense—as we decide how these trusted funds should be used, let us keep straight whose money it is in the first place. That is how we must redefine this debate. That is how we must let history be our guide.

Every time hard-earned dollars are taken from farmers in Sussex County, Delaware, to finance one more Federal boondoggle—every time taxes are used to finance inefficient and needless Government programs—Congress has forgotten whose money it is using to pay for the pork; and, perhaps more importantly, Congress has missed another chance to do what is right rather than what is politically expedient.

If we are to meet the bright future that could be ours, we must get back to the basics, Mr. President. Americans will not suffer tax-hiking fools much longer. Just ask King George. And in these last few years, tax hikes have grown out of control. The liberals in this body look at them as a right, not as a stewardship of responsibility and trust. And that is very, very dangerous, especially when these liberals are willing to bend the statistics in their efforts to increase taxes even further. In this effort, their attempt to play one economic group against another—the middle class against the wealthy class—has no place on the floor of the U.S. Congress.

Toward real progress—progress that I believe can be achieved—our objective must be straightforward and understandable. Our course for the future must be one of incentives rather than penalties. Americans must be rewarded for their labors rather than penalized through excessive taxation. Americans must be rewarded for saving and investing; they must be encouraged to play vital and necessary roles in an internationally competitive community—a community in which America must be seen as first among equals—and a community in which the entrepreneurial and disciplined spirit of our past plays an equal part in our future.

Under no circumstances can we afford another tax increase. Let me say this again so there is no mistaking: Under no circumstances can America afford another tax increase. Just as it happened with the ill-conceived luxury tax, a tax increase of any kind will come back to haunt our economy and to penalize even those it intended to help. And quite frankly, I am surprised that given the current economic environment—the need to spark the economy—that some in this Congress would even consider a tax increase. Feeding Congress' money-burning appetite at this time is like giving a man with a heart condition a high-fat, high-cholesterol diet. There is no sense to it and the result is bound to be terminal.

Rather than tax increases, Mr. President, we must come together with positive economic policies, policies that equal growth and jobs. And time is of the essence. Every day we delay action—every day we allow politics to get in the way of real reform—we put off recovery and force Americans in real need to struggle for another 24 hours. I, for one, am fed up. Without breaking the mold on this debate and going back to the basics of real reform, the liberals in Congress are going to fulfill the prediction headlining a front-page story in a recent edition of the New York Times. They write: "Despite all the talk of tax cuts, people can expect to pay more."

Frankly, this is exactly what the House Democrats proposed with their recent bill. A 2-year tax cut charade in an election year for the middle class followed by record-setting increases that are scheduled to last forever.

As I say, the tax cut was for 2 years, but the tax increases are scheduled forever.

The intention of the bill is not to spark the economy, it is not even to administer real and lasting tax relief for the middle class. The intention, quite simply, is to foment class warfare, dangerous class warfare for nothing more than political gain. And the tax bill now introduced here by Senate Democrats has the same objective.

Frankly, as for the Senate proposal, with the exception of the Bentsen-Roth IRA proposal, I regret that this tax bill does little to meet the criteria for real economic reform. It does little for growth, little for a strong American future. In reality, it is little more than a tax increase orchestrated by big spenders who, quite honestly, will never have enough of the taxpayers' hard-earned money. They will always have one more multibillion-dollar program to fund, one more port barrel project, one more needless bureaucratic, inefficient government office to keep open.

How long can we allow this to go on? Unless we begin now to break the mold, to shatter the economic debate that the big spenders have controlled throughout the last three decades, this tax increase—proposed by Senate Democrats—will be only one more milestone along the road to America's economic ruin.

The big spenders control the money. The big spenders created the deficit. It is that simple. They can use all the smoke and mirrors they want, they can get the CBO to twist the statistics, but the American people are fully aware of the game. And they will not allow it to go on much longer.

I am here today because I do not believe it has to be that way. I believe we can begin now to turn the economy around. We can begin now to answer the real demands of Americans—to offer them the hope and promise they are seeking. We proved that we could do it in 1981. John F. Kennedy proved it 20 years earlier. I believe we can prove it again. Immediately, we can prove it by limiting our honest approach to three specific initiatives:

First, we must pass the Bentsen-Roth super IRA. America's rate of saving is the lowest of the G-7. Where Japan's rate of personal saving is 15.9 percent, America's is 4.6. The next lowest is the United Kingdom at 8.7 percent. We cannot modernize, we cannot compete if this discrepancy in savings is not addressed. I was honored and happy to join my distinguished chairman in the Bentsen-Roth super IRA which offers the incentives needed to increase personal saving. The super IRA is the most widely accepted savings package before Congress, and it works.

It works not only for those planning for retirement, but for those buying their first homes, for those seeking higher education, and for those who are confronted with catastrophic health care costs. The Bentsen-Roth super IRA—in the wide and majority support it has already received in the House and the Senate—also demonstrates the ability of both sides of the aisle to come together for the common good.

Second, we must pass an investment tax credit to spur buying of equipment and plant modernization. Comparing the period from 1985 to 1989, Japan invested a much larger portion of its GNP, 29.2 percent as compared to only 17.2 percent in the United States. What is more, in Japan—where the economy is just over one-half that of the United States, they are investing more in absolute dollar amounts than we are. In 1990, Japan's nonresidential fixed investment equaled $675 billion while the comparable United States figure was only $524 billion. This cannot stand. We must encourage our businesses and factories to modernize, to compete, and to prosper. This means jobs. And frankly, job creation is the bottom line in this debate.

Third, we must pass a capital gains tax cut. The March 16 issue of Forbes magazine explains in graphic clarity the importance of creating incentives for investment not only to strengthen the economy, but to increase Federal revenues. According to the Forbes article, "* * * when taxes on capital gains were reduced—1965, 1978, and 1982—realizations doubled to around 4 percent of the GNP * * * based on past performance—a cut in the Capital Gains tax—would * * * increase realizations by at least 2 percent of GNP, equal to around $117 billion this year."

Mr. President, it is clear—and once CBO admits its errant ways in estimating the effectiveness and fairness of a capital gains tax cut both sides of the aisle will readily see—that cutting the taxes on capital gains is not a divisive political issue as some try to make it out to be. Rather, it is a necessary measure to spark our economy in the short-term and to prepare us for international competition in the long run.

Frankly, Mr. President, there are other initiatives that given a wish list, I believe Americans would like to have us pass. I outlined them last year and introduced them as the Roth package for jobs, opportunity, and growth. I have been impressed that that package is receiving national support and has been adopted by a growing grassroots political and economic movement. Perhaps, like Roth-Kemp in the early 1980's, the time will also soon come for the jobs, opportunity, and growth package.

At the foundation of the package is an income tax rate reduction—not just for taxpayers with children, or taxpayers in specific income groups, but for all taxpayers, except the very wealthiest.

I will continue to push the JOG American plan. But that has not been my intention today. What I have outlined today are initiatives that, given current politics, we could begin with, and pass, immediately. They are initiatives that can be paid for with responsible reductions in defense spending—responsible reductions that I began calling for following the thaw in the cold war almost 2 years ago. Likewise, these initiatives can be paid for through a much needed reduction in the hiring of civilian Government personnel through attrition. Let me be specific; this reduction in personnel staff would also include Congress.

Mr. President, if we can combine these three responsible economic initiatives with an effort to make government efficient and cost-effective, we will position America for a prosperous and competitive future. I believe we can do it. Likewise, I believe that with the spirit of bipartisan cooperation that we develop to meet these immediate economic needs, we can also turn our attention toward the pressing needs of health care, education, and the many other domestic issues that must be addressed quickly and soundly.

But let this be our starting point. Let it be said of this Congress that at this critical moment when Americans are looking to Washington for leadership—when they are looking to us to restore the economic security they knew in the 1980's—let it be said—that in restoring that prosperous environment we put people and productive policies above politics.

I yield the floor.

EXHIBIT 1

[From Forbes, July 8, 1991]

LIES, DAMN LIES AND POLITICIZED STATISTICS

(By Thomas Sowell)

Statistics on income distribution are a much more reliable guide to political fashions than to economic reality. In an era when indignation has become a way of life, statistics are defined and compiled in ways that exaggerate income at the top and under-state income at the bottom.

Recently, a much-publicized study by the Congressional Budget Office set off predictable cries in the media that the rich were getting richer and the poor were getting poorer. But the definitions and statistical methods used reveal more than the numbers themselves.

First of all, most of the $184 billion in government welfare benefits to low-income Americans simply does not get counted. Food stamps, public housing and Medicaid are among the noncash benefits that are left out.

At the other end of the income distribution, capital gains are treated in the CBO statistics in a way that would get a student flunked in elementary economics or statistics. Suppose that three investors each invest $10,000 in different ventures. If investors A and B each has his investments increase in money value to $15,000, and investor C has his investment wiped out completely in the year when statistics are compiled, then clearly their total investment—$30,000—remains the same in dollar terms. With the price level's having doubled, the investor has obviously lost half the real value of his investment.

The way the CBO statistics count it, however, these lucky investors have made $3,500 in real income.

Instead of saying that the investors' two capital "gains" of $5,000 each were actually losses in real terms, since $15,000 will now buy less than the $10,000 originally invested, the CBO counts them as gains and then corrects for inflation by dividing by two. By this bizarre reckoning, the real value of these two investments has increased by a total of $5,000. As for C's investment that was wiped out completely, economists would count that as a $10,000 money loss, or a $5,000 real loss, but the CBO counts it as only a $3,000 money loss, or a $1,500 real loss.

The reason is that the CBO data on this come from income tax statistics and the Internal Revenue Service will allow only a $3,000 capital loss per year. Subtract the understated capital loss from the understated capital gains and you get a net $7,000 gain in money terms, or $3,500 in real terms. These investors may be headed for the poorhouse, but on paper they are among the rich who are getting richer.

Republican Congressman Dick Armey of Texas, an economist by profession, pointed out such problems in a letter to the Congressional Budget Office before the data were released to the public. The CBO graciously acknowledged the correctness of the congressman's criticisms but excused itself on grounds that "data needed to make these adjustments are not available." But these crucial flaws in the study were not revealed to the gullible media.

An additional source of misleading statistics is that data are often compiled and presented in terms of "family income" or "household income." But one of the reasons some families earn more than other is that some families contain more people, bringing home more paychecks. When a larger number of people earn a larger amount of money, that may be a statistical disparity without being a social "inequity" requiring the government to play Robin Hood.

A more fundamental problem with glib discussions of "the rich" and "the poor" is that income bracket statistics refer to an ever-changing mix of individuals. A longitudinal study at the University of Michigan found that nearly half the families who were in the bottom 20% in income one year were not there seven years later. Neither did most families in the top 20% remain there throughout the period studied. Those who were persistently poor—who were in the bottom 20% in income for at least eight out of ten years—constituted less than 3% of the population of the U.S.

Although political discussions abound with talk about the rich and the poor, both groups put together are probably no more than 10% of the population. But they are the ideological tail that wags the dog, as policies are debated in terms of their presumed effects on these two small groups, rather than the other 90% of the American people.

Income distribution statistics are typically an instantaneous picture of a process constantly in flux, as individuals move from bracket to bracket over a lifetime. Many of those in the lower brackets are young adults who are the children of those in higher brackets. Ideology translates these statistics into different social classes called "the rich" and "the poor."

Fortunately for this country, people are not born into the world with a little "R" or "P" on their foreheads, marking them as rich or poor for life. Unfortunately, too many intellectuals and politicians talk as if they were.

[From Forbes, Mar. 16, 1992]

A MATTER OF TIMING

This chart shows just how much discretion people (especially the better-off) have over the timing of realizing their capital gains. The long running average for realizations has been around 2 percent or so of GNP. But when taxes on capital gains were reduced—in 1964, 1978 and 1982—realizations doubled, to around 4 percent of GNP. Note, too, that the spurt to over 8 percent of GNP in 1986 was in anticipation of the well-advertised increase in 1987 in capital gains taxes from 20 percent to 28 percent (and no preference over ordinary taxes), as part of tax reform.

[Chart not reproducible in the RECORD.]

What's been totally missed in the current debate over cutting capital gains taxes is just how sharply realizations—and hence tax revenues—have dropped since then.

Richard Armey (R-Tex.), the ranking Republican on the Joint Economic Committee, has pointed out that the Congressional Budget Office estimated that in 1990, the latest year for which tax figures are available, capital gains realizations would total $254 billion, or over 4.5 percent of GNP. The CBO's estimate was way off. Just $120 billion in gains were realized. The "missing" $134 billion meant that the Treasury was short nearly $38 billion in tax revenues it had been expecting. The CBO has yet to acknowledge its error.

The chart also makes clear just how cost-effective cutting capital against taxes is. Assume that history is repeated and that a lower rate on capital gains increases realizations by at least 2 percent of GNP, equal to around $117 billion this year in taxes forgone. But based on past performance, such a cut would generate at least that much in extra revenue. They also grossly underestimate the extra tax that would result from the increased economic activity that a cut would cause.

Mr. JOHNSTON. Mr. President, there are many good things that I can say about this bill, and it contains many positive steps toward putting our economy back on track.

It is not a panacea for all our woes, and it will not end unemployment overnight. Nor is it a comprehensive long-term solution for our crumbling infrastructure, for improving our competitive position in the world, or for reversing the long-term trend of declining productivity.

But it does provide incentives for a number of key sectors such as housing and energy development which have been sorely in need of assistance for many, many months.

It does provide needed incentives to increase savings.

It provides hope to the American people that their government will take action to improve our domestic situation, and to help them get through these hard economic times.

Most important, it is paid for.

There are many provisions in this legislation which I strongly support, and indeed which I have cosponsored such as restoration of deductibility of Individual Retirement Accounts, extension of R&D tax credits, the modified capital gains tax proposals, modification of the treatment of intangible drilling costs [IDC's] under the alternate minimum tax, and the Targeted Job Tax Credit Program. All of these are important and will provide help to our ailing economy.

But the committee did more than this. This bill provides hope to the American people, and in a number of concrete ways shows that we have heard them and are making a good faith effort to respond to their concerns. Key measures are included to help middle class Americans buy a first home, pay for college, increase savings, and obtain affordable health care.

I want to particularly commend the distinguished chairman of the committee for his leadership in including a number of small but critically important provisions to help employees of small businesses obtain affordable health insurance.

I traveled throughout Louisiana during the February recess, and if there was one common theme I heard over and over—in Chalmette, in Monroe, in Baton Rouge, and in Lafayette—it was that our health care system is broken and desperately needs to be fixed.

Too many working Louisianians cannot obtain health insurance or can only obtain it for astronomical costs. Estimates are that one-fourth of the people in my State—over one million—have no insurance. Scores more are underinsured. And many others have found themselves locked into jobs for fear that they will lose coverage for preexisting conditions if they change policies. Others face premium increases so stiff that they must choose between putting food on the table and purchasing health insurance.

This is unacceptable.

There is no consensus in Louisiana on what the solution is right now, but as debate intensifies and options become more clear, I am confident that a consensus on approach will develop and will become even more of a priority than it is now.

This bill does not contain a comprehensive solution, but it takes a number of very important steps to provide incremental help right now. Perhaps foremost is the proposed increase in the deduction for health insurance premiums for the self-employed from 25 percent to 100 percent. As important are the provisions to help small businesses and their employees obtain adequate and affordable health care, and I applaud the committee for adopting a number of very important insurance market reforms and for the prohibition on denial of coverage for preexisting conditions, a matter which I receive mail on almost weekly.

I also commend the chairman for including the necessary financial provisions for a new student loan program, which should both enable more students to obtain the financing necessary to continue education and make sure that these loans are paid back. Many if not most students in Louisiana find it necessary to borrow money to continue their education. I believe this innovative program, which is a supplement to existing loan programs, will be a big help to many Louisiana students and their families and I am very, very pleased to see that the committee has recommended this as well as the provisions for a tax deduction/credit for those paying interest on student loans and extension of employer-provided educational assistance to the Senate.

I also want to commend the chairman for targeting tax credits on families with children which is, I believe, a significant improvement in the House-passed bill. It is my hope that the conferees may see their way clear to making this credit refundable, and I would encourage them to look very closely at such an option. Louisianians have a particularly strong interest in the refundability issue since Louisiana families are nearly twice as likely to benefit from making the credit refundable as are families in the rest of the Nation.

With a State poverty rate of 23.2 percent, nearly twice as high as the national rate of 13.1 percent, according to Census Bureau data covering the period from 1988 to 1990, a nonrefundable credit would likely bypass nearly twice as large a percentage of families in Louisiana as in the United States as a whole.

It is estimated that nearly 29 percent of Louisiana's families with children are poor. Extrapolating from this data, it is likely that 3 in 10 Louisiana families would be excluded if the child credit is not refundable. Most of these families—nearly two out of three according to 1990 census data, have at least one worker. Many other near-poor families will benefit far more from a refundable credit. For example, under a $300 per child nonrefundable credit, a family of four with two children and income of $16,000 in 1992 would receive a credit of $120—the same as their tax liability. If the credit were refundable, however, that same family would receive the full $600 credit—$120 in tax relief and $480 in the form of a tax refund.

These near-poor or working poor families are those who need help the most. In general they are excluded from assistance under many Government programs, yet have difficulty in making ends meet because they earn low wages.

I hope that the issue of refundability will be addressed in conference while retaining the targeting on families with children as proposed by the Finance Committee.

In addition, I congratulate the chairman on certain provisions contained in this legislation on the important subject of energy taxes. Just 3 weeks ago the Senate approved S. 2166, the National Energy Security Act of 1992, reported by the Committee on Energy and Natural Resources which I chair. This legislation contains a broad array of initiatives, all designed to promote a Made in America energy policy and to lessen our dependence on foreign oil.

Because of the expertise and jurisdiction of the Finance Committee, S. 2166 did not include any provisions relating to the tax code. However, last summer several of my colleagues on the Energy Committee and I reviewed the subject of energy taxes and communicated our views to the Finance Committee regarding what tax provisions would complement S. 2166. I am pleased that the committee incorporated in its legislation several of these measures, such as the extension of the business energy tax credit for solar and geothermal energy and various provisions relating to transportation.

Crucial among the energy tax provisions that we recommended for consideration was relief from the alternative minimum tax [AMT]. The current AMT imposes an extreme burden on the oil and gas industry, and in particular on independent producers. This is resulting in less exploration, less drilling, and a continuing decline in the domestic oil and gas industry. AMT relief is critical to my home State of Louisiana where all those working in the energy business have been hard hit by recession—one which in my State began almost a decade ago.

Mr. President, the domestic oil and gas industry is in trouble. The active rotary rig count in the United States has fallen from nearly 4,000 in 1981 to an estimated 860 in 1991. The rig count is projected to fall even further, to 725, in 1992. These are levels not seen since 1942.

A recent article in the Times-Picayune, which I will request be printed in the RECORD following my statement, reports that independents are expected to spend $3.9 billion less in the United States this year, a cut of 4.2 percent. Major companies will spend 10.7 percent less in the United States this year, while shifting their spending overseas.

Employment in the oil and gas sector is also expected to decline. One economist at Louisiana State University predicts the current population of 52,200 Louisiana oilfield workers will fall by about 2,500 this year alone.

Mr. President, the alternative minimum tax relief provided for in this legislation represents a large step in the right direction. It will help to restore the health of the domestic oil and gas industry. It will help preserve U.S. jobs. And it will help to lessen our evergrowing dependence on imported oil.

Mr. President, I ask unanimous consent that the Times-Picayune article to which I referred be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD as follows:

[From the Times-Picayune, Jan. 26, 1992]

DRILLING OUTLOOK DIMS

(By Mary Judice)

If the events of 1986 panicked the oil and gas industry, then get ready for a rough 1992.

Unlike the '86 bust, though, analysts say companies won't be caught flatfooted this time around. They will move quickly when warning signs are posted.

The first signs will likely be deeper spending cuts and another round of layoffs in the United States.

How many jobs will go? That's a tough question. Loren Scott, a Louisiana State University economist, expects the current population of 52,200 Louisiana oil field workers to fall by about 2,500 this year.

But many industry watchers don't expect natural gas prices at 12-year lows and oil prices below $20 to spur the industry to slash tens of thousand of jobs as it did when oil prices plunged to $10 a barrel in the summer of 1986. Still, that a reduction in U.S. spending of almost 11 percent is bound to mean fewer wells drilled—and fewer jobs.

The U.S. rig count, which has fallen to levels not seen since 1942, is expected to plummet another 10 percent to 15 percent this year. And as the industry slows, oil field workers in south Louisiana are beginning to fear for their jobs.

Last week, Louisiana's rig count fell to 78, a level not seen in weekly reports dating back to 1980.

And in the past two weeks, the parade of layoffs has picked up. Chevron will cut 2,500 jobs nationwide, and Freeport-McMoRan has laid off 55 workers in New Orleans. In fact, there are 2,200 fewer Louisiana oil field workers today than there were last fall.

Oil companies painted the dismal outlook for the United States this year in answers to questions posed by Salomon Brothers for its 10th annual spending survey.

A total of 157 companies expect to spend 10.7 percent—or $1.9 billion—less on U.S. oil and gas drilling and production this year, for a total $15.8 billion.

Major companies will spend less in the United States, but are boosting their spending on wells outside the country by 9.1 percent, to $11.8 billion. They say the finds overseas are bigger and cost less to retrieve.

Independent companies, those with smaller and that usually concentrate drilling in certain geographic regions, are expected to spend $3.9 billion less in the United States this year. That's a cut of about 4.2 percent.

"This time around, it's not panic, it's just thorough depression that it will never get better and there are a lot of other better places to do business," said Matthew Simmons, a Houston investment banker to the oil service industry. "This time around, it's a march out."

In recent years, major oil companies have focused their oil search in West Africa, Venezuela, Colombia, the North Sea and the China Sea.

Salomon said the shift to foreign exploration, which was pronounced last year, is expected to gain momentum. Today, there are 179 rigs available for work in the Gulf of Mexico, compared with 206 a year ago. Even with fewer rigs available, a record low of 85—or 47.5 percent—are under contract.

Already the U.S. count for land and offshore rigs has fallen to 686, a number that bumps up against the industry's worst yardsticks.

In its annual forecast "Bad News, Good News," the New Orleans investment firm Howard, Weil, Labouisse, Friedrichs, Inc. estimates that the U.S. rig count this year will average 725, down 15 percent from the 860 average of 1991. The report estimates that oil prices will average $19 a barrel for West Texas intermediate, the U.S. benchmark, down $2.50 from the 1991 average. Natural gas prices will be slightly higher, at $1.40 per thousand cubic feet, it predicts.

At those prices, 57 percent of the companies surveyed said, it is cheaper to buy oil and gas reserves than to drill for them.

Simmons said company budgets give no indication of a turnaround in commodity prices. This year, companies will wind down U.S. activity and put their properties on the market. "If I were a buyer I would be perplexed as to when to open my wallet," the investment banker said.

Yet many of those deals are ideal for independent companies, and most can easily raise the money to buy. Simmons said Apache Corp. found banks ready and willing to lend when it bought Amoco's Mid-Continent properties last year. Apache officials said their deal was oversubscribed.

Simmons said major oil companies face the problem of too many layers of overhead. That is where he expects the layoffs to come this year, not with the service companies, which already have had their layoffs.

Scott disagrees. He expects the layoffs to come in all areas of drilling, including the companies that drill and pay for the wells and those that supply the mud, drill pipe and testing services during drilling.

What remains stable, the economist said, is the universe of production workers. In the late 1960s, when oil was selling for $3.50 a barrel, there were 47,000 workers in the energy industry in Louisiana. Many were production staff, the engineers and technicians who monitor the flow of oil and gas from wells and those who rework wells as they age to prop up the flow.

But the layoffs will come statewide, Scott predicted. Lafayette, Houma, Thibodaux and New Orleans are likely to be hit hardest.

The level of activity could be even lower than Salomon has predicted, said Arvind Sanger analyst at Johnson, Rice & Co. Since the survey was taken in November and December, oil prices have fallen $4 a barrel, and natural gas prices are down 40 cents per mcf.

More than half the companies told Salomon Brothers they will decrease spending if oil prices average $17 a barrel. If oil prices average $25 a barrel, they will spend more. Last year, companies focused on oil drilling over natural gas, and that trend is expected to continue this year.

Suzanne Baer, manager of investor relations at the Louisiana Land and Exploration Co., said the company has made no formal change in its 1992 capital and exploration budget. But if low oil and gas prices hold, the company will be forced to cut spending, Baer said.

But the survey also found that companies underspent their budgets last year by almost $1.3 billion. Overall, companies spent $16.8 billion instead of the $18.1 billion budgeted at the beginning of the year, a 7 percent gap.

And analysts think the high price scenario is unlikely this year for oil or gas.

Robert Spears, a Tulsa, Okla., oil consultant, does not expect the Saudis to reduce production significantly in the spring, when oil demand slackens. Therefore, prices will weaken unless OPEC reins in production. Natural gas prices will rise when the economy rebounds and when winter temperatures cause more gas to be burned.

"We've got a few more rough years ahead of us if our salvation is higher prices," Spears said.

The PRESIDING OFFICER (Mr. GRAHAM). Who seeks recognition?

The Senator from Delaware?

Mr. ROTH. Mr. President, I make the point of order, a quorum is not present.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, I rise in support of the important, large, and consequential measure before us. I voted for this measure in the Finance Committee, and I will vote for it here on the floor, and I hope to see it directly on the President's desk and to become law.

Before I speak to the general provisions of the bill, and some details, I would like to call the attention of the Senate to the provision having to do with the tax-exempt status of bonds issued by private universities, colleges, and other educational institutions. If there were one measure in a very considerable bill to which I would call attention—one that has as much import for the future of our institutions and our Nation as any I can think—it is one affecting bond financing for private colleges and universities.

In 1986, for reasons that were complex and perhaps not to be avoided at that time, we took away from our great private institutions of higher learning their status as public persons at law when it came to the question of issuing tax-exempt bonds for purposes of constructing laboratories, other research facilities, and buildings on campuses and in university complexes.

It may seem a small thing to some. It is an enormous thing to these institutions.

We placed a $150-million cap on the amount of tax-exempt bonds that these institutions may issue. That cap has been reached or will be reached shortly by most of the major research institutions in the country, great institutions such as Washington University in the State of Missouri, New York University in the State of New York. One can go right down a very long list of schools. Twenty-four of such institutions that are now hampered in their access to capital.

The purpose was fiscal, nothing more. But the consequence was huge. It meant that in the age of big science, as it is called, the research facilities of the private universities were necessarily going to be sharply limited, such that over a generation we would see a critical change in American society. We are unique in the world in the following way: Higher education in the United States is a private as well as a public activity. This is so ordinary to our way of thinking, so clearly the case, that we do not think about it as being unusual. In fact, it is unique, and, in fact it gives to the culture, if you will admit that term, of science, humanities, social sciences, a dimension of distance from government, independence of the State which is not to be found in any other society. Take away their rights as public persons to issue debt, to finance their laboratories, and in time you will take those laboratories away. And in time you will see the gradual conquest, as Joseph Schumpeter described the matter years ago, of the private sector by the public sector.

You would see an aspect of something so characteristic of the United States, the individual independent, private institutions of higher education, some of them dating back to the 18th century, all to the 19th century, that are not financed by taxes, are not financed by Governors and Presidents and legislators, but by alumni, by moneys accumulated over centuries in some cases, wither away. What has kept them vigorous is the recognition in our culture—at least until the contrary evidence in the 1986 Tax Act—that these private institutions serve great public purposes, and for that reason should be treated as public entities for purposes of the issuance of tax-exempt debt.

Most faculties in these institutions do not even know that provision which treated them as public persons until 1986. They did not need to, because it was always there. It was understood only by a very small number of university and college presidents and perhaps their governing boards. Most of these institutions have now come to a group of Senators on the Finance Committee—I see my dear friend, the distinguished senior Senator from Missouri [Mr. DANFORTH] is on the floor; he was one of the group—to say "can we not restore the status quo ante, if you will, antebellum, if you like, and give these institutions the opportunity to continue to glow in an age of big science, when laboratory could be enormously important, and in which scientists can do their work?"

I put the term simply to be neutral in the matter, as a New Yorker, to compare the condition of Stanford University to the University of California at Berkeley. Leave the present Tax Code in place, and a generation from now, Stanford University will have a great undergraduate institution, an extraordinary drama program, one of the best law schools in the world. But all the big science will be done at Berkeley. And without anyone intending it, a process that sometimes seems inexorable in modern society, again which Schumpeter foresaw so many years ago when he said the triumph of the Marxist, socialist view, prophecy will not come through the workings of changing of the class structure or even the economic structure, but will rather come through the inexorable triumph—"conquest" was his term—of the public sector over the private sector."

Another measure in this legislation of transcendent importance to preserving a vigorous private, independent sector in higher education is the restoration of pre-1986 treatment of gifts of appreciated property. Both the House and the Senate are of this view. So, I am happy to say, is the administration. A case of quiet persuasion, quiet setting forth of facts, has persuaded us all. And whatever else survives this process, I so very much hope this does, as also the provision on bonds. Both were the concern of this small group of Senators on the Finance Committee, and of members of the Ways and Means Committee.

The full deductibility of gifts of appreciated property is also an obscure, not easily explained provision, but one which we adopted 2 years ago for gifts to museums, and which had great consequence. Our own, here in Washington, the National Gallery, the Nation's own National Gallery, had great gifts come forward in time for its 50th anniversary, as have institutions—museums of all kinds, museums of racing cars, museums of other forms, other kinds of artifacts, and the great general museum of the Nation, that most all of our great cities have, and which we would wish to prosper; again, most of them being private institutions.

The particular provision in this bill extends full deductibility to gifts of stock, which is the source of the greatest contributions of alumni to the endowments of our private colleges and universities.

So whatever else we do, and we do much, we have certainly advanced this purpose in education, a purpose which was interrupted in 1986, and, unfortunately, with great consequence.

So, I say, Mr. President, I voted favorably in the Finance Committee on the bill before us, and I will vote for it on the Senate floor.

Mr. DANFORTH. Mr. President, will the Senator yield?

Mr. MOYNIHAN. I am happy to yield.

Mr. DANFORTH. Mr. President, I would simply like to note that Senator MOYNIHAN is the leader in the Senate with respect to the relationship between tax policy and our great private institutions. He has introduced legislation which would remove the bonding cap for our research universities which, as he has pointed out, has been a major handicap to doing research at our large private universities.

He also has been a major spokesman for dealing with the relationship between the alternative minimum tax and the gift of appreciated property to nonprofit organizations. And his continued voice on these two matters is very, very important, I think, to the country.

For other reasons, I am not sold on the particular bill that is before us. But my hope is that, whatever else we do in tax legislation for the balance of the year, we will be dealing with these two matters.

I really want to express my appreciation to Senator MOYNIHAN for his leadership.

Mr. MOYNIHAN. Mr. President, the Senator from Missouri typically is self-effacing in these matters, and no one has been more persistent, more persuasive, then he in this regard. And we are, as a body, I think, of this view.

I only wish to draw it to our attention, so we will know that whatever will divide us across the aisles in the next few days, this unites us and will continue to do so. What divides us, of course, is that there are really quite different perceptions of what needs to be done with a recession, retracted recession, longer than any we have had in the postwar period.

We are not alone in this. Other countries—Canada is involved with it; the United Kingdom is involved with it; Europe is involved; now Japan, as well.

We all have to think of responses. And within the range of our very straightened economic circumstances, in the budget sense, the majority on the Finance Committee has fashioned a response. It is in response to the President's seven-point plan, and incorporates, as the distinguished chairman has said, five, I believe, of those seven points. It is more than a reasoned response, compromise, if you like. In the very narrow confines available to us, the discipline that whatever changes we make, whatever reductions, whatever reductions we make in taxes, we make up by corresponding increase in revenues.

I would observe that the capital gains provision in this bill is more targeted than the President's. I think that any discussion of the capital gains tax cut as a prescription for economic growth needs to be put in perspective.

Even using the administration's own estimates of the effect on the cost of capital, a cut in the capital gains rate to 20 percent will produce an increase in the GNP of a scant 0.2 percent in the first year—I am sorry, 0.02 percent in the first year and 0.2 percent in the second year.

These numbers make for abstractions when read. I think I can give a more concrete example of what I mean when I say that a 0.2-percent increase in the rate of capital formation, that, sir, is a medieval rate. Anything compounding at 0.2 percent takes 350 years to double. I suppose that is about the rate medieval societies did grow at. We would hope that we will not take three-and-a-half centuries to see our capital double, or anything like that. Any influence that slight is bound to be marginal.

I might say, similarly, sir, with mortgage rates at their lowest point in 20 years, it is not clear what difference a tax credit for first-time homebuyers would do as against other uses to which you might put the lost revenue. We are dealing here with what other uses you might put the revenues for. We are dealing here, again to use an economist term, with an "opportunity cost." If you do this, you cannot do that. If you do A, you cannot do B, C, D, and E. And you have to ask yourself continuously which is the optimal choice.

This bill will make the tax burden less regressive. We have raised the top rate to 36 percent, and imposed a 10-percent surtax on incomes of $1 million or more. And we have returned that money to middle-income families with children.

The question of whether this was the best use of that money, the optimal use of that opportunity cost is one, I guess, I would not be instantly persuaded of. The fact is that 71 percent of households now pay more in payroll taxes than in income taxes. That is the root cause of the regressivity that has crept into the Federal tax burden over the last decade or so. And the share of Federal revenue coming from payroll taxes has increased in recent years by more than a fifth, while the share from individuals and corporate income taxes has dropped 9 percent.

This state of affairs might be defensible if the surplus of the Social Security trust funds were being saved in any genuine sense instead of being used as general revenue. We are spending that surplus, as if it were revenue. And if anyone in the State of Florida is thinking about this to consider how they will vote tonight, they ought to know and know now that Social Security is being "touched" it is being looted.

It is almost 2 years ago, as chairman of the subcommittee on Social Security, I raised this issue, and it might be useful to point out the context in which the present Social Security arrangements were made. Three years ago this month, the first of March, in the first weeks of President Bush's first term, the National Economic Commission submitted its report to him and to the Congress in which he pointed to the power of the Social Security surplus. The rates that were put in place in 1977—15 years ago—have not increased, have not changed one bit.

In the middle of the 1980's, owing to a short-term crunch that came when, for the first time in our history, prices ran ahead of wages, and the reserves in the fund began to shrink, we simply moved to accelerate the already legislated tax increases and payroll tax increases a few years, and in no time we were out of that problem, and the surplus that had been expected appeared.

It is a huge surplus. By the year 2015—I believe I can give the Senate the sense of the size, magnitude of this surplus. The surplus in the trust fund from today to the year 2015 would buy the New York Stock Exchange. That is how much money. All of the equity capital in America could be bought.

We said to the President in March—March 1, I believe our report was dated, 3 years ago—save that surplus, save it for the time when the people, the generation retiring will need it. Now we get complex. And when you have to discuss economics and debate, it is hard to get complexities across. But it happens that there is only one way you can save the surplus of the Federal Government, which is to have that surplus used to buy down the privately held public debt; buy back, and every penny of public debt reduced in that manner automatically becomes a penny of savings.

To do that would double the national savings rate in one stroke. Double the national savings rate. All that we have talked about in the recent years would happen. We would have a high savings rate, and we would be able to bring it about under the banner of protecting the Social Security trust fund, something everybody in the country could understand.

The alternative was to use them, abuse them, for current expenditures that they were never intended to provide. Franklin D. Roosevelt was very specific about why there was to be a trust fund for Social Security. We know that in 1940, a professor of public administration at Columbia, Wallace B. Sayre, was down here on leave working in Washington, and he knew Roosevelt. He was a public economist. Political economy was his subject. And he called on the President, his friend from New York, and said: Mr. President, I have been looking at the Social Security funds which are—just then 5 years old—just beginning to amount to something.

And the administrative costs of posting, as the term was, each person's contribution in ink by hand here in Washington and elsewhere was not self-evident to Professor Sayre and he said, "You could just put this right into the general fund and pay out the money when the time comes. That is what you do anyway."

Franklin D. Roosevelt said to Professor Sayre, "I am sure you are right on the economics, Wally," as he would say, "but we do not have that arrangement for the purposes of economics or administrative efficiency. I'm got the trust fund arrangement there, so every person, each and every dollar in that Social Security trust fund has somebody's name on it. I want it that way because I do not want any of those politicians on Capitol Hill getting their hands on this money."

Well, little did he know what might come to pass in 40 years' time. I was on NBC's "Today Show," it will be 2 years ago, with our beloved former colleague John Heinz, and quoted an editorial from the Rochester Democrat and Chronicle that said what was going on was thievery. And from New York, the anchor said, "Senator Heinz, would you agree that what is going on is thievery?" And Senator Heinz said, "Certainly not. It is not thievery. It is embezzlement," a distinction that he would make, and I am willing to defer to his usage.

We, unfortunately continue that practice. In 1992 the Social Security surplus will equal about $53 billion, $1 billion a week, and it will be used to meet over 11 percent of the Federal Government's borrowing needs. In 5 years the surplus will more than double to $110 billion and then, in 1997, will be used to meet almost 30 percent of our borrowing needs.

In the meantime, I would like then to close with one large point, a point which has not yet been made in our debates. I do not believe it has yet been made on the Senate floor. It needs to be stated in the context of a disaster heading our way.

And that is to say, sir, that we have incurred the extraordinary budget deficits of recent years, deficits beyond anyone's reckoning in the past. We quadrupled our national debt in the 1980's but at least now the deficit as a percentage of our gross national product has stabilized. So in terms of what we owe and what our income has been as against our liabilities, there is now a certain stability.

That stability is no longer assured. To the contrary, at the hearing 2 weeks ago in the Finance Committee, our very able Director of the Office of Management and Budget, Mr. Richard Darman, was before us and he had a table in a presentation and it was also up on an easel to be seen. And it showed the debt as a percentage of gross domestic product will begin to rise in the near future. Markedly so in the event that the lower of the administration's economic growth projections should take place. And what that showed dramatically was that in about 5 years' time, if we continue on that lower path which we are on now, the debt as a percentage of gross domestic product will begin to increase, something that means instability; it means it goes out of control.

I said to Mr. Darman, "Sir, does that mean we will be out of control?"

And he said, "Yes."

I have the exact exchange which I would like to place in the RECORD at the end of my testimony.

If that happens, once that happens, then you are in trouble, you have gone over Niagara Falls. You no longer have control of the Federal deficit. Matters are no longer within your capacity to affect. You cannot stop the wild increase in your debt, and the only real alternative available to you is the disastrous one of a wild inflation.

We are about 5 years away from that. Indeed, even in the present projections every year between 1997 and 2002, even given what the administration is projecting, the deficit will grow as a percentage of gross domestic product.

(Ms. MIKULSKI assumed the chair.)

Mr. MOYNIHAN. The debt will grow. The deficit will too and if in the event of an economic path which is projected as fully possible, the debt will grow as a percentage of gross domestic product. When that happens I expect the dollar to lose its place in the world economy. I expect the American economy to decline. I expect confidence in our future to attain to the kind of chaos that we associate with financial instability and hyperinflation, anywhere else in the world in history. A sorry conclusion, Madam President, to the 1980's.

Obviously for that reason I would wish that the revenues we are raising be used in other ways. The judgment of the majority was otherwise, and I will certainly abide by that judgment, but I do not want to do so without putting my own views on record.

Madam President, I voted favorably in the Finance Committee on the bill before us, and I will vote for it on the Senate floor, though I must say in both cases with some skepticism. The President sent us a plan for economic recovery, indeed it is his responsibility to do so, but I doubt the President's seven-point plan will have the kind of impact on this economy that has been argued. Nonetheless, the distinguished chairman of the Finance Committee has sought to accommodate the President, and has included in this bill all seven of the President's proposals, some in modified form. And, in contrast to the President's plan, this bill includes the revenue to pay for the proposals. It does not threaten to further increase the deficit to the extent that the President's proposal would.

The capital gains provision in this bill is more targeted than the President's. But I think any discussion of the capital gains tax cut as a prescription for economic growth must be put in perspective. Even using the administration's own estimates of the effect on the cost of capital, a cut in the capital gains rate to 20 percent will produce a increase in GNP of a scant 0.02 percent in the first year, and 0.2 percent in the second.

One can also question whether a $5,000 home buyers' tax credit is sound use of Federal revenue, when mortgage rates have just been their lowest in 20 years, and are still at historic lows.

The bill makes a start at addressing the growing regressivity that has crept into the Tax Code over the last decade. It raises the top rate to 36 percent, imposes a 10-percent surtax on incomes of $1 million or more, and uses the revenue from both to provide a tax cut for middle-income families with children and to fund many of the economic growth incentives in the bill. This eases some of the regressivity of the last decade, but fails to get at its root cause: the Federal Government's growing reliance on a regressive payroll tax to fund current operations. Everyone's income taxes—rich, poor and middle income—were cut over the last decade. But Social Security taxes rose steadily. For the top 20 percent of taxpayers, this meant a tax cut, but for the lower 80 percent this meant a tax increase—because payroll taxes are a larger component of their total tax burden. Indeed, 71 percent of households now pay more in payroll taxes than in income taxes. In the 1980's, the share of Federal revenues coming from payroll taxes increased 21 percent, while the share from individual and corporate income taxes dropped 9 percent.

This might be defensible if these payroll taxes were being saved to fund retirement benefits, but they are not. They are being used to reduce the Government's borrowing needs to fund the deficit. Under current projections, our dependence on regressive payroll taxes to run the Government will only continue to grow. In 1992, the Social Security surplus will equal about $53 billion, and will meet over 11 percent of the Federal Government's borrowing needs. In 5 years, the surplus will more than double—to $110 billion—and will then be used to meet almost 30 percent of borrowing needs. At this point, in 1997, when our dependence on Social Security trust funds to run the Government may be too great to break, something even more ominous occurs: Under the reasonable projections of both the administration and the CBO, the deficit begins to grow as a share of GDP. This means the deficit will be—in words I used at the Finance Committee hearing on the President's budget last February 12, and conceded by OMB Director Darman—"out of control."

Madam President, I ask unanimous consent that the unedited transcript of my exchange with Mr. Darman at the February 12, 1992, Finance Committee hearing on the President's budget be inserted in the RECORD at this point.

There being no objection, the transcript was ordered to be printed in the RECORD, as follows:

[Unedited Transcript]

Senator MOYNIHAN. May I just ask you, because you said something with a touch of real reality that we all need, your topmost curve, the dotted red line, that is at a lower growth, which would be, what, about two percent? Is that what you would put that range in?

Mr. DARMAN. That is right. That is consistently one percent lower.

Senator MOYNIHAN. Yes. Which is in the range of possibility. At that point, we would find the debt as a proportion if GNP compounding—growing.

Mr. DARMAN. Growing, not compounding.

Senator MOYNIHAN. Growing.

Mr. DARMAN. Turning up. Yes.

Senator MOYNIHAN. All right. Thank you very much.

Mr. MOYNIHAN. Madam President, we are not on a path where we will "grow out of" the deficit. There is chaos on the horizon. Under present projections, in every year from 1997 through 2002—as far as the eye can see—the deficit will grow as a share of GDP. The most ominous news yet.

What is needed—both to rectify the unfair share of the tax burden now being borne by average working Americans and to restore integrity to our finances as we address the deficit—is a cut in Social Security taxes to put the system back on a pay-as-you-go basis. If we do not do it soon, we will reach the point where we are too dependent on our misuse of the trust funds to make the change.

There are other provisions in this bill on which I would like to comment.

The bill proposes to make permanent the so-called Pease provision which disallows a portion of itemized deductions for households with adjusted gross income of $100,000 or more. This partial disallowance of otherwise valid deductions is nothing more nor less than a stealth rate increase for these taxpayers. According to the CBO, it has precisely the same effect as a 0.93 percent rate increase. yet we impose it on a working couple with a combined income of $100,000. This despite the fact that elsewhere in the bill, we purport to raise rates only on couples with incomes exceeding $175,000. We ought to be more honest with the American people.

Just as important, this hidden rate increase requires all affected taxpayers to muddle through a 10-step computation to arrive at their 0.93 percent rate increase. This is ludicrous. I urge my colleagues to take a look at page 42 of the 1991 IRS instructions for form 1040, where they will find the 10-step worksheet to which I refer.

Madam President, I ask unanimous consent that there be printed in the RECORD at this point page 42 of the 1991 IRS Instructions for filling out form 1040.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TOTAL ITEMIZED DEDUCTIONS

Line 26: People with higher incomes may not be able to deduct all of their itemized deductions. If the amount on Form 1040, line 32, is more than $100,000 ($50,000 if married filing separately), use the worksheet on this page to figure the amount you may deduct.

Itemized deductions worksheet—line 26 (keep for your records)

1. Add the amounts on Schedule A, lines 4, 8, 12, 16, 17, 18, 24, and 25 .... 1............
2. Add the amounts on Schedule A, lines 4, 11, and 17, plus any gambling losses included on line 25 .... 2............

   Caution: Be sure your total gambling losses are clearly identified on the dotted line next to line 25.

3. Subtract line 2 from line 1. (If the result is zero, stop here; enter the amount from line 1 above on Schedule A, line 26.) ... 3............
4. Multiply line 3 above by 80 percent (.80) .... 4............
5. Enter the amount from Form 1040, line 32 .... 5............
6. Enter $100,000 ($50,000 if married filing separately) .... 6............
7. Subtract line 6 from line 5. (If the result is zero or less, stop here; enter the amount from line 1 above on Schedule A, line 26.) .... 7............
8. Multiply line 7 above by 3 percent (.03) .... 8............
9. Compare the amounts on lines 4 and 8 above. Enter the smaller of the two amounts here .... 9............
10. Total itemized deductions. Subtract line 9 from 1. Enter the result here and on Schedule A, line 26 .... 10............

Mr. MOYNIHAN. Taxpayers are encountering this worksheet for the first time this year as they prepare their 1991 returns. I expect we will be hearing from them.

I believe we will be back here before long to repeal the Pease provision, and I want to make my objections to making it permanent clear at this time. I would hope that the bill we bring back from conference with the House will do better on this score.

I would also like to comment on a provision in the bill affecting the taxation of securities dealers. The administration proposed, and the House passed, a provision that would require securities dealers to value their year-end inventories of securities at market value for tax purposes. This would have the effect of requiring such firms to pay tax on any gains on securities held, even though they had not been sold. The response of the industry—with a few exceptions—has thus far behind muted. Even indifferent in some cases.

This is a new proposal. I have great concern that its potential for disruptions in liquidity and other problems in our capital markets have not been fully examined or appreciated. For these reasons, I sought a 1-year delay in the effective date of the provision, and the bill before us so provides. I would hope that this will provide time for regulators to better assess its impact, and for the securities industry to assess its response.

There are a number of good things in this bill that have, on balance, convinced me to support it. The bill makes a step at addressing the regressivity in the Federal tax burden that I have sought to highlight since proposing a cut in the Social Security payroll tax in December 1989. I think there is much more to be done before we get at the real cause of the tax squeeze on average working Americans, but this is a start.

The bill also advances the cause of simplification—with one glaring exception, namely, the 10-step stealth rate increase disguised in the provision limiting itemized deductions. The bill deserves considerable praise for the good Government effort at simplifying the earned income tax credit, which at present is so complicated that its effectiveness is fundamentally jeopardized.

I am particularly gratified with the provisions in the bill affecting education. In addition to new provisions for student loans and deductibility of student loan interest, the bill contains three measures in which I have been advancing for a very long time that I believe are essential to the continued vitality of our higher education institutions. First, the bill would extend the tax-free treatment of employer-provided educational assistance, a proven means of improving the educational levels of our work force, from which we all benefit.

Second, the bill modifies the alternative minimum tax treatment of gifts of appreciated property, so that such gifts—whether of art, securities or other property—are fully deductible by donors at their fair market value. Gifts of appreciated property are an essential source of support for our great educational and cultural institutions. They insure the continued vigor of both our public and private institutions of higher learning, and are an irreplaceable element in the effort to preserve our cultural patrimony in museums.

Third, the bill would rectify a serious mistake in the treatment of tax-exempt bonds for our Nation's independent institutions of higher education. The Tax Reform Act of 1986 reclassified the tax-exempt bonds of such institutions so that they are treated less favorably than their public counterparts, and included an outright limit on tax-exempt indebtedness for such institutions of $150 million. The bill before us incorporates legislation that I have sponsored (S. 150) that repeals the limitation on these institutions' access to tax-exempt financing and restores their status as equivalent to their public counterparts with respect to tax-exempt financing.

Finally, the bill contains an important measure that advances sensible environmental and transportation policy in the tax code. I refer to the provision that would increase the amount of employer-provided transit benefits that can be received by an employee tax-free from the present $21 per month to $60 per month, and taxes for the first time the value of any employer-provided parking that exceeds $160 per month. Current tax law, by taxing employer-provided transit benefits above a very small amount, while allowing tax-free treatment for unlimited amounts of employer-provided parking, produces a perverse incentive for single-passenger automobile commuting. The provision in the bill before us today, which I have long advocated, will help to remove this irrational incentive in the Tax Code.

On balance I believe the bill before us is worthy of support, and it will have mine, though with the reservations I have spoken to.

Madam President, I ask unanimous consent to have printed in the RECORD a list of the institutions, the private colleges and universities, that will be affected by our changes in the 501(c)(3) bond measures. The list begins with Boston College and ends with Yale, and includes every imaginable part of the country, every part of the country, widest range of institutions in between.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

COLLEGES AND UNIVERSITIES AT OR NEAR $150 MILLION IN TAX-EXEMPT BORROWING

Boston College.
Boston University.
Carnegie Mellon University.
Columbia University.
Cornell University.
Emory University.
George Washington University.
Harvard University.
Johns Hopkins University.
Lehigh University.
Loyola University of Chicago.
Massachusetts Institute of Technology.
New York University.
Northwestern University.
Princeton University.
Stanford University.
University of Chicago.
University of Miami.
University of Pennsylvania.
University of Rochester.
University of Southern California.
Vanderbilt University.
Washington University.
Yale University.

Mr. MOYNIHAN. Madam President, I yield the floor. I see my distinguished friend from South Carolina has risen. He has been waiting patiently.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Madame President, concerning the point of my distinguished colleague from New York, relative to deficits and frustration we feel here this afternoon, I remember well the end of the Carter administration. President Carter was defeated on a Tuesday, and Friday I was in the Oval Office as chairman of the Budget Committee, and I informed President Carter of the report that we had received in the Budget Committee from the Congressional Budget Office projecting that the deficit would be $75 billion—at that time, an unheard of sum.

I made that visit to warn President Carter that he was going to leave office with a record high Federal deficit. We were going to have the highest deficit in the history of the United States, of $75 billion, higher than any President had ever had before.

I can see the President now as he asked, "Wait a minute. What did I inherit from President Ford?"

I said "A deficit of $66 billion."

He said, "What are we going to do?"

I said, "Well, if you allow those minions at the White House that were doing the spending, trying to get reelected—if you tell them to leave us alone, we will get the votes."

That is what we did. We came back to the floor with what we call "reconciliation" which is a fancy word for "cut." I went to my liberal Democratic Senator colleagues and in a plea to them I said, "Look, we do not want to leave a report here of the highest deficit in the history of this country and Government of $75 billion. No Democrat will ever get elected President again. We have to cut it."

I went to Senator Magnuson of Washington and Senator Culver of Iowa and Senator Church of Idaho, Senator George McGovern of South Dakota, Senator Birch Bayh of Indiana, Senator Gaylord Nelson of Wisconsin. We picked up the votes and we cut that deficit back to $57.8 billion for that year, 1980–81.

Our problem here this afternoon, to use the words of the Senator from New York, is not that we are "going over Niagara Falls." The problem is the lack of the fear of going over Niagara Falls. Because conventional wisdom in this town is "Oh, do not worry about the deficit. The media are bored by that. They will not cover it. They do not know the facts and figures. And how do you make a compelling story? Nobody is worried about the deficit."

We were worried at one time. But the very administration that had come to Washington to put Government in the black, President Reagan said, "Look, I balance the budget the first year I get in." But after he got in, he said, "Wait a minute. I cannot put us on a pay-as-you-go basis until 1983." President Reagan, he gave us the first $100 billion deficit; the first $200 billion deficit. President Bush has given us the first $300 billion deficit; and now we are ready at this point for the first $400 billion. If you count without the offsets borrowing from the trust funds and otherwise, we are actually looking at the first $500 billion deficit. That brings me to this time last year when the President of the United States said, categorically, to a joint session of Congress, "We are headed in the right direction. We are reducing the deficit $500 billion over a 5-year period."

Totally incorrect. In truth, we are headed in the wrong direction, increasing the deficit $500 billion in 1 year, this year.

When you begin to understand this, then you begin to understand the tremendous waste. Yes, President Reagan eliminated $30 billion in governmental programs: LEAA, revenue sharing, and so on. I can go right on down the list. But, by running up that debt, he and President Bush, up to now $3.8 trillion—and it will be shortly at $4 trillion and over—we have quadrupled the national debt over the 10- to 12-year period, from $908 billion in 1980. In over a 200-year history, the cost of all wars, thirty-eight Presidents—Republican and Democrats—the total debt was $908 billion, less than $1 trillion in debt. Now to have quadrupled it to in excess of $3.8 trillion in 12 years, and going up, up and away with the interest costs on the national debt increasing in that period to $230 billion.

Where in heaven's name is Peter Grace? He gave us a calculated study—a wonderful list showing how we are going to cut out waste, fraud, and abuse. The main thing was waste. And yet it is exactly this Reagan-Bush crowd that has created the waste.

I can see distinguished President Bush shortly on national TV asking for a health program, $100 billion.

I know my distinguished colleague from Massachusetts, Senator KENNEDY, has a $70 billion health program. With the money that we are wasting, or spending on interest costs, I can buy them both and still have $30 billion left over.

So the people of America ought to understand there is no free lunch.

There is an old saying. My children used to listen to a little program on the radio on Saturday morning, Big John and Sparky. "All the way through life, make this your goal, keep your eye on the donut and not the hole."

Here we have our eye on the hole of reelection. It started last fall when we realized we were in a desperate recession. And so we immediately ran to the pollsters, who never have solved any governmental problem, and said, as you well know, the rich will vote Republican; the poor will vote Democrat.

So let us appeal to middle America, and to jump start the economy what we need is more consumption. Let us mail everybody $300. Republicans and Democrats started running, offering so much per child, so much per family, so much per taxpayer. It reminded me of the saying aboard ship during the war, "When in danger, when in doubt; run in circles, scream and shout."

Everybody was for a tax cut. In the light, take the $300. People will go buy a Sony TV and jump start Japan. It is not going to jump start any American economy. We are beginning to sober up and realize that we continue, Mr. President, the political game of finger pointing. "Gotcha." This bill is not going to be signed into law. We are posturing as to who is for the poor and who is for the middle class and who is for the rich. It is a sordid political game.

In the last 24 hours, we announced a consortium of textile research at Clemson University with three other universities. At the ceremony, several business leaders came up very quietly, very seriously, and said "Can you Republicans and Democrats up there in Washington not get together?"

I later went down to a Chamber of Commerce in a rural town. In answering questions at that particular lunch, they asked the same question. I left to go to the Soil Conservation annual get-together at Myrtle Beach. Again, they asked, "Can you folks not get together up there in Washington and agree on anything?" I left to go to a catfish farm. The same thing. I met just a few hours ago with the homebuilders; I met with the rural telephone operators. The unease out there, people saying, can we not understand the desperate circumstances this country is in; can we not put aside the politics, if you please, and join hands and pull together on the best we can do? The recession being a deep one, you certainly are not going to raise any taxes.

And the deficit is surging in increments of $100 billion. President Bush came to office, and he said he was going to reduce it to $100 billion. Instead, it went to over $200 billion. The next year, he said he was going to reduce it to $64 billion. It went to over $300 billion. This year, we were supposed to reduce it again, reduce it over the 5 years by $500 billion; and now the deficit is up to $500 billion. We cannot do too much to that deficit when it is growing in increments of $100 billion a year.

We live in the real world. And the idea here is to try to get together on a plan that will hold the line as best we can on the deficits. Stop that hemorrhaging, if you please, on the one hand; not increase taxes, not increase the deficits, and not divide America into this middle-class, low-class, upper-class nonsense.

Sure, a poll will show, because they take the poll and cut if off at the $65,000 level, and they say all who favor, aye. And they all say: Yeah; we are going to get the tax cut and the people above $65,000 are going to pay for it. It is a wonder they do not get 100 percent, to tell you the truth. There is no great lesson in that particular poll. But we all realize that is not going to do the job. Rather than a jump-start, we need really a new battery.

I can tell you from our standpoint and from our section of the country, we know a little bit about creating jobs. We have done just that, realizing that companies were not going to invest in Podunk. The first order of business over 30 years was to pay the bills. And, yes, our great State of South Carolina got a triple A credit rating from Standard and Poors and Moody's by guaranteeing that the comptroller would quarterly give an estimate to the Governor that the expenditures were within the revenues, or cut across the board.

That, in essence, was what we imposed with Gramm-Rudman-Hollings. And it was working until the 1988 election came and then they abandoned the ambitious targets, and then Gramm-Rudman-Hollings was not enforced. They said it did not work. It worked too well. That was the trouble. And with a 1990 summit that rescinded Gramm-Rudman-Hollings we have run up from $300 billion deficits to $500 billion deficits. So let us not talk in great reverence about spending walls around here, and how we are saving money. We are just using every gimmick in the book to hide behind.

We cannot do this by dividing each other. We have to realize that the best politics is no politics, and what we really should do, then, is see if we cannot, like a mayor of a city and a Governor—and they do this regularly—take this year's budget for next year. Any mayor of a town would come, under the circumstances, and say: Look; we do not want to fire any of the policemen; we do not want to cut any of the services. We are not really hurting that badly, if we can just hold the line. Take this year's budget for next year; freeze, as you call it; and then wait and see if times can come back better. We at least would have held the line and saved some money.

Ultimately, when you do that with this COLA instrumentality up here at the Federal level, you will be cutting the deficit in the second and third year. Living in the real world, that is not going to occur, of course, with entitlements or means tested programs. You are not going to, and you should not touch Social Security. You cannot tell how many hungry are going to report, so you cannot feed them up through July, and then say in August, and September: We have run out.

Certainly, we want to continue our veterans programs, and there is no use to get into the debates about civil service and military retirees. We have to get something done, and try to do it by the 20th of March. I have been talking to various Members on both sides of the aisle. And there is frustration, on the one hand, but hope on the other, that whatever passes and is now submitted most respectfully by the Finance Committee, right at this minute, if it passed by 100 votes, it would still be vetoed by the President and sustained.

Of course, we know that this bill is not going to pass by 100 votes. It is probably split down the middle, almost on a partisan political basis, which means you have a veto that is not going to be overridden. And we are back to the starting gate, we are back to zero, and nothing has been accomplished; once again, the finger pointing, the stalemate, and proving just exactly what a grave misgiving there is about us as a government and as a body that we cannot govern.

I do not want to plead guilty to that particular charge, and in that light, working with our friends on both sides of the aisle, at least the distinguished Senator from Nebraska; the Senator from New York, the junior Senator, Senator D'AMATO; the senior Senator from Alabama, Senator HEFLIN; and I have a plan, not an amendment. We are not trying to confuse; we are trying to offer an alternative to turn to once the bill now on the floor has been vetoed and sustained.

We will go along with a better plan if we can get one that does not increase the deficit, does not increase taxes, does not divide the country, and if we can get a substantial majority, the President would sign it.

I ask at this particular point, Madam President, this plan be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HOLLINGS, EXON, HEFLIN, D'AMATO PLAN: TO STIMULATE THE ECONOMY WITHOUT INCREASING TAXES, WITHOUT INCREASING THE DEFICIT, WITHOUT DIVIDING AMERICA, FEBRUARY 28, 1992

SAVINGS (OUTLAYS)

1. 10 percent reduction of civilian workforce (through attrition over 3 years):

[In percent]

	1993	1994	1995
Reduction	3.3	3.3	3.4
Savings	1.1	3.6	6.5

Savings: $1 billion.

2. Cut Defense $10 billion below 1993 cap,

Savings: $10 billion.

3. Cut $2 billion from Intelligence,

Savings: $2 billion.

4. Freeze international discretionary at 1992 levels:

Outlays: 1992, 20; 1993, 21.

Savings: $1 billion.

5. Freeze domestic discretionary at 1992 levels (exempt all entitlements including Social Security, military, civil service COLAS, Medicare, Medicaid, SSI, food stamps, vets):

Savings: $10 billion.

Outlays: 1992, 215; 1993, 225.

Total first year savings: $24 billion.

INVESTMENT

Private Sector Investment:	*Billions*
	Billions
1. Investment tax credit	−9.0
2. Capital gains	+3.7
3. Accelerated depreciation	−3.1
4. IRA/savings accounts	−5.6
5. Real estate	−1.0
6. R&D tax credit	−0.8
Costs	15.8

Public Sector Investment:	
1. Revenue sharing ($4 billion)	
2. Head Start/WIC	
3. Technical training centers	
4. Manufacturing centers	
5. Community health centers	
6. Advanced technology programs	
7. National Science Foundation	
Costs	$8.2
Total first year costs	$24
Increase in the deficit	0

Mr. HOLLINGS. Madam President, this plan embodies certain cuts and certain freezes. Why do I think it acceptable? For the simple reason that the first cut is of the bureaucracy, the work force.

This kind of sacrifice is being engaged in, joined in by every segment of the economy. There is sacrifice of the poor, the middle class, and the rich. Everybody is in this boat together. If we see the IBM's and the Xeroxes and the General Motors having to lay off and sacrifice, we can do as we did when President Reagan first came to office, by attrition, and have a 10-percent reduction of the Federal bureaucracy, cut across the board, of course exempting IRS agents and the law enforcement officials.

Next, defense. There have been all kinds of facts and figures. Mine is a 1-year plan. These 5-year plans of $150 billion or $100 billion, actually scare everybody, and should. Incidentally, these 5- and 6-year plans do not even last 5 and 6 months around this town. They are no better than the 5-year plans of the Soviets. So let us get on just with one plan that can get us, hopefully, past the recession, and then go to work on seeing how we can cut these deficits further next year.

Let us cut defense at the President's figure, and I think he is more nearly on target than most others who have submitted plans. In the budget, there is a $9.9 billion or $10 billion cut in outlays, whatever the cap may be. There is an argument of where the cap starts and stops. But whatever it is, take President Bush's particular figure of approximately a $10 billion cut there, realizing that in desperate circumstances, you do not want to, for example, close down Fort Dix, put those soldiers out on the sidewalk and have to give them unemployment compensation. So we have real savings, then, in large measure, not just from troops, but from things such as the MX, the Midgetman, the Stealth bomber, and on down the list. We can easily work out that particular amount, having served, as I have, on the Defense Appropriations Subcommittee for over 20 years.

Now, going then to a $2 billion cut in intelligence. We have had an open session, and we have had former Secretary of Defense and former head of the CIA Schlesinger, we have had General Odom of the National Security Agency attest to the fact we have too many analysts.

I can tell you that this particular submission of a $2 billion cut has been discussed for the past 2 to 3 years to try to bring this entire effort of intelligence in our Government down to size where we can handle it and can depend upon the reports given us. The sad fact was, as General Schwarzkopf said, he could not depend on the CIA's analysis. He had to get his own intelligence.

So with the cuts in bureaucracy, defense and intelligence, we can move then to the freeze of foreign aid and domestic discretionary with those necessary exemptions for the Social Security, military, Civil Service retirement, Medicare exempted, Medicaid, SSI, food stamps, veterans, go down that list. We still save some $24 billion.

Then take that $24 billion and allocate it, if you please, to the private sector and the public sector, but in the main to the private, almost double the amount of $15.8 to the private sector in the form of a reduction in capital gains taxes, investment tax credits, accelerated depreciation allowance for equipment, renewed IRA's, breaks for first-time home buyers, elimination of passive loss restrictions, and so on. Then, for the public sector, everyone agrees we need to boost investments in Head Start, technical training, retraining of those who lost their jobs, community health centers, the National Science Foundation, but more than anything else, of course, revenue sharing.

If you can find $16 billion for foreign aid in this Government, we can find $4 billion for local aid. We have off-loaded to the local States and localities, telling them to clean up solid waste, comply with this environmental requirement, do this, do that, and then we remove the funding. They are in desperate financial circumstances.

Finally, Madam President, all of these things have strong support by both Democratic and Republican Senators and by the administration. President Bush has talked about a reduction in the civilian force. He has talked about holding the line on these domestic programs. I have adopted his defense cut, and the President should know better than any, having been director of the CIA, that savings can be made in intelligence.

So I said at one time this plan was an offer we could not refuse, because the majority has just passed this particular budget. When we say a freeze, this is a budget we adopted just in November, 4 months ago, the President just signed it into law 3 months ago.

With that in mind, let us do exactly as we voted before and show some sobriety, some awareness for the dilemma that we face, the restrictions that are upon us, the most that can be done in a bipartisan fashion. Our friend John F. Kennedy, I can remember him at the time he was introduced on the steps of our capitol in Columbia, SC. He said, "My campaign is not a set of promises of what I intend to give the American people, my campaign is a set of challenges of what I intend to ask"—he had that Boston accent—"ask of the American people."

The American people are out there sacrificing and they are wondering when the people's representatives in Congress are going to show any sensibility or awareness or sacrifice themselves.

So I want to thank those who have been willing to support this. They do not want to get in a political sticky wicket, certainly I do not, with the leadership on both sides of the aisle. But the Senator from Nebraska and the Senator from New York, the Senator from Alabama, being good help, we extend the hand of suggestion to all the other Senators so that when this committee bill passes, is vetoed and we are back to the starting point, this is a stopgap measure that we all can agree on perhaps and, hopefully, can pass by March 20. I yield the floor.

Mr. EXON. Madam President, I rise to support the Hollings-Exon budget freeze proposal. Over the last decade, Senator HOLLINGS and I have presented fiscal plans based on the budget freeze concept. The idea behind such a budget is that where possible we spend this year the same amount we spent last year. A freeze budget holds the line on spending—no cuts; no increases. It does what American families would do when their budgets go astray. First, they cut their increases in spending. I submit that if any of our earlier plans had been adopted the Nation would not face its current debt-laden recession.

The plan we introduce today recognizes that there is a deep, real, and painful recession across the Nation. It makes certain adjustments in the first year of the budget plan and offers the option of an economic growth package without increasing the deficit.

While I do not endorse every single provision of this plan, it is an important starting point for crafting a meaningful growth oriented budget for fiscal year 1993 without abandoning the needs for long-term deficit reduction.

President Bush campaigned in 1988 on a budget platform which spoke of a flexible freeze. With each and every budget that the President submitted, the Nation got far more flex than freeze. The current fiscal course is one of record-breaking budget deficits and a nearly incomprehensibly large Federal debt. It is long past time to deliver a budget which can accurately be described as a flexible freeze.

In the final year of President Bush's first and probably only term, the single largest Federal spending program will be gross interest on the debt. That is shameful.

This year we face both a huge deficit and a slow economy. Job 1 is getting this economy moving again. The Hollings-Exon budget would accommodate a tax incentive package similar to the one approved by the Senate Finance Committee or one with a number of the elements recommended by President Bush. It will also accommodate add backs to select key domestic programs. Once the economy is jump-started, more aggressive deficit reduction strategies can kick in.

While I have some concerns about the level of defense spending in this proposal, I congratulate Senator HOLLINGS for linking defense spending reductions with a technology package which can form the cornerstone of an economic conversion effort. Reductions in defense spending without a strategy to convert from a war economy to a commercial economy will prolong the recession and do permanent damage to our Nation's industrial and technology base.

To date, the President has offered no long-term strategy for winding down defense spending or rebuilding our commercial sector. It is as if the President were hoping for a new enemy to emerge to cancel any hope of a lasting peace dividend. The challenge the Nation faces in the post cold war era is to reinvest the peace dividend in a manner that creates a better life for all Americans.

Certainly this budget option is not perfect. It is, however, realistic and in sharp contrast to the President's budget, this plan is honest. President Bush promised something for everybody in his State of the Union message but delivered to the Congress a budget filled with blue smoke and mirrors. Tax cuts in the President's budget were paid for with accounting gimmicks and revenues were boosted with optimistic economic forecasts.

The American people deserve better. They deserve leaders who are willing to ask for sacrifice and willing to tell the truth about the serious economic problems facing our Nation. With this budget we do both.

I am pleased to join with my friend and colleague from South Carolina, in introducing this alternative fiscal blueprint. I ask my colleagues to give it full and fair consideration. We would welcome your comments, suggestions, and support.

Thank you, Madam President.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Madam President, I have been on the floor for the last hour and have listened with considerable interest to the comments of the Senator from New York [Mr. MOYNIHAN] and also Senator HOLLINGS, my chairman of the Commerce Committee.

I think it is fair to say that those two speeches did reflect a sense which is shared by a number of Members of the Senate and shared also by an overwhelming majority of the American people, to the effect that the tax legislation now before us does not quite do what it has been represented to do. It is called an economic growth package, but I think most Members of the Senate recognize it really is not much of a growth package at all. This is a view that is very widely shared, certainly by the people of my State of Missouri.

It has been said by a lot of commentators that the American people this year, more than in most years in the past, are perhaps more receptive to the unvarnished truth from politicians than may have been true in the past. I have found this in my State.

I have talked with my constituents on a number of occasions about tax legislation. I have asked my constituents how they feel about the so-called middle-class tax cut, whether they feel the middle-class tax cut in its various manifestations really helps the country, whether it really improves the economy, whether it really leads to economic growth. I have never had a single person suggest to me that the middle-class tax cut does any good for the economy, that it helps us out of the recession or that it helps us grow.

I have even been on a radio talk show that has one of the largest listening audiences in the country, KMOX radio in St. Louis, and I said on that program if there is anyone out there who believes that the so-called middle-class tax cut helps the economy, please call in and let me know. Nobody called in.

I do not know of anybody who believes that the middle-class tax cut is going to help the economy, and yet it is by far the largest part of the legislation now before us. It accounts for over half of the revenue loss in this legislation. It is more than six times larger than the next largest item in the bill, which is the individual retirement account provision.

The American people recognize that the real problem with the economy has nothing to do with the middle-class tax cut. The real problem with our economy has to do with huge deficits in the Federal budget and has to do with tax policies which discourage savings, investment, and growth and encourage consumption. That was the program we embarked on in the 1986 tax legislation, and that is the program which is furthered by the legislation now before us.

The United States has, and has had for the last two or three decades, the lowest savings rate of any industrialized country. The United States has the lowest investment rate of any industrialized country.

Therefore it follows as night to day that we have one of the lowest, the second lowest, economic growth rate of any industrialized country.

The economists have said the same thing that our colleagues in the Senate have said, and that my constituents have said about this legislation. I would like to read into the RECORD a few quotes.

Robert Solow, Nobel Prize economist, said on the MacNeil/Lehrer program last night:

> We have, over the past decade or so, not looked after the seed corn. We have run the economy on a sort of consumption first basis. And the rest of the advanced industrial world, the people who are catching up with us, consume less of what they produce and they invest more. We lag in that respect, and so we don't improve our industrial base, we don't get new technology into the plant, we don't build as much new plant as other countries. What we do is we consume more. * * * The fundamental need over the next decade is to invest more and consume less.

Henry Aaron of the Brookings Institution said:

> A tax cut would be lethal or at least deleterious to long-term economic objectives.

Marty Feldstein, former Chairman of the Council of Economic Advisers, said that:

> Middle-class tax cuts * * * clearly are not the way to increase productivity and growth in the economy.* * * On balance, they are bad for the economy.

Barry Bosworth of the Brookings Institution said before the Ways and Means Committee:

> The current emphasis on lower taxes is sending the wrong message to voters about the measures that must be taken to improve the economy in the long run. If the United States hopes to compete in the global economy in the future it will need to increase its investment in physical capital, research and development, and education and job training. All of these measures will require less consumption in the immediate future, not more.

So, Madam President, that is the message from the economists. That is what we have heard from people who have testified before the Finance Committee, before the Ways and Means Committee, and that is what we are hearing from our constituents as well.

What we are going to do is this: we will pass this bill, we will pass this bill with about half of it being in the form of the so-called middle-class tax cut. The bill will be vetoed by the President. It will be an election year issue, particularly in the Presidential campaign. The President's veto will be sustained.

Eventually we will get on with a stripped-down bill which will do some good for the economy. We will extend the expiring provisions of the Tax Code. We will deal with a luxury tax problem. We will deal with the passive loss rule problem. We will possibly deal with the complexities of the alternative minimum tax. We will probably pass the health component of this legislation. There will be almost unanimous support for those provisions, and that will be it for this year.

I think though we should do more, although I do not hold out much hope for it in 1992. I think that if we really set our minds to it, we would put in place some real growth provisions in the Tax Code.

We should do so by reinstating a permanent investment tax credit and by making the research and development tax credit permanent, perhaps at a higher level than it has been in the past. In addition, the investment tax credit and research and development tax credit should be creditable against the alternative minimum tax. The AMT is now paid by about half of the businesses being taxed today. These important incentive provisions would not be available to these businesses without being creditable against the AMT. Perhaps we should restore the capital gains differential as well. In addition, we must improve the so-called human capital or educational provisions that are now in the law.

Those are the things that I believe we should do if we really want a growth tax bill.

The immediate question is how do we pay for all of that? My answer to that is that we should begin thinking about a consumption tax. We should begin thinking about less emphasis on an income tax, and a greater emphasis on some form of consumption tax.

When that issue is raised, there are any number of different views on what is the perfect kind of consumption tax. There is immediate squabbling about the precise form it should take.

Some people say I am against a value-added tax, I am for a business transfer tax, I am for this form of tax or that form of tax, but I think that the main issue is not what is the perfect version of a consumption tax. The main issue is whether we can move from the present tax system to something different, whether we can move from a tax system which penalizes savings and investment and encourages consumption to a form of taxation which encourages economic growth.

Of the industrialized countries in the world, every single one of them has some form of consumption tax, either a value-added tax, or some kind of national sales tax. The United States is the only country that relies primarily on the income tax. And the result of our high cost of capital and the fact that we have a tax system favoring consumption as opposed to savings and investments is that we have the second-lowest growth rate of the industrialized world.

The good news, Madam President, is that when I discuss the form of taxation with my colleagues, Democrats as well as Republicans, when I discuss it with officials in the administration, with economists, with leaders in the business community, there is enormous support for this kind of an approach, and enormous recognition that the tax policies that we are pursuing today, much less the spending policies, are very, very damaging for our economy.

So my hope is that eventually we will get beyond the political posturing that is not new in this election year but certainly entails most of what we have heard from both political parties in connection with tax legislation this year; and that we will move to a broader approach that really will help our economy grow.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Madam President, I yield 30 seconds, or 1 minute to the Senator from New York.

Mr. D'AMATO. Madam President, I thank my colleague from New Jersey.

LET'S GET TO WORK—FOR THE AMERICAN PEOPLE

Madam President, I rise today to urge this body to get to the work of the people. The partisan posturing and the partisan bickering will get this country and its people nowhere. There will be no long-term solution to our country's economic problems until Congress gets its fiscal house in order. We must work together starting right now if we are to get the U.S. economy moving forward and to get government off the backs of the hard-working middle class.

Madam President, the supposed tax fairness bill being brought before this body today is a political charade. Though it includes a few positive viable economic recovery provisions, the vast majority of this legislation is far, far worse than even the mess of the 1990 tax increase bill. In 1990, the Democrat-controlled Congress sold the American people a bill of goods in the form of a deficit reduction package. That so-called deficit reduction law, which I adamantly opposed, increased spending by $380 billion over 5 years and increased taxes by $158 billion over the same period. Today, the package offered by the Senate Finance Committee gives the American people nothing better. It is heavy on "tax" and light on "fairness."

My colleague, Senator HOLLINGS, has put forth a viable and realistic proposal to accomplish goals that are good for all Americans. I support his efforts to freeze and cut spending, to cut bureaucracy, to provide economic stimulus to invest in private business and industry as well as make public investment in areas such as Head Start, WIC, and Community Health.

Senator HOLLINGS' proposal stands for the things I have long advocated. I have strongly supported economic stimulus proposals to create jobs and get this country's economy moving again. I support every effort to cut wasteful Government spending and reduce the suffocating Federal budget deficit. I have also stood firmly in support of a balanced budget amendment to the Constitution, and for giving the President line-item veto power.

Madam President, we must show the American people that we stand for something—we stand for them.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey continues to hold the floor.

Mr. BRADLEY. Madam President, the bill before us is the tax bill of 1992. Let me begin by saying that this might be the only tax bill for 1992.

Let me also begin by saying that I think the distinguished chairman of the Finance Committee, Senator BENTSEN, has worked long and hard to put together a bill that tries to touch many different bases. I think that he has been extremely open and considerate. And he has taken great effort to listen to many Senators in coming up with this proposal. I compliment him on that inclusiveness.

Madam President, we are in the midst of a three-pronged economic crisis as far as I see it. First, we are in the middle of the recessionary cycle. We have rising unemployment. We have the economy slowing down. And we have in place now the traditional monetary response to this kind of recessionary cycle; that is, that the monetary base is being expanded dramatically. It is inevitable that that expansion of the monetary base will make some economic numbers look better in 8 months, a year; no one knows, but ultimately it will make the economic numbers look better. Whether it will restore confidence or not is another question.

The second economic crisis we are in is a structural adjustment to international competition and to the end of the cold war. The fact of the matter is that many companies—some companies have come to symbolize the American corporate family: IBM, AT&T, among others—are responding to both the end of communism in the Soviet Union, the end of the cold war, and international competition, by laying people off in sizable numbers. These are layoffs that are not your normal cyclical layoff where somebody goes to get unemployment and in 6 months the line comes back on and they are back at work. These are permanent job losses. And that is why the crisis is called structural adjustment, which means workers who were working in those industries for many years now will have to find work elsewhere.

The fundamental challenge of this structural adjustment is to be able to take care of the people who are adversely affected by it. I think that implies a number of things. It implies, first of all, a national health insurance program, so if you lose your job, you do not lose coverage for your family. It implies some security for pension benefits, so that you are not thrown out on the street and don't have any pension. It also implies putting some real substance behind the claim of lifetime education.

The third crisis we are in is the fiscal crisis that has been so eloquently described today by Senator MOYNIHAN and by Senator HOLLINGS—raging deficits. In 1979 the deficit hit $40 billion. The deficit this year is at $400 billion. In a decade, the United States went from the largest creditor nation to the world's largest debtor nation. And all of that almost $2 trillion in additional debt is being put on the backs of our children; interest payments are now being made to foreign bondholders before taxpayer dollars are spent to feed hungry children in this country; and all of our children are being burdened with the prospect of less capital available for their education, for the purchase of homes, and for making America grow again.

So the deficit is the No. 1 problem confronting the country, and it comes after a decade of neglect. It comes in the midst of a recessionary cycle, and a need for structural adjustment that flows from the end of the cold war and intense international competition.

Madam President, it was Woodrow Wilson that said, "Good government is the best politics."

I think that in the anti-incumbent, angry election year, which both parties are now facing, we should keep those words in mind, that "good government is the best politics."

For the past 11 years, most of our country's economic policy has been dictated by smart politics. This smart politics has paid off in electoral terms. Republicans have maintained control of the White House, and Democrats have maintained control of Congress. Everybody has played it smart and put off the tough decisions until after the next election. But there has always been another election and more decisions to put off and more elections to win.

Madam President, here we are tonight. Eleven years ago, we passed a tax bill, the Economic Recovery Tax Act, the largest giveaway in American history, and we have spent the following decade trying to clean up that collossal mistake. We cut income taxes in 1981 reducing the top rate from 70 to 50 percent, and we spent the next 10 years raising every other kind of tax imaginable. We gave businesses and rich people nice, expensive loopholes and spent the next 10 years trying to close them or pay for them with yet other taxes. We passed a tax bill that was supposed to reduce the deficit by generating economic growth, and subsequently we have passed five major deficit reduction tax bills, as the deficit continued to grow.

Madam President, just look at this last decade. As I said, $40 billion was the deficit in 1979. Today it is $400 billion. If no steps are taken to increase the deficits—in other words, if we use all of the peace dividend for deficit reduction, if we do not enact any domestic priorities without offsets, and if we give no tax cuts without corresponding tax increases, then the deficit in 2001 will still be somewhere on the order of $300 billion—3 percent of GNP. On the other hand, if we do spend part of the peace dividend, then it is going to be much higher.

Since those deficit figures do not include the Social Security reserves, the deficit for the overall operations of Government is actually about $150 billion a year higher. That amounts to almost 5 percent of our GNP in 2001.

So unless aggressive steps are taken, our long-term economic problem is going to still be with us and with us for a long time to come.

Let us look at the last decade's tax actions. ERTA in 1981, in terms of how that act affected the budget today, increased the budget deficit by $358 billion. Because it was so clearly a drain on the Federal Treasury we spent the last decade passing other bills raising taxes to try to catch up. Let us go through the history of those other bills.

TEFRA in 1982. Remember, that was when we were going to withhold on interest and dividends. We were going to repeal safe harbor leasing. Those were the great call words of the early 1980's. That raised $61 billion. Of course, there was the 1982 highway bill, raising the gasoline tax from 4 to 9 cents. I was told, parenthetically, if we did that, we would all lose our elections. I got three letters when we raised the gasoline tax from 4 cents to 9 cents. It cut the deficit by $5 billion.

Then, of course, there was the Social Security bill of 1983, the bill that speeded up the higher rates on Social Security recipients, so that today, 71 percent of Americans pay more in Social Security taxes than they pay in income taxes. That raised $91 billion.

And then, of course, we had the Railroad Retirement Act. That raised $1 billion. The Deficit Reduction Act of 1984 raised $34 billion. The key element of that—and this was a tremendous sacrifice, I know, for all of us to make—was we lengthened the depreciable life of buildings from 15 years to 18 years. What a sacrifice.

Never mind that buildings last for 40 years. In 1981, we shoveled money into the pockets of real estate developers by allowing depreciation of real estate at 15 years, no matter if it had a life of 40 years or 50 years.

In addition to that, in 1981, a little-known provision of the bill allowed S&L operators to take their losses in 1981 and deduct them against the previous 10 years of earnings, thereby postponing the day of reckoning for the S&L crisis, all in 1981.

But in 1984, we came back and raised $34 billion. And, of course, we have the acronymns COBRA, and OBRA. COBRA, in 1985, raised $3 billion; OBRA, in 1986, raised $0.1 billion. Then we have a deficit reduction measure in 1987 that reduced the deficit by raising $3 billion in taxes and OBRA in 1987, $15 billion raised in taxes, then the 1988 tax deficit reduction, $3 billion, and the 1989 OBRA, $6 billion, and in 1990, the budget bill raised $18 billion.

So, Madam President, if you simply take the original sin of this period of fiscal excess, the 1981 tax bill, and you put how much money it lost in fiscal year 1991, in other words, how much the deficit increased on one side, and you put all of the increases in taxes on the other side, you will still see that we have $120 billion yet to go before we offset that dramatic increase in the deficit that came in 1981. Of course, it is $270 billion, if you do not count Social Security reserves. A lot of numbers, but the point to be made is that the origin of this deficit was the 1981 tax bill, and subsequently we have done everything we could to try to make up for that mistake. But we have been unable to catch up.

(Mr. WIRTH assumed the chair.)

Mr. BRADLEY. Now, the second thing that happened in this period, in addition to gigantic increases in deficits, was, of course, a dramatic change in the distribution of tax burdens.

If we take a look at the effective tax rate, and that is the rate I always like to look at, the effective tax rate—in other words, what people actually pay; not what the rate says in the law, but what people actually pay—and we take two families, an average family making $20,000 a year, and an average family making $1 million a year, in 1977, the average family making $20,000 a year paid an effective tax rate of 15.4 percent. In 1992, that average family making $20,000 pays an effective tax rate of 15.6 percent. In other words, more. The million-dollar family, how did they do? In 1977, they paid an effective tax rate of 35.5 percent. One should note that the tax rate in the law said 70 percent. They paid an effective tax rate, though, of 35.5 percent. After the tax bill of 1981, and the effect of pouring money into the pockets of the wealthiest Americans, you found that in 1985 that effective tax rate on the family that made $1 million dropped to 24.9 percent. After the Tax Reform Act of 1986, it increased to 26.9 percent. Why? Because the shelters and the loopholes that the millionaire had used to avoid paying tax were eliminated, so he paid a little bit more.

And now, after the 1990 tax bill, that million-dollar family pays about 29.3 percent. So that in this decade, you saw that the $20,000 family actually is paying about $140 more, and you found the million-dollar family paying about $62,000 less.

So much for whether this was a fair decade in tax policy. The last decade has been profligate in the creation of giant deficits, the original case being the 1981 tax bill. The decade has been embarrassingly insensitive to hard-working families in this country, as they end up paying more and people making $1 million a year end up paying $62,000, on the average, less.

So, Mr. President, with that background, here we are. We are considering the 1992 tax bill. It is billed as a short-term recession-relief package that does not cut taxes. It is revenue neutral. A short-term recession relief package that does not cut taxes. And it is billed as a long-term growth and investment package that does not cut the deficit.

So here we are. The deficit is at record levels, smothering long-term growth. Middle-income families are squeezed, working longer hours, making less money, while the rich get richer. The economy is stuck in a recession, jobs are disappearing, people have lost confidence in their Government, businesses are not investing, people are not spending, banks are not lending, productivity is down, unemployment is up, poverty is up. And the people want us to do something. Most of all, they want some answers and some straight talk. They want a little help now.

Sure, they want some help now. But they also want us to look beyond—I believe—beyond the next election, the next century, and make some investments today that will lead to economic growth 10 years from now. I think they want that, too. And they probably want that more.

What does that mean? Well, I think we should invest in growth. Given what I said about the structural adjustment that we are in, that means health and education. There is a provision in this bill authored by Senator BENTSEN that finally says to people who are self-employed: Look, you are going to get some help in giving yourself some health insurance.

There are a whole series of educational initiatives, ranging from one that Senator BREAUX offered, that tries to deal with training high school kids who do not go to college. Then there is a self-reliance loan proposal, which I authored, which provides up to $30,000 to any American up to the age of 50 who wants to go to college and agrees to pay a percent of future income into a trust fund.

Now, these health and education investments are economic growth initiatives. I mean, they are even economic growth initiatives in theory. If you look at the theory of economic growth, that means labor and capital. And maybe some people say what you cannot figure out with labor and capital input you make up with technology. There is a whole new school that says, no, it is labor and capital—but it is also ideas, patents; it is also the quality of education.

So if we want productivity to leap ahead in this society, we are going to have to get more people going to college. And you have to facilitate that entry. We are going to have to improve the performance of people who are on the bottom three or four rungs.

So I think we should invest in economic growth. I think economic growth is health and education. I also frankly believe, as a matter of policy, given this last decade, that millionaires should pay more. A millionaire's family that got that $67,000 tax cut ought to pay more. I believe America's families deserve to have some relief from the tax burden that they have labored under, a tax burden once again caused in large part by the 1981 tax bill that did not index the standard deduction or the exemption until 1984, thereby pushing more and more poor people into paying taxes.

So that is why I introduced the $350 refundable tax credit. Families need more resources, all families do.

Those are the three things that I believe in: Investment in economic growth—health and education; taking care of America's families, giving them some more money in their pockets—all American families; and make sure that the people who make $1 million a year are paying considerably more because they benefited the most from the last decade.

That brings us to the bill that is on the floor at the moment. After this whole decade of tax profligacy, we have before us a bill, today, that provides a tax credit for children, $300, in income levels from roughly $15,000 to $50,000, phasing it out from $50,000 to $70,000 in income. I regret it does not take care of 25 percent of the poorest kids, who you will only be able to take care of with a refundable credit. I regret we have not made it available for all children.

The bill raises taxes on the wealthy. I strongly support the 10 percent millionaire surtax; the 36-percent rate on incomes over $150,000 would also increase taxes on the wealthy. It raises about $43 billion. But then we proceed in the bill to give $20 billion to $25 billion back to the same people—people with a lot of money—through loophole creation.

And then the issue that this is deficit neutral. Over 5 years it is deficit neutral. Yet there are some ominous elements: extenders that are set to expire in 18 months. Of course the history of extenders is they do not expire, they continue and continue and continue.

Then there is the back-loaded IRA, which basically says do not take the budget hit now, take the budget hit later. So I have a little question as to whether this bill is fully neutral in the out-years.

But, Mr. President, that is what we now have before us. It is a bill that comes, I believe, out of the frustrations, inequities and profligate tax policy rooted in the tax bill of 1981. As I said in my earlier remarks, we have been trying to make up for the gigantic increase in the deficit caused by the 1981 tax bill ever since, and we are still $120 billion, $130 billion and if you do not count Social Security trust funds, $270 billion behind.

We are still trying to make up for the inequity of the 1981 tax bill in terms of effective tax rates. And I see this bill as a response, in part, to that decade. I see it also as a response to a genuine desire to deal with some of the substantive problems with regard to economic growth: education, health care, making sure families have some more money.

But let me echo, finally, the words of some of the other speakers who were here today. This is not the answer to our problems. The answer to the problem is going to be found when 51 people stand on the Senate floor and vote to increase revenues, taxes, and to cut spending in a serious manner.

We have had economists come before the Finance Committee. Some of them say what we need is a tax cut now and a tax increase later. Of course when you hear the debate you only hear about the tax cut now, not the tax increase later than they have advocated, 3 percent of GNP, which is $90 billion more in 1 year.

So the main point to make is that we are in a period of structural adjustment—international competition, the end of the cold war—and seriously dealing with that means taking care of people's health care, pensions, and making lifetime education a reality. That has to have a foundation of serious deficit reduction.

This bill is before us now. We will be debating it for the next couple of days. There will inevitably be amendments that will be offered and we will see how the Senate works its will.

I will be back here tomorrow at 10 a.m. to deal with the first amendment that will be offered. I expect to participate in the debate through the next several days.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I just arrived from a visit downtown on some family matters. I noticed Senator SLADE GORTON sitting here. I have sought the floor. I wonder am I inconveniencing him if I make some remarks about this bill at this time?

Mr. GORTON. Not at all.

Mr. DOMENICI. Mr. President, I, too, will hopefully join with others to speak again, at least one more time before this bill is defeated. I think it will be. If it is not defeated on the floor, it surely will not become law. But I think we ought to talk about the bill tonight. I will try to do that. And then, as to what brought it about. Tomorrow I will talk about what happened in the decade of the eighties, and I will talk about tax inequity and what caused it—from my standpoint, I will reserve that topic for another date.

Frankly, I hear all kinds of suggestions as to what caused it. But it is most interesting that most of those who are finding blame in the eighties, voted for the major tax reform package of all time that is being modified tonight in a major way. It seems to me there are some on the other side of the aisle who want to modify it even more by raising the brackets higher and higher.

We all ought to remember we had extremely high brackets when the reform was enacted, and it was concluded then that the rich were not paying their fair share. Everyone knows that is what prompted that bill, because all the loopholes that came in behind the high marginal tax rates permitted those with high earnings to pay less and less taxes. The theory was to have fewer marginal brackets and get rid of most of the deductions, exemptions, and loopholes. And that is what happened, if there were any inequities around.

It will be a pleasure to talk about tax history, and where the inequities are in terms of income distribution in the United States. And for those who continue to talk about the Tax Code creating inequity, it is interesting to note that most people who have studied America in the last 10, 15 years, even 20 years conclude that education levels are more responsible for income disparities than the tax code. The more educated are earning more and more. The less educated are earning less and less. And that is where all of these disparities are. But that is a topic for another day.

I have worked on economic growth and job-producing packages. I know economic growth-producing packages, and the Finance Committee bill is no economic growth package. No doubt about it. I hope, not having heard the debate this afternoon, that no one really contends that it is.

The bill increases taxes by $65 billion over the next 5 years. For those who say we are only taxing the rich in the proposed tax increases. I say wrong. I did not have response to that until I searched and inquired of the tax people, just who are these Americans who are going to pay this new higher rate? Believe it or not, and this number will stand, 65 percent of the so-called rich who are going to get taxed an additional amount will come out of the pockets of taxpayers with small business income.

These are the small business persons who historically have provided the majority of new jobs in our economy. It is impossible to use profits to expand a business and create new jobs if the tax collector wants your working capital to satisfy the new 36 percent rate—an effective rate, Mr. President, which exceeds 40 percent when other tax provisions are taken into account.

Instead of providing jobs, this bill provides special interest tax relief to a number of special interests and it produces bailouts for others.

If a provision does not spur economic growth, create jobs, or lower the cost of capital, it should be rejected by the Senate.

Instead of doing what the President asked in begging us to pass his economic growth and jobs producing bill which would, indeed, have increased productivity, the Finance Committee bill does the following, and I challenge anyone who produced the bill to defy it: It raises the deficit; and let us have that argument for some say it does not raise the deficit. I believe it does. And I believe we can prove conclusively that it does. It will cause a sequester to occur, so it creates a sequester. It increases taxes. It increases spending. It creates two new entitlement programs and, by the way, in the process does very little to stimulate the economy. It seems that alone ought to be enough for us to say we do not need it.

This bill will raise the deficit by at least $2 billion, and continues to add to the deficit each year through 1995. This bill is going to trigger a $4 billion sequester. So all of those who are for it probably better hope it does not become law because the OMB Director will have to cut Medicare by $3 billion. Has anybody offered a bill on the floor of the Senate to cut Medicare $3 billion and see it pass? Frankly, Senators will stumble over themselves to come to the floor to see who can be heard first if you attempt to cut Medicare in any way. The consequences of this bill will cut it across the board $3 billion.

Other programs like social services block grants would get cut. Incidentally, student loan programs on which we just went through a very serious debate will be in this across-the-board sequester. And, yes, farm programs will take a hit, too.

In a normal year, Mr. President, the Finance Committee package would be subject to at least five Budget Act points of order, but this is not a normal year and this is not a normal bill. So, all the maneuvers that have been implemented to avoid such a result have been done, including introducing two bills instead of one, will still not change the result. I do not think very many Senators know that.

Why all of this manipulation of the process to avoid the budget problem? For what? It seems to me that I ought to honestly share with the Senate what I see as some of the reasons the bill is on the floor because I do not believe there were the votes in committee for this bill without the following list of special interest provisions that I found in this bill. Now, I know tax bills have special interests, and I know tax writing committees must write special interest provisions. This is by no means one of the better of such. It is probably among the least egregious.

But there is a provision in it that will reclassify foreign minivans and sport utility vehicles as trucks. So one provision turns cars into trucks and raises the prices for consumers in the process because there will be a 25-percent duty imposed on Rovers, Isuzu Troopers, and other vehicles we import.

I do not know if it is right or not, but I suggest it is one of those without which the bill would not be here. It sounds to me like more of these were in it than provisions for economic growth. And that is why it is here.

Let me give a couple of more. There is a provision that will allow Federal Express Airlines to give their nonunion pilots pensions as generous as those given to unionized pilots. I do not know if that is good or bad either. I pass no judgment on it. It is interesting that to get this bill on the floor we have to include provisions like this.

Yet another provision provides universities in America with an exemption from the volume caps imposed on their ability to issue tax-exempt bonds. I assume there was someone genuinely interested in that. I do not think it belongs in this bill.

The securities industry would benefit from a 1-year delay of the new tax rules for security leaders. I am sure most Senators did not know that was in here.

Certain fishing fleets would be exempt from FICA and from FUTA taxes. And it is interesting; it basically says that the less than 10 exemptions would be stretched to exempt more than 10 employees if they are fishermen and if they are on the crew of fishing boats, and there are also usually less than 10 fishermen on the crew. This provision also allows fishermen to receive tax-free income, and it states how.

Interestingly enough, and I will tell you why it is really interesting, this change is retroactive to 1984. It is interesting because we will skip over to the taxpayer bill of rights. Boy, right front and center in the taxpayer bill of rights, it says no more retroactive laws, and it says, IRS, no more retroactive rules and regulations. I just identified one contradiction included in the bill and that provision is retroactive back to 1984. I assume we did not mean it in the taxpayer bill of rights, I say to my friend from Washington.

I guess what we are saying is we mean it, unless there is somebody that likes it to be retroactive, then we will let them have it. I assume that. But we will not let the IRS do that kind of thing.

There are changes in here for the rural postal carriers on the way they compute mileage. Maybe that is worthwhile also. I do not know what it has to do with economic growth.

Rural electric co-ops would benefit because Congress would overrule the IRS treatment of the safe harbor leasing activity surrounding some of the large nuclear powerplants. That is in here. Again, I do not pass judgment on their merits. I just am wondering why the bill is here.

Is it here because there were enough Senators to vote for the tax measures, or is it here because there were enough special interests to get the votes needed to bring it here? I surmise about half and half, but if it is half and half, there certainly are not enough around to have reported it out purely for its economic growth potential. Nonetheless we have taken it to the floor with great accolades attendant to the description of what we are doing to help the American people in this time of recession.

I do not want to leave any of these special interests out for fear that somebody will say DOMENICI picked and chose. So I will even say that there is a housing cooperative given special attention in New York City.

There is a bailout of a group of local coal companies. That deserves a little more attention. And I want everyone to know there is an oil and gas industry treatment that is even more favorable than the President had, yet it does not do as much for the independents as some would have thought.

The others I will not go into. I will put them in the RECORD, anyone who cares to see them and go over them, they might want to do that.

There being no objection, the material was ordered printed in the RECORD, as follows:

One provision turns cars into trucks and raises prices for consumers in the process. It would reclassify foreign minivans and sport utility vehicles as trucks and increase the duty to 25 percent for Range Rovers and Isuzu Troopers. This is a provision that was lobbied for by the big three auto makers and is blatant protectionism. We may have to pay our trading partners compensation for this one.

A second special interest provision includes a provision to allow airlines like Federal Express to give their non-union pilots pensions as generous as those given to unionized pilots of other airlines. This might be a good provision but it doesn't belong in an economic growth package.

Yet another provision provides universities with an exemption from volume caps imposed on their ability to issue tax exempt bonds.

The securities industry would benefit from a one year delay of the new tax rules for securities dealers.

Certain fishing fleets would be exempted from FICA and FUTA taxes. It basically says that the less than ten exemption would be stretched to exempt more than ten employees if they are fishermen and they are on the crew of a fishing boat and there are usually less than ten fishermen on the crew. The provision also allows the fishermen to receive tax free income of a de minimis amount as well as a share of the catch. This change is retroactive to 1984 and would bailout some Massachusetts fishermen locked in litigation with the IRS over this issue.

The bill also changes the way rural postal carriers compute mileage. Again, it might be a worthwhile change, but it isn't going to foster economic growth. It doesn't belong in this package.

Rural electric cooperatives would benefit if Congress would overrule the IRS on the treatment of some safe harbor leasing activities surrounding some large nuclear power plants. The Finance Committee bill makes that change.

This bill also makes permanent the bailout of the railroad retirement fund. Taxpayers will be expected to subsidize these retirees' benefits. I am not against railroad retirees, but this provision does not belong in an economic growth package.

A worthwhile, yet extraneous provision would allow $1.5 billion tax credits for restaurants that pay Social Security taxes on tips in excess of those necessary to bring employee wages up to the minimum wage. It would be paid for by eliminating deductions for club memberships. While waitresses and others are hard workers and have a hard time making ends meet, an economic growth bill isn't the place to fight this long standing battle.

The bill repeals the only anti-tax shelter provision dealing with housing cooperatives. The bill allows a more liberal treatment of nonmembership profits to offset losses from member goods and services. This benefits housing cooperatives located primarily in New York City. They would be exempted from the only rule in the Internal Revenue Code that prevents tenant-shareholders from sheltering their investment and rental income in order to supply their personal living expenses which should not otherwise be deductible.

Another provision is an unvarnished bailout—A group of coal companies over-promised health care benefits in the 1970s. Now that they can't live up to their promises, they have asked Congress to tax their competitors (or former competitors since many of the original promising coal companies have gone out of business) so that they can keep promises they had no business making in the first place.

This provision is so outrageous it includes a list of states which only includes 49. Montana is omitted because the legislation exempts Montana to keep Senator Baucus on board.

Lignite is exempt which in a back-door way exempts all Texas coal.

Perhaps each Senator should offer an amendment to change the name of his/her respective states to "Montana" for the purposes of this provision so the miners won't have to suffer the adverse impact of this tax.

Why should western coal pay 15 cents an hour tax to bail out eastern coal companies? Why should eastern competitors pay 99 cents per hour tax to keep promises their competitors made? And most importantly, why should the Congress use the tax code to get in the middle of this private contract matter between certain coal companies and their unions at the expense of other coal miners' jobs? This is a robbing Peter to pay Paul situation if there ever was one.

Many of the coal companies that are going to be taxed under this proposal are marginal operators right now. If this tax is imposed on them it will cost jobs.

As Senator Boren said in the mark-up, the provision is "a terrible, terrible precedent" by taxing companies that had nothing to do with the United Mine Workers contract and the fund's problems.

The oil and gas industry is treated more favorably than proposed by the President. The bill increases the net income limitation for calculating the IDC preference to 70 percent, up from the present 65 percent. The Special energy deduction is modified and changes are made to the adjusted current earnings adjustment (ACE) for IDCs. It also provides an AMT preference for intangible drilling costs (IDCs) but makes no changes in the AMT treatment of depletion. This appears to help the large corporate independents more than the small independents.

The small sole proprietor independents are also going to end up paying the higher individual 36 percent rate and the higher AMT.

The real estate provisions aren't what the President asked for. The capital gains provisions are too complex. In addition, the recapture rules would increase the potential tax on depressed real estate properties. Another example, the $5,000 first time homebuyer credit would only be used for existing homes. Eighty percent of first time homebuyers would be left out because they purchase existing homes. The provision doesn't meet the needs of the people we are trying to help who buy existing homes.

On top of all of this, the bill requires seven new studies, sets up three new commissions and establishes a series of new demonstration projects.

In the Taxpayers' Bill of Rights title of the bill it prohibits Treasury from issuing retroactive regulations. In other sections of the bill, the rate increase for the new 36 percent bracket and the new 10 percent surcharge are retroactive. In addition, the bill would overrule the IRS twice in pending litigation by changing the law retroactively.

Frankly, if we enact this bill, we will truly be missing an opportunity to do the right thing for the country. Maybe the economists were right in predicting Congress could only make things worse.

Mr. GORTON. Mr. President, will the Senator from New Mexico yield for a question, or perhaps even a series of questions?

Mr. DOMENICI. I will be delighted to.

Mr. GORTON. Mr. President, I have listened to the remarks of my friend from New Mexico with great interest and great respect and he is perhaps the single outstanding expert in the Senate on fiscal policy.

My first question to him is really a very simple one. Has the Senator from New Mexico attempted to lift the bill with which we are dealing? Can he do it with one hand?

Mr. DOMENICI. I have not, I say to my friend, but I have a bad right shoulder so I will not even try. I will try with my left, and I can get it up, yes.

Mr. GORTON. Will the Senator agree with this Senator that it is 1,421 pages long?

Mr. DOMENICI. That is what it says.

Mr. GORTON. Would the Senator from New Mexico agree that one certain group of beneficiaries from the passage of this bill will be tax lawyers and tax accountants?

Mr. DOMENICI. Once again, they will be great beneficiaries and even they, as a group, are starting to tell us do not do this, even though we are beneficiaries, because we change so many things so often they cannot keep track.

Mr. GORTON. I thank the Senator from New Mexico. I want to join him in expressing that plot; that many of my constituents in the State of Washington, and I believe his constituents in the State of New Mexico, have pleaded with us to leave the Tax Code alone for a considerable period of time so that they can begin to understand what is in the code revisions we have accomplished in 1986 and 1990 and perhaps even since then.

Does the Senator from New Mexico have any different experience from that?

Mr. DOMENICI. Let me say most of us voted for the Tax Simplification and Reform Act of 1986. Most of us gave speeches on how great the reform was because it got rid of a lot of loopholes and created far cleaner tax brackets and far less of them in terms of marginal rates. But, frankly, within 2 years the biggest hue and cry of complaint was that it is more complex, more difficult than ever—in fact, many said it would be years before the IRS and the courts ruled out the explanations needed to make it all sensible, and I agree.

Mr. GORTON. Does the Senator from New Mexico agree with the Senator from Washington that given the existence of a recession, given the fact that Congress should be attempting to work this country out of the recession, that the primary goal of any tax bill, if indeed Congress should pass any at all, should be toward job creation and preservation, toward the kind of economic stimulus that comes from reducing debt and increasing investment; that while the short term is important, the long-term economic health of this country requires that kind of encouragement for investment?

Mr. DOMENICI. Absolutely. I mentioned to the Senate early on in my remarks the kind of the sine qua non for any bill, that it be the provision without which we should not even have a bill.

I said then—and I repeat—it should provide jobs, the bill should provide economic growth, lower the cost of capital, and if it does not do those things, it ought to be rejected.

Frankly, I might say to my friend, I am absolutely amazed with the debate in our country about jobs. Frankly, we have led the American people—because of discussions of the last 10 months or so—to the belief that a President, or a Senate, or a Senate majority of Democrats—coupled with their House counterparts—if they just wanted to create jobs, could. Some are out there anxiously awaiting some action by us or by our President to create jobs.

I might say for certain we have got by with one bad habit no longer in our repertoire. If the Senator was here when I came, the first two recessions of my Senate experience, we immediately passed public works jobs bills—build bridges, build streets, give cities money for courthouses. We have now gone back and looked at four recessions and our response.

I might say to my friend, we have found that on average the money we appropriate for jobs bills takes 18 months from enactment before contractors go to work and hire the Senator's people and mine. Let me repeat, 1 year and 6 months, after the recession is over.

So what we have to try to do is do something to stimulate growth by the private sector so that the companies hiring people in manufacturing, in services, will begin to hire people and be able to retain them because they are competitive. That is why the question is terribly relevant.

Mr. GORTON. Will the Senator from New Mexico agree with this Senator that the actual impact of this 1,421 pages, were it to become law, would be precisely to the contrary?

Mr. DOMENICI. No doubt.

Mr. GORTON. That it would slow down economic recovery, that it would cost jobs in the private sector rather than creating them?

Mr. DOMENICI. There is no doubt in my mind. First of all, if one likes the President's capital gains tax—and there are many who do—I think it is a pretty good economic tool. This capital gains tax provision in the bill is not as good as his. It is far less and will do less. It is trying to be targeted in terms of who can use it, and every time we try that in that American economy, we find out that we have done as much harm as good by saying only this group can use capital gains preference, this group can and this group cannot. We end up being wrong as many times as we are right.

Every one of the provisions are somewhat less than the President's. For instance, the $5,000 tax credit for first-time home buyers, one of the most popular provisions that the President has in his package, most Americans say, "Why not? Do it." Even that is narrowed down dramatically because the first-time home buyer must be buying a newly constructed home. We have learned that is too serious a limitation to cause economic growth and stimulate the market. You have to let them buy existing homes so long as they do not own one, and it is "first time" as defined in the statute.

So everywhere you turn, the contention is made that this bill is like the President's. The assertion is dead wrong or somewhat wrong. And then on top of that, I say to my friend, the enormous new tax imposed on Americans and then we say, "Oh, we will tax that group but we will give it back to another group." Even economists will say that will not work to create any jobs.

Mr. GORTON. That final remark, I say to the Senator from New Mexico, triggers another question on my part.

While, as he knows, I have the highest respect for the Senator from New Mexico as an expert on economics, tax, and budget policy, is it not true that his views on this bill are shared by the vast majority of economists in the country who almost, without exception, believe we would be far better off doing nothing at all than to pass a bill like this, or for that matter like the one the House of Representatives has sent over to us?

Mr. DOMENICI. Let me put it this way: I have not busied myself—and maybe I should—of asking a vast array of American economists with reputations that are distinguished in this field whether this bill as such, this one (H.R. 4210) as substituted by our Finance Committee, will create jobs and have some enduring qualities in terms of growth, prosperity, and productivity?

I can say unequivocally that I would relish the chance to ask them because I am absolutely certain their answer would be "If that is what you want it to do, do not pass it."

Now, let me close with one other item that the Senator will be amazed is in this bill. I was not even aware that there was a problem in some of the coal mines of America and coal companies with reference to a pension plan that was created a number of years ago. Let me read the exact language so I will not misquote. Perhaps I should do it this way and read what I had written.

Another provision is an unvarnished bailout of a group of coal companies who over-promised health care benefits in the 1970's.

Now that they cannot live up to those promises—the fund does not have enough money in it—imagine in this bill, an economic recovery jobs creation bill, Congress proposes to tax other companies or former competitors since many of the original coal companies have gone out of business so that they can keep the promises that private companies had no business making in the first place. If they had not made the promise which now they cannot keep, they would not have to go to companies that were not part of the deal and tax them.

But interestingly enough, if you want to avoid the new tax—then change the name of your State to Montana, because wherever you look, the one State that is in none of the mixes and matches, either in the low tax or the higher tax category is Montana.

Rather interesting, the bailout is interesting, and the last provisions are somewhat interesting in terms of how measures get to the floor of the Senate.

Mr. GORTON. If the Senator will be gracious enough to yield for one more question, I wonder if he would agree with a summary of this Senator, that even the sponsors of this bill know perfectly well that it will never become law; are probably relieved that it will not become law; that it is designed for public consumption in order to create class image by promising tax benefits to one group of people at the expense of another group of people; but that one of its principal goals, as the Senator from New Mexico has pointed out, is to treat certain classes of companies and individuals, many of whom are quite wealthy, with all of the special privileges which the Senator from New Mexico has outlined already; that this bill, in short, is a charade.

Mr. DOMENICI. Let me say to the Senator that I do not want to borrow even by affirmative answer his subjective conclusions. But let me suggest that—even about what other Senators might think. But frankly, I do not believe there are very many Senators that I have read about who are touting this bill as a bill which will become law and help the taxpayers.

I think there may be some bragging about what is in it; but I do not hear very many of them say, "And it is going to work." I do not think that is only because they know the President will veto it. I think they really know that there are an awful lot of Senators who are not for it, far more than necessary to support a President's veto. I think there are some on the other side of the aisle who, before we are finished, may not be for it. And if they are for it, I think there are some who do it because they know it is not going to become law. That part I would agree with.

My last comment has to do with the taxpayer bill of rights, and a few trinkets on this bill. First, the taxpayer bill of rights is a splendid idea. This should be a maturation of a previous taxpayer bill of rights that is in effect, and we should be adding to it so that it will work better. I just submit that it is rather hypocritical, when in fact we say we do not want retroactive regulations, and then in the very bill, we provide three or four glaring retroactive pieces of tax legislation. I frankly believe we ought not be doing that.

Then if you need a little more, a little bit more of the hypocrisy, let me just mention that other sections of the bill, rate increases for the new 36-percent bracket and the new 10-percent surcharge, there is a big-ticket item. And it is retroactive.

In conclusion, as most bills that we pass around here, even ones that are emergency, job-producing bills, we cannot get away from creating some new entity or institution that we must follow on later.

You might be interested in knowing that this bill requires seven new studies, sets up three new commissions, and establishes a rather lengthy series of demonstration projects.

Frankly, the bill that the Senator asked me to hold up to see how much it weighed is a rather voluminous thing. I do not want anyone to think that I have covered them all. I have done my best to pick out what I put in the brackets and in the topics that I had talked about here. But there are probably many that I missed that have little or nothing to do with economic growth. The American people apparently, at least a month ago, when the President gave his State of the Union address, were hoping against hope that we might pass a clean bill with very lucid and forthright tax provisions that might help us build capital and create jobs.

There are other issues that will be brought up: The issue of fairness, which I have not spent much time on tonight. There will be some who will finally face up and 'fess up and say the big part of this is not an economic jobs capital formation bill, but will rather say it is fair and we are busy about trying to create fairness.

I have heard it on the stump; I have heard it by some running for higher office; I have heard it here.

I think maybe that ought to be alleged forthrightly, and maybe there ought to be a very forthright discussion of what is fair and what is not fair; why are there such disparities, and are they all because of the Tax Code? Did they really all come under Ronald Reagan's stewardship, which some like to imply, or just how did it all happen? Are we going to fix anything up with this, and will we ever be satisfied until we get brackets up to 60, 70, and 80 percent? I think they were 70 or 75, when I arrived in the Senate, as marginal rates.

I just told the Senator, nonetheless, the rich were not paying a lot of taxes. I think we all knew that because to sustain the notoriety, the positive notoriety of high brackets, Congress put the tax on big, and to sustain the reality, we took away the onus by building in exceptions, because we knew no American would work, slave, invest, risk, and face literally a 75 percent tax bracket.

So we would just put that on as a popular speech, because we wanted to address the fairness issue. And then with each passing year, we would build into this tapestry the exemptions and the other deductions they could subtract from taxable income before they paid taxes. And effective rates were far lower than they are today.

Having said that, I thank the Senator for his kindness tonight in yielding to me. I yield the floor at this point.

Mr. AKAKA addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. AKAKA. Mr. President, America stands at a crossroads. Since the end of World War II, the people of the United States have committed precious resources to bring peace, security, and democracy to people around the world. The end of the cold war now frees us to address the problems this sacrifice has caused at home. Unfortunately, the administration has done little to refocus its attention on the urgent domestic needs brought about by the longest recession since the Great Depression. The litany of economic woes, negative economic indicators, and absence of consumer confidence have all been well-documented.

The plight of middle-class families demands action to spur growth, create jobs, and restore fairness to our Tax Code. It is not enough to belatedly acknowledge that people are hurting across the country, and merely tell them how much we care. We must act, and act now, if we are to restore prosperity, security, and competitiveness to our economy for this and future generations of Americans.

Over the past decade, middle-income families have experienced higher Federal income taxes while their personal income declined. In contrast, the richest 1 percent have enjoyed a tax cut of nearly 20 percent, while their after-tax income nearly doubled.

Americans are fed-up with tax policies that have allowed the richest 1 percent to enjoy 75 percent of our Nation's income growth. They are tired of reading about million dollar CEO bonuses when they are struggling to buy a home and send their children to college. America, we hear you. It is time to put an end to voodoo economics and bring back middle-class fairness. That is what this bill would do.

Mr. President, the evidence clearly indicates the legacy of the Reagan-Bush era—the rewards resulting from the increased productivity of the American worker were gathered by a very few wealthy individuals. Well, the decade-long party is long since over, the bill is overdue. We must wake up, face the truth and act to promote economic growth and opportunity for all Americans.

Mr. President, I support passage of H.R. 4210, the Family Tax Fairness, Economic Growth, and Health Care Access Act of 1992, as reported by the Senate Finance Committee. I thank the distinguished chairman of the committee, Senator BENTSEN, for his leadership in bringing forth a bill that restores tax equity while promoting economic recovery and growth.

President Kennedy once said, "to govern is to choose." His words have never had more meaning than in the choice between the economic recovery proposals offered by President Bush and the Senate Finance Committee.

Unlike the Bush proposal, this bill is a positive step forward toward the restoration of tax fairness for middle-class Americans. The key provisions of H.R. 4210: A $300 tax credit for families, restoration of full deductibility for individual retirement accounts, and a $5,000 credit for first time home purchases, will provide much needed relief to working Americans who deserve a break. Financing of this tax relief is fair and reasonable. An increase in the tax rate for the top one percent and the imposition of a millionaire's surcharge will barely put a dent in the windfall accrued by these individuals in the 1980's. The key issue is a return to tax equity, not a redistribution of wealth.

Regrettably, President Bush has already threatened to veto this legislation. Well, Mr. President, this veto threat has more to do with politics and poll numbers than it does with substance. H.R. 4210 addresses all seven points proposed by the President in his recovery plan. The difference between the Finance Committee bill and the Bush bill is that ours is based on honest accounting principles, not budget gimmicks. Our bill provides a shot in the arm to the economy and at the same time restores tax fairness to middle-class Americans without increasing the deficit. The notion that Mr. Bush will reject this package solely to mollify the richest one percent of the populace, at the expense of the working middle class, is truly disappointing. This bill does not soak the rich, it only seeks to make our country's wealthiest citizens pay their fair share.

The investment incentives contained in the bill spur new job creation, promote small business expansion, and stimulate economic growth. They are targeted to accelerate economic recovery and promote long-term growth and competitiveness. The Bumpers venture capital investment rate cut contained in the bill will encourage new long-term investment in small growth-oriented business on the cutting edge of innovation.

The restoration of full eligibility for all Americans to take advantage of a deductible $2,000 individual retirement account [IRA] will help American families handle difficult financial decisions and plan for the domestic needs which not only impact their lives today, but have important ramifications for future generations. Young couples, their parents or their grandparents could make penalty-free withdrawals to pay for a first home. Students, their parents or grandparents could pay for a college education. Individuals could also make withdrawals to help cover devastating medical costs.

As an advocate of expanding the affordable housing pool, I support the inclusion of an 18-month extension of the low-income housing tax credit and mortgage revenue bond program which promotes affordable housing. Unfortunately, the credit is not working in Hawaii as effectively as it could. In part this is because the credit does not provide enough incentive due to Hawaii's high development costs. The problem with the credit is that a single project in a high cost development area often cannot get enough tax credits to make it economically feasible.

I am pleased that the eligible basis in high-cost areas like Hawaii would be pegged at 130 percent of the otherwise allowable maximum amount. This would complement S. 954, introduced by myself and Senator INOUYE to include the cost of land in the eligible basis for projects located in difficult development areas. Our legislation would not increase the total amount of credits available to a State but would increase the credits available to a particular project by including the cost of the land.

Everyone involved with providing affordable housing in Hawaii knows that the mere availability of low-income housing tax credits is not enough. Including the adjusted basis of the land upon which a building stands would make the low-income housing tax credit a much more attractive and beneficial incentive to the construction of affordable housing in Hawaii and 38 other States and territories which the Department of Housing and Urban Development has designated as difficult development areas.

There are many other notable provisions of H.R. 4210 I wholeheartedly support. And there are others I could do without. The point is that hard work and compromise have yielded a fair, reasonable economic recovery, growth, and tax fairness package. I would again like to commend Senator BENTSEN and Senator MITCHELL for their leadership in bringing this legislation before the Senate. I will vote for H.R. 4210, and I urge my colleagues to do the same.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WIRTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. AKAKA). Without objection, it is so ordered.

Mr. WIRTH. Mr. President, I ask unanimous consent to address the Senate for 7 minutes as if in morning business for the purposes of introducing a piece of legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WIRTH. Thank you very much.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. WIRTH. I thank the Chair.

(The remarks of Mr. WIRTH pertaining to the introduction of S. 2334 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Mr. President, are we in morning business?

The PRESIDING OFFICER. We are on H.R. 4210.

Mr. DOLE. Was leaders' time reserved this morning?

The PRESIDING OFFICER. That is correct.

Mr. DOLE. I ask to use my leader time and it not interfere with any comments on the bill.

The PRESIDING OFFICER. The Republican leader is recognized on his time.

OPERATION PROVIDE HOPE

Mr. DOLE. Mr. President, Ambassador Rich Armitage, most recently our chief negotiator for the Philippine bases, has been appointed by President Bush to lead Operation Provide Hope," our emergency humanitarian aid project for the Commonwealth of Independent States [CIS].

Ambassabor Armitage has just returned from Moscow and St. Petersburg, where he was overseeing the distribution of excess U.S. military food and medicines. He and his teams were able to witness first-hand many of the problems now facing the former Soviet Republics. He had outlined those problems in a letter he sent me following his return to the United States. Mr. President, without objection I ask unanimous consent to have the contents of this letter printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF STATE,
Washington, DC, February 21, 1992.

Hon. ROBERT J. DOLE,
U.S. Senate.

DEAR SENATOR DOLE: I have just returned from Frankfurt, Brussels, Moscow and St. Petersburg where I was directing Operation Provide Hope, the emergency airlift of U.S. military excess food, medicines and medical consumables to over 20 cities across the former Soviet Union. I've detected great interest in Congress concerning both this operation and the broader issue of 12 independent states transitioning from communism to new economic and political arrangements. It is my hope that this interim report will address your concerns and, in some measure, assuage your curiosity.

Operation Provide Hope is now in its 12th day. Of the 64 relief missions scheduled, 50 were successfully completed by close of business February 20. The U.S. Air Force has touched down in airfields from Kishinev, Moldova near the Romanian frontier, to Chita, Russia, due north of Mongolia astride the Trans-Siberian Railway. Our final flight, a medical relief mission, is scheduled to go to the Russian city of Yekaterinburg (in the Urals) on February 26. The discovery of additional excess medical stocks has allowed us to increase our planned sorties from 54 to 64. In order to transport food remaining at Rhein Main Airbase after the completion of our 64th mission, we are arranging for the

Russian Federation to provide two Antonov aircraft. If successful, this would be a fine example of U.S.-Russian partnership. Such an operation would also emphasize the fact that ultimately it is the people of the former Soviet Union—not donors from abroad—who must make the lion's share of the effort over the coming years.

When Secretary Baker unveiled this operation he had three goals in mind: to deliver emergency supplies to places where the needs were greatest; to raise the level of international awareness and action with respect to the humanitarian problem at hand; and to provide the peoples and political leaders of these newly independent states the sense that they are not alone as they make a transition of absolutely unparalleled, unprecedented magnitude. Although my report to you is admittedly interim in nature, I want to convey the following:

Our assistance has gone directly to hospitals, orphanages, boarding schools, universities, eldercare centers, maternity facilities and public kitchens across the length and breadth of the former Soviet Union. By working closely with local officials, representatives of private voluntary organizations, heads of institutions and, above all, by mobilizing local media, we have ensured that aid has gone where we intended it to go. Although I believe that some "leakage" is inevitable, thus far no diversions have been reported. Our Air Force crews and ground reception/monitoring teams have encountered a near-universal outpouring of gratitude and cooperation from officials and aid recipients alike. Indeed, Senator John Kerry mentioned to me in Moscow his experience of being thanked profusely by a Russian citizen for the assistance rendered.

This operation provoked immediate and very timely relief shipments by Japan, Germany, the United Kingdom, Turkey, Belgium, Italy, Portugal, Spain, France, Norway and Canada. The Government of Japan has just informed me that it wishes to work jointly with us to provide sustained humanitarian assistance to the new states of central Asia, as well as conducting independent relief operations in the Russian Far East. There is every reason to believe that the "multiplier effect" hoped for by Secretary Baker will prove out.

The extent to which the operation has, in fact, "provided hope" is difficult to gauge. Local press coverage has been generally positive, notwithstanding the proclivity of some commentators in the West to label the effort "too little, too late." This theme has been repeated extensively in the Moscow-St. Petersburg area; to what ultimate effect I do not know. My own view of this is that we, all of us, need to focus on the future. Finger pointing between and among allies is not a worthwhile endeavor. Indeed, in the central Asian states and elsewhere outside of Russia the relief flights have been greeted with undisguised, unambiguous gratitude. The spectacle of U.S. aircraft unloading relief supplies in places like Ashkhabad, Dushanbe and Bishkek, places which in the past depended utterly on decisions made in Moscow, may affect greatly the present and future political orientations of these largely Muslim republics. In places like Tashkent, where the countries of the European Community have scant "sphere of influence" interest, negative press has not been a factor.

Whatever your own personal view concerning the efficacy of Operation Provide Hope, I am certain that you will share with me a sense of pride in the brave Americans who have put themselves in difficult situations for the sake of what they regard as a historic undertaking. Our Air Force crews have executed difficult landing and off-loading procedures in very remote places and marginal facilities. American teams led by military officers of the On-Site Inspection Agency, augmented by volunteers from the Agency for International Development and the Office of Foreign Disaster Assistance, have deployed to places where Americans have rarely been seen. Indeed, our team chief in Ashkhabad, an African-American, found himself in a unique position to affect positively the Turkmen view of American race relations.

As Operation Provide Hope draws to a close, I intend to shift gears to more economical methods of delivering assistance. We have asked NATO to develop a logistical plan for the sea-land delivery of all remaining excess U.S. military food, medicines and medical consumables located in Western Europe to selected places throughout the former Soviet Union. Although I will support and direct high-impact, high-value airlift operations in the future (concentrating on emergency *medical* deliveries), airlift as an ongoing, across-the-board proposition is simply too expensive and too limited in terms of actual capacity. In this connection, I will be happy to share with you all Operation Provide Hope cost and cargo data once all of the returns are in, probably in the mid-March timeframe.

I think you should also know the USDA will be moving, over the next few months, nearly 110,000 metric tons of basic commodities such as flour, rice, butter, infant formula and powdered milk to some 27 key locations in seven of the new states. The estimated value of these sorely needed commodities is almost $104 million, and USDA either has signed or will sign contracts with ten private voluntary organizations for the reception and distribution of these goods in the former Soviet Union.

I would conclude by saying that all of our teams have reported two basic findings. First, there is a strong interest in and need for technical assistance. Our teams report that actual physical hunger, although it exists, is outstripped by hunger for knowledge. It is widely known in the former Soviet Union that communism was thoroughly rotten and inhumane; but there is a huge knowledge gap in terms of how to proceed *now*. Second, our teams report a general collapse in medical delivery systems. I am convinced that the medical field must be a major focus of our continuing emergency relief efforts.

I hope you find this interim report useful. As always I am indebted to you for interest, support and guidance.

Sincerely,

RICHARD L. ARMITAGE,
On-Site Coordinator for Humanitarian Assistance to the Commonwealth of States.

Mr. DOLE. Mr. President, I would particularly like to highlight an observation at the end of the letter—that there has been a general collapse of medical systems in the CIS. Teams under Ambassador Armitage visited 24 urban areas throughout the CIS; in every location, there were serious shortages of vaccines, antibodies and other consumable medical supplies. Previously, these pharmaceutical supplies came mostly from Eastern Europe. That trade has virtually ceased, due to the disappearance of barter goods and hard currency in the CIS.

In follow-up to Ambassador Armitage's mission, the State Department now has disaster relief response teams traveling throughout Russia and the Central Asian republics to establish a detailed assessment of what is needed and where. Additional studies from NATO teams, the World Health Organization and UNICEF are also expected to be finished soon.

In response to this medical emergency, the State Department is working with NATO to obtain and ship additional excess medical supplies from stocks in Western Europe. The State Department is also working with many private organizations throughout the United States to help in shipping privately donated medical supplies.

Mr. President, we have been fortunate to witness the beginning of democracy in the former Soviet Union. This transition has not been easy, and major problems continue to plague the new democratic governments. The outpouring of support from America, Europe, Japan, and other countries has been impressive. However, as Ambassador Armitage's letter makes clear, there is still a long way to go.

Once the State Department and other organizations have compiled their reports on exactly what supplies are needed to avert a medical disaster in the CIS, I believe these proposals must be acted upon as quickly and efficiently as possible. I will certainly do all I can to ensure that the Congress takes whatever action is necessary to support the administration's urgent humanitarian efforts.

I commend Ambassador Armitage for his efforts—efforts, by the way, that he has undertaken as a volunteer, without pay. I look forward to working with him and with others in the administration on this important effort.

MENACHEM BEGIN

Mr. DOLE. Mr. President, over the weekend, former Israeli Prime Minister Menachem Begin died, at the age of 78.

He led a remarkable life, and leaves a remarkable legacy.

He was a staunch nationalist. In rhetoric and tactics, he was often seen as a hard-liner.

But he was also a man of considerable vision—willing to think the unthinkable; willing to take risks, when the stakes were the highest; willing to give peace a chance, when there was a chance for peace.

Begin's years of leadership were both tumultuous and historic. He tried—with too little success—to liberate Israel's economy from the shackles of socialism and statism. He led his nation into a tragic misadventure in southern Lebanon, which has dramatically changed the face of that nation. He squelched Saddam Hussein's drive for the quick acquisition of nuclear weapons—an act which reverberates to this day in the region.

But most of all, Begin is remembered as the courageous leader who made peace with Egypt—and thereby opened the door to real peace throughout the region.

We honor Menachem Begin's memory. We commend his enormous contributions to his country and the cause of peace. But most of all, we pray that his courage and creativity will be an example and an inspiration to today's leaders in Israel and throughout the region.

MORNING BUSINESS

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

THE THREADBARE SUPERCOP

Mr. BYRD. Mr. President, the New York Times on March 8, 1992, ran excerpts from a draft of the Defense Planning Guidance document now being prepared in the Pentagon. It was reportedly leaked by an official of the Department of Defense in the interest of developing a more public debate over the philosophy underlying and driving the development of this Guidance.

The Defense Planning Guidance is an internal document designed to provide direction to the services, our military leaders, and civilian policymakers within the Department of Defense in their preparation of the details of the defense budget and the specific forces to be maintained and fielded. This exercise is particularly important this year because it is the best single indicator revealing the philosophy driving the architecture, roles and missions of our military forces for the post cold war world.

While the document is still in its final drafting stage, substantial excerpts have been published in the New York Times. Given that this Guidance document is prepared by the Under Secretary of Defense for Policy, the thrust of it is sufficiently disturbing to evoke some preliminary comment at this time. As a general reaction, I would have to say that the philosophy that apparently is driving our long-term military planning is myopic, shallow, and disappointing. In the long run it will be counterproductive to the very goal of world leadership that it cherishes.

The basic thrust of the document seems to be this: We love being the sole remaining military superpower in the world and want so much to remain that way that we are willing to put at risk the basic health of our economy and well being of our people to do so. The world has changed radically over the last few years, and the Pentagon is having an adjustment problem. While such a parochial attitude by our DOD leaders might be expected, the rhetoric from the White House and the administration's budget request clearly endorses this philosophy wholesale.

At the conclusion of my remarks I shall include a copy of the excerpts from the document as reported in the Times in the RECORD, as well as the New York Times piece on this matter, so my colleagues can arrive at their own interpretation of the material. In essence, my summary of the administration's philosophy is this: we must keep our defense budget and force structure up to about current levels for the foreseeable future because we must remain the world's only superpower and pre-empt anyone else from even attempting to compete with us. The philosophy of the reported document rejects the concept of collective security which underpins the formation of the United Nations. It bluntly states that we "must seek to prevent the emergence of European-only security arrangements which would undermine NATO." My guess is that Europeans will find their permanent role as a military subaltern or colony of the United States unacceptable. On the other hand, the smartest of our European friends will be quick to recognize this as an opportunity for them to continue to prevail against us in trade and competitiveness matters, while we fritter away our resources on weapons that we do not need.

The Defense Planning Guidance philosophy is the clearest expression yet of a new vision of a Pax Americana, a new concept of world policeman, Uncle Sam the enforcer of a new world order. It lays out a justification for fielding forces for American intervention anywhere in the world at any time for whatever good purpose we might come up with. The document dismisses coalitions, such as the one that was formed 18 months ago to provide coherence, consensus and, let us remember, nearly total financial support, to our Kuwait operation, as transitory and unreliable.

Consider these excerpts:

> Our first objective is to prevent the re-emergence of a new rival, either on the territory of the former Soviet Union or elsewhere * * * we must maintain the mechanisms for deterring potential competitors from even aspiring to a larger regional or global role.
>
> We will retain the pre-eminent responsibility for addressing selectively those wrongs which threaten not only our interests, but those of our allies or friends, or which could seriously unsettle international relations.
>
> While the United States supports the goal of European integration, we must seek to prevent the emergence of European-only security arrangements which would undermine NATO. * * *

Regarding Asia:

> * * * to buttress the vital political and economic relationships we have along the Pacific rim, we must maintain our status as a military power of the first magnitude in the area. This will enable the U.S. to continue to contribute to regional security and stability by acting as a balancing force and prevent the emergence of a vacuum or a regional hegemon. * * *
>
> In the Middle East and Southwest Asia, our overall objective is to remain the predominant outside power in the region * * * it remains fundamentally important to prevent a hegemon or alignment of powers from dominating the region.

The essence of the philosophy is that we must remain an international military power with overwhelming strength and presence, and this will keep the peace and protect our vital interests and those of our allies. It will keep the unruly edges of the world, in the form of terrorism, proliferation and narcotics, from getting out of hand. No one can take issue with the need for a hard-hitting international effort to get a handle on these crucial problems, and to develop adequate international cooperative strategies and programs to attack them. But the emphasis must be on cooperative and international. We cannot and should not be planning and acting unilaterally. The reported Guidance promotes unilateralism, giving no consideration to collectivism, burden-sharing and coalition-building. The whole thrust of the concept is dreamland. It is fantasy. It is a dangerous diversion from reality. It misreads the very nature of power in the world today. It characterizes national security and world security in military terms only, with no recognition of the importance of economic strength as the fundamental indicator of world influence.

Has the maintenance of the U.S. as the so-called "military power of first magnitude" in the Pacific done anything to help us penetrate Japanese markets? It was reported by the New York Times on March 1, 1992, that the long-standing dispute between Japan and Russia over the status of the Kurile islands, a major irritant for Japanese security, is being negotiated by the Germans, in particular German Foreign Minister Genscher. What qualifies the Germans to play this important international political and security intermediary role? German military power? Of course not—it is German economic clout that qualifies her to play this role. Is U.S. naval power decisive in this situation? If there is some vacuum that the Germans are filling, it is the vacuum being created by the weakened position of U.S. economic leadership that is decisive here.

Mr. President, the new world order cannot be put in some kind of a straitjacket by U.S. military power. U.S. military power is becoming increasingly irrelevant in the affairs of the world. It is on the economic playing field that the prizes are being awarded and influence is being peddled. Worldwide military competition has been replaced by intense economic competition, and that is the defining contest of the international landscape. The concept underlying the myopic and single-focused view of American militarism will lead the United States to less influence, not more. We cannot afford to continue to impoverish our economy through exaggerated and bloated military budgets. The Defense philosophy exposes a cynical disregard for the economic welfare of our people and the quality of life for future generations. It mortgages the fundamental strength and productivity of our nation on the altar of a will-o'-the-wisp quest for influence through the barrel of a gun.

American empire is what the Pentagon wants. But empire cannot be achieved from a foundation of economic slide, from bankruptcies, unemployment and stagnation. To maintain America as the unrivaled military superpower, our Pentagon strategists would gladly risk the consequences of America's becoming an economic superpauper. In the long run, they risk aping the defunct Soviet model and they gamble on repeating its consequences here at home.

The debate over our defense budget is sharpening. It is clear that fundamental priorities are being established, it is clear that opportunities of central importance to the future of our economy and our people are at stake and might be forgone. The Pentagon, through the unintended publication of its underlying philosophy through these leaks, has revealed its idea of the road ahead. I disagree with it. I have a different set of priorities. Defense spending should provide sufficient security for our nation, and a hedge against uncertainty and surprise. Having provided for our essential security, we must allow fresh and substantial resources to flow and renew our productivity. We cannot manage the security of the world. Our nation has paid dearly to counter and turn back the Soviet adversary. We need not go on a witchhunt for new adversaries, and create implausible threat scenarios just to justify the continuation of an overlarge, arrogant security state which drains our economy of its vitality. We must turn to the rebuilding of our economy, and get the cold war needle out of our arm. Let us declare victory and move on.

I believe the Secretary of Defense ought to make the Defense Planning Guidance document, along with the various illustrative threat scenarios that have been reportedly cooked up to support it, public. Right now we are dealing with a leak. The Secretary ought to fully articulate the philosophy driving it. I encourage my colleagues to study this philosophy and see if it fits with their concept of America's role in the world, and if they agree with the important trade-offs in priorities that are at stake. After such a debate and analysis, I am confident that we can establish a healthy and clear-sighted system of priorities, which will be reflected in our budget decisions, and in our Appropriations bills, that befit our people and our Nation. And I am convinced that the philosophy which will emerge and the priorities which will be set will not be those embodied in the Defense Planning Guidance which has been leaked.

I believe we can do much better than this. I believe that we can play a responsible role in the world, and still turn our attention and refocus our priorities toward rebuilding an anemic economy, upgrading our education system, and enhancing the basic infrastructure which underpins the quality of American life. We need to reach an understanding of the minimum commitment we need to ensure our national security, be faithful to our allies and friends in our common endeavors, and to hedge against the risks and uncertainties of an unsteady and sometimes dangerous world. By the same token, we need to do the maximum we can to get the country back on its feet, to bring about a renewed pride in goods made in the USA and release once again the wheel of our inventiveness.

Mr. President, I ask unanimous consent to have printed at the conclusion of my remarks in the RECORD, the New York Times article to which I have alluded, together with excerpts from the Pentagon's plan.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Mar. 8, 1992]

U.S. STRATEGY PLAN CALLS FOR INSURING NO RIVALS DEVELOP

(By Patrick E. Tyler)

WASHINGTON, March 7.—In a broad new policy statement that is in its final drafting stage, the Defense Department asserts that America's political and military mission in the post-cold-war era will be to insure that no rival superpower is allowed to emerge in Western Europe, Asia or the territory of the former Soviet Union.

A 46-page document that has been circulating at the highest levels of the Pentagon for weeks, and which Defense Secretary Dick Cheney expects to release later this month, states that part of the American mission will be "convincing potential competitors that they need not aspire to a greater role or pursue a more aggressive posture to protect their legitimate interests."

The classified document makes the case for a world dominated by one superpower whose position can be perpetuated by constructive behavior and sufficient military might to deter any nation or group of nations from challenging American primacy.

REJECTING COLLECTIVE APPROACH

To perpetuate this role, the United States "must sufficiently account for the interests of the advanced industrial nations to discourage them from challenging our leadership or seeking to overturn the established political and economic order," the document states.

With its focus on this concept of benevolent domination by one power, the Pentagon document articulates the clearest rejection to date of collective internationalism, the strategy that emerged from World War II when the five victorious powers sought to form a United Nations that could mediate disputes and police outbreaks of violence.

Though the document is internal to the Pentagon and is not provided to Congress, its policy statements are developed in conjunction with the National Security Council and in consultation with the President or his senior national security advisers. Its drafting has been supervised by Paul D. Wolfowitz, the Pentagon's Under Secretary for Policy. Mr. Wolfowitz often represents the Pentagon on the Deputies Committee, which formulates policy in an interagency process dominated by the State and Defense Departments.

The document was provided to The New York Times by an official who believes this post-cold-war strategy debate should be carried out in the public domain. It seems likely to provoke further debate in Congress and among America's allies about Washington's willingness to tolerate greater aspirations for regional leadership from a united Europe or from a more assertive Japan.

Together with its attachments on force levels required to insure America's predominant role, the policy draft is a detailed justification for the Bush Administration's "base force" proposal to support a 1.6-million-member military over the next five years, at a cost of about $1.2 trillion. Many Democrats in Congress have criticized the proposal as unnecessarily expensive.

Implicitly, the document foresees building a world security arrangement that pre-empts Germany and Japan from pursuing a course of substantial rearmament, especially nuclear armament, in the future.

In its opening paragraph, the policy document heralds the "less visible" victory at the end of the cold war, which it defines as "the integration of Germany and Japan into a U.S.-led system of collective security and the creation of a democratic 'zone of peace.' "

The continuation of this strategic goal explains the strong emphasis elsewhere in the document and in other Pentagon planning on using military force, if necessary, to prevent the proliferation of nuclear weapons and other weapons of mass destruction in such countries as North Korea, Iraq, some of the successor republics to the Soviet Union and in Europe.

Nuclear proliferation, if unchecked by superpower action, could tempt Germany, Japan and other industrial powers to acquire weapons to deter attack from regional foes. This could start them down the road to global competition with the United States and, in a crisis over national interests, military rivalry.

The policy draft appears to be adjusting the role of the American nuclear arsenal in the new era, saying, "Our nuclear forces also provide an important deterrent hedge against the possibility of a revitalized or unforeseen global threat, while at the same time helping to deter third party use of weapons of mass destruction through the threat of retaliation."

U.N. ACTION IGNORED

The document is conspicuously devoid of references to collective action through the United Nations, which provided the mandate for the allied assault on Iraqi forces in Kuwait and which may soon be asked to provide a new mandate to force President Saddam Hussein to comply with his cease-fire obligations.

The draft notes that coalitions "hold considerable promise for promoting collective action" as in the Persian Gulf war, but that "we should expect future coalitions to be ad hoc assemblies, often not lasting beyond the crisis being confronted, and in many cases carrying only general agreement over the objectives to be accomplished."

What is most important, it says, is "the sense that the world order is ultimately backed by the U.S." and "the United States should be postured to act independently when collective action cannot be orchestrated" or in a crisis that demands quick response.

Bush Administration officials have been saying publicly for some time that they were willing to work within the framework of the United Nations, but that they reserve the option to act unilaterally or through selective coalitions, if necessary, to protect vital American interests.

But this publicly stated strategy did not rule out an eventual leveling of American power as world security stabilizes and as other nations place greater emphasis on collective international action through the United Nations.

In contrast, the new draft sketches a world in which there is one dominant military power whose leaders "must maintain the mechanisms for deterring potential competitors from even aspiring to a larger regional or global role."

SENT TO ADMINISTRATORS

The document is known in Pentagon parlance as the Defense Planning Guidance, an internal Administration policy statement that is distributed to the military leaders and civilian Defense Department heads to instruct them on how to prepare their forces, budgets and strategy for the remainder of the decade. The policy guidance is typically prepared every two years, and the current draft will yield the first such document produced after the end of the cold war.

Senior Defense Department officials have said the document will be issued by Defense Secretary Cheney this month. According to a Feb. 18 memorandum from Mr. Wolfowitz's deputy, Dale A. Vesser, the policy guidance will be issued with a set of "illustrative" scenarios for possible future foreign conflicts that might draw United States military forces into combat.

These scenarios, issued separately to the military services on Feb. 4, were detailed in a New York Times article last month. They postulated regional wars against Iraq and North Korea, as well as a Russian assault on Lithuania and smaller military contingencies that United States forces might confront in the future.

These hypothetical conflicts, coupled with the policy guidance document, are meant to give military leaders specific information about the kinds of military threats they should be prepared to meet as they train and equip their forces. It is also intended to give them a coherent strategy framework in which to evaluate various force and training options.

In assessing future threats, the document places great emphasis on how "the actual use of weapons of mass destruction, even in conflicts that otherwise do not directly engage U.S. interests, could spur further proliferation which in turn would threaten world order."

"The U.S. may be faced with the question of whether to take military steps to prevent the development or use of weapons of mass destruction," it states, noting that those steps could include pre-empting an impending attack with nuclear, chemical, or biological weapons "or punishing the attackers or threatening punishment of aggressors through a variety of means," including attacks on the plants that manufacture such weapons.

Noting that the 1968 Nuclear Non-Proliferation Treaty is up for renewal in 1995, the document says, "should it fail, there could ensue a potentially radical destabilizing process" that would produce unspecified "critical challenges which the U.S. and concerned partners must be prepared to address."

BEWARE OF CUBA, NORTH KOREA

The draft guidance warns that "both Cuba and North Korea seem to be entering periods of intense crisis—primarily economic, but also political—which may lead the governments involved to take actions that would otherwise seem irrational." It adds, "the same potential exists in China."

For the first time since the Defense Planning Guidance process was initiated to shape national security policy, the new draft states that the fragmentation of the former Soviet military establishment has eliminated the capacity for any successor power to wage global conventional war.

But the document qualifies its assessment, saying, "we do not dismiss the risks to stability in Europe from a nationalist backlash in Russia or effort to re-incorporate into Russia the newly independent republics of Ukraine, Belarus and possibly others."

It says that though U.S. nuclear targeting plans have changed "to account for welcome developments in states of the former Soviet Union," American strategic nuclear weapons will continue to target vital aspects of the former Soviet military establishment. The rationale for the continuation of this targeting policy is that the United States "must continue to hold at risk those assets and capabilities that current—and future—Russian leaders or other nuclear adversaries value most" because Russia will remain "the only power in the world with the capability of destroying the United States."

Until such time as the Russian nuclear arsenal has been rendered harmless, "we continue to face the possibility of robust strategic nuclear forces in the hands of those who might revert to closed, authoritarian, and hostile regimes," the document says. It calls for the "early introduction" of a global antimissile system.

PLAN FOR EUROPE

In Europe, the Pentagon paper asserts that "a substantial American presence in Europe and continued cohesion within the Western alliance remain vital," but to avoid a competitive relationship from developing, "we must seek to prevent the emergence of European-only security arrangements which would undermine NATO."

The draft states that with the elimination of United States short-range nuclear weapons in Europe and similar weapons at sea, the United States should not contemplate any withdrawal of its nuclear-strike aircraft based in Europe and, in the event of a resurgent threat from Russia, "we should plan to defend against such a threat" farther forward on the territories of Eastern Europe "should there be an Alliance decision to do so."

This statement offers an explicit commitment to defend the former Warsaw Pact nations from Russia. It suggests that the United States could also consider extending to Eastern and Central European nations security commitments similar to those extended to Saudi Arabia, Kuwait and other Arab states along the Persian Gulf. And to help stabilize the economies and democratic development in Eastern Europe, the draft calls on the European Community to offer memberships to Eastern European countries as soon as possible.

In East Asia, the report says, the United States can draw down its forces further, but "we must maintain our status as a military power of the first magnitude in the area.

"This will enable the United States to continue to contribute to regional security and stability by acting as a balancing force and prevent the emergence of a vaccum or a regional hegemon." In addition, the draft warns that any precipitous withdrawal of United States military forces could provoke an unwanted response from Japan, and the document states, "we must also remain sensitive to the potentially destabilizing effects that enhanced roles on the part of our allies, particularly Japan but also possibly Korea, might produce."

In the event that peace negotiations between the two Koreas succeed, the draft recommends that the United States "should seek to maintain an alliance relationship with a unified democratic Korea."

Mr. BYRD. Mr. President, I thank the Chair and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, will the Senator yield for a moment?

Mr. SPECTER. I will be glad to yield to the distinguished majority leader.

Mr. MITCHELL. I understand the distinguished Senator from Pennsylvania wishes to address the pending legislation.

Mr. SPECTER. That is correct.

Mr. MITCHELL. Might I ask if the Senator would defer for just a moment until we can do the closing business of the Senate, which I understand will take just a few minutes and then what I would propose to do would be to have the Senator recognized to speak for such time as he wishes and then the Senate would conclude its business following the completion of the Senator's remarks.

Mr. SPECTER. If the majority leader will yield, I will be delighted to follow that course.

Mr. MITCHELL. I thank my colleague.

The PRESIDING OFFICER. The majority leader is recognized.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar Items Nos. 529, 530, 531, 532, 533, 534, and all nominations placed on the Secretary's desk in the Foreign Service.

I further ask unanimous consent that the Senate proceed to immediate consideration and that the nominees be confirmed, en bloc; that any statements appear in the RECORD as if read; that the motions to reconsider be laid upon the table, en bloc; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed, en bloc, are as follows:

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Scott M. Spangler, of Arizona, to be Associate Administrator of the Agency for International Development (Operations).

PEACE CORPS NATIONAL ADVISORY COUNCIL

Eugene C. Johnson, of Maryland, to be a member of the Peace Corps National Advisory Council for a term expiring October 6, 1992.

Tahlman Krumm, Jr., of Ohio, to be a member of the Peace Corps National Advisory Council for a term expiring October 6, 1993.

EXECUTIVE OFFICE OF THE PRESIDENT

Salvador Lew, of Florida, to be a member of the Advisory Board for Cuba Broadcasting for a term of 2 years. (New position.)

AFRICAN DEVELOPMENT FOUNDATION

Herman Jay Cohen, an Assistant Secretary of State, to be a member of the Board of Directors of the African Development Foundation for a term expiring September 22, 1997. (Reappointment.)

FOREIGN SERVICE

The following-named career member of the Senior Foreign Service, class of Career Minister, for the personal rank of Career Ambassador in recognition of especially distinguished service over a sustained period:

Herman J. Cohen.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE FOREIGN SERVICE

Foreign Service nominations beginning Sally M. Grooms-Cowal, and ending Leonardo M. Williams, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 22, 1992.

Foreign Service nominations beginning Sandra Ann Crumpton, and ending Terrence J. Shea, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 22, 1992.

Foreign Service nominations beginning George J. Pope, and ending Christopher E. Goldthwait, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of February 5, 1992.

Foreign Service nominations beginning Roger Allen Meece, and ending David Meredith Evans, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of February 18, 1992.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

REPORT ON THE 1991 WHITE HOUSE CONFERENCE ON LIBRARIES AND INFORMATION SERVICE—MESSAGE FROM THE PRESIDENT RECEIVED DURING THE RECESS—PM 115

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 6, 1992, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers and reports; which was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

I am pleased to transmit to you the Summary Report of the 1991 White House Conference on Library and Information Services and my recommendations on its contents as mandated by the Congress in Public Law 100–382, section 4.

The world has changed dramatically since the last White House Conference on Library and Information Services. The thirst for freedom has swept aside the acceptance of tyranny. New and amazing technologies have made ideas accessible to everyone. Books, faxes, computer disks, and television and news broadcasts have ended the reign of ignorance and helped create a whole new world of enterprise, competition and, with it, intellectual growth.

Library and information services are vital because they help ensure a free citizenry and a democratic society. It was appropriate that the 1991 Conference addressed three major themes of great concern to our own society: literacy, productivity, and democracy. These three issues are now more important than ever as we work to raise our Nation's educational level, to make the American work force preeminent in the world, and to serve as an example to the rest of the world regarding the benefits of a democratic society. We live in exciting times with our world changing daily. Not only are we on the verge of revolutions in educational practice and workplace improvements, but technology is helping to change the very way in which we learn and work. Library and information services are at the center of this change with new sophisticated technologies that not only improve the quality of information but actually make it more accessible to the people who need it. It was the realization that library and information services are in a period of rapid change that prompted the establishment of the 1991 White House Conference on Library and Information Services.

Participants at the White House Conference considered the themes of literacy, productivity, and democracy, and how library and information services can contribute significantly to the achievement of those goals. The 984 delegates to the Conference included librarians, information specialists, and community leaders. They represented all the States and territories and the Federal library community. Prior to the Conference, there had been innumerable pre-Conference forums involving more than 100,000 Americans. These meetings produced 2,500 initial proposals regarding library and information services. The Conference delegates deliberated on 95 consolidated proposals before making their final recommendations. I wish to commend the National Commission on Libraries and Information Science for its key role in making the Conference a success. The recommendations, thoughtfully considered by the delegates to the Conference, are intended to help frame national library and information service policies for the 1990s.

THE IMPORTANCE OF LIBRARY AND INFORMATION SERVICES

Library and information services have always played a significant role in our society. From colonial times forward, our libraries have acquired, preserved, and disseminated information to Americans. Today libraries and information services are expanding their roles and, with the advent of new technology, changing the ways in which we use and share information. As we move toward the new century, we should acknowledge the contributions that libraries have made and will continue to make in the years ahead.

A particular strength of our libraries and information services is that they are locally controlled. Whether in the public or private sector, these services are best maintained at the local level where they can be most responsive to citizens and where they can adapt to new local needs. Likewise, the States have a long tradition of fostering the development and expansion of library services to all citizens. In combination, both local and State governments are the primary supporters of our Nation's libraries and information services. The Federal role in library and information services has been one of encouraging and leveraging State and local support to expand the availability of library services to all Americans.

LITERACY

The quest for the future begins with literacy. Literacy is a goal that we must make every effort to achieve. It has been estimated that 23 million adult Americans are functionally illiterate, lacking skills beyond the fourth-grade level, with another 35 million semiliterate, lacking skills beyond the eighth-grade level. The effects of illiteracy in this Nation are staggering as people find themselves shut out of opportunities and as our governments struggle to find ways to assist these disadvantaged individuals.

My Administration is committed to improving education for all Americans. With broad bipartisan support, we are moving rapidly to implement strategies to achieve our six National Education Goals. These Goals, developed cooperatively with the Nation's Governors, address critical education issues ranging from ensuring our children start school ready to learn and attaining a 90 percent high school graduation rate, to being first in the world in math and science, demonstrating competency in core subject areas, and ensuring safe, disciplined, and drug-free schools. Goal five states that by the year 2000, "Every adult in America will be literate and will possess the skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship." As we pursue education reform across America, one of our emphases must be on a literate America. To that end, I have consistently worked for an increase in Federal efforts for literacy programs. Our national education strategy, AMERICA 2000, is designed to help achieve all of the goals, and libraries, serving as community centers, can therefore play a major role in helping communities and schools across the country reach the goals.

The Conference recommendations include several statements that also address the literacy issue. I would urge the Members of Congress to review these suggestions carefully and to consider them in any future deliberations regarding literacy and library and information services.

PRODUCTIVITY

Today's workplace demands a new definition of the term productivity. Rather than a traditional perspective that measures the production of items, we must recognize that we now live in an Information Age. In today's Information Age, many of our workers are knowledge workers who create and use information in totally new environments and in totally new ways. What we must do is to ensure that these workers achieve maximum productivity in their efforts.

The White House Conference recommendations regarding productivity are varied and far-reaching. Of perhaps greatest significance is the support shown for a national network for information sharing. The recent passage of the High-Performance Computing Act of 1991 responds directly to this recommendation and is a major step in the direction of increased productivity for American workers. Other recommendations address copyright statutes and business information centers, both of which would have a positive impact upon the efforts of American business and employees.

My Administration is committed to the full employment and increased productivity of the American work force. We can, and we must, become the most skilled work force in the world if we are to remain preeminent in today's global economy. Throughout the Federal Government, efforts are being made to bring to Americans the kinds of resources that they need to improve their on-the-job effectiveness. For example, within the Department of Education, an information resource for teachers, parents, and communities is being developed. To be known as SMARTLine, this data base will contain the best of education research and practice. This resource will be available locally—through schools and community libraries—to educators and parents who want to improve classroom instruction methods and to raise the education levels of our children.

DEMOCRACY

An informed populace is a great guarantee that our democratic way of life will continue and flourish. Recent events have shown us that people in other countries are struggling to emulate what we have known for the past two centuries. The free flow of information in countries all over the world and especially in Eastern Europe has played a strategic role in releasing people from the bondage of ignorance.

Library and information services provide an infrastructure by which we can obtain information and can contribute to our democratic way of life. In our country, there are more than 30,000 public, academic, and special libraries, and there are an estimated 74,000 school libraries and media centers. These library and information centers are the links between our citizens and the information that they need. These libraries provide the kind of ongoing education that each man, women, and child will need in order to remain a fully productive and fully participating citizen.

The 1991 White House Conference on Library and Information Services has generated many worthwhile recommendations. Clearly these ideas illustrate not only the changing role of libraries, but also the revolutionary changes affecting our own society. As our culture changes, so must the institutions that serve it. The Conference Report makes it clear that library and information services are changing rapidly in response to an increasingly complex and global society. As we strive for a more literate citizenry, increased productivity, and stronger democracy, we must make certain that our libraries and information services will be there to assist us as we lead the revolution for education reform. As I stated in my speech at the White House Conference, "Libraries and information services stand at the center of this revolution."

GEORGE BUSH.

THE WHITE HOUSE, *March 6, 1992.*

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ON CERTAIN BUDGET RESCISSIONS—MESSAGE FROM THE PRESIDENT—PM 116

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, was referred jointly to the Committee on Commerce, Science, and Transportation, the Committee on Armed Services, the Committee on Labor and Human Resources, the Committee on Banking, Housing, and Urban Affairs, the Select Committee on Indian Affairs, the Committee on the Budget, and the Committee on Appropriations:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report 30 rescission proposals, totaling $2.1 billion in budgetary resources.

The proposed rescissions affect the Departments of Commerce, Defense, Health and Human Services, Housing and Urban Development, the Interior, and Transportation. The details of these rescission proposals are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 10, 1992.*

MESSAGES FROM THE HOUSE RECEIVED DURING RECESS

Under the authority of January 3, 1991, the Secretary of the Senate on March 9, 1992, during the recess of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bills:

S. 996. An act to authorize and direct the Secretary of the Interior to terminate a reservation of use and occupancy at the Buffalo National River, and for other purposes; and

S. 2184. An act to establish the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation, and for other purposes.

The enrolled bills were signed on March 10, 1992, by the President Pro Tempore [Mr. BYRD].

MESSAGES FROM THE HOUSE

At 11:25 a.m., a message from the House of Representatives, delivered by Mrs. Geotz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2321. An act to establish the Dayton Aviation Heritage National Historical Park in the State of Ohio, and for other purposes.

At 3:22 p.m., a message from the House of Representatives, delivered by

Mr. Hays, one of its reading clerks, announced that the House disagrees to the amendment of the Senate to the bill (H.R. 3337) to require the Secretary of the Treasury to mint coins in commemoration of the 200th anniversary of the White House, and for other purposes; it asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. TORRES, Mr. HUBBARD, Mr. BARNARD, Mr. WYLIE, and Mr. MCCANDLESS as managers of the conference on the part of the House.

The message also announced that the House has agreed to the following concurrent resolution in which it requests the concurrence of the Senate:

H. Con. Res. 287. A concurrent resolution setting forth the congressional budget for the United States Government for the fiscal years 1993, 1994, 1995, 1996, and 1997.

The message further announced that the minority leader has appointed the Honorable Marlene E. Marschell of Minneapolis, MN, from private life, as a member of the National Nutrition Monitoring Advisory Council on the part of the House.

MEASURES REFERRED

The following bill was read the first and second times, and referred as indicated:

H.R. 2321. An act to establish the Dayton Aviation Heritage National Historical Park in the State of Ohio, and for other purposes; to the Committee on Energy and Natural Resources.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 287. A concurrent resolution setting forth the congressional budget for the United States Government for the fiscal years 1993, 1994, 1995, 1996, and 1997; to the Committee on the Budget.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, March 10, 1992, he had presented to the President of the United States the following enrolled bills

S. 996. An act to authorize and direct the Secretary of the Interior to terminate a reservation of use and occupancy at the Buffalo National River, and for other purposes; and

S. 2184. An act to establish the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2744. A communication from the Comptroller of the Department of Defense, transmitting, pursuant to law, a report on a violation of regulations with respect to the overobligation of an approved appropriation; to the Committee on Appropriations.

EC-2745. A communication from the Director of the Office of Thrift Supervision, transmitting, pursuant to law, a report on the salary schedules of the Office of Thrift Supervision; to the Committee on Banking, Housing, and Urban Affairs.

EC-2746. A communication from the Acting Administrator of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, a report on a recommendations with respect to a study on the potential use of engine condition monitoring systems aircraft; to the Committee on Commerce, Science, and Transportation.

EC-2747. A communication from the Assistant Secretary of State (Legislative Affairs) and the Assistant Secretary of Commerce (Legislative and Intergovernmental Affairs), transmitting jointly, a draft of proposed legislation to promote international dolphin protection; to the Committee on Commerce, Science, and Transportation.

EC-2748. A communication from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to provide for cost-savings in the housing loan program for veterans, and for other purposes; to the Committee on Veterans' Affairs.

EC-2749. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-2750. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-2751. A communication from the Secretary of Energy, transmitting, pursuant to law, the "1992 Report to the Congress on Energy Targets"; to the Committee on Energy and Natural Resources.

EC-2752. A communication from the Secretary of Health and Human Services, transmitting a draft of proposed legislation to amend the Social Security Act to establish a new comprehensive child welfare services program under title IV-E, to make other amendments to the programs under titles IV-B and IV-E, and for other purposes; to the Committee on Finance.

EC-2753. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the sixty day period prior to February 27, 1992; to the Committee on Foreign Relations.

EC-2754. A communication from the Secretary of Labor, transmitting, pursuant to law, the annual report of the Department on competition advocacy for fiscal year 1991; to the Committee on Governmental Affairs.

EC-2755. A communication from the Chairman of the National Transportation Safety Board, transmitting, pursuant to law, a report on the system of management controls and financial systems in effect at the Board during fiscal year 1991; to the Committee on Governmental Affairs.

EC-2756. A communication from the Chairman of the Barry M. Goldwater Scholarship and Excellence in Education Foundation, transmitting, pursuant to law, a report on the system of management controls and financial systems in effect at the Foundation during fiscal year 1991; to the Committee on Governmental Affairs.

EC-2757. A communication from the Chairman of the Federal Maritime Commission, transmitting, pursuant to law, the annual report of the Commission under the Government in the Sunshine Act for calendar year 1991; to the Committee on Governmental Affairs.

EC-2758. A communication from the Secretary of Veterans Affairs, transmitting, pursuant to law, a report on the system of management controls and financial systems in effect at the Department during fiscal year 1991; to the Committee on Governmental Affairs.

EC-2759. A communication from the Administrator of the Office of Federal Procurement Policy and Chairman of the Cost Accounting Standards Board, transmitting, pursuant to law, the annual report of the Board for calendar year 1991; to the Committee on Governmental Affairs.

EC-2760. A communication from the Assistant Attorney General (Legislative Affairs), transmitting a draft of proposed legislation to amend the Civil Liberties Act of 1988, and for other purposes; to the Committee on Governmental Affairs.

EC-2761. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-165 adopted by the Council on February 4, 1992; to the Committee on Governmental Affairs.

EC-2762. A communication from the Chairman of the Occupational Safety and Health Review Commission, transmitting, pursuant to law, the annual report of the Commission under the Freedom of Information Act for calendar year 1991; to the Committee on the Judiciary.

EC-2763. A communication from the Director of the Federal Domestic Volunteer Agency, transmitting, pursuant to law, the annual report of the Agency under the Freedom of Information Act for calendar year 1991; to the Committee on the Judiciary.

EC-2764. A communication from the Secretary of the United States Naval Academy Sea Cadet Corps, transmitting, pursuant to law, the annual audit report of the Corps for calendar year 1991; to the Committee on the Judiciary.

EC-2765. A communication from the Secretary of the Federal Trade Commission, transmitting, pursuant to law, the annual report of the Commission under the Freedom of Information Act for calendar year 1991; to the Committee on the Judiciary.

EC-2766. A communication from the Director of the United States Information Agency, transmitting, pursuant to law, the annual report of the Agency under the Freedom of Information Act for calendar year 1991; to the Committee on the Judiciary.

EC-2767. A communication from the Chairman and Board Members of the Railroad Retirement Board, transmitting a draft of proposed legislation to amend the Railroad Retirement Act and the Railroad Unemployment Insurance Act to enhance the authority of the government to recover debts resulting from overpayments of benefits under those Acts; to the Committee on Labor and Human Resources.

EC-2768. A communication from the Chairman and Board Members of the Railroad Retirement Board, transmitting a draft of proposed legislation to amend the Railroad Unemployment Insurance Act to remove an obsolete section of that Act, and for other purposes; to the Committee on Labor and Human Resources.

EC–2769. A communication from the Chairman and Board Members of the Railroad Retirement Board, transmitting a draft of proposed legislation to amend the Railroad Retirement Act to ease administration of that Act, and for other purposes; to the Committee on Labor and Human Resources.

EC–2770. A communication from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to target entitlement for vocational rehabilitation benefits under chapter 31 to veterans with service-connected disabilities rated 30 percent or more; to adjust the basic military pay reduction for chapter 30 Montgomery GI Bill participants in proportion to the increased amount of assistance provided under such chapter; and for other purposes; to the Committee on Veterans' Affairs.

EC–2771. A communication from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend titles 26 and 38, United States Code, to make permanent certain income-verification and pension provisions of the Omnibus Budget Reconciliation Act of 1990; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES RECEIVED DURING RECESS

Under the authority of the order of the Senate of March 5, 1992, the following reports of committees were submitted on March 6, 1992:

By Mr. BENTSEN, from the Committee on Finance, with an amendment in the nature of a substitute and an amendment to the title:

H.R. 4210: A bill to amend the Internal Revenue Code of 1986 to provide incentives for increased economic growth and to provide tax relief for families.

By Mr. BENTSEN, from the Committee on Finance, without amendment:

S. 2325: An original bill to amend the Internal Revenue Code of 1986 to make miscellaneous changes in the tax laws, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SYMMS (for himself, Mr. Burns, Mr. Craig, Mr. Hatch, Mr. Helms, Mr. Wallop, Mr. Simpson, Mr. Stevens, Mr. Packwood, Mr. Murkowski, Mr. Lott, and Mr. Garn):

S. 2326. A bill to limit the acquisition by certain Federal agencies of land located in a State in which 25 percent or more of the land in that State is owned by the United States, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. HATFIELD (for himself and Mr. Sanford):

S. 2327. A bill to suspend certain compliance and accountability measures under the National School Lunch Act; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BROWN:

S. 2328. A bill to provide that for taxable years beginning before 1980 the Federal income tax deductibility of flight training expenses shall be determined without regard to whether such expenses were reimbursed through certain veterans educational assistance allowances; to the Committee on Finance.

By Mr. MITCHELL (for Mr. Harkin):

S. 2329. A bill to amend the Internal Revenue Code of 1986 to define the term reasonable allowance for salaries or other compensation with respect to certain highly compensated employees of publicly traded corporation, and for other purposes; to the Committee on Finance.

S. 2330. A bill to provide that the compensation paid to certain corporate officers be treated as a proper subject for action by security holders, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HELMS:

S. 2331. A bill to extend the temporary suspension of duty on 1{1-((4-chloro-2-(trifluoromethyl)phenyl)imino)-2-propoxethyl}-1h-imidozole; to the Committee on Finance.

S. 2332. A bill to extend the temporary suspension of duty on 2,6 dichlorobenzonitrile; to the Committee on Finance.

S. 2333. To suspend temporarily the duty on N-{(4-chlorophenyl)-amino}carbonyl}-2,6-diflourobenzamide; to the Committee on Finance.

By Mr. WIRTH (for himself, Mr. Dixon, Mr. Conrad, Mr. Riegle, and Mr. Lieberman):

S. 2334. A bill to extend the statute of limitations applicable to civil actions brought by the Federal conservator or receiver of a failed depository institution; to the Committee on Banking, Housing, and Urban Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MITCHELL (for himself and Mr. Dole):

S. Res. 267. A resolution to authorize testimony by an employee of the Senate in United States v. Alan Roy Mountain; considered and agreed to.

By Mr. McCONNELL (for himself, Mr. McCain, Mr. Bond, Mr. Sanford, Mr. Robb, Mr. Moynihan, Mr. Durenberger, Mr. Packwood, Mr. Murkowski, Mr. Symms, Mr. Kohl, Ms. Mikulski, Mr. DeConcini, Mr. Sarbanes, Mr. Mitchell, and Mr. Specter):

S. Res. 268. A resolution expressing to the people of the State of Israel the sympathy of the United States Senate regarding the death of former Prime Minister Menachem Begin; considered and agreed to.

By Mr. MITCHELL (for himself and Mr. Dole):

S. Res. 269. A bill to authorize testimony by an employee of the Senate in Standard Federal Savings Bank v. Roger B. Taber, et al.; considered and agreed to.

By Mr. PELL (for himself, Mr. Kennedy, and Mr. Lieberman):

S. Con. Res. 99. A concurrent resolution expressing the sense of the Congress concerning travel to Taiwan; to the Committee on Foreign Relations.

By Mr. LOTT (for himself, Mr. Cochran, Mr. Craig, Mr. Symms, Mr. Burns, and Mr. Helms):

S. Con. Res. 100. A concurrent resolution relative to the Convention on International Trade in Endangered Species (CITES); to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SYMMS:

S. 2326. A bill to limit the acquisition by certain Federal agencies of land located in a State in which 25 percent or more of the land in that State is owned by the United States, and for other purposes; to the Committee on Energy and Natural Resource.

NO NET LOSS OF PRIVATE LANDS ACT

Mr. SYMMS. Mr. President, I rise this morning to introduce legislation with several of my colleagues who will be joining me in the press gallery at 11 o'clock for a press conference introducing the No Net Loss of Private Lands bill. We will be introducing that today.

Mr. President, our ancestors fought a war against the mother country, Great Britain, to secure the rights of free people in a new republic. Thomas Paine, one of the idea men of the Founding Fathers, a writer, a Revolutionary War hero, captured the purpose of the war when he said:

> I consider the war of America against Britain as the country's war, the public's war, or the war of people in their own behalf, for the security of their national rights and the protection of their own property.

In other words, one of the most significant reasons Americans fought in the Revolutionary War was so coercive government could not claim ownership or control of their land, their private property. People were allowed to own private property.

Private ownership, Mr. President, is as important today as it was at the birth of the country. Government control and regulation of private property is still worth fighting against. This is especially true when the Federal Government is continually expanding its estate.

It is amazing to this Senator, Mr. President, that in the world we live in—where now, Boris Yeltsin, the leader of the Russian Republic, says he wants to people there to own at least 60 percent of the land that has heretofore been owned 100 percent by the Government—that we still have large areas in the United States that continue to have Government ownership and are expanding the Government ownership in those areas, States like my own, 63 percent owned by the Federal Government; States such as Alaska, 98 percent owned; Nevada, 88 percent owned; and many of the Western States, at around the 50-percent level.

I just want to say again, Mr. President, that private ownership of land is as important to Americans today as it was at the birth of the country. It is still worth the effort to fight to expand people's ability to own property.

In the State of Idaho, over 63 percent of the land is federally owned. In all States west of the Mississippi, that number averages over 49 percent. And this year, the administration's budget proposes a 60 percent increase in funding for Bureau of Land Management land acquisitions. That is $266 million worth of land that will be purchased and, in most cases, taken off the tax rolls. This will decrease or even eliminate critical tax revenue for local and State governments.

Proposed Federal land acquisition, particularly acquisition in States where the Federal Government already owns a significant amount of the land area, raises important questions. How much is actually needed to meet national needs? Where do we draw the line? To echo the questions of my two friends and colleagues from Wyoming, Mr. WALLOP and Mr. SIMPSON, in their February 4 comments before the House Subcommittee on National Parks and Public Lands, "How much is enough?" and "How much is too much?"

Today, 11 of my colleagues are joining me in introducing the No Net Loss of Private Lands Act which addresses these questions. With the finite amount of land available, especially in the Western States, "No net loss" says no more. If the Federal Government wants to acquire new lands in States where the Federal Government already owns more than 25 percent of the acreage, then other Federal land must be released for sale within the same State.

This bill ensures the right to own property, an important factor that has helped make this country what it is today. It also secures a vital source of revenue for State and local governments.

Recent years have allowed us to witness the absolute decline of those countries which rejected the right to private ownership of property. We know about that, Mr. President. But let me just say one thing more about the secure vital source of revenue for States and local governments. We are talking about schools. Today I know there are some school principals visiting my office from my State and one of their big concerns is more funding for education.

If the Federal Government is going to continue to grab land in the Western States, then there have to be either arrangements made to pay for that land or else to release some other land to the private sector so it can be restored to the tax roles so the children of this country have the opportunity to be educated.

We talk about natural resources. Our greatest natural resource is our children. If we are to develop our most valuable natural resource, our children, pray tell, how are we going to do it if we continue to deny the use of the land of this country to develop the wealth that we need to be able to do the things we all want to see done in this society? Where is the common sense to this? How are we going to do this?

Our bill simply says that the right to own property is an important factor that has made this country what it is today. It also secures a vital source of revenue. It also recognizes the fact that our biggest adversary since 1945, really for the last 70 years on this planet, has been the former Soviet Union. The fundamental difference between the Soviet Union and the United States of America has been the right to own private property. That has been the fundamental difference in the successes of those two societies.

The value system that they have—that they did not have, I should say, because of not recognizing fundamental human rights, the right to own property—left their system devoid of all values and devoid of any chance for survival and for success. Because they went right against the very laws of nature, the laws of mankind: That acquisitive nature that people have to want to acquire property for their own health and happiness that we recognized here at the time of the Founding Fathers with the Declaration of Independence and the Constitution.

Recent years have allowed us to witness the absolute decline of those countries which rejected the right of private ownership. Nothing speaks louder than the histories of those nations which have tried to eliminate it. Across Eastern Europe and the former Soviet Union, all across these countries that were formerly command-and-control and government-owned, authoritarian, coercively owned-by-the-government economies, the people of Eastern Europe and the former Soviet Union have demanded the right, more than any other right that they are demanding, to own property.

I ask unanimous consent the complete text of the No Net Loss of Private Lands Act be printed following my remarks. I invite my colleagues who have not yet cosponsored this initiative to join the other 11 or 12 of us in sponsoring this legislation. This is a fundamental, important issue facing this country.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2326

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "No Net Loss of Private Lands Act".

SEC. 2. DEFINITIONS.

As used in this Act:

(1) AGENCY.—The term "agency" means the National Park Service, the United States Fish and Wildlife Service, the Bureau of Land Management, and the Forest Service.

(2) ACQUIRE AND ACQUISITION.—The terms "acquire" and "acquisition" include acquisition by donation, purchase with donated or appropriated funds, exchange, devise, and condemnation.

SEC. 3. LIMITATION ON ACQUISITION OF LAND.

(a) IN GENERAL.—Subject to section 4, an agency may acquire an interest in 100 or more acres of land within a State described in subsection (c) only if, before the acquisition, the agency or another agency disposes of the surface and subsurface estate to land in the United States, or in a territory of the United States, by way of transfer to a non-Federal party and in accordance with subsection (b).

(b) DISPOSITION OF ESTATE.—

(1) EQUALITY OF LAND VALUES.—In order to meet the requirement of subsection (a), the head of the agency that seeks to acquire the interest shall certify that the value of the surface and subsurface estate of the land disposed of by an agency is approximately equal to the value of the interest in land that is to be acquired.

(2) LOCATION OF DISPOSED ESTATE.—

(A) SAME COUNTY.—Subject to subparagraph (B), the head of the agency shall dispose of the surface and subsurface estate to land located in the same county as the land to be acquired.

(B) SAME STATE.—If the head of the agency finds that it is not feasible to meet the requirement of subparagraph (A), the head of the agency shall, if feasible, dispose of the surface and subsurface estate to land located in the same State as the land to be acquired.

(c) AFFECTED STATES.—Acquisition of land within a State is subject to this Act if—

(1) the State is one of the States of the United States; and

(2) 25 percent or more of the land within the State is owned by the United States.

SEC. 4. APPLICABILITY.

(a) EXCLUDED LANDS.—

(1) IN GENERAL.— The lands and properties described in paragraph (2) shall not be subject to the requirement of section 3(a) and shall not be considered owned by the United States for the purpose of section 3(c)(2).

(2) LANDS AND PROPERTIES.—The lands and properties referred to in paragraph (1) are—

(A) land held in trust for the benefit of an Indian tribe or individual or held by an Indian tribe or individual subject to a restriction by the United States against alienation;

(B) real property acquired pursuant to a foreclosure under title 18, United States Code;

(C) real property acquired by the United States in its capacity as a receiver, conserver, or liquidating agent, and that is held by the United States in that capacity pending disposal of the property;

(D) real property that is subject to seizure, levy, or lien under the internal Revenue Code of 1986; and

(E) real property that is securing a debt owed to the United States.

(b) WAIVER.—The head of an agency may waive the requirements of this Act with respect to the acquisition of land by the agency during any period in which there is in effect a declaration of war or when the President has declared a national emergency.

NO NET LOSS OF PRIVATE LANDS ACT—SECTION-BY-SECTION ANALYSIS

SECTION 1. SHORT TITLE

"No Net Loss of Private Lands Act".

SECTION 2. DEFINITIONS.

The term "Agency" means the National Park Service, the U.S. Fish and Wildlife Service, the Bureau of Land Management, and the Forest Service.

The terms "acquire" and "acquisition" include acquisition by donation, purchase with donated or appropriated funds, exchange, devise, and condemnation.

SECTION 3. LIMITATION ON ACQUISITION OF LAND

(a). Affected agencies may acquire an interest in 100 or more acres of land within a state only if, before the acquisition, the agency or another agency disposes of the surface and subsurface estate to land in the U.S. or a territory by transferring that land to non-federal ownership.

(b). Affected agencies must make every effort to dispose of land located in the same county as the land to be acquired. If that is not feasible, every effort must be made to dispose of land located in the same state as the land to be acquired.

(c). Affected states are those in which 25 percent or more of the land area is owned by the federal government.

SECTION 4. APPLICABILITY

(a). Certain lands will not be subject to the above requirements nor included in the calculation used to determine the acreage owned by the federal government. The excluded land is:

Land held in trust for the benefit of an Indian tribe;

Real property acquired pursuant to a foreclosure under title 18, USC;

Real property acquired by the United States in its capacity as a receiver, conserver, or liquidating agent, and that is held by the U.S. pending disposal;

Real property that is subject to seizure, levy or lien under the Internal Revenue Code of 1986; and

Real property that is securing a debt owed to the U.S.

(b). A waiver of these requirements is granted if a declaration of war is in effect or when the President has declared a national emergency.

Mr. WALLOP. Mr. President, the No-Net-Loss of Private Lands Act is a grassroots response from States experiencing economic impacts from the rules and regulations accompanying the Federal ownership of lands.

Federal and State Governments now own almost 40 percent of America—over 50 percent of the West and almost 60 percent of my State of Wyoming. The No-Net-Loss of Private Lands Act only applies to States where the Government owns 25 percent or more of the total acreage. The act directs land management agencies to dispose of land of equal value when it acquires additional property in the effected States.

By prescribing terms for increased Federal ownership of land, we can create environments consistent with our principles of limited government and private property rights.

It is not that the Government should not own land, rather it is "How much is enough?" and "What is commonsense management?" of existing land resources. There are parcels of Federal lands located throughout private and State holdings ranging in size from less than one acre to thousands of acres. Smaller parcels create management and access nightmares for the Federal Government and public alike. Due to scattered placement, the lands fulfill no expectations, create burdens for taxpayers and private property holders and provide only marginal contributions to recreation and the economy.

And, there are those who on occasion visit the West, try to imagine how things look 200 years ago—and return it to that view. Their objective is to make private lands public and public lands inaccessible. The goal is achieved in the name of endangered species, and buffer zones, and below-cost timber sales, and wetlands, and clean water. The real issue is more about control than about the environment and an increase in Federal ownership puts control of local communities in the hands of those not dependent upon the land for a living. This act helps to keep local and Federal controls in balance.

Mr. President, the President's 1993 budget requests over $306 million for additional Federal land acquisitions. It is simply unacceptable that our Government on one hand says the budget must be balanced, the deficit lowered, vital programs and benefits cut, and yet on the other hand appropriates huge sums of money for more land acquisitions when the Federal land bank is already bulging. To halt this practice, land managers need only to define the goal and allow private—Federal partnerships to develop solutions utilizing existing land holdings. There is no answer that is more dynamic, more efficient, more responsible than a solution crafted by this procedure.

There is a final matter that must not be lost on us—the painful irony evident with increased Federal ownership and accompanying regulations on public lands should strike all Americans! Particularly those of us who live in the West. We Americans who were so moved by the sight of the Soviet flag being lowered from atop the Kremlin on Christmas Day would do well to reflect on why communism failed. For the 293 million who lived under the pervasive mandates from Moscow, the inability to own land or property, and to use it in a profitable manner, was the root of communism's failure. The lack of this fundamental right—the right to buy and sell property and to use our private land profitably—is the inherent flaw of a command economy, a flaw so great that workers were not motivated, a country with vast resources could not even feed its people, and a country where the 3 percent of land that was privately owned produced 25 percent of the food.

In his sweeping changes, Boris Yeltsin stated that privatization is an integral part of Russian economic reform and proposes that 60 percent of the land be put into private ownership. Sixty percent private ownership would be welcomed by many of our western public lands States.

The irony is this: American investors and Government bureaucrats alike look at private holdings and private property rights in the former Soviet Republics as a key indicator of creditworthiness and progress toward a free market. Yet we constantly chip away as those standards by which we judge others.

Mr. President, I urge the favorable consideration of this bill.

AMERICA THE BEAUTIFUL—FUNDING SUMMARY

[Budget authority in millions of dollars]

	1991 actual	1992 est	1993 est
State Park and Outdoor Recreation Grants (DOI)	33	23	60
Acquiring National Parks, Forests, Refuges, and other Public Lands (DOI and USDA)	309	294	....
Enhanced Resource Protection/Recreation:			
DOI	1,071	1,120	1,238
USDA	....	77	109
Reforestation (USDA)	82	66	139
Total America the Beautiful	1,495	1,500	1,852

Note.—Photocopied from the budget of the U.S. Government FY '93.

By Mr. HATFIELD (for himself and Mr. SANFORD):

S. 2327. A bill to suspend certain compliance and accountability measures under the National School Lunch Act; to the Committee on Agriculture, Nutrition, and Forestry.

CERTAIN COMPLIANCE AND ACCOUNTABILITY MEASURES UNDER THE NATIONAL SCHOOL LUNCH ACT

• Mr. HATFIELD. Mr. President, I rise today to introduce legislation to suspend for 1 year pending regulations affecting the already bureaucratically overburdened National School Lunch Program. Last week I had the privilege of meeting with Oregon representatives of the American School Food Service Association who conveyed to me the pressing need to ease the regulatory redundancies which plague our current school lunch system. They describe time-consuming activities required to document and verify income and meal counts as the greatest hinderance they face in attempting to administer the program effectively and deliver meals to our Nation's schoolchildren. They were particularly concerned that this burden may increase in the future with the implementation of the Department of Agriculture's coordinated review effort. I am convinced, Mr. President, that the time has come for this program to be reevaluated and restructured to meet the needs of our children, rather than the bureaucratic concerns of the Federal Government. I urge my colleagues to support efforts to change this situation.

As many in this body will recall, the Child Nutrition and WIC Reauthorization Act of 1989—Public Law 101-147—instructed the Department of Agriculture to establish a unified system for accountability in the School Lunch Program. The Department received over 4,000 comments suggesting changes to the proposed regulations before the rules for coordinated review became final. The rules, which have been published in final form and are to become effective in July, are deemed by many on the front lines across the Nation to be unrealistic and harshly bureaucratic. I agree, Mr. President and have come to the floor today to urge additional time so that a fair and appropriate system of accountability for the School Lunch Program can be achieved.

The legislation I propose today does not add any further regulations to the program, nor does it take any away. It simply delays implementing the final coordinated review regulations for the Lunch Program for 1 year. This delay should allow the Secretary of Agriculture sufficient time to analyze the current system in order to ensure that any existing regulations serve the program's mission, not hinder it. Additionally, the Secretary will have the opportunity to carefully consider whether proposed actions affecting the program will benefit the program, not burden it.

The effects of overregulation in this program are already beginning to show. It is my understanding that since 1989, 121 schools have abandoned the program because shrinking funds do not justify the effort required to comply with the Federal regulations. Consequently 4,600 students no longer receive lunches. While Congress may not be able to expand its budget in the near future, we can certainly assist in efforts that will ensure that Federal money is being well spent—that funding goes to red apples, not redtape.

In my own State of Oregon, over 500,000 students are enrolled in the School Lunch Program. I would hate to see that number diminished by even one, but that is indeed the case in States like Colorado, Indiana, Maine, Arizona, and Wisconsin. I ask unanimous consent that a list of schools across the country which have dropped the School Lunch Program be included in the RECORD following my remarks.

While there may not be such a thing as a free lunch, neither is there such a thing as a free ride. If we are going to enter the next century as a strong country, our children must be healthy, nurtured individuals who are ready to learn. The National School Lunch Program has proven itself to be a vital player in the lives of our young citizens. Now we must meet our obligation to allow it to function as freely as possible.

Mr. President, I am pleased that this legislation has the full support of the American School Food Service Association, a group of over 65,000 public employees who administer the School Lunch Program at the State and local level. I ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2327

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. COMPLIANCE AND ACCOUNTABILITY UNDER NATIONAL SCHOOL LUNCH ACT.

(a) SYSTEM SUSPENSION.—The final rule issued on Wednesday, July 17, 1991, (relating to 7 CFR 210, 215, 220, 235, and 245; 56 Fed Reg 32920 et seq.) to carry out section 22 of the National School Lunch Act (42 U.S.C. 1769(c) shall not be effective before July 1, 1993, and any subsequent rule issued by the Secretary of Agriculture to carry out such section shall not be effective before such date.

(b) GENERAL COMPLIANCE.—Subsection (a) shall not be construed to suspend—

(A) requirements for local food service authorities under any other provision of the National School Lunch Act; and

(B) further planning and development activities for the implementation of a unified compliance system under section 22 of the National School Lunch Act.

ATTACHMENT A.—SCHOOLS THAT HAVE DROPPED THE NATIONAL SCHOOL LUNCH PROGRAM[1] 1989–90

Name of schools and town	Enrollment	Students[2]
Colorado:		
Cheyenne Mountain High School	587	41
Brighton High School	1,131	182
Thornton High School	1,135	75
Manitou High School	355	60
Fairview High School	1,369	54
Connecticut:		
3 schools, New Hartford	544	14
4 schools, Wilton	1,874	14
2 schools, Windsor	1,877	42
5 schools, East Lyme	2,418	79
1 high school, Region 1	475	12
Litchfield High School, Litchfield	275	8
Georgia: Berean Elementary School, Atlanta	350	65
Indiana: Mishawaka High School, Mishawaka	1,522	150
Louisiana:		
Cabrini High School	416	31
De La Salle High School	773	16
Maine:		
St. Mary's, Bangor	109	17
St. John's, Brunswick	225	16
Falmouth High School, Falmouth	274	2
Marshwood High School, Eliot	591	36
Brunswick High School, Brunswick	927	76
Traip Academy, Kittery	336	32
M.S.A.D. 15 High School, Gray	527	44
Gorham High School, Gorham	516	39
Missouri:		
Sacred Heart School, Florissant	500	5
St. Peter's School, St. Louis	335	3
Assumption School, St. Louis	450	6
Nevada:		
Douglas High School, Minden	1,138	273
Baker School,	30	
Whittell High, Zephyr Crove	250	50
New Jersey:		
Levingston High School, Essex Co	1,283	3
Heritage Middle School, Essex Co	502	10
Mt. Pleasant Middle School, Essex Co	344	5
Burnet Hill, Essex Co	243	0
Collins Elementary, Essex Co	244	5
Harrison Elementary, Essex Co	360	5
Hillside Elementary, Essex Co	314	8
Mt. Pleasant Elementary, Essex Co	331	1
Riker Hill Elementary, Essex Co	265	5
New Mexico: Los Alamos High School, Los Alamos	1,077	10
Texas:		
Richardson ISD, Dallas	7,268	150
Hurst-Euless-Bedford ISD, Fort Worth	3,751	60
Pflugerville ISD, Austin	1,451	64
Victoria ISD, Victoria	155	15
Round Rock ISD, Austin	1,875	75
Vermont: Vershire Elementary, Vershire	57	25
Wisconsin:		
New Hope Christian, Crandon	23	23
Skeets Millard Valley, Boscobel	27	22
Bethlehem Lutheran, Milwaukee	98	57
Hillel Academy, Milwaukee	167	65
Luth. H.S. Greater Sheboygan, Sheboygan	130	3
Wyoming: Jackson Hole High School, Jackson Hole	459	16

[1] Not a complete list. None of the listed schools closed or merged with other schools.

[2] Estimated number of students qualifying for free and reduced-price meals.

ATTACHMENT B.—SCHOOLS THAT HAVE DROPPED THE NATIONAL SCHOOL LUNCH PROGRAM[1] 1990–91

Name of schools, and town	Enrollment	Students[3]
Alaska:		
Homer High School, Homer	382	42
Soldotna High School, Soldotna	484	50
Skyview High School, Kenai	399	64
Kenai High School, Kenai	394	46
Arizona:		
Cactus High School, Peoria	1,690	65
Centennial High School, Peoria	327	22
Ironwood High School, Peoria	1,700	65
Peoria High School, Peoria	1,583	261
Colorado: Cherry Creek High School, Englewood	2,926	80
Louisiana: Trafton Academy, Baton Rouge	125	10
Maine:		
Lisbon High School, Lisbon	443	54
Presque Isle High, Presque Isle	759	92
Encore, Houlton	6	3
Massachusetts:		
Mt. Carmel Elementary, Methuen	230	7
St. Bernard's Elementary, Fitchburg	224	9
Minnesota:		
Edina High School, Edina	1,168	33
Valley View Junior High, Edina	701	11
Southview Junior High, Edina	602	12
New Jersey:		
Northern Highlands Reg. HS, Allendale	715	—
Bordentown Regular High School, Bordentown	431	41
J. Mitchell/Spruce Run, Annandale	411	10
Patrick McGaheran, Annandale	400	9
Round Valley, Annandale	451	3
Central, East Hanover	301	10
Frank J. Smith, East Hanover	265	3
East Hanover Middle School, East Hanover	370	8
Deane Porter, Rumson	306	5
Forrestdale, Rumson	375	11
Wenonah, Woodbury	200	6
Ramsey High School, Ramsey	743	4
Scotch Plains/Fanwood, Scotch Plains	1,115	16
New York:		
Port Jefferson CSD, Port Jefferson	1,420	55
Bay Point/Blue Point CSD, Bayport	2,050	166
SUNY Campus West, Buffalo	750	350
St. Anthony Padua, Endicott	101	5
Wynantskill UFSD, Wynantskill	437	35
Yeshiva Samuel Hirsch, Brooklyn	481	57
Bnos Israel, Brooklyn	469	61
Ohio:		
Notre Dame, Toledo	736	12
Adrian Elementary, South Euclid	278	23
Ridgebury, Lyndhurst	195	9
Rowland, South Euclid	337	30
Southlyn, South Euclid	248	19
Sun View, Lyndhurst	180	5
Utah:		
Park City High School, Park City	536	13
Dixie High School, St. George	903	83
Hurricane High School, Hurricane	450	88
Pine View School, Pine View	1,128	94
Virginia:		
Lafayette High School, Williamsburg	1,597	134
Albermarle High School, Albermarle Cty.	1,590	38
Culpepper High School, Culpeper Cty.	975	61
Washington:		
Puyallup Valley Christian, Tacoma	234	16
People's Christian, Tacoma	367	40
Wisconsin:		
Lamb of God Christian, Madison	100	7
Saint Paul Lutheran, Luxemburg	60	4
Saint Edwards, Appleton	60	1
Blessed Sacrament, LaCrosse	234	—
Saint John Lutheran, Wausau	65	4
Saint John Grade School, Little Chute	456	14
Arcadia Catholic Upper, Arcadia	381	55

[1] Not a complete list. Information was unavailable from California, Illinois, Oregon and Pennsylvania. None of the listed schools closed or merged with other schools.

[2] Estimated number of students qualifying for free and reduced price meals.•

By Mr. BROWN:

S. 2328. A bill to provide that for taxable years beginning before 1980, the Federal income tax deductibility of flight training expenses shall be determined without regard to whether such expenses were reimbursed through certain veterans educational assistance allowances; to the Committee on Finance.

TAX TREATMENT OF FLIGHT TRAINING EXPENSES

• Mr. BROWN. Mr. President, I rise today to introduce a bill which will restore some fairness to our current tax system. Approximately 200 veteran pilots throughout this country are currently unable to obtain refunds from the Internal Revenue Service [IRS] for taxes they paid which the IRS later ruled were unnecessary. This bill would create a 1-year grace period during which veteran pilots would be able to file for tax refunds.

In 1980, the IRS issued a rule, Revenue Rule 80-173, which retroactively repealed a provision which had been enforced since 1962. The IRS issued this rule against veteran pilots who had previously been allowed to receive educational benefits from the Department of Veterans Affairs and to claim a deduction for tuition expenses. The result of the IRS reversing its own ruling retroactively was that veteran pilots were charged back taxes, interest, and penalties. It seems unfair to me to apply a revenue ruling retroactively to the detriment of taxpayers who took a deduction as instructed.

Some veteran pilots have successfully received refunds of the tax they had been required to pay through the courts. Two hundred pilots throughout this country have not been as fortunate. There is no provision under the law which would allow the IRS to cancel tax and refund the overpayment because claims for refund or credit must be filed within 3 years of the due date of the return or 2 years from the date the tax was paid, whichever is later. This legislation would enable the remaining 200 veteran pilots a 1-year opportunity to file for a refund.

These pilots are frustrated by this inequity and it is time to provide them the opportunity to settle this matter with the Federal Government.

Similar legislation—H.R. 1168—has been introduced in the House of Representatives by Representative SUNDQUIST. The issue is fairness. I hope my colleagues will agree and cosponsor this important bill.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2328

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TREATMENT OF CERTAIN REIMBURSED FLIGHT TRAINING EXPENSES.

(A) IN GENERAL.—In the case of a taxable year beginning before January 1, 1980, the determination of whether a deduction is allowable under section 162(a) of the Internal Revenue Code of 1986 for flight training expenses shall be made without regard to whether the taxpayer was reimbursed for any portion of such expenses under section 1677(b) of title 38, United States Code (as in effect before its repeal by Public Law 97-35).

(b) STATUTE OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from the application of subsection (a) is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), refund or credit of such overpayment (to the extent attributable to the application of subsection (a)) may, nevertheless, be made or allowed if claim therefore is filed before the close of such 1-year period.●

By Mr. MITCHELL (for Mr. HARKIN):

S. 2329. A bill to amend the Internal Revenue Code of 1986 to define the term reasonable allowance for salaries or other compensation with respect to certain highly compensated employees of publicly traded corporations, and for other purposes; to the Committee on Finance.

S. 2330. A bill to provide that the compensation paid to certain corporate officers be treated as a proper subject for action by security holders, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

SENIOR EXECUTIVE PAY LEGISLATION

● Mr. HARKIN. Mr. President, during the 1980's, as the competitiveness of our economy declined, the pay of chief executive officers [CEO] went skyhigh. Recent statistics show that during the 1980's, the compensation of the CEO's of U.S. companies jumped 212 percent. By comparison, factory workers saw a 53-percent increase and engineers saw a 73-percent increase. For the same period, the earnings of the S&P 500 grew by 78 percent.

In Japan, compensation of major CEO's is 17 times that of the average worker, in France and Germany, 23 to 25 times; in Britain 35 times. In the United States, compensation of the CEO's of the 200 largest corporations reached $2.8 million, 160 times the pay of the average blue collar worker. By comparison, chief executive officers in Japan earn an average of $352,000.

The question for the Government that I am raising today is not whether American company executives should receive huge compensation, the questions are: Should the American taxpayer be subsidizing these huge salaries through the tax deductions the corporations receive for paying these salaries and should the executives receive these huge salaries under the present system which does not allow the stockholders to make a judgment in this area.

I believe that the compensation levels are excessive. I believe taxpayers should not be providing this subsidy. And, I believe stockholders should have the right to directly vote on this question. If they, the owners of the corporation, want to provide those levels of pay, without taxpayer assistance, that should be their decision.

Under existing rules, stockholders, with few exceptions do not have that right.

Today, I am introducing two bills that rectify current law.

The first says that the taxpayers will not provide a tax break to companies for executive compensation above $500,000. The measure covers publicly traded companies. The IRS regularly examines closely held companies for excessive pay already, disallowing excessive pay as determined on a case-by-case basis, often far below the $500,000 level.

The second bill simply provides that stockholders may propose binding general compensation criteria or plans for company executive or specific pay proposals in the same way that stockholder can place other questions before all of the stockholders for a vote.

Under present rules, the board of directors set the pay of senior executives. And, in most cases, it is the senior executives who effectively determine who serves on the board and what the benefits of service will be.

In recent years, things have truly gotten excessive. Complex pay packages extending over the lifetime of senior executives now sometimes exceed $10 million a year, a large share of which is paid by taxpayers most of whom make less than 1 percent of that sum.

I believe that these two measures will help end abuse in this area. They provide relief and fairness to the taxpayers and democracy for the shareholders, those who on paper own the companies.

I commend these bills to the attention of my colleagues and ask that the text of this legislation be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 2329

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REASONABLE ALLOWANCE FOR SALARIES AND OTHER COMPENSATION DEFINED.

(a) GENERAL RULE.—Section 162 of the International Revenue Code of 1986 is amended by redesignating subsection (m) as subsection (n) and inserting after subsection (1) the following new subsection:

"(m) SPECIAL RULES FOR CERTAIN HIGHLY COMPENSATED EMPLOYEES OF PUBLICLY TRADED CORPORATIONS.—

"(1) IN GENERAL.—In the case of any individual who is an employee of a publicly traded corporation, the term "reasonable allowance for salaries or other compensation for personal services actually rendered" as used in section 162(a)(1) for any given year shall include only the first $500,000 of the combined amount of any compensation, whether in the form of cash or otherwise, paid to such employee including the value of any property which is transferred to such employee, regardless of whether such transferred property is subject to any restrictions or to a substantial risk of forfeiture, but shall not include:

"(A) any payment referred to in so much of section 3121(a)(5) as precedes subparagraph (E) thereof,

"(B) amounts referred to in section 3121(a)(19), and

"(C) any benefit referred to or on behalf of an employee if at the time such benefits is provided it is reasonable to believe that the employee will be able to exclude such benefit from gross income under section 132."

"(2) PUBLICLY TRADED CORPORATION DEFINED.—For purposes of this subsection, the term "publicly traded corporation" shall mean any corporation if—

"(A) securities of the corporation are traded on established securities market; or

"(B) securities of the corporation are readily tradable on a secondary market (or the substantial equivalent thereof)."

"(3) TREATMENT OF CERTAIN EMPLOYERS.—

"IN GENERAL.—All employees treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (n) of section 141 shall be treated as a single employer for purposes of this subsection."

SEC. 2. This provision shall apply to taxable years beginning after December 31, 1991.

S. 2330

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CORPORATE OFFICERS COMPENSATION.

Section 14 of the Securities Exchange Act of 1934 (15 U.S.C. 78n) is amended by adding at the end the following new subsection:

"(h) CORPORATE OFFICER COMPENSATION.—

"(1) SECURITY HOLDER PROPOSALS.—For purposes of this Act and the rules and regulations issued by the Commission under this Act, recommendations, binding proposals, binding and nonbinding criteria, and policies or methods to be used in determining or providing for the compensation to be paid to directors, the chief executive officer, or other senior offices of an issuer of a security registered under section 12 of this title shall be proper subjects for action by its security holders. If such recommendations, proposals, criteria, and policies or methods meet the requirements of this section and the rules and regulations of the Commission, an issuer may not omit such recommendations, proposals, criteria, and policies or methods, or any statement in support thereof otherwise required by this section, from the proxy statement.

"(2) DISCLOSURE INFORMATION.—Pursuant to the rules and regulations of the Commission, an issuer of a security registered under section 12 of this title shall include in its proxy statement clear and comprehensive information relating to the compensation paid to each director and senior officer, including—

"(A) a single dollar figure representing the total compensation (including deferred, future, or contingent compensation) paid to the director or officer by the issuer during the issuer's most recent fiscal year;

"(B) the estimated present value, represented by a dollar figure, of any forms of deferred, future, or contingent compensation provided to the director or officer by the issuer during such year; and

"(C) a graphic representation of—

"(i) the compensation referred to in subparagraph (A); and

"(ii) comparable figures for the total compensation paid to the director or officer by the issuer during each of the 2 full fiscal years of the issuer prior to the year.

"(3) PRESENT VALUE CALCULATIONS.—For the purposes of paragraph (2), the Commission shall—

"(A) specify the method for estimating the present value of stock options and other forms of deferred, future, or contingent compensation paid to the directors or senior officers of an issuer; and

'(B) require the issuer to reduce its earnings, as reflected in its earnings statements to its security holders, by the estimated present value of such compensation.".

SEC. 2. EFFECTIVE DATE.

(a) IN GENERAL.—The amendment made by section 1 shall take effect one year after the date of the enactment of this Act.

(b) COMMISSION ACTION.—The Commission shall promulgate final rules and regulations to carry out section 1 not later than one year after the effective date of this Act.●

By Mr. HELMS:

S. 2331. A bill to extend the temporary suspension of duty on 1[1-((4-chloro-2-(trifluoromethyl) phenyl)imino)-2-propoxyethyl[-1h-imidozole; to the Committee on Finance.

S. 2332. A bill to extend the temporary suspension of duty on 2,6 dichlorobenzonitrile; to the Committee on Finance.

SUSPENSION OF DUTIES ON CERTAIN CHEMICALS

Mr. HELMS. Mr. President, today I am introducing two bills to suspend temporarily the duty currently imposed on dichlobenil, and triflumizole. Similar bills have already been introduced in the House.

Mr. President, these products are used by an important company in my State, Uniroyal Chemical Co., which operates a plant in Gastonia, NC.

The Uniroyal Co. has prepared a thorough description of each of the compounds and an analysis of their importance to our agriculture industry. I ask unanimous consent that these analyses be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MEMORANDUM IN SUPPORT OF A TEMPORARY DUTY SUSPENSION FOR TRIFLUMIZOLE

I. INTRODUCTION

This memorandum outlines the principal factors which support favorable consideration of H.R. 1940, a bill to suspend, through December 31, 1994, the 13.5% ad valorem duty on 1[1-((4-chloro-2(trifluoromethyl)phenyl)imino)-2-propoxyethyl)-1h-imidazole provided for under HTS subheading 2933.29.30.00.9. This product is known by its trade name of triflumizole.

II. DESCRIPTION AND USES OF TRIFLUMIZOLE

The chemical triflumizole, known by its registered brand names in the United States, "PROCURE and TERRAGUARD", falls under HTS subheading 2933.29.30.00.9. It is a powder which Uniroyal imports from Japan under exclusive license from Nippon Soda. Uniroyal formulates the imported technical grade material into ready to use active wetable powders. The product is used as a fungicide on ornamental plants and is being developed for use on deciduous fruits and powdery mildew on grapes.

Triflumizole was invented by the Japanese company, Nippon Soda, who holds the patent and the U.S. registration. This license is effective as of January 1, 1989 and will be valid for 5 years. To our knowledge, Uniroyal is the only importer of triflumizole. Uniroyal Chemical Company has an agreement to market the product and its compositions in the U.S.

In addition to this use to control cylindrocladium root rot disease on spathapyllum ornamental foliage plants, triflumizole is being developed by Uniroyal to be used to control powdery mildew on grapes. Powdery mildew is one of the most devastating of the diseases to attack grapes and each year, more than $15 million are spent in attempts to control this disease. Currently sulphur and Bayleton are the two main products used in the fight against powdery mildew but sulphur is quite irritating during the application process and in recent years, Bayleton is being reported as failing perhaps because of resistance being developed by the disease.

Triflumizole is also intended for use for the control of scab and mildew on apples.

At present, Triflumizole is being developed by Uniroyal Chemical for registration on apples, pears, stonefruit, grapes and other crops. For these products, triflumizole is currently for experimental use only. Triflumizole is registered for its use on ornamental plants and was granted an emergency Section 18 registration by the EPA for its use for the control of cylindrocladium root rot disease on spathapyllum ornamental foliage plants.

III. ENVIRONMENTAL CONCERNS

Triflumizole is considered environmentally safe in that it has no adverse effects on birds or bees although it can be toxic to fish at high concentrations. It degrades quickly in the soil, is rapidly metabolized by plants and animals and does not bioaccumulate in fish.

IV. MANUFACTURE AND IMPORTATION

Triflumizole is not manufactured by any firm in the United States. Uniroyal Chemical is the only importer. Uniroyal imports the Tech grade and formulates it into finished products at plants in Gastonia, North Carolina and Fresno, California.

There are other competitive products on the market that are used in the U.S. for some of the same applications. These include Captan from Chevron, Funginex imported by FMC, and Dithane imported by Rohm and Haas. While these products are competitive in applicaton, they are not competitive in their mode of action. There is no other product like Triflumizole manufactured in the United States.

IV. COSTS/SAVINGS

Triflumizole is a high cost product with a high duty rate. It is not imported in great quantities since its use is selective although very important. Approximately 3,500 lbs. of Tech grade will be imported in 1989 for a total value of $127,260.00. The duty will be $17,180.00 on these imports and savings of which could be passed on to the consumers.

VI. CONCLUSION

There are no U.S. manufacturers of these products. Consequently, the enactment of a temporary duty suspension will not cause injury to United States manufacturers not should it injure other United States business interests. The product is environmentally safe and is important for agriculture and society. A temporary duty suspension will have minimal revenue impact and could help encourage its futher use in other applications by reducing its overall cost.

For the foregoing reasons, we respectfully submit that H.R. 1940 should be passed.

MEMORANDUM IN SUPPORT OF A TEMPORARY DUTY SUSPENSION FOR DICHLOBENIL

I. INTRODUCTION

In response to the May 3 request of the Subcommittee on Trade of the House Ways and Means Committee for written testimony of interested parties on miscellaneous tariff bills, this memorandum outlines the principal factors which support favorable consideration of H.R. 1941, a bill to suspend, through December 31, 1994, the Customs duties on imported 2,6-Dichlorobenzonitrile and certain imported mixtures containing this important chemical as an active ingredient.

II. DESCRIPTION AND USES OF DICHLOBENIL

Commonly known by the name Dichlobenil, the chemical 2,6-Dichlorobenzonitrile is an important ingredient used in the manufacture of agricultural weed and seed control preparations. As the active ingredient in such preparations, Dichlobenil functions as a "pre-emergent" growth controller, preventing the seeds of weeds and other harmful plants from germinating and destroying valuable food and ornamental crops. Uniroyal Chemical Company of Middlebury, Connecticut imports and sells Dichlobenil under its trade name Casaron. Uniroyal imports Dichlobenil in two different forms: Casaron technical grade, which is composed approximately 97% by weight of Dichlobenil, with small quantities of inert ingredients, and Casaron 85W, which is composed of between 85–90% Dichlobenil, together with inert ingredients (primarily calcium silicate and other clays) and minute quantities of surfactants.

After importation, both grades of Casaron are formulated with other inert ingredients and small amounts of surfactants in order to manufacture granules and wetable powders to be used in seed control preparations. Popular Casaron formulations sold to end-users in the United States include Casaron 2G (2% active ingredient) and Casaron 4G (4% active ingredient). These formulations are diluted in water and sprayed on areas where seed and plant growth control is desirable.

Preparations made from imported Dichlobenil are used in many important applications. For example, Dichlobenil is clearly the most selective weed control product for ornamental plant cultures. Dichlobenil does not injure ornamental plants, but prevents the development of harmful broadleaf weeds. (By contrast, traditional pesticide chemicals would kill or injure the plantings, as well as the weeds.) In addition, Dichlobenil is widely used by cranberry growers to control weed growth harmful to their crops. It is extensively used wherever cranberry crops are raised, in the New England states, as well as in the Upper Midwest (Wisconsin especially) and the Pacific Northwest.

Dichlobenil preparations are used extensively in orchards, nurseries, and around municipal and commercial grounds and buildings. Paving contractors also make frequent use of Dichlobenil preparations to kill weeds under asphalt. Dichlobenil can also be used as an aquatic herbicide, and is particularly effective in controlling the growth of weeds such as hydrilla, which choked many waterways in the Southern United States.

Dichlobenil has been approved for a wide variety of agricultural uses in the United States. It is not quite as water soluble as many pesticides; accordingly, it does not cause groundwater problems. Once dispersed, Dichlobenil is tightly bound to the soil. It does not leach into the soil, but runs off during rain.

In short, Dichlobenil is an important chemical used in the manufacture of seed control preparations which are vital to the health of United States agricultural crops and the economic well being of United States growers.

III. ENVIRONMENTAL CONCERNS

EPA has never classified diflubenzuron as a known or likely carcinogen. This has been confirmed by Bob Taylor at EPA. He is the product manager for dichlobenil.

Since the use and application of herbicidal chemicals is comprehensively regulated, EPA and other agencies continually review the properties of these materials as exhibited in particular uses. The purpose of this review is to establish standards for applications of these materials to various crops and flora, to insure that no human or animal toxicity will result. EPA has not found dichlobenil to be a carcinogen, but since the agency is routinely reviewing the properties of these and other pesticidal products in the context of registration renewal some environmentalist groups have interpreted this as means for concern.

Federal pesticide registrations and approvals can be divided into three categories as follows:

(1) Federal Insecticide, Fungicide and Rodenticide Act (FIFRA)—allows EPA to register pesticides after conducting a risk/benefit analysis (i.e., will the pesticide perform its function without unreasonable risk to the environment);

(2) Section 408 of the Federal Food, Drug and Cosmetic Act (FFDCA)—authorizes FDA to establish "safe" residue levels for pesticides found on raw agricultural commodities and other applications. Raw agricultural commodities having residues in excess of prescribed levels are deemed "adulterated" and are subject to seizure and destruction; and

(3) Section 409 of FFDCA—allows FDA to prescribe "safe" residue levels for "food additive" chemicals—i.e., pesticide residues found in food.

Section 409 of the FFDCA contains the controversial "Delaney Clause", which prohibits EPA from establishing a Section 409 food additive level for any substance "if it is found to induce cancer when ingested by man or animal, or if it is found, after tests which are appropriate for the evaluation of the safety of food additives, to induce cancer in man or animal".

Many pesticide and other chemicals are toxic in high concentrations' otherwise, they could not perform their functions. Some pesticide chemicals, if present in sufficient concentrations show evidence of some potentially carcinogenic effects. Read literally, the "Delaney Clause" would prohibit EPA from establishing "food additive regulations" for many agricultural pesticides. Accordingly, FDA has proposed an enforcement policy which would recognize a *"de minimus"* exception to the "Delaney Clause", and allow EPA to establish food additive tolerance levels where (1) carcinogenic risks are negligible, or (2) carcinogenic risks are more than negligible, but EPA decides that the benefit to the food supply outweighs potential risks. In such cases, FDA will establish appropriately low "food additive" levels, to insure that the use of these pesticides in agriculture will not cause a cancer risk to humans or animals.

In implementing this policy, EPA is in the process of identifying potential cancer risk posed by pesticides which have been registered under FIFRA and approved for certain uses. Appendix C of the attached FEDERAL REGISTER notice lists the pesticidal products which EPA is routinely reviewing in the context of registration renewal. Dichlobenil is on the list for review.

EPA has divided pesticides into five kinds for purposes of assessing cancer risks: Group A (known carcinogens), Group B (probable human carcinogens), Group C (possible human carcinogens), Group D (carcinogenity not capable of assessment), Federal Register notice lists the EPA "Food Use Pesticides With Evidence of Carcinogenity". Note that dichlobenil does not appear on the list.

Also attached is the MSDS sheet which Uniroyal has furnished for dichlobenil. Uniroyal correctly states that this chemical has not been found to be carcinogenic.

MANUFACTURE AND IMPORTATION OF DICHLOBENIL

Under the Harmonized Tariff Schedules of the United States (HTS), (19 U.S.C. Section 1202), technical grade 2,6-Dichlorobenzonitrile is classifiable under HTS item 2926.90.10.00.6 with duty at the rate of 6.8% *ad valorem.*

Casaron 85W, a mixture containing 2,6-Dichlorobenzonitrile, is classifiable under HTS item 3803.30.10.00.0, and are dutiable at a compound rate of 1.8 cents per kilogram plus 9.7% *ad valorem.*

Dichlobenil is not manufactured by any firms in the United States. All Dichlobenil imported into the United States (and, consequently, all antisprouting preparations containing Dichlobenil sold in the United States) is manufactured in the Netherlands by Duphar, B.V. of Amsterdam, which controls all United States registrations for the product. Uniroyal has a contract with Duphar to import dichlobenil for the purpose of producing pre-emergent weed growth controllers which prevent the germination of weed seeds. This is a contract which is automatically renewed each year unless notice is given by either company one year prior to cancellation. The terms of registration are controlled by Duphar. This is not like a patent in that other manufacturers may produce the chemical, but in order for it to be used for the same registered purpose, a company must get approval from Duphar.

Dichlobenil is a narrow spectrum product and of limited demand. The incumbent costs to produce it in small quantities are uneconomic. Therefore there is little incentive for U.S. companies to manufacture dichlobenil. Uniroyal imports both Casaron Tech and Casaron 85W manufactured by Duphar. Dichlobenil formulations are produced by Uniroyal at plants in Gastonia, North Carolina and Fresno, California. In addition, some of these preparations are manufactured by toll processors in California.

A second United States firm, P.B.I. Gordon of Memphis, Tennessee, formulates Dichlobenil preparations at its Memphis, Tennessee plant. Like Uniroyal, P.B.I. Gordon obtains all of the Dichlobenil which it uses from Duphar in the Netherlands.[1]

Various herbicides produced in the United States are used in some of the same applications as Dichlobenil; however, none of these have the exact properties and functions of Dichlobenil, (e.g., for use in cranberries). Dichlobenil is not a pesticide, but rather a plant growth regulator; it does not kill or injure any existing plant or animal life, but it simply prevents development of harmful seeds. Consequently, it may be fairly said the Dichlobenil does not directly compete with any domestically-produced products.

IV. COSTS/SAVINGS

Uniroyal Chemical Company estimates that the total amount of Casaron Tech to be imported in 1989 will be 165,000 lbs. The total amount of Casaron 85W will be 190,000 lbs. The total combined value of these imports will be $4,027,545.00. The duty paid will be approximately $333,340.00.

V. CONCLUSION

Numerous factors support the temporary suspension of duties on imported Dichlobenil—both technical grade Dichlobenil, and preparations containing 80% by weight or more Dichlobenil as an active ingredient. These may be briefly summarized as follows:

1. No United States Manufacture. As noted above, no firms in the United States currently manufacture Dichlobenil, and none

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[1] Dichlobenil is produced by a company in Japan. However, the Japanese product is not registered or approved for use in the United States, and consequently is not imported or used here.

presently plan to do so. Only Duphar B.V. has obtained registrations and approval for the use of this chemical in the United States. Other herbicides are not directly competitive with Dichlobenil. Consequently, the enactment of a temporary duty suspension relating to imported Dichlobenil will not cause any injury to United States manufacturers or other United States business interests.

2. Benefit To Consumers. At present, United States Customs duties present a significant portion of the landed cost of all imported Dichlobenil. These costs, in turn, are passed along to distributors of Dichlobenil and, ultimately, to the farmers and growers who use the product. Elimination of the duty on this product would allow United States formulators to land this vital product at lower cost, and to manufacture their preparations more efficiently and inexpensively. Duty savings would ultimately be passed on to the consumers (i.e., United States growers and farmers). In addition, elimination of the duty for this product would prevent or moderate future price increases for Dichlobenil and formulations made therefrom.

Dichlobenil is an important chemical for many agricultural producers, most notably growers of cranberries and ornamental foliage. Temporary suspension of the duty for the product would help these growers to obtain and use this essential material much more cost effectively. Ultimately, benefits of the duty suspension would be passed on to other consumers, for instance in the form of lower food prices.

3. Environmental Considerations. As noted above, Dichlobenil is a "pre-emergent" antisprouting agent. Unlike most pesticides, which attack plants after they have sprouted, often killing useful plants as well as weeds, Dichlobenil is a safe product which protects important crops by preventing weeds from arising in the first instance. A tariff suspension would help to encourage the further use of these antisprouting agents as part of an integrated pest-management system. EPA has found Dichlobenil to be non-carcinogenic.

4. Slight Revenue Impact. Granting the requested duty suspension will not significantly impact United States Customs duty revenues. Slow import growth is projected for the next few years, with total imports increasing by no more than 5,000 pounds per year. Thus, anticipated duty revenues which would be foregone by reason of the temporary duty suspension would not be significant.

In summary, therefore, it is clear that a temporary suspension of the duty on imported Dichlobenil would provide assistance to American growers, by allowing them duty free access to an important pest-control product. It will stimulate additional sales of this environmentally-safe chemical, thereby increasing United States employment in several states (e.g., at United States facilities which manufacture antisprouting preparations from the imported product). In addition, suspension of the duty would not disadvantage any United States manufacturers or labor interests.

For the foregoing reasons, we respectfully submit that H.R. 1941 should be passed.

By Mr. HELMS:

S. 2333. A bill to suspend temporarily the duty on N–[[4-chlorophenyl)-amino]carbonyl] - 2,6 - diflourobenzamide; to the Committee on Finance.

SUSPENSION OF DUTIES ON CERTAIN CHEMICALS

Mr. HELMS. Mr. President, in the 101st Congress, I introduced three bills to suspend temporarily the duty imposed on diflubenzuron, dichlobenil, and triflumizole. Similar bills were introduced in the House by Congresswoman NANCY JOHNSON.

Due to confusion in the last few weeks before passage of the so-called mini-trade bill, H.R. 1594, one of those bills—the duty suspension for diflubenzuron—was not included. Today, I am reintroducing legislation to suspend temporarily the duty on diflubenzuron.

Mr. President, diflubenzuron, which goes by the trade name Dimilin, is produced only in Holland. It is imported by Uniroyal Chemical Co., which operates a plant in Gastonia, NC. Dimilin is an environmentally safe pesticide used primarily for the control of gypsy moth. It acts biologically on the moth larvae, which keeps it from hatching, rather than as a toxic killer.

When the duty suspension for Dimilin was introduced in 1989, there was some opposition expressed to the bill by Sandoz Crop Protection Co. In 1990, Sandoz withdrew its opposition. Unfortunately, the Sandoz letter arrived too late to get the duty suspension for Dimilin in the final conference report on H.R. 1594.

The Uniroyal Co. has prepared a thorough description of this compound. I ask unanimous consent that this analysis be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MEMORANDUM IN SUPPORT OF S. 1101, A TEMPORARY DUTY SUSPENSION FOR DIFLUBENZURON

I. INTRODUCTION

These comments are submitted to the Senate Finance committee on behalf of Uniroyal Chemical Company, Inc., of Middlebury, Connecticut, in support of H.R. 1619, a bill to temporarily suspend the 13.5% ad valorem United States Customs duties on imported N-[[(4-chlorophenyl) amino] carbonyl]-2,6-difluorobenzamide (90%) and the 9.7% ad valorem duty plus $0.018/kg duty on N-[[(4-chlorophenyl) amino] carbonyl]-2,6-difluorobenzamide (25%) and inerts (75%) provided for under HTS subheadings 2929.90.10.00.3 and 3808.10.20.00.2 respectively, through December 31, 1992. Both of these products are known by their trade name, diflubenzuron.

II. DESCRIPTION AND USES OF DIFLUBENZURON

The chemical diflubenzuron, commonly known by its registered brand name "Dimilin", is being imported under two separate HTS subheadings depending on the percentage of basic chemical composition. N-[[(4-chlorophenyl) amino] carbonyl]-2,6-difluorobenzamide (90%) or Dimilin Tech, is the pure product with only a small percentage of inerts present. N-[[(4-chlorophenyl) amino] carbonyl]-2,6-difluorobenzamide (25%) is diluted with clay and other inerts (75%) to compose Uniroyal product Dimilin 25. Both products are registered trademarks of Uniroyal Chemical Co., Inc.

Dimilin was invented by Duphar B.V. of Holland, which is the sole producer and holds the U.S. registration. Duphar holds the patent for diflubenzuron as well. This patent expires in 2003—well after the requested duty suspension period. Uniroyal has an agreement with Duphar to import and sell diflubenzuron in the United States for purposes of regulating the growth of harmful insect pests.

The chemical is used as an insect growth regulator. While often classified or referred to as an insecticide, it is not. As a growth regulator, Dimilin has a unique mode of action. It inhibits the ability of the insect egg to hatch or the larvae to rupture the cuticle, thereby causing the insect to die before reaching maturity. This mode of action makes it less toxic to the environment than ordinary insecticides.

Dimilin's primary uses include forestry applications (gypsy moth control), mosquito control, and control of pests which attack cotton, soybeans and Christmas trees. The U.S. Department of Agriculture has approved Dimilin as one of three products considered "very safe" for use in the treatment of the boll weevil in cotton. As part of a good integrated pest management program, Dimilin can replace the toxic and nasty products previously used. Dimilin is not toxic to birds, bees or fish. Dr. John Moore, Assistant Administrator of the EPA, is quoted in the book Silent Spring Revisited as follows:

"Perhaps most encouraging is the recent practice of developing a pest management plan in which chemical pesticides are only a part of a multifaceted scheme. The emergent success story of boll weevil control in cotton production throughout the Carolinas is most illustrative. Through the use of the chemical dimilin(sic.), which has selective larvicidal and chitin-inhibiting properties, early season spraying with conventional chemical insecticides is not needed. Natural predators of other cotton pests that used to be destroyed by these sprayings are once again successful in keeping these pest species in natural balance."

Thirty percent of Dimilin imports are used by State gypsy moth eradication programs. Dimilin accounts for sixty-five percent of the product in use by the States. It is clearly the chemical of choice.

Another important use of Dimilin is for mosquito control. The World Health Organization approved the use of Dimilin last year for mosquito control and it is being used successfully in the U.S. and many other countries because of its selective mode of operation, its low mammalian toxicity, its nonpersistence in soils and hydrosoils, its lack of mobility in the environment and its low biological accumulation and magnification.

III. ENVIRONMENTAL CONCERNS

The Environmental Protection Agency [EPA] has never classified diflubenzuron as a known or likely carcinogen. This has been confirmed by the office of Mr. Phil Hutton of EPA who is the EPA product manager for diflubenzuron.

The EPA has tested diflubenzuron on rats and mice for a lifetime at 10,000 parts per million (which is equal to 1% of their diet) and EPA found no incidents of increased tumors and no weight loss. One non-EPA study said that there could be slight carcinogenic characteristics. EPA determined that these tests were not conducted under proper conditions and therefore were inadequate as a definitive study. EPA basically discounted this study. EPA has advised Uniroyal that the EPA has no concerns that diflubenzuron is carcinogenic.

EPA has divided pesticides into five kinds for purposes of assessing cancer risks: Group A (known carcinogens), Group B (probable human carcinogens), Group C (possible human carcinogens), Group D (carcinogenicity not capable of assessment), and Group E (non-carcinogenic). Diflubenzuron is listed in Category E, which means that all testing has produced negative results concerning carcinogens.

Since the use and application of pesticidal chemicals is comprehensively regulated, EPA and other agencies continually review the properties of these materials as exhibited in particular uses. The purpose of this review is to establish standards for applications of these materials to various crops and flora to insure that no human or animal toxicity will result. While EPA has not found diflubenzuron to be a carcinogen, the agency nevertheless routinely reviews the properties of these and other pesticidal products in the context of registration renewal. As part of such a routine review, the EPA included Diflubenzuron on its most recent list for review published in Appendix C of a Federal Register notice, October 19, 1988. Appendix B of this same Federal Register notice lists the EPA "Food Use Pesticides With Evidence of Carcinogenity". Diflubenzruon is not on this list.

IV. MANUFACTURE AND IMPORTATION

Diflubenzuron is not manufactured by any firm in the United States. Uniroyal Chemical is the company importing Dimilin for use in regulating growth of insect pests. Uniroyal imports both the Tech grade and finished product. Dimilin Tech grade is formulated into finished products at plants in Gastonia, NC and Fesno, CA. Another firm, American Cyanamid, also imports diflubenzuron for use in animal health care applications. American Cyanamid has no objection to this legislation.

There is one other competitive product on the market that is used in the U.S. mushroom market only. Under the trade name "Apex", the product is marketed by Sandoz/Zoecon. It is not the same chemical diflubenzuron.

While there are other products that might conceivably be considered competitive, these are insecticides with very different modes of action and are therefore not in fact directly competitive.

V. COSTS/SAVINGS

Dimilin is a high cost product with a high duty rate. It is not imported in great quantities since its use is selective although very important. Approximately 46,000 lbs. of Tech grade and 182,000 lbs. of Dimilin 25 will be imported into the United States in 1989, having a total value of $3,295,168.00. The duty will be $377,315.00 on these products. Savings resulting from a temporary duty suspension could be passed on to growers and consumers.

VI. CONCLUSION

There are no U.S. manufacturers of Dimilin. With the current small demand in the United States, there is little likelihood that any U.S. company will seek a license to manufacture this chemical in the United States. Consequently, the enactment of a temporary duty suspension will not cause injury to United States manufacturers or other United States business interests. The product is environmentally safe and is important for agriculture and society. A temporary duty suspension will have a minimal revenue impact and may help encourage its further use in other applications.

For the foregoing reasons, Uniroyal Chemical Co., Inc. supports H.R. 1619, and requests that the committee recommend its passage. The company and its representatives will be happy to respond to any questions or requests for further information about this matter.

Respectfully submitted,
NEVILLE, PETERSON & WILLIAMS,
New York, NY.

By Mr. WIRTH (for himself, Mr. DIXON, Mr. CONRAD, Mr. RIEGLE, and Mr. LIEBERMAN):

S. 2334. A bill to extend the statute of limitations applicable to civil actions brought by the Federal conservator or receiver of a failed depository institution; to the Committee on Banking, Housing, and Urban Affairs.

EXTENSION OF STATUTE OF LIMITATIONS WITH RESPECT TO CERTAIN CIVIL ACTIONS

Mr. WIRTH. Mr. President, I rise at this point to introduce, along with Senator DIXON, Senator CONRAD, Senator RIEGLE, and Senator LIEBERMAN, legislation to extend the statute of limitations applicable to civil actions brought by the Federal Conservator or receiver of a failed depository institution. A big mouth full, Mr. President, but a very, very important piece of legislation, related to the ability of the Federal Government to catch up with people who have gained unlawfully as a result of the S&L crisis, who have effectively cheated the taxpayers, but on whom the statute of limitations is about to run out.

Mr. President, the S&L crisis is going to cost taxpayers more than $200 billion to resolve. That is in direct payments and does not include the interest payments on the money that we have borrowed to clean up the industry. Those funds are gone forever, lent to borrowers who were unable to repay their loans, squandered to support the luxurious lifestyles of a handful of thrift executives and owners, or lost on risky ill-advised investments.

The foolhardy combination of deregulation and desupervision pursued by the Reagan administration in the early 1980's created a tremendous opportunity for financial fraud and increased the overall cost of the S&L crisis. Many people took advantage of this opportunity to enrich themselves and their associates. Some were simply caught up in the go-go spirit of the times that encouraged people to take excessive risks; they often lost their own shirts along with the losses they have cost the taxpayers. But many engaged in outright fraud and theft or were negligent in their professional responsibilities, overlooking others' fraudulent activities.

Today, Mr. President, I am introducing legislation that will help us get some of the money back from those individuals and businesses. Bank and thrift regulators are able to file civil lawsuits against the officers, management, and board of directors of financial institutions, as well as outside professionals—usually lawyers or accountants—who advised a failed institution. Those suits can lead to recovery of losses caused by fraud or negligence. Not all the losses can be recovered—too often, the money has disappeared altogether and even claims that are upheld in court cannot be fully paid. But at least taxpayers can reclaim a portion of those funds.

Unfortunately, lawsuits can only be filed for a limited time after a financial institution fails. In 1989, Congress established a 3-year statute of limitations for these civil lawsuits except where State law authorizes a longer period. This provision of FIRREA overrode the shorter timeframes permitted in some States. In effect, what the legislation did in 1989 was to extend the statute of limitations and give us 3 years.

The legislation I am introducing today increases the minimum statute of limitations from 3 years to 5 years. Any longer period established by State law will of course, remain in effect after my legislation is enacted.

We need to provide adequate time for regulators to file suits. Very often, these are complex cases; it takes a great deal of time for regulators to work their way through the tangled books and records of a failed institution and determine if there is reason to sue any party associated with the failure. It then takes additional time to judge if the suit is worth filing. There is a cost to pursuing these cases and not all suits will be worth pursuing. Regulators need sufficient evidence to be reasonably confident of winning a suit and have to determine that the subject of a suit has resources to pay a claim. This process can take a great deal of time.

When we look at individual cases, 3 years may seem reasonable. However, we have to look at regulators' overall workload as well. A very large number of thrifts were closed in 1989 and FIRREA's statute of limitations expires for 318 S&L failures this year alone. The clock has already run out for suits related to 118 thrift failures, including 45 only yesterday. Next Monday is the deadline for suits related to 46 additional thrift failures. Regulators face deadlines for 11 additional institutions this month and another 43 in April including Lincoln Savings and Loan, perhaps the most widely known and notorious failure. Over the next 3 years, regulators will have to examine the potential for lawsuits related to more than 400 additional thrifts. The enormous volume of this workload limits the Federal Government's ability to pursue all of the cases that should be pursued.

We should not allow individuals or businesses that contributed to a bank or thrift failure to escape a lawsuit simply because there was not enough time to develop and pursue a strong case. The volume of failures that has grown out of that ill-timed and ill-advised deregulatory bill of 1982, and the various other factors that contributed to the S&L crisis has made it difficult for the regulators to give each individual failure the attention it may deserve. The volume of failures and the need to focus on the cases where a reasonable recovery is most likely helps limit regulators' pursuit of weak and frivolous cases. But we should provide more time to file strong cases that could recover some of the taxpayers' losses. At the same time, individuals who were once affiliated with a failed institution should not have to worry indefinitely that they may somehow be named in a lawsuit. Five years strikes me as a reasonable balance given the high volume of failures that regulators must examine today.

In 1989, when we enacted FIRREA, Congress promised the American taxpayer that we would aggressively pursue fraud and criminal activity in the S&L industry both through criminal and civil action. In 1990, Congress provided investigators and regulators with additional resources and tools through the Wirth-Heinz amendment that became law as part of that year's crime bill. The additional resources will indirectly aid regulators' civil efforts because information uncovered in a criminal investigation can sometimes aid in a civil lawsuit. The 1990 legislation also includes a number of provisions that were designed to increase civil recoveries. For example, the legislation allows regulators to recover assets that were fraudulently conveyed during the 5 years before a financial institution failure. In addition, it allows regulators to freeze the assets of those who may be liable in an institution's failure. The 1990 law also prevents institution-affiliated parties from using bankruptcy to avoid liability, fines, or similar claims, expands Federal civil forfeiture authority, and directs courts to give expedited review to cases the Federal Deposit Insurance Corporation [FDIC] and Resolution Trust Corporation [RTC] bring to recover lost funds.

The 1990 legislation gave regulators, investigators, and prosecutors additional tools and resources to promote recoveries. However, that legislation did not become law until November 29, 1990. FIRREA's statute of limitations clock had already wound halfway down for 218 thrifts by the time we provided those tools. It would be a mistake if we were to give regulators what they need to do the job but not give them enough time.

We need to give them the time they need. That is why this legislation is so important. It will give regulators 2 additional years to prepare and file lawsuits, helping them to cope with the large volume of failures that must be examined and to maximize the recovery of taxpayer dollars.

There is a possibility of significant returns. Just yesterday, the FDIC tentatively accepted a $1.3 billion settlement of claims involving Michael Milken and Drexel, Burnham, Lambert. We will see many more suits filed this year and in the next few years as regulators rush to act before the current statutes of limitations expire. These are significant amounts of funds that we can recover, but we should not force the regulators to rush when we can give them time to more carefully examine each institution and to more carefully make the case for recovering ill-gotten gains. A longer statute of limitations will help regulators use their limited resources more efficiently and carefully and increase the recovery to taxpayers from civil suits related to financial institution failures.

The statute of limitations will expire for hundreds of failed institutions this year. It is imperative that we move quickly on this matter so that all the cases which should be pursued can be pursued. The Resolution Trust Corporation's current spending authority expires April 1 and the Corporation will need additional authority. Because of its urgency, I believe we should include the legislation I am introducing today in the RTC funding proposal at a minimum. I encourage my colleagues to support this legislation and look forward to working with Senator RIEGLE, Senator GARN, and my other colleagues on the Banking Committee to swiftly enact the measure into law.

I also hope that as many of our colleagues as possible might join in supporting this legislation. I cannot imagine they would like to see the statute of limitations run out before we have a chance to pursue much of the ill-gotten-gains that can be recovered for the taxpayers. Let us extend that statute of limitations, Mr. President. It is a very important step to take.

Mr. President, I introduce the legislation at this point and ask unanimous consent the legislation be printed in the RECORD following my remarks, along with a "Dear Colleague" summarizing the legislation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2334

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF STATUTE OF LIMITATIONS.

(a) DEPOSITORY INSTITUTIONS.—Section 11(d)(14)(A)(ii)(I) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(14)(A)(ii)(I)) is amended by striking "3-year period" and inserting "5-year period".

(b) CREDIT UNIONS.—Section 207(b)(14)(A)(ii)(I) of the Federal Credit Union Act (12 U.S.C. 1787(b)(14)(A)(ii)(I)) is amended by striking "3-year period" and inserting "5-year period".

SEC. 2. EFFECTIVE DATE.

The amendments made by section 1 shall be construed to have the same effective date as section 212 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

UNITED STATES SENATE,
Washington, DC, March 9, 1992.

DEAR COLLEAGUE: In recent weeks we've seen an increase in the number of civil lawsuits filed by regulators against individuals and firms associated with failed Savings and Loans (S&Ls). These civil suits—filed against an institutions' directors and officers, accountants, lawyers, and others—will allow taxpayers to recover a portion of the funds lost in the S&L crisis.

Just yesterday, a law firm that represented Lincoln Savings and Loan agreed to a $41 million settlement of a suit filed last week. The FDIC recently rejected a $1.3 billion settlement in a case involving Michael Milken and Drexel, Burnham, Lambert. These sums are a small portion of the overall cost of the S&L crisis but it's important that those who contributed to the problem pay as much as possible to resolve it.

Regulators are scrambling to file lawsuits today because they are running out of time. Generally, these suits must be filed within three years after the Resolution Trust Corporation (RTC) places an institution in conservatorship. The clock has expired for 73 thrifts already this year. Today is the deadline for 45 more failures and next Monday (March 16) is the last day for 46 more S&Ls. Over the next three years, regulators will have to examine the potential for lawsuits related to more than 400 additional thrifts that have already been closed, with hundreds more still to come.

Tomorrow, I plan to introduce legislation that will help regulators maximize the recovery from civil lawsuits by extending the existing three year statute of limitations to five years. The enormous volume of the workload limits the federal government's ability to pursue all of the cases that should be pursued. These cases are often complex and require a great deal of preparation to determine if a claim will be upheld and if resources are available to pay a judgment. We need to provide regulators with adequate time to prepare and file suits.

The statute of limitations expires for hundreds of failed institutions this year. It's important that we act quickly and I will seek to attach this legislation to RTC funding that must be provided by April 1.

If you would like to cosponsor this legislation or wish further information, please do not hesitate to contact me or Mike Perko of my staff at 224-5852.

With best wishes,

Sincerely yours,

TIMOTHY E. WIRTH.

ADDITIONAL COSPONSORS

S. 15

At the request of Mr. BIDEN, the names of the Senator from Texas [Mr. BENTSEN] and the Senator from Virginia [Mr. ROBB] were added as cosponsors of S. 15, a bill to combat violence and crimes against women on the streets and in homes.

S. 21

At the request of Mr. CRANSTON, the name of the Senator from Pennsylvania [Mr. WOFFORD] was added as a cosponsor of S. 21, a bill to provide for the protection of the public lands in the California desert.

S. 405

At the request of Mr. MITCHELL, the name of the Senator from Illinois [Mr.

DIXON] was added as a cosponsor of S. 405, a bill to amend the Harmonized Tariff Schedule of the United States to exclude certain footwear assembled in beneficiary countries from duty-free treatment.

S. 466

At the request of Mr. GRASSLEY, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 466, a bill to amend the Internal Revenue Code of 1986 to provide for a renewable energy production credit, and for other purposes.

S. 588

At the request of Mr. MITCHELL, the name of the Senator from Georgia [Mr. FOWLER] was added as a cosponsor of S. 588, a bill to amend the Internal Revenue Code of 1986 with respect to the tax treatment of certain cooperative service organizations of private and community foundations.

S. 757

At the request of Mr. LEAHY, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 757, a bill to amend the Food Stamp Act of 1977 to respond to the hunger emergency afflicting American families and children, to attack the causes of hunger among all Americans, to ensure an adequate diet for low-income people who are homeless or at risk of homelessness because of the shortage of affordable housing, to promote self-sufficiency among food stamp recipients, to assist families affected by adverse economic conditions, to simplify food assistance programs' administration, and for other purposes.

S. 798

At the request of Mr. CRANSTON, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 798, a bill to amend title 18, United States Code, to provide a criminal penalty for interfering with access to and egress from a medical facility.

S. 891

At the request of Mr. MACK, the names of the Senator from Arizona [Mr. DECONCINI], the Senator from Wyoming [Mr. WALLOP], and the Senator from New Hampshire [Mr. SMITH] were added as cosponsors of S. 891, a bill to amend the Internal Revenue Code of 1986 to provide a refundable credit for qualified cancer screening tests.

S. 914

At the request of Mr. GLENN, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of S. 914, a bill to amend title 5, United States Code, to restore to Federal civilian employees their right to participate voluntarily, as private citizens, in the political processes of the Nation, to protect such employees from improper political solicitations, and for other purposes.

S. 1102

At the request of Mr. MOYNIHAN, the name of the Senator from Pennsylvania [Mr. WOFFORD] was withdrawn as a cosponsor of S. 1102, a bill to amend title XVIII of the Social Security Act to provide coverage of qualified mental health professionals services furnished in community mental health centers.

S. 1423

At the request of Mr. DODD, the names of the Senator from North Dakota [Mr. CONRAD] and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of S. 1423, a bill to amend the Securities Exchange Act of 1934 with respect to limited partnership rollups.

S. 1424

At the request of Mr. CONRAD, the name of the Senator from Pennsylvania [Mr. WOFFORD] was added as a cosponsor of S. 1424, a bill to amend chapter 17 of title 38, United States Code, to require the Secretary of Veterans Affairs to conduct a mobile health care clinic program for furnishing health care to veterans located in rural areas of the United States.

S. 1566

At the request of Mr. PACKWOOD, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 1566, a bill to amend the Internal Revenue Code of 1986 to permit withdrawals without penalty from retirement accounts to purchase first homes, to pay education and medical expenses, or to meet expenses during periods of unemployment, and for other purposes.

S. 1571

At the request of Mr. HOLLINGS, his name was added as a cosponsor of S. 1571, a bill to amend the Federal Railroad Safety Act of 1970 to improve railroad safety, and for other purposes.

S. 1622

At the request of Mr. KENNEDY, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of S. 1622, a bill to amend the Occupational Safety and Health Act of 1970 to improve the provisions of such act with respect to the health and safety of employees, and for other purposes.

S. 1704

At the request of Mr. WALLOP, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 1704, a bill to improve the administration and management of public lands, National Forests, units of the National Park System, and related areas by improving the availability of adequate, appropriate, affordable, and cost effective housing for employees needed to effectively manage the public lands.

S. 1860

At the request of Mr. GRASSLEY, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 1860, a bill to amend part A of title IV of the Social Security Act to remove barriers and disincentives in the program of aid to families with dependent children so as to enable recipients of such aid to move toward self-sufficiency through microenterprises.

S. 1872

At the request of Mr. DURENBERGER, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 1872, a bill to provide for improvements in access and affordability of health insurance coverage through small employer health insurance reform, for improvements in the portability of health insurance, and for health care cost containment, and for other purposes.

S. 1962

At the request of Mr. ADAMS, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of S. 1962, a bill to amend the Civil Rights Act of 1991 to apply the act to certain workers, and for other purposes.

S. 1996

At the request of Mr. ROCKEFELLER, the names of the Senator from Rhode Island [Mr. CHAFEE] and the Senator from North Dakota [Mr. BURDICK] were added as cosponsors of S. 1996, a bill to amend title XVIII of the Social Security Act to provide for uniform coverage of anticancer drugs under the medicare program, and for other purposes.

S. 2059

At the request of Mr. NUNN, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 2059, a bill to establish youth apprenticeship demonstration programs, and for other purposes.

S. 2062

At the request of Mr. KENNEDY, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 2062, a bill to amend section 1977A of the Revised Statutes to equalize the remedies available to all victims of intentional employment discrimination, and for other purposes.

S. 2064

At the request of Mr. HATFIELD, the name of the Senator from Pennsylvania [Mr. WOFFORD] was added as a cosponsor of S. 2064, a bill to impose a one-year moratorium on the performance of nuclear weapons tests by the United States unless the Soviet Union conducts a nuclear weapons test during that period.

S. 2085

At the request of Mr. PRYOR, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 2085, a bill entitled the Federal-State Pesticide Regulation Partnership.

S. 2103

At the request of Mr. GRASSLEY, the names of the Senator from Arizona [Mr. MCCAIN] and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of S. 2103, a bill to amend title XVIII of the Social Security Act to provide for increased medicare reimbursement for nurse practitioners, clinical nurse specialists, and certified nurse midwives, to increase the delivery of health services in health professional shortage areas, and for other purposes.

S. 2104

At the request of Mr. GRASSLEY, the names of the Senator from Arizona [Mr. MCCAIN] and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of S. 2104, a bill to amend title XVIII of the Social Security Act to provide for increased medicare reimbursement for physical assistance, to increase the delivery of health services in health professional shortage areas, and for other purposes.

S. 2106

At the request of Mr. CRANSTON, the names of the Senator from Wyoming [Mr. SIMPSON], the Senator from Florida [Mr. GRAHAM], and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of S. 2106, a bill to grant a Federal charter to the Fleet Reserve Association.

S. 2230

At the request of Mr. BREAUX, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 2230, a bill to amend title XVIII of the Social Security Act to provide coverage of outpatient education services under part B of the medicare program for individuals with diabetes.

S. 2235

At the request of Mr. MOYNIHAN, the name of the Senator from Pennsylvania [Mr. WOFFORD] was added as a cosponsor of S. 2235, a bill to extend until April 1993 the demonstration project under which influenza vaccinations are provided to medicare beneficiaries.

S. 2254

At the request of Mr. MCCAIN, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 2254, a bill to provide tax incentives for businesses locating on Indian reservations, and for other purposes.

S. 2255

At the request of Mr. KENNEDY, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 2255, a bill to amend part D of title IV of the Higher Education Act of 1965 to provide for income dependent education assistance.

S. 2290

At the request of Mr. WIRTH, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of S. 2290, a bill to require public disclosure of examination reports of certain failed depository institutions.

SENATE JOINT RESOLUTION 105

At the request of Mr. D'AMATO, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of Senate Joint Resolution 105, a joint resolution to designate April 14, 1991, to April 21, 1991, and May 3 to May 10, 1992, as "Jewish Heritage Week."

SENATE JOINT RESOLUTION 166

At the request of Mr. DOLE, the names of the Senator from North Dakota [Mr. CONRAD], the Senator from New York [Mr. D'AMATO], and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of Senate Joint Resolution 166, a joint resolution designating the week of October 6 through 12, 1991, as "National Customer Service Week."

SENATE JOINT RESOLUTION 231

At the request of Mr. THURMOND, the names of the Senator from New Jersey [Mr. BRADLEY], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Utah [Mr. GARN], and the Senator from West Virginia [Mr. BYRD] were added as cosponsors of Senate Joint Resolution 231, a joint resolution to designate the month of May 1992, as "National Foster Care Month."

SENATE JOINT RESOLUTION 233

At the request of Mr. BIDEN, the names of the Senator from Texas [Mr. BENTSEN], the Senator from Indiana [Mr. COATS], the Senator from Alabama [Mr. SHELBY], and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of Senate Joint Resolution 233, a joint resolution to designate the week beginning April 12, 1992, as "National Public Safety Telecommunicators Week."

SENATE JOINT RESOLUTION 236

At the request of Mr. D'AMATO, the names of the Senator from Georgia [Mr. FOWLER] and the Senator from Kansas [Mr. DOLE] were added as cosponsors of Senate Joint Resolution 236, a joint resolution designating the third week in September 1992 as "National Fragrance Week."

SENATE JOINT RESOLUTION 255

At the request of Mr. D'AMATO, the names of the Senator from Mississippi [Mr. COCHRAN] and the Senator from Utah [Mr. HATCH] were added as cosponsors of Senate Joint Resolution 255, a joint resolution to designate September 13, 1992 as "Commodore Barry Day."

SENATE JOINT RESOLUTION 257

At the request of Mr. LAUTENBERG, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of Senate Joint Resolution 257, a joint resolution to designate the month of June 1992, as "National Scleroderma Awareness month".

SENATE JOINT RESOLUTION 261

At the request of Mr. CRANSTON, the names of the Senator from Virginia [Mr. WARNER], the Senator from North Dakota [Mr. CONRAD], the Senator from Kentucky [Mr. FORD], the Senator from New Jersey [Mr. BRADLEY], the Senator from Pennsylvania [Mr. SPECTER], and the Senator from Indiana [Mr. LUGAR] were added as cosponsors of Senate Joint Resolution 261, a joint resolution to designate April 9, 1992, as a "Day of Filipino World War II Veterans."

SENATE JOINT RESOLUTION 262

At the request of Mr. KASTEN, the names of the Senator from Maine [Mr. COHEN], the Senator from Kansas [Mrs. KASSEBAUM], and the Senator from Missouri [Mr. BOND] were added as cosponsors of Senate Joint Resolution 262, a joint resolution designating July 4, 1992, as "Buy American Day."

SENATE JOINT RESOLUTION 263

At the request of Mr. SARBANES, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of Senate Joint Resolution 263, a joint resolution to designate May 4, 1992, through May 10, 1992, as "Public Service Recognition Week."

SENATE JOINT RESOLUTION 267

At the request of Mr. D'AMATO, the names of the Senator from New York [Mr. MOYNIHAN], the Senator from Alaska [Mr. MURKOWSKI], and the Senator from Connecticut [Mr. DODD] were added as cosponsors of Senate Joint Resolution 267, a joint resolution to designate March 17, 1992, as "Irish Brigade Day."

SENATE CONCURRENT RESOLUTION 70

At the request of Mr. SANFORD, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of Senate Concurrent Resolution 70, a concurrent resolution to express the sense of the Congress with respect to the support of the United States for the protection of the African elephant.

SENATE CONCURRENT RESOLUTION 89

At the request of Mr. KERRY, the name of the Senator from Arkansas [Mr. PRYOR] was added as a cosponsor of Senate Concurrent Resolution 89, a concurrent resolution to express the sense of the Congress concerning the United Nations Conference on Environment and Development.

SENATE RESOLUTION 236

At the request of Mr. ADAMS, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of Senate Resolution 236, a resolution expressing the sense of the Senate that the President rescind Department of Defense Directive 1332.14, section H.1, which bans gay, lesbian, and bisexual Americans from serving in the Armed Forces of the United States.

SENATE RESOLUTION 246

At the request of Mr. DOLE, the names of the Senator from Texas [Mr. GRAMM], and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of Senate Resolution 246, a resolution on the recognition of Croatia and Solvenia.

SENATE RESOLUTION 266

At the request of Mr. MCCAIN, the names of the Senator from Texas [Mr. GRAMM], the Senator from Wisconsin [Mr. KASTEN], the Senator from Indiana [Mr. COATS], the Senator from New York [Mr. MOYNIHAN], the Senator from South Dakota [Mr. PRESSLER], the Senator from Rhode Island [Mr. PELL], and the Senator from North

Carolina [Mr. SANFORD] were added as cosponsors of Senate Resolution 266, a resolution expressing the sense of the Senate concerning the arms cargo of the North Korean merchant ship *Dae Hung Ho*.

SENATE CONCURRENT RESOLUTION 99—RELATIVE TO TRAVEL TO TAIWAN

Mr. PELL (for himself, Mr. KENNEDY, and Mr. LIEBERMAN) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 99

Whereas the Universal Declaration of Human Rights states that "Everyone has the right . . . to return to his country";

Whereas several hundred thousand individuals who were born on Taiwan reside in the United States;

Whereas significant political reform on Taiwan over the last 4 years has greatly expanded opportunities for political participation on the island;

Whereas the authorities on Taiwan, before the initiation of these political reform measures, refused to permit the return to Taiwan of those Taiwan-born residents of the United States who were opposed to the authorities on Taiwan;

Whereas since 1987 a number of Taiwan-born residents of the United States who were previously excluded from Taiwan have been permitted to return to their homeland; and

Whereas others remain excluded, apparently because political views are not welcome by the authorities on Taiwan: Now, therefore be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that the authorities on Taiwan should permit the return to Taiwan of all current and former citizens who are committed to peaceful change.

• Mr. PELL. Mr. President, today I rise on behalf of Senators KENNEDY and LIEBERMAN and myself to submit a concurrent resolution expressing the sense of the Congress concerning travel to Taiwan.

We have all been impressed by the significant political and economic changes that have occurred in Taiwan over the last few years. The old order is disappearing and a new order is emerging based on free market economics and political pluralism.

These changes could not have been imagined by those of us who have long monitored developments in Taiwan. Recently, a Government task force even recommended revisions in the criminal code eliminating sedition charges against anyone calling for independence of Taiwan. I hope those changes will shortly become law.

A country as mature at Taiwan has become should not fear those who call for independence of their country from the mainland. Whether there is one China or two should be left to the people of Taiwan to determine.

Despite these developments, however, the Taiwanese Government continues to maintain a blacklist of certain Taiwanese living abroad. The Taiwanese on this blacklist, many of whom are American citizens, including government officials, are almost always refused visas to return to their homeland because they advocate self-determination in Taiwan. They have been excluded from visiting the country of their birth or of their ancestors, even for the purpose of attending family reunions, weddings, and funerals.

A country that wants free trade, that depends on open trade for its well-being must also be open to the free exchange of people and, with them, ideas. Taiwan has nothing to fear from the peaceful advocacy of self-determination.

This resolution expresses the sense of the Congress that the authorities on Taiwan should permit the return to Taiwan of all citizens of Taiwan who are committed to peaceful political change. A similar resolution has been introduced in the House by Congressman SOLARZ.

I encourage all of my colleagues to join with me in support of this concurrent resolution.•

SENATE CONCURRENT RESOLUTION 100—RELATIVE TO THE INTERNATIONAL CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES

Mr. LOTT (for himself, Mr. COCHRAN, Mr. CRAIG, Mr. SYMMS, Mr. BURNS, and Mr. HELMS) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 100

SECTION 1. Whereas the Convention on International Trade in Endangered Species (CITES) has convened in Kyoto, Japan, to consider the regulation of international trade of certain species;

Whereas the U.S. Fish and Wildlife Service, representing the United States Government, has proposed placing two species of mahogany (S. mahogani and S. macrophylla) on Appendix II of CITES requiring regulation in commercial trade;

Whereas the U.S. Forest Service, which primarily oversees timber issues, testified that due to the lack of information, input and consensus, a thorough scientific assessment is needed to provide necessary data to support an Appendix II listing, and that an Appendix II listing may actually have a negative impact on the species;

Whereas the U.S. is an active participant in the United Nations-sponsored forty-seven member International Tropical Timber Organization, which through its Target 2000 program calls for all woods in international trade to originate from sustainable sources by the year 2000, and finances extensive education and reforestation efforts both within and without the natural range of both species;

Whereas American importers finance an extensive reforestation effort both within and without the natural range of both species;

Whereas, the listing provides no greater protection of either species for, under the proposal, exporting countries would not be required to implement better resource management programs;

Whereas no credible scientific evidence exists to list this commodity-type species in Appendix II, and further study is necessary to determine how such a widely distributed and traded timber product could be considered endangered;

Whereas a broad range of American businesses, from small cabinet makers, to large lumber companies, to furniture makers, will be severely and adversely affected by said proposal, resulting in the loss of jobs for American workers, and having a disruptive effect on the recovery of the U.S. economy;

Whereas the CITES proposal effectively mandates a priority be placed on environmental regulations of questionable scientific value to the protection of mahogany, without the benefit of thoughtful consideration of the economic impact on the tens of thousands of American families dependent on the industry: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the Sense of Congress that—

(1) the Secretary of the Interior instruct the U.S. delegation at the CITES convention to withdraw its proposal and oppose any proposal adding S. mahogani and S. macrophylla to Appendix II of the CITES endangered species listing; and

(2) the U.S. Forest Service's role in any decision to make such a proposal in the future should be expanded; and

(3) prior to any decision regarding the U.S. position on inclusion of S. mahogani and S. macrophylla to Appendix II of the CITES endangered species list, the Secretary should conduct a study of the domestic jobs impact of any decision to add either species to Appendix II of the endangered species list, and report to the Congress the results of that study at least 60 days prior to any decision implementation.

SEC. 2. The Secretary of the Senate shall transmit a copy of this concurrent resolution to the Secretary of Interior and to the U.S. delegation to the CITES convention in Kyoto, Japan.

SEC. 3. The International Tropical Timber Organization and the Convention on International Trade in Endangered Species should coordinate their efforts.

SENATE RESOLUTION 267—AUTHORIZING TESTIMONY BY A SENATE EMPLOYEE

Mr. MITCHELL (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 267

Whereas, in the case of *United States* v. *Alan Roy Mountain*, No. Cr. No. 91-00006, pending in the United States District Court for the District of Maine, the United States has caused to be issued a subpoena for the testimony of Mary Leblanc, an employee of the Senate on the staff of the Senator Mitchell;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved, That Mary Leblanc is authorized to testify in *United States* v. *Alan Roy Mountain*, except concerning matters for which a privilege should be asserted.

SENATE RESOLUTION 268—RELATIVE TO THE DEATH OF FORMER PRIME MINISTER MENACHEM BEGIN

Mr. McCONNELL (for himself, Mr. McCAIN, Mr. BOND, Mr. SANFORD, Mr. ROBB, Mr. MOYNIHAN, Mr. DURENBERGER, Mr. PACKWOOD, Mr. MURKOWSKI, Mr. SYMMS, Mr. KOHL, Ms. MIKULSKI, Mr. DECONCINI, Mr. SARBANES, Mr. MITCHELL, and Mr. SPECTER) submitted the following resolution; which was considered and agreed to:

S. RES. 268

Whereas Menachem Begin founded the Herut (Freedom) Movement in Israel in 1948;

Whereas, throughout his lifetime, Menachem Begin served to protect and defend Israel as Prime Minister and Minister of Defense;

Whereas, for his leadership and courage in the Camp David Accords in 1978, Menachem Begin received the Nobel Prize for Peace; and

Whereas the people of Israel are mourning the passing of this dedicated patriot: Now, therefore, be it

Resolved, That the Senate expresses its sympathy to the people of the State of Israel regarding the death of former Prime Minister Menachem Begin.

SENATE RESOLUTION 269—AUTHORIZING TESTIMONY BY A SENATE EMPLOYEE

Mr. MITCHELL (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 269

Whereas, in the case of *Standard Federal Savings Bank* v. *Roger B. Taber*, No. 3L-78853, pending in Idaho State Court, the plaintiff has caused to be issued a subpoena for the testimony of Tom Andreason, an employee of the Senate on the staff of Senator Larry Craig;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved, That Tom Andreason is authorized to testify in *Standard Federal Savings Bank* v. *Rober B. Taber, et al.*, except concerning matters for which a privilege should be asserted.

AMENDMENTS SUBMITTED

INDOOR RADON ABATEMENT REAUTHORIZATION ACT

BURDICK AMENDMENT NO. 1702

Mr. LAUTENBERG (for Mr. BURDICK) proposed an amendment to the bill (S. 792) to reauthorize the Indoor Radon Abatement Act of 1988, and for other purposes, as follows:

On page 11, line 5, strike "1991" and insert "1992".

On page 14, line 6, strike "Business" and insert "business".

On page 14, line 24, strike "and".

On page 15, strike line 2 and insert the following: eral agency, and

"(C) is occupied by the Library of Congress, is part of the White House, or is the residence of the Vice President, and

"(D) is included in the definition of "Capitol Buildings' under section 16(a) of the Act entitled 'An Act to define the area of the United States Capitol Grounds, to regulate the use thereof, and for other purposes', approved July 31, 1946 (40 U.S.C. 193m).".

On page 15, line 18 and 19, insert "indoor" before "radon" each place it appears.

On page 16, line 14, strike "(15 U.S.C. 2663(a))".

On page 16, strike lines 15 and 16 and insert the following:

by section 4 of this Act) is amended—

(1) by striking "June 1, 1989," and inserting "January 1, 1992,"; and

(2) by inserting ", in consultation with the Director of the Centers for Disease Control of the Department of Health and Human Services," after "Administrator" in the last sentence of the subsection.

On page 17, line 13, strike "(15 U.S.C. 2663(b)(2))".

On page 17, line 21, strike "(15 U.S.C. 2664)".

On page 17, after line 24, insert the following new subparagraph:

(B) by inserting "and periodically update" after "develop";

On page 18, strike lines 1 and 2 and insert the following new subparagraph:

(C) by striking the second sentence of the section and inserting the following new subsection:

"(b) CONSULTATION.—In developing and updating standards and techniques pursuant to subsection (a), the Administrator shall consult with—

"(1) the Secretary of Housing and Urban Development;

"(2) organizations that are involved in establishing national building construction standards and techniques; and

"(3) national organizations that represent homebuilders and State and local housing agencies (including public housing agencies).";

On page 18, line 3, strike "(C)" and insert "(E)".

On page 18, line 6, strike "(D)" and insert "(F)".

On page 18, line 8, strike "(E)" and insert "(G)".

On page 18, line 11, strike "(15 U.S.C. 2664)".

On page 18, line 17, insert "by" before "not later".

On page 18, line 21, strike "(15 U.S.C. 2664)".

On page 19, line 12, insert "require the use of reasonably available and economically achievable techniques, and to" after "be designed to".

On page 19, line 14, insert "where possible by using these techniques" after "304(b)(1)(C)".

On page 19, line 16, strike "(15 U.S.C. 2664)".

On page 20, lines 8 and 20, strike "(15 U.S.C. 2664)" each place it appears.

On page 21, line 6, strike "(15 U.S.C. 2665(a))".

On page 21, strike lines 10 through 12 and insert "disseminate radon information to State and local tenant organizations.".

On page 22, line 3, strike "certification" and insert "proficiency".

On page 22, line 5, strike "(15 U.S.C. 2665(a)(2))".

On page 22, line 9, strike "(15 U.S.C. 2665(e)(2))".

Beginning on page 22, line 8, strike all through page 23, line 3, and insert the following:

(2) Section 306(e) of the Toxic Substances Control Act (as redesignated by section 4 of this Act) is amended—

(A) by redesignating paragraph (2) as paragraph (2)(A); and

(B) by adding after paragraph (2)(A), as so redesignated, the following new subparagraphs:

"(B)(i) Except as otherwise provided in clause (ii), for the purposes of this paragraph, the term 'small business' means a corporation, partnership, or unincorporated business that—

"(I) has 150 or fewer employees; and

"(II) for the 3-year period preceding the date of the assessment, has an average annual gross revenue from radon measurement and mitigation activities in an amount that does not exceed $40,000,000.

"(ii) If, after consultation with the Small Business Administration, the Administrator determines that a modification of the definition of 'small business' under clause (i) is appropriate to characterize small businesses associated with radon measurement and mitigation, the Administrator shall, by regulation, modify the definition in such manner as the Administrator determines to be appropriate.

"(C) The Administrator shall consider reductions of such charges for small businesses pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

"(D) No charges may be imposed on State and local governments. In the case of a State which is administering a radon proficiency program pursuant to section 314(c), the State may impose charges consistent with charges which would have been imposed by the Administrator. Any amounts collected by a State as charges under this paragraph may be used as part of the non-Federal share of a grant awarded pursuant to section 307 of this title.".

On page 23, line 6, strike "(15 U.S.C. 2666(b))".

On page 23, line 13, strike "(15 U.S.C. 2666(c))".

On page 24, strike line 19 and insert the following: ment pursuant to paragraph (15).

"(17) Educational programs for members of the housing industry concerning the model construction standards and techniques published pursuant to section 305.

"(18) Financial assistance to conduct surveys to improve the precision of priority radon areas.".

On page 24, beginning on line 21, strike "(15 U.S.C. 2666(d))".

On page 25, line 4, strike "(15 U.S.C. 2666(f))".

On page 25, beginning on line 8, strike "(15 U.S.C. 2666(g))".

On page 25, line 23, strike "(15 U.S.C. 2666(h)".

On page 26, line 8, strike "(15 U.S.C. 2666(j))".

On page 26, line 13, strike "(15 U.S.C. 2667)".

On page 27, line 3, insert "in a manner" before "consistent".

On page 27, line 23, strike "the availability of".

On page 28, beginning on line 9, strike "(15 U.S.C. 2668(b))".

On page 28, beginning on line 18, strike "(15 U.S.C. 2669)".

On page 31, line 6, insert "the Secretary of Housing and Urban Development, national organizations that represent State and local housing agencies (including public housing agencies)," before "real estate".

On page 32, line 1, insert "and reliable" before "measurements".

On page 34, line 4, insert "in a manner" before "consistent".

On page 35, line 23, strike "and" and insert a comma.

On page 35, line 23, insert "and the Director of the Centers for Disease Control" before "shall".

On page 38, strike lines 2 though 7 and insert the following: "mitigating elevated radon levels to public housing agencies and Indian housing authorities, as defined in paragraphs (6) and (11), respectively, of section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)), and to owners and managers of other housing assisted under other provisions of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) and the National Housing Act (12 U.S.C. 1701 et seq.).".

On page 38, line 19, after the period, insert an ending quotation mark and a period.

Beginning on page 38, line 20, strike all through page 39, line 19.

On page 40, line 2, strike "is authorized to" and insert "shall".

On page 40, line 3, strike "educational" and insert "education".

On page 40, line 3, insert "and is authorized to enter into cooperative agreements" before "to increase public awareness".

On page 40, line 14, insert "the Director of the National institute for Occupational Safety and Health of the Department of Health and Human Services, in consultation with the" before "Administrator".

On page 40, line 14, insert a comma after "Administrator".

On page 40, line 17, insert "the Director of the National Institute for Occupational Safety and Health of the Department of Health and Human Services and" before "the Administrator".

On page 40, line 18, strike "design" and insert "be jointly responsible for designing".

Beginning on page 40, line 24, strike "The survey" and all that follows through page 41, line 17.

On page 41, line 18, strike "(5)" and insert "(3)".

On page 41, line 19, strike "the Administrator" and insert "the Director of the National Institute for Occupational Safety and Health of the Department of Health and Human Services, in consultation with the Administrator,".

On page 41, beginning on line 22, strike "For the purpose" and all that follows through the period on line 25.

On page 42, line 1, strike "other than paragraph (a)(4)".

On page 43, line 25, insert "or who provides false information concerning compliance with section 305(f) to an appropriate Federal official," before "shall be liable".

Beginning on page 47, strike line 23 and all that follows through page 48, line 3, and insert the following new paragraphs:

"(1) against the United States in any case where the United States is alleged to be in violation of section 305(f), 310, or 316, or any rule promulgated thereunder, to restrain such violation;

"(2) against any person who is alleged to be in violation of section 308, 313, or 314, or any rule promulgated thereunder, to restrain such violation; or

On page 48, line 4, strike "(2)" and insert "(3)".

On page 51, line 13, strike "(15 U.S.C. 2665(f)".

On page 51, lines 15 and 20, strike "and 1994" each place it appears and insert ", 1994, and 1995".

On page 51, line 22, strike "(15 U.S.C. 2666(j))".

On page 52, lines 4, 10, and 25, strike "and 1994" each place it occurs and insert ", 1994, and 1995".

On page 52, line 22, strike "(15 U.S.C. 2668(f))".

Beginning on page 53, strike line 15 and all that follows through page 54, line 2, and insert the following:

(1) in subparagraph (A)—

(A) by inserting "develop and" after "to"; and

(B) adding at the end of the subparagraph the following new sentence: "The demonstration program shall include the development and evaluation of innovative low-cost techniques to reduce radon concentrations in existing structures, including structures with low to moderate radon levels, and in new structures, and the development and demonstration of radon mitigation technology for multistory buildings.".

SMITH (AND OTHERS) AMENDMENT NO. 1703

Mr. SMITH (for himself, Mr. SEYMOUR, and Mr. WALLOP) proposed an amendment to the bill S. 792, supra, as follows:

At the appropriate place, insert the following new section:

"SEC. . Prior to promulgating any national primary drinking water regulation for radionuclides under the Safe Drinking Water Act, the Administrator of the Environmental Protection Agency shall conduct a multimedia risk assessment of radon considering: (a) the relative risk of adverse human health effects associated with various pathways of exposure to radon; (b) the relative costs of controlling or mitigating exposure to radon from each pathway; and (c) the relative costs for radon control or mitigation experienced by households, communities and other entities including the costs experienced by small communities as the result of such regulation. Such an evaluation shall consider the risks posed by the treatment or disposal of any wastes produced by water treatment. Upon completion of this risk assessment, the Administrator shall report his findings to the Senate Committee on Environment and Public Works and the House Committee on Energy and Commerce. Nothing in this section shall modify or be the basis for an extension of any statutory or court-ordered deadline for the promulgation of such regulation.".

WALLOP AMENDMENT NO. 1704

Mr. WALLOP proposed an amendment to the bill S. 792, supra, as follows:

On page 53, between lines 11 and 12, strike the item relating to section 321 and insert the following new items:

"Sec. 321. Citizens suits.

"Sec. 322. Periodic Reassessment of Health Risks.".

On page 55, after line 6, insert the following new section:

SEC. 24. PERIODIC REASSESSMENT OF HEALTH RISKS.

Title III of the Toxic Substances Control Act (15 U.S.C. 2661 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 322. PERIODIC REASSESSMENT OF HEALTH RISKS.

The Administrator, in consultation with the heads of the National Academy of Sciences and the Centers for Disease Control, shall conduct a program to reassess, on a periodic basis, the human health risks associated with radon exposure.".

On page 36, line 4, before the semicolon, insert "and include a summary of scientific evidence that demonstrates the human health effects of exposure to radon".

TAX FAIRNESS AND ECONOMIC GROWTH ACT

SPECTER AMENDMENT NOS. 1705 AND 1706

(Ordered to lie on the table.)

Mr. SPECTER submitted two amendments intended to be proposed by him to the bill (H.R. 4210) to amend the Internal Revenue Code of 1986 to provide incentives for increased economic growth and to provide tax relief for families, as follows:

AMENDMENT NO. 1705

At the appropriate place, insert:

SEC. DEDUCTIBILITY OF EMPLOYER-PROVIDED PARKING SPACE.

(a) AMENDMENT OF INTERNAL REVENUE CODE.—Section 162 of the Internal Revenue Code of 1986 (relating to trade or business expenses) is amended—

(1) by redesignating subsection (m) as subsection (n); and

(2) by inserting after subsection (l) the following new subsection:

"(m) NO DEDUCTION FOR PARKING EXPENSES UNLESS EMPLOYER PROVIDES CASH ALTERNATIVE.

"(1) IN GENERAL.—No deduction shall be allowed under this chapter for any amount paid or incurred by an employer in connection with the providing of a parking subsidy to any employee unless the employer provides the parking subsidy pursuant to an arrangement under which the employee may elect, in lieu of a parking subsidy, to receive cash or a mass transit, car pool, or van pool subsidy in an amount equal to the fair market value of such parking subsidy.

"(2) CASH IN LIEU OF BENEFIT.—For purposes of this subsection (m), cash received by an employee in lieu of a parking subsidy shall be taxable income.

"(3) NO PREEMPTION OF STATE AND LOCAL LAWS.—The provisions of this subsection (m) shall not preempt any state or local laws, ordinances, or regulations promulgated pursuant to the Clean Air Act Amendments of 1990.

"(4) Definition.—For purposes of this subsection (m), the term "parking subsidy" includes the direct and indirect cost to an employer of providing qualified parking to an employee, not including any amount paid by the employee.".

(b) Mass Transit, Car Pool, or Van Pool Subsidy in Lieu of Parking.—For purposes of subsection (a) of this section a mass transit, car pool, or van pool subsidy in lieu of a parking subsidy shall be taxable in accordance with section 2513 of this Act.

(c) Qualified Parking.—For the purposes of subsection (a) of this section, the term "qualified parking" shall have the meaning set forth in section 2513 of this Act and shall be taxable in accordance with section 2513 of this Act.

(d) Effective Date.—The amendment made by this subsection (a) shall apply to taxable years beginning after December 31, 1992.

(e) Parking Subsidy Formula.—By December 31, 1992, the Internal Revenue Service shall in conjunction with the Department of Transportation develop a formula for estimating the value of parking places provided in employer owned parking facilities.

Amendment No. 1706

On page 1421, after line 17, insert the following new title:

TITLE VI—HOME EQUITY CONVERSIONS

SEC. 601. SHORT TITLE.

That this Act may be cited as the "Home Equity Conversions Act of 1992".

SEC. 602. DEPRECIATION IN SALE-LEASEBACK TRANSACTIONS.

Section 167 of the Internal Revenue Code of 1986 (relating to depreciation) is amended by adding at the end thereof the following new subsection:

"(g) Sale-Leaseback Transactions.—

"(1) In general.—In the case of property involved in a sale-leaseback transaction, the purchaser-lessor shall be recognized as the absolute owner of the property, and the deduction shall be allowed to the purchaser-lessor.

"(2) Definitions.—For purposes of this subsection—

"(A) Sale-leaseback.—The term 'sale-leaseback' shall include a transaction in which—

"(i) the seller-lessee—

"(I) has attained the age of 55 before the date of such transaction,

"(II) sells property which during the 5-year period ending on the date of the transaction has been owned and used as a principal residence by such seller-lessee for periods aggregating 3 years or more,

"(III) obtains occupancy rights in such property pursuant to a written lease requiring a fair rental, and

"(IV) receives no option to repurchase the property at a price less than the fair market price of the property unencumbered by any leaseback at the time such option is exercised, and

"(ii) the purchaser-lessor—

"(I) is a person,

"(II) is contractually responsible for the risks and burdens of ownership and receives the benefits of ownership (other than the seller-lessee's occupancy rights) after the date of such transaction, and

"(III) pays a purchase price for the property that is not less than the fair market price of such property encumbered by a leaseback, and taking into account the terms of the lease.

"(B) Occupancy rights.—The term 'occupancy rights' means the right to occupy the property for any period of time, including a period of time measured by the life of the seller-lessee on the date of the sale-leaseback transaction (or the life of the surviving seller-lessee, in the case of jointly-held occupancy rights), or a periodic term subject to a continuing right of renewal by the seller-lessee (or by the surviving seller-lessee, in the case of jointly-held occupancy rights).

"(C) Fair rental. For purposes of paragraph (2)(A)(i)(III), the term 'fair rental' shall include a rental for any subsequent year which equals or exceeds the rental for the first year of a sale-leaseback transaction.

SEC. 603. CAPITAL GAINS EXCLUSION IN SALE-LEASEBACK TRANSACTIONS.

Subsection (d) of section 121 of the Internal Revenue Code of 1986 (relating to one-time exclusion of gain from sale of principal residence by individual who has attained age 55) is amended by adding at the end thereof the following new paragraph:

"(10) Sale or exchange defined.—For purposes of this section, the term 'sale or exchange' shall include a sale-leaseback transaction (as defined in section 167(g)).".

SEC. 604. INCOME IN SALE-LEASEBACK TRANSACTION.

(a) Gross Income.—Part III of subchapter B of chapter 1 of subtitle A of the Internal Revenue Code of 1986 (relating to items specifically excluded from gross income) is amended by inserting after section 121 the following new section:

"SEC. 121A. INCOME IN SALE-LEASEBACK TRANSACTIONS.

"Gross income to the seller-lessee or the purchaser-lessor in a sale-leaseback transaction (as defined in section 167(g)) does not include any value of occupancy rights or discount from the fair market price of the property unencumbered by any leaseback, which is attributable to any leaseback.".

(b) Gain or Loss.—Subsection (b) of section 1001 of such Code is amended—

(1) by striking "and" at the end of paragraph (1),

(2) by striking the period at the end of paragraph (2) and inserting ", and", and

(3) by inserting after paragraph (2) the following new paragraph:

"(3) in the case of a sale-leaseback transaction (as defined in section 167(g))—

"(A) there shall not be taken into account any value of occupancy rights or discount from the fair market price of the property unencumbered by any leaseback, which is attributable to any leaseback, and

"(B) there shall be taken into account the cost of any annuity purchased for a seller-lessee by a purchaser-lessor.".

(c) Clerical Amendment.—The table of sections for part III of subchapter B of chapter 1 of subtitle A of such Code is amended by inserting after the item relating to section 121 the following new item:

"Sec. 121A. Income in sale-leaseback transactions.".

SEC. 605. INSTALLMENT SALES IN SALE-LEASEBACK TRANSACTIONS.

Section 453 of the Internal Revenue Code of 1986 (relating to installment method) is amended by adding at the end thereof the following new subsection:

"(m) Application With Section 167(I).—

"(1) In general.—In the case of an installment sale in a sale-leaseback transaction (as defined in section 167(g)), subsection (a) shall apply.

"(2) Special rule for annuities.—In the case of an annuity purchased for the seller-lessee by the purchaser-lessor in a sale-leaseback transaction, the purchase cost of such annuity shall constitute the amount of consideration received by such seller-lessee attributable to such annuity and shall be deemed received in the year of disposition.".

SEC. 606. BASIS OF ANNUITY RECEIVED IN SALES-LEASEBACK TRANSACTION.

Subparagraph (A) of section 72(c)(1) of the Internal Revenue Code of 1986 (relating to annuities) is amended by inserting before the comma "(including such amount paid by a purchaser-lessor in a sale-leaseback transaction as defined in section 167(g))".

SEC. 607. SALE-LEASEBACK TRANSACTION ENGAGED IN FOR PROFIT.

(a) For Profit Presumption.—Section 183 of the Internal Revenue Code of 1986 (relating to activities not engaged in for profit) is amended—

(1) by striking "If" in subsection (d) and inserting "(1) In general.—If",

(2) by inserting after paragraph (1) of subsection (d) (as designated by paragraph (1)) the following new paragraph:

"(2) Sale-leaseback transaction.—Any sale-leaseback transaction (as defined in section 167(g)), unless the Secretary establishes to the contrary, shall be presumed for purposes of this chapter to be an activity engaged in for profit.", and

"(3) by inserting '(1)' after 'subsection (d)' each place it appears in subsection (e).".

(b) Use of Dwelling Unit.—Paragraph (3) of section 280A(d) of such Code (relating to disallowance of certain expenses in connection with business use of home, rental of vacation homes, etc.) is amended by adding at the end thereof the following new subparagraph:

"(E) Fair rental in a sale-leaseback transaction.—Any rental that constitutes a fair rental in a sale-leaseback transaction pursuant to section 167(g)(2)(C) shall be treated as a fair rental for purposes of subparagraph (A).".

SEC. 608. ACCELERATED COST RECOVERY SYSTEM IN SALE-LEASEBACK TRANSACTIONS.

Subparagraph (A) of section 168(f)(5) of the Internal Revenue Code of 1986 (relating to certain property placed in service in churning transactions) is amended by inserting "(except property acquired by the taxpayer in a sale-leaseback transaction as defined in section 167(g))" after "Property".

SEC. 609. EFFECTIVE DATE.

The amendments made by this title shall apply to sales after the date of the enactment of this Act, in taxable years ending after such date. Enactment of this title shall not raise any presumption that sales occurring prior to such enactment should not be treated as valid sales-leaseback transactions.

SPECTER (AND DOMENICI) AMENDMENT NO. 1707

(Ordered to lie on the table.)

Mr. Specter (for himself and Mr. Domenici) submitted an amendment intended to be proposed by them to the bill H.R. 4210, supra, as follows:

At the appropriate place, insert:

SEC. . PENALTY-FREE WITHDRAWALS FROM PENSION PLANS THROUGH 1992.

(a) In General.—In the case of any qualified withdrawal—

(1) no additional tax shall be imposed under section 72(t)(1) of the Internal Revenue Code of 1986 with respect to such qualified withdrawal, and

(2) except as provided in subsection (b), any amount includible in gross income by reason of such qualified withdrawal (determined without regard to this section) shall be includible ratably over the 4-taxable year period beginning with the taxable year in which such qualified withdrawal occurs.

(b) ELECTION TO RECONTRIBUTE TO PLAN.—

(1) IN GENERAL.—The amount required to be included in gross income for any taxable year under subsection (a)(2) shall be reduced by any designated recontribution.

(2) DESIGNATED RECONTRIBUTION.—For purposes of paragraph (1), a designated recontribution is any contribution to any plan described in subsection (c)(1)(B)—

(A) which the taxpayer designates (in such manner as the Secretary of the Treasury may prescribe) as in lieu of all (or any portion of) any amount required to be included in gross income under subsection (a)(2) for a taxable year, and

(B) which is made not later than the due date (without extensions) for such taxable year.

(3) NO DEDUCTION ALLOWED FOR RECONTRIBUTION, ETC.—For purposes of the Internal Revenue Code of 1986, a designated recontribution shall not be treated as a contribution for any taxable year.

(c) LIMITATION BASED ON ADJUSTED GROSS INCOME.—

(1) IN GENERAL.—Subsection (a) shall not apply to any taxpayer if the adjusted gross income of the taxpayer for the taxpayer's first taxable year beginning in 1991 exceeds—

(A) $100,000 in the case of married individuals filing a joint return,

(B) $50,000 in the case of a married individual filing a separate return, and

(C) $75,000 in the case of any other taxpayer.

(2) SPECIAL RULE FOR GRANDPARENTS AND PARENTS.—If a withdrawal is used to pay qualified acquisition costs of a first-time homebuyer who is the child or grandchild of a taxpayer, paragraph (1) shall be applied by reference to the adjusted gross income of the child or grandchild (and, if applicable, their spouse).

(d) QUALIFIED WITHDRAWAL.—For purposes of this section—

(1) IN GENERAL.—The term "qualified withdrawal" means any payment or distribution—

(A) which is made to an individual during 1992,

(B) which is made from—

(i) an individual retirement plan (as defined in section 7701(a)(37) of the Internal Revenue Code of 1986) established for the benefit of the individual, or

(ii) amounts attributable to employer contributions made on behalf of the individual pursuant to elective deferrals described in section 402(g)(3) (A) or (C) or 501(c)(18)(D)(iii) of such Code, and

(C) which is used by the individual for a qualified acquisition not later than the earlier of—

(i) the date which is 6 months after the date of such payment or distribution, or

(ii) the date on which the individual files the individual's income tax return for the taxable year in which such payment or distribution occurs.

(2) QUALIFIED ACQUISITION.—The term "qualified acquisition" means—

(A) the payment of qualified acquisition costs with respect to a principal residence of a first-time homebuyer who is the taxpayer or the child or grandchild of the taxpayer, or

(B) the purchase of a new passenger automobile.

(C) DOLLAR LIMITATION.—The aggregate amount which may be treated as qualified withdrawals under paragraph (1) with respect to all plans and amounts of an individual described in subsection (c)(1)(B) shall not exceed $10,000.

(4) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

(A) QUALIFIED ACQUISITION COSTS.—The term "qualified acquisition costs" means the costs of acquiring, constructing, or reconstructing a residence. Such term includes any usual or reasonable settlement, financing, or other closing costs associated with such qualified acquisition costs.

(B) FIRST-TIME HOMEBUYER; OTHER DEFINITIONS.—

(i) FIRST-TIME HOMEBUYER.—The term "first-time homebuyer" means any individual if such individual (and if married, such individual's spouse) had no present ownership interest in a principal residence during the 2-year period ending on the date of acquisition of the principal residence to which this paragraph applies.

(ii) PRINCIPAL RESIDENCE.—The term "principal residence" has the same meaning as when used in section 1034.

(iii) DATE OF ACQUISITION.—The term "date of acquisition" means the date—

(I) on which a binding contract to acquire the principal residence to which this subsection applies is entered into, or

(II) on which construction or reconstruction of such a principal residence is commenced.

(C) SPECIAL RULE WHERE DELAY IN ACQUISITION.—If—

(i) Any amount is paid or distributed from an individual retirement plan to an individual for purposes of being used as provided in paragraph (1), and

(ii) by reason of a delay in the acquisition of the residence, the requirements of paragraph (1) cannot be met,

the amount so paid or distributed may be paid into an individual retirement plan as provided in section 408(d)(3)(A)(i) of the Internal Revenue Code of 1986 without regard to section 408(d)(3)(B) of such Code, and, if so paid into such other plan, such amount shall not be taken into account in determining whether section 408(d)(3)(A)(i) of such Code applies to any other amount.

(D) DISTRIBUTION RULES.—Any qualified withdrawal shall not be treated as failing to meet the requirements of sections 401(k)(2)(B)(i) or 403(b)(11) of such Code.

(e) ORDERING RULES FOR INCOME TAX PURPOSES.—For purposes of the Internal Revenue Code of 1986—

(1) all plans and amounts described in subsection (c)(1)(B) with respect to an individual shall be treated as one plan, and

(2) qualified withdrawals from such plan shall be treated as made—

NOTICES OF HEARINGS

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BUMPERS. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources.

The hearing will take place on Thursday, March 26, 1992, beginning at 2 p.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on the following bills currently pending before the subcommittee. The bills are:

S. 1439, to authorize and direct the Secretary of the Interior to convey certain lands in Livingston Parish, Louisiana;

S. 1663, to amend the act of May 17, 1954, relating to the Jefferson National Expansion Memorial, to authorize increased funding for the East Saint Louis portion of the Memorial, and for other purposes;

S. 1664, to establish the Keweenaw National Historical Park, and for other purposes;

S. 2079, to establish the Marsh-Billings National Historical Park in the State of Vermont, and for other purposes; and

H.R. 2790, to withdraw certain lands located in the Coronado National Forest from the mining and mineral leasing laws of the United States, and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, anyone wishing to submit written testimony to be included in the hearing record is welcome to do so. Those wishing to submit written testimony should send two copies to the Subcommittee on Public Lands, National Parks and Forests, Committee on Energy and Natural Resources, 304 Dirksen Senate Office Building, Washington, DC 20510.

For further information regarding the hearing, please contact David Brooks of the subcommittee staff at (202) 224-9863.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Tuesday, March 10, 1992, at 10:30 a.m., for a hearing on Secretary Martin and Department of Labor regulatory policy.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, March 10, 1992, at 10 a.m., to hold a hearing on strategic nuclear reductions in a post-cold war world.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, March 10, 1992, at 3 p.m., to hold an open confirmation hearing on Vice Adm. William O. Studeman to be Deputy Director of Central Intelligence.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CHILDREN, FAMILY, DRUGS AND ALCOHOLISM

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Children, Family, Drugs and Alcoholism of the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Tuesday, March 10, 1992, at 9:30 a.m., for a hearing on the common good: forging public-private partnerships for the new economy.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

FAREWELL TO JOSEPH VERNER REED

• Mr. DODD. Mr. President, I would like to give special recognition to Ambassador Joseph Verner Reed, who served as the U.S. Chief of Protocol from February, 1989 to October, 1991. As Chief of Protocol, Ambassador Reed acted on behalf of the United States as host to all foreign ambassadors. Through his innovative brand of diplomacy, he successfully brought together representatives from all over the world and integrated them into the political life of this country. He was particularly known for his warmth and hospitality toward foreign visitors.

Ambassador Reed has departed Washington for his new post as Public Delegate to the United Nations. He will be sorely missed by all who were familiar with his own special approach to matters of protocol and the art of diplomacy.

For these reasons, I would like to call attention to a very insightful column about Ambassador Reed, entitled "Diplomacy delivered with a smile," that was written by the distinguished syndicated columnist, Georgie Anne Geyer. This column very eloquently depicts the rare and warm diplomacy that characterized Ambassador Reed's tenure as Chief of Protocol. I would urge my colleagues to read it. Mr. President, I would ask unanimous consent that the column be printed in the RECORD at this point.

In conclusion, I wish to thank Ambassador Reed for his service to our country, and to wish him well in his new endeavors.

DIPLOMACY DELIVERED WITH A SMILE

(By Georgie Anne Geyer)

Even the best of American diplomats leave Washington in a farewell aura of gray respectability. Genuine wit, much less a healthy sense of mischievousness, is harder to come by here than a Quaker prayer in a Baghdad mosque.

So, when U.S. Chief of Protocol Joseph Verner Reed leaves this month, the nation's capital will be losing its most irreplaceable human spirit, a man who has been the Bush administration's first face and first handshake to the foreign diplomatic world.

"The art of protocol is to set the stage for diplomacy, where diplomats can conduct foreign affairs. If that stage is not carefully scripted and cadenced, you have a recipe for disaster"—this is one of his many serious and wise observations on his world.

But perhaps the better measure of this "different" (to put it mildly) diplomat can be taken in ways seldom considered around here. "Of course, this is show biz," this man who is responsible for the hospitality for all foreign diplomats and guests mused with me recently. "But politics is show biz. To set the stage for a state visit is La Scala!"

On every level, Ambassador Joseph Reed's nearly three years here have indeed played like a production at La Scala. He is perfectly capable of waltzing into lunch at Blair House for African diplomats in an African robe, delighting most and jarring some. He dispatches his own "Joseph's Jelly" with funny cards to special friends. (If you don't get the jelly, you still might get one of the gold pens with his name on it.) He obviously delights in his cornucopia of 21 decorations (at last count, who knows what today will bring?) from foreign governments around the globe.

The 54-year-old Mr. Reed immediately attracts attention with his rangy slimness (6 foot 3 inches) and his engaging, encompassing smile. Physically, he is a kind of cross between Prince Philip and the Tin Woodman, his elegantly cut Savile Row suits emblazoned by elegant medals and rosettes from smaller countries like Niger and Mali.

The inborn theatricality—which somehow sprang out of a patrician upbringing in Greenwich, Conn., and some years working as chief of staff for David Rockefeller—elicits snickers among some "serious" Washingtonians. He is sometimes criticized for his bedevilment (and his bemedalment).

But when one watches him and analyzes this rare diplomacy of his, one wonders whether in such a different view of diplomacy a true seriousness might not be found.

Mr. Reed could have come to Washington from his ambassadorship to Morocco and from his subsequent job as an undersecretary at the United Nations and done the usual formal protocol job of cultivating the "big" countries. Instead, he immediately cultivated and invited to luncheons at Blair House the Third World diplomats who have most often been left on their own in Washington. Having worked on the major U.N. "special session" on Africa in 1986 and having crisscrossed the continent because of it, he has been particularly close to the African ambassadors.

"I came to the position with a determined plan to bring the various regions of the world together," he told me. "What I tried to do with the Blair House luncheons was to mix the regions—lunch, briefings, coffee. The ambassador from Mauritius had been here a total of 23 years, for instance, and he had never been to a Fourth of July celebration." (Not surprisingly, Mr. Reed gave a Fourth of July party for the diplomats, complete with hot dogs and an ice cream truck.)

Overseeing "the maintenance, care and concern for 228,000 diplomats and their families in the United States is like being the leader of a fairly good-sized town," he said.

Or, as a close friend summed up with admiration, "Joseph treats everybody equally and makes everyone feel good."

Making everybody feel good has not, however, meant doing everything perfectly: One premier faux pas occurred when Queen Elizabeth II visited in the spring and only the queen's big hat was visible over the lectern as she addressed a crowd outside the White House. Someone had forgotten to put a stool there for her to step onto, but after genteelly taking the blame, he immediately came back with the big smile and said, "I thought her hat was so beautiful. I wanted all of Washington to see it."

Mr. Reed becomes this month America's "public delegate" to the United Nations he served and loved before. Surely there will be more decorations (indeed, a French Legion of Honor is in the works). But what Joseph Reed will be remembered more for here, at least by many of us, is his merriment about the world—in the end, a serious merriment that served his country well.•

LETTER TO SUPREME COURT JUSTICE CLARENCE THOMAS

• Mr. SIMON. Mr. President, rarely have I read a more eloquent or more moving article than the open letter addressed to Justice Clarence Thomas from the retired chief judge of the U.S. Court of Appeals for the Third Circuit, Judge A. Leon Higginbotham, Jr. It appeared in the University of Pennsylvania Law Review of January.

Judge Higginbotham is known to most of us as one of the pioneering African-American judges on the Federal courts.

I had always had an excellent impression of Judge Higginbotham, but I frankly did not know or understand his eloquence, passion, and scholarship as thoroughly as I should have.

I could comment on specifics in his open letter to Justice Thomas, but it would detract from the document itself.

I ask that the letter from Judge Higginbotham be printed in the RECORD at this point.

The letter follows:

AN OPEN LETTER TO JUSTICE CLARENCE THOMAS FROM A FEDERAL JUDICIAL COLLEAGUE

(By A. Leon Higginbotham, Jr.*)

DEAR JUSTICE THOMAS: The President has signed your Commission and you have now become the 106th Justice of the United States Supreme Court. I congratulate you on this high honor!

It has been a long time since we talked. I believe it was in 1980 during your first year as a Trustee at Holy Cross College. I was there to receive an honorary degree. You were thirty-one years old and on the staff of Senator John Danforth. You had not yet started your meteoric climb through the government and federal judicial hierarchy. Much has changed since then.

At first I thought that I should write you privately—the way one normally corresponds with a colleague or friend. I still feel ambivalent about making this letter public but I do so because your appointment is profoundly important to this country and the world, and because all Americans need to understand the issues you will face on the Supreme Court. In short, Justice Thomas, I write this letter as a public record so that this generation can understand the challenges you face as an Associate Justice to the Supreme Court, and the next can evaluate the choices you have made or will make.

The Supreme Court can be a lonely and insular environment. Eight of the present Justices' lives would not have been very dif-

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Footnotes at end of article.

ferent if the Brown case had never been decided as it was. Four attended Harvard Law School, which did not accept women law students until 1950.[1] Two attended Stanford Law School prior to the time when the first Black matriculated there.[2] None has been called a "nigger"[3] or suffered the acute deprivations of poverty.[4] Justice O'Connor is the only other Justice on the Court who at one time was adversely affected by a white-male dominated system that often excludes both women and minorities from equal access to the rewards of hard work and talent.

By elevating you to the Supreme Court, President Bush has suddently vested in you the option to preserve or dilute the gains this country has made in the struggle for equality. This is a grave responsibility indeed. In order to discharge it you will need to recognize what James Baldwin called the "force of history" within you.[5] You will need to recognize that both your public life and your private life reflect this country's history in the area of racial discrimination and civil rights. And, while much has been said about your admirable determination to overcome terrible obstacles, it is also important to remember how you arrived where you are now, because you did not get there by yourself.

When I think of your appointment to the Supreme Court, I see not only the result of your own ambition, but also the culmination of years of heartbreaking work by thousands who preceded you. I know you may not want to be burdened by the memory of their sacrifices. But I also know that you have no right to forget that history. Your life is very different from what it would have been had these men and women never lived. That is why today I write to you about this country's history of civil rights lawyers and civil rights organizations; its history of voting rights; and its history of housing and privacy rights. This history has affected your past and present life. And forty years from now, when your grandchildren and other Americans measure your performance on the Supreme Court, that same history will determine whether you fulfilled your responsibility with the vision and grace of the Justice whose seat you have been appointed to fill: Thurgood Marshall.

1. Measures of Greatness or Failure of Supreme Court Justices

In 1977 a group of one hundred scholars evaluated the first one hundred justices on the Supreme Court.[6] Eight of the justices were categorized as failures, six as below average, fifty-five as average, fifteen as near great and twelve as great.[7] Among those ranked as great were John Marshall, Joseph Story, Roger B. Taney, John M. Harlan, Oliver Wendell Holmes, Jr., Charles E. Hughes, Louis D. Brandeis, Harlan F. Stone, Benjamin N. Cardozo, Hugo L. Black, and Felix Frankfurter.[8] Because you have often criticized the Warren Court,[9] you should be interested to know that the list of great jurists on the Supreme Court also included Earl Warren.[10]

Even long after the deaths of the Justices that I have named, informed Americans are grateful for the extraordinary wisdom and compassion they brought to their judicial opinions. Each in his own way viewed the Constitution as an instrument for justice. They made us a far better people and this country a far better place. I think that Justices Thurgood Marshall, William J. Brennan, Harry Blackmun, Lewis Powell, and John Paul Stevens will come to be revered by future scholars and future generations with the same gratitude. Over the next four decades you will cast many historic votes on issues that will profoundly affect the quality of life for our citizens for generations to come. You can become an exemplar of fairness and the rational interpretation of the Constitution, or you can become an archetype of inequality and the retrogressive evaluation of human rights. The choice as to whether you will build a decisional record of true greatness or of more mediocrity is yours.

II. OUR MAJOR SIMILARITY

My more than twenty-seven years as a federal judge made me listen with intense interest to the many persons who testified both in favor of and against your nomination. I studies the hearings carefully and afterwards pondered your testimony and the comments others made about you. After reading almost every word of your testimony, I concluded that what you and I have most in common is that we are both graduates of Yale Law School. Though our graduation classes are twenty-two years apart, we have both benefitted from our old Eli connections.

If you had gone to one of the law schools in your home state, Georgia, you probably would not have met Senator John Danforth who, more than twenty years ago, served with me as a member of the Yale Corporation. Dean Guido Calabresi mentioned you to Senator Danforth, who hired you right after graduation from law school and became one of your primary sponsors. If I had not gone to Yale Law School, I would probably not have met Justice Curtis Bok, nor Yale Law School alumni such as Austin Norris, a distinguished black lawyer, and Richardson Dilworth, a distinguished white lawyer, who became my mentors and gave me my first jobs. Nevertheless, now that you sit on the Supreme Court, there are issues far more important to the welfare of our nation than our Ivy League connections. I trust that you will not be overly impressed with the fact that all of the other Justices are graduates of what laymen would call the nation's most prestigious law schools.

Black Ivy League alumni in particular should never be too impressed by the educational pedigree of Supreme Court Justices. The most wretched decision ever rendered against black people in the past century was Plessy v. Ferguson.[11] It was written in 1896 by Justice Henry Billings Brown, who had attended both Yale and Harvard Law Schools. The opinion was joined by Justice George Shiras, a graduate of Yale Law School, as well as by Chief Justice Melville Fuller and Justice Horace Gray, both alumni of Harvard Law School.

If those four Ivy League alumni on the Supreme Court in 1896 had been as faithful in their interpretation of the Constitution as Justice John Harlan, a graduate of Transylvania, a small law school in Kentucky, then the venal precedent of Plessy v. Ferguson, which established the federal "separate but equal" doctrine and legitimized the worst forms of race discrimination, would not have been the law of our nation for sixty years. The separate but equal doctrine, also known as Jim Crow, created the foundations of separate and unequal allocation of resources, and oppression of the human rights of Blacks.

During your confirmation hearing I heard you refer frequently to your grandparents and your experiences in Georgia. Perhaps now is the time to recognize that if the four Ivy League alumni—all northerners—of the *Plessy* majority had been as sensitive to the plight of black people as was Justice John Harlan, a former slave holder from Kentucky,[12] the American statutes that sanctioned racism might not have been on the books—and many of the racial injustices that your grandfather, Myers Anderson, and my grandfather, Moses Higginbotham, endured would never have occurred.

The tragedy with *Plessy v. Ferguson*, is not that the Justices had the "wrong" education, or that they attended the "wrong" law schools. The tragedy is that the Justices had the wrong *values*, and that these values poisoned this society for decades. Even worse, millions of Blacks today still suffer from the tragic sequelae of *Plessy*—a case which Chief Justice Rehnquist,[13] Justice Kennedy,[14] and most scholars now say was wrongly decided.[15]

As you sit on the Supreme Court confronting the profound issues that come before you, never be impressed with how bright your colleagues are. You must always focus on what *values* they bring to the task of interpreting the Constitution. Our Constitution has an unavoidable—though desirable—level of ambiguity, and there are many interstitial spaces which as a Justice of the Supreme Court you will have to fill in.[16] To borrow Justice Cardozo's elegant phrase: "We do not pick our rules of law full blossomed from the trees."[17] You and the other Justices cannot avoid putting your imprimatur on a set of values. The dilemma will always be which particular values you choose to sanction in law. You can be part of what Chief Justice Warren, Justice Brennan, Justice Blackmun, and Justice Marshall and others have called the evolutionary movement of the Constitution[18]—an evolutionary movement that has benefited you greatly.

III. YOUR CRITIQUES OF CIVIL RIGHTS ORGANIZATIONS AND THE SUPREME COURT DURING THE LAST EIGHT YEARS

I have read almost every article you have published, every speech you have given, and virtually every public comment you have made during the past decade. Until your confirmation hearing I could not find one shred of evidence suggesting an insightful understanding on your part on how the evolutionary movement of the Constitution and the work of civil rights organizations have benefited you. Like Sharon McPhail, the President of the National Bar Association, I kept asking myself: Will the Real Clarence Thomas Stand Up?[19] Like her, I wondered: "Is Clarence Thomas a 'conservative with a common touch' as Ruth Marcus refers to him . . . or the 'counterfeit hero' he is accused of being by Haywood Burns . . . ?"[20]

While you were a presidential appointee for eight years, as Chairman of the Equal Opportunity Commission and as an Assistant Secretary of the Department of Education, you made what I would regard as unwarranted criticisms of civil rights organizations,[21] the Warren Court,[22] and even of Justice Thurgood Marshall.[23] Perhaps these criticisms were motivated by what you perceived to be your political duty to the Reagan and Bush administrations. Now that you have assumed what should be the nonpartisan role of a Supreme Court Justice, I hope you will take time out to carefully evaluate some of these unjustified attacks.

In October 1987, you wrote a letter to the San Diego Union & Tribune criticizing a speech given by Justice Marshall on the 200th anniversary celebration of the Constitution.[24] Justice Marshall had cautioned all Americans not to overlook the momentous events that followed the drafting of that document, and to "seek . . . a sensitive understanding of the Constitution's inherent defects, and its promising evolution through 200 years of history."[25]

Your response dismissed Justice Marshall's "sensitive understanding" as an "exasperating and incomprehensible . . . assault on the Bicentennial, the Founding, and the Constitution itself."[26] Yet, however high and noble the Founders' intentions may have been, Justice Marshall was correct in believing that the men who gathered in Philadelphia in 1787 "could not have imagined, nor would they have accepted, that the document they were drafting would one day be construed by a Supreme Court to which had been appointed a woman and the descendant of an African slave."[27] That, however, was neither an assault on the Constitution nor an indictment of the Founders. Instead, it was simply a recognition that in the midst of the Bicentennial celebration, "[s]ome may more quietly commemorate the suffering, the struggle and sacrifice that has triumphed over much of what was wrong with the original document, and observe the anniversary with hopes not realized and promises not fulfilled."[28]

Justice Marshall's comments, much like his judicial philosophy, were grounded in history and were driven by the knowledge that even today, for millions of Americans, there still remain "hopes not realized and promises not fulfilled." His reminder to the nation that patriotic feelings should not get in the way of thoughtful reflection on this country's continued struggle for equality was neither new nor misplaced.[29] Twenty-five years earlier, in December 1962, while this country was celebrating the 100th anniversary of the emancipation proclamation, James Baldwin had written to his young nephew:

"This is your home, my friend, do not be driven from it; great men have done great things here, and will again, and we can make America what America must become. . . . [But y]ou know, and I know that the country is celebrating one hundred years of freedom one hundred years too soon."[30]

Your response to Justice Marshall's speech, as well as your criticisms of the Warren court and civil rights organizations, may have been nothing more than your expression of allegiance to the conservatives who made you Chairman of the EEOC, and who have now elevated you to the Supreme Court. Buy your comments troubled me then and trouble me still because they convey a stunted knowledge of history and an unformed judicial philosophy. Now that you sit on the Supreme Court you must sort matters out for yourself and form your own judicial philosophy, and you must reflect more deeply on legal history than you ever have before. You are no longer privileged to offer flashy one-liners to delight the conservative establishment. Now what you write must inform, not entertain. Now your statements and your votes can shape the destiny of the entire nation.

Notwithstanding the role you have played in the past, I believe you have the intellectual depth to reflect upon and rethink the great issues the Court has confronted in the past and to become truly your own man. But to be your own man the first in the series of questions you must ask yourself is this: Beyond your own admirable personal drive, what were the primary forces or acts of good fortune that made your major achievements possible? This is a hard and difficult question. Let me suggest that you focus on at least four areas: (a) the impact of the work of civil rights lawyers and civil rights organizations on your life; (2) other than having picked a few individuals to be their favorite colored person, what it is that the conservatives of each generation have done that has been of significant benefit to African-Americans, women, or other minorities; (3) the impact of the eradication of racial barriers in the voting on your own confirmation; and (4) the impact of civil rights victories in the area of housing and privacy on your personal life.

IV. THE IMPACT OF THE WORK ON CIVIL RIGHTS LAWYERS AND CIVIL RIGHTS ORGANIZATIONS ON YOUR LIFE

During the time when civil rights organizations were challenging the Reagan Administration, I was frankly dismayed by some of your responses to and denigrations of these organizations. In 1984, the Washington Post reported that you had criticized traditional civil rights leaders because, instead of trying to reshape the Administration's policies, they had gone to the news media to "bitch, bitch, bitch, moan and moan, whine and whine."[31] If that is still your assessment of these civil rights organizations or their leaders, I suggest, Justice Thomas, that you should ask yourself every day what would have happened to you if there had never been a Charles Hamilton Houston, a William Henry Hastie, a Thurgood Marshall, and that small cadre of other lawyers associated with them, who laid the groundwork for success in the twentieth-century racial civil rights cases? Couldn't they have been similarly charged with, as you phrased it, bitching and moaning and whining when they challenged the racism in the administrations of prior presidents, governors, and public officials? If there had never been an effective NAACP, isn't it highly probable that you might still be in Pin Point, Georgia, working as a laborer as some of your relatives did for decades?

Even though you had the good fortune to move to Savannah, Georgia, in 1955, would you have been able to get out of Savannah and get a responsible job if decades earlier the NAACP had not been challenging racial injustice throughout America? If the NAACP had not been lobbying, picketing, protesting, and politicking for a 1964 Civil Rights Act, would Monsanto Chemical Company have opened their doors to you in 1977? If Title VII had not been enacted might not American companies still continue to discriminate on the basis of race, gender, and national origin?

The philosophy of civil rights protest evolved out of the fact that black people were forced to confront this country's racist institutions without the benefit of equal access to those institutions. For example, in January of 1941, A. Philip Randolph planned a march on Washington, D.C., to protest widespread employment discrimination in the defense industry.[32] In order to avoid the prospect of a demonstration by potentially tens of thousands of Blacks, President Franklin Delano Roosevelt issued Executive Order 8802 barring discrimination in defense industries or government. The order led to the inclusion of anti-discrimination clauses in all government defense contracts and the establishment of the Fair Employment Practices Committee.[33]

In 1940, President Roosevelt appointed William Henry Hastie as civilian aide to Secretary of War Henry L. Stimson. Hastie fought tirelessly against discrimination, but when confronted with an unabated program of segregation in all areas of the armed forces, he resigned on January 31, 1943. His visible and dramatic protest sparked the move towards integrating the armed forces, with immediate and far-reaching results in the army air corps.[34]

A. Philip Randolph and William Hastie understood—though I wonder if you do—what Frederick Douglass meant when he wrote:

"The whole history of the progress of human liberty shows that all concessions yet made to her august claims, have been born of earnest struggle. . . . If there is no struggle there is no progress. . . .

"This struggle may be a moral one, or it may be a physical one, and it may be both moral and physical, but it must be a struggle. Power concedes nothing without a demand. It never did and it never will."[35]

The struggles of civil rights organizations and civil rights lawyers have been both moral and physical, and their victories have been neither easy nor sudden. Though the *Brown* decision was issued only six years after your birth, the road to *Brown* started more than a century earlier. It started when Prudence Crandall was arrested in Connecticut in 1833 for attempting to provide schooling for colored girls.[36] It was continued in 1849 when Charles Sumner, a white lawyer and abolitionist, and Benjamin Roberts, a black lawyer,[37] challenged segregated schools in Boston.[38] It was continued as the NAACP, starting with Charles Hamilton Houston's suit, *Murray v. Pearson*,[39] in 1936, challenged Maryland's policy of excluding Blacks from the University of Maryland Law School. It was continued in *Gaines v. Missouri*,[40] when Houston challenged a 1937 decision to the Missouri Supreme Court. The Missouri courts had held that because law schools in the states of Illinois, Iowa, Kansas, and Nebraska accepted Negroes, a twenty-five-year-old black citizen of Missouri was not being denied his constitutional right to equal protection under the law when he was excluded from the only state supported law school in Missouri. It was continued in *Sweatt v. Painter*[41] in 1946, when Herman Marion Sweatt filed suit for admission to the Law School of the University of Texas after his application was rejected solely because he was black. Rather than admit him, the University postponed the matter for years and put up a separate and unaccredited law school for Blacks. It was continued in a series of cases against the University of Oklahoma, when, in 1950, in *McLaurin v. Oklahoma*,[42] G.W. McLaurin, a sixty-eight-year-old man, applied to the University of Oklahoma to obtain a Doctorate in education. He had earned his Master's degree in 1948, and had been teaching at Langston University, the state's college for Negroes.[43] Yet he was "required to sit apart at . . . designated desk(s) in an anteroom adjoining the classroom . . . [and] on the mezzanine floor of the library, . . . and to sit at a designated table and to eat at a different time from the other students in the school cafeteria."[44]

The significance of the victory in the *Brown* case cannot be overstated. *Brown* changed the moral tone of America; by eliminating the legitimization of state-imposed racism, it implicitly questioned racism wherever it was used. It created a milieu in which private colleges were forced to recognize their failures in excluding or not welcoming minority students. I submit that even your distinguished undergraduate college, Holy Cross, and Yale University were influenced by the milieu created by *Brown* and thus became more sensitive to the need to create programs for the recruitment of competent minority students. In short, isn't it possible that you might not have gone to Holy Cross if the NAACP and other civil rights organizations, Martin Luther King and the Supreme Court, had not recast the racial mores of America? And if you had not gone to Holy Cross, and instead had gone to some underfunded state college for Negroes in Georgia, would you have been admitted to Yale Law School, and would you have met the alumni who played such a prominent role in maximizing your professional options?

I have cited this litany of NAACP[45] cases because I don't understand why you appeared so eager to criticize civil rights organizations or their leaders. In the 1980s, Benjamin Hooks and John Jacobs worked just as tirelessly in the cause of civil rights as did their predecessors Walter White, Roy Wilkins, Whitney Young, and Vernon Jordan in the 1950s and '60s. As you now start to adjudicate cases involving civil rights, I hope you will have more judicial integrity than to demean those advocates of the disadvantaged who appear before you. If you and I had not gotten many of the positive reinforcements that these organizations fought for and that the post-*Brown* era made possible, probably neither you nor I would be federal judges today.

V. WHAT HAVE THE CONSERVATIVES EVER CONTRIBUTED TO AFRICAN-AMERICANS?

During the last ten years, you have often described yourself as a black conservative. I must confess that, other than their own self-advancement, I am at a loss to understand what is it that the so-called conservatives are so anxious to conserve. Now that you no longer have to be outspoken on their behalf, perhaps you will recognize that in the past it was the white "conservatives" who screamed "segregation now, segregation forever!" It was primarily the conservatives who attacked the Warren Court relentlessly because of *Brown v. Board of Education* and who stood in the way of almost every measure to ensure gender and racial advancement.

For example, on March 11, 1956, ninety-six members of Congress, representing eleven southern states, issued the "Southern Manifesto," in which they declared that the *Brown* decision was an "unwarranted exercise of power by the Court, contrary to the Constitution."[46] Ironically, those members of Congress reasoned that the *Brown* decision was "destroying the amicable relations between the white and negro races,"[47] and that "it had planted hatred and suspicion where there had been heretofore friendship and understanding."[48] They then pledged to use all lawful means to bring about the reversal of the decision, and praised those states which had declared the intention to resist its implementation.[49] The Southern Manifesto was more than mere political posturing by Southern Democrats. It was a thinly disguised racist attack on the constitutional and moral foundations of *Brown*. Where were the conservatives in the 1950s when the cause of equal rights needed every fair-minded voice it could find?

At every turn, the conservatives, either by tacit approbation or by active complicity, tried to derail the struggle for equal rights in this country. In the 1960s, it was the conservatives, including the then-senatorial candidate from Texas, George Bush,[50] the then-Governor from California, Ronald Reagan,[51] and the omnipresent Senator Strom Thurmond,[52] who argued that the 1964 Civil Rights Act was unconstitutional. In fact Senator Thurmond's 24 hour 18 minute filibuster during Senate deliberations on the 1957 Civil Rights Act set an all-time record.[53] He argued on the floor of the Senate that the provisions of the Act guaranteeing equal access to public accommodations amounted to an enslavement of white people.[54] If twenty-seven years ago George Bush, Ronald Reagan, and Strom Thurmond had succeeded, there would have been no position for you to fill as Assistant Secretary for Civil Rights in the Department of Education. There would have been no such agency as the Equal Employment Commission for you to chair.

Thus, I think now is the time for you to reflect on the evolution of American constitutional and statutory law, as it has affected your personal options and improved the options for so many Americans, particularly non-whites, women, and the poor. If the conservative agenda of the 1950s, '60s, and '70s had been implemented, what would have been the results of the important Supreme Court cases that now protect your rights and the rights of millions of other Americans who can now no longer be discriminated against because of their race, religion, national origin, or physical disabilities? If, in 1954, the United States Supreme Court had accepted the traditional rationale that so many conservatives then espoused, would the 1896 *Plessy v. Ferguson* case, which announced the nefarious doctrine of "separate but equal," and which allowed massive inequalities, still be the law of the land? In short, if the conservatives of the 1950s had had their way, would there ever have been a *Brown v. Board of Education* to prohibit state-imposed racial segregation?

VI. THE IMPACT OF ERADICATING RACIAL BARRIERS TO VOTING

Of the fifty-two senators who voted in favor of your confirmation, some thirteen hailed from nine southern states. Some may have voted for you because they agreed with President Bush's assessment that you were "'the best person for the position.'"[55] But, candidly, Justice Thomas, I do not believe that you were indeed the most competent person to be on the Supreme Court. Charles Bowser, a distinguished African-American Philadelphia lawyer, said "'I'd be willing to bet . . . that not one of the senators who voted to confirm Clarence Thomas would hire him as their lawyer.'"[56]

Thus, realistically, many senators probably did not think that you were the most qualified person available. Rather, they were acting solely as politicians, weighing the potential backlash in their states of the black vote that favored you for emotional reasons and the conservative white vote that favored you for ideological reasons. The black voting constituency is important in many states, and today it could make a difference as to whether many senators are or are not reelected. So here, too, you benefitted from civil rights progress.

No longer could a United States Senator say what Senator Benjamin Tillman of South Carolina said in anger when President Theodore Roosevelt invited a moderate Negro, Booker T. Washington, to lunch at the White House: "'Now that Roosevelt has eaten with that nigger Washington, we shall have to kill a thousand niggers to get them back to their place.'"[57] Senator Tillman did not have to fear any retaliation by Blacks because South Carolina and most southern states kept Blacks "in their place" by manipulating the ballot box. For example, because they did not have to confront the restraints and prohibitions of later Supreme Court cases, the manipulated "white" primary allowed Tillman and other racist senators to profit from the threat of violence to Blacks who voted, and from the disproportionate electoral power given to rural whites. For years, the NAACP litigated some of the most significant cases attacking racism at the ballot box. That organization almost singlehandedly created the foundation for black political power that led in part to the 1965 Civil Rights Act.

Moreover, if it had not been for the Supreme Court's opinion, in *Smith* v. *Allright*,[58] a case which Thurgood Marshall argued, most all the southern senators who voted for you would have been elected in what was once called a "white primary"—a process which precluded Blacks from effective voting in the southern primary election, where the real decisions were made on who would run every hamlet, township, city, county and state. The seminal case of *Baker* v. *Carr*,[59] which articulated the concept of one man-one vote, was part of a series of Supreme Court precedents that caused southern senators to recognize that patently racist diatribes could cost them an election. Thus your success even in your several confirmation votes is directly attributable to the efforts that the "activist" Warren Court and civil rights organizations have made over the decades.

VII. HOUSING AND PRIVACY

If you are willing, Justice Thomas, to consider how the history of civil rights in this country has shaped your public life, then imagine for a moment how it has affected your private life. With some reluctance, I make the following comments about housing and marriage because I hope that reflecting on their constitutional implications may raise your consciousness and level of insight about the dangers of excessive intrusion by the state in personal and family relations.

From what I have seen of your house on television scans and in newspaper photos, it is apparent that you live in a comfortable Virginia neighborhood. Thus I start with Holmes's view that "a page of history is worth a volume of logic."[60] The history of Virginia's legislatively and judicially imposed racism should be particularly significant to you now that as a Supreme Court Justice you must determine the limits of a state's intrusion on family and other matters of privacy.

It is worthwhile pondering what the impact on you would have been if Virginia's legalized racism had been allowed to continue as a viable constitutional doctrine. In 1912, Virginia enacted a statute giving cities and towns the right to pass ordinances which would divide the city into segregated districts for black and white residents.[61] Segregated districts were designated white or black depending on the race of the majority of the residents.[62] It became a crime for any black person to move into and occupy a residence in an area known as a white district.[63] Similarly, it was a crime for any white person to move into a black district.[64]

Even prior to the Virginia statute of 1912, the cities of Ashland and Richmond had enacted such segregationist statutes.[65] The ordinances also imposed the same segregationist policies on any "place of public assembly."[66] Apparently schools, churches, and meeting places were defined by the color of their members. Thus, white Christian Virginia wanted to make sure that no black Christian churches were in their white Christian neighborhoods.

The impact of these statutes can be assessed by reviewing the experiences of two African-Americans, John Coleman and Mary Hopkins. Coleman purchased property in Ashland, Virginia in 1911.[67] In many ways he symbolized the American dream of achieving some modest upward mobility by being able to purchase a home earned through initiative and hard work. But shortly after moving to his home, he was arrested for violating Ashland's segregation ordinance because a majority of the residents in the block were white. Also, in 1911, the City of Richmond prosecuted and convicted a black woman, Mary S. Hopkins, for moving into a predominantly white block.[68]

Coleman and Hopkins appealed their convictions to the Supreme Court of Virginia which held that the ordinances of Ashland and Richmond did not violate the United States Constitution and that the fines and convictions were valid.[69]

If Virginia's law of 1912 still prevailed, and if your community passed laws like the ordinances of Richmond and Ashland, you would not be able to live in your own house. Fortunately, the Virginia ordinances and statutes were in effect nullified by a case brought by the NAACP in 1915, where a similar statute of the City of Louisville was declared unconstitutional.[70] But even if your town council had not passed such an ordinance, the developers would in all probability have incorporated racially restrictive covenants in the title deeds to the individual homes. Thus, had it not been for the vigor of the NAACP's litigation efforts in a series of persistent attacks against racial covenants you would have been excluded from your own home. Fortunately, in 1948, in *Shelly v. Kraemer*,[71] a case argued by Thurgood Marshall, the NAACP succeeded in having such racially restrictive covenants declared unconstitutional.

Yet with all of those litigation victories, you still might not have been able to live in your present house because a private developer might have refused to sell you a home solely because you are an African-American. Again you would be saved because in 1968 the Supreme Court, in *Jones v. Alfred H. Mayer Co.*, in an opinion by Justice Stewart, held that the 1866 Civil Rights Act precluded such private racial discrimination.[72] It was a relatively close case; the two dissenting justices said that the majority opinion was "ill considered and ill-advised."[73] It was the values of the majority which made the difference. And it is your values that will determine the vitality of other civil rights acts for decades to come.

Had you overcome all of those barriers to housing and if you and your present wife decided that you wanted to reside in Virginia, you would nonetheless have been violating the Racial Integrity Act of 1924,[74] which the Virginia Supreme Court as late as 1966 said was consistent with the federal constitution because of the overriding state interest in the institution of marriage.[75] Although it was four years after the *Brown* case, Richard Perry Loving and his wife, Mildred Jeter Loving were convicted in 1958 and originally sentenced to one year in jail because of their interracial marriage. As an act of magnanimity the trial court later suspended the sentences, "'for a period of 25 years upon the provision that both accused leave Caroline County and the state of Virginia at once and do not return together or at the same time to said county and state for a period of 25 years.'"[76]

The conviction was affirmed by a unanimous Supreme Court of Virginia, though they remanded the case back as to the resentencing phase. Incidentally, the Virginia trial judge justified the constitutionality of the prohibition against interracial marriages as follows:

"Almighty God created the races white, black, yellow, Malay and red, and he placed them on separate continents. And but for the interference with his arrangement there would be no cause for such marriages. The fact that he separated the races shows that he did not intend for the races to mix."[77]

If the Virginia courts had been sustained by the United States Supreme Court in 1966, and if, after your marriage, you and your wife had, like the Lovings, defied the Virginia statute by continuing to live in your present residence, you could have been in the penitentiary today rather than serving as an Associate Justice of the United States Supreme Court.

I note these pages of record from American legal history because they exemplify the tragedy of excessive intrusion on individual and family rights. The only persistent protector of privacy and family rights has been the United States Supreme Court, and such protection has occurred only when a majority of the Justices has possessed a broad vision of human rights. Will you, in your moment of truth, take for granted that the Constitution protects you and your wife against all forms of deliberate state intrusion into family and privacy matters, and protects you even against some forms of discrimination by other private parties such as the real estate developer, but nevertheless find that it does not protect the privacy rights of others, and particularly women, to make similarly highly personal and private decisions?

CONCLUSION

This letter may imply that I am somewhat skeptical as to what your performance will be as a Supreme Court Justice. Candidly, I and many other thoughtful Americans are very concerned about your appointment to the Supreme Court. But I am also sufficiently familiar with the history of the Supreme Court to know that a few of its members (not many) about whom there was substantial skepticism at the time of their appointment became truly outstanding Justices. In that context I think of Justice Hugo Black. I am impressed by the fact that at the very beginning of his illustrious career he articulated his vision of the responsibility of the Supreme Court. In one of his early major opinions he wrote, "courts stand . . . as havens of refuge for those who might otherwise suffer because they are helpless, weak, outnumbered, or . . . are nonconforming victims of prejudice and public excitement."[78]

While there are many other equally important issues that you must consider and on which I have not commented, none will determine your place in history as much as your defense of the weak, the poor, minorities, women, the disabled and the powerless. I trust that you will ponder often the significance of the statement of Justice Blackmun, in a vigorous dissent of two years ago, when he said: "[S]adly . . . one wonders whether the majority [of the Court] still believes that . . . race discrimination—or more accurately, race discrimination against nonwhites—is a problem in our society, or even remembers that it ever was."[79]

You, however, must try to remember that the fundamental problems of the disadvantaged, women, minorities, and the powerless have not all been solved simply because you have "moved on up" from Pin Point, Georgia, to the Supreme Court. In your opening remarks to the Judiciary Committee, you described your life in Pin Point, Georgia, as "far removed in space and time from this room, this day and this moment."[80] I have written to tell you that your life today, however, should be not far removed from the visions and struggles of Frederick Douglass, Sojourner Truth, Harriet Tubman, Charles Hamilton Houston, A. Philip Randolph, Mary McLeod Bethune, W.E.B. Dubois, Roy Wilkins, Whitney Young, Martin Luther King, Judge William Henry Hastie, Justices Thurgood Marshall, Earl Warren, and William Brennan, as well as the thousands of others who dedicated much of their lives to create the America that made your opportunities possible.[81] I hope you have the strength of character to exemplify those values so that the sacrifices of all these men and women will not have been in vain.

I am sixty-three years old. In my lifetime I have seen African-Americans denied the right to vote, the opportunities to a proper education, to work, and to live where they choose.[82] I have seen and known racial segregation and discrimination.[83] But I have also seen the decision in Brown rendered. I have seen the first African-American sit on the Supreme Court. And I have seen brave and courageous people, black and white, give their lives for the civil rights cause. My memory of them has always been without bitterness or nostalgia. But today it is sometimes without hope; for I wonder whether their magnificent achievements are in jeopardy. I wonder whether (and how far) the majority of the Supreme Court will continue to retreat from protecting the rights of the poor, women, the disadvantaged, minorities, and the powerless.[84] And if tragically, a majority of the Court continues to retreat, I wonder whether you, Justice Thomas, an African-American, will be part of that majority.

No one would be happier than I if the record you will establish on the Supreme Court in years to come demonstrates that my apprehensions were unfounded.[85] You were born into injustice, tempered by the hard reality of what it means to be poor and black in America, and especially to be poor because you are black. You have found a door newly cracked open and you have escaped. I thrust you shall not forget that many who preceded you and many who follow you have found, and will find, the door of equal opportunity slammed in their faces through no fault of their own. And I also know that time and the tides of history often call out of men and women qualities that even did not know lay within them. And so, with hope to balance my apprehensions, I wish you well as a thoughtful and worthy successor to Justice Marshall in the ever ongoing struggle to assure equal justice under law for all persons.

Sincerely,

A. LEON HIGGINBOTHAM, Jr.

FOOTNOTES

[*] Chief Justice Emeritus, U.S. Court of Appeals for the Third Circuit, Senior Fellow University of Pennsylvania School of Law. Except for a few minor changes in the footnotes this article is a verbatim copy of the text of the letter sent to Justice Clarence Thomas on November 29, 1992. I would like to thank Judges Nathaniel Jones, Damon Keith, and Louis J. Pollak and Dr. Evelyn Brooks Higginbotham for their very helpful insights. I gratefully acknowledge the very substantial assistance of my law clerk Anderson Belgarde Francois, New York University School of Law, J.D. 1991. Some research assistance was provided by Nelson S. T. Thayer, Sonya Johnson, and Michael Tein from the University of Pennsylvania Law School. What errors remain are mine.

[1] Justices Blackmun, Scalia, Kennedy, and Souter were members of the Harvard Law School Classes of 1932, 1960, 1961, and 1966 respectively. See "The American Bench," 16, 46, 72, 1566 (Marie T. Hough ed., 1989). The first woman to graduate from Harvard Law School was a member of the Class of 1953. Telephone Interview with Emily Farnam, Alumni Affairs Office, Harvard University (Aug. 8, 1991).

[2] Chief Justice Rehnquist and Justice O'Connor were members of the Stanford Law School Class of 1952. See "The American Bench," *supra* note 1, at 63, 69. Stanford did not graduate its first black law student until 1968. Telephone interview with Shirley Wedlake, Assistant to the Dean of Student Affairs, Stanford University Law School (Dec. 10, 1991).

[3] Even courts have at times tolerated the use of the term "nigger" in one or another of its variations. In the not too distant past, appellate courts

have upheld convictions despite prosecutors' references to black defendants and witnesses in such racist terms as "black rascal," "burr-headed nigger," "mean negro," "big nigger," "pickaninny," "mean nigger," "three nigger men," "nigger men," "niggers," and "nothing but just a common Negro, [a] black whore." See A. Leon Higginbotham, Jr., Racism in American and South African Courts: Similarities and Differences, 65 "N.Y.U. L. Rev." 479, 542-43 (1990).

In addition, at least one Justice of the Supreme Court, James McReynolds, was a "white supremacist" who referred to Blacks as "niggers." See Randall Kennedy, Race Relations Law and the Tradition of Celebration: The Case of Professor Schmidt, 86 Colum. L. Rev. 1622, 1641 (1986); see also David Burner, James McReynolds, in 3 "The Justices of the United States Supreme Court 1789–1969," at 2023, 2024 (Leon Friedman & Fred L. Israel eds., 1969) (reviewing Justice McReynolds's numerous lone dissents as evidence of blatant racism). In 1938, a landmark desegregation case was argued before the Supreme Court by Charles Hamilton Houston, the brilliant black lawyer who laid the foundation for Brown v. Board of Education. During Houston's oral argument, McReynolds turned his back on the attorney and stared at the wall of the courtroom. Videotaped Statement of Judge Robert Carter to Judge Higginbotham (August 1987) (reviewing his observation of the argument in Missouri ex rel. Gaines v. Canada, 305 U.S. 337 (1938)). In his autobiography, Justice William O. Douglas described how McReynolds received a rare, but well deserved comeuppance when he made a disparaging comment about Howard University.

"One day McReynolds went to the barbershop in the Court. Gates, the black barber, put the sheet around his neck and over his lap, and as he was pinning it behind him McReynolds said, "Gates, tell me, where is this nigger university in Washington, D.C.?" Gates removed the white cloth from McReynolds, walked around and faced him, and said in a very calm and dignified manner, "Mr. Justice, I am shocked that any Justice would call a Negro a nigger. There is a Negro college in Washington, D.C. Its name is Howard University and we are very proud of it." McReynolds muttered some kind of apology and Gates resumed his work in silence." William O. Douglas, "The Court Years: 1939–1975," at 14–15 (1980).

[4] By contrast, according to the Census Bureau's definition of poverty, in 1991, one in five American children (and one in four preschoolers) is poor. See Clifford M. Johnson et al., "Child Poverty in America" 1 (Children's Defense Fund report, 1991).

[5] James Baldwin, White Man's Guilt, in "The Price of the Ticket" 409, 410 (1985).

[6] See Albert P. Blaustein & Roy M. Mersky, "The First One Hundred Justices" (1978). The published survey included ratings of only the first ninety-six justices because the four Nixon appointees (Burger, Blackman, Powell, and Rehnquist) had then been on the Court too short a time for an accurate evaluation to be made. See id, at 35–36.

[7] Id. at 37–40.

[8] Id. at 37.

[9] You have been particularly critical of its decision in Brown v. Board of Education. See, e.g., Clarence Thomas, Toward a "Plain Reading" of the Constitution—The Declaration of Independence in Constitutional Interpretation, 30 How. L.J. 983, 990–92 (1987) (criticizing the emphasis on social stigma in the Brown opinion, which left the court's decision resting on "feelings" rather than "reason and moral and political principles"); Clarence Thomas, Civil Rights as a Principle Versus Civil Rights as an Interest, Speech to the Cato Institute (Oct. 2, 1987), in "Assessing the Reagan Years" 391, 392-93 (David Boaz ed., 1988) (arguing that the Court's opinion in Brown failed to articulate a clear principle to guide later decisions, leading to opinions in the area of race that overemphasized groups at the expense of individuals, and "argue[d] against what was best in the American political tradition"); Clarence Thomas, The Higher Law Background of the Privileges and Immunities Clause of the Fourteenth Amendment, Speech to the Federalist Society for Law and Policy Studies, University of Virginia School of Law (Mar. 5, 1988), in 12 "Harv. J.L. & Pub. Pol'y" 63, 68 (1989) (asserting that adoption of Justice Harlan's view that the Constitution is "color-blind" would have provided the Court's civil rights opinions with the higher-law foundation necessary for a "just, wise, and constitutional decision").

[10] See Blaustein & Mersky, supra note 6, at 37.

[11] 163 U.S. 537 (1896).

[12] *See* Alan F. Westin, *John Marshall Harlan and the Constitutional Rights of Negroes: The Transformation of a Southerner*, 66 Yale I.J. 637, 638 (1957).

[13] Fullilove v. Klutznick, 448 U.S. 448, 522 (1980) (Stewart, J., joined by Rehnquist, J., dissenting).

[14] Metro Broadcasting, Inc. v. FCC, 110 S. Ct. 2997, 3044 (1990) (Kennedy, J., dissenting).

[15] For a thorough review of the background of *Plessy v. Ferguson*, and a particularly sharp criticism of the majority opinion, see Loren Miller, The Petitioners: The Story of the Supreme Court of the United States and the Negro 165–82 (1966). As an example of scholars who have criticized the opinion and the result in *Plessy*, see Laurence H. Tribe, American Constitutional Law 1474–75 (2d ed., 1988).

[16] *See, e.g.*, Benjamin Cardozo, The Nature of the Judicial Process 10 (1921) noting that "judge-made law [is] one of the existing realities of life").

[17] *Id.* at 103.

[18] The concept of the "evolutionary movement" of the Constitution has been expressed by Justice Brennan in Regents of the University of California v. Bakke, 438 U.S. 312 (1978), and by Justice Marshall in his speech given on the occasion of the bicentennial of the Constitution. In *Bakke*, in a partial dissent joined by Justices White, Marshall, and Blackman, Justice Brennan discussed how Congress has "eschewed any static definition of discrimination [in Title VI of the 1964 Civil rights Act] in favor of broad language that could be shaped by experience, administrative necessity and *evolving judicial doctrine*." *Id.* at 337 (Brennan, J., dissenting in part) (emphasis added). In Justice Brennan's view, Congress was aware of the "*evolutionary change* that constitutional law in the area of racial discrimination was undergoing in 1964." *Id.* at 340. Congress, thus, equated Title VI's prohibition against discrimination with the commands of the Fifth and Fourteenth Amendment to the Constitution so that the meaning of the statute's prohibition would evolve with the interpretations of the command of the Constitution. *See id.* at 340. In another context, during his speech given on the occasion of the bicentennial of the Constitution, Justice Marshall commented that he did "not believe that the meaning of the Constitution was forever 'fixed' at the Philadelphia Convention." Thurgood Marshall, *Reflections on the Bicentennial of the United States Constitution*, 101 Harv. L. Rev. 1, 2 (1987). In Justice Marshall's view, the Constitution had been made far more meaningful through its "*promising evolution* through 200 years of history." *Id.* at 5 (emphasis added).

[19] Sharon McPhail, *Will The Real Clarence Thomas Stand Up*, Nat'l B. Ass'n Mag., Oct. 1991, at 1.

[20] *Id; see* Ruth Marcus, *Self-Made Conservative; Nominee Insists He Be Judged on Merits*, Wash. Post, July 2, 1991, at A1; Haywood Burns, *Clarence Thomas, A Counterfeit Hero*, N.Y. Times, July 9, 1991, at A19.

[21] *See, e.g.*, Clarence Thomas, *The Equal Employment Opportunity Commission: Reflections on a New Philosophy*, 15 Stetson L. Rev. 29, 35 (1985) (asserting that the civil rights community is "wallowing in self-delusion and pulling the public with it"); Juan Williams, *EEOC Chairman Blasts Black Leaders*, Wash. Post. Oct. 25, 1984, at A7 "These guys [black leaders] are sitting there watching the destruction of our race . . . Ronald Reagan isn't the problem. Former President Jimmy Carter was not the problem. The lack of black leadership is the problem.").

[22] *See supra* note 9.

[23] *See* Clarence Thomas, *Black Americans Based Claim for Freedom on Constitution*, San Diego Union Trib., Oct. 6, 1987, at B7 (claiming that Marshall's observation of the deficiencies in some respects of the Framers' constitutional vision "alienates all Americans, and not just black Americans, from their high and noble intention").

[24] *See id.*

[25] Marshall, *supra* note 18, at 5.

[26] Thomas, *supra* note 23, at B7. In the same diatribe, you also quoted out of context excerpts from the works of Frederick Douglass, Martin Luther King, Jr. and John Hope Franklin. *See id.* Their works, however, provide no support for what amounted to a scurrilous attack on Justice Marshall. In fact, John Hope Franklin wrote the epilogue to a report by the NAACP opposing your nomination to the Supreme Court. *See* John Hope Franklin, *Booker T. Washington, Revisited*, N.Y. Times, Aug. 1, 1991, at A21. There he quite properly observed that, by adopting a philosophy of alleged self-help without seeking to assure equal opportunities to all persons, you "placed [yourself] in the unseemly position of denying to others the very opportunities and the kind of assistance from public and private quarters that have placed [you] where you are today." *Id.*

[27] Marshall, *supra* note 18, at 5.

[28] *Id.*

[29] On April 1, 1987, some weeks before Justice Marshall's speech, I gave the Herman Phleger Lecture at Stanford University. I stated in my presentation:

"In this year of the Bicentennial you will hear a great deal that is laudatory about our nation's Constitution and legal heritage. Much of this praise will be justified. The danger is that the current oratory and scholarship may lapse into mere self-congratulatory back-patting, suggesting that everything in America has been, or is, near perfect.

"We must not allow our euphoria to cause us to focus solely on our strengths. Somewhat like physicians examining a mighty patient, we also must diagnose and evaluate the pathologies that have disabled our otherwise healthy institutions.

"I trust that you will understand that my critiques of our nation's past and present shortcomings do not imply that I am oblivious to its many exceptional virtues. I freely acknowledge the importance of two centuries of our enduring and evolving Constitution, the subsequently enacted Bill of Rights, the Thirteenth, Fourteenth, Fifteenth and Nineteenth Amendments, and the protections of these rights, more often than not, by federal courts.

"Passion for freedom and commitment to liberty are important values in American society. If we can retain this passion and commitment and direct it towards eradicating the remaining significant areas of social injustice on our nation's unfinished agenda, our pride should persist—despite the daily tragic reminders that there are far too many homeless, far too many hungry, and far too many victims of racism, sexism, and pernicious biases against those of different religions and national origins. The truth is that, even with these faults, we have been building a society with increasing levels of social justice embracing more and more Americans each decade." A. Leon Higginbotham, Jr., *The Bicentennial of the Constitution: A Racial Perspective*, Stan. Law., Fall 1987, at 8.

[30] James Baldwin, *The Fire Next Time*, *in* "The Price of the Ticket" 336 (1985). In a similar vein, on April 5, 1976, at the dedication of Independence Hall in Philadelphia on the anniversary of the Declaration of Independence, Judge William Hastie told the celebrants that, although there was reason to salute the nation on its bicentennial, "a nation's beginning is a proper source of reflective pride only to the extent that the subsequent and continuing process of its becoming deserves celebration." "Gilbert Ware, William Hastie: Grace Under Pressure" 242 (1984).

[31] *See* Williams, *supra* note 21, at A7 (quoting Clarence Thomas).

[32] *See* John Hope Franklin & Alfred A. Moss, Jr., "From Slavery To Freedom: A History of Negro Americans" 388–89 (1988); *see also* Richard Kluger, "Simple Justice: The History of *Brown v. Board of Education* and Black America's Struggle for Equality" 219 (1975).

[33] *See* Franklin & Moss, *supra* note 32, at 388–89; Kluger, *supra* note 32, at 219.

[34] *See* Ware, *supra* note 30, at 95–98, 124–33.

[35] Frederick Douglass, Speech Before The West Indian Emancipation Society Aug. 4, 1857), *in* 2 Philip S. Foner, "The Life and Writings of Frederick Douglass" 437 (1950).

[36] *See* Crandall v. State, 10 Conn. 339 (1834).

[37] *See* Leon F. Litwack, "North of Slavery: The Negro in the Free States," 1790–1860, at 147 (1961).

[38] *See* Roberts v. City of Boston, 59 Mass. (5 Cush.) 198 (1850).

[39] 182 A. 590 (1936).

[40] 305 U.S. 337 (1938).

[41] 339 U.S. 629 (1950).

[42] 339 U.S. 637 (1950).

[43] *See* Miller, *supra* note 15, at 336.

[44] *McLaurin*, 339 U.S. at 640.

[45] I have used the term NAACP to include both the NAACP and the NAACP Legal Defense Fund. For examples of civil rights cases, see Derrick A. Bell, Jr., Race, Racism and American Law 57–59, 157–62, 186–92, 250-58, 287–300, 477–99 (2d ed. 1980); Jack Greenberg, Race Relations and American Law 32–61 (1959).

[46] 102 Cong. Rec. 4255, 4515 (1956).

[47] *Id* at 4516.

[48] *Id.*

[49] *See id.*

[50] 'Excellent Chance,' Houston Post, Oct. 11, 1964, §17, at 8.

[51] *See* David S. Broder, *Reagan Attacks the Great Society*, N.Y. Times, June 17, 1966, at 41.

[52] *See* Charles Whalen and Barbara Whalen, the Longest Debate: A Legislative History of the 1964 Civil Rights Act 143 (1967).

[53] *Id.*

[54] Senate Commerce Comm., Civil Rights—Public Accommodation, S. Rep. No. 872, 88th Cong., 2d. Sess. 62–63, 75–76 (1964) (Individual Views of Senator Strom Thurmond).

[55] *The Supreme Court; Excerpts From News Conference Announcing Court Nominee*, N.Y. Times, July 2, 1991, at A14 (statement of President Bush).

[56] Peter Binzre, *Bowser Is an Old Hand at Playing the Political Game in Philadelphia*, Phila. Inquirer, Nov. 13, 1991, at A11 (quoting Charles Bowser).

[57] William A. Sinclair, the Aftermath of Slavery: A Study of the Condition and Environment of the American Negro 187 (Afro-Am Press 1969) (1905) (quoting Senator Benjamin Tillman).

[58] 321 U.S. 649 (1944).

[59] 369 U.S. 186 (1962).

[60] New York Trust Company v. Eisner, 256 U.S. 345, 349 (1921).

[61] Act of Mar. 12, 1912, ch. 157, §1, 1912 Va. Acts 330, 330.

[62] *Id. §3, at 330–31.*

[63] *Id.* §4, at 331.

[64] *Id.* There were a few statutory exceptions, the most important being that the servants of "the other race" could reside upon the premises that his or her employer owned or occupied. *Id.* §9, at 332.

[65] *See* Ashland, Va., Ordinance (Sept. 12, 1911) [hereinafter, *Ashland Ordinance*]; Richmond, Va., Ordinance.

[66] * * * * *

[67] *See* Hopkins v. City of Richmond, 86 S.E. 139, 142 (Va. 1915). At the time of the purchase, the house was occupied by a black tenant who had lived there prior to the enactment of the ordinance, so the purchase precipitated no change in the color composition or racial density of the neighborhood or block.

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[72] 392 U.S. 409 (1968).

[73] *Id.* at 449 (Harlan, J., dissenting).

[74] *See* Loving v. Virginia, 388 U.S. 1, 4–6 (1967).

[75] *See* Loving v. Virginia, 147 S.E.2d 78 (Va. 1966), *rev'd*. 388 U.S. 1 (1967).

[76] *Id.* at 79 (quoting the trial court).

[77] *Loving*, 388 U.S. at 3 (quoting the trial judge).

[79] Wards Cove Packing Co. v. Atonio, 490 U.S. 642, 662 (1989) (Blackmun, J., dissenting).

[80] *The Thomas Hearings; Excerpts from Senate Session on the Thomas Nomination*, N.Y. Times, Sept. 11, 1991, at A1 (opening statement of Clarence Thomas).

[81] It is hardly possible to name all the individuals who fought to bring equal rights to all Americans. Some are gone. Others are fighting still. They include Prudence Crandall, Charles Sumner, Robert Morris, William Lloyd Garrison, William T. Coleman, Jr., Jack Greenberg, Judges Louis Pollak, Constance Baker Motley, Robert Carter, Collins Seitz, Justices Hugo Black, Lewis Powell, Harry Blackmun and John Paul Stevens. For those whom I have not named, their contribution to the cause of civil rights may be all the more heroic for at times being unsung. But, to paraphrase Yale Professor Owen Fiss' tribute to Justice Marshall: "As long as there is law, their names should be remembered, and when their stories are told, all the world should listen." Owen Fiss, *A Tribute to Justice Marshall*, 105 Harv. L. Rev. 49, 55 (1991).

[82] For an analysis of discrimination faced by Blacks in the areas of voting, education, employment, and housing, *see* Gunnar Myrdal, An American Dilemma: The Negro Problem and Modern Democracy 479–86 (9th ed. 1944) (voting); John Hope Franklin & Alfred A. Moss, Jr., From Slavery to Freedom: A History of Negro Americans 360–69 (6th ed. 1988) (education); Committee on the Status of Black Americans, National Research Council, A Common Destiny: Blacks and American Society 88–91, 315–23 (Gerald D. Jaynes & Robin M. Williams, Jr. eds., 1989) (housing and employment); *see also Mary Frances Berry & John W. Blassingame, Long Memory: The Black Experience in America* (1982).

[83] *See* A. Leon Higginbotham, Jr., In the Matter of Color at vii-ix (1978); A. Leon Higginbotham, Jr., *The Dream With Its Back against the Wall, Yale L. Rep.*, Spring 1990, at 34; A. Leon Higginbotham, Jr., *A Tribute to Justice Thurgood Marshall*, 105 Harv. L. Rev. 55, 61 (1991).

[84] As I wrote in a recent tribute to Justice Marshall:

"There appears to be a deliberate retrenchment by a majority of the current Supreme Court on many basic issues of human rights that Thurgood Marshall advocated and that the Warren and Burger Courts vindicated. This retrenchment . . . caused Justice Marshall's dissents to escalate from a total of 19 in his first five years while Earl Warren was Chief Justice, to a total of 225 in the five years since William Rehnquist became Chief Justice." Higginbotham, *supra* note 83, at 65 n.55 (1991) (citation omitted); *see also* Higginbotham, *supra* note 3, at 587 & n.526 (citing Justice Marshall's warning that "[i]t is difficult to characterize last term's decisions [of the Supreme Court] as the product of anything other than a deliberate retrenchment of the civil rights agenda"); A. Leon Higginbotham, Jr., F. Michael Higginbotham & Sandile Ngcobo, *De Jure Housing Segregation in the United States and South Africa: The Difficult Pursuit for Racial Justice*, 4 U. Ill. L. Rev. 763, 874 n.612 (1990) (noting the recent tendency of the Supreme Court to ignore race discrimination).

[85] In his recent tribute to Justice Marshall, Justice Brennan wrote: "In his twenty-four Terms on the Supreme Court, Justice Marshall played a crucial role in enforcing the constitutional protections that distinguish our democracy. Indeed, he leaves behind an enviable record of opinions supporting the rights of the less powerful and less fortunate." William J. Brennan, Jr., *A Tribute To Justice Marshall*, 105 Harv. L. Rev. 23 (1991). You may serve on the Supreme Court twenty years longer than Justice Marshall. At the end of your career, I hope that thoughtful Americans may be able to speak similarly of you.•

DEAF AWARENESS WEEK 1992

• Mr. HARKIN. Mr. President, 4 years ago this month, Dr. I. King Jordan became the first deaf president at the world's only liberal arts university for people who are deaf or hard of hearing. The faculty, students, and administrators of Gallaudet University protested the board of trustees' decision to bypass two qualified deaf candidates for president and choose a hearing candidate. Their protests were successful and Dr. Jordan was named the official president of the university in the spring of 1988.

Since then, we have made great stride in opening doors of opportunities for people who are deaf and hard of hearing. The Americans With Disabilities Act, which I sponsored, was passed by the body in September 1989 and signed into law in July 1990. The ADA ensures that individuals with disabilities are entitled to be treated with dignity and respect and that they can and will be judged as individuals on the basis of their abilities, not on the basis of ignorance, irrational fears, or patronizing attitudes. The ADA also removes communication barriers that prevent people with disabilities from participating in the mainstream of American society.

Shortly after the ADA passed the Television Decoder Circuitry Act, which I also sponsored, passed the Senate and House. Today, television has become a pervasive and integral vehicle for sharing information in American society. Television provides a vital link to the world, providing news, which was an important factor in drawing worldwide attention to the Gallaudet protests. In addition, television provides emergency and educational programming. Unfortunately, many Americans with hearing loss are denied full and equal access to these critical sources of information. The promise of ensuring full integration into the mainstream of society will not become a reality for the deaf and hard of hearing community until equal access to the television is ensured.

The Television Decoder Circuitry Act, now law, addresses this situation by requiring that by July 1993, all televisions with screens 13 inches or larger have built-in decoder circuitry to display closed-captioned television transmissions.

Mr. President, I am very pleased that the Senate has now joined the House of Representatives in close-captioning its floor proceedings. Now all Americans will begin to have full and equal access to the legislative activities of their elected officials.

Mr. President, the Subcommittee on Disability Policy is now in the process of reauthorizing the Education of the Deaf Act. I am hopeful that we can continue to ensure quality education for the many children who are deaf or hard of hearing.

With the help of King Jordan and other distinguished professionals who are deaf or hard of hearing, we will put forth efforts to stay on top of modern technology and continue to eliminate opportunities for patronizing attitudes. I am confident that we can continue to make strides in the fight for equal rights and opportunities for Americans who are deaf or hard of hearing.

With Deaf Awareness Week, we can continue to open doors for the deaf and hard of hearing community. Mr. President, I am proud to join my distinguished colleagues in recognizing the efforts and achievements of Americans who are deaf and hard of hearing.•

APPLIED PHYSICS LABORATORY'S 50TH ANNIVERSARY

• Mr. SARBANES. Mr. President, it is my pleasure to bring to the attention of my colleagues the 50th anniversary of the founding of the Applied Physics Laboratory of the Johns Hopkins University. APL is a regular division of the university, located halfway between Baltimore and Washington, DC. From its inception on March 10, 1942, until today, the Applied Physics Laboratory has been justifiably recognized as a national resource.

There is no other organization in the United States that has the breadth of experience and demonstrated achievement in carrying out the technological programs of the U.S. Navy. As the Defense Department begins down-sizing our Armed Forces, it is reassuring to know that APL is working every day to keep our Navy strong.

Modernization and technological advancement of naval defense capabilities is the common thread running through a half century of laboratory effort and accomplishment. During World War II, APL-developed variable-time proximity fuzes helped our fleet defend itself against air attack in the

Pacific, the British to stave off buzz bomb attacks, and the Army to turn the tide at the Battle of the Bulge. Military historians rank the VT fuze along with radar and the atomic bomb as the most significant technological developments of the war.

Weapons become obsolete, but the systems engineering approach employed by APL has remained a potent tool as weapons and systems have evolved since World War II. From fuzes to shipboard guided missiles, from advanced radars to the Aegis system that shields our battle groups, the Applied Physics Laboratory has remained a resolute partner with the Navy in providing a strong national defense. APL innovations, including updates to Tomahawk missile guidance, played a key role in allied successes in the Persian Gulf.

The laboratory is characterized by its ability to respond quickly to urgent national problems. When the Soviets shocked the world by launching sputnik, APL scientists soon devised a way to use satellites for precise, all-weather global navigation. The result was Transit, a satellite system that has been guiding our fleet and the world's commercial shipping for nearly 30 years. Over this span APL has become a major center for space activity, building more than 50 spacecraft. The laboratory has been a major participant in the Delta series of experiments for the Strategic Defense Initiative, a role recognized by a Presidential commendation.

The reliability and security of our strategic submarine forces have been assured by the rigorous testing and careful research conducted by APL since the beginnings of the Polaris program.

Along with its mission of enhancing the security of the United States by applying advanced science and technology, APL is also chartered to conduct basic research and participate in educational programs. Here again, the laboratory has become a valuable resource. Programs carried on in its Milton S. Eisenhower Research Center compliment the development work of the laboratory. APL originated the GEM program that today accounts for 10 percent of the master's degrees awarded annually to minority engineering students throughout the country. Last year the laboratory was awarded one of the Department of Labor's distinguished Exemplary Voluntary Effort awards for promoting job opportunities for minorities.

The Applied Physics Laboratory has been a major economic resource to my own State of Maryland. In 1990 APL brought over $400 million in new income into the State. And indirect spinoff income generated as these dollars circulated through Maryland's economy added another $300 million to the State's economy.

Mr. President, although there must be a significant reduction in defense spending, our Nation must not lose the technological superiority we have achieved. In a world where leadership may be based on one's economy more than one's military power, sustaining this superiority is vital for preserving the U.S. as a world economic and military power. The Applied Physics Laboratory has played, and continues to play, a key role in maintaining our technological superiority. In many instances, APL has led the way in civilian application and transferred this technology to other areas, notably medical, ecological, energy, and humanitarian applications.

I take great pride in recognizing the accomplishments of this outstanding organization, and I salute its dedicated and resourceful staff members as they help our Nation meet the technological challenges of the 21st century.•

ADDRESS BY SUPREME COURT JUSTICE JOHN PAUL STEVENS

• Mr. SIMON. Mr. President, one of the most significant and finest acts of Gerald Ford, when he served this Nation as President, was the appointment of John Paul Stevens as an Associate Justice of the United States Supreme Court. My belief is that history will record the most significant thing that President Ford did was to restore a sense of decency and integrity to the White House. This country will forever be grateful to him for that. But his naming of Justice Stevens was not a small contribution.

Recently, Justice Stevens spoke at the University of Chicago at a celebration marking the bicentennial of the Bill of Rights.

It is an address that anyone concerned about basic civil liberties in this country should read.

Among other things, he says that, "an extraordinarily aggressive Supreme Court has reached out to announce a host of new rules narrowing the Federal Constitution's protection of individual liberties."

He calls the Supreme Court's performance in 1991, "extraordinarily disappointing."

I mention these things because there is no task the U.S. Senate has that is more significant for the future of the country, other than a declaration of war, than when we advise and consent to a Supreme Court nomination.

I ask unanimous consent that the remarks of Justice John Paul Stevens be printed in the RECORD at this point and urge my colleagues and their staffs to read what he has to say.

The remarks follows:

THE BILL OF RIGHTS: A CENTURY OF PROGRESS

(By Justice John Paul Stevens)

In an otherwise mundane tax opinion construing language in the Internal Revenue Code, Oliver Wendell Holmes observed that "a word * * * is the skin of a living thought."[1] As the years pass, an idea may mature, changing its shape, its power, and its complexion, even while the symbols that identify it remain constant. There is a special vitality in words like "commerce," "equality," and "liberty."

In southwestern England, the huge sarsen pillars that primitive astronomers erected and arranged at Stonehenge centuries ago convey a profound message about man's ability to reason and to create. Even though the intent of the framers of Stonehenge is shrouded in mystery and obscurity, their message is nevertheless majestic and inspiring. Only a few miles away, the highest church spire in England, the Salisbury Cathedral, stands as a symbol of the creativity, the industry, and the faith of the Christian architects and engineers of the Thirteenth Century. A visitor to that cathedral may view one of the four remaining copies of a famous document that was signed at Runnymede early in that Century.

The message to be found in the text of the Magna Carta is neither clear nor unambiguous because its language is not plain and its style and lettering are unfamiliar. It is, nevertheless, an important symbol because it constitutes evidence that a once powerful ruler, King John the First, promised a group of his subjects that the occupant of the throne of England would thereafter obey "the law of the land."[2]

The significance of King John's promise has been anything but constant. In the two centuries after it was made, one English King after another deposed his predecessor by means that violated the law of the land. Although Henry the Seventh was crowned after his victory at the Battle of Bosworth on August 22, 1485, he established August 21st as the date when he had become King, thus retroactively condemning his former adversaries as traitors because they had fought to defend the then recognized occupant of the throne.[3] In the late Sixteenth Century, when the greatest author of all time dramatized the life of King John, he did not even mention the Magna Carta.[4] Today, at least in America, the reign of King John is remembered because of that document. In Elizabethan England, however, that great symbol had either been forgotten, or at least was not viewed with any special favor by the most popular spokesman for the establishment.

Today we focus our attention on another great symbol—a promise made 200 years ago that the newly created federal sovereign would obey the law in this land. That promise has surely not been forgotten but its meaning has changed dramatically during the two centuries of its life. To emphasize the importance and the character of that change, I have entitled my remarks: "The Bill of Rights—A Century of Progress." Because some of you may wonder why I refer to only one century, and also why I refer to "progress," I shall begin with a comment on my title.

This important Conference is a tribute to Chicago and to this great University. I am proud to be one of its graduates and to have taught briefly in its law school. The University is now 100 years old. Its participation in the development of American education—and more particularly legal education—unquestionably merits characterization as "A Century of Progress." Just two years after the University was founded, the Midway which adjoins this campus was the location of the famous amusement park in the 1893

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[1] Footnotes at end of article.

World's Fair where Little Egypt became famous for her erotic dancing. Forty years later, in 1933, the City of Chicago celebrated its 100th anniversary by sponsoring another enormously successful World's Fair, which also brought fame to a nude dancer named Sally Rand. Whether her performances were protected by the First Amendment is a question that two illustrious Chicago professors, who also wear judicial robes, recently debated in a case that I believe was correctly decided by the Court of Appeal for the Seventh Circuit[5] and incorrectly decided by a confused and fractured majority of the Justices of the Supreme Court of the United States.[6]

1933 was a year in which this City—indeed the entire Western world—was in the throes of a severe economic depression. Adolf Hitler came to power in 1933 and book-burning became fashionable in Nazi Germany. Chicago was then known throughout the world as the home of Al Capone, the master of organized crime who had made millions during the Federal Government's war on alcoholic beverages. At that time, less prosperous criminals were sometimes treated brutally by Chicago police officers seeking confessions of guilt.[7] 1933 was the year in which the City's mayor was killed in an attempt to assassinate President Roosevelt. Before the Fair opened, there were many reasons to be pessimistic about Chicago. Nevertheless the Fair was appropriately given a name that focused on the positive and inspired Chicagoans to build for a glorious future. The Fair was named "A Century of Progress."

My selection of a title for this address reflects more than a nostalgic memory of that World's Fair. It was motivated, in part, by the fact that 1991 is a year in which an occasional echo of 1933 has sounded an alarming note. A volatile stock market, an ever-escalating deficit, and disturbing reports of mismanagement of major financial institutions remind us that in 1991—as in 1933—risk is a characteristic of a free economy. The stagnation of the Soviet economy—reminiscent of Germany in 1933—furnished the setting for the attempted coup by the KGB and the military that produced frightening, through brief, memories of Hitler's rise to power and the ruthless behavior of his Gestapo. In Great Britain, 1991 is a year in which the reexamination of the convictions of alleged Irish terrorists has reminded us that trusted police officers sometimes fabricate confessions to obtain convictions.[8]

In this country, while dozens of universities and communities throughout the land are celebrating the bicentennial of the Bill of Rights, an extraordinarily aggressive Supreme Court has reached out to announce a host of new rules narrowing the Federal Constitution's protection of individual liberties. The prosecutor's use of a coerced confession—no matter how vicious the police conduct may have been—may now constitute harmless error.[9] In a totally unnecessary and unprecedented decision, the Court placed its stamp of approval on the use of victim impact evidence to facilitate the imposition of the death penalty.[10] The Court condoned the use of mandatory sentences that are manifestly and grossly disproportionate to the moral guilt of the offender.[11] It broadened the powers of the police to invade the privacy of individual citizens,[12] and even to detain them without any finding of probable cause[13] or reasonable suspicion.[14] And, in perhaps its most blatant exercise of lawmaking power marching under the banner of federalism, it completely rewrote the procedural rules governing postconviction proceedings to foreclose judicial review of even meritorious constitutional claims in capital cases.[15] An attorney's untimely filing of a notice of appeal from a state court's refusal to grant postconviction relief—a negligent misstep that previously would merely have foreclosed appellate review of that refusal in the state's judicial system—is now also a bar to federal review of a claim that the Bill of Rights was violated when the death sentence was imposed on the attorney's client.[16]

Although the Court's extraordinarily disappointing performance in 1991 can only have a sobering influence on bicentennial celebrations such as this, the work product of a single Term must be viewed from a broader perspective. Even while American judges are depreciating the value of liberty, this is a time when—thanks largely to the vision of Mikhail Gorbachev, and perhaps also to the symbolic power of documents like the Bill of Rights—the voices of freedom have produced the beautiful music of debate, controversy, and progress in most of Eastern Europe. Perhaps, in time, the free exchange of ideas in other parts of the world will give Americans the incentive and the courage to re-examine the reasons why our prison population—and particularly the number of inmates on death row[17]—steadily expands at an alarming rate[18] while armed conflict in the streets of our cities continues to flourish.

The broader perspective from which the Supreme Court's recent decisions should be viewed is temporal as well as geographic. My topic is intended to suggest that it is appropriate to consider the significance of the Bill of Rights during an entire century and, more particularly, to determine whether that century of jurisprudence represents legitimate progress.

Prior to the Civil War and the subsequent adoption of the Fourteenth Amendment, the Bill of Rights was merely a limitation on the power of the Federal Government.[19] Arguably, the first Ten Amendments were redundant because they did little more than identify some of the outer boundaries of the powers that the original Constitution conferred on the Federal Sovereign.[20] In the first century of its existence, the Bill of Rights was, in some respects, comparable to the Magna Carta—a relatively static symbol expressing the general idea that the Federal Government has an obligation to obey the law of the land.

In the second century of its life, however, the Bill of Rights became a dynamic force in the development of American law. The United States Supreme Court played a major role in that development. Its liberal—one might say "activist"—interpretation of the word "commerce" in Article I of the Constitution created the gateway to a vast expansion of the Federal Government's power to regulate the lives of individual citizens.[21] Increased federal regulation, as well as federal participation in criminal law enforcement, inevitably gave rise to individual claims that the Federal Sovereign was invading territory protected by the Bill of Rights. Of even greater significance was the Supreme Court's determination that the basic concepts described in the Bill of Rights are incorporated in the Fourteenth Amendment's guarantee that no State may deprive any person of liberty without due process of law. The construction of the Due Process Clause, or as I prefer to call it, the Liberty Clause in the Fourteenth Amendment has transformed the Bill of Rights from a mere constraint on federal power into a source of federal authority to constrain state power.

In this century, most of the significant cases raising Bill of Rights issues, in the final analysis, have actually been interpreting the word "liberty" in the Fourteenth Amendment. Indeed, the impact of that Amendment on the Bill of Rights has also led to an expansion of the meaning of the word "liberty" as it is used in the Fifth Amendment. When the Court held that the racial segregation of students in the public schools in Topeka, Kansas, violated the Equal Protection Clause,[22] simple justice indicated that the same rule should obtain in the federal enclave known as the District of Columbia. Unable to rely on the Equal Protection Clause because it applies only to state action, the Court unanimously found what is now known as the equal protection component of the Due Process Clause embedded in the word "liberty" as it is used in the Fifth Amendment. Thus, through the process of judicial construction, the Bill of Rights has become a shield against invidious discrimination by the Federal Government as well as a shield against the misuse of state power.

The Judiciary's reconstruction of the term "commerce" during this century is generally accepted as legitimate by even the most conservative critics of the Supreme Court's work product. Respected scholars have, however, questioned the legitimacy of the Court's doctrine incorporating portions of the Bill of Rights into the Liberty Clause of the Fourteenth Amendment as well as the decisions incorporating the idea of equality into the Liberty Clause of the Fifth Amendment.[23] Because the Fifth Amendment has been a part of the Bill of Rights throughout its 200-year history, it is appropriate to say a few words about the latter criticism before discussing the broader question of incorporation.

If the task of judicial construction began and ended with a grammatical and etymological analysis of legal text, or even if it is slightly expanded to encompass an analysis of the original intent of those who drafted and enacted that text into positive law, one would expect an impartial court to reject any claim that the word "liberty," as used in the 1791 Constitution, had endorsed the revolutionary idea that all men are created equal. For the text of the Constitution in 1791, before as well as after the ratification of the Bill of Rights, expressly approved of invidious discrimination. Article IV provided positive protection for the institution of slavery[24] and Article I provided that for the purpose of apportioning congressional representatives, each slave should be counted as three-fifths of a person.[25] The interest in protecting individual freedom that animated the adoption of the Bill of Rights left these odious portions of the original Constitution untouched. The Framers had constructed a document that, like the fledgling Nation itself, could be described as a house divided against itself—an institution that was half slave and half free. A Constitution that expressly tolerated the worst kind of discrimination could not simultaneously condemn all irrational discrimination.

Those who argue that the meaning of the word "liberty" as used in the Bill of Rights is the same today as it was in 1791 correctly point out that the draftsmen of the Equal Protection Clause of the Fourteenth Amendment proposed no parallel provision to expand the coverage of the Liberty Clause of the Fifth Amendment. Because the text of the 1791 Amendment has not been changed, they assume that we should simply ignore other changes in our fundamental law in the process of constructing that text today. The logic of that straightforward argument leads to the conclusion that the unanimous decision of the Supreme Court in *Bolling* v. *Sharpe*,[26] was simply wrong and that—as some critics suggest—the Justices had arrogantly assumed a lawmaking role to implement their own notions of wise social policy.

Notwithstanding the force of this hybrid plain language-original intent argument, the judicial recognition of the Equal Protection component of the Liberty Clause of the Fifth Amendment is so well settled[27] that there is no need for judicial opinions to contain an explanation of the legitimacy of the rule. In a symposium such as this, however, it is appropriate to explain why the rule is firmly grounded in our law for reasons that are even stronger than the doctrine of *stare decisis*.

Just as the task of statutory construction requires a judge to examine the entire text of the relevant statute in order to understand the meaning of the provision in dispute, so does constitutional interpretation often involve a study of interrelated provisions. The changes in constitutional text that were affected by the adoption of the Thirteenth, Fourteenth, and Fifteenth Amendments breathed new life into the entire document. The purge of the odious provisions that infected the 1791 text made it appropriate in the post-Civil War period to give the word "liberty" its ordinary meaning—indeed, a meaning that is not only acceptable to today's judges but one that presumably would have been acceptable to an Eighteenth Century jurist if the original Constitution has not contained those odious provisions.

As the Court noted in its opinion in *Bolling* v. *Sharpe*, it has not defined the word "liberty" with any great precision, though it has often made it clear that the concept encompasses more than a freedom from bodily restraint. Whether the concept is broad enough to encompass the idea of equality is a question that is easily answered by reference to the standard articulated by Justice Holmes in his Lochner dissent: It is a matter of fundamental principle that has been so "understood by the traditions of our people and our law?"[28]

Perhaps the most articulate authority on those traditions was a lawyer named Abraham Lincoln. He unquestionably would have agreed with the Court's conclusion that the term "liberty" includes a right to equal treatment under the law. For in his address calling for "a new birth of freedom,"[29] he identified the direct connection between the idea of liberty that was to prevail when General Lee ordered the Confederate Army to retreat from Gettysburg on July 4, 1863, and the idea of liberty that had prevailed when the Declaration of Independence was signed on July 4, 1776. Lincoln's calculation of "four score and seven years"[30] as the interval between his dedication at Gettysburg and the birth of the Nation identifies the Declaration of Independence, rather than the Constitution or the Bill of Rights, as the source of his understanding of the term "liberty." the self-evident proposition enshrined in the Declaration—the proposition that all men are created equal—is not merely an aspect of social policy that judges are free to accept or reject; it is a matter of principle that is so firmly grounded in the "traditions of our people" that it is properly viewed as a component of the liberty protected by the Fifth Amendment. The positive command expressed in the Bill of Rights that the federal sovereign must obey the law of the land unquestionably requires federal judges to respect the proposition to which the forefathers dedicated the founding of the Nation itself.

The text of the Liberty Clause of the Fourteenth Amendment, which provides that no State shall "deprive any person of life, liberty, or property, without due process of law,"[31] offers a different basis for criticizing the Supreme Court's decisions applying provisions of the Bill of Rights to the actions of the sovereign States.[32] As is true of the Fifth Amendment, a literal reading of that clause provides the individual with a guarantee of fair procedure before the State may deprive him of life, liberty, or property, but it does not, in terms, impose any constraint on the kinds of deprivations the State may impose on its citizens. Moreover, the general requirement that there must be "due process"—which appears in both the Fifth and the Fourteenth Amendments—arguably should not encompass such specific guarantees as the right to a speedy trial, the right to counsel, or the right to compulsory process because the Sixth Amendment would have been redundant if those rights were already protected by the general guarantee of due process in the Fifth Amendment.[33] The Supreme Court has nevertheless concluded in a long and unbroken line of cases that the Due Process Clause of the Fourteenth Amendment does require the States not only to comply with specific procedural protections in the Bill of Rights, but also to respect certain substantive guarantees. The Court's interpretation of that clause makes some state action entirely invalid regardless of the procedures the State may employ in enforcing its command.

The most striking evidence of the Court's willingness to ignore the literal meaning of constitutional text is provided by cases preventing the States from abridging the freedoms protected by the First Amendment. The text of that Amendment provides:

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."[34]

A judge who strictly construes that text must find it difficult to understand how it limits the power of any governmental body other than the Congress of the United States. Even when the First Amendment is read in the light of the Fourteenth Amendment's command that States may not deprive anyone of liberty without due process of law, the puzzlement remains. To find the solution it is necessary to search judicial opinions.

Although the earliest of the opinions endorsing the proposition that the Federal Constitution protects speech and associational freedom from State action were written by two of our greatest Justices—Justice Holmes and Justice Brandeis—neither of them bothered to quote any part of the text of the First Amendment to support that proposition. In his dissent in *Gitlow* v. *New York*, 286 U.S. 652 (1925), Justice Holmes merely asserted: "The general principle of free speech, it seems to me, must be taken to be included in the Fourteenth Amendment, in view of the scope that has been given to the word 'liberty' as there used . . . ." *Id.*, at 672.[35]

Two years later, in his separate opinion in *Whitney* v. *California*, 274 U.S. 357, 373 (1927), Justice Brandeis expressly endorsed the conclusion that the Due Process Clause provides substantive as well as procedural protection and also the proposition that the term liberty embraces the right of free speech. I quote two sentences from his opinion to emphasize the nontextual basis for his conclusion:

"Despite arguments to the contrary which had seemed to me persuasive, it is settled that the due process clause of the Fourteenth Amendment applies to matters of substantive law as well as to matters of procedure. Thus all fundamental rights comprised within the term liberty are protected by the Federal Constitution from invasion by the States." *Id.*, at 373. Of particular interest is the fact that the first two cases that Justice Brandeis cited to support that conclusion were *Meyer* v. *Nebraska*,[36] and *Pierce* v. *Society of Sisters*.[37] Those, of course, are the two leading cases holding that certain fundamental rights that are neither enumerated nor expressly mentioned in the text of the Constitution are protected from substantive deprivation by State action. Thus, although it is familiar learning that so-called "enumerated rights"—those specifically described in the first Ten Amendments to the Constitution—are incorporated in the Due Process Clause of the Fourteenth Amendment, we sometimes forget that the source of the doctrine of incorporation was the product of judicial evaluation of the fundamental character of the rights at stake rather than an analysis of the text of the Constitution itself.

Moreover, as the doctrine developed, the Court unequivocally rejected the position espoused by Justice Black that the boundaries of the idea of liberty are precisely measured by the contours of the first Ten Amendments. Contrary to the position he advanced in his dissent in *Adamson* v. *California*, 332 U.S. 46, 68 (1947), the Court has neither incorporated all of the provisions of the Bill of Rights into the Fourteenth Amendment nor retreated from the position taken in *Meyer* and *Pierce* that the concept of liberty includes unenumerated rights.

During the past century, while the relevant constitutional text has been as immutable as the Stonehenge monument, some of the propositions of law identified by that text have changed significantly. Two guarantees in the Bill of Rights—one procedural and one substantive—illustrate this point.

The Sixth Amendment provides that in all criminal prosecutions, the accused shall enjoy the right "to have the assistance of counsel for his defense."[38] Unlike the English common law, which perversely limited the right to misdemanor trials, the American right to counsel has always extended to more serious crimes.[39] Whether the Amendment merely guaranteed a lawyer to the defendant who could afford to hire one or also protected the indigent is a question that the text of the Amendment did not answer. It seems clear, however, that the early practice in federal as well as state courts did not require the appointment of counsel unless the defendant made a timely request for such assistance. A series of judicial decisions in this century has defined and expanded the right.

Powell v. *Alabama*, 287 U.S. 45, decided in 1932, was the groundbreaking case. Special circumstances creating an intolerable risk of unfairness in a capital case convinced a majority of the Court that the absence of counsel had made the trial fundamentally unfair.[40] A few years later, in *Johnson* v. *Zerbst*, 304 U.S. 458 (1938), the Court construed the Sixth Amendment to deprive federal courts in all criminal proceedings of the power to take away the defendant's liberty unless he has, or has waiver, the assistance of counsel; the Court rejected the Solicitor General's argument that the failure to request counsel constituted such a waiver. The rule that was applied to state criminal prosecutions during the 1940's and 50's required counsel in all capital cases but not in noncapital cases unless special circumstances made the particular trial unfair.[41] In 1963, in *Gideon* v. *Wainwright*, the Court overruled earlier decisions and dispensed with the special circumstances requirement, at least in felony cases.[42] More recently, the Court has extended the rule to lesser offenses;[43] it has also concluded that the Constitution mandates that counsel be competent.[44] The rule of law created by the last clause of the Sixth Amendment and the Liberty Clause of the Fourteenth Amendment has unquestionably changed while the text of those Amendments has remained the same.

So it is with the Religion Clauses of the First Amendment. Their application to the States was the product of judicial opinions that did little more than announce an interpretation of the idea of liberty that was self-evident to the Justices. The complete explanation of this conclusion in the Court's opinion in *Cantwell* v. *Connecticut* reads as follows:

"We hold that the statute, as construed and applied to the appellants, deprives them of their liberty without due process of law in contravention of the Fourteenth Amendment. The fundamental concept of liberty embodied in that Amendment embraces the liberties guaranteed by the First Amendment. The First Amendment declares that Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof. The Fourteenth Amendment has rendered the legislatures of the states as incompetent as Congress to enact such laws."[45]

History teaches us that these Clauses were motivated by a concern about rivalry among Christian sects. The intolerance that characterized Sixteenth and Seventeenth Century England—when royal decrees made martyrs of Edmund Campion and Thomas More, when Oliver Cromwell's puritan roundheads covered renaissance art and literature with the austere blanket of censorship, and when English emigrants burned witches at the stake in Salem, Massachusetts—that intolerance was the product of competition among different groups sharing the same fundamental belief in the resurrection of Jesus Christ. In his commentaries on the Constitution, Justice Story explained that the "real object of the [First] [A]mendment was not to countenance, much less to advance, Mahometanism, or Judaism, or infidelity, by prostrating Christianity; but to exclude all rivalry among Christian sects, and to prevent any national ecclesiastical establishment which should give to a hierarchy the exclusive patronage of the national government."[46]

If the protection of the First Amendment were narrowly circumscribed by the specific concerns that motivated its adoption, presumably a democratic majority could discriminate against non-Christian religions, against agnostics and against atheists. The Court, however, has unequivocally rejected that view because the principle of tolerance embodied in the First Amendment is broader than the particular history that was familiar to its authors.

"Just as the right to speak and the right to refrain from speaking are complementary components of a broader concept of individual freedom of mind, so also the individual's freedom to choose his own creed is the counterpart of his right to refrain from accepting the creed established by the majority. At one time it was thought that this right merely proscribed the preference of one Christian sect over another, but would not require equal respect for the conscience of the infidel, the atheist, or the adherent of a non-Christian faith such as Islam or Judaism. But when the underlying principle has been examined in the crucible of litigation, the Court has unambiguously concluded that the individual freedom of conscience protected by the First Amendment embraces the right to select any religious faith or none at all."[47]

It is the principle of tolerance that, in time, must provide the answer to the controversy that inflames so many of our most sincere and zealous citizens. Fueling that controversy is a disagreement over the point at which a seed—to use St. Thomas Aquinas' term[48]—becomes a human being. In *Stanley* v. *Georgia*,[49] and *Griswold* v. *Connecticut*,[50] the Court implicitly determined that a potential father, as well as a pair of potential parents, have a constitutional right to waste the seeds of potential life. In *Skinner* v. *Oklahoma ex rel. Williamson*,[51] the Court held that the State could not sterilize the defendant and thus deprive him of "the right to have offspring," which is a "basic liberty," because he had committed at least two felonies.[52] In the *Cruzan* case two Terms ago, the Court made it clear that the Liberty Clause protects a woman's right to make basic decisions about the physical treatment of her own body.[53] If a small tumor threatens her well-being, she has the right—a constitutionally protected right embedded in the Liberty Clause of the Fourteenth Amendment—to decide whether or not it shall be removed.[54] As a purely secular matter, if we regard a growth within her body that is no larger than an acorn as still just a seed rather than a human being—as St. Thomas did—the constitutional predicate for the decisions in *Stanley*, *Griswold*, and *Cruzan*, inexorably leads to the conclusion that the woman has a right to decide whether to waste or to preserve that seed.

That right, of course, is not absolute. Personal decisions involving the treatment of diseases, for example, must take into account the welfare of society.[55] But while the individual choice may be influenced, or even dictated, by the tenets of religious faith, the majority's decision to override such a decision must be justified by secular considerations. Many Americans are sincerely convinced that the duty to protect potential life after the moment of conception is just as imperative as it is immediately after birth when a fetus becomes a person within the meaning of the Constitution. To the extent that such a conviction rests on religious faith rather than physical differences between potential persons at different stages of their development, it does not provide a permissible basis for imposing the majority's will upon the individual.

The standard that should govern the Judiciary in deciding whether a legislature had an adequate secular basis for interfering with an individual's decision respecting the disposition of a growth within or upon her body has been debated in a number of thought-provoking opinions.[56] Whatever standard may ultimately be applied in answering the legal questions that are generated by the abortion controversy, the decisional process must recognize the validity of at least three settled propositions.

First, neither a seed nor a fetus is a "person" within the meaning of the Fourteenth Amendment.[57] The meaning of that term is unquestionably a matter of federal law that cannot be modified by the actions of state legislatures. Responsible critics of the decision in *Roe* v. *Wade*—those who argue that every State should have broad latitude in regulating abortion—necessarily reject any suggestion that a fetus is a person prior to birth.[58]

Second, the justification for the legislative decision not only must be secular;[59] it also must be rational.[60] Theoretically, a prohibition against abortion, like a prohibition against birth control, might be justified by a general interest in increasing the population of the community or the planet. Although such a justification might make a good deal of sense after a community has been devastated by war or plague, it would surely be irrational in urban America today.

Third, the constitutional issues generated by the abortion controversy cannot be entirely divorced from the topics that you will be considering during a comprehensive symposium on the Bill of Rights. For the Supreme Court decisions involving so-called unenumerated rights—such as the right to marry, the right to travel, the right to exercise dominion over one's body, and the right to decide whether to bear or to beget a child—make it clear that those rights have the same source as those that are enumerated in those parts of the Bill of Rights that are enforced against the States under the incorporation doctrine.

That source is the idea of liberty. Although that idea is difficult to define, the Court has given it meaning in specific cases and controversies. On the whole, the Court's decisions interpreting and reinterpreting the idea of liberty have enlarged the concept. For example, I have no doubt that the views expressed by Justice Holmes and Justice Brandeis in their separate opinions in *Gitlow* v. *New York*, and *Whitney* v. *California*, though then unacceptable to the majority, are now part of our law. The right to marry a person of a different race or a person incarcerated in a different prison, though unmentioned in the text of the Constitution, is now protected by unanimous holdings of the Supreme Court.[61] The general trend of these decisions raises two questions that are far more important than the wisdom or lack of wisdom of any particular holding. Do they represent progress toward the constitutional goal of forming a more perfect union, and if so, has that progress been attained by legitimate means?

The answer to the first question does not depend on the means by which the change has been accomplished. It would be the same if every addition to the concept of liberty that has been produced by judicial decision had, instead, been achieved by the cumbersome process of amending the text of the Constitution. If that procedure had been followed, would we have a more perfect union today than we had in 1791? Mortimer Adler has recently suggested how that question should be answered.

Although I do not endorse his suggestion that the Court should wield the power to invalidate unjust legislation even if it is not unconstitutional, he is persuasive when he argues that one's views about a just society will determine whether a change in the law represents progress. Commenting on Judge Bork's confirmation hearings, he wrote:

"The nominee might even have been asked whether he thought the eighteenth-century Constitution, allowing as it did for the disenfranchisement of women, blacks, and the poor who could not pay poll taxes, was or was not unjust. If he said that no objectively valid principles of justice enabled him to answer that question, he might still have been asked on what grounds the thirteenth, fourteenth, fifteenth, nineteenth, and twenty-fourth amendments were adopted in subsequent years and whether they represented progress in the direction of social justice, regression, or neither?[62]

In my judgment, no matter how one defines the just society or the perfect union that is mentioned in the Preamble to the Constitution, the Amendments identified by Dr. Adler as well as the trend of decisions that I have identified this afternoon, are appropriately characterized as progress.

I am also convinced that the progress in the development of our constitutional law has been achieved by legitimate means. The risk of unwise decisions is always present, and that concern is greatest when the Court concludes that the strong presumption of validity that attaches to decisions made by the elected representatives of the majority has been overcome.[63] Moreover, just as risk is a characteristic of a free economic market, so also may every expansion of individual liberty pose some additional danger for society. But risk—even serious risk—is part of the price that must be paid for freedom.

Unlike their French counterparts, the Framers of our Constitution wisely refused to stake the fate of the Nation on the will of the transient majority. With equal wisdom they made no attempt to fashion a Napoleonic Code that would provide detailed answers to the many questions that would inevitably confront future generations. Instead, they used general language to construct a framework that would allocate decisionmaking powers among different branches of government. The provisions for the appointment and life tenure of federal judges were obviously designed to enable them to perform their professional tasks impartially, without fear of popular disapproval. Their duty to adjudicate cases and controversies obviously encompasses an obligation to interpret the text of the Constitution. As Justice Cardozo has reminded us, "this power of interpretation must be lodged somewhere, and the customs of the constitution has lodged it in the judges. If they are to fulfill their function as judges, it could hardly be lodged elsewhere."[64] I firmly believe that the Framers of the Constitution expected and intended the vast open spaces in our charter of government to be filled not only by legislative enactment but also by the common-law process of step-by-step adjudication[65] that was largely responsible for the development of the law at the time this Nation was conceived.[66] That is the process that has largely eliminated the use of coerced confessions in criminal trials, curtailed racial discrimination in the selection of juries, and extended First Amendment protection to artistic expression as well as to political speech.

Disagreement with a particular decision does not justify an attack on the entire decisional process. Judgments that apply principles that are embedded in the Constitution, that are supported by a candid attempt to explain the application of the principles and the relevance of prior decisions, represent appropriate developments of the law even when neither text nor history supplies the entire basis for the new decision. For the work of federal judges from the days of John Marshall to the present, like the work of the English common-law judges, sometimes requires the exercise of judgment[67]—a faculty that inevitably calls into play notions of justice, fairness, and concern about the future impact of a decision. The fact that such concerns play a role in the decisional process does not undermine the legitimacy of the process that, for the most part, has served the Nation well for two centuries.

Progress in the development of the law, to borrow again from Justice Cardozo "is neither a straight line nor a curve. It is a series of dots and dashes. Progress comes *per saltum*, by successive compromises between extremes, compromises often, if I may borrow Professor Cohen's phrase, between 'positivism and idealism.' 'The notion that a jurist can dispense with any consideration as to what the law ought to be arises from the fiction that the law is a complete and closed system, and that judges and jurists are mere automata to record its will or phonographs to pronounce its provisions.' Ideas of justice will no more submit to be 'banished from the theory of law' than 'from its administration.'"[68]

An important protection against the unwise use of the judicial power to interpret the Constitution has its origin in common-law jurisprudence. Judges have always attached less importance to dicta than to the portions of an opinion that are necessary to explain a judgment. The doctrine of judicial restraint, which counsels against the use of unnecessary dicta, also imposes on federal judges the obligation to avoid unnecessary or unduly expansive constitutional adjudication.[69] It is of interest that Justice Brandeis is the author of the leading opinion expounding this doctrine—I refer of course to his opinion in *Ashwander* v. *Tennessee Valley Authority*[70]—as well as some of the Court's most inspiring words about the idea of liberty. I quote three sentences from his opinion in *Whitney* v. *California*, to illustrate the latter point:

"Those who won our independence believed that the final end of the State was to make men free to develop their faculties; and that in its government the deliberative forces should prevail over the arbitrary. They valued liberty both as an end and as a means. They believed liberty to be the secret of happiness and courage to be the secret of liberty." *Whitney* v. *California*, 274 U.S. 357, 375 (1926).

In response to Abraham Lincoln's call for "a new birth of freedom" in his Gettysburg Address, the second century of the history of the Bill of Rights witnessed significant progressive changes in the idea of liberty. Historical and textual analyses have played an important role during that century of progress, but they did not absolutely limit the Court's exercise of judgment in performing its task of interpreting the underlying meaning of a dynamic concept. Let us hope that the inability to decipher the actual intent of the architects of the Constitution—like the inability to decipher the Stonehenge text—will not prevent the exercise of sound judgment from continuing the progressive development of the idea of liberty during the third century of the life of the Bill of Rights.

FOOTNOTES

[1] *Towne* v. *Eisner*, 245 U.S. 418 425 (1918).

[2] By that instrument, the King, representing the sovereignty of the Nation, pledged that "'no freeman shall be taken, or imprisoned, or be disseized of his freehold, or liberties, or free customs, or be outlawed, or exiled, or any otherwise destroyed; nor will we [not] pass upon him, nor condemn him, but by lawful judgment of his peers, or by the law of the land.'" *Hurtado* v. *California*, 110 U.S. 516, 542 (1884).

[3] R. Horrox, Richard III 327 (1989); S. Chrimes, Henry VII 50, 63 (1967); T. Costain, The Last Plantagenets 384 (1962).

[4] W. Shakespeare, King John (ed. R. Smallwood 1974).

[5] *Miller* v. *Civil City of South Bend*, 904 F.2d 1081 (CA7 1990) (en banc); *id.*, at 1089 (Posner, J., concurring in the opinion and judgment of the court) (dance is expressive and therefore should be protected under the First Amendment); *id.*, at 1120 (Easterbrook, J., dissenting) (Indiana law regulates public nudity, which is conduct, not speech, and therefore does not violate the First Amendment).

[6] *Barnes* v. *Glen Theatre, Inc.*,——U.S.——(111 S.Ct. 2456) (1991). *Barnes* was a 5-4 decision, in which Chief Justice Rehnquist, was joined by Justice O'Connor and Justice Kennedy. Justice Scalia and Justice Souter each filed separate opinions concurring in the judgment.

[7] See, *e.g.*, *People* v. *LaFrana*, 4 Ill. 2d 261, 122 N.E. 2d 583 (1954).

[8] *R* v. *McIlkenny*, The Independent, Mar. 28 1991 (police fabricated confessions in case of alleged terrorists known as the Birmingham Six). Earlier, in 1989, it also came to light that the police had fabricated interview notes and relied on faulty forensic tests to secure the conviction of other alleged Irish Republican Army terrorists known as the Guildford Four. See *R* v. *Richardson*, The Times, Oct. 20, 1989.

These, and similar, cases have "badly shaken" the British courts, and have led the Government to set up a Royal Commission to study the criminal justice system in order "'to minimize as far as possible the likelihood of such events happening again.'" Schmidt, *British Court to Review 1974 Bombing Case*, The New York Times, Sept. 18, 1991, p. A4. The ten-person commission, whose members include prominent academics, journalists, and businessmen, represent "'a wide range of experience.'" Ames, Commission Line-up Welcomed, 88 Law Society's Guardian Gazette 4 (1991). The commission will examine "all stages of the criminal process" and will consider "the investigation and pretrial process including the conduct of the police investigations and their supervision, the right to silence, the role of the prosecutor in obtaining evidence and deciding whether to proceed with a case and arrangements for disclosing material to the defense." McKeone, Lawyers Urge Interim Criminal Justice Reforms, 88 Law Society's Gazette (1991). The mission of the commission is nothing short of reform of the criminal justice system.

[9] *Arizona* v. *Fubninante*, ——U.S.——(111 S.Ct. 1246) (1991). The Supreme Court affirmed the judgment of the State Supreme Court, which had held that Fulminante's confessions were coerced and that harmless error analysis did not apply. On the one hand, three of the four Members of the Court who voted to reverse concluded that no error had occurred because the confessions were not coerced; accordingly, they had no need to reach the harmless error issue. On the other hand, because it was clear to the five Members of the majority who voted to affirm that the introduction of the confessions had not been harmless, there was no need for them to reexamine the settled rule that the use of a coerced confession requires automatic reversal. Only the vote of Justice Scalia, who agreed that the confessions were coerced but thought that their admission was harmless, depended on the answer to the question whether harmless error analysis applies to coerced confessions.

As a result of the Court's decision in *Fulminante*, State Supreme Courts must now look to their State Constitutions to hold that "a coerced confession may so infect the trial process that its admission into evidence demands reversal" and that the admission of a coerced confession is not subject to harmless error analysis. *Iowa* v. *Quintero*, 60 US Law 2165 (Sept. 17, 1991) (en banc).

[10] *Payne* v. *Tennessee*, —— U.S. —— (111 S.Ct. 2597) (1991). Here, as in *Arizona* v. *Fulminante*, the Court reached out to address an issue that it need not have considered. In *Payne*, the Court ordered the parties to brief and argue "whether *Booth* v. *Maryland*, 482 U.S. 496 (1987), and *South Carolina* v. *Maryland*, 482 U.S. 496 (1987), and *South Carolina* v. *Gathers*, 490 U.S. 805 (1989), should be overruled." —— (111 S.Ct. 1407) (1991). As the Court's order indicates, this was an issue that was not even raised in the petition for certiorari. See Pet. for Cert. 3. The Court need not have revisited *Booth* and *Gathers* in any event because the Tennessee Supreme Court had held that there was no Booth violation, and as an alternative ground, that even if there had been a *Booth* violation, it was harmless beyond a reasonable doubt. See *State* v. *Payne*, 791 S.W.2d 10, 18-19 (Tenn. 1990).

[11] *Harmelin* v. *Michigan*, —— U.S. —— (111 S.Ct. 2680) (1991) (upholding mandatory life sentence without possibility of parole for possession of 672 grams of cocaine). Relying on the plain language of the Eighth Amendment and a scholarly examination of

historical evidence concerning the intent of the Framers, Justice Scalia argued that proportionality should not even be considered in construing the constitutional prohibition against "cruel and unusual punishments." Significantly, seven members of the Court refused to adopt an argument that was clearly at odds with the Court's prior Eighth Amendment jurisprudence. See, *e.g.*, *Weems* v. *United States*, 217 U.S. 349 (1910); *Gregg* v. *Georgia*, 428 U.S. 153 (1976); *Coker* v. *Georgia*, 433 U.S. 584 (1977); *Enmund v. Florida*, 458 U.S. 782 (1982); *Solem* v. *Helm*, 463 U.S. 277 (1983).

In *Chapman* v. *United States*, —— U.S. (111 S.Ct. 1919) (1991), the Court construed a statute to authorize grossly disparate sentencing. For example, under the Court's construction of the statute, a person distributing 1,000 doses of LSD in liquid form is subject to no minimum penalty, whereas a person handing another person a single dose on a sugar cube, which weighs about 2 grams, is subject to a mandatory five-year penalty.

[12] In *California* v. *Acevedo*, —— U.S. —— (111 S.Ct. 1982) (1991), the Supreme Court overruled *Arkansas* v. *Sanders*, 442 U.S. 753 (1979), and held that the police may search a closed container in an automobile even though they do not have a search warrant, as long as they have probable cause to believe the container contains contraband. See also *Florida* v. *Jimeno*, —— U.S. —— (111 S.Ct. 1801) (1991) (consent to search car includes consent to search any closed containers found in car).

[13] *County of Riverside* v. *McLaughlin*, —— U.S. —— (111 S.Ct. 1661) (1991) (Fourth Amendment permits individual to be detained for 48 hours without probable cause hearing).

[14] *California* v. *Hodari*, —— U.S. —— (111 S.Ct. 1547) (1991) (Fourth Amendment when police officer pursued and ran toward him without reasonable suspicion); *Florida* v. *Bostick*, —— U.S. —— (111 S.Ct. 2382) (1991) (Fourth Amendment does not prohibit police officers from boarding bus and searching passengers, even though officers lack reasonable suspicion to conduct such a search, if passengers "consent" to search).

[15] *Coleman* v. *Thompson*, —— U.S. —— (111 S.Ct. 2546) (1991); *Ylst* v. *Nunnemaker*, —— U.S. —— (111 S.Ct. 2590) (1991); *McCleskey* v. *Zant*, —— U.S. —— (111 S.Ct. 1454) (1991).

[16] *Coleman* v. *Thompson*, —— U.S. at —— (111 S.Ct., at 2546).

[17] Department of Justice figures indicate that as of 12/31/80 there were 714 prisoners under sentence of death in the United States, and as of 12/31/89 there were 2,250 prisoners under sentence of death. U.S. Department of Justice, Capital Punishment 1980, at 2; U.S. Department of Justice, Capital Punishment 1989, at 6. In less than a decade, the total number of prisoners under sentence of death in the United States has increased by 215%. According to Bureau of Justice Statistics Director Steven Dillingham, since 1976 there have been 3,834 people sentenced to death. 40% on Death Row Are Black, New Figures Show, The New York Times, Sept. 30, 1991, p. A15.

[18] In the 1980s, the United States' prison population has doubled, whereas during the same time period in the Soviet Union, the prison population has declined and in South Africa, the prison population has increased by only 11%. The Sentencing Project, Americans Behind Bars: A Comparison of International Rates of Incarceration 6 (1991); Ostrow, U.S. Imprisons Black Men at 4 Times S. Africa's Rate, The Los Angeles Times, Jan. 5, 1991, p. A1, col. 5. The United States "now has the world's highest known rate of incarceration"; it imprisons 426 people per 100,000 population, whereas the Soviet Union imprisons 268 per 100,000 population and South Africa imprisons 333 per 100,000 population. Americans Behind Bars, at 3-5. In comparison, incarceration rates in Western Europe range from 35 to 120 per 100,000 population, and rates in Asia range from 21 to 140 per 100,000 population. *Ibid.* For example, the United States' incarceration rate is almost ten times that of Japan's incarceration rate. See *id.*, at 5.

[19] *Barron* v. *Baltimore*, 7 Pet. 243 (1833) (holding first Eight Amendments inapplicable to the States); see also *Withers* v. *Buckley*, 20 How. 84, 90–91 (1857).

[20] "I go further, and affirm that bills of rights, in the sense and to the extent in which they are contended for, are not only unnecessary in the proposed Constitution, but would even be dangerous. . . . For why declare that things shall not be done which there is no power to do? Why, for instance, should it be said that the liberty of the press shall not be restrained, when no power is given by which restrictions may be imposed?" *The Federalist*, No. 84, P. 535 (B. Wright ed. 1961) (A. Hamilton).

[21] See, *e.g.*, *Shreveport Rate Case*, 234 U.S. 342, 351 (1914) (poser of Congress to regulate rates of interstate railroads included power "to control . . . all matters having such a close and substantial relation to interstate traffic that the control is essential or appropriate to the security of that traffic, to the efficiency of the interstate service, and to the maintenance of conditions under which interstate commerce may be conducted upon fair terms and without molestation or hindrance"); *Wickard* v. *Filburn*, 317 U.S. 111, 127–128 (1942) (Congress could control farmer's production of wheat for home consumption because cumulative effect of home consumption of wheat by many farmers would affect supply and demand relations of interstate commodity market); *Heart of Atlanta Motel, Inc.* v. *United States*, 379 U.S. 241, 258 (1964) ("Congress may . . . prohibit racial discrimination by motels serving travelers, however 'local' their operations may appear"); *Perez* v. *United States*, 402 U.S. 146, 154 (1971) ("Extortionate credit transactions, though purely intrastate, may in the judgment of Congress affect interstate commerce"). These cases stand in stark contrast to some of the Supreme Court's earlier cases, such as *United States* v. *E. C. Knight Co.*, 156 U.S. 1, 13 (1895), in which the Supreme Court "allowed but little scope to the power of Congress." *Wickard* v. *Filburn*, 317 U.S., at 121–122.

[22] *Brown* v. *Board of Education* 347 U.S. 483 (1954).

[23] See, *e.g.*, Berger, Activist Censures of Robert Bork, 85 Northwestern L. Rev. 993, 1015 (1991); J. Ely, Democracy and Distrust 32–33 (1980).

[24] "No Person held to Service or Labour in one State, under the Laws thereof, escaping into another, shall in Consequence of any Law or Regulation therein, be discharged from such Service of Labour, but shall be delivered up on Claim of the Party to whom such Service or Labour may be due." U.S. Const., Art. IV, §2.

[25] "Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons." U.S. Const., Art. I, §2, ¶3 (superseded by §2 of the Fourteenth Amendment).

[26] 347 U.S. 497 (1954) (holding racial segregation in District of Columbia public schools was denial of fifth amendment due process).

[27] See *e.g.*, *Califano* v. *Webster*, 430 U.S. 313, 317 (1977) (*per curiam*) (holding constitutional under fifth amendment federal social security statute treating female wage earners more favorably than male wage earners to redress "our society's longstanding disparate treatment of women"); *Califano* v. *Goldfarb*, 430 U.S. 199, 201 (1977) (federal statute denying survivors' benefits to female wage earner's spouse unless he can show he "'was receiving at least one-half of his support'" from his deceased wife, but not requiring male wage earner's surviving spouse to make the same showing of dependency, violates Due Process Clause of Fifth Amendment); *United States Dept. of Agriculture* v. *Moreno*, 413 U.S. 528 (1973) (food stamp statute excluding any household containing individual unrelated to any other member of the household violates Due Process Clause of Fifth Amendment); *Frontiero* v. *Richardson*, 411 U.S. 677, 680 (1973) (holding unconstitutional under fifth amendment federal statutes providing that spouses of male members of the armed services were "dependents" for purposes of military benefits, but that spouses of female members were not unless they depended on their wives for more than one-half of their support); *Shapiro* v. *Thompson*, 394 U.S. 618, 641–642 (1969) (holding unconstitutional state and federal provisions denying welfare benefits to individuals who had resided in the administering jurisdiction less than one year); *Schneider* v. *Rust*, 377 U.S. 163, 168 (1964) (holding statute treating naturalized citizens as less reliable than native born citizens is unconstitutional because "while the Fifth Amendment contains no equal protection clause it does forbid discrimination that is 'so unjustifiable as to be violative of due process'").

[28] "I think that the word liberty in the Fourteenth Amendment is perverted when it is held to prevent the natural outcome of a dominant opinion, unless it can be said . . . that the statute proposed would infringe fundamental principles as they have been understood by the traditions of our people and our law." *Lochner* v. *New York*, 198 U.S. 45, 76 (1905) (Holmes, J., dissenting).

This standard has been incorporated into subsequent cases as well. See, *e.g.*, *Snyder* v. *Massachusetts*, 291 U.S. 97, 105 (1934) (opinion of Cardozo, J.) (State is free to regulate its procedure "unless in so doing it offends some principle of justice so rooted in the traditions and conscience of our people as to be ranked as fundamental"); *Moore* v. *East Cleveland*, 431 U.S. 494, 503 (1977) (plurality opinion) (defining fundamental liberties as those that are "deeply rooted in this Nation's history and tradition").

[29] A. Lincoln, Gettysburg Address, 1 Documents of American History 429 (H. Commager ed.) (9th ed. 1973).

[30] *Id.* at 428.

[31] U.S. Const., Amdt. 14, §1.

[32] "The words, 'due process of law,' were undoubtedly intended to convey the same meaning as the words, 'by the law of the land,' in *Magna Carta*." *Murray's Lessees* v. *Hoboken Land and Improvement Co.*, 18 How. 272, 276 (1856). In *Davidson* v. *New Orleans*, 96 U.S. 97, 101 (1877), the Supreme Court recognized that one was the equivalent of the other. See also 2 J. Story, Commentaries on the Constitution of the United States 565–567 (5th ed. 1891). Learned Hand reached the same conclusion: "It is my understanding that the 'Due Process Clause,' when it first appeared in Chapter III of the 28th of Edward III—about a century and a half after Magna Carta—was a substitute for, and was regarded as the equivalent of, the phrase, *per legem terrae*, which meant no more than customary legal procedure." L. Hand, The Bill of Rights 35 (1958).

[33] This, in essence, is the argument that the Court accepted to explain its conclusion that due process of law does not require an indictment by a grand jury as a prerequisite to a prosecution for murder. See *Hurtado* v. *California*, 110 U.S. 516 (1884).

[34] U.S. Const., Amdt. 1.

[35] The majority did not disagree with this proposition. It wrote:

"For present purposes we may and do assume that freedom of speech and of the press—which are protected by the First Amendment from abridgment by Congress—are among the fundamental personal rights and 'liberties' protected by the due process clause of the Fourteenth Amendment from impairment by the States." 268 U.S. 652, 666 (1925).

[36] 262 U.S. 390, 400 (1923) (holding unconstitutional an act prohibiting the teaching of foreign languages to children because the teacher's "right thus to teach and the right of parents to engage him so to instruct their children . . . are within the liberty of the [Fourteenth] Amendment").

[37] 268 U.S. 510, 534–535 (1925) (holding unconstitutional an act that forbade parents from sending their children to private schools because it "unreasonably interferes with the liberty of parents and guardians to direct the upbringing and education of children under their control").

[38] U.S. Const., Amdt. 6.

[39] *Powell* v. *Alabama*, 287 U.S. 45, 60–65, 69 (1932).

[40] The Court concluded that given the special circumstances in the record, "the necessity of counsel was so vital and imperative that the failure of the trial court to make an effective appointment of counsel was likewise a denial of due process within the meaning of the Fourteenth Amendment. Whether this would be so in other criminal prosecutions, or under other circumstances, we need not determine. All that it is necessary now to decide, as we do decide, is that in a capital case, where the defendant is unable to employ counsel, and is incapable adequately of making his own defense because of ignorance, feeble mindedness, illiteracy, or the like, it is the duty of the court, whether requested or not, to assign counsel for him as a necessary requisite of due process of law; and that duty is not discharged by an assignment at such a time or under such circumstances as to preclude the giving of effective aid in the preparation and trial of the case. To hold otherwise would be to ignore the fundamental postulate, already adverted to, 'that there are certain immutable principles of justice which inhere in the very idea of free government which no member of the Union may disregard.' *Holden* v. *Hardy*, [169 U.S. 366 (1898)]." 287 U.S., at 71–72.

[41] See *Gideon* v. *Wainwright*, 372 U.S. 335, 350–351 (1963) (Harlan, J., concurring).

[42] *Id.*, at 344–345.

[43] See *Argersinger* v. *Hamlin*, 407 U.S. 25, 37 (1972) ("absent a knowing and intelligent waiver, no person may be imprisoned for any offense, whether classified as petty, misdemeanor, or felony, unless he was represented by counsel at his trial") (footnotes omitted).

[44] See, *e.g.*, *United States* v. *Cronic*, 466 U.S. 648 (1984) (adversarial process protected by Sixth Amendment requires accused to have counsel acting as advo-

cate); *Strickland* v. *Washington*, 466 U.S. 668, 687 (1984) (convicted defendant's claim of ineffective assistance of counsel requires showing that counsel's performance was deficient and that the deficiency prejudiced the defendant); see also *Cuyler* v. *Sullivan*, 446 U.S. 335, 348 (1980) (actual conflict of interest adversely affecting lawyer's performance renders assistance ineffective); *Holloway* v. *Arkansas*, 435 U.S. 475 (1978) (Sixth Amendment right to effective assistance of counsel includes right of representation by attorney who does not owe conflicting duties to other defendants).

[45] *Cantwell* v. *Connecticut*, 310 U.S. 296, 303 (1940) (footnote omitted).

[46] 2 J. Story, Commentaries on the Constitution of the United States 631–632 (5th ed. 1891).

[47] *Wallace* v. *Jaffree*, 472 U.S. 38, 52–53 (1985) (footnote omitted).

[48] The view held by St. Thomas Aquinas is explained in a report prepared by the Congressional Research Service of the Library of Congress, entitled "Catholic Teaching on Abortion": "'For St. Thomas, 'seed and what is not seed is determined by sensation and movement.' What is destroyed in abortion of the unformed fetus is seed, not man.'" C. Whittier, Catholic Teaching on Abortion: Its Origin and Later Development (1981), reprinted in Brief for Americans United for Separation of Church and State as *Amicus Curiae* 13a, 17a (quoting *In octo libros politicorum* 7.12, attributed to St. Thomas Aquinas); see *Webster* v. *Reproductive Health Services*, 492 U.S. 490, 567–569 (1989) (Stevens, J., concurring in part and dissenting in part); see also *Roe* v. *Wade*, 410 U.S. 113, 134 (1973).

[49] 394 U.S. 557 (1969). The precise holding was, of course, that the "First and Fourteenth Amendments prohibit making mere private possession of obscene material a crime." *Id.*, at 568 (footnote omitted). The Supreme Court reasoned that the Constitution protected the rights to receive ideas and to be free from unwanted governmental intrusions into one's privacy: "If the First Amendment means anything, it means that a State has no business telling a man, sitting alone in his own house, what books he may read or what films he may watch." *Id.*, at 565.

[50] 381 U.S. 479 (1965) (holding Connecticut law prohibiting the purchase and use of contraceptives by married couples to be unconstitutional); see also *Eisenstadt* v. *Baird*, 405 U.S. 438 (1972) (holding Massachusetts statute prohibiting distribution of contraceptives to single persons to be unconstitutional under the Equal Protection Clause of the Fourteenth Amendment).

[51] 316 U.S. 535 (1942).

[52] *Id.*, at 536, 541. I recognize, of course, that the Court's opinion, written when the concept of "substantive due process" was in special disfavor, relied on an equal protection rationale. I believe this is one of several cases that is more appropriately explained as reflecting a judgment about individual liberty. See Stevens, The Third Branch of Liberty, 41 U. Miami L. Rev. 277, 286, 288 (1986).

[53] *Cruzan* v. *Director, Missouri Dept. of Health*,—U.S.—(110 S. Ct. 2841) (1990). Justice Scalia, however, did not accept this conclusion. See *id.*, at—(110 S. Ct., at 2861–2863).

[54] "Every human being of adult years and sound mind has a right to determine what shall be done with his own body; and a surgeon who performs an operation without his patient's consent commits an assault for which he is liable in damages." *Schloendorff* v. *Society of New York Hospital*, 211 N.Y. 125, 129–130, 105 N.E. 92, 93 (1914) (opinion of Cardozo, J.).

[55] *Jacobson* v. *Massachusetts*, 197 U.S. 11, 27 (1905) (balancing individual's liberty interest in declining unwanted smallpox vaccine against State's interest in preventing disease and upholding law because it is "of paramount necessity" to State's fight against epidemic).

[56] See, *e.g.*, *Thornburg* v. *American College of Obstetricians and Gynecologists*, 476 U.S. 747, 795 (1986) (White, J., dissenting) ("the State's interest, if compelling after viability, is equally compelling before viability," but "compelling" interest is not required for a right that is not fundamental); *Akron* v. *Akron Center for Reproductive Health, Inc.*, 462 U.S. 416, 453 (1983) (O'Connor, J., dissenting) (regulation imposed on abortion is not unconstitutional unless it "'unduly burdens the right to seek an abortion'" at any point in the pregnancy); *Roe* v. *Wade*, 410 U.S. 113, 155 (1973) (opinion of Blackmun, J.) (where fundamental rights are concerned, state regulation may be justified only by a "'compelling state interest'" and must be "narrowly drawn to express only the legitimate state interests at stake"; the State's interest becomes "compelling" at viability); *id.*, at 170 (Stewart, J., concurring) (right to abortion is "embraced within the personal liberty protected by the Due Process Clause of the Fourteenth Amendment" and any state interests in abridging this right must "survive the 'particularly careful scrutiny' that the Fourteenth Amendment requires here"); *id.*, at 173 (Rehnquist, J., dissenting) ("The test traditionally applied in the area of social and economic legislation is whether or not a law such as that challenged has a rational relation to a valid state objective"); see also *Poe* v. *Ullman*, 367 U.S. 497, 543 (1961) (Harlan, J., dissenting) ("[T]he full scope of the liberty guaranteed by the Due Process Clause . . . is a rational continuum which, broadly speaking, includes a freedom from all substantial arbitrary impositions and purposeless restraints . . . and which also recognizes, what a reasonable and sensitive judgment must, that certain interests require particularly careful scrutiny of the state needs asserted to justify their abridgment"); *Griswold* v. *Connecticut*, 381 U.S., at 500 (Harlan, J., concurring); *Moore* v. *East Cleveland*, 431 U.S. 494 (1977) (opinion of Powell, J.) (plurality opinion); *id.*, at 541 (White, J., dissenting).

[57] *Webster*, 492 U.S., at 568, n. 13 (Stevens, J., concurring in part and dissenting in part); *Thornburgh*, 476 U.S., at 779, n. 8 (Stevens, J., concurring).

[58] In his dissent in *Roe* v. *Wade*, then Justice Rehnquist wrote "I agree with the statement of Mr. Justice Stewart in his concurring opinion that the 'liberty,' against deprivation of which without due process the Fourteenth Amendment protects, embraces more than the rights found in the Bill of Rights. But that liberty is not guaranteed absolutely against deprivation, only against deprivation without due process of law. The test traditionally applied in the area of social and economic legislation is whether or not a law such as that challenged has a rational relation to a valid state objective. *Williamson* v. *Lee Optical Co.*, 348 U.S. 483, 491 (1955). The Due Process Clause of the Fourteenth Amendment undoubtedly does place a limit, albeit a broad one, on legislative power to enact laws such as this. If the Texas statute were to prohibit an abortion even where the mother's life is in jeopardy, I have little doubt that such a statute would lack a rational relation to a valid state objective under the test stated in *Williamson*, *supra*." 410 U.S., at 172–173.

[59] See *Webster* v. *Reproductive Health Services*, 492 U.S., at 569 (Stevens, J., concurring in part and dissenting in part); see also *Cruzan*, —— U.S., at —— (110 S. Ct., at 2888) (Stevens, J., dissenting) ("It is not within the province of secular government to circumscribe the liberties of the people by regulations designed wholly for the purpose of establishing a sectarian definition of life"); *Hodgson* v. *Minnesota*, —— U.S. ——, (110 S.Ct. 2926, 2937) (1990) (opinion of Stevens, J.) ("[T]he regulation of constitutionally protected decisions . . . must be predicated on legitimate state concerns other than disagreement with the choice the individual has made . . . . Otherwise, the interest in liberty protected by the Due Process Clause would be a nullity").

[60] See *Meyer* v. *Nebraska*, 262 U.S. 390, 399–400 (1923) ("liberty may not be interested under the guise of protecting the public interest, by legislative action which is arbitrary or without reasonable relation to some purpose within the competency of the State to effect"); *Pierce* v. *Society of Sisters*, 268 U.S. 510, 535 (1925) ("rights guaranteed by the Constitution may not be abridged by legislation which has no reasonable relation to some purpose within the competency of the State"); *Thornburgh*, 476 U.S. at 789 (White, J., dissenting) ("State action impinging on individual interests need only be rational to survive strict scrutiny under the Due Process Clause, and the determination of rationality is to be made with a heavy dose of deference to the policy choices of the legislature").

[61] See *Loving* v. *Virginia*, 388 U.S. 1, 12 (1967) ("The Fourteenth Amendment requires that the freedom of choice to marry not be restricted by invidious racial discrimination"); *Turner* v. *Safley*, 482 U.S. 78 (1987) (state regulation banning marriages among inmates without supervisor's approval violates Fourteenth Amendment).

[62] M. Adler, *Robert Bork: The Lessons to Be Learned*, 84 Northwestern L. Rev. 1121, 1123 (1990).

[63] As Justice Powell observed in *Moore* v. *East Cleveland*, "[t]here *are* risks when the judicial branch gives enhanced protection to certain substantive liberties without guidance of the more specific provisions of the Bill of Rights." 431 U.S., at 502. Even against the backdrop of *Lochner*, however, he concluded that although "history counsels caution and restraint . . . it does not counsel abandonment . . . ." *Ibid.*

[64] B. Cardozo, The Nature of the Judicial Process 135–136 (1921).

[65] Cardozo's description of the judge's task in statutory construction is equally appropriate in describing the judge's task in constitutional interpretation:

"There are gaps to be filled. There are doubts and ambiguities to be cleared. There are hardships and wrongs to be mitigated if not avoided. Interpretation is often spoken of as if it were nothing but the search and the discovery of a meaning which, however obscure and latent, had none the less a real and ascertainable pre-existence in the legislator's mind. The process is, indeed that at times, but it is often something more." *Id.*, at 14–15.

"Interpretation, thus enlarged, becomes more than the ascertainment of the meaning and intent of lawmakers whose collective will has been declared. It supplements the declaration, and fills the vacant spaces, by the same processes and methods that have built up the customary law." *Id.*, at 17.

[66] "Originalism was not the original interpretive doctrine of the framers nor of the framing generation. It was taken for granted that the Constitution, like other legal texts, would be interpreted by men who were learned in the law, arguing cases and writing judgments in the way lawyers and judges had done for centuries in England and its colonies." C. Fried, *Order and Law* 66 (1991).

For an account of the interpretive techniques used in the framers' day, see Powell, The Original Understanding of Original Intent, 98 Harv. L. Rev. 885 (1985) (arguing that approaches to constitutional interpretation in the framers' day differ from the approach now taken by those who say we should look to the framers' intent).

[67] Justice Harlan's advice to those engaged in the difficult task of defining due process is equally apt to those engaged in the difficult task of judging: "No formula could serve as a substitute. . . For judgment and restraint." *Poe* v. *Ullman*, 367 U.S., at 542 (Harlan, J., dissenting).

[68] B. Cardozo, The Paradoxes of Legal Science 26–27 (1927) (footnotes omitted).

[69] "The doctrine teaches judges to focus their attention on the issue that must be addressed in order to decide the case or controversy between the specific litigants before the Court." J. Stevens, Judicial Restraint, 22 San Diego L. Rev. 437, 446 (1985).

[70] 297 U.S. 288, 346 (1936) ("The Court will not 'anticipate a question of constitutional law in advance of the necessity of deciding it'" ((quoting *Liverpool, New York and Philadelphia S.S. Co.* v. *Commissioners of Emigration*, 113 U.S. 1, 33, 39 (1885)); see also *Burton* v. *United States*, 196 U.S. 283, 295 (1905) ("It is not the habit of the court to decide questions of a constitutional nature unless absolutely necessary to a decision of the case").•

AIDS UPDATE

• Mr. CRANSTON. Mr. President, according to the Centers for Disease Control, as of January 31, 1992, 209,693 Americans have been diagnosed with AIDS; 133,554 Americans have died from AIDS; and 76,139 Americans are currently living with AIDS.

THE RYAN WHITE CARE ACT

When the Congress enacted the Ryan White Comprehensive AIDS Resource Emergency [CARE] Act of 1990, we laid the cornerstone for the entire structure of Federal assistance to people with AIDS and to the institutions and organizations that care for them. Last week a number of Californians who represent community HIV service planning councils established under title I of the act visited my office to bring me up to date on their progress and their concerns.

Title I of the CARE Act provides that any U.S. city with over 2,000 AIDS cases, or more than 25 cases per 100,000 people, be declared a disaster city.

Right now, 18 cities across the Nation receive title I assistance. These cities account for more than 60 percent of all the AIDS cases in America. By fiscal year 1993, six additional cities will likely be added, because the AIDS caseload in these cities has reached emergency proportions.

Four California cities—Los Angeles, San Francisco, Oakland, and San Diego—are title I recipients.

In Los Angeles, 13,309 AIDS cases were diagnosed by the end of 1991. This was a 24.8-percent increase in AIDS cases over the previous year and 38,616 people are estimated to be infected with the HIV virus. By 1993, without an expanded definition of AIDS, 24,653 AIDS cases are projected.

In San Francisco, AIDS cases diagnosed through the end of 1991 totaled 12,379. AIDS cases increased by 21.0 percent over 1990—40,000 San Franciscans are thought to be infected with HIV. AIDS is currently the third leading cause of death for men of all ages, yet the wait for scheduling an initial appointment for each intervention service ranges from 2 to 6 weeks.

Cases of AIDS diagnosed in San Diego through December of 1991 were 2,947. This was a 26.6-percent increase over the previous year with 30,000 persons estimated to be infected with the HIV virus. Seventy-four percent of inpatient care to people with AIDS is either paid by public systems or uncompensated. Hispanic AIDS cases in San Diego increased 130 percent from 1989 to 1991.

Oakland AIDS cases through the end of 1991 totaled 2,481, a 20.5-percent increase with 13,900 people thought to be infected with the HIV virus. More than 7,813 people are waiting for title I services. Between 1988 and 1990, Hispanic AIDS cases rose 233 percent; AIDS cases among African Americans rose 150 percent. Only 13 percent of those people in need of case management are receiving help.

Mr. President, the story is similar all across the country. Inadequate resources are thinly spread as title I cities report the need for millions of additional dollars in HIV services and care. For example, Boston's title I Planning Council has documented $10 in care needs for every title I dollar presently available.

I believe we must fully fund the Ryan White CARE Act in fiscal year 1993. I am particularly concerned that our hard-hit title I cities, crying for relief from the daily emergency they face, deserve the full $275 million authorized for title I. The AIDS epidemic grows worse as more and more Americans are diagnosed with AIDS. The public health systems in our Nation's major cities are stretched to the breaking point. This is an emergency care crisis, Mr. President, and it needs our urgent, compassionate response in the upcoming appropriations process for fiscal year 1993.•

CANADA'S UNFAIR CHICKEN SUPPLY MANAGEMENT

• Mr. PRYOR. Mr. President, I wish to bring to your attention, and indeed to the attention of all Americans, the unfair system of supply management of chickens the Canadian Government currently uses to restrict the amount and type of foreign chickens entering that country. By doing so I would like to say that I feel strongly about the concurrent resolution submitted by myself and Senator MCCONNELL that would bring this issue to the forefront of the many trade issues facing our country.

This so-called system used in Canada amounts to nothing more than a trade barrier against foreign-produced poultry, and as representative of our country's largest poultry producing State I can tell you first hand how important it is that we make the Canadian Government see the light, and for that matter, see the hypocrisy of their current policy. To advocate free trade through the NAFTA negotiations and yet construct a protectionist wall to keep only 2,400 Canadian poultry producers from having to compete with United States producers makes it clear that they want it both ways.

Mr. President, a remedy to this situation would not only help the United States poultry industry, and by that I mean the producers themselves, the feed companies, the people who transport the products, the processors, and so on, but it would also help the Canadian retailers and the millions of Canadian consumers who are forced to pay the artificially high prices brought about by this management system.

In the spirit of the North American Free Trade Agreement or NAFTA, I would like to see some effort on the part of the Canadians to address this most legitimate concern. Indeed, I believe that bilateral negotiations between the United States and Canada could prove to be very beneficial given the alternative of seeking a ruling from a GATT panel which I think, and I believe the Canadian Government does as well, would rule in favor of the United States.

Mr. President, I cannot stress enough to you how the United States is in such a unique position to increase our exports to Canada. The United States poultry industry is larger and more efficient than the Canadian poultry industry. And most importantly, ours is the safest in the world. It just makes sense that we can more easily supply our neighbors to the north with a product their consumers want than any other country in the world, including their own. Mr. President, this year the United States will produce 35 percent of the total world production of chicken, with a value of approximately $13.8 billion; however, United States chicken exports to Canada last year amounted to just $135 million, or 8 percent of total Canadian chicken consumption.

Practically all of the fresh and processed chicken now entering the Canadian market is United States-sourced. You do not have to have eagle eyes to see that the elimination of Canada's supply management system for poultry will principally benefit United States suppliers. Mr. President, it is estimated that if the Canadian market were fully opened that United States sales would increase by $300 to $700 million annually. Even at $300 million, Canada would be the largest United States chicken export market in the world. Imagine, if you will, what increased sales of $300 million could do for the communities where this poultry is produced and processed. Using the multiplier effect that these increased sales bring about, that could translate into $1.5 billion injected into our economy. At a time when our trade deficit is soaring, interest on the national debt is increasing at seemingly exponential rates, and more and more people are losing their jobs every day, this is the kind of benefit our economy needs right now. For almost certainly there will be new jobs created to meet the demand of added exports.

Mr. President, the administration, and in fact all of Congress, wants to do something to get our feet back on the ground and to stimulate the economy. Support for this resolution will show our poultry industry that we do care and are going to do something about it. The United States market is completely open to chicken imports that meet United States health and inspection requirements, and we should be able to expect the same treatment from Canada. Elimination of Canada's chicken supply management system will provide open and fair access to the Canadian market for United States chicken producers, processors, and United States retailers operating in Canada. I would urge my colleagues to support this resolution as a step toward removing this unfair trade barrier against our poultry industry.•

INDIANS TURNING TO TRIBAL COLLEGES FOR OPPORTUNITY AND CULTURAL VALUES

• Mr. SIMON. Mr. President, one of the developments that gives encouragement to American Indians is the development of the tribally controlled community college.

I have had the privilege of being able to encourage that development over the years, being the chief sponsor of the reauthorization of that legislation some years ago in the House.

Recently, the New York Times had an article by Michel Marriott titled "Indians Turning to Tribal Colleges for Opportunity and Cultural Values."

Let me add that one of the things the tribally controlled colleges needs is a stronger financial base. Their work has been praised by former Education Commissioner Ernest Boyer in a report he issued for the Carnegie Endowment.

The MacArthur Foundation and others have provided assistance to the tribally controlled colleges. But they need a stronger base of Federal support, which I hope we will give it, and they need growth in their endowments, which are extremely weak.

I serve on the board of regents of a fine liberal arts college in Nebraska, Dana College, where I attended for 2 years. It has an anemic endowment, and that prevents the college from doing many things that it should do. I hope that we can gradually increase that endowment. But weak as that endowment is, the endowments for the tribally controlled community colleges are even weaker.

I hope that Members of the House and Senate will do what they can to encourage the tribally controlled community colleges, and I ask that the article by Michel Marriott be printed in the RECORD at this point.

The article follows:

[From the New York Times, Feb. 26, 1992]

INDIANS TURNING TO TRIBAL COLLEGES FOR OPPORTUNITY AND CULTURAL VALUES

(By Michel Marriott)

FORT YATES, N.D.—For years Ted and Jenny Eagle moved through a rhythmless dance of dead-end jobs, empty pockets and, in desperate resignation, drunken staggers. The life of American Indians on the High Plains has proved little more promising for them than it was for their ancestors a century ago, when official policy held native tribes on vast and vacant reservations.

But the Eagles, who live on the Standing Rock Indian Reservation here with their four children in a two-bedroom mobile home on a field of junked cars, recently decided to aim for a better life. Last fall Mr. Eagle, who is 44 years old, and Mrs. Eagle, 36, enrolled in college.

They went to the only place they believed would believe in them: Standing Rock College, one of 24 colleges in the United States owned and operated by American Indians.

It is a decision a relatively small but growing number of Indians are making as they increasingly turn to their own institutions for answers, understanding and their own brand of traditional values.

'SENSITIVE TO THEIR CULTURE'

"I think tribal colleges do for native Americans what predominantly Hispanic institutions do for Latinos, what historically black colleges do for African-Americans," said Richard C. Richardson Jr., professor of educational leadership and policy studies at Arizona State University. "they provide an institution that is sensitive to their culture and focuses on the needs of the communities that they represent."

That sensitivity was the original motivation for tribal colleges, which were created because Indians living on reservations had few opportunities to obtain a postsecondary education near where they lived. And if they left their areas to get a higher education, many often dropped out because the mainstream colleges were generally unprepared or unwilling to deal with Indians' special needs.

Long after blacks, Jews, Roman Catholics and other ethnic and religious groups had established colleges to serve their special needs, American Indians founded a string of their own colleges.

The first tribal college, the Navajo Community College, was founded in 1968 on the Navajo Reservation in Tsaile, Ariz. Now there are 24 colleges on reservations and two more predominantly Indian colleges run by the Federal Government. But only 15 are fully accredited. All but three are two-year community colleges.

MOST GRADUATES HAVE JOBS

The average tribal college student is 30 years old, female and has children, according to the American Indian College Fund, a nonprofit group that began to raise money for Indian colleges in 1989. More than 80 percent of those who do graduate are employed, fund officials said.

The fund does not keep conclusive data on the number of students who drop out each year. But it notes that most of the dropouts eventually return. Last year at Standing Rock, 24 percent of the students dropped out; officials say this is generally typical of most tribal colleges.

Some educators said they were concerned that Indian colleges that emphasize tribal values and traditions may not be adequately preparing the students for work and life in the larger society off the reservation.

In some tribal colleges, for example, competition among individual students gives way to a more Indian tradition of students working together to achieve. At one college an attempt is made to have male professors teach only male students because Indian tradition dictates that women teach women and men teach men, a tribal college official said.

But in the case of people like the Eagles, a tribal college offers unusual sensitivity to their circumstances, special assistance to help them attend and a reasonable expectation for success that can lead them to aim for higher goals than they had thought possible.

"When I came here I just wanted to get the basics so I could go to trade school," said Mr. Eagle, who left school at the age of 13 to break in horses for room and board. "When we signed up, our advisers talked about human services, and we kind of got interested in that."

Because of their advisers' confidence in them, the Eagles said, they decided to set a more ambitious goal: becoming counselors for addicted adolescents.

While sometimes makeshift, threadbare and meagerly staffed, the tribal colleges nonetheless represent a sharp departure in Indian education; historically, formal education has been imposed on tribes by outsiders, often with disastrous effects, tribal leaders and educators say.

"Since white society came here, we were told that we were inferior" said David L. Archambault, the former president of Standing Rock College. "We were told everything about us was not good—our language, traditions, culture."

Tribal colleges, he said, strive to give American Indians a quality education while teaching them to preserve and enhance their understanding of a culture that has narrowly escaped extinction.

"We have integrated native American history and culture in noncultural courses," said Ron McNeal, the new president of Standing Rock. "We use Indian examples in science, chemistry and biology, showing how our traditions contributed."

ENROLLMENT STATISTICS

While precise numbers are sketchy, about 13,000 full- and part-time students attend the 24 tribal colleges—those situated on or near Indian reservations—and the two other Indian colleges operated by the Federal Government's Bureau of Indian Affairs, according to a survey of the colleges recently conducted by the American Indian Higher Education Consortium, a group representing all Indian colleges.

Altogether, about 103,000 Indians were enrolled in colleges in 1990, the United States Department of Education, compared with 10.6 million whites, 1.2 million blacks and 758,000 Hispanic students. The nation's Indian population is about two million, according to the 1990 census.

Typically small, tribal colleges have enrollments ranging from 80 to 1,800. And almost all the institutions are poorly financed. Most manage on modest annual assistance from the Federal Government—about $3,000 for each Indian student—plus private donations and tuition. But tuition is generally low, considering that most students come from areas steeped in multi-generational poverty, alcoholism and unemployment rates as high as 80 percent.

Most of the tribal colleges are situated in the High Plains. Nearly two-thirds are clustered in North and South Dakota and Montana, with names like Dull Knife Memorial Community College, Little Hoop Community College and Oglala Lakota College. Only three of the 26 are four-year institutions; one, Sinte Gleska University in Rosebud, S.D., also offers a master's degree in education.

IMPRESSIVE RESULTS

By concentrating on Indian culture the colleges, already isolated geographically, may increase the Indian students' general isolation, said Dr. Richardson of the University of Arizona. But he and other education experts concede that close attention and sensitivity to Indian needs by tribal colleges have yielded some impressive results.

"We've been most impressed with their concern for individual students and their recognition of the range of problems some of their students face, and their efforts to deal with them in a very practical and immediate way," said Jon W. Fuller, president of the Consortium for the Advancement of Private Higher Education, a nonprofit group that supports small private colleges.

Discussing Indians who attend non-Indian universities, Mr. McNeal, the president of Standing Rock, said: "The problem is, when they go on to four-year institutions the success rate for the first year isn't nearly as good as that of the tribal colleges. There, they don't have the support system to allow students to achieve.

Mr. McNeal, who is 33 and wears his hair long, much the way his great-great-grandfather, Sitting Bull, wore his, said a tribal college's mission is clear: "First and foremost, give your students the tools necessary—an education—to live and define themselves. That means being native American living in a predominantly non-Indian society."

Varying from one tribal college to another, students are offered a wide range of courses, including standard college courses like English, mathematics and history. Many emphasize practical skills, especially those needed on reservations today. Topping the list are usually studies in land and resource management and human welfare and health services.

A MOBILE CLASSROOM

On a recent morning, Standing Rock College was busy with the commotion of students and teachers making their way to class. Outside, a sign with hand-painted letters in the shape of giant feathers makes the college—two modest, single-story buildings on a muddy clearing—look more like a tourist trading post than an institution of higher education.

A recreational vehicle is parked outside. Equipped with portable computers, it is a mobile classroom that travels to the reservation's distant towns to offer college courses and high school equivalency classes.

Ted and Jenny Eagle are lucky. They live only five miles from the college, and drive here each day in their old Oldsmobile because there is no public transportation.

"I can't even get a clerical job because I don't have a one- or two-year certificate from a learning institution," said Mrs. Eagle, who wears her long hair parted neatly down the middle. "I looked at different avenues I could take and I had to make this decision for myself, my family and my children."

A STRUGGLE FOR SURVIVAL

Mr. Eagle said he and his family had struggled for years to survive, sometimes turning to public assistance. He has earned money doing construction work, driving trucks and school buses and buying, selling and trading old cars and their parts.

After a trucking accident 19 months ago left Mr. Eagle unable to do strenuous physical work, the couple decided to go back to school. When they graduate from Standing Rock, they plan to go to a four-year college off the reservation and earn bachelor's degrees.

The Eagles said they want to counsel young Indians on the reservation to avoid the mistakes they made with alcohol.

But it was a lack of a sufficient education, Mr. Eagle said, that stood as his greatest obstacle. "Some of the time it really got rough," he said. "It seemed like we tried almost everything."

Now, they said, they are trying education.•

SALUTING THE FLORIDA EMPLOYMENT AND TRAINING ASSOCIATION

• Mr. GRAHAM. Mr. President, the vital contributions of volunteers to the well-being and progress of this Nation are well known. What may not be so well known are the achievements, and private business partnership, of the Florida Employment and Training Association.

My purpose today is to recognize and salute the dedicated practitioners and volunteers of this dynamic and productive association.

Floridians believe that in order for industry to flourish into the next decade, our State must train and educate the disadvantaged citizens in our local communities in a cost effective and supportive environment. The Private Industry Councils, through their membership in the Florida Employment and Training Association, offer this opportunity.

Through the Job Training Partnership Act, disadvantaged youths, unskilled adults, former offenders, needy single parents, and those with learning disabilities are getting the help they need to become productive members of the work force.

In addition, an increasing audience of non-English speaking youths and adults, as well as single mothers, veterans, and physically handicapped individuals, will soon enjoy the discovery of their own self-fulfillment and society will receive new contributing taxpayers for our Nation's economic stability.

As Governor, I watched these programs evolve in Florida and take great pride in being an honorary member of the Florida Employment and Training Association.

On May 23, 1992, the Florida Employment and Training Association celebrates its 10th anniversary of training Florida's work force. It is this occasion that prompts me to bring to the Senate's attention and acknowledge the fine work and dedication of the members of the Florida Employment and Training Association.•

DIRECT STUDENT LOANS? YES

• Mr. SIMON. Mr. President, the Eugene Register-Guard recently had an editorial titled, "Direct student loans? Yes."

We clearly have to do better than we are doing in this country in providing assistance to students.

We have to make a decision whether we will put our money into consumption or investment.

The answer clearly has to be investment, and one of the fields is in the field of education.

Before very long, some form of student assistance offered by my colleagues, Senator KENNEDY, Senator BRADLEY, Senator DURENBERGER, and myself will come before this body.

I hope we will do the sensible thing and see that we make investments in the future that need to be made.

I ask unanimous consent that the article be printed in the RECORD at this point.

The article follows:

[From the Register-Guard, Feb. 14, 1992]

DIRECT STUDENT LOANS? YES

As the cost of attending college keeps rising, so, too, does the amount of money borrowed by college students. Once graduated, these debt-laden students face restricted job markets, forcing many into years of indebtedness, and in some cases delinquency or default on their student loans.

This has produced unwanted consequences. One is that, to stay debt-free in their early years in the work force, some young people forgo college altogether. Another is that upon graduation from college, many students seek jobs outside their career interests—ones in which they can immediately begin to pay down their college debt. The nation loses in both instances.

U.S. Sens. Paul Simon, D-Ill., and David Durenberger, R-Minn., have found a way to relieve the student debt burden. Their bill, now before Congress, would provide 1) increased Pell grants, 2) universal access to student loans regardless of income, 3) loans made directly by the federal government instead of through financial institutions, 4) loan repayment schedules tied to postgraduation earnings and 5) loan collection through the Internal Revenue Service. University of Oregon President Myles Brand has endorsed the concept. He is right to do so.

The advantages of the Simon-Durenberger approach are many:

Bypassing financial institutions and loaning directly to students would save the government between $620 million and $1.5 billion a year in subsidies and interest payments while students are in college, according to the General Accounting Office. (It is also estimated that up to an additional $1 billion a year could be saved in reduced administrative costs and defaults.)

Tying repayment schedules to postgraudate earnings would free graduates to seek careers of their choice.

Having the IRS act as the loan collection agency would drop defaults to virtually zero.

Channeling loans directly to students would make more money available for this purpose, simplify the loan system and reduce administrative headaches in campus financial aid offices all across the country.

Eliminating income standards for loan eligibility would allow more students from middle-income families to attend college.

Predictably, the Simon-Durenberger bill has its critics. Banks and other financial institutions involved with student loans ardently oppose the bill as government meddling in what should be a private sector function. The "meddling" is justified. The government has every right to set the rules for how the money it guarantees reaches the students it is intended to help and how that money is repaid.

Besides, as Brand has noted, student loans are gravy business for banks. Because the loans are guaranteed by the government, they are risk-free to the commercial lenders. If the loans are nothing more than "break-even" transactions and not moneymakers, as the banks claim, why have the lenders listed stopping the Simon-Durenberger bill as a "priority item" for their industry?

Paul Simon said it best during a visit to Eugene late last year. The winners of his bill would be students and colleges. The losers would be the lending institutions. The choice, he said, is between the government's subsidizing the banks or redirecting that subsidy to students. He and Myles Brand say that's an easy choice to make. We agree, Congress should pass the Simon-Durenberger bill.•

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

• Mr. SANFORD. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee received a request for a determination under rule 35 for Charles Reimenschneider, a member of the staff of Senator LEAHY, to participate in a program in Belgium, sponsored by the European Community's Visitor Programme, from May 26 to June 5, 1991.

The committee determined that participation by Mr. Riemenschneider in this program, at the expense of the European Community's Visitor Programme, was in the interest of the Senate and the United States.•

TRIBUTE TO IAN CASIMIR WYGLENDOWSKI

• Mr. LAUTENBERG. Mr. President, I rise today in order to recognize the accomplishments of Ian Wyglendowski, a young New Jerseyite who has brought pride to his community. On March 26, Ian will be honored in an awards ceremony at his high school with an AAU/Mars Milky Way High School All-American Award.

Every year, the Amateur Athletic Union in conjunction with M&M Mars, a New Jersey-based corporation, recognizes four young men and four young women for their outstanding contributions in the fields of academics, athletics, and service to their community. Ian was one of 8 regional recipients selected from a pool of 13,000 high school seniors who were nominated nationwide. He will now be eligible to receive one of two national AAU/Mars Milky Way awards to be named in April.

A senior at Voorhees High School, Ian has a fine academic record and has distinguished himself by serving as president of the Latin American Society and captain of the Academic Team. He was also selected to attend New Jersey's prestigious Governor's School on the Environment.

Ian has also been active in sports. He is captain of his school's fencing, tennis, and cross-country teams and was named in fencing to the Second Team All-State and won a silver medal at the Junior Olympics in Little Rock, AR.

Ian's dedication to his community is evidenced in his commitment to preserving our environment. He is a member of CEASE, the Coalition of Environmentally Active Students for the Environment, and helped to organize a concert which raised money to help sponsor environmental education. Ian has also been a Special Olympics volunteer for the past 3 years.

Mr. President, at a time when many are losing faith in our young people, Ian does us all proud. If Ian is an indication of what the youth of this Nation are capable of, we have every reason to be optimistic about what the future holds.

And so, I congratulate Ian and encourage him to hold to his ideals. I hope he continues to strive toward personal achievement and, at the same time, remembers his obligations to his family, his community, and his Nation.•

THIRTY-FIFTH WEDDING ANNIVERSARY OF CLAIRE AND FREDERICK COLEMAN

• Mr. D'AMATO. Mr. President, I rise today to congratulate Claire and Frederick Coleman on the occasion of their 35th wedding anniversary. These lovely people, constituents of mine from New Rochelle, NY, are models of the commitment to family values that makes our Nation great. It is couples like this, hard-working, dedicated to family, and actively serving within their community, that are the backbone of our American society.

Claire and Fred met and were married in New York City in the years following World War II. Fred served heroically in the U.S. Army in the European theater, and received commendations for his activities in a number of engagements, while Claire later worked for the USO. Joining many of their generation, they sought a home and a better life in our great suburbs, where they settled and started a family.

I applaud the Colemans and the values they represent. They are truly an American success story. Congratulations and best wishes on this important milestone.•

TRIBUTE TO ADAM LYLE HICKENBOTHAM

• Mr. BRYAN. Mr. President, I rise today to congratulate Adam Lyle Hickenbotham, a student from Nevada, who is a regional recipient of the sixth annual Amateur Athletic Union/Mars Milky Way High School All-American Award. Adam was selected for the award based on his academic and athletic achievements, and his dedication to community service.

Adam, a senior at Eldorado High School in Las Vegas, ranks first in his class. He is a member of the National Honor Society, was chosen a National Merit Scholar semifinalist and is in the Academic Hall of Honor. Adam has received several awards for his academic accomplishments in a wide range of subjects. Along with his achievements in the classroom, Adam has also seen success in the field of athletics as a member of the track and cross-country varsity teams.

Adam has also devoted his many skills and efforts to community service. He has volunteered for the American Lung Society and the American Red Cross, and has raised funds for Opportunity Village and the Muscular Dystrophy Association. Adam is also an Eagle Scout.

I would like to commend Adam on his achievements and on receiving this award. It is a pleasure to see a student who has worked hard and served his community well be recognized for his efforts.•

TIBET NATIONAL DAY

• Mr. SIMON. Mr. President, March 10, 1992, marks the 33d Tibetan National Day, a day set aside by Tibetans the world over to commemorate the 1959 uprising against the Chinese occupation of their country. While we join other nations in celebrating the victories of pluralism and democracy over autocracy and totalitarianism, of freedom over tyranny, we cannot allow ourselves to neglect those who continue to endure repression, suffering routine violations of their basic human rights. It is time for China to let Tibetans decide for themselves whether they wish to remain under occupation by China's People's Liberation Army.

Tragically, Mr. President, these ideals on which our Nation stands are not only being violated by the Chinese Government, but are largely overlooked by our own administration as well. The Bush administration and Congress ought to be working together to encourage the new generation of Chinese leaders to peacefully initiate a new, democratic order. The Chinese people, the Tibetan people and other minorities under Chinese dominion cry out for an end to the repression.

Not only has the Chinese Government blocked reform in Tibet, but it has actively participated in the systematic destruction of Tibetan culture. Since the invasion of Tibet by Chinese forces in 1949, it is estimated that 1.2 million Tibetans, one-sixth of Tibet's total population, have died as a result of the Chinese occupation. Over 6,000 monasteries and other religious and cultural institutions have been destroyed. Educational opportunities are limited for Tibetans, with increasing limitations on the use of the Tibetan language. Large numbers of people have been imprisoned for political crimes, often without a fair trial. Conviction is a foregone conclusion for most of the accused. The gulags and reeducation camps of the former Soviet Union, made infamous by Alexander Solzhenitsyn, are still commonplace in the vast Tibetan plateau.

Mr. President, nothing less than Tibet's cultural heritage is at stake.

The Tibetan environment has been pillaged as well. Wildlife and natural resources have been destroyed and exploited at a ruinous rate. Recklessly, China is using Tibet for a nuclear dumping ground. Under China's liberation, Tibet's environment has grown steadily worse since 1950.

Chinese leaders and academics often argue that their liberation of Tibet freed its people from serfdom, but look at the state of the Tibetan people today: Are they prospering? Do they have religious freedom? Is their water pure and their air clear? Do they control their own destiny? The answer, of course, is a resounding no.

Sadly, the Bush administration seems willing to sacrifice Tibet in the pursuit of courting Chinese favor. Just recently the United States delegation to the annual U.N. Human Rights Commission worked to weaken the text of a resolution criticizing China for its abysmal human rights record in Tibet. The changes would have also legitimized China's occupation of Tibet. This is not standing up for human rights. This is not the policy the Government of the United States ought to have. It is not a policy that will move China to respect human rights to make them stop selling missiles and nuclear technology to Syria, Iran, or Pakistan. I urge the Bush administration to reconsider its failed policies on China and Tibet.•

TRIBUTE TO VENCOR, INC.

• Mr. McCONNELL. I rise today to recognize an outstanding Kentucky company that has become one of the Nation's most successful small businesses since it was started in 1985. Louisville-based Vencor, Inc. has been dubbed one of America's 100 fastest growing companies by Fortune magazine and one of the country's 200 best small firms by Forbes.

Vencor, Inc. operates long-term care hospitals for the chronically ill. Many people have called Vencor the next Humana, a hospital giant also based in Louisville. However, Vencor officials say that is not their goal. Vencor chief executive officer and a company founder W. Bruce Lunsford says his company will be more niche-oriented, addressing a need that is not always met in mainstream health care facilities.

Vencor began with the work of a group of medical professionals at Rockcastle County Hospital in Mount Vernon, KY. The rural hospital began experiencing serious financial problems in the 1970's. Vencor co-founder Michael Barr, who worked at the Rockcastle hospital, helped develop a long-term care program to attract patients and business. Many acute-care hospitals responded by sending patients, and Barr was soon looking for investors interested in expanding the idea into other medical facilities.

With its focus on long-term care facilities, Vencor is offering a service which solves many problems faced by regular hospitals. Acute-care facilities are reimbursed in fixed amounts by Medicare regardless of how long patients stay. Long-term, chronic-care hospitals are reimbursed for all costs, creating a big incentive for hospitals to send patients to Vencor facilities. Vencor can also make more efficient use of equipment. The company stays on the leading edge of technology by leasing ventilators instead of making huge outlays to buy them.

Today, Vencor operates 19 hospitals in 11 States and employs 2,800 people nationwide. The company's stock has skyrocketed more than sevenfold in 2½ years. Vice president of finance and development W. Earl Reed III says he expects the company to build a network of 30 to 40 hospitals.

Mr. President, I congratulate Vencor, Inc. on finding a way to successfully fill one gap which exists in today's health care system.

I ask that a recent article from the Lexington Herald-Leader be printed in the RECORD.

The article follows:

[From the Lexington Herald Leader, March 2, 1992.]

SHORT-TERM GAINS IN LONG-TERM CARE—SMALL BUSINESS'S BIG GAMBLE ON HOSPITALS PAYS OFF

(By Kevin Osbourn)

LOUISVILLE—It seems unlikely a big business that began with three employees off Billy Goat Strut Alley could become one of the nation's best small companies.

Only a supreme optimist would have predicted that the value of each share of the company's stock would skyrocket more than sevenfold in 2½ years, that the company's stock would split twice, that Fortune magazine would name it one of America's 100 fastest growing companies and Forbes would call it one of the country's 200 best small firms.

It's implausible. But that is the story of Vencor Inc., which operates long-term care hospitals for the chronically ill.

Vencor now occupies downtown offices in the Brown & Williamson Tower. Wall Street analysts have strong buy recommendations on its stock. Its star is rising so quickly that some have called Vencor the next Humana, a hospital giant also based in Louisville. Vencor downplays the comparison.

"We'll be a company that is more niche-oriented than Humana," said W. Bruce Lunsford, president, chief executive officer and a company founder. "We will never employ as many people as Humana. We won't do the kind of revenues they do. But we will be very successful."

THE IDEA THAT BLOSSOMED

But for the work of a group of medical professionals at Rockcastle County Hospital, Vencor might never have begun. In the 1970s, the rural hospital in Mount Vernon was in financial trouble.

"To survive we had to be innovative," said Michael Barr, a physical and respiratory therapist who worked at Rockcastle County Hospital and is one of Vencor's founders. "I knew I would be successful taking care of the most difficult patients."

To attract patients and business, Barr helped develop a program for patients requiring long-term care.

Acute-care hospitals in larger cities, which normally provide treatment for a few weeks, responded by sending patients to Rockcastle County. Some were so sick they needed ventilators, which cost $30,000 each and enable a person to breathe.

Now, ventilator care is the backbone of Vencor and one of its keys to success.

Unlike acute-care hospitals, which are reimbursed in fixed amounts by Medicare regardless of how long patients stay, long-term, chronic-care hospitals such as Vencor's can be reimbursed for all their costs. Medicare is a federal health insurance program for the elderly.

"We figured out we could get paid for taking care of ventilator patients," Barr said.

Barr began looking for investors interested in expanding the idea to other medical facilities. He said he turned to former Gov. John Y. Brown Jr., who had coronary bypass surgery in 1983 and had used a ventilator.

Brown did not become directly involved. But the former governor referred Barr to Lunsford, a lawyer and certified public accountant who had been Brown's secretary of commerce.

As commerce secretary, Lunsford had been inspired by the businessmen he met, including Humana founder David Jones, W.T. Young of W.T. Young Storage Co. in Lexington and others.

"I wanted to build a company," Lunsford said. "In Butch Cassidy and the Sundance Kid, they kept asking, 'Who are those guys?' I wanted to be one of those guys, a John Brown, a W.T. Young, a David Jones.

"I liked the idea of health care, thought it would be a dramatic growth industry. But I thought the hospital area would be more of an opportunity than the nursing home area. We changed it to be more of a hospital company."

To launch the firm, Lunsford raised $750,000 from investors in $25,000 and $50,000 increments.

In 1985, Barr, Lunsford and Maria Levering, who runs the corporate office, started the company. At that time, it was called Vencare.

To buy the company's first hospital in Lagrange, Ind., Lunsford co-signed a $3.5 million bank note with R. Gene Smith, a Kentucky entrepreneur who is chairman of Taco Tico Inc. and involved with several other businesses.

Vencor started to perfect its formula for success in LaGrange.

"I learned what was going on in managing a hospital," Lunsford said. "We learned what kind of volume we needed, how many beds to fill, how much closer to the medical market we needed to be, how many people to have on staff."

Vencor went public in 1989, selling 3 million shares at $4.53 each.

Vencor operates 19 hospitals from Florida to California, each with an average daily census of 50 patients.

"The original guys who put in $50,000, that stock today is worth somewhere in the neighborhood of $5 million," Lunsford said.

Net income has jumped rapidly, rising to $10.1 million last year, up from $3.3 million in 1990.

"I have a strong buy recommendation on the company," said Neal Bradsher, a senior analyst with Alex Brown & Sons in New York City. "In the near term it won't move up as rapidly as it has in the last year, but longer term, this stock has the ability to do a lot better than the market. Vencor is the best positioned alternate site health-care company."

BUILDING FOR THE FUTURE

Lunsford leaned back in his chair at Vencor headquarters, surveying the view of downtown Louisville.

Behind his desk, books with titles such as *The Entrepreneur*, *In Search of Excellence* and *Going Public* were stacked neatly.

Lunsford looked out the window, watching construction workers climb the steel structure of a building Vencor will move to in about a year.

It will be the tallest office tower in the state: the Capital Holding Center, headquarters of Capital Holding Corp.

Like the predictions for Vencor's stock, Lunsford and about 60 of the company's Louisville employees will be moving up, occupying the top two floors.

Payroll might not increase as quickly as it has in the last year. The company probably will add about four hospitals a year, said W. Earl Reed III, Vencor's vice president of finance and development and former senior Humana executive.

But Vencor officials and stock analysts said there is room for much more growth. The goal is to seize market share.

"We feel we can build a company of 30 to 40 hospitals," Reed said.

Still, the future holds risks for Vencor and its investors.

In a lengthy report, Bradsher, the analyst with Alex Brown, identified several potential land mines: Changes in Medicare rules could hurt the way Vencor is reimbursed, and the company's financial condition would be very sensitive to any decline in census or revenue.

But Bradsher is expecting the opposite: rapid growth in census and revenue.

"They have a level of aggressiveness you rarely see," Bradsher said. "I want to own companies that want to dominate the market and have a strategic perception. There are several years of rapid growth ahead for this company."•

PROFESSOR MORGENTHAU WRITES ON U.N. PEACEKEEPING

• Mr. PELL. Mr. President, I would like to call my colleagues' attention to two op-ed pieces published recently in the Providence Journal. The pieces were written by Prof. Ruth Morgenthau, a prominent academician from my home State of Rhode Island, whose work I respect and admire.

In one piece, entitled "Back in Business," Professor Morgenthau writes about a resurgent United Nations and argues that the breakup of communism in the former Soviet Union and Eastern Europe has effectively freed the U.N. Security Council from the strictures of the Cold War. Consequently, with the Security Council operating in an atmosphere of consensus, the United Nations is able to take a much more activist role in mediating regional conflicts.

The U.N. peacekeeping successes in such areas as Namibia and Angola provide solid evidence of how a revitalized United Nations is beginning to realize its potential to promote collective security. Professor Morgenthau predicts that the United Nations' track record of success will continue in Cambodia and El Salvador, and perhaps in other areas as well and she concludes with the important point that the international community—and the United States in particular—should recognize the new global realities and take a long hard look at whether it should continue to rely on Cold War institutions such as NATO.

In a second piece, entitled "Ready for Change," Professor Morgenthau expands upon her observations on the United Nations, focusing on the need for internal reform. Without trivializing the U.N. successes that she characterized in her first piece, Professor Morgenthau does level some constructive criticisms of the U.N. budget, decisionmaking, and administrative procedures.

I commend both of these pieces to my colleagues, and I ask that they be printed in the RECORD.

The material follows:

[From the Providence Journal, Feb. 23, 1992]

BACK IN BUSINESS

(By Ruth S. Morgenthau)

The American public now looks on the United Nations with more favor than at any time since 1945.

Founded to realize the victors' post-World War II new world order, during the four decades of the Cold War the UN was not able to function as intended on peace and security. Now that the use of force can increasingly be internationalized, we can hope to see unilateral interventions (Grenada, Panama) become obsolescent.

The Cold War divided the victors and paralyzed the Security Council. So they generated an alternative security order—NATO, the Warsaw Pact, nuclear deterrence—to keep the peace in a bipolar world. Then with the collapse of communism, the permanent members of the Security Council recovered consensus, and are finally using the UN as originally intended. It is now back in the business of keeping the peace. Mopping up after the Cold War, the UN has played a significant role resolving conflict in the Third World, as in Namibia and Angola.

The UN turned a fresh page to collective security when Iraq invaded Kuwait. After adopting an economic embargo, the Security Council blessed the military action by US-led allied forces, and gave it international legality. However, the pattern set in the Gulf may not be typical of the growing number of collective security and peacekeeping problems.

Oil made Kuwait a global concern. Although eventually the "coalition" contributed heavily in financial resources and some personnel, the forces were preponderantly Americans under US command. These forces, coming largely from Europe, were mostly slated for demobilization. Returning via the Gulf meant they could return home as heroes, and while using up an increasingly redundant supply inventory. Such special circumstances are unlikely to recur.

The United States, with 5 percent of the world's population, is unlikely to want again the role of providing the soldiers, even if a UN-blessed action is paid for by others—such as Saudi Arabia, Kuwait, Japan, and Germany.

More likely are smaller international interventions, regional and even national in scope, that will test and reshape the battery of enforcement and peacekeeping instruments available under the UN charter. If the post-Cold War political consensus in the Security Council holds, a more balanced way to collective security is in the offing.

It is encouraging that a whole battery of forceful peacekeeping techniques is evolving, now that the collapse of the Soviet Union has liberated creativity. The UN recently did unprecedented work on regional conflicts, disarming belligerents, as in El Salvador and Cambodia. Peacekeeping, for which international law requires that all parties in a dispute invite a UN military presence, is expanding rapidly into gray areas of international law, into ones of chaos, like Yugoslavia.

The UN can also lead the way in general disarmament. A recent General Assembly resolution called for "transparency" on conventional arms sales, through public registration of sales. Leaders in some non-industrial countries are also calling for transparency of conventional arms production. Many say inspection for chemical and nuclear arms should be but a first step towards a goal of multilaterization of the use of force.

Reaching towards this goal could free up massive resources for much-needed domestic development.

As the UN mutual security capacity becomes stronger there is, of course, good reason also to strengthen regional peacekeeping arrangements. When domestic conflicts or local wars arise, the first attempt to restore peace should property take place in the region. For example, in Africa. ECOMOG (West African regional military organization) was able to end civil war in Liberia. The OAS (Organization of American States) is trying to reverse the military coup in Haiti.

In Europe, however, relics of the old order still persist in the instrument of collective security. At US insistence, Europe has no regional force, outside of NATO, since the Western European Union remains a shell, unable to act on Yugoslavia. Therefore, Cyrus Vance, at the request of the secretary general, has the job of coordinating an end to the violence.

The United States should clean up its act in Europe, to take account of the new strategic realities.

[From the Providence Journal, Feb. 24, 1992]

READY FOR CHANGE

(By Ruth S. Morgenthau)

While its work in collective security and peacekeeping expands, the United Nations as a whole is ripe for reform.

Many aspects of the current decision-making system are outdated, at times over-centralized, and require democratization. The situation demands that UN members unfreeze the political deals among the victors of 1945 and make more room for a changed world into which 125 or so more nations have been born. As the current General Assembly recognizes the States breaking out of the former Soviet Union, its membership rises to almost 180. The Security Council took 21 years to transfer the veto from Taiwan by seating representatives of the People's Republic of China.

Change has now so quickened that in one month Russia simply glided into the old Soviet Security Council seat!

Other voting reforms are under discussion. There is the anomaly of France and England's continuing to have a veto while the far richer Germany and Japan do not. Can a European union of some 400 million find a place in a reformed Security Council? Pressures mount for a permanent Security Council presence from Africa, Asia and Latin America, perhaps for Nigeria, India and Brazil.

Needed changes will not take place immediately, but they are on the agenda, as every nation's foreign policy adapts to fresh global circumstances. The victors of 1945 want to hang on to the veto, even though their proportion of the world's proportion of the world's population is shrinking.

The richer states, paying most of the bills, reject UN reforms based on the idea of one person/one vote. As long as there are more authoritarian and military regimes than democratic ones, democracies will hardly be tempted by the idea of dropping the veto and adopting a simple one country/one vote principle. Meanwhile, India is unhappy to count no more than Liechtenstein; Germany and Japan are sidelined while the debate is on.

Reforms are also needed to prune the agenda and set priorities so that discussion in the

General Assembly ceases to be repetitive and empty. The Economic and Social Council is useless, yet no other UN organ exists to deal effectively with transnational macro-economic issues such as debt, trade and commodity prices. This seriously limits the coordination of economic and social actions of national governments, and of the Bretton Woods institutions (the World Bank and International Monetary Fund).

Meanwhile, at the international level, the new secretary general has much to do. No effective coordination exists of the decentralized, specialized agencies. The secretariat, rigid, wasteful and ridden by factions and patronage, needs radical pruning and reform.

There are many other unfinished UN housekeeping tasks, and many unpaid bills. Just as the tasks expand, the budget is shrinking. Out of the $988 million still in arrears, the United States (paying 25 percent of the budget) owes almost half; the former Soviet Union owes about a fifth.

Beyond peacekeeping, collective security and development, pressure mounts to place on the UN agenda ways to make government more representative of the will of the people. Eleanor Roosevelt would be delighted to find human rights so important now, in a UN where talking about domestic affairs no longer leads to massive protest and interference.

The UN played a pivotal role in ending apartheid in South Africa. Ways for representative governments to control the police and military are under open discussion. Speakers for Eastern European and ex-Soviet states are among the most aggressive in pushing for a UN role monitoring democratization—though leaders of a tiny minority of nations, including Kenya, Saudi Arabia and Libya, insist civil and human rights are strictly domestic issues.

Monitoring elections, as in Namibia, Angola and Cambodia, has become part of the regular work of the UN. Additional agenda items may include easing towards legitimacy Haiti, Mynamar (Burma) and Algeria as national leaders grapple with the possibility of military coups against fledgling democracies. Proliferating remarkably in Latin America, Africa, Eurasia and beyond, democracies emerging according to domestic political dynamics remain susceptible to outside pressures.

A supportive UN can help improve their chances at survival.

In this transcendent period of history, states dissolve and unify, as in Europe, or divide as ethnic conflicts and border disputes revive, as in Yugoslavia and Ethiopia. The list expands of issues that no single national government can handle alone: Recession, unemployment, damage to the environment, bank fraud, illegal drug trade, AIDS, poverty, debts, refugee resettlement and migration.

These issues are within the scope of the socialized agencies of the UN, which even during the cold war were somewhat effective in dealing with social, economic and technical issues, such as development, health, food security and refugees. These agencies are now candidates for reform, and could improve national capacity for work in such fields. The UN's Human Development Report points up how much must still be done to bring better health, more prosperity, opportunity and democracy to the world of our children.

That is what national politics is all about.

Now that the ignoble Zionism-is-racism resolution is expunged, and most of the hostages are home, the UN has a lot more work to do. If it did not already exist, we would have to reinvent it with its universal membership (except Switzerland), its agreed methods and rules, its specialized institutions and its corridors inviting dialogue.

The end of the third world war, the Cold War, mandates changes in basic global arrangements among governments and people. Today, the United Nations is pregnant with possibilities if we seize the moment. Her 50th anniversary, in San Francisco in 1995, could mark a rebirth of a global vision of peace and progress.•

COSPONSORING SENATE RESOLUTION 266 CONDEMNING THE NORTH KOREAN SHIPMENT OF SCUD MISSILES TO SYRIA

• Mr. D'AMATO. Mr. President, I rise today as an original cosponsor of Senate Resolution 266 to express my outrage at the recent activities of the Syrian regime of Hafez al-Assad. Syria, with the assistance of its fellow members of the world dictator's club, is now embarking on a destabilizing arms buildup that threatens the security of the entire Middle East and especially our primary ally in the region, Israel.

Presently, the Korean merchant ship *Dae Hung Ho* is enroute from North Korea to Syria transporting a shipment of 100 million dollars' worth of Scud-C missiles and missile-related technology. These advanced weapons systems can be used to threaten Israel's security, and it adds another reason for that tiny nation to fear an attack by its powerful and aggressive neighbors.

The State Department has ignored the weapons buildup by the bloody regime in Syria. Although Syria has, since December 1979, been determined to be a country supporting international terrorism under section 6(j) of the Export Administration Act of 1979, the State Department has turned a blind eye to Assad's buildup. Between 1987 and 1990, Syria ordered 5.6 billion dollars' worth of new arms and received delivery on $14.5 billion in armaments. Since the Persian Gulf war, Syria has continued its shopping spree by stocking up on Scud missiles and gathering Chinese missile technology.

We cannot sit idly by and allow Hafez al-Assad to become another overgrown monster like Saddam Hussein. This man's idea of political dialog is to surround innocent civilians with tanks and artillery, as he did in the city of Hama in 1982, and raze the city, reportedly killing over 20,000 people.

In 1981, I warned that our courtship of Saddam Hussein would lead to disaster. From the reaction I received, you would have thought that I was attacking Mother Theresa. This time I am warning of Syria's threat to not only the region, but also to American interests and American allies.

Nevertheless, we constantly hear from the State Department that Syria must be allowed to buy those weapons because Syria was our ally in the Persian Gulf war. Moreover, arms sales, the argument goes will facilitate the Middle East peace process. This is absolutely absurd. We cannot coddle Syria because they were gracious enough to allow us to wage war against their sworn enemy, Saddam Hussein. We did them a great favor by attacking Iraq.

While we force Israel into concessions for loan guarantees, we look the other way when Syria arms itself to the teeth. There is a definite inconsistency here. We should reward our friends and punish our enemies. We are doing the opposite right now.

The United States and its democratic allies are signatories of the 1987 missile technology control regime. This treaty is designed to restrict sensitive missile-relevant transfers to Third World countries. It is imperative that we take the lead in enforcing our international agreements and condemn this weapons sale.

I urge my colleagues to support this resolution. We must send a message from this body to Syria, to North Korea, and to all the nations of the world, that we will oppose the proliferation of these weapons by despotic regimes like Syria and Iran. If peace is our goal in the Middle East, we must play evenly and fairly. We will never achieve peace by allowing weapons like this into the region. We must never again allow another monster to rise that our young men and women will have to fight in some future war.•

SMALL BUSINESS IS BIG BUSINESS

• Mr. KASTEN. Mr. President, as we begin debate on tax and economic growth legislation, I think it is important to recognize the vital role of America's small business sector in driving our economic engine.

I believe that the best way to restore economic growth and create jobs is to spark investment in entrepreneurial small businesses. In the 8-year economic boom of the 1980's, 19 million new jobs were created. Over 90 percent of these new jobs were created by entrepreneurial small businesses.

Unfortunately, in the last 3 years, the entrepreneurial economy has gotten on the wrong track. Rising tax and regulatory burdens have put the brakes on small business growth. If we really want to spark the economy and create new jobs, we have to focus on getting the small business sector moving again.

A significant cut in the capital gains tax is a sure-fire recipe for small business expansion and job creation. Every time Congress has cut the capital gains tax, investment in new small business ventures increased dramatically. In 1986, Congress increased the capital gains tax by a stunning 65 percent, and as a result, the rate of new business startups fell 12 percent since the 1986–88 period.

An effective economic growth package must provide dramatic incentives for people to invest in small businesses, or to start one themselves. Unfortunately, the Senate Finance Committee tax bill does little to get the small business sector growing again; in fact, it raises income tax rates on sole proprietors, a driving force in our small business sector.

Nine out of ten businesses pay taxes on the individual rather than the corporate tax rate schedule. The Finance Committee bill would raise the top individual tax rate paid by sole proprietors to over 40 percent. In addition, the bill would destroy individual entrepreneurship by actually increasing the top capital gains tax rate to over 30 percent for some investors.

Mr. President, instead of raising taxes on small businesses, we need to re-incentivize this important sector of our economy. As the ranking member of the Senate Committee on Small Business, I highly recommend to the Senate a recent article by economist Larry Kudlow entitled "Small Business is Big Business," in which he examines the current state of small businesses, and outlines economic proposals to strengthen America's entrepreneurial economy.

I ask that Mr. Kudlow's article be printed in the RECORD.

The article follows:

[From the Global Spectator, Feb. 28, 1992]

SMALL BUSINESS IS BIG BUSINESS

(By Lawrence A. Kudlow)

The most recent round of layoffs announced by GM has once again focused attention on job creation in the United States. But while these restructurings are painful, large companies like GM, IBM, and Citicorp are not the engines for domestic job creation and economic growth. In fact, between 1982 and 1989, U.S. multinational corporations accounted for less than one-tenth of 1 percent of the increase in total nonfarm payrolls and contributed only 15 percent of the growth in GNP.

Rather, it is small businesses which drive the American economy. Between 1982 and 1986, 14.2 million jobs were created by new businesses and another 4.5 million jobs were added by existing smaller companies. Today, two out of every three new jobs in the United States are created by small- and medium-sized businesses. Since the majority of Americans work in small enterprises, the importance of this sector for employment and real economic growth can not be overstated.

A respectable economic recovery will not take hold as long as this sector stays weak. The latest data show that new business starts are still 12 percent below their peak of December 1986, when 66,000 new businesses were incorporated. Another survey shows that, after rebounding in early 1991, small business optimism has fallen for three consecutive quarters. Unless this important sector is reincentivized, weak job creation, income and consumer confidence will dampen prospects for near-term economic recovery.

NEW BUSINESS FORMATION

Since early 1990, the rise in business failures has dramatically outpaced the rate of new business incorporation. According to Dun & Bradstreet, between October 1990 and October 1991, new business incorporations increased 2.2 percent, but business failures rose 39.6 percent. Over the entire year, business bankruptcies grew by more than 25 percent in nearly every major industry group. Putting business starts and failures together, the 12-month change in the Bureau of Economic Analysis index of net business formation remains negative, down by 1.4 percent in November 1991. Given the strong correlation between net business formation and real GDP growth, this suggests prospects for recovery in early 1992 remain poor.

THE STATE OF SMALL BUSINESS

The National Federation of Independent Business [NFIB] reports that small business optimism is fading and in January was 3½ % below its year-ago level. And low confidence has led to layoffs. Small businesses have on balance laid off more workers than they've hired for six consecutive quarters. For example, in the fourth quarter of 1991, while 10 percent of the small firms surveyed added an average of 3 workers to payrolls, 19 percent cut an average of 3.9 workers.

For this sector, the near-term employment outlook remains rather dim. In a sample of nearly 2,300 small firms of the type the NFIB estimates employ about half of the private nonfarm work force, only 13 percent plan to increase employment in the next 6 months. This suggests it may be some time before nonfarm payrolls post the sizeable gains necessary to confirm recovery. As long as job creation is weak and unemployment claims are high, consumer confidence will be subdued, incomes will remain flat and the recent strength in retail sales is unlikely to be sustained.

THE WAY FORWARD

Though 44 percent of small firms expect business conditions to improve, only 10 percent feel now is a good time to expand. What, then, is holding back the small business sector? The main constraints to small business expansion are poor fiscal and regulatory policies. In each year since 1988, small firms have cited rising tax and regulatory costs as their two biggest problems. Over that same period, the Fed succeeded in lowering inflation from 5 percent to 2 percent, and interest rates from over 9 percent to 7½ % and as a result, fewer than 10 percent of the firms surveyed indicated interest rates or financing were a main concern. Less than 5 percent cited inflation as their biggest problem.

Tax and regulatory relief, not easier money, are needed to rejuvenate the small business sector. The Fed has done its job. By reducing inflation, inflation expectations and interest rates, the Fed has delivered the monetary equivalent of a tax cut to the small business sector and the economy as a whole. Now Congress and the administration must do the same. To reignite the small business sector and net new business startups, aftertax rewards to capital and labor must be raised, so that it pays to work and invest. A decisive capital gains tax cut, accelerated depreciation, lower payroll taxrates and reduced regulatory burdens are needed to get the small business sector growing again. For as goes small business, so goes the economy.•

TRIBUTE TO ALICE STOKES PAUL

(1885–1977)

• Mr. LAUTENBERG. Mr. President, on March 1, 1992, the Alice Paul Centennial Foundation organized an official ceremony designating Paulsdale, the birthplace of Alice Stokes Paul as a national landmark. Alice Paul was a nationally and internationally renowned suffragist and women's rights leader. I was honored to join in paying tribute to this woman who played a key role in putting women's rights on the Nation's agenda and keeping it there.

Alice Paul was a remarkable woman whose achievements touched many people, ordinary people and famous people. When she died nearly 15 years ago, former First Lady Betty Ford sent a telegram praising her for her efforts on behalf of women. President Carter made sure he was represented at her eulogy service. That is the kind of respect and stature she attained.

Alice Paul fought tirelessly for the right to vote for women and played a key role in creating the equal rights amendment. She forced us to keep our focus on equality through many decades. Those are some of Alice Paul's best known accomplishments.

But Alice Paul was more than a list of accomplishments for women's rights. She was a visionary. When she achieved a goal, she reached for a higher goal. We have a lot to learn from Alice Paul.

One of the best tributes we can offer Alice Paul is to continue her vision by redoubling our fight for equality. We must dare to dream of a better world, not just for women but for men and women of all ages and races.

Alice Paul was a remarkable woman. But more importantly, she was a remarkable person. We need to follow in her footsteps.•

SOVIET SCIENTISTS AND ENGINEERS

• Mr. D'AMATO. Mr. President, the disintegration of the Soviet Union presents the West with the greatest scientific bonanza since the collapse of Nazi Germany. The second largest military-industrial complex in human history is now desperate for customers. The Soviets are actively seeking business, and early contacts indicate that Soviet scientists and engineers have little concern over security when their personal survival is in jeopardy.

Tragically, United States exploitation of Soviet technology has taken a backseat to proliferation concerns. Administration policy is focusing on two issues: preventing Soviet brain drain to undesirable countries, and redirecting Soviet research toward commercial goals that do not preserve Soviet military capability. Proposals to date focus on funding talent in place.

While hammering swords into plowshares is noble and desirable, the assumptions underlying this policy are misguided. Conversion, as hundreds of thousands of unemployed American shipyard and aerospace workers know, is easier said than done. The defense industry in the former Soviet Union is no more going to wither away under the CIS than the State did under Marxist-Leninism. Workers will be kept busy churning out arms, while managers embrace "Let's Make a Deal" as the guiding principle of the new world order. Factories, research facilities, and arsenals will compete amongst themselves in the arms bazaars of the world, and the only criteria for sale will be cash on the barrelhead.

Our misery attempts to subsidize Soviet researchers in place in some Siberian garden spot seem pitiful when a nuclear weapons designer can take Ludmilla and the kids and move to sunny Baghdad where his services will earn $10,000 a month. The Soviet equivalent of Cape Canaveral was just rocked by a food riot. These people are desperate. The grim reality of today is that many of the countries most able to offer exorbitant salaries to Soviet scientists and engineers are the very countries most of the world would least like to see acquire enhanced military power.

This country needs to be prepared to purchase or hire as much Soviet technology and talent as quickly as possible to reduce its availability to political, military, and business competitors. Instead, the administration has avoided deep and broad discussions or relationships out of a fear of perpetuating the former Soviet defense infrastructure. We know that the Soviets are willing to share research, prototypes, and production methods. We also know that there are no lack of customers. The question is: Who hires the Wernher von Braun's of the 1990's? If we do not, then the next question may well be, "Upon whose heads will the products of the next Wernher von Braun fall?"•

TRIBUTE TO CAWOOD LEDFORD—VOICE OF THE WILDCATS

• Mr. McCONNELL. Mr. President, I rise today to pay tribute to Cawood Ledford, a true living legend. After 39 wonderful years as the voice of University of Kentucky athletics, Cawood is stepping down from the mike.

It is hard to describe what Cawood Ledford has meant to Kentucky. He has called over 400 Kentucky football games and 1,100 basketball contests. He has become a member of millions of people's families. Mr. President, it isn't just Kentuckians who will miss Cawood, fans all across the Nation have come to know and love his calm delivery.

Cawood Ledford has become Kentucky basketball for many fans. In fact, the overnight ratings of his radio broadcasts actually increase when the game is also shown on television. This is unheard of Mr. President. Thousands of Wildcat faithful tune in the game on television but turn down the volume so they can hear Cawood over radio.

What sets Cawood Ledford apart from others in his profession is his objectivity and professionalism. The listener always knows exactly what is going on when Cawood does the game. He is not afraid to criticize his beloved Wildcats nor is he shy about giving deserved praise. The listener is not burdened with flowery prose when Cawood is on the job, that's just not his style Mr. President.

Perhaps Cawood's greatest attributes—what makes him a true Kentucky hero—are the kindness and humility he brings to all he does. As Kentucky sports writer Oscar Combs put it, "There's not a classier person in the world. If you can't get along with Cawood Ledford, then you belong in prison." He is a true southern gentleman.

This past Saturday Cawood called his last game before 24,000 screaming Wildcat faithful in Lexington's Rupp Arena. He has decided to retire and return, with his beautiful wife, Frances, to his native eastern Kentucky. He will live in Cawood, KY, named for his ancestors. But as he slowly moves out of the public spotlight which has burned so brightly, I wouldn't be a bit surprised if Kentucky folklore soon has it that the small mountain town was actually named for the man we all knew as the voice of the Wildcats.

I know my colleagues will join me wishing him a long and happy life. As someone who has weathered the good and bad times at Kentucky, Cawood Ledford has always risen to the top of his profession as well as proven to be a shining example for all to follow.

Mr. President, I ask that an article from the Courier Journal be printed in the Record.

The article follows:

Nice Guy Finishes, At Last—After 39 Years of UK Broadcasts, Cawood Ledford Prepares to Sign Off

(By C. Ray Hall)

If you, like so many others, have frittered away 39 years of Saturday afternoons listening to Cawood Ledford broadcast University of Kentucky basketball and football games, perhaps you have wondered: "Would I have been better off—would I be a more cultured person today—if I had spent my Saturdays listening to the Texaco Metropolitan Opera?"

If you've heard Cawood, you've heard culture.

Ledford's on-the-air pronouncements are ostensibly about basketball, but they cover many of the themes of grand opera: love, hate, betrayal, jealousy, treachery, family feuds and the animus of animals, especially zebras.

Here's a sampling of Cawood on * * *

The Capriciousness of the Gods Who Look the Other Way While Violence and Anarchy Reign: "Oh-ho-ho, come on! Bodies ALL OVER the floor and the refs don't call a thing!"

Order Amid Chaos: "Macy dries his hands on his socks * * *"

The Deadly Sins of Sloth and Arrogance: "No rebounding at all! The Cats are just standing around Ralph. They're not ready to play."

Virtue Defiled: "What? They called that a block? * * * Boy, Feldhaus got a bad call there!"

Virtue Avenged: "Ooooh, I don't know, Mashburn might have got away with a push."

And, of course, Man's Eternal Quest to Locate and Define Himself in a Random Universe "Kentucky will be moving to the left side of your radio dial."

As Dick Motta, the pro basketball coach and culture critic, noted, "The opera ain't over till the Fat Lady sings." The Fat Lady isn't quite ready to sing for Cawood Ledford. But she will bustle onto stage—clutching gifts to her goldplated bosom, no doubt—after Ledford calls his last home game today. For 24,000 fans in Lexington's Rupp Arena, the opponents will be Tennessee and tears.

The first and last thing you need to know about Cawood Ledford is this: He has called more UK games (1,115) than Adolph Rupp coached (1,065). And 40 years before UK coach Rick Pitino was a gleam in Armani's eye, Cawood Ledford was the fashion plate of Centre College.

Ledford, the thread that runs so blue, may be the closest thing Kentuckians have to royalty. Players come and go, Coaches are like prime ministers, subject to the slings and arrows of second-guessers, grumpy trustees, NCAA investigators and uppity analysis by East Coast media snipers.

But the 65-year-old Ledford sort of stands above it all, ceremonial and serene like a member of the royal family. Even Terry Meiners, the Louisville disc jockey, who lampoons the high and mighty, can find no fault with Ledford.

"Cawood Ledford is a patron saint to all announcers and Kentucky fans," Meiners says, "We do him, but it's always in the most revered terms; I mean, it has to be. * * * He is absolutely untouchable, And besides that, I think he lives up to the reputation. He's never given me any indication he's anything other than the gentleman that you think he is. And his wife, Frances, is the most charming person. They're the Cleavers of reality. * * * Of all the people I meet, I'm just in awe of him. He remembers things you told him two years ago, little, nit-picky details He just has a Southern gentlemanly way."

Not to mention a kind of royalty that doesn't have to be asserted, but is just sort of assumed by those around him.

Dick Gabriel, a broadcasting mate for 13 years, says: "There's a routine on the road. * * * It's very simple. Everybody knows what time we're supposed to be in the van or the car to leave. But when Cawood gets there, that's when we leave. It's not like he's going to show up a half-hour early, but we don't keep the man waiting. When Cawood's ready to go, we go.

"And you don't sit in the front seat. I learned that on one of the first road trips. I'm tall, I have long legs. I sat in the front seat, Cawood kind of looked at me funny. I went, "Whoooops" and got in the back seat."

Nobody seems quite sure what makes Ledford run, except for black coffee and Benson & Hedges cigarettes.

"He's real sensitive about his cigarettes," Gabriel says. "He truly enjoys his coffee. The first year I worked on the network was 1979. * * * (Ralph) Hacker turned to me and said, 'Go get Cawood a cup of coffee, Black, no sugar.'

"I sort of drew myself up and thought—here I'm just out of college—I thought, 'I'm no coffee boy.' But I thought, 'I'm new to this, so I'll go get him his coffee.' Then I learned everybody gets Cawood coffee. I mean, Dr. Wethington, if he's close to the coffee pot, brings Cawood coffee."

If Charles Wethington, the president of the university, can fetch coffee for a sports announcer, does this not say something about our priorities as a commonwealth? No. But perhaps it says something about the lengths to which people feel compelled to want to do something nice for Cawood. For some reason, he attracts niceness.

This is no mystery to Davis Baker, another broadcasting partner, who says: "As great as he is in my mind as a professional, the real benchmark—and the real legacy that he'll leave behind for me—is that you should treat people the way you want to be treated. I think that's why people have such a love affair with him."

"I've been surprised through the years at how many people have asked me if Cawood is sort of a jerk," Gabriel says. "They just assume that a guy who has been that popular, for that long, and that good, and respected, may have developed somewhat of the attitude. * * * It's almost like they think he has the right to be a jerk.

"What I tell people is that when I was in college—when I worked for the Kernel (the UK student newspaper) and the campus radio station—Cawood was one of the only people on press now who treated us students as professionals. Most of them treated us like kids, Cawood did not. He treated us with a great deal of respect."

A few weeks back a lawyer sent a fan letter to Ledford. The writer told of his childhood, when he sat on his grandfather's lap listening to basketball games. Every once in a while the boy would wander off to play, but he always crawled back into his grandfather's lap. Ledford's voice poured out of some warm amber fog, like the crackling of logs in a fireplace. It filled the room, the imagination, and now the memory.

Ledford's voice is a lot like a grandpa's lap: study-soft and familiar, capable of stirring memories that are rich and ripe, and, once it's gone, irreplaceable.

At least two generations of Kentuckians have probably heard more words from Cawood Ledford that from their own fathers. He is a touchstone and a talisman. Before games, UK basketball player Richie Farmer sidles over to the broadcast table to shake Ledford's hand for luck. Ledford's hand shook Adolph Rupp's. Which shook Phog Allen's. Which shook James Naismith's. Which held the first basketball, when Naismith invented the game a century ago. This is the kind of stuff that used to inspire paintings on the ceilings of cathedrals.

Through the years Ledford has been internalized by so many people that he seems to be a presumptive member of the family, if not an actual alter ego of each fan. On the radio call-in shows, it's almost as if fans feel a sense of betrayal when Ledford mildly disagrees with them on vital issues such as John Pelphrey's three-point stroke or Deron Feldhaus' ego strokes.

"They think they know you," Ledford says of the listeners. "If they've never met you, they think they know you."

Ralph Hacker, Ledford's broadcasting partner for 20 years, and his replacement in the No. 1 chair next year, suggests that people who know Ledford only from the radio do not really know him.

"He is without question the funniest person I have ever known," Hacker says. "Listening to him on the air, you would never know that. In the 30 years I've known him, I may have heard him tell two jokes. But he is as quick a wit as any human I have ever known. And what he says absolutely will break you up. He'll say something and, absolutely, you can't say a word, you're laughing so hard at him.

"When people see him, here's a guy who looks like he walked out of GQ, and a guy who could be the governor of the state. He has that kind of presence. * * * But he may turn around and say some of the funniest lines, where only I can hear. "It (his humor) is more like Jack Benny. Never a dirty word. Just always tongue-in-cheek stuff.

"Ralph Emery always said if he could just take Cawood out and put him on stage that he'd be a millionaire in about a year."

Here is UK athletics director C.M. Newton, on the difference between the Ledford that listeners imagine and the one he knows: "The qualities that come across (on the radio) are the basic lack of ego, the humility that he has, the real touch with the quote, common man. Those are characteristics that have endeared him. I think the thing that doesn't come across is the private nature of Cawood Ledford—almost an embarrassment of the limelight. I think he genuinely gets embarrassed by a lot of the attention."

Ledford can be expansive, engaging and entertaining on practically every subject—except himself. "I am sort of a private person," he says.

"He's a very, very private person and very seldom lets his hair down," says Jim Host, the Lexington broadcasting and publishing executive who heads Host Creative. "In fact, I can't say that I ever have seen him let his hair down."

The two met in 1955, when Host was broadcasting games on the UK station. "I knew him then to be a friend to everyone, but not a close friend to very man," Host say. "Today he doesn't have many, quote, close friends. He just has thousands of and thousands of friends."

Baker considers the private Cawood Ledford: "I don't think it's a mysterious side or anything. I think there is that side that he certainly does like to keep to himself. He's such a public figure. * * * How many times have we heard the players talk about how very difficult it was to be in that limelight for four years? My God, this guy's been in it for four decades."

If you wonder why Ledford is so careful of his privacy, consider the time last November when he agreed to speak to Bill Curry's football team before the season finale against Tennessee. Host Creative was engaged in a project to produce a video of Ledford's final year. (Curry and Ledford presumed the raw tape of that pep talk would be edited at seasons end, with Ledford's counsel.)

"So I got up," Ledford says, "and I used the word ass' four times. I thank God I didn't use anything worse. Well, it pops up on a local TV station that night, and I don't mind telling you, I was really PO'd at that. Because that was private; I didn't want that done. Not only the language—I thought it was a very private thing. * * * I guess the video's still in limbo, because I stopped everything. So we haven't had any more secret shoots."

The video may be in limbo, but the book isn't. Ledford's autobiography (written with Sports Illustrated staffer Billy Reed) is due out this spring. It's titled "Hello, Everybody * * * This is Cawood Ledford."

The title is perilously close to "Hello, Everybody, I'm Lindsey Nelson," the autobiography of another sports announcer who went off to do big things and returned home to the mountains (in Nelson's case, the mountains around Knoxville, Tenn.).

Ledford's story ends like Nelson's: After makng his fame and fortune, the boy returns home to the mountains. This is not a misprint: Cawood Ledford is retiring to his native Harlan County, to the town of Cawood, named for ancestors of Ledford who were among the pioneer settlers there.

This, even more than his retirement, may surprise and bewilder the legions of listeners who thought they knew Ledford.

Fervent UK fans who never see a game used Ledford's eyes and voice to nuzzle up against the Big Blue legend, hoping a little stardust would fall on them. And here is Cawood Ledford, the prince of the city, leaving Lexington and heading for the hills.

Oscar Combs, publisher of the fan magazine The Cats' Pause, recalls a UK basketball trip of about a dozen years ago. He and Ledford ended up at the same table with assistant coach Dick Parsons. An acquaintance noted that the trio was from deep in Eastern Kentucky.

"The fellow was kidding us about finally getting out of the hills," Combs recalls."Cawood said, 'I don't know about you two, but once I ever found the road out; I'll never find the road back.' "

After 39 years, he has found the road back to Harlan County. This does not surprise the people who know him.

"He's very close to his family," says Dick Gabriel. "It would surprise me if he didn't go back to Harlan."

"I think everyone goes back to their roots someday." Host says. "He has strong roots in Harlan. He and Frances have spent a lot of time going down to check on his father, and his brother, who had a serious automobile accident a few years ago. * * * I think he just wants to be closer to his family, and I think he wants to have an area to raise his miniature horses, which he loves."

'I also suspect," Host says, "he wants to get out of the glare of scrutiny."

Ledford's 94-year-old father, "Wash," still lives there. Cawood's wife of 18 years, Frances, is also from Harlan County. Though he is still nearly four months from retirement, Ledford does not say, "We're moving to Cawood. He says, "We live in Cawood."

"The fact that Cawood is going back home, I think, speaks so well of him as a person," Combs says. "There's not a classier person in the world. If you can't get along with Cawood Ledford, then you belong in prison."

The Ledfords will live in a valley with mountains on four sides. Will he find his way out of the mountains, back to the things that have defined him for four decades—the UK games?

I don't know," he says, "See, for 39 years I've never seen a Kentucky game, basketball or football, from the stands. I've talked to (former coach) Joe B. Hall about this. Joe B. comes to games. I asked him how much he missed it when he first retired. * * * Joe said the first day of practice, Oct. 15, he really had withdrawal pains, but that passed. * * *

"I don't know what it would be like watching Kentucky play somebody. I don't know if it would be too emotional I don't know, but I'm going to find out. * * * I don't want to be on press row, I want to be up there with Joe Six-Pack."

What pray tell, will he do in that four-walled valley without a satellite dish?

"I used to play golf," he says. "I may take it back up. * * * I've fished but twice in my life, so I don't know if I like fishing or not. Hunting, I know I wouldn't like. I did hunt when I was in high school. I just got to where I didn't like to pull the trigger. * * * It just wasn't right for me. I just didn't enjoy shooting things."

There'll be more time for reading, maybe even rereading Louis L'Amour, The Western author. (Ledford had never heard of L'Amour until University of Louisville basketball coach Denny Crum mentioned him. Crum sent Ledford one of L'Amours paperbacks. "I was captivated," he days. " I guess I've read everything Louis L'Amour ever wrote. I sure hated to see old Louis cash it in.")

"I don't want to relax too much," Ledford says. "I have no hobbies. But I'm going to be active in some other things. Right now it's something my wife and I are still looking at. I'm in a couple of other businesses—with good partners fortunately—that I know next to nothing about.

"I don't say much about them. I'd just as soon not. And I may not get in either one because I don't want to screw it up. I own 50 percent of each, but I might get in there and screw em up."

The idea of Ledford actually screwing something up would be novel. He hasn't managed to do that often since he entered the world in 1926. He was the oldest of three children of mine foreman Washington "Wash" Ledford and his wife, Sudie Cawood Ledford. They named their son for her brother, Oscar Cawood, a Harlan doctor. (Hence the OCL monogram on the French cuffs of his shirts.)

Young Cawood tried his hand at football with disastrous results; broken nose, broken arm. He also played basketball, where the result was not injury but insult. He became the incarnate version of Red Auerbach's victory cigar. When Cawood appeared on the court, it was a sure sign the game was over.

He hated to get up early. Sleeping late was such a pleasure that he asked his mother to wake him up on Saturday mornings just so he could have the satisfaciton of saying, "It's Saturday. I can go back to sleep." Nowadays he rises early for the satisfaction of staying up. "I love the mornings," he says.

His education at Centre College was interrupted by World War II service with the Marines. After the war, he returned to Centre to finish his degree in business administration. He was accepted for law school at U.K. ("Even sent them a deposit, which, to this day, I've never gotten back.") He passed up law school, though, figuring he would be poor for years.

Back in Harlan, he settled into an accounting job and began looking for more pleasing prospects. He took a job teaching English for a semester. ("I worked harder than any of my students did.") Charlie Ward, the sports announcer on station WHLN, was also looking for better prospects. He quit his job to coach basketball and recommended Ledford as a replacement. After making his audition tape, Ledford was so dismayed at the sound of his own voice, he says, "I could have cried."

It was weaker than he thought and freighted with a mountain accent he has subdued through the years. Only a few exceptions survive, such as the use of the word "fal" instead of "foul."

He called everything for WHLN, including minor-league baseball. He got an audition with WLEX in Lexington, which seemed, he says, "like the peak of the mountain." It was there that he announced his first UK games. "We were fourth—and a distant fourth," he says. The station's signal was so weak, it didn't reach into neighboring Madison County, where young Ralph Hacker listened to the UK games broadcast by the big network announcers, Claude Sullivan and J.B. Faulconer.

After three years in Lexington, Ledford moved on to Louisville and WHAS, where he stayed 22 years. There were many temptations to leave, including appealing offers from Chicago and San Francisco. "I always found something wrong with the job," he says, "I always found a reason not to go."

Besides, he liked Louisville and the station, where he had met another Harlan County native, Frances Johnson. (They courted 18 years before marrying in 1974.)

"I really enjoyed being there doing what I was doing," he says of the days at WHAS. "Felt comfortable, I had acceptance. That's another thing, I've seen so many other people in broadcasting who were just dynamite, say, in Louisville, go to New York and bomb, so I guess a little insecurity had something to do with it."

He thought of moving to Indiana, a shorter commute to the station in downtown Louisville. "But I thought, 'I don't know anything about Indiana politics. I wouldn't know how to vote over there, I'll just stay here.'"

On UK road trips and at the NCAA Final Four, Ledford would often find that there were only two customers in the coffee shop before dawn: he and the early-rising Jim Host. The broadcasting entrepreneur kept trying to get Ledford to move to Lexington and start a production company in partnership with Host. He saw something in Ledford that perhaps the announcer did not see himself.

"I think as any great talent, they sometimes don't realize they have talents other than those that can be considered artistic," Host says, "I know one thing about him: that he's very conservative, and he has always been very careful with how he spent other people's money."

So in the late 1970s Ledford moved to Lexington to set up Cawood Ledford Productions. Its projects include his broadcasting work, his newspaper ("Cawood on Kentucky") and coaches' calendars. On June 30 Ledford will leave it behind, selling his interest to Host Creative.

In the meantime, he will wrap up the basketball season and work his final Kentucky Derby. He will also be the guest of honor at an April 14 tribute in Rupp Arena. The $250-a-seat dinner will raise money to endow a scholarship in his name. The Cawood Ledford Scholarship will go to UK athletes who have used up their eligibility but want to return to school to finish their degrees. (For ticket information, call Ann Hill at 606-253-3230. Joe Six-Packs who are disinclined to spend $250 a pop can send donations to the Cawood Ledford Scholarship, University of Kentucky, Lexington, Ky, 40506).

For the past few months, UK fans have speculated about the timing of his decision. It's morning in Kentucky, the thinking goes, and there goes Cawood, acting like it's twilight time. (In the movie version, Richie Farmer will be chasing after him, yelling, "Come back, Cawood! Come back!")

As Ledford told C.M. Newton when he broke the news: "There's never any good time for something like this." But there could have been worse times. He almost packed it in three years ago, after the UK basketball team played in the shadow of an NCAA investigation, had its only losing season of his tenure and inspired a Sports Illustrated cover titled "Kentucky's Shams."

"That year they were undergoing the NCAA Investigation was the most miserable—the only bad—year I've ever spent in 39 years," he says, "Miserable. It was just atrocious. Everybody was trying to protect themselves and trying to survive. . . . The players didn't want to play. The coaches didn't want to coach. They just wanted to get it over with. It was horrible for the fans. They were embarrassed and really didn't care much.

"I really gave it (retirement) serious consideration. I had thought about it. I knew it had to come sometime. And then I thought, well, really, that would be a chicken thing to do, just tuck your tail and run right when, no question, it was the lowest ebb ever, in my time here.

"And then I thought, well, I'm going to tough it out one year. I really thought that I'd go and tough it out one year after whoever they brought in. It happened to be Rick Pitino, and he brought so much fun to it, I thought, 'Hey, I might go on with this a long time, because, really, it's never been this much fun.'"

A long time turned out to be a couple of years. Now little horses and big memories await Ledford in a Harlan County valley. Doubtless some UK fans will feel a sense of abandonment—perhaps because they understand Ledford less than he understands them.

"If there's any such thing as caring too much about a sport," he says, "I think Kentucky basketball fans may care too much. It may be too important in their lives, I don't know.

"Of course, that's been good for me. I think they're unrealistic sometimes, but they've been good to me for 39 years. . . . So one thing I won't do is criticize them for that."

And, of course, they have tended to make Ledford in their own image, foisting on him an identity that doesn't exist, as if somehow Ledford and UK had grown together into something like UK-wood or Catucky. It hasn't hurt him at all, he says, and it's a small price to pay for happinesss.

"There are so few of us in life who are going to leave some big impact, and I certainly don't think you're going to leave it as a sports broadcaster. Nor did I ever think that. I remember Red Smith—he'd won a Pulitzer Prize—was on '60 Minutes' with Morley Safer. Safer asked him, with this great talent you have—and certainly he did, probably the greatest sportswriter of my time—if he hadn't thought about writing, about something other than little boys' games played by grown men.

"And he had a great line. He said, 'The only thing left of ancient Rome is the ballpark.' I thought, 'Red, you've saved all of us again.'

"I'm not a bit embarrassed about it, or feel like I've shortchanged myself. * * *

"If you can make a living doing something that is truly enjoyable to you, you're very fortunate. There are so few people in history that were able to find a Salk vaccine, write a great novel, compose a great score—or be happy. And I've been very happy doing what I've done. So that's why I've stayed in and I'm going to miss it dreadfully."

The Heather Report: A Young Friend Recalls Her Times with Cawood

Veteran Lexington broadcaster Ralph Hacker will succeed Cawood Ledford next fall as the lead announcer on University of Kentucky football and basketball games. This has caused some soul-searching, even in the Hacker family.

Hacker's daughter, Heather, a 16-year-old sophomore at Lexington's Sayre School, was assigned to write an essay about an interesting experience or person. Her father recalls their conversation: "I said, 'Do you want to write about one of the governors you've met—or one of the basketball players?'

"She said, 'No, Dad. You know, the most famous person I know is Cawood, and I know more about him than anybody. And I'm going to write about Cawood if it won't hurt your feelings.'

"I thought that was sweet. Here's a 16-year-old girl who feels like the most important person in the world for her to write about is Cawood Ledford. No matter that she has met so many other famous people. Dick Vitale would die! Dick Vitale sends her stuff all the time."

Excerpts from Heather's essay:

"The first day I met Cawood was in the hospital the day I was born. Though I do not remember this very well, I still have the ring that he and his wife gave me. Through the years the most special gifts which I have received have been from the Ledfords. * * *

"I have many fond memories of traveling with Cawood and my family. We have ventured to many exciting places such as Alaska, Hawaii and to the SEC and NCAA Tournaments. It is amazing how everywhere we go people know who Cawood is. Even here in Kentucky, where fans anxiously crowd around him, he happily signs autographs and takes the time to speak with the people who admire him.

"One of the qualities I admire most about Cawood is his strong work ethic. He is always prepared to announce a game. * * * To Cawood, a game is not just a social event, it is a job which he has done quite well.

"This year marks Cawood's 39th year of announcing University of Kentucky sporting events; it also marks his last. To many, this is a sad time. It will be painful to see him end his career, but the memories he has given every University of Kentucky fan will be unforgettable."●

AUTHORIZING TESTIMONY BY A SENATE EMPLOYEE

Mr. MITCHELL. Mr. President, on behalf of myself and the distinguished Republican leader, Senator DOLE, I send to the desk a resolution on authorization for testimony by a Senate employee and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 269) to authorize testimony by an employee of the Senate in Standard Federal Savings Bank v. Roger B. Taber, et al.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. MITCHELL. Mr. President, the plaintiff in an eviction action pending in Idaho State court has subpoenaed Tom Andreason, A Senate employee on the staff of Senator CRAIG, to testify as a witness concerning constituent casework he performed. The following resolution would authorize Mr. Andreason to testify in this matter.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 269) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 269

Whereas, in the case of Standard Federal Savings Bank v. Roger B. Taber, No. 3L-78853, pending in Idaho State Court, the plaintiff has caused to be issued a subpoena for the testimony of Tom Andreason, an employee of the Senate on the Staff of Senator Larry Craig;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved, That Tom Andreason is authorized to testify in Standard Federal Savings Bank v. Roger B. Taber, et al., except concerning matters for which a privilege should be asserted.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. SPECTER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXPRESSING SYMPATHY REGARDING THE DEATH OF FORMER PRIME MINISTER MENACHEM BEGIN

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 268 regarding the death of former Prime Minister Menachem Begin submitted earlier today by Senators MCCONNELL, MCCAIN, SANFORD, ROBB, and others.

Mr. SPECTER. Mr. President, I ask unanimous consent that I be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 268) expressing to the people of the State of Israel the sympathy of the United States Senate regarding the death of former Prime Minister Menachem Begin.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. MCCONNELL. Mr. President, today Israel mourns the loss of a dedicated patriot and statesman. A heart attack suffered last week sadly ended the life of former Prime Minister Menachem Begin.

Menachem Begin was born in Russia, and lived in Poland until Nazi forces invaded that country in 1939. Fleeing to Vilnius, Begin was arrested by Soviet authorities for his Zionist and anti-Communist activities, and was sentenced and served in a Siberian labor camp. During that time, his parents and brother perished at the hands of Hitler's forces. These hardships shaped a man driven by the conviction his people needed a safe haven, a land to call their own.

Once in the Middle East, Menachem Begin translated his beliefs into actions. He rose to the head of the Irgun Zvai Leumi, and challenged the British mandate in Palestine. In 1948, he founded the Herut—Freedom—Movement and embarked on a long career in Israeli politics.

While Begin's achievements are many—including Prime Minister from 1977 to 1983 and Minister of Defense from 1980 to 1981—none compare to his leadership and courage during the Camp David accords in 1978. In an atmosphere charged by violence, suspicion and historical hostility, Prime Minister Begin and Egyptian President Anwar el-Sadat reconciled their differences and found a common ground in peace. For this monumental achievement, Begin received the Nobel Prize for Peace.

In 1983, former Prime Minister Begin's life was forever altered by the loss of his beloved wife. No longer feeling the call to public office, he retired to his home in Jerusalem. It seems fair to say that his broken heart would never fully mend.

The resolution I submit today with Senators MCCAIN, BOND, SANFORD, ROBB, and MOYNIHAN express the Senate's sympathy to the people of Israel on the passing of Menachem Begin. I strongly urge all my colleagues to join me in this endeavor.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 268) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 268

Whereas Menachem Begin founded the Herut (Freedom) Movement in Israel in 1948;

Whereas, throughout his lifetime, Menachem Begin served to protect and defend Israel as Prime Minister and Minister of Defense;

Whereas, for his leadership and courage in the Camp David Accords in 1978, Menachem Begin received the Nobel Prize for Peace; and

Whereas the people of Israel are mourning the passing of this dedicated patriot: Now, therefore, be it

Resolved, That the Senate expresses its sympathy to the people of the State of Israel regarding the death of former Prime Minister Menachem Begin.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. SPECTER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MINTING OF COMMEMORATIVE COINS

Mr. MITCHELL. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 3337.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House disagree to the amendment of the Senate to the bill (H.R. 3337) entitled "An act to require the Secretary of the Treasury to mint coins in commemoration of the 200th anniversary of the White House, and for other purposes," and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That Mr. Torres, Mr. Hubbard, Mr. Barnard, Mr. Wylie, and Mr. McCandless be the managers of the conference on the part of the House.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate insist on its amendment, agree to the conference requested by the House, and that the Chair be authorized to appoint conferees on the part of the Senate.

There being no objection, the Presiding Officer [Mr. AKAKA] appointed Mr. RIEGLE, Mr. CRANSTON, and Mr. D'AMATO conferees on the part of the Senate.

UNANIMOUS-CONSENT AGREEMENT—VETO MESSAGE ON H.R. 2212

Mr. MITCHELL. Mr. President, I ask unanimous consent that if the Senate receives from the House the veto message on H.R. 2212, the bill dealing with the most-favored-nation status of China, it be considered read and spread upon the Journal and immediately laid aside and that the majority leader, after consultation with the Republican leader, may turn to its consideration at any time prior to the close of business on Thursday, March 19, but not before Tuesday, March 17.

Further, that when the Senate considers the veto message, it be considered under the following time limitation: That there be 4 hours for debate, equally divided between the two leaders, or their designees, and that when all time is used or yielded back, the Senate vote without any intervening action or debate on passage of the bill, the President's objection notwithstanding.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:30 a.m. on Wednesday, March 11; that following the prayer, the Journal of proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day; that there then be a period for morning business not to extend beyond 10 o'clock, with Senators permitted to speak therein for up to 5 minutes each, with Senator GRASSLEY recognized for up to 20 minutes, and Senators LIEBERMAN and HATFIELD for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I ask unanimous consent that Senator SPECTER be recognized to address the Senate, and that at the conclusion of his remarks the Senate stand in recess as previously ordered.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I thank my colleague for his courtesy, and I thank the Chair.

TAX FAIRNESS AND ECONOMIC GROWTH ACT

The Senate continued with the consideration of the bill.

Mr. SPECTER. Mr. President, I have sought recognition to familiarize my colleagues with three amendments which I intend to offer to the pending tax bill. Each requires some explanation beyond having them printed in the RECORD, which I will do following my remarks.

One amendment relates to the substance of S. 1984, a bill introduced by Senator DOMENICI and myself, which seeks to stimulate consumer purchasing power by making available to middle-income Americans a portion of their IRA's, 401(k)'s, and Keogh plans for the purchase of certain major items.

Last fall, I took a look at the economy, saw the trouble spots, noted the recession, and thought about what could be done to help move America out of the recession.

We are under a budget agreement which prevents increased Federal spending. We cannot prime the pump, so to speak, because there are limited funds available. It goes without saying that additional Federal spending is unwarranted if it is going to result in increasing the deficit, which is a very serious problem in and of itself.

I noted that there was pending legislation to create super IRA's which had been sponsored by more than 70 Senators. The proposal would bring back the IRA's, discontinued by the 1986 tax bill, for certain classes of taxpayers. The super IRA had a new provision which would allow those funds to be spent for home purchases, for school tuition, or for major medical expenses.

The thought crossed my mind, since there had been such widespread acceptance by the Senate of a new IRA proposal, why not use existing IRA funds in order to stimulate consumer purchasing power. Upon my inquiry, I found there was a pool of approximately $800 billion in IRA's, 401(k)'s, and Keogh plans. This is in addition to the some $3 trillion which was set aside otherwise for retirement programs.

Senator DOMENICI and I then introduced S. 1984 and made a significant addition—new cars—to the three items that had been listed in the so-called super IRA legislation.

We have refined this bill somewhat. It would allow for a penalty-free withdrawal for those who are 59 or under with no taxes paid in the year 1992, the taxes on the withdrawal of up to $10,000 would be payable over the next 4 years—1993, 1994, 1995, and 1996. In the alternative, the taxpayer could replace $2,500 each year to replenish the total of $10,000, or instead of replenishing the IRA with one-fourth of what had been withdrawn, the taxpayer could pay the income tax on $2,500.

The proposal would make available to middle-income Americans, an individual taxpayer earning $75,000, or a couple filing jointly earning up to $100,000, a withdrawal of up to $10,000 for the purchase of a major item—a first-time home purchase, school tuition, medical expenses, or a new car.

There is drawback to the proposal, obviously, in that we are using a small portion of savings. Let it be said I firmly believe it is in our national interests to encourage savings. But these savings are in fact set aside for a rainy day, and we really have a cloudburst out there now in terms of the need to stimulate the economy. A good way to stimulate the economy is to stimulate consumer purchasing power by making a limited amount of these funds available. I suspect that only a small portion of the available $800 billion would be used.

Notwithstanding the fact the statistics reflecting our current economic situation are not nearly as bad as 1982, there is a feeling in America that a recession has hit the country very hard, which has significantly affected consumer confidence. I noted a recent poll that some 70 percent of Americans have heard their neighbors talk about losing their job in the course of the next year and some 41 percent of Americans are fearful of losing their own job in the next year. So there is a sense of keeping whatever funds they have without expending them.

An individual would be reluctant to spend $10,000 without some overall national effort. But the individual would be less reluctant if there is a cohesive, coordinated plan where it is announced that this undertaking will be made with the sanction of the Government, where others would be expected to spend their money as well.

I paraphrase Franklin Delano Roosevelt, who said at one perilous juncture in our Nation's history during World War II: "All we have to fear is fear itself." If there were to be more consumer confidence and we were to prime the pump and restore consumer confidence, we might well be able to pull ourselves out of the recession with this proposal.

As I will shortly specify, it has been estimated that this legislation would stimulate consumer purchasing power somewhere between $40 billion and $120 billion. It has been stated by economists that that might well be just the amount of stimulus to take us out of the recession.

Now, in expending $40 billion to $120 billion of savings, there is the tradeoff. Any time you talk about an economic proposition, there is always a tradeoff. But I suggest to my colleagues, in consideration of this legislation, that it is a relatively small sum of money when contrasted with the $800 billion available in these funds or the collateral $3 trillion set aside in savings generally.

The issue was put to the Federal Reserve. I asked the question of the distinguished Chairman, Alan Greenspan. Chairman Greenspan had an analysis made by the Board of Governors of the Federal Reserve System. That analysis came to the conclusion that the likely consumption from this proposal would be in the range of $40 billion.

I ask unanimous consent, Mr. President, that the analysis, the subject matter captioned here—"Analysis of Senator SPECTER'S Proposal Regarding Penalty-Free Withdrawals From Retirement Accounts—dated February 12, 1992, from the Board of Governors of the Federal Reserve System, Division of Research and Statistics, be printed in the RECORD in full at the conclusion of my statement as if read in full on the Senate floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SPECTER. There was another analysis made of this proposal by the Interpublic Group of Companies, Inc. That organization noted the proposal in the CONGRESSIONAL RECORD. I had always thought that the CONGRESSIONAL RECORD was a nice document, but hardly one for reading.

In any event, I was pleasantly surprised to receive a copy of a letter to Secretary of the Treasury Nicholas Brady, dated December 24, 1991, written by Philip H. Geier, Jr., chairman and chief executive officer of the Interpublic Group of Companies, Inc. Mr. Geier noted that he had recently reviewed the Specter-Domenici bill, Senate bill 1984, and had his company conduct a survey of 1,000 consumers regarding the bill.

The conclusion was that the impact of the legislation would be over $121 billion in incremental expenditures coming into the two industries at this critical time, home building and automobiles.

I ask unanimous consent, Mr. President, that the full text of Mr. Geier's letter to Secretary of the Treasury Brady appear at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. SPECTER. There was published this past Friday, on March 6, 1992, a full-page ad in USA Today by Interpublic Group of Companies, Inc., which called America's attention to Senate bill 1984. The ad said this: "In the next 6 months, Congress can help Detroit sell more than a million more new cars, help builders sell more than 500,000 more new homes, American tradesmen improve millions of old homes without costing the taxpayers a penny and without waiting for a new tax bill."

In fact, this proposal could be separate legislation but the current tax bill is an ideal legislative vehicle for putting. The ad goes on to say this:

> It is remarkable, it is immediate, and it is a conservative estimation on an independent market research response to an amended version of the Specter-Domenici bill, S. 1984.
>
> When asked whether they would use up to $10,000 of their money currently in IRA's and/or 401(k)'s, if there were no penalty, to purchase a new home, improve their current home, or buy an automobile or truck, Americans overwhelmingly answered yes. Indeed, 38 percent more people than are currently in the auto market said this would turn them from being bystanders into buyers. That is 4.8 million more people spending 65 million new dollars, out of a projected total of over $200 billion in purchasing power, that this suggested amended bill could unleash. And this does not include additional mortgage money generated either.
>
> Additionally, they understood the only time qualification was that they do this in the next 6 months and return the money to their accounts within 5 years to reinstate tax-free benefits without a taxable event taking place. And because people had not planned on withdrawing the money anyway, there would be no lost revenue to the Government from the loss of withdrawal penalty.

The advertisement goes on to say:

> It is a provocative idea, a practical idea and affordable idea. Judging from the response to the market research, it is an idea for jump starting the economy, whose time has come.

In big black, bold letters:

> Congress should support an amended Senate bill, S. 1984, Americans using their own money to invest in themselves as a nation.
>
> This message paid for by Philip H. Geier, Chairman of a Public Group of Companies, Inc.

Mr. President, it is hard to find a way to inject substantial money into the economy without adding to the deficit, or without creating some considerable problem with respect to the reallocation of resources. But this is a pool of money which is available for a rainy day or available for an emergency, and I suggest that day is present today.

Mr. President, I was pleased to note that in the pending legislation there is a provision which would go some distance toward what Senator DOMENICI and I had sought to accomplish. The bill before us provides that old IRA's may be rolled over into the new IRA's, and the new IRA's may be used to purchase new homes, or tuition, or medical expenses.

I think that our legislation, the Specter-Domenici bill, is a significant addition because it adds new cars, and it has the provisions for the deferral of the taxes to further stimulate consumer purchasing power. Prior to the introduction of S. 1984 by Senator DOMENICI and I, there had not been a proposal which would have used the old IRA's for the purchase of these three particular items.

The second proposed amendment would provide home equity conversion for the elderly. It would permit people 55 years or older, who are house-rich but cash-poor to use a sale-leaseback transaction to pull their equity out of their homes without having to move out.

That essentially is my proposal. If a person has a home and they are 55 years of age a computation could be made as to what the value of that house would be actuarially at the time of their death, and they would be permitted to sell the remainder interest but continue to live in their home. That is, the life estate would be retained by the homeowner, but the remainder interest would be sold, and cash would be obtained.

People obviously do not want to move out of their homes. While an individual might like to leave his or her house to a relative as a bequest, my proposal would certainly be an option worth considering.

There is currently a deduction of up to $125,000 where no taxes would be payable in this type of transaction. So this would enable someone 55 years or older to have the dual advantage of living in his house for the balance of his life, but selling today the value of the house at the time of his death, actuarially computed, and put that money in his pocket for living expenses. In legal parlance, it is called retaining a life estate and selling the remaining interest, which would have a very significant cash value.

The third amendment which I propose to file relates to employer provided transportation. This is a provision which I had included in legislation which I had introduced earlier, Senate bill 326, and had proposed as an amendment to the energy bill. It could not be considered at that time because it is a tax measure, it is appropriate for consideration on the pending legislation.

This provides that anyone who receives free parking from an employer, which is nontaxable, could not receive that free parking on a nontaxable basis unless the employer offered an equal amount in cash or for public transit. The purpose of this legislation is really to take more cars off the road. It has been found that where employees do not have the availability of free parking that a substantial number will take public transit.

A survey found that where employees pay $40 or more per month for parking, 20 to 25 percent fewer drive. It is really an unfair tax advantage to give someone a parking place which may be worth $200 a month, which is nontaxable. I would suggest that this arrangement could be continued only if the employer gave the option of getting cash or a public transit fare.

This amendment was noted favorably in the New York Times on June 17, 1991, where the following statement occurs. After discussing a number of subsidy plans under an editorial captioned "A Screwy Subsidy For Drivers" in the New York Times on June 17, 1991: "The best idea comes from 2 Republicans, Senator ARLEN SPECTER of Pennsylvania and Representative JAN MEYERS of Kansas. They would equalize the transit and parking subsidies by canceling the exemption for parking unless employees were also offered an equivalent amount for travel by mass transit and car or van pools."

Mr. President, the current bill does have a provision which proposes an increase in the transit exclusion from $21 to $60 per month, which means that now an employer can make a transit allowance of $21 without having a tax to the employee. That goes up $60 and it puts a cap of $160 per month on currently nontaxable employee-provided parking spaces. That is an improvement. But if your parking cost $160—and in few cities will you find parking that cheaply—I would say that there is no reason why the disparity should exist. There ought to be equality on the amount of money involved, cash received by an employee or a transit allowance.

This amendment, Mr. President, would have a revenue gain which might be of some help in an offset as to the IRA proposal, although that is virtually revenue neutral in its present form, and I just mention that in passing, Mr. President.

At this time, Mr. President, I ask unanimous consent that the full text of these amendments be printed in the RECORD.

There being no objection, the amendments are ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 1705

At the appropriate place, insert:

SEC. . DEDUCTIBILITY OF EMPLOYER-PROVIDED PARKING SPACE.

(a) AMENDMENT OF INTERNAL REVENUE CODE.—Section 162 of the Internal Revenue Code of 1986 (relating to trade or business expenses) is amended—

(1) by redesignating subsection (m) as subsection (n); and

(2) by inserting after subsection (l) the following new subsection:

"(m) NO DEDUCTION FOR PARKING EXPENSES UNLESS EMPLOYER PROVIDES CASH ALTERNATIVE.—

"(1) IN GENERAL.—No deduction shall be allowed under this chapter for any amount paid or incurred by an employer in connection with the providing of a parking subsidy to any employee unless the employer provides the parking subsidy pursuant to an arrangement under which the employee may elect, in lieu of a parking subsidy, to receive cash or a mass transit, car pool, or van pool subsidy in an amount equal to the fair market value of such parking subsidy.

"(2) CASH IN LIEU OF BENEFIT.—For purposes of this subsection (m), cash received by an employee in lieu of a parking subsidy shall be taxable income.

"(3) NO PREEMPTION OF STATE AND LOCAL LAWS.—The provisions of this subsection (m) shall not preempt any state or local laws, ordinances, or regulations promulgated pursuant to the Clean Air Act Amendments of 1990.

"(4) DEFINITION.—For purposes of this subsection (m), the term "parking subsidy" includes the direct and indirect cost to an employer of providing qualified parking to an employee, not including any amount paid by the employee.".

(b) MASS TRANSIT, CAR POOL, OR VAN POOL SUBSIDY IN LIEU OF PARKING.—For purposes of subsection (a) of this section a mass transit, car pool, or van pool subsidy in lieu of a parking subsidy shall be taxable in accordance with section 2513 of this Act.

(c) QUALIFIED PARKING.—For the purposes of subsection (a) of this section, the term "qualified parking" shall have the meaning set forth in section 2513 of this Act and shall be taxable in accordance with section 2513 of this Act.

(d) EFFECTIVE DATE.—The amendment made by this subsection (a) shall apply to taxable years beginning after December 31, 1992.

(e) PARKING SUBSIDY FORMULA.—By December 31, 1992, the Internal Revenue Service shall in conjunction with the Department of Transportation develop a formula for estimating the value of parking places provided in employer owned parking facilities.

AMENDMENT NO. 1706

On page 1421, after line 17, insert the following new title:

TITLE VI—HOME EQUITY CONVERSIONS

SEC. 601. SHORT TITLE.

That this Act may be cited as the "Home Equity Conversions Act of 1992".

SEC. 602. DEPRECIATION IN SALE-LEASEBACK TRANSACTIONS.

Section 167 of the Internal Revenue Code of 1986 (relating to depreciation) is amended by adding at the end thereof the following new subsection:

"(g) SALE-LEASEBACK TRANSACTIONS.—

"(1) IN GENERAL.—In the case of property involved in a sale-leaseback transaction, the purchaser-lessor shall be recognized as the absolute owner of the property, and the deduction shall be allowed to the purchaser-lessor.

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) SALE-LEASEBACK.—The term 'sale-leaseback' shall include a transaction in which—

"(i) the seller-lessee—

"(I) has attained the age of 55 before the date of such transaction,

"(II) sells property which during the 5-year period ending on the date of the transaction has been owned and used as a principal residence by such seller-lessee for periods aggregating 3 years or more,

"(III) obtains occupancy rights in such property pursuant to a written lease requiring a fair rental, and

"(IV) receives no option to repurchase the property at a price less than the fair market price of the property unencumbered by any leaseback at the time such option is exercised, and

"(ii) the purchaser-lessor—

"(I) is a person,

"(II) is contractually responsible for the risks and burdens of ownership and receives the benefits of ownership (other than the seller-lessee's occupancy rights) after the date of such transaction, and

"(III) pays a purchase price for the property that is not less than the fair market price of such property encumbered by a leaseback, and taking into account the terms of the lease.

"(B) OCCUPANCY RIGHTS.—The term 'occupancy rights' means the right to occupy the property for any period of time, including a period of time measured by the life of the seller-lessee on the date of the sale-leaseback transaction (or the life of the surviving seller-lessee, in the case of jointly-held occupancy rights), or a periodic term subject to a continuing right of renewal by the seller-lessee (or by the surviving seller-lessee, in the case of jointly-held occupancy rights).

"(C) FAIR RENTAL.—For purposes of paragraph (2)(A)(i)(III), the term 'fair rental' shall include a rental for any subsequent year which equals or exceeds the rental for the first year of a sale-leaseback transaction.

SEC. 603. CAPITAL GAINS EXCLUSION IN SALE-LEASEBACK TRANSACTIONS.

Subsection (d) of section 121 of the Internal Revenue Code of 1986 (relating to one-time exclusion of gain from sale of principal residence by individual who has attained age 55) is amended by adding at the end thereof the following new paragraph:

"(10) SALE OR EXCHANGE DEFINED.—For purposes of this section, the term 'sale or exchange' shall include a sale-leaseback transaction (as defined in section 167(g)).".

SEC. 604. INCOME IN SALE-LEASEBACK TRANSACTION.

(a) GROSS INCOME.—Part III of subchapter B of chapter 1 of subtitle A of the Internal Revenue Code of 1986 (relating to items specifically excluded from gross income) is amended by inserting after section 121 the following new section:

SEC. 121A. INCOME IN SALE—LEASEBACK TRANSACTIONS.

"Gross income to the seller-lessee or the purchaser-lessor in a sale-leaseback transaction (as defined in section 167(g)) does not include any value of occupancy rights or discount from the fair market price of the property unencumbered by any leaseback, which is attributable to any leaseback.".

(b) GAIN OR LOSS.—Subsection (b) of section 1001 of such Code is amended—

(1) by striking "and" at the end of paragraph (1),

(2) by striking the period at the end of paragraph (2) and inserting ", and", and

(3) by inserting after paragraph (2) the following new paragraph:

"(3) in the case of a sale-leaseback transaction (as defined in section 167(g))—

"(A) there shall not be taken into account any value of occupancy rights or discount from the fair market price of the property unencumbered by any leaseback, which is attributable to any leaseback, and

"(B) there shall be taken into account the cost of any annuity purchased for a seller-lessee by a purchaser-lessor.".

(c) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 of subtitle A of such Code is amended by inserting after the item relating to section 121 the following new item:

"Sec. 121A. Income in sale-leaseback transactions.".

SEC. 605. INSTALLMENT SALES IN SALE-LEASEBACK TRANSACTIONS.

Section 453 of the Internal Revenue Code of 1986 (relating to installment method) is amended by adding at the end thereof the following new subsection:

"(m) APPLICATION WITH SECTION 167(I).—

"(1) IN GENERAL.—In the case of an installment sale in a sale-leaseback transaction (as defined in section 167(g)), subsection (a) shall apply.

"(2) SPECIAL RULE FOR ANNUITIES.—In the case of an annuity purchased for the seller-lessee by the purchaser-lessor in a sale-leaseback transaction, the purchase cost of such annuity shall constitute the amount of consideration received by such seller-lessee attributable to such annuity and shall be deemed received in the year of disposition.".

SECTION 606. BASIS OF ANNUITY RECEIVED IN SALE-LEASEBACK TRANSACTION.

Subparagraph (A) of section 72(c)(1) of the Internal Revenue Code of 1986 (relating to annuities) is amended by inserting before the comma "(including such amount paid by a purchaser-lessor in a sale-leaseback transaction as defined in section 167(g))".

SEC. 607. SALE-LEASEBACK TRANSACTION ENGAGED IN FOR PROFIT.

(a) FOR PROFIT PRESUMPTION.—Section 183 of the Internal Revenue Code of 1986 (relating to activities not engaged in for profit) is amended—

(1) by striking "If" in subsection (d) and inserting "(1) IN GENERAL.—If",

(2) by inserting after paragraph (1) of subsection (d) (as designated by paragraph (1)) the following new paragraph:

"(2) SALE-LEASEBACK TRANSACTION.—Any sale-leaseback transaction (as defined in section 167(g)), unless the Secretary establishes to the contrary, shall be presumed for purposes of this chapter to be an activity engaged in for profit.", and

"(3) by inserting "(1)" after "subsection (d)" each place it appears in subsection (e).".

(b) USE OF DWELLING UNIT.—Paragraph (3) of section 280A(d) of such Code (relating to disallowance of certain expenses in connection with business use of home, rental of vacation homes, etc.) is amended by adding at the end thereof the following new subparagraph:

"(E) FAIR RENTAL IN A SALE-LEASEBACK TRANSACTION.—Any rental that constitutes a fair rental in a sale-leaseback transaction pursuant to section 167(g)(2)(C) shall be treated as a fair rental for purposes of subparagraph (A).".

SEC. 608. ACCELERATED COST RECOVERY SYSTEM IN SALE-LEASEBACK TRANSACTIONS.

Subparagraph (A) of section 168(f)(5) of the Internal Revenue Code of 1986 (relating to certain property placed in service in churning transactions) is amended by inserting "(except property acquired by the taxpayer in a sale-leaseback transaction as defined in section 167(g))" after "Property".

SEC. 609. EFFECTIVE DATE.

The amendments made by this title shall apply to sales after the date of the enactment of this Act, in taxable years ending after such date. Enactment of this title shall not raise any presumption that sales occurring prior to such enactment should not be treated as valid sale-lease-back transactions.

AMENDMENT NO. 1707

At the appropriate place, insert:

SEC. . PENALTY-FREE WITHDRAWALS FROM PENSION PLANS THROUGH 1992.

(a) IN GENERAL.—In the case of any qualified withdrawal—

(1) no additional tax shall be imposed under section 72(t)(1) of the Internal Revenue Code of 1986 with respect to such qualified withdrawal, and

(2) except as provided in subsection (b), any amount includable in gross income by reason of such qualified withdrawal (determined without regard to this section) shall be includable ratably over the 4-taxable year period beginning with the taxable year in which such qualified withdrawal occurs.

(b) ELECTION TO RECONTRIBUTE TO PLAN.—

(1) IN GENERAL.—The amount required to be included in gross income for any taxable year under subsection (a)(2) shall be reduced by any designated recontribution.

(2) DESIGNATED RECONTRIBUTION.—For purposes of paragraph (1), a designated recontribution is any contribution to any plan described in subsection (c)(1)(B)—

(A) which the taxpayer designates (in such manner as the Secretary of the Treasury may prescribe) as in lieu of all (or any portion of) any amount required to be included in gross income under subsection (a)(2) for a taxable year, and

(B) which is made not later than the due date (without extensions) for such taxable year.

(3) NO DEDUCTION ALLOWED FOR RECONTRIBUTION, ETC.—For purposes of the Internal Revenue Code of 1986, a designated recontribution shall not be treated as a contribution for any taxable year.

(c) LIMITATION BASED ON ADJUSTED GROSS INCOME.—

(1) IN GENERAL.—Subsection (a) shall not apply to any taxpayer if the adjusted gross income of the taxpayer for the taxpayer's first taxable year beginning in 1991 exceeds—

(A) $100,000 in the case of married individuals filing a joint return,

(B) $50,000 in the case of married individuals filing a separate return, and

(C) $75,000 in the case of any other taxpayer.

(2) SPECIAL RULE FOR GRANDPARENTS AND PARENTS.—If a withdrawal is used to pay qualified acquisition costs of a first-time homebuyer who is the child or grandchild of a taxpayer, paragraph (1) shall be applied by reference to the adjusted gross income of the child or grandchild (and, if applicable, their spouse).

(d) QUALIFIED WITHDRAWAL.—For purposes of this section—

(1) IN GENERAL. The term "qualified withdrawal" means any payment or distribution—

(A) which is made to an individual during 1992,

(B) which is made from—

(i) an individual retirement plan (as defined in section 7701(a)(37) of the Internal Revenue Code of 1986) established for the benefit of the individual, or

(ii) amounts attributable to employer contributions made on behalf of the individual pursuant to elective deferrals described in section 402(g)(3) (A) or (C) or 501(c)(18(D)(iii) of such Code, and

(C) which is used by the individual for a qualified acquisition not later than the earlier of—

(i) the date which is 6 months after the date of such payment or distribution, or

(ii) the date on which the individual files the individual's income tax return for the taxable year in which such payment or distribution occurs.

(2) QUALIFIED ACQUISITION.—The term "qualified acquisition" means—

(A) the payment of qualified acquisition costs with respect to a principal residence of a first-time homebuyer who is the taxpayer or the child or grandchild of the taxpayer, or

(B) the purchase of a new passenger automobile.

(3) DOLLAR LIMITATION.—The aggregate amount which may be treated as qualified withdrawals under paragraph (1) with respect to all plans and amounts of an individual described in subsection (c)(1)(B) shall not exceed $10,000.

(4) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

(A) QUALIFIED ACQUISITION COSTS.—The term "qualified acquisition costs" means the costs of acquiring, constructing, or reconstructing a residence. Such term includes any usual or reasonable settlement, financing, or other closing costs associated with such qualified acquisition costs.

(B) FIRST-TIME HOMEBUYER; OTHER DEFINITIONS.—

(i) FIRST-TIME HOMEBUYER.—The term "first-time homebuyer" means any individual if such individual (and if married, such individual's spouse) had no present ownership interest in a principal residence during the 2-year period ending on the date of acquisition of the principal residence to which this paragraph applies.

(ii) PRINCIPAL RESIDENCE.—The term "principal residence" has the same meaning as when used in section 1034.

(iii) DATE OF ACQUISITION.—The term "date of acquisition" means the date—

(I) on which a binding contract to acquire the principal residence to which this subsection applies is entered into, or

(II) on which construction or reconstruction of such a principal residence is commenced.

(C) SPECIAL RULE WHERE DELAY IN ACQUISITION.—If—

(i) any amount is paid or distributed from an individual retirement plan to an individual for purposes of being used as provided in paragraph (1), and

(ii) by reason of a delay in the acquisition of the residence, the requirements of paragraph (1) cannot be met,

the amount so paid or distributed may be paid into an individual retirement plan as provided in section 408(d)(3)(A)(i) of the Internal Revenue Code of 1986 without regard to section 408(d)(3)(B) of such Code, and, if so paid into such other plan, such amount shall not be taken into account in determining whether section 408(d)(3)(A)(i) of such Code applies to any other amount.

(D) DISTRIBUTION RULES.—Any qualified withdrawal shall not be treated as failing to meet the requirements of sections 401(k)(2)(B)(i) or 403(b)(11) of such Code.

(e) ORDERING RULES FOR INCOME TAX PURPOSES.—For purposes of the Internal Revenue Code of 1986—

(1) all plans and amounts described in subsection (c)(1)(B) with respect to an individual shall be treated as one plan, and

(2) qualified withdrawals from such plan shall be treated as made—

Mr. SPECTER. Mr. President, that concludes my statement, and I believe under the existing order that will conclude the business of the Senate this evening.

I thank the Chair, and I yield the floor.

EXHIBIT 1

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM, DIVISION OF RESEARCH AND STATISTICS,
February 12, 1992.

ANALYSIS OF SENATOR SPECTER'S PROPOSAL REGARDING PENALTY-FREE WITHDRAWALS FROM RETIREMENT ACCOUNTS

This memorandum analyzes Senator Specter's proposal regarding penalty-free withdrawals from retirement accounts, focusing especially on the issue of how great an impact the action would have on household spending. Section I describes in greater detail the provisions of the proposal; Section II discusses some analytical considerations bearing on the spending issue; Section III presents some relevant estimates derived from the national Survey of Consumer Finance; Section IV offers some conjectures on the likely spending effects.

I. THE PROPOSAL

The proposed legislation would allow certain taxpayers to make penalty-free withdrawals from retirement-type accounts, provided the withdrawals are applied toward one or more qualified purchases. Specifically:

The proposal would allow withdrawals from IRAs, Keoghs, and 401(k)s.

Eligibility would be restricted to those earning less than $100,000 (if married and filing jointly), $50,000 (if married and filing separately), or $75,000 (all others).

According to the legislation in its current form, qualified expenditures would include the purchase or improvement of real property, and the purchase of durable goods. In his floor speech and in other communications, Senator Specter has also mentioned medical expenses and college tuition.

Each taxpayer would be allowed to withdraw no more than $10,000.

Withdrawals would have to be made on or before December 31, 1992; associated expenditures would have to be made either (a) within six months of the withdrawal, or (b) by the time the taxpayer files his/her return for the relevant tax year (in most cases, no later than April 15, 1993). The more restrictive of (a) or (b) would be the binding rule.

Regular tax liability on the withdrawn funds would still be owed; however, the liability could be spread over a period of four years following the withdrawal.

In the floor speech and written communications, Senator Specter also mentions the possibility of allowing those who take advantage of his proposals to replenish the funds in their IRA or 401(k) over the five years following the withdrawal. The existing legislation does not contain this provision.

II. ANALYTICAL CONSIDERATIONS

Several analytical points are worth making about the likely impact of the proposal on household spending:

It is useful to think of qualifying households as falling in one of three categories: not liquidity-constrained, extremely liquidity-constrained, and somewhat liquidity-constrained.

Households that are not liquidity-constrained will probably not be interested in tapping their retirement savings, because doing so would remove those savings from their current tax-sheltered status.

Households that are extremely pressed for the funds will be tapping their funds in any event, and would choose to pay the 10 percent penalty in the absence of Senator Specter's proposal. The extra spending generated by the Senator's proposal via these households would be only $1,000—smaller by an order of magnitude than the overall amount of $10,000.

Therefore, the proposal likely would have its greatest impact on the spending of the intermediate group: those households that are somewhat liquidity constrained, but not too much so. These households will be induced to make a withdrawal that they otherwise would not have made.

About two-thirds of 401(k)s have borrowing provisions. Therefore, owners of these accounts have access to the wealth they hold in 401(k)s even in the absence of Senator Specter's proposal. Evidence suggests that many households take advantage of these loan provisions. For example, one recent survey found that 9 percent of account-holders initiated a new loan during 1990, while 21 percent had a loan outstanding at the end of 1990.[1] Roughly 90 percent of such plans allow general-purpose loans (and therefore cover a wider range of expenditures than would Senator Specter's plan).

The tax amortization feature probably will make relatively little difference to the proposal's influence on spending: Standard theories of consumer behavior predict that taxpayers who know that a liability is outstanding will be inclined to set aside most, if not all, of the tax liability upon receipt of the withdrawal. This prediction is supported by available evidence concerning the relationship between ordinary income tax refunds and consumer spending.[2][3]

III. EMPIRICAL EVIDENCE

The following estimates from the 1989 Survey of Consumer Finance shed further light on the likely impact of the proposal on household spending:

According to the SCF, qualified accounts (including IRAs, 401(k)s, Keoghs, thrift, and saving plans) amounted to $1.239 trillion 1989.[4]

Of this amount, $893 billion was held by families headed by someone aged less than 59 years old. Older people already can withdraw funds from retirement accounts without penalty.

Next, $736 billion was held by families meeting both the income constraints specified under the Specter proposal and the above-mentioned age cutoff.

Ownership of that $736 billion was highly concentrated, however. If we count only the first $10,000 in retirement funds per family, then the qualified pool of funds shrinks to only $136 billion.

Median liquid assets held by all families meeting the proposed age and income criteria were $1,950.[5] Among families reporting ownership of some retirement funds, median liquid asset holdings were $6,180. Among families holding at least $5,000 in retirement funds, median liquid asset holdings were $9,800. This result conforms with the common finding that those who save via IRAs and Keoghs also tend to save by other means. Families that are holding substantial amounts outside their retirement accounts will be less interested in tapping their retirement funds if given the opportunity to do so penalty-free.

Transaction costs could be sufficiently great to persuade some families who otherwise would take advantage of Senator Specter's proposal not to liquidate their IRAs or 401(k)s. These costs would include, for example, early withdrawal penalties on time deposits and broker commissions.

Footnotes at end of article.

IV. SPENDING EFFECTS

A fundamental fact should be kept in mind while assessing the likely influence of the proposed program on household spending: The proposal would do nothing to raise the wealth of households, other than of those who anticipated incurring a withdrawal penalty. Therefore, the proposal would influence household spending mainly by relaxing liquidity constraints currently binding on some households. The above data from the SCF suggests that this impact probably would not be very great, given that a considerable portion of the available retirement-related wealth is owned by families holding substantial amounts of other liquid assets.

Some withdrawals undoubtedly would occur if the proposal were to be adopted, but the incremental effect of the proposal on expenditure will be less than the total amount withdrawn for two reasons: First, some withdrawals would have been taken, even in the absence of the program, by families extremely pressed for liquidity. Second, some withdrawals from 401(k)s will represent, in effect, a substitution of outright withdrawal for borrowing that would have taken place in the absence of the program.

There is no way of predicting with any confidence the amount of additional expenditure that would be forthcoming in response to implementation of the proposal. It seems reasonable to guess, on the basis of the evidence presented here, that the increment to spending would amount to less than one percent of personal consumption expenditure (or $40 billion)—and it quite possibly would be substantially less. If the permissible penalty-free withdrawal were to be raised to $20,000, it would raise the amount released on the estimates above from $136 billion to $206 billion. However, while the spending effect probably would be greater, it would likely be only modestly so, because the additional balances affected would, on average, be held by individuals who are less liquidity-constrained.

FOOTNOTES

[1] Hewitt Associates, Lincolnshire, IL, News and Information Release, January 23, 1992.

[2] See "Income Tax Refunds and the Timing of Consumer Expenditure," David W. Wilcox, mimeo, Federal Reserve Board.

[3] Low-income taxpayers will experience some benefit from being allowed to smooth some of the liability into lower tax brackets. However, evidence from the Survey of Consumer Finance suggests that eligible families would have higher-than-normal incomes, and so would not benefit from this aspect of the proposal to any great degree.

[4] Respondents to the 1989 SCF reported total holdings in IRAs and Keoghs of $598 billion. For comparison, the Employee Benefit Research Institute puts the total for IRAs and Keoghs in 1989 at $494 billion. SCF respondents reported an additional $295 billion in 401(k)s, quite close to the estimate for 1988 of $277 billion based on data from the Department of Labor's Form 5500. Finally, SCF respondents reported $346 billion in thrift or saving plans, or other defined-contribution plans with borrowing provisions.

[5] Liquid assets were defined as the sum of checking accounts, money market accounts, CDs, other bank accounts, mutual fund holdings, savings bonds, other government and private bonds, direct stock holdings, and accounts held at brokers.

EXHIBIT 2

THE INTERPUBLIC GROUP OF
COMPANIES, INC.,
New York, NY, December 24, 1991.

Mr. NICHOLAS F. BRADY,
Secretary of the Treasury, Department of the Treasury, Washington, DC.

DEAR NICK: I recently reviewed the Specter/Domenici Bill (S/1984) which has the possibility of stimulating the economy in two key sectors—housing and automobiles—

major indicators of economic vitality both with the so-called experts on the economy, but more importantly, with the consumer (not to mention the impact this would have on unemployment).

We amend some of the aspects of the Bill (see attachment) and put it into national consumer research; I found the results more than interesting, and I believe you and the White House should review the data and the approach as a possible major element in a package of measures for stimulating an economic recovery.

With due respect, I point out that the consumer confidence level, which is a major problem and has been so for many months, was not addressed. The past is the past but if scenarios had been worked out in advance (what if the economy did not respond, etc.), the Administration might be in a better position to be on the attack with Congress. Of course, the media has not helped the situation at all. If you consider that the 1981–82 recession which had almost 10 percent unemployment and interest rates in the high teens (but a solid banking system and reasonable ability to lend), versus what we have today where the primary problems of the lending institutions require not only larger down payments but a stronger consumer credit-worthiness as well, we can understand one of the major problems we face.

Because I share this concern and was intrigued by the Specter/Domenici approach, my company commissioned a study through a lending research company to estimate the number of American families who would make use of their IRA and 401K savings for housing and automobiles on a one-time basis, and to estimate the amount of money these families would invest above the levels they would spend without the use of these funds. Please note that the proposal provides that the IRA and 401K monies used would be tax free for five years, whereupon the consumer could put this money back into those retirement funds on a tax free basis (see attachment). Therefore, the program would be revenue neutral.

We have amended the Specter/Domenici Bill as follows:

A. We limited the use of IRA and 401K funds to housing and autos. These industries are the key industries for economic resurgence, and new vigor here would have a huge effect on the overall economy.

B. We suggested that autos purchased have at least 75% of content made in the USA. I recognize the GATT issue, but I believe our trading partners could be persuaded that a non-deficit 6 month domestic program that lifts the US economy would be to their own benefit over time as well. Additionally, this provision certainly would shake up the Japanese which the President politically must consider.

The research, a national probability sample of 1,000 households, was conducted in the middle of December, and is representative of U.S.A. demographics by age, sex, religion and race. Let me summarize the findings on this basis:

1. This proposed use of IRA and 401K funds would increase intentions to buy or improve a home or to buy a car from 26 to 44 million families—a gain of 18 million families.

2. One in three (33.5%) American families claim they would use some of their IRA and/or 401K funds to buy a new home, improve their home or buy a car under this proposal. Of these, over 10,300,000 families say they are "very" likely to take positive action.

3. Another 20,700,000 households say they are "somewhat" likely to act per this proposal.

4. Of these 31,000,000 households, fully 65% say they would use the maximum $10,000. Another 18% report they would use more than $5,000 but less than $10,000. This proposed legislation would motivate 26,000,000 American families to spend more than $5,000 on housing and autos, with another 5,000,000 families spending less than $5,000.

5. If they do as they say, these 31 million families would theoretically transfer over $224 billion dollars from existing IRA and 401K funds to the housing and auto industries. According to the BEA, American families spent $647 billion in these two sectors in 1990—not including maintenance and operations. At a very minimum, the proposed action would produce impactful double-digit gains in both industries.

6. Over half (55%) of the 31 million families who say they would make use of IRA and/or 401K funds for housing and autos, report they do not intend to invest at this time in new or improved housing or buy a new car without this proposal. In other words, the Specter/Domenici proposal motivates many more people to act now. Using just this 55% figure, the impact would be over $120 billion in incremental spending coming into these two industries at this critical time.

I am very enthused about these findings. Although the sample size is not large, the responses are statistically reliable within 3%. Even if one applies a conservative adjustment to these stated consumer actions, the numbers are still very impressive.

I have heard a lot of qualitative research recently which suggests the President should adopt a more pro-American business stance. While we are all believers in free trade, there is a deep seated popular concern that the Japanese are receiving special treatment with respect to their markets versus ours. This viewpoint is being strengthened by the current U.S. auto industry problems and the attendant negative publicity. I believe this proposal is an appropriate response.

I do hope this study might be of help to you and the President. We would be happy to have our research analyst come to Washington to go over the detailed results with your staff or whomever you wish.

On a related note, a lot of us believe that a cut in the capital gains tax rate would be revenue positive and is the right thing to do. However, I believe the average American family is much more concerned with holding onto or getting jobs, and unless this tax change can be explained simply and succinctly and backed up with facts on how it creates jobs, we really should let it pass. Our indications are that this will be a detriment with the average person in getting a tax stimulus approved.

In my view, the direction proposed in the Specter/Domenici Bill is exactly right for this time and these conditions.

I hope you and your family have a very happy holiday, and I look forward to seeing you soon in the New Year.

Sincerely,

PHIL.

RECESS UNTIL TOMORROW AT 9:30 A.M.

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 9:30 a.m., Wednesday, March 11.

Thereupon, the Senate, at 7:53 p.m., recessed until Wednesday, March 11, 1992, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate March 10, 1992:

THE JUDICIARY

FEDERICO A. MORENO, OF FLORIDA, TO BE U.S. CIRCUIT JUDGE FOR THE ELEVENTH CIRCUIT VICE PAUL H. RONEY, RETIRED.

SUSAN H. BLACK, OF FLORIDA, TO BE U.S. CIRCUIT JUDGE FOR THE ELEVENTH CIRCUIT VICE THOMAS A. CLARK, RETIRED.

DEPARTMENT OF DEFENSE

I. LEWIS LIBBY, JR., OF THE DISTRICT OF COLUMBIA, TO BE DEPUTY UNDER SECRETARY OF DEFENSE FOR POLICY. (NEW POSITION)

DEPARTMENT OF AGRICULTURE

JAMES B. HUFF, SR., OF MISSISSIPPI, TO BE ADMINISTRATOR OF THE RURAL ELECTRIFICATION ADMINISTRATION FOR A TERM OF 10 YEARS, VICE GARY C. BYRNE, RESIGNED.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL ON THE RETIRED LIST UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. LEO W. SMITH, II, [redacted] U.S. AIR FORCE.

IN THE ARMY

THE FOLLOWING NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. ROBERT D. HAMMOND, [redacted] U.S. ARMY.

THE FOLLOWING NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. HENRY J. HATCH [redacted] U.S. ARMY.

THE FOLLOWING NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. JACK D. WOODALL, [redacted] U.S. ARMY.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. JEROME H. GRANRUD [redacted] U.S. ARMY.

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF VICE ADMIRAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

REAR ADM. (LOWER HALF) JOHN M. MCCONNELL, [redacted] U.S. NAVY.

THE FOLLOWING NAMED REAR ADMIRALS (LOWER HALF) OF THE RESERVE OF THE U.S. NAVY FOR PERMANENT PROMOTION TO THE GRADE OF REAR ADMIRAL IN THE STAFF CORPS, AS INDICATED, PURSUANT TO THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 5912:

MEDICAL CORPS OFFICER

To be rear admiral

REAR ADM. (LOWER HALF) DONALD EUGENE ROY, [redacted] U.S. NAVAL RESERVE.

SUPPLY CORPS OFFICER

REAR ADM. (LOWER HALF) FRANCIS WILLIAM KEANE, [redacted] U.S. NAVAL RESERVE.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR PROMOTION IN THE UNITED STATES AIR FORCE, UNDER THE APPROPRIATE PROVISIONS OF SECTION 624, TITLE 10, UNITED STATES CODE, AS AMENDED, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE, AND THOSE OFFICERS IDENTIFIED BY AN ASTERISK FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF SECTION 531, TITLE 10, UNITED STATES CODE, WITH A VIEW TO DESIGNATION UNDER THE PROVISIONS OF SECTION 8067, TITLE 10, UNITED STATES CODE, TO PERFORM DUTIES INDICATED PROVIDED THAT IN NO CASE SHALL THE FOLLOWING OFFICERS BE APPOINTED IN A GRADE HIGHER THAN INDICATED.

DENTAL CORPS

To be colonel

GARY A. ANDERSON, [redacted]
RICHARD R. BALZER, [redacted]
BARRY D. BARRUS, [redacted]
DAVID E. BULLARD, [redacted]
HAROLD B. CANNING, [redacted]
LARRY J. CASEY [redacted]
JAMES D. CORNELIUS [redacted]
JOE B. DRANE, III [redacted]
FRANK S. DRONGOWSKI, [redacted]
LARRY J. ELLISON [redacted]
CHARLES W. ELWELL, JR [redacted]
QUENTIN M. FUHS, [redacted]
EDWARD D. GALL, III, [redacted]
ALLAN F. HANCOCK, [redacted]
PAUL A. HANSEN, [redacted]
CHARLES B. HERMESCH, [redacted]
CHARLES J. JORDAN [redacted]
HERSCHEL B. KAUFMAN, [redacted]
RODNEY C. KNUDSON, [redacted]
DEAN M. KYRIOS, [redacted]
DAVID J. LASHO, [redacted]
CHARLES M. MALLOY, [redacted]
EDWARD B. MANDEL, [redacted]
MICHAEL A. MANSUETO, [redacted]
JAMES E. MARR, [redacted]
JAMES G. MCCARTNEY, [redacted]
DAVID T. MOHS, [redacted]
RICHARD A. MORGAN, [redacted]
DAVID G. NAEGELI, [redacted]
FREDERICK F. NOLAN, JR [redacted]
ROBERT M. PETERZEN [redacted]
JOHN D. SHURTZ, [redacted]
LELAND J. SLATER [redacted]
WILLIAM H. SMARTT, IV [redacted]
ROGER K. SMITH, [redacted]
RICHARD H. STEELE [redacted]
WAYNE K. TANAKA, [redacted]
ROBERT C. TOLLEFSON, [redacted]
RICHARD D. TUTTLE, [redacted]
JAMES J. VAUGHAN, [redacted]
MICHAEL G. WILEY, [redacted]

MEDICAL CORPS

To be colonel

GORDON C. ABERNATHIE, JR [redacted]
BUENAVENTURA Q. ALDANA, [redacted]
ANTHONY L. ALFORD, [redacted]
H. JACK BAGHDASSARIAN, [redacted]
STEPHEN W. BALDWIN, [redacted]
THOMAS W. BALLARD, [redacted]
AARON V. BARSON, JR, [redacted]
SAMAR K. BHOWMICK, [redacted]
KATHRYN L. BOEHNKE, [redacted]
ROBERT F. BRICHTA [redacted]
JOSEPH J. CONTIGUGLIA [redacted]
HAYWOOD H. DAVIS, JR, [redacted]
VINCENT W. DELAGARZA, [redacted]
DAVID A. DIORIO, [redacted]
JOHN E. DOYLE, III [redacted]
DAVID W. GOETZ, [redacted]
JAMES M. GREELEY [redacted]
MICHAEL K. GREENBERG, [redacted]
GARY D. V. HANKINS, [redacted]
PETER F. HOLM [redacted]
RICHARD E. IMM, [redacted]
STEPHEN ANTONIOLI JENNINGS [redacted]
MALCOLM N. JOSEPH, III [redacted]
JAMES M. KENNEY, [redacted]
RANDALL B. KING, [redacted]
CLARK J. KNUTSON, [redacted]
RIZALINA Y. LIMCO [redacted]
KIMBERLY N. MCGRATH, [redacted]
MARK A. MCLAUGHLIN, [redacted]
JOHN J. MEEHAN, [redacted]
MIGUEL A. MONTALVO, [redacted]
NAMIR MREYOUD, [redacted]
MICHAEL E. NEULAND, [redacted]
TERRENCE J. ONEIL [redacted]
ROBERT C. PARKE, [redacted]
ALLEN J. PARMET [redacted]
CSAK G. POSTA, [redacted]
RAMASAHAYAM A. REDDY, [redacted]
JOHN A. REYBURN, JR [redacted]
CHARLES F. RIEDER [redacted]
MICHAEL L. ROSENBERG, [redacted]
TIMOTHY J. SCHRADER [redacted]
ALFRED O. SELLERS [redacted]
JOHN B. SLADE, JR [redacted]
MAXWELL W. STEEL, III [redacted]
ROBERT J. STEPP [redacted]
WILLIAM B. TATE [redacted]
RAYMOND P. TENEYCK, [redacted]
WILLIAM F. WALSH, [redacted]
THOMAS O. WEBER, [redacted]
CHRISTOPHER T. WESTFALL [redacted]
RANDALL C. WHITTON, [redacted]
DAVID C. WILLIAMS, [redacted]
JOHN E. WILSON, [redacted]
SALIMI A. WIRJOSEMITO [redacted]
ERIC P. WOHLRAB, [redacted]
DAVID G. YOUNG, III, [redacted]
DONALD A. ZIMMERMAN, [redacted]

DENTAL CORPS

To be lieutenant colonel

JOSEPH A. BARTOLONI, JR [redacted]
STEVEN B. BLANCHARD, [redacted]
JAMES E. BLOOD, [redacted]
JOHN J. BOYLE, JR [redacted]
GERARD A. CARON, [redacted]
GEORGE W. CASTRO, [redacted]
GERALD M. CIMIS, [redacted]
ROBERT A. CRAIG, [redacted]
ROBERT W. DANIELS, [redacted]
CHARLES H. DEAN, JR [redacted]
RICK M. DOUGHERTY, [redacted]
E. MICHAEL DUCKWORTH, [redacted]
WENDELL A. EDGIN, [redacted]
WILLIAM R. ENGLISH [redacted]
DOUGLAS B. EVANS, [redacted]
DONALD J. FEGLEY, [redacted]
FAYE M. FEGLEY, [redacted]
WILLIAM C. FISHER, [redacted]
GREGORY R. GATES, [redacted]
RICHARD M. GREIFF, [redacted]
JOSE M. GUTIERREZ, III [redacted]
RAYMOND H. HANCOCK, [redacted]
STEVEN R. HANSEN, [redacted]
MICHAEL S. HARPER, [redacted]
DOUGLAS L. HIMMELBERG, [redacted]
NEIL C. HUFFMAN, [redacted]
LYNN M. JOHNSON, [redacted]
WAYNE P. JORTNER, [redacted]
JAMES J. KANE [redacted]
DANIEL M. KEIR, [redacted]
MURRAY KELLAR, [redacted]
EDWARD P. KISS, [redacted]
ERIC W. KRAMER, [redacted]
JAMES L. KRETZSCHMAR [redacted]
DANIEL L. LEONARD, [redacted]
BERNARD A. LEWIS, [redacted]
JOHN F. LEWIS, [redacted]
THOMAS E. LONG, [redacted]
BARRY I. MACDONALD, [redacted]
CHRISTIAN L. MAEDER, [redacted]
JOHN W. MCCANN, JR, [redacted]
WILLIAM D. MCCRACKEN, [redacted]
DENNIS R. MILLER, [redacted]
CHRISTOPHER M. MINKE, [redacted]
EDWARD F. MITNITSKY, [redacted]
EARL T. MURAKAMI, [redacted]
DAVID F. MURCHISON, [redacted]
CHARLES PANFELY, [redacted]
MARK C. PAXTON, [redacted]
CHARLES B. PETERS, III [redacted]
DEAN A. PFIRRMAN, [redacted]
JOHN P. RAMER [redacted]
BRUCE W. RICHARDSON, [redacted]
DOUGLAS P. ROCKWOOD, [redacted]
EDWARD H. RUGH, [redacted]
DAVID C. RUPP [redacted]
RICHARD E. RUTLEDGE [redacted]
EDWARD K. SAFFER, [redacted]
MAURICE R. SALAMANDER, [redacted]
RONALD K. SCOVILLE, [redacted]
SCOTT E. SEMBA, [redacted]
MICHAEL F. SHEDLOSKY, [redacted]
STEPHEN M. SILVERS [redacted]
JOSEPH A. SNYDER, [redacted]
WILLIAM E. STRAMPE [redacted]
DALE H. THOMPSON, [redacted]
PHILLIPS B. TRAUTMAN [redacted]
RICHARD A. URBANEK, JR, [redacted]
JONATHAN R. WEINBACH, [redacted]
CURTIS D. WEYRAUCH, [redacted]
MAURICE G. WOODARD, [redacted]
BENJAMIN W. YOUNG, [redacted]
ROBERT C. ZALME, [redacted]

MEDICAL CORPS

To be lieutenant colonel

RICHARD A. ALLNUTT, III [redacted]
DAVID R. ARBUTINA, [redacted]
KERMIT B. ASHBY, [redacted]
ROBERT W. BABBEL, [redacted]
BRUCE B. BANIAS, [redacted]
DENNIS W. BARTHOLOMEW, [redacted]
JEFFREY H. BAYBICK [redacted]
JOHN R. BILLINGSLEY [redacted]
JAMES N. BLACK, [redacted]
ALLAN T. BOMBARD, [redacted]
RANDY K. BOTTNER, [redacted]
ANNE N. BOWEN, [redacted]
DAVID M. BOWERS, [redacted]
GARY J. BOWERS, [redacted]
ROBERT D. BRADSHAW, [redacted]
JOHN R. BROWNLEE, [redacted]
JAMES W. BUTLER, [redacted]
JAMES E. CAIN, JR [redacted]
CHARLES W. CAMPBELL, JR [redacted]
KAREN R. CARPENTER [redacted]
DAVID A. CARRIER, [redacted]
JON M. CASBON, [redacted]
KIM C. CHRISTENSEN, [redacted]
JAMES D. COLLIER, [redacted]
GARY J. COLLINS, [redacted]
FREDERIC A. CONTE, [redacted]
TIMOTHY W. COOPER, [redacted]
STEPHEN DERDAK, [redacted]
KENNETH F. DESROSIER [redacted]
RICHARD O. DOCKINS, [redacted]
PHILIP J. DUCHAMP [redacted]
RICHARD R. ECKERT, [redacted]
MARK A. EDIGER, [redacted]
DWIGHT M. ELLERBE, [redacted]
PATRICK E. FEEHAN [redacted]
RANDALL E. FELLMAN [redacted]
JERROLD N. FLYER [redacted]
THEODORE M. FREEMAN, [redacted]
RICHARD FRIEDERICH, [redacted]
DONALD S. GEEZE, [redacted]
WILLIAM J. GERMANN, [redacted]
DENNIS N. GRAHAM, [redacted]
ROOSEVELT GREEN, [redacted]
MOLLY J. HALL, [redacted]
LEO M. HATTRUP, [redacted]
JAY B. HIGGS, [redacted]
DANIEL T. HINKIN, [redacted]
DOUGLAS K. HOLMES, [redacted]
DAVID C. HOUGLUM, [redacted]
KENT P. HYMEL, [redacted]
CHARLES S. JOHNSON, JR [redacted]
LOREN M. JOHNSON, [redacted]
ANDREW L. JUERGENS, [redacted]
CHRISTOPHER R. KLEINSMITH [redacted]
DIETER KRECKEL, [redacted]
AUGUSTINE F. LI, [redacted]
CARL M. LINDQUIST, [redacted]
MICHAEL W. LISCHAK, [redacted]
MARK F. LUPPINO, [redacted]
JAMES MALENKOS, III [redacted]
FRANCIS G. MAPPIN, [redacted]
MAURICIO MASFERRER, [redacted]
STEPHEN T. MCDAVID, [redacted]
DAVID K. MCKENAS, [redacted]
JOHN E. MCMANIGLE, [redacted]
ROBERT R. MERWICK, [redacted]
JOHN M. MOREHEAD, [redacted]
CHARLES T. MORTON, [redacted]
CHARLES R. NOLAN, III, [redacted]
PYAR A. NOORANI, [redacted]
JOHN R. OSBORNE, [redacted]
JERRY B. OWEN, [redacted]
CALVI E. PABONNADAL, [redacted]
ARTHUR J. PATEFIELD [redacted]
VICTOR M. PINEIROCARRERO, [redacted]
WILLIAM R. PROTZER, [redacted]
THOMAS J. REED, [redacted]
JOHN C. RIGILANO, [redacted]
MELISSA ROSADODECHRISTENSON, [redacted]
KEITH J. ROST [redacted]
RUDOLF R. ROTH, [redacted]
ROBERT M. ROYSTER, [redacted]
FREDERICK W. RUDGE, [redacted]
KEVIN P. RYAN, [redacted]
JACK T. SAKAI, [redacted]
KATHERINE E. SCHEIRMAN, [redacted]
PAUL D. SHERRY, [redacted]
SCOTT M. SMITH, [redacted]
WILLIAM A. SMITH, JR [redacted]
WILLIAM C. SMITH, [redacted]
QUAY C. SNYDER, JR, [redacted]
GARY L. STERN, [redacted]
PATRICK J. STROLLO [redacted]
HARRY G. TEAFORD, III [redacted]
MIGUEL V. TELLADOFENTE, [redacted]
WILLIAM P. THORNTON, [redacted]
WILLARD M. TOWLE, [redacted]
RICHARD D. TRIFILO [redacted]
DANIEL L. VANSYOC, [redacted]
KEVIN B. WEST, [redacted]
JAMES E. WIEDEMAN, [redacted]
CHARLES D. WILLIAMS, [redacted]
GREGORY P. WITTPENN, [redacted]
RHONDA A. WYATT, [redacted]
BENTON P. ZWART, [redacted]

DENTAL CORPS

To be major

ROOSEVELT ALLEN, JR [redacted]
KIMSEY K. ANDERSON, [redacted]
JEFFREY C. BANKER [redacted]
FERNANDO BARRERA, [redacted]
RICHARD C. BATZER, [redacted]
MARK J. BENTELE [redacted]
MICHAEL H. BETO, [redacted]
BARBARA G. BISANG, [redacted]
DOUGLAS A. BOYCE, [redacted]
RICHARD P. BOYLE, III [redacted]
WILLIAM R. BUHLER, [redacted]
STEVEN A. CHILDRESS, [redacted]
MICHAEL P. CUNNINGHAM, [redacted]
DANIEL S. DEBUSK, [redacted]
DAVID P. DEWITT, [redacted]
WILLIAM J. DUNN, [redacted]
BLAKE J. EDINGER, [redacted]
CRAIG A. FLICKINGER, [redacted]
DIANE J. FLINT [redacted]
GARY S. FRIES [redacted]
LOUIS M. FUOCO, [redacted]
ROBERT F. GAMBLE, [redacted]
RIDGE M. GILLEY, [redacted]
MIKE H. HACKMANN, [redacted]
TIMOTHY J. HALLIGAN, [redacted]
OREST M. HARKACZ, [redacted]
LYNN C. HARRIS, [redacted]
PETER J. HEATH [redacted]
JUDY L. HUSEN, [redacted]
JOSE E. IBANEZPABON, [redacted]
DANIEL P. JOHNSON, [redacted]
KENNETH W. JOHNSON, [redacted]
GREGORY A. KASTEN, [redacted]
BEVERLY J. LEDDY [redacted]
JACK H. LINCKS, [redacted]
RUSSELL M. LINMAN [redacted]
MARK D. MADISON, [redacted]
RALPH A. MATACALE, [redacted]
JAMES R. MIEARS, JR [redacted]
ANTHONY L. MOLINA, [redacted]

SUSAN W. MONGEAU, [redacted]
JERRY W. MOODY, [redacted]
ALAN J. MORITZ [redacted]
MICHAEL A. MOSUR, [redacted]
PAUL J. NAWIESNIAK [redacted]
TIMOTHY L. NIBERT [redacted]
JAMES R. NITSCHKE [redacted]
GUILLERMO E. ORRACA, [redacted]
BRIAN A. PARKER [redacted]
LARRY P. PARWORTH, [redacted]
MARK E. POTOCKI, [redacted]
MARK E. SCHNEIDER, [redacted]
JEFFREY M. SWARTZ [redacted]
RICHARD I. VANCE, [redacted]
RICHARD P. VIDUNAS, JR. [redacted]

MEDICAL CORPS

To be major

NIKKI L. ADAMS, [redacted]
PATRICK D. AIELLO, [redacted]
GEORGE J. ALEXANDER [redacted]
NAPHTHALI R. M. ALINSOD, [redacted]
SUSAN D. ALLEN, [redacted]
JEFFREY P. ALLERTON [redacted]
GILBERT R. ALLIGOOD, [redacted]
JEFFREY A. ALLOWAY, [redacted]
ANTHONY A. AMATO, [redacted]
CAMERON D. ANDERSON, [redacted]
JEROME D. ANDERSON, [redacted]
SCOTT T. ANDERSON, [redacted]
THOMAS E. APPLEGATE [redacted]
ALVARO U. ARANDARODRIQUEZ, [redacted]
ANTHONY M. ARMADA, [redacted]
CYNTHIA CONIGLIO ARNETT, [redacted]
WILLIAM N. ARNOLD, [redacted]
DIAZ RICHARD ARROYO, [redacted]
LORI L. ATKINS, [redacted]
TOMMY J. ATTAWAY, [redacted]
LYNN M. BAATZ, [redacted]
GEORGE M. BACA, [redacted]
GREGORY BACHHUBER, [redacted]
DUANE C. BAKER, [redacted]
MARGARET M. BAKER, [redacted]
GEORGE A. BALELLA, JR. [redacted]
CHARLES D. BANTLE [redacted]
MICHAEL W. BARBER, [redacted]
WILLIAM J. BARKLEY, [redacted]
JANE F. BARLOW, [redacted]
MARGARET L. BARNESRIVERA [redacted]
MICHAEL S. BARR, [redacted]
FREDERICK S. BARTLOW, [redacted]
TIMOTHY H. BEGER, [redacted]
CHRISTIAN R. BENJAMIN [redacted]
GERIANNE R. BLISS, [redacted]
JENNETTE L. BOAKES [redacted]
JAMES A. BOFILL, [redacted]
WILLIAM E. BOLGER, [redacted]
CHARLES F. BOTTI [redacted]
ANDREW R. BRADBURY, [redacted]
MARK F. BRADBURY, [redacted]
GEORGE T. BRANDT, [redacted]
MICHELE A. BREWER, [redacted]
GERRY L. BROWER, [redacted]
BRUCE D. BULLOCK, [redacted]
GREG A. BURNETT, [redacted]
BONNIE L. BURNQUIST, [redacted]
PATRICK I. BURNS [redacted]
GUY T. BURROWS, [redacted]
MARK A. BUSTAMANTE, [redacted]
YVONNE D. CAGLE, [redacted]
DANIEL P. CALLAGHAN, [redacted]
RUSSELL E. CAMERON, [redacted]
JOHN B. CAMPBELL, [redacted]
LOUIS S. CARDON, [redacted]
STEPHEN J. CARNEY [redacted]
ANDREA J. CARPENTER [redacted]
LISA A. CASANOVA, [redacted]
DANIEL E. CATALANO, [redacted]
JOHN A. CAVACECE, [redacted]
EDWARD D. CHAN, [redacted]
CINDY C. CHANG, [redacted]
DENNIS C. CHANNEL, JR. [redacted]
STANLEY E. CHARTOFF [redacted]
DANIEL W. CHASE, [redacted]
DIANE D. CLARKE, [redacted]
JOHN M. COCUZZI, [redacted]
KENT I. COHEN, [redacted]
MICHAEL P. COLLINS, [redacted]
POLANCO JAVIER COLON, [redacted]
CARL G. COLTON, [redacted]
RONALD W. CORNWELL, [redacted]
RALPH F. COSTA, [redacted]
BRENT R. COYLE, [redacted]
THOMAS J. CRANE, [redacted]
ANTON J. CREPINSEK, JR. [redacted]
JEFFREY P. CRITTENDEN [redacted]
GARY D. CROUCH, [redacted]
RITA E. CUEVAS, [redacted]
BRYAN G. CUNNINGHAM, [redacted]
ALAN E. CURLE, [redacted]
JOHN J. DAMORE, [redacted]
JEFFREY C. DAVIS [redacted]
MATTHEW G. DAVIS, [redacted]
CHARLES R. DAY, [redacted]
JOHN T. DEJONG [redacted]
CINDY L. DELLINGER, [redacted]
ROY B. DELROSARIO, [redacted]
JAMES D. DEMAIO [redacted]
CHARLES A. DENNIS [redacted]
WALTER L. DILLARD, [redacted]
MARY L. DIZER, [redacted]
ROBERT W. DODSON, [redacted]
JAMES F. DORAN [redacted]
KAREN P. G. DREXLER, [redacted]
RODRIGO A. DURALDE, [redacted]
DAVID A. DYCAICO, [redacted]
JOHN P. EITZEN, [redacted]
DAVID G. ELLIOTT [redacted]
GREGORY C. ELLIS [redacted]
DONALD P. ELLSWORTH, JR. [redacted]
BENJAMIN F. EMANUEL, JR. [redacted]
ERIC A. EVANS, [redacted]
MARYANN EVANS, [redacted]
KATHERINE G. FACKLERCHAPMAN [redacted]
JAMES W. FANT, JR. [redacted]
LYNNE L. FENTON, [redacted]
PATRICK A. FINNEGAN, [redacted]
MICHAEL W. FRALEY, [redacted]
LUIS A. FRANCO, [redacted]
TIMOTHY J. FRIEDLEIN [redacted]
ELIZABETH T. GALFO, [redacted]
FRANK L. GAY, JR. [redacted]
WILLIAM A. GIBSON, [redacted]
EDWARD J. GILL, JR. [redacted]
SCOTT A. GLESMAN, [redacted]
JAMES M. GLOVER, [redacted]
RICHARD M. GODDARD, [redacted]
STEVEN P. GOHSLER, [redacted]
RUSSELL L. GOMBOSI, [redacted]
HERBERT F. GONZALEZ [redacted]
MICHAEL C. GORDON, [redacted]
ROBERT A. GORDON, [redacted]
CHARLES B. GOVER, [redacted]
THOMAS C. GRAU, [redacted]
ROBERT B. GRAVELINE [redacted]
WILLIAM D. GREEN, [redacted]
MARY G. GREENE, [redacted]
TIMOTHY P. GREYDANUS, [redacted]
JOYCE R. GRISSOM, [redacted]
THOMAS E. GRISSOM, [redacted]
SUBRATA GUHA, [redacted]
DIANE M. GULBAS, [redacted]
NELS C. GUNNARSEN, [redacted]
PHILLIP W. HALCUM, [redacted]
DAVID C. HALL, [redacted]
JOHN LANE HALL, [redacted]
GEORGE C. HAMMET, [redacted]
GILBERT R. HANSEN, [redacted]
GWEN S. HANSON, [redacted]
SCOTT W. HARBERTS, [redacted]
REED J. HARRIS, [redacted]
PAUL G. HARVILL, [redacted]
RICKARD S. HAWKINS, JR. [redacted]
ROBERT M. HAWS, [redacted]
DON B. HEADLEY, [redacted]
BRYAN H. HEATH, [redacted]
DARREN P. HEE, [redacted]
LORI J. HEIM, [redacted]
DWIGHT E. HELMRICH, [redacted]
KRISTINE H. HENDERSON, [redacted]
WILLIAM J. HENDRICKS, [redacted]
KENNETH D. HILLNER, [redacted]
MARK W. HINMAN, [redacted]
KATHRYN F. HOBBS, [redacted]
CRAIG W. HOLLAND, [redacted]
SVEIN MATTI HOLSAETER, [redacted]
DWIGHT E. HOOPER, [redacted]
LINDA P. HRICZ, [redacted]
EUGENE HUANG, [redacted]
CURTIS R. HUDSON, [redacted]
BRUCE R. HYDE, [redacted]
ERIC T. IFUNE, [redacted]
JON D. IGELMAN, [redacted]
JOHN V. INGARI, [redacted]
ERIC D. JACOBSON, [redacted]
CHARLES W. JACOCKS, [redacted]
MICHAEL R. JARRARD, [redacted]
WALTER R. JAUSSI [redacted]
PATRICIA R. JODER [redacted]
JAMES R. JOHANSEN [redacted]
GREGORY W. JOHNSON, [redacted]
MARTIN L. JOHNSON, [redacted]
JOHN W. JONES, [redacted]
MICHAEL P. JONES [redacted]
JAMES D. JORDAN [redacted]
THEODORE F. JORDAN, III [redacted]
CARLOS J. JURADO [redacted]
KIERAN G. KAMMERER, [redacted]
JEFFREY J. KAUFHOLD [redacted]
WILFRED S. KEARSE, JR. [redacted]
KAREN M. KEEFER, [redacted]
KENNETH G. KHATAIN, [redacted]
ROGER P. KIERCE [redacted]
WILLIAM B. KLEIN [redacted]
DAVID A. KLOSS, [redacted]
STEPHEN A. KNYCH, [redacted]
MICHAEL R. D. KOCH, [redacted]
JEFFERY R. KONTAK [redacted]
LARY R. KORN, [redacted]
BRIAN P. KRIER, [redacted]
RANDAL C. KUMM, [redacted]
KATHLEEN KUROWSKI, [redacted]
THOMAS J. LANCASTER, [redacted]
STEVEN M. LANGER, [redacted]
SHARON T. LAROSE, [redacted]
JOHN A. LARSEN, [redacted]
KENNETH S. LARSEN, [redacted]
KERRY K. LARSON, [redacted]
DENNIS P. LAWLOR, [redacted]
CHRISTOPHER LEWANDOWSKI, [redacted]
EUGENE P. LIBBY [redacted]
KEITH G. LIMBIRD [redacted]
CLAUDIO E. LINARES, [redacted]
MARK S. LINK, [redacted]
KATHLEEN M. LIOU, [redacted]
MARK L. LOBAUGH, [redacted]
JORGE J. LOPEZFERRER [redacted]
MATTHEW A. LOVITT, [redacted]
RICHARD W. LUCIO, II, [redacted]
JEFFREY C. LUKAS [redacted]
KEVIN C. LUNDE, [redacted]
ROBERT D. LYNCH, [redacted]
STEVEN C. LYNCH, [redacted]
GARY A. MAASSEN, [redacted]
ERIC A. MAIR, [redacted]
MICHAEL J. MALOTTE, [redacted]
FELIX MAMANI, [redacted]
RITA A. MANKUS, [redacted]
WILLIAM R. MARCHAND, JR., [redacted]
KURT W. MARTINUZZI, [redacted]
KEITH L. MAUSNER, [redacted]
STEVEN S. MAVES, [redacted]
MICHAEL W. MCCLELLAN, [redacted]
JOHN L. MCCORMICK, [redacted]
DAVID H. MCCULLOUGH, [redacted]
DAVID B. MCDERMOTT, [redacted]
TIMOTHY R. MCKEE, [redacted]
LAIRD QUENTIN R. MCMULLEN, [redacted]
EUGENE J. MCTIERNAN, JR. [redacted]
SUSAN N. MELTON, [redacted]
PAMELA M. MERRITT, [redacted]
MICHAEL W. METHOD, [redacted]
KEITH A. METZLER, [redacted]
DOUGLAS M. MIDDLETON, [redacted]
MARK G. MILES, [redacted]
PATRICK P. MILES, [redacted]
CHARLES J. MILLER, [redacted]
CURTIS D. MILLER, [redacted]
MICHAEL S. MILLER, [redacted]
DAVID J. MONTAG, [redacted]
RACHEL Y. MOON, [redacted]
GREGORY K. MORROW, [redacted]
JEFFREY MORSE [redacted]
GREGORY A. MORTER, [redacted]
KIMBERLY S. MOSS, [redacted]
JAMES E. MULAC, [redacted]
THOMAS L. MULCAHEY, [redacted]
MARK G. MULDER, [redacted]
JOHN R. MULVEY, [redacted]
NIKOLCHE J. NAUMOVSKI, [redacted]
HILBERT H. NEASE, [redacted]
ADAM P. NELSON, [redacted]
DOUGLAS J. NICHOLSON, [redacted]
JODY L. NIELSEN [redacted]
WILLIAM A. NISH, [redacted]
FRANCIS G. NOLL, [redacted]
GREGORY A. NUTTALL, [redacted]
JOSEPH D. OGORMAN, [redacted]
KELLY P. OKEEFE, [redacted]
HERNANDO J. ORTEGA, JR. [redacted]
ROBELTO A. OSBORNE, [redacted]
VABIAN L. PADEN, [redacted]
BRUCE P. PAGE, [redacted]
MICHAEL W. PALUZZI, [redacted]
MICHAEL S. PANOSIAN, [redacted]
KENNETH S. PAPIER, [redacted]
PAUL E. PAPIERSKI [redacted]
KEVIN L. PARK, [redacted]
BRIAN B. PARSA, [redacted]
MATTHEW R. PARSONS, [redacted]
THEODORE W. PARSONS, III [redacted]
DAVID R. PATER, [redacted]
PHYLLIDA M. PATERSON, [redacted]
MARK K. PATTERSON, [redacted]
MICHAEL L. PECH, [redacted]
ANTHONY PELLEGRINO, [redacted]
MARY M. PELSZYNSKI, [redacted]
MARCUS L. PETERSON, [redacted]
TIMOTHY O. PFEIFFER [redacted]
DOYLE C. PHILLIPS [redacted]
BURTON C. PLASTER, [redacted]
STEPHEN D. PLICHTA, JR. [redacted]
JOHN M. POHL, [redacted]
RONALD POLLACK, [redacted]
DANIEL R. POUND, [redacted]
TIMOTHY S. PRINCE, [redacted]
ADIN T. PUTNAM, II, [redacted]
DANIEL J. QUENNEVILLE [redacted]
BRIAN D. QUINN, [redacted]
ROBERT D. RAKOV, [redacted]
LINDA K. RAZSI, [redacted]
STEVEN T. REDMOND, [redacted]
MARTIN REICHMAN, [redacted]
JAMES J. REUTER, JR. [redacted]
HARRY L. REYNOLDS, JR. [redacted]
JAMES B. REYNOLDS, [redacted]
TODD P. REYNOLDS, [redacted]
PAUL D. REZNIKOV, [redacted]
SCOTT B. RICHARDS, [redacted]
LISA M. RING, [redacted]
WARREN C. RIZZO, [redacted]
PAUL E. ROBEY, [redacted]
ARTHUR B. ROBINSON, [redacted]
JAMES D. RORABAUGH, [redacted]
WARREN W. ROSE, [redacted]
SCOTT K. ROSS, [redacted]
RICHARD D. ROSSIN, [redacted]
JILL D. ROSSRUCKER, [redacted]
RICHARD E. RUPP, [redacted]
CHRISTOPHER SARTORI, [redacted]
JANE E. SASAKI, [redacted]
ANDREW J. SATIN, [redacted]
PETER H. SCHAIBERGER, [redacted]
JEFFREY A. SCHIEVENIN [redacted]
JAMES M. SCHOENING, [redacted]

DENIS T. SCONZO, [redacted]
YVONNE L. SCOTT, [redacted]
ANDREW D. SCROGIN, [redacted]
TIMOTHY H. SELINE [redacted]
TIMOTHY J. SHANNON, [redacted]
MARK D. SHEEHAN, [redacted]
MILES L. SHEFFER [redacted]
FRANK J. SHELTON [redacted]
MARK D. SHEPHERD, [redacted]
RONALD P. SKIPPER [redacted]
JAMES ROSS SLEMMER [redacted]
KIM L. SLIGHT, [redacted]
ALEXEY V. SLUCKY, [redacted]
THOMAS M. SLYTER, [redacted]
ANTHONY R. SMARTNICK, [redacted]
DOUGLAS C. SMITH, [redacted]
KEITH U. SMITH [redacted]
ROBERT E. SMITH, II [redacted]
KIMBERLY SMITHCUPANI [redacted]
WILLIAM N. SNEARLY, [redacted]
JOHN A. SNELL, II [redacted]
LAURA L. SPRAGUE, [redacted]
BRIDGID K. STEELE [redacted]
JILL L. STERLING [redacted]
STEVEN M. STOLZ, [redacted]
TERRELL L. STONE [redacted]
RONALD W. STOUT, [redacted]
SCOTT A. STRELOW, [redacted]
PHILIP A. SWEET [redacted]
KATHLEEN S. TAJIRI, [redacted]
KARL H. TALTS, [redacted]
VIVEK S. TAYAL, [redacted]
DEBORA M. THOMAS, [redacted]
JOSEPH D. THOMAS, [redacted]
DONALD F. THOMPSON, [redacted]
JOHN W. THOMPSON, JR [redacted]
ALAN R. THURMAN, [redacted]
ALBERT C. TING, [redacted]
ERIC R. TOMPKINS [redacted]
STEVEN M. TOMSKI [redacted]
KEVIN T. TONG, [redacted]
STEVEN M. TOPPER [redacted]
DAVID P. TREECE [redacted]
JAMES L. TROUTMAN [redacted]
DEBORAH D. VIGLIONE, [redacted]
DIANE B. WAGNER, [redacted]
DAVID B. WALKER, [redacted]
GREGORY T. WALKER, [redacted]
RICKEY B. WALKER, [redacted]
ROBERT M. WARD, JR [redacted]
PHILLIP M. WATSON, [redacted]
PETER J. WEIGEL [redacted]
MICHAEL H. WEISS [redacted]
JEFFREY M. WEMPE [redacted]
ELLEN M. WHITAKER, [redacted]
DENNIS D. WILES, [redacted]
MICHAEL J. WILKINSON, [redacted]
RICHARD F. WILKS, [redacted]
SHARON T. WILKS, [redacted]
FRED H. WILLIAMS, [redacted]
RONALD W. WILLIAMS, JR [redacted]
JUDITH S. WILLIAMSON [redacted]
TED S. WILLIS [redacted]
CALVIN T. WILSON, II [redacted]
DWAYNE L. F. WILSON, [redacted]
WAYNE V. WILSON, [redacted]
LAURA A. WINKLE, [redacted]
PHILLIP A. WOLFE [redacted]
JUDITH A. WOODS, [redacted]
RICKEY WRIGHT, [redacted]
JOSEPH J. WUJEK [redacted]
PAUL H. WURST, [redacted]
PAUL L. WYMAN [redacted]
JEROME YATSKOWITZ, [redacted]
MATHEW F. YETTER [redacted]
ROBERT M. YOUNG, [redacted]
CHRISTOPHER M. ZAHN, [redacted]
CATHERINE R. ZELNER [redacted]

IN THE NAVY

THE FOLLOWING NAMED COMMANDERS OF THE RESERVE OF THE U. S. NAVY FOR PERMANENT PROMOTION TO THE GRADE OF CAPTAIN IN THE LINE, IN THE COMPETITIVE CATEGORY AS INDICATED, PURSUANT TO PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 5912:

UNRESTRICTED LINE OFFICERS

To be captain

LLOYD VERMILLION ABEL
DAVID EARL ADAMS, JR
PARKS GLENN ADAMS, JR
JOHN FELTON ADKISSON
JAMES WILLIAM AIRES, II
RICHARD THOMAS ALEKS
ELROY WAYNE ALESHIRE
JAMES ROBERT ANDRUS
WILLIAM EDWARD ANINOWSKY
DON LOUIS ARNOLD
CHARLES ALTON AUBREY, JR
STEPHEN P. AXTELL
JAMES ROBERT AYERS
WILLIAM CHESTER BACHMAN, II
WILLIAM CHARLES BAILEY
WILLIE B. BANKS, JR
DAVID HUGHES BARBER
FREDERICK B. BEACHAM, JR
JOHN CHARLES BEASON
DANIEL ANTHONY BEATTY
SCOTT ARTHUR BECK
ROBERT DANA BENDER
ROBERT BRAND BENEFIELD
WEBSTER LANCE BENHAM, III
RAYMOND WILLIAM BERARD
LEONARD L. BERGERSEN
PAUL ROBERT BERNANDER
PAUL FREDERICK BLUNT
DAVID ROBERT BOWES
JAMES ALEXANDER BOYD
CARY SCOTT BRADFORD
EDWARD LEE BRANDT
GORDON DALE BRANNON
THOMAS ROBERT BREESE
MICHAEL FRANCIS BRENNAN
SHARON FILE BRIDWELL
RICHARD CHARLES BRILLA
BRADFORD ALAN BRISBIN
JEFFREY CHARLES BROWN
RICHARD WAYNE BROWN
CHARLES FRANK BURLINGAME
DOUGLAS RANDOLPH BURNETT
WILLIAM LOUIS P. CADWALLADER
ARTHUR DONALD CALABRO
DANIEL EUGENE CALDWELL, JR
ROSS GOODWIN CAMPBELL
JACK HENRY CASSADA
DAVID LEWIS CASWELL
LOUIS ANGELO CAVALIERE, JR
DAVID HUMBERTO CAZARES
MELVIN GLENN CHALOUPKA
DAVID MOHN CHAMBERS, JR
WILLIAM RENE CHIQUELIN
THOMAS ROBERT CLARKIN, JR
JOSEPH E. CLEMENTS
JOHN WILLIAM CLOSS
DAVID SCOTT COLEMAN
RICHARD EDWARD COLQUITT, JR
GEORGE TIMLIN CONAWAY, JR
JAMES LEE COOK
JESSE ALLEN CRACE
JAMES ROBERT CROSSEN
MICHAEL ALEXANDER CROWELL
STEPHEN KENT CUSICK
BRIAN SHEARER DALBY
MARY ANN DALTON
CHARLES RICHARD DAMATO, JR
SAMUEL ALLAN DAVEY
ACIE WESLEY DAVIS, JR
ROBERT MILEHAME DAVIS, JR
JEFFREY STUART DEAN
MARVIN EARL DEAN
WILLIAM DUFOUR DEGOLIAN
JOSE LUIS DELATORRE
NICHOLAS LEE DEMAI
RONALD LEE DIETRICH
NICHOLAS CHARLES DIPIAZZA
GERALD ARTHUR DIXON
TIMOTHY DOBROVOLNY
WILLIAM HENRY DONGES
MICHAEL D. DONOVAN
MICHAEL THOMAS DOYLE
DONALD DAVID DRONE
ROLAND CHARLES DUBAY
JAMES MARSHALL EDSON
WILBUR EVERETTE EDWARDS, JR
DAVID ANDREW ELLEFSON
RUSSELL H. ERICKSON
JAMES ARTHUR ESGET
JEFFREY LEE EUTERMOSER
JOHN EVERETT EVERSON
THOMAS WALTER FARRAND
MEAD BOYKIN FERRIS, JR
MICHAEL FREDERICK FITCH
JOHN BOYD FLEMING, JR
BENJAMIN FRANKLIN J. FORREST
MICHAEL SEAN FOSTER
GARY LEE FOUST
GERALD WADE FRANKLIN
JOSEPH CLAUDE FRANTZ
RONALD LEROY FRAZEE
LANCE ANDREW FREDERICK
JAMES MICHAEL FREDRICKSON
BARRY DAVALL GABLER
JAMES ERNEST GARIFALOS, II
WILLIAM JOSEPH GARRY
JOHN ARTHUR GILLIES
CHARLES H. GILLILAND, JR
WILLIAM SIMS GILLMOR, JR
WILLIAM JOSEPH GLADWIN, JR
ARNOLD MICHAEL GLASSBERG
WILLIAM JOSEPH GRACE
DAVID JOSEPH GRAHAM
WILLIAM LAMBERT GRAHAM
DAVID GEORGE GRAU
RICHARD HENRY GRAY
DORSEY WYCHERLY GRIFFIN, II
ROBERT DAVID GRIFFITH
HENRY CALHOUN GRISWOLD
EDMUND SAMUEL GROSS
DAVID RALPH GUEBERT
ROBERT KENT GUNDERSON
FRANK HENRY GURRY, JR
ROBERT HAROLD GUTHRIE
BRIAN C. HAAGENSEN
THOMAS ANDREW HAHN
HAROLD LEE HALL, JR
WILLIAM LATIMER HALL
GREGORY RAYMOND HAMELIN
ROBERT LANE HAMILTON
MARSHALL ALAN HANSON
CHARLES GERALD HARDIN, JR
JOSEPH COLEMAN HARE
MARK HALSEY HARRER
MICHAEL JOSEPH HARRINGTON
JOHN DAVID HARRIS, JR
JAMES BERNDT HARSHFIELD
EDWARD ROBERT HEALY
CHRISTOPHER EUGENE HEATH
WILLIAM ALEXANDER HEBERT
DAVID MILLAR HEMING
WILLIAM BRUCE HEMPHILL
GEORGE E. HENDRICKS
CHARLES BARTON HENKE
RICHARD JAMES HENRY
FERNANDO ANTONIO HERNANDEZ
BRYAN LEE HERRING
JUDSON RICHARD HERTER
RICHARD ALBERT HINNENKAMP
LOUIS MEYER HIRSH
HENRY RICHARD HITPAS, II
WILLIAM EDWARD HOFFMAN
WAYNE ALLEN HOFFMANN
WAYNE DENNIS HOGUE
RICHARD NELSON HOLMES
LLOYD NELSON HOLZ
JAMES HUGH BENNY HOOKS
NICHOLAS FLETCHER HORNEY
WILLIAM GRADY HORTON
JAMES WHITCOMB HOWLETT
CHARLES JAMES HUBBARD
MICHAEL DAVID HUGHES
STEPHEN CULLEN HUTCHINS
STEPHEN DUFF IHRIG
CRAIG ALAN JACOBSEN
JOHN WELLS JAMES, IV
DAVID HENRY JESSUP
CHARLES ANTHONY JINDRICH
ARTHUR GARY JOHNSON
LARRY CHARLES JOHNSON
JOHN JOHNSTON, JR
LAWRENCE EUGENE JONES
JONATHAN DAVID KASKIN
JEFFERSON DANIEL KAYLOR, JR
PATRICK JOHN KEAVENY
DOUGHLAS ALLEN KEES
WILLIAM GEORGE KENNEDY
JAMES MICHAEL KESSLER
JEFFREY BRIAN KIDDER
WILLIAM BRUCE KIKER
MANTON AMBROSE KING
NEIL TILLMAN KINNEAR, III
JAMES JOSEPH KINSELLA, JR
JAMES EDWARD KIRBY
STEPHEN COLBY KLINK
JOHN ROSS KNIGHT
FREDERICK MARSHALL KOOKER
KEVIN JAMES KRAMER
JOSEPH JOHN KRYGIEL
HENRY JOSEPH KUCINSKI, JR
DWIGHT RICHARD KUMPF
KRISTEN DICK LANDKAMMER
JAY CLAIR LANGNESS
RAYMOND JOHN LAROSE, JR
DAVID LAWHON LEE
PATRICK DOUGLAS LEE
JAMES RICHARD LEMON
MICHAEL NELSON LEWIS
TONEY JOE LISTER
TOMMY LYNN LONON
PAUL JEFFREY LOUSTAUNAU
JAMES ROGER LUNDQUIST
FREDERICK WILLIAM LYDIC, III
MARY ETHEL LYONS
JOSEPH CLAYTON MACIE
JEFFREY ALAN MACKEY
DEAN MORGAN MAKINGS
MERLIN ANDREW MALMROS
MICHAEL D. MARKS
KENNETH JAMES MARSZALEK
LAURENCE PATRICK MARTIN
JOSEPH ANTHONY MARTUCCI, JR
DENNIS FREDERICK MASCH
DANIEL STEPHEN MASTAGNI
DENNIS WAYNE MAXFIELD
STEPHEN MARTIN MAY
MICHAEL DOUGLAS MAZZEO
FRANCIS XAVIER MCBRIDE
STEPHEN VINCENT MCBRIEN
ROBERT WAYNE MCCONNELL
RUSSELL ALAN MCCURDY
CHARLES CLAUD MCDANIEL
JOHN EDWARD MCDONALD
WILLIAM LESTER MCDONOUGH, JR
KEVIN JAMES MCELROY
MARY KAY MCMUNN
CHARLES LEE MEANS
THOMAS WILSON MELDRUM, JR
MARTIN CHARLES MENEZ
JOHN WILLIAM MEURER
KIRK BURTON MICHAEL
JEFFREY CHARLES MILANETTE
ARTHUR GORDON MILBRATH, JR
JAMES LESLIE BELLIST MILLER
PETER MILLER, JR
ROBERT PAUL MITCHKE
MICHAEL W. MONKHOUSE
SAMUEL MONTOYA
CHRISTOPHER PAUL MORIARTY
RICHARD JOHNSON MORROW
ROBERT GARY MORTON
JAMES CLAYTON MULDER
ROBERT A. MULDOON
RICHARD WILLIAM MUNSELL
MICHAEL THOMAS MURPHY
PETER JOSEPH MURPHY
MICHAEL GILMOUR MURRAY
WARREN EUGENE MUSSELMAN
CHARLES RANDALL MYNARD
GEORGE FRANCIS NAFZIGER
JOHN FRANCIS NASH
FREDERICK DAN NELSON
RICHARD ALEXANDER NELSON
ALBERT JOSEPH NEUPAVER
JACK SVEND NIELSEN
WILLIAM NIETO, JR
MICHAEL EUGENE NOCTON
LOUIS LIONEL NORMAND, JR
JOHN TEOFIL NOSEK
PAUL ELLSWORTH I. OBERDORFER
TIMOTHY DENNIS O'CONNELL
JAMES KENNETH OPSAL
CHRISTOPHER OSIER
MARK THEODORE PACHUTA
WILLIAM WARE PALMER, III
THOMAS LEIGHTON PARKE
PHILLIP MORRIS PASCHEL
ROBERT ORIN PASSMORE
RONALD CHARLES PATHMAN
DANIEL J. PATTERSON
JAMES HUGH PATTERSON
THOMAS CHARLES PAULING
JOHN WAYNE PECIC
CHARLES EDWARD PEHL
WILLIAM CHAPMAN PENDLETON
MARK DENNIS PERREAULT
RICHARD MICHAEL PETERSON
JOHN S. PETREK
JEROME LEONARD PETYKOWSKI
KEITH JOHN PFLUG
JOHN LYNCH PHILLIPS
CLARENCE ALBERT PICKETT, III
MARK ALLAN PICKETT
ROBERT JOHN PIERCE
RALPH PIERNO
LARRY STEVEN PIPES
CRAIG RICHARD PLOSS
BRUCE ARNOLD PLYER
RAYMOND J. POTTKOTTER, II
WILLIAM HUGH POWERS
ROGER HOWARD PROBERT
LOUIS FREDERICK RABE
JOHN CHARLES RAINEY
BRUCE WILLIAM RANNEY
RUSSELL ALDEN REED
STEPHEN THOMAS REGISTER
ROBERT WILLIAM REICH
GLENN EMERSON REITINGER
PHILIP RAY RESCH, JR
CHARLES MICHAEL RESS
DAVID EDWARD RETZKE
WILLIAM EUGENE RICE
ROBERT THOMAS RICH
DONALD WALTER ROBERTSON
STEVEN NOURSE ROBINSON
JOHN MARSH ROGERS
HENRY RENTON ROLPH, JR
PETER SUTHERLAND ROTHWELL
TIMOTHY JOHN SAMMONS
GARY ALLEN SANDEN
WADE ROWLAND SANDERS
PAUL BAINBRIDGE SANWICK, JR
GLENN MICHAEL SAUNDERS
STEVEN LYNN SCHLAKE
ROGER LOUIS SCHNEIDER
ERNEST LYNN SCHOOLFIELD
MARK STEPHEN SCHRAMM
CHARLES WESLEY SCHULTZ
RANDALL CRAIG SCHULTZ
ROBERT WARREN SCOTT, JR
DOUGLAS LEE SEEGMILLER
RUSSELL SELTENRIGHT
REX WILLIAM SETTLEMOIR
JON SHELLER
MARKE ROBERT SHELLEY
CHRISTOPHER GERARD SHEPPARD
CLYDE YOSHIO SHIRAKI
JOHN ANTHONY SHUMLAS
TITUS SEVERN SIGLER
PHILIP WHITE SIGNOR, III
HENRY MAZYCK SIMONS, III
MARK RAYMOND SIVERS
ROBERT WALTER SKROTSKY
BARRY LEE SMITH
RICHARD FRANKLIN SMITH
ROBERT SPENCER KERR SMITH
THOMAS HUGH SMITH
URBAN EUGENE SMITH
PETER SHERMAN SNELL
WILLIAM DALE SOKEL
KENNETH CHARLES SOSNOWSKI
DOUGLAS JACKSON SOULE
JAMES J. SOUTHERLAND, III
RICHARD THOMAS STEFANIAK
ALEXANDER CRAIG STEPHEN
TIMOTHY FORREST STEVENS
SUSAN MALLICK STEVENSON
ROBERT EDWIN STEWART
MICHAEL GEORGE STRAND
WALTER LEONARD STRICKLAND
ROBERT JAMES STROBBE
MICHAEL LOUIS SUBIN
RAYMOND CHARLES SULLIVAN
MICHAEL BRUCE SUSIK
JOHN LESTER SUTTER
JOHN MICHAEL SVOBODA
JOHN HAMLIN SWAILES
ROBERT EMERSON TAYLOR, JR
MARK JACQUOT TEMPEST
NICHOLAS JON TENNYSON
JACK RICHARD THOMAS
JOHN RAWLS THOMAS
JOHN THOMAS THOMPSON
KENNETH EARL THOMPSON
ALAN MITCHELL TODD
JOHN LAWRENCE TODD
JOSEPH FRANCIS TOWERS, JR

STEPHEN BROWN TROUTMAN
ARTHUR GIRARD TROUVILLE
EUGENE FRANK TUCKER
ARTHUR WOODMAN TUFTS
JACKSON CORPENING TUTTLE, II
VINTON KENNETH ULRICH, JR
THOMAS JOHN UTSCHIG
JON WILLIAM VANDERBOUT
JOHN ORVIS VANNATTA
DAVID CLARK VICKERMAN
THOMAS EDWIN VICKERY
RAY KIRK WADDELL
THOMAS VINCENT WAGATHA
CHARLES STEVEN WAGNER
ROBERT JOHN WALKER, JR
WILLIAM BENJAMIN WALKER, JR
GREGORY EDWARD WALSH
ARTHUR JAY WARD
WILLIAM LOUIS WASSERMAN
RAYMOND SPENCER WATERS, JR
WILLIAM HENRY WATERS
PATRICK ROGER WATTS
JAMES MICHAEL WEATHERLY
MICHAEL JAMES WELLS
ROBERT JOHN WHALEN
THOMAS JAMES WHALEN
RICHARD YOUNG WHITE
JAMES WAYNE WILLIAMS
SCOTT K. WILLIAMS
WILLIAM EDWARD WINTER, JR
MICHAEL JOHN WOIWODE
JOHN PETER WOLFF
JOHN STEVEN WOOD
MARK ALAN WOOD
THOMAS EDWIN WRIGHT, JR
CHRISTOPHER BARRETT YATES
ROBERT HAROLD YONKER
CHARLES EDWARD YOUNG
THOMAS CHARLES YOUNG
ROBERT LEE ZIEGLER
CHRISTOPHER DAVID ZWINGLE

UNRESTRICTED LINE OFFICERS (TAR)

To be captain

CHARLES BENJAMIN ASKEY
DENNIS THOMAS BEAVER
JOHN BRADLEY BELL
DOUGLAS JAMES BELLOWS
ROBERT PALMER BLICKLE
LEVI BREEDLOVE, JR
SUSAN M. BROOKER
ROSS NEWTON BROOKS, JR
MICHAEL BRADFORD BRYANT
JAMES DENNIS CANNON
WILLIAM THOMAS CHAMPION
BILLY JOE DEAN
ROBERT ALFRED DUETSCH
ROBERT STEWART FISHER, JR
CRAIG MICHAEL JANECEK
THOMAS LEVATTE JONES
MICHAEL REEDY KING
THOMAS LEE MCATEE
JOHN KINGSLEY MCGUIRE, JR
RAYBURN LLOYD MCKAY
JOHN P. MCLAUGHLIN
JAMES MICHAEL MORRELL
DANNY CHARLES NELMS
ULYSSES LOUIS NOLEN
PATRICK BRIAN PETERSON
WILLIAM MICHAEL PIERSIG, JR
DANIEL ISAAC PUZON
WILLIAM HENRY ROETING
WILLIAM H. ROUND
DONALD EDWARD SCHRADE
MICHAEL E. SCHUM
WILSON OTTO SHEALY
TERRY LEE SIMPSON
CATHERINE ELIZABETH SPERRY
RANDAL LEE SURRATT
CHARLES W. WAGNER
JACK LEON WILDERSON
GEORGE ALLEN ZOLLA, JR

ENGINEERING DUTY OFFICERS

To be captain

RODNEY L. COOK
MARK ALAN COOPER
RONALD EDWARD COUCHOT
DONALD KENNETH DRUMM
GREGON LEE GANT
LAWRENCE HIROSHI KUBO
WALTER FRANK MALEC
TERENCE WAYNE MAYHAN
JOHN HENRY RILEY
MICHAEL RALPH RILEY
THOMAS GEORGE TETLOW
KENNETH STRATTE WATKINS, JR
JACOB FRANK WECHSELBERGER
STEPHEN PAUL WEISE

AEROSPACE ENGINEERING DUTY OFFICERS (ENGINEERING)

To be captain

JOHN A. CONKEY
GLENN E. HESS
KELLY BRIAN MORGAN
ALAN RICHARD PAGNOTTA
ANTHONY JOHN PALAZZO, JR
GEORGE HUEY SANDERS
RODNEY KEITH WOMER
RAYMOND WAYNE WOODS
JOHN WILLIAM ZULICH

AEROSPACE ENGINEERING DUTY OFFICERS (MAINTENANCE)

To be captain

JAMES EDWARD ERVIN, JR
JOHN CARR KORNEGAY
BERNARD ALMOND WUNDER

SPECIAL DUTY OFFICERS (MERCHANT MARINE)

To be captain

WILLIAM CLIFFORD BRITT
DAVID SUTTON FIELD
FRANK JOSEPH FLYNTZ
STEPHEN CHESTER PACUSKA
LARRY NORMAN ROOD
ERNEST PAUL SKOROPOWSKI
THOMAS MACPHERSON STAPLETON
EDWARD E. STRIBLING
EDWARD BARNEY WILLIAMS, JR

SPECIAL DUTY OFFICERS (CRYPTOLOGY)

To be captain

JACK FRANK JACKSON
RONALD DALE JENSEN
THOMAS LEE MCCARRIAR, JR
GREGG F. MITCHELL
LORAN DEVER NAUGHER, JR
RONALD WILLIAM SERVIS
WILLIAM EDWARD SKINNER

SPECIAL DUTY OFFICERS (INTELLIGENCE)

To be captain

ROBERT VREELAND ALLEN
WILLARD DAVID BOSTWICK
RONALD DEE BROGAN
BRUCE ELLIOT BROWNELL
CHARLES DAVIS BURNHAM, JR
CHARLES HENRY CAMPBELL
JOHN LAWRENCE CARLSON
LAWRENCE FRANCIS CLARK
RICHARD DEAN CLARK
ANDREW MARTIN DANIELS, JR
THEODORE LEWIS DAYWALT
ELAINE MEYER DIPALMA
JAMES RUSSELL DYER
JOHN EVANOFF
JOHN STEPHEN FEDOR
CHARLES KEITH FENNELL
JOHN FRANCIS FLORIO
CHARLES WHITFIELD FROST
EDWARD HARPER GILLESPIE
BEN EDWARD GIRTMAN
MICHAEL WILLIAM GOSS
KEITH ALLAN HANSEN
JAY THOMAS HARTMAN
ROBERT CALVIN HAYNES
DANIEL RICHARD HEGMAN
DALE ROY HERSPRING
BELTON EMOULOUS JENNINGS, II
MATHEWS MARTIN JOHNSON, JR
STEVEN RICHARD KALTNECKAR
WILLIAM RALPH KELBERLAU
RICHARD JAMES KIRWIN
NORMAN BOBBY KRIMBILL
CHARLES WARREN LAMPLEY
HARVEY LAYMAN, JR
JANIS LEANORE LIBUSE
JOHN OTTO LOHMEYER, JR
JAMES MANZELMANN, JR
LON DEVERE MARLOWE, III
GORDON K. MERIWETHER, III
PATRICK HENRY MERRILL
SHARON ELAINE MILLER
THOMAS CLARK MITCHELL
CHARLES RUSSELL NOLAND, JR
JAMES CLINDON NORRIS
WAYNE ROGER PELAEZ
JOYCE RUTH SACCIO
PAUL LEWIS SIMPSON
ROBERT WILLIAM STUART
BRIAN DEAN WELCKER
JOHN CHRISTOPHER WRIGHT

SPECIAL DUTY OFFICERS (INTELLIGENCE) (TAR)

To be captain

BARRY VONBERG MORTON

SPECIAL DUTY OFFICERS (PUBLIC AFFAIRS)

To be captain

RONALD HENRY BAFETTI
RUFUS R. BARBER, JR
TRACY DANIEL CONNORS
WELLINGTON EUGENE ESTEY
ROBERT WILLIAM FULLBRIGHT
SHARON ALEXA HAMRIC
WILLIAM HENRY HEARD, JR
ROBERT MENAGH HOUGHTON
RICHARD JOHN LYSTER
SALLY CHIN MCELWREATH
DAVID MICHAEL SNYDER
WILLIAM JOSEPH WILSON

SPECIAL DUTY OFFICERS (OCEANOGRAPHY)

To be captain

MICHAEL JOSEPH CARRON
MICHELE HUGHES LOCKWOOD
DUANE EDSON MOYER
RICHARD ALAN PAULUS

IN THE PUBLIC HEALTH SERVICE

THE FOLLOWING CANDIDATES FOR PERSONNEL ACTION IN THE REGULAR CORPS OF THE PUBLIC HEALTH SERVICE SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW AND REGULATIONS:

To be medical director

ROBERT A. GUNN
VERNON N. HOUK

To be senior surgeon

WILLARD CATES, JR
GENE D. COHEN
JAMES E. COX
CARL ELLISON
WILLIAM E. HALPERIN
STEVEN D. HELGERSON
THOMAS HOFFMAN
DAVID G. HOOPER
THOMAS E. NOVOTNY
ALEXANDER B. SMITH

To be surgeon

GREGORY P. ALEXANDER
MARK D. BONNELL
HAROLD DAVIS
GEORGES S. DUVAL, III
PETER J. GERGEN
GEORGE E. GRANING
HARRY W. HAVERKOS
MICHAEL J. HORAN
JANINE M. JASON
EDWIN M. KILBOURNE
NANCY C. LEE
GEORGE H. MAXTED
HAROLD J. PAULSEN
HERBERT B. PETERSON
PHILLIP L. SMITH
STEVEN L. SOLOMON
NATHANIEL STINSON, JR
RONALD J. WALDMAN

To be senior assistant surgeon

KELLY J. ACTON
RICHARD J. CALVERT
STEVEN K. GALSON
SAMUEL L. HORTON
ADELINA V. MARINBERG
ELIZABETH ORTIZ-RIOS
MARK H. SCHIFFMAN
RICHARD M. SCHWEND
DANIEL M. SOSIN
PATRICK W. STENGER
TRAVIS W. WHITE

To be dental surgeon

MARK F. DELANEY
M. ANN DRUM
RICHARD M. VAUGHN

To be senior assistant dental surgeon

GEORGE M. ANGELOS
WILLIAM E. ATWOOD
ROBIN S. BERRIN
BILLY D. CARD, JR
MICHAEL R. FOUNTAIN
NORMAN W. JAMES
JAMES E. LEONARD
TIMOTHY L. LOZON
NICHOLAS S. MAKRIDES
RONNIE D. MCCUAN
MARIAN P. MEHEGAN
MICHAEL W. REMILLARD
LARRY D. SHAPIRO
SANDRA L. SHIRE
GEORGE A. SMITH
KENNETH R. WIEDENFELD

To be nurse officer

MARTINA P. CALLAGHAN
JANET M. DUMONT
HELEN D. DYMON
WILLIAM P. EMMERLING
IRMA E. GUERRA
MARY R. INGRAM
JEAN H. KAJIKAWA
MARILYN K. PIERCE-BULGER

To be senior assistant nurse officer

ROBIN E. ANDERSON
DEBBIE S. ARNAUD
KATHLEEN G. AUSTIN
FAY E. BAIER
MARY P. COUIG
JOANNE DERDAK
LESLIE D. DYE
ANDREW J. ESTES
DAVID P. FREETH
CLARICE GEE
MARJORIE L. GRIERSON
MARVIN A. HOLCOMB
ERNESTINE G. KEARTON
CAROL L. LINDSEY
SHERYL L. MEYERS
MICHAEL E. MOSSMAN
ROBINSON J. MYERS
KERRY P. NESSELER
MARY T. NOONAN
MARIA C. PADILLA
JAMES M. POBRISLO
DEBORAH C. ROMERO
BEVERLY J. SANDERS
NADINE M. SIMONS
KENDA J. WALLACE
HARLEN D. WHITLING

To be assistant nurse officer

MARCIA C. BLONDER
LENA S. FAWKES
JACINTO J. GARRIDO
JOAN M. HARDING
PAUL S. HUNSTIGER
BOBBY D. LOWERY

To be engineer officer

REID W. BOND
KENT A. JOHNSON

To be senior assistant engineer officer

RANDY J. CORRELL
KENNETH J. FISHER
CRAIG W. LARSON
GREGORY A. STEVENS

To be senior scientist

DEREK E. DUNN

To be scientist

SUSAN M. CONRATH
MELODY Y. LIN

To be senior assistant scientist

WILLIAM CIBULAS, JR.
MICHELE R. EVANS
ANN M. HARDY

To be sanitarian

GARY P. NOONAN

To be senior assistant sanitarian

MARTHA D. KENT
MARK H. MATTSON
MATTHEW J. POWERS
CRAIG A. SHEPHERD

To be senior assistant veterinary officer

AXEL V. WOLFF

To be pharmacist

LOLA L. CAIN

To be senior assistant pharmacist

CAROLYN DUNN
PAUL D. GAILARD
CAROL E. GOODIN
LUISA V. GRAVLIN
ERIC D. GREGORY
LAWRENCE G. MASSIMILLA
JAMES C. MCCAIN
AMY L. MINNICK
SHELLEY F. PAULSON
RENEE J. RONCONE
BRIAN D. SCHAFER
CHARLES C. WATSON

To be assistant pharmacist

STEPHANIE DONAHOE
MUHAMMAD A. MARWAN

To be senior assistant dietitian

ANN MAHONEY FARRAR
DIANE M. PRINCE
WYNONA A. WOOLF

To be senior assistant therapist

DOMINICK C. ARETINO
SUSANNE E. PICKERING
MICHAELE R. SMITH

To be senior health services officer

STEPHEN K. GORANSON
JAMES A. PICKARD

To be health services officer

ROLLAN J. GONGWER

To be senior assistant health services officer

CHARLES J. BRYANT
CLAYTON B. DOAK
ROBERT J. SLAYTON
RACHEL E. SOLOMON
SUSAN D. TELLER

To be assistant health services officer

LANARDO E. MOODY

IN THE PUBLIC HEALTH SERVICE

THE FOLLOWING CANDIDATES FOR PERSONNEL ACTION IN THE REGULAR CORPS OF THE PUBLIC HEALTH SERVICE SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW AND REGULATIONS:

1. FOR APPOINTMENT:

To be medical director

DAVID L. HEYMANN
JAMES M. HUGHES
SAMUEL LIN
J. MICHAEL MCGINNIS
KENNETH P. MORITSUGU
HERBERT C. MORSE, III
JOEL MOSS
ANIL B. MUKHERJEE

ANTONIA C. NOVELLO
PAUL A. NUTTING, JR
FREDERICK R. PINTZ
DARREL A. REGIER
WALTER REICH
ALAN M. STEINMAN
BRUCE D. WEINTRAUB

To be senior surgeon

LARRY J. ANDERSON
MARC E. BABITZ
ROY C. BARON
DAVID H. BARRETT
CLAIRE BROOME
D. PETER DROTMAN
MARY C. DUFOUR
LESLIE G. FORD
RICHARD A. GOODMAN
VAN S. HUBBARD
DOUGLAS N. KLAUCKE
JEFFREY J. SACKS
EDWARD TABOR
THEODORE F. TSAI
LOREN A. ZECH

To be surgeon

ROBERT E. DAWSON
RICHARD C. DICKER
MARK B. HORTON
SCOTT R. LILLIBRIDGE
THOMAS R. NAVIN
ARVO J. OOPIK

To be senior assistant surgeon

CHARLES H. BEYMER
KENNETH L. BROOKS
HERMAN A. DOBBS, III
DONALD A. DUBOIS
PAUL J. HEALEY, SR
VERNON A. MAAS
GREGG MCNEIL
DAVID NG
TAN T. NGUYEN
ANDREW L. OLNES

To be dental director

ROBERT J. COLLINS, JR
JEFFREY W. HAGEN
ROBERT F. MARTIN
ROBERT J. PARTAK
DANIEL L. PINSON
DON C. ROBERTSON

To be senior dental surgeon

THOMAS ARROWSMITH-LOWE
JOHN G. DEVINE
ROBERT S. ENDERS
BYRON G. JASPER
JAY J. JONES
GILBERT KUNKEN
KARL A. MEYER, II
STEVEN H. POSNER
ERIC D. REHORST
DONALD T. SAUTER
WILLIAM W. SAVAGE, JR
JOHN W. STAHL
ALLAN D. VALENTINE

To be dental surgeon

WILLIAM D. BAILEY
ROBERT F. FELKER, JR
SHAWNEEQUA M. HARRIS
DERRICK T. JOHNSTON
RAY M. MCCULLOUGH
RAUL A. ROMAGUERA
JEANINE R. TUCKER

To be nurse director

SUZANNE DAHLMAN
DIXIE A. DEETER
KATHLEEN A. MORSE
MARIE A. MOSES
SUSAN SIMMONS

To be senior nurse officer

MARGARET BRADY
TERRY L. GODFREY
CAROLYN B. LEE
HAROLD I. REBUCK
ESTELLE T. THERIEN

To be nurse officer

ARLENE B. BARTH
LESLIE C. COOPER
REGAN L. CRUMP
MARGARET J. DICLEMENTE
JANICE A. DRASS
COLLEEN J. JOHNSON
DEBORAH S. MAYO
JERRY D. METZLER
KOLYNN F. POWELL
MARY M. PRESTON
MERIBETH M. REED
MICHAEL A. SHEETS
ANDREW C. STEVERMER

To be senior assistant nurse officer

FERN S. DETSOI
KIMBERLAE A. HOLLEY
LAURIE S. IRWIN-PINKLEY
BARBARA A. ISAACS
ROBERT W. MAYES
JOHN J. ROSENBERGER

To be engineer director

MARK A. BRUMBAUGH
PATRICK A. CROTTY
TED W. FOWLER
TERRENCE O. HAUSKEN
WAYNE E. MOHLER
JOHN M. MOORE
MELVIN L. MYERS
JAMES H. SOUTHERLAND
GARY D. YOUNG

To be senior engineer officer

WILLIAM M. BURCH
WILLARD D. DAELLENBACH
JOHN M. DEMENT
CURTIS F. FEHN
RICHARD M. GARWOOD
WALLACE HAMPTON
GARY J. HARTZ
ALAN J. HOFFMAN
STEPHEN C. JAMES
STEPHEN B. LEIGHTON
MARTIN D. MCCARTHY
DENNIS M. OBRIEN
LAURENCE D. REED
IRA J. SOMERSET

To be engineer officer

MICHAEL S. CRANDALL
JAMES A. DINOVO
ROBERT W. FAALAND
PAUL M. LAHR
ERNEST L. LEPORINI
SVEN E. RODENBECK

To be senior assistant engineer officer

JAMES W. COLLINS
TODD M. SCOFIELD

To be scientist director

ROBERT M. GAGNE
ROBERT H. HILL, JR
DANIEL A. HOFFMAN
BRADFORD G. PERRY
DAVID G. TAYLOR
WILLIAM P. WOOD

To be senior scientist

MICHAEL C. ALAVANJA
MICHAEL J. COLLIGAN
WILBUR H. CYR
HUGH J. HANSEN
HOWARD W. KROLL
CHARLES H. NAUMAN

To be scientist

DAVID L. ASHLEY
JAMES A. MERCY
RANDY L. TUBBS

To be sanitarian director

DARRELL J. SCHWALM

To be senior sanitarian

PATRICK O. BOHAN
RICHARD M. BRYAN
TERRANCE B. GRATTON
DOUGLAS R. JACKSON
ROBERT J. KAPOLKA

To be sanitarian

LINDA A. CHANDLER
WILLIAM J. DANIELS
LARRY J. ELLIOTT
CHARLES D. STANLEY

To be senior assistant sanitarian

JAMES S. SPAHR

To be veterinary director

JOHN D. BACHER

To be veterinary officer

MARY L. MARTIN

To be pharmacist director

PAUL A. GOODSPEED
STEPHEN C. GROFT
KAY C. PEARSON
ROBERT J. TONELLI
JOSEPH C. WHITAKER

To be senior pharmacist

DAVID BARASH
JOHN A. BOREN
GARY A. ERICKSON
NICHOLAS M. FLEISCHER
STEVEN C. GARRETT
THOMAS H. HASSALL
GARY L. HENDERSON
ELIZABETH E. HINER
ALEXANDER P. JONES
JAMES E. KNOBEN
WILLIAM L. MATTHEWS, JR
ROGER L. MCGHEE
STEVEN R. MOORE
DAVID J. MORGAN
BARRY W. NISHIKAWA
FRED G. PAAVOLA
STEVEN L. PETTITT
ROBERT W. POLLOCK
PATRICIA T. L. YEE-SPENCER

To be pharmacist

ELAINE G. E. ABRAHAM
MICHAEL J. CLAIRMONT
BEVERLY J. FRIEDMAN
GEORGE R. GATEWOOD, III
DONALD G. GRILLEY
JANET M. MORGAN
DAVID L. ROSEN
CATHIE L. SCHUMAKER
ROBERT E. STALEY, JR
LELAND R. STERN
GREGORY D. THOMAS
PAUL D. THOMAS
NORMAN J. TURNER

To be senior assistant pharmacist

REBECCA J. LIDEL

To be senior dietitian

PAMELA L. BRYE
CAROL I. JOHNSON
CATHY A. LEVINE

To be dietitian

KATHERINE W. DAVIS
JOYANNE P. MURPHY

To be therapist director

JUDITH A. BELL

To be senior therapist

WILLIAM M. BROWN
HAROLD W. EGBERT
FRANCIS W. LEVY, JR

To be therapist

ELAINE D. CORRIGAN
THOMAS J. STOLUSKY

To be senior assistant therapist

KAREN L. SIEGEL

To be health services director

REBECCA S. ASHERY
ROBERT J. BATTJES
RICHARD C. BOHRER
ROBERT J. GARRISON
HENRY A. HAYES
JOHN R. HEINZ
RICHARD E. LIPPMAN
PAUL F. SCHULZE
DAVID R. SELBY
THOMAS C. VOSKUHL

To be senior health services officer

MARTIN T. ABELL
ROBERT N. BURNS
WILLIAM M. CHAPIN, JR
JAMES E. CLAIR
LAWRENCE ELDRIDGE
STEPHEN E. GARDNER
JAMES L. GRAY
RICHARD W. HORNUNG
GARY R. PABALIS
PHILIP J. PIASECKI
JAY A. RACHLIN
GORDON R. SEIDENBERG
JOHN D. WELLS
JOHN J. WHALEN
SIU G. WONG

To be health services officer

ANNA J. ALBERT
MARY B. COOPER
ROCHELLE E. CURTIS
KENNETH C. DIEPOLD
COLLEEN L. GOOD BEAR
GREG J. KULLMAN
RICHARD A. LEVY
JACOB L. RUEDA, III
PATRICIA A. RYE
RICHARD G. SCHULMAN

CONFIRMATIONS

Executive nominations confirmed by the Senate March 10, 1992:

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

SCOTT M. SPANGLER, OF ARIZONA, TO BE ASSOCIATE ADMINISTRATOR OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT (OPERATIONS).

PEACE CORPS NATIONAL ADVISORY COUNCIL

EUGENE C. JOHNSON, OF MARYLAND, TO BE A MEMBER OF THE PEACE CORPS NATIONAL ADVISORY COUNCIL FOR A TERM EXPIRING OCTOBER 6, 1993.

TAHLMAN KRUMM, JR., OF OHIO, TO BE A MEMBER OF THE PEACE CORPS NATIONAL ADVISORY COUNCIL FOR A TERM EXPIRING OCTOBER 6, 1993.

EXECUTIVE OFFICE OF THE PRESIDENT

SALVADOR LEW, OF FLORIDA, TO BE A MEMBER OF THE ADVISORY BOARD FOR CUBA BROADCASTING FOR A TERM OF 2 YEARS.

AFRICAN DEVELOPMENT FOUNDATION

HERMAN JAY COHEN, AN ASSISTANT SECRETARY OF STATE, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE AFRICAN DEVELOPMENT FOUNDATION FOR A TERM EXPIRING SEPTEMBER 22, 1997.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

IN THE FOREIGN SERVICE

THE FOLLOWING-NAMED CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, FOR THE PERSONAL RANK OF CAREER AMBASSADOR IN RECOGNITION OF ESPECIALLY DISTINGUISHED SERVICE OVER A SUSTAINED PERIOD:

HERMAN J. COHEN.

FOREIGN SERVICE NOMINATIONS BEGINNING SALLY M. GROOMS-COWAL, AND ENDING LEONARDO M. WILLIAMS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 22, 1992.

FOREIGN SERVICE NOMINATIONS BEGINNING SANDRA ANN CRUMPTON, AND ENDING TERRENCE J. SHEA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 22, 1992.

FOREIGN SERVICE NOMINATIONS BEGINNING GEORGE J. POPE, AND ENDING CHRISTOPHER E. GOLDTHWAIT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF FEBRUARY 5, 1992.

FOREIGN SERVICE NOMINATIONS BEGINNING ROGER ALLEN MEECE, AND ENDING DAVID MEREDITH EVANS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF FEBRUARY 18, 1992.

EXTENSIONS OF REMARKS

A CAPITAL GAINS PRIMER

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 10, 1992

Mr. PEASE. Mr. Speaker, the New Republic recently printed an article by Michael Kinsley which outlines why a cut in the tax rate on capital gains is not needed. The piece dispels many of the myths regarding the taxation of capital gains.

I commend this article to my colleagues.

[From the New Republic, Feb. 10, 1992]

A CAPITAL GAINS PRIMER

(By Michael Kinsley)

My first signed article in this magazine, in 1977, was a plea to Congress not to cut the capital gains tax. But did they listen? No. The capital gains battle has continued for fifteen years. Both sides have won skirmishes. Our side's great moment was the 1986 tax reform, which eliminated the special break for capital gains, among other loopholes, in exchange for lower tax rates on all income. By coincidence the top tax rate on capital gains now stands at 28 percent—the same rate to which it was cut back in 1977. But President Bush has been trying for his entire presidency to enact a new capital gains tax cut. He says it is central to hopes for economic growth. And even many Democrats, on Capitol Hill and the presidential campaign trail, favor some kind of capital gains break—usually limited or "targeted" in some way.

This bad idea just won't go away. One reason is that debates over tax arcana tend to be dominated by those who understand them, who tend to be those who benefit from them. A new capital gains break will overwhelmingly benefit the well-to-do. According to the congressional Joint Tax Committee, Bush's proposal amounts to an average $12,500 tax cut for people making over $200,000 a year. That is not a fatal defect. If it spurred economic growth, the unfairness would be worth it and could be mitigated in other ways. But all honest logic says that a capital gains tax break is bad economics. Here's why.

The basic concept is called tax neutrality. Economies function best when taxes are designed to affect economic decisions as little as possible. Alternative forms of labor and alternative outlets for capital should be taxed the same. If you tax butchers more than bakers, you'll get fewer butchers and more bakers. If you tax one form of investment more than another, money will flow out of the first and into the second. If you tax capital a lot less than you tax labor, you are artificially encouraging the replacement of people by machine.

Of course this argument assumes that the free market allocation of labor and capital is the correct one. You are free to challenge that assumption. But if you do, you must explain why the government should be able to do the job better. And you are earning a label—"central planner" or even "socialist"—that most advocates of a capital gains break certainly don't want. A capital gains break is an "industrial policy." It replaces the invisible hand of the market with the heavy hand of government.

There is nothing metaphysically unique or morally superior about capital gains—profits on the sale of a capital asset (stock, real estate, gold coins, etc.)—compared with other forms of investment income. Giving special tax treatment to capital gains is doubly wasteful. First, it misdirects capital to places that capital otherwise wouldn't go. The currently empty office buildings thrown up in the 1980s are a testament to this phenomenon. Second, vast sums of money and reservoirs of human ingenuity are consumed in the effort to turn ordinary income into capital gains—the essence of tax shelters.

That is why all proposals for a capital gains break, the stupidest are those that would pay for it by raising the top tax rate on other income. The bigger the gap between artificially favored and disfavored activities, the more the inefficiency and waste. But all capital gains break proposals are foolish enough.

So that's the case against, in a nutshell. But the argument gets far more intricate. Here are some of the feathers and furbelows.

But what about inflation? It's true that the tax treatment of capital does not account for inflation. If you sell a share of stock you've held for many years, you pay tax on your entire nominal profit, even though the dollars you get back are worth less than the dollars you invested originally. But the same is true of all forms of investment profit. Interest, for example. If you're getting 8 percent interest at a time of 3 percent inflation, you're really only earning 5 percent but you pay taxes on all 8.

Capital gains already enjoy a tax advantage over interest: you only pay tax when the investment is liquidated, instead of every year. Meanwhile, the profit compounds tax-free. It makes a big difference. Compare two investments, both yielding 10 percent a year for twenty years: one in the form of interest, one in the form of capital gain. The after-tax profit on the capital gain will be 45 percent larger. This goes a long way toward cushioning the blow of inflation.

Furthermore, the tax treatment of borrowing costs is not indexed for inflation either. If you're paying 8 percent interest on a business loan, you get to deduct the whole 8 percent even if 3 percent of that represents erosion of the lender's principle through inflation. To account for inflation only in the tax treatment of capital gains, while ignoring these other matters, would create a nightmare of loopy incentives. People would choose 6 percent returns over 8 percent returns. People would even borrow at 8 percent to invest at 6 percent. The economy would be distorted, the Treasury would bleed, accountants would grow rich.

Perhaps the whole tax code should be indexed for inflation. But no one is suggesting that, because it would be viciously complex. The better solution is the one Fed Chairman Alan Greenspan has almost engineered: eliminate inflation. Then the tax problem goes away.

But what about these Democratic proposals for a "targeted" capital gains break? Aren't they OK? In two words, 'fraid not. These schemes generally would limit a capital gains break to investments in new companies or long-term investments or investments in certain industries. The idea is to focus the tax benefit on particularly desirable forms of investment rather than scattering it to the winds. Give the break to the gal who founds a new company, not to the one whose shares of General Electric happen to go up. What's wrong with that?

One problem is definitional. What is a "new" business? Lawyers and accountants will manipulate any definition to defeat its intended limits. But, in tax policy as elsewhere, definitional problems indicate conceptual problems. Why should something important (like a lot of money) turn on a concept you have trouble defining?

There is nothing inherently creative or entrepreneurial about new businesses per se. Why favor a new McDonald's franchise over a promising initiative by an established company? Nor is there any reason to reward people who buy "new" issues of stock as opposed to those who buy stock that's been previously issued. The point is that whenever you use taxes to encourage investment in one thing, you're discouraging investment in something else.

And even if you believe there is something inherently meritorious about "long-term" business thinking that the market is somehow unable to appreciate, a tax break for long-term stock investments is a simple logical error. There is no connection between how long I hold a share of stock and the time horizon of the corporate manager. Even if I hold the stock for only two weeks, I will sell it to someone else who will sell it to someone else. How much I will pay depends on how much I think they will pay. The prospective value of the company ten years from now will have the same effect on the stock price today no matter how often the shares change hands in the interim. Artificially encouraging stockholders to trade less frequently will give managers no added incentive to think long-term.

But a capital gains tax cut won't cost anything. It will actually bring in more revenue. That's what the Bush administration claims. It proposes to use the "revenue" from a capital gains cut to pay for other cuts. The February 3 issue of Forbes has a chart showing that capital gains tax revenues have always gone up when the tax rate went down, and vice versa. There are a couple of sleights of hand going on here.

Of course a special tax break for capital gains increases capital gains tax revenues. If you enacted a special tax break for people named Forbes, people would change their name to Forbes and revenues from people named Forbes would go up. Revenues from people with other names would go down. So would total revenues. Ditto if you give a special break to something called "capital gains." Revenue from "capital gains" goes up, other revenue goes down (more), as people adjust their affairs to take advantage of the break.

There is one way a capital gains cut really would bring in additional revenues: the lower

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

rate would "unlock" investments people are holding onto because they don't want to pay the tax. To some extent this would increase government revenues by genuinely increasing the efficiency of the economy. Capital would move more quickly in response to market incentives. (Just the opposite, please note, of the "long-term" investing capital gains cut enthusiasts also claim to want.) But most of the additional revenue following a capital gains cut would simply reflect the fact that investors were cashing in sooner rather than later. For the Treasury, any extra revenue in the first couple of years would mean less revenue later on.

If the goal is to "unlock" capital gains, a better way to do that would be to eliminate yet another tax advantage this form of investment has over others: the so-called "angel of death" loophole. When you die, the capital gains tax on investments you still hold die with you. Heirs, when they sell inherited property, pay tax only on the gain since they inherited. Ending this anomaly would bring the Treasury some $5 billion a year. It also would make flow of capital more efficient by relieving people of the incentive to hold onto investments into the grave.

But a capital gains tax cut will raise stock prices and real estate values. That would be nice. And it's probably true. The stock market does tend to rise and fall with the outlook for a new capital gains break. But that says nothing one way or the other about the merits of the tax break itself. If the government were to announce its intention to give $10 a share to the owners of all listed stocks, stock prices would go up $10. Does that make it a good idea? Any rise in market values due to a capital gains tax cut could well be—would be, in my view—just a reflection of the discounted present value of the future tax savings. Fiscally, it would be no different from the government simply borrowing the money and handing it out to stockholders—hardly a sensible formula for genuine growth.

But Alan Greenspan says that theoretically capital gains shouldn't be taxed at all. That does give one pause. The theoretical argument goes something like this. The fruits of a citizen's labor are already taxed once when she first earns them. If she chooses to spend the money, the government makes no more claim on it. But if she chooses to save and invest it, she is taxed again. This is both unfair and inefficient, discouraging saving and encouraging consumption.

Well, ideally, all taxes should be zero because all taxes discourage the activity being taxed. (The exception is a land tax, as Henry George famously noted, because land has nowhere to go.) Taxes on labor discourage work and encourage sloth; taxes on capital discourage thrift and encourage consumption. Work and thrift are both admirable habits that ought to be encouraged, but the government must also be paid for. For any given level of revenue, reducing the penalty on thrift means increasing the penalty on work. It is hard to see how placing 100 percent of the burden on labor and 0 percent on thrift is fairer or more efficient than sharing it between the two.

But didn't JFK cut the capital gains tax because he believed in economic growth? This myth is part of the larger myth that the Democratic Party, once-upon-a-time sensible and patriotic, became terminally obscurantist and un-American around 1972. In fact, Kennedy did propose a small cut in the top capital gains tax rate. But he combined it with an end to the "angel of death" loophole and a longer "holding period" to qualify for the break. The net effect would have been an increase in the capital gains tax burden. When Congress wanted the larger tax break without the sterner stuff, the administration balked and treatment of capital gains remained unchanged. So the oft-heard notion that the boom of the 1960s had anything to do with "Kennedy's capital gains tax cut" is beyond myth and into the realm of fantasy.

But don't they have much lower capital gains taxes in Japan? Not at all. It's true that sellers of listed stocks have the option of paying a flat 1 percent of gross proceeds (not net profits) in lieu of a capital gains tax. But the tax on most other capital gains ranges up to 65 percent on investments held less than five years and 33 percent on investments held longer than that. The tax on real estate is even more onerous. If held less than ten years, the tax ranges from a minimum of 40 percent to a maximum of over 72 percent.

Japan's basic income tax rates also range up to 65 percent (at around $140,000). Its inheritance tax is stiffer than ours. And there is no "angel of death" capital gains loophole. There's no indexing. But then, there's not much inflation either. In fact, the Japanese somehow don't do too badly economy-wise, despite tax burdens that apparently would destroy the incentives of any self-respecting American entrepreneur.

Who cares about long-term economic efficiency? What we need now is a short-term jolt. Even if you're willing to exacerbate our deficit dilemma for an immediate economic stimulus—a mistake—a capital gains giveaway would be a foolish way to go about this. There would be no impact for months. It would kick in just as a recovery was starting, when, by this logic, it ought to be repealed. Other forms of economic adrenaline—including direct government investment in infrastructure projects like roads and bridges—would give more and faster bang for the buck.

But what about capital losses? Here we get into real aficionado territory. The 1986 tax reform limited the annual tax deduction for capital losses to $3,000 per person. What does this mean? It means you can subtract your capital losses from your capital gains each year. If your losses are more than your gains, you can subtract up to $3,000 a year against other kinds of income. You can "carry forward" losses beyond $3,000 and use them to reduce your income tax in future years. But you can't use unlimited amounts of capital losses to cancel out taxes owed on non-capital income. Critics of the capital gains tax—most notably The Wall Street Journal editorial page—can turn apoplectic about this seemingly obscure provision. Why? Solving the mystery offers insight into the true politics of capital gains.

Ask yourself: Who is affected by the capital loss limit? Only those who, year after year, lose more than $3,000 on their investments. There are two such groups. First, genuine perennial losers. Such people are surely to be pitied, but our economic prosperity hardly depends on them. And perennial losers are hardly likely to have the political clout to make an issue of this capital loss business. So consider another group: people who arrange their affairs to have enormous paper losses year after year. What makes capital gains different from other forms of income is that you can choose when to liquidate an investment and take the tax consequences. A basic technique of tax planning is to move up losses and push back gains. More sophisticated techniques involve complex transactions that generate vast "losses" right away and compensating "gains" that can be put off. Without the loss limitation, it would be possible to get richer and richer while never paying any tax at all. Mystery solved.

For the wealthy and the middle class alike, the 1986 tax reform deal was: give up your loopholes and you'll get lower rates. The philosophy was end all the complicated incentives for this and that, lower the basic rates, and let the market work unmolested. Proposals to restore the capital gains break amount to ratting on the deal, but more interesting is the way they betray the philosophy. Do these people believe in capitalism or not?

EPILEPSY FOUNDATION OF SOUTH FLORIDA HONORS ACTIVISTS

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 10, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to commend the Epilepsy Foundation of South Florida for its working in fighting epilepsy, especially through their Candlelight Ball and Auction. The money raised, approximately $35,000, will be used for direct services for epileptics. This year, the major recipients of the proceeds are epileptic children.

On the evening of the event, epilepsy activists of the south Florida community were honored for their work. Remedios and Fausto Diaz-Olivier were recognized for their involvement in the foundation with the Robert Laidlaw Humanitarian Award. Bonnie Sepe received the Helping Heart Award, Valentina Diaz was the recipient of the Gladys Wyatt Shining Light Award, Michael Duchowny, M.D. was given the Medical Service Award, Ryder System, was recognized as the Employer of the Year, and Maria Conte was thanked for her work with the Employee of the Year Award. I commend the work of these individuals in the fight against epilepsy.

Also, the members of the Candlelight Ball and Auction Committee are to be commended for their hard work and dedication. They are: Eddi-Ann Freeman and Leanore Lucas, chairpersons; Muriel Kaye, life chairperson; Judy Adler, Dominique Aristondo, Linda Cahan, Victoria Champion, Sandy Enfield, Sharon Ferguson, Doris Gold, Adriana Goldemberg, Althea Jacobs, Sandy Levy, Sheila Logue, Pauline Merl, Martha Mishcon, Hildene Potashnick, Kathy Simkins, Marcia Schantz, Lorraine Schatzman, Inez Stone, Barbara Toland, Susan Tramont, Betty Wohl, and Sonja Zuckerman Klein. The honorary committee members are Gail P. Ballweg, M.D., Don L. Bednar, Barbara Carey, Ed. D., Hon. and Mrs. John F. Cosgrove, James L. Davis, Judson M. DeCew, Jr., Hon. Henry Ferro, Hon. Carlos L. Valdes, Lewis B. Freeman, Michael J. Freeman, Esq., and Della Laidlaw. Without the work of these people, the fundraiser would not have been possible.

In addition, I would like to recognize Louis B. Freeman, president of the Epilepsy Foundation of South Florida for his hard work and dedication to this worthy cause throughout the years. His commitment, along with that of his co-workers and the members of the Candlelight Ball and Auction Committee, will advance the struggle against epilepsy.

MARCH IS WOMEN'S HISTORY MONTH

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 10, 1992

Mr. GALLEGLY. Mr. Speaker, I am pleased to rise today in honor of Women's History Month, which is being observed this month throughout our Nation.

It goes without saying that women have made invaluable contributions to our Nation since its very inception. Women of every race, class, and ethnic background have helped to shape and mold our Nation in countless ways, publicly, and privately.

Both in the home and in the workplace, women have played a vital and too often overlooked role in our society. Women have been at the forefront of any number of reform movements, such as the abolitionist movement, the suffrage movement, and the civil rights movement, and today women are achieving opportunities that were denied to them for far too long.

I would especially like to note that the Ventura County Commission for Women will hold a luncheon and awards program this Saturday. During this event, the commission will host an inspirational musical drama based on the lives of four great American women—Abigail Adams, Molly Pitcher, Harriet Tubman, and Susan B. Anthony.

Mr. Speaker, today women have the opportunities to decide their own role in society. Whether they choose family, career or both, I ask my colleagues to join me in honoring the many contributions of women, and in supporting Women's History Month observances this month.

TRIBUTE TO IRIS C. SHAPIRO

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 10, 1992

Mr. BERMAN. Mr. Speaker, I rise today to express my admiration and respect for an extraordinary citizen, Iris C. Shapiro. Iris is this year's recipient of the prestigious Golden Woman Award. This award will be presented by the Boys and Girls Club of the San Fernando Valley in appreciation of her commitment to the welfare of the children in our community.

Iris has served the southern California community for many years. Her seemingly infinite energy, pleasant personality, and ready willingness to be helpful has endeared her to all those fortunate enough to know her.

Iris is a successful and popular businesswoman. She and her husband Bernard have cofounded and developed an outstanding equity golf club which has been in operation for 25 years. Throughout her career, Iris has always shown a willingness and desire to give freely of her valuable time to aid organizations or causes important to her community. At present, she is an active member of the California Institute Cancer Service, Las Hermanas, supporting Children's Hospital, Los Angeles County Museum of Art, and director of KCET's Women's Council.

Iris is the proud mother of four children. Her constant guidance, unselfish love, patience, and strong moral values influence and contribute greatly to the respect and admiration that she enjoys from her family, friends, and colleagues.

It is my distinct honor and pleasure to ask my colleagues to join me in saluting Iris Shapiro for her tireless devotion to serving the community and its children.

BIOGRAPHY OF SEATTLE

HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 10, 1992

Mr. FALEOMAVAEGA. Mr. Speaker, through Public Law 102–188 (S.J. Res. 217, H.J. Res. 342), Congress and the President designated 1992 as the "Year of the American Indian." This law pays tribute to the people who first inhabited the land now known as the continental United States. Although only symbolic, this gesture is important because it shows there is sympathy in the eyes of a majority of both Houses of the Congress for those Indian issues which we, as a Congress, have been struggling with for over 200 years. In support of the Year of the American Indian, and as part of my ongoing series this year, I am providing for the consideration of my colleagues a short biography of Seattle, a chief of the Suquamish tribe who is known for his skills as an orator. This biography was taken from a U.S. Department of the Interior publication entitled "Famous Indians, a Collection of Short Biographies."

SEATTLE (SUQUAMISH)

The name of Seattle, Suquamish Indian chief, lives on not only in Washington's largest city, but in its State history, which gratefully records him as "the greatest Indian friend white settlers ever had."

Seattle, son of Chief Schweabe, witnessed as a boy the 1792 arrival in Puget Sound of British explorer Vancouver and his men, in their "immense whitewinged bird ship," the Discovery. The wonderful new riches, and the friendliness of the first white men he had ever seen, profoundly impressed Seattle, who became convinced as he grew up that peace, not war, was the right path for all men to follow.

It was a revolutionary belief. Battle and pillaging were a long-established way of life among Pacific Coast Indians, and as a young man, Seattle planned and led an alliance of six tribes against "horse tribes" to the northeast. Although his success in the undertaking won the young chief the high position of "Chief of the Allied Tribes" (the Duwamish Confederacy), it was his last feat as a warrior. Seattle devoted the rest of his life to promoting peace.

When Catholic missionaries entered the Northwest in the 1830's, Seattle became a convert to Christianity and took the baptismal name "Noah," after his favorite Bible character. He inaugurated regular morning and evening prayers among his people, a practice they continued after his death.

Seattle had ample opportunity to demonstrate his belief in brotherhood. White settlers who founded a small community on Puget Sound in 1851 received unlimited friendship and help from him, and shared his people's fish, seafood, and venison. In 1852, the little settlement which had first been hopefully called "New York," and later "Alki Point," was renamed, for all time, "Seattle."

But as more white immigrants came to the Northwest, relations, with the Indians became strained and stormy. During the winter of 1854–55, several northwest tribes organized in the hope of driving whites out of the country. In January 1855, Washington Territory's first Governor and Superintendent of Indian Affairs, Isaac I. Stevens, called Seattle's bands together, and told them of plans for a treaty which would place them on reservations.

Seattle, over 6 feet tall, broad-shouldered, deep-chested, an impressive and powerful orator, replied to the Governor in a resounding voice which all his people assembled along the beach could hear. According to a white spectator's translation, the dignified old leader's words, although marked by sadness and resignation, were poetic. They are said to have gone, in part:

"Whatever I say, the Great Chief at Washington can rely on," Seattle said. "His people are many, like grass that covers vast prairies. Our people once covered the land as waves of a wind-ruffled sea cover its shell-paved floor, but now my people are few.

"Our great and good Father sends us word that if we do as he desires he will buy our lands ... allow us to live comfortably ... protect us with his brave warriors; his wonderful ships of war will fill our harbors. Then our ancient northern enemies will cease to frighten our women, children and old men.

"But day and night can not dwell together. The red man has ever fled the approach of the white man as morning mist flees the rising sun. It matters little where we pass the remnant of our days. They will not be many. The Indian's night promises to be dark ... a few more moons ... a few more winters."

Seattle was the first signer of the Port Elliott Treaty of 1855 which placed Washington tribes on reservations.

But in the wake of the new treaties, several Indian groups, placed on reservation lands which did not include hunting or fishing areas, opened attack on white settlers. "Horse" tribes of eastern Washington combined to lead a war in which they tried to enlist "canoe" Indians. Some coastal tribes did join the alliance, but Seattle's followers remained generally loyal to whites and were evacuated in sloops and canoes to Port Madison Reservation. Throughout this and other Indian wars of the period, Seattle faithfully supported the white cause, at the same time continuing to be a true and powerful leader of his own people.

In line with the tribal belief that mention of a dead man's name disturbs his spirit, Seattle levied a small tribute in advance upon the citizens of the new town named after him. At about 86, he died on Port Madison Reservation.

An Indian burial ground at Suquamish, Wash., 14 miles from Seattle, contains the grave of the great chief. A granite shaft erected there by the people of Seattle is inscribed:- "Seattle, Chief of the Suquamish and Allied tribes, died June 7, 1866, the firm friend of the Whites, and for him the City of

Seattle was named by its founders." Each year the grave is the scene of a memorial ceremony conducted by local Boy Scouts on Scout Anniversary Day. In Seattle itself, a bronze statue represents the Indian leader in a typical pose, his hand outstretched in a gesture of perpetual peace and friendship.

ALPHA EPSILON PI HONORS L. JULES ARKIN

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 10, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to congratulate Mr. L. Jules Arkin, attorney at law, for his marvelous contribution to our community. Mr. Arkin has dedicated his life to the well-being of our citizenry and I am proud to acknowledge his work.

The Alpha Epsilon Pi Foundation will honor Mr. Arkin with the Gitelson Medallion for Jewish Communal Service at a ceremony at the Omni International Hotel in Miami on the 14th of March.

The Gitelson Medallion for Jewish Communal Service award was established by the foundation in 1933 with the assistance of Dr. M. Leo Gitelson in honor of the scholar rabbi who best characterizes Jewish activity and communal service. Mr. Arkin's credentials certainly make him eligible for this special award.

An attorney at the firm of Therrel Baisden & Meyer Weiss, Mr. Arkin is a member of the American Bar Association, Florida Bar, and the Dade County and Miami Beach Bar Association. Mr. Arkin also served as the president of the Financial Federal Savings and Loan Association of Dade County until 1984.

In addition, Mr. Arkin has served as president of the Greater Miami Jewish Federation and is a member and past president of the Miami Beach Chamber of Commerce, as well as a trustee of the Mount Sinai Hospital of Greater Miami. He also serves as a member and past president of the Miami Beach Kiwanis Club and former chairman of the city of Miami Beach Social Services Advisory Board.

Mr. Arkin is a retired lieutenant commander of the U.S. Naval Reserve. He has dedicated his time as a member of the board of directors and board of trustees of the United Way of Dade County.

It is quite evident that Mr. Arkin's time became increasingly valuable throughout the years. With his memberships in various organizations for the good of our community, Mr. Arkin's tireless interest and stand for the people has earned him the respect and admiration of his colleagues.

Mr. Arkin serves not only the people of our community, but through his dedication and commitment to his work he is a servant of God. He is a member of the Temple Beth Sholom.

Mr. Speaker, I wish to acknowledge the lifetime work of Mr. L. Jules Arkin, who has selflessly and conscientiously made a difference in the lives of the many people who he has come into contact with. Mr. Arkin is a true winner, and a real source of strength and motivation to all who know him.

In addition, I would like to acknowledge the members of the dinner committee of Alpha Epsilon Pi Foundation who have contributed to the success of this event:

Stanley Arkin; Co-Chairman; Samuel Smith, Co-Chairman; Harry "Hap" Levy, Dinner Chairman; Steven Parker, Dinner Co-Chairman; Nathaniel Krumbein, Foundation President and Jack Mades, Bruce Singer, Robert Dulberg, Mel Rosenberg, Edward D. Gold, Abe Corenswet, Alfred Bloom, Richard I. Feller, Irving Levin, William Shockett, Barry Bierman, Harry Gurwitch, George S. Toll, Philip H. Cohen, Judge Jacob Karno, Ivan W. Halperin, Lester H. Block, Arthur Teich, A. Edward Scherer, Irving Axelrod, Richard H. Stein, Sidney N. Dunn, Harold B. Berman, Dr. Jonathan Tenzer, Dr. Robert K. Ausman, Paul Aronin and Stanford H. Odesky.

HISPANIC EMPOWERMENT

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 10, 1992

Mr. RICHARDSON. Mr. Speaker, earlier this year a group of prominent Hispanics from around the country gathered in the Nation's Capital for the founding meeting of a new Hispanic organization titled, Hispanic PAC USA. The group's purpose is to encourage Hispanic empowerment by persuading Hispanics to run for political office and by supporting them with financial and other resources. Despite representing 9 percent of the U.S. population, Hispanic-Americans are woefully underrepresented in elected offices.

The distinguished Governor of Puerto Rico, the Honorable Rafael Hernandez Colon, delivered a moving speech to the Hispanic PAC USA attendees. I urge my colleagues to read Governor Colon's statement and learn more about the role Hispanic-Americans will be playing in the months and years ahead.

STATEMENT BY HON. RAFAEL HERNANDEZ COLON, GOVERNOR OF PUERTO RICO

Mr. Chairman, Board Members, distinguished Hispanic leaders and friends; Muy Buenas Tardes. It is a privilege and an honor to address this founding board meeting and policy seminar of the Hispanic PAC USA.

We are here to face an important challenge. Hispanic leaders must define the future role that the Latino Community should play in a United States facing rapid and dramatic world trade. Our task is twofold: Hispanics must continue to evolve from the political trenches of each of our communities to the highest levels in this Nation's government, but must do so within a new world order where our countries of origin are playing a prominent role.

We have decided, by creating this organization, to develop the nuts and bolts needed to accomplish this task. Hispanic PAC USA is an action-forcing device that aims at the proper and just target—political empowerment. I congratulate Congressman Bill Richardson for sponsoring this initiative; transforming important ideas into concrete action.

The 1990 Census revealed that Hispanics are among the Nation's fastest growing population. As you well know, it showed that the Anglo-Saxon population only grew 6% in the past decade, and the black population grew at a rate of 53%. Today, the 1990 Census figures reflect that 9% of the United States population is Hispanic. That means that there are 22.4 million Hispanics whose political energies can and must be harnessed towards common political goals. For Hispanics in the U.S., the time has come to show their mettle in American politics.

After the Mexican origin population, Puerto Ricans living in the states are the second largest Hispanic group, with 2.7 million or 10.5%.

But the Puerto Rican Community goes beyond the frontier of the 50 states. The Commonwealth of Puerto Rico is committed to promote the Hispanic goals in the United States as well as to promote the well being of our neighbors in the Caribbean and Latin America. Through our political relationship with the United States, Puerto Rico enjoys common market, common currency and common citizenship with this Nation; at the same time we are bound by our cultural heritage to the other side of this hemisphere.

Hispanic communities all over the United States must empower themselves with continuous massive "voter registration" and "get out the vote" campaigns.

We are proud of the 3,700 Hispanic elected officials nationwide, including 12 members in the United States Congress. Yet, we need to do much more. Hispanics are underrepresented in states like New Mexico with a Hispanic population reaching 38.2% of the total population, California 25.8%, Texas 25.5%, Arizona 18.8%, Colorado 12.98 and New York 12.3% Our voice must be heard with the clarity and intensity our numbers demand. And it must be heard in every state legislature, in every county and every barrio in the United States . . . it must be heard here in Washington. One man, one vote and we cannot accept anything less.

Six years ago, I decided that Puerto Rico could not remain indifferent towards the low participation rate of our brothers and sisters in the political process within their own communities in the States. Two years later, through the Commonwealth offices in New York City, we were conducting a massive "voter registration" and "get out the vote" campaigns in that city. We called this initiative "Atrévete" and we are currently conducting it in the principal Puerto Rican communities across the United States.

The results are extremely rewarding. Puerto Ricans registered to vote increased from 324,000 in 1998 to over 500,000 in 1991, an increase of 38%. The percentage of Puerto Ricans actually voting in New York's mayoral election increased from 33% in 1985 to 55.2% in 1989. In 1991, we have increased the proportion of city councils from 8.5% to 20% in New York City; from 18% to 33% in Hartford, Connecticut; from 0% to 20% in Vineland, New Jersey; and from 0% to 40% in Camden, New Jersey.

The lady who helped Puerto Rico accomplish this extraordinary feat is here with us. Her name is Nydia Velázquez and I would like to congratulate her for a job well done.

Mexicans, Puerto Ricans, Cubans, Dominicans, Central and South Americans who live in the United States must step up these efforts. This Hispanic PAC must build a first rate political network of organizers and fundraisers to support these campaigns. We must reinforce and expand these endeavors across every Hispanic community in the United States.

But the experience of our "Atrévete" program leads me to encourage each member of this Hispanic PAC to look into the new interrelations between Hispanics in the United States and their countries of origin. The nature of the economic relations between these countries and the United States is becoming critical to the future prosperity of the entire Hemisphere. It is in our roots, where our strength lies.

The United States, despite its vast internal market, cannot be indifferent to the lessons learned from the European Community. It is already in the early stages of a Hemisphere-wide approach to economic growth and prosperity. The global economic momentum is moving steadily toward economic association within nations and trade liberalization. Mexico, Canada and the United States are currently hammering out a free trade pact that will create a giant market with a population of 360 million and a combined gross product of 6 trillion dollars.

Similar changes are taking place south of the Rio Grande. The Central American countries are currently building on their common market experience of the 60's and 70's. The English-speaking countries of the Caribbean are expected to create a common market by the beginning of 1994. The Caribbean countries have also entered into a free trade agreement with Venezuela that will phase out tariffs on Venezuela's import from the Caribbean over the next five years. In South America, the member countries of the Andean Pact—Bolivia, Colombia, Ecuador, Peru and Venezuela—are planning to form a common market by 1995. Similarly, the four countries of Southern Cone—Argentina, Brazil, Paraguay and Uruguay—have signed a treaty to start a common market during this decade. More recently, Mexico and Chile signed a free trade agreement that is expected to double the existing trade between these two countries by the end of this decade.

The Commonwealth of Puerto Rico is also preparing itself to successfully face the new economic challenges; not only to strengthen the position of our Commonwealth, but to share our prosperity with others. A prosperous Latin America means a prosperous partner in our economic and social development at home.

Under my administration the Commonwealth of Puerto Rico has been sharing its more important economic tools with other Caribbean countries, with a positive result for both—Puerto Rico and the Region. We have shared the 936 tax benefits through our twin plan concept and the 936 funds are being used to finance projects in eligible CBI countries. Our Caribbean Development program has promoted more than $862 million in investments in CBI countries, which means over 21,000 additional jobs in the region. The end result—Puerto Rico is better off today and so are the other Caribbean countries.

On a hemisphere-wide basis, President Bush has proposed the Enterprise for the Americans Initiative, which envisions the creation of a free-trade zone "stretching from Anchorage, Alaska to Tierra del Fuego in Argentina". Since June of 1990, the Initiative has gained rapid momentum. The United States has signed 28 framework trade agreements, including regional pacts with the Caribbean countries and the Southern Cone governments. Duty-free entry to the United States market provided by the United States Caribbean Basin Initiative (CBI) was expanded in October of last year, and in December the United States Congress passed, and the President signed into law, the Andean Trade Preference Act, extending duty-free coverage, similar to the one offered by the CBI products from the Andean region.

Hispanics in the United States have the responsibility to direct and move forward these initiatives since these new associations will bring an enormous political strength to our movement at home. We cannot afford to be left out of the important negotiations currently taking place. Hispanics must have a word on what could be our greatest asset for improving the quality of life that Hispanics deserve in this Country. We must demand participation.

The changing face of the world economy forces us to develop a political strategy with a two pronged approach: at home we must reinforce our grass root operations, abroad we must strengthen our bonds with other Hispanics countries. If we are to have an integrated market in this Hemisphere, where the vast majority of the population will be Hispanic, we must act now to ensure that our communities play a leadership role in the economic, social and political developments in the years to come.

The political strength of the Hispanic population in the United States depends on the degree of internal unity and the magnitude of support from the countries of origin. Let us put an end to the low participation rate of our people. Let us never again be undercounted, underrepresented, or underestimated in any form. And above all let us look forward and move ahead to seize the new opportunities that are for the betterment not only of ourselves but also of this Nation.

Muchas Gracias.

A TRIBUTE TO FOUR RETIRED DOMINICAN NUNS

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 10, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to recognize four retired Dominican nuns who have devoted most of their lives to God and to the happiness of others. After their arrival to Florida from Cuba in the 1960's, Sister Rose Rodriguez, Sister Mary Pilar, Sister Joanna, and Sister Nieves helped establish a parochial school, started a mission for migrants, and worked with migrant children. They were recently featured in The Miami Herald for the love and support they have provided in all their years of service to God. The article "Sisterhood" by Bea Moss tells of how their years in retirement still keeps them busy:

The four retired Dominican nuns who live in a quiet Westchester neighborhood now spent much of their time in prayer.

Once they taught in parochial schools, worked with migrant children and started a mission for migrants in Wachulla, Fla.

They still do good works.

Sister Rose Rodriguez, 85, Sister Mary Pilar, 90, Sister Johanna, 85, and Sister Nieves, 88, came to the United States from Cuba shortly after the revolution. The late Bishop Coleman Carroll of the Miami Archdiocese asked them to help open a school in the then new St. Timothy's parish.

Now Sister Nieves occupies some of her time knitting baby clothes on a small loom. She knits small three-inch squares and then sews them together into bonnets, booties and tiny jackets to give to parishioners and people in need. She also weaves shawls and decorative tissue covers.

"I've been doing this for many years, since I was a girl," said Sister Nieves, who learned from a grandmother who raised her after her parents died.

KNITTING LESSONS

Now Sister Nieves is teaching Sister Johanna to knit.

"I just started a blanket," said Sister Johanna, glancing at Sister Nieves. "Sometimes, I do something wrong, and she takes it apart."

"She began making baptism outfits eight years ago after seeing an exhibit of handmade baby clothes," Sister Cecilia said. "All day Sister Nieves is knitting."

Sister Rosa helps with the household chores, and Sister Mary Pilar sits in a rocker fingering her rosary most of the time.

A housekeeper cooks for them in the neat home filled with religious objects, reminders of their faith.

Sister Cecilia, director of the Confraternity of Christian Doctrine at Gesu Church, looks after the women.

Sister Nieves always wanted to become a nun.

"I liked to see the nuns praying and singing when I was a girl," she said.

Sister Johanna, who originally came to the United States from Mexico, remembers seeing nuns in California.

"They were in their white habit and black cape, and I went to the priest and told him that's what I wanted to do," she said.

Later she went to Cuba, back to California, back to Cuba. She ended up in Florida.

PRAYING TOGETHER

Friends from Cuba, relatives and the Dominican order helped buy and furnish the home where they nuns live. Before they moved, they lived in a Catholic nursing home in South Dade.

"They have prayer together and meals, and the whole atmosphere is sort of a quiet, prayerful place for them," said Sister Denise, a school sister of Notre Dame who is vicar for the religious office in the archdiocese.

The house was bought by the Dominicans to care for their own, Sister Denise said. The archdiocese paid for their care at the nursing home.

The retired nuns also receive a small pension from the archdiocese for the years they served and taught in Florida.

Sometimes, the sisters talk of the days before they were forced to leave Cuba.

Sister Johanna misses the island, the community, the house she lived in there.

"Now everything is destroyed," she said.

Mr. Speaker, I commend these four Dominican nuns who in their commitment and recognition of others helped improve the life of so many. They are an inspiration to us all.

PORTUGAL ECONOMIC REPORT

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 10, 1992

Mr. HAMILTON. Mr. Speaker, I would like to bring to the attention of my colleagues a report on the Portuguese economy prepared by the Agency for International Development [AID] provided to the Congress pursuant to section 1205(b) of the International Security and Development Cooperation Act of 1985, as amended.

The report is an important summary of the remarkable transformation of the Portuguese economy since 1974, and of the boom years in Portugal since accession to the European Community [EC] in 1986. Portugal has been the beneficiary of large financial inflows from the EC since 1986. Net financial flows to Portugal from the EC in 1990 totaled 1.6 percent of GDP, a sum in excess of $900 million. Most of this funding was in the form of structural assistance to help modernize the physical infrastructure of the Portuguese economy. U.S. economic support fund assistance to Portugal in fiscal year 1990 totaled $39.4 million, and in fiscal year 1991 $42.6 million.

The report from AID, which was submitted to the Congress February 20, 1992, follows:

ECONOMIC REPORT TO THE CONGRESS—PORTUGAL, JANUARY 1992

I. EXECUTIVE SUMMARY

Since 1974, Portugal has undergone a remarkable transformation, both economically and politically. It is now a pluralistic democratic state which is nearly fully integrated into the European Community (EC). Its policy performance under a recent IMF standby arrangement was exemplary. Real GDP growth was quite robust in the latter half of the 1980s, and even during the past two years of stagnation in the world economy. The unemployment rate in 1990 was below 5%; export volumes rose by over 12% (following a rise of nearly 20% in 1989). The Government has pursued a policy of prepaying its foreign debts, financed from privatization receipts. This has contributed to a decline in the country's debt-to-GDP ratio from 55% in 1986 to 31% in 1990. Direct investment grew by over eightfold during the same period; foreign reserves by nearly tenfold.

Problems do remain. Inflation hovers above 12%, reflecting expansionary fiscal policies and also labor shortages in some sectors. This has delayed convergence of inflation rates with other EC members, a prerequisite to being included in the European Monetary Union. But overall, especially given its ability to attract private foreign investment and the benefits of ever-closer integration into the EC, Portugal's economic prospects look exceptionally good. By 1990, GDP per domestic resident stood at $5,670, which is approximately the same as South Korea's per capita GDP, according to IMF sources. In virtually every respect, it appears that Portugal has graduated from the ranks of developing countries.

II. ECONOMIC BACKGROUND AND POLICY SETTING

In the three years following the socialist revolution of April 1974, Portugal's political and economic systems were radically transformed. A representative political system was introduced and trade unions were legalized. In the economic sphere, however, three major institutional changes hampered Portugal's potential for sustained economic growth:

1. Under a comprehensive land reform, large farms in the central wheat-growing regions of the country were taken over by landless farmers and worker cooperatives.

2. Labor legislation was enacted making it extremely difficult to dismiss employees.

3. Banks, insurance and transportation companies, and large industrial companies were nationalized.

The public sector budget deficit expanded rapidly, partly to finance these nationalizations, and also due to large public sector wage increases; generous subsidies for food and fuel; large increases in government staff; and rapid expansions in public investment. These developments, alongside the 1974 oil price shock, declining remittances and continuing political unrest, resulted in falling productivity and serious balance-of-payments difficulties.

Under an IMF stabilization program in 1978–80, Portugal initially succeeded in substantially reducing the balance-of-payments deficit, but did not make much progress in lowering the government's budget deficit. With a lapse in adjustment efforts in 1980–83, the annual inflation rate rose above 22%. In 1982, the budget deficit comprised 13% of GDP, and the payments current account deficit hit 14% of GDP.

These adverse circumstances convinced Portuguese officials to enter a second IMF-supported stabilization program in 1983–85. The program centered on deep cuts in aggregate demand through restrictive tax, expenditure and credit policies; sharp price adjustments; and crawling-peg devaluations to change relative prices in favor of the export sector. Stabilization was accompanied by recession, with real GDP falling by 0.3 percent during 1983 and another 1.6 percent during 1984. But the stabilization program, accompanied by structural reforms under the aegis of integration into the EC, laid the basis for a prolonged economic boom. (Portugal's economic performance from 1985–1991 is reviewed in Section IV.)

III. RELATIONS WITH THE EUROPEAN COMMUNITY

In 1986, Portugal and Spain acceded formally to the European Community (EC), providing those countries with virtually uninhibited access to the goods, capital and labor markets of other EC members. This launched them both on a sustained economic boom. Portugal's dramatic economic turnaround since 1985 has been based both on the very favorable external trade and investment environment created by the accession, and substantial structural adjustment assistance from the European Community.

Under the Articles of Accession, a transition period of seven years (ten years for agriculture) was allowed during which Portugal undertook to drop all trade and capital barriers against other EC members and adopt the Common Agricultural Policy. To assist the process of making Portugal a competitive member of the Community, sizable amounts of structural adjustment funds were provided. (See table, below.) Entry into the Community was thus a dynamic force for change in Portugal's economy, both through financial assistance and via the accompanying economic stabilization and structural adjustment conditions attached to the assistance. Large increases in private foreign investment were stimulated by a vastly improved level of business confidence, attributable both to Portugal's accession to the EC and to its successful implementation of economic stabilization and structural adjustment measures. Investment was also spurred by the country's low tax burden, which still ranks among the lowest in Europe.

Public financial flows from the Community into Portugal have grown to comprise more than 2% of GDP per annum:

PUBLIC FINANCIAL FLOWS FROM THE EC TO PORTUGAL

[In percent of GDP]

	1986	1987	1988	1989	1990
Net inflows	0.9	1.0	1.7	1.8	1.6
Gross inflows	1.1	1.8	2.4	2.4	2.4
of which, structural funds	1.0	1.4	1.9	2.0	2.0

Source: OECD.

These financial flows have been largely in the form of non-reimbursable grants. The IMF projects that annual disbursements of EC Structural Funds alone will yield the equivalent of 2%–2.25% of GDP through 1993.

IV. ECONOMIC POLICIES AND PERFORMANCE IN THE 1980S

The economic policies adopted by Portuguese authorities in the early 1980s laid the basis for a dramatic turnaround in the economy after 1985. Although expansionary fiscal policies contributed to overheated domestic demand, with associated higher inflation levels and rising imports, exports grew dramatically, as did income from tourism and remittances. Foreign investment also rose rapidly. Important progress was made in privatization of public enterprises and accelerated foreign debt repayment.

Government finance

Portugal's large and persistent public sector borrowing requirement (PSBR) remained a threat to anti-inflationary efforts throughout much of the 1980s (Table I). Following the socialist revolution, rapid rises in public sector expenditures were followed by growing public debt and interest payments. Underlying problems included pervasive subsidies, a weak tax system and bloated public sector employment. The PSBR peaked at nearly 18% of GDP in 1985, then hovered in the 10% range until 1988. More rapid progress in reducing expenditures was retarded partly by disbursements of large net transfers from the EC, which requires matching budgetary outlays. For this reason, Portuguese authorities reportedly would prefer that the structural funds should be disabused more slowly, in order not to contribute to higher budget deficits.

Much of the early progress in reducing the budget deficit resulted from increases in prices and reduced subsidies for food, feed, fertilizer and fuels. During 1983-85, most public enterprises were given freedom to raise prices in line with market developments and in accordance with their need to raise investment capital, reducing their dependence on the government budget. But prices for those products for which government retained control on average did not keep pace with inflation. Subsidy expenditures began to rise again in 1988, although in 1989 domestic prices for petroleum products were increased to conform with international prices.

In 1986, a new petroleum tax and the value added tax (VAT) were introduced, substituting for a complex array of earlier taxes. By 1989, it was estimated that implementation of the VAT system coupled with the rationalization of income taxes had yielded an increase in revenue equivalent to 1.2% of GDP. Improvements in government revenue, together sharply reduced borrowing by public enterprises, led to a decrease in the public sector borrowing requirement to a more acceptable 6.1% of GDP in 1989. the government's program to assume predetermined amounts of enterprise debt, and then retire it using privatization proceeds, was clearly a contributory factor: receipts from privatization in 1990 amounted to 2% of GDP, 80% of which was devoted to reduction of foreign public debt. The public sector borrowing requirement remained below 7% of GDP in 1990.

Monetary and exchange rate policies

The challenge for Portugal following completion of its IMF standby arrangement in 1985 was to improve coordination of fiscal and monetary policies, while deepening financial markets, liberalizing foreign exchange allocation and moving to indirect monetary controls. Considerable progress has been made in liberalization of banking, following a decade of being a state-controlled monopoly, and in making the transition to less administered forms of monetary control. Measures exchange transactions, and introduction of various new financial instruments. The central bank was given authority to operate in the money market.

But persistently high government deficits have resulted in monetary policies inconsistent with the goal of inflation rate convergence with other EC members, a prerequisite to monetary union. One result was that inflation ticked up to double-digit levels again in 1989, necessitating a tightening of controls on credit. The exchange rate at that time was devalued on a "crawling-peg" policy, according to which aggregate nominal depreciation could not exceed 3% per annum. But large unanticipated capital inflows following the adoption of that policy led to progressive appreciation in the real effective exchange rate (Table I). In response, the government in October of 1990 adopted a more flexible exchange rate policy, together with more restrictive controls on capital inflows. Authorities believed that inclusion within the EC's Exchange Rate Mechanism, which would formally constrain the escudo vis-a-vis other EC currencies, would have to wait until a better anti-inflation policy mix had been obtained.

Privatization

The July 1987 election of the first single-party majority government since the 1974-75 revolution led to a series of measures designed to facilitate private sector activity and privatization. By March of 1988 the new government had ratified a law permitting the sale of up to 49% of the equity in state enterprises to private interests; this was revised in 1989 to allow the purchase of majority interests. Other laws opened additional sectors to private investment entry, including steel, petrochemicals, oil refining, transport, telecommunications, and energy. Separate laws were passed to increase the amount of privately owned land vis-a-vis that of co-operatives and to open new sectors such as newspapers and radio broadcasting to private enterprise. Privatization revenues in 1990 were estimated to be in the range of 2% of GDP. Authorities authorized the participation of foreign investors in privatization actions, except in the case of financial institutions, which are to remain under domestic control.

V. RECENT ECONOMIC PERFORMANCE AND OUTLOOK

Portugal enjoyed strong economic performance in 1990, with real GDP rising by 4.4% and unemployment falling below 5%. GDP was estimated to have risen again by 3.2% in 1991. Exports volumes, after growing by nearly 20% in 1989, sustained an increase of nearly 13% in 1990; in terms of dollar value, exports grew by more than 25% on average annually in 1990/91 (Table II). Imports also picked up, shifting the external current account from a surplus of 0.4% of GDP into a deficit of 0.3%. Despite prepayments on the government's external debt and tightened controls on capital inflows from abroad, net capital inflows remained buoyant, and indeed, more than sufficient to cover the increased deficit on current account. Non-gold reserves rose by over 45% in 1990, bringing them to the equivalent of 7.6 months of imports, up from only 2 months in 1986.

The weakness in this performance stems from persistent inflation, which rose to 13.4% in 1990. Expansionary fiscal policy fueled excess demand, as reflected both by rising import demand and shortages in certain labor markets. Nontradeable goods prices rose by 19% in 1990. Labor shortages and the trade deficit were expected to continue to widen. Thus, the process of inflation convergence within the EC appears to be stalled, as are prospects for early inclusion in the European Monetary Union. Nonetheless, with recovery in important export markets, and with continuing improvements in receipts from services (including tourism), the current account deficit in 1991 was not expected to exceed 1% of GDP. This amount was expected again to be more than financed by autonomous capital inflows, leading to a further buildup of official reserves.

In short, Portugal has turned in an exceptional economic performance, and looks set to continue doing so. Export growth has been phenomenal. Private foreign investment also is quite strong, buoyed by the economic policies that Portugal has pursued and by the country's ever-closer integration into the EC, which provides insurance that those policies will be sustained. By 1990, GDP per domestic resident[1] stood at $5,670. By way of comparison, this is roughly equal to South Korea's per capita GDP ($5,593 in 1990), according to IMF sources. In virtually every respect, it appears that Portugal has graduated from the ranks of developing countries.

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[1] GDP per domestic resident excludes both expatriates and their remittances.

VI. DEBT-SERVICE PROSPECTS

Portugal's external debt burden has fallen substantially from its peak in 1985, when it constituted 81% of GDP. Restraint on new public and public-guaranteed borrowing, strong balance-of-payments results and solid GDP growth contributed to the decline in total debt to about 31% of GDP by end-1990 (Table III). Total external debt in comparison to Portugal's foreign exchange earnings fell even faster. Recent improvements in Portugal's debt-servicing burden are also reflected by the government prepayments made from 1986 onward, financed from privatization receipts.

Portugal should continue to have little difficulty in servicing its debts in the medium term, given strong autonomous capital inflows, remittances and net income on services account. Given Portugal's full EC membership, these sources of income look secure.

TABLE I.—GOVERNMENT OF PORTUGAL FINANCES[1]

[Billions of escudos]

	1985	1986	1987	1988	1989	1990	1991
Current revenue	1,266	1,659	1,873	2,285	2,819	3,268	3,998
Taxes	1,178	1,510	1,685	2,103	2,485	2,919	3,487
Nontax revenue	88	149	187	182	334	349	511
Current expenditures	1,386	1,764	2,023	2,341	2,757	3,398	4,121
of which:							
Subsidies	144	131	98	110	127	128	511
Interest	285	405	452	467	510	698	864
Current balance	−120	−105	−151	−56	63	−131	−173
Capital revenue	272	115	41	23	101	109	173
Capital expenditure	396	317	298	334	473	553	665
Capital balance	−124	−202	−256	−311	−372	−444	−492
Overall balance	−244	−307	−407	−367	−309	−574	−665
PSBR[2]	419	453	545	558	435	567	500
As percent of GDP:							
Current expenditure	39.3	39.9	39.1	39.0	38.5	39.8	40.8
Capital expenditure	11.2	7.2	5.7	5.6	6.6	6.5	6.6
Overall deficit	6.9	6.9	7.9	6.1	4.3	6.7	6.6
PSBR[2]	11.9	10.2	10.5	9.3	6.1	6.6	4.9
Memorandum items:							
GDP (billions of escudos)	3,524	4,420	5,175	6,003	7,168	[3] 8,530	[4] 10,105
Inflation (consumer prices, excluding rent—percent)	19.3	11.7	9.4	9.7	12.6	13.4	[4] 12.4
Real eff. exchange rate	100.0	99.0	97.7	98.0	102.4	109.1	[5] 115.2

[1] Including central government, local governments and the social security system, but excluding public enterprises. Fiscal items in 1991 based on budget.

[2] Public sector borrowing requirement including public enterprises

[3] provisional.

[4] projected.

[5] March 1991.

Source: International Monetary Fund, National Accounts basis.

TABLE II.—PORTUGAL: BALANCE OF PAYMENTS

[Billions of U.S. dollars]

	1986	1987	1988	1989	1990
Current account:					
Trade balance	−1.634	−3.581	−5.518	−4.865	−6.580
Merchandise exports	7.209	9.226	10.874	12.720	16.427
Merchandise imports	8.844	12.847	16.392	17.585	23.007

TABLE II.—PORTUGAL: BALANCE OF PAYMENTS—Continued

[Billions of U.S. dollars]

	1986	1987	1988	1989	1990
Services balance	−.032	.244	.631	.478	.957
Receipts	2.820	3.646	4.037	4.630	6.370
Payments	2.852	3.402	3.406	4.152	5.413
Transfers	2.810	3.786	4.322	4.540	5.484
Current account balance	1.144	.449	−1.066	.153	−.139
Capital account:					
Direct investment	.239	.476	.842	1.653	1.984
Portfolio investment	.404	.816	1.814	1.050	.725
Other capital	−.891	−.604	−2.363	1.302	−1.003
Capital account balance	−.248	−.688	.293	4.005	1.706
Errors and omissions	−1.007	.639	1.640	.497	1.974
Overall balance	−.111	1.777	.867	4.645	3.542
Counterpart items:					
Reserve assets[1] (− = increase)	.111	−1.521	−.365	−4.654	−3.542
IMF credits and loans (− = repayment)		−.256	−.502		
Memorandum items:					
Total reserves minus gold	1.456	3.327	5.127	9.952	14.485
Months of import coverage by (nongold) reserves	2.0	3.1	3.8	6.8	7.6

[1] Changes are not equal to change in levels of Total Reserves Minus Gold because of valuation changes.

Source: IMF, International Financial Statistics.

TABLE III.—PORTUGAL: EXTERNAL DEBT

[Millions of U.S. dollars]

	1986	1987	1988	1989	1990
Total	16,301	18,464	17,362	17,899	18,623
Short-term	1,429	2,199	2,595	2,901	2,546
Public enterprises	1,185	1,288	1,031	1,085	984
Other	244	1,911	1,564	1,813	1,562
Medium and long-term	14,872	16,265	14,767	14,998	16,077
General government	5,003	6,069	5,850	5,785	5,193
Bank of Portugal	846	594	5	1	
Non-financial public enterprises	7,025	7,509	6,942	6,378	7,179
Other monetary institutions	1,196	1,013	669	772	859
Other (including private)	802	1,080	1,301	2,062	2,546
Debt ratios:					
A (percent)[1]	55	50	42	39	31
B (percent)[2]	125	109	89	81	66

[1] Debt/GDP.

[2] Debt/foreign exchange earnings (including exports of goods and services, and transfers).

Source: International Monetary Fund.

MIAMI FLUTE ENSEMBLE HONORED BY WHITE HOUSE

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 10, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to recognize the Wolfson Campus Pipers, the Miami-Dade Community College 16-member flute ensemble which received the honor of performing for the First Family at the White House's holiday open house. The ensemble was featured in the Miami Herald for this proud recognition.

The article, "MDCC Group Proud to Play for Top Brass" by Elizabeth Grudzinski, tells of how their love of the flute bonds them together to create the beautiful music they perform:

Four years ago, Zane Hobbs had never even picked up a musical instrument. Saturday, he will play the flute in the White House.

Hobbs, 35, is a member of the Wolfson Campus Pipers, a 16-member flute ensemble based at the downtown campus of Miami-Dade Community College. Several weeks ago, the group received an invitation to perform at the White House's holiday open house.

"I was totally flabbergasted," said Hobbs. "At first I thought it was a joke. But it's like a dream come true."

Love of the flute is the glue that binds this unlikely group together. The members came from an assortment of backgrounds and occupations. Hobbs is originally from Detroit and works as a Miami Beach lifeguard. Julie Delgado, 35, was born in a small town in the Philippines and is a critical-care nurse at Miami Heart Institute. Other group members include a professional musician, teachers and full-time music students.

Differences in background vanish when group members talk about their music.

"I'm just in love with music," said Delgado. "When I play the flute, it's an expression of myself. I would be incomplete without it."

"Music has always fascinated me," said Hobbs, "The flute has so pure and sweet a tone."

The Pipers were founded in the early 1970s by Althea Kaplan, professor of music at MDCC. The group performs music from the Renaissance and classical periods as well as show tunes and holiday music. They have played at malls and hospitals as well as "at the swanky places in town, like Vizcaya and the Miami City Ballet," said group member Brian Cook.

But nothing as swank as the White House.

"We're just a little flute ensemble, and they want us to play at the White House?" wondered Arin Finocchiaro, 20. "My first reaction was, 'Are you sure it's THE White House?'"

The invitation was unexpected. Wolfson Campus President Dr. Eduardo Padron "got a call from the White House, asking us to play. I don't know how they found out about us," said Kaplan.

Prompting the invitation, according to a White House spokesperson, was a letter to Barbara Bush written by John Schmitz, vice chairman of the college's board of trustees.

"I was extremely impressed by the group, so I wrote and suggested that they should be invited to play at the White House," said Schmitz.

Mr. Speaker, I commend the Wolfson Campus Pipers for their incredible talent and dedication, traits which undoubtedly contributed to their success. Their music is an inspiration to all.

THE INTERNATIONAL MANAGEMENT AND DEVELOPMENT INSTITUTE [IMDI]

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 10, 1992

Mr. GILMAN. Mr. Speaker, I would like to draw attention and pay tribute to the International Management and Development Institute [IMDI], a nonprofit educational institute headquartered in Washington, DC. IMDI was founded 23 years ago by Gene E. Bradley, now the chairman of the organization, as a business-government partnership of coequals whose deliberations and voices are nonpartisan and nonadversarial.

IMDI's new president and CEO is Don Bonker, the distinguished former Representative from the State of Washington. As Members of this House know very well, Congressman Bonker was an exceptionally active participant in and architect of many of the important issues before us. He is now bringing that same leadership and dynamism to his new position as president and CEO of IMDI.

IMDI's mission was—and is—to bring together international business and government leaders for dialogue and ideas which contribute to sound trade and investment policies. Many Members of Congress know about this first hand. Some 70 Senators and Congressmen are members of the Congressional Faculty and Partnership Committee of the Atlantic Corporate Committee of IMDI. They participate in sessions throughout the year with IMDI's corporate members from Europe and the United States.

IMDI is now embarked upon an urgent and timely goal: A comprehensive undertaking to prepare key policy statements and recommendations for its leadership meetings scheduled for March 17–18, 1993, in Washington, DC. This will, of course, coincide with the advent of the next Presidential administration and the new Congress.

IMDI's members have a clear sense of urgency at what they see as a critical turning point of both opportunity and danger. They are concerned that there appears to be no bold vision coming from Europe, the United States, or the Asia/Pacific in bringing about an integrated global trade and investment framework. Protectionist pressures threaten the conclusion of the Uruguay round of the trade talks. The emerging democracies of Eastern Europe and the former Soviet Union are struggling with their transitions. Clearly, new economic nationalism and protectionism will deal a severe blow to these nations' integration into the existing world trading system—with inevitable political consequences. It will be ironic—and tragic—if the old barriers of the cold war fall only to be replaced by new walls of trade and economic nationalism. After spending trillions to help bring about the collapse of the communist empire, it behooves the United States, Europe, and the Asia/Pacific to mobilize our best international corporate and government efforts to assure that these struggling nations make a successful transition to free enterprise and democratic institutions.

Mr. Speaker, the activities and efforts of IMDI are aimed at providing the opportunities and means to act together in achieving positive results through partnership. IMDI has just made a major contribution to addressing the critical issues of economic and trade warfare at its recent conference in London and Ditchley Park, England.

Former Prime Minister Margaret Thatcher spoke to conference participants and was awarded IMDI's Leadership Award for the 1980's. Her remarks underscored the West's accomplishments and the historical significance of communism giving way to the forces of democracy. At the same time, Prime Minister Thatcher emphasized that it is urgent and imperative to exercise leadership and work together to consolidate the opportunities which now exist. She stressed the importance of government-business partnership and the need for principles and consistency in these times of unprecedented change. Finally, she enjoined IMDI and other forces to work actively in forging the necessary bold vision and leadership.

Mr. Speaker, it was quite a group that was present at IMDI's recent conference. Participants included three members of Congress, the special assistant to the President and senior director for European Affairs at the National Security Council, the assistant United States Trade Representative for Japan and China, the European Commission's Ambassador to the United States, and top corporate leaders from both Europe and the United States. One of these corporate members, British Gas, extended generous hospitality throughout the conference. Conference results and recommendations, a summary of which follows, go to a much wider audience of IMDI's international membership of some 1,200 leaders. In addition to legislative and executive branch officials, included were trade and economic experts from academia, policy institutes and the media; corporate members from many nations; and fifty Ambassadors to the United States from both Europe and the Asia/Pacific.

Mr. Speaker, in order to more fully inform our colleagues of this recent conference, I request that the following summary of the main points and proposals at IMDI's Ditchley Park Conference, February 15–16, 1992, be inserted at this point in the RECORD.

Overriding threat of economic nationalism—In their surveys, participants ranked as very high the threat of economic nationalism and the failure of the Uruguay Round of the trade talks. Discussion of specific U.S.-Japan and European-Japan trade problems led to a general assessment of the danger of economic nationalism escalating into international disputes. The new protectionism is seen as coming from both the left and right of the political spectrum.

Need for New Approach to GATT—Participants believe there is a need for different approaches to the Gatt, ways of getting beyond the present gridlock. The world is shifting from security threats to economic competition and trade tensions accordingly arise. A new high-level initiative could inject needed political will to bring the GATT and U.S.-Japan-European trade and investment issues into a more harmonious balance. This would favorably impact trans-Atlantic and trans-Pacific political/security issues as well.

Role of Agriculture—Participants noted that agricultural interests in all of the affected countries have considerable clout and that agriculture's linkage with other issues cannot be dismissed. At the same time, ways need to be found to keep the relatively small agricultural components of national economies from undermining agreement on the much larger issues in international trade and investment.

Dangers to Emerging Democracies—After spending trillions on the Cold War and witnessing the demise of communism, participants believe the West must better mobilize to assist the emerging democracies of East Europe and the former Soviet Union. These nations would be dealt a severe blow by protectionism and economic nationalism. Their integration into the western trading system offers the best prospects for making the painful transition from the command economies to free enterprise. Governments, the G-7, the IMF and other institutions need to do more. Participants see a meaningful role for the private sector in assisting Eastern Europe and the new states of the former U.S.S.R.

A New Initiative is Possible—Participants believe that IMDI itself can provide the scope and structure for an activist, corporate-driven group to accelerate the process of transition in Eastern Europe and the former U.S.S.R. IMDI will outline the founding of a center which could act as a catalyst between the emerging private sectors and governments in those countries, on the one hand, and businesses, foundations, and government circles in Europe, the U.S. and Japan, on the other.

Shared Leadership—The United States can and should no longer carry the entire leadership burden. Europe must become a full partner, a co-pillar in the now significantly changed political and security environment. Japan will also have to play more of a global partnership role.

Business-Government Partnership—Corporate and government leaders must work together in these demanding times. More than before, the business community will be the flag carrier of international politics. Government cannot be expected to come up with all the answers. Corporate participants emphasized their need to operate 24 hours a day regardless of delays in governments' policies and decisions. Participants believed that corporate leaders should sound off and take a greater role on key issues, particularly when various governments are preoccupied with political and electoral considerations.

Role of IMDI—Participants agreed that IMDI's importance for the times derives primarily from its being a corporate-driven, neutral forum. Its Washington activities and the Ditchley conference illustrate the fact that IMDI is a transmission belt for business to carry its concerns and issues to government partners and leaders, and vice versa.

Mr. Speaker, I believe the foregoing conveys the essence of what IMDI is all about. It stresses the need for a bold new vision to deal with immediate challenges. It is concerned about slippage on both the trade and economic front and sees us plagued by what it calls the FUD factor, namely Fear, Uncertainty, and Doubt. It believes that America, Europe, and the global economic community stand poised at an exciting, promising, yet highly dangerous turning point in human history.

IMDI members believe we can begin to prepare a design of a bold new vision. A critical moment for presenting this design will be when IMDI meets with the new leadership of the White House and Congress on March 17–18, 1993, during the important first hundred days following the U.S. elections. At that point, IMDI will present and discuss its next "White Paper/Special Report to the President and Congress of the United States." This mission of vision is what IMDI is all about. With it, we can begin getting down to working out the details. The devil may indeed lie in the details, but IMDI sees a much bigger devil in lack of a vision to get going.

WHO'S LOSING RUSSIA?

HON. HARRY A. JOHNSTON II

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 10, 1992

Mr. JOHNSTON of Florida. Mr. Speaker, former President Nixon asked:

What has the United States * * * done so far to help Russia's first democratic, free-market oriented, non-expansionist government?

His answer: Some grain, a few Peace Corps volunteers and an easy "photo-op" international conference, comprising a "pathetically inadequate" response to the changes in the former Soviet Union.

While I am not accustomed to quoting President Nixon, I believe that his recent memorandum entitled "How to Lose the Cold War" is a devastating commentary on this Administration's policy toward Russia and the other former Soviet republics. Mr. Nixon makes a strong case that our stake in the success of President Boris Yeltsin's reforms is enormous, but that our response to date has been slow, timid, and superficial. As he says, "The hot-button issue in the 1950's was, 'Who Lost China?' If Yeltsin goes down, the question of 'who lost Russia' will be an infinitely more devastating issue in the 1990's."

I highly recommend to my colleagues the following articles from today's New York Times—one by the Times' Thomas Friedman and the other by National Public Radio's Daniel Schorr—which summarize Mr. Nixon's views and provide excellent analyses of President Bush's growing failure to seize this historic moment.

[From the New York Times, Mar. 10, 1992]

NIXON SCOFFS AT LEVEL OF SUPPORT FOR RUSSIAN DEMOCRACY BY BUSH

(By Thomas L. Friedman)

WASHINGTON, March 9.—Former President Richard M. Nixon has sharply criticized President Bush and Secretary of State James A. Baker 3d for what he calls the Administration's pathetic support of the democratic revolution in Russia. He says one of the historic opportunities of this century is being missed.

In a memorandum circulated among friends and foreign affairs experts, Mr. Nixon faults Mr. Bush and other candidates for virtually ignoring the issue in the Presidential campaign.

Mr. Nixon argues passionately that if President Boris N. Yeltsin fails in his effort to transform Russia into a free-market democracy, everything that has been gained in the peaceful revolution there in 1991 will be lost. He said that would weaken democratic forces and embolden dictators from China to Eastern Europe and from the Middle East to Korea.

AS IF A PENNY-ANTE GAME

Despite having so much at stake, Mr. Nixon says, the Bush Administration's support for Russia in some areas is comparable to assistance extended to a small country like Burkina Faso, formerly Upper Volta.

"The stakes are high, and we are playing as if it were a penny-ante game," Mr. Nixon said.

While not mentioning Mr. Bush or Mr. Baker by name in his critical passages, Mr. Nixon leaves no doubt about the way he feels they have inadequately supported President Yeltsin. The Administration's support has been primarily $3.75 billion in commercial credits to buy American grain, and an international aid conference in Washington that produced a onetime airlift made up of medical supplies and enough leftover Persian Gulf war rations to feed Moscow for one day.

'PHOTO-OPPORTUNITY' PARLEY

"What has the United States and the West done so far to help Russia's first democratic, free-market oriented, none-expansionist government?" Mr. Nixon asks in the memo. "We have provided credits for the purchase of agricultural products. We have held a photo-opportunity international conference of 57 foreign secretaries that was long on rhetoric but short on action."

"We have decided to send two hundred Peace Corps volunteers—a generous action if the target of our aid were a small country like Upper Volta but mere tokenism if applied to Russia, a nation of almost 200 million people covering one-seventh of the world's landmass," he added. "This a pathetically inadequate response in light of the opportunities and dangers we face in the crisis in the former Soviet Union."

Mr. Nixon argued that the United States and its Western allies should provide much larger amounts of humanitarian aid, reschedule the debts incurred by the former Soviet Union until the new market economy begins to function, and create a multi-billion dollar fund to help stabilize the Russian ruble as soon as Russia gets control of its money supply.

His critique comes at a time when Mr. Bush has almost forsaken the foreign policy front as he concentrates on his re-election. Administration foreign policy experts have been complaining privately that the President has become so concerned about the isolation trends in the country—which his main Republican rival, Patrick J. Buchanan, has been encouraging—that he has not only muted his support for foreign aid and increased assistance to the former Soviet lands, but he has also virtually stopped talking about foreign policy at all, except to extol the victory in the gulf war.

The only reason that the Administration now has $400 million to spend in helping Russia and the other republics dismantle their nuclear weapons is because the money was pushed through by Congressional Democrats last year, without the support of Mr. Baker or Mr. Bush.

TAKING ISSUES TO VOTERS

Congressional leaders have told the Administration that if it wants a 1992 foreign aid bill that will include such things as money for international peacekeeping operations and increased contributions for the International Monetary Fund so it can help Russia, the President is going to have to get out and fight for it in Congress and with the public.

"The American people overwhelmingly oppose all foreign aid because they want to see that money spent on solving our problems at home," said Mr. Nixon, who published a sanitized, much less critical version of his memo in Time magazine this week. "But the mark of great political leadership is not simply to support what is popular, but to make what is unpopular popular if that serves America's national interest."

"What seems politically profitable in the short term may prove costly in the long term," he added. "The hot-button issue in the 1950's was 'Who lost China?' If Yeltsin goes down, the question 'Who lost Russia?' will be an infinitely more devastating issue in the 1990's."

The Democratic Presidential candidates, none of whom have much foreign policy experience, have not been much more aggressive than the President on the Russian aid issue. While all have said that Russia and the other former Soviet republics should be helped in their move toward democracy, none has made the issue a centerpiece of his election campaign or pushed it as a major item in his campaign advertising.

Mr. Nixon's memorandum is the latest of many public policy pronouncements that have helped to refurbish the image of the former President, who resigned in disgrace in 1974 over the Watergate scandal. Mr. Nixon has also just published a book, "Seize the Moment: America's Challenge in a One-Superpower World."

He begins his analysis in the memo by writing, "While the candidates have addressed scores of significant issues in this Presidential campaign, the most important issue since the end of World War II—the fate of the political and economic reforms in Russia—has been virtually ignored."

What will determine whether "the final battle of the cold war will be won or lost," he argued, is whether "President Yeltsin's economic reforms succeed in creating a successful free-market economy."

If Mr. Yeltsin fails, Mr. Nixon said, "war could break out in the former Soviet Union as the new despots use force to restore the 'historical borders' of Russia."

"The new East European democracies would be imperiled," he continued. "China's totalitarians would breathe a sigh of relief. The new Russian regime—whose leaders would cozy up to the Soviet Union's former clients in Iraq, Syria, Libya and North Korea—would threaten our interests in hot spots around the world."

In light of these stakes, "the West must do everything it can to help President Yeltsin succeed."

SIX STEPS OUTLINED

"The bottom line," Mr. Nixon said, "is that Yeltsin is the most pro-Western leader of Russia in history." He said the West must help the Yeltsin Government in six ways:

By providing humanitarian food and medical aid to get the Russian Government through the critical months until the reforms start working.

By creating a "free-enterprise corps" that will send thousands of Western managers to Russia to infuse newly independent enterprises with capitalists tools.

By rescheduling Soviet debt incurred under President Michael S. Gorbachev and defer interest payments until the new market economy begins to function.

By allowing greater access to Western markets for Russia's exports.

By joining with other industrial nations "to provide tens of billions of dollars for currency stabilization through the I.M.F. as soon as Russia gets control of its money supply."

By creating a single Western-led organization to coordinate government and private aid to Russia and other republics, as the United States did in rebuilding Europe after World War II.

The Nixon Library is holding a two-day foreign policy conference in Washington starting Wednesday, and Mr. Bush will be giving the keynote address. This may explain why the last paragraph in his analysis contains the only explicit reference to the President:

"President Bush is uniquely qualified to meet this challenge," Mr. Nixon said, because the leadership he exhibited in the gulf war "can insure that the cold war will end not with just the defeat of Communism but also with the victory of freedom."

[From the New York Times, March 10, 1992]

HOW TO LOSE THE COLD WAR

(By Daniel Schorr)

WASHINGTON—President Bush, on the defensive against "America Firster" Patrick Buchanan and "America Come Home" Democrats, is in danger of snatching defeat from the jaws of cold war victory.

Says who? Says Richard M. Nixon, that's who.

The former President is coming to Washington tomorrow for a conference organized by his Presidential library on "America's changing role in the world." A memorandum he has privately circulated in advance is titled "How To Lose the Cold War." It makes clear that he is planning a head-on challenge to the Bush Administration's faltering response to the crisis in the former Soviet Union.

The strikingly blunt four-page memorandum suggests that the Pentagon planners who, according to an article in this newspaper on Sunday, foresee a world where America is No. 1 and internal upheaval in the former U.S.S.R. is nothing to worry about, are not living in the real world.

In the real world, according to Mr. Nixon, if reform fails to produce a better life for Russia and the other former Soviet Republics, "a new and more dangerous despotism will take power, with the people trading freedom for security and entrusting their future to old hands with new faces."

"The West," Mr. Nixon says, "has failed so far to seize the moment to shape the history of the next half-century. * * * If [Russian President Boris] Yeltsin fails, the prospects for the next 50 years will turn grim. The Russian people will not turn back to Communism. But a new, more dangerous despotism based on extremist Russian nationalism will take power. * * * If a new despotism prevails, everything gained in the great peaceful revolution of 1991 will be lost. War could break out in the former Soviet Union as the new despots use force to restore the 'historical borders' of Russia."

In his scary scenario of a reconstituted nationalist Russia, Mr. Nixon sees renewed threats around the world, from former Soviet clients like Iraq, Syria, Libya and North Korea, contributing to a spread of conventional weapons, ballistic missiles and nuclear technology.

"If freedom fails in Russia," the memorandum says, "we will see the tide of freedom that has been sweeping over the world begin to ebb, and dictatorship rather than democracy will be the wave of the future."

Mr. Nixon, never one to understate his case, is clearly seeking to jolt the Bush Administration into accepting the survival and success of President Yeltsin as something like a national emergency for the United States. For Mr. Nixon, there may be unconscious self-identification with Boris Yeltsin when he writes, "like all strong leaders who try to make a difference, Mr. Yeltsin is not perfect. He has made serious mistakes. But he is an extraordinary historic figure."

What the U.S. and the West so far have done to aid Yeltsin's Russia—grain credits, a "photo-opportunity international conference" in Washington in January, an airlift of surplus food, a Peace Corps contingent—Mr. Nixon views as a "pathetically inadequate response in light of the opportunities and dangers we face in the crisis in the former Soviet Union."

The former President proposes a "crucial" six-point program including humanitarian food and medical aid; a "free enterprise corps" of Western-managers to help with free market skills; the rescheduling of the Soviet debt and interest payments; greater access for Russian exports to Western markets; participation in a ruble stabilization fund, and the creation of a single Western organization to coordinate governmental and private aid projects.

The U.S., he continues, must "provide the leadership" and "bear our share of the burden." Mr. Nixon warns: "The stakes are high and we are playing as if it were a penny-ante game."

Directly challenging President Bush, the former President acknowledges the current unpopularity of foreign aid and asserts that "the mark of great political leadership is not simply to support what is popular but to make what is unpopular popular if that serves America's national interest."

"President Bush is uniquely qualified to meet this challenge," says Mr. Nixon. "The brilliant leadership he demonstrated in mobilizing the coalition abroad and the American people at home to win victory in the Persian Gulf can insure that the cold war will end not just with the defeat of Communism, but also with the victory of freedom."

However flattering the wording of Mr. Nixon's challenge, it is bound to add to President Bush's predicament. He, too, has been lavish in praise of President Yeltsin, but has shown himself hesitant to make any substantial investment in the success of the new Russian Government.

In December, the Administration failed to support a move in Congress to designate $1 billion in the defense budget for disarming nuclear weapons and avoiding an atomic "brain drain" in the former Soviet Union. Since then, the Administration has proposed a $25 million institute in Moscow to employ some of the thousands of nuclear scientists and technicians left jobless by the country's breakup.

But this falls woefully short of the need. As Mr. Nixon noted, American assistance has been largely symbolic. The Administration has been less than vigorous in pressing Congress to make good on President Bush's pledge to increase resources of the International Monetary Fund to help finance assistance to the former Soviet republics.

More preoccupied with his candidacy than with his Presidency, Mr. Bush has shown little inclination to come more dramatically to Russia's support. And Mr. Nixon by implication criticizes the President for becoming too preoccupied with domestic issues. "Tinkering with the tax code or launching new domestic initiatives will have little economic significance," he says, "if a new hostile despotism in Russia forces the West to rearm."

It is ironic that the President should find himself in a foreign policy face-off with both an interventionist Republican predecessor and an isolationist Republican aspirant, but not with his Democratic opponents. Mr. Bush has been under some criticism in Congress, notably from Representative Les Aspin, Democrat of Wisconsin and Chairman of the House Armed Services Committee, for an inadequate response to the crisis in the former Soviet Union. But the Democratic candidates, who collectively have little foreign policy experience, have tended to concentrate on domestic issues. So Mr. Nixon stands almost alone in flinging down the interventionist gauntlet to a President who has seemed more worried about isolationist sentiment.

As chilling a warning as any is this statement from Mr. Nixon: "The hot button issue in the 1950's was, 'Who lost China?' If Mr. Yeltsin goes down, the question of 'Who Lost Russia?' will be an infinitely more devastating issue in the 1990's."

Mr. Nixon has also made sure that the incumbent will not be able to duck the question. Tomorrow, the former President will give the keynote speech at his conference. (The printed program lists him as "President Richard Nixon.") The scheduled speaker at the dinner that evening is President Bush.

It has been a long time since Mr. Nixon positioned himself so well to shake up the policy of a Republican Administration. The two will undoubtedly have a lot to talk about at the dinner table.

TRIBUTE TO EUFAULA, AL, PRESERVATIONISTS

HON. WILLIAM L. DICKINSON

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 10, 1992

Mr. DICKINSON. Mr. Speaker, today I would like to pay tribute to five residents of the Second Congressional District who were recently honored by the Alabama Historical Commission for their historic preservation efforts. The commission, celebrating its 25th year, named Douglas C. Purcell, Mrs. George Alexander, L.Y. Dean III, Mrs. Carl Strang, and Joel P. Smith Silver Anniversary Award recipients.

These recipients are all citizens of the beautiful, historic town of Eufaula, AL where preservation efforts were begun prior to the creation of the historical commission by the Alabama State Legislature. The activities of these award winners have been vital to ongoing preservation activities in the Eufaula area.

Mrs. Strang chaired the first Eufaula Pilgrimage in 1966. She has also been active in the Eufaula Heritage Association and has served on the board of the Historic Chattahoochee Commission. While serving on the commission she was instrumental in the publication of historic books and pamphlets devoted to the Lower Chattahoochee River Valley's history.

Mrs. Alexander had a leading role in obtaining grant funds for and conducting a historic buildings survey in Eufaula. She successfully nominated the Seth Lore Historic District and Glenville's historic district for recognition on the National Register of Historic Places. She also helped to secure a HUD grant for the restoration of the antebellum Wellborn House, the area's first Greek revival mansion.

Mr. Purcell serves as Alabama adviser to the National Trust for Historic Preservation and has been nationally recognized. He was an organizer of the Historic Chattahoochee Commission, for which the first bi-State compact for a preservation commission was passed by Congress. He has published an article in a recent issue of Historic Preservation Forum. He is past president of the Alabama Preservation Alliance and a frequent speaker at regional and national heritage tourism conferences.

Mr. Dean, president of Eufaula Bank and Trust, set the bank's policy of making generous loans at low rates to foster historic restoration projects. He has become an avid spokesman for historic preservation in Alabama.

Mr. Smith, a past president of the Heritage Association, has authored several articles about Eufaula's historic properties and the Eufaula Pilgrimage. He has twice received the Alabama Historical Commission's distinguished preservation award. He and his wife, Ann, were charter members of the Alabama

Live-In-A-Landmark Council. Smith also restored the Lampley-Robinson pioneer cottage, which now houses the offices of "The Eufaula Tribune."

I ask Members of Congress to join with me in recognizing these citizens for their central roles in helping Eufaula become "Symbol of the Old South" while remaining "Cradle of the New."

[From the Eufaula Tribune, Dec. 11, 1991]

FIVE HONORED FOR HISTORIC PRESERVATION EFFORTS

Five Eufaulians were among Alabama's historic preservationists honored in Montgomery during the Alabama Historical Commission's historic preservation conference, celebrating the commission's 25th anniversary.

Silver anniversary awards were given in honor of Alabama's pioneer preservationists. Those from Barbour County who were recognized were: Douglas C. Purcell, Mrs. George Alexander, L.Y. Dean III, Mrs. Carl Strang and Joel P. Smith.

Several of the Eufaulians' involvement with historic preservation began before the Historical Commission was chartered by the Alabama Legislature.

Progress and preservation have gone hand in glove in historic Eufaula. Following the impoundment of the Chattahoochee River, and creation of Lake Eufaula, progress became so rapid—with construction of new inland docks, big industries, new motels, apartments and new homes—heritage-conscious Eufaulians worried about old landmarks being destroyed to make way for new buildings. Other vintage buildings were victims of demolition by neglect.

When a house-wrecking crew demolished the antebellum home of Gov. William Jelks, many local people began to wonder if something couldn't be done to preserve some of the town's proud old buildings. When Shorter Mansion was placed on the auction block in the summer of 1965, a small group appealed to the Eufaula City Council. Mayor E.H. Graves Jr. appointed Joel P. Smith, Tribune publisher, chairman of a citizens' committee to look into the possibility of bidding on the Greek Revival-style mansion on North Eufaula Avenue.

They purchased the showplace with its handsome Corinthian columns, for $33,000. Townspeople pledged or gave more than $50,000 toward preserving the mansion that was admired by tourists. "The Eufaula Heritage Association was born, not organized," President Yank Dean often quipped. He served as Heritage Association president and Mrs. Strang served as vice-president until 1972 when Smith and Mrs. Martha Houston were elected to the respective offices.

Dean, president of EB&T, maintained Eufaula didn't need a revolving fund, as did Savannah, where endangered landmarks were purchased. The bank made generous loans at low rates to foster restoration projects. He became a spokesman for historic preservation in Alabama.

Mrs. Strang chaired the first Eufaula Pilgrimage, 27 years ago. She helped organize the community and a small army of Eufaula ladies, dressed in period costumes, hosted the 2,000 visitors who came to the Bluff City's first tour of homes in 1966. She insisted the Heritage Association be led by successful men in the community, fearing it could evolve into an historical society rather than a preservation-oriented organization.

Mrs. Strang also served on the Historic Chattahoochee Commission's board and played a leading role with the commission's publication of historic books donated to the Lower Chattachoochee Valley's history and pamphlets promoting the basin's historic properties.

Mrs. Alexander assisted AHC director Warner Floyd in seeking a grant to fund an historic buildings survey in Eufaula. She and Mildred Houston worked with volunteers who researched the deeds on the town's historic buildings. She also did necessary paperwork to successfully nominate the Seth Lore Historic District and Glennville's historic district to the National Register of Historic Places.

She completed research for an application for a HUD grant to restore the antebellum Wellborn House, the area's first Greek Revival mansion. The Eufaula Arts Council moved from Orange Street to Front Street, where it was restored as an art museum.

Purcell, Alabama advisor to the National Trust for Historic Preservation, is a nationally-recognized preservationist. The fledgling Historic Chattahoochee Commission was organized under his directorship and the first bi-state compact for a preservation commission was passed by Congress. Historic Preservation Forum recently published his article on the Chattahoochee Commission's operations, and he is a frequent speaker at regional and national heritage tourism conferences. He is a past president of the Alabama Preservation Alliance.

Smith is a past president of the Heritage Association and has written several magazine articles, including one in Antiques magazine, about Eufaula's historic properties and the Eufaula Pilgrimage. Twice he received the Alabama Historical Commission's distinguished preservation award and he and Mrs. Smith were charter members of the Alabama Live In A Landmark Council. Once the award was shared with his wife, Ann. They often open their antebellum home they restored for the Pilgrimage and other, preservation events. Smith also restored and adapted the Lampley-Robinson pioneer cottage as offices for The Eufaula Tribune.

TRIBUTE TO SY MAXWELL

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 10, 1992

Mr. BERMAN. Mr. Speaker, I rise today to pay tribute to an outstanding leader and my good friend—Sy Maxwell. The Boys and Girls Club of the San Fernando Valley will be honoring Sy with the prestigious Golden Man Award in recognition of his outstanding service to the children of the San Fernando Valley.

Sy believes deeply in the work of the Boys and Girls Club and has long been an active member and officer of the board of directors. In recent years, he has served as vice president, secretary, and member of the executive committee.

Sy has earned his distinguished record of achievement in the San Fernando Valley. He has worked as an insurance broker and agent since 1955, and is the founder and present partner of a successful regional insurance firm. Sy has also diligently supported the Independent Insurance Agents & Brokers Association of California in a variety of capacities during his career. His longstanding commitment to the association includes distinguished service as president of the San Fernando Valley Chapter in 1969 and 1970, first chairmanship of the professional liability and workers' compensation committees, as well as being a 20-year member of the legislative committee, the last 4 years as chairman. Most recently Sy has served as member of the board of directors.

Throughout his life, Sy has consistently put his commitment to improving the quality of life in our community ahead of personal or material gain. He has set exemplary standards of excellence not only in his professional career, but in his private life through his tireless efforts on behalf of numerous community and social issues. He is founder and member of the board of directors of Insurance Council for the City of Hope and past president of its Club 500. He is also past president of the Beverly Hills Business & Professional Mens Association.

Sy and his lovely wife Charlotte have four children who share our pride in his many accomplishments. It is my distinct honor to ask my colleagues to join me in saluting Sy Maxwell whose many years of community service are an inspiration to us all.

DR. DANIEL MINTZ: A CARING PHYSICIAN WITH A MISSION

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 10, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to pay tribute to a physician who has devoted over two decades in the research and development of a cure to a disease which kills 300,000 Americans a year, children and adults alike, and has become the third leading cause of death in the United States. The disease is diabetes and the physician is Dr. Daniel Mintz, director of the Diabetes Research Institute at the University of Miami.

Diabetes already affects 14 million Americans. The disease occurs when the body cannot produce its own insulin, which helps regulate blood-sugar levels and carbohydrates. It decreases the amount of energy provided to the body and can shorten a person's life.

Dr. Mintz and his team of 70 doctors and researchers have in the past few years astonished the medical community with a major accomplishment in the research of diabetes. They are now able to reverse diabetes in a procedure which involves transplanting insulin-producing islets into the patient's liver.

This procedure, which was first tested in a human patient in 1989, is merely in its developing stages. But Dr. Daniel Mintz has a mission: To quickly find a cure to this disease, an achievement that would allow patients to enjoy the freedom they so much desire.

This freedom might come sooner than expected. A $60 million state-of-the-art diabetes research and treatment center is scheduled for completion next fall at the university's medical school campus. Dr. Mintz has recently begun recruiting 200 of the best scientists in the world to join his already prestigious staff. His ambition is to have these leading scientists and researchers work together to coordinate their efforts, minimize duplication, and keep the program focused.

Dr. Mintz has great hopes for the future. I am confident that with his commitment and dedication, and that of his team of health care professionals, a cure to this devastating disease is imminent.

I am proud to have this opportunity to honor Dr. Daniel Mintz, a physician who deeply cares for his patients and understands their frustrations. His hope and devotion to his work is an inspiration to us all.

SALUTE TO THE SEABEES

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 10, 1992

Mr. GALLEGLY. Mr. Speaker, I am proud to rise today to honor the U.S. Navy Seabees as they mark their 50th anniversary, as well as the golden anniversary of the Naval Construction Battalion Center in Port Hueneme, CA.

Formed during the early days of World War II, the Seabees from the first letters of construction battalion—performed remarkable feats of construction during World War II, participating in every major invasion in both the Pacific and Atlantic theaters of operation. Military historians agree that the Seabees played a significant role in the Allied victory, particularly in the war against Japan.

After serving with distinction in both the Korean and Vietnam wars, the Seabees showed their can-do spirit during Operations Desert Shield and Desert Storm, where they provided swift assistance in moving equipment and supplies and building key facilities. They off-loaded Marine Corps equipment and supplies, built a 500-bed hospital, 10 camps, a prisoner of war compound, 3 galleys, 10 aircraft parking aprons, 2 runways, 2 hangars, 3 ammunition supply points, and 4 medical facilities.

In addition, by building 200 miles of four-lane highway in the sands of Saudi Arabia, the Seabees enabled our ground forces to achieve their incredibly successful end run against entrenched Iraqi forces. As President Bush said, our brave Seabees literally paved our way to victory.

Mr. Speaker, I ask my colleagues to join me in saluting the outstanding men and women of the Seabees, particularly those stationed at Port Hueneme, for their accomplishments and for their continued role in helping provide for the common defense.

COMMEMORATING THE 60TH ANNIVERSARY OF THE HUNGER MARCH

HON. JOHN D. DINGELL

OF MICHIGAN

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 10, 1992

Mr. DINGELL. Mr. Speaker, today we rise to commemorate a dark day in the history of the American labor movement. March 7, 1992, marked the 60th anniversary of the hunger march staged by Detroit's Unemployed Councils at Ford Motor Co.'s Dearborn auto plant.

The hunger march was a watershed in the American labor movement. The dreadful events of the day served as a catalyst for change. The needless brutality raised public consciousness, helped to sweep Franklin Delano Roosevelt into office, and focused needed attention on the struggles of our working men and women.

On that bitter winter morning in 1932, during the height of the Great Depression, nearly 5,000 jobless workers from Ecorse, Detroit, River Rouge and countless other southeastern Michigan communities assembled in Detroit at Oakwood and Fort Street, and prepared to stage a hunger march on Ford's Dearborn auto plant to demand jobs, medical aid and emergency relief for the unemployed. As the procession entered the city of Dearborn, crossed Dix Avenue and approached gate three of the factory with the intention of delivering a petition to Ford officials, they were confronted by city firemen and police officers, who prepared to drench the crowd with fire hoses. The Dearborn police, perhaps nervous over rumors that the hunger marchers had been infiltrated by Communist agitators who intended violence, hurled tear gas canisters into the orderly procession. A few protestors picked up pieces of coal and rocks from the street to defend themselves against the police barrage. Without warning, from inside the gates of the plant, Dearborn police and guards from Ford Motor Co.'s infamous service department leveled their guns at the marchers and opened fire, spraying the crowd with hundreds of rounds of ammunition. In the chaos that ensued, several panicked protesters were trampled as the crowd bolted and ran. When the smoke had cleared, four people lay dead outside the plant's gates and over 50 unarmed demonstrators lay wounded and bleeding on Miller Road.

Instead of denouncing this attack on unarmed marchers, Dearborn and Detroit police officers used the incident as an excuse to launch a brutal crackdown on local workers, raiding the auto workers union headquarters, several ethnic meeting halls, and the homes of various union leaders. Police officers even went so far as to handcuff two of the seriously wounded hunger marchers to their hospital beds in a Detroit hospital on the premise that they were leftist agitators.

Five days later, nearly 60,000 people participated in a mass funeral procession for the slain hunger marchers. As they marched singing from Ferry Street to Grand Circus Park, their songs could be heard throughout the city.

The repercussions of March 7, 1932, were tremendous. While some in the business community used the incident as an excuse to charge Communist influence over unions, it is widely condemned even in most quarters of the business community as a unprovoked attack on unarmed, peaceful workers.

The 60th anniversary of the hunger march stands as a benchmark of how far working Americans have come, and as a rallying point for their continuing struggle. We ask our colleagues to join us today in remembering this dark anniversary and those who suffered and died fighting for the dignity of working men and women in the United States.

This anniversary reminds us of both the struggles and the tremendous accomplishments of the American labor movement. Millions of American workers have contributed to the emergence of the United States as a world power and bolstered our Nation in times of hardship and prosperity. Organized labor has made vast strides over the past century by listening and tirelessly striving for fair working conditions and a decent standard of living for all Americans.

Organized labor has succeeded in bringing about legislation to require minimum wages, maximum hours, and progressive child labor laws. In addition, our labor movement has been instrumental in creating unemployment insurance in an effort to provide for the financial security of millions of wage earners. Through the force of collective bargaining and political organization, labor unions have often functioned as our social conscience, and engineered positive changes.

Additionally, the American labor movement has served as one of the foremost proponents of civil rights and legal services legislation and continually fought for increased Federal aid to education. In recent years, the labor movement has advocated comprehensive child care legislation, employer-provided family and medical leave legislation, and a national health care policy.

Labor's legislative successes have included the creation of the Occupational Safety and Health Administration, pension protection legislation, measures increasing the minimum wage, plant closing legislation, and polygraph testing protection measures.

The history of the labor movement in the United States serves as a source of immense pride. During the 60th anniversary of the hunger march, we pause to remember the major contributions working men and women in the labor movement have made, and will continue to make, in our everyday lives.

A TRIBUTE TO MENACHEM BEGIN

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 10, 1992

Mr. GILMAN. Mr. Speaker, earlier this week the world lost one of the premier leaders of the 20th century. Menachem Begin, a patriot who played a pivotal role in the development of Israel, will always be remembered as an outstanding national leader whose cherished beliefs helped to usher in a new world era.

The death of former Israeli Prime Minister Menachem Begin sadly brings the curtain down on an important chapter of Middle East history, and on a proud chapter in the history of Israel.

Prime Minister Begin was one of the few remaining survivors of that generation of Israeli freedom fighters who brought Israel's existence into being. His hard-nosed hawkish approach and his adherence to firmly rooted principles throughout his 50-year fight for Israel's integrity, began when he escaped the Nazis in 1942, after they had murdered his family.

David Ignatius, foreign editor of the Washington Post, writes of Begin in this morning's edition of that newspaper:

> He was born into his generation of holocaust and redemption, and it was foolish of the Americans, let alone the Arabs, to imagine that they could ever sweet-talk Begin out of it, and into a sense of security and confidence that his entire history denied.

For Begin was a creation of his generation—a generation which Begin himself described as follows: "I survived 10 wars, two world wars, Soviet concentration camp, five years in the underground as a hunted man and 26 years in opposition in the Israeli parliament."

Menachem Begin, who survived hardships and horrors which seem almost unbelievable today, came to power as Prime Minister of Israel in 1977. The world trembled, for many feared that his hardline policies would undermine efforts for peace. Instead, his dedication to principles led to the only negotiated peace between Israel and any Arab State to date—an outstanding accomplishment which brought him the richly deserved 1978 Nobel Peace Prize, which he shared with Egypt's President, Anwar Sadat, who shared Begin's vision and courage.

Mr. speaker, I came to know Menachem Begin personally through my work on the House Foreign Affairs Committee. I had a high regard for his strong leadership and his dedication to his homeland and to the Israeli people.

He also came to be respected for his farsightedness, as exemplified by his bringing about Israel's destruction of the Iraqi processing plant where Saddam Hussein was assembling nuclear weapons. This act, in 1981, was widely criticized at the time. Subsequent events, however, proved Begin to be prescient.

Menachem Begin stepped down as Prime Minister of Israel in 1983. Sources close to him disclosed, after his death earlier this week, that he never forgave himself for being out of Israel on a mission to the United States, away from his family, when his wife died. Samuel Lewis, who was U.S. Ambassador to Israel, stated: "He always felt guilty, unfairly guilty, for not having been at her side."

Mr. Speaker, Menachem Begin's name will long appear in bold print in world history. I invite all of our colleagues to join with me in expressing condolences to his family, and do all of Israel, who have lost a genuine champion.

NATIONAL FOREIGN LANGUAGE WEEK

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 10, 1992

Mr. PANETTA. Mr. Speaker, I rise today to celebrate the 34th Annual National Foreign Language Week. National Foreign Language Week is designated every year as the first week in March and was first proclaimed by President Eisenhower in 1958 to acknowledge the importance of foreign languages as a key to understanding and opportunity.

As we approach the 21st century, our Nation faces global complexities and challenges never before countered in the history of mankind. As nations continue to become more interdependent, our citizens must possess the skills to effectively interact with our competitors, cooperate with our allies, and address our major world concerns. Support for foreign language acquisition and international education is particularly critical at this time due to the political and economic climate of our planet. Today's changing world conditions are focusing the attention of America on the inescapable reality of linguistic and cultural diversity—diversity which requires an increased commitment to prepare ourselves for the challenge of working harmoniously with other nations, and doing so in their language rather than demanding that they do it in ours.

Currently, the United States falls dangerously behind most other nations of the world in meeting the educational requirements which provide us with the necessary skills to communicate with other nations and understand other cultures. We are part of a global community and it is essential for people from the United States to communicate with others. Earlier foreign language instruction in American schools would give our youth better and broader professional opportunities. It would also create an essential awareness that the United States is not an island alone in the world. If we do not create that awareness, the United States faces a future less bright than our children deserve.

Americans have always lagged behind other countries in learning foreign languages, but rarely has the situation been so discouraging as it is today. Devoting the necessary years to understanding the ways of another country is the classic long-term investment: promoting expertise in foreign cultures is indisputably in the national interest. Peoples and languages which were once remote are no longer, for in many of our communities the strange sounds of unrecognizable languages and the sometimes misunderstood ways of other cultures are those of our neighbors. It is becoming increasingly apparent that we need knowledge and proficiency in other languages and cultures to cope on an everyday basis.

In recent years, I have had specific interest in helping to redress the lack of American competence in language and culture proficiency. During the last few Congresses, together with colleagues such as PAUL SIMON, CHRISTOPHER DODD, BILL BRADLEY, and GEORGE SANGMEISTER, I have introduced the National Security Through Foreign Language Assistance Act, the National Bureau of Language Services Act, the Foreign Language Assistance Act, the International Education for a Competitive America Act, and National Geography Awareness Week. Perhaps of greatest significance, for fiscal year 1991, Congress finally recognized the need to provide funding for the Foreign Language Assistance Act. I am very pleased that Congress approved increases in funding in this program, and title VI programs, which provide ongoing support for a broad category of foreign fellowships, research, study abroad, language and area studies centers, and centers abroad for intensive study of critical languages and cultures. It is these programs which provide the foundation for foreign language and international studies education in U.S. higher education.

To help us enhance current education programs, create alternative education programs, assist small and medium businesses, encourage qualified teachers, and provide the necessary high level government expertise, I have introduced the Global Education Opportunities Act, H.R. 1154, which now has the support of 100 of my colleagues. Title I of this bill would provide in-service programs for foreign language teachers, training for elementary foreign language teachers, distance learning programs, the creation of state and municipal institutes to assist business and professions in gaining international competence, grants for developing materials in elementary foreign language, culture, geography, and international studies, and support for consortia in critical languages and area studies. Title II encourages undergraduate study abroad, makes it easier for students to use grants and other assistance for study abroad, and adds a study abroad dimension to other international programs. Such initiatives would provide a good start toward closing the gap between the rest of the world and the United States in international expertise and second language competency by the beginning of the 21st century.

Today we face a time in human existence that is truly a historical crossroads. We inhabit a globe characterized by terrorism, revolution, overpopulation, environmental degradation, widespread hunger, and regional warfare. We must seize the moment and begin now to develop the knowledge and understanding necessary to cope with these current global complexities and shape a better future. More than any other contemporary crises, the greatest danger we face is the quiet crises of global incompetence and lack of international understanding. We cannot delay, we cannot postpone, we cannot tarry. Our vision for the future and how we respond to it must begin now.

EDITORIAL SHOWS VOTERS' SUPPORT FOR LINE-ITEM VETO

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 10, 1992

Mr. SOLOMON. Mr. Speaker, we're supposed to represent the will of the American people, but in no other instance have we defied that will more than in denying the President the line-item veto.

Take heed, ladies and gentlemen, because out in the heartland of America, outside this Washington Beltway fishbowl, the people are demanding action on curbing the irresponsible spending of this Congress. Some of you will not, I'm sure, take heed, and many of you aren't going to be here next year.

As proof of this growing sentiment I proudly place in today's RECORD an editorial from my hometown newspaper, the Glens Falls Post-Star, which urges President Bush to challenge Congress on this issue. And I hope he does.

[From the Glens Falls Post-Star, Mar. 10, 1992]

SHOWDOWN OVER POWER OF PURSE

A showdown is looming between President Bush and spendthrift Democrats in Congress over the line-item veto.

The Senate recently rejected a measure sponsored by conservative Republicans that would formally accede to the chief executive more control over spending. In response, the White House is hinting that Mr. Bush may unilaterally exercise a line-item veto and let the issue be resolved once and for all by the Supreme Court.

Constitutional scholars are divided on whether the president already possesses line-item veto authority. In fact, Attorney General William Barr testified at his Senate confirmation hearing that he found "no basis for an inherent line-item veto in the Constitution."

Others, like Rep. Tom Campbell, R-Calif., a former Stanford law professor, disagree. They cite the "presentment" clause of the Constitution, which requires that every individual bill passed by congress be presented to the president for his approval or rejection.

Congress circumvents this constitutional requirement by folding various unrelated measures into omnibus spending bills, in effect forcing the president to approve on an indiscriminate basis both worthy spending items and wasteful ones.

This abrogation of constitutional checks and balances was dramatized by Ronald Reagan six years ago when he held up a 43-pound, 3,296-page omnibus bill that had been presented to him by Congress. He either had to sign it or plunge the federal government into chaos by vetoing it.

Is this good government? That is the question President Bush should raise as he stumps for the line-item veto.

Sen. Robert Byrd, D-W.Va., the irascible chairman of the Appropriations Committee, promises the mother of all battles if the President pushes too hard for the veto. "One man's pork is another man's job," says Byrd, who has carved out $1.5 billion worth of pork for his home state during the last three years.

But the line-item veto is a winning political issue for Mr. Bush. Polls consistently show that more than two-thirds of the American people support this authority for the president. Surveys also show that many Americans are irate about Washington's profligate spending and runaway debt.

After all, why should taxpayers pick up the tab for such questionable spending as $1.7 million to alter genetically Africanized honey bees or $2 million to develop and stimulate sales of Native Hawaiian handicrafts? Why should they be shaken down for even $100,000 toward prickly pear and mesquite research or $200,000 for research into oil from the jojoba plant or $75,000 for dairy goat research?

To members of Congress who control the public purse, these may seem trifling sums when measured against a $1.5 trillion federal budget and a $400 billion deficit. But, in the immortal words of the late Republican Sen. Everett Dirksen of Illinois, "A billion here, a billion there, and pretty soon you're talking about real money."

A fresh report by the independent General Accounting Office bears this out. It calculates that if a line-item veto had been in place between 1984 and 1989, the president could have saved taxpayers $70 billion and reduced the deficit by 6.7 percent. That hardly amounts to loose change.

Whether a Republican or a Democrat is in the White House, the president should have a line-item veto. Mr. Bush should make a constitutional stand for this executive authority.

IN HONOR OF THE SEPHARDIC HERITAGE WEEK

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 10, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to pay tribute to the organizers and participants of the Sephardic celebration taking place from March 1 to 8 throughout south Florida.

Sephardic Heritage Week brings together members of our community or a celebration of faith, fellowship, and tradition. Artists, performers, authors, historians, scholars, and spiritual community leaders join in the commemoration of Sephardic Judaic tradition.

This 8-day celebration features live oriental music, varieties of traditional foods and pastries from Sephardic lands, photography and film exhibits, presentations, as well as several tributes to community leaders. Folk dances and productions as well as seminars featuring lectures, workshops, and discussions are a part of Sephardic Heritage Week.

In addition, a celebration of the Sephardim and the Discovery of America honors the 500th anniversary of Christopher Columbus.

I am proud to have this opportunity to honor and acknowledge the members of the executive committees and those who have participated in the production of the Sephardic Heritage Week celebration:

Isaac Garazi, president of the American Sephardi Federation of South Florida; Ezra Cohen, president of B'Nai Sephardim Shaare Shalom of Hollywood; Fanny Haim, president and Clarita Kassin, chairperson of the Hebraica of Mar-Jewish Community Center; David Immanuel, president of Congregation Magen David; Dr. Leon Behar, president of Fesela Committee Miami; Vicky Levy, president of the Sephardic American Club; Isidoro Behar, president of Sephardic Congregation of Florida Temple Moses; Dr. Henry Green, director of the Sephardic Studies Program at the University of Miami; Dr. Roberto Beraja, chairman of Sephardic Heritage Week 1992; Fred Alcheck, Joseph Alhadeff, Isaac Anidjar, Helen Barak, Alegre Behar, Enrique Behar, Ida Behar, Isidoro Behar, Raquel Behar, Dora Behar, Becky Behar, Eli Behar, Ing. Alberto Benhaim, Baruna Benhaim, Isaac Benharroch, Yehuda Ben-Horin, Prosper Benzrihem, Silvio Berlfein, Rosita Caspi, Dr. Isaac Cohen, Nena Cohen, Reina Del Castillo, Soli Djemal, Nelly Egozi, Meyer Elmaleh, Norie Erzoff, Rebeca Esquenazi, Jaime Farin, Brana Fils, Joseph Fils, Rafael Gamal, Anita Garazi, Esther Garazi, Salomon Garazi, Sebeto Garazi, Dr. David Mafdali, Juan Matalon, Rebeca Matalon, Victor Matalon, Blanca Maya, Dora Maya, Jose Maya, Samuel Maya, Verona Maya, Roger Mimoun, Ing. Jaime Mitrani, Esther Mitrani, Luna Mitrani, Alba Motola, Serge Otmezguine, Sylvia Otmezguine, Ted Pardo, Elias Salama, Valeria Wolberg, Sally Young, and Irving Young.

CONGRESSIONAL TRIBUTE TO CAPT. DON LEACH, LT. SHELBY ADAMS AND SGT. PAUL CONNELL

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 10, 1992

Mr. GALLEGLY. Mr. Speaker, I rise today to salute three outstanding members of the Ventura County, CA law enforcement community—California Highway Patrol Capt. Don Leach, Lt. Shelby Adams, and Sgt. Paul Connell—who are being honored upon their retirement.

Don Leach began his career with the California Highway Patrol [CHP] in 1962, and assumed command of the Ventura area office in 1978. During his tenure, Captain Leach was involved in numerous departmental projects and community service organizations. Perhaps his most significant accomplishments were his roles in obtaining approval for the callbox network that now aids motorists on county highways, and for gaining approval to use radar on Highway No. 126, historically one of the most dangerous roads in the State.

Captain Leach should also be recognized for his highly successful role in supervising athlete transportation during the 1984 Los Angeles Olympic Games, and for helping to ensure the safety of former President Reagan during the President's motorcades from Point Mugu to his ranch in Santa Barbara.

Since his retirement last June, Captain Leach has continued his service on the Ventura County Fair Board, and has launched a new career as an attorney.

Shelby Adams began his career with the CHP in 1968 and served in a variety of capacities in the field and at headquarters in Sacramento. There, he participated in planning and goals development, and managed the department's disaster preparedness program.

After coming to Ventura in 1989, he formulated policies and procedures; developed deployment and enforcement strategies; served as liaison with elected officials and the news media; and served as the departmental representative on local community action committees before retiring in December.

It's been said that noncommissioned officers are the key to an army's success or failure, and the same is true of law enforcement. As a sergeant for 23 of his 27 years with the CHP, Paul Connell was an outstanding supervisor and motivator of his officers.

During his 20 years in Ventura County, Sergeant Connell also was directly in charge of protective service details, which are organized for the safe movement of dignitaries. For his thoroughness and close attention to detail during President Reagan's visit to the county, Sergeant Connell was praised by the Secret Service.

Although Sergeant Connell's seniority entitled him to be called the "senior sergeant," his peers believed he earned it through his knowledge and professionalism.

Mr. Speaker, I ask my colleagues to join me in honoring these outstanding veterans of law enforcement, and in wishing them well in retirement.

INTRODUCTION OF THE FEDERAL ENERGY EFFICIENCY BANK ESTABLISHMENT ACT

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 10, 1992

Mr. SYNAR. Mr. Speaker, I rise today to introduce the Federal Energy Efficiency Bank Establishment Act of 1992. This bill is a companion of S. 1874, introduced by Senator KOHL on October 24, 1991.

In July 1990, the Government Operations Subcommittee on the Environment, Energy and Natural Resources, which I chair, held a joint hearing on Federal facilities energy conservation with the Energy and Power Subcommittee of the Committee on Energy and Commerce.

During the hearing we explored the reasons why Federal energy use, which had declined by 16 percent in the late 1970's and early 1980's, was actually on the rise in the 5 years immediately prior to our hearing.

This failure to maintain the pace of Federal conservation was especially important because the Federal Government is both the Nation's biggest energy user and its biggest energy waster.

Why is this the case? At the 1990 hearing, witnesses from Federal agencies, the General Accounting Office, and corporate America all agreed on one point—without some form of incentive for installing better technology, energy efficiency improvements would take the Federal Government many years to accomplish.

Under the current system of procuring energy services there is little reason for Federal agencies to cut their energy use since they don't get to keep the financial savings which result. Thus inefficient technologies remain in place while better and ultimately cheaper ones lose out. After our hearing, I joined with Congressman SHARP in requesting an Executive order on energy efficiency which President Bush signed on April 17, 1991.

The Executive order mandates a 20-percent reduction in energy use by Federal facilities by the year 2000. The energy saved by the order is equal to 100,000 barrels of oil per day or $800 million in energy costs per year.

H.R. 776, the National Energy Strategy bill currently pending before the Energy and Commerce Committee, contains several important amendments on Federal energy conservation including one which I cosponsored with Congressman MARKEY to allow agencies which install energy saving equipment to retain some of the savings which result from their lower energy use. But these valuable amendments cannot achieve their goals if funds are not initially available to prime the pump and get conservation investments moving.

The Federal Energy Efficiency Bank Establishment Act supplies this missing piece and jumpstarts the Federal energy efficiency program. Under the bill, beginning in fiscal year 1993, under a formula determined by the President and related to each agency's energy use, each Federal agency transfers funds to the Treasury which are used for a trust fund known as the Energy Efficiency Bank. The money in the bank is used to set up a revolving loan fund to pay for energy efficiency projects which meet the standards set out in the Executive order and certain Federal laws.

The bill further sets out a selection schedule and criteria for awarding conservation loans for projects which are technically feasible, and gives consideration to whether a project is cost-effective on a life-cycle basis, has funds leveraged from other sources, and evaluates the degree of energy savings provided. Without a secure source of funds for conservation investments the Federal Government will miss out on a chance to become more efficient. But the effect on the country as whole will be much worse: We will miss out on a relatively easy way to reduce our dependence on imported oil from unstable suppliers and reduce the gases which cause global warming.

TRIBUTE TO NEW HAMPSHIRE TEACHER PAMELA PELLETIER

HON. DICK SWETT

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 10, 1992

Mr. SWETT. Mr. Speaker, I rise today to pay tribute to an exemplary high school teacher from my home State of New Hampshire. Pamela Pelletier, a biology teacher from Pelham High School, has been selected as one of the recipients of the "1991 Presidential Awards for Excellence in Science and Mathematics Teaching for Elementary Teachers."

The National Science Foundation recognized Pamela for her outstanding teaching methods and for the example she has set for others in her field. In addition to the award, the National Science Foundation will make a $7,500 grant to Pelham High School. Pamela will direct the use of this money to enhance science programs and to supplement other resources.

Mr. Speaker, I am proud of Pamela for being one of only 108 science teachers across the United States chosen for this award. Her achievements both as a science instructor and as an adviser for student activities, such as peer outreaches, student government, and the crisis team, stand as evidence of her great accomplishments. By using techniques such as hands-on, cooperative learning and making her classroom student-centered, Pamela demonstrates the devotion to teaching and to students that will propel our Nation's students into the forefront of scientific achievement.

Mr. Speaker, I ask my colleagues to join me in congratulating Pamela on receiving this most deserved award. For our country to again reach the heights to which it soared, we must place great emphasis on the study of science and mathematics, the unique disciplines through which we provide ourselves and our children the opportunity to better our lives. By recognizing those who devote their careers to science education, we accelerate our technological progress that leads us all to better living. I commend Pamela for her great contribution to science education.

TRIBUTE TO ODESSA KOMER

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 10, 1992

Mr. BONIOR. Mr. Speaker, I am very pleased to join the UAW in honoring an impressive leader in Detroit's labor movement and a deeply committed friend of the working men and women of our community, Odessa Komer.

In many ways, Ms. Komer has come to symbolize our dedication to fairness and justice in the work place and society. Her long record of ground breaking and distinguished service in labor, civic and community activities has proven her to be a natural and effective leader. Her vision and leadership have always impressed those of us who have had the privilege to know and work with her.

Mr. Speaker, on this special occasion of her testimonial, I ask that my colleagues join me in saluting Odessa Komer's many years of service and dedication to the labor community in Michigan.

CONGRESSMAN KILDEE SALUTES HON. ROGER B. TOWNSEND

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 10, 1992

Mr. KILDEE. Mr. Speaker, I rise today to ask you and my colleagues to join me in recognizing the lifetime achievements of a true leader in the war for equality—the late Hon. Roger B. Townsend. For over 50 years Mr. Townsend fought to make America a truly pluralistic society. When he passed away, on January 18, 1987, America lost one of its truly great heroes.

Mr. Townsend was the first African-American elected to the Michigan House of Representatives from my own Genesee County and helped build the United Automobile Workers [UAW] and the Flint branch of the National Organization for the Advancement of Colored People [NAACP]. A tireless defender of human dignity, he served as role model for myself and the many others who followed in his footsteps.

Mr. Townsend was born to William and Ella Townsend, on March 29, 1912, in Rison, AR. He had one sibling, his brother, Berkeley. Though his family had little money Roger managed to continue his education, attending Arkansas State A&M College. The death of his father, coupled with the Great Depression, forced him to leave college to support his family. He found work in Muskegon, MI as a janitor in a foundry, but he was later forced back to Arkansas when the Great Depression eliminated his job. In 1932, he boarded a freight train bound north again, this time to my hometown of Flint, MI, where he eventually was hired by General Motors to work in the Buick Motor Division foundry in 1934.

The mid-1930's saw Mr. Townsend become active in the Flint community. A member of Buick UAW Local 599, he became the first African-American recording secretary of the local and district committeeman. In 1939, he helped found the Flint chapter of the NAACP and later was elected branch president. He became a part of national history as he led the local effort to free the Scottsboro Boys, a group of African-American men accused of raping a young white girl in Scottsboro, AL. Mr. Townsend was also the first African-American to participate in the Flint Big Brother organization, served on the board of directors of the Flint Youth Bureau and was a member of the Urban League of Flint. He was active, too, in the Third Ward Community Civic League, seeking to promote political involvement.

In 1952, Mr. Townsend was elected to a seat in the Michigan State House of Representatives. He served six consecutive terms until 1964, when reapportionment eliminated at-large representation. He was forced into a race with a fellow incumbent and long-time friend. With his defeat, Flint's African-American community would not see another legislator elected from its ranks until the election of the Honorable Floyd Clack in 1982.

Mr. Townsend continued to work for the Buick Motor Division until his retirement in 1969. He was a licensed real estate broker and served as a branch manager for the Michigan Secretary of State. As an elected member of the Flint Charter Commission, he was instrumental in revising the city charter, creating today's strong-mayor form of government for Flint.

Mr. Speaker, Roger Townsend set a standard for dignity and for living to which every American should aspire. His contributions to the welfare of the citizens of our community and Nation will never be forgotten. He was a truly good person, a truly great American.

A CONGRESSIONAL SALUTE TO MAYOR ROSALIE M. SHER

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 10, 1992

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to a woman who has served her community with great distinction. It is my pleasure to take this opportunity to acknowledge the outstanding contributions and achievements of Mayor Rosalie M. Sher.

In April 1992, Mayor Sher will be retiring from public service, and the city of Hawaiian Gardens will be losing one of its most ardent supporters. Mayor Sher's introduction to politics began with her election to the Concord, California City Council, making her the first woman elected to office in Contra Costa County. After relocating to Hawaiian Gardens, Rosalie was elected to that city's council in 1984. During this four year term, she served as mayor pro tem from April 1985 through April 1986. Following a handily won reelection to a second city council term, Ms. Sher's leadership abilities were duly noted and subsequently she was elected mayor of Hawaiian Gardens in 1990 and 1991.

Rosalie will best be remembered as a mayor who made the people of Hawaiian Gardens her top priority. She actively pursued and supported programs that improved services for senior citizens and youths in the community. She was particularly instrumental in addressing the need for new housing facilities for seniors. In addition, Mayor Sher made great strides in providing quality library services for the community.

Currently, Mayor Sher is completing her third term as chairperson for the Hawaiian Gardens Redevelopment Agency. In this capacity, she was responsible for the development of the Hawaiian Gardens Town Center.

In what little spare time she has, Rosalie is an avid golfer and reader. She also is a member of the California State Bar although time constraints do not permit her an active practice.

Mr. Speaker, my wife, Lee, joins me in bidding farewell to an outstanding citizen and in extending this much deserved congressional salute. We wish Mayor Rosalie Sher and her family all the best in the years to come.

ROBERT BELL: AN ENTREPRENEUR WITH VISION

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 10, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to pay tribute to one of Florida's most eminent entrepreneurs, Robert Bell, who founded and built a small sun products firm into a multimillion dollar business. He is the president and chief executive of Sun Pharmaceutical Ltd., a company he started by selling suntanning products on Florida beaches. The company manufactures and sells sun protection and skin moisturizing products to almost every corner of the world, including its popular Banana Boat suntanning line.

Mr. Bell, a member of the Hall of Fame of the Institute of American Entrepreneurs, was named 1991 Florida Entrepreneur of the Year, an award he received for his accomplishments and leadership in the business community. He was recently recognized by the Florida Senate for this honor and for his creation so practical to the people of the Sunshine State.

Mr. Bell's ongoing efforts to prove America's stance as the true land of opportunity were again demonstrated during Operations Desert Storm and Desert Shield. He allowed his company to supply our troops in the Persian Gulf with sun protection products at no cost to the armed services. His contribution and support show a kind of generosity few entrepreneurs bear in today's competing world environment.

I commend Mr. Robert Bell for the vision and dedication which have made him one of the most prosperous entrepreneurs in Florida. His outstanding success is an example to all future entrepreneurs.

ALPHA EPSILON PI HONORS HARRY B. SMITH

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 10, 1992

Mr. FASCELL. Mr. Speaker, on Saturday, March 14, the Alpha Epsilon Pi Foundation will present its award for Distinguished Community Service to Miami attorney Harry B. Smith.

The AEPi Foundation is a nonprofit organization that provides education scholarships to undergraduate members of AEPi fraternity. It also funds a speakers program, summer internships, and donations to charitable organizations for Jewish programming.

I have known Harry Smith for many years and can think of no one who may have a greater claim on this distinction. An honors graduate of my own alma mater—the University of Miami School of Law—Harry has not only had a distinguished career in law but has played a leading role in the Greater Miami community at large and the Jewish community in particular.

He presently serves on the boards of directors of the Greater Miami Jewish Federation, the Foundation of Jewish Philanthropies, United Way of Dade County, the National Foundation for Advancement of the Arts, the Heller Graduate School of Brandeis University, the American Committee for the Weizmann Institute of Science, and the American Jewish Distribution Committee. He is also a member of the citizens board of the University of Miami.

The AEPi award will be added to a long list of honors which have been bestowed upon this generous and caring man, including the Anti-Defamation League's Distinguished Service Award, the National Conference of Christians and Jews' Silver Medallion, and his election to The Best Lawyer in America and Who's Who in American Law.

I know our colleagues will want to join me in congratulating Harry B. Smith on this wonderful occasion and in wishing him all the best in the future.

INTRODUCTION OF LEGISLATION TO ASSIST COMMUNITIES ADVERSELY IMPACTED BY MILITARY BASE CLOSURES

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 10, 1992

Ms. SNOWE. Mr. Speaker, I rise today to introduce comprehensive legislation to assist the people of communities that face severe economic hardship as a result of military base closures.

In July 1991, when I spoke in this well on behalf of the resolution that I introduced along with Representative FOGLIETTA to reject the 1991 round of military base closures, I stated then that this House's responsibility to those communities would not end with that vote. No, Mr. Speaker, as the prospect of those bases closing draws near, our responsibility to the people of these communities is just beginning.

The people of Aroostook County in my district gave unwavering support to Loring Air Force Base and to the U.S. military for over four decades. Now, the base's closure portends a loss of nearly 20 percent of the county's employment, 14 percent of its income, and 17 percent of its population.

That is no way to reward the people who have given most to our national security. It is no way to reward those in Maine, or in the dozens of other communities nationwide, that will be hard hit by military base closures in the years to come. By introducing this legislation, entitled the Comprehensive Base Closure Reform and Recovery Act, I intend on taking strong action to help these people and their communities.

In recent months, several Members of this body have introduced very good legislation addressing various aspects of the community needs. However, these proposals have not been comprehensive in nature. Rather, they generally tend to address a narrow, or even single, aspect of the impact that a base closure has on a local community.

The legislation I am introducing today deals with all aspects of community recovery: economic, environmental, housing, etc. This bill will permit the Federal Government to fully live up to its responsibility to the communities.

For example, the Comprehensive Base Closure Reform and Recovery Act would address environmental cleanup matters, provide employers with tax incentives to hire former military base employees, and includes economic adjustment and conversion assistance for the local communities.

The major provisions of this bill would:

Require that before a military base is officially closed, or its operations substantially reduced, at least 75 percent of the environmental cleanup required under Federal law be completed. Also, it stipulates that not later than 2 years after a military base is closed, or its operations substantially reduced, all environmental cleanup efforts shall be completed.

Grant employers who hire people whose jobs have been terminated as a result of a base closure or realignment eligibility for the Targeted Jobs Tax Credit [TJTC]. The TJTC allows employers to take a 40 percent credit on the first $6,000 in wages that the newly hired employee receives.

Require that if the principal home of a military employee living near a closed military base is sold for less than fair market value, and the employee successfully participates in the U.S. Army Corps of Engineers' Housing Assistance Program [HAP], any amount of money received to help compensate for the loss in the home's value will not be treated as income, subject to Federal income taxes.

Direct the Economic Development Administration [EDA] to ensure that Federal funds are reserved for the communities identified by the Bush administration as the most substantially and seriously affected by the closure of military installations. In order to accommodate this mandate, this bill increases the EDA's current funding authorization level from $50 million in fiscal year 1991 to $150 million for fiscal year 1993–95.

Direct the Secretary of the Department of Defense [DOD] to create a program to guarantee up to 10,000 dollars worth of loans, per individual, to civilian employees of the DOD at, or in connection with, a military base scheduled to be closed or realigned. The bill provides the Defense Secretary with the needed authority to develop and administer this program.

Directs the Secretary of DOD to convey to eligible State or local governments all right, title, and interest of the United States in any military installation scheduled to be closed pursuant to the base closure law, CERCLA—Superfund—and the Solid Waste Disposal Act. Under this section of the legislation, property at military installations will be turned over to State/local governments in the following order of priority: A political subdivision designated by State law to receive the conveyance of such property rights; the State; then to one or more political subdivisions which would best serve the interests of the residents of the local region, providing that these subdivisions accept the conveyance. Pending such conveyance, the Secretary of Defense is required to maintain the real property and personal property to prevent its deterioration.

Directs the Federal Government, when entering into contracts with private businesses for the closure of a military base, to give preference to business located in the general vicinity of the closed military base. The bill's language specifically mentions "environmental restoration and mitigation" as an area where local small businesses should get preference in getting federal contracts.

In drafting this bill, I have worked to include provisions addressing a wide range of concerns that have been brought to my attention, as a result of the experiences of northern Aroostook County that is facing the prospect of Loring AFB closing in 1994. I welcome the input of any and all concerned Mainers, and other interested parties, as this measure works its way through the legislative process.

In the meantime, I strongly urge all of my colleagues in the House to demonstrate their support for efforts to help local communities survive the impact of a closed military base by cosponsoring the Comprehensive Base Closure Reform and Recovery Act.

SYRIAN JEWS

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 10, 1992

Mr. HOYER. Mr. Speaker, as a signatory to the Universal Declaration of Human Rights, Syria has committed itself to respect the right of all its citizens to emigrate freely. Yet it treats this universal right as a privilege to be meted out to a select few by unaccountable government officials.

Syria's small 3,600-member Jewish community, like other groups, does not have the right to change its government legally and peacefully and cannot publicly criticize the government for human rights violations. Unlike any other minority however, the passports and identity cards carried by Syrian Jews note their religion.

Emigration is largely forbidden, but Jews in particular are singled out for additional prohibitions and restrictions. They are not allowed to leave Syria without paying burdensome fees to the Mukhabarat—secret police—which is intended to ensure their return. As added insurance, whole families may never travel together. The young must leave behind the old; the mother her children and the brother his wife and sister. Those who travel without permission risk harsh criminal sanctions. Today two brothers, Eli and Selim Swed, arrested as far back as 1987 for traveling to Israel, remain imprisoned. For 2 years they were held incommunicado; for 3 years they were denied family visits; and last year the state formally sanctioned this gross human rights violation by sentencing the brothers to 6½ years in prison for illegally traveling to Israel.

The demands for respect of human rights and dignity have unleashed forces for worldwide change. Yet, Syria is out of step with those forces. Syria has reacted to some of the dynamic changes taking place in the world, trying to come to grips with a world no longer shaped by a Communist superpower vying for regional influence. But Syria remains an authoritarian state in a world impatient with and tired of such states and their leaders.

The right to emigrate ultimately may serve as the only guarantee of freedom in those states in which human rights are routinely violated or denied. We must insist on it being accorded all of Syria's citizens. And at a minimum we must continue to demand the immediate release of those individuals imprisoned for exercising a universal right.

As we have learned in country after country in Europe, the United States develops its strongest alliances, engenders its greatest respect, and ensures its lasting security when we stand firmly and unequivocally for the principles upon which our own Nation was founded and which are reflected in international documents such as the Universal Declaration of Human Rights. To the extent that our words here today impact upon the leaders and government officials of Syria, let our voices clearly be on the side of individual freedoms and human dignity. Let us go with a policy and vision that have served us and those who cry out for human rights so well in the past.

TRIBUTE TO REV. W. JEROME FISHER

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 10, 1992

Mr. DYMALLY. Mr. Speaker, I rise today to recognize Rev. W. Jerome Fisher, pastor of Little Zion Missionary Baptist Church, at 2408 North Wilmington Avenue in the city of Compton. This year we celebrate his 35-year anniversary as pastor of Little Zion Missionary Baptist Church.

His conviction to serve not only his congregation, but the entire community, has distinguished him as one of the true champions of the greater Los Angeles area. He has founded a scholarship program that assists children who need financial assistance to pursue their education. This program has given many children an opportunity that they would otherwise not have.

His integrity and deep commitment over the decades, to his community and its well-being, has earned him the admiration and respect of all who are privileged to know and work with him. Reverend Fisher's lifelong commitment to the community is a characteristic paralleled by very few and I rise today to commend him for his efforts. As pastor of one of Compton's largest churches, Reverend Fisher has become a friend to a great many people. His support in the community is evident in the size of his congregation and the respect he enjoys.

I know that my colleagues will want to join me in congratulating and paying tribute to Reverend Fisher for his unselfish devotion to serve his community. I hope that Reverend Fisher continues to serve our community for many more years to come. Again, I congratulate Rev. W. Jerome Fisher on this 35-year anniversary.

SCHOOL SPIRIT IS MIAMI HIGH'S WAY

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 10, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to recognize the students and teachers at Miami Senior High School, whose innovative idea to sell a 1992 school's calendar has been met with great success. The calendar, which features a different teacher for each month, was developed in an attempt to raise funds for the school's band corps. The school was recently featured in The Miami Herald for their enterprising efforts. The article "The Men of Miami High" by Jon O'Neill follows:

> Miami High teacher Jack Hunter doesn't mind being "Mr. July."
>
> No, he didn't pose for a summer issue of Playgirl. Hunter and 11 of his colleagues grace the latest fund-raising effort of the school's Band Corps. It's a 1992 calendar that features a different teacher for each month.
>
> It's being snapped up by students at $5 a pop.
>
> Hunter, a social studies teacher who also coaches the swim team, was pictured in a pool.
>
> "It was all in good taste," he said. "I'm kind of shy and being in a calender is not the usual role for a teacher. But I was flattered to be chosen."
>
> The calender was the brainchild of Lili Pineiro, the school treasurer and sponsor of the Band Corps, which includes flagettes, majorettes and rifle corps. When she attended Miami High, she was on the front of a calender that featured students.
>
> "We needed to raise money and you have to be creative," Pineiro said. "This is what came to me. I remember when I was in ninth grade I had a big crush on my English teacher and I would have killed for a picture of him. I just thought the kids would like it and that it would be fun to do."
>
> She pitched the idea to her girls, and they loved it.
>
> "I knew it would sell, for sure," said Stingarette captain Mini Esquijarosa, 17, a senior. "There are a lot of cute teachers here and everyone was really excited about it. When it came out, some of the girls were just saying 'wow.' Some of the teachers were, too."
>
> To figure out whose pictures would be included, the school held an election among its female students. Twenty-five teachers were nominated, 12 were voted in.
>
> "It wasn't just the best-looking teachers," said Milay Lao, 17, co-captain of the majorettes. "They were the most popular ones, the favorites. But some of them looked pretty good."
>
> Pineiro worked hard getting the calender ready. She said most of the selected teachers had a good sense of humor.
>
> "They were all great about it," she said. "I think inside, they all loved it."
>
> Jose "Tiger" Nuñez, athletic director at the school, 2450 SW First St., said he thought the calender was "a great idea." Nuñez is Mr. March.
>
> "It felt good to be voted in," he said. "I'm hearing a lot of comments from the students about it, though."
>
> Social studies teacher Artie Cabrera is Mr. January. Since he boxes occasionally, he posed in the ring.
>
> "I didn't mind it and I know the kids are enjoying it," he said. "Anything to help the girls raise money."
>
> Pineiro said she would like the calender to be an annual event. It certainly got the attention of the students.
>
> "Now the boys want a calender with the female teachers," she said. "But they want them to wear bathing suits."

Mr. Speaker, I commend the students and teachers at Miami Senior High School for their great display of pride and school spirit. Their hard work and support will surely pay off.

ROMANIAN ELECTIONS AND TIMING FOR NORMALIZING RELATIONS

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 10, 1992

Mr. SMITH of New Jersey. Mr. Speaker, the Romanian people have once again tasted the privilege and responsibility of a democratic system. In May 1990, the Romanian voters went to the polls and chose their President and Members of Parliament in the first multiparty elections since World War II. Last month, for the first time, the Romanian people had a genuine voice in deciding their local officials—mayors and city council members. The long-awaited local elections were finally set for February 9, and the runoff balloting was held on Sunday, February 23.

The people of Romania—the voters—now look with great anticipation to their upcoming round of elections for Members of the Parliament. Mr. Speaker, I believe the United States Congress and administration must stand by the people of Romania to ensure that this political birthright is granted as scheduled in the late spring. Domestic and international confidence in Romania's march to democracy faded with each postponement of the local elections, and I trust it will not be eroded by any delays in the parliamentary elections.

In fact, I am hopeful that the parliamentary elections will be the best indicator that, indeed, Romania has stepped into the community of nations which honors and upholds democratic principles. This would enable us to move ahead, in total agreement, towards full normalization of relations. As many of my colleagues know, I, along with Representatives FRANK WOLF and TONY HALL, worked diligently to suspend most-favored-nation trading status during the Ceausescu era when the abuse of human rights was pervasive and systemic and there was no consent of the governed. It would be my honor to stand in this House Chamber, following the parliamentary elections, and urge support among my colleagues for the new trade agreement—including MFN—with Romania that would appropriately reflect the democratic progress in that country.

Mr. Speaker, the Congress should delay until after the parliamentary elections any decision regarding the United States-Romanian trade agreement. As noted in the White House press statement made last August when the President waived the Jackson-Vanik provision of the Trade Act of 1974,

> MFN status is a separate issue, which will be decided on the basis of further substantial progress toward a market economy and democratic pluralism, including the holding of free and fair local and parliamentary elections in the near future.

The United States waiver of the Jackson-Vanik provision, Mr. Speaker, made Romania eligible for credit guarantees for commercial imports of United States agricultural products. United States humanitarian assistance continues to be extended to the people of Romania. Through private voluntary organizations, the United States has provided assistance in health care, surgery and medical treatment for institutionalized children, guidance in adoption-related activities, and comprehensive services for those with disabilities. The Peace Corps has tasked more than a dozen of its volunteers to focus on special education and childhood development within several orphanages. Food assistance, as well as technical assistance, equipment, and material support for energy policy reform has been provided.

Mr. Speaker, these various projects, in addition to democratic initiatives, demonstrate to the people of Romania the concern which we have for them and their political reform progress. Certainly both the local and parliamentary elections are seen as steps toward true political reform.

The local elections, Mr. Speaker, had become a proving ground through which the Romanian electorate and observers abroad gauged the ruling National Salvation Front's willingness to grant the people a voice. While these elections were recognized internationally as a major milestone in Romania's progress toward a democracy, I believe they have set the tone—strategically and politically—for the parliamentary elections.

While the voter turnout for the local elections reflects a general loss of confidence in their ability to change the direction or pace of reform, the election results demonstrate the voters' wish for change in political leadership. Between now and the parliamentary elections tentatively planned for May or June, prodemocratic Romanian activists must build on the momentum which coalesced in the final weeks before this election. The voters also have had a glimpse of the power which is entrusted to them within a democratic system, and I am hopeful that this will invoke greater participation in the upcoming parliamentary elections. The opposition parties, particularly the Democratic Convention, must recognize their potential of becoming a moving force in the Parliament.

The local elections in February have determined the winners of 2,951 mayoral seats and more than 40,000 city council members across the country. The mayors were elected by majority vote and the local councils ran on lists and will gain seats by a system of proportional representation. The Judet—county—councilors will be elected by closed ballot by the local councilors within 30 days after constitution of the local councils.

The number of members on each city council depends on the population of the city or the village. For example, villages with up to 3,000 in population will have 11 councilors, while cities with 200,001 to 400,000 in population 31 councilors, and the Bucharest Council will have 75 councilors.

Mr. Speaker, a member of my staff, Dorothy Taft, was invited by the International Republican Institute to serve as an international election observer in Romania. She was one of a 30-member mission organized by the International Republican Institute [IRI] and the National Democratic Institute [NDI]. As outlined in the Copenhagen Document on Human Rights of the Conference on Security and Cooperation in Europe, observers, both foreign and domestic, were invited and accredited by the Romanian Government to observe the election proceedings.

The preliminary assessment made by the IRI–NDI delegation on February 11 in Bucharest, "This election represents a meaningful step forward for the process of democratization in Romania," is on target.

The campaign period was fraught with many hindrances to the democratic opposition parties and unacceptable conditions were set up by the election law, which was approved by the Romanian Parliament in late November and signed by Iliescu on November 26. The 60-day campaign period began on December 8. There was particular concern that, though promises had been made, campaign finance legislation was rejected in late December and distribution of media time—through the Ad Hoc Commission of Parliamentarians on the Media—for the political parties was not available until more than 1 month into the campaign.

When public campaign financing is not equally available to political parties in democratically nascent countries, the advantage of the incumbent political party in these countries is greater than the incumbents' advantage in developed democratic systems. The ruling parties are able to exploit the basic, underlying support of the infrastructure without competition.

When election monitors interviewed voters in the villages where the democratic opposition and the Hungarian democratic party were active, the issue of media access was not a major determining factor in voter education. In voter after voter, there was a confidence in knowing the candidates either personally or through town meetings. Voters would comment that the party affiliation was not as important as the character of the candidate himself. Obviously, because local candidates were from the local village, electronic media was not a determining factor. Nonetheless, this issue will be especially important in the upcoming parliamentary elections and in regions where the democratic opposition is not well organized. The Romanian Parliament has a unique responsibility to complete consideration of the law on media and ensure it provides a balanced, democratic access to the electronic and print media for all candidates.

Unfortunately, the February 9 elections were scheduled during exams for the college students, one of the important and active political sectors in Romania. This concern had been raised in preelection assessments by IRI and NDI. On January 30, the Government of Romania issued a statement announcing how this and several other problems were being rectified. The Government agreed to waive the cost of round-trip tickets home by rail or road from February 7 to 10, so that the students could vote.

While students were required to vote in their home districts, military personnel were required to cast ballots where they were stationed. There is concern that military personnel, not being part of the local communities, have no vested interest in local affairs and the platforms of the local candidates. During the last election, this will again be an issue for the parliamentary elections and the election law should resolve this complication. During the last election, political parties and local candidates were unable to campaign on the military bases but shortly before February 9, the Government changed the regulations to permit the parties and candidates to speak and post materials on military bases.

One of the most significant advances made in the election process since the May 1990 election was the provision for domestic election observers. More than 5,000 Romanian citizens served the important role as election observer. Training for such observers continues in Romania and certainly many more will be prepared for the parliamentary elections. Mr. Speaker, I believe it is imperative that the electoral law governing the upcoming elections include this important, confidence-building provision.

I congratulate the ongoing work of organizations, such as the International Republican Institute, in training the political parties in Romania to become effective and instructing candidates how to convey their ideas and stand on the issues facing their country. The work with the newly elected mayors is especially important during this time of transition.

Certainly the local elections became a laboratory for voter education, electoral reform, and democratic coalition building. In preparation for the parliamentary elections, the Government and the electorate must continue that progress. Mr. Speaker, I hope that in 3 months we will all be encouraged by the reforms made and the completion of a fair parliamentary election process. I hope that in 3 months we can all fully support unconditional MFN for Romania and its people. The timing is crucial.

DEFENSE AND THE NEW WORLD DISORDER

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 10, 1992

Mr. CONYERS. Mr. Speaker, as we begin the budget cycle with the great changes that have taken place in the world, much of our focus has been, and will continue to be on the money spent on the defense of this Nation. As part of this process the Pentagon has disclosed a number of scenarios which are the justification for the inflated and unnecessary budget the Department of Defense is clinging to in desperation.

Recently, I discovered two excellent articles written by Mr. David Evans of the Chicago Tribune. This Pulitzer Prize winning author tersely points out the folly in this particular area of Defense policy. With great humor Mr. Evans exposes the seven scenarios for possible U.S. military action in the light that the average American might see them. Not only are the seven scenarios out of touch with reality, but the Defense Department budget is based on two of these scenarios occurring at the same time. In his satirical way Mr. Evans is underlining the need for a true reassessment of the threats which effect this Nation. No longer can we afford the deception of building a threat specifically designed to preserve the defense budget.

The second article is a more serious look at just who is financing executive pay and bonuses in the defense industry. The acquisition offices in the Department of Defense must simply get costs in line with reality. It isn't the business of DOD what a major contractor pays their executives, but it is the business of the Department how much of that salary/bonus is paid by the taxpayer. This is just a small slice of how the relationship between the Department of Defense and the large contractors works to the great disadvantage of the American taxpayer—all in the exalted name of national security.

Mr. Speaker, I ask that the two enclosed articles, "Scenarios of New World Disorder" and "Defense Firms' Top Guns Have Taxpayers To Thank for Top Pay" by Mr. David Evans be placed in the RECORD and I strongly urge my colleagues to read them.

[From the Chicago Tribune, Jan. 5, 1992]

DEFENSE FIRMS' TOP GUNS HAVE TAXPAYERS TO THANK FOR TOP PAY

(By David Evans)

WASHINGTON.—The shameless excesses of corporate compensation carry over into America's military-industrial complex, where the defense industry's top guns are paid much, much more than the chiefs of our military services.

On the civilian side, we have the Rolex watch and Gucci shoe set. The chief executives of the five largest defense companies receive compensation packages ranging from $1.5 million to more than $9.3 million. That's about $4,000 to $25,000 a day in salary, bonuses and stock options.

On the military side, we have the Timex watch and Corfam shoe set. Gen. Colin Powell, chairman of the Joint Chiefs of Staff, and the chiefs of the Army, Navy, Air Force and Marine Corps are five men at the very top of their profession. They each make about $110,000 per annum, or roughly $300 a day.

Their pay accords with the view of 18th Century author Edward Gibbon, who wrote in "The Decline and Fall of the Roman Empire" that the "modesty in peace and service in war" of the military order "is best secured by an honorable poverty."

Our generals aren't exactly like Julius Caesar eating turnips with the troops on campaign, but they don't get bonuses for winning wars nor, for that matter, do they get free lunches. When Powell eats in the chairman's dining room, for example, he pays for the crabcakes and the low-calorie chicken fajitas on the menu.

Indeed, compared to the salary differentials in industry, the military pay system is a model of socialist egalitarianism. Powell makes only 11 times more money than a private first class, which coincidentally is pretty close to the Japanese differential between executive pay and worker compensation.

In contrast, a hundred-fold difference or more separates the pay of American chief executive officers from the workers. The defense industry is no exception, as exemplified by the case of General Dynamics, where a mid-grade F-16 production worker at its Ft. Worth plant earns $36,600 a year in wages and fringe benefits, tops, while in 1991 its chief executive officer, William Anders, received more than 250 times that amount in pay, bonuses and stock options.

The relative egalitarianism of the military pay system applies to raises too. When Congress, the military's board of directors, approves a pay raise for Powell, the privates and the rest of those at the bottom get the same rate of increase.

This is not the case in corporate America, where top executives frequently receive double-digit pay raises while the vast bulk of their employees are admonished to rest content with single-digit increases, if any.

No self-respecting Marine Corps colonel would accept this situation. At The Basic School at Quantico, Va., every new Marine officer is taught that the troops eat first, then the officers. If the chow runs out, the leaders go hungry.

There is no comparable accountability in the defense industry. Consider the case of General Dynamics and McDonnell Douglas, which teamed up to design and build the A-12 attack jet for the Navy. The program went belly-up in an ugly cloud of cost overruns and delays, and the two companies said they couldn't afford to pay back the $1.35 billion they'd already received from the Navy for work they never performed. However, these two companies were able to afford their chief executives' multimillion-dollar pay packages.

Taxpayers are underwriting the situation. According to a Pentagon expert on military contracts, corporate salaries are part of a company's cost base, which are figured on a pro rata basis into its negotiations for weapons prices and profits. Executive salaries are just a so-called pass-through expense. Therefore, higher levels of executive pay, fringe benefits and perks translate ultimately into higher unit costs for weapons and parts.

Don't waste time dropping a B-52's load of shame on overpaid defense executives. It slides off like water on a waxed car. Instead, establish a ceiling on the amount the government will reimburse a defense contractor for overhead expenses, including top-level compensation. The rule needn't limit how much chief executives can be paid by soft-hearted boards of directors, just the amount that flinty-eyed Uncle Sam will contribute.

Elsewhere in his book, the venerable Gibbon told the tale of one George of Cappadocia, a 4th Century defense contractor who provided rotten meat to the Roman army at ripoff prices. "His employment was mean; he rendered it infamous," Gibbon wrote.

Although this George was subsequently beatified for his dragon-slaying activities, he could just as easily have been designated the patron saint to defense contractors. They've been taking first pass at the public trough ever since.

SCENARIOS OF NEW WORLD DISORDER

(By David Evans)

WASHINGTON.—The New World Disorder should be the title of a secret Pentagon document that contains seven scenarios for possible U.S. military action in the next decade. There are enough wars on this list to call for a bigger, not a smaller military.

Retitled, with interpretive comments, we have:

The Russians Are Coming, Again. An expansionist and hungry clique in Moscow launches a tank blitzkrieg to seize the sausage industry in Poland. U.S. military airlifters substitute battalions for bread to counterattack.

Poltergeist II. Saddam Hussein gets recycled into a replay of his 1991 invasion of Kuwait. But in 1995 the Iraqis don't stop at the Saudi border) they get it right this time, punching through and overrunning the ports and oilfields in the kingdom's vital eastern province.

Kim Il Sung's Hostile Takeover. The aging North Korean leader launches 300,000 troops in a surprise attack south to reunify Korea by force, thereby achieving world dominance of the sneaker industry.

The Baghdad-Pyongyang Axis. Using a secret hotline to coordinate their plans, fraternal dictators Saddam Hussein and Kim Il Sung attack virtually simultaneously.

From Operation Just Cause to Just Because. Dope-dealing officers in the U.S.-installed Panama Defense Force threaten to close the Panama Canal, promoting eight days of "mid-intensity" gunplay by Army Rangers and U.S. Marines to install a more grateful group of dope-dealing Panamanian colonels.

Manila Meltdown. Imagine Imelda Marcos, who's running for president of the Philippines a few years hence. She can't hold it together. There's a revolt, and U.S. forces are dispatched to rescue Imelda and 5,000 Americans, each of whom is allowed to board the packed evacuation planes carrying only a pair of Imelda's shoes.

The Empire Strikes Back. Reformist movements in Russia collapse, a right-wing faction comes to power bent on militarizing the economy. The Quayle administration ignores a $600 billion deficit and does likewise, boosting U.S. weapons production to equip new divisions, fighter squadrons and naval battle groups. Defense contractors rejoice.

With the exception of the resurgent Evil Empire, these sanctions occur with little warning, and the fighting, although intense, is of fairly short duration. American military forces must be poised to move quickly, smash massively and come home.

This capability is hugely expensive. It is much different than a strategy of holding the initial enemy onslaught, building up our forces and counterattacking.

Consider the short-warning, short-duration aspects—a standing-start war means that military forces, as well as the transport units to move them, must be kept on costly active-duty status. It can take anywhere from 30 to 90 days or more to call up, train and deploy cheaper reserve forces. A short notice, short war is over before the reserves show up.

The two-front, short-notice war scenario maximizes everything: a large number of active-duty combat forces, with warehouses full of munitions and parts to sustain them, and an enormous increase in existing airlift and sealift assets to move them speedily in two opposite directions.

Recall the effort to defeat Iraq: 100 percent of the transport was used to move roughly 30 percent of the fighting forces. They were supported in-theater by virtually 90 percent of the logistics units, which in turn were tapping in to about 90 percent of the so-called WRM, the "war reserve material" stocks.

That was a single-front war, with five months to get ready. The simultaneous two-front war scenario implies a defense budget of $500 billion, not the $280 billion budget today that Congress is trying to cut.

The issue isn't self-serving scenarios, but secrecy. These are not war plans, but generalized visions of conflict that shape the size and composition of military forces and budget. Instead of an open discussion about what America must be prepared to do, and the risks involved, the shaping process is all happening in secret. Maybe in the two-front scenario the active forces could handle one threat and reserve forces the other.

Instead of scenarios, perhaps the focus should be on fixing existing problems; for example, replacing the gas turbine engine in the M-1 tank with a diesel would reduce its tremendous dependence on convoys of fuel trucks.

Opening the books, though, might be too revealing. Imagine a secret plan in 1945 to refight Germany by 1950. It would be equivalent to the anticipated replay of the war against Iraq, but it does suggest what many suspect—the last war with Iraq could have been titled George Bush's Voodoo Victory.

IN RECOGNITION OF ALFONSO ACOMPORA ON HIS 20TH ANNIVERSARY AT WALDEN HOUSE

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 10, 1992

Ms. PELOSI. Mr. Speaker, I rise today to recognize Alfonso Acompora for 20 years of dedicated service to Walden House and the city of San Francisco.

As chief executive officer of Walden House, one of the largest substance abuse treatment centers in California, Alfonso has worked tirelessly with the HIV infected, the dual diagnostic, pregnant addicts, and all the disenfranchised that substance abuse has affected. His latest battle is being waged against the crack cocaine epidemic in San Francisco.

Alfonso joined the staff of Walden House in 1971, and quickly worked his way up to CEO. His history as a troubled youth intensified his desire to aid those with substance abuse problems. He has been an integral force in building Walden House from what was once a 30-bed facility to one that services over 400 people a day in 12 facilities throughout San

Francisco. Walden House has become a model for education, prevention, and treatment services, remaining on the cutting edge of social problems affecting the city of San Francisco.

In the past years, Alfonso has served on drug task forces for San Francisco Mayor Art Agnos and California Governor Pete Wilson. He has also served as a drug advisor to the White House and consultant to many programs across the United States.

Mr. Speaker, I join with the people not only of Walden House, but of the entire San Francisco community, in praising Alfonso Acompora for 20 years of dedicated and selfless service to those in need, and look forward to many more years of Alfonso at the helm of Walden House.

TRIBUTE TO PENNDOT'S SNYDER COUNTY MAINTENANCE OFFICE

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 10, 1992

Mr. GEKAS. Mr. Speaker, I rise today to pay tribute to the employees of the Pennsylvania Department of Transportation [PennDOT], Snyder County Maintenance Office, for the outstanding safety record that they have maintained over the years.

The employees of this office have accumulated 4,536 days without a lost-time work injury. This means that in over 12 years of working in a hazardous environment, in all types of inclement weather, these workers have not lost a day of work because of injury. I know that this feat is very difficult to achieve and is a testament to the hard work, dedication to the job, and outstanding skill of these employees. There should be no doubt that the Pennsylvania Department of Transportation and all the citizens of the Commonwealth of Pennsylvania are proud to have these workers on the job for them.

Mr. Speaker, I ask all of my colleagues to join me in paying tribute to the outstanding employees of PennDOT's Snyder County Maintenance Office, who have given new meaning to the words, "Safety first."

TRIBUTE TO PASTOR ERNESTINE M. SHIVER

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 10, 1992

Mr. TOWNS. Mr. Speaker, I want to recognize the achievements and contributions of Pastor Ernestine Shiver, of St. Paul's United Church of God, in Brooklyn, NY. Pastor Shiver has dedicated her life to her family, church, and community in her position of pastor for the past 15 years.

With Pastor Shiver at the helm, her church congregation has grown not only in size, but in faith. She has addressed vital community needs such as: Food and clothing for the homeless; education and preventive services; surplus food programs; and counseling services. Pastor Shiver knows that true service to the Lord consists of faith in action. She embodies that philosophy in all of her labors of love. It is my pleasure and blessing to know this humble and dedicated servant of the Lord.

ELEMENTARY SCHOOL NAMED AFTER WING AND LILLY FONG

HON. JAMES H. BILBRAY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 10, 1992

Mr. BILBRAY. Mr. Speaker, I rise today and ask my colleagues to join me in honoring two outstanding individuals from Las Vegas, NV, Wing and Lilly Fong. In February 1992 these two individuals were the first Chinese-Americans to have the honor of having an elementary school named after them.

At the age of 13, Wing immigrated to the United States from Canton, China. He attended Woodbury College in California, where he earned a business administration degree and met his future wife, Lilly. They married in 1950 and settled in Las Vegas. Wing joined the firm of Pioneering Distribution. Mr. Fong opened his own grocery store, and, in 1955, he opened the town's first specialty restaurant and shopping center. Currently, he is president of Wing Fong's Enterprises and is a director of Nevada State Bank.

His civic involvements have led him to become director of the Greater Las Vegas Chamber of Commerce, and chairman of the National Conference of Christians and Jews. He has also served as chairman of St. Jude's Children's Home in Boulder City.

For many years, Lilly Fong has been involved in community service. She has served as a member of the U.S. Small Business Advisory Council and the Governor's Commission on the Status of Women. Also, Mrs. Fong's fund-raising efforts have been greatly appreciated by numerous art centers.

Judging from the involvement of Wing and Lilly Fong, it seems very appropriate to have an elementary school named in their honor. I am indeed honored to congratulate them today and ask my fellow Members to do the same.

CONGRESSMAN IKE SKELTON DELIVERS PRINCIPAL ADDRESS AT COMMISSIONING OF U.S.S. JEFFERSON CITY; CALLS FOR PRUDENCE IN PREPAREDNESS

HON. BILL EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 10, 1992

Mr. EMERSON. Mr. Speaker, our distinguished colleague from Missouri [Mr. SKELTON] was the featured speaker at the commissioning ceremony for the U.S.S. *Jefferson City* SSN–759, the newest submarine of the fleet. This vessel is, of course, named for the capital city of Missouri, which is in Congressman SKELTON's congressional district. Mrs. Skelton christened the ship in March 1990.

I regrettably had other commitments and could not attend the commissioning ceremony in Norfolk, VA, February 29, 1992. Congressman SKELTON favored me with a copy of his remarks, which should be of interest to all Missourians, interwoven as it is with lore about our capital city and the proud mantle the ship bears.

Most importantly, Congressman SKELTON sounds an articulate, intelligent, coherent, and persuasive call for prudence and vigilance on the part of the United States, as we chart the waters of a radically altered world in 1992 and beyond. With his usual common sense, Mr. SKELTON advances a compelling rationale for maintaining an appropriate level in defense people-power and technology as we look ahead. His message speaks for itself. I commend it to all colleagues and Americans.

ADDRESS BY CONGRESSMAN IKE SKELTON

INTRODUCTION

This is an historic day, a proud day for Missouri. For today, we celebrate the commissioning of the USS *Jefferson City*, named in honor of Missouri's capital city. And, in a larger sense, we are celebrating the continued freedoms we all enjoy as Americans.

FREEDOM

We are a unique people. We have experienced 203 years of unprecedented freedom under the Constitution—freedom made secure by those who have worn the uniforms of our Nation's Armed Forces. Without them, freedom and democracy would long have since vanished. While the near-term is marked by turbulence and transition in the world, we need to remind ourselves of the great achievement of recent American statecraft. We have led the winning side in the two epic struggles of this century—the fight against fascism and the less costly but more complex struggle against Soviet communism. American resolve and leadership has helped shape a better world for untold millions.

It is fitting that we pay tribute to our uniformed servicemen and women for two recent victories—we won the cold war against the Soviet Union and we won an impressive victory in the Persian Gulf.

The cold war—described by President John F. Kennedy as the "long twilight struggle"—has come to an end. It is still hard to believe that this great and bitter contest against Soviet expansion ended in the unexpected fashion that it did. America's sons and daughters in uniform contributed significantly to the victory against the Communist threat. For that, our Nation is grateful.

Last year's Persian Gulf war was a stunning victory. The flower of America's youth sailed the ships, attacked across the desert, and flew in combat to defeat a brutal foe. They have written a magnificent chapter in American military history.

As part of that military operation thirteen submarines conducted surveillance and reconnaissance operations in support of Desert Shield and Desert Storm. Two sister ships of the one we are about to commission—the USS *Louisville* and the USS *Pittsburgh*—launched Tomahawk cruise missile attacks against critical targets in Iraq. In fact, the *Louisville* made history by delivering the first submarine-launched cruise missile ever used in combat.

A NOTE OF WARNING

But in the midst of this tribute to our success, let me sound a note of warning to my fellow countrymen. Major George C. Marshall, the future World War II Army Chief of Staff, noted in 1923 "The regular Cycle in the Doing and Undoing of Measures for the National Defense." He observed that, "We start in the making of adequate provisions and then turn abruptly in the opposite direction and abolish what has just been done." Today, we are in the midst of making one of those changes in direction. This is now the eighth year of real defense budget cuts, and we know that more dramatic reductions are in store.

Secretary Cheney and General Powell crafted a plan a year and a half ago that will result in a twenty-five percent reduction in the size of our forces and the size of the defense budget. A further cut of $50 billion over the next five years has been recommended by the President as a result of events last August in Moscow when the old Communist order finally collapsed. I believe the Secretary and his military advisors have put together a pretty good plan, not perfect, but pretty good. But to readjust the plan every year in a dramatic fashion as some would have them do, is simply more than we should do in light of the uncertainty of the world around us.

As many of you know so well, there are more than a few self-styled "defense experts," who would increase the pace and extent of the planned cuts. My warning is against our Nation engaging in a military disarmament binge. In 1997 our Nation's military forces would be at the breaking point in responding to a Desert-Storm contingency and a conflict in Korea at the same time. General Powell acknowledged this troubling possibility in testimony before the Congress two weeks ago.

Those who would slash our military even further than the planned 25 percent reduction, while sincere and well-meaning, lack an understanding of history's lessons. Time and time again, in this century we have followed the dangerous and costly path of demobilization, disarmament, and unpreparedness, only to regret that course of action a few short years later.

After the First World War we withdrew from world affairs and allowed our military to wither away. As a matter of fact, at the time of the fourth naval disarmament conference of 1935, the seeds of the Second World War had already been sown. But we ignored the gathering storm and were caught unprepared when it came. After our tremendous victory over Germany and Japan in 1945 we once again cut our military. And once again, we were caught unprepared when war broke out in Korea less than five years later.

Here is a brief catalogue of the cuts we are making today and are planned for the future. A year ago the Army possessed 18 active divisions. Two have been demobilized and the plan is to demobilize four others by 1997. The Navy reached a high water mark of 570 ships in its effort to build to 600 ships. This past December there were 499 ships in the fleet and current plans will have the Navy at the 450 ship level by 1997. The Air Force is also reducing. It had 41 fighter wing equivalents in 1988. By this year it will have reduced its force structure to 28. By 1995 it will have 26, 15 active and 11 in the Guard and Reserve.

If we go much more beyond these cuts in force structure, we will end up in the same situation in which we have found ourselves after almost every other war we have fought in our history—with a military force ill-prepared to fight. We should remember the high cost of unpreparedness: Bataan in 1941, The Kasserine Pass in 1942, Pusan in 1950, and Desert One in 1980. This cost was paid by the blood of young Americans in uniform. Never again should we allow this to happen. Let us learn from history rather than repeat it.

We still live in a dangerous and uncertain world. The kaleidoscope of the future is unpredictable. Few foresaw the bombing of Pearl Harbor, the North Korean invasion into the south, or Saddam Hussein's invasion of Kuwait. The American people understand George Washington's wise counsel that "To be prepared for war is one of the most effectual means of preserving peace." I am convinced they will support measures needed to maintain an adequate and credible national defense.

JEFFERSON CITY

This boat is now ready to assume its role in keeping the peace. It is named for a city that has played an important and distinguished role in American history; a city named, appropriately, for the third President of the United States. Jefferson City is located in central Missouri, on the south bank of the Missouri River, along the trail of Lewis and Clark. It was carved out of timberland and planned by Daniel M. Boone, son of the famous pioneer, and Major Elias Bancroft. Its early settlers came from Kentucky, Virginia, and Tennessee, as well as from Germany and other nations of the Old World. Incorporated in 1826, it played a key role in the westward expansion of our Nation, and was a vital river port during the War Between the States. Today, the Missouri Capitol building dominates Jefferson City's skyline. This heartland city of America, which currently has a population of over 35,000, provides a proud legacy for this new Navy submarine.

A CELEBRATION

We gather here today to participate in an important occasion, the commissioning of an American attack submarine. Those of you who have been specially chosen to take this sleek, stealthy vessel to sea, understand the serious, even solemn task, that has been entrusted to you by your superiors. They, in turn, have been empowered by the Congress and the people of the United States to take special care of an institution important to our Nation's security, the United States Navy.

It has been called upon on many occasions in our Nation's short history, especially in this century, to give service in the cause of freedom. The Navy will continue to be a calling for you and your comrades who have the privilege of wearing the uniform of one of our country's Armed Forces. You more than most understand that ours is a seafaring nation. We depend upon seaborne commerce. The only way to secure our interests throughout the world is to maintain a strong Navy.

Yet this is also a festive occasion. Parents, wives, sons, daughters, friends, and colleagues have come today to wish you well as you take charge of this fine boat. We thank them for coming, for sharing this moment of pride and joy.

There are others to thank. First, those sons and daughters of America—both close by in Newport News and in countless factories across this country—who helped build this boat. She is a work of art, an engineering marvel, that we too often take for granted. Second, let us thank the American public, whose support for the construction of this vessel and its manning is crucial. Third, those of us who do not wear the Navy blue sincerely thank you who are entrusted with the care of this ship. We thank you for the sacrifices that you and your families have borne over the months and years past and will continue to bear in the days ahead.

Let me also add that this Nation of ours is very fortunate to have men such as you willing to protect our interests far from home. The sacrifices of sailors willing to go to sea and assume such heavy responsibilities are not always appreciated in our society. Even less appreciated are the sacrifices of Navy wives. To the wives and 108 children of these men who are about to go to sea let me express a heartfelt thanks. Your support is crucial to the well-being of these men and to our country as a whole.

A special word of appreciation goes to the former Secretary of the Navy, James Webb, for designating this boat to be named the USS *Jefferson City*. On a more personal note, sincere appreciation goes to former Secretary of the Navy Will Ball for asking my wife Susie to be the ship's sponsor. Not long after the christening ceremony took place in March of 1990, my wife told me that, with the exception of her wedding day and the day each of our three sons was born, the day of the christening was the most memorable day of her life.

A FINAL WORD

And, now, a final word—to the ship's captain, Commander Russell Harris, and his men. In a few moments you, the captain and crew of this newest submarine of the fleet, will man your stations. You will assume your duty as former generations of sailors have over time stretching back to our Nation's beginnings. You will carry our hopes and prayers into the silent depths of the ocean.

So, I say to you, Captain Harris and crew, in the words of American poet Henry Wadsworth Longfellow:

Sail on, nor fear to breast the sea,
Our hearts, our hopes, are all with thee,
Our hearts, our hopes, our prayers, our tears,
Our faith triumphant o'er our fears,
Are all with thee,—are all with thee.

Thank you and God bless.

HOUSE OF REPRESENTATIVES—*Wednesday, March 11, 1992*

The House met at 2 p.m.

The Chaplain, Reverend James David Ford, D.D., offered the following prayer:

Let us pray, using the words of Psalm 106:

Praise the Lord! O give thanks to the Lord, for he is good; for his steadfast love endures for ever!

Who can utter the mighty doings of the Lord, or show forth all his praise?

Blessed are they who observe justice, who do righteousness at all times!

Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from California [Mr. BERMAN] please come forward and lead the House in the Pledge of Allegiance.

Mr. BERMAN led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with an amendment, in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 3337. An act to require the Secretary of the Treasury to mint coins in commemoration of the 200th anniversary of the White House, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 3337), "An act to require the Secretary of the Treasury to mint coins in commemoration of the 200th anniversary of the White House, and for other purposes," disagreed to by the House, and agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. RIEGLE, Mr. CRANSTON, and Mr. D'AMATO, to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 792. An act to reauthorize the Indoor Radon Abatement Act of 1988 and for other purposes.

SUPPORT FOR ECONOMIC AND DEMOCRATIC DEVELOPMENT IN THE FORMER SOVIET REPUBLICS

(Mr. BERMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BERMAN. Mr. Speaker, the administration's lack of response to critical needs in the former Soviet Union constitutes nothing less than criminal neglect of the United States' foreign policy and national security objectives. It also ignores the fact that the security, health, and prosperity of our grandchildren cannot be isolated from events there.

We have heard a lot of talk from this administration about the new world order and a vindication of past and present policy toward the Soviet Union in terms of winning the cold war and bringing the states of the former Soviet Union into the fold of Western democracies. We have seen a lot of public relations gimmicks—telegenic Washington conferences and airlifts of a few days' worth of food and medicine.

What we are missing is substance. President Bush not only has trouble with the vision thing. He also has trouble with the leadership thing.

No one has been fooled into thinking that our feeble Russian aid effort is on a par with Operation Desert Storm. This is no Berlin airlift, no Marshall Plan. Our aid so far consists of grandstanding ploys, which pay lip service to the importance of the task, while providing none of the new resources needed to accomplish it.

Have President Bush and Secretary Baker stopped to consider the consequences of what is sure to be known as the grand failure of the modern era?

If reform efforts fail and new authoritarian governments emerge out of the wreckage of the Soviet Union, the United States will pay for the failure for decades. Moreover, only in the absence of international instability can we truly devote our attention and resources to our domestic economic and social recovery—and the American people know this.

I urge the President and his advisers to heed Mr. Nixon's advice to provide real, dramatic, and immediate aid to transform the political and economic systems of the former Soviet Union.

When we talk about aid to the former Soviet Union, we are not talking about charity. We are talking about our national interest. We are talking about putting America first.

CONGRATULATING THE TEXAS TECH UNIVERSITY LADY RAIDER BASKETBALL TEAM ON THEIR FIRST SOUTHWEST CONFERENCE CHAMPIONSHIP

(Mr. COMBEST asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COMBEST. Mr. Speaker, today I rise to congratulate the Texas Tech University women's basketball program on their Southwest Conference championship. The 23 and 4 Lady Raiders captured their first championship at home last week before the largest crowd in Tech women's basketball history at the municipal coliseum in Lubbock, TX.

The Lady Raiders not only captured their first conference basketball championship, but it was Tech's first women's conference championship in any sport. Talented Head Coach Marsha Sharp, who has been named Southwest Conference Coach of the Year, led her team to a perfect 10 and 0 home record this season, and extended its school record to 16 straight wins at home. In Coach Sharp's 10 seasons at Texas Tech, she has guided the Lady Raiders to 7 20-victory campaigns and 5 NCAA tournament invitations.

Tonight, the Lady Raiders will play Texas Christian University in the first round of the Southwest Conference tournament in Dallas, TX. I commend Coach Sharp and the Lady Raiders on their record-setting achievements this season, and I wish them the best of luck through the Southwest Conference tournament and on to the NCAA tournament.

DEMOCRATS' TIRESOME POLITICS OF ENVY

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, there are now only 9 more days before the March 20 deadline for the liberals in Congress to finally get a jobs creation bill on the President's desk. It doesn't look like they will make it. First, last month the House passed yet another huge tax increase following their outrageous tax increase in 1990 which doomed the economy.

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Then the House last week passed a $1.5 trillion budget which will increase the bloated Federal bureaucracy even more. The Democrats are still the tax-and-spend party they have been for the past five decades. In fact, the leading Democrat Presidential candidate bashes the Democrat candidate who wants to create jobs. The projobs Democrat candidate talks about incentives for business, including a capital gains tax cut. He scorns the Democrat establishment's tiresome politics of envy.

The leading Democrat candidate eagerly leaps into class warfare. He wants to increase taxes on the job-producers in America. This is what his party did with the so-called luxury tax in 1990. Their tax increase resulted in the loss of tens of thousands of jobs in the boat industry and other industries.

I urge my sensible colleagues on the other side of the aisle to join us in working toward passing a real growth and jobs creation package. That is the least which the unemployed and other Americans can expect from their elected Representatives in Washington.

WHAT IS HAPPENING AT THE OTHER END OF PENNSYLVANIA AVENUE?

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, every week I am in my district, at the grocery stores and shopping centers, in people's homes, at businesses, and in the schools. And every week I hear the same plea: When is Washington going to help turn the economy around?

I can tell them we are moving ahead in Congress. We have passed a strong transportation bill, we have passed a bill for middle income tax relief, and we're moving legislation to control massive health care costs.

But what, Mr. Speaker, is happening at the other end of Pennsylvania Avenue?

The President has no economic recovery plan. The only plan he offered was soundly defeated on both sides of the aisle, and used the discredited policy of tax breaks for the wealthy as its engine for economic growth.

The President has no plan to stop the hemorrhaging of health care costs that threaten the well-being and economic security of millions of American families.

And the President has shown no interest in helping our defense workers, and defense-dependent communities cope with a shrinking Pentagon budget. These men and women have dedicated their lives to winning the cold war, but he would turn them out rather than help their companies adjust to a civilian economy.

Mr. Speaker, there is nothing kind or gentle in this. To lead is to act, to govern is to choose. And though the American people have called for help, the President remains stubbornly silent.

□ 1410

FULL DISCLOSURE OF MEMBERS WHO BOUNCED CHECKS ON HOUSE OF REPRESENTATIVE BANK

(Mr. SANTORUM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SANTORUM. Mr. Speaker, I am here today because tomorrow I understand we are going to be debating whether we are going to disclose the people who bounced checks in the House of Representatives bank. I understand there is a lot of pressure being put on Members, especially on the other side of the aisle, to not disclose the names, to go along with the Ethics Committee report to cover up and only disclose the names of 19 current Members.

Let me tell Members, I am sure they know that the American public and those watching, as I am sure Members know, want full disclosure. The argument is going to be made that if we can just hold together now, we can protect each other. We can stick together and we will keep this to that one nasty vote that may or may not come on a procedural vote, or we will try to cover it.

I just want to inform the leadership that if we do not get full disclosure tomorrow or Friday that I will be on the floor every single day we are in session offering an amendment or offering a motion for full disclosure. It will be disclosed.

SHAME ON CONGRESS FOR TURNING THEIR BACK ON AMERICA

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, first Japan bought the Rockefeller Center. Then Japan bought the great horse, Sunday Silence. Now Japan has announced, ladies and gentlemen, they will buy up all of the farms and the homes that were foreclosed on in the savings and loan crashes. That is right, Japan will begin to buy American real estate.

Let me tell Members how they are going to do this. Because they put up trade barriers to America, and they have complete access to our market, they have a huge trade surplus, and they are going to take American dollars to now buy American homes and American farms, and nobody down here is doing or saying anything about it. Our Nation is literally bankrupt, our national security is at stake, and Congress allows a policy that is so misdirected that we could throw it at the ground and it would probably miss.

I am saying this today: Shame on the Congress for turning its back on the American worker and the American people and the national security of our great Nation.

CONGRESS OWES ITS CONSTITUENTS FULL DISCLOSURE

(Mr. ZIMMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ZIMMER. Mr. Speaker, we are kidding ourselves if we think that anything less than full disclosure of the names of all the Members of Congress who kited checks at the House bank will satisfy the American people.

Perhaps at an earlier time the public would have trusted our judgment if we disclosed the names of only the 24 worst offenders. But in the wake of scandal after scandal, embarrassment after embarrassment, revelation after revelation, the people simply don't trust Congress any more. It's time for us to start trusting the people. If they were smart enough to elect us, don't you think they're smart enough to tell the difference between an inadvertent and isolated overdraft and an intentional and systematic rip off of the House bank?

We owe it to our constituents and we owe it to the reputation of this institution to release all the names.

PRESIDENT HAS NO JOBS BILL

(Mrs. BOXER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BOXER. Mr. Speaker, last night, on three network TV stations, Vice President QUAYLE asked why Congress will not act on the President's jobs bill. I think this question deserves an answer and here is the answer. There is no President's jobs bill.

No plan to make the transition from a military economy to a civilian one. No plan to tell our allies in Europe and Japan to pay their fair share and bring the money home and create jobs rebuilding our infrastructure, educating our kids, and cleaning up our environment. No jobs plan at all.

What the President does do in his budget is cut the following programs: The Trade Adjustment Act, which assists workers displaced by foreign competition; the Job Corps; the Older Americans Community Services Employment Program; and certain programs within the Job Training Partnership Act, a dislocated workers' program.

He even eliminates the Bureau of Labor Statistics Program that tracks mass layoffs.

Well I have news: people know this country is in trouble and no matter what diversions the Vice President can point to, jobs and the very hopes and dreams of our people are at stake.

VOTERS DEMAND FULL DISCLOSURE OF HOUSE BANK RECORDS

(Mr. JAMES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JAMES. Mr. Speaker, the House bank scandal is a stain on this Congress. Charges of a coverup have emerged.

It is time to go public. I call for full disclosure of the bank records of everyone involved.

Until we do that, we are all suspect, including Members like me, who never bounced a check, and also those who may have innocently overdrawn 20 bucks.

Many do not believe the Ethics Committee will condemn Members who were routinely overdrawn. Many assume the House leadership knew what was going on and did not object. But the voters did not know; and they do object.

We bring this House into disrepute by keeping secret facts about Representatives that voters demand and have a right to know.

Our good name is being used to cover those who did, as our balances were used to cover their rubber checks. That is wrong.

Full disclosure is the only way to clear the name of the House.

WE NEED A CRIME BILL NOW

(Mrs. LOWEY of New York, asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. LOWEY of New York. Mr. Speaker, the House approved comprehensive crime-fighting legislation on November 27, 1991. Over 100 days have passed, but partisan bickering and gamesmanship have kept the bill from becoming law; 66 murders occur in this country on an average day, during those 100-plus days, almost 7,000 lives have been lost.

On February 14, 1992, 16-year-old Andre Frank, a good student and star football and basketball player at Mount Vernon High School, was shot to death. Then, on March 9, Kasiem Merchant of White Plains, who dreamed of becoming a professional athlete, had those dreams snuffed out in a senseless shooting.

We cannot let these tragedies continue.

Mr. Speaker, now is not a time for politics; it is a time for action. The longer that crime bill is delayed, the more innocent lives are lost. We need strong action now.

HOUSE BANK SCANDAL

(Mr. ALLEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALLEN. Mr. Speaker, I rise in support of the full public disclosure of all Members who bounced checks at the House bank.

There is nothing more important to this institution than public trust. Regrettably, that trust has been violated by the reported activities concerning the House bank.

The credibility of the House of Representatives will be tarnished even further if we adopt the Ethics Committee's resolution publicly disclosing only 24 names. This is a cover up, and every Member of this body knows it.

Mr. Speaker, the taxpayers of Virginia and the Nation have a right to know the names of all Members who abused the House bank. Members who bounced only one or two checks or a few checks can explain that to their constituents; I am sure they will understand. Members who bounced checks repeatedly can try to explain that to their constituents.

Covering up this scandal will leave a dark cloud over this institution. We must try to restore faith in representative government. As difficult as it may be, this House ought to do what is right: Full disclosure. As Mark Twain indicated, it will gratify some, and surprise the rest.

PROBLEMS WITH VETERANS' BENEFITS

(Mr. MURPHY asked and was given permission to address the House for 1 minute.)

Mr. MURPHY. Mr. Speaker, over a year ago the President and the majority of the Members of this Congress sent thousands of young men and women in this country to the Persian Gulf and put them in harm's way.

Recently, in my hometown paper, I read where several of those young men and women have been having difficulty with the Veterans' Administration and with the military in securing their proper readjustment benefits. This morning I received a very sad note from a neighbor and friend of mine, Mrs. Rita Bongiorni.

She writes: "My son, Joseph P. Bongiorni III, was killed in the Scud attack in the gulf war.

□ 1420

"I have asked the Veterans' Administration for a marker for Joe's grave, and I have been turned down."

Mr. Speaker and Members of this House, and to the administration and to the Veterans' Administration, we owe these young men and women of America more, and more particularly to the families that they have left behind.

I am going to turn this letter over to my good friend, the chairman of the Committee on Veterans' Affairs, who was seated next to me just prior to these remarks. The gentleman has told me he will personally look into this matter, and for that, General MONTGOMERY, I thank you.

DISCLOSURE OF BANK RECORDS WOULD LIFT CLOUD OVER CONGRESS

(Mr. NICHOLS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NICHOLS. Mr. Speaker, this body will soon have the opportunity to lift a great cloud from the Congress by disclosing the names of all those who did the so-called check bouncing at the House bank.

This is not just about bouncing checks, it is about trust with the American people. If we only reveal 24 or 36 or 66 or some other number of check bouncers, what are the American people to think? They are going to think we are protecting our buddies, and they will be right.

We represent the people of this country, not our colleagues in Congress. All records of anyone involved with the bank should be revealed. The records should be allowed to speak for themselves and the American people should be allowed to form their own opinions.

What some Members of Congress are doing with their overdrawn checking accounts is an exact microcosm of the handling of our national budget. They are both national disgraces.

I urge you to vote for full disclosure so we can stop wasting time on this self-created crisis and begin dealing with more serious problems facing this Nation.

VETERANS' COMMITTEE FIRST TO USE FM SYSTEM FOR HEARING-IMPAIRED

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONTGOMERY. Mr. Speaker, I say to the gentleman from Pennsylvania [Mr. MURPHY], certainly we will follow up. There is no reason for this young man not to get a grave marker, and I assure the gentleman we will follow right up on this.

Mr. Speaker, on March 5, the Joint House and Senate Veterans' Affairs Committees became the first to use a wireless transmitting system which enables individuals with hearing impairments to participate in hearings. This device amplifies sound with the use of a simple headset.

This is the first time this equipment has been provided by the New Joint Office of Congressional Special Services, which is under the jurisdiction of the Honorable Donnald K. Anderson, Clerk of the House, and the Honorable Martha S. Pope, the Senate Sergeant at Arms and James Billington, Librarian of Congress.

This special hearing equipment is just a small part of the services provided by this new congressional office to help individuals with disabilities participate fully in the legislative process.

The use of this equipment and other assistive services is brought about by the recently passed Americans With Disabilities Act.

The Veterans' Affairs Committee is proud to have had the opportunity to inaugurate this vital new service.

THE IDITAROD SLED DOG RACE

(Mr. YOUNG of Alaska asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. YOUNG of Alaska. Mr. Speaker, today as we ask for disclosure, full disclosure and as we attack the President, I rise today to pay tribute to a great Alaskan tradition which highlights a truly historical event and a competition that is known worldwide.

The event I am speaking about is the Iditarod Sled Dog Race.

At 4:15 this morning Martin Buser, an Alaskan of Swiss descent and his 11 dogs crossed the finish line in Nome to win the 20th Iditarod Sled Dog Race.

In doing so, Mr. Buser won the 1,159 mile race in a record time of less than 11 days.

This was truly a remarkable achievement in a truly remarkable event.

On Tuesday, I introduced House Resolution 392 which honors the 20th anniversary of the Iditarod Sled Dog Race.

This resolution recognizes the historic roots of the Iditarod trail, the life-saving serum run of 1925 and the first 20 years of competition in the "Last Great Race on Earth."

And while most of the mushers and their dogs are still on the trail, it is only fitting that we honor this great Alaska tradition with a commemorative resolution.

The Iditarod is one of the annual highlights in my great State and it is appropriate to honor the courageous people and dogs who braved the elements to deliver the life-saving serum to the people of Nome in 1925 and the men, women, and dogs who today keep that memory alive.

They exemplify the spirit of Alaska.

To Martin Buser and his dogs, I say congratulations on a marvelous achievement.

To the more than 70 other mushers still competing, I say good luck and God speed.

And to the hundreds of volunteers who devote thousands of hours each year to make the Iditarod Race a reality, I say thank you for a job well done.

MFN TRADE STATUS TO CHINA SEEN AS UNACCEPTABLE FOREIGN POLICY

(Mr. SANDERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SANDERS. Mr. Speaker, the United States cannot have a foreign policy which says on one hand: we believe in democracy, we believe in free speech, we believe in the right to dissent; and on the other hand, offer most-favored-nation trade status to the totalitarian government of China—a government which for many years was responsible for the deaths of hundreds of students in Tiananmen Square, who called out for nothing more than human freedom.

Mr. Speaker, the U.S. Congress has not yet been successful in overriding a veto of President Bush. Today is the day to begin that process. Let us say to American workers that we think it wrong that they be forced to compete for jobs against slave labor in China; let us say to those courageous men and women in China that we stand with them in their struggle for democracy; and let us say to the President that we want a consistent democratic foreign policy, one that does not reward totalitarianism and brutality.

THE REGULATORY RELAY PROGRAM

(Mr. EWING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EWING. Mr. Speaker, I rise today to address the issue of Federal regulations as part of Congressman DELAY's regulatory relay program.

Last week a constituent of mine who runs a medium-sized oil and gas business came to tell me about how excessive Federal transportation regulations affect him and his employees.

This driver qualification file contains some 17 forms which potential propane truck drivers must fill out, many of them include tests which the applicant must take. By contrast, this page with six lines typed on it lists all the qualifications to be President of the United States.

This vehicle maintenance packet contains several forms which drivers must periodically fill out to document that they have taken necessary steps to maintain their trucks.

These three booklets list thousands of regulations which drivers must abide by while they are in transportation. They must always be in reach of the driver.

Finally, this booklet contains forms which must be filled out at the end of each day, after the driver has inspected virtually every part of his vehicle.

Mr. Speaker, this is overregulation. I will hold a special order tonight to go into further details.

CHINESE COMMUNISTS THUMBING THEIR NOSE AT US

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, yes, today we are going to take up the President's job bill. It is called: "You want a job? Move to China."

We are going to give the Chinese most-favored-nation status if he gets his way.

These are the people who have been ignoring us on all the human-rights things that we have been calling out, one of the last Communist countries left, and on top of that they send the missiles to Iraq and all those wonderful dictators in the Mideast and thumb their nose at us. But we are going to give them most-favored-nation status.

They are now No. 2 in imports in this country. We owe them more money than any other country but Japan. So if you want a job, go to China; vote with the President today.

□ 1430

FAIRNESS IN FULL DISCLOSURE

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, there are two excellent reasons why we ought to be demanding a full and fair disclosure of the individuals in the House who have been guilty of overdrafting in the recent bank. One is that if indeed the Ethics Committee report will be adopted, there will be about two dozen names disclosed, and everybody in the world knows there are at least 300 individuals on that list.

Well, where does that put those Members who never did overdraft a check or who did a minimal amount of overdrafting? It is unfair to them if only 19 names are disclosed. The people back home are going to wonder, is our Congressman on the remaining list between No. 19 and No. 300?

But there is a second more powerful reason, and that is the public demands it. This is a public institution, using public moneys for the discharge of our responsibilities. It is a public issue on whether or not the Members of Congress can comply with their duties. It is a public issue in every form.

IN SUPPORT OF OVERRIDE OF PRESIDENT'S VETO ON CHINA MFN

(Mr. GEJDENSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEJDENSON. Mr. Speaker, the administration is involved in yet one more coverup. This coverup is the prison laborers in China. For over a year now the State Department has been holding cables reporting on prison labor in China. When Congress has asked for these cables, the administration denies access to them.

Why? Because this administration is more interested in currying favor with the dictators who run China than the American workers who lose their jobs because of this policy, when the young people in China want just a little better taste of freedom.

When we take a look at our own State Department in complicity with the people who run prison labor camps, it is time, Mr. Speaker, to change this administration from one that is the enemy of American workers and the Chinese who want freedom to an administration that will be a friend to American workers and the Chinese people who want freedom.

Mr. Speaker, I strongly support the override of the President's veto of H.R. 2212.

Since the Tiananmen massacre, President Bush has asked Congress to grant MFN status to China without conditions. The President has asked Congress to overlook gross violations on human rights as well as China's horrendous trade and nuclear proliferation policies.

Just this week, the State Department has once again tried to prevent Congress from seeing the truth about China and the administration's failed policy of appeasement. The State Department has refused to give Congress copies of cables which will show, according to human-rights groups, that the State Department has covered up China's use of forced labor.

The cables apparently demonstrate that the State Department has known, since early 1991, that China was operating prison factories which produced goods exported to the United States. The State Department kept quiet about this information, however, because the Department feared that concrete evidence regarding China's use of forced labor would encourage Congress to take away China's MFN status.

The State Department's refusal to give Congress copies of these cables is not only an insult to this institution, but further evidence that the President does not want Congress to see the brutal reality of life inside China's prisons. It is evidence that the President does not want Congress to know the lengths to which the administration has gone to give MFN status to Beijing's dictators.

Mr. Speaker, I urge my colleagues to support the override of the President's veto of H.R. 2212.

THE PEOPLE'S RIGHT TO KNOW

(Mr. ZELIFF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ZELIFF. Mr. Speaker, I urge the House to quickly release the names of all Members who have abused the privileges of the House bank.

There is a basic principle involved here, known as the people's right to know.

We must never forget that our title is "Representative." That simply means that we are the people's representatives.

As the people's representatives, we have a responsibility to conduct all business, that does not involve national security, in the bright light of daylight. We must let the sunshine in on all of our activities, so that the people we represent can see clearly and thus evaluate our actions on their behalf.

The simple truth is that our obligation is not to our colleagues who have violated the public trust; our obligation is to the people of America, that is who we represent, the people of America, and they have a right to know.

The way to restore the image of this great institution is to let the sunshine in, on all of our transgressions, so that we may heal ourselves. Let us have full disclosure now, and not let one brush taint this institution forever.

AMERICAN PEOPLE ENTITLED TO FULL AND DETAILED DISCLOSURE OF HOUSE BANK CHECK-WRITING ABUSES

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, rarely have two Members of this body been given a heavier burden to bear than the gentleman from New York [Mr. MCHUGH] and the gentleman from Utah [Mr. HANSEN] who headed up the investigation by the Ethics Committee of the House bank check problem, and rarely have two Members discharged this burden with greater nobility and honor than these two gentlemen.

I desperately wish I could support the committee's recommendation, but I cannot. I believe the people of this Nation are entitled to a fuller, more detailed disclosure.

Despite what some say, this is not a Democrat versus Republican matter. It is not a rich Member-poor Member matter. At issue, Mr. Speaker, is the credibility, the respect and the integrity of this House. When those, as I believe are at stake, then I must vote for fuller, rather than narrower disclosure.

IN OPPOSITION TO MFN STATUS FOR CHINA

(Mr. LEWIS of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Florida. Mr. Speaker, today we will vote on the President's veto against placing restrictions on most-favored-nation status for China.

In my opinion, these restrictions are not strong enough. Weakening the conditions imposed on MFN status originally passed by the House was a grave injustice.

However, the restrictions included in H.R. 2212 are a start. It is time to get tough with a country that continues to restrict the press, condone religious persecution, and deny access to human rights monitoring groups.

Let us take just a moment to look at the situation. We have a Communist country with a lousy human rights record, lousy trading practices, and a history of weapons sales to Iran and Syria.

How then can we, in good faith, allow the repressive regime of China the privilege of receiving MFN status?

Our current policy has failed. Human rights continue to be violated, and Tiananmen Square demonstrators are still jailed.

Unfortunately, progressive efforts have not been effective enough in placing China back on track. It is time for Beijing to wake up.

THE BUSH ADMINISTRATION'S OWL RECOVERY PLAN

(Mr. AUCOIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. AUCOIN. Mr. Speaker, I rise to call attention to a document that was entered into the RECORD today.

It is the Bush administration's interagency recovery plan for the northern spotted owl, a document of great importance to Oregon.

Secretary Lujan's hand-picked team worked on it for over a year. Then someone woke the Secretary up from a 12-month nap. And was shocked, shocked at the plan's recommendations. So now he wants to delay the process further, and have a new hand-picked group come up with some other scheme.

And while the many Federal agencies involved dither and fight over this, Oregon communities are dying.

Mr. Speaker, countless jobs have already been lost because the administration has no solution, no plan, and no answers for how to resolve the spotted owl crisis.

This tragedy of errors must end. Congress must act on the forest crisis this year, but first we have to know what is going on inside the administration. I applaud the plans of House committees of jurisdiction to hold immediate oversight hearings into the mishandling of this affair. At last, we may finally discover who is really calling the shots in the Bush administration on this whole sorry mess—or if anyone is.

IN SUPPORT OF FULL DISCLOSURE ON HOUSE BANK

(Mr. ALLARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALLARD. Mr. Speaker, I rise today once again to ask that you and the House leadership join me in supporting full disclosure on the House bank.

There appears to be some concern among my colleagues that full disclosure will unfairly cast a pall upon innocent Members of Congress. I believe it is just the opposite: Full disclosure will squelch the flames. It will put out the fire among the American public that's fueled by Congress' secrecy on the House bank.

I and other Members believe that only full and complete disclosure of bank records will begin to instill confidence in the Congress.

The eyes of the American people are on the House of Representatives this week, Mr. Speaker. They are watching to see if we are going to be open and honest with them, or if we are going to try to cover up.

Newspaper editors all over America are calling for full disclosure. I believe we should take their comments seriously and vote for full disclosure.

REINTRODUCTION OF LEGISLATION TO SUPPORT AMERICAN HIGH TECHNOLOGY

(Mr. MINETA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MINETA. Mr. Speaker, a recession is no time to be shortsighted about American technology, or American jobs.

Today I am reintroducing legislation to support American high technology with a program that will help our companies plan, commercialize, and compete in the world.

And I would like to thank my colleagues—the majority leader and Congressmen GEORGE BROWN, VALENTINE, and MARKEY—for joining me as original cosponsors of this legislation.

Mr. Speaker, my home State of California has a great stake in the race to research and develop new technologies. The American electronics industry now employs 3 million people, and the heart of that industry is in Silicon Valley.

High-technology companies in California and nationwide know that this legislation is not a case of Government picking winners and losers.

This Technology Commercialization Loan Program is designed to get American technologies to market with an American label from an American factory.

That is what this Congress should be supporting, and I ask my colleagues on both sides of the aisle for that support.

□ 1440

NOTHING LESS THAN FULL DISCLOSURE IS ACCEPTABLE

(Mr. RIGGS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RIGGS. Mr. Speaker, I had intended to rise today to express my concern regarding the North Korean Scud-C missile shipments to the Middle East, to the nations of Syria and Iran and to commend our Government for their efforts to monitor and, if necessary, interdict those shipments. If only we would couple that with the moratorium on arms sales to nations such as Pakistan.

But, Mr. Speaker, I have to address the revolution going on in America, a revolution, frankly, which the leadership in Congress is still trying to ignore. The proposed House Ethics Committee resolution to name only the 24 worst check kiters while letting others off the hook from any public accountability just does not cut it. Anything less than full disclosure will not, either.

The public at large thinks we have something to hide and will hold this whole body in contempt unless we deal with them in an up-front and honest manner.

Mr. Speaker, the American voter is not stupid. Let them decide if their Representative made an accidental mistake or instead abused the public trust in a systematic and routine manner.

Voting against full disclosure will be a vote for a coverup. Mr. Speaker, let us reject that resolution; let us release the names and start to clean up this institution.

LET US WAKE UP AND DO SOMETHING TO HELP AMERICA'S WORKING PEOPLE AND THEIR FAMILIES

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute.)

Mr. APPLEGATE. Mr. Speaker, if the folks here want a real issue, let us talk about the economy. Herbert Hoover got stuck with the policies of Calvin Coolidge and then continued them on to defeat in 1932.

Today George Bush is stuck with the Reagan-Bush recessionary policies of the 1980's, and his fate is going to be the same as Herbert Hoover's, simply because the people are scared to death.

Mr. Speaker, they are frightened because they are losing their health insurance, they are losing their homes, they are losing their businesses, they are losing their jobs; and they have lost so many jobs that the unemployment rate today is 7.5 percent.

Mr. Speaker, how far down into the depths of poverty do people have to go before this Congress and the President are going to wake up and do something to help America's working people and their families? The people know that the rich are getting richer and the people know that the poor are getting poorer, and our people are getting angrier and angrier.

BOUNCING CHECKS DO RETURN

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, with all due respect to the prior speaker, a good friend of mine who votes conservative every now and then, the check scandal is a real issue.

Mr. Speaker, it was 50 years ago this very day that one of our greatest military heroes ever, Gen. Douglas Arthur MacArthur, against his will, under orders from President Roosevelt, left the small battered island of Corregidor, which fell within 2 months, and Bataan was about to fall within the month, with the death march following. On the PT boat skippered by Lieutenant Bulkely, Douglas MacArthur said, "I shall return," and left the Philippines to rendezvous with the submarine on the Philippine Island of Mindanao and, by sub, go to Australia to begin the comeback.

Mr. Speaker, I would like to spend my whole 1-minute and 1 hour tonight talking about that. But, "I shall return," now applies to rubber checks because when you write a bad check, it is going to return, it is going to return, it is going to return. And this list of checks on the front page, 900, 800, 700, a half million dollars' worth of checks; full disclosure, Mr. Speaker, as your party called for in Watergate, Contragate, Abscam, et cetera.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MCNULTY). The Chair would remind our guests in the gallery that we are delighted to have them with us but they are to refrain from responding either positively or negatively to any statements made on this floor.

FORMER PRESIDENT NIXON SAYS PRESIDENT BUSH IS UNIQUELY QUALIFIED

(Mr. DREIER of California asked and was given permission to address the

House for 1 minute and to revise and extend his remarks.)

Mr. DREIER of California. Mr. Speaker, I am not one who regularly criticizes the press corps in this country, but we have seen a very, very poor interpretation of something that was done with the very best of intentions.

Mr. Speaker, about 2 weeks ago I received from former President Richard Nixon a 5-page paper entitled "How To Lose the Cold War." In it former President Nixon talks about the important things that we as a country should be doing to assist those emerging from totalitarianism in the former Soviet Union, now the Commonwealth of Independent States.

He pointed to the fact that there is a very unique and important opportunity now, we should strengthen our relationship with President Yeltsin. Unfortunately, the press has misinterpreted this, and in every interpretation I have seen from the National Public Radio to the Washington Post people have been saying that former President Nixon was criticizing President Bush.

Mr. Speaker, I have to say that it is in the record. Our colleague, the gentleman from Michigan [Mr. BROOMFIELD], the distinguished ranking member of the Committee on Foreign Affairs, put it in the record, that 5-page paper.

Mr. Speaker, I recommend that all in the press and my colleagues look at it. The last line says, "President Bush is uniquely qualified to address the challenges that we have in dealing with the Commonwealth of Independent States."

We cannot forget that, and I hope very much that the press corps will get that straight.

SYRIAN JEWRY

(Mr. BLILEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLILEY. Mr. Speaker, with the 1948 Arab attack on Israel, there was a great exchange of populations. Eight hundred and fifty thousand Jews fled Arab lands with no possessions and no money and settled in the Jewish State of Israel as penniless refugees. They were immediately absorbed into Israel, they were granted citizenship and were, in every essence, integrated into the state. On the other hand, 500,000 Palestinians fled Israel to Arab and Moslem States. Israel permitted them to take their possessions and their money. Yet the fleeing Palestinians were put into camps by their own brethren and were not granted citizenship. They were granted little ability to integrate into the community of their new states and were left in camps where most remain today.

The 200,000 Palestinians who chose to remain in the Jewish State, were granted citizenship and today represent about 16 percent of the voting population. They truly enjoy more benefits than their counterparts who fled to Arab nations. Recently, I was in Israel and had the opportunity to talk with these Palestinians who are Israeli citizens. They indicated to me that they have no intention of trading their Israeli citizenship. They left me with the impression that most Palestinians in similar circumstances, share this feeling. This proves that the integration of the Palestinians into Israel and the community has succeeded and has been beneficial.

Furthermore, in an effort to assist those Palestinians who remain in camps in Arab and Moslem States, Israel has made attempts to reach a meeting ground by offering to Arab nations housing in Gaza for these refugees which would be more suitable than the camps where they are today. The Arab States, however, continually reject the offer.

This brings me to a point which is important to keep in mind. Israel has made consistent attempts to allow Israeli Palestinians the freedoms and the democratic voice that are not being granted to their brothers abroad. Yet those Arab and Moslem States, where a great number of Jews remain since this massive population exchange, have been given few freedoms and remain as virtual hostages. In Syria alone, there are approximately 4,000 Jews who remain. Efforts to obtain their release, or to gain permission for their emigration, have been fruitless. Should they be suspected of having visited Israel illegally or be caught attempting to emigrate or travel abroad without permission, they will be subject to prosecution.

The Syrian Government stated in 1989 that it would positively consider emigration requests for either the purpose of family reunification or for unmarried Jewish women who are unable to find a suitable husband in the small Jewish community. Yet contrary to those statements, the emigration numbers in these cases increased in 1989 alone while in 1991, the Syrians permitted only 20 unmarried Jewish women to emigrate to Israel.

Furthermore, the Syrian Jews are more closely watched than all other Syrians. They are locked in the country, contrary to their choice and it seems that they have become Syria's political hostages. They are unable to travel freely, they are unable to emigrate freely and they are heavily monitored by the government. This is an outright violation of internationally agreed upon fundamental human rights. For this reason, Mr. Speaker, I call on Syria to immediately rescind these prohibitions, to permit both free travel and free emigration and I urge my colleagues to do the same.

THIS CONGRESS CANNOT EVEN KEEP THEIR OWN CHECKBOOKS

(Mr. CRANE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CRANE. Mr. Speaker, I got blindsided last fall by a news crew, a TV news crew, asking me about check kiting on the part of Members of the House of Representatives. I confessed that I did not know what they were talking about at the time. It was the day the news story broke.

They explained to me, and I said, "Well, that helps provide an understanding of why this Congress cannot ever manage to balance our national budget. They cannot even keep their own accounts balanced."

☐ 1450

Mr. Speaker, this is something that the public really has a right to know about, and the Washington Times printed the top 10. There are about 7,500 bounced checks by the top 10 offenders, and they total roughly $3 million in bounced checks. That is just the top 10.

Now the fact is that anyone probably knows how to bounce a check. They accidentally do not keep their books straight. That is one thing, but that is why it is essential to remove the cloud that hangs over this body by having 100-percent full disclosure and letting the voters decide this.

Mr. Speaker, we do not need 24 sacrificial lambs. We can tell the voters the whole truth.

ONLY FULL DISCLOSURE WILL EARN THE RESPECT OF THE AMERICAN PEOPLE

(Mr. KYL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KYL. Mr. Speaker, nothing that the House of Representatives can do to resolve the House bank scandal will restore the trust and dignity the institution has lost in the last several months. The House could, however, do even more damage to its already sullied reputation if it adopts the majority recommendation of the House Committee on Standards of Official Conduct and releases only the names of the two dozen worst abusers of the check writing privileges of the House bank.

Mr. Speaker, there can be no mistaking what the American people want us to do. They want us to give them the facts so that they can judge for themselves whether their Member's use of the House bank was proper or improper.

Mr. Speaker, the issue here is really quite simple. Will the House continue to conduct business as usual, protecting its Members by keeping information from the public, or will the House finally make itself accountable to the American people, acknowledging its past mistakes, and begin to apply a higher standard of conduct for its Members? Only by full disclosure, Mr. Speaker, will the House come clean and begin again earning the respect of the American people.

THE AMERICAN PEOPLE WANT TO KNOW WHO BOUNCED THE CHECKS

(Mr. BOEHNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOEHNER. Mr. Speaker, the U.S. Congress is under indictment by the American people. They want us to be more accountable, and, when it comes to bouncing checks, they want all the information. They want us to release the names of all of those Members who have bounced checks.

Mr. Speaker, if we are only willing to announce 24 checks, this Congress better be ready for the largest march on this institution by the people of this country that we have ever experienced in our history because the people are mad, and they want to know who bounced the checks.

WE NEED FULL DISCLOSURE

(Mr. NUSSLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NUSSLE. Mr. Speaker, there are a number of people here today that are watching this great debate about the House bank. There are a number of people at home, too, Mr. Speaker, that are watching.

Mr. Speaker, I had the privilege of addressing a high school group here recently from my home district, and, as I do with any high school group, I always start off with the same thing. I ask them, as my way of discussing the Federal budget, "Do all of you have a checkbook," and invariably a couple raise their hand, and I ask them, I say, "How much money do you have in your checkbook," and one or two will say, "Well, maybe I've got $10, maybe I've got $15," and I ask them; believe it or not I ask them this question: "How much can you write your check for?"

Mr. Speaker, they all recognize in high school, in high school, they all recognize that a check cannot be written for over the amount, and yet right here in this institution, Mr. Speaker, there are people who make decisions about billions and trillions of dollars that do not know that simple principle.

Mr. Speaker, it is time, if this is truly the people's House, as I was told this last year when I raised my hand to take the oath, then it is time for the people to understand what their Representatives are doing.

We need full disclosure.

ALEXANDRIA-ARLINGTON ECONOMIC STABILITY

(Mr. MORAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MORAN. Mr. Speaker, I wanted to bring to the attention of my colleagues an article in the Metro section of the Washington Post today that describes two communities that define good government. Arlington and Alexandria have escaped much of the fiscal crises that are affecting local governments throughout this country, and they have been doing that through good fiscally conservative management, by holding off on the demands to expand local employees and public programs, and to pay as they went.

I take a little personal pride in that; while I was mayor, we reduced the tax rate by 30 percent and our debt per capita by 50 percent, but the reality is that the real credit goes to the citizens of Alexandria and Arlington, the Arlington County manager, Tony Gardner, and my very close friend, the Alexandria city manager, Vola Lawson, the members of the Arlington County Board, and the Alexandria City Council. They have labored long and hard to come up with a future vision of their localities and have been willing to make the sacrifices to realize that vision. And, as a result, they have two communities that could not be finer places to live in and work in this country.

Mr. Speaker, I plan to insert that article in the RECORD and bring my colleagues' attention to it.

THE BALANCED BUDGET AMENDMENT AND OUR BANK'S BAD FINANCIAL PRACTICES

(Mr. TAYLOR of Mississippi asked and was given permission to address the House for 1 minute.)

Mr. TAYLOR of Mississippi. Mr. Speaker, I have the privilege every day to hear the remarks of my fellow Congressmen. This morning they were talking about some bad financial practices, and they must be corrected, and they have been corrected. The bank has been shut down, but there are bad financial practices going on every day, and I have not heard one person address the fact that the President a month ago submitted to this Congress a budget that was $350 billion in the red.

Now for those of my colleagues who are not from Mississippi I can say that that is enough money to run the State of Mississippi for 70 years, just this year's deficit, and the interest on that deficit is now $500 million a day. That is money that will not educate one child, will not cure one disease, will not pave one inch of highway, will not buy one round for one M-16.

So, for the Members of this body who are so adamant about reforming the financial situation of this Congress I say, "Let's start with the balanced budget amendment, and let's start with the law that requires our President to submit a balanced budget, and this Congress to pass one."

APPOINTMENT AS MEMBERS OF NATIONAL COMMISSION ON INTERMODAL TRANSPORTATION

The SPEAKER pro tempore (Mr. McNULTY) laid before the House the following communication from the Honorable BOB MICHEL, Republican leader:

U.S. HOUSE OF REPRESENTATIVES,
OFFICE OF THE REPUBLICAN LEADER,
Washington, DC, March 10, 1992.

Hon. THOMAS S. FOLEY,
Speaker of the House, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to Sec. 5005(d)(1)(C) of Public Law 102-240, I hereby appoint Mr. Kenneth Bird of Woodridge, Illinois, and Dr. John C. Taylor of Mason, Michigan, to serve as members of the National Commission on Intermodal Transportation.

Sincerely,

BOB MICHEL,
Republican Leader.

UNITED STATES-CHINA ACT OF 1991—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore. The unfinished business is the further consideration of the veto message of the President of the United States on the bill (H.R. 2212) regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes.

The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

The gentleman from Illinois [Mr. ROSTENKOWSKI] is recognized for 1 hour.

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the veto message of the President to the bill (H.R. 2212) regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 30 minutes to the gentleman from Texas [Mr. ARCHER] and ask unanimous consent that he be permitted to yield time to other Members for the purposes of debate only.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2212, the United States-China Act of 1991, and urge my colleagues to override the President's veto of this important bill. As all Americans know, the hardline leadership of China brutally suppressed a peaceful demonstration for democracy in June 1989. Since then, the House has voted numerous times for legislation to increase pressure on the Chinese Government to improve its behavior in the areas of human rights, trade, and weapons proliferation. At each stage, the administration said that such legislation was unnecessary. They said the Chinese hardliners would be won over by diplomatic persuasion, rather than by hard and fast legislative requirements. They are still saying the same thing. I strongly disagree.

Let me say at the outset that I do not want to isolate China from the positive influences of Western democracies. I do not want to undercut the influence of the moderate, free-market forces within China. But I do not believe that H.R. 2212 will have that effect. This bill has been carefully crafted to establish objectives that the Government of China can meet, in order to retain its most-favored-nation [MFN] status. It provides that the President may not recommend the continuation of a Jackson-Vanik waiver for China in 1992, unless he reports that China accounts for and releases citizens detained in the 1989 Tiananmen Square incident. The bill also provides that the waiver may not be extended unless the President reports that China has made overall significant progress in achieving a number of objectives relating to human rights, trade, and weapons proliferation.

During the time that the Congress has been considering this legislation, the behavior of China's leaders has not improved. More Tiananmen Square demonstrators recently were sentenced to prison, after a long period of detention without trial. Many more demonstrators remain unaccounted for. Negotiations to open China's market to increased exports from the United States and other countries have not made significant progress. And reports continue to surface about possible sales of Chinese missiles to volatile regimes in the Middle East and elsewhere. How can the President credibly argue that the current approach is working?

Mr. Speaker, the House of Representatives approved H.R. 2212 by an overwhelming vote of 409 to 21 on November 26, 1991. The bill was approved by the other body on February 25 of this year by a vote of 59 to 39. I believe that enactment of this bill will send the right message to China's leadership—that the United States wants and expects more responsible behavior in the areas of human rights, trade, and weapons proliferation, in return for continued free access to the United States market. I urge my colleagues to vote to override the President's veto of H.R. 2212.

□ 1500

Mr. Speaker, I reserve the balance of my time.

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the President gave clear warning that H.R. 2212 could not represent a united foreign or economic policy position for the United States with respect to China. Rather, the bill represents a policy of isolationism and retaliation that the President cannot possibly choose. As expected, he immediately vetoed the bill.

Today, we consider whether to force a divided and questionable policy on the President. I urge my colleagues to sustain the veto and to look for more cooperative ways to develop a constructive and realistic approach to this strategically important country.

The draconian step of rupturing trade relations is probably the most unproductive thing we could do. Our desired goals and objectives in China can only be achieved if there is a strong United States presence.

A normalized trade relationship is essential if we are to reform Chinese policies and make that country a more responsible member of the international community. Trade must exist for this strategy to be successful.

Finding the appropriate leverage is the key. We can point to very recent successes in using this strategy.

Negotiations, using section 301 reciprocal trade sanctions, have yielded a sweeping agreement with China for the protection of intellectual property rights. Also, as a result of United States pressure, China has agreed to abide by the Nuclear Non-Proliferation Treaty and has agreed in writing to observe Missile Technology Control regime guidelines. China is also participating in the President's Middle East arms control initiative.

As a member of the U.N. Security Council, support from China for U.N. efforts in the gulf is crucial. In addition to supporting Operation Desert Storm and other past U.N. activities in that region, China continues to play a key role in pressing Iraq to abide by the terms of the cease-fire and eliminate its weapons of mass destruction.

The importance of China in world economic and political affairs cannot be underestimated. The United States cannot afford to walk away from this strategically important country of more than a billion people. Even though the relationship has become severely strained and the current harsh leadership has frustrated our desire to see a free and open China, we cannot abandon our efforts to make a difference.

Our friends in China count on American leadership. Chinese students, business people, dissidents, and emigres all support a continued United States role through trade as well as academic and political contacts. They support effective pressure, but very much oppose and fear the possibility of the United States withdrawing MFN and undermining the struggling reformist movement. The fears of Hong Kong are even greater.

Mr. Speaker, now is not the time for the Congress and the President to be at odds over this issue. We need to pool our hearts and minds and efforts to face the daunting task of leveraging the Chinese leadership into the mainstream of international practices. We need to look for effective solutions that do not inflict pain on ourselves and our friends.

Mr. Speaker, H.R. 2212 is the wrong signal and the wrong policy. I urge my colleagues to support the President and vote to sustain his veto of H.R. 2212.

Mr. Speaker, I reserve the balance of my time.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. PEASE]

Mr. PEASE. Mr. Speaker, today offers us the unique opportunity to send a message, both to Premier Li Peng and to President Bush. By casting a vote in support of this veto override measure, you will be sending a message that the human rights abuse perpetrated by the Chinese Government up to following the Tiananmen Square massacre just will not stand.

Without the H.R. 2212 conference report, President Bush will be sending a message of his own to those who hold power in China, namely that the privilege of enjoying MFN status comes easily, in fact, without any accountability. This message strikes me as odd, in view of the fact that other U.S. trade preference programs hold candidate countries responsible for their records on everything from worker rights and intellectual property rights protection to market access.

In my view, the time is right for conditioning extension of MFN for the PRC. Figures released recently indicate that Beijing has a great deal to lose in risking MFN status, $12.7 billion to be more exact. This was the 1991 United State-China trade deficit that placed China second only to Japan in the bilateral trade surplus it runs with the United States.

Again, I urge my colleagues to cast their vote in favor of this veto override and to send Mr. Bush the message, "unconditional approval of China MFN, this will not stand."

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. BROOMFIELD].

Mr. BROOMFIELD. Mr. Speaker, regretfully, I will vote for enactment of this bill over the President's veto.

Despite the efforts of the administration, the Chinese Government has continued to trample the human rights of its citizens and flout the norms of international conduct.

People around the world were shocked when the Chinese leaders unleashed the army against peaceful demonstrators in Tiananmen Square. In the nearly 3 years since then, the Chinese Government has never apologized for this grisly deed or accounted for all those who were killed, injured, or imprisoned as a result.

Meanwhile, Chinese export and import policies continue to bedevil world prosperity and world peace. Despite their reassurances to the contrary, the Chinese continue to assist other nations develop weapons of mass destruction. Despite some improvements, the Chinese continue to reap the benefits of an unfair trade relationship with the United States.

Although the administration has tried hard to engage the Chinese on these and other issues, the results have been meager at best. For this reason, I believe that we must place realistic conditions on the continuation of normal economic relations.

The only conditions that would absolutely have to be met under this bill are those which relate to observance of basic human rights. First and foremost, this includes accountability for the grave insults to individual life and liberty associated with the Tiananmen Square massacre. On all the other issues included in the bill, the Chinese would be required to make only overall significant progress.

Mr. Speaker, if the Chinese leaders want the economic benefits of free trade, then let them meet the minimum standards on human rights that are contained in this bill. Like the President, I fear for the effects in China if trade privileges are withdrawn. Nevertheless, I feel we cannot go on doing business as usual with this outlaw regime.

□ 1510

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 5 minutes to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Speaker, I thank the gentleman, Mr. ROSTENKOWSKI, for yielding and for his leadership in bringing this legislation to the floor. I also want to commend the subcommittee Chair, the gentleman from Florida [Mr. GIBBONS], and the leadership on both sides of the aisle who have been so cooperative with the conference report.

Mr. Speaker, since the House passed this legislation, the situation as far as China is concerned has only worsened. For that reason I call upon my colleagues today to once again vote in support of this legislation to condition most-favored-nation status to China on improvement in human rights and on the cessation of the proliferation of nuclear weapons, as well as significant progress in trade areas.

Mr. Speaker, I wish to address certain of those points. Since the vote in November, we have learned that in the last two quarters of 1991 the trade deficit with China has grown to $4 billion in each of those two quarters, or over $8 billion for the last half of 1991.

The trade deficit is going in the wrong direction, in the direction of a greater deficit for the United States. That is $25 billion in trade surplus for China since Tiananmen Square. All this results not from competitiveness of their products, but rather from obstacles to our products going into China.

On the question of the sale of missiles, the conditions that our colleague, the gentleman from Michigan [Mr. BROOMFIELD], referred to as a condition in the bill, there are allegations now of China's assistance in Syrian missile production and the export of unsafeguarded technology by China.

I call to the attention of my colleagues a recent op ed in the New York Times the other day by William Safire in which he talked about how China would try to get around the conditions of this legislation, which prevents the sale of M-9 and M-11 missiles to Syria and Iran, by sending scientists from China to Syria to help construct a nuclear weapon.

It is interesting to hear our colleague from Texas [Mr. ARCHER] talk about the Chinese signing in writing their commitment to missile technology control. We have requested but have not been able to see any such statement in writing by the Chinese Government and the State Department has had it, supposedly, for a long time now. I do not think that document can be produced. That says to me that whatever it says, it is not adequate to make the reassuring case for the other side.

Mr. Speaker, as far as my colleague from Texas [Mr. ARCHER] mentioning the intellectual property agreement as being a sign of progress, indeed it is, and it is a tribute to this House of Representatives for the 409-to-21 vote made here in this body, that the Chinese Government sent a message to their negotiators at that table and said "Compromise, compromise, compromise. Because if we do not compromise on this, for sure this MFN bill will pass and they will override the President's veto."

So it is not the administration, but this House of Representatives and, to a lesser extent, the U.S. Senate, that deserves credit for the progress on the agreement on intellectual property.

On the subject of human rights, prodemocracy advocates in China are still being arrested. In fact, on the very day of the Senate vote, February 25, seven prodemocracy advocates were sentenced to prison terms for speaking out peacefully for democracy in China. It is sad to report that the administration has said, "Well, we want to do things another way."

Mr. Speaker, I also want to call attention to the fact that the administration was a source of grave disappointment in its efforts to scuttle a recent resolution by the United Nations Human Rights Commission condemning China's human rights actions in Tibet. This sent another message to China that they did not have to conform to international standards of human rights.

Imagine that. There is a United Nation's list of countries which violate the human rights of their people and of others, and China is not in it. This list just came out last week. China is not on it because of the actions of this administration to scuttle the resolution. Rather, we agreed to some watered down version which was too late to have China placed on the list. This is when the administration says, "Let us do it our way." It did not work.

So when our colleague from Texas [Mr. ARCHER] says he sympathizes with the emotions and that we feel strongly about this, I have to contend that we do not need sympathy for our emotions. we have the merit of our ideas, which will win the day today. It is not on the basis of emotion, but the hard facts—the fact that China is violating our trade agreement to the tune of nearly half a million American jobs, that China is contributing to nuclear proliferation to a much less safe world for us to live in, a world that we went to war to protect last year because of the spread of nuclear proliferation. And in terms of human rights, basic freedoms, it is in our interest to live by our principles.

Mr. Speaker, I do not call that emotion. I would say to the gentleman from Texas [Mr. ARCHER], I would hope the gentleman will respect the thinking and the principles that are the basis of this legislation. It is not on the basis of emotion, but on the basis of principles that I ask our colleagues to vote "aye" to override the President's veto.

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I regret that the gentlewoman from California [Ms. PELOSI] has attempted to distort my comments. I think anybody in this country that does not feel emotionally about a deprivation of human rights certainly does not live within the framework of what this country stands for. I do feel very strongly about it. That is precisely what I said in the opening remarks that I made.

I also regret that the gentlewoman from California [Ms. PELOSI] is not aware of the development that China has in writing agreed to observe the missile technology control regime guidelines and parameters. That has been certified to me today by the State

Department. I suggest that the gentlewoman contact the State Department to verify that.

Mr. Speaker, I yield 6 minutes to the gentleman from Illinois [Mr. MICHEL], the distinguished minority leader of the House.

Mr. MICHEL. Mr. Speaker, I know most of our colleagues believe it is in the national interest to impose conditions upon MFN status for the People's Republic of China, and I respect that belief. I fully understand the humanitarian and patriotic motivation at its heart.

But in my view, our national values and our national interests and the cause of human rights in China are best served by sustaining the President's veto.

Mr. Speaker, all of our colleagues know the economic arguments for a continuation of MFN status without conditions. I will not bore Members by repeating those in detail. But let us just remind Members that conditions will put at risk $6 billion in export to China. Thousands on U.S. jobs are in jeopardy if we set off a trade between the two countries.

Finally, no other country around the face of the globe is withdrawing MFN status. If we do so we will be all alone by the telephone, not to mention the fax machine and every other link with the world's fastest growing economy, I might say.

But as important as these economic realities are, those that want to override the President's veto tell us the question ultimately must be debated on the issue of human rights. Well, I will agree. I believe it is the humanitarian argument upon which the President's policy must stand or fall, so let us look carefully at which point of view best suits an effective human rights policy toward China.

From 1949 to 1972, when China was isolated, millions of Chinese were killed, most of them through state-imposed famine. At that time there was not even a glimmer of hope for freedom in China.

In the interval period of time, I would say certainly the situation is different now. I can recall visiting China immediately after the deposing of the Gang of Four and how I was queried by normal Chinese people. They would ask, "What is it to own a home in the United States? What is this thing called a mortgage? What is private free enterprise all about?"

Having traveled in the Soviet Union and comparing the two countries, I said, "My goodness, China is further ahead than the Soviet Union ever is on developing any kind of vestige of private free enterprise."

□ 1530

The United States has a relationship with China, carefully nurtured under Presidents of both parties for 20 years. That relationship is not perfect. We all agree with that. Chinese Communists are still acting like Communists, but China's rulers, torn between their doctrinaire hatred of the free market and their need for hard currency, have allowed certain enclaves of capitalism to prosper. Millions of Chinese are looking outward to the world.

If we go over there today, and particularly in Southeast China, and see what is going on, the most important relationship they have developed is with the United States, the world's only superpower.

We are not just another trading nation to the Chinese people. To them we are a model, the exemplar, the superpower that has achieved greatness through freedom.

By imposing conditions we put at risk all that the Chinese people have gained. Quite frankly, over the last few years, if Tiananmen Square proved anything, it is that China's current rulers, if they feel threatened, will act with brutality even when the voice of economic prudence dictates another course. We all know that.

In the Tiananmen Square incident, when the first wave of militarists went into the city, why, there was this friendly rapport between the military people and the people of the Square to the degree that their leaders had to send in another wave and get this job done.

They are scared, scared stiff of what they see happening. Ceausescu was a friend of theirs at one time, and they found out how quick he could be obliterated, in a week. They also looked at the Soviet Union and saw, my goodness, how things changed. Things changed in a hurry, and "you're out on the street."

These octogenarians who are currently in power in China are one of these days going to slough off their mortal coils and they are not going to be there any more. That is the time I want to be playing to, quite frankly.

Sentence them to 5 or 10 or 20 years of watching a Chinese free market make nonsense out of their Maoist dogmas, if you please. If we really want to advance the cause of human rights in China, then do not abandon the Chinese people, as distinguished from their leaders, by giving their rulers the excuse to retaliate against them.

Let me pause here and say I know there is a great concern about the delivery of missile-related technology from the People's Republic of China. The gentleman just made reference to that, as did the gentlewoman from California [Ms. PELOSI]. It is a complicated issue.

I have been told, too, by the State Department, and it was confirmed again by the President's NSC adviser, Brent Scowcroft, just this morning, that the People's Republic of China has agreed to observe internationally recognized guidelines on such technology. The United States continues to monitor the situation. It is not yet clear if recent sales violate those guidelines.

History will record our time as the great transition, one in which the world of the cold war was dying while a new world awaited to be born. Whatever the shape the new world might take, one thing is certain: China is going to play a major role.

We are currently so obsessed in this Chamber and around the country by the Japanese. But it is China that is going to be at the heart of our concerns 25 years from now. How can we avoid it with over 1 billion, 100 million people and what is at stake there, with all that potential?

What a tragic irony it would be if our good intentions led to severing the ties with the very people that we want to help. Again, the distinction between the people and their rulers. Do not punish the Chinese people for the crimes of their rulers.

I would ask the Members to vote for our national values and our national interests, and help the cause of human rights in China by sustaining the President's veto of this bill.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Speaker, I thank the chairman for yielding me this time.

I just want to respond to the gentleman from Texas [Mr. ARCHER]. I would ask the gentleman to forgive me if he thought I was distorting his statement. We have asked the State Department for that statement from China and they have told us that they would not release it. I asked the Secretary of State, in fact, at the meeting of the Committee on Appropriations last week. So it is on the basis of that rejection that I made the statement that the statement is not available for us to see, and to judge the extent of the commitment of China on nonproliferation of weapons technology.

The question before us is about succession, as the gentleman from Illinois [Mr. MICHEL] said. It is who comes to power next in China. This sends a message to who comes next in the power struggle in China that who comes next should respect human rights, nonproliferation, and fair trade with the United States.

That is why we have the support of all the predemocracy dissidents, starting with Dr. Fang Lizhi, in support of this legislation—because it will impact the succession in China. If we override the veto we just might get the Chinese to free the prisoners and have MFN with China based on principle.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Oregon [Mr. AUCOIN].

Mr. AUCOIN. Mr. Speaker, I really cannot believe that those who are opposed to attaching conditions to MFN for China have been in the past among the loudest voices for attaching human rights conditions in the form of the Jackson-Vanik amendment to the Soviet Union, the previous Soviet Union. What is good for the goose, it seems to me, is good for the gander.

I think it is absolutely right to attach conditions on MFN to China. In fact, I have to tell the Members I do not think these conditions in this bill go far enough. I certainly hope we override the President's veto. I think we ought to go beyond these conditions, though. I think we should insist that the Chinese Government, when it does business in the United States, must abide, for example, by the rulings of the United States of America courts. The Chinese today are flaunting the American courts, and I want to tell my colleagues about one small company in my district that is a victim of this arrogance.

In 1988, an Oregon timber company obtained a $24 million timber contract from one of the Chinese Government's principal trading firms. Then when the price of logs dropped, the Chinese broke the contract and refused to pay this tiny business in the State of Oregon.

Today this company has won two court decisions in the American court system upholding the validity of its contract with the Chinese, but the Chinese continue to thumb their noses at the company, at the United States district court, at the Ninth Circuit Court of Appeals, and at a $10,000 fine being imposed by the American courts, which so far has added up to $1 million in penalties.

I think it is unconscionable not to apply these limited conditions in this bill to the Chinese on China MFN when the Chinese Government is lawlessly crushing American small businesses right here at home.

So for heavens' sake, those Members who have said to the Soviet Union in times past, "Human rights are important, we want to deal with the Soviet people but human rights are important for the Soviet people," for heavens' sake, apply the same standard to the people of China by overriding this veto and attaching human rights conditions to China MFN.

Mr. Speaker, the time for patient diplomacy has passed. It is clear the President's China policy has failed.

We know that a new wave of dissident trials has swollen China's prisons and labor camps.

We know the Chinese Government is throwing gasoline on the fire in the Middle East. Less than 1 year after Americans fought in the burning sands, the Chinese were selling arms to Syria and others.

We also know about their use of prison labor to make products for export to the United States.

But their contempt goes even further, as one Oregon firm recently found out.

Continuing normal trade relations has sent the wrong message to the Chinese Government: That the bloodshed of Tiananmen Square did not count, that selling missiles to the highest bidder does not count, that United States law does not count.

By overriding this veto today, we can send the Chinese Government the right message: That all of these things count very much indeed. I urge my colleagues to join me.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. SOLARZ].

Mr. SOLARZ. Mr. Speaker, I rise in strong support of the motion of the gentleman from Illinois [Mr. ROSTENKOWSKI] to override the President's veto of this legislation.

We have an opportunity today to make it clear not only to the leaders but to the people of China that our country is on the side of democracy rather than dictatorship, and of reform rather than repression.

The President seems to believe that the best way of advancing the cause of human rights in China is by providing them with unlimited most-favored-nation tariff status. But I would suggest that a policy of constructive engagement is no more likely to work with respect to China than it did with respect to South Africa.

I share the concerns of the President and of some of my friends on the other side of the aisle that a total elimination of MFN for China would be entirely counterproductive. I do not think the elimination of MFN would bring the brutal regime in Beijing to its knees. I certainly do not think it would result in an improvement in the human rights situation in that country. It would certainly be harmful to our friends in Hong Kong.

But I want to say to my colleagues that the override of the President's veto and the adoption of this legislation would not require the elimination of MFN. It merely establishes a set of entirely reasonable and responsible conditions which China would have to meet in order to qualify for MFN. It does not require perfection. It merely calls for progress. China's leaders would not be obligated to establish a political nirvana nor a parliamentary democracy. All they have to do is to release some prisoners, relax some restrictions a little, perhaps permit the VOA to broadcast into China. I think that is a small price to ask China to pay for the ability to export $19 billion to the United States.

□ 1530

If we override this veto; it is a price they will be willing to pay, whereas if we sustain the veto, it is a price they will never be asked to pay and, therefore, a price they never will pay.

Therefore, for the benefit of the Chinese people, and to be faithful to our own values and ideals as a Nation, I urge the Members to override the President's veto and to pass this very responsible legislation.

Mr. ARCHER. Mr. Speaker, I yield 3 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON], a very respected and distinguished member of the Committee on Ways and Means.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise in support of sustaining the President's veto.

This is not an issue of conditions. The conditions in this proposal are so stringent that in fact it will result in the withdrawal of MFN for China.

I share the concerns of those who bring this legislation forward, but I believe that we are divided only on means, not on goals. Withdrawing MFN status for China will hurt those very provinces of China that are the leaders in market reform, in developing and disseminating democratic political ideas. Withdrawing MFN from China will in fact strengthen the leadership that opposes the changes that are taking place in the southern parts of China that do not want market economies to succeed, that do not want democratic political ideas to be spread.

If we retain MFN for China we retain trade with that nation, and indeed United States exports to China grew 30 percent last year, and our trade with China is growing more rapidly than with any other nation in the Pacific rim. This gives us leverage, and as a result of that trading relationship we have gotten China to sign, for example, an intellectual property rights agreement that preserves jobs in my district. Having fought that battle with Taiwan and with Korea and with other Pacific rim nations, I know absolutely that without a good agreement protecting patents, protecting intellectual property rights, jobs in New England will go down the tubes.

I am pleased that the threat of losing MFN has resulted in the signing of that agreement. I am pleased that the danger of losing MFN has led China to cooperate with us on nuclear issues, on maritime issues and on access to their ports for our shippers, that we have backed up that leveraged attack on Chinese political and economic policies that we oppose with concrete discipline of our relationships with China where they have clearly abrogated agreements with us. For example, in the textile area where we have rigorously imposed our law, and through penalties to the Chinese, we have been able to assert our interests in that textile area.

Not only will the policy of leverage enable us to maintain trading relationships with China and watch that trade grow positively and foster market economies and democratic political ideas in China, but it will allow us to send the message that we will strongly stand behind the principles that have motivated the founding of our Nation and the principles that motivate the forces of change in China.

Mr. ARCHER. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. SCHULZE].

Mr. SCHULZE. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I rise in strong—no, fervent—support of this veto override attempt.

There is no gentle way to put it: The President's China MFN policy is just plain wrong. Treating China the same as our civilized and humane trading partners is wrong. How many more carrots is the United States State Department going to recommend we offer the brutal Chinese leadership before finally realizing that our policy of appeasement has failed?

I must admit—and this is no slight of the extraordinary efforts of the gentlewoman from California [Ms. PELOSI]—I deeply regret that the legislation before us represents the strongest message we can send at this time. However, because this vote today is the most powerful message this body can convey, we have a responsibility to do so.

The fact still remains that China doesn't deserve MFN trading status at all—with or without conditions attached. Since the brutal 1989 massacre at Tiananmen Square, analysis after analysis—including by the State Department—has revealed that restrictions on those wishing to leave China have worsened. Freedom-loving Chinese protesters, who just want a taste of the civil liberties you and I take for granted, are still being imprisoned and tortured.

Back in the days when the United States and Soviet Union were adversaries, and the so-called China card meant something, we were forced to conduct our relations with China very delicately. Nobody in America wanted to drive the Chinese over to the Soviet's side because of the corresponding security threat that would pose to the United States. Today, however, the China card does not apply, and America need not pander to the People's Republic of China.

In short, we owe the Chinese leadership nothing. Its government-subsidized and prison-labor produced goods put American textile workers, mushroom growers and processors, and others out of work. Next, the United States already has a 12.7 billion dollar trade deficit with China. And last, because our State Department permits it, China continually blocks progress in United States-Taiwan economic relations. Again, we owe the butchers of Beijing nothing—nothing.

I urge my colleagues in the strongest terms possible to override this veto. We can only hope that our colleagues in the other body will have the fortitude and good sense to do the same.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Mr. Speaker, we have had numerous occasions over the last 3 years to discuss most-favored-nation trading status for the People's Republic of China. The arguments against an unconditional extension are well known, and I would not add much by repeating them now.

I simply want to inform my colleagues to keep two images in mind as they weigh their votes today. Remember the image of that lone, brave soul stopping a column of tanks, and remember the image of the Goddess of Liberty standing briefly and valiantly in Tiananmen Square.

I also ask my colleagues to do something else. Hold the image of a thousand faces in your hearts. Look into the eyes of the brave young men and women who are languishing in Chinese prisons and facing torture simply because they had the courage to stand up for freedom. Look into the eyes of their loved ones wondering what will become of them and wondering whether the world really cares. Hold them in your hearts. Look them in the eye and cast the only vote that conscience will allow.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Speaker, today I rise to join my colleagues from both sides of the aisle in voting to override the President's veto of H.R. 2212.

When we first granted most-favored-nation [MFN] status to the People's Republic of China, we sought to congratulate the Chinese Government for the progress it had made in discarding the isolationism and repression of its recent past. We hoped to bring China into the community of civilized nations through a peaceful revolution of free trade and exposure to Western products, thoughts, and ideas. By doing so, we hoped this relationship would decrease global tension and improve the lives and prosperity of citizens in both of our nations.

At first our plan worked. China began to move toward economic reform and began to work with us in the international community. But then it began to go wrong. Rather than use MFN to the mutual benefit of both nations, China manipulated our markets with the skill of Sun Tzu, author of the Ancient Art of War. Their import licenses, high tariffs, and outrageous governmental quality control regulations are not the tools of fair trade one expects from a most favored nation but, rather the means for a competitor to close his markets. In 1980, we dreamt of a China with open markets and over 1 billion new and eager consumers of American products. Instead in 1992, we have a China with closed markets and a government that subsidizes more than 90 percent of its exports. Since 1986, China has racked up a trade surplus of over $28.4 billion with the United States and has added almost $13 billion more to our trade deficit in 1991 alone.

There has been much debate since we first considered this legislation in July of last year about how the United States could best influence the Chinese Government, particularly in light of the outrageous crackdown on the peaceful, prodemocracy movement at Tiananmen Square in the summer of 1989. Since then, the administration has repeatedly said it knows how to work with China, and that it is crucial that we do not offend or isolate the People's Republic of China. But when you look at the trade policies of China in recent years and read the Foreign Affairs Report on Human Rights Practices issued last month, you quickly realize that the only time in recent years when China ever abided by our human rights standards and our trade laws was last year when we in Congress debated the prospect of denying MFN. It is no coincidence that China's trade surplus with the United States almost doubled in the third and fourth quarters of 1991, after the President said he would veto any efforts to condition MFN. China needs American trade more than we need trade with them and accordingly, China will abide by the standards we set.

By passing this legislation and overriding this veto today, we will force the Chinese Government to abide by the rules of civilized society. By failing, we will give them a blank check—our tacit approval—for them to continue the status quo and to continue acting as a rogue nation beyond the pale of normality.

I urge my colleagues to join me in overriding the President's veto today.

□ 1540

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. APPLEGATE].

Mr. APPLEGATE. Mr. Speaker, there are serious stringent morals as well as economic questions here.

Why should the United States of America deal with a Communist nation who kills innocent people, denies human rights, kills innocent people for exercising what we do every day in free speech, makes a profit on slave labor, profits which they make in the United States, and then why now will George Bush forgive them for sending missiles to Iraq that killed our young people in that war? And then we reward them by sending them American high technology.

Have they earned our respect? Hogwash. They have not earned anything.

Today ask the FBI; today they said they are investigating hundreds and hundreds of espionage cases in the United States by Communist Chinese. This is an insult to veterans who fought to preserve our democracy. It is an insult to American workers who lost their jobs, and it is an insult to senior citizens who helped build the country.

You must override. If you do not, you will have to answer to the people.

Mr. ARCHER. Mr. Speaker, I yield 1½ minutes to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in strong support of H.R. 2212, a veto override regarding the extension of most-favored-nation treatment to the products of the People's Republic of China. I commend the distinguished chairman of the Committee on Ways and Means, the gentleman from Illinois [Mr. ROSTENKOWSKI], and the ranking minority member, the gentleman from Texas [Mr. ARCHER], and the Trade Subcommittee chairman, the gentleman from Florida [Mr. GIBBONS], and the ranking minority member, the gentleman from Illinois [Mr. CRANE], for bringing this measure to the floor at this time. I also want to thank the gentlewoman from California [Ms. PELOSI] for her untiring work. She has been a beacon of hope for people throughout Asia who pray, struggle, and dream for democracy.

Mr. Speaker, the Government of Communist China has set in motion domestic and international policies that harm our workers and mock our ideals. China should not be rewarded with a $15 billion trade deficit.

The Communist Government has been selling nuclear and ballistic technology to Syria, Iran, Algeria, and other militant Arab States: that government also arms the thugs ruling Burma; it nurtures the despicable Khmer Rouge; it has brutally occupied Tibet; China has undermined the President's efforts in preventing North Korea from developing nuclear capabilities; it has enslaved Chinese and Tibetan prodemocracy activists and uses their forced labor to produce cheap goods for export; and it threatens the emerging democracies of Taiwan, Mongolia, and Nepal.

Years ago, right after the Vietnam war, we developed a special relationship with China. The purpose that was given was to isolate and pressure the Soviet Union. There is now no Soviet Union and no political, geostrategic or moral reasons for continuing this lopsided relationship.

During the war in the gulf, China sold Iraq lithium hydride, a chemical precursor of fuel for ballistic missiles and chemical and nuclear weapons. Even though over 400,000 U.S. troops were there it did not mean a thing to the leaders in Beijing. During the vote in the Security Council to move against Saddam, China was the only permanent member to abstain.

Nothing whatsoever has changed since the Tiananmen Square massacre. Severe sentences are still being handed down to those arrested for peaceful demonstrating for democracy. Tibet is still brutally occupied. and, Deng's son-in-law still sells arms to the drug pushers that rule Burma.

Accordingly I support H.R. 2212 and urge my colleagues to vote for the override.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from Georgia [Mr. JONES].

Mr. JONES of Georgia. Mr. Speaker, I rise in support of this measure to override the President's veto of conditional MFN status to China.

As we consider this vote, my colleagues, I hope we will consider the case of Bao Tong, who has been imprisoned with serious, serious health problems for 2½ years.

Mr. Bao is not a student protester but a political secretary, the political secretary to the Standing Committee of the Politburo, by far the highest official to be imprisoned in connection with the 1989 democracy movement. He was a proponent of political change, and now his Government accuses him of leaking state secrets and spreading counterrevolutionary propaganda.

Mr. Bao has refused to acknowledge guilt or issue a statement of self-criticism saying, "I have not done anything wrong." He will be tried secretly.

Consider also that last November, Secretary of State Baker told reporters that China had agreed not to export M-9 missiles to Syria. One week later, according to the New York Times, China secretly agreed to help the Syrians build their own missiles in Syria, and Chinese scientists are helping develop weapons technology at two plants in Syria, one in Aleppo and one in Hama. There are continued reliable reports of Chinese sales of missiles to Syria and nuclear technology to Iran.

Mr. Speaker, I urge my colleagues to reject the President's policy of appeasement and to overwhelmingly override this regrettable veto.

Mr. ARCHER. Mr. Speaker, I yield 2½ minutes to the gentleman from California [Mr. DREIER].

Mr. DREIER of California. Mr. Speaker, there is not a Member of this House who is not greatly concerned about the horrendous human rights violations which have taken place in China. There is not a Member, there is not a human being, who is not irate about what happened on June 4, 1989, in Tiananmen Square. There is no Member of this House who is not concerned about the transfer of arms and weapons.

But it seems to me that as we look at this issue, we have no choice but to support the President. Why? Very simply because this country has proved as a model for the emerging democracies.

It has been exposure to the West which has led Eastern and Central Europe to fall. We now have the Commonwealth of Independent States, and there are people in China who are desperately seeking the same kind of economic opportunity which we in the West enjoy.

The very dynamic provinces in southern China, Guang Dong and Fujian, have proven that the marketplace can work there.

I think the gentleman from Illinois [Mr. MICHEL], our distinguished Republican leader, put it best when he said that the best way to stick it to the Commies is to force them to live with a free-market system.

We know that the concerns of Fang Lizhi have come forward, and my colleague, the gentlewoman from California [Ms. PELOSI], has mentioned the fact that she supports the veto override.

The message that I got when I was the first Member of Congress to meet with Fang Lizhi in London after he was released from having been held by the Chinese Government is as follows: He said, "Please ensure that you talk about human rights violations, but do not let China be in a horrible economic state when we see these older leaders fade from the scene."

Mr. Speaker, it seems to me that we have no choice other than to set this great example. Continue this kind of trade status, most-favored-nation status, so that we can, in fact, allow the reform movement to succeed.

After all, it is financed by those who are in those southern provinces of Fujian and Guang Dong, and let us not cut off the resources for the reform movement in China.

Support the President.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from Hawaii [Mr. ABERCROMBIE].

Mr. ABERCROMBIE. Mr. Speaker, once again, the Chinese Government has ignored international censure for its human rights abuses.

At last week's meeting of the United Nations Human Rights Commission in Geneva, the regime was successful in suppressing debate of a resolution urging China to ensure the full observance of human rights and fundamental freedoms of Tibetans as well as those of all other citizens. This was led by the United States.

It was led by the United States on the basis that has been presented in similar fashion here to uphold the President's veto.

The President is recognizing Serbia and Croatia, and we are recognizing people all around the world who have fought for their freedom, but when it comes to people who are fighting for freedom in China, it does not count.

The reek of hypocrisy that is involved in the President's veto is almost beyond belief. How anyone can say that they are going to sustain the veto on the basis that somehow this is going to provide a basis for freedom in China is absolutely beyond belief. It does not take any more than a minute to recognize that hypocrisy.

Vote to override this veto and stand up for what the United States truly believes in.

Mr. ARCHER. Mr. Speaker, I yield 1½ minutes to the gentleman from Washington [Mr. MILLER].

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Mr. MILLER of Washington. Mr. Speaker, one of the earlier speakers talked about the people of Eastern Europe, extending trade to them, that this was somehow an argument for extending trade to China.

Let me tell you, Mr. Speaker, we did not extend most-favored-nation trade status to Eastern European countries when they were under tyrannical regimes, nor did their people want us to, and we should not do it for China.

The President for the last several years has asked us to follow a trade policy with China that is divorced from morality. It makes us as Americans uncomfortable, but more than that, it has not worked.

We should override this veto. This is a reasonable measure. It is not a meat cleaver; rather, it is a lever.

This bill conditions future extension of most-favored-nation status to China on an achievable human rights trade and proliferation criteria. This legislation will help achieve real progress in improving human rights in China and in addition it speaks loudly and clearly to the millions still oppressed in China and Tibet. We have not forgotten your plight.

Let us override the veto.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. WASHINGTON].

Mr. WASHINGTON. Mr. Speaker, I thank the chairman of the Committee on Ways and Means for yielding me this time.

Mr. Speaker, 6 days ago when we were debating the budget, some of those who wanted to spend more money on the military came and talked about China, Iran, and Syria, as a reason why we need to spend our resources with a large military budget to stimulate rebuilding our country and educating our children and doing something about crime.

Is this the same China they are now talking about extending most-favored-nation status to?

I have looked all around the globe, and I can only find one China, the same China that makes us spend all our money defending ourselves from them because they use M-9 and M-11 missiles and send them to Iran and to Syria, is the same China that we want to extend most-favored-nation status to? That does not make sense.

We start then spending money on ourselves, and our children, and our future, and get the drug dealers off the street. That makes sense to me.

Mr. Speaker, I urge support for H.R. 2212, notwithstanding the objections of the President.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa [Mr. GRANDY], a member of the committee.

Mr. GRANDY. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I have risen many times in opposition to an attempt to curtail trade with China, and I do so again today and encourage Members to sustain the President's veto.

I do so with the same figures that I have used before on this floor. Nearly 30 percent of U.S. agricultural commodities are harvested for export. American manufacturing cannot survive without export.

What we are doing today is presuming to cut off the world's largest single consumer market and cut off American farmers and consumers from that market.

Parenthetically, I might add that whatever the result of the GATT talks might be, whatever the North American Free Trade Agreement might provide for the American agribusiness concerns that underpin 22 percent of our gross domestic product, the future for our agricultural economy is in the Far East. It is along the Pacific rim, and you cannot consider those countries without considering China.

Let me read a report by Michael Mandelbaum of the Council on Foreign Relations' Project on East-Western Relations, who says this about the democratic reforms achieved in China up to this point:

> The booming private economic sector in China subverts the communist system by demonstrating the superiority of free markets, and it lays the basis for a new political and economic order in China.

That is the purpose of the President's refusal to take conditions on MFN. That should be the purpose of this body as we try to promote economic growth in this country and around the world.

The problem is, if we condition MFN, if we do not sustain the President's veto, what we do is hand a trump card to the leaders in Beijing who prefer a halt to progressive entrepreneurial factories, like the ones in Guangdang. They prefer diminishing the exposure of its citizens to ideas of free market and democracy.

Our troops are already in the field there through democratic reforms and the rise of capitalism.

Mr. Speaker, if we do not fall prey to the emotional debate here, we have a chance to do something real about the economy in this country.

Mr. Speaker, I urge a "no" vote.

Mr. Speaker, we need to take a close look at what we are doing today in the context of where our Nation stands at this point in time. We have passed numerous unemployment extension bills, we have a populace increasingly concerned about losing their jobs and what can be done for economic growth, we have Presidential candidates and many of our colleagues toting America first and calling for a new isolationism.

So what are we proposing to do here today? We are proposing to put America second; we are proposing to give away American jobs; we are proposing to increase costs to American consumers; and we are proposing to sacrifice our domestic agenda in the name of questionable foreign policy.

Talk about a Congress which is out of touch with the American people—this legislation is a prime example of that fact. We have laudable goals—improvement of human rights abroad, slowing down nuclear proliferation, increasing market access for U.S. goods—but, once again, some of us are proposing to try and achieve these goals by utilizing a means that is of highly questionable effectiveness and which imposes significant and greater costs on our country and our citizens than it does on the nation we are trying to effect. That means using trade as a political weapon. It did not work to embargo the Soviet Union. It will not work here.

What so many of those who promote protectionist policies and trade embargoes never realize is that the United States cannot survive without exports—our domestic market is simply not big enough to support our economy. Nearly 30 percent of U.S. agricultural commodities are harvested for export. American manufacturing cannot survive without exports. So what does H.R. 2212 do? It cuts off the world's largest single consumer market to American farmers and American companies.

Not only must we reject this bill due to its inconsistency with our domestic needs, but we must also reject it because of its inconsistency with the advancement of democracy and free markets in what remains of the Communist world. One of the primary reasons the Republics of the former Soviet Union are having such a struggle today is that they lack the underpinnings of stable democracy: A private sector, a middle class of property owners, and business connections with the outside world. Yet these are the underpinnings that are currently being developed in many provinces in China that are supported by international trade, largely with the United States. As Michael Mandelbaum of the Council on Foreign Relations' Project on East-West Relations recently stated:

> The booming private economic sector in China subverts the Communist System by demonstrating the superiority of free markets * * * [and] it lays the basis for a new political and economic order in China.

However, H.R. 2212 would serve to stall these developments.

As I shared with you when we originally debated this legislation, while we may ultimately convince the Beijing government to alter its oppressive human-rights policies, I do not believe we will ever coerce them. And this legislation represents an outright attempt at coercion. This unilateral sanctioning of the People's Republic of China will do more harm to the progressive reforms and reformers in China and more harm to American farmers, American workers, and American consumers than it will to the hardliners in Beijing. They prefer isolationism. They prefer a halt to the progressive entrepreneurial factories in the southern provinces like Guangdong. They prefer a diminishing of the exposure of its citizens to the ideas of free markets and democracy.

If the House overrides this veto, it is saying to the American people—your interests don't come first, your jobs must be sacrificed in the name of a foreign policy that probably won't work, but we know you'll understand. I can tell you right now that Iowa farmers and consumers don't understand and they want their interests put first. Those interests are with the President in supporting the veto and defeating this legislation. The President, once again, is trying to help our domestic agenda and once again, Congress is standing in the way. I refuse to stand in the way and I urge a "no" vote.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from Oklahoma [Mr. McCURDY].

Mr. McCURDY. Mr. Speaker, I rise in support of this measure to override the President's veto of legislation which would place conditions on most-favored-nation status for China.

Over the last 3 years a great deal of attention and praise has been focused on President Bush's capabilities in foreign affairs. Indeed, many in our country have concluded that, at least until the Presidential campaign got underway, foreign policy was the only issue that mattered to the President.

But it is gradually becoming clear, Mr. Speaker, that this administration's conduct of foreign policy has been a mixture of occasional crisis management mixed with a rudderless, superficial devotion to the status quo. President Bush's policy toward China is but one example of the administration's moral and intellectual bankruptcy in foreign policy, and his veto of this legislation deserves to be overridden.

While we should all continue to admire President Bush's handling of the Persian Gulf war, if we look elsewhere across the international landscape, we find it littered with the remains of the administration's colossal foreign policy blunders. The administration has continually expressed its preference for dealing with established authorities, regardless of their record or the long-term implications for U.S. interests. It is a pattern which should concern us all as we consider our policy toward China.

Mr. Speaker, the administration has failed to implement an imaginative foreign policy that has both vision and purpose, and which reflects American values and democratic principles. President Bush, would have us believe that, again, given his personal relationships with the leadership in China, he knows best how to encourage reform in that country. The administration can point to the recent agreement on intellectual property rights as an encouraging sign. But this agreement came about only after the United States threatened to retaliate. Moreover, China's human rights record remains appalling, and the administration has chosen to ignore it.

More ominously, Mr. Speaker, China continues its policy of exporting sophisticated military and nuclear technology to some of the world's most dangerous regimes, including Iran, Syria, and North Korea. Even though China recently decided to abide by the Missile Technology Control Regime and the Nuclear Non-Proliferation Treaty, China's own behavior should cause us to be wary of its commitment to abide by the terms of these agreements. China has acted in an irresponsible and cavalier manner on this critical issue, and the world is a much less safer place because of it.

For these reasons, Mr. Speaker, I urge my colleagues to vote to override the President's veto of this legislation. The conditions this legislation that would place conditions on China's MFN status are hardly burdensome. They only require the President to certify that China has: first, accounted for and released nonviolent demonstrators who were arrested at Tiananmen Square; and second, made overall significant progress in human rights, trade practices, and weapons non-proliferation. In other words, Congress is merely asking the President to certify that China is acting in a responsible and civilized manner before it can receive the benefits of unfettered trade with the United States.

Mr. Speaker, I intend to vote to override the President's veto because I believe the debate itself about United State policy toward China has pressured the Chinese leadership to move in the right direction on at least the issue of intellectual property rights. I am also encouraged by recent statements by the Chinese leadership that they intend to pursue economic reform. But they must realize that economic reform must go hand in hand with political reform. If they hope to be major players on the world stage, the Chinese leadership must understand the importance of responsible arms exports policies and the protection of basic human rights.

Mr. Speaker, the students who were killed at Tiananmen Square held the same values and aspirations that we in this country hold: Democracy and economic opportunity. Our foreign policy should not be based on personal relationships with world leaders. Instead, our foreign policy should embody these values and principles not only in China, but in every part of the world.

Mr. ARCHER. Mr. Speaker, I yield the balance of my time to the gentleman from Illinois [Mr. CRANE], a respected member of the committee.

The SPEAKER pro tempore (Mr. McNULTY). The gentleman from Illinois is recognized for up to 4 minutes.

Mr. CRANE. Mr. Speaker, today we consider one of the most important veto messages of this Presidency. The question is should we pass, over the President's objections, a bill that is certain to end normal trade and economic relations with China, and thereby foreclose United States influence over a number of key issues in that expansive country. Or should we continue to extend regular tariff treatment to China, stay engaged with the progressive business and governmental leaders, and work for meaningful progress on a variety of important goals.

The consequences of this legislation are severe and far reaching. Therefore, we must think carefully about the alternatives and about the need to develop a consensus between Congress and the Executive on the best course to pursue in reaching our shared goals.

Congress certainly has valid concerns about Chinese policies on trade, human rights, and nuclear proliferation. The President has stated emphatically that he shares these concerns. Rather than an isolationist response such as H.R. 2212, we must together pursue policies that have the best chance of changing Chinese behavior.

Isolationism is a failed policy, for the United States as well as for China. We need only to look at the last few months to see that progress continues to be made in key areas, even with the current archaic regime in power. Improvements have been achieved since Tiananmen Square, but much remains to be done. MFN gives us the best hope of staying engaged, creating appropriate and effective leverage, and tailoring our actions so that we succeed in getting further meaningful changes in Chinese practices.

In January, we achieved a meaningful intellectual property rights agreement with China after tough negotiations and creative use of economic leverage. A similar course resulted in China's agreement in writing to observe the Missile Technology Control Regime. China continues to support the U.N. consensus on eliminating Iraq's weapons of mass destruction. Through constant pressure and dialog, China has made slow but steady progress cn human rights. Many remain imprisoned for their political beliefs and we owe it to them to continue to battle on their behalf, rather than abandoning them along with MFN.

Some would advocate that the United States embrace a scorched earth policy when it comes to China and pass such a bill as H.R. 2212. This will teach China a lesson and bring them to their knees. They argue that once MFN has been taken away, China will accept the United States position on all key issues and a democratic, market-oriented society will be established.

This is very unrealistic thinking. One could speculate forever on what changes in Chinese practices such a scorched earth policy would bring. One result is certain, however, and that is—you get scorched earth. Our friends and enemies alike will be burned beyond recognition before any Phoenix can rise from the ashes.

Mr. Speaker, it is time for Congress to set aside petty politics and to support our President in the pursuit of an effective foreign and economic policy with respect to this major world power. A standoff between the United States Congress and the President on such a defining issue can only undermine United States influence in China and throughout the region. Isolating China can only push that country back further into the dark past.

In this matter, Congress should stand united with our President. He has a broader responsibility, broader experience, and a broader constituency than any individual Member in this Chamber. He also has a clear constitutional mandate.

Mr. Speaker, I urge my colleagues to vote to sustain the President's veto of H.R. 2212.

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Mr. ROSTENKOWSKI. Mr. Speaker, I yield 3 minutes to the gentlewoman from California [Ms. PELOSI] to close the debate.

Ms. PELOSI. Mr. Speaker, I thank the chairman for yielding this time and giving me the privilege to close the debate on this issue of importance to the American people, important because of the safety of the world we live in, important because of jobs for American workers, and important because of the principles on which our country was founded and which we vow to support throughout the world.

Mr. Speaker, reference was made earlier to the FBI warning about China using immigrants as spies in the United States. This is an article from the San Francisco Chronicle this morning, where the FBI is warning that hundreds of Chinese immigrants are under investigation for scientific and military espionage, and I place that into the RECORD at this point.

CHINA USING IMMIGRANTS AS SPIES, FBI WARNS—STUDENTS AND EXECUTIVES BEING RECRUITED

WASHINGTON.—The FBI is warning Chinese Americans against what it says are insidious recruitment attempts by China's intelligence services intent on obtaining U.S. scientific and military secrets

The agency is investigating hundreds of cases of suspected espionage by China, whose spying rivals that of the Soviet Union in its heyday, say senior FBI counterintelligence officials.

But China's tactics differ markedly from those of the defunct KGB. Whereas the KGB worked mostly through the Soviet Embassy—the FBI says about one-third of the embassy personnel used to be intelligence officers—China's activities are far more diffuse and subtle.

Some agents spying on U.S. military and intelligence agencies do operate out of the Chinese Embassy but most are planted among the growing community of Chinese students, business executives and academics in the United States, the officials say.

Their prime target is Americans of Chinese heritage, especially scientists or business executives with access to sensitive information, said Patrick Watson, the FBI's deputy assistant director for intelligence.

The FBI believes that such unconventional methods call for an unconventional response.

The FBI "is appealing to the United States Chinese community and to the newly arrived people from the People's Republic of China with a request to help your new home country," according to an ad that ran recently in several Chinese-language publications in the United States.

"The Chinese in America are known to be law-abiding, freedom-loving, and have a strong conviction in democracy," it said.

"Any attempts or occurrence of harassment, intimidation or intelligence gathering * * * should be reported," it cautions.

The agency also has devised a presentation for business executives and scientists who deal with China to sensitize them to possible overtures.

Many of China's intelligence collectors are not spies in any traditional sense. Rather, they are scientists or engineers gathering information for use by their particular institute, said T. Van Magers, the FBI's expert on China.

Sometimes, these scientists ask the help of the Ministry of State Security in fingering vulnerable American scientists; other times they work on their own, Magers said.

"It's very decentralized," he said of China's spying.

And it finds growing opportunities, he added. The number of diplomats and commercial representatives grew from 2,500 in 1990 to 3,400 now, and the student community has grown from 45,000 to between 60,000 and 75,000, he said.

"The vast majority aren't engaged in espionage," he said. "But you can easily hide your intelligence officers in that large a presence."

You can also easily hide spying behind the guise of legitimate scientific exchanges.

It was such an exchange—visits by Chinese academics to the Lawrence Livermore National Laboratory—that is believed to have enabled China to obtain some of the information to develop the neutron bomb it tested in 1988.

The General Accounting Office reported that year that dozens of Chinese had visited the lab without a security check, and some were later found to have links to Chinese intelligence.

Mr. Speaker, the administration claims that by placing these clear and reasonable conditions on MFN that we will isolate China and hinder reform. This is precisely the opposite argument that the President used when denying MFN to the Soviet Union and the Republics. It is precisely the opposite argument that the administration has used with regard to trade with Vietnam. In these cases, trade has been seen as an important tool for encouraging reform. The administration's argument could be no farther from the truth—we seek not to isolate China. We seek a consistent United States policy that uses our trade leverage to encourage reform in China so that we will be able to enjoy a better relationship with the Chinese people.

According to Fang Lizhi and other prominent Chinese democracy advocates, "Placing conditions on China's MFN status is the strongest and most important signal you can send both to the leadership and to the people of China."

EMIGRATION

There is another reason why we should vote for this legislation today. Most-favored-nation status is not normally given to Communist nations with centralized economies. It can only be given to a Communist country if the President submits a waiver to Congress and if the country is making progress toward freedom of emigration. MFN was withheld from the Soviet Union until free emigration was codified.

In China, there is not freedom of emigration. During his visit to China in November, Secretary Baker was assured by the Chinese Government that people who were not under charge could leave the country. That promise was never kept. In fact, many prominent dissidents—the wife of Wang Juntao, Hao Xlao Tian, Han Dong Fang and others—have not been allowed to leave China. The families of Chinese students living in the United States—Chai Ling and others—have been denied travel permits to come to the United States. Why does the President apply a different standard to the Chinese Government?

Mr. Speaker, I also place in the RECORD at this point the letter signed by Fr. Fang Lizhi, Shen Tong, Li Lu, Liu Binyan, Yu Dahai, Chai Ling, Chen Yizi, Haiching Zhao, and Wan Runnan:

DEAR REPRESENTATIVE: Thank you for your continuing support and recent votes on China MFN. We now ask you to vote yes to override the President's veto of H.R. 2212 which places reasonable, flexible conditions on conditions on continued renewal of China's MFN status.

We have intimate knowledge of China's repressive policies. Because of our convictions and our demands for respect for human rights and the rule of law in China, we have been forced to flee our homeland or face persecution. We know first-hand the scars of the intellectuals, embittered by years of suppression; feel ourselves the deep reservoir of discontent that seethes among Chinese students and workers; and cannot forget the friends that remain behind braving the rotten prisons, forced into the countryside, prevented from carrying out their work or constantly harassed.

Every Representative is aware of the magnitude of continuing human rights abuses in China. Since 1989, these travesties have been widely covered by the media in every corner of this country. We have been overwhelmed by the response of the American people to the plight of people in our country and we ask that you reflect upon their sentiments when casting your vote on the Conference Report.

President Bush's China policy has had little effect on the human rights situation in China. Rather than improving the situation, it has emboldened and strengthened the hardliners in the leadership. The President's meeting with Chinese Premier Li Peng capped the hardliners' bid for a comeback as they go into an important policy meeting next month. In the internal debates, the hardliners are bragging that even the person responsible for the massacre and continuing repression in China is acceptable to the U.S. Government.

We ask that you send a different signal to the Chinese people and to freedom-seeking people everywhere. Placing conditions on China's MFN status is the strongest and most important signal you can send both to the leadership and to the people of China.

Sincerely,

Dr. Fang Lizhi, Astrophysicist/Leading Dissident; Shen Tong, Exiled Student Leader, Tiananmen Square; Li Lu, Exiled Student Leader, Tiananmen Square; Liu Binyan, Leading Journalist and Dissident; Yu Dahai, President, Chinese Alliance for Democracy; Chai Ling, Exiled Student Leader, Tiananmen Square; Chen Yizi, Advisor to ousted reformer Zhao Ziyang; Haiching Zhao, President, Independent Federation of Chinese Students and Scholars; Wan Runnan, President, Federation for a Democratic China.

Mr. Speaker, this is a list of people who have all risked their lives and their security for democracy in China.

Mr. Speaker, over 200 years after the shot heard round the world was first fired, it reverberated in Tiananmen Square. America the model—the Goddess of Democracy the symbol. What was then seen as inconceivable to the Chinese regime is now seen as inevitable to the Chinese people. It is just a matter of time.

Please vote to support the Chinese people; vote to support American workers; vote to make the world freer, trade fairer, and the world safer. Vote to override the President's veto of H.R. 2212.

Mr. Speaker, I wish to acknowledge the excellent work of the members of the Ways and Means Committee staff—Rob Leonard, George Weese, and Joanna Shelton. I also wish to commend Craig Middleton of my staff for his tireless efforts on this legislation and his strong commitment to human rights.

Mr. LAGOMARSINO. Mr. Speaker, I rise in support of overriding the President's veto of H.R. 2212, which conditions the extension of most-favored-nation [MFN] trading status for the People's Republic of China on genuine human rights reforms and limits on arms control activities. I believe that the Communist government must be held accountable for the murder and continued imprisonment of thousands of peaceful prodemocracy

The continuation of MFN trading status for China must be conditioned by strict, certified Chinese adherence to human rights conditions. While almost every country in the world has MFN trading status and while I do not like to link trade issues with political ones, I feel this is one of the only ways left for us to influence China. While there is a real chance that the Chinese Government could react negatively to conditioning MFN status, punishing Chinese prodemocracy supporters and our global initiatives for actions by the United States, I also believe that there is a chance that it could provide the Chinese Government with an incentive to reverse current abuses and, once again, follow the path of real reform.

The real teeth in H.R. 2212 are the human rights conditions. Essentially, the bill would require the Chinese Government to release the remaining prisoners from the crackdown that followed the Tiananmen massacre and provide a complete accounting of the massacre and its aftermath on the human rights of the Chinese people. Despite some advances on this issue that have resulted from diplomacy, particularly by the United States, it is widely assumed that the Chinese Government will refuse to meet any such conditions. In turn, failure to comply with thee conditions would inevitably lead to a loss of MFN and severe damage to the Chinese economy, which is highly dependent on exports to the United States.

I do recognize the short-term economic costs of this bill on the American economy and on that of California. Despite this, however, I continue to believe that the morally right course of action is to apply realistic human rights conditions to MFN status to China. In addition, the long term benefits of a reformed Chinese Government will certainly outweigh the short term economic costs. All of our major economic trading partners in Asia were once severely autocratic states. As they reformed and became more democratic, trade flourished with the United States. Over a quarter of American exports currently flow to this region. This has resulted in the creation of thousands of jobs in California and the Nation.

I also recognize the possibility that China could negatively react to this bill and ignore our efforts to halt the arms race in the Middle East, South Asia, and elsewhere. But the lack of real improvement in the situation in China and the continued repression warrant tougher economic and political pressure.

I urge my colleagues to join me in voting to override the President's veto.

Mr. ROSE. Mr. Speaker, as we revisit the issue of human rights abuses in China today, I have to wonder if anyone in the international community still takes this administration's commitment to human rights seriously. This country's foreign policy record is far from perfect, but the one area in which there has been some consistency over the years is the issue of human rights. Unfortunately, our credibility on human rights issues is off to a shaky start in the month of March. Besides the Presidential veto of this bill, we are now kowtowing at the United Nations as well.

Just last week at the United Nations, its Human Rights Commission was set to consider a resolution critical of the People's Republic of China's ongoing human rights abuses in China and Tibet. The resolution was originally based on the Secretary General's report which documented horrible human rights abuses inside Tibet. Well, the United States could not support the original resolution because it seemed to raise the issue of self-determination for the Tibetan people, a right, by the way, which many in this body and other governments believe the Tibetan people should have. Most of us here expected the administration to modify the language, but even after it had been watered down to almost nothing, our U.N. representative could not even garner enough votes to get it past a procedural motion.

It is difficult to maintain respect when you do not stand up for the principles you say you believe in. The American people are losing respect for this administration's human rights policy, as are the citizens of other nations who look to us for leadership. And though they smile and continue to call President Bush a friend, I am afraid that officials in the People's Republic of China may respect us least of all, because they know what is going on inside China and Tibet with regard to human rights.

I encourage my colleagues to support this override, let's remind the administration that the present policy is not working.

Mr. PORTER. Mr. Speaker, I have come to the floor to urge Members to override the President's veto and vote for this bill.

But this bill is not about taking MFN away from China. The truth of the matter is that I don't want to remove China's MFN. Neither does Ms. PELOSI, the author of this bill. This bill conditions MFN and we truly hope that China will be forthcoming and make a good faith effort to meet the conditions so MFN can be maintained.

This bill is about our principles as a nation and China's principles.

Every Member of this House hopes for good relations with China. One fifth of the world's population lives there and it is a military and growing economic power. But we cannot bend over backward to maintain our good relations and lose our principles in the process.

Taking MFN away from China is one way to send a message to the Government of the People's Republic of China. But there is a better way to deliver a message of hope to the Chinese people themselves. This is why I have proposed creation of a surrogate radio broadcast to the people of China to be called Radio Free China. It is to be modeled after the hugely successful Radio Free Europe, which sent messages of hope to the people behind the Iron Curtain during the Cold War.

Radio Free China will meet the thirst for information inside China and Tibet, providing the people with news and other information that is particularly relevant to them and their situation. The Chinese need to know that their oppressed condition is not universal, that most people around the world enjoy much more freedom than they do and that people around the world care deeply about the denial of their basic rights as human beings.

Radio Free China would give them the hope and knowledge needed to change conditions in China. It would serve to build within the Chinese people a greater understanding of the meaning of political and economic freedom and democracy and would force the Chinese Government to allow greater measures of each.

We simply cannot turn our backs on the Chinese people and Tibetans and accept their oppression as an international affair. It is not. It is the affair of us all. Radio Free China will help to remedy this situation.

I urge Members to support the Chinese people and vote to override.

Mrs. LOWEY of New York. Mr. Speaker, once more I rise to join my colleagues who have been battling since June 1989 to hold the butchers of Beijing accountable for the bloody massacre at Tiananmen Square and for their ongoing brutal repression of the most basic human rights.

The President has vetoed the most comprehensive attempt so far to push the Chinese Government to make democratic and human rights reforms, and to alleviate international security concerns. In doing so, he has dealt a serious blow to the prodemocracy movement in China, and he has insulted the dignity of thousands who were slaughtered mercilessly as they peacefully protested for democratic change in Tiananmen Square.

The President's veto sends a message to the world that nations which disregard human rights, shun democracy, and contribute to the proliferation of the world's most dangerous weapons will still be eligible for preferential trading status with the United States. Not only will his veto harm the movement for peaceful change within China, but it will also hurt American workers who are being laid off because they cannot compete with products manufactured by Chinese slave labor.

President Bush's policy toward China is misguided, inhumane, and outrageous. I urge my colleagues to send a message to Beijing by voting to override the President's ill-advised veto.

Mr. VENTO. Mr. Speaker, I rise in support of the resolution to override the President's ill-advised veto of H.R. 2212, legislation to make China eligible for most-favored-nation [MFN] trade status subject to certain conditions.

I am proud to be a cosponsor of H.R. 2212, which overwhelmingly passed the House on July 10, 1991, by a vote of 313 to 112. The Senate passed the bill by a vote of 55 to 44 only a few weeks later. The conference report was adopted in the House by the overwhelming margin of 409 to 21.

The President has insisted throughout the long debate on this issue that attaching any conditions on the question of human rights to MFN legislation would undercut his policy of constructive engagement with China and would prompt China to turn inward. The facts, however, strongly suggest this would not be the case.

While the President has bent over backward to accommodate his friends in Beijing, China's trade surplus with the United States has continued to increase, advocates of democracy in China continue to be imprisoned and harassed, and China continues to flaunt United States and international concerns about its export of missiles to Syria and Iran. What does the President have to show for his policy of constructive engagement with China?

Since 1989, China's trade surplus with the United States has grown by more than $25 billion. While China continues to dump millions of dollars' worth of textiles and clothing into the United States, American textile workers are losing their jobs. While Chinese political leaders voice rhetorical support for human rights, hundreds and perhaps thousands languish in China's own gulag prison system because of their political or religious belief. While China professes to be cooperating with the United States in limiting exports of military weaponry to the Middle East, it continues to ship missiles and military technology to regimes with a well-known history of belligerence and aggression in that politically unstable region of the world. Indeed, new revelations are being published almost daily about the extent of China's weapons export activities.

Furthermore, Mr. Speaker, just recently an American clothing manufacturer discontinued buying finished pants from a manufacturer in Saipan when it was disclosed that the workers in the Saipan plant, many of whom were former Chinese nationals, were being paid well under the federally mandated minimum wage in what amounted to sweat shop or slave labor conditions. The same phenomena is occurring in China today where prisoners are being used to make clothing and other products which are then dumped into the United States market in violation of trade agreements with China.

Mr. Speaker, I would urge the President to use more foresight and finally recognize the fact that today's rulers in China will not retain power forever. When such authoritarian leaders pass from the scene and a new and hopefully more democratic and enlightened leadership takes power in China, they are going to be mindful of who stood by them when they needed support for democracy and human rights in China and they are going to be mindful of those nations and people who placed trade interests and commercial interests first instead of human rights. Human rights was important in the Soviet Union, Poland, East Germany, and Nicaragua. Human rights are also important in China. The United States should not follow an indefensible double standard. Rather, we should support democracy and human rights. I urge my colleagues to join me today in voting to override the President's veto of H.R. 2212.

Mr. FRANKS of Connecticut. Mr. Speaker, I am concerned with granting unconditional MFN status to China at this time. Their record on nuclear proliferation, human rights and trade practices is not a good one. Before granting status to them it is important to verify that they have made improvements in these areas.

While the cold war is over, the proliferation of weapons of mass destruction is now a reality. China may be contributing to this problem. As late as 1991, China secretly transferred technology to Iran. Intelligence reports have also recently said that China has made a shipment to Syria of 30 tons of chemicals needed to build a solid fuel missile and plan to transfer 60 tons more in March and April.

While China has agreed to sign the Nuclear Non-Proliferation Treaty, it needs to be signed before we can grant MFN status. There are still issues that need clarification before we go ahead with the signing. For instance, they have not yet agreed to require full IAEA safeguards as a condition for their nuclear exports.

Other concerns to me are China's policies of coerced abortions, forced sterilization and an overall appalling human rights record. Significant progress needs to be made on the inhumane treatment of prisoners and religious persecution.

I hope that we can resolve these issues shortly and that MFN status may be granted. We may also have some disagreements with them regarding trade, but overall I think MFN could help to clear those up.

Ms. SLAUGHTER. Mr. Speaker, by vetoing H.R. 2212, the President asks us to ignore all that we find despicable about the repressive regime in China. He asks us to abandon our commitment to human rights and ignore the murderers and terrorists in Beijing. He thinks we can reform the Chinese Government by calling them our friends.

Mr. Speaker, after we were horrified by the images of Tiananmen Square in 1989, Members of this Congress called for a revocation of China's MFN status until that country's human rights record improved. And, from day one, the President opposed us. He has sent his diplomats to bargain with China's repressive government while Chinese students and members of the democracy movement, peacefully seeking to exercise basic human freedoms, were imprisoned, tortured, and executed.

These diplomatic overtures of the Bush administration have failed. China continues to violate the basic human rights of its own citizens. China continues to export goods produced by forced prison labor. China continues to destabilize the Middle East by selling weapons to Syria and Iran. China continues its illegal occupation of Tibet and its brutal campaign to destroy the Tibetan religion, culture, history, and national identity. And, for all this, China still enjoys a trade surplus with the United States which runs more than $12 billion—second only to Japan.

Mr. Speaker, sanctions worked in South Africa. Because we were unrelenting in our rejection of apartheid Nelson Mandela walks free today. Because we made South Africa an international pariah, black South Africans slowly began to win their basic human and civil rights.

I urge my colleagues today to join me in an unequivocal rejection of China's hard-line, repressive policies and an absolute refusal to confer upon them the privileges of most-favored-nation. Vote to override the President's veto of H.R. 2212.

Mr. SANGMEISTER. Mr. Speaker, while the world rushes toward democracy the China wall of authoritarianism refuses to crumble. After witnessing no human rights progress since the 1989 massacre of the courageous students at Tiananmen Square, what good reason does the United States have to blindly grant China most-favored-nation status? MFN status is reserved for nations in good standing. On what basis can one categorize a nation that denies basic human rights to its citizens, flagrantly violates nonproliferation agreements by selling weapons to terrorist nations, and engages in internationally marketing products made from forced labor, a nation in good standing? With one-quarter of the world's population, China is the largest oppressed nation in the world.

I strongly support H.R. 2212, a bill conditioning MFN status for China in 1992, because I believe the Chinese Government should not take our good will for granted. In 1991, the United States had a $12.5 billion trade deficit with China. In a time of recession, this is an inexcusable position for the United States to be in with a country as undeserving as China.

The legislation we are voting on today would permit the President to renew MFN trade status for China in 1992 if the President certifies that China has made significant progress in the areas of human rights, trade practices, and weapons nonproliferation. The burden should not be on the American people to justify why they should not give advantages to China, rather, the burden should be placed on the Chinese Government to justify why the American people should help them. Quite frankly, I am not convinced.

I supported the entry of China into the United Nations. I believe educational and cultural exchanges between our two nations are important and should continue. However, to grant the same trade status to China as we do to the democracies of Canada and Great Britain destroys the essential purpose and usefulness of the MFN designation.

While freedom rings throughout the world, why does China continue to feign deafness?

Mrs. BOXER. Mr. Speaker, in June 1989, people around the world held their breath as democracy was crushed in Tiananmen Square. I, for one, will never forget the picture of a lone Chinese student stopping a tank in the square. Or the bloodshed that followed.

Today, we have the opportunity to send a message to that student, and the thousands like him, that the United States has not forgotten their struggle.

When Congress passed H.R. 2212, we called on President Bush to assure that China meet certain conditions before we offered them the enormous benefits of MFN status. These conditions are not outlandish. They are wise.

China must account for and release all nonviolent prodemocracy demonstrators jailed during and after Tiananmen Square.

The Chinese must stop unfair trading practices.

China must adhere to international rules regarding nuclear proliferation.

And finally, China must protect the freedoms which we here in the United States take as basic, inalienable: the protection of human rights; the end of religious persecution; freedom of the press; freedom of peaceful assembly.

We will do a great disservice to the memories of those who have struggled for democracy not just in China, but in the former Soviet Union, in Eastern Europe, in Central America, all around the world, if we reward a nation which has killed and imprisoned those who stand for democracy.

I urge you to vote to override the President's veto.

Mr. SKAGGS. Mr. Speaker, I urge the House to act justly and decisively to overturn the President's veto of Ms. PELOSI'S resolution tying the continuation of MFN treatment for China next year to several well-considered conditions dealing with its human rights, trade, and arms sales policies.

President Bush claims, I suppose, to be holding the elusive China card, but he misses the reality that the deck has been shuffled and the game has changed. Cold war geopolitics no longer serve or define American interests here. By refusing to take a stand with respect to China's immoral and unlawful actions, the President reveals both his cynicism and his myopia.

It is neither kind nor gentle for the Bush administration to continue kow-towing to the butchers of Tiananmen. It is neither right nor prudent for the Bush administration to send a business-as-usual message to a nonmarket economy that severely limits foreign access, exports goods made with prison labor, and deliberately mislabels products to evade U.S. Customs. And it is insanity for Bush to keep winking, if not turning a blind eye, at China's export of advanced weapons and technology to unstable regions of the world.

Let us not be misled by claims that conditioning MFN will isolate Chinese reformers. To the contrary, unconditional MFN actually strengthens the hand of Li Peng and other hardliners who believe they can break any promise or law and face no consequences. We must not allow political expediency to compromise American principles—freedom, democracy, and the respect for individual rights are the foundations of this Government and the inspiration for many others.

If we learn anything from the dramatic developments that have taken place around the world in the last few years, it is that moral strength can overcome tremendous repression. But the President, in vetoing this legislation, asks us to set aside these emboldening ideals as counter productive to our long-term ends of liberalization in China. He asks us to defer to his expertise in handling foreign policy; but I can detect no wisdom in either his position or his rationale.

Let us examine what this legislation that he has vetoed is about. What were the problems that we were trying to address? What are the remedies that this legislation uses to try to make the situation in China better?

Nearly 3 years after their massacre of peaceful protesters in Tiananmen Square, China's rulers continue their fundamental disrespect for the rights of Chinese citizens. Since the Tiananmen crackdown, there have been secret trials of those that participated in the prodemocracy demonstrations, and many have since been sentenced to execution or imprisonment.

H.R. 2212 addresses these and a litany of other gross human rights violations, by making renewal of China's MFN trading status contingent upon the President's certifying that the Chinese Government has accounted for and released these nonviolent demonstrators. The bill also calls for overall significant progress in ceasing the export of goods produced by prison labor; ending religious persecution in China and Tibet; insuring access for international human rights monitoring organizations; terminating bans on freedom of the press and peaceful assembly; and stopping the harassment of Chinese citizens residing in the United States.

The repressive policies of the Chinese Government are cause for more than just moral concern, however. America's economic interests are at stake, as well as our ideals. Above and beyond the fact that extending MFN to a centralized economy is inherently contradictory to free trade principles, China is guilty of a great many trade violations. Despite his claims to the contrary, the President's permissive stance has caused the U.S. trade balance with China to deteriorate at a rapid pace—our $12.7 billion deficit with China is now second only to Japan. America can't afford this, and we shouldn't put up with it.

Beyond dealing with fair labor practices in China, H.R. 2212 seeks redress by calling for the protection of U.S. patents and other intellectual property rights; fair access to Chinese markets for American exporters; and an end to other unfair commercial activities, such as trans-shipping goods through other countries to avoid U.S. import restrictions.

The United States must stand up for Chinese political and economic reforms. We must also use our influence to counter China's irresponsible conduct in contributing to weapons proliferation in the Third World. I am tired of President Bush lecturing us on diplomacy while M–9 and M–11 missiles flow to Syria and Iran. If the Bush administration will not act, then Congress must take up the slack. H.R. 2212 would do this by pressing the Chinese to adhere to international agreements restricting the export of sensitive missile technology, nuclear technology, and chemical and biological weapons.

Overriding the President's veto is the right thing to do for humanitarian, economic, and strategic reasons. It is right for America, it is right for China, and it is right for all nations seeking peace and freedom.

When we voted on H.R. 2212 in November, 409 Members of the House saw the value and importance this bill. Let us hope that 3½ months of more bad news from China will have convinced the remaining 21. I don't know who the President thinks he's kidding. I hope it's not this House.

Mr. JONES of North Carolina. Mr. Speaker, don't let anyone be fooled. The threat of trade sanctions will cause China to change its policies.

It's just happened in the maritime area.

American-flag vessel operators have been serving China for several years. They compete with Chinese operators and vessels from other countries. But the Americans found out quickly that this was not fair competition. The Chinese Government was placing major obstacles in the way of the Americans.

These doing-business restrictions caused the following unfair burdens on American carriers: an inability to engage in full branch office activities within China; an inability to assess rates in China consistent with tariffs filed with the Federal Maritime Commission because of Chinese rate interference; restrictions on various port, trucking, and other intermodal activities; and discriminatory and exorbitant charges assessed by China.

The Federal Maritime Commission investigated these problems under its authority provided by the Foreign Shipping Practices Act, a statute that I authored in 1988. This law provides that if a foreign nation imposes unfair barriers on American-flag ships, then retaliatory measures may be threatened and taken against vessels of the offending country.

The Federal Maritime Commission determined that China was in fact imposing substantial unfair trade barriers against American vessels. It threatened retaliatory measures. As a result, subsequent commercial and governmental negotiations led to a change in Chinese policy. The doing-business restrictions in large part have been or are being dismantled. American carriers have become the first foreign transportation companies with their own China operations and subsidiaries. The Foreign Shipping Practices Act has achieved its stated purpose.

I commend the Federal Maritime Commission, and particularly its Chairman Chris Koch, for such a timely and aggressive use of the Foreign Shipping Practices Act. Also to be complemented are Capt. Warren Leback and his colleagues at the Maritime Administration of the Department of Transportation, who negotiated with Chinese authorities. And I salute American President Lines and SeaLand Services, the American carriers who spoke out against the unfair burdens being placed in their way.

This maritime example shows how we can use the threat of trade sanctions to convince Chinese authorities to alter policy. Let us override the veto of H.R. 2212.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield back the balance of my time, and I move the previous question.

The previous question was ordered.

The SPEAKER. The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

Under the Constitution, this vote must be determined by the yeas and nays.

The vote was taken by electronic device and there were—yeas 357, nays 61, not voting 16, as follows:

[Roll No. 43]

YEAS—357

Abercrombie
Ackerman
Allen
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Ballenger
Barnard
Barton
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Camp
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Cox (CA)
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Downey
Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hancock
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Jacobs
James
Jefferson
Jenkins
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Lewis (FL)
Lewis (GA)
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Martin
Martinez
Mavroules
Mazzoli
McCloskey
McCollum
McCurdy
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Orton
Owens (NY)
Owens (UT)
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickle
Porter
Poshard
Price
Pursell
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Vento
Visclosky
Volkmer
Walker
Walsh
Washington
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Wilson
Wise
Wolf
Wolpe
Yates
Yatron
Young (FL)
Zeliff
Zimmer

NAYS—61

Alexander
Allard
Anderson
Archer
Armey
Baker
Barrett
Bateman
Brown
Callahan
Campbell (CA)
Coughlin
Crane
Davis
DeLay
Dickinson
Dornan (CA)
Dreier
Ewing
Fawell
Fields
Gekas
Gillmor
Gradison
Grandy
Hansen
Hastert
Ireland
Johnson (CT)
Kolbe
Kopetski
Leach
Lent
Lewis (CA)
Lightfoot
Livingston
Marlenee
Matsui
McCandless
McCrery
McDade
Michel
Moorhead
Myers
Nichols
Nussle
Oxley
Pickett
Quillen
Roberts
Roemer
Shays
Shuster
Smith (IA)
Stump
Sundquist
Vander Jagt
Vucanovich
Williams
Wyden
Young (AK)

NOT VOTING—16

Coleman (TX)
Collins (IL)
Cunningham
Dannemeyer
Flake
Hammerschmidt
Kasich
Levine (CA)
Lipinski
Miller (CA)
Ortiz
Russo
Savage
Valentine
Whitten
Wylie

□ 1629

The Clerk announced the following pair:

On this vote:

Mr. Miller of California and Mrs. Collins of Illinois for, with Mr. Wylie against.

Mr. LIVINGSTON changed his vote from "yea" to "nay."

Messrs. FRANKS of Connecticut, LAUGHLIN, and GONZALEZ changed their vote from "nay" to "yea."

So, two-thirds having voted in favor thereof, the bill was passed, the objections of the President to the contrary notwithstanding.

The result of the vote was announced as above recorded.

The SPEAKER. The Clerk will notify the Senate of the action of the House.

PERSONAL EXPLANATION

Mr. DANNEMEYER. Mr. Speaker, I was unavoidably absent for rollcall vote 43. Had I been present during this vote, I would have voted "yea" on rollcall 43.

□ 1630

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I ask for this time for the purpose of inquiring of the distinguished majority leader how we will proceed with the program for the balance of the week? We earlier in the day had an exchange of views with one another, and neither side knew for sure where we may or may not be. If the gentleman from Missouri [Mr. GEPHARDT] could enlighten us, I think we would all be appreciative.

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Missouri.

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman from yielding.

Mr. Speaker, the House will meet at 11 tomorrow morning and take up H.R. 3732, the Budget Process Reform Act. But we will take up the rule and general debate only.

Then we will be in contact with the distinguished minority leader and leadership on the other side about taking up the ethics report. We will take up the ethics report this week. It may start tomorrow and finish on Friday, or it may start on Friday and finish on Friday. But we will take it up and complete it this week.

Mr. MICHEL. Mr. Speaker, reclaiming my time, let me inquire about Friday, because all of us have had our travel plans for some time already and have had to adjust them in view of the Friday session. Would we orchestrate the schedule so as to give our Members any time of certainty on Friday?

Mr. GEPHARDT. Mr. Speaker, if the gentleman will yield further, we will endeavor, obviously, to get finished in a timely manner. Obviously we need to consult with the gentleman and others about the hours of debate and when it will be held. We will certainly keep in mind the need for Members to get back to their districts on Friday afternoon.

Mr. MICHEL. Mr. Speaker, reclaiming my time, I would hope that we would be able to come in at 10 o'clock on Friday to facilitate that. I know in our earlier discussions we were talking about maybe no less than 4 hours of debate, depending upon the ethics question, whether or not it was two specific proposals or one plus a substitute, et cetera. So we are not trying to cut people off on the time question. By the same token, it probably has to have some limits.

Mr. Speaker, we will have a caucus on our side early in the morning, in which case then I can have a better idea to communicate to the Democratic leadership where generally we are and how we think we would like to proceed. Obviously then we will try to work it out to the satisfaction of all the Members.

Mr. GEPHARDT. Mr. Speaker, we will certainly consult with the gentleman fully and make those decisions.

Mr. HAYES of Illinois. Mr. Speaker, will the gentleman yield for a question to the majority leader?

Mr. MICHEL. I yield to the gentleman from Illinois.

Mr. HAYES of Illinois. Mr. Speaker, is there any particular reason why we do not come in until 11 o'clock tomorrow?

Mr. GEPHARDT. Mr. Speaker, if the gentleman will yield further, this is the time we had announced. There are meetings and caucuses that will be going on, committee meetings, and other matters.

WITHDRAWAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2824

Mr. BEREUTER. Mr. Speaker, I ask unanimous consent to remove my name as a cosponsor of H.R. 2824.

The SPEAKER. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1755

Mr. McCURDY. Mr. Speaker, I ask unanimous consent that my name be withdrawn as a cosponsor of H.R. 1755.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

TECHNICAL CORRECTION TO FOOD STAMP ACT OF 1977 RELATING TO INCOME EXCLUSIONS

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2324) to amend the Food Stamp Act of 1977 to make a technical correction relating to exclusions from income under the Food Stamp Program, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. COLEMAN of Missouri. Mr. Speaker, reserving the right to object, I will not object, but I do so to yield to the gentleman from Texas [Mr. DE LA GARZA] for an explanation of the legislation.

Mr. DE LA GARZA. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, S. 2324 makes a very simple citation correction in current food stamp law to prevent the Government from inadvertently penalizing certain blind people who apply for food stamps and receive Social Security insurance.

Section 903 of the 1991 farm bill amendments was intended to exclude from food stamp income any SSI benefits that are allocated to a so-called PASS account—which stands for "plan for achieving self-support." Unfortunately, the statutory citation used in section 903 was incomplete. Now we are in danger of having the benefits in PASS accounts excluded for all SSI recipients except the blind.

Mr. Speaker, this legislation will make the necessary technical correction that will include the blind, as we intended, to be among the SSI recipients eligible for this exclusion. I urge the passage of the House to support this bill.

Mr. COLEMAN of Missouri. Mr. Speaker, I thank the gentleman for his explanation.

Mr. Speaker, I rise in support of S. 2324. Public Law 102-237, the Food, Agriculture, Conservation, and Trade Act of 1991 provided that for certain SSI recipients, funds saved under the Social Security PASS account will be excluded from consideration in determining food stamp eligibility. A Social Security PASS account includes funds set aside for a plan for self-support for SSI recipients.

However the reference to the Social Security Act in Public Law 102-237 did not include the appropriate citation. S. 2324 corrects that technical error and provides that blind persons will be included in the provision as was originally intended.

According to CBO the cost of the bill is less than $500,000 per year.

The Department of Agriculture supports S. 2324 and I urge its adoption.

Mr. Speaker, I withdraw my reservation of objection.

The Clerk read the Senate bill, as follows:

S. 2324

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXCLUSIONS FROM FOOD STAMP INCOME.

(a) IN GENERAL.—Section 5(d)(16) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)(16)) (as amended by section 903(3) of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (Public law 102-237)) is further amended by striking "section 1612(b)(4)(B)(iv) of the Social Security Act (42 U.S.C. 1382a(b)(4)(B)(iv))" and inserting "subparagraph (A)(iii) or (B)(iv) of section 1612(b)(4) of the Social Security Act (42 U.S.C. 1382a(b)(4))".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall take effect on the earlier of—

(A) December 13, 1991;

(B) October 1, 1990, for food stamp households for which the State agency knew, or had notice, that a member of the household had a plan for achieving self-support as provided under section 1612(b)(4)(A)(iii) of the Social Security Act (42 U.S.C. 1382a(b)(4)(A))(iii)); or

(C) beginning on the date that a fair hearing was requested under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) contesting the denial of an exclusion for food stamp purposes for amounts necessary for the fulfillment of such a plan for achieving self-support.

(2) LIMITATION ON APPLICATION OF SECTION.—Notwithstanding section 11(b) of the Food Stamp Act of 1977 (7 U.S.C. 2020(b)), no State agency shall be required to search its files for cases to which the amendment made by subsection (a) applies, except where the excludability of amounts described in section 5(d)(16) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)(16)) was raised with the State agency prior to December 13, 1991.

The Senate bill was ordered to be read a third time, was read the third time, and passed, a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on S. 2324, the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

NATIONAL AGRICULTURE DAY

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 272) to proclaim March 20, 1992, as "National Agriculture Day," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I do so in order to yield to the gentleman from Texas [Mr. DE LA GARZA], the chief sponsor of this joint resolution.

Mr. DE LA GARZA. Mr. Speaker, as chairman of the House Agriculture

Committee, it is my pleasure to be the sponsor of House Joint Resolution 272. This resolution will designate March 20, 1992, as a day of national observance to honor all the men and women involved in American agriculture.

The goal of National Agriculture Day is simple. Under this resolution, Congress and the President can help focus national attention on the importance of American agriculture to our country.

Some may ask why we should have a National Agriculture Day. Some may point out how few Americans today mark their occupation as farmers or ranchers.

It is true that less than 2 percent of our Nation's population is engaged in the production of the food and fiber these days. The number of people who call themselves farmers or ranchers has declined greatly during this century. But that does not make agriculture any less important in our society.

Mr. Speaker, American agriculture today is more productive, more competitive and, I believe, more important to the American economy than ever before.

The American agricultural sector is noted for its productivity. One American farmer or rancher today annually produces enough food to feed 100 people on average. The productivity of American agriculture allows the other 98 percent of Americans to engage in other activities not tied to the land. The productivity of American agriculture assures American consumers a stable supply of food and fiber products at affordable prices.

Our agricultural sector has also become more competitive. During the 1980's, the U.S. agricultural economy went through a painful economic downturn caused by a combination of global and domestic factors. The agricultural producers who survived those difficult times are today more efficient and more competitive than ever before.

Finally, I believe American agriculture today is more important to the American economy than ever before.

Today the United States is the world's largest exporter of agricultural products. Agriculture is the only economic sector that continually provides a positive trade balance for our Nation.

Agriculture is not just farmers, it is the entire food and fiber system. When you look at it that way, you realize that agriculture is our Nation's largest industry. Roughly one out of every six American jobs is related to the production, processing, distribution, or marketing of food and fiber products. Seventeen percent of our Nation's gross national product is related to agriculture.

National Agriculture Day is more than just a day to honor our Nation's farmers and ranchers. It is also a day to honor the millions of Americans whose livelihood involves the production, processing, distribution, and sale of food and fiber products in our country.

It has become fashionable in recent years to criticize the Federal programs of our Nation's farmers. However, I firmly believe that only by keeping American agriculture strong can the rest of us be assured of the long-term supply of food and fiber products at reasonable and stable prices.

The fact is, every American is affected by the economic health and vitality of our Nation's agricultural economy.

Mr. Speaker, March 20 is also the first day of spring. The warmth of spring marks the beginning of a new growing season for the farmer. So it is quite appropriate that we celebrate National Agriculture Day on the first day of spring

The observance of National Agriculture Day will remind all Americans how important a healthy agricultural industry is for our Nation. This day allows our Nation to collectively say "thank you" to all the men and women involved in American agriculture.

Mr. Speaker, I am proud to urge my colleagues to support the passage of House Joint Resolution 272.

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Mr. RIDGE. Mr. Speaker, continuing my reservation of objection, I yield to the gentleman from Missouri [Mr. COLEMAN] for his comments on House Joint Resolution 272.

Mr. COLEMAN of Missouri. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, every year at this time the Congress honors America's farmers and ranchers who provide this country with the array of food and fiber that our citizens have come to expect. This is not just another legislative commemorative that I rise to endorse today. March 20 is National Agricultural Day.

Our farmers today provide for us and a great deal of the world, cultivating and managing about the same amount of land that was cropped by our producers in 1910. They plant, tend, and harvest their crops using the best management practices of 20th century agronomy; they manage their herds and flocks with great efficiency, using safety, animal welfare, and sanitary standards second to none. We have built a sustainable agricultural industry in this country of which I am proud. It feeds and clothes us and is key to our economic diversity.

U.S. agriculture is the country's largest exporter. They create a half-million off-farm jobs in financing, storing, packaging, processing, merchandising, and shipping farm commodities. Another half-million jobs on the farm are dependent on our exports. In normal crop years, the output of about 30 percent of U.S. harvested acreage goes into export markets, generating about a fifth of farmers cash receipts.

We should recognize, too, American agribusiness on March 20: From the local elevator operator to the terminal facility manager; from the fertilizer supplier to the agricultural banker; from the local trucker to the barge operator; from the millers and processors to the packing houses that provide a healthful supply of meat products to our Nation's retailers. It is a complex industry that provides jobs to about a fifth of the Nation.

Mr. RIDGE. Mr. Speaker, continuing my reservation of objection, I yield to our colleague, the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I rise today in strong support of House Joint Resolution 272 designating March 20, 1992, as "Agriculture Day." I wish to commend the gentleman from Texas [Mr. DE LA GARZA] for introducing this legislation.

Our Nation is fortunate to have a strong agriculture system. However, with the current economic conditions facing our Nation's farmers, including the low prices received for their commodities, it is altogether appropriate that we demonstrate that we have not forgotten our farmers, for they are truly the backbone of our Nation.

Mr. Speaker, I urge my colleagues to join me in support of this important legislation.

Mr. GUNDERSON. Mr. Speaker, I rise today in support of House Joint Resolution 272, to proclaim March 20, 1992, as "National Agriculture Day."

Since 1973, the first day of spring has been celebrated as National Agriculture Day by farmers and ranchers, commodity and farm organizations, and all persons involved in the agricultural system. I believe that this is a worthy tradition and one that merits continuation.

The U.S. agricultural sector serves all Americans by providing food, fiber, and other basic necessities of life. In fact, the American agricultural system provides American consumers with a stable supply of the highest quality food and fiber for the lowest per capita cost in the world.

The State of Wisconsin farm income for 1990 was $6.387 billion. Additionally, 22 percent of the total work force of 2,616,000 in my State are involved in the area of production, processing, and distribution of agricultural products. Understandably, I am very proud of these facts.

Therefore, I am proud to support the passage of House Joint Resolution 272, and salute all the men and women in our Nations agricultural system. They richly deserve our grateful appreciation.

Mr. CAMP. Mr. Speaker, I rise today in support of proclaiming March 2, 1992, as National Agriculture Day. House Joint Resolution 272 would recognize and commend our Nation's farmers.

I regularly visit with farmers and their families throughout the 10th Congressional District in Michigan. During these visits, Michigan farmers share with me their thoughts and their concerns about agriculture today and the future of the industry. We have entered into a decade where Michigan farmers, and farmers throughout the Nation, are providing food competitively and efficiently in the world market.

This is a time when the United States faces the best opportunity ever to expand its markets abroad. While beans, corn, and wheat will continue to be major crops, many U.S. farmers will produce specialized crops and find their own niche in the marketplace for their products. In fact, some Michigan farmers have found their niche in promoting trade with the European Community and with the Russian Federation, exporting cherries, beans, and meat products.

We've already come a long way in developing new and industrial uses of agricultural commodities. For example, soybean-based ink is now commonly used by newspapers. I even use it for my Congressional newsletter. Kenaf, an annual fiber crop, may soon be used for newsprint. New uses for nonfood agricultural products help create new domestic and foreign markets, while at the same time create new jobs and help spur new industries.

Few have a closer relationship with our natural resources than farmers. Farmers, as stewards of the land, are the leaders in conservation efforts to protect and preserve our soil and water resources. While water and wind erosion, air quality, and water quality remain concerns, farmers lead the way in preserving natural resources while producing valuable crops efficiently.

National Agriculture Day recognizes one of America's greatest industries—farming. America's farmers allow every American the greatest choice and the best quality food available anywhere. As consumers, we have access to the most abundant and safe food supply in the world.

Mr. Speaker, please join me in recognizing and commending agriculture, our Nation's first industry, and the hardworking men and women who have made it the envy of the world.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 272

Whereas agriculture is the Nation's largest and most basic industry, and its associated production, processing, and marketing segments together provide more jobs than any other single industry;

Whereas the United States agricultural sector serves all Americans by providing food, fiber, and other basic necessities of life;

Whereas the performance of the agricultural economy is vital to maintaining the strength of our national economy, the standard of living of our citizens, and our presence in world trade markets;

Whereas the Nation's heritage of family-owned and family-operated farms and ranches has been the core of the American agricultural system and continues to be the best means for assuring the protection of our national resources and the production of an adequate and affordable supply of food and fiber for future generations of Americans;

Whereas the American agricultural system provides American consumers with a stable supply of the highest quality food and fiber for the lowest cost per capita in the world;

Whereas American agriculture continually seeks to maintain and improve the high level of product quality and safety expected by the consumer;

Whereas the public should be aware of the contributions of all people—men and women—who are a part of American agriculture and its contributions to American life, health, and prosperity;

Whereas women play a vital role in maintaining the family farm system, both as sole operators and as working partners, and are also attaining important leadership roles throughout the American agricultural system;

Whereas farmworkers are an indispensable part of the agricultural system as witnessed by their hard work and dedication;

Whereas scientists and researchers play an integral part in the agricultural system in their search for better and more efficient ways to produce and process safe and nutritious agricultural products;

Whereas farmers and food processors are responding to the desire of health-conscious American consumers by developing more health-oriented food products;

Whereas distributors play an important role in transporting agricultural products to retailers who in turn make the products available to the consumer;

Whereas our youth—the future of our Nation—have become involved through various organizations in increasing their understanding and our understanding of the importance of agriculture in today's society;

Whereas it is important that all Americans should understand the role that agriculture plays in their lives and well-being, whether they live in urban or rural areas; and

Whereas since 1973, the first day of spring has been celebrated as National Agriculture Day by farmers and ranchers, commodity and farm organizations, cooperatives and agribusiness organizations, nonprofit and community organizations, other persons involved in the agricultural system, and Federal, State, and local governments: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assmbled, That March 20, 1992, is proclaimed "National Agriculture Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe this day with appropriate ceremonies and activities during the week of March 15 through March 21.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL WOMEN IN AGRICULTURE DAY

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 176) to designate March 19, 1992, as "National Women in Agriculture Day," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I do so to yield to the gentlewoman from Indiana [Ms. LONG], in order to acknowledge the work of the gentlewoman from Indiana, since she is the original sponsor and author of this joint resolution.

Ms. LONG. Mr. Speaker, I thank the gentleman for yielding to me.

As author of the House legislation to designate March 19, 1992, as "National Women in Agriculture Day," I am pleased that this bill has come to the floor today. One of the biggest misconceptions about agriculture is that it is a field where only men are involved. In reality, women hold important roles in agriculture in ever-increasing numbers.

Over the years, more women have entered farming in their own and farm women spouses have more frequently been considered co-operators with their husbands. In fact, the 1987 Census of Agriculture identified 132,000 farms whose operators or senior partners were women. This represented over 6 percent of all farms and was an increase of 10,000 in 5 years, at a time when the overall number of farms was falling.

In addition to farming, women have been involved in agriculture in much broader ways such as research and development, food exporting, lobbying, and holding top positions in the U.S. Department of Agriculture.

Because these women deserve recognition, I introduced legislation to designate March 19, 1992, as "National Women in Agriculture Day." This day will focus the public's attention on the significant and too often overlooked role women play in our Nation's agricultural system.

Mr. RIDGE. Mr. Speaker, continuing my reservation of objection, I yield to the gentleman from Missouri [Mr. COLEMAN].

Mr. COLEMAN of Missouri. Mr. Speaker, I thank the gentleman for yielding to me.

I agree with all of the statements made by the gentlewoman from Indiana. This is an area which certainly needs recognition and should receive recognition. Women in agriculture play a very important role.

Many times they are the only producer on the farm and take the role as the head of that particular farming operation. They are instrumental in the success of many farming operations. They work side by side with their spouses.

They have not received the recognition in the past that perhaps they should have, but certainly in northwest Missouri we recognize their important contribution.

Mr. Speaker, I support the gentlewoman's resolution.

Mr. RIDGE. Mr. Speaker, continuing my reservation of objection, I am proud to yield to the gentleman from Texas [Mr. DE LA GARZA], chairman of the Committee on Agriculture.

Mr. DE LA GARZA. Mr. Speaker, I am pleased to rise in support of Senate Joint Resolution 176, to proclaim March 19, 1992, as "National Women in Agriculture Day."

Women have been a vital part of the American agricultural experience since the very beginning of our Nation's history. Our Nation's agricultural system is founded on the concept of the family farm operation where husbands and wives provide much of the labor and management needed.

Unfortunately, it was not until recent years that women began receiving the credit and recognition they deserve for their role in contributing to the growth and success of American agriculture.

The woman's role in the successful operation of our Nation's farms and ranches should not be underestimated. An increasing number of women are farmland owners and operators. Others work side by side with their husbands in caring for livestock or working in the field. Still other women, particularly for the beginning farm operation, supplement the family's income with off-farm jobs.

The role of women in American agriculture is changing. Today women are viewed not only as equal partners in agriculture, they are also increasingly taking leadership roles on policy issues.

Mr. Speaker, I applaud the great strides made by women in American agriculture. Our Nation and American agriculture are better for it. The economic future of American agriculture depends on it.

I commend our colleague, Ms. LONG of Indiana who serves on the Agriculture Committee with me, for her sponsorship of this resolution in this body. I urge the adoption of Senate Joint Resolution 176.

Mr. RIDGE. Madam Speaker, I withdraw my reservation of objection.

Mr. COLEMAN of Missouri. Mr. Speaker, I rise in support of Senate Joint Resolution 176, which proclaims March 19, 1992, National Women in Agriculture Day.

Women have always been essential to the success and productivity of America's great agricultural enterprise, but that role has not always been well recognized. I am glad that perception is now catching up with reality.

Farm women today are integral to farm management and assume leadership positions in all segments of our diverse agricultural economy. My own congressional district in Missouri provides an outstanding example of today's woman in agriculture: The incoming president of the Missouri Cattlemen's Association, Sheri Spader, is both an effective manager in her family's cattle operation and a strong leader in the Nation's second largest cattle-producing State, Missouri.

Such women work side by side with their husbands and families to keep America's family farms strong and productive. They not only play an integral role in the economic health of the farm; they sustain and nurture the families that traditionally have been the backbone of American agriculture and reflect the values that have been the foundation of our way of life.

Mr. Speaker, while nothing we can say will adequately express the gratitude we owe these women, I am pleased to endorse this resolution and urge its passage.

The SPEAKER pro tempore (Ms. PELOSI). Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 176

Whereas women hold important leadership positions within the American agriculture system, a system with a level of efficiency that leads the world;

Whereas women are full working partners on the family farm;

Whereas the family farm offers the best means of ensuring the protection of our natural resources as well as guaranteeing future generations of Americans an abundant and safe supply of food; and

Whereas the public should be aware of the contributions made by women in the American agricultural system to the health and prosperity of all Americans: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 19, 1992, is designated as "National Women in Agriculture Day", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the day with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GREEK INDEPENDENCE DAY: A NATIONAL DAY OF CELEBRATION OF GREEK AND AMERICAN DEMOCRACY

Mr. SAWYER. Madam Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 240) designating March 25, 1992, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Madam Speaker, reserving the right to object, I do so to yield to our colleague and friend, the gentleman from Florida [Mr. BILIRAKIS], chief sponsor of this resolution.

Mr. BILIRAKIS. Madam Speaker, I thank the gentleman for yielding to me.

Madam Speaker, as the principal sponsor of the House companion measure to this bill, I would like to express my deep gratitude to Mr. SAWYER, chairman of the Subcommittee on Census and Population, to Mr. RIDGE the ranking Republican on that subcommittee, and to Chairman CLAY of the Post Office and Civil Service Committee for so expeditiously moving this bill to the floor.

March 25 is a very special day in the hearts of Greek Americans and Hellenes everywhere and to all freedom-loving Americans. It heralds both the anniversary of Greece's independence and its role as the cradle of democracy for the entire world.

In 510 B.C. the ancient Greeks came up with the idea of democracy. Now we see that very idea being implemented all over the world. This free form of government that we oftentimes take for granted seems to be taking shape in Eastern Europe and in the once communist USSR.

Indeed, the spirit of March 25 lives on in defense of the principles for which so many of the free world's people have given their lives. These principles are embodied in the Greek words "Eleftheria I Thanatos"—Liberty or Death!

The ancient Greeks forged the very notion of democracy, placing the ultimate power to rule in the hands of the people themselves. As we know, our Founding Fathers drew heavily on the political and philosophical experience of ancient Greece in forming our Government, and I thank all my colleagues here today for passing this legislation in commemoration of the Democratic heritage shared by the United States and Greece.

Mr. RIDGE. Madam speaker, continuing my reservation of objection, I yield to my friend and colleague, the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Madam Speaker, I thank the gentleman from Pennsylvania for yielding time to me. I thank the gentleman from Florida for depicting, as he always does, the flavor of the celebration of Greek independence, which means so much to those of us of Greek heritage.

What has to be said and resaid for those of us who have tasted that elegance of the celebration every March of every year since we were born is that it was blended into a church type of celebration as well as an ethnic, patriotic type of celebration, along with a celebration of the American flag standing beside that Greek flag, which was hoisted in celebration of the breakout of the Ottoman Empire in 1821. So it becomes a multicolored, multifaceted, wonderful experience for youngsters who on the one hand have their parish priest engaged in one of the most serious of the church calendar services while at the same time the ethnic and patriotic celebration for Greeks of Greek independence is shared by Greek-Americans, who with their flag, the American flag, conjoin all of that in one grand moment every March 25.

☐ 1650

It has made better citizens of us, better Americans, knowing that some of the tradition upon which this very Chamber was based, the ancient Greek classical ethic, translated then into the mid-1800's, reinforced by the Greek revolution of that period, and now to have full generations of Greek-Americans understand the strength of America that has relied on such ethnic and patriotic and church-related activity of some of these citizens.

Mr. RIDGE. Mr. Speaker, I thank the gentleman for his colorful tapestry that he wove to explain that celebration to us, and continuing my reservation of the right to object, I yield to my colleagues, the distinguished gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Madam Speaker, I rise to express my strong support for House Joint Resolution 390, designating March 25, 1991, as Greek Independence Day.

On March 25, 1821, the Greek people took arms against four centuries of Ottoman rule, fighting bravely and valiantly to achieve freedom from Turkish domination.

Greek Independence Day has special significance to all Americans. It was the ancient Greeks who formulated the concept of democracy which is the keystone of the American political system. Democracy is but one of the many contributions of the Greek people to the development of civilization. Art, philosophy, science, and law are but a few of the disciplines in which the Greek people have enriched our culture.

The contributions of Greek-Americans to the development of our great Nation are much too numerous to mention. Our distinguished congressional colleagues, the gentleman from Pennsylvania [Mr. YATRON], the gentlewoman from Maine, [Ms. SNOWE], the gentleman from Florida [Mr. BILIRAKIS] the gentleman from Pennsylvania [Mr. GEKAS] and in the other body, the gentleman from Maryland [Mr. SARBANES] as just a few of the current examples of Greek-Americans who have excelled and made significant contributions to our Government.

Through the commemoration of Greek independence, we have the opportunity not only to salute our own Greek-American community for their contributions, but to commemorate the independence of the Greek people.

Accordingly, I commend the gentleman from Florida [Mr. BILIRAKIS] for his work on this important measure and I urge my colleagues to support this important measure.

Mr. RIDGE. Madam Speaker, continuing my reservation of objection, I yield to the gentleman from Ohio [Mr. SAWYER], the subcommittee chairman.

Mr. SAWYER. Madam Speaker, I thank my friend, the gentleman from Pennsylvania, and join in the comments of the previous speakers, thanking both the gentleman from Florida [Mr. BILIRAKIS] and all of our colleagues of Greek heritage in this Chamber.

I would only add that all of us who share a common love of democracy and the rule of law that we all share in that Greek heritage, in that sense, all of us in this Chamber, the other Chamber, and across this great Nation take pride in that heritage and pride in being Greek-Americans ourselves on a day like today.

Mr. RIDGE. Madam Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Ms. PELOSI). Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 240

Whereas the ancient Greeks developed the concept of democracy, in which the supreme power to govern was vested in the people;

Whereas the Founding Fathers of the United States of America draw heavily upon the political and philosophical experience of ancient Greece in forming our representative democracy;

Whereas March 25, 1992 marks the one hundred seventy-first anniversary of the beginning of the revolution which freed the Greek people from the Ottoman Empire;

Whereas these and other ideals have forged a close bond between our two nations and their peoples; and

Whereas it is proper and desirable to celebrate with the Greek people, and to reaffirm the democratic principles from which our two great nations sprang: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 25, 1992 is designated as "Greek Independency Day: A National Day of Celebration of Greek and American Democracy", and that the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the designated day with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

EDUCATION AND SHARING DAY, U.S.A.

Mr. SAWYER. Madam Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 410) designating April 14, 1992, as "Education and Sharing Day, U.S.A.," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Madam Speaker, reserving the right to object, I do so to acknowledge the work as chief sponsor and author of the legislation of the gentleman from Missouri [Mr. GEPHARDT], the majority leader, and also to yield to our colleague, the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Madam Speaker, I am pleased to rise in strong support of House Joint Resolution 410 to designate April 14, 1992, as "Education and Sharing Day, U.S.A.," and commend my colleagues, the gentleman from Missouri [Mr. GEPHARDT] and our minority leader, the gentleman from Illinois [Mr. MICHEL], for introducing this measure.

The quality of education is essential to our American heritage of cultural and political freedom. Our schools are instrumental in providing for our scientific and technical competence. Education holds the key to the future. By designating April 14, 1992, as "Education Day, U.S.A.," we call attention of the American people to the necessity of improving our educational system, which promotes good moral and ethical values.

Madam Speaker, the future of our Nation, our way of life, and our democratic system of government is dependent on a highly educated citizenry, a citizenry that must be equipped to compete with other nations of the world. We must nurture our desire for learning and to motivate students and teachers to assure that we maintain leadership to continue our American democracy.

House Joint Resolution 410 also calls attention to the Lubavitch movement, which promotes many of our ethical values and principles upon which the educational system of our great Nation was founded.

In choosing April 15, 1992, we are also honoring Rabbi Menachem Mendel Schneerson, the leader of the Lubavitch movement who will be celebrating his 90th birthday and the 42d anniversary in which the rebbe ascended to the world leadership of the Lubavitch movement.

Accordingly, Madam Speaker, I strongly urge my colleagues to join me in supporting this resolution which focuses attention on the educational values which are so vital to the future of our Nation.

Mr. RIDGE. Madam Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 410

Whereas Congress recognizes the historical tradition of ethical values and principles which are the basis of civilized society and upon which our great Nation, the United States of America, was founded;

Whereas President George W. Bush, distinguished leader of our great Nation, stated "Ethical values are the foundation for civilized society. A society that fails to recognize or adhere to them cannot endure.";

Whereas these ethical values and principles have been the cornerstone of society since the dawn of civilization when they were known as the Seven Noahide laws;

Whereas the Government of the United States and its citizens are committed to the ideals of social equality and the right of each and every person to share in the bounty the world has to offer—ideals deeply rooted in our Nation's history and boldly affirmed by the miraculous changes of the past year;

Whereas our Nation has recently witnessed the beginning triumph of these values through wonders around the world of biblical proportions;

Whereas the end of the Cold War heralds the beginning of an era where individual rights and human dignity become paramount and where the dream of a world in which material and spiritual deprivation is replaced by human kindness and compassion becomes a reality;

Whereas the absolute necessity of mutual responsibility and concern for the needy has been of particular concern to "the Rebbe", Rabbi Menachem M. Schneerson, leader of the Lubavitch movement;

Whereas the Lubavitch movement, through the establishment of over 1,000 social welfare and educational institutions throughout the world under the leadership of the "Rebbe", has long supported and promoted dedication to education and selfless concern for others;

Whereas Rabbi Menachem M. Schneerson has recently issued a worldwide call for a revitalized dedication to loving kindness, charity, and sharing between man and his fellow man;

Whereas Rabbi Menachem M. Schneerson is universally revered by all faiths, respected as spiritual leader of world Jewry, and his 90th birthday falls on April 14, 1992;

Whereas in tribute to this great spiritual leader, "the Rebbe", his birthday will be designated as "Education Sharing Day U.S.A." and this year, his 91st, will mark a new beginning in an age-old commitment to education, accompanied by an increase in general acts of sharing with another, in order to return the world to the moral and ethical values contained in the Seven Noahide Laws; and

Whereas this will be reflected in an international scroll of honor signed by the President of the United States and other heads of state: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 14, 1992, the birthday and the start of the 91st year of Rabbi Menachem Mendel Schneerson, leader of the worldwide Lubavitch movement, is designated as "Education and Sharing Day, U.S.A.". The President is requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SAWYER. Madam Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on the several joint resolutions just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

INTRODUCTION OF LEGISLATION TO ADDRESS HOUSING NEEDS OF ELDERLY AMERICANS

(Mr. KLECZKA asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous material.)

Mr. KLECZKA. Mr. Speaker, a growing crisis is unfolding in elderly housing across this country. Our elderly housing facilities are plagued by crime, drugs, and violence. Residents with clashing lifestyles are forced to live side-by-side and critical social service needs are not being met. So today, I am introducing legislation to address this problem.

The bill addresses this problem in three complementary ways. First, it increases housing choices. The bill allows public housing agencies and residents to choose from a variety of housing options to best serve their needs and their lifestyles.

Second, it sets tougher screening and eviction guidelines. The bill will ensure that violent and unruly people cannot get in—or stay in—our housing facilities.

Third, it establishes the critical service coordinator position. The service coordinator will ensure essential health and social services are delivered to those who need them.

Mr. Speaker, if we fail to act, the crisis in elderly housing will only get worse. This bill is an even-handed approach that is fair to all residents. It aims to do one thing: To stop the turbulence in elderly housing. I urge my colleagues to join me in authorship and support of this vital legislation.

Mr. Speaker, I would like to outline the problems facing public housing authorities, housing sponsors, and residents in elderly housing, and the approaches taken in the Improvement of Housing for Elderly and Disabled Act, to address these problems.

We have heard horror stories from across this country on the conflicts, and in some cases, outright violence, that have erupted in elderly housing facilities. These conflicts are caused not only by the differing lifestyles of the older residents and their younger, disabled neighbors. They are also caused by unclear screening and eviction guidelines and unmet health and social service needs.

The differing lifestyles of the residents has contributed to the turbulence in elderly housing facilities. While mixed situations can work, some residents have special needs which can best be met by targeting services to their needs. Public housing authorities are clamoring for the opportunity to develop innovative methods of meeting the often distinctive housing needs of their increasingly diverse resident groups, and we should provide them with the tools they need to do so.

This legislation allows public housing agencies to establish designated housing options which can take advantage of economies of scale in the provision of services and management expertise. In so doing, public housing authorities will be able to offer choices in developing alternative housing arrangements for their residents with increased options including section 8 vouchers and certificates, group homes, family public housing, mixed facilities, service-enriched facilities, and senior facilities.

However, the public housing authorities must develop housing arrangements which meet the needs of their populations and the composition of their waiting lists without offering preferences or priority to any one group. Clearly, the bill offers an incentive for better management.

Another key aspect of the problem is the composition of the elderly housing waiting lists. The growing numbers of nonelderly disabled persons on the waiting lists mean service needs will only increase in days ahead. In Milwaukee, for example, the nonelderly make up over 60 percent of the waiting lists for elderly housing. Clearly, we must increase and improve our delivery of essential health and social services to these residents, most of whom can coexist with their neighbors when they are given the services they need.

This legislation enhances the vital delivery of health and social services by funding the service coordinator position for public housing and some federally assisted housing. The service coordinator position will work efficiently with residents and care providers to determine and meet the residents' service needs. For this crucial elderly and disabled resident service coordinator, the bill authorizes $30 million for public housing agencies, $15 million for tenant-based section 8 housing, and $5 million for project-based section 8 housing.

An additional problem results from unclear screening and eviction guidelines. Some residents have been allowed into the facilities without any chance of peacefully coexisting in a community setting and not threatening their neighbors. To address this problem, the legislation establishes a clearcut criteria for screening and eviction purposes in all public and federally assisted housing. To qualify for residency, applicants must meet the essential terms of tenancy outlined in the bill. To remain in the facilities, applicants must not violate those same standards. With increased direction, housing sponsors will be required to house only those who can coexist with their neighbors.

Mr. Speaker, this bill is an innovative approach to a complex problem. I urge my colleagues to support it, and at this point I would like to enter a section-by-section analysis of the legislation into the RECORD.

SECTION-BY-SECTION ANALYSIS

Sec. 1: Title.—"Improvement of Housing for the Elderly and Disabled Act."

Sec. 2.—Requirement of HUD regulations.

Title I.—Authorizes PHA's to provide housing choice for elderly persons and persons with disabilities.

Sec. 101.—Authorizes designated occupancy housing for older persons, for persons with disabilities, and for mixed populations as housing authorities see fit.

Waiting lists must be observed before initiating designated housing options;

Existing preferences remain intact;

Authorizes housing authorities to open mixed housing, shared housing, family housing, group homes, section 8, and to reconfigure existing units as appropriate.

Sec. 102.—Prohibits forced moving of existing residents.

Sec. 103.—Conforming amendments.

Title II: Establishes Essential Terms of Tenancy for public and federally-assisted housing. Also authorizes funding for the Service Coordinator position for public and some federally-assisted housing.

Sec. 201.—Requires PHA's and housing sponsors to comply with the Essential Terms of Tenancy provisions as a condition of receiving federal assistance.

Sec. 202.—Establishes Essential Terms of Tenancy as a criteria for screening applicants on the basis of direct threat to neighbors or potential failure to meet financial obligations.

Sec. 203.—States that any violation of the Essential Terms of Tenancy is sufficient cause for eviction.

Sec. 204.—Requires the provision of Service Coordinators for older residents and residents with disabilities for PHA's and housing sponsors of Section 8, Section 236, and Section 221(d)(3). (PHA's $30 M, Section 8 tenant: $15 M, Section 8 project: $5 M).

Sec. 205.—Requires PHA's to assist elderly and disabled applicants in finding housing units outside of public housing.

Sec. 206.—Conforming Amendments.

Sec. 207.—Definitions.

NEW ORLEANS MARDI GRAS INDIANS: A CELEBRATION OF AFRICAN-AMERICAN CULTURE

(Mr. JEFFERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. JEFFERSON. Mr. Speaker, last Tuesday in New Orleans, more than 1 million people reveled in our city's annual celebration of Mardi Gras.

For many, Mardi Gras means parades, colorful costumes, beads, and doubloons. But, there is more to be found hidden from the cameras in the neighborhoods and back streets of New Orleans.

From the first Mardi Gras celebrations, a dozen or so Mardi Gras Indian tribes have contributed a special African-American spirit to carnival, parading and chanting in colorful feathered and hand-beaded costumes through the back streets and neighborhoods of New Orleans on Mardi Gras.

This neighborhood celebration is what most people miss when the television cameras pan the throngs on Canal Street and the French Quarter.

Besides their colorful costumes, the Mardi Gras Indian tribes contribute a unique street music to New Orleans' famed musical repertoire. This street music combines chants, bells, drums, and tambourines. These special rhythms have been recorded on several albums and performed on stage across America and Europe by at least three of the Indian tribes, the Golden Eagles, the Wild Magnolias, and the Wild Tchoupitoulas.

Mr. Speaker, today I would like to honor the Mardi Gras Indians and their unique contributions to New Orleans' heritage and culture by presenting to the U.S. House of Representatives a special memento of Mardi Gras 1992—a framed, 13-color serigraph entitled "New Orleans Mardi Gras Indians: A Celebration of African-American Culture."

Mr. Speaker, in order for Members and others to better appreciate the history of the New Orleans Mardi Gras Indians, I am including in my remarks a newspaper article from the February 9, 1992, editions of the Baton Rouge Morning Advocate, written by Joan McKinney and entitled "U.S. Capitol Invaded by Mardi Gras Revelers."

U.S. CAPITOL INVADED BY MARDI GRAS REVELERS

(By Joan McKinney)

WASHINGTON.—You could have pralines for breakfast and see an Indian chief, who isn't an Indian, wearing pink and rose-dyed ostrich feathers Friday morning in the nation's capital.

It's not what the U.S. Capitol complex is accustomed to on Friday mornings. But the pralines, the Indian chief, a king cake, Bloody Mary's and masks abounded as hundreds of Louisianians wandered through U.S. House and Senate office buildings and the Capitol. Under way were congressional delegations' breakfasts, brunches and lunches.

It's all part of the three-day observance of Mardi Gras in Washington.

This year's innovation was the presence of T. "Bo" Dollis, the beaded, feathered, headbanded, braided chief of the Wild Magnolia Tribe.

Dollis was here courtesy of freshman U.S. Rep. William Jefferson, D-New Orleans. Jefferson told his breakfast guests in the Rayburn House Office Building that he wanted to showcase "the African-American contribution to Mardi Gras" and to let the Washington partygoers see how Mardi Gras is celebrated "in the back streets and the neighborhoods of New Orleans."

That world of the neighborhood "is what you miss" when the television cameras pan over the crowds in the French Quarter, Jefferson said.

Dollis leads one of about a dozen tribes, each generally attached to specific black neighborhoods of New Orleans.

The black Indians pre-date the well-known Zulus, the coconut-throwing black krewe founded about 1909 to spoof the all-white krewes.

The Indian tribes first appeared in Mardi Gras some 10 to 15 years after the Civil War. The first written account of them was in 1863, according to a New Orleans music magazine.

One theory is that these black tribes are an outgrowth of friendships between West African slaves and native American Indians sympathetic to the slaves.

Writing in "Spirit World," Michael P. Smith says that the American Indians and the West Africans shared a high regard for communal ceremony, for oral history, for elaborate spiritual and religious rituals—traditions largely foreign to the European culture.

When Jim Crow laws banned the Sunday musical celebrations of slaves in New Orleans Congo Square, the slave groups reformed secretly and took the names of Indian tribes, according to a historical account released by Jefferson's office.

Today, the tribes still meet on Sundays, when the members practice their street performances.

The street music is singing, chanting and the sound of bells, drums and tambourines. The music both honors the Indians and also means that the blacks have assumed some of the Indians' spiritual identity, according to Smith.

A New Orleans music critic has described the street performances as "an ancestral memory" and an "outward expression of the 'secret societies' which kept alive West African, Caribbean, Choctaw and Black Creole heritages of African-Americans in New Orleans."

Smith says that the songs recount black history and express masculine codes of conduct.

In recent years, the tribes have been the subject of a television documentary. Dollis recently performed on "Saturday Night Live," has recorded three albums and soon will release a fourth. The Wild Tchoupetoulas and the Golden Eagles have recorded albums.

In their beginnings, the highly competitive tribes fought in their street meetings. Today, they do war with words and symbolism when they meet at street intersections in New Orleans. But elements of the bloodier days survive, as the tribes still have "spy boys" who scout for the oncoming enemy parades and "flagboys" who wave the banners of battle.

The tribes also are known for spectacular costumes, each hand-sewn by its wearer and each made new, or reassembled every year. And it takes about a full year to make each costume.

"I began beading when I was 12, but I didn't get to mask until I was 14," Dollis said.

His costume had beaded shoulder patches depicting a bear and a fighting Indian warrior. A beaded frontpiece showed Indians celebrating a buffalo kill.

Dollis sang for Jefferson's breakfast, in the style an album cover says is "the African call-and-response tradition, calypso storytelling mode."

If the words were foreign to some of Jefferson's guests, Dollis said, "between Indians, we all know what's going on." Indeed, the street-savvy in the crowd answered the chants of their chief.

Dollis also performed Thursday night with New Orleans pianist Ronnie Cole, at a seafood bash/cocktail party called "Louisiana Alive."

The chief's additional serious business here—and Jefferson's—was the unveiling of the first silk-screen poster honoring the New Orleans Mardi Gras Indians. Proceeds from sales of the limited-edition poster will be shared among the tribes, who will use the money to cover Mardi Gras expenses and to preserve, and express, their traditions.

☐ 1700

TORT REFORM—A MUST

The SPEAKER pro tempore (Mr. KANJORSKI). Under a previous order of the House, the gentleman from Oklahoma [Mr. INHOFE] is recognized for 5 minutes.

Mr. INHOFE. Mr. Speaker, there has been a lot of discussion the last 6 months on the two most critical problems facing our Nation: the economy and health care. Of all the solutions being offered, the major culprit seems to escape unscathed, and understandably so. The reason—the culprit is perhaps the most powerful force on Capitol Hill. I am speaking of the American Trial Lawyers Association whose influence has permeated the Halls of Congress for two decades.

So, we talk about health care reform and come up with all kinds of creative solutions emulating other systems used around the world. These systems include the most dismal failure, which is national health insurance, or should I say socialized medicine. But we never talk about the trial lawyers.

In 1960, the total amount of money paid by the medical practitioners in America for medical malpractice premiums and/or judgments was $60 million. In 1988, that figure became $7 billion. In addition the most conservative estimate of medical defensive costs including testing for protection against lawsuits is $17 billion. In other words the medical community is forced to pass on $24 billion a year to the patients of America.

A cancer surgeon from my hometown of Tulsa told me yesterday that he charges $450 for a breast biopsy and the cost for medical malpractice for that technique is $300. Two-thirds of the patient cost goes to cover medical malpractice. There can be no health care reform in this country until we achieve medical malpractice reform.

Now our economy is facing a similar dilemma. We are unable to employ people in this country because a large percentage of our manufacturers are being shipped overseas.

As you know, Mr. Speaker, aviation is my specialty so I will use it as an example. In 1971, manufacturers in the United States turned out 14,389 single engine aircraft. This constituted almost all of the small aircraft on the world market. Aircraft had become a major export for the United States. Twenty years later in 1991, this country only manufactured 608 single engine aircraft. We went from 14,389 to 608 in 20 years. The manufacturers, the few that are still solvent, have stated that there is one reason for this. That reason is that our manufacturers of aircraft cannot be competitive on the global market and at the same time pay for the exposure of product liability.

Specifically, Beech Aircraft testified before our Aviation Subcommittee that the average cost per vehicle that they manufacture to pay for the potential exposure of product liability is $85,000. In other words, if they can manufacture the airplane for $60,000 they have to market it for $145,000 to offset the cost of product liability. That same airplane can be manufactured in Germany, Italy, or France for $60,000 because their laws do not make the manufacturer responsible, interminably, as ours do.

Not too long ago, Piper Aviation went bankrupt. An American company bought some of Piper's tooling and assets and is going to start manufacturing airplanes again. Guess where? Canada, because they can't be competitive manufacturing them in America. Of course there are many other examples we can use. We were distressed to find out that the last American manufacturer of motorcycle helmets is going out of business. We are now importing all of our helmets from abroad, primarily from Japan and Italy. The sole reason we can't manufacture them in America and be competitive is product liability.

So, the culprit that I referred to lives in the form of influence from a small number of trial lawyers who have been exploiting our health delivery system and our manufacturers. This force is a very influential one in Congress. Trial lawyers drop hundreds of thousands of dollars into the campaigns of candidates who will protect their cozy deals. And who loses? The American citizens seeking medical treatment and hundreds of unemployed workers whose jobs have been exported overseas.

Mr. Speaker, it is time we stand up to the big boys. We will not achieve health care reform and a healthy economy until such time that we are willing to take on the trial lawyers who control our Congress.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3732, BUDGET PROCESS REFORM ACT OF 1992

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102–453) on the resolution (H. Res. 394) providing for the consideration of the bill (H.R. 3732) to amend the Congressional Budget Act of 1974 to eliminate the division of discretionary appropriations into three categories for purposes of a discretionary spending limit for fiscal year 1993, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT BY CHAIRMAN OF COMMITTEE ON RULES ON STATUS OF H.R. 3732, BUDGET PROCESS REFORM ACT OF 1992

Mr. MOAKLEY. Mr. Speaker, this is to notify Members of the status, in the Rules Committee, of H.R. 3732, the Budget Process Reform Act of 1992. The committee has granted a rule which provides for general debate only. The committee will meet next week to grant a second rule dealing with amendments to H.R. 3732. In order to be fair to all Members, the committee will extend the deadline for filing of amendments.

The new filing deadline will be Monday, March 16, at 12 noon for any Members who still wish to submit amendments on this bill. Any Member who wishes to offer an amendment to H.R. 3732 should submit, to the Rules Committee in H–312 in the Capitol, 55 copies of the amendment and a brief explanation of the amendment, no later than 12 noon on Monday, March 16.

We appreciate the cooperation of all Members in this effort to be fair and orderly in granting a rule for H.R. 3732.

HOUSE BANK SCANDAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri [Mr. HANCOCK] is recognized for 5 minutes.

Mr. HANCOCK. Madam Speaker, over the weekend the news about the House Ethics Committee and its handling of the House bank scandal hit the newspapers in my district. I was outraged to learn that the bad checks written at the House bank now total $10.8 million and that the scandal involves 355 current and former Members of the House.

I was even further outraged to learn how the Ethics Committee has chosen to deal with this scandal. The committee is recommending that only 24 of these violators be exposed.

They want to cover up the misconduct of the hundreds of other Members involved—including habitual violators—some of whom have bounced checks for hundreds of thousands of dollars. In his press conference, the chairman of the committee admitted this decision was a political compromise.

The only thing more disgraceful than the House bank scandal itself, is this attempt to cover it up and protect those Members involved. Taxpayers and voters across this country are outraged as well. They are saying: "It's business as usual in Washington. Nothing has changed." And the sad truth of it is: They are right. They are 100-percent right.

The integrity of this House—the legitimacy of this institution as an instrument of the people—demands a full, open, and complete accounting of this scandal, without any further political compromises.

Those Members who committed the acts of passing bad checks drawn at the House bank should be exposed—each and every one of them—no matter how many Members are involved—no matter who they are—Republican or Democrat.

Now, those Members whose checks bounced through some innocent error, will have the opportunity to explain themselves. Those who are innocent of any real wrongdoing have nothing to fear from the voters. But the deliberate abusers must be exposed. The Ethics Committee should release the names of all those involved.

I'm sure I am risking the wrath of some by saying this and saying it so plainly. Some will be offended—especially the check kiters and those who cover up for them. But I accept that risk. If men of principle cannot stand in this Chamber and speak the truth, without fear of retribution, then it is further proof of the corruption in this institution.

If anyone thinks I am overreacting, I challenge them to consider for a moment the scope of the activity we are talking about. We are not just talking about hundreds of bounced checks totaling $10.8 million—which is bad enough.

What we are talking about is a host of unanswered questions about what some of this money was used for—questions the committee evidently didn't investigate. If some of the millions of dollars Members overdrafted from the House bank were invested for the personal profit of Members, generating income that was not reported to the IRS, we have the possibility of serious violations of Federal tax law. If some of the money Members overdrafted from the House bank were used to subside their reelection campaigns, we have possible violations of Federal elections laws. Considering the number of Members and the amount of money involved, this may be the biggest scandal in the history of the Congress.

This scandal is the most convincing argument I can imagine for limiting the terms of Members of Congress.

This whole body has become so corrupted and out of touch that even possible criminal activity may be swept under the rug by means of an attempted coverup by the very institution charged with enforcing ethical conduct. The only answer is to elect some more citizen legislators and replace all the professional politicians who run this place. That is why limited terms is essential.

We are working hard in Missouri to pass limited terms. I have taken a leadership role, donating a substantial portion of my congressional pay raise—the pay raise I voted against—to the Missourians for Limited Terms. I firmly believe, if it is on the ballot, we will pass limited terms in Missouri this year. But until that happens across the Nation, the professional politicians will remain in power and the coverups will continue.

I personally resent the fact that I have been forced into the position of defending my financial integrity because of my association with the Congress. The fact that I must reassure my constituents that I have not bounced checks because of the irresponsible acts of some of my colleagues is a personal insult. When the House bank scandal first broke, I met with a group of reporters and allowed them to review my bank statements from the House bank. I challenge other Members to do the same.

But more important than how this scandal affects me is the threat it presents to our Republic. An historian once said: "When people lose faith in their system of government, that system collapses." That is happening to us today and I do not overstate the situation.

What angers me is the thought that my grandchildren are going to grow up in a world where people their age are going to feel nothing but cynicism for the great institutions of this Republic—those institutions which are monuments to freedom itself. The coverup artists in this chamber are trying to steal from my grandchildren—and the children of this country—the same feeling of pride and patriotism I feel when, early in the morning, as the sun comes up, I walk toward this great Capitol Building.

They are replacing that precious pride with shame and disappointment. That makes me angry. That is why I am here on this floor. That is why I am speaking out. That is why I am challenging the Ethics Committee and the House leadership. Because the respect of the American people and the future of this country are worth fighting for. And with every last breath in me—I will fight.

I appeal to the members of the Ethics Committee. Do what is right. I appeal to the Members who have disgraced themselves and this institution. If you are an abuser of the House bank, do your Nation a favor—and the institution of Congress—don't run for reelection. I appeal to my colleagues. Join me in demanding this scandal be fully exposed.

I appeal to the taxpayers and voters of this country. Do not lose faith yet. Give us a chance. Some of us are trying. We are still fighting. Even with our faults, our system of Government is still the best, when compared with all others. Don't lose the faith yet.

□ 1710

INTRODUCTION OF THE AMERICAN BLACK BEAR PROTECTION ACT OF 1992

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

Mrs. BENTLEY. For most Americans, the black bear has come to symbolize the vast, untamed wilderness areas that continue to resist the modern era. Millions of Americans have been fortunate enough to encounter the black bear in its natural habitat, in one of the numerous national parks that dot the landscape. How many of us can recall ever seeing a good old-fashioned backwoods adventure film that didn't feature at least one oversized, marauding black bear?

There was a time when the black bear could be found in virtually every wooded area of North America, but steady human encroachment and the incremental loss of natural habitat has precipitated a reduction in the domestic bear population. Nevertheless, the black bear still populates 25 States, due in large part to the establishment of Federal wildlife parks and refuges, the combination of which help to support a healthy population—estimates of which range from 200,000 to 250,000 in the lower 48 States.

However, all is not well. International commercialization of bear parts—including gallbladders—has sparked an increase in the commission of horrendous crimes within the borders of our national parks and forests. Quite simply, black bears have become a major target for ruthless poaching gangs that remove the gallbladders and paws of illegally killed bears, leaving mutilated carcasses on the forest floor. These body parts then are sold to middlemen who eventually transship them to overseas markets, most of which are found in Asia.

The existence of sophisticated criminal rings was highlighted last year when authorities in New York happened upon the scene of the first known case of a gangland-style slaying involving a trafficker in animal body parts. This incident was but one more piece in a puzzle that has, for many years, attracted the attention of State and Federal wildlife enforcement officials.

Since 1981, undercover operations conducted by the U.S. Fish and Wildlife Service and other regional law enforcement departments have netted large numbers of bear gallbladders and paws. Operations of this nature are not infrequent, nor are they strictly limited to one region of the country. In fact, they have been conducted across the country—in California, Massachusetts, North Carolina, Montana, Virginia, Pennsylvania—the list goes on. The market exists and poachers will go to great lengths to obtain these black bear body parts, particularly the gallbladders which, in the Asian marketplace, often will command prices in excess of $40,000 a piece.

Trade in other body parts, such as black bear paws, also is prevalent. The traditional "Bear-Paw Soup," with origins stretching back to the Ming Dynasty in China, is the preferred dish of an expanding number of well-to-do restaurant patrons in Japan, South Korea, and Taiwan. In November for instance, the Washington Post cited $1,400 as the going rate for bear-paw soup in Taiwan, and, according to Judy Mills, coauthor of "The Asian Trade in Bears and Bear Parts," braised bear paw routinely is featured on the menu of the Seoul Hilton, selling for $500 to $700 a dish.

Why the high prices? In many Asian societies, the flesh of bears is considered to be highly invigorating, or refreshing in a medical sense. Similarly, the bile contained within a bear's gallbladder is thought to possess almost magical qualities. Written prescriptions for bear gallbladder first appeared in the seventh century, although some pharmacologists believe that actual use extends back some 3,000 years. Bear gallbladder is rumored to cure cancer, blood disorders, heart and liver ailments, nausea, and abdominal pain—even hemorrhoids. In addition, gallbladders are used widely as aphrodisiacs.

Wildlife officials estimate that bear products are sold, over the counter, in no less than 3,500 medicine shops—called Hanyuks, throughout South Korea. Specialists in bear research even have documented the sale of bear gallbladder products at Seoul's Kimpo International Airport. But the sale of pharmaceutical products containing bear gallbladder is not limited strictly to South Korea—they can be found in Japan, China, Taiwan, and Hong Kong as well. In Japan, for instance, a popular medicine for children—called Hiya Kiogan Silver—contains traces of bear gallbladder. In China, no less than seven pharmaceutical firms produce dozens of medicines using bear gallbladder.

Nevertheless, the bulk of available research data inevitably points to South Korea, where the appetite for bear gallbladder products is almost legendary. This has had disastrous consequences for the indigenous bear population in South Korea which steadily has been driven to the brink of extinction—with less than 2 dozen animals—most of which now reside in zoos. Unless we take immediate action here at home, I fear that the day may come when we will be visiting the last of our indigenous bears in zoos.

Interestingly, Japanese chemists have succeeded in synthetically reproducing the active ingredient in bear bile, known as UDCA—which has supposed curative properties, but this has never been substantiated by rigorous scientific analysis. Despite the widespread availability of UDCA, many still want the authentic product and will pay handsomely for it. Therein lies the problem.

Unfortunately, as the demand for authentic bear gallbladder continues to increase, the eyes of many dealers have turned toward North America where the supply is substantial and the loopholes in the law large. This increased commercialization now has created a financial incentive to decimate our domestic wildlife.

Studies conducted by Federal wildlife specialists indicate that the black bear population reasonably can absorb 15 percent annual mortality rate—of which 5 percent can be female—without seriously threatening the reproductive capacity of the species. Regional population studies indicate that illegal killing far exceeds the excepted norm, thereby threatening the population curve. One study, conducted by the Colorado Wildlife Commission from 1979–87 revealed an astonishing 40-percent mortality rate for females alone in a number of representative study groups—due primarily to poaching.

The senseless slaughter of the black bear has been brought to the attention of the American public through a series of high visibility law enforcement actions and through television, most recently in a documentary produced by the National Geographic Society. In the spring of 1980, agents of the California Fish and Wildlife Service concluded a 23-month undercover investigation, which netted 52 violators and sizeable quantities of bear products, including: 88 bear claws, 37 gallbladders, and a lesser number of powdered gallbladders for use in capsules.

In March 1989, another undercover operation, launched in Chicago, led to the raid of four Korean herbal shops and the confiscation of 181 black bear gallbladders. The list goes on. In February 1988, Federal and State Wildlife officers concluded a 4-year undercover operation in 12 States, that included penetrating an illegal commercial network operating out of the Shenandoah National Park. Up to 100 black bears were known to have been killed, and their body parts—including gallbladders—were sold off. One undercover exchange that took place in the parking lot of a shopping mall in northern Virginia yielded several dozen gallbladders.

Given the amount of illegal poaching that is taking place, there are definite limits to what can be accomplished in the area of law enforcement with limited tools. The U.S. Fish and Wildlife Service fields about 200 agents nationwide, up to 12 of whom are assigned to special operations units, specifically designed to infiltrate illegal commercial networks. The Fish and Wildlife Service spends about 5 percent of its annual $31 million law enforcement budget on these covert wildlife protection programs—limited resources that cannot be expected to make more than a dent in these sophisticated commercial networks that are operating with relative impunity inside tens-of-millions of acres of wilderness.

The legislation that I am introducing today, the "American Black Bear Protection Act of 1992" attempts to curb the trafficking in body parts by targeting the rampant commercialization. My legislation is designed to address three primary concerns.

First, in order to control the illegal poaching of black bears for their gallbladders and paws, my bill would ban the export of bear viscera (internal organs) from the United States and would set forth both civil and criminal penalties for any violation. This will provide our law enforcement agencies a much needed tool to deter and punish illegal hunting but will have no effect on legitimate sport hunting. To illustrate the validity of this approach—and I believe that sport hunting associations will agree that the same principle applies in the case of black bears—that, far from restricting the rights of legitimate hunters, the Migratory Bird Treaty Act of the 1930's, actually enabled sport hunting to continue. Just ask anyone who resides on the Eastern Shore of Maryland.

Second, the bill requires the Secretary of Interior to report to Congress on their computerized information system for recording and tracking illegal commercial supply networks.

Finally, the bill would direct the U.S. Trade Representative to make the international trafficking of bear gallbladder a priority issue in the ongoing discussions we are having with our Asian trading partners. Clearly, unless those countries also are willing to cooperate, illegal trafficking will continue, and our domestic bear populations will remain at risk.

Mr. Speaker, in closing let me briefly comment on actions taken yesterday at the convention on endangered species being held in Japan. An attempt was made to place severe restrictions on the trade of North American black bear body parts in order to help control the illegal killing of endangered Asian bears. Unfortunately, led by opposition from the United States, the proposal was blocked—meaning that passage of my legislation is even more important.

I hope that my colleagues will join with me in this much needed effort to protect the American black bear before it is too late.

□ 1720

ORDER OF BUSINESS

Mr. EWING. Madam Speaker, I ask unanimous consent to reclaim my 5 minutes that I missed a little earlier.

The SPEAKER pro tempore (Ms. PELOSI). Is there objection to the request of the gentleman from Illinois?

There was no objection.

REGULATORY RELAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. EWING] is recognized for 5 minutes.

Mr. EWING. Madam Speaker, I rise today to play my part in the program of the gentleman from Texas [Mr. DELAY] on regulatory relay to discuss the issue of Federal regulations.

Last week a constituent of mine who runs a medium-sized oil and gas company with 600 employees came to my office to fill me in on the Federal regulations he and his drivers of propane trucks must abide by. Now, I do not dispute that regulation of these potentially dangerous vehicles is necessary, but I think my colleagues will be astounded at the very heavy burden the Government has placed on these drivers.

I have here a driver qualification file which contains over 15 forms which must be filled out and completed before an employee is qualified to drive. These forms mandate completion of written exams, physical exams, drug testing, an extensive review of the applicant's driving record, and on and on. Most must be updated periodically. While pointing out how stringent these regulations are, my constituent handed me a single sheet of paper with six lines on it. That is a copy of the qualifications, printed in our Constitution to be President of the United States.

What a comparison.

Once a driver becomes qualified, he must periodically complete several forms in his vehicle maintenance packet. This is an inch-thick—and on the front says "simplified format"—file that contains forms to be filled out documenting maintenance and inspection checks of virtually every aspect of his vehicle. I'll read just a few lines from the form explaining how to use the maintenance packet and I quote:

> If a routine safety inspection (Form 127-F-DVCR if regulated carrier) reports a defect or a breakdown or accident occurs, or a maintenance service is scheduled, a Garage Repair Order Form (Form No. 128-FS-C3) should be issued. The Garage Repair Order Form (Form No. 128-FS-C3) is used to authorize and instruct mechanics or vendors on all repairs or scheduled PM services. All work performed, all parts, parts cost, labor, labor costs and vendor costs should be recorded on this form. Three parts are provided, one for parts department or vendor, one for Vehicle Maintenance File Folder and one for shop office for labor time accountability. The Garage Repair Order Form is one of the most important forms in your maintenance program and must be completed whenever anything is done on the vehicle, whether performed by your mechanics or outside vendors. The information on the Garage Repair Order Form must be posted to Maintenance Service Stickers (Form No. 121-F) for on-vehicle records, and to Vehicle Maintenance File Folder (Form No. 103-F) for permanent historical records.

While driving his truck, a driver who has jumped through all these hoops must be sure he has a copy of each of these three handbooks: the "Federal Motor Carrier Safety Regulations," 408 pages; the "Emergency Response Guidebook," about 300 pages; and the "Driver's Pocket Guide to Hazardous Materials," 290 pages. All these books must be purchased from the U.S. Department of Transportation and are packed with thousands of regulations the driver must abide by. These books cannot be stored in the glove compartment of the truck; they must always be in reach of the driver. Of course, the driver must sign a receipt stating that he understands all of these regulations. And he had better, because if he does not he will be in serious trouble if he is found in violation of any of these regulations.

Finally, each truckdriver must carry one of these "Post-Trip Vehicle Inspection" booklets. The law states that at the end of each trip the driver must conduct a detailed inspection of his vehicle. By law, he must check the service brakes including trailer brake connections, the parking brake, the steering mechanism, lighting devices and reflectors, the tires, the horn, windshield wipers, rear vision mirrors, coupling devices, wheels and rims, and all emergency equipment. The driver must prepare a written report of this daily inspection and sign it.

□ 1730

My constituent related to me an incident by which there had been a routine check of one of his trucks and they found that one of the lug bolts on the coupling for the trailer was not as taut as it should have been, but it was not loose. They had to call a mechanic to come out and tighten it. The regulations did not even allow the truckdriver the right to correct it.

These areas of regulation I am talking about are only those affecting the transportation activities which my constituent's company is involved in. He faces many more areas of regulation in his regular course of business. Not only are these regulations excessive, but many are unnecessary. This is regulation run amok. It is crazy. Crippling regulations have stunted investment and economic activity, and must cost untold numbers of jobs. Regulations have played a direct role in causing this recession and increased costs to all of our constituents and consumers.

Let us unleash American business so that we can again take our rightful place as the economic leader of the free world and put American workers back to work.

LEGISLATION CALLING FOR REPEAL OF THE SECOND AMENDMENT TO THE CONSTITUTION

The SPEAKER pro tempore (Ms. PELOSI). Under a previous order of the House, the gentleman from New York [Mr. OWENS] is recognized for 60 minutes.

Mr. OWENS of New York. Madam Speaker, today I have introduced a resolution which calls for the repeal of the second amendment to the Constitution. The second amendment to the Constitution reads as follows:

> A well-regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.

Madam Speaker, is the second amendment still necessary in 1992? And does the second amendment, the existence of it, give the right to the manufacturers of guns, the distributors of guns, the fanatics who must have automatic weapons of all kinds, does it provide a right to them?

Madam Speaker, I have been told that the second amendment does not guarantee that right, but it is because the second amendment has been distorted and is often misquoted to mislead the American people to believe that because the second amendment exists we should not and we cannot regulate the manufacture, the sale, and the distribution of guns in the United States.

As a result of the notion being promulgated that we cannot regulate the sale and distribution and manufacture of guns, we have a paralysis by legislators across the country and by the Congress. Repeatedly, public opinion polls have shown that the American people do want more gun control. They want more regulation of guns.

Of course, a No. 1 issue across the Nation is crime and solutions to the problem of crime. Madam Speaker, crimes of all kinds I abhor, but crime which results in the death of individuals is of particular concern and should be of particular concern to all of us.

The recent tragic shootings of two young persons at Thomas Jefferson High School in New York City has renewed interest in some kind of immediate, urgent action to deal with guns and the gun culture.

Madam Speaker, two young persons, one named Ian Moore and the other's name is Tyrone Sinkler, they happen to live—they happened to live in my congressional district. The tense is important here.

Thomas Jefferson School is not located in the district, but these young people resided in the 12th Congressional District.

Somehow their shooting has shocked even New York City, which has too many homicides and too many guns despite the fact that we have very tight gun control laws in both New York City and New York State. The fact is that these youngsters were murdered in cold blood in a school; the fact is that the young man who pulled out the gun and shot them has no fear of being caught and no concern about snuffing out human life and taking his punishment subsequently. In addition to the two persons being shot that day, their lives being snuffed out immediately, another young person who was a friend of theirs went home and, with a gun, committed suicide, took his own life.

□ 1740

Mr. Speaker, in the space of 5 days in New York City there were about 10 shootings. About five people were killed with guns. That is in New York City, which is highly visible. They got a lot of publicity, and all the world knows about it.

But what my colleagues do not know about is that all around the country, in both rural communities and suburban communities, young people are taking their lives and taking each other's lives in large numbers. We know about the mass murders when automatic weapons are being taken into post office buildings, and people getting revenge for various reasons have snuffed out the life of dozens of people. We know about the mass murder that took place in a cafeteria where the target seemed to be primarily women. We know about these. They get a lot of publicity. What we do not know is that the statistics will show in school district after school district across the country these incidents are taking place.

Mr. Speaker, I have been invited to serve as a moderator for a panel, a teleconference, entitled "Challenges in Choices, Violence in the Schools." This teleconference is sponsored by the National Association of Secondary School Principals' urban services office. It is going to take place next Wednesday. The brochure that was sent to me starts as follows: It relates to incidents where young people were murdered or young people were guilty of murdering people in schools. In Pinellas County, FL, for example, an assistant high school principal was killed and another administrator and teacher at that school injured by students who were armed with stolen revolvers. In Garden, KS, two teachers and a junior high school principal were killed by a 14-year-old boy with an automatic rifle. My colleagues did not hear any headlines about this, and there are numerous other incidents that are taking place all across the country that we do not read the headlines, we do not see them on television. They are not in New York City with the media present to publicize it, but it is happening all over, the culture of the gun, the culture of violence. It has taken hold, and this generation, which we could call the Rambo generation because they are fed by films and videos that glorify violence, the Rambo generation marches on, and the shock of having two young people murdered in high school is appropriate.

Mr. Speaker, it means that we are one step closer to the collapse of civilization. We are one step closer to the collapse of our society. What will happen next? We will have young people carrying guns into churches and murdering people in churches. It would be another step closer to the collapse of civilization as we know it.

What are we doing to protect our youth from senseless killing? What are we doing as adults? As parents? And, most important, those people who are most responsible for how our society works? What are we doing as legislators? What are we doing as congresspersons to protect our young people? Are we doing all we can do? Or are we wimpishly bowing to a gun lobby and not a committee, civilized actions, to be taken in order to control the manufacture, the sale, and distribution of guns? What is different? What is the difference between our society and other industrialized societies?

Japan, or Germany, or Great Britain, or France; why is it these industrialized societies have a far lower set of casualties as a result of gun play? Why is it that it goes way, way down, the comparisons with Great Britain, and Germany and Japan? It is astonishing in terms of the number of people who have been killed by guns. These societies are able and willing to control the manufacture, distribution, and sale of guns, and this society is not.

The savage, barbaric behavior of a young man who whips out a pistol and shoots dead two students in a high school is horrendous, but in responding or failing to respond the Members of Congress and any other State legislatures or city legislatures are equally as savage and equally as barbaric if they do not take steps to use their power to control the manufacture, sale, and distribution of guns.

I have offered this resolution to repeal the second amendment very seriously. I do not have any illusions about the fate of the resolution in terms of its passage. I do not have any illusions about the possibility of an amendment really taking place because, even if Congress passes it, it has to go to State legislatures.

That is not my goal. My goal is to raise the level of debate, accelerate the level of debate and discussion about and the need to control the sale, manufacture, and distribution of guns in our society. The democratic process often works well in the United States. The will of the people is usually carried out sooner or later by their elected legislators and officials. If they do not act to carry out the will of the people, they are going to get removed sooner or later, but not always is it sooner. Sometimes the will of even a very large majority can be thwarted by a small group of single-issue fanatics who use money and threats to intimidate elected representatives so they fail to pass legislation that the overwhelming majority of the people want.

Polls have clearly shown that 75 to 85 percent of the people want some form of gun control, but we do not have gun control, except to a very limited extent, because a small group of intense gun fanatics have perverted the democratic process through threats and intimidation of any public figure who dares to speak for and vote for what the overwhelming majority of the people want. Elections never provide a clear expression of public opinion on any single issue since a vote is determined by a number of issues and also by moves and political personalities. Thus the people never send a strong, clear signal in favor of gun control because the system does not give them the opportunity. But the single issue of gun control fanatics are very clear in their message. They send a message which is very powerful in their spending big money to defeat candidates in their letter writing campaigns and their intimidation of many elected officials.

Mr. Speaker, we must give the American people as a whole an opportunity to express their opinion on control and regulation of guns, especially the concealable handguns and the semiautomatics. Let us have a public debate and discussion nationwide to find out whether the people want to turn away from violence.

The second amendment is unnecessary in 1992. The purpose of the second amendment is to assure the people's right to bear arms in a well-regulated militia. Nobody would dream of interfering with the use of guns by the National Guard, the Armed Forces Reserves, which is our well-regulated militia, the Armed Forces Reserves, or any local militia, or the police departments. We are not going to interfere with it, and the right of that kind of well-regulated militia is protected and understood without this amendment being in place.

The second amendment has a very limited purpose and intent. It is very clear the courts have interpreted that it does not mean that we cannot control and regulate guns, the sale, the manufacture, and distribution of guns. Congress can do that. We have the power. But the second amendment has been twisted. Its purpose and intent has been distorted and perverted by gun control fanatics whose view it is that guns may not be regulated or controlled in any way, and they have fooled us, hoodwinked the American people into believing that we cannot control guns. We violate the Constitution if we do so. The second amendment does not say anything like that, but they interpret it that way, and they have managed to convince very large numbers of intelligent people that any gun regulation is unconstitutional.

Are our rights as a free people jeopardized in 1992 by a waiting period for the purchase of a handgun?

□ 1750

Are our rights as a free people jeopardized in 1992 by a criminal investigation of purchases of guns? Are our rights as a free people jeopardized by the regulation and supervision of gun dealers? Are our rights as a free people jeopardized by severe limitations on the manufacture, import, and sale of semiautomatics and machineguns?

Certainly not. But the gun fanatics tell us the Republic will be in danger if these modest measures are taken by the Congress.

The Congress has the power right now. It can do what is necessary to regulate the manufacture, sale, and distribution of guns.

Only Congress can have the necessary impact. It does no good for New York City to pass strict gun control laws as it has already done, or for New York State to pass strict gun control laws, as it has already done, if the guns are freely available in other States and can be transported across State lines, as they are.

We have only a handful of companies in this country that manufacture guns. Their greed has pushed them to make them more and more attractive. Weapons are more streamlined, more automatic. They fire more bullets, and they are more deadly than ever before. They are smaller and cheaper. So we are pushing guns the way we sell soap at this point.

Only a barbaric society would continue to push deadly weapons as if they were toys, or push deadly weapons as if they were appliances. Here in Washington we have citizens who have taken the initiative and passed an initiative which calls for liability, a gun liability law, which makes the manufacturer, the dealers, and all the people who have connections with the guns, liable when a person is injured or killed by a gun.

There are people in Congress who are fighting that legislation. We need the same legislation across the country in every State and in every city.

Madam Speaker, let me share some articles. I am not going to read them, but I would like for Members to read a series of articles that have appeared in the New York Times. The fourth article appeared today. These articles are about guns and the gun culture, the gun manufacturers, the gun salespeople, the proliferation of guns and what is behind them. This series of articles started in the New York Times on Sunday, March 8, and have appeared every day, March 8, March 9, March 10, and today, March 11. I urge Members and all others who want to take steps to end this barbaric failure to regulate guns to get background on the issue.

Madam Speaker, the CRS, the Congressional Research Service, has also put out extensive information on public opinion with respect to gun control, as well as gun control regulations. When I asked for material from CRS, I was delighted to hear that many Members of Congress have requested the same kind of information, and therefore they have the information readily available.

So I would hope that those Members who are interested and have gotten the information will join me in offering this resolution to repeal the second amendment. I hope also we will take whatever steps are necessary long before the second amendment finds its way onto the floor of Congress to end the savage and barbaric proliferation of guns in our society.

Madam Speaker, I cannot stress too much the accusation that I am making, and that is that we are behaving in a barbaric and savage fashion when we have the power to regulate guns and we refuse to use that power.

Madam Speaker, I would like to call attention to an editorial that appeared in New York Newsday as a reaction of my announcement that I would introduce a resolution to repeal the second amendment.

Madam Speaker, it is entitled "Good Instinct, Wrong Policy: Don't Touch the Bill of Rights." It read as follows:

GOOD INSTINCT, WRONG POLICY—DON'T TOUCH THE BILL OF RIGHTS

U.S. Rep. Major Owens is so disturbed by the violence racking his Brooklyn district that he's drafting a resolution that would seek to repeal the Second Amendment—the section of the Bill of Rights that says: "A well-regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed."

It's hard to blame Owens for wanting to take drastic action. Since November, three students have been shot to death in the halls of Thomas Jefferson High School in East New York. Homicides in the neighborhood's 75th Precinct, one of the city's most violent, are running ahead of last year's numbers. Still, Owens is misguided as he works to drag the Second Amendment into the cross-hairs.

To the gun lobby, it's an article of faith that the Second Amendment guarantees all Americans an absolute right to pack heat. But the gun lobby—led by the deep-pockets National Rifle Association—is wrong. In 1939, the U.S. Supreme Court ruled that the amendment does not prohibit the feds from controlling firearms. The court over the years has been more than willing to stick with that wisdom. What's more, says Dennis Hengian, director of the Legal Action Project for the Center to Prevent Handgun Violence, the court has never found that the Second Amendment even applies to the states.

So why was the amendment written? Legal scholars say it was drafted to protect citizens from abuses by a large standing army. Before the revolution, the king's troops were sometimes quartered in civilian homes—to the distress of citizens. But because the local militias had been disarmed, citizens had no choice but to comply. The amendment was meant as a guarantee to citizens that such abuses could not happen again.

By "militia," the gun crowd insists, drafters of the Bill of Rights meant a universally armed people, not a specific group. But the Supreme Court has rejected that view. And no less a conservative than former Supreme Court Chief Justice Warren Burger has explained: "It's the simplest thing: a well-regulated militia. If the militia—which is what we now call the National Guard, essentially—has to be well-regulated, in heaven's name why shouldn't we regulate 14-, 15-, 16-year-old kids having handguns or hoodlums having machine guns?

If nothing else, says Owens, perhaps his resolution will start a useful discussion about the urgent need for stronger gun-control laws. Maybe so. But Congress doesn't need a constitutional amendment to act. It needs a little more backbone in the face of a strident and well-oiled lobbying machine.

Madam Speaker, I welcome the criticism of the New York Newsday editorial, because they have done exactly what I wanted to happen: They have escalated the debate and made the debate more visible. I urge all Members to follow the debate, to follow the kind of reaction which some newspapers, including the Wall Street Journal, have had to the recent outbreak of violence in New York City, and, of course, similar violence which has taken place across the country.

Madam Speaker, the Wall Street Journal had an article on gun manufacturers showing that 65 percent of the guns in the country come from two manufacturers. I think, Madam Speaker, they are based in California.

The series in the New York Times goes further and talks about the entire gun culture, including the fact that we allow films and movies to be promulgated in large numbers which glorify violence.

Congress has gotten very excited and allowed itself in many cases to be stampeded on the issues of pornography. We have been quite quiet on violence. There are films which promulgate and glorify violence to no end. "Rambo" and the series of Rambo films probably represents the greatest depth to which profit-hungry Hollywood producers have gone to tap their desire for more violent films.

Our children have been raised on this on television. We have not sought to control the violence on television in any way. There are some countries in this hemisphere who will not allow American films to be shown because they are violent and because they want to control what their youths see with respect to violence.

We at this point are not the only industrialized nation that lacks gun control, but we are among the few. Most nations that are industrialized do have tight control over the manufacture, sale, and distribution of guns.

Madam Speaker, I hope that in the coming weeks and months we will reconsider our position. We have a crime bill that is being negotiated in conference now. That crime bill takes only very timid steps. If you add the Brady amendment, as I understand has been accomplished, the Brady amendment that we passed, the Brady bill that was passed in the House of Representatives, as part of the discussion in that conference, even if you add that bill it is only a timid, small step taken toward the regulation of guns.

Madam Speaker, that bill is obsessed with the death penalty. It adds many,

many Federal requirements that the death penalty be imposed for crimes totally out of step with what reality has shown.

□ 1800

The death penalty has not reduced violence or crimes at all. The States which have executed the most people since the Supreme Court allowed the renewal of punishment by death, those States have the highest crime rates, and they are escalating. The homicide rates are increasing. So the death penalty is not going to solve the problem.

Gun control is a practical way to deal with the most lethal weapon in the crime culture. If we can stop the slaughter of the innocents, we will have taken a great step forward in protecting our people. It is our duty to do that. We should stop acting barbaric. We should stop acting savage.

We should accept our responsibilities and do the civilized thing, foster and promote laws which control the sale, distribution, and manufacture of guns. We can do no more for people like Ian Moore and the other three youngsters, two youngsters who died on the same day.

There is a long list. We could recite them on the floor of this House, and maybe it would be good to recite a list of all the young people who have died in the last few years from gunshot wounds. It might bring us to our senses.

We are not protecting our children. Any civilization that cannot protect its children does not deserve to be called a civilization. I hope we will remember that.

DON'T UNDERCUT THE CHINESE STEPCHILDREN OF ADAM SMITH

The SPEAKER pro tempore (Ms. PELOSI). Under a previous order of the House, the gentleman from Iowa [Mr. LEACH] is recognized for 20 minutes.

Mr. LEACH. Madam Speaker, in the wake of the House override of the President's veto this afternoon of the Pelosi resolution, I would like to elaborate on the reasons for my vote to uphold the President's veto.

As the premier democratic legislative body in the world, we have an obligation to reflect American values to the world. In this regard, no one in this body disagrees that the sensibilities reflected in the Pelosi bill are expressive of consensus American politics and social philsophy.

What does exist, however, is a division of opinion on how the United States can best advance its interest in China, how best we can play a constructive role in making the Chinese Government more accountable to the Chinese people, as well as respectful of the rule of law and fundamental human rights.

Here, the question advocates of the Pelosi approach must examine is one of means, not ends, whether self-righteous congressional indignation advances or undercuts a just cause.

What is at issue is less a question of indignation than judgment. If history is a guide, it would appear that almost every effort to coerce China, whether militarily or through the threat of economic isolation, has not only failed to promote greater political openness but accentuated unpredictable xenophobic nationalism. On the other hand, almost every United States step toward a constructive dialogue has been met with a liberalized response.

Relations between states are always evolving. At issue in this legislation is Chinese external as well as internal politics. Generally speaking, government-to-government relations have the least effect on how countries structure their internal affairs, but often have substantial effect on how they structure their foreign policy. Here, this Congress must understand that in terms of the profoundest issue in international politics today—war and peace—China has generally been moving in a progressive direction.

On the tense Korean peninsula, which the President has described as the greatest threat to regional peace in Northeast Asia, China continues to play a constructive role. Beijing has quietly advised Pyongyang to peacefully accommodate itself to the new realities in international economic as well as security affairs, has objected to the North's attempted acquisition of nuclear weapons, and sought to facilitate peaceful reconciliation between the DPRK and America's ally in Seoul.

In Cambodia, where an advance U.N. team is already in place, China's support was and remains critical to the success of the settlement plan crafted by the permanent five members of the U.N. Security Council. Here I would remind Members that the PRC holds in its power the capacity to undercut this precedent-setting initiative to bring peace and national reconciliation to that tragically war-torn country.

An isolated China is emphatically not in the American national interest. Rather, the United States seeks a China more integrated into the international system—a system which promotes both economic liberalism and transparency, as well as security and stability around the globe. Thus we welcome the fact that China has joined Hong Kong and Taiwan in APEC, recently moved to establish closer ties to American allies in the Middle East, has established normal diplomatic relations with all six members of the ASEAN, as well as Vietnam, and appears moving toward diplomatic normalcy with our close friends in south Korea. We welcome the fact that China has taken a pragmatic approach to the potentially explosive Spratly Island dispute, dramatically lessened tensions with the former Soviet Union, and substantially expanded commercial ties with the dynamic economies of Taiwan and the Republic of Korea.

With regard to the war in the Persian Gulf, President Bush's magnificent multinational diplomacy hinged on Security Council cooperation. China held a "jokers" card and chose not to play it.

To be particularly poignant, China was more consistently supportive of the President of the United States in voting in the United Nations than the majority American political party was in voting in the United States Congress.

With regard to nonproliferation concerns in the Middle East and elsewhere, supporters of the Pelosi approach are correct in pointing out the destabilizing implications of past Chinese missile and nuclear sales to the region. Yet, if there is to be any hope of establishing, within the frame work of a new world order, agreements on arms restraint, China's cooperation will be vital. Hence it is of import to American diplomacy that China will apparently accede to the NPT this March, and has recently agreed in writing to observe the nonproliferation guidelines of the MTCR.

No one in this Chamber should doubt that playing games with normal trade—daring to isolate China—jeopardizes the security of the State of Israel and any hope of reasonable arms restraint in the Middle East.

As we all understand, in foreign and domestic policy there is a distinction between righteous rhetoric and rightful legislation. The rhetoric brought before the Congress today largely reflects commonsense American heritage. This high-risk legislation, however, virtually defies rational explication.

The irony that undergirds this frustration-laden legislative lodestone is that American foreign policy is on a roll.

Free enterprise, free trade, free politics, are gathering momentum in virtually every corner of the globe. The American Presidency in 1992 has never been more vindicated nor more generally acknowledge as the pinnacle of world leadership than at any time in the history of this century, save perhaps 1918 and 1945.

The current occupant of the White House, who stands uniquely as a professional diplomat as well as politician, a former resident envoy in the country to which this Congress is incredulously indicating it wants to preempt foreign policy leadership, has indicated in the strongest possible terms that passage of the legislation being contemplated today would be deeply damaging to the American national interest.

I recognize that economic sanctions are sometimes appropriate—as was the case with apartheid South Africa—and that in areas of foreign commerce the Constitution gives plenary authority to the Congress. Yet in a world in transition, a world in which international economics and the communications revolution are ineluctably combining to erode the isolationist walls of the Asian Leninist regimes and thus accelerate their eventual demise, this Congress would be well advised to give the benefit of the doubt to the President and assist in crafting a nondivisive, bipartisan approach to Sino-American relations. After all, what is at stake is the future of our relations with a teeming one-fifth of the world's entire population.

In this context, termination of MFN for China would have the perverse effect of impacting most severely on those elements of China we most want to support: The free-wheeling provincial economics and entrepreneurs in the coastal provinces and South China who have become integrated into the world economy.

Revocation of MFN would strengthen the hand of hard-liners in Beijing who seek the reimposition of bureaucratic central controls over the flourishing, decentralized, nonstate sector of the economy and who advocate the reimposition of Marxist-Leninist-Mao Zedong orthodoxy in politics, philosophy, the arts, and science.

Revocation of MFN would seriously jeopardize the economic future of Hong Kong and impact adversely on Taiwan. In addition, to the extent revocation of MFN strains ties between Washington and Beijing, it might also possibly tempt Beijing to raise anew the status of Taiwan as a divisive issue in Sino-American relations.

From a Midwestern agricultural perspective, playing Russian roulette with China-MFN would be the equivalent of embargoing American soybean sales.

During a period in which it is crucial that America coordinate its foreign policy with allies, our action on MFN would be entirely unilateral and wholly out of step with our allies. Two years after Tiananmen, no American ally is prepared to follow our lead. Do we advance our Asian diplomacy by simultaneously straining American relations with China and Japan?

Most importantly, revocation of MFN would reverse America's historic open-door policy to China in favor of a counterproductive bolted-door approach, unilaterally ceding our progressive influence to the mercantilist influence of others or possibly moving a China in transition in a chaotic, autarchic direction.

At issue from the perspective of the Chinese people is whether their country is going to be economically brought into the 21st century ala an evolving democratic Taiwan or whether economic stagnation and collapse will lead to a replication of the chaos and disappointment that followed the October 1911 revolution. For those who want to give history a push, let me remind this body that just 30 years ago, during the disastrous great leap forward, 2 million people starved to death in a single Chinese prefecture. Does this Congress dare suggest that it is a humanitarian policy to slam shut America's traditional open-door policy and shut down the free enterprise movement that has allowed China to feed its burgeoning population?

Let me close by quoting one of our profoundest observers of the Asian scene, Dr. Robert Scalapino, from the latest issue of Foreign Affairs. "Leninism in its traditional form is doomed," he writes, "with the only issue being that of the timing of demise and means of exit. An open economy and a closed policy cannot long coexist. As the socialist states turn outward, seeking capital, technology and markets from the dynamic economies around them * * * the old order cannot possibly be sustained."

Two decades ago a group of French foreign journalists interviewed Chou En-Lai and asked, among other things, what he thought was the historical significance of the French Revolution, to which he responded, "It is too early to tell."

It strikes me it may be too early to tell the exact ramifications of the profound socio-economic changes occurring in China. But it is certain that the ramifications are deep, and that they involve the near total de-legitimizing of the Chinese Communist Party. Whether political liberalization will occur this week, next year, or 5 years from now, progressive change is almost certain to occur. To invoke a concept from China's long and extraordinary cultural heritage, the mandate of heaven has been removed from China's Communist rulers by those rulers.

This Congress should and must continue to vigorously speak out on behalf of freedom and democracy for China. We owe it to ourselves as well as the Chinese people. But we must also have the humility and sense of perspective to see that we cannot unilaterally bring about a rapid transition to democracy in China. To attempt to do so not only disrespects the limits of our power, but ironically strengthens the gerontocrats in Beijing by validating their hard-line propaganda against us. It puts foreign pressure by the United States at issue, not the egregious and brutal misrule of the Chinese Communist Party.

And in a geostrategic context, with the prospect of major conflict in the Asia-pacific region at a historic low tide, this is not the time for Congress to create new tension and instability by unilaterally declaring a new cold war.

The Pelosi approach assumes that the United States, through a conditional approach to MFN, can unilaterally compel an accelerated transition to a more pluralistic and humane form of Chinese governance.

This high-risk, hubristic, unilateral policy approach not only overestimates American power, but it is heedless of the moral and cultural nuances of the last 100 years of Chinese interaction with the outside world. It puts the policies of the United States at issue, rather than the sorry performance of the Government in Beijing. It risks triggering a xenophobic counter-reaction by hard-liners in Beijing, who will denounce these conditions as a humiliating ultimatum from a hostile foreign power.

It is not without significance to this debate today that an authoritative February editorial in China's People's Daily—intended to signal support for bolder policies of reform and opening—was entitled "Opening Up to the Outside World and Making Use of Capitalism." The article stated that modern Chinese history shows that it "can only grow and prosper by making correct use of capitalism, not totally renouncing it, and by critically absorbing, not categorically rejecting, things in Western culture that could be useful to us."

For those who believe—as I do—that free economics drives free politics, can it possibly be rational to pass legislation today that, through miscalculation or design, undercuts the Chinese stepchildren of Adam Smith and allows a tightening of the reins of economic as well as political power by the discredited disciples of Marx, Lenin, and Mao?

The President has pursued a centrist approach, balancing competing American concerns through professional, tough-minded diplomacy.

The other body would be well advised to support the President, recognizing that House concerns for human rights are well-founded, but not well advanced by the Pelosi resolution.

□ 1810

FULL DISCLOSURE OF PRACTICES AT HOUSE OF REPRESENTATIVES BANK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. RIGGS] is recognized for 60 minutes.

Mr. RIGGS. Madam Speaker, I rise this evening with a rather heavy heart to discuss a subject that is certainly very much on the minds of my colleagues today, and a subject that will be the primary focus of legislative debate and action. It is the subject of the House bank.

Madam Speaker, first of all I want to say that I am extending a personal invitation to any of my colleagues who would like to debate this subject, recognizing that there will be ample time allotted for debate tomorrow and perhaps Friday for this subject, but to invite any of my colleagues who would like to discuss this subject tonight on the Record to come down to the floor and participate in this special order, particularly my colleagues who make up the rest of the so-called Gang of Seven.

I would simply acknowledge that the gentleman from Pennsylvania [Mr. SANTORUM] is here, and I anticipate that other Members of the Gang of Seven will arrive to participate in this special order.

Let me, if I might, dispel a few myths regarding our group, since we have come in for, I guess, our share of occasional ridicule or criticism, particularly from inside-the-beltway pundits back here, those who said initially, when this matter came to light last summer and we took up the cause of keeping the issue alive in the hopes, ultimately, of full disclosure and congressional accountability which might lead to some fundamental and long-overdue reforms that are very badly needed around this place.

When we first took up this issue last summer, one pundit described us as sitting in our high chairs banging our spoons. Just over the weekend another pundit said that we have not been in the House of Representatives long enough to know where the House Bank is.

Let me just say that is completely wrong and inaccurate. We come from, our group, different walks of life, but we all run for Congress and were elected in 1990 on platforms of congressional reform.

We are simply here this evening, and prior to this time, and certainly in the next 48 hours, trying to remain true to fundamental commitments that we made on the campaign trails to our constituents to push hard for congressional accountability and congressional reform.

Some people around this institution say that with respect to how much disclosure we ought make with respect to the House bank check cashing privileges, and those Members of Congress who routinely and frequently and very systematically abused that privilege, that we ought to remember the importance of protecting the institution. Some people go as far as to suggest that we ourselves, even as new Members of Congress, are traditionally bound to protect the institution.

I say that, to the contrary, we are duty-bound to uphold the public trust by fully revealing the names of all Members, all 355 past and present Members, and I guess it breaks down 296 current Members, 59 former Members of Congress, who at one time or the other during this 39-month period from July of 1988, though I guess that would not work, so I will ask the gentleman from Pennsylvania [Mr. SANTORUM] if he can reflect on that, but over the 39-month period, let us put it this way, that ended in December of last year, December 1991, those Members, those 355 Members who at one time or the other during that 39-month period bounced at least one check at the House bank.

We believe that that information must and should become a matter of public record. It should be subject to public and media scrutiny. It should be made available to the constituents of those respective Members, to the voters in their congressional districts, so that the voters can take that information into account when making their voting decisions in the spring primary elections or the general elections to come later this fall.

Believe it or not, Madam Speaker, our Gang of Seven are all under sort of a cockeyed notion that we really can trust the people. We can trust their wisdom and their good judgment to discern between those who perhaps on occasion made a human error, a simple, understandable mistake of some sort, a miscalculation in maintaining their checking account, or who in fact, as we now know, were the victims of sloppy recordkeeping or clerical errors actually committed by the staff of the House bank.

We believe that the public can discern between those individuals and those who are frankly guilty of repeated and systematic abuse of the House bank that borders on criminal conduct, those Members who have been described as gaming the system.

So it is our belief, our Gang of Seven, that a vote tomorrow, or if it is delayed until Friday, in support of the compromise crafted by the Committee on Ethics to release the names of only the 24 most serious abusers, 19 present Members, 5 former Members, will be wrong. It will be fundamentally and ethically wrong.

When this body begins to compromise on matters such as this, we frankly show a true disregard, perhaps even a contempt, for the public trust. This body must realize as a self-policing body that only we have the ability and the power within our grasp to hold one another accountable, to uphold the public trust, and to show that we understand that we must put matters of principle before politics, that there simply is, when it comes to the question of congressional ethics, no compromise.

Let me go back, for those of my fellow Americans and my constituents who might be looking in, and review a little history, because I frankly anticipate the debate coming tomorrow, and again perhaps on Friday, will become quite heated and we frankly may see a great deal of heat and smoke and not much light. So I think it is important that we, at the outset here of our special order tonight, sort of lay the factual groundwork for the debate to come over the next 48 hours.

□ 1820

Last week the House ethics committee voted by a 4-10 margin to identify only 24 of the 66 current and former Members of Congress who wrote about, and this is a staggering figure, 20,000 bad checks totaling more than $10.8 million. I quote from Phyllis Schlafly's column in today's Washington Times, which is really excellent, and she said, "Let's call this 'compromise' what it really is: A coverup and a whitewash."

The ethics committee compromise had four dissenting Republicans," and I want to mention them for the RECORD. Those are my colleagues, the gentleman from Kentucky [Mr. BUNNING], the gentleman from Ohio [Mr. HOBSON], the gentleman from Arizona [Mr. KYL], and the gentlewoman from Connecticut [Mrs. JOHNSON]. As the gentleman from Kentucky [Mr. BUNNING] said on that occasion, this "compromise 'won't pass the smell test' with the American people," and he is right.

"The excuse given for hiding the names of the other 42 Members of Congress," that rather notorious group of 66 Members, according to the chairman of both the full committee and the ad hoc committee investigating the House bank scandal, the gentleman from New York [Mr. McHUGH], was that the ethics committee agreed "* * * to reveal only the names of those who overdrew their accounts by more than one month's pay at least eight times during the 39-month period," reviewed by the GAO audit and subsequently the Ethics Committee. That is a rather arbitrary and subjective standard, it seems to me, and it certainly begs the question in the minds of our constituents and average Americans: Would they not appreciate having this ability to go to their local bank and write a check up to their next month's salary, or next month's pay, and in the process being able to take advantage of the float from other Members' money and live consistently above their means?

This proposal is, frankly, unacceptable and, of course, it paints too many Members of this institution with the same brush.

So I want to again establish just how widespread this bad check kiting, this gaming of the system, this racket that, yes, perhaps this new Member of Congress was not aware of by virtue of the fact I had been here such a short period of time. But frankly, if anyone had ever suggested to me that this sort of routine abuse could occur at the House bank, I would have been very much taken aback, and I even then would have taken steps to investigate it on my own accord to ascertain the truth.

But again, it came out from the Ethics Committee last week that 296 current and 59 former Members of Congress were overdrawn at least once during the 39-month period under investigation. Coincidentally, that is the same time period in which the Congress raised its pay from an annual salary of $89,500 to $96,000 in January 1990, and to $125,100 in January 1991.

The bad check scandal started last October when the General Accounting Office reported to the House leadership, the Democratic leadership of the House that 8,331 checks had been written on the House bank by Congressmen who had insufficient funds in their respective checking accounts to cover those checks. This information was subsequently revealed, and I can recall sitting in the back of the Chamber when Speaker FOLEY took the House floor and said, and I quote him now, "This is now a matter that is over and done with." And that is sort of akin to the Speaker standing up here in the well and I believe, and I said this the other day on the House floor that it was only the second time during this session, the second time when he concluded in very eloquent and moving terms the historic debate on the Persian Gulf resolution, so it was only the second time during this legislative session that he stood in the well and spoke, and basically what he said is that, "We haven't done anything wrong and we won't do it again."

Then our group, the group who has become known as the Gang of Seven, all freshmen who were elected on fundamentally the same platform of reform of Congress, got together and we said to ourselves this will not stand and we simply cannot allow this to be swept under the rug.

So we have before us, I guess, and coming up a very explosive political debate. I do not think anyone in this Chamber will dispute that fact. But I am hopeful that we can somehow set aside the immediate political consequences and impacts and step up and do the right thing, because frankly this matter still has a long way to go before it is completely aired out.

Let me just say one other thing. I participated in a press conference last week, and I was the one who said, and I think I have taken some criticism for saying this, and here I called into play my experience as a former law enforcement officer, having worked 6½ years in California law enforcement as a police officer, and a deputy sheriff, and having conducted criminal investigations, I said that if this kind of behavior were to occur in the public sector or the public arena it would border on criminal conduct. So when I went home to my district last week I called my local district attorney, described to him and confirmed for him the press account that he had read regarding this brewing scandal, and I said under California penal code do you think further criminal investigation, with an eye toward prosecution, would have been warranted. And he said under the criminal code section in California governing insufficient funds that yes, absolutely, a criminal investigation would have been warranted.

Furthermore, I want to point out that when the House bank paid the bad checks up to the amount of each House Member's next monthly paycheck, that amounted to an interest-free loan, a sort of a low-cost, no-fee revolving credit line that Members of Congress did not have to qualify for using conventional loan underwriting criteria. That certainly then begs the question: Did those Congressmen report those interest-free loans as taxable income, which is exactly how the IRS views such amounts, or as gifts, with House rules to be disclosed. I daresay that is rather unlikely. The House rule on financial disclosure, House rule XLIV, requires reporting any liabilities that exceed $10,000 at any time during the year. That is a requirement under the Ethics in Government Act of 1978. Again, reports coming from the Ethics Committee inquiry indicate that more than 50 Members wrote bad checks totaling in excess of $100,000. So it is likely that some Members of Congress did indeed breach the $10,000 threshold and failed to report their indebtedness, their loan liability as again required under the Ethics in Government Act as part of their annual financial disclosure.

Furthermore, the House Code of Official Conduct, House rule XLIII, states Members' conduct "shall reflect credibility on the House of Representatives." Surely that rule prohibits writing bad checks and then ordering them paid by the bank under your control.

So I do not believe that defenders of the bad check practice here at the House bank have a leg to stand on. This bank was run by House officers. It is staffed by our employees, and the combined public payroll for salaries paid to employees of the House bank amounts to about $750,000 a year.

As Phyllis Schlafly again points out in her column today, "If you accept the argument that the overdrafts were just salary advances, that itself makes the bank an official Government institution because the employer was the U.S. Government." The bank was managed by the House Sergeant at Arms who ordered the bank to pay out an estimated 19 bad checks of his own with overdrafts totaling more than $10,000. So the rationale coming from the majority on the Ethics Committee who have voted for this compromise, their defense, if you will, of the wrongdoers is that bad check cashing has been going on by the House bank for many, many years. That is true. That is absolutely true, ladies and gentlemen. In fact, there have been prior occasions where the House bank had to be bailed out by the taxpayers, and that is what makes this latest example all the more galling, not just to this Member of Congress, joined by my colleagues in the Gang of Seven, but I am sure more galling as again an example of an abuse of privilege to the American people.

□ 1830

So that argument, I will predict to you, ladies and gentlemen, ultimately is not going to wash. Everybody out there in America is not doing it. In fact, about the only place that I can think of a practice such as this being conducted, and in many, many cases at least tacitly condoned, is the House of Representatives with our bank, our cooperative check-cashing privilege totally within our control. It is not going to wash with the American people. They are not doing it. Only the Congress is doing it, and the American people are absolutely fed up with this sort of arrogance and abuse of privilege.

Mr. SANTORUM. Madam Speaker, will the gentleman yield?

Mr. RIGGS. I am happy to yield to the gentleman from Pennsylvania.

Mr. SANTORUM. Let me first commend the gentleman for his foresight in calling this special order tonight to have an opportunity to discuss some of the concerns that many of us have expressed over the course of the last several months concerning the actions here in the House of Representatives, in particular in this situation, the House bank, although if you listened to some Members, they say it is not a bank. They say this is different than a banking institution, that this is really just a sort of a privilege of the House, and this really does not run like a bank and, as a result, it should not be treated like a bank, and we should treat this somehow differently. That has been the argument continually throughout this past several months until just the other day when one of the members of the Ethics Committee who supports this, the coverup, the 24 names, said that, well, one of the reasons that they cannot release the names is because banks do not release names of accountholders and how much money is in the account. Either it is a bank or it is not a bank.

I mean, if it is a bank, when it is convenient for your excuse not to release names of accountholders, and if it is not a bank if it is convenient to say that, we should not be held to the same requirements of a bank, so it sounds to me that we are just creating excuses to do things that we do not want to do, and what obviously the majority does not want to do is release the names of the people who have been abusing the House bank and fully disclose to let the American people decide.

That really brings me to the fundamental point here, and I think it is very consistent with what the majority has done consistently with their policies here in the House. When I heard of the Ethics Committee report and the majority's report when they said, well, we are going to draw the line here, we are going to decide here in Washington, here in Congress, we are going to decide for you, the American public, what an abuser is, we know best, you see, we are in Washington, we are smart here, we understand how things work, we know best for you. In other words, we do not trust you, America, that if you are given all the information, you will be able to act responsibly with it; you will be irresponsible; you will look at someone who bounced one check and say he is an abuser as much as someone who bounced 100 checks; you cannot be trusted with this responsibility, with this information. You just cannot handle it. And, as a result, Big Brother is going to make that decision for you. We are going to make the decision as to who the abusers are, and we will punish those people, and just do not worry about the rest. It is absolutely consistent with the philosophy of the liberal Democratic leadership to say that Washington knows better, that we should take responsibility from you instead of allowing you to take responsibility for yourselves and for your actions of your own Congressmen and for our own community.

I find a very clear parallel between the philosophy of the leadership of this Congress and the philosophy that is being shown here with regard to the House banking situation.

I also wanted to express with regard to the Ethics Committee and their report. I wanted to compliment, as the gentleman did, the four minority members who put forth the minority views, the gentleman from Arizona [Mr. KYL], the gentlewoman from Connecticut [Mrs. JOHNSON], the gentleman from Ohio [Mr. HOBSON], and the gentleman from Kentucky [Mr. BUNNING], for the fine work they have done and really well-written minority views that really get to the heart of the problem. They sort of try to cover both ends in a sense by naming abusers, saying that here are the *x* number of people who are obvious abusers, at least in our opinion, but this is our opinion. We will let you decide whether you agree, and we will release the rest of the names. We are going to call these people abusers, but, America, if you do not believe, you know, if you do not believe that definition, we are going to give you the opportunity to decide it. We are going to release the rest of the names. Here they are, here is in part their account activity for you to be able to make judgments, and let the chips fall where they may.

I think that was a cogently put together minority view and properly addressed the issue and tried at the same time to reach across and cover both areas where we identified abusers pursuant to the resolution and also we allow for public disclosure which I think is what the American public, the American public will demand, is demanding, and will expect, and accept nothing less than full disclosure.

The gentleman was talking about how the money, how the money could have been public funds or not public funds, and he really talked about whether this really is a question of public funds being used, and although I think the question of public moneys and the use of money is appropriate, I mean, if you look at the way these Members, a lot of Members, were using their accounts, it is no wonder we are running huge deficits with the absolute disregard for the balancing and keeping payments level. It really is more of a question of character, that everyone knows, and I know, that you are not supposed to bounce checks. I mean, it is just against the law in most States, but, well, this really is not a bank; we were allowed to do this.

I was informed several months before this investigation, I was told that if you overdraw your account, by someone who had been around a long time, that there is no penalty involved, and, you know, this is OK. I said, "But you are not supposed to write checks in an amount that you do not have the money in there unless, of course, you have overdraft protection, or you are going to take a loan out, and you have a line of credit, and then that is perfectly acceptable." "Oh, no you do not need a line of credit. You just write the bad check, and they will just hold it until you have the money in there, and they will just pay it off."

Well, that is wrong. I mean, that is not what we should do. I mean, it is not a matter of, well, did he abuse it, did he or she do something that was clearly wrong, and that America knows that in their heart is wrong; it gets to a question of whether public funds were used, and I will get in a little discussion of that. But that is really the minor issue here.

It is the people who are running the United States of America through being here as a Representative in Congress, are these people acting in a way that shows to the children of America that they have responsible leadership, who are going to be role models for them, who are going to leave them a future, or are these people who are going to be absolutely disregarding not only their personal character but how is that going to reflect on what goes on here in the Congress? I think that is a very serious issue, and one that sometimes I think gets glossed over as to how many taxpayers' dollars or cents or whatever are used here.

With regard to that, I think that there are two issues. The gentleman mentioned several. I wanted to highlight one in particular, because I think, of all the ones, it is the most biting, and that is the ramifications with regard to the Internal Revenue Service.

I am a lawyer. I do not freely admit that. But I am a lawyer, and I practiced a little tax law in my day, and I know that if I got a loan from a family member or a friend, and they said, "Well, you know, it is just a loan; you know, you are in tough shape right now. You know, we will lend you a few hundred dollars, whatever it is," and that if I do not have to pay interest on that loan, if that is money lent to me and I do not have to pay interest, I have to claim on my income tax form what is called imputed interest. The Internal Revenue Service sets forth how much the minimum amount you are allowed to charge or you must charge for a loan, whatever it is

OK, in a commercial setting, an arm's-length transaction, you are required by the Internal Revenue Service to report income to the amount that you did not have to pay that person in interest, because in a sense you have kept the money that you would have normally had to pay. It is called imputed interest or imputed income.

If you have Members of Congress with thousands and thousands of dollars over long periods of time who have interest-free loans, that is clearly, clearly under any bank or nonbank, whatever you want to call it, under any circumstance, that is imputed income that must be reported to the IRS. I have no idea whether it was or not. We certainly have not looked at any of the Members' tax forms. But it is my guess that what you will find is that money probably was not, because I am not too sure it could accurately be estimated, because of the amount of activity, I mean, the amazing amount of activity in some of these checking accounts.

So what you probably have is a clear violation of the Internal Revenue Code which obviously, if you commit some violation of law as a Member of the House, serving here in the House, it is a violation of the ethics code, so you have clear ethics, legal and ethics violations plus you have taxpayers' money, because otherwise you would have been paying money into the Internal Revenue Service, into the Treasury for the money that you would have had to pay in interest.

□ 1840

So that is a very clear violation of the law, a very clear use of public funds in a sense because you are not paying the money that is owed, and a very clear violation of the ethics code.

The other thing, and this gets more to the hypothetical and this is something that will only be fully determined if it is disclosed as to the amounts of the checks written and the timing of those checks and looking if we can somewhat objectively as to when those checks were written.

There are a lot of press reports that have been circulated regarding the possibility of Members writing large checks prior to elections to finance campaigns, either last minute expenditures on campaign advertising or bills that are coming due that they need to pay off. That is clearly a violation of the Federal Elections Code. You cannot use this. You have to get the money from either an individual and only in a certain amount or from yourself or from a qualified political action committee.

Writing checks, personal loans or other loans, have to be reported and if they were not reported, it is a violation of the Federal Election Law, another potential violation and a potential illegitimate use of public funds.

The last point I wanted to make, and those are the two points I wanted to make with regard to public funds and the use of the money, the last point I wanted to make and I think it is an important point, and that is who was running this institution and its effect on a lot of the Members out there.

One of the big fears I know that a lot of Members have who thought that they were running surpluses in their accounts, that they were not bouncing any checks and they found out, to their amazement, that they were overdrawn or had insufficient funds in a couple instances over the past few years. There are many, many Members in that position. The reason they are in that position is because the people who ran that institution, the same people, by the way, who run the House Post Office, who run the House restaurant and absolutely mismanage the institution of the Congress are the people who have to be held accountable for what goes on. What they have done is mismanaged this institution and mismanaged that bank to where many, many Members had either insufficient funds, when if you go and talk to them they clearly had, according to their records, money in that account, but for some reason or another, a deposit that was hand-delivered to the Sergeant at Arms Office never got deposited for 2 weeks, and they had checks written and no money there to cover it.

If there is any reticence on my part, it is that there are going to be Members who are going to show up with a few insufficient fund checks who in all likelihood through absolutely no fault of their own, only because of the absolute horrible way that the House bank was run.

The only people who should stand here and take the fall for that, as well as taking the fall for all the other mismanagement that is going on in this institution, is the House Democratic leadership. They appoint the Sergeant at Arms. They appoint the postmaster. They run this institution and have mismanaged this institution.

I would suspect that you would find a heck of a lot less than 355 Members of Congress on that list had they just run that banking institution like any normal credit union or bank and had the same kind of procedure and the same kind of recordkeeping.

I think it was a real disservice, if I can speak out in defense of my colleagues, it is a real disservice to many Members of Congress who honestly tried to keep good books that the mismanagement of this institution is going to cause them embarrassment and the possibility of having to sit and explain to the people back home who are darn mad and have every right to be, to explain that, "Hey, my books show one thing. They just didn't credit my account for certain deposits."

So the other culprit in this whole thing is the leadership of this institution, the Democratic leadership of this institution who have mismanaged this institution to throw a lot of Members into the frying pan along with the people who are abusing it. That definitely should be brought out and made a point.

Again, I want to thank the gentleman from California for giving me time and allowing me the opportunity to share some thoughts with the gentleman. It has been a pleasure working with the gentleman and the other Members who have fought very diligently here in Washington and all over the country really to make sure that the public is made aware of this thing, that we keep the pressure on here and that the public is served and the public will be served in this institution.

Mr. RIGGS. Well, Mr. Speaker, I thank the gentleman for his very illuminating comments. I would certainly want his constituents and our fellow Americans looking in to know that he has been a real leader in our efforts to bring about full accountability in this situation. He has been very aggressive about this matter.

Before I yield to the gentleman from North Carolina, another Member of the Gang of Seven, let me just simply echo a couple points that were made by the gentleman from Pennsylvania [Mr. SANTORUM].

The gentleman mentioned the fact that ultimately the leadership of this institution has to bear some blame, some responsibility, hopefully some accountability for what has occurred, and I could not agree more.

We are a Fortune 500-sized employer in this institution. We have over 30,000 employees on Capitol Hill.

I think it was another one of our Gang of Seven, the gentleman from California [Mr. DOOLITTLE], who made the point the other day that if in fact we were any kind of private corporation or private business entity, the leadership, the chief executive officers of this organization would have been let go, shall we say, that is putting it politely, a long time ago by the shareholders of the organization, which in this case would be the American people, the American voters.

Just again, setting the backdrop for the debate to come over the next 48 hours, the Ethics Committee—this is a very, very important point to make here—the Ethics Committee found that the abuses of the House bank, as the gentleman from Pennsylvania [Mr. SANTORUM] was just suggesting, were well-known to the Democratic leadership, the House Sergeant at Arms and to the General Accounting Office, which is the investigative arm of Congress.

I might add that our group, the Gang of Seven, have now filed a formal freedom of information request with the GAO trying to compel the release, release to us, and of course we would in turn want to share it with the public at large, of the GAO audits.

But among the other committee findings were the following key facts: First the GAO detailed 10 full-time auditors to help the committee reconstruct the history of bad check writing by House Members. Facts from as yet undisclosed GAO audits show that House leaders were warned of a growing number of overdrafts every year since 1955.

In 1969, noting that the number of bad checks written by House Members had suddenly tripled, they actually had tripled over the previous 10 years, the GAO stated its concern that lawmakers' unpaid checks were being allowed to accumulate in excess of a month's future salary, but House leaders failed to act.

Over the next 7 years, rubber checks written by House Members totaled a high of 12,309 checks in 1972 and a low of 8,428 in 1976, again according to GAO audits.

From 1973 to 1976, well over half of all House Members wrote bad checks.

The Comptroller General expressed growing concern each year about the bad check problem, these same reports show, but again no corrective action was taken by the House leadership. So I wanted to point that out.

I guess I should also add that starting in 1977 when the GAO audits were first made public, there was no further criticism of the overdraft problem, no call for new or move vigorously enforced regulations to stop the problem. To the contrary, as we have now seen, the problem continued to grow and fester.

The totals of Members' yearly overdrafts were masked in report line items labeled, "due from Members," or "amount receivable from Members" that reflected overdrafts only for the last day of a 6-month audit period.

Last, according to yesterday's Washington Times, a very disturbing revelation. In April 1991, 3 months before the two GAO audits that led to the current scandal, a Riggs National Bank executive vice president advised the wife of the Speaker, who happens also to be his chief of staff, of the extent of the bad check problem, which he termed as "habitual salary advances."

□ 1850

David L. Brown, the Riggs official, told Mrs. Foley in a letter that the practice could be continued or eliminated but enforcement problems could be expected if the overdrafts system was discontinued.

So, again, there is no way, given a situation with this sort of scope, that we can attempt on this House floor to engage in damage control. The only thing that we can do at this point in time is provide the information to the American people through the American media and allow the people, themselves, to make, again, the sort of discerning judgments that must be made to bring about accountability for the Congress collectively and individually in cases of corruption as fundamental as this.

Madam Speaker, I yield to the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. I thank the gentleman for yielding.

Madam, Speaker, I say to the gentleman that I appreciate his putting together this special order and the fine work he has done in explaining to the public this evening the problems that we have.

You know, the question is often asked: Why is the public so upset about this? This is just the tip of a very large iceberg, and it is sort of the last straw that the public feels, I think, that something has to be done. If you look back, in the fall of 1990 Congress told the people, "Things are tough, we have got to raise taxes," and they did. They put on a very large tax increase. And as much as this body likes to talk about soaking the rich and always putting taxes on the rich, they raised the gasoline tax by over 50 percent on the American people, they put in a tax on boats and yachts that, in my district alone, closed one outboard marine plant and dropped the other two's employment by 50 percent, and that is how they soak the rich.

But they said, "Things are tough, we have got to do that, we have got to cut Medicare because things are tough." At the end of the "things are tough" speech, they said, "By the way, we are raising our salary by 38 percent."

Then people wonder why there is a loss of respect for the Congress.

In the fall of 1991 we learned of the check-kiting scandal and we learned at the same time that there were hundreds of thousands of dollars of restaurant bills for the House restaurant that went all the way back to 1986. And then we learned also recently of the House Post Office, the embezzlement at the House Post Office. It is a contract post office, it is not a post office with members of the Post Office Department; it is a House contract post office. It was also selling cocaine.

Then, of course, in the fall of 1991 Roll Call questioned, when the House check-kiting question came up, they questioned 435 members of Congress. They reported the results of that in Roll Call.

In that, 20 people said they bounced checks, 77 did not respond, and 338 said they had not bounced checks. And now the Committee on Standards of Official Conduct has released a report that says 296 current Members of Congress bounced checks.

So, I say to the gentleman from California there are 200 people in this body that the public sees as having some explaining to do.

Now, I think you can see then why the public is concerned. In the winter of this year, while we were home on winter break, we had a deficit from the last half of the 102d Congress of $260 billion or more and we had a proposed deficit for this half of the 102d Congress of somewhere between $300 billion and $400 billion. In the middle of a recession, the Speaker of this body authorized the spending of tens of thousands of dollars for marble for elevators for this House.

Now, with the summation of all the things I have talked about here in just a little over 2 years we ask, "Why is the public upset at the Congress and the House of Representatives?" Yet all of the blame that the Congress gets for this need not be pointed to Congress as a body; it was done by individuals.

I did not get a chance to vote or debate whether or not we should put tens of thousands for marble in House elevators. I was not consulted, and I am sure the gentleman from California [Mr. RIGGS] was not consulted.

I am concerned that the public now sees 200 of our Members in conflict with their statements of just 6 months ago in the check-kiting matter.

We asked for an independent counsel to be appointed to investigate the House Post Office scandal, the cocaine selling, the embezzlement there. We were told that the leadership, the Democrat leadership in the House, would take care of it; clearly a conflict, I feel, for that investigation.

Many of us asked that the violators be named in the check-kiting situation 6 months ago. We were told, no, the leadership would take care of it and there would be an investigation and it all would become apparent soon.

Nothing is happening in this way, and the public sees that nothing is happening toward reform, and that is why the public is angry.

Madam Speaker, the public is sick. My portion of the public, in my district, is sick at what is happening. They are demanding reform.

In the old days, in the Old Testament, when you had sinned, the Lord required that you rend your garment and put on ashes and sackcloth to show you were repenting, show you were changing and going another way. I do not necessarily think we have to rend our garments and put on sackcloth, but we have to send a message to the public that we are changing the direction of this House, that we are changing the arrogance and the special privileges that this House has allowed a few of its Members.

Now, we as Republicans, the seven of us as Republicans, have demanded this for 6 months. I hope tomorrow our conference will demand the same. I think full disclosure of those who have bounced checks in this body is the message, is the signal of reform that needs to be sent. And then we need to proceed with reform throughout this House in trying to regain the public confidence.

Madam Speaker, I appreciate the opportunity of participating with the gentleman in this matter.

Mr. RIGGS. I think the gentleman for his extremely eloquent remarks and all of his contributions in pressing forward in the face of some considerable resistance. I am sure the gentleman has encountered the same sort of feedbacks on occasion as I have; namely, the comments and suggestions by certain constituents and some of the more cynical members of the media who suggested that our efforts are certainly not going to endear us to the rest of our colleagues in this institution.

I am sure the gentleman feels, as I do, that that really is a peripheral consideration at this point in time, that we have a more fundamental duty not only to uphold the public trust but to recognize that our effectiveness, our credibility as an institution, our ability to forge farsighted policy, hopefully on a bipartisan basis where compromise is truly possible, depends on popular support. And unless we enjoy that popular support, our ability again as a deliberative legislative body is truly and dramatically hindered.

I thank the gentleman for his contributions tonight and look forward to working with him further.

Madam Speaker, I yield to the gentleman from Ohio, who has been a true leader in our efforts here.

Mr. BOEHNER. I thank the distinguished Member from California for reserving the time tonight to talk about what really is a very important issue in the minds of our constituents. It is an important issue when it comes to the future of this institution, the U.S. House of Representatives.

You know, this history of the House bank and the problem that we are seeing today is not anything new. Congressional Quarterly about a month ago outlined the 150-year history of the House bank. On at least three ocassions that we know of over the course of this 150 years the taxpayers have had to come along and bail out this bank.

So, now we are here, they say at this point in time that no taxpayer funds were involved. I have no reason to doubt the word that they put out. But the fact is that over the last 3 years there have been repeated attempts by the General Accounting Office and others to bring changes to the operation of the House bank so that this problem could be eliminated.

Now, something is wrong. Over the course since early 1988, the GAO made it clear that the overdraft problem in the bank had to be addressed, something ought to be done. The leadership in the Speaker's office was notified, the House Sergeant at Arms was notified. And through all of this, on various occasions, I would say at least three or four occasions since 1988, attempts have been made by the GAO to get the House leadership to do something about the problem in the House bank. Nothing has been done.

□ 1900

Madam Speaker, we have been through all the details about what has happened in the bank over the last 6 months, but the fact is that in my hands here I have got the report of the Committee on Standards of Official Conduct of the House of Representatives with regard to the House bank, and I did not know that it took this many pages and this many words in order to say, "cover-up, whitewash," and the fact is that the people that live at home, our constituents and people around America, are not going to settle for us hanging 24 people, the worst 24 offenders out there, and saying that we have taken care of the problem.

Madam Speaker, there is really only one way to deal with this whole issue, and that is what has been called for, full disclosure, and I think there are three important reasons why we ought to have full disclosure:

One is that the American public sees this institution as being out of step. They see us unwilling to be accountable to the people who sent us here. They willingly really want us to be accountable, and we have an opportunity this week to take a giant step forward and showing the American public we are willing to be accountable, that we are willing to take the first step in trying to restore our credibility with the people who sent us here to represent their interests.

Second, I would say that the people at home have a right to know what their Member of Congress does when it comes to Washington. Now we are not talking about revealing someone's private bank records here because the fact is we are not talking about releasing the checks themselves, but we have got an institution called the House bank that several Supreme Courts have indicated that the money in the House bank is public money until such time as the Sergeant at Arms actually issues the money to the customer, the account holder; in other words, a Member of Congress. So, we are talking about Members using public money that they have no permission to use, and I think that the folks back home have a right to know that.

The third point I would bring up is trying to do what the Committee on Standards of Official Conduct did by drawing the line at 24. It just is not going to do it. Drawing the line at 55; that is not going to do it. Wherever we attempt to draw the line, it is nothing more than an arbitrary line, so we really ought to, in fact, do the right things, and that is to release all of the information.

But now releasing all the information causes concern, especially for what I am going to guess is about half of the 296 Members, half the 296, the bottom half, those who may have bounced an occasional check here or there or are going to be accused of a bounced check because of the sloppy practices that we had in the House bank itself. I would say that those Members of Congress can come forward. They can come clean by laying out for their constituents just what happened. Most people have bounced a check or two during their lifetime. They understand that they have made an error in their account, and wrote a check and did not realize there were insufficient funds in there, and I think people will understand that.

So, Madam Speaker, I would say there is only one way to solve that, and that is fully disclosure. If we only take this short step to hang out 24 Members, I am going to warn this Congress that the American people are going to march on this building. The American people are not going to sit home and be satisfied with only 24 names. They want to know it all, and we ought to put it all out there.

The other issue here is that we are going to have full disclosure. It may not be this week, it may not be next week, it may not be next month. Either the media is going to leak it out because they will get their hands on it one way or another, or we will eventually in this House be forced to release it. The point I would like to make is that we can avoid all of that, and we can do the right thing by voting for full disclosure this week.

Now some of our colleagues want to say that we are bashing the institution, we are bashing our colleagues. Some of the press wants to say that. The fact is that it is not our intent to hurt any Member of Congress. It is not our intent to hurt this institution. But today I see that this institution is under indictment by the American public. They see this institution as not relevant to the problems that they have at home, the problems that we have in this country, and they see this institution as ineffective in dealing with those problems.

Well, I think that it is clear that a bipartisan group of freshmen Members of Congress really and truly want reform. We want genuine reform. Our goal is to have a U.S. Congress that the American public has confidence in and respect for, and the only way they are going to get that confidence and respect is if the U.S. Congress becomes more credible, and we have to increase our credibility with our constituents at home.

Mr. Speaker, to get that credibility I think there are two major areas that we need to address. One would be in the area of accountability.

As my colleagues know, we need to clean up the House check-bouncing problem, the House restaurant problem. Dine and dash is pretty well cleaned up itself, but there ought to be an open and independent audit of how the $2.3 billion that the U.S. Congress spends, there ought to be an audit so everybody can see how every dime was spent. Most people in America think we ought to balance our budget and, because we are not willing to balance the budget, it shows that we are being irresponsible and certainly not accountable, and I think they are a little sick of getting the free mail that they get from Members of Congress. Certainly they are upset because Members of Congress in this institution are not willing to live under the same laws that we expect all Americans to live under, and certainly the Freedom of Information Act that applies to all of government, except the Congress, is wrong, and we ought to be under the auspices of the FOIA, the Freedom of Information Act. I would suggest to my colleagues that, if we were subject to the Freedom of Information Act, none of the things we are talking about tonight would have occurred, none of them.

Even if we took all these steps toward accountability and, as we took each step, we would gain credibility with the American public, it is not enough.

The other major issue that we have got to deal with, if we are serious about true reform of this institution, is that we have got to begin to address the institutional structural problems that we have in the way Congress operates, and that is why my colleagues here tonight and almost 40 Members of our freshman class from both sides of the aisle have supported an effort by the gentleman from Indiana [Mr. HAMILTON], a Democrat, and the gentleman from Ohio [Mr. GRADISON], a Republican from Cincinnati, that is calling for a committee, a select committee, to study the Congress. We need to change the House rules. This board system of committees, proliferation of subcommittees, that system is broke, and it needs to be changed. So, as we do these things, we can change the way Congress operates. We can make Congress relevant in today's society.

My concern in closing, Madam Speaker, is that as this institution is under indictment, my concern is about the future of our country and the future of this institution. Yes, disclosing all of the names may hurt some people. It may hurt some innocent people, and that is not my intent or anyone else's.

But the fact of the matter is this institution is more important to the future of our country than is the career of a handful of Members, and it is out of my concern for this institution and the long-term viability of this institution and our democracy that I have been pushing for full disclosure and all of us have been pushing for real reform of this Congress.

Madam Speaker, I want to thank the gentleman from California [Mr. RIGGS] for yielding to me, I want to congratulate him for the great job that he is doing, and we are going to keep up the work for the next few days.

Mr. RIGGS. Madam Speaker, I thank the gentleman from Ohio [Mr. BOEHNER] for his comments.

I yield to the gentleman from Iowa [Mr. NUSSLE].

Mr. NUSSLE. My good friend from California, as we come to, hopefully, the end of not only this particular debate tonight, but hopefully the end of the saga of bounced checks, I just want to say, "Thank you for your leadership and the other Members that are here, JOHN BOEHNER, RICK SANTORUM, SCOTT KLUG, JOHN DOOLITTLE, CHARLES TAYLOR, the Gang of Seven, as we've been called over time and time again."

Madam Speaker, I just want to report to my friend from California on a couple of things that have happened in the recent moments.

I have just had an opportunity to attend a press conference with the minority members of the Committee on Standards of Official Conduct, and it appears that the Republican leadership has now signed off on the minority report for full disclosure, that we have won yet another battle on the road toward full disclosure for the American people.

□ 1910

I also wanted an opportunity to share with the gentleman from California [Mr. RIGGS], as a cosponsor of this telegram, the telegram that we were able to put together here in the waning hours of the day to the three presidential candidates on the Democratic side, because the rumor is going around the House that it appears that the Democratic leadership is trying to stonewall; trying to get the Democratic Members to vote for just the partial disclosure.

I would like to read into the RECORD this telegram to Jerry Brown, Bill Clinton, and Paul Tsongas, the telegram that was sent on behalf of the Gang of Seven Members that have started this.

It says:

> In the next forty-eight hours, Congress is going to have an historic vote on the House check-bouncing scandal. The Democratic leadership is asking all Democratic Members of Congress to vote to release the names of only 24 check bouncers. The Republicans are calling for complete disclosure of all 355 Members who bounced checks.
>
> We ask you, as one of the leaders of the Democratic Party and as a possible standard bearer of your party's Presidential nomination, to immediately urge your House leaders—Speakers Foley, majority leader Gephardt, and majority whip Bonior—to publicly support and vote for full disclosure, rather than a coverup of this unprecedented scandal.
>
> As you may know, President Bush has called for complete disclosure. We await your commitment to cleaning up the corruption in Washington.

Madam Speaker, I doubt seriously that the three Democratic candidates are watching us here this evening, but I hope that we can get a response to that.

Madam Speaker, I appreciate the leadership of the gentleman from California [Mr. RIGGS].

Mr. RIGGS. Madam Speaker, I thank the gentleman for his tremendous leadership in this area.

Madam Speaker, I will close simply by telling my fellow Americans, I actually got asked the question today by a radio interviewer, "Well, what can the average American who feels rightfully quite indignant about what has transpired here, about the possibility of limited disclosure," which we have heard tonight from my fellow Gang of Seven Members, "which is tantamount to a whitewash or coverup, what can the average American do to make his or her voice heard?"

Madam Speaker, I simply want to tell those average Americans, looking in through this wonderful forum of C-SPAN, that in fact this is a very, very important occasion for those Americans to pick up the phone and call the office of their Representative in Congress and make their views known on this matter, particularly if they feel as we here tonight on the House floor in this special order so passionately do that only full disclosure will constitute the proper course of action and uphold the public trust.

This is one situation where frankly your voice should be heard and where you can make a difference.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mrs. COLLINS of Illinois (at the request of Mr. GEPHARDT), for today through March 20, on account of business in district.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. RIDGE) to revise and extend their remarks and include extraneous material:)

Ms. MOLINARI, for 60 minutes each day, on March 17 and 18.

Mr. HUNTER, for 5 minutes, on March 12.

Mr. NUSSLE, for 60 minutes, today.

Mr. EWING, for 5 minutes, on March 12.

Mrs. BENTLEY, for 60 minutes, on March 13.

Mr. LEACH, for 60 minutes, today.

(The following Members (at the request of Mr. ABERCROMBIE) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. RIDGE) and to include extraneous matter:)

Mr. DICKINSON.
Mrs. MORELLA.
Mr. CLINGER.
Mr. BALLENGER.
Mr. MICHEL.
Mr. BEREUTER.
Mr. FISH.
Mr. PACKARD.
Mr. LAGOMARSINO in two instances.
Mr. SOLOMON.
Mr. GREEN of New York.
Mr. WOLF.

(The following Members (at the request of Mr. ABERCROMBIE) and to include extraneous matter:)

Mr. HERTEL.
Ms. HORN.
Mr. MONTGOMERY.
Mr. FASCELL in two instances.
Mr. HAMILTON.
Ms. PELOSI.
Mr. STOKES in two instances.
Mr. OBERSTAR.
Mr. ROYBAL.
Mr. STUDDS.
Mrs. BOXER.
Mr. PALLONE.
Mr. RICHARDSON.
Mr. EDWARDS of California.
Mr. KOLTER in two instances.
Mr. JACOBS.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 1467. An act to designate the Federal Building and the United States Courthouse located at 15 Lee Street in Montgomery, Alabama, as the "Frank M. Johnson, Jr. Federal Building and United States Courthouse."

S. 1889. An act to designate the Federal Building and the United States Courthouse located at 111 South Wolcott Street in Casper, Wyoming, as the "Ewing T. Kerr Federal Building and United States Courthouse."

ADJOURNMENT

Mr. RIGGS. Madam Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 12 minutes p.m.)

the House adjourned until tomorrow, Thursday, March 12, 1992, at 11 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3074. A letter from the Director, the Office of Management and Budget, transmitting the cumulative report on rescissions and deferrals of budget authority as of March 1, 1992, pursuant to 2 U.S.C. 685(a) (H. Doc. 102–202); to the Committee on Appropriations and ordered to be printed.

3075. A letter from the Department of Defense, transmitting the Department's annual report on research, development, test, and evaluation chemical-biological defense programs during fiscal year 1991, and the fiscal year 1991 report on the nonuse of human subjects for testing of chemical or biological agents, pursuant to 50 U.S.C. 1511; to the Committee on Armed Services.

3076. A letter from the Director, Defense Security Assistance Agency, transmitting an addendum to the listing of all outstanding Letters of Offer to sell any major defense equipment for $1,000,000 or more; an addendum to the listing of all Letters of Offer that were accepted, as of December 31, 1991, pursuant to 22 U.S.C. 2776(a); to the Committee on Foreign Affairs.

3077. A letter from the Director, Defense Security Assistance Agency, transmitting the Department of the Navy's proposed lease of defense articles to Australia (Transmittal No. 10-92), pursuant to 22 U.S.C. 2796a(a); to the Committee on Foreign Affairs.

3078. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Navy's proposed Letter(s) of Offer and Acceptance [LOA] to Spain for defense articles and services (Transmittal No. 92-15), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3079. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Army's proposed Letter(s) of Offer and Acceptance [LOA] to Turkey for defense articles and services (Transmittal No. 92-16), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BEILENSON: Committee on Rules. House Resolution 394. Resolution providing for the consideration of H.R. 3732, a bill to amend the Congressional Budget Act of 1974 to eliminate the division of discretionary appropriations into three categories for purposes of a discretionary spending limit for fiscal year 1993, and for other purposes (Rept. 102–453). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. MORAN (for himself, Mr. KENNEDY, Mr. LEHMAN of California, Mr. LIPINSKI, and Mr. ROE):

H.R. 4423. A bill to protect homeowners with substantial equity interests in their mortgaged principal residences from the loss of their homes through mortgage foreclosure when forbearance can reasonably be extended by the mortgage holders, to provide for the protection of the equity interests of homeowners in cases of foreclosure, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. SWETT:

H.R. 4424. A bill to authorize any Member of the House of Representatives to direct that unobligated funds remaining in such Member's official mail allowance at the end of each session of Congress be paid to the State which such Member represents; to the Committee on House Administration.

By Mr. SWETT (for himself, Mr. SCHEUER, Mr. WOLPE, Mr. KOPETSKI, Mr. OLVER, Mr. BOUCHER, and Mr. ZIMMER):

H.R. 4425. A bill to establish a program of research, development, and demonstration on advanced pulp and paper technologies, and for other purposes; to the Committee on Science, Space, and Technology.

By Mr. FRANK of Massachusetts:

H.R. 4426. A bill to amend title 17, United States Code, to exclude copyright protection for certain legal compilations; to the Committee on the Judiciary.

By Mrs. BENTLEY:

H.R. 4427. A bill to prohibit the export of American black bear viscera, and for other purposes; jointly, to the Committees on Foreign Affairs, Ways and Means, and Merchant Marine and Fisheries.

By Mr. DEFAZIO (for himself, Mr. AUCOIN, Mr. WYDEN, Mr. KOPETSKI, and Mr. SMITH of Oregon):

H.R. 4428. A bill to enhance public land ownership, outdoor recreation, and forest land administration in the Willamette National Forest, OR; jointly, to the Committees on Interior and Insular Affairs and Agriculture.

By Mr. DORGAN of North Dakota:

H.R. 4429. A bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to increase national awareness concerning high-speed motor vehicle pursuits involving law enforcement officers and the individuals pursued, and for other purposes; to the Committee on the Judiciary.

By Mr. DUNCAN (for himself, Mr. TAYLOR of North Carolina, Mr. ROHRABACHER, Mr. RHODES, Mr. SMITH of Oregon, Mr. DORNAN of California, Mr. HANCOCK, Mr. SCHIFF, Mr. IRELAND, Mr. COMBEST, and Mr. COX of California):

H.R. 4430. A bill to require that the Federal Government procure from the private sector the goods and services necessary for the operations and management of certain Government agencies, and for other purposes; to the Committee on Government Operations.

By Mr. ENGEL:

H.R. 4431. A bill to amend the Internal Revenue Code of 1986 to provide an inflation adjustment for the income thresholds applicable to the taxation of social security and tier 1 railroad retirement benefits; to the Committee on Ways and Means.

By Mr. FOGLIETTA (for himself, Mr. BORSKI, Mr. BLACKWELL, Mr. COUGHLIN, and Mr. WELDON):

H.R. 4432. A bill to authorize the striking of a medal commemorating the 250th anniversary of the founding of the American Philosophical Society and the birth of Thomas Jefferson; to the Committee on Banking, Finance and Urban Affairs.

By Mr. FRANK of Massachusetts:

H.R. 4433. A bill to prohibit the imposition of a fee for waiver of the passport requirement for citizens in the case of reported theft or destruction; to the Committee on Foreign Affairs.

By Mr. GEJDENSON (for himself, Mr. ATKINS, Mr. BONIOR, Mr. BOEHLERT, Mr. BROWN, Mrs. BOXER, Mr. DEFAZIO, Mr. DELLUMS, Mr. DWYER of New Jersey, Mr. EVANS, Mr. FRANK of Massachusetts, Mr. FROST, Mr. HAYES of Illinois, Mr. LANCASTER, Mr. LANTOS, Mr. ROYBAL, Ms. PELOSI, Mr. SCHEUER, Mr. STUDDS, and Mr. TOWNS):

H.R. 4434. A bill to amend the Internal Revenue Code of 1986 to impose a tax on the sale by the manufacturer, producer, or importer of paper and paper products that do not contain the minimum amount of recovered materials, to allow an income tax credit for such products that exceed such minimum, and to amend the Solid Waste Disposal Act to require paper products to meet minimum content standards; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. KLECZKA (for himself, Mr. FRANK of Massachusetts, Mr. GONZALEZ, Mrs. ROUKEMA, Mr. ATKINS, Mr. RANGEL, Mr. BLAZ, Mr. CARPER, Mr. OBERSTAR, and Mr. VENTO):

H.R. 4435. A bill to better provide for federally assisted housing for elderly and disabled families that meets the special needs of such persons, to clarify the essential requirements for residency in such housing, and to provide within such housing for the coordination of health-related and social services needs of such persons, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. MINETA (for himself, Mr. GEPHARDT, Mr. BROWN, Mr. VALENTINE, and Mr. MARKEY):

H.R. 4436. A bill to establish a loan program at the Department of Commerce to promote the development and commercialization of advanced technologies and products; to the Committee on Science, Space, and Technology.

By Mr. RICHARDSON:

H.R. 4437. A bill to authorize funds for the implementation of the settlement agreement reached between the Pueblo de Cochiti and the U.S. Army Corps of Engineers under the authority of Public Law 100-202; jointly, to the Committee on Public Works and Transportation and Interior and Insular Affairs.

By Mr. ROYBAL (for himself and Mr. ROHRABACKER):

H.R. 4438. A bill to designate the Federal building located at 501 West Ocean Boulevard in Long Beach, CA, as the "Glenn M. Anderson Federal Building"; to the Committee on Public Works and Transportation.

By Mr. SCHEUER:

H.R. 4439. A bill to establish a program of research, development, and demonstration to provide affordable and commercially viable low emission-low energy buildings by the year 2005; to the Committee on Science, Space, and Technology.

By Mr. SCHUMER (for himself, Mr. BERMAN, Mr. BRYANT, Mr. DWYER of New Jersey, Mr. FASCELL, Mr. HYDE, Mr. LAFALCE, Mr. MCGRATH, and Mr. OWENS of New York):

H.R. 4440. A bill to require the transfer of certain closed military installations to the

Department of Justice, to transfer certain aliens to such installations, to provide grants to States to assist States and units of local government in resolving certain difficulties relating to the incarceration of certain aliens, and for other purposes; jointly, to the Committees on the Judiciary, Armed Services, and Government Operations.

By Mr. SMITH of Texas (for himself, Mr. Sensenbrenner, Mr. Gallegly, Mr. Lagomarsino, and Mr. Miller of Ohio):

H.R. 4441. A bill to amend the Immigration and Nationality Act to provide for the adjustment of levels of immigration to reflect changes in the unemployment rate of the United States; to the Committee on the Judiciary.

By Mr. TRAFICANT:

H.R. 4442. A bill to direct the Secretary of Veterans Affairs to establish a urology center at the Department of Veterans Affairs satellite outpatient clinic in Youngstown, OH; to the Committee on Veterans' Affairs.

By Mr. WILLIAMS:

H.R. 4443. A bill to amend the U.S. Institute of Peace Act to establish the Spark M. Matsunaga Scholars Program, and for other purposes; jointly, to the Committees on Education and Labor and Foreign Affairs.

H.R. 4444. A bill to amend the Solid Waste Disposal Act to authorize States to restrict the interstate transportation of municipal waste; to the Committee on Energy and Commerce.

H.R. 4445. A bill to amend title 23, United States Code, to repeal a penalty for noncompliance by States with a program requiring the use of safety belts and motorcycle helmets; to the Committee on Public Works and Transportation.

By Mr. WOLF:

H.R. 4446. A bill to provide for pilot programs conducted by the Federal Prison Industries to test the feasibility of meeting the need for increased employment for Federal prisoners by producing items, for the non-Federal Government market, with private U.S. firms, that would otherwise be produced by foreign labor; to the Committee on the Judiciary.

By Mr. ZIMMER (for himself, Mr. Brown, Mr. Hall of Texas, Mr. Sensenbrenner, Mr. Rohrabacher, Mr. Gingrich, Mr. Smith of Texas, Mr. Ritter, and Mr. Johnson of Texas):

H.R. 4447. A bill to provide for National Aeronautics and Space Administration negotiations with former Soviet republics regarding the acquisition by the United States of Soviet civil space hardware and technology for integration into United States civil space projects; jointly, to the Committees on Science, Space, and Technology and Foreign Affairs.

By Mr. GUARINI (for himself, Mr. Vander Jagt, Mr. Payne of Virginia, Mr. Horton, Mr. Boehlert, Mr. Skeen, Mr. McNulty, Mr. Sundquist, Mr. Martinez, Mr. McMillan of North Carolina, Ms. Horn, Mr. McMillen of Maryland, Mr. Walsh, Mr. Serrano, Mr. Hayes of Louisiana, Mr. Green of New York, Mr. Hughes, Mr. Bonior, Mr. Kildee, Mr. Lent, Mr. Roe, Mr. Gallo, Mr. Scheuer, Mr. Towns, Mr. Torricelli, Mr. Frost, Mr. McGrath, Mr. Flake, Mr. Schaefer, Mrs. Collins of Illinois, Mr. Bilirakis, Mr. Tallon, Mr. Andrews of New Jersey, Mr. Engel, Mr. Manton, Mr. Waxman, Mr. Traficant, and Mr. Fazio):

H.J. Res. 436. Joint resolution designating June 19, 1992, as "National Baseball Day"; to the Committee on Post Office and Civil Service.

By Mr. KILDEE:

H.J. Res. 437. Joint resolution designating May 7, 1992, as "National Substitute Teachers Day"; to the Committee on Post Office and Civil Service.

By Mr. OWENS of New York:

H.J. Res. 438. Joint resolution proposing an amendment to the Constitution of the United States repealing the second amendment to the Constitution; to the Committee on the Judiciary.

By Mr. RAMSTAD (for himself, Mr. Riggs, Mr. Callahan, Mr. Klug, Mr. Wolf, Mr. Schaefer, Mr. Kostmayer, Mr. Gilchrest, Mr. Lewis of California, Mr. Ridge, Mr. Franks of Connecticut, and Mr. Spence):

H.J. Res. 439. Joint resolution designating April 6, 1992, as "TV Busters' Day"; to the Committee on Post Office and Civil Service.

By Mr. MICHEL:

H. Con. Res. 290. Concurrent resolution authorizing the use of the Rotunda of the Capitol by the American Ex-Prisoners of War for a ceremony in recognition of National Former Prisoner of War Recognition Day; to the Committee on House Administration.

By Mr. ROHRABACHER:

H. Con. Res. 291. Concurrent resolution concerning bilateral relations between the United States and the Socialist Republic of Vietnam; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII.

Mr. Martinez introduced a bill (H.R. 4448) for the relief of Gui Di Chen and Zhe Wu; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 23: Mr. Ravenel, Mr. Kolbe, and Mr. Lewis of Georgia.

H.R. 123: Mr. Vander Jagt, Mr. Allen, Mr. Rahall, Mr. Nichols, and Mrs. Patterson.

H.R. 200: Mr. Spence.

H.R. 431: Mr. Oxley, Mr. Lightfoot, Mr. Allen, Mr. Foglietta, Mr. Hochbrueckner, and Mr. Franks of Connecticut.

H.R. 643: Mr. Bacchus.

H.R. 701: Mr. Packard.

H.R. 784: Mr. Kolbe, Mr. Laughlin, Mr. Poshard, Mr. Hopkins, Mr. Thomas of Georgia, and Mr. Stallings.

H.R. 786: Mr. Peterson of Minnesota and Mr. Martinez.

H.R. 856: Mr. Glickman.

H.R. 911: Mr. Williams, Mr. Abercrombie, Mr. Paxon, and Mr. Camp.

H.R. 962: Mr. Abercrombie.

H.R. 976: Mrs. Johnson of Connecticut and Ms. DeLauro.

H.R. 1156: Mr. Lagomarsino.

H.R. 1200: Mr. Livingston.

H.R. 1245: Mr. Bacchus.

H.R. 1335: Mr. Walsh.

H.R. 1406: Mrs. Roukema.

H.R. 1472: Mr. Davis, Mr. Tanner, Mr. Weldon, and Mr. Sarpalius.

H.R. 1502: Mr. Gunderson, Mr. Andrews of New Jersey, Mr. Waxman, Mr. Lehman of California, Mr. Stallings, and Ms. Kaptur.

H.R. 1516: Mr. Ewing, Mr. Hastert, and Mr. Taylor of North Carolina.

H.R. 1527: Mr. Machtley.

H.R. 1536: Mr. Horton, Mrs. Schroeder, and Mr. Machtley.

H.R. 1541: Mr. Ritter and Mr. Rahall.

H.R. 1546: Mr. Lancaster.

H.R. 1547: Mr. Lancaster.

H.R. 1602: Mr. Condit and Mr. Andrews of New Jersey.

H.R. 1618: Mr. Roybal, Mr. Gillmor, Mr. Durbin, Mr. Hobson, Mr. Orton, Mrs. Lowey of New York, Mr. Hancock, Mr. Carr, Mr. Skelton, Mr. Allen, and Mr. Jefferson.

H.R. 1711: Mr. McDade.

H.R. 1771: Mr. Engel, Mr. Jenkins, Mr. Lewis of California, Mr. Penny, Mr. Skelton, and Mr. Smith of New Jersey.

H.R. 1774: Mr. Bonior.

H.R. 1777: Mr. Lipinski.

H.R. 2070: Mr. Downey, Mr. Schiff, Mr. Derrick, Mr. Stallings, Mr. Dwyer of New Jersey, Mr. Browder, and Mr. Gingrich.

H.R. 2149: Mr. Kolter, Mr. Geren of Texas, Mr. Thomas of Georgia, and Mr. Andrews of Maine.

H.R. 2223: Mr. Swett, Mr. Ramstad, Mr. Lehman of California, and Mr. Stokes.

H.R. 2248: Mr. Lewis of California and Mr. Richardson.

H.R. 2294: Mr. Johnson of South Dakota.

H.R. 2336: Mr. Chapman and Mr. Hall of Texas.

H.R. 2390: Mr. Lewis of Florida.

H.R. 2464: Mr. Dicks, Mr. Luken, Mr. Lehman of Florida, Mr. Nowak, Mr. Gallegly, Mr. Rahall, Mr. McDade, and Mr. Roemer.

H.R. 2472: Mr. Weldon.

H.R. 2565: Mr. Atkins.

H.R. 2614: Mr. Evans.

H.R. 2768: Mr. Bunning.

H.R. 2782: Ms. Norton, Mr. Annunzio, Mr. Hayes of Illinois, Mr. Pastor, Mr. Roemer, Mr. Jacobs, Mr. Nowak, Mr. Clay, Mr. Rahall, and Mr. Perkins.

H.R. 2890: Mr. Rahall, Mr. Feighan, and Mr. Neal of Massachusetts.

H.R. 3137: Mr. Derrick, Mr. Atkins, and Mr. Jontz.

H.R. 3164: Mr. Lancaster and Mr. Frank of Massachusetts.

H.R. 3250: Mr. Wilson, Mr. Guarini, Mr. Frost, and Mr. Gilman.

H.R. 3425: Mr. Atkins and Mr. Traficant.

H.R. 3473: Mr. Weiss and Mr. Scheuer.

H.R. 3517: Mr. Bilirakis.

H.R. 3544: Ms. Kaptur.

H.R. 3605: Mr. McCollum.

H.R. 3654: Mr. Lewis of Florida.

H.R. 3748: Ms. Oakar, Ms. DeLauro, Mr. Pastor, Mr. Thornton, Mr. Hamilton, Mr. Olver, and Mr. Kildee.

H.R. 3780: Mr. Bacchus and Mr. Shays.

H.R. 3801: Mr. Tauzin, Mr. Lewis of Florida, Mr. Livingston, Mrs. Vucanovich, Mr. Ray, and Mr. Richardson.

H.R. 3803: Mr. Guarini, Mr. Bryant, and Mr. Evans.

H.R. 3806: Mr. Smith of New Jersey, Mr. Ravenel, Mr. English, Mr. Oxley, Mr. Jenkins, Mr. Bilbray and Mr. Lewis of Georgia.

H.R. 3927: Mr. Slattery.

H.R. 3955: Mr. Kopetski and Mr. Jacobs.

H.R. 3967: Mr. Chapman.

H.R. 3981: Mr. Bruce, Mr. Dwyer of New Jersey, and Ms. Pelosi.

H.R. 4002: Mr. Swett and Ms. DeLauro.

H.R. 4013: Mr. Blackwell.

H.R. 4028: Mr. Perkins and Mr. Neal of Massachusetts.

H.R. 4032: Mr. DeLay.

H.R. 4073: Mr. AuCoin and Ms. Norton.

H.R. 4083: Mr. Vander Jagt, Mr. Andrews of New Jersey, Mr. Laughlin, Mr. Glickman, Mr. Perkins, Mr. Durbin, Mr. Erdreich, and Mrs. Bentley.

H.R. 4086: Mr. LIPINSKI.

H.R. 4094: Mr. TRAXLER and Mr. MOLLOHAN.

H.R. 4100: Mr. TORRES, Mr. CRAMER, Mr. VISCLOSKY, and Mr. BUSTAMANTE.

H.R. 4124: Mr. WYLIE.

H.R. 4153: Mr. PERKINS.

H.R. 4163: Mr. CUNNINGHAM.

H.R. 4168: Mr. ROHRABACHER.

H.R. 4178: Mr. NEAL of Massachusetts.

H.R. 4194: Mr. HERGER and Mr. DUNCAN.

H.R. 4206: Mr. STUDDS.

H.R. 4212: Mr. COX of Illinois.

H.R. 4218: Mr. DICKS.

H.R. 4255: Mr. ATKINS, Mr. EVANS, Mr. LANTOS, Mr. MACHTLEY, Mr. MFUME, Mrs. MINK, Mr. ROYBAL, Mr. SERRANO, Mr. SHAYS, Mr. DWYER of New Jersey, Mr. FRANK of Massachusetts, Mr. LEHMAN of Florida, and Mr. KOSTMAYER.

H.R. 4271: Mr. WEISS, Mr. DOWNEY, Mr. HUNTER, Mr. DIXON, Mr. LANTOS, Mr. BONIOR, and Mr. GONZALEZ.

H.R. 4277: Mr. OWENS of New York and Mr. REED.

H.R. 4293: Mr. DWYER of New Jersey, Mr. BLACKWELL, Mr. CRANE, Mr. MAZZOLI, Mr. MARTIN, Mr. TAUZIN, and Mr. GOODLING.

H.R. 4304: Ms. SLAUGHTER.

H.R. 4341: Mr. MCCANDLESS and Mr. LAGOMARSINO.

H.R. 4381: Mr. MURPHY.

H.R. 4399: Mr. RITTER.

H.R. 4416: Mr. RAHALL, Mr. GUARINI, and Ms. KAPTUR.

H.J. Res. 272: Mr. BLILEY, Mr. PRICE, Mr. MORAN, Mr. WHEAT, Mr. ENGEL, and Mr. MACHTLEY.

H.J. Res. 336: Mr. RAMSTAD.

H.J. Res. 357: Mr. MCCOLLUM.

H.J. Res. 388: Mr. STALLINGS, Mr. SIKORSKI, Mr. MCCRERY, Mr. DWYER of New Jersey, Mr. BROWDER, and Mr. MAVROULES.

H.J. Res. 390: Mr. FRANKS of Connecticut, Mr. MARKEY, Mr. THOMAS of Wyoming, and Mr. SMITH of New Jersey.

H.J. Res. 397: Mr. DARDEN, Mr. ROE, Mr. POSHARD, Mr. LEHMAN of California, and Mr. LANCASTER.

H.J. Res. 408: Mr. WALSH, Mr. RAHALL, and Mr. DINGELL.

H.J. Res. 409: Mr. ACKERMAN, Mr. SARPALIUS, Mr. SANDERS, Mr. GLICKMAN, Mr. COBLE, Mr. ORTIZ, Mr. CAMPBELL of Colorado, and Mr. BLACKWELL.

H.J. Res. 411: Mr. EMERSON, Mr. JONTZ, Mr. TOWNS, Ms. KAPTUR, Mr. GEKAS, Mr. HEFNER, and Mr. FALEOMAVAEGA.

H.J. Res. 415: Ms. NORTON, Mr. HUNTER, Mr. BEVILL, Mr. JONES of North Carolina, Mr. WILSON, Mr. GUARINI, Mr. MONTGOMERY, Mr. WALSH, Mr. ROEMER, Mr. GEREN of Texas, Mr. BLACKWELL, Mr. SKEEN, Mr. MAVROULES, and Mr. SOLOMON.

H.J. Res. 430: Mr. PASTOR, Mr. HALL of Texas, Mr. PANETTA, Mr. MCDERMOTT, Mr. MARTINEZ, Mr. BEVILL, Mr. BLACKWELL, and Mr. DEFAZIO.

H.J. Res. 434: Mr. ABERCROMBIE, Mr. ATKINS, Mr. DEFAZIO, Mr. DONNELLY, Mr. EVANS, Mr. FASCELL, Mr. GUARINI, Mr. HOUGHTON, Mr. HUTTO, Mr. KENNEDY, Mr. MARKEY, Mr. MARTINEZ, Mr. MCDADE, Mr. MCMILLEN of Maryland, Mr. MFUME, Mr. MOAKLEY, Mr. NEAL of Massachusetts, Ms. NORTON, Ms. OAKAR, Mr. OBERSTAR, Mr. OLVER, Mr. PERKINS, Mr. STUDDS, and Mr. TAYLOR of North Carolina.

H. Con. Res. 224: Mr. BROWN, Mr. BERMAN, Mr. LEVINE of California, Mr. FEIGHAN, Mr. MCCLOSKEY, Mr. HOUGHTON, Mr. RUSSO, Mr. EVANS, Mr. GOSS, Mr. GOODLING, and Mr. WEBER.

H. Con. Res. 256: Mr. NAGLE, Mr. TORRES, Mr. MACHTLEY, Mr. VENTO, Mr. LUKEN, Mr. GREEN of New York, Mr. DWYER of New Jersey, Mr. RANGEL, Mr. JONES of Georgia, Mrs. MORELLA, Mr. SENSENBRENNER, Mr. SWETT, Mr. JONTZ, Mr. WOLPE, Mr. HERTEL, Mr. NEAL of North Carolina, Mr. DELLUMS, Mr. OWENS of New York, Mr. PENNY, Mr. FEIGHAN, Mrs. MINK, Mr. MCMILLEN of Maryland, and Mr. HALL of Ohio.

H. Con. Res. 263: Ms. NORTON.

H. Con. Res. 281: Mr. EVANS, Mr. BUSTAMANTE, Mr. LAGOMARSINO, and Mr. HUGHES.

H. Res. 234: Mr. PORTER.

H. Res. 271: Mr. HAYES of Illinois, Mr. NAGLE, and Mr. JONES of Georgia.

H. Res. 315: Mr. DELAY.

H. Res. 385: Mr. LAGOMARSINO.

H. Res. 391: Mr. GREEN of New York, Mrs. MORELLA, and Mr. LAGOMARSINO.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1755: Mr. MCCURDY.

H.R. 2824: Mr. BEREUTER.

SENATE—*Wednesday, March 11, 1992*

(Legislative day of Thursday, January 30, 1992)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable HERB KOHL, a Senator from the State of Wisconsin.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

* * * *ye shall know the truth, and the truth shall make you free.*—John 8:32.

The prayer this morning was first offered by the former Chaplain of the Senate, Peter Marshall, in 1947:

"O Lord our God, if ever we needed Thy wisdom and Thy guidance, it is now. * * * We pray that Thou wilt bless Your servants chosen by the people of this Nation, for Thou knowest them, their needs, their motives, their hopes, and their fears. Lord Jesus, put Thine arm around them to give them strength, and speak to them to give them wisdom greater than their own. May they hear Thy voice, and seek Thy guidance. May they remember that Thou art concerned about what is said and done here, and may they have clear conscience before Thee, that they need fear no man. Bless each of us according to our deepest need, and use us for Thy glory, we humbly ask in Jesus' name. Amen."

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 11, 1992.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HERB KOHL, a Senator from the State of Wisconsin, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. KOHL thereupon assumed the chair as Acting President pro tempore.

The ACTING PRESIDENT pro tempore. In my capacity as a Senator from Wisconsin, I suggest the absence of a quorum. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Iowa [Mr. GRASSLEY] is recognized to speak for up to 20 minutes.

Mr. GRASSLEY. I thank the Chair.

(The remarks of Mr. GRASSLEY pertaining to the introduction of S. 2337 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. GRASSLEY. I yield the floor.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Wyoming.

TRIBUTE TO JENNINGS RANDOLPH ON HIS 90TH BIRTHDAY

Mr. SIMPSON. Mr. President, it is with great pleasure that I pay tribute to one of the most remarkable men ever to serve in this Chamber. That man is our beloved Jennings Randolph who celebrated his 90th birthday last Sunday, March 8. Jennings Randolph retired from this body in 1984.

Few Senators, I think past and present, have done more to address the needs of the handicapped or the poor or the veterans of our country than Jennings Randolph. He was the distinguished chairman of the Subcommittee on the Handicapped for almost a decade. Back in those halcyon days when the Republicans were in the majority, he worked tirelessly as the ranking minority member on the Environment and Public Works Committee. On the Veterans' Affairs Committee he was especially diligent in his efforts to ensure severely handicapped veterans were treated fairly.

Jennings Randolph devoted 53 years of his life to Congress. In the early sixties, he served in the Senate with my dear father, Milward L. Simpson, U.S. Senator from Wyoming. They became the closest of friends. When I arrived here in 1978, no one was more kind and generous and expansive to me than Jennings Randolph.

He was most gracious in introducing me to the other Members, gave me valuable counsel and advice in dealing with issues affecting the Nation's veterans. That is not to say that dear Jennings is to blame for some of the skirmishes I have had in the past with some representatives of the various veterans' groups.

Most importantly, I cherish the special relationship we have developed over the years. There were times when he has been like a father to me, and I am honored that he has shared so much with me about his beloved West Virginia, his family, his alma mater, Salem College, his days of coaching football at North Dakota, and his travels with his team to play other colleges there.

I spoke to him by telephone last week. I can assure my colleagues that age has not damaged his keen mind or his swift sense of humor. When I think of Jennings Randolph, I think of his great compassion for his fellow man, his wisdom, his wit, his innate courtesy, his gentility, and his civility. All of those attributes truly define this remarkable man with such a remarkably strong character. So happy birthday, Jennings, and may God continue to bless you.

Mr. President, I do not want to intrude on the Senator from Arkansas. I would ask the status of the floor at this time.

The ACTING PRESIDENT pro tempore. The Senate is in morning business. The Senator has 2 minutes remaining.

Mr. SIMPSON. I thank the Chair.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Oregon for a period of up to 5 minutes.

Mr. HATFIELD. I thank the Chair.

(The remarks of Mr. HATFIELD pertaining to the introduction of S. 2335 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Connecticut for a period of up to 5 minutes.

SCUDS ABOARD NORTH KOREAN SHIPS

Mr. LIEBERMAN. Mr. President, after several days of veiled and confusing threats from the administration against those North Korean ships steaming toward Iran with Scuds on board, the ships have in fact safely arrived in the Iranian port.

Clearly, we have lost the battle of the bluff, and we stand embarrassed in the glare of global attention. I wish the administration had stated its position on this matter more clearly and consistently and implemented that policy successfully. For if we cannot stop those ships from delivering their cargo, then we certainly should have said so instead of falling back on the threats that ultimately proved empty and embarrassing.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

But as troubling as this episode in the last few days has been, I think there is a larger point here, and we ought to magnify the significance of the incident beyond proportion. The larger point is that Iran and Syria, like Iraq, already have Scuds. Those are dangerous ballistic missiles that can be equipped with warheads containing weapons of mass destruction. They are a crude and destabilizing weapon of war that detracts from the prospects for peace and security in the Middle East, Persian Gulf, and the world.

In fact, it is certainly a reality of the post-cold war world that the greatest threat to world and American security is in the spread of primitive weapons of mass destruction and ballistic missiles that have the capacity to deliver them on foreign nations.

We cannot sit by and simply abide while nations like China and North Korea keep shipping these dangerous weapons to nations like Iran and Syria.

More pressure must be brought to bear on all nations to join the missile technology control regime, the MTCR. I think we have to work to strengthen that regime to prevent the proliferation of ballistic missiles around the globe.

We must also enforce American laws that penalize foreign companies that export missile components or send technicians to nations developing those missiles.

We have to do all we can here on the domestic front to ensure that American technology is not exported in a fashion that aids those nations developing their own ballistic missile capacities.

U.N. SANCTIONS AND IRAQ

Mr. LIEBERMAN. Mr. President, in a related matter, Iraq's Foreign Minister, Tariq Aziz, is at the United Nations today to once again plead for relief from U.N. sanctions. I hope that he will find nothing but deaf ears in response to his pleas. In fact, Mr. Aziz should be given a clear and definite deadline for Iraq to fully comply with all U.N. resolutions or face severe consequences. The community of nations is tired of Saddam Hussein's cat-and-mouse games, particularly when the stakes are so high.

We are dealing here with a nation that clearly wants to resume production of weapons of mass destruction. It still has Scuds, and it still has the capacity to produce new ones. It still has some of its nuclear power infrastructure, and the main power to continue to research and produce those weapons. It still has the ability to attack its own citizens, its own neighbors, even if it is temporarily short of some of the means to do so.

Mr. President, it is time for the United States, working through the United Nations, to give Saddam Hussein a new comprehensive deadline, and be prepared to use force against him if he does not fully comply.

I thank the Chair. I yield the floor.

HONORING THE NAVY SEABEES ON THE OCCASION OF THEIR 50TH ANNIVERSARY

Mr. NUNN. Mr. President, during March 1992, the Navy's famed Seabees are celebrating the 50th anniversary of their founding as a component of the sea services. I rise today to pay tribute to this group of American service men and women whose deeds have figured prominently during every major naval campaign since the early days of World War II. Today, the Seabees stand ready to respond to emerging crises anywhere in the world. Many serve on active duty in the Navy, but roughly two-thirds of the Seabees are proud members of the Navy Reserves. "Seabees" is the nickname applied to what is more officially termed Navy construction battalions.

Although their heroic actions may have gone relatively unnoticed by many citizens, their contributions have been every bit as important to our country's war efforts as those with more publicized exploits. The list of places where the Navy's Seabees have provided critical support to our fighting forces is an illustrious one, including Guadalcanal, Sicily, Normandy, Inchon, Chu Lai, and DaNang. Seabees have built airfields, roadways, and other facilities during combat, often operating under enemy fire. Most recently, more than 5,000 Seabees served in the Middle East, performing outstanding service during Operation Desert Shield/Desert Storm:

During the buildup of forces, the Seabees built 10 separate camps for more than 42,000 personnel; 14 galleys capable of feeding 75,000 people; 6 million square feet of aircraft parking apron, after moving 9 million cubic yards of sand and dirt; 4 ammunition supply points; and a prisoner of war camp accommodating 40,000.

Supporting the Marine Corps offensive, the Seabees constructed and maintained a 200-mile stretch of four lane, unpaved desert road. This feat was all the more impressive because, to avoid alerting enemy forces of our intent, the Seabees built this road at the last minute.

The Seabees accompanied U.S. Marine combat forces during their drive to liberate Kuwait.

The Seabees' contribution has not been limited to wartime alone. They have distinguished themselves with outstanding service during peacetime relief operations as well. The Seabees have provided vital humanitarian assistance during foreign disaster relief operations, such as those following the eruption of Mount Pinatubo and supporting operation provide comfort to aid Iraqi Kurds. The Seabees have also provided indispensable service during cleanup operations following domestic disasters, such as supporting hurricane relief work in South Carolina and earthquake recovery in San Francisco.

The Seabee's tradition is best typified by the can do spirit of the many unsung heroes who are proud to claim the title of "Seabee." These have included such heroes as Medal of Honor winner PO3c. Marvin G. Shields, and more recently, PO2c. Robert D. Stethem, who was killed during the hijacking of TWA flight 847 in 1985.

I am sure that all of the Members of the Senate join with me in wishing the Seabees a hearty well done and a happy birthday on this their 50th anniversary of distinguished service.

TRIBUTE TO C. PAUL PINSON

Mr. KENNEDY. Mr. President, it is a privilege to take this opportunity to honor a member of the Labor Committee staff, C. Paul Pinson, who has served the Senate since February 1959 and is now retiring.

Paul has served the Senate faithfully, beginning as a doorman in the Senate gallery and rising to the position of publications clerk for the Committee on Labor and Human Resources, where he has served for over 20 years. Throughout these years, he has assisted the committee with great distinction and dedication.

On behalf of the Senators on the committee and Paul's many other friends, I commend him for his outstanding service and his commitment, and I extend my best wishes to Paul and his wife Margie for the years ahead.

Today the Committee on Labor and Human Resources adopted a resolution commending C. Paul Pinson for his outstanding service. I ask that a copy of the resolution be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION OF THE COMMITTEE ON LABOR AND HUMAN RESOURCES OF THE U.S. SENATE, ADOPTED MARCH 1992, IN RECOGNITION OF C. PAUL PINSON

Whereas C. Paul Pinson has served the United States Senate faithfully since February 2, 1959;

Whereas C. Paul Pinson has served as publications clerk for the Committee on Labor and Human Resources for over twenty years; and

Whereas the Committee on Labor and Human Resources has benefited greatly from his dedicated and conscientious work:

Now, Therefore, Be it Resolved, That the Committee on Labor and Human Resources wishes to express its gratitude to C. Paul Pinson for his many years of service and for his devotion to the Committee and to the Senate; and

Be it Further Resolved, That the Committee on Labor and Human Resources expresses its sincere best wishes to C. Paul Pinson.

In Witness Thereof We, the members of the Committee on Labor and Human Resources, have subscribed our names hereto March 1992.

Edward M. Kennedy, Chairman; Claiborne Pell; Howard M. Metzenbaum; Christopher J. Dodd; Paul Simon; Tom Harkin; Brock Adams; Barbara A. Mikulski; Jeff Bingaman; Paul D. Wellstone.

Orrin G. Hatch, Ranking Minority Member; Nancy Landon Kassebaum; James M. Jeffords; Dan Coats; Strom Thurmond; Dave Durenberger; Thad Cochran.

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, the Federal debt run up by Congress stood at $3,847,708,770,002.49, as of the close of business on Monday, March 9, 1992.

As anybody familiar with the U.S. Constitution knows, no President can spend a dime that has not first been authorized and appropriated by the Congress of the United States.

During the past fiscal year, it cost the American taxpayers $286,022,000,000 just to pay the interest on spending approved by Congress—over and above what the Federal Government collected in taxes and other income. Averaged out, this amounts to $5.5 billion every week.

What would America be like today if there had been a Congress that had the courage and the integrity to operate on a balanced budget?

THE TRADE IN GUNS OF CRIME

Mr. MOYNIHAN. Mr. President, I rise today to alert my colleagues to the plethora of guns used by teenagers and children in crime. Guns that are small and concealable, and others that are capable of firing dozens of rounds in seconds. Guns that are made by unscrupulous manufacturers concerned with their quarterly profits but not where the guns go once they leave their factory floors.

The Wall Street Journal on February 28 highlighted a family of such manufacturers, including Raven Arms Inc., and Davis Industries, and their wares, cheap small-caliber pistols that have become favorites of teenaged hoodlums. Their guns are among those seized and traced more often by the Bureau of Alcohol, Tobacco and Firearms.

A fine series of articles currently running in the New York times shows the scope of the problem. There are about 200 million guns in circulation, and with proper care they can retain their deadly power indefinitely. Trying to find their niche despite the mass of guns already available, upstart outfits like Raven and David make small guns carried by street criminals and others like Intratec make exotic assault weapons used by drug gangs.

With all these guns available and manufacturers more than willing to cater to the needs and deadly fashion of criminals, how can we curb the violence? I certainly support measures such as the waiting period for purchasers of handguns under the Brady bill and under the Violent Crime control and Law Enforcement Act of 1991, but we ought also look to parallel and complementary measures.

On January 14, 1991, I introduced S. 51, a bill to ban .25 and .32 caliber and 9 millimeter ammunition. The .25 and .32 are small guns, many of which are made by Raven and Davis. The 9 millimeter is a common caliber for semiautomatic firearms used by drug gangs.

The guns are out there, and easily had by anyone who wants them. But these guns are useless without the ammunition they fire. After all, guns do not kill people; bullets do. As I said on another occasion, why not defang the deadly cobra? Why not control the flow of ammunition to control the guns that are already in the hands of criminals?

The proposition is a simple one, and is worth a try. It can certainly be no worse than any other strategy we have attempted thus far, and it may even save a few lives. I urge my colleagues to support this bill, and ask unanimous consent that the full text of the Wall Street Journal article and a New York Times article of March 10, 1992, be printed at this point in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Feb. 28, 1992]

FIRE POWER BEHIND THE CHEAP GUNS FLOODING THE CITIES IS A CALIFORNIA FAMILY

(By Alix M. Freedman)

RANCHO MIRAGE, CA.—George Jennings has come a long way since his hardscrabble youth in southern Kansas.

In the 1940s, fresh out of high school, he pulled up stakes and hitchhiked west in time-honored pursuit of the American Dream. He started out toiling at menial jobs—painting signs, working in a cannery, digging holes for clothesline poles. Today, however, a crew of gardeners tends to the olive grove, grapevines and lemon trees here at his sun-drenched villa.

Mr. Jennings, the patriarch of a secretive clan in southern California, has made his fortune from a market of misery: the surprisingly cheap small-caliber pistols that sell by the thousands, largely in America's inner cities. In these enclaves of poverty and crime, three brands—the Raven .25, the Jennings .22 and the Davis .380—hold sway.

It's a family affair.

The three companies that make the Raven, Jennings and Davis guns are all owned by members of the Jennings family. Every year, they churn out some 400,000 cheaply made Saturday Night Specials. While high-power weapons like the Tec 9, the AK-47 and the Mac 10 dominate the headlines in fleeting moments of mass murder, the Jennings family's small-caliber pistols are far more lethal by dint of their sheer numbers, rock-bottom prices and easy availability.

BEGINNER'S WEAPON

Selling for as little as $35, versus $600 for higher-quality weapons, these are the starter guns for the fearful, the criminal and, increasingly, the very young. To a startling degree, they also figure disproportionately in robberies and murders, piling up an alarming toll of casualties and an unending litany of violence.

A five-month investigation by this newspaper followed these handguns from the factory to the middleman and ultimately to the street. The picture that emerges is of a volatile family empire that built itself on the mundane details of low-cost manufacturing and high-volume distribution and thrives on the advantages of government protectionism and de facto oligopoly. In many ways, this is such a typical business that it's easy to lose sight of the product's main feature: It kills.

The tumult and tragedy that mark the family's products and customers are mirrored in the private lives of these California gun merchants. Their world has been racked by a range of trauma: wife-beating, a cocaine-overdose death, charges of death threats and tax evasion, and bitter one-upsmanship among themselves.

"They all could have been one big, happy family drinking beer," says Larry Gudde, a former foreman at one of the companies. "But they didn't choose to do that because they were afraid one would get a dollar more than the other."

FATHER AND SON

Three men loom large in the family's gun trade. George Jennings, 63 years old, founded Raven Arms Inc. in 1970 and all but created the high-volume market for cheap handguns. He has just settled a nasty sexual-harassment suit filed by his former receptionist, with whom he had a longstanding affair and whom he promoted to the board of directors.

His son, Bruce Jennings, 43, trained at his side and split off to form Jennings Firearms Inc. in 1978. Bruce is a convicted wife-beater and the target of a probe to determine whether he structured his companies to evade the federal excise tax.

George's son-in-law, Jim Davis, 48, expanded the family trade further by starting his own Davis Industries Inc. in 1982. He later teamed up with the family to drive his own brother out of the gun business. Like George, he declined repeated requests, by telephone and letter, for an interview for this article. Only Bruce agreed to discuss the clan's business.

For years the family companies operated as a friendly and informal cartel. But more recently, riven by internal feuds, they have begun invading one another's turf with new guns and cutthroat pricing. They also are expanding into higher-power weapons, 9-millimeter pistols that will sell in huge volumes at some of the lowest prices on the market.

MOUNTING TOLL

One likely result: a further escalation of the carnage and killing on the nation's meanest streets. The family's pistols sell in all sorts of neighborhoods throughout the U.S., but they exact their highest tolls in urban centers. "We have a fire burning, and these companies are throwing gasoline on it," says Josh Sugarmann of the Violence Policy Center, which studies violence prevention. "These people know what the inner-city gun buyer wants."

The Jennings interests offer no apology. Dave Brazeau, general manager of Raven Arms, says that, for those customers who use the pistols illegally, "if it wasn't a gun, it would be something else—a rock, a bow and arrow or a baseball bat."

But it isn't a rock or a bat that kids on the street prefer these days. Recently, in a graffiti-stained stairwell at the Martin Luther

King housing project in Harlem, a pudgy boy with a baseball cap shoved down over his round, smooth face embarked on a mission of revenge. A few days earlier someone had slapped his girlfriend. Now he was here to buy a gun—a Davis .380, which is deceptively powerful and easy to conceal in his pants pocket.

He hands $70 in crumpled cash to a lanky, 16-year-old dealer and grabs a brown paper bag, heavy with the weight of black metal. "I got to go do something," the pudgy youth says. He spins on his heels, bolts down the stairs and is gone.

"He's gonna shoot someone who smacked his girl," the teen-age dealer says. It is business as usual. In just a year the dealer, who calls himself Jerry and peddles only the Jennings family lines, says he has made $4,000 selling 50 small-caliber handguns—including seven to students at West Side High School, where he is an 11th-grader.

"Here's where I live, every young kid has a .22 or a .25," Jerry says. "It's like their first Pampers."

The guns that leave the family's factories are first bought by wholesalers, who in turn sell the weapons to gun stores and pawnshops for legitimate trade. Often, though, the pistols are bought in bulk at retail by illegal dealers—particularly in states where gun laws are lax—and smuggled by bus or train to urban centers for resale on the street.

Clearly, the criminals who use the guns are the ultimate abusers in this market. But the thriving trade has nonetheless redounded to the benefit of the Jennings family, helping its guns snap up market share and gain cachet with the young, turning some neighborhoods into virtual free-fire zones. For example:

In December, police say, 15-year-old Mack Moton used a Raven to rob and murder three cocaine dealers in Brooklyn, N.Y., shooting each one in the temple. Mack, who awaits trial, says an accomplice pulled the trigger. Less than three years before, the boy used a .25-caliber to kill a man who had stabbed his grandfather.

In Long Beach, Calif., 14-year-old Danny Jones stands outside a pawnshop and tells how he was just suspended from school after a Jennings .22 was found in his locker. Among his pals, Ravens and Jenningses "with pearly handles" are hot.

On Jan. 21, 15-year-old Rasheen Smith stood on a rooftop of a New York housing project and allegedly aimed his Raven .25 at a cop and fired, hitting him in the ankle. "Damn! I wanted to bust him in the cabbage," Rasheen said, according to bystanders. Rasheen is awaiting trial. "In this neighborhood, they distribute guns like food stamps," says the wounded officer in an interview at the hospital.

In 1990, in the Bronx section of New York, a five-year-old carried a Raven to kindergarten in his pocket. It was loaded.

Bruce Jennings vigorously disputes the idea that the family's guns figure prominently in inner-city mayhem. His customers, he says, "are just regular, everyday people who don't have the finances to buy higher-priced guns."

But statistics suggest otherwise:

The annual combined sales of Raven, Jennings and Davis may barely hit $20 million, a fraction of the size of the nation's No. 1 gun maker, Smith & Wesson Co. Yet the trio accounted for 22% of all handguns produced in 1990 in the U.S. and an even higher proportion of handguns used in crime. In the past two years the U.S. Bureau of Alcohol, Tobacco and Firearms has traced some 24,000 handguns sold after 1986 and used in murders and other offenses. The family's three brands accounted for about 27% of those traces, compared to roughly 11% for the much larger Smith & Wesson. Among the top 10 brands traced, Davis ranked first, Raven second and Jennings sixth.

In Houston last year, police seized almost 1,000 guns used in crimes, and the Raven .25, the Davis .380 and the Davis .32 were the top three guns. In Cleveland, police took in more than 2,000 handguns, and 154 of them were Ravens, making it the No. 2 brand.

Paradoxically, the ubiquitous Raven and the Jennings gun dynasty were born of a federal law meant to curb small-caliber weapons. After the assassinations of Robert F. Kennedy and Martin Luther King, Congress passed the Gun Control Act of 1968. The measure sought to reduce the availability of Saturday Night Specials, which then were largely imports, by cutting imports in half. Instead, it encouraged U.S. makers to jump into the market.

One of those was George Jennings, who ran a machine shop making airplane parts. He designed a cheap .25-caliber pistol and spent about $50,000 tooling up to build the new line. Raven soon emerged as the lowest-cost producer, powered by big volume; a company brochure in the late 1980s boasted of sales of more than 1.8 million pistols.

Mr. Jennings's wealth began building on itself. Though no one knows exactly how much the family is worth, Mr. Jennings and his offspring clearly enjoy the prerogatives of the rich: lavish homes, Rolls-Royces and a couple of airplanes are among their possessions. Like the rest of his family, Mr. Jennings has drawn little public notice; few photos of him seem to exist. Gun magazines have rarely written about him or the family. Even inside the trade, the Jennings clan is an enigma. "These people aren't members of the club," says William Ruger, president of Sturm, Ruger & Co., the nation's second-largest gun maker.

At a trade show in Nashville recently, when a reporter approached Mr. Jennings to ask for an interview, his face reddened. "We're nice, law-abiding people. We aren't doing anything criminal or illegal," he said angrily. "We're very private people, and we won't contribute to your digging up dirt," he said, walking off.

The family patriarch has endured more than his share of dirt lately, detailed in the harassment suit filed in Los Angeles Superior Court against him and Raven Arms by his former lover, 53-year-old Wilma Cash.

Ms. Cash started at Raven as a $3-an-hour receptionist in 1978. In 1983 her relationship began with Mr. Jennings, who stands over six feet tall and is trim with a full head of curly gray hair. According to Ms. Cash's deposition in the case, one day he handed her a pink message slip on which he had written: "Changes will be made in regard to your sexual activities."

Their six-year liaison blossomed in local hotels, on the road at trade shows and most often in his office, Ms. Cash testified. Along the way, she went on salary and rose to office manager, vice president and a member of Raven's board. She said that when she ended the relationship in 1989, Mr. Jennings demoted her, put her back on the time-clock and later fired her.

In a deposition taken for the case, Mr. Jennings readily admits the affair. "My wife and I had a problem, and as many women do, the sex is cut off as a weapon," he testified. He said he ended the affair when Ms. Cash got "too serious" and added that he fired her for a "really poor attitude" and absenteeism.

The suit was settled on undisclosed terms. A court order sealed the file and gagged the participants. And so ended the patriarch's unpleasant brush with notoriety.

Unlike his father, Bruce Jennings tends toward the flashier side of life. Thrice-married, he says he once described himself to the local paper's society columnist as a "full-time womanizer" and has joked that he keeps a plastic surgeon on retainer to remodel his lady friends. Balding and a bit pudgy, he isn't bashful about his own cosmetic surgery: He once shocked secretaries at Davis Industries when, clowning, he offered to drop his trousers to show the results of his liposuction. "All I had taken off were those love handles," he says.

His many luxuries include an indoor waterfall that drops into a Jacuzzi at his ski lodge near Lake Tahoe, a Spanish Casa Seata fighter-trainer airplane and a blue Bentley that still bears the dealer's plate: "The Best There Is."

He and his third wife spend their time in a giant house in Newport Beach, Calif., known locally as the castle. Mr. Jennings also briefly owned Arizona's famed McCune mansion, which boasts its own ice-skating rink and theater. He bought it in 1990 for $3 million and sold it a year later for $3.8 million. While he owned the home, Mr. Jennings threw a swank pool party for his neighbors there, featuring an actress dressed up as a hairdresser, on hand to blow-dry guests' wet locks.

Bruce joined his father's company in 1972, at age 23, after dropping out of high school and spending a few years working for the county as a gardener and selling insurance. In 1978, he broke out on his own, forming Jennings Firearms and designing a .22-caliber pistol using his father's stripped-down approach and no-frills manufacturing. Raven employees say that George Jennings, furious over his son's departure, kicked Bruce's Mercedes-Benz in a loud argument in Raven's parking lot. In Bruce's version, Dad tried to kick out the headlights of his Cadillac, not the Mercedes. "It was just a father-and-son fight," unrelated to his exit, Bruce says.

The Jennings .22 quickly became the No. 2 seller in its caliber, apparently leading to the next fracture in the family. Bruce's sister, Gail, and her husband, Jim Davis, reacted with "green-eyed envy," a family friend recounts. So in 1982, George Jennings helped Jim, who was Raven's office manager, start Davis Industries, a gun company that sold a derringer that Mr. Jennings personally designed.

And so the Jennings cartel had begun. Raven had the .22-caliber niche, Jennings had the .22 and Davis had the tiny two-shot derringers. Through much of the 1980s, they thrived, avoided price wars and discouraged anyone who dared come into their market.

Bruce Jennings sums up the old ground rules this way: "I don't attack my father's business, he doesn't attack me and we don't attack Jim Davis. We have no agreements, but there are general etiquette rules you apply to your family. We don't go out of our way to price-compete with each other so all of us wind up with nothing."

All three of the firms, whose low-tech plants are located in nondescript industrial parks scattered outside Los Angeles, use the same spartan approach. Low cost and high production are key. For the big U.S. handgun merchants like Smith & Wesson and Sturm, Ruger, producing guns is a labor-intensive process that yields small quantities, one reason their average price is $600 a gun. Constructing just one Colt .45 requires about half an hour. It takes a mere three minutes to completely assemble a Raven, rivals of the company say.

"You can't become any more efficient than us," says Bruce Jennings.

Raven Arms, Jennings and Davis Industries use many of the same suppliers, and often the internal parts of their guns are similar. Unlike standard guns, which use stainless steel, the Raven and its offshoots are made from cheap materials, notably die-cast zinc alloy. Molds form the Raven's key components, the frame and slide. And because the gun is virtually complete when it comes out of those molds, Raven need employ only 20 or so workers.

The zinc alloy used by all three has a low melting point—it begins to distort at 700 degrees Fahrenheit, compared with 2,400 degrees for the stainless steel in quality guns, says a competitor who also uses the alloy. As a result, the Jennings family's wares typically won't withstand much use compared with better-quality guns.

While Davis, Jennings and Raven all have minimal safety devices that block the trigger from being pulled, the pistols don't have other features, such as firing-pin blocks, that help prevent accidental discharge and that often appear on high-quality guns. Lance Martini, a firearms consultant who owns the Accuracy Gun Shop in San Diego, says he once took a tour of the Raven plant with George Jennings, who he says told him the only reason Raven takes the extra step of rifling the barrel on its pistols—a process that stabilizes the bullet path for accuracy—is to avoid federal restrictions on the sale of unrifled handguns.

Officials at the Bureau of Alcohol, Tobacco and Firearms say the Raven .25 fails the "drop test" and can discharge if it is loaded and dropped to the floor. But that isn't a violation of any law, since, under the Gun Control Act of 1968, the test applies only to imported revolvers, not U.S.-made pistols. In fact, there are no safety requirements for U.S.-made guns, giving them the status of one of the least-regulated hazardous products in America.

"On these guns," says Edward Owen, chief of the bureau's technology branch, "they don't do any more to them than they have to to make them work." The family has faced little legal fallout from product liability cases; it has vigorously fought those actions brought against it.

Despite periodic calls for gun control, actual restrictions are few, and are at the state level. Only a few states ban sales of models made by the Jennings companies. Maryland determined the Jennings .22 and .25 were "unreliable as to safety"; it also banned the family's other brands because of insufficient data. Furthermore, South Carolina and Illinois say the three brands can't be sold there because their zinc-alloy frames melt at less than 800 degrees.

Many gun-store owners have decided on their own not to sell the cheap pistols, saying the quality is too poor, replacement parts are too hard to get and the dollar profit per gun is too small. In Los Angeles, at Turner's Hunting and Fishing, clerk Donald Bush nods towards the $79.99 Jennings .22 and says the store discourages sales of the pocket-pistols. "They tend to jam," he says. "We try to move people up to better quality and higher stopping power. This is a last-defense gun."

Rivals estimate that, all told, the Raven costs $13 to make but sells to wholesalers for $29.75—an enviable 100%-plus gross margin. The margins are estimated to be even better for Jennings and Davis, which sell at higher prices. Bruce Jennings won't comment on the estimates but says that when overhead and other costs are added, "all of a sudden the $12 to $13 gun is up to $30 to $35."

During the 1980s, as the Jennings family expanded its hold over the low end of the gun market, its internal conflicts increasingly intruded into the business—especially in Bruce's case. He found himself in real trouble—and at risk of losing his gun license—just before Christmas in 1984.

At the time, he and his second wife, Janice, had been separated about six months. During an argument at their home, he grabbed his wife roughly and punched her so hard he broke her jaw. "It was her Merry Christmas," he later told police.

Afterward, Mr. Jennings called Janice and she taped the conversation. In it, Bruce told her how upset he would get it she had him jailed for battery, the police investigator's report says. "Oh, does that mean you're gonna kill me?" his wife asked. "No, I won't kill you—how about if I just break your [expletive] jaw again?" Bruce replied. He said that if she didn't drop all charges, "life is gonna get very unhappy for you, and a lot of bad things are going to happen to you."

Today, Janice refuses to discuss the matter. But over iced tea at the Four Seasons Hotel in Newport Beach, Bruce says, "I was a very hurt person. I lost my cool, and I hit her. You know what they say about hell hath no fury like a woman scorned. My wife had taken all the bonds, the Rolexes, the diamonds and the gold."

Mr. Jennings faced felony assault charges as a result of the incident—and a convicted felon can't hold a license to manufacture and distribute guns. It was at this point that he undertook a series of curious transactions that would lead to yet another brush with the law.

First, Mr. Jennings sold his company's tooling to a newly formed firm, Calwestco, which was supposedly owned by Gene Johnson, a former Jennings office manager. (The factory stayed in the same place—Chino, Calif.—but the sign out front was changed to Calwestco.) Then Mr. Jennings notified the firearms bureau that he was getting out of the gun business.

At least for public consumption, Bruce Jennings was a gun maker no more. Ultimately the maneuvering was unnecessary: He plea-bargained the felony down to a misdemeanor by agreeing to serve 90 days in the county jail, and federal agents ruled his gun license wasn't in danger.

But Mr. Jennings nonetheless stuck with—and expanded on—the new business structure, quickly drawing the attention of federal investigators again.

After serving his time in the San Bernardino jail, Mr. Jennings founded a wholesale company with the old name, Jennings Firearms, and began buying pistols from Calwestco and reselling them to gun distributors. His wholesale business also bought and resold the guns of another company he set up for his wife as part of their divorce settlement—Bryco Arms, named for his oldest son Bryan, who later died of a cocaine overdose.

In 1988, an inspector for the Bureau of Alcohol, Tobacco and Firearms began looking at the Jennings businesses in an unrelated matter. In the course of his examination, he determined that Bruce Jennings essentially controlled Bryco and Calwestco even though neither firm's license listed him.

Mr. Jennings conceded to the inspector that he was, indeed, "the responsible person" for the companies, according to the inspector's report. He said he had simply arranged the companies this way for, among other reasons, tax purposes and as a protection from product-liability suits. Nonetheless, the investigator recommended the gun licenses for every entity except Bryco be revoked on the grounds that Mr. Jennings had "purposely falsified" information to "shield" his involvement. Today, Mr. Jennings adamantly denies he had any ownership in either Calwestco or Bryco or directed their selling practices. He says the firearms bureau "came in with a predetermined idea and tried to make the circumstances fit it."

In any event, four years later no licenses have been revoked. What saved Mr. Jennings from being cast out of the gun industry? A deal between the firearms bureau and the Internal Revenue Service.

In investigating Mr. Jennings, the firearms bureau had also discovered that his business structure was part of what it believe to be a scheme to avoid full payment of excise taxes. In July 1988 the bureau notified the IRS and the two agencies decided the IRS would first pursue the more serious excise-tax fraud case while the bureau delayed further action on Mr. Jennings's gun licenses.

"Our attitude was that if the IRS found tax fraud, we might be talking felonies," says Jack Killorin, an official at the firearms bureau. And that would make the bureau's effort to yank Mr. Jennings's gun licenses a cinch.

According to federal officials familiar with the IRS probe, the alleged excise scheme was simple: The 10% excise tax is levied only on the price charged by the gun maker, not the wholesaler. So Calwesto and Bryco allegedly skirted the normal tax amount by charging artificially low prices when they sold their guns to Jennings Firearms. Then, Jennings Firearms, in its role as wholesaler but not gun maker, sharply increased the price and resold the pistols to other wholesalers, paying no excise tax and reaping big profits.

Calwestco has since closed and sold its tooling to Bryco, which now makes all the Jennings and Bryco brand guns. The IRS case is pending and the agency won't comment. People familiar with the matter say the IRS is seeking $500,000 in back taxes, plus penalties. Bruce Jennings admits the companies paid a reduced excise tax but says it's a common practice in the industry and the IRS probe "isn't a problem." The problem, he says, is that somebody complained to the IRS. His prime suspect: Jim Davis's brother, John, who denies contacting the agency.

Jim Davis and Bruce Jennings have been jealous rivals in the gun business for years. Bruce Jennings, in fact, calls his brother-in-law "a fat piece of [expletive] with a lousy personality." He pauses for a moment and adds: "But he's a good person with a good heart." One reason for the animosity may be that Jim's business is booming. The popular Davis derringers account for about 25% of Davis's annual production, federal statistics indicate, and they pay off all overhead, letting Jim Davis make pure profit from the rest of the product line, says an individual familiar with his operations.

But Mr. Davis's good fortune also is due to hot demand for the Davis .380. It is especially popular among criminals, according to the bureau of firearms, for its potent firepower and the ease with which it is concealed. The model accounts for about 50% of the company's production. It is called a "Baby 9" on the street because it approaches the power of a bigger 9-millimeter gun.

In Richmond, Va., now a key supply point for the illegal gun trade in New York and Washington, D.C., the Davis .380 has overtaken the Raven among illegal gun dealers, says Irving Moran, an agent with the bureau of firearms. On the street, the buyer may pay more than triple the normal retail price to avoid required waiting periods, registration and restrictions based on age and felony convictions. A gun "with bodies on it"—street lingo for one that has been used to murder and is vulnerable to tracing—is deeply discounted.

In the case of the Davis .380, fresh out of the box it can fetch as much as $450 on the street, giving dealers "the highest turnaround on their money," says Mr. Moran.

One person familiar with Davis's operations says the company's most successful products, the .380 and the .32, owe a debt of gratitude to John Davis, Jim's brother. Now 47, John started his apprenticeship in the gun business in 1978 when Bruce Jennings hired him as a machine operator at Raven. Four years later Jim Davis, then the office manager at Raven and a banker by training, persuaded his brother to help him start Davis Industries.

From the outset, the brothers' business relationship was rocky, according to John Davis, who owned 100% of the new business, particularly rankled his brother by refusing to sell him a stake in the firm and by taking away his credit card and company car, deeming them too costly.

Finally in 1987, after years of arguments, John Davis reached his limit and quit the company. "He's not a brother, he's a boss," John says. "It seems like the more money he made, the more distant he became to me."

Over the years, success didn't make Jim a hit with his other employees, either. Some say his lordly attitude was epitomized in the mid-1980s by the company's annual Easter egg hunt: He would look on as workers crawled all over the company grounds to retrieve plastic eggs stuffed with money. Some also tell of a time when he invited them to a barbecue at his home and told them to bring their own wieners. (He ultimately decided to pop for the hotdogs himself.) Nowadays Jim Davis rarely shows up for work at Davis Industries, employees say, preferring to indulge his passion for television and video games at Big Sioux, his Rancho Mirage mansion.

Having freed himself from his brother, John Davis decided to set up his own shop, founding Sedco Industries Inc. with a partner and taking aim at the .22-caliber market that Bruce Jennings had owned for a decade. But he underestimated his rivals: Before long, he met the full force of the Jennings family.

In January 1988, Bruce Jennings phoned John Davis to suggest he should be targeting the .32-caliber niche of Davis Industries, instead of "getting into [Bruce's] pocketbook," according to John Davis's deposition during a lawsuit the family later filed against him.

In a second phone call a few months later, John Davis testified, Bruce interjected a more ominous warning: He said "people had died in 7-Eleven stores over $100, much less than what I was going to cost him in making this gun." Mr. Jennings admits that he may have mentioned "something along those lines," but says this wasn't a threat.

In conversations recorded by John Davis, some wholesalers said Mr. Jennings had implicitly threatened to cut off dealers who did business with Sedco. Steve Feinberg, the owner of Euclid Sales, a wholesaler in Ellenwood, Ga., for example, expressed such concerns. "We want to sell everybody's product, but I can't afford to get cut off from them," the wholesaler told Mr. Davis, according to what purports to be a transcript of a tape-recorded call.

Asked to comment for this article, Mr. Feinberg says he doesn't recall the conversation and says Bruce Jennings never suggested he would retaliate.

Mr. Jennings says he conveyed his unhappiness with Sedco to some of his wholesalers because the company, he claims, "was supplying a copy of my gun at a substantially lower price." But he denies threatening any of the dealers.

Sedco had been operating just three months when the family landed its fatal blow: A lawsuit seeking $45 million was filed against Sedco, John Davis and his partner. The plaintiffs: Bruce Jennings, George Jennings—and Jim Davis.

The suit accused Sedco of illegally copying the Jennings .22 and stealing trade secrets, among other things. It set off a wave of industry gossip, and Sedco's sales dwindled. By the summer of 1989, the company had stopped operating.

In June 1991, a federal judge entered a default judgment and ordered Sedco to pay $134,000 in damages and attorney's fees. Three months later, John Davis declared personal bankruptcy.

These days, John Davis barely talks to his older brother. He hasn't forgiven him for joining the Jenningses in ruining him. "My brother got caught up in the way the Jenningses lived," he says. "Money became the God."

Rid of Sedco, the Jennings troika seemed assured of reasserting its hegemony over the under-$100 gun market. But it hasn't turned out that way. Other relatives and family intimates have begun to chip away at the clan's hold on the market, which has fragmented beyond anyone's control. Now, the Raven, Jennings and Davis companies have set upon one another, as they expand into overlapping niches.

The interecine combat started when a nephew of George Jennings formed Sundance Industries in 1989 and began selling a clone of the Raven .25. The same year, Jim Waldorf, a buddy of Bruce's when they were in high school, started up Lorcin Engineering Co. in Mira Loma, Calif., setting his sights on Raven, too. Lorcin's plant manager: John Davis.

Sundance turns out only small volumes, but Lorcin is a bigger threat. It has brought uncharacteristic marketing flair to an industry that remains all but untouched by Madison Avenue. While Raven and Jennings avoid advertising, Lorcin heavily touts its .25-caliber pistol as "the world's most affordable handgun." It has introduced eye-catching innovations like neon-pink grips and camouflage guns.

It has also aggressively targeted the pawnshop trade. At a Cash America pawnshop, located across the street from the J.C. Napier housing project in Nashville, manager David Buck says he does a brisk business in Lorcins. Pointing to a display of the guns, priced at $45 each, he says simply: "They're low-dollar guns for poor folks."

Lorcin's sales have soared, apparently clipping Raven's wings. Raven's production, which peaked at about 15,000 pistols a month a few years ago, according to government statistics, later fell to about 8,000 a month, Mr. Waldorf estimates. Today, Lorcin begins shipping its new .380 pistol and is expected to introduce a .22-caliber in July. "The Jennings family has controlled the market for 20 years," declares Mr. Waldorf. "They're ripe to get picked."

In the face of their first serious competition in 20 years, the relatives that used to play—and price—together are bent on taking aim at one another.

Jim Davis is soon expected to introduce a .22 that will compete head-on with Bruce Jenning's best-seller. Bruce has just cut prices by 14% on his .380 to match the Davis price. Even George Jennings, who hasn't introduced a new product in two decades, considered coming in with a .22 that would have nudged up against his son's turf.

"This end of the market is collapsing," says a distressed Bruce Jennings. "We're just going to have a bunch of unprofitable companies."

"Now," says Lorcin's Mr. Waldorf, "it's a no-holds-barred free-for-all." A simple truth motivates this flurry of activity, he says. There are more poor people than rich people. Cheap is synonymous with volume."

To get new markets, the Jenningses and their rivals are moving up the ladder of firepower with plans to expand into the 9-millimeter segment. This summer, Bruce Jennings will unveil a 9-millimeter gun that, at $155, will be among the cheapest on the market. "I'm trying to work my way out of this mess," he says.

As for George Jennings, he is leaving the gun business altogether, his son says. That decision was hastened last November by an accidental fire that gutted the Raven factory. But the patriarch has taken steps to let his grandchildren pick up where he left off.

The elder Mr. Jennings has just sold his Raven tooling to a new gun company called Phoenix Arms, the firearms application for which is now pending. Bruce Jennings says Phoenix is equally owned by his ex-wife, Janice, and his three children; by Jim Davis's four children; and by Dave Brazeau, the Raven general manager.

"When Raven burned down," he says, "there was a decision to be made, and the decision was that Raven would liquidate, my dad would retire and the grandchildren would invest in it."

And so George Jennings has ensured that his progeny will perpetuate his legacy, grinding out thousands of cheap pistols that will arm another generation of youth in America's cities.

Top crime handguns

[Leading handguns used in crimes 1990-91. Data are based on completed traces of handguns sold after 1986]

Davis	2,676
Raven	2,671
Smith & Wesson	2,523
Taurus	1,717
Sturm, Ruger	1,199
Jennings/Bryco	1,164
Intratec	1,158
SWD	894
Beretta	879
Glock	860

Source: Bureau of Alcohol, Tobacco and Firearms

Top pistol makers

[Ranked by share of total pistol production in 1990 of 1.36 million units]

	Percent
Smith & Wesson	16.6
Sturm, Ruger	15.4
Davis	10.5
Jennings/Bryco	10.5
Beretta	9.2
Raven	8.7
Colt	6.9
Firearms Imp. & Exp.	2.4

	Percent
Arms Technology	2.3
Lorcin	2.2

Source: Bureau of Alcohol, Tobacco and Firearms.

[From the Wall Street Journal]

IN MILWAUKEE, THE RAVEN FINDS ITS VICTIMS

MILWAUKEE.—The Raven, and guns like it, have defined the life of 17-year-old Felicia Morgan.

"There is really a single purpose to this gun—to kill people," contends Wisconsin's state attorney general, James E. Doyle.

Ms. Morgan, who now faces the possibility of life imprisonment without parole, is a petite teen who wears her hair in corn-row braids. Her lawyer, Robin Shellow, says she is simply a product of her surroundings.

"Felicia's nerves have been rendered raw by the guns around her," says Ms. Shellow. "She could no longer distinguish the gunfire that killed her friends and relatives from the gunfire for which she is charged. Like Brenda Adams, she bleeds openly and bears witness to the carnage of the inner city."

But George Williams, the father of the slain Brenda Adams, angrily declares there is only one victim, and she is dead. "If it were left to me, I'd blow Felicia Morgan's brains out myself," he says. "The hardest part is to see your kid in a body bag. You don't even get to hug her goodbye."

STREET LIFE

For all the horror of the act, Felicia, clutching her jail-issued Bible and a purple diary with a drawing of a unicorn on the cover, seems barely out of childhood. When she gets the chance, she clings to her mother, Priscilla, who is in jail awaiting sentencing for shoplifting. During a recent reunion with her mother in a judge's chambers, her loud, tearful wails could be heard past the walls and in the courtroom. She later penned a note on scratch paper to her lawyer: "Do I get to kiss her goodbye?"

Felicia grew up as a street-wise kid, the middle child among five siblings. Her mother and father eventually split up, and her mother moved in with a cocaine dealer. "He had big guns, like .357s," Felicia recalls.

The girl rarely attended school and drifted among the homes of various relatives; she says she was raped by a landlord when she was 12. Surrounded by crime, Felicia got into varying amounts of trouble herself. Last August some friends stole a Dodge minivan, and later Felicia drove it, hit another car and fled the scene. In October she was caught shoplifting clothes. In a statement to police, Felicia said "if I don't keep my hands where they belong," she would end up in the "danger zone," and, "I will just have to suffer and find out the hard way."

Felicia's mother once used a Raven .25-caliber pistol to try to shoot Felicia's father; she also shot a former boyfriend in the thigh with a Jennings .22. Felicia's eldest brother, Kenneth, carried a Raven in his drug-dealing days. In 1990, he says, he shot two rival dealers with another gun.

Later the same year, Felicia's uncle was killed with a .22-caliber revolver. Two days after the funeral, a cousin was murdered in a drive-by shooting. A few months later, the boyfriend of Felicia's sister was shot with a .38; he's now paralyzed from the chest down.

So perhaps the shock isn't that Felicia Morgan is charged with shooting and killing another teen-age girl with a Raven last October, but that it didn't happen sooner.

At about 2 a.m. on Oct. 26, Brenda Adams stood outside a Golden Chicken outlet, proudly wearing the patchwork-leather trenchcoat she had been given for her 17th birthday one week earlier. Felicia and a 15-year-old friend, Minuella Johnson, approached her to steal it. Brenda resisted and Felicia allegedly pointed a silver Raven and fired. As she sped away a witness says she bragged, "I shot that bitch."

A COMMON THREAD

In this cold city's smoldering ghetto, small firearms flow easily into the hands of users like Felicia. They are a sinister tie that binds generations of inner-city inhabitants, shaping and twisting a multitude of lives. Small-caliber pistols, and the Raven .25 in particular, are the gun of choice for the very young—cheap and lightweight, easily concealed in a pocket and lacking much of a kick. Last year, police in the Milwaukee area confiscated four times more Ravens than any other handgun, according to the state's crime lab.

"This is the gun that kids are using to maim and kill each other," says county circuit judge Michael Malmstadt. "When I talk to kids about their crimes, it's incredible how many times it's a .25, and if it's a .25 you can bet it's a Raven."

But in the brief interlude that followed, she was aiming to turn her life around. In a few days she was scheduled to start a new job at a Popeye's fried-chicken outlet. On Friday, Oct. 25, things began on a hopeful note. But according to court testimony, police reports and interviews, the day unraveled quickly.

In the early afternoon, Felicia drove downtown with a friend, Silas Hampton, first to Milwaukee's jobs bureau and then to Popeye's to complete her application. Felicia says that, as he had often done in the past, Silas gave her his tiny Davis .32 derringer for safekeeping. (Silas couldn't be located for comment.) She stuck the gun into her bra. "The derringer is all the gun a girl needs," she said later in an interview. "A girl shouldn't want to be a hotshot."

THE NIGHT UNFOLDS

The pair stopped at a liquor store and then joined Minuella and her boyfriend, Kurearete "K-Dog" Oliver, at a sparsely furnished apartment the boys used as their hangout. The foursome relaxed for a few hours, then split up, and at about 1:30 a.m. got back together and piled into Kurearete's car. They were off for a night of armed robbery.

Tucked into the car's sun visor was a Raven .25, which Minuella had taken from atop her mother's TV set earlier in the day. The mother, Minnie Johnson, bought the pistol three years earlier. "It looked good. It was silver with a wood handle, and the silver attracted me," she says.

The group first came upon a woman wearing a "herringbone," a large gold necklace. Kurearete, 18, handed the Raven to Felicia and ordered the two girls to go get it, Felicia later told police. (Kurearete says Felicia took the Raven on her own.) Before they could grab the necklace, three other assailants beat them to it. The girls came away with only a pair of blue Adidas sneakers.

The four next came upon three girls and a young boy. According to one of the victims, Minuella said, "I have to have that jacket, dog." The girl complied. Felicia jumped out of the car and allegedly ripped a necklace off one of the girls. Then she and Minuella went after the young boy. Minuella took his hat, and Felicia told the boy, "Up the coat, too, I want it for my little brother." She then held the Raven to his head and according to the victim, told him, "Count to five, because your life is about to end." Felicia denies saying this.

With Kurearete at the wheel, they sped away so quickly their car nicked a white station wagon. Enraged, Kurearete picked up the Raven from the arm-rest and fired at the wagon through a window, according to Felicia. (Kurearete denies this.) Felicia told police this was the first time she realized the Raven was loaded.

A CHANCE ENCOUNTER

As Kurearete was driving along, Minuella noticed Brenda Adams, who had emerged from a house party and was waiting for a ride. According to Felicia, Minuella said: "I want that trench," eyeing Brenda's birthday present. On a second drive by, Felicia and Minuella stepped out, and Kurearete again handed Felicia the Raven. A witness says Minuella wasted no time: "I'm asking you politely, bitch, come up out of that coat!" Brenda resisted, and Minuella punched and kicked her, dragging her across the street and beating her against a lamppost.

Two young men tried to come to Brenda's aid, but Felicia stepped in, wielding the pistol and telling them to back off. "Bitch gotta gun!" one of the men screamed three times in a row. Shots rang out from across the street as someone apparently tried to break up the fight. Felicia pulled out the Raven and, at point-blank range, fired once with her eyes closed, she later told police. The bullet pierced Brenda's left shoulder near the neck, and she slumped to the ground. More shots erupted from across the street. Minuella and Felicia were still tugging at the coat when Kurearete pulled up in the car and yelled, "Get in!"

Minuella, trenchcoat in hand, ran for the car, but Felicia lingered. She reached down and grabbed Brenda's necklace, but dropped it when she saw the blood running down the girl's left shoulder. More shots were fired from across the street, and Felicia broke for the car. Felicia later told her probation officer that she then paused, spun around toward Brenda and pulled the trigger again, though Brenda suffered only one wound.

In the light drizzle, Brenda lay dying in a pool of blood on the sidewalk, her carotid artery severed. Around her were a few buttons that has popped off her blouse during the struggle.

POLICE BLOTTER

The next evening the two girls turned themselves in after seeing the crime reported on the evening news. When Felicia showed up at the police station, she was wearing the blue Adidases and the black and white coat stolen the night before.

Initially, Felicia confessed to the murder. But at a later court hearing to determine whether she should be tried as an adult, Felicia's testimony changed substantially. She said she was confused and intimidated when she signed the confession; then she denied ever having held the Raven. She said she had pulled out the Davis derringer that Silas had given her, but had never fired it.

The juvenile court decided to try Felicia as an adult. She is expected to be charged soon with armed robbery and first-degree intentional homicide and will enter her plea shortly thereafter. Felicia's lawyer will argue that she suffers from post-traumatic stress as a result of overexposure to urban violence.

Minuella has been convicted of first-degree intentional homicide and armed robbery and received the maximum juvenile sentence of 10 years. Silas wasn't charged, but Kurearete awaits trial on charges of felony murder and armed robbery and could get 40 years in prison if convicted. In an interview in a holding cell, Kurearete, wearing orange prison-issue coveralls and black thongs, insists he had no involvement in any crime, other than to place the Raven in the sun visor. "A girl didn't have to die, and they didn't have to rob," he says. "They both had leather coats when they did it.

AN EASY SALE

On the blighted streets of Felicia's neighborhood, the Raven still beckons. Her brother Kenneth, who says he no longer deals drugs, came under fire in October while walking down the street, though he doesn't know who did the shooting. He says he recently bought his older sister a Raven at a gun store for $89. He figures she needs protection.

Tina Harris, one of Felicia's best friends, is about to buy a Raven, too. She wants to wear fine clothes without fear of being robbed. "I'd rather end up in jail," the 16-year-old says grimly, "than spend the rest of my life looking over my shoulder—or be dead." For her part, Felicia says she is sorry, though not responsible, for Brenda's murder. "I'd give the world if I could change what happened," she says. "Sometimes I feel I should have died that night, too. I know how it feels to have a family member pass. I don't think Brenda's family will get over this too fast."

The silver Raven that killed Brenda will be introduced as evidence at Felicia's trial. As the bailiff puts handcuffs on her wrists to take her back to detention, Felicia stands quietly, seemingly lost in a daydream. Then she whispers, "I wish guns would stop being in the world."—Alix M. Freedman.

[From the New York Times, Mar. 10, 1992]

Pistol Packs Glamour, Power And Reputation as a Menace

(By Larry Rohter)

Miami, March 9.—To Mike Solo, marketing and sales director at the Intratec gun plant here, the Tec–9 semiautomatic pistol the company makes is a "high-spirited" firearm ideal for home protection or target practice and a "fun gun" avidly sought by weekend shooters and collectors because Intratec knows how to "give people what turns them on."

But law-enforcement officials and gun-control advocates around the country take a decidedly different, and much dimmer, view of the 9-millimeter assault pistol, with the ventilated 5-inch barrel and 32-round magazine that is manufactured at Intratec's small factory just off the Florida Turnpike and sells for only $260. Citing statistics that indicate the Tec–9 is confiscated in crimes at a rate higher than any other weapon, compared to the number in circulation, many officials single it out as one of the biggest menaces on America's streets.

"We are running more and more into these exotic weapons, which serve no useful purpose," said LeRoy Martin, Superintendent of Police in Chicago who is leading a campaign that urges the Illinois Legislature to ban the Tec–9 and weapons like it. Futuristic and intimidating in appearance, as well as inexpensive, the gun has been a favorite of drug rings.

"In law enforcement, they are not even in our arsenal because of the hazard they present to innocent people," he continued. "They are designed to spray whole groups of people, and they can be equipped with extra clips for extra firepower, or can be modified in a short time to be fully automatic."

On another level, Intratec, which also makes the Tec-22 "Scorpion" handgun and has just introduced the Protec–25 line of pocket-sized pistols, is typical of a whole group of gun makers. Over the last decade, as long-established general weapons manufacturers like Smith & Wesson, Colt and Remington have watched their sales and profits decline, Intratec and several other small, specialty manufacturers looking for specific niches among the gun-buying public have flourished.

Raven Arms and Davis Industries of California, for instance, have established themselves as the leading manufacturers of cheap pocket-sized pistols, though Intratec hopes to seize a portion of that market with its newest line. The Sentinel Arms Corporation found success with "The Striker," a 12-shot, 12-gauge shotgun first used against guerrillas in southern Africa. Other small manufacturers have made their mark by making copies of weapons originally designed by Uzi and other foreign gun companies who have found their access to the American market diminished by import controls.

But the emergence of the inexpensive 9-millimeter semiautomatic pistol based on paramilitary design, and the ability of companies like Intratec to ride that trend to prominence and prosperity, is one of the most startling developments in the gun market over the last decade. Sales of Inratec's military-style pistols, at more than 30,000 last year, were not large compared to the overall figure of two million handguns, but that production fed what has become an energetic corner of a generally flat market.

The assault pistols have appeal among a certain breed of gun enthusiasts. "I've owned one model or another since they first came out," Jerry Ahern, a writer and gun collector in Commerce, Ga., said of the Tec–9. "I like it because it's a cute-looking gun, a neat little thing that's not your typical handgun. It's pleasant to go out and shoot once in a while."

Mr. Ahern, who writes science fiction and adventure novels and also reviews guns for weapons publications, added that he has several friends who also own the Tec–9. "This gun is primarily used by good, honest citizens," he said. "If needed in home defense, it looks scary enough, that the intruder would probably take off and run and you would not have to shoot at anybody."

Nevertheless, the nation's police forces strongly condemn the Tec–9's easy availability and popularity. Police officers say they increasingly find themselves forced to go up against the weapon on the streets, where it is valued by crack dealers and street gangs willing to pay markups of 300 percent or more to get their hands on one in states or cities, including New Jersey and New York City, where its ownership is outlawed or severely regulated.

"The Tec–9 is the weapon of preference for drug dealers here in New York City," said Lieut. Kenneth McCann, co-commander of the New York Police Department's Joint Firearms Task Force. "It gives the impression of being a fully automatic Uzi or machine gun, and that's the way it is interpreted on the street. We're coming across them more and more frequently." Beginning April 1, adding to already stringent handgun controls, the ownership or possession of the Tec–9 and certain other assault weapons will be illegal in New York City.

In other large cities around the country, the police say the story is much the same. Dallas police reported confiscations of more than 575 of the pistols over the last five years, more than any other assault weapon, in a recent tabulation of weapons used in crimes. In the nation's capital, the Tec–9 and a clone manufactured by A.A. Arms, a company eager to cash in on the weapon's popularity, accounted for more than half the 172 assault weapons seized by the police in crimes in 1990 and the first nine months of 1991. Chicago police report that they seized 88 Tec–9 pistols in criminal cases in the first eight months of 1991, as against 27 during the same period of 1990.

BAD REPUTATION SEEMS TO BRING BETTER SALES

The Tec–9's disproportionate role in crime is suggested by Federal gun tracings. Though they involve only a small percentage of crime weapons, the tracing, requested by law-enforcement agencies, suggest the mix of guns being seized.

In 1990 and 1991, Federal authorities traced 1,546 Tec–9 pistols. In those two years Intratec sold around 26,000 Tec–9's, and since the gun began to gain popularity, in 1985, fewer than 100,000 have been made.

In contrast, during that same period tracings were run on 9,599 Smith & Wesson handguns. But in those two years close to one million Smith & Wesson handguns were sold, and tens of millions are in circulation.

This chorus of public alarm and disapproval does not seem to discourage people at Intratec, founded under another name in 1980 by a family of Cuban exiles that also own two gun shops here. On the contrary, company executives see their weapon's bad reputation in law-enforcement circles and the news media as a useful marketing tool.

"I'm kind of flattered," Mr. Solo said when he was asked about condemnations of the Tec–9. "It just has that advertising tingle to it. Hey, it's talked about, it's read about, the media write about it. That generates more sales for me. It might sound cold and cruel, but I'm sales oriented."

Mr. Solo acknowledged that "your guns end up in the hands of all types of people," including criminals, but said that the primary market for the Tec–9 is "John Q. Public, the average Joe," looking for an affordable firearm. "We feel that we are trying to give them the most for the least," he said. One Intratec advertisement shows a father helping his small son shoot an assault pistol.

"It's a plinking gun," Mr. Solo said. "You can go out and take the finest Smith & Wesson or Ruger and fill up your magazine, and if it's staggered it will have 18 rounds. Whereas our magazines have 32 rounds, so you can fill it up and plink a little bit more, and at a suggested retail price of $260, the cost will also be a lot less."

Mr. Solo said that the Tec–9 is also used by several police anti-terrorism teams around the United States. In addition, he said, Intratec has sold the weapon to police and military forces in several third world countries, who hope its intimidating appearance will deter street demonstrations and insurgent political movements, thereby averting bloodshed.

JUST ANOTHER GUN OR A SPECIAL MENACE?

Still, the Tec–9 also comes equipped with features that give it special appeal to professional lawbreakers, Intratec's sales brochures, for example, boast that various models of its weapons are made with Tec-Kote, a special finish that "provides a natural lubricity to increase bullet velocities" and "excellent resistance to fingerprints."

"Don't you find that almost obscene?" Chief Martin asked. "You can use this weapon and discard it, and police can't even find your fingerprints. That's what they are saying in a veiled way." Mr. Solo responded that the coating does not actually prevent fingerprints, and is intended only to retard the corrosive effect of body oils.

Gary Kleck, a criminologist at Florida State University who wrote "Point Blank: Guns and Violence in America" (Aldine de Gruyter, 1991), contends that the Tec–9 has been unfairly singled out as part of a longstanding tendency by the press and the police to label certain classes of weapons as "bad guns." Take away its oversized magazine and its aura of intimidation, he said, and the Tec–9 is just another gun.

The rise of the Tec–9 coincided with a more general increase in sales of semiautomatic pistols of all kinds, Dr. Kleck said. "It is no more lethal than other semiautomatic handguns, or handguns in general," he said. "Criminals may like it for reasons of style, but nothing in its technical attributes sets it apart from dozens of other models," and so "there is no earthly reason to eliminate it."

Dr. Kleck and many groups opposed to gun controls also argue that the statistics kept by police forces and the Federal Government have been manipulated to overstate the use of the Tec–9 and other assault weapons in crime. They say that assault weapons, which are hard to conceal, are infrequently used in crime and that the overwhelmingly majority of such weapons are owned by law-abiding citizens.

Gun-control advocates disagree. They have focused on assault pistols as a special menace, and the Tec–9 in particular. "You don't pass legislation gun by gun, but this is the worst thing out there, the absolute epitome of the problem," said Bernard Horn, legislative director for Handgun Control Inc., a leading lobbying group for gun control, based in Washington. "It's ideal for urban warfare, and it's representative of a whole class of weapons that we would like to see eliminated."

According to the Federal Bureau of Alcohol, Tobacco and Firearms, which tracks the use of weapons for unlawful purposes, the rise of the Tec–9 in popularity among criminals has been both rapid and recent. In 1986, the pistol ranked only sixth among assault weapons traced to crimes, and in 1987 it was fifth on the list. In each year since 1989, the Tec–9 and clones have ranked first among assault weapons traced to crimes.

FROM NONDESCRIPT PLANT, A PISTOL WITH GLAMOUR

Intratec executives admit that any limitations on production of the Tec–9 will be a severe blow that will lessen their profitability. The company produced more than 14,000 Tec–9 pistols in 1991, Mr. Solo said, up about 2,000 from 1990, and expects to slightly increase its production this year.

Intratec's founder, Carlos Garcia, has been making the Tec–9 in one form or another since the early 1980's, when he acquired rights to the weapon from a Swedish designer who had made improvements on a submachine gun originally designed for the South African Government. But Mr. Solo said the weapon owed its initial burst of popularity in this country to the "Miami Vice" television series, which featured characters using the Tec–9 in gunfight scenes.

Because of its futuristic and menacing design, the gun has also appeared in movies like "RoboCop" and, most recently, "Freejack." Mr. Solo credits much of the Tec–9's popularity to that flashy and intimidating look. If "the big boys," as he calls the major gun manufacturers of New England, were to take the same aggressive approach, he argues, they might find it easier to remain competitive.

"A lot of them are very archaic in their thoughts, their machinery and their marketing," Mr. Solo said of the traditional companies. "They haven't made anything sexy, with any pizazz. They keep it low key because our government, if we do anything exciting, it's like boom, they're down all over us."

Intratec's plant, a gray building with no logo or company name to identify it, occupies 30,000 square feet and employs about 50 people, most of whom are Cuban-Americans or immigrants or refugees from other Latin American countries. A plant is being modernized to improve design and production of the Tec–9, the Tec–22 and the Protec–25, which Mr. Solo described as a small "nighttable gun" for use against intruders or by police officers "who want a backup piece and don't have a lot of money to spend."

The company is worried enough about the prospect of laws that would forbid manufacture of the Tec–9 to have surreptitiously lobbied Florida legislators. But the publicity given to gun-control bills in Congress and to incidents in which gunmen have committed mass murders may actually work in the company's favor, at least for now.

"The wrath of the government, the only thing it has done is increase our sales," Mr. Solo said, laughing at the paradox. "What people are starting to realize is, 'Geez, I really want that firearm, but if I can't get it anymore, I better buy it fast.' I'm sorry to say, whenever anything negative has happened, sales have gone tremendously high."

SOLD FOR $157, MORALS NOT INCLUDED

Responding to an inquiry made through Mr. Solo, Mr. Garcia declined to be interviewed for this article. But on rare occasions in which he has agreed to discuss his company's products with local reporters, he has rebuffed all assertions that the Tec–9 should be banned because, unlike other weapons made for hunting or target shooting, it serves no sporting purpose.

"I know some of the guns going out of here end up killing people," he told The Palm Beach Post in a 1989 interview. "But I'm not responsible for that. The ultimate user is you the public. It is up to you how responsible you are in using that firearm, your car or what have you."

More recently, Intratec has had great commercial success with the Tec–22 "Scorpion," an even cheaper assault pistol with the same marked paramilitary appearence. The weapon comes with a standard 30-round magazine that can be "jungle clipped" with another magazine for 60 rounds of immediate firepower, features a grip that can stow another 50 rounds, and breaks down into only three parts.

But the strongest selling point of the Scorpion, like the Tec–9, is its price. The Tec–22 went on the market in 1988 with a list price of just under $300, but sales did not take off, so Mr. Garcia decided in 1990 to cut the retail price to $157.

That decision was rewarded almost immediately. Production of the Scorpion, only 5,700 in 1990, skyrocketed to more than 17,000 last year, the first year in which the Tec–22 out-sold the Tec–9. This year the company expects another significant sales increase.

"You've heard the expression 'a chicken in every pot'?" Mr. Solo asked. "Well, we want to get a Tec–22 into as many hands as we can."

Assault weapons in crime

[Top 5 assault weapons, as defined by legislative proposals, traced after seizure by law-enforcement officials in 1990 or 1991. Only a small percentage of crime weapons are traced.]

Tec–9: Infratec and imitations	1,546
M–10, M–11: Various producers	1,167
Mini-14: Sturm, Ruger	884
AR–15/M–16: Colt and others	850
AKS/AKM: Chinese and other foreign producers	802

Source: Bureau of Alcohol, Tobacco and Firearms.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The period for morning business is now closed.

TAX FAIRNESS AND ECONOMIC GROWTH ACT

The PRESIDING OFFICER (Mr. ROBB). Under the previous order, the Senate will now resume consideration of H.R. 4210, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 4210) to amend the Internal Revenue Code of 1986 to provide incentives for increased economic growth and to provide tax relief for families.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. Under the previous order, the Senator from Arkansas is to be recognized to offer an amendment relative to drugs. The Chair recognizes the Senator from Arkansas [Mr. PRYOR].

Mr. PRYOR. Mr. President, I think the distinguished Senator from Alabama has a statement, and I think it is only a 4- or 5-minute statement. With the general agreement of the Senator from Oregon, Senator PACKWOOD, and Senator BENTSEN, the chairman of the committee, if I could yield or if we could go out of order for a few moments to allow Senator HEFLIN to make that statement, would that be agreeable?

The PRESIDING OFFICER. Is there objection?

Mr. BENTSEN. We have no objection.

The PRESIDING OFFICER. Without objection, the Senator from Alabama is recognized.

THE HOLLINGS ECONOMIC PLAN

Mr. HEFLIN. Mr. President, let us be realistic about three things:

First, any economic recovery package that calls for a tax increase will be vetoed.

Second, the veto cannot be overridden.

Third, a compromise will have to be developed if an economic recovery package is to become law.

In light of the current state of our national economy, couched as it is in the context of a Presidential election, it is not surprising that the debate surrounding such issues as peace dividends, tax cuts, and job growth has grown divisive, sharp, and fiercely partisan. While a few voices make the argument that the best economic plan is no plan, the American people know that this is not the case. We cannot stand by and simply hope for the best. People are looking to their government for leadership; leadership not directed at short-term partisan gain, but leadership aimed at restoring a strong economic base.

Surprisingly, there has been a lack of discussion thus far among the candidates about the deficit and runaway Federal spending. Although nearly 80 percent of voters say that the budget deficit is a very important issue this year, we are not hearing much about how to help the economy without adding to the tremendous debt that continues to plague us. Thomas Jefferson once wrote that "the principle of spending money to be paid by posterity, under the name of funding, is but swindling on a large scale." Our forefathers knew that the American people deserve a sound, fiscally responsible economic plan. This is our challenge.

That is why I am today asking that my colleagues take a serious look at the plan of our friend from South Carolina, Senator HOLLINGS. While most economic plans actually increase the deficit, this plan contains specific proposals for stimulating the economy without increasing taxes and without increasing the deficit. While his proposal is not by any means an end-all for solving our economic and budgetary woes, it is, in general, a good idea, and a good start toward prioritizing spending. In short, it is the kind of fiscally responsible plan to which we must give serious consideration if we are to meet the current economic crisis head on.

Senator HOLLINGS' blueprint for economic stimulation calls for broad savings and investment. In the savings category, the plan calls for a 10-percent reduction in the civilian work force over 3 years, but only through attrition. Additionally, it calls for a freeze in international discretionary spending through 1993 at the 1992 levels. Domestic discretionary spending would also be frozen at 1992 levels, but would exempt all entitlements, including Social Security, military and civil service cost-of-living adjustments, Medicare, Medicaid, supplemental security income, food stamps, and veterans programs. Defense spending would be at a level of $10 billion below the 1993 cap and intelligence activities would be reduced by $2 billion. The total first year savings realized here would be $24 billion.

Meanwhile, on the investment side, outlays from the above mentioned savings are divided between the private and public sectors. The investment in our business sector includes a much needed investment tax credit, very similar to the legislation I introduced later last year. Before its repeal in 1986, the investment tax credit proved to be one of the most effective incentives to private sector growth. Along with the investment tax credit, Senator HOLLINGS recommends accelerated depreciation, deferment of taxes on individual retirement accounts, real estate investment, capital gains, and a research and development tax credit, all of which would total $15.8 billion in the first year.

This emphasis on enhancing the competitive position of our Nation's businesses, coupled with a renewed commitment to research and development, is a particularly appealing aspect of this plan, since, as I have stated many times previously, we help the economy by helping the small businessman. Likewise, current investments in research and development help to ensure our future economic well being by holding and increasing our competitive advantage.

Public sector investment under the proposal includes a renewed commitment to our financially strapped State and local governments through revenue sharing programs. It also provides increased funding for the Head Start and Women, Infants, and Children Programs, technical training, manufacturing, and community health centers, the National Science Foundation, and advanced technology programs, which should include vitally important NASA projects. Programs such as the Space Station, planetary exploration, and the space shuttle would suffer irreparable damage if subjected to the domestic discretionary spending freeze. Any credible vision of the future must continue our commitment to a strong space program and the benefits its investments bring us. The importance of the space program aside, the plan's total first-year public sector investment would total $8.2 billion.

Studies show that our major economic competitors have been investing a much larger share of their national wealth on public investments such as research and development, and enjoying a higher annual rate of productivity growth as a result. The Hollings plan recognizes this fact, and ensures that we do not neglect scientific research, the bedrock of our national competitiveness. These increased investments also total $24 billion, and are completely offset by the savings in outlays. Thus, most importantly, there is not one penny of increase to the national deficit.

There are many good points to the latest tax reform bill approved by the Finance Committee. As is always the case, the hard work of this committee, guided by the steady leadership of its chairman, our distinguished colleague from Texas, is evident throughout the bill. There are, however, some provisions that must be carefully considered.

For example, the legislation calls for a $300-per-child tax credit. As much as anyone, I want to help the average taxpayer, but what will honestly help the typical American family in the long run is to make sure our financial base is strong. Our immediate goal should be a plan that will stimulate the economy without increasing the deficit. To do this we must find common ground with the President and move forward on the ideas we all think to be wise for our future. A serious effort at finding this common ground is the Hollings plan, which stresses private sector investment and goes along with the defense cuts outlined in the President's State of the Union Message.

Our Nation is at a crossroads in terms of our financial history. Never before have we experienced the enormous debt in which we now find ourselves mired. As a government, we must decide that this Nation will either pay off this debt or allow our children and grandchildren to suffer the consequences of living in a country indebted to the world. One way we can do this is by looking at how we spend the American people's money.

By all measures, Federal spending increased dramatically between 1965 and 1991. Adjusted for inflation, total Federal spending increased almost continuously over the period. Net interest, which is, alarmingly, the most rapidly growing budget category, has increased significantly along with the mounting Federal debt. The Hollings plan takes into account the fact that unchecked Federal spending combined with a runaway deficit is fiscally irresponsible, and dangerous. His plan to shift the focus from spending to investment is a welcome shift, one that does not continue along the path of economic frustration, but, rather, provides hope for a sound fiscal future.

Admittedly, the debt is a result of some misguided and politically expedient economic policies, but now is not the time to point fingers. Now is the time to make the tough decisions with which the public entrusts us. To do otherwise is to abdicate our responsibilities as elected officials.

As important as deficit and spending reduction are, we cannot ignore the fact that people around the country are suffering grave economic hardship and real pain. We know our military force structure must accommodate the realities of a post-cold-war world, but millions of real men and women will be displaced by defense downsizing in the coming years. The Hollings plan takes the very real need to provide assistance to those who are suffering and who will suffer into account through its public sector investment initiatives—again, without adding a single cent to the deficit.

I continue to believe that any system which strays too far from the most basic economic principles cannot long survive. For this reason, there must be an ongoing examination of all the programs that we spend money on. It is time to look at the Nation's balance sheet and see what is wasteful. At the same time, we must invest our money wisely, in human capital, infrastructure, education, and research like that conducted by NASA and the Department of Defense. The plan put forth by my friend from South Carolina contains many ideas that together represent a coherent, logical, and common sensical approach toward accomplishing these important goals that we all seem to agree upon.

As I stated earlier, I do not claim that the Hollings plan is perfect. It appears to me, however, to be a reasonable and sincere attempt to address the problems which threaten our fiscal security, as well as a bold first step toward getting our economy on the right track while helping those in need. There is little question as to what our responsibilities are or what the American people deserve. The only question is whether we are willing to respond affirmatively and accept this necessary but difficult task.

Henry Adams is credited with having once said that "* * * politics consists [of] ignoring facts." If this is true, then it has to be time, now more than ever, for us to abandon politics. Our economic survival depends on it. I commend Senator HOLLINGS for his recognition of this fact and for his wise efforts at getting our economic house in order.

The PRESIDING OFFICER. Under the previous order, the Chair recognizes Senator PRYOR.

Mr. PRYOR. Mr. President, it is my understanding at this time that the Senator from Oregon has a statement he desires to make. I yield to him for that purpose.

Mr. PACKWOOD. I thank my good friend from Arkansas. My statement is relatively brief. It is one that I have made in the Finance Committee before, and elsewhere, and it is this:

The bill before us, at best, might be of some modest help, very modest, for a short period of time, to a very few people. It will not be any major catapult to the economy that somehow makes us move from a 1-percent growth to a 4- or 3-percent growth or a 2-percent growth. Nor will the bill that the President submitted, nor will the bill that the House of Representatives passed; they all fail the test of, "Will they help the economy in the long run grow?"

We all understand what is going on. Each party would like to get credit for passing something that can be held out as making the economy move. If by chance the economy moves—and if it does, it will be totally unrelated to what we pass—we can at least take credit for having said, see, we told you that if we passed our bill, the economy would move. In an economy approaching $6 trillion, Mr. President, the bill that we are talking about is barely a flea bite when we need something significantly different than any of us were thinking of.

We all know, from the huddled conversations we have and in the whispered meetings, what needs to be done. We have, over the last quarter of a century, spent too much and saved too little, and we need to tilt in the direction of savings, investment, and capital formation. We need to tilt in the direction of investing in machines that produce family wage jobs, that keep us competitive in the world market. And all three of the bills that have been given to us—the President's bill, the bill that the Ways and Means Committee sent out and passed in the House, and the bill that we have here—all tilt in the direction of more consumption, rather than great savings.

There was a moment when I thought perhaps that we might have moved in the Senate Finance Committee. We had one meeting in our hearing room in which we very frankly discussed among ourselves what we knew needed to be done. We all nodded our heads and said, yes. But, for whatever reason, we have not gone forward on that.

I am not here to lay blame or criticism, but I do know that the opportunity is here to do it, and the mood is here to do it. So long as it can be done hand-in-hand—I think it can—I think the administration would be ready to extend a hand and say, OK, if you are prepared to say with me—this is the President talking—that the bill we are going to pass to move us toward savings is not going to get the economy going by November. It has taken us 25 years to get where we are, and it is going to take 3, 4, 5, 6 years to turn this ship around and start moving in the other direction. But if Congress is willing to start now so that I can quit harping—this is the President—at Democrats in Congress and they can quit harping at me, I am willing to move forward.

I think that opportunity is here. I think he would take it, if we would offer it. But we would have to tell the public it is not bitter medicine but a change of philosophy. We are going to try to discourage blatant consumption and try to encourage savings. Interestingly, it does not have to be just the argument of encouraging savings at the top. Whether that is a capital gains tax or otherwise, the bulk of the money in this country is still in the middle class.

One of the reasons we are still a relatively prosperous country is not because we have great numbers of rich; actually the numbers of rich in this country, the quantity, are relatively modest. It is that we have millions and millions of people making $15,000 or $20,000 to $50,000 or $60,000 or $70,000, and that is where the great middle-income category falls. If that category increases its savings just a modest amount per capita, it makes an immense difference in the savings in the country.

And we could pass a bill that would gradually start to turn the country in that direction. But, as I say, none of the bills that we have before us are going to do that.

I understand the politics of what we are doing. I am a big boy, and I have been at this business a long period of time. The President is going to veto any bill that has a tax increase in it and say: I have told you I am going to veto this bill. You have a tax increase and it is going to be vetoed. It only passed the House 221 to 210. Clearly there are not enough votes to sustain it in the House, as it will be here.

So if a tax increase bill is passed, and the President vetoes it, we will say the Democrats tried to raise taxes. In the bill, on the other hand, is a surtax of 10 percent on millionaires, and a tax increase of significant percentage for much lower-income people, not low income but lower than millionaires. If that is vetoed, the Democrats can say: You see, the Republicans favor the rich. And each side will have staked out its claim to an issue, and perhaps there will be no other bill this year, which is unfortunate, no other major bill.

There are going to be minor bills to pass, the extenders, research and development credit, low-income work response, and I hope the employer-provided legal assistance and employer-provided educational assistance will pass. And there may be an extension of unemployment this summer, depending upon the status of the economy. Which is a tax bill, of course.

Then we have the perpetual debt ceiling, which will come along before we recess this year. Who knows what may get attached to that. But this may be the only so-called tax bill that goes by. Each party will have staked out its advantageous position again, the Democrats saying the Republicans refused to tax, the Republicans saying the Democrats want to raise everybody's taxes. We will see how that plays out in November.

But the discouraging part is while each side of us are standing to top our respective hills, looking down at the valley from a very defensible position, we are missing the opportunity, both of us, to climb down off of our hills and join hands in the valley and do something that would really make this Nation turn around over 2, 4, 6, or 8 years.

I will conclude by saying this: I am disappointed in what we have. I will vote against it. I was disappointed in the House bill. I thought the President's proposals were modest, at best, but they were the ones that would have any slight help to the economy. I thought they were the best of the three. But none of them are long-term bills. So my ultimate hope is, I guess, that we get through with this bill as quickly as possible, get it to the President and get it vetoed.

Whether we want to vote to override the veto or not, that is up to the leadership in the House and Senate. Get it behind us and then hope it is not too late, Mr. President, that we can work on a bill that really does something for the economy, for the remainder of this century, instead of each of us—it is mutual—seeking partisan advantage, trying to pump it for all it is worth and convince the voters we are the ones that should be retained in November.

So I am discouraged, but I have not given up hope. I think we can put this bill behind us and get on to greater things. I thank the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Texas [Mr. BENTSEN].

Mr. BENTSEN. Mr. President, I have to agree with my friend from the State of Oregon. This is not a perfect bill. It does not solve all the problems. It will not turn around a foundering economy overnight.

This did not happen to us overnight. It has been building up for a number of years. One of the problems we face is that, in view of that kind of a deficit and that kind of a debt, we put into effect in 1990 a budget agreement that puts certain constraints on us, and I am committed to staying within those limits.

I told staff and I told the members of the committee that we are going to stay within the budget agreement. We are not going to bust that budget. We are going to have a revenue-neutral bill, and over 6 years I want to see some reduction, modest as it might be, but some reduction in the deficit. And that is what we have done.

I agree that the President's bill is not something that turns it all around overnight either. But I could not help but listen to the President denounce this legislation, talking about a major tax increase, a major tax increase. Not a word about the major tax cuts. But that is what it is. It is a balanced bill in that regard. For every dollar of a tax increase you have a tax cut. The cuts and increases just go to different people.

What we have done target the tax cuts to those folks who have been hurting the most—middle-income families with children, that is what the surveys showed. A temporary cut? No. The House version is temporary, with $200 and $400 cuts for 2 years paid for by a permanent tax increase. We are talking here about a permanent tax cut for those families and for those children.

I know inside the Beltway a lot of people say that $300 per child is peanuts; that it really does not count. You say that to a family that reads the supermarket ads, looks for the coupons, trying to decide which store they go to get the best buy for the groceries. Go say that to the family that has a child running a fever and as they go to the hospital or to the doctor they know they are not just making a medical decision but a financial decision. Say that to those who have an 18-year-old they are trying to decide where they can afford to send him or her to college. They look at the financial aid programs before they look the quality of the college. They think a permanent $300 credit for each child is important, and it is important.

This bill is not something that turns it all around. I wish we had that. I agree on that point with my friend from Oregon. He is an able member of the committee.

But I think it is an important first step toward fairness, a little more fairness in the tax system.

There will be other bills in other years and we will continue to fine-tune this system and try to work it out as we go along. But what we are facing now is we are trying to get something done, and the President says we have to have it back by March 20. That means we have to move this thing along. That is record time for a legislative body to try to consider tax legislation.

Time is short. And for that I hope that we complete our work here in the Senate in very short time, and for that reason I shall oppose all amendments to this bill. We are hearing of many proposed amendments. If we tried to deal with all of them we would be on the floor months from now. We have to draw a line. And the only fair line is an absolute line; no amendments will be accepted.

Some of these proposed amendments will lose revenue and in some of those instances no offsetting revenues are being provided. And those are subject to 60-vote points of order and those points of order will be made.

I see my friend from Arkansas with an amendment. He is a very valued member of the committee, deeply concerned about health-care costs, each facet of it. An important facet is pharmaceuticals. He has a concern about how to correct it.

Frankly as I look at the tax benefits of section 936, I do have some concern about that. They talked to me the other day about having twice as much in tax benefits as the employees' salaries in Puerto Rico. That worried me. But I must say to try to do those things to control the price of the pharmaceuticals, to tie those two things together and utilize the Tax Code for that purpose gives me concern. And I have a very difficult time seeing the Tax Code used for such purposes.

But I shall look forward to hearing his comments and his presentation.

The PRESIDING OFFICER. Under the previous order the Chair recognizes the Senator from Arkansas [Mr. PRYOR].

Mr. PRYOR. Mr. President, I thank the Chair for recognizing me.

Mr. President, before I proceed, I first ask unanimous consent that the following members of my personnel and Aging Committee staff be given the floor privileges for the duration of consideration of the pending amendment: Messrs. Chris Jennings, Steve Glaze, Mike Hodson, and John Coster.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRYOR. Mr. President, I have enjoyed listening to the distinguished chairman of the Finance Committee this morning in his comments and also his statement yesterday. We have enjoyed listening to my good friend and neighbor across the hall Senator PACKWOOD from Oregon, who is a former chairman of the Senate Committee on Finance, talk about this bill which is now the business of the U.S. Senate.

I think sometimes we get lost in the shuffle and not talk about some of the positive aspects of legislation that we are dealing with. We have a tendency here to take a major bill like we have here. I do not know how much this one weighs, Mr. President, but it is a major bill. I guess H.R. 4210 looks like it is several hundred pages in length, very complicated, and many times we have a tendency here as legislators to pick out those two or three things we do not like and stress those things and try to make that our message as to why we oppose them. There are some measures in this legislation that I think are very, very constructive, very constructive, and I would like to applaud the chairman and my colleagues on the Finance Committee for including them and making them a part of this legislation that we are now considering.

For example, pension simplification is something that we have been striving to accomplish around this Congress for the last decade. And for the first time in my memory we have a pension simplification that is supported across the board by large and small business alike, by the employer, the employee, and it is an integral part of this legislation that we are going to consider and ultimately vote for hopefully today, or maybe tomorrow, or Friday. I applaud my chairman and our colleagues for including this legislation in this package.

We have something else that many of us have worked for for a long time. Today when Lee Iacocca or Donald Trump or Sam Walton write a check for their insurance premium they get to deduct that premium 100 percent from their taxes. It is a cost of doing business. Today for the first time since my memory we now have a 100-percent deduction for that self-employed individual who is not a major corporation, to deduct that insurance premium 100 percent where today it is only 25 percent. Once again I applaud my chairman, I applaud my colleagues on the committee and all who have had a part of making that an integral and a critical part of this legislation.

Mr. President, there is something else, and I have a great deal of personal pride in this, and that is the taxpayers bill of rights—28 sections of the Tax Code which will give further rights and further opportunities, I might say, to the American taxpayer in dealing with the tax collector, the Internal Revenue Service.

This is a very constructive part of the Tax Code. It is also a critical part of the concept of fairness, of the fairness that we think this tax bill represents.

Mr. President, I voted for this proposal as it came from the Finance Committee to the Senate, and I hope to vote for this proposal when we get ready to send it to the conference and ultimately to the President's desk.

But there is one more critical element I think that will make this a very good piece of legislation, and that is an amendment that I will be offering at the appropriate time known around the Senate and the House, as S. 2000.

I am taking S. 2000 this morning, Mr. President, with a few modifications and at the appropriate time I will send it to the desk as an amendment to the tax bill. S. 2000, will for the first time in a long time, address the issue of cost containment in medical service delivery.

Mr. President, specifically, my amendment does not deal with doctors and it does not deal with hospitals. We will deal with that I assume in another day at a later hour and I want to be a part of that debate and I hope that I will be a constructive part of that solution. My amendment deals solely with one sliver of the medical delivery situation in America, and that is the cost of pharmaceutical drugs.

By offering that amendment aimed at containing skyrocketing prescription drug prices, we are challenging all of our colleagues to go beyond talk and start acting on the issue driving the health care reform debate—health care costs.

Joining Senators COHEN, SASSER, BAUCUS, BURDICK, CONRAD, LEAHY, EXON, KERREY, METZENBAUM, WELLSTONE, BRYAN, and myself in this endeavor are representatives of an extremely broad and diverse coalition of over 40 national representatives of rural communities, businesses—small businesses, large businesses—consumers, the elderly, children, minority populations, advocates of those afflicted with disease, unions, health insurance agents, health care providers, and just plain, good American citizens.

It is a very diverse group of Members of Congress, Mr. President, that join us this morning, and the organizations that join us are also very diverse. We all share in this instance a common bond for we represent those constituents who can no longer keep pace with prescription drug prices that consistently and mercilessly triple the general inflation rate. Most importantly, however, we represent the people who in our country can no longer tolerate these outlandish pricing practices and who are today fed up and sickened by the inaction of the Federal Government to address these and other health care costs.

Mr. President, it is long past due that we, in the Congress, took some serious steps toward containing the health care cost crisis that confronts this Nation. How many times—how many times—in those town meetings, how many times in those townhalls, how many times in the stores and streets of America that we represent do we tell our constituencies day after day, and week after week, that we are going to do something about containing your health care costs?

Well, Mr. President, as to one aspect of that health care cost, this is delivery day. This is the day for which we have been waiting to begin delivering to those constituencies our promise to contain health care costs.

To me it makes sense to start this reform process by dealing with the component of the health care system that is inflating the fastest. It may come as a surprise to some of my colleagues, but certainly no surprise to our constituents—particularly our elderly constituents—that for more than a decade, prescription drugs have led the way in price escalation in health care delivery services.

From 1982, Mr. President, to 1992, 10 years, while the general inflation rate was just 46 percent in that decade, prescription drug prices increased 142 percent.

Just last year, immediately after the enactment of the Medicaid rebate law and after the drug manufacturers of America said that they had received our message loud and clear, the drug industry once again slammed the American consumer's pocketbook one more brutal time. In 1991, while the general inflation rate last year was 3.1 percent, Mr. President, the drug manufacturers of America raised the cost of prescription drugs in America 9.4 percent, three times the cost of inflation.

These continuing price hikes mean, that in 1980 prescription drugs costing $20 will cost the average American $121—or a 500-percent increase by the year 2000—if we are not bold enough and courageous enough to reign in the cost of the pharmaceutical manufacturers who are making exorbitant prices.

Mr. President, last July—I believe this is the July issue—July 29, 1991, if we took a poll across America and asked the American citizens, "Well, what business do you think is the best business to be in, what is the most profitable business in America?", some people might say, "Well, it is McDonald's." Some might say, "Well, maybe I could be a Mercedes dealer; maybe I could make a lot of money. Those are expensive cars."

Well, they are all wrong, Mr. President. Fortune magazine, July 29, 1991, said the manufacturers of pharmaceutical drugs is America's most profitable business. There it is on the cover of Fortune magazine.

Mr. President, I would only say to that that today those profits are being made at the expense of the most vulnerable members of our society. The most vulnerable Americans in our country today are giving to the drug manufacturers that title of being America's most profitable business.

Today, we have an opportunity to make a stab at cost containment because we know that today $67 billion are being spent for pharmaceutical drugs. We know that $145 billion are going to be spent by the year 2000. What this means is that in the United States, we spend $270 for every man, woman, and child a year for prescription drugs and most of this is not covered by insurance, it is not covered by Medicare, it is coming out of the pockets of our citizens least able to pay.

Mr. President, a lot of people say that the Fortune 500 companies make all the money.

In 1990—let us look at those figures if we could—the average rate of profit for the Fortune 500 companies in 1990 was 4.6 percent.

Here is the chart, Mr. President. I believe it is in the blue, 4.6 percent. That is what the Fortune 500 companies made.

Well, what about the drug companies, what about the pharmaceutical companies that make that necessity of life, not a luxury, but the necessity of life. Let us see how they are getting along—15.5 percent, that was their average profit in the year 1990. And, Mr. President, if it keeps going that way, you are going to see their profits in 1992 set an all-time record in the amount of profits that they are making once again off of those least able to pay.

Now how do they make these enormous profits? How do they become so profitable? I want to examine that for a moment.

One, by outright price gouging of our American citizens who can least afford the medications—the elderly, the poor, and the other vulnerable parts of the American population.

Mr. President, the industry tells us time and time again that it needs these big profits to pay for the cost of researching, developing, and marketing their drugs. In the last 30 years, we have bought that line. We have told the drug companies: Yes; it is going to be the policy of our Government and of our country to give you tax writeoffs for research. We are going to encourage you to go out there in your laboratories across this country and across the world and find the cure to cancer, to AIDS, to Alzheimer's and Parkinson's disease, and all the other ailments and diseases that we face. That is going to be the policy of this country. We are going to give the approval of the Food and Drug Administration; we are going to give you a 9–10-year patent, where you have no competition; we are going to give you research and development grants so you do not have to pay taxes on those dollars that you use for research. And then, after that, Mr. Drug Company, we are going to do something even better for you. We are going to give you the mother of all tax breaks, section 936.

Mr. President, a lot of people know what section 936 is: A lot of the budgeteers and a lot of the staff people on Joint Tax; a lot of the people who work for the Finance Committee and work for the Finance Committee members. But really, beyond this building and beyond this very small community here on Capitol Hill, very few people know about section 936.

Mr. President, I would like to tell you how section 936 helps the drug companies. Because once they have taken advantage of a patent with no competition, Food and Drug Administration approval, tax breaks for research in developing the drugs, then they go to Puerto Rico and they manufacture the drugs. They make the drugs there that they sell in our country.

And every time they hire a Puerto Rican citizen to work in one of those drug plants, they get a tax credit of $70,788. For every employee they hire, they write it off their taxes. It is a tax writeoff. They pay average salaries of $26,471; but they writeoff for every employee $70,788.

This does not come from the Aging Committee; it does not come from my staff; it does not come from AARP or senior citizens or any of these other organizations. It comes from the Department of Treasury, the U.S. Department of Treasury. Right there are the figures, and I think those figures are accurate.

Enormous profits today are being made, unconscionable profits are being made by the drug companies, who have taken advantage of the Tax Code of this country, and today should be and must be a day of reckoning. It is a day of fairness that our chairman has talked about, and other colleagues have talked about, embodied in this Tax Code.

Today I would like to talk about fairness to the taxpayer and the consumer, who today in our country are paying the highest prices of any other industrialized country. We look at Spain, France, Italy, and the EC countries: Belgium, United Kingdom, and others. Look who once again is paying the highest price for drugs. You guessed it: The good old American consumer. We are paying 40 to 60 percent more than they are paying in Spain and France and Belgium and the EC countries. We are paying an enormous amount more in our country.

I showed this chart to one of my business friends the other day. I said: Mr. So-and-So, you are a businessman; you are well known. Somehow or another, we cannot get the pharmaceutical companies to come to the table. We can get the doctors every now and then to come to the table; we can get the hospitals every now and then, or the HMO's, to come to the table. But we cannot get the pharmaceutical companies, we are making all the money, to come to the table. How can we get their attention?

He said: Let me see this chart again.

So I got it back out of my case, and I said: OK, here it is again.

He said: Why do we not go to Spain and buy our drugs in Spain? American drugs, made in America or Puerto Rico, sold to Spain for 60 percent less. Why do we not go there and buy our drugs in Spain or France or the EC, and bring them back and sell them?

Someday, that may be the case. Someday, that may be a point that we ought to consider. Especially if we are not successful today, maybe we would consider something like this.

Some people have said the good days for the drug companies are not quite what they used to be. They are saying the good days for the drug companies are waning and we are in a recession. But first, pharmaceuticals are the only recession-proof industry we have in America. It is the only recession-proof industry we have, the pharmaceutical industry. The reason is pretty simple. It is because of the necessity of the pharmaceuticals, the drugs that we have to consume to stay alive and to keep our quality of life.

How are the drug stocks going to do in the future? Recently, Mr. President, Fortune magazine—once again, I am quoting Fortune, February 24, 1992, just a week or 10 days ago, page 29. Fortune magazine says this:

> Are the good times finally ending for the pharmaceutical stocks? Don't be fooled. Analysts contend that the tremendous earning power enjoyed by big drug manufacturers make the stocks an excellent long-term investment.

There we have it, Mr. President; Fortune Magazine saying go out and buy those drug stocks because they are going to continue to make exorbitant profits. And they are going to make those exorbitant profits unless we in Congress have something to say about it. Right now, I hope, today, we have something to say about it.

How does the industry spend all of these profits that they make? Do they go out here and use all these research dollars that we are giving them, tax free? How do they really expend these profits?

First, the average CEO of the drug companies has a pretty good deal as far as the salary. Their salary is $1.56 million a year. I believe we do have that salary on the charts—$1.56 million. But the kicker in that, Mr. President, is they get about $3 million a year in stock options and in other benefits that do not show up here on the salary chart.

The average elderly household income, I might say, Mr. President, is a mere $8,700 a year, quite a difference from the average CEO of a major manufacturing drug company.

To add a little insult to injury, the drug companies today are forcing Americans to pay the highest price for drugs. In fact, as our chart showed a while ago, these drugs that we pay the highest price for of any other industrialized country, these drugs are paid for twice. They are paid for twice because the American taxpayer is paying for their research and development, and then the American taxpayer is paying 40 to 60 percent more when they go to the drug store to buy their drugs.

We have a very rare opportunity today at the first attempt at cost containments. We have many other facts and figures and charts that I am sure, during the course of this debate, we are going to be talking about.

I am going to also have printed at the right time some other recent articles and other—as it relates to this very, very shameful and inexcusable system where we have allowed the drug companies to get by with doing what they have done.

But my proposal today—and I am going to try to describe it in just a few paragraphs—is a very simple proposal. It is a carrot-and-stick approach to make prescription drugs more affordable.

This legislation gives drug manufacturers access, continuing access, to the billions of dollars in nonresearch tax credits that they already receive each year from the American taxpayer. But they have to give something back in return, and this is what they have not done in the past. What they have to give back in return is their commitment to keep drug price increases at generally the general rate of inflation.

A few drug companies have recently stated that they will keep their price increases this year to the inflation rate. I applaud them. Merck is one of them. If they do, these manufacturers, under the legislation, will have full access to section 936 tax credits.

They can still go to Puerto Rico. They can still take a $70,000 tax credit if they hire a Puerto Rican citizen to work in one of those plants. They can still go out there and research in their laboratories across America and all across our country to help find the cure for the diseases of our generation.

However, if these manufacturers continue to gouge and if they continue to charge exorbitant prices and if they continue to make exorbitant profits, much more than the cost of inflation, they are going to lose a portion of their section 936 tax credits. We ask the question: Why should Americans be forced to get hit on the front end with outlandish price increases and to also be hit on the back end with increased taxes to subsidize the most profitable business in America?

Second, my proposal does something else. The savings that we are going to create from the reduction in section 936 tax credits would be used as an offset to extend the 100-percent self-employed health insurance tax credit and, ultimately, if there is anything left from that extension, for deficit reduction. Under the current law, as we have talked about, self-employed individuals can only deduct 25 percent of the cost of buying health insurance. Senator BENTSEN's health bill, which is included in the tax package, increases that deduction to 100 percent for 1993 and 1994. We want to extend this further, Mr. President, and we are going to use the savings from the 936 allocation for that purpose.

This legislation does a third thing, Mr. President. It establishes the Prescription Drug Payment Review Commission. The Federal Government buys or pays for over $20 billion in prescription drugs each year. In spite of this, we have very little information on how we cover, finance, or pay for prescription drugs under these programs. We have a ProPAC for hospitals. We have a PPRC for physicians, and now, if this legislation is successful, we will for the first time have an advisory committee within our system to advise our Government on drug costs.

The Commission would be charged with studying why drug costs in other industrialized countries are so much lower. Also, we would authorize the establishment of 15 Medicare outpatient demonstration projects so that we can make drugs more affordable to the populations who can least afford them.

Mr. President, I know what the arguments of the drug companies are going to be today. I have heard those arguments before. First, they are going to come and say this is price fixing. Mr. President, that is not true. That is a myth. We do not fix prices.

This legislation very simply says that if you continue to raise your prices much more than the cost of inflation, you are going to lose some of your tax credits in Puerto Rico. That is all it says. It is not price fixing.

Mr. President, even if they lost their tax credit in Puerto Rico, it is still the most generous tax credit; it is still the greatest, as we say, mother of all tax credits that we find today in the Internal Revenue Code, and specifically the pharmaceutical industry is that segment of our economy that is profiting most from it.

Second, we are going to hear a great deal about discrimination; that this bill discriminates against the drug industry; that we are discriminating against the pharmaceutical industry that is researching and trying to find a cure to many of the ailments and diseases we have discussed already.

Mr. President, I would like to talk a second about discrimination. I would like to tell you who is being discriminated against under the present system. The American consumer is being discriminated against, Mr. President—the American consumer who is paying for the research, who is paying for the development, who is paying for the marketing of their new drugs when they go on the market, and then the American consumer is having to come back and pay 40 and 60 percent more for their drugs, more than any other industrialized country. Mr. President, if they want to talk about discrimination that, in my opinion, is raw discrimination, and this is something our legislation is going to address.

Finally, let me say that we believe, and believe firmly, that without this amendment being added to the overall tax package that is before the U.S. Senate today that we will have failed, that we will have failed to begin addressing the cost containment battle that we must begin today. If we actually do not seize upon this opportunity, Mr. President, I am going to predict that our constituents out there are going to finally say, "These people are just talking about cost containment. They are just talking about helping me with my drug prices. They are just talking about exploding health care, and when they get a chance to do something about it, they do not do it."

Mr. President, each of us stands on the floor of the Senate, and when we are back in our town meetings, when we are on the streets and highways and byways of America, we are saying constantly that we want to address this problem, we want to address that problem. But this is a rare opportunity not to continue addressing but to begin doing something about an issue that is crying for leadership. It is crying for us to begin cost containment.

Mr. President, there are other speakers who are on the floor, and I know they have other schedules. At this time, I am going to yield the floor to my good friend and early cosponsor of this legislation Senator SASSER of Tennessee.

The PRESIDING OFFICER. The Chair asks the Senator, does the Senator from Arkansas yield from his time?

Mr. PRYOR. I am yielding to Senator SASSER for the purpose of a statement only.

Mr. SASSER. Mr. President, I ask recognition in my own right.

The PRESIDING OFFICER. The Chair recognizes the Senator from Tennessee [Mr. SASSER].

Mr. SASSER. Mr. President, I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The Chair reminds the Senator from Tennessee that no amendment has been offered.

Mr. PRYOR. Mr. President, I ask unanimous consent that we have a quorum call and that I be recognized immediately when the quorum call is called off.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The absence of a quorum has been suggested. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SASSER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. Under the previous order, the Senator from Arkansas retains the right to the floor.

Mr. PRYOR. Mr. President, I yield to my friend, Senator SASSER of Tennessee, for the purpose of making a statement only.

The PRESIDING OFFICER (Mr. GORE). The Senator from Tennessee [Mr. SASSER] is recognized without the Senator from Arkansas formally yielding the floor.

Mr. SASSER. Mr. President, this morning I am pleased to join with my good friend from Arkansas to offer my support for this very important amendment. I think all of us in this body and indeed millions of people across this country owe a debt of gratitude to the distinguished junior Senator from Arkansas who has worked tirelessly on the problem of skyrocketing prescription drug prices in this country.

Senator PRYOR has developed an expertise, an insight on this issue which I think is probably not surpassed in this body. I am pleased that we now have an opportunity at long last to consider what we believe is a measured and reasonable response to a very serious problem in this country, a problem, in my view, that simply must be addressed, one that we have failed to address for all too many years.

I would also like, Mr. President, to commend the ranking member of the Senate Special Committee on Aging, Senator COHEN, for his active involvement in helping to craft the amendment before us today. This is not a partisan issue. Out-of-control prescription drug costs affect the health and lives of millions and millions and millions of people in this country. I would add that the amendment before us today represents a bipartisan solution to a serious problem.

I would be derelict, Mr. President, if I did not recognize the work of the distinguished chairman of the Finance Committee, Senator BENTSEN. He brings to this body one of the finest pieces of tax legislation that has come before us in many years. The tax legislation Senator BENTSEN has brought from the Finance Committee will start down the long track of trying to redress the inequities that have crept into our Tax Code over the past 10 or 12 years.

In addition, he has included in this bill before us today a number of important health insurance reform provisions. The chairman of the Senate Finance Committee has crafted legislation which, in my judgment, will, when enacted into law, improve access to health insurance for literally tens of millions of Americans. I think the efforts of Senator BENTSEN and those of his committee represent a major step toward the goal of enacting comprehensive health care reform legislation, legislation that will allow access to affordable quality health care for every American.

But this morning I want to make sure that my colleagues understand one thing: When we, as a nation, finally move to enact comprehensive health care reform legislation, we will still have to find a way to rein in excessive prescription drug prices. None of the proposals presently before Congress, even those in the field of health care which include a broad system of cost controls, will provide a means to halt what is now unbridled price inflation being sponsored by the pharmaceutical manufacturing companies of this country.

Who among us can doubt that we have a serious problem on our hands? If you doubt it, then I would ask my colleagues to go to a pharmacy, go to a drugstore in a middle-class, lower middle-class area anywhere in this country and just stand in front of the pharmaceutical counter for 2 or 3 hours and watch the people as they come in to buy these prescription drugs. Watch the elderly as they come in and buy them. Look at their faces when they see the price. I have seen it with my own eyes, Mr. President. When they are presented with the drug and the cost of it, I have heard them say, "I can't afford it." "I can't take it." I have seen them become angry. I have seen them become indignant. And I have seen them just walk away meekly and say, "I just can't afford to pay the bill."

I would like to take a look at some of the charts that were discussed just a moment ago. I think this chart tells the whole story. If we look at general price inflation in this country from 1982 to 1991, we find that general price inflation rose at a level of 46 percent during this 9-year period—a very significant increase in inflation.

But let us look and see what happened to prescription drug prices during this same period of time. While the general rate of inflation was 46 percent, prescription drug prices went up 142 percent, a 300-percent increase over the general rate of inflation.

That, Mr. President, I think is unconscionable. Prescription drug prices have led the way in health care cost inflation during the past several years. Of that there can be no doubt.

These are not just abstract numbers. Since Senator PRYOR and I introduced the Prescription Cost Containment Act last November, I have held many hearings across my native State of Tennessee, many meetings, and discussed the problem with my constituents. When I bring up the topic of prescription drug prices, the response is instantaneous. It is emotional. It is heartfelt. There is instant anguish and in many cases instant anger. When Tennesseans hear how much prices have increased relative to prescription drugs, they are not surprised. It only confirms what they already know, what they have been trying to cope with for years and what we in Washington have refused to deal with until now.

When I tell them that prescription drugs represent the highest out-of-pocket medical expense for three out of four elderly people in this country, they are not surprised to hear that. Only a small fraction of older Americans have insurance which offers them any kind of coverage for prescription drugs. So what we find is that the overwhelming majority of older Americans in this country have to pay these prescription drug prices out of their own pockets.

Many, many people, too many people, both young and old, but particularly the elderly, have had to make the harrowing choice between paying for the medicine that their doctor says they need or, in many cases, buying food or paying their heating bill in the winter. I have discussed this with people who made that very choice, and they have told me: I cannot take all the medications that the doctor prescribes for me because I cannot afford them, so I will take half of what he prescribes or I will take a third of what he prescribes. I will cut down on food intake, reduce my grocery bill so I can afford the prescription drugs, or maybe I will not heat one or two rooms in the house so I can buy the drugs my doctor prescribes and still meet expenses on the Social Security check that I get.

Mr. President, I want to demonstrate to my colleagues, by use of a second chart, the profits that are being made by the pharmaceutical manufacturers in this country. We see here the profits of all of the Fortune 500 companies. If we look at the profits of the top 10 drug companies we see they are 3 times as high as those of the Fortune 500 companies. No wonder Fortune magazine, as Senator PRYOR said a moment ago, is still advising, buy pharmaceutical stocks; they are a good buy.

No wonder when their profits are three times higher than those of the other Fortune 500 companies.

In fact, Mr. President, I am advised that the prescription drugmakers' profits in 1990 were twice as high as that of the second most profitable industry in this country.

And there is something that separates the prescription drug manufacturers from other manufacturers of other items. It is that they have a captive market. When you have high blood pressure, when you have a serious arthritic condition, and your physician says you must have these prescription drugs, else your life might be in danger, else you are going to live a life of extended pain, then you have no choice. It is not as if you are going in to buy an automobile, and say, well, I will not buy an automobile this year or next year. I will make the old one do. Or I will take public transportation. When you have to have this life-giving medication, then you simply have no choice and you have to fork over. I think that is what we are seeing here—is advantage being taken of a captive market.

Mr. President, I find when I talk to the people in my State and they learn that the drug industry receives billions of dollars in nonresearch tax breaks, money that like their prescription payment comes out of their own pocket, they wonder why in the world is the Federal Government subsidizing the enormous profits of drug companies. They ask me why is it taking us here in Washington so long to figure that out? They want to know why we have not done something about it.

Simply put, the people of this country know very well; they know all too well about a serious flaw in our health care system. They know firsthand that we are dealing here with an industry that is out of control. They are demanding, the people of this country, action by the Federal Government. They deserve immediate action to confront the spiraling costs of health care which they alone have no means to control. What happens if we do not find a way to put some kind of brake on these present prescription drug prices?

Mr. President, I want to turn to this third chart here which will indicate to us what is going to occur. If prescription drug prices continue to increase at the rate that they are presently increasing, we in the United States will pay more than double the amount paid in 1990 for prescription medicines. By the year 2000, we will be paying $145 billion a year in this country for prescription drugs. I would suggest that we as a nation simply cannot afford an increase of that magnitude.

I would submit that the amendment that we will be voting on sometime today or tomorrow will go a long way toward keeping outlays for prescription drugs under some degree of control. Everybody I think in this body knows about the problem of drug price inflation. All you have to do is get out among your constituents, talk with them, meet with them, and ask them about the problem of health care. One of the first things that will come up is the escalating costs of prescription drugs.

I invite my colleagues to go back and read your mail. Open up those envelopes and read them. They come to me many times written on lined paper, written by the hand that is elderly, obviously. They talk about the problems of trying to pay for their prescription drugs. We have all heard about it in the letters that come in, those on fixed incomes, from elderly constituents, from working families who might have a child who has to have some special medication or pharmaceutical.

These are American citizens who find they can no longer afford to make ends meet when faced with ever-escalating prescription drug prices, prices which are rising far faster than their income, prices that are going up much faster than the general rate of inflation.

Yes, we will be hearing a lot here today from the pharmaceutical manufacturers. They are a powerful lobby; no question about it. A lot of what we are hearing I would ask my colleagues to listen to with great care.

I am reminded of the story I heard one time when I was a young lawyer. I was listening to a great trial lawyer, I say to my friend from Arkansas, argue a motion before an elderly judge. And after the brilliant trial lawyer had concluded the judge recessed court briefly. I went back to his chamber to discuss the matter with him. I said, "Judge, the lawyer we just heard out here is the most brilliant I have ever heard. How can you resist the logic that he presented to you today?"

I will never forget. The old judge looked at me, and he said, "Well, Jim, I always listen to him with great interest but follow him with great caution."

I urge my colleagues today as these arguments come before us in behalf of the pharmaceutical manufacturers to listen to them with great interest but on behalf of your constituents follow them with great caution.

The amendment that is offered today by my friend from Arkansas, myself, and others is really very simple. First it reduces the section 936 possessions tax credit for drug manufacturers who raise their prices above the general rate of inflation. If they control their prices, keep them with the general rate of inflation, then they take full advantage of section 936 as they are doing now. And it uses the money saved to extend the 100-percent tax deduction of the self-employed beyond the 2 years already provided for by the underlying bill.

Second, this legislation before us today establishes a prescription drug payment review board to study U.S. drug prices. We have heard our friend from Arkansas tell us how prescription drug prices here in the United States are much higher than any place in Europe, and interestingly enough, many of these drugs are interchangeable. These drugs are manufactured one place or another and they go across country boundaries.

Many of these drug manufacturing companies are multinationals. Yet we find that we are paying here in the United States much, much more than they are paying all across Europe.

So this prescription drug payment review board which would study U.S. drug prices would make recommendations on ways to contain drug costs here in the United States.

Third—I think this is important—the legislation authorizes a 15-site, 3-year Medicare prescription drug demonstration program. This would develop information that I think would be exceedingly valuable to us as we move down the road of trying to develop health care reforms that will lead to better health care that is more affordable for all of our citizens.

Fourth, the legislation directs the Secretary of Health and Human Services to document the total amount of subsidies that the Federal Government provides to the drug industry, and to make recommendations on how we can better restructure our investment in pharmaceutical research and development.

I would also like to direct the Secretary of Health and Human Services to determine just how much of research that we are going to hear so much about this morning is done by the private pharmaceutical manufacturers, and how much is done through Government grants, and how much is done out here at the National Institutes of Health.

The amendment before us does not call for price controls. It does not call for a compulsory drug licensing system. It will not put drug companies out of business. This amendment is a measured and responsible approach. It deals directly with a part of our health care system that is inflating the fastest, that is the most difficult for the most vulnerable of our citizens to afford. It demands our most urgent attention.

I say to my colleagues that it is time for us to decide who we are going to listen to. Are we going to listen to our constituents, who face these life-threatening choices everyday, or are we going to listen to the siren song of the drug manufacturers, who continue to profiteer at the expense of American consumers? Why? Because we let them do it.

Mr. President, I think we owe a debt of gratitude today to the distinguished Senator from Arkansas for bringing this matter before this body. It was he who had the patience and courage to begin these investigations at the outset. It was he who has compiled an enormous amount of data to substantiate the necessity for the legislation that is before this body today.

I thank my friend from Arkansas. It is a pleasure to collaborate with him on this very, very important amendment. I shall stand with him today as this matter is debated.

Mr. President, I yield back to my distinguished friend from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas has the floor.

Mr. PRYOR. Mr. President, let me give a general picture of the landscape. I am about to send the amendment to the desk, and I am going to ask unanimous consent that following the amendment in the RECORD a list of about three modifications that this amendment encompasses be printed. For example, where the revenues would go from the reduction in the 936 tax program, a little explanation of Prescription Drug Policy Review Commission, the fact that funds for the Commission are authorized, not appropriated, and then a couple of other items.

Then, I will yield the floor, Mr. President, and let other people speak. It is my understanding, that there will not be an attempt for a second-degree amendment. So we are going to proceed further with this.

AMENDMENT NO. 1708

(Purpose: To provide for the containment of prescription drug prices by reducing certain non-research related tax credits to pharmaceutical manufacturers, by establishing the Prescription Drug Policy Review Commission, by requiring a study of the feasibility of establishing a pharmaceutical products price review board, and by requiring a study of the value of Federal subsidies and tax credits given to pharmaceutical manufacturers, and for other purposes)

Mr. PRYOR. Mr. President, at this time I have an amendment which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Arkansas [Mr. PRYOR] proposes an amendment numbered 1708.

Mr. PRYOR. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 866, before line 15, insert the following new part:

PART VIII—DRUG COST CONTAINMENT

SEC. 2291. SHORT TITLE.

This part may be cited as the "Prescription Drug Cost Containment Act of 1992".

SEC. 2292. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) although prescription drugs represent one of the most frequently used medical care interventions in treating common acute and chronic diseases, many Americans, especially elderly and other vulnerable populations, are unable to afford their medications because of excessive and persistent prescription drug price inflation;

(2) between 1980 and 1990, prescription drug price inflation was triple the rate of general inflation, and in the first half of 1991, prescription drug price inflation increased even faster, exceeding 3½ times the rate of general inflation on an annualized basis;

(3) because of the limited availability of private or public prescription drug coverage

for the elderly, prescription drugs represent the highest out-of-pocket medical care cost for 3 of 4 elderly patients, surpassed only by costs of long-term care services;

(4) prescription drug manufacturers continue to make enormous profits on the backs of the elderly, poor, and other vulnerable populations that are unable to afford their medications;

(5) the Federal Government and American taxpayer provide substantial subsidies to the pharmaceutical industry in the form of tax incentives, tax write-offs, and grants for non-research activities;

(6) for example, in 1987 alone, the pharmaceutical industry received a section 936 tax credit of more than $1,400,000,000, and such credit is estimated to have yielded over $2,000,000,000 in tax breaks in 1990 to such industry; and

(7) in addition, there is a need to determine whether Federal subsidies are used in the most efficient manner by the pharmaceutical industry to develop drugs which represent true therapeutic advances over those products already on the market.

(b) Purposes.—The purposes of this Act are—

(1) to insure that elderly patients and all Americans have access to reasonably-priced pharmaceutical products;

(2) to establish a medicare outpatient prescription drug benefit demonstration project and trust fund;

(3) to provide for the establishment of the Prescription Drug Policy Review Commission and a study of the impact of a pharmaceutical price review board on containing price inflation on prescription pharmaceutical products in the United States;

(4) to provide for a study on how Federal tax credits and subsidies and market exclusivity given to the pharmaceutical industry can be used to modify an individual manufacturer's pricing behavior and research priorities; and

(5) to provide the Federal Government with information on drug prices in other industrialized nations.

SEC. 2293. REDUCTION IN POSSESSIONS TAX CREDIT FOR EXCESSIVE PHARMACEUTICAL INFLATION.

(A) In General.—Section 936 (relating to Puerto Rico and possession tax credit) is amended by adding at the end the following new subsection:

"(i) Reduction for Excessive Pharmaceutical Inflation.—

"(1) In General.—In the case of any manufacturer of single source drugs or innovator multiple source drugs, the amount by which the credit under this section for the taxable year (determined without regard to this subsection) exceeds the manufacturer's wage base for such taxable year shall be reduced by the product of—

"(A) the amount of such excess, multiplied by

"(B) the sum of the reduction percentages for each single source drug or innovator multiple source drug of the manufacturer for such taxable year.

"(2) Manufacturer's wage base.—For purposes of this subsection—

"(A) In General.—The manufacturer's wage base for any taxable year is equal to the total amount of wages paid during such taxable year by the manufacturer to eligible employees in Puerto Rico with respect to the manufacture of single source drugs and innovator multiple source drugs.

"(B) Eligible employees.—The term 'eligible employee' means any employee of the manufacturer (as defined in section 3121(d)) who is a bona fide resident of Puerto Rico and subject to tax by Puerto Rico on income from sources within and without Puerto Rico during the entire taxable year.

"(C) Wages.—The term 'wages' has the meaning given such term by section 3121(a).

"(3) Reduction percentage.—For purposes of this subsection—

"(A) In General.—The reduction percentage for any drug for any taxable year is the percentage determined by multiplying—

"(i) the sales percentage for such drug for such taxable year, by

"(ii) the price increase percentage for such drug for such taxable year.

"(B) Sales percentage.—The sales percentage for any drug for any taxable year is the percentage determined by dividing—

"(i) the total sales of such drug by the manufacturer for such taxable year, by

"(ii) the total sales of all single source drugs and innovator multiple source drugs by the manufacturer for such taxable year.

"(C) Price increase percentage.—The price increase percentage for any drug for any taxable year is the percentage determined by multiplying—

"(i) 20, times

"(ii) the excess (if any) of—

"(I) the percentage increase in the average manufacturer's price for such drug for the taxable year over such average price for the base taxable year, over

"(II) the percentage increase in the Consumer Price Index (as defined in section 1(g)(5)) for the taxable year over the base taxable year.

"(D) Total sales.—

"(i) Domestic sales only.—Total sales shall only include sales for use or consumption in the United States.

"(ii) Sales to related parties not included.—Total sales shall not include sales to any related party (as defined in section 267(b)).

"(E) Average manufacturer's price.—The term 'average manufacturer's price' for any taxable year means the average price paid to the manufacturer by wholesalers or direct buyers and purchasers for each single source drug or innovator multiple source drug sold to the various classes of purchasers.

"(F) Base taxable year.—The base taxable year for any single source drug or innovator multiple source drug is the later of—

"(i) the last taxable year ending in 1991, or

"(ii) the first taxable year beginning after the date on which the marketing of such drug begins.

"(4) Other definitions.—For purposes of this subsection—

"(A) Manufacturer.—

"(i) In general.—The term 'manufacturer' means any person which is engaged in—

"(I) the production, preparation, propagation, compounding, conversion, or processing of prescription drug products, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, or

"(II) in the packaging, repackaging, labeling, relabeling, or distribution of prescription drug products.

Such term does not include a wholesale distributor of drugs or a retail pharmacy licensed under State law.

"(ii) Controlled groups.—For purposes of clause (i)—

"(I) Controlled group of corporations.—All corporations which are members of the same controlled group of corporations shall be treated as 1 person. For purposes of the preceding sentence, the term 'controlled group of corporations' has the meaning given to such term by section 1563(a), except that 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a)(1), and the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.

"(II) Partnerships, proprietorships, etc., which are under common control.—Under regulations prescribed by the Secretary, all trades or business (whether or not incorporated) which are under common control shall be treated as 1 person. The regulations prescribed under this subclause shall be based on principles similar to the principles which apply in the case of subclause (I).

"(B) Single source drug.—The term 'single source drug' means a drug or biological which is produced or distributed under an original new drug application or product licensing application, including a drug product or biological marketed by any cross-licensed producers or distributors operating under the new drug application or product licensing application.

"(C) Innovator multiple source drug.—The term 'innovator multiple source drug' means a multiple source drug (within the meaning of section 1927(k)(7)(A)(i) of the Social Security Act) that was originally marketed under an original new drug application or a product licensing application approved by the Food and Drug Administration.

"(5) Special rules.—For purposes of this subsection—

"(A) Dosage treatment.—Except as provided by the Secretary, each dosage form and strength of a single source drug or innovator multiple source drug shall be treated as a separate drug.

"(B) Rounding of percentages.—Any percentage shall be rounded to the nearest hundredth of a percent.".

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 2294. MEDICARE OUTPATIENT PRESCRIPTION DRUG PROGRAM DEMONSTRATION PROJECT.

(a) In General.—Subject to the availability of appropriations as authorized in subsection (f), and not later than October 1, 1992, the Secretary of Health and Human Services (hereinafter referred to as the "Secretary") shall establish no less than 15 demonstration projects in counties (or other geographic areas) located in different States in rural and urban areas. Each of the counties (or other geographic areas) designated shall have a significant proportion (as determined by the Secretary) of individuals eligible for medicare benefits under title XVIII of the Social Security Act.

(b) Purpose.—(1) The purpose of demonstration projects conducted under this section is to assess—

(A) the impact on cost, quality of care, and access to prescription drugs of developing (in each geographic area) a medicare outpatient prescription drug benefit using various forms of benefit design and reimbursement policies, and

(B) the impact on cost and quality of care of extending coverage of outpatient prescription drugs to medicare beneficiaries served by community health centers.

(2) The partial purpose of at least 5 of the demonstration projects is—

(A) to assess the impact on quality of care and reduction in other health care service expenditures of reimbursing pharmacists separately for providing ongoing drug utilization management (including medication regimen review) to insure that prescriptions are appropriate, medically necessary, and unlikely to result in adverse medical results;

(B) to reimburse pharmacists (or other persons authorized to dispense drugs under State law) under such projects based on marketplace pricing; and

(C) to use an electronic, on-line claims capture and adjudication component in such projects to process medicare prescription drug claims.

(c) PROJECT REQUIREMENTS.—(1) A project conducted under this section shall provide for coverage of all drugs and biologicals approved by the Federal Food and Drug Administration and all medically accepted indications of these drugs as indicated in the 3 national compendia of drug use standards: the USP-DI, AHFS-DI, and AMA-DE.

(2) In each geographic area in which a project is conducted, a Drug Use Review Board (hereinafter referred to as the "DUR Board") shall be established which shall consist of a sufficient number of actively practicing physicians and pharmacists from the geographic area who shall possess knowledge in pharmacology and therapeutics, especially as it relates to drug use with respect to the elderly. In lieu of establishing a DUR Board in the area, functions of the DUR Board may be performed by the State medicaid DUR Board established under section 1927(g) of the Social Security Act.

(3) The DUR Board established under this section shall be responsible for recommending the design and development of the medicare prescription drug benefit within the geographic area. It shall establish a program of prospective and retrospective drug use review for medicare beneficiaries entitled to drug benefits under the project. The Board shall also develop appropriate educational interventions to ensure that drugs are prescribed and dispensed in accordance with standards that are described in the 3 national medical compendia and the peer-reviewed medical literature.

(4) In assessing the total costs of the medicare prescription drug benefit, the DUR Board should consider various levels of discounts, rebates (or other appropriate incentives), and inflation containment mechanisms that could be negotiated with, or required from, pharmaceutical manufacturers as a condition of participating in the program, such as the discounts and rebates provided to the medicaid program under section 1927 of the Social Security Act.

(d) DURATION OF PROJECTS.—The demonstration projects established under this section shall be conducted for a period of 5 fiscal years beginning October 1, 1992, except that the Secretary may terminate a project before the end of such period if the Secretary determines that the State conducting the project is not in substantial compliance with the terms of the application approved by the Secretary under this section.

(e) EVALUATION AND REPORT OF SECRETARY.—The Secretary shall fund an independent evaluation of the demonstration projects and shall report to the Congress on the results of such evaluation no later than 5 years from the date of enactment of this Act. The report of the Secretary shall review the impact on cost and quality of care of the various forms of benefit design and reimbursement policies to provide prescription drugs to medicare beneficiaries and make recommendations on the applicability of the demonstration projects to other medicare beneficiaries.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated equally from the Federal Hospital Insurance Trust Fund and the Federal Supplemental Medical Insurance Trust Fund, $200,000,000 for each of fiscal years 1993, 1994, 1995, 1996, and 1997 to carry out the demonstration projects established under this section.

SEC. 2295. PRESCRIPTION DRUG POLICY REVIEW COMMISSION.

(a) ESTABLISHMENT.—Subject to the availability of appropriations as authorized in subsection (f), the Director of the Congressional Office of Technology Assessment (in this section referred to as the "Director" and the "Office", respectively) shall provide for the appointment of a Prescription Drug Policy Review Commission (in this section referred to as the "Commission"), to be composed of individuals with expertise in the provision and financing of inpatient and outpatient drugs and biologicals. The provisions of title 5, United States Code, governing appointments in the competitive service shall not apply to the appointment of members of the Commission.

(b) COMPOSITION.—(1) The Commission shall consist of 11 individuals. Members of the Commission shall first be appointed by no later than October 1, 1992, for a term of 3 years, except that the Director may provide initially for such shorter terms as will insure that (on a continuing basis) the terms of no more than 4 members expire in any one year.

(2) The membership of the Commission shall include—

(A) recognized experts in the fields of health care economics and quality assurance, medicine, pharmacology, pharmacy, and prescription drug reimbursement,

(B) other health care professionals, and

(C) at least one individual who is an advocate of medicare and medicaid recipients.

(c) ANNUAL REPORTS.—The Commission shall submit to the Congress and the Health Care Cost Containment Commission an annual report (by not later than January 1 of each year beginning with 1994) which shall include information and recommendations regarding national and international drug policy issues, such as—

(1) trends and changes in prices for prescription and non-prescription drugs (on the retail and manufacturer level) in the inpatient and outpatient setting in the United States;

(2) trends and changes in prices and mechanisms for cost containment for prescription drugs in other industrialized nations, such as Canada, Japan, and countries of the European Economic Community, and the applicability of such mechanisms to the United States;

(3) the scope of coverage, reimbursement, and financing under Federal health care programs, including titles XVIII and XIX of the Social Security Act, the Department of Veterans Affairs, the Department of Defense, and Public Health Service clinics;

(4) the availability and affordability of prescription drugs for various population groups in the United States, and the accessibility and affordability of public and private insurance programs for prescription drugs for such population groups;

(5) changes in the level and nature of use of prescription drugs by recipients of benefits under titles XVIII and XIX of the Social Security Act, taking into account the impact of such changes on aggregate expenditures under these titles;

(6) suggestions to make prescription drugs more affordable and cost-effective for third party insurers, including State-based pharmaceutical assistance and general assistance programs;

(7) evaluation of technologies available for efficient third party prescription drug program administration, such as electronic claims management and payment technologies;

(8) methods of providing reimbursement under Federal health care programs to providers for drug products and cognitive services;

(9) evaluation of the use and efficiency of all Federal tax credits and subsidies given to the pharmaceutical industry for various purposes, including the tax credit allowed under section 936 of the Internal Revenue Code of 1986, and recommendations on developing incentive-based tax credits for research and development; and

(10) evaluation of the impact on total health care expenditures in other industrialized nations of switching prescription drugs to non-prescription status, and the role of various health professionals in the distribution of such non-prescription drugs.

(d) SPECIAL REPORTS.—The Commission shall submit to the Congress and the Health Care Cost Containment Commission special reports as requested by the Congress and the Commission.

(e) ADMINISTRATIVE PROVISIONS.—Section 1845(c)(1) of the Social Security Act (42 U.S.C. 1395w-1(c)(1)) shall apply to the Commission in the same manner as such section applies to the Physician Payment Review Commission.

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated equally from the Federal Hospital Insurance Trust Fund and the Federal Supplemental Medical Insurance Trust Fund, an amount determined under paragraph (2) for each fiscal year, to carry out the purposes of this section.

(2) AMOUNT DETERMINED.—

(A) IN GENERAL.—For purposes of paragraph (1), the amount determined under this paragraph is—

(i) for fiscal year 1993, $3,000,000, and

(ii) for each fiscal year beginning after fiscal year 1993, the dollar amount for the previous fiscal year, increased by the cost-of-living adjustment.

(B) COST-OF-LIVING ADJUSTMENT.—For purposes of subparagraph (A), the cost-of-living adjustment for any fiscal year is the percentage (if any) by which—

(i) the CPI for the previous fiscal year, exceeds

(ii) The CPI for fiscal year 1992.

(C) CPI.—For purposes of subparagraph (B), the CPI for any fiscal year is the average of the Consumer Price Index for prescription drugs as of the close of the 12-month period ending on June 30 of the previous fiscal year.

SEC. 2296. REPORT ON FEDERAL SUBSIDIES AND INCENTIVES PROVIDED TO THE PHARMACEUTICAL INDUSTRY.

(a) REPORT.—By not later than July 1, 1993, the Secretary of Health and Human Services, acting in consultation with the Secretary of the Treasury, shall submit a report to the Committee on Finance of the United States Senate, the Committee on Energy and Commerce and the Committee on Ways and Means of the United States House of Representatives, and the Special Committee on Aging of the United States Senate, on Federal subsidies and incentives provided to the pharmaceutical industry. Such report shall include—

(1) a determination of the total cost over the 5 immediately preceding fiscal years to Federal taxpayers of all Federal subsidies provided to the pharmaceutical industry (including tax incentives, subsidies, grants, and any other financial support);

(2) a description of—

(A) the purposes for which such Federal subsidies are used by the pharmaceutical industry;

(B) the Federal role in researching and developing patented pharmaceutical products and the extent to which the Federal Government should co-license certain drugs and biologicals;

(C) the extent to which pharmaceutical industry marketing research costs are incorporated into allowable Federal tax credits;

(D) comparable financial incentives, subsidies, and tax credits provided to the pharmaceutical industry by other industrialized nations and the use of such incentives, subsidies, and credits by such industry;

(E) the relationship between the total Federal financial support provided to the pharmaceutical industry by the United States and other industrialized nations and the prices paid by the citizens of such respective nations for prescription drugs; and

(F) the extent to which tax credits provided by the Federal Government subsidize total worldwide pharmaceutical industry research and development; and

(3) recommendations on how Federal tax credits to pharmaceutical manufacturers and marketing exclusivity for drug products may be related to—

(A) an individual manufacturer's pricing behavior in the marketplace; and

(B) the relative therapeutic value of new pharmaceutical products researched, developed, and marketed in the United States.

SEC. 2297. MANUFACTURER INTERNATIONAL DRUG PRICE REPORTING REQUIREMENTS.

Subparagraph (A) of section 1927(b)(3) of the Social Security Act (42 U.S.C. 1396r-8(b)(3)) is amended—

(1) by striking "and" at the end of clause (i),

(2) by striking the period at the end of clause (ii) and inserting ", and", and

(3) by adding at the end thereof the following new clause:

"(iii) not later than 30 days after the end of each calendar year, the average price that the manufacturer sold each covered outpatient drug in such calendar year in the following countries: Canada, Australia, and the countries of the European Economic Community.".

SEC. 2298. USE OF REVENUES.

(a) EXTENSION OF SELF-EMPLOYED HEALTH INSURANCE DEDUCTION.—Section 162(l)(6), as amended by section 2201(b), is amended by striking "December 31, 1994" and inserting "May 31, 1995".

(b) DEFICIT REDUCTION.—It is the sense of the Senate that, after the application of the amendment made by subsection (a), any remaining revenues resulting from the amendment made by section 2293(a) shall be applied to reduce the Federal budget deficit.

Mr. PRYOR. Mr. President, I ask unanimous consent that the previously mentioned summary of the changes made to S. 2000 be printed in the RECORD at this point.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF THE CHANGES MADE TO S. 2000

As my colleagues may be aware, the amendment that I have sent to the desk is a modified version of S. 2000. S. 2000 was a good piece of legislation. However, to further strengthen the legislation and assure that it cannot be subjected to a budget point of order, I have made the following modifications:

1. Revenue saved through a reduction in the Section 936 tax credits due to excessive drug inflation would be used to extend the 2-year, 100 percent self-employment health insurance tax deduction now in the tax bill—a high priority for the small business community. Any additional revenue saved will be used to reduce the deficit. (Joint Tax/CBO estimates that about $1.1 billion will be saved over 5 years as a result of the tax credit reduction formula in the legislation.)

2. Funding for the Prescription Drug Payment Review Commission (RxPRC) and for the Medicare Outpatient Prescription Drug Demonstration Projects would be authorized—not directly appropriated. This avoids any problem with a budget point of order.

3. References to the study of the applicability in the United States of the Canadian drug price review board have been restructured so that a broader study of drug cost containment methods used by various industrialized countries is undertaken. This eliminates specific references to the patent and compulsory licensing issues that the drug industry and the Administration claims has trade implications.

It is absurd to me that simple mention of a study in this legislation would evoke the kind of response that it has from the drug industry and the administration. I wish that all my proposed studies received as much attention.

Mr. President, the JCT and CBO's savings estimate for the legislation is good news on two fronts. The estimate proves that holding the 936 tax credit over the heads of the drug manufacturers will serve as a strong incentive for drug manufacturers to keep price increases at the rate of inflation. Therefore, the legislation accomplishes the dual purpose of extending the 100 percent self-employer tax credit reduction, and keeping drug price increase to the rate of inflation.

Although these modifications are significant and make this amendment even more attractive, I have no doubt that the Administration will continue its active campaign to oppose this legislation. I can only wish that the Administration would consider using the same energy it is using to oppose our plan to develop their own proposal to contain prescription drug costs. Never once have I heard the President or the Secretary offer concrete proposals to contain the cost of prescription drugs, not less even acknowledge it as a problem.

Mr. BRADLEY. Mr. President, I ask unanimous consent that Ross Russell, congressional fellow, be afforded the privileges of the floor for this day and the remainder of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRADLEY. Mr. President, I rise in opposition to the amendment that has just been sent to the desk.

Let me first say to my distinguished friend from Arkansas, who I do think raises an important issue, and I think that it is an important issue that we will have to deal with in the coming months and years. I share the Senator's concern about cost containment for health care. The cost for health care is, indeed, out of control and, frankly, I am in favor of strong measures to confront the causes and to find the cure for a health care system that is in a serious state of price escalation. The cost for medical care has been increasing in double digits for the last decade—more than twice the general inflation rate. At the same time, 35 million Americans do not have any health insurance, largely because they cannot afford the high price. The increases in cost for health care, including prescription drugs, are simply not sustainable, and we have to take action, I believe, to contain them.

We know that elderly citizens, persons suffering from chronic medical conditions, and individuals threatened by new diseases are highly dependent on prescription drugs for cures, relief from painful symptoms, and hopes for more radical breakthroughs.

So let me say at the outset that I appreciate Senator PRYOR'S efforts to try to find solutions to these problems.

However, I believe that we have to address these issues through comprehensive health care reform; reform that achieves universal access and establishes effective cost containment throughout our system of health care.

In the Senate, we are just beginning the debate about national health insurance. Each of the major reform bills already introduced contain their own recommendations for how to achieve cost containment. Indeed, price controls are included in several of the major provisions.

Senator PRYOR proposes cost containment in only one part of that system—for prescription drugs. His approach would have us adopt essentially the Canadian model for prescription drugs. The Canadian model is roughly that you have a price commission that sets price limits for drugs, and if any company violates that agreement, they may lose their patent in Canada for that particular drug.

This is a method that is clearly going to have to change in Canada because of the negotiations that are going on in the multilateral trade round. But that is a system toward which this amendment envisions America heading. We have not had an opportunity to weigh the advantages or disadvantages of that kind of system and, indeed, the debate on health insurance has just begun.

So to propose a final solution for just one sector of the health economy that concludes finally that Canada offers the answer is, in my view, highly premature.

We have to recognize that piecemeal efforts to control the costs for health care, such as singling out prescription drugs, simply have not worked. Cost containment strategies for health care are not new or unique even in the pharmaceutical industry. Over the last 20 years, we have made many attempts to limit cost increases in health care.

One of the lessons we have learned is that our health care economy is very large and very flexible and very adaptable. You press it here, it pushes out there. You control prices here, and prices go up somewhere else. And we have seen how fragmented efforts at cost control have only resulted in further cost shifting as suppliers of health care try to retain income levels and market shares.

Again, with that background, cost containment has to be carefully crafted from a system perspective.

So addressing only the pharmaceutical industry without looking at the broader issue, frankly, could hurt one segment of the health care industry and do nothing about overall cost increases.

You might control pharmaceuticals, but you will not be able to control hospitals or you will not be able to control doctors. So, prescription drugs I agree are a highly visible part of the health care system. And they are highly visible, in particular, because of the fact that they are paid for out of pocket, by and large; they are not picked up by Medicare, or by many health insurance programs.

I understand the serious impact the pharmaceuticals have on those Americans in need, and in particular senior citizens. In fact, out-of-pocket expenses for elderly citizens have doubled in the last three decades.

But according to a new study by Families U.S.A., there are three major reasons for increasing out of pocket costs in health care, and the three major reasons do not include pharmaceuticals. They are nursing home costs that are skyrocketing; physicians' costs that are skyrocketing; and hospital costs that are skyrocketing. This amendment does nothing to deal with those increases in costs.

We all know some of the basic figures. We all have had town meetings in which someone comes to the town meeting with a hospital bill where they have gone into the hospital for 1 day and they are charged $4,000.

I was in a bookstore not so long ago. A person behind the counter, a 22-year-old said: When are you going to do something about health care? I said: What do you mean? You are 22. He said: I went into the hospital for 1 day, and I got a bill for $4,000. I do not have any health insurance. I cannot pay for it.

You go into a hospital in America today and get a coronary bypass. It costs $49,000—$49,000. You go in and have a Caesarian section birth and it costs $7,500. Ironically, one of the studies that I have read recently shows that the number of Caesarian sections obtained by women with incomes above $30,000 is double the amount of Caesarian sections for women with incomes under $30,000, which is clearly not a comment about differing birth canals, but is a comment about income levels and inability to control the costs on the physician and hospital side. This amendment does nothing to control costs for physicians or to control costs for hospitals or to control costs for nursing homes.

I think, frankly, these facts emphasize the need to recognize the overall system of health care. If we are concerned about out-of-pocket costs, in my view, you need a broader strategy than simply dealing with prescription drugs. If we are to achieve effective cost containment, how significant are prescription drugs within our overall health care costs? Before I get to this point, where are we going to head with regard to cost containment for our health care system?

I would like to see a cost control system where all of the players in the health care system are given a global budget and are put in a room to begin to regulate themselves. But clearly, this amendment is not nearly that broad, either in process or reach. It deals only with pharmaceuticals. So let us look at the cost of pharmaceuticals as a part of the total cost of health care, because it is the total cost of health care that people are outraged about.

The prices for prescription drugs have increased along with all these other costs. But they have decreased proportionally over the last three decades. For example, we now spend about $800 billion on health care. How much of that is prescription drugs, pharmaceuticals? Only about 7 percent of all we spend on health costs in this country comes from spending on pharmaceuticals.

Is that more or less than, say, 1965? In 1965, 9 percent of all health care costs came from pharmaceuticals. So that, in fact, the percent of total health care costs that are borne by pharmaceuticals has not increased since 1965. It has decreased slightly, to, around 7 percent.

Compare this with what happens in other countries. Let us take a country like Germany. Of their total health care costs, 20 percent is borne by the cost of prescription drugs—20 percent. Not 7 percent, as in this country, but 20 percent. Germans pay much more of the total health care dollar that they spend on drugs than in the United States.

Or take Canada, the great example toward which this amendment heads. In Canada 12 percent of all health care costs come from expenditures on pharmaceuticals. So if this system, toward which this amendment envisions America heading, is so good, why then is the cost, as a percent of total health care in Canada nearly double what those costs are in the United States, as a percent of total health care costs?

In fact, only Norway and Sweden have expenditures on pharmaceuticals as a percentage of total health care costs, that are anywhere close to ours.

So, Mr. President, what I also believe is a major concern about Senator PRYOR'S amendment is its effect on investment, research, and innovation in this country. Senator PRYOR has singled out one sector of the health care economy that is the most heavily research oriented and funds a significant amount of all research on health care.

Statistics show that the private pharmaceutical industry spends about $9 billion a year on research—$9 billion a year. That is roughly the same as the Federal Government spends on the NIH. So the private pharmaceutical industry puts as much into research to find cures, to lengthen American lives, as does the entire Federal Government in the NIH.

And although it is not easy to predict the reactions in the marketplace to Government intervention, this one is simple: Price controls, as envisioned in this amendment, will significantly reduce incentives for investment; a reduction in investment reduces funds for research; reduction in research will lead to fewer innovations, fewer cures, and fewer hopes for many Americans who are counting on medical breakthroughs to lengthen their lives.

It costs about $231 million to bring a drug onto the U.S. market; $231 million to bring one drug into the U.S. market. Is that too much? It seems like a lot of money to me. If so, do we solve the problem by capping research spending, or limit it to the consumer price index? Frankly, as we enter an age of new biotechnology research, when the competitiveness of the United States is at stake, policies that discourage new research could be devastating.

What about all of this investment in research? Does every new product that is researched produce a new drug? The answer is no. Roughly 1 in 5,000 ever makes it to market. So that means, in the research environment, you go down a track and come to a dead end; go down another track and come to a dead end; go down 4,999 tracks and you hit dead ends until you make a breakthrough that produces a drug that improves people's lives.

In all this debate about research, I do not think there is proper focus about how research-sensitive this industry is. One company in this industry, for example, developed a way to essentially cure ulcers. It was a big seller; it was protected by a patent. But they put billions into research to try to find the next generation of drugs. When their patent expired, they were unable to do it. The company was so significantly dependent upon that drug that when the patent expired, they had to merge with another company.

The fact of the matter is that research is directly related in the most fundamental way to the health of every pharmaceutical company. More than one pharmaceutical executive has conveyed to the Congress that they will cut anything before they will cut research.

And that is because each one of them knows that in a certain time period, the drug that they invested billions of dollars of research into, that is then made available to the public, will have its patent expire. And, when its patent expires, they will have to have another one to replace it and they will not have another one to replace it unless they have made major investments in research.

Mr. President, the National Science Board just released a new study that points out that, for the first time since the 1970's, American spending on research has begun to fall. Private and federally sponsored research have both begun to decline. The New York Times stated, "analysts, already edgy about America's status in the global context for economic advantage, expressed worry about the research decline." "American spending is falling," they said, "as similar investments by Japan and Germany are rising." Dr. Frank Press, President of the National Academy of Sciences, said, We especially need to ask why our industrial research is down when for other countries it is going up. That is a matter of real concern.

The measures in this amendment will lead to a further decline in research for U.S. industry. And it is not just research alone, but it is research and development. For example, the U.S. pharmaceutical industry leads the world in the innovation of new drugs over the last three decades. It is no coincidence that the 4 countries responsible for 70 percent of the significant pharmaceutical innovations over the last 30 years have really come from market economies. The United States alone accounts for more than half of the total.

Now, one statistic that I think we all ought to have pause on is an increasingly competitive international environment, where patents determine who is going to have economic advantage. Half of all U.S. patents are now being issued to Japanese companies—half of U.S. patents to Japanese companies—while American firms own 80 percent of the biotechnology patents today. So, we have a major advantage here. We have a major advantage. And, of course, the country toward which this amendment pushes us, Canada, has had one, maybe two, major drug discoveries in the last two decades.

Certainly, lower prices will help consumers to be able to afford prescription drugs. But the question is, what are they going to be able to buy? If you ask those whose lives have been saved due to innovations in the pharmaceutical industry, price controls may not be proconsumer. Today, more than 300 new drugs are being developed for 45 diseases related to aging. More than 110 drugs and vaccines are being developed for children. Many of them target cancer, Alzheimer's disease, high blood pressure, and stroke.

The distinguished Senator from Arkansas has a long list of groups that support his amendment. He does not have groups like American Cancer, Heart, or mental health groups because they are the groups that realize what a breakthrough in pharmaceutical research means to their members. Prescription drugs may also offer the most cost-effective treatment that can reduce health care expenditures.

In 1976, the year before a major new drug was introduced to treat ulcers—just one example—there were 155,000 surgeries for bleeding ulcers. The breakthrough came. The drug was introduced, and 10 years later there were only 20,000 surgeries, a reduction of 90 percent, which means that maybe the best way to save costs is to have major breakthroughs in drugs so you keep people out of hospitals and away from the doctors, whose prices are going up much higher than pharmaceuticals.

In fact, the New England Journal of Medicine recently reported that "limiting reimbursement for effective drugs puts frail, low-income elderly patients at increased risk of institutionalization in nursing homes and may increase Medicaid costs."

Finally, Mr. President, it is ironic that we are here on the floor of the Senate debating the merits of the changes in our tax structure that are designed to stimulate our economy and help restore competitiveness to U.S. industries in the world market, and this is an amendment that deals with the pharmaceutical industry, and the pharmaceutical industry has added 50,000 new jobs across America since 1980. Pharmaceuticals require investment in manufacturing, which provides a stronger score for economic productivity. And the pharmaceutical industry has a trade surplus, a trade surplus even with Japan.

Mr. President, there is no question that what this amendment would do—it would endanger that trade surplus, would endanger the jobs that have been created over the last decade across this country, would make it more difficult to get the breakthroughs that could reduce overall health care costs. So, Mr. President, I hope we will not accept this amendment.

We do need action to address the complex causes of escalating price increases. However, it does not make sense to adopt a resolution for one segment of the health care industry before we have begun even debating and carefully considering advantages of each of the strategies that have been introduced in this Congress.

So, Mr. President, I urge opposition to this amendment.

I yield to the distinguished Senator from Utah.

The PRESIDING OFFICER. Does the Senator yield the floor?

Mr. BRADLEY. I yield the floor.

The PRESIDING OFFICER. Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, I think we have more or less worked out a gentlemen's agreement that Senator COHEN is going to go next. I think that was all right with the Senator from New Jersey, and then I believe he was going after that.

Mr. LAUTENBERG. Mr. President, I had deferred to the Senator from New York. So if there is an order developing, do we have to get a unanimous-consent agreement to parcel out time on the floor? I think so.

Mr. PACKWOOD. Yes; if you are going to parcel it out—and we have not gotten to that stage yet—Senator COHEN has been waiting for about an hour, and I think we had a gentlemen's agreement on that.

Mr. LAUTENBERG. I have no problem with that, with Senator COHEN going ahead, and I have deferred some time to Senator MOYNIHAN from New York. But I do not want to wind up 3 hours later.

So if we are going to structure time, I would say structure it. I have no problem if you consider dealing with the four speakers standing on the floor here on something like that.

Mr. BENTSEN. I say to the Senator from New Jersey that we had not set out an order, as the two managers, we have not done so, but if that would be of help to you——

The PRESIDING OFFICER. Would the chairman of the committee use the microphone?

Mr. BENTSEN. Yes; I say, as manager and comanager of the bill, we had not set out an order, but if we can get a mutual agreement, we would be delighted to do it to try to assist you in that regard.

Mr. HATCH. I have been waiting here from the beginning of the debate, and I would be happy to defer to my colleagues from the other side and, of course, my distinguished friend from Maine. It was kind of our understanding that we would go next.

Mr. BENTSEN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll. The legislative clerk proceeded to call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Texas.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the speakers be recognized in this order: Senator COHEN, Senator MOYNIHAN, Senator LAUTENBERG, Senator PRYOR, and Senator HATCH with no time allocation.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Maine is recognized.

Mr. COHEN. Mr. President, I am pleased to join my colleague, Senator PRYOR, in introducing this amendment. I would like to just offer a couple of comments concerning the statement offered by my colleague from New Jersey, Senator BRADLEY.

Senator BRADLEY indicated that this amendment should be part of a comprehensive health reform proposal. Under ordinary circumstances I would say that indeed is the case.

But the implication from his statement was, however, that there should be no effort to control the costs of the pharmaceuticals. He claimed that this amendment somehow sets up a price review panel, like Canada's, under which the drug companies would lose their patents and licenses if they exceed price controls. That is completely erroneous.

The amendment has no reference to any Canadian-like board. In fact the commission set up by the amendment has no power to set prices. Instead, it is designed to look at ways in which we could begin to address the prescription drug costs. It looks at drug companies' subsidies and reviews whether these subsidies are appropriate. That is a long way away from setting up a price review panel like Canada's.

Second, I point out that this measure is not totally irrelevant to the bill under consideration. I notice from the proposal that has been set forth by the Finance Committee that there are proposals to make health care insurance more accessible to small employers. Obviously the Finance Committee is concerned about the cost of health care and how we can review the current structure. So what we have here is an opportunity to at least address our attention to one facet of the health care industry which appears to be exceeding the ability of its constituents to pay for it.

A trip to the pharmacy for a drug prescription has become a journey into a chamber of financial horrors for many Americans—Over the last decade the inflation rate of prescription drug prices has increased over three times the general inflation rate, and it is rapidly outpacing the ability of the average person to pay for his or her medication. Families with no insurance, or those who have no prescription drug coverage, are dreading a trip to the doctor for fear that he or she is going to prescribe a medication for which they cannot pay.

These high drug prices are especially devastating to senior citizens. They make up only 12 percent of our population, but they use about 34 percent of all the prescription drugs. In addition to being major consumers of prescription drugs, most elderly do not have prescription drug coverage and Medicare does not cover outpatient prescription drug costs.

In fact, according to surveys by the American Association of Retired Persons, prescription drugs are the single largest out-of-pocket medical expense for three out of four elderly. And one in seven older Americans have failed to take their medicine because it is simply too expensive.

I do not know what the reaction to these high drug prices has been from people in other States, but I want to give just an example of the kinds of letters I have received from my own State of Maine.

Mr. PRYOR. Mr. President, if the Senator from Maine will suspend momentarily, there are entirely too many conversations and we cannot hear the Senator from Maine on this side.

The PRESIDING OFFICER. The Senate will be in order. Those conducting conversations will please retire from the Chamber.

The Senator from Maine.

Mr. COHEN. One gentleman from central Maine wrote me that he was spending $160 a month for medication for arthritis. He stopped taking it because he "could tolerate the discomfort better than the expense."

Another woman wrote to say the eyedrops she takes for glaucoma increased by $3 per bottle in 3 months. Her heart medication had also risen from $44 to $71 within the last 3 years, an increase of over 60 percent. She wrote:

> I know people who are trying to either cut down or do without important medications, and this means that sooner or later they will end up in the hospital, * * * or on welfare.

I had a 72-year-old gentleman from southern Maine who wrote saying he had to take a job working part time to pay for his monthly prescription bill, which runs about $150 a month.

Another woman from Portland said, "It seems I just endorse my Social Security check to the drugstore."

I have more examples. A couple from Caribou wrote:

> My husband and I spend $150 a month on prescriptions. We worked all our lives and now we either eat or go without medicine, or take the prescription drugs and go without good nourishment. It just does not seem fair.

A senior citizen from Windham wrote:

> We spent $317 a month on prescriptions * * *. Please help. It isn't right to have to decide whether I enjoy good health, or do I eat, or do I stay warm?

Whether senior citizens can stay warm is another debate altogether. Of course with the reduction on the part of the administration in LIHEAP, the Low-Income Heating Energy Assistance Program—people not only have to choose between medicine and food, but medicine, food, and heat in my State of Maine. This, however, is an issue that I will raise another day.

A senior citizen from Biddeford wrote:

> I cannot afford to spend the kind of money on drugs that my prescriptions cost, so I only take medicine when I really have to, as a last resort. Prices go up every time I go for a refill.

I have literally hundreds of letters that are similar. And it is not only the elderly who are hurt by high drug prices. A 14-year-old boy from southern Maine had a kidney transplant. His drugs were paid for by Medicare for 1 year. Now his family has to pay $1,200 a month out-of-pocket for his drugs. This financial burden will continue for the rest of this young man's life.

Mr. President, the examples of individuals who are being financially devastated by the costs of their medications can go on ad infinitum. The Congressional Budget Office has documented that these anecdotes are supported by their findings, which show that 60 percent of the elderly in this country face potentially catastrophic out-of-pocket prescription drug expenses either because they have no Medigap coverage or because their supplemental coverage does not include prescription drugs.

The easy answer offered by those who are in opposition to this measure is easy: "Get insurance." But there is a big catch-22 here. The insurance companies are not going to insure individuals if they have to incur the high cost of the drugs. So, the other answer is: "Just have the Government pay for it? Let us have a comprehensive overhaul of our system. Perhaps Medicare or the Federal Government should take over the payment for prescription drugs and allow the drug companies to maintain the same high level of profit they are currently enjoying."

We have come to the situation where we have good news and bad news for the consumer. The good news is that we have developed medications that will save your life, or ease the pain which you are currently experiencing. The bad news is, however, you cannot pay for it and you cannot have it. Or, if you can pay for it, you will have to go without food or without heating assistance or air cooling assistance.

I do not think we should live in a society which puts that choice to those who are most vulnerable in our country. While seniors and their families are scrimping to pay for their medications, the profits of the drug companies continue to soar far above that of other industries.

We are told it is just the free enterprise system at work.

Not quite. The tremendous price increases and unparalleled profits of the drug companies come with a little help from John Q. Citizen through section 936 in the Tax Code. The American public provides $2 billion annually in the form of nonresearch and development tax credits to the pharmaceutical industry. It provides tax credits for businesses which earn income in Puerto Rico. This is a tax subsidy in addition to the hundreds of millions of dollars of tax credits the drug industry currently receives for researching and developing new pharmaceutical products.

So the amendment that the Senator from Arkansas, myself and others are offering provides an incentive for the drug companies to lower their prices that are devastating the financial ability and stability of many Americans.

Under the amendment, drug companies would lose a portion of their section 936 tax credits if they increase their prices beyond the general inflation rate. This proposal does not fix prices as the opponents claim. It is designed to discourage price gouging, as some companies practice, and it does not touch one dime of the research and development tax benefits the companies currently enjoy. It simply reduces the excess tax bonuses, that the industry currently enjoys by the amount that their prices exceed the rate of inflation.

It has already been articulated to what end we would put the tax dollars saved. Specifically, they would be used for deficit reduction and to increase the deduction that a self-employed person can now claim for their health care premium costs.

Mr. President, the pharmaceutical industry has a choice in how they set their prices, and the Federal Government should have a choice in where it is spending its tax dollars. I think we have seen too many companies stuff their tax subsidies in one pocket and hit the consumer with escalating prices in the other. In 1990, the total of all U.S. health care expenditures for pharmaceuticals reached $67 billion. As the Senator for Tennessee pointed out, without any form of cost containment, this figure is projected to reach over $145 billion by the year 2000.

Several weeks ago, we had a measure on the floor offered by the Senator from New York [Mr. D'AMATO]. He complained about credit card companies charging as much as 20 or 21 percent. What we are talking about in our present political contest is going back to old time values. I remember it was not too many years ago when we used to think of 21 percent interest rates as being in the field of usury; those were usurious rates back in the good old days. Today they are accepted as being quite common. Nonetheless, this body spoke out overwhelmingly saying that was outrageous; that interest rate charges on credit card statements were exceeding that level.

Mr. President, the people of our country should not be forced to give up food to buy prescription drugs or give up medication and endure pain, the pain of a crippling disease in order to pay for other necessities.

I know the chairman of the Senate Finance Committee indicated we should have a "no amendments" policy, but this bill in fact attempts to address one very critical facet of the health care crisis. I think we would be doing a great disservice by failing to adopt this measure, which will help at least to slow the dramatic escalation of prescription drug costs on this country. So I urge my colleagues to support the amendment.

I yield the floor, Mr. President.

The PRESIDING OFFICER. Under the previous order, the next speaker will be the Senator from New York [Mr. MOYNIHAN].

Mr. BENTSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BRADLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRADLEY. Mr. President, until Senator MOYNIHAN arrives, I would like to speak. He has just arrived, so I will yield the floor.

The PRESIDING OFFICER. Under the previous order, the senior Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, I rise to state that I will not vote for the amendment before us but to state a different set of concerns which, it seems to me, the Congress and the Senate, in particular, will want to weigh as we make this decision. And that is the degree to which we are in the context of a debate on drug pricing, preempting a matter which is quite central to the question of the status of Puerto Rico in the American scheme of things. I refer to section 936 of the Internal Revenue Code—the so-called Possessions Tax Credit. I believe that any changes we make to section 936 should be made in the context of, and clearly mindful of, the status relationship between Puerto Rico and the United States. Section 936 goes to the core of that relationship, and I am dismayed that we only see fit to change if for extraneous reasons.

The people of Puerto Rico are American citizens and have been since 1917. Since the administration of President Truman, the United States has taken the very specific, explicit position that the people of Puerto Rico are free to choose what status they would wish to have. They are free to become an independent nation; they are free to remain a Commonwealth; and they are free to choose statehood—three different options—matters which are important obviously to them and to us as fellow Americans, but with which we are bound before the world by the terms of the United Nations Charter and the provisions on decolonization that are part of the United Nations system, a system which we created, a charter which was drafted 2 miles from here at Dumbarton Oaks.

The fact is that the island, Puerto Rico, the present Commonwealth, was a spoil of war between the empire of Spain and the United States, that splendid little war, as one of our statesman at the time called it. The issue was Cuba. There was an instigation on both sides. More agitation, perhaps, on the other side of the United States than was necessary.

We became hugely agitated about the explosion and sinking of the battleship *Maine* in Havana harbor and persuaded ourselves it had been Spanish sabotage. Those of us who have some naval experience I am sure are aware that not long ago in the journal of the Naval War College, Admiral Rickover published the results of a more recent study and found that the Navy inquiry at the time was seriously wrong; that almost certainly the *Maine* blew up because of a spontaneous combustion in its coal bunkers. This was happening to ships around the world as they turned to steam and carried coal, and the chemistry of coal dust was not yet understood, but certainly the original Navy inquiry did not advance that understanding.

The presumption was that the Spanish did it and we went to war. In the aftermath, we obtained two colonies: the Philippines and Puerto Rico. They were spoils of war, let us be clear, and they raised a lot of doubt among some Americans from Mark Twain over to William Graham Sumner of Yale who did not like one bit our seizing of other countries. Graham wrote a wonderful book called "The Conquest of the United States by Spain," and he said by acquiring colonies and becoming an imperial Nation, we became more like Spain. We opposed Spain, but in opposing them acted more like they would have done.

I really do think the conquest of the United States by Spain is something we should keep in mind because almost a century now has gone by. In 6 years' time, it will be the centennial of our acquisition of Puerto Rico, and we have yet to resolve what we will do with it, even though since President Truman we have declared our bona fides and genuinely so.

There is no doubt in any American President's mind on this. I had the privilege of representing the United States at the United Nations in the administration of President Ford who felt as strongly about this as anything, that honorable and straightforward man. The question is how to bring effective self-determination about, how to bring it about, and in doing so, we are going to have to deal with this question of section 936 of the Internal Revenue Code which provides the tax subsidy that is the subject of the amendment now before us.

Mr. President, it is useful to keep in mind that the Possessions Tax Credit was adopted in the 1920's with the Philippines in mind, the Philippines named for King Philip. It was to get American industry to invest in the Philippines, the other prize of the Spanish American War—indeed, the larger, even more remote than Puerto Rico. But we soon gave the Philippines their independence which they wanted. In 1934 we agreed to give them independence. In 1946, it took place. The impact of this very strong tax incentive—there is no equivalent in the Tax Code of which I am aware—began to operate in Puerto Rico after World War II.

It has operated with great impact. Probably a third of the economy of Puerto Rico derives from the section 936 tax credit subsidy. And the United States pharmaceutical industry has been foremost in investing in Puerto Rico to take advantage of this incentive. But any company that wishes to invest there gets it. There are electronic companies. There used to be apparel companies. And there are many varieties even today.

Section 936 has transformed Puerto Rico. In the 1940's, the United States-appointed Governor of Puerto Rico, Rexford Tugwell, wrote a gripping book about the island. He called it "The Stricken Land." And it was only through this tax subsidy that the New Deal made its way there.

These are American citizens. Any law we pass applies to them, including Selective Service. And you have a very pronouncedly advancing economy in Puerto Rico today, much lower levels of per capita income than for the United States generally but high for the region and rising, and a very happy thing.

To cut off section 936 would be to cut off perhaps a third of that economy, which would have an obvious impact. To do so without so much as consulting the Puerto Rican leadership seems to show an indifference to the welfare of the island that will make the resolution of the status question even more difficult.

On the other hand, if this were done as part of a negotiation in which the people of Puerto Rico opted for statehood—well, there are benefits in statehood which are not now available to the Commonwealth and there is an exchange and a balancing relationship, and the destabilization that this measure would bring about does not occur.

Let me briefly, Mr. President, but with such passion that I can bring to the subject tell you that the resolution of Puerto Rico's political status is not an issue going away. This is an issue we have tried to keep over here at most in our peripheral vision, but the world watches and the condition is not resolved.

Last August, not a year ago, the United Nations Special Committee on Decolonization adopted a resolution concerning Puerto Rico drafted by Venezuela, a democratic country, a neighbor across the Caribbean. And it is a very powerful statement.

I will take the liberty of reading a part of it.

It begins:

> Recalling the Declaration on the Granting of Independence to Colonial Countries and Peoples contained in General Assembly Resolution 1514 of the 15th General Assembly of 14 December 1960 and the resolutions and decisions of the Special Committee concerning Puerto Rico * * *.

I would note that the United States abstained on that Resolution 1514 in 1960 mentioned in the current resolution. The story of our abstention involves a call from Harold MacMillan to President Eisenhower—I will not recount it here, but it was a large event in 1960 and had consequences later on as the Soviets took advantage of our abstention on a matter of self-determination.

The August 1991 resolution continues:

> Having examined the report * * * of the Special Committee on the implementation of the resolutions concerning Puerto Rico [and] having heard statements and testimony representative of various viewpoints among the people of Puerto Rico and their social institutions, bearing in mind the agreement of the Puerto Rican political leadership to request the President of the United States of America and the United States Congress to adopt legislation with a view to consulting the people of Puerto Rico so that they may express themselves freely, voluntarily, democratically and without interference in their political future * * *.

And it goes on to deplore—I read the full passage:

> Deploring the fact that the United States Congress has not yet adopted the legal framework for the holding of a referendum to enable the people of Puerto Rico to determine their political future through the exercise of their right to self-determination. * * *

That is a right in article I, section 2 of the United Nations Charter. It goes on to reaffirm the inalienable right of the people of Puerto Rico to self-determination and independence and trusts the U.S. Congress to adopt as soon as possible the legal framework to enable the people of Puerto Rico to exercise their right to self-determination in accordance with the principles and practices of the United Nations.

Now, Mr. President, we have not done that. The subject has not even come up in the 102d Congress. It will not go away.

And yet we are acting in that regard today. Without any attention to the status question for Puerto Rico, this amendment would act in a very narrow way. And it would very much constrain our ability to deal with the larger issue later.

Mr. President, the amendment is not going to succeed. It will not succeed because on the side of the aisle it will be regarded as interfering in the economy: price fixing, and so forth. On this side of the aisle, there will be division. Most of us, I think, will vote for it.

But on neither side of the aisle is the issue of Puerto Rico being considered as relevant. I do not want to presume that; but I want to say I have not heard it.

That is more important than the price of timoptic solution, much as I am aware of the price of timoptic. This goes to the fundamentals of citizenship, of the rights of peoples, of self-determination, of solemn pledges made between peoples, of international law, the United Nations Charter. This has to do with the things that matter most in the world, that mattered most to us when we created this setting in which we today debate. We are not tending to these fundamental issues with enough sense of urgency; not hurry, but the urgency that is their due. Here they come up accidentally, inadvertently.

That August 1991 resolution from the United Nations on Puerto Rico, was adopted 9 in favor, 1 against—against, Norway—for which we thank our NATO friends. But too many countries that should have been with us were not. The usual countries that you expect to be against us were. But there we were, with Norway the only country that voted with us, or rather against the others.

Briefly, Mr. President, what happened? What led to this? Because I want you to know, sir—I want the Senate to know—that leaders of the three major parties, or the three major parties in Puerto Rico, went to New York, went to the General Assembly, and in effect asked for this resolution. The Puerto Rican political leadership went to the United Nations to have the U.S. Congress denounced.

Of course, everything is not always as it appears; I will get to that. But these things do not go away in the 20th century. This is not 1898.

The events of the most recent congressional consideration of the Puerto Rican status question are fairly simple. I can sum them up in 5 minutes. In January 1989, the leaders of the three parties in Puerto Rico—they are, in shorthand and in English, the Commonwealth Party, the Statehood Party, and the Independence Party—sent a joint letter to the Senate majority leader and the House Speaker requesting resolution of the status question. They wanted to get on the ballot in Puerto Rico a measure that would allow the people to say: I vote for the Commonwealth; I vote for independence; I vote for statehood. And to insure that the Congress would then give serious and timely consideration to the results.

Then, on the 9th of February, in his first month in office—he would only be 19 days in office—President Bush told the joint session of the Congress to pass such legislation. This was his first joint address, and he said it with great vigor. He said:

> There is another issue that I have decided to mention here tonight. I've long believed that the people of Puerto Rico should have the right to determine their own political future. Personally, I strongly favor statehood. But I urge the Congress to take the necessary steps to allow the people to decide in a referendum.

Mr. President, I will not go into detail, although I will place a chronology in the RECORD. But the Congress moved toward making the decision President Bush asked. And then it moved away, and in the end, it did not act.

There is more than one explanation. It is simply the fact, sir, that there are divided views on the island as to whether they want a referendum, the division being not unreasonable. Those who think they might lose it would rather not have it.

But, sir, that is not our option. We must make that referendum available. And people can vote as they please. They can either stay away, or make conditions of some kind that if enough voters do not vote, then it is not a binding decision, whatever. But we need to do that because the Congress is now being identified as the place that would not act; that is denying this right to the people of Puerto Rico.

I do not think we are, sir. I do not think we are engaged on the issue. There are people here who have different views on statehood. Well, we have always had different views—almost always—though, from 13 States to 50. There is nothing the matter with that.

But it would be a great mistake, in my view, to take this, to not deal with the issue when it ought to be dealt with in the context of the status of the people of Puerto Rico. Section 936 is part of the arrangements we offer for economic development in possessions of the United States. It is their due. They do not have many rights as possessions, as it were. But we gave it to them in the 1920's. To take section 936 away now in this context, without consultation or a hearing, is not something I would want to see my country do. Nor, I think, would other Senators want to do so.

The views down in Puerto Rico are very much divided right now. As I have told you, they are tentative and their views on a status referendum are very vigorously divided. But, sir, section 936 ought to be dealt with in a context which at least exhibits awareness of the larger issue of political status.

I would hope, then, that we would keep that option open for fellow American citizens in Puerto Rico, who would do well to get their own views in order and cease, perhaps, going to the United Nations and blaming the Congress. I did not think there were any grounds for blaming the Congress. There were too many people from Puerto Rico who, in back rooms, were saying do not do what we were then blamed in public for not doing.

But I leave that aside. I simply hope that we will not preempt today the full range of choices that we will want before us as we deal directly with the status issue.

Mr. President, I yield the floor, asking unanimous consent that I might place at the end of my statement a chronology of the events of the 101st and 102d Congress on the question of a status referendum for Puerto Rico.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CHRONOLOGY OF CONSIDERATION OF PUERTO RICO STATUS LEGISLATION 101ST AND 102ND CONGRESS

The following is a chronology of the development during the 101st and 102nd Congresses of legislation authorizing a status referendum in Puerto Rico.

January 17, 1989—Leaders of three parties send joint letter to Senate Majority Leader and House Speaker requesting resolution of status issue.

February 9, 1989—President Bush calls on Congress to pass legislation authorizing status referendum in his first Joint Session address.

SENATE

April 5, 1989—Energy Chairman Johnston introduces S. 712, authorizing status referendum and containing detailed self-executing terms for 3 options.

June 1, 2, 1989—Energy begins hearings on S. 712.

June 16, 17, 19, 1989—Energy holds field hearings on S. 712 in San Juan, Puerto Rico.

July 7, 1989—Sen. Moynihan requests studies from CBO and Joint Tax Committee regarding status bill issues within jurisdiction of Finance.

July 11, 13, 14, 1989—Energy hearings on S. 712.

July 26, 27 and August 1, 2, 1989—Energy markup of S. 712.

August 1, 1989—Energy reports S. 712.

September 6, 1989—Energy files report on S. 712.

September 26, 1989—S. 712 jointly referred to Finance and Agriculture (subject to discharge if not reported by November 1989).

October 23, 1989—Johnston writes House Interior Chairman Udall urging House to hold hearings on S. 712 before adjournment.

HOUSE

November 6, 1989—Udall replies to Johnston, rejecting approach of S. 712 and promising to consider status legislation in 1990.

SENATE

November 9, 1989—Agriculture hearing on S. 712.

November 11, 14, 15, 1989—Finance hearing on S. 712.

FIRST SESSION ADJOURNS

HOUSE

March 9, 10, 12, 1990—House Interior Committee holds 3 days of field hearings in Puerto Rico (San Juan, Ponce and Mayaguez).

SENATE

April 26, 1990—Finance holds hearing on S. 712.

HOUSE

May 9, 1990—De Lugo introduces H.R. 4765, authorizing two-step referendum process, with less detailed description of status options.

June 25, 1990—House Insular and International Affairs Subcommittee holds field hearing in East Harlem, New York to consider non-resident voting in referendum.

June 28, 1990—House Insular and International Affairs Subcommittee hearing on H.R. 4765.

SENATE

August 1, 1990—Finance marks up and reports amendments to S. 712.

HOUSE

August 3, 1990—H.R. 4765 cleared for full Committee by Insular Subcommittee.

September 19, 1990—H.R. 4765 reported by Interior Committee.

September 27, 1990—Hearing on H.R. 4765 by Rules Committee.

SENATE

September 28, 1990—UC given for Finance report on S. 712 (notwithstanding lack of report from Agriculture); Agriculture discharged from consideration of S. 712.

September 30, 1990—Finance files report on S. 712.

HOUSE

October 2, 1990—Rules reports H.R. 4765.

October 10, 1990—H.R. 4765 debated and passed in House.

SENATE

October 10, 1990—Energy Chairman Johnston announces insufficient time left to finish referendum legislation in 101st Congress, promises expedited consideration in 102d Congress.

October 12, 1990—H.R. 4765 received in Senate, placed on calendar.

October 28, 1990—101st Congress adjourns without taking action on referendum legislation.

102D CONGRESS

January 4, 1991—House Subcommittee on Insular and International Affairs de Lugo introduces a referendum authorization bill in the House (H.R. 316).

January 23, 1991—Senator Johnston introduces new version of "detailed" status referendum bill (S. 244).

February 27, 1991—Senate Energy Committee fails to report out S. 244 on a tie vote (10–10).

Mr. MOYNIHAN. I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey [Mr. LAUTENBERG].

Mr. LAUTENBERG. Thank you, Mr. President. Mr. President, I rise in opposition to the amendment by my good friend, the Senator from Arkansas. Even though our interests in controlling our Nation's health care costs are the same, I disagree sharply with the approach and the conclusion that the Senator from Arkansas has come up with in the amendment.

We all know that Americans face a health care crisis made worse by the recession. They are worried about losing their jobs and their health insurance. They are burdened by increasingly expensive health care costs, insurance premiums, and related expenses. Seniors living on fixed budgets must put more and more of their scarce dollars into health care. They fear poverty due to a serious illness, and the time is long past due that this country undertake comprehensive health care reform.

The Senator from Arkansas and I share many of the same concerns. However, I do not believe that this amendment is an effective, comprehensive, or long-term approach to controlling health care costs. This amendment, in fact, may create expectations that the cost of health care will soon come down, which will not happen, because of the small share of the health care cost budget that prescription drugs occupy and the escalating growth of other segments of the health care field. Further, it could have significant and adverse effects on the future discovery of breakthrough drugs, and the growth of an industry that has been one of the bright spots on our economic horizon. Also, it could do serious damage to the economy of Puerto Rico.

Mr. President, this amendment would reduce an existing tax credit that currently accrues to manufacturers with facilities in U.S. territories—principally Puerto Rico—and it sets up a modest demonstration program to provide coverage for prescription drugs to Medicare recipients.

Mr. President, it is not clear that this amendment would do much to hold down health costs overall. The pending amendment would assist a very limited population—those participating in one of the 15 demonstration programs—with a narrow slice of their health care cost. The cost of prescription drugs represents a 7 percent share of the total cost of health care. That is down from 12 percent of the total cost in 1965. I think this is a positive development. The overall cost of health care has grown faster than the cost of prescription drugs and faster than the CPI, from 1967 to 1990. Health care costs now account for almost 13 percent of our GNP. During this same period, expenditures on prescription drugs have remained stable, approximately eight-tenths of 1 percent of GNP.

The problem is the total cost of health care, not one element of it. Legislation that contains all health care costs and provides universal access to health care is now pending before the Senate. Cost containment will be effective if it is done comprehensively. This amendment takes aim at a very small piece of the family health care budget, which could prevent an indepth review of a permanent solution to an overwhelming problem.

Mr. President, I agree that senior citizens face overburdening health care costs. But these increasing costs encompass a wide range of health care services, including long-term care, physician services, vision care, dental care, and medical tests, many of which are important to the prevention of more expensive, more radical treatment.

This amendment only seeks to contain one small element of the senior citizen health care expenditures. Other uninsured costs, like long-term care, can bankrupt a senior citizen and their family.

As we move to reform our health care system, we need to address all of the health care costs, and this amendment does not do it. The Senator from Arkansas paints a picture of the problem, and the solution that can create false hopes that perfection in the health care system is nearby. This amendment could also damage one of our most important industries, which offers hope to so many who are afflicted with life-threatening diseases, and is a growing source of jobs and exports in an otherwise very bleaky economy.

Mr. President, over the past decades, America has lost its edge in industry after industry. Our competitive advantage is slipping away to our trading partners and allies. We need to be very careful that, as we move to reduce health care costs, we do not stifle the creative process that has resulted in world-class drugs, most of which are lifesaving drugs, and hundreds of thousands of high-wage jobs for our citizens.

In New Jersey, the pharmaceutical industry is among the top employers in our State, employing more than 54,000 workers, and it is expanding at this time. They are good jobs, and these are jobs in an industry that also deserves credit for increasing the longevity and quality of life for all Americans, an industry that has tamed disease after disease feared as killers only 10 years ago.

What I am concerned about, Mr. President, is that this well-intentioned, but misguided, attempt to address the soaring health care costs will not only fail to address the real needs of our people, but could permanently damage our economy.

As recently described in an article in Fortune magazine, the pharmaceutical industry is our most competitive industry internationally.

We all know here that we are in the throes of a long and intractable recession. We have seen our growth, high-technology, high-wage industries eroded over time, displaced by foreign competitors. Our manufacturing and industrial base continues to shrink.

The pharmaceutical industry has a different profile. Despite the recession, and fierce international competition, employment in the pharmaceutical industry is expanding. Employment has grown every year since 1980.

Mr. President, the pharmaceutical industry has not grown through leveraged acquisitions, junk bonds, or Wall Street maneuvers. It has grown because pharmaceutical companies invest approximately $8 billion a year in long-term research and development of new products.

According to an International Trade Commission report to the Senate Finance Committee last September, a major factor in the industry's strong position in the world market is its level of innovation and investment in R&D, often in conjunction with the Nation's university scientists. The ITC found that the U.S. industry was a leader in innovation during 1975 to 1989, developing the majority of the globally successful products introduced during this time period. The ITC found that the pharmaceutical industry routinely allocates approximately 17 percent of its sales of pharmaceuticals to research and development—about three times the level allocated by the remainder of the chemical and related industry sector.

These investments take a long time to pay off, in most cases at least 8 years.

We have heard a lot of criticism in this Chamber about the shortsightedness of American management, and I have had some things to say about this myself. Criticism focuses on the obsession by some U.S. executives on the next quarter or the quarter following that rather than on the long term, which is essential if we are to retain any kind of a competitive edge.

The pharmaceutical industry defies this pattern. It is investing billions of dollars each year to develop lifesaving therapies. It is competing successfully in the international marketplace. The industry enjoys a trade surplus in pharmaceuticals worldwide, even with Japan, one of the few industries that we have that has such a positive trade balance.

This amendment is almost punitive in nature, as though punishing an industry for its vitality and profitability is going to reform our health care system. In taking the steps that he does, the Senator from Arkansas could find himself with very little progress on the cost containment front, but with a significant loss of jobs, reduced international competitiveness and lack of products to deal with the health care problems that we have and that we see enlarging as our population ages.

This amendment could also put a halt to the development of lifesaving therapies, which not only save lives but save money. Treatment of illness and disease through pharmaceutical products is in all cases less expensive than surgery and certainly is less traumatic to the patient involved.

Mr. President, if this amendment is adopted, it may actually hurt the people it is designed to help, our Nation's senior citizens. This amendment will discourage ongoing research on over 200 drugs that are designed to help older Americans and other citizens as well. For example, the following number of drugs are currently in the research and development pipeline: The 87 products being developed for heart disease, high blood pressure, and strokes. In addition, few of us have failed to see the terrible results of Alzheimer's disease in an aging patient. There are 69 products being developed to deal with Alzheimer's, Parkinson's, arteriosclerosis, arthritis, diseases that accelerate their growth with age.

Breast cancer. We are all so aware of the tragedy of breast cancer. Our Government has encouraged women to have frequent mammograms. Unfortunately, all of us again have had some contact directly or indirectly with the breast cancer threat.

Mr. President, I ask unanimous consent that excerpts from a publication that I have here be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[In Development: New Medicines for Older Americans]

1991 ANNUAL SURVEY: MORE MEDICINES IN TESTING FOR CANCER THAN FOR ANY OTHER DISEASE OF AGING

(Presented by the Pharmaceutical Manufacturers Association)

More medicines are in development for cancer than for any other disease of aging, according to the third annual survey of "New Medicines in Development for Older Americans." The survey, conducted by the Pharmaceutical Manufacturers Association, found that 126 cancer medicines are in development, 34 more than in 1989 and nearly twice as many as were being tested in 1988. These 126 medicines are being developed by 56 companies.

Many of these medicines are being tested for more than one type of cancer, resulting in 225 separate research projects, each of which is listed and cross-referenced in this report. Fifty-three of them are in the final stages of development. Three of the cancer medicines listed in PMA's 1989 survey report have been approved. They are: Ergamisol (Janssen) for colon cancer, Zofran (Glaxo), and adjunct to chemotherapy and radiation therapy, and Zoladex (ICI) for prostate cancer.

New biotechnology research techniques play a significant role in cancer research. At least 25 of the cancer medicines in development involve genetically engineered medicines.

The 1991 survey report lists medicines in development for 17 cancers, while the 1989 report covered 9 cancers. New to this survey are bladder cancer with 5 medicines in development, esophageal cancer with 1, liver cancer with 3, lymphoma with 8, ovarian cancer with 12, pancreatic cancer with 2, stomach cancer with 3, and uterine cancer with 8. The cancers that take the greatest toll on our society—lung, breast, and colon cancer—are the leading targets of research by the pharmaceutical industry. More details of the survey results are contained in the table on this page.

Cancer is second only to cardiovascular disease as the leading cause of death in older people. The American Cancer Society estimates that 1.1 million Americans will be diagnosed as having cancer in 1991 and 514,000 people—1,400 a day—will die of the disease. The overall costs for cancer in 1990 were $104 billion. Further information about the social and economic impact of cancer is provided in the section of this report titled "Facts about Cancer."

The completion and evaluation of clinical studies for the medicines listed in this survey report will reveal their therapeutic significance. Meanwhile, the research-based pharmaceutical industry's increasing efforts to find therapies and cures for cancer hold the promise of easing the pain, prolonging the lives, and reducing the health care costs for Americans who have this disease.

GERALD J. MOSSINGHOFF,
President, Pharmaceutical Manufacturers Association.

	1991	1989	1988
Summary of survey results:			
Total cancer medicines in development	126	92	65
Total companies developing cancer medicines	56	53	45
Total cancer diseases surveyed [1]	17	9	5
Survey results by development status:			
Phase I	48	33	27
Phase I/II/III	4	0	0
Phase I/II	12	7	5
Phase II	80	38	23
Phase II/III	13	14	12
Phase III	42	21	12
Applications at FDA for review	11	6	7
In clinical trials	15	24	11
Survey results by disease:			
Acute myelogenous leukemia	4	1	(1)
Bladder cancer	5	(1)	(1)
Breast cancer	28	21	16
Chronic lymphocytic leukemia	3	3	(1)
Chronic myelogenous leukemia	3	3	(1)
Colon cancer	35	26	20
Esophageal cancer	1	(1)	(1)
Liver cancer	3	(1)	(1)
Lung cancer	29	21	14
Lymphoma	8	(1)	(1)
Ovarian cancer	12	(1)	(1)
Pancreatic cancer	2	(1)	(1)
Prostate cancer	17	12	10
Renal cancer	6	5	(1)
Skin cancer (melanoma/other)	18	14	11
Stomach cancer	3	(1)	(1)
Uterine cancer (cervical/endometrial)	8	(1)	(1)
Other	40	37	26
Total research projects (reflects medicines in development for more than one use)	225	143	97

[1] Category was not included in survey that year.

CANCER MEDICINES IN DEVELOPMENT

Drug	Company	Other indications	U.S. development status
Acute myelogenous leukemia (AML):			
Anti-my9-blocked ricin	ImmunoGen (Cambridge, MA)	(See also CML)	Phase I/II.
CI–973	Warner-Lambert (Morris Plains, NJ)	(See also bladder, breast, colon, lung, ovarian)	Phase II.
Homoharringtonine	National Cancer Institute (Bethesda, MD)	(See also CML)	Do.
Pergamid™ 4-hydroperoxy-cyclophosphamide.	Nova Pharmaceutical (Baltimore, MD)		Phase III.
Bladder cancer:			
Bropirimine	Upjohn (Kalamazoo, MI)		Phase II.
Catrix® [1]	Lescarden (New York, NY)	(See also breast, colon, esophageal, liver, lung, ovarian, pancreatic, prostate, renal, stomach, uterine).	Phase III.
CI–973	Warner-Lambert (Morris Plains, NJ)	(See also AML, breast, colon, lung, ovarian)	Phase II.
Gallium nitrate [1]	National Cancer Institute (Bethesda, MD)	(See also colon, uterine)	Do.
Radinyl® etanidazole	Du Pont Merck (Wilmington, DE) Roberts (Eatontown, NJ)	(See also lung, prostate, other)	Phase II/III.
Breast cancer:			
BMY–28090	Bristol-Myers Squibb (New York, NY)	(See also colon, lung, prostate)	Phase I/II.
Catrix® [1]	Lescarden (New York, NY)	(See also bladder, colon, esophageal, liver, lung, ovarian, pancreatic, prostate, renal, stomach, uterine).	Phase III.
CI–973	Warner-Lambert (Morris Plains, NJ)	(See also AML, bladder, colon, lung, ovarian)	Phase II.
Didemnin B	National Cancer Institute (Bethesda, MD)	(See also lung, lymphoma, ovarian, prostate, uterine)	Do.
Epirubicin	Adria (Columbus, OH)		Phase III.
Ethyol® ethiofos	U.S. Bioscience (W. Conshohocken, PA)	Chemotherapy and radiation therapy protective agent to reduce toxicity (See also colon, lung, skin).	Do.
Fadrozole	CIBA–GEIGY (Summit, NJ)		Do.
Gemcitabine	Eli Lilly (Indianapolis, IN)	(See also colon, lung, prostate)	In clinical trials.
Granisetron 43694	SmithKline Beechman (Philadelphia, PA)	Adjunct to chemotherapy (See also colon, lung, prostate)	Phase III.
Hexalen® hexamethylmelamine ldrs.	U.S. Bioscience (W. Conshohocken, PA)	(See also lung)	Phase II.
ImmuRAID–CEA	Immunomedics (Warren, NJ)	(See also colon, lung, ovarian, stomach)	Application submitted.
Breast cancer:			
L–6 MAb [2]	Bristol-Myers Squibb (New York, NY)	(See also colon, lung, prostate)	Phase I.
Liposomal doxorubicin (TLC D–99)	The Liposome Company (Princeton, NJ)		Phase II.
Lometrexol	Eli Lilly (Indianapolis, IN)	(See also colon, lung, prostate)	In clinical trials.
MDL 18,962	Marion Merrell Dow (Kansas City, MO)		Do.
MDL 73,147EF	Marion Merrell Dow (Kansas City, MO)		Do.
MuMAb4D5 HER–2 antibody [2]	Genetech (S. San Francisco, CA)	(See also ovarian)	Phase I.
Navelbine® vinorelbine	Burroughs Wellcome (Rsch. Triangle Park, NC)	(See also lung)	Phase II.
Novantrone® [1] mitoxantrone	Lederle (Wayne, NJ)	(See also lung, lymphoma, prostate)	Phase I/II/III.
N-phosphonoacetyl-L-asparic acid (PALA)	U.S. Bioscience (W. Conshohocken, PA)	(See also colon, lung)	Phase III.
Pancarcinoma Re-186 MAb [2]	NeoRx (Seattle, WA)	(See also colon, lung, ovarian, pancreatic, prostate)	Phase I.
Paraplatin carboplatin	Bristol-Myers Squibb (New York, NY)	(See also, colon, lung, prostate)	Phase II/III.
Rogletimide	U.S. Bioscience (W. Conshohocken, PA)	(See also prostate)	Phase II.
Sandostatin® [1] octreotide acetate	Sandoz (East Hanover, NJ)		Phase I.
Sulofenur	Eli Lilly (Indianapolis, IN)	(See also colon, lung, prostate)	In clinical trials.
Taxol	Bristol-Myers Squibb (New York, NY)	(See also lung, ovarian uterine)	Phase II.
Thiadiazole	National Cancer Institute (Bethesda, MD)	(See also colon, lung, lymphoma, uterine)	Do.
Toremifene	Adria (Columbus, OH)		Phase III.
Chronic lymphocytic leukemia (CLL):			
Oncolysin B anti-b4-blocked ricin	ImmunoGen (Cambridge, MA)	(See also lymphoma)	Phase I.
Specifid™ anti-idiotype antibody	IDEC Pharmaceuticals (Mountain View, CA)	......do	Phase III.
Sterecyt® prednimustine	Kabi Pharmacia (Piscataway, NJ)	......do	Phase II.
Chronic Myelogenous leukemia (CML):			
Anti-my9-blocked ricin	ImmunoGen (Cambridge, MA)	(See also AML)	Phase I/II.
Homoharringtonine	National Cancer Institute (Bethesda, MD)	......do	Phase II.
Intron A® [1] [2]	Schering-Plough (Madison, NJ)	(See also renal, skin)	Phase III.
Colon cancer:			
Betaseron [2]	Berlex (Wayne, NJ)	(See also other)	Phase III.
BMY–28090	Bristol-Myers Squibb (New York, NY)	(See also breast, lung, prostate)	Phase I/II.
BUDR	National Cancer Institute (Bethesda, MD)	(See also liver)	Phase II.
Catrix® [1]	Lescarden (New York, NY)	(See also bladder, breast, esophageal, liver, lung, ovarian, pancreatic, prostate, renal, stomach, uterine).	Phase III.

CANCER MEDICINES IN DEVELOPMENT—Continued

Drug	Company	Other indications	U.S. development status
CGP19835	CIBA-GEIGY (Summit, NJ)	(See also skin)	Phase II.
CGP30694 (10 EdAM)	CIBA-GEIGY (Summit, NJ)	(See also lung)	Phase III.
CI-973	Warner-Lambert (Morris Plains, NJ)	(See also AML, bladder, breast, lung, ovarian)	Phase II.
Colon RE-186 MAb	NeoRx (Seattle, WA)		Phase I.
DaunoXome liposomal daunorubicin	Vestar (San Dimas, CA)	(See also skin)	Phase II.
Echinomycin	National Cancer Institute (Bethesda, MD)	(See also uterine)	Do.
Ethyol® ethiofos	U.S. Bioscience (W. Conshohocken, PA)	Chemotherapy and radiation therapy protective agent to reduce toxicity (see also breast, lung, skin).	Phase III.
Gallium nitrate[1]	National Cancer Institute (Bethesda, MD)	(See also bladder, uterine)	Phase II.
Gemcitabine	Eli Lilly (Indianapolis, IN)	(See also breast, lung, prostate)	In clinical trials.
GNI-250[2]	Genetics Institute (Cambridge, MA)		Phase I.
Granisetron 43694	SmithKline Beecham (Philadelphia, PA)	Adjunct to chemotherapy (see also breast, lung, prostate)	Phase III.
ImmuRAID-CEA	Immunomedics (Warren, NJ)	(See also breast, lung, ovarian, stomach)	Application submitted.
Intron A®[2] (interferon alfa-2b) with 5-fluorouracil)5-FU).	Schering-Plough (Madison, NJ)		Phase II/III.
L-6 MAb[2]	Bristol-Myers Squibb (New York, NY)	(See also breast, lung, prostate)	Phase I.
Lentinan-Ajinomoto lentinan	Lenti-Chemico (Teanick, NJ)	(See also stomach)	Phase I.
leucovorin calcium with 5-fluorouracil	Lederle (Wayne, NJ)		Application submitted.
Lometrexol	Eli Lilly (Indianapolis, IN)	(See also breast, lung, prostate)	In clinical trials.
MDL 72,175	Marion Merrell Dow (Kansas City, MO)		Do.
N-phosphonoacetyl-L-aspartic acid (PALA)	U.S. Bioscience (W. Conshohocken, PA)	(See also breast, lung)	Phase III.
OncoRad® 103[2] CYT-103-Y-90	CYTOGEN (Princeton, NJ)	(See also ovarian)	Phase II.
OncoScint® CR103 celocolab	CYTOGEN (Princeton, NJ)		Application submitted.
OncoScint® CR372 CYT-372-In-111	CYTOGEN (Princeton, NJ)		Phase I.
Pancarcinoma Re-186 MAb[2]	NeoRx (Seattle, WA)	(See also breast, lung, ovarian, pancreatic, prostate)	Do.
Panorex™[2] MAb 17-1A	Centocor (Malvern, PA)		Phase II.
Paraplatin carboplatin	Bristol-Myers Squibb (New York, NY)	(See also breast, lung, prostate)	Phase II/III.
Proleukin[2] aldesleukin (interleukin-2)	Cetus (Emeryville, CA)	(See also renal, skin)	Phase II.
Roferon®-A[1/2] (interferon alfa-2a) with 5-fluorouracil (5-FU).	Hoffmann-La Roche (Nutley, NJ)		Phase III.
Sulofenur	Eli Lilly (Indianapolis, IN)	(See also breast, lung, prostate)	In clinical trials.
Tauricyt tauromustine (TCNU)	Kabi Pharmacia (Piscataway, NJ)		Phase III.
Thiadiazole	National Cancer Institute (Bethesda, MD)	(See also breast, lung, lymphoma, uterine)	Phase II.
XomaZyme®-791[2]	Xoma (Berkeley, CA)		Phase II.
Esophageal cancer:			
Catrix®[1]	Lescarden (New York, NY)	(See also bladder, breast, colon, liver, lung, ovarian, pancreatic, prostate, renal, stomach, uterine).	Phase III.
Liver cancer:			
BUDR	National Cancer Institute (Bethesda, MD)	(See also colon)	Phase II.
Catrix®[1]	Lescarden (New York, NY)	(See also bladder, breast, colon, esophageal, lung, ovarian, pancreatic, prostate, renal, stomach, uterine).	Phase I.
ImmuRAID-AFP	Immunomedics (Warren, NJ)	(See also other)	Phase I.
Lung cancer:			
3F8[2]	Genetics Institute (Cambridge, MA)		Do.
BioTropin[2] human growth hormone	Bio-Technology General (New York, NY)		Do.
BMY-28090	Bristol-Myers Squibb (New York, NY)	(See also breast, colon, prostate)	Phase I/II.
Catrix®[1]	Lescarden (New York, NY)	(See also bladder, breast, colon, esophageal, liver, ovarian, pancreatic, prostate, renal, stomach, uterine).	Phase III.
CGP30694 (10 EdAM)	CIBA-GEIGY (Summit, NJ)	(See also colon)	Do.
CI-973	Warner-Lambert (Morris Plains, NJ)	(See also AML, bladder, breast, colon, ovarian)	Phase II.
Didemnin B	National Cancer Institute (Bethesda, MD)	(See also breast, lymphoma, ovarian, prostate, uterine)	Phase II.'
Ethyol ethiofos	U.S. Bioscience (W. Conshohocken, PA)	(Chemotherapy and radiation therapy protective agent to reduce toxicity (see also breast, colon, skin).	Do.
Gemcitabine	Eli Lilly (Indianapolis, IN)	(See also breast, colon, prostate)	In clinical trials.
Granisetron 43694	SmithKline Beecham (Philadelphia, PA)	(Adjunct to chemotherapy (See also breast, colon, prostate)	Phase III.
Hexalen hexamethylmelamine	U.S. Bioscience (W. Conshohocken, PA)	(See also breast)	Phase II.
ImmuRAID-CEA	Immunomedics (Warren, NJ)	(See also breast, colon, ovarian, stomach)	Application submitted.
Ipomeanol	National Cancer Institute (Bethesda, MD)		Phase I.
L-6 Mab[2]	Bristol-Myers Squibb (New York, NY)	(See also breast, colon, prostate)	Phase I.
Lometrexol	Eli Lilly (Indianapolis, IN)	....do	In clinical trails.
N901-blocked ricin	ImmunoGen (Cambridge, MA)		Phase I/II.
Navelbine vinorelbine	Burroughs Wellcome (Rsch. Triangle Park, NC)	(See also breast)	Phase II.
Novantrone mitoxantrone	Lederle (Wayne, NJ)	(See also breast, lymphoma, prostate)	Phase I/II/III.
N-phosphonoacetyl-aspartic acid (PALA)	U.S. Bioscience (W. Conshohocken, PA)	(See also breast, colon)	Phase II.
pancarcinoma Re-186 Mab[2]	NeoRx (Seattle, WA)	(See also breast, colon, ovarian, pancreatic, prostate)	Phase I.
Paraplatin carboplatin	Bristol-Myers Squibb (New York, NY)	(See also breast, colon, prostate)	Phase II/III.
Photofrin® polyporphyrin	Lederle (Wayne, NJ) QLT Phototherapeutics (Pearl River, NY)		Phase III.
Radinyl etanidazole ®	Du Pont Merck (Wilmington, DE) Roberts (Eatontown, NJ)	(See also bladder, prostate, other)	See also II/III.
Roferon® A[1][2] (interferon alfa-2a) with cisplatin.	Hoffmann-La Roche (Nutley, NJ)		See also I.
sulofenur	Eli Lilly (Indianapolis, IN)	(See also breast, colon, prostate)	In clinical trials.
Taxol	Bristol-Myers Squibb (New York, NY)	(See also breast, ovarian, uterine)	Phase II.
thiadiazole	National Cancer Institute (Bethesda, MD)	(See also breast, colon, lymphoma, uterine)	Do.
Thymosin Alpha I	Alpha 1 Biomedicals (Washington, DC)		Do.
Triciribine phsophate	National Cancer Institute (Bethesda, MD)		Do.
Lymphoma:			
Didemnin B	National Cancer Institute (Bethesda, MD)	(See also breast, lung, ovarian, prostate, uterine)	Phase II.
ImmuRAID-LL-2	Immunomedics (Warren, NJ)	(See also other)	Phase I.
ImmuRAIT-LL-2	Immunomedics (Warren, NJ)	....do	Do.
Novantrone®*[1] moxantrone	Lederle (Wayne, NJ)	(See also breast, lung, prostate)	Phase I/II/III.
Oncolysin B anti-b4-blocked ricin	ImmunoGen (Cambridge, MA)	Non-Hodgkin's lymphoma (see also CLL)	Phase I.
Specifidt® prednimustine anti-idiotype anti-body.	IDEC Pharmaceuticals (Mountain View, CA)	(See also CLL)	Phase III.
Stercyt	Kabi Pharmacia (Piscataway, NJ)	Hodgkin's and non-Hodgkin's lymphoma (See also CLL)	Phase II.
Thiadiazole	National Cancer Institute (Bethesda, MD)	(See also breast, colon, lung, uterine)	Do.
Ovarian cancer:			
Catrix®*[1]	Lescarden (New York, NY)	(See also bladder, breast, colon, esophageal, liver, lung, pancreatic prostate, renal, stomach, uterine).	Phase III.
CI-973	Warner-Lambert (Morris Plains, NJ)	(See also AML, bladder, breast, colon, lung)	Phase II.
Decapeptyl™ triporelin pamoate	Organon (West Orange, NJ)	(See also other)	Do.
didmennin B	National Cancer Institute (Bethesda, MD)	(See also breast, lung, lymphoma, prostate, uterine)	Do.
ImmuRAID-CEA	Immunomedics (Warren, NJ)	(See also breast, colon, lung, stomach)	Application submitted.
MuMAb4D5 HER-2 antibody[2]	Genentech (S. San Francisco, CA)	(See also breast)	Phase I.
N-methylformamide	National Cancer Institute (Bethesda, MD)	(See also skin, uterine)	Phase II.
OncoRad® 103[2] CYT-103-Y-90	CYTOGEN (Princeton, NJ)	(See also colon)	Do.
OncoScint® OV103 celogovab	CYTOGEN (Princeton, NJ)		Application submitted.
ovarian RE-186 MAb[2]	NeoRx (Seattle, WA)		Phase I.
pancarcinoma Re-186 Mab[2]	NeoRx (Seattle, WA)	(See also breast, colon, lung, pancreatic, prostate)	Do.
Taxol	Bristol-Myers Squibb (New York, NY)	(See also breast, lung, uterine)	Phase II/III.
Pancreatic cancer:			
Catrix®[1]	Lescarden (New York, NY)	(See also bladder, breast, colon, esophageal, liver, lung, ovarian, prostate, renal, stomach, uterine).	Phase III.
pancarcinoma Re-186 MAb[2]	NeoRx (Seattle, WA)	(See also breast, colon, lung, ovarian, prostate)	Phase I.
Prostate cancer:			
BMY-28090	Bristol-Myers Squibb (New York, NY)	(See also breast, colon, lung)	Phase I/II.
Casodex ICI-176,334	ICI Pharmaceuticals Group (Wilmington, DE)		Phase III.
Catrix®[1]	Lescarden (New York, NY)	(See also bladder, breast, colon, esophageal, liver, lung, ovarian, pancreatic, renal, stomach, uterine).	Do.

CANCER MEDICINES IN DEVELOPMENT—Continued

Drug	Company	Other indications	U.S. development status
Didemnin B	National Cancer Institute (Bethesda, MD)	(See also breast, lung, lymphoma, ovarian, uterine)	Phase II.
Gemcitabine	Eli Lilly (Indianapolis, IN)	(See also breast, colon, lung)	In clinical trials.
Granisetron 43694	SmithKline Beecham (Philadelphia, PA)	Adjunct to chemotherapy (See also breast, colon, lung)	Phase III.
L-6 MAb[2]	Bristol-Myers Squibb (New York, NY)	(See also breast, colon, lung)	Phase I.
Lometrexol	Eli Lilly (Indianapolis, IN)	(See also breast, colon, lung)	In clinical trials.
Novantrone®[1] mitoxantrone	Lederle (Wayne, NJ)	(See also breast, lung, lymphoma)	Phase I/II/III.
OncoScint® PR356 CYT-356-In-111	CYTOGEN (Princeton, NJ)		Phase II.
Pancarcinoma Re-186 MAb[2]	NeoRx (Seattle, WA)	(See also breast, colon, lung, ovarian, pancreatic)	Phase I.
Paraplatin carboplatin	Bristol-Myers Squibb (New York, NY)	(See also breast, colon, lung)	Phase II/III.
Radinyl® etanidazole	Du Pont Merck (Wilmington, DE) Roberts (Eatontown, NJ)	(See also bladder, lung, other)	Do.
Rogletimide	U.S. Bioscience (W. Conshohocken, PA)	(See also breast)	Phase II.
RS-26306	Syntex (Palo Alto, CA)		Phase I.
Somagard® deslorelin	Roberts (Eatontown, NJ)		Phase III.
Sulofenur	Eli Lilly (Indianapolis, IN)	(See also breast, colon, lung)	In clinical trials.
Renal cancer:			
Actimmune®[2] gamma interferon	Genentech (S. San Francisco, CA)		Phase II.
Alpha Leukoferon® human leukocyte interferon, alpha.	Viragen (Hialeah, FL)		Do.
Catrix®[1]	Lescarden (New York, NY)	(See also bladder, breast, colon, esophageal, liver, lung, ovarian, pancreatic, prostate, stomach, uterine).	Phase III.
Intron A®[1,2] interferon-alfa 2b	Schering-Plough (Madison, NJ)	(See also CML, skin)	Do.
PEG-interleukin-2[1,2]	Cetus (Emeryville, CA)		Phase II.
Proleukin®[2] aldesleukin (interleukin-2)	Cetus (Emeryville, CA)	(See also colon, skin)	Application submitted.
Skin cancer:			
Actinex™ masoprocal	Chemex (Denver, CO)	Actinic keratoses	Application submitted.
CGP19835	CIBA-GEIGY (Summit, NJ)	Adjuvant to melanoma, osteocarcinoma (See also colon)	Do.
DaunoXome liposomal daunorubicin	Vestar (San Dimas, CA)	(See also colon)	Do.
Ethyol® ethiofos	U.S. Bioscience (W. Conshohocken, PA)	Chemotherapy and radiation therapy protective agent to reduce toxicity (see also breast, colon, lung).	Do.
hexamethylene bisacetamide	National Cancer Institute (Bethesda, MD)	Melanoma	Phase II.
IMelpg1	IDEC Pharmaceuticals (Mountain View, CA)	do	Phase I/II.
IMelpg2	IDEC Pharmaceuticals (Mountain View, CA)	do	Do.
Intron A®*/** interferon-alfa 2b	Schering-Plough (Madison, NJ)	(See also CML, renal)	Application submitted.
isotretinoin (topical)	Hoffmann-La Roche (Nutley, NJ)		Phase II.
macrophage colony stimulating factor* (M-CSF).	Genetics Institute (Cambridge, MA)	Melanoma	Phase I/II.
Melacine™ melanoma theraccine	Ribi ImmunoChem (Hamilton, MT)	do	Phase II.
methotrexate topical gel	Whitby Research (Richmond VA)	Mycosis fungoides	Do.
Mitolactol dibromodulctiol	Amswiss Scientific (New York, NY)	Melanoma (see also uterine)	Do.
N-methylformamide	National Cancer Institute (Bethesda, MD)	Melanoma (see also ovarian, uterine)	Do.
Proleukin®* aldesleukin (interleukin-2)	Cetus (Emeryville, CA)	Melanoma (see also colon, renal)	Do.
Retin-A®** tretinoin	Ortho Pharmaceutical Corp. (Raritan, NJ)		Phase III.
Vaccinia virus infected allogenic malignant cell lines, lysate subfraction.	Connaught (Swiftwater, PA) Pasteur Merieux (Lyon, France)	Melanoma	Phase II/III.
XomaZyme®-Mel*	Xoma (Berkeley, CA)	do	Phase II.
Stomach cancer:			
Catrix®*[1]	Lescarden (New York, NY)	(See also bladder, breast, colon, esophageal, liver, lung, ovarian, pancreatic, prostate, renal, uterine).	Phase III.
ImmuRAID-CEA	Immunomedics (Warren, NJ)	(See also breast, colon, lung, ovarian)	Application submitted.
Lentinan-Ajinomoto lentinan	Lenti-Chemico (Teaneck, NJ)	(See also colon)	Phase I.
Uterine cancer:			
Catrix®[1]	Lescarden (New York, NY)	Cervical, endometrial (see also bladder, breast, colon, esophageal, liver, lung, ovarian, pancreatic, prostate, renal, stomach).	Phase III.
Didemnin B	National Cancer Institute (Bethesda, MD)	Cervical (see also breast, lung, lymphoma, ovarian, prostate)	Phase II.
Echinomycin	National Cancer Institute (Bethesda, MD)	Endometrial (see also colon)	Do.
Gallium nitrate[1]	National Cancer Institute (Bethesda, MD)	Endometrial (see also bladder, colon)	Do.
Mitolactol (dibromodulicitol) with cisplatin	Amswiss Scientific (New York, NY)	Cervical (See also skin)	Do.
N-methylformamide	National Cancer Institute (Bethesda, MD)	Cervical, endometrial (see also ovarian, skin)	Do.
Taxol	Bristol-Myers Squibb (New York, NY)	Cervical (see also breast, lung, ovarian)	Do.
Thiadiazole	National Cancer Institute (Bethesda, MD)	Endometrial (see also breast, colon, lung, lymphoma)	Do.
Other (drugs that have potential for one or more of the previous cancers; unless noted, indications not yet determined):			
773U82	Burroughs Wellcome (Rsch Triangle Park, NC)		Phase II.
7U85	Burroughs Wellcome (Rsch Triangle Park, NC)		Phase I.
Adozelesin	Upjohn (Kalamazoo, MI)		Do.
Alendronate sodium	Merck (Rahway, NJ)	Treatment of high blood calcium in patients with metastatic cancer	Phase II.
Alkeran® melphalan	Burroughs Wellcome (Rsch Triangle Park, NC)		Phase III.
Amonafide	Knoll Pharmaceuticals (Whippany, NJ)		Phase II.
Aredia disodium pamidronate	CIBA-GEIGY (Summit, NJ)	Hypercalcemia of malignancy, bone metastases	Phase III.
Betaseron[2] interferon-beta	Berlex (Wayne, NJ)	(See also colon)	Do.
BMY-25067	Bristol-Myers Squibb (New York, NY)		Phase I.
BMY-28175	Bristol-Myers Squibb (New York, NY)		Do.
Bryostatin	Bristol-Myers Squibb (New York, NY)		Do.
Buthionine Sulfoximine	National Cancer Institute (Bethesda, MD)		Do.
CI-958	Warner-Lambert (Morris Plains, NJ)	Solid tumors	Do.
CI-980	Warner-Lambert (Morris Plains, NJ)	do	Phase I.
Crisnatol	Burroughs Wellcome (Rsch Triangle Park, NC)		Phase II.
Decapeptyl^{tm} triporelin pamoate	Organon (West Orange, NJ)	(See also ovarian)	Do.
Epidermal clonidine	Fujisawa (Deerfield, IL)	Cancer pain	Phase III.
Etoposide Phosphate	Bristol-Myers Squibb (New York, NY)		Phase I.
Galamustine	Unimed (Somerville, NJ)		Do.
ImmuRAID-AFP	Immunomedics (Warren, NJ)	(See also liver)	Do.
ImmuRAID-LL-2	Immunomedics (Warren, NJ)	(See also lymphoma)	Do.
ImmuRAIT-LL-2	Immunomedics (Warren, NJ)	do	Do.
ImuVert Serratia marcescens extract	Cell Technology (Boulder, CO)		Phase II.
Interleukin-1 beta[2]	Syntex (Palo Alto, CA)	Hematopoiesis following cancer chemotherapy	Do.
Interleukin-3[2]	Immuenex (Seattle, WA) Behringwerke A.G. (subsidiary of Hoechst A.G., Marburg, W. Germany).	Chemotherapy-induced neutropenia	Phase I/II.
Interleukin-4[2]	Sterling Drug (New York, NY)		Phase II.
Leucomax^{tm} granulocyte macrophage colony stimulating factor[2] (GM-CSF).	Genetics Institute (Cambridge, MA) Sandoz (East Hanover, NJ) Schering-Plough (Madison, NJ).	Adjuvant to chemotherapy, bone marrow transplantation, hematological disorders.	Phase II/III.
Leukine^{tm}[2] sargramostin (GM-CSF)	Immuenex (Seattle, WA) Behringwerke A.G. (subsidiary of Hoechst A.G., Marburg, W. Germany).	Chemotheraphy-induced neutropenia	Do.
Macrfolin® macrophage-colony stimulating factor.	Cetus (Emeryville, CA)		Phase I.
Piritrexim	Burroughs Wellcome (Rsch Triangle Park, NC)		Phase II.
Platinum I	Lederle (Wayne, NJ)		Do.
Platinum II	Lederle (Wayne, NJ)		Do.
Pyrazine diazohydroxide	National Cancer Institute (Bethesda, MD)		Phase I.
Radinyl® etanidazole	Du Pont Merck (Wilmington, DE) Roberts (Eatontown, NJ)	Chemosensitizer, adjunct to chemotherapy, mouth (oral cavity) (see also bladder, lung, prostate).	Phase II/III.
RG-12915A	Rhone-Poulenc Rorer (Fort Washington, PA)	Prevention of emesis during chemotherapy	Phase II.
RG-83852	Rhone-Poulenc Rorer (Fort Washington, PA)	Adjunct for solid tumor treatment	Phase I.
RS-42358	Syntex (Palo Alto, CA)	Prevention of emesis during chemotherapy	Do.
R-verapamil	Knoll Pharmaceuticals (Whippany, NJ)	Reversal of multi-drug resistance to chemotherapeutic agents	Do.
Taxotere	Rhone-Poulenc Rorer (Fort Washington, PA)	Solid tumors	Do.

CANCER MEDICINES IN DEVELOPMENT—Continued

Drug	Company	Other indications	U.S. development status
Tumor necrosis factor [2] (TNF)	Knoll Pharmaceuticals (Whippany, NJ)		Phase I/II.

[1] Approved for other indications.

[2] Derived from genetic engineering.

Note.—The content of this chart has been obtained through industry sources based on the latest information and is current as of May 17, 1991. The information may not be comprehensive. For more specific information about a particular product, contact the individual company directly.

Glossary: Actinic Keratoses (AK)—Roughness and thickening of the skin caused by overexposure to the sun's ultraviolet rays. AK can degenerate into a skin cancer called squamous cell carcinoma. Adjunct—An auxiliary treatment that is secondary to the main treatment. Adjuvant—A substance of drug that aids another substance in its action. Application submitted—An application for marketing has been submitted by the company to the Food and Drug Administration (FDA). Cervical—Relating to the neck of the uterus. Emesis—Vomiting. Endometrial—Relating to the lining of the uterus (endometrium). Hematological—Relating to the blood. Hematopoiesis (following cancer chemotherapy)—the formation of blood or blood cells in the body. Hypercalcemia of malignancy—An abnormally high level of calcium in the blood, most commonly caused by secondary (metastasized) bone cancer, which releases calcium into the blood. Metastases—Areas of secondary cancer that have spread from the primary or original cancer site. Mycosis fungoides—A type of T-cell lymphoma of unknown cause. It primarily affects the skin, but in later stages of the disease often involves the liver, spleen and lung. Neutropenia—Caused by an abnormally low neutrophil count (certain white blood cells), leaving a patient vulnerable to bacterial and fungal infections. Phase I—Safety testing and pharmacological profiling in humans. Phase II—Effectiveness testing in humans. Phase III—Extensive clinical trials in humans.

[In Development: New Medicines for Older Americans]

(Presented by the Pharmaceutical Manufacturers Association)

1991 ANNUAL SURVEY: 116 MEDICINES TARGET 19 DEBILITATING DISEASES

America's research-based pharmaceutical companies are developing 116 medicines for 19 debilitating diseases that rob older people of their independence, according to the third annual survey of "New Medicines in Development for Older Americans." Among the medicines identified by the Pharmaceutical Manufacturers Association are therapies for Alzheimer's disease, arthritis, and osteoporosis, all major reasons for admittance to nursing homes.

The 116 medicines in this survey are being developed by 61 companies. The 1991 results show an increase of 40 medicines in development over the 1989 survey and 47 over the 1988 findings. Medicines for an additional 9 diseases were added to the survey this year. The new disease categories are: chronic obstructive pulmonary disease with 8 medicines in development, impotence with 2, influenza with 2, Paget's disease of bone with 4, pneumonia with 13, sepsis with 10, sinusitis with 5, urinary incontinence with 2, and urinary tract infections with 7.

Some of the 116 medicines are being developed for more than one use, resulting in 150 different research projects. Of these, 81 are in the final stages of development. Two of the medicines listed in development on the 1989 survey report have been approved. They are Ultradol (Wyeth-Ayerst) for osteoarthritis and Wellbutrin (Burroughs Wellcome) for depression.

Among the leading areas of research, according to the survey results, are osteoporosis, Alzheimer's disease, arthritis, diabetes and depression. More information about survey results on these and the other important areas of research is contained in the table on this page. Details about the social and economic impact of these diseases can be found in the section inside titled "Facts about Other Debilitating Diseases."

These diseases exact an enormous burden on our society in terms of lost independence, which leads to high health care costs for institutional or home care. The medicines in development listed in this report hold great hope for limiting some of that burden.

Alzheimer's disease, which could affect as many as 5 million people by the year 2000, provides a clear example. The disease costs society $88 billion a year, according to the Alzheimer's Association. More than half of all nursing home patients are victims of AD or a related disorder. The National Institute on Aging estimates that an Alzheimer's treatment that could keep 10 percent of patients out of nursing homes for one year could save nearly $9 billion.

Longer, more productive lives and lower health care costs can be achieved with those new medicines in development that will one day be available to physicians to prescribe.

GERALD J. MOSSINGHOFF,
President, Pharmaceutical Manufacturers Association.

	1991	1989	1988
Summary of survey results:			
Total medicines in development for debilitating diseases	116	76	69
Total companies developing medicines for debilitating diseases	61	48	48
Total debilitating diseases surveyed	19	10	9
Survey results by development status:			
Phase I	16	12	12
Phase I/II	3	3	1
Phase II	31	27	23
Phase II/III	7	1	1
Phase III	48	33	26
Applications at FDA for review	33	17	17
In clinical trials	12	2	1
Survey results by disease:			
Alzheimer's disease	13	16	15
Chronic obstructive pulmonary disease	8	(1)	(1)
Depression	16	15	16
Diabetes, type I	3	5	(1)
Diabetes, type II	8	7	4
Glaucoma	3	3	3
Gout	1	2	2
Impotence	2	(1)	(1)
Influenza	2	(1)	(1)
Osteoarthritis	9	11	10
Osteoporosis	21	15	10
Paget's disease of bone	4	(1)	(1)
Parkinson's disease	5	5	6
Pneumonia	13	(1)	(1)
Rheumatoid arthritis	18	16	15
Sepsis	10	(1)	(1)
Sinusitis	5	(1)	(1)
Urinary incontinence	2	(1)	(1)
Urinary tract infections	7	(1)	(1)
Total research projects (reflects medicines in development for more than one use)	150	95	81

[1] Category was not included in survey that year.

MEDICINES IN DEVELOPMENT FOR OTHER DEBILITATING DISEASES

Drug	Company	Other indications	U.S. development status
Alzheimer's disease:			
Alcar acetyl-l-carnitine HCL	Sigma-Tau (Gaithersburg, MD)		Phase III.
Avan idebenone	TAP Pharmaceuticals (Deerfield, IL)		Phase II.
BC–PS phosphatidylserine	Fidia Pharmaceutical (Washington, DC)		Do.
BMY–21502	Bristol-Myers Squibb (New York, NY)	Adjunct to therapy, cognition enhancement	Do.
Cognex® tacrine	Warner-Lambert (Morris Plains, NJ)		Application submitted.
Dehydroepiandrosterone (DHEA)	Pharmedic (Wheeling, IL)		Phase I/II.
DuP 996	Du Pont Merck (Wilmington, DE)	Cognition enhancement	Phase II.
HOE 427	Hoechst-Roussel (Somerville, NJ)		Phase I/II.
HP 749 propyroline	Hoechst-Roussel (Somerville, NJ)		Phase I.
Mentane™ velnacrine maleate	Hoechst-Roussel (Somerville, NJ)		Phase II/III.
Nimotop® nimodipine	Miles Inc. (West Haven, CT)		Phase III.
Sabeluzole	Janssen Pharmacseutica (Piscataway, NJ)		Phase II.
Synapton physostigmine salicylate	Forest Laboratories (New York, NY)	(See also urinary incontinence)	Phase III.
Chronic obstructive pulmonary disease (COPD):			
Cefdinir	Warner-Lambert (Morris Plains, NJ)	(See also pneumonia, sinusitis, urinary tract infections)	Phase II.
Cefpodoxime	Upjohn (Kalamazoo, MI)	Bronchitis (see also pneumonia, sinusitis)	Application submitted.
Floxin IV ofloxacin	McNeil Pharmaceutical (Spring House, PA) Ortho Pharmaceutical Corp. (Raritan, NJ).	(See also pneumonia, sinusitis, urinary tract infections)	Do.
Maxivent™ doxofylline	Roberts (Eatontown, NJ)		Phase III.
MEDR 440 adenosine	Fujisawa (Deerfield, IL) Medco Research (Los Angeles, CA)		Phase II.
Penetrex enoxacin	Warner-Lambert (Morris Plains, NJ)	(See also pneumonia, urinary tract infections)	Application submitted.
Sparfloxacin	Warner-Lambert (Morris-Plains, NJ)	do	Phase I.
Theo-Nite theophylline anhydrous	Savage Laboratories (Melville, NY)		Application submitted.
Depression:			
1370U87	Burroughs Wellcome (Rsch. Triangle Park, NC)		Phase I.
Aropax paroxetine	SmithKline Beecham (Philadelphia, PA)		Application submitted.
BuSpar®	Bristol-Myers Squibb (New Nork, NY)		Phase III.
Fluparoxan alpha 2-antagonist	Glaxo (Rsch. Triangle Park, NC)		Phase I.
Fluvoxamine maleate	Reid-Rowell (Marietta, GA)		Phase III.
Gepirone	Bristol-Myers Squibb (New York, NY)		Do.
ICI–170,809	ICI Pharmaceuticals Group (Wilmington, DE)		Phase II.
Ipsapirode	Miles Inc. (West Haven, CT)		Phase III.
Nefazodone	Bristol-Myers Squibb (New York, MY)		Do.
ORG 3770	Organon (West Orange, NJ)		Do.
Prothiaden® dothiepin HCL	The Boots Company (Lincolnshire, IL)		Do.
Ritanserin	Janssen Pharmaceutica (Piscataway, NJ)		Phase II/III.
Seproxetine	Eli Lilly (Indianapolis, IN)		In clinical trials.
Tomoxetine	Eli Lilly (Indianapolis, IN)		In clinical trials.
Venlafaxine HCL	Wyeth-Ayerst (Philadelphia, PA)		Application submitted.

MEDICINES IN DEVELOPMENT FOR OTHER DEBILITATING DISEASES—Continued

Drug	Company	Other indications	U.S. development status
Zoloft sertraline	Pfizer (New York, NY)		Do.
Diabetes, type I (insulin-dependent):			
Alredase® tolrestat	Wyeth-Ayerst (Philadelphia, PA)	(See also type II diabetes)	Phase III.
Cisapride	Janssen Pharmaceutica (Piscataway, NJ)	do	Do.
Motilium® domperidone	Janssen Pharmaceutica (Piscataway, NJ)	Diabetic gastroparesis (see also type II diabetes, Parkinson's disease)	Application submitted.
Diabetes, type II (non-insulin-dependent):			
Alredase® tolrestat	Wyeth-Ayerst (Philadelphia, PA)	(See also type I diabetes)	Phase III.
Cisapride	Janssen Pharmaceutica (Piscataway, NJ)	do	Do.
Glimepride	Hoechst-Roussel (Somerville, NJ) Upjohn (Kalamazoo, MI)		Phase II/III.
IGF	CIBA-GEIGY (Summit, NJ)	(See also osteoporosis)	Phase II.
IGF–1	Chiron (Emeryville, CA)		Phase II.
Insulinotropin	Metabolic Biosystems (Mountain View, CA) Pfizer (New York, NY)		Do.
Motilium® domperidone	Janssen Pharmaceutica (Piscataway, NJ)	Diabetic gastroparesis (see also type I diabetes, Parkinson's disease)	Application submitted.
Piolglitazone	Upjohn (Kalamazoo, MI)		Phase II.
Glaucoma:			
Optipranolol™ metipranolol 0.1%	Bausch & Lomb (Tampa, FL)		Application submitted.
Timpilo®	Merck (Rahway, NJ)		Phase III.
Trusopt topical carbonic anhydrase inhibitor	Merck (Rahway, NJ)		Do.
Gout:			
Oxaprozin	Searle (Chicago, IL)	(See also osteoarthritis, rheumatoid arthritis)	Application submitted.
Impotence:			
Androtest-SL™ sublingual testosterone	Gynex (Vernon Hills, IL)		Phase II.
Quinelorane HCL	Eli Lilly (Indianapolis, IN)		In clinical trials.
Influenza:			
LY217896	Eli Lilly (Indianapolis, IN)		Do.
Thymosin Alpha 1	Alpha 1 Biomedicals (Washington, DC)	Influenza vaccine adjuvant	Phase II.
Osteoarthritis:			
Deflazacort	Marion Merrell Dow (Kansas City, MO)		In clinical trials.
Desogestrel and an estrogen	Organon (West Orange, NJ)		Phase III.
Norethindrone	Ortho Pharmaceutical Corp. (Raritan, NJ)		Phase I.
Ontosein® orgotein	DDI Pharmaceuticals (Mountain View, CA)		Phase III.
Oxaprozin	Searle (Chicago, IL)	(See also gout, rheumatoid arthritis)	Application submitted.
Relafen nabumetone	SmithKline Beecham (Philadelphia, PA)	(See also rheumatoid arthritis)	Do.
Tenidap	Pfizer (New York, NY)	do	Phase III.
Tenoxicam	Marion Merrell Dow (Kansas City, MO)	do	Do.
Voltaren® SR diclofenac sodium	CIBA-GEIGY (Summit, NJ)	Once-a-day regimen (see also rheumatoid arthritis)	Do.
Osteoporosis:			
Alendronate sodium	Merck (Rahway, NJ)		Do.
Aredia disodium pamidronate	CIBA-GEIGY (Summit, NJ)	(See also Paget's disease)	Do.
Calcimar® salmon calcitonin	Rhone-Poulenc Rorer (Fort Washington, PA)	do	Phase III (intranasal and injectable).
			Phase I (aerosol).
CI–376	Warner-Lambert (Morris Plains, NJ)		Phase III.
Didronel® PMO etidronate disodium	Norwich Eaton (Norwich, NY)		Application submitted.
Estraderm® estradiol, transdermal system	CIBA-GEIGY (Summit, NJ)		Phase III.
Gestodene and estradiol	Berlex (Wayne, NJ)		Phase II.
Hectorol 1-alpha-hydroxy-vitamin D_2	Bone Care International (Madison, WI)		Do.
Humatrope somatropin	Eli Lilly (Indianapolis, IN)		In clinical trials.
IGF	CIBA-GEIGY (Summit, NJ)	(See also type II diabetes)	Phase II.
Miacalcin Nasal Spray® calcitonin salmon	Sandoz (East Hanover, NJ)	(See also Paget's disease)	Phase III.
Ogen® estropipate	Abbott (Abbott Park, IL)		Application submitted.
ORTHO-EST	Ortho Pharmaceutical Corp. (Raritan, NJ)		Do.
ORTHO-EST PLUS	Ortho Pharmaceutical Corp. (Raritan, NJ)		Phase III.
Osteo-F sodium fluoride, slow release	Colgate-Hoyt (Canton, MA)		Do.
Osteo-MFP sodium monofluorophosphate, slow release.	Colgate-Hoyt (Canton, MA)		Do
Risedronate	Norwich Eaton (Norwich, NY)		Phase II.
Slow-Fluoride sodium fluoride	Mission Pharmacal (San Antonio, TX)		Application submitted.
Sublingual estradiol	Gynex (Vernon Hills, IL)		Phase I.
WY-47,766	Wyeth-Ayerst (Philadelphia, PA)		Do.
Paget's Disease of Bone:			
Aredia disodium pamidronate	CIBA-GEIGY (Summit, NJ)	(See also osteoporosis)	Phase III
Calcimar® salmon calcitonin	Rhone-Poulenc Rorer (Fort Washington, PA)	do	Phase III (intranasal and injectable) Phase I (aerosol).
Miacalcin Nasal Spray® calcitonin salmon	Sandoz (East Hanover, NJ)	do	Application submitted.
Parkinson's Disease:			
Cabergoline	Adria (Columbus, OH)		Phase I/II.
Motilium® domperidone	Janssen Pharmaceutica (Piscataway, NJ)	(See also type, I, type II diabetes)	Phase III.
Pramipexole	Boehringer Ingelheim (Ridgefield, CT)		Phase II.
Rapinerole	SmithKline Beecham (Philadelphia, PA)		Do.
Ro 19–6327	Hoffmann-La Roche (Nutley, NJ)		Do.
Pneumonia:			
Cefdinir	Warner-Lambert (Morris Plains, NJ)	(See also COPD, sinusitis, urinary tract Infections)	Do.
Cefpodoxime	Upjohn (Kalamazoo, MI)	(See also COPD, sinusitis)	Application submitted.
Cytomegalovirus immune globulin intravenous (human).	Cutter Biological, Miles Inc. (Berkeley, CA)	CMV pneumonia in bone marrow transplant patients	Phase III.
Dirithromycin	Eli Lilly (Indianapolis, IN)	(See also sinusitis)	In clinical trials.
Floxin IV ofloxacin	McNeil Pharmaceutical (Spring House, PA) Ortho Pharmaceutical Corp. (Raritan, NJ).	(See also COPD, sinusitis, urinary tract infections)	Application submitted.
Gamimune immune globulin intravenous (human) with DHPG.	Cutter Biological, Miles Inc. (Berkeley, CA)	CMV pneumonia in bone marrow transplant patients (see also rheumatoid arthritis).	Phase II/III.
H.R. 810 cefpirome	Hoechst-Roussel (Somerville, NJ)	(See also sepsis, urinary tract infections)	Phase III.
Lorabid™ loracarbef	Eli Lilly (Indianapolis, IN)	(See also sinusitis, urinary tract infections)	In clinical trails.
Penetrex enoxacin	Warner-Lambert (Morris Plains, NJ)	(See also COPD, urinary tract infections)	Application submitted.
Pentamidine	Rhone-Poulenc Rorer (Fort Washington, PA)		Do.
Pseudomonas immune globulin intravenous (human).	Cutter Biological, Miles Inc. (Berkeley, CA)		Phase III.
Sparfloxacin	Warner-Lambert (Morris Plains, NJ)	(See also COPD, urinary tract infections)	Phase I.
Spexil™ Sterile Powder trospectomycin sulfate.	Upjohn (Kalamazoo, MI)		Phase III.
Rheumatoid arthritis:			
Azulfidine EN-Tabs® sulfasalazine	Kabi Pharmacia (Piscataway, NJ)		Application submitted.
Centara™ anti-CD4 MAb	Centocor (Malvern, PA)		Phase II.
CI–972	Warner-Lambert (Morris Plains, NJ)		Phase I.
Ebselen	CIBA-GEIGY (Summit, NJ)		Phase I.
Gamimune immune globulin intravenous (human).	Cutter Biological, Miles Inc. (Berkeley, CA)	(See also pneumonia)	Phase II/III.
Immuneron® recombinant gamma interferon	Biogen (Cambridge, MA)		Phase II.
IMREG®–1	Imreg (New Orleans, LA)		Do.
Lodine® etodolac	Wyeth-Ayerst (Philadelphia, PA)		Phase III.
Oxaprozin	Searle (Chicago, IL)	(See also gout, osteoarthritis)	Application submitted.
Relafen nabumetone	SmithKline Beecham (Philadelphia, PA)	(See also osteoarthritis)	Do.
RS–61443	Syntex (Palo Alto, CA)		Phase II.
Sandimmune® cyclosporine	Sandoz (East Hanover, NJ)		Phase III.
Spiro-32® spirogermanium HCL	Unimed (Somerville, NJ)		Phase II.
Tenidap	Pfizer (New York, NY)	(See also osteoarthritis)	Phase III.

MEDICINES IN DEVELOPMENT FOR OTHER DEBILITATING DISEASES—Continued

Drug	Company	Other indications	U.S. development status
Tenoxicam	Marion Merrell Dow (Kansas City, MO)	do	Do.
Therafectin amiprilose HCL	Greenwich Pharmaceuticals (Fort Washington, PA)		Do.
Voltaren® SR diclofenac sodium	CIBA-GEIGY (Summit, NJ)	(See also osteoarthritis)	Phase III.
XomaZyme—CD5-Plus	Xoma (Berkeley, CA)		Do.
Sepsis:			
Anti-TNF MAb	Chiron (Emeryville, CA) Miles Inc. (West Haven, CT)		Phase II.
CenTNF anti-TNF MAb	Centocor (Malvern, PA)		Phase I.
Centoxin® HA-IA anti-endotoxin MAb	Centocor (Malvern, PA)		Application submitted.
Dapcin® daptomycin	Eli Lilly (Indianapolis, IN)		In clinical trials.
E5™ anti-endotoxin MAB	Pfizer (New York, NY) Xoma (Berkeley, CA)		Application submitted.
H.R. 810 cefpirome	Hoechst-Roussel (Sommerville, NJ)	(See also pneumonia, urinary tract infections)	Phase III.
Human MAb for septic shock	Cetus (Emeryville, CA)		Phase II/III.
ImmuRAID-MN3	Immunomedics (Warren, NJ)		Phase I.
MPL™ monophosphoryl lipid A	Ribi ImmunoChem (Hamilton, MT)		
Murine MAb to tumor necrosis factor	Cutter Biological, Miles Inc. (Berkeley, CA)		Phase II/III.
Sinusitis:			
Cefdinir	Warner-Lambert (Morris Plains, NJ)	(See also COPD, pneumonia, urinary tract infections)	Phase II.
Cefpodoxime	Upjohn (Kalamazoo, MI)	(See also COPD, pneumonia)	Application submitted.
Dirithromycin	Eli Lilly (Indianapolis, IN)	(See also pneumonia)	In clinical trials.
Floxin IV ofloxacin	McNeil Pharmaceutical (Spring House, PA) Ortho Pharmaceutical Corp. (Raritan, NJ).	(See also COPD, pneumonia, urinary tract infections)	Application submitted.
Lorabid™ loracarbef	Eli Lilly (Indianapolis, IN)	(See also pneumonia, urinary tract infections)	In clinical trials.
Urinary incontinence:			
Amatine® midorine HCL	Roberts (Eatontown, NJ)		Phase II.
Synapton physostigmine salicylate	Forest Laboratories (New York, NY)	(See also Alzheimer's disease)	Phase III.
Urinary tract infections:			
Cefdinir	Warner-Lambert (Morris Plains, NJ)	(See also COPD, pneumonia, sinusitis)	Phase II.
Floxin IV ofloxacin	McNeil Pharmaceutical (Spring House, PA) Ortho Pharmaceutical Corp. (Raritan, NJ).	do	Application submitted.
HR 810 Cefpirome	Hoechst-Roussel (Sommerville, NJ)	(See also pneumonia, sepsis)	Phase III.
Lorabid™ loracarbef	Eli Lilly (Indianapolis, IN)	(See also pneumonia, sinusitis)	In clinical trials.
Penetrex enoxacin	Warner-Lambert (Morris Plains, NJ)	(See also COPD, pneumonia)	Application submitted.
Sparfloxacin	Warner-Lambert (Morris Plains, NJ)	do	Phase I.
Temafloxacin	Abbott (Abbott Park, IL)		Application submitted.

Note.—The content of this chart has been obtained through industry sources based on the latest information and is current as of May 17, 1991. The information may not be comprehensive. For more specific information about a particular product, contact the individual company directly.

Mr. LAUTENBERG. I point particularly to the sections on breast cancer where we have companies like Bristol-Myers, Squibb, Lescarden, Warner-Lambert, U.S. Bioscience, Eli Lilly, SmithKline Beecham, Lederle, Sandoz, the National Cancer Institute, and others have drugs in the research and development pipeline that may prevent breast cancer from overtaking persons lives or result in disfiguring surgery.

Colon cancer. A page and a half of companies, Mr. President, which are developing products that may provide some relief from or some possibility of avoiding colon cancer.

Prostate cancer. We all know what that is about. We lost a distinguished colleague in this body, Senator Matsunaga, to prostate cancer. It is public knowledge that several of our friends and colleagues have had surgery, have had radiation, have had treatment for prostate cancer. There are 132,000 new cases of prostate cancer each and every year, and 34,000 deaths annually.

Do we want to cut off the possibility of preventing these tragedies, Mr. President? Isn't it worth rewarding these companies for their research and development? Isn't it worth encouraging their continued expansion and search for new products? There is not any one of us who does not recognize that as we age, fortunate though we may be, that we face risks out there that perhaps can be avoided. But if we make it impossible for these companies to take the risk, then we also are saying that it is not worthwhile for them to develop lifesaving drugs. And when we look at an aging parent or a child or a sister or a brother who can be helped by one of these products, what we should say is onward and upward, go ahead and make the investment.

Who is going to pay for it? Companies have to have an opportunity to recoup their investments made to develop these products. This amendment could dash the hopes of many afflicted with diseases for which lifesaving therapies are being developed at this very moment.

This amendment would also devastate the economy of Puerto Rico, resulting in increased U.S. taxpayer expenses for unemployment benefits, welfare, and other public assistance programs to those dislocated by the bill. This amendment would undercut the Possessions Tax Credit or what is commonly called section 936. Section 936 is an integral part of the Puerto Rican economy. U.S. companies who utilize the section 936 tax credit employ approximately 117,000 persons in Puerto Rico. This is 13 percent of the total employment and 72 percent of the total manufacturing employment. This amendment seeks to reduce this tax credit to pharmaceutical companies who manufacture their products in Puerto Rico.

What will this mean for Puerto Rico? It will likely drive many of the pharmaceutical companies out of Puerto Rico to Pacific rim countries like Singapore. It will also harm an industry that has been adding three times as many jobs to Puerto Rico as any other industry, from 1980 to 1990. Senators on the Finance Committee know how integral the 936 tax credit is to the Puerto Rican economy.

Mr. President, the Senate leadership has made health-care reform a priority in this session of Congress. There are currently over 30 comprehensive health-care reform bills pending in the Congress. I hope we will move to consider and enact reforms this year.

An effective, comprehensive health-care reform measure should assure universal access to quality health care for all Americans and containment of skyrocketing health-care costs. We need comprehensive health-care reform. We also need to reduce the out-of-pocket costs of health care for our Nation's senior citizens.

I close, Mr. President, with a restatement of something I touched on earlier. There are 4 million Alzheimer's sufferers in our country right now. Anybody who has seen the result of that condition knows how painful, how devastating it is to see someone you have known in the prime of health suddenly not know which way to turn, who they are, where they are, where they are going. By the year 2050, unless we develop effective therapies, 14 million people in America will be suffering from Alzheimer's.

I also want to mention Parkinson's disease. My mother was a Parkinson's sufferer. We have a million and half total cases of Parkinson's. And when one sees someone they love in a Parkinsonian condition, one would like to see that pain ended. More importantly, not to see anybody else have to suffer from that horrible disease.

One in every hundred persons over 60 years of age is likely to come down with Parkinson's. There are products in the pipeline to deal with Parkinson's. Prostate cancer, there will be 132,000 new cases this year alone. I said it before. I think it is worth restating, 34,000 deaths expected. This is not a threat a male American should look forward to in his older years.

As I mentioned earlier, there are half a dozen companies working on products to treat Parkinson's SmithKline Beecham, Hoffman-LaRoche, Janssen

Pharmaceutical. God willing that they come up with an answer.

So that is the consideration, Mr. President. That is what we are talking about as we look at this. We are not saying that we encourage outrageous profits or that we ought to pay these executives such giant salaries. Fortune magazine has picked Merck 7 years running as the most admired management in the country. That tells you about the industry that we are discussing today. The last thing that we ought to do in this body, is to hinder, the pharmaceutical industry's capacity to develop new lifesaving drugs.

Mr. President, unfortunately this amendment does just that, and I hope that my colleagues will oppose it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, our list of speakers seems to be growing. I am going to propose a unanimous-consent request here so that we try to establish some order in the order of the speakers.

First, Mr. President, I was recognized to speak immediately following the remarks of Senator LAUTENBERG. I ask unanimous consent that Senator METZENBAUM fill that slot instead of me.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRYOR. Following Senator METZENBAUM will be Senator HATCH, who is already on the list, and then following Senator HATCH I ask unanimous consent that Senators be recognized in this order: Senators DODD, LIEBERMAN, BROWN, COATS, BRYAN, BAUCUS, and WELLSTONE.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRYOR. Mr. President, I think there will be other speakers we will add to the list a little later in the afternoon.

Mr. President, I ask unanimous consent that immediately following the statement of the Senator from Indiana [Mr. COATS] that I be recognized to speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I thank my distinguished colleague from Arkansas for permitting me to speak at this point. But I thank him for much more than that. I thank him for his leadership in connection with this amendment. This amendment is a major step forward in the effort to bring down the cost of pharmaceuticals in this country.

Senator PRYOR deserves enormous credit for his tireless efforts to address the issue of skyrocketing drug prices in our country.

Prescription drug prices have been rising almost three times as fast as the rate of inflation. Prescription drug costs are rising faster than any other aspect of health care costs. And we all know, and the country knows that health care costs are generally zooming upward. But prescription drug costs are going up three times as high or higher than any other health care cost.

Drug prices have increased approximately 9 percent a year for the past decade, an increase of 142 percent. The unregulated pharmaceutical industry overcharges for drugs so that it can spend billions of dollars marketing its products and making exorbitant profits.

The drug industry spends $10 billion a year on marketing and advertising, more than it spends for research on new drugs. There is not any of us who own a TV set that is able to turn on the TV set without seeing, in the course of a half-hour program, two, three, four, or five ads marketing pharmaceutical drugs. And it is understandable. The kinds of prices that are charged per pill, per dosage, per day, per bottle, are unbelievable. It is hard to believe that a company could charge so much for such a tiny pill.

With the special arrangements that we have given them under our tax laws, pharmaceutical manufacturers' profits have been zooming. The top 10 drug manufacturers earned profits of 15½ percent on their sales in 1990, three times more than the average profit of other industries.

We in the United States Senate have an obligation to bring drug prices under control. The American people cannot afford to pay any more. We cannot afford to do any less.

Prescription drug costs are the largest out-of-pocket medical costs for elderly Americans. Over half of all older Americans, 16 million senior citizens, do not have insurance for prescription drug costs.

And what a travesty. Some people living on Social Security, having but a meager income, are called upon to pay exorbitant prices for the pharmaceuticals that their doctors prescribe.

Senator PRYOR's amendment, of which I am a cosponsor is a step in the right direction. It does three important things. First, it links the availability of certain lucrative tax credits for the drug industry to the industry's drug pricing behavior. The amendment would limit the availability of the so-called section 936 tax credit to those drug companies that keep their drug prices in line with the general inflation rates. I commend the Senator from Arkansas for this innovative thinking in trying these two subjects together.

Companies that overcharge for drugs would no longer be subsidized by the American taxpayers. There is no justification for this $2 billion a year tax credit when drug company profits exceed all other industry profit levels.

Second, the amendment creates 15 demonstration programs to provide affordable prescription drugs to older individuals. The program uses the tax credit savings to help individuals who cannot afford to pay for prescription drugs.

Third, the amendment sets up a commission to gather data on the pharmaceutical industry's drug pricing behavior and make recommendations to bring drug prices under control.

This bill takes an important first step toward solving the problem of skyrocketing drug prices. As the Senator from Arkansas well knows, since the enactment of the Medicaid Discount Drug Program in 1990, the pharmaceutical industry has increased its drug prices significantly for all purchasers, including Government programs like the Veterans Administration and Medicaid. That gouging of the most vulnerable in our society must stop.

The Medicaid Discount Drug Program legislation enacted in 1990 was passed and supported by the Members of Congress because it was thought that it would bring prices down to the lowest level at which the drug company was selling their product. But, oh, no, the drug companies did not go that way. They reversed it.

Oh, they were smart. Their lawyers were brilliant. What they did is they reversed it so that the lower prices came up to the higher prices rather than the higher prices coming down to the lower ones.

We need to attack the entire problem of uncontrolled drug price increases. Congress has an obligation to guarantee that all Americans will be able to receive lifesaving prescription drugs.

We here in this Congress are faced with one of our most difficult challenges. We are wrestling with an idea, with what kind of a concept we should bring forth in order to deal with the national health care program. We have not been able to solve that problem. We are moving forward. There are a number of different proposals that are on the table. There was no suggestion that this legislation will solve the problem of our need for a national health care program.

But there is not much doubt about the fact that this will help those persons who need pharmaceuticals, who cannot afford to pay for them, who have been gouged by the pharmaceutical manufacturers. This will provide some equity.

I urge all of my colleagues to support the Pryor amendment.

The PRESIDING OFFICER. Under the previous order, the Senator from Utah [Mr. HATCH] is recognized.

Mr. HATCH. Mr. President, this is a very important issue. I would like to start off by pointing out that this industry, the pharmaceutical industry, in the United States of America is one of our best industries. As a matter of fact, this chart comes straight out of Fortune magazine. On this scorecard, in 13 key industries, the grades measure United States competitiveness relative to Japan and Europe. They reflect production data, company performance, and expert opinion.

At the very top of that list happens to be pharmaceuticals. The only other company, the only other industry in America that comes close is forest products.

Now the Congress, if they pass this kind of bill, is going to do the same thing to pharmaceuticals that we have done to almost every other industry in this country. We have made our industries noncompetitive because we do not understand that the thing that drives this economy—the thing that drives the greatest free enterprise system in the world—happens to be the incentives of opportunity.

The pharmaceutical industry, with all of the risks they take and all of the expenses they incur, happen to be driven for free market incentives. We happen to be doing the best job in developing new drugs of any nation in the world. And we have more major drugs in the pipeline than any country in the world.

Many countries that are being cited as illustrations of countries with lower drug prices are countries that have not developed a new drug in decades.

Now what are we going to do through overregulation and price regulation? We are going to knock pharmaceuticals from the top of this list. From an A, the leader of the world, down to probably a C or a D. Even if it were only to be a B. And maybe that is all that will happen it would still be a B. Why should we not keep this the greatest industry in our country today? I am going to have more to say about this a bit later.

Mr. President, our esteemed colleague, Senator PRYOR, has offered an amendment to the tax package identical to his bill S. 2000 entitled "The Prescription Drug Cost Containment Act." I am struck by the irony of this amendment. The intent of the tax package we are considering today is for economic growth. Whether one believes that H.R. 4210 will work to advance this purpose or not, we are all here trying to find a way to stimulate our economy.

Senator PRYOR's amendment, ironically, singles out one of our few truly healthy industries and attempts to introduce wage and price controls through the back, or perhaps more accurately the side door. The pharmaceutical industry shows many signs of being a relatively healthy industry. The best in our country.

In the period from 1984 to 1990, the level of employment in the pharmaceutical industry increased by 25.5 percent. This contrasts sharply with the employment growth rate of manufacturing industries as a whole of 0.9 percent. Compare that: 25.5 percent increase in employment compared with 0.9 percent.

Now we are proposing to ruin that industry with overregulatory drug and price controls?

The United States pharmaceutical industry production rose 145 percent between 1980 and 1989, outpacing both Europe—at 107 percent, ours is 145 percent—and Japan, 121 percent. Our production is at 145 percent, outpacing those hugely industrialized and sophisticated and high-tech countries.

The United States remains the world center for research and development in the drug field. The drug industry this year will invest nearly $11 billion in research and development for future products. This investment for the future by the pharmaceutical industry has been growing at an average annual rate of about 10 percent per year for the past 10 years.

Yes, they make profits. That is why they are growing. That is why they are the number one industry in this country. That is why they are developing major new drugs, and drugs that will save people's lives.

The United States leads the world in biotechnology and genetic engineering patents. We lead the world. And the reason we do is because we have the incentives in this country.

I do not come from a State where we have a large pharmaceutical industry. In fact, we hardly have any pharmaceutical companies that are located in Utah. But I deal and have dealt with the health matters of this country every day of my tenure in the Senate, and I have, over the last 16 years, dealt with practically every major health issue that has come along. I can tell you I am very concerned about amendments like these.

For biotech patents, the United States holds 147 as compared to 10 for Japan; 10 for European countries; and 10 for all other countries in the world. Think about it. Guess where those biotechnology companies get their financing? Primarily, they get their financing from the major pharmaceutical companies, investing in these new fledgling biotech companies.

For genetic engineering patents—genetically engineered drugs that are the future—United States companies hold 72 percent of the total of 935 patents, with the Japanese and European countries splitting about 22 percent of the total patents. Japan and Europe hold just 22 percent of these patents in the United States. We have actually 72 percent of all of those genetic engineering patents. This is the future, my friends. We hold the key to the future. And the reason we do is because of free market incentives, because we believe in the free market system.

As a general rule, our country is willing to pay for that system. The reason we are is because these free market incentives will get us to lifesaving healing drugs faster and safer.

I wish all the American industries were as vigorous as the pharmaceutical industry. If they were, we would not be here today discussing how to develop an economic package or how to help our country economically.

I have a lot of respect for my colleague from Arkansas. He is a good friend, and I understand his personal motivation and objectives. But I have to disagree with him on the wisdom of this proposal.

This amendment would change all the free market incentives that have caused the pharmaceutical industry to flourish. It will replace all of those free market incentives with a form of price controls. No matter what Senator PRYOR says about it, that is what it comes down to. We are supposed to believe that these price controls will not have an adverse effect on the pharmaceutical industry.

Who is kidding whom that these price controls will not result in a reduction in the amount of money that the industry devotes to research and development? Who is kidding whom that these price controls will somehow be different from those we have tried before—all of which have failed before, I might add. We are assured that these price controls will somehow work without harming this healthiest of all American industries.

Mr. President, I do not share this faith in price controls at any time but particularly at a time when many American industries are not faring well. We cannot afford to have this American industry, our American pharmaceutical industry, be yet another industry overtaken by foreign competition.

A lot has been said and will be said in this debate about the profitability of the pharmaceutical industry.

First, we have to remember that the U.S. pharmaceutical industry is highly competitive. The share of total sales by the 20 largest firms accounts for 75 percent of total sales. All other firms account for the remaining 25 percent market share. No one firm holds more than a 7.6-percent market share.

Second, this is one of the highest risk industries in the world. A recent study by Duke University found that only 3 out of every 10 drugs introduced between 1970 and 1979 subsequently recovered their research and development costs. This study concluded that the real drug price increases in the 1980's were necessary for the average new drug introduction to recover its R&D costs.

Those data are from a Duke University study.

The high risk nature of the industry is reflected in the voltility of the stock prices; about 40 percent greater than for other industries according to the Standard & Poor's 500 index.

Some will see the drug industry's relative strength and take it as fair game for increased taxation to help finance the problems of our ailing health care system. Others will take a different view and conclude that this is an area where America is the recognized world leader.

We do not say that as often as we once did, or should say again in the future. And we should make no policies detrimental to this sector's health. Instead we should find ways to promote and build upon our leadership in the pharmaceutical industry as we enter the biological revolution of the 21st century.

This does not mean that drug companies do not have the same responsibility for fair play as automobile manufacturers, computer firms, or any other U.S. industry but neither should they be singled out for the heavy burden of price controls. Let us not loose sight of the fact that in a competitive environment success is not guaranteed. In our market economy, profits are the clearest signal for future investment and productive activity. If we are to break out of this recession and succeed in the competitive world economy we have to nurture, not injure, American companies. The American public is concerned about the cost of health care.

Drug expenses are one of the most visible out-of-pocket health care costs, and they are an easy target for concern.

The cost of prescription medicines has increased with all other consumer and health care costs. It is relatively easy for us to look at medical care inflation data and falsely conclude that prescription drugs are the reason.

Mr. President, I hope the Senate will reject this amendment. We should reject it on the overwhelming evidence that price controls do not work. The stick being applied here, threatened revocation of section 936 tax incentives, will hurt not only the United States and Puerto Rico, U.S. workers are going to bear this punishment. Our competitors are not going to bear it. They are going to benefit from this type of, I think, shortsighted legislation. We are targeting a highly competitive and high risk industry. Profits are the fuel it runs on. Reducing profits by Federal fiat is like reducing the fuel supply for a job-generating machine. We should reject this amendment.

Mr. President, I understand the distinguished Senator from Connecticut would like to make about 10 minutes worth of remarks. I have just begun my remarks. I have a number of charts I would like to show. But I also want to show deference to my colleague from Connecticut.

And so I ask unanimous consent that I be permitted to yield to the distinguished Senator from Connecticut for 10 minutes, and then have the right to the floor back so I can finish the rest of my remarks.

The PRESIDING OFFICER. Is there objection?

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. I do not plan to object. Mr. President, I may owe an apology to my friend from Utah and my other colleagues in the Chamber. A moment ago when we proposed and had accepted a unanimous-consent request on the order for speakers this afternoon, I inadvertently, Mr. President, left out two Senators who had come to me prior to that request for the UC. One of those was Senator PHIL GRAMM of Texas, and the other was Senator PAT LEAHY of Vermont.

So, Mr. President, I do not object to the Senator's request, and I would further add to that unanimous consent request that immediately following Senator DODD, and then the conclusion of Senator HATCH'S remarks, at that time we recognize Senator PHIL GRAMM and Senator PAT LEAHY.

Mr. HATCH. If the Senator will yield, Senator CHAFEE is also desirous of being on the list.

Mr. PRYOR. Mr. President, I have another request.

Mr. HATCH. Senators CHAFEE, BROWN, and DURENBERGER have all requested time.

Mr. PRYOR. Senators DURENBERGER and CHAFEE are at the point right now following myself. And then I would like to ask unanimous consent to add Senator DIXON of Illinois following the remarks of Senator CHAFEE.

Mr. HATCH. Will the Senator yield? Will he also add Senator BROWN. Is he on the list?

Mr. PRYOR. Yes; Senator BROWN from Colorado is on the list.

The PRESIDING OFFICER (Mr. SIMON). Is there objection to the unanimous-consent request from Senator PRYOR and Senator HATCH? Without objection, it is so ordered.

The Senator from Connecticut is recognized.

Mr. DODD. I thank the Chair.

Mr. President, it is with a great deal of reluctance that I rise in opposition to the amendment being offered by my good friend from Arkansas, Senator PRYOR.

The Senator has worked on this issue for years. He cares about it deeply. Without any question, he expresses the overwhelming sentiments of literally millions of people in this country who are deeply worried about the cost of health care.

My concern here, Mr. President, is that while the Senator from Arkansas is accurately reflecting those concerns, the issue is whether or not the solution he has chosen will most effectively deal with the problem. I believe the Senator's solution will simultaneously create other problems, problems that many of the same people who are expressing their outrage over prices would also express were they denied access to some of the critical products that are being developed. This is particularly true for a population that is aging and enjoying substantial longevity as a result of some of the products that have been put on the market.

Mr. President, I am deeply concerned about the relationship between the cost of drugs and the ability of citizens in my State and elsewhere across the Nation to receive quality health care service appropriate to their needs. I am particularly concerned about access to drug treatments and therapies for retired or older Americans, those whose fixed income and limited insurance coverage make them most vulnerable to drug price increases.

I believe that we can and should take steps in the context of broader health care reform to help moderate drug prices and to ensure access to affordable drug treatments for those who need them.

But I do not believe that the answer is to impose Government mandated price controls in isolation; controls that could restrict the research and scientific breakthroughs that lead to these treatments in the first place; controls that would have very little effect on health care inflation without serious cost containment throughout the entire system.

Mr. President, as we debate the critical need to promote job growth and long-term investment in our economy—the first and foremost goal of legislation now before the Senate—it would be the height of irony to include an amendment that would stifle the growth and creativity of the most globally competitive industry in this country.

The fact is, the pharmaceutical industry is our Nation's premier high-technology industry—where today's business creates tomorrow's therapeutic breakthroughs. It is a highly innovative industry that has long led the world in discovering and developing new medicines.

According to a recent article in Fortune magazine, the U.S. pharmaceutical industry is one of only two industries in the Nation that enjoys a competitive advantage over its Japanese and European counterparts that will last well into the next century.

While overall research spending in the United States has declined compared to our major competitors, the pharmaceutical industry has managed to double its research spending every 5 years. Investment in drug research and development has increased from $600 million in 1970 to nearly $11 billion in 1992, including an increase of 13.5 percent in the last year alone.

The arbitrary price controls embodied in Senator PRYOR'S amendment would inevitably disrupt the carefully balanced system of market pricing, research incentives, and short-term patent protections that is the key to this strong research commitment. There would be little or no incentive for the risky research necessary to make new discoveries, considering that for every product brought to market, 4,000 end up as dry holes or investments with no return.

Clearly, U.S. pharmaceutical research represents money wisely spent. Of the 97 new world class drugs introduced between 1975 and 1989, 47 originated in the United States.

U.S. manufacturers are also leading the world in the development of important new genetically engineered therapies and have helped lead the attack against such killers as AIDS, cancer, Alzheimer's disease, cardiovascular diseases and diseases afflicting children. As the Nation gets older, pharmaceutical firms are developing at least 330 medicines for the major diseases of aging, 88 medicines are in development for AIDS and AIDS-related conditions, and 14 AIDS therapies have already been approved, including 2 for the full-blown disease itself. That is a remarkable record considering that the HIV virus that causes AIDS was only identified by researchers less than a decade ago.

Thanks largely to this long-term investment in research and development, the pharmaceutical industry is one of the few manufacturing industries in the country that is actually creating jobs for American workers. Pharmaceutical industry employment increased by 25.5 percent between 1984 and 1990, compared with job growth of less than 1 percent in manufacturing as a whole. In my home State of Connecticut, new pharmaceutical jobs in the southeastern area of the State represent one of the few positive signs in a region that has been devastated by defense industry cutbacks. All told, pharmaceutical firms employ over 12,000 Connecticut citizens, and are one of the largest sources of employment in the State.

Mr. President, in the debate over drug prices, we tend to ignore the fact that today's new medicines can provide cost effective alternatives to more costly medical care. These medicines help to reduce reliance on expensive surgeries and hospitalizations and can help keep older Americans out of nursing homes.

According to Dr. Joseph DiMasi, a research associate at the Center for the Study of Drug Development at Tufts University:

> Drug therapies that initially seem expensive may yield savings in other segments of the health care sector or in society at large. For example, treatment with a new drug may substitute for other medical interventions, many of which take place in a hospital setting. Thus, a new drug might reduce the number of hospital admissions or the length of hospital stays. Given the rising costs of hospital care, there is a potential to significantly lower health care costs.

March 1990 report prepared by the respected Battelle Memorial Institute found that over the past 50 years, antibiotics have helped Americans avoid between 60,000 and 90,000 deaths from tuberculosis. This represents a savings of between $7.4 and $11 billion. Vaccines have helped society avoid nearly 1 million cases of polio. About 400,000 of those cases would have caused serious disabilities. The economic cost to society would have been between $26.4 and $30.8 billion in lost productivity and another $1.3 billion in direct treatment expenses. In the case of coronary heart disease, new medicines helped to save an estimated 671,000 lives between 1968 and 1978 alone. The Battelle Memorial Institute concluded the savings involved just in the coronary heart area saved an impressive $83.8 billion.

It would be easy for us to pass the amendment now before us and claim credit for lowering the price of medicines by a few cents for each prescription.

We would lose far more in cost-effective new treatments that might never be developed; in the decline of research and investment in the most competitive industry in our Nation; in new jobs for American workers that might never be created. We simply have to find a better way to address access and price problems in the pharmaceutical arena.

This issue can and should be addressed in the context of a broader debate over insurance access and cost containment in the entire health care system. We must also continue to press the drug companies to impose voluntary price restraints and to assist those hardest hit by drug price inflation.

We have already made remarkable progress. In 1991, the Producer Price Index for pharmaceuticals showed an annual increase of 7.1 percent, the lowest prescription drug hike in more than a decade. Within the past few months, six major companies, which account for one-third of all U.S. sales of prescription drugs, have voluntarily pledged to limit price increases to the rise in the Consumer Price Index.

In addition, the Senate will soon consider legislation reported last month by the Committee on Labor and Human Resources that requires drug companies to provide deep discounts on prescription drugs to public health clinics. This measure builds on the Medicaid prescription drug rebate program enacted in 1990 that requires drug companies to provide rebates to State Medicaid programs. The Medicaid Program has substantially reduced the cost of drugs for low-income Americans and will result in Medicaid savings of some $580 million in 1992 alone.

Mr. President, in many ways, the debate over drug price controls is a microcosm of the broader debate over comprehensive health care reform. We can build on the quality and innovation of the present system by improving access and affordability through workable reforms. Or we can succumb to frustration and impose Government mandates and controls that will stifle research and creativity and reduce the quality of care for most Americans.

The choice is clear.

So I urge, with all respect to the author of the amendment and others who may be considering it, that we reject this amendment, that we deal with the comprehensive problems of health care, and not succumb to the temptation of this amendment which would do far more harm than good.

The PRESIDING OFFICER. Under the previous unanimous consent agreement, the Senator from Utah is now recognized.

Mr. HATCH. Mr. President, I understand that the distinguished Senator from Vermont would like a few minutes, and I ask as under the same unanimous-consent request, that he be given 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I thank the Senator from Utah for his courtesy.

Mr. President, I want to state for the record why I support the amendment offered by Senator PRYOR. When you look at this amendment, you realize that it takes aim at the most difficult problem plaguing health care today, the problem of out-of-control costs. It does so by sending a very powerful message to the pharmaceutical industry that the outlandish pricing practices that make prescription drugs unaffordable for millions of Americans will no longer be tolerated.

Over the past months I have held town meetings all over the State of Vermont. I have been in Bennington, Brattleboro, Middlebury, and virtually everywhere else. I have heard hard-working Vermonters say they are afraid one illness, one illness, could strip them of what matters most—being able to provide for their families. These are proud and good people, who have always provided for their families, but are afraid with just one illness they will not be able to do what generations of Vermonters have done.

For too many Americans, seeing a doctor, paying for medications, is far too expensive. Too many mothers and fathers spend sleepness nights wondering if they should use their limited budget for food or for medical care. Too many elderly Americans worry about whether they are going to have to choose between buying food, or fuel for heat, or paying for prescription drugs.

This amendment gives us the opportunity to do something to alleviate that fear, and begin to bring prescription drug prices under control.

Here are the facts:

Prescription drug prices continue to rise at three times the rate of inflation.

At this rate, a prescription drug that cost $20 in 1980 will cost the average American a whopping $121 by the year 2000.

Drug companies charge Americans top dollar for prescription drugs—much more than they charge citizens of other industrialized nations. Let us use some examples. The average American pays 62 percent more for prescription drugs than the average Canadian does, and 54 percent more than the average European for the same medication. Tylenol 3, a commonly prescribed pain killer, costs us $18.13, while Canadians pay only $5.58. The proof is there.

Who suffers? The elderly, the poor, and every American who depends on medications to make them healthy. Who gains? The drug industry whose 1990 profits were three times greater than most other American companies.

This amendment offers the drug industry a choice, either curb costs so that prescription drugs are more affordable for Americans, or lose Federal tax credits. It is not a regulation. It is a carrot-and-stick approach. Drug manufacturers that keep their price increases at the general rate of inflation are not going to be penalized. Only those companies that continue to hike the prices of drugs above the inflation rate are going to see their nonresearch and development tax subsidy reduced—a very, very powerful carrot and stick.

The choice is still theirs, but the taxpayers of America should not have to pay for it if they make the wrong choice.

The amendment offers every Senator a clear choice as well, and it comes down to this. A vote for this amendment is a vote for fairness; a vote to end the greed that has allowed the drug industry to ripoff the American people. A vote against this amendment is a vote for the status quo and continued price gouging. The amendment is about standing up to the drug industry, and at the same time standing up for all Americans.

I hope, Mr. President, that we realize what the cost of prescription drugs is doing to Americans. I think every Senator can do as I do, go home on the weekends and just talk to the people on the street. Ask them if they fear the price of prescription drugs; ask them if this forces them to make painful choices in their lives, choices that nobody in the most wealthy, powerful nation on Earth should have to make.

Certainly when you go to a State like mine, bordering on another country where the prices are a lot less, you know how much more it hurts to make those choices. We can make choices here. We can do something today to help the people who do not have the wealth to take care of their health needs.

Mr. President, prescription drugs can mean the difference between life and death, but they help no one if they are unaffordable. Controlling prescription drug costs is absolutely necessary because these skyrocketing costs are busting families' budgets and the country's health care budget. I urge Senators to support this amendment.

Mr. President, again, I thank the Senator from Utah.

The PRESIDING OFFICER. Under the unanimous-consent agreement, the Senator from Utah is again recognized.

Mr. HATCH. Thank you, Mr. President. I appreciate that.

I will tell you this: There is one thing that the people in Vermont, Utah, and everywhere else think more than anything else; they are worried sick about the cost of medicine, the cost of medical care, and the cost of pharmaceuticals. But they are worried even more that we will not have the cures in the future for AIDS, and cancer, and other diseases. We need the incentive for industry to get out there and do it.

Mr. President, let me take a few minutes to present some information that I think will help put into perspective some key issues with respect to the pharmaceutical industry. In order to assist me in this, I am going to use a series of charts.

This chart No. 1 is U.S. health care expenditures as a percent of GNP. Health care expenditures happen to be this red bar. As you can see, health care expenditures are skyrocketing. Starting back here in 1960, at 5.3 percent of the gross national product, they have steadily risen to 1990, 12.2 percent, and a lot of people believe that they are probably around 14 percent right now.

If we do not do something about it, by the year 2001, they will be approximately 19 percent of the GNP. That is not a total output; it is a percent of GNP. If we do not do something about it, by the year 2020, we would be paying 32 percent of the gross national product for health care.

So health care costs have been going up, but it needs to be explained. With this green bar chart, these are the outpatient prescription drugs. Back in 1960, they were .53 percent; in 1970, .54 percent; in 1980, .44 percent of the gross national product; in 1985, .51 percent of the gross national product; and in 1990, .58 percent.

While everything else is going up, these prices have remained basically constant. That is very important. So while we are rapping this industry, let us look at the real facts of GNP and the cost of this industry with regard to GNP.

The cost of pharmaceuticals as a percentage of GNP, has varied little. It is a little higher in 1990 than it has been say in the next-to-the-last year, 1970. Nevertheless, it has basically remained constant.

Let me get the second chart up here. I am going to talk in terms of drugs as a percentage of national health care expenditures. In 1965 they were 8.9 percent. That is what pharmaceuticals cost relative to total health expenditures. In 1970, 7.4 percent; in 1975, 6.1 percent; 1980, 4.8; 1985, 4.8; and 1990, 4.8.

That is as a percent of health care expenditures.

For the Senator from Vermont to say that drugs, such as a relatively minor drug like Tylenol could cost so much in Vermont, a lot more than it cost in Canada, does not take into consideration that this is not necessarily the fault of the pharmaceutical companies.

When people pay an awful lot more money for prescription drugs in a hospital, generally the hospital has added on to the price of those drugs. As you can see, over the past 25 years, the share of health spending devoted to drugs has been cut almost in half. From up here to down here. In other words, you have to look at the real facts here and not just a bunch of phony figures.

Drug expenditures dropped from 10 cents of each health dollar to just under 5 cents of each health dollar over a 25-year period. That is important information.

Let me go to the next chart here. The next chart will be a chart which is entitled "Per Capita Prescription Drug Expenditures, Purchasing Power Parity Dollars." Based on the amount of purchasing power parity dollars, a measure developed by the European Community, you can see that the United States hangs right about in the middle of the pack in per capita prescription drug expenditures. Here is the United Kingdom, and here is Germany right over here, and France, Italy, and Japan are right here. The United States is about in the middle. It is certainly higher than the United Kingdom as a per capita prescription drug expenditure, purchasing power parity dollars. But it is a lot less than Italy, France, and Germany.

Some of our international neighbors spend more, and others spend less per person on prescription drugs. There appears to be nothing out of the ordinary about the United States population's cost per patient on prescription medications.

I would like to now put the next chart up, and that is with regard to drug prices. Let us take a good hard look at drug pricing measured in terms of the Producer Price Index, manufacturer's prices.

We can see that according to the Bureau of Labor Statistics' data, between 1989 and 1990, the relative price of pharmaceuticals dropped 2 percentage points. Those who would argue that the industry has not responded adequately to pressures to keep, to the extent practicable, the lid on prices would do well to examine this downward trend over the last number of years. These are the pharmaceutical companies who have been beaten up here today by, I think, a lot of false arguments. Their prices have gone down overall. We can all say we do not want to pay anything for these things, but if we want to continue to have cures, to grow economically, and to have success in research, we cannot ignore these facts. We better start being thankful that we have the best industry in the world in this area.

Let me go to the next chart. The next chart will be the "Scorecard in 13 Key Industries." I mentioned this before at the beginning of my remarks. This is the "Scorecard in 13 Key Industries" by Fortune magazine as of March 9, 1992. The grades measure United States competitiveness relative to Japan and Europe. They reflect production data, company performance, and expert opinion.

Clearly at the top of the list is—and "A" means an industry that is the best in the world, that is outperforming and outcompeting any other nation in the world, or any other group of nations in the world—the pharmaceuticals. We have an industry that is really making it, an industry that is making things happen, an industry that is coming up with cures, an industry that is coming up with maintenance drugs that help people alleviate pain and suffering, an industry that is making a difference in all of our lives. Now we are going to put price controls on it?

Forest products are up there, too, but we know that they are going down fast because of what is happening with the spotted owl and a number of other regulatory approaches of the Federal Government.

Aerospace B+, pretty good. If we make up our minds to allow full competition, nobody can compete against the United States of America.

But these are about the only areas where we do not have real competition, because we let these industries perform. We have allowed the free market system to work. Look at chemicals; it is down to a B. Food is down to a B. There is no reason for the United States to be down to a B in food. But the fact is, we are continuously putting regulations and mandates on the food industry, the food processing industry, the food delivering industry, and in the process, the food industry is gradually going down. By the time we get through with food safety laws, I will bet you that food reaches the C category at that particular time, because we are making it so difficult to compete. We add more mandates, rules and regulations.

Scientific and photographic equipment has gone down to a B.

Petroleum refining is down to a B. It is going down further because the clean air bill is going to require more regulation, so refining will go down to a C or less.

Telecommunications equipment. I do not mean to have stock prices go down, but it is a B−. We used to be without peer in the world in this area.

Computers, C+. Why in the world is it C+? Regulation.

Industrial and farm equipment is a C. We know we have lost a tremendous market share to Japan and other nations.

Look at motor vehicles, a C. It may not even be a C at this point. This was March 9, 1992. We are already 2 days beyond that, so we are probably going down here.

Metals is a C−.

Electronics is a D. We are the greatest country in the world and we developed the electronics industry, but we have regulated it to death here in Washington. Hardly any of these have price controls or price restraints like this amendment would add to the pharmaceutical industry.

Why would we kill the finest industry in this land? All because we think we are going to save money for the poor and for the aged? Come on. If you stop and think about it, the poor and aged are not going to have the healing drugs that they could have if we keep this industry on top. I am going to get into that a little more as we go along. What phony arguments those are. I think we ought to nurture our American industry, not kill it, injure it.

Some would see that chart and say, about the drug industry, it is strong, so let us tax them. That is a typical liberal approach to things. Others will argue that we are the world's leader, so let us keep it that way and do even better in the future. I think that is what we ought to do.

I would like to go to the pharmaceutical R&D chart. This is clearly an industry that believes in putting its money where its mouth is. Unlike a lot of other industries, the reason our electronics industry is going down, and the reason we are losing in so many other areas is they are not putting the research and development moneys where they should go.

The drug industry has a strong record in the area of research and development. Since 1988, right here, the drug industry has spent more in R&D than the entire budget of the National Institutes of Health—the entire budget. We are talking about one industry. In fact, since 1980, right here, the pharmaceutical industry research and development budget has increased fivefold, from here to 1992, where it is estimated they will spend almost $11 billion in research and development in this one single industry in this country.

So, this year, nearly $11 billion will be risked in the drug industry, or the pharmaceutical industry, which I prefer to call it. You cannot ignore those facts. This is an industry that is putting its money where its mouth is, and do we want to cripple it with an amendment like this? Let me go to the next chart which is the 1992 R&D funding.

Look at it in comparison to other industries in this country when we analyze why the pharmaceutical sector has been successful. At the top of the list is its commitment to research and development. That is why it is so successful.

This year the American drug industry will invest in the aggregate nearly $11 billion—nearly $11 billion—in research and development. Compared with the U.S. Government research funding for agriculture, transportation, energy, space, and health, the private sector pharmaceutical R&D funding is greater. Think of it. The drug companies spend money in the aggregate more than the entire budget of the National Institutes of Health—and I do not think we can afford to stifle this investment. It is important.

Let me go to the next chart which is entitled "Average Development Cost of One New Drug." This is something that a lot of our colleagues who are arguing on the other side just plain ignore. The average development cost of one new drug is high—and we are looking for a variety of new drugs to help cure everything from AIDS to cancer. In 1976, the average development cost of one new drug happened to be around $54 million. By the year 1987, the average cost to develop one drug was $125 million—that is taking all factors into consideration. By 1990, just 3 years later—and a lot of this is regulatory activity by the Government—the average cost of a new, important drug or any new drug was $231 million. And that includes a lot of these biotechnology firms, these little companies that depend on the rest of the pharmaceutical industry to help fund their innovative research and development. Due to the nature of biomedical research, it has always been expensive to develop a safe and effective new drug product.

This chart shows that in the last 15 years, the average cost of bringing a new drug through discovery, clinical testing, development, and FDA approval has grown nearly fivefold—from $54 to $231 million.

Major contributors to the cost include the intricate nature of research, the expense of highly sophisticated new laboratory equipment, and the cost of borrowing investment capital, especially on the part of the biotechnology companies and these genetic engineering companies as well.

As the focus of research has shifted toward chronic and degenerative diseases, such as cancer, Alzheimer's, and AIDS, the preclinical and clinical testing required has naturally increased and it has become much more complicated. Currently, it is estimated that it takes on average, $231 million to bring a new molecular entity to market.

We have to remember that it takes about 4,000 failures for each successful new drug, for each one of these $231 million drugs, which is the average cost for one of them. There are about

4,000 failures before a successful discovery occurs. There is a lot of risk for everybody in this industry.

Recently, the Labor Committee received a letter from an AIDS activist organization, Direct Action for Treatment Access. This letter, opposing the Metzenbaum orphan drug amendments, noted: "A drug that gets approval has to pull far more than its own weight. Like the oil strike that finally pays off, it has to pay all the dry holes, the general expenses of the company, and future development."

We cannot ignore these loss factors in a free market economy. We act like it goes on and on without the incentives that allow it to succeed.

Let me use the next chart. This happens to be called "Treatment Cost Comparison."

Drugs not only fight sickness and save lives, they also save money. They are often the least expensive form of health care. Based on industry and government estimates, the cost of treating ulcers with direct therapy right here runs about $500 per year. The cost of ulcer surgery which used to occur more often than not is still $7,000.

Look at it. Here is the green bar. This is the annual drug therapy, $500, when we take Tagamet or some of the other drugs. These prices have gone down. The cost of surgery to correct the ulcer is about $7,200.

Coronary artery bypass—let us go to that. For coronary artery disease, surgery is no more effective than prescription drugs in preventing heart attacks or improving survival in many heart patients, according to a VA study. For a single patient, drugs can cost about $1,000 per year compared with the $30,000 surgical fee.

We were limited to these huge fees until we found these main line drugs that brought these costs down and maintained people so they did not have to undergo those kind of operations.

For gallstones, surgery can cost $4,000, while the annual drug therapy is about $1,500. Clearly, cost savings accrue to these innovative new drugs.

In the case of schizophrenia, right down here, the annual cost of drug therapy under our current best drug that we have, is about $9,000. Up until then, and still in many cases, because we still have not fully solved this problem. I just chatted with a major drug company last night, Johnson & Johnson; they said they have got a drug for schizophrenia that should work in a great number of cases. It costs us an average of $90,000 to treat schizophrenics. People who biologically probably are schizophrenics can be helped by drugs if we can make a breakthrough and get it to them. But it takes 4,000 misses to create one major drug like that. A lot of risks. It takes a lot of money to participate in this business.

Now we want to take away the incentives to find these new cures that bring costs down? That is exactly what is going to happen.

Let me go to the next chart which is "Increases in R&D Versus Increases in Drug Prices."

Look at this. We have an index value of 100 between 1982 and 1984. The research and development index—that is this green line—that is how much research and development has gone up in the pharmaceutical industry.

But look at the CPI Rx index, in other words, the cost of drugs has gone up, but much slower than the research and development that they are putting in to find the cures. I do not know many industries that can meet these kinds of comparison charts.

What are we going to do? Are we going to add more mandates, are we going to add price regulation, are we going to put more regulations on these people, are we going to take away the incentives at a time when we need their help more than ever before. It does not make sense to me.

A lot of what went wrong in the decade of the eighties was that we lived too much for the present and we forgot about the future. Too often we saw a merger mania in which longstanding corporations were literally sucked dry of their vitality for the sake of short-term profit-taking.

What that chart says, and says very loudly and very clearly is that the drug industry is in it for the long haul. They are in for the long haul not for just some short term cheap profit-taking although they have to make profits to put it into a continual upswing in R&D. We see in the debate the legal hullabaloo over drug pricing. The industry raised R&D investment substantially, greater than the drug price index. This is hardly the action of short-term price gougers. We can see from the year 1985 right back here, that research and development, I believe, has grown to 25 percent higher than the prescription drug price index.

Is this not the type of forwardlooking investment that we need more of in our country today. Today's investment pays off in tomorrow's cures. We will always try to keep this industry competitive in the world marketplace. We will keep it where it is. Would it not be a marvelous shot in the arm to the economy if all businesses increased R&D spending to higher levels, greater than sale price increases?

Mr. President, these charts mean something. With the information I have just presented, as the background, I just want to say that S. 2000 raises in my mind some very troubling concerns. It is a piece of precedent-setting legislation that essentially establishes federally mandated price controls for pharmaceutical products. It embodies the philosophy of price controls as the only solution for our health care system, but the fact is that there are other market-oriented options for us to pursue.

Mr. President, I have observed that the market is not deaf. The industry has heard and is taking seriously the concerns raised in Congress and elsewhere about the cost of medication.

And to that degree, I want to give credit to the distinguished Senator from Arkansas. He may not be going about it in the right way, but he certainly has raised enough noise so that they have had to look at the matter very carefully. They are very seriously and sincerely trying to resolve these problems, and he deserves a great deal of credit for doing that. And I will be the first to give him that credit.

I myself have spoken in public to major drug industry gatherings where I have made it clear that the industry has to try to bring their prices down. And, of course, as one of the two major authors of the Drug Price Competition and Patent Term Restoration bill, which helped to create the generic drug industry, I want to see those prices come down. That was the purpose of that bill. I think the industry has heard this, and is taking seriously some of the criticisms and concerns raised by the distinguished Senator from Arkansas pertaining to the cost of their medications.

The fact is, [that] prescription drug price inflation now has decreased for 2 straight years. The 1989 drug price inflation rate was 9.7 percent. In 1990, this figure dropped to 8.1 percent, and further decreased to 7.2 percent in 1991.

Now, I have opposed S. 2000 on several specific grounds, in addition to my generally conservative philosophy that whenever and wherever possible, free markets should be just that, free.

Mr. President, S. 2000 creates a Prescription Drug Review Commission. Just exactly what we do not need is another federally sanctioned body to study the drug industry. There are at least 25 studies of the drug industry currently underway be a bevy of Government agencies, including OTA, the Office of Technology Assessment; GAO, the General Accounting Office; ITC, and HHS. OBRA in 1990 alone, required eight separate studies of this industry. With all these studies to keep track of, it is a wonder that anyone in the industry has time to develop and market new drug products.

This Commission would have a charter that requires it to recommend coverage and reimbursement of the health and financial incentives. In addition, the Commission would study the feasibility of "establishing a pharmaceutical products price review board" as now exists in Canada. Talk about a "slippery slope" to price controls, this is more like a steep cliff.

This Canadian board is the very mechanism that has precluded United States holders of pharmaceutical patents from recouping the Canadian share of the research and development costs. U.S. Trade Representative Carla

Hills has voiced her concern that adoption of this Commission could undermine our international trade negotiating position as we pursue patent reforms.

I should note that the Canadian Government itself last January 14 endorsed the GATT draft agreement, which would nullify that country's compulsory-licensing law. In its press release, the Canadian Government stated:

> The Ministers said that Canada's position is consistent with the emerging multilateral consensus, among developed and developing countries, that stronger patent protection greatly improves the investment climate and the atmosphere in which innovation can take place.

One reason Canada's prices are low is they have gone to price controls. And I am going to get into that in just a second, and I am going to get into the disaster that is lurking around the bend.

(Mr. FOWLER assumed the chair.)

Mr. PRYOR. Mr. President, I wonder if the distinguished Senator from Utah will yield for a couple of questions.

Mr. HATCH. Yes.

Mr. PRYOR. Mr. President, I was not going to interrupt the Senator's train of thought on his statement, but I must rise, Mr. President, because actually some of those charts are extremely misleading, and I am going to certainly admit that I do not ever believe the Senator from Utah would mislead his colleagues in the U.S. Senate, nor do I believe that he prepared those charts. I think those charts were probably prepared by the pharmaceutical manufacturers.

Mr. HATCH. I would be happy to discuss them with you, if you would like.

Mr. PRYOR. What I would like to ask is on one of the charts—maybe you can hold that one up—the indication was, or you left the implication, I should say, that we infer that drug prices were going down, that the inflation rate is going down.

What I think ought to be the main point, I would say that the distinguished Senator from Utah, out of those charts—those charts that he has been showing on the floor—what he has neglected to show his colleagues is that all the other PPI indexes for the other goods produced have gone down accordingly since 1989. The final chart shows a 7.1-percent increase and shows that the cost of the pharmaceutical drugs, I say to my distinguished colleague, has gone up seven times—seven times—the rate of inflation for the other products produced in this country.

The other inference that the Senator from Utah would leave with us is if we adopt S. 2000, or this particular amendment that is now pending in the U.S. Senate, that we are not going to have any research, that we are not going to go out and find the cure for cancer and AIDS and all the other diseases that we are talking about.

Mr. President, nothing could be further from the truth. This goes to one aspect of the research dollar. It goes to that aspect of the research dollar that, since 1921, has evolved and now has become abused to the extent that, as I stated in my opening statement, it is the mother of all tax breaks; it is the sweetheart deal of all deals. And it is the section 936 tax break in Puerto Rico, whereby a pharmaceutical company today hiring one Puerto Rican citizen gets a tax credit of $71,000.

Mr. HATCH. I do not want to interrupt the Senator.

Mr. PRYOR. It is incomprehensible.

Mr. HATCH. Let me interrupt the distinguished Senator. I think the Senator is aware that it is not just the pharmaceutical industry that benefits from section 936.

Mr. PRYOR. Mr. President, other industries benefit from section 936. A shoe industry might benefit; a John Deere tractor company might benefit. But the 936 tax legislation in 1921 relates not to job creation; it relates to the profits of the company, the profits of the industry. And the profits of the pharmaceutical industry are so high at this point that their tax breaks are probably seven to eight times the tax breaks of any other industry that desires to locate in Puerto Rico. And that is the section 936 program.

My question to the distinguished Senator from Utah is: I do not know if you have any base closings; we have 59 base closings about to happen in our country. I wonder if the distinguished Senator from Utah, who is a new member of the Finance Committee, would join me in establishing a section 936 program for those communities who are in or who are by or in near location to a military base closing.

Now, we say let us not hurt Puerto Rico. Here is Secretary Sullivan. He comes out yesterday with his HHS alert, trying to get people to oppose this amendment. He is the Secretary of Health and Human Services in country. He is the spokesman, allegedly, the advocate for the elderly, the blind, the lame, the disabled. And, Mr. President, he is coming out and saying the administration opposes this amendment. If the bill is presented in current form, the Secretary will recommend that it be vetoed. And the main reason he gives, or one of the main reasons, he says it is going to decrease employment in Puerto Rico.

Well, Mr. President, I say what about those communities around the country that are losing military bases today? What are we going to do about the employment there? What is the Secretary of HHS doing telling us what the policy should be in Puerto Rico with regard to employment there?

Mr. HATCH. Mr. President, let me take back my time. And I would look to answer some of the issues the distinguished Senator has raised.

First of all, I have not raised the issue of how hard this is going to be on Puerto Rico if you take away section 936 under the provisions of your bill. It would be hard for them. What I am talking about is the ruining of one good industry in this country by price controls.

Let me go back to your question. You said basically that while CPI increased just 3.1 percent in 1991, drug manufacturing inflation was three times that, at 9.4 percent. Let me just give you my feelings on this. The prescription drug component of the consumer price index did increase by more than 9 percent for 1991. And incidentally, for 1989 and 1990, as well.

But the CPI—just for the Senator's information—measures retail sales increases, not drug manufacturing inflation. That is measured by the producer price index. And increases in the prescription drug component of the PPI have declined in the past 3 years, from 9.5 percent in 1989 to 8.1 percent in 1990, to just 7.1 percent in 1991.

It is wholesaler and retailer markups that are keeping consumer price increases so high. And keep in mind, this is an industry that has put $11 billion into research and development. No other industry I know of——

Mr. PRYOR. Mr. President, will the Senator yield on that point?

Mr. HATCH. I would like not to. I would like to make my points and then I will be happy to.

Let me say this. Other manufacturers have had a 9-percent increase in jobs while this industry has a 25.5-percent increase. This industry is not like other industries. It is high risk. Profits are high when they hit it big, when they get a widely used drug, as it should be, because they are spending the money; they are putting the money where their mouths are, into research and development which is going up and up.

Let me say another thing. Even with 936—and the Senator has admitted, it is not just the pharmaceutical industry that benefits from section 936 in Puerto Rico, other industries do, too—the effective tax rate, by industry, for the years 1980 through 1987—and I think in 1988—was 28 percent for the pharmaceutical industry. The average is 27.8.

What is the deal? Why are we going to kill this industry just because it sounds like a nice, populist thing to do?

Mr. PRYOR. Mr. President, will the Senator yield?

Mr. HATCH. I would like to finish my remarks because I know Senator GRAMM is waiting to speak.

Mr. GRAMM. Yes, I want to speak.

Mr. HATCH. And others. I will try to get finished as quickly as I can, but I want to answer some of the questions, now that he has brought them up, that the distinguished Senator from Arkansas has raised.

I submit this is not the time to be sliding backward, especially when our good neighbors to the north are starting to catch on and are finally showing some signs of moving forward.

Let me turn now, Mr. President, to the important issue of how this legislation would undermine our economic development mission in Puerto Rico, which the distinguished Senator from Arkansas raised. I did not until now.

Section 936, by allowing Federal tax credits, has for years succeeded in promoting economic development in Puerto Rico and has provided an extra measure of stability throughout the whole Caribbean Basin, something that is very important to this country. It has also stimulated U.S. trade, created jobs here on the mainland, and acted as a significant incentive for U.S. firms to increase R&D expenditures, thus improving international competitiveness.

Great progress has been made in Puerto Rico, but there is much to be done. Puerto Rico's unemployment rate is 17 percent and per capita income is only about half of that in our poorest States. Without the full benefit of section 936, their economy will lag further behind, and since the distinguished Senator from Arkansas brought it up, I might as well say it. That is why Governor Colon steadfastly opposes S. 2000. I do not blame him. Governor Colon is in good company in his opposition to S. 2000.

The administration has carefully examined this legislation and found it deficient. Secretary Sullivan, as the distinguished Senator has said, has taken the position that:

> We believe S. 2000 could increase drug prices and harm the economy of Puerto Rico, would inappropriately affect tax incentives, would require unnecessary Medicare demonstrations, could weaken the U.S. patent system and impair the attainment of the congressionally mandated intellectual property rights regulations in other countries, and require us to perform a study outside the range of this Department's expertise. Consequently, if S. 2000 were presented to the President, I would recommend he veto it.

I think he would be unwise, if he did not recommend a veto, Mr. President. I think the Secretary has summed it up concisely, and I join him in opposition to this legislation and urge my colleagues on both sides of the aisle to think carefully about this vote. We should not take actions, however well-intentioned, that would seriously disrupt the long-term capacity of a critical industry to discover and develop safe and effective products for all Americans.

Mr. President, pharmaceutical firms have been responsive to the warnings of Senator PRYOR and have modified pricing policies. Maybe not as much as he would like. I share the Senator's concerns about the inability of some of our citizens to afford the cost of their medication. But we cannot and we should not address this issue outside of the health care reform debate.

This industry, perhaps, holds the key to getting our health care costs under control through the development of true cost-saving technologies. We have industry which is—as we are debating the merits of the economic growth package designed to help some of those industries that are not faring well—financially healthy and very competitive in the world marketplace.

In my view, this industry should be encouraged, not penalized, for its successes. I think S. 2000 which is the amendment of the distinguished Senator should be defeated.

Because it materially disturbs the system of market incentives that have worked to make the United States the world leader in pharmaceutical and pharmaceutical discoveries to the benefit of millions of patients and their families at home and abroad and to the benefit of thousands of U.S. workers employed in this country, we have to defeat this amendment.

Because it helps establish a mechanism to unduly influence prices in a manner that materially interferes with the marketplace, it ought to be defeated.

Because it authorizes yet another governmental commission to study the drug industry and unwisely grants this commission the ability to disrupt the marketplace, it ought to be defeated.

Because It would be injurious to the fragile economy of Puerto Rico, as the Senator said and I said—there may be other fragile economies and we maybe ought to do something about those—but there is no reason to particularly do harm to that little economy when it means so much to the whole Caribbean basin and to the rest of our own country, as well. So there are a lot of reasons besides those that cause me to rise in opposition to this particular bill.

Mr. President, there have been some arguments made here today that I just cannot allow to go forward. One of them we have heard today, that the average American citizen pays 62 percent more for prescription drugs than the average Canadian citizen and 54 percent more than the average European citizen.

Mr. President, based on most recent data available from the Organization for Economic Cooperation and Development, the OECD, U.S. per capita expenditures on pharmaceuticals are about average for industrialized countries. United States expenditures are approximately 5 percent lower than the OECD average, if all currencies are converted into U.S. dollars using current exchange rates.

Mr. PRYOR. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Will the Senator yield?

Mr. HATCH. I will be glad to.

Mr. PRYOR. Mr. President, if you challenge those figures that I presented about the 62——

Mr. HATCH. I am challenging them.

Mr. PRYOR. They are from the Department of Health and Human Services. You have just taken the Secretary's statement, the Secretary of Health and Human Services, saying he decries this bill, he wants to help defeat this bill. Yet you quote his own statistics.

Mr. HATCH. I am not quoting those statistics at all. I think these statistics are accurate. What I am saying is that the OECD figures show in 1990 the capital pharmaceutical expenditures were $163 for Canada and $217 on average for the European Economic Community countries. This compares with $210 for the United States of America. In other words, the average Canadian pays 22 percent less, and the average European pays 3 percent more than the average American.

It is true that Americans pay more than Canadians for their prescription drugs, but not 62 percent more. And citizens of France, Germany, and Italy pay proportionately more than Americans or Canadians. This is reflected by the fact that, on average, Americans must work 14.2 hours to cover their annual per capita pharmaceutical expenditures while Canadians work 13.7 hours, Germans work 19.8, and the Japanese work 22.7 hours.

Exchange rate fluctuations are a major factor here. A drug introduced in every OECD country in 1980 at the equivalent cost of $1 would still have cost $1 in 1990 in the United States, but exchange rate variations alone would have moved the prices to 35 cents in Portugal, 77 cents in the United Kingdom, $1.12 in Germany, and $1.57 in Japan.

So what seems to be statistical proof sometimes is not. I think it is one of the false arguments to use those figures.

Another argument that was used is the drug industry's annual average 15.5-percent profit margin is more than triple the 4.6-percent profit margin of the average Fortune 500 company.

Pharmaceutical industry profitability is not out of line with other industries with similar skills and R&D intensity, according to our own Office of Technology Assessment research.

Office of Technology Assessment health program senior associate Judith Wagner, who holds a Ph.D., reported at the Massachusetts Institute of Technology symposium on November 20: "Estimates of pharmaceutical industry profitability by Congress may be three to fourfold too high," according to the results of a study prepared for the Office of Technology Assessment. "The OTA study found that the difference in the implied internal rate of return between pharmaceutical companies and other firms is about 2 to 3 percent," Wagner reported.

So the huge differential between pharmaceutical firms and other firms shown in the Senate Aging Committee report has been whittled away to a much smaller difference, is what she commented.

Wagner said that the study for OTA employed a relatively new methodology which may be more accurate than the Senate committee's. The OTA study looked at 88 pharmaceutical firms operating between 1975 and 1987, and compared them to 198 nonpharmaceutical companies with similar skills and R&D intensity. That is what Wagner said.

The most recent Business Week 1,000 found that 14 of the 31 pharmaceutical companies surveyed either lost money in 1990 or made profits that were less than an investor could get without risk from a Treasury bond. That is a fact.

Mr. President, I would like to take on a lot of the other comments that have been made because I think they are misleading and I think they are basically what you would call populist arguments that are not taking into consideration the real needs of this country and this industry. Like I said, I do not have any dog in this fight other than the free market system of this country because we do not have much in the way of pharmaceutical companies in Utah.

I have to tell you that there are answers to everything that the distinguished Senator from Arkansas and those who have advocated for this amendment have brought up. The bulk of the research and development by prescription drug manufacturers produces insignificant new compounds, they say, that add little or nothing to drug therapies already marketed. That is just pure bunk.

In the past decade—the past 10 years—the pharmaceutical industry has produced new drugs of vaccines against acquired immune deficiency syndrome, AIDS; numerous infections that strike AIDS patients; anemia and dialysis patients; asthma; chicken pox; depression; diabetes; Gaucher's disease; genital herpes and warts; haemophilus influenza type B responsible for meningitis in infants; hairy cell leukemia; heart attacks; hepatitis B; hepatitis non-A, non-B; high cholesterol; high blood pressure; low white blood cell count in chemotherapy-treated cancer patients; malaria; nausea caused by chemotherapy; neonatal respiratory distress syndrome; organ transplant; peptic ulcers; river blindness in Africa; schizophrenia.

It is just there. Can you imagine what it means? Severe combined immunodeficiency disease, the so-called bubble boy disease. I went and saw the development of this one myself. Severe recalcitrant cystic acne; sleeping sickness in Africa; and that is only a partial list in the last 10 years. I could go on and on, but I know there are Senators who wants to talk.

I will bring out some more a little bit later about some of the arguments that have been made by those on the other side of this particular issue.

There is one more I have to bring out, and that is the argument that prescription drugs represent the highest out-of-pocket medical expenditures for three of four elderly. Because of skyrocketing prescription drug inflation, they argue many health insurance plans for the elderly offer no prescription drug coverage. That is the argument.

What is the reality? Medicare does not cover prescription drugs. Congress added prescription drugs to Medicare in 1988, but many of the elderly objected to it because it included additional premium costs for beneficiaries. Congress listened to these objections and they repealed the prescription drug coverage in 1989. Most private health insurance plans have never offered prescription drug coverage. There is no evidence that any plans have dropped this coverage because of rising prices and unfortunately for the elderly, many medigap insurance plans do not cover prescription drugs, but the National Association of Insurance Commissioners has recently agreed on several models for medigap plans, three of which include coverage of out patient drugs.

Because so many of the elderly pay for their prescription medicines out of their own pockets, naturally they feel the costs more directly. I empathize with them. My mother is 86 and my father is almost 88 and they are paying for it, like others. Like other people they complain bitterly about a $50 prescription cost while barely noticing a $10,000 hospital bill that is covered by insurance. But the fact remains that the prescription medicines are the most cost-effective form of health care not only for the elderly but for others as well.

Good prescription drugs can keep the elderly out of nursing homes and hospitals at a fraction of the cost and give them a higher quality of life than they currently have. But if we dry up the R&D and we dry up the incentives and we dry up the opportunities of the pharmaceutical industry in this country, we are not going to have the explosion in the development of drugs that we have had over the last number of years.

According to a recent study, the chief cause for admissions to nursing homes is Alzheimer's disease. There are a number of companies working on that. Some of them think they are coming close to having a breakthrough. Arthritis; we started an arthritis institute. I was the one who moved that along with some others in the Senate. Stroke and hip fractures, they are making headway in some of these areas.

According to a study by the Pharmaceutical Manufacturing Association, there are more than 300 medicines in development for those diseases alone. Thus drug research is our best hope for cutting down the health care expenditures of the elderly in a meaningful way. I predict that if this amendment is agreed to and it becomes law, all of that research is going to dry up or a vast majority of it will. There will only be left the wealthiest pharmaceutical companies who have the right or the power to do this and in the end we are going to add more cost to the elderly than ever before.

Yes, it is expensive. Yes, we are on the cutting edge of some of the most important drugs in this world's history. Dry up the incentives and you will dry up the drugs. You will dry up the pharmaceuticals that can make a difference in every one of these senior citizens' lives. So I tell all you senior citizens out there, do not buy these populist arguments. They are going to make it impossible to get these drugs in the future, and they will do it by interfering with and destroying the one industry in this country that is an A industry that competes better than any other industry in the world all over the world, and that means a difference in this country in so many ways, including employment and including prescription drugs that may some day help the elderly in our society.

Mr. President, I will have more to say at a little later date, but I yield the floor.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. Under the agreement, the Senator from Texas [Mr. GRAMM] is recognized.

Mr. GRAMM. Mr. President, we have just heard an excellent response to many of the questions that have been raised by our dear colleague from Arkansas containing a lot of interesting facts. But in my mind, the questions raised were irrelevant, and the information provided was irrelevant. Before I can get to what is relevant, however, since we have been talking about Puerto Rico, prices, and research, none of which is relevant to his argument in my opinion, I want to try to set the parameters of what we are talking about, and have my little say about it.

First of all, tax breaks in Puerto Rico are not at issue here. The distinguished Senator from Arkansas has not proposed to repeal those tax breaks. If he proposed to repeal them, I might very well have been over here supporting it. To tell the truth, I have not given it a lot of thought. I was not here in 1921 when this was adopted, and I do not know if it is a good idea or bad idea. The point is it is not relevant to what we are talking about, but I have to say a little bit about it before I get to what is relevant.

In 1921, we set up a series of provisions to encourage people to invest in Puerto Rico. It had nothing to do specifically with pharmaceuticals. It had to do with people who invest and, as a result, people invested in Puerto Rico and created jobs there that probably would not have been created. Pharmaceutical manufacturers were among those who invested money in Puerto Rico.

The distinguished Senator from Arkansas is not proposing to repeal that provision. He is proposing, however, to deny the pharmaceutical industry equal protection under the law. What he is proposing is to have one set of laws that apply to non-pharmaceutical manufacturers and another set of laws that apply to pharmaceutical manufacturers, allowing pharmaceutical manufacturers to suffer under the burden of price controls or else lose their equal protection under the law.

Mr. President, that is a foolish idea. It is totally at variance with the Constitution, but that is not my argument. My argument is that this would have been a very interesting debate had it occurred in the Soviet Union 3 years ago. This would have been cutting-edge stuff in Eastern Europe a decade ago. The problem is that it is a totally irrelevant argument on the floor of the United States Senate in 1992. The fact that we are here on the floor of the U.S. Senate talking about having the Government regulate the price of products when the rest of the world has long ago rejected this foolishness is absolutely amazing.

When the world has rejected the idea that Government can allocate resources and make sound investment decisions, why are we discussing this on the floor of the Senate?

Nobody has argued that the pharmaceutical industry is not competitive. Nobody has argued there are not people in the pharmaceutical industry who are making investments, who are competing for profits. I have not heard of any move that we have antitrust action against drug manufacturers because of an absence in investment and technology. What we have here at its roots is a proposal to impose price controls on a product because the idea has political appeal.

What the Senator from Arkansas is opposed to is not the pharmaceutical industry; what he is opposed to is capitalism. What the Senator from Arkansas is opposed to is not pharmaceutical profits; what he is opposed to is private property.

What he is proposing is that we go in and seize people's property because it is popular to do so. He is proposing that we impose price controls on an industry that nobody is arguing we ought to have antitrust action against. Nobody is arguing this industry is colluding. There is no legislative proposal to that effect. What is, in fact, being argued is that we ought to impose price controls because it will be popular.

Now, Mr. President, I would say this is somehow irrelevant to the bill before us, but in a very real sense it is not, and it is also not new to this body. We were here a couple of months ago voting on setting Government limits on interest rates. We have a bill before us that proposes to tax the rich and give money to the middle class, even though the rich are paying a higher percentage of the tax burden today than they were 10 years ago, in an effort to prove that the political economics of the class struggle may have failed in Eastern Europe and the Soviet Union but it is still working in Havana, Cuba, and obviously our Democratic colleagues believe they can make it work here.

Mr. President, in fact, what we are debating is the same old tired Socialist proposals which hold that if it is popular to take somebody's property, do it. Bismarck once said a Socialist never stands on firmer footing than when he argues for the best principles of health.

Mr. PRYOR. Mr. President, will the Senator from Texas yield?

Mr. GRAMM. I do not yield. I do not yield, Mr. President.

My mother, if she complains about one thing to me, complains about drug prices. I am sensitive to drug prices.

Mr. PRYOR. What is the Senator going to do about them?

Mr. GRAMM. I am encouraging competition, the only system that has ever lowered the price of anything.

Mr. PRYOR. Mr. President, will the Senator yield?

Mr. GRAMM. Mr. President, I do not yield.

The PRESIDING OFFICER. The Senator from Texas declines to yield.

Mr. GRAMM. Mr. President, if socialism worked we would have torn down the Berlin Wall to reach to the other side. It did not work, so they tore it down to get to our side. Why do we want to impose price controls, a 5,000-year-old system that dates to the time of the ancient Greeks and Egyptians, when we have 5,000 years of experience to show that it inevitably produces one result—absolute failure?

Why we want to adopt this system, I do not know.

Do you know what I think? I do not think anybody really believes we will adopt this system. I think this just looks like good politics because more people are buying pharmaceuticals than selling them.

But in any case, what we are doing is basically talking about seizing people's property. And so whether all of these arguments and this blizzard of statistics about profitability and prices is relevant, it seems to me the bottom line is this: What right do we have in a free country, in a highly competitive private industry, to come in and take people's property?

Now, if you think drug prices are too high and they are putting a burden on your mother and my mother, maybe you ought to come forward with a bill which in some way tries to have the public pay for it. As the distinguished Senator from Utah said, in fact, there was such a bill and the public looked at it and rejected it as a bad idea.

But the bottom line is simply this: This is a bad proposal. I do not doubt the sincerity of its proponents. But it is bad policy, policy that has been rejected all over the world. And I wonder, Mr. President—and it makes me frightened for the future of America—why, of all the deliberative bodies on the face of the Earth, the Congress of the United States is suddenly the lone deliberative body on the planet that appears to have no respect for property rights and no confidence in free enterprise, and that suddenly believes Government can solve every problem, that Government can come in and take people's property because it is popular, and that Government can set prices and manipulate things and suddenly make it work.

Mr. PRYOR addressed the Chair.

Mr. GRAMM. That is an amazing thing to me. I do not understand it. But I urge my colleagues, despite all the statistics and questions, to ask yourself some basic questions. First, do you believe in private property? Do you believe people who go out and invest hundreds of millions of dollars and develop a drug have a right to sell it?

Is there any evidence they are preventing anybody else from investing to develop competitive drugs? If there is not, how do we encourage a solution to this problem? What we want to do to encourage a solution to this problem is for somebody to basically provide a competitive system—cut the capital gains tax rate, encourage people to invest in pharmaceuticals and in each and every other industry to develop these miracle cures and in the process compete with each other, driving prices down so my mother can afford to pay her drug bill. And with all of that miracle system, the most powerful system on Earth that worked, if then the price is still too high, let us come in with a program and let society pay part of it, if that is what we decide.

But we should not be trying to do it by seizing people's property, by violating the equal protection clause of the Constitution. That is my argument. I think it is simple and straightforward.

This proposal, well intended and popular though it be, is not deserving of our support. It in no way reflects the system of free enterprise and competition which made us the richest and most powerful system in the world, and a system that vanquished the very kind of proposals in Eastern Europe and the Soviet Union and soon will in Cuba that we are debating here today. I yield the floor.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, I wonder if the Senator would, if I would send him a copy of this amendment—I ask one of the pages to take him a copy of this amendment. Mr. President, I ask my friend from Texas if he would look carefully at that amendment and if he would, to the Senator from Arkansas and his colleagues in this Chamber, point out to the Senator where in one area of this amendment now being considered by the Senate it seizes anyone's property.

Mr. GRAMM. May I respond?

Mr. PRYOR. Yes, I am asking the Senator to respond. Please do that for me. He made reference to that seven times now.

Mr. GRAMM. Mr. President, if I might respond, as the distinguished Senator has propounded his proposal, the proposal says that pharmaceutical manufacturers who sell their products at prices that increase faster than the Consumer Price Index will be denied equal protection under the law, and will be denied benefits that are given to other manufacturers. Is that not the essence?

Mr. PRYOR. That is absolutely not the essence. The Senator from Texas has not read the amendment, I assume, and if he has, he misinterpreted it. There is no seizure of property in this amendment.

I am glad to yield to the Senator from Tennessee.

Mr. GRAMM addressed the Chair.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Texas has the floor.

Mr. GRAMM. Mr. President, the sense of this amendment, when you reduce it down to English, is simply this: Equal protection under the law that is granted under a statute that was passed in 1921 and that applies to every other manufacturer operating in Puerto Rico would be denied pharmaceutical companies whose prices rise faster than an arbitrary set standard.

Now, if that is not seizing people's property and denying them equal protection under the law, then I do not know what it is. You are, in essence, saying we are going to treat certain manufacturers differently than we treat everybody else. We are going to take property because we have set an arbitrary standard which is not being met and, therefore, the tax benefit that you and people making shoes, people making steel, or people making plastic combs have, will be revoked for you by the imposition of price controls on you.

That is clearly a taking. It denies people equal justice under the law. And it is, in fact, the point of the amendment.

So, Mr. President, I know there are others here to speak.

I yield the floor.

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. Under the existing agreement, the Senator from Connecticut [Mr. LIEBERMAN] is to be recognized. Since he is not here, the Senator from Colorado [Mr. BROWN] is now recognized.

Mr. BROWN. Thank you, Mr. President.

Mr. President, I would be happy to yield to the distinguished Senator from Tennessee for a few minutes since I know he has some comments he wants to make.

Mr. SASSER. I thank the distinguished Senator for yielding.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. Mr. President, I will be brief. I simply wanted to propound some questions to the Senator from Arkansas, the distinguished sponsor of this amendment, for a point of clarification.

As I understand the Senator's amendment, it simply states that in the event a drug manufacturer consistently sells or marks their products above the rate of inflation, they shall lose the preferred tax treatment that they have been getting heretofore. Is that not correct?

Mr. PRYOR. I would respond, Mr. President, to my friend, the Senator from Tennessee, by saying that the drug companies who continue to raise their prices over the cost of inflation each year, then they would lose by the same amount. They increase their prices by that much commensurate under the 936 tax subsidy where they manufactured their drugs in Puerto Rico.

Mr. SASSER. So, in essence, the distinguished Senator's amendment would simply deny the Government subsidy when, in essence, a Government subsidy to the drug manufacturer increases their prices faster than the rate of inflation.

Mr. PRYOR. The Senator is correct.

Mr. SASSER. Does it not appear a great stretch of the imagination for the Senator from Arkansas to say that the denial of a Government subsidy that is given as quid pro quo for a certain action, is that not a great leap and stretch of the imagination to say that would be a denial of due process under the equal protection clause of the Constitution? Ludicrous, I say to my friend from Arkansas.

Mr. PRYOR. I answered my friend from Tennessee. The junior Senator from Texas a few moments ago invoked I believe the equal protection clause of the U.S. Constitution. In my opinion, that is not only the most irrelevant argument—he was talking about irrelevancies here—that is not only irrelevant, but it is a misrepresentation.

There is no equal protection issue in this matter whatsoever regarding the tax break which, I might add, is the greatest tax break of all tax breaks where the drug manufacturers alone participate in a $71,000 tax credit per employee. They stand alone among all other industries, all other parts of the economy, and they have abused the system. It certainly is not their right to continue abusing the system if they do not keep their costs within the prices within the cost of inflation.

Mr. SASSER. I wanted to make that clear. I wanted to get my friend from Arkansas to clarify it so none of our colleagues would think that this amendment was an effort to deprive anyone of their property without due process of law, and that this amendment in any way would abrogate the rights of the pharmaceutical manufacturers under the Constitution.

Mr. PRYOR. Mr. President, if I may respond very briefly in addition to the points raised in the questions by the Senator from Tennessee, and especially the points that I wanted the Senator from Texas to answer, he fled the floor, I think, I do not think the National Small Business United or the Small Business Legislative Council or the National Rural Electric Cooperative Association or the National Council of Senior Citizens or the National Council of Life Underwriters—they are not used to endorsing socialistic legislation that takes people's property away from them.

I was hoping that the Senator from Texas would try to explain their support of a piece of socialistic legislation as he referred to. But he chose not to.

Mr. SASSER. I thank the Senator for responding.

I thank our friend from Colorado for being gracious enough to allow us to clarify the point.

Mr. DIXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado has the floor.

Mr. BROWN. Mr. President, I yield 10 minutes to the distinguished Senator from Illinois.

The PRESIDING OFFICER. The Senator from Colorado yields 10 minutes to the Senator from Illinois [Mr. DIXON].

Mr. DIXON. I thank my friend from Colorado for yielding to me, and my friend from Connecticut as well.

Mr. President, for the past 20 months, our Nation has been under the crushing grip of an unrelenting recession. People from Illinois and all across the Nation are being squeezed. They see themselves falling further and further behind. They see high paid jobs disappearing. And they see health care costs rising to astronomical levels, that is, assuming they are lucky enough to have coverage. The recession has exposed serious, long-term economic problems that must be addressed.

Today, we have the opportunity to address these serious problems. Today, we can begin demonstrating to the American people that the Federal Government can respond positively and decisively to get our economy and the American people moving forward again.

The incentives this tax package provides for economic growth and tax relief for families represent a major step toward restoring fairness and equity to the Revenue Code. Working Americans have seen their income erode. This bill cuts their taxes by 25 percent.

Let me state that again for my colleagues who may not have heard it. A family of four earning the median income would see their Federal income tax liability decrease by 25 percent.

I think that is significant, that it is worth doing, and that it will provide real needed help to hardworking Americans who have seen their families' health care and education costs rising far more rapidly than their incomes.

At the same time, the wealthiest seven-tenths of the top 1 percent of all Americans, those who have seen their incomes rise dramatically while their tax obligations have diminished, would be asked to pay a more reasonable and fair share of the tax burden.

This tax package also provides investment incentives to lay the foundation for a strong industrial policy and to spur economic recovery. The bill contains provisions that will increase both short-term and long-term economic growth and create job opportunities for American workers.

I am particularly pleased that the bill restores IRA's for all Americans. As we all know only too well, America suffers from far too low a savings rate, and that low savings rate has real consequences for our economy. It means reduced economic activity and reduced job opportunity for American workers. It gives foreign businesses a competitive advantage over American businesses.

The bill's IRA provisions attack the savings rate problem. These provisions will help increase savings, and that will help our economy and help create jobs, the kind of good jobs Americans want and need.

I would be remiss if I did not comment on another feature of this bill that will improve our long-term competitiveness: The help it provides for education. The keystone of the bill in this area is the new self-reliance loan program. I congratulate my colleague from New Jersey, Senator BRADLEY, and Senator SIMON, for their leadership in bringing this new program to the Senate. I strongly support this new program and the other education incentives in this bill.

Education costs are rising much faster than inflation. College tuition was up over 13 percent last year alone. That means that educational opportunity is slipping away for Americans just when they need it most. This bill is based on the premise that our country will benefit and our economy will benefit by providing educational opportunity. It recognizes that by helping Americans help themselves, we will improve our international economic competitiveness and help our country.

Finally, the Senate bill before us today—unlike the President's proposal, which increases the deficit by $27 billion over 5 years—is deficit neutral. This tax package fully complies with the pay-as-you-go requirements of the 1990 budget agreement.

Mr. President, many Members of Congress, including this Senator, have been pushing for these kinds of policy changes for a long, long time now. The American people want the recession ended. They want action on our long-term economic problems, and they want it now. They do not want ideology and political posturing to get in the way of the urgent pragmatic steps that need to be taken.

This bill is not the only step we need to take. We also need action to make use of the peace dividend, to meet essential domestic priorities. And we need additional action to address our long-term problems. But this bill is a sound and essential first step. It is long past time to end this recession and to act on the underlying problems that unnecessarily darken what could otherwise well be a very bright future for all Americans.

I urge my colleagues to support this legislation, and I urge the President not to play politics with the misery of others, and to quickly sign this essential package into law.

Mr. President, I yield the floor.

Mr. BROWN addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. BROWN. Mr. President, I rise for two purposes this afternoon. First of all, I want to commend my friend, the distinguished Senator from Arkansas, for his genuine concern over drug prices, and his compassion to help those less fortunate who find themselves impacted by this. I also commend him for having brought to the attention of this body the workings of the particular tax credit problems with regard to our statutes involving Puerto Rico.

He has made an excellent point, and it is one worth revisiting and one worth discussing.

Mr. President, I believe this measure, far from controlling drug prices, will dramatically increase those prices, and ultimately be a great drag upon the American people and the economy. I want to be specific, because the distinguished Senator from Arkansas has been specific in his efforts to bring this measure forward and talk about its impact.

The first point to consider is basically this: What has our experience been? The idea of having the Federal Government dictate prices in our economy is not new; it is not new to this country, and it is not new abroad. It has been tried many times before, both in the United States and in countries around the world. We should be wise enough and thoughtful enough to look at that experience before we decide to invoke that policy again.

Some in this body may remember the debate over natural gas prices. As I think everybody in this body may recall, at one point, the United States regulated with great detail the price of natural gas in this country.

You remember that discussion and debate. Sincere people said that if we have the Government control the price of natural gas, we will help the consumer; we will guarantee low prices for natural gas, and help people who are in difficult circumstances.

But what is the experience, Mr. President? The simple fact is that far from helping people, the regulatory controls on natural gas were a disaster, by anybody's measure. From the consumer's point of view, it meant significantly higher prices than what the market would have provided. From the Government's point of view, it was a regulatory disaster and a nightmare. From the industry's point of view, it was not only costly but incredibly complex.

Unbelievably, the regulations on natural gas harmed the consumers. They increased the price and cost of the product, and caused an enormous amount of paperwork.

I remember the debate when the Reagan administration talked about taking controls off natural gas prices. Surely everyone in this Chamber remembers it. The rhetoric was that if you take the regulatory controls on the price of natural gas off, they said it would cause an enormous increase in cost to the consumer. The reality was the opposite. Prices dropped; they did not go up. It was governmental controls that kept the prices high, not the reverse.

Some may recall the oil crisis we had in this country. We thought—I say we; not I, but many in this Chamber—and the Federal Government thought the way to handle the shortage caused by the Middle East crisis was to have the Federal Government get involved and regulate prices, because they had escalated too high. At that point, I was working for a food company. Under those guidelines, we had the top priority. Delivery of food was the No. 1 priority in getting fuel in this country.

I wish so much that all of our colleagues could be here, because one of the frustrating things is to have men and women who make these laws who have never gotten their hands dirty, never understood what it is like to live under these laws, who live in an elitist atmosphere and do not know the impact of the Government regulations.

The impact was that it was an absolute nightmare. Thousands of IRS agents were being called into headquarters to allocate supplies. This was not that long ago. Working in an operation that had the No. 1 priority, I remember this, because I flew to Chicago and spent days trying to get approval for the request to make sure the refrigeration systems kept going. Once we got the Government permits, we could not get them enforced.

After the debate was over, and after the crisis was over, people discovered that some of the State allocation offices ended up leaving their phones off the hook. That happened in California, where they were supposed to allocate fuel.

Government allocation of resources simply does not work. It is not because the people do not have genuine compassion and do not have a sincere interest for the people involved. It is because it is a bureaucratic, regulatory nightmare. And anybody who doubts it, please talk to somebody who worked for a living when we had price controls in this country.

I know what price controls did to the meat industry. Richard Nixon came out with price controls. Anybody who thinks price controls by the Government is good ought to talk to those who lived through that time when Richard Nixon tried it. Let me tell you what happened to the meat industry. They came out with a top price for the products. They were going to stop the increase in prices. You know what the packing plants did, they said, "Fine. We won't sell above the prices. We will simply contract out our service, and we will custom kill cattle, and the customers will buy the cattle. We will custom kill them for a price." And they completely evaded all the price controls.

Mr. President, not a single person got prosecuted for evading the rules. The only people who got hurt in the packing plant business were the few companies that followed the rules.

Anyone who thinks that you will not have a way around these price controls simply has not lived long enough or has not taken the time to investigate what happened. This is not going to help the consumers. This is going to be a disaster for the consumers.

What is the record? What are the problems here? I think the distinguished Senator has brought forth a sincere proposal. We ought to be specific about the kind of problems it has. First of all, I think it is important to note that this amendment does not limit price increases to consumers. Let me repeat it. This amendment does not limit or restrict the price increases to the consumer. Please note on page 7 of the amendment, this deals with average price paid to the manufacturer by wholesalers, or direct buyers, or purchasers. Mr. President, this amendment has nothing to do with the retail price. This has to do with the wholesale price. What can happen in between? The retailers can increase their margin. So any suggestion that this is meant to help the consumer simply ignores what the proposal does.

Second, there are 100 ways for manufacturers to avoid the impact of this regulation. Anyone who believes that this is going to have the impact desired by the sponsor of the bill, please listen. First of all, it counts on the base year, the first year you bring the product out, unless it was 1991 when you had a base year, as with any new product, you have a question of where you price it the first year. If you know you are limited in the price increases you can have after the first year, do you price the product low or high in your first year? It does not take any MBA from Harvard or Stanford to tell us here what that amendment will do. It tells manufacturers that they better make their first-year price their highest price. The impact of this will be an immediately dramatic increase in new drug prices, not a reduction, and it will be an increase because the law rewards people who increase prices in the first year.

Those of you who are genuinely concerned about the consumer, please consider the message to drug consumers, the message to the drug companies. The message to the whole industry is to make your base year as high as you possibly can because that way you completely avoid any limitation by the amendment.

Are there other potential manipulations? Absolutely. Product mix. If you find you have a high markup in one drug and a low markup in the other drug, all you do is market more of the high markup price, more of that product, and less of the one you have the least markup on. That is not anything an MBA from Chicago or Columbia has to tell you. That is something anybody around the corner who sells shoestrings or newspapers will tell you.

If you are genuinely bitten by this, if you are genuinely bound by this, if you find yourself in the circumstance where you want to increase the prices and what can you do, you can reduce cost. You cannot give out the samples that are used to promote sales. That will give you a better margin, but it does not help the consumer. You can change the packaging. I think many people know in this industry much of the cost is in the packaging. It varies with the drugs, but for some drugs, an enormous portion is in the packaging. All you do to avoid these price limits is change the packaging.

You can change delivery terms. Many of the folks here have not had the opportunity to sell products in the private sector. Mr. President, let me suggest to you that those who have known and understand how useless this price regulation control will be. All you do is require a bigger dropoff, all you do is require a bigger delivery. You completely change the cost structure in dealing with the product, and without changing the sales price, you change the effective price you receive. You can change the credit terms. It can be C.O.D. instead of 30 days. It can be cash in advance. You increase the money you receive but not the price that is regulated.

Mr. President, if worse comes to worse, what you do is simply avoid it, rent out your patent or custom manufacture the product and totally avoid anything at all in the way of price controls.

This has more holes in it than anyone a this point can imagine. This amendment is not going to control prices. What it is going to do is make cheats out of everybody who is in this business and add measureably to the cost of doing business.

Mr. President, I think a third concern has to be, as we look at this, how bloody complicated it is. We are talking about maintaining a calculation with regard to every product sold by every drug manufacturing company in the country. There are hundreds of companies. There are thousands of products and compounds. The latest estimate is that we have something like 10,000 drugs and compounds. What does that mean? It means that every company has to maintain its complete sales record on every one of those products that they sell, and they have to maintain a whole variety of records. I am well aware that we now have some reporting requirements for Medicaid sales. But, Mr. President, this does not cover Medicaid sales alone. It covers the whole parameter. It means every single one of them has to be documented and provable. We are talking about rooms and warehouses full of documentation and paper, we are talking about 10,000 products, and we are talking about hundreds of companies.

Mr. President, it does not stop there. Does anybody remember oil price regulations cases brought in court a decade after regulations were no longer effective? Companies with the brightest attorneys that money could find who were unable to decide what the rules were, bureaucrats making up the rules years after they were issued. That is what this amendment will bring with it. It will bring on millions and millions of dollars of lawsuits and paperwork and attorney fees, and anybody who thinks that is going to reduce the price of drugs is using too much of the product.

It will stimulate product changes. It will stimulate ownership changes. Anyone who has doubts about that, please read this amendment. Please read the amendment to see how you determine who owns what and when you have to file a consolidated report and when you change from 50 percent ownership to 80 percent ownership. If there is any Member of the Senate who understands that that is clear, please come forward and say so. This is complicated. It is a nightmare. It is a bureaucratic redtape imposition of unbelievable cost on the

American people. The fact is you are in favor of people who have to pay those high prices for drugs. The fact is that you care about them. That does not mean that you have to be blind to the kind of nightmare this amendment will foist off on the American people.

Mr. President, it hardly needs mentioning, but the cost index that is used here compared to the price increase of the drug is the wrong price increase, in this Senator's view. We are talking about comparing the increase in the price of drugs, if you can calculate it at all, with the general CPI. That is absurd. With all due deferences to the fine people who drafted this, that is the wrong measurement.

Let me suggest what may happen here. Let us suppose the ingredients for the drug go up dramatically in price and yet other products measured by CPI drop dramatically. The CPI drops even though the cost of producing drugs goes up. What you do is dramatically discourage producing the products. That is not what this measure ought to be about. Clearly, with common sense, if you are trying to match these things, you ought to compare the cost that the companies incur with the price that they are charging. But that is not what this amendment does. This amendment does not compare the cost to the company with the price that they charge. It compares a different price to cost. To say it is unfair is an understatement. It is a simple mistake in drafting the amendment. The CPI, as I am sure every Member knows, come in a variety of forms. It is broken down by industry. It is broken down by product lines. It is possible to develop a CPI that might be relevant here, but that is not in the amendment. We are comparing apples with oranges to decide whether the price increase was too much.

Mr. President, it simply does not make sense. I want to suggest to the Members that before we adopt this step of a regulated economy, that we take a moment and look at what has happened to the countries that have gone that way. Let me emphasize, Mr. President, I am not suggesting for a moment that the distinguished Senator from Arkansas would favor a socialized economy. He is not only a person of great good humor, and great kindness, but I believe he has a basic common sense that would say that does not make sense. But, Mr. President, the countries that have tried a regulated economy, where the Government decides what the prices are, had a disaster. Take a look at what happened around the world. When Fidel Castro came to power in Cuba, Cuba was No. 2 in Central and South America in terms of capital markets. It is a fair comparison. You have the same country, the same people, language, and background. After they got through with a government-regulated economy, they dropped from 2d to 23d. That is where Cuba is today. Government regulation of an economy has not increased the per capita income and helped the citizens of Cuba. It destroyed them.

Anybody who thinks that unusual, take a look at the No. 1 country during that period, in terms of per capita income, in Central and South America. It was Argentina. When they tried socialism, it fell apart as well.

Thankfully they are good citizens, they have had the sense to begin to change courses. But the story is the same around the world regardless of what color, or racial, or ethnic background, religious background, what climate. The same story is true around this world.

The South Koreans have three times the per-capita income of the North Koreans. Mr. President, the difference is freedom. The difference is not language, culture background, climate—the same people on the same peninsula, the same climate. The difference is economic freedom. Anybody who does not think economic freedom works, take a look at it.

East and West Germany, the West Germans have double the worker productivity that the East Germans have. Austria and Hungary sit side by side. In 1949, when Austria was reunited, they had a lower per-capita income than Hungary. Today Austria's per-capita income is three times that of Hungary. Hungary has thrown off the shackles of a Government-dominated economy, because they have looked across the border and they have seen what freedom can mean for them.

It is true everywhere you look. The Chinese on Taiwan produce 12 times as much per capita than the Chinese on mainland China, Mr. President. The same people with the same background and same culture. The main difference is China has more natural resources than Taiwan.

Freedom works. We are not just talking about a theory. We are talking about countries that have tried a Government-regulated economy and found disaster. We as Americans are concerned about the loss of personal and political freedom and religious freedoms. But the economic freedoms that are lost are just as disastrous. They tell a sad story. Anyone who believes that Government regulation of prices is going to be helpful to the consumer simply has not looked at what has happened around the world.

Incidentally, the Chinese in Hong Kong produce dramatically more than the Chinese in Taiwan, and the Chinese in Singapore produce even more, 40 times as much as Hong Kong. If anybody had told you one group of people can produce 40 times as much per capita as another group of people, you would have said that is not possible.

Mr. President, if you look at the U.N. statistics, if you look at U.S. Government statistics, they bear it out. Freedom does work. Price controls, Government domination of economy does not work. You can talk about how you are concerned for the consumers of America all you want, if what you deliver is higher prices and higher costs, you have harmed them, you have not helped them.

Mr. President, here are the points that I think are appropriate and that I hope this body will consider when it votes. This measure will mandate dramatically higher costs, hundreds of millions of dollars in red tape and paperwork and lawyers fees and accounting audits. That is without dispute. That is very clear. The estimates are that this could cost this Government somewhere in the neighborhood of over $330 million in 1995, simply by changing the tax credit system and the resulting increase from Unemployment benefits, food stamps, and welfare benefits we will pay in Puerto Rico.

There is no question this amendment will have a big price tag—a price tag for the people trying to comply with it, a price tag for the people trying to enforce it and a price tag with regard to the people impacted in Puerto Rico. But even with that huge price tag, it will not mean lower prices for people to buy drugs, it will mean significantly higher prices. And, Mr. President, all you need to do is look where Government has tried it both in this country and abroad.

Last, Mr. President, something I believe will concern every Member of this body, it means dramatically increased frustration of the American people. It will encourage disrespect for the law, it will encourage people to find ways around the law, it will encourage people to find ways to ignore the law.

What is the answer? How do we help those? Mr. President, I think there are a number of things we can do. As a member of the Colorado State Senate, I was a prime sponsor of Colorado's generic drug bill. What this generic drug bill did was give consumers the real information and some options in increasing competition. I believe, and many of the consumer advocates at the time believed, that the lowered prices for the consumers, that that was a help for consumers.

We can provide more consumer information so people have the ability to compare products. We can change Federal Government policies that make the cost of marketing these products and delivering these products so high. There are things we can do. But the bottom line is it comes down to encouraging a competitive economy, discouraging monopolies, and encouraging efficient production.

Mr. President, the vote on this amendment is going to be very straightforward and very easy. If you believe that a Government-dominated economy, where prices are regulated and the Government controls that economy, is good, you are going to like this amendment. If you believe economic freedom works best, if you believe competition is the way to help the consumers of this country, you are going to vote no.

I yield back my time, Mr. President.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER (Mr. LIEBERMAN). Under the previous order, the Chair now recognizes the Senator from Indiana [Mr. COATS].

Mr. COATS. Mr. President, I rise today to join with a number of my colleagues in expressing some very strong reservations relative to the amendment that is before us. I think we are sending a completely opposite signal than what is intended by the author of the bill, and I am afraid that enactment of this legislation would produce results exactly the opposite of the effect that the author of the bill intends.

I want to make it clear, Mr. President, that, while there is a basis for evaluating the impact of section 936 on a number of areas of our tax policy and on our manufacturing base and research base and so forth, this is a discussion that I think ought to take place within committee, that hearings ought to be held, that serious examination of this policy ought to ensue rather than simply having a bill brought to the floor of the Senate during a time of debate on tax policy.

Having said that, though, I do appreciate the fact that it is receiving a significant hearing here today and that we are able to flesh out some of the details of this particular amendment and what it would do.

Mr. President, rather than directly addressing the 936 question, I would like to speak to the broader issue of the importance of the drug industry in this country and the importance of preserving a healthy drug industry for treatment of disease and illness and for the contribution that it makes to the advances of medicine.

It is important to understand that in preserving this industry we are affecting our economy in a number of ways, but more importantly we are bringing some very real advances in the diagnosis and treatment—particularly in the treatment—of disease and illness to the American people and in fact to the people of the world. It is important to know the background behind all of this in terms of what produces this remarkable record that the American pharmaceutical firms have been able to achieve.

According to current estimates by researchers at Tufts University, it takes, on the average, 12 years and $231 million to discover and successfully bring a new drug to market approval. Other tests are considerably higher in terms of the amount necessary to bring a new drug to approval. According to the Food and Drug Administration, only 1 out of every 4,000 pharmaceutical products tested makes it from the test tube to the patient's bedside. And this is typically a 12-year investment. That is how long it usually takes to gain FDA approval after research begins.

In the area of prescription drugs, this means that only 3 of every 10 prescription drugs marketed ever recover their costs of development. On average, only 5 years of a 17-year patent is left to recover costs and provide profits.

Mr. President, I ask unanimous consent to have printed in the RECORD a copy of a letter from the National Black Nurses Association that sums up some of my feelings on this particular piece of legislation. They state:

> This legislation would have unintended side effects that would hurt the very people it is supposed to help. By imposing price controls and cutting tax incentives, this bill would discourage drug research. The end result would be fewer breakthrough medicines—and more illness and death.

I also would like to submit for the RECORD a letter from Dr. Sullivan, the Secretary of Health and Human Services. Secretary Sullivan states:

> To escape the tax penalty imposed in S. 2000, manufacturers would have substantial incentives to introduce new products at the highest possible price in order to show subsequent reductions in pricing consistent with the Consumer Price Index. We believe these incentives are perverse, unintended, and undesirable.

Mr. President, I ask unanimous consent to have the letters printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NATIONAL BLACK NURSES
ASSOCIATION, INC.,
Washington, DC, March 5, 1992.

Hon. DAN COATS,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR COATS: A few weeks ago, I wrote to ask you to oppose S. 2000, the Prescription Drug Cost Containment Act of 1991, introduced by Senator David Pryor. I am writing today to urge you oppose the same measure when Senator Pryor offers it as a floor amendment to the tax package that has been reported out of the Finance Committee.

Although the avowed purpose of this legislation is to reduce the cost of medicines, it would have unintended side effects that would hurt the very people it is supposed to help. By imposing price controls and cutting tax incentives, this bill would discourage drug research. The end result would be fewer breakthrough medicines—and more illness and death.

As nurses, we have witnessed the "miracles" that occur when new medicines save lives. We have also shared the anguish of people dying of diseases for which there is no cure—AIDS, cancer, and Sickle Cell Anemia, to name just a few. With our patients, we cherish hopes that effective medicines will be developed for these and other deadly diseases. Senator Pryor's measure could dash these hopes.

For the sake of our patients, we ask you to vote "no" on this proposed amendment to the tax package.

Thank you for your consideration.

Sincerely,

LINDA BURNES BOLTON,
President,
National Black Nurses' Association, Inc.

SECRETARY OF HEALTH
AND HUMAN SERVICES,
Washington, DC, March 6, 1992.

Hon. LLOYD BENTSEN,
Chairman, Committee on Finance, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your request for a report on S. 2000, a bill "To provide for the containment of prescription drug prices by reducing certain non-research related tax credits to pharmaceutical manufacturers, by establishing the Prescription Drug Policy Review Commission, by requiring a study of the feasibility of establishing a pharmaceutical products price review board, and by requiring a study of the value of Federal subsidies and tax credits given to pharmaceutical manufacturers, and for other purposes."

We believe S. 2000 could increase drug prices and harm the economy of Puerto Rico, would inappropriately affect tax incentives, would require unnecessary Medicare demonstrations, could weaken the U.S. patent system and impair the attainment of Congressionally mandated intellectual property objectives in other countries, and would require us to perform a study outside the range of this Department's expertise. Consequently, if S. 2000 were presented to the President, I would recommend that he veto it.

S. 2000 would reduce the tax credit available to drug manufacturers operating in Puerto Rico, to the extent that increases in prescription drug prices exceed the consumer price index.

By October 1, 1992, the Secretary of Health and Human Services would have to establish at least 15 demonstration projects that would last 5 fiscal years to assess the impact on cost, quality of care, and access to prescription drugs of developing a Medicare outpatient prescription drug benefit and the impact on cost and quality of care of extending coverage of outpatient prescription drugs to Medicare beneficiaries served by community health centers. The demonstrations would provide coverage to all drugs and biologicals approved by the Food and Drug Administration and all medically accepted indications listed in the three national drug compendia. There would be a Drug Use Review Board that would recommend the design and development of the drug benefit, establish prospective and retrospective drug use review, and develop educational interventions.

The bill would establish a Medicare Outpatient Prescription Drug Trust Fund for the demonstrations. Up to $200 million would be available for the demonstrations for fiscal years 1993 through 1997 (adjusted annually for cost-of-living increases). The funding would come from the reduction in the Puerto Rico tax credit.

S. 2000 would also establish a Prescription Drug Policy Review Commission, appointed by the Director of the Congressional Office of Technology Assessment, to make annual reports on national and international drug issues, and to make a special report on the implementation of a price review mechanism and possible changes to U.S. patent law.

Lastly, the bill would require the Secretary to report on Federal subsidies and incentives provided to the pharmaceutical industry and would require pharmaceutical manufacturers under the Medicaid Program to report average price of products sold in Canada, Australia and the European Economic Community.

Our concerns are multiple. First, with regard to the bill's effects on Puerto Rico, we believe that tampering with the current tax credit will result in higher pharmaceutical prices should the reduced attractiveness of production in Puerto Rico cause pharmaceutical manufacturers to move their facilities elsewhere. Not only would consumer prices be increased, but the movement of manufacturers from Puerto Rico to foreign countries or the mainland would result in decreased employment and revenues in Puerto Rico. We cannot estimate the magnitude of this adverse impact on Puerto Rico but believe it would be substantial. It would also jeopardize the benefits of Puerto Ricans not directly affected if increased welfare, Medicaid, and other costs resulted. The Committee should obtain estimates of the magnitude of this potential loss to Puerto Rico before considering such a potentially disruptive and serious action.

Second, the mechanism for identifying firms which would be at risk of reduced tax for production in Puerto Rico strikes fundamentally at the exercise of the free market and pricing. The bill penalizes manufacturers for any drug product whose sale price increases faster than the consumer price index. This makes no allowance for changes in supply and demand for raw or finished products. Moreover, to escape the tax penalty proposed in S. 2000, manufacturers would have substantial incentives to introduce new products at the highest possible price in order to show subsequent reductions in pricing consistent with the consumer price index. We believe these incentives are perverse, unintended, and undesirable.

Third, with regard to demonstrations of a Medicare drug benefit, we note that much of the information to be provided through the proposed demonstrations is already available and that the demonstrations themselves appear to be a back door effort to establish a Medicare drug benefit. Such a benefit was a key component in the Medicare Catastrophic Coverage Act of 1988, which Congress, under substantial pressure from putative beneficiaries, repealed. In addition, the demonstration would be burdensome to administer and at best, marginally useful. There are other sources from which we can obtain desired information. For example, millions of beneficiaries receive drug benefits through various Medigap plans. In addition, drug utilization review programs currently exist in Medicaid and in various private plans. It would be possible to study the impact of coverage through these vehicles.

Fourth, the amount of funds available for the demonstrations is dependent on the extent to which increases in prescription drug prices exceed the consumer price index. Depending on how drug manufacturers respond to the tax disincentives, funding for the demonstrations could fluctuate greatly from year to year or may not be available at all. This uncertainty could disrupt Medicare benefits and jeopardize the research objectives of the demonstrations.

Fifth, the bill directs us to perform a study of Federal subsidies and incentives to the pharmaceutical industry. This study would cover a wide range of economic efforts of tax, patent, and other policies, both domestically and abroad. This Department has no particular expertise either in the marketing and pricing of pharmaceutical products or in the economic analysis of private industry. Such a study, to the extent possible at all, would be far more appropriately lodged in the Federal Trade Commission or other agencies with the requisite skills and expertise in industrial economic analysis.

Finally, the bill authorizes the Review Commission to study and suggest how the United States might implement a pharmaceutical price review mechanism and provide incentives for U.S. companies to price their patented products "fairly" through possible grants of compulsory licenses on patents or limiting the period of market exclusivity. The suggestions would significantly weaken the U.S. patent system; be contrary to Congressionally mandated bilateral and multilateral negotiating objectives in the area of intellectual property protection; and negate previous congressional action that provided patent term restoration for some pharmaceutical products and increased market exclusivity to encourage research and development of orphan drugs. Provisions permitting grant of compulsory licenses would be copied by our trading partners and could be implemented in a manner that harms U.S. trade interests.

S. 2000 affects revenues; therefore, it is subject to the pay-as-you-go requirements of the Omnibus Budget Reconciliation Act of 1990. Preliminary scoring estimates of this bill are under development.

In conclusion, if this bill were sent to the President for his approval, I would have to recommend that he veto it.

We are advised by the Office of Management and Budget that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

LOUIS W. SULLIVAN, M.D.

Mr. COATS. Mr. President, I want to take a few moments speaking to the broader issue. First of all, the global competitiveness of the pharmaceutical industry and the contributions it makes to our balance of trade. The U.S. International Trade Commission's report to the Committee on Finance in the U.S. Senate of September 1991 titled "Global Competitiveness of U.S. Advanced Technology Manufacturing Industries Pharmaceuticals states:

> One reason for the U.S. industry's strong position in the world market is its level of innovation which in turn is based on a number of factors, including the domestic industry's continuing commitment to high research and development expenditures. And, perhaps most important, the relatively unencumbered U.S. economy, in that it has not to date implemented price controls on pharmaceuticals.
>
> The enactment of cost containment programs, price controls, or both, on a national level often results in decreased levels of research and development spending in that these programs reduce revenues that can be reinvested in such research and development. Several countries that have implemented such programs have seen their pharmaceutical industries weaken or shift outside of their borders.

That is an important conclusion, Mr. President. It is a conclusion derived after serious study by the International Trade Commission in its report to the Finance Committee of the U.S. Senate. I think every Senator ought to be aware of their conclusion.

The pharmaceutical trade balance, just in the years 1987 to 1991 have shown dramatic increase. From a positive contribution of nearly $500 million in 1987 we have seen nearly a tripling to the contribution of surplus trade balance by pharmaceutical sales overseas to $1.23 billion estimated by the Commerce Department for 1991.

The United States leads in the discovery of world class drugs. Nearly half of all new medicines that achieved worldwide acceptance over a 12-year period of time originated in the United States. We are a world leader in the export of pharmaceuticals and it is making a dramatic difference in our balance of trade. At a time when we have deep concerns about the ability of U.S. industries to compete on a worldwide basis, our pharmaceutical industry is not only competing but successfully competing and creating a surplus of trade.

The market position, and the ability of these firms in the pharmaceutical industry to compete successfully on a worldwide basis is directly linked to the ability to introduce a stream of new products at regular intervals. Those companies that have been able to introduce those products as the result of a substantial commitment to research and development expenditures, and those that are able to accumulate the resources to be able to make those investments over, as I said, a significant period of time—often more than a decade necessary to bring a product to market—are leading the effort in providing us with a competitive industry by making substantial contributions to our economy.

The U.S. pharmaceutical market is not dominated by two or three giants. In fact, the leading pharmaceutical company in the United States has a 7.2-percent share of the U.S. market. Ten other companies, 10 other largest companies, make up less than 50 percent of total market share. And on a worldwide basis, U.S. pharmaceutical companies constitute approximately 30 percent of the total $110 billion market for pharmaceuticals. All other companies constitute nearly 70 percent. Yet, with that we are competitive.

So there is a significant amount of competition in the industry and the industry is not dominated by just a few giant manufacturers.

Let me turn to health expenditures and particularly those expenditures on pharmaceuticals as a percent of our gross national product. While we are all concerned by the relatively dramatic increase in total national health care expenditures—rising from 1960, roughly 5-plus percent of total GNP to, in 1990, nearly 12 percent of GNP—the story for prescription drugs is just the opposite. As a percentage of gross national product, the expenditure for pharmaceutical products has actually declined as a percent of total health care expenditures. It has remained relatively flat since 1960. It has not contributed as a percent of gross national product.

Total health care versus prescription drugs as a percent of GNP is lower in the United States than most of our international competitors, friends and allies. In Canada while total expenditures for health care are roughly 8 percent of GNP, their drug expenditures exceed 1 percent of GNP. In France the figure is roughly the same for total expenditures, but drug expenditures are nearly 1.5 percent; in Germany 1.5 percent; in Italy 1.5 percent, in Japan 1.3 percent, but in the United States about 0.8 percent.

So, while our expenditures for total health care are running nearly 12 percent of GNP, our expenditures for prescription drugs have not increased. And relative to other nations, they are significantly less.

Drugs as a percent of national health care expenditures have actually declined from a total of roughly 10 percent in 1960 to 4.8 percent in 1990.

Those of us—and I think that is everyone in this body—who are concerned about rising health care costs, and the treatment of those costs, and how we might hold down those costs, need to understand the important role that prescription drugs play in this whole effort. Let me just detail four different types of procedures and the relative difference in costs between surgical treatment of those procedures and prescription drug treatment of those procedures. Let us take ulcers.

The average cost for treatment of an ulcer is $24,000 if a patient submits to surgery. If a patient submits to annual drug therapy the annual cost is roughly $500. This is simply measuring on the basis of expenditures of dollars and does not begin to tell the story relative to the risk to the patient and the ease of providing a painless, effective treatment for a serious medical problem.

I suppose I speak in terms of treatment of ulcers directly to many Members of this body who find themselves eating on the run and consuming a lot of airplane food and eating untold numbers of exotic offerings at various stops along the campaign trail. Many probably have taken advantage—if they have not they ought to take advantage—of the remarkable developments that have taken place in just the last few years in treatment of stomach disorders. Rather than submitting to major surgery, it is like taking a vitamin in the morning to control stomach problems and ulcer problems.

Treatment of gallstones under a surgical procedure is roughly $11,000 but a drug annual therapy runs $1,500.

Treatment of coronary artery disease, submit to surgery you are looking at a $40,000 bill. Submit to annual drug therapy you are looking at $1,000 on an annual basis.

Treatment of mental illness, particularly schizophrenia, requires hospitalization which results in a cost of roughly $73,400. Annual drug therapy runs $4,500.

Contributions of pharmaceuticals have made an extremely important contribution to treatment of these diseases and these are just four examples.

Future predictions relative to use of drugs for treatment and reductions in morbidity and mortality attributable to future pharmaceutical advances are dramatic. It is estimated that 40 percent of the reduction in morbidity and mortality in cardiovascular disease will be through the treatment of new drugs.

Ninety-five percent of the reduction in leukemia deaths through prescription drugs, 50 percent of colorectal cancer deaths, 50 percent of the reduction in lung cancer deaths between 2010 and 2015 are attributable to drug treatment; 80 to 100 percent reduction of severity of osteoarthritis and rheumatoid arthritis cases, 90 percent reduction of severe cases of Alzheimer's disease and 75 percent of the reduction of HIV disease morbidity and mortality over a 10-year period of time will be attributed to future introductions of effective drug therapy treatment.

Mr. President, it is not cheap. It is not inexpensive to bring these new drugs to market. While in 1960 the average cost to bring a new drug product to the market was roughly $111 million, that increased in 1970 to roughly $259 million. In 1990, that average is running $350 million. No small amount of change to bring these remarkable new drugs to market.

Research and development expenditures as a percent of U.S. pharmaceutical sales have soared: In 1980, roughly 11.5 percent of total sales; today nearly 16.5 percent of sales.

When measured against other types of industries, in terms of the amount of money invested in the research and development, pharmaceutical companies far exceed other basic industries in America. All U.S. industries in total spend roughly 3.4 percent of total sales in research and development. We are discussing today ways in which we can encourage competitiveness by U.S. industries in our ability to compete on an international basis.

One of the ways we will be talking about and should be focusing on is our commitment to research and development over the long term to bring to market competitive products at competitive prices. The United States currently averages all industries expend 3.4 percent; General Motors 4.1 percent, General Electric, 7.3 percent; IBM, 11 percent; average expenditures as a percentage of sales in 1990 for pharmaceutical companies, 16.5 percent. That is why we are competitive internationally. That is why pharmaceutical exports provide a surplus balance of trade. That is why U.S. pharmaceutical manufacturers are competing and competing successfully on a worldwide basis.

I am afraid that this legislation, although I know well intended by my friend from Arkansas, would result in a significant decrease in that kind of a research and development commitment and put us at a serious disadvantage relative to the future.

Some would say the answer to that is that most new drugs will either be patented by individuals or by universities, NIH or Government. That simply is not true. Ninety-two percent of all new patented drugs will be patented by the private industry, only 4 percent by individuals and 4 percent by the Government.

Mr. President, I will close by simply saying that as most of us know, bringing a drug to approval requires an enormous amount of time, roughly 12 years; an enormous amount of paperwork and investment and commitment; an enormous amount of research dollars. The roughly 12-year approval process to bring a drug from infancy to market leaving roughly only 5 years left under its patent requires that that investment be regained so that additional research can continue in the future.

I think it is important for us to focus on this as we examine this legislation before us today and that Members understand what the significant contributions to the drug industry are to not only the economic success of our industries and contributions to balance of trade but also to the health and welfare of millions of Americans and billions of citizens on a worldwide basis.

Mr. President, I thank you for the opportunity to share this information with my colleagues and yield back my time.

The PRESIDING OFFICER. Under the previous order, the Senator from Arkansas [Mr. PRYOR] is recognized.

Mr. PRYOR. Mr. President, we have a slight change in our speaking order. I ask unanimous consent to yield my position at this time to the distinguished Senator from Nevada.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The Senator from Nevada [Mr. BRYAN] is recognized.

Mr. BRYAN. I thank the President and thank my good friend, the able Senator from Arkansas. I am delighted to be here today to support his prescription drug amendment, including the provisions of the Prescription Drug Cost Containment Act of 1991 which I am proud to cosponsor. This amendment is a step toward protecting all Americans from spiralling prescription drug prices, a step supported by 40 national organizations including the Childrens Defense Fund, the National Council of Senior Citizens, the Consumers Union, and the National Small Business United.

For millions of working American families struggling to make ends meet, to pay their rent, to feed and clothe their children, the cost of prescription drugs hurts. Many of these families lack the most basic health care insurance and they most assuredly do not have insurance coverage for their prescription drugs.

For our seniors, Medicare does not cover prescription drugs. And relatively few can afford to pay the premiums to purchase private health care insurance to cover those drugs, and for 5 million seniors, the impact is even greater. They have a Hobson's choice: Do I eat or do I take my prescription drugs? Do I gamble with my health by not eating adequately, or by not taking my medically necessary prescribed drugs? Either way, I lose. That is a choice no American should be forced to make.

In my own State of Nevada, seniors frequently write to share their personal experiences with the increase in prescription drugs.

A constituent from Sparks, NV, recently wrote that she takes Capoten, a hypertension drug treatment. When she began taking Capoten, she paid $75.95 for 100 pills; then in September 1991, the price increased to $89.95; and in January 1992, the price increased again to $97.95. Another constituent from Las Vegas shared with me his experience about price increases in his blood pressure medicine. He paid $44.40 in May 1988, for a beta blocker drug. In May 1990, the cost had risen to $58.50. By February 1991, the price was a hefty $64.70.

Mr. President, there can be no question that drug companies have enjoyed extraordinary profit margins in recent years. As out-of-pocket costs soared for all of us as consumers, so did the profit margins of major drug companies.

Stockholders in pharmaceutical companies may be smiling, but for most of us, these statistics are alarming. And for older citizens, especially those on fixed incomes, these statistics are frightening. The simple fact is that drug costs are out of control.

None of us who support this legislation claim that the spiralling health care costs of our country will be solved solely by containing the costs of prescription drugs. But it is a step that will provide important relief from out of control prescription costs. Put in context, prescription drug prices from 1982 to 1991 rose by a staggering 142 percent.

During that same time frame, the rate of general inflation increased by 46 percent. And unlike some aspects of health care delivery, the costs of prescription drugs are heavily borne by the consumer out of his or her own pocket. This legislation will provide a strong tax incentive for drug companies to keep increases at or below the general inflation rate.

Mr. President, this legislation will provide a strong tax incentive for drug companies to keep price increases at or below the general inflation rate.

In December of this past year, I received a letter from the president of the National Allergy and Asthma Network, Mothers of Asthmatics. The letter said our bill would "cripple scientific research in this country." Let me make it clear to the president and members of this organization that none of us who support this amendment oppose efforts of Mothers of Asthmatics or other groups that are dependent on vitally needed drug research to improve their quality of life. I suspect, Mr. President, this was a contention that was not advanced spontaneously by this organization but was a line of attack suggested by the industry to fight the cost containment efforts contained in the Pryor amendment.

Let me repeat that there are no provisions in this legislation to reduce research tax credits. Any suggestion that there is, clearly is a red herring.

The curb on tax credits proposed by the Pryor amendment addresses only nonresearch credits. Under this legislation, for each percentage point drug prices increase over the general rate of inflation as reflected in the Consumer Price Index, drug companies will face a 20-percent reduction of their nonresearch and development tax credits.

The American taxpayer provides $2 billion in nonresearch tax credits to the pharmaceutical industry. The taxpayer is actually subsidizing these companies. If the policy is to give a tax credit to the industry, then it seems to me that Americans are entitled to and ought to be ensured that the tax credit is being used for the purpose intended and not abused.

Further provisions of this legislation specifically address this issue and make sure that the claimed tax credits are used for legitimate research, nonduplicative research. Legitimate and necessary research will not be affected by the provisions of this amendment. The public has an interest in seeing that these tax credit provisions are used to advance the kind of research that develops valuable lifesaving medications. It should not, however, become a license to plunder by the large drug companies in this country from the most vulnerable among us, those who depend upon these lifesaving medications.

The drug companies are contending that they already provide health care cost containment because the use of prescription drugs keeps people out of hospitals or shortens the stay for those in hospitals. I do not believe that anyone questions that the advent of new medicines has lengthened lives, has helped keep some people out of hospitals, and has improved the quality of life for Americans. That is a given and that is not at issue in this debate.

But what is not a given is that drug companies can charge whatever they choose for these drugs, and at the same time enjoy billions of dollars of tax subsidies. The drug companies cannot ignore the affordability of those drugs, and that seniors must continue to decide between purchasing food or these medications, or that all Americans will continue to underwrite high drug prices and nonresearch tax subsidies.

Prescription drugs play a major role in the quality of health care that Americans receive and in the quality of life that Americans enjoy. That role, however, is not a license to gouge the people who are dependent upon those drugs in order to maintain their good health.

The vast majority of people have to pay for their prescription drugs out of their own pockets or go without, because insurance does not provide enough coverage. There are some 37 million uninsured people in this country. How do they pay for prescription drugs? For those with health care insurance, how many can afford prescription drug coverage? This legislation will only affect those drug companies that expect Americans to pay prices above the general rate of inflation. Drug companies can still charge what they want. They simply face a reduction in their allowable nonresearch credits if they choose to inflate their prices above the general rate of inflation.

Mr. President, it is their choice. It is an easier choice than some consumers must make when faced with spending money to eat or spending money to purchase lifesaving prescription drugs.

Mr. President, I yield the floor.

Mr. BENTSEN. Mr. President, we started on this amendment at 10 o'clock this morning with the idea it might take an hour or 2. It has taken almost 6 hours, and we have no determinate time we are going to end it. And if we are going to meet the President's schedule and have this legislation on his desk at the time he requested, then it is imperative we move ahead.

This has been cleared, I would say, by the minority leader and the majority leader. I ask unanimous consent there be 2 hours remaining on the pending Pryor amendment prior to a motion to table, with the time equally divided and controlled between Senators PRYOR and HATCH; that at the conclusion or yielding back of time on the amendment, the manager of the bill on the majority side, Senator BENTSEN, be recognized for 5 minutes, followed by Senator BENTSEN making a motion to table the Pryor amendment; that no amendments to the amendment be in order prior to the motion to table; and that if the amendment is not tabled, there be no restriction on debate or second-degree amendments.

I further ask unanimous consent that following the disposition of the Pryor amendment, Senator DOLE or his designee be recognized to offer the next amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Who yields time? The Senator from Arkansas now has 55 minutes remaining.

Mr. PRYOR. Mr. President, the other speaker, I believe, under the schedule, was to be Senator BAUCUS of Montana. He is not present. Therefore, I ask unanimous consent that that slot be filled by Senator WELLSTONE from Minnesota.

The PRESIDING OFFICER. The Chair advises the Senator from Arkansas that under the order, the list that had been extant is now no longer relevant, and all time is under the discretion of the Senator from Arkansas as he chooses to allocate it.

Mr. PRYOR. Mr. President, I thank the Chair for that information and that advice. I yield to the Senator from Minnesota.

The PRESIDING OFFICER. The Chair recognizes the Senator from Minnesota.

Mr. WELLSTONE. I thank the Chair.

Let me thank the Senator from Nevada before he leaves for what I thought was a really eloquent statement.

Mr. President, I will be brief. I was not going to get that involved in the debate, but listening to some of it today, it was difficult for me not to come to the floor.

I want to say to Senator PRYOR from Arkansas that I have a tremendous amount of appreciation and respect for what he is trying to do today in this Chamber, because I am absolutely convinced that the very best politics that there is, regardless of party identification, is when you make a connection between what you do here and what you hear from people back home.

Let us for a moment make this discussion very concrete. Ed Hughes, a retired printer, age 88, is supporting his 85-year-old wife with a lung condition and arthritis. A small box of pain pills cost $53.

Ann Larsen, from Medina, her medicine went up in price from $40 for an original prescription to $100 for a refill.

Sylvia Hansen called our office in St. Paul. She has a heart problem. She has to take a vasodilator, so she has to buy very expensive health insurance. She has been on medication for 40 years, but her condition has been controlled and she has been able to work all these years. But it is a problem for her to be able to afford her medication. She cannot keep up with the increase in the costs. Her income does not go up as the cost of her medication goes up.

I think this should be heartbreaking to Senators. She says, "I have to choose between food and medication. I fear that I will end up being sick and in a nursing home, and the Government will take everything."

Chuck Cooper is the director of pharmacy at Hennepin County Medical Center in Minneapolis.

He purchases pharmaceuticals for inpatient and outpatient use. He reports—and Senator PRYOR is more of an expert; I probably do not pronounce this the right way—that Warfarin, a commonly used blood thinner, increased in price over 2,000 percent in 1 year. Could I repeat that? Over 2,000 percent in 1 year. In 1990, they bought a 1,000-milligram bottle of tablets for $15.67. That is what the hospital bought it for. The price went up in 1991 to $349.55 in 1 year, from $15.67 to $349.55. This is a percentage increase of 2,131 percent. That is absolutely astounding.

Mr. President, none of these individuals are here lobbying. None of them make big contributions. None of them have all of the financial wherewithal. None of them can be seen in the Halls of the Congress. I do not feel like their voice is really being represented except for the fact that we now have, for the first time, I think, in a long, long, long time in the U.S. Senate a Senator who is willing to step forward with a very moderate proposal.

Mr. President, I would like to conclude my remarks by asking the Senator from Arkansas one question. Once again, as I have listened to this debate, what is the Senator proposing to do? Is he proposing to regulate the pharmaceutical industry? I have heard that mentioned. I have heard the Soviet Union, which is no longer the Soviet Union, mentioned. Is the Senator proposing to seriously erode the capacity of pharmaceutical companies to engage in research? What is his proposal?

Mr. PRYOR. Mr. President, I reply to my distinguished friend from Minnesota, one, I am not proposing that the Federal Government regulate the pharmaceutical industry. We have no business regulating the pharmaceutical industry. They are a very entrepreneurial industry.

I must say that I think they have done many, many wonderful and wondrous things for us as a society, as a country, and as a world. However, I am proposing that the American people get a break, at long last, from the abuses of the Tax Code committed by the pharmaceutical industry.

That abuse has been section 936 of the Internal Revenue Service Code, which was discussed at length this afternoon and this morning on the floor, and it is my proposal that, for every increase over the cost of inflation for the pharmaceutical industry, they receive a decrease in the subsidies that the pharmaceutical industries get in producing the drugs in Puerto Rico because they get such an astounding, awesome tax break there.

There has also been, I might add in answering my friend from Minnesota, a number of statements about price fixing. I respond, there is no such thing as price fixing in this legislation. The drug companies can charge any amount they want to for any drug that they produce. However, what we are saying is, if you go over the cost of inflation year after year, if you gouge the public, you are not going to be subsidized by the taxpaying public to the extent that you have been in the past.

I also respond to my friend that a few moments ago one of my colleagues came and said the pharmaceutical industry representative was in his office right now while he was on the floor, and he wanted to know how to respond to that pharmaceutical company representative, that lobbyist in his office. The lobbyist, or the representative, wanted to know how this Senator was going to vote.

I simply said, tell that very distinguished friend of yours who represents the pharmaceutical industry that for the past 30 years every time that industry has come and knocked on our door, we have said yes. We have said yes to patent protection. We have said yes to research and development grants. And they talk about all the research money that the pharmaceuticals spend. The taxpayers are paying for that research, I say to my friend from Minnesota.

Then we have said yes time and time again on the 936 tax break in Puerto Rico that allows them to deduct $71,000 per every Puerto Rican they hire. We have said yes, yes for 30 years. And now I suggest that you tell your friend that we are going to say yes to some other people on the other end of the spectrum, some of those who are deprived, who need this necessity of life for prescription drugs that our manufacturers produce.

We are going to say yes to those people who are crying out to us for our help; we are going to say yes, for a change, to those people who have no one asking for a tax benefit but basically asking for mercy. The people that I am hearing from, and the Senator from Minnesota is hearing from, are asking for mercy.

Today I think this is what this legislation is trying to represent. It is what it is all about. I hope that we will see our way clear to answer that call, to answer those cries, and to try to give them some relief. We have given relief year after year to the industry. Now let us give some relief to the consumers.

Mr. WELLSTONE. Mr. President, let me just say to the Senator from Arkansas that such a reasonable proposal and the effort to do something about the dramatic increase in prices and to deal with the subsidies—it does not say the companies cannot make good profits; it does not cut into any of their ability to invest in themselves.

I would say to the Senator from Arkansas that in this day and age where we are constantly reading in the papers and constantly hearing on television how disillusioned people are with politics in Washington, that I really think the vast, vast majority of people really appreciate what he is trying to do. Because this is an example of public policy that, for a change, goes directly to some real, concrete problems people are experiencing. The fact is that we have this opportunity in the U.S. Senate to take such action with such a modest proposal. I just hope we do not miss this opportunity.

I want to tell the Senator from Arkansas—I see the Senator from West Virginia—there are Senators here who hope for more comprehensive health care coverage. We all have different ideas. We all want to see that. This is just one small step forward. But it is really concrete, and it is helpful to people. I will bet in any poll 80 to 85 percent of the people in the country would be for it.

I hope this time, on this vote, that the vast majority of the people win out.

Mr. PRYOR. Mr. President, if I could respond briefly to my friend from Minnesota, I am very glad that he made the point about a more comprehensive package, a more comprehensive proposal that really goes to the whole issue of health care in the United States of America, and there has been no greater leader in that effort than the distinguished Senator from West Virginia [Mr. ROCKEFELLER], who is now managing the tax bill in the U.S. Senate.

I want to be a part of that comprehensive proposal. I want to be a part someday of that comprehensive package. I want to be a person or a Senator who plays a role in shaping that policy for our country. But until that policy is here, until that proposal is on the floor of the U.S. Senate, until that program has been laid out to us, or envisioned, then I am going to do everything that I can to try, one step at a time, to take one part of the health care crisis—and that part being prescription drugs and very quickly escalating costs of those drugs placed on those who are least able to afford them, least able to purchase them—I am going to be a part of trying whatever I can for cost containment in this particular effort.

And I pledge my effort to my friend from West Virginia. I pledge my best efforts to my chairman, Senator BENTSEN, and to all of our colleagues in the Senate, in the overall health care debate. But until that time, I think we at least have to start right here with something that deals with cost containment, and that is today, this moment, and today it is the business of the U.S. Senate.

I yield the floor.

Mr. MCCAIN. Mr. President, I wonder if my colleague from Arkansas has heard from organizations such as the National Black Caucus of State legislators, which I quote:

> We have been very encouraged by the increased attention now being given to the status of health care in America. However, we are still very concerned that sufficient attention is not being given to the equally pressing issue of access to quality health care—particularly for the disadvantaged and low-income citizens. The legislation proposed by Senator David Pryor while intended to control pharmaceutical prices, is a prime example of the opposing forces at work in the national fight to make health care affordable without compromising the right of every American to the best health care available.

I wonder if the American Diabetes Association has entered into the Senator from Arkansas' calculations. I quote:

> The American Diabetes Association believe that this proposal is ill-defined and potentially harmful to the development of drugs. Given the current crisis in our nation's health care system, we acknowledge the critical importance the Congress plays in scrutinizing how particular segments of our system operate. We believe these efforts are laudable and necessary; however, the proposal to reduce tax credits to certain companies may be destructive and limit the pharmaceutical industry's ability to discover new drugs for disease such as diabetes.

The Urban League states:

> For various reasons, poor people, uneducated people, and minorities get sick more often and die younger than others. This sad fact of life can be dealt with in various ways—through "lifestyle" education, social programs, etc. But, for the foreseeable future, these groups will simply need more medical interventions than others. And one of the best—and most cost effective—forms of medical intervention lies in prescription medicines. Therefore, measures that discourage the development of medicines are not in the best interest of America's poor and minority groups. We agree that something must be done to guarantee the poor access to life-saving drugs that do get developed. But, if the medicines are never developed because of lack of incentives, this will be purely an academic issue.

Mr. President, I think it is clear that either the sponsors of this legislation have disregarded, or do not care about, the views of the organizations such as the Urban League, National Coalition of Hispanic Health and Human Services Organizations, the National Black Caucus of State Legislators, and the American Diabetes Association. I think, frankly, Mr. President, that the views of those people should have been taken into serious consideration by the framer of this amendment.

I am deeply disappointed that they did not take into consideration the views of these groups, who represent amongst our poorest Americans, who seek and are very badly in need of not only the present drugs that are available in this Nation, but also the development of drugs to treat many of the terrible afflictions of the poor, elderly, handicapped, including those with diabetes in this country.

We all agree that health care costs have been rising at staggering rates. Last year, America spent more than $666 billion on health care, an amount we are told will rise to $800 billion this year. Health reform is critical, but we have to make sure that in the process of reforming the system we do not further drive up costs or negatively impact quality of care.

While probably well meaning, I believe the amendment fails on both accounts. Our colleague from Arkansas is to be commended for drawing attention over the past couple of years to the rising cost of prescription drugs. His tireless efforts have produced results, as a great number of companies have taken steps to improve access to drug therapies; such measures as providing discounts to the Government, creating programs to ensure access to drugs for impoverished Americans and holding price increases at or near the inflation rate. They have been taken by such industry leaders as Johnson & Johnson, Searle, Pfizer, Abbott, Bristol-Meyers Squibb, Merck, Burroughs-Wellcome, Glaxo, Smithkline Beecham, Hoffman-La Roche, ICI, and Genentech.

In fact, at least one of these companies, Johnson & Johnson, has held the prices of their products in this area below the CPI for nearly a decade. More importantly, some of these companies have committed to maintaining increases below the CPI.

These voluntary measures are a positive step in the right direction. These companies ought to be commended. Nevertheless, more must be done, particularly by those companies that have not responded.

I am also concerned about the impact of the rising prices on consumers of health care, particularly the elderly, and I believe hastily conceived action such as increased bureaucratic regulations, price controls, and other drastic measures, will have catastrophic consequences.

First, is the stated goal of price controls. While it may sound like an attractive concept on the surface, price controls have historically done the reverse of what was intended. I wonder where my friend from Arkansas was during the reign of Richard Milhouse Nixon. We had price controls. Prices were not controlled. Prices went up.

Mr. PRYOR. Will the Senator yield?

Mr. MCCAIN. I will after I finish my statement.

Beyond turning the market upside down, and further driving up the cost of drugs, which clearly this amendment would do, I fear price controls would stifle the very research and innovation critical to developing breakthrough drugs to combat Alzheimer's, Parkinson's, cancer, and so many other dreaded diseases.

It takes 9 to 17 years to bring a new drug to the marketplace at a cost of more than $200 million. When it gets to market, the company only has a few years to recapture the investment as a result of Congress' shortening the patent life for pharmaceutical drugs. While we all applaud greater competition through the promotion of generic drugs to bring down the cost of drugs, our prior actions on patents have increased the cost of drugs. Yet, some now seek to lay all of the blame at the feet of the industry.

I say to my friend from Arkansas, after I finish my remarks I will be more than happy to yield for any questions or comments he might have.

Second, it is interesting to me that, at a time when we are reeling from news of automobile plant closings and gratuitous insults to our workers by Japanese industrialists, some want to erode the competitiveness of the industry hailed in a March 9 Fortune magazine article as the most competitive U.S. industry with foreign countries.

This is one of the few industries in America that has a positive trade balance, and according to the U.S. Trade Representative, Carla Hills, this amendment could undermine our trade negotiating objectives and be used as ammunition by foreign governments and foreign private parties opposing the patent reforms sought so vigorously and long by the United States.

While most countries would admire and nurture an industry who leads the world in pioneering life-saving medicines, that maintains a positive balance of trade and invests almost $11 billion a year in research and development, some want to turn a gun on ourselves. If any punitive measures are to be taken, then they should be directed at nations that unfairly restrict the piracy and counterfeiting of patented drugs is a growth industry.

Third, is the issue of expanded regulatory bureaucracy. In point of fact, the current regulatory bureaucracy has been one of the factors that has driven up costs. The new bureaucratic body contained in this amendment was modeled after Canada's Pharmaceutical Product Review Board and would be damaging and counterproductive. Like the one in Canada, this board would have the power to compel pharmaceutical companies to license their products through other companies, thus, undermining patent protection.

This approach has resulted in Canada being the major industrial nation with the poorest climate for innovation, producing the least number of compounds to cure diseases in recent history. Given the annual combined United States pharmaceutical industry and Federal investment of $18 billion in biomedical research, compared to Canada's $240 million, it is little wonder Canada must depend on drugs developed in the United States to treat their citizens.

The thought of replicating Canada's experience worries me. I have already discussed my concern about the effect it will have on American's access to health care. I think, as I said before, the views of organizations such as the Urban League should be taken into account.

The National Coalition of Hispanic Health and Human Services Organizations states:

> The fact that the pharmaceutical industry is gouging the marketplace has not been effectively demonstrated.

The National Black Caucus of State Legislators states:

> The legislation proposed by Senator David Pryor, while intended to control pharmaceutical prices, is a prime example of the opposing forces at work in the national fight to make health care affordable without compromising the right of every American to the best health care available.

Mr. President, few Members of this body are more concerned about the effect of the rising cost of health care on our Nation's citizens—especially our senior citizens—than this Senator.

While the cost of prescription drugs is an issue of great importance to the elderly in my State, so, too, is the desire for drugs to combat Alzheimer's, Parkinson's, arthritis, cancer, and the other dreaded diseases. Any action in this area must balance both concerns, and I don't believe this amendment does.

Today, one-third of our Nation's health care dollar goes to care for older Americans. The Alliance for Aging Research has concluded that, by the year 2010, care for older Americans will consume more than 50 percent of the American health dollar. Much of this spending will go for the treatment of Alzheimer's, Parkinson's, osteoporosis, arthritis, and cancer. Today, many of these conditions result in costly hospital or nursing home stays.

We have a responsibility to make sure that our Nation's elderly receive the health care services which they need, but I believe it would be terribly short-sighted to impede research and development of new drugs for the cure and treatment of these dreaded diseases. Particularly, when the research and development could result in lower health care costs. An example is Alzheimer's disease, which currently strikes some 3 million Americans. According to a recent study of the National Institutes of Aging, the annual cost of Alzheimer's disease is a staggering $85 billion. And, if we were able to delay the onset of this terrible disease for just 5 years, it would save some $40 billion.

Mr. President, while the costs of some drugs are staggering, the average cost of a prescription drug in the United States in 1990 was $19.91. Some drugs are very expensive, but look at their applications and the cost of the alternatives if these therapies were not available.

For example, a year of outpatient drug therapy costs less than $300, while coronary bypass surgery carries a price tag of more than $41,000, not to mention the lost wages and enormous pain and suffering that come with such a procedure.

Ulcers are another condition that can be treated effectively with drugs. What's more, they are cost effective. Treating ulcers with medicine costs between $200 and $500 a year, while surgery to correct the same condition costs more than $24,000.

Multiply these individual cost savings by the hundreds of thousands of people who could and do avoid surgery and are helped by drugs, and pretty soon you're talking about real money.

Rather than turning the market upside down, or pulling the rug out from underneath the industry's R&D effort, further driving up prices or halting efforts to find cures for the very diseases that strike fear in the hearts of so many Americans, we should take steps that can cut drug development costs and bring down the cost of drugs, without hurting innovation. First, we can streamline the drug approval process, which takes longer and costs more in the United States than in other countries. Second, we can improve the resources available to the FDA for their activities. Third, we could take tougher action against international patent pirates, who cost U.S. pharmaceutical firms about $5 billion a year. And, fourth, we could cut product liability costs—which add millions to drug development costs—by reforming the tort system.

Mr. President, while the initiatives I am suggesting are more complicated than price controls, tax increases, increased bureaucracy, or weakened patent protection, they will reduce drug prices by improving the market rather than turning it upside down. In short, Mr. President, an attempt at a quick fix will not only provide the opposite effect, it will negatively affect the health of Americans well into the future—as the fruit of today's decisions will be borne out over the next 10 to 15 years. It is well to remember that today's drugs are the fruit of research and development expenditures of 10 to 15 years ago. Thus, when we spend money on research and development, we are investing in the future. Constraining the resources for research and development today will bring to a halt the flow of more and more innovative drugs. Not only will this deny today's and tomorrow's older Americans access to more effective drug therapies—it will leave them with no option other than a custodial nursing home stay—to which none aspire. What's more, a climate in which investment in research and development is a bad business decision will ultimately deny all of us the hope of more effectively containing health care costs.

In addressing the serious problem of rising health care costs, including rising prescription drug prices, we in the Congress have the responsibility to look further than the quick fix, to seek solutions, rather than scapegoats. I fear that we are looking for a scapegoat here. All I can say is that the long-term consequences of doing the wrong thing will be catastrophic.

Mr. President, I believe this amendment is bad medicine for America.

The PRESIDING OFFICER. (Mr. CONRAD). The Chair recognizes the Senator from Utah.

Mr. HATCH. I yield 12 minutes to the distinguished Senator from Rhode Island.

The PRESIDING OFFICER. The Senator is recognized for 12 minutes.

Mr. CHAFEE. I thank the Chair. I thank the distinguished floor manager of the legislation.

Mr. President, there is no question but what we face a tremendous health care problem in the United States of America. Our problems are two-fold.

The first is that we have roughly 36 million Americans who do not have health care insurance. In most instances, they do not have the means of paying for health care.

The second great problem is that the cost of health care in this Nation is escalating at an incredible rate. It is far in excess of escalation of costs for food, shelter or for clothing. For example, in the 20 years from 1970 to 1989, the cost of health care in the United States rose 250 percent. So we have some real problems.

How can we handle these problems? There is a series of ways. One of the ways is to adopt legislation which I and others have introduced on this floor which would reduce the rate of growth of these expenditures by increasing utilization managed care, by enacting medical liability reform, to decrease the practice of defensive medicine which increases health care costs by greater use of outcomes research, encouraging what works and discouraging practices that do not work, by increasing preventive care services and trying to keep the population of our country healthy. We believe these efforts and others that have been introduced will be effective.

A second method of proceeding is to cap overall expenditures on health care. In other words, set a figure, that billions of dollars is all we are going to spend on health care in the United States. Canada has tried that approach. They decide how much money is to be spent. And the government sets priorities. There is not enough for everything; costs rise. So certain services are not immediately available or some services are not covered.

A third method of cost containment is through price controls. The government decides how much profit any group, that is the hospitals, the doctors, or the medical equipment suppliers, or the drug producers, are going to receive. And that is the result of the pending proposal.

I agree with Senator PRYOR in many respects. I agree that the cost of prescription drugs and other medical expenditures—let us not restrict this to prescription drugs, all of the costs of medical services are increasing and Americans are deeply disturbed.

So, more and more Americans are looking for a scapegoat and they found one they believe in the drug industry. The drug industry is profitable. I am not sure what is wrong with having a profitable industry. Regrettably in our Nation we have too many industries that are not profitable. Just take a look at the automobile industry that last year managed to lose $7.5 billion, and I am sure that is not what we want for our model. But nonetheless, the drug industry is profitable. And Senator PRYOR laments that to a considerable degree as you have seen by his charts. Several drug companies have vowed to keep drug prices below the Consumer Price Index in the coming year.

We ought to encourage that. Clearly, the reason that the American public is more sensitive to drug prices than they are to hospital care or physicians prices is that those other services are covered by insurance. Medicare covers doctors' bills. Medicare covers hospital costs. But Medicare does not cover the cost of outpatient prescription drugs. Those who are particularly hard hit are Medicare beneficiaries, especially principally the low-income beneficiaries.

I have introduced legislation which would give States the option of extending their Medicaid prescription drug benefit to low-income seniors who would not otherwise be eligible for Medicaid coverage. I would appreciate it if my colleague from Arkansas would join me in that legislation.

But it seems to me premature to resolve this problem by setting prices in the drug industry or setting prices in any other industry. To do so has all the consequences that have been previously pointed out on this floor.

There are a number of particular problems associated with the Pryor amendment. Let me just describe some of them, and if the distinguished Senator from Arkansas wishes to respond, I would appreciate that.

The effect of this legislation would be to take a snapshot, to take a specific period in time and say that those companies that were selling at that price would have to limit their increases to the Consumer Price Index thereafter or lose some part of their tax credit under section 936.

Let me give you an example. Let us say to produce a particular product costs $4. We have two companies: Company A has been selling it for $5, making a profit on the product as we expect them to. Company B has been selling the product for $8.

Under the Pryor legislation, those companies would thereafter be limited in their ability to increase prices.

Is this fair? The company that was charging less is restricted in perpetuity to this low cost, cost to Consumer Price Index; the company that was charging more is locked in at the higher price and reaps the benefit of that higher price. That hardly seems fair.

There is another problem I would point out, and that is that this legislation fails to take into account significant increases in those supplies that are essential to them.

For example, their price increases are restricted to the CPI. But it may well be that the cost of research and development, those pharmacists, those doctors that the drug companies employ, the equipment that they must use—will increase far beyond the Consumer Price Index. I have had the privilege of visiting a drug company's laboratories where they are developing new drugs and anybody who makes this visit will be astonished at the sophisticated equipment that is used to help these companies develop new products. It seems to me that there should be a relationship between the cost increases of those items that are peculiar to the development of new drugs in computing what the price increases should be. Otherwise, we are indeed going to limit research and development within the pharmaceutical industry.

Finally, Mr. President, I would point out that the Senator from Arkansas has had an impressive list of charts showing how health care expenditures have increased and drug prices have increased. But, like everything, it depends on the data you choose.

For example, from 1988 to 1989, the latest year for which full data is available, total expenditures for health care increased by 11 percent. Health care expenditures went up 11 percent, a substantial amount. But expenditures for drugs and other non-durable medical equipment, it went up only 7½ percent.

So between 1988 and 1989, increase in drug expenditures in that year was less than the overall health care expenditures.

Another important point, Mr. President: Prescription drugs represent 7 percent of our total health care expenditures in the United States of America.

So that if we are really anxious in getting a grip on the health care expenditures, then let us not deal with just 7 percent. Let us wrestle with the other parts likewise—the hospital costs, the doctors' costs, the medical equipment costs, everything else that makes up that 93 percent of health care costs which is not represented by drugs.

I see the Senator from Arkansas here and I would appreciate it if he would be good enough, if he has some time, to respond to the particular question that I raised, and I will just restrict it to one.

Two companies producing the same product that cost them $4 to produce.

One charges $5 for the product, the other charges $8. Under the proposal of the Senator, as I understand it, both companies will be hereafter locked in and only be able to increase their prices in accordance with the CPI or lose a portion of their tax credit under section 936.

So the good company that went out of its way to restrict its costs and held down its prices is going to be punished, as I understand the Senator's proposal. Whereas, the company that was charging more will clearly benefit.

Mr. PRYOR. Would the Senator like me to respond?

Mr. CHAFEE. If the Senator could possibly do it on his time, that would be very helpful. I am a little short of time.

Mr. PRYOR. Yes, Mr. President, I would be glad to respond to the question of the Senator.

The question is if there are two drug companies and they had to increase their prices because of supply increases, or one of them—this is really an irrelevant question. It is a good question but it is irrelevant. All that would happen is that those costs, if they had to go over the cost of inflation, they would lose that much commensurate with their 936 tax break in Puerto Rico. If they lost half of their tax break in Puerto Rico, it will still be the biggest tax break given to any industry in America today.

Mr. CHAFEE. Well, as the Senator well knows, 936 is not restricted to the drug industry, and I believe he has answered that previously; 936 applies to any company that has operations in Puerto Rico. The genesis of 936 was not to help the drug industry, the electronic industry, or any industry. It was designed to help Puerto Rico.

But my question really is, following what the Senator has proposed, is it not true that the good behavior is locked in as is the bad behavior? The bad company in my illustration, the one who was charging more, is permitted to keep in perpetuity this increase that he was charging and indeed can charge ever more because 10 percent times $8 is more than 10 percent times $5. Am I correct in that?

Mr. PRYOR. Mr. President, the Senator from Rhode Island has made a good point. But the issue is, in this legislation, S. 2000, which is the amendment before the Senate, what happens, the companies can charge anything they want to for their prescription drugs. They still get their research grants. They still get their tax write-off for doing the research for drugs.

Mr. CHAFEE. Well, every company gets that. Come on, now. Let us not suggest that writing off research is something unique for the drug industry. Thank goodness that Hewlett-Packard is permitted to do the same thing, as is IBM or any company in the United States of America.

Mr. PRYOR. Yes; but the drug industry has an additional write-off. They have an additional tax subsidy that your constituents in Rhode Island and my constituents in Arkansas are paying for today. That most generous subsidy is going to be lost by a percentage point if they increase their cost over the cost of inflation by a percentage point.

Mr. CHAFEE. Yes, that is my point. My point is that you are penalizing the good behavior. In the illustration I gave you, the product cost $4 to make. One company charges $5. The other company has been charging $8. What you do in your legislation is you take a snapshot; you lock it in at this point. And the good company, the company that is charging less, is held to the $5 figure, and the other company can stay at this $8 figure.

If the company who is being the good fellow wants to work his way up to $8, he is penalized if he is in excess of the CPI; am I correct?

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. CHAFEE. Mr. President, I see nobody else desiring to speak. I ask unanimous consent for 2 more minutes.

Mr. PRYOR. Mr. President, I will yield Senator CHAFEE 4 additional minutes. And if I may respond to the question?

Mr. CHAFEE. Surely.

Mr. PRYOR. No drug company, in this amendment, Mr. President, is penalized. There is no penalty. All we are saying very simply is you are not going to get the same tax subsidies if you continue charging the American consumer the highest drug prices in the world. If you continue doing that, we are going to take away some of your non-research-related tax benefits and tax breaks. That is all this amendment does.

It is that simple, yet it has caused a great deal of consternation. And, I must say not intentionally, I am sure, but there has been a great deal of misinformation and misrepresentation.

Mr. CHAFEE. Mr. President, I am having trouble getting answers to my question. Let us assume everything you say, that if a company exceeds the CPI, they lose a portion of their tax credit; right?

Mr. PRYOR. They lose a portion of the tax break they receive today in Puerto Rico under the 936 section.

Mr. CHAFEE. And if you have two companies, one charging, for the same product, $5, and the other charging $8, as of now they are both even. In other words, if the $8 one keeps his price, he does not lose anything. If the $5 one keeps his price, he does not lose anything.

But if the good performer, the one who has only been charging $5, said: I cannot recover my costs on that, I want to go to $6; which, let us assume is in excess of the CPI, that company, even though it is below the other company, will lose a portion of its 936 benefits?

Mr. PRYOR. What is going to happen, I would say, Mr. President, to that company charging $5 today—and it is happening at this moment, probably, in the drug industry—when they anticipate a bill like this becoming law, they are all going to raise their prices, as they have done in the past, before we passed other legislation.

In fact, we were involved—the Senator from Rhode Island and I—2 years ago with some legislation on Medicaid. We tried to give the States a break with the pharmaceutical companies. The Senator from Rhode Island knows, as that law was being implemented the drug companies circumvented that very law in order to get around not only the letter but also the spirit of that law, and they went up on their drug prices to the Veterans' Administration, to the Veterans Hospitals, to the HMO's, and to the doctors and clinics around the country, unmercifully.

Mr. CHAFEE. Mr. President, I regrettably have not received an answer to my question. But I can only assume that I am correct that the good performer is penalized and the fellow who is charging a good deal more than company A can continue to charge that under the illustration.

Mr. PRYOR. Mr. President, I am answering the question the best I can, and I apologize if the Senator is not satisfied.

Mr. CHAFEE. We learn from bitter experience, as the Senator pointed out. We were both involved in this a couple of years ago.

When you push in a certain area, something happens somewhere else. There is a cause and effect. The particular piece of legislation that the Senator referred to was the Medicaid rebate law. A company, if it was selling at a low price somewhere, would be required to provide that same price to State Medicaid programs. So what happened? They were selling to the VA at a 90-percent discount, and they would have to continue that discount to Medicaid. So, surprise, surprise; they were perfectly content to sell at this low price a very small percentage of their market. But when required to offer that low price to a large portion of their market, they did not continue selling at a 90-percent discount.

So it is a tricky business we are involved in here once you start with price controls.

Another point I might make, Mr. President, when a company comes out with a new product, they are going to say: We will be locked in, in perpetuity, to the price we originally set. So we are going to set a higher price—higher than they normally would have. And that is going to be one of the unfortunate consequences of this amendment.

And that is why, for example, the American Diabetes Association has discouraged the passage of this amendment; why the National Urban League has stated that measures such as this discourage the development of medicines that are important to their clientele and their membership.

Mr. President, what we really ought to do is not try to limit prices for 7 percent of the total health care market of the United States. I urge the Senator from Arkansas to join me and others and try to enact this year—this year, Mr. President; we can do it—true health care reform that will not just deal with 7 percent of the problem, but will deal with 100 percent of the problem, with a very good chance that we can limit cost increases in our entire health care system in rather a substantial fashion.

I thank the Chair.

The PRESIDING OFFICER. The time of the Senator has expired. The Senator from Arkansas.

Mr. PRYOR. Mr. President, I yield to my distinguished colleague, the Senator from Arkansas [Mr. BUMPERS] 12 minutes.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 12 minutes.

Mr. BUMPERS. Mr. President, as I have listened to the debate all day long, I have thought about all the speeches that have been made by Members of this body over the past 6 months about health care and national health insurance, and almost invariably the comment I hear is: Well, this bill is OK; and that bill is OK. But nobody is really addressing one of the basic problems and that is health care cost control.

Here we are debating cost in a rather unpleasant way, because every single person in the Senate—Republican, Democrat, liberal, conservative, and all in between—believes in the good old American free enterprise system. The free enterprise system has served us well. But still, from time to time, we have had to pass antitrust laws to stop some of the big boys from gobbling up the little ones; we have had to pass price-fixing laws to keep people from conspiring with their competitors to raise prices to the detriment of consumers.

Everybody is still committed totally to the free enterprise system and letting the marketplace work. But occasionally, when it becomes palpably clear that the system is not working as we want it to work, sometimes we have to step in.

And here we are—this is just a very small opening shot—trying to bring to bear some pressure on an industry that is obviously raising the prices of its products much faster than the rate of inflation.

I saw one of the factsheets that Senator PRYOR put out. It was pretty compelling to me. Dilantin, patented in 1953. And just since 1985—just since 1985—the price has gone up 69 percent. Maybe somebody has an explanation for that, but I did not see it; 11 percent a year for a drug that was patented in 1953.

Then another fact in Senator PRYOR'S factsheet, and that is that Merck holds its prices to the inflation rate and they deserve some credit for doing that.

Another fact: Much is made about how much the pharmaceutical industry spends on research. Bully for them; I want them to. But let me tell you something. According to an Aging Committee report, they could raise their prices 1.5 percent a year—think about this; not the 11 percent I just mentioned—they can raise their prices 1.5 percent per year, and that will be enough to increase their research budget 10 percent per year.

Mr. President, every time the Wall Street Journal runs a little story about some biotech company being very close to some new drug to deal with some terrible ailment—sometimes it is an orphan drug, sometimes it is a suggestion that maybe we are even getting close to an AIDS drug—do you know what happens to that stock? It goes off the charts. I can name five companies right off the top of my head whose stock has gone up dramatically in the past year just because of some story in the New York Times or the Wall Street Journal. What does that tell you? That tells you that if they make it and they have a patent on that particular drug, they are going to make so much money the U.S. Mint could not keep up with them.

Mr. President, ever since I have been in the Senate, I have sort of taken a leadership role in the Senate making sure that the childhood immunization program is fully funded. I will never forget, in 1981, sitting down there in the manager's seat. I was not on the appropriate committee or anything, but the manager of the bill, simply because of my total commitment to the childhood immunization program, asked me to manage it. President Reagan was suggesting a $6 million cut in the childhood immunization program from roughly $25 million to $19 million.

My adversary on the other side, who had been in the Senate about 4 months, was Senator QUAYLE, of Indiana. That side of the aisle had just taken over the Senate. They controlled it, and they won the vote. They won with one Democratic vote. But I got a couple of Republican votes. Within 3 months everybody in this body knew we had made a terrible mistake. Everybody was clamoring to restore the $6 million, and we did.

But that only brings me to this point. In 1981, we were appropriating money for 1982, and we were talking about $25 million for the childhood immunization program. Ten years later, Mr. President, the cost of that program is $300 million. A couple of things have contributed to the increase in program funding, and I want to be absolutely fair to my presentation. No. 1, we have added surcharges to the DTP, and polio, and measles-mumps-rubella vaccines to fund a program to compensate children who are injured by vaccines. The surcharges are substantial—$4.56 for DTP; $4.44 for MMR; and $0.29 for polio vaccine suits.

In 1986, Congress enacted a compensation system funded by surcharges, and since that time we built up a substantial trust fund. At the same time, we said to all the people who suffered any kind of an adverse reaction from the childhood immunizations, "You can go through an administrative process, at the claims court and present your claim and, if you are not satisfied with what they find for you, you can still go to court and sue in tort. But if you choose the administrative remedy we will pay you out of this trust fund, which is funded by surcharges." It is a very good solution. It was long overdue. But it has increased the overall cost of the immunization program.

But let me tell you what else has happened. Follow me on this. It takes five shots for a full course to fully immunize an infant against diphtheria, tetanus, and whooping cough. So, Mr. President, in 1982, the cost of a dose, one dose of DPT was 37 cents. That is what a pediatrician had to pay for it. The States who buy it for their public health clinics were paying 15 cents per dose.

Incidentally, this discrimination between what the pharmaceutical companies charge a pediatrician and what they charge the Federal Government is a very hot issue with the pediatricians. They do not like it. But they paid 37 cents per dose in 1987, and today they pay $9.97. But when you deduct the $4.50 surcharge, they are still paying $5.41 per dose. And, Mr. President, that is well over 1,000 percent increase in 10 years, not counting the surcharge. Nothing new, same old vaccine.

Polio: In 1982, the price was $2.75 per dose, and today there is a very small 13 cent surcharge on polio. Forget that. It cost $2.75 in 1982; $9.32 today, a 300-percent increase.

Measles and rubella did account, back when Betty Bumpers was immunizing all the children in this country when I first came to the Senate, for 8 percent of all the people institutionalized in this country. Sometimes it is blindness, sometimes it is mental retardation. But the measles, mumps, rubella, a triple shot, in 1982 cost $10.44, and today, $25.29, a 150 percent increase. Now, there is a bargain for you, compared to 1,000 percent or 300 percent for vaccines that have been on the market for years and years and years.

Mr. President, I have told my colleague we own him a debt of gratitude. He is probably not going to prevail on the floor of the Senate. We owe him a debt of gratitude for having the courage to stand up and present this argument, if for no other reason than to show what is to come when we start trying to grapple with health care cost containment.

I do not like tinkering with the free enterprise system. I am not too crazy about taking away the tax exemption companies enjoy in Puerto Rico, but somebody else in this body tell me something better.

We do not always get to vote on something just as we would like it to be. We have to vote on it as it is presented. Nobody has done more than my colleagues from Arkansas to make the people of this country aware of how traumatic these pharmaceutical prices are, especially to the elderly people in this country.

My wife walked in the other night. She had laryngitis, could hardly speak. The druggist said that the prescription she needed was $110. She said, "I am going to wear it out. I am not going to pay it. On second thought, I have a few antibiotic pills; I will just take those." He said "Are you serious?" She said, "I have never been more serious." He said, "I have a generic drug here, same thing for $30." She said, "Well, why didn't you say so?" "Well," he said, "not many people want those."

She was mad because he had not told her that in the first place and walked out anyway.

But when she came and told me the prescription cost $110, I had to ask myself what are the poor folks doing.

When you go home this weekend, I promise you within 24 hours after you get there, 1 or 100 people will have hit you up about this because they are having a hard time. How many of you have received a letter today from some elderly person who says, I am trying to make it on $550 a month, and they just increased the price of this drug or that drug and I do not know how I am going to make it.

So while I may not like the solution, I go with what is available, not what I would like it to be. But again, Mr. President, I want to say to my distinguished colleague, as always, he is right on target about the magnitude of the problem. And if somebody else has a better solution, bring it to this body and let us vote on it. Right now this is the only alternative anybody has.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I yield 5 minutes to the distinguished Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina is recognized for 5 minutes.

Mr. HELMS. Mr. President, I thank the chair and I thank my friend from Utah.

This is one of these issues and one of these debates where histrionics prevail and irrelevancy is heard throughout the land.

In the first place, a fair argument can be made that this amendment is unconstitutional. I have not been nominated to the Supreme Court, nor confirmed, but I have talked to enough constitutional lawyers who think it would not stand.

So, with all due respect to my distinguished friend and colleague from Arkansas, DAVE PRYOR, I am obliged to oppose his amendment. Regardless of how it is presented, no matter which way you turn it, this amendment would impose Federal price controls upon an American industry. We learned a long time ago that that does not work.

If this amendment were to be approved—and I do not think it will be—it would be a harbinger of subsequent efforts to convert America's medical system into socialized medicine. It's just as simple as that. Sure, our system has some warts, but it is still the best system the world has ever known. We must not destroy it by starting down this perilous path.

I know the Senator from Arkansas, DAVE PRYOR, does not want that, and he does not have that intent. His amendment has a certain amount of appeal. There will be many who will support it because they perhaps have not given thought to the consequences. Prescription drug cost containment—that is the name of the bill—has the ring of a laudable goal.

Let me tell you something, Mr. President. This Senator would like to see another kind of cost containment. How about putting some cost containment on the spending of the U.S. Congress, which has, in effect, driven up the prices on just about everything. If you want to understand the beginning of inflation, look at how much money this Congress appropriates and authorizes in excess of how much is needed to run a sensible government.

But, Mr. President, a more accurate title for the pending amendment, I thin, would be the Pharmaceutical Industry Price Control Act, because that is simply what it amounts to.

I do hope that Senators will consider the ramifications of the pending amendment; not only on the research and development of new drugs but on the entire pharmaceutical industry and the entire medical system of the United States.

This amendment would establish a Prescription Drug Policy Review Commission, another bureaucracy, to study how a Federal pharmaceutical products price review board could be used to control prices in the United States. The board would be empowered to grant compulsory licensing of pharmaceutical patents, or limit market exclusivity.

Of course, inevitably this would significantly weaken our Nation's patent system. It is also completely contrary to what the United States seeking through our trade negotiations in the area of intellectual property protection. In both GATT and the North American Free-Trade Agreement negotiations, the United States is pressing for international agreements to establish uniform, minimum patent terms and to prohibit compulsory licensing laws.

In fact, the intellectual property protection agreement the United States is pursuing with our trading partners would expressly prohibit the type of compulsory licensing scheme that the pending amendment would require to be studied.

Now, Mr. President, the American people are concerned, and rightly so, about the cost of all sectors of health care. They are also concerned about a lot of other things that have a price tag attached. They are concerned about how Members of Congress have increased their own salaries. There are a million things about which the American people are concerned, and of course the cost of health care is one of them. But it is only one of them. The pharmaceutical industry has come under unwarranted and sometimes vicious attack, unlike any other member of the health care industry.

Because the majority of prescription drug expenditures—72.4 percent—are paid out of pocket, most of the media attention and public concern have singled out drug prices. In our zeal to contain health care costs, we must not adopt flawed policies that will stifle innovation and destroy the hope for cost-effective new therapies.

The fact is that since 1965, prescription drugs have declined as a proportion of total health care spending and currently represents less than 5 percent of national health expenditures. In fact, pharmaceutical prices have not risen as fast as research costs or overall industry costs.

At the same time, Mr. President, the pharmaceutical industry is one of very few American businesses which currently enjoy a positive balance of trade, estimated to be nearly $1 billion in 1992. It is the very success of these research-based companies that allows the U.S. drug industry to devote 17 percent of its revenues to the incredibly expensive and risky medical research and development activities necessary to develop a new drug—which takes approximately 12 years and an estimated cost of over $231 billion per drug. In 1991, the pharmaceutical industry invested over $9.2 billion in research and development—more than the National Institute of Health spends on all biomedical research.

Mr. President, the overwhelming benefits to consumers of drug research and development should not be lost in this debate. Pharmaceutical products are the most cost-effective means of controlling health care costs. Revenues the industry receives today will finance the search for new medicines tomorrow. Senators should not loose sight of the favorable impact of drugs and their ability to prevent surgery, shorten or prevent hospitalization and decrease physician visits. This means lower costs and better health for the consumer.

It's this type of success and expansion that Congress should be encouraging. Yet, passage of the pending amendment would cripple the pharmaceutical industry's ability to research and develop drugs that may one day discover treatment for disorders such as osteoporosis, Alzheimer's disease, heart disease, and cancer. Who would we be helping then, Mr. President?

I urge my colleagues to remember that the principles underlying our free trade system, which the pharmaceutical industry is a large part of, include the expectations that investment be made to strengthen the business and that shareholders receive a dividend. Each requires the business to earn profits. For Congress to renounce those principles would chill the investments that have lead to the discovery of virtually every significant medicine of the last five decades.

Mr. President, the research-based pharmaceutical industry's presence in my State of North Carolina is both significant and growing. Two companies, Glaxo, Inc., and Burroughs-Wellcome Co., have their U.S. corporate headquarters and a major part of their operations in Research Triangle Park. Thirteen other companies have facilities throughout the State. Over 16,500 citizens are employed by pharmaceutical industries in North Carolina. They have clearly become some of the most respected corporate citizens in my State.

I have heard from the pharmaceutical companies in North Carolina. They are keenly aware of the concerns Congress and the American people have with rising health care costs. This has led many companies, including Glaxo, Pfizer, Burroughs—Wellcome, Hoffman-LaRoche, ICI Pharmaceuticals, and Merck to voluntarily limit future price increases. I am sure that other companies, fearful of Federal price controls, have taken similar action.

Mr. President, the price control aspects of the pending amendment threatens the competitiveness of the important research based pharmaceutical industry and represents bad health care policy. I urge my colleagues to vote against this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. Mr. President, I suggest the absence of a quorum, with the time equally divided.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I yield 5 minutes to the distinguished Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 5 minutes.

Mr. DURENBERGER. Mr. President, I rise to speak in opposition to the amendment offered by my distinguished colleague from Arkansas. I have a lot of sympathy with the cause. I have spoken on this floor a number of times about the leadership he has provided on this issue, usually when he was incapacitated, and unable to hear some of the nice things I have said about him.

A lot has been said today about the drug industry, and I will not repeat it. I would like to speak to a couple of related issues, one that I, as a member of the Finance Committee with my dear colleague from Arkansas, have had a fair amount of exposure to and interest in, and that is the issue of Puerto Rico; why we are in Puerto Rico, the relationship between what we do in the drug industry in this country and what goes on as far as the people of Puerto Rico are concerned.

For about 70 years now, Mr. President, the United States has provided tax benefits for American companies that operate in Puerto Rico and in other United States possessions.

One of the important reasons for adopting these tax benefits is that American companies operating in Puerto Rico incur higher operating costs as compared with other developing countries. Some of these are obvious to us, others perhaps less obvious such as minimum wage laws, or having to use United States-flag vessels. A lot of these subsidies are available for other industries that do business in Puerto Rico.

The key to economic development in Puerto Rico is section 936 of the Internal Revenue Code. It is a critically important tax benefit. It has encouraged many domestic companies to locate processing operations in Puerto Rico. Currently the pharmaceutical industry employs about 20,000 citizens of Puerto Rico.

Despite the incentives that are provided by section 936, the economy of Puerto Rico is fragile. Unemployment exceeds 17 percent. The Island's per capita income, while high compared to its neighbors, is still only $5,100, less than a third of that on the mainland. Transfer payments to individuals, including pension, welfare, Social Security entitlements, are 21 percent of personal income in Puerto Rico.

So, Mr. President, under this amendment, pharmaceutical companies that currently qualify for the section 936 credit would be allowed to continue to claim the full credit only if they keep there annual prescription-drug price increases at or below the Consumer Price index, or CPI. The determination of whether a pharmaceutical company is keeping its price at or below the CPI would be made on a drug-by-drug basis.

Certainly I and others would prefer that pharmaceutical manufacturers keep their prices at this level. Merck has been referred to, Johnson & Johnson tells me they have been at the CPI for 10 years across the board. But individual company pricing decisions are predicated on a lot of factors—competition, R&D, overhead, and the composition of drugs that are in the pipeline, and of course by the marketplace.

For some companies, patents are about to expire on some of their most profitable drugs, and those companies will face tough price competition from generics who bear none of the cost of bringing drugs to market. If they do not have new drugs in the pipeline they will be forced to incur increasing R&D expenditures to maintain future competitiveness. For some, the only way to finance extensive R&D is through higher profits on their patented products.

The sponsor of this amendment would ask us to believe that the 19 drug companies currently operating in Puerto Rico will make a drug-by-drug cost-benefit analysis to determine whether loss of a portion of their section 936 benefits can be more than recouped by raising the price of some of their drugs which are insulated from competition.

But these pharmaceutical companies have several other choices available to them. Let me just give you an example. They could choose to keep their current drug prices in line with inflation, then recoup far higher profits by setting artificially high introductory prices for new drugs brought to market.

Or, the pharmaceutical companies could file a host of supplemental new drug applications in an effort to replace old drugs with new drugs. A company, for example, that has been selling a 15-milligram valium may decide to end production and replace it with a 7.5-milligram valium. That could be construed as a new drug that gets a new pricing base.

But what will probably happen is that the pharmaceutical companies will move their Puerto Rican processing operations to a tax-haven country like Ireland, or a low-wage developing country in the Far East. Since this amendment does not affect foreign companies, some pharmaceutical companies may consider lowering the American flag and reincorporating abroad.

The end result will be the pharmaceutical price inflation will not diminish but jobs on the island of Puerto Rico will disappear.

Mr. President, if we in the Senate want to consider imposing price controls on all drugs sold in the United States—not just drugs manufactured by American companies in Puerto Rico—then let us engage directly in the debate. But let us not put at risk more than 20,000 jobs in Puerto Rico in the name of restraining price inflation in the drug industry.

I would conclude, Mr. President, by briefly addressing another component of this amendment—the establishment of a Prescription Drug Policy Review Commission.

The Commission, which is modeled after the Prescription Drug Payment Review Commission that was contained in the now-repealed catastrophic health benefit law, is to study the feasibility of establishing a Drug Products Price Review Board in the United States.

One of the Commission's directives is to submit a report to Congress that describes the feasibility of developing a system of compulsory licensing of pharmaceutical products or a reduction in the price in the period of market exclusivity for patented drugs.

Mr. President, for the past decade the United States has engaged in several confrontations with our trading partners including Canada, India, and Brazil over the issue of compulsory licensing. One of our goals in the current GATT round is to negotiate an end to both compulsory licensing of pharmaceuticals and restrictions on market exclusivity.

If the Senate today goes on record in support of the idea of compulsory licensing of pharmaceuticals, we will pull the rug out from under our negotiations who, for the past 6 years, have sought to provide American companies with uniform rules to protect their intellectual property. I can assure you that a vote for this amendment will not go unnoticed by the Canadians, the Brazilians, and the Indians.

Mr. President, my opposition to this amendment should in no way be construed as condoning the pricing practices of the pharmaceutical industry. I am pledged to find market-based solutions to the problems of escalating drug prices.

Not all these solutions need come from Congress. Why can they not come from those who provide us with medical care? How strong is the drug industry's commitment to real competition? How strong is organized medicine's commitment to controlling costs? Do they understand the economic pressures on American patients?

Mr. President, I urge the pharmaceutical industry to come forward with a commitment to work toward reducing the unjustifiable inflation that has occurred in this industry. Unless the industry changes, I am sure that the U.S. Congress will someday adopt some form of drug price controls.

Mr. HATCH. Mr. President, I yield 5 minutes to the distinguished Senator from New Jersey.

The PRESIDING OFFICER (Mr. BINGAMAN). The Senator from New Jersey is recognized for 5 minutes.

Mr. BRADLEY. Mr. President, I thank the distinguished Senator very much. I appreciate his strong opposition to the amendment offered by the distinguished Senator from Arkansas.

Mr. President, my bottom line comments in 5 minutes is to summarize points of view. If 936 is the problem, then I suggest the distinguished Senator from Arkansas introduce a bill to deal with 936. If health care cost is the problem, then deal with all health care costs, deal with hospital costs, deal with physicians costs, and not just pharmaceuticals.

What we need is comprehensive health care reform and not piecemeal health care reform, as particularly since pharmaceutical costs are only 7 percent of all health care costs in this country. If you are going to deal with only 7 percent of the problem and ignore 93 percent, then you have not really begun to come to grips with what the real problem is.

Reflect if you can 7 percent of all health care costs that are prescription drug costs in this country, but in West Germany 20 percent are prescription drug costs, 20 percent of all health care costs are prescription drugs, and in Canada, the country toward which the Senator's amendment would take us, 12 percent, nearly double, of all health care costs are caused by prescription drugs.

Points have been made and need to be reiterated. The pharmaceutical industry is a heavily research-oriented industry; $9 billion a year is spent in research. That is the equivalent of the National Institutes of Health, $231 million to bring a drug to market. Out of the drugs they begin to develop how many are brought to market? It is 1 in 5,000; 4,999 missed. Those do not develop. Only one does.

That one, of course, leads to patents in this country. Eighty percent of all biotechnology patents are developed in this country. I wish I could say that about all patents. I cannot. Fifty percent of United States patents go to the Japanese companies, but not in this industry. Eighty percent go to American companies.

If we have a breakthrough in a prescription drug, that ends up having a tremendous impact on wellness in the society and on costs. For example, in 1976, there were 155,000 bleeding ulcer operations. In 1977, a new drug was developed. Ten years later, there were only 20,000 surgeries, a cut of 90 percent of a surgical procedure in the hospital that ended up costing much more than the drug. But of course these people would still be in hospitals getting operations if the drug company has not invested the money to develop the drug that could treat the problem at a much cheaper cost.

This industry also created 50,000 jobs in this country since 1980. They have a trade surplus, a trade surplus even with Japan.

So, Mr. President, I would hope that we would reject this move toward price controls that Senator PRYOR has envisioned and that we would instead look toward more comprehensive health care regulation. In the interim, we should not try to mix and narrow regulation of prescription drugs with tax provisions that relate to the pharmaceutical industry.

So I strongly hope that we will reject this amendment and that, instead, we will keep our pharmaceutical industry strong and healthy, generating jobs, generating patents, generating trade surpluses for the United States and, most importantly, delivering the drugs that will lengthen the lives of American consumers and American citizens. That is really the most important contribution that this industry makes to the well-being of the country.

And, of course, you want to tell people about these drugs. That is called marketing. You want to tell people how they can save their lives, lengthen their lives, and I find that appropriate. Some things obviously are not appropriate and have been done. I think the industry recognizes that some marketing excesses will be curtailed. But the research, jobs, patents, and the wellness of American have been furthered, I believe, by this industry and will not be furthered by this amendment.

Mr. HATCH. Mr. President, this has been a good debate on the amendment offered by my good friend, Senator PRYOR. It is exactly the kind of substantive debate that I think makes a difference on the Senate floor, as well it should be.

I know Senator PRYOR is dedicated to this proposal. I have to say that I admire him for that. I am just sorry that I have to disagree with my good friend. I am not going to go through several more pages of arguments and statistics that I have that address the points made by the Senator's amendment. Rather, I would conserve the time and ask unanimous consent for those pages to be printed at this point.

There being no objection, the material was ordered to be printed in the Record, as follows:

CANADIAN PRICE CONTROL SYSTEM

Pryor Statement:

"The creation of a Canadian Patented Medicines Prices Review Board (PMPRB) has made the most significant contribution to restraining prescription drug price inflation in that nation."

Response:

Canadian prescription drug prices are kept artificially low at the expense of innovation. Canada's pharmaceutical industry has created almost no new drugs since patent protection was limited there in 1969.

Because of the link of prices to market exclusivity, open-ended compulsory licensing and discrimination against non-Canadian products, the Canadian patent law is viewed as the worst of any OECD country, and among the worst in the world.

The U.S. Trade Representative, with strong bi-partisan support from the Congress, is working to get Canada to adopt the U.S. system. Why should we tell Canada that we are going to study adopting their system?

Ambassador Carla Hills has written Senator Packwood urging us to reject this study, because of the harm it could cause us in the GATT negotiations.

INDUSTRY RESPONSE TO PUBLIC CONCERN

Pryor Statement:

"After almost three years of continuous Congressional pressure on the drug industry to be responsible players in the health care system, one manufacturer has said, and a few have implied, that they will keep their prescription drug price increases on existing drugs to the general inflation rate."

Response:

At least six major pharmaceutical companies, responsible for about 30% of U.S. drug sales, have pledged to keep prices in line with inflation.

There have been two consecutive annual declines in drug price increases in the Producer Price Index for pharmaceuticals, from 9.5 percent in 1989 to 8.1 percent in 1990 to 7.1 percent in 1991.

The 1991 increase was the lowest recorded prescription drug hike in more than a decade.

Seven companies, responsible for about a third of the U.S. prescription drug market, have pledged to give rebates given to the Medicaid drug program to all federal Public Health Service clinics.

JOB LOSS ON THE MAINLAND

Pryor statement:

"There is some evidence to suggest that [the Section 936] tax credit encourages drug companies to close U.S.-based plants, fire workers and relocate to places such as Puerto Rico."

Response:

These allegations, by the Oil, Chemical and Atomic Workers International Union are either wrong or seriously misleading. A number of alleged plant closings never occurred—the facilities are still in full operation.

While total pharmaceutical industry employment increased in Puerto Rico by 17,200 from 1970 to 1990, total mainland employment for the industry also increased—by 89,000 positions.

DRUG INDUSTRY PROFITS

Pryor statement:

"* * * the drug industry's annual average 15.5 percent profit margin more than triples the 4.6 percent profit margin of the average Fortune 500 company."

Response:

Pharmaceutical industry profitability is not out of line with other industries with similar skills and R&D intensity, according to Office of Technology Assessment research. OTA Health Program senior associate Judith Wagner, PhD, reported at a Massachusetts Institute of Technology symposium Nov. 20: "Estimates of pharmaceutical industry" profitability by Congress may be three- to four-fold too high, according to results of a study prepared for the Office of Technology Assessment.

"The OTA study found that 'the difference in the implied internal rate of return between pharmaceutical [companies] and other firms is about 2%-3%,' Wagner reported. 'So the huge differential between pharmaceutical firms and other firms shown in the Senate Aging Committee report has been whittled away to a much smaller difference,' she commented."

"Wagner said that the study for OTA employed a relatively new methodology, which may be more accurate than the Senate committee's. The OTA study looked at 88 pharmaceutical firms operating between 1975 and 1987 and compared them to 88 nonpharmaceutical companies with similar 'skills' and 'R&D intensity,' Wagner said." (F-D-C Reports, Nov. 25, 1991.)

The most recent Business Week 1000 found that 14 of the 31 pharmaceutical companies surveyed either lost money in 1990 or made profits that were less than an investor could get without risk from a Treasury bond.

I'd like to respond to Senator Pryor's statement that we should accept the international price comparison figures because they are Secretary Sullivan's figures. Well, as Senator Pryor knows, HHS did not do a survey of price figures in the U.S. and abroad. The study was actually done by Farmindustria, the Italian pharmaceutical manufacturers association, and cited by the Office of the Inspector General of HHS. They did not originate with HHS. I just wanted to make that clear that Senator Pryor's figures did not originate with HHS, but with the Italian PMA.

The figures I used came from data gathered by the Organization for Economic Cooperation and Development. Instead of looking at the prices of individual drug products, which can vary from country to country as I've said simply because of currency exchange fluctuations, OECD's figures reflect how much is actually spent by each citizen, on the average, for his or her pharmaceutical products. OECD also uses a statistical method of allowing for differences in purchasing power among the different countries, so that lower earnings in one country or higher earnings in another are accounted for when comparing what the average person pays.

Mr. HATCH. Mr. President, I ask unanimous consent to have an article that appeared in Science magazine on May 24, 1991, printed at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Science magazine, May 24, 1991]

ARE PRESCRIPTION DRUG PRICES HIGH?

(By P. Roy Vagelos)

(The U.S. pharmaceutical industry has been criticized because its products are perceived to be too expensive, yet prescription medicines remain the least expensive form of therapy. At this time, we are experiencing a dramatic increase in the risks and costs of pharmaceutical research and development (R&D). An example may be seen in the R&D history of lovastatin. The U.S. pharmaceutical industry continues to lead the world in the discovery and development of important new medicines because it assumes greater financial risk and invests more of its sales dollar in R&D than virtually any other industry. Where such a risk is posed, there must continue to be the potential for profits. Pharmaceutical companies must set responsible prices, must keep price increases down, and must help improve access to important medicines.)

In the pharmaceutical industry, the odds, against success, whether statistical or financial, are daunting. Most research projects fail. On average, according to a new study by investigators at Tufts University (1), it takes 12 years, from synthesis to regulatory clearance, to bring a prescription drug to market in America. The average costs, which includes discovery and development, for one prescription medicine is $231 million (2).

Despite these obstacles and the financial risks they entail, the American pharmaceutical industry remains the world leader in the discovery and development of important new medicines (3). However, there are two basic threats to that leadership position, as witnessed by the decline in U.S. industry share of the worldwide pharmaceutical market from 38% in 1985 to 33% in 1989 (4). The first threat is to American preeminence in basic biomedical research, as evidenced by the deterioration of our system of science education, the looming shortage of American scientists, and the fact that Japanese inventors are now often first to arrive at the U.S. patent office with basic research discoveries (5). The second threat is the possible regulation of pharmaceutical prices, which would reduce the potential for the profits necessary to support the research investments of pharmaceutical firms. Historically, in the United States, when a firm has invested and worked against the odds to discover, develop, and market a new medicine, the firm has been free to charge a price that would produce rewards for investors.

In recent years, however, pharmaceutical companies have come under mounting criticism for their prices. Although the pharmaceutical portion of the American health care dollar continues to shrink (6), increases in the total cost of health care have become a matter of concern to the public and to public policy-makers. In that context, the high visibility of medicines has made them a special focus of concern, especially because their price increases, which were negligible through much of the 1970s, usually exceeded the general rate of inflation in the 1980s (7). This article deals with the cost effectiveness of pharmaceuticals, their pricing, and their profitability, and the fact that, as pressures to contain prices are increasing, so too are the risks and cost associated with pharmaceutical R&D. It concludes with a look at how these factors might affect patient access to new medicines and the attendant industry responsibilities.

COST-EFFECTIVENESS OF PHARMACEUTICALS

Pharmaceuticals are only a small component of our nation's health care cost, accounting for only 7% of total U.S. health care costs, compared with 12% in 1965 (6). Although the primary goal of pharmaceutical research is to save lives and ease suffering, it can also save health care dollars. In 1990 alone, for example, the projected cost of cardiovascular disease and stroke to the U.S. economy was $95 billion, including the costs of hospital days, disability days, and $33 billion in medical care expenditures, not to mention the countless potential years of life lost before the age of 65 (8); for acquired immunodeficiency syndrome (AIDS) including the loss of productivity, the estimated 1990 cost was $26 billion (9). In 1989, cancer cost the nation $100 billion (10), and Alzheimer's disease cost $80 billion (11). Even if each of the medicines that may eventually be found to prevent or treat these diseases became a tremendous commercial success and generated $1 billion a year in sales [only three medicines did that in 1989 (12)], patient costs for the medicines would be far less than the costs of the diseases.

Viral diseases of childhood provide a striking example of the cost-effectiveness of modern pharmaceuticals. In 1963, the nation's health bill for measles, mumps, and rubella vaccination programs came to $100 million. According to the U.S. Public Health Service, the cost of these diseases, in contrast to the cost of preventing them, would have been $1.4 billion (13).

Studies suggest that Medicaid expenditures for patients taking anti-ulcer medicines, the H2 antagonists cimetidine and ranitidine, may be 70% less than for ulcer patients who do not take an H2 antagonist. The reason is that patients not taking an H2 antagonist have a much higher incidence of hospitalization and surgery than patients who do (14). Other studies show that antibiotics save money by shortening hospital stays (15).

Benign enlargement of the prostate gland affects at least 50% of men over the age of 50 (16). Today, for those in the advanced stages of the condition, surgery is the only option and more than 400,000 prostate operations per year are performed in the United States, with a mortality rate of approximately 1% and a cost of nearly $3 billion (17). At Merck, after 15 years of development, a promising new enzyme inhibitor to control this condition is awaiting marketing approval from the U.S. Food and Drug Administration (FDA). The drug is designed to inhibit the synthesis of a hormone, dihydrotestosterone, that is associated with prostate growth, thereby hopefully shrinking the enlarged prostate. Because regression of the enlarged prostate is maintained and data suggest that Proscar can halt the progression of the disease, a long-term study is planned to demonstrate reduction in the need for prostate surgery.

PRICING AND PROFITABILITY

In terms of pricing I can speak only for Merck because it is the only company whose pricing procedures I am familiar with and because antitrust laws prohibit any intercompany pricing discussions or practices. One of the most difficult challenges faced in marketing a new prescription medicine is the question of how much to charge for it. What is its value to society? To the individual patient? If cost-effectiveness were the final arbiter of pricing decisions, most pharmaceutical prices could justifiably be much higher than they are. At Merck, it is important to establish prices for our products that will produce an appropriate return on our research investment and maximize patient access. If the price is too high and the patient cannot afford the medicine, we have not fulfilled our reason for existence.

The basic principle governing the free enterprise system is that free and unrestrained competition should force fair prices. The more segmented the industry, the truer that is, and the pharmaceutical industry, led by Merck with a 9.3% U.S. market share and a 4.9% worldwide share, is highly competitive.

Research and development costs are a major consideration in setting the price of a new medicine. In general, the more expensive the research project, the higher should be the price of the resultant medicine. But the costs of R&D for a particular medicine are difficult to determine. At Merck, for example, our 4500 people in research are working at any one time to develop scores of investigational compounds and to invent hundreds more. In less than 6 weeks they work 1 million hours. It is impossible for us to pull out the costs of the successful projects that contribute, directly or indirectly, to the discovery and development of the rare compound that eventually becomes a prescription medicine. It is also impossible for us to isolate costs for all of the individual projects that fail. What we do know is that, on an industry-wide basis, counting all of the investments in the failed and successful projects, it costs $231 million (1, 2), on average, to bring one new prescription medicine to market in the United States.

Prices of existing therapies and competitive products already on the market are another consideration in establishing the price of a new medicine. When we introduced the anti-ulcer medicine famotidine to the U.S. market in 1986, the average price charged to the patient for one 40-mg tablet, the usual daily dose, was $1.89, which was comparable to the average prices of $1.83 for cimetidine and $2 for ranitidine (18) for equivalent dosage strengths.

For medicines that the company believes are clearly superior to earlier products, we do charge more. Such was the case when, in 1987, we introduced lovastatin, which the FDA had placed on the fast track for regulatory approval. The $1.57 a day cost to the average patient represented a premium over the $1.19 a day average patient cost in 1987 for gemfibrozil (18), the most widely prescribed cholesterol-lowering agent at that time.

When pricing a new medicine, we also have to consider the number of years of patent protection remaining. In the United States the patents on most new products from other, nonregulated industries are only months old when they reach the market (19). In contrast, the average patent life of a prescription medicine when it reaches the U.S. market is significantly less than the original 17-year patent term mandated by Congress. Although the Drug Price Competition and Patent Term Restoration Act of 1984 enables the restoration of up to 5 years of patent term on a number of newly approved innovative drug products, this is only a partial restoration for the years of patent life lost during the development and regulatory approval of a new drug. In the best case, with patent term restoration, we can obtain a maximum of 14 years of patent protection from the time of regulatory approval. Through May 1990, the U.S. Patent and Trademark Office has granted 77 restorations of patents of human or animal drug products, resulting in an average of 10 years and 7 months of effective patent protection for these drug products (20).

We always set out to price our products at similar levels from country to country. But variations in government price controls, exchange rates, dates of new drug approval, health care financing practices, and other factors tend to result in different prices for different countries. Above all, the company assumes a responsibility to make its products available to people who need them. So in countries where we believe prices for innovative medicines are set unfairly low, we try to market our medicines at those prices while lobbying for a change in the government's pricing policy.

The U.S. pharmaceutical industry has introduced a large majority of the world's new prescription medicines. In fact, there are only three other nations that have contributed to drug R&D in a meaningful way: the United Kingdom, Switzerland, and Germany. These four countries have contributed 80% of all significant products introduced in the last five decades, with the United States alone being responsible for one-half (3). Japan is developing quickly and may join this group in the near future (5). All five countries encourage innovation and reward success through pricing policies that are liberal, at least in the establishment of initial prices.

The perception of high prices leads to a perception of excessive returns, but an examination of the industry's profitability brings about a more realistic perspective. Return on assets (ROA) is the measure of cash flow as a percentage of gross assets and is an accepted measure of profitability for most industries. The 1989 average ROA for eight leading U.S.-based health care companies was approximately 16% (21). This percentage was based on an accounting methodology that considers research to be an expense rather than an asset, and the methodology does not factor in the lengthy time period required for drug development. Consequently, the accounting model makes the ROA number of the pharmaceutical industry appear high when compared to ROAs for other industries.

In order to provide a more realistic picture of returns for research-intensive industries, an economic ROA model, based on one developed by Kenneth Clarkson at the University of Miami, may be used. In this model, gross assets include R&D expenditures, which are capitalized and amortized on the theory that a firm's R&D expenditures to develop new products are part of the firm's economic asset base. Cash flow is also adjusted to reflect the capitalization of R&D. The economic ROA model would lower the ROA results for any industry, but the effect would be greatest for the research-intensive ones. The average 1989 R&D expenditure, as a percentage of sales, for the eight leading health care companies was 9%, as compared with the average of 8% spent by computer companies, 5% by chemical companies, 1% by oil companies, and 2% by food companies (22). For 1989, the economic model gives an average ROA for the group of eight leading health care companies of approximately 11%, much lower than the 16% computed by the accounting model.

INCREASING RISKS AND COSTS OF PHARMACEUTICAL R&D

The odds against getting a compound to market have been cited, for some years now, as 10,000 to 1 (23). This means that for every 10,000 substances examined, 20 enter animal studies, and 10 enter clinical (human) trials—but only one gains U.S. FDA approval. Regardless of the statistical measurement of the odds, which is somewhat artificial and may not reflect more recent approaches to drug discovery, the overall difficulty of the tasks facing biomedical researchers has actually increased over recent years because of the complexity of the diseases that still plague us.

The latest estimate of the cost of bringing a new medicine to market, $231 million, is almost double the amount, adjusted for inflation, determined 9 years ago (24). The reasons for the sharp increase suggested by the authors of the study are that the new research technologies are expensive, and the diseases for which treatments are being sought are complex. Approximately one-half of the $231 million is the total cost for work on failed compounds plus all the R&D costs, from researchers' salaries to new laboratory equipment, for the one successful compound. The other half is the capitalized expenditures, or the so-called opportunity cost of having funds tied up during the 12-year period of development (1, 2).

Compounding the risk and financial cost of bringing a drug to market is the shorter product life cycle of new prescription medicines. Generic drugs gained easier, faster entry to the market with the passage of the Drug Price Competition and Patent Term Restoration Act of 1984. But an even greater impact on the average market life of a breakthrough compound has come from the rapid introduction of so-called follow-up medicines, which are chemically different from the breakthrough compound but are based on the same mechanism of action. They are introduced after the breakthrough drug has been shown to be safe and effective and can compete with it before its patent expires.

Seven of ten marketed prescription medicines do not recoup the average cost of R&D. An analysis of total sales performance of 100 new chemical entity medicines introduced from 1970 to 1979 showed that the medicines barely recouped the total of the R&D investments (25). If the economic performance of the anti-ulcer drug Tagamet (cimetidine) is removed, the result for the entire portfolio is lower than the cost of R&D. A highly successful breakthrough product is necessary if a company is to keep pace with R&D investment and the cost of capital.

In 1975, the year I joined Merck, the chief executive officer was concerned that for some time the company had introduced few important new medicines in the United States, despite having spent approximately $500 million dollars on R&D in the previous 10 years. But he did not cut back. Instead, he increased the R&D budget. The company had been experiencing what industry analysts call a "dry spell," but the term can be misleading because it implies that research has been unproductive. In Merck's case, in 1975, the discovery work and much of the development work had been done for several important new medicines, and the chief executive was confident of their eventual marketing. The result of the company's persistence—the paradox of the high-risk pharmaceutical business is that the route to success is to invest more—was the introduction of a number of important new products for arthritis, hospital infections, glaucoma, and muscle spasms. Another so-called "dry spell" occurred for the company from 1979 to 1985 with few product introductions. This was followed by an unprecedented flow of new products, culminating in the introduction of lovastatin in 1987.

The total Merck R&D expenditure for the period 1969 to 1989 was about $5.7 billion. For the 20 years from 1969 to 1989, R&D expenditures grew at a compound annual rate of over 13%, and that growth rate has increased over recent years. Our 1990 R&D expenditures were $854 million, up from $750 million in 1989. Some analysts, reflecting American businesses' myopic view of financial performance, reported that we were spending too much on R&D in 1990, and that this outlay might possibly hurt our short-term earnings. In 1991, we intend to spend $1 billion.

DISCOVERY AND DEVELOPMENT OF LOVASTATIN

By the time I joined Merck in 1975, company scientists had been studying cholesterol biosynthesis for more than 20 years. I decided we would devote large resources to the cholesterol project and use this as a test of my belief that recent breakthroughs in the sciences, especially biochemistry and enzymology, had made a rational research approach feasible. We would focus on enzyme inhibition as a major tool for the laboratories because so many of history's great drugs, from aspirin to penicillin, were eventually shown to be enzyme inhibitors. To head the cholesterol project I selected Alfred W. Alberts, who had worked with me in lipid biochemistry at the National Institutes of Health and Washington University. An abbreviated chronology of the road to lovastatin is presented below.

Early 1950s: Jesse Huff and associates at Merck began researching the biosynthesis of cholesterol, building on contributions made over many years by leading researchers such as Konrad Bloch and Feodor Lynen (26).

1956: Karl Folkers, Carl Hoffman, and others at Merck isolated mevalonic acid (27). Huff and associates then demonstrated that mevalonic acid could be converted into cholesterol (28).

1957: Not then aware of the significance of the discovery of mevalonic acid, Merck scientists continued through 1956 and into 1957 to look for resins that would bind to bile salts (derived from cholesterol in the liver) in the intestine. After having tested over 100 resins, they found that one (cholestyramine) reduced cholesterol from 10 to 15%. But the sand-like texture of the product made it unpalatable, and constipation was an unpleasant side effect.

1958 to 1959: 3-Hydroxy-3-methylglutaryl-coenzyme A (HMG–CoA) reductase, the enzyme that converts HMG–CoA into mevalonic acid, was shown by Feodor Lynen, Peter Overath, and Nancy Bucher at the Max Planck Institute to be a major rate-limiting step in cholesterol synthesis (29). Other investigators showed the reductase could be manipulated by diet or other environmental factors (30).

1960s: The fibrate compounds worked so well in rodents that many companies continued research programs on them throughout the decade. (It turned out that rodents were poor animal models for other cholesterol-lowering agents.)

1973: Michael S. Brown and Joseph S. Goldstein of the University of Texas Health Science Center discovered the importance of receptors for low-density lipoproteins (LDLs), particles circulating in the blood that carry most of the blood cholesterol (31).

Andrew Kandutsch and Harry Chen of the Jackson Laboratory in Bar Harbor (32) and Brown and Goldstein (33) reported that oxygenated sterols decreased the activity of HMG–CoA reductase in cultured cells. Merck and other companies pursued the lead, but this class of compounds proved unsuccessful. Sterols were effective in vitro but not in animal experiments.

1974: Merck scientists set up a cell culture assay in an attempt to identify substances that were potent specific inhibitors of the enzymes of cholesterol synthesis.

1976: In work that began at Washington University in 1974 and ended at Merck in 1975, Alberts, T. Y. Chang, others, and I showed that animal cells with a single enzyme defect lost the ability to make cholesterol and, as a result, lost their viability. When such cells were supplemented with cholesterol, they grew normally (34). In Japan, Akira Endo and co-workers succeeded in isolating a compound, called compactin, and showed that it was a specific inhibitor of HMG–CoA reductase and that it functioned in vivo to block cholesterol synthesis and lower cholesterol levels in the blood (35).

Fall 1978: After spending 3 years developing systems to search effectively for HMG–CoA reductase inhibitors in an assay that measured the formation of mevalonic acid from HMG–CoA, Alberts and staff began screening microbial extracts. At the beginning of the second week of testing, Chen noted that no mevalonic acid had formed in one particular assay. Retesting of the sample confirmed its inhibitory activity (36). It is unusual to meet with such quick success; frequently, thousands of samples have to be tested.

December 1978: Alberts showed that the extract prepared from the organism blocked cholesterol synthesis in cultured cells (36).

February 1979: Hoffman, who helped discover mevalonic acid 22 years earlier, and associates isolated the pure inhibitor, lovastatin, from the fungal microorganism that was identified as Aspergillus terreus (36). Endo isolated monacolin K, a compound identical to lovastatin, from a different organism, and he filed for a Japanese patent, based on inhibitory activity alone, without providing structural data (37).

June 1979: Merck filed for a U.S. patent on lovastatin, complete with structural details.

August 1979: Merck scientists, after crystallizing lovastatin and implementing special isolation and fermentation techniques, undertook animal toxicology studies (38).

April 1980. Clinical trials began (39).

September 1980: I made the decision to discontinue clinical trials of lovastatin because of rumors (to this day never substantiated) that the closely related compound, compactin, caused certain cancers in dogs. Nothing we had seen with lovastatin had given us any cause for concern, but we could not ignore the rumors about a chemically related HMG–CoA reductase inhibitor. It appeared that the lovastatin project was dead.

November 1980: A patent was granted for lovastatin in the United States (40) and subsequently in a number of countries abroad. In other countries, patents went to Sankyo for monacolin K.

July 1982: Merck made lovastatin available, under an arrangement approved by the U.S. FDA, to several prominent clinicians, including Roger Illingworth of Oregon Health Sciences University and Scott Grundy and David Bilheimer of the University of Texas, who had asked for it to treat patients with severe hypercholersterolemia unresponsive to available agents. The drug showed dramatic activity in lowering LDL cholesterol and total cholesterol in the blood, with very few side effects (41).

August 1982: We reinstituted animal studies.

May 1984: We began long-term toxicology studies in dogs and large-scale clinical tests in patients at high risk of coronary disease. Clinical results were apparent within months. No agent had ever effected such dramatic drops in cholesterol levels. The drug was well tolerated, unlike some previous cholesterol-lowering agents (38).

October 1986: The results of our long-term toxicology studies in dogs were analyzed. The studies included extremely high doses. No tumors were noted (38).

14 November 1986: We sent our New Drug Application (NDA) to the U.S. FDA: 160 volumes of human, animal, and in vitro data.

31 August 1987: Lovastatin was given FDA approval for patients with high cholesterol levels that could not be reduced by diet. The drug was later approved for marketing in 42 additional countries.

The reports of dramatic medical results from lovastatin therapy had been coming to us since 1982. Total cholesterol levels of 300 mg/dl and above dropped to around 200, to the initial astonishment of the physicians conducting the trials. Patients with blood cholesterol levels of 450 mg/dl and above, who had undergone coronary bypass surgery, and in some cases cardiac transplants, had decreases, within weeks, of 30% or more in blood cholesterol (42). We believed we had produced a breakthrough medicine. Our NDA, which the FDA approved in just 9 months, included data on more than 1200 patients, and the agency judged the drug to be safe and effective. But, to be sure that there were no side effects too rare to be picked up in clinical trials, we carefully monitored its use after marketing approval because that is the ultimate test of any new medicine—its use by many patients in uncontrolled settings. Extensive scientific studies further defined safety and efficacy.

IMPROVING PATIENT ACCESS TO MEDICINES

The history of the discovery and development of lovastatin illustrates well the interdependence of basic and applied pharmaceutical research, as well as how long, tortuous, and risky the pharmaceutical discovery and development process can be. Only the potential for significant reward would assure continued investor support for such high-risk investment. Innovative pharmaceutical companies are in business to make money, as well as to market new medicines, and unless they do both, they would be out of business, and the flow of new medicines would be reduced.

At the same time, a pharmaceutical company should recognize the importance of exercising price restraint. Figure I compares the price index of Merck medicines, the Consumer Price Index (CPI), and Merck's spending on R&D. Between 1969 and 1973, while inflation pushed consumer prices up substantially, Merck had virtually no price increases. During the rest of the 1970s, Merck did raise prices periodically, but still at rates much lower than inflation.

During the 1980s, in order to narrow the gap between the CPI and the Merck price index and thus recover some portion of what we had lost to inflation, we increased prices faster than the rate of inflation during the decade. Over the full 20 years, however, the CPI rose from 100 to 336 (43) while Merck's price index increased significantly less, reaching 287 in 1989. Meanwhile, the company's spending for research and development over the 20-year span rose much more rapidly, up from an index of 100 in 1969 to more than 1200 in 1989. In both 1989 and 1990, our price increases amounted to 4.7 percent, lower than the rate of inflation for each year and also well below the pharmaceutical industry average. Merck's price increases on individual product lines ranged from 0 to 5 percent.

Last year, Merck announced a goal of keeping future price increases within the rate of inflation in the United States and of generally limiting price actions to one per year, given stable market conditions and government policies that are supportive of innovation. Responsible pricing and distribution practices can help ensure that patients can obtain the medicines they need. The special nature of its products demands that the pharmaceutical industry, more than perhaps any other, be responsive to social needs.

Merck also announced last year the Equal Access to Medicines Program aimed at overcoming the current lack of availability of some important medicines to poor people under Medicaid. In return for a discount that reflects a pharmaceutical manufacturer's lowest U.S. prices, states would include more open access to medicines, particularly new medicines, under their Medicaid plans. A majority of states quickly accepted the Merck program. In October 1990, Congress enacted legislation that substantially incorporated the policies embodied in the Equal Access to Medicines Program. The legislation will facilitate price discounts for the state and federal Medicaid programs and mandate that all 50 states provide more open access to medicines.

Special efforts must be made to get important medicines to the poor in developing countries. In 1987, Merck announced that we would donate our breakthrough medicine ivermectin, for the control of river blindness (onchocerciasis), wherever it is needed for as long as it is needed. In most cases, a single yearly treatment with ivermectin would prevent the ravages of onchocerciasis, a centuries-old parasitic disease that now affects an estimated 18 million people—primarily in West and Central Africa but also in Central and South America—and threatens 85 million more. This effective and well-tolerated drug has been called one of the most important breakthroughs in tropical medicine in this century (44).

Merck did not set out originally to give the product away; however, most of the people who need it are poor and live in remote places. After months of discussions with international aid organizations that were prospective buyers, we realized that the process of obtaining funding for purchases of ivermectin would take too long. Meanwhile, people were suffering and sometimes going blind.

More than a million people are covered by ivermectin treatment programs to date. But the medicine must somehow reach millions more. If we can reach a sufficient number of people, the disease can be controlled as a major public health problem. In theory, river blindness could even be eradicated, provided it were possible to have every person harboring the parasite take ivermectin annually for at least 10 years. Merck is committed to trying.

When Merck management was debating whether to donate ivermectin for the control of river blindness, we considered many factors, including the loss of potential revenues, the major marketing challenge involved in getting the medicine to people in remote areas of the world, and the question of what impact the donation would have on research for tropical diseases. Would the donation be a disincentive to other firms? Since making the donation decision, we have heard no criticism.

The innovation-based pharmaceutical industry is committed to improving the quality of health care through pharmaceutical research. That commitment must extend to keeping prescription drug prices at reasonable levels, for good new therapies are useless if patients cannot access them. If a pharmaceutical company can meet these demands of the market—innovation and reasonable pricing—profit will follow.

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21. This figure was developed by Merck's financial area from 1989 annual reports of these top research-based U.S. companies: Abbott Labs., Johnson & Johnson, Eli Lilly & Co., Merck, Pfizer, Schering-Plough Corp, Upjohn Co., and Warner-Lambert Co. Four companies were left out: Glaxo, as it has not been resolved which accounting method—United States or United Kingdom—would be used; Bristol-Meyers Squibb Co. and American Home Products Corp., as they both experienced a major acquisition or merger in 1989, making it difficult to obtain historical data; and SmithKline Beecham Americas, as both reasons were applicable.

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42. The Lovastatin Study Group II, *J. Am. Med. Assoc.* 256, 2829 (1986); The Lovastatin Study Group III, *ibid.* 260, 359 (1988).

43. U.S. Bureau of the Census, *Statistical Abstract of the United States, 1989, National Data Book and Guide to Sources* (Government Printing Office, Washington, DC, ed 109, 1989).

44. E. Eckholm, *New York Times Magazine*, 8 January 1989, p. 20.

Mr. HATCH. Mr. President, *Science* is published by one of the Nation's leading scientific societies, the American Association for the Advancement of Science. This particular article is by P. Roy Vagelos, who is chairman of the Merck Pharmaceutical Co., and entitled "Are Prescription Drug Prices Too High?"

I commend it to my colleagues and hope they will take some time to read it. I think it blows all of those arguments on the other side to bits.

Finally, I ask unanimous consent to have printed in the RECORD 13 letters that I have in my possession that we have received from a variety of organizations in our country.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE SECRETARY OF HEALTH
AND HUMAN SERVICES,
Washington, DC, March 6, 1992.

Hon. LLOYD BENTSEN,
Chairman, Committee on Finance, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your request for a report on S. 2000, a bill "To provide for the containment of prescription drug prices by reducing certain non-research related tax credits to pharmaceutical manufacturers, by establishing the Prescription Drug Policy Review Commission, by requiring a study of the feasibility of establishing a pharmaceutical products price review board, and by requiring a study of the value of Federal subsidies and tax credits given to pharmaceutical manufacturers, and for other purposes."

We believe S. 2000 could increase drug prices and harm the economy of Puerto Rico, would inappropriately affect tax incentives, would require unnecessary Medicare demonstrations, could weaken the U.S. patent system and impair the attainment of Congressionally mandated intellectual property objectives in other countries, and would require us to perform a study outside the range of this Department's expertise. Consequently, if S. 2000 were presented to the President, I would recommend that he veto it.

S. 2000 would reduce the tax credit available to drug manufacturers operating in Puerto Rico, to the extent that increases in prescription drug prices exceed the consumer price index.

By October 1, 1992, the Secretary of Health and Human Services would have to establish at least 15 demonstration projects that would last 5 fiscal years to assess the impact on cost, quality of care, and access to prescription drugs of developing a Medicare outpatient prescription drug benefit and the impact on cost and quality of care of extending coverage of outpatient prescription drugs to Medicare beneficiaries served by community health centers. The demonstrations would provide coverage to all drugs and biologicals approved by the Food and Drug Administration and all medically accepted indications listed in the three national drug compendia. There would be a Drug Use Review Board that would recommend the design and development of the drug benefit, establish prospective and retrospective drug use review, and develop educational interventions.

The bill would establish a Medicare Outpatient Prescription Drug Trust Fund for the demonstrations. Up to $200 million would be available for the demonstrations for fiscal years 1993 through 1997 (adjusted annually for cost-of-living increases). The funding would come from the reduction in the Puerto Rico tax credit.

S. 2000 would also establish a Prescription Drug Policy Review Commission, appointed by the Director of the Congressional Office of Technology Assessment, to make annual reports on national and international drug issues, and to make a special report on the implementation of a price review mechanism and possible changes to U.S. patent law.

Lastly, the bill would require the Secretary to report on Federal subsidies and incentives provided to the pharmaceutical industry and would require pharmaceutical manufacturers under the Medicaid Program to report average price of products sold in Canada, Australia and the European Economic Community.

Our concerns are multiple. First, with regard to the bill's effects on Puerto Rico, we believe that tampering with the current tax credit will result in higher pharmaceutical prices should the reduced attractiveness of production in Puerto Rico cause pharmaceutical manufacturers to move their facilities elsewhere. Not only would consumer prices be increased, but the movement of manufacturers from Puerto Rico to foreign countries or the mainland would result in decreased employment and revenues in Puerto Rico. We cannot estimate the magnitude of this adverse impact on Puerto Rico but believe it would be substantial. It would also jeopardize the benefits of Puerto Rico not directly affected if increased welfare, Medicaid, and other costs resulted. The Committee should obtain estimates of the magnitude of this potential loss to Puerto Rico before considering such a potentially disruptive and serious action.

Second, the mechanism for identifying firms which would be at risk of reduced tax credit for production in Puerto Rico strikes fundamentally at the exercise of the free market and pricing. The bill penalizes manufacturers for any drug product whose sale price increased faster than the consumer price index. This makes no allowance for changes in supply and demand for raw or finished products. Moreover, to escape the tax penalty proposed in S. 2000, manufacturers would have substantial incentives to introduce new products at the highest possible price in order to show subsequent reductions in pricing consistent with the consumer price index. We believe these incentives are perverse, unintended, and undesirable.

Third, with regard to demonstrations of a Medicare drug benefit, we note that much of the information to be provided through the proposed demonstrations is already available and that the demonstrations themselves appear to be a back door effort to establish a Medicare drug benefit. Such a benefit was a key component in the Medicare Catastrophic Coverage Act of 1988, which Congress, under substantial pressure from putative beneficiaries, repealed. In addition, the demonstrations would be burdensome to administer and at best, marginally useful. There are other sources from which we can obtain desired information. For example, millions of beneficiaries receive drug benefits through various Medigap plans. In addition, drug utilization review programs currently exist in Medicaid and in various private plans. It would be possible to study the impact of coverage through these vehicles.

Fourth, the amount of funds available for the demonstrations is dependent on the extent to which increases in prescription drug prices exceed the consumer price index. Depending on how drug manufacturers respond to the tax disincentives, funding for the demonstrations could fluctuate greatly from year to year or may not be available at all. This uncertainty could disrupt Medicare benefits and jeopardize the research objectives of the demonstrations.

Fifth, the bill directs us to perform a study of Federal subsidies and incentives to the pharmaceutical industry. This study would cover a wide range of economic effects of tax, patent, and other policies, both domestically and abroad. This Department has no particular expertise either in the marketing and pricing of pharmaceutical products or in the economic analysis of private industry. Such a study, to the extent possible at all, would be far more appropriately lodged in the Federal Trade Commission or other agencies with the requisite skills and expertise in industrial economic analysis.

Finally, the bill authorizes the Review Commission to study and suggest how the United States might implement a pharmaceutical price review mechanism and provide incentives for U.S. companies to price their patented products "fairly" through possible grant of compulsory licenses on patents or limiting the period of market exclusivity. The suggestions would significantly weaken the U.S. patent system; be contrary to Congressionally mandated bilateral and multilateral negotiating objectives in the area of intellectual property protection; and negate previous congressional action that provided patent term restoration for some pharmaceutical products and increased market exclusivity to encourage research and development of orphan drugs. Provisions permitting grant of compulsory licenses would be copied by our trading partners and could be implemented in a manner that harms U.S. trade interests.

S. 2000 affects revenues; therefore, it is subject to the pay-as-you-go requirements of the Omnibus Budget Reconciliation Act of 1990. Preliminary scoring estimates of this bill are under development.

In conclusion, if this bill were sent to the President for his approval, I would have to recommend that he veto it.

We are advised by the Office of Management and Budget that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

LOUIS W. SULLIVAN, M.D.

THE U.S. TRADE REPRESENTATIVE,
EXECUTIVE OFFICE OF THE PRESIDENT,
Washington, DC, March 9, 1992.

Hon. BOB PACKWOOD,
U.S. Senate, Washington, DC.

DEAR SENATOR PACKWOOD: Thank you for your letter of March 6, 1992, regarding a proposal in S. 2000 for a commission to study the use of compulsory licensing of patents as a way to contain the prices of pharmaceutical products. The Administration's longstanding position has been to negotiate international agreements establishing a minimum 20-year patent term and eliminating any discriminatory compulsory licensing rules. For example, Canada has compulsory licensing rules that are far less favorable for pharmaceutical inventions than other inventions. For years, we have sought to eliminate this discrimination because it precludes U.S. holders of pharmaceutical patents from reaping the full rewards of their innovation.

I share your concern that the compulsory licensing study in sec. 6(d)(2)(D) of S. 2000 could be contrary to our trade policy and undermine our trade negotiating objectives. For example, the "Dunkel text" of the intellectual property agreement in the Uruguay Round both establishes a minimum 20-year patent term and prohibits discrimination based on the field of technology with respect to the enjoyment of patent rights. While not yet agreed, as you know, the Dunkel text would prohibit precisely the type of discriminatory compulsory licensing system that S. 2000 would require be studied.

Therefore, sec. 6(d)(2)(D) has the potential to lead to U.S. actions that could undermine our trade negotiating objectives. More immediately, it could be used as ammunition by foreign governments and foreign private parties opposing the patent reforms sought so vigorously and long by the United States. For these reasons, I believe that the provision should be dropped from S. 2000, or at least that its specific reference to compulsory licensing, as well as the shortening of the period of market exclusively, be deleted. Perhaps some studies may be innocence, but this particular study could be quite counterproductive to longstanding trade objectives, toward which we have made substantial recent progress.

Sincerely,

CARLA A. HILLS.

COMMONWEALTH OF PUERTO RICO,
OFFICE OF THE GOVERNOR,
San Juan, PR, March 9, 1992.
Hon. DAVID PRYOR,
U.S. Senate, Washington, DC.

DEAR SENATOR PRYOR: On March 2, Congressman Antonio J. Colorado, then our Secretary of State, wrote to you to express his views on S. 2000, the "Prescription Drug Cost Containment Act of 1991." As Governor of the Commonwealth of Puerto Rico, I would like to state clearly our Government's position on that bill.

As Congressman Colorado indicated, the U.S. citizens of Puerto Rico share your concern about the rising costs of health care. As you know, we have very limited participation in the Medicaid program and receive lower reimbursement rates under the Medicare program. Furthermore, our per capita income is half of that of the poorest state of the Union while medical costs follow closely that of the States. Our need for affordable health care is therefore of primary concern to all Puerto Rican citizens.

Neverthless, we strongly object to the intrusive approach embodied in S. 2000. In an effort to control the price of drugs, S. 2000 puts in jeopardy the presence of the pharmaceutical industry in Puerto Rico, one of this most important components of Puerto Rico's industrial sector that has proven to be crucial for the sustainment of the Commonwealth's economic development.

Over the past 40 years, Section 938 has been the backbone of the Island's remarkable economic development. In spite of the growth accomplished, Puerto Rico continues to lag substantially behind the mainland, suffering from a current unemployment rate of more than 17 percent. Using the 938 economic development program as a device to control one segment of the rising cost of health care would lead to the relocation of manufacturing operations abroad, from where they would not be penalized. The end result will be the further loss of jobs of U.S. citizens.

The pharmaceutical industry has made a special contribution to Puerto Rico's human and economic development. Not only has the industry invested heavily in plant and equipment, but it has employed, trained and promoted to the highest ranks of management over 20,000 of our citizens. The industry has played a significant role in the consolidation of a stable middle-class in Puerto Rico providing its employees with the highest wage and benefit compensation available in our manufacturing community. Likewise, this industry has stimulated the growth of our locally-owned businesses, by leading the way in purchase of goods and services from local suppliers, with a high multiplier affect on additional jobs all over the island.

Puerto Rico has not been the only beneficiary of the Section 938 relationship with the pharmaceutical industry, the U.S. mainland has benefited as well. The pharmaceutical industry is currently responsible for the largest share of Puerto Rico's exports outside the mainland, making an important contribution to the United States' balance of payments. In addition, revenues that are repatriated to the U.S. have enhanced the research and development capabilities and thus the international competitiveness of U.S. pharmaceuticals.

We believe that S. 2000 wrongly penalizes Puerto Rico's crucial development program in an attempt to artificially control market forces through the Internal Revenue Code. It is our belief that rather than instituting a penalty mechanism over one segment of the health industry, any policy option should address the root causes of the overall health care system.

Cordially,

RAFAEL HERNÁNDEZ COLÓN.

NATIONAL URBAN LEAGUE, INC.,
New York, NY, February 20, 1992.
Hon. DAVID PRYOR,
Chairman, Senate Special Committee on Aging, U.S. Senate, Washington, DC

DEAR SENATOR PRYOR: After a careful analysis and review, the National Urban League cannot support the Prescription Drug Cost Containment Act of 1991 (S. 2000). Given that African Americans already suffer from tremendous disparities in health status, health care coverage, and access, we find that S. 2000 would further exacerbate an already intolerable health situation for those of our constituency.

For various reasons, poor people, uneducated people, and minorities get sick more often and die younger than others. This sad fact of life can be dealt with in various ways—through "lifestyle" education, social programs, etc. But, for the foreseeable future, these groups will simply need more medical interventions than others. And one of the best—and most cost effective—forms of medical intervention lies in prescription medicines. Therefore, measures that discourage the development of medicines are not in the best interest of America's poor and minority groups.

We agree that something must be done to guarantee the poor access to life-saving drugs that do get developed. But, if the medicines are never developed because of lack of incentives, this will be purely an academic issue.

The National Urban League looks forward to working with you and your staff to develop other alternatives and proposals to S. 2000.

Sincerely,

ROBERT MCALPINE,
DIRECTOR, POLICY AND GOVERNMENT *Relations.*

U.S. CHAMBER OF COMMERCE,
LEGISLATIVE AND PUBLIC AFFAIRS,
Washington, DC, March 6, 1992.
MEMBERS OF THE UNITED STATES SENATE:

Senator David Pryor plans to offer S. 2000, the Prescription Drug Cost Containment Act of 1991, as an amendment to the economic growth legislation approved by the Senate Finance Committee. Senator Pryor's proposal would reduce tax credits, currently available under Section 936 of the Internal Revenue Code, for pharmaceutical drug companies that raise prices at a rate faster than the increase in the Consumer Price Index (CPI). The U.S. Chamber of Commerce believes Section 936, since its inception in the late 1940s, has functioned successfully for the national economy, consumers, and the economy of Puerto Rico. Further, we believe Senator Pryor's proposed amendment would amount to *de facto* price controls on pharmaceuticals.

One of the few issues economists can agree upon in public policy is the negative effects price controls have on the production and supply of any good. If prices are mandated at a level below what the market would allow, the inevitable result is a shortage in supply. While the long, price-control-induced gasoline lines of the 1970s were certainly costly in economic terms, shortages of pharmaceutical drugs could be deadly.

Members of Congress concerned about the costs associated with discovering, producing, and purchasing pharmaceutical drugs will provide a genuine public service by focusing on the reformation of government policies which drive up companies' costs of production, particularly the Food and Drug Administration's approval process. As it now exists, this process is overly costly and needlessly time-consuming, substantially raising business cost and stifling new research and discoveries.

The Chamber strongly urges you to reject any attempt to attach the Pryor pharmaceutical price-control proposal as an amendment to economic growth legislation.

Sincerely,

DONALD J. KROES.

NATIONAL COALITION OF HISPANIC HEALTH
AND HUMAN SERVICES ORGANIZATIONS,
Washington, DC, November 6, 1991.
Hon. DAVID PRYOR,
U.S. Senate, Washington, DC.

DEAR SENATOR PRYOR: On behalf of the National Coalition of Hispanic Health and Human Services Organizations (COSSMHO), I would like to express our opposition to any proposal to reduce tax credits for pharmaceutical companies under Section 936 of the IRS Code. The idea of penalizing "936" pharmaceutical companies whose price increases exceed increases in the Consumer Price Index (CPI) is bad public policy. The proposal misses the mark by effectively focusing sanctions against the people of Puerto Rico.

By penalizing "936" pharmaceutical companies, this proposal will harm the economy of Puerto Rico by removing the incentive pharmaceutical companies have for operating on the island. Rather than encourage pharmaceutical companies to reduce prices, the effect will likely be that these companies will relocate their operations, effectively countering the public policy goals set by Section 936 to encourage economic development in Puerto Rico. Furthermore, the basis of the proposal, that the pharmaceutical industry is gouging the marketplace, has not been effectively demonstrated.

I strongly encourage you to reconsider using sanctions against "936" pharmaceutical companies as a means of addressing the rate of cost increase for pharmaceuticals.

Sincerely,

JANE L. DELGADO, PH.D.

THE NATIONAL BLACK CAUCUS OF STATE LEGISLATORS,
Washington, DC, February 3, 1992.

Hon. JOHN D. DINGELL,
House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN DINGELL: As President of the National Black Caucus of State Legislators, an organization representing more than 450 African-American legislators from 42 states and the U.S. Virgin Islands, it is with a sense of urgency and responsibility to the millions of sick and disabled Americans that I write to urge your careful attention to S. 2000 "The Prescription Drug Cost Containment Act of 1991." I believe this legislation would harm, rather than help these people.

We have been very encouraged by the increased attention now being given to the status of health care in America. However, we are still very concerned that sufficient attention is not being given to the equally pressing issue of access to quality health care—particularly for disadvantaged and low-income citizens. The legislation proposed by Senator David Pryor while intended to control pharmaceutical prices, is a prime example of the opposing forces at work in the national fight to make health care affordable without compromising the right of every American to the best health care available.

While Senator Pryor no doubt believes that S. 2000 would result in lower drug prices, there are other possible consequences that merit consideration. Those of us who must grapple with the interrelated problem of health-care costs and access to quality health care daily in our home states recognize the necessity for cost-saving measures. But we do not advocate proceeding at any cost. We think it reasonable to believe that pharmaceutical companies could very well respond to price controls by reducing investment in research and development. This would ultimately deny all patients the benefits of new medicines yet to be developed.

At a time when society is facing its greatest challenge in modern times—to find a cure and better treatment for AIDS, Alzheimer's, Cancer, Sickle Cell and other diseases—we must be deliberate in our evaluation and development of remedies. We urge you not to embrace simplistic solutions to America's health-care problems. We trust a full review of this issue will lead you to conclude, with us, that S. 2000 is not in the best public interest.

Sincerely,

REGIS F. GROFF,
Colorado Senator, President, NBCSL.

AMERICAN DIABETES ASSOCIATION,
Alexandria, VA, December 17, 1991.

Hon. LLOYD BENTSEN,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR BENTSEN: On behalf of the American Diabetes Association, I am writing in response to recent Congressional proposals to reduce tax credits under Section 936 for certain pharmaceutical companies operating in Puerto Rico.

The American Diabetes Association believes that this proposal is ill-defined and potentially harmful to the development of drugs. Given the current crisis in our nation's health care system, we acknowledge the critical importance the Congress plays in scrutinizing how particular segments of our system operate. We believe these efforts are laudable and necessary; however, the proposal to reduce tax credits to certain companies may be destructive and limit the pharmaceutical industry's ability to discover new drugs for diseases such as diabetes.

We, at ADA, applaud your leadership in Congress in addressing our nation's health care crisis and hope you will consider the detrimental impact restrictions to section 936 may have on developing drugs for the truly needy.

Our thanks for your attention to this matter.

Sincerely,

JOHN H. GRAHAM IV,
Chief Executive Officer.

AMERICAN LEGISLATIVE EXCHANGE COUNCIL,
Washington, DC, January 31, 1992.

Hon. STROM THURMOND,
U.S. Senate, Washington, DC.

DEAR SENATOR THURMOND: For many years, the members of the American Legislative Exchange Council have worked in the state legislatures to eliminate waste in government and excessive bureaucratic intrusion in the lives of the American people. As the state Medicaid programs are now the second-largest component of state budgets, we have a particular interest in strengthening preventive medicine and cost-effective early treatment therapies for Medicaid patients.

Through this involvement, we have become aware of the tremendous advances in medical progress which have been made possible by the research and development activities of United States pharmaceutical companies—$10 billion annually, according to press accounts. At a time when international competitiveness is a pressing issue, the American pharmaceutical industry is truly the envy of the world.

S. 2000, sponsored by Senator David Pryor, now threatens this healthy industry and its medical breakthroughs at just the time when we believe Congress and the president should act to strengthen business activity. The "Prescription Drug Cost Containment Act of 1991" would link the drug companies' Section 936 tax credits with the Consumer Price Index (CPI). Other provisions in this bill would clearly lead us down the road to a command-economy system of direct price controls and violation of patents. This is not in the best interests of either American business or the millions of American patients who now wait and pray for cures and treatments to emerge from our laboratories.

By singling out one industry for a discriminatory tax, the bill would be inherently unfair and could well produce unintended and unwelcome results, including higher drug prices and fewer dollars dedicated to research and development. Price controls have never worked as intended in this country, and there is no reason to believe that imposing them now selectively on the pharmaceutical industry would be any different. S. 2000 would require creation of an intrusive new Washington bureaucracy and would interfere in free market economics at a time when state-managed systems are being abandoned wholesale in other nations.

We are concerned about the lack of access to needed prescription medicines and other forms of medical care for millions of our constituents. We encourage Congress to work with the administration and with the insurers and medical care providers to provide affordable access. However, we believe that imposing punitive tax treatment on one of America's most beneficial and productive industries would be counter-productive to better patient care and economic growth.

Sincerely,

SAMUEL BRUNELLI,
Executive Director.
FRED NOYE,
National Chairman.

RENE F. RODRIGUEZ, M.D., F.A.C.S.,
Jackson Heights, NY, January 7, 1992.

Hon. DAVID H. PRYOR,
U.S. Senate, Washington, DC.

DEAR SENATOR PRYOR: I am a physician practicing in New York City. Most of my patients are Hispanic-Americans. The overwhelming majority are poor.

These are probably exactly the kind of people you meant to help by introducing a bill to control prescription drug prices. But, after careful reflection, I am convinced that poor Hispanic people will be hurt—not helped—by such legislation. Let me explain.

Because they are Hispanic, these people are, for illunderstood reasons, more likely to suffer from AIDS, cancer, depression, diabetes, hypertension and kidney disease than white Americans. And, because their education level is generally low, they are even more likely to be in poor health.

Therefore, these people—my patients—need medicines even more than most people. They need the drugs available today, and they need medicines we hope will be developed in the future.

Yes, high drug prices can be a problem. But that's a problem I can deal with. I can get patients without insurance into drug company giveaway programs. I can use samples, or I can get charities to subsidize them. But if there were no breakthrough drugs—if the flow of new drugs dried up—I could do nothing. My patients would end up in hospital emergency rooms, in institutions, or at the morgue.

Another aspect of your proposal also troubles me. That is the plan to take away tax credits from drug companies that set up plants in Puerto Rico. These tax credits have helped create jobs for Puerto Ricans; taking away these credits will create more unemployment. That may mean that more Puerto Ricans will come to New York and come to my office in need of medicines that may not be available.

NEW YORK STATE SENATE,
Albany, NY, January 13, 1992.

Mr. VINCENT TESE,
Commissioner, NYS Dept. of Economic Development, Albany, NY.

DEAR COMMISSIONER TESE: I am writing to alert you to a measure introduced in Congress by Senator Pryor (S. 2000), which I believe poses a number of serious threats to the economy of New York—particularly Long Island and New York City!

The measure, known as "The Prescription Drug Cost Containment Act of 1991" attempts to control pharmaceutical product costs through threatened reductions in Section 936 tax benefits—incentives, as you know, that were established to encourage corporate and industrial investment in Puerto Rico. These incentives were created and implemented in an effort to fuel a struggling island economy, and they remain crucial ingredients in the island's economic survival today. Their value and importance cannot be overstated. It is my belief that this measure, if passed, would devastate the Puerto Rican economy.

However, it would also send a series of dangerous shockwaves through our own economy here in New York.

Dilution, or elimination of the tax credit may very likely result in a substantial, if not total, loss of profit to the companies maintaining operations in Puerto Rico. Loss or reduction of these incentives could result in plant closings and massive layoffs on the island. Since a number of pharmaceutical companies maintain operations in New York, it is logical to anticipate similar effects here.

Further, this measure is discriminatory in nature. It unfairly singles out the drug industry in Puerto Rico, one of the stronger economic forces in both New York, and on the island.

In the midst of a recession which has claimed millions of jobs, I find it difficult to support a proposal which attempts to penalize one of New York's strongest industries, and one of significant stature on Long Island, and, again, New York City.

In light of New York's current economic plight, and the governor's recent State of the State message in which he clearly called for a renewed effort to revitalize our state's economy. I respectfully request that you review the effects of Senator Pryor's proposal, taking into account the fiscal impact a loss or reduction of tax credits would have on New York pharmaceutical companies—and on the communities in which these companies are based. Again, I stress the potential impact on Long Island and New York City.

By eliminating these tax incentives, we are adding to the inability of our domestic companies to compete on an international field. Our state's economy, reflective of a greater problem of national scope, faces eminent danger when American based entities are forced to scale back operations or manpower while foreign competitors continue to thrive. I am confident you will agree that this measure, while having no effect on Senator Pryor's home state, may pose serious threats to the economy of New York.

It is, further, my understanding that Senator Pryor will be attempting to move on this legislation in the very near future. Therefore, your voice, and that of your office are desperately needed to help stop passage of this bill.

I would, as well, request from your office, a written evaluation of S. 2000's potential effects on New York, and an indication of your standing on this matter.

I am enclosing copies of S. 2000 for your review, and stand ready to further discuss this matter with you at your earliest convenience. If you have any questions, please feel free to contact me, or my Chief of Staff, Michael Diamond at any time.

I look forward to hearing from you.

Sincerely,

SENATOR EFRAIN GONZALEZ, Jr.,
Member, NYS Senate.

HISPANIC POLICY
DEVELOPMENT PROJECT,
New York, NY, November 10, 1991.

Hon. DAVID PRYOR,
U.S. Senate, Russell Building, Washington, DC.

DEAR SENATOR PRYOR: I would like to bring to your attention how Section 936 tax credits have benefited the U.S. citizens of Puerto Rico by providing support for an already weakened economy. Puerto Rico was at one time a showcase for capitalistic development but the rosey picture exemplified by the boot-strap boom has changed significantly. In these harsher times the 936 incentive for doing business on the island offers a modicum of crucial stability to a society that must provide over sixty percent of its families with food stamps because there are no jobs.

It is not clear that the elimination of 936 will achieve your goals. It may very well further damage the future health of the Puerto Rican American citizens who strive to survive and prosper on the Island of Puerto Rico.

Sincerely,

SIOBHAN NICOLAU,
President.

LATINO ISSUES FORUM,
San Francisco, CA, November 11, 1991.

Hon. DAVID PRYOR,
U.S. Senator, Washington, DC.

DEAR SENATOR PRYOR: As you may know, the Latino community is disproportionately suffering from the AIDS epidemic. Your proposed legislation reducing tax credits for pharmaceutical companies could have a disparate impact on Latinos. The net effect of your proposal would discourage or at the least limit research for an AIDS cure at a most critical time. We therefore respectfully request you reconsider this proposal.

Sincerely,

JOHN C. GAMBOA,
Executive Director.

Mr. HATCH. These letters represent the viewpoints of the Department of Health and Human Services, the U.S. Trade Representative, the Governor of Puerto Rico, the National Black Caucus of State Legislators, the National Urban League, the National Coalition of Hispanic Health and Human Services Organizations, the United States Chamber of Commerce, the American Diabetes Association, and others.

I cannot help but notice the diversity of these various groups and the breadth of opposition to the Senator from Arkansas' amendment.

Let me quote from a couple of these letters, because they sum up the many reasons for opposing this amendment.

The National Urban League:

> For various reasons, poor people, uneducated people, and minorities get sick more often and die younger than others. This sad fact of life can be dealt with in various ways—through "lifestyle" education, social programs, and so forth. But for the foreseeable future, these groups will simply need more medical interventions than others. And one of the best—and most cost-effective—forms of medical intervention lies in prescription medicines. Therefore, measures that discourage the development of medicines are not in the best interest of America's poor and minority groups. We agree that something must be done to guarantee that the poor have access to lifesaving drugs that do get developed. But if the medicines are never developed because of lack of incentives, this will be purely an academic issue.

The National Black Caucus of State Legislators says:

> At a time when society is facing its greatest challenges in modern times—to find a cure and better treatment for AIDS, Alzheimer's, cancer, Sickle Cell, and other diseases—we must be deliberate in our evaluation and development of remedies. We urge you not to embrace simplistic solutions to America's health care problems. We trust a full review of this issue will lead you to conclude, with us, that S. 2000 is not in the best public interest.

Let me read from the American Diabetes Association letter:

> The American Diabetes Association believes that this proposal is ill-defined and potentially harmful to the development of drugs. Given the current crisis in our Nation's health care system, we acknowledge the critical importance the Congress plays in scrutinizing how particular segments of our system operate. We believe these efforts are laudable and necessary; however, the proposal to reduce tax credits to certain companies may be destructive and limit the pharmaceutical industry's ability to discover new drugs for diseases such as diabetes.

In short, Mr. President, there is not a person in this Chamber who would argue with the Senator's overall objective, which is to make health care more accessible to more Americans. I do not think anybody argues with that objective. Our difference is on the wisdom of price regulation. We differ on the idea that price controls will solve the problem without ultimately hurting patients in the long run.

We need the drug companies to continue their high level of investment in research and development. We need the new treatments for the myriad of diseases that still abound all over the world. Moreover, we need to keep this industry competitive internationally.

Let us look at the proposal critically. After it is fully considered, we have to conclude that we could do more harm than good for Americans—those who use pharmaceuticals, which is nearly all of us, and those of us who work in that industry.

So I urge the Senate to reject this amendment. I think it is critical for our society at this time.

Mr. President, I am pleased to interrupt my remarks to yield a minute to the distinguished Senator from Idaho.

Mr. SYMMS. Mr. President, I thank my colleague from Utah for yielding me 1 minute. I was here earlier today and had remarks I wished to address the Senate with and was called away from the floor.

I thank Senator HATCH for his very insightful remarks he has made throughout the day, and I thank Senators COATS, BRADLEY, and LIEBERMAN for the letter and addendum they gave all of us.

I ask unanimous consent, Mr. President, that the "Dear Colleague" letter from Senators HATCH, COATS, BRADLEY, and LIEBERMAN, along with some letters, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, March 11, 1992.

DEAR COLLEAGUE: As the Senate considers H.R. 4210 this morning, Senator Pryor will offer the text of S. 2000 as an amendment. We strongly oppose this amendment. We have outlined briefly our reasons for opposing S. 2000, concerns we believe you should share.

In the Senate, we are just beginning to start the debate about how to approach health care reform. Each of the major reform from bills already introduced contain their own recommendation for cost containment. Senator Pryor proposes cost containment for only one part of that system—for prescription drugs. His approach would have us move toward a Canadian model for this one segment. However, we have not had the opportunity to weigh the advantages or disadvantages of these proposals; that process has hardly begun. To propose a solution for just one sector of the health economy, that concludes limits on prices is the answer, is highly premature.

The United States research-based pharmaceutical industry leads the world in developing and distributing drug products to patients suffering from illness and disease. We are entering a new era in which a virtual revolution in our understanding of human biology will occur. The private sector, which has always played an important role in technology transfer, will be expected to shoulder a critical responsibility in bringing scientific breakthroughs from the laboratory to the bedside of sick patients.

Under the current incentive structure, American drug firms are today able to make the necessary costly investments (nearly $11 billion this year) in the research and development needed to ensure tomorrow's discoveries. We must be mindful of taking actions, however well-intentioned, that will seriously disrupt the long-term ability of this important industry to discover and to develop new medications for patients.

Senator Pryor is concerned with increasing drug prices, a concern that many of us share. The Senator deserves credit for spotlighting the increases during the 1980s and for urging, successfully, the industry to moderate its price increases. The Bureau of Labor Statistics (BLS) last reported that the drug price increases in 1991 were at their lowest point since the BLS started collecting data on this subject in 1981.

S. 2000 would essentially set government controls of pharmaceutical manufacturers' prices. It would accomplish this by denying the incentives in existing tax law designed to encourage manufacturing in Puerto Rico to American companies who raised one or more of their prices above the consumer price index. These incentives have been of great benefit to our American citizens in Puerto Rico. Curiously, since these tax incentives are available only to U.S. corporations, S. 2000 would have virtually no effect on European and Japanese drug company pricing practices.

S. 2000 would also create a new government body: a commission to study further government price controls, such as Canadian-style controls on pharmaceutical pricing that we are actively seeking to have the Canadian government rescind through our trade negotiations.

Others have considered S. 2000 carefully. The following views bear special attention in our opinion.

"We believe S. 2000 could increase drug prices and harm the economy of Puerto Rico, would inappropriately affect tax incentives, would require unnecessary Medicare demonstrations, could weaken the U.S. patent system and impair the attainment of Congressionally mandated intellectual property objectives in other countries, and would require us to perform a study outside the range of this Department's expertise. Consequently, if S. 2000 were presented to the President, I would recommend that he veto it." —HHS Secretary Louis Sullivan.

"I share your concern that the compulsory licensing study in sec. 6(d)(2)(D) of S. 2000 could be contrary to our trade policy and undermine our trade negotiating objectives . . . Therefore, sec. 6(d)(2)(D) has the potential to lead to U.S. actions that could undermine our trade negotiating objectives. More immediately, it could be used as ammunition by foreign governments and foreign private parties opposing the patent reforms sought so vigorously and long by the United States." —United States Trade Representative Carla Hills.

"Over the past 40 years, Section 936 has been the backbone of the Island's remarkable economic development. In spite of the growth accomplished, Puerto Rico continues to lag substantially behind the mainland, suffering from a current unemployment rate of more than 17 percent. Using the 936 economic development program as a device to control one segment of the rising cost of health care would lead to the relocation of manufacturing operations aboard, from where they would not be penalized. The end result will be the further loss of jobs of U.S. citizens * * *. We believe that S. 2000 wrongly penalizes Puerto Rico's crucial development program in an attempt to artificially control market forces through the Internal Revenue Code. It is our belief that, rather than instituting a penalty mechanism over one segment of the health industry, and policy option should address the root causes of the overall health care system."—Governor Rafael Hernandez/ Colon, Commonwealth of Puerto Rico.

"For various reasons, poor people, uneducated people, and minorities get sick more often and die younger than others. This sad fact of life can be dealt with in various ways—through "lifestyle" education, social programs, etc. But, for the foreseeable future, these groups will simply need more medical interventions than others. And one of the best—and most cost effective— forms of medical intervention lies in prescription medicines. Therefore, measures that discourage the development of medicines are not in the best interest of America's poor and minority groups. We agree that something must be done to guarantee that the poor have access to life-saving drugs that do get developed. But, if the medicines are never developed because of lack of incentives, this will be purely an academic issue."—National Urban League.

"Senator Pryor's proposed amendment would amount to de facto price controls on pharmaceuticals. One of the few issues economists can agree upon in public policy is the negative effects price controls have on the production and supply of any good."—U.S. Chamber of Commerce.

"The idea of penalizing "936" pharmaceutical companies whose price increases exceed increases in the Consumer Price Index (CPI) is bad public policy. The proposal misses the mark by effectively focusing sanctions against the people of Puerto Rico. By penalizing '936' pharmaceutical companies, this proposal will harm the economy of Puerto Rico by removing the incentive pharmaceutical companies have for operating on the island."—National Coalition of Hispanic Health and Human Services Organizations.

"At a time when society is facing its greatest challenges in modern times—to find a cure and better treatment for AIDS, Alzheimer's, cancer, Sickle Cell and other diseases—we must be deliberate in our evaluation and development of remedies. We urge you not to embrace simplistic solutions to America's healthcare problems. We trust a full review of this issue will lead you to conclude, with us, that S. 2000 is not in the best public interest."—National Black Caucus of State Legislators.

"The American Diabetes Association believes that this proposal is ill-defined and potentially harmful to the development of drugs. Given the current crisis in our nation's health care system, we acknowledge the critical importance the Congress plays in scrutinizing how particular segments of our system operate. We believe these efforts are laudable and necessary; however, the proposal to reduce tax credits to certain companies may be destructive and limit the pharmaceutical industry's ability to discover new drugs for diseases such as diabetes."—American Diabetes Association.

We have included the full text of these thoughtful statements as attachments. We ask that you review them as you consider your position on S. 2000. We believe that after careful examination of this issue you will join us in opposing S. 2000.

ORRIN HATCH.
DAN COATS.
BILL BRADLEY.
JOSEPH I. LIEBERMAN.

THE SECRETARY OF HEALTH
AND HUMAN SERVICES,
Washington, DC, March 6, 1992.

Hon. LLOYD BENTSEN,
Chairman, Committee on Finance,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your request for a report on S. 2000, a bill "To provide for the containment of prescription drug prices by reducing certain non-research related tax credits to pharmaceutical manufacturers, by establishing the Prescription Drug Policy Review Commission, by requiring a study of the feasibility of establishing a pharmaceutical products price review board, and by requiring a study of the value of Federal subsidies and tax credits given to pharmaceutical manufacturers, and for other purposes."

We believe S. 2000 could increase drug prices and harm the economy of Puerto Rico, would inappropriately affect tax incentives, would require unnecessary Medicare demonstrations, could weaken the U.S. patent system and impair the attainment of Congressionally mandated intellectual property objectives in other countries, and would require us to perform a study outside the range of this Department's expertise. Consequently, if S. 2000 were presented to the President, I would recommend that he veto it.

S. 2000 would reduce the tax credit available to drug manufacturers operating in Puerto Rico, to the extent that increases in prescription drug prices exceed the consumer price index.

By October 1, 1992, the Secretary of Health and Human Services would have to establish at least 15 demonstration projects that would last 5 fiscal years to assess the impact on cost, quality of care, and access to prescription drugs of developing a Medicare outpatient prescription drug benefit and the impact on cost and quality of care of extending coverage of outpatient prescription drugs to Medicare beneficiaries served by community health centers. The demonstrations would provide coverage to all drugs and biologicals approved by the Food and Drug Administration and all medically accepted indications listed in the three national drug compendia. There would be a Drug Use Review Board that would recommend the design and development of the drug benefit, establish prospective and retrospective drug use review, and develop educational interventions.

The bill would establish a Medicare Outpatient Prescription Drug Trust Fund for the demonstrations. Up to $200 million would be available for the demonstrations for fiscal years 1993 through 1997 (adjusted annually for cost-of-living increases). The funding would come from the reduction in the Puerto Rico tax credit.

S. 2000 would also establish a Prescription Drug Policy Review Commission, appointed by the Director of the Congressional Office of Technology Assessment, to make annual reports on national and international drug issues, and to make a special report on the implementation of a price review mechanism and possible changes to U.S. patent law.

Lastly, the bill would require the Secretary to report on Federal subsidies and incentives provided to the pharmaceutical industry and would require pharmaceutical manufacturers under the Medicaid Program to report average price of products sold in Canada, Australia and the European Economic Community.

Our concerns are multiple. First, with regard to the bill's effects on Puerto Rico, we believe that tampering with the current tax credit will result in higher pharmaceutical prices should the reduced attractiveness of production in Puerto Rico cause pharmaceutical manufacturers to move their facilities elsewhere. Not only would consumer prices be increased, but the movement of manufacturers from Puerto Rico to foreign countries or the mainland would result in decreased employment and revenues in Puerto Rico. We cannot estimate the magnitude of this adverse impact on Puerto Rico but believe it would be substantial. It would also jeopardize the benefits of Puerto Ricans not directly affected if increased welfare, Medicaid, and other costs resulted. The Committee should obtain estimates of the magnitude of this potential loss to Puerto Rico before considering such a potentially disruptive and serious action.

Second, the mechanism for identifying firms which would be at risk of reduced tax credit for production in Puerto Rico strikes fundamentally at the exercise of the free market and pricing. The bill penalizes manufacturers for any drug product whose sale price increases faster than the consumer price index. This makes no allowance for changes in supply and demand for raw or finished products. Moreover, to escape the tax penalty proposed in S. 2000, manufacturers would have substantial incentives to introduce new products at the highest possible price in order to show subsequent reductions in pricing consistent with the consumer price index. We believe these incentives are perverse, unintended, and undesirable.

Third, with regard to demonstrations of a Medicare drug benefit, we note that much of the information to be provided through the proposed demonstrations is already available and that the demonstrations themselves appear to be a back door effort to establish a Medicare drug benefit. Such a benefit was a key component in the Medicare Catastrophic Coverage Act of 1988, which Congress, under substantial pressure from putative beneficiaries, repealed. In addition, the demonstrations would be burdensome to administer and at best, marginally useful. There are other sources from which we can obtain desired information. For example, millions of beneficiaries receive drug benefits through various Medigap plans. In addition, drug utilization review programs currently exist in Medicaid and in various private plans. It would be possible to study the impact of coverage through these vehicles.

Fourth, the amount of funds available for the demonstrations is dependent on the extent to which increases in prescription drug prices exceed the consumer price index. Depending on how drug manufacturers respond to the tax disincentives, funding for the demonstrations could fluctuate greatly from year to year or may not be available at all. This uncertainty could disrupt Medicare benefits and jeopardize the research objectives of the demonstrations.

Fifth, the bill directs us to perform a study of Federal subsidies and incentives to the pharmaceutical industry. This study would cover a wide range of economic effects of tax, patent, and other policies, both domestically and abroad. This Department has no particular expertise either in the marketing and pricing of pharmaceutical products or in the economic analysis of private industry. Such a study, to the extent possible at all, would be far more appropriately lodged in the Federal Trade Commission or other agencies with the requisite skills and expertise in industrial economic analysis.

Finally, the bill authorizes the Review Commission to study and suggest how the United States might implement a pharmaceutical price review mechanism and provide incentives for U.S. companies to price their patented products "fairly" through possible grant of compulsory licenses on patents or limiting the period of market exclusivity. The suggestions would significantly weaken the U.S. patent system; be contrary to Congressionally mandated bilateral and multilateral negotiating objectives in the area of intellectual property protection; and negate previous congressional action that provided patent term restoration for some pharmaceutical products and increased market exclusivity to encourage research and development of orphan drugs. Provisions permitting grant of compulsory licenses would be copied by our trading partners and could be implemented in a manner that harms U.S. trade interests.

S. 2000 affects revenues; therefore, it is subject to the pay-as-you-go requirements of the Omnibus Budget Reconciliation Act of 1990. Preliminary scoring estimates of this bill are under development.

In conclusion, if this bill were sent to the President for his approval, I would have to recommend that he veto it.

We are advised by the Office of Management and Budget that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

LOUIS W. SULLIVAN, M.D.

THE U.S. TRADE REPRESENTATIVE,
EXECUTIVE OFFICE OF THE PRESIDENT,
Washington, DC, March 9, 1992.

Hon. BOB PACKWOOD,
U.S. Senate,
Washington, DC.

DEAR SENATOR PACKWOOD: Thank you for your letter of March 6, 1992, regarding a proposal in S. 2000 for a commission to study the use of compulsory licensing of patents as a way to contain the prices of pharmaceutical products. The Administration's longstanding position has been to negotiate international agreements establishing a minimum 20-year patent term and eliminating any discriminatory compulsory licensing rules. For example, Canada has compulsory licensing rules that are far less favorable for pharmaceutical inventions than other inventions. For years, we have sought to eliminate this discrimination because it precludes U.S. holders of pharmaceutical patents from reaping the full rewards of their innovation.

I share your concern that the compulsory licensing study in sec. 6(d)(2)(D) of S. 2000 could be contrary to our trade policy and undermine our trade negotiating objectives. For example, the "Dunkel text" of the intellectual property agreement in the Uruguay Round both establishes a minimum 20-year patent term and prohibits discrimination based on the field of technology with respect to the enjoyment of patent rights. While not yet agreed, as you know, the Dunkel text would prohibit precisely the type of discriminatory compulsory licensing system that S. 2000 would require be studied.

Therefore, sec. 6(d)(2)(D) has the potential to lead to U.S. actions that could undermine our trade negotiating objectives. More immediately, it could be used as ammunition by foreign governments and foreign private parties opposing the patent reforms sought so vigorously and long by the United States. For these reasons, I believe that the provision should be dropped from S. 2000, or at least that its specific reference to compulsory licensing, as well as the shortening of the period of market exclusivity, be deleted. Perhaps some studies may be innocuous, but this particular study could be quite counterproductive to longstanding trade objectives, toward which we have made substantial recent progress.

Sincerely,

CARLA A. HILLS.

COMMONWEALTH OF PUERTO RICO,
OFFICE OF THE GOVERNOR,
San Juan, PR, March 9, 1992.

Hon. DAVID PRYOR,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR PRYOR: On March 2, Congressman Antonio J. Colorado, then our Secretary of State, wrote to you to express his views on S. 2000, the "Prescription Drug Cost Containment Act of 1991." As Governor of the Commonwealth of Puerto Rico, I would like to state clearly our Government's position on that bill.

As Congressman Colorado indicated, the U.S. citizens of Puerto Rico share your concern about the rising costs of health care. As you know, we have very limited participation in the Medicaid program and receive lower reimbursement rates under the Medicare program. Furthermore, our per capita income is half of that of the poorest state of the Union while medical costs follow closely that of the States. Our need for affordable health care is therefore of primary concern to all Puerto Rican citizens.

Nevertheless, we strongly object to the intrusive approach embodied in S.2000. In an effort to control the price of drugs, S.2000 puts in jeopardy the presence of the pharmaceutical industry in Puerto Rico, one of the most important components of Puerto Rico's industrial sector that has proven to be crucial for the sustainment of the Commonwealth's economic development.

Over the past 40 years, Section 936 has been the backbone of the Island's remarkable economic development. In spite of the growth accomplished, Puerto Rico continues to lag substantially behind the mainland, suffering from a current unemployment rate of more than 17 percent. Using the 936 economic development program as a device to control one segment of the rising cost of health care would lead to the relocation of manufacturing operations abroad, from where they would not be penalized. The end result will be the further loss of jobs of U.S. citizens.

The pharmaceutical industry has made a special contribution to Puerto Rico's human and economic development. Not only has the Industry invested heavily in plant and equipment, but it has employed, trained, and promoted to the highest ranks of management over 20,000 of our citizens. The industry has played a significant role in the consolidation of a stable middle-class in Puerto Rico, providing its employees with the highest wage and benefit compensation available in our manufacturing community. Likewise, this industry has stimulated the growth of our locality-owned businesses, by leading the way in purchases of goods and services from local suppliers, with a high multiplier effect on additional jobs all over the island.

Puerto Rico has not been the only beneficiary of the Section 936 relationship with the pharmaceutical industry the U.S. mainland has benefited as well. The pharmaceutical industry is currently responsible for the largest share of Puerto Rico's exports outside the mainland, making an important contribution to the United States' balance of payments. In addition, revenues that are repatriated to the U.S. have enhanced the research and development capabilities and thus the international competitiveness of U.S. pharmaceuticals.

We believe that S.2000 wrongly penalizes Puerto Rico's crucial development program in an attempt to artificially control market forces through the Internal Revenue Code. It is our belief that, rather than instituting a penalty mechanism over one segment of the health industry, any policy option should address the root causes of the overall health care system.

Cordially,

RAFAEL HEMANGEZ COLON.

NATIONAL URBAN LEAGUE, INC.,
New York, NY, February 20, 1992.

The Hon. DAVID PRYOR,
Chairman, Senate Special Committee on Aging, U.S. Senate, Washington, DC.

DEAR SENATOR PRYOR: After a careful analysis and review, the National Urban League cannot support the Prescription Drug Cost Containment Act of 1991 (S. 2000). Given that African Americans already suffer from tremendous disparities in health status, health care coverage, and access, we find that S. 2000 would further exacerbate an already intolerable health situation for those of our constituency.

For various reasons, poor people, uneducated people, and minorities get sick more often and die younger than others. This sad fact of life can be dealt with in various ways—through "lifestyle" education, social programs, etc. But, for the foreseeable future, these groups will simply need more medical interventions than others. And one of the best—and most cost effective—forms of medical intervention lies in prescription medicines. Therefore, measures that discourage the development of medicines are not in the best interest of America's poor and minority groups.

We agree that something must be done to guarantee the poor access to life-saving drugs that do get developed. But, if the medicines are never developed because of lack of incentives, this will be purely an academic issue.

The National Urban League looks forward to working with you and your staff to develop other alternatives and proposals to S. 2000.

Sincerely,

ROBERT MCALPINE,
Director, Policy and Government Relations.

U.S. CHAMBER OF COMMERCE,
LEGISLATIVE AND PUBLIC AFFAIRS,
Washington, DC, March 6, 1992.

Members of the United States Senate:

Senator David Pryor plans to offer S. 2000, the Prescription Drug Cost Containment Act of 1991, as an amendment to the economic growth legislation approved by the Senate Finance Committee. Senator Pryor's proposal would reduce tax credits, currently available under Section 936 of the Internal Revenue Code, for pharmaceutical drug companies that raise prices at a rate faster than the increase in the Consumer Price Index (CPI). The U.S. Chamber of Commerce believes Section 936, since its inception in the late 1940s, has functioned successfully for the national economy, consumers, and the economy of Puerto Rico. Further, we believe Senator Pryor's proposed amendment would amount to de facto price controls on pharmaceuticals.

One of the few issues economists can agree upon in public policy is the negative effects price controls have on the production and supply of any good. If prices are mandated at a level below what the market would allow, the inevitable result is a shortage in supply. While the long, price-control-induced gasoline lines of the 1970s were certainly costly in economic terms, shortages of pharmaceutical drugs could be deadly.

Members of Congress concerned about the costs associated with discovering, producing and purchasing pharmaceutical drugs will provide a genuine public service by focusing on the reformation of government policies which drive up companies' costs of production, particularly the Food and Drug Administration's approval process. As it now exists, this process is overly costly and needlessly time-consuming, substantially raising business costs and stifling new research and discoveries.

The Chamber strongly urges you to reject any attempt to attach the Pryor pharmaceutical price-control proposal as an amendment to economic growth legislation.

Sincerely,

DONALD J. KROES.

NATIONAL COALITION OF HISPANIC HEALTH AND HUMAN SERVICES ORGANIZATIONS,
Washington, DC, November 6, 1991.

Hon. DAVID PRYOR,
U.S. Senate, Senate Russell Building, Washington, DC.

DEAR SENATOR PRYOR: On behalf of the National Coalition of Hispanic Health and Human Services Organizations (COSSMHO), I would like to express our opposition to any proposal to reduce tax credits for pharmaceutical companies under Section 936 of the IRS Code. The idea of penalizing "936" pharmaceutical companies whose price increases exceed increases in the Consumer Price Index (CPI) is bad public policy. The proposal misses the mark by effectively focusing sanctions against the people of Puerto Rico.

By penalizing "936" pharmaceutical companies, this proposal will harm the economy of Puerto Rico by removing the incentive pharmaceutical companies have for operating on the island. Rather than encourage pharmaceutical companies to reduce prices, the effect will likely be that these companies will relocate their operations, effectively countering the public policy goals set by Section 936 to encourage economic development in Puerto Rico. Furthermore, the basis of the proposal, that the pharmaceutical industry is gouging the marketplace, has not been effectively demonstrated.

I strongly encourage you to reconsider using sanctions against "936" pharmaceutical companies as a means of addressing the rate of cost increase for pharmaceuticals.

Sincerely,

JANE L. DELGADO, PH.D.

THE NATIONAL BLACK CAUCUS
OF STATE LEGISLATORS,
February 3, 1992.

The Hon. JOHN D. DINGELL,
U.S. House of Representatives, Washington, DC.

DEAR CONGRESSMAN DINGELL: As President of the National Black Caucus of State Legislators, an organization representing more than 450 African-American legislators from 42 states and the U.S. Virgin Islands, it is with a sense of urgency and responsibility to the millions of sick and disabled Americans that I write to urge your careful attention to S. 2000 "The Prescription Drug Cost Containment Act of 1991." I believe this legislation would harm, rather than help these people.

We have been very encouraged by the increased attention now being given to the status of health care in America. However, we are still very concerned that sufficient attention is not being given to the equally pressing issue of access to quality health care—particularly for disadvantaged and low-income citizens. The legislation proposed by Senator David Pryor while intended to control pharmaceutical prices, is a prime example of the opposing forces at work in the national fight to make health care affordable without compromising the right of every American to the best health care available.

While Senator Pryor no doubt believes that S. 2000 would result in lower drug prices, there are other possible consequences that merit consideration. Those of us who must grapple with the interrelated problem of health-care costs and access to quality health care daily in our home states recognize the necessity for cost-saving measures. But we do not advocate proceeding at any cost. We think it reasonable to believe that pharmaceutical companies could very well respond to price controls by reducing investment in research and development. This would ultimately deny all patients the benefits of new medicines yet to be developed.

At a time when society is facing its greatest challenge in modern times—to find a cure and better treatment for AIDS, Alzheimer's, cancer, Sickle Cell and other diseases—we must be deliberate in our evaluation and development of remedies. We urge you not to embrace simplistic solutions to America's health-care problems. We trust a full review of this issue will lead you to conclude, with us, that S. 2000 is not in the best public interest.

Sincerely,

REGIS F. GROFF,
Colorado Senator, President, NBCSL.

AMERICAN DIABETES ASSOCIATION,
NATIONAL CENTER,
Alexandria, VA, December 17, 1991.
The Hon. LLOYD BENTSEN,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR BENTSEN: On behalf of the American Diabetes Association, I am writing in response to recent Congressional proposals to reduce tax credits under Section 936 for certain pharmaceutical companies operating in Puerto Rico.

The American Diabetes Association believes that this proposal is ill-defined and potentially harmful to the development of drugs. Given the current crisis in our nation's health care system, we acknowledge the critical importance the Congress plays in scrutinizing how particular segments of our system operate. We believe these efforts are laudable and necessary; however, the proposal to reduce tax credits to certain companies may be destructive and limit the pharmaceutical industry's ability to discover new drugs for diseases such as diabetes.

We, at ADA, applaud your leadership in Congress in addressing our nation's health care crisis and hope you will consider the detrimental impact restrictions to Section 936 may have on developing drugs for the truly needy.

Our thanks for your attention to this matter.

Sincerely,
JOHN H. GRAHAM IV,
Chief Executive Officer.

Mr. SYMMS. Mr. President, I rise in strong opposition to the amendment of the Senator from Arkansas. I understand his concerns with the pharmaceutical industry and the cost of health care, but the industry is not solely responsible for the health care crisis in the United States. This problem stems from numerous different factors, and I doubt this legislation will do anything to help the situation as I believe the sponsor intends.

In a nutshell, the result of this amendment would be to increase drug prices, harm the economy of Puerto Rico, negatively affect tax incentives, and weaken the United States patent system.

This amendment sets up a commission to study the feasibility of a Canadian-style price review board. This sounds interesting; there has been a lot of talk about Canada in general when people discuss health care.

Why do not we take a look at the pharmaceutical industry in Canada? Over the past two decades, research and development has resulted in only two new medicines. Two new drugs in 20 years. Compare this to the hundreds of new medicines which have become available in the United States over the same period. And Americans demand this. They demand research for cancer, Alzheimers, AIDS, diabetes, the list goes on and on. The type of price control mechanism in Canada is obviously a disincentive to medical progress. I realize the provision only requires a study, but we all know where this is heading. It might as well be part of the bill.

The legislation also reduces a manufacturer's section 936 tax credit for production in Puerto Rico if its drug prices exceed the Consumer Price Index.

According to the Congressional Budget Office, limiting the section 936 tax credit for drug manufacturers in Puerto Rico would result in a decline in the gross national product of the Commonwealth and in the loss of enough jobs to almost double the unemployment rate. Is this our goal? Why do we want to eliminate jobs?

Further, the amendment creates a requirement in which compliance would be virtually impossible for any company. It will tie permissible price increases to a price index which is not available until long after decisions about price increases must be made.

Last week I received a letter, as did all my colleagues on the Senate Finance Committee, from the Secretary of State of Puerto Rico. The Secretary himself has serious concerns about the ramifications this legislation could have on the Commonwealth. I also have a letter from the Governor, indicating his grave concern about the impact of this amendment on Puerto Rico.

Mr. President, I would urge my colleagues to take a close look at this amendment and the impact it will have before offering their support. There is no doubt in my mind the amendment should be resoundingly defeated.

The PRESIDING OFFICER. The Senator's 1 minute has expired.

The Senator from Utah is recognized.

Mr. HATCH. How much time do I have remaining?

The PRESIDING OFFICER. The Senator from Utah has 9 minutes and 16 seconds.

Mr. HATCH. Mr. President, I would like to again show this particular chart. This is the scorecard that was put together by Fortune magazine showing the American industries which are competitive in the world today. There are two: forest products and pharmaceutical industries. One of them, forest products industry is rapidly going downhill. The other industry is rated A. By A, I mean an industry competing better than any other industries in the world.

Thus, the pharmaceutical industry is absolutely at the top. One reason it is at the top is because of the research and development and the high amount of funds put into research and development.

These grades measure United States competitiveness relative to Japan and Europe, our two major competitors. The scores reflect production data, company performance, and expert opinion. Now what bothers me is, if we pass the distinguished Senator's amendment, we will be putting the pharmaceutical industry down below the B's into the C's, and perhaps even the D's.

I believe this decline is inevitable because what we would be doing is putting price controls on the industry that needs the incentives. The pharmaceutical industry puts a lot of money into research and development, and it is leading the world right now in drug development and manufacturing.

Just look at these sick industries in our country, they include industrial and farm equipment, motor vehicles, metals, and electronics. We used to lead the world in electronics, until we started to regulate it from Washington. With respect to motor vehicles, industrial farm equipment and metals, we have just about regulated them out of business. Our country is no longer as competitive with these industries as it should be.

Is that what we are going to do with the No. 1 industry in America today, the one really going, in spite of what is happening? If we do that and pharmaceutical industries get to where they do not have the money to put into research and development, where will our senior citizens be then?

And what about the cures for Alzheimer's, AIDS, diabetes, schizophrenia, and depression; where are they going to come from? There are 35 million people in this country who suffer from depression. We are on the verge of resolving a large part of their problems. The development of Prozac was a step in the right direction. We have a new drug coming from Pfizer that may even be as good, if not better.

We have others that are being developed; for example, the drug for schizophrenia. Nobody ever thought for a minute we could ever solve schizophrenic problems by biological science, but this drug does. Similarly, Merck has a product coming on line that solves problems of benign prostatitis. What a tremendous benefit it will be. If you take away the incentive, we may never get some of the benefit; we may not be able to bring down all the costs of surgery and hospitalization. We cannot do it if we are pennywise and pound foolish.

I will hold up the other charts, to save time. This one, "Drugs as a Percentage of National Health Care Expenditure in 1965" shows how certain drugs have gone down from 8.9 percent of national health expenses to 4.8 percent. Drug manufacturers have done a good job. This fact cannot be ignored.

This chart is the "U.S. Health Care Expenditures as a Percent of Gross National Product." The red bar shows that we have gone from 5.3 percent of the gross national product up to 12.2 percent as of 1990. As of 1992, it may be as high as 14 percent.

Look at where the green bar is in each of these situations. It has basically remained constant. The outpatient prescription drugs as the percentage of the U.S. health care expenditures for those drugs as a percent of gross national product have basically remained constant in comparison to the gross national product.

Last, but not least, is this particular chart that shows the increases in research and development, versus increases in drug price. The index value represents the period from 1982 to 1984. The green bar represents the period from 1985 up through 1991. In this chart, the green shows that the R&D expenses for these companies are far outrunning the CPI Rx or prescription drug index. Yes, it is going up as these drugs become more expensive to produce. As they become more expensive to manufacture. As there are more charges by middle people; and as hospitals charge more.

The manufacturing price is still going up, but it is way below what they are spending for R&D. I get tired of people always presuming the worst and ascribing the most base motives to the pharmaceutical industry. Right now, the pharmaceutical industry is the best in the world. It is one that is working. It is providing hundreds of thousands of jobs, high paying jobs. It is the one area of science where we actually excel over the rest of the world. I can't believe the U.S. Senate wants to jeopardize this progress by putting price controls on them?

Mr. President, I want drug prices to be lower, too. I addressed the Maine Pharmaceutical Manufacturing Corporation not too long ago. It represented the thousands of companies around this country and around the world. I told them that we have to get these prices down.

A number of companies have voluntarily agreed to bring some of their prices down; others give free drugs to poor people who cannot afford them. Burroughs-Wellcome, by a mere request, reduced the price of one of the major principal AIDS drugs by 2,000 percent.

I will continue to work with drug companies to lower prices. But you cannot do it by price regulation. If you do that, you stifle the incentive and take away the desire to take the risk in drug development. This is the one thing I want to get across.

How much time do I have remaining?

The PRESIDING OFFICER. The Senator from Utah has 2 minutes and 37 seconds.

Mr. HATCH. Mr. President, I thank you.

One other thing I would like to say is that I have taken a great interest, as I think every Senator in this body must have, in the biotechnology industry. I have to tell you we have the greatest potential biotechnology industry in the world. But many of the companies are small. They basically have to go out and raise funds for each new project they have.

It costs $231 million to develop a mainline drug today, and we are developing them right and left in this country because of the incentives.

If we do what the distinguished and sincere Senator from Arkansas wants to do—put price controls into this industry, artificial price controls, mandated price controls—we will ruin the biotechnology industry of this country. That A set of companies is going to go down to B, C, or D. When that happens, we no longer will lead the world in lifesaving and health promoting drugs or pharmaceuticals.

I do not want to see that happen. I know the distinguished Senator from Arkansas is sincere. I know he means well. I know he is trying to get the prices of pharmaceuticals down. We both want to do that. I want to work with him, but I cannot support price regulation. I know that is diametrically opposite to what we should be doing. We should encourage more and more development, as well as lowering prices.

Mr. President, it has been a good debate. I appreciate the thoughts of the distinguished Senator from Arkansas. Please, let us not discourage the pharmaceutical industry from developing new lifesaving drugs through price controls. They can be free like us, productive like us, and they can accomplish the achievements like us; especially with this industry which leads all others in the world.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. PRYOR. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Arkansas has 16 minutes and 35 seconds remaining.

Mr. PRYOR. Mr. President, how much time does the Senator from Utah have?

The PRESIDING OFFICER. The Senator from Utah has 18 seconds.

Mr. PRYOR. Mr. President, I thank the Chair and congratulate the very fine Senator from Utah. He has made a splendid presentation today. He has been most effective.

Mr. President, being not an excellent vote counter around here, but relatively good, I think I know where the votes are going to lie.

Mr. President, I congratulate all my colleagues who participated in this debate. I think it has been a very meaningful debate. I think it will be constructive.

A lot has been made today during the course of the afternoon and morning about the groups for this legislation. If I might, I would like to read into the RECORD the groups that support S. 2000, this amendment that is going to be voted on in a few minutes.

AFL-CIO;
AIDS Action Council;
American Association for International Aging;
American Association of Homes for the Aging;
American Association of Retired Persons [AARP];
American Nephrology Nurses Association;
American Pharmaceutical Association;
AFSCME Retiree Program;
American Public Welfare Association [APWA];
Asociacion Nacional Pro Personas Mayores;
Association for Gerontology in Higher Education;
Association for Gerontology and Human Development in Historically Black Colleges and Universities;
Catholic Golden Age;
Children's Defense Fund [CDF];
Consumers Union;
Families USA;
Gray Panthers;
Green Thumb;
Independent Insurance Agents of America;
International Ladies' Garment Workers' Union [ILGWU];
Leadership Council of Aging Organizations [LCAO];
National Association of Area Agencies on Aging;
National Association of Foster Grandparents Program Directors;
National Association of Life Underwriters;
National Association of Meal Programs;
National Association of Older American Volunteer Program Directors;
National Association of Retired Federal Employees;
National Association of RSVP Directors;
National Association of Senior Companion Project Directors;
National Association of State Units on Aging;
National Caucus and Center on Black Aged [NCCBA];
National Committee to Preserve Social Security and Medicare;
National Consumers League [NCL];
National Council of Senior Citizens;
National Hispanic Council on Aging;
National Indian Council on Aging;
National Rural Electric Cooperative Association;
National Small Business United;
North American Transplant Coordinators Organization;
Older Women's League;
Pennsylvania Council on Aging;
Puerto Ricans in Civic Action;
Small Business Legislative Council; and the
United Auto Workers Retired Members Department.

Mr. President, I ask unanimous consent that letters of support from some of these 42 national organizations, along with a response to the drug industry's argument about research and development, and a factual response to PMA's so-called factsheet that they are circulating on the Hill, be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SMALL BUSINESS LEGISLATIVE COUNCIL,
Washington, March 9, 1992.

Hon. DAVID PRYOR,
Chairman, Special Committee on Aging, Dirksen Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: On behalf of the Small Business Legislative Council (SBLC), I would like to express our support for your legislative initiative, the Prescription Drug Cost Containment Act of 1991, S. 2000. As you know, we are keenly interested in finding ways to cope with the out-of-control costs of our health care system.

We have testified on numerous occasions stating we must begin to impose cost containment measures on the health care community. It is no longer sufficient to just talk about doing something to control costs. We need to take action now before there is any further erosion of the employment based health insurance coverage system.

As we understand it, your proposal does not impose price controls, but rather, adopts a "carrot and stick" approach that links the taxpayer-underwritten financial reward to achievable performance standards. As usual, your initiative reflects your appreciation of the need for solutions which are business-oriented and which balance the concerns of various constituents.

The real health care crisis in America may be yet to come. That crisis could be the collapse of a system burdened by out-of-control costs that can no longer be economically supported. Our challenge then, is to act now and try to avert such a crisis, and ensure that Americans continue to have the best health care possible. We applaud you for your efforts to meet that challenge.

The Small Business Legislative Council (SBLC) is a permanent, independent coalition of nearly one hundred trade and professional associations that share a common commitment to the future of small business. Our members represent the interests of small businesses in such diverse economic sectors as manufacturing, retailing, distribution, professional and technical services, construction, transportation, and agriculture. Our policies are developed through a consensus among our membership. Individual associations may express their own views. For your information, a list of our members is enclosed.

Sincerely,

ROBERT D. BANNISTER,
Chairman.

MEMBERS OF THE SMALL BUSINESS LEGISLATIVE COUNCIL

Air Conditioning Contractors of America.
Alliance for Affordable Health Care.
Alliance of Independent Store Owners and Professionals.
American Animal Hospital Association.
American Association of Nurserymen.
American Bus Association.
American Consulting Engineers Council.
American Council of Independent Laboratories.
American Floorcovering Association.
American Machine Tool Distributors Association.
American Road & Transportation Builders Association.
American Society of Travel Agents, Inc.
American Sod Producers Association.
American Subcontractors Association.
American Textile Machinery Association.
American Trucking Associations, Inc.
American Warehouse Association.
Architectural Precast Association.
Associated Builders & Contractors.
Associated Equipment Distributors.
Associated Landscape Contractors of America.
Association of Small Business Development Centers.
Association of the Wall and Ceiling Industries-International.
Automotive Service Association.
Automotive Warehouse Distributors Association.
Building Proprietors Association of America.
Building Service Contractors Association International.
Business Advertising Council.
C-PORT.
Christian Booksellers Association.
Council of Fleet Specialists.
Electronics Representatives Association.
Florists' Transworld Delivery Association.
Helicopter Association International.
Independent Bakers Association.
Independent Medical Distributors Association.
Independent Sewing Machine Dealers Association.
International Association of Refrigerated Warehouses.
International Bottled Water Association.
International Communications Industries Association.
International Formalwear Association.
International Franchise Association.
Jewelers of America, Inc.
Machinery Dealers National Association.
Manufacturers Agents National Association.
Manufacturers Representatives of America, Inc.
Mechanical Contractors Association of America, Inc.
Menswear Retailers of America.
NMTBA-The Association for Manufacturing Technology.
National Association for the Self-Employed.
National Association of Brick Distributors.
National Association of Catalog Showroom Merchandisers.
National Association of Chemical Distributors.
National Association of Home Builders.
National Association of Investment Companies.
National Association of Passenger Vessel Owners.
National Association of Personnel Consultants.
National Association of Plumbing-Heating-Cooling Contractors.
National Association of Realtors®.
National Association of Retail Druggists.
National Association of Small Business Investment Companies.
National Association of the Remodeling Industry.
National Association of Truck Stop Operators.
National Campground Owners Association.
National Candy Wholesalers Association.
National Chimney Sweep Guild.
National Coffee Service Association.
National Electrical Contractors Association.
National Electrical Manufacturers Representatives Association.
National Fastener Distributors Association.
National Food Brokers Association.
National Grocers Association.
National Independent Flag Dealers Association.
National Knitwear & Sportswear Association.
National Limousine Association.
National Lumber & Building Material Dealers Association.
National Moving and Storage Association.
National Ornamental & Miscellaneous Metals Association.
National Paperbox Association.
National Parking Association.
National Precast Concrete Association.
National Shoe Retailers Association.
National Society of Public Accountants.
National Tire Dealers & Retreaders Association.
National Tooling and Machining Association.
National Tour Association.
National Venture Capital Association.
Opticians Association of America.
Organization for the Protection and Advancement of Small Telephone Companies.
Petroleum Marketers Association of America.
Printing Industries of America, Inc.
Professional Plant Growers Association.
Retail Bakers of America.
SMC/Pennsylvania Small Business.
Small Business Council of America, Inc.
Society of American Florists.
Specialty Advertising Association International.
United Bus Owners of America.

NATIONAL SMALL BUSINESS UNITED,
Washington, DC, October 24, 1991.

Senator DAVID PRYOR,
U.S. Senate,
Washington, DC.

DEAR SENATOR: I have learned about your intent to introduce the Prescription Drug Cost Containment Act of 1991. Small businesses are well aware of escalating costs for health care and more specifically the element of those costs which are the result of rapidly rising drug prices.

I wanted you to know that National Small Business United is pleased to endorse and support your proposal and will work aggressively to enact this legislation at the earliest possible opportunity.

The ability of small businesses to provide health care to their employees is limited by the cost of health care. Containing those costs will ensure that more small businesses will maintain their coverage and their benefits.

Your efforts on these issues is greatly appreciated by NSBU and the American small business community. You are a great friend. Thank you very much for all you do.

I am pleased you are feeling better and look forward to seeing you again soon. Please call me if I can be of further help in this endeavor.

Sincerely,

JOHN PAUL GALLES,
Executive Vice President.

NATIONAL RURAL ELECTRIC COOPERATIVE ASSOCIATION,
Washington, DC, December 10, 1991.

Senator DAVID PRYOR,
Chairman, U.S. Senate, Special Committee on Aging, Washington, DC.

DEAR SENATOR PRYOR: On behalf of the National Rural Electric Cooperative Association, I would like to thank you for cosponsoring The Prescription Drug Cost Containment Act of 1991.

NRECA is the national service organization of the approximately 1,000 rural electric service systems operating in 46 states. Our programs provide pension, health, and other welfare benefits to over 125,000 rural electric employees, dependents, directors, and consumer-members in rural communities.

Prescription drugs accounted for over $20 million of the $190 million of medical benefits paid under the NRECA health plans in 1990, up from $8.9 million in 1987. We believe such increases are not sustainable over the longer term. They lead to higher insurance premiums and employee payments, counteracting some of the many painful steps employers have taken and will take to keep their health care costs under control.

We wholeheartedly endorse the Act.

We support the bill's provisions making the Section 936 tax credit contingent on job creation. Ongoing federal budget problems demand that tax incentives pay their way in results.

We support the proposed Federal Prescription Drug Fund. Adequate access to needed prescription drugs can help our elderly avoid both medical and financial hardships.

We support expanded study and reporting of prescription drug prices, both domestically and worldwide. As medical science increasingly comes to rely on drug therapies over more invasive procedures, it will be ever more important to ensure that Americans are getting value for their health care dollars.

Thank you for your support of this legislation and for the benefits it will bring to rural Americans.

Sincerely,

BOB BERGLAND,
Executive Vice President.

THE NATIONAL ASSOCIATION OF
LIFE UNDERWRITERS,
Washington, DC, November 4, 1991.

Hon. DAVID PRYOR,
Chairman, U.S. Senate Special Committee on Aging, Washington, DC.

DEAR SENATOR PRYOR: On behalf of the National Association of Life Underwriters, we are writing to convey our strong endorsement for the Prescription Drug Cost Containment Act of 1991. We believe that your bill offers a sensible and business-like approach to containing the costs of prescription drugs.

As your recently released Aging Committee report on the drug manufacturing industry shows, for over a decade, the drug industry has subjected the American public to prescription drug inflation that triples the rate of general inflation. This exceedingly distressing inflation trend continues and is worsening in the 1990's. These increased costs force insurance premiums to rise and make health insurance less affordable for larger and larger numbers of Americans.

As you well know, consumers, businesses, insurers and insurance agents have grown increasingly frustrated with skyrocketing health care costs. Innovative, tax incentive proposals, such as yours, deserve the strong support of all organizations that have repeatedly called for the implementation of effective and realistic health care cost containment strategies.

As taxpayers and responsible members of the health care industry, our membership strongly agrees with your position that nonresearch and development tax subsidies should be given only in return for responsible prescription pricing practices. Your "carrot and stick" approach to linking access to the Section 936 tax credit as a reward for reasonable pricing policies is logical and laudable.

We look forward to working with you to enact the Prescription Drug Cost Containment Act as quickly as possible. Please do not hesitate to call on us again to support this and other health care proposals that have great potential to contain costs and improve access to insurance, while not totally restructuring our health care system.

Sincerely,

DAVID E. HEBERT,
Counsel, Government Affairs.

INDEPENDENT INSURANCE AGENTS
OF AMERICA, INC.,
Washington, DC, November 6, 1991.

Hon. DAVID PRYOR,
Chairman, U.S. Senate Special Committee on Aging, Washington, DC.

DEAR SENATOR PRYOR: On behalf of the Independent Agents of America (IIAA) and our 220,000 members, I want to commend you for your efforts in improving the access and affordability of health care to our nation's citizens. In particular, I would like to express our strong endorsement for the "Prescription Drug Cost Containment Act of 1991". This legislation will provide a practical and workable method by which the skyrocketing cost of prescription drugs can be controlled.

As you know, Americans spend almost 20% of each dollar on health care each year—as a nation we spend $647 billion on health care and insurance. Much of that cost can be attributed to the rising cost of prescription drugs. In the report entitled, "The Drug Manufacturing Industry: A Prescription For Profits," your committee reported that prescription drug costs increased three times the rate of inflation. These costs are invariably passed on to the insurance industry, forcing premiums to rise and unfortunately pricing consumers out of the market.

The Independent Insurance Agents of America is obviously concerned with this trend and we are constantly looking at new proposals which claim to have a cure for the nation's health care woes. An innovative, tax incentive proposal, such as yours, deserves the strong support of all organizations that have an interest in an effective and realistic cost containment strategy.

As small business-people and taxpayers, our membership strongly agrees with your position that non-research and development subsidies should only be given to those companies who practice responsible and reasonable cost containment. By linking access to the section 936 tax credit as a reward for sensible pricing practices, your approach will offer the incentive for drug manufacturers to curb costs.

We look forward to working with you to enact the "Prescription Drug Cost Containment Act" as quickly as possible. Please do not hesitate to call on us again to support this and other innovative health care proposals.

Sincerely,

CHRISTOPHER D. LARSEN.

PUERTORICANS IN CIVIC ACTION,
Mayaguez, PR, March 6, 1992.

Hon. DAVID PRYOR,
U.S. Senate, Washington, DC.

DEAR SENATOR PRYOR: We wish to convey our support for Bill S. 2000 which you are planning to introduce. As President of a non partisan organization that has delivered 350,000 individually signed petitions from the people of Puerto Rico to Congress demanding equal rights as United States citizens, we share your concerns as to the 936 tax credits and whether it benefits the people of Puerto Rico and our fellow citizens in the United States.

We do not believe 936 tax credits benefit economic development in Puerto Rico but represent an ever increasing federal tax credit that costs United States Treasury over $2 billion annually. The 936 corporations essentially receive from the United States Treasury a $100,000 tax credit for each person that they employ.

We don't see the tremendous benefits of Section 936 for the Puerto Rico people. The average salary of these corporations is within the minimum salary range, and those 936 corporations that provide comparatively the least number of employees are those that received the greatest benefits. Circa 50 percent of its tax expenditures go to pharmaceutical corporations that employ 18,000 persons—about 14 percent of employment in Puerto Rico's manufacturing sector.

As a physician, and in a personal way, I am also very concerned about the high costs of medication when I see one of my patients shell out over $100.00 for a bottle of pills that he or she needs to keep alive. It is disgraceful that the people of Puerto Rico also have to pay these high costs when our per capita is below $4,000 and these drugs are being produced in Puerto Rico with a free tax ride and don't even produce the number of jobs we need to help our economy.

We again affirm our support for your efforts to provide relief to the people of Puerto Rico and our fellow citizens in the United States. Give us equal rights and let us assume our full responsibilities.

Sincerely,

MIRAM J. RAMIREZ FERRER, M.D.

CONSUMERS UNION,
Washington, DC, February 18, 1992.

Hon. DAVID PRYOR,
U.S. Senate, Washington, DC.

DEAR SENATOR PRYOR: On behalf of Consumers Union, we strongly endorse the Prescription Drug Cost Containment act, S. 2000 sponsored by Senator David Pryor and we urge you to co-sponsor this measure.

This sensible approach to controlling spiralling drug costs by tying the availability of tax subsidies to responsible pricing practices should be embraced by everyone who argues for medical cost containment. We are gravely concerned that if Congress fails to exercise leadership in this area and prescription drug prices continue to escalate into the stratosphere, these life-sustaining products will only be available to the wealthy.

While we would prefer that drug companies voluntarily limit their own prices to the rate of inflation, past behavior does not give us any confidence that voluntary approaches will work absent legislative intervention, such as S. 2000. At this time of crisis in health care costs, it is appropriate for drug companies obtaining substantial tax benefits subsidized by taxpayers, to give something of value—i.e. cost controls—back to consumers.

Additionally, we favor the establishment of the Medicare Prescription Drug Benefit Demonstration Project and Trust Fund. The lack of drug reimbursement in Medicare has long troubled us. The demonstration should begin to address the feasibility of including prescription drug benefits in a government program.

We urge you to join Senator Pryor and 11 other co-sponsors in supporting this important cost containment initiative.

Sincerely,

LINDA LIPSEN,
Legislative Counsel.

LEADERSHIP COUNCIL OF
AGING ORGANIZATIONS,
Washington, DC, October 30, 1991.

Hon. DAVID PRYOR,
Chairman, Senate Special Committee on Aging, Washington, DC.

DEAR SENATOR PRYOR: The undersigned members of the Leadership Council of Aging Organizations (LCAO) endorse the provisions of the Prescription Drug Cost Containment ACt of 1991. We believe that this bill offers a sensible and realistic approach to effectively containing the costs of prescription drugs for all citizens and we commend you for this important legislative initiative.

As recent studies, including the Aging Committee report on the Drug Manufacturing Industry, document, the cost of drugs shows a pattern of price inflation triple that of the overall inflation rate. We are aware that citizens of other countries, including

Canada and European nations, pay far less for critically needed pharmaceuticals than do our own citizens.

Older Americans have a strong dependence on prescription drugs to maintain health and independence. For many older persons, the price of such prescriptions are their largest out-of-pocket expense and few have any insurance to cover costs.

Therefore, we support the purpose of your bill to link more responsible pricing practices to the continuation of non-research and development tax subsidies. We believe that your firm standards linking access to Section 936 tax credits as a reward for reasonable pricing policies is a logical approach.

We also note that you include in your bill a provision assuring that any revenue withheld from the tax incentive mechanism because of continued excessive and inflationary pricing policies of drug manufacturers would be funneled into a new Federal Prescription Drug Trust Fund. Thus, whichever way the industry might respond to the proposed law, consumers, young and old, will benefit.

Last year, many LCAO members supported your efforts to ensure that legislation was enacted that gave Medicaid programs the same access to discounts for pharmaceuticals provided to other institutional consumers of these products. We continue to support your efforts to reduce such drug prices to Medicaid patients while assuring the highest quality of care for low-income persons.

We see the introduction of the Prescription Drug Cost Containment Act as the next logical step to ensure that all citizens—especially the increasing older population—have access to fair and affordable prescription drug prices.

We look forward to working with you to see that this vital legislation is enacted as quickly as possible.

Sincerely,

LAWRENCE T. SMEDLEY,
Chairman.

The following members of the LCAO endorse the attached letter:

American Association for International Aging.

American Association of Homes for the Aging.

American Association of Retired Persons.

AFSCME Retiree Program.

Asociatión Nacional Pro Personas Mayores.

Association for Gerontology in Higher Education.

Association for Gerontology and Human Development in Historically Black Colleges and Universities.

Catholic Golden Age.

Families USA.

Gray Panthers.

Green Thumb.

National Association of Area Agencies on Aging.

National Association of Foster Grandparents Program Directors.

National Association of Meal Programs.

National Association of Older American Volunteer Program Directors.

National Association of Retired Federal Employees.

National Association of Senior Companion Project Directors.

National Association of State Units on Aging.

National Caucus and Center on Black Aged, Inc.

National Council of Senior Citizens.

National Hispanic Council on Aging.

Older Women's League.

FAMILIES UNITED FOR SENIOR ACTION,
Washington, DC, November 8, 1991.

Hon. DAVID PRYOR,
Chairman, Senate Special Committee on Aging, Washington, DC.

DEAR SENATOR PRYOR: Congratulations on the introduction of the Prescription Drug Inflation Containment Act of 1991.

Health care costs in general are escalating out of control. Controlling these costs presents a formidable challenge for anyone who cares about assuring health care for all Americans. We support your Prescription Drug Bill which makes an important contribution to the effort to hold down costs.

Prescription drugs are a major contributor to the overall problem of rising costs. The cost of prescription drugs from 1980 to 1990 escalated 151 percent faster than the increase in consumer prices in general and 28 percent faster than the increase in the medical care component. They are the highest of all medical care components of the CPI. All Americans, and especially the elderly (who disproportionately use these drugs), are experiencing serious financial strain because of this escalation.

Your bill constitutes a thoughtful effort to slow down inappropriate prescription drug cost increases. The linkage between Section 936 tax credits and reasonable pricing policies, the Prescription Drug Policy Review Commission and the studies and reports required by your bill will make important contributions to bringing drug prices under control.

We also appreciate your acknowledgement of the needs of lower income seniors who do not have any prescription drug protection by establishing a Federal Prescription Drug Trust Fund. As you know, a number of states have already implemented prescription drug assistance programs for lower income seniors. Those states include: Connecticut, Delaware, Illinois, Maine, Maryland, New Jersey, New York, Pennsylvania and Rhode Island. We think that they can provide valuable information on what changes to Medicare will be feasible to provide drug protection for vulnerable seniors.

We would be happy to work with you to assess the information that is already available so that the Federal Prescription Drug Trust Fund builds on the existing knowledge of current state programs. It is our hope that a very substantial portion of the money saved by your bill can be devoted to establishing comparable prescription drug programs around the country.

As you know, in addition to needing assistance in obtaining prescription drugs, lower-income seniors need assistance with out-of-pocket costs generally. You have been very supportive of the Qualified Medicare Beneficiary Program which provides this protection for some seniors. We hope you will consider using some of the savings produced by your drug bill to make the QMB program more effective in reaching and signing up eligible beneficiaries.

Last year, we worked with you and supported your efforts to ensure that legislation was enacted that gave the Medicare program access to lower prices for pharmaceuticals. Consistent with this position, we continue to fully support your recently-released report's recommendation that advocated giving the Medicaid program, and the low-income population it serves, access to the best prices in the market as of a certain date. We are pleased to note, and are in total agreement with, the conclusion reached by the Inspector General of the Department of Health and Human Services that this approach has the most potential of assuring savings for Medicaid and eliminating excuses for cost-shifting.

We look forward to working with you on this and other legislation that assists all Americans in gaining access to fairly-priced, affordable prescription drugs.

Sincerely,

RONALD F. POLLACK,
Executive Director.

NATIONAL ASSOCIATION OF
RETIRED FEDERAL EMPLOYEES,
Washington, DC, October 23, 1991.

Hon. DAVID PRYOR,
Chairman, Special Committee on Aging, Dirksen Office Building, U.S. Senate, Washington, DC.

DEAR CHAIRMAN PRYOR: On behalf of the nearly 500,000 members of the National Association of Retired Federal Employees, I would like to express our support of your Prescription Drug Inflation Containment Act of 1991.

Studies such as the Aging Committee's report on the Drug Manufacturing Industry, document that the cost of drugs triple that of the overall consumer price index and have inflated at a higher rate than any other component of the medical inflation index. From the standpoint of prescription drug inflation, industry profits, marketing expenditures and the degree to which Americans subsidize the drug manufacturing industry, there is no better time than now for legislation which curtails some of these inequities.

The elderly have a strong dependence on prescription drugs to maintain health and independence. For a large majority of them, the price of such prescriptions are their largest out-of-pocket expenditure, and many are simply unable to cover the required costs.

We support the purpose of your bill to link pricing practices to Section 936 tax credits as a logical and reasonable approach. In addition, establishing the Federal Prescription Drug Trust Fund and the Drug Policy Review Commission will provide some necessary "checks and balances" which should eventually limit the now skyrocketing costs.

We look forward to working with you to see that this vital legislation is enacted as soon as possible. Please contact me or our Legislative Director, Judy Park, if you need any assistance.

Sincerely,

HAROLD PRICE,
President.

NATIONAL INDIAN COUNCIL
ON AGING INC.,
Albuquerque, NM, October 30, 1991.

Hon. DAVID PRYOR,
Chairman, U.S. Senate Special Committee on Aging, Senate Dirksen Building, Washington, DC.

DEAR SENATOR PRYOR: The National Indian Council on Aging fully endorses your legislative initiative to bring more reasonable prices to prescription drug consumers. American Indian elders, who comprise the single most disadvantaged minority in America, can by no means afford the drug manufacturing industry's inflationary price increases.

Although prescription drug prices are only one part of a national health care crisis for Indian elders, your efforts to correct this situation are appropriate—and they are very badly needed. Please advise me if we can assist the passage of this important legislation.

Sincerely,

DAVE BALDRIDGE,
Executive Director.

THE NATIONAL CAUCUS AND CENTER
ON BLACK AGED, INC.,
Washington, DC, October 24, 1991.
Hon. DAVID H. PRYOR,
Chairman, U.S. Senate Special Committee on Aging; Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR PRYOR: The National Caucus and Center on Black Aged (NCBA) strongly supports your efforts to control rapidly escalating prescription drug prices, which often fall most heavily upon those who are least able to afford it. Your recent report—entitled "The Drug Manufacturing Industry: A Prescription for Profits"—corroborates many findings that NCBA has made when analyzing the impact of soaring prescription drug prices for aged Blacks and other older Americans.

Prescription drug costs have skyrocketed in recent years for elderly Blacks and other older consumers. NCBA is both alarmed and deeply disturbed that prescription drug prices leaped forward at a pace nearly three times the overall inflationary rate during the 1980's. This burden has taken a heavy toll upon aged Blacks, who are more than three times as likely to be poor as elderly Whites.

It has been especially onerous because older Blacks and other low-income aged Americans have comparatively little protection to shield themselves from this rapidly rising cost. The harsh reality is that prescription drug prices represent the number one out-of-pocket expenditure for three out of every four persons 65 years of age or older.

Our analysis of this issue makes it clear that higher prices for prescriptions are accounting for nearly all of the spiraling medication costs, rather than greater utilization by consumers. Elderly Blacks and other older consumers are the victims of the seemingly uncontrolled prescription drug escalation, rather than a cause.

For these reasons, we believe that concrete actions must be taken to assure that aged Blacks and other low-income older Americans have access to quality and safe medications at a price that they can afford. NCBA commends you for your leadership in focusing on this crucial issue for millions of aged persons in the United States, particularly those struggling on limited incomes. If you need additional information about the accessibility of prescription drugs and the impact of rising medication costs for aged Blacks, NCBA would be delighted to update the information that we have obtained in prior years. Moreover, NCBA looks forward to working with you and your staff to develop a sound national prescription drug policy for older Americans at a cost which is fair and reasonable.

Sincerely,

SAMUEL J. SIMMONS,
President.

STATEMENT OF THE CHILDREN'S DEFENSE FUND IN SUPPORT OF THE PRESCRIPTION DRUG COST CONTAINMENT ACT OF 1991

The Children's Defense Fund adds its support to the Prescription Drug Cost Containment Act of 1991, sponsored by Senator David Pryor. Millions of Americans of all ages depend on prescribed drugs. It is unconscionable that for so many citizens, essential pharmaceuticals are simply beyond their reach because of the extraordinary prices charged by manufacturers. Even so basic a health service as childhood immunizations is now inaccessible to millions of children in low- and moderate-income families because of the price of vaccines. By containing the upward spiral in drug prices and simultaneously investing the savings generated in improved drug coverage for Medicare beneficiaries, the measure sets a strong precedent for both responsible cost containment and enhanced health care access.

AIDS ACTION,
Washington, DC, October 28, 1991.
Senator DAVID PRYOR,
Chairman, Senate Special Committee on Aging, Washington, DC.

DEAR SENATOR PRYOR: On behalf of AIDS Action Council, which represents over 200 community based AIDS service organizations from around the nation, I am pleased to express strong support for the Prescription Drug Cost Containment Act of 1991.

The AIDS community has learned through bitter experience the need for dramatic reform in the pricing structure of prescription drugs. Almost every major breakthrough in treatment for HIV infection or the opportunistic infections associated with AIDS has been accompanied by difficulties in accessing these life-extending treatments because of exorbitant costs. The most recent example—and perhaps the most outrageous to date—is the recently approved drug, foscarnet, which treats CMV retinitis, a sight threatening opportunistic infection. Foscarnet is being sold for approximately $20,000 a year, at wholesale prices. Even with the most generous estimates of research and development costs, this price cannot come close to being justified, especially since the American taxpayers footed a $12 million dollar bill to undertake the clinical trials that proved the value of this drug.

Advances in treatment of HIV infection and prophylaxis against the associated opportunistic infections have meant fewer hospitalizations and debilitating illnesses for many people with HIV infection when they can afford the prescription drugs. Because those drugs are often inaccessible (and so many people do not have prescription drug coverage) more health care dollars are going toward unnecessary and far more costly hospitalizations.

It is for these reasons that we strongly endorse your efforts to rein in the cost of prescription drugs. No community more than the AIDS community understands the critical need for research and development. No community is more anxious to see the pharmaceutical industry contribute to advances in therapies for all kinds of diseases. But we also know that a balance must be struck between the legitimate desire of the private sector to earn a profit and the need for that product to be accessible to all in need.

We thank you for your leadership on this issue and stand ready to assist you in pushing for passage of this important legislation.

Sincerely,

JEFFREY LEVI,
Director of Government Affairs.

NATIONAL CONSUMERS LEAGUE,
Washington, DC, October 24, 1991.
Hon. DAVID PRYOR,
U.S. Senate,
Washington, DC.

DEAR SENATOR PRYOR: The National Consumers League supports your efforts to control our nation's spiraling health care costs with the Prescription Drug Cost Containment Act. The League's position calls for a comprehensive national health care program providing universal access to quality care with appropriate cost controls. Until our nation does have total health care reform, your bill provides one mechanism to increase access to health care and achieve cost savings.

This legislation, calling for a reduction in tax credits for drug manufacturers that increase prices over the consumer price index, will result in consumer savings on prescriptions. Drug manufacturers will have a choice either to keep their price increases below the consumer price index or have their tax credits reduced. Presently Merck Sharp and Dohme, voluntarily restricts its annual price to the CPI–U; surely the other drug manufacturers can do it as well. Those manufacturers that continue to raise their prices over the CPI–U, will have their tax credits directed into the establishment of Federal Prescription Drug Trust Fund.

The League supports using the monies from this Fund to provide Medicare coverage for prescription drugs in fifteen demonstration programs. The league endorsed earlier legislation mandating Medicare coverage for prescription drugs. This feasibility study is an important step forward.

Similarly, the League supports using the Fund to create a Prescription Drug Policy Review Commission. This commission, like the Prospective Payment Assessment Commission (ProPAC) and the Physician Payment Review Commission (PhysPRC), can provide useful information to policymakers.

Your vision will help Americans begin to control health care costs.

Sincerely,

LINDA F. GOLODNER,
Executive Director.

NATIONAL COMMITTEE TO PRESERVE
SOCIAL SECURITY AND MEDICARE,
Washington, DC, February 14, 1992.
Hon. DAVID PRYOR,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR PRYOR: On behalf of the approximately five million members and supporters of the National Committee to Preserve Social Security and Medicare, we are writing to request you to join 11 other Senators in cosponsoring Senator Pryor's legislation, the Prescription Drug Cost Containment Act. This bill addresses one of the greatest needs of seniors and all Americans—access to affordable prescription drugs.

Hardest hit by the prescription drug price inflation crisis has been older Americans. For three out of every four elderly, prescription drug expenses represent their largest out-of-pocket cost. Moreover, according to a Congressional Budget Office report released last summer, at least 60 percent of all older Americans have no insurance whatsoever to pay for these catastrophic prescription drug costs. Many of our members write that they are having to make the difficult choice between buying food or purchasing their medications. No one in the United States should have to make this kind of decision. We believe that S. 2000 begins to address this unacceptable problem.

Included in S. 2000 is a critical safeguard provision assuring that revenue saved from the tax incentive mechanism would be funneled into a new Federal Prescription Drug Trust Fund. In turn, this Trust Fund would be used to establish a Medicare Prescription Drug Benefit Demonstration Project. We believe this to be an extremely important element of the bill. It not only assures that regardless of how the manufacturers respond, consumers will benefit, but it also provides the opportunity to study the feasibility of amending the Medicare program to provide some relief to the high cost of prescription drugs for some of the most vulnerable in our society. We are confident that the provisions of the bill will not impair manufacturers from continuing their research and developing life-saving medicines so important to all Americans, including seniors.

Members of the National Committee, as do all seniors, want and need access to fair and affordable prescription drug prices. We believe that your support is crucial in making this a reality. Thank you for your consideration.

Sincerely,

MARTHA A. MCSTEEN,
President.

AMERICAN PHARMACEUTICAL ASSOCIATION,
Washington, DC, November 19, 1991.

Hon. DAVID PRYOR,
U.S. Senate,
Washington, DC.

DEAR SENATOR PRYOR: The American Pharmaceutical Association (APhA), the national professional society of pharmacists, is pleased to respond to your request to review the legislative specifications of your proposed bill entitled, "The Prescription Drug Inflation Containment Act of 1991." We wish to express our support for the concepts and approach set forth in the summary and outline of your legislation. As we have not reviewed the actual statutory language, we must reserve our formal endorsement until such time as that review has occurred.

We wish to commend your efforts in bringing to the attention of your colleagues in the Senate and House important policy questions relating to prescription drug utilization and pricing. APhA shares your concerns regarding the need to improve access to and appropriate use of prescription drugs. We believe your bill offers the potential for achieving these objectives as well as moderating the rate of escalation of prices for prescription drugs. The need for improving access to appropriate drugs and drug therapy management has never been as great as it is now when the financing and operation of the nation's health delivery system is in such jeopardy. Your leadership in these matters is genuinely appreciated.

Our primary interest in your proposal relates to the Medicare outpatient demonstration projects. APhA has long endorsed expansion of Medicare to cover outpatient prescription drugs and, most recently, supported inclusion of a drug benefit in the Medicare Catastrophic Coverage Act of 1988 (which was subsequently repealed). Your proposal for 15 demonstration projects to assess the impact of a Medicare outpatient prescription drug coverage on cost, quality of care and access to prescription drugs would provide a solid foundation on which to rebuild such a benefit.

Your current proposal recognizes the important contribution pharmacists must make in order to assure optimal outcomes from drug usage. We therefore specifically endorse as part of the demonstration projects the incorporation of a drug use review (DUR) component similar to that required for Medicaid under the Omnibus Budget Reconciliation Act of 1990. We firmly believe that a partnership between the professions of pharmacy and medicine in implementing DUR will synergize their respective skills to the benefit of those patients served by the program. Similarly, your interest in seeking a more rational system for reimbursing pharmacists for services they provide in product dispensing and drug utilization management is sound and greatly appreciated.

We are also pleased to see that you have called for the establishment of a Prescription Drug Policy Review Commission to examine the many issues involving prescription drugs. As was noted in the materials we were asked to review, RxPRC was first conceived as part of the Medicare Catastrophic Coverage Act. We supported the idea then and do so now, particularly with is mandate broadened beyond Medicare coverage of prescription drugs.

We would like to suggest that you consider two modifications to your proposal: (1) that, in addition to the funding of the demonstration projects, revenue from the recapture of Section 936 tax credits also be used to provide additional resources at the Food and Drug Administration for the specific purpose of expediting the drug approval process and (2) that the Section 936 reduction formula not be applied to a manufacturer in any year that this same manufacturer obtains a 1A new drug approval (NDA) from the FDA.

The American Pharmaceutical Association believes drug therapy is among the most cost-effective treatment modalities available to patients and practitioners. We are encouraged by your efforts as they indicate that you share this view. We look forward to working with you and your staff as you pursue enactment of this legislative proposal.

Sincerely,

JOHN A. GANS,
Executive Vice President.

AMERICAN PUBLIC WELFARE ASSOCIATION,
Washington, DC, October 28, 1991.

Hon. DAVID PRYOR,
Chairman, Senate Special Committee on Aging, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR PRYOR: I write to you on behalf of the American Public Welfare Association (APWA), which represents state human service agencies across the country, in support of your continued efforts to contain prescription drug costs. While states are affected in several ways by the rising costs of prescription drugs, the APWA is particularly concerned about the impact of rising prices on state programs such as Medicaid, that fund prescription drug coverage for low-income citizens.

We support your efforts to begin a debate on prescription drug increases and to explore ways to contain prescription drug costs as your legislation, "The Prescription Drug Cost Containment Act of 1991" would do. Such a debate is necessary because prescription drugs are a significant component in the overall growth of health care expenditures in this country.

Sincerely,

A. SIDNEY JOHNSON III,
Executive Director.

AARP,
Washington, DC, November 5, 1991.

Hon. DAVID H. PRYOR,
Chairman, Special Committee on Aging, U.S. Senate, Dirksen Office Building, Washington, DC.

DEAR CHAIRMAN PRYOR: On behalf of the American Association of Retired Persons, I want to commend you for introducing the "Prescription Drug Inflation Containment Act of 1991." As you know, older Americans more than any other age group are at risk of losing access to needed medications due to runaway drug prices. Your legislation offers a sensible way to begin curbing the uninhibited growth in prescription drug prices.

AARP is committed to expanding access to quality, affordable health care. In this regard, we are increasingly concerned about the escalating costs of prescription drugs. The report recently released by your Committee shows that the rapid escalation of prescription drug prices over the last decade continues to accelerate. As a result, consumers who cannot afford ever-increasing prescription drug prices are denied access to needed medications.

More than any other group in our society, older Americans' ability to purchase needed drug therapies is jeopardized by persistently high prescription drug prices and higher utilization. In the U.S., persons aged 65 and older represent only 12 percent of the population, yet in 1988 they accounted for 34.3 percent ($9.1 billion) of the $26.5 billion spent on retail prescription drugs. High prices, heavy utilization, and the absence of affordable insurance coverage have converged to make prescription drugs the highest out-of-pocket medical expense for three out of four older Americans. These high costs deny too many older Americans access to essential, often life-saving, products—making them more vulnerable to unnecessary and more expensive acute care.

From the consumer's perspective, a better balance is necessary between record-breaking drug company profits and the affordability of prescription medications to the patients who need them. In this regard, AARP firmly believes that you proposal to link the availability of Section 936 tax credits to reasonable pricing practices by drug manufacturers will add some greatly needed balance.

AARP is also pleased to see that your legislation proposes to use the money saved by the limitation on Section 936 tax credits to fund outpatient prescription drug demonstration programs under Medicare. The Association strongly supports greater access to, and cost containment of, prescription drugs by expanding Medicare to include outpatient drug coverage. The pilot programs proposed in your legislation will help demonstrate the need for such a benefit on a nationwide level.

Last year, AARP supported your efforts to ensure that the Medicaid program receive the same deep pharmaceutical discounts provided to other large institutional buyers. The Medicaid rebate legislation included in the Omnibus Budget Reconciliation Act of 1990 was a step in the right direction in that it was designed to improve access to needed medications for Medicaid patients. AARP believes the Prescription Drug Inflation Containment Act is another step in the right direction in that it will help all citizens—especially the most vulnerable—to gain better access to needed drug therapies by encouraging more reasonable prices.

AARP applauds the introduction of the prescription Drug Inflation Containment Act, and we welcome the opportunity to work with you and other members of the Senate to improve access to needed medications. If we can assist you in any way on this legislation, please do not hesitate to call me or have your staff call Dan Durham of our Federal Affairs Department at 434-3770.

Sincerely,

HORACE B. DEETS.

INTERNATIONAL LADIES' GARMENT WORKERS' UNION, AFL-CIO,
New York, NY, October 24, 1991.

Senator DAVID PRYOR,
Chairman, Special Committee on Aging, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Prescription drug therapy has increasingly become a more expensive and essential part of health care. Although the ILGWU strongly advocates a systemic solution to the health care crisis, we recognize the urgency of bringing the current alarming prescription price inflation rate under control. The ILGWU Health Services Plan provides prescription drug coverage to several hundred thousand workers, retirees and their families. It has first hand experience of the difficulty of financing prescription drug coverage in the face of unabated accelerating drug price inflation.

The ILGWU, therefore, is strongly supportive of certain proposals in the Prescription Drug Cost Containment Act of 1991 such as the establishment of a prescription drug price review board which will evaluate the feasibility of incentives to encourage drug manufacturers to lower prices, including a reduction of the period of market exclusivity for excessively priced drugs.

We also strongly support and advocate the inclusion of prescription drug coverage in Medicare as a first step toward the inclusion of prescription drug coverage in a comprehensive national health insurance plan.

This statement is limited to support of the above two specific proposals and does not constitute approval or disapproval of other aspects of the proposed bill, other than our strong belief that the manufacture and distribution of prescription drugs warrant closer oversight in view of the exorbitant profits recorded for the industry.

Sincerely yours,

EVELYN DUBROW,
Vice President and Legislative Director.
THEODORE BERNSTEIN,
Director, Benefit Funds Department.

PENNSYLVANIA COUNCIL ON AGING—RESOLUTION

Whereas the Pennsylvania Council on Aging (the Council) is a statutorily created organization within the Office of the Governor;

Whereas the Council is composed of 21 members who are nominated by the Governor and confirmed by the Senate, and who represent all geographic regions of the Commonwealth of Pennsylvania;

Whereas the Council is mandated to study major issues affecting older Pennsylvanians;

Whereas pharmaceutical prices have dramatically increased as such, have adversely affected health care costs to older Pennsylvanians and to Pennsylvania's PACE Program;

Whereas Federal legislation has been proposed to contain prescription drug prices;

Whereas the Council unanimously supports the proposed Federal legislation: Be it

Resolved, the Pennsylvania Council on Aging unanimously adopts the following Resolution:

1. The Council recommends to Senator Harris Wofford that he strongly support Senate Bill 2000 introduced by Senator David Pryor on November 20, 1991.

2. The Council recommends that Senator Wofford co-sponsor S. 2000 and take further appropriate steps to control prescription drug prices.

FACTS COUNTERING DRUG INDUSTRY FICTION REGARDING RESEARCH AND DEVELOPMENT

U.S. SENATE SPECIAL COMMITTEE ON AGING, SENATOR DAVID PRYOR, CHAIRMAN, FEBRUARY, 1992

Background: Anytime Congress is critical of the enormous profit margins of the pharmaceutical industry, or questions the need for the industry to raise prices in excess of three times the rate of inflation, the industry argues that they need these exorbitant profits and high prices to finance research and development. However, it is clear that their well-worn and re-recycled research and development argument is not going to sell anymore. Consider these facts:

Fact 1: Americans are already providing hundreds of millions of dollars in tax breaks annually for the industry's R&D investment.

Fact 2: According to a 1991 Forbes Magazine article, the drug industry is spending a billion dollars more a year on marketing than it is on research; that is, the industry will spend $10 billion on marketing and advertising this year, but only $9 billion on research and development.

Fact 3: After accounting for the investment in research and development, the pharmaceutical industry still earns an annual Fortune 500 industry-leading profit of 15.4 percent. This industry profit average is triple that of the average Fortune 500 club member, which is 4.6 percent.

Fact 4: The drug industry says it needs such profits to attract capital, yet they certainly do not need a return on shareholder investments (return on equity) that industry analysts say is completely consistently 50 percent higher than the average Fortune 500 company to attract capital. Other Fortune 500 companies, whose profit margins are one-third that of the drug industry, do not appear to have trouble attracting sufficient capital.

Fact 5: In addition to the hundreds of millions of dollars in direct research and development tax breaks given to the drug industry each year, a significant amount of research on new drug products occurs in federal facilities or with grants provided by federal agencies. For example, most of the research on the drug AZT, used to treat symptoms of AIDS, was conducted at the National Institute of Health (NIH), yet a private drug company holds the patent on the product and has used the patent to charge exorbitant prices for the drug.

Fact 6: The drug companies whose R&D investment has brought no new breakthrough drugs to market are the very same companies that are increasing prices at some of the highest rates. Therefore, while there are some drug companies who are research intensive, the majority are using the "research" argument as the excuse to raise prices, yet their research pipeline is dry. For example:

Dilantin (an antiepileptic drug) manufactured by Parke-Davis, has been on the market since 1953. Since 1985 it has gone up in price 69 percent, an annual average increase of over 11 percent. Parke-Davis has not brought one new molecular entity to market in the last 5 years.

Fact 7: For a pharmaceutical company that spends 15 percent of its revenue on research to increase their research expenditures by 10 percent, it would only require a 1.5 percent increase in their drug prices each year. However, drug manufacturers have been increasing prices, on average, at three times the rate of inflation for the last eleven years.

Fact 8: One of the largest investors in R&D in the industry—Merck—is holding their price increases to inflation. Merck Sharp and Dohme has been one of the most research productive companies over the last decade, yet they have adopted a public policy position that restricts their price increases to changes in the CPI–U. If the world's most research-intensive drug company can adopt this responsible public policy, the others should be able to do the same.

Fact 9: In Canada, the drug industry has voluntarily agreed to limit its price increases to the inflation rate, while substantially increasing its investment in research.

While the industry's arguments about the relationship between high profits and research are clearly questionable, the "Prescription Drug Inflation Containment Act", introduced by Senator David Pryor, will not address the research tax credits of drug manufacturers. The legislation uses the industry's $2 billion annual non-research and development tax credit, which is bestowed on the industry each year by American taxpayers, as an incentive to contain prescription drug price inflation at or below the rate of general inflation.

SENATOR PRYOR'S RESPONSE TO PMA'S "MYTH" SHEET AGAINST S. 2000

1. PMA says: "The Government reports that the Producer Price Index for prescription drugs in 1991 was, at 7.2 percent, the lowest since (it) began publishing it in 1980."

Pryor response: The PMA is distorting and blatantly misrepresenting the Producer Price Index (PPI) to defend its indefensible position. While the PPI for prescription drugs was 7.2 percent in 1991 and 8.1 percent in 1990, the PMA conveniently omits the fact that the PPI for all goods in 1991 was 0.0 percent and 3.7 percent in 1990. The truth, therefore, is that the disparity between the PPI for drugs and the PPI for all other goods actually and significantly widened in 1991. Moreover, from 1982 to 1992, the PPI-Rx increased six times the PPI-all goods (133 percent versus 23 percent).

2. PMA Says: "Drug therapy remains the most cost-effective form of medical treatment."

Pryor response: Whole drugs are sometimes less expensive than other medical interventions, they are not cost effective if they are unaffordable. Over 5 million Americans over the age of 55 now report that they are being forced to choose between needed medications and food. In 1990, over 10 percent of all U.S. health care expenditures—$67 billion—were for pharmaceuticals. Without some form of cost containment, these expenditures are expected to increase to over $145 billion by the year 2000.

3. PMA says: S. 2000 "would impose government price controls on pharmaceuticals."

Pryor response: By any definition, S. 2000 does NOT impose price controls. Manufacturers can price their products at any level they choose. The bill simply protects American taxpayers from being forced to underwrite both billions of dollars in high drug prices and non-R&D-based tax subsidies. The tax subsidy is only reduced IF a drug manufacturer continues to jack up prices above the general inflation rate. (From 1982 to 1992, the prescription drug inflation rate more than tripled the general inflation rate—142 percent versus 46 percent.)

4. PMA says: S. 2000 "singles out the * * * (drug) industry for discriminatory and unfair tax treatment."

Pryor response: It is the drug industry that has been singling out the American public through their discriminatory and unfair prices. According to the HHS' Office of Inspector General, they discriminate against the American public by charging us prices that are 62 percent higher than those in Canada and 54 percent higher than those in Europe. Secondly, the legislation does not touch any drug manufacturer that keep its products' price increases at or below general inflation.

Finally, it is not only American-based drug companies that take advantage of the 936 tax credit. Foreign-based companies that have

American subsidiaries also form spin-off companies and relocate to Puerto Rico (e.g. Smith-Kline Beecham is a British-based company but has manufacturing operations in Puerto Rico). Therefore, in practice, S. 2000 fairly rewards companies who keep prices below general inflation and fairly punishes those who do not. It is a simple, business-like, carrot and stick incentives mechanism.

5. PMA says: S. 2000 would establish a "Prescription Drug Policy Review Commission. No one can predict what the proposed commission would recommend, but previous proposals by Senator Pryor have contained provisions for a Federal drug 'formulary,' and 'therapeutic substitution'."

Pryor response: First, the assertion that legislation previously introduced by Senator Pryor would establish a Federal drug formulary or therapeutic substitution is a BLATANT LIE, and the PMA knows this. In addition, like the Prospective Payment Assessment Commission and the Physician Payment Review Commission, the proposed Drug Commission would be made up of an objective body of experts on pharmaceuticals. Their final findings and recommendations would not be subject to approval by any Member of Congress. What the PMA is concerned about is that this group will actually make some recommendations that would contain the skyrocketing cost of drugs in the United States.

6. PMA says: "Canadian Government actions (to reduce drug costs) have lead to sharply reduced R&D spending * * *"

Pryor response: Just the opposite is true. Since the Canadian Patent Medicines Price Review Board was established in 1987, drug manufacturers have sharply increased R&D spending in that country. R&D spending increased by 50 percent between 1988 and 1989, and 15 percent between 1989 and 1990. R&D spending as a percent of sales is expected to increase to 10 percent by 1996. This has all occurred with a sharp drop in drug price inflation in Canada.

7. PMA says: "Several influential organizations * * * have already spoken out against S. 2000 * * *"

Pryor response: The number of organizations supporting S. 2000 far exceeds the number supporting the PMA position. Among the bill's growing supporters are: 12 United States Senators, 2 Presidential candidates, and 42 national organizations, including an impressive array of representatives of rural concerns, small businesses, the elderly, the children, the poor, special populations, health care personnel, insurance agents, and unions.

Mr. PRYOR. Mr. President, we have heard a great deal today in this debate about escalating health care. We have heard a great deal today about control, about discriminating against a very fine American industry. We have heard all of those. None of those arguments, Mr. President, were any surprise to me, and I doubt if any of the arguments I have made during the course of debate today has been any surprise to the opposition who want to see this amendment killed.

Mr. President, I would like to just return, if I might, to a statement I made earlier today that took us back, I guess, to the old town meeting. How many of us recently in the last year or 2 have been in those town meetings in our home States down there in our home district when we have looked out there in that sea of people, and that elderly individual stands in the back of the crowd and says, "Senator So and So, what are you going to do about my prices on prescription drugs?" "Senator, what are you going to do about this escalation of cost? I can no longer afford my drugs." "Mr. Senator, what are you going to do when I have to choose now between paying for my prescription drugs or paying for food for my table?"

And generally, Mr. President, because we are politicians and we want to try to appease most people and make them as happy as we can, most of the time, if we do not do it directly, we are saying indirectly to those people, those constituents of ours: "We are going to do something about that. We are going to tackle this problem. We are going to address this problem. We are going to deal with your hurt. We are going to deal with this problem of escalating drug costs."

Mr. President, not since I have been in the Senate in 13 years have we had the opportunity on the floor of the Senate of the United States to cast a vote on whether we are serious about that commitment or not.

Last night, I was watching Gov. Bill Clinton. I was very proud of our Governor from Arkansas. He had great success in those primaries across the South and other parts across the United States. And I heard Governor Clinton say something that struck me that almost applied, in one respect, I guess, to this debate that we are having today on this issue of escalating health cost. Mr. President, our Governor said, "You know, people are getting tired of politicians who never deliver on their promises."

Mr. President, today is an opportunity for us to begin delivering on the promises, begin delivering on the promises to America, delivering to our constituents who we have promised we are going to help to do something about containing the health costs of our country.

This is not hospitalization. Once again, this is not doctors. This, Mr. President, as all of us know, is one small part of the health care crisis, and that deals with the cost of pharmaceutical drugs. Mr. President, several individuals today who have attended this debate and who have participated in this discussion this afternoon have read letters from some of their constituents. I have some thousand letters, I guess, or maybe more. I do not want to hold them up. In fact, I think I am too weak at this time of day to pick up that big bag of all those letters. Just if I could, I will read a statement from one or two that I think might present a case in point.

This is a California letter, February 1992. He said, "Last week when I picked up my prescription for Feldene, I was shocked and angered to discover that the cost had increased 100 percent, from $38 to $67."

Mr. President, we have letters from all over the country. Here is one that says that her cost for the drug that she is taking for Parkinson's disease went up recently. It is now $1.21 a pill. It was, just a month ago, $1.01 a pill.

Here is a lady writing from Los Angeles, CA: "Dear Senator PRYOR"—she talks about herself and her husband. She says she is 87 years old. "My Social Security payment no longer covers the cost of my prescription drugs."

Here is a letter, Mr. President, from a lady down in Arkansas. She said, "Senator PRYOR, I really cannot afford my drugs anymore. I am 74, on Social Security. I get $660 a month. I live in subsidized housing and no longer can pay the cost of the drugs that my doctor prescribes for me."

Here is a letter from Weatherford, TX, in favor of putting a cap or, she says, doing something or anything to control the cost of prescription drugs.

Here is a letter from New Jersey, September 27, 1991. She says, "Our drug prices in our family for my husband and I have tripled the first half of 1991. No longer can we buy our drugs." She said, "On September 7, I had to fill these two prescriptions. I had to pay $197.47."

A letter from Florida, "The problem, as you can see by the attached price list, Senator PRYOR, even trying to get at the less expensive drug stores, is $108.81 a bottle for 100 tablets."

"Senator PRYOR, my drugs last year were $7. Today, they have gone up to $41. What can I do about this situation?"

But one letter is very telling, Mr. President, because of the arguments that we have heard today about Government intervention, about price controls, about Government intervening in this great industry. But I would only read the last sentence from a lady who wrote that her drug bill today has gone from $8,076 a year to $11,216 a year, just in the course of 12 months. And she writes a final sentence, Mr. President: "Which ones do I quit taking now? If I stop taking any of these drugs, I will either be bedridden or I will die. Please ask your fellow Congressmen and Senators to choose for me."

Mr. President, that is where America is today. They are bewildered because we are not doing anything and because all we do is address the problems. I think that our constituents are tired of our addressing the problems. I think that our constituents today want us to start solving some problems. And that is exactly why, Mr. President, I bring this amendment to the floor at this time on this particular bill, because it is time that we solve this problem. We will not solve it all, but it will begin, it will be an attempt in reaching a solution to this problem relative to the high costs of prescription drugs.

Mr. President, in speaking and looking at this particular issue of prescription drugs, in all due respect to Secretary Sullivan, whom I like very much—he came out yesterday with this Health and Human Services legislative alert. I have already mentioned this earlier today in the debate, Mr. President. It says the administration opposes this bill. It is going to recommend that it be vetoed if this amendment is included in the bill.

Secretary Sullivan—and I have watched him in several committee hearings—when he has been asked about what this administration plans to do about prescription drugs—I wish that our colleagues would go back and research the records a little bit. I wish they would see what Secretary Sullivan has said this administration is going to do, because it amounts to absolutely zero.

Mr. President, also, this afternoon at the close of this debate, I have a challenge to the Presidential scholars of America. I would like to see if the Presidential scholars who follow the Chief Executive, who write down his every word, who record every statement, I would like to see if, in 3½ years of his Presidency, our Chief Executive, the President of the United States, George Bush, has ever mentioned the words "prescription drugs."

I do not think that he has. I do not think he is aware of it. He, for the last 13 years, has not had to pay for his prescription drugs. He gets free drugs. Therefore he has no idea what the cost of those drugs might be.

Our good and dear colleague from the State of Utah just mentioned AZT. Let us talk about AZT. Sure, it is going to, hopefully, have some helpful effect or impact on AIDS. Let us talk a minute about where AZT was developed.

AZT was developed, not by the drug companies—AZT was developed and researched at NIH. The taxpayers of America developed AZT. Then we gave it to another drug company and today they are charging $2,000 and $3,000 a treatment for AZT.

What kind of a cozy relationship is that? And what kind of a fair deal is that for the American consumer? What in the world is going on when the drug companies of this country go unchecked; when there is no accountability; when we ask no questions; and when we say to them, for every bit of research you are going to do, through our Tax Code, through the policy of this Government, we are going to make sure that your research is paid for?

Mr. President, I yield 2 minutes to my colleague from the State of Tennessee, Senator SASSER, and retain 2 minutes of the remainder of my time.

The PRESIDING OFFICER. The Senator has 2 minutes and 18 seconds left. The Senator from Tennessee is recognized for 2 minutes.

Mr. SASSER. Mr. President, I want to sincerely compliment the distinguished Senator from Arkansas [Mr. PRYOR] for the fight he has made on the floor of the U.S. Senate today on behalf of those tens of millions of Americans who consume prescription drugs.

It has been a long, lonely battle for the Senator from Arkansas now, for almost 2 years. He had some help along the way from his colleague and ranking member on the Special Committee on Aging, Senator COHEN. I want to say that had it not been for their efforts, we would not be debating this issue today. This amendment today, I think, sounds as a wake-up call—a wake-up call for our colleagues about what is happening in the field of prescription drugs. Had it not been for the efforts of the distinguished Senator from Arkansas, I do not think that wake-up call would have gone out from this place.

This is not an entirely new issue, but it is an issue now that is bubbling up from the grassroots. It is represented in every town meeting that any of us hold. It is represented in the letters that we receive, as the distinguished Senator from Arkansas has stated here today. It is an issue that will not go away. No matter what happens to this amendment today, this issue is going to be with us.

Yes, there are responsible drug manufacturers. Yes some of them do try to price their products reasonably. But by the greed of some, they have killed the goose that laid the golden eggs.

The PRESIDING OFFICER. The Senator is advised that his 2 minutes has expired.

Mr. SASSER. Mr. President, I will yield to my friend from Arkansas, but I want to express my appreciation for this fight he has made here today. I think it is very worthwhile. If he does not win today, I want to join efforts with him to bring this back again and again and again, until we are successful.

Mr. PRYOR. Mr. President, I thank my colleague.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for an additional 12 seconds.

Mr. PRYOR. Mr. President, I ask unanimous consent for 1 final minute please?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRYOR. Mr. President, I thank the Chair and I thank my colleagues for giving me this 1 minute to close. I thank my colleague from Tennessee.

We have heard so many percentages around here today that even I am dizzy. All of us are a little bit dizzy. Our friend from Utah has all of these charts: 5.8 percent, 7 percent of GNP; health care, 7 percent; all of these things that really make us a little bit dizzy.

The final analysis is this: Forget all the percentages, Mr. President; forget all of that. Forget all we have heard, this, that and the other, comparing prices.

The fact is our people are hurting today; they are desperately hurting and everyone in this Chamber knows it. This is the time to begin doing something about it. This afternoon we are about to have a vote, in a very few moments, the first vote we have had on cost containment for health care. I hope it will be a positive vote, Mr. President. If it is not, I will continue in this endeavor, to try to see if we cannot make some degree of common sense together, out of a drug industry that is out of control.

Mr. President, I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The time of the Senator has expired. The Senator from Utah is recognized for 18 seconds.

Mr. HATCH. Mr. President, I hope our colleagues will vote against this amendment. It is regulation, pure and simple. It will stifle economic opportunity in this country and stifle one of the truly great competitive industries of this country to the detriment of us all. I hope our colleagues will vote this down.

The PRESIDING OFFICER. The time of the Senator from Utah is expired. The Senator from Texas is recognized for 5 minutes.

Mr. BENTSEN. Mr. President, there is no question but what the high cost of prescription drugs is a serious problem for the elderly and for the chronically ill. I can recall, back in 1990, how impressed I was with the work of the Senator on the question of Medicaid prescription drug rebates, and was delighted to work with him. But I do not think this amendment is the cure we are seeking. I am troubled by several aspects of it.

There is no question in my mind, it is an attempt to use the Tax Code to control prices. If you start down that road, where do you stop? Do we deny tax deductions to banks where we think the interest rate happens to be too high?

I can recall one day when the President of the United States made some remark about consumer credit card interest rates being too high. That night here in the Senate we had an amendment that was passed to put a cap—brought it down—on the interest rates on credit cards. It passed by a vast majority here. And the next day we had chaos in the stock market. The stock market went down 120 points. And the Senators could not wait to drop it in the conference, and we all wished it had not been a recorded vote.

You cannot set prices, controls, and expect them to work and use the Tax Code for that purpose.

This is aimed at the drug companies but you have a ricochet problem in this one. It could bring about significant harm to Puerto Rico's economy. The possible effect of this is that you would have these pharmaceutical companies moving out, going to some foreign tax haven. In this kind of situation, I think it much better to have the Puerto Rican working than to have some foreigners working.

I have another problem with it. I think it creates a very complicated formula and, in creating that one, I think it makes it very difficult for a business to anticipate its taxes and to set its budget, and complicates the process substantially.

The pharmaceutical companies that are going to be affected by this are just ours, United States ones. You have foreign companies that are also operating in Puerto Rico. They would not be touched by this process, and that concerns me.

Then I look at the drug policy review commission that is being set up in this. This is not related to any specific Medicare benefit as are the other existing commissions that we have. The other ones, like the prospective payment assessment, that commission is for hospitals, parleyed benefits. The physician payment review commission—all related to specific Medicare benefits. But not this one. And, therefore, I really do not think that the Medicare trust funds should be used to finance it.

The health care cost commission that is established under the Finance Committee bill that we have before us would fill the same functions as set forth in this amendment. So I think you would have a duplication of services there.

So, Mr. President, with a great deal of respect for the compassion, concern, and knowledge of my friend from Arkansas, and his leadership on issues of health care, I oppose this amendment. I think it would be a mistake to pass it.

Mr. President, I yield my time.

Mr. LUGAR. Mr. President, I rise today to speak in opposition to S. 2000, which is being offered as an amendment to the pending bill. This measure, which seeks to contain the costs of prescription drugs, has serious, adverse implications for the competitiveness of our Nation's pharmaceutical industry.

The price controls intimated by this approach have been found counterproductive in other countries. The European Community [EC] is asking its member countries to abandon such price controls because, "they have contributed to making the pharmaceutical market more rigid by neutralizing competition."

According to a recent report by the International Trade Commission, the United States leads the world in this high-technology enterprise. U.S. firms pioneered 62 percent of the new drugs introduced over the past 50 years, and currently account for some 40 percent of the $150 billion in worldwide sales of prescription medicines. That is a share equal to that of all of Western Europe, and twice as large as Japan's. In addition, the study reports that this industry has consistently maintained a trade surplus—projected at $1.2 billion for 1991.

The International Trade Commission report goes on to detail the negative effects of cost-control programs in other countries on their pharmaceutical industries stating, "No country that has practiced cost containment in health care at the expense of its pharmaceutical industry has managed to nurture a pharmaceutical industry that can compete globally."

Mr. President, I believe that we should take heed from the experiences of other nations that have sought to abandon the free-market system in the pricing of prescription drugs. Most of the cost-saving, life-extending therapies in use today were developed by an industry seeking profits in a free, competitive market. Countries such as Canada, often cited for holding down prices through controls, have significantly less drug innovation.

I can well understand the push for action in this area. We all know that one of the major considerations of this body in the coming several years will be health care reform. Health care costs have risen significantly for a variety of reasons, including increased liability costs, third-party payment systems that leave the consumer out of the equation, and an aging population.

Attempting to control drug prices as a potential solution is a political temptation, but shortsighted public policy. I suggest that we must be much more farsighted in our approach. Historically, drugs have reduced the cost of health care and illness by replacing less effective, more expensive therapies—prescription drugs save money as well as lives.

There are ways we can work to reduce the cost of medicines. It currently takes 12 years to get a drug approved by the Food and Drug Administration [FDA]. We could cut the average cost of developing a new drug, some $231 million, by streamlining the approval process to a situation similar to that of European nations. Additionally, strengthening intellectual property protection worldwide would go a long way in eliminating the $5 billion our pharmaceutical companies lose each year at the hands of foreign patent pirates. And, finally, to fight effectively, the bane of all industry in our nation—we must enact product liability reform legislation.

Mr. President, I hope my colleagues will step back and take a good, long look at what we are being asked to do today. Even if the price controls suggested by S. 2000 are considered by many to be the way to go in containing costs in this area, we should at least give the Finance Committee the chance to review this proposal and consider the competitiveness implications I have suggested.

Let's not chip away at the effectiveness of an industry topping Fortune magazine's list of key, competitive industries in our Nation without due consideration. I urge my colleagues to join me in opposing this amendment.

Mr. JOHNSTON. Mr. President, I share the Senator's concern for the precipitous rise in the cost of some drugs; however, I strongly object to this amendment because the proposed trust fund would be financed through reductions of the possessions tax credit, the so-called section 936 tax credit.

This amendment inappropriately links together two entirely separate policy problems which currently confront our Nation: the problem of skyrocketing drug costs, and the political and economic relationship between the United States and the millions of U.S. citizens who live in the territories, particularly in Puerto Rico. The second problem is one that I, as chairman of the Energy Committee, am very familiar with, but which the Senate rarely considers.

I object to this amendment because little consideration has been given to the impact it will have on the economy and politics of Puerto Rico. The possessions tax credit is the foundation, the very lifeblood, of the economy of Puerto Rico. It is irresponsible to consider this amendment before its impact on Puerto Rico's economy is analyzed.

The people of Puerto Rico are not responsible for skyrocketing drug prices, but they are the ones who will lose jobs if drug companies decide to curtail investment or relocate overseas. This amendment may be a rifle shot aimed at drug companies, but it is innocent workers in Puerto Rico who will be hit by the ricochet.

Mr. President, over the past 2 years, I have sat through numerous hearings and debates on legislation to provide the people of Puerto Rico with input into their relationship with the United States, and I have heard a lot of talk about colonialism and about how Congress does not consider the impact of its actions on our Nation's island possessions. This amendment is an example of such indifference. It's very easy to ignore this amendment's impact on Puerto Rico, and to have the island pay the cost of its implementation. After all, Puerto Rico has no representatives in this Chamber.

I believe this proposal should be the focus of hearings, not only in the Finance Committee to examine and consider its tax implications, but also in the Energy Committee, to examine and consider its implications for the economic and political relationship between the United States and Puerto Rico. For example, I doubt that any of my colleagues have considered that a vote for this amendment will be viewed in Puerto Rico as a vote for Puerto Rican statehood. The possessions tax credit is not consistent with statehood, so any effort to reduce the credit is often supported by the statehood interests. Is that an intention of this amendment, or just another of its unintended consequences?

Let me make it clear that I have no objection to reviewing the possessions tax credit. The credit should, like all programs, be regularly reviewed to assure that it is meeting its objectives. My objection is to changing the credit—a program of critical importance to our island possessions—in a floor amendment regarding an essentially unrelated topic. Why does this amendment target only those drug industry operations in Puerto Rico? What about drug operations stateside? Is it acceptable for drug companies outside of Puerto Rico to unfairly raise prices? What if a plant is in Ohio, or Mexico?

On March 2, 1992, the incoming Congressman from Puerto Rico, ANTONIO COLORADO, wrote to Senator PRYOR stating his support for the Senator's effort to control drug prices. However, he also expressed his concern regarding its impact on the island. He urged the Senator to modify the proposal so as to hold Puerto Rico harmless, and thus avoid the likely loss of jobs and the flight of pharmaceutical companies overseas.

> I am concerned that the mechanism utilized to penalize pharmaceutical companies for increasing prices of prescription drugs currently incorporated in S. 2000 would harm Puerto Rico's economy. Indeed, any sanction reducing the section 936 tax credit would create an incentive for pharmaceutical companies currently in Puerto Rico to relocate to other foreign jurisdictions, such as Singapore or Ireland, resulting in both a loss of jobs for U.S. citizens, loss of U.S. exports, and no curb on drug costs.

I would like to associate myself with the remarks of the Congressman, and I will ask that a copy of his letter be placed in the RECORD.

On March 9, the Governor of Puerto Rico also sent a letter to Senator PRYOR, as well as to Chairman BENTSEN, expressing his objection to this amendment because:

> *** it puts in jeopardy the presence of the pharmaceutical industry in Puerto Rico, one of the most important components of Puerto Rico's industrial sector that has proven to be crucial for the sustainment of the Commonwealth's economic development.

I will ask that the full text of the Governor's letter be made a part of the RECORD.

Mr. President, I urge my colleagues to oppose this amendment. We all are deeply concerned about skyrocketing drug prices. However, this amendment will have unknown, unconsidered, and I assume, unintended consequences on the economy and people of Puerto Rico. It should not be enacted with these flaws.

I ask that the material to which I earlier referred be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE SECRETARY OF STATE,
San Juan, PR, March 2, 1992.

Hon. DAVID PRYOR,
Committee on Finance, Washington, DC.

DEAR SENATOR PRYOR: The Prescription Drug Cost Containment Act of 1991 (S. 2000) which you introduced last year addresses a serious and escalating social problem in America: the rising cost of prescription drugs. Puerto Rico shares your concern over the cost of prescription drugs for U.S. citizens. Indeed, this issue is perhaps even more acute for U.S. citizens residing in Puerto Rico because of the absence of full Medicare and Medicaid benefits, and an unemployment rate of 17 percent and a per capita income of one-third of Mainland residents. Accordingly, I strongly support the Act's provisions that would establish a Prescription Drug Policy Review Commission to monitor and review the activities of the pharmaceutical industry. I believe that a thorough study of the pricing policies of the pharmaceutical industry is desirable, and that Congress should consider whatever legislative recommendations emanate from that study.

As we discussed at our meeting last Friday, it may well be that there are more effective ways of attacking the rising costs of ethical drugs than through the Internal Revenue Code. If the solution is to use the tax laws to deter behavior of the pharmaceutical companies which is deemed undesirable for the general welfare of the United States, however, I believe a more neutral tax mechanism could be devised than that contained in S. 2000.

I am concerned that the mechanism utilized to penalize pharmaceutical companies for increasing prices of prescription drugs currently incorporated in S. 2000 would harm Puerto Rico's economy. Indeed, any sanction reducing the section 936 tax credit would create an incentive for pharmaceutical companies currently in Puerto Rico to relocate to other foreign jurisdictions, such as Singapore or Ireland, resulting in both a loss of jobs for U.S. citizens, loss of U.S. exports and no curb on drug costs.

Instead, perhaps a broad-based sanction, such as a tax imposed on profits earned with respect to drugs whose prices have escalated, could be more effectively used to address the rising cost of drug prices without harming Puerto Rico. I urge that such a sanction be examined to address the goals that we mutually seek.

I look forward to working with you to achieve the goals of your legislation.

Sincerely,

ANTONIO J. COLORADO.

OFFICE OF THE GOVERNOR,
San Juan, PR, March 9, 1992.

Hon. DAVID PRYOR,
U.S. Senate, Washington, DC

DEAR SENATOR PRYOR: On March 2, Congressman Antonio J. Colorado, then our Secretary of State, wrote to you to express his views on S. 2000, the "Prescription Drug Cost Containment Act of 1991." As Governor of the Commonwealth of Puerto Rico, I would like to state clearly our Government's position on that bill.

As Congressman Colorado indicated, the U.S. citizens of Puerto Rico share your concern about the rising costs of health care. As you know, we have very limited participation in the Medicaid program and receive lower reimbursement rates under the Medicare program. Furthermore, our percapita income is half of that of the poorest state of the Union while medical costs follow closely that of the States. Our need for affordable health care is therefore of primary concern to all Puerto Rican citizens.

Nevertheless, we strongly object to the intrusive approach embodied in S. 2000. In an effort to control the price of drugs, S. 2000 puts in jeopardy the presence of the pharmaceutical industry in Puerto Rico, one of the most important components of Puerto Rico's industrial sector that has proven to be crucial for the sustainment of the Commonwealth's economic development.

Over the past 40 years, Section 936 has been the backbone of the Island's remarkable economic development. In spite of the growth accomplished, Puerto Rico continues to lag substantially behind the mainland, suffering from a current unemployment rate of more than 17 percent. Using the 936 economic development program as a device to control one segment of the rising cost of health care would lead to the relocation of manufacturing operations abroad, from where they would not be penalized. The end result will be the further loss of jobs of U.S. citizens.

The pharmaceutical industry has made a special contribution to Puerto Rico's human and economic development. Not only has the industry invested heavily in plant and equipment, but is has employed, trained and promoted to the highest ranks of management over 20,000 of our citizens. The industry has played a significant role in the consolidation of a stable middle-class in Puerto Rico, providing its employees with the highest wage and benefit compensation available in our manufacturing community. Likewise, this industry has stimulated the growth of our locally-owned businesses, by leading the way in purchases of goods and services from local suppliers, with a high multiplier effect on additional jobs all over the Island.

Puerto Rico has not been the only beneficiary of the Section 936 relationship with the pharmaceutical industry; the U.S. mainland has benefited as well. The pharmaceutical industry is currently responsible for the largest share of Puerto Rico's exports outside the mainland, making an important contribution to the United States' balance of payments. In addition, revenues that are repatriated to the U.S. have enhanced the research and development capabilities and thus the international competitiveness of U.S. pharmaceuticals.

We believe that S. 2000 wrongly penalizes Puerto Rico's crucial development program in an attempt to artificially control market forces through the Internal Revenue Code. It is our belief that, rather than instituting a penalty mechanism over one segment of the health industry, any policy option should address the root causes of the overall health care system.

Cordially,

RAFAEL HERNANDEZ COLÓN.

Mr. SIMON. Mr. President, I want to be sure the pharmaceutical industry in the United States continues to lead the world in the development of new and needed drug products. We have a great stake in making sure this sector of our economy remains innovative and competitive. There are new drug therapies in development that can improve our lives in dramatic ways: Treatments for AIDS, cancer, Alzheimer's disease, arthritis, and terminal and chronic diseases. I do not want to slow the progress being made on these breakthrough treatments. I do not believe this amendment will affect that progress.

If we look objectively at the profits of the drug industry today and then at the amounts of taxpayer subsidized credits we are providing through the section 936 provision, the picture is amazing. We have one of the most profitable industries in the United States getting one of the largest industry specific subsidies we provide through our tax system. And when we see that the same products marketed in the United States at one price are sold in other countries at much reduced prices, it looks as if the U.S. taxpayer and consumer is paying a premium not just for the support of research on new drugs but to subsidize lower drug prices in nations that control their prices of drugs.

It is important to note about this amendment that it does not remove entirely the tax credit incentive to create jobs in Puerto Rico. This approach may not be the most efficient way to address the overall drug price problem, but it is a way to use a carrot-and-stick approach to bring down some of the costs of prescription drugs.

A few minutes ago I had a call to my office from one of my constituents who has to take a prescription drug on a regular basis. To take the dosage his doctor has prescribed would cost $150 a month, an amount this man cannot afford. He is taking just half the prescribed dosage and has not been willing to admit to his doctor that he can't afford to take the full amount. It is good that lifesaving and life-extending drugs are available. But if you cannot afford the drug, it is not going to benefit you. If you have to make choices between the drugs you need and an adequate diet, or heat or electricity, the drug may not be of much help to you. We have an increasing inequity in access to drugs and a growing burden on low-income, uninsured, and elderly Americans. We need to address this problem.

In reality, although this amendment may help, we need more than this amendment. We need comprehensive reform that includes across-the-board cost controls for all parts of the health care system.

It appears this amendment is not going to be approved, but voting for it is a way to send a couple of messages to the pharmaceutical industry. First, as some leaders in the industry are becoming now—and I'm pleased to note that some of those leaders such as Searle are Illinois-based—the industry as a whole needs to be much more responsive to the concern about drug prices. They should no longer assume they can indefinitely raise prices without limits. Second, I want to signal by my vote for this amendment that the pharmaceutical industry and other recipients of the section 936 tax credit should not stand in the way of plebiscite in Puerto Rico on statehood.

Mr. President, some who oppose this amendment have mentioned the impact a reduction of section 936 tax benefits would have on the people of Puerto Rico. I do not want to see the people of Puerto Rico used as a pawn in this debate. I do not mean to indicate this is being done by any of my colleagues. But whenever we talk about statehood for Puerto Rico, it is the same section 936 companies that say that first-class citizenship for Puerto Ricans living on the island is not in their best interests.

When we had legislation in this Congress and the previous Congress to authorize a plebiscite for Puerto Ricans living on the island, so they could have a say on their status, it was the section 936 companies, including those in the pharmaceutical industry, that hampered our efforts.

In a perhaps subtle way, they made clear to those active on the plebiscite issue that statehood would mean the end of section 936. Both here and on the island, they tried to hold jobs for Puerto Ricans virtually hostage—leaving Puerto Ricans with the choice of livelihood or citizenship. No Americans should be forced to make that choice. I am not at all convinced that the section 936 companies have anything but their own interests, and not the interests of the people of Puerto Rico, at heart.

I will vote for my colleague's amendment in the hope that it will move us in the right direction on both drug pricing and the ability of the people of Puerto Rico to decide their future.

Mr. WOFFORD. Mr. President, I want to make a short comment on Senator PRYOR's amendment to the tax bill pending before the Senate. I am voting for this amendment, knowing that it is very unlikely to pass the Senate and despite the fact that I believe it is an imperfect, even flawed measure.

I cast this vote today in the hope it will serve as a warning to our pharmaceutical companies. It warns those companies that they cannot continue to raise their prices out of proportion to the growth in the economy and in a way that fuels the increase in health care costs. The sizable vote in favor of this amendment should encourage drug companies to think again and to act anew with respect to their pricing practices.

At the same time, I must point out some of the serious concerns I have about this amendment. The measure singles out certain drug companies that have legitimately availed themselves of a Federal incentive program to assist the development of Puerto Rico. It leaves out drug companies that have not invested in Puerto Rico and that should not be left out of a prescription drug cost-control effort.

Controlling the cost of prescription drugs must be a part of comprehensive reform of our health care system. But when we act to control the rise in the cost of drugs, we must do so fairly and equitably, and I hope without setting back the progress of Puerto Rico.

I am also concerned that it would be easy to avoid the effects of this amendment. The formula imposed would apply to companies that take advantage of the section 936 incentive program. I am concerned that after companies have recouped their investments in the Commonwealth, they would seek out new areas to locate, and then to raise their prices once again. Then consumers would not be helped and Puerto Rico would be hurt.

I hope that when we turn to the hard work of comprehensive health care reform, we will design real cost-control mechanisms that contain all health care costs, including the costs of prescription drugs. I urge my colleagues to hasten the day when we begin this work.

Mr. LIEBERMAN. Mr. President, I rise today to oppose the Senator from Arkansas's amendment. I do this after careful thought and consideration, since there is no one that I respect more than my colleague from Arkansas. In fact, I want to take a moment to applaud his efforts to get the health industry to be more responsive to consumer concerns, particularly those of the poor and elderly, about rising costs.

But I want to note that a number of pharmaceutical firms have indicated that they will voluntarily limit price increases on prescription drugs. The Omnibus Budget Recovery Act of 1990 already requires companies to provide rebates to State Medicaid programs, reducing the cost of pharmaceutical products for many low-income Americans. This will save Medicaid an estimated $580 million this year.

Senator PRYOR has made important efforts to make the health industry more responsive to rising costs, and without him some of these initiatives may not have come to pass. Although I applaud his hard work, I cannot support this amendment. I have three primary reasons for reaching this decision: Much of what the Pryor amendment is intended to achieve could be achieved through other means; this is not an effective way to control health care costs; and this industry is key to our national competitiveness.

As I mentioned, the pharmaceutical industry has already begun to respond to cost escalation and its effect on the consumer. As long as the industry is willing to work with Congress and the consumer, then it would be counterproductive to impose controls that could otherwise damage a highly competitive American industry.

Just as important, singling out the pharmaceutical industry is not the best way to contain rising health care costs. Whatever program we finally implement to deal with our Nation's health care cost dilemma must be comprehensive, not industry specific. We have a set of closely interrelated causes interacting here, and proceeding piecemeal will not solve this problem.

In fact, the actual cost of prescription drugs has risen at a slower pace than other health care costs. Since 1965, the share of U.S. gross national product consumed by health care has doubled from 6 to 12 percent. During that same period, the amount of money spent on drugs as a percentage of GNP has remained constant at 1 percent. And drug costs have actually declined from 8 percent of total health care costs to 5 percent over the same period.

It is also useful to note that pharmaceutical firms, to a much greater extent than much of U.S. industry, pour their profits back into advanced research. This is not money lost to the consumer—new drugs often ultimately help to contain costs. For example, if a new drug is found to cure AIDS, then not only will there be a considerable benefit to humanity, we also stand to save millions, perhaps billions, in health care costs. Prevention is a critical effort we must expand to contain health care costs, and new drug products are a key to effective prevention, as well as treatment. It does not make sense to inhibit this productive research.

The Canadian-style commission established by the amendment would be a first step in the implementation of price controls. Under this system, Canadian firms have produced a paltry number of new drugs in comparison to their United States counterparts. That is because there is no incentive to undertake the expense of developing a new pharmaceutical product. It costs approximately $231 million to bring a product to the U.S. market, and only 1 in 5,000 products can be marketed commercially.

Perhaps the most compelling reason to oppose this amendment is that by doing so, we would be undermining one of the most competitive American industries. A recent article in Fortune magazine, rating 13 key American industries on their international competitiveness put pharmaceuticals at the top. This is an American industry that competes favorably against firms from all over the world, where the key research in the field is actually taking place in the United States, and where new jobs are being created. Before we move to impose price controls on this industry and threaten those jobs we should much more carefully examine whether we will be inadvertently harming its innovation and competitiveness.

The pharmaceutical industry employs over 10,000 people in my State, and these are high-paying, high-skill jobs. One company—Pfizer—is even expanding in Groton, a city which is being devastated by defense cuts. It is not in our best interest to hurt an industry that is creating new jobs and economic growth at a time when States like mine are going through the most difficult economic times since the depression.

One fact is not in dispute: The American pharmaceutical industry is one of our most competitive. We can no longer say that about our electronics industry, our auto industry, our computer industry. We can't afford to risk undermining one of the stars of American industry.

Mr. President, the world has changed dramatically in the last 10 years. We are entering a new era of intensifying global competition. Would our competitors try to restrict one of their most competitive industries through additional regulation and control? Of course not. Yet that is what we are being asked to do with this amendment and why we should reject it.

Mr. WALLOP. Mr. President, I rise to oppose strongly the amendment by the Senator from Arkansas. This amendment is not about whether any Senator supports lower prescription drug prices or not. Rather it is a back-ended effort to impose across-the-board price controls on the pharmaceuticals industry at the expense of job-producing, revenue-producing operations in Puerto Rico.

The Finance Committee, on which I have served, reexamines section 936 almost every time they consider changes in the Tax Code, entertaining all sorts of requests to tamper with or refigure this section in some fashion. But the Finance Committee has been extraordinarily careful to make changes so as to avoid a massive ripple effect throughout Puerto Rico.

CBO's calculation of the effects of this tax change demonstrates their inability to track the economic ripple effect of tax policy. Human beings and the companies they run are not automatons; they respond to changes in tax policy. This legislation introduces such great risks into the maintenance of section 936 status for pharmaceutical companies that many will be inclined to simply move their operations elsewhere, to places like Ireland or Singapore.

Revenues from section 936 operations in Puerto Rico finance public works projects—roads, schools, and other infrastructure. Moreover, section 936 has created 115,000 direct jobs in the possessions affiliates of mainland corporations. An additional 200,000 indirect jobs have been created by the presence of 936 corporations. These are highly compensated, sought after jobs for the U.S. citizens of Puerto Rico who, if unemployed, would be eligible for Federal social welfare benefits.

Pharmaceutical companies, the target of this legislation, directly employ nearly 20,000 workers in their Puerto Rico operations and indirectly generate an estimated 80,000 jobs in other sectors of Puerto Rico's economy. Changes in a company's section 936 status would put these good jobs at risk, increasing Puerto Rico's already high unemployment rate of 16 percent. This increased unemployment in Puerto Rico would almost certainly offset whatever positive results this legislation claims to affect.

Finally, this amendment would require that the Federal Government regulate the prices of prescription drugs. In the past, similar attempts at price regulation by the Government have been dismal failures. It goes without saying that any changes in this law should be made after careful consideration and analysis by the Finance Committee, and after hearings have been held, and not in a whimsical fashion on the floor of the Senate.

Mr. SANFORD. Mr. President, I commend the chairman of the Senate Finance Committee, Senator LLOYD BENTSEN, for his leadership in bringing together a tax reform package designed to promote economic recovery. This bill represents a balanced approach—which is fully paid for—to give needed incentive for both short-term and long-term growth.

There is a temptation to add a great many amendments to this package, and the first call indicated there might be as many as 75. Obviously, if we are going to get this job done, this urgent necessity for renewing the economy, we need to focus on the task before us, and must lay aside all other desirable legislative goals that we might be tempted to promote along with this effort. This is too important a goal to be clouded by other matters. The bill must pass in a clear-cut form that the President can sign or clearly reject, based on reasons relating to the economy, not to some peripheral amendment.

Accordingly, I assured the leadership that I will oppose amendments that do not strengthen the economy.

In the same vein, I must vote against Senator PRYOR's amendment to attach his drug price bill to the economic revival bill.

Certainly, I am in favor of bringing down the cost of medical care, including the cost of drugs. Unfortunately, Senator PRYOR's bill may not accomplish this. At best, it freezes prices at present levels, plus cost of living. At worst, it could increase the price of newly developed drugs. According to statistics put together in support of the Pryor bill, the prices for drugs in the United States are far too high compared to similar prices of the same companies in foreign markets. However, I think we need to address this issue in the context of international trade agreements and patent protection efforts, not in the isolated context of this amendment. Furthermore, the Pryor amendment does not cover all of the drug companies, but only those who are doing some of their manufacturing in Puerto Rico. This seems to me to be an inadequate way to get at the real problem of pharmaceutical costs.

I intend to work diligently to find ways to contain all of the costs of medicine, including prescription drugs. Certainly this burden is tremendous, but it strikes me that we should not confuse this important issue right now, with our need to do something about economic recovery, and when we address the problem of high drug prices we ought to do it in a more comprehensive and effective manner, one that looks at other aspects of health care as well.

I would like to commend Senator PRYOR for his intentions, but I do not believe that it is appropriate for this piece of legislation to pass at this time in this form.

I think Senator PRYOR has made a very valuable contribution in bringing attention to the issue of drug costs. Already a number of pharmaceutical firms have voluntarily pledged to conform, to hold price increases to increases in the consumer price index. For that, these firms are to be commended and the others should be encouraged to do likewise. In thanking Senator PRYOR for his efforts, I would also like to pledge to him my willingness to work with him to bring about some needed changes to this bill to make it more comprehensive and more workable.

Mr. BAUCUS. Mr. President, I am pleased to rise today to address this important amendment on prescription drug prices. Senator PRYOR, the distinguished chairman of the Aging Committee, has worked on this issue for months, if not years.

It is a tough problem he is tackling. Prescription drugs are expensive—but they are also worth their weight in gold. For people who depend on medicine to treat or control medical conditions, prescription drugs are a matter of life and death. But the price is awfully high.

Hardworking Americans, as well as senior citizens, are having a harder and harder time buying their prescriptions. The prescription drug inflation rate rose 152 percent in the 1980's, compared to the general inflation rate of 58 percent. As the price goes up on the order of 10 percent a year, and CPI increases less than 3 percent, consumers have less buying power.

But people need those medicines, so they pay the price. And they just have to make sacrifices elsewhere.

The problem is even more acute, in that American consumers are subsidizing the drug industry for consumers in other countries. The average American pays 62 percent more for the prescription drugs than the average Canadian citizen, and 54 percent more than the average European citizen.

Mr. President, there is no single, simple solution to the prescription drug dilemma. For one thing, the U.S. drug manufacturing industry is one of our most competitive industries in the world market. Developing new drugs is a long, expensive, labor-intensive process. We cannot expect miracles. We cannot expect lifesaving medicines to be cheap.

But on the other hand, the profits of drug manufacturers have been the highest of any U.S. industry, according to several indicators. The drug industry's annual 15.5 percent profit margin is more than three times as high as the 4.6 percent margin of the average Fortune 500 company.

I would hate to tell you how that compares with the profit margin of the average Montana company.

And the problem is made more complicated by the fact that the industry benefits from a very substantial Federal tax break. That tax break is known as section 936 of the Internal Revenue Code. Section 936 provides an income tax exemption for business income earned in Puerto Rico and other U.S. territories. Many prescription drugs are manufactured in Puerto Rico. The stated purpose of section 936 is to promote jobs and investment in these possessions. That is a valuable goal.

But it appears that drug manufacturers have benefited beyond the intent of the provision—and at the expense of U.S. consumers. The drug manufacturing industry receives about $2 billion a year in section 936 tax credits. They also receive other tax breaks, including the research and development tax credit, which I strongly support.

But the result of these special tax treatments is that the drug industry's tax burden is proportionately lower than that of the average U.S. industry. While the drug industry is making these huge profits and benefiting from a Federal subsidy, the people who buy their products are paying the price.

The drug manufacturing industry should not continue to make extraordinary profits at the expense of the consumer—and still reap huge profits from taxpayer-supported subsidies. This legislation tells the drug manufacturing industry that unless they keep their drug prices down, they will lose part of the special tax break that benefits them.

Mr. President, I support the intent behind this legislation: keep prescription drug prices under control. In fact, this is the only legislation I know of that makes a genuine effort to address the problem. And I agree that taxpayer-supported subsidies are not, and should not be, a blank check. If drug manufacturers want to continue to receive special tax treatment, they should be fair to the American public.

I again commend Senator PRYOR for his dedication to this issue. He has been tireless in his efforts.

I have long supported Senator PRYOR'S efforts on prescription drugs. I will continue to do that. I am a cosponsor of S. 2000. I also believe we should explore this issue further, and continue to explore other solutions.

But the circumstances we are operating under today are difficult.

In the interest of passing a bill quickly and getting it to the President by the March 20 deadline, the Finance Committee chairman has asked for a tax bill that is free of amendments. As a member of the Finance Committee, I regret that I must make a choice between an amendment I would be inclined to support, and honoring the chairman's request to complete the tax legislation before us.

I will honor the chairman's request and vote to table this amendment.

But that is no reflection of my views on the substance of this issue. I will be happy to help Senator PRYOR advance this issue and address the problem of prescription drug costs in a serious and thoughtful way.

Mr. GRAHAM. Mr. President, today, the Senate is considering a Pryor prescription drug amendment.

I respect Senator PRYOR'S intentions—his bill attempts to lower the spiraling costs of health care. Indeed, prescription drug prices, like most health care products and services, have outpaced the rate of increase of general inflation.

The rising cost of prescription drugs affects all Americans, including the 16-million Americans over age 65 without prescription drug insurance. Indeed prescription drugs account for the highest out-of-pocket medical costs for three out of four elderly. In Florida, with 2.3 million Medicare beneficiaries, this problem is especially prominent. For this reason, I especially applaud Senator PRYOR'S efforts to review Medicare coverage of prescription drugs.

But, to limit the costs of prescription drugs in isolation is not the answer. To reform one part of the health care system, and one which has competed worldwide as the Nation's premier high-technology industry, begs the question. Cost is the major inhibiter for access to health care for all Americans. For this reason, we must deal with the issue of cost comprehensively and uniformly.

Another concern of mine is the importance of section 936 to the economic development of Puerto Rico and qualified Caribbean Basin countries. The amendment could sharply reduce the amount of 936 funds available for development oriented private sector projects in the Caribbean Basin. As of December 1991, $800 million in section 936 funds had been approved by Puerto Rico for investment in the Caribbean Basin, creating an estimated 21,500 new private sector jobs in qualified CBI countries.

Florida's proximity to the Caribbean Basin nations and Puerto Rico creates a special interest in economic development for these nations. Unemployment could result in increased immigration to Florida. It also could harm countries which serve as important markets for U.S. products.

Mr. President, if the issue here is the section 936 tax credit—its original intent and its experience—then we should evaluate the tax credit in its entirety. It would be unfair to prematurely inhibit pharmaceutical industry access to the tax credit, especially when many other manufacturers utilize it.

In closing, while I commend Senator PRYOR for his repeated attention to rising health care costs, I can not support his approach today. I look forward to consideration of comprehensive reform efforts which will contain the costs of all health care services and products.

Mr. MACK. Mr. President, I oppose the prescription drug cost containment amendment which has been offered by Senator PRYOR.

Mr. President, while this amendment may be well-intentioned, Senator PRYOR is pointing his finger in the wrong direction. As a result, I believe this amendment will harm the very persons it is designed to help.

Pivate pharmaceutical companies spend almost $11 billion per year on research—research which has provided hope and cures for many people with debilitating and life-threatening diseases. The price controls set forth in this amendment will cause a reduction in industry investment in pharmaceutical research and development. This will result in the introduction of fewer new medicines for patients.

Mr. President, to give but one example of the pharmaceutical industries' impact on our lives, I would like to cite the research currently being done to help those who have cancer. In addition to the importance of detecting cancer at an early stage through cancer screening procedures, pharmaceutical companies are continuing to invest substantial funds in researching and developing drugs to save the lives of those currently fighting the cancer battle. Mr. President, I want no part of any legislation which would delay or deny new medicines for patients waiting for cures and effective treatment.

Mr. President, the pharmaceutical industry is one of America's few competitive businesses in worldwide product development and financial stability. In fact, pharmaceutical companies are one of the few U.S. industries with a positive trade balance. I was particularly struck by the statement contained within a September 1991 U.S. International Trade Commission report submitted to the Senate Finance Committee, concerning the global competitiveness of the pharmaceutical industry.

> Of the top 20 firms in the global industry in 1990, nine were based in the United States. One reason for the U.S. industry's strong position in the world market is its level of innovation, which, in turn, is based on a number of factors including the domestic industry's continuing commitment to high R&D expenditures; * * * and, perhaps most important, the "relatively unencumbered" U.S. economy, in that it has not to date implemented price controls on pharmaceuticals. * * *

Supporters of this amendment characterize it as a carrot-on-a-stick incentive to encourage pharmaceutical manufacturers to reduce their prices. I believe this amendment can be better characterized as a loaded shotgun sticking down a rabbit's hole, ready to fire. By limiting section 936 credits for drug makers, as this amendment proposes, the cash-flow available to invest in research and development would be significantly reduced. This will only hurt U.S. firms.

As the U.S. International Trade Commission stated in its report, one of the reasons for America's preeminence in the pharmaceutical field is its commitment to research and development. Removing the incentives for continuing this high level of commitment to research and development could prove to be fatal to American drug manufacturers. It would be like declaring open season on one of America's few remaining worldwide competitive industries.

Mr. President, I am certainly concerned over the high cost of health care and the impact of this cost, including prescription drugs, on consumers' budgets. However, the statistics show that, even in the face of spiraling health care costs, the percentage of GNP spent on prescription drugs has remained constant over the past 25 years. In fact, since 1965, the percentage of the health care dollar attributable to pharmaceutical drugs fell from about 9 to 6 percent. This amendment fails to address the real problem with health care costs.

Mr. President, instead of imposing price controls on the pharmaceutical industry, and causing a decrease in the amount of research and development, we should be encouraging companies to continue to develop new and more advanced medicines. Only by allowing free market principles to operate can we preserve the preeminence of America's pharmaceutical companies and ensure that Americans receive the best and most advanced medications in the world.

Mr. MCCONNELL. Mr. President, I rise today to express my views on Senator PRYOR'S measure to contain the cost of prescription drugs. While I appreciate the Senator from Arkansas' effort, I cannot support price fixing. I believe that if such price caps are implemented, the health industry will suffer.

I would like to commend Senator HATCH for his efforts in bringing to light the true benefits that pharmaceutical companies provide. Senator HATCH has repeatedly shown that the biotechnology and pharmaceutical industries are some of the strongest and most productive in the Nation. The pharmaceutical industry has produced a number of incredible medical advances that have had an effect on all Americans. This is not by luck, Mr. President. It takes years and years of painstaking research to produce a single prescription drug. Finding cures for the diseases that afflict us is often like finding a needle in a haystack. I do not believe that imposing price controls on pharmaceutical corporations is the solution to our health care crisis. I believe that price regulation is a placebo.

Since we are debating an amendment on economic recovery, I would like to mention how this amendment might affect the economy. This tax credit was originally provided to encourage economic development in Puerto Rico. The tax credit has provided 100,000 Puerto Rican jobs in this United States territory.

Puerto Rico is the 10th largest importer of United States goods, injecting $2.1 billion into the United States economy. We have a good relationship with our Caribbean neighbor. This legislation could jeopardize our economic relationship by creating uncertainty for American companies operating in Puerto Rico. Puerto Rico presently suffers from an unemployment rate of 15.8 percent. An increase in the unemployment rate will substantially increase claims on unemployment benefits, AFDC, and Medicare. Further uncertainty and economic decline would wreak havoc on this island nation that is dependent on U.S. investment. It is important that we carefully consider the implications this legislation will have on the people and economy of Puerto Rico and the United States.

I believe that the cost of prescription drugs and health care is a concern of every Senator. This legislation, however, will not effectively lower the cost of medication or ensure that future health needs will be cared for. I urge my colleagues to oppose this amendment.

Mr. BENTSEN. Mr. President, I move to table the pending amendment. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. There being no further debate, the question is on agreeing to the motion to lay on the table the amendment of the Senator from Arkansas. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Iowa [Mr. HARKIN] and the Senator from Hawaii [Mr. INOUYE] are necessarily absent.

I also announce that the Senator from Michigan [Mr. RIEGLE] is absent because of illness in family.

The PRESIDING OFFICER (Mr. WELLSTONE). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 61, nays 36, as follows:

[Rollcall Vote No. 38 Leg.]

YEAS—61

Baucus
Bentsen
Biden
Bond
Bradley
Breaux
Brown
Burns
Chafee
Coats
Cochran
Craig
Cranston
D'Amato
Danforth
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Garn
Gorton
Graham
Gramm
Grassley
Hatch
Hatfield
Heflin
Helms
Jeffords
Johnston
Kassebaum
Kasten
Kerrey
Lautenberg
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mitchell
Moynihan
Murkowski
Nickles
Packwood
Pressler
Robb
Roth
Rudman
Sanford
Seymour
Shelby
Simpson
Smith
Stevens
Symms
Thurmond
Wallop
Warner

NAYS—36

Adams
Akaka
Bingaman
Boren
Bryan
Bumpers
Burdick
Byrd
Cohen
Conrad
Daschle
DeConcini
Dixon
Fowler
Glenn
Gore
Hollings
Kennedy
Kerry
Kohl
Leahy
Levin
Metzenbaum
Mikulski
Nunn
Pell
Pryor
Reid
Rockefeller
Sarbanes
Sasser
Simon
Specter
Wellstone
Wirth
Wofford

NOT VOTING—3

Harkin
Inouye
Riegle

So the motion to lay on the table the amendment (No. 1708) was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, parliamentary inquiry. Am I correct in my understanding that under the previous order, Senator DOLE is now to be recognized to offer an amendment?

The PRESIDING OFFICER. The majority leader is correct.

Mr. MITCHELL. Mr. President, I understand Senator DOLE will be shortly ready to offer his amendment and I, therefore, suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll. The assistant bill clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senator from Iowa be recognized to address the Senate for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

SCHEDULE

Mr. SARBANES. Will the majority leader yield for a question as to what the program will be after the Dole amendment; what will be the balance of the evening?

Mr. MITCHELL. Mr. President, I will be pleased to respond.

I previously announced on several occasions here on the floor that we would be in session late this evening, and late tomorrow evening, and, if necessary, late Friday evening. We are going to stay here until we finish this bill this week.

We have just taken 10 hours and 15 minutes on the first amendment. At that rate, it is going to be the longest week in Senate history. But I hope and expect the pace will quicken.

I am not able to make any prediction as to developments later this evening other than to say Senators should be prepared, as I indicated several times previously, for a long session. I hope, however, to make good progress.

I intend no criticism of anyone in connection with the length of time on the previous amendment. It is an important amendment. Many Senators wanted to speak; many Senators did speak. But I hope that each subsequent amendment will not take as long.

Mr. BENTSEN. Mr. President, if the leader will yield for a comment, let me state that considering the time it has taken on this one, and thinking about the President's deadline, which we are trying very much to meet, and further realizing there are substantial differences between the House and the Senate version, which is going to take some time to try to reconcile, and then it must come back for the conference report, I strongly urge that the majority leader resist the offering of amendments.

If we can cut the debate down to where we can finish this thing by Thursday night, which at the pace we are going, we obviously cannot do—it will take some self-discipline on the part of some Members. I know that is not easy.

Mr. MITCHELL. I thank my colleagues. I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa [Mr. GRASSLEY] is recognized.

Mr. GRASSLEY. Mr. President, I want to address the issue of the bill, not a specific amendment.

Although I have very strong reservations about some of the provisions of the Democratic tax bill before us, I want to begin on an encouraging note by pointing out some of the positive provisions in the bill.

As a member of the Finance Committee, it is very encouraging to me that some proposals that I have been working on for a very long time were included in the committee markup. Since 1987, I have been introducing legislation to restore the interest deduction on student loans. The termination of this deduction was a very unfortunate result of that 1986 Tax Act. Finally, this year, along with Senator BOREN, I introduced S. 2160, that would allow either a credit or deduction for interest paid on educational loans.

So I am very encouraged, and I am also very happy that the committee agreed to include this proeducation, progrowth legislation in this bill.

In addition, long ago I introduced the initiatives for middle-income tax cuts, as well as the extension of the first-time farmer bonds. I have also been working with Senator PRYOR, pushing for a second taxpayer bill of rights. These are all very positive additions that have been included in this bill.

However, the problem that we are facing today is whether or not we are going to agree to a major tax increase. We should have learned that the great tax increase of 1990 at the very least exacerbated the recession. Some think it was a contributing factor.

Mr. President, after voting against the 1990 tax bill, I made the following observation. I would like to quote from those remarks:

> With the American economy on the verge of possible recession, new taxes are not the way to go. * * * Congress has failed in its constitutional duty to make Government work for the people of this country. We're trying to do in the 3 months before an election what should have been done in the entire 9 months before. We abandoned our responsibility for the sake of a budget summit because we thought there would be "political cover" in doing so. Well, what we have created is not political cover, but political crisis.

I think to some extent my remarks of 1990 have come to be true, at least as far as this recession is concerned.

Obviously, time has proven my observation back in 1990 was on point. It is unfortunate that President Bush only recently realized that the 1990 Budget Act was a mistake and has had devastating consequences. Increasing taxes now will only further the economic downturn that materialized after the disastrous 1990 tax increase.

Some might say that is what certain politicians want in order to make a political gain in November. If that is the case, then it is a sad commentary on this body, as well as on Congress as a whole.

The majority has argued that only the upper-income taxpayers will see increased taxes. What about the repeal of the young child tax credit that is in this bill? Just a few years ago, Congress determined that low-income families with a child under 1 year old needed an additional tax credit. This bill repeals that credit, thereby increasing taxes on low-income families that now qualify for the credit. This is bad family policy and I think, also, bad tax policy.

Beyond this, I would like to know just how many more taxes have to be raised to satisfy the appetite of Congress to spend. Many of those who agreed to the 1990 budget deal did so thinking that it would put a lid on further tax increases. I am certainly glad that I did not fall for that hoax, but there are others who did and now regret their actions, and I think the President is one of them.

So, Mr. President, many of the provisions in the legislation before us could easily be put together in a consensus package that would be good for the country. The people of this country expect us to put politics aside and exercise our constitutional duty to lead this Nation out of the crisis that we are now facing. It is time that political leaders stop trying to divide our Nation along class lines, and start helping unite our people for a better and stronger America.

Mr. EXON. Mr. President, I will only take a few moments of the Senate's time. I will not interfere with the upcoming business of the amendment to be offered by the minority leader.

Mr. President, I wish to make a statement at this time as to this Senator's position with regard to the matter before us. The last vote that we had in this body, the amendment sponsored by my friend and colleague from Arkansas with regard to prescription drugs, is something that I am a cosponsor of and I support the efforts and have supported the good efforts by the Senator from Arkansas. I voted against that amendment by voting for the tabling motion, not because the measure did not have merit, but because I have been pleading for a long time to recognize that the President of the United States, in his State of the Union Address, challenged the Congress to come up with a solution to the problems that face this Nation by March 20. I appealed in the Democratic caucus for the elimination of all amendments, regardless of how good they were, because I happen to believe that this is a very important piece of legislation that we are working on. It is not a perfect piece of legislation, in my view, as it came out of the Finance Committee, but it is a well-balanced proposal that has most of the initiatives that the President outlined in his State of the Union Address to us. I think, basically, it is a well-crafted, a well-thought-out proposal, and I believe that we have the obligation to heed the President's call to present him a package by the 20th of March. If we continue to offer amendments, regardless of how good they are, that date is not going to be reached.

Therefore, Mr. President, regardless of the merits of the amendments that will be offered to the Finance Committee's bill, I am going to vote to table, or against every amendment that is offered from either side. I happen to feel that that is the only way we are going to get this body moving as the leadership is trying to get it to move.

I appreciate the fact that the minority leader is about to offer a very important amendment from that side of the aisle and have agreed to a time agreement on it. I think that is a step in the right direction. Let us have our debates and hold down the number of amendments that are offered, but then, after a debate, let us vote up or down and move this body ahead to come up with something, as the President challenged us to do, by March 20.

I yield the floor.

THE ELECTION ECONOMY

Mr. HATFIELD. Mr. President, today we will begin consideration of amendments to the tax bill, H.R. 4210. As you are aware, there are 9 days left until the target date proposed by President Bush for passing an economic growth bill. He has offered the essential leadership that this country needs. Now it is time for us to act. I believe, however, that we may have set upon a course which places in jeopardy our opportunity to aid this economy. While disagreement is an essential component in our system of government, the health of our Nation's economy is too critical to be held hostage to political posturing this year.

The bill reported out of the Committee on Finance by a straight party-line vote is, like its counterpart in the other body, not legislation that the President will sign. Those responsible for creating this bill know full well that the President will not sign it into law because it contains immense tax increases at a time when our country needs investment incentives, not stifling disincentives and additional burdens.

Mr. President, spending our time attempting to lure a veto is posturing, and I think it is a shame. It is unfortunate not only because of the cynicism it represents, but also because there are many provisions in this bill that I would like to see passed. There are educational incentives, health care incentives for small businesses, and extensions of important housing programs such as the low-income housing credit and mortgage revenue bonds. There is also the needed repeal of most luxury taxes, a welcome admission that in some cases our attempts to raise revenue do more harm than good by starving businesses and putting laborers out of work.

Of particular interest to me, Mr. President, is the inclusion in this growth package of key pieces of S. 1790, the High Skills Competitive Work Force Act, sponsored by Senator KENNEDY and me. The work force training provisions incorporated into this bill will establish occupational proficiency standards for industries in which no recognized training standards currently exist. This bill also clarifies the qualifications under which businesses can claim a tax exemption for programs which train young people. From a pure policy standpoint, I am jubilant that these ideas are moving forward, regardless of the vehicle.

However, while there may be some worthy aspects to H.R. 4210, the total package is not one that will effectively further this Nation's economic recovery. While President Bush's seven point plan makes much more sense at this crucial time, I do not expect that it has any greater chance of becoming law in its present form than does the Democrats' package. However, because the President's plan has merit, members of both Parties would be well-advised to proceed with working toward a compromise that will make most of his proposals a reality, without additional tax increases.

The President's seven point plan is a well balanced approach to stimulate our industries and enhance jobs creation. It includes a few provisions, such as the first-time home buyer's credit, the capital gains cuts, and passive loss relief, that are critical to sectors such as the timber and housing industries that impact so greatly upon Oregon and the country as a whole. We have seen it time after time in testimony before our committees and in newspaper articles; there has to be a healthy housing sector if this country is to move forward.

So, where are we now? We have a bill that will be vetoed, and the likely prospect that any attempt at an override will not succeed. Then, we start over, hopefully working together as we should have from the beginning. There are some economists that say that the best thing that we could do for the economy would be to forget about a tax bill. Well, the end result may be that tax legislation is not enacted into law this year. If those economists are correct in their forecasts of a recovery later this year, then we should not feel pressured to pass a comprehensive tax bill. Many citizens in Oregon have indicated to me that they do not believe we need tax changes this year. However, if we are going to act on a bill to assist this recovery, let's work together to pass a responsible package that does not add to the deficit and does not include large scale tax increases.

Mr. President, a constituent of mine from Mill City, OR, called my office last Friday with an interesting idea. He proposed that before beginning consideration of tax legislation this week, all the members of this body be required to come to this Chamber, mix among themselves for several minutes, and then sit down at the nearest desk regardless of which side of the aisle it happens to be on. His point is well taken.

We can argue all day about which party is grandstanding on the economy, or which party is the most economically responsible. But one notion remains undisputed: We are not sent here by the people of our States so that we can act as advocates for the various Presidential candidates. We are sent here to set the policies that will achieve economic prosperity for those we represent, policies that will help this country maintain its strength as a leader in the world community. It may not be in the political interests of the Democratic Presidential candidates to have a healthy economy by next fall. But, for all of those incumbents in the service of their constituents, it is not only in their interest to promote economic growth, it is their duty.

Mr. BOREN. Mr. President, today we consider tax legislation that contains a great many provisions that I support, but that also encompasses provisions that I consider to be unwise tax policy. I will vote in favor of this legislation, but I do so knowing that we will be considering another tax bill within the next few weeks and hoping that this second bill will represent a bipartisan effort to improve the long-term economic health of this Nation.

We would have served the American people better had we made such a bipartisan effort in the first instance. We would have discharged our responsibilities more effectively had we overcome party politics and worked together. The American people are disappointed to see that we could not resist playing "politics as usual" in this election year.

Nevertheless, this bill contains provisions I wholeheartedly support and hope to see included in any future bipartisan bill. First, the legislation provides elements of real relief for middle-income taxpayers. I am particularly supportive of the provision that would allow taxpayers the option of a deduction or a tax credit for interest paid on student loans. Many middle-income Americans suffer under the tremendous burden of paying for a college education for their children. Unlike the poor, they cannot qualify for scholarships and grants; and unlike the very rich, they must worry about meeting the financial costs of a college education. Their net worth, which is typically about $60,000 and mostly tied up in their homes, is insufficient to finance the average cost of a college education. This proposal represents real relief for these families, and it will aid in the goal of educating our work force to meet the challenges of the next century.

In addition, I am pleased that the legislation before us today includes an extension of the targeted jobs tax credit. The groups targeted by this credit comprise an economic underclass, trapped in a vicious cycle of poverty and dependency. These structurally unemployed Americans have great difficulty finding jobs, particularly in these recessionary times.

Not only does the bill address the country's need for short-term economic stimulus, it also begins the process of providing incentives to promote long-term investment and improve our competitiveness in the global marketplace. I do not think the bill goes far enough. In a series of hearings before the Subcommittee on Taxation, which I Chair, experts have discussed more far-reaching proposals to address these concerns. I hope that in the future, Congress can address these issues in meaningful ways, including consideration of more substantial alternative minimum tax relief and consideration of consumption-based tax systems.

Nonetheless, the legislation does make some promising, if small, first steps. At the outset, I approve of its acknowledgment that the Tax Code is not economically neutral. The tax system impacts the investment decisions of corporations and of all Americans. We must accept this fact and construct the tax system so that it encourages productive investment and so that it reduces the cost of capital for American businesses.

As I noted in passing, one of the aspects of the Tax Code that has decreased America's ability to compete overseas has been the alternative minimum tax system. While the object behind the AMT was laudable—certainly, no corporation that reports profits to its shareholders should entirely avoid paying taxes—the AMT has had unintended economic effects. This legislation addresses some of those effects, but we must give serious consideration to addressing more.

First, the legislation removes gifts of appreciated property from the AMT. Gifts of appreciated property are critical to those sectors of our society that depend heavily on philanthropy for support. For example, 80 percent of the collections in American museums are the result of donations of appreciated assets that are part of our cultural heritage. Land conservation groups depend on gifts of appreciated land to help conserve open space for public enjoyment and protection of important wildlife.

Second, I am very pleased to see included in this legislation AMT relief for the independent oil and gas industry. This industry faces a crisis that will lead to an irreversible decline without decisive action. In the last decade, the number of domestic independent producers has dropped by more than one-third, and the industry has lost 317,000 jobs. Drilling reached an historic low last year as the rig count dipped dramatically to 653.

This is not merely an industrywide, or a regional, problem, Mr. President. Sixty percent of this country's natural gas and 40 percent of our crude oil are produced by independents. Since 1986, domestic oil production has declined by more than 1.7 million barrels per day. This lost production equates to a measurable loss in wealth to the United States, before any multiplier effects, of $160 to $250 billion. Most experts agree that the treatment of intangible drilling costs—a necessary and vital business expense—under the AMT has been responsible for this decline.

The provision in the bill before us today provides the kind of relief so desperately needed by the independent oil and gas industry. In addition, it simplifies the calculations required by the alternative minimum tax system relating to drilling costs so that independents can actually take advantage of the relief provided them.

I am also pleased that AMT relief is provided generally to corporations wishing to continue a high level of productive investment even in this recessionary climate. Yet I am disappointed that the legislation contains no relief for those corporations that have been paying the AMT for several years and that have not been able to use their AMT credits while they still have some value.

I am pleased to see the inclusion of one other important provision that is designed to reverse parts of the 1986 act that went too far. Although we achieved the important goal of eliminating economically inefficient tax shelters, we also denied to those substantially involved in the real estate industry the ability to deduct passive losses against ordinary income. This legislation ensures that people whose principal occupation is the development of rental real estate will be allowed to offset ordinary income with such losses, thereby stabilizing the real estate market and providing both short- and long-term economic relief.

Finally, Mr. President, I was gratified to see Democrats in the Senate unite behind a reduction in the capital gains tax rate for currently held assets, as well as for assets that will be acquired in the future. Although the legislation's approach is innovative and may be overly complicated, it represents a welcome first step. It is certainly a move in the right direction because it is broad-based, includes a holding period to discourage speculative investment, and covers assets that are currently held by taxpayers.

This legislation is far from perfect, however. I dislike the so-called middle-income tax credit that serves as one of the centerpieces of this bill. I think that we have underestimated the intelligence of the American people by including this provision. The average middle-income taxpayer does not want the Government to provide him or her with relief that equals only a dollar or less a day. Our constituents are not duped by such proposals; they know that these provisions do not represent meaningful and lasting relief.

No, Mr. President, Americans want us to adopt policies that ensure them and their children quality educations and productive jobs. They want us to take serious steps to reduce the deficit before it becomes an insurmountable economic burden on future generations. I urge my colleagues to talk to their constituents before we return to work on the next tax bill and heed their wise calls to abandon the panacea of the middle-income tax credit.

I am also strongly opposed to the Coal Industry Retiree Health Benefit Act. Although I am committed to working toward a solution to remedy the financial problems in the health funds and to ensure the continuation of health benefits for retired coal miners, I cannot support this legislation. It is a terrible, terrible precedent. Rather than putting the responsibility of maintaining this program on the parties who freely negotiated a private contract, this bill places most of the burden on completely uninvolved third parties.

Not only does the legislation establish the dangerous precedent of Government intervention in a situation where two parties fail to live up to their contractual obligations, it also imposes a crazy tax scheme on the industry. First, the tax varies by region. If a bituminous coal company is lucky enough to produce coal in the West, it is taxed at a rate of 15 cents an hour, and that tax will never be changed. If a similar coal producer unwisely located in the East, however, it will be taxed initially at a rate of 99 cents an hour. By 1996, it may well pay a tax of $1.45 per hour.

I am also disturbed by the mechanism by which the tax is imposed and increased. Congress is not the entity responsible for the tax after the initial enactment of the bill. Instead, a five-person Government agency, controlled by the BCOA and the UMW, is empowered to assess the tax on Eastern coal companies. I am frankly alarmed by this unwarranted abdication of our power of taxation, and I am surprised that this body would allow such an unprecedented delegation of its duties.

While I continue to maintain these serious reservations, I do believe that on balance this legislation is a positive step toward achieving relief for the middle-income taxpayer in the short-run and toward restoring this country's long-term economic health. It provides the foundation for beginning the process of transcending partisan politics and working together to pass comprehensive tax legislation that we can all support. Accordingly, Mr. President, I will vote in favor of this legislation.

Mr. President, I have often brought the plight of the independent oil and gas industry to the attention of my colleagues. This industry's situation has worsened dramatically in the last few months. Put most starkly, they are in a crisis. Since 1986, domestic oil production has declined by more than 1.7 million barrels per day. This lost production equates to a measurable loss in wealth to the United States, before multiplier effects, of $160 billion to $250 billion. The number of domestic independent producers has dropped by more than one-third, and the industry has lost more than 300,000 jobs in the last decade.

While it is tempting for many to dismiss this as a regional problem that does not affect the rest of the country, that conclusion is a dangerously flawed one. The independent oil and gas industry is vital to this Nation's economic future. Sixty percent of the natural gas in this country and 40 percent of our crude oil are produced by independents. Surely our recent experience in the Persian Gulf taught us how important secure domestic sources of energy are to this country.

Today we will consider tax legislation that addresses one of the primary causes of the industry's decline: the alternative minimum tax system's punitive treatment of intangible drilling costs. I am hopeful that the Congress will pass and the President will sign legislation that will afford the industry AMT relief in the near future. As I have analyzed these problems and proposed solutions, I have found two recent news articles to be helpful. The first appeared in the New York Times on March 2 and describes the effect of the collapse in prices on the natural gas industry. The second appears in the current issue of Time and warns that the downturn in the oil and gas industry may well be irreversible absent quick and decisive action.

Mr. President, I ask unanimous consent that both articles be printed after my statement so that we can consult them as we consider the tax legislation before us today.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, Mar. 2, 1992]

COLLAPSE IN PRICES FOR NATURAL GAS SHAKES PRODUCERS

(By Thomas C. Hayes)

DALLAS, March 1.—The collapse of natural gas prices in the last three months, to the lowest winter level in more than a decade, is delivering the worst jolt to the nation's weakened oil and gas industry since oil prices fell by more than half in early 1986.

Many giant companies have announced layoffs or reduced spending for new wells, and hundreds of smaller companies, many of them family run, are going out of business. Oil companies are raising their investments overseas, where costs are lower and potential discoveries more promising, increasing the nation's reliance on imported energy.

But the lower prices have scarcely benefited residential customers. Retail prices have not fallen, and only large manufacturers and electric utilities that burn gas have reaped any windfall, consumer groups say.

A POSTWAR EBB

By some measures, activity in the domestic oil and gas industry is at its lowest ebb since the Administration of Franklin D. Roosevelt. Warm weather and other factors have caused a supply glut that has depressed prices and made costly new drilling unprofitable.

Many industry executives and financial analysts said that the tally of jobs pared from oil and gas production in the United States since the peak month of the last drilling boom, January 1982, could exceed 400,000 by the end of this year, far more than the number lost in the same period in the American auto industry.

Contracts to supply natural gas for March delivery are at $1.25 per 1,000 cubic feet, up about 20 cents from the February contract but down from $2.30 for the October contract and from $1.65 in March 1991. Compared with the highest recorded monthly price, $3.50 in February 1982, natural gas prices have fallen by a yearly average of more than 7 percent in the last 10 years.

DISAPPOINTING WINTER

Gas producers who count on the winter months to generate their biggest sales have watched as prices dropped even below the low point of last summer, an extraordinarily rare development in the winter, when demand for natural gas peaks.

Demand for natural gas has increased in the last few years—to about 25 percent of the nation's total energy supply—as gas became cheaper to burn than fuel oil for thousands of industrial users. But customers, who use gas mainly for heating and cooking, have not reaped much savings.

Edwin S. Rotschild, energy policy director at Consumer Action, a consumer research organization in Washington, said that largest manufacturers and electric utilities that burn gas can bargain directly with producers for large-volume purchases and can choose between gas or oil fuel supplies, whichever is less costly.

But residential customers and owners of small businesses, with no comparable bargaining leverage, continue to pay high prices of $6 or more for 1,000 cubic feet of gas, he said.

Carol Freedenthal, president of the Jofree Corporation, a consulting firm in Houston whose clients are mainly natural-gas producers, said. "The homeowner and residential customers, the largest users of natural gas, are not getting the benefit" of lower gas prices.

The worsening struggle for survival faced by legions of independent producers may prove crucial for the nation's future output of oil and natural gas. Most operate in Louisiana, New Mexico, Oklahoma and Texas, the states that produce 80 percent of the domestic natural gas.

According to the Independent Petroleum Association of America, a trade group in Washington, independent producers produce about 60 percent of the natural gas and 40 percent of the oil in the continental United States even though most have 20 or fewer employees.

"It would be a disaster for the country for this small producing segment of the industry to be driven out of business by lower prices," said Mr. Rothschild. "Natural gas is too important a fuel. It helps reduce our dependence on foreign oil."

And dependence on oil imports is a big burden for the economy. Payments for imported oil amounted to $37.2 billion last year, or more than half of the nation's $66.2 billion trade deficit.

CUTBACKS BY THE MAJORS

The retreat from domestic oil and gas fields comes after big companies bet heavily on natural gas to support their domestic operations after the oil-price debacle six years ago. Cutbacks have been announced by companies including Mobil, Chevron, ARCO and Philips Petroleum, and by large independents like Oryx Energy, Maxus Energy and Anadarko Petroleum.

ARCO, the nation's eighth-largest oil company, pared its work force by 2.100 jobs in August, including 900 from its operations in the continental United States, leaving a total work force of 22,000. More recently, ARCO said that for the first time, it would spend more to explore and develop reserves in foreign countries than in the continental states.

"Lower gas prices are one reason, but the other is that there just aren't the opportunities for exploration that there once were" in the United States, said Robert E. Wycoff, president and chief operating officer of ARCO. At the same time, he added, the demise of Soviet-led Communism has opened up several areas, including Syria, Yemen and Eastern Europe, as well as Russia, to exploration by Western companies.

When Maxus Energy said last month that it would cut its 1992 spending on domestic drilling by half, to $45 million, the company added that it was continuing to expand overseas drilling investments in 14 countries, up from 6 countries four years ago. Its spending on international projects will rise at least 20 percent this year, to $150 million.

"While jobs are being eliminated in North America, we will be adding new positions in international" operations, Charles L. Blackburn, chairman and chief executive of Maxus, said at the time.

The natural-gas supply glut was caused by many factors. Many big oil companies have kept gas flowing at high rates in the last two years to generate cash from domestic gas fields to invest into more promising fields abroad.

Tax incentives approved by Congress in recent years have also raised output. Companies producing gas from underground coal layers, mainly in northwestern New Mexico and northern Alabama, and from dense rock formations called tight sands in West Texas and other sites, are eligible for big tax credits that make gas sales profitable even if prices fall below $1. The credits amount to as much as 90 cents per 1,000 cubic feet of gas produced through the year 2002 from wells drilled before the end of 1992.

NEW DRILLING OPPORTUNITIES

In addition, a Reagan Administration policy that opened hundreds of Government-owned blocks in the Gulf of Mexico to drillers in 1984 and 1985 has led to rising sales of offshore gas in the last few years. Hundreds of wells developed after those lease sales in the mid-1980's are now in full production.

Leaps in drilling technology have lowered exploration costs and sharpened the eye of oil and gas explorers. High-speed computers are charting three-dimensional maps of drilling prospects by tracking sound waves reflected from rock layers thousands of feet below ground.

While the diversified oil giants and most major independent producers have adjusted to the drop in natural-gas revenues, smaller independents are struggling. Mr. Freedenthal said that small producers were ripe for a shakeout in an industry that he said had become bloated during its last boom, and has since been gradually deregulated.

The Independent Petroleum Association now has about 8,000 members, down from 20,000 in the early 1980's. As natural gas operators are shunned by Wall Street, banks and other sources of financing, the independents must pay for drilling programs mainly from their shrinking revenues. The price collapse has caused many to sharply curtail or halt their drilling efforts.

RESTRICTING SOME SALES

A few big independents that have low debt and adequate cash reserves have restricted a portion of their gas sales. Robert J. Allison, chief executive of Anadarko Petroleum, said the Houston-based independent company had reduced its planned sales of 600,000 cubic feet per day in February by 25 percent because of low gas prices. Last week, the company went even further, reducing its planned sales for March by nearly half.

"I'm shocked and amazed at people who will sell all of their gas regardless of price," Mr. Allison said. "A lot of people are losing money on every thousand cubic feet of gas they sell," he added, referring mainly to the big energy companies.

The purging of small independents has partly come from growing competition that followed the gradual deregulation in natural gas markets during the 1980's.

Bigger companies, with superior exploration technology and lower operating costs, have advantages of larger scale that enables them to operate profitably at lower prices for natural gas and oil prices than the small independents.

The number of rigs exploring for oil and gas in the United States fell to 653 in the last week of January, the lowest postwar level recorded by Baker Hughes Inc., the Houston-based oilfield service company. The total was little changed last week, at 673, up 6 from the week before. Analysts say the average weekly rig count for 1992 could drop below 735, or well below the postwar low average of 861 rigs set in 1991.

The seismic crew count, a barometer of future drilling activity that measures the number of teams searching for reserves in the United States, has fallen to new monthly lows in each of the last five months. The total was 79 in January, compared with a peak of 744 crews in September 1981, according to the Society of Exploration Geophysicists in Tulsa.

GROWING VULNERABILITY

Many oil executives continue to warn that the nation is becoming more vulnerable to future oil or gas shortages. The total number of wells drilled in 1991 dropped to 27,000 or less than a third of the 70,000 drilled as recently as 1985. Imported oil amounted to 40 percent of total United States supplies last year. The figure was 42 percent in January, and most energy analysts expect it to rise when the economy picks up.

For now, worries in Washington about United States energy security have waned after the military defeat of Iraq last year. To some analysts, the Persian Gulf war summed up the Government's unstated energy policy, which they see as defending shipments of imported oil—by force, if necessary.

"That was our energy policy—Desert Storm," said Kevin Simpson, an analyst with Wertheim Schroder & Company.

[From Time Magazine, Mar. 16, 1992]

HARD TIMES: THE GREAT ENERGY BUST

(By Richard Woodbury)

MIDLAND.—Along Highway 80 in West Texas between Midland and Odessa, giant drilling rigs sit rusting in the winter sun. Gas wells that dot the bleak mesquite-covered prairie lie shut down. Downtown Midland has the stark look of an evacuated city, with empty storefronts and vacant building lobbies.

The scene across America's oil patch these days bears a chilling likeness to the bust that befell the region in the mid-1980s, when energy-production jobs plunged more than one-third. But in fact the situation today is worse. While many parts of the U.S. economy are struggling through the recession, few are as hard hit as energy. By every measure, these are among the toughest times since that first gusher at Spindletop in 1901—more akin to the Great Depression than the cyclical booms-and-busts since.

Across the South and West, drilling activity for crude oil is at its lowest point in 52 years. The rig count, the best gauge of life in the oil patch, hovered last week near an all-time low of 660. Production from existing fields has shrunk to its lowest since 1962. Scores of drillers, producers and support firms are laying off, folding up or going bankrupt. Warns Denise Bode, president of the International Petroleum Association of America: "The industry is nearing a state of economic collapse."

More distressing, this latest downturn gives every indication of being permanent. Faced with languishing prices, lower profit margins and tight environmental hurdles to new exploration, the major oil companies are selling off their properties, packing up their drilling gear and heading overseas. Ten billion dollars in assets are on the block as exploration and production head for Africa, South America and the Far East, where drilling costs can be cheaper by half and government sweeteners make new ventures enticing. As the majors lay off workers and leave, those independent companies that can are following. Others are closing up shop or retrenching. Asserts energy scholar Daniel Yergin: "We're seeing a fundamental contraction on the domestic side along with one of the greatest migrations in the history of the oil industry."

Unlike the bust of the mild-'80s, which was marked by nose-diving crude-oil prices, the immediate problem this time is natural gas. Often extracted from the same formations as oil, gas accounts for 24% of the nation's energy consumption, mainly in heavy industry. Producer prices at the wellhead have been in a free fall for months, plummeting last month to $1 per 1,000 cu. ft., down 23% from a year ago. At that price, producers say they can barely turn a profit, and many who can still afford to operate are shutting their supplies in the ground in hopes of an eventual upturn.

Campaigning in the oil patch last week, President Bush responded to the plight—and political anger—of natural-gas producers by taking steps to hoister demand. He removed regulatory barriers that have hampered utilities from converting power plants fueled by coal and oil to natural gas. At the same time, Bush lessened restrictions on the sale of compressed natural gas for cars and other vehicles. In Washington, Energy Secretary James Watkins declared, "The worst thing we could do is allow our oil and gas industries to decline the way we have." The gas price slide has been a round-house punch to the big energy states of Texas, Louisiana, Oklahoma and New Mexico, still struggling to climb back from the earlier debate. Scores of wildcatters, who find most of the domestic crude and who went after gas when the market fell apart, have folded in the past 18 months.

The impact has been just as severe in Canada, where oil and gas are a bedrock of the economy, contributing nearly 12% of the $588 billion gross domestic product. Since 1989, nearly 15% of the Canadian work force has been laid off, and major producers are shuttering refineries and closing thousands of service stations. Last year Imperial Oil, owned largely by Exxon, posted the first loss in its 111-year history. Another giant, Gulf Canada Resources Ltd., stunned the industry last month by walking away from its stake in a huge undersea oil project on the Grand Banks of Newfoundland.

Outside the oil patch, few notice and many benefit from the price slump. Supplies of oil and gas for home heating and industry, abetted by a string of six warm winters, have remained abundant. And the price of gasoline, an average $1.03 per gal. nationwide for regular, is the lowest in months, thanks largely to OPEC and other foreign producers; they have made up the drop in domestic production by supplying 43% of U.S. oil consumption. On the other hand, the public has not benefited from the drop in natural-gas prices, as pipeline companies and distributors have gobbled up the savings before the fuel reaches households. Though prices at the wellhead have tumbled from $2.66 to $1.16 since 1984, household users in Charlotte, N.C., still pay a rate of $6.14, only 51¢ less than they did 8 years ago.

The steady rise in oil imports has alarmed many planners and industry strategists, who fear that the nation may be setting itself up for another crisis if war flares again in the Middle East. Domestic production, dropping at the rate of 300,000 bbl. a day, has declined to its lowest level in 40 years. The Congressional Office of Technology Assessment projects that by 2010 the nation could depend on imports for nearly 70% of total supply, an amount that Houston energy consultant Louis Powers estimates will take 36 supertankers a day to deliver. Warns Powers: "The mind-set is to let the Saudis give us all we need. It's a policy we will all live to regret."

In many respects, the current slump is an extension of the mid-'80s energy bust that saw prices plummet to $9 per bbl. Just as the region was attempting to diversify out of its energy dependence, the gulf crisis suddenly forced prices to $40 in 1990, spurring some drillers to crank up rigs again. But when the war ended, hopes were dashed just as quickly; prices slid back down, and the small trickle of investment money dried up.

The big concern now is the depressed market for gas, which is still the target of most drilling because its plentiful reserves are largely untapped and exploration carries tax breaks for investors. "It's a bloodbath," says gas entrepreneur and former corporate raider T. Boone Pickens. "How many more hits can the industry take?"

Faced with declining profits from U.S. oil and gas operations, such major firms as Chevron, ARCO and Phillips are putting more money into overseas exploration than they are investing at home. "You have to go where you can find the reserves and make a profit" explains Wayne Allen, president of Phillips, which has hiked foreign spending 15% since 1989 to bankroll drilling in such places as Gabon, New Guinea and Italy. All told, according to a Salomon Brothers survey, U.S. oil companies are increasing foreign investment nearly 10%. At the same time, the 21 largest firms are cutting exploration spending in this country by 13%.

Far more troubling than price fluctuations and investment patterns is the fact that the U.S. is running out of economically recoverable oil. Known reserves that can be extracted at current market prices have been declining almost steadily for 22 years, and the current supply of 26 billion bbl. would last the nation barely four years at present usage rates. And while vast formations remain untapped, they are in environmentally sensitive areas—the Alaskan wildlife refuge and offshore California—that Congress has put off limits.

Oilmen argue that the failure to open such reserves will only speed the move overseas and increase U.S. dependence on imports. Marathon Oil Co. is pouring nearly three-fourths of its $750 million current production budget into foreign ventures. "Other countries cover our technology and the jobs we bring, and they're luring us with sweet deals," says Marathon president Victor Beghini, "while our government is turning its back."

Oil firms also complain bitterly about an array of regulations that require refineries to meet costly standards for reformulated gasoline and other clean-burning fuels. As a result, Shell, Amoco and Unocal are among big producers that plan to close or downsize facilities. Oilmen say domestic production is further threatened by proposed EPA regulations that would impose tight controls on drilling wastes and other by-products. Such rules, they warn, will force the closing of hundreds of small "stripper" wells that make up 75% of the nation's total.

A more basic worry is that unless drilling rebounds to the 1,100-rig level and stays there, the industry's infrastructure will be so impaired that it won't be able to come back—ever—and U.S. production will slip further. Oilmen decry the lack of attention and support that they feel that industry gets—from the White House on down. "We should have a domestic energy policy, but we still don't have," asserts Pickens. Baker Hughes economist Ike Kerridge agrees: "There's a real danger in driving too many people out of business. The government ought to be concerned."

The trouble is that the oil and gas industry is one that many Americans have learned to love to hate. With the memory of Big Oil's vast profits in the 1970s and early '80s still fresh in their minds, consumers and lawmakers outside the oil patch have little sympathy for the industry's woes. But that could prove shortsighted at a time when U.S. reliance on foreign oil is rapidly on the rise.

Reversing that trend will take a combined effort by Washington and consumers and the companies themselves. Energy firms should develop new technologies that will let them extract domestic oil and gas cheaply enough to make a profit even when prices are low. And motorists should be able to tolerate an oil-import fee that would raise gasoline prices a few cents a gallon at the pump; that would provide fresh incentives for domestic drilling and produce revenues to help reduce the federal deficit. Without some such policy, the U.S. could find itself paying for cheap oil and gas today with skyrocketing prices when the next energy shock hits tomorrow.

Mr. BENTSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, it will be my intention shortly to offer the Republican leadership amendment which in brief are the President's seven tax proposals, the short list as that is known, that he asked to receive by March 20 to stimulate economic recovery. We have added an additional tax proposal of the repeal of all the luxury excise taxes, including automobiles.

The amendment is paid for, under Treasury and Office of Management and Budget scoring, by adopting several of the President's budget proposals to reduce spending or generate offsetting receipts.

The President's seven proposals are: One, capital gains. It lowers the current law top 28 percent on capital gains of individuals to 23.8 percent for property owned for 1 year; 19.6 percent for property owned 2 years; and 15.4 percent for property owned 3 or more years.

On the investment tax allowance, point two, businesses would be allowed to deduct 15 percent of equipment purchased between February 1 and December 31, 1992, and placed in service by June 30, 1993, instead of deducting this amount in later years as depreciation.

Three, the ACE depreciation. The ACE depreciation minimum tax adjustment, which is an administrative headache for capital-intense companies, would be repealed altogether.

Four, we would allow penalty-free IRA withdrawals for up to $10,000 for a first home.

Five, a $5,000 credit for first homes. We could give first-time home buyers. a $5,000 tax credit if they buy a new or used home between February 1 and December 31, 1992.

And let me elaborate, if I might, Mr. President, on that, because if there is anything in this proposal which will have some immediate effect, in terms of hoping to spur the economy, it is both the withdrawal from the IRA's of the $10,000 to buy a first home and coupled with the $5,000 credit—and I emphasize credit—for the purchase of first homes and this applies to both new and used homes. The reason that this particular credit is so important as it effects the purchase of used homes is that about 80 percent of the people who are first-time home buyers do not build a new home. They buy an existing home. And if, as in the bill that is before the Senate, you limit it to strictly homes that are newly built, you cut out about 80 percent of the people who would be eligible for this credit.

Six, on passive losses for real estate, we allow real estate developers to show they materially participate in rental properties that the developer constructed.

And, seven, pension investment in real estate. We make changes to the unrelated trade or business rules, the so-called UBIT rules, to facilitate pension fund investment in real estate.

Again we have also added the repeal of the luxury tax on all of the existing taxes that exist on autos, boats, airplanes, jewelry, and furs effective January 1, 1992.

Now, how is it paid for? Our package is deficit neutral according to Treasury and OMB scoring. The amendment includes offsets of $9.3 billion over 5 years from the following spending reductions or offsetting receipt proposals in the President's fiscal year 1993 budget:

One, 1-year extensions of 3 provisions scheduled to expire at the end of fiscal year 1995. And those are, A, a limit on lump-sum distributions from Federal Government pension plans; B, custom user fees; C, patent surcharge fees.

Two, we have a suspension of the statute of limitations which bans collections of student loan defaults.

Three, we apply Medicare part B limits on physician fees that can be charged to Medicare beneficiaries to health care provided to Federal retirees.

Four, we improve the way the Veterans Housing Administration evaluates the cost effectiveness of disposing of foreclosed properties.

And five, we authorize the sale of $1.1 billion a year from the national defense stockpile. The stockpile was created to set aside critical materials for national defense emergencies. This proposal would reduce the stockpile by about one-half of its current level of $9 billion to $4.5 billion.

Now in this proposal, Mr. President, there is no provision for any $500 dependency deduction allowance increase. Many people have asked about this. This is literally the President's seven bare proposals plus the repeal of the luxury tax on all items to which the luxury tax now applies.

I indicated earlier in the day that I did not think any of the plans that had been proposed—not that is passed in the Ways and Means Committee in the House, not that came out of the Senate Finance Committee and is pending, nor the President's—is going to catapult this economy from a 1-percent growth to a 5- or 6-percent growth in 6 months. As I indicated, I do not think any of the plans are going to catapult the economy into a dramatic increase in the next 6 months. And I think we would be wise to tell the public vary frankly that none of these bills are the long-term solution to the problem facing the country.

We all know what that is. We have been spending too much and saving too little and we have been doing it for the better part of a quarter of a century. We have been doing it under Democratic Presidents, Republican Presidents, Democratic Congresses, and when it was split with the Republicans having the Senate and the Democrats having the House.

It has been bipartisan in our attitude and therefore I think I can say without trying to blame anybody—Republicans or Democrats, the Congress or the President—that all of us have had a hand in the last quarter of a century in not making any serious effort to tilt us towards savings and investment and capital formation that allow us to buy the machines that produce family wage jobs and keep us competitive in the world.

The amendment we will be offering is not a long-term tilt away from consumption and towards savings. It is a nudge in that direction—a nudge, but not a long-term commitment. But, then, none of the bills we are considering are.

Unfortunately, I think we had the opportunity to move in that direction at one time in the Finance Committee when we were considering this bill. There was a hope that you could sense a gelling, when we were meeting in the room behind the hearing room with just the members and some staff. We, very frankly discussed among ourselves the need to one day move towards savings incentives and away from consumption. We all nodded our heads. And in the huddled meetings you will find in the cloakrooms or the whispered conversations at the dining tables, we all admit that is what we need to do. And I think Mr. President, the opportunity is there to do it if we seize the moment now.

For those who say it is too late, it is too close to the election, that is not true. When the time is right and the iron is hot, you can move very quickly. I think the time is right and the iron is hot if we are willing to say to the President and the President is willing to say to the Congress, let us both put aside partisan bickering.

I do not want to say "partisan differences," because there is legitimate partisan difference in politics, but put aside the bickering and say, as a matter of philosophy, let us move toward a tax system that will encourage savings, investment, buying machines that produce family wage jobs.

But I think the opportunity is ours to seize in this body right now if we want to do it, to offer that olive branch to the President. I have not talked to the administration directly about this, but I think the administration would be receptive to receiving that offer.

But at the moment I fear what is going to happen, the bill that is before us is going to be passed. It is going to be vetoed. We all know that. A bill similar to this passed the House only 221 to 209 or 210, clearly enough votes to easily sustain the veto. So the Republicans will have a partisan issue that they have voted against a bill that increases taxes on some people. The Democrats will have an issue to say the President has vetoed a bill that raised the taxes on the rich. And maybe each party says: That is it. There is not going to be any more tax bill this year. We each have our issue. Let us go to the electorate.

I hope that is not it. I hope we get this bill over with quickly and take the opportunity to pass a really meaningful bill.

But, in the meantime, while we are debating this bill, the amendment I will offer in a few moments is an amendment that, at least of the 3 proposals we are considering, has passed the House. It is now before the Senate out of the Finance Committee. And the President's, of the three, is the best. So I hope it will receive fair consideration in this body.

But, if it does not, I hope we very quickly pass the bill we have before us. I am going to vote against it. I realize it is going to pass. Vote it. Get it to the President. Veto it. Sustain the veto, in the hopes we get on to actually enacting a bill so we can honestly say to the voters: This is not going to change the direction of this ship by November. It is going to take us 2 years, 4 years, 6 years. It has taken us 25 years to get here. It is going to take us a few years to turn around. But we can at least say by the end of this century we will have turned this ship around and will be heading in the direction of an increased savings rate and effective competition throughout the world and a return to family wage jobs.

With that, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, I am about to offer the amendment on behalf of the Republican leadership. We had hoped that we would get some time limit. We would have been satisfied with 2 hours equally divided, but I do understand the chairman and the others would like to see the amendment and have some time to study it.

I think we have reached more or less a gentleman's agreement that a point of order will not be made against it very quickly so there will be no time to debate. Given that understanding, I am now prepared to offer the amendment.

AMENDMENT NO. 1709

Mr. PACKWOOD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Oregon [Mr. PACKWOOD], for Mr. DOLE (for himself, Mr. PACKWOOD, Mr. DOMENICI, Mr. CHAFEE, Mr. DANFORTH, Mr. HATCH, Mr. SYMMS, and Mr. HELMS), proposes an amendment numbered 1709.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. PACKWOOD. Mr. President, I made my comments on this before. They were straightforward and abbreviated, and I think in my comments I covered all the points that are in the amendment. I will be happy to respond to any questions I can to clarify it, although the points I made were quite simple and I think covered everything that is there.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BRYAN). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, certainly I want to preserve my right to make my point of order, but I do not intend to cut off the debate before we have our 2 hours. I am prepared now to enter into an agreement on the majority side with the minority, if it is agreeable, on a 2-hour limitation, the time equally divided and controlled by the manager for the minority and myself for the majority.

Mr. PACKWOOD. Mr. President, would it be the hope that we would vote tonight?

Mr. BENTSEN. We certainly would. That is my hope.

Mr. PACKWOOD. Assuming all the time is used up, we will be voting about 9 o'clock, 5 after 9.

Mr. BENTSEN. That is correct.

UNANIMOUS-CONSENT AGREEMENT

Mr. BENTSEN. Mr. President, I ask unanimous consent that there be a time limitation for debate of 2 hours equally divided in the usual form; that when all time is used or yielded back, the Senate vote on or in relation to the Packwood substitute; provided that no points of order be waived by this agreement; and that if a point of order is raised and a motion to waive the Budget Act is made, there then be 20 minutes equally divided in the usual form on the motion to waive the Budget Act; and that no second-degree amendments be in order to the amendment.

Mr. PACKWOOD. That is fine with us.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. BENTSEN. I yield such time as I may need.

Mr. President, we are not interested in creating legislative gridlock in this situation. We are engaging in a protracted partisan debate and that is pretty obvious when, as manager of the bill for the majority, I have agreed to a relatively short period of time, 2 hours.

I went to great lengths to see that the administration's growth proposals were included in the Finance Committee bill. I want to emphasize that point. This bill contains all of the growth ideas in the President's bill, admittedly in some modified form on some of them. Some of the proposals are virtually identical to the President's proposals. We have slightly altered others.

But an example of that is we included the administration's proposal to eliminate ACE, the current adjusted earnings depreciated adjustment for corporations. We included a slightly modified version of the administration's proposal to modify the unrelated business income tax rules to facilitate real estate investments by pension funds. This is something I discussed with the Secretary of the Treasury about a year ago urging that that be done, open up a new avenue of resources to try to help stabilize the real estate market.

We have included the administration's proposal for penalty-free withdrawals from IRA's for first-time buyers and that was in the Bentsen-Roth IRA proposal. We have had that one for some time with some 78 Senators, bipartisan support. We have included the administration's proposal to provide an investment tax allowance which provides a temporary acceleration of depreciation deductions. I admit we had to reduce that from 15 to 10 percent because of a mistake by both Treasury and the joint tax on the revenue estimate, because I was insisting that we comply with the budget agreement and do it without exception.

The credit for the first-time home buyers, we included the credit for them and made the following improvements: The finance home buyer's credit is a more efficient use of taxpayers' money because it is targeted at new construction, and that is what we are trying to do, to give some impetus to this economy. According to the National Association of Homebuilders, our home buyer credit will produce 320,000 jobs in 1992.

The proposal that my colleague is offering costs over $5 billion and will add to that deficit, and that, in turn, adds to mortgage rates. Housing affordability is a direct function of lower interest rates. Their deficit finance credit will actually act to deter some first-time buyers. Our home buyer credit will make housing more affordable. It will create jobs, accomplish both of those objectives without causing interest rates to rise.

We have included the administration's proposal to provide passive loss relief to real estate entrepreneurs. Any passive loss relief should be aimed at restoring a level playing field between real estate entrepreneurs and other entrepreneurs and help stabilize—and this is an important point—the value of existing properties, and that includes the RTC and the FDIC properties, without providing an incentive to add to the existing oversupply or revive tax shelters.

The finance bill accomplishes each of those objectives. Even though the Republican proposal costs just as much as our proposal, it does not help the RTC in the selling of its inventory of property. Our bill would help the RTC since it provides relief on all property purchased by an entrepreneur. Because their proposal only provides relief on those buildings the developer actually developed, it provides an incentive for developers to build new buildings, and that is our problem now on commercial property, a high percentage of vacancy in most of the cities. Thus, rather than help stabilize the prices of existing properties, the likely result will be construction of more office buildings, which will drive down the price of existing properties.

The reason why their version costs just as much as ours without providing the help to the RTC or the real estate market in general is simple. Under their proposal, a developer who qualified for relief could completely zero out his or her income, pay absolutely no taxes, and that is unacceptable. No one could zero out his or her income under our bill since it limits the amount of income that a developer can shelter.

I think our passive loss relief is much more cost effective. It will increase the value of existing properties, including RTC properties, without providing an incentive for new construction or revival of the sheltering problems we had as a result of the generous rules of the 1981 act.

Now, let us get to the luxury tax. This amendment repeals the luxury tax. Our bill also includes repealing the tax on all of the items except autos, but we liberalized that tax on the valuation of the autos by indexing the $30,000 threshold.

Now, you know that the luxury tax was the product of highly political negotiations during 1990, certainly not a tax I would have chosen in the abstract, and the problems of the economy have grown far beyond what was anticipated when the luxury tax was enacted.

Now, the bill repealed all the other luxury taxes, but not the luxury tax on autos, for two reasons. First and foremost, there is the problem of paying for repeal, since the repeal will cost over $1.5 billion over 5 years.

My second reason, which relates to the first, is the administrative cost of the tax on cars. Unlike on other goods, it is less than the taxes raised. We had a situation where the cost of administration on some of these where the tax was put on was actually higher than any revenues we ever collected. But that is not the situation on automobiles. Our bill includes indexing that $30,000 threshold in the market to ensure that more cars are not subject to the tax simply because of inflation. That is what we can afford and that is what we included.

And then on capital gains—and that is a tough one—we tried to strike a balance on a very contentious issue by providing for a progressive capital gains tax cut. The structure is consistent with our efforts to restore equity to the Tax Code and provide tax relief to middle-income families. While the bill provides a capital gains tax cut for over 99 percent of all taxpayers, the benefits percentagewise are larger at the lower end of the income scale.

And, finally, unlike the proposal of the administration, we pay for the tax cuts. That is the way we used to do business around here, and it is the way we should start doing business again.

I would like to point out that the President, in his State of the Union Address, stated:

> Never has there been an issue more demagoged by its opponents, but the demagogs are wrong and they know it. Sixty percent of the people who benefit from lower capital gains have incomes under $50,000. A cut in the capital gains tax increases jobs and helps just about everyone in our country.

Well, if most of the people who benefit from this proposal make less than $50,000, then the administration should not have any problem with our capital gains proposal because it would provide relief to more than 95 percent of those taxpayers who realize capital gains and, percentagewise, it would be more generous to middle income than to high income.

I think the biggest point of all, the one I kept insisting on as we were drafting our legislation, was to be sure we complied with the budget agreement of 1990, and that is one that I really think the President has made a serious mistake on when he stated, in response to the Buchanan attacks, that he had made a mistake in participating in it. That is the only serious discipline we still have here so far as trying to stay within budget agreements, and that is what we have done in our piece of legislation. It was not an easy package to put together. The easy way would have been to resort to some of the shifting sands of creative accounting that the administration proposed when it took the PBGC and talked about accrual accounting and bringing revenues that were anticipated in the year 2000 to present value and taking, as I recall, something like $19 billion of credits on that one.

Let me say that the Democratic members of the Finance Committee were unanimous in agreeing that every item in this bill had to be paid for, and it is. This bill pays for itself. It does not add a nickel to the Federal deficit over the next 6 years. In fact, it lowers the deficit by $6.5 billion during that period. We are not shifting the cost burden back on working families, nor are we shifting the costs to our children.

Second, our bill goes beyond this amendment. Our bill provides tax incentives for education, low-income housing, research and development, and provides much-needed reform to our health care system.

Third, it helps put some fairness back into our tax system. At the heart of this bill is a permanent $100 tax credit for each child until that child turns 16.

For a family of four making, with two children, $35,000 a year—and that is the median income of this country—that family would have a 25-percent income tax cut; a $600 tax reduction. About 20 million American families, middle-income families, would benefit from the tax credit alone. And millions more would benefit from the other tax provisions.

Our legislation is a fair, fiscally responsible way to pay for putting some fairness back into the tax system. It would increase the marginal tax rate from 31 percent to 36 percent for families with taxable income over $175,000. That is taxable income.

If you look at all of the deductions, you know you are talking about something substantially more than that. Back in 1985, President Reagan proposed a 35-percent rate on everyone earning more than $70,000 working at the rate of 28 percent for the vast majority of those taxpayers. Even with those changes, the top 1 percent will remain far ahead of where they were in the sixties when the top bracket was 91 percent; in the seventies when it was 72 percent. The top bracket would be half the 1970 rate and remain substantially lower than the top rate today in Japan, Germany, or the United Kingdom.

I am convinced we have a comprehensive and equitable bill, and I urge my colleagues to vote against this amendment.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD. I yield myself 3 minutes.

Mr. President, I want to clarify one thing that the chairman has indicated about rates, high rates and low rates, and whether or not those who have high incomes are better off now than they were in terms of rates, because rates are an amorphous thing.

He talked about the 90-percent rate, 92-percent rate at one time, the 70-percent rate. The key in how much you tax somebody is not the rate. The key is what you levy the rate on. Let me use an example. At the time we had a 92-percent rate in this country nobody paid 92 percent, not if you had any kind of an accountant that gave you any advice at all. You paid a much lower total amount of taxes than 92 percent on your total income.

Let us say you had a million-dollar income and you had all kinds of deductions that you could deduct from the million dollars before you figured the 92-percent rate. Let us say you had $900,000 in deductions, so that your taxable income was $100,000. Then you paid 92 percent on the $100,000. So you paid $92,000 on $1 million of income. In essence something closer to a 9 or 10-percent rate than a 90-percent rate.

However, you can lower the rates significantly. This is what we have done over the past years. We did it in the tax reform bill, and increased the amount of revenues that you collect from the rich by eliminating deductions. That is exactly what we did in 1986. We eliminated deductions and lowered the rates. But after the 1986 tax bill passed, it was actually slightly more progressive. It collected a slightly higher percentage of its money from the rich than it did before it was passed.

So let us not try to confuse the issue by saying Germany has higher rates; Japan has higher rates. The real key is upon what base of income do they levy the rates? If you have immense deductions from whatever your income is, and then the rate is taxed, that may end up being a lot lower tax than a lower rate in which you are entitled to next-to-none or, in some cases, no deductions.

I yield the floor.

Mr. BENTSEN. Mr. President, I yield 5 minutes to the distinguished Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey is recognized for 5 minutes.

Mr. BRADLEY. Mr. President, I thank the distinguished chairman.

I rise in opposition to the pending amendment. I think it is excessive, I think it is ill-timed, and I think that, frankly, it is a rather modest or superfluous amendment.

We are in the middle of a recession, we have major structural adjustments going on in our economy due to the end of the cold war and international competition, and we have a mushrooming deficit. The amendment that is now before us contains elements which will do nothing to help with any of those problems. It has a capital gains provision that not only gives away a lot of money to upper-income Americans, but it also does so in three ways.

As a matter of fact, this might be called President III. President I was where you had three exclusions of income, 15, 30, and 45.

Now this will allow the sale of a closely held business not to be covered by alternative minimum tax. So conceivably a closely held business could be sold and, if there is sufficient deductions to offset the regular tax, it will not be captured under the alternative minimum tax.

Mr. President, there is another section of this bill—passive losses. At a time where you have 20 percent vacancy rates in real estate, we are now going to give real estate developers more subsidies so they can build more buildings so we can have even higher vacancy rates. It does not make any sense.

Then we have the investment tax allowance which essentially accelerates depreciation. This favors certain kinds of capital intensive industry over all of the rest of the economy.

The basis, though, of tax reform was to eliminate these distortions, and allow the market to allocate the resources. This amendment goes in the exact opposite direction of what we did in 1986. It is ill-timed, and it is not going to move our economy ahead out of this recession. All of these provisions are going to come on too late after monetary policy has already begun to move the economy.

Keep in mind the amount. Is this amount of incentive, even if you believe it was well-timed, going to jolt the economy out of this recession? Let us see. How much money is this going to provide? This is going to be in this year $3.4 billion, the next year $4.4, and in a $5 trillion economy is this going to be sufficient to jolt the economy out of recession? This is ludicrous.

In addition to that, of course, the beneficiaries of the capital gains, and of the passive losses, are disproportionately the wealthiest people in the country. The top one-tenth of 1 percent will benefit the most from this to an excessive degree.

Mr. President, I hope we will reject this amendment out of hand, because it is a giant giveaway, a bigger giveaway than is even in the Finance Committee bill. As everyone in the Finance Committee knows, I am not a big fan of the passive loss provisions in the Finance Committee bill or the capital gains or the investment tax allowance. We might revisit that later. But the point is, the provisions in this amendment are worse than the provisions that are in the Finance Committee bill.

So I hope that we keep our eye on what we need. We need deficit reduction. This does not reduce the deficit. This will increase the deficit over time. We need structural adjustment to international competition and the end of communism. This does not do anything to help us adjust either in terms of education or health or whatever.

Finally, this does not jolt us out of the recession. To the contrary, it is a piddling amount; amplified with the loudest of loudspeakers, it will have no effect whatsoever on the economy except to enrich a few special interests and some of the wealthier special interests.

So, Mr. President, I hope that we reject this amendment and move on to the rest of the bill.

I believe that if we move on to the rest of the bill there might be things we need to revisit, but the point is that this amendment is excessive and should be rejected and rejected handily.

The PRESIDING OFFICER. Who yields time?

Mr. BENTSEN. Mr. President, I suggest the absence of a quorum, the time to be charged equally to both sides.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, I yield 10 minutes to the Senator from California.

The PRESIDING OFFICER. The Senator from California is recognized for 10 minutes.

Mr. SEYMOUR. Mr. President, I rise this evening to speak on the package offered by the minority leader and the ranking member of the Finance Committee to commend them for their hard work.

I also want to commend the chairman of the Finance Committee for the work that he has put into the bill. However, I find it very deficient. I find the bill deficient because it misses the mark.

Mr. President, the sole criteria that we should be using on this economic growth package is, will it create jobs?

This is a blowup of a letter from one of my constituents in Joshua Tree, CA, which is brief and to the point: "Senator SEYMOUR, I don't need a tax cut. I need a job." His message, and that of all Californians is clear and succinct: "How is Congress going to create jobs?" That is what this proposal should be all about.

Mr. President, in my State of California, we are hurting. Last year, California alone lost over 600,000 jobs. That represents 1.2 million people out of work, and they need jobs. They don't want pandering or a handout. They want work.

What I am fearful of is that the bill the majority party is pushing panders to the voters in an election year, but does not nearly do what it should in creating jobs.

So, Mr. President, while we look at a tax bill that will increase taxes over $57 billion by the period ending in 1996, I ask myself how many jobs will that create.

Let me talk about just one aspect of the amendment that the distinguished Senator from Oregon is offering this evening on behalf of the President's package, and that is the first-time home buyers' tax credit of $5,000. There is a tremendous difference between the credit offered as a part of this amendment and the credit offered as a part of the Finance Committee bill. I heard the distinguished chairman talking about the fact that the Democratic home buyers' tax credit was good for construction and for construction only, and that it created jobs. Well, he is right, to a point. But what he is missing is the ability to create hundreds of thousands of more jobs by having the tax credit apply not just to new houses. Let us do the job right. Let us really create jobs. Let us apply it to all housing, including existing homes.

Mr. President, the substitute amendment and the Finance Committee bill offer two very different proposals; one offers a tax credit which is limited to new construction, and one offers all first-time home buyers a shot at the American dream. Specifically, the Democratic proposal will not help 80 percent of the first-time home buyers of America. Why do I say that? Because only 20 percent of the first-time home buyers of America can afford to buy a new home.

You see, Mr. President, if you understand the housing market well, you understand that an integral part of the market is a move up. Maybe there is a retired couple living in their home and their nest egg is in that existing home. The house has become too large for them and they would like to move. They would like to sell. They need a first-time home buyer to buy their home. We would like to give that first-time home buyer a $5,000 tax credit to help them buy that home. Unfortunately, the Democratic proposal will make it harder, rather than easier, for the retired couple to sell their home because it discriminates against the purchase of existing homes like theirs.

Another instance is where a family is growing, they have equity in their home, and they would like to sell it and move up to a larger home to accommodate new family members. This is the move-up market, Mr. President. Again the Democratic proposal will make it more difficult to sell their home by discouraging first-time home buyers—who would naturally follow in their footsteps—from purchasing their home. This limited proposal is at complete odds with how the housing market works.

The overall decline in the real estate market has placed a much greater reliance on first-time home buyers. In fact, first-time home buyers accounted for almost one-half—45 percent actually—of all home purchases in major metropolitan areas in 1991.

Again, the limited proposal falls short because it discriminates against urban areas and communities that are already "built-out." It discriminates against inner-city residents who often cannot afford to buy a new home, especially if it is located in distant outlying suburban areas. Our alternative will give all an opportunity to take advantage of this tax credit.

And what kind of homes were these first-time buyers buying? The median price paid by those first-time home buyers for existing homes was $99,900, versus $120,000 for new homes. Clearly, unless we apply this first-time home buyers tax credit to all first-time homes purchased, both resale and new homes, we will miss the mark, and tremendously so.

In 1991, there were 3,791,000 homes sold, and 86.7 percent of those almost 4 million homes were existing homes. Only 13.3 percent were newly constructed homes.

Mr. President, the Democratic plan is at complete odds with the way the housing market works. The demand for new housing is driven by the existing housing market. Consumer demand for housing spurs new construction, but new construction is not driven by the first-time home buyer segment of the market, since only 20 percent of first-time home buyers purchase new homes.

So what we have in the Democratic proposal is some window dressing that sounds good. But when you look underneath that window dressing, Mr. President, there is less than half a loaf.

We need to offer this credit, Mr. President, to all first-time home buyers because the sale of a home triggers a whole sequence of events, a ripple effect that stimulates business throughout the economy, through the sale of furniture, of appliances, and of all the other items associated with home buying. Each time a home changes hands, the dollars spent on the home purchase multiply through the economy and create jobs. To be more specific, Mr. President, every $1 spent on new housing in California generates $2.56 in economic activity. The same dollar in the resale market will generate $2.12.

So, in the first place, you have a dollar of new construction turning over in the economy and generating $2.56. If you spread the program to existing homes as well, you pick up another $2.12 in economic activity for every dollar spent. Moreover, every $1 million spent in the new home market creates 29.6 jobs, and the same dollar in the resale market will create an additional 22 jobs.

So it seems very clear to me that the Democratic proposal, by severely curtailing the potential benefits of the credit, really misses the mark in the area of homeownership. What does do the job in this particular area is the amendment the distinguished Senator from Oregon [Mr. PACKWOOD] has offered on behalf of the minority leader.

Finally, let me say, Mr. President, in closing, that there are other aspects of the Finance Committee bill that fall short of the mark, the mark being: Will it create jobs and will it do the utmost to create jobs as opposed to simply pandering to the voter and the taxpayer in this election year?

The first failure has to do with the investment tax allowance. Again, we get some window dressing from the Democratic version, whereas the President's proposal hits the mark—it will create jobs.

Second, on the research and development credit, a fiscal incentive that is extraordinarily important to my State of California where we have high substantial high technology and biotechnology industries. The R&D tax credit is very important and the President's proposal makes it permanent. In contest, the Finance Committee proposal will extend the provision for only 2 years—until the next election—and thereby continuing the problem.

Mr. President, such policies are shortsighted. Why do we not forget about the elections of 1992, just for a moment, and focus instead on those who are unemployed and those who are barely employed?

Let us throw down the partisan swords, and let us do what is right for America. I want to see done what is best for California, and that is to put people back to work. That should be the litmus test for every provision of the President's package as well as the Finance Committee package: Will it create jobs? I suggest to you that the proposal we have before us as an amendment will do just that.

I yield my time, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD. Mr. President, I yield 7 minutes to the Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah, Mr. HATCH, is recognized for 7 minutes.

Mr. HATCH. Mr. President, I thank my colleague. I would like to briefly mention several of the provisions included in the amendment.

This amendment includes several provisions that will boost the real estate market including relief from the passive loss rules and a tax credit and penalty free IRA withdrawals for first-time home buyers. These provisions would raise the value of real estate, and help the real estate market and the American recovery rise out of the current recession.

It would also raise the value of the properties held by the RTC. And that would help every taxpayer in America.

So it makes sense; it is economically sound.

This amendment also includes a capital gains exclusion. This exclusion would provide an incentive for individuals to increase investment in capital assets. This provision would lead to greater availability of capital and thus lower the cost of capital in this Nation.

The investment tax allowance provided by this amendment will accelerate the cost recovery of new investment in business equipment. This proposal would encourage businesses to speed up their purchases of machinery, trucks, and other productive equipment. The effect of this will spread throughout our economy, increasing orders and creating jobs.

Over one-third of American businesses are now paying the alternative minimum tax. Many of these companies are among those hardest hit by the recession. The alternative minimum tax raises their effective tax rate and thus creates a disincentive for them to invest in new productive capacity. This amendment includes a provision to repeal the depreciation component of the accumulated current earnings adjustment for this tax. This would remove part of the disincentive facing these companies and encourage them to invest in new capital purchases.

This amendment makes sense. It really would help the economy.

Mr. President, the American people today are worried. The economy is in distress, and families are struggling to survive. They need and expect our help. Yet, at a time when Congress should be coming to their aid and working to create new jobs and long-term economic growth, we are mired in a political debate. This will not help the economy or the American people. Encouraging economic growth and job creation through incentive measures is the only way to truly help the American family and ensure our future world leadership position.

The bill before us contains a number of provisions that raise income tax rates and stifle the incentive for individuals to work harder, invest, and save. As long as these increases are included, Mr. President, this bill will not become law. It will be vetoed and that veto will be sustained.

President Bush has proposed an economic growth plan with seven provisions and challenged us to act on these by March 20. This amendment is based on that plan. In addition, the amendment repeals the ill-conceived luxury taxes that were passed in 1990. When taken as a package, the provisions in this amendment will stimulate the American economy. And it does not raise taxes to pay for it.

This amendment would spur job creation and economic growth. While the underlying legislation is labeled a growth incentive bill, it includes a tax increase in a misguided sense of so-called fairness. These tax increases will not create economic growth or increase tax fairness. The best thing we can do for families who are suffering because of unemployment or underemployment is to pass a tax bill that would create jobs. Let's face it. Disincentives such as higher marginal tax rates will discourage hard work and investment. We clearly need to do the opposite.

I urge my colleagues to consider what many economists have said regarding economic growth tax incentives—and that is unless we pass provisions that give incentives for individuals and businesses to save, invest, expand, and produce, we are merely shifting dollars around the economy and may well worsen the deficit. I maintain that increasing anybody's taxes—whether the so-called wealthy or not—will not have the desired effect. Consider the luxury tax. This tax was also designed to soak the rich and make the tax system more fair. The effects, however, have been disastrous, and I doubt if there is one Member of this body who would not vote to repeal at least a portion of this tax. We need to keep our focus on incentives and on the long term. Short-term outlooks and soak-the-rich tax increases will not create jobs—they will lose them in the long run.

The amendment before us would increase investment, create jobs, and stimulate economic growth. I urge my colleagues to come to the aid of the American family and support this progrowth amendment.

It has the President's support. We should quit fooling around and get the economy back on its feet.

I yield the floor and yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BRADLEY. Mr. President, I yield 5 minutes to the distinguished Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas [Mr. BUMPERS] is recognized for 5 minutes.

Mr. BUMPERS. Mr. President, I thank the distinguished floor manager of the bill. I thank him for yielding me just a couple minutes to talk about this proposal.

It is not all bad. There are some things in it, as a matter of fact, that I support. I support the tax credit for first-time home buyers. I support the tax credit for the use of IRA's for various purposes that are desperately needed by some people. I even support the repeal of the passive losses provisions which we put in the 1986 bill.

Mr. President, in a perfect world—and by "perfect" I mean one that does not carry a $400 billion deficit with it—I might even support a capital gains proposal. I could not support this one under any circumstances, and as many Members of this body know, the capital gains provision in the bill is mine on which I worked for 5 years trying to get passed. We had almost 50 cosponsors on the bill this year. I am not going to discuss that. It is in the bill, and I want to thank the Finance Committee, especially the chairman for incorporating it because it is going to be wonderful for the small business community—and they are the ones who need the capital. Venture capital is so tough to come by, and this bill is going to be a tremendous help to the small business people of this country. And they are the ones, Mr. President, who produce the jobs.

How many times have you heard it? It does not hurt to repeat it one more time because it is so true.

Mr. President, this capital gains provision carries, between 1992 and 1997, a loss to the U.S. Treasury of $18 billion. I am obsessed, literally obsessed, with the Federal deficit. I am not going to vote for anything tonight, tomorrow, or the rest of this year that exacerbates that problem. Worldwide, our No. 1 problem is the population is out of control. In the United States our No. 1 problem is the deficit. Pollsters say do not talk about the deficit because there are no votes in it. Incidentally, I disagree with that. Whether there are any votes or not does not remove or obviate the point I just made.

And that is, it threatens the economic viability of this country. And it is not going to be long before it happens, if we do not get serious.

Mr. President, in this particular case, this capital gains provision is not designed to stimulate the economy because it is retroactive. I bought my farm almost 30 years ago. If this bill passes—I do not want to sell my farm—but if this capital gains provision becomes law, I am going to sell it, because this provision will save me $30,000 in taxes. And I am going to turn around and I am going to buy stock in some of those wonderful Arkansas companies; WalMart, Dillard, Tyson's, J.B. Hunt. We have some great stocks on the New York Stock Exchange, all of them wonderful.

Let us just assume I am going to take my profit, a couple hundred thousand dollars, and put this in the stock market. Do you know how much economic activity that is going to generate? One brokerage fee for some brokerage house, and that is all. And I will have ripped the Government off for $30,000. This is not even prospective, designed to encourage people to invest now in a risky investment in exchange for a favorable tax rate down the pike.

On the night the President delivered his State of the Union Address, when he said, "Please pass my capital gains tax," he said 64 percent of the people in this country who benefit from this make less than $50,000. And if you do not study statistics and you did not really pay any attention to what he was saying, that can be very misleading.

First 1, only 7 percent of the people in this country take capital gains; 93 percent do not take any capital gains. It may be true that 64 percent of the people who take capital gains make less than $50,000 a year. But what the President did not tell us is that that 64 percent get about 10 percent of the benefit.

Mr. President, do you know who gets it? And I am not opposing the rich. I have been trying to join them all my life. But do you know who gets it? Seventy-seven percent of the $18 billion this costs goes to people who make over $100,000 a year; 62 percent of it goes to people who make over $200,000 a year. And, Mr. President, the people who make $20,000 or less who take capital gains make, on an average, $65. Now, you think about that. If you make $200,000 or more, you get 62 percent of this $18 billion. And if you make $20,000 or less, you get about 3 percent of it, an average for the people in that category of $65 each.

Mr. President, there was a New York Times article the other day about how 77 percent of all the income increase in this country, 77 percent in the past 14 years, has gone to the wealthiest 1 percent of the people of the country. I have a lot of wealthy friends, Mr. President. They do not think that is fair. They do not agree with that. Nobody would agree with that.

And so, somehow or other in our tax policy, we are going to have to come to grips with the fact that the middle class really has been taken. This is not just political rhetoric; it has happened.

The PRESIDING OFFICER. The Chair informs the Senator from Arkansas that the time allocated to him has expired.

Mr. BUMPERS. Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. BRADLEY. Mr. President, while we are waiting for the next speaker to come to the floor, I would like to simply reflect once again on a few of these provisions, capital gains, passive losses, and the investment tax account.

Passive losses is a very interesting provision. It was put in the 1986 Tax Reform Act as an attempt to raise sufficient revenue to balance the overall revenue of the bill. And it removed tax benefits from real estate investors. They were no longer allowed to passively invest, take the deductions from interest and depreciation among other things, and deduct them against their other income. Dentists and doctors, who were making a lot of money, invested in buildings, and they had all of this loss thrown off. And in many cases, they used all those losses to reduce their taxable income and ended up, in some cases, paying no tax. We ended that in 1986.

One of the amazing things that I discovered in the last several weeks with regard to passive losses is that I find people coming in and lobbying that we reinstate passive losses. And I ask them, "Well, when did you make that investment in real estate, that investment that has gone bad?"

And they say, "Well, we made the investment in 1988 or 1989." In other words, when there were no passive losses in the code. So you had individuals who knew full well when they invested that they were not going to get these benefits. They make the investment and for whatever reason—bad judgment, tough times—it does not turn out, and instead they come to the Congress and say, "Well, now we need passive losses."

Mr. President, in my view, that is shortsighted. It benefits disproportionately the very wealthiest in the country. And I hope we would see it for what it is.

In the Finance Committee, I attempted to knock out the provision on passive losses and the investment tax allowance and capital gains; I attempted to use that money to provide for refundability of the children's tax credit for the 25 percent of the poorest kids in the country. It did not pass.

And I do not like the provisions in the Republican alternative any better than I like those provisions in the bill that we reported out of the Finance Committee. In fact, I like them less, because they are more generous. They increase the deficit more.

And we have joked around here—it really isn't a joke—that we are going through this exercise, the President will veto the bill, and then we will come back and maybe we will do something and maybe we will not. More than one Senator has come up to me and said: "Do you know what we really need is no tax bill at all." I mean, that is going to be the outcome: no tax bill at all. And that is what a number of Senators on both sides of the aisle have asserted as to what is a desirable outcome.

The question then is, well, Why are we going through this? Why are we going through this exercise if that is the outcome that we want? And I view this proposal as just the latest example of that folly.

The speeches have been made over here that this amendment is going to jolt us out of the recession. If this amendment passed, it would mean $3.4 billion in the pockets of some of the wealthiest Americans in 1992.

Does anyone believe that $3.4 billion to the real estate interests or to the capital gains specialists is going to be sufficient to jolt a $5 trillion economy ahead? I mean, it boggles the imagination that someone can actually stand up and assert that.

Mr. PACKWOOD. Leverage.

Mr. BRADLEY. The distinguished Senator from Oregon says the key is leverage. Well, if $3 billion is leverage for a $5 trillion economy, I do not think that is leverage as much as it is snake oil, as much as it is a magic potion that is going to transform this economy.

Mr. PACKWOOD. Will the Senator yield for a moment?

Mr. BRADLEY. I will be glad to yield if I can yield on the Senator's time because I am not sure whose time I am yielding.

Mr. PACKWOOD. I have never said this bill I am going to introduce is going to cause this economy to catapult. Of the three things we have before us, the House bill, the Finance Committee bill, and the proposal the Republicans have put in, the Republicans' is marginally the best of the three.

None of these are going to catapult us from 1 percent growth to 1.5 percent growth, let alone 5 percent growth, and none of them go in the direction that you and I have talked about over and over, in the direction we know that this country has to go. But we are not going to do it on this bill, so let us get rid of this bill and, hopefully, move on to something that will do it.

That was on my time.

Mr. BRADLEY. I respond simply by agreeing with the distinguished Senator from Oregon about what we need to do. I am very glad. I am going to carefully monitor the remarks of Members on the other side. I know the distinguished Senator from Oregon has not said such a thing. But I think I have detected from other speakers that they have the expectation that this is going to push the economy ahead.

It is just not going to happen. Maybe we will end up with what many people believe is the best alternative, which is no tax bill. We have gone through this exercise in the process. In one sense that is regrettable.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, I yield 15 minutes to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico, [Mr. DOMENICI], is recognized for 15 minutes.

Mr. DOMENICI. Mr. President, while we are going to have a few minutes later on to talk about a point of order and a motion on the part of the distinguished Senator PACKWOOD, to that point of order, I want to raise an issue that bothers me. I do not quite have it figured out yet but perhaps in the next hour or hour and a half I will. I have been at this budgeting business for a while. I have seen a lot of different innovative things used. But, frankly, the Senate ought to know this is a very, very odd duck, this bill. I mean it is a rare bird.

Let me hold up for the Senate S. 2325, this little thin bill. This bill was sent to the desk and then, later on, this other bill, originally H.R. 4210, was sent to the desk.

Would you believe, as I understand it, that this little bill, S. 2325, is still at the desk? It is going to be, at the end of the session, thrown into the garbage heap. But it is an important little bill because of some authority the chairman of the Budget Committee has. It has to do with a little-understood provision called a "reserve fund." He has the right to add some allocations to a particular committee. Apparently, that was done to this little bill. So we have the reserve fund activity added to this little bill.

Everybody would be anxiously wondering how is it going to be used, that reserve fund. Is it not wonderful, the magic of the Senate? It is not going to be used in this bill, because this bill is going nowhere. But to make this bill so it is not subject to a point of order somehow or another, the magic said move that reserve fund from this little bill to this big bill.

I am not at all sure that, when we are through with all the numbers, that trick is going to work. But I assure you that, while I have not used very much technical language here, what I have described is exactly what happened. All because the big bill that has the Democratic recovery plan—I say that guardedly and in parentheses because that is what they sort of call it—depends on some money that was put in this little bill moving over to this one, to avoid a 60-vote point of order.

Maybe before the evening is over we will find that this one needs 60 votes because they may not have done all their arithmetic right. But we will take that up in a little while. That is the magic of reserve funds and tax bills, as I choose to call it tonight.

Having said that, let me talk a moment. I do not think anyone is kidding anyone. The Democratic underlying bill is really not an economic recovery or jobs bill. If it passes and gets signed, no one can stand on that come November and say the legislation caused a recovery. I do not believe they really think that.

I think they may be saying, "Let us pass it. We will take a chance. And the economy is recovering anyway. And maybe with this bill we can fool the people and say our legislation did it." But it really will not.

We can show that 60 to 65 percent of the tax increase, which is said to be a tax on the rich will be added to returns with small business income. If businesses are partnerships, they pay taxes on their income. If partners choose to be this strange kind of corporation, subchapter S corporations, they pay taxes as individuals. So all their income is taxable in the year but they do not necessarily have it to spend. Sixty to sixty-five percent of these rich people that are going to get hit with this new tax are that kind of Americans.

You know what that is going to do? It is going to cause those kind of business people to do less for the economy instead of more. They are going to be taxed more. They are not going to quite know what this all means. It is very complicated. But they are going to be taxed more on income that they earn but do not take out of their partnerships, and S corporations. And the supporters of this bill are running around saying that kind of tax is not harmful to the economy because it means equity and fairness.

It is neither. It is neither equity nor fairness, nor is it economically sound for our kind of enterprise, our kind of entrepreneurial economy. That is a giant difference.

When anyone stands up and says the Democratic bill is like the President's, I have to disagree. The Democratic bill does not come close to accomplishing the seven things the President wanted. We could spend time on each one, and, instead of spending the time, I will put a side-by-side comparison in the RECORD for anyone who wants to look at it. It is substantially different.

There being no objection, the comparison was ordered to be printed in the RECORD, as follows:

Despite what it's supporters contend, the Senate Finance Committee reported bill does not incorporate the President's short-term growth proposals. The comparison below illustrates:

CAPITAL GAINS

President—Republican substitute	Senate finance
The President proposes a sliding scale exclusion, specifically a 15-, 30-, or 45-percent exclusion for capital gains held by individual taxpayers for 1, 2 or 3 years respectively. For a taxpayer whose capital gains would otherwise be subject to a 28-percent rate, this would result in a regular tax rate of 15.4 percent for assets held 3 years or more. The sale or exchange of real estate or a closely held business is not treated as a preference item for AMT.	A capital gains tax rate of 5, 19, 23, or 28 percent would apply depending on the individual's taxable income. The amount of the capital gain is "stacked" on top of other income. The portion of the capital gain in 15-percent income tax bracket would be taxed at 5 percent, the portion in the 28-percent bracket would be taxed at a rate of 19 percent, etc. The new rates would apply for qualified capital assets held more than 2 years.
Effective date Feb. 1, 1992	Effective date Feb. 1, 1992.
1992–96 revenue cost $11.9 billion. (Treasury estimates this proposal would raise revenues by $5.2 billion).	1992–96 revenue cost $7.7 billion.
Investment tax allowance	
President's proposal would allow additional 1st-year depreciation equal to 15 percent of the purchase price of a qualified asset during 1992. The basis of the property for future depreciation would be reduced by the 15 percent ITA.	Senate Finance would allow additional 1st-year depreciation of 10 percent during 1992. The basis of the property would be reduced by the 10 percent ITA.
Effective for equipment acquired on or after Feb. 1, 1992 and before Jan. 1, 1993 and placed in service before July 1, 1993.	Same as President.
1992–96 revenue cost $2.3 billion. (Treasury estimates a revenue cost of $3.8 billion).	1992–96 revenue cost $2.7 billion. The Finance package costs more over 5 years because the President's 15 percent ITA reduces the bases of property by more and results in lower future depreciation deductions.
Simplify and enhance AMT depreciation	
Proposes to eliminate the depreciation component of adjusted current earnings (ACE) for corporate AMT purposes.	Same as President.
Effective for property placed in service on or after Feb. 1, 1992.	Same as President.
1992–96 revenue cost $1.3 billion. (Treasury est $—1.4 billion).	Same as President.
Provide passive loss relief for real estate	
President would amend the passive loss rules to permit taxpayers to treat their real estate development operations as a single trade or business activity.	Similar to President, but would apply only to property placed in service before Mar. 3, 1992.
Effective for taxable years ending on or after Dec. 31, 1992.	Same as President.
1992–96 revenue cost $1.8 billion. (Treasury est $—1.9 billion).	1992–96 revenue cost $1.8 billion.
$5000 homebuyers tax credit	
First time homebuyers would receive a credit equal to 10 percent of the purchase price of a home up to a maximum of $5000. The credit would be payable over 2 years.	Similar to President but the credit would be available to first time homebuyes purchasing new homes only.
The credit would be available for contracts entered into between Feb. 1, 1992 and Dec. 31, 1992 and closed by Jun. 30, 1993.	The credit would be available for contracts entered into between Feb. 1, 1992 and Dec. 31, 1992 and closed no more than 90 days after entering into the contract.
1992–96 revenue cost $6.1 billion. (Treasury est $—5.3 billion).	1992–96 revenue cost $1.5 billion.
Penalty free IRA withdrawals for first-time homebuyers	
President would allow penalty-free withdrawals of up to $10,000 if the funds are used for first time home purchases.	Allows unlimited withdrawals penalty-free for first time home purchases from IRAs or other elective deferral plans. Parents and grandparents could withdraw funds free for children or grandchildren.
Effective Feb. 1, 1992	Jan. 1, 1992.
1992–96 revenue cost $0.6 billion. (Treasury est $—0.4 billion).	1992–96 revenue cost $1.7 billion.
Facilitate real estate investments by pension funds	
President's proposal removes requirements that are considered restrictive while continuing the rules that prevent abusive transactions.	Same as President.
Effective Feb. 1, 1992	Effective Jan. 1, 1992.
1992–96 revenue cost $0.2 billion. (Treasury est < $—50 million).	1992–96 revenue cost $0.4 billion.

Mr. DOMENICI. In fact, those who buy homes, those who sell homes, and those who build homes say that this is about one-fifth as effective as the President's. The American people have already been heard from on that one. They think the President's proposal for a credit for first-time home buyers is the most exciting and most positive part of the entire recovery package submitted by anyone. They realize the package that is in the underlying bill is about one-fifth as effective as the President's in terms of buying, selling, and building homes and stimulating the economy.

I am not going to go into each provision. Suffice it to say even the 15-percent investment tax allowance, a substitute for the investment tax credit, is inferior in the underlying bill to the President's, substantially inferior.

Essentially, the big difference is that the Packwood-Dole amendment, which I know we are not going to pass because either the other side will not vote for it or a point of order will be made and we cannot get 60 votes, is significantly different because it does not raise taxes on Americans to pay for items that are supposed to be stimulative for the American economy.

I could go on beyond that, but I submit that $65 billion in new taxes, which do what I have just described, get the majority of their money from businessmen and women in partnerships and subchapter S corporations in this country. Their small business earnings are high but their take-home pay is in their business and we are going to tax it, we are going to raise the brackets under the guise of economic stimulus or fairness. It is neither. It is the wrong thing to do and it is doubly wrong in a recession.

So I do not choose to go into a lot of other detail. There is much to be said about the underlying bill. I took 40 minutes last night and went through what was wrong with it. Can you believe that there are all kinds of new commissions, new studies, a new bailout for the coal industry, a retroactive adjustment of taxes for fishermen way back to 1984? There are all kinds of things that do not belong in there, plus the tax increase I just described. On top of all that, the seven items the President asked for are watered down and would accomplish only a fraction of what he asked for.

Mr. President, neither the Democratic nor Dole-Packwood-Domenici package are loaded with short-term stimulus. Frankly, Mr. President, I am not sure anyone knows how to dramatically stimulate an economy as large as ours with a deficit as large as we have already without doing more harm with the expenditures than what you gain from them.

So I believe this economy is going to recover. I do not believe it is going to come bouncing out and grow by 3 or 4 percent of GDP; it will be slower. I also do not believe much growth is going to occur because of these bills. But I do believe the seven proposals by the President are all on the plus side of growth. Some are short-term, some are long-term and none, in my opinion, are harmful to the American economy.

So I believe if we do anything, we ought to do what the President asked for. And I close with this remark. It is strange to this Senator from New Mexico that Members of this Senate, and I must say not Senator BENTSEN, for months asked the President, "what do you want to do? Help us with the economic recovery." Some Senators were on the floor every night, for weeks asking the President what to do. I don't know what they were waiting for. When the President told them what he wanted to do, the House threw his proposal away; in the Senate, they modified all of his proposals until you cannot recognize his plan.

I submit, if they in the House knew what to do and if the Senate knew what to do, why did they wait for the President? They ask him for advice yet they do not follow it. Some might begin to ask, why did they not enact a plan 4 months ago? They run both Houses. I yield the floor.

Mr. BREAUX addressed the Chair.

The PRESIDING OFFICER (Mr. WOFFORD). The Senator from Louisiana.

Mr. BREAUX. Mr. President, I ask the distinguished chairman to yield me some time.

Mr. BENTSEN. How much does the Senator from Louisiana desire? I yield 5 minutes to the Senator from Louisiana.

The PRESIDING OFFICER. The Senator from Louisiana is recognized for 5 minutes.

Mr. BREAUX. I thank the distinguished chairman for yielding me some time.

Mr. President, I saw an interesting statistic the other day. It was not about the tax bill; it was about the Congress. The statistic said that 22 percent of the American people had confidence in the job the Congress was doing. I would imagine that if it says 22 percent approve of the job Congress is doing, it must mean that a substantial majority of the American people really think that Congress, in fact, is not doing a very good job.

This is not a partisan poll. They did not say do you think the Democratic Congress is doing a poor job? It did not say do you think the Republicans in the Congress are doing a bad job? It was just a question about the Congress in general. And by a vast margin, American people think the Congress, indeed, is doing a very poor job.

As Americans throughout this country watch the debate and listen to the debate and read about what is said on this legislation, I would like to think that the American public feels that there is a real and a serious and an honest effort on the part of this body to try and come up with a package that addresses some of the main concerns of the American people.

I know in my State of Louisiana, they want Congress to do something about jobs; they want us to do something about the economy. Both of them are tied together. I think they also want us to do something about fairness in this country and particularly tax fairness because I believe the average person in this country looks back over the decade of the eighties and admits in somewhat sorrow that something went wrong in the eighties; that we lost our perspective of responsibility, community, participation and the common good and the 1980's were taken over by a period of greed, get what you can get as soon as you can get it and, I might add, as often as you can get it.

I think middle-income families in this country look back over the 1980's and they feel that all the things that were good in this country went down for them and that most of the things that were bad in this country increased for them. I believe the average American would like to plead to Congress tonight, both Republicans and Democrats, to please do something to help us; we are in desperate need of assistance. The economy in many States is close to being in shambles and they are not really concerned whether it is a Republican proposal or a Democratic proposal. They would just like to think that somebody in Congress is looking for the guy outside the beltway.

We have an opportunity with this package this evening and the next couple of days to try to turn around those numbers, that 22 percent approval of Congress. This is an opportunity to increase America's opinion of the work we do in this body.

I think the package the chairman has brought to this Senate is certainly not perfect. I know the chairman would agree with that. It certainly does not have everything that I would like to see in a tax package, nor does it have everything probably any Member of this body would like to see in a bill that affects everybody in this country.

There are some things that I fought for that are not there. There are things that I have opposed that in fact are there. But on balance, Mr. President and my colleagues, I think this is an honest effort to try to do something about tax fairness, and about jobs, and about growth in America in the 1990's.

Let me say a word or two about tax fairness. If you were a middle-income family in America in the 1980's, the statistics are now in. The graphs can be drawn, and the charts can be drawn, and the picture is not very pretty if you fell into that category which most Americans did.

The Congressional Budget Office projects that after this year the real after-tax income—that is what you have in your pocket, after taxes, what you can spend on your family, on their health, on their food, on their shelter, and on their education—the Congressional Budget Office tells us that real after-tax income of the top 1 percent of the families in America more than doubled between 1980 and 1992. They did very well.

In contrast, however, the real after-tax income of this typical American family, a family with two children, wife and husband, both having to work, fell by something like $747 per family. Their real spending income actually was less in 1991 than it was in 1980. Is there any wonder why the majority of the families in this country say, hey, something happened in the 1980's, and it was not good for me, and it was not good for the majority of Americans in this country?

Another interesting statistic which affects real people in a very real way points out that the total Federal tax rate, or burden on all middle-income families that have children will be higher in 1992 than in 1980, while that same burden or rate of taxes that is paid by the top 1 percent of the families in America will be actually 7.5 percent lower in 1991 than it was in 1980.

Yes, something did happen in the decade of the 1980's, and if you were in the top 1 percent of Americans, what happened was very good, and you are a lot better off than you were at the start of the last decade.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BREAUX. I would ask for another 5, if that is appropriate.

Mr. BENTSEN. How much time does this Senator have?

The PRESIDING OFFICER. The Senator from Texas has 19 minutes.

Mr. BREAUX. I am sorry. Can I have just 2 minutes to conclude?

Mr. BENTSEN. Yes; the Senator can have 3 minutes.

Mr. BREAUX. I thank the Senator.

What we have seen, Mr. President, is a problem out there that needs attention and that this Congress has that ability to correct. We have heard a number of the political candidates say that the middle-income tax break this bill provides is not real and it does not mean anything and it is not going to turn the economy around.

It may be true that it is not going to jump start the economy by giving a $300 tax credit to a middle-income family, but let us not kid anybody. If you are a middle-income family in America making $35,000 a year and have two children, you are in difficult financial straits, and this bill, if it is adopted and signed into law, would give that family, that is, a median-income family in America, a 25-percent tax reduction.

Now, we have seen people say, well, a dollar a day is meaningless, and people do not want it. Let me tell you if you are a family making $35,000 a year and you are sitting around your kitchen table filling out your tax forms and you look at what this bill would do for you, I think you would consider very significant a $300 tax credit per child. For 2 children it is $600.

A median-income family pays $2,400 in taxes. If you give that family a $600 tax credit, that means when it files its return it deducts $600 off what it has to send to Washington. If you are that family sitting around the kitchen table trying to figure out how are you going to pay your taxes next year, and somebody tells you under this bill you would have the opportunity to reduce your tax burden by a full 25 percent, do not tell that family it is not real. Do not tell them that it is not significant. They can use that tax credit for dental care for a child, for a physical examination, for a medical examination and treatment for those children, or it can help with the cost of baby food for a year. These are real things to real people who are in the middle-income tax bracket.

For the top 1 percent it may not mean anything. They may be able to make fun of it. But I tell you, of all the people in the State of Louisiana who fall into that category, this bill and this provision is significant, it is real, and it is substantially helpful to their economic plight. It addresses the question of tax fairness which this Congress has not addressed in the decade of the 1980's.

I think it is a step in the right direction. I will have more to say about other aspects of this bill which I think are important, particularly in the real estate and housing sections as well as capital gains, which I think are a step in the right direction.

With that, Mr. President I yield back the remainder of my time.

Mr. PACKWOOD. Mr. President, I yield 5 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, we really have a choice tonight to decide in which debate we want to engage. One debate tries to divide Americans along the lines of how much money they earn. It tries to create the politics of the class struggle in America. That class struggle and its politics failed in Eastern Europe, in the Soviet Union, and is being rejected all over the world, but I guess some of our colleagues believe it is still working in Havana, Cuba, and they can make it work in Washington, DC.

The tragedy of it is that no nation has ever engaged in any kind of redistribution of wealth without destroying more wealth than they redistribute.

Mr. President, debate about redistributing the wealth is what our Democratic colleagues are doing here tonight. In fact, their bill raises taxes, imposing taxes on people who are paying more of the tax burden today than they were in 1980, and in the process, transfer 83 cents a day to people with the idea that somehow that is going to have a positive economic impact on America.

Mr. President, I do not think that is the case, but the point is it is irrelevant to the problem that America faces today. Our problem is that we are in a recession, that Americans are out of work, and this debate should not be about redistributing the limited amount of wealth we have but about creating new wealth, new jobs, new growth, new opportunity.

Mr. President, with the amendment before us we have a clear-cut choice. We have the Packwood amendment that is basically seven incentives aimed at creating jobs, generating growth. Their sole objective is to try to put America back to work:

First, it cuts the capital gains tax rate to encourage people to invest. I know our colleagues on the left here say cutting capital gains tax rates help the rich. Well, the last time I looked everybody that is rich that I know either has a job or they do not want to work. What the President and I are trying to do is to encourage people to invest in America, to create jobs here for people who do not have jobs, that is what this amendment does.

We have a provision that recognizes that people ought to have the right to offset losses in real estate against gains when they are principally in the real estate business so as to encourage investment in the area of our economy that is weakest. We have an investment tax allowance that targets incentive to encourage people to invest in building new farms, new factories, to generate new economic growth.

I would go through the list from the homebuyer tax credit to the institution of using IRA's to buy new homes, and every one of these provisions boils down to one thing, jobs. Compare that with the underlying bill—a hodgepodge of bad ideas, from imposing a tax on every coal producer in America to bail out a private pension fund, where most of the people paying the taxes would get no benefit from the pension fund, to an endless list of special-interest provisions all tied to this basic idea of the economics and politics of the class struggle.

So, Mr. President, our choice tonight is very clear. If you want to create wealth, generate jobs, get America moving, jump start the economy, you want to vote for the Packwood amendment. If you want to play politics as usual, poison the President's tax proposal, guarantee that we adopt a bill that will be vetoed, and that will in the process guarantee that there will be no jump-start program, then you want to vote no. I think the choice is about as clear as a choice can be.

I hope my colleagues will put partisanship aside and will vote for this amendment. I think it is important to the future of the country. I think the American people want more jobs, more growth, more opportunity. We have a chance in this amendment to create those jobs. If this amendment fails, we have a bill that will destroy jobs and not create them.

I yield the floor.

Mr. PACKWOOD. Mr. President, I yield 5 minutes to the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I wish to commend Senator PACKWOOD for his leadership in preparing this substitute.

Like many pieces of legislation that we see having been part of it, contributing to it, but not the total author of it, I find it good but not perfect. If I had my way, I would make a few changes in it. But, nonetheless, overall, I think it is an excellent piece of work. I must say, Mr. President, it is certainly a tremendous improvement over the bill that is before us.

Why is it a big improvement? I think the key thing that I find troubling in the bill that is before us, the bill we are working on, is that the bill increases taxes $57 billion. But what it does with that $57 billion is it takes $32 billion and spends it immediately in an area that all the proponents concede has nothing to do with job stimulation or economic revival in the United States of America. They start off conceding that point.

Suddenly, they talk about fairness, equity, a whole series of other terms that somehow they are attempting to achieve. But if we are going to deal with equity, then let us get into the whole Tax Code and start right down at the bottom, work our way right through the code.

But to spend $32 billion over 5 years of new taxes on a very limited credit—first of all, let us remember this credit only is for those families that have children. And it is for only those children who are up to 16 years of age. In other words, they have to be 15 or less.

It also income-wise is limited. It starts about in the $20,000 bracket of the family and works its way up to $50,000 family income, and then it is phased out.

What do we get for spending that $32 billion? Each family that has a child gets, per child—in this limited group, for this limited age period—83 cents a day. Come on.

I am as sensitive—I have five children—as anyone to the cost of raising children. But to suggest that by giving a family 83 cents a day per child we are doing something for either the family or the economy, and on the other side of the equation, we are spending $32 billion. I think families across America would say, "I want to do something for my children. And what I am going to do, and what I hope for, is to have the $32 billion go to reduce the deficit so that these children will not be lugging that burden in future years"—burden that accounts for $300 billion out of the budget every single year without a nickel of it going to principal.

So I am not opposed to raising taxes. Some on our side are. But if we are going to raise taxes, then let us have that revenue—certainly the great bulk can go to the reduction of the deficit.

Now in the bill that we have before us is the substitute by Senator PACKWOOD, and it deals with two areas that I believe are of prime importance: first, jobs; second, stimulation of the real estate industry.

In connection with the real estate industry, we revised the passive loss rules. We have a $5,000 tax credit for home purchases. We permit the use of IRA funds by first-time home buyers.

I have talked a good deal with homebuilders and realtors in my State. Every one of them believes that this will help. Is it going to solve everything? Of course not. But it is going to be a definite help.

The other part, jobs part, you heard touched on already. You have heard that the reduction in the capital gains will stimulate jobs. The portion that I particularly want to address, Mr. President, is the relief of that extremely onerous luxury tax. If there ever was a case where we embarked on something that was a sheer disaster from the start, it was the imposition of the so-called luxury tax.

What it is is a tax. It has nothing to do with luxury. It started out somehow we were going to tax the rich.

So the case I am particularly involved with, where I come from a State that builds more sailboat hulls than any State in the Nation, in our small State, with only a little over 1,000 square miles, we build more sailboat hulls than any State in the Nation.

So this so-called luxury tax that was to hit the millionaires and imposed a 10-percent tax on every boat that cost over $100,000—did it hurt the millionaires? No. What is devastating to those low-income individuals—and they are skilled, and they are not in the millionaire bracket by a long shot; those who build these boats—is that they lost their jobs because these boats just plain were not selling.

So it is a perfect case of where you raise the tax, you go through the barrier and impose a tax—in this case the so-called luxury tax—and you collect no money from it. So it has been a loser in every respect.

So, Mr. President, again, I urge my colleagues to support the Packwood substitute. I believe that, at a relatively modest cost, it is going to do the things we are seeking in this legislation. It will stimulate the economy. It will provide jobs. It will not, I will say, work wonders for the real estate industry, but it will certainly work as a tremendous encouragement to the real estate industry. I think it is a good bill.

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum, and ask that it be charged equally to both sides.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. I yield to the minority leader such time as he may need.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Mr. President, I am pleased to join with my colleagues, Senators PACKWOOD, DOMENICI, and others in proposing the Republican substitute Finance Committee tax increase plan.

It has been pointed out that our plan is very simple. It is a progrowth package that features much needed tax incentives for "working and earning America" to get the economy moving again and it does it without busting the budget agreement, without jacking up the deficit, and without raising taxes.

It includes the seven original provisions of the President's Economic Growth Acceleration Act, plus one very important addition—the repeal of the so-called luxury tax, the Democrats' misguided experiment in soaking the rich that really drowned the middle-class American workers.

Our alternative also includes legitimate ways to pay for these important growth incentives.

Four of these seven original incentives are designed to help spark the sluggish real estate market, and help bring the dream of homeownership within the reach of more Americans.

These incentives start with a real $5,000 tax credit for all first-time home buyers, whether they are buying a new or existing home. The Bentsen Plan restricts the homebuyer credit to purchases of brand new homes, shutting out more than 80 percent of first-time buyers who purchase existing homes, and shutting out inner cities and rural communities that are not experiencing much new home construction.

The Republican alternative also gives first-time homebuyers a helping hand by permitting penalty free IRA withdrawals for the purchase of a home. We propose to further stimulate the real estate market by allowing real estate investment by pension funds, and passive loss relief.

Mr. President, it is time to stop playing Capitol games with capital gains. We should reduce the capital gains tax rate, and we should do it right, as the President has proposed. The American people are demanding more jobs, and this is the kind of employment-building growth incentive America needs. And as President Bush observed in his State of the Union Message, 60 percent of the people who will benefit from the lower rate have incomes under $50,000.

To further stimulate business investment, we propose an investment tax allowance to help businesses purchase new equipment. Approval of this measure would be welcome news on every assembly line in America, where hard-working Americans are building the equipment that can help dig, plow, build, and drive our Nation out of the recession.

The seventh incentive is a permanent simplification of the alternative minimum tax depreciation rules, a measure certain to curb administrative costs—and headaches—for many taxpayers.

Again, these are the seven provisions in President Bush's original growth package. To the big seven, we have added a crucial eighth provision—we propose to rescue American jobs from the Democrats' so-called luxury tax. Let us face it, aircraft manufacturers, boatbuilders, small town jewelers, and automobile dealers have had all the luxury they can take. If you ask the workers on the assembly lines at Beech, Cessna, or Learjet in my home State of Kansas, they will tell you they consider their jobs necessities, not luxuries. When the Democrats dreamed up the luxury tax, they aimed at the high fliers, and ended up hitting the little guy, forcing folks off the assembly lines and on to the unemployment lines. I do not think that is the kind of fairness they had in mind. It is high time we fixed this class warfare casualty.

Mr. President, while the opponents of our bill are certain to argue otherwise, this bill does pay for itself with legitimate funding provisions. Let me also add that while our alternative does not include reform for the Pension Benefit Guarantee Corporation, I think we all agree that reforms are needed to get the PBGC back on its feet. Because both sides cannot come to agreement on the scoring of these reforms, we will have to address it responsibly at a later date—hopefully along the lines of the administration's comprehensive reform proposal.

We also do not include a middle-class tax cut in this measure. If you ask the American people, they will tell you that priority No. 1 is boosting the economy and putting people back to work, without increasing the deficit. They do not want a few quarters a day from Uncle Sam—they want a paycheck from an employer. But, I am confident that we will have the opportunity to look at so-called middle-class tax relief—after we approve these essential growth incentives.

Mr. President, it is time for Congress to get out of the business of creating excuses, and get into the business of creating jobs.

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum, and ask that it be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, I yield 8 minutes to the Senator from Wyoming.

Mr. SIMPSON. Mr. President, I rise in support of the amendment being currently debated. The situation that we face here today has already been so very accurately described by our colleagues, Senator HOLLINGS of South Carolina, and Senator HEFLIN of Alabama. We are debating a bill which, because it contains tax increases, will be vetoed if it does pass, and that veto will be sustained.

I commend my colleagues who have come down onto the floor and have urged the Senate to pass at least some provisions of a bipartisan agreement.

It should be clear to everyone here that the public has grown very weary indeed of congressional bickering and sniping over tax policy.

It is truly, I think, a galling situation for most Americans, and for most of us. Americans are calling out for us to provide meaningful progrowth, job-creating legislation. They are making that clear in their remarks, and through their votes. Few would disagree that this year has been exceptional in the public's low level of tolerance for giveaways and other very empty political gestures.

We ought to be able to respond. We ought to, because there is a substantial common ground on which Republicans and Democrats agree. The seven points contained in the President's proposal reflect many of those areas of agreement.

There is a broad basis of support in this body, Mr. President, and throughout the Nation, for expanding IRA's to allow their use for first time home purchases. There is substantial support, too, for the first time home buyers' $5,000 tax credit.

Other elements of this plan are similarly noncontroversial. Alternative minimum tax relief is not a front-page issue, but it is an important one. I commend those who have worked for this and similar provisions—the President for including it among his seven points, and the Finance Committee chairman for advancing this cause in his bill.

Passive losses for real estate, too, is something on which many of us agree. The real estate market, so vital to the economic recovery—and always has been—has been uniquely hit by tax laws which prevent tax deductions for the losses they absorb.

Even the capital gains tax relief and the investment tax allowance contained in this amendment ought not to be a subject of significant controversy. They were included, in a diluted form, in the underlying bill.

So, it might be asked, what is the difference? Why is there a point of contention in picking between the two?

There is a very major difference. These provisions are accompanied, in this underlying bill, by a $57 billion tax hike, and a $31 billion tax credit giveaway which, while crafted to be very popular with the voters, according to the latest polls, will do absolutely nothing to create jobs or to promote growth.

We should be able to give that sort of tax relief, and to stimulate the economy too. And that is what it all comes down to. This is a chance to enact some measures which receive some form of bipartisan support, and to really enact them. We already know that tax increases are not going to become law this year. We can do this at least; we can at least pass this amendment. Then we can do something else that everyone seems to want. Democrats had proposed a $300 tax credit for children. We can enact an increased personal exemption, paid for by defense cuts that we also agree on. We could pass the measure before us to promote growth, and we could also give middle-class tax relief, without undoing the good by simultaneously raising taxes.

I hope that we can. No one—on either side—is going to feel good and proud if all we have done this year is pass a tax increase and secure a veto. What a feckless exercise.

We can, however, do something positive and relatively noncontroversial for the economy by passing this amendment. it is a start.

But we all know exactly what we have to do, and we all know that there is great glee in seeing if the Republicans can blow up the Democrats and the Democrats can roll the bombs over to the White House and blow up the President, hoping he will get into a box the whole rest of the year on every veto known to the creative mind of a legislator. Do one here, shovel it down there, shovel it back here. And the Republicans will do their work over here, in our hardy band of 43, trying to get some semblance of sense, and a sense of bipartisanship.

We all know exactly what we have to do. There is no guesswork, no tricks, just the fact that it is a highly charged partisan year, and this is but exhibit B of 52 exhibits that will arrive at the President's desk between now and November.

So hopefully we can adopt this amendment. I certainly urge it. I think it is sensible, and it gives us a start.

I yield the floor.

Mr. MITCHELL. Mr. President, will the distinguished manager yield to me?

Mr. BREAUX. I yield whatever time the majority leader needs.

Mr. MITCHELL. How much time is left, Mr. President?

The PRESIDING OFFICER. Fifteen minutes 45 seconds remains.

Mr. MITCHELL. Mr. President, I want to, if I might, address some of the points that have been made by supporters of the amendment.

I have been intrigued in recent days by the argument that if one agrees with the President, then one is a patriotic American, acting in behalf of the country's interest, and acting in a nonpartisan manner; but that if one disagrees with the President, then one is not a patriotic American, is not acting in the country's interest, and is acting in a partisan manner.

I submit, Mr. President, that is a standard appropriate for monarchy; it is not a standard appropriate in a democracy.

I have never heard of a standard in a democratic society which suggests that disagreement with a policy of a President means that one is acting against the country's best interest. I reject the standard. It is the antithesis of democracy. It suggests that the President's policies are the only policies that are in the national interest and that any disagreement with those policies represents an action contrary to the national interest. It elevates the President from a President to the functional equivalent of a monarchy.

The argument has been made that the only way that we can prove that we are not partisan is to accept the President's proposal, lock, stock, and barrel, every number, every comma, every semicolon, every word, and that to disagree with the President is partisanship, but to agree with the President is acting in the national interest.

I believe that some of the suggestions made by the President are sensible. I believe that some of the proposals made by the President should be adopted. I also believe that some of the proposals made by persons other than the President are sensible. I also believe that some of the proposals made by persons other than the President should be adopted.

I think it is neither proof of partisanship nor lack of partisanship to have a legitimate debate on the substance of the issues on the various provisions. So far, what we hear continuously is that we are out to destroy jobs if we do not agree with the President, that we are acting against the country's interest if we do not agree with the President.

So I believe, Mr. President, at the outset, we should make clear that a person can be a patriotic American, a person can believe he or she is acting in the best interest of the country, and a person can be acting in a manner that is not partisan, a person can be all of those things and disagree with the President.

So let us come to the merits of the issue. What are the differences between the substitute and the committee-reported bill? According to the Congressional Budget Office, whose accounting controls in the Senate, the substitute amendment will increase the Federal budget deficit by nearly $24 billion over the next 5 years. If there is one thing we have had in this Senate it is speeches about the Federal budget deficit, how bad it is, how it ought not to be increased. And many of those speeches have come from our Republican colleagues. And, yet, here they are proposing an amendment which will increase the Federal budget deficit by $24 billion. Under the congressional Budget Office scoring, which controls in the Senate, therefore, Mr. President, any Senator who votes for this amendment votes to increase the deficit by $24 billion.

A second point of difference. The reason the committee bill does not increase the deficit even though it accepts each of the seven proposals made by the President, in modified form with respect to several of them, is that it proposes to pay for them by increasing tax rates on the wealthiest seven-tenths of 1 percent of Americans. Over and over again, the figure has been used, not here this evening, but by others in the administration, that the Democratic bill will increase taxes for everyone making more than $35,000. That is untrue. There never was and is not any basis for making that statement. It is a complete fiction.

The committee bill before us applies only to persons whose taxable income is, for single persons, $150,000 a year or higher, married couples filing a joint return, $175,000 a year or higher in taxable income. Those compute, in terms of total income, to approximately a minimum of $200,000 a year, the top, the wealthiest, the best off seven-tenths of 1 percent of Americans. It is to protect the wealthiest seven-tenths of 1 percent of Americans that our colleagues are prepared to oppose this legislation and the President is prepared to veto it. The President represents all of the people, and yet the President is prepared to veto the bill to protect less than 1 percent of Americans, the very wealthiest, less than 1 percent of Americans at the expense of the other 99 percent, many of whom would receive a reduction in taxes under the committee bill.

Now, it is not that our colleagues are opposed to a tax cut for middle-income Americans. The President said he was for it in his State of the Union Address. In response to some criticism by Mr. Buchanan, he has reaffirmed his support for a middle-income tax cut, and I understand our colleagues will at some point during the discussion of this bill offer a version of middle-income tax cut. The question is not whether you are for or against a middle-income tax cut. The President is for it. We are told at least one Republican Senator will offer it. It is in the committee substitute.

The question then becomes what method should be used for finance the middle-income tax cut. The Democratic bill does so by the same increase in taxes on the top seven-tenths of 1 percent of Americans, the very wealthiest seven-tenths of 1 percent of Americans. The Republican colleagues propose to pay for it out of the so-called peace dividend.

Mr. President, I think every Member of the Senate saw the article in the New York Times last week which documented in a most dramatic fashion what we all know to have occurred in the past decade and that is the increased polarization of our society by income and wealth and how the wealthiest 1 percent of Americans received by far the largest benefit in the 1980's.

Mr. President, I ask unanimous consent that the article to which I referred, which I now hold in my hand, be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MITCHELL. Mr. President, according to this article—and I am just now reading from the heading from 1977 to 1989—pretax income of the rich grew sharply and the rich reaped most of the after-tax gains, too. The richest 1 percent of families received 60 percent of the after-tax income gain.

Then the article documents the fact that as one moves down the income scale, the income in after-tax status grew decreasingly according to income. I think that we all ought to be concerned about fairness in our society. Each of us ought to be concerned about a situation in which our society is becoming polarized by income and wealth in a way that has never been the American experience.

So the legislation that has been reported by the committee achieves what we are told are the benefits of the seven growth incentives, pays for them without increasing the Federal budget deficit, and does so in a way that will restore some fairness to the Tax Code.

So a vote for the pending amendment is, first, a vote to increase the budget deficit by $24 billion. A vote for the pending amendment is, second, a vote to continue the unfair tax policies of the past decade, which have produced the situation which I have just described.

A vote for the pending amendment, in my judgment, is a partisan vote, is a vote that is not consistent with the best interests of the country, is a vote that is not consistent with fairness.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Three minutes.

Mr. MITCHELL. Mr. President, I just want to reemphasize what I said earlier, that I believe that the committee bill, the bill drafted under Senator BENTSEN's able leadership, best represents what is needed to get the economy moving again, best represents what is needed to attempt to provide more fairness in our tax system, and best represents what I believe will secure the kind of sustained long-term growth that we want in our society and that all of us share.

I do not think anybody here would propose an amendment that they thought would destroy jobs. I think it is most unfortunate that some of our colleagues have characterized the bill as doing that. I do not think anybody here would propose an amendment they thought would harm the country. I think every Senator wants to do what is right for the country. There are different views on how to do that.

I hope very much that the Senate will reject the amendment. I hope very much that the Senate will then go on, after debating the disposing of whatever amendments remain, to support the Senate Finance Committee bill, because I think it is the right thing to do. And I recognize the validity of arguments to the contrary. I do not question the patriotism or the motives or the intent of anyone who disagrees and offers an alternative.

I want to make that very clear. Unlike some of the arguments made against us, I do not think a person is less an American because he agrees or disagrees with the President. I do not think a person is less devoted to the country because he agrees or disagrees with the President. I do not think a person is less sincere in trying to do what is right for the country because he happens to agree or disagree with the President or agree or disagree on each of the alternatives.

The essence of democracy is open, vigorous, meaningful debate out of which we believe will come those policies best suited for the Nation. It has worked over a long period of time in our country and I expect that it will continue to work in our country.

I think it is particularly important that the American people understand who is affected by this bill. Many statements have been made. The President has made many statements referring to this as a huge tax increase, an unacceptable tax increase, a tax increase on persons with incomes above $35,000, and many other characterizations. And, of course, there is not any way that any of us can compete with the President for the attention of the American people.

To the extent that we are able to have our views heard, to the extent that there are listeners and viewers, every American should know that the tax increase in this bill affects only those persons who are in the top seven-tenths of 1 percent, by income, of Americans; 99.3 percent of Americans will be unaffected by the rate increase in this bill. Generally, that means persons whose taxable income is, for a single person, $150,000 a year or higher; for a married couple filing jointly $175,000 a year or higher. In terms of total income, that is approximately, for all concerned, incomes in excess of $200,000 a year.

Under those circumstances, I do not think that many Americans would agree that this is an unacceptable increase or that it is a huge increase or that it is an unfair increase; 99.3 percent of Americans will not be affected by this increase. Indeed, many of the 99.3 percent would see their taxes reduced by the reduction that is contained in the bill.

Now on that point, I want to make one additional argument. Much has been made of the relative size of the middle-income tax cut, and the amount of the reduction has been divided by the number of days, maybe by some of the number of hours, and reduced to an amount of less than a dollar, 97 cents, 24 cents, some other figure. That is one way of looking at it.

But, Mr. President and Members of the Senate, the reality is that for an American family of four with income at the media, $35,000 a year for a family of four, husband, wife, and two children—the median income of course means that half the American families have incomes higher than that, half of the American families have incomes lower than that—for that family of four with annual income of $35,000, the Senate Democratic bill would provide a 25-percent reduction in income taxes. A 25-percent cut is a significant cut.

EXHIBIT 1

[From the New York Times, Mar. 5, 1992]

EVEN AMONG THE WELL-OFF, THE RICHEST GET RICHER

(By Sylvia Nasar)

Populist politicians, economists and ordinary citizens have long suspected that the rich have been getting richer. What is making people sit up now is recent evidence that the richest 1 percent of American families appears to have reaped most of the gains from the prosperity of the last decade and a half.

An outsized 60 percent of the growth in after-tax income of all American families between 1977 and 1989—and an even heftier three-fourths of the gain in pretax income—went to the wealthiest 660,000 families, each of which had an annual income of at least $310,000 a year, for a household of four.

While total income for all 66 million American families expanded by about $740 billion in inflation-adjusted dollars during the Carter-Reagan years, the slice belonging to the top 1 percent grew to 13 percent of all family income, up from 9 percent.

BIG JUMP IN INCOME

The average pretax income of families in the top percent swelled to $560,000 from $315,000 for a 77 percent gain in a dozen years, again in constant dollars. At the same time, the typical American family—smack in the middle, or at the median, of the income distribution—saw its income edge up only 4 percent, to $36,000. And the bottom 40 percent of families had actual declines in income.

"We know that productivity has increased since 1977 and that more people are working," said Paul Krugman, an economist at the Massachusetts Institute of Technology and the author of "The Age of Diminished Expectations," a book that is critical of Reaganomics. "Where did all that extra income go? The answer is that it all went to the very top."

FINE-SIFTING THE DATA

The data were compiled by the Congressional Budget Office, the research arm of Congress, which uses the estimates to project tax revenues; the figures were released in final form in December. The census data that most economists use track incomes by broad categories, like the top 20 percent, called the top quintile. The C.B.O. data, by building on figures from tax returns, let analysts focus on narrow income striations with microscopic precision.

"If changes are going on at the top, you don't pick it up in the census data," said Robert Reischauer, director of the Congressional Budget Office.

The broad pattern disclosed by the latest data is not in dispute, but the reasons for the shift are. Potential explanations range from the trend toward lower taxes on the wealthy to an explosion of executive pay to higher returns on capital.

It was not until economists started to analyze the figures that it became clear what a large share of the income gains in recent years was accounted for by the very rich. "The number that no one had seen was how much of the growth went to a few people," said Mr. Krugman, who focused on the numbers in testimony before Congress several weeks ago.

That finding is already supplying fresh ammunition for those eager to reverse the upward tilt in income distribution or searching for new ways to raise Government revenue.

The tax bills wending their way through Congress include an increase in the top tax rate and a surtax on millionaires. And the Democratic Party is honing "fairness" as an issue it can run with.

As it happens, the trend seems to have begun 30 years ago and parallels shifts in other rich countries, including Germany and Britain.

"It's been going on since the 1960's," said Robert Avery, an economist at Cornell University who conducted two Federal Reserve surveys of the wealthy in the 1980's. "It shows up in many different sets of data. And it's consistent with different explanations healthy and unhealthy."

In fact, a growing tilt toward the top has characterized other periods in American history. Economic historians say that industrial America through the 1800's and early 1900's experienced a growing concentration of riches at the top. But that was partly reversed by the Depression and World War II.

"We have a couple of periods when we've seen especially rapid changes," said Claudia Goldin, an economic historian at Harvard University.

The latest data on income distribution do not provide any easy explanation of the trend. One explanation given by some tax experts is that the rich are simply reporting more of their income and taking advantage of fewer loopholes, now that tax rates have been trimmed substantially. The top tax rate on personal income was cut to 31 percent during the Reagan tenure from more than 90 percent during the Kennedy years.

"The reason is that suddenly you can keep most of the money you report," said Lawrence Lindsay, a Federal Reserve governor who has written a book, "The Growth Experiment," that defended the supply-side tax cuts of the Reagan era.

THE ADVANTAGES OF TIMING

Most economists find the explanation plausible. Unlike steelworkers or secretaries, business owners and executives often have a lot of discretion over the timing and form of their income. They can decide when, say, to sell a business or whether to take their compensation in a paycheck or a bunch of stock options.

"Inequality has increased back to where it was before the New Deal," Mr. Krugman said. "But maybe the New Deal only drove the rich underground."

Still, few economists are convinced that the reporting factors are the only explanation.

For one thing, wage and salary income for the top 1 percent of families exploded between 1977 and 1989. At least two studies have shown that the rich—wealthy wives, in particular—actually worked more after taxes were cut. More important, the pay of chief executives rocketed during the 1980's. By the end of the decade, according to Graef Crystal, a compensation consultant, the bosses were making 120 times as much as the average worker, compared with about 35 times as much as the mid-1970's

Before these new data showed how much of the gains really went to the very top, economists knew of the growing inequality and explained some of it by pointing to the rise in low-earner couples and the faster wage growth of highly educated workers, especially ones with computer skills. But the surge in pay at the top is just too large to be explained solely by working wives and M.B.A. degrees.

Another theory is that inhibitions against pay inequality crumbled during the Reagan 80's, a period in which unions were put down and getting rich through enterprise was seen as heroic.

The families at the top of the top quintile include lawyers married to other lawyers and a sprinkling of rock and baseball stars. But the majority probably own closely held businesses or manage Fortune 500 companies. Another thing that makes these families different from the merely well heeled, said Joel Slemrod, a tax economist at the University of Michigan, is that they get about half their income from their wealth-capital gains, dividends and interest. And income from assets owned by the wealthy, like real estate, stocks and bonds, also surged in the 1980's.

For most of the 1980's at least, interest rates were high, the stock market appreciated some 16 percent a year and the price of real estate on the East and West Coasts soared. The value of small-business assets also grew, Mr. Avery said. "The argument that the rise in top incomes was partly driven by entrepreneurial income is fairly persuasive," he said.

In fact, there is new evidence that net worth—assets minus debt—at the very top also grew disproportionately. The Federal Reserve has yet to release data with breakdowns, but a recent Fed study suggests that that was the case.

While some view the greater concentration of income at the top as a problem, many economists do not agree. "The probability that you're looking at the same people at the start or end of a decade is very small," Mr. Lindsay said. "If the top 1 percent is getting richer, it means that there was a lot of upward mobility in America during this period."

Mr. Lindsay cites tax data that show that of the families in the top 1 percent at the beginning of a decade, fewer than half are in the top 1 percent 10 years later. From year to year, he said, between a quarter and a third of families move from one broad income group, like the top 20 percent, to another.

Keep in mind, moreover, that 1989, the last year for which Congressional Budget Office numbers are available, represented the peak of the 1980's financial boom. The early 1990's have already clipped the wings of a lot of high-fliers as corporations have shed executives, law firms have down-sized, businesses have failed and real estate values have collapsed.

But it is easy to exaggerate fluidity at the very top, some economists say. For one thing, the rich may get knocked off their perches from time to time, but the fall for most is not usually all that far. Then too, an income drop is as likely as not to reflect a decision to take a one-time loss than it is a permanent change in the ability to generate income.

Besides, said Frank Sammartino, an economist at the C.B.O.: "People complain that the income distribution is just a snapshot of one year. But after all, taxes get paid on one year's income."

THE TAX FACTOR

Although families in the top 1 percent paid slightly less than 27 percent of their income in taxes in 1989, compared with more than 35 percent in 1977, their payments amounted to a somewhat bigger share of the total Federal tax bill than in 1977. The reason, of course, is because their incomes grew so much.

With incomes that total near half a trillion dollars—about the same amount, coincidentally, as total Federal tax revenues—the top 1 percent of American families have a lot of financial heft.

"If you're talking about the income tax bubble or capital gains, it's not the top 5 percent or the top 10 percent, but the top 1 percent," Mr. Avery said. "If they're taxed at 100 percent, everybody else can be taxed at zero," he added jokingly.

The data are going to keep economists busy for years and should pay fat dividends for Americans' understanding of how the freewheeling United States economy really works. But, for the present, the numbers are bound to provide yet another battleground for politicians arguing over which tax policy will produce the best combination of growth and "fairness."

The PRESIDING OFFICER (Mr. AKAKA). The Senator's time has expired.

Mr. MITCHELL. Mr. President, I would like to use some of my leader time.

The PRESIDING OFFICER. The leader may use his leader time.

Mr. MITCHELL. Mr. President, on behalf of the committee, I modify the committee substitute with the changes I now send to the desk.

The PRESIDING OFFICER. The committee substitute is so modified.

The modification is as follows:

Page 641, line 14 strike "50,000" insert "40,000".

Page 642, line 1 strike "50,000" insert "40,000".

Page 642, line 2 strike "20,000" insert "10,000".

Page 927, after line 22, insert as flush language:

"Of the aggregate deduction allowable under this paragraph 50 percent shall be allowed for the taxable year in which the property is placed in service, and 50 percent shall be allowed for the succeeding taxable year.".

Mr. MITCHELL. Mr. President, I thank my colleagues and I now yield the floor.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The minority leader.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, I yield 1 minute to the Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana is recognized for 1 minute.

Mr. BURNS. Thank you, Mr. President. I thank the ranking member of the Finance Committee.

I think I hear echoes of 1990 again. I voted against that agreement in 1990. I used old common sense. I think I was right.

As I live every day I know I am more right when we start talking about passing higher taxes in any form. I guess that is bragging a little bit to this body and to this country, but as Dizzy Dean says, "If you done it, it ain't braggin'."

We know what rough times are in Montana. We went through our times in the early eighties. I am an auctioneer, and I do not know how many people of this group know and understand what it is like to go out and sell out a friend when you are in rough times.

This is the wrong time for any kind of a tax increase. This is a time when the Government should pull in its horns and get mean and lean just as we are asking of industries and business.

I want to express my opposition to this bill as reported by the Senate Finance Committee.

Let there be no mistake—I have long supported the need to provide tax relief to the working people of this country.

I support giving them back some of their hard earned money because I have always opposed taking it away from them in the first place.

I am proud to state that I voted against the so-called budget deal of 1990 because it raised taxes to the tune of $142.1 billion. I said at the time that "raising taxes in a weakening economy is a recipe for disaster, and I will not vote to bring that disaster on the American people."

In 1990, it was "we have to raise taxes to reduce the deficit." Well, that deficit that was supposed to disappear by 1994 will be over $350 billion this fiscal year so that obviously did not work.

In 1992, it is "we have to raise taxes to cut taxes." Again, I have no argument with the need to cut taxes to stimulate a weak economy. But why do we have to raise taxes to do it.

I have to quote something I read recently in a Heritage Foundation memorandum because I think it describes this approach perfectly. It says that the bill before us "simply raises taxes on Peter to pay Paul. Unfortunately, one result of taxing Peter in a recession is that he is likely to respond by giving Paul a pink slip."

I know that there are many in this body who still deny the connection between taxing those that can afford to invest and employ and the current state of our economy. If they cannot accept that fact in theory, then I urge them to look at the facts surrounding the so-called luxury tax.

As a part of the 1990 budget deal, a 10-percent surtax was imposed on those items that only the rich can afford—items like boats, airplanes, jewelry, and furs. The watchdogs of tax fairness thought this was the perfect way to stick it to the rich.

Why, then, you ask are we repealing the luxury tax in this bill? Well, it caused job loss. The rich it turned out are not so rich that they can afford to pay a 10-percent surtax so they did not buy new boats and airplanes. Now, it is hard to have sympathy for some rich guy who could not buy a new boat last year, but it is not hard to have sympathy for the estimated 19,000 middle-income workers in the boat industry who were put out of work as a result.

The House Ways and Means Committee report accompanying their version of this bill admits that the surtax was a mistake—that raising taxes on Peter to pay Paul resulted in Peter handing Paul a pink slip.

They say "in the context of current general economic hardship, it is appropriate to remove even this small burden in the interests of fostering economic recovery."

I think that example illustrates why this is a bad bill. Any good that will be done by the provisions that cut taxes will be undone by the tax increases.

That is why I support passing a package that keeps the tax cuts intact, but pays for them with spending cuts.

We can argue about the specific economic growth provisions in this bill—should we cut the capital gains tax to 23 percent or 15 percent? Should we offer families a $300 tax credit per child or $500 credit?—and we will argue about them during the course of this debate.

But for me, those changes are marginal compared to the fundamental change this package needs. And that is to replace the tax increases with spending restraint.

Senator KASTEN has a proposal which I am cosponsoring that takes the tax cuts included in this bill and pays for them with spending restraint.

By doing this we are able to provide tax relief to American families and investment incentives to American investors without adding to the deficit and without raising taxes.

The Kasten-Burns package freezes domestic and international discretionary spending at fiscal year 1993 levels and uses the defense savings over the next 5 years to pay for economic growth.

By taking this approach, we are giving the American people a waste dividend and a peace dividend.

Federal spending is out of control, growing at a rate that far outpaces inflation or any other realistic measure of growth. The Federal Government is too big and its imposing presence is a burden on this economy. There is no question that there is waste that can be cut for the sake of the economy and the American people.

A 4-year spending freeze will bring Federal spending back in line and may even help impose the kind of fiscal discipline needed to get the deficit under control. Washington needs to learn that everyone else has tightened their belt and it is time to tighten ours. That is fairness, Mr. President, if the American people are suffering, we should be too.

The Kasten-Burns package includes another fundamental change. It makes sure that the peace dividend goes back to the people who paid for peace—the American taxpayer.

I hope that for once common sense will prevail in this Chamber and we will reject tax increases and replace them with spending restraint.

The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD. Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator from Oregon has 10 seconds.

Mr. PACKWOOD. Ten seconds? I yield to the Senator from New Mexico.

Mr. DOMENICI. How about 2 minutes of leader time?

Mr. DOLE. I yield 2 minutes of leader time.

Mr. DOMENICI. The Republican leader has given me 2 minutes of his leader time.

Mr. President, you know many people say one of the most thoughtful and wise men that America ever had in a leadership position was Abraham Lincoln. I am just thinking tonight how applicable the statement he made many, many years ago is to tonight. Let me read it quickly.

> You cannot strengthen the weak by weakening the strong. You cannot help small men be tearing down big men. You cannot help the poor by destroying the rich. You cannot lift the wage earner by pulling down the wage payer. And you cannot keep out of trouble by spending more than your income. And you cannot further the brotherhood of man by eliciting class hatred. You cannot establish security on borrowed money.

Frankly, Mr. President, it seems to me I do not have to say anything other than that. I would suggest, indeed, when I spoke of having a point of order against the underlying bill I was right. We made a mistake, however. We should have asked for the yeas and nays and their bill would be dead unless they had 60 votes to waive the point of order. But they put a little modification in and fixed it.

Having said that, the other point is why should our bill fall on a scoring issue when we have all agreed that the scorer, for real effectiveness to carry out anything, is OMB?

The Democrats and Republicans agreed if you are going to carry out a budget and put sequester enforcement, OMB scoring controls. OMB says capital gains in the outyears is going to raise revenues.

Another group says it is going to lose revenues. Our bill will fall tonight, probably, because OMB will not be believed. We think in this case it is credible. It is controversial, but we ought to have a chance to have an up-or-down vote, simple majority vote on what is, indeed, the President's amendment—the President's bill.

The PRESIDING OFFICER. The Senator's time has expired. There are 10 seconds remaining to the Senator from Oregon.

Mr. PACKWOOD. I will be happy to yield back my 10 seconds.

Mr. SYMMS. Mr. President, I rise in support of this Republican substitute amendment that will provide some real economic relief to the American people. It is unfortunate for the American people that the fate of this amendment has been decided even before the debate has begun.

The Democrats continue to believe that increases in spending must be accompanied by huge tax increases. My friends from the other side of the aisle continue to forget that Congress has an alternative financing method—cut spending.

It seems contrary to my logic, Mr. President, to have an economic growth package that includes enormous tax increases. As a cosponsor of this amendment, I wish my Democratic colleagues at the very least would look at our alternative.

It wasn't so long ago when we would pull together as a Nation during tough economic times. When the President could call the chairmen of the tax-writing committees, they'd agree to work together, and a few weeks later we'd be back on the road to recovery.

It wasn't so long ago when the tax-writing committees could put aside their partisanship for a few moments and do what everybody knew to be good for the country. How far we have fallen.

The chairman of the Ways and Means Committee summed up his tax package in one word: fairness. There are many words I might use to describe what was done in the House, but fairness wouldn't be one of them. Shortsighted comes to mind. Irresponsible would also fit better.

Much of this bill has revolved around the question of fairness—ensuring that high-income taxpayers pay their fair share. Democrats consistently point toward income distribution tables that show how the rich keep getting richer and the middle class keep getting poorer. But what they fail to tell you is just how much the so-called rich pay in taxes. The top 20 percent of all American wage earners will pay over 70 percent of the total Federal taxes under current law. Just how much more do these people need to bear in order for the system to be fair?

I'm sorry to say that the bill that we have before the Senate today is better than what was in the House, but it's nowhere near enough. If we have to play soak-the-rich games when things are going well, at least we should call timeout when the economy needs some help. I'd have thought we had learned our lesson with 1990's favorite soak-the-rich taxes—the luxury taxes. It is ironic that the tax bill before us today repeals most of the luxury taxes that were enacted last year but attempts to find another way to soak the rich by creating a fourth tax bracket at 36 percent and imposes a 10-percent surtax on millionaires. Will we never learn?

Usually, when the Democrats talk about raising taxes on the rich it is in conjunction with a capital gains tax cut. After all, according to the Democrats most of the benefits from a capital gains tax cut are received by the so-called rich. However, in this bill those individuals in the top tax brackets don't even get any capital gains relief. In fact, they are left virtually the same. It seems once again we are going to soak the rich but this time they don't even get anything in return.

Partisan fights are natural, they're important, they're part of what we do in the Senate. But when it comes down to getting the job done, I would have hoped the Finance Committee and the Senate could find a way to put the public bickering aside and to get the job done on a bipartisan basis. However, it looks like we won't be able to do that and unfortunately it is the American people who are going to be the big losers.

The Democrats do not want a real tax bill that will give the American people what they deserve—some relief and economic stimulus. They want a veto and by including an additional tax bracket of 36 percent and a 10 percent surtax on millionaires the Democrats were assured of getting just what they wanted.

Although there is no budget point of order against this bill, I want to make it clear that it is not because the bill does not raise the deficit because it does. This year alone the bill increases the deficit by at least $2 billion. No budget points of order will be against this bill because it was cleverly and purposefully reported as two bills.

We keep hearing that this bill includes seven of the President's economic growth proposals. The Democrats would like us to believe they have included the President's proposals but the provisions in this tax bill are not the same as the President's. The capital gains provision is not the same as the President's. It simply does not provide any capital gains relief. The capital gains provision that is in this bill will not generate the economic growth that is needed to stimulate the economy.

This is not the President's investment tax allowance, not the same first-time home buyers' credit, not the same passive loss provisions nor is it the same extension of the R&E tax credits.

This bill does not do much for encouraging investment. The investment tax allowance under this bill is only 10 percent and would only run through the end of the year. The President's proposal was twice as long and 5 percent greater. By the time this bill gets passed there will hardly be enough time to use the provision under this bill. While the President's tax R&E extenders were permanent, the Finance Committee's R&E provision only lasts through next year. The first-time home buyer credit provides benefits to less than 20 percent of first-time home buyers because the credit is limited to newly constructed homes.

Although my friends from the other side of the aisle may want us to believe this is a bipartisan effort to stimulate economic growth, let's stop kidding ourselves. This bill does not represent bipartisanship nor does it actually include the President's seven proposals.

So let's finish this charade as quickly as possible, so that those who have led us to this sad moment can score their cheap political points, and so that we can regroup in a few weeks, on a bipartisan basis, and let's get the job done right so America can get back to work.

Mr. DURENBERGER. Mr. President, I reluctantly rise to speak in opposition to the amendment offered by my distinguished Republican leader, Senator DOLE.

It is not often that I stand on this floor to oppose a major initiative of my leader, especially when it comes at the request of the President. But I feel compelled tonight to express my reasons for opposing this amendment which incorporates the President's seven tax cut proposals.

Although I believe the President and Members on both sides of the aisle sincerely want to do something to help our citizens through these troubled economic times, the proposals that are before us today—the Finance Committee bill and the President's bill fall far short of the vision that can fundamentally alter the direction of the economy.

Mr. President, recently a woman in Minnesota wrote me a note about what her friends are feeling and saying about the economy and politics. She writes:

> No one believes George Bush when he tells them the economy is improving. My friends and family aren't seeing it * * * and they ask, who is it improving for? * * * the rich? It isn't improving for some of my friends, neighbors, or some family members * * * my son-in-law hasn't been able to find work since he was laid off early last fall.

As she notes "This is tough on someone with three kids to support and on the brink of losing their house."

> My daughter is babysitting 16 hours a day, to help bring in some extra income. This week my husband was offered two jobs at $5.00 an hour. He will need to work two full-time jobs in order to make enough to support a family. This is a man that was making $14 an hour in past jobs.

She goes on to write:

> Friends (young and old alike) are fed up with federal and state governments, and they are convinced that the President and other elected officials do not have any idea what it is like for the middle income folks. They work hard, but they keep falling behind and are expected to pay more to assist the elderly, homeless, other less fortunates, increased utilities and other increased costs especially health insurance.

Mr. President, this is just a snapshot of what is happening in America today. Americans are scared about their future and they know that middle-income tax cuts or first-time home buyer tax credits are not the answer to our Nation's economic problems.

Americans know that we cannot sustain a $400 billion year deficit, or a $4 trillion national debt. They know that what both parties are engaging in is election year politics. We in this body owe it to the American people to stop this tax cut charade now and develop a bipartisan consensus for reviving the competitiveness of the American economy after the election.

Mr. President, we can talk in abstractions about fairness. We can weigh the pros and cons of giving a family an additional 82 cents a day for each of their children and about how that will help this economy.

But what I want to talk about is how we are being strangled by a $400 billion a year deficit. How, if you add in all the interest that is credited to the trust fund surpluses, debt service for this year alone accounts for more than $316 billion—more money than we ever spent on defense in a single year during the height of the 1980's military buildup.

Mr. President, in less than 5 weeks, Americans will be sitting down with their calculators to figure out how much personal income tax they owe for 1991. When all is said and done, the American people—low income, middle income, and upper income—are expected to pay the Federal Government nearly $480 billion in individual income taxes and $520 billion in the next fiscal year.

Most people assume that their income taxes are paying for the military, education, health care, and assorted other Federal services. But the reality is that if you add up all the interest that will be paid to private and foreign investors in the next fiscal year, $215 billion, and add in the interest that will be credited to trust fund accounts, $101 billion, for every dollar of individual income taxes the Federal Government collects, 61 cents will be used for servicing the national debt and the current debt.

Even if you ignore the interest credited to the trust funds, and only consider the $215 billion in interest that will be paid to private investors, the fact remains that 41 cents of every dollar of individual income taxes goes to pay interest to private investors. In other words, every single income tax dollar collected in the first 149 days of this year, January 1 to May 28, will be transferred to private investors who own Treasury debt. And we stand here talking of tax cuts?

Mr. President, before anyone casts a vote on the pending amendment, let them answer the question: "Will this proposal revive confidence in the economy?" Is there anyone in this body who thinks we should spend $5 to $6 billion to give first-time home buyers and incentive to buy a first home? Not a permanent credit, but a credit that is available only for buying a home before the end of this year.

This is just short termism at a time when we must be thinking of the long term. In fact, from what I have heard in Minnesota, since this proposal was floated, many potential first-time home buyers have put off their purchases until they find out whether this proposal becomes law.

In other words, with interest rates low, and with housing prices low, many people are thinking of buying homes. But they are waiting to see whether we are going to give them a $5,000 bribe to make a purchase they have already decided on.

Another proposal in this package would provide a special investment tax allowance for companies that purchase new equipment before the end of this year. Again, this is just a short-term fix. It will do little to enhance our international competitiveness. Companies that may be considering long-term investments—constructing brand new modern facilities that won't be fully operational for 2 or 3 years will not be able to take advantage of this proposal because of the placed-in-service rules. Do we want to penalize companies looking to the long-term and merely reward quick short-term investments in a machine or another personal computer?

Mr. President, there is another fundamental problem with this amendment. It will increase the deficit, despite the fact that its proponents claim it is paid for.

We in Washington have developed a set of so-called budget deficit scorekeeping rules that even Albert Einstein would have a hard time figuring out. I never attempt to explain these rules to my constituents in Minnesota because they would never understand how a reduction in the growth of a program from 11 to 8 percent is a cut in spending.

But if we examine this proposal, we will see that using administration scoring, the growth incentives lose more than $3 billion in 1992 and are allegedly budget neutral over 5 years. However, using CBO scoring, this bill will increase the deficit by more than $17 billion over 5 years.

Mr. President, somewhere between 5-year revenue neutrality and $17 billion in increased deficits lies the truth. And this Senator is convinced that while the Treasury's estimates are too optimistic, CBO is too pessimistic. And that leads me to conclude that this proposal will surely increase the deficit. And I do not believe it will help the economy in any meaningful way.

Mr. President, future generations will one day ask: "How could you have increased the national debt by $2.4 billion in a decade? What did you get for all that deficit spending?" Mr. President, I cannot answer that question in a way that can justify continuing this binge of deficit financed spending.

Mr. President, I must in good conscience vote against waiving the Budget Act.

The PRESIDING OFFICER. All time on the Senator's amendment has expired.

The Senator from Tennessee is recognized.

Mr. SASSER. Mr. President, I raise a point of order to the pending Packwood amendment on the ground that it violates section 311(a) of the Congressional Budget Act of 1974.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, I move under section 904 of the Budget Act we waive section 311 of that act for the purpose of considering amendment 1709.

The PRESIDING OFFICER. Under the previous agreement, there will be 20 minutes of debate on the motion to waive.

Who yields time?

Mr. SASSER. Mr. President, will the distinguished chairman yield me 10 minutes?

The PRESIDING OFFICER. The Senator from Texas?

Mr. BENTSEN. Of the time under the control of the manager of the bill, I yield such time as I have to the chairman of the Budget Committee.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. SASSER. Mr. President, I thank the distinguished chairman of the Finance Committee for yielding to me.

I will try to justify as succinctly as possible to my colleagues the thrust of the point of order which I just raised against the Packwood amendment.

The payment source for the amendment offered by the minority side rests once again on the dubious proposition that broke the bank in the 1980's. The notion that a tax cut for the wealthy means more money and tax revenue. When in the world are we ever going to learn? This is the same old sloganeering we heard in 1981, the same old vacuous supply-side economics that have put this country into the fiscal cage in which it finds itself today.

I do not propose to get into a debate about the methodology of scoring the capital gains tax cut that the minority would seek to use as a subterfuge to pay for their amendment. We have had that debate. We have had it many times through very bitter years, and we are not going to resolve it here.

I will say, however, that the experience of recent history, the experience of the 1980's militates strongly and convincingly against the supply-side proposition. Commonsense militates against it. The most reliable economists dismiss it outright.

In this body, we rely on the scoring and the analysis of the Congressional Budget Office and of the Joint Committee on Taxation. They are both nonpartisan. I will tell you quite frankly that I am not always pleased with what comes out of the Congressional Budget Office. The director of that office knows that, but it is a nonpartisan operation, as is the Joint Committee on Taxation.

In fact, the distinguished ranking member of the Senate Budget Committee, for whom I have the greatest respect, recently praised the Congressional Budget Office for its evenhandedness and its dispassionate approach.

The bottom line of the Joint Tax Committee and the Congressional Budget Office analyses is that the alternative offered by Senator PACKWOOD tonight, on behalf of the Republican minority, simply does not pay for itself. In fact, it will add at least $20 billion to the Federal budget deficit over the next 5 years, all in the name of giving another tax cut to the wealthiest in this country.

Everyone knows this is the case. The President knows it is the case. His budget for fiscal year 1993 did not even rely on the flimsy argument that a capital gains tax cut is a revenue gainer. The President and his men have abandoned that transparent argument because it simply will not hold water. It will not stand up to the light of day. No reputable economist agrees with him. So instead the minority has relied on a complex and illusory set of savings built around a new accounting treatment, so-called accrual accounting.

The nonpartisan Congressional Budget Office ripped the veil off that particular sham and disclosed it for what it is.

I was heartened to see that my colleagues on the other side of the aisle have also seen through that gimmick. Instead, they have resorted to an amalgam of mandatory cuts to pay for their package. But even these cuts are based on the weakest of foundations: OMB partisan, and I might say, skewed scoring of capital gains. Without the illusory savings from the capital gains proposal, the cuts would not be nearly large enough to pay for this package, and we all know it.

Time and again our colleagues on the other side of the aisle have risen on the floor of this Chamber to warn of an impending sequester and to denounce larger budget deficits. To come before us now and propose a bill that would add to the deficit by some $17 billion flies directly in the face of the admonitions I heard from our friends over the last 10 years.

The truth, Mr. President, is that by any serious measure, the package that the distinguished chairman of the Finance Committee brings to this body today pays for itself. He bit the bullet. He made the decision in his committee that the tax bill that he brought to this body would conform with the Budget Enforcement Act and all of its requirements and it would be a pay-as-you-go package. No more increases in the deficit; no more free lunches on tax cuts.

Let us contrast what occurred on the other side of the aisle. Rather than propose real offsets, our friends across the way have resorted to the path of least resistance. Just wave the magic wand and presto change, the tax cut becomes a revenue increase and you do not have to pay for it. It sounds like 1981 all over again. Or as our old friend Yogi Berra would say, it is deja vu all over again.

I ask my colleagues why do we have to retreat to a strategy that is discredited, a strategy that is doomed, one that has put this country on the verge of bankruptcy, one that has made this country the largest debtor country on the face of the Earth? Why have our friends on the other side of the aisle ignored the myriad of additional proposals in the President's budget that could be used to offset the true cost of their amendment?

Mr. President, I think the answer is fairly clear. They simply will not support a plan that is truly paid for, as is the plan of the distinguished chairman of the Finance Committee. An honest plan would contain real offset that clearly assign the burden of paying for its benefits. The chairman's program does so by requiring upper income taxpayers to pay their fair share. The Bentsen bill meets the test; it pays for itself.

The package that is offered as an alternative fails that minimum standard, but with a wink and a nod it asks us to accept favorable scorekeeping in order to minimize the need for a real payment source.

At this late hour, Mr. President, we simply cannot support that kind of thought, so I applaud the approach taken this evening by the distinguished chairman of the Senate Finance Committee. He did it the hard way, but he did it the honest way. He went to the members of his committee and told them if we are going to give a middle-income tax cut, middle-income tax relief to millions of Americans, if we are going to correct the inequities in the Tax Code that now exist, we are going to have to pay for it. He told them he was going to propose an additional tax on the very wealthiest in the country with full knowledge that this would be an unpopular and a controversial role to play. But that was leadership and the distinguished chairman of the Senate Finance Committee displayed leadership and produced a package that stands on its own—without resorting to gimmicks.

I cannot say the same for the alternative that is offered this evening from the other side of the aisle.

So, Mr. President, for that reason I have raised the point of order.

Mr. DOMENICI. Did the Senator yield the floor?

Mr. SASSER. I yield to the distinguished chairman of the Finance Committee.

Mr. BENTSEN. How much time is left, Mr. President?

The PRESIDING OFFICER. All time for the majority has expired.

Mr. DOMENICI. Mr. President, would the Senator like a minute or two of mine?

Mr. BENTSEN. I would be delighted to have a minute.

Mr. DOMENICI. I yield the Senator 2 minutes. I can say mine and make sure everybody understands it in 8 minutes.

Mr. BENTSEN. Mr. President, that is very gracious particularly since the point I want to make is that when we are talking about relying on OMB, I could not help but think that our bill, if you relied on OMB numbers, would show us cutting the deficit by approximately $25 billion.

I could not help but think, when we were talking about the 36-percent tax rate, how President Reagan came down and wanted a 35-percent tax rate for those making $70,000. The vast majority of those people we have left at 28 percent. I was thinking of the Senator's points about small business entrepreneurs in the 36-percent bracket.

What the administration has done is most misleading. Roughly two-thirds of those affected by the new fourth bracket are small business. What they did is include all taxpayers who reported income from sole proprietorships, S corporations, farms, and partnerships. The last two categories contain many taxpayers with net business losses, including many tax shelters. So I do not believe that is a representative statement. The way the administration put the numbers together I think brings about a situation which is not representative.

I thank the Senator.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico is recognized for 8 minutes.

Mr. DOMENICI. Mr. President, I think it is rather deplorable, since I heard some on the other side speak of deplorable things coming from our side, that somebody would speak of a sham with reference to the Dole-Packwood amendment and its scoring. Let me just take a moment to talk about a sham.

The bill, the underlying bill, is $3.5 billion in the red. It will cause a sequester of $3.5 billion. That is the proof of the pudding. If you breach the deficit and you do not pay as you go, you cut certain mandatory programs to make up for it. So for those who want to vote against our amendment, to put it in proper perspective, I must talk about their amendment a little bit. I hope everyone understands, when they vote for the Democratic amendment, they are voting to cut Medicare $3.1 billion across the board, and that is this fall. They are also voting to cut farm programs and social services block grants, across the board.

I am not suggesting that there are not some who would like to do all those things, but I am quite sure that nobody is touting that bill for the sham that it is with reference to its deficit neutrality, and it is very simple where the sham comes—$3.5 billion has already been used once to pay for the unemployment compensation bill. It is used again for this bill. And so OMB raises the deficit by that amount. Very simple.

So I do not believe we ought to say one bill is a sham; the other is not. We ought to talk about scorekeeping with reference to what we did or what we did not do.

First of all, the majority and the minority signed an agreement and put in law a provision that says the executive branch of Government will score programs, score revenues, score entitlements for the pay-as-you-go and for deficits, not CBO and not the Joint Tax Committee.

So we have an interesting dilemma going. Tonight we are being told to score the Republican bill according to the Joint Tax Committee, score it that way, even though we have agreed that for purposes of sequester, OMB governs. I say to the Senate tonight, if they want to be fair, they ought to say the point of order does not lie, because it is more appropriate to use OMB scoring than CBO's or the Joint Tax Committee, because the final word is, in fact, OMB's. And they say, they and Treasury say, that the capital gains tax does not, over the 5 years, cause the expenditures and the reduction in taxes that the Joint Tax Committee says. That is a very easy proposition. Which do you want to believe, when in fact what is going to govern at the end of the year is OMB's numbers. That is it, plain and simple.

Now, Mr. President, let me talk about the point of order against the Democratic bill, because they are very lucky. There is a point of order against that bill because it is $1.8 billion by CBO's estimates high on the deficit side, but this point of order only requires a 50-vote waiver. You do not make points of order when a simple majority governs. Why? We might as well vote up or down on the amendment instead of a point of order.

But in fact, that particular breach of the budget was, until the budget agreement of a year and a half ago, a 60-vote point of order, and a mistake was made. When we transcribed all the information in that 5-year agreement, this 60-vote was left out, and therefore it is only subject to a 50-vote waiver vote. Absent this error, the Democratic amendment would also be subject to the same point of order, 60-vote requirement.

Now, you add all that up, and there is plenty of room to talk about sham on both sides or on neither side. I submit we just ought to have an up-or-down vote opportunity on a bill that is the President's request. Now, you do not have to do that, I say to my friends on the other side. but I repeat, in my closing remarks here, you at least ought to give him a vote when you waited for month after month after month and besieged that man: Where is your economic development plan? It came so many items on the floor that I used to come down here and ask, "When do we get new charts that criticize the President for not getting the country moving?"

We offer the President's plan and a point of order is made so he cannot even get an up-or-down vote, when, in fact, it meets OMB's test and it does what many think we can do without significantly raising taxes on the people of this country.

So that is my argument. I cannot do any better. I just urge some Democrats on that side to let us have a vote; let us have a vote. Do not get rid of the President's package on a point of order when you begged him to come up with one for very long and then you threw it away. Do not throw it away like the House did. It has a few provisions that look like his and kind of smell like them even, though they are not nearly as effective. They threw it all away in the House, for all intents and purposes.

So I urge that you join us, some of you on the other side. Let us waive this Budget Act so we can have a vote.

If I have any remaining time, I yield it back, assuming they have no additional time. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. I yield whatever time I have.

Mr. KASTEN. Mr. President, I am voting against the motion to waive the Budget Act to consider the administration's seven-point plan. I initially supported the package, but as details have slowly filtered out of the Treasury Department and OMB I have grown more and more skeptical. These proposals do not represent the bold progrowth leadership that our economy needs to once again begin creating jobs.

The administration's capital gains tax cut is less of a capital gains tax cut than advertised. By adding back the 45-percent capital gains exclusion for the alternative minimum tax, it imposes a top capital gains tax of 24 percent for some taxpayers—not the 15.4 percent we've been led to believe. Watered-down capital gains approaches are like prescribing aspirin for a brain tumor, they won't cure the recession.

With so many Members of Congress agreeing that a cut in the capital gains tax is the right thing to do, we ought to do it the right way. We ought to do it in a way that will get our small business sector really moving again. The Kasten-Mack proposal lowers the capital gains rate to 15 percent for everyone, individuals and corporations, and indexes for inflation. Indexing is vital to protect the elderly, farmers, small businessmen, and middle-class investors from the unfair taxation on inflationary gains.

Just as I am disappointed with the capital gains provision in the package, I am also disappointed it has no increase in the personal exemption for children. Although this was proposed by the President, it is not in this package. This type of profamily tax relief is vital to any economic recovery package. I am also disappointed with the 2-year phase-in of the first time homebuyer credit. The full credit should be available in the first year.

In short, I am looking for a more comprehensive and aggressive package that will put this economy out of recession and restore a vigorous level of economic growth and job creation.

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the Budget Act.

Mr. DOMENICI. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Indiana [Mr. HARKIN], the Senator from Hawaii [Mr. INOUYE], and the Senator from Michigan [Mr. RIEGLE] are necessarily absent.

I further announce that, if presenting and voting the Senator from Michigan [Mr. RIEGLE] would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 37, nays 60, as follows:

[Rollcall Vote No. 39 Leg.]

YEAS—37

Bond
Brown
Burns
Chafee
Cochran
Craig
D'Amato
Danforth
Dole
Domenici
Garn
Gorton
Gramm
Grassley
Hatch
Hatfield
Helms
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Packwood
Pressler
Roth
Seymour
Shelby
Simpson
Smith
Specter
Stevens
Symms
Thurmond
Wallop
Warner

NAYS—60

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Boren
Bradley
Breaux
Bryan
Bumpers
Burdick
Byrd
Coats
Cohen
Conrad
Cranston
Daschle
DeConcini
Dixon
Dodd
Durenberger
Exon
Ford
Fowler
Glenn
Gore
Graham
Heflin
Hollings
Jeffords
Johnston
Kassebaum
Kasten
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Rudman
Sanford
Sarbanes
Sasser
Simon
Wellstone
Wirth
Wofford

NOT VOTING—3

Harkin
Inouye
Riegle

The PRESIDING OFFICER. On this vote the yeas are 37; the nays are 60. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The Chair is prepared to rule on the point of order.

The adoption and enactment into law of the pending Packwood amendment would cause revenues to be less than the appropriate level of total revenues set forth in the concurrent resolution on the budget by $400 million in fiscal year 1992 and by $24.4 billion for the period of fiscal years 1992 through 1996. Therefore, the point of order is sustained, and the amendment fails.

SCHEDULE

Mr. MITCHELL. Mr. President, there will be no further rollcall votes this evening. I have discussed with the distinguished Republican leader a few moments ago the schedule, and I want to repeat what I have said previously on several occasions prior to and during consideration of this bill.

It is my hope and intention that the Senate will complete action on this bill this week. Therefore, the Senate will remain in session for as long as it is necessary to do that.

I was specifically asked what would occur if we completed action on the bill by late tomorrow evening. My response was and is that under the previous order final disposition of this bill would be followed immediately by a cloture vote on the conference report on the crime bill, and that thereafter it is my intention that there not be a session on Friday if we complete action on this bill prior to then.

So that it is my expectation that we will be in session late tomorrow. I hope we can finish the bill, have the cloture vote to which I have just referred, and then not be in session on Friday. If we are unable to do so, if disposition of the amendments to be offered carries us beyond that, then we will return Friday and stay in session on that day for as long as it takes to accomplish that objective.

I hope that the number of amendments will be kept to a minimum. I along with the chairman have encouraged Democratic Senators not to offer amendments, or those who feel that they must agree to reasonable time limitations, so that we can complete action on the bill if possible tomorrow evening, if not, sometime on Friday and, if necessary, Friday evening and beyond if that is what it takes to complete action of the bill.

I thank my colleagues, Mr. President.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, is the bill open to further amendment?

The PRESIDING OFFICER. The committee substitute as amended is before the Senate.

Mr. MITCHELL. Mr. President, will the Senator yield?

Mr. HELMS. I yield.

Mr. MITCHELL. Mr. President, prior to the vote I discussed with the Republican leader a procedure for proceeding and what we hoped to do was to alter Senators back and forth for either side's amendment.

Mr. HELMS. That is fine.

Mr. MITCHELL. We had first an amendment offered by a Democratic Senator and then by a Republican.

Mr. HELMS. I understand.

Mr. MITCHELL. We hoped to get an agreement that Senator LEVIN will offer an amendment at 10 a.m. tomorrow, and Senator DOLE said he would be ready with a Republican amendment thereafter. We have no agreement yet. But the bill is open to amendment. It would be appreciated if we could proceed in that manner.

Mr. HELMS. Absolutely. I understand. I thank the leader.

The PRESIDING OFFICER. The majority leader is recognized.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be a period for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

BREAKING THE DEFENSE CAP

Mr. DOMENICI. Mr. President, there is a bill around that started on that side. It was introduced by the distinguished chairman of the Budget Committee, Senator SASSER. It would take the defense cap wall down, break it for 1993, rip it down and have nothing in its place. It has about 47 or 48 signatures. All but one are Democrats.

I, today, circulated a letter. It has 35 signatures on it. I will put it in the RECORD tonight so everyone will see it. Thirty-five Senators said if that bill passes and goes to the President of the United States, we will sustain a veto and we urge the President to veto it. So I hope, if we are bent on doing something constructive, we will work on that issue. If we are bent on creating an issue, we have one. Obviously, that will not become law. I can assure you the President is waiting anxiously to veto it.

I send the letter to the desk and ask unanimous consent it be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON THE BUDGET,
Washington, DC, March 9, 1992.
The PRESIDENT,
The White House, Washington, DC.

DEAR MR. PRESIDENT: Debate over developing the 1993 budget blueprint for our country's economic future is well underway. As that debate proceeds, we want you to know of our deep commitment to helping formulate sound and lasting economic growth policies.

In developing this economic blueprint for the future, however, we must also remain vigilant of our country's long-term national security. In that regard, we the undersigned are strongly opposed to recent proposed legislation in the Senate (S. 2250) and House (H.R. 3732) that would remove the wall between defense and domestic discretionary spending.

One of the hallmarks of the 1990 Budget Enforcement Act was multi-year budgeting. The Act set multi-year spending caps for defense and domestic discretionary programs. It allowed for better long-term defense planning. We are not prepared to subject our national security needs to further uncertainties by removing the spending walls. To do so we believe would weaken fiscal discipline, threaten deep and dangerous cuts in defense spending, and destroy the Act's multi-year budget focus.

Should such legislation reach your desk, we the undersigned will support your veto of such legislation. We must maintain the discipline of the 1990 Act.

Sincerely,

Pete V. Domenici, Warren B. Rudman, Connie Mack, Thad Cochran, Phil Gramm, Slade Gorton, Malcolm Wallop, John Warner, Strom Thurmond, Steve Symms, Larry E. Craig, Conrad Burns, Ted Stevens, John Danforth, Alfonse D'Amato, Bob Smith, Jesse Helms, Kit Bond.

Mitch McConnell, John McCain, Larry Pressler, Alan Simpson, John H. Chafee, Hank Brown, John Seymour, Trent Lott, Dave Durenberger, Don Nickles, Frank H. Murkowski, Nancy Kassebaum, Bob Dole, Jake Garn, Richard G. Lugar, Orrin G. Hatch, Dan Coats.

VETERANS HEALTH CARE AMENDMENTS ACT OF 1992

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 2344, the Veterans Health Care Amendments Act of 1992, introduced earlier today by Senators CRANSTON, SPECTER, DECONCINI, ROCKEFELLER, DASCHLE, and AKAKA.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 2344) to improve the provision of health care and other services to veterans by the Department of Veterans Affairs, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. CRANSTON. Mr. President, as the chairman of the Committee on Veterans' Affairs, I am delighted to urge Senate approval of S. 2344, the proposed Veterans Health Care Amendments Act of 1992, legislation that I, joined by the committee's ranking Republican member, Mr. SPECTER, and committee members DECONCINI, ROCKEFELLER, GRAHAM, AKAKA, and DASCHLE, introduced today. The committee reported substantively similar legislation in S. 869 on July 25, 1991, and passed the provisions of S. 869 with a committee modification, as a substitute amendment to H.R. 2280, on November 20, 1991. Due to objections raised over House amendments to H.R. 2280 as passed on November 25, 1991, the Senate did not act on H.R. 2280 at the close of the first session of the 102d Congress and a subsequent impasse has blocked final action on H.R. 2280 this session.

Mr. President, the measure before us today is substantively identical to S. 869 as amended by the Senate on November 20, 1991, and passed that day in H.R. 2280—with minor technical modifications to reflect the lapse of time since last November and, first, a modification of the marriage and family counseling provisions so as to change the funding provision in light of the fact that funding has been appropriated for fiscal year 1992; second, the deletion of a provision requiring retroactive payment of special pay for certain VA physicians and dentists; third, the deletion of a provision regarding minority issues, in light of the enactment of a similar provision in Public Law 102-218; fourth, the deletion—now considered unnecessary—of a provision that would have perfected the provision enacted in the fiscal year 1992 VA, HUD, and Independent Agencies Appropriations Act, Public Law 102-139, that removed, until June 30, 1992, the price VA pays for drugs from the best-price calculation under section 4401 of Public Law 101-508, the Omnibus Budget Reconciliation Act of 1990; and fifth, in order to expedite Senate action on this bill, the deletion of extensions of provisions relating to vocational rehabilitation and training that expired January 31, 1992, and involved direct spending.

Mr. President, this legislation originally derived from S. 127—which Senator MITCHELL introduced on my behalf on January 14, 1991, and which contained several provisions substantively identical to health care provisions in S. 2100 as reported by our committee in the 101st Congress (S. Rept. No. 101-379)—from S. 869, legislation I introduced with Senators DECONCINI, ROCKEFELLER, and AKAKA on April 18, 1991, to address the tremendous problem of post-traumatic stress disorder [PTSD] among wartime veterans, and from S. 1553, legislation I introduced on July 24, 1991, and the Senate passed on November 15, 1991, to establish a program of marriage and family counseling for certain Persian Gulf war veterans and their families.

The bill addresses a wide range of subjects related to veterans' health and mental health care, including: Improvements in veterans' access to VA treatment services for PTSD related to combat-theater service; eligibility for pre-Vietnam-era combat-theater veterans to receive services at vet centers; improvements in VA's planning and overall approach to meet the needs of veterans with PTSD; establishment of mental illness research, education, and clinical centers; marriage and family counseling for Persian Gulf war veterans; enhancement of VA's authority to provide prosthetic appliances and certain other medical items in certain situations; increases in the maximum payments for certain home health services; expanded services for homeless veterans; extension of VA's pilot program of mobile health care clinics; establishment of an advisory committee on prosthetics and special disabilities programs; access to procreative services; increased emphasis on preventive medicine; providing assistive animals for certain disabled veterans; entitlement of former prisoners of war for outpatient medical services; enhanced child-care services for VA employees; and improvements in VA efforts to provide benefits and services to minority veterans.

Mr. President, because the various provisions in the bill are described in detail in the committee's report on S. 869, Senate Report No. 102-118, I will at this time just set forth a summary of the provisions and discuss certain provisions that I want to highlight. I refer my colleagues and all others with an interest in this bill to the committee report on S. 869.

SUMMARY OF PROVISIONS

Mr. President, the bill has four titles: Mental Health, General Health Care, Minority Affairs, and Miscellaneous, as follows:

TITLE I—MENTAL HEALTH

PART A—POST-TRAUMATIC STRESS DISORDER

Part A of title I contains freestanding provisions and amendments to title 38 that would:

First, make a series of congressional findings related to the incidence of PTSD among veterans and the need for VA to improve its efforts to address the unmet need among veterans for PTSD treatment.

Second, require that (a) a veteran whom a mental health professional designated by VA's Chief Medical Director (CMD) has diagnosed as suffering from PTSD related to combat-area service and whose service in a theater of combat operations is verified be provided care for the disorder as though it had been adjudicated to be service connected; and (b) whenever a veteran is referred by a Vet Center to a general VA health-care facility for a determination regarding eligibility for care and services under this new entitlement for health-care services for PTSD, the veteran be evaluated for diagnostic purposes within 7 days after the date on which the referral is made.

Third, provide to veterans who served in a theater of combat operations during World War II or the Korean conflict with entitlement for counseling to assist with overcoming any psychological problems associated with such service.

Fourth, require that, not later than July 1, 1992, the Secretary of Veterans Affairs devise and initiate implementation of a plan to (a) increase, to levels commensurate with the needs of veterans suffering from PTSD related to active duty, PTSD treatment provided in specialized inpatient and outpatient treatment programs, including PTSD/substance abuse programs, and in Vet Centers; and (b) enhance outreach to inform combat veterans and their families and State and local health and social service organizations of the availability of such treatment and appropriately encourage veterans to participate in treatment.

Fifth, require that, not later than 90 days after the date of enactment, the Secretary submit to the Congressional Committees on Veterans' Affairs a report on the PTSD plan, including (a) a description of the plan; (b) what facilities, personnel, funds, and other resources are necessary to increase the availability of treatment and enhance outreach activities in accordance with the plan in a manner that does not reduce the existing capacity of the Department to provide treatment for other conditions; (c) a description of VA's efforts to make such resources available; (d) an estimate of the availability of community-based residential treatment for PTSD and the impact of such availability on the increased availability of such treatment by VA; (e) an assessment of the need for, and potential benefit of, providing scholarships or other educational assistance to improve the training of individuals providing PTSD treatment providers; (f) recommendations to improve the availability of PTSD treatment; (g) a description of the efforts by the Secretary to implement the recommendations of the CMD's Special Committee on PTSD with respect to (1) establishing educational programming directed to each of the various levels of education, training, and experience of mental health professionals involved in the treatment of veterans suffering from PTSD, and (2) giving research relating to PTSD a high priority in the allocation of funds available to VA for research related to mental health; and (h) any other proposals and recommendations that the Secretary considers appropriate to increase the availability of PTSD treatment.

Sixth, require VA's Special Committee on PTSD to submit by January 1, 1993, an evaluation of the National Vietnam Veterans Readjustment Study and an assessment of veterans with PTSD, as estimated in that study.

Seventh, extend for 2 years the reporting requirements of the VA CMD's Special Committee on PTSD and require the Committee's reports to be submitted concurrently to VA and the Congressional Committees on Veterans' Affairs.

Eighth, require VA to specify in its fiscal year 1994 and fiscal year 1995 budget documents the type and amount of resources that are proposed to be spent in the coming fiscal year on PTSD-related activities.

Ninth, require the Secretary, to the extent practicable, to ensure that there are VA PTSD treatment units in locations that are readily accessible to veterans residing in rural areas.

PART B—MENTAL ILLNESS RESEARCH AND EDUCATION

Part B of title I contains an amendment to title 38 that would:

First, require the Secretary to designate not more than five VA health-care facilities as the locations for centers of mental illness research, education, and clinical activities (MIRECCs), with at least one to be designated by January 1, 1993.

Second, authorize the appropriation of $3.125 million for fiscal year 1993 and $6.25 million for each of fiscal years 1994, 1995 and 1996 for MIRECCs.

PART C—PROGRAM OF MARRIAGE AND FAMILY COUNSELING FOR CERTAIN VETERANS

Part C of title I contains freestanding provisions that would:

First, require VA, subject to the availability of specifically appropriated funds, to conduct a program to furnish marriage and family counseling services to (a) veterans who were awarded a campaign medal for active-duty service during the Persian Gulf War and the spouses, children, and parents of such veterans, and (b) veterans who are or were members of reserve components who were called to active-duty service during the Persian Gulf War and the spouses, parents, and children of such veterans.

Second, authorize appropriations of $10 million for each of fiscal years 1993 and 1994 to carry out the program of marriage and family counseling.

Third, require the Secretary to submit (a) by April 1, 1993, an interim report regarding the Department's conduct of the program and (b) by January 1, 1994, a final report on the program, including an evaluation of the program and recommendations the Secretary considers appropriate.

TITLE II—GENERAL HEALTH CARE

PART A—GENERAL HEALTH

Part A of title II contains freestanding provisions and amendments to title 38 that would:

First, authorize VA to provide prosthetic appliances to certain veterans with non-service-connected disabilities if the provision of such appliances would obviate the need for hospitalization.

Second, increase (a) from $2,500 to $5,000 the maximum amount of a one-time home-improvement and structural-alteration grant as part of home health services furnished in connection with the treatment of a service-connected disability, and (b) from $600 to $1,200 the maximum for such grants in connection with the treatment of a non-service-connected disability.

Third, require each VA medical center (VAMC) or regional benefits office (VARO), in consultation with all VA facilities serving veterans in the appropriate service area and with existing community-based organizations that have experience in working with homeless persons, to make an assessment with respect to the needs of homeless veterans living within that facility's catchment area and to identify the needs of homeless veterans in the areas of health care, education, training, employment, shelter, counseling, and outreach services and the extent to which these needs are being met by VA programs, other government programs, and private programs.

Fourth, require each VAMC, in conjunction with the appropriate VARO and Director of Veterans Employment and Training within the State concerned, to develop, with 90 days after enactment, an annual plan for each of fiscal years 1993, 1994, and 1995 for outreach and the provision of comprehensive services to homeless veterans in that VAMC/VARO catchment area and, in developing such a plan, to attempt to meet, within existing authorities and available resources, those needs identified in the assessment as unmet and to coordinate with non-VA programs that provide services to homeless persons or homeless veterans.

Fifth, require that the plan include a list of all local private and governmental programs that offer assistance to homeless persons or homeless veterans and identify the services offered by those programs.

Sixth, require the director of each VAMC to be responsible for the carrying out of the VAMC's plan and to take appropriate steps to seek to inform each homeless veteran, and each veteran who is at risk of becoming homeless, of the services available to the veteran within the area served by the VAMC.

Seventh, require the director of each VAMC to disseminate to other Federal and State government agencies, local governments, and all private entities that provide services to homeless veterans information regarding services provided to homeless veterans by the medical center or other facilities of the Department.

Eighth, extend through fiscal year 1993 the VA's Homeless Chronically Mentally Ill (HCMI) program's authorization of appropriations and increase it from the fiscal year 1991 $15.75-million level to $40 million for fiscal year 1993.

Ninth, extend through fiscal year 1993 the VA Domiciliary Care for Homeless Veterans (DCHV) program's authorization of appropriations and increase it from $15.75 million in fiscal year 1991 to $25 million for fiscal year 1993.

Tenth, extend the HCMI program's authority (which currently expires at the end of fiscal year 1992) through fiscal year 1994.

Eleventh, authorize annual appropriations of $1.5 million for fiscal years 1992, 1993, 1994, and 1995 for a pilot program at up to 15 sites at which VA would be authorized to contract with existing community-based organizations that have demonstrated effectiveness in providing services to homeless persons or homeless veterans for the provision of domiciliary care (including medical services) for veterans eligible for such care.

Twelfth, provide that, in entering into contracts for domiciliary care, preference be given to community-based organizations offering the most comprehensive services, particularly those services identified in the assessment as not being adequately provided by existing programs.

Thirteenth, authorize the Secretary, if it is determined that the pilot domiciliary-care programs are demonstrating effectiveness in meeting the needs of homeless veterans, to expend on these pilot programs funds appropriated for the HCMI program or the DCHV program which are above the amount expended for those programs in the preceding fiscal year.

Fourteenth, authorize VA to accept donations for the purposes of establishing one-stop, non-residential service centers and mobile support teams to assist homeless veterans and of expanding the health services available to homeless veterans eligible for VA benefits and services.

Fifteenth, require by February 1, 1994, an evaluation of the effectiveness of VA's implementation during fiscal years 1992 and 1993 of the (a) assessment of the needs of homeless veterans and plan to provide other services to meet those needs, (b) pilot program for providing domiciliary care to homeless veterans, and (c) establishment of one-stop, non-residential services and mobile support teams for the provision of services to eligible homeless veterans.

Sixteenth, extend through fiscal year 1993 the authorization of VA's mobile health clinic pilot program and provide that all funds appropriated for the program would remain available until expended.

Seventeenth, require the Secretary to establish an advisory committee on VA's prosthetics and special-disabilities programs comprised of representatives of prosthetic user groups and recognized experts in the fields of engineering, prosthetics research, rehabilitative medicine, and clinical treatment, and to require annual advisory committee reports beginning on June 15, 1993, and continuing for the next 3 years.

Eighteenth, require VA (a) to furnish services to a service-disabled veteran or the spouse of such a veteran to achieve pregnancy in cases in which the veteran's service-connected disability impairs procreative ability; and (b) to establish an interdisciplinary task force to advise the CMD on the implementation of this authority.

Nineteenth, extend through fiscal year 1996 the requirement for the Secretary to conduct a pilot program of preventive health-care services and expand the categories of veterans to whom VA is required to furnish preventive services.

Twentieth, require that veterans entitled to preventive services be offered a minimum of two preventive health-care services each year and require that each VA health-care facility annually implement a major preventive health-care and health-promotion initiative.

Twenty-first, expressly provide that the permissible scope of preventive health-care services under the pilot program include stress management, smoking cessation, physical fitness, and screening for high blood pressure, glaucoma, colorectal cancer, and cholesterol.

Twenty-second, require the Secretary to submit reports on the experience under the preventive health-care services pilot program.

Twenty-third, provide express limitations on pilot preventive health-care program expenditures and require the CMD to designate a Director of Preventive Health and Health Promotion Programs.

Twenty-fourth, authorize VA to (a) provide service dogs to quadriplegic veterans who have service-connected disabilities and signal dogs to veterans who have service-connected hearing impairments, and (b) pay a veteran's expenses for necessary travel in connection with the veteran becoming adjusted to the dog.

Twenty-fifth, require the Secretary to submit to the Congressional Committees on Veterans' Affairs by July 15, 1992, a report containing (a) an evaluation of the reasons for the accumulation of the backlog in VA's provision of prosthetic appliances that grew to $10.6 million in fiscal year 1989 and for the failure to observe, in connection with the provision of prosthetic appliances, the statutory priorities established for the treatment of many of the veterans involved, and (b) a description of the actions that the Secretary has taken, and is planning to take, to prevent such a recurrence of the accumulation of such a significant backlog and of failure to observe such priorities.

Twenty-sixth, repeal VA's authority to provide free tobacco products to veterans receiving hospital or domiciliary care in a VA facility.

Twenty-seventh, establish a task force to recommend policies and legislation for the elimination of inconsistencies among provisions relating to eligibility for various medical assistive devices and certain other health-care benefits.

Twenty-eighth, entitle former prisoners of war to VA outpatient care for any non-service-connected disabilities.

Twenty-ninth, require that VA conduct a 4-year pilot program under which VA would be required to furnish assistive monkeys to quadriplegic veterans who have service-connected disabilities rated at 10 percent or more and to facilitate the furnishing of these assistive monkeys to other quadriplegic veterans.

Thirtieth, require that, before any assistive monkeys are furnished to veterans under the pilot program, the CMD provide for an independent evaluation of the way the monkeys would be treated and ensure that the person or organization performing the evaluation consults with representatives of appropriate animal welfare organizations prior to the conduct of the evaluation.

PART B—HEALTH-CARE PERSONNEL

Part B of title II contains freestanding provisions and amendments to title 38 that would:

First, authorize VA to pay additional pay to certain health-care personnel—those employed under title 5 or the title 5/title 38 "hybrid" appointment authorities who furnish direct patient care or services incident to direct patient care—for work on Saturday on the same basis as such pay is paid to registered nurses.

Second, increase the cap on special salary rates that may be paid to health-care personnel so as to permit the rates to exceed by two times the difference between the minimum and maximum of the applicable grade and require the Secretary to notify the Congressional Committees on Veterans' Affairs when a special salary rate becomes 94 (or more) percent of the maximum amount permitted.

Third, require VA to increase rates of pay for VA psychologists who have board certification by using the "hybrid" title 5/title 38 authorities unless the CMD certifies, within 90 days after the date of enactment, that an increase of board-certified psychologists is not necessary for VA to furnish the appropriate quality of psychological services to veterans.

Fourth, require the director of each VA medical center and regional office to assess the needs of the facility's employees for child-care services and to submit an annual report to the Secretary containing the director's findings and a proposal for meeting any unmet needs.

Fifth, correct problems encountered in the implementation of the VA Health-Care Personnel Act of 1991, Public Law 102-40, by requiring that physicians employed by the VA on the day before the effective date of the Act and who received special pay in only the categories of primary, full-time status, length of service, and board certification continue to receive at least as great an amount of special pay as they received prior to the effective date.

Sixth, authorize VA to appoint and pay under VA's title 38 authority nonphysician directors of clinical support services within the Veterans Health Administration, such as social work and prosthetics.

Seventh, authorize VA to use the director grade of the physician and dentist pay schedule for a physician or dentist serving in a position comparable to that of a director of a hospital, domiciliary, or independent outpatient clinic.

TITLE III—MINORITY AFFAIRS

Title III contains a freestanding provision and an amendment to Public Law 100-527 that would reestablish the Advisory Committee on Native-American Veterans for an additional 2 years and require the Committee to submit two annual reports to the Committees on Veterans' Affairs.

TITLE IV—MISCELLANEOUS

Title IV contains freestanding provisions and amendments to title 38 that would:

First, clarify that the prohibition of attorneys' fees for representation in a proceeding before VA relating to VA benefits does not apply in the case of a veteran or other person who is confronted with an administrative debt collection action proceeding brought by VA or in other situations in which no claim for benefits is involved—such as constitutional challenges to VA regulations and Freedom of Information Act cases.

Second, authorize the flying of the POW/MIA flag at national cemeteries.

POST-TRAUMATIC STRESS DISORDER [PTSD]

Mr. President, the provisions of part A of title I of the bill are designed to improve VA's efforts in addressing the tremendous unmet needs for treatment of veterans suffering from PTSD.

BACKGROUND

I have long had special concerns about the adequacy of VA's response to veterans with PTSD and other mental health care needs.

In 1983, based on concerns that has arisen from the early experience of the Vet Centers about the extent of PTSD among Vietnam veterans, I authored legislation, enacted in Public Law 98-160, to require VA to provide for the conduct of a study to establish the prevalence and incidence in the population of Vietnam veterans of post-traumatic stress disorder and other psychological problems in readjusting to civilian life. VA contracted with the Research Triangle Institute to conduct the study.

On July 14, 1988, I chaired an oversight hearing, during which we learned that preliminary results of the mandated PTSD study showed that the incidence of PTSD among Vietnam veterans was much higher than had previously been thought. The testimony presented at that hearing—followed 4 months later by the formal release of the comprehensive $10-million study, known as the National Vietnam Veterans Readjustment Study [NVVRS] raised serious questions about VA's capacity to furnish the care needed by veterans suffering from this disorder.

The NVVRS is often described as the finest epidemiological mental health study ever conducted, and its findings have been universally accepted and, I note, never questioned by VA.

The study's findings were alarming. The NVVRS found that 479,000 male veterans of the Vietnam theater of operations, representing slightly over 15 percent of all male servicemembers who served in the theater, were suffering from full-blown cases of PTSD. Another 350,000 male theater veterans, representing 11.1 percent of those who served in the theater, were found to be suffering from clinically significant PTSD symptoms which warranted professional attention.

In addition, the study also found that 960,000 male Vietnam theater veterans—over 30 percent of all such male veterans—and over 1,900 female theater veterans—over 26 percent of all such female veterans—had suffered from the full-blown disorder at some point in their lives.

I found the NVVRS results tremendously disturbing. The best scientific inquiry found that over 800,000 men and women veterans were then suffering from symptoms of a highly disturbing, life-altering, psychological disorder that for the vast majority was clearly directly related to their service in Vietnam. However, the researchers also found that a great majority had not received the help they needed and that their utilization of VA mental health services was very low. The study reported that, of male veterans with current PTSD, only 20 percent had ever utilized any VA mental health services and that in the 12 months preceding the study, only 10.3 percent had utilized any VA mental health services. Overall, approximately 80 percent of the male veterans with current PTSD had not received mental health services from any source during the previous 12 months.

Mr. President, I am not aware of any other uncontroverted study that has documented such a great unmet need among veterans for medical treatment for a very serious condition that is directly related to their active duty service. Combat veterans' needs for treatment and services for PTSD related to their service are precisely the type of needs that the VA medical care system was established to meet. Unfortunately, despite this documented need, VA has not placed a sufficiently high priority on addressing it, and the system has simply not done very well by these veterans.

Mr. President, VA currently employs three basic models through which specialized PTSD treatment is furnished. First, specialized inpatient PTSD units [SIPU's] provide intensive care for PTSD in a hospital setting, generally through a 3-month course of treatment. Second, PTSD Clinical Teams [PCT's]—consisting of four PTE, two of which are funded through VA central office and two provided by the host medical center—provide outpatient PTSD treatment to veterans who are referred to the hospital from Vet Centers or other sources and follow-up care to veterans discharged from an SIPU. The PCT's also serve as a resource to staffs in the general psychiatry wards and in substance abuse programs in their facilities. Third, PTSD/substance abuse unites [PSU's] provide either inpatient or outpatient care to veterans with a dual diagnosis of PTSD and substance abuse, which unfortunately is common among veterans with PTSD. In addition, VA has advised the committee that two new treatment program models have been developed. The first is an evaluation and brief treatment PTSD unit which will consist of a short-term inpatient stay of perhaps 2 weeks, during which the veterans will be evaluated as to whether additional inpatient care is necessary and will receive intensive PTSD treatment. The second is a PTSD residential rehabilitation program which will provide domiciliary based care for veterans who have completed an inpatient PTSD treatment program and will focus on rehabilitation and preparation for independent living as opposed to intensive treatment.

The seventh annual report of the CMD's Special Committee On PTSD reported that, as of February 1, 1991, 18 VA medical centers operated SIPU's, 44 operated PCT's, and 4 operated PSU's. VA has advised that, with the $5 million provided in the regular appropriations act for fiscal year 1991 for specialized PTSD treatment, eight new PCT's, three new SIPU's, and up to four new PSU's will be established and that some of the funds will be used to augment resources for existing SIPU's.

In the Special Committee on PTSD's most recent report, that committee reiterated the need for additional inpatient and outpatient PTSD care in the VA system. SIPU's, which are designed to treat veterans with severe cases of PTSD through an intensive 3-month program, have been plagued by chronic waiting lists for the past 3 years. The special committee reported that this problem remains; that, as of January 1, 1991, over 1,300 veterans were waiting for either pre-admission screening at the SIPU's or for admission to treatment; and that the length of wait ranged from 0 to 5 months for screening and, in addition, from 1 week to 13 months for admission to treatment. A February 1992 survey conducted by VA found that 957 veterans were waiting for inpatient PTSD treatment, with an average waiting time of 3½ months. In addition, at 12 of the 24 VA facilities with specialized inpatient PTSD programs, another 594 veterans were found to be waiting an average of 3 months just for screening. At the American Lake VAMC in Tacoma, WA, which has the only specialized program in the Pacific Northwest, the waiting time for screening is 8 months and the subsequent waiting time for admission is 13 months—a total wait of nearly 2 years for treatment for this highly debilitating psychiatric condition. Addressing the impact of this degree of waiting time for care, the special committee stated that, "for those veterans in need of specialized inpatient treatment, this inaccessibility to care can have a detrimental effect upon the veteran." I feel very strongly that this is a totally unacceptable situation.

In addition, the special committee once again recommended as it has in each of its annual reports since 1985, that each of VA's 158 medical centers with a psychiatry or psychology service have a PCT. Moreover, the special committee noted that the specialized PTSD treatment programs that do exist tend to be located in the eastern part of our country (which) does not coincide with the location of the veteran population with PTSD treatment needs.

It is clear that, despite the modest growth in PTSD treatment activities, much more must be done before VA will have met its responsibilities to care for veterans with PTSD.

Mr. President, the NVVRS's findings of the hundreds of thousands of veterans with PTSD, the inadequate number of PTSD treatment programs, and the chronic waiting lists indicate as clearly as possible that the Department has not fully met its responsibilities to our veterans. Veterans with PTSD suffer from a disorder that is not as easily seen as is a physical injury, yet the pain they feel is no less real and their need for treatment is no less important.

PRIORITY CARE FOR COMBAT-SERVICE RELATED PTSD

Mr. President, section 103 of the bill, which addresses the problem of veterans with PTSD being unable to obtain needed care on a timely basis, is substantively similar to legislation I introduced in section 201 of S. 13 in the last Congress, which passed the Senate on October 3, 1989, and was reported by the committee on July 19, 1990, in S. 2100. Section 103 would require VA to provide treatment for PTSD for a Vietnam-era veteran or a veteran of another period of war or of hostilities, as determined by the Secretary, on a priority care basis once a diagnosis of the disorder has been made by a mental health professional designated by the chief medical director, and the veteran's service in a combat area is verified without the need for a pretreatment adjudication on the issue of service connection. This section would also require VA to accomplish an evaluation of a veteran within 7 days after the referral of the veteran to a VAMC from a Vet Center.

Mr. President, the practical effect of this provision would be that, if an appropriate VA diagnostician concludes that a veteran of service in a combat area is suffering from PTSD and that the PTSD is related to that service, care would be forthcoming on a priority basis without the veteran having to wait for a formal VA adjudication of service connection, as long as the Veterans Benefits Administration or another designated office or official verified that the veteran served in a combat area. This verification would have to take place as quickly as possible.

By enabling veterans suffering from combat area service related PTSD to receive VA health care on a priority basis without the need for their PTSD to be formally adjudicated as service connected, this provision would avoid requiring these veterans to wait several months for the outcome of the VA claims adjudication process before being able to receive treatment. It would also have the effect of removing the encouragement for a veteran to seek monetary compensation for the disorder to receive necessary treatment for it.

Mr. President, I recognize that some veterans in financial distress will still need to undergo the adjudication process in order to obtain compensation. However, my purpose in recommending this provision is to make it possible to avoid, for combat-area veterans in need of PTSD care, the delay in receiving care, and the stress, that the adjudication process can entail.

I also recognize that this provision would entail some reallocation of VA resources. However, I strongly believe that any such change in focus so as better to serve the needs of veterans with combat-related PTSD is fully in accordance with the historic priorities of the VA to address those needs of veterans which are associated with their military service.

Mr. President, the provision in section 103 which requires VA to conduct evaluations of veterans referred by Vet Centers to VA medical centers within 7 days of the date of the referral addresses the situations, which are documented in the record of the committee's June 14, 1989, hearing, of veterans being referred to medical centers from Vet Centers and not being able to gain access to either evaluations or needed treatment and of Vet Centers failing to make the referral because they were certain, based on experience, that the veteran would not receive an evaluation or treatment at the medical center. By requiring that such diagnostic evaluations be conducted within 7 days after the referral is made, this provision should ensure that veterans begin the treatment process without having to wait in yet another line just to receive a diagnosis of their condition.

COUNSELING FOR WORLD WAR II AND KOREAN CONFLICT VETERANS

Mr. President, section 104 of the bill would expand entitlement for counseling at Vet Centers so as to include World War II and Korea veterans who served in a theater of combat operations. Since the 100th Congress, I have sought legislation to provide for counseling for all combat-theater veterans. The Senate has passed such legislation three times—in section 605 of S. 2011 in the 100th Congress, section 202 of S. 13 in the 101st Congress, and section 104 of H.R. 2280 in the 102d Congress—and Congress enacted legislation in the Persian Gulf supplemental authorization bill, Public Law 102-25, to expand entitlement for readjustment counseling to individuals who served on active duty after the end of the Vietnam era in areas in which hostilities occurred.

I note that last year the administration supported the expansion of entitlement for readjustment counseling for post-Vietnam era combat theater veterans. In fact, the administration requested legislation that was nearly identical to the language that I had proposed, and the Senate passed, 3 years before. However, the recently enacted legislation does not address World War II and Korea veterans, many of whom seek help at Vet Centers. VA's Readjustment Counseling Service, which administers the Vet Center Program, advises that annual surveys indicate that Vet Centers see approximately 700 to 1,000 new World War II and Korea veterans each month.

Numerous research papers have been published over the last decade which provide evidence that an expansion of Vet Center eligibility would be very beneficial for some older veterans. I refer my colleagues to the pages 29-30 of the committee report accompanying S. 869—Senate Report No. 102-118—for a description of a number of these published research papers. Despite the doubts expressed by some that veterans of World War II and Korea have any need for Vet Center services, I believe the relevant research and the fact that some 8,500 to 12,000 veterans of those wars seek services each year at Vet Centers are clear evidence that such needs exist.

PLAN FOR ADEQUATE PTSD SERVICES

Mr. President, section 105 of the bill would require that VA, not later than July 1, 1992, devise and initiate implementation of a plan to accomplish two goals—first, increasing the availability of various forms of VA treatment of PTSD to levels commensurate with the needs of veterans suffering from PTSD as the result of active-duty service, and, second, enhancing VA's outreach activities so as to inform combat veterans, the family members of such veterans, and State and local health and social service organizations of the availability of PTSD treatment from VA and providing appropriate encouragement for the veterans to participate in treatment. The legislation would specifically require outreach efforts directed at combat veterans who are members of ethnic minority groups.

Mr. President, the provisions of section 105 would require VA to address the issue of meeting in a comprehensive manner the needs of veterans with PTSD. It would, however, provide the Department the discretion to develop the plan internally, taking advantage of the vast expertise that exists within the National Center on PTSD, the chief medical director's special committee on PTSD, and the staffs of VA's Readjustment Counseling Service and Mental Health and Behavioral Science Service.

The bill would not mandate the establishment of fixed numbers of specific types of medical programs to address this enormous problem. We have had some success in advocating for specific appropriations to expand specialized programs for PTSD treatment, and I will continue to advocate such add-ons. However, I believe the proper course of action to take at this point in seeking to improve PTSD services and treatment through legislation is to make clear the high priority Congress attaches to meeting PTSD needs and require VA to carry out a mandate to make the necessary improvements.

This is similar to the approach that I followed in the late 1970's which led to the establishment of vet centers to carry out the legislative mandate to provide readjustment counseling, and I am confident that such an approach with regard to providing PTSD care on a priority basis would result in similar broad expansions of specialized PTSD treatment programs such as SIPU's, PCT's, PSU's, and any new treatment models that may be developed, that prove effective in meeting the mandate that this legislation would create.

PTSD REPORT

To ensure that Congress is a fully informed participant in the process of change that VA would be required to undertake to meet the needs of veterans with PTSD, section 106 of the bill would require VA, not later than 90 days after the date of enactment of this legislation, to submit to the Committees on Veterans' Affairs of the Senate and House a report describing the plan VA would be required to develop. The report would be required to include a description of what facilities, personnel, funds, and other resources are necessary to increase the availability of treatment and enhance outreach in accordance with the plan, and a description of what efforts have been undertaken by the Secretary to make those resources available for the treatment of PTSD.

Taking into account the available data regarding veterans' PTSD-care needs, I believe that, by providing VA with a 3-month period after the enactment of this legislation to develop a plan and prepare a report on it, the bill would grant ample time to VA to determine the number and type of new specialized PTSD treatment programs and appropriate expansions of existing programs that would be required to meet the treatment needs of veterans with PTSD. Taken as a whole, this legislation would make unmistakably clear Congress' assessment that much, much more needs to be done, and that Congress places a top priority on caring for veterans with service-related psychological problems.

Mr. President, the provisions of part A of title I of the committee bill are intended to place the proper priority on treating veterans with PTSD related to their service and to create meaningful expansions and improvements in VA's system of providing mental-health care to veterans who need it as a result of their service. I have been increasingly disappointed that for years the Department has been unwilling to make meaningful changes and address a painfully obvious problem among those whom it is required to serve. In my role of chairman of the Veterans' Affairs Committee it has long been my view that this is the area in which VA has most clearly failed to meet its primary mission to serve those who are wounded—whether psychologically or physically, or both—in the service of our Nation. I applauded the administration's actions when it sent vet center staff to California in the hours after the Loma Prieta earthquake to provide needed counseling to the victims, and I was equally supportive of the administration's offer to make the staff of the National Center on PTSD available—on call, in fact—to American civilians who had been taken hostage in the gulf subsequent to the Iraqi invasion of Kuwait. Such actions demonstrate the value of VA's excellent staff and leading research in stress-related psychiatric care.

However, it is clear that the veterans who are in need of care as a result of their service must take the highest priority when the VA weighs and ranks its many competing priorities. The hundreds of thousands of Vietnam combat veterans whose PTSD is documented, and the untold thousands of combat veterans from World War II and Korea that evidence suggests are still suffering from PTSD have waited far too long for the help they need. Moreover, the Persian Gulf war has presented VA with a new generation of wartime veterans and, despite the rapid conclusion of the war and the minimal U.S. casualties, mental-health experts have cautioned that significant numbers of those who served were exposed to stresses that may lead to psychological problems requiring treatment. It is thus imperative to move ahead to address the problem we already know of and prepare to respond to those that may arise with this new group of wartime veterans.

MENTAL ILLNESS RESEARCH AND EDUCATION

Mr. President, part B of title I of the bill contains provisions that would require the Secretary to designate not more than five VA health-care facilities as the locations for centers of excellence in the area of mental illness. These centers, to be known as MIRREC's, would focus on research, education, and clinical activities related to mental illness. At least one of the MIRREC's would have to be designated by January 1, 1993.

BACKGROUND

The October 20, 1985, report of the special purpose committee to evaluate the Mental Health and Behavioral Sciences Research Program of the VA, which was chaired by Dr. Seymour Kety—and hereinafter referred to as the "Kety committee"—concluded that research on mental illness and training for psychiatrists and other mental health specialists at VA facilities were totally inadequate. The report noted that about 40 percent of all VA beds are occupied by veterans who suffer from mental disorders, whereas less than 10 percent of VA's research resources are directed toward mental illness.

In order to improve and expand the capability of VA health-care facilities to respond to the needs of veterans with mental-illness disabilities, the Kety committee recommended that VA centers of excellence be established to develop first-rate psychiatric research programs within VA. Such centers would provide state-of-the-art treatment, increase innovative basic and clinical research opportunities and enhance and encourage continuing education and training in the treatment of mental illness.

Based on the recommendations of the Kety committee, the committee began efforts over 4 years ago to encourage more research into mental illnesses and to establish centers of excellence. First, legislation enacted on May 20, 1988, Public Law 100-322, included a provision—derived from section 316 of S. 9 as reported by the committee on November 6, 1987—to add an express reference to mental illness research in the statutory description of VA's medical research mission, now set forth in section 7303(a)(2) of title 38. This reference in the law is intended to express the importance of research to mental health care and thereby to help counteract the historical trend of underfunding mental illness research.

Second, the committee report accompanying that legislation (S. Rept. No. 100-215, page 138), urged VA to establish three centers of excellence, or MIRECC's, as proposed by the Kety committee. VA has to yet to take any action to do so.

Testimony received at this committee's April 23, 1991, hearing was very supportive of this provision. For example, the witnesses representing the national associations of VA chiefs of both psychiatry and psychology stressed that the establishment of MIRECC's would improve VA's ability to attract top notch psychiatrists and psychologists and thus enhance the Department's ability to provide high-quality mental health services to veterans.

Dr. Spencer Falcon, former president of the National Association of VA Chiefs of Psychiatry and chairman of the VA's Chief Medical Director's Special Committee on Post-Traumatic Stress Disorder, and currently regional chief of staff for VA's central region, testified:

> Funding for psychiatric research in the VA has remained vastly disappropriate to the utilization of psychiatric services. While psychiatric problems account for about 40 percent of inpatient days in VA medical budget * * *. The establishment of MIRECC's is a modest investment to make when one considers the potential benefits that could result from the mental health research that would be conducted, and the potential for attracting highly trained scientists and clinicians to VA employment.

Mr. President, I also note that the January 1991 final report of the VA Advisory Committee for Health Research Policy, a blue ribbon committee established by the Secretary of Veterans Affairs, recommended that VA establish MIRECC's as a means of increasing opportunities in psychiatric research and encouraging the formulation of new research initiatives in mental health care as well as maintaining the intellectual environment so important to quality health care. The report stated that these "centers could provide a way to deal with the emerging priorities in the VA and the Nation at large."

The proposed MIRECC's would be modeled after the successful Geriatric Research, Education, and Clinical Centers [GRECC's], which were provided for in section 302 of Public Law 96-330, enacted in 1980, and of which there were 15 at VAMC's in fiscal year 1992. The MIRECC's would be designed to, first, congregate at one facility clinicians and investigators with a clear and focused clinical research mission, such as PTSD, schizophrenia, or drug and alcohol abuse; second, provide training and educational opportunities for students and residents in psychiatry, psychology, nursing, social work, and other professionals which treat individuals with mental illness; and third, develop new models of effective care and treatment for veterans with mental illnesses, especially those which are service connected.

I believe that the establishment of MIRECC's would also encourage research into outcomes of various types of treatment for mental illnesses, an aspect of mental-illness research which, to date, has not been fully pursued either by VA or other researchers in the field.

The bill would promote research at the MIRECC's by requiring that, in the awarding of research funds for mental-illness projects, MIRECC applications be given a priority. Centers would include an emphasis on the psychosocial dimension of mental illness and on developing models for furnishing care and treatment of mental illness.

Further, the bill would promote the dissemination of information regarding all aspects of MIRECC activities throughout VHA by requiring the CMD to develop continuing education programs provided at regional medical education centers.

Finally, beginning February 1, 1993, the Secretary would be required to submit to the Veteran's Affairs Committees three annual reports on the research, educational, and clinical care activities at each MIRECC and on efforts to disseminate the information throughout the VA health-care system.

The administration of the program would be assigned to the VA central office official responsible for mental health and behavioral sciences, currently the Director of Mental Health and Behavioral Sciences.

Mr. President, VA has for far too long placed inadequate emphasis on researching and treating the mental-health problems of veterans and on educational activities designed to improve the capabilities of VA mental-health professionals. The establishment of MIRECC's pursuant to section 121 of the bill would be a long-needed improvement in this regard, and I am hopeful that this is the year our legislation will be enacted.

TITLE II—GENERAL HEALTH CARE

Mr. President, I noted earlier the many important provisions contained in title II of the bill and will at this time highlight provisions which relate to two matters that I consider of the utmost importance: prosthetics services and services for homeless veterans.

PROSTHETICS

Section 201 of the bill would address a problem that exists with regard to VA's authority to provide prosthetic appliances.

Under current law, VA is generally prohibited from furnishing to certain veterans—those who are receiving outpatient care for non-service-connected disabilities in order to obviate the need for hospitalization—prosthetic devices and various other medical items which could prevent the need for future inpatient hospitalization. This situation arose because, when legislation changing the eligibility standards for outpatient care was enacted in 1973, the eligibility standards regarding prosthetic devices was not. Thus, for example, under current law, such a veteran receiving outpatient obviate care cannot be furnished a corrective shoe for a non-service-connected foot ulcer even though the lack of the shoe may lead to later hospitalization and possible amputation of the foot. Likewise, this restriction of non-service-connected care prevents VA from providing an amputee who has a stump abrasion with a liner for, or simple repairs to, his or her artificial limb to prevent further breakdown and subsequent hospitalization. Similarly, a paralyzed, wheelchair-bound veteran prone to bed sores cannot be provided an appropriate cushion to relieve pressure areas. The restriction does not apply when a veteran is receiving inpatient care.

Section 201 of the bill would, upon a determination by the Secretary that the particular items are necessary, permit VA to provide them in preparation for, or to obviate the need for, hospitalization. This provision would not authorize VA to provide prosthetic devices and other medical supplies to all veterans, and some of the most commonly requested prosthetic items, such as eyeglasses and hearing aids, would not be furnished under this new authority because they are generally not the types of devices that are needed in order to obviate the need for, or prepare for, inpatient care. Although this provision does have an estimated cost of $7 million, I believe that any cost increases this provision would bring to VA's prosthetics service would be offset substantially by improvements in outpatient care resulting in reduced hospital admissions for conditions that, in the absence of provision of a prosthetic device or medical item, would otherwise deteriorate to the point at which a costly surgical procedure is required.

Mr. President, section 205 of the bill would require the Secretary to establish an advisory committee on VA's prosthetics and special-disabilities programs comprised of representatives of prosthetics user groups and recognized experts in the various medical and engineering fields related to prosthetics. The advisory committee would be required to submit three annual reports beginning on June 15, 1993.

During the last session of the 101st Congress, the Veterans' Affairs Committee engaged in extensive oversight of VA's prosthetics and special-disabilities programs. Those efforts were described in the committee's report on S. 2100 (S. Rept. No. 101-379, beginning on page 463). They culminated in a 4-hour hearing on the issues on June 7, 1990. The result of our efforts, in short, was the identification of numerous serious problems in the way in which VA's prosthetics programs are funded, administered, and monitored. VA has acknowledged many of the problems and has taken steps to address many of them, including the establishment of an internal advisory committee, which Deputy Secretary Principi announced at the 1990 hearing. However, it was a full 13 months later that the administratively established advisory committee first met.

Mr. President, because of the great importance that I attach to the VA's prosthetics and special-disabilities programs and the lengthy delay in VA's own advisory committee being established and finally meeting, I believe strongly that a congressionally chartered advisory committee with a clear mission and reporting requirement is necessary to ensure that these programs maintain their high visibility and the Secretary and Congress remain fully informed in a timely manner. I regret that this provision is necessary after the extensive efforts our committee made in identifying the problem areas and the clear need for continued high-level oversight of these programs; yet the experience to date with respect to the administratively established committee convinces me that legislation is required.

EXPANDED SERVICES FOR HOMELESS VETERANS

Mr. President, section 203 of the bill is designed to provide VA with a comprehensive blueprint on how to address the problem of homelessness among our veteran population. Section 203 contains provisions that would require VA medical centers or regional benefits offices, in coordination with all other VA facilities in the appropriate service areas and local groups involved in serving homeless persons, to conduct assessments of the needs of homeless veterans living within the areas served by those centers or offices; develop plans to address the needs of these veterans which are identified as not being met by the existing network of VA and other programs; establish a 3-year, $4.5-million pilot program at up to 15 sites at which VA would be authorized to contract for domiciliary care for homeless veterans; extend VA's Homeless Chronically Mentally Ill Veterans [HCMI] Program through fiscal year 1994; and increase the authorizations of appropriations for the HCMI and Domiciliary Care for Homeless Veterans [DCHV] Programs.

Mr. President, although it has proven very difficult for anyone to determine with accuracy the exact size of the homeless population in the United States, several credible groups and researchers involved with the issue of homelessness have published estimates. For example, the National Coalition for the Homeless estimates that as many as 3 million individuals are currently homeless and that the numbers continue to grow. The National Alliance to End Homelessness estimates that as many as 736,000 persons may be homeless on a given night and that between 1.3 million and 2 million persons may experience homelessness at some point during the year. Countless others may be teetering near the brink of homelessness—one missed paycheck or personal crisis away. These numbers reflect an extremely urgent problem.

The best recent estimates indicate that between 450,000 and 700,000 Americans are literally homeless—sleeping on the streets or in homeless shelters—on an average night and that 80 percent of them are males. Studies have shown that approximately one third of the homeless are veterans. It thus seems reasonable to estimate that there are, at any given time, between 150,000 and 250,000 literally homeless veterans in America. If the estimates of the National Coalition on the Homeless are used as a base, the number of homeless veterans may be as high as 1,140,000. At the committee's April 23, 1991, hearing, Dr. Spencer Falcon, testifying on behalf of the American Psychiatric Association, estimated that on any given night there are up to 200,000 homeless veterans in America. According to Dr. Falcon, approximately 80 percent of those veterans are severely and chronically mentally ill and nearly half of the chronically mentally ill have serious medical problems.

As noted in the committee report accompanying S. 869—S. Rept. No. 102-118, pages 49-50—researchers have found that, of those who are homeless, as many as 33 percent are chronically mentally ill.

Through the HCMI Program, in combination with the DCHV Program, VA has provided shelter and medical and psychiatric treatment for over 35,000 homeless veterans in need of such help.

The HCMI Program is a community-based program that combines aggressive outreach with health-care services, intensive care management, and time-limited care in non-VA residential treatment centers. The results from the program have been encouraging. In the program's first 3 years, staff in 45 VA Medical Centers in 26 States and the District of Columbia were able to carry out assessments of approximately 30,000 mentally ill, homeless veterans and place 8,000 of them in residential treatment facilities. Given the difficult nature of contacting these veterans—in soup kitchens, shelters, and on the streets—and of building trust between the veteran and the outreach worker, which is necessary to make an assessment and provide for physical and mental examinations, this level of activity indicates considerable success on the part of the program's outreach workers.

Program evaluations show that the HCMI Program is reaching those it was intended to reach: Long-term homeless, extremely poor, chronically mentally ill veterans. The 1990 Annual Report of the Interagency Council on the Homeless indicates that over 21 percent of those assessed by HCMI staff had been homeless for 2 or more years and had a median monthly income of $207. The fourth annual report detailing the progress of the HCMI Program was submitted to the committee in August 1991. That report indicated that 32.3 percent of the homeless veterans assessed reported having been hospitalized in the past for a general psychiatric problem.

Not surprisingly, given that the need for ongoing care is the rule rather than the exception in the treatment of chronically mentally ill persons, the clinicians determined that, at the time of discharge from the program, about half of the veterans had shown improvement but were in need of additional treatment. The 1989 report on the program indicated that only one out of eight veterans had improved to the point of needing no further treatment.

The DCHV Program is composed of five clinical phases: First, community outreach and referral; second, admission screening and assessment; third, medical and psychiatric evaluation; fourth, medical and psychiatric treatment and social-vocational rehabilitation; and, fifth, post-discharge community support. VA's second progress report on the DCHV Program, submitted to the committee on February 22, 1990, indicated that the services most frequently provided were medical and psychiatric evaluation and treatment, to over 90 percent of the patients; vocational rehabilitation, 58.5 percent; and basic services such as clothing, 31.3 percent. Outcome data recorded at discharge indicated that veterans with medical problems showed the most frequent improvement during the course of DCHV treatment—76.1 percent—and that over half of the veterans who had a mental health problem or a substance-abuse problem showed improvement. Testament to the large demand that exists among homeless veterans for domiciliary care is the occupancy level at the DCHV sites which the committee has been told remains consistently above 100 percent.

Visits by committee staff to domiciliary facilities at the Coatsville, PA, VAMC and the West Los Angeles, CA, VAMC, have reinforced the committee's view that the DCHV Program can be an effective and compassionate way of assisting homeless veterans. It is the committee's view that VA's HCMI and DCHV programs have helped meet many of the short-term needs of homeless veterans—a place off the street to sleep; the opportunity to receive needed medical and mental health assessments; and the furnishing of appropriate care and rehabilitative services. These services are not luxuries; they constitute humane responses to basic human needs.

Mr. President, the reports on these programs indicate that additional resources and approaches are needed to enhance and improve the programs' capacities and effectiveness. The third progress report on the HCMI Program, for example, recommended that there be established integrated, comprehensive service programs for homeless veterans coordinated among the HCMI Program, the DCHV Program, and other VA programs assisting homeless veterans. I am aware of one such comprehensive service center established by VA in Dallas and am hopeful that VA will continue to expand upon this concept. I believe that the expanded authorizations and services for homeless veterans provided for in the bill would allow VA to develop and establish such programs and increase the number of sites at which the programs operate, as well as assign additional personnel to the existing HCMI and DCHV Programs.

Mr. President, the bill would increase the level of appropriations authorized for the HCMI and DCHV Programs in fiscal year 1993 and extend the authority of the HCMI Program through fiscal year 1994. For the HCMI Program, the current $30 million level of funding authorized for fiscal year 1992 would be increased to $40 million in fiscal year 1993. The DCHV Program's authorized levels of appropriations would be increased from the current level of $22.5 million for fiscal year 1992 to $25 million for fiscal year 1993. I believe that these increases are warranted given the general successes of these programs and the need for additional services for homeless veterans indicated by the large numbers of homeless veterans, the over-filled domiciliaries, and the VA evaluations of the HCMI and DCHV Programs indicating that expansions and enhancements are needed.

The bill would also require VA medical centers or regional benefits offices, in consultation with existing organizations providing services to homeless persons in the area, to conduct assessments with respect to the needs of homeless veterans for health care, education and training, employment, shelter, counseling, and outreach services. The assessments would be required to indicate the extent to which the network of existing VA and non-VA programs meet the identified needs of homeless veterans. The purpose of this assessment would be to allow VA to identify the gaps in the existing network of systems providing services to homeless veterans and to develop appropriate plans to address those areas.

VA's own evaluation of its homeless veterans programs, which was submitted to the committee on October 3, 1991, noted that VA's approach in assisting homeless veterans involves "link[ing] all VA components; i.e., Veterans Health Services and Research Administration [VHSRA] [non-Veterans Health Administration] and Veterans Benefits Administration [VBA], with local organizations, veterans' service organizations, and other Federal programs which provide assistance to homeless veterans" and that the "extensive communication and networking * * * is vital to the success of these programs." Thus, the bill's requirement that such linkage be pursued is fully consistent and complementary to VA's current activities and policies.

Mr. President, the assessments that would be required by the bill would help to avoid rigid, centrally operated programs and lead to local programs that address the problems faced by homeless veterans at the local level. In addition, the bill would establish a pilot program to determine the effectiveness of providing, through contracts with existing community-based organizations, domiciliary care including medical services to homeless veterans eligible for such care from VA. Appropriations of $1.5 million per year would be authorized for each of fiscal years 1992, 1993, 1994, and 1995 for pilot projects at up to 15 sites per year.

This new authority would allow VA to enter into contracts with non-VA facilities to provide services to homeless veterans who are in need of medical, psychological, or rehabilitative services. Community-based halfway houses, therapeutic residences, or shelters that provide medical, vocational, or rehabilitative services similar to those provided for VA domiciliary facilities would be the types of facilities that would qualify for contracts under this new authority.

Finally, the bill would authorize the Secretary to accept donations of funds and services for the purposes of establishing one-stop, nonresidential services and mobile support teams for the assistance of, and for expanding the medical services to, homeless veterans already eligible for such services from VA. As noted earlier, such one-stop nonresidential services were recommended by VA in its February 1990 evaluation of the HCMI Program. The VA's homeless program evaluation submitted to the committee on October 3, 1991, also noted that VA-run drop-in centers for homeless veterans, such as the two which are currently operating in New York City, address basic needs that many homeless veterans have:

> Some veterans who live on the street or in shelters may not be motivated or ready for treatment when they first come in contact with the VA clinician. Many are in need of a place to shower, wash their clothes, have a meal, or maybe just sit quietly in a safe place where they will not be disturbed during the day. Drop-in Centers meet these needs, and encourage veterans to participate in medical screening, individual group and counseling sessions, and education programs. Services from an on-site Veterans Benefits Counselor may also be provided.

Mr. President, I believe the authority provided by the bill would allow VA to gain access to resources above those allocated to or by the Department, and allow VA to encourage more extensive community participation in and support for its programs for homeless veterans.

MINORITY AFFAIRS

Mr. President, section 301 of the bill would reestablish the Advisory Committee on Native-American Veterans, which was originally established by section 19032 of the Veterans' Health-Care Amendments of 1986—Public Law 99-272. That advisory committee issued its final report in 1988 and its charter subsequently lapsed. In 1990, acting in response to a recommendation by the advisory committee, VA established the interagency Native American Veterans Coordinating Council to oversee implementation of the advisory committee's recommendations and to promote interagency coordination and joint planning in the furnishing of services to native American veterans.

A reestablished Native-American Veterans Advisory Committee and the coordinating council would function in ways that complement each other's activities. A congressionally chartered, consumer-oriented advisory committee would bring important differences in perspective and purpose to issues that an executive branch, provider-oriented council cannot. Thus, I believe that the reestablishment of the Advisory Committee on Native-American Veterans would go a long way toward ensuring that issues of importance to native American veterans are identified and addressed by VA and other Federal agencies.

MARRIAGE AND FAMILY COUNSELING

Mr. President, as noted above, the bill would require VA to conduct a program to furnish marriage and family counseling services to certain veterans of the Persian Gulf war and their families. This legislation, which I originally introduced in S. 1553, was reported by the committee on September 24, 1991, and passed by the Senate on November 15, 1991. I refer my colleagues and others with an interest in these provisions to the committee report on S. 1553—Senate Report No. 102-159—and to my statement in the RECORD for November 15 at pages S 16866-72.

CONCLUSION

Mr. President, in closing I thank our committee's ranking Republican member, Senator SPECTER, for his continued support of and help with this legislation. I also am grateful to the other members of the committee for their cooperation on this measure.

I look forward to working with the chairman of the House Veterans' Affairs Committee, G.V. "SONNY" MONTGOMERY, and that committee's ranking Republican member, BOB STUMP, as well as with the other members of the House committee, in the further development and enactment of this important legislation on a timely basis.

Mr. President, I believe the bill addresses in a fair and reasonable manner very pressing needs of our Nation's veterans, and I urge my colleagues to support it.

Mr. SIMPSON. Mr. President, I am pleased to say that we on the Veterans' Affairs Committee were able to compromise on this important legislation regarding post-traumatic stress disorder [PTSD], marriage and family counseling, mental health research, and general health care.

I believe I have made it clear in the past how I feel about the provision in this bill which expands vet center eligibility to include World War I and Korean conflict veterans. I am concerned about this expansion of benefits. These benefits were created solely for Vietnam veterans.

Frankly, I find it difficult to believe that veterans who participated in World War II, average age of 69, need services provided through readjustment counseling centers established for Vietnam era veterans.

I also am very concerned about the provision in this bill which provides an entitlement to inpatient and outpatient care for the treatment of posttraumatic stress disorder [PTSD] for veterans irrespective of service connection.

But we have debated these issues and provisions already, and so, I will not resurrect this sensible argument.

So, I would just sound my usual note of caution. We must stop creating these new entitlements and expanding existing entitlements when we do not have any way of paying for them. That is plain wrong.

Surely we must be more responsible, especially considering that the national debt recently approached $4.2 trillion, and the deficit this year alone was $350 billion.

It is political posturing when we authorize programs we say will benefit veterans when we honestly know we can not pay the freight. When we do that—we are certainly not acting in the best interest of American veterans. In fact—we are doing a great disservice to them.

Mr. SPECTER. Mr. President, as ranking Republican member of the Committee on Veterans' Affairs, I am pleased to join our distinguished chairman, Senator CRANSTON, as an original cosponsor of the Veterans' Health Care Amendments of 1992. This bill incorporates the provisions of S. 869, as amended and passed by the Senate on November 20, 1991, with minor technical amendments.

Mr. President, we seek passage of this bill in order to restart negotiations between the House and Senate on matters of great importance to veterans. As we closed last session, the Senate passed S. 869, the Veterans' Health Care Amendments of 1991, substituted its provisions for the text of H.R. 2280, the Veterans' Health Care and Research Amendments of 1991, which the House had passed in June of last year. In the closing week of the first session, Chairman CRANSTON and I worked closely with House Veterans' Affairs Committee Chairman MONTGOMERY and ranking Republican member STUMP to fashion a compromise of some important health provisions from H.R. 2280 and S. 869. Despite the shortness of time, we very nearly achieved this compromise, which was passed by the House as House Resolution 300 on November 25, 1991. Unfortunately, we could not reach agreement on all provisions, and the session ended without passage of the 14th substantive veterans' bill.

Our aim in passage of this measure, Mr. President, is to get the negotiations moving again. I emphasize to my colleagues that there are no substantive differences between this bill and the bill the Senate passed as S. 869.

As I have said many times, Mr. President, no issue has a higher priority with me than veterans' health care. This bill, which was the subject of thoughtful debate last November, provides important assistance to the veterans' health care program. As importantly, I look to its passage as a means of restarting negotiations with our colleagues in the other body to continue our work of providing for our Nation's veterans.

I urge my colleagues to support this bill.

The PRESIDING OFFICER. Without objection, the bill is deemed read the third time and passed.

So the bill (S. 2344) was passed, as follows:

S. 2344

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.

(a) SHORT TITLE.—This Act may be cited as the "Veterans Health Care Amendments Act of 1992".

(b) REFERENCES TO TITLE 38.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—MENTAL HEALTH

PART A—POST-TRAUMATIC STRESS DISORDER

SEC. 101. SHORT TITLE.

This part may be cited as the "Veterans Post-Traumatic Stress Disorder Treatment Act of 1992".

SEC. 102. FINDINGS.

The Congress finds the following:

(1) Post-traumatic stress disorder (PTSD) is a highly disruptive and debilitating psychological disorder that can result from exposure to combat or any other traumatic event outside the range of conventional human experience.

(2) Post-traumatic stress disorder can have a destructive impact on the life of a person suffering from the disorder by adversely affecting his or her behavior, ability to work with, relate to, and communicate with others, and ability to maintain gainful employment.

(3) In 1980, the American Psychiatric Association officially recognized PTSD as a diagnosis in its "Diagnostic and Statistical Manual of Mental Disorders (Third edition)" and identified combat experience as a potential cause for PTSD.

(4) A Congressionally-mandated study of Vietnam-era veterans, released in November 1988, regarding the frequency of symptoms of PTSD and other problems relating to readjustment from combat of such veterans, found that 479,000 male veterans of the Vietnam theater of operations (representing 15.2 percent of all such male veterans) suffered from the full effects of PTSD and that another 350,000 of such veterans (representing 11.2 percent of all such male veterans) experienced some symptoms of the PTSD.

(5) That study also found higher incidences of PTSD among Black and Hispanic male veterans of the Vietnam theater of operations than among all male veterans of that theater, but did not include data on the incidence of the disorder among veterans of other ethnic groups.

(6) A large body of evidence indicates that such psychological disorders related to combat stress as war neurosis, combat fatigue, and the disorder commonly known as "shell shock" are analogous to PTSD and that thousands of veterans of combat in World War II and the Korean war experienced and continue to experience symptoms of such disorders.

(7) That evidence also indicates that veterans of combat in military operations conducted after the Vietnam era, including operations in Lebanon, Granada, and Panama, also suffer from symptoms of PTSD.

(8) Although debilitating, PTSD can be treated successfully, and an individual experiencing the disorder can learn coping skills, including how to mitigate the effects of the anxiety, depression, anger, guilt, fear, alienation, and emotional outbursts that he or she experiences.

(9) Early intervention and treatment of acute PTSD can be an important part of a therapeutic course to prevent long-term chronic PTSD.

(10) The Department of Veterans Affairs has a responsibility to provide opportunities for treatment of PTSD and other stress-related psychological problems to the hundreds of thousands of combat veterans who suffer from PTSD and to conduct outreach activities that provide both actual notice of the availability of such treatment to those veterans and appropriate encouragement for such veterans to participate in the treatment.

(11) The Department has made some progress in expanding diagnosis and treatment programs relating to PTSD.

(12) Through readjustment counseling, specialized inpatient and outpatient programs, and general psychiatric services offered in its hospitals and outpatient clinics, the Department has provided needed treatment to thousands of veterans for PTSD.

(13) Despite such progress the Department can and should be doing much more to provide treatment to veterans for PTSD and other stress-related psychological problems and to provide outreach services to make veterans aware of, and encourage them to participate in, treatment opportunities available through the Department.

(14) It is in the public interest for the Secretary of Veterans Affairs to develop a plan that ensures immediate, on-demand treatment opportunities for the thousands of veterans who suffer from, and need treatment for, this disruptive, life-threatening disorder.

SEC. 103. CARE FOR COMBAT-THEATER VETERANS WITH SERVICE-RELATED POST-TRAUMATIC STRESS DISORDER.

(a) REQUIREMENT TO FURNISH CARE AND SERVICES.—(1) Section 1702 is amended—

(A) by inserting "(a)" before "For"; and

(B) by adding at the end the following new subsections:

"(b)(1) A veteran referred to in paragraph (2)(A) who is diagnosed by a mental health professional designated by the Chief Medical Director (following an examination of the veteran by such professional) to be suffering from post-traumatic stress disorder related to service referred to in such paragraph shall be furnished care and services for such disorder pursuant to sections 1710(a)(1)(A) and 1712(a)(1)(A) of this title even though such disorder has not been determined to be service connected.

"(2)(A) A veteran eligible for the care and services referred to in paragraph (1) is a veteran who, as determined by the Chief Benefits Director, served on active duty in a theater of combat operations (as defined by the Secretary) during World War II, the Korean conflict, the Vietnam era, the Persian Gulf War, or in any other area during a period in which hostilities occurred in such area.

"(B) In the case of a veteran who is diagnosed as suffering from post-traumatic stress disorder, the determination of whether the veteran served on active duty as described in subparagraph (A) shall be made by the most expeditious means practicable.

"(c) For the purposes of subsection (b) of this section, the term 'hostilities' means an armed conflict in which members of the Armed Forces are subjected to danger comparable to the danger to which members of the Armed Forces have been subjected in combat with enemy armed forces during a period of war, as determined by the Secretary in consultation with the Secretary of Defense.".

(2)(A) The heading of such section is amended to read as follows:

"§ 1702. Special provisions relating to mental illness disabilities".

(B) The item relating to such section in the table of sections at the beginning of chapter 17 is amended to read as follows:

"1702. Special provisions relating to mental illness disabilities.".

(b) TIMELINESS OF EVALUATION AND VERIFICATION OF STATUS.—Section 1712A is amended—

(1) by redesignating subsection (i) as subsection (j); and

(2) by inserting after subsection (h) the following new subsection (i):

"(i) Whenever a veteran is referred by a center to a Department general health-care facility for a determination regarding such veteran's eligibility for care and services under section 1702(b) of this title, the veteran shall be evaluated for diagnostic purposes within seven days after the date on which the referral is made.".

SEC. 104. ELIGIBILITY FOR SERVICES AT VET CENTERS.

Subsection (a) of section 1712A is amended by adding at the end the following new paragraph:

"(3) Upon the request of any veteran who served on active duty in a theater of combat operations (as defined by the Secretary) during World War II or the Korean conflict, the Secretary shall furnish counseling to such veteran in order to assist the veteran to overcome any psychological problems associated with such service. The counseling shall include a general mental and psychological assessment to ascertain whether the veteran has mental or psychological problems associated with such service.".

SEC. 105. IMPROVEMENT OF POST-TRAUMATIC STRESS DISORDER TREATMENT AND OUTREACH SERVICES OF THE DEPARTMENT OF VETERANS AFFAIRS.

(a) PLAN FOR TREATMENT AND OUTREACH SERVICES IMPROVEMENT.—Not later than June 1, 1992, the Secretary of Veterans Affairs shall devise and initiate implementation of a plan—

(1) to increase the availability of treatment of veterans suffering from post-traumatic stress disorder by the Department of Veterans Affairs (including treatment provided in inpatient and outpatient programs providing specialized treatment for PTSD, treatment for PTSD in conjunction with substance abuse, and treatment in Vet Centers) to levels commensurate with the needs of veterans suffering from the disorder as a result of active duty; and

(2) to enhance outreach activities—

(A) to inform combat veterans (including veterans who are members of ethnic minority groups), the family members of such veterans, and appropriate State and local health organizations and social service organizations of the availability of such treatment; and

(B) to provide appropriate encouragement for such veterans to participate in such treatment.

(b) SPECIAL CONSIDERATIONS.—In devising the plan, the Secretary shall consider—

(1) the level and geographic accessibility of inpatient and outpatient care for veterans suffering from PTSD across the United States;

(2) the desirability of providing for inpatient PTSD care to be furnished to such veterans in facilities of the Department that are physically independent of general psychiatric wards of the medical facilities of the Department; and

(3) the treatment needs of such veterans who are women, of such veterans who are members of ethnic minorities (including Native Americans, Native Hawaiians, Asian-Pacific Islanders, and Native Alaskans), and of such veterans who suffer from substance abuse problems as well as PTSD.

(c) IMPLEMENTATION.—In carrying out the plan, the Secretary shall—

(1) prescribe a schedule for the implementation of the plan;

(2) prescribe appropriate criteria for the selection and training of staff necessary to increase the availability of the treatment and enhance the outreach activities referred to in subsection (a); and

(3) provide the facilities, personnel, funds, and other resources necessary to carry out the plan.

(d) DEFINITIONS.—For the purposes of this section:

(1) The term "Vet Center" shall have the meaning given the term "center" in section 1712A(j)(1) of title 38, United States Code (as redesignated by section 103(b)(1) of this Act).

(2) The term "active duty" shall have the meaning given such term in section 101(21) of such title.

(3) The term "veteran" shall have the meaning given such term in section 101(2) of such title.

SEC. 106. REPORT BY THE SECRETARY OF VETERANS AFFAIRS.

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act and subject to subsection (b), the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the plan required by section 105. The report shall contain the following information:

(1) A description of the plan.

(2) What facilities, personnel, funds, and other resources are necessary to increase the availability of treatment and enhance outreach activities in accordance with the plan in a manner that does not reduce the existing capacity of the Department of Veterans Affairs to provide treatment for other conditions.

(3) A description of the efforts undertaken by the Secretary to make such resources available for the treatment of veterans for post-traumatic stress disorder.

(4) An estimate of the availability of community-based residential treatment of veterans for post-traumatic stress disorder and the impact of such availability on the increased availability of such treatment by the Department.

(5) An assessment of the need for, and potential benefit of, making available scholarships, tuition reimbursement, or other educational assistance to health-care students and health-care professionals in order to improve the training and specialization of such individuals in the provision of such treatment.

(6) A description of the efforts of the Secretary to implement the recommendations of the Special Committee on Post-Traumatic Stress Disorder referred to in subsection (b) with respect to—

(A) establishing educational programming that is directed to each of the various levels of education, training, and experience of the various mental health professionals involved in the treatment of veterans suffering from PTSD; and

(B) giving research relating to PTSD a high priority in the allocation of funds available to the Department in research activities relating to mental health.

(7) Such other proposals and recommendations as the Secretary considers appropriate to increase the availability of such treatment.

(b) REPORT ASSISTANCE.—In preparing the report referred to in subsection (a), the Secretary shall consult with the Special Committee on Post-Traumatic Stress Disorder established pursuant to section 110(b) of the Veterans' Health Care Act of 1984 (38 U.S.C. 1712A note) and the Secretary's Advisory Committee on Readjustment of Vietnam and Other War Veterans.

SEC. 107. SPECIAL COMMITTEE ON POST-TRAUMATIC STRESS DISORDER.

(a) EVALUATION OF STUDY OF POSTWAR PSYCHOLOGICAL PROBLEMS OF VIETNAM VETERANS.—(1) Not later than January 1, 1993, the Special Committee on Post-Traumatic Stress Disorder (hereinafter in this section referred to as the "Special Committee") established pursuant to section 110(b)(1) of the Veterans' Health Care Act of 1984 (38 U.S.C. 1712A note) shall submit concurrently to the Secretary of Veterans Affairs and the Committees on Veterans' Affairs of the Senate and House of Representatives (hereinafter in this section referred to as the "Committees") a report setting forth the Special Committee's evaluation of the results of the study required by section 102 of the Veterans' Health Care Amendments of 1983 (38 U.S.C. 1712A note). Such report shall include the Special Committee's—

(A) overall evaluation of the conduct, validity, and meaning of the study;

(B) assessment of the capability of the Department of Veterans Affairs to meet the need for diagnosing and treating veterans for post-traumatic stress disorder and for other psychological problems in readjusting to civilian life, as estimated in the results of such study;

(C) evaluation of the Secretary's report on the study; and

(D) recommendations for any further or follow-up research on the matters addressed in the study.

(2) Not later than 30 days after receiving the Special Committee's report under paragraph (1), the Secretary shall submit to the Committees any comments concerning the report that the Secretary considers appropriate.

(b) UPDATES OF REPORTS UNDER SECTION 110(c) OF PUBLIC LAW 98-528.—(1) Not later than January 1 of each of 1993 and 1994, the Special Committee shall concurrently submit to the Secretary and the Committees a report containing information updating the reports submitted to the Secretary under section 110(e) of the Veterans' Health Care Act of 1984, together with any additional information the Special Committee considers appropriate regarding the overall efforts of the Department of Veterans Affairs to meet the needs of veterans with post-traumatic stress disorder and other psychological problems in readjusting to civilian life.

(2) Not later than 60 days after receiving each of the Special Committee's reports under paragraph (1), the Secretary shall submit to the Committees any comments concerning the report that the Secretary considers appropriate.

SEC. 108. FUNDING FOR POST-TRAUMATIC STRESS DISORDER PROGRAMS.

In the documents providing detailed information on the budget for the Department of Veterans Affairs that the Secretary of Veterans Affairs submits to the Congress in conjunction with the President's budget submission for fiscal year 1994 and for fiscal year 1995 pursuant to section 1105 of title 31, United States Code, the Secretary shall identify the amounts in the appropriations requests for Department accounts that are estimated to be obligated for—

(1) the payment of compensation to veterans for disabilities resulting from post-traumatic stress disorder (hereinafter in this section referred to as "PTSD") that is service connected;

(2) the treatment of veterans by or at the expense of the Department for PTSD related to their active-duty service, including specific designation of funds for the treatment of PTSD—

(A) in PTSD programs designated pursuant to section 110(a)(1) of the Veterans' Health Care Act of 1984 (38 U.S.C. 1712A note);

(B) in inpatient psychiatric programs and outpatient mental health programs other than such designated PTSD programs;

(C) in readjustment counseling programs pursuant to 1712A of title 38, United States Code; and

(D) under contract through non-Department sources furnishing (i) readjustment counseling services pursuant to section 1712A(e) of such title, (ii) mental health services pursuant to such section 1712A(e), or (iii) mental health services pursuant to other authority, and described in the first annual report submitted pursuant to section 110(e)(1) of the Veterans' Health Care Act of 1984 as having been proposed by the Special Committee on Post-Traumatic Stress Disorder;

(3) education, training, and research at—

(A) the National Center on Post-Traumatic Stress Disorder established under section 110(c) of such Act;

(B) any centers of mental illness research, education, and clinical activities that may be established at Department medical centers; and

(C) other Department research facilities; and

(4) the operation of the National Center on Post-Traumatic Stress Disorder.

SEC. 109. SELECTION OF LOCATIONS FOR NEW POST-TRAUMATIC STRESS DISORDER TREATMENT UNITS.

(a) ACCESSIBILITY OF PTSD TREATMENT UNITS TO VETERANS IN RURAL AREAS.—(1) Subchapter I of chapter 81 is amended by adding at the end the following new section:

"§ 8117. Locations of PTSD treatment units

"The Secretary shall to the extent practicable ensure that there are Department post-traumatic stress disorder treatment units in locations that are readily accessible to veterans residing in rural areas of the United States.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 8116 the following new item:

"8117. Locations of PTSD treatment units.".

(b) IMPLEMENTATION.—In determining where to locate post-traumatic stress disorder units which may be established after the date of the enactment of this Act, the Secretary of Veterans Affairs shall give strong consideration to locations referred to in section 8117 of title 38, United States Code, as added by subsection (a)(1).

PART B—MENTAL ILLNESS RESEARCH AND EDUCATION

SEC. 121. MENTAL ILLNESS RESEARCH, EDUCATION, AND CLINICAL CENTERS.

(a) IN GENERAL.—Subchapter II of chapter 73 is amended—

(1) by redesignating sections 7316 and 7317 as sections 7317 and 7318, respectively; and

(2) by inserting after section 7315 the following new section 7316:

"§ 7316. Mental illness research, education, and clinical centers

"(a) The purposes of this section are to facilitate the improvement of health-care services for eligible veterans suffering from mental illness, especially service-related conditions, through research, the education and training of health personnel, and the development of improved models for the furnishing of clinical services.

"(b)(1) In order to carry out the purposes of this section, the Secretary, upon the recommendation of the Chief Medical Director and pursuant to the provisions of this subsection, shall designate not more than five health-care facilities of the Department as the locations for centers of mental illness research, education, and clinical activities and (subject to the appropriation of sufficient funds for such purpose) shall establish and operate such centers at such locations in accordance with this section.

"(2) The Secretary shall designate at least one facility under paragraph (1) not later than January 1, 1993.

"(3) In designating facilities as the locations for centers under paragraph (1), the Secretary, upon the recommendation of the Chief Medical Director, shall ensure appropriate geographic distribution of such facilities.

"(4) The Secretary may not designate any health-care facility as a location for a center under paragraph (1) unless the Secretary, upon the recommendation of the Chief Medical Director, determines that the facility has (or may reasonably be anticipated to develop)—

"(A) with an accredited medical school which provides education and training in psychiatry and with which such facility is affiliated, an arrangement under which residents receive education and training in psychiatry through regular rotation through such facility so as to provide such residents with training in the diagnosis and treatment of mental illness;

"(B) with an accredited graduate school of psychology which provides education and training in clinical or counseling psychology or both and with which the facility is affiliated, an arrangement under which students receive education and training in clinical or counseling psychology or both through regular rotation through such facility so as to provide such students with training in the diagnosis and treatment of mental illness;

"(C) an arrangement under which nursing, social work, or other allied health personnel receive training and education in mental health care through regular rotation through such facility;

"(D) the ability to attract the participation of scientists who are capable of ingenuity and creativity in research into the causes, treatment, and prevention of mental illness and into models for furnishing care and treatment to veterans suffering from mental illness;

"(E) a policymaking advisory committee composed of appropriate mental health-care and research representatives of the facility and of the affiliated school or schools to advise the directors of such facility and such center on policy matters pertaining to the activities of such center during the period of the operation of such center; and

"(F) the capability to conduct effectively evaluations of the activities of such center.

"(c) Activities of clinical and scientific investigation at each center shall be eligible to compete for the award of funding from amounts appropriated for the Department of Veterans Affairs medical and prosthetics research account and shall receive priority in the award of funding from such account insofar as funds are awarded to projects for mental illness.

"(d) There are authorized to be appropriated for the basic support of the research and education and training activities of the centers established pursuant to subsection (b)(1), $3,125,000 for fiscal year 1993 and $6,250,000 for each of the three subsequent fiscal years. The Chief Medical Director shall allocate to such centers from other funds appropriated generally for the Department of Veterans Affairs medical care account and medical and prosthetics research account such amounts as the Chief Medical Director determines appropriate.

"(e) The Chief Medical Director shall ensure that research activities carried out through centers established under subsection (b)(1) include an appropriate emphasis on the psychosocial dimension of mental illness and on proposals of means of furnishing care and treatment to veterans suffering from mental illness.

"(f) The Chief Medical Director shall ensure that useful information produced by the research, education and training, and clinical activities of the centers established under subsection (b)(1) is disseminated throughout the Veterans Health Administration through the development of programs of continuing medical and related education provided through regional medical education centers under subchapter VI of chapter 74 of this title and other means.

"(g) The official within the Central Office of the Veterans Health Administration responsible for mental health and behavioral sciences matters shall be responsible for the supervision of the operation of the centers established pursuant to subsection (b)(1).".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 is amended by striking out the items relating to sections 7316 and 7317 and inserting in lieu thereof the following:

"7316. Mental illness research, education, and clinical centers.
"7317. Malpractice and negligence suits: defense by United States.
"7318. Hazardous research projects: indemnification of contractors.".

(c) REPORTS.—Not later than February 1 of each of 1993, 1994, and 1995, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the experience during the prior fiscal year under the centers established pursuant to section 7316 of title 38, United States Code (as added by subsection (a)). Each such report shall contain the following:

(1) A description of—

(A) the activities carried out at each center and the funding provided for such activities;

(B) the advances made at each center in research, education and training, and clinical activities relating to mental illness in veterans; and

(C) the efforts made by the Chief Medical Director of the Department of Veterans Affairs pursuant to subsection (e) of such section (as so added) to disseminate throughout the Veterans Health Administration useful information derived from such activities.

(2) The Secretary's evaluations of the effectiveness of the centers in fulfilling the purposes of the centers.

PART C—PROGRAM OF MARRIAGE AND FAMILY COUNSELING FOR CERTAIN VETERANS

SEC. 131. PROGRAM FOR FURNISHING MARRIAGE AND FAMILY COUNSELING.

(a) REQUIREMENT.—Subject, in fiscal years 1993 and 1994, to the availability of funds appropriated pursuant to the authorization in section 133 of this Act, the Secretary of Veterans Affairs shall conduct a program to furnish to the persons referred to in subsection (b) the marriage and family counseling services referred to in subsection (c). The Secretary shall commence the program not later than 30 days after the date of the enactment of this Act. The authority to conduct the program shall expire at the end of September 30, 1994.

(b) PERSONS ELIGIBLE FOR COUNSELING.—The persons eligible to receive marriage and family counseling services under the program are—

(1) veterans who were awarded a campaign medal for active-duty service during the Persian Gulf War and the spouses, children, and parents of such veterans; and

(2) members of the reserve components who were called or ordered to active duty during the Persian Gulf War and the spouses, children, and parents of such members.

(c) COUNSELING SERVICES.—Under the program, the Secretary may provide marriage and family counseling that the Secretary determines, based on an assessment by a mental-health professional employed by the Department and designated by the Secretary (or, in an area where no such professional is available, a mental-health professional designated by the Secretary and performing services under a contract or fee arrangement with the Secretary) is necessary for the amelioration of psychological, marital, or familial difficulties that result from the active duty service referred to in subsection (b) (1) or (2).

(d) MANNER OF FURNISHING SERVICES.—(1) The Secretary shall furnish the marriage and family counseling services under the program as follows:

(A) By personnel of the Department of Veterans Affairs who are qualified to provide such counseling services.

(B) By appropriately certified marriage and family counselors employed by the Department.

(C) By qualified mental health professionals pursuant to contracts with the Department.

(2) The Secretary shall establish the qualifications required of personnel under subparagraphs (A) and (C) of paragraph (1) and shall prescribe the training, experience, and certification required of appropriately certified marriage and family counselors under subparagraph (B) of such paragraph.

(3) The Secretary may employ counselors to provide marriage and family counseling under paragraph (1)(B) and shall pay such counselors at the rates prevailing for such counseling among non-Department health-care professionals with similar training, experience, and certification in the locality in which such counselors provide such counseling, as determined by the Secretary.

(e) CONTRACT COUNSELING SERVICES.—(1) Subject to paragraphs (2) and (4), a mental health professional referred to in subsection (d)(1)(C) may furnish marriage and family counseling services to a person under the program as follows:

(A) For a period of not more than 15 days beginning on the date of the commencement of the furnishing of such services to the person.

(B) For a 90-day period beginning on such date if—

(i) the mental health professional submits to the Secretary a treatment plan with respect to the person not later than 15 days after such date; and

(ii) the plan and assessment made under subsection (a) are approved by an appropriate mental health professional of the Department designated for that purpose by the Chief Medical Director.

(C) For an additional 90-day period beginning on the date of the expiration of the 90-day period referred to in subparagraph (B) (or any subsequent 90-day period) if—

(i) not more than 30 days before the expiration of the 90-day period referred to in subparagraph (B) (or any subsequent 90-day period), the mental health professional submits to the Secretary a revised treatment plan containing a justification of the need of the person for additional counseling services; and

(ii) the plan is approved in accordance with the provisions of subparagraph (B)(ii).

(2)(A) A mental health professional referred to in paragraph (1) who assesses the need of any person for services for the purposes of subsection (c) may not furnish counseling services to that person.

(B) The Secretary may waive the prohibition referred to in subparagraph (A) for locations (as determined by the Secretary) in which the Secretary is unable to obtain the assessment referred to in that subparagraph from a mental health professional other than the mental health professional with whom the Secretary enters into contracts under subsection (d)(1)(C) for the furnishing of counseling services.

(3) The Secretary shall reimburse mental health professionals for the reasonable cost (as determined by the Secretary) of furnishing counseling services under paragraph (1). In the event of the disapproval of a treatment plan of a person submitted by a mental health professional under paragraph (1)(B)(i), the Secretary shall reimburse the mental health professional for the reasonable cost (as so determined) of furnishing counseling services to the person for the period beginning on the date of the commencement of such services and ending on the date of the disapproval.

(4) The Secretary may authorize the furnishing of counseling in an individual case for a period shorter than the 90-day period specified in subparagraph (B) or (C) of paragraph (1) and, upon further consideration, extend the shorter period to the full 90 days.

(5)(A) For the purposes of this subsection, the term "treatment plan", with respect to a person entitled to counseling services under the program, must include—

(i) an assessment by the mental health professional submitting the plan of the counseling needs of the person described in the plan on the date of the submittal of the plan; and

(ii) a description of the counseling services to be furnished to the person by the mental health professional during the 90-day period covered by the plan, including the number of counseling sessions proposed as part of such services.

(B) The Secretary shall prescribe an appropriate form for the treatment plan.

(f) COST RECOVERY.—For the purposes of section 1729 of title 38, United States Code, marriage and family counseling services furnished under the program shall be deemed to be care and services furnished by the Department under chapter 17 of such title, and the United States shall be entitled to recover or collect the reasonable cost of such services in accordance with that section.

SEC. 132. DEFINITIONS.

For the purposes of this part, the terms "veteran", "child", "parent", "active duty", "reserve component", "spouse", and "Persian Gulf War" have the meanings given such terms in section 101(2), (4), (5), (21), (27), (31), and (33) of title 38, United States Code, respectively.

SEC. 133. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated $10,000,000 for each of fiscal years 1993 and 1994 to carry out this part.

SEC. 134. REPORTS.

(a) INTERIM REPORT.—Not later than April 1, 1993, the Secretary shall submit to Congress a report on the program conducted pursuant to section 131 of this Act. The report shall contain information regarding the persons furnished counseling services under the program, including—

(1) the number of such persons, stated as a total number and separately for each eligibility status referred to in section 131(b) of this Act;

(2) the age and gender of such persons;

(3) the manner in which such persons were furnished such services under the program; and

(4) the number of counseling sessions furnished to such persons.

(b) FINAL REPORT.—Not later than January 1, 1994, the Secretary shall submit to Congress a report on the program. The report shall contain updates of the information referred to in subsection (a) and a description and evaluation of the program and shall include such recommendations with respect to the program as the Secretary considers appropriate.

TITLE II—GENERAL HEALTH CARE

PART A—GENERAL HEALTH

SEC. 201. ELIGIBILITY FOR PROSTHETIC DEVICES AND CERTAIN OTHER MEDICAL ITEMS.

(a) IN GENERAL.—Section 1701(6)(A)(i) is amended by striking out "(except under the conditions described in section 1712(f)(1)(A)(i) of this title)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date on which the Secretary of Veterans Affairs submits to the Committees on Veterans' Affairs of the Senate and House of Representatives copies of the Secretary's written determination that implementation of that amendment will not result in (1) substantial delay, or contribute substantially to delays, in the furnishing of prosthetic items in connection with the treatment of disabilities that are service connected (within the meaning of that term provided in section 101(16) of title 38, United States Code), or (2) the denial of such items in connection with the treatment of such disabilities.

SEC. 202. INCREASE IN MAXIMUM LIMITATIONS ON HOME HEALTH SERVICES.

Section 1717(a)(2) is amended—

(1) in subparagraph (A), by striking out "$2,500" and inserting in lieu thereof "$5,000"; and

(2) in subparagraph (B), by striking out "$600" and inserting in lieu thereof "$1,200".

SEC. 203. EXPANDED SERVICES FOR HOMELESS VETERANS.

(a) ASSESSMENT AND PLAN.—(1)(A) The Secretary of Veterans Affairs shall require the director of each medical center or the director of each regional benefits office to make an assessment of the needs of homeless veterans living within the area served by the director of the medical center concerned or the region of the director of the region concerned, as the case may be.

(B) Each assessment shall identify the needs of homeless veterans with respect to the following areas:

(i) Health care.

(ii) Education and training.

(iii) Employment.

(iv) Shelter.

(v) Counseling.

(vi) Outreach services.

(C) Each assessment shall also indicate the extent to which the needs referred to in clauses (i) through (vi) of subparagraph (B) are being met adequately by the programs of the Department of Veterans Affairs, of other departments and agencies of the Federal Government, of State and local governments, and of nongovernmental organizations.

(D) Each assessment shall be made in consultation with all facilities of the Department of Veterans Affairs serving veterans in the appropriate service area and with community-based organizations that have experience working with homeless persons in that area.

(E) Each assessment shall be carried out in accordance with uniform procedures and guidelines prescribed by the Secretary.

(2)(A) The director of each medical center shall develop a plan for each of fiscal years 1993, 1994, and 1995 for the provision of outreach services and other services to meet the needs that are identified in the assessment referred to in paragraph (1)(B) on the part of homeless veterans in the area served by the medical center concerned. The director of each medical center shall develop such plans in consultation with the director of the appropriate regional benefits office, the heads of other facilities of the Department of Veterans Affairs, and the Director for Veterans' Employment and Training within the State concerned.

(B) Each plan developed pursuant to subparagraph (A) shall—

(i) describe the actions to be taken by the Department of Veterans Affairs to meet, directly or otherwise, those needs of homeless veterans that are identified in the assessment referred to in paragraph (1) as not being adequately met by existing programs; and

(ii) provide that the director of the medical center concerned or other official of the Department of Veterans Affairs will take appropriate action to meet those needs, to the maximum extent practicable, through existing programs and available resources.

(C) The director of each medical center shall coordinate the development of the plan for the area served by the medical center concerned with other programs of the Department of Veterans Affairs, other departments and agencies of the Federal Government, State and local governments, and community-based organizations and other private entities that provide services to homeless persons.

(D) Each plan shall include a list of all public and private programs that provide assistance to homeless persons or homeless veterans in the area concerned and shall describe the services offered by those programs.

(3) The director of each medical center shall be responsible for carrying out the plan developed with respect to the area served by that medical center. In carrying out such plan, the director shall take appropriate actions to seek to inform each homeless veteran, and each veteran who is at risk of becoming homeless (as determined by the director), of the services available to the veteran within the area served by the medical center.

(4) The director of each medical center shall disseminate to other departments and agencies of the Federal Government, all State and local governments, and all private entities that provide services to homeless persons or homeless veterans within the area served by the medical center information regarding the services provided to homeless veterans by the medical center or other facility of the Department of Veterans Affairs.

(b) Pilot Program for Providing Domiciliary Care for Homeless Veterans.—(1) The Secretary shall conduct a pilot program to determine the effectiveness of providing, through existing community-based organizations, domiciliary care (including medical services) to homeless veterans eligible for such care from the Department of Veterans Affairs under other provisions of law. In carrying out the program, the Secretary may enter into contracts with community-based organizations that have demonstrated effectiveness in providing relevant services to homeless persons. The Secretary shall conduct the program at not more than 15 locations throughout the United States.

(2) In entering into contracts under this section, the Secretary shall give preference to community-based organizations that offer the most comprehensive care and services to homeless individuals, particularly services that meet needs identified in the assessments referred to in subsection (a)(1) as not being adequately met by existing programs.

(3) There is authorized to be appropriated to carry out this subsection $1,500,000 for each of fiscal years 1992, 1993, 1994, and 1995.

(4) If the Secretary determines that the pilot program conducted pursuant to paragraph (1) is meeting effectively the domiciliary care needs of homeless veterans and that additional funds are needed for that program, the Secretary may transfer funds appropriated to carry out section 801 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Public Law 100-628; 102 Stat. 3257), as amended by subsection (e), to the account available to carry out the pilot program provided for in this subsection, except that no amount may be transferred in any fiscal year that would reduce the amount available for expenditure under such section 801 below an amount equal to the amount expended under that section in the preceding fiscal year. Funds transferred under this paragraph shall be available for the same period for which originally appropriated.

(c) Authority To Accept Donations for Certain Programs.—The Secretary may accept donations of funds and services for the purposes of providing one-stop, non-residential services and mobile support teams and for expanding the medical services to homeless veterans eligible for such services from the Department of Veterans Affairs.

(d) Definitions.—As used in subsections (a), (b), and (c):

(1) The term "medical center" means a medical center of the Department of Veterans Affairs.

(2) The term "regional benefits office" means a regional benefits office of the Department of Veterans Affairs.

(3) The term "veteran" has the same meaning given such term by section 101(2) of title 38, United States Code.

(4) The term "homeless" has the same meaning given such term by section 103(a), as limited by section 103(c), of the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77; 101 Stat. 485).

(e) Extension of Certain Programs for Homeless Veterans.—(1) Section 801 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Public Law 100-628; 102 Stat. 3257) is amended—

(A) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) Authorization of Appropriations.—There is hereby authorized to be appropriated to the Department of Veterans Affairs $30,000,000 for each of the fiscal years 1989 and 1990; $50,000,000 for fiscal year 1991; $57,500,000 for fiscal year 1992; and $65,000,000 for fiscal year 1993. Funds appropriated pursuant to this section shall be in addition to any funds appropriated pursuant to any other authorizations (whether definite or indefinite) for such fiscal years.";

(B) in subsection (b)—

(i) by inserting "(1)" after "Domiciliary Care.—";

(ii) by striking out "50 percent" and inserting in lieu thereof "the amounts specified in paragraph (2)";

(iii) by redesignating clauses (1) and (2) as clauses (A) and (B), respectively; and

(iv) by adding at the end the following new paragraph:

"(2) The amounts available for the purposes referred to in paragraph (1) are as follows:

"(A) For fiscal year 1989, $15,000,000.

"(B) For fiscal year 1990, $15,000,000.

"(C) For fiscal year 1991, $20,000,000.

"(D) For fiscal year 1992, $22,500,000.

"(E) For fiscal year 1993, $25,000,000."; and

(C) in subsection (c)—

(i) by inserting "(1)" after "Homeless Veterans.—";

(ii) by striking out "50 percent" and inserting in lieu thereof "the amounts specified in paragraph (2)"; and

(iii) by adding at the end the following new paragraph:

"(2) The amounts available for the purposes referred to in paragraph (1) are as follows:

"(A) For fiscal year 1989, $15,000,000.

"(B) For fiscal year 1990, $15,000,000.

"(C) For fiscal year 1991, $30,000,000.

"(D) For fiscal year 1992, $35,000,000.

"(E) For fiscal year 1993, $40,000,000.".

(2) Extension of Program for Mentally Ill Homeless Veterans.—Section 115(d) of the Veterans' Benefits and Services Act of 1988 (38 U.S.C. 1712 note) is amended by striking out "1992" and inserting in lieu thereof "1994".

(f) Report.—Not later than February 1, 1994, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing an evaluation of the programs referred to in subsections (a), (b), and (c).

SEC. 204. EXTENSION OF PILOT PROGRAM OF MOBILE HEALTH-CARE CLINICS.

Section 113(b) of the Veterans' Benefits and Services Act of 1988 (38 U.S.C. 1712 note) is amended—

(1) by striking out "and 1990" and inserting in lieu thereof a comma and "1990, 1991, 1992, and 1993"; and

(2) by adding at the end the following new sentence: "Funds appropriated to carry out the pilot program authorized by this section shall remain available until expended.".

SEC. 205. ADVISORY COMMITTEE ON PROSTHETICS AND SPECIAL-DISABILITIES PROGRAMS.

(a) Establishing of Advisory Committee.—Chapter 5 is amended by adding at the end of subchapter III the following new section:

"§ 543. Advisory Committee on Prosthetics and Special-Disabilities Programs

"(a)(1) The Secretary shall establish an advisory committee to be known as the Advisory Committee on Prosthetics and Special-Disabilities Programs (hereinafter in this section referred to as the 'Committee').

"(2) The members of the Committee shall be appointed by the Secretary and shall include—

"(A) appropriate representatives of veterans who use prosthetic devices;

"(B) individuals who are recognized experts in the fields of prosthetics engineering;

"(C) individuals engaged in prosthetics research;

"(D) individuals engaged in rehabilitative medicine;

"(E) individuals engaged in the clinical treatment of individuals who are users of prosthetic devices;

"(F) individuals engaged in clinical treatment in the Department's special-disabilities programs; and

"(G) such other individuals with pertinent expertise or experience as the Secretary may determine appropriate.

"(3) The Committee may also include, as ex officio members, individuals appointed from the Department.

"(4) The Secretary shall determine the total number, terms of service, and pay and allowances of members of the Committee appointed by the Secretary, except that the term of office of any such member may not exceed three years.

"(b)(1) It shall be the function of the Committee to advise the Secretary and the Chief Medical Director on all matters related to—

"(A) prosthetics and special-disabilities programs administered by the Secretary;

"(B) the coordination of programs of the Department for the development and testing of, and for information exchange regarding, prosthetic devices;

"(C) the coordination of Department and non-Department programs that involve the development and testing of prosthetic devices; and

"(D) the adequacy of funding for the prosthetics and special-disabilities programs of the Department.

"(2) The Secretary shall, on a regular basis, consult with and seek the advice of the Committee on the matters described in paragraph (1) of this subsection.

"(c) Not later than June 15 of 1993, 1994, and 1995, the Committee shall submit to the Secretary and the Committees on Veterans Affairs' of the Senate and House of Representatives a report on the effectiveness of the prosthetics and special-disabilities programs administered by the Secretary during the preceding fiscal year. Not more than 30 days after the date on which any such report is received by the Secretary, the Secretary shall submit a report to such committees commenting on the report of the Committee.

"(d) As used in this section, the term 'special-disabilities programs' includes all programs administered by the Secretary for spinal-cord-injured veterans, blind veterans, veterans who have lost or lost the use of extremities, hearing-impaired veterans, and other veterans with serious incapacities in terms of daily life functions.".

(b) Clerical Amendment.—The table of sections at the beginning of chapter 5 is amended by adding after the item relating to section 542 the following:

"543. Advisory Committee on Prosthetics and Special-Disabilities Programs.".

SEC. 206. SERVICES TO OVERCOME SERVICE-CONNECTED DISABILITIES AFFECTING PROCREATION.

(a) DEFINITION OF "MEDICAL SERVICES".—Clause (A) of section 1701(6), as amended by section 201 of this Act, is further amended to read as follows:

"(A)(i) surgical services, (ii) services to achieve pregnancy in a veteran or a veteran's spouse when such services are necessary to overcome a service-connected disability impairing a veteran's procreative ability (but only if such services are furnished by contract, except for services which the Chief Medical Director determines that Department of Veterans Affairs facilities are fully capable of furnishing in a cost-effective manner), (iii) dental services and appliances as described in sections 1710 and 1712 of this title, (iv) optometric and podiatric services, (v) (in the case of a person otherwise receiving care or services under this chapter) preventive health-care services as defined in section 1762 of this title, (vi) wheelchairs, artificial limbs, trusses and similar appliances, special clothing made necessary by the wearing of prosthetic appliances, and such other supplies or services as the Secretary determines to be reasonable and necessary, and (vii) travel and incidental expenses pursuant to the provisions of section 111 of this title; and".

(b) ADVISORY COMMITTEE.—The Chief Medical Director of the Department of Veterans Affairs shall appoint an advisory committee to advise the Chief Medical Director on the exercise of authority to furnish services described in subclause (ii) of section 1701(6)(A) of title 38, United States Code, as added by subsection (a). Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the advisory committee appointed under this subsection.

SEC. 207. PREVENTIVE MEDICINE.

(a) EXTENSION OF PILOT PROGRAM.—Section 1763(a)(1) is amended to read as follows:

"(a)(1) In order to carry out the purpose of this subchapter, the Secretary shall, through fiscal year 1996—

"(A) furnish annually at least two preventive health-care services that the Secretary determines to be feasible and appropriate to any veteran being furnished care or services under section 1710(a)(1) or 1712(a) (1) or (2) of this title; and

"(B) implement annually at each Department of Veterans Affairs health-care facility a major preventive health-care and health-promotion initiative for such veterans.".

(b) LIMIT ON EXPENDITURES.—Section 1763(c) is amended—

(1) by striking out "or" after "1983,"; and

(2) by striking out the period at the end and inserting in lieu thereof ", more than $16,000,000 in fiscal year 1992, more than $17,000,000 in fiscal year 1993, more than $18,000,000 in fiscal year 1994, more than $19,000,000 in fiscal year 1995, or more than $20,000,000 in fiscal year 1996.".

(c) DIRECTOR OF PREVENTIVE HEALTH-CARE AND HEALTH-PROMOTION PROGRAMS.—Section 1763 is amended by adding at the end the following new subsection:

"(d)(1) The Chief Medical Director shall designate an official in the Veterans Health Administration to act as the Director of Preventive Health-Care and Health-Promotion Programs.

"(2) The Director of Preventive Health-Care and Health-Promotion Programs shall prepare guidance regarding, and be responsible for coordinating, evaluating, and advising the Chief Medical Director on, all activities carried out under this subchapter.".

(d) REPORTS.—Section 1764 is amended to read as follows:

"(a) The Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives—

"(1) not later than February 1, 1994, an interim report on the experience under the program provided for by this subchapter; and

"(2) not later than February 1, 1996, a final report on the experience under the program.

"(b) Each report submitted pursuant to subsection (a) of this section shall include, with respect to the experience under the program through September 30 of the year preceding the deadline for submission of such report specified in subsection (a)—

"(1) a description of the types of services that have been furnished pursuant to section 1763(a)(1)(A) of this title and the number of veterans who received such services;

"(2) a description of the preventive health-care and health-promotion initiatives that were implemented pursuant to section 1763(a)(1)(B) of this title and the number of veterans who have been served through such initiatives;

"(3) a description of the types of preventive health-care services that have been furnished pursuant to sections 1710 and 1712 of this title and the number of veterans who received such services;

"(4) a description of activities conducted pursuant to section 1763(a)(2) of this title;

"(5) an assessment of the results of the program; and

"(6) any plans for administrative action, and any recommendations for legislation, that the Secretary considers appropriate.".

(e) CONFORMING AND CLARIFYING AMENDMENTS.—(1) Section 1761(1) is amended by striking out ", including veterans with service-connected disabilities" and all that follows through "disability under this chapter,".

(2) Clauses (1) and (2) of section 1762 are amended to read as follows:

"(1) periodic medical examinations (including screenings for high blood pressure, glaucoma, colorectal cancer, and cholesterol) and dental examinations;

"(2) patient health education (including education about nutrition, stress management, physical fitness, and smoking cessation);".

SEC. 208. ASSISTIVE DOGS FOR CERTAIN DISABLED VETERANS.

(a) AUTHORITY TO PROVIDE ASSISTIVE DOGS.—Section 1714 is amended by adding at the end the following new subsection:

"(c)(1) The Secretary may provide—

"(A) a service dog to a quadriplegic veteran who has a service-connected disability; and

"(B) a signal dog to a veteran who has a service-connected hearing impairment and is in need of the assistance of such a dog.

"(2) The Secretary may pay travel and incidental expenses to veterans referred to in paragraph (1), under the terms and conditions set forth in section 111 of this title, for travel to and from such veteran's homes that are incurred in becoming adjusted to the service dogs and signal dogs referred to in such paragraph.

"(3) For the purposes of this subsection:

"(A) The term 'service dog' means a dog trained to assist quadriplegic individuals in the performance of daily living tasks.

"(B) The term 'signal dog' means a dog trained to provide hearing assistance to deaf persons.".

(b) TECHNICAL CORRECTIONS.—Section 1714(b) is amended by striking out "(under the terms and conditions set forth in section 111 of this title) to and from their homes and" and inserting in lieu thereof ", under the terms and conditions set forth in section 111 of this title, for travel to and from such veteran's homes that are".

SEC. 209. PROSTHETIC SERVICES REPORT.

Not later than July 15, 1992, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing—

(1) the Secretary's evaluation of the reasons for the backlog that occurred in the procurement of prosthetic appliances in fiscal year 1989, and for the failure to furnish prosthetic appliances in accordance with the priority established in section 1712(i) of title 38, United States Code; and

(2) a description of the actions that the Secretary has taken and plans to take to prevent a recurrence of—

(A) the failure to furnish prosthetic appliances in accordance with such priority, including a schedule for any such planned actions; and

(B) the accumulation of a significant backlog in the procurement of prosthetic appliances.

SEC. 210. REPEAL OF AUTHORITY TO FURNISH TOBACCO TO VETERANS RECEIVING HOSPITAL OR DOMICILIARY CARE.

(a) IN GENERAL.—Section 1715 is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 17 is amended by striking out the item relating to section 1715.

SEC. 211. DEVELOPMENT OF RECOMMENDED LEGISLATION FOR THE ELIMINATION OF INCONSISTENCIES IN CERTAIN VETERANS BENEFITS LAWS.

(a) REQUIREMENT TO ESTABLISH TASK FORCE.—The Secretary of Veterans Affairs shall establish a task force to recommend policies and legislation for the elimination of inconsistencies among provisions of law relating to veterans' eligibility for certain health-care benefits.

(b) COMPOSITION OF TASK FORCE.—The task force shall be composed of the following:

(1) Employees of the Department of Veterans Affairs involved in the administration of programs affected by the inconsistencies in law referred to in subsection (a).

(2) Representatives of organizations concerned with the administration of such programs, as determined by the Secretary.

(c) RESPONSIBILITIES OF TASK FORCE.—The task force shall—

(1) identify inconsistencies among sections 1701(6), 1712, 1714, 1717, and 1719 of title 38, United States Code, and the implementation of such sections;

(2) after consultation with appropriate representatives of veterans, develop policy recommendations and legislative proposals for the elimination of any such inconsistencies; and

(3) not later than the date specified by the Secretary, submit to the Secretary a report containing (A) descriptions of the inconsistencies identified by the task force, (B) the policies and legislative proposals recommended by the task force for the elimination of such inconsistencies, and (C) the reasons for each such recommendation.

(d) ACTION BY THE SECRETARY.—The Secretary shall—

(1) review the report submitted by the task force; and

(2) either (A) approve the recommendations for legislation contained in the report, or (B) with respect to any such recommendations that the Secretary does not approve, recommend, or decline to recommend, alternative legislative proposals that the Secretary considers appropriate for the elimination of the inconsistencies identified by the task force.

(e) SUBMISSION OF RECOMMENDATIONS TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives—

(1) the report submitted to the Secretary by the task force; and

(2) a report containing—

(A) any legislation recommended by the Secretary for the elimination of the inconsistencies identified by the task force;

(B) an analysis of any legislation recommended by the Secretary; and

(C) the reasons for any differences between any legislation recommended by the Secretary and the legislation recommended by the task force.

SEC. 212. ELIGIBILITY OF FORMER PRISONERS OF WAR FOR OUTPATIENT MEDICAL SERVICES.

Section 1712(a)(1) is amended—

(1) at the end of clause (B), by striking out "and";

(2) at the end of clause (C), by striking out the period and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new clause:

"(D) to any former prisoner of war for any disability.".

SEC. 213. PILOT PROGRAM FOR FURNISHING ASSISTIVE MONKEYS TO CERTAIN VETERANS.

(a) REQUIREMENT FOR PILOT PROGRAM.—During fiscal years 1992, 1993, 1994, and 1995, the Secretary of Veterans Affairs shall conduct a pilot program under which the Secretary shall—

(1) furnish assistive monkeys to quadriplegic veterans who have service-connected disabilities rated 50 percent or more; and

(2) facilitate the furnishing of assistive monkeys to other quadriplegic veterans.

(b) SELECTION OF VETERAN-PARTICIPANTS.—(1) In determining whether to furnish an assistive monkey to a veteran, or to facilitate the furnishing of an assistive monkey to a veteran, under the pilot program, the Secretary shall (A) consider the extent to which the veteran needs and can benefit from the assistance of the monkey, and (B) provide a preference for veterans who have service-connected quadriplegia.

(2) The Secretary shall approve a veteran for participation in the pilot program only upon the Secretary's determination that the veteran is well-suited for—

(A) carrying out the responsibilities involved in the care of the monkey; and

(B) effectively using the monkey for assistance in performing the veteran's daily living tasks.

(c) ADMINISTRATIVE MATTERS.—(1) The Secretary is authorized to enter into contracts for the furnishing of assistive monkeys under subsection (a). Under such contracts the Secretary may make advance payments for the furnishing of the monkeys before receipt of the monkeys and may either reimburse the provider of such monkeys for the costs of training the monkeys or, subject to such terms and conditions as the Secretary determines are necessary to protect the interests of the Government, make advance payments for such costs before the costs are incurred.

(2) Ownership of an assistive monkey furnished to a veteran under the pilot program shall be determined in accordance with a contract between the provider of the monkey and the veteran.

(3) The Secretary shall provide for the protection of the welfare of assistive monkeys furnished veterans under the pilot program.

(d) EVALUATION AND REPORT.—(1) The Secretary shall evaluate the conduct of the pilot program, the nature and extent of the benefit to veterans furnished assistive monkeys under the program (including any benefits related to employment), the costs and cost-effectiveness of furnishing such monkeys to quadriplegic veterans, and the effects of such program on the recruitment and retention of paid primary caregivers for veterans receiving monkeys and on the morale of unpaid primary caregivers for such veterans.

(2) Not later than February 1, 1995, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the experience under the pilot program. The report shall contain—

(A) the results of the evaluation carried out under paragraph (1), including descriptions of the procedures and criteria used to select veterans to receive assistive monkeys, the nature and extent of the benefit that the veterans received from the assistance of such monkeys, and the amounts and types of costs incurred by the Department of Veterans Affairs in the conduct of the program;

(B) the Secretary's views on the relationship between the furnishing of an assistive monkey to a veteran and the payment to a veteran of (i) an aid and attendance allowance under section 1114(r) of title 38, United States Code, or (ii) an annual rate of pension under section 1521 of such title based on the veteran's need of regular aid and attendance; and

(C) any recommendations that the Secretary considers appropriate regarding whether the pilot program should be continued or whether the authority to furnish assistive monkeys to quadriplegic veterans should be made permanent.

(e) EVALUATION OF PRIVATE ASSISTIVE MONKEY PLACEMENT PROGRAMS.—Before furnishing assistive monkeys to veterans under the pilot program, the Chief Medical Director of the Department of Veterans Affairs shall provide for the conduct of an independent evaluation of the way that assistive monkeys would be treated during training and placement under the pilot program. The Chief Medical Director shall ensure that the person or organization performing the evaluation consults with representatives of appropriate animal welfare organizations prior to conducting the evaluation.

(f) DEFINITIONS.—For the purposes of this section—

(1) the terms "veterans" and "service-connected" have the meanings given those terms in paragraphs (2) and (16), respectively, of section 101 of title 38, United States Code; and

(2) the term "assistive monkey" means a monkey that is specially trained to assist in the performance of daily living tasks for quadriplegic individuals.

PART B—HEALTH-CARE PERSONNEL

SEC. 221. PAY ENHANCEMENTS FOR CERTAIN HEALTH-CARE PERSONNEL.

Section 7454(b) is amended by striking out "or occupational therapists," and inserting in lieu thereof "occupational therapists, or any other health-care personnel furnishing direct care to patients or providing services incident to the furnishing of direct care to patients,".

SEC. 222. SPECIAL RATES CAP.

Section 7455(c) is amended—

(1) by inserting "(1)" after "(c)";

(2) by inserting "by two times" after "exceed" the first place it appears; and

(3) by inserting at the end the following new paragraph:

"(2) Whenever the amount of an increase under subsection (a)(1) results in a rate of basic pay for a position being equal to or greater than the amount that is 94 percent of the maximum amount permitted under paragraph (1), the Secretary shall promptly notify the Committees on Veterans' Affairs of the Senate and House of Representatives of the increase and the amount thereof.".

SEC. 223. RATES OF PAY FOR CERTAIN PSYCHOLOGISTS.

Notwithstanding any other provision of law, the Secretary of Veterans Affairs, not later than 90 days after the date of the enactment of this Act, shall utilize the authority provided in section 7455 of title 38, United States Code, to increase the rates of pay for clinical or counseling psychologists who hold diplomas as diplomates in psychology from an accredited authority recognized by the Secretary unless the Chief Medical Director of the Department of Veterans Affairs determines that such psychologists are not needed to furnish appropriate quality of psychological services for veterans. The amount by which such rate of pay shall be increased shall be the amount determined by the Secretary, upon the recommendation of the Chief Medical Director, to be necessary to make the pay for such psychologists competitive with the pay of psychologists with the same qualifications and credentials serving in non-Department of Veterans Affairs capacities comparable to the Department capacities in which the Department psychologists are serving.

SEC. 224. CHILD-CARE SERVICES.

(a) ASSESSMENTS OF EMPLOYEE NEEDS FOR CHILD-CARE SERVICES.—(1) In order to provide for adequate planning for the availability of child-care services for children of Department of Veterans Affairs employees, the Secretary of Veterans Affairs shall require the director of each Department of Veterans Affairs medical center and regional office to—

(A) assess the needs of such employees for child-care services; and

(B) submit an annual report to the Secretary containing—

(i) the director's findings relating to the needs of such employees for such services and the extent to which such services are available to meet such needs, and

(ii) a proposal (including a schedule) for meeting fully any unmet needs or, if the director determines that it is impracticable to meet such needs fully, a detailed explanation of the reasons for such determination and a proposal (including a schedule) for meeting as many of such needs as is practicable.

(2) In making the assessment referred to in paragraph (1), the director shall consult with appropriate representatives of the employees at the center or office.

(3) The annual report referred to in this subsection shall be submitted not later than March 1 of each year.

(b) TECHNICAL AMENDMENT.—Subsection (b) of section 7809 is amended by striking out "of this section" in the final sentence.

SEC. 225. SPECIAL PAY FOR CERTAIN PHYSICIANS AND DENTISTS BASED ON BOARD CERTIFICATION.

(a) FULL-TIME PHYSICIANS AND DENTISTS.—Section 7437(e)(1)(C) is amended by striking out "only for the special pay" and all that follows through the period and inserting in lieu thereof "for no special pay factors other than primary, full-time, length of service, and specialty or board certification.".

(b) PART-TIME PHYSICIANS AND DENTISTS.—Section 7437(e)(2)(C) is amended by striking out "only for the special pay" and all that follows through the period and inserting in lieu thereof "for no special pay factors other than primary, full-time, length of service, and specialty or board certification.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if enacted with the amendment made by section 102 of the Department of Veterans Affairs Health-Care Personnel Act of 1991 (Public Law 102-40; 105 Stat. 187).

(d) AVAILABILITY OF FUNDS.—Expenses incurred for periods before October 1, 1991, by reason of the enactment of the amendments made by subsections (a) and (b) may be charged to fiscal year 1992 appropriations for the same purpose.

SEC. 226. AUTHORITY TO APPOINT NON-PHYSICIAN DIRECTORS TO THE OFFICE OF THE CHIEF MEDICAL DIRECTOR.

Section 7306(a) is amended—

(1) by redesignating paragraph (7) as paragraph (8); and

(2) by inserting after paragraph (6) the following new paragraph (7):

"(7) Such directors of such other professional or auxiliary services as may be appointed to suit the needs of the Department, who shall be responsible to the Chief Medical Director for the operation of their respective services.".

SEC. 227. EXPANSION OF DIRECTOR GRADE OF THE PHYSICIAN AND DENTIST PAY SCHEDULE.

Section 7404(b)(2) is amended in the first sentence by inserting ", or comparable position" before the period.

TITLE III—MINORITY AFFAIRS

SEC. 301. REESTABLISHMENT OF THE ADVISORY COMMITTEE ON NATIVE-AMERICAN VETERANS.

(a) ESTABLISHMENT.—Effective June 1, 1992, the Advisory Committee on Native-American Veterans established by section 19032 of the Veterans' Health-Care Amendments of 1986 (title XIX of Public Law 99-272; 100 Stat. 388) is reestablished.

(b) INCORPORATION OF PROVISIONS OF PRIOR LAW.—Subsections (b) through (e) and (g) of section 19032 of the Veterans' Health-Care Amendments of 1986 shall apply to the Advisory Committee on Native-American Veterans reestablished by subsection (a).

(c) REPORTS.—(1) Not later than December 31, 1992, and December 31, 1993, the Committee shall submit to the Secretary of Veterans Affairs a report containing the findings and any recommendations of the Committee regarding the matters described in section 19032(b) of the Veterans' Health-Care Amendments of 1986 that were examined and evaluated by the Committee during the fiscal year preceding the fiscal year in which the report is submitted.

(2) Not later than 60 days after receiving each such report, the Secretary shall transmit to the Committees on Veterans' Affairs of the Senate and House of Representatives a copy of the report, together with any comments and recommendations concerning the report that the Secretary considers appropriate.

(d) TERMINATION.—The Committee shall expire 90 days after the date on which the second report is transmitted by the Committee pursuant to subsection (c).

TITLE IV—MISCELLANEOUS

SEC. 401. CLARIFICATION OF PROHIBITION ON PAYMENT OF ATTORNEYS' FEES.

(a) IN GENERAL.—Section 5904(c) is amended—

(1) by inserting "(A)" after "(c)(1)";

(2) by redesignating paragraph (2) as subparagraph (B);

(3) in subparagraph (B) (as so redesignated), by striking out "paragraph (1)" and inserting in lieu thereof "subparagraph (A)"; and

(4) by adding at the end the following new paragraph:

"(2) The provisions of this subsection shall apply only to cases involving a claim for benefits submitted by any person applying for benefits under the laws administered by the Department, and such provisions shall not apply in cases in which the Government is proceeding against a person to collect an indebtedness or in which other attorneys' fee statutes apply.".

(b) APPLICATION OF PROHIBITION.—Section 3404(c) of title 38, United States Code, as in effect on November 17, 1988, shall apply only to cases involving a claim for benefits submitted by any person applying for benefits under the laws administered by the Department and shall not apply in cases in which the Government is proceeding against a person to collect an indebtedness or in which other attorneys' fee statutes apply.

SEC. 402. AUTHORIZATION TO FLY POW/MIA FLAG AT NATIONAL CEMETERIES OF THE UNITED STATES.

(a) AUTHORIZATION.—The director of each national cemetery is authorized to display a POW/MIA flag on a flagstaff at that cemetery. In determining whether to display a POW/MIA flag at the cemetery, the director is authorized and urged to consult with appropriate representatives of local civic and veterans' organizations having an interest in the activities of the cemetery.

(b) PROHIBITION.—No officer or other employee of the Federal Government may obligate appropriated funds for the purpose of purchasing a POW/MIA flag for display at a national cemetery.

(c) DEFINITIONS.—In this section:

(1) The term "national cemetery" means any cemetery in the National Cemetery System referred to in section 1000 of title 38, United States Code.

(2) The term "POW/MIA flag" means the flag designated as the National League of Families POW/MIA flag pursuant to section 2 of the Joint Resolution designating September 21, 1990, as "National POW/MIA Recognition Day", and recognizing the National League of Families POW/MIA flag (Public Law 101-355; 104 Stat. 416).

(3) The term "flagstaff" means any flagstaff at a national cemetery, including the main flagstaff of the cemetery.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ARMS CARGO OF THE MERCHANT SHIP DAE HUNG HO

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of Senate Resolution 266, a resolution concerning the arms cargo of the North Korean merchant ship, Dae Hung Ho, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 266) expressing the sense of the Senate concerning the arms cargo of the North Korean merchant ship Dae Hung Ho.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Maine?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. Without objection, the resolution and preamble is agreed to.

So the resolution was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 266

Whereas Israel is the leading democracy in the Middle East, is America's closest strategic ally in the region, and is a principal participant in the Middle East Peace Conference;

Whereas Israel's security is a major concern to the Senate as it seeks to influence the debate on United States foreign policy in the Middle East;

Whereas in the post-Cold War era, the central element in United States relations with other countries must be an effort to stem the sale of advanced weapons technology to aggressor nations;

Whereas without secure borders for Israel, peace in the Middle East is impossible, and Israel's borders are not secure in an era of weapons proliferation;

Whereas Syria is on the Secretary of State's list of countries that sponsor terrorism;

Whereas the regime of Hafez Al Assad is undemocratic and brutal and has continued to support elements of the Palestinian community most opposed to Secretary Baker's current peace initiative;

Whereas Syria ordered $5.6 billion of new arms between 1987 and 1990 and received delivery of $14.5 billion during the same period;

Whereas Syria has purchased North Korean missiles, components, and arms-related technology since the end of the Persian Gulf War; and

Whereas the North Korean merchant ship Dae Hung Ho is about to deliver $100,000,000 worth of SCUD-C missiles and missile-related technology to Syria: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the President, the member countries of the Missile Technology Control Regime (MTCR), the participants of the Middle East Peace Conference, and the international community in general should use the international sanction of condemnation to prevent the delivery of SCUD missiles and missile-related technology to Syria by the North Korean merchant ship Dae Hung Ho; and

(2) out of respect for Israel's security, Syria should demonstrate its desire for peace and acceptance of Israel's right to exist by terminating its agreement with North Korea for delivery of the cargo of Dae Hung Ho.

SEC. 2. For purposes of this resolution, the term "Missile Technology Control Regime" or "MTCR" means the policy statement among the United States, the United Kingdom, the Federal Republic of Germany, France, Italy, Canada, and Japan, announced on April 16, 1987, to restrict sensitive missile-relevant transfers.

SEC. 3. The Secretary of the Senate shall transmit a copy of this resolution to the President.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VETO MESSAGE ON H.R. 2212

The PRESIDING OFFICER. The Senate having received the veto message from the House on H.R. 2212, an act regarding the extension of most-favored-nation treatment for the People's Republic of China, under the previous order, the message is considered read and will be spread upon the Journal; as follows:

To the House of Representatives:

I am returning herewith without any approval H.R. 2212, the "United States-China Act of 1991," which places additional conditions on renewal of China's most-favored-nation (MFN) trade status.

The sponsors of H.R. 2212 believe they can promote broad economic and foreign policy objectives in China by placing conditions on the renewal of China's MFN status. They expect that the Chinese will improve respect for human rights, cooperate in arms control, and drop barriers to trade, given a choice between losing MFN and addressing these concerns.

Let me state at the outset that my Administration shares the goals and objectives of H.R. 2212. Upholding the sanctity of human rights, controlling the spread of weapons of mass destruction, and free and fair trade are issues of vital concern. My objective lies strictly with the methods proposed to achieve these aims.

There is no doubt in my mind that if we present China's leaders with an ultimatum on MFN, the result will be weakened ties to the West and further repression. The end result will not be progress on human rights, arms control, or trade. Anyone familiar with recent Chinese history can attest that the most brutal and protracted periods of repression took place precisely when China turned inward, against the world.

Recent agreements by the Chinese to protect U.S. intellectual property rights, to abide by the Missile Technology Control Regime Guidelines, to accede to the Nuclear Non-Proliferation Treaty by April, and to discuss our human rights concern—after years of stonewalling—are the clear achievements of my Administration's policy of comprehensive engagement.

We have the policy tools at hand to deal with our concerns effectively and with realistic chances for success. The Administration's comprehensive policy of engagement on several separate fronts invites China's leadership to act responsibly without leaving any doubts about the consequences of Chinese misdeeds. Our approach is one of targeting specific areas of concern with the appropriate policy instruments to produce the required results. H.R. 2212 would severely handicap U.S. business in China, penalizing American workers and eliminating jobs in this country. Conditional MFN status would severely damage the Western-oriented, modernizing elements in China, weaken Hong Kong, and strengthen opposition to democracy and economic reform.

We are making a difference in China by remaining engaged. Because the Congress has attached conditions to China's MFN renewal that will jeopardize this policy, I am returning H.R. 2212 to the House of Representatives without any approval. Such action is needed to protect the economic and foreign policy interests of the United States.

GEORGE BUSH.

THE WHITE HOUSE, *March 2, 1992.*

MESSAGES FROM THE HOUSE

At 5:55 p.m., a message from the House of Representatives, delivered by Mrs. Goetz, one of its reading clerks, announced that the House has passed the following bill and joint resolutions, each without amendment.

S. 2324. An act to amend the Food Stamp Act of 1977 to make a technical correction relating to exclusions from income under the food stamp program, and for other purposes;

S.J. Res. 176. A joint resolution to designate March 19, 1992, as "National Women in Agriculture Day"; and

S.J. Res. 240. A joint resolution designating March 25, 1992 as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy."

The message also announced that the House of Representatives having proceeded to reconsider the bill (H.R. 2212) entitled "An Act regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes", returned by the President of the United States with his objections, to the House of Representatives, in which it originated, it was resolved, that the said bill pass, two-thirds of the House of Representatives agreeing to pass the same.

The message further announced that pursuant to section 5005(d)(1)(C) of Public Law 102-240, the minority leader appoints the following individuals from private life to serve as members of the National Commission on Intermodal Transportation on the part of the House: Mr. Kenneth Bird of Woodridge, IL, and Dr. John C. Taylor of Mason, MI.

ENROLLED BILLS SIGNED

The message further announced that the Speaker had signed the following enrolled bills:

S. 1467. An act to designate the Federal Building and the United States Courthouse located at 15 Lee Street in Montgomery, Alabama, as the "Frank M. Johnson, Jr. Federal Building and United States Courthouse"; and

S. 1889. An act to designate the Federal Building and the United States Courthouse located at 111 South Wolcott Street in Casper, Wyoming, as the "Ewing T. Kerr Federal Building and United States Courthouse."

The enrolled bills were subsequently signed by the President pro tempore [Mr. BYRD].

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 654. A bill to amend title 35, United States Code, with respect to patents on certain processes (Rept. No. 102-260).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HATFIELD (for himself, Mr. PACKWOOD, Mr. JEFFORDS, Mr. DODD, Mr. LEAHY, Mr. KENNEDY, and Mr. KERRY):

S. 2335. A bill to amend the Solid Waste Disposal Act to require a refund value for certain beverage containers, and to provide resources for State pollution prevention and recycling programs, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. ROCKEFELLER (for himself and Mr. RIEGLE):

S. 2336. A bill to establish a loan program at the Department of Commerce to promote the development and commercialization of advanced technologies and products; to the Committee on Commerce, Science, and Transportation.

By Mr. GRASSLEY:

S. 2337. A bill to provide for the budgetary treatment of medicare payment safeguard activities, and for other purposes; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

By Mr. PELL (by request):

S. 2338. A bill to amend the Foreign Assistance Act of 1961 with respect to the activities of the Overseas Private Investment Corporation; to the Committee on Foreign Relations.

By Mr. DODD:

S. 2339. A bill to establish a program to provide child care through public-private partnerships, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. D'AMATO (for himself, Mr. MCCAIN, and Mr. SPECTER):

S. 2340. A bill to require the transfer of certain closed military installations to the Department of Justice, to transfer certain aliens to such installations, to provide grants to States to assist States and units of local government in resolving certain difficulties relating to the incarceration of certain aliens, and for other purposes; to the Committee on the Judiciary.

By Mr. CRANSTON (for himself, Mr. D'AMATO, Mr. SARBANES, Mr. KERRY, Mr. LIEBERMAN, and Mr. AKAKA):

S. 2341. A bill to provide for the assessment and reduction of lead-based paint hazards in housing; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DASCHLE:

S. 2342. A bill to amend the act entitled "An act to provide for the disposition of funds appropriated to pay judgement in favor of the Mississippi Sioux Indians in Indian Claims Commission dockets numbered 142, 359, 360, 361, 362, and 363, and for other purposes", approved October 25, 1972 (86 Stat. 1168 et seq.); to the Select Committee on Indian Affairs.

By Mr. DODD:

S. 2343. A bill to provide for demonstration projects in 6 States to establish or improve a system of assured minimum child support payments; to the Committee on Labor and Human Resources.

By Mr. CRANSTON (for himself, Mr. SPECTER, Mr. DECONCINI, Mr. ROCKEFELLER, Mr. DASCHLE, and Mr. AKAKA):

S. 2344. A bill to improve the provision of health care and other services to veterans by the Department of Veterans Affairs, and for other purposes; considered and passed.

By Mr. GARN:

S.J. Res. 268. A joint resolution designating May 1992, as "Neurofibromatosis Awareness Month"; to the Committee on the Judiciary.

By Mr. DOLE:

S.J. Res. 269. A joint resolution designating May 31, 1992, through June 6, 1992, as a "Week for the National Observance of the 50th Anniversary of World War II"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DECONCINI:

S. Res. 270. A resolution concerning the conflict of Nagorno-Karabakh in the territory of Azerbaijan; to the Committee on Foreign Relations.

By Mr. SIMON (for himself, Mr. HELMS, Mr. MITCHELL, Mr. PELL, Mr. MURKOWSKI, Mr. CRANSTON, Mr. MOYNIHAN, Mr. WOFFORD, Mr. KERRY, Mr. KENNEDY, and Mr. WALLOP):

S. Res. 271. A resolution relative to human rights in Tibet; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND RESOLUTIONS

By Mr. HATFIELD (for himself, Mr. PACKWOOD, Mr. JEFFORDS, Mr. DODD, Mr. LEAHY, Mr. KENNEDY, and Mr. KERRY):

S. 2335. A bill to amend the Solid Waste Disposal Act to require a refund for certain beverage containers, and to provide resources for State pollution prevention and recycling programs, and for other purposes; to the Committee on Commerce, Science, and Transportation.

NATIONAL BEVERAGE CONTAINER REFUSE AND RECYCLING ACT OF 1992

Mr. HATFIELD. Mr. President, today I am pleased to introduce the National Beverage Container Refuse and Recycling Act of 1992. Joining me in this effort are Senators PACKWOOD, JEFFORDS, DODD, LEAHY, KENNEDY, and KERRY. This legislation serves as a companion to H.R. 4343, a bill recently introduced in the House by my good friend and colleague, Representative EDWARD MARKEY and 60 additional cosponsors.

Mr. President, I have stood before this body on countless occasions over the last 20 years and explained in great detail the many important benefits of beverage container deposit legislation. In my own State of Oregon, the first to enact a statewide deposit law more than 20 years ago, the benefits continue to accumulate. And just ask any Oregonian and you will soon learn that there has never been a more popular piece of legislation enacted in the State.

Mr. President, this bill is one that eventually will have to be adopted by the Federal Government, even though we have avoided this responsibility for many, many years. Even this morning's newspaper carries an article focused on the subject of waste and landfill shortages and all the problems that relate to the trash and waste created by this Nation. We are a throw-away society. Use it, throw it away. And the idea of recycling, the idea of reuse, is going to be forced upon us either by crises or by plan. I hope it is by plan.

With 10 States now reaping the benefits of this ingenious and time-tested invention, the time has come for Congress to act. The time has come for the industry to put aside its well-financed campaign of avoidance. The time has come for the skeptics to look at the solid record accomplishment that continues to accrue day in and day out in States with deposit laws on the books.

I am sorry to say that industry has fought this every inch of the way. They have well-financed campaigns. It was demonstrated right here in the District of Columbia only a short time ago. I am continually amazed that an idea that has such strong popular support can be overwhelmed and be inundated by the big industry. The shortsighted industry opponents of this legislation are going to have to face up to their responsibilities sooner rather than later.

More than 60 billion beverage containers are discarded each year. This waste represents an unnecessary threat to the environment, an unnecessary loss of recoverable energy, and an unnecessary burden on the Nation's already overburdened landfills. This is a waste and a luxury we can no longer afford.

As my colleagues may recall, I stood on this floor nearly 1 year ago and offered legislation resembling in many respects the legislation we introduce today. One of the central purposes of that effort was to address the fundamental concerns of those in industry who have for two decades fought this legislation at every turn. That bill, Senate bill 1318, is an olive branch to industry, an olive branch that unfortunately has gone without positive gesture or constructive comment. The well-financed industry opposition ignored our olive branch.

Once again, I call on industry to look closely at our earlier legislation as a basis for discussion. However, the time has come to work constructively with those who want to advance—not stall—efforts to promote conservation and the wise stewardship of our resources. Consequently, the legislation we introduce today takes to heart the concerns of those in the environmental community and is less geared to addressing the age old objections of the industry opponents.

I am proud to say that this legislation is solidly supported by a coalition of environmental groups.

I ask unanimous consent to insert in the RECORD a letter from U.S. Public Interest Research Group indicating that the following groups support this legislation: the Natural Resources Defense Council, Environmental Action, the Sierra Club, the Environmental Defense Fund, Greenpeace, Friends of the Earth, the League of Women Voters of America, Public Citizen, and others. Let me thank the groups that have come forward and made deposit legislation one of their top priorities.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. PUBLIC INTEREST RESEARCH GROUP, NATIONAL ASSOCIATION OF STATE PIRGS,
Washington, DC, March 5, 1992.

STATEMENT OF THE UNITED STATES PUBLIC INTEREST RESEARCH GROUP (PIRG) IN SUPPORT OF A NATIONAL BOTTLE BILL

A priority step for the Congress and the President to take to solve our solid waste crisis is immediate implementation of a national deposit law. Deposits are the only proven mechanism for guaranteeing that consumer products are reintroduced into commerce for reuse and recycling.

A 80-90 percent return rate are achieved through this system, all at no cost to the taxpayer. The system works because it is based on a market relationship between the consumer the retailer and the distributor/manufacturer.

In addition, the Bottle Bill reduces litter significantly which improves overall quality of life.

This is why the Bottle Bill is strongly supported by the Sierra Club, the Environmental Defense Fund, Environmental Action, Greenpeace, the Natural Resources Defense Council, Friends of the Earth, the League of Women Voters of America, Public Citizen, among others.

We applaud Senators Hatfield, Packwood, Jeffords, Kennedy, Leahy and Dodd for taking the lead on one of the most significant policy proposals to be considered during the reauthorization of the Resource Conservation and Recovery Act. Common sense, popular support and Congressional leadership will ensure this proposal is enacted during the 102nd session.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the letter from the Bicycle Federation of America in support of beverage container deposit legislation be made a part of the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

BICYCLE FEDERATION OF AMERICA,
Washington, DC, March 11, 1992.

Senator MARK HATFIELD,
U.S. Senate, Washington DC.

DEAR SENATOR HATFIELD: Congratulations and thanks to you and your colleagues for introducing container deposit legislation in this Congress. Such legislation has been needed—and has made sense—ever since Oregon passed the Nation's first statewide "bottle bill" more than 20 years ago.

There are many good reasons for requiring minimum levels of recycling and waste reduction, and for moving towards a nationwide container deposit law. Bicyclists have long supported such efforts because of the tremendous impact such laws have had on the amount of glass and other debris on highways. Anything which reduces the amount of broken glass or bottles in the street by 80 percent or more is going to be popular with bicyclists!

Indeed, the League of American Wheelmen, a national membership organization for bicyclists, has estimated potential savings to bicyclists of over $200 million from passage of a container deposit law. Broken glass is a primary cause of punctures, and other debris in the highway can cause cyclists to swerve or to damage their bicycles by riding over it.

While the Bicycle Federation of America supports your efforts, we have no membership or constituency to energize, I would urge you to work closely with the League in generating grassroots support for your proposed legislation, as I know they have been active on this issue in the past.

Best wishes for your work in this area, and do please keep us informed as to progress.

Yours sincerely,
ANDY CLARKE,
Project Manager.

Mr. HATFIELD. This legislation would set a 70-percent standard for beverage container recycling. States would have 2 years to reach this level. During this period, States would have the flexibility to adopt any approach whatsoever. If States fail to reach the 70-percent level, they would be required to institute a deposit system as outlined in this legislation, which would include a 10-cent deposit on beverage containers and a 2-cent handling fee paid to retailers by beverage distributors. Unclaimed deposits would be retained by the State to be used to combat the mounting solid waste crisis facing this Nation.

One of the principal goals of this legislation is to encourage, through private enterprise, the development of a more efficient and comprehensive recycling infrastructure. Just as infrastructure is a vital part of our Nation's transportation system, infrastructure is also one of the most important components of a successful recycling program. Our bill includes a handling fee and encourages productive uses of unclaimed consumer deposits for this purpose. At the proper time, it is my intent to offer the bill as an amendment to the RCRA reauthorization bill.

I need not tell you that it takes a lot of energy to produce the aluminum and the glass that contains these beverages, and I need not tell you that when you begin to calculate the potential savings of reuse and recycling, they are monumental. We voted in this Senate not too long ago with only one dissenting vote, to send our troops into the Persian Gulf to fight a war. That war, regardless of all of the camouflage, was basically and fundamentally a war for oil.

Mr. President, States with deposit legislation have consistently recycled above the national average. To date, their efforts translate into an energy savings of over 3.5 billion gallons of oil worth $2.3 billion. If enacted on a nationwide basis, a deposit system would save the equivalent of 4 million gallons a day. Today, as we look back on the lives lost in the Persian Gulf, we can better appreciate the true cost of each gallon of that precious fuel.

Aluminum is the most energy intensive of the materials commonly used in beverage containers. To throw one of these cans away is like throwing it away half full of gasoline. A can produced from recycled scrap rather than new bauxite cuts energy use and air pollution by 95 percent. A bottle made of recycled glass uses 32 percent less energy, produces 20 percent less air pollution, and eliminates 80 percent of mining wastes and 50 percent of the water used.

It is important to remember that if recycling is good, refilling is better. It is true that significant energy savings are realized through recycling. However, a refillable bottle used ten times will save 80 percent of the energy required to deliver a one-way bottle made from recycled glass. The use of refillable bottles means that fewer containers must be made to begin with and the pollution resulting from their manufacture is decreased. If we sold just half of our beer in refillable bottles, we could prevent 46 million pounds of pollutants from mixing with the air we breath and another 4.2 million pounds from mixing with the water we drink.

Unfortunately, refillables represent under 5 percent of the beverage container market in this country. This has not always been the case. As recently as 1960, 95 percent of our soft drinks and half of our beer came in refillable containers on which a deposit was paid. Industry abandoned the idea of refillable containers and turned instead to the hassle-free one-way container. By 1980, the numbers had changed radically: Over two-thirds of our soft drinks and 80 percent of our beer came in one-way, throwaway containers.

As is so often the case, industry's benefit has meant society's loss. It costs about 10 cents to make a new bottle—about twice as much as the beverage inside. Consumers pick up this cost in the price of the beverage. Consumers pay again when these containers are discarded, to the tune of $170 million per year to recycle and dispose of nonrefillable beer bottles alone. These costs are exacted from consumers in the form of local taxes for service.

The States that have implemented deposit legislation have taken a constructive step toward addressing the important issues of solid waste management and energy conservation. Their solution encourages citizens to recycle through the good old American idea of positive incentive. The continued success of those States is irrefutable evidence that deposit systems work. Unlike so much of what we do on the Federal level, passage of the legislation I and my colleagues propose today would render immediate results.

Take Oregon as an example. In 1971, during my first term as a U.S. Senator, Oregon passed the Nation's first beverage container deposit law, which required a 5-cent deposit on each beverage container, redeemable upon return to the grocer. Today, my State recycles more than 93 percent of the beverage containers sold and the popularity of the program continues to be strong.

I ask unanimous consent to insert in the RECORD a letter from Commissioner Earl Blumenauer of the city of Portland describing the continued success of Oregon's deposit law, and particularly its harmonious relationship with the city's ambitious curbside recycling program.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CITY OF PORTLAND, OR,
BUREAU OF ENVIRONMENTAL SERVICES,
March 10, 1992.

Hon. MARK O. HATFIELD,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR HATFIELD: The City of Portland applauds and wholeheartedly supports your effort to create a national beverage container recycling program. In Portland, because of Oregon's "bottle bill", citizens have been recycling glass, metal and plastic beverage containers on a voluntary basis for 20 years. Additionally, we have a greatly reduced litter problem and less recyclable material taking up space in our landfills.

Curbside recycling programs and "bottle bill" deposit programs complement each other and together help achieve higher recycling rates. All cities in Oregon with a population of 4,000 or more provide curbside recycling service. The City of Portland recently expanded its curbside program to include pickup of two new materials, magazines and milk jugs (to go along with glass, tin cans, newspaper, cardboard, aluminum, scrap metals and used motor oil). The comprehensive combination of deposits on beverage containers and curbside collection of household recyclables leads to significant diversion from the waste stream.

The Portland metropolitan area currently recycles over 32 percent of its waste stream, one of the highest urban recovery figures in the nation. With a return rate of nearly 95 percent on deposit containers, our area gains a substantial benefit in recycling efforts through the "bottle bill".

We wish you success in this effort.

Sincerely,

COMMISSIONER EARL BLUMENAUER.

Mr. HATFIELD. Mr. President, one of the concerns about this legislation is that it is incompatible with curbside recycling. As was recently reinforced before the Environment and Public Works Subcommittee on Environmental Protection by Fred Hansen, director of Oregon Department of Environmental Quality, States that have working deposit systems are experiencing greater success by pairing a deposit system with a curbside system. They are diverting more waste from the landfills and spending less per ton doing it. Oregon has seen a significant expansion of curbside programs that work effectively in tandem with Oregon's bottle bill.

The 1990 GAO report commissioned by Senator JEFFORDS, Congressman HENRY, and myself indicates that curbside systems and deposit systems are compatible. I have also recently become aware of studies in the cities of Seattle and Cincinnati that indicate a dual deposit/curbside approach would divert 60 percent more waste from the landfill than the current curbside program alone. Even an industry commissioned study by Franklin & Associates produced figures that support this conclusion.

The conclusion of the Seattle study should answer many lingering questions about compatibility:

> Based on the assumptions previously set forth, the presence of a bottle bill would increase recycling levels of beverage containers and reduce the city's overall solid waste management system costs. This remains the case even when the city compensates the curbside recycling companies for lost collection revenue and lost revenue from the sale of recyclable materials. In short, the bottle bill would divert additional tonnage with no significant impact to either city costs or curbside recycling profits.

I ask unanimous consent that the Seattle study be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SEATTLE SOLID WASTE UTILITY,
September 6, 1991.

E. GIFFORD STACK,
Vice-President, Solid Waste Programs, National Soft Drink Association, Washington, DC.

DEAR MR. STACK: Since the issue of national deposit legislation has moved front and center, the City of Seattle Solid Waste Utility has received numerous inquiries regarding the potential economic impact a deposit law would have on Seattle's curbside recycling programs. Requests for information have been received from federal legislators, the National Container Recycling Coalition (NCRC) and from your group, the National Soft Drink Association (NSDA).

As you know, studies have been released from groups both supporting and opposing national deposit legislation which draw surprisingly different conclusions. The conclusions drawn, in large part, are a result of the questions asked. The questions asked very significantly. In response to your question: "What would be the economic impacts of a national deposit law on Seattle's curbside recycling programs?", our staff has written a brief analysis.

This analysis should not be taken as either support or opposition to a national deposit law. The Solid Waste Utility has simply attempted to determine local economic impacts of a national deposit law. In order to answer your question, numerous assumptions had to be made. Our bottom line was that the City would do whatever was in its power to continue the curbside recycling program as it is currently structured were national deposit legislation to occur.

Under current conditions, a deposit law would result in a 15% reduction in tonnage and a 28% decline in overall revenues (collection revenues and sale of materials) to Seattle's curbside recycling companies. More specifically, revenue from the sale of curbside materials would decline by 46%. However, these declines are more than offset by additional tonnage recovered through the deposit law and cost-savings to the City from avoided collection and disposal cost. Our analysis indicates that were a deposit law to be passed, the City would be able to compensate curbside recyclers for lost revenue and still continue the curbside program.

Regardless of our findings, the potential for a national deposit law demands that further in-depth investigation of a number of issues be done. These are some of the questions that legislators should ask.

What are realistic participation and diversion levels when curbside recycling is analyzed at the state level?

What percentage of the population in the U.S. would actually receive curbside recycling services?

How can the social, environmental and economic costs and benefits of litter reduction be incorporated into the analysis of potential impacts from deposit legislation?

Which system (curbside recycling or a deposit law) results in a more equitable allocation of the recycling and disposal costs associated with the consumption of beverage containers?

What is the public level of support for a national deposit law?

Answers to these questions will allow legislators to make an informed decision. We hope you find this information useful. If you have any questions about the report, please contract Ray Hoffman from our staff at 684-7655.

Sincerely,

DIANA GALE.

THE POTENTIAL IMPACT OF A NATIONAL BOTTLE BILL ON SEATTLE'S CURBSIDE RECYCLING PROGRAM

INTRODUCTION

Since the bottle bill issue has gone national, the Seattle Solid Waste Utility has received numerous requests concerning the potential impact of a bottle bill on Seattle's curbside recycling programs. These requests have come from a range of individuals and groups including federal representatives, the National Soft Drink Association and the Container Recycling Institute.

The analysis that follows attempts to discern whether or not a bottle bill would significantly impact the City's curbside recycling programs. In order to conduct such an analysis, numerous assumptions are required. Where possible, the analysis uses real numbers based on Seattle's curbside recycling program. This analysis does not compare overall system costs for curbside recycling and bottle bills. Because of the drastically different methods of collecting material, number of materials collected, geographic coverage (bottle bills cover residential/commercial whereas curbside recycling is tailored to residential), and financing of the collection systems (i.e. who pays?), it is difficult to conduct an apples-to-apples comparison between the systems. This analysis focuses only on the potential impacts to the City's curbside recycling program. It looks at economic impacts to the City and the curbside recycling companies as well as the total amount of material diverted.

BACKGROUND

Over the past several years that has been an increasing amount of discussion concerning the possibility of a national bottle bill. Currently ten states have bottle bills in one form or another. Numerous other states, including Washington, have attempted to pass deposit legislation in the past. On one issue, the performance of bottle bills is perfectly clear . . . the diversion of beverage containers from the waste steam reaches significantly higher levels than under curbside recycling programs. For a curbside recycling program to obtain a similar performance level to bottle bill states would require both participation and diversion rates of over 90%. The City of Seattle has a current sign-up rate of 87% for its residential curbside program with a diversion rate that hovers around 57% for beverage containers covered by a deposit law.

Supporters of a national bottle bill point toward the increased diversion of material that would occur when compared to the performance of curbside recycling programs alone. They also show evidence that the per ton costs of government financed program would be lower. Proponents like to point out that the recycling success for PET beverage containers is due solely to deposit legislation. 90% of recovered PET containers come from the ten states with bottle bills.

Opponents stress the major loss of revenue that would be experienced by curbside recycling companies losing their higher value materials such as aluminum, PET and glass containers. Without these materials, the argument continues, curbside companies would no longer be in a position to collect such materials as newspaper and mixed paper which comprise the lion's share of curbside tonnage.

Opponents also argue that a national bottle bill would have higher overall system costs associated with the diversion of beverage containers. It should be noted that the systems costs argument is in essence a policy debate as to what is an acceptable level of costs for achieving high diversion levels of readily recyclable materials and substantially reducing existing litter problems. This debate is far from resolved. Efforts to determine the potential impacts of a combined curbside/bottle bill recycling system are based on numerous diversion and economic assumptions that are broadly divergent.

It is undeniable that a bottle bill, whether state or national in scope, would have an impact on current recycling infrastructures. As with any change in the way business is done, there would be winners and losers. From a public policy standpoint, it is important to determine the magnitude of negative and positive impacts associated with a proposed change, and to identify, if possible, ways to mitigate or reduce, the negative impacts. Finally, a decision must be made as to whether the benefits of the proposed policy justify inflicting some degree of loss on specific groups.

OTHER STUDIES

Most analyses of the impact of deposit legislation on curbside recycling attempt to measure the increases or decreases in costs assigned to specific interests. As a result, a study by the National Container Recycling Coalition (NCRC) comes to the conclusion that a combined curbside/bottle bill program diverts the largest amount of material at the lowest cost per ton to government. This results from the fact that the costs associated with the collection and disposal of beverage containers are shifted from government to the producers and consumers of the containers. The study also suggests that potential curbside losses could be reduced by recyclers claiming the deposit on any beverage containers that end up in the curbside mix or by redirecting unclaimed deposits (a substantial amount of money in most states) back to local governments.

The Tellus Institute has conducted an analysis which concludes that bottle bills decrease curbside revenues, are not economically justifiable when a systems cost perspective is taken, and may or may not divert additional materials depending on the tipping fee that is assumed.

ASSUMPTIONS USED IN THIS STUDY

1. The City assumes that the curbside recycling companies must continue to make the same amount of revenue per ton. For example, if curbside companies currently receive $100.25 per ton, (collection and market revenues combined), then curbside companies would continue to receive that amount for all tonnage collected. This assumption is used in order to assure the continuation of the existing curbside recycling program while mitigating potential losses to the curbside recycling companies. To accomplish this, given the loss of both collection revenue and market revenue from the sale of materials, the City must redirect avoided disposal costs to the curbside recycling companies in order for them to retain their current level of profitability.

2. All beverage containers currently collected in the curbside program would be diverted. This is a worst case scenario, as some portion of redeemable containers still show up in curbside collection systems. (Actual percentages from NCRC indicate that the towns of Islip and Des Moines retain 7.5 percent and 23 percent of their beverage containers in their respective curbside programs).

3. 65 percent of residential glass containers are beverage containers. This reflects composition numbers from the City's 1988/89 and 1990 waste stream composition studies. Nationally, beer and soft drink containers represent 50 percent of total glass containers.

4. Market values for all materials are based on 1990 reported prices from curbside recyclable collected within the City.

5. Collection revenue for the curbside recycling companies is calculated at $57 a ton for all tons collected. $54 a ton plus $3 a ton risk share for total tons collected.

6. Collection revenue for the curbside recycling companies is also estimated at $70 and $80 a ton. The $70 figure is the City's implied ceiling for renegotiated contracts while the $80 figure can be considered an absolute worst case scenario.

7. All beverage container tons diverted from the curbside program would save the City either $57 or $70 or $80 a ton (see assumptions 5 & 6).

8. Additional tons diverted due to the impact of a bottle bill save the City either $75 a ton or $90 a ton depending on which avoided disposal cost is assumed. The full avoided disposal cost is used because these are tons which have not been previously collected through the curbside program and would be diverted from garbage collection.

9. Uncollected (disposed) tons are based on the 1990 waste stream composition study. This tonnage reflects the potential additional redeemable beverage containers that could be diverted from the residential waste stream.

10. Diversion levels of 70%, 80%, and 90% are employed for the remaining redeemable containers. Bottle bills generally divert at least 70% of targeted containers; with some states diverting over 90% of targeted containers.

11. The City would compensate the curbside recycling companies for profits lost on diverted tonnage. It is assumed that total revenues reflect a 20% markup over total costs. For example, if total curbside revenues are $100.25 a ton, then total curbside collection and processing costs are ($100.25/1.2)=$83.54 per ton. The profit level is then $83.54.2=$16.70 a ton. This per ton amount would be paid for the 6,671 tons diverted from the curbside program.

FINDINGS

Table I shows the breakdown of both tonnage and revenue by material category for Seattle's curbside recycling program in 1990. (Table not reproducible in the Record.)

DIVERSION

Under the assumptions used in this analysis, a bottle bill would result in a 42% to 54% increase in beverage container tonnage diverted over curbside recycling alone. Total curbside recycling tonnage would increase by 6% to 8% as well. This additional tonnage is based on bottle bill recovery rates ranging from 70% to 90%, well within the recovery range currently occurring in all bottle bill states.

TONNAGE LOSS TO RECYCLING COMPANIES

A total of 6,671 tons of beverage containers that are currently collected would be diverted from the curbside program, including all aluminum and PET and 65% of glass containers.

REVENUE LOSS TO RECYCLING COMPANIES

A bottle bill would result in a 28% decline in total revenues collected by the curbside recycling companies. Depending on the collection costs assumed, total revenue lost ranges from $1,291,659 to $1,445,092. Two-thirds of this decline comes from revenue losses associated with the market value of beverage containers, while the remainder is lost collection revenue.

COST SAVINGS TO THE CITY

Minimum cost savings to the City under a bottle bill would be $591,245 (70% recovery level, $57 per ton avoided recycling collection cost, and $75 per ton avoided disposal cost). Maximum cost savings to the City under a bottle bill would be $859,219 (90% recovery level, $80 per ton avoided recycling collection cost, and $90 per ton avoided disposal cost). Cost savings fall into two categories: avoided recycling collection costs for tons diverted from the current curbside program; and avoided disposal costs for additional tons diverted from the residential waste stream.

COMPENSATING CURBSIDE RECYCLERS FOR REVENUE LOSS THROUGH COST SAVINGS ACCRUING TO THE CITY

The maximum additional amount the City would pay out to private recyclers (above and beyond what the City would pay them without a bottle bill) to keep them in their current position is $354,328 (See Table IV, Row R).

OVERALL SYSTEM SAVINGS TO CITY

Overall systems savings to the City is the difference between the sum of avoided recycling collection costs and avoided disposal costs and increased payments to curbside recyclers (Table IV, Row R). Overall system savings range from $236,917 to $632,774 depending on assumptions for recycling collection costs, avoided disposal costs and diversion level.

PER TON COSTS TO THE CITY

Ultimately, whether a combined curbside/bottle bill program is cost-effective for the City depends on whether the costs are spread over the remaining curbside tons (Table IV, Row G) or over the combination of curbside tons and bottle bill tons. If curbside tons are the measure, then a combination curbside/bottle bill program would be marginally cost-effective if $57 per ton collection costs were assumed and not cost effective if higher collection costs were assumed (Table IV, Row S). If combined curbside/bottle bill tons are the measure, then a combined curbside/bottle bill program would be cost-effective for the City under all scenarios (Table IV, Row T). Under both of these scenarios the curbside recycler continues to collect the same amount of revenue per ton as they did before the bottle bill.

CONCLUSIONS

Based on the assumptions previously set forth, the presence of a bottle bill would increase recycling levels of beverage containers and reduce the City's overall solid waste management system costs. This remains the case even when the City compensates the curbside recycling companies for lost collection revenue and lost revenue from the sale of recyclable materials. In short, a bottle bill would divert additional tonnage with no significant impact to either City costs or curbside recycling profits.

TABLE IV

	Collection ($57/ton)	Collection ($70/ton)	Collection ($80/ton)
A. Curbside tons	45,737	45,737	45,737
B. Collection revenue (city cost)	$2,607,009	$3,201,590	$3,658,960
C. Market revenue	$1,978,082	$1,978,082	$1,978,082
D. Total revenues (B+C)	$4,585,091	$5,179,672	$5,637,042
E. Revenue per ton (D/A)	$100.25	$113.25	$123.25
F. Curbside tons lost from bottle bill	6,671	6,671	6,671
G. Net curbside tons (A–F)	39,066	39,066	39,066
H. Curbside revenue lost	$1,291,659	$1,378,382	$1,445,092
J. Net Curbside revenue (D–H)	$3,293,432	$3,801,290	$4,191,950
K. Net Revenue per ton (J/G)	$64.30	$97.30	$107.30
L. Lost Revenue per ton (E–K)	$ – 15.95	$ – 15.95	$ – 15.95
M. Revenue repayment to curbside recyclers (GL)	$623,103	$623,103	$623,103
N. Profit repayment of lost tons F (E/1.2.2)	$111,472	$125,915	$137,022
P. Curbside collection costs on reduced tons	$2,226,762	$2,734,620	$3,125,280
O. Total curbside collection costs under 33 (M+N+P)	$2,961,337	$3,483,638	$3,885,405
R. Change in city costs (Q–B)	$354,326	$282,048	$226,445
S. Curbside collection cost per ton when allocated to curbside tonnage (Q/G)	$75.80	$89.17	$99.46
T. Curbside collection cost per ton when allocated to all tons (curbside+BB):			
90 percent	$60.00	$70.58	$78.72

TABLE IV—Continued

	Collection ($57/ton)	Collection ($70/ton)	Collection ($80/ton)
80 percent	$60.49	$71.16	$79.37
70 percent	$61.00	$71.75	$80.03
U. Total curbside recycling revenues (J+M+N)	$4,028,007	$4,550,308	$4,952,075
V. Total curbside recycling revenues per ton (U/G)	$103.11	$116.48	$126.76

Mr. HATFIELD. Mr. President, the best argument for a bottle bill is the outstanding record it has in the States where it has been adopted. The decrease in residential solid waste in these States is between 5 and 6 percent. That means that a landfill which was scheduled to last 20 years would operate for 21 years.

While those in the beverage industry may scoff at such minor gains, those on the front lines of the solid waste war in this country—the city and county governments—have a different perspective. They would gladly accept a waste reduction of 5 to 6 percent. And it is no wonder why: the Environmental Protection Agency now predicts that 80 percent of all landfills will fill up and close within the next 20 years. Under such a sobering scenario, an extra year is critical. I am proud to count among supporters of this legislation the National Association of Counties and the National League of Cities.

The legislation we introduce today will not infringe on any citizen's convenience. Americans will still have the option of discarding beverage containers. It will only obligate each user who discards a bottle or can to pay something nearer to the true cost of that decision to discard. Conversely, it will provide an incentive to those who choose to participate in cleaning up of our land, the reduction of our teeming landfills, the wise stewardship of our natural resources, and the saving of scarce energy.

For centuries, we have had the luxury of ignoring the indirect costs of using our planet. This is a luxury we can no longer afford. We must become better stewards of the Earth. Where possible, we must balance our consumption with the renewal of the Earth's resources. Where renewal is not possible, we must use no more than a reasonable share, and reuse whatever we can. This bill is both a symbolic and a substantive step in that direction.

One of the greatest benefits of the bottle bill is that it acts as a tutor. It is a constant reminder of the conservation ethic that is an essential component of any plan to see this country through its various solid waste difficulties. Each time a consumer returns a can for deposit, the conservation ethic is reaffirmed, and hopefully the consumer will then reapply this ethic in other areas.

I have found that, in Oregon, container deposits are incentive enough for many to spend the day picking up litter. As the figures show, it is not just beverage container litter that is decreased under a deposit system, total litter drops significantly as well. This bill promotes thoughtful stewardship of our Nation's resources.

The recovery rate in States with deposit legislation on the books runs consistently in the 80- to 90-percent range, while States without deposit laws recover about 30 to 40 percent. It is unnecessary to continue to see this disparity in recovery rates. Deposits work. They compliment curbside recycling efforts and they provide incentives in the many thousands of communities that have yet to see the advent of curbside recycling programs.

As Congress undertakes the reauthorization of the Resource Conservation and Recovery Act [RCRA], recycling will no doubt continue to emerge as one of the most effective tools in addressing the solid waste crisis. I know the sad irony of overflowing landfills on one hand and diminishing resources on the other is not lost on my colleagues. I am most encouraged by indications that our constituents are losing patience with this irony as well.

Mr. President, now more than ever, we need programs with the popular support and effectiveness of deposit systems. We need to put higher priorities on reducing waste, conserving energy and changing our throw-away mentality. There are many demonstrated benefits to a deposit approach. It is time to stop nodding as these substantial benefits pass us by—as the 60 billion beverage containers are hauled off to the landfills each year.

I ask unanimous consent that the bill and a section-by-section summary of the bill be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HATFIELD. Mr. President, as we review this material, let me also explain a strategy. Last year, we introduced a bill that offered an olive branch to industry. We addressed the issues that had been used by industry to object to a national piece of legislation. We received no response.

Mr. President, there was an absolute demonstration of the indifference of industry toward this proposition. So I want to say that we have now taken the approach that is strictly an environmental approach, and that is the essence of this bill.

Mr. President, I ask unanimous consent that a January 1992 report entitled "Beverage Container Deposit Systems in the United States" prepared by the Container Recycling Institute and a summary of a July 1991 report entitled "An Economic and Waste Management Analysis of Maine's Bottle Deposit Legislation" prepared by Prof. George Criner of the University of Maine be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. HATFIELD. Mr. President, I was pleased to have read a recent article written by Professors Lodge and Rayport of the Harvard Business School which appeared in the Harvard Business Review. The article was entitled "Knee Deep and Rising: American Recycling Crisis." The professors advocate "instituting a national container deposit law to promote recycling in rural as well as urban areas and to raise funds for the further development of the national infrastructure."

I ask unanimous consent that the article from the September–October 1991 issue of the Harvard Business Review be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. without objection, it is so ordered.

(See exhibit 3.)

Mr. HATFIELD. Mr. President, I ask unanimous consent that an article appearing in the Washington Post, dated March 11, 1992, entitled "Per-Can Fees Catch on as Area's Trash Mounts," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PER-CAN FEES CATCH ON AS AREA'S TRASH MOUNTS

(By D'Vera Cohn)

Taking out the trash just isn't the same for Pat Mucia, of Sterling, since his garbage man began charging based on how many cans Mucia leaves at the curb.

He stomps on the trash so it will squeeze into one container. A recycler already, he now takes extra care not only to sort aluminum, glass and newspapers for free curbside pickup, but also to take tin cans and cardboard boxes to a collection station. The system, he says, cut his family's $20 monthly trash bill in half since he signed up two years ago.

"I'm not going to get rich by saving money here. It's for the environment too," Mucia said. Still, "especially in this economy, a few bucks is a few bucks."

Most single-family houses in the Washington area still pay a flat fee for unlimited trash pickup, either directly to a hauler or as part of their property tax bill. But the idea of rewarding customers with a lower charge for leaving less at the curb is catching on. Households in some Loudoun County communities already are being charged by the bag. In proposing yesterday to charge a separate trash collection fee of $71 a year, Howard County officials said the county eventually may charge by the bag or can. Montgomery County is planning an experiment with pay-as-you-throw and other local governments are considering it.

The concept is intended to save dwindling landfill space at a time when Americans are throwing out an average of one-half ton of trash per person per year. Environmental officials hope the incentive will encourage people to recycle more, compost their grass and leaves, shun bulky packaging and use goods until they wear out.

Commercial trash pickup has worked on volume-based rates for many years, but several thousand customers of Grayson Refuse in Loudoun County are the first local homeowners to be offered pay-by-the-can trash pickup as an option. Ninety percent signed up for it, according to President David Grayson. He said it is ideal for people who live alone, recycle a lot, eat out often or go away frequently. But even large families have signed up, he said.

Montgomery County hopes to try a pilot project in Rockville this summer, and officials in Arlington, Fairfax and Anne Arundel counties say they are looking into the plan. Local trash companies also are being pressed by homeowners' associations to offer lower rates because residents are removing more recyclable goods from their trash.

Nationally, Seattle Consultant Lisa Skumatz could find only about 20 communities offering incentives for putting less out at the curb when she wrote a how-to handbook for the U.S. Environmental Protection Agency six years ago. Now, she said, more than 200 do, including Seattle, Minneapolis and many small and medium-size towns.

"If I'm a single 70-year-old woman, I probably put out half a bag a week," said Paul A. Leonard, borough manager of Perkasie, Pa., which began using such a system four years ago. "If I'm a father of eight, I put out seven bags a week. Why should they pay the same rate?"

Stories of how people try to beat the system are part of the folklore of pay-per-can programs. Trash experts across the country know about the "Seattle stomp"—jumping on the trash to get more to fit into a can. Some Seattle customers soak their trash in water to make it more compact. Perkasie residents have been known to run over trash with their cars to get it down to size, Leonard said.

Some communities sell their own trash bags or stickers that attach to trash containers, and only "official" trash is picked up. Others have customers sign up for service based on how many cans they leave out each week. Seattle even tried weighing people's trash, an experiment Skumatz believes will turn into the method of choice for future pickup. Recyclable goods are picked up for free.

For John Piombino, of Sterling, another Grayson customer, trash pickup is like electricity or water service: You should pay only for what you use. He and his wife, who even take paper bags back to the grocery store, said they have cut their trash bill by about 75 percent. They now pay $3.50 a month, instead of a $14 to $16 flat fee.

"I don't want to pay a fixed amount," Piombino said. "If I did, I would be subsidizing people who put out tons of trash."

Environmental Protection Agency officials say trash collected drops at least 10 percent in communities that install pay-per-bag pricing, and Skumatz said the figure ranges up to 45 percent. In Kent County, Md., where one-third of the households drop their trash off at the landfill, the amount went down 63 percent after officials imposed a 23-cent per-bag fee last summer for landfill dropoff, recycling coordinator Beryl Friel said.

Seattle's typical household puts out only one can of trash a week, compared with 3½ when the program began a decade ago, according to Ginny Stevenson, a spokeswoman for the City's Solid Waste Utility. Participants in Seattle's pay-by-the-pound experiment reduced their trash by 15 percent more.

Seattle customers sign up for pick-up of a 19-gallon "mini" can for $10.70 a month, a standard 32-gallon can at $13.75 a month, and extra cans for $9 each. They pay an extra fee for bulky items such as sofas.

"We have a number of families of five on the mini-can," Stevenson said. "A lot of people find it a real challenge."

Officials do not always mind the stomp or similar tactics because they help save space at the landfill. But they are concerned about people putting trash in a convenience store dumpster, taking it to their employer's refuse area, or dumping it illegally on a back road.

"People have to answer the question: Do we buy another $10 bag or get rid of it somewhere else?" said Alan Bergsten, chief of Montgomery County's Solid Waste Management Division. "That's a concern of mine."

Skumatz said the 100 communities she studied across the country found illegal dumping to be only a temporary problem, and sometimes not a problem at all.

But she and others say pay-per-can may not work everywhere. Seattle officials are the first to admit they benefit from the enthusiastic environmentalism of city residents, a characteristic that other areas may not be able to call upon.

In communities where trash service had been included in property tax bills, proposals for incentive pricing stir opposition from people who do not want to pay a new fee. To counter criticism that pay-by-the-can is unfair to low-income people, Seattle and some other areas offer a discount to the poor.

Proposals to change the trash fee structure also run into complaints from haulers who say it would be too complicated to implement and could lead to cheating.

"It has potential," said Fairfax County recycling coordinator Tanis Skislak, "but it's a relatively complex program to implement in an area where you have 62 private haulers." Seattle has contracts with only two haulers.

"It would be impossible to regulate," said Don Poehler, president of ABC Disposal Service Inc., Prince William County's largest trash pickup service.

Grayson said his program has not always run smoothly. He said he raised rates after realizing he had set them too low to make money. The first set of stickers that he bought—he offers decal and can service—tended to fall off and blow away, so he had to switch brands.

Now, though, he is turning down offers to expand into other communities because he does not want to take the risk. He speaks regularly to waste-disposal trade groups because everyone wants to know how he does it.

"Business," Grayson said, "has been very good."

EXHIBIT 1

S. 2335

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Beverage Container Reuse and Recycling Act of 1992".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The failure to reuse and recycle empty beverage containers represents a significant and unnecessary waste of important national energy and material resources.

(2) The littering of empty beverage containers constitutes a public nuisance, safety hazard, and aesthetic blight and imposes upon public agencies, private businesses, farmers, and landowners unnecessary costs for the collection and removal of such containers.

(3) Solid waste resulting from such empty beverage containers constitutes a significant and rapidly growing proportion of municipal solid waste and increases the cost and problems of effectively managing the disposal of such waste.

(4) It is difficult for local communities to raise the necessary capital needed to initiate comprehensive recycling programs.

(5) The reuse and recycling of empty beverage containers would help eliminate these unnecessary burdens on individuals, local governments, and the environment.

(6) Several States have previously enacted and implemented State laws designed to protect the environment, conserve energy and material resources and promote resource recovery of waste by requiring a refund value on the sale of all beverage containers, and these have proven inexpensive to administer and effective at reducing financial burdens on communities by internalizing the cost of recycling and litter control to the producers and consumers of beverages.

(7) A national system for requiring a refund value on the sale of all beverage containers would act as a positive incentive to individuals to clean up the environment and would result in a high level of reuse and recycling of such containers and help reduce the costs associated with solid waste management.

(8) A national system for requiring a refund value on the sale of all beverage containers would result in significant energy conservation and resource recovery.

(9) The reuse and recycling of empty beverage containers would eliminate these unnecessary burdens on the Federal Government, local and State governments, and the environment.

(10) The collection of unclaimed refunds from such a system would provide the resources necessary to assist comprehensive reuse and recycling programs throughout the Nation.

(11) A national system of beverage container recycling is consistent with the intent of the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901 et seq.).

(12) The provisions of this Act are consistent with the goals set in January 1988, by the Environmental Protection Agency, which establish a national goal of 25 percent source reduction and recycling by 1992, coupled with a substantial slowing of the projected rate of increase in waste generation by the year 2000.

SEC. 3. AMENDMENT OF SOLID WASTE DISPOSAL ACT.

(A) AMENDMENT.—The Solid Waste Disposal Act is amended by adding the following new subtitle at the end thereof:

"SUBTITLE K—BEVERAGE CONTAINER RECYCLING

"SEC. 12001. DEFINITIONS.

"For purposes of this subtitle—

"(1) The term 'beverage' means beer or other malt beverage, mineral water, soda water, wine cooler, or a carbonated soft drink of any variety in liquid form intended for human consumption.

"(2) The term 'beverage container' means a container constructed of metal, glass, plastic, or some combination of these materials and having a capacity of up to one gallon of liquid and which is or has been sealed and used to contain a beverage for sale in interstate commerce. The opening of a beverage container in a manner in which it was designed to be opened and the compression of a beverage container made of metal or plastic shall not, for purposes of this section, constitute the breaking of the container if the statement of the amount of the refund value of the container is still readable.

"(3) The term 'beverage distributor' means a person who sells or offers for sale in interstate commerce to beverage retailers beverages in beverage containers for resale.

"(4) The term 'beverage retailer' means a person who purchases from a beverage distributor beverages in beverage containers for sale to a consumer or who sells or offers to sell in commerce beverages in beverage containers to a consumer.

"(5) The term 'consumer' means a person who purchases a beverage container for any use other than resale.

"(6) The term 'refund value' means the amount specified as the refund value of a beverage container under section 12002.

"(7) The term 'wine cooler' means a drink containing less than 7 percent alcohol (by volume), consisting of wine and plain, sparkling, or carbonated water and containing any one or more of the following: non-alcoholic beverage, flavoring, coloring materials, fruit juices, fruit adjuncts, sugar, carbon dioxide, preservatives.

"SEC. 12002. REQUIRED BEVERAGE CONTAINER LABELING.

"Except as otherwise provided in section 12007, no beverage distributor or beverage retailer may sell or offer for sale in interstate commerce a beverage in a beverage container unless there is clearly, prominently, and securely affixed to, or printed on, the container a statement of the refund value of the container in the amount of 10 cents. The Administrator shall promulgate rules establishing uniform standards for the size and location of the refund value statement on beverage containers. The 10 cent amount specified in this section shall be subject to adjustment by the Administrator as provided in section 12008.

"SEC. 12003. ORIGINATION OF REFUND VALUE.

"For each beverage in a beverage container sold in interstate commerce to a beverage retailer by a beverage distributor, the distributor shall collect from the retailer the amount of the refund value shown on the container. With respect to each beverage in a beverage container sold in interstate commerce to a consumer by a beverage retailer, the retailer shall collect from the consumer the amount of the refund value shown on the container. No person other than the persons described in this section may collect a deposit on a beverage container.

"SEC. 12004. RETURN OF REFUND VALUE.

"(a) PAYMENT BY RETAILER.—If any person tenders for refund an empty and unbroken beverage container to a beverage retailer who sells (or has sold at any time during the period of 3 months ending on the date of such tender) the same brand of beverage in the same kind and size of container, the retailer shall promptly pay such person the amount of the refund value stated on the container.

"(b) PAYMENT BY DISTRIBUTOR.—If any person tenders for refund an empty and unbroken beverage container to a beverage distributor who sells (or has sold at any time during the period of 3 months ending on the date of such tender) the same brand of beverage in the same kind and size of container, the distributor shall promptly pay such person (1) the amount of the refund value stated on the container, plus (2) an amount equal to at least 2 cents per container to help defray the cost of handling. This subsection shall not preclude any person from tendering beverage containers to persons other than beverage distributors.

"(c) AGREEMENTS.—(1) Nothing in this subtitle shall preclude agreements between distributors, retailers, or other persons to establish centralized beverage collection centers, including centers which act as agents of such retailers.

"(2) Nothing in this subtitle shall preclude agreements between beverage retailers, beverage distributors, or other persons for the crushing or bundling (or both) of beverage containers.

"SEC. 12005. ACCOUNTING FOR UNCLAIMED REFUNDS AND PROVISIONS FOR STATE RECYCLING FUNDS.

"(a) UNCLAIMED REFUNDS.—At the end of each calendar year each beverage distributor shall pay to each State an amount equal to the sum by which the total refund value of all containers sold by the distributor for resale in that State during that year exceeds the total sum paid during that year by the distributor under section 12004(b) to persons in that State. The total of unclaimed refunds received by any State under this section shall be available to carry out pollution prevention and recycling programs in that State.

"(b) REFUNDS IN EXCESS OF COLLECTIONS.—If the total of payments made by a beverage distributor in any calendar year under section 12004(b) for any State exceeds the total refund value of all containers sold by the distributor for resale in that State, the excess shall be credited against the amount otherwise required to be paid by the distributor to that State under subsection (a) for a subsequent calendar year designated by the beverage distributor.

"SEC. 12006. PROHIBITIONS ON DETACHABLE OPENINGS AND POST-REDEMPTION DISPOSAL.

"(a) DETACHABLE OPENINGS.—No beverage distributor or beverage retailer may sell, or offer for sale, in interstate commerce a beverage in a metal beverage container a part of which is designed to be detached in order to open such container.

"(b) POST-REDEMPTION DISPOSAL.—No retailer or distributor or agent of a retailer or distributor may dispose of any beverage container labeled under section 12002 or any metal, glass, or plastic from such a beverage container (other than the top or other seal thereof) in any landfill or other solid waste disposal facility.

"SEC. 12007. EXEMPTED STATES.

"(a) IN GENERAL.—The provisions of sections 12002 through 12005 and sections 12008 and 12009 of this subtitle shall not apply in any State which—

"(1) has adopted and implemented requirements applicable to all beverage containers sold in that State which the Administrator determines to be substantially identical to the provisions of sections 12002 through 12005 and sections 12008 and 12009 of this subtitle; or

"(2) demonstrates to the Administrator that, for any period of 12 consecutive months following the date of the enactment of this subtitle, such State achieved a recycling or reuse rate for beverage containers of at least 70 percent.

If at any time following a determination under paragraph (2) that a State has achieved a 70 percent recycling or reuse rate the Administrator determines that such State has failed, for any 12-consecutive month period, to maintain at least 70 percent recycling or reuse rate of its beverage containers, the Administrator shall notify such State that, upon the expiration of the 90-day period following such notification, the provisions under sections 12002 through 12005 and sections 12008 and 12009 shall be applicable to that State until a subsequent determination is made under subparagraph (A) or a demonstration is made under subparagraph (B).

"(b) DETERMINATION OF TAX.—No State or political subdivision which imposes any tax on the sale of any beverage container may impose a tax on any amount attributable to the refund value of such container.

"(c) EFFECT ON OTHER LAWS.—Nothing in this subtitle shall be construed to affect the authority of any State or political subdivision thereof to enact or enforce (or continue in effect) any law respecting a refund value on containers other than beverage containers or from regulating redemption and other centers which purchase empty beverage containers from beverage retailers, consumers, or other persons.

"SEC. 12008. REGULATIONS.

"Not later than 12 months after the date of enactment of this subtitle, the Administrator shall prescribe regulations to carry out this subtitle. The regulations shall include a definition of the term 'beverage retailer' in a case in which beverages in beverage containers are sold to consumers through beverage vending machines. Such regulations shall also adjust the 10 cent amount specified in section 12002 to account for inflation. Such adjustment shall be effective 10 years after the enactment of this subtitle and additional adjustments shall take effect at 10 year intervals thereafter.

"SEC. 12009. PENALTIES.

"Any person who violates any provision of section 12002, 12003, 12004, or 12006 shall be subject to a civil penalty of not more than $1,000 for each violation. Any person who violates any provision of section 12005 shall be subject to a civil penalty of not more than $10,000 for each violation.

"SEC. 12010. EFFECTIVE DATE.

"Except as provided in section 12008, this subtitle shall take effect 2 years after the date of its enactment.".

"(b) TABLE OF CONTENTS.—The table of contents for such Act is amended by adding the following at the end thereof:

"SUBTITLE K—BEVERAGE CONTAINER RECYCLING

"Sec. 12001. Definitions.
"Sec. 12002. Required beverage containers labeling.
"Sec. 12003. Origination of refund value.
"Sec. 12004. Return of refund value.
"Sec. 12005. Accounting for unclaimed refunds and provisions for State recycling funds.
"Sec. 12006. Prohibitions on detachable openings and post-redemption disposal.
"Sec. 12007. Exempted States.
"Sec. 12008. Regulations.
"Sec. 12009. Penalties.
"Sec. 12010. Effective date.".

THE NATIONAL BEVERAGE CONTAINER REUSE AND RECYCLING ACT OF 1992—SECTION-BY-SECTION SUMMARY

Section 1. Short Title. The National Beverage Container Reuse and Recycling Act of 1992.

Section 2. Findings.

Section 3. Amendment of Solid Waste Disposal Act to create new subtitle:

SUBTITLE K—BEVERAGE CONTAINER RECYCLING

Sec. 12001. Definitions. This section defines "beverage containers" covered in the Act as containers of less than one gallon constructed of glass, metal or plastic which contain beer, soft drinks, wine coolers, mineral water, or soda water. The section also defines "beverage retailers" and "beverage distributors".

Sec. 12002. Required Beverage Container Labeling. This section requires every beverage container sold to include on it a statement indicating a refund value of 10 cents.

Sec. 12003. Origination of Refund Value. This section sets forth the manner by which distributors collect from retailers, and retailers collect from consumers, the 10 cent refund value for each container purchased by a consumer.

Sec. 12004. Return of Refund Value. This section sets forth the manner by which the consumer's deposit is refunded upon presentation to a retailer or distributor of an empty beverage container. This section also sets forth the manner by which a retailer receives from a distributor the refund value for beverage containers returned to the retailer, as well as a 2 cent per container handling fee, to compensate retailers for the added costs of accommodating returned containers. Finally, this section states that nothing in Subtitle K shall preclude agreements between retailers, distributors and other parties to centralize the collection, crushing or bundling of beverage containers.

Sec. 12005. Accounting for Unclaimed Refunds and Provisions for State Recycling Funds. This section establishes a system under which unclaimed refunds—the total of deposits not refunded—are provided to the State in which they were collected for pollution prevention and recycling programs within the State.

Sec. 12006. Prohibitions on Detachable Openings and Post-Redemption Disposal. This section prohibits the sale of beverage containers with detachable openings and the disposal of beverage containers with a refund value in a landfill or solid waste disposal facility.

Sec. 12007. This section exempts States from the provisions of the deposit system set forth in sections 12002 through 12005 and sections 12008 through 12009 if the states meet one of the following conditions: 1) a state has achieved a recycling rate for beverage containers covered under this Act of 70 percent of higher; or 2) a state has passed a law substantially identical to the deposit law contained in this Act.

Sec. 12008. Regulations.

Sec. 12009. Penalties.

Sec. 12010. Effective Date. This section sets forth the Act's effective date, which is two years after the date of enactment.

Exhibit 2

An Economic and Waste Management Analysis of Maine's Bottle Deposit Legislation

(By Prof. George K. Criner, University of Maine; summary prepared by Container Recycling Institute, July 1991)

IMPACT ON RECYCLING

"The bottle bill has proven itself to be a generator of high quality, homogeneous recyclables. * * * This * * * clean recycled stream * * * is well received by the recyclers."

"Bottle bills are capable of capturing a high percentage of the targeted materials * * * an estimated 90% * * * of beer and soda containers are returned for recycling."

"Much of Maine can be classified as rural. * * * Bottle bills perform well in rural locations because of the convenience of retailer redemption."

"The growth of three UBC processing facilities within the state * * * will undoubtedly provide momentum to further the growth of Maine recycling programs."

BUSINESS EFFECTS

"The handling fee is responsible for the opening of some 180 licensed redemption centers, and an unknown number of unlicensed centers. Many of these private enterprises are family-owned, family-run businesses."

The unredeemed deposits represent a significant source of revenue to distributors.

Distributors realize revenue from the sale of UBC materials.

The three intermediate UBC processing facilities "provide municipal recycling programs with the opportunity to market their material."

EMPLOYMENT OPPORTUNITIES

"* * * jobs have been created through the process of collecting and processing of UBC's. One distributor—estimated a 20% increase in the distribution fleet and a 30% increase in warehouse staff, due to the bottle bill."

"The UBC processing facilities that exist in northern and southern Maine were established to handle the UBC's, opening more job opportunities for Maine people."

"Overall, the bottle bill has increased employment within the state."

ENVIRONMENTAL BENEFITS

Maine's expanded bottle bill is diverting an estimated 7% of the waste stream (98,000 tons)—80% more than the original bottle bill.

"A study conducted by Maine's Department of Transportation, found that, container litter [was] reduced by 56%."

The bottle bill encourages source reduction by providing an incentive for consumers to switch consumption to the more cost-efficient multiple-serve container and non-deposit beverages, such as frozen concentrates, which have a small amount of waste per product volume.

Beverage Container Deposit Systems in the United States

(Container Recycling Institute, Washington, DC, January 1992)

INTRODUCTION

In the twenty years since Oregon implemented the first deposit law or "bottle bill" in 1972, deposit legislation has been proposed annually in Congress and in nearly every state in the U.S. In 1992, a national bottle bill will be considered as part of the reauthorization of the Resource Conservation and Recovery Act, and beverage container deposit bill will be introduced in at least 10 state legislatures.

Beverage container deposit laws were first introduced in the late 1960's primarily as a litter reduction and resource conservation measure. Over the past two decades they have proven effective not only in controlling litter and conserving energy and natural resources, but in reducing the waste stream as well. Although they made up just over 5% by weight of MSW generated, in 1988, they accounted for nearly 10 percent of all waste recovered in the U.S. according to the Environmental Protection Agency. Today deposit systems are being reevaluated as a waste management tool.

As the debate takes place in city councils, state legislatures, and in the U.S. Congress, the Container Recycling Institute will continue to conduct research on the economic and environmental implications of beverage container deposit systems and operate its International Clearinghouse for Deposit Legislation Information. We hope that this report proves valuable to both the public and private sectors in understanding and evaluating existing deposit laws in the U.S.

EXECUTIVE SUMMARY

Nine states have enacted container deposit legislation requiring minimum deposits on beer, soft drink and other beverage containers. California enacted a law in 1986 which requires redemption payments on beer and soft drink cans and bottles. One local jurisdiction, Columbia, Missouri, currently has a deposit system in place.

Deposit laws provide a monetary incentive for returning beverage cans and bottles for recycling, employing a reverse distribution system originally created by the beverage industry to ensure the return of refillable bottles. Distributors and bottlers are required to collect a deposit (usually 5 or 10 cents) from the retailer on each can and bottle they sell. The retailer collects the deposit from the consumer, and reimburses the consumer when the container is returned to the store. The retailer collects the deposit from the distributor or bottler, completing the cycle.

Because additional costs are incurred in the handling of returned containers, all but two states require that the distributors and bottlers pay a handling fee (ranging from 1 to 2 cents) to retailers and redemption centers to offset these costs.

Consumers who choose not to return their cans and bottles lose their nickels and dimes, which then become the property of the distributors and bottlers. Maine, Massachusetts, and Michigan have passed escheat laws which require the unredeemed deposits to be collected by the state. Nearly every deposit law state has entertained such a proposal.

Most of the existing deposit laws have been amended to increase the handling fee, increase the deposit or extend the deposit to other container types. Maine's law, which is the most comprehensive in the nation, requires deposits on all beverage containers with the exception of milk.

Recovery rates for beverage containers covered under the deposit system depend on the amount of deposit and the size of the container. The overall recovery rate for beverage containers ranges from 75–93%. Reduction in beverage container litter after implementation of the deposit law ranged from 42–86%, and reduction in total litter volume ranged from 30–60%. Public approval ranges from 56% in Iowa (1979) to 90% in Michigan (1987).

Citizens in states with deposit laws appear to have ample opportunities to recycle through alternative programs including curbside recycling, buy backs and drop-off centers. Nine of the ten states with some form of deposit/refund system have curbside recycling programs serving anywhere from 10–80% of the population, with 6 of the states having curbside programs serving more than 25% of the population.

No deposit law has ever been repealed.

CALIFORNIA

Law/regulation, California Beverage Container Recycling and Litter Reduction Act.

Purpose, To encourage recycling and reduce littering.

Date signed, September 29, 1986.

Date implemented, September 1, 1987.

How enacted, Legislative process.

Attempt at repeal, None.

Provisions of the law

Containers covered, Beer, soft drinks, wine coolers, mineral water containers.

Amount of deposit, No deposit per se. Containers may be redeemed by consumers for 2.5 cents for containers <24 ounces and 5 cents for containers >24 ounces. Distributors pay 2 and 4 cents respectively into state fund.

Handling fee, Per container processing fee.

Financing, Administrative costs paid by unredeemed payments.

Unclaimed deposits, Unclaimed redemption payments go towards administration of the program, grants to nonprofits, publicizing the program and other recycling related programs, Convenience Incentive Payments (CIP's) for start-up costs or low volume centers.

Administering agency, Department of Conservation, Division of Recycling.

Reclamation system, State certified redemption centers which operate within and outside convenience zones, curbside programs, nonprofit drop-off centers and special events.

Other provisions, Deposits are not paid by consumers, retailers do not handle redemptions. Manufacturers pay redemption values which are used to pay consumer refunds and fund recycling education and litter abatement activities.

Documented data

Recovery rates, Aluminum, 88%,[1] Glass, 76%,[1] PET, 50%,[1] Overall, 84%.[1]

Reduction in beverage container litter, 42–45%.[2]

Reduction in total litter volume, N/A.

Public approval, N/A.

Amendments being considered

Proposals to include other containers and increase amount of redemption payment.

Complementary recycling programs

Curbside recycling programs serving 35% of population.

Nonprofit drop-off recycling programs.

Bar/restaurant collection programs.

Commercial collection.

Contacts

Ed Heidig, Division of Recycling, Department of Conservation, 1416 9th Street, Sacramento, CA 95814, Tel: 916/322–1080.

Rod Miller, NELC, 926 J Street, Suite 713, Sacramento, CA 95814, Tel: 916/448–4516.

CONNECTICUT

Law/regulation, Mandatory beverage container deposit law; beverage container deposit and redemption regulations.

Purpose, Provide economic incentives for consumers to return used beverage containers; encourage recycling and reuse.

Date signed, April 12, 1978.

Date implemented, January 1, 1980.

How enacted, Legislative process.

Attempt at repeal, None.

Provisions of the law

Containers covered, All refillable and nonrefillable beer, malt carbonated soft drinks, and mineral water containers.

Amount of deposit, Minimum 5 cents.

Handling fee, Beer 1.5 cents, Soft drinks 2 cents.

Financing, No financing in original law.

Unclaimed deposits, Retained by distributors/bottlers.

Administering Agency, Department of Environmental Protection.

Reclamation system, Retail stores and/or redemption centers (they are privately owned, but registered).

Other provisions, Restrictions on metal containers; ban on detachable openings; ban on nondegradable 6-pack rings.

Documented data

Recovery rates, Cans 88%[1]; Glass 94%[1]; Plastic 70–90%[2].

Reduction in beverage container litter, N/A.

Reduction in total litter volume, N/A.

Public approval, 64%[3].

Contacts

William Delaney, Director, Education and Publications, Recycling Office, Bureau of Waste Management, 165 Capitol Avenue, Hartford, CT 06106, Tel: 203/566–5391 fax: 566–7932.

Rep. Mary Mushinsky, Environmental Committee, 3200 LOB State Capitol, Hartford, CT 06106, Tel: 203/240–0440.

DELAWARE

Law/regulation, Litter Control Act, beverage container regulation.

Purpose, Reduce litter.

Date signed, June 30, 1982.

Date implemented, Wholesale—1982/Retail—1983.

How enacted, Legislative process.

Attempt at repeal, None.

Provisions of the Law

Containers covered, All non-aluminum beer, malt, soft drink, and mineral water containers of <2 quarts.

Amount of deposit, 5 cents.

Handling fee, 20% of deposit.

Financing, None.

Unclaimed deposits, Unclaimed deposits remain the property of distributor/bottler.

Administering agency, Department of Natural Resources and Environmental Control.

Reclamation system, Retail stores and redemption centers.

Other provisions, This law is unique among beverage container deposit laws in exempting aluminum cans. This provision comes up for a vote on a regular basis and is due to expire in 1994 unless the legislature extends the exemption.

Documented Data

Recovery rates, N/A.

Reduction in beverage container litter, N/A.

Reduction in total litter volume, N/A.

Public approval, N/A.

Complementary Recycling Programs

Central processing facility that separate metal from other material. Buy-back centers. Statewide drop-off system with 100 sites.

Amendments Being Considered

Capture of unclaimed deposits for state. Permanent exemption for aluminum.

Contacts

Janet Manchester, Delaware DNREC, Waste Management Section, P.O. Box 1401, Dover, Delaware 19903, Tel: (302) 737–3820.

Carol Walsh, League of Women Voters of DE, 25 The Horseshoe, Covered Bridge Farm, Newark, DE 19711, (302) 731–5487.

IOWA

Law/regulation, Beverage Container Deposit Law.

Purpose, Control of littering.

Date signed, May 12, 1978.

Date implemented, July 1, 1979.

How enacted, Legislative process.

Attempt at repeal, None.

Provisions of the law

Containers covered, Refillable and nonrefillable beer, soft drink, wine and liquor containers.

Amount of deposit, 5 cents.

Handling fee, 1 cent.

Financing, No financing in original law.

Unclaimed deposits, Retained by distributors/bottlers.

Administering agency, Department of Natural Resources.

Reclamation system, Retailers and private redemption centers.

Other provisions, None.

Documented data

Recovery rates, Aluminum, 95%,[1] Glass, 85%,[1] Plastic 70–90%.[2]

Reduction in beverage container litter, 79%.[3]

Reduction in total litter volume, 61%.[4]

Public approval, 56%.[5]

Amendments being considered

Iowa PIRG has proposed raising the deposit to 10 cents.

Complementary recycling programs

Curbside recycling in 35 locations 60% of population has access to either curbside or drop-off recycling.

Contacts

Bob Meddaugh, Department of Natural Resources, Waste Management Authority Division, 900 E. Grand Street, Des Moines, IA 50319, Tel: 515/281–8499.

Jim Dubert, Iowa PIRG, Room 37 Memorial Union, Ames, IA 50010, Tel: 515/770–2634.

MAINE

Law/regulation, Maine Returnable Beverage Container Law.

Purpose, Reduce litter and solid waste generation, create incentives for recycling and reuse.

Date implemented, 1978. Expanded in 1990 to include distilled spirits, wine, juice, water and other noncarbonated beverages.

How enacted, Initiative Referendum, November 2, 1976.

Attempt at repeal, Yes, 1979 Initiative to repeal law failed by 84% to 16%.

Provisions of the law

Containers covered, All refillable and nonrefillable beer, soft drink, wine, wine cooler, liquor, juice, tea, and water containers.

Amount of deposit, Beer/soft drink/juice, 5 cents, wine/liquor, 15 cents.

Handling fee, 3 cents per container.

Financing, No financing in original law.

Unclaimed deposits, State receives 50% of unclaimed deposits, which goes to Maine Solid Waste Management Fund.

Administering agency, Department of Agriculture, Food, and Rural Resources, Division of Regulations.

Reclamation system, Retail stores and/or redemption centers, (privately operated, and licensed).

Other provisions, Ban on composite material/aseptic beverage packaging, identification of plastic resin is mandatory, restrictions on plastic 6-pack rings, dealers may refuse containers they have not sold, or which are damaged or uncleaned.

Documented data

Recovery rates, Beer/soft drinks, 92%,[1] distilled spirits, 80%,[1] wine, 80%,[1] juice/other noncarbonated beverages, 75%.[1]

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[1] California Department of Conservation, November, 1991.

[2] Ibid.

[1] "*Can and Bottle Bills*," California PIRG, P. 122.

[2] "*Inventory of Beverage Deposit Systems Across North America*," Quebec Ministry of the Environment, August 1991.

[3] "*Hartford Courant*" from Environmental Action Foundation Briefing Papers.

[1] Bob Meddaugh, Recycling Coordinator, Iowa Department of Natural Resources, July 1991.

[2] "Inventory of Beverage Deposit Systems Across North America," Quebec Ministry of the Environment, August 1991.

[3] Survey by Iowa Department of Transportation, 1980 from "Can and Bottle Bills," California PIRG, 1980 p. 116.

[4] *Ibid.*

[5] "Des Moines Register," 1979, from "Can and Bottle Bill," p. 113.

[1] Denise Lord, Maine Waste Management Agency, September 1991.

Reduction in beverage.
Container litter, 86%.[2]
Reduction in total.
Litter volume, 40%.[3]
Public approval, 84%.[4]

Amendments being considered

None.

Complementary recycling programs

Curbside recycling programs serving 14% of population.

Drop-off recycling program serving 55% of population.

Contacts

Denise Lord, Maine Waste Management Agency, State House Station 154, Augusta, Maine 04333, Tel: (207) 289-5300.

Stan Eller, Natural Resources Council of ME, 271 State Street, Augusta, ME 04330, Tel: (207) 622-3101.

MASSACHUSETTS

Law/regulation, Beverage Control Recovery Law (Bottle Bill).

Purpose, Provide economic incentives for consumers to return used beverage containers; encourage conservation of materials and energy through recycling and reuse.

Date signed, November 16, 1981.

Date implemented, January 6, 1983.

Now enacted, Legislative process. Became law by referendum when industry succeeded in putting it on ballot in 1982.

Attempt at repeal, Yes, initiative to repeal in 1982 failed.

Provisions of the law

Containers covered, All refillable and nonrefillable beer, soft drink carbonated water containers.

Amount of deposit, 5 cents.

Handling fee, 2.25 cents per container.

Financing, No financing in original law.

Unclaimed deposits, Originally, unredeemed deposits remained with distributors/bottlers. Escheat provision passed in 1989. Since 1990, unclaimed deposits have been property of government. Money goes to General Fund but by 1995, 100% of unclaimed deposits will go to Clan Environment Fund for environmental programs. The escheat provision was upheld by Suffolk County Superior Court and industry has appealed the decision.

Administering agency, Department of Environmental Protection.

Reclamation system, Retail stores, redemption centers.

Other provisions, None.

Documented data

Recovery rates, 85% overall (estimated).[1]

Reduction in beverage container litter, N/A.

Reduction in total litter volume, 30–35%.[2]

Public approval, 78%.[3]

Amendments being considered

Amendment to allow retailers, distributors, and bottlers to refuse to pay refund and handling fees for empty containers not purchased in MA.

Complementary recycling programs

Curbside recycling programs in 54 localities.

Drop-off locations in 249 localities.

Buy-back centers.

Massachusetts Reduction and Recycling Act (will be on ballot in 1992) requires environmentally acceptable packaging by 1996. Packaging must conform to one of five standards: Use 25% less material over five years; be reusable a minimum of five times; contain 25% recycled content material by weight, increasing to 35% in 1999 and 50% by 2002; and be recycled at a rate of 50%.

Contacts

Julie Bender, Division of Solid Waste Management, Department of Environmental Protection, 1 Winter Street, 4th Floor, Boston, Massachusetts 02108, Tel: (617) 292-5980; Fax: (617) 556-1049.

Amy Perry, MASS PIRG, 29 Temple Place, Boston, MA 02111, Tel: (617) 292-4800.

BEVERAGE CONTAINER DEPOSIT SYSTEMS IN THE UNITED STATES

State/city	Date implemented	Containers covered	Amount of deposit	Redemption rate	Reclamation system	Unclaimed deposits	Handling fee	Complementary programs
California	1987	Beer/soft drink, wine coolers, mineral water.	2.5 cents <24 ounces, 5 cents >24 ounces.	Aluminum, 88 percent; glass, 76 percent; PET, 50 percent; overall, 84 percent.	State certified redemption centers.	Used for administration of the program and grants to non-profits.	Per container processing fee.	Curbside recycling for 35 percent of population, non-profit drop-off/bar/restaurant/commercial collection.
Connecticut	1980	Beer/malt/soft drinks, mineral water.	Minimum 5 cents	Cans, 88 percent; bottles, 94 percent; plastic, 70–90 percent.	Retail stores and redemption centers.	Retained by distributor/bottler.	Beer 1.5 cents, soft drink 2 cents.	Statewide recycling program serving 80 percent of population.
Delaware	1982–1983	Non-aluminum/beer, malt/soft drink, mineral water <2 qt.	5 cents	N/A	Retail stores and redemption centers.	Retained by distributor/bottler.	20 percent of deposit	Statewide drop-off system with 100 sites, buy-back centers, central processing center which separates metal from recyclables.
Iowa	1979	Beer/soft drink, wine/liquor.	5 cents	Aluminum, 95 percent; glass, 85 percent; plastic, 70–90 percent.	Retail stores and redemption centers.	Retained by distributor/bottler.	1 cent	60 percent of population has access to either curbside or drop-off recycling.
Maine	1978	Beer/soft drink, wine/wine cooler, liquor/juice, water and tea.	Beer/soft drink and juice, 5 cents; wine/liquor 15 cents.	Beer/soft drink, 92 percent; distilled spirits, 80 percent; wine, 80 percent; juices/other non-carbonated, 75 percent.	Retail stores and redemption centers.	State receives 50 percent	3 cents	Curbside recycling serving 14 percent of population. Drop-off programs serving 55 percent of population.
Massachusetts	1983	Beer/soft drink, carbonated water.	5 cents	Overall, 85 percent	Retail stores and redemption centers.	Property of Government since 1990.	2.25 cents	Curbside recycling in 54 localities, drop-off in 249 localities, buy-back centers.
Michigan	1978	Beer/soft drink, canned cocktails, carbonated and mineral water.	Refill 5 cents, non-refill 10 cents.	Overall, 93 percent	Retail stores	75 percent for environmental programs, 25 percent for a handling fee.	25 percent of unclaimed deposits.	Curbside recycling to 25 percent of population. Drop-off centers in 20 percent of localities.
New York	1983	Beer/soft drink, wine coolers/carbonated mineral water, soda water.	5 cents	Soft drink, 66 percent; beer, 79 percent.	Retail stores and redemption centers.	Retained distributor/bottler.	1.5 cents	Curbside program serving 44 percent of population, drop-off centers in 75 percent of localities.
Oregon	1972	Beer/malt/soft drink, carbonated mineral water.	Standard refill 3 cents, non-refill and non-standard refill 5 cents.	Overall, 85 percent	Retail stores	Retained by distributor/bottler.	None	Buy back centers curbside in all but 2 localities of 4000 or more. Drop-off centers virtually everywhere.
Vermont	1973	Soft drink/beer, malt/mineral water, liquor.	soft drink/beer 5 cents, liquor 15 cents.	Overall, 85 percent	Certified redemption centers, retail stores.	Retained by distributor/bottler.	3 cents	Curbside programs serving 20 percent of population. Drop-off centers in 95 percent of localities.
Columbia, Mo	1982	Beer/soft drinks/malt, carbonated mineral water.	5 cents	Overall, 85–95 percent	Retail stores	Retained by distributor/bottler.	None	Curbside recycling program.

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[2] ME Department of Highways, 1980, "Environmental Action Foundation Briefing Papers."

[3] *Ibid.*

[4] Results of Maine Repeal Referendum, 1979.

[1] Massachusetts Department of Environmental Protection, from reports by beer and soda distributors, Julie Bender, September, 1991.

[2] "*The Can and Bottle Bill, Fact and Fiction,*" New Jersey PIRG, 1985, p. 8.

[3] Results of Massachusetts Repeal Referendum.

GOVERNMENT CONTACTS

California

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Delaware

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Iowa

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Maine

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Massachusetts

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Oregon

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Vermont

Al Morrison, VT Agency of Natural Resources, Solid Waste Management Division, 103 South Main St. West Building, Waterbury, VT 05676, Tel: (802) 244-7831.

Columbia, MO

Michael R. Sanford, Columbia/Bloom County Health Dept., P.O. Box N, Columbia, MO 65205, Tel: (314) 874-7345.

MICHIGAN

Law/regulators, Michigan's Beverage Container Act.

Purpose, To reduce roadside litter; clean up the environment and conserve energy and natural resources.

Date implemented, December 3, 1978.

How enacted, Initiative, November 2, 1976.

Attempt at repeal, None.

Provisions of the law

Containers covered, All refillable and nonrefillable beer, soft drink, canned cocktails, carbonated and mineral water containers.

Amount of deposit, Refillables, 5 cents; non-refillables, 10 cents.

Handling fee, None in original law. If the "unclaimed deposits" amendment (see below) is upheld, 25% of unclaimed deposits will go toward a handling fee.

Financing, No financing in original law.

Unclaimed deposits, 1989 Amendment called for 75% of unclaimed deposits to go for environmental programs. In 1991, the Michigan court system declared this to be unconstitutional. The case is currently being appealed by the state.

Reclamation system, Retail stores.

Administering agency, Michigan Department of Natural Resources.

Other provisions, None.

Documented data

Recovery rates, 93% overall.[1]

Reduction in beverage container litter, 80%.[2]

Reduction in total litter volume, 41%.[3]

Public approval, 90%.[4]

Amendments being considered

None.

Complementary recycling programs

Curbside recycling programs for 25% of population.

Drop-off programs in 20% of localities.

Contact

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Tom Washington, MI United Conservation Clubs, 2101 Wood Street, P.O. Box 30235, Lansing, MI 48909, Tel: (517) 371-1041.

NEW YORK

Law/regulation, Environmental Conservation Law, Article 27, Title 10, Litter and Solid Waste Control, Regulations: Beverage Container (6NYCRR, part 367).

Purpose, Reduction of littering and benefits to solid waste management.

Date signed, June 15, 1982.

Date implemented, July 1, 1983 to September 1, 1983.

How enacted, Legislative process.

Attempt at repeal, Beverage industry tries to overturn law annually.

Provisions of the law

Containers covered, All refillable and nonrefillable beer, soft drink, wine cooler, carbonated mineral and soda water containers.

Amount of deposit, Minimum 5 cents.

Handling fee, 1.5 cents per container.

Financing, No financing in original law.

Unclaimed deposits, Retained by industry.

Reclamation system, Retail stores, municipal and private redemption centers.

Administering agency, New York Department of Environmental Conservation.

Other provisions, None.

Documented data

Recovery rates, Soft drink, 66%,[1] Beer, 79%.[1]

Reduction in beverage container litter 70-75%.[2]

Reduction in total litter volume, NA.

Public approval, 80%.[3]

Amendments being considered

Proposed increase in handling fee (to 2.5 cents).

Proposal for government to take 100% of unredeemed deposits.

Possible increase in deposits for containers >.5 litre.

Expansion to other containers (wine, liquor and non-carbonated drinks).

Complementary recycling programs

Solid Waste Management Act of 1988 requires all municipalities to have source separation by September 1, 1992.

Curbside recycling programs in 145 localities serving 44% of population.

Drop-off centers in 75% of localities.

Contacts

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Jay Halfon, New York PIRG, 9 Murray Street, New York, NY 10007, Tel: (213) 349-6460.

OREGON

Law/regulation, Oregon Beverage container Act (Bottle Bill).

Purpose, To reduce litter and increase recycling.

Date signed, June 2, 1971.

Date implemented, October 2, 1972.

How enacted, Legislative process.

Attempt at repeal, None.

Provisions of the law

Containers covered, All refillable and nonrefillable beer, malt, soft drink, carbonated and mineral water containers.

Amount of deposit, Standardized refillable bottles, 3 cents, non-refillables and nonstandard refillable bottles, 5 cents.

Handling fee, None.

Financing, No financing in original law.

Unclaimed deposits, Distributors retain unredeemed deposits and the value of scrap material, as well as short term investments on the deposits collected.

Reclamation systems, Retail stores. Reclamation centers allowed by law, but none exist as there is no handling fee.

Administering agency, Oregon liquor Control Commission.

Other provisions, Ban on detachable pull tabs, Ban on nondegradable 6-pack rings.

Documented data

Recovery rates, 93% overall (estimated).[1]

Reduction in beverage container litter, 83%.[2]

Reduction in total litter volume, 47%.[3]

Public approval, 90%.[4]

Amendments being considered

None.

Complementary recycling programs

Recyling Opportunity Act has resulted in curbside recycling programs in all but 2 cities of 4,000 or more in population and drop-off centers virtually everywhere.

Buy-back center.

Contacts

Peter Spendelow, Solid Waste Reduction Section, Dept. of Environmental Quality, 811 SW Sixth Avenue, Portland, OR 97204-1390, Tel: (503) 229-5253 Fax: (503) 229-6124.

Lauri Aunan, Oregon PRIG, 1536 SE 11th Street, Portland, OR 97214, Tel: (503) 231-4181.

VERMONT

Law/regulation, Beverage Container Law (1973). Solid Waste Act (1987).

Purpose, Reduction of littering.

Date signed, April 7, 1972.

Date implemented, July 1, 1973, July 1989 expanded to wine coolers, January 1990 expanded to liquor.

How enacted, Legislative process.

Attempt at repeal, None.

Provisions of the law

Containers covered, All refillable and nonrefillable soft drink, beer, malt, mineral water, and liquor containers.

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[1] "Unclaimed Beverage Container Deposits: An Update," James Webster and Peter Pratt, Public Sector consultants, Cal PIRG, 1980, p. 100.

[2] Survey by Michigan Department of Transportation from "Can and Bottle Bills," p. 100.

[3] Ibid.

[4] Michigan United Conservation Club's poll of registered voters, 1987.

[1] N.Y. State Department of Environmental Quality letter dated Aug. 24, 1990.

[2] Quebec Ministry of Environment, "Inventory of Beverage Deposit Systems Across North America," August 1991.

[3] Poll by Fund for City of New York, 1985.

[1] Peter Spendelow, Oregon Department of Environmental Quality, September 1991.

[2] "Oregon's Bottle Bill: The 1982 Report" OR Dept. of Environmental Quality, p. 3.

[3] Ibid.

[4] Seattle Post-Intelligence, from "Can and Bottle bills," Cal PIRG, p. 59.

Amount of deposit, Beer/soft drink, 5 cents, liquor >50ml 15 cents.

Handling fee, 3 cents per container.

Financing, No financing in original law.

Unclaimed deposits, Retained by industry.

Reclamation system, Retail stores, certified redemption centers and state liquor stores.

Administering agency, Self administered by beverage industry with oversight by the Vermont Agency of Natural Resources. Vermont Department of Liquor Control oversees liquor container redemption. Also operates under Title 10 USA Chapter 53.

Other provisions, None.

Documented data

Recovery rates, 85% overall.[1]

Reduction in beverage container litter, 76%.[2]

Reduction in total litter volume, 35%.[3]

Public approval, 97%.[4]

Amendments being considered

Amendment being proposed by Vermont PIRG which would take unclaimed deposits retroactively to 1973, and give them to the state.

Amendment being proposed by soft drink industry which would repeal deposit law in Windham County for two years.

Complementary recycling programs

Recycling programs in 130 localities serving 20% of state's population.

Curbside programs in 12 localities serving 10% of state's population.

Drop-off programs in 95% of localities.

Contacts

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Joan Mulhern, Vermont PIRG, 43 State Street, Montpelier, VT 05602, Tel: (802) 223–5221.

COLUMBIA, MO

Law virgule regulation, Columbia's Beverage Container Deposit Ordinance.

Purpose, Reduce littering, save the city money, increase recycling, create local jobs and save energy.

Date implemented, 1982.

How enacted, Initiative, April 1977.

Attempt at repeal, Many, enforcement of law blocked July 1977; initiatives-law upheld, November 1981, November 1982, November 1988.

Provisions of the law

Containers covered, Beer, malt, carbonated/mineral waters, soft drinks.

Amount of deposit, 5 cents.

Handling fee, None.

Financing, No financing in original law.

Unclaimed deposits, Retained by industry.

Administering agency, Director of Health Services of City of Columbia.

Reclamation system, Retail stores.

Other provisions, Unique in being the only municipal bottle bill.

Documented data

Recovery rates, 85–95% overall.[1]

Reduction in beverage container litter, NA.

Reduction in total litter volume, NA.

Public approval, 68%.[2]

Amendments being considered

Proposal to implement a handling fee.

Complementary recycling programs.

Curbside recycling program.

Contacts

Charles Atkins, Missourians Against Throwaways, 2700 Malibu G., Columbia, MO 65203, Tel: (314) 445–5470.

Michael R. Sanford, Columbia/Bloom County Health Department, P.O. Box N, Columbia, Missouri 65205, Tel: (314) 874–7345.

STATUS OF RECYCLING IN DEPOSIT LAW STATES

	CA	CT	DE	IA	MA	ME	MI	NT	OR	VT
Localities with existing curbside programs	344	135	0	35	54	12	150	145	(1)	12
Population served by curbside collection of mixed recyclables (percent).	35	80	0	10 to 12	40	14	25	44	75	10
Localities with drop-off centers	800	34	100	40 percent	249	37 percent	20 percent	75 percent	Nearly all	95 percent
Do localities remove deposit containers and redeem deposits?.	All	Yes-2	No	Yes-2	(?)	No	All	Yes for charity	No	No
Statewide recycling goal (percent)	25 by 1995	25	NA	25 by 1994	46	50 by 1994	20 to 30 by 2005.	50 by 1997	50 by 2000	40 by 2000
Statewide recycling rate (percent)	NA	NA	6	10	NA	17	13 to 14	8 to 10	25	18
Incinerators in operation	3	5	0	1	8	4	15	16	3	2
Incinerators planned for next 5 years	1	3	2 to 3	1	1	0	2 to 3	5 to 8	0	1
Range of tipping fees	$1.00	$25 to $100	$43 to $49	$6 to $40	$12 to $65	$10 to $55	$15 to $48	0 to $110	0 to $68	$50 to $75
Average tipping fee	NA	$50	$45	$25 to $30	$45	$36	$30	$55 to $60	$55	$55

[1] All but 2 localities with population of 4,000 or more.

This report on beverage container deposit/refund systems in the United States, compiled by the Container Recycling Institute (CRI), was made possible by a grant from the Beldon Fund. CRI is indebted to the government and public interest contacts listed on subsequent pages for their cooperation and patience in assisting with this project, and to our intern, Judy Firebaugh who conducted the research.

EXHIBIT 3

[From the Harvard Business Review, September–October 1991]

KNEE-DEEP AND RISING: AMERICA'S RECYCLING CRISIS

(By George C. Lodge and Jeffrey F. Rayport)

At a time when the United States is running short of landfill capacity and local communities, states, and regions face mounting costs and critical environmental choices, the issue of plastics recycling epitomizes a fundamental problem for the nation. It confronts business and government leaders with a critical question: Can the two sides move beyond the old adversarialism of the past to a constructive, problem-solving relationship that benefits both sides and offers the country a new path for dealing with difficult environmental problems?

Currently, both sides seem mired in an unfortunate combination of good intentions and failed systems. Two stories capture the sense of chaos that pervades the recycling of plastics in the United States.

The first is a recent comedy of errors played out in Minneapolis, Minnesota, where the city council passed a far-reaching but poorly conceived measure that effectively banned all plastic packaging from the shelves of the city's supermarkets. As the Minneapolis example will demonstrate, when government insists on exercising its authority without finding a way for business to supply its competence, chaos and confusion result.

The second, McDonald's decision to abandon polystyrene "clamshell" packaging for its hamburgers in favor of plastic-coated paper, illustrates the ineffective and inefficient results that occur when a business exercises its unique competence without relying on the government to supply its systemwide authority. The solution to the country's solid-waste crisis lies in the combination of authority and competence and in the creation of a new public-private forum where the two sides cooperate.

MINNEAPOLIS

In December 1988, Stephen Cramer, a bright, young city councillor proposed Chapter 204 of the Minneapolis Code of Ordinances, a measure requiring that all food products sold within the city limits be packaged in an "environmentally acceptable" manner. According to the definition in the ordinance, environmentally acceptable meant returnable or recyclable packaging. The ordinance would go into effect one year from passage.

The idea for the ordinance, Cramer explained, had originated with his environmentally minded constituents who were complaining about the lack of choice in their supermarkets when it came to packaging. Heinz ketchup bottles; for example, used to come in both plastic and glass; now plastic was the only option. In recycling-conscious Minneapolis, the city had already set up programs to recycle glass, paper, and aluminum, so the only packaging directly affected by Cramer's ordinance was plastics.

It took the business community two months to figure out the serious threat implicit in the proposed Minneapolis ordinance. If the measure could pass in Minneapolis, it could pass in other communities; it could become a new cause. Moreover, the ordinance was not a trivial exercise. Consultants hired by the city estimated that it would cover 14,000 items on supermarket shelves—everything from Dannon yogurt to Doritos tortilla chips, from the local dairy's milk jugs to the butcher's fresh-wrapped meat. Wrapped in plastic, all would have to be either repackaged or pulled from Minneapolis stores.

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[1] "Effect of Vermont Beverage Container Deposit", report by Vermont Agency of Natural Resources, 1988, p.2.

[2] "Vermont 5 cent Deposit: A Report on Vermont's Experience with Beverage Container Deposit Legislation", VT Agency for Environmental Conservation.

[3] "Can and Bottle Bills", New Jersey PIRG, p.8.

[4] Poll conducted by U.S. Representative James Jeffords, in Vermont Standard, April 30, 1981.

[1] Charles Atkins, Missourians Against Throwaways, September, 1991.

[2] Results of 1988 Repeal Referendum.

Local companies such as General Mills and Quaker Oats began to mobilize to defeat the measure. The plastics industry activated its research and lobbying organization—the Council for Solid Waste Solutions [CSWS]—and dispatched a top Washington, D.C. lobbyist to Minneapolis. Predictably, the industry launched an antiordinance media blitz. In newspaper ads, radio spots, and flyers in grocery bags, the industry portrayed Cramer as a wild-eyed liberal, sacrificing local commerce in the name of dubious environmental gains and warned that the ban would take food off the tables of innocent citizens.

Just as predictably, the industry campaign backfired. Public opinion, divided before the blitz, coalesced solidly behind Chapter 204. The proud citizens of Minneapolis did not like the idea of arrogant political pros from the plastics industry telling them how to think and what to do. Minneapolis has had a long-standing reputation as a progressive city, and the ordinance gave people a chance to go on record a law that many officials in the city government considered unenforceable. The city's consultants reported that when they went for a walk in a local supermarket to think about the enforcement issue, they "just started to laugh." The city council could instruct the understaffed health department to make a gesture at enforcing the law or order it to crack down and send Minneapolis food buyers to stores outside the city limits. The city council needed help.

At last, both the government and the industry arrived at the same conclusion: somehow, plastics had to be made legal under the new law. CSWS technical experts joined government representatives, environmental groups, and the community on the advisory committee established by the ordinance to work out deadlines and implementation details. The committee agreed to defer application of the ordinance for one additional year. CSWS set up several state-of-the-art recycling pilot programs and loaned the city a special $100,000 plastics-collection vehicle. Once the pilot programs demonstrated that plastics were recyclable, they became environmentally acceptable under the terms of the ordinance. Both sides could breathe a deep sigh of relief; a crisis had been averted.

But a question remained: Had Minneapolis achieved a net gain for the environment? By early 1990, pilot programs in the city and in surrounding Hennepin county had reached only 28,000 households. Despite aggressive public education programs, citizen participation rates—the proportion of people who actually sorted their garbage to permit recycling—ranged from a paltry 22% to a modest 62%. By late 1990, these programs were expanded citywide, and early results seemed favorable. But there was a problem. Neither the city nor the surrounding county had created an economic infrastructure to process recyclables. Thanks to infighting among the city, the county, and local businesses, there was no materials reclamation facility (MRF)—the facility required to sort, clean, and prepare plastics for resale to end users. Without a MRF, plastics couldn't be resold for reuse. With no connection to the marketplace, Minneapolis couldn't derive revenues to offset the cost of the recycling program. And, of course, if the plastics were never converted to new products, there was no environmental gain—the plastics would still be disposed of as garbage.

Even with Chapter 204 on the books, Mother Nature was not doing much better. The city was collecting some plastics (all plastic bottles) in the name of recycling. But without an efficient infrastructure and with a lot of extra activity, the environment might have been doing even a little worse.

MC DONALD'S

In the summer of 1990, McDonald's management faced its own test of environmental acceptability. For almost four years, the company had promoted the recycling of its polystyrene hamburger clamshells. In response to criticism, McDonald's argued that its polystyrene containers were the most environmentally responsible packaging solution. This was a claim that consumer groups such as the Citizens' Clearinghouse on Hazardous Waste found hard to buy: the National Toxics Campaign, an enthusiastic follower of CCHW's lead, even urged schoolchildren to write "Ronald McToxic" about his bad food packaging. And children responded, writing heartfelt letters about the polystyrene that they believed jeopardized their future environmental health and mailing back used hamburger containers.

Over the years, McDonald's had handled many such attacks. The company could marshal sound, well-researched reports by credible outside think tanks to support its use of the clamshell containers. And McDonald's had moved to bolster these claims by preparing to institute a national plastics recycling program at its 8,500 U.S. Restaurants. In 1990, the company initiated a pilot program to recycle polystyrene at its 450 New England restaurants and announced a decision to work with the newly created National Polystyrene Recycling Corporation, a critical link in the emerging U.S. Polystyrene recycling infrastructure.

That summer, as McDonald's moved cautiously toward extending its recycling program, the company was approached by the Environmental Defense Fund [EDF], which offered to work with management to develop an overall plan to improve the company's environmental management practices. By the fall, the two sides had begun to focus on McDonald's plastics recycling initiatives.

To the EDF, the opportunity was great: not only could it push ahead on a nationwide recycling program but it could also advance a massive public awareness and education campaign. A national McDonald's recycling program would constitute, in effect, the largest public environmental education project in U.S. history. Every day, 18 million Americans—more than 7% of the population—eat at McDonald's. McDonald's customers are a national cross section—young and old, rich and poor, salaried and working class—a more varied sample of the American public than all the environmental groups' mailing lists combined. And just by going into McDonald's, consumers would be learning firsthand about plastics recycling; they would be participating.

At the same time that EDF saw the opportunity, it also recognized the problems, as did McDonald's. The hard truth was that the New England pilot program was not working well, supporting EDF's growing concerns about the viability of polystyrene recycling as a way to minimize consumer waste.

The plan called for customers to sort their refuse into two simple categories: polystyrene and everything else. McDonald's would then ship the sorted foam plastics to a small, start-up plastics reclaimer, Plastics Again, to be cleaned and processed for resale. but practice did not follow the plan.

For one thing, customers were either unwilling or unable to follow the seemingly straightforward directions; Plastics Again received shipments that were too impure to process economically. To solve this problem, McDonald's faced the prospect of having to ask its franchisers to work longer hours to resort the trash into purer refuse streams. The expectation was that franchise employees, eager to make the system work, would cooperate and help the program succeed. But the plan was destined to founder on a second problem: even under the best of circumstances with full customer participation, the flow was too small to make the effort worthwhile in economic or environmental terms. With 60% to 70% of McDonald's customers taking their food away from the restaurants, there simply would not be enough polystyrene waste to make the program go.

But before McDonald's could attempt to overcome these two obstacles, Massachusetts dealt the program a fatal blow. State inspectors threatened to rezone Plastics Again from a processor to a garbage transfer station because of the trash it was handling from McDonald's restaurants, which meant Plastics Again faced the loss of critical tax benefits. An off-site, third-party handler that could accept the unsorted garbage might have solved the problem, but none existed in the area. There was no workable solution.

Just one week after McDonald's had reportedly been prepared to announce the national rollout of its polystyrene recycling program, the company made a dramatic about-face. The polystyrene clamshell was out; a new quilted paper-plastic substitute was in. In a terse announcement, the company said that it was only responding to the dictates of its customers.

While experts disagreed on the overall environmental impact of the decision, the lighter weight of the quilt wrap would clearly achieve the EPA-mandated goal of source reduction by shrinking the weight and volume of McDonald's waste going to landfills by as much as 70% with no recycling. (The new wrapper could not be recycled or composted efficiently at the time.) But there were other implications as well. McDonald's decision represented a decisive weakening of the emerging foam-plastics recycling infrastructure. As one of the nation's largest suppliers of polystyrene waste, McDonald's had been a critical element in the supply and demand equation: recycling companies would make the investments to process polystyrene only if they were assured a steady, reliable supply. McDonald's sudden departure represented a rupture in the supply line and reduced the likelihood that investments would be made. Gone, at least for the time being, was the massive recycling education program that could have been located at each McDonald's franchise. The company had been unable to find a workable solution. It had tried to do the right thing, only to be thwarted by the absence of a system wide plan and infrastructure to support its individual initiatives.

SO WHAT

These two stories illustrate a situation that is pervasive in the United States today. When it comes to plastics recycling, business, government, and environmental groups are all trying to do the right thing, but somehow the results turn out to be disappointing. In Minneapolis, authority without competence proved unworkable; with McDonald's and the EDF, competence without authority proved frustrating. In both cases, uncoordinated laws, uncertain and unreliable standards, and hit-or-miss initiatives served only to waste time, materials, energy, and scarce political capital. Recycling pursued according to current practices in the United States often results in everyone losing—not only government, business, and local communities but also the environment. And the problem is only getting worse.

The facts are undeniable. Because the United States is running out of landfill space, Americans will simply not be able to put the 180 million tons of solid waste they generate each year into landfills, where 70% of it now goes. Since 1979, the United States has exhausted more than two-thirds of its landfills; projections indicate that another one-fifth will close over the next five years. Between 1983 and 1987, for example, New York closed 200 of its 500 landfills; this year Connecticut will exhaust its landfill capacity. If the problem seemed abstract to Americans, it became odiously real in the summer of 1989 as most of the nation watched the notorious garbage barge from Islip, New York wander 6,000 miles, searching for a place to dump its rancid 3,100-ton load.

As part of the landfill problem, plastics are relatively benign—they neither degrade nor cause serious leachate problems. But they do take up a lot of space. Plastics constitute only 8% of municipal solid waste by weight, but 18% by volume. Moreover, based on industry predictions that worldwide consumption of plastics will grow 50% during the 1990's, it is likely that their weight and volume proportion in the waste stream will grow. Much of this growth will come in the form of packaging—the single largest use of plastics in the United States—which consumes almost one-third of the six million tons of plastics produced each year.

Recognizing the seriousness of the problem, some companies have stepped in to play a leadership role. For example, in March 1991, CSWS members, led by Edgar S. Woolard, chairman of Du Pont, and John E. Pepper, president of Procter & Gamble, announced a council program to extend plastics recycling to 5,000 communities (from the 500 currently recycling plastics at curbside) and to ensure that by 1995, 25% of all plastic bottles and containers used in the United States will be recycled (from about 6% in 1991). In part, the announcement demonstrates industry's recognition of the need to balance the economics of recycling: Du Pont represents the supply side of the process, P&G the demand side. In fact, P&G has already switched to 100% recycled plastics for all of its Spic & Span bottles and has reached 25% recycled material in its other laundry and cleaning product packaging.

As laudable as the proposal is, however, it is bound to be insufficient for two reasons. First, the problem is too serious for only a few industry players to solve on their own. Second, even committed industry players like Du Pont and P&G will fail to reach their targets unless a recycling infrastructure is designed and managed regionally and nationally.

Today, for example, P&G has difficulty obtaining enough high-quality post-consumer recycling material. It needs milk and water jugs (high-density polyethylene or HDPE) to package Spic & Span. But in the late 1980s, some 99% of the 2.7 billion pounds of HDPE produced and 80% of the 875 million pounds of polyethylene terephthalate (PET) produced went into the nation's landfills.

It went there despite the fact that demand for it exists. And clearly there is the supply. Missing are the critical elements of a system to connect the supply and demand in a predictable, credible manner. Many packaged-products manufacturers want to shift to recycled plastics; but they fear that supplies will not be sufficient or dependable. At the same time, many manufacturers who want to deliver the supply, but who would have to make expensive capital investments to process the plastics, doubt the long-term stability of demand. As a result, everyone in the recycling chain goes slow.

The missing element is leadership—in particular, leadership from Washington, D.C. Current U.S. Environmental Protection Agency "goals" for recycling remain far below the real needs of the economy and the environment. A decade of the Reagan-Bush era's "new federalism," which sought to minimize the federal government's role and shift burdens to state and local government, has left as its legacy a leadership gap. State legislatures and municipal governments are seeking to fill in, but the results are piecemeal and unproductive. Meanwhile, the gravity of the problem only intensifies.

WASTE DISPOSAL OPTIONS

To deal with the mounting solid-waste crisis, there are four basic options: reduce the amount of plastics manufactured and used, recycle them (and compost some truly biodegradable plastics), incinerate them, and dump them into landfills.

Source reduction, the first option, includes the total elimination of plastics from society, a radical circumstance fondly envisioned by some environmentalists. But the truth is that such a change would be as bad for the environment as it would for business—a useful reminder that plastics are as much a blessing as a curse.

To get the feel for the way in which the elimination of plastics cuts across the grain, consider the impact on Minneapolis if all plastic food packaging had been outlawed. A Minneapolis supermarket stripped of 14,000 items would be a disheartening place to shop. Consumers would have substantially reduced choices. Some, but not all, products might reappear in alternative packaging, much of it bulkier and less convenient for consumers to use. But many products that depend on plastic packaging for freshness, convenience, and shelf life would never reappear.

The price of everything would, of course, go up. In part, price inflation would be a natural economic consequence of Minneapolis making itself a circumscribed market with unique packaging requirements. But a more important factor in the price rise would be the very reason that food processors turned to plastic packaging in the first place: it reduces weight and volume and allows packaged foods to move at lower cost and with less spoilage and breakage, thus reducing costs through efficiency gains while ensuring that health and sanitation requirements in the food supply are met.

Moreover, a recent study commissioned by the German government to evaluate the costs of eliminating plastics completely from that nation's economy found serious environmental impacts: packaging-related solid waste would nearly triple and the weight of packaging materials would increase four-fold. Eliminating plastics would also have a negative energy impact: the energy consumed to manufacture packaging material would double.

A second option for dealing with solid waste is recycling. Despite the fact that the United States has yet to create the infrastructure that would put recycling to work in a substantial and meaningful way, many leaders in business, government, and environmental groups look to recycling to play the major role in solving the country's solid-waste crisis. (For a closer look at the recycling system established by Taiwan, see the insert "Plastics Recycling in Taiwan.")

Incineration is also an option, one that health experts and environmentalists have historically opposed as both wasteful and polluting. Today, according to EPA estimates, 14% of municipal solid waste in the United States is disposed of in waste-to-energy incinerators. With state-of-the-art technology, such incinerators are actually environmentally satisfactory. When operated at extremely high temperatures—typically in excess of 1,800°F—and controlled to contain 95% of polluting effluents, new burners can reduce solid waste 80% by weight and 90% by volume. At the same time, they provide valuable energy, so much so that Swedes call plastics "white coal." Many experts believe that incineration does not recover as much energy as was required to manufacture the plastics in the first place. For that reason, incineration is not as efficient a disposal process as other options.

The final option, landfilling, is the one currently in greatest use, but space is quickly disappearing. In short, it is clear that no single option by itself is sufficient. Meanwhile, pressure to recycle mounts on all who make or use plastics. Several states are currently considering laws to ensure that by 1996, 35% of all plastics will be recycled and that by 2001, the recycle rate will be up to 50%. The plastics industry has already set a 25% target. But as things stand, none of these targets can be reached without an integrated approach to the problem. In turn, an integrated approach requires the creation of a comprehensive, systemic solid-waste disposal infrastructure. For the United States, the question is what would it take to make that happen?

A NEW APPROACH: MANAGING THE INFRASTRUCTURE

Finding a new approach involves understanding where the mistakes were made and learning from the failed initiatives of Minneapolis and McDonald's. In particular, there are five principles that emerge as vital underpinnings to a new solid-waste management infrastructure.

First, when it comes to solid-waste disposal, business and government are partners—like it or not. Only government has the authority to make certain crucial decisions about the disposition of municipal solid waste. Only industry has the competence to implement what government decides. Just as industry will never have the authority to define community need, government will never have the competence to see it fulfilled.

Second, the recycling infrastructure is a system, and like all systems, it must operate in balance to operate properly. New public policy initiatives must be designed to balance the inputs and outputs—the supply and demand—in the recycling system.

Third, economics and politics must also act as partners. In economic terms, a recycling infrastructure must operate at either a national or regional scale, one large enough to capture real economies. In political terms, environmental decisions are often intensely local, circumscribed by state boundaries or those of individual townships. Such local flexibility may be necessary, but politicians who ignore economics will generate options that their communities cannot afford; those who stress economics but ignore the political realities of local sentiments will design systems that cannot be voted in.

Fourth, all levels of government have appropriate roles to play; government that is at odds with itself only impedes a solution.

For example, a grass-roots, local-only program for collecting and separating recyclables makes practically no sense if it leaves out regional and national coordination for processing and sale. At the same time, a federal "one size fits all" approach alone is also doomed. Government, to operate effectively, must create partnerships, not win-lose situations.

Finally when it comes to plastics recycling, everyone agrees—generate less trash, recycle more. When it comes to creating a system to accomplish the agreed-upon goal, no one agrees. But without the system, the agreement on the goal is worthless.

The system that must be created is made up of a variety of component systems, each of which must be managed to achieve its own appropriate results and to coordinate it with the whole. Four fundamental points define the components of the system.

The Infrastructure. A system for municipal solidwaste disposal must include integrated decisions on the relative levels of recycling incineration, and, when necessary, landfilling for all materials in the waste stream. The system must also address issues of scale, balance supply and demand, and involve all of the necessary participants in the public and private sectors.

The Forum. There must be an advisory committee to govern the process and to design and manage the infrastructure. A regional or national group should be formed, including all stakeholders in the management of municipal solid waste, thereby joining competence authority.

The Management. The infrastructure must be managed through the judicious application of social, financial, legislative, and political incentives and disincentives. The object is to drive participation by all appropriate stakeholders, to balance supply and demand in the system, and to achieve enough certainty and stability in the system to encourage private-sector investment.

The Philosophy. The undertaking demands that participants adopt holistic, communitarian thinking. That means that companies must take cradle-to-grave responsibility for their products; government must view the systemic consequences of its actions; and citizens must recognize that their behavior as individuals affects the whole community. Moreover, every decision must reflect a systemic, cost/benefit analysis involving total energy and material inputs and total waste and pollutions outputs.

These four points are, in fact, a reflection of the recycling infrastructure itself. It is a system that is complex and demands sound management. It involves a wide variety of companies and industries—so no single enterprise can succeed by itself. It involves both authority and competence—so government and industry must join together. It entails individual responsibility in separating waste and national coordination in the effective operation of a market—so the individual citizen is as critical to the effort as the largest corporation or the highest elected official. What follows is a description of how such a system would need to work for plastics.

Supply Side. Under ideal conditions, a community would divide its solid waste into three streams when it collects it from residences and businesses: nonrecyclables, which would be collected and landfilled, incinerated, or processed through mixed-waste composing; yard waste, which would be composted; and recyclable sorted by type (glass, aluminum, paper, plastic), which would be collected at either curbside or regional buy-back or drop off centers.

Some communities are currently experimenting with a system in which all recyclable are collected together and then sorted elsewhere. Another collective system, currently not in widespread use, requires residents to sort trash into three streams at their homes and use color-coded garbage bags to indicate which type of trash is in which bag. The bags can then be collected by regular trucks. Utilizing human intervention and sophisticated sorting technology, recyclable can be extracted into generic streams. This approach has advantages over a system that requires special trucks to collect the different streams of trash, the methods used in New York City and Los Angeles. According to some estimates, the cost of waste collection has quadrupled in New York and air pollution has worsened in Los Angeles because of the approach to recycling taken into those communities. For example, to introduce recycling collection in Los Angeles, the city had to add 600 diesel trucks to the 1,000-truck fleet already in operation.

According to the system we have diagrammed, recyclable are collected at curbside, the preferred method for American consumers today. (The French and Italians, by comparison, seem to prefer drop-off stations; Taiwanese use "igloos"—700 color-coded drop-off receptacles—augmented by 30,000 scavengers who are paid for recovering recyclable plastic bottles.) Even with curbside collection, there are two choices: either sort the material at the curbside or collect it and take it to a centralized location for sorting.

Curbside separation has one major advantage: it allows those collecting the waste to give feedback to recycling participants. If, for example, a recycling household has mistakenly put out a toaster—an item that is not currently recyclable—the mistake can turn into an opportunity for a conversation or a notice that could prevent more mistakes in the future. Curbside recycling, however, has one major disadvantage: the equipment required. For trucks to keep materials separate after collection, they must have at least four compartments—one for newsprint, one for aluminum, one for glass, and one for plastics. Moreover, if one compartment fills up, a truck may have to leave its route entirely and dump its load, adding inefficiency and expense to the system.

Where a MRF is in use, the system typically would allow collection at the curb to proceed without separation. At the MRF, technology permits the separation of paper (white, office, and newsprint), metal cans (tin and aluminum), glass (primarily bottles in clear, green, and amber), and plastics (all rigid containers). When plastics emerge from a MRF, they have been made more dense—typically by baling, a step that involves crushing the ballonlike plastic containers and forming 700- to 1,000-pound bales that can be shipped economically.

Demand Side. The role of the MRF is to separate plastics from other recyclables, enabling plastics reclaimers to sort the recyclable plastics into four resin types and several color categories: PET, used primarily for soft-drink bottles (green, clear); HDPE, used for milk and spring-water jugs and laundry detergent bottles (natural or pigmented); polyvinyl chloride (PVC), used for some mineral water bottles; and polypropylene (PP), used to make many plastic films (bags and wrappers, for example). The plastics reclaimers separate the plastics into six generic streams (two colors each for PET and HDPE, plus PVC and PP), then grind, wash, flake, or pelletize the plastics before shipping them in 1,500- to 2,000- pound containers.

Where the reclaimers ship the containers depends on their end use, which is why the map becomes complicated at this stage. Some plastics never get to a sophisticated plastics reclaimer because there are a variety of applications for mixed or commingled plastics: park benches and highway dividers, for example. These are low-tech products that already enjoy large demand in retail and industrial markets, and for which plastics offer distinct advantages for example, unlike wood, plastics will not rot. In Europe, nearly all plastics recycling involves commingled plastics, not generic streams. Selling commingled plastics is not, however, a very attractive business: the Price per ton today is well below the range of $200 to $500 that generic streams can command.

Generic-stream plastics find end markets with plastic resin manufacturers, who use them to make plastic products of either purely recycled material or some combination of recycled and virgin materials. In using recycled plastics, these manufacturers are gaining real cost savings and meeting recycled content regulations set by law or customer demand. They must retool their operations to deal with a new kind of feedstock, but they still sell the same volume of end product. The chemical manufacturers, on the other hand, are directly threatened by the trend toward recycled plastics. If plastics manufacturers substitute recycled plastics for virgin materials consistently and widely, they will clearly sell less of the commodity chemicals used to make plastic resin. Consequently, in spite of their apparent support for recycling, chemical manufacturers are likely to be one link in the chain that reacts warily to a wide-ranging move toward plastics recycling—unless they make the necessary capital investment now to become part of that new industry.

The other restraint on plastics recycling is regulatory. The Food and Drug Administration has never given explicit approval of the use of recycled plastics to make packaging that comes in direct contact with food. The industry, not desiring a run-in with the FDA, has been reluctant to experiment. But this attitude is changing as recycling technology advances and the FDA takes a more definite position. In February 1991, for example, Coca-Cola and Hoechst-Cellanese announced that they had developed a depolymerization process for recycling PET into soft-drink bottles that appeared to satisfy FDA guidelines.

Even without a shift in the FDA's position, however, it is already possible for soft-drink bottlers to use recycled plastics in their products simply by purchasing reclaimed HDPE and manufacturing base cups for PET soft-drink bottles, since they do not come in contact with the beverage. Makers of nonfood bottles can use significant amounts of reclaimed HDPE as inner layers in their containers: for example, P&G's laundry detergent bottles now contain 25% or more recycled HDPE.

At this point in the process, the recycled products go to market, closing the loop. P&G's detergent bottles are a perfect example: materials that were once in the supermarket as soft-drink bottles return to the supermarket as detergent bottles.

Finally, the complexity of the demand side of the system is even greater than shown in the map because of the thousands of competitors at each link of the value-added chain. Indeed, some companies like Du Pont find themselves competing at a number of points along the chain. For that reason, the management of the process and the construction of a consensus along the chain involves mediating among companies that often have multiple interests at stake.

The final loop on the map shows the path for deposit bottles. Currently, some states impose a five- or ten-cent deposit on soft-drink and beer bottles, designed originally as a disincentive for littering. Today those laws help gather some material for recycling. When consumers return their empty bottles to a supermarket, the grocer refunds the deposit and then turns the bottles over to the originating local bottler. The grocer receives a one- to two-cent per bottle handling fee. The hauling of the bottles can get complicated, however, because of the value assigned to the bottles by the deposits. If, for example, the bottling company uses a third-party hauler to carry the empties back to the plant, the hauler must run its own accounting operations to keep track of payments owed grocers by bottlers. Moreover, many bottle-bill states have become battlegrounds as the various parties—bottlers, grocers, and state governments—fight over who should get the large pool of unclaimed deposits.

Once the bottles have made it back to the plant, they are sold to plastics reclaimers or to sorting companies that will divide them into generic streams to generate feedstock for new high-value product manufacturers.

GETTING STARTED

The problem is serious and getting worse. The system that needs to be established is evident. The first step toward creating that system is obvious: EPA administrator William K. Reilly should establish a foundation for integrated, multimaterial recycling, including plastics. With membership drawn from all critical stakeholders, like the Minneapolis advisory committee created by Ordnance Chapter 204, the foundation would be empowered to play a variety of roles, perhaps most important, consensus building among the players. Members should include the relevant industry leaders, government officials, citizens' environmental group leaders, and science and business experts.

The foundation would operate at a national and regional level, with a charter to design and manage the recycling infrastructure and to recommend federal, state, and local legislation to create needed regional organizations. Its goal would be to eliminate barriers to recycling by identifying ways all stakeholders could benefit and share costs in an equitable fashion. The unique value of the foundation is that it would give stakeholders with competence in plastics recycling but little authority—such as CSWS—a forum in which to contribute to the design of helpful policies, and it would give stakeholders with authority but less competence in plastics recycling—such as elected officials and general-interest environmental groups—a reliable source of technical, scientific, and public policy expertise.

The foundation would use the carrots and sticks of public policy to drive the recycling infrastructure at both the national and regional levels. As a nongovernmental group, the foundation could escape the usual strictures of bureaucracy and avoid the adversarialism that tends to plague government-business interactions. At the national level, the foundation could usefully concern itself with:

Setting standards and establishing definitions for environmentally acceptable products and packaging, including recycling, recycled content, and reuse.

Defining national goals for the recycling infrastructure, including recycling as a percent of the total waste stream and recycling targets by product and material.

Developing and promoting a national philosophy and perspective on recycling, including the value of seeing it systemically, recognizing the need for cradle-to-grave product responsibility, and championing fairness in the burdens and benefits of recycling.

Creating and administering "green" product certification through an ecolabeling system, similar to Taiwan's Ecomark and Germany's Blue Angel.

Establishing a standard coding system for materials to facilitate recycling, such as the Society of Plastics Industry's numbering system for coding plastic containers according to resin type.

Recommending packaging and product design to promote the manufacture of easily recycled products—a "design for disassembly" approach for a wide range of consumer products, from soft-drink bottles to white goods to automobiles.

Identifying and outlawing products or packages that are egregious enough to qualify as "environmentally unacceptable" under any circumstances.

Instituting a national container-deposit law to promote recycling in rural as well as urban areas and to raise funds for the further development of the national infrastructure.

Funding research projects in areas of debate over waste reduction, such as the question of how to develop and identify truly degradable plastics products.

Implementing incentives and penalties to stimulate recycling, such as deposit fees, tax credits for the use of recycled materials, and fees on the use of virgin materials.

Creating markets for recycled materials through procurement incentives for business and procurement requirements for government agencies.

Designing education programs, such as those in Taiwan, to teach schoolchildren about the economic and environmental importance of recycling and proper waste management.

At the regional level, the foundation could work on:

Administering collection and sorting programs through state, municipal, and county governments.

Instituting "measured" services for waste collection that use "pay-by-the-can" methods, such as those in Seattle, Washington, to alert customers to the true costs of waste disposal and link waste volume with system costs.

Setting landfill usage fees high enough to make recycling an attractive alternative.

Stimulating regional markets for recycled materials by setting recycled content procurement requirements for state and local government, offering local tax credits for the purchase of recycled materials, and providing grants to local business developments in recycling.

Operating container-deposit redemption programs in areas where curbside recycling is impractical (such as sparsely populated rural areas).

Implementing public education programs to teach methods of curbside collection.

Funding research at the local level to improve collection, sorting, and markets for recycled materials.

Such a foundation would respond to the needs of the current waste-management crisis. Neither public nor private, it would avoid the pitfalls of adversarialism that plague the two sides, while joining authority and competence in a single body. It would be captive to no special interest, since it would be widely representative and charged with sharing the costs and benefits of waste management throughout the community of its stakeholders. It would be able to move aggressively in the short run to balance supply and demand, while creating an infrastructure capable of benefiting all parties in the long run. The country would benefit by the development of thoughtful, systemic, integrated solutions to a serious problem—and could be spared the cost and pain of ad hoc, desperate measures that will certainly come if the crisis is left to grow.

PLASTICS RECYCLING IN TAIWAN

By the mid-1980s, Taiwan was stifling in bad air, awash in contaminated water, and blanketed in its own waste, 90% of which went into landfills. Second only in population density to Bangladesh, Taiwan's gross national product has grown 10% or more each year for the past two decades. Now the small, highly productive island nation was paying the price.

In 1987, Taiwan began to devise a solution. Critical to that effort was Dr. Eugene Chien, who took charge of the country's Environmental Protection Administration and designed a national solid-waste management policy based on recycling.

Chien saw national recycling as the most effective way to alleviate the country's growing environmental woes. He launched his initiative by establishing a list of 15 categories of commercial byproducts and materials subject to mandatory recycling. The first category addressed was PET (polyethylene terephthalate) soft-drink bottles. To get PET recycling up and running, Chien deployed an education program in the nation's grade schools, an Ecomark program in which the EPA designated certain environmentally acceptable products, a law requiring producers to take cradle-to-grave responsibility for their products, a collection system funded by soft-drink bottlers, and a processing plant funded by plastics producers who in turn would guarantee to buy all reclaimed plastics. The system was engineered to ensure both adequate supplies of post-consumer plastics and sufficient demand for the recycled product.

The key to Taiwan's success was the passage of a Solid Waste Management Act in the national legislature in late 1988. The new law, despite vigorous opposition from the business community, made manufacturers and retailers responsible for retrieving and disposing of packaging and containers that were nondegradable, not easily reused, or composed of hazardous elements. The law gave Taiwan's EPA wide-ranging authority to identify affected products and to take action to manage their disposal or elimination.

PET soft-drink bottles were the first target. The EPA defined them as unacceptable packaging. The demand to industry was clear—collect and recycle or abandon the package. Following a period of unsuccessful resistance, Taiwan's 12 soft-drink bottlers got down to business, setting up an infrastructure for collection, reclamation, and resale and creating a governing organization called the Waste PET Management Committee to coordinate the creation and operation of the recycling infrastructure.

Collection and sorting then occurred through the use of 700 small, igloo-shaped drop-off centers, color-coded for PET plastics, located throughout the country, paybacks to Taiwan's 30,000 scavengers who traditionally lived off "gold in the garbage"; deposits to seven centers for redemption and baling of bottles; and input to a processing operation called the Taiwan Recycling Corporation, established by the country's two largest PET bottle makers.

The success of the effort involving soft-drink bottles soon spread. Taiwan's soy-sauce bottlers, who accounted for roughly a third of all PET bottles in the waste stream, followed suit. By 1990, Taiwan was recycling 33% of its PET plastic bottles; and today it is working toward a goal of 50%. Taiwan's system now is not only efficient; it also turns a profit.

Mr. PACKWOOD. Mr. President, I rise today to join the bipartisan support for the National Beverage Container Reuse and Recycling Act of 1992, S. 2335. I am delighted that identical legislation is being introduced in the House of Representatives on this important environmental and energy issue.

After standing in this Chamber speaking in support of a bottle bill for the last two decades, I truly hope that the demise of the no-deposit, no-return beverage container is about to occur. This is by no means an untimely death.

This bill should give all States the incentive to bring their beverage container recycling rates up to at least 70 percent, using whatever method each State may want to implement.

The history of legislation such as this goes back to a sunny summer Sunday in the late 1960's, in a small coastal village in Oregon when a manufacturer named Rich Chambers and a dory fisherman named Paul Hanneman talked about the huge amount of empty bottles and cans that littered the beaches and streets of Pacific City. These were left by weekend tourists who had come to enjoy the magnificent ocean, walk on the beaches and poke around the shops, as has always been a favorite pastime for Oregonians and tourists alike.

Chambers wondered aloud if a mandatory deposit could be put on all the cans and bottles. Hanneman, then a Member of the Oregon House of Representatives, indeed thought the time had come, because, he said, "We had better do it now, before things get any worse."

Legislation was submitted and defeated until the spring of 1971, when a growing band of consumers effectively lobbied its passage, banning flip-top cans, and charging a minimum two-cent refund.

Around that same time, across the country in the State of Vermont, a young girl seriously cut her foot on a broken bottle while walking along the shores of Lake Champlain. Angered by such an unnecessary accident, her father, a Member of the Vermont Legislature, went on to craft a bottle bill along with my distinguished colleague, Senator JEFFORDS, which passed in their 1972 session.

Well, trash from beverage containers didn't get worse in Oregon or in Vermont. As a matter of fact, beverage container litter along the highways and on the beaches dropped 72 percent the first year after Oregon's bottle bill was implemented. Last year, the State's beverage container recovery rate was 93 percent, according to the Department of Environmental Quality.

States that have container deposit legislation—Iowa, New York, Michigan, Maine, Massachusetts, Connecticut, California, and Delaware. Bottle bills have helped to beautify these States, and also made the environment much safer for our children.

When Oregon's bill was being considered, the opposition to the bottle bill raised concerns about an increased expense to the consumer. Well, during a recent weekend in Portland I noted that you could buy a six-pack of the soft drink of your choice for anywhere from 99 cents to $1.79. Sounds reasonable to me. That was lower or as low as the going price in the D.C. suburbs, where there are no bottle bills.

More jobs have been created as recycling markets have developed in the private sector, and I'm not referring just to the minimum wage jobs, but to the higher paying family-wage jobs that new and emerging technologies have fostered.

And, a garbage problem that was supposed to occur because of empty bottles and cans going back to the stores has not happened. Our food markets are just as clean, some even more so with such new technologies as reverse vending machines for container recycling that the stores also use for product advertising. I hope my colleagues had the opportunity to use the reverse vending machine I had placed as a demonstration in the Dirksen North Servery recently. Thousands of cans were returned during the first month instead of being trashed and carted away. Now that the machine has been removed, where have the cans gone—right into the solid waste stream.

So, here we are two decades later, and Oregonians and others are now talking about the savings in energy and natural resources created by beverage container deposit legislation. They are talking about the curbside recycling programs that have sprung up in the bottle bill States because their bills fostered the reuse and recycling ethic. They are talking about the savings to their communities when consumers take the recycling responsibility instead of having the expense fall on their municipal collection services. They are developing pay-as-you-throw policies for trash collection. They are talking about the plastics recycling industry who can not get enough plastic bottles to recycle into new products. These companies get over 90 percent of their plastic for recycling from bottle bill States—over 90 percent—and they say they can not get enough.

I have college interns in my office who are 20 years old and have never lived under anything other than a State bottle bill. And, with each new intern group that arrives from Oregon, I can predictably say that one of their first revelations about their new environment is going to be, why don't people recycle their cans and bottles here? I can't believe they just throw them away to be carted off to the landfills. What a waste.

Mr. President, I urge my colleagues to listen and this time to hear the reasoned people of Oregon and to hear the vast majority of people in this country who said that the time for a national bottle bill is now. Hear the environmental groups like the Sierra Club and Oregon OSPIRG [the Oregon State Public Interest Research Group], who have asked for my support of the bottle bill. Fortunately, they know they have had my support of the bottle bill. Fortunately, they know they've had my support for 20 years. I hope my colleagues will join me with their support also—before, as they said in the sixties, things get worse. I thank the Chair.

By Mr. ROCKEFELLER (for himself and Mr. RIEGLE):

S. 2336. A bill to establish a loan program at the Department of Commerce to promote the development and commercialization of advanced technologies and products; to the Committee on Commerce, Science, and Transportation.

LOAN PROGRAM FOR DEVELOPMENT OF ADVANCED TECHNOLOGIES AND PRODUCTS

• Mr. ROCKEFELLER. Mr. President, today Senator RIEGLE and I are pleased to introduce, along with Congressman MINETA in the House, legislation to authorize the Commerce Department's Technology Administration to provide long-term, low-cost loans to U.S. companies to develop and commercialize advanced technologies. The program is intended for small- and medium-sized companies and would focus in such areas as electronics, biotechnology, and advanced materials.

This bill is part of my effort to construct a long-term growth strategy for the United States. It is more than apparent by now that we are rapidly losing our ability to compete globally in the critical technology sectors that will define our ability to lead in the next century.

We are losing because America is adrift. Even worse, the administration and a number of traditional economists defend drift as the correct policy. It is the market working its will, they say. What many of us in the Congress understand is that that proposition is no longer acceptable. The stakes are too high to permit it.

The people are asking for leadership and direction, and the President's response is to define his role as getting out of the way and letting business do what it wants. Mr. President, we can do better than that. Throughout our history, we have done better than that.

This week we will begin a major debate on tax policy, which is an important element of any antirecession program. But only a small part of that debate will focus on long-term growth in critical sectors. Once it is over, however, attention will turn to the program side of the equation, and many of us will be prepared at that time with proposals relating to nurturing critical technologies, improving and more widely disseminating manufacturing technology, improving worker training and adjustment programs, promoting exports, and developing a more aggressive trade policy.

In addition to this bill, on February 28 I introduced S. 2286, which would create an Advanced Technologies Capital Consortium that would serve as a part publicly funded, privately run venture capital consortium that would invest in research, development, application, and commercialization of critical technologies. Both that bill and the one Senator RIEGLE and I are introducing today address the problem on insufficient capital being available for the key technologies of the future.

Last fall I also introduced S. 1721, which would reorganize and revitalize the Government's export promotion programs. In the near future I plan to have further proposals on worker training and trade policy that will round out a comprehensive package of growth and investment measures.

Having set the context, Mr. President, let me now say a word about today's bill and how it would work. The Government would make the commercialization loans at its cost of borrowing plus up to 2 percent for administrative costs and to help defray any default costs. Under the credit reforms enacted by Congress in 1990, the Office of Management and Budget will estimate the likely default rate for this program—as it will for all Federal loan programs—and the $20 million authorized for this program will, in effect, become a loan reserve to cover defaults. The Commerce Department will have to restrict lending to the amount OMB estimates a $20 million reserve can cover. OMB has not addressed this issue yet for this proposal and would not do so unless it became law, but most estimates suggest that a reserve of this size will support a loan program of as much as $100 million.

The reasoning behind this legislation is equally straightforward. It is designed to refocus Federal efforts on what we don't do well. As the competitiveness debate in this country has gotten more sophisticated over the past few years, there has been a lengthening string of studies and commentaries concluding that American research and development remains the best in the world. Where we fail, and fail consistently, is translating the fruits of that research into commercially viable products. Edward Miller, president and CEO of the National Center for Manufacturing Sciences [NCMS], recently laid this out clearly in testimony before the Commerce Committee:

> I am certain you are aware that we in the United States have been very successful in achieving research and development results. Not too long ago, I had an opportunity to review the distribution of Nobel Prize and Fields Prize winners by country. I am struck by the fact that we have won two and a half times more prizes than any other country in the world. That is an awesome achievement, and it clearly shows we understand what it takes to succeed in research. Further there is a pretty good spread of awarded prizes across the sciences, so we know our understanding is broad and in-depth.
>
> However, on the reverse side of the coin, during the last four to five decades we have watched discovery after discovery, invention after invention migrate from our research laboratories to the manufacturing floors of our trading partners. This has been particularly true of products like cameras, radios, televisions, VCR's, computers, semiconductors, CNC technology, and a list that goes on and on.

Dr. William A. Owczarski of United Technologies, testifying on behalf of the NAM, made the same point:

> Recent experiences (e.g. VCR's and semiconductors) point unmistakably to the conclusion that innovation alone is not enough to ensure economic leadership. The application of innovative ideas is what matters most now. Thus, while U.S. industry remains a leader in the development of advanced manufacturing technologies, it can fall short in the adoption and deployment of these technologies.

Even the administration's own witness, Robert M. White, Under Secretary of Commerce for Technology, acknowledged the problem at the same time he opposed doing much about it:

> The U.S. is a leader in research on advanced manufacturing technology, but slower with respect to its development, deployment, and use.

Thus, Mr. President, it is fair to say there is no longer much debate about what the problem is. Unfortunately, we continue to argue over solutions. Obviously, the primary burden must be on American industry and investors. They need to develop longer term points of view. Investors need to be more "patient," focusing on more than next quarter's earnings. Our academic institutions need to develop engineering curricula and programs that focus on manufacturing process technology as well as basic R&D.

At the same time, asking what the Government can do to help is a legitimate question, and one which has been frequently asked—and answered—throughout American history. From the Government's development of a competitive agriculture sector in the 19th century to its creation of an American civil aviation industry in the 1920's to its support of the aerospace industry in the 1950's and 1960's, the Government's ability to mobilize resources—money, people, technology—on behalf of national goals is embedded in our way of life. Americans have always risen to the challenge. It is only the past two administrations that have made such efforts politically incorrect.

It is also ironic that their blindness extends only to industry. In the last Congress, we passed and the President signed a farm bill containing an Agriculture Commercialization Loan Program very similar to what I am proposing today. The administration did not seem to have any problem with that; indeed its author, then-Representative Madigan has moved on to bigger and better things in the administration.

Mr. President, it is time to rise to the challenge again. The erosion of our manufacturing and critical technology base is accelerating. It directly jeopardizes our national security and our ability to retain the world's economic leadership, which is increasingly the key element of national security. If we cannot compete globally in economic terms, then we will not be able to sustain our foreign policy objectives either. We will simply have no credibility.

This amendment is only a modest step in that direction, but it focuses on the area of greatest need—critical technologies and small businesses that lack access to capital. I envision that many of the loan applicants would come directly from Commerce's Advanced Technology Program, which provides R&D support. That would give the Department an extensive track record both with the technology and the company in question, which would severely reduce the risk of default.

Let me conclude, Mr. President, by commenting on what I suspect will be the major argument of those opposed to this bill—that it crosses the line into industrial policy, into picking winners and losers. There are two reasons why that argument is wrong.

First, the Government picks winners and losers every day. Every time Congress passes a tax bill, every time EPA changes its environmental regulations, every time we continue or kill a defense program, we create winners and losers in a far more direct way than anything this bill will do. In fact, Mr. President, determining industries that must be winners for the United States is Government's business, and it has been doing that for years.

Second, the idea that there is in the innovation-manufacturing continuum a bright line, on one side of which lies generic, precompetitive R&D and on the other side of which lies industrial policy, is nonsense. There is no magic point at which research suddenly and miraculously becomes product-specific and proprietary. When the Advanced Technology Program or DARPA selects projects to support, they clearly are looking down the line to usable outcomes. To stop the Government support process at an arbitrary point for ideological reasons nullifies the effectiveness of the programs.

The main difference between commercialization and research is that the former focuses on manufacturing and production technology. Building one of something in a lab is a very different exercise technologically than learning how to build thousands of them at competitive prices. Commercialization means spending time and resources learning how to do precisely that—to create viable products for the marketplace.

Mr. President, this bill would add to our competitiveness toolbox in a way which is completely consistent with the mandate Congress has already given the NIST—to facilitate the more rapid commercialization of advanced technologies. That is in current law. This legislation simply gives meaning to that mandate. I hope all Senators will support it.•

• Mr. RIEGLE. Mr. President, I join with my colleague, Senator ROCKEFELLER, in introducing legislation to establish the Technology Commercialization Loan Program in the Department of Commerce. This is an important program which is designed to capitalize on U.S. research and development efforts and restore some of America's manufacturing capability.

The loan program provides an additional necessary tool for the Department of Commerce to use in conjunction with the Advanced Technology Program [ATP] to help American businesses reap the benefits of their limited capital resources. Along with ATP grants, it will reduce the effect of the current capital shortage and make sure that American workers and businesses can commercialize their technology.

All too often, first-rate American technology is commercialized by foreign firms. Making sure that American products get to the marketplace, should be an important focus for our Government. The Technology Commercialization Loan Program will maximize relatively small levels of Government resources—$20 million—and leverage them to support approximately $100 million in loans to benefit the U.S. economy and our industrial base. As we have seen with the ATP Grant Program, this new loan program will also foster competition and encourage quality American products.

The Technology Commercialization Loan Program passed the House twice during the first session of the 102d Congress. However, its success was stifled when the administration indicated its opposition by labeling this as "industrial policy." As with the sensitive issues that we face in the trade area, we must not be deterred from bringing technology issues out into the public forum.

In recent months, many of us have been focusing on the failing health of the U.S. economy and solutions that might be enacted to set us on a path toward rescuing our manufacturing base and creating jobs for 16 million unemployed Americans. We need a number of programs as part of that larger economic strategy for America. The Technology Commercialization Loan Program is one of those efforts that will contribute positively to the strength of our economy and future jobs for our people.•

By Mr. GRASSLEY:

S. 2337. A bill to provide for the budgetary treatment of Medicare payment safeguard activities, and for other purposes; pursuant to the order of, August 4, 1977, referred jointly to the Committee on the Budget, and the Committee on Governmental Affairs.

MEDICARE FUNDS RECOVERY ACT OF 1992

Mr. GRASSLEY. Mr. President, I rise today to again focus attention on the vast waste in the Medicare Program, and to offer a legislative solution to this serious and urgent problem.

Mr. President on March 5, I stood on this floor and spoke at length about the waste in the Medicare Payment Safeguard Program, most especially the Medicare Secondary Payer Program.

I spoke in detail as to why the problem was occurring and how it was occurring. I cited findings from various GAO reports, and I informed my colleagues that I was working on a solution and that I hoped to be back on the floor soon with that solution in hand.

Mr. President, I believe that I now have that solution and that is why I am here today.

I do not wish to unnecessarily take up time here today restating the details of the problem and therefore would refer to my full statement of the problem of March 5. However, I do think it is necessary to quickly summarize the problem.

Mr. President, Medicare payment safeguards consist of three activities:

First, reviewing all claims to make sure they are appropriate;

Second, auditing cost reports submitted by hospitals and other providers; and

Third, assuring that Medicare pays claims only after other responsible insurers have paid—this is known as the Medicare Secondary Payer Program [MSP], enacted in 1980.

Here lies the problem. Safeguard funds have been cut from $358 million in 1989 to $334 million for 1992. While the budget has been cut the program has been growing by 11 percent per year.

Also, because safeguard activities are extremely cost effective—returning a high of $30 for every $1 spent in the MSP Program to an average of $11 for every $1 spent on combined activities—these cuts have had a profound and compounded effect on program savings.

Mr. President, GAO found that Medicare contractors have MSP backlogs of claims mistakenly paid totaling over $1 billion. In addition, contractors reported 1.1 million beneficiaries who had other insurance.

When these claims are researched, an additional $1 billion could be owed to Medicare by primary insurers.

This means that over $2 billion owed to the Government may never be collected because contractors lack adequate resources.

In fact, fiscal year 1992 budget cuts have forced contractors to reduce staffing levels by over 1,000 positions. Many of these positions were in the payment safeguard area and will only further hamper efforts to recover money owed to Medicare.

Mr. President, my colleagues know that I am not one to advocate spending money just for the sake of spending it, but this is a serious and wasteful situation which can't be allowed to stand.

There is too much money at stake here to turn our backs on adequately funding these activities.

It is also clear that funding is not the only problem here.

The Health Care Financing Administration [HCFA] needs to take a more hands-on approach in implementing new and effective management controls to significantly reduce payment errors.

HCFA must also do a much better job of tracking and reporting on the status of safeguard activities. HCFA must do a better job of accounting for money that is owed and recovered as well as money that is owed and not recovered. We must be able to determine amounts outstanding at any given time.

The bill I am about to introduce today imposes new reporting requirements of HCFA which will give us a better accounting of these activities.

As for ending pay and chase I am working on the concept of a third party clearinghouse solution which I hope to introduce soon as a separate bill.

The clearinghouse would provide information on beneficiaries with primary insurance so that their claims would not be mistakenly paid out by the Medicare Program.

I hope to be back again soon to introduce this commonsense solution to the current process, which is embarrassingly wasteful.

We simply must end this impractical and wasteful practice of "pay and chase"—that is mistakenly paying a claim and having to expend valuable resources in an attempt to recover it.

Mr. President, I now want to talk about my solution of the financing and reporting aspects of this dilemma and very quickly discuss my first inclination in solving this problem.

My initial approach, and one that is still near and dear to my heart, was to establish a self-sustaining revolving fund for which all safeguard recoveries would be earmarked.

Instead of relying on the ambiguity of the appropriations process for safeguard funding, the Secretary of HHS would be given authority to use amounts in the fund to finance the next year's payment safeguard activities.

All excess money in the fund, beyond the prescribed amounts available to the Secretary for additional payment safeguard activities, would be returned to the Medicare trust funds.

Now granted, this approach would have required seed or startup money for the revolving fund—about $165 million above the fiscal year 1992 appropriation—but it would be self-sustaining in years thereafter.

However, that was not the problem I encountered in trying to sell this concept to my colleagues and others. Rather, the opposition to this approach stemmed from the belief that it would be a scoring nightmare.

This is despite the fact that precedents for scoring payment safeguard savings have been set in OBRA 89. In fact the administration scores payment safeguard savings each year in the budget request they sent to Congress.

Furthermore, Congress enacted a revolving fund for the Department of Veterans Affairs to collect third party payment as the Medicare Secondary Payer Program is required to do.

I still believe that this approach provides the most integrity from a budget perspective because contractors would have to generate results in order to have future funds available.

However, because of the opposition I encountered to this approach, I began to consider alternatives.

And, Mr. President, that is why I am here today—to introduce the Medicare Funds Recovery Act of 1992—an alternative to the revolving fund concept—which would provide the much-needed stability in the Medicare safeguard budget and insure the recovery of money owed to the taxpayer.

My legislation:

Establishes payment safeguard activities as a separate line item within the Medicare contractors operations budget to protect these funds from being used for other purposes by HCFA.

Removes Medicare payment safeguards from the discretionary budget spending caps—this is modeled after a budget enforcement act provision which allows for higher funding levels of IRS enforcement efforts.

Mr. President, this makes good sense because of the similarities between IRS enforcement and Medicare payment safeguards.

One might argue that this feature should then be extended to all entitlements; however, I would argue that Medicare is the priority because of its size and because of the amount of money being lost each year.

This provision would restore budget cuts sustained since they began in 1989 and for fiscal years after 1993 would allow the budget to be increased by the growth in the CPI.

These funds are essential so that contractors could add the staff necessary to initiate recovery of the up to $2 billion outstanding. These funds would also allow contractors to keep pace with a claims workload which is growing by 11 percent per year.

Furthermore, my bill:

Requires that the President's budget include a separate detailed explanation of Medicare payment safeguard activities expenditures and projections of savings to be generated by each safeguard activity.

And finally, the legislation requires the Secretary to submit an annual report to Congress identifying the actual costs avoided via safeguards, the actual sums recovered which were inappropriately paid, and amounts identified as owed to Medicare but not recovered.

Mr. President, I urge my colleagues to focus on this easily preventable wasteful situation in the Medicare Program and to support my legislation.

Even in good budgetary times, we simply can't afford to waste several billion dollars, especially when it is needed to pay rapidly escalating Medicare claims.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2337

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicare Funds Recovery Act of 1992".

SEC. 2. MEDICARE SAFEGUARD ACTIVITIES.

Section 251(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended by the Budget Enforcement Deficit Control Act of 1990 (2 U.S.C. 901(b)(2)), is amended—

(1) by redesignating subparagraph (F) as subparagraph (G), and

(2) by inserting after paragraph (E) a new subparagraph as follows:

"(F) MEDICARE PAYMENT SAFEGUARD FUNDING.—(i) To the extent that appropriations are enacted that provide additional new budget authority or result in additional outlays (as compared with the CBO revised baseline constructed in March 1991) for medicare payment safeguard activities in—

"(aa) fiscal year 1993 the adjustments for that fiscal year shall be an amount equal to the medicare payment safeguard activities outlays in fiscal year 1989 multiplied by a fraction the numerator of which is the projected medicare benefit outlays in that year and the denominator of which is the medicare benefit outlays in fiscal year 1989; and

"(bb) fiscal years after fiscal year 1993, the adjustments for that fiscal year shall be an amount equal to the medicare payment safeguard activities outlays in the previous fiscal year increased by an amount equal to the outlays in the previous fiscal year multiplied by a percentage equal to the projected consumer price index for the current fiscal year.

"(ii) For purposes of this subparagraph, medicare payment safeguard activities include medical and utilization reviews, provider audits, medicare secondary payer activities, and other activities undertaken to prevent waste, fraud, and abuse.".

SEC. 3. BUDGET TREATMENT OF FUNDING.

(a) SEPARATE BUDGET LINE ITEM.—

(1) IN GENERAL.—The President's budget shall include medicare payment safeguard activities funding as a separate account.

(2) DEFINITION.—For purposes of this subsection, the term "account" has the same meaning given to such term in section 250(c)(11) of the Balanced Budget and Emergency Deficit Control Act of 1985.

(b) PRESIDENT'S BUDGET.—Section 1105(a) of title 31, United States Code, is amended by adding at the end thereof the following:

"(27) a separate detailed explanation of medicare payment safeguard activities expenditures and projections of expected revenues from amounts recovered under rules under title XVIII of the Social Security Act relating to medicare secondary payer activities, provider audits, medical and utilization reviews, and waste, fraud, and abuse.".

SEC. 4. ANNUAL REPORT ON MEDICARE PAYMENT SAFEGUARD ACTIVITIES.

Not later than January 1 of 1993 and each subsequent year, the Secretary of Health and Human Services shall submit a report to the Committee on Finance of the Senate and the Committees on Ways and Means and Energy and Commerce of the House of Representatives identifying the actual costs avoided and sums recovered and amounts identified as owed to Medicare but not recovered in the previous fiscal year as a result of medicare payment safeguard activities (as defined in section 251(b)(2)(F)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985, as added by section 2 of this Act) and the management initiatives taken to recover claims and reduce payment errors under the medicare program.

By Mr. PELL:

S. 2338. A bill to amend the Foreign Assistance Act of 1961 with respect to the activities of the Overseas Private Investment Corporation; to the Committee on Foreign Relations.

OVERSEAS PRIVATE INVESTMENT CORPORATION AMENDMENTS ACT OF 1992

• Mr. PELL. Mr. President, by request, I introduce for appropriate reference a bill to amend the Foreign Assistance Act of 1961 with respect to the activities of the Overseas Private Investment Corporation.

This proposed legislation has been requested by the Overseas Private Investment Corporation, and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with the section-by-section analysis and the letter from the president and chief executive officer of the Overseas Private Investment Corporation to the President of the Senate, which was dated March 5, 1992.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2338

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Overseas Private Investment Corporation Amendments Act of 1992".

SEC. 2. REFORM PURPOSE; UPDATING INCOME LEVELS.

Section 231 of the Foreign Assistance Act of 1961 (22 U.S.C. 2191) is amended—

(1) in the first paragraph by inserting after "economic and social development of" the following: "emerging democracies, free market economies and;"

(2) in paragraph (2) of the second undesignated paragraph—

(A) by striking out "$984 or less in 1986 United States dollars" and inserting in lieu thereof "$1,091 or less in 1989 United States dollars"; and

(B) by striking out "$4,269 or more in 1986 United States dollars" and inserting in lieu thereof "$4,734 or more in 1989 United States dollars".

SEC. 3. STOCK OF THE CORPORATION.

Section 232 of the Foreign Assistance Act of 1961 (22 U.S.C. 2192) is amended to read as follows:

"Sec. 232. Capital of the Corporation.—The Secretary of the Treasury shall hold the capital stock of the Corporation."

SEC. 4. REVISIONS TO PILOT EQUITY PROGRAM.

Section 234(g) of the Foreign Assistance Act of 1961 (22 U.S.C. 2194(g)) is amended as follows:

(1) Subsection (1) is amended—

(A) by striking out "4-year pilot program" and inserting in lieu thereof "pilot program to terminate on September 30, 1997", and

(B) by striking out "(5)" and inserting lieu thereof "(4)";

(2) Subsection (2)is deleted and paragraphs (2) through (6) are redesignated as paragraphs (2) through (5), respectively; and

(3) FUNDING AUTHORITY.—Subsection (4) as so redesignated is amended to read as follows:

"(4) CREATION OF FUND FOR ACQUISITION OF EQUITY.—The Corporation is authorized to establish a fund to be available solely for the purposes specified in this subsection and to make transfers to the fund of a total of $45 million from its income, revenues, and other funds transferred to the Corporation for such purposes. Purchases of, investments in, and other acquisitions of equity from the fund are authorized for any fiscal year only to the extent or in such amounts as are provided in advance in appropriations acts or are transferred to the Corporation pursuant to section 632 (b) of this Act."

SEC. 5. RAISING CEILING ON INVESTMENT GUARANTIES.

Section 235(a)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2195(a)(2)) is amended by striking out "$1,500,000,000" and inserting in lieu thereof "$3,500,000,000".

SEC. 6. EXTENDING ISSUING AUTHORITY.

Section 235(a)(6) of the Foreign Assistance Act of 1961 (22 U.S.C. 2195(a)(6) is amended by striking out "1992" and inserting in lieu thereof "1997".

SEC. 7. CONFORMING AMENDMENTS FOR CREDIT REFORM.

(a) Section 235 of the Foreign Assistance Act of 1961 (22 U.S.C. 2195) is amended—

(1) the section caption is amended by striking out "Fund" and inserting in lieu thereof "Loans";

(2) in subsection (a)—

(A) in paragraph 2 by inserting after "Acts in the second sentence, the following: "pursuant to section 504(b) of the Federal Credit Reform Act of 1990";

(B) in paragraph (4) by striking "and (b)";

(C) in paragraph (4) by inserting after "expenses" the following: "For non-credit activities. There are authorized to be appropriated to the Corporation such amounts as may be necessary for operating and administrative expenses for credit activities, which amounts may be transferred to and merged with funds for such expenses for non-credit activities"; and

(D) by striking paragraphs (3) and (5) and redesignating paragraphs (4) and (6) as paragraphs (3) and (4), respectively; (3) in subsection (b), to read as follows:

"(b) Direct investment loans are authorized for any fiscal year only to the extent or in such amounts as provided in advance in appropriation Acts pursuant to section 504(b) of the Federal Credit Reform Act.";

(4) in subsection (c), to read as follows:

"(c) The Corporation shall maintain an insurance reserve. Such reserve shall be available for the discharge of liabilities, as provided in subsection (d) of this section, until such time as all such liabilities have been discharged or have expired or until such reserve has been expended in accordance with the provisions of this section. The insurance reserve shall consist of (1) any funds in the insurance reserve of the Corporation on the effective date of this Act, (2) amounts transferred to the reserve pursuant to section 236(b) of this Act, and (3) such sums as are appropriated pursuant to subsection (e) of this section for such purposes.";

(5) in subsection (d)—

(A) by striking out "(f)" in the first sentence and inserting in lieu thereof "(e)"; and

(B) by striking out all that follows after "shall be paid" in the second sentence and inserting in lieu thereof "in accordance with the Federal Credit Reform Act of 1990.";

(6) by striking subsection (e) and redesignating subsection (f) as subsection (e); and

(7) in subsection (e) as redesignated in the first sentence—

(A) by striking out "and guaranty fund" and inserting in lieu thereof "reserve";

(B) by striking ", reinsurance, or guaranties" and inserting in lieu thereof "or reinsurance";

(C) by striking "guaranty" after "predecessor"; and

(b) Section 236 of the Foreign Assistance Act of 1961 (22 U.S.C. 2196) is amended—

(1) by inserting after "earned by the Corporation," the following: "in relation to noncredit activities,";

(2) in subsection (b)—

(A) by striking out "or guaranty reserves, the Direct Investment Fund established pursuant to section 235," and inserting in lieu thereof "reserve"; and

(B) by inserting after "determine" the following ", subject to the provisions of the Federal Credit Reform Act of 1990";

(c) Section 237(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2197(d)) is amended to read as follows:

"(d)(1) Fees may be charged for providing insurance, reinsurance, guaranties, financing, and other services under this chapter in amounts to be determined by the Corporation. In the event fees charged for insurance, reinsurance, guaranties, financing or other services are reduced, fees to be paid under existing contracts for the same type of insurance, reinsurance, guaranties, financing or services and for similar guaranties issued under predecessor guaranty authority may be reduced.

"(2) For credit transactions covered by the provisions of the Federal Credit Reform Act of 1990, project-specific transaction costs relating to loan obligations or loan guaranty commitments, including but not limited to project related travel and outside legal expenses, shall be considered cash flows from the Government resulting from direct loan obligations or loan guaranty commitments and shall be paid out of the appropriate financing account established pursuant to section 505(b) of such Act.

"(3) Fees paid for the project-specific transaction costs and other direct costs associated with services provided to specific investors or potential investors pursuant to section 234 (other than those covered in subsection (d)(2) of this section), including financing, insurance, reinsurance, missions, seminars, conferences, and other pre-investment services, shall be available for obligation for the purposes for which they were collected."; and

(d) Section 237 of the Foreign Assistance Act of 1961 (22 U.S.C. 2197) is amended by inserting the following new subsection: "(n) Loans, guaranties, or investments made with funds received in foreign currency by the Corporation as a result of activities conducted pursuant to section 234(a) of this Act, shall not be considered in determining whether the Corporation has made or has outstanding loans, guaranties, or investments to the extent of any limitation on obligations, commitments, and equity investment imposed by or pursuant to this Act. The provisions of section 504(b) of the Federal Credit Reform Act of 1990 shall not apply to direct loan obligation or loan guarantee commitments made with funds described in this subsection."

SEC. 8. PENALTIES FOR FALSE STATEMENTS.

Section 1014 of title 18, United States Code (18 U.S.C. 1014), is amended by inserting "Overseas Private Investment Corporation," immediately after "the Farm Credit System Insurance Corporation,".

SECTION-BY-SECTION ANALYSIS OF THE PROPOSED OVERSEAS PRIVATE INVESTMENT CORPORATION AMENDMENTS ACT OF 1992

I. INTRODUCTION

The proposed Overseas Private Investment Corporation Amendments Act of 1992 (hereafter referred to as the Bill) would amend the Foreign Assistance Act of 1961, as amended (hereafter referred to as the Act) in order to extend the authority of the Corporation to issue investment insurance and guaranties and to make certain changes in existing programs and policies.

II. PROVISIONS OF THE BILL

Section 1—Short title

This section provides that the Bill may be cited as the "Overseas Private Investment Corporation Amendments Act of 1992".

Section 2—Updating purpose and income levels

This section updates the purpose of the Overseas Private Investment Corporation (OPIC) to expand the focus of OPIC's operations beyond friendly developing countries to include emerging democracies and economies in transformation to market-oriented systems, as in Central and Eastern Europe.

It also continues the practice of updating for inflation the country per capita income levels established for which OPIC gives preferential consideration (less developed countries) or restricts its activities (higher income developing countries).

Section 3—Stock of the corporation

This section states that the Secretary of the Treasury shall hold OPIC's capital stock. The language updates section 232 of current law by striking the reference to OPIC's start-up capital and initial issuance of stock.

Section 4—Equity financing program

This section extends the authority of the pilot equity program until September 30, 1997, and removes geographic restrictions on the program. In addition, this provision authorizes funding to $45 million as a transfer from OPIC's non-credit income and revenues or transfers to OPIC under authorities provided under the Act.

Section 5—Raising ceiling on investment guaranties

This section raises the ceiling on OPIC's investment guaranty authority from $1.5 billion to $3.5 billion. As of September 30, 1991, the aggregate amount of investment guaranties authorized or committed totaled $1.02 billion. OPIC's annual guaranty authority has been increased to meet the growing demand for OPIC guaranties. The new ceiling of $3.5 billion would allow the Corporation to operate the investment guaranty program at the increased levels expected through the term of the proposed reauthorization.

Section 6—Extending issuing authority

This section extends the authority of OPIC to issue investment insurance and guaranties until September 30, 1997.

Section 7—Conforming amendments for credit reform

This section contains technical language to conform existing law to the provisions of the Federal Credit Reform Act of 1990 and to simplify handling of the separate accounts that would be required for common overhead and other administrative expenses. A new subsection is added clarifying OPIC's authority to expend funds in the financing accounts established pursuant to the Federal Credit Reform Act for project-related transactional costs. (At the same time, language is added also clarifying OPIC's authority to apply fees collected for the direct costs associated with its non-credit related investor-specific activities as well as its conferences and seminars.) This section would also clarify the relationship to credit reform of OPIC's authority to protect the value of local currency received as salvage on insurance claims by reinvesting such local currency in the local economy.

Section 8—Penalities for false statements

This section enhances OPIC's authority to reduce loan losses by expanding OPIC'S authority to pursue borrowers who make fradulent statements to induce OPIC to lend funds. OPIC would be added to the list of U.S. agencies authorized under Title 18 to seek special criminal penalties against borrowers who knowingly make false statements in the course of applying for assistance.

Overseas Private
Investment Corporation,
Washington, DC, March 5, 1992.

Hon. Dan Quayle,
President of the Senate,
Washington, DC.

Dear Mr. President: Attached is draft legislation "To amend the Foreign Assistance Act of 1961 with respect to the activities of the Overseas Private Investment Corporation."

The Office of Management and Budget advises that there is no objection to the submission of this proposal to Congress and that its enactment would be in accord with the President's program.

PURPOSE OF THE LEGISLATION

In the twenty years of its existence, the Overseas Private Investment Corporation (OPIC) has helped encourage American private investment overseas in order to improve U.S. competitiveness, create American jobs, and increase U.S. exports while assisting with the economic development of the host country.

The dramatic changes taking place around the world have focused even greater attention on the opportunties for private investment to assist the economies of developing countries and emerging democracies. This legislative proposal will strengthen and reauthorize for five years OPIC's increasingly important investment insurance and guaranty programs.

OPIC's programs have operated since the Marshall Plan, providing loans and political risk insurance to American companies expanding into new markets throughout the developing world. Operating on a self-sustaining basis, OPIC has become a very important tool in U.S. trade and foreign policy.

OPIC is one of the real success stories among U.S. Government programs. OPIC programs create U.S. jobs and promote U.S. exports. The projects OPIC supported just since 1988 are producing $5.4 billion in U.S. exports over a five-year period and supporting 63,700 person-years of U.S. employment. OPIC does not promote, finance or insure projects which could have a negative impact on U.S. employment or the host country environment.

OPIC is run on a sound financial basis. Since its establishment in 1971, OPIC programs have been run profitably each year, and OPIC has returned to the U.S. Treasury its original start-up funds of $106 million. Net profit in FY 1991 reached a record $150 million bringing total reserves as of September 30, 1991 to more than $1.7 billion, or 45 percent of outstanding contingent liabilities. OPIC management is implementing aggressively the new credit reform law. In fact, OPIC credit administration policies and procedures have long embodied the principles of credit reform.

In focusing on the needs of developing countries and emerging democracies, traditional government aid alone is not sufficient. Private sector investment is becoming the major engine of development around the world and will be key, for example, to securing the free market economies that will be the underpinning of the emerging democracies in Central and Eastern Europe. There is, however, significant international competition from all countries whose businesses are also seeking new markets and export and investment opportunities.

The challenge to OPIC is to be there to help U.S. business compete in this international marketplace. As President Bush has said, "American business can out-think, outwork, out-perform any nation in the world. But we can't beat the competition if we don't get in the ball game." OPIC is there to help equip American businesses, large and small, that want to compete in this rapidly changing world.

The central purpose of the proposed legislation is to extend OPIC's current operating authority for five years, with minimal structural changes. There are, however, two important new initiatives which merit special attention, as follows:

ENCOURAGING GREATER PARTICIPATION BY SMALL BUSINESS

To improve OPIC's assistance to U.S. small businesses and cooperatives, the proposal removes the present geographic limitations on OPIC's equity financing program. This would significantly expand OPIC's ability to increase small business participation in international trade and investment. This program provides small amounts of capital to projects, particularly those sponsored by small business, that are unable to arrange other financing.

STRENGTHENING SOUND FINANCIAL PRACTICES

To strengthen OPIC's excellent record of minimal losses, the proposed bill enhances OPIC's ability to pursue borrowers who make fraudulent statements to induce OPIC to lend funds. OPIC is seeking the ability to use special criminal penalties, identical to those available to certain other U.S. agencies, against borrowers who knowingly make false statements in the course of applying for assistance. This sends a clear message that while aggressively promoting private investment in developing countries and emerging democracies, OPIC will be financially conservative and tenacious in seeking repayment by borrowers.

I strongly urge that Congress enact this legislation on a timely basis to promote the international competitive position of U.S. private enterprise, increase American exports and create U.S. jobs, as well as foster economic growth in developing countries and emerging democracies.

Sincerely,

Fred M. Zeder,
President and
Chief Executive Officer.•

By Mr. DODD:

S. 2339. A bill to establish a program to provide child care through public-private partnerships, and for other purposes; to the Committee on Labor and Human Resources.

CHILD CARE PUBLIC-PRIVATE PARTNERSHIP ACT OF 1992

• Mr. DODD. Mr. President, today I am introducing the Child Care Public-Private Partnership Act of 1992. This bill addresses an area of grave concern to working parents and their employers.

It is no secret that America is no longer a country where the father is the sole breadwinner for the family and the mother stays at home and bakes bread for their 2.2 children. Today, 63 percent of mothers who are married are in the work force. Most of these women say they work because they must in order to meet the economic needs of their family. An increasing number of households are headed by one parent, and more than half of all single mothers are in the work force. In Connecticut alone, that translates to more than 300,000 children who need child care. Finding quality child care is a task that parents all over America agonize over, particularly in the case of very young children. In my own State of Connecticut, nearly 40 percent of children under the age of 3 require child care outside the home. To add to the burden, these parents must find quality care that is also convenient and affordable. It is a source of great frustration to parents everywhere. And parents are not alone in this frustration.

In 1990, Congress responded to these concerns. The landmark Child Care and

Development Block Grant Program now provides significant funds to States to assist families with the costs of child care services and to improve the quality of child care services. That block grant is a solid foundation upon which we must build further, given the tremendous need of working parents. The legislation which I am introducing today encourages businesses to become even more involved.

Certainly, businesses are demonstrating a real concern about the issue of child care. They increasingly recognize the importance of the relationship between work and family. Companies now view corporate policies and practices that address work and family issues as essential to attracting and keeping employees, improving productivity, improving their competitiveness within the industry, and as being necessary to competing successfully in a global economy.

In the past few years, we have seen some very important and innovative efforts undertaken by business. For example, we have seen companies providing on site child care, revolving loan funds used to create, expand, and improve child care centers, and business-funded training to child care providers. Connecticut has been the site of many such innovations.

One of the most promising developments I have seen in recent years is the growth of public-private partnerships. The Committee on Labor and Human Resources Subcommittee on Children, Family, Drugs and Alcoholism, which I chair, held hearings yesterday on various public-private partnerships that are in place around the country. We heard from groups like the Danbury Schools and Business Collaborative in Danbury, CT. They have a very effective partnership which brings the business community together with the teachers and students, under the direction of the school board in an effort to improve the public schools and assist individual students. I am encouraged by the power of this type of partnership and believe that we should create more opportunities for it to work. We especially ought to harness that interest to address the compelling issue of inadequate child care resources. It is for this reason that I have introduced the Child Care Public-Private Partnership Act of 1992.

This bill would authorize the Secretary of the Department of Health and Human Services to make grants: first, to businesses to pay startup costs for child care services to provide additional child care services to their employees; and second, to nonprofit organizations to provide technical assistance to such businesses. Grantees must provide matching funds equal to 200 percent of the amount of the grant funds. The Federal Government would be providing $25 million annually in much needed seed money to spur private investment—and investment that clearly has payoffs for everyone concerned.

Mr. President, child care services funded through this bill must be affordable an available to low- and moderate-income employees. These are the employees who have the fewest options for child care, and accordingly resources should be steered in that direction. In addition, the bill gives priority to businesses that have fewer than 100 full-time employees because small businesses often do not have the resources available to them that large businesses do.

This legislation by itself will not resolve the crisis in child care, but it is an important step that we must take to complement what we began with the child care and development block grant. Public-private partnerships are a proven way to combine the strengths of government and the private sector. This bill will provide resources to those who need them most—low to moderate-income parents. It will in turn benefit the small businesses for which they work by enabling them to offer competitive work and family programs which attract and keep good employees, and increase their productivity. It is a small step that will make a big difference.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2339

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Child Care Public-Private Partnership Act of 1992".

SEC. 2. ESTABLISHMENT OF BUSINESS INCENTIVE GRANT PROGRAM.

The Secretary of Health and Human Services shall establish a program to make grants to—

(1) businesses and consortia—

(A) to pay start-up costs incurred to provide child care services; or

(B) to provide additional child care services;

needed by the employees of such businesses; and

(2) nonprofit business organizations to provide technical information and assistance to enable businesses to provide child care services.

SEC. 3. ELIGIBILITY TO RECEIVE GRANTS.

To be eligible to receive a grant under section 2, a business, nonprofit business organization, or consortium shall submit to the Secretary an application in accordance with section 4.

SEC. 4. APPLICATION.

The application required by section 3 shall be submitted by a business, nonprofit business organization, or consortium at such time, in such form, and containing such information as the Secretary may require by rule, except that such application shall contain—

(1) an assurance that the applicant shall expend, for the purpose for which such grant is made, an amount equal to not less than 200 percent of the amount of such grant;

(2) an assurance that such applicant will expend such grant for the use specified in paragraph (1) or (2) of section 2, as the case may be;

(3) an assurance that such applicant will employ strategies to ensure that child care services provided by such applicant, or provided with the technical information and assistance made available by such applicant, are provided at affordable rates, and on an equitable basis, to low- and moderate-income employees;

(4) an assurance that such applicant—

(A) in the case of a business or consortium, will comply with all State and local licensing requirements applicable to such business or consortium concerning the provision of child care services; or

(B) in the case of a nonprofit business organization, will employ procedures to ensure that technical information and assistance provided under this Act by such business organization will be provided only to businesses that provide child care services in compliance with all State and local licensing requirements applicable to child care providers in such State; and

(5) in the case of a business or consortium, an assurance that if the employees of such applicant do not require all the child care services for which such grant and the funds required by paragraph (1) are to be expended by such applicant, the excess of such child care services shall be made available to families in the community in which such applicant is located.

SEC. 5. SELECTION OF GRANTEES.

For purposes of selecting applicants to receive grants under this Act, the Secretary shall give priority to businesses that have fewer than 100 full-time employees. To the extent practicable, the Secretary shall—

(1) make grants equitably under this Act to applicants located in all geographical regions of the United States; and

(2) give priority to applicants for grants under section 2(1).

SEC. 6. DEFINITIONS.

As used in the Act:

(1) BUSINESS.—The term "business" means a person engaged in commerce whose primary activity is not providing child care services.

(2) CHILD CARE SERVICES.—The term "child care services" means care for a child that is—

(A) provided on the site at which a parent of such child is employed or at a site nearby in the community; and

(B) subsidized at least in part by the business that employs such parent.

(3) CONSORTIUM.—The term "consortium" means 2 or more businesses acting jointly. A consortium may also include a nonprofit private organization.

(4) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this Act $25,000,000 for each of the fiscal years 1992, 1993, 1994, and 1995.●

By Mr. D'AMATO (for himself, Mr. MCCAIN, and Mr. SPECTER):

S. 2340. A bill to require the transfer of certain closed military installations to the Department of Justice, to transfer certain aliens to such installations, to provide grants to States to assist States and units of local government in resolving certain difficulties relating to the incarceration of certain aliens, and for other purposes; to the Committee on the Judiciary.

THE CRIMINAL ALIEN AND PRISON OVERCROWDING ACT

• Mr. D'AMATO. Mr. President, I rise today to introduce the Criminal Alien and Prison Overcrowding Act, together with my colleagues, Senators MCCAIN and SPECTER. Congressman SCHUMER is introducing the House comparison bill, with a number of other Congressmen.

The problem of criminal aliens crowding our prisons grows worse by the day. According to the Immigration and Naturalization Service [INS], more than 41,000 foreign-born criminals are now incarcerated in State prisons. I ask unanimous consent that the full text of the Criminal Alien and Prison Overcrowding Act, together with a copy of INS' State-by-State breakdown of foreign-born State prison inmates, be printed in their entirety immediately following my remarks.

In hearings before the House Subcommittee on Immigration, Refugees, and International Law in 1989, the General Accounting Office [GAO] testified that over 72,000 aliens will be arrested yearly on felony drug charges. GAO added that about 20 percent of the total prison population—600,000—or about 120,000 prisoners are deportable.

The Criminal Alien and Prison Overcrowding Act has two basic provisions: First, it provides for the transfer of three closed military bases to the Justice Department for the detention of criminal and excludable aliens; and second, it authorizes $100 million annually in grants to State and local governments to help them cope with the enormous cost of housing criminal aliens in their prisons and jails.

The Federal Government's failure to shoulder its responsibility in this area has had a totally predictable result. Again and again, deportable criminal aliens are released on bond, fail to appear for their deportation hearings, and abscond onto our streets, where they add to the Nation's drug and violent crime epidemic. This is nothing less than a public safety emergency, the response to which must include expanded Federal, State, and local prison and jail capacity. For this reason, I urge my colleagues to cosponsor the Criminal Alien and Prison Overcrowding Act.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2340

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Short Title: The Criminal Alien and Prison Overcrowding Act.

SECTION 1. TRANSFER OF CERTAIN CLOSED MILITARY INSTALLATIONS TO THE DEPARTMENT OF JUSTICE.

Notwithstanding any other provision of law, the Secretary of Defense shall transfer to the jurisdiction of the Department of Justice three military installations that are closed pursuant to a base closure law and that the Attorney General determines, after consultation with appropriate State, local, and community authorities, to be suitable for the detention of excludable aliens and aliens incarcerated in State prison.

SEC. 2. TRANSFER OF CERTAIN ALIENS TO CLOSED MILITARY INSTALLATIONS.

(a) TRANSFER OF ALIENS INCARCERATED IN STATE PRISON.—(1) Subject to subsection (b), the Attorney General shall enter into an agreement with the appropriate officials of each State for the transfer of the number of excludable aliens and aliens incarcerated in State prison in such State which bears the same ratio to the number of all such aliens in the United States to the military installations referred to in section 1.

(b) MINIMUM REQUIREMENTS.—The Attorney General shall ensure that space for not less than 4,500 is available to incarcerate aliens transferred under paragraph (1).

SEC. 3. DEFINITIONS.

In sections 1 and 2 of this Act:

(1) The term "military installation" has the meaning given such term in section 2687(e)(1) of title 10, United States Code.

(2) The term "base closure law" means the following:

(A) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 102-510; 10 U.S.C. 2687 note).

(B) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note).

(C) Section 2687 of title 10, United States Code.

(3) The term "aliens incarcerated in State prison" means any alien who is excludable, deportable, or without documentation under the United States immigration laws and who is incarcerated in the prison of a State.

(4) The term "excludable alien" means any alien who is within the United States in violation of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)).

SEC. 4. GRANTS TO STATES RELATING TO THE INCARCERATION OF CERTAIN ALIENS.

(a) GRANT PROGRAM.—Part F of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3769 et seq.) is amended—

(1) by inserting after the matter relating to the part head the following:

"Subpart 1—Criminal Justice Facilities"; and

(2) by adding at the end the following new subpart:

"Subpart 2—Incarceration of Certain Aliens

"GRANTS

"SEC. 611. The Director shall make grants to States to assist States and units of local government in relieving the burden placed on the correctional facilities of such States and units of government as a result of alien criminals incarcerated in State correctional facilities. The Director shall make such grants in accordance with this subpart.

"ELIGIBILITY FOR GRANTS

"SEC. 612. (a) A State shall be eligible to receive a grant under this subpart in any fiscal year in which such grants are made if—

"(1) the Governor of the State submits to the Director an application for the grant in accordance with this section; and

"(2) the Director determines that the application meets the requirements referred to in subsection (b).

"(b) An application submitted under this section shall include—

"(1) a statement by the Governor of the number of alien criminals incarcerated in State correctional facilities in such State; and

"(2) such other information as the Director may reasonably require.

"(c) The Governor shall submit an application—

"(1) in fiscal year 1993, not later than 60 days after the date on which the Director prescribes regulations under this subpart; and

"(2) in each of fiscal year 1994 and 1995, not later than 60 days after the date on which funds are appropriated or otherwise made available for the respective fiscal year for grants under this subpart.

"AMOUNT OF GRANTS

"SEC. 613. (a) In each fiscal year in which funds are appropriated or otherwise made available for grants under this subpart, the Director shall determine—

"(1) the number of alien criminals incarcerated in State correctional facilities in each State for which an application is submitted under section 612; and

"(2) the total number of such aliens in all States for which applications are submitted under such section.

"(b) In each fiscal year in which funds are appropriated or otherwise made available for the respective fiscal year for grants under this subpart the Director shall allot to each participating State an amount which bears the same ratio to the number of excludable aliens and aliens incarcerated in State prisons in such State (as determined under subsection (a)(1) to the total number of such aliens in all States (as determined under subsection (a)(2)).

"REGULATIONS

"SEC. 614. The Director shall prescribe regulations under this subpart not later than 90 days after enactment.

"DEFINITIONS

"SEC. 615. As used in this subpart—

"(1) 'Alien criminals incarcerated in State correctional facilities' means aliens convicted of crimes under State or local law of such State and incarcerated in correctional facilities of the State or unit of local government of the State (other than in any Federal correctional facilities located within the State).

"(2) 'Governor' means the Governor or chief executive officer of a State, as the case may be.".

(b) CONFORMING AMENDMENTS.—(1) The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended—

(A) by inserting after the item relating to part F the following new item:

"SUBPART 1—CRIMINAL JUSTICE FACILITIES"; and

(B) by inserting after the item relating to 606 the following new matter:

"SUBPART 2—INCARCERATION OF CERTAIN ALIENS

"Sec. 611. Grants.
"Sec. 612. Eligibility for grants.
"Sec. 613. Amounts of grants.
"Sec. 614. Regulations.
"Sec. 615. Definitions."

(2) Section 601 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3769) is amended by striking "part," and inserting "subpart,".

(3) Section 602 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3769a) is amended by striking "part" each place it appears and inserting "subpart".

(4) Section 603(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3769b) is amended in the matter above paragraph (1) by striking "part" and inserting "subpart".

(5) Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793) is amended—

(A) by redesignating the last 3 paragraphs as paragraphs (7), (8), and (9); and

(B) by adding after paragraph (9) the following:

"(10) There are authorized to be appropriated $100,000,000 for each of the fiscal years 1993, 1994, and 1995 to carry out the grant program established under subpart 2 of part F of this title.".

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department of Justice such sums as may be necessary to carry out sections 1 and 2 of this Act, including activities relating to any construction, renovation, or other improvement of the military installations referred to in section 1 that is necessary to permit the transfer of aliens referred to in section 2.

U.S. DEPARTMENT OF IMMIGRATION AND NATURALIZATION

[Figures as of Sept. 1, 1991]

State	Total	Foreign
Alabama	16,545	9
Alaska	2,546	27
Arizona	14,941	456
California	101,616	17,411
Colorado	8,284	352
Connecticut	10,739	58
Delaware	3,64	857
District of Columbia	1,694	4
Florida	46,474	2,484
Georgia	23,519	84
Hawaii	2,415	126
Idaho	2,041	68
Illinois	28,793	1,362
Indiana	17,226	84
Iowa	4,100	16
Kansas	5,694	170
Kentucky	9,580	40
Louisiana	14,844	165
Maine	1,664	18
Maryland	18,316	146
Massachsetts	8,835	545
Michigan	35,501	394
Minnesota	3,423	84
Mississippi	8,780	44
Missouri	15,305	164
Montana	1,329	8
Nebraska	2,504	35
Nevada	5,960	400
New Hampshire	1,655	67
New Jersey	18,568	658
New Mexico	3,154	176
New York	57,636	7,151
North Carolina	18,642	15
North Dakota	565	4
Ohio	34,548	110
Oklahoma	13,308	143
Oregon	6,520	93
Pennsylvania	22,965	387
Rhode Island	2,249	193
South Carolina	16,684	28
South Dakota	1,394	19
Tennessee	14,191	31
Texas	49,918	4,998
Utah	2,598	71
Vermont	1,050	25
Virginia	16,474	753
Washington	8,960	620
West Virginia	1,739	2
Wisconsin	7,481	183
Wyoming	973	23

Source: State Department of Corrections.•

By Mr. CRANSTON (for himself, Mr. D'AMATO, Mr. SARBANES, Mr. KERRY, Mr. LIEBERMAN, and Mr. AKAKA):

S. 2341. A bill to provide for the assessment and reduction of lead-based paint hazards in housing; to the Committee on Banking, Housing, and Urban Affairs.

RESIDENTIAL LEAD-BASED PAINT HAZARD REDUCTION ACT

• Mr. CRANSTON. Mr. President, today I am pleased to introduce the Residential Lead-Based Paint Hazard Reduction Act of 1992, a bill designed to expand significantly the commitment of the Federal Government to reduce and eliminate lead-based paint hazards in older homes.

Lead poisoning is the most serious environmental health problem facing America's children today. The Centers for Disease Control now considers over 3 million American children to have unsafe levels of lead in their blood—17 percent of all children under the age of 6. In some inner city communities, the percentage of poisoned children exceeds 75 percent—virtually an entire generation affected by this debilitating disease.

Even low levels of lead poisoning can permanently damage the physical, emotional and mental development of a child. A victim can suffer irreversible learning and reading disabilities, reduced IQ, shortened attention span, hyperactivity and hearing loss. The societal effects are devastating—lower educational achievement, higher dropout rates, and diminished economic competitiveness. It is becoming abundantly clear that national efforts to rebuild our communities, improve our schools, halt drug abuse and motivate students to succeed will be frustrated unless we address the problem posed by childhood lead poisoning.

We now know that lead poisoning is caused primarily not by children eating paint chips in dilapidated buildings, but by children breathing and ingesting lead dust—generated through home renovation and through common wear and tear of household paint. In fact, the simple act of a child touching a windowsill and then placing his hand in his mouth—an act repeated daily countless times throughout this country—is a major conduit for ingesting lead dust.

Lead-based paint was used pervasively in America's housing stock before 1978—the year such paint was banned. Three quarters of all America's housing—57 million homes—contain lead-based paint. Contrary to ordinary expectations, lead-based paint is just as common in the homes of the rich as the poor, in owner-occupied housing as rental units.

The hazards of lead-based paint, however, are not distributed democratically throughout the housing inventory. HUD estimates that 3.8 million homes and apartments present priority risks—that is, are occupied by young children and have peeling paint, excessive amounts of lead dust, or both. Not surprisingly, these homes and apartments tend to be located in distressed, urban areas—where the housing inventory is old and deteriorating. Victims of lead poisoning are, therefore, disproportionately low-income, minority children—children whose opportunities in life are already curtailed by extreme poverty, inadequate health care, substandard housing and poor schools. Yet children of any race or income strata are put at risk when lead-based paint is disturbed during the renovation of their homes unless proper precautions are taken.

We have reached a watershed mark in the national response to childhood lead poisoning. After years of research, development and experimentation, we have learned much about how to reduce lead hazards and are learning more all the time. We have the technology to assess housing for the presence of lead hazards. We know how to remove or seal in household lead without harm to workers or future occupants. We also know of simple, inexpensive measures which can greatly reduce the risk of harm from existing lead hazards. Finally, we know the risks of do-it-yourself home renovation work and how these risks can be avoided.

Despite this significant knowledge and expertise, the Federal Government still lacks a comprehensive, coherent and cost-effective strategy to reduce the hazards of lead-based paint.

Federally owned homes—contaminated with lead-based paint hazards—continue to be sold to unsuspecting buyers. Developers across the nation continue to use federal subsidies to rehabilitate older housing and, in the process, increase the risk of exposing residents to lead hazards. And state and local governments neglect to address lead concerns when formulating their comprehensive housing affordability strategies.

Even reliable, easy to understand information for homeowners, landlords and renters—crucial to preventing lead poisonings—is unavailable in many areas of the country. Homeowners conducting self-help renovation, therefore, remain uninformed about the dangers of increasing hazards by disturbing lead-based paint.

Most significantly, the infrastructure for carrying out assessment and reduction activities—certified laboratories and contractors, trained workers, available financing and insurance—remains in an infant state. HUD estimates, for example, that only 350,000 to 500,000 homes could be tested for lead-based paint annually, given the present capacity of the industry.

Only in public housing is HUD—under persistent prodding from Congress—implementing a full scale testing and abatement program.

It is clear that some interests do not want the Federal Government to expand its efforts in the lead-based paint area. They would prefer that the problem just "go away" and not add another layer of cost and complexity to housing.

Yet, while reducing the hazards posed by residential lead-based paint is costly, doing nothing costs far more. One report by the Centers for Disease Control estimates that the social costs of medical treatment, special education and lost productivity are essentially double the cost of removing lead from contaminated homes. In addition, the proliferation of tort litigation in many parts of the nation has made liability a growing concern for owners and managers of housing, including the Federal Government.

The Residential Lead-Based Reduction Act of 1992 would take a series of immediate steps to get the Nation moving quickly on the most dangerous lead-based paint hazards—homes with deteriorating or accessible lead-based paint or high levels of lead dust that are occupied by low income families with young children.

The bill would establish a $500 million matching grant program to make the Federal Government an active partner with cities, states and the private sector to assess and reduce lead-based paint hazards in non-federal housing; require HUD to carry out an aggressive, comprehensive and cost-effective strategy to assess and reduce lead-based paint hazards in federally assisted housing; require that all homes sold by the Federal Government be lead safe; make concern for lead-based paint hazards in integral part of Federal, State, local and private housing strategies and decisions; build the capacity of private industry to assess and reduce lead-based paint hazards safely and effectively; inform potential buyers and residential tenants of the hazards of lead and of available remedial measures, give home buyers the opportunity to have lead hazard assessments performed prior to purchase, and after certain conditions are met, require lessors to perform such assessments prior to lease; and provide the public with accurate information about the nature of lead-based paint hazards and technical assistance on how to prevent them.

Several of the disclosure provisions in this bill track other legislative efforts currently underway. I want to commend the efforts of Congressman WAXMAN and Senators BURDICK, REID, LIEBERMAN, and CHAFEE for their leadership in this area. I am particularly encouraged by the cooperative relationship which has developed between the Senate Banking Committee and Environment and Public Works Committee. Clearly, success of the Federal response to childhood lead poisoning depends upon coordination between the various Congressional Committees and Federal agencies.

I intend to move this legislation as quickly as possible. On March 19, I will hold the subcommittee's second hearing on this legislation—to be attended by the leading experts in the housing, health, and environmental fields. I will refine the legislation on a bipartisan basis with other members of the Banking Committee and Senate, particularly, Senators D'AMATO, SARBANES, KERRY, LIEBERMAN, and AKAKA—all of whom have joined me today as original cosponsors.

Together, we can and we must commit the Federal Government to an aggressive, comprehensive, and cost-effective assault on the health threat imperiling our Nation's children and our Nation's future.

Mr. President, I ask unanimous consent that the bill be printed at this place in the RECORD along with a summary of the bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2341

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Residential Lead-Based Paint Hazard Reduction Act of 1992".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Purposes.
Sec. 4. Definitions.

TITLE I—RESIDENTIAL LEAD-BASED PAINT HAZARD REDUCTION

Sec. 101. Grants for lead-based paint hazard reduction in target housing.
Sec. 102. Assessment and reduction of lead-based paint hazards in Federal housing programs.
Sec. 103. Disposition of federally owned housing.
Sec. 104. Comprehensive housing affordability strategy.
Sec. 105. Assessment and reduction of lead-based paint hazards under FHA insurance programs.
Sec. 106. Task force on private sector financing of lead-based paint hazard reduction.
Sec. 107. National consultation on lead-based paint hazard reduction.

TITLE II—ASSESSMENT AND REDUCTION INFRASTRUCTURE

Sec. 201. Contractor training and certification.
Sec. 202. Certification of laboratories.
Sec. 203. Guidelines for lead-based paint assessment and reduction activities.
Sec. 204. Monitoring of lead-based paint hazard work.
Sec. 205. National clearinghouse on childhood lead poisoning.

TITLE III—PUBLIC INFORMATION AND TECHNICAL ASSISTANCE

Sec. 301. Disclosure of information concerning lead upon transfer of residential property.
Sec. 302. General notice requirements.
Sec. 303. Public awareness.
Sec. 304. Information and warning labels.
Sec. 305. Relationship to other laws.

TITLE IV—FORMULATION OF A NATIONAL STRATEGY

Sec. 401. National strategy.

TITLE V—RESEARCH AND DEVELOPMENT

Subtitle A—HUD Research

Sec. 501. Research on lead exposure from other sources.
Sec. 502. Testing technologies.
Sec. 503. Authorization.

Subtitle B—GAO Report

Sec. 511. Insurance study.

TITLE VI—REPORTS

Sec. 601. Reports of the Secretary of Housing and Urban Development.

SEC. 2. FINDINGS.

The Congress finds that—

(1) low-level lead poisoning is widespread among American children, afflicting as many as 3,000,000 children under age 6, with minority- and low-income communities disproportionately affected;

(2) at low levels, lead poisoning in children causes intelligence quotient deficiencies, reading and learning disabilities, impaired hearing, reduced attention span, hyperactivity, and behavior problems;

(3) pre-1978 American housing stock contains more than 3,000,000 tons of lead in the form of lead-based paint, with the vast majority of homes built before 1950 containing substantial amounts of lead-based paint;

(4) the ingestion of household dust containing lead from deteriorating or abraded lead-based paint is the most common cause of lead poisoning in children;

(5) the health and development of children living in as many as 3,800,000 American homes is endangered by chipping or peeling lead paint, or excessive amounts of lead dust in their homes;

(6) the danger posed by lead-based paint hazards can be reduced by abating lead-based paint or by taking interim measures to prevent paint deterioration and limit children's exposure to lead dust and chips;

(7) despite the enactment of laws in the early 1970's requiring the Federal Government to eliminate as far as practicable lead-based paint hazards in federally owned, assisted, and insured housing, the Federal response to this national crisis remains severely limited; and

(8) the Federal Government must take a leadership role in building the infrastructure—including an informed public, State and local delivery systems, certified contractors and laboratories, trained workers, and available financing and insurance—necessary to ensure that the national goal of eliminating lead-based paint hazards in housing can be achieved as expeditiously as possible.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to reorient the national approach to the presence of lead-based paint in housing to implement, on a priority basis, a broad program to assess risk and reduce hazards in the Nation's housing stock;

(2) to encourage effective action to prevent childhood lead poisoning by establishing a workable framework for lead-based paint hazard assessment and reduction and by ending the current confusion over reasonable standards of care;

(3) to ensure that the existence of lead-based paint hazards is taken into account in the development of Government housing policies and in the sale, rental, and renovation of homes and apartments;

(4) to mobilize national resources expeditiously, through a partnership among all levels of government and the private sector, to develop the most promising, cost-effective methods for assessing and reducing lead-based paint hazards;

(5) to reduce the threat of childhood lead poisoning in housing owned or assisted by the Federal Government; and

(6) to develop a national strategy to build the infrastructure necessary to eliminate lead-based paint hazards in all housing as expeditiously as possible.

SEC. 4. DEFINITIONS.

For the purposes of this Act:

(1) ABATEMENT.—The term "abatement" means any measure designed to permanently eliminate lead-based paint hazards. Such term includes—

(A) the removal of lead-based paint and lead-contaminated dust, the permanent containment or encapsulation of lead-based paint and the replacement of lead-painted surfaces and fixtures; and

(B) all preparation, cleanup, worker protection, disposal, and postabatement clearance testing activities associated with such measures.

(2) ACCESSIBLE SURFACE.—The term "accessible surface" means a surface painted with lead-based paint that is accessible for a young child to mouth or chew.

(3) ASSESSMENT.—The term "assessment" means the evaluation of the nature and severity of lead-based paint hazards using information on the age and condition of the housing, data collected from risk assessments or inspections, and such other information as may be appropriate.

(4) CERTIFIED CONTRACTOR.—The term "certified contractor" means an inspector, worker, supervisor, contractor, or designer who has completed a training program certified by the appropriate Federal agency and in the case of an inspector, contractor, or supervisor, who has met any other requirements for certification or licensure established by such agency or who has been certified by any State whose certification program has been found by the appropriate Federal agency to be at least as rigorous as the Federal certification program.

(5) CONTRACT FOR THE PURCHASE AND SALE OF RESIDENTIAL REAL PROPERTY.—The term "contract for the purchase and sale of residential real property" means any contract or agreement in which one party agrees to purchase an interest in real property on which there is situated 1 or more residential dwellings used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of 1 or more persons.

(6) FEDERALLY ASSISTED HOUSING.—The term "federally assisted housing" means housing assisted under—

(A) section 221(d)(3) or 236 of the National Housing Act;

(B) section 101 of the Housing and Urban Development Act of 1965;

(C) section 8 of the United States Housing Act of 1937; or

(D) section 515 of the Housing Act of 1949.

(7) FEDERALLY CHARTERED SECONDARY MORTGAGE INSTITUTION.—The term "federally chartered secondary mortgage institution" means an institution chartered by law that buys mortgage loans from originating financial institutions and resells them to investors. Such term includes the Federal National Mortgage Association, the Government National Mortgage Association, and the Federal Home Loan Mortgage Association.

(8) FEDERALLY OWNED HOUSING.—The term "federally owned housing" means housing owned by a Federal agency, including the Department of Housing and Urban Development, the Farmers Home Administration, the General Services Administration, the Department of Defense, the Department of Veterans Affairs, the Department of the Interior, the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, and the Department of Transportation.

(9) FEDERALLY SUPPORTED WORK.—The term "federally supported work" means any assessment or reduction activities conducted in federally owned or assisted properties or funded in whole or in part through any financial assistance program of the Department of Housing and Urban Development, the Farmers Home Administration, or the Department of Veterans Affairs.

(10) FRICTION SURFACE.—The term "friction surface" means a surface that is subject to abrasion or friction, including certain window, floor, and stair surfaces.

(11) IMPACT SURFACE.—The term "impact surface" means an interior or exterior surface that is subject to damage by repeated impacts, for example, certain parts of door frames.

(12) INSPECTION.—The term "inspection" means a surface-by-surface investigation to determine the presence of lead-based paint.

(13) INTERIM CONTROLS.—The term "interim controls" means measures designed to temporarily reduce human exposure or likely exposure to lead-based paint hazards, including specialized cleaning, structural repairs, maintenance, painting and temporary containment.

(14) LEAD-BASED PAINT.—The term "lead-based paint" means paint or other surface coatings that contain lead in excess of limits established by the appropriate Federal agency pursuant to this Act.

(15) LEAD-BASED PAINT HAZARD.—The term "lead-based paint hazard" means any hazard to human health caused by exposure or likely exposure to lead from lead-contaminated dust, peeling paint, accessible surfaces, friction surfaces, or impact surfaces.

(16) LEAD-CONTAMINATED DUST.—The term "lead-contaminated dust" means interior house surface dust which contains an area or mass concentration of lead which may pose a threat of adverse health effects in pregnant women or young children, the concentration limits of which shall be established by the appropriate Federal agency pursuant to this Act.

(17) LEAD HAZARD REDUCTION.—The term "lead hazard reduction" means measures designed to reduce or eliminate human exposure to lead-based paint hazards through methods including interim controls and abatement.

(18) LEAD-SAFE RESIDENTIAL DWELLING.—The term "lead-safe residential dwelling" means a residential dwelling that contains no actual or potential lead-based paint hazards or one in which all lead-based paint hazards have been abated.

(19) MORTGAGE LOAN.—The term "mortgage loan" includes any loan (other than temporary financing such as a construction loan) that—

(A) is secured by a first lien on any interest in residential real property; and

(B) either—

(i) is insured, guaranteed, made, or assisted by the Department of Housing and Urban Development, the Department of Veterans Affairs, or the Farmers Home Administration, or by any other agency of the Federal Government; or

(ii) is intended to be sold by each originating mortgage institution to any federally chartered secondary mortgage market institution.

(20) ORIGINATING MORTGAGE INSTITUTION.—The term "originating mortgage institution" means a lender that provides mortgage loans, as defined by this section.

(21) PEELING PAINT.—The term "peeling paint" means any paint that is peeling, chipping, or cracking or any paint located on a surface or fixture that is damaged or deteriorated.

(22) PUBLIC HOUSING.—The term "public housing" has the same meaning given the term in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(1)).

(23) RESIDENTIAL DWELLING.—The term "residential dwelling" means—

(A) a single-family dwelling; or

(B) a single-family dwelling unit in a structure that contains more than 1 separate residential dwelling unit, and in which each such unit is used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of 1 or more persons.

(24) RESIDENTIAL REAL PROPERTY.—The term "residential real property" means real property on which there is situated 1 or more residential dwellings used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of 1 or more persons.

(25) RISK ASSESSMENT.—The term "risk assessment" means an on-site investigation to determine the existence of lead-based paint hazards, including sampling of lead contained in interior surface dust.

(26) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

(27) TARGET HOUSING.—The term "target housing" means any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any child who is less than 6 years of age resides or is expected to reside in such housing for the elderly or persons with disabilities) or any 0-bedroom dwelling.

TITLE I—LEAD-BASED PAINT HAZARD REDUCTION

SEC. 101. GRANTS FOR LEAD-BASED PAINT HAZARD REDUCTION IN TARGET HOUSING.

(a) GENERAL AUTHORITY.—The Secretary is authorized to provide grants to eligible applicants to assess and reduce lead-based paint hazards in target housing that is not federally assisted housing, federally owned housing, or public housing, in accordance with the provisions of this section.

(b) ELIGIBLE APPLICANTS.—A State or unit of local government that has an approved comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705) is eligible to apply for a grant under this section.

(c) FORM OF APPLICATIONS.—To receive a grant under this section, a State or unit of local government shall submit an application in such form and in such manner as the Secretary shall prescribe. An application shall contain—

(1) a copy of that portion of an applicant's comprehensive housing affordability strategy required by section 105(b)(16) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12701 et seq.);

(2) a description of the amount of assistance the applicant seeks under this section;

(3) a description of the planned activities to be undertaken with grants made available under this section, including an estimate of the amount to be allocated to each activity;

(4) a description of the forms of assistance to be employed in using grants made available under this section; and

(5) such assurances as the Secretary may require regarding the applicant's capacity to carry out the activities.

(d) SELECTION CRITERIA.—The Secretary shall award grants under this section on the basis of the merit of the activities proposed to be carried out and on the basis of selection criteria, which shall include—

(1) the extent to which the proposed activities will reduce the risk of lead-based paint poisoning to children under the age of 6;

(2) the extent to which the proposed activities will benefit families that meet the income limits prescribed by section 214 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12744);

(3) the degree of severity and extent of lead-based paint hazards in the jurisdiction to be served;

(4) the ability of the applicant to leverage State, local, and private funds to supplement the grant made available under this section;

(5) the ability of the applicant to carry out the proposed activities; and

(6) such other factors as the Secretary determines appropriate to ensure that grants made available under this section are used effectively and to promote the purposes of this Act.

(e) ELIGIBLE ACTIVITIES.—A grant under this section may be used to—

(1) assess target housing units for lead-based paint hazards;

(2) provide for the interim control of lead-based paint hazards;

(3) provide for the abatement of lead-based paint hazards;

(4) provide for the additional cost of abating lead-based paint hazards in units undergoing renovation funded by other sources;

(5) ensure that assessments and other activities are carried out by trained personnel;

(6) assist in the temporary relocation of families forced to vacate their housing while lead hazard reduction measures are being conducted;

(7) help educate the public on lead-based paint hazards and measures to reduce exposure to such hazards;

(8) perform periodic testing of children's blood-lead levels and lead dust levels to assure that exposure to lead-based paint hazards does not increase due to improperly conducted reduction activities; and

(9) carry out such other activities that the Secretary determines appropriate to promote the purposes of this Act.

(f) FORMS OF ASSISTANCE.—The applicant may provide the services described in this section through a variety of programs, including grants, loans, revolving loan funds, loan funds, loan guarantees, and interest write-downs.

(g) TECHNICAL ASSISTANCE.—

(1) IN GENERAL.—The Secretary shall develop the capacity of eligible applicants to carry out the requirements of section 105(b)(16) of the Cranston-Gonzalez National Affordable Housing Act and to carry out activities under this section.

(2) SET-ASIDE.—Of the total amount approved in appropriation Acts under subsection (m), there shall be set aside to carry out this subsection $2,000,000 for fiscal year 1993 and $2,000,000 for fiscal year 1994.

(h) MATCHING REQUIREMENT.—Each recipient of grants under this section shall make contributions toward the cost of activities that receive assistance under this section in an amount not less than 10 percent of the grant under this section.

(i) LIMITATION ON USE.—An applicant shall ensure that not more than 10 percent of a grant will be used for administrative expenses associated with the activities funded.

(j) FINANCIAL RECORDS.—An applicant shall maintain and provide the Secretary with financial records sufficient, in the determination of the Secretary, to ensure proper accounting and disbursing of amounts received from a grant under this section.

(k) REPORT.—An applicant under this section shall submit to the Secretary, for any fiscal year in which the applicant receives a grant under this section, a report that—

(1) describes the use of the amounts received;

(2) states the number of housing units assessed for lead-based paint hazards;

(3) states the number of housing units in which hazards have been reduced through interim controls;

(4) states the number of housing units in which hazards have been abated; and

(5) provides any other information that the Secretary determines to be appropriate.

(l) PROMULGATION OF REGULATIONS.—The Secretary shall promulgate regulations for the implementation of this section within 120 days after the date of enactment of this Act. In promulgating such regulations, the Secretary shall consult with the Administrator of the Environmental Protection Agency, the Director of the Centers for Disease Control, and national organizations that have expertise in lead-based paint hazards and their reduction.

(m) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of carrying out this Act, there are authorized to be appropriated $250,000,000 for fiscal year 1993 and $250,000,000 for fiscal year 1994.

SEC. 102. ASSESSMENT AND REDUCTION OF LEAD-BASED PAINT HAZARDS IN FEDERAL HOUSING PROGRAMS.

(a) GENERAL REQUIREMENTS.—Section 302(a) of the Lead-Based Paint Poisoning Prevention Act is amended—

(1) in the first sentence, by inserting before the period "or otherwise assisted under a federal housing program";

(2) in paragraph (1) of the second sentence, by striking "to eliminate as far as practicable immediate hazards due to the presence of accessible intact, intact and nonintact interior and exterior painted surfaces that may contain lead" and insert "to assess, reduce and eliminate as far as practicable lead-based paint hazards"; and

(3) by adding after the second sentence, the following new sentence: "Not later than January 1, 1995, such procedures shall require the assessment and reduction of lead-based paint hazards in all federally assisted housing constructed or substantially rehabilitated prior to 1978 and in all target housing that is assisted under a Federal housing program, where the level of Federal assistance exceeds $5,000.".

(b) HOME INVESTMENT PARTNERSHIPS.—Section 212(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12742) is amended by adding at the end the following new paragraph:

"(5) LEAD-BASED PAINT HAZARDS.—A participating jurisdiction may use funds provided under this subtitle for the assessment and reduction of lead-based paint hazards, as defined in section 4 of the Residential Lead-Based Paint Hazard Reduction Act of 1992.".

(c) COMMUNITY DEVELOPMENT BLOCK GRANTS.—Section 105(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)) is amended—

(1) in paragraph (19), by striking "and" at the end;

(2) in paragraph (20), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(21) lead-based paint hazard assessment and reduction, as defined in section 4 of the Residential Lead-Based Paint Hazard Reduction Act of 1992.".

(d) SECTION 8 RENTAL ASSISTANCE.—Section 8(c)(2)(B) of the United States Housing Act of 1937 is amended by adding at the end the following sentence: "The Secretary may (at the discretion of the Secretary and subject to the availability of appropriations for contract amendments for this purpose), on a project by project basis, provide adjustments to the maximum monthly rents to cover the costs of assessing and reducing lead-based paint hazards, as defined in section 4 of the Residential Lead-Based Paint Hazard Reduction Act of 1992.".

(e) HOPE FOR PUBLIC AND INDIAN HOUSING HOMEOWNERSHIP.—The United States Housing Act of 1937 is amended—

(1) in section 302(b)—

(A) by redesignating paragraphs (4) through (8) as paragraphs (5) through (9), respectively; and

(B) by inserting after paragraph (3) the following:

"(4) assessments of lead-based paint hazards, as defined in section 4 of the Residential Lead-Based Paint Hazard Reduction Act of 1992;"; and

(2) in section 303(b)—

(A) by redesignating paragraphs (4) through (13) as paragraphs (5) through (14), respectively; and

(B) by adding after paragraph (3) the following:

"(4) Reduction of lead-based paint hazards, as defined in section 4 of the Residential Lead-Based Paint Hazard Reduction Act of 1992.".

(f) HOPE FOR HOMEOWNERSHIP OF MULTIFAMILY UNITS.—The Cranston-Gonzalez National Affordable Housing Act is amended—

(1) in section 422(b)—

(A) by redesignating paragraphs (4) through (8) as paragraphs (5) through (9), respectively; and

(B) by inserting after paragraph (3) the following:

"(4) assessments of lead-based paint hazards, as defined in section 4 of the Residential Lead-Based Paint Hazard Reduction Act of 1992;"; and

(2) in section 423(b)—

(A) by redesignating paragraphs (4) through (13) as paragraphs (5) through (14), respectively; and

(B) by inserting after paragraph (3) the following:

"(4) Reduction of lead-based paint hazards, as defined in section 4 of the Residential Lead-Based Paint Hazard Reduction Act of 1992.".

(g) HOPE FOR HOMEOWNERSHIP OF SINGLE FAMILY HOMES.—The Cranston-Gonzalez National Affordable Housing Act is amended—

(1) in section 442(b)—

(A) by redesignating paragraphs (4) through (8) as paragraphs (5) through (9), respectively; and

(B) by inserting after paragraph (3) the following:

"(4) assessments of lead-based paint hazards, as defined in section 4 of the Residential Lead-Based Paint Hazard Reduction Act of 1992;"; and

(2) in section 443(b)—

(A) by redesignating paragraphs (4) through (10) as paragraphs (5) through (11), respectively; and

(B) by inserting after paragraph (3) the following:

"(4) Reduction of lead-based paint hazards, as defined in section 4 of the Residential Lead-Based Paint Hazard Reduction Act of 1992.".

(h) FHA INSURANCE FOR SINGLE FAMILY HOMES.—

(1) HOME IMPROVEMENT LOANS.—Section 2(a) of the National Housing Act is amended in the fourth paragraph—

(A) by inserting after the first sentence the following: "Alterations, repairs, and improvements upon or in connection with existing structures may also include the assessment and reduction of lead-based paint hazards."; and

(B) by adding at the end the following:

"(4) the terms 'assessment', 'lead hazard reduction', and 'lead-based paint hazard' have the same meanings given those terms in section 4 of the Residential Lead-Based Paint Hazard Reduction Act of 1992.".

(2) REHABILITATION LOANS.—Section 203(k)(2)(B) of the National Housing Act is amended by adding at the end the following: "The term 'rehabilitation' may also include measures to assess and reduce lead-based hazards, as such terms are defined in section 4 of the Residential Lead-Based Paint Hazard Reduction Act of 1992.".

(i) FHA INSURANCE FOR MULTIFAMILY HOUSING.—Section 221(d)(4)(iv) of the National Housing Act is amended by inserting after the term "rehabilitation" the first time it appears the following: "(including the cost of assessing and reducing lead-based paint hazards, as such terms are defined in section 4 of the Residential Lead-Based Paint Hazard Reduction Act of 1992)".

SEC. 103. DISPOSITION OF FEDERALLY OWNED HOUSING.

Section 302(a) of the Lead-Based Paint Poisoning Prevention Act is amended by adding at the end the following: "Beginning on January 1, 1993, such procedures shall require the inspection and abatement of lead-based paint hazards in all federally owned residential properties constructed prior to 1978, as defined in section 4 of the Residential Lead-Based Paint Hazard Reduction Act of 1992. For purposes of this subsection, the terms 'assess', 'reduce', 'inspection', 'abatement', 'lead-based paint hazard', 'target housing', and 'federally assisted housing' shall have the same meanings provided under section 4 of the Residential Lead-Based Paint Hazard Reduction Act of 1992.".

SEC. 104. COMPREHENSIVE HOUSING AFFORDABILITY STRATEGY.

Section 105 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705) is amended—

(1) in subsection (b)(14), by striking "; and" and inserting a semicolon;

(2) in subsection (b)(15), by striking the period and inserting "; and";

(3) by inserting after paragraph (15) in subsection (b) the following new paragraph:

"(16) estimate the number of housing units within the jurisdiction that contain lead-based paint hazards, outline the actions proposed or being taken to assess and reduce lead-based paint hazards, and describe how lead-based paint hazard reduction will be integrated into housing policies and programs."; and

(4) in subsection (e)—

(A) by striking "CONSULTATION WITH SOCIAL SERVICE AGENCIES.—" and inserting:

"(e) CONSULTATION WITH SOCIAL SERVICE AGENCIES.—

"(1) IN GENERAL.—"; and

(B) by adding at the end the following new paragraph:

"(2) LEAD-BASED PAINT HAZARDS.—When preparing that portion of a housing strategy required by subsection (b)(16), a jurisdiction shall consult with local health and child welfare agencies and examine existing data related to lead-based paint hazards and poisonings, including health department data on the addresses of housing units in which children have been identified as lead poisoned.".

SEC. 105. ASSESSMENT AND REDUCTION OF LEAD-BASED PAINT HAZARDS UNDER FHA INSURANCE PROGRAMS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall revise the policies and procedures (including underwriting standards and appraisal guidelines) governing the provision of mortgage insurance under the National Housing Act to ensure that such policies and procedures address the need to finance the assessment and reduction of lead-based paint hazards.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the Congress a report—

(1) describing any action taken pursuant to subsection (a); and

(2) recommending any legislative action (including changes to loan limits) that is needed to facilitate the financing of assessment and reduction activities.

SEC. 106. TASK FORCE ON PRIVATE SECTOR FINANCING OF LEAD-BASED PAINT HAZARD REDUCTION.

(a) IN GENERAL.—The Secretary shall form a task force to make recommendations on financing the assessment and reduction of lead-based paint hazards in private mortgages, through the policies of Federal agencies and federally chartered financial institutions, primary lending institutions and private mortgage insurers.

(b) MEMBERSHIP.—The task force shall include individuals representing the Department of Housing and Urban Development, the Farmers Home Administration, the Department of Veterans Affairs, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, national organizations representing primary lending institutions, private mortgage insurers, and national organizations that have expertise in lead-based paint hazards.

SEC. 107. NATIONAL CONSULTATION ON LEAD-BASED PAINT HAZARD REDUCTION.

In carrying out the purposes of this Act, the Secretary shall consult on an ongoing basis with the Administrator of the Environmental Protection Agency and the Director of the Centers for Disease Control and other Federal agencies concerned with lead poisoning prevention and national organizations that have expertise in lead-based paint hazards assessment and reduction.

TITLE II—ASSESSMENT AND REDUCTION INFRASTRUCTURE

SEC. 201. CONTRACTOR TRAINING AND CERTIFICATION.

All federally supported assessment and reduction of lead-based paint hazards shall be conducted by trained contractors certified by the appropriate Federal agency.

SEC. 202. CERTIFICATION OF LABORATORIES.

All federally supported assessment of lead-based paint hazards shall be conducted in laboratories certified by the appropriate Federal agency.

SEC. 203. GUIDELINES FOR LEAD-BASED PAINT ASSESSMENT AND REDUCTION ACTIVITIES.

(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary, after consultation with the Administrator of the Environmental Protection Agency, the Secretary of Labor, and the Secretary of Health and Human Services (acting through the Director of the Centers for Disease Control), shall issue guidelines for the conduct of federally supported risk assessments, inspections, interim controls, and abatements of lead-based paint hazards.

(b) STATE AND LOCAL REGULATIONS.—Federally supported work shall be conducted in accordance with the guidelines issued under this section unless any State or local regulations impose more stringent standards or requirements than the Federal guidelines, in which case such work shall be conducted in accordance with the State or local regulations.

SEC. 204. MONITORING OF LEAD-BASED PAINT HAZARD WORK.

(a) MONITORING BY HUD.—Not later than 18 months after the date of enactment of this Act, the Secretary shall establish monitoring systems to oversee closely all federally supported efforts to assess and reduce lead-based paint hazards in housing.

(b) PENALTY FOR NONCOMPLIANCE.—Any contractor who performs lead-based paint hazard work under this Act and who fails to comply with the certification requirements of this title, or who negligently performs such work, shall be subject to the penalty described in subsection (c).

(c) DETERMINATION BY SECRETARY.—After providing the contractor with notice concerning the nature of the noncompliance and an opportunity to respond, the Secretary shall determine whether the contractor should be declared ineligible to perform any or all work authorized by the Department of Housing and Urban Development. The Secretary may establish procedures for agency review of such determinations, which shall otherwise be final and nonreviewable in any court.

(d) OTHER REMEDIES.—A penalty under this section does not preclude the Department of Housing and Urban Development, or any party aggrieved by a contractor, from seeking redress through other means.

SEC. 205. NATIONAL CLEARINGHOUSE ON RESIDENTIAL LEAD-BASED PAINT POISONING.

(a) ESTABLISHMENT.—The Secretary shall establish, in consultation with the Administrator of the Environmental Protection Agency and the Director of the Centers for Disease Control, a National Clearinghouse on Residential Lead-Based Paint Poisoning (hereafter in this section referred to as "Clearinghouse").

(b) MISSION.—The Clearinghouse shall—

(1) collect, evaluate, and disseminate current information on the assessment and reduction of lead-based paint hazards in housing;

(2) maintain a rapid-alert system to inform certified contractors and grant recipients of significant developments in research related to lead-based paint hazards; and

(3) perform any other duty that the Secretary determines necessary to carry out the purposes of this Act.

(c) AUTHORIZATION.—Of the total amount approved in appropriation Acts under section 101(m) of this Act, there shall be set aside to carry out this section $1,000,000 for fiscal year 1993 and $1,000,000 for fiscal year 1994.

TITLE III—PUBLIC INFORMATION AND TECHNICAL ASSISTANCE

SEC. 301. DISCLOSURE OF INFORMATION CONCERNING LEAD UPON TRANSFER OF RESIDENTIAL PROPERTY.

(a) LEAD DISCLOSURE PROVISIONS IN CONTRACT FOR PURCHASE AND SALE OF TARGET HOUSING.—

(1) LEAD-BASED PAINT AND LEAD-BASED PAINT HAZARDS.—Within 2 years after the date of enactment of this Act, the Secretary shall promulgate regulations under this subsection for the disclosure of lead-based paint hazards in target housing which is offered for sale. The regulations shall require that before the purchaser is obligated under any contract to purchase the premises, the seller shall—

(A) provide a lead hazard information pamphlet, as prescribed in subsection (c), to the purchaser;

(B) disclose to the purchaser the presence of any known lead-based paint or any known lead-based hazards in such housing and provide to the purchaser any lead hazard assessment report available to the seller; and

(C) permit the purchaser a period of at least 10 days to have the premises assessed for the presence of lead-based paint hazards.

(2) CONTRACT FOR PURCHASE AND SALE.—Regulations promulgated under this subsection shall provide that every contract for the purchase and sale of any interest in target housing shall contain a Lead Warning Statement and a statement signed by the purchaser that the purchaser has—

(A) read the Lead Warning Statement and understands its contents,

(B) received a lead hazard information pamphlet, and

(C) had an opportunity of at least 10 days before becoming obligated under the contract to purchase the premises to have the premises assessed for the presence of lead-based paint hazards.

The Lead Warning Statement shall contain the following text printed in large type on a separate sheet of paper attached to the contract:

"Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The seller of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in the seller's possession and notify the buyer of any known lead-based paint hazards. An assessment for possible lead-based paint hazards is recommended prior to purchase.".

Whenever the seller has entered into a contract with an agent for the purpose of selling a unit of target housing, the regulations promulgated under this subsection shall require the agent, on behalf of the seller, to ensure compliance with the requirements of this subsection.

(b) LEASE OF TARGET HOUSING.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall promulgate regulations to require every lease for a residential dwelling in target housing to contain the following Lead Warning Statement:

"Every lessee of any residential dwelling built prior to 1978 is notified that such dwelling may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The lessor of a residential dwelling is required to provide the lessee with any information on lead-based paint hazards from risk assessments or inspections in the lessor's possession and notify the lessee of any known lead-based paint hazards. An assessment for possible lead-based paint hazards is recommended prior to entering into a lease.".

(2) LEAD HAZARD ASSESSMENT.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall promulgate regulations that require each owner of target housing offered for rent—

(i) to obtain an assessment of any lead-based paint hazards in the dwelling, and

(ii) to provide a prospective lessee with a lead hazard report for the premises before executing a lease.

(B) CONDITIONS.—The Secretary shall promulgate regulations described in subparagraph (A) only after making a determination that—

(i) there are available in all regions of the Nation a sufficient number of individuals certified to carry out the assessment and reduction of lead-based paint hazards, and

(ii) the requirement set forth in subparagraph (A) will not have a deleterious impact on the availability of affordable housing for families with children.

(C) REPORT TO CONGRESS.—Not later than 12 months after the date of enactment of this Act, the Secretary shall issue a report to the Congress outlining the schedule for implementing the requirement set forth in subparagraph (A), specifying any barriers that may impede its implementation in a timely fashion, and recommending any legislative or administrative action necessary to remove such barriers.

(c) LEAD HAZARD INFORMATION PAMPHLET.—Not later than 2 years after the date of enactment of this Act, after notice and opportunity for comment, the Secretary shall publish, and from time to time revise, a lead hazard information pamphlet to be used in connection with the sale or lease of target housing. The pamphlet shall—

(1) contain information regarding the health risks associated with exposure to lead;

(2) describe the risks of lead exposure for children under 6 years of age, pregnant women, women of child bearing age, and others residing in a dwelling with lead-based paint hazards;

(3) describe the risks of renovation in a dwelling with lead-based paint or lead-based paint hazards;

(4) provide information on approved methods and devices for lead-based paint hazard reduction and their effectiveness in reducing, eliminating, or preventing exposure to lead-based paint hazards;

(5) advise persons how to obtain a list of contractors certified pursuant to section 201 in lead-based paint hazard reduction in the area in which the pamphlet is to be used;

(6) provide information on the presence of lead-based paint or lead-based paint hazards in target housing;

(7) state that a lead-based paint hazard assessment is recommended prior to the purchase, lease, or renovation of target housing; and

(8) provide information on approved methods and devices for lead-based paint hazard assessment, and advise persons how to obtain a list of contractors certified pursuant to section 201 in lead-based paint hazard assessment in the area in which the pamphlet is to be used.

(d) PENALTIES FOR VIOLATIONS.—

(1) MONETARY PENALTY.—Any person who knowingly violates any provision of this section shall be fined an amount not to exceed $5,000.

(2) CIVIL LIABILITY.—Any person who knowingly violates the provisions of this section shall be jointly and severally liable to the mortgage applicant, purchaser or lessee in an amount equal to 3 times the amount of damages incurred by such individual.

(3) ACTION BY SECRETARY.—The Secretary is authorized to take such lawful action as may be necessary to enjoin any violation of this section.

(4) COSTS.—In any civil action brought for damages pursuant to paragraph (2) of this section, the appropriate court may award court costs to the party commencing such action, together with reasonable attorney fees, if the party prevails.

(e) VALIDITY OF CONTRACTS AND LIENS.—Nothing in this section shall affect the validity or enforceability of any sale or contract for the purchase and sale or lease of any interest in residential real property or any loan, loan agreement, mortgage, or lien made or arising in connection with a mortgage loan, nor shall anything in this section create a defect in title.

(f) EFFECTIVE DATE.—Regulations promulgated under this section shall take effect 3 years after the date of enactment of this Act.

SEC. 302. GENERAL NOTICE REQUIREMENTS.

Section 302(a)(2) of the Lead-Based Paint Poisoning Prevention Act is amended—

(1) after "purchasers", by inserting ", owners,"; and

(2) by striking "and of the importance and availability of maintenance and removal techniques for eliminating such hazards." and inserting "of the importance and availability of techniques designed to assess, reduce and eliminate such hazards, and of the availability of Federal assistance for undertaking assessment and reduction activities. In the case of housing where assessment and reduction activities have been undertaken, the notification shall also contain a description of the nature and scope of such activities and available information on the location of any remaining lead-based paint on a surface-by-surface basis.".

SEC. 303. PUBLIC AWARENESS.

(a) IN GENERAL.—The Secretary, in cooperation with the heads of other appropriate Federal agencies, shall develop and undertake a campaign to increase public awareness of the dangers of childhood lead poisoning. The campaign shall be designed—

(1) to inform the public of the health consequences of lead exposure;

(2) to describe how to assess and reduce lead-based paint hazards; and

(3) to provide advice about measures to reduce the risk of lead exposure.

The campaign carried out under this subsection shall target parents of young children and persons involved in the rental, sale, and renovation of residential properties.

(b) COORDINATION.—The Secretary shall coordinate activities carried out under this section with the President's Committee on Environmental Quality and any other public education efforts being undertaken by Federal agencies.

(c) LEAD HAZARD HOTLINE.—The Secretary, in cooperation with other Federal agencies and with State and local governments, shall establish a lead hazard hotline to provide the public with quick, easy-to-understand answers to basic questions about lead-based paint poisoning.

(d) AUTHORIZATION.—Of the total amount approved in appropriation Acts under section 101(m), there shall be set aside to carry out this section $2,000,000 for fiscal year 1993 and $2,000,000 for fiscal year 1994.

SEC. 304. INFORMATION AND WARNING LABELS.

(a) INFORMATION.—The Secretary, in consultation with the Chairman of the

Consumer Product Safety Commission, shall develop information to be distributed by retailers of home improvement products to provide consumers with practical information related to the hazards of renovation and remodeling where lead-based paint may be present.

(b) WARNING LABELS.—Each manufacturer of hand tools, determined by the Commissioner of the Consumer Product Safety Commission to be commonly used for renovation or remodeling of residential painted surfaces, shall affix an appropriate warning label, as developed by the Commissioner, to advise users to obtain information regarding the hazards of renovation and remodeling in the presence of lead-based paint before such users engage in any activities that could cause hazardous exposures.

SEC. 305. RELATIONSHIP TO OTHER LAWS.

(a) STATE LAWS.—Nothing in this title shall annul, alter, affect or exempt any person subject to the provisions of this title from complying with the laws of any State with respect to the provision of information concerning lead, except to the extent that the Secretary determines that any such law is inconsistent with this section, in which event, such law shall be affected only to the extent of remedying the inconsistency.

(b) ESTABLISHMENT OF MORE STRINGENT STANDARDS.—Nothing in this title shall be construed as precluding a State from establishing any standard of liability or other requirement concerning the disclosure of information concerning lead that is more stringent than the requirements of this title.

TITLE IV—FORMULATION OF A NATIONAL STRATEGY

SEC. 401. NATIONAL STRATEGY.

(a) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Secretary shall formulate a national strategy for eliminating lead-based paint hazards in housing.

(b) OBJECTIVE.—The objective of the national strategy is to enable State and local governments to assess and reduce lead-based paint hazards within their respective jurisdictions as soon as practicable and to encourage and assist private sector efforts.

(c) CONTENTS.—The national strategy shall—

(1) identify the infrastructure needed to eliminate lead-based paint hazards in all housing as expeditiously as possible, including cost-effective technology, uniform regulations, trained and certified contractors, certified laboratories, liability insurance, private financing techniques, and appropriate Government subsidies;

(2) assess the extent to which the infrastructure described in paragraph (1) already exists;

(3) describe any legislative or administrative actions that may be necessary to develop the infrastructure described in paragraph (1) in order to meet the goal set forth in paragraph (1); and

(4) estimate the costs of carrying out actions proposed under paragraph (3).

TITLE V—RESEARCH AND DEVELOPMENT

Subtitle A—HUD Research

SEC. 501. RESEARCH ON LEAD EXPOSURE FROM OTHER SOURCES.

The Secretary, in cooperation with other Federal agencies, shall conduct research on strategies to reduce the risk of lead exposure from other sources, including exterior soil lead and interior lead dust in carpets, furniture, and forced air ducts.

SEC. 502. TESTING TECHNOLOGIES.

The Secretary, in cooperation with other Federal agencies, shall conduct research to—

(1) develop improved methods for assessing lead-based paint hazards in housing;

(2) develop improved methods for reducing lead-based paint hazards in housing;

(3) develop improved methods for measuring lead in paint films, dust, and soil samples;

(4) establish performance standards for various detection methods, including spot test kits;

(5) establish performance standards for hazard reduction and abatement methods, including encapsulants;

(6) establish appropriate cleanup standards;

(7) evaluate the efficacy of interim controls in various hazard situations;

(8) evaluate the relative performance of various abatement techniques;

(9) evaluate the long-term cost-effectiveness of interim control and abatement strategies; and

(10) assess the effectiveness of hazard assessment and reduction activities funded by this Act.

SEC. 503. AUTHORIZATION.

Of the total amount approved in appropriation Acts under section 101(m), there shall be set aside to carry out this section $5,000,000 for fiscal year 1993 and $5,000,000 for fiscal year 1994.

Subtitle B—GAO Report

SEC. 511. INSURANCE STUDY.

The Comptroller General of the United States shall assess the availability of liability insurance for owners of residential housing that contains lead-based paint and persons engaged in lead-based paint hazard assessment and reduction activities. In carrying out the assessment, the Comptroller General shall analyze any precedents in the insurance industry for the containment and abatement of environmental hazards in housing, such as asbestos, and shall provide an assessment of the recent insurance experience in the public housing program and shall recommend measures for increasing the availability of liability insurance.

TITLE VI—REPORTS

SEC. 601. REPORTS OF THE SECRETARY OF HOUSING AND URBAN DEVELOPMENT.

(a) ANNUAL REPORT.—The Secretary shall transmit to the Congress an annual report that—

(1) sets forth the Secretary's assessment of the progress made in implementing the various programs authorized by this Act;

(2) summarizes the most current health and environmental studies on childhood lead poisoning, including studies that analyze the relationship between reduction and abatement activities and the incidence of lead poisoning in resident children;

(3) recommends legislative and administrative initiatives that may improve the performance by the Department of Housing and Urban Development in combating lead hazards through the expansion of lead hazard assessment and reduction;

(4) describes the results of research carried out in accordance with title V of this Act; and

(5) estimates the amount of Federal assistance annually expended on assessment and reduction activities.

(b) BIENNIAL REPORT.—

(1) IN GENERAL.—24 months after the date of enactment of this Act, and every 24-month period thereafter, the Secretary shall report to the Congress on the progress of the Department of Housing and Urban Development in implementing the provisions of section 301.

(2) CONTENTS.—The report shall—

(A) include a statement as to the effectiveness of section 301 in making the public aware of the dangers of lead;

(B) describe the extent to which lead-based paint hazard assessment and reduction is occurring as a result of the administration of section 301; and

(C) include any additional information that the Secretary deems appropriate.

SUMMARY OF THE RESIDENTIAL LEAD-BASED PAINT HAZARD REDUCTION ACT

PURPOSE

The bill would create a federal partnership with states, localities and the private sector to reduce and eliminate the residential lead-based paint hazards which threaten the health and development of millions of America's children. It would:

Get the nation moving quickly on the most dangerous lead-based paint hazards—homes with deteriorating or accessible lead-based paint or high levels of lead dust that are occupied by low income families with young children;

Establish a $500 million matching grant program to make the federal government an active partner with cities, states and the private sector to reduce lead-based paint hazards in non-federal housing;

Require HUD to carry out an aggressive, comprehensive and cost-effective strategy to reduce lead-based paint hazards in federally assisted housing;

Require that all homes sold by the federal government be lead safe.

Make concern for lead-based paint hazards an integral part of federal, state, local and private housing strategies and decisions;

Build the capacity of private industry to assess and reduce lead-based paint hazards safety and effectively;

Provide the public with accurate information about the nature of lead-based paint hazards and technical assistance on how to prevent them; and

Inform potential home buyers and residential tenants of the hazards of lead and of available remedial measures, give home buyers the opportunity to have lead assessments performed prior to purchase, and after certain conditions are met, require lessors to perform such assessments prior to lease.

1. EXPAND ASSESSMENT AND REDUCTION ACTIVITY

a. Establish a federal/state/local partnership to reduce lead-based paint hazards in private housing.

General: Authorize $500 million over two years to help state and local governments to assess and reduce lead-based paint hazards in private housing.

Eligible Activities: Funds could be used to (1) assess private housing for lead-based paint hazards; (2) control hazards on an interim basis; (3) abate hazards; (4) cover the additional costs of abating lead-based paint hazards during renovation; (5) train inspectors and contractors; (6) relocate families displaced by lead reduction activities; (7) educate the public on lead hazards and hazard reduction; (8) test children for lead poisoning; and (9) other activities as determined by HUD. No more than 10% of the funds could be used for administrative expenses.

Flexible financing/subsidy: Permit states and localities to use this assistance for a variety of financing and subsidy programs, including grants, loans, revolving loan funds, loan guarantees and interest writedowns.

Eligibility of applicants: Provide assistance to jurisdictions that are carrying out a comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act. Funds would be awarded on a competitive basis to eligible jurisdictions.

Income targeting: Target assistance to owner-occupied or rental housing serving families meeting the HOME income limits. Priority would be given to applicants with the capacity to reduce hazards facing young children at high risk of lead-based paint poisoning.

Technical assistance: Provide training and assistance to eligible applicants in carrying out eligible activities. Set aside $4 million over two years for this purpose.

Matching requirement: Require recipients to devote non-federal funds totalling at least 10 percent of the grant received to activities eligible under this section.

Report: Require grant recipients to report to HUD on the use made of grant funds and to state the number of homes in which lead-based paint hazards were assessed, controlled and/or abated.

b. Encourage hazard reduction in federally assisted and insured housing.

General requirements: Require PHAs to assess whether lead-based paint hazards exist in pre-1978, section 8 housing (as part of their annual inspection duties) and to help owners take appropriate reduction measures where hazards are found. Require owners of federally assisted housing (e.g. housing built under the section 236 and section 221(d)(3) programs) to assess whether lead-based paint hazards exist and to take appropriate reduction measures where hazards are found. Require federally supported acquisition and/or rehabilitation of pre-1978 housing to incorporate lead assessment and reduction activities, where the federal subsidy exceeds $5,000. The Secretary would be given the discretion to phase in these requirements, with January 1, 1995 as a statutory deadline for implementing the requirements in full.

Eligible activities. Enable recipients to use federal housing subsidies and federally insured funds to conduct lead-based paint hazard assessment and reduction activities. Covered programs include HOME Investment Partnership, Community Development Block Grants, Section 8 Rental Assistance, HOPE for Public and Indian Housing Homeownership, HOPE for Homeownership of Multifamily and Single Family Homes, and FHA Single Family and Multifamily Housing Insurance.

Mortgage guidelines: Require that FHA mortgage underwriting and appraisal policies address the need to finance the assessment and reduction of lead-based paint hazards.

c. Mandate lead safety upon transfer of federally-owned housing.

Disposition of federally-owned housing: Prevent federal agencies from selling housing contaminated with lead-based paint hazards. Agencies would be required, prior to sale, to inspect all pre-1978 housing for lead-based paint hazards and abate such hazards.

d. Integrate lead-based paint hazards prevention into state and local housing strategies.

Comprehensive housing affordability strategy: Require that a jurisdiction's comprehensive housing affordability strategy (CHAS) (1) estimate the number of units posing lead-based paint hazards; (2) outlined the proposed or ongoing response; and (3) describe how lead-based paint hazard prevention and housing initiatives will be integrated.

Data collection: Require that housing agencies, in preparing this portion of the CHAS, consult with health and child welfare agencies and examine existing data. Such data could include health department data on the location of poisoned children.

e. Create a taskforce on private sector financing of hazard reduction.

Purpose: Form a task force to make recommendations on financing assessments and reductions through private mortgages.

Membership: Include representatives from HUD, Farmers Home, VA, Freddie Mac, Fannie Mae, national organizations representing primary lending institutions, private mortgage insurers, and national organizations that have expertise in lead-based paint hazard response.

f. Provide for consultation on lead-based paint hazard prevention.

Require HUD to consult on an ongoing basis with EPA, the Centers for Disease Control, other federal agencies and private organizations that have expertise in lead-based paint hazard response.

2. BUILD A TESTING AND ABATEMENT INFRASTRUCTURE

a. Certify contractors, train workers.

Require that all federally supported testing and abatement work be conducted by certified contractors and trained workers.

b. Certify laboratories.

Require that all federally supported assessments be conducted using certified laboratories to ensure that environmental lead testing is dependable and readily available throughout the country.

c. Establish guidelines.

Require HUD, in cooperation with other federal agencies, to issue guidelines for the conduct of risk assessments, inspections, interim controls and abatements of lead-based paint hazards.

d. Expand monitoring activity.

Require HUD to establish monitoring systems to oversee closely federally supported assessment and reduction work. Contractors found in violation of federal certification requirements (or otherwise found to have negligently performed work) would be subject to disbarment from all HUD activity.

e. Establish a federal information clearinghouse.

General: Direct HUD, in cooperation with other federal agencies, to establish an information clearinghouse on childhood lead-based paint poisoning. The clearinghouse would gather and disseminate the most current information from research on assessment, containment and abatement activity. The clearinghouse would maintain a rapid-alert system to keep key members of the lead assessment and reduction abatement industry abreast of the latest developments in research and development.

Funding: Set aside $2 million over two years to establish and operate the clearinghouse.

3. INFORM THE PUBLIC AND PROVIDE TECHNICAL ASSISTANCE

a. Require disclosure of lead-based paint hazards.

Federally assisted and insured housing: Before issuing tenant-based or project-based federal subsidies or approving federal mortgage insurance, require an assessment of the housing unit for lead-based paint hazards and disclosure of the results. Where hazards are found, the agency will arrange for interim containment or abatement of the hazards.

Contract for purchase and sale of housing: Require sellers of residential property to provide prospective purchasers with a lead hazard information pamphlet, documentation of any known lead-based paint hazards in the home, and a ten day opportunity to have the property assessed for lead hazards.

Lease of residential property: Require HUD to submit to Congress a schedule for implementing a regulation that would require lessors of housing to have the property assessed for lead-based paint hazards prior to rental and would make the assessment report available to prospective tenants. The regulations would go into effect upon HUD's determination that a sufficient lead hazard reduction industry exists in all regions and that this requirement would not have a deleterious effect on the availability of affordable housing for families with children.

b. Launch a nationwide public awareness campaign.

Campaign: Direct HUD, in cooperation with other federal agencies, to develop and undertake a major public awareness campaign on childhood lead poisoning. The campaign would inform the public about the seriousness of lead exposure, explain how to identify lead-based paint hazards and provide helpful advice about preventative and protective measures to reduce the risk of exposure.

Targeting: The campaign would especially target parents of young children as well as participants in the residential real estate industry. HUD would also work with large home improvement retailers to provide consumers with practical information on "do's and don'ts" associated with "self-help" renovation and remodeling.

Hotline: Establish a public lead hazard hotline to provide quick, easy to understand answers to basic questions about lead-based paint poisoning.

Authorization: Set aside $4 million over two years to carry out this campaign.

d. Provide warning labels on appropriate home improvement tools and supplies.

Require warning labels to be placed on tools commonly used for "self-help" renovation and remodeling. The wording would be developed by the Consumer Product Safety Commission, but would at a minimum advise users to obtain information before carrying out activities that could cause lead poisoning. Information on the recommended use of such tools in order to prevent exposure to lead hazards, prepared by HUD, would be made available at the point of purchase. Research has demonstrated that the traditional methods of removing lead-based paint from chewable surfaces—scraping, sanding or burning—actually increase children's exposure to lead dust 100-fold.

4. FORMULATE A NATIONAL STRATEGY

a. Formulate a national strategy to assess and reduce lead hazards in housing as quickly as practicable.

Purpose: Require HUD to develop a strategy to enable state and local governments to assess and reduce lead-based paint hazards as soon as possible and to encourage and assist private sector efforts.

Contents: The strategy will identify the needed technical, regulatory, industrial and financial infrastructure. It will determine the extent to which this infrastructure exists and outline the necessary legislative and administrative actions needed to implement the strategy and estimate the cost of doing so.

5. EXPAND RESEARCH AND DEVELOPMENT ACTIVITIES

a. Expand HUD research on effectiveness of assessment and reduction activities.

Other Sources: Require HUD, in cooperation with other federal agencies, to conduct research on assessment and reduction strategies that can reduce the risk of lead exposure from exterior soil lead and interior lead dust in carpets, furniture, forced air ducts and similar sources.

Testing Technology: Require HUD to conduct research, in cooperation with other federal agencies, to: 1) develop improved methods for assessing and reducing lead-based paint hazards and for measuring lead in paint film, dust and soil samples; 2) establish performance standards for various detection, hazard reduction, abatement and clean up methods; 3) evaluate the efficacy of hazard assessment and reduction activities, interim controls as a long-term strategy, and various abatement techniques.

Public Housing Demo: Congressionally mandated lead-based paint abatement in public housing provides a unique "laboratory" for research in the next three to five years. That invaluable information would be made useful.

Authorizations: Set aside $6 million over two years to carry out this section.

b. Mandate a GAO report on liability insurance.

Require GAO to assess the availability of liability insurance for lead-related activities. GAO will analyze the insurance "precedent" for addressing other hazards (e.g. asbestos) and will provide an evaluation of the recent insurance experience in the public housing program.

6. REQUIRE DETAILED REPORTS FROM HUD

Annual Report: Require HUD to submit an annual report to Congress that would (1) describe HUD's progress in implementing the various programmatic initiatives; (2) summarize the most current health and environmental studies on childhood lead poisoning, including studies that analyze the relationship between containment and abatement activities and reduction in lead exposure; (3) recommend legislative and administrative initiatives that can improve HUD performance and expand lead inspection, containment and abatement activities; (4) describe the results of research assisted under this act; an (5) estimate federal expenditures on assessment and reduction activities.

Biennial Report: Require HUD to submit a biennial report to Congress on HUD's progress in implementing the public information and technical assistance provisions of this act, including (1) HUD's success in making the public aware of the dangers of lead and (2) the extent to which the public is acting on this information.●

● Mr. D'AMATO. Mr. President, I am pleased to be a cosponsor of this important legislation introduced today by my colleague from California. This bill, the Residential Lead Based Paint Hazard Reduction Act of 1992 is a significant step forward in our attempts to address the serious problem of lead paint in our Nations' housing. This bill will focus and intensify the joint efforts of the public and private sectors to combat lead poisoning.

According to the U.S. Department of Housing and Urban Development [HUD], approximately 8.8 million homes across America are known to be hazardous because of peeling lead based paint or lead dust. 3.8 million of those homes are occupied by small children. Because recent research demonstrates that even low levels of lead poisoning can damage the mental and physical development of children, these figures underscore why health professionals are calling lead the number one environmental problem facing America's children today.

Unfortunately, our response to the crisis of lead based paint has been inadequate. Despite the fact that experts agree lead paint is the major cause of most serious lead poisoning cases, efforts to address lead paint have been frustrated by a lack of funds, inadequate knowledge of technological issues, and a failure to identify where and how to target our resources. While some progress has been made in limiting the risk of lead contamination in public housing we must create a higher level of awareness of the hazards for current or potential homeowners and tenants in homes with lead based paint. More awareness is critically needed so families do not expose themselves unknowingly to lead hazards by living in dangerous housing without taking necessary precautions and do not create more serious dangers by improperly renovating their properties.

The need for this legislation is aptly illustrated by the New York City Health and Human Services Department's recent estimate that there are 703,000 children under the age of 6 in New York City at risk of lead poisoning. New York City officials estimate that more than 300,000 children have blood lead levels at or above the health standard established by the Centers for Disease Control of the U.S. Department of Health and Human Services. Nationally, one out of six children may be at risk.

The consequences of high blood levels are indeed frightening. Absorbing lead at a young age causes neurological damage, can result in lower IQ scores, shorter attention spans, and antisocial behavior which may result in violence and delinquency. In high concentrations there can be more serious effects and even death. The threat to our children and the cost to our society of failing to act must compel us to take action to reduce the hazards of lead based paint in our Nation's housing.

This will be no easy task because of the extent of lead based paint in the U.S. housing stock. According to HUD, 57 million of the Nation's privately owned and occupied homes built before 1980—nearly three quarters of the Nation's total housing stock—contain lead based paint. Children under the age of 7 live in approximately 9.9 million of these homes and 3.8 million of the homes pose an extreme risk because they are occupied by young children and have peeling paint, excessive amounts of lead dust, or both.

So what do we do? HHS estimates that it will cost $34 billion to address the most serious lead hazards posed by these 3.8 million homes. although this is an imposing sum, HHS has estimated that the cost of doing nothing will be even greater because failing to protect children from high blood lead levels may cost more than $60 billion in medical and social costs.

The enormous expense and the mandate for action require us to target our resources on the most serious problems. That is why the bill that Senator CRANSTON and I have introduced will expand Federal support for testing, containment, and abatement activities, including grants to State and local governments to address the most serious lead hazards in privately-owned housing. Our bill authorizes $250 million for each of the next 2 years for grants to support State and local projects to reduce lead hazards in high risk housing.

Furthermore, the bill is designed to build a network of contractors, workers, architects, environmental firms, and other exports who can handle the testing and abatement work. These professionals will be trained to reduce lead hazards safely and cost-effectively. This effort will be supported by expanded research and development efforts to improve testing and abatement technologies that can then be transferred to every day practices. To make sure that the general public becomes better informed about lead hazards, the bill will launch an educational campaign about the risks of lead and how to avoid lead poisoning, including disclosure of the risks of lead paint during residential sales and lease transactions.

The problem of reducing lead hazards is a challenge of monumental proportions that we are not going to solve overnight. But it is something that we cannot simply ignore. By enacting this legislation, Congress can show the millions of American children and families that are at risk that the government is doing something to help them.

The Senate Subcommittee on Housing and Urban Affairs will be considering this legislation as we develop a comprehensive bill to reauthorize the National Affordable Housing Act. We plan to hold a hearing on this issue next week and will work with any interested parties as we seek to enact this legislation this year.●

By Mr. DODD:

S. 2343. A bill to provide for demonstration projects in six States to establish or improve a system of assured minimum child support payments; to the Committee on Labor and Human Resources.

CHILD SUPPORT ASSURANCE ACT OF 1992

● Mr. DODD. Mr. President, I am introducing today the Child Support Assurance Programs Act of 1992. I previously introduced this proposal in June 1991, as a title of S. 1411, the Middle Income Tax Relief and Family Preservation Act of 1991. I am reintroducing it now as a free-standing bill to give greater visibility to these critical child support issues and to encourage considerations of this approach.

For many single-parent families, child support from the noncustodial spouse is an absolutely crucial income supplement. Unfortunately, many families go for months—sometimes years—without the money they need and are owed. In 1979, the first census study of child support showed that nearly two out of three noncustodial parents paid no child support. Only 6 out of 10 mothers eligible for support had legal child support awards, and only half of mothers with awards received the full amount to which they were entitled.

The Family Support Act of 1988 improved enforcement through wage withholding and more vigorous steps to locate absent parents and to establish paternity. Recent studies, however, indicate that one-fourth of eligible single mothers still receive no child support and that another one-fourth receive only partial payments.

Nonpayment of child support cripples single-parent families. More than half of all American children who live in poverty live in single-parent families.

This legislation would authorize demonstration grants to six States to improve the enforcement of child support payments and to guarantee a minimum level of support for all children not living with both parents.

To be eligible, the custodial parent must have a child support award, or be in the process of seeking one, or have good cause, such as family violence, not to have a child support award. Once certified, such families would receive an assured child support benefit—$3,000 for the first child in a household, and $1,000 for each subsequent child. If a child is receiving some child support, the assured benefit would make up the difference.

In order to participate, the State must already have a strong record in child support enforcement and must show improvement during the grant period. This creates an incentive for the State to improve its record in establishing paternity, establishing child support awards, and enforcing payment. And to deal with the underlying problem of noncustodial parents who cannot meet their child support obligations because of insufficient income, priority in job training programs would be given to such parents.

The States and the Department of Health and Human Services would conduct detailed 3 and 5 year evaluations of these demonstration programs to determine whether the approach should be extended nationally.

As opposed to welfare, an assured child support benefit encourages work and reduces dependency. It would enable many single parents with low earnings ability and low child support entitlements to escape poverty. Unlike welfare, an assured benefit would not be reduced because of earnings. An assured benefit would also protect millions of children from middle-income families against the very real risk that their noncustodial parents might fail to pay child support.

This is a time of profound disarray and distress for the American family. This legislation is a modest, but important measure to strengthen families and to help them cope.•

By Mr. GARN:

S.J. Res. 268. Joint resolution designating May 1992, as "neurofibromatosis Awareness Month"; to the Committee on the Judiciary.

NEUROFIBROMATOSIS AWARENESS MONTH

• Mr. GARN. Mr. President, I rise today to draw attention to a genetic disorder that very few people are aware of, but which afflicts at least 100,000 U.S. citizens, 1.5 million people worldwide, and which 1 in every 4,000 children are born with. The disorder is neurofibromatosis, or NF, and it affects all races and ethnic groups, and both sexes. It is a disorder which can lead to severe disfigurement, loss of limbs, blindness, deafness, skeletal defects, brain and spinal tumors, and learning disabilities. There is no cure.

Today I am introducing a joint resolution to designate the month of May 1992, as "Neurofibromatosis Awareness Month." I ask my colleagues to join with me in drawing national attention to this potentially disfiguring and often progressive disorder.

NF is a neurological condition which can cause tumors to grow on nerves anywhere on or in the body at any time. It affects people of all races and both sexes with varying manifestation and degree of severity. While research indicates that NF can be inherited, 50 percent of the people with NF have no family history of the disorder. Additionally, NF leads to learning disabilities. In fact, learning disabilities occur five to six times more often in NF patients than in the general population. However, recent advances in medical research bring hope to this potentially devastating disorder.

These advances in genetic research began with the discovery in 1990 of the gene which causes NF. Subsequently, researchers discovered the gene product and the gene function. More recently, researchers have been able to clone the NF1 gene. These discoveries are very exciting and put NF research ahead several years. What these discoveries also do, which is of major significance, is link the NF-causing gene to the gene which causes cancer. The NF gene product is similar to that of the cancer-causing gene in that it interacts with the cell function in a similar manner. These advances in genetic research hold much hope for a future treatment and, in time, hopefully a cure for NF, as well as many forms of cancer. Early last year, using what has been learned from the discovery of the NF gene, scientists discovered a gene causing colon cancer. The implications are far reaching. The future is bright.

The Neurofibromatosis Foundation has worked extremely hard over the years to bring this disorder to the attention of the general public and to seek support for further research and further education. We can help the NF Foundation in its unwavering efforts by designating May 1992 as "Neurofibromatosis Awareness Month".

I know all of you share my deep concern for the thousands of individuals afflicted with this disorder and their families. They face a continuous struggle with not knowing what lies ahead, not knowing what course the disorder will take. I hope you will join with me in recognizing these people and also in celebrating and commemorating these remarkable breakthroughs in research and their profound significance to all of us.•

ADDITIONAL COSPONSORS

S. 359

At the request of Mr. BOREN, the names of the Senator from South Carolina [Mr. HOLLINGS] and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of S. 359, a bill to amend the Internal Revenue Code of 1986 to provide that charitable contributions of appreciated property will not be treated as an item of tax preference.

S. 765

At the request of Mr. BREAUX, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 765, a bill to amend the Internal Revenue Code of 1986 to exclude the imposition of employer Social Security taxes on cash tips.

S. 873

At the request of Mr. BOREN, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of S. 873, a bill to amend the Internal Revenue Code of 1986 to clarify the treatment of interest income and rental expense in connection with safe harbor leases involving rural electric cooperatives.

S. 1010

At the request of Mr. INOUYE, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 1010, a bill to amend the Federal Aviation Act of 1958 to provide for the establishment of limitations on the duty time for flight attendants.

S. 1357

At the request of Mr. BREAUX, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 1357, a bill to amend the Internal Revenue Code of 1986 to permanently extend the treatment of certain qualified small issue bonds.

S. 1572

At the request of Mr. BREAUX, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 1572, a bill to amend title XVIII of the Social Security Act to eliminate the requirement that extended care services be provided not later than 30 days after a period of hospitalization of not fewer than 3 consecutive days in order to be covered under part A of the Medicare Program, and to expand home health services under such program.

S. 1698

At the request of Mr. SARBANES, the names of the Senator from Louisiana [Mr. JOHNSTON] and the Senator from California [Mr. CRANSTON] were added as cosponsors of S. 1698, a bill to establish a National Fallen Firefighters Foundation.

S. 1830

At the request of Mr. WOFFORD, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 1830, a bill to require Senators and Members of the House of Representatives to pay for medical services provided by the Office of the Attending Physician, and for other purposes.

S. 1921

At the request of Mr. BENTSEN, the names of the Senator from Idaho [Mr. CRAIG] and the Senator from Wisconsin [Mr. KASTEN] were added as cosponsors of S. 1921, a bill to amend the Internal Revenue Code of 1986 to allow a $300 tax credit for children, to expand the use of individual retirement accounts, and for other purposes.

S. 1989

At the request of Mr. ROCKEFELLER, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of S. 1989, a bill to amend certain provisions of the Internal Revenue Code of 1986 to improve the provision of health care to retirees in the coal industry, to revise the manner in which such care is funded and maintained, and for other purposes.

S. 2062

At the request of Mr. KENNEDY, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 2062, a bill to amend section 1977A of the Revised Statutes to equalize the remedies available to all victims of intentional employment discrimination, and for other purposes.

S. 2070

At the request of Mr. MOYNIHAN, the name of the Senator from Idaho [Mr. SYMMS] was added as a cosponsor of S. 2070, a bill to provide for the Management of Judicial Space and Facilities.

S. 2085

At the request of Mr. PRYOR, the names of the Senator from Florida [Mr. MACK] and the Senator from Mississippi [Mr. LOTT] were added as cosponsors of S. 2085, a bill entitled the Federal-State Pesticide Regulation Partnership.

S. 2103

At the request of Mr. GRASSLEY, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 2103, a bill to amend title XVIII of the Social Security Act to provide for increased Medicare reimbursement for nurse practitioners, clinical nurse specialists, and certified nurse midwives, to increase the delivery of health services in health professional shortage areas, and for other purposes.

S. 2104

At the request of Mr. GRASSLEY, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 2104, a bill to amend title XVIII of the Social Security Act to provide for increased Medicare reimbursement for physical assistance, to increase the delivery of health services in health professional shortage areas, and for other purposes.

S. 2106

At the request of Mr. CRANSTON, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 2106, a bill to grant a Federal charter to the Fleet Reserve Association.

S. 2113

At the request of Mr. SMITH, the names of the Senator from Mississippi [Mr. LOTT], the Senator from Florida [Mr. MACK], and the Senator from Delaware [Mr. ROTH] were added as cosponsors of S. 2113, a bill to restore the second amendment rights of all Americans.

S. 2148

At the request of Mr. ROTH, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 2148, a bill to extend to the refinancing of mortgage loans certain protections of the Real Estate Settlement Procedures Act and the Truth in Lending Act.

S. 2185

At the request of Mr. KENNEDY, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 2185, a bill to suspend the forcible repatriation of Haitian nationals fleeing after the coup d'etat in Haiti until certain conditions are met.

S. 2195

At the request of Mr. KASTEN, his name was withdrawn as a cosponsor of S. 2195, a bill entitled the "Economic Growth Acceleration Act of 1992."

S. 2206

At the request of Mr. KASTEN, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 2206, a bill to amend the Internal Revenue Code of 1986 and title II of the Social Security Act to expand the social security exemption for election officials and election workers employed by State and local governments.

S. 2262

At the request of Mr. LEAHY, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of S. 2262, a bill to make emergency supplemental appropriations to provide a short-term stimulus to promote job creation in rural areas of the United States, and for other purposes.

S. 2327

At the request of Mr. HATFIELD, the names of the Senator from Washington [Mr. GORTON], the Senator from Washington [Mr. ADAMS], and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of S. 2327, a bill to suspend certain compliance and accountability measures under the National School Lunch Act.

SENATE JOINT RESOLUTION 230

At the request of Mr. REID, the names of the Senator from Maine [Mr. MITCHELL] and the Senator from Utah [Mr. HATCH] were added as cosponsors of Senate Joint Resolution 230, a joint resolution providing for the issuance of a stamp to commemorate the Women's Army Corps.

SENATE JOINT RESOLUTION 254

At the request of Mr. D'AMATO, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of Senate Joint Resolution 254, a joint resolution commending the New York Stock Exchange on the occasion of its bicentennial.

SENATE JOINT RESOLUTION 261

At the request of Mr. CRANSTON, the name of the Senator from Maine [Mr. MITCHELL] was added as a cosponsor of Senate Joint Resolution 261, a joint resolution to designate April 9, 1992, as a "Day of Filipino World War II Veterans."

SENATE JOINT RESOLUTION 267

At the request of Mr. D'AMATO, the names of the Senator from Rhode Island [Mr. PELL] and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of Senate Joint Resolution 267, a joint resolution to designate March 17, 1992, as "Irish Brigade Day."

SENATE CONCURRENT RESOLUTION 89

At the request of Mr. KERRY, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of Senate Concurrent Resolution 89, a concurrent resolution to express the sense of the Congress concerning the United Nations Conference on Environment and Development.

SENATE RESOLUTION 246

At the request of Mr. DOLE, the names of the Senator from Ohio [Mr. METZENBAUM] and the Senator from Nevada [Mr. BRYAN] were added as cosponsors of Senate Resolution 246, a resolution on the recognition of Croatia and Slovenia.

SENATE RESOLUTION 260

At the request of Mr. KASTEN, the name of the Senator from Utah [Mr. GARN] was added as a cosponsor of Senate Resolution 260, a resolution opposing the taxation of cash buildup in life insurance annuities.

SENATE RESOLUTION 266

At the request of Mr. MCCAIN, the names of the Senator from Vermont

[Mr. JEFFORDS] and the Senator from Tennessee [Mr. GORE] were added as cosponsors of Senate Resolution 266, a resolution expressing the sense of the Senate concerning the arms cargo of the North Korean merchant ship *Dae Hung Ho*.

At the request of Mr. LOTT, his name was added as a cosponsor of Senate Resolution 266, supra.

SENATE RESOLUTION 270—CONCERNING THE CONFLICT IN AZERBAIJAN

Mr. DECONCINI submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 270

Whereas the collapse of the former Soviet Union has brought about a demand by peoples throughout the country for observance of human rights and self-determination;

Whereas the collapse of the central authority of the former Soviet Union has also led to strife and armed conflict between various peoples who inhabited that country;

Whereas as many as 2,000 people have been killed in the fighting in the past four years;

Whereas for several months after April 1990, the Armenian population of Nargorno-Karabakh in particular suffered from attacks and deportations by the Soviet Army and paramilitary forces of Azerbaijan;

Whereas in recent times the governments of Azerbaijan, Armenia and the democratically elected legislature of Nagorno—have expressed a desire to resolve the Nagorno-Karabakh crisis;

Whereas Azerbaijan has imposed a rail, fuel, transportation and information blockade on Armenia and Nagorno-Karabakh over the last four years;

Whereas a delegation of prominent international human rights advocates has on five occasions in 1991 and 1992 visited Nagorno-Karabakh and adjacent regions, and has proposed concrete steps to resolve the conflict; and

Whereas, Armenia and Azerbaijan are now members of the Conference on Security and Cooperation in Europe (CSCE), which recently sent a fact-finding mission to Baku, Yerevan and Nagorno-Karabakh and has issued a report and recommendations for stopping the bloodshed and reviving negotiations: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the United Nations Security Council should take up the issue of Nagorno-Karabakh to consider whether United Nations peacekeeping forces should be deployed to maintain order in the area;

(2) a cease-fire between the warring parties should come into effect, which would be enforced by mutually acceptable forces of neutral disposition;

(3) there should be free access to prisoners by foreign government representatives and independent human rights organizations;

(4) foreign assistance extended to former Soviet republics, with the exception of emergency and humanitarian aid, should be conditioned on the establishment of democratically elected governments and respect for internationally recognized human rights;

(5) foreign assistance should be provided directly to Nagorno-Karabakh, for both Armenian and Azerbaijani communities, through the assistance of impartial international organizations;

(6) while the implementing details of the September 23, 1991 "Agreed Communique" negotiated at Zheleznovodsk under the auspices of the presidents of Russia and Kazakhstan are still at issue between the governments of Armenia and Azerbaijan, the human rights provisions of the communique should be fulfilled without delay by the parties, particularly—

(A) return of deportees to their villages and homes, with suitable protection and assistance to reestablish life in the face of problems associated with the destruction of their homes and the loss of belongings, crops, and livestock;

(B) release of all remaining hostages and persons arrested for the peaceful expression of their opinions, and the granting to all remaining prisoners the full protection of legal rights; and

(C) restoration of normal and safe operations of all modes of transport and communication, both air and ground, within and around Nagorno-Karabakh; and

(7) the Government of the United States should support and encourage the objectives of this resolution by all appropriate means.

Mr. DECONCINI. Mr. President, Members of this body have often in the last 4 years had occasion to make statements about the Armenian-Azerbaijani conflict over Nagorno-Karabakh. But the alarming recent escalation of the fighting and the just-completed report of the CSCE factfinding mission to Yerevan, Baku, and to Nagorno-Karabakh have spurred our renewed interest in the subject.

The report by the CSCE multinational delegation was based on a weeklong trip to the two Republics. Members of the delegation held discussions with leaders and opposition forces of the two governments involved, as well as with the elected representatives of the Armenians of Nagorno-Karabakh and with Azeris in the region. The trip's goal was to investigate the situation from the perspective of all sides concerned and to offer recommendations for bringing the hostilities to an end.

The gulf between these sides over the nature of the conflict is deep, with each appealing to different—and equally valid—principles of the Helsinki accords. The Azeris invoke territorial integrity; Armenians, in Yerevan and Stepanakert, call for self-determination.

Perhaps the difficulty of bridging the gap between these principles accounts for the fact that the recommendations offered in the report address only the symptoms of the crisis, not the causes. But the significance of the recommendations, which aim at stopping the bloodshed and urging the parties to the negotiating table, is not thereby diminished. I fully support the recommendations, because they represent essential first steps in finding a peaceful solution to the crisis. They include the following measures:

An immediate cease-fire, an arms embargo to the region, the provision of humanitarian assistance by voluntary organizations to the inhabitants of Nagorno-Karabakh, the establishment of safe corridors for that purpose, the immediate exchange of all prisoners and hostages, and the return to families of their dead relatives.

The report recommends further that Russia and Kazakhstan continue their mediating efforts launched in September 1991 to promote a dialog between Armenians and Azerbaijanis, and offers CSCE mechanisms, such as those designed for peaceful settlement of disputes, as a forum and instrument for these negotiations.

Mr. President, these recommendations are fine as far as they go, but they only suggest that all interested parties discuss having observers monitor the cease-fire. I fear that unless stronger measures are taken, the bloodshed will continue and talks will never take place.

For that reason, I am submitting a resolution today that, in addition to calling for these and other measures, calls for the United Nations Security Council to consider whether United Nations peacekeeping forces should be deployed in Nagorno-Karabakh to maintain order. The tragic events of the last 4 years and the deaths of many hundreds of people offer little hope of stopping the bloodshed without outside involvement. The presence of a CSCE factfinding mission in the region has already internationalized the conflict. The introduction of UN peacekeeping forces seems to me the best way of ensuring that shooting stops long enough for the talking to begin.

SENATE RESOLUTION 271—RELATIVE TO THE REPRESENTATIVES OF THE GOVERNMENT OF TIBET

Mr. SIMON (for himself, Mr. HELMS, Mr. MITCHELL, Mr. PELL, Mr. MURKOWSKI, Mr. CRANSTON, Mr. MOYNIHAN, Mr. WOFFORD, Mr. KERRY, Mr. KENNEDY, and Mr. WALLOP) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 271

Whereas, in the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993, signed into law by President Bush on October 28, 1991, Congress declared Tibet to be an occupied country whose true representatives are the Dalai Lama and the Tibetan Government in exile;

Whereas, in this same Act, Congress declared that "it is the policy of the United States to oppose aggression and other illegal uses of force by one country against the sovereignty of another as a manner of acquiring territory, and to condemn violations of international law, including the illegal occupation of one country by another;"

Whereas, the Department of State, in its February 1992 "Country Reports on Human Rights Practices in 1991" annual report, cited "persistent abuses in Tibet," "frequent credible reports from Tibetan refugees of torture and mistreatment in penal institutions in Tibet," "harsh sentences for political activities," and religious and cultural persecution of six million Tibetans;

Whereas, the people of Tibet have long been denied their right to self-determination;

Whereas, human rights abuses have been routine and harsh in occupied Tibet since the People's Republic of China invaded Tibet in 1949–1950;

Whereas, the United Nations General Assembly passed resolutions condemning China's human rights abuses in Tibet in 1959, 1961 and 1965, and whereas a Sub-Commission of independent experts of the United Nations Commission on Human Rights passed Resolution 1991/10 ("Situation in Tibet," August 23, 1991), condemning recent Chinese human rights abuses in Tibet, including executions, torture and denial of national religious and cultural identity;

Whereas, twenty-two countries, led by the European Community as the main sponsor, formally submitted a resolution ("Situation in Tibet" February 27, 1992) to the full United Nations Commission on Human Rights annual meeting in Geneva in February–March 1992;

Whereas, this resolution ("Situation in Tibet" February 27, 1992) declared its concern "at continuing reports of violations of human rights and fundamental freedoms in Tibet which threaten the distinct cultural, religious and ethnic identity of the Tibetans;" acknowledged United Nations reports on torture, summary or arbitrary executions, religious intolerance and enforced or involuntary disappearances; called "on the Government of the People's Republic of China to take measures to ensure the full observance of human rights and fundamental freedoms of the Tibetans;" and invited "the Government of the People's Republic of China to continue to respond to requests by special rapporteurs for information" and requested "the Secretary-General to submit a report to the Commission on Human Rights at its forty-ninth session on the situation in Tibet;"

Whereas, an altered text was offered implying China's sovereignty over Tibet;

Whereas, due to a procedural motion, this altered resolution was not acted on in the United Nations Commission on Human Rights;

Whereas, the United States should take a firm stand against human rights abuses wherever they occur, and should also speak out against the illegal occupation of Tibet: Now, therefore, be it

Resolved, that it is the sense of the Senate that

(1) the United States Government should support resolutions like the European Community-led resolution on the "Situation in Tibet" submitted to the United Nations Commission on Human Rights; and

(2) the United States Government should vigorously condemn Beijing's human rights abuses in occupied Tibet in all appropriate international forums; and

(3) the United States Government should raise human rights abuses in Tibet with senior officials of the People's Republic of China.

• Mr. SIMON. Mr. President, I am submitting a Sense of the Senate resolution today on the recent U.N. Human Rights Commission meeting in Geneva, and the administration's mishandling of the resolution condemning Chinese human rights violations in Tibet, with my distinguished colleagues Senator Helms, Senator Pell, Senator Mitchell, Senator Murkowski, Senator Cranston, Senator Moynihan, Senator Wofford, Senator Kerry, Senator Kennedy, and Senator Wallop. I am pleased to have such broad support on this, and I hope President Bush will heed the sentiment expressed here.

The European Community nations and others were all set to condemn China's abysmal human rights practices in Tibet—and not mention the question of Tibetan independence or self-determination—when at the eleventh hour the United States delegation expressed interest in an alternative resolution that was not as tough on China and that implied China's sovereignty over Tibet. This altered resolution, weak as it was, was strongly opposed by China, and her delegates managed to prevent the issue from even being considered. Twenty-two other nations were cited for human rights abuses, but China once again managed to escape censure.

Our resolution is simple. We ask only three things. Number one, when resolutions like the one submitted by the European Community and other nations are offered in the U.N. Human Rights Commission, the United States ought to stand up and lend its full support. Number two, the United States should vigorously condemn Beijing's human rights abuses in occupied Tibet in all appropriate international forums. And number three, the United States should raise human rights abuses in Tibet with senior Chinese officials. That's all this resolution asks for, and I do not think it is asking too much.

Mr. President, Ambassador Jeanne Kirkpatrick had an op-ed in the Washington Post 2 days ago. It was mostly about Cuba, but toward the end of her article she describes how we failed to stand up for Tibet at the UN meeting and condemn Beijing's harsh policies. She notes that while Tibet is not yet on the international agenda, "step by step, as with Cuba, the world slowly, but inexorably takes note of Tibet's suffering." I urge my colleagues to take note, and to join with me as cosponsors of this resolution.•

AMENDMENTS SUBMITTED

TAX RELIEF AND ECONOMIC GROWTH ACT

PRYOR (AND OTHERS) AMENDMENT NO. 1708

Mr. PRYOR (for himself, Mr. Cohen, Mr. Sasser, Mr. Baucus, Mr. Burdick, Mr. Conrad, Mr. Exon, Mr. Kerrey, Mr. Metzenbaum, Mr. Wellstone, and Mr. Bryan) proposed an amendment to the bill (H.R. 4210) to amend the Internal Revenue Code of 1986 to provide incentives for increased economic growth and to provide tax relief for families, as follows:

On page 866, before line 15, insert the following new part:

PART VIII—DRUG COST CONTAINMENT

SEC. 2291. SHORT TITLE.

This part may be cited as the "Prescription Drug Cost Containment Act of 1992".

SEC. 2292. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) although prescription drugs represent one of the most frequently used medical care interventions in treating common acute and chronic diseases, many Americans, especially elderly and other vulnerable populations, are unable to afford their medications because of excessive and persistent prescription drug price inflation;

(2) between 1980 and 1990, prescription drug price inflation was triple the rate of general inflation, and in the first half of 1991, prescription drug price inflation increased even faster, exceeding 3½ times the rate of general inflation on an annualized basis;

(3) because of the limited availability of private or public prescription drug coverage for the elderly, prescription drugs represent the highest out-of-pocket medical care cost for 3 of 4 elderly patients, surpassed only by costs of long-term care services;

(4) prescription drug manufacturers continue to make enormous profits on the backs of the elderly, poor, and other vulnerable populations that are unable to afford their medications;

(5) the Federal Government and American taxpayer provide substantial subsidies to the pharmaceutical industry in the form of tax incentives, tax write-offs, and grants for non-research activities;

(6) for example, in 1987 alone, the pharmaceutical industry received a section 936 tax credit of more than $1,400,000,000, and such credit is estimated to have yielded over $2,000,000,000 in tax breaks in 1990 to such industry; and

(7) in addition, there is a need to determine whether Federal subsidies are used in the most efficient manner by the pharmaceutical industry to develop drugs which represent true therapeutic advances over those products already on the market.

(b) PURPOSES.—The purposes of this Act are—

(1) to insure that elderly patients and all Americans have access to reasonably-priced pharmaceutical products;

(2) to establish a medicare outpatient prescription drug benefit demonstration project and trust fund;

(3) to provide for the establishment of the Prescription Drug Policy Review Commission and a study of the impact of a pharmaceutical price review board on containing price inflation on prescription pharmaceutical products in the United States;

(4) to provide for a study on how Federal tax credits and subsidies and market exclusivity given to the pharmaceutical industry can be used to modify an individual manufacturer's pricing behavior and research priorities; and

(5) to provide the Federal Government with information on drug prices in other industrialized nations.

SEC. 2293. REDUCTION IN POSSESSIONS TAX CREDIT FOR EXCESSIVE PHARMACEUTICAL INFLATION.

(A) IN GENERAL.—Section 936 (relating to Puerto Rico and possession tax credit) is amended by adding at the end the following new subsection:

"(i) REDUCTION FOR EXCESSIVE PHARMACEUTICAL INFLATION.—

"(1) IN GENERAL.—In the case of any manufacturer of single source drugs or innovator multiple source drugs, the amount by which the credit under this section for the taxable year (determined without regard to this subsection) exceeds the manufacturer's wage base for such taxable year shall be reduced by the product of—

"(A) the amount of such excess, multiplied by

"(B) the sum of the reduction percentages for each single source drug or innovator multiple source drug of the manufacturer for such taxable year.

"(2) MANUFACTURER'S WAGE BASE.—For purposes of this subsection—

"(A) IN GENERAL.—The manufacturer's wage base for any taxable year is equal to the total amount of wages paid during such taxable year by the manufacturer to eligible employees in Puerto Rico with respect to the manufacture of single source drugs and innovator multiple source drugs.

"(B) ELIGIBLE EMPLOYEES.—The term 'eligible employee' means any employee of the manufacturer (as defined in section 3121(d)) who is a bona fide resident of Puerto Rico and subject to tax by Puerto Rico on income from sources within and without Puerto Rico during the entire taxable year.

"(C) WAGES.—The term 'wages' has the meaning given such term by section 3121(a).

"(3) REDUCTION PERCENTAGE.—For purposes of this subsection—

"(A) IN GENERAL.—The reduction percentage for any drug for any taxable year is the percentage determined by multiplying—

"(i) the sales percentage for such drug for such taxable year, by

"(ii) the price increase percentage for such drug for such taxable year.

"(B) SALES PERCENTAGE.—The sales percentage for any drug for any taxable year is the percentage determined by dividing—

"(i) the total sales of such drug by the manufacturer for such taxable year, by

"(ii) the total sales of all single source drugs and innovator multiple source drugs by the manufacturer for such taxable year.

"(C) PRICE INCREASE PERCENTAGE.—The price increase percentage for any drug for any taxable year is the percentage determined by multiplying—

"(i) 20, times

"(ii) the excess (if any) of—

"(I) the percentage increase in the average manufacturer's price for such drug for the taxable year over such average price for the base taxable year, over

"(II) the percentage increase in the Consumer Price Index (as defined in section 1(g)(5)) for the taxable year over the base taxable year.

"(D) TOTAL SALES.—

"(i) DOMESTIC SALES ONLY.—Total sales shall only include sales for use or consumption in the United States.

"(ii) SALES TO RELATED PARTIES NOT INCLUDED.—Total sales shall not include sales to any related party (as defined in section 267(b)).

"(E) AVERAGE MANUFACTURER'S PRICE.—The term 'average manufacturer's price' for any taxable year means the average price paid to the manufacturer by wholesalers or direct buyers and purchasers for each single source drug or innovator multiple source drug sold to the various classes of purchasers.

"(F) BASE TAXABLE YEAR.—The base taxable year for any single source drug or innovator multiple source drug is the later of—

"(i) the last taxable year ending in 1991, or

"(ii) the first taxable year beginning after the date on which the marketing of such drug begins.

"(4) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) MANUFACTURER.—

"(i) IN GENERAL.—The term 'manufacturer' means any person which is engaged in—

"(I) the production, preparation, propagation, compounding, conversion, or processing of prescription drug products, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, or

"(II) in the packaging, repackaging, labeling, relabeling, or distribution of prescription drug products.

Such term does not include a wholesale distributor of drugs or a retail pharmacy licensed under State law.

"(ii) CONTROLLED GROUPS.—For purposes of clause (i)—

"(I) CONTROLLED GROUP OF CORPORATIONS.—All corporations which are members of the same controlled group of corporations shall be treated as 1 person. For purposes of the preceding sentence, the term 'controlled group of corporations' has the meaning given to such term by section 1563(a), except that 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a)(1), and the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.

"(II) PARTNERSHIPS, PROPRIETORSHIPS, ETC., WHICH ARE UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, all trades or business (whether or not incorporated) which are under common control shall be treated as 1 person. The regulations prescribed under this subclause shall be based on principles similar to the principles which apply in the case of subclause (I).

"(B) SINGLE SOURCE DRUG.—The term 'single source drug' means a drug or biological which is produced or distributed under an original new drug application or product licensing application, including a drug product or biological marketed by any cross-licensed producers or distributors operating under the new drug application or product licensing application.

"(C) INNOVATOR MULTIPLE SOURCE DRUG.—The term 'innovator multiple source drug' means a multiple source drug (within the meaning of section 1927(k)(7)(A)(i) of the Social Security Act) that was originally marketed under an original new drug application or a product licensing application approved by the Food and Drug Administration.

"(5) SPECIAL RULES.—For purposes of this subsection—

"(A) DOSAGE TREATMENT.—Except as provided by the Secretary, each dosage form and strength of a single source drug or innovator multiple source drug shall be treated as a separate drug.

"(B) ROUNDING OF PERCENTAGES.—Any percentage shall be rounded to the nearest hundredth of a percent.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 2294. MEDICARE OUTPATIENT PRESCRIPTION DRUG PROGRAM DEMONSTRATION PROJECT.

(a) IN GENERAL.—Subject to the availability of appropriations as authorized in subsection (f), and not later than October 1, 1992, the Secretary of Health and Human Services (hereinafter referred to as the "Secretary") shall establish no less than 15 demonstration projects in counties (or other geographic areas) located in different States in rural and urban areas. Each of the counties (or other geographic areas) designated shall have a significant proportion (as determined by the Secretary) of individuals eligible for medicare benefits under title XVIII of the Social Security Act.

(b) PURPOSE.—(1) The purpose of demonstration projects conducted under this section is to assess—

(A) the impact on cost, quality of care, and access to prescription drugs of developing (in each geographic area) a medicare outpatient prescription drug benefit using various forms of benefit design and reimbursement policies, and

(B) the impact on cost and quality of care of extending coverage of outpatient prescription drugs to medicare beneficiaries served by community health centers.

(2) The partial purpose of at least 5 of the demonstration projects is—

(A) to assess the impact on quality of care and reduction in other health care service expenditures of reimbursing pharmacists separately for providing ongoing drug utilization management (including medication regimen review) to insure that prescriptions are appropriate, medically necessary, and unlikely to result in adverse medical results;

(B) to reimburse pharmacists (or other persons authorized to dispense drugs under State law) under such projects based on marketplace pricing; and

(C) to use an electronic, on-line claims capture and adjudication component in such projects to process medicare prescription drug claims.

(c) PROJECT REQUIREMENTS.—(1) A project conducted under this section shall provide for coverage of all drugs and biologicals approved by the Federal Food and Drug Administration and all medically accepted indications of these drugs as indicated in the 3 national compendia of drug use standards: the USP-DI, AHFS-DI, and AMA-DE.

(2) In each geographic area in which a project is conducted, a Drug Use Review Board (hereinafter referred to as the "DUR Board") shall be established which shall consist of a sufficient number of actively practicing physicians and pharmacists from the geographic area who shall possess knowledge in pharmacology and therapeutics, especially as it relates to drug use with respect to the elderly. In lieu of establishing a DUR Board in the area, functions of the DUR Board may be performed by the State medicaid DUR Board established under section 1927(g) of the Social Security Act.

(3) The DUR Board established under this section shall be responsible for recommending the design and development of the medicare prescription drug benefit within the geographic area. It shall establish a program of prospective and retrospective drug use review for medicare beneficiaries entitled to drug benefits under the project. The Board shall also develop appropriate educational interventions to ensure that drugs are prescribed and dispensed in accordance with standards that are described in the 3 national medical compendia and the peer-reviewed medical literature.

(4) In assessing the total costs of the medicare prescription drug benefit, the DUR Board should consider various levels of discounts, rebates (or other appropriate incentives), and inflation containment mechanisms that could be negotiated with, or required from, pharmaceutical manufacturers as a condition of participating in the program, such as the discounts and rebates provided to the medicaid program under section 1927 of the Social Security Act.

(d) DURATION OF PROJECTS.—The demonstration projects established under this section shall be conducted for a period of 5 fiscal years beginning October 1, 1992, except that the Secretary may terminate a project before the end of such period if the Secretary determines that the State conducting the project is not in substantial compliance with the terms of the application approved by the Secretary under this section.

(e) EVALUATION AND REPORT OF SECRETARY.—The Secretary shall fund an independent evaluation of the demonstration projects and shall report to the Congress on the results of such evaluation no later than 5 years from the date of enactment of this Act. The report of the Secretary shall review the impact on cost and quality of care of the various forms of benefit design and reimbursement policies to provide prescription drugs to medicare beneficiaries and make recommendations on the applicability of the demonstration projects to other medicare beneficiaries.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated equally from the Federal Hospital Insurance Trust Fund and the Federal Supplemental Medical Insurance Trust Fund, $200,000,000 for each of fiscal years 1993, 1994, 1995, 1996, and 1997 to carry out the demonstration projects established under this section.

SEC. 2295. PRESCRIPTION DRUG POLICY REVIEW COMMISSION.

(a) ESTABLISHMENT.—Subject to the availability of appropriations as authorized in subsection (f), the Director of the Congressional Office of Technology Assessment (in this section referred to as the "Director" and the "Office", respectively) shall provide for the appointment of a Prescription Drug Policy Review Commission (in this section referred to as the "Commission"), to be composed of individuals with expertise in the provision and financing of inpatient and outpatient drugs and biologicals. The provisions of title 5, United States Code, governing appointments in the competitive service shall not apply to the appointment of members of the Commission.

(b) COMPOSITION.—(1) The Commission shall consist of 11 individuals. Members of the Commission shall first be appointed by no later than October 1, 1992, for a term of 3 years, except that the Director may provide initially for such shorter terms as will insure that (on a continuing basis) the terms of no more than 4 members expire in any one year.

(2) The membership of the Commission shall include—

(A) recognized experts in the fields of health care economics and quality assurance, medicine, pharmacology, pharmacy, and prescription drug reimbursement,

(B) other health care professionals, and

(C) at least one individual who is an advocate of medicare and medicaid recipients.

(c) ANNUAL REPORTS.—The Commission shall submit to the Congress and the Health Care Cost Containment Commission an annual report (by not later than January 1 of each year beginning with 1994) which shall include information and recommendations regarding national and international drug policy issues, such as—

(1) trends and changes in prices for prescription and non-prescription drugs (on the retail and manufacturer level) in the inpatient and outpatient setting in the United States;

(2) trends and changes in prices and mechanisms for cost containment for prescription drugs in other industrialized nations, such as Canada, Japan, and countries of the European Economic Community, and the applicability of such mechanisms to the United States;

(3) the scope of coverage, reimbursement, and financing under Federal health care programs, including titles XVIII and XIX of the Social Security Act, the Department of Veterans Affairs, the Department of Defense, and Public Health Service clinics;

(4) the availability and affordability of prescription drugs for various population groups in the United States, and the accessibility and affordability of public and private insurance programs for prescription drugs for such population groups;

(5) changes in the level and nature of use of prescription drugs by recipients of benefits under titles XVIII and XIX of the Social Security Act, taking into account the impact of such changes on aggregate expenditures under these titles;

(6) suggestions to make prescription drugs more affordable and cost-effective for third party insurers, including State-based pharmaceutical assistance and general assistance programs;

(7) evaluation of technologies available for efficient third party prescription drug program administration, such as electronic claims management and payment technologies;

(8) methods of providing reimbursement under Federal health care programs to providers for drug products and cognitive services;

(9) evaluation of the use and efficiency of all Federal tax credits and subsidies given to the pharmaceutical industry for various purposes, including the tax credit allowed under section 936 of the Internal Revenue Code of 1986, and recommendations on developing incentive-based tax credits for research and development; and

(10) evaluation of the impact on total health care expenditures in other industrialized nations of switching prescription drugs to non-prescription status, and the role of various health professionals in the distribution of such non-prescription drugs.

(d) SPECIAL REPORTS.—The Commission shall submit to the Congress and the Health Care Cost Containment Commission special reports as requested by the Congress and the Commission.

(e) ADMINISTRATIVE PROVISIONS.—Section 1845(c)(1) of the Social Security Act (42 U.S.C. 1395w–1(c)(1)) shall apply to the Commission in the same manner as such section applies to the Physician Payment Review Commission.

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated equally from the Federal Hospital Insurance Trust Fund and the Federal Supplemental Medical Insurance Trust Fund, an amount determined under paragraph (2) for each fiscal year, to carry out the purposes of this section.

(2) AMOUNT DETERMINED.—

(A) IN GENERAL.—For purposes of paragraph (1), the amount determined under this paragraph is—

(i) for fiscal year 1993, $3,000,000, and

(ii) for each fiscal year beginning after fiscal year 1993, the dollar amount for the previous fiscal year, increased by the cost-of-living adjustment.

(B) COST-OF-LIVING ADJUSTMENT.—For purposes of subparagraph (A), the cost-of-living adjustment for any fiscal year is the percentage (if any) by which—

(i) the CPI for the previous fiscal year, exceeds

(ii) The CPI for fiscal year 1992.

(C) CPI.—For purposes of subparagraph (B), the CPI for any fiscal year is the average of the Consumer Price Index for prescription drugs as of the close of the 12-month period ending on June 30 of the previous fiscal year.

SEC. 2296. REPORT ON FEDERAL SUBSIDIES AND INCENTIVES PROVIDED TO THE PHARMACEUTICAL INDUSTRY.

(a) REPORT.—By not later than July 1, 1993, the Secretary of Health and Human Services, acting in consultation with the Secretary of the Treasury, shall submit a report to the Committee on Finance of the United States Senate, the Committee on Energy and Commerce and the Committee on Ways and Means of the United States House of Representatives, and the Special Committee on Aging of the United States Senate, on Federal subsidies and incentives provided to the pharmaceutical industry. Such report shall include—

(1) a determination of the total cost over the 5 immediately preceding fiscal years to Federal taxpayers of all Federal subsidies provided to the pharmaceutical industry (including tax incentives, subsidies, grants, and any other financial support);

(2) a description of—

(A) the purposes for which such Federal subsidies are used by the pharmaceutical industry;

(B) the Federal role in researching and developing patented pharmaceutical products and the extent to which the Federal Government should co-license certain drugs and biologicals;

(C) the extent to which pharmaceutical industry marketing research costs are incorporated into allowable Federal tax credits;

(D) comparable financial incentives, subsidies, and tax credits provided to the pharmaceutical industry by other industrialized nations and the use of such incentives, subsidies, and credits by such industry;

(E) the relationship between the total Federal financial support provided to the pharmaceutical industry by the United States and other industrialized nations and the prices paid by the citizens of such respective nations for prescription drugs; and

(F) the extent to which tax credits provided by the Federal Government subsidize total worldwide pharmaceutical industry research and development; and

(3) recommendations on how Federal tax credits to pharmaceutical manufacturers and marketing exclusivity for drug products may be related to—

(A) an individual manufacturer's pricing behavior in the marketplace; and

(B) the relative therapeutic value of new pharmaceutical products researched, developed, and marketed in the United States.

SEC. 2297. MANUFACTURER INTERNATIONAL DRUG PRICE REPORTING REQUIREMENTS.

Subparagraph (A) of section 1927(b)(3) of the Social Security Act (42 U.S.C. 1396r–8(b)(3)) is amended—

(1) by striking "and" at the end of clause (i),

(2) by striking the period at the end of clause (ii) and inserting ", and", and

(3) by adding at the end thereof the following new clause:

"(iii) not later than 30 days after the end of each calendar year, the average price that the manufacturer sold each covered outpatient drug in such calendar year in the following countries: Canada, Australia, and the countries of the European Economic Community.".

SEC. 2298. USE OF REVENUES.

(a) EXTENSION OF SELF-EMPLOYED HEALTH INSURANCE DEDUCTION.—Section 162(l)(6), as amended by section 2201(b), is amended by striking "December 31, 1994" and inserting "May 31, 1995".

(b) DEFICIT REDUCTION.—It is the sense of the Senate that, after the application of the amendment made by subsection (a), any remaining revenues resulting from the amendment made by section 2293(a) shall be applied to reduce the Federal budget deficit.

DOLE (AND OTHERS) AMENDMENT NO. 1709

Mr. PACKWOOD (for Mr. DOLE, for himself, Mr. PACKWOOD, Mr. DOMENICI, Mr. CHAFEE, Mr. DANFORTH, Mr. HATCH, Mr. SYMMS, and Mr. HELMS) proposed an amendment to the bill H.R. 4210; supra; as follows:

Strike all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Economic Recovery Act of 1992".

TITLE I—ECONOMIC RECOVERY INCENTIVES

SECTION 101. SHORT TITLE, ETC.

(a) SHORT TITLE.—This title may be cited as the "Enhanced Economic Recovery Act of 1992".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) SECTION 15 SHALL NOT APPLY.—Except as otherwise expressly provided, no amendment made by this title shall be treated as a change in rate of tax for purposes of section 15 of the Internal Revenue Code of 1986.

Subtitle A—Economic Recovery Initiatives

PART I—PROVISIONS RELATING TO CAPITAL GAINS

SEC. 111. REDUCTION IN CAPITAL GAINS TAX FOR NONCORPORATE TAXPAYERS.

(a) GENERAL RULE.—Part I of subchapter P of chapter 1 (relating to treatment of capital gains) is amended by adding at the end thereof the following new section:

"SEC. 1202. REDUCTION IN CAPITAL GAINS TAX FOR NONCORPORATE TAXPAYERS.

"(a) DEDUCTION ALLOWED FOR CAPITAL GAINS.—

"(1) IN GENERAL.—If, for any taxable year, a taxpayer other than a corporation has a net capital gain, an amount equal to the sum of the applicable percentages of the applicable capital gain shall be allowed as a deduction.

"(2) ESTATES AND TRUSTS.—In the case of an estate or trust, the deduction under paragraph (1) shall be computed by excluding the portion (if any) of the gains for the taxable year from sales or exchanges of capital assets which, under section 652 and 662 (relating to inclusions of amounts in gross income of beneficiaries of trusts), is includible by income beneficiaries (other than corporations) as gain derived from the sale or exchange of capital assets.

"(b) APPLICABLE PERCENTAGES.—For purposes of this subsection, the applicable percentages shall be the percentages determined in accordance with the following table:

"In the case of:	The applicable percentage is:
1-year gain	15
2-year gain	30
3-year gain	45

"(c) GAIN TO WHICH DEDUCTION APPLIES.—For purposes of this section—

"(1) APPLICABLE CAPITAL GAIN.—The term 'applicable capital gain' means 1-year gain, 2-year gain, or 3-year gain determined by taking into account only gain which is properly taken into account on or after February 1, 1992.

"(2) 3-YEAR GAIN.—The term '3-year gain' means the lesser of—

"(A) the net capital gain for the taxable year, or

"(B) the long-term capital gain determined by taking into account only gain from the sale or exchange of qualified assets held more than 3 years.

"(3) 2-YEAR GAIN.—The term '2-year gain' means the lesser of—

"(A) the net capital gain for the taxable year, reduced by 3-year gain, or

"(B) the long-term capital gain determined by taking into account only gain from the sale or exchange of qualified assets held more than 2 years but not more than 3 years.

"(4) 1-YEAR GAIN.—The term '1-year gain' means the net capital gain for the taxable year determined by taking into account only—

"(A) gain from the sale or exchange of assets held more than 1 year but not more than 2 years, and

"(B) losses from the sale or exchange of assets held more than 1 year.

"(5) SPECIAL RULES FOR GAIN ALLOCABLE TO PERIODS BEFORE 1994.—For purposes of this section—

"(A) GAIN ALLOCABLE TO PERIODS BEGINNING ON OR AFTER FEBRUARY 1, 1992 AND BEFORE 1993.—In the case of any gain from any sale or exchange which is properly taken into account for the period beginning on February 1, 1992 and ending on December 31, 1992, gain which is 1-year gain or 2-year gain (without regard to this subparagraph) shall be treated as 3-year gain.

"(B) GAIN ALLOCABLE TO 1993.—In the case of any gain from any sale or exchange which is properly taken into account for periods during 1993, gain which is 1-year gain or 2-year gain (without regard to this subparagraph) shall be treated as 2-year gain and 3-year gain, respectively.

"(6) SPECIAL RULES FOR PASS-THROUGH ENTITIES.—

"(A) IN GENERAL.—In applying this subsection with respect to any pass-through entity, the determination of when a sale or exchange has occurred shall be made at the entity level.

"(B) PASS-THROUGH ENTITY DEFINED.—For purposes of subparagraph (A), the term 'pass-through entity' means—

"(i) a regulated investment company,

"(ii) a real estate investment trust,

"(iii) an S corporation,

"(iv) a partnership,

"(v) an estate or trust, and

"(vi) a common trust fund.

"(7) RECAPTURE OF NET ORDINARY LOSS UNDER SECTION 1231.—For purposes of this subsection, if any amount is treated as ordinary income under section 1231(c) for any taxable year—

"(A) the amount so treated shall be allocated proportionately among the section 1231 gains (as defined in section 1231(a)) for such taxable year, and

"(B) the amount so allocated to any such gain shall reduce the amount of such gain."

(b) TREATMENT OF COLLECTIBLES.—

(1) IN GENERAL.—Section 1222 is amended by inserting after paragraph (11) the following new paragraph:

"(12) SPECIAL RULE FOR COLLECTIBLES.—

"(A) IN GENERAL.—Any gain or loss from the sale or exchange of a collectible shall be treated as a short-term capital gain or loss (as the case may be), without regard to the period such asset was held. The preceding sentence shall apply only to the extent the gain or loss is taken into account in computing taxable income.

"(B) TREATMENT OF CERTAIN SALES OF INTEREST IN PARTNERSHIP, ETC.—For purposes of subparagraph (A), any gain from the sale or exchange of an interest in a partnership, S corporation, or trust which is attributable to unrealized appreciation in the value of collectibles held by such entity shall be treated as gain from the sale or exchange of a collectible. Rules similar to the rules of section 751(f) shall apply for purposes of the preceding sentence.

"(C) COLLECTIBLE.—For purposes of this paragraph, the term 'collectible' means any capital asset which is a collectible (as defined in section 408(m) without regard to paragraph (3) thereof)."

(2) CHARITABLE DEDUCTION NOT AFFECTED.—

(A) Paragraph (1) of section 170(e) is amended by adding at the end thereof the following new sentence: "For purposes of this paragraph, section 1222 shall be applied without regard to paragraph (12) thereof (relating to special rule for collectibles)."

(B) Clause (iv) of section 170(b)(1)(C) is amended by inserting before the period at the end thereof the following: "and section 1222 shall be applied without regard to paragraph (12) thereof (relating to special rule for collectibles)".

(c) MINIMUM TAX.—Section 56(b)(1) is amended by adding at the end thereof the following new subparagraph:

"(G) CAPITAL GAINS DEDUCTION DISALLOWANCE.—Except with respect to gains realized on the sale, exchange, or other disposition of a direct or indirect interest in real estate or in a closely-held business, the deduction under section 1202 shall not be allowed."

(d) CONFORMING AMENDMENTS.—

(1) Section 62(a) is amended by inserting after paragraph (13) the following new paragraph:

"(14) CAPITAL GAINS DEDUCTION.—The deduction allowed by section 1202."

(2) Clause (ii) of section 163(d)(4)(B) is amended by inserting ", reduced by the amount of any deduction allowable under section 1202 attributable to gain from such property" after "investment".

(3)(A) Subparagraph (B) of section 170(e)(1) is amended by inserting "the nondeductible percentage" before "the amount of gain".

(B) Paragraph (1) of section 170(e) is amended by adding at the end thereof the following new sentence: "For purposes of subparagraph (B), the term 'nondeductible percentage' means 100 percent minus the applicable percentage with respect to such property under section 1202(b), or, in the case of a corporation, 100 percent."

(4)(A) Paragraph (2) of section 172(d) (relating to modifications with respect to net operating loss deduction) is amended to read as follows:

"(2) CAPITAL GAINS AND LOSSES OF TAXPAYERS OTHER THAN CORPORATIONS.—In the case of a taxpayer other than a corporation—

"(A) the amount deductible on account of losses from sales or exchanges of capital assets shall not exceed the amount includible on account of gains from sales or exchanges of capital assets; and

"(B) the deduction provided by section 1202 shall not be allowed."

(B) Subparagraph (B) of section 172(d)(4) is amended by inserting ", (2)(B)," after "paragraph (1)".

(5)(A) Section 221 (as redesignated by section 224(a) of this Act) is amended to read as follows:

"SEC. 221. CROSS REFERENCES.

"(1) For deductions for net capital gains in the case of a taxpayer other than a corporation, see section 1202.

"(2) For deductions in respect of a decedent, see section 691."

(B) The table of sections for part VII of subchapter B of chapter 1 (as amended by section 224(c) of this Act) is amended by striking "reference" in the item relating to section 221 and inserting "references".

(6) Paragraph (4) of section 642(c) is amended to read as follows:

"(4) ADJUSTMENTS.—To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain from the sale or exchange of capital assets held for more than 1 year, proper adjustment shall be made for any deduction allowable to the estate or trust under section 1202 (relating to deduction for net capital gain). In the case of a trust, the deduction allowed by this subsection shall be subject to section 681 (relating to unrelated business income)."

(7) Paragraph (3) of section 643(a) is amended by adding at the end thereof the following new sentence: "The deduction under section 1202 (relating to deduction for net capital gain) shall not be taken into account."

(8) Subparagraph (C) of section 643(a)(6) is amended—

(A) by inserting "(i)" before "there", and

(B) by inserting ", and (ii) the deduction under section 1202 (relating to deduction for excess of capital gains over capital losses) shall not be taken into account" before the period at the end thereof.

(9) Paragraph (4) of section 691(c) is amended by striking "1202, and 1211" and inserting "1201, 1202, and 1211".

(10) The second sentence of paragraph (2) of section 871(a) is amended by inserting "such gains and losses shall be determined without regard to section 1202 (relating to deduction for net capital gain) and" after "except that".

(11) Paragraph (1) of section 1402(i) is amended to read as follows:

"(1) IN GENERAL.—In determining the net earnings from self-employment of any options dealer or commodities dealer—

"(A) notwithstanding subsection (a)(3)(A), there shall not be excluded any gain or loss (in the normal course of the taxpayer's activity of dealing in or trading section 1256 contracts) from section 1256 contracts or property related to such contracts, and

"(B) the deduction provided by section 1202 shall not apply."

(12)(A) Subparagraph (A) of section 7518(g)(6) is amended by striking the last sentence.

(B) Subparagraph (A) of section 607(h)(6) of the Merchant Marine Act of 1936, is amended by striking the last sentence.

(e) CLERICAL AMENDMENT.—The table of sections for part I of subchapter P of chapter 1 is amended by adding at the end thereof the following new item:

Sec. 1202. Reduction in capital gains tax for noncorporate taxpayers."

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years ending on or after February 1, 1992.

(2) TREATMENT OF COLLECTIBLES.—

(A) IN GENERAL.—The amendment made by subsection (b) shall apply to taxable years beginning on or after February 1, 1993.

(B) SPECIAL RULE FOR 1992 TAXABLE YEAR.—In the case of any taxable year which includes February 1, 1992, for purposes of section 1202 of the Internal Revenue Code of 1986 and section 1(g) of such Code, any gain or loss from the sale or exchange of a collectible (within the meaning of section 1222(12) of such Code) shall be treated as gain or loss from a sale or exchange occurring before such date.

SEC. 112. RECAPTURE UNDER SECTION 1250 OF TOTAL AMOUNT OF DEPRECIATION.

(a) GENERAL RULE.—Subsections (a) and (b) of section 1250 (relating to gain from disposition of certain depreciable realty) are amended to read as follows:

"(a) GENERAL RULE.—Except as otherwise provided in this section, if section 1250 property is disposed of, the lesser of—

"(1) the depreciation adjustments in respect to such property, or

"(2) the excess of—

"(A) the amount realized (or, in the case of a disposition other than a sale, exchange, or involuntary conversion, the fair market value of such property), over

"(B) the adjusted basis of such property,

shall be treated as gain which is ordinary income. Such gain shall be recognized notwithstanding any other provision of this subtitle.

"(b) DEPRECIATION ADJUSTMENTS.—For purposes of this section, the term 'depreciation adjustments' means, in respect of any property, all adjustments attributable to periods after December 31, 1968, reflected in the adjusted basis of such property on account of deductions (whether in respect of the same or other property) allowed or allowable to the taxpayer or to any other person for exhaustion, wear and tear, obsolescence, or amortization (other than amortization under section 168 (as in effect before its repeal by the Tax Reform Act of 1976), 169, 185 (as in effect before its repeal by the Tax Reform Act of 1986), 188, 190, or 193). For purposes of the preceding sentence, if the taxpayer can establish by adequate records or other sufficient evidence that the amount allowed as a deduction for any period was less than the amount allowable, the amount taken into account for such period shall be the amount allowed."

(b) MAXIMUM RATE ON RECAPTURE AMOUNT.—Section 1 (relating to tax imposed) is amended by adding at the end the following new section:

"(i) MAXIMUM RATE OF TAX IN SECTION 1250 RECAPTURE AMOUNTS.—If a taxpayer has any amount treated as ordinary income under section 1250 for any taxable year, then the tax imposed by this section shall not exceed the sum of—

"(1) a tax computed at the rates and in the same manner as if this subsection had not been enacted on the greater of—

"(A) taxable income reduced by the amount treated as ordinary income under section 1250, or

"(B) the amount of taxable income taxed at a rate below 28 percent, plus

"(2) a tax of 28 percent of the amount of taxable income in excess of the amount determined under paragraph (1)."

(c) LIMITATION IN CASE OF INSTALLMENT SALES.—Subsection (i) of section 453 is amended—

(1) by striking "1250" the first place it appears and inserting "1250 (as in effect on the day before the date of enactment of the Enhanced Economic Recovery Act of 1992)", and

(2) by striking "1250" the second place it appears and inserting "1250 (as so in effect)".

(d) CONFORMING AMENDMENTS.—

(1) Subparagraph (E) of section 1250(d)(4) is amended—

(A) by striking "additional depreciation" and inserting "amount of the depreciation adjustments", and

(B) by striking "ADDITIONAL DEPRECIATION" in the subparagraph heading and inserting "DEPRECIATION ADJUSTMENTS".

(2) Subparagraph (B) of section 1250(d)(6) is amended to read as follows:

"(B) DEPRECIATION ADJUSTMENTS.—In respect of any property described in subparagraph (A), the amount of the depreciation adjustments attributable to periods before the distribution by the partnership shall be—

"(i) the amount of gain to which subsection (a) would have applied if such property had been sold by the partnership immediately before the distribution at its fair market value at such time, reduced by

"(ii) the amount of such gain to which section 751(b) applied."

(3) Subsection (d) of section 1250 is amended by striking paragraph (10).

(4) 1250 is amended by striking subsections (e) and (f) and by redesignating subsections (g) and (h) as subsections (e) and (f), respectively.

(5) Paragraph (5) of section 48(q) is amended to read as follows:

"(5) RECAPTURE OF REDUCTION.—For purposes of section 1245 and 1250, any reduction under this subsection shall be treated as a deduction allowed for depreciation."

(6) Clause (i) of section 267(e)(5)(D) is amended by striking "section 1250(a)(1)(B)" and inserting "section 1250(a)(1)(B) (as in effect on the day before the date of enactment of the Enhanced Economic Recovery Act of 1992)".

(7)(A) Subsection (a) of section 291 is amended by striking paragraphs (1) and by redesignating paragraph (2), (3), (4), and (5) as paragraphs (1), (2), (3), and (4), respectively.

(B) Subsection (c) of section 291 is amended to read as follows:

"(c) SPECIAL RULE FOR POLLUTION CONTROL FACILITIES.—Section 168 shall apply with respect to that portion of the basis of any property not taken into account under section 169 by reason of subsection (a)(4)."

(C) Section 291 is amended by striking subsection (d) and redesignating subsection (e) as subsection (d).

(D) Paragraph (2) of section 291(d) (as redesignated by subparagraph (C)) is hereby repealed.

(E) Subparagraph (A) of section 265(b)(3) is amended by striking "291(e)(1)(B)" and inserting "291(d)(1)(B)".

(F) Subsection (c) of section 1277 is amended by striking "291(e)(B)(ii)" and inserting "291(d)(1)(B)(ii)".

(10) Subsection (d) of section 1017 is amended to read as follows:

"(d) RECAPTURE OF DEDUCTIONS.—For purposes of sections 1245 and 1250—

"(1) any property the basis of which is reduced under this section and which is neither section 1245 property nor section 1250 property shall be treated as section 1245 property, and

"(2) any reduction under this section shall be treated as a deduction allowed for depreciation."

(11) Paragraph (5) of section 7701(e) is amended by striking "(relating to low-income housing)" and inserting "(as in effect on the day before the date of enactment of the Enhanced Economic Recovery Act of 1992)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to dispositions made on or after February 1, 1992, in taxable years ending on or after such date.

PART II—PROVISIONS RELATING TO PASSIVE LOSSES AND DEPRECIATION

SEC. 121. PASSIVE LOSS RELIEF FOR REAL ESTATE DEVELOPERS.

(a) Treatment of Real Estate Development Activities.—Subsection (c) of section 469 (relating to the limitation on passive activity losses and credits) is amended by adding at the end the following new paragraph:

"(7) Real estate development activity.—The real estate development activity of a taxpayer shall be treated as a single trade or business activity that is not a rental activity."

(b) Definition.—Subsection (j) of section 469 is amended by adding at the end thereof the following new paragraph:

"(13) Real estate development activity.—

"(A) In general.—The real estate development activity of a taxpayer shall include all activities of the taxpayer (determined without regard to subsection (c)(7) and this paragraph) in which the taxpayer actively participates and that consist of the performance of real estate development services and the rental of any qualified real property.

"(B) Real estate development services.—For purposes of this paragraph, real estate development services include only the construction, substantial renovation, and management of real property and the lease-up and sale of real property in which the taxpayer holds an interest of not less than 10 percent.

"(C) Qualified real property.—For purposes of this paragraph, the term "qualified real property" means any real property that was constructed or substantially renovated in an activity of the taxpayer at a time when the taxpayer materially participated in such activity."

(c) Effective Date.—The amendments made by this section are effective for taxable years ending on or after December 31, 1992.

SEC. 122. SPECIAL DEPRECIATION ALLOWANCE FOR CERTAIN EQUIPMENT ACQUIRED IN 1992.

(a) In General.—Section 168 (relating to accelerated cost recovery system) is amended by adding at the end the following new subsection:

"(j) Special Allowance for Certain Equipment Acquired in 1992.—

"(1) Additional allowance.—Except as provided in paragraph (2), in the case of any qualified equipment—

"(A) the depreciation deduction provided by section 167(a) for the taxable year in which such equipment is placed in service shall include an allowance equal to 15 percent of the adjusted basis of the qualified equipment, and

"(B) the adjusted basis of the qualified equipment shall be reduced by the amount of such deduction (without regard to paragraph (2)) before computing the amount otherwise allowable as a depreciation deduction under this chapter for such taxable year and any subsequent taxable year.

"(2) Maximum first-year deduction.—Of the aggregate deduction allowable under paragraph (1)—

"(A) 50 percent shall be allowed for the taxable year in which the property is placed in service, and

"(B) 50 percent shall be allowed for the succeeding taxable year.

"(3) Qualified equipment.—For purposes of this subsection—

"(A) In general.—The term 'qualified equipment' means property to which this section applies—

"(i) which is section 1245 property (within the meaning of section 1245(a)(3)),

"(ii) the original use of which commences with the taxpayer on or after February 1, 1992,

"(iii) which is—

"(I) acquired by the taxpayer on or after February 1, 1992, and before January 1, 1993, but only if no written binding contract for the acquisition was in effect before February 1, 1992, or

"(II) acquired by the taxpayer pursuant to a written binding contract which was entered into on or after February 1, 1992, and before January 1, 1993, and

"(iv) which is placed in service by the taxpayer before July 1, 1993.

"(B) Exceptions.—

"(i) Alternative depreciation property.—The term 'qualified equipment' shall not include any property to which the alternative depreciation system under subsection (g) applies, determined—

"(I) without regard to paragraph (7) of subsection (g) (relating to election to have system apply), and

"(II) after application of section 280F(b) (relating to listed property with limited business use).

"(ii) Election out.—If a taxpayer makes an election under this clause with respect to any class of property for any taxable year, this subsection shall not apply to all property in such class placed in service during such taxable year.

"(C) Special rules relating to original use.—

"(i) Self-constructed property.—In the case of a taxpayer manufacturing, constructing, or producing property for the taxpayer's own use, the requirements of clause (iii) of subparagraph (A) shall be treated as met if the taxpayer begins manufacturing, constructing, or producing the property on and after February 1, 1992, and before January 1, 1993.

"(ii) Sale-leasebacks.—For purposes of subparagraph (A)(ii), if property—

"(I) is originally placed in service on or after February 1, 1992, by a person, and

"(II) is sold and leased back by such person within 3 months after the date such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback referred to in subclause (II).

"(D) Coordination with section 280F.—For purposes of section 280F—

"(i) Automobiles.—In the case of a passenger automobile (as defined in section 280F(d)(5)) which is qualified equipment, the Secretary shall increase the limitation under section 280F(a)(1)(A)(i), and decrease each other limitation under subparagraphs (A) and (B) of section 280F(a)(1), to appropriately reflect the amount of the deduction allowable under paragraph (1).

"(ii) Listed property.—The deduction allowable under paragraph (1) shall be taken into account in computing any recapture amount under section 280F(b)(2)."

(b) Allowance Against Alternative Minimum Tax.—

(1) In general.—Section 56(a)(1)(A) (relating to depreciation adjustment for alternative minimum tax) is amended by adding at the end the following new clause:

"(iii) Additional allowance for equipment acquired in 1992.—The deduction under section 168(j) shall be allowed."

(2) Conforming amendment.—Clause (i) of section 56(a)(1)(A) is amended by inserting "or (iii)" after "(ii)".

(c) Effective Date.—The amendments made by this section shall apply to property placed in service on or after February 1, 1992, in taxable years ending on or after such date.

SEC. 123. ELIMINATION OF ACE DEPRECIATION ADJUSTMENT.

(a) In General.—Clause (i) of section 56(g)(4)(A) (relating to depreciation adjustments for computing adjusted current earnings) is amended by adding at the end the following new sentence: "The preceding sentence shall not apply to property placed in service on or after February 1, 1992, and the depreciation deduction with respect to such property shall be determined under the rules of subsection (a)(1)(A)."

(b) Effective Dates.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to property placed in service on or after February 1, 1992, in taxable years ending after such date.

(2) Coordination with transitional rules.—The amendments made by this section shall not apply to any property to which paragraph (1) of section 56(a) of the Internal Revenue Code of 1986 does not apply by reason of subparagraph (C)(i) of such paragraph (1).

PART III—PROVISIONS RELATING TO REAL ESTATE INVESTMENTS BY PENSION FUNDS

SEC. 131. REAL PROPERTY ACQUIRED BY A QUALIFIED ORGANIZATION.

(a) Interests in Mortgages.—The last sentence of subparagraph (B) of section 514(c)(9) is hereby transferred to subparagraph (A) of section 514(c)(9) and added at the end thereof.

(b) Modifications of Exceptions.—Paragraph (9) of section 514(c) is amended by adding at the end thereof the following new subparagraph:

"(G) Special rules for purposes of the exceptions.—For purposes of section 514(c)(9)(B), except as otherwise provided by regulations, the following additional rules apply—

"(i) In general.—

"(I) For purposes of clauses (iii) and (iv) of subparagraph (B), a lease to a person described in clause (iii) or (iv) shall be disregarded if no more than 10 percent of the leasable floor space in a building is covered by the lease and if the lease is on commercially reasonable terms.

"(II) Clause (v) of subparagraph (B) shall not apply to the extent the financing is commercially reasonable and is on substantially the same terms as loans involving unrelated persons; for this purpose, standards for determining a commercially reasonable interest rate shall be provided by the Secretary.

"(ii) Qualifying sales out of foreclosure by financial institutions.—In the case of a qualifying sale out of foreclosure by a financial institution, clauses (i) and (ii) of subparagraph (B) shall not apply. For this purpose, a 'qualifying sale out of foreclosure by a financial institution' exists where—

"(I) a qualified organization acquires real property from a person (a 'financial institution') described in sections 581 or 591(a) (including a person in receivership) and the financial institution acquired the property pursuant to a bid at foreclosure or by operation of an agreement or of process of law after a default on indebtedness which the property secured ('foreclosure'), and the financial institution treats any income realized from the sale or exchange of the property as ordinary income,

"(II) the amount of the financing provided by the financial institution does not exceed the amount of the financial institution's outstanding indebtedness (determined without regard to accrued but unpaid interest) with respect to the property at the time of foreclosure,

"(III) the financing provided by the financial institution is commercially reasonable and is on substantially the same terms as loans between unrelated persons for sales of foreclosed property (for this purpose, standards for determining a commercially reasonable interest rate shall be provided by the Secretary), and

"(IV) the amount payable pursuant to the financing that is determined by reference to the revenue, income, or profits derived from the property ('participation feature') does not exceed 25 percent of the principal amount of the financing provided by the financial institution, and the participation feature is payable no later than the earlier of satisfaction of the financing or disposition of the property."

(c) Effective Date.—The amendments made by this section shall apply to debt-financed acquisitions or real estate made on or after February 1, 1992.

SEC. 132. SPECIAL RULES FOR INVESTMENTS IN PARTNERSHIPS.

(a) Modification to Anti-Abuse Rules.—Paragraph (9) of section 514(c) (as amended by section 131 of this Act) is amended by adding at the end thereof the following new subparagraph:

"(H) Partnerships not involving tax avoidance.—

"(i) De minimis rule for certain large partnerships.—The provisions of subparagraph (B) shall not apply to an investment in a partnership having at least 250 partners if—

"(I) investments in the partnership are organized into units that are marketed primarily to individuals expected to be taxed at the maximum rate prescribed for individuals under section 1.

"(II) at least 50 percent of each class of interests is owned by such individuals.

"(III) the partners that are qualified organizations owning interests in a class participate on substantially the same terms as other partners owning interests in that class, and

"(IV) the principal purpose of partnership allocations is not tax avoidance.

"(ii) Exception where taxable persons own a significant percentage.—In the case of any partnership, other than a partnership to which clause (i) applies, in which persons who are expected (under the regulations to be prescribed by the Secretary), at the time the partnership is formed, to pay tax at the maximum rate prescribed in section 1 or 11 (whichever is applicable) through the term of the partnership own at least a 25 percent interest, the provisions of subparagraph (B) shall not apply if the partnership satisfies the requirements of subparagraph (E)."

(b) Publicly Traded Partnerships; Unrelated Business Income from Partnerships.—Subsection (c) of section 512 is amended by striking paragraph (2) (relating to publicly traded partnerships), by redesignating paragraph (3) as paragraph (2), and by striking "paragraph (1) or (2)" in paragraph (2) (as so redesignated) and inserting "paragraph (1)".

(c) Effective Date.—The amendments made by this section shall apply to partnership interests acquired on or after February 1, 1992.

PART IV—PROVISIONS AFFECTING HOMEBUYERS

SEC. 141. CREDIT FOR FIRST-TIME HOMEBUYERS.

(a) In General.—Subpart A of part IV of chapter 1 is amended by inserting after section 22 the following new section:

"SEC. 23. PURCHASE OF PRINCIPAL RESIDENCE BY FIRST-TIME HOMEBUYER.

"(a) Allowance of Credit.—If an individual who is a first-time homebuyer purchases a principal residence (within the meaning of section 1034), there shall be allowed to such individual as a credit against the tax imposed by this subtitle an amount equal to 10 percent of the purchase price of the principal residence.

"(b) Limitations.—

"(1) Maximum credit.—The credit allowed under subsection (a) shall not exceed $5,000.

"(2) Limitation to one residence.—The credit under this section shall be allowed with respect to only one residence of the taxpayer.

"(3) Married individuals filing jointly.—In the case of a husband and wife who file a joint return under section 6013, the credit under this section is allowable only if both the husband and wife are first-time homebuyers, and the amount specified under paragraph (1) shall apply to the joint return.

"(4) Other taxpayers.—In the case of individuals to whom paragraph (3) does not apply who together purchase the same new principal residence for use as their principal residence, the credit under this section is allowable only if each of the individuals is a first-time homebuyer, and the sum of the amount of credit allowed to such individuals shall not exceed the lesser of $5,000 or 10 percent of the total purchase price of the residence. The amount of any credit allowable under this section shall be apportioned among such individuals under regulations to be prescribed by the Secretary.

"(5) Application with other credits.—

"(A) General rule.—The credit allowed by subsection (a) for any taxable year shall not exceed the amount of the tax imposed by this chapter for the taxable year, reduced by the sum of any other credits allowable under this chapter.

"(B) Carry forward of unused credits.—Any credit that is not allowed for the taxable year solely by reason of subparagraph (A) shall be carried forward to the succeeding taxable year and allowed as a credit for that taxable year. However, the credit shall not be carried forward more than 5 taxable years after the taxable year in which the residence is purchased.

"(6) Year for which credit allowed.—Fifty percent of the credit allowed by subsection (a) shall be allowed in the taxable year in which the residence is purchased and the remaining fifty percent of the credit shall be allowed in the succeeding taxable year.

"(c) Definitions and Special Rules.—For purposes of this section—

"(1) Purchase price.—The term 'purchase price' means the adjusted basis of the principal residence on the date of the acquisition thereof.

"(2) First-time homebuyer.—

"(A) In general.—The term 'first-time homebuyer' means any individual if such individual has not had a present ownership interest in any residence (including an interest in a housing cooperative) at any time within the 36-month period ending on the date of acquisition of the residence on which the credit allowed under subsection (a) is to be claimed. An interest in a partnership, S corporation, or trust that owns an interest in a residence is not considered an interest in a residence for purposes of this paragraph except as may be provided in regulations.

"(B) Certain individuals.—Notwithstanding subparagraph (A), an individual is not a first-time homebuyer on the date of purchase of a residence if on that date the running of any period of time specified in section 1034 is suspended under subsection (h) or (k) of section 1034 with respect to that individual.

"(3) Special rules for certain acquisitions.—No credit is allowable under this section if—

"(A) the residence is acquired from a person whose relationship to the person acquiring it would result in the disallowance of losses under section 267 or 707(b), or

"(B) the basis of the residence in the hands of the person acquiring it is determined—

"(i) in whole or in part by reference to the adjusted basis of such residence in the hands of the person from whom it is acquired, or

"(ii) under section 1014(a) (relating to property acquired from a decedent).

"(d) Recapture for Certain Dispositions.—

"(1) In general.—Except as provided in paragraphs (2) and (3), if the taxpayer disposes of property with respect to the purchase of which a credit was allowed under subsection (a) at any time within 36 months after the date the taxpayer acquired the property as his principal residence, then the tax imposed under this chapter for the taxable year in which the disposition occurs is increased by an amount equal to the amount allowed as a credit for the purchase of such property.

"(2) Acquisition of new residence.—If, in connection with a disposition described in paragraph (1) and within the applicable period prescribed in section 1034, the taxpayer purchases a new principal residence, then the provisions of paragraph (1) shall not apply and the tax imposed by this chapter for the taxable year in which the new principal residence is purchased is increased to the extent the amount of the credit that could be claimed under this section on the purchase of the new residence (determined without regard to subsection (e)) is less than the amount of credit claimed by the taxpayer under this section.

"(3) Death of owner; casualty loss; involuntary conversion; etc.—The provisions of paragraph (1) do not apply to—

"(A) a disposition of a residence made on account of the death of any individual having a legal or equitable interest therein occurring during the 36-month period to which reference is made under paragraph (1),

"(B) a disposition of the old residence if it is substantially or completely destroyed by a casualty described in section 165(c)(3) or compulsorily or involuntarily converted (within the meaning of section 1033(a)), or

"(C) a disposition pursuant to a settlement in a divorce or legal separation proceeding where the residence is sold or the other spouse retains the residence as a principal residence.

"(e) Property to Which Section Applies.—

"(1) In general.—The provisions of this section apply to a principal residence if—

"(A) the taxpayer acquires the residence on or after February 1, 1992, and before January 1, 1993, or

"(B) the taxpayer enters into, on or after February 1, 1992, and before January 1, 1993, a binding contract to acquire the residence, and acquires and occupies the residence before July 1, 1993."

(b) Clerical Amendment.—The table of sections for subpart A of part IV of chapter

1 is amended by inserting after section 22 the following new item:

"Sec. 23. Purchase of principal residence by first-time homebuyer."

(c) Effective Date.—The amendments made by this section are effective on February 1, 1992.

SEC. 142. PENALTY-FREE WITHDRAWALS FOR FIRST HOME PURCHASE.

(a) In General.—Paragraph (2) of section 72(t) (relating to exceptions to 10-percent additional tax on early distributions from qualified retirement plans) is amended by adding at the end thereof the following new subparagraph:

"(D) Distribution from individual retirement plan for first home purchase.—A distribution to an individual from an individual retirement plan with respect to which the requirements of paragraph (6) are met."

(b) Definitions.—Subsection (t) of section 72 is amended by adding at the end thereof the following new paragraph:

"(6) Requirements applicable to first home purchase distribution.—For purposes of paragraph (2)(D)—

"(A) In general.—The requirements of this paragraph are met with respect to a distribution if—

"(i) Dollar limit.—The amount of the distribution does not exceed the excess (if any) of—

"(I) $10,000, over

"(II) the sum of the distributions to which paragraph (2)(D) previously applied with respect to the individual who is the owner of the individual retirement plan.

"(ii) Use of distribution.—The distribution—

"(I) is made to or on behalf of a qualified first home purchaser, and

"(II) is applied within 60 days of the date of distribution to the purchase or construction of a principal residence of such purchaser.

"(iii) Eligible plans.—The distribution is not made from an individual retirement plan which—

"(I) is an inherited individual retirement plan (within the meaning of section 408(d)(3)(C)(ii)), or

"(II) any part of the contributions to which were excludable from income under section 402(c), 402(a)(7), 403(a)(4), or 403(b)(8).

"(B) Qualified first home purchaser.—For purposes of this paragraph, the term 'qualified first home purchaser' means the individual who is the owner of the individual retirement plan, but only if—

"(i) such individual (and, if married, such individual's spouse) had no present ownership interest in a residence at any time within the 36-month period ending on the date for which the distribution is applied pursuant to subparagraph (A)(ii), and

"(ii) subsection (h) or (k) of section 1034 did not suspend the running of any period of time specified in section 1034 with respect to such individual on the day before the date the distribution is applied pursuant to subparagraph (A)(ii).

"(C) Special rule where delay in acquisition.—If any distribution from an individual retirement plan fails to meet the requirements of subparagraph (A) solely by reason of a delay or cancellation of the purchase or construction of the residence, the amount of the distribution may be contributed to an individual retirement plan as provided in section 408(d)(3)(A)(i), except that—

"(i) section 408(d)(3)(B) shall not be applied to such contribution, and

"(ii) such amount shall not be taken into account—

"(I) in determining whether section 408(d)(3)(A)(i) applies to any other amount, or

"(II) for purposes of subclause (II) of subparagraph (A)(i).

"(D) Principal residence.—For purposes of this paragraph, the term 'principal residence' has the meaning given such term by section 1034.

"(E) Owner.—For purposes of this paragraph, the term 'owner' means, with respect to any individual retirement plan, the individual with respect to whom such plan was established."

(c) Effective Date.—The amendments made by this section shall apply to distributions on or after February 1, 1992.

Subtitle B—Repeal of Luxury Excise Tax

SECTION _____. REPEAL OF LUXURY EXCISE TAX.

(a) In General.—Chapter 31 (relating to retail excise taxes) is amended by striking subchapter A and by redesignating subchapters B and C as subchapters A and B, respectively.

(b) Conforming Amendments.—

(1) The material preceding paragraph (1) of section 4221(a) is amended by striking "subchapter A or C of chapter 31" and inserting "section 4051".

(2) Subsection (a) of section 4221 is amended by striking the last sentence.

(3) Subsection (c) of section 4221 is amended by striking "section 4001(c), 4002(b), 4003(c), 4004(a), or 4053(a)(6)" and inserting "section 4053(a)(6)".

(4) Paragraph (1) of section 4221(d) is amended by striking "taxes imposed by subchapter A or C of chapter 31" and inserting "the tax imposed by section 4051".

(5) Subsection (d) of section 4222 is amended by striking "sections 4001(c), 4002(b), 4003(c), 4004(a), 4053(a)(6)" and inserting "sections 4053(a)(6)".

(6) Section 4293 is amended by striking "subchapter A of chapter 31,".

(7) The table of subchapters for chapter 31 is amended to read as follows:

"Subchapter A. Special fuels.

"Subchapter B. Heavy trucks and trailers."

(c) Effective Date.—The amendments made by this section shall take effect on January 1, 1992.

TITLE II—REVENUE PROVISIONS

Subtitle A—Extension of Expiring Provisions

SEC. 201. ONE-YEAR EXTENSION OF CUSTOMS USER FEES.

Paragraph (3) of section 13031(j) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking out "1995" and inserting "1996".

SEC. 202. EXTENSION OF THE PATENT AND TRADEMARK OFFICE USER FEE SURCHARGE THROUGH 1997.

Section 10101 of the Omnibus Budget Reconciliation Act of 1990 (35 U.S.C. 41 note) is amended—

(1) in subsection (a) by striking "1995" and inserting "1996";

(2) in subsection (b)(2) by striking "1995" and inserting "1996"; and

(3) in subsection (c)—

(A) by striking "1995" the first place it appears and inserting "1996"; and

(B) by adding at the end the following new paragraph:

"(6) $107,000,000 in fiscal year 1996."

SEC. 203. EXTENSION OF CURRENT LAW REGARDING LUMP-SUM WITHDRAWAL OF RETIREMENT CONTRIBUTIONS FOR CIVIL SERVICE RETIREES.

(a) Civil Service Retirement System.—Section 8343a(f)(3) of title 5, United States Code, is amended by striking out "October 1, 1995" and inserting in lieu thereof "October 1, 1996".

(b) Federal Employees Retirement System.—Section 8420a(f)(3) of title 5, United States Code, is amended by striking out "October 1, 1995" and inserting in lieu thereof "October 1, 1996".

Subtitle B—Other Provisions

SEC. 211. ELIMINATION OF THE STATUTE OF LIMITATIONS ON COLLECTION OF GUARANTEED STUDENT LOANS.

Section 3(c) of the Higher Education Technical Amendments of 1991 (Public Law 102–26) is amended by striking out "that are brought before November 15, 1992".

SEC. 212. REVISION OF PROCEDURE RELATING TO CERTAIN LOAN DEFAULTS.

(a) Revision.—Section 3732(c)(1)(C)(ii) of title 38, United States Code, is amended by striking out "resale," and inserting in lieu thereof "resale (including losses sustained on the resale of the property),".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on October 1, 1991.

SEC. 213. APPLICATION OF MEDICARE PART B LIMITS TO FEHB ENROLLEE AGE 65 OR OLDER.

(a) Federal Employees Health Benefits Program.—Subsection 8904(b) of title 5, United States Code, is amended:

(1) by amending paragraph (1) to read as follows:

"(b)(1)(A) A plan, other than a prepayment plan described in section 8903(4) of this title, may not provide benefits under this chapter, in the case of any individual enrolled in the plan who is not an employee and who is age 65 or older, to the extent that—

"(i) a benefit claim involves a charge by a health care provider for a type of service or medical item which is covered for purposes of benefit payments under both this chapter and title XVIII of the Social Security Act (42 U.S.C. 1395–1395ccc) relating to medicare hospital and supplementary medical insurance, and

"(ii) benefits otherwise payable under such provisions of law in the case of such individual would exceed applicable limitations on hospital and physician charges established for medicare purposes under sections 1886 and 1848 of the Social Security Act (42 U.S.C. 1395ww and 1395w–4), respectively.

"(B)(i) For purposes of this subsection, hospitals, physicians, and other suppliers of medical and health services who have in force participation agreements with the Secretary of Health and Human Services consistent with sections 1842(h) and 1866 of the Social Security Act (42 U.S.C. 1395u(h) and 1395cc), whereby the participating provider accepts medicare benefits in full payment of charges for covered items and services after applicable patient copayments under sections 1813, 1833 and 1866(a)(2) of the Social Security Act (42 U.S.C. 1395e, 1395*l*, and 1395cc(a)(2)) have been satisfied, shall accept equivalent benefit payments and enrollee copayments under this chapter as full payment for any item or service described under subparagraph (A) which is furnished to an individual who is enrolled under this chapter and is not covered for purposes of benefit payments applicable to such item or service under provisions of title XVIII of the Social Security Act.

"(ii) Physicians and other health care suppliers who are nonparticipating physicians, as defined by section 1842(i)(2) of the Social Security Act (42 U.S.C. 1395u(i)(2)) for purposes of services furnished to medicare beneficiaries, may not bill in excess of the limiting charge prescribed under section 1848(g) of the Social Security Act (42 U.S.C. 1395w–4(g)) when providing services described under subparagraph (A) to an individual who is enrolled under this chapter and is not covered for purposes of benefit payments applicable to those services under provisions of title XVIII of the Social Security Act.

"(iii) The Office of Personnel Management shall notify the Secretary of Health and Human Services if a hospital, physician, or other supplier of medical services is found to knowingly and willfully violate this subsection and the Secretary shall invoke appropriate sanctions in accordance with subsections 1128A(a)(2), 1848(g)(8), and 1866(b)(2) of the Social Security Act (42 U.S.C. 1320a–7a(a)(2), 1395w–4(g)(8), and 1395cc(b)(2)) and applicable regulations."; and

(2) by amending paragraph (3)(B) to read as follows:

"(B) For purposes of this paragraph, the term 'medicare program information' includes—

"(i) the limitations on hospital charges established for medicare purposes under section 1886 of the Social Security Act (42 U.S.C. 1395ww) and the identity of hospitals which have in force agreements with the Secretary of Health and Human Services consistent with section 1866 of the Social Security Act (42 U.S.C. 1395cc); and

"(ii) the annual fee schedule amounts for services of participating physicians and 'limiting charge' information for nonparticipating physicians established for medicare purposes under section 1848 of the Social Security Act (42 U.S.C. 1395w–4) and the identity of physicians and suppliers who have in force participation agreements with the Secretary consistent with subsection 1842(h) of the Social Security Act (42 U.S.C. 1395u(h).".

(b) MEDICARE AGREEMENTS WITH INSTITUTIONAL PROVIDERS.—Section 1866(a)(1) of the Social Security Act (42 U.S.C. 1395cc(a)(1)) is amended—

(1) by striking out "and" at the end of subparagraph (P);

(2) by striking out the period at the end of subparagraph (Q) and inserting ", and", and

(3) by inserting after subparagraph (Q) the following new paragraph:

"(R) to accept as payment in full the amounts that would be payable under this part (including the amounts of any coinsurance and deductibles required of individuals entitled to have payment made on their behalf) for an item or service which the provider normally furnishes to patients (or others furnish under arrangement with the provider) and which is furnished to an individual who has attained age 65, is ineligible to receive benefits under this part, and is enrolled, other than as an employee, under a health benefits plan described in paragraphs (1) through (3) of section 8903 and section 8903a of title 5, United States Code, if such item or service is of a type that is covered under both this title and chapter 89 of title 5, United States Code.".

(c) MEDICARE PARTICIPATING PHYSICIANS AND SUPPLIERS.—Section 1842(h)(1) of the Social Security Act (42 U.S.C. 1395u(h)(1)) is amended, after the second sentence, by inserting the following new sentence: "Such agreement shall provide, for any year beginning with 1993, that the physician or supplier will accept as payment in full the amounts that would be payable under this part (plus the amounts of any coinsurance or deductibles required of individuals on whose behalf payments are made under this title) for an item or service furnished during such year to an individual who has attained age 65, is ineligible to receive benefits under this part, and is enrolled, other than as an employee, under a health benefits plan described in paragraphs (1) through (3) of section 8903 and section 8903a of title 5, United States Code, if such item or service is of a type that is covered under both this part and chapter 89 of title 5, United States Code.".

(d) MEDICARE ACTUAL CHARGE LIMITATION FOR NONPARTICIPATING PHYSICIANS.—Section 1848(g) of the Social Security Act (42 U.S.C. 1359w–4(g)) is amended by adding at the end thereof the following paragraph:

"(8) LIMITATION OF ACTUAL CHARGES FOR ENROLLEES OF THE FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM.—(A) A nonparticipating physician shall not impose an actual charge in excess of the limiting charge defined in paragraph (2) for items and services furnished after 1992 in any case involving—

"(i) an individual who has attained age 65, is ineligible to receive benefits under this part, and is enrolled, other than as an employee, under a health benefits plan described in paragraphs (1) through (3) or section 8903 or section 8903a of title 5, United States Code; and

"(ii) an item or service of a type that is covered for benefits under both this part and chapter 89 of title 5, United States Code.

"(B) If a person knowingly and willfully bills for physicians' services in violation of subparagraph (A), the Secretary shall apply sanctions against the person in accordance with section 1842(j)(2).".

(e) EFFECTIVE DATES.—

(1) Except as provided in paragraph (2), the amendments made by this section shall be effective with respect to health care provider charges for items and services furnished to individuals enrolled in plans under chapter 89 of title 5, United States Code, in contract years beginning after December 31, 1992.

(2) The amendment made by subsection (b) applies to agreements for periods after 1991.

SEC. 214. REVISIONS IN CERTAIN AUTHORITIES RELATING TO THE NATIONAL DEFENSE STOCKPILE.

(a) REVISIONS OF LIMITATION ON DISPOSAL AUTHORITY.—(1) Section 3301(d) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1583) is repealed.

(2) Notwithstanding any other provision of law, the National Defense Stockpile Manager shall dispose of materials in the National Defense Stockpile in fiscal year 1993 and each succeeding fiscal year so that the amount received from the disposal of such materials in each such fiscal year is $1.1 billion. Amounts received pursuant to this paragraph shall be covered into the Treasury.

(b) REPEAL OF ACQUISITION REQUIREMENT.—Section 3302 of such Act is repealed.

KASSEBAUM AMENDMENTS NOS. 1710 AND 1711

(Ordered to lie on the table.)

Mrs. KASSEBAUM submitted two amendments intended to be proposed by her to the bill H.R. 4210; supra, as follows:

AMENDMENT NO. 1710

At the end of the bill, add the following new section, and renumber accordingly:

SECTION 1. PRINCIPAL RESIDENCE INCLUDES ADJOINING FARMLAND.

(a) IN GENERAL.—Section 121(b) of the Internal Revenue Code of 1986 (relating to special rules) is amended by adding at the end thereof the following new paragraph:

"(10) TREATMENT OF FARMLAND SOLD WITH RESIDENCE.—If—

"(A) a parcel of farmland on which is located a residence with respect to which the taxpayer meets the holding and use requirements of subsection (a) is sold with such residence,

"(B) the taxpayer meets the holding requirements of subsection (a) with respect to such farmland, and

"(C) the taxpayer meets requirements similar to the requirements of section 2032A(b)(1)(C) with respect to such farmland,

notwithstanding paragraph (5), the taxpayer shall be treated as meeting the use requirements of subsection (a) with respect to so much of such parcel as does not exceed 160 acres."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to sales or exchanges after December 31, 1991.

AMENDMENT NO. 1711

At the end of the bill, add the following new section, and renumber accordingly:

SECTION 1. EXTENSION OF TREATMENT OF CERTAIN RENTS UNDER SECTION 2032A TO LINEAL DESCENDANTS.

(a) IN GENERAL.—Paragraph (7) of section 2032A(c) of the Internal Revenue Code of 1986 (relating to special rules for tax treatment of dispositions and failures to use for qualified use) is amended by adding at the end thereof the following new subparagraph:

"(E) CERTAIN RENTS TREATED AS QUALIFIED USE.—For purposes of this subsection, a surviving spouse or lineal descendant of the decedent shall not be treated as failing to use qualified real property in a qualified use solely because such spouse or descendant rents such property to a member of the family of such spouse or descendant on a net cash basis. For purposes of the preceding sentence, a legally adopted child of an individual shall be treated as the child of such individual by blood."

"(b) CONFORMING AMENDMENT.—Section 2032A(b)(5)(A) of such Code is amended by striking out the last sentence.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect as if included in section 6151(a) of the Technical and Miscellaneous Revenue Act of 1988.

(2) WAIVER OF STATUTE OF LIMITATIONS.—If on the date of the enactment of this act (or at any time within 1 year after such date of enactment) refund or credit of any overpayment of tax resulting from the application of the amendment made by subsection (a) is barred by any law or rule of law, refund or credit of such overpayment shall, nevertheless, be made or allowed if claim therefor is filed before the date 1 year after the date of the enactment of this act.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON DEFENSE INDUSTRY AND TECHNOLOGY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Defense Industry and Technology of the Committee on Armed Services be authorized to meet on Wednesday, March 11, 1992, at 9:30 a.m., in open session, to receive testimony on ways in which the United States can strengthen its support of manufacturing technology programs being undertaken by the Department of Defense.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Oversight of Government Management, Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Wednesday, March 11, 1992, at 9:30 a.m., to hold a hearing on the Department of Defense inventory: Why does the Pentagon buy so much?

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMUNICATIONS SUBCOMMITTEE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Communications Subcommittee, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on March 11, 1992, at 9:30 a.m., on radio oversight.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, March 11, at 2 p.m., to hold a hearing on the situation in the former Soviet Union.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate, Wednesday, March 11, 1992, at 10 a.m. to conduct an oversight hearing on the Resolution Trust Corporation to address minority and women contracting, western storm, and asset disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

JUMP-START AMERICA

• Mr. METZENBAUM. Mr. President, I rise today to praise the efforts of Jump-Start America [JSA], a program initiated by one of my constituents and friend, Dr. William Lippy of Warren, OH. The program began on January 14, 1992, and is designed to get Americans back to work and keep them working by encouraging employers to offer cash incentives to their employees if they purchase vehicles manufactured in the United States by the Fourth of July.

Mr. President, this is a program that has the potential to provide a tremendous boost for our national economy. It consists of over 350 communities and businesses working together by encouraging other companies to offer cash incentives to their employees if they purchase an automobile or truck manufactured in the United States before July 4. Companies have joined from over 25 States and the list continues to grow every day as more and more companies find out about JSA.

The program is simple. JSA has set some minimum standard guidelines and there is no fee to become a part of their federation. An employee of a JSA participating company could receive $200 for purchasing a used American car or truck, $400 for purchasing a new American car or truck, and $600 for purchasing an American car or truck built in his or her area. Furthermore, JSA has established a $200 bonus for an employee who scraps a car without a catalytic converter.

It is important to note that JSA is not part of any "Buy America Movement" nor is it part of any "Buy American Only" program. JSA is only suggesting that if consumers are in the market to purchase a new or used vehicle, they should consider buying an American made car or truck. This Senator and the founders of JSA believe that American made cars are competitive with any other cars in the world.

It is no surprise that JSA has become the focus of both the national and international media because it has a positive message that reaches across the country. JSA has received coverage by the following major television programs and newspapers: ABC World News Tonight, NBC Nightly News, CBS This Morning, Good Morning America, the Wall Street Journal, the New York Times, Time magazine, Newsweek, USA Today, the Los Angeles Times, the Washington Post, the Chicago Tribune, the Cleveland Plain Dealer, and the Youngstown Vindicator to name a few. This coverage is due in part to the originator of the idea, Dr. William Lippy.

I personally know Dr. Lippy, as a constituent and as a friend. He is regarded as one of the world's leading reconstructive hearing specialists and has always been a leader in his community, giving of his time and financial assistance to a variety of charities and philanthropic endeavors. As a leader in his community and because of his professional stature, the citizens within the Greater Warren, OH area have responded to his challenge of selling an additional 20,000 automobiles by July 4.

The growth in sales of new cars and trucks in the Mahoning Valley, where Dr. Lippy lives, attests to the impact that JSA is having in the local community. Sales of new American cars and trucks in February 1992, have increased over 38 percent compared to February 1991. This is the first double digit increase in Mahoning Valley since 1989. While across the rest of the Nation, sales have risen only 7 percent, I am confident that we will witness significant increases in the sale of American made cars and trucks as JSA becomes a part of more and more communities. It is certainly conceivable that we may be able to apply a similar program to some of other major industries in the future.

Mr. President, this is one terrific story and a perfect example of what happens when a community gets behind an idea and works hard together as a community. JSA has predicted that this program will have a ripple effect in our national economy and give us the boost to climb out one of the worst recessions we have seen in decades. Given that one out of every seven working Americans is either directly or indirectly employed by the automobile industry, their prediction is not far off the mark.

I congratulate Dr. Lippy on the early success of "Jump-Start America" and truly hope that companies across the Nation will become members of the JSA Federation. This program is fitting tribute to the ingenuity of one American who has taken a grassroots approach to helping our economy rebound.•

THE MCDONNELL DOUGLAS-TAIWAN AEROSPACE DEAL

• Mr. GORTON. Mr. President, recently, I attended a hearing by the Joint Economic Committee to address the proposed sale of 40 percent of McDonnell Douglas' commercial aircraft business to Taiwanese business interests. I believe that there must be fair competition in the commercial aircraft industry and the United States in general.

Retaining jobs and expanding economic opportunity is vital to the economy of Washington State, and to the Nation. This proposed venture, which appears would be subsidized by the Government of Taiwan, will create an unfair advantage for the McDonnell Douglas/Taiwan consortium.

It is essential that we continue to expand economic opportunities and not hinder competitiveness by creating an unfair advantage by allowing foreign government subsidies to bolster development and sales.

The proposed joint venture would have serious ramifications for the Boeing Co. and for America's balance of trade. This is a very serious issue and one I have taken all the way to President Bush.

Mr. President, I ask to place the testimony of Mr. Daniel Hartley, president of the Seattle Professional Engineering Employees Association, and Larry Clarkson, vice president of the Boeing Co. that they delivered to the Joint Economic Committee last week in the RECORD at this point.

The testimony follows:

STATEMENT OF MR. DANIEL B. HARTLEY

My name is Daniel B. (Dan) Hartley. I am an engineer . . . who has worked in the trenches of engineering for over 35 years. I speak from the viewpoint of the working engineer, one who has also been chosen by my peers for my position as President of the 46-year old Seattle Professional Engineering Employees Association (SPEEA). Although I work full time at Boeing, my views are my own and may or may not agree with any Boeing testimony. I am not trying to sell any particular product to the government. I am not requesting money. I'm not asking for some special favors. To me it seems like everyone who comes here is always saying how to cut the pie. We engineers want to tell how to make the pie bigger.

SPEEA is the bargaining agent, the union, for 29,000 Boeing engineers, primarily in Seattle and the Puget Sound Area, but also in several other (but not all) Boeing locations around the country. We are far and away the largest concentration of engineers in the world, and also one of the largest independent local unions. We are the people who design the Boeing airplanes. Currently about 80% of us work on commercial airplanes, with the remainder working on government programs, space and military mostly. I wrestle with the problems of aerospace engineers daily.

I address my union's opposition to the McDonnell Douglas sale of the Douglas commercial aircraft manufacturing operation to a Taiwanese consortium that will eventually be foreign controlled. The impact on the aerospace industry in our country will be irreversible, given our lack of any positive industrial policy.

The issue is technology transfer that will quickly result in major job loss for many areas in our country.

To allow the sale of Douglas to Taiwan is to encourage export of cutting-edge technology. The ability of America's remaining aerospace companies to sell in the world market will be dramatically reduced.

What are the stakes? Typically, American aerospace exports perhaps 20 to 30 billion yearly. Boeing has been building airplanes for 75 years; Boeing currently has about 60% of the world market for large commercial jet airliners. Boeing is the largest manufacturing exporter in the world, the largest exporter in our country and the second largest exporter in the world.

It is not generally known that Boeing subcontracts about 60 to 65% of the manufacturing of our airplane, but we're effectively responsible for all of the design. Boeing's 37,000 commercial airplane manufacturing workers represent 35% of the airplane, so our engineering supports perhaps 100,000 direct aerospace manufacturing jobs, the majority actually being outside of Boeing. These 100,000 plus our 20,000 would equate to 360,000 indirect jobs using the economists' 3 to 1 factor, for a total of half-a-million jobs driven by SPEEA's people, alone . . . and we are just a portion of aerospace. I recollect that Boeing alone, typically has about 4,000 subcontractors for each of our 4 major airplane types, in about every state. My 5,000 compatriots at Douglas are good engineers and proportionally productive.

To understand my opposition of this proposed wholesale job export, I state the following well known truths lest we don't communicate:

1. To create our accustomed level of wealth we must convert natural resources into useful manufactured products. The know-how to do this is technology.

2. The engineer is the person who knows how to do this, who has this technology. Without competent engineering, designs that are worthwhile to manufacture cannot be created.

3. The heart of America's long-term strength, both economic and military, ultimately resides in the ability of our engineers (yes, yours and mine, ours) to turn this technology into manufactured products.

4. If our country continues to encourage helter-skelter technology export without apparent regard for replacement with new technology, our children and grandchildren will revert to third-world status as hunters and gatherers.

To me and my fellow engineers these realities pose a dilemma:

Our society doesn't seem to have any cultural or religious taboos to retard the advancement of this technology. We want the materialistic benefits of technology. We say we want the jobs that technology creates.

Paradoxically, our country seems to be on an almost deliberate course to deny you and me the benefits of our technology. Is this lack of leadership or, possibly, is this the deliberate path of our leadership?

The proposed sale of the Douglas commercial airplane manufacturing and design functions to a consortium financed and partially owned by Taiwan is just the latest milestone in this headlong plunge.

My average engineer is 39 years old and has perhaps 14 or 15 years of engineering experience, with 10 of those years at Boeing. This means we have some new-hires and some with 30 to 40 years of experience. To be competitive in the current global market we need this mix. Few who are not in technology understand that this typical engineer committed to an engineering career perhaps 18 or 20 years ago. The experience of the engineer is far and away the pacing factor in evaluating the disastrous effects of injudicious technology transfer. Aerospace technology is this experience. It is not a factory or accounting procedure, or organization chart or even governmental ideology. If you want to start a competitive aerospace industry it is a lot quicker and a lot less expensive to buy in to an existing technology base than to try to develop one from scratch, ask Airbus. Likewise, loss of this experience base costs our country a lot more than some short term profit and loss exercise or election tally may indicate. This knowledge and skill in the heads of our country's engineers takes a long time to acquire but can be lost in a flash.

Boeing exported 5 different airplane types in 1991. The first flight of these types occurred an average of 20 years. Engineering design started 23 years ago, on average, with design of the 707 (the last two have been built and will be delivered shortly) starting 40 years. Our largest airplane has some 8 million parts. Commercial airplanes represent our country's highest level of technology because there are so many parts from such a wide range of technologies and because the standards of safety are so demanding. Each type may represent 5 years of design investigation, then 5 years of detailed design, manufacturing and testing, before being approved for passengers. This takes a lot of agonizing the working together and as you know such a massive job is hard to coordinate. Its all too easy to lose a bit in translation at each step. It is also a heck of a leadership job that few can hack. To break up a team would send commercial costs to the realm of that all too common in many of our governmental programs, we'd be priced out of the world market. Our airplanes are the best example of technology in production. Our next design will be better, and if we can keep our team together the one following that will be better yet.

This problem of teamwork also extends to our sub-contractors. Often, personal relationships of trust and confidence develop that span many years and several companies. (Military programs usually preclude these practices, hence progress is excruciatingly slow and expensive.) These expediencies are necessary to make the American aerospace machine work. There is absolutely no differentiation between the technical nature of military and commercial work. The only difference is how the management structure works, not the way the technology functions.

Our airplanes are expensive . . . they deserve to be. When I started flying (I'm a 37-year aviator, too), the automobile was safer than the airplane. Automobile safety has improved considerably. I hear that airplane travel is now 1100 times safer than the auto . . . and, the price of air travel has gone down dramatically all the while. Wages, in general, are among the highest because the skills required are high (of course, we all know our union engineers are underpaid.). Wouldn't you agree that we American aerospace engineers have done a pretty fair job? Technology doesn't cost. It pays! Why else would this new Asian version of Airbus be touted? (The same discipline was demonstrated by our weaponry; performance in the Gulf War said a lot about the quality of our aerospace technology.)

I think it is fair to ask who really owns this technology that McDonnell is trying to sell. Most of our American engineers represent a large public investment in education and experience. Back in the days before technology bashing was in vogue, the GI Bill started hundreds of thousands of my fellow engineers on the road to careers in technology. Many others were helped by loan guarantees and other government incentives and society's encouragement. Technology wasn't some dirty word. Early education praised it. The maturity of experience of the many engineers pumped into the economy by WWII and the GI Bill was a major, if not the main ingredient, in our current technology advantage, in the moon landings and other glitsy aerospace accomplishments. But our WWII folks are all but gone and the Korean War bulge is rapidly thinning. You and I should view Douglas and Boeing and every other high-tech company as a national economic asset. After all, you and I paid for it.

The following broad question is being asked: What are the likely consequences of the proposed equity sale of Douglas from the standpoint of our national interest?

I answer this question from my knothole as the working engineer in technology. To understand my answers, one must understand some nuts and bolts fundamentals of aerospace manufacturing. The capital required to put several million parts together is tremendous. Consequently, the industry's manufacturing is spread over a broad base. The "brand name" manufacturers only make a small portion of each airplane. In Boeing's case, for the next generation airplanes, it is about a third. However, we Boeing engineers are responsible for the design of virtually all of it. How can we exist? . . . sub-contractors. There is no industry that is so dependent on the sub-contractor base. These sub-contractors may be producing for Boeing alone or for Douglas alone, or both. They may be working on a military project or a commercial plane. We may also have several subs building the same part and in some cases we may have several subs building different parts for the same use. For example, we may use different pumps from several manufacturers in a hydraulic system.

These subs (vendors) are often run by the originating entrepreneurs who are quite efficient and innovative. We design such that they can respond to change much more rapidly than large organizations. Even though many subs are run on a financial shoestring that would alarm the high finance community, their work is excellent. Remember, these are the people who create most of the new jobs and handle an untold amount of the shop skill training in America. They're good people and we engineers like 'em. On the selfish side, they also help the Boeings maintain a much more stable work force. I'm not a macroeconomist but I would suspect that the two major reasons that have forced the 3 billion a year subsidy of Airbus are the superiority of our technology and subcontractor base and recognition that our American engineers are 3 billion a year better than their engineers.

The proposed sale will inflict a serious wound on the American aerospace industry in such ways as:

1. Loss of high value-added jobs in prime manufacturing and particularly at high-tech subcontractors who craft two-thirds of the airplane. We must realize this base is already being devastated by the head-long plunge in military programs.

2. As American sub-contractors bite the dust it will raise costs for the remaining players. This increase in prices will undoubtedly decrease business.

3. Considerable worsening of balance of payments.

4. Overall decrease in the confidence of investors in the viability of our aerospace industry. It will force a turning to foreign sources for capital for future projects. Again, more technology transfer will follow. Simply stated, it will make inevitable future foreign technology acquisitions cheaper.

5. Forcing Boeing to respond by increasing foreign participation much more . . . accelerating the American aerospace downfall. If Boeing cut prices, it would insure that neither Boeing nor this Asian equivalent of Airbus will make money. The effect of this will be to force Taiwan to pump in more billions to protect the money already there. It is obvious this will not occur without transfer of ownership of more equity and technology. Boeing would have no money to continue to launch new, highly competitive products. This new "Asian Airbus" should overjoy European Airbus.

6. Perhaps the most important impact (in view of our 100-year policy of a de facto industrial policy ranging from benign neglect, increasingly to moderate antagonism) will be to discourage our more responsible younger people from entering cutting edge technical careers, of which aerospace is the most highly visible. I must have bright new people coming into our profession . . . (to pay my social security if nothing else).

If I am to believe that McDonnell Douglas and Taiwan Aerospace people are saying, then this sale will result in the loss of about 10,000 high-tech jobs; this translates to ¼ million new aerospace jobs for Taiwan. I'm only an engineer who has vast experience on a team that has competed successfully despite our self-imposed obstacles. Taiwan's and our trade experts both want the deal. I'm not a trade expert, but it occurs to me that their trade experts have accumulated 70 billion of foreign exchange while ours have lost hundreds of billions . . . whose experts would you bet on?

The positive:

I cannot speak with any expertise on the positive effects. They appear to center on some ethereal philosophical reasons that don't pass my engineering muster. Several who support the sale have talked to me and sent me material. For the life of me I cannot follow their logic but I have no reason to believe they are not honorable. I just can't put my heart into most of what I read as being positive. Engineers just need stronger arguments that the ones I hear.

It could result in some short term employment for engineers at Douglas.

I read that the supporters of the proposed sale say multinationalizing a corporation promotes peace and prosperity. Somehow America's current aerospace led is supposed to be economically destabilizing. Maybe this is why so much military technology must be transferred. I have read where multinationals are stabilizing because operations can easily be hidden from governmental interference by any one country. This secrecy promotes business profitability which elevates monetary control above our nationalistic political processes. This is supposed to be good for me, or somebody.

I cannot speak with factual information but the scuttlebutt in the industry is that McDonnell family members hold very high percentages of company stock. If so, a 2 billion reduction in debt should give these folks a fair near term windfall.

There is one indirect positive effect of the proposed sale. If something like this is the straw that broke the camel's back, if it is the act that makes us wake up and force our so-called leadership off their dead behinds, then it would be positive. Unfortunately, our innocents will be forced to bleed because of the job loss . . . but this is strictly opinion.

Now, let's look at what I have recently been told are the major points of the memorandum of understanding between McDonnell Douglas and Taiwan Aerospace Company (TAC) as told to Douglas employees. I had not seen this before my December written testimony. I suspect it is generally true. The words are theirs; highlighting is mine:

Douglas separates commercial and government segments to form the new company.

The new company headquarters will be in Long Beach, California with two primary operations, U.S. and Asian.

Taiwan is offered up to 40% ownership in Douglas commercial business for $2 billion.

Taiwan is to produce the MD-12 wing and fuselage in a new production facility at Taichung, Taiwan.

Next steps: Conduct due diligence and negotiate definitive agreement; Objective-conclude definitive agreement by Jan. 31, 1992; and Requisite government approvals.

McDonnell Douglas states their strategic alliance benefits are:

Financial Strength:

Cash from MD–80 and MD–11 for US "green field", risk sharing;

Make MD–12 Development cash neutral for McDonnell Douglas;

Substantial portion of equity investment available to reduce McDonnell Douglas debt; and

New Company will start debt-free.

Low Cost World Class Production Capability:

Major structural assemblies;

Feeds MD–12 "green field" final assembly facility; and

Market Presence.

Pacific Rim largest growth market:

Passenger traffic to double in next 7 years; and

Will be roughly equal (93%) to U.S. domestic market by 2010 (currently 26%).

Market penetration:

38 to 40% of market in which we compete (MD–80/90 and MD–11);

Now participate in 44% of the total commercial market; and

With MD–12 and 100 passenger airplane Douglas will compete in 75% of total market by end of 1992.

TAIWAN AEROSPACE CORPORATION OVERVIEW

Private company with strong government support 29% government/71% private.

Previous aerospace experience:

Principals in Taiwan have many years of U.S. aerospace experience.

Dr. David Huang, Chairman & CEO, 22 years of U.S. Space program with Rockwell, PhD from MIT;

Dr. Denny Ko, President, Engineering degree from Cal Tech & Berkeley; and

Dr. Sing Chu, Engineering VP, Engineering PhD from MIT; worked at NASA Ames Research Center.

Benefits to ROC:

Development of commercial aviation industry in Taiwan;

Helps to transition Taiwan's labor intensive industrial base to a technology/capital intensive base;

Allows Taiwan to leapfrog industry entry barriers;

Avoids the 20 years of start-up effort normally required; and

Instant world-wide name recognition of Douglas.

ISSUES

Technology transfer: Commercial aircraft technology not unique to U.S., i.e., Airbus Fokker and Boeing alliance with Japanese on 777.

Military/defense connection: Complete separation of commercial and government. No involvement with government programs.

Job Loss: Without strategic alliance, Douglas will remain a niche player in commercial aviation and there would be a steady erosion of jobs at Douglas. This alliance will strengthen McDonnell and enable growth.

Douglas Employee concerns:

Pay and benefits will remain essentially the same;

All existing union contracts will be honored; and

We have the best employees in the industry and want the company to continue to grow and prosper for our customers, employees and stockholders.

TAIWAN AEROSPACE CORPORATION (TAC) BACKGROUND

TAC formed as a focal point for Taiwan's efforts in international aerospace activity. Its basic mission is the furtherance of the development of aeronautics and space industries and relevant parts and components industries with an aim towards stimulating parallel development of associated industries to effect a full scale upgrade of Taiwan's domestic technology level.

Formation announced in July 1990. Official opening June 1991 Initial funding/capitalization of $400 million.

Capital contributors:	*Percent*
	Percent
Executive Yuan Develop. Fund	24
China Steel	10
Bank of Communications	5
Finance companies	4
Consortium of 15 manufacturers	57

Chairman: Dr. David Huang. Background MIT Ph.D., Rocketdyne Program Manager, Acting President, Chung Shan Institute of Science and Technology (AIDC).

Proposed factor site: 148 acres adjacent to Taichung Harbor, for fabrication sub-assembly work. Initially processes (chem milling, anodizing, heat treat) would be undertaken at AIDC (nearby military aircraft factory).

Basic Taiwan Data Republic of China provided to Douglas:

Area, 13,900 square miles.

Population, 20 million.

Language, Mandarin Chinese (English required in High School and College).

Gross Domestic production (Billion $) Foreign Trade (Billion $).

		Export	Import
1989	135	66.2	52.3
1990	160	67.2	54.7

Defense % of GNP, 5%.

Defense % of Budget, 35.5%.

Current foreign reserves, 78 billion (greater than Japan).

Current public debt, less than 400 million.

Labor escalation, 10–11% last 5 years, 8–10%/year forecast.

Inflation rate has been 4–6% per year and projected to stay same through 1997.

GNP growth rate was 5.2% in 1990; projections for balance of this decade is 6% per year.

Transportation: Near seaport and major military airport.

Workforce: Commerce/service, 35%; manufacturing, 33%; agriculture/fishing, 17%.

Unemployment negligible (1.4%), if anything, workforce shortage 3–5% average annual turnover nationally; Union situation-not a significant problem to date.

Taiwan National Priority: Taiwan believes it requires a new industry to sustain economic growth which must be based on high value-added industries.

A three year search for other alternatives has brought Taiwan to aerospace.

Training and Education: 116 universities and colleges total enrollment, 535,000; engineering/science, 180,000; annual graduates, 35,000.

13 government sponsored training programs train 20,000 each year. 1990 government passed "Aeronautics and Space Industries Development Program." Plan is to train 5,000 to 7,000 technicians annually.

Douglas is telling their customers that the proposed MD–12 will be the newest, highest-tech airplane on the horizon (and my fellow engineers at Douglas can design good planes and have for 71 years). McDonnell executives then say there is no technology transfer. If true, I am hard pressed to see that this "deal" is the straightforward conventional investment as touted by Douglas executives in earlier testimony. What is the message this sends, not only to my very competent fellow aerospace engineers at Douglas but to all of us in American aerospace technology?

Am I concerned because I think the deal would cause more competition? No, it is in my interest to have the strong, healthy American aerospace industry that this deal doesn't promote. I want a competitive Douglas.

I oppose the sale. It is a one-way street. A prompt Congressional injunction on several grounds is in order. Even McDonnell acknowledges, above, that there are governmental skids to grease to approve the deal. I am not a lawyer but it seems that they wouldn't be concerned about this if they didn't think technology transfer were occurring. Likewise, why are they scurrying around lining up political heavyweights if the deal is so pure and obviously straightforward?

I don't have the calm, genteel graces so evident before committees, so I'll tell you what an engineer sees. The problem at McDonnell Douglas is bad management, almost any aerospace engineer will acknowledge that. How are the interests of America going to be served by exporting the technology and the manufacturing base, to compete with American business, while keeping McDonnell Douglas' management so they can sell to the U.S. government, their only remaining customer when the commercial business evaporates? This looks to me like a double loss for our side.

This brings me around to the inevitable question that every one seems afraid to ask. Those of us on the firing lines of technology need to have answers if we are to continue to try to compete: Do we need to investigate developing a positive U.S. industrial policy?

What does our current policy look like to an engineer?

1. Antiquated anti-trust laws. The whole driver in antitrust was to prevent monopolies' tendency toward economic blackmail. In the global marketplace we are encouraging it.

2. Tort laws, as they affect technology, stifle innovation and reward non-value-added litigants at the expense of technology. I'd be interested to know how disputes would avoid Taiwanese courts that constantly flaunt U.S. law? Within the month Piper Aircraft and its 1000 jobs, was sold to a foreign group for moving out of the U.S. It wasn't a question of market: they had a 1300-plane backlog. The reason was to get away from U.S. liability laws. These are a thousand jobs that could have been sub-contracting for us.

3. Lack of investment policy reform, Glass-Steagall, etc. We've got to quit rewarding the short-sighted and start encouraging the long-term thinkers. I don't know the best answer to this; I'm an engineer . . . but this hurts technology.

4. Indifference toward rampant foreign industrial espionage occurring in our targeted technologies. Again, I'm an engineer, not a lawyer. The legal community is quick to tout "justice" in tort defense but can't come up with some fairness here.

5. Inequities in patent, copyright and intellectual property laws. Anyone who has ever been to Taiwan knows this.

6. Regressive environmental laws that seem to cause more of the very pollution they supposedly reduce. They surely now allow the foreigners to sell us back (in the form of products made in their polluting, OSHA-less factories) the pollution we were trying to reduce. There's no way that I will tolerate an employer harming health or safety but we've gotten ridiculous. If my readings are correct, then Taiwan's main interest in the environment is in exporting pollution processing machinery to America. I will concede that our aerospace is considerably cleaner than most of Taiwan's industries.

7. Apathy in NASA. As an engineer it bothers me to see that only perhaps 6% of the NASA budget supports research in aeronautics that supports tens of billions in American sales and hundreds of thousands of American jobs . . . plus enough taxes to support all their other programs. To add insult to injury the research NASA or that Boeing does in a NASA facility is made available to our foreign competitors under "freedom of information." This may be partly why Douglas hurts now. What kind of a message is this sending to my fellow engineers?

8. FAA's impediments to our aeronautical innovation. To a working aerospace engineer all I see is an FAA that trips all over itself to see that Russian and French airplanes are certified in the U.S. so they can be sold here but is the epitome of slow deliberation when it comes to common sense certification rules that will promote American foreign sales. From my vantage a good many rules that the FAA lays on our manufacturers are not driven by law but are extraneous promotion of political agendas of bureaucracy run amok.

9. Lack of appreciation for research and development. The heavyweights in the government will talk up basic research but get bored when it comes to the bill-paying industrial phase of the development. We research, create, they manufacture.

10. Failure to appreciate the value of education in preparing a skilled, competitive workforce. I'm no education expert but daily I see the lessening skills of our entry-level workers. I just have to have bright young engineers to replace my highly skilled retirees. It may not be apparent but my engineers are often forced into a less competitive design because our designs must be safe and also buildable by an inadequately trained workforce. There is scant interest up high in opportunity for continuing education to allow updating technical skills of our current workforce. Is it ironic that these Taiwan executives were trained in the U.S. using American taxpayer-subsidized schools and employment while we working, taxpaying engineers are effectively locked out of the education establishment? We engineers are essentially denied post-graduate education. However, 40% of the graduate students in science and technology in our subsidized universities are foreign, mostly on non-reimbursable foreign stipend.

11. Arrogant indifference to the realities of global competition. Arguably, we have about 1¼ million engineers and the number is shrinking. We are not going to keep competing with a shrinking in both percentage and actual numbers of working engineers in the economy. That is about one engineer for each 100 jobs. I'm no expert, but it strikes me as strange that I cannot find any working engineers on any of these so-called competitiveness committees and "technology" committees. Do we have bad breath or what?

12. Arcane rules to address labor/management problems as they relate to competition. Let me mention an area where I am a world-class expert. There is a great prejudice against unions in the annals of government (and industry). It is beyond many of these people's comprehension to think that an engineer could be in a union . . . the deepest of degradations. I see instance after instance where this attitude defeats well-meaning efforts toward effective use of the engineering force we still have.

13. Tax structure that is tilted against technology. Again, I'm not a tax expert but it would seem wise to run some of the tax discussions past us working engineers to see disincentives not obvious to the experts. Even income tax rules hurt us.

14. Our historical tradition of massive military program changes without regard to the technological impact. If you were one of the engineers recently laid-off from one of our military projects, what would you be thinking seeing our government courting engineers in Russia and offering your tax money to provide them alternate employment? I have even seen plans to eliminate many of our career engineers from active military service: my, how shortsighted. We are quick to recognize that the engineer is the key to military technology for the other country but not in ours. We worry about their end-run when a dozen good aerospace engineers could make a producible conventional mis-

sile much akin to those that we used so effectively in the Gulf War. Nuclear warheads could be produced by half-a-dozen of our disgruntled engineers using modern manufacturing machinery. We better wake up!

In conclusion, everyone . . . but everyone who has done a recent study says the problem isn't so much in America's design process as in our appreciation of manufacturing technology, the bill-payer of our designers. This deal is a double whammy because it exports our manufacturing base . . . and exports our design technology, too. In the end, it is an issue of jobs and the economy. How anyone could suggest this deal makes good economic sense for America is beyond me. That people in high places do, is plenty of reason to take the mystery out of why the world is eating our lunch on automobiles, consumer electronics, optics and so many other products that require attention to the creative input of engineering and other technology.

I accept that one may argue with the individual numbers and percentages and dollar figures I suggest. I solicit difference with my conclusions, an open discussion, the light of day does not worry me. If due deliberations show my generalities do not support a particular conclusion, then I will stand corrected. Feel free to copy, distribute and quote what is written here. Open discussion promotes better understandings. I would be happy to expand on any of these brief replies at your pleasure.

STATEMENT OF LARRY CLARKSON

Good morning, I am Larry Clarkson. Boeing Vice President for Planning and International Development. I wish to commend the Committee for holding these important hearings and for inviting Boeing to participate.

Let me state at the outset that Boeing does not oppose investment in McDonnell Douglas Corporation [MDC] by the Taiwan Aerospace Company [TAC] provided that the new structure assures there can be no subsidies by the Taiwan government, and that there are provisions to require disclosure sufficient to monitor and verify compliance with this requirement.

Our testimony today is based on the belief that, if their proposed arrangement is consummated under terms currently reported in the media, it will create another subsidized airplane manufacturer, and Asian Airbus—leaving Boeing as the only remaining major civil aircraft manufacturer bound by traditional open-market, profit and loss constraints.

Published reports indicate McDonnell Douglas Corporation [MDC] proposes to sell 40% of its commercial airplane operation to Taiwan Aerospace Company [TAC] for about $2.0 billion (USD). Another 9% will be sold to other Asian countries, with MDC retaining just over 50% ownership and, we would note, no room left to raise additional funds through the sale of equity, without relinquishing that control. MDC indicates $1.5 billion of the TAC investment will be used to pay down current debt.

Launch of the MD-12 trijet will target a market niche between Boeing's new 777 twinjet (which delivers beginning in 1995) and the 747-400 (4-jet, which is being delivered today). Though smaller, the Airbus A330 (twinjet) and A340 (4-jet) will also be competitors which deliver beginning in 1993. The MD-12 is currently scheduled to deliver beginning in 1997.

The current global market slowdown for commercial aircraft is likely to continue for several years. According to Wall Street analysts, total annual demand for new aircraft deliveries (based on projected air traffic passenger growth and replacement of aging aircraft) is not likely to exceed 600 airplanes per year for the next decade. Boeing generally agrees with this assessment. Current world production capacity is already about 1,000 airplanes per year, and climbing, with the end of both the Gulf War and the Cold War, and the significant reduction of military budgets virtually world-wide, the aerospace industry is trying wherever possible to shift its emphasis from military to commercial aircraft. By decade end this trend is only going to add to the world's excess capacity. It is in just this market environment that we would expect a subsidized competitor to employ sales incentives (which undermine realistic pricing), to secure increased market share at the expense of its American competitors.

Yet for Boeing and the American commercial airplane industry, an open global marketplace, free of such trade distortions, is crucial for continued success. Such foreign subsidies and other market-inhibiting policies not only introduce unwanted economic and trade distortions, but make us less competitive in the process, even when we've become more efficient. Clearly this is a Boeing perspective, driven by our worldwide market outlook. And, while it would be naive to expect trade protections (including those in our own country) to all disappear overnight. I believe it's worthwhile exploring the impacts on our industry when trade is artificially distorted.

The mechanisms by which subsidies and other protectionist measures artificially alter market activity are relatively well understood. Subsidized ventures tend to lack the fiscal imperative which leads to sound commercial decisions, instead often introducing products to win market position, rather than earn a profit. They can remain in money-losing markets when it is, economically, poor business. They can inhibit the entry of a non-subsidized competitor into a market, or worse, split a market so that no one can earn a profit. Subsidy can also take the form of government support in the sale process. A manufacturer which can rely on government backed financing at favorable rates is in a much stronger position than a company which must rely solely upon private sector resources. This is particularly true in a recession (such as the current one) when the typical cash-shy customer seeks any assistance available and may be forced to make purchasing decisions based on financial incentives.

For the commercial airplane manufacturing industry, subsidies and other government interference in the marketplace also have long lasting effects. The decision to buy a particular airplane model typically commits the buyer to a relationship with the manufacturer for 10 or 20 years. And, given its large investment in inventory and training, coupled with the value of commonality, the airplane is likely to give that manufacturer an edge when more or different airplanes are needed. Thus, even a small sale can be perpetuated into a long-term fleet decision, a legacy of the original decision.

Commercial airplane programs require the manufacturer to make an enormous front-end investment. And they recover that investment and make a profit, if any, only after a long period. American manufacturers have traditionally been required to finance such multi-billion dollar airplane programs out of internally generated profits, or from available commercial market sources. Furthermore, a family of such airplane programs is today essential to succeed in the marketplace. So, it is in this context, that direct government subsidies in airplane development and financing may be seen to exert such powerful distortions, not only in our industry, but upon our nation's trade balance as well.

MDC indicate they intend to use about $1.5 billion of the "initial Taiwanese downpayment" for debt service with the remainder to be devoted to the MD-12 program. And, we are told that, effective January 1, 1992, MDC has separated their commercial aircraft business from all military programs in response to concerns over military security and technology transfer.

The media report MDC estimates of total required investment for the MD-12 program in the $4.0 to $5.4 billion USD range, while industry analysts estimate that requirement in the $7.0 to $10.0 billion range. While accurate estimates cannot be pinned down until the MD-12X is fully defined, we are nevertheless able to make "educated estimates" which correlate well with that of the analysts. A major aircraft program of this type requires significant up-front investments in training, facilities (U.S. and overseas), tooling equipment, inventory buildup and, of course, design and development. Total program cumulative negative cash-flow, for a typical aircraft program of this size, would likely be on the order of $10.0 billion or more around the fifth year after go-ahead. And this assumes a typically successful program. Were market conditions to deteriorate, those numbers could easily increase. Obviously large cash supports or subsidies will then be required. And where will they come from? And, under what terms and conditions?

At this point, Taiwan Aerospace is a newly-formed Taiwanese corporation "waiting for a role". The extent of government investment in, and control over, TAC is unclear at this time, since only a small portion of total expected funding is yet in place or committed. Original announcements of the proposed arrangement indicated TAC comprised 29% government ownership and 71% private-sector ownership. However, industry analysts have since pointed out that the private sector is "holding back", and they now estimate eventual government investment in the 60% to 85% range.

We do know, however, that the Taiwan government has announced its intent to establish a commercial aerospace industry where none now exists, and to support it through funding, tax benefits, and other forms of subsidy. Further, Taiwanese foreign currency reserves, much of it from trade with the USA, were recently reported as $82.0 billion [USD]. This provides them with adequate currency resources to "bankroll" a new commercial aerospace industry should it become necessary.

In August of 1990, the Taiwan government announced its CASID (China Aeronautics & Space Industries Development) Program. The objectives of the program are to further the development of aeronautics and space industries, and relevant parts and components industries, to stimulate parallel development of associated industries, to upgrade the domestic technology levels, and to integrate "with national defense industries in order to establish an integral aeronautics and space industry in the Republic of China".

Thus the aviation industry has been identified and targeted as one of the key industries by the Taiwanese government to: One, upgrade the overall Taiwanese industrial base;

Two, build a high quality work force for high value added products; and Three conform to the trend of globalization.

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In pursuing these objectives Taiwan will emphasize international cooperation through government support. One of its explicit development strategies is "to make effective use of reciprocal amenity terms and conditions in connection with industrial cooperation arrangements in encouraging prominent foreign aeronautics and space companies and parts manufacturers to make a presence in the ROC through participation in cooperative projects, so as to facilitate the transfer of advanced technologies into this country, as well as expand the export of the products". So, in this context, it is quite clear that technology transfer is a goal of their program.

As we look further at the Taiwanese plan of implementation, we can identify at least five components which might prove potentially troublesome:

First, the Ministry of National Defense "will be authorized to use its operation funds, technical personnel, technology and equipment without jeopardizing principal missions, to assist government-owned and private-owned enterprises in the development and research of the manufacturing techniques of aeronautics and space products and their associated equipment so as to help those enterprises to upgrade the level of their technical capability in the field of aerospace industries" (Section IV.4 (1)).

Second, the Ministry of Economic Affairs has committed to "work out a plan for establishing an aeronautics and space industrial park at an appropriate place to provide industrial land and necessary facilities required for the development of aeronautics and space industries" (Section IV.6).

Third, investment in aeronautics and space industries "may be designated by the Government as important technology-based enterprises, and thus eligible for tax benefits" (Section IV.9 (1)).

Fourth, "the Development fund of the Executive Yuan, the Bank of Communications and/or other designated financial institutions may formulate a budget for participation in, or providing low interest credit facilities to such investment plans" (Section IV.9 (2)).

Finally, Taiwan has incentivized the airlines to request offsets of up to 20 percent of the value of a procurement through the offer of preferential financing linked to the level of offset.

The Plan outlines a wide range of means whereby their new commercial aerospace industry could be supported—going well beyond what some might define as a traditional subsidy. But international and domestic law in this area is quite clear. A subsidy can take many forms, ranging from government guarantees that allow funds to be allocated to firms and industries that are not "creditworthy" or "equityworthy", to government-directed credit allocation policies that funnel "private" resources into sectors or industries designated by that government as having high priority.

We would also take note of recent public comments by Taiwan Aerospace executives which tends to confirm and support our concerns. Among these are the following:

From Dr. Denny Ko, President of Taiwan Aerospace Company: "We can continue to go back to government related banks or institutions for financing help if a proposed project is attractive" (Wall Street Journal–November 18, 1992); "Taiwan Aerospace is aiming to become the linchpin between local industry, ROC government programs and foreign aerospace companies, to service the needs of both global and domestic markets" (Flight International December 4–10, 1991). "This will be the Airbus of Asia. Airbus has taken care of Europe, but there is no Asian entity" (Flight International December 4–10, 1991).

From Dr. David Huang, Chairman of Taiwan Aerospace Company, who was quoted in a speech given in late December, 1991 as saying: The Taiwan Government would "continue to invest in TAC until it makes a profit" (Far Eastern Economic Review.—February 13, 1992).

The latter quote has reportedly angered Taiwanese legislators to the extent that they are now demanding final say over any investment in the MDC-TAC venture that the government decides to make.

In assessing the proposed arrangement then, Boeing's concern is not that McDonnell Douglas will continue as a competitor, or that other commercially funded and managed companies join them in competing in the marketplace.

Rather we are concerned that the government of Taiwan will undertake a significant role in this new enterprise and, that the result will reflect a commitment by Taiwan, a non-GATT signatory, to finance its entry into the world commercial aircraft industry on a non-commercial basis. In essence, a new, heavily subsidized Asian competitor will be in position to substitute its national imperative of developing factories and high value-added jobs, and acquiring high-technology to upgrade its industrial base, in place of the normal imperatives driven by sound product development and tight fiscal management.

While MDC has recently separated its military functions and products from its commercial airplane organization, we see no comparable separation of these functions in Taiwan Aerospace. As we understand it, both military and commercial functions will be encompassed within TAC and, while we assume that MDC will act responsibly to control and minimize technology transfer, we should not be naive regarding Taiwan's CASID program with its stated objective of acquiring technology transfer. Mr. David Huang, TAC's Chairman, once served as President of the Taiwan Military Research Laboratory, and is now an advisor to Taiwan's Premier, Hau Pei-tsun, himself a Taiwanese General and former chief of their General Staff as recently as 1989. This hardly describes a tidy separation of military and commercial ties.

What are the implications of the foregoing to Boeing and the aerospace industry infrastructure in the United States? The past 21 years have amply illustrated the impact that government subsidies and sales inducements can have on the commercial market. Purely commercial enterprises have suffered due to the market distortions caused by the impact of such subsidies and inducements. Airbus, a subsidized enterprise, has consistently gained market share against non-subsidized enterprises, most notably against McDonnell Douglas. If this were not the case, would we today be addressing a proposal whereby MDC will be essentially phasing out the manufacture of commercial aircraft—and transferring that function overseas? Yet, another subsidized manufacturer, located in Asia, will increase market distortions and significantly disadvantage companies like Boeing which must rely on traditional means of supporting development and sales.

The market for large commercial subsonic jet transports, over which the three present-day manufacturers are competing, is one in which Boeing has been successful, and which has made significant contribution and benefit to the United States. The manufacture of commercial airplanes supports some two million direct and indirect jobs nationwide. In 1990, the export of commercial jets amounted to about $17 billion USD. Boeing accounted for about 80% of that, making us America's leading exporter for the past two years. Obviously, both Boeing and America have much to lose if an Asian Airbus is allowed to enter the marketplace.

Mr. Chairman, as you are aware, Taiwan is not bound by trade disciplines that govern aerospace manufacture in the United States and abroad. Taiwan is not a member of the GATT and has not taken on the obligations of the GATT Civil Aircraft Agreement. Furthermore, it is not bound by those OECD rules limiting subsidized export financing. As a consequence, Taiwan could engage in any number of trade distorting measures that could place us at a severe competitive disadvantage in U.S. and foreign markets.

In this context it is our view that the U.S. Government needs to act upon these matters. There are several approaches which we recommend be followed to assure that government subsidies, sales inducements and other means of governmental interference in the marketplace do not become part of the proposed MDC-Taiwan Aerospace business arrangement.

One option is that the U.S. government should negotiate now a bilateral agreement with Taiwan that would prevent the use of unchecked government subsidies and other trade-distorting measures to develop an aerospace industry. This agreement should include a provision for adequate transparency to ensure compliance with this agreement.

In conjunction with the CFIUS review process, the U.S. Government should examine the sources of funds and the ultimate financial requirements of the venture. The U.S.G. could condition its approval of the MDC-Taiwan venture under the CFIUS process on a commitment by MDC and Taiwan that the venture would not be subsidized or supported in a manner that contravenes international and domestic law governing aerospace trade. Again, appropriate transparency provisions are key to the successful monitoring and enforcement of such a commitment.

Finally, it is our view that the appropriate time for the U.S. Government to take the recommended action is now. Surely an undisciplined venture in the Far East will serve to jeopardize the USG's effort, to date only partially successful, of negotiating an agreement concerning Airbus Industrie subsidization practices.

Government subsidies are among the most serious long-term threats facing out jet transport industry today. The Airbus example is a clear demonstration of the damaging impact that subsidies have on the marketplace, and the extreme difficulty in addressing the problem once there has been a significant political and/or financial investment devoted to the creation of programs, facilities, equipment and jobs—and to the acquisition of technology. In the Taiwanese case, we are considering an arrangement with a country with which the U.S. had a $13.0 billion trade deficit in 1989, and a $11.2 billion deficit in 1990.

Further, unlike the situation with Airbus, once the MDC-TAC transaction is consummated, our ability to address subsidies and other trade distorting measures is extremely limited. Because the MDC-TAC venture is 50% American owned, we could not initiate a countervailing duty investigation, bring a GATT case, or file a section 301 case. So, in our view, the matter must be addressed, the ground-rules agreed, and the recommended provisions put in place at this time, not after it becomes "fait accompli".

Mr. Chairman, this approach must be coupled with a redoubled effort to discipline Airbus subsidization policies. Twenty one years of subsidies—which has resulted in a dramatic increase in market share at the expense of U.S. manufacturers—is enough. Our ability to create high paying jobs, to sustain economic growth, and to develop and commercialize new products depends upon an environment free of subsidies across both the Atlantic and the Pacific.•

IN RECOGNITION OF GEORGE S. WILSON

• Mr. FORD. Mr. President, I am honored to have this opportunity to rise today in recognition of an old friend and neighbor of mine, George S. Wilson. Mr. Wilson, an attorney from my hometown of Owensboro, KY, was recently elected president of the board of directors of the American Radio Relay League [ARRL]. This is the Nation's leading organization of amateur radio operators and includes over 160,000 members. The primary goal of the league is to provide backup for the Federal Communications Commission in case of national emergencies.

Mr. Wilson has been an active ham radio operator since the age of 16 and has a long service to the league. He was first elected vice director of the ARRL Board from the Great Lakes division in 1982. He has been section emergency coordinator and section communication manager for the league's Great Lakes division and served the league as volunteer counsel in the area of antenna rights for amateur radio operators. He has also been chairman of the volunteer resources committee and the volunteer monitoring committee of the board of directors.

I would also like to commend Mr. Wilson's public service to the people of Kentucky. He has been an integral part in advising the State government on disaster communications and working to provide maximum safety to the citizens of the Commonwealth. I know how fortunate the league and this Nation are to have him as president of their organization. Given his past service, there is no doubt in my mind that he will have a long and distinguished tenure as President.•

IN RECOGNITION OF DOUGLAS R. DOSCHER

• Mr. FORD. Mr. President, I rise today to honor one of our Nation's most outstanding truck driving professionals. Mr. Douglas R. Doscher, of Sulphur, KY, was recently selected by the American Trucking Association as a representative of their "1992 America's Road Team." Mr. Doscher was 1 of only 11 selected for this distinction from among the Nation's 5 million truck drivers. He has accumulated more than 800,000 accident-free miles in his 12-year career. These members represent the best of professional truck driving as they all have exemplary driving records and excellent communication skills. They also serve as a focal point for the spirit of professionalism and dedication representative of America's truck drivers.

Through his duties with "America's Road Team," Mr. Doscher will tour the United States, appear before civic groups, the media, driver education students, and transportation officials to inform the public of the issues that affect the trucking industry. The team will also work with motorists and instruct the public on how to share the road safely with trucks. I certainly applaud their efforts at public safety through education.

Mr. Doscher also proudly served his country in Operation Desert Storm as a member of the Marine Corps Reserve, training others in the maneuvering of military and civilian vehicles. He continues to show his commitment to public service by taking time away from his career as a truck driver owner-operator to help educate motorists and prevent accidents.

Mr. Doscher, along with his wife Becky and their one child, have made the citizens of Kentucky very proud with their strong commitment to community and our Nation's safety. We are indeed fortunate to have the Doscher family as residents of the commonwealth.•

THE LONG-TERM HOME CARE ACT

• Mr. ADAMS. Mr. President, on February 5, I introduced S. 2193, the Long-Term Home Care Act. Today, I would like to say more about that legislation. I am very concerned about the lack of debate on long-term care. Appropriately, attention has been given to access to health care. However, it is essential that long-term care be part of the health-care reform debate. Disabled and older people across America are afraid that they will not have adequate home-care services to enable them to remain in their homes. They fear unnecessary or premature admission to a nursing home or other such facility. They fear the rising costs of nursing home care.

S. 2193 addresses a major problem in the areas of long-term care, that of inadequate services for people who want to remain in their own homes or in the homes of their loved ones. This legislation would provide long-term care to chronically ill or disabled older Americans and children, and to non-elderly Medicare beneficiaries, in the setting where they most want it: their homes. The bill also includes a buy-in feature for all other disabled persons and a demonstration project to determine the cost of including all eligible persons, regardless of age. S. 2193 would provide a solid, and badly needed, foundation for a truly comprehensive long-term care system for all disabled and chronically ill Americans.

I wish to commend Congressman EDWARD ROYBAL, Chairman of the House Select Committee on Aging, for his work on the companion bill, H.R. 3180, that he introduced in the House.

I personally know the difficulty of providing long-term home care for a loved one. My aunt required long-term care at home for the last 5 years of her life. My family and I were fortunate to be able to provide her with the services she needed so that she could remain at home where she wanted to be. But, Mr. President, few Americans can afford home care for their family members and I am very concerned about them.

For many chronically ill and disabled persons, a nursing home stay is necessary. The contribution made by nursing homes in the care of the elderly is great. However, premature or unnecessary admissions are costly both emotionally and financially. The cost of a nursing home is very steep. Costs of $36,000 a year are not uncommon. The grandmother of one of my staff members is a nursing home resident—her monthly bill is $5,500. After 15 months—over $80,000—she has become impoverished. We must provide help in meeting these costs.

A truly comprehensive long-term care system is going to be expensive, but we must start somewhere. The Long-Term Home Care Act provides this start. It would tackle first what the American public wants most: the ability to stay home for as long as possible.

While my bill does not provide coverage for institutional long-term care, nursing home care must be dealt with. I am pleased to say that I am part of the working group convened by the majority leader to develop a comprehensive long-term care bill. It is my hope that we will craft legislation that not only provides the full range of services but also ensures affordable long-term care for all Americans of all ages who need it.

S. 2193 would provide essential services such as nursing, social services, respite care, adult day care, medical equipment and supplies, personal care aides, homemaker aides, and home health aides. Also included are physical, occupational, respiratory, and speech-language therapies. Training and counseling would be provided both to those receiving long-term care services and to their caregivers. In addition, my bill provides for a comprehensive system of quality assurance for these services.

The States would help to determine which agencies will serve as long-term care management agencies. These agencies will determine eligibility for services, provide case management services, and arrange for the provision of services. My home State of Washington has established a solid record of managing long-term care services. That experience must be recognized and fostered in any Federal long-term care program. In addition, the Governors would be responsible for appointing the members of States' Consumer Boards, which are to play an important role in quality assurance.

There is something more that I intend to add to this bill. This addition is based on a hearing on "Finding and Fighting Malnutrition in the Elderly" that I held last week. The excellent witnesses pointed out that older people are at particular risk for malnutrition. Malnutrition contributes to longer hospital stays and increased complications from illness and injury. In short, malnutrition decreases the independence of older individuals and adds significantly to our health-care costs. Quite frankly, I am shocked to learn that malnutrition is very prevalent among older hospital patients and nursing home residents.

Identification of those individuals who are at moderate-to-high risk is key in being able to take appropriate action to prevent malnutrition. Therefore, I will work to include nutrition screening as a covered service in S. 2193. I believe that long-term care expenses will decrease for people living at home and for individuals in hospitals and nursing homes if at-risk individuals are identified and appropriate actions are taken to prevent malnutrition.

The bottom line in providing long-term care is, of course, how we pay for it. This legislation proposes financing that is realistic for the scope of its coverage. The program is financed by removing the caps on wages subject to the Hospital Insurance and Social Security portions of the payroll tax. Only the top 6 percent of working Americans would be affected. Additional financing is provided through modest copayments that do not apply to low-income individuals. Other provisions assure self-financing of this legislation.

It is important that we act soon on long-term care legislation. This bill—which is based on the outstanding work of one of our Nation's greatest champions for elderly and disabled individuals and children, the late Claude Pepper—gives us a realistic approach for taking a giant step forward. As Congress debates the crisis in long-term care, we must push for services that can be provided in the home.

Mr. President, this bill is an important start. But, I must repeat that it does not do everything. Now that this legislation has been introduced, I will seek ways to provide for a truly comprehensive system. As part of the majority leader's working group, I am looking for a realistic way to finance the full range of long-term care, including nursing home care, and to cover all disabled Americans regardless of age. It will cost more, but it must be done.

The Long-Term Home Care Act is an important part of our commitment to reforming our health care system. While President Bush failed to include long-term care in his health plan, long-term care is clearly on my agenda. I ask my colleagues to join me in cosponsoring this important piece of legislation.•

CONGRESSIONAL CALL TO CONSCIENCE VIGIL

• Mr. GRAHAM. Mr. President, I rise today to add my voice to the 16th Annual Congressional Call to Conscience Vigil. Each week, through the Call to Conscience, Congress brings attention to Soviet refusenik cases in order to urge the Soviet Union to allow them freedom. I would like to thank the distinguished cochairmen of this year's Vigil for allowing me to be a part of this important effort.

As Stalin once said, "a single death is a tragedy, a million deaths is a statistic." Our goal is to rid the refuseniks of the anonymity which allows us to forget them. By highlighting the individual hopes and heartaches of the refuseniks, we keep their struggle alive.

I speak today on behalf of Revmir Kanevsky, one of many who has been refused the right to emigration, on the basis of possessing State secrets or because they have been unable to obtain the necessary poor relative documentation. In November 1979, Revmir quit his job at the Separated Bureau of Constructors in the Lianosovo Electronical Mechanical Factory. After 10 years, in July 1989, Revmir and his wife applied to emigrate to Israel and were refused 6 months later on the basis of state secrets. He was instructed not to apply again until 1994—15 years after leaving his former work. He is anxious to see once again his 95 year-old mother who is growing increasingly blind. He remains unable to visit his daughter and grandson in Israel, and his mother and sister in the United States.

It is in our self-interest to make sure that the Commonwealth of Independent Republics understands the high value we place on religious tolerance, free emigration, and the basic right to live and work without fear. We cannot forget that the right to live as one chooses is as important as the right to live.

I am proud of the role Congress has played in turning the dream of free emigration into a reality. On a trip to the Soviet Union in August 1990, I held extensive discussions with Soviet Foreign Ministry officials on this subject and presented a letter to the Kremlin leadership urging prompt passage of Soviet emigration legislation. The culmination of our efforts came in may 1991, when the Supreme Soviet adopted historic legislation to liberalize Soviet emigration policy. Nevertheless, serious stumbling blocks to free and open emigration remain. The law will not be fully implemented until January 1, 1993, and the vague definitions in the legislation leaves it open to broad interpretation.

The welcomed political liberalization in the former Soviet Union has also been accompanied by a disturbing increase in anti-semitism. I urge Russian President Yeltsin and the leaders of the republics to denounce this behavior openly and to enact and enforce laws protecting Jews. We cannot, however, risk waiting for steps that may or may not be taken by the authorities. The history of anti-semitism in the former Soviet Union makes it imperative that we move quickly to gain free emigration for all those wishing to leave.

We survey with joy and pride the tremendous progress in the Soviet Union. Through our continuing efforts and those of the Union of Councils For Soviet Jews, we have enabled many Soviet Jews to gain their freedom. More than 185,000 Jews left the Soviet Union in 1990. Our greatest tragedy would be to forget the thousands who remain behind. It is critical that we continue to work for those in desperate need of our support.

I appreciate this opportunity to let Revmir Kanesvksy know that he and his fellow citizens have not been forgotten. I look forward to the day when we no longer need such opportunities.•

THE RETIREMENT OF MAYOR THOM SERRANI

• Mr. DODD. Mr. President, I rise to express my appreciation and recognition of my good friend, Thom Serrani, on the occasion of his retirement from public service. Four term mayor of the city of Stamford, CT, Thom Serrani began his career in the State legislature 19 years ago. Throughout this career, he demonstrated a high level of commitment to the city of Stamford and the State of Connecticut.

Stamford born and raised, Thom graduated from Sacred Heart University before entering the public arena as a representative on the Stamford Board of Representatives from 1973 to 1975. Soon after, Thom was elected to the Connecticut House of Representatives and then to the Connecticut Senate. During this time, he chaired several key committees, until he was elected mayor of Stamford in 1983.

As mayor of Stamford, Thom proved himself to be an attentive and thoughtful administrator with the vision of a committed reformer. Governing a city of 108,000 residents, Thom set a tone and pace of progressive achievement. It was no coincidence that Stamford received numerous awards during Thom's 8 year tenure as mayor. These honors reflected a dynamic leadership dedicated to the growth and prosperity of Stamford.

For instance, Stamford was cited by the U.S. Conference of Mayors for its exemplary work at establishing public-private partnerships to combat drug abuse. Stamford received three consecutive Certificates of Achievement for Excellence in Financial Reporting by the Government Finance Officer's Association. Stamford was also recognized by the U.S. Department of Housing and Urban Development for its innovative Rental Rehabilitation Program.

Thom's extraordinary energy and versatility brought him to the forefront of many task forces and community organizations whose aims were consistently those of advancing the public welfare. His talent and interest, however, have never been confined to parochial concerns alone, and frequently took on a global flavor. Thom chaired a panel at an international symposium on urban redevelopment in Jerusalem. He also spoke on various topics including mass transit in Toronto, Canada, auto-emissions in Atlantic City, NJ, and seat belt safety in Natick, MA.

While in office, Thom spearheaded a public art program, chaired the board of the Stamford Center for the Arts, developed the Mayor's Youth Advisory Board, and acted as a volunteer fireman and an emergency medical technician. The recipient of numerous achievement and appreciation awards, Thom's distinguished career has represented a model of effective leadership and dedicated community service. Though Stamford will certainly miss its long-time mayor, I have no doubt the future holds promising rewards for him. I wish Thom my very best and thank him for his many contributions.•

UNIVERSITY OF ALASKA FAIRBANKS

• Mr. MURKOWSKI. Mr. President, today I rise to salute the University of Alaska Fairbanks on its 75 years of service to Alaska.

For years, the university in Fairbanks was the only college in the vast northern territory where young Alaskans could go to receive a higher education. It precedes statehood by 41 years and, along with the University of Alaska's branch campus, has remained the leading institution of higher education in Alaska.

As a land-grant institution, the University of Alaska Fairbanks extends to the public the technology and knowledge generated by research findings made in laboratories, at field sites, and in classrooms. From land-grant to sea-grant and now as a space-grant institution, the University of Alaska Fairbanks has provided the information we need to make our Nation competitive internationally.

In fact, the University of Alaska is one of only five institutions in the country that has earned this "triple crown" of land, sea, and space grant designations. UAF continues to play a vital role in the scientific advancement of our country.

UAF is perhaps the Nation's leading Arctic research institution. Its research in Arctic biology, oceanography, and Arctic systems science is giving us important information about global change. The university's Geophysical Institute, an important national scientific asset in and of itself, is defining the frontiers of auroral research, earthquake prediction, and volcano research.

In addition to its important role in the high-technology fields, UAF is also playing a vital role in providing a quality education to Alaska's young people. UAF has a large undergraduate population who receive degrees in liberal arts, business, education, and many other traditional college programs as well as the more technical fields such as petroleum engineering and Arctic science.

The University of Alaska Fairbanks has embraced the responsibility of providing its students with the important skills they will need in their future. This education is not limited to the skills you learn from the textbooks. The teachers and administrators at UAF take an active interest in the students' well-being and growth throughout the students' tenure at UAF.

Community activism has always been a part of UAF's long history. Fairbanks, AK, has benefited greatly by the presence of Alaska's oldest university, and indeed, UAF has benefited from the support they receive from Fairbanks. The community and the university have entered into a partnership that has been successful for 75 years.

I am proud that Alaska houses one of the finest universities in the United States and that Alaskans and non-Alaskans alike are afforded the opportunity to receive a quality education in my home State. My children have gone there as well as many members of my staff, and the University of Alaska Fairbanks provided them with the building blocks for a successful career and fostered in them a strong commitment to Alaska and our unique way of life.

I ask that these comments be submitted to the RECORD to commemorate and honor the University of Alaska Fairbanks on its 75 years of accomplishment and service.•

ORDERS FOR TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 a.m., Thursday, March 12; that following the prayer, the Journal of Proceedings be deemed approved to date; and the time for the two leaders be reserved for their use later in the day; that there then be a period for morning business, not to extend beyond 10 a.m., with Senators permitted to speak therein for up to 5 minutes each, with the listed Senators recognized to speak for the time limits specified: Senator COATS for up to 20 minutes; Senators PELL and KASSEBAUM for up to 10 minutes each; Senator SPECTER for up to 15 minutes and Senator SIMPSON or his designee for up to 5 minutes; that when the Senate resumes consideration of H.R. 4210 at 10 a.m., Senator LEVIN be recognized to offer an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, if I might have the attention of the distinguished acting Republican leader, Senator LEVIN will be recognized at 10 and there was informal agreement or understanding that a Republican Senator would be ready to offer an amendment upon the disposition of Senator LEVIN's amendment and that decision would be made by the Republican leader and the Republican managers. So, presumably the Republican floor staff or others will be involved now in lining up a Republican to offer an amendment after Senator LEVIN's amendment.

Mr. SIMPSON. Mr. President, I am not fully familiar with that proposal, but along those lines if the majority leader is saying that he and the minority leader have discussed that, I just do not want to preclude the usual procedures or second-degree amendments or anything of that nature.

Mr. MITCHELL. Mr. President, the only thing that is agreed upon now is Senator LEVIN is going to offer an amendment at 10. That is the only formal agreement. So we have started with one on each side. The Republican leader and I discussed possibly continuing that if we can tomorrow. That of course could be up to the managers.

Mr. SIMPSON. Mr. President, that is acceptable.

RECESS UNTIL TOMORROW AT 9 A.M.

Mr. MITCHELL. Mr. President, that completes our business for today. If the acting Republican leader has no further business, I now ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 10:09 p.m. recessed until Thursday, March 12, 1992, at 9 a.m.

EXTENSIONS OF REMARKS

INTRODUCTION OF THE CAPITAL BUDGETING ACT OF 1992

HON. WAYNE OWENS

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 11, 1992

Mr. OWENS of Utah. Mr. Speaker, yesterday I introduced the Capital Budgeting Act of 1992.

It is fitting that I introduce this legislation now, for within the next few days we will decide whether or not to breach the firewalls between defense and domestic discretionary spending. Two years ago, I introduced legislation which would have cut the defense budget by 10 percent. Half of the savings were to go to deficit reduction, one-quarter to growth-oriented research and development and one-quarter to opening American markets in the then-emerging Eastern European democracies.

That plan was economically sound at the time, and, in many respects, is the approach taken by the so-called plan A of the Democratic budget resolution. Unfortunately, it has come about a little too late. Since I introduced that bill 2 years ago, the size of our annual budget deficit has doubled, from $154 billion in fiscal year 1989, to nearly $300 billion in fiscal year 1991, to probably over $400 billion in fiscal year 1992. Our economy has stagnated for over 1½ years. We are operating in a new economic and political context, and there is no easy way out of the stagnation that will likely characterize our economy for years to come.

The goal of our fiscal policy efforts, be it the tax bill or fiddling with discretionary firewalls, should be to promote economic growth. We must encourage both private and public investment in the sectors of the economy that create jobs and improve the standard of living of all Americans. Regardless of whether or not the discretionary walls crumble, our budget structure does not accommodate the necessary level of investment.

The 1990 budget agreement, which I supported, facilitates neither a massive infusion of progrowth investment nor the necessary goals of deficit reduction. We are thus faced with an emotionally and intellectually agonizing decision. On one hand, we must absolutely make priority those Federal expenditures that enhance economic growth. In particular, we must reinvest in infrastructure, civilian R&D and the intellect and skills of our work force. On the other, we absolutely must keep deficit reduction at the forefront of the agenda.

Prevailing wisdom states that those courses of action are at odds. Under the current budget structure, this dilemma holds true. But targeted public investment and deficit reduction are not incompatible—in fact, they are inextricably linked. Indeed, our debt is too large; indeed, we must cut spending. But we must throw some more factors into the equation.

First, most Federal spending, from an economist's point of view, consists primarily of operating expenditures. Entitlement programs, though we all support them, admittedly do little to spark economic growth. Likewise, interest on the debt is unquestionably an operating, not capital expenditure, as is deposit insurance funding. The Federal Government has been pumping water into our economic machine, and the engine has flooded.

Second, there must be a minimal level of public investment for the economy to grow. The fuel of our economy that the Federal Government has traditionally supported—roads, bridges, airports, wastewater systems, education and research and development—has been woefully neglected. As my colleague from Maine [Mr. ANDREWS] so eloquently outlined on Tuesday, the Federal budget fails to differentiate between operating and progrowth, capital expenditures. In the past 20 years, the Federal Government has failed to target its expenditures into progrowth expenditures and meet the minimum standard necessary to sustain the postwar growth we took for granted for so long.

To meet both these demands, we must break down all the 1990 budget agreement firewalls and start from the ground up. The current budget structure is obsolete and incapable of forcing politicians—and voters—to prioritize budgetary decisions. The current budget structure, even with the discretionary walls down, is a relic of the political haranguing of the 1980's. Capital budgeting is the chosen method of States, the chosen method of a growing number of academics, and the choice of a growing number of Members. The Capital Budgeting Act of 1992 can begin to break this stalemate and set us on the road to real reform of our priorities.

BILL SUMMARY

This bill is similar to legislation introduced by Senator KOHL in the 101st Congress (S. 1572) but with some important additions and revisions.

The Capital Budgeting Act of 1992 directs the President, in his annual budget request, to divide the unified budget into capital and operating accounts. The capital account includes the nonadministrative expenditures of the Federal Government vital to our Nation's economic health. These expenditures include commercial infrastructure, education and job training, and civilian research and development. The operating account includes all other operating and consumptive expenditures, including transfer payments, deposit insurance, defense, and international spending.

The bill further directs the Budget Committee to submit, to the House, legislation which would require the eventual elimination of deficits in the operations account. When this legislation is implemented, the operations account would be held in balance annually. The Government would be able to borrow a limited amount only for the long-term investments mentioned earlier. The total annual deficit would equal the total of the investments in the capital account.

Without quality control measures, the capital account has the potential to become a dangerous pork-barrel loophole. But compared to the gross gimmickry and manipulation of today's budget process, that in itself should not dissuade us from capital budgeting. To address these concerns, the bill directs the Government Operations Committee to submit, to the House, legislation to implement a regular GAO evaluation of the value and usefulness of items in the capital account.

Finally, the Committee on Rules is directed to report legislation establishing rules facilitating the enforcement of the accounting standards put forth by this bill. Some rules that could be considered are, for example, points of order against consideration of operations expenditures placed in the capital account; and against capital expenditures that have not undergone scrutiny by the GAO.

CAPITAL BUDGETING FACILITATES INVESTMENT

The items in the capital account are far from an arbitrarily selected group of pet programs. I know that many of my friends on the other side of the aisle don't believe that any Federal spending could conceivably be beneficial. But only the public sector has the financial resources to make the immediate investment in these critical areas. Though CBO is not supportive of capital budgeting, its July 1991 study suggested that "spending in each of the public capital areas—physical infrastructure, human capital and R&D—may yield returns greater than the average rate of return to private investment. Such high returns, however, can be expected only on carefully selected spending projects."

In fact, there is a consensus of opinion that investment in infrastructure makes good sense from both a Keynesian and a supply-side perspective. David Aschauer, former economist at the Federal Reserve Bank of Chicago outlined this point perfectly in the Spring 1991 GAO Journal. In addition to the short-term creation of jobs, reinvestment in infrastructure facilitates the flow of goods and services to the marketplace. It enables firms to reach out into the labor pool. Our Nation has for too long viewed the economy in terms of immediate gains rather than long-term prosperity, and we must change this perspective soon.

The need for new infrastructure investment is beyond dispute. Annual investments in transportation infrastructure have not increased substantively since 1980. Congestion in metropolitan areas, even in my own county of Salt Lake, is becoming an environmental and economic nightmare. As of last year, 16 of the major airports in the United States are operating at or near airspace capacity; 23 of them are experiencing congestion on the ground. Development and environmental regulations make necessary investment in wastewater facilities. As the General Account-

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

ing Office stated as far back as 1989, the budget "makes no distinction between operating expenses and capital investments, which leads to unsound deficit reduction strategies and creates a budget bias against capital investments." (GAO/AFMD–98–52: A Capital Budgeting Proposal)

We must also invest more in the education of our children and the training of our workers. The Job Corps is a shining example of a program that has been scrutinized and revised such that it more than pays for itself. Head Start receives bipartisan support for that very reason. Granted, there is more to improving the effectiveness of our educational system than simply increasing expenditures. But as a percentage of the Federal budget, spending on education and training declined by 40 percent in the 1980's. We're simply not doing enough today to hone the skills of tomorrow's work force.

President Bush has touted his research and development initiatives extensively. What he fails to acknowledge is that almost one-half of Federal R&D funding is in the Defense budget. NASA and NIH used to be the envy of the scientific community. Though still vital to our research establishment, their research budgets have suffered considerably in the past decade. Japan will likely surpass the United States in research by industry, if it has not done so already. The Federal Government must be a major player in restoring America's preeminence in this critical arena.

Under the current budget structure, expenditures in these areas are given the same priority as nonproductive spending. For example, it makes little sense, from an accounting standpoint, to treat our Nation's infrastructure the same as deposit insurance. We give Federal employees' COLA's the same kind of scrutiny as we do bridge repairs and education, because both could conceivably add to the deficit. Don't misread me—my support for legitimate entitlement programs remains intact. But our current budget structure reflects the general disregard our institutions hold for long-term investment and our lack of foresight in determining our budgetary priorities.

CAPITAL BUDGETING IS FISCALLY RESPONSIBLE

Under a fully implemented capital budgeting system, the vast proportion of the Federal budget would be subject to an annual balanced budget requirement. The bulk of political pressure would no longer be placed on stemming the costs those programs which contribute to our Nation's economic vitality. Overall restraints on the growth of spending can be targeted, rather, to unproductive programs.

A preliminary—but very, very rough—conceptual framework for this proposed capital budget is presented as follows: In the concurrent resolution on the budget which passed last week, under plan A, the Budget Committee predicted outlays of $36.1 billion for transportation, function 400, $50.6 billion for education, training and social services, function 500, and $16.6 billion in general science, space and technology, function 250. These are the general areas of the Federal budget which would fall into the capital account.

These come to a total of $103.3 billion. This figure is only about one-quarter of the projected deficit for fiscal year 1993. Were a good capital budgeting system in effect, we could assume that the actual figure would be much lower, as not every program within these functions, and no administrative expenditures, would fall under the capital account.

At the end of the Carter administration, our debt, as a percentage of GNP, was 26 percent. That figure has since doubled, and the burden of debt payments is slowly whittling away at our country's capacity to invest both publicly and privately. Mr. Speaker, I am committed to passage of a balanced budget amendment, and this legislation is consistent with that pledge. In fact, most States with balanced budget mandates structure their budgets in such a manner. The Government would be permitted to run a deficit equal to that year's Federal capital investments.

The beauty of capital budgeting is that we can shift spending pressures and priorities away from Government operations and transfer payments, and toward those programs crucial to our economic well-being. As I have illustrated above, the few domestic discretionary programs I have placed in the capital budget are not the programs that are currently driving our Federal deficit.

Opponents of capital budgeting appropriately argue that the capital budgeting leaves open an unavoidable deficit spending loophole that invites abuse. But there are plenty of mechanisms that provide incentive to limit the growth of spending in the capital account. For example, interest payments on the debt, and perhaps any depreciation costs, would fall into the operating account. In addition, Congress could enact a stringent reauthorization regime for programs in the capital account that systematically reviews their effectiveness, plus floor procedures that allow points of order against consideration of programs that fall through loopholes.

The quality of programs in a capital account should not be subject to any less scrutiny than those in an operating account. Student loan procedures should remain subject to the rigors of the oversight and reauthorization process, as should highway funding formulas and the NSF grant process. But we would no longer have to play the cruel appropriations games we play by setting veterans against scientists, children against the elderly, and bridges against ammunition dumps.

Some will argue that any borrowing by the Federal Government is inappropriate. I would draw your attention to an article by the Wall Street Journal editor Robert L. Bartley in the April 15 issue of Smart Money. He writes "Economists are likely to judge debt load not by any one year's deficit, but by total debt outstanding as a percent of GNP." He goes on to point out that the deficit may be borrowing to pay welfare benefits or farm subsidies, or it may be borrowing to pay for a highway or an airplane. We have constructed our (Federal) accounts to make it impossible to tell the difference."

Today's firewalls debate is important, make no mistake about it. It will put our priorities on full display for voters to see. But if we really want the Federal budget to contribute to economic recovery, today's debate is far too narrow in scope. We're trying to repair a dying building by tearing out a closet wall, when we need to haul out the wrecking ball and start from scratch. Capital budgeting is the only legitimate solution.

Mr. Speaker, it seems highly likely that this year's budget and tax debate will by next year, if not sooner, degenerate into another divisive reconciliation battle. We will continue, absent substantive action, to exhibit no evident commitment to deficit reduction. The private sector will continue to act accordingly by keeping upward pressure on interest rates; debt held by the public will continue to grow faster than the economy's ability to service it; and under our current budget structure, interest payments on the debt will continue to undermine the Federal Government's ability to address our Nation's real human needs.

Our current course of action, regardless of whether we support plan A or plan B, will leave our economy limp. By year's end, the private sector alone will have done more than we can hope to pull our economy out of recession. Without fundamental structural reform of the budget process, we can do no more than keep things from deteriorating further.

Our current budget structure is obsolete, antigrowth, anticompetitive, and by robbing from our children's future, even cynical. Tomorrow, we will make a symbolic tinkering around the edges of the budget agreement. What we must do is tear down all the walls, fully expose the shortcomings of the budget process, and begin a substantive, intelligent debate about alternatives. The Capital Budgeting Act has been put forth as an alternative to our current debate which, in light of a looming Presidential veto and growing Federal deficit, will probably prove to be futile. I encourage my colleagues to join me in this effort.

RETIREMENT OF POSTMASTER GENERAL TONY FRANK, U.S. POSTAL SERVICE

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 11, 1992

Mr. ROYBAL. Mr. Speaker, the Federal Government has lost one of its finest public servants. On March 9, Postmaster General Tony Frank, my fellow Californian, stepped down after completing more than 4 years as the chief executive of the U.S. Postal Service.

As chairman of the House Appropriations Subcommittee on Treasury, Postal Service, and General Government, I heard Mr. Frank testify five times. In fact, our subcommittee was the first congressional panel to listen to Mr. Frank testify and, with his appearance of February 18, it became the last. Our subcommittee invariably found Mr. Frank to be direct, well prepared, knowledgeable, and attentive. But there is more to being Postmaster General than maintaining ties with Congress.

Running the Postal Service is an enormous challenge. With nearly three-quarters of a million employees, it is America's largest civilian employer. Were it listed in the Fortune 500, the Postal Service would be the Nation's ninth largest corporation. It delivers 40 percent of the world's mail volume by making 120 million house calls, 6 days a week.

But Tony Frank was equal to the job of being America's top postman; as the Chairman of the Postal Service's Board of Governors said on the occasion of the announcement of Tony's resignation, "Tony Frank has been one of the most effective Postmasters General in history." His accomplishments are many and he leaves behind a Postal Service better equipped to serve the public.

Shortly after becoming Postmaster General, Mr. Frank put in place a strategic plan that focused on three basic goals: quality service, reasonable rates, and increased employee commitment. Over the past 4 years, progress has been made on each of these objectives.

Tony Frank brought a renewed emphasis on service by establishing independent measurement systems for first-class mail delivery performance and for customer satisfaction. Customer conveniences, such as stamps by phone and stamps on consignment, expanded during Mr. Frank's tenure.

Under Tony Frank's direction, automation became a reality for the Postal Service and its customers. Automation has already saved postal ratepayers more than $1 billion a year; by 1955, annual savings are projected to reach $4 billion.

Under Postmaster General Frank, the Postal Service embarked on a comprehensive, long-term effort to ensure that quality becomes standard operating procedure. This effort is the largest such undertaking in history. He also secured labor contracts that were fair to postal customers and postal employees.

Mr. Speaker, Tony Frank had a special motivation for becoming Postmaster General. When he took the job, he said that among his reasons for taking the post was to repay some of the debt that he felt his family owed to America for welcoming his parents as they fled from Nazi Germany. I know I speak for many when I say that debt has been repaid—with interest.

Tony Frank will soon return to the private sector from which he came. But, over the next several years, he can take pride in watching his accomplishments, his initiatives, pay off for the Nation's mail system. We wish him well.

ABANDONED BY OUR HEALTH CARE SYSTEM

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 11, 1992

Mr. STUDDS. Mr. Speaker, the Parfumorse family, of Hanover, MA, recently wrote me to express what has gone terribly awry in our health care system, and why we must enact national health insurance.

As this letter so eloquently attests, the shortcomings of our health care system continue to wreak painful human consequences. We cannot afford more studies, more commissions, more debates, and more resolutions. We need to act now.

I commend this letter to my colleagues:

Hanover, MA, February 4, 1992.

DEAR CONGRESSMAN STUDDS: Thank you so much for continuing to pursue National Health Care.

When my husband and I listened to President Bush's State of the Union response to health care, our reaction is he does not have the foggiest notion of what is going on with people who are either without health insurance or have insurance at a totally unfair rate.

In 1983, my husband was hurt in a critical pedestrian/car accident, fortunately for us, he was on the job so we have survived with Workmans Comp but he was discharged from his job, they say he was key personnel so he could be fired as he could no longer do his job, we took the conversion policy and four years ago when I had surgery, we had $1800 coverage on a hospital bill with Doctor's fees was $9000, we paid the hospital $500 per month till it was paid. After that my husband tried to return to work, picked up Pilgrim, a HMO and when he was unable to continue working, we had 18 months to find something else. This 18 months fortunately coincided with my husbands ability on Social Security Disability to get Medicare, I then opened a small real estate firm and joined the Chamber of Commerce and got Blue Cross/Blue Shield.

Our combined health insurance premiums and my husbands prescriptions total over $10,000 per year.

I did a two year study of the availability of health insurance for Realtors for the Plymouth County Board of Realtors, and after interviewing about 30 insurance agents, it was determined we were not insurable as we are self-employed and not employees. The only exception to that was Blue Cross-Blue Shield and they required a % of our full membership, which we could not meet.

Bush has recommended a $3,700 tax credit for persons providing high cost health care, does he realize when health care is that high, we are not paying $3,700 in taxes.

In two years, we hope to go south for my husband's health when he is 55 and we can take our $125,000 exclusion to capital gains, at that time, I will be without coverage, please continue your good work.

Very truly yours,

PEGGY PARFUMORSE.

HONORING THE INDUCTION OF GERTRUDE CALDEN INTO THE SANTA BARBARA COUNTY REPUBLICAN HALL OF FAME

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 11, 1992

Mr. LAGOMARSINO. Mr. Speaker, I rise today to pay tribute to Gertrude Calden of Santa Barbara, CA, who is being honored by the Santa Barbara County Republican Central Committee this Saturday evening as an inductee into the Santa Barbara County Republican Hall of Fame.

Having been associated with Republican Party organizations and campaigns in the Santa Barbara area for over 30 years, Gertrude is as well respected for her volunteer work on behalf of Republican candidates and causes, as she is well known.

Gertrude has worked with and for Republican candidates for President, U.S. Senator, Governor, and Congressman on a national, State and county basis in addition to serving as a member, delegate, and chairperson of virtually every Republican organization with an affiliation in California and Santa Barbara County.

Her unceasing efforts for candidates such as myself and Presidents Nixon, Ford, Reagan, and Bush, has strengthened the Republican Party and bolstered its success in Santa Barbara County.

It is truly a great honor and personal privilege for me to join with the central committee in honoring a dear friend, Gertrude Calden, as a member of the Santa Barbara Republican Hall of Fame. I cannot imagine how anyone could be more deserving of such recognition.

SALUTING THE A. PHILIP RANDOLPH INSTITUTE

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 11, 1992

Mr. STOKES. Mr. Speaker, I rise today to pay tribute to the A. Philip Randolph Institute. The institute, which was founded in 1965 by labor leaders A. Philip Randolph and Bayard Rustin, is a national organization of black trade unionists dedicated to fighting for racial equality and economic justice. Over the years, the institute has been at the forefront in the struggle for civil rights, voting rights, and economic freedom.

I am pleased that, beginning on March 13, and continuing through March 15, 1992, the city of Cleveland will host the A. Philip Randolph Institute's Midwest regional conference. The regional conference will bring together more than 100 institute leaders and activists from the States of Ohio, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Missouri, Nebraska, and Wisconsin. The conference will be held at the Sheraton Cleveland City Center Hotel.

Mr. Speaker, one of the highlights of the regional conference will be the institute's renewed commitment to the implementation of a freedom budget. It was in 1967 that A. Philip Randolph and Bayard Rustin worked to develop a campaign for a freedom budget for all Americans. Working in concert with the civil rights and labor movements, social science experts, community and educational leaders, Randolph and Rustin planned the implementation of a budget that would eliminate poverty and achieve freedom from want.

During its 1992 regional conference, and on the 25th anniversary of Randolph's visionary call, the institute will renew its commitment to achieve the goals of Randolph's freedom budget. These goals are as follows:

First, to build a full employment, full production, and high growth economy;

Second, to guarantee decent, adequate wages to America's workers;

Third, to train a highly skilled work force, and to give all Americans access to training and education opportunities;

Fourth, to give all Americans access to medical care;

Fifth, to meet America's housing needs by building sufficient low and moderate income housing, eliminating ghettos, homelessness and urban decay;

Sixth, to develop America's infrastructure, transportation, and human and natural resources in ways both environmentally and economically sound; and

Seventh, to guarantee a decent living standard for those unable to work.

Mr. Speaker, the A. Philip Randolph Institute is to be commended for recognizing the need to seek solutions to our budget crisis and carrying forth the philosophy of its great founder.

I would also like to take this opportunity to commend the current leader of the A. Philip Randolph Institute, Mr. Norman Hill. President Hill is well known the civil rights struggle. He marched with Dr. Martin Luther King in Selma, AL; he was a pioneer in desegregation campaigns; he helped to organize the 1963 March on Washington; and he is a former staff member of the Congress on Racial Equality [CORE]. He has also worked closely to ensure minority representation within our Nation's labor unions. Norman Hill brings a wealth of experience, knowledge, and leadership to this important post.

Mr. Speaker, on occasion of its regional conference, I am pleased to welcome President Norman Hill and members of the A. Philip Randolph Institute to my congressional district. I know that much will be accomplished during the conference, and I look forward to participating.

SOUTH FLORIDA LETTER CARRIERS BRANCH 1071 HONORS RETIREES AND NEW OFFICERS

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 11, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to recognize today the South Florida Letter Carriers, Branch 1071 for its continuing service to the south Florida community. On January 18, 1992, the association rose to honor its retiring members and to induct the new officers of the organization with their retirement affair and biennial installation of officers reception. This event was a grand affair held to honor the past, present, and future of the letter carrying profession.

The welcoming address was given by William Burroughs, president of the South Florida Letter Carriers. The new branch officers were presented by Matthew Rose, national business agent, region 9, and by Donald Southern, regional administrative assistant. The officers are William Burroughs, president; Michael Gill, executive vice president; Timothy Bostic, vice president, Santos Luyanda, treasurer; Laurie Miale, secretary; and Mark Travers, assistant secretary treasurer.

These full time officers of branch 1071 made the retiree presentations. The retirees honored at this event were: James A. Greenwell and Jose R. Rodriguez of Hialeah, Fred Olzak of Opa Locka, and Michael J. Balchun, Humberto Boan, Rollie C. Bridge, Joseph Diaz, Rosevelt D. Downs, Hector Enriquez, James Feagle, Austin S. Fife, John E. Fowler, Richard Gonzalez, Phillip J. Heagy, Carl L. Johnson, Lionel H. Lavoie, Carl Opara, Enrique D. Perez, Luis Rojas, Fernando E. Rodriguez, Ronald D. Snapp, Robert R. Thompson, and Marvin Tyson of Miami. I comment their years of dedicated service to the south Florida community.

Also to be recognized are the many members of the South Florida Letter Carriers who continue in the service of their society and who ensure the constant carrying of the mail. Mr. Speaker, I wish to acknowledge the lifelong work of the men and women who have delivered our mail daily. Their tireless efforts to provide us with communications from our friends and family far away are sometimes taken for granted. I hope this acknowledgement will serve as a reminder to us all.

PACESETTERS

HON. JOE KOLTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 11, 1992

Mr. KOLTER. Mr. Speaker, I rise to pay tribute to a group of individuals who are here in Washington this April to be honored by the management of the Buick Motor Division of General Motors for their outstanding accomplishments in 1991. I refer to the general sales and service manager's Pacesetter Dealer Group.

At a time when others question the ability of the American worker to deliver quality products, Buick and these top dealers have set the benchmark for the entire automotive industry. Through the efforts of this fine group, Buick has consistently maintained a top spot in customer satisfaction and product quality for the past several years.

These pacesetter dealers exemplify this commitment to excellence and I am proud to honor them today.

AUTHORIZATION OF SETTLEMENT AGREEMENT BETWEEN THE PUEBLO DE COCHITI AND THE ARMY CORPS OF ENGINEERS

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 11, 1992

Mr. RICHARDSON. Mr. Speaker, for years, the Pueblo de Cochiti in New Mexico has suffered from the adverse effects of a severe seepage problem at the federally constructed Cochiti Dam on the Pueblo's lands. Today, I am introducing legislation that authorizes the Secretary of the Interior and the Secretary of the Army to meet the terms of a settlement agreement negotiated by the Pueblo de Cochiti and the Army corps of Engineers that will resolve this longstanding problem.

The cultural life of the people of the Pueblo de Cochiti is deeply rooted in agricultural and religious uses of Pueblo lands. For hundreds of years the Cochitis have cultivated traditional crops such as maize, beans, and squash. In addition, the Cochiti people often perform sacred ceremonies and worship at religious sites on pueblo lands this heritage has been severely compromised by the excessive groundwater flow under Cochiti dam.

Cochiti Dam, which was built in 1970, began to exhibit signs of extensive seepage from under the dam which elevated the water table and literally turned the Pueblo de Cochiti fields into ponds and marshlands. Small scale drainage measures were undertaken by the Army Corps of Engineers to mitigate the damage caused by the seepage, to no avail.

In 1985, the Pueblo de Cochiti filed suit against the Corps of Engineers to recover damages for the destruction of the agricultural lands and to force the corps to develop a solution to the seepage problem. The suit is still pending.

In 1988, Congress passed legislation which provided a means for the Pueblo and the Corps of Engineers to resolve the issue outside of court. Under Public Law 100–200, the Army Corps and Pueblo de Cochiti were directed to formulate a structural solution to the problem, and funding was provided for design and engineering. The legislation further provided that both parties would negotiate, and if appropriate, submit to Congress a settlement that is acceptable to both parties.

I am pleased that the Pueblo de Cochiti and the Army Corps have reached a settlement agreement that includes provisions for the construction of a suitable underground drainage system to restore the traditional agricultural lands, compensation for past damages to the Pueblo, and an operating fund for the drainage system.

The legislation that I am introducing today will authorize this important agreement, and allow the Pueblo de Cochiti to return to its historical land use practices. I urge my colleagues to join me in moving expeditiously on this critical piece of legislation.

H.R.—

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. GENERAL AUTHORIZATION.

The Secretary of the Interior and the Secretary of the Army are authorized and directed to implement the settlement agreement negotiated under the authority of Public Law 100-202 by the Pueblo de Cochiti of New Mexico, a federally recognized Indian Tribe, and the United States Army Corps of Engineers, as set forth in the report of the Corps of Engineers entitled "Report on Investigations, Wet Field Solution", dated July 24, 1990, addressing seepage problems at the Cochiti Dam on tribal lands.

SEC. 2. DUTIES OF THE SECRETARY OF THE INTERIOR.

In accordance with the settlement agreement and pursuant to the trust relationship between the United States Government and the Pueblo de Cochiti of New Mexico, upon completion of construction of the drainage system, the Secretary of the Interior, acting through the Bureau of Indian Affairs, shall be responsible for its maintenance, repair, and replacement, as provided in the settlement agreement.

SEC. 3. DUTIES OF THE SECRETARY OF THE ARMY.

In accordance with the settlement agreement, the Secretary of the Army is authorized and directed to construct the underground drainage system necessary to correct the high ground water problem at the Pueblo de Cochiti and to carry out all other provisions of the settlement agreement, except those specifically assigned to the Secretary of the Interior under the provisions of this Act.

SEC. 4. APPROPRIATIONS AUTHORIZED.

There are authorized to be appropriated such sums as are necessary to carry out the provisions of this Act, and the settlement agreement.

PRESERVE THE BILL OF RIGHTS

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 11, 1992

Mr. EDWARDS of California. Mr. Speaker, we are witnessing a time when the rights of our country's citizens are being slowly but surely eroded by the Supreme Court's interpretation of our Bill of Rights. This last in an eight part series of editorials from the Atlanta Constitution demonstrates this situation quite clearly. As Members of Congress, we need to protect these rights guaranteed by the constitution if our Supreme Court won't. As the editorial eloquently states, "if we don't, then the Bill of Rights will be no more force than the parchment it's written on."

[From the Atlanta Journal, Dec. 15, 1991]

PRESERVE THE BILL OF RIGHTS

How seriously is the current U.S. Supreme Court undermining the Bill of Rights?

Only last week the court unanimously threw out a New York law seizing the literary or movie earnings of an accused or convicted criminal, on the grounds that it violated his right to speak under the First Amendment.

Last session, the court upheld a prisoner's right not to be questioned after requesting a lawyer, prompting a dissenting Justice Antonin Scalia to complain that the court is "producing a veritable fairyland castle of imagined constitutional restriction upon law enforcement."

Despite such cases and notwithstanding such complaints, the Rehnquist court has broken radically with its immediate predecessors in interpreting the Bill of Rights. From religious freedom to prison conditions, from the doctor-patient relationship to police searches, the personal rights of Americans are being systematically narrowed.

And it's important to bear in mind that this court's jurisprudence is just getting off the ground. With the replacement of Justices William Brennan and Thurgood Marshall with Justice David Souter and Clarence Thomas in the past two years, the rights counterrevolution is likely to accelerate and to persist for the foreseeable future.

But this need not require us to surrender the freedoms to which we have become accustomed. Federal and state legislation, and state constitutions themselves, can mitigate the decrees of the Supreme Court.

When Georgia banned execution of the mentally retarded in 1987, it was declaring such execution to be cruel and unusual punishment, never mind what the high court says. If Congress passes the Religious Freedom Restoration Act, it will undo the damage inflicted on the right of religious free exercise by the court's 1990 Smith decision.

In like manner, the Supreme Judicial Court of Massachusetts ignored federal precedent in holding the random drug testing of police officers to be in violation of the Massachusetts Constitution. State lawmakers, indeed, may move to equip their constitutions with more expansive rights than the U.S. Supreme Court discerns in the U.S. Constitution.

Ultimately, the strength of the Bill of Rights lies in the hearts and minds of Americans. If we the people of the United States believe we must be able to worship as we choose, that prison conditions must be humane, that legal representation must be adequate, that doctors must be free to speak with patients, then such will be the case.

If we don't, then the Bill of Rights will be of no more force than the parchment it's written on.

POLITICAL DEBATE AND THE NEWS MEDIA

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 11, 1992

Mr. JACOBS. Mr. Speaker, Indiana is most fortunate to number among its university presidents, Thomas Ehrlich who is at the helm at Indiana University.

Obviously Mr. Ehrlich is not only an excellent administrator, he is a gifted philosopher and writer.

[From the Indianapolis Star]

POLITICAL DEBATE AND THE NEWS MEDIA

(By Thomas Ehrlich)

Politicians agree on few issues, but one is that the media are often unfair to them. Is the charge on target?

The charge usually includes two complaints. First, that the private life of a politician is blazoned in the media spotlight. Anything goes, the seedier the better. The second complaint is that careful analysis of complex issues has been abandoned in favor of sound bites—snippets of commentary calculated to appeal to emotion not reason.

Both claims are valid, but I am convinced both are as much the fault of politicians and the public as the media.

When is the private life of a politician fair game for the media? My answer: when it directly reflects on the politician's ability to serve in office.

The alleged misdeeds of former Sen. Gary Hart, if you will remember that ancient history, are among the clear cases when the relevance was real. Hart challenged the press to catch him in a misstep—and the *Miami Herald* did. But in most circumstances, the private affairs—in all senses of that term—of political persons are their business, not ours.

How can we achieve reasonable restraints on the media without government restrictions? The first amendment to the Constitution protects the press against prior restraints on publication. The only viable alternative is a set of guidelines that television and radio networks and national newspaper organizations could endorse. That approach would not preclude the *National Enquirer* and others from printing whatever they dare within the limits of the law. But it would be a significant step forward.

The second complaint is even harder to handle. Television is the main culprit among the media. Newspaper journalists learned long ago not to print everything that politicians say or do. No one wants to read or hear the prose of a lap-dog journalist who reports on politicians by quoting their press releases. We want tough reporters who are aggressive in ferreting out the views. But news camera crews may invest heavily to film a candidate's visit to a flag factory and then show that visit on the evening news even though it teachers viewers nothing more than that the politician literally knows how to wave the flag.

The most effective approach to meeting this complaint is the opposite of the means of addressing the first one. Instead of more constraints on the media, more attention is needed to what politicians do and say.

Last summer I re-read the Lincoln-Douglas debates—an exhilarating experience. These were the ground rules for the debates: One man spoke for one hour; the other responded for an hour and a half; the first then gave a final rebuttal for a half hour. They alternated being first and second. Audiences listened and learned throughout the state of Illinois.

We have the technology to deliver the same experiences today to much wider audiences throughout the country via television. On occasions, television does meet that standard—the congressional debates on the Persian Gulf War resolution and the Supreme Court nomination of Clarence Thomas are prime examples. They are also rare examples on network news. C-Span, however, does provide just this kind of exposure—financed largely by cable television as a public service.

At least on the presidential level, and perhaps more widely, extended debates could educate the electorate in ways that do not happen today. A frequent response when I raise this issue among my colleagues is that no one will watch or listen to long debates. I am more optimistic.

If candidates for high office are most likely to succeed by offering only sound bites carefully packaged by "handlers," then that is exactly what they will do. They will not develop serious policy positions if they believe those positions may get in the way of winning. But if they are forced either to develop positions or to appear ignorant, they will take the former course, even at the risk of alienating some voters. That is exactly how the political process should work.

The common thread linking both complaints is the basic purpose of the media to inform and educate readers, listeners and viewers. The First Amendment ensures that journalists will not be muzzled, but it does not require that journalists educate. All too often, therefore, their stories are designed more to entertain than inform. That's the reason why articles about the personal lives of public figures are printed, and why full-scale debates and examinations of politicians and their public positions do not happen more often.

In short, as Walt Kelley said in Pogo, the enemy is us. If we demand a standard of performance by the media, we should get it. Unless we do demand it, we don't deserve it.

THE CALIFORNIA FARM EQUIPMENT SHOW CELEBRATES 25th ANNIVERSARY

HON. CALVIN DOOLEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 11, 1992

Mr. DOOLEY. Mr. Speaker, this year, in Tulare, CA, the California Farm Equipment Show will celebrate its 25th anniversary as the largest farm equipment show in North America.

This event draws thousands of people from all over the country and around the world with exhibits that display state-of-the-art technology and sophisticated machinery. In February, Tulare will expect to see visitors and exhibitors from 23 different nations including China, Australia, India, the Soviet Union, Poland, and Mexico.

The show has become a vital part of agricultural development in California's Central Valley. Exhibitors and farmer-visitors have both enjoyed developing a mutual relationship based on the simple theory of supply and demand. Long-time exhibitors at the farm show realize the benefits of a centralized festival through increased sales. Farmers find the visit to Tulare beneficial as they see the newest farm equipment available, discover new services, learn new techniques, and meet other agricultural figures from all over the world.

Another reason the farm show has become such a success throughout the past 25 years is the pride and dedication shown by the people of Tulare. Every year 400 volunteers, known as the Orange Jackets, combine their strength and talents to get the show off the ground. From setup to cleanup they lend a personal touch to the California Farm Equipment Show extending the warmth of the valley to all who visit.

The farm show is the pride of the valley. It has increased in strength and size, enduring some of the greatest economic setbacks our country has seen. I rise today, to salute the endeavors of the hard-working people in Tulare, CA, and to extend to them my hopes for another successful year at the California Farm Equipment Show.

THE TRUTH ABOUT THE AMERICAN RULE

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 11, 1992

Mr. FISH. Mr. Speaker, on February 4, I introduced the Access to Justice Act of 1992 (H.R. 4155). That legislation is intended to bring about important, needed reforms in the Federal civil justice system. Specifically, H.R. 4155 is aimed at discouraging unwarranted litigation and encouraging prompt, out-of-court settlements of disputes.

The bill's key provisions are based upon recommendations made by the President's Council on Competitiveness, chaired by Vice President DAN QUAYLE. A number of the proposals contained in the bill have already received favorable comment from such organizations as the American Bar Association and the Administrative Office of U.S. Courts.

However, certain organizations representing attorneys—including the American Bar Association—have withheld support from one particular provision in this legislation. Section 3 of H.R. 4155 would apply the English rule to a certain category of Federal civil actions. Specifically, under this proposal, the losing party would pay the attorneys' fees of the prevailing party in cases brought in Federal court as a result of diversity of citizenship. Currently, the American rule—where each side pays its own attorneys' fees regardless of the outcome—applies to civil actions brought in both the Federal and State courts.

Diversity of citizenship means that the plaintiff is a resident of one State and the defendant is a citizen of another State, or that the plaintiff has its principal place of business in one State and the defendant has its principal place of business in another State. Diversity of citizenship cases represent less than 25 percent of the cases on the Federal civil court docket. So, this loser pays provision would not apply to suits brought in Federal court under the civil rights laws, labor laws, securities law, antitrust law, environmental laws, or any other similar Federal question case. It should also be stressed that under the approach taken in H.R. 4155, the losing party would never pay the other party an amount in excess of their own attorneys' fees. Thus, there is a limit on the extent to which the nonprevailing party would be responsible for the prevailing party's attorneys' fees.

So, despite what you may have read or heard, this legislation would result in a limited application of the English rule. Recently, a letter to the editor appeared in the New York Times written by a well-known historian, John Steele Gordon. Mr. Gordon points out that the American rule has an interesting historical origin. Specifically, Mr. Gordon's letter points out that the rule came into being after the American Revolution as a means of discouraging British creditors from pursuing legal actions in American courts. He also points out that the American rule is not utilized in any other country and notes that such a policy places a defendant in an uneven situation from the date the suit is filed.

I commend to my colleagues this letter which appeared in the New York Times on March 6, 1992. The text of the letter follows:

[From the New York Times, Mar. 6, 1992]

OUR LEGAL-FEES SYSTEM BENEFITS ONLY LAWYERS

To the Editor:

"Bashing Lawyers. Also Justice" (editorial, Feb. 15), which criticizes Vice President Quayle's proposals to change the civil justice system, characterizes as harmful among those proposals "requiring a losing plaintiff to pay the defendant's legal fees."

In other words, you support the so-called American rule, in which each side in a lawsuit pays its own legal costs, regardless of the outcome. You state that while a loser-pays system would discourage frivolous lawsuits, it would also discourage legitimate but risky suits.

This is, of course, precisely the defense of the American rule that is offered by lawyers. But it is unsupported by a shred of data at best and is self-serving twaddle at worst. The history of the American rule, in fact, argues powerfully that the latter is the case.

The American rule came into being after the Revolution as a way to make it more expensive, and thus less likely, for British creditors to pursue American debtors in American courts. Its intent was not to further the ends of justice, but rather to be a deadbeat's relief act.

While many aspects of the American system of justice have been adopted by other countries, no country has, so far as I know, ever adopted the American rule.

Why should this be so? If it actually furthered justice, surely some other country somewhere would have noticed its virtue and put it to use, just as, to give one example, so many have adopted the Code of Civil Procedure that originated in New York State in the 1840's.

I suspect that the reason the American rule remains so exclusively American is that, far from furthering justice, the rule is inherently unjust.

Just consider: Under this rule a plaintiff with a contingency-fee lawyer can do no worse than break even. But a defendant can only lose. Even if defendants triumph legally, they must still write a large check for their lawyers. Thus, ipso facto, they must be substantially poorer at the end of a lawsuit than at its beginning.

How can you therefore call a legal system just wherein the plaintiffs cannot lose and the defendants cannot win?

JOHN STEELE GORDON.

NORTH SALEM, N.Y., *February 17, 1992.*

J.R.E. LEE OPPORTUNITY SCHOOL HONORS OCCUPATIONAL THERAPIST, MARQUITA GIBSON

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 11, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to acknowledge the lifelong work of Marquita Gibson, a former occupational therapist at J.R.E. Lee Opportunity School. Before her death, Ms. Gibson worked hard to make a difference in the lives of many students who came to her for assistance and counseling. She was a friend and a helper to those who knew her. Her work was honored by more than 100 students at J.R.E. Lee School. During the ceremony, Ms. Gibson's family members announced that a fund will be started, in her name, to honor the top student at J.R.E. Lee School. William McGee of the Miami Herald reports:

In a small, sun-lit auditorium, teachers and counselors at J.R.E. Lee Opportunity School paid tribute Thursday to Mariquita Gibson, a woman who spent 11 years there as an occupational specialist before dying in 1986.

And, while the 100-plus students gathered for the assembly had never met Gibson, several of them will benefit from her commitment to kids.

Gwendolyn High, one of Gibson's daughters, announced the counselor's family is starting a fund in Gibson's name to honor the school's top student each year. Winners will receive trophies, satin jackets and have their names added to a plaque at the school.

Gibson "felt that the kids here needed more. She was willing to put out 200 percent," High said.

Gibson began teaching at J.R.E. Lee in 1972.

Earl I. Higgs, administrative assistant in charge of discipline, said Gibson was an inspiration for the faculty: "She believed in it. She really felt for all of the children, that they would achieve no matter where they were."

Counselor J.A. Stovall, who helped organize Thursday's program, showed a videotape of one of Gibson's annual Black History programs at Lee, then introduced High. The daughter brushed back tears as she thanked the school for "allowing us to honor our mom in this way."

Gibson's other daughters, Vanessa Palmore and Margaret Sands; and two sons, James and Ben Gibson, sat smiling on the front row. High's daughter Kristal, 10, played "Lift Every Voice and Sing" on a piano.

Guest speaker Opa-locka Mayor Robert Ingram challenged Lee students to achieve.

J.R.E. Lee, at 6521 SW 62nd Ave., is one of Dade's alternative schools, where sixth, seventh and eighth-graders from South Dade are sent if they have been disruptive at their home schools. At J.R.E. Lee, they are given individual attention and counseling.

Honoring an outstanding student is just the latest gift to the school from Gibson's family. In February 1987, her children planted a crepe myrtle tree outside the school in her name. The tree is nearly 12 feet tall now.

"I didn't know why that tree was out there. It was interesting," said Richard Arjona, 13, after the program.

Larry Morris, an instructional aide at J.R.E. Lee, told students he first met Gibson in the early 1960's, when he was 13, and she was the first black cashier he'd seen at a 7-Eleven in Richmond Heights.

"This beautiful Bahamian woman looked at me and said, 'Good Morning, what do you need?' " he said. When he began working at the school in 1976, she became a mentor. "She became Mom Gibson."

"There are people here who have never met her, but they know of her and her good works and it keeps them going on," said principal Albert Villar.

Mr. Speaker, I am proud of the wonderful work that Marquita Gibson accomplished while she cared for and advised the students of J.R.E. Lee School. In addition, I wish to congratulate her daughters, Vanessa Palmore and Margaret Sands, and her two sons, James and Ben Gibson, for carrying on the tradition of assisting young people and making a difference in their lives.

SELECT 60

HON. JOE KOLTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 11, 1992

Mr. KOLTER. Mr. Speaker, I rise to pay tribute to a group of individuals who will be here in Washington in April to be honored by the management of the Buick Motor Division of General Motors for their outstanding accomplishments in 1991. I refer to the general manager's select 60-dealer group.

At a time when others question the ability of the American worker to deliver quality products, Buick and these top dealers have set the benchmark for the entire automotive industry. Through the efforts of this fine group, Buick has consistently maintained a top spot in customer satisfaction and product quality for the past several years.

These select 60 dealers exemplify this commitment to excellence and I am proud to honor them today.

THE OUTLOOK FOR U.S. AGRICULTURE

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 11, 1992

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, March 11, 1992, into the CONGRESSIONAL RECORD:

THE OUTLOOK FOR U.S. AGRICULTURE

The performance of U.S. agriculture has improved since the farm recession of the mid-1980s. Net cash income in the farm sector peaked at $61.8 billion in 1990, and reached an estimated $58 billion in 1991. Farmers' current debt-to-asset ratio is averaging about 16%, the lowest level in 25 years. Farm exports have climbed from a low of $26.3 billion in 1986 to $38 billion in 1991. Growth in the farm sector has been somewhat uneven. Indiana and some other Midwestern states suffered through a drought last summer, and a growing proportion of farm wealth is concentrated in fewer and larger farms.

Stronger exports, crop reduction programs and droughts have helped reduce the crippling farm surpluses of the mid-1980s. This trend has meant lower farm program costs. Program spending has declined from a peak of $25.8 billion in 1986 to $6.5 billion in 1990. Improved weather conditions and lower prices pushed program costs to an estimated $12 billion in 1991.

FARM ACT REFORMS

Congress continues to review the impact of the 1985 and 1990 farm acts on U.S. agriculture. The 1985 act marked a significant change in U.S. farm policy, aiming to make U.S. agriculture more responsive to market signals and less dependent on government management. Support prices were cut and program yields frozen. The 1990 act continued this trend by giving farmers more flexibility in choosing which crops to plant and cutting program benefits further. U.S. price supports no longer interfere with market prices and world trade for wheat and feed grains.

It is still too early to measure the effectiveness of these program reforms. Preliminary surveys show that in 1991 farmers utilized 18% of their flexible acreage, and opted out of rice and wheat and into corn and cotton, contributing to price increases in rice and wheat, and price declines in cotton. The full effects of this market orientation program should be clearer when the farm act expires in 1995.

LEGISLATIVE AGENDA

The agriculture agenda for the 102nd Congress has been light. Congress is awaiting the outcome of negotiations on the GATT Uruguay Round and the North American Free Trade Agreement (with Mexico and Canada). Both agreements could mean increased sales for U.S. agricultural products, primarily by reducing EC-subsidized sales, increasing market access, and reducing support programs which can encourage over-production. They could also mean easing U.S. import restrictions on certain commodities, including peanuts, sugar and dairy. Any changes made in domestic farm programs by a negotiated agreement would require congressional approval. The Bush Administration still hopes to complete these agreements this year, but it is still unclear whether the European Community will agree to reductions in its farm subsidies. Negotiations must be concluded by April if Congress is to consider implementing legislation this year.

Congress is also considering the President's budget proposal for fiscal year 1993, which calls for, among other things, ending farm program benefits to farmers with over $100,000 in off-farm income. Another measure, now in committee, would revise federal pesticide laws to expedite registration of safer pesticides and review government regulation for pesticide residues on food and feeds. The House and Senate are holding hearings on streamlining the USDA bureaucracy. Other legislative initiatives may include reform of crop insurance programs, rural development stimulation, and food inspection and safety. Congress may also consider dairy legislation if milk prices decline substantially in the spring.

LONG-TERM OUTLOOK

Despite the farm sector's current strength, the long-term outlook for U.S. agriculture is uncertain. First, government spending on farm programs is declining. The 1990 deficit reduction law called for a 25% cut in projected farm spending through 1995, from $53 billion to $41 billion. Consequently, the government's contribution to net cash income is likely to continue to decline this decade.

Second, the performance of U.S. agriculture will depend increasingly on global markets. USDA estimates that a GATT agreement would increase gross farm sales by $5–7 billion and cash farm income by $1–2 billion; a NAFTA agreement would entail smaller gains. Some analysts suggest that these gains may be offset by the restructuring currently sweeping Eastern Europe and the former Soviet republics. During the 1980s this area imported 15–20% of the world trade in wheat and feed grains to compensate in part for large post-harvest losses. An improved handling system would eliminate the need for these imports. As a result, U.S. agriculture may have to look to developing countries for future export opportunities. While there are encouraging signs of growth in South Asia and Latin America, it is too early to judge whether these areas will provide expanded markets over the next decade.

Third, U.S. agriculture faces the challenge of remaining competitive in global markets while meeting more stringent environmental requirements. There are environmental costs associated with current farming practices, including pollution of drinking water supplies, erosion of farmland and wetlands loss. The farming community and state and federal governments are taking steps to help mitigate these problems—by seeking, for example, to curb chemical use, encourage farming practices that limit erosion, and conserve wetlands.

Finally, competitive pressures will have an impact on the structure of U.S. agriculture and the number and type of surviving farms. Farming has become more concentrated. The number of farms has declined since 1930 from 6.3 million to 2.1 million. Less than 15% of these farms—about 300,000 farms with more than $100,000 annually in sales—are full-time commercial operations, and they are responsible for more than 75% of all U.S. farm sales. The remainder are small farms, and their operators depend on off-farm sources for much of their income. As agriculture becomes more market oriented, farmers will be under increasing pressure to use innovative technologies to manage production more efficiently. This could mean more concentration in the farming sector—fewer farmers, fewer family farms, and more large farms. U.S. agriculture policy must ask whether these market driven changes are good for U.S. agriculture, farmers and rural communities, and if they are not, what can be done to keep our agricultural sector competitive without driving more farmers out of farming.

INTRODUCTION OF THE FEDERAL PRISON INDUSTRIES CONDOR PROJECT ACT OF 1992

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 11, 1992

Mr. WOLF. Mr. Speaker, the Federal prison population may double in the next 5 years, and if the current prison work system is not augmented, prisons may face overcrowding, violence, and, most alarming, a high recidivism rate. We cannot face Federal prisons becoming finishing schools for crime, where criminals are paroled as experts in their craft. Congress has directed that nearly all Federal prisoners work; however, the waiting list for jobs with Federal Prison Industries [FPI] continues to grow.

Prisons should be turning out inmates ready to reenter mainstream society equipped to productively contribute to their communities. The best way to accomplish this is to put Federal prisoners to work. Many convicts can be reformed if given the opportunity to learn skills other than those necessary to be successful in crime. I believe they can learn valuable job skills, while not hurting private American companies, by making products that do not compete with U.S. companies.

This is why today I am introducing the Federal Prison Industries Condor Project Act of 1992, a bill to create pilot programs within the Federal prison system to test the feasibility of meeting the need for increased employment of Federal prisoners by producing items that would otherwise be produced by foreign labor.

Mr. Speaker, when the California condor seemed doomed for extinction, we were able to intervene and bring them to a point where the species can sustain itself. Today, when whole industries are moving offshore, the Federal Government can intervene in an appropriate way and bring them back.

In addition, this would help bring back to the United States, industries that have left our shores. One part of this plan should be to bring tasks that would otherwise be done offshore into the Federal prison system.

The Federal Bureau of Prisons [FBP], through Federal Prison Industries, Inc. [FPI], employs inmates to produce goods for sale to the departments and agencies of the United States, but not for sale to the public in competition with private enterprise. The benefits of this in preventing prison violence and in reducing recidivism have been demonstrated by recent studies.

One of these studies found that those employed by FPI showed better institutional adjustment, were less likely to have misconduct reports within the last year of confinement, were less likely to recidivate by the end of their first year back in the community, were more likely to be employed, worked a greater proportion of each workweek, and earned slightly more money in the community than inmates who had similar background characteristics, but who did not participate in work and vocational training. Work does instill responsibility and dignity, and work programs should be encouraged as a means to successfully rehabilitate convicted criminals.

Unfortunately, only 22 percent of the 63,500 Federal prisoners are employed by FPI. If steps are not taken, a higher percentage of inmates will be unemployed because the inmate population is growing at the astonishing rate of approximately 500 inmates per month, and by 1995, the prison population could exceed 100,000. Giving inmates work—sometimes their first legitimate work experience—translates into better self-esteem and morale, a sense of accomplishment and purpose, and, most importantly, a chance at a job when released. Learning detailed job skills like those required to fabricate electronics, may give inmates their only opportuntity for smooth transition from prison to the community.

Additionally, the funds from the sale of their goods can be used to defray the costs of inmates' incarceration, support their families, and repay their victims. J. Michael Quinlan, the Director of the Federal Bureau of Prisons, emphasized the benefits of FPI to prison management in congressional testimony last year:

> Employment, particularly industrial jobs, is the key factor in combating the adverse impact of crowding in a prison setting. Work, education, and vocational training not only reduce the debilitating idleness of a crowded institution, but offer important security management benefits such as supervised time out of cells.

Idleness, on the other hand, breeds apathy and discontent. Boredom turns to frustration resulting in violent and criminal behavior. The old adage that "idleness is the devil's workshop" reaffirms what can happen when an inmate's time is not productively occupied.

This legislation forges a partnership between FPI and private industry to rehabilitate convicts by producing goods not currently fabricated in the United States. This public-private partnership may actually help improve our balance of trade by reducing imports. It would also halt the decrease of inmate participation in work programs and actually expand the number of inmates engaged in productive work.

Our prison populations could learn to produce items such as sound recording devices and video cassette recorders and other products now provided by non-American sources. Domestic labor would not be threatened by this program because the goods produced would not have otherwise been produced domestically. Moreover, domestic labor will benefit because FPI would use materials produced by American workers. It is possible that this program might result in the return of industries, such as electronics assembly, that have moved offshore; thereby creating additional jobs here in the United States.

This pilot program would benefit domestic labor and American small businesses. Already the Federal Prison Industries purchases raw materials and component parts for use in FPI's labor intensive manufacturing and assembly operations from American suppliers. During fiscal year 1990, out of $240 million in total procurement, FPI purchased nearly $120 million worth of goods from small businesses. This translates into jobs for American workers. In addition to increased domestic supplies, FPI will need private sector transportation, marketing, and other services which otherwise would only have been produced and supplied overseas. As FPI moves into the production of goods currently made offshore, the potential for domestic job creation is great. Business, labor, prisoners, and the Bureau of Prisons will all benefit from this symbolic relationship.

Mr. Speaker, this pilot program enabling the Federal Prison Industries to work with American companies to produce goods not otherwise produced in the United States, offers a win-win proposition. American labor will not be adversely affected. American private companies, particularly small businesses, will benefit from increased sales. Inmates will benefit by learning real skills to be applied in real jobs when they reenter the real world. The American people will benefit as inmates learn job skills instead of honoring their crime skills. This is not an academic discussion—if Federal Prison Industries does not move into new areas of production, it will not be able to meet the vastly increased need for prison jobs. The lack of work will mean higher recidivism rates and greater violence in our Nation's prisons.

Additionally, this concept encourages American economic growth by creating jobs lost years ago to foreign competition. Small business, large business, and labor have everything to gain by taking part in such a program—a program that encourages American entrepreneurism and prison reform at no additional cost to the American taxpayer.

By establishing pilot projects we will be able to determine the feasibility of expanding FPI in a way that does not hurt U.S. businesses, and at the same time provide inmates with a source of pride and purpose. I encourage my colleagues to cosponsor this legislation, and support the FPI's mission to rehabilitate our inmates by providing meaningful and satisfying work.

LEONARD HELTON—AN AVERAGE AMERICAN WORKER SPEAKS OUT

HON. CASS BALLENGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 11, 1992

Mr. BALLENGER. Mr. Speaker, on February 6, 1992, the House Ways and Means Committee held a hearing on the U.S. economy and proposals to improve economic growth. My constituent, Leonard Helton, of Stanley, NC, testified.

Mr. Helton worked for weeks to prepare the speech so that he could tell the committee about the plight of the ordinary guy. As a textile worker, Mr. Helton well understands the problems facing this beleaguered industry. In his 7-minute statement before the committee, Mr. Helton pointed out how the textile industry was losing jobs and needed help against foreign competition. Mr. Helton also asked for Congress to pass job retraining and education programs. Finally, Mr. Helton stated that "* * * we, the average worker, are up to our ears with increased taxes. If some action is not taken soon, we will see multitudes of American families go under." To help provide tax relief, this average worker asked for permanent reductions in Federal tax rates, and a reduction in the capital gains tax. A copy of his remarks appear in the CONGRESSONAL RECORD of February 20, 1992.

Unfortunately, by the time the average American worker testified, most members of the committee were no longer in attendance. In fact, only Representative CHARLES RANGEL remained. A week later, Mr. Helton attempted to meet with all the members of the committee and was successful in sending his message to Representatives ED JENKINS and ANDY JACOBS.

The constituents in my district are outraged by the snub delivered to Leonard Helton by the Ways and Means Committee. A petition with 3,148 names have been collected on Mr. Helton's behalf. The petition states:

> We the undersigned feel that the rude behavior of the House Ways and Means Committee towards Leonard Helton was a clear indication of their lack of concern for the opinions of the tax paying community. By inviting Mr. Helton to speak to the committee concerning the problems faced by the "working man" in the present economic situation, then refusing to listen to him told all of us who work day in and day out just to survive that we are of no concern to them. We believe that Leonard Helton, as well as all tax payers, deserve a public prime time apology from the House Ways and Means Committee and an improved attitude towards those of us who pay the taxes that fund their salaries.

I am placing these remarks in the CONGRESSIONAL RECORD in a further attempt to help Mr. Helton get his message to Congress.

LIMESTONE ROCKETS HOLD THEIR OWN

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 11, 1992

Mr. MICHEL. Mr. Speaker, I would like to bring to the attention of our colleagues. the undefeated class AA girls basketball team, the Limestone Rockets, who made it all the way to the Illinois State championships.

The only undefeated class AA team, the Rockets had to face the 5-year State champions Chicago Marshall Commandos. The Commandos defeated the Rockets by two points, and it was not an easy victory. The Rockets showed their ability to make a strong comeback. But the game ended in favor of the Commandos, 49 to 46.

Tammy Van Oppen of the Rockets closed a gap in the score by making four three-point shots, a championship record. The Commandos pressed the Rockets throughout the entire game. They were determined to show the public what a fine team they are, and that is exactly what they did.

At this point I would like to insert into the RECORD an article by Jerry Smith of the Peoria, IL, Journal Star, "Rockets Fall Short."

ROCKETS FALL SHORT

(By Jerry Smith)

NORMAL.—They shot toward the basket like a bullet. There wasn't a lot the Limestone Rockets could do about it Saturday night at Redbird Arena.

Chicago Marshall, the most successful girls basketball team in Illinois history, was just too quick for the only undefeated Class AA team.

Yolanda Miller made a fast break layup of a pass from Kim Williams with two seconds remaining as the Commandos beat Limestone 48–46 to win their fifth Class AA state championship in front of an estimated 5,000 people, more than half of which ventured from Bartonville.

"I want to congratulate Bartonville Limestone," Marshall coach Dorothy Gaters said. "They played a tremendous ball game. We were lucky at the end.

"At the last time out, we told our kids to get the ball in Kim's hands and fortunately Yolanda Miller filled the lane. I've been trying to get her to fill the lane all year long and she finally did it for the first and last time of the season."

Slow they may have been, but Tammy Van Oppen and the Rockets became press busters during the game.

Van Oppen scored a game high 20 points, and she set a championship game record by making four three-point shots as the Rockets overcame an eight-point deficit before losing moments before the buzzer.

"We've got into track meets before and survived," Limestone coach John Gross said before the game. "But this is one we don't want to get into."

The Rockets couldn't prevent it all the time. Marshall pressed Limestone for the entire game and forced 12 first half turnovers on the way to a 28–26 lead.

Limestone could've won had it made its first-half layups. The Rockets shot only 8-for-23 from the floor. They hit 18 of 38 in the game.

"After playing so poorly, yes (I thought Marshall would win)," Gross said. "But as the game went on, we thought we would win."

After falling behind 32–24, Limestone gave Marshall a run for its money. The Rockets rallied on a 9–2 scoring surge and took only its second lead of the game, 44–42, when Jamie Broadstone hit a seven-foot jumper with 3:41 left.

"We were making some very crucial turnovers," Gaters said of her team, which made 26. "They shot their way back in."

Jenny Koeppel, a 5-foot-5 guard who was awarded the sportsmanship award after earning eight assists, almost forced the game into overtime when she hit a pair of free throws with eight seconds left to tie the score at 46.

But then, Gross said, he got greedy. The Rockets went to a full-court press for the first time, and Williams and Miller beat it.

"Boy, (the Commandos) are quick and they are good," Gross said.

Miller and Williams tied for a team-high 14 points. But Williams also had one block, six steals and five assists. Marie Scott scored 10 points and grabbed nine rebounds.

As it was in its semifinal win over LaGrange Lyons, Limestone's offense was Van Oppen. And that's exactly what Gaters wanted to happen.

"We wanted to try and make someone else win the ball game, besides number 33, who is a tremendous all-around player," Gaters said of Van Oppen, who had three blocks, three assists and two steals against the Commandos.

Jamie Broadstone scored eight points and grabbed a team-high six rebounds. Wendy Reeves had six points.

"We were just standing around the perimeter looking for the three and it wasn't there," said Gross, who is the third winningest girls coach in Illinois behind Gaters and Dick Biery, coach of Class A champ Carthage.

But * * * "I'm extremely pleased (with the performance). And I love ISU."

VA STILL GIVES QUALITY CARE DESPITE BUDGET SHORTFALL

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 11, 1992

Mr. MONTGOMERY. Mr. Speaker, for too long we have let negative news articles about the quality of care in VA facilities go unchallenged. There is no doubt the VA's health care budget has been less than adequate; however, the shortfall for the past several years provides some proof that VA is doing more with less, which cannot be said of other health care providers.

We know that some veterans do not have access to the VA system because of the budget situation—which did not get any better under the two sorely-inadequate plans proposed by the Budget Committee—but for those who do use the system, the quality of VA care overall is at least equal to that provided in the private sector.

I'd like to share with my colleagues the following letter from Mr. Denver Wilson of Brandon, MS, and an article from the Danville, IL, Commercial News as evidence that, contrary to the negative slant of media reports, there is indeed quality care being delivered throughout the VA health care system.

BRANDON CHAMBER OF COMMERCE,
Brandon, MS, February 27, 1992.

Congressman G.V. "SONNY" MONTGOMERY,
Rayburn House Building, Washington, DC.

DEAR SONNY: This letter is to let you know of my experience at the VAMC in Jackson.

I recently underwent prostate surgery and probably had the best care that you could receive in any hospital, public or private.

The doctors who took care of me were Jack Fowler, Jimmy Morris, Steve Farmer and Mark Posner. Their concern, skills and after care were superb, and would be hard to match anywhere.

This also goes for the nursing staff on 2B and in the out-patient clinic at GU.

Fortunately up to then I had not needed a lot of care from doctors and hospitals, but it was good to find out how well the VA takes care of the veterans of our country.

I look forward to visiting with you soon.

Sincerely,

DENVER WILSON.

[From the Danville Commercial News, February 8, 1992]

VETERANS: EXCELLENT CARE, COST

(By Ken Holloway)

In the midst of Main Street signs offering fast food, college classes and new cars, drivers in Danville are likely to tumble across a powerful message. The sign reads: "The Price of Freedom; Our Veterans."

The sign is posted just before the driveway leading to the Veterans Affairs Medical Center, 1900 E. Main St.

It is facilities such as the VA that provide medical service to this country's veterans. If they went to other places, medical attention would be very expensive.

Marvin D. Green, 64, a patient at the VA, credits the hospital for saving his life.

Green, who served in the Army during the Korean War, had cancer in the throat. He had his larynx cut out. He has a hole in his throat that helps him breathe. He has been at the hospital for several years.

Even though it was somewhat difficult for Green to communicate, he did his best by using an electro-larynx to help him speak. He also jotted brief notes.

Green said the treatment he receives at the hospital is good. He said the staff has done a good job helping him recover from his operation.

Green indicated he was getting ready and excited to start his life again at his home in Champaign. He is expected to go home Friday.

"I think their care is excellent," said Delbert Stitt, 66, a patient at the local veterans hospital. "On a scale from one to 10, I would give them an eight or a nine. They are not perfect, but you do get the attention that you need. They try to get as much as possible from you. They just don't let you deteriorate."

The special attention he needed came after he had part of his right leg amputated in May 1991.

Stitt, who was in the Marine Corps and fought in World War II, was admitted to the veterans hospital in Indianapolis in October 1990 for a broken right ankle.

After about 10 days in Indianapolis, Stitt, who lives in Williamsport, Ind., was transferred to the veterans hospital in Danville. During the recovery process, Stitt started experiencing numbness in his ankle and started losing his skin in that area.

The problem could not be solved and eventually parts of his leg had to be amputated. With the partial amputation, Stitt had to learn something new: getting around in a wheelchair.

"I had a difficult time adjusting to the wheelchair," Stitt said. "Once in awhile you have to go to a corner and talk to yourself. They (officials from the hospital) did help me to adjust working with a wheelchair."

Stitt credits not only the hospital's physical therapy, but its social atmosphere, in helping him recover.

"They try to provide something for everyone to do," Stitt said. "It helps to pass the time. It helps to keep your mind off your problems."

Some of the activities the hospital provides include bingo tournaments, live entertainment and different types of card games.

As Stitt prepares to be discharged Friday, he said the care he received from the VA hospital would have broken him financially if he had gone to another hospital.

"I can't say the stay has been pleasant (staying in the hospital so long)," Stitt said. "But they did their best to make sure any stay at the hospital was the best possible.

"This hospital is very important to a lot of veterans," Stitt said. "With everything getting higher (in cost) and the government running short on money, we are not going to have facilities like this that will be able to help the veterans."

But while Stitt and Green are preparing to start their lives at their homes again, Ralph Zimmerman, 70, of Danville, is continuing to recover from a stroke.

Zimmerman, who served in the Army during World War II, suffered a stroke in December 1991.

The stroke left the entire left side of his body paralyzed. He was admitted to the hospital at the end of January.

Since that time, Zimmerman has been trying to adjust to using a wheelchair.

"I tell you what, I have a lot of respect for those who have to use these things," Zimmerman said.

"It's frustrating as hell, but they say I'm getting better," Zimmerman said.

Although Zimmerman has shown improvement, it is still hard for him, at times, to accept what has happened to him. But he knows the struggle would be much harder without the help of the veterans hospital.

"This is an excellent place," Zimmerman said. "Danville is very fortunate to have something like this."

FREEDOM FROM GOVERNMENT COMPETITION ACT OF 1992

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 11, 1992

Mr. DUNCAN. Mr. Speaker, in our great free enterprise system, Government should be the referee between competing firms, not the opposing team. But an opponent and competitor is just what some Government agencies have become to the private sector, including many small businesses.

Beginning in 1955, and during every administration since, Republican and Democrat alike, there has been an Office of Management and Budget [OMB] directive on the books stating that:

> The Federal Government will not start or carry on any commercial activity to provide a service or product for its own use if such product or service can be procured from private enterprise through ordinary business channels.

But that policy has not been strictly enforced. There are numerous activities performed within the agencies, using Government employees, which can and should be contracted to the private sector.

This problem is so widespread that when the last White House Conference on Small Business met here in Washington, DC, the issue of unfair Government competition and a failure of government to adequately utilize the private sector was the third-ranked issue in the conference platform. The recommendation noted:

> Government at all levels has failed to protect small business from damaging levels of unfair competition. At the Federal, State and local levels, therefore, laws, regulations and policies should * * * prohibit direct, government created competition in which government organizations perform commercial services * * * new laws at all levels, particularly at the Federal level, should require strict government reliance on the private sector for performance of commercial-type functions. When cost comparisons are necessary to accomplish conversion to the private sector, laws must include provisions for fair and equal cost comparisons. Funds controlled by a government entity must not be used to establish or conduct a commercial activity on U.S. property.

In 1987, President Reagan created a Commission on Privatization. This panel of distinguished Americans looked at a variety of Federal activities and made recommendations in its 1988 report on those which could be better performed by the private sector. Some were suggested for outright privatization or transfer to the private sector, just as Congress had successfully done with Conrail and the National Consumer Cooperative Bank.

It is the process that I and my colleagues seek to promote in the legislation that we are introducing today. The Freedom From Government Competition Act of 1992 provides the private sector an opportunity to stem the tide of government performance of commercial activities.

This legislation directs the Office of Management and Budget to identify and facilitate contracting to the private sector those activities performed by Federal departments and agencies which duplicate or compete with private firms and can be performed by private firms.

Hardly a day goes by when major newspapers across this country are not reporting efforts by leaders of the world's fledgling democracies to adopt market economies and to privatize State-owned industries and services. Whether in Poland, Mexico, or the former Soviet Union, government leaders are learning that a strong private sector, not the State, is a more efficient and economical delivery system for services.

Even in America's cities and States, mayors and Governors are looking for government activities that can be contracted to the private sector.

Moreover, the mayor of Philadelphia, Ed Rendell, said it is time to change some basic assumptions about the public sector. In a hearing in New York City, Mr. Rendell said:

> Government does not work because it is not designed to. There is no incentive for employees to do their best, so many do not. There is no incentive to save money, so it is squandered.

This is a liberal Democrat talking, not a conservative Republican. Yet he has put his finger on something that many people are feeling today. People are becoming angry with elitists in government who act like our rulers instead of our servants. People are becoming sick of hearing governments who have doubled or tripled spending in a short time crying about budget shortfalls.

There is no doubt that this legislation will save the taxpayers billions of dollars, as well as creating thousands of jobs in the private sector.

Numerous studies have been conducted on the contracting out issue. The Grace Commission estimated that nearly $5 billion a year could be saved by contracting out. The Congressional Budget Office reported in 1987 that some 1.4 million Federal employees are engaged in occupations that are commercial in nature.

Mr. Speaker, this legislation is based on the fundamental belief that the Federal Government should not be involved in using Government employees to perform activities that are commercial in nature. Federal employees could go to work for the contractors or be reassigned to higher priority, noncommercial positions in the Government.

Over the past couple of years, we have witnessed dramatic changes in Eastern Europe. We have heard considerable discussion of privatization, and an end to State-dominated economies. We are now seeing these countries move toward market-oriented economies, individual initiative, and other virtues that led these States to discard socialism in favor of capitalism.

But in many aspects, we have not practiced here at home what we are preaching for these newborn democratic nations.

Privatization is an idea whose time has come. More action is needed to leave to the private sector what it can and should do. An aggressive privatization plan will help reduce the deficit and free Federal resources for pressing national problems that only the Government can solve.

Mr. Speaker, economy in government and reliance on our great free enterprise system has certainly been championed by both Republicans and Democrats.

In his, autobiography, Barry Goldwater said:

> Washington shouldn't intrude in the private sector and begin competing with companies and citizens who already support it through taxation. Government should do for its citizens only what they cannot do for themselves * * * We now have a fancy name for all this. It's discussed regularly on the front pages of daily newspapers and is called privatization.

It was Thomas Jefferson, the father of the Democratic Party, who said: "The best society is the one composed of the largest number of entrepreneurs." President Lyndon Johnson said: "We must seek every feasible way to reduce the cost of carrying out government programs."

Mr. Speaker, there is more privatization being carried out by the States than the Federal Government because many of our States must abide by balanced-budget requirements, which is another tool the Federal Government should have to control all of this runaway spending around here.

The Freedom From Government Competition Act of 1992 is a long overdue remedy to a critical problem. I urge my colleagues to join our effort.

IT'S TIME FOR BEIJING TO WAKE UP

HON. TOM LEWIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 11, 1992

Mr. LEWIS of Florida. Mr. Speaker, I voted today for passage of H.R. 2212, placing restrictions on granting most-favored-nation status to China, notwithstanding the objections of the President.

Our current policy has failed. Human rights continue to be violated and Tiananmen Square demonstrators are still jailed. Unfortunately, progressive reform efforts have not been effective enough in placing China back on track. It's time for Beijing to wake up.

Let's take a realistic look at the situation. We have a communist country with an atrocious human rights record, deplorable trading practices, and a history of weapons sales to Iran and Syria. We cannot, in good faith, allow the repressive regime of China the privilege of receiving MFN status.

In my opinion, these restrictions on China are not strong enough. Weakening the conditions imposed on MFN status as originally passed by the House in July was a grave injustice. However, the general restrictions vetoed by the President are a start. It's time to get tough with a country that continues to restrict the press, condone religious persecution, and deny access to human rights monitoring groups.

HONORING THE INDUCTION OF PAT AND MONTY ROBERTS INTO THE SANTA BARBARA COUNTY REPUBLICAN HALL OF FAME

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 11, 1992

Mr. LAGOMARSINO. Mr. Speaker, I rise today to pay tribute to Pat and Monty Roberts of Solvang, CA, who are being honored by the Santa Barbara County Republican Central Committee this Saturday evening as inductees into the Santa Barbara County Republican Hall of Fame.

Having been formally associated with the Republican Central Committee for many years, Pat and Monty are known by Republicans throughout the county for their tireless efforts. Whether it be serving as event hosts at their magnificent ranch, or as financial backers and organization coordinators, Pat and Monty are known by party members and candidates alike as Republicans you can count on to always lend a hand.

Both Pat and Monty have served as members of the Santa Barbara County Republican Central Committee, as well as sponsors for the past 10 years of the Reagan Country Roundup for the central committee. They are completely dedicated to the ideals of the Republican Party and have shown extraordinary leadership in helping promote Republicans, such as myself, for elected office.

It is with great pride and gratitude that I join with the Republican Central Committee in congratulating my good friends, Pat and Monty Roberts, for being chosen as members of the Santa Barbara County Republican Hall of Fame. Their honor is truly well deserved.

BIOGRAPHY OF RED CLOUD

HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 11, 1992

Mr. FALEOMAVAEGA. Mr. Speaker, through Public Law 102–188 (S.J. Res. 217, H.J. Res. 342), Congress and the President designated 1992 as the Year of the American Indian. This law pays tribute to the people who first inhabited the land now known as the Continental United States. Although only symbolic, this gesture is important because it shows there is sympathy in the eyes of a majority of both Houses of the Congress for those Indian issues which we, as a Congress, have been struggling with for over 200 years. In support of the Year of the American Indian, and as part of my on-going series this year, I am providing for the consideration of my colleagues a short biography of Red Cloud, a principal chief of the Oglala Sioux Tribe who is known for his skills as a warrior. This biography was taken from a U.S. Department of the Interior publication entitled "Famous Indians, A Collection of Short Biographies."

> RED CLOUD (OGLALA SIOUX)
>
> "A magnificent specimen of physical manhood, as full of action as a tiger."
>
> So Mahpiua Luta ("Red Cloud," from a meteor which turned the sky scarlet at the time of his birth), was described by famed Indian fighter Gen. George Crook, as the Oglala Sioux chief, then 44, led Indian opposition to Government proposals to construct forts along the Bozeman Trail in 1865.
>
> No white encroachment was more bitterly resented by the Teton, or Western Sioux, and the Cheyennes than this attempt to fortify the wild road across the western part of the continent through Wyoming to the newly discovered gold fields of Montana, for the Bozeman Trail cut across the best remaining buffalo grounds.
>
> The Indians had a powerful voice of opposition in Red Cloud. One of the principal chiefs of the Oglala Teton Sioux, he was a foremost warrior who had counted a large number of coups (separate deeds of bravery in battle), a natural leader who had become spokesman for his people through his own force of character. He was in his own right chief of the powerful Bad Face band of Oglalas, and influenced most of the other Oglala Sioux bands.
>
> Red Cloud was grimly determined to keep the Army out of Indian hunting grounds. With a party of Sioux and Cheyennes, he intercepted the first small detachment of troops sent out to begin constructions long the Bozeman Trail in the summer of 1865, and kept them prisoner for more than 2 weeks. When commissioners were sent to treat with the Sioux that fall, Red Cloud refused to allow transactions to start, and himself boycotted the council.
>
> The following June, white negotiators again attempted to get Sioux and Cheyenne permission for passage of emigrants and construction of forts along the trail. This time, Red Cloud was present as a leading representative for the Indians. With great force and dignity, he repeated his refusal to endanger the hunting grounds of his people: the Great Spirit had told him, he said, what would happen to the Indians if the Bozeman Trail became a major route.
>
> But even while discussions were taking place, a strong force of troops had arrived and begun occupation of Wyoming's Powder River country. Upon learning this the furious Red Cloud seized his rifle, shouted a defiant message, and stalked out of the meeting tent with his followers.
>
> The Army proceeded to carry out orders to fortify the trail. When Red Cloud's protests were ignored, he organized his forces, threatened death to any whites who ventured onto the trail, and began a constant harassment which was to go on for 2 years and become known as "Red Cloud's War." The largest post on the trail, Fort Phil Kearny, was kept under relentless seige, and not even a load of hay could be brought in from the prairies except under strongly armed guard. When Capt. William J. Fetterman, with 80 men, attempt to rescue a woodcutting party under attack near the fort in December 1866, Red Cloud's warriors lured them into ambush and killed every one.
>
> Although there were some white victories, Red Cloud and his followers resisted so effectively that again the Government attempted to negotiate. The new meeting was called for November 1868. Red Cloud's ultimatum was complete abandonment of all posts and of all further attempt to open the Montana road. He refused to sign—or even be present—until

the garrisons had actually been withdrawn and he had seen the hated forts burn to the ground.

Red Cloud's victory was complete. The Oglala chief stands alone in the history of the American West as the chief who won a war with the United States.

Having signed the Fort Laramie Treaty, which created the vast area known as the Great Sioux Reservation, he agreed to lay down his arms and settle at Red Cloud Agency in Nebraska. He kept his promise to live peacefully, but not without cost: his acceptance of reservation life brought him the scorn of Crazy Horse and other Oglala leaders, who continued to fight the whites. Red Cloud took no active part in the Sioux hostilities of the 1870's, although many of his followers, and his own son, left the agency to join Sitting Bull and other Sioux warriors.

In 1878, Red Cloud moved his people to Pine Ridge Agency, along with almost all other Oglalas. There, his running feud with Agent McGillicuddy became legendary, primarily because of the agent's persistent efforts to rob him of his prestige and authority as chief of his people. While he advocated peace, Red Cloud was opposed to efforts to rush Indian acceptance of white men's ways, and was a persistent critic of the Federal Government. He left the house built for him by the Government on Pine Ridge to travel to Washington on several occasions, and his views became known to newspaper readers throughout the country.

A few years before his death, Red Cloud and his wife were formally baptized as Roman Catholics; he took the baptismal name "John," and she became "Mary." In 1909, having become feeble and totally blind, the old warrior died in his Pine Ridge home. A marker locates his grave at the Holy Rosary Mission near Pine Ridge Agency, S. Dak.

SPOTTED OWL RECOVERY PLAN

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 11, 1992

Mr. STUDDS. Mr. Speaker, on behalf of Representative GEORGE MILLER and myself, I am today introducing into the CONGRESSIONAL RECORD a summary of the administration's draft recovery plan for the northern spotted owl. My purpose in doing so is simple. It is to ensure that the public is given a chance to review and comment on the proposal. Public comment and debate will, in turn, enable the administration to complete a recovery plan for the owl that will lend desperately needed stability and predictability to the Federal timber program and efforts to conserve the northern spotted owl in the Pacific Northwest.

The circumstances necessitating the publication of this draft recovery plan are inextricably tied up with the larger controversy involving the administration's response to the listing of the northern spotted owl as an endangered species under the Federal Endangered Species Act. While it is neither necessary nor useful to recount the details of that continuing controversy here, suffice it to say that it is characterized by a high degree of confusion and unpredictability which has resulted in numerous court injunctions on the Federal timber program in Oregon, Washington, and northern California.

Section 4(f) of the Endangered Species Act requires the Secretary of the Interior to develop recovery plans for endangered species. In September 1990, the administration announced its intention to develop a recovery plan for the northern spotted owl and appointed the members of the recovery team in February 1991. Since that time, the recovery team has been working steadily on its proposal, with the expectation that a completed recovery plan would serve as an important long-range blueprint to guide the timber program and other actions of the involved Federal agencies in conserving the northern spotted owl. As such, its adoption would foster the predictability and stability now so sorely lacking.

Last month and after the completion of the second draft of the recovery plan, the Department of the Interior announced its intention to shelve the plan and appoint a new interagency team to develop an alternative to it. The nature of the new effort remains very uncertain, as does its relationship to the requirements of Federal law.

We are concerned that the recent shift in approach will further delay the effort to develop a legally defensible recovery plan, and that more confusion, litigation, and injunctions may result.

We believe that the recovery planning effort should proceed. We believe that the public has the right to review and debate the merits and demerits of the proposal, and that it will doubtlessly be improved by that debate. We have therefore decided to publish a summary of the recovery plan today to ensure its wide dissemination. The complete proposal has been sent to the printers and will be available shortly.

EXECUTIVE SUMMARY OF THE NORTHERN SPOTTED OWL RECOVERY PLAN

INTRODUCTION

A recovery plan is called for by the Endangered Species Act to guide the management actions needed to bring a threatened or endangered species to a condition in which it no longer needs special protection of the act. The northern spotted owl was placed on the list of threatened species in June 1990. Since February 1991, a Recovery Team appointed by Secretary of the Interior Manuel Lujan, Jr., has been formulating a recovery plan for the spotted owl. This report presents a draft recovery plan for the northern spotted owl for review and comment by the public and government agencies.

The northern spotted owl draft recovery plan provides a comprehensive basis for management actions to be undertaken by forest landowners and wildlife agencies to alleviate conditions threatening the species. Primary actions will be taken by federal land management agencies in the Pacific Northwest—the U.S. Forest Service, the U.S. Bureau of Land Management, and the National Park Service. The U.S. Fish and Wildlife Service will oversee implementation of the plan through its authorities under the Endangered Species Act.

State forest management and wildlife agencies in Oregon, Washington, and California also will take actions that contribute to recovery under the plan. These state agencies have an important role in managing state forests and in regulating forest practices on private land within their jurisdiction. Contributions from habitat on Indian lands also were considered in formulating the draft plan.

The draft recovery plan was developed following review of the scientific data from previous plans for the spotted owl, particularly the conservation strategy designed by the Interagency Scientific Committee (ISC) (Thomas, et al. 1990), and by analyzing the most recent data available on owl populations and their habitat. This biological information was the basis for designing measures to achieve recovery.

Secretary of the Interior Lujan also asked that the Recovery Team consider other species and economic effects to the extent allowed by law. The Recovery Team made a substantial effort to determine the status and location of other species that could benefit from actions similar to those needed for owl recovery. Measures that would contribute to recovery of the owl, while also helping other species, were favored in decisions leading to the draft recovery plan.

Previous studies show that protection of sufficient habitat for a viable spotted owl population has substantial economic and social costs because of the reduction in timber harvests. The Recovery Team recognized that, under the Endangered Species Act, it could not consider measures short of achieving recovery for the northern spotted owl, even though such measures might cause significantly less economic and social losses. Instead, the Recovery Team looked for ways to achieve recovery that would cause less reduction in timber harvest and fewer job losses in the timber industry.

RECOVERY OBJECTIVE

The objective of the draft recovery plan is to remove the northern spotted owl from the list of threatened species.

THE DRAFT RECOVERY PLAN

The northern spotted owl draft recovery plan has seven key elements:

1. A recovery objective and a set of criteria for determining whether conditions exist that would allow the northern spotted owl to be removed from the list of threatened species.
2. A network of designated conservation areas on federal forestlands, with each area designed to protect owl habitat sufficient to support a number of breeding pairs of owls.
3. A set of guidelines that govern management activities on federal lands in designated conservation areas.
4. A set of guidelines that govern management on federal forestlands outside of designated conservation areas.
5. A set of suggestions for contributions from nonfederal forestlands to support spotted owl populations.
6. A research and monitoring program that will provide new information on spotted owls and their habitat, and develop and test management techniques for promoting and maintaining owl habitat while allowing appropriate forest management.
7. Implementation mechanisms that provide oversight and coordination, relying primarily on existing authorities and forest management planning procedures.

Each of these elements is described briefly, followed by a discussion of the scientific basis for the plan and of the economic and social considerations built into the plan.

DELISTING CRITERIA

The primary threat to the northern spotted owl leading to its designation as a threatened species is the reduction and fragmentation of its habitat in forests in Washington, Oregon, and northern California. Northern spotted owls use old-growth forests and other forests with similar characteristics for nesting, breeding, and rearing young.

As timber harvesting has proceeded in the Pacific Northwest, the amount of habitat suitable for spotted owls has declined and remaining habitat areas have become smaller and more isolated from each other, particularly during the last 50 years. As a result, the population of spotted owls declined, in some areas rather sharply.

The objective of the draft recovery plan is to reduce the threats to the spotted owl so that it no longer needs the protection of the Endangered Species Act anywhere in its range. The decision to remove the spotted owl from the list of threatened species can be made on an incremental basis for individual areas, called provinces, or for groups of provinces. The range of the spotted owl has been divided into 11 provinces.

Four criteria must be met before delisting is considered. (1) A scientifically credible plan for monitoring owl populations and owl habitat must have been in effect for at least eight years; (2) the population must have been stable or increasing, as indicated by both density and demographic estimates, for at least eight years; (3) regulatory mechanisms or land management commitments must have been implemented that provide for adequate protection of breeding, foraging, and dispersal habitat, and (4) analyses must indicate that the population in unlikely to need protection under the Endangered Species Act during the foreseeable future. The plan emphasizes that all of these criteria must be satisfied before delisting is considered.

DESIGNATED CONSERVATION AREAS

As the primary means for achieving recovery, the draft plan recommends establishing 196 designated conservation areas (DCAs) to provide approximately 7.5 million acres of federal forestland as the primary habitat for the northern spotted owl population. The largest DCAs are designed to support a population of 20 or more pairs of owls in habitat conditions that allow successful mating, breeding, and rearing of young. Each DCA contains areas of currently existing owl habitat combined with areas of younger forests. These younger stands will be protected so they can mature into owl habitat. When the DCAs are fully developed owl habitat, they will support a population of approximately 2,320 pairs of owls.

DCAs are located to allow owls to disperse from one DCA to another. DCAs also are located to take advantage of other forestland containing owl habitat that will not be harvested or will be harvested in a manner that does not reduce habitat value. Such areas include parks, wilderness areas, and certain administrtively reserved areas. DCAs are located in a pattern to reduce the risk to the owl population from natural threats such as fire, disease, and insects.

MANAGEMENT RULES FOR DESIGNATED CONSERVATION AREAS

The draft recovery plan recommends that activities on federal lands within the DCAs be focused on improving habitat conditions for spotted owls.

The following specific management rules for federal lands in DCAs are recommended.

1. No timber harvest is allowed in habitat suitable for northern spotted owls.
2. Silvicultural practices, such as thinning, will be used to promote rapid development of owl habitat in those areas that currently do not provide habitat suitable for owls.
3. Salvage of trees in stands significantly affected by fire, wind, or insects may occur but will be limited to safeguard owl habitat.
4. Management activities designed to reduce the risk of large-scale fire or insect infestation are limited to those needed to assure the continued existence of owl habitat within the DCA.
5. The recovery plan recommends that federal lands inside DCAs, with the exception of wilderness and national parks, be designated as critical habitat.
6. It also recommends that a management plan be prepared for each DCA before management activities are implemented.

MANAGEMENT GUIDELINES FOR FEDERAL FORESTLANDS OUTSIDE DESIGNATED CONSERVATION AREAS

The draft recovery plan recommends guidelines for the maintenance of sufficient habitat conditions on federal lands outside DCAs to allow dispersal of owls among DCAs. Movement among DCAs is necessary to maintain population levels and prevent genetic deterioration of the population. These guidelines contain several recommendations for supplementing the DCA network in specific parts of the owl's range where conditions currently do not allow full implementation of the DCA network guidelines. This would be done by providing habitat for additional owl pairs and territorial single owls outside DCAs. In some areas, the plan recommends management of these areas to reduce that risk of fire and insect damage.

SUGGESTIONS FOR MANAGEMENT OF NONFEDERAL FORESTLANDS

The draft recovery plan relies first on federal lands for recovery of northern spotted owls. However, it also recognizes the role of nonfederal lands in recovery, particularly in areas where federal lands are not adequate to fully achieve the recovery objective. The recovery plan recommends specific contributions from nonfederal lands which will complement federal efforts. These recommendations reflect the varied conditions within individual provinces, the authorities of the three states involved, and the potential for enhanced cooperation with the private sector. They provide a framework for development and implementation of creative efforts to help achieve recovery.

RESEARCH AND MONITORING PROGRAM

The draft recovery plan is based on extensive scientific data on northern spotted owls. This information gives the Recovery Team reasonable assurance that implementation of the draft plan will result in recovery of the species. However, increased knowledge of owls and their habitat will provide opportunities to refine and improve the plan. Consequently, the draft recovery plan recommends a comprehensive research, monitoring, and adaptive management program. The program has two objectives:

(1) It will help produce information to assist in refining management guidance and practices to promote recovery and, to the extent feasible, achieve greater economic efficiency and effectiveness. The program will include assessments of how implementation techniques are applied and the results they achieve.

(2) It will provide documentation necessary to consider delisting the owl in part or all of its range.

Information derived from the monitoring and research program eventually may result in significant changes in the Recovery Team recommendations. The Recovery Team has a long-term goal to move from a landscape composed of protected areas and matrix toward a landscape where conditions provide a more continuous distribution of owls. Results from monitoring and research may support such a change. In any case, the delisting criteria still would be appropriate even if specific recommendations changed.

IMPLEMENTATION MECHANISMS

Recovery plans are not self-implementing under the Endangered Species Act. Instead, they are used by federal agencies as a guide to refine management plans, procedures, and strategies so that on-the-ground operations help achieve recovery as it is defined in the draft recovery plan. Nonfederal parties are not required explicitly to follow recovery plans. However, they must follow applicable Endangered Species Act provisions that are reflected in the plan. The draft recovery plan suggests an implementation schedule which, if followed, will expedite progress toward recovery and provide increased certainty and stability in owl management. Also, in recognition that actions are recommended which cover an extended time frame and involve federal and nonfederal parties, the draft recovery plan recommends establishment of a coordinating group to guide implementation efforts over the long term. The group would provide advice and assistance on policies, plans, and other aspects of management including research and monitoring.

THE SCIENTIFIC BASIS FOR THE RECOVERY PLAN

The draft recovery plan is based on field studies of the habitat conditions that spotted owls prefer for nesting and breeding, on demographic studies, and on studies of owl behavior. It also is based on biological principles that describe the interactions within and among subpopulations that depend on areas of favorable habitat separated by areas of less favorable conditions. The Recovery Team drew substantially on theories and models of population dynamics to determine the desired size of population groups and the overall population.

The draft recovery plan also is based on silvicultural studies of the growth of forests under natural conditions and human management. Silvicultural models were used to study the opportunities for promoting more rapid development of suitable habitat conditions by appropriate management in younger stands.

CONSIDERATION OF ECONOMIC AND SOCIAL EFFECTS

The draft recovery plan was designed to reduce economic and social costs of implementing the plan as much as possible without undermining recovery of the spotted owl. For example, it allows forest management within DCAs in areas that are unsuitable for owls if that management is designed to promote the development of suitable owl habitat. Some of that management may provide commercial wood products. It also uses much habitat already set aside as not suitable for timber harvest. The plan also provides programs and procedures to reduce the costs of its implementation. However, these measures have not made the costs insignificant or eliminated the disruption that will be experienced by individuals and communities when restrictions on timber harvesting cause unemployment.

Implementation of the draft recovery plan is estimated to reduce employment in the Pacific Northwest timber industry by about XX jobs, compared to the employment that would have been expected with no protection of the spotted owl. Jobs in related sectors also will be reduced. Lost or reduced wages are estimated to be about $XX billion during the coming decade. The value of the foregone timber harvest is estimated to be $XX billion during the next 50 years. This will cause a net reduction of about $XX billion in U.S. Treasury funds and $XX billion in county receipts. Private assets, such as mills and homes, will be reduced in value. Increased profits on private timber are estimated to be about $XX billion.

CONCLUSION

The conservation of northern spotted owls is a difficult public policy issue. It is important to achieve recovery in a way that is appropriate under the Endangered Species Act, yet also managerially and economically efficient. The draft recovery plan provides a realistic basis for meeting this objective. Consequently, it should meet owl needs and provide greater stability in resource management than now exists. This will set a precedent for constructively resolving conflicts between conservation and development of natural resources.

U.N. PEACEKEEPING: A WISE INVESTMENT

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 11, 1992

Mrs. MORELLA. Mr. Speaker, as chair of the arms control and foreign policy caucus, I wish to share with my colleagues four excellent pieces on the rapidly expanding U.N. peacekeeping role around the globe. Congress has been presented with a 2-year request for $700 million in additional peacekeeping funds to meet the rapidly expanding and vitally important U.N. operations in El Salvador, Yugoslavia, and Cambodia.

I have heard some concern about the cost of the U.S. contribution and about the makeup of the operations themselves. I believe we must give strong support to the peacekeeping plans not only to deter future tragedies in regions of bloody conflict but also to maintain U.S. leadership as the world moves into the 21st century.

On March 26, the head of the U.N.'s peacekeeping operations, Marrack Goulding, will meet with the arms control and foreign policy caucus, and I encourage any Member interested in the U.N.'s current operations and the cost to the United States to join us.

I urge my colleagues to read the following articles and editorials—by Les Gelb in the New York Times, Stephen Rosenfeld in the Washington Post, and editorials in the New York Times and Atlanta Constitution—which show how we in Congress can help keep the peace in these troubled regions.

[From the New York Times, Mar. 6, 1992]

THE NEW WORLD ARMY

For years the United Nations has been notable mostly for its vocal cords. That's changed. Nowadays the U.N.'s muscle—its blue-helmeted soldiers—seems to be everywhere. And costs have soared. The bill for 11 peacekeeping missions could approach 3.7 billion this year. Never before have so many U.N. troops been committed to so many costly and diverse missions.

Will that be money well spent? Has the operation gotten out of hand? Do U.N. structures need an overhaul? Americans may well ask such questions in a year dominated by domestic concerns. Critics still equate the U.N. with wind and waste—hence the hostility in Congress yesterday to Secretary of State Baker's request for $810 million for U.N. troops due for deployment in Cambodia and Yugoslavia.

Yet in hard cash terms, peacekeeping is a bargain. Each day of Desert Storm cost $1.5 billion. The U.S. share for a year of expanded U.N. peacekeeping is a fraction of Pentagon expenditures for weapons that won't be used against a Soviet adversary that no longer exists. Every war prevented saves blood and treasure expands markets and trade. Peace in Angola, El Salvador, Yugoslavia or Cambodia is a boon to all but the arms bazaar.

Over the years, with few mishaps, U.N. pecekeepers have performed difficult monitoring tasks effectively. The blue-helmets troops are forbidden to use force save in extreme circumstances. Their task is to "conciliate, console and discreetly run the household without ever appearing to dominate or usurp," writes their retired chief, former U.N. Under Secretary Brian Urquhart.

Now the peacekeepers are doing more than monitoring truce lines. They are becoming peacemakers, too. U.N. forces were asked to disarm guerrillas, conduct elections and enforce human rights, first in Namibia, then in Cambodia and El Salvador. The Security Council recently expanded the concept of threats to peace to include economic, social and ecological instability. Hence the pressure to send blue helmets into Somalia, where civil strife blocks relief to a stricken people.

Yet, as Mr. Urquhart contends, the U.N. is ill prepared for such intervention. Peacekeepers have been recruited on a contract basis for specific missions; many come from smaller, nonaligned nations. What may now be needed is a permanent force for rapid deployment in chaotic circumstances. One promising possibility is to make fuller use of the U.N. Charter. Article 43 already calls on members to make available "armed forces assistance and facilities" necessary to maintain international peace. To that end, the Charter established a Military Staff Committee, composed of the chiefs of staff of the Council's permanent members.

Cold war rivalry put Article 43 on hold, and the Staff Committee has never worked as intended. Propitiously, Secretary General Boutros Ghali is soon to report on all aspects of peacekeeping. Russia and France favor activating the Staff Committee, which American armed forces have traditionally resisted as a threat to command autonomy. But in a transformed world, it makes sense to consider direct contributions of personnel and equipment to a rapid deployment force under real multinational control.

Why couldn't the United States, which now owes $377 million in back dues for peacekeeping, meet part of its obligation through the defense budget? This would require changing procedures that put all U.N. costs in the foreign aid budget. That won't be easy. But what a chance for President Bush to take the lead in giving real meaning to his still hazy vision of a New World Order.

The U.N. Army—Number of United Nations personnel in peacekeeping operations.

Already in place:	
Lebanon	5,900
Cyprus	2,200
Golan Heights	1,300
El Salvador	1,000
Iraq/Kuwait	540
Angola	440
Arab-Israeli conflict	300
India/Pakistan	40
Being formed or expanded:	
Cambodia:	
Deployed	1,380
Future	22,000
Yugoslavia:	
Deployed	300
Future	[1]4,300
Western Sahara:	
Deployed	300
Future	2,700

[1] Secretary General's recommendation.

[From the New York Times, Mar. 6, 1992]

BANANA REPUBLIC, U.S.A.

(By Leslie H. Gelb)

We have a Government of followers following followers, turning the United States inward and honing the mentality of a banana republic. This week inside Congressional hearing rooms, you could have heard the whines and wails of weakness.

Secretary of State James Baker went there to make the case for $900 million over two years for U.N. peace-keeping operations in places like Cambodia and Yugoslavia. Even that amount would fall far short of what the U.N. said it expected and needed from America.

Meanwhile, the Administration was already working behind the scenes to settle for much less than $900 million—so that all could hide what little they would vote for the presumably unpopular task of peacekeeping.

But return to yesterday's hearing and listen to Fritz Hollings, chairman of the Senate Appropriations subcommittee. Talking of Israel brushing aside U.N. forces in Lebanon a few weeks ago, the South Carolina Democrat said: "I've always thought maybe we ought to give the role over to McDonald's and Burger King because they walk right by and sell hamburgers as they go forwards and backwards."

To which Mr. Baker responded that "Some peacekeeping operations have been more successful than others."

On Tuesday, Harold Rogers, top Republican on the House Appropriations subcommittee, argued that it was unfair for the U.S. to pay 30 percent of peacekeeping operations since "we only represent 25 percent of the world's" economy. "And Cambodia makes the case," he said. "I mean, Cambodia is in Japan's economic sphere of influence."

Mr. Baker explained that paying more than others was what leaders did. Mercifully, he ignored the point about Japan.

Joseph Early, a Massachusetts Democrat on the House subcommittee, offered that peacekeeping is "good rhetoric . . . good theory. But we can't afford it."

How do you explain to someone who does not instinctively understand? How do you convey the unthinkable horror of the U.S. failing to do everything it can to stop the killing in Cambodia? Who needs to be reminded of the million Cambodians who died after President Nixon brought the Vietnam War fully to Cambodia? Who can imagine not finding a few hundred million dollars to prevent the resurgence of the dread Khmer Rouge?

Mr. Baker made all the right points. He told the lawmakers that "we have spent trillions of dollars to win the cold war and we ought to be willing to spend millions of dollars to secure the peace."

The Administration and a number of legislators know the peacekeeping money is a necessity, but no politician will lead the fight for it. The obvious place to find it is in the Pentagon budget, yet Mr. Bush rejects this. And no one wants to step out front on anything "foreign," particularly foreign aid.

So Congress and the Administration are working out an arrangement beyond public view. It revolves around a budgetary term known as "headroom," or money not spent as quickly as expected.

It seems that there is some $200 million to $300 million in headroom in the current fiscal year, mainly monies that had been earmarked for the shaky democracies of Eastern Europe. Most of this headroom will be reallocated for peacekeeping and buried in a legislative device known as a continuing resolution of appropriations. Those doing the bargaining will look for several hundred million dollars elsewhere for the coming fiscal year. They will settle for less than they know is required to do the job and trigger the necessary funds from other nations.

But that is the best they think they can do in the current political climate. Even then, everything must be hidden—in rhetoric and legislative devices. The people must not be made too aware that their leaders are spending money to keep the peace. For otherwise the people will punish them—or so these leaders assume.

Such leaders are not leaders. They are followers, of their own fear. That fear suffused Congressional hearing rooms this week. And it spreads the mindset of weakness and irresponsibility throughout Washington.

Americans are in pain. And our leaders must pull themselves together to address that pain. But pain is one thing and killing another. And unless our followers become leaders and regain some balance about foreign and domestic priorities, thousands upon thousands will perish.

[From the Atlanta Constitution, Mar. 5, 1992]

DON'T EVADE PEACE COMMITMENTS

Disappointingly, some key members of Congress are signaling that they will resist Bush administration appeals to help finance urgent United Nations peacekeeping efforts.

A U.S. House Appropriations subcommittee chaired by Rep. Neal Smith (D-Iowa) has been giving Secretary of State James A. Baker III an unnecessarily hard time this week, griping about the increasing costs of U.N. initiatives in strife-torn countries like Angola, Yugoslavia and Cambodia. His complaints are especially inappropriate since the administration has been encouraging U.N. intervention—with the blessing of Congress.

This is not to say U.N. budgets for such ambitious undertakings can go unexamined. The Security Council has been advised by three of its members—the United States, Britain and Russia—that its estimated costs for the Yugoslavia and Cambodia efforts are on the high side and need to be pared down.

The U.S. share being discussed in Congress, however, constitutes but a minimum contribution to ongoing and imminent U.N. peacekeeping duties: catch-up assessments of $91 million for 1990 and $116 million for 1991, and special appropriations of $350 million each for 1992 and 1993. Sure, the committee should delve into the funding of these various operations, but in the end it ought to be guided by the State Department's recommendations.

Mr. Baker advanced a powerful argument with his parsimonious questioners Tuesday. The end of the global contest between Washington and Moscow has put the resolution of numerous regional disputes within reach, he said. "We have spent trillions of dollars to win the Cold War, and we ought to be willing to spend millions of dollars to secure the peace."

Also, a case can be made that certain obligations take precedence even when one's budget is stretched to the limit. Cambodia is such an instance. For America to delay or scrimp on the extraordinary 22,000-man operation there runs a serious risk that Cambodia's fragile truce may disintegrate. That would be unforgivable, considering U.S. policy twists and turns that led to Cambodia's breakdown and in some instances prolonged its nightmare.

[From the Washington Post, Mar. 6, 1992]

THE CAMBODIA SYNDROME

(By Stephen S. Rosenfeld)

Ah yes, Cambodia: such a miserable and vexing place, so remote, so hard to tend to, so unimportant in the new scheme of things, so *expensive*. This is the muted groan that creaks across Washington these days as a distracted American government struggles—struggles not so much to come up with its due share of United Nations peacekeeping costs in Cambodia as to avoid confronting the issue of its default.

There is a budget squeeze. But there is also, in the U.N. peace plan for Cambodia, an opportunity to heal a nation torn as perhaps no other nation has been torn since World War II and to settle down a troubled corner of Asia and tuck it into a world that is moving on. Is not taking an appropriate part—not a great leadership role—in such projects exactly what American foreign policy ought now to be about?

If your answer is no, then, well, you are an isolationist. I regret it. There is an argument that with the demise of the Soviet Union, the United States has no great national interest in extending a hand to the lesser countries, and should turn away or, for form's sake, make a token contribution. But it is a mean and narrow argument that, applied as a rule, would shrivel the sense of community among nations and produce a dog-eat-dog world.

The better answer is yes. Cambodia suffered genocide in a civil war spilling over from the Vietnam War in which Americans took part, and has a special call on the American conscience. There is, further, a general American interest in dispute settlement and nation-building in the little places. If you believe this, you are being downright hypocritical if you do not unequivocally support the U.N.'s Cambodia plan.

The American share would be 30 percent of $1.9 billion, a sum intended to do the ambitious and desperately necessary job of sending in 22,000 peacekeepers for 18 months to disarm combatants and oversee free elections.

Many people hail the political developments that put an end to Cold War proxy battles, as in Cambodia, and laud the explosion of the United Nations' work in international peacekeeping. But they want to perform this mission on the cheap. Call it the new Cambodia syndrome.

The Bush administration lags in its peacekeeping payments. But the president shrinks from asking Congress for the full bill and from going to the public with an appeal equal to the stakes. The administration cites tough times and the election-year risks of alienating a public supposedly fed up with "foreign aid."

There was a day when Bush presented himself as a president earning his passage by foreign policy. He surely meant not just chatting up foreign leaders on the phone but shaping a program, if not a vision, and building public support for it. This is where he is falling short in respect to Cambodia peacekeeping. Not completely short (the United States is paying something), but short enough to lose a claim to enlightened policy making.

But let Congress not preen. In December, after full Cambodian and international agreement on a peace plan had been achieved, Rep. Chet Atkins (D-Mass.) wrote the president saying the settlement opened the way to a new takeover by the Khmer Rouge, the genocidal Communist regime of the mid-1970s. Most representatives signed on. A parallel letter came from Senate majority leader George Mitchell.

Anxiety about the Khmer Rouge is hardly misplaced. But the Atkins letter didn't stop there. It warned that it would be "difficult to sustain congressional support" for the U.N. operation "unless there is confidence that the process will not assist the Khmer Rouge." Sensitive to any suggestion that he was torpedoing Cambodia's lifeboat. Atkins now believes the letter usefully stiffened the U.N. against Khmer Rouge machinations. He says that Cambodia funding is coming along nicely in the House.

But he was torpedoing Cambodia's lifeboat. The letter could only have resulted in indiscriminately handing out a high-minded excuse for stinting on financing the U.N. plan. And the plan is, for all its flaws, the only game in town.

Wrote Raoul Jennar, a Cambodia specialist and critic of the peace process: "The [Atkins] letter should have been sent * * * before the signing of the Paris Agreements. During the course of the negotiations alternative formulas were dismissed one after the other. Today, nothing remains but the Agreements of 23 October 1991. It would be criminal to endanger their fullest application."

PETER SIPPERLEY: RHINEBECK MAYOR FOR QUARTER OF A CENTURY

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 11, 1992

Mr. SOLOMON. Mr. Speaker, when President Bush first coined the phrase "thousand points of light," he must have had Peter Sipperley in mind.

Today, if you don't mind, I'd like to tell you a little about this good friend and great American.

There aren't too many of us who can stay in office for 25 years, but Peter Sipperley is going into his 26th year as mayor of the beautiful Hudson Valley village of Rhinebeck.

Mr. Speaker, if Peter Sipperley were nothing more than a village mayor he'd be worthy of our praise. After all, he's been the driving force behind improving village sewage and water systems and the streets, among other things, while doing it all in a fiscally conservative and responsible manner. And I'll have to say, I wish there were more public servants like that in the U.S. Congress.

But there's much more to Peter Sipperley. First a little background. The family plumbing business was established around 1912. Peter and his brother Vernon used to work there as kids. When their uncle died they took over the family business as partners.

Peter Sipperley served his country during the Korean War and also developed an interest in serving his community. And so, right at about the time I was entering public life as a town supervisor, Peter Sipperley became a village trustee. Then he was elected mayor, and the good people of Rhinebeck have seen fit to return him to office many times.

And as someone who's been active in scouting his entire life, I also admire Peter Sipperley for finding the time to be an assistant scoutmaster. He's also been a certified high school baseball umpire. Finally, he's been active at St. John's Episcopal Church in Barrytown, where he's played the organ for many years on many occasions.

Before I forget, I'd also like to mention his wife Lori, son Karl, and daughter Shirel. As usual, community pillars like Peter Sipperley always turn out to be great family men, too.

There's been a lot of talk about what constitute's a "conservative" these days, Mr. Speaker, and Peter Sipperley is my idea of a true conservative.

On March 27 he will be honored by his many friends. Mr. Speaker, I ask you and other Members to join me today in rising and paying our own tribute to Peter Sipperley, a model mayor, and a man I have the privilege of calling a friend.

TRIBUTE TO REV. VERNON McGOWEN, JR.

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 11, 1992

Mr. PALLONE. Mr. Speaker, on Sunday, March 15, the congregation of the Martin Luther King, Jr., Presbyterian Church of Neptune, NJ, will honor its minister, Rev. Vernon McGowen, Jr., for his 15 years of service to the congregation and the surrounding community.

Reverend McGowen's association with the Martin Luther King, Jr., Presbyterian Church goes back to when he was a seminarian at the Princeton Theological Seminary. In 1976, he was invited to give a Mother's Day sermon. Later that summer, the congregation employed Vernon McGowen to conduct a 10-week field study within the African-American communities of Asbury Park and Neptune, NJ; at the same time he was asked to fill the church's pulpit each Sunday. His excellent performance in these endeavors led the church's nominating committee, in the autumn of 1978, to place the name of Reverend McGowen as the first pastor of the church. The association has been a most rewarding one for both Reverend McGowen and the church.

Vernon McGowen, Jr., is a native of Houston, TX, one of three children born to a steelworker and a cook. Growing up in the segregated South, where he had to endure such daily indignities as being forced to ride on the back of the bus and attending segregated schools, he developed a strong sense of social conscience and activism at an early age. After earning a bachelor of theology degree from Mount Hope Bible College and Theological Seminary and a bachelor of arts degree in social work from Texas Southern University, he worked with Operation Breadbasket, the economic arm of the Southern Christian Leadership Conference. He was active in picketing and economic boycotts on behalf of improved company hiring and promotion practices. Subsequently, Reverend McGowen obtained his master of divinity degree from Princeton, a master of social work degree from Rutgers University School of Social Work, and a doctor of jurisprudence degree from Seton Hall University Law School.

After being recommended to the Martin Luther King, Jr., Church in Asbury Park by the late Edler G. Hawkins, Reverend McGowen completed a feasibility study of the needs of the Neptune-Asbury Park communities, which led to the establishment of the Martin Luther King Counseling Services. Upon being named pastor, Reverend McGowen faced a job with both difficult challenges and tremendous potential. He began with a storefront facility and, despite limited resources, devoted much of the next 10 years to building a new church facility. Through a ministry of preaching, teaching, family counseling and social activism, he has moved steadily against some of the practices that threatened the quality of life and justice in the Neptune and Monmouth County community. He has been involved in an ongoing effort to get more African-American representation in the judiciary of Monmouth County, through the naming of more black judges and prosecutors. In 1987, Reverend McGowen led the movement for a ballot referendum in Monmouth County on investment of county funds with companies that do business in South Africa—which county voters approved.

Reverend McGowen has also found time to work with juveniles at the Jamesburg Training School for Boys, where he counsels and does Bible study twice a week. He is active in the Asbury-Neptune NAACP, the Summer Institute for Pre-Legal Studies, the New Jersey Association of Black Social Workers, and the Neptune Basic Skills Community Council. He has received numerous awards for his work, but his most cherished are the Protestant Fellowship Awards, the Asbury-Neptune NAACP's Humanitarian Award, and the Sammuel Wilson Blizzard Award from the faculty of the Princeton Theological Seminary.

Reverend McGowen is the proud father of two sons, Vernon McGowen, III, who is a student at Southern University, and Timothy Ray McGowen, a student at Texas Southern University.

Mr. Speaker, I ask all Members of the House of Representatives to consider the words of Reverend McGowen on the role of the ministry: "The Church must be the voice of those who have no voice and have no way of making themselves heard; we must take what we have, where we are and do the best we can." The Reverend Vernon McGowen, Jr., has certainly done the very best he can, to the everlasting benefit of all those who have known him and been touched by his work.

A SPECIAL TRIBUTE TO REV. HENRY J. PAYDEN

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 11, 1992

Mr. STOKES. Mr. Speaker, the Holy Trinity Baptist Church will pay tribute to Rev. Henry J. Payden for his 31 years of leadership and guidance. Many family, friends, and community leaders, myself included, will participate in a testimonial to Rev. Henry Payden in an event titled, "Guest Who's Coming to Dinner" on Friday, March 20, 1992. The celebration will be held at the Sherwin-Gilmour Party Center in Lyndhurst, OH.

The Holy Trinity Baptist Church, known as the church with the upward look and the forward step, welcomed its first members on March 12, 1961. Four years later, the church membership began to increase, thus creating a need for a new church. Today, the Holy Trinity Baptist Church boasts a membership of 1,500.

Mr. Speaker, I have shared a close working relationship with Rev. Henry Payden. I can proudly testify to his 31 years of uncompromising dedication and service to the spiritual leadership of the Holy Trinity Baptist Church. Today, I am honored to rise to salute him. I would like to share with my colleagues some of the achievements of this distinguished leader.

Reverend Payden is a strong leader, a committed servant of God, and a great inspiration to the church and the community. He began developing his leadership characteristics in Columbus, OH, as a Capital University student. He continued his theological studies at Cleveland Bible College, Western Reserve, and Ashland Theological Seminary. Reverend Payden studied hard to understand the teachings of God and began to practice these beliefs throughout the country. He has conducted preaching revivals in 30 States and 88 cities.

Not only is Rev. Henry Payden known for his educational experience, but he is recognized for his strong ties to the community. Reverend Payden always has been willing to extend a helping hand to the community. He participated in the Hough riots of the 1960's and he has acted as associate chaplain of the Cuyahoga County Sheriff's Department. We are honored to have such a person of his caliber among us.

Mr. Speaker, I am pleased to congratulate Rev. Henry J. Payden for his achievements over the years. He is well deserving of the tribute accorded to him. I join the community, his friends, and members of his congregation in saluting him on this momentous occasion. I wish Reverend Payden much continued success as he delivers the word of God.

A DEMOCRATIC STRATEGY TO RECAPTURE THE WHITE HOUSE: GOV. ROBERT P. CASEY

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 11, 1992

Mr. OBERSTAR. Mr. Speaker, earlier this year Pennsylvania Governor Robert P. Casey, in remarks to the National Press Club, offered an astute and succinct analysis of the effects upon the body politic of the failed policies of the Reagan-Bush administrations over the decade of the 1980's. I retrieved Governor Casey's speech and gave it a closer look, in the aftermath of yesterday's "Super Tuesday" vote and found the Governor's remarks impressively insightful.

In clear, stark strokes, Governor Casey outlines the defining economic issues of this campaign year: Health care; the transfer of wealth from the middle class to the richest 1 percent of our society; the aftereffects of the speculative merger mania that characterized the 1980's; and the fears that the next generation will not enjoy a better standard of living in the 21st century than the present generation.

More significantly, Governor Casey raises our conscientiousness about a value issue many feel uncomfortable about or are unwilling to address: Abortion. Governor Casey challenges the Democratic Party to win back traditional Democrats who have left the party because of a position in favor of abortion.

I commend to my Democratic colleagues Governor Casey's thoughtful and principled address, which outlines for us a strategy for winning back the White House in 1992.

REMARKS OF GOV. ROBERT P. CASEY

I want to talk to you today about the economic and political forces that have reshaped our lives over the past 10 years, their effect on our people, the economic devastation they have brought on states like mine—and how these forces coalesced in a watershed election in Pennsylvania last November.

That's the election that brought victory to Harris Wofford; not just victory but the rarest of political phenomena—an upset landslide.

I'm also going to examine this question: Can the national Democratic Party capitalize on its best opportunity to recapture the White House in years?

And finally, I will share with you a dilemma that's troubling millions of Americans just like me, Americans who will be voting for President in November. Many are Democrats. And many are people who used to be Democrats.

For me, it's a painful dilemma because, on the one hand, I'm about as strong a Democrat as there is. And I'm outraged by the economic suffering inflicted on our families over the past decade. But on the other hand, on the fundamental issue of abortion, the national Democratic Party doesn't speak for me.

This issue transcends party. Each person must come to his or her own position in accordance with values systems that are uniquely sensitive and personal

But first * * * let's look at the election.

As far as I'm concerned, we've already had the first Presidential primary. Not New Hampshire. It was last November in Pennsylvania.

That's when Harris Wofford, a political underdog who was given no chance of winning, took on the Attorney General of the United States—a surrogate of the Bush White House—and beat him by 350,000 votes.

Let's take a look at why this happened.

I believe that as citizens we look for two things from our government: economic fairness and the promise of a better future. Right now we're getting neither.

First, the Reagan and Bush administrations have spent more than 10 years systematically transferring the wealth in this country out of the pockets of the middle class and into the pockets of the very rich.

That's why the whole S&L mess shouldn't have surprised anybody.

The speculative real estate boom, the massive purchase of junk bonds, the mindless mergers and acquisitions, the failure of the federal watchdogs—they all combined to reward exactly the wrong people.

Who were the winners? The manipulators, that's who. The lawyers and investment bankers, the CEO's and arbitrageurs. They're the ones who became millionaires and billionaires.

And who were the losers? Most of the American people. The losers were the people who produce real things—all those steel workers and machinists and tool and die workers.

They're the ones who ended up in the unemployment line. They were among the millions of Americans who came up on the short end of the stick and lost their faith in the fundamental fairness of our economic system.

And now we all see that the S&L bill is coming due.

Families all over America have to come up with $500 billion in taxes to bail out the failed projects and failed institutions of the high rollers in three or four states; money that should go instead to helping the working families of this country.

Listen to what else has been happening to the money in this country:

Studies show that income for the richest one percent of Americans went up 50 percent. While real income for the vast majority of Americans—fully 80 percent—actually went down.

And remember all those Republican tax breaks they keep talking about? The wealthiest Americans got three times what the rest of us got. Three times.

Today most American families are only two or three paychecks away from disaster. And two-worker households are now the norm for the average family. One person holding down two jobs is also the norm—just to make ends meet.

For more and more families, those ends don't meet at all. For more and more families, the American dream of owning a home has become a broken promise. And has become a broken promise. And paying for a college education is an impossibility.

The Reagan and Bush administrations have presided over a 10-year reign of economic ruin that's slammed the door in the face of the middle class.

And then there's the deficit. The most obscene and bloated federal deficit in American history. They have spent and borrowed so much that the national debt has nearly quadrupled in just 10 years. With interest payments on the debt that have almost doubled in real terms.

Republicans policies have literally slapped a mortgage on the American dream for generations to come.

Not since the Great Depression itself have we had as much to fear as this fact itself: America is losing its great promise of rising expectations—the expectation that our lives will be better than our parents, and that the lives of our children will be even better than ours.

Any mother or father will endure almost anything, make any sacrifice—so long as it means a better future for their kids. Strip away that promise, and what remains is bitterness and despair and anger. And they erupted in Pennsylvania last November. And they're still out there.

It is this common belief in our rising expectations for our own children that binds Americans together. This is why they work hard, save their money and educate their kids. And this, then, is the real threat posed by our enormous national debt: It's the biggest reason why many of our children may not be able to afford a life better than ours.

To make matters worse, the White House has declared war on the states. We're caught right in the line of fire. And believe me, it's not friendly fire.

Beginning a decade ago, they began dumping the burden of public services on the states—without giving us the resources to pay for them; leaving it up to states like ours to be the helping hand of last resort for the most vulnerable and needy members of our society.

One commentator puts it this way:

"* * * the Feds during the past decade have been unloading programs and obligations onto the states that the states cannot afford but could not humanely ignore.

"For example, just since 1988, federal aid to states for food and nutrition and homeless services has fallen by nearly $1 billion.

"And contributions for urban, community and economic development have been cut by more than $2.5 billion. "Funds to states for highways, waste water treatment and other natural resources programs have been cut by more than $2 billion."

Safety net services—especially medical assistance—are pushing the states to the fiscal brink. Caseloads are increasing because of the recession, and showing geometric dollar increases because of the rapid rise of medical inflation. Ad it's all driven by federal mandates and costly new federal regulations.

Right now, we're adding 13,000 people a month to our medical assistance rolls. More than 200,000 in the past two fiscal years.

In Pennsylvania, state government has turned into the largest underwriter of medical care after Blue Cross/Blue Shield.

And what it costs us for each person has increased 44 percent over the past two years, due in part to new federal regulations.

Many are middle class casualties of the recession. Forced by radical cuts in pay or the loss of a job to reach out for help they never in a lifetime thought they would need. But now they do need help—and the states have to foot the bill.

Our total medical assistance budget has increased 150 percent since I became Governor five years ago. It eats up 13 percent of our entire budget—a share that's 30 percent greater than when I took office.

And now we're hit with a double whammy, as this crippling and unrelenting national recession draws the noose around the states even tighter. Within the past few weeks, I've been forced to freeze more than $400 million in state spending, to avoid a revenue shortfall at the end of the fiscal year.

That's about 3 percent of our general fund budget. The federal government has a printing press to print money. We don't. We have to balance our budget.

And we're not alone.

Over the past 12 months, two-thirds of the states have struggled with budget deficits. Twenty-nine slashed programs and services. Nineteen fired or furloughed state employees. And 31 states, including Pennsylvania, had to raise taxes.

The story's the same all over the country. The bottom's falling out and there's no end in sight. And in the meantime, the White House is actually criticizing Democratic governors for raising taxes.

It's an especially bitter pill for Pennsylvania to swallow because we've worked so hard for so long to build a firm foundation of steady, responsible fiscal management.

We fought to keep the costs of our government under control. We didn't increase taxes for four years. Instead, we reduced business taxes by $150 million. And we repaid our long-standing unemployment compensation debt to the federal government, saving Pennsylvania business another $1 billion in taxes over three years.

We kept our state workforce down. And today we have fewer state employees per capita than any state in the nation. Fewer than when I took office.

Our bond rating has remained stable, and has not been downgraded.

When our revenues sank like a rock at the end of 1990, we cut more than $800 million in state spending; privatized state institutions; laid off employees.

And despite all of this, we still had to increase taxes substantially last August.

Undermining the middle class; the astronomical federal debt; the war on the states; the disastrous recession: how does it all shake out politically?

Let me tell you what happened when it all came together in Pennsylvania. In August, Harris Wofford was down 44 points in the polls. But the Pennsylvania's voters had gotten the message—Republicans and Democrats—that they'd been taken to the cleaners by the failed White House policies of the past 10 years.

Then health care became the flashpoint of their anger.

Why health care? Whether Pennsylvanians wanted a system of national health care in my view was only part of the reason. The fact is that 90 percent of the people of Pennsylvania already have health insurance.

No, the health care issue became the anvil on which the voters hammered out their anger over even deeper issues—that they might lose their job at any time, without notice, and the medical benefits that go along with it; that if they get sick they can't rely on the insitutitons—public and private—that we've created to take care of them.

For millions of American families, their lives are not secure. And their future is uncertain. And the White House did nothing. And Dick Thornburgh offered more of the same.

I believe that the people looked at Harris Wofford and said: If he cares about health care, he cares about me. They looked at him and said he's going to try to change things in Washington.

And they elected him in a landslide.

That brings us to the big question. It's a presidential election year. The Super Bowl. Where do the Democrats go from here?

Well, let me tell you a little story.

I went to law school here at George Washington University. Ellen and I were newlyweds; we had a one bedroom apartment on Skyland Place in southeast Washington.

To help make ends meet, I got a job selling encyclopedias. On commission. Door to door. In Beltsville, Maryland.

I lasted one week.

I never sold a book. Not one.

It was the hardest job I never had. They'd slam the door in your face. They'd curse at you. It was almost as bad as political fund raising.

That's when I learned a lesson that's served me well all my life. You can stand in the doorway with a sample case full of great products, but you'll never get the chance to sell them unless you get yourself through the front door and into the living room.

But since 1972, national Democratic candidates haven't been invited into too many homes because they fail the basic threshold test when voters ask them about values—like the abortion issue.

The tragedy of presidential campaigns over the past quarter century has been that many traditionally Democrats were attracted by the Republican's calculated appeal to these values—only to be betrayed by the Republican party's economic policies.

And too often the national Democratic Party actually makes the Republican's job easier through their extreme sensitivity to the extremists in the party on this issue, while ignoring the views held millions of Americans—which is most of us.

The national Democratic party insists on a litmus test on this issue—as a condition of nomination to the highest office in the land. And in the process, the party disables its own candidates for president before they even get out of the gate.

Interest groups that take the most extreme pro choice view have too much control over the party on this issue. In the name of tolerance and pluralism, they're absolutely intolerant of any view on abortion other than their own. And they exclude any one who disagrees from realistic consideration of nomination for national office.

I believe it's a major reason why the Democrats have lost every national election since 1964—except Jimmy Carter; and why no Democratic presidential candidate has carried New Jersey or Illinois since 1964; Michigan since '68; and Ohio, Pennsylvania or Texas since '76.

I believe the party has a national problem on this issue.

It was exactly 20 years ago that George McGovern—quote—"opened up the party's doors"—unquote—and millions walked right out. And many never came back.

You only have to turn on the TV to see why.

The other night we all saw the big banquet sponsored by the National Abortion Rights Action League here in Washington. And right in the thick of it were the five Democratic presidential candidates—making the obligatory pilgrimage that the nomination process demands. And you can bet that Mr. and Mrs. America watching at home knew full well that not one of them had been across town at the big pro-life rally on the mall.

It's this TV image that tells the whole story of what's wrong with the Democratic Party on this issue—a party that's out of touch with the values of many of those Democrats who walked out in '72. In '80. '84. '88.

And now it's 1992. And it doesn't look like anything's changed at all. The quadrennial litmus test is still turning off the voters the Democrats must have if they are to win.

Unless the party learns to be tolerant of those it has alienated, it'll bungle the best opportunity to recapture the White House since Watergate.

My message today to the party is a friendly message—not an ultimatum; a friendly message from one member of the family to another.

My message is simply this:

Many Americans today are deeply concerned about their jobs and their economic future. But they also care deeply about the abortion issue—and where their party stands on the issue.

Listen to them. Don't ignore them. Be open to their point of view. Do not automatically disqualify from nomination to national office those who hold that view.

Do not endorse in lock step the most extreme pro choice view.

Becasue when you do, you exclude not only pro life voters; you also exclude all those millions and millions of others who—while remaining ambivalent on the issue—still believe that the number of abortions should be reduced.

And they believe that states should have the power to regulate the circumstance under which it may occur.

I would like to see the party change on this issue. But if it does not change, the party must at least be open. The party must listen.

You may have the best product in the world, but you will never succeed unless you get into the living rooms of America to make your presentation.

I'm suggesting today a way of accomplishing that.

If the national Democratic Party and its candidates reach out to form a broader national coalition, I believe the American people will not only let them open the sample case and come into the living room.

I also believe Democrats have an excellent opportunity to convince the American people that the country needs a Democratic president to lead us into the future.

I thank you.

TRIBUTE TO TRI-COUNTY HIGH SCHOOL

HON. RICHARD RAY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 11, 1992

Mr. RAY. Mr. Speaker, I rise today to pay tribute to the Home Economics Program at Tri-County High School in Buena Vista, GA, for its being conferred industry certification. This program, under the direction of Mrs. Deborah Ford, will be honored at a reception tomorrow afternoon.

The Home Economics Industry certification assists in establishing industry guidelines to help students acquire the knowledge and skills essential for performing industry identified tasks. This provides quality instruction by educating students with state-of-the-art equipment and teaching materials. The result is a educated and skilled graduate who can enter the work force prepared and disciplined. This certification not only assists the students, it also aids the teachers, the school, the local community, and our Nation's business and industry sector.

Mr. Speaker, as of this date, only one other program in the Nation has been so certified. It is a distinct honor for the program at Tri-County High School, and I am sure that all of my colleagues will join me in sending their best wishes for a great reception tomorrow.

THE NATIONAL ENERGY BILL MOVES FORWARD

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 11, 1992

Mr. TOWNS. Mr. Speaker, I want to commend our colleagues, Chairman PHIL SHARP and his staff for their fine work over the past year in developing a response to the issues we must consider in the formulation of our national energy strategy. Today, those efforts culminated in the reporting of H.R. 776, the House version of the national energy strategy bill, from the full House Energy and Commerce Committee.

A lot of the pundits wondered whether we would be serious about developing an N.E.S. bill once the gulf crisis disappeared from the front pages of the Nation's newspapers. Today's markup was a statement to Chairman SHARP, Chairman DINGELL and our ranking minority members; NORM LENT and CARLOS MOORHEAD, commitment to move forward on the basis of long-term national interests rather than a mere short-term reaction to the gulf energy crisis. I am hopeful that today's session will take us one step closer to a national energy strategy bill which will ultimately result in a rational approach to national energy policy.

The challenge remains for us to report from the House and energy bill which is respectful of regional differences and differing energy interests. In that vein, let me highlight some outstanding issues which we must still address.

Many members of the subcommittee on Energy and Power worked long and hard on the pucha and transmission provisions of this bill. I salute those efforts. I have supported pucha reform from the very beginning but my concerns about the transmission access provisions of the bill have not gone away entirely.

But I must compliment the chairman, the subcommittee chairman and the committee staff for their acceptance of my amendment in recognition of reliability as a major concern for States like New York where Consolidated Edison is required to maintain the highest reliability standards in the Nation. In conference, I hope that we will ensure that reliability is not harmed at all and that a utility's customers will be held harmless. The compromise provisions on retail wheeling and native load also go a long way toward addressing some of the problems I raised at subcommittee and I hope that some of the continuing concerns on native load can be addressed during the House-Senate conference. In addition, I share the views of those who question whether FERC should be vested with a new authority over antitrust issues. And, I hope that we can receive a definitive answer on this issue, before conference, which satisfies everyone.

Additionally, I would like to compliment the New York Power Authority for their efforts to focus attention on voluntary regional transmission associations. This safe harbor concept has merit and I would encourage my friends from the public power arena and my friends from the coop community to develop a workable agreement which we all can support.

Local concerns also prompt me to urge that we retain the fill requirement on all oil for the strategic petroleum reserve. With he new taxes on oil in New York, an exclusive focus on oil imports would further exacerbate our State's current economic crisis. I would also like to again thank the subcommittee chairman for his support in the creation of a refined product reserve for the Northeast. This reserve will enable us to guard against future heating oil shortages like those we experienced in 1989.

As a northeasterner, I would again like to stress the importance of the natural gas section which prohibits regulators from treating importers of Canadian gas any differently than domestic producers and distributors. Additionally, the current provisions of the Natural Gas Act provide adequate protection for the interests of pipelines as well as their customers in rate proceedings. Given the difficult negotiations in developing the natural gas title, I would hope that further changes, in these above areas, would not result in undermining new natural gas policy initiatives.

Finally, let me applaud the efforts of the subcommittee chairman in developing a strong energy efficiency title and an excellent compromise on the uranium enrichment program. The uranium enrichment proposal moves away from a millage fee and toward a payment program which fairly balances a cleanup payment between Government and the private sector. Hopefully, this proposal will serve as a basis for a reasonable uranium enrichment program.

I know that the gentleman from Indiana considers the energy efficiency title to be a major component of this energy bill. Certainly there is no area with a greater potential for technological improvements than energy efficiency. I was pleased that my amendments to promote lighting efficiency technology, to enhance the participation of low-income weatherization programs and to eliminate the emphasis on fuel adjustment clauses as a disincentive to efficiency improvements, were adopted en bloc.

I look forward to the long road ahead to bring the national energy strategy bill to the floor and I am hopeful that at the end of the process we will craft a measure which balances regional concerns and the interests of consumers with those of industry.

GO SLOW ON MACEDONIA

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 11, 1992

Mr. PORTER. Mr. Speaker, I applaud the administration for announcing that it will recognize the newly independent nations of Croatia and Slovenia. More so, however, I applaud the Secretary of State for what he has done. In response to a well-founded concern by Greece, the Secretary of State has refused to act on the request for recognition by the Yugoslavian province of Macedonia.

The area historically called Macedonia lies in Greece and the Greeks are extremely concerned that the Yugoslavian Macedonian leaders have territorial designs on the Creek province of Macedonia. Almost daily, radio broadcasts from Skopje, the capital of Yugoslav Macedonia, call on Macedonians to reunify the country and help free the millions of oppressed Macedonians in Grece.

There is no historic basis for uniting the Greek province of Macedonia and the Yugoslav province of the same name. The leaders of the Yugoslav province are creating strife where none need exist and imperiling any hope that the Yugoslavian province may have of being recognized as a legitimate country.

I applaud the Secretary of State for recognizing the volatility in this situation and withholding recognition of the Yugoslavian province of Macedonia until these concerns can be addressed.

INTRODUCTION OF THE CRIMINAL ALIENS AND PRISON OVERCROWDING ACT

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 11, 1992

Mr. SCHUMER. Mr. Speaker, as if State prison systems didn't have enough problems, they are now becoming terribly crowded with criminal aliens. In my home State, for example, more than 12 percent of the prison population—that is one out of every eight inmates—is not a U.S. citizen. Of these criminal aliens, an estimated 35 percent are illegal aliens, people who are not supposed to be in this country at all. And this is happening at a time when State prisons are operating at absolutely top capacity. When one criminal gets sentenced to prison, another has to be released to make room. Criminal aliens are occupying desperately needed prison spaces, and taxing the State prisons almost beyond their ability to respond.

Incarcerating criminal aliens ought to be a Federal obligation. Almost all of the criminal aliens in State prisons are deportable, meaning that they need not be in this country at all, and that the States are simply warehousing them until the Federal Government can get around to deporting them. In the case of illegal aliens, they are here in the first place solely because the Federal Government is not doing its job. For the Federal Government to fail to prevent the flow of these individuals into the United States, and then to disclaim any accountability for the costs their criminal behavior imposes on the States, is just plain irresponsible.

To alleviate the crisis faced by the States, I am introducing today the Criminal Aliens and Prison Overcrowding Act, and Senator D'AMATO is introducing an identical bill in the other body. My proposal has two parts. First, it would set aside three closed military bases for use in housing criminal aliens. Each State would be able to select which of its criminal aliens to send to these new detention facilities, which would be operated by the Bureau of Prisons. This would immediately free up State prison cells, enabling States to lock up criminals who now go free.

Consolidating criminal aliens in Federal facilities would have other benefits, too. The INS would be able to establish centralized deportation processing at these facilities, so that a criminal alien is deported as soon as his or her term of imprisonment is complete. As it is now, States often have no choice but to release a criminal alien into the general population at the end of his sentence, even though he is deportable, merely because the INS has not finished—or sometimes even started—deportation proceedings.

Indeed, in many cases my bill would enable the deportation of aliens before the termination of their sentence. For nonviolent, nonserious offenders, I do not believe that taxpayer dollars need to be spent on incarceration, when the offender alien could simply be deported. In my plan, if the State determined that an alien could be deported rather than imprisoned, the State could release the alien to the Federal

Government for just as long as it takes to complete deportation proceedings.

At a minimum, 4,500 inmates could be transferred to the three new facilities proposed in my bill. That would be an important first step, but it would still leave the States with responsibility for some 35,000 criminal aliens. To help with this burden, the second part of my bill would authorize $100 million in grants to States. The money would be distributed in proportion to the number of criminal aliens in each State's prisons. The program would provide about $3,000 per alien inmate to each State, not nearly enough to cover the cost of incarceration, but contribution that is fair and appropriate considering the constraints of the budget.

I urge my colleagues to join me in cosponsoring the Criminal Aliens and Prison Overcrowding Act.

INTRODUCTION OF INTERSTATE MUNICIPAL WASTE TRANSPORTATION ACT OF 1992

HON. PAT WILLIAMS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 11, 1992

Mr. WILLIAMS. Mr. Speaker, today, I am introducing the Interstate Municipal Waste Transportation Act of 1992, to amend the Solid Waste Disposal Act to authorize States to restrict the interstate transportation of municipal waste.

After many meetings and discussions with folks in Montana, particularly eastern Montana, there is no doubt that the disposal of waste is a significant problem. American's generate waste, but folks simply do not want it around. The problem is very big in urban areas because they generate more trash than they can possibly deal with, and their dumps are already filled to the limit.

The problem is simply that rather than look at alternative local solutions, many municipal areas have chosen to ship their waste to other States where land is more plentiful and cheaper. They have looked to the vast open spaces like Montana for places to ship their waste. We would then have the environmental problems caused by the waste, such as ground water contamination from leakage or air pollution from incineration. Worse, the receiving State becomes identified as a waste dump.

Each State must have the authority to regulate interstate trade in trash through bans and fees. This bill would allow States to decide for themselves whether or not the commercial benefits of out-of-State waste outweigh the true costs of disposal.

This bill does not apply to waste transported for recycling or reclamation. This legislation would provide waste importing States with a new source of revenues with which to promote recycling programs. Exporting States, faced with higher costs of out-of-State disposal, would find it more cost-effective to recycle waste at the local level.

Mr. Speaker, in my home State of Montana a grassroots organization called the Custer Resource Alliance formed in Miles City due to the intense community concern over a scheme to import out-of-State garbage and bury it in a proposed megalandfill. With the local grassroots organization taking a leading role they lobbied successfully in the 1991 Montana State Legislature to, first, create a mega-landfill Siting Act, second, extend our State's moratorium on importing waste, and, third, encourage Montana to develop rational alternatives to the burying, burning, or dumping of waste.

Another grassroots organization, the Musselshell Agriculture Alliance, has conducted pilot recycling programs in the city of Roundup, in both elementary and senior high schools and in the community at large. Folks in both of these organizations have learned that many citizens are eager to recycle. But they are frustrated about the utter lack of coordination among various levels of government—city, county, State, Federal—on this vital issue, and are impatient about the lack of effective cooperation between government and private waste management firms.

Montanans are very concerned about the State becoming a dumping ground for hazardous waste. Because of that concern, I have also introduced a bill that will require a 2-year moratorium on burning hazardous wastes in cement kilns. Until independent studies have been done to show that there is no danger, I feel that we should err on the side of caution and only allow burning of hazardous wastes in incinerators built specifically to burn hazardous wastes.

Municipal trash and hazardous waste is an environmental problem. States should have the right to decide whether or not they want to deal with environmental problems from outside their borders.

PAPER RECYCLING ACT OF 1992

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 11, 1992

Mr. GEJDENSON. Mr. Speaker, this country is in the midst of a solid waste crisis. Cities and towns throughout the Nation are running out of landfill space and are looking to recycling as the only viable alternative to reducing the volume of their waste stream. However, while communities throughout the United States initiate recycling collection programs, there has been no significant increase in demand for wastepaper, and thus existing wastepaper markets have become flooded. To address this problem, I rise today to reintroduce the Paper Recycling Act of 1992. This legislation will take an important step toward addressing the solid waste crisis in this country by setting minimum recycled fiber content standards for paper and paper products. This will strengthen the market for recycled paper and encourage manufacturers of paper to increase the amount of recycled fibers in the paper they produce.

Americans produce more than 400,000 tons of waste per day, or more than 160 million tons annually. That figure is expected to reach 193 million tons by 1993. On average, each American generates more than 4 pounds of garbage every day, up from 2.6 pounds per day in 1960. To make matters worse, there are 16,400 landfills nationally, half of which are expected to be closed by the year 2000. In addition, disposal costs have reached $100 or more per ton, costing municipalities a greater and greater percentage of their shrinking budgets.

Additionally, siting a landfill or other waste disposal facility is getting more and more difficult as citizens become more aware of the potential impact of these facilities. Clearly, something must be done or the current crisis will only get worse.

The problem is where to begin. According to an Environmental Protection Agency [EPA] study on the municipal solid waste stream [MSW], the single largest component of the waste stream in this country, is paper and paper products. In 1986 over 80 million tons of paper and paper products were consumed in the United States, of which only about 21 million tons were recovered and reused while 50 million tons were discarded, primarily in landfills. This represents approximately 50 percent of all manufactured waste and nearly 40 percent of all municipal solid waste in the United States.

Additionally, though we once thought that burying paper was a good solution, recent studies have demonstrated that is not the case. Paper buried in landfills more than 30 years ago does not biodegrade. Newspapers from the 1940's and 1950's, when removed, had not decomposed but were clearly readable.

To address the rising economic political cost of waste disposal, many States and municipalities, including my home State of Connecticut, are attempting to reduce the amount of paper disposed of in landfills through mandatory recycling programs. Unfortunately, while the supply of wastepaper has grown, the demand has not, exacerbating the glut in the wastepaper market that we see today. This has frustrated the proponents of recycling and discouraged other areas from initiating recycling programs. Clearly this is not the direction that we need to be going.

Cities and communities all across the country, from Groton, CT, to Minneapolis, MN, to Toledo, OH, to New York City, which only a year ago were able to profit from recycling, receiving as much as $25 per ton for their newspapers from brokers, must now pay these same waste brokers just to haul the paper away.

For years, nonprofit groups like the Boy Scouts, the Omaha Recycle for Wildlife Campaign, and church groups have depended on revenues from collecting and selling wastepaper. Now, that source of revenue has dried up. In fact, because of this glut of wastepaper, a number of communities and private groups that once profited from recycling are discontinuing their recycling efforts.

To address this problem and help create stronger and more stable markets for wastepaper, I am reintroducing the "Paper Recycling Act of 1992." This legislation, which is very similar to H.R. 1691 from the 101st Congress, sets minimum recycled fiber content standards for all paper and paper products sold in the United States, and will encourage paper manufacturers to use more recycled fibers in the paper they produce.

These minimum standards are based on recommended guidelines established by the

Environmental Protection Agency for content of paper purchased by the Federal Government. Over time, however, as printing and manufacturing technology improves, the minimum content standards will increase to require a greater percentage of recycled fibers in paper sold in the United States.

Under this bill, manufacturers that fail to meet the minimum content standards will be required to pay a tax of 4 percent of the selling price for the paper that does not meet the standard. As the standard goes up, so too does the noncompliance tax, which rises to 8 percent by 2004.

This legislation provides not only a stick but also a carrot to entice manufacturers of paper to increase their recycled fiber content. Manufacturers that fail to meet the minimum content standards must pay a tax, while those manufacturers that exceed the standard receive a credit.

While the content standards in this legislation will give the paper manufacturers a clear sense of direction, the noncompliance tax and the tax credits provide strong economic incentives for manufacturers not only to meet the standards but to exceed them and use more recycled fibers in the paper they produce.

This legislation will also bring uniformity to be recycled fiber content standards that paper manufacturers will be required to meet. In the past few years, numerous states, including Connecticut, California, Maryland, and the District of Columbia have all adopted minimum recycled fiber content standards—particularly for newsprint—while countless other States are considering similar standards. Each of these States has slightly different standards and, as more and more States consider minimum content legislation, paper manufacturers will face a nightmare of different standards to comply with if they are to do business in these different States. My legislation will bring uniform standards for paper and paper products nationwide.

Mr. Speaker, the Federal tax code and Federal timber programs give paper manufacturers who use virgin timber for paper pulp a definite advantage over manufacturers using recycled fibers as a feedstock. Special tax treatment of capital gains from timber sales, expensing of multiperiod growing costs, investment credits for reforestation expenditures, and the ability to amortize reforestation expenses for 7 years have provided a significant economic advantage to the timber industry and have resulted in losses of revenue to the U.S. Treasury.

In addition, below cost timber harvests in national forests, forest service cost sharing assistance programs with private landowners, and the $40 million permanent appropriation for timber sales in the Tongass National Forest—that was only reformed in the past few years—have provided additional advantages to manufacturers of paper with virgin pulp at taxpayers' expense.

The legislation I am introducing will begin to level the playing field for manufacturers of paper using recycled fibers. However, more importantly, the "Paper Recycling Act of 1992," will encourage manufacturers of paper and paper products to take responsibility for some of the waste that they generate.

Enactment of this legislation will take a number of important steps toward resolving our Nation's solid waste problems. Not only will it create stronger and more stable markets for recycled paper, it will reduce the volume of paper in our waste stream. It will bring nationwide uniformity to recycled fiber content standards and it will encourage the conservation of our natural resources.

The "Recycled Paper Content Standards Act of 1992" will also show communities that recycling can and should be the most economical and environmentally sound long-term solution to our Nation's solid waste problems. I encourage my colleagues to join me in cosponsoring this important legislation.

BELMAR ST. PATRICK'S DAY PARADE

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 11, 1992

Mr. PALLONE. Mr. Speaker, on Sunday, March 8, the 19th annual St. Patrick's Day parade in Belmar, NJ, brought together many diverse segments of the community—those of Irish descent as well as those who embrace Irish culture and traditions just for this special day.

Mr. Speaker, from its modest beginnings 19 years ago, the Belmar St. Patrick's Day parade has steadily grown into one of the major events of the year on the Jersey shore. While not quite as big as the New York City parade (yet!), the Belmar event has been attracting crowds of as many as 150,000 people, drawn from the shore area and throughout our State, surrounding States and even from Ireland itself. It's an event that elected officials from around our region and our State never miss. Members of community organizations, high school marching bands and, in particular, the leaders of Irish-American organizations swell the ranks of marchers. I was very proud to participate and, as always, had a wonderful time.

The parade began in the neighboring borough of South Belmar, then proceeded up Belmar's Main Street. Lawrence R. Codey of Spring Lake, NJ, president and chief operating officer of the Newark-based Public Service Electric and Gas Co., and a man who traces his Irish ancestry back for more than 150 years, was the Grand Marshal. Irish-born Mrs. Margaret (Cahill) O'Neill of Hazlet, the first woman president in the 21-year history of the 450-member Irish Federation of Monmouth County, was the Deputy Grand Marshal. Their families also marched. Fort Monmouth's 389th U.S. Army Band led the parade, as they usually do. Marching bands, kazoo bands and bagpipers provided music along the length of the parade route.

On the eve of the parade, the seventh annual Investiture Mass was held at St. Rose Roman Catholic Church in Belmar. The Most Reverend Edward U. Kmiec, auxiliary bishop of the Trenton Diocese, was the principal celebrant, wearing a green skull cap in honor of the occasion. The church choir performed Irish hymns, and Msgr. Alfred E. Smith, St. Rose pastor, sang "Danny Boy," which he learned at the age of 8. Jerry Lynch, founder of the parade, sang the Irish and American national anthems.

Finally, Mr. Speaker, many of the Members of this House certainly remember the late James J. Howard, for many years the chairman of the Public Works and Transportation Committee and my predecessor as the Representative of the Jersey Shore congressional district. Jim Howard was the parade's first grand marshal, and his memory is still strong in the hearts and minds of all those who participate in the Belmar St. Patrick's parade.

BOYS TOWN OBSERVES 75TH ANNIVERSARY

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 11, 1992

Mr. BEREUTER. Mr. Speaker, this Member wishes to join in offering congratulations as Father Flanagan's Boys Town observes its 75th anniversary during 1992. In 1917, Roman Catholic priest Father Edward J. Flanagan borrowed $90 to rent a home in downtown Omaha, NE, to officially open Father Flanagan's Boys' Home. Today, Boys Town represents a national leader in the care and treatment of troubled boys, girls, and families.

Before founding his home for boys, Father Flanagan worked to help "down-and-outers" and determined that he could do more good by giving boys the opportunity to become productive citizens before they became "lost men." His approach was based on prevention and early intervention, which continues to be central today in the work done by Boys Town in homes, shelters, and programs across the country.

More than 18,000 young people have lived at the original Boys Town, located west of Omaha, NE. However, Boys Town has changed and grown over the last 75 years, and reaches hundreds of thousands of troubled youths each year both directly and indirectly. Today the programs include a family style, long-term residential program, short-term youth shelters, a national crisis hotline, a parent training program, a treatment foster care program, an in-home family crisis counseling program, the Boys Town National Research Hospital, an inner-city alternative-education high school, and the National Training Center, which trains numerous other teachers, school administrators, hospital staffs, and youth-care workers. Last year, Boys Town directly helped over 14,000 abused, abandoned, or neglected young people. In addition, the training program and hotline assisted an additional 500,000 children across the country.

This Member would also like to point out several lesser known facts about Boys Town. In 1979, Boys Town began admitting girls to its programs, and in 1983, the first five girls graduated from Boys Town High School. In addition, Sarah Williamson became the first female mayor of Boys Town when she was elected to that position in May of 1991. Also, Boys Town has always been a nonsectarian organization open to children of all religions and races. In fact, approximately 60 percent of the young people at Boys Town are non-Catholic.

Mr. Speaker, in closing, I would like to again commend the dedication and service performed by the people and supporters of Boys Town for the last 75 years. The fine work started by Father Flanagan in 1917 has had a tremendous positive impact on thousands of troubled young people.

A SALUTE TO AGRICULTURE

HON. TOM LEWIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 11, 1992

Mr. LEWIS of Florida. Mr. Speaker, I would like to take a moment to discuss a resolution passed today honoring a vital U.S. industry. House Joint Resolution 272, National Agriculture Day will be observed on March 20, 1992 to pay tribute to the over 20 million men and women contributing to one of our Nation's largest industries.

Many Americans are unaware of how prevalent the agricultural industry is in daily life. Outside of providing food on America's table, the agriculture industry is also responsible for providing one out of every five private sector jobs.

Agriculture reaches beyond our notion of a traditional farmer. Due to increased mechanization and technological advances, farming has become a very complex business supporting an agribusiness sector responsible for employing individuals to produce, deliver, market and process food. Scientists and researchers are also a vital segment of the industry in ensuring the quality and safety of food products.

I think it appropriate that Congress take the day on March 20, 1992 to commemorate the industry responsible for allowing our Nation to thrive and prosper.

NATIONAL BASEBALL DAY

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 11, 1992

Mr. GUARINI. Mr. Speaker, I rise today to introduce a resolution to designate June 19, 1992, as "National Baseball Day" in honor of this great sport and its significance to Americans.

June 19 is a day which holds special significance in baseball history because it was on this day in 1846 that the first recorded baseball game was played. Back then, baseball was a novelty, played by loosely organized clubs in the New York area, under rules which were still evolving. The first club, known as the Knickerbockers Club was organized in 1845 and played under rules drafted by Alexander Cartwright, who is known as one of the fathers of the modern game of baseball. On June 19, 1846, the Knickerbockers played the first recorded game of baseball against a team called the New York Nine in Elysian Fields in Hoboken, NJ. At this historic game, which Alexander Cartwright coached, the Nine beat the Knickerbockers by a resounding score of 32–1.

Today baseball has become a sport played not only in America, but throughout the world. Over 50,000,000 people attend major league baseball games every year. Many hundreds of thousands more attend little league, high school, collegiate, and minor league games. Baseball is now played in the Caribbean, Latin America, Canada, Japan, Taiwan, and the Soviet Republics. This year, for the first time, baseball will be included in the summer Olympics, ensuring its place among the ranks of world class sports.

Today, the first recorded baseball game is remembered by a memorial which stands in Hoboken, NJ. Today, Cooperstown, NY, is the home of the baseball Hall of Fame. Every summer, teams representing the American and National Leagues play a game there, celebrating the invention of baseball and the induction of former baseball greats into the Baseball Hall of Fame.

Today, men and women throughout the country long for those lazy afternoons and evenings at the ballpark, the smell of popcorn and hot dogs, the sound of the bat cracking, and the roar of the crowd. The start of baseball season has become a yearly ritual in our country and is part of the American way of life.

It gives me great pleasure to introduce legislation which will commemorate June 19, 1992, as National Baseball Day. Our great American pastime, which has given us all so much enjoyment, deserves to be honored for its many contributions to our culture and our country. I ask my distinguished colleagues to join me in passing this worthwhile resolution.

NATIONAL PURSUIT AWARENESS ACT OF 1992

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 11, 1992

Mr. DORGAN of North Dakota. Mr. Speaker, I rise today to introduce the National Pursuit Awareness Act of 1992. The human losses resulting from high speed police pursuits in the last several years have continued to mount, and although we are finally seeing some initiative being taken by various States and local communities, there is still no coordinated effort in this country to attack this problem.

Every year hundreds of Americans are killed or injured as a result of high speed chases that are started when motorists, whether out of fright, panic, or guilt, flee at high speeds instead of stopping when a police vehicle turns on its lights and siren. Some police become determined to apprehend the fleeing motorist at all costs, and suddenly the safety of the general public—the dangers that will be created by a high speed chase through stop signs and traffic lights—become secondary to catching someone whose initial offense may have been no greater than driving a car with a broken tail light. As a result, many people, including police officers, are dying unnecessarily.

What needs to happen is for every single jurisdiction in the United States to adopt a reasoned, well-balanced pursuit policy. Every jurisdiction needs to think this problem through, decide what its pursuit policy will be, write it down, and then follow it. There are many pursuit policies already on the books that are being ignored or forgotten; this has to change. Police officers should be trained to comply with their departments' pursuit policies and regularly retrained if need be to guarantee that all citizens, both civilians and police, receive the benefit of uniform awareness of this problem. A drive across country should not be a "pot luck" regarding one's chances of being maimed or killed by a police pursuit. We must strive for universal attention to this public safety problem.

In addition, we need to focus on the people who are initiating these chases—the people who are running away when they should stop. The punishment for fleeing the police should be certain and severe. People should be aware that if they flee they will pay a big price for doing so.

My bill would do three main things: First, it would amend the Omnibus Crime Control and Safe Streets Act of 1968 to allow law enforcement grant assistance funds to be used by States for programs that will increase awareness and improve public safety through implementation of pursuit policies and training procedures. Next, it would withhold 25 percent of a State's law enforcement grant monies if the State does not pass a law requiring all its jurisdictions to adopt a pursuit policy and train their officers to that policy, and also pass a law making the minimum punishment for fleeing from police a 3-month jail term and seizure of the offender's vehicle. Finally, the bill would require all Federal law enforcement groups, such as the U.S. Marshals, the Park Police, the Border Patrol, FBI, and DEA, to adopt pursuit polices and to submit copies of their policies back to Congress. In addition, these Federal agencies must stand ready to help any State or local law enforcement groups who desire assistance in setting up their own pursuit regulations.

I believe that these requirements, if passed, will demonstrate strong Federal leadership in controlling this persistent and growing problem. I am happy to be able to note that one important aspect of this issue, a severe underreporting of the accidents and deaths caused by police pursuits, has already been addressed by this Congress in the Intermodal Surface Transportation Efficiency Act of 1991. Section 2002 of that act requires the Secretary of Transportation to begin to collect accident statistics from each State, including statistics on deaths and injuries caused by police pursuits. I believe that once these statistics on deaths and injuries caused by police pursuits. I believe that once these statistics start coming in in an organized fashion from every State, we will become even more aware of the toll these pursuits are taking in terms of lives, property, and monetary settlements.

I urge my colleagues to support the National Pursuit Awareness Act of 1992. Let's show some leadership and take a step toward preventing a lot of needless pain and suffering.

The text of my bill follows:

H.R. 4429

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Pursuit Awareness Act of 1992".

SEC. 2. FINDINGS.

Congress finds that—

(1) accidents occurring as a result of high speed motor vehicle pursuits caused by drug offenders and other motorists fleeing from law enforcement officers are becoming increasingly common across the United States;

(2) the extent of this problem makes it essential for all law enforcement agencies to develop and implement both policies and training procedures for dealing with these pursuits;

(3) to demonstrate leadership in response to this national problem, all Federal law enforcement agencies should develop and coordinate policies and procedures governing pursuits, and provide assistance to State and local law enforcement agencies in instituting such policies and training; and

(4) such policies should balance the need for prompt apprehension of dangerous criminals with the threat to the safety of the general public, and should specifically define, at a minimum, what constitutes a pursuit, the requirements necessary to initiate a pursuit, and regulates to continue or terminate a pursuit.

SEC. 3. NATIONAL PROGRAM ON MOTOR VEHICLE PURSUITS BY LAW ENFORCEMENT OFFICERS.

(a) MOTOR VEHICLE PURSUITS.—Section 501(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) by striking the period at the end of paragraph (21) and adding "; and"; and

(2) by adding at the end the following:

"(22) programs that increase awareness and improve public safety through implementation of policies and training procedures to regulate the use of vehicular pursuit by law enforcement officers of criminal suspects.".

(b) FORMULA GRANT REDUCTION FOR NONCOMPLIANCE.—Section 506 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding at the end the following:

"(g) In order not to reduce the funds available under this subpart by 25 percent (for redistribution to other participating States), a State shall, on the first day of each fiscal year succeeding the first fiscal year beginning after September 30, 1994, meet the following requirements:

"(1) Have in effect throughout the State in such fiscal year a law which—

"(A) makes it unlawful for the driver of a motor vehicle to increase speed or take any other evasive action if a law enforcement officer signals the driver to stop the motor vehicle; and

"(B) provides a minimum penalty of 3 months imprisonment, and seizure of the violator's vehicle, for a violation of the offense described in subparagraph (A).

"(2) Require each public agency in the State which employs law enforcement officers who in the course of employment may conduct a motor vehicle pursuit—

"(A) to have in effect in such fiscal year a policy which describes the manner in which, and the circumstances in which, such a pursuit should be conducted and terminated;

"(B) to train all law enforcement officers of the agency in accordance with such policy;

"(C) to transmit to the State in such fiscal year a report containing information on each motor vehicle pursuit conducted by a law enforcement officer of the agency.".

SEC. 4. REPORTING REQUIREMENT.

Not later than 180 days after the date of the enactment of this Act, the Attorney General, the Secretary of Agriculture, the Secretary of the Interior, the Secretary of the Treasury, the Chief of the Capitol Police, and the Administrator of the General Services Administration shall each transmit to Congress a report containing—

(1) the policy of the respective department or agency on motor vehicle pursuits by law enforcement officers of the department or agency; and

(2) a description of procedures being used to train law enforcement officers of the department or agency in implementation of such policy.

The policy of a department or agency contained in a report required by this section shall meet the requirements of section 506(g) of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as added by section 3(b) of this Act.

TRIBUTE TO BERRY LEE HOGAN, CENTENARIAN

HON. WILLIAM L. DICKINSON

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 11, 1992

Mr. DICKINSON. Mr. Speaker, today, I would like to pay tribute to Berry Lee Hogan of Daleville, AL. Mr. Hogan is living an active life at the ripe age of 110. The grandson of slaves, Hogan was born on June 28, 1881, in Geneva County, AL. As a boy, Hogan helped his sisters chop cotton and later drove horse-drawn wagons. When the age of the automobile arrived, Hogan turned his experience in hauling lumber into a profitable trucking business. After moving to Columbus, OH, he bought a Model-T truck and began hauling trash and concrete. Eventually, Hogan supervised his own fleet of seven trucks and dump trucks.

Though Hogan's trucking business was successful, he began to feel a call to preach, as his father had before him. He sold his trucks, returned to Alabama, and set out to learn to read and write. His sister's children spent evenings on the floor by the fire teaching him to read the Bible. After 3 years of studying the Bible he became a preacher, pastoring to two churches in the Alexander City, AL, area for a total of 35 years. Married in 1934, at the age of 53, Hogan raised four children and four step children.

Hogan remains active today. He still drives his own car and makes trips as far as Washington, DC, Orlando, FL and Texas to visit his children. He attributes his longevity to the Lord and his mother, the late Mary Childs Hogan. He states that he never let her work in the fields and that God has stretched his days because he was good to this mother.

I ask Members of Congress to join me in recognizing Mr. Hogan. He stands out as an example to us that hard work and dedication to one's chosen work can contribute to a long and happy life.

INTRODUCING THE NATIONAL ADVANCED BUILDING RESEARCH ACT OF 1992

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 11, 1992

Mr. SCHEUER. Mr. Speaker, today I am introducing the National Advanced Building Research Act of 1992 to develop affordable and commercially viable low emission-low energy buildings by the year 2005.

The relationship between energy and the environment is clear. Our residential and commercial buildings currently use approximately 36 percent of the Nation's energy and contribute about 36 percent to U.S. emissions of carbon dioxide—one of the primary global warming gases. Of additional importance is the fact that 60 to 70 percent of chlorofluorcarbons—gases that destroy the ozone layer—are used in air-conditioning or in the production of thermal insulation.

Numerous studies have outlined the benefits of reducing our energy consumption and improving our building stock to provide environmentally sustainable buildings. The National Research Council in 1990 noted that energy use and greenhouse gases could be reduced by more than 70 percent through successful development and implementation of technology. This Council called for a major increase in effort by the Federal Government to support buildings research and development on building components and systems, energy conversion technologies and design and construction practices.

The Office of Technology Assessment [OTA], in a forthcoming study, which I requested with other congressional colleagues, will address many of the associated research and development issues to accelerate adoption of advanced building technologies. These include the role of industry, assessing market needs, technology transfer and the importance of new construction in building energy efficiency.

OTA, in a prior study on steps to reduce greenhouse gases, entitled, "Changing by Degrees," also reported that the U.S. Government spends a neglible amount on housing research compared to our foreign competitors. This is another case, where we have an opportunity to develop competitive industries for world markets, but without concerted action we will be overtaken by others.

The need to provide for low emissions, low energy buildings is also important to ensure that our Nations homeowners and businesses are offered shelter and working space in the most cost effective manner. Currently, the Nation spends about $400 billion a year on energy, which is about $1,800 for every man, woman and child in the United States. It is imperative that we develop the technologies that can assure that our citizens can afford the housing they live in and that businesses are not encumbered by rapidly escalating costs.

The bill that I am introducing will require the U.S. Department of Energy to work with industry and utilities in developing low emission, low energy buildings by 2005. The bill gives a focus to DOE's research that will provide advanced building systems, components, and conversion systems—including photovoltaics—for the environmentally sustainable buildings that we need both here and in developing countries.

GREG WYATT EXHIBITS IN THE CONGRESS

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 11, 1992

Mr. GREEN of New York. Mr. Speaker, I rise today to recognize Mr. Greg Wyatt, the sculptor-in-residence at the Cathedral Church of St. John the Divine, and to urge my colleagues in the Congress to visit the unique exhibition I have sponsored on his behalf in the Cannon House Office Building Rotunda, from Monday, March 16, 1992 through Friday, March 20, 1992.

Greg Wyatt, born in the small town of Grand View on-the-Hudson, NY in 1949, was nurtured in the artistic tradition of his native Hudson River Valley. His talent was encouraged at an early age by his father, art professor at Columbia University and City College of New York. Upon the completion of his bachelor of arts degree in art history at Columbia College in 1971, he studied classical sculpture for 3 years at the National Academy of Design. In 1975 he taught sculpture in Italy, where he developed his love of renaissance art that led to the resignation of his teaching position at New York University and to his full-time devotion to sculpting.

Mr. Wyatt is currently the sculptor-in-residence at the Cathedral Church of St. John the Divine, a long-term appointment to a renaissance studio within the crypt of the world's largest Gothic cathedral.

When the National Arts Club in 1983 in New York City wanted to have a symbol of its concern for children and the role of the arts in their development, it turned to Greg Wyatt to provide a fountain for Gramercy Park. Its excellence won for him critical acclaim, the patronage of the public, and the admiration of other artists. His technical powers and his diligence in executing work have brought him many commissions. No other young artist has done more to restore sound principles of design and form to American sculpture.

When the Episcopal Diocese of New York celebrated its 200th anniversary, the sculptor chosen to create a new statue to provide a message of strength and thanksgiving was inevitably Greg Wyatt. In the 16-ton bronze scupture, named "Peace Fountain," an imposing winged angel is depicted in combat against incarnations of evil. It is a tribute to the decorative strength and charm of the bronze forms that the piece is not overwhelmed by the towering Gothic Cathedral of St. John the Divine. In this religious statuary is an example of Wyatt's genius on an imposing scale.

Wyatt's true inspiration continues to come from Roman and Greek sources. The renaissance is also an important influence in his portraiture and in his medals. Wyatt has the rare gift of historical imagination. From his studies at the National Academy School and art history bachelors degree at Columbia College, Wyatt is informed, soundly equipped and deeply inspired. This sculptor can easily project himself into another culture, extract its essence, and make it his own. Diverse elements and larger themes are fused in the white heat of his imagination into something entirely original.

Following his outstanding exhibition at the Metropolitan Museum of Art, Greg Wyatt was invited recently by the Dudley House Graduate Student Center of Harvard College to place three heroic-scale works on the brick pavement in front of Lehman Hall in Harvard as part of a major sculpture exhibition: "Fragmentation: Image of Chaos or Novation." The outdoor bronzes became campus landmarks overnight.

Finally, Mr. Speaker, Mr. Wyatt is the president of Fantasy Fountain, Inc., which provides a rare opportunity for apprentices in his sculpture studio at the Cathedral Church of St. John the Divine—high school and college students aged 16 to 25—to gain further insights into the renaissance craft tradition.

Ten apprentices representing Pearl River High School, Townsend Harris High School, Washington Irving High School, Lodi High School, the School of Visual Arts, Carnegie Mellon University, New York University, and the Joseph Studios in Fort Collins, CO, have spent the past year creating the six-part exhibition for the Metropolitan Museum under Wyatt's supervision.

I honor Greg Wyatt today on the floor of the U.S. House of the Representatives and wish him well in his continuing efforts to bring art to education.

DESIGNATING THE GLENN M. ANDERSON FEDERAL BUILDING

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 11, 1992

Mr. ROYBAL. Mr. Speaker, I rise today to introduce legislation designating the Federal building located at 510 West Ocean Boulevard in Long Beach, CA, as the Glenn M. Anderson Federal Building.

My longtime friend and colleague, Congressman GLENN ANDERSON has proudly served California and the Nation for over 50 years. From his experience as mayor of Hawthorne, State assemblyman, Lieutenant Governor of California and Representative for the 32d district, GLENN learned the needs of his constituents and acted decisively to address those concerns. He listens to the problems of those in his district and works diligently to improve the communities he serves. GLENN has consistently worked for better roads, a cleaner environment, and improved assistance for low-income families and the elderly. His commitment to the special needs of veterans, especially our older veterans, demonstrates a respect for those who made great sacrifices for our country and its ideals.

GLENN's encouragement and dedication to job expansion, especially in the aircraft and space industries, is vital to the continued economic growth of his district and to the State of California as well. As chairman of the House Aviation Subcommittee, he acted to reduce standby air fares for the elderly and to deregulate air passenger, air cargo, and international aviation services.

The service by my colleague from California on the National Transportation Policy Study Commission enabled him to have further impact on improving all modes of transportation nationwide. In his position as chairman of the Surface Transportation Subcommittee, GLENN was able to guide the committee in the effective consideration of legislation concerning all aspects of public transportation, including mass transit, highways and highway safety, and Interstate Commerce Commission matters relative to trucks and buses. In 1987, the State of California passed legislation naming freeway 105—also known as the Century Freeway—as the Glenn Anderson Freeway.

His legislative efforts on the Merchant Marine and Fisheries Committee resulted in the dredging of a deeper channel in Los Angeles harbor, an immense benefit to the Port of Los Angeles and the entire metropolitan area. With more ships able to use the harbor, new business will be attracted to the area, creating more jobs and strengthening the economic base of the entire Los Angeles Basin. His dedication to this project was recognized by the naming of the new channel as the Glenn Anderson Deep Sea Channel.

It is my distinct pleasure to pay tribute to Congressman ANDERSON by naming the Federal building in Long Beach in his honor. As people make use of the various services in this building, they will be reminded of GLENN ANDERSON and his excellent record of service to the citizens of Long Beach, the State of California, and the Nation.

RELEASE THE NAMES OF ALL THE MEMBERS WHO BOUNCED CHECKS

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 11, 1992

Mr. PACKARD. Mr. Speaker, when I was first elected to the House, I was proud to be a Member of what I then thought was the most noble and honorable legislative body of men and women in the world.

I'm still proud of our system of Government. I'm still proud of Congress as an institution. But I'm not proud of the actions of many of the Members of this institution.

Serious ethical violations by Members of the House have been front page news—day after day. For many Americans, the House bank scandal was the last straw. Now we have a chance to redeem ourselves. And quite frankly, it's going to take more than the release of 19 names of the most serious abusers to restore credibility to this institution.

I know I will find it hard to explain to my constituents why the name of a Member who bounced over 800 checks is not on that list of 19 names. I trust that the American people will be able to distinguish for themselves what constitutes abuse, and what may have been an honest error. If we are to retain any shred of credibility as an institution, we must release the names of all the Members who bounced checks.

HOMEOWNERS' EQUITY PROTECTION ACT

HON. JAMES P. MORAN, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 11, 1992

Mr. MORAN. Mr. Speaker, today I am introducing the Homeowners' Equity Protection Act (H.R. 4423). This legislation will provide homeowners in default on federally related mortgages with limited forbearance and reform current foreclosure laws.

Last year there were more than 400,000 foreclosures and more than 850,000 personal bankruptcies. These statistics do not reflect an even larger number of homes that were lost under sales made under duress or lost as a result of usurious financing arrangements that this recession has left in its wake.

Congress has appropriated billions in the furtherance of its goal of extending home ownership and virtually created the secondary mortgage market. It is now time for Congress to protect this investment both by acquainting the mortgage industry with its obligations during these difficult economic times; and by reforming archaic foreclosure laws that are adding to the recession's toll.

This legislation is necessary because the present system is not providing forbearance to people with equity in their homes who are unemployed, even when the amount of that equity precludes loss by their lenders. Current foreclosure laws compound this problem by failing to protect the legitimate interests of homeowners.

The primary purpose of foreclosure law is to transfer title of the affected property to settle a debt. After all debts and charges have been satisfied, the homeowner should have a right to the remaining equity. In many cases, however, this is not occurring.

Something needs to be done to make sure the lender's claims can be satisfied without wiping out the homeowner's full equity interest. The legislation I am introducing is prudent and fair. It will not unduly burden the mortgage industry or add to the Federal budget deficit.

Its limited forbearance provisions will provide an opportunity for some of those affected by the recession to avoid the loss of their homes by allowing a 1-year, one-time forbearance on the principal portion of their mortgage payment.

In the event of foreclosure, this legislation will require the fair market sale—not a liquidation sale—of the home. Under a fair market sale, the lenders will receive what should be rightfully theirs; the remainder, after all claims have been met, will be retained by the homeowner. Foreclosure law has not been changed since its origins in the 17th century England. It is time it was changed.

The recession has not chosen its victims along party lines and the relief that this measure will provide deserves immediate bipartisan support.

The political impotence of those who because of the recession are confronting this desperate situation should not be an excuse to turn away from this problem and follow the industry's urging to preserve the status quo.

TRIBUTE TO MR. RAY WALKER

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 11, 1992

Mr. CLINGER. Mr. Speaker, I rise today to pay tribute to a good friend and mentor of mine, Mr. Ray Walker of Clearfield County, PA. On March 13, Ray will be celebrating his 80th birthday and I would like to ask that my colleagues in the House join me in wishing him many more to come.

I've known Ray Walker for over 20 years and have always valued his advice, counsel, and wisdom. He is truly one of those rare individuals who has made a difference in hundreds of lives, including mine. Throughout the time that I've known him, he's always been the type of person who strives to give back to society; be it helping an individual, a county, a State, or the Nation, Ray Walker has been there.

Throughout his life, Ray has worked hard to improve the quality of life for people in his area and has done more for economic development in Clearfield County than any other individual. His business ventures have supplied jobs to the area and his efforts have created more in other, unrelated, fields.

Ray has also been active in politics since 1933 and has worked to ensure that good, dedicated candidates run for public office. In fact, I fondly recall Ray Walker's firm belief that Members of the House should run for Congress every 4 years instead of every 2. Ray contends, and I think that most of us would agree, that 4-year terms would allow Members to concentrate more fully on the business of the people and not the business of winning re-election.

Finally Mr. Speaker, I would like to wish Ray Walker an enjoyable birthday and tell him that I look forward to many more years of his counsel and friendship.

PATRICK DOWLING—IRISH-AMERICAN HISTORIAN

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 11, 1992

Ms. PELOSI. Mr. Speaker, on September 5, 1991, Patrick Dowling, an Irish-American historian from San Francisco, gave an extensive address entitled "The Irish Contribution to America and to California in Particular" to the Commonwealth Club of California. Mr. Dowling's speech gives detail and life to the contribution of Irish-Americans to the United States and California.

A native of Camross, County Laois, Ireland, Patrick Dowling immigrated to America in 1926 and settled in San Francisco, a community that he would serve well. From an ambitious youth who eked out a living during the Great Depression, to the youngest manager in the Piggly Wiggly Corp., to an owner of his own market, Patrick Dowling was gaining the experience he would use in service to his community.

After 25 years of hard work and long hours, it was time to move on. Dowling sold his market and went into the real estate business. Dowling Realty Co., on Market Street, the city's main thoroughfare, stood out conspicuously, a Mecca where old friends and longtime customers of his supermarket days dropped in to renew acquaintances. It was this experience that helped give birth to Mr. Dowling's next community venture.

In 1972, he set aside a flourishing real estate brokerage and rental business in order to devote full time to the development of an all-Irish archives, the first of its kind in America. This comprehensive collection lures people of Irish interest from every State and nation and which has given the United Irish Cultural Center of San Francisco worldwide recognition.

Dowling's crowning achievement is a well-documented account of the Irish contribution to the birth and development of California, entitled "California: the Irish Dream" a best-selling work that has inspired other Irish communities in America.

Pat Dowling's work caught the attention of the Commonwealth Club of San Francisco which invited him to address its members at the world renowned Fairmont Hotel (named in honor of Irish born James Fair, Patriarch of the Silver Kings).

His fortunes rose in tandem with the growth of his adopted State—from ditchdigger to delivery boy, apprentice to market manager, supermarket proprietor, real estate broker, and eventually to the much honored community leader and archivist of his peoples heritage.

Mr. Speaker, Patrick Dowling's success and his account of the Irish-American contribution to the United States and California are shining examples of the American Dream and its promise of freedom and opportunity for immigrants from around the world.

A TRIBUTE TO AUBREY D. GREEN

HON. CLAUDE HARRIS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 11, 1992

Mr. HARRIS. Mr. Speaker, I would like to take this opportunity to share with my colleagues some of the outstanding accomplishments of my good friend, Mr. Aubrey D. Green.

On February 29, 1992, I joined with the Lions Club of Alabama in honoring Aubrey Green for his 45 years of dedicated and committed service to Lionism. Since first joining the York Lion's Club at age 23, Mr. Green has served locally as club president and district governor, and world-wide as the Lion's Club Association's International President. Furthermore, in recognition of his life-time commitment to Lionism, The Aubrey D. Green Award has been established by the Lions of Alabama to honor outstanding Alabama citizens.

A native of York, AL, Mr. Green's dedication to service extends beyond his contributions to the Lions. He has served on the York, AL, Hospital Buildings Authority, the chamber of commerce, the Alabama State Council on the Arts and Humanities, as a member of the board of trustees for the University of South Alabama, and as an Alabama State senator.

In addition, Mr. Green is a distinguished war veteran. Mr. Green was awarded a Purple Heart and Bronze Star by the U.S. Army.

Mr. Green's many awards and achievements are a testament to his devotion of volunteerism. His actions and spirit should serve as an inspiration to us all.

COMMEMORATING LITHUANIAN INDEPENDENCE

HON. JIM JONTZ

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 11, 1992

Mr. JONTZ. Mr. Speaker, I wish to join my colleagues in commemorating Lithuanian independence. Today, nearly 2 years after Lithuania reasserted its sovereignty against the aggression of an historic foe, Lithuania is poised for a new beginning in the history of the Baltic States. Less than a year after the attempted military coup failed, clearing the way for fundamental change in the former Soviet Union, independence should prove not only symbolic but instrumental in Lithuanian's quest for democracy and prosperity.

Facing the Baltic States are economic troubles felt throughout the former Soviet Union. While we celebrate the bright future for democracy in Lithuania, the uncertain economic prospects of a disintegrating system give us pause. Let us hope the spirit which brought life to the independence movement in Lithuania after years of occupation and suppression will win out in continued economic, political, and social challenges ahead.

As new members of the United Nations, Lithuanians inherit new rights and duties. I join my colleagues in congratulating the people of this deserving nation for their vigilance and pride. We welcome the people of Lithuania, for whom their leaders now stand. We praise their long struggle and timely victory.

INTRODUCTION OF A BILL CREATING A HOUSE ADMINISTRATOR

HON. JOAN KELLY HORN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 11, 1992

Ms. HORN. Mr. Speaker, we need to ensure that taxpayer's dollars are spent wisely and efficiently.

Today, the House employs about 25,000 persons, with a budget of almost $1.8 billion. Management of such a large organization is an enormous and serious task, and needs to be coordinated and handled competently, as well as frugally.

That is why I have joined a number of my colleagues today in introducing legislation drafted by Congressman CHARLIE ROSE, chairman of the Committee on House Administration, and Congressman DAVID OBEY, calling for the creation of a House administrator. I am also a cosponsor of similar legislation introduced by Congressman DAN GLICKMAN. This administrator would be an experienced, professional manager who would run the organizational and financial operations of the House using sound business practices.

I used to own and manage a small business, and I have had to balance day-to-day operations with budgeting, planning, and other chores required to run that business successfully. As a new Member of Congress, I have encountered many of the same challenges in setting up and running my congressional offices efficiently. Administrative operations for the entire House of Representatives include not only congressional office operations, but the police force, buildings, credit union, print office, post office, library, and research systems and more.

A House administrator will focus on developing an effective and efficient management system and prevent future problems. I strongly urge my colleagues to support this effort to help bring accountability and professionalism back to the House of Representatives.

LADY QUEEN OF APOSTLES CHURCH CELEBRATES 75TH ANNIVERSARY

HON. DENNIS M. HERTEL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 11, 1992

Mr. HERTEL. Mr. Speaker, I rise today in celebration of the 75th anniversary of Our Lady Queen of Apostles Church in Hamtramck, MI.

Established in 1917 during the tenure of Bishop John Foley of Detroit, Our Lady Queen of Apostles is the result of the determination of a small group of Polish immigrants, the church continues to serve as a spiritual core for the community. The strength, perseverance, and faith of the parishioners was evident in the church's establishment 75 years ago. Within 1 year, these pioneers, who had been worshipping in a fellow parishioner's home, completed construction of the original Our Lady Queen of Apostles Church. A second major accomplishment for this community was less than 1 year later in 1918 when the parish opened a school run by the Felician Sisters.

Throughout its illustrious history, Our Lady Queen of Apostles has been served by six pastors. The founding pastor, Rev. Roman Klafkowski—1917–22, was succeeded by Rev. Zygmut Dziatkiewicz—1922–25—Rev. Stanislaus Waseilewski—1925–40—Rev. Ladislaus Szok—1940–67—Rev. Alphonse Madeja—1967–69—and the current pastor, Rev. Ted Blasczyk—1970–present.

The importance of Our Lady Queen of Apostles to Hamtramck has grown over the years. In fact, to accommodate the swelling population, a new church was built in 1952 to replace the original church. This new spiritual center is recognized not only as a major religious shrine, but also as a much-praised architectural monument. Cited as a unique structural gem, the new Our Lady Queen of Apostles is graced with intricate lace like grilling, one of the metropolitan area's finest pipe organs, and elaborate stained glass and mosaics. Well deserved congratulations to the parishioners for their great job in assisting with the new building.

Heeding Christ's message to serve their fellow men and women has guided the work of the parishioners at Our Lady Queen of Apostles. The parish's religious, academic, and social celebrations are commemorated by the church as important reminders of the Lord.

This spiritual faith remains just as important to the fellowship today as it was to the founding members 75 years ago.

I call upon my colleagues to join me today in congratulating the parish of Our Lady Queen of Apostles on its glorious 75th anniversary.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, March 12, 1992, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MARCH 13

9:30 a.m.

Armed Services

To hold hearings on proposed legislation authorizing funds for fiscal year 1993 for the Department of Defense and the future year defense plan, focusing on the unified, specified, and supporting commands military strategy and operational requirements; to be followed by a hearing on the nomination of Gen. John M. Loh, USAF, to be Commander of the U.S. Air Force Combat Command.

SR–222

Joint Economic

Technology and National Security Subcommittee

To hold hearings to review U.S. policies and practices of trade in conventional arms and sensitive technologies, focusing on the arms race in the Middle East.

SD–106

10:00 a.m.

Finance

International Trade Subcommittee

To hold hearings to review the Administration's objectives and current

progress in the Structural Impediments Initiative.
SD-215

MARCH 17

9:00 a.m.
Armed Services
Strategic Forces and Nuclear Deterrence Subcommittee
To hold hearings on proposed legislation authorizing funds for fiscal year 1993 for the Department of Defense, focusing on command, control, communications, and intelligence matters.
SR-222

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings to examine an overview of NASA's budget for fiscal year 1993.
SR-253

Labor and Human Resources
Labor Subcommittee
To resume hearings on S. 1622, to revise provisions of the Occupational Safety and Health Act of 1970 to improve the health and safety of employees.
SD-430

10:00 a.m.
Appropriations
Agriculture and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Agriculture, focusing on the Food and Nutrition Service, and the Human Nutrition Information Service.
SD-138

Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the United States Air Force.
SD-192

Foreign Relations
To hold hearings to examine the plight of Soviet scientists.
SD-419

MARCH 18

9:00 a.m.
Labor and Human Resources
Business meeting, to mark up S. 1275, authorizing funds through fiscal year 1996 for the Office of Educational Research and Improvement.
SD-430

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings to examine NASA's space station and launch issues.
SR-253

Select on Indian Affairs
Business meeting, to further mark up S. 1602, to ratify a compact between the Assiniboine and Sioux Indian Tribes of the Fort Peck Reservation and the State of Montana, and to consider the nomination of Carl J. Kunasek, of Arizona, to be Commissioner on the Navajo-Hopi Relocation, Office of Navajo-Hopi Relocation; to be followed by oversight hearings on the implementation of the Indian Gaming Regulatory Act (IGRA).
SH-216

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Federal Highway Administration, Department of Transportation.
SD-192

Appropriations
Treasury, Postal Service, General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of the Treasury, and the Executive Office of the President.
SD-116

MARCH 19

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the National Science Foundation, and the Office of Science Technology Policy.
SD-124

Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on S. 684, to strengthen the preservation of the Nation's historic heritage and resources.
SD-366

10:00 a.m.
Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Justice.
S-146, Capitol

MARCH 20

10:00 a.m.
Appropriations
Agriculture and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Agriculture, focusing on the Farmers Home Administration, the Federal Crop Insurance Corporation, the Rural Electrification Administration, and the Rural Development Administration.
SD-138

Veterans' Affairs
To hold hearings on S. 2322, to increase the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans, and S. 2323, to revise title 38, U.S. Code, to revise the rates of dependency and indemnity compensation payable to surviving spouses of certain service-disabled veterans, and to provide supplemental service disabled veterans' insurance for totally disabled veterans.
SR-418

MARCH 24

10:00 a.m.
Environment and Public Works
To hold hearings on the President's proposed budget request for fiscal year 1993 for the Environmental Protection Agency.
SD-406

MARCH 25

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Neighborhood Reinvestment Corporation, and the National Credit Union Administration.
SD-116

10:00 a.m.
Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Federal Communications Commission, and the Securities and Exchange Commission.
S-146, Capitol

Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the National Highway Traffic Safety Administration, and the Research and Special Programs Administration, both of the Department of Transportation.
SD-138

Appropriations
Treasury, Postal Service, General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Internal Revenue Service, Department of the Treasury, and the U.S. Postal Service.
SD-116

MARCH 26

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Environmental Protection Agency, and the Council on Environmental Quality.
SD-G50

Governmental Affairs
Oversight of Government Management Subcommittee
To hold hearings on S. 2279, to provide for the disclosure of lobbying activities to influence the Federal Government.
SD-342

2:00 p.m.
Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on S. 1439, to authorize and direct the Secretary of the Interior to convey certain lands in Livingston Parish, Louisiana, S. 1663, to authorize increased funding for the East Saint Louis portion of the Jefferson National Expansion Memorial, S. 1664, to establish the Keweenaw National Historical Park, S. 2079, to establish the Marsh-Billings National Historical Park in the State of Vermont, and H.R. 2790, to withdraw certain lands located in the Coronado National Forest from the mining and mineral leasing laws of the U.S.
SD-366

MARCH 27

10:00 a.m.
Appropriations
Agriculture and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Agriculture, focusing on the Animal and Plant Inspection Service, the Food Safety and Inspection Service, and the Agricultural Marketing Service.
SD–138

MARCH 31

9:30 a.m.
Energy and Natural Resources
To hold oversight hearings on the implementation of the Department of Energy's civilian nuclear waste program mandated by the Nuclear Waste Policy Act.
SD–366

APRIL 1

9:30 a.m.
Select on Indian Affairs
To hold hearings on proposed legislation to authorize funds for programs of the Indian Health Care Improvement Act.
SR–485

10:00 a.m.
Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Commerce.
S–146, Capitol

Appropriations
Treasury, Postal Service, General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Office of National Drug Control Policy, and the U.S. Secret Service, Department of the Treasury.
SD–116

APRIL 2

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Federal Deposit Insurance Corporation, and the Resolution Trust Corporation.
SD–116

Commerce, Science, and Transportation
Consumer Subcommittee
To hold hearings on S. 664, to require that health warnings be included in alcoholic beverage advertisements.
SR–253

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the National Transportation Safety Board.
SD–138

APRIL 3

10:00 a.m.
Appropriations
Agriculture and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Agriculture, focusing on the Agricultural Stabilization and Conservation Service, the Foreign Agricultural Service, the General Sales Manager, and the Soil Conservation Service.
SD–138

APRIL 7

10:00 a.m.
Appropriations
Agriculture and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Agriculture, focusing on the Commodity Futures Trading Commission, the Food and Drug Administration, the Farm Credit Administration, and the Farm Credit System Assistance Board.
SD–138

Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Federal Bureau of Investigation, and the Drug Enforcement Administration, Department of Justice.
S–146, Capitol

2:30 p.m.
Select on Indian Affairs
To hold hearings on S. 1752, to provide for the development, enhancement, and recognition of Indian tribal courts.
SR–485

APRIL 8

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the AMVETs, American Ex-POWs, Jewish War Veterans, Non-Commissioned Officers Association, National Association for Uniformed Services, and Society of Military Widows.
SD–106

10:00 a.m.
Appropriations
Treasury, Postal Service, General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Office of Management and Budget, the Office of Personnel Management, and the Executive Residence.
SD–116

APRIL 9

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the National Aeronautics and Space Administration.
SD–G50

10:00 a.m.
Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the National Oceanic and Atmospheric Administration, and the Small Business Administration.
S–146, Capitol

Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for Amtrak, and the Federal Railroad Administration, Department of Transportation.
SD–138

APRIL 29

10:00 a.m.
Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the U.S. Information Agency, and the Board for International Broadcasting.
S–146, Capitol

APRIL 30

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Housing and Urban Development.
SD–G50

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Federal Transit Agency, and the Washington Metropolitan Area Transit Authority.
SD–138

MAY 6

9:30 a.m.
Select on Indian Affairs
To resume oversight hearings on the implementation of the Indian Gaming Regulatory Act (IGRA).
SR–485

MAY 7

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Veterans Affairs, and the Court of Veterans Affairs.
SD–124

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the U.S. Coast Guard, Department of Transportation.
SD–138

MAY 14

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Federal Emergency Management Agency.
SD–124

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Federal Aviation Administration, Department of Transportation.
SD–138

MAY 21

9:30 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the National Community Service, and the Points of Light Foundation.

SD-116

10:00 a.m.

Appropriations

Transportation Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the General Accounting Office.

SD-138

MAY 22

9:30 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Housing and Urban Development and certain related agencies.

SD-138

POSTPONEMENTS

MARCH 12

9:30 a.m.

Commerce, Science, and Transportation

Consumer Subcommittee

To hold hearings on U.S. antitrust and foreign governments.

SR-253

SENATE—*Thursday, March 12, 1992*

(Legislative day of Thursday, January 30, 1992)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable RICHARD H. BRYAN, a Senator from the State of Nevada.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

God of the ages, give us grace to see, to hear, to take seriously the wisdom of King David.

Blessed is the man that walketh not in the counsel of the ungodly, nor standeth in the way of sinners, nor sitteth in the seat of the scornful.

But his delight is in the law of the Lord; and in his law doth he meditate day and night.

And he shall be like a tree planted by the rivers of water, that bringeth forth his fruit in his season; his leaf also shall not wither; and whatsoever he doeth shall prosper.

The ungodly are not so: but are like the chaff which the wind driveth away.

Therefore the ungodly shall not stand in the judgment, nor sinners in the congregation of the righteous.

For the Lord knoweth the way of the righteous: but the way of the ungodly shall perish.—Psalm 1.

Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 12, 1992.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable RICHARD H. BRYAN, a Senator from the State of Nevada, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. BRYAN thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, not to extend beyond the hour of 10 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

Under the previous order, the Senator from Pennsylvania [Mr. SPECTER] is recognized to speak for up to 15 minutes.

Mr. SPECTER. I thank the Chair.

(The remarks of Mr. SPECTER pertaining to the introduction of S. 2345 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

THE NEW WORLD ORDER: A TIME FOR ACTION NOT WHINING

Mr. PELL. Mr. President, in the great sweep of history there are only rare times to make truly revolutionary changes: 1815, 1919, and 1945 were such times. Then leaders truly had the opportunity to remake the world. However, such opportunities lasted only a short period of time. Having been shaken up by war or revolution, international affairs soon settled into new patterns. The patterns set in 1815 lasted 99 years, ending in the First World War. The architects of the peace at Versailles were less successful, largely because the United States opted out of the ambitious peace we ourselves proposed, and the world dissolved into a Second World War just 20 years later. The patterns set in 1945—patterns which evolved into a cold war between adversarial superpowers and which either by luck or the grace of God avoided mutual destruction—lasted 44 years.

We are now blessed by another opportunity to remake the world, an opportunity few of us thought we would have in our lifetimes. Extraordinary circumstances have brought down the Berlin Wall, ended the division of Europe, freed the countries of Eastern Europe and the Baltics, terminated the Warsaw Pact, abolished communism in Europe, and dissolved the Soviet Union itself. Most extraordinary, these events were the product of almost entirely peaceful change. Unlike our predecessors in 1815, 1919, and 1945, we are not remaking a world destroyed by years of total war.

In 1919 the failure of American leadership helped produce a Second World War in just 20 years. We should not delude ourselves about the consequences of a similar failure to lead.

Russia, a country that still commands the military resources to destroy the world, has transformed itself from a totalitarian dictatorship to a fledgling democracy. For the first time in its thousand year history, Russia has a firmly established leader democratically chosen by the Russian people. And that President has told us that his country does not merely want to be a partner of the United States but instead would like to be thought of as an ally. He has gone so far as to propose Russian membership in NATO, and with luck we may in a few years be able to speak not of the three permanent Western powers on the United Nation Security Council, but of four such powers.

But we cannot assume that democracy will succeed in Russia and that Russia will be our ally with no effort whatsoever on our part. As the experience of Weimar Germany in the 1930's so graphically demonstrated, democracy cannot thrive and indeed may not survive in the face of economic ruination. Communism has devastated Russia and the other countries that were once part of the Soviet Union. Helping people long oppressed by communism is not merely an act of altruism; it is an act of fundamental national self-interest.

It is a widely remarked fact that in modern history there has never been a war between two democratic nations. Democratic Russia can be our ally; a dictatorial Russia can never be a partner or even a friend. The success of democracy in Russia will vastly reduce the security threat, including the nuclear threat to the United States. With democratic Russia as an ally, we can develop a strategy for other potential threats to our national security such as the situation that existed last year in the Persian Gulf.

If democracy in Russia fails, we might well again be vulnerable to a military threat and a nuclear threat from Russia. With democratic Russia as a friend, nasty regional adversaries such as Iraq, Iran, and Libya can be dealt with effectively. With authoritarian Russia as an adversary even tiny Grenada is considered a threat to the United States worthy of the sacrifice of the lives of our young service people.

In 1948 the United States recognized that an infusion of cash could make an enormous difference in the political evolution of Western Europe. In the 4 years of the Marshall plan we spent $80 billion, in 1990 dollars, to set those war-ravaged countries on their feet. The money we gave Western Europe was without doubt the best investment

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• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

we made in our national security in the whole cold war period. Imagine how different the world would be if we had adopted the isolationist course of 1919 after World War II, if we had insisted only on looking after our own people and forgotten the people of Western Europe. Without the Marshall plan it is likely that much, if not all, of Western Europe would have gone Communist. The military burden of defending the United States would have been even greater than it was in the divided Europe of the cold war. And we would have been a far less prosperous nation, for the economic success of Europe directly contributed to economic growth in our own country.

As we contemplate the extraordinary opportunity that exists in Russia, we must choose between the policy of 1919 and the policy of 1948. We can do nothing and hope for the best. But if so, we had better prepare for the worst, and preparing for the worst will cost us a lot more than an aggressive policy of assisting democratic Russia.

Let us not delude ourselves. Assisting Russia is a major undertaking. Russia is an enormous land with some 150 million people. So far our much publicized humanitarian airlift has provided enough to feed Moscow for 1 day. The President has proposed $320 million a year to vanquish communism in Russia; just three-fifths of the amount the Reagan administration spent in 1985 to fight communism in the tiny country of El Salvador. And Russia, if I may remind my colleagues, is closer to our shores than EL Salvador.

On the other hand the benefits of aiding Russia are vast. We will be able to make large savings on our military budget, savings that will far exceed, even on an annual basis, the amount of assistance we need to provide Russia. Further, as Russia recovers from 70 years of communism it will become an important trading partner and its economic growth will contribute to our own prosperity much as the earlier recoveries in Western Europe benefited us in the 1950's.

Aiding Russia will not be as expensive as the Marshall plan. When the United States put up $20 billion a year to Western Europe we were the only country in the world capable of putting up such money. With the end of World War II we were, at least economically speaking, the only power left standing. Today, there are other nations able to assist Russia, and indeed, the countries of the European Community and Japan are probably financially better able to provide assistance. U.S. cash is needed but perhaps at only 10-20 percent of our Marshall plan commitments, hat is to say between $2 and $4 billion a year. Europe, Japan, and the wealthy Arab OPEC States, who really owe us after the gulf war, can certainly come up with most of the cash. But such assistance will not be forthcoming without U.S. leadership. Leadership is the burden of being the world's last superpower, and so far such leadership has been woefully lacking.

The administration has shown a stunning lack of vision in its approach to aid to Russia and other countries of the former Soviet Union. President Nixon rightly described President Bush's proposals as "pathetically inadequate." But the Congress, too, has shown a decided lack of leadership and vision in responding to the new world order.

The new cooperative relationship between the United States and Russia has enabled us to resolve an astonishing array of regional conflicts. Working under the umbrella of the United Nations, settlements have been reached to such longstanding and divisive conflicts as those in Namibia, Angola, El Salvador, Western Sahara, Cambodia, Iran-Iraq, as well as the more recent wars between Iraq and Kuwait and within the former Yugoslavia.

During the cold war the United States was engaged at various levels of cost and commitment in these conflicts. For example, we gave some $15 million a year to the non-Communist resistance in Cambodia, we gave much larger sums to Jonas Savimbi's fight against the Marxist regime in Angola, and we spent billions fighting the Communists in El Salvador. Now these conflicts are being resolved entirely on American terms. In each of the above cases free elections are being arranged by the United Nations, and in no case did the Marxist forces gain even one iota of what they sought.

Now, however, having won our battles with the Marxists at great expense, the Congress appears unwilling to spend the relatively small sums required to win the war. I am dismayed at the apparent unwillingness of many in Congress to pay the relatively modest sums required for the peacekeeping forces needed to consolidate our victories. I read in the press of complaints at the skyrocketing cost of U.N. peacekeeping. Of course, the costs have gone up. It is entirely a function of how many of the world's conflicts have been resolved and of how many victories America has won. And may I remind my colleagues that, however costly U.N. peacekeeping is, it is far less costly to the United States than the price we paid for our earlier involvements in these regional conflicts. And, of course, the success of peacekeeping promises to save hundreds of thousands of lives around the world as well as reorient billions of dollars from the destruction of war to the promise of peace.

Both the Bush administration and the Congress have been counting the pennies while missing the prize. The Bush administration risks letting slip by an historic opportunity to remake the world by helping Russia remake itself. The Congress, by its reticence to fund the administration's request for peacekeeping, risks jeopardizing the extraordinary gains freedom has made in all corners of the globe.

I accept that we have enormous problems at home. Many of these problems are the direct result of the enormous financial burden carried by the American people in the defense of freedom during the cold war. But let us not delude ourselves: many of our problems are also due to our self-indulgent behavior during the 1980's when we borrowed from our children to avoid paying our own bills. Sure, the cold war was expensive, but a lot of our problems are the product of a decade of borrow, borrow; spend, spend and have nothing to do with the need to protect against the Soviet Union. And, therefore, it is a tired and pathetic excuse to say that our past burdens exempt us from meeting our current obligations either with regard to the opportunities in Russia or the legally owed dues for peacekeeping.

LIFTING OF MISSILE TECHNOLOGY SANCTIONS ON CHINA

Mr. PELL. Mr. President, on February 27, the Senate received formal notification of the administration's publicly announced intention to waive sanctions the United States imposed on China in June 1991 for missile proliferation activities. This notification was provided pursuant to section 73 of the Arms Export Control Act, which requires the President to notify Congress 20 working days before issuing such a waiver.

According to the administration's public statements, this action was taken because China agreed to abide by the guidelines and parameters of the Missile Technology Control Regime, or MTCR.

Regrettably, I cannot discuss the contents of the notification on the Senate floor because the letter is classified in its entirety. I have asked the administration to deliver a sanitized version of the letter to the Congress within the next several days, so that it can be openly reviewed and discussed during the 20 working day notification period provided for by law.

With regard to the substance of the Chinese commitment itself, as publicly characterized by the administration, I believe it is important to clarify whether China could engage in significant missile proliferation activities while—perhaps—living up to the letter of its commitment to the Bush administration.

Central to this question is the underlying character of the Chinese commitment to the MTCR. For example, this commitment would be hollow and onerous if the Chinese Government continued missile sales with modest changes in range or payloads to put its marketable medium-range missiles outside the control of MTCR. Such adherence to the literal letter of the law and flouting of its spirit would be unacceptable and would exacerbate our concern over Chinese comportment.

We must know whether the Chinese Government's commitment to respect MTCR guidelines and parameters applies to existing contracts. Anything short of this leaves open the possibility that Chinese weapons manufacturers could continue to engage in missile proliferation activities under the claim of existing contracts.

Finally, it must be clarified whether the Chinese Government's commitment applies to sales of missile equipment and technology for space launch vehicle programs. The MTCR does not prohibit exports to peaceful space exploration programs. At the same time however, it is important to note that, because of the interchangability of missile and space launch vehicle technology, United States policy is to treat exports to the latter—excluding the European Space Agency and Japan—as restrictively as exports to missile programs.

A commitment that allows the Chinese Government to continue missile and missile technology exports under the guise of ostensibly peaceful space launch vehicle programs would be unacceptable.

To help in resolving these questions, the administration should make available the exchange of letters between Secretary Baker and Foreign Minister Qian Qichen. These letters form the basis of the United States-Chinese understanding on China's commitment to adhere to the MTCR and could contribute significantly to Congress' and the public's understanding of the Chinese Government's commitment.

Mr. President, last week I wrote Secretary Baker raising many of these concerns. Since then, a reply to an earlier letter I and many colleagues sent on January 29 has been received addressing some of these matters. Unfortunately, the response left a number of the key questions still unresolved. I ask unanimous consent that a copy of my letter regarding the notification be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC, March 5, 1992.

Hon. JAMES A. BAKER III
Secretary of State,
Washington, DC.

DEAR MR. SECRETARY: On February 26, the Senate received formal notification pursuant to section 73 of the Arms Export Control Act of the Administration's intent to lift sanctions imposed on China for missile proliferation activities. In order to facilitate the Committee's consideration of this waiver within the twenty-day notification period provided for under law, we would appreciate it if you could provide us with the following:

(a) a sanitized version of the waiver notification;

(b) a response to the issues we and fifteen colleagues, raised with you in our letter of January 29, 1992;

(c) a clarification as to whether the Chinese government's commitment to abide by the MTCR guidelines and parameters applies to existing contracts;

(d) a clarification as to whether the Chinese government's commitment applies to sales of missile equipment and technology to space launch vehicle programs; and

(e) a copy of the exchange of letters between yourself and Foreign Minister Qian Qichen.

Thank you very much for your cooperation in providing us with this material. We believe it will facilitate our and the Committee's review of the Administration's decision to waive sanctions on China.

Sincerely,
JESSE HELMS.
CLAIBORNE PELL.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Kansas [Mrs. KASSEBAUM] is recognized to speak for 10 minutes.

Mrs. KASSEBAUM. I thank the Chair.

(The remarks of Mrs. KASSEBAUM pertaining to the introduction of S. 2346 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mrs. KASSEBAUM. Mr. President, I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The absence of a quorum having been suggested, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PRESSLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE TELECOMMUNICATIONS INFRASTRUCTURE OF ENGLAND, ITALY, AND FRANCE

Mr. PRESSLER. Mr. President, I recently returned from a trip to Europe where I examined the telecommunications infrastructures of England, Italy, and France. Congress needs to follow closely events in these countries as we formulate our Nation's communications strategy for the next century.

Mr. President, the United Kingdom truly is a laboratory of telecommunications policy. Through a number of innovative policies designed to stimulate competition while lowering consumer costs, the Government of the United Kingdom has fashioned the single most open telecommunications market in the world.

In 1981, Margaret Thatcher began the process of ending Government ownership of the British national telecommunications system. The Telecommunication Act of 1981 created British Telecom [BT] out of the old Government Post Office. Today over 50 percent of British Telecom is privately owned. Over the next year, Her Majesty's Government plans to initiate the sale of an additional 25 percent of BT.

The liberalization of the United Kingdom market has allowed a duopoly to form. In fact, a key purpose of the 1981 act was turning the United Kingdom Government monopoly into a duopoly. This was accomplished in 1982 when Mercury Communications was given a license to build and operate a completely separate telecommunications network for 25 years. This voice and data network has allowed Mercury to capture over 6 percent of the United Kingdom market.

The United Kingdom has a regulatory environment quite dissimilar to that of the United States. In 1984, the Office of Telecommunications [OFTEL] was created as the government supervisory and regulatory agency for the United Kingdom telecommunications market. The Director General of OFTEL coordinates the actions of the agency. OFTEL has under 100 employees, many of whom are not in professional positions.

This is a remarkably small number of regulators for the United Kingdom's $6 billion telecommunications market. In the United States the FCC alone has over 1,800 employees. Additionally, there are few consumer protection or consumer interest groups in the United Kingdom, unlike the large number of consumer groups in the United States which follow and influence telecommunications policy.

In the United Kingdom, the Secretary of State for the Department of Trade and Industry is responsible for the coordination of Government telecommunications policy. There is no similar position in the United States.

A number of United States telecommunications companies are taking advantage of the increasingly liberal United Kingdom market. Mainly as the result of the regulatory environment in the United States, two regional Bell companies are investing in the United Kingdom market. NYNEX in particular has committed a major amount of resources in an effort to compete with BT in the provision of local exchange service.

I visited in the community of Portsmouth, Great Britain, a NYNEX facility that is providing local exchange communication services, as well as video services, to over 2,400 homes. From the headend, NYNEX takes a fiber cable to a hub that services all the local homes. For homes that subscribe to NYNEX telecommunications services, another fiber cable extends to a distribution node. When a home is connected, the consumer can choose to receive both cable service and telecommunications service from NYNEX.

NYNEX is in the process of building switches that will give it the capability to carry and switch all local exchange traffic. For long distance within the United Kingdom, NYNEX interconnects with Mercury. NYNEX is prohibited, however, from carrying long distance calls from its own local exchange customers back to the United States.

Current law in the United States prohibits NYNEX from carrying the traffic that originates from its United Kingdom customers back to the United States and passing that traffic off to a domestic carrier.

This law forces an American company to contract for services with a foreign carrier, when providing the same services itself would present no possibility of anticompetitive behavior in the company's home market. If anything, allowing such an activity would only increase the American telecommunications surplus with the United Kingdom, with no detriment to customers in the United States.

ITALY

Italy has a state monopoly in its telecommunications market—and it shows. STET is the Government company that oversees Italy's telecommunications franchises. STET maintains and operates the national long-distance network, all interconnections with other European countries, and provides all local exchange service.

Italy has committed $5 billion to the upgrading of its network infrastructure over the next 5 years. This is much needed.

Currently, the Italian telecommunications infrastructure is completely analog. Compared to other European countries, Italy's electromagnetic switches and aging copper wiring make communications within the country comparatively difficult.

Italy was the last large European country to begin to liberalize its telecommunications equipment market. In the past, the Government-controlled monopoly provided almost all telecommunications products directly to the consumer. Recently this has begun to change. With the Government now allowing customers to purchase telecommunications equipment directly from the suppliers.

The Government franchise, however, generally purchases only from companies directly owned by Italians or from multinational companies with a presence in Italy. One such company is AT&T.

In February 1989, AT&T purchased 20 percent of Itatel, the Italian telecommunications equipment producer. This partnership gives AT&T the presence it needs to provide telecommunications equipment within Europe after 1992. It also gives Italy a crucial partnership with the maker of the world's most advanced telecommunications equipment. The prospects for outside equipment suppliers, however, is not as bright.

The Italian telecommunications standards process is effectively closed to outsiders. The Italian Government systematically uses the facade of minimum network standards to restrict access for companies from outside Italy. When setting standards, STET contacts only those companies with a presence in Italy.

Additionally, the Italian specification process favors European companies over United States companies. The Italian Government uses certification standards and certain tariffs to lock some American firms out of the competition. For American companies that do attempt to compete, it is an extremely difficult proposition.

Mr. President, let me add that the Italian Government uses both tariff and nontariff barriers to keep our companies out, yet we treat their companies much better when they try to do business in our country. It is a trade fairness issue.

They experience unreasonable delays in the approval process, as well as requirements to provide service and parts subject to additional approval by the Italian Government.

Foreign-based telecommunications firms are given considerable freedom to operate within the United States. The U.S. regulatory oversight of these foreign companies only ensures that their monopoly within their own country does not give them an unfair advantage.

In contrast, Italy is similar to most foreign telecommunications services market: closed to potential U.S. suppliers.

I found the Italian market was effectively closed to our companies. Whether this issue is covered under GATT or not, there are still steps taken to keep U.S. companies out, and this is unfair.

In the Uruguay round there are two priorities for United States telecommunications interests. First, we need to ensure open market access for telecommunications service providers in the GATT services negotiations. Second, the United States needs to work for open foreign markets for our telecommunication equipment manufacturers.

FRANCE

Mr. President, a true contrast in quality to the Italian network infrastructure exists in France. France has one of the most advanced, digital, transparent network infrastructures in Europe. French telecommunications are characterized by the ubiquitous Minitel.

The Minitel system established in 1980 launched France into the information age. France Telecom has distributed over 5 million Minitel terminals to French customers. Over 90 percent of these terminals were given away to French consumers as replacements for their old phone directory. The remainder were rented to businesses for about $15 a month. Today, Minitel system consumers can conduct all of their banking transactions, follow stock prices, reserve restaurant reservations, check the airline schedule, or order groceries from their homes. The Minitel user pays for the time spent on the line. The largest utilization, 23 percent of connection hours, is for professional applications, such as personal banking and stock market reports. The second largest area, 22 percent of connection hours, is the message board or chat lines that allow consumers to talk or leave messages anonymously. The third largest usage, 18 percent of connection hours, occurs within the electronic directory service [EDS].

Before the introduction of the EDS, the French consumer could consult only a telephone directory book to find another phone number. If consumers did not have the proper telephone directory, they were forced to go to the post office for the directory. There was no way for a phone customer to conduct a national search for a number without consulting large numbers of directories at their local post office.

EDS has enjoyed great success. No other data base in the world is used more. France Telecom estimates that more than 500 million transactions per year occur on this system. EDS accounts for 40 percent of all connections to the Minitel system.

Mr. President, the success of the Minitel system in France, the efforts of the Italians to upgrade their telecommunications network, and the open communication rules of the United Kingdom provide examples for Congress to watch and learn.

Let me conclude, Mr. President, by saying that I think that as a member of the Communications Subcommittee of the Commerce, Science, and Transportation Committee in the Senate I have been very concerned about telecommunications trade issues. I am concerned about the GATT treaties moving forward.

I have spoken on this floor about the need for Europe to reduce their regular and Airbus subsidies so we can have a GATT treaty. I find, however, in complicated areas such as the telecommunications arena, many countries keep our companies out by using specifications, rules, nontariff barriers, obstacles at the local level, and for example in Italy, our companies simply cannot operate. The same is essentially true in France. In Britain, however, our companies have had some success in getting into their market.

Foreign companies have more of an opportunity in the United States. Our markets are more open. As we compete in the world we have got to insist that we are treated on an equal basis.

Mr. President, we also must look at the great advances France has made in providing information services to all of their consumers through the Minitel system. Having this equipment in almost every home is a great educational tool, for young people and it is a great service opportunity for all of the people.

It is entirely possible that the United States is lagging behind in this area because of some of the restrictions we have created internally. The lack of decisionmaking has caused Congress to flounder in terms of what we are going to do, what we allow the regional Bell telephone companies to do, what we allow cable TV companies to do, and so forth. We have been paralyzed in indecision while technology has made great advances.

Mr. President, I conclude by saying there is much to learn from the European example and there is also great opportunity for our companies if they are given a fair chance to compete. I hope we all insist that this is done.

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, it is time for my daily report which I began sometime back.

Mr. President, the Federal debt run up by Congress stood at $3,845,710,906,224.64, as of the close of business on Tuesday, March 10, 1992.

As anybody familiar with the U.S. Constitution knows, no President can spend a dime that has not first been authorized and appropriated by the Congress of the United States.

During the past fiscal year, it cost the American taxpayers $286,022,000,000 just to pay the interest on spending approved by Congress—over and above what the Federal Government collected in taxes and other income. Averaged out, this amounts to $5.5 billion every week of the year.

The question is obvious. What would America be like today if there had been a Congress that had the courage and the integrity to operate on a balanced budget?

I thank the Chair and I yield the floor.

THE FUTURE OF THE AFRICAN ELEPHANT

Mr. SANFORD. Mr. President, I would like to take a few moments to highlight some recent events of great significance to the future of the African elephant.

As many people know, the 1980's were a period of widespread poaching of the African elephant. Spurred by the market for ivory, poachers were killing 2,000 elephants each week, and its population plummeted from 1.3 million animals in 1979 to only 600,000 in 1989.

Many conservationists then began efforts to protect the elephant by working to stop the destructive ivory trade. The greatest level of protection was achieved when the parties to the Convention on International Trade in Endangered Species [CITES] voted in October 1989 in favor of a complete ban on international trade in ivory and other elephant products.

Since the trade ban took effect just over 2 years ago, it has proven very effective in curtailing the rampant poaching that was threatening the future of the African elephant. The price for ivory has fallen substantially, poaching is almost nonexistent in some areas, and there is now hope that elephant numbers will recover. Unfortunately, all of this program was threatened when several southern African countries put forth proposals to renew limited trade in ivory and other elephant products at the CITES conference currently underway in Kyoto, Japan.

Although I understand and am in many ways sympathetic with the arguments advanced by the southern African nations, I believe they are, at best, premature. As the situation now stands, we do not have a proven system of ivory trade controls; conservation measures for the African elephant have improved, but are still inadequate in many countries; elephant populations have not adequately recovered from years of widespread poaching, which still exists and is actually increasing in some areas; and the framework for illegal ivory trade is still in place.

Therefore, I was very concerned when I learned that the United States might support these efforts to weaken protection of the African elephant. Two years ago, when the original ban on trade in elephant products was debated, the U.S. leadership was crucial to achieving a vote in favor of the ban. I strongly believe that the United States could not and should not abandon its support for the African elephant. This great animal has not yet recovered from the many years of widespread poaching, and we should not contribute to any action that would again place it in jeopardy.

As a result of these concerns, on October 17, 1991, I introduced a resolution (S. Con. Res. 70) calling on the United States to maintain its support for the full protection of the African elephant. I am very pleased to say that this resolution has attracted a bipartisan group of 38 cosponsors and was passed unanimously by the Senate Foreign Relations Committee on March 4, 1992. I also led a group of 33 Senators who wrote to President Bush and urged him to oppose any ivory and elephant product trade proposals at the CITES conference.

I am very pleased that the United States, which had been leaning toward supporting the trade proposals, recently came out against the proposals to relax the trade ban and in favor of continued protection of the African elephant. With the United States firmly in support of the trade ban, the southern African countries withdrew their proposals for renewed trade. Once again, the leadership of the United States has proven crucial to the protection of the African elephant.

I would like to thank all the Senators who joined me in this conservation effort by cosponsoring Senate Concurrent Resolution 70 and by cosigning the letter to President Bush urging him to maintain the full protection of the African elephant. I am also grateful to the Foreign Relations Committee for acting expeditiously on this matter and clearing the resolution for floor action. I also appreciate the support of the minority leader, who is a cosponsor of this resolution. It is, unfortunate that an anonymous hold kept this resolution from being passed by the full Senate, but I am pleased with the broad support it has attracted.

I would like to give special thanks to Secretary of State James Baker and Deputy Secretary Lawrence Eagleburger for their interest and involvement in this important matter. Credit also goes to the conservation groups who have worked with us in support of the trade ban.

The African elephant now has 2 more years of protection under the international trade ban on ivory and other elephant products. This is still a critical period, and the decision to maintain the ban will help the elephant continue to recover from the years of widespread poaching that threatened its very existence. These added years of protection will be a great boost to the long-term survival of this great animal.

WE THANK YOU MARK REITER

Mr. BURDICK. Mr. President, I rise today to acknowledge the departure of Mark Reiter from the staff of the Committee on Environment and Public Works after 5 years of dedicated service. Mark's career in public service has been lengthy, and consistently devoted to the protection of the environment. He was a staff member of the National Commission on Clean Water and later worked for our former colleague Representative Bella Abzug of New York. For a number of years he worked for the Environmental Protection Agency prior to joining the staff of the Committee on Environment and Public Works.

While with the committee, Mark's work on Department of Defense environmental issues was particularly noteworthy and important. Mark helped establish a dialogue with the Department of Defense to address environmental issues at Department of Defense facilities. This working relationship enabled the Committee and DOD to agree on key provisions in the Federal Facilities Compliance Act of 1991, which now is in conference with the other body. Mark deserves credit for his patient but persistent work on environmental issues at Federal facilities.

Mark Reiter was a good teacher while with the committee. A great deal of institutional knowledge about Capitol Hill is unwritten and passed on by word of mouth. Those who know Mark personally know he is a wonderful oral historian. Too often both the Members and staff are too busy to take a few moments every now and then to bring to light some of the unwritten history of an issue before the Congress, or to provide some insight into how and why a particular legislative battle was won or lost. Mark, however, was an exception. He frequently recounted to other staff the lessons and stories from his extensive legislative experience. I know that this was very helpful to the committee staff and it was much appreciated.

On a personal note, several years ago Mark spent a period of time working on a special project in North Dakota. I will always be grateful for his tireless efforts on behalf of the people of North Dakota. I wish Mark well in his new career.

MENACHEM BEGIN

Mr. KERRY. Mr. President, I think it is fitting that we all take a few moments during this busy week to remember and pay our respects to former Prime Minister Menachem Begin, who died this past weekend in Israel.

As David Ignatius noted in Tuesday's Washington Post, Mr. Begin was a man who, in his own words, "survived 10 wars, two world wars, a Soviet concentration camp, 5 years in the underground as a hunted man and 26 years in opposition in the Israeli Parliament. Twenty-six years, never losing faith in a cause."

Menachem Begin's cause was Israel; Israel as a land of perpetual sanctuary and security: Israel as a guarantee that never again would Jews be hunted down and killed merely for being Jews; that never again would there be a holocaust.

As a leader, Mr. Begin possessed the indispensable element of courage. He was a risk-taker. He understood that history is not made by those who sit and wait, paralyzed by every shift in the prevailing political winds. In 1978, he took the risk of peace, joining with Egyptian President Sadat and American President Carter in signing the Camp David Accords. Throughout his career, he spoke strongly for Israel; he was a cantankerous, legalistic, stubborn, brilliant negotiator, and a surprisingly effective political leader. His last years were passed quietly, almost mysteriously, and apparently quite sadly as he mourned the dead of Israel's tragic Lebanon war.

Despite all the war and conflict that marked Menachem Begin's life, I am confident that his most lasting legacy will be as a man of peace. More than a decade later, Camp David remains a symbol of what can be accomplished in the Middle East. All it takes is an American President who will push for peace; an Arab partner with whom Israel can negotiate for peace; and a leader in Israel who—like Menachem Begin—understands that peace is the essential prerequisite to the security of his state and of his people.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. SANFORD). Morning business is closed.

TAX FAIRNESS AND ECONOMIC GROWTH ACT

The PRESIDING OFFICER. Under the previous order the Senate will now resume consideration of H.R. 4210 which the clerk will report.

The bill clerk read as follows:

A bill (H.R. 4210) to amend the Internal Revenue Code of 1986 to provide incentives for increased economic growth and to provide tax relief for families.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. The Senator from Michigan [Mr. LEVIN] is recognized under the previous order.

Mr. PRESSLER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Michigan is recognized under the previous order.

Mr. LEVIN. Mr. President, the amendment that I will be offering in a few minutes, along with Senator GRAHAM of Florida, Senators DECONCINI, SIMON, and ROBB, would take the new revenues from the tax increase on the wealthiest seven-tenths of 1 percent of the taxpayers—those new revenues that are in the bill before us—and use 75 percent of those revenues for deficit reduction and 25 percent of those new revenues for transportation infrastructure and job training projects that are antirecessionary and highly growth and productivity oriented.

The bulk of the deficit reduction would appear in years 1994, 1995, and 1996, and the spending on job training and transportation infrastructure mainly would be spent in fiscal years 1992 and 1993. But the bottom line is that 75 percent of the new revenues from the tax increase on the wealthiest seven-tenths of 1 percent will be spent by this amendment for deficit reduction and 25 percent of those new revenues from the increased taxes on the wealthy would be spent for transportation infrastructure and job training projects.

The amount varies from year to year during the 5-year period, but the overall total is 75 percent deficit reduction, approximately, and 25 percent for transportation, infrastructure, and job training projects. The amendment would be paid for by striking the $300-per-child tax credit that applies to about 25 percent of the middle-income families and by including, again, all of the tax increases that are in title III of this legislation. The amendment will establish a deficit reduction trust fund and express a sense of the Senate that 25 percent of the new revenues for fiscal years 1992 and 1993 go to deficit reduction and for years 1994 through 1996, the sense of the Senate would be expressed that 100 percent of the revenue that would otherwise fund the $300 tax credit during those years would instead be credited to the deficit reduction trust fund.

The precise numbers are still being revised because the Finance Committee, I understand, is revising its numbers slightly. But the overall impact of the amendment which I will send to the desk shortly is as I have described. The goal of this amendment is to do two things. It is to take most of those new revenues and use them for short-term and long-term economic growth. It is to stimulate confidence that we are trying to get our house in order by using most of the new revenue from the tax increase on the wealthiest seven-tenths of 1 percent and using those new revenues to get our economic house in order by reducing the deficit which plagues this economy. We also spend about 25 percent of those new revenues in important growth items, infrastructure, and job retraining. Senators GRAHAM and SIMON will speak more specifically to those items.

The goal is to encourage investment in human and physical capital that will address not only the current recession but address the need for more economic growth in the future. The future is not some abstract concept. It is the same future of the same children that the committee seeks to assist through the $300 tax credit.

This amendment seeks to take an important step toward removing the albatross of debt that we have tied around the necks of the next generation, an albatross that has been created during the last 10 years and will limit the standard of living of our children and grandchildren unless we begin to remove it. The $300 tax credit might slightly ease the economic squeeze that their parents are experiencing now, but it will do little to expand the opportunities for the children themselves to participate in an expanding economy.

In spite of this difference as to how to allocate the new revenues, I compliment the Finance Committee and its chairman for bringing to the Senate floor a bill that substantially improves the equity in the Tax Code by requiring the wealthiest seven-tenths of 1 percent of the taxpayers to pay a fairer share of the tax burden. The legislation recognizes that the after-tax income of that group almost doubled during the 1980's, while the rest of us got nowhere. The after-tax income during the eighties of that upper seven-tenths of 1 percent increased from $213,000 to $399,000 a year. As a whole, that tiny group of the wealthiest among us saw its share of the national income increase about twice as fast as its share of the tax burden. Those who oppose the tax increases included in this legislation frequently point to the increase in the share of the tax burden that is paid by that group but ignore the fact that their income, their ability to pay, increased far more and far faster.

The committee bill and our amendment seek to reestablish a better sense of fairness by having the wealthiest seven-tenths of 1 percent pay a fairer share of taxes. It will help restore the public's confidence in the fairness of the Tax Code by raising to 36 percent the maximum marginal tax rate for married couples with incomes over $175,000 and by establishing a 10-percent surcharge for incomes over $1 million.

Again, I commend the Finance Committee for acting in this area. It is long overdue and they have taken an important step toward tax equity.

President Bush has sought to rally opposition to this legislation by saying that it raises taxes on the American people. That is an enormous overstatement. The bill does, in fact, raise $55 billion from the wealthiest seven-tenths of 1 percent of the taxpayers. But the reason the President does not make clear to whom these tax increases are targeted is that, if he did, he would be doing it in the face of public opinion polls that show that almost 80 percent of the American people support increasing taxes on this wealthiest 1 percent.

I also believe the committee is on the right track in other ways by many of its provisions, which will stimulate the economy, including tax credit extension for targeted jobs, tax exclusion for investments in new job-creating business ventures, tax allowance for businesses encouraging speedup in plants and new equipment in plants, tax credits for business R&D. Those are important actions on the part of the Finance Committee, and this amendment does not disturb them in any way.

But as much as I support those steps to stimulate the economy and as much as I support the move toward tax equity that the Finance Committee has taken by raising the tax rates on the wealthiest seven-tenths of 1 percent, I cannot support that provision in the bill which takes about half of the new revenues to pay for $300 tax cuts for about 25 percent of middle-income families. I believe that tax credit provision represents a missed opportunity to reduce the Federal budget deficit and that reducing the Federal budget deficit is more important to the future of our children than is the $300 tax credit. I do not diminish the importance of that tax credit to the families that will be receiving it. There are other commentators, and some commentators have. I do not. That $300 tax credit will be significant to many families of those that receive it. But using that money instead for deficit reduction will be far more significant to those very same children who would be getting the $300 tax credit.

In a profession that is more noted for its disagreements than its consensus, most economists agree the huge budget deficits mean slower economic growth in the future, a less prosperous economy, less investment by business, fewer houses built, fewer cars sold. In short, fewer good paying jobs.

To quote from a recent article by Isabel Sawhill of the Urban Institute:

> We have an opportunity to use a modest peace dividend and any new revenues for two worthy objectives: Deficit reduction and productivity enhancing public investment including spending on infrastructure, research, training, education and programs for children.

And then her key point:

> If we can raise productivity growth a modest one-half of 1 percent per year, the average family can expect to earn an extra $2,000 more per year by the year 2000 and that makes a $400 tax cut today seem small.

The Congressional Budget Office spoke to the need for deficit reduction in the economic and budget outlook, fiscal years 1993 through 1997, and this is what the Congressional Budget Office said:

> The deficit should return to the top of the political agenda in 1993. Excluding deposit insurance, the deficit is likely to exceed $200 billion for the foreseeable future and more toward the end of the 1990's. Deficits of these magnitudes cripple economic growth by reducing national saving and capital formation.

Those are the chilling words that each of us has to struggle with as we decide the best way to spend those new revenues. There are some in this body who do not want to raise taxes on the wealthiest seven-tenths of 1 percent and they do not face this challenge, but those of us who feel that tax equity requires that the upper seven-tenths of 1 percent who doubled their income in the eighties should pay a higher tax rate then must decide what we feel is best for this economy, for our children, for growth relative to the use of those new revenues.

The words of the CBO are the words that I believe are the most powerful in that regard, that deficits of those magnitudes cripple economic growth by reducing national saving and capital formation.

The Finance Committee bill is deficit neutral. I understand that and that is a lot better than some alternatives which have been offered which, when stripped of accounting gimmicks, actually add to the deficit. But deficit neutrality is not good enough when we are $4 trillion in debt and when we are continuing to add about $200 billion a year to that debt, even excluding the savings and loan bailout costs.

We are in the hole. We are deep in the hole. Playing your opponent even once you are already far behind is not the way to win a ball game or to get the deficit under control. Deficit neutrality is a lot better than adding to the deficit. It is not nearly as good as reducing the deficit.

So, in my view, a $30 billion tax cut for about 25 percent of middle-income families is not the best policy choice. It should not again be diminished as not being important to those families. It is of significance to the families receiving it. The question is: Would reducing the deficit, getting our own economic house in order, taking that albatross that is around our neck and beginning in the relatively small but important step to remove it from the necks of our children, is that even more important to middle-class families than that $300 tax credit? I believe the American people agree that deficit reduction, getting our economic house in order is even more important than that tax cut.

When faced not with the open ended question, do you support a tax cut, but when instead asked the question of what is the best policy choice, the public does not put the highest priority on tax cuts from some middle-income families but on deficit reduction and on getting this economy going.

Here is how the American people in a polling question asked by Opinion Research of Princeton, NJ, responded to the following question: How should the revenue raised from increased taxes on people making more than $100,000 a year be used?

Here was the answer from a national poll: 44 percent said increase spending on domestic needs such as health and education; 27 percent said reduce the deficit; 22 percent said give a $400 tax cut to middle-income families.

So that is a critically important point. More responded cut the deficit than said provide the $400 tax cut. Investing in our future and getting our economic house in order are higher priorities among the public than a tax cut.

Mr. President, polls should not and must not govern our action. The long-term interest of a great Nation that intends to stay great should be which guides our decisions on competing policy alternatives, but at a minimum, we should avoid the folly of taking actions assuming that they are popular if the public sentiment is, in fact, to the contrary.

So I hope that our colleagues will consider this amendment. It agrees with and reiterates the committee's recommendation about what is necessary to make the wealthiest taxpayers pay their fair share, and it leaves intact the committee's efforts to stimulate the economy. But where it differs is on how best to improve the quality of life of middle-income taxpayers, and the way it will do this is by substituting economic recovery and growth through deficit reduction for the tax cuts which 25 percent of middle-income families would receive under the committee version.

Mr. President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I rise in opposition to the Levin amendment. I not only oppose the Levin amendment, I am an unabashed and enthusiastic supporter of the middle-income tax cut. Not only am I a supporter of the middle-income tax cut in this legislation, I support the $5,000 tax credit for home ownership, the flexible IRA and the 100-percent deduction we will give the self-employed for their health insurance. For the first time in a long while, we will help ordinary people be able to help themselves.

Much has been said in this forum about the deficit. I want to acknowledge that the deficit is a real problem, but the most crucial deficit we are facing right now is the leadership deficit in order to get our country moving for the future.

People are angry. They are apprehensive. They feel that we are treading water or our country is in decline.

Families are scared not only not to buy a car or a home because they worry about their job, but they wonder if they can afford their health insurance. People are withdrawing their money from their retirement funds just to pay last month's bills. People are telling me that they want something from Washington, and they want it now.

About a year and a half ago, I stood up on this floor and said the middle class had no more to give; that they are either tuition poor or mortgage poor. Once they pay their health insurance and their property tax, they are tapped out, they are maxed out, and that is why I am going to support the middle-class tax cut.

This is not a new idea. It is a new approach to restoring to the middle-class money that we have taken from them in previous tax bills. There is no doubt that the 1986 tax bill hurt the middle class, and this is the first step to restoring tax equity.

There are those who say $300, $600, or $900 is not very important. That is a Capitol Hill mentality. Parents tell me what a few hundred dollars will buy. It will buy new shoes for the kids, a downpayment on a car, or it will actually pay for their health insurance premium. One mother told me she would use that money to go back to community college to get herself retrained to enter the labor market.

This tax break is important and our working families deserve it. I am going to cast my vote to help middle-class families buy that first home and many other things. That is why I support the tax credit for home ownership. That is why I support the health insurance deduction premium for small business.

Mr. President, I also support programs in this bill to help business. The investment and capital gains and the extension of the research and development tax credit are absolutely crucial.

I know the Senator from New Hampshire is waiting to speak, but I wanted to have the opportunity to oppose this amendment which I believe is well-intentioned; the direction of reducing the deficit is absolutely a splendid idea, but those are long range, macroeconomic ideas.

Right now we need to give relief to the middle class, and we need to give specific and immediate and realizable tax benefits to businesses to get them moving again. I believe if we do that we will overcome the biggest deficit of all, the leadership deficit. I am happy to cast my vote for the tax bill as reported by the Finance Committee.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. RUDMAN. I thank the Chair.

Mr. President, although these remarks are not precisely on point to the discussion of the Senator from Michigan, I have some understanding of the amendment I believe he is going to offer and they do in some way relate to that.

Mr. President, I rise today in opposition to the pending tax package put together by the Democratic members of the Senate Finance Committee. I also oppose, and opposed last evening, the economic growth tax package endorsed by the administration.

Almost a decade ago, Mr. President—in fact, it is a decade ago—along with many others on this floor, having just arrived here in the Senate, I began to warn that the Federal Government was embarking on a path of record budget deficits which represented a threat to the economic future of America. Annual, record Federal budget deficits would, I stated at that time, ensure high interest rates and a drain on our Nation's wealth as foreign loans increasingly financed United States Government obligations.

The combination, I said at that time, of higher interest rates and a low savings rate would hamper American industry, with resulting damage to our economy. Furthermore, as the Federal Government became increasingly burdened with economically useless payments on our national debt, economically harmful with respect to foreign-owned debt, it would be increasingly unable to respond to the needs and the crises which would develop in the future.

It was for this reason that I coauthored the Gramm-Rudman-Hollings balanced budget law in 1985. This law worked well for its first few years, but its impact diminished as time went on. The first full year following the passage of G-R-H saw the single largest 1-year drop in the Federal budget deficit, from $221 billion in fiscal year 1986 to $150 billion in fiscal year 1987. The deficit hovered around $150 billion the next 2 years, still too high, but much lower than it would have been without Gramm-Rudman-Hollings. Unfortunately, the fiscal year 1990 deficit—for the budget passed in 1989—rose to $220 billion and it has been downhill ever since.

For the current fiscal year, the projected deficit is $400 billion. We say numbers here very quickly and very glibly, but I want to repeat it. The deficit for this year, is about $400 billion.

Mr. President, the future that many of us predicted many years ago is now the present. Much of the country is hard hit by an ongoing recession, possibly no State harder than New Hampshire. Signs of the recession in my State include an increase in the State's unemployment rate from 3.5 to nearly 8 percent in the last 3 years, a 53-percent reduction in construction employment, the collapse of the real estate market, a tripling in the number of bankruptcy filings, and a doubling in the number of AFDC recipients.

One can always point to more than one contributing factor for the downturn in the economy as big as ours; but there can be no doubt that sustained record budget deficits, high real interest rates, and the devotion of an increasing portion of the economy to pay interest on the skyrocketing national debt is the primary factor. And, there can also be no doubt that the blame for this lies with the Congress and the President, with Democrats and Republicans alike, most all of whom have been unwilling to make the hard choices or to explain to the American people that there is no such thing as a free lunch.

The same people who have brought us this deficit, I regret to say, now propose to solve our economic problems by bringing us more of the same. Increase the deficit now to solve our immediate problem, and we will promise to cut the deficit in the future. Yet, in further mortgaging the future for the present, we exacerbate the very problems that got us into this mess and hamper the prospects of any real long-term recovery.

The heart of the Democratic tax package pending before this body is modest $300 per child tax credit for some families with incomes under $40,000—it had been $50,000 but the Democrats cut it back last night—paid for by a substantial increase for those earning more than $130,000.

There are two basic problems with this proposal. First, it repudiates the 1986 Tax Act in which upper-income individuals were promised lower marginal tax rates in exchange for the elimination of a variety of tax deductions and credits and substantially higher overall taxes. Those are the facts. If you look at them, no matter what people want to say, the facts are clear as to what that did at that time.

By the way, have we all forgotten that the revenue received from that change was used to eliminate millions of poor people from the tax rolls completely and reduce taxes for 85 percent of all Americans? It was a fairly successful bipartisan piece of legislation. Now, in a classic bait and switch tactic, this legislation proposes to increase the marginal tax rate without restoring the deductions and credits which were eliminated.

Second, the 85 cents per day tax credit will hardly be noticed by those employed middle-class families fortunate enough to receive it. And it will provide minimal economic benefits. Many will not benefit from the credit at all.

The Office of Management and Budget estimates that at least 40 percent of all American families with children will receive no benefit from the tax credit. Obviously, the unemployed get nothing from it. As Paul Tsongas, one of the leading Democratic Presidential candidates has noted, this is "Twinkie economics." It is a purely political proposal, the only purpose of which, I believe, is to try to accentuate class divisions, and portray Republicans who oppose it for sound economic reasons as being the party of the rich.

The Democratic package also contains a variety of tax breaks which are designed to appeal to special interests, but which do nothing for the economy. For example, one of the great successes of the 1986 Tax Act was the creation of a strong alternative minimum tax which ensured that all wealthy Americans paid their fair share of taxes no matter what deductions they might be entitled to.

At a cost of $800 million in the next 5 years alone, the Democratic bill would grant relief from this alternative tax to one group of people—oil and natural gas drillers. There is a new credit for restaurant owners, a provision to allow universities to issue more tax-exempt bonds, and provisions for fishing fleets, the Federal Express pilots pension plan, and the securities industry.

Some of these might even be meritorious. However, they have absolutely nothing to do with stimulating the economy which I thought was why we were here.

Finally, the Democratic tax package would increase the Federal budget deficit. The deficit neutrality claimed by its sponsors is achieved by two gimmicks: First, they claim a $3 billion surplus from previously enacted legislation.

While the pay-go provisions of the 1990 budget agreement permit taking credit for previously enacted measures which raise taxes or reduce entitlement spending, I believe I am correct in saying that Congress already took credit for this money when it extended unemployment compensation benefits earlier this year. In effect, the majority is trying to spend the same money a second time.

Second, the bill would create a new special individual retirement account. While contributions to this special IRA would not be tax deductible, all income built up within the account and all withdrawals would be tax free after 5 years. This proposal is scored as a revenue raiser in the short run because it is expected that people will pay the tax and penalty and withdraw money from their existing IRA's to create the new one.

The committee is calling the paper-shuffling flowing from this tax break a revenue raiser, and using it to justify additional tax credits. It does this at tremendous long-term revenue loss to the Federal Government thus further hampering any prospect for long-term economic recovery.

Moreover, to the extent this special IRA promotes additional savings now, it will serve to depress, not stimulate, the economy in the short run. This special IRA is symptomatic of Government fiscal policy for the last decade—mortgage the future for the present and ignore the consequences.

In fairness to the Democrats, I regret to note that an almost identical proposal appears in the President's fiscal year 1993 budget request.

By contrast, the administration has developed an economic growth package in which the tax cuts are more carefully targeted and which has some prospect for stimulating the economy.

However, the administration's proposal loses all beneficial value by their refusal to pay for it.

The administration's statement that their economic growth package does not add to the deficit fails to stand up to even cursory examination.

The administration has proposed banking and pension legislation which, under normal Government cash accounting, they estimate would save $18.3 billion through fiscal year 1997. That estimate is itself questionable and, in any event, I believe that most Americans would be surprised to find that permanent deregulation of the Nation's largest banks is an integral part of their short-term economic growth package.

The administration then resorts to an accounting gimmick which increases the estimated savings by $19.7 billion over the 6 years by $13.7 billion in fiscal years 1992 and 1993 alone. These fictitious savings are then used to justify all sorts of tax breaks, many of which I concede are justifiable when viewed in isolation.

Mr. President, this is sheer unadulterated nonsense. Because of objections from myself and others, this gimmickry was dropped from the administration's package when it was offered last evening in the Senate. But, rather than use real revenues as a replacement, my colleagues, I am sad to say, proposed $1.1 billion annually over the next 5 years from the defense stockpile.

There are three problems with this.

First, the use of one-time asset sales to pay for permanent tax cuts would make the deficit worse in the long run.

Second, over half the savings proposed from this change are already incorporated in the President's defense budget. I guess what is good for the goose is good for the gander.

The Democrats, one, want to use the $3 billion twice; the administration wants to use the asset sale twice. We are sharing irresponsibility, I guess.

Using the asset sales here would force additional reductions in defense budget beyond those already planned.

Third, as I note in more detail below, defense savings should be used to reduce the budget deficit and nothing else.

The administration's tax package also relies on the same special IRA's included in the Democratic bill, and relies on significant short-term savings projected from their proposed capital gains cut. While I support capital gains rate reduction, I am reluctant to use a capital gains tax cut to justify additional tax breaks.

At the same time, in order to prove that Republicans also support the middle class as if that is somehow needed proof, some of my colleagues on this side of the aisle plan to offer a separate amendment to provide a middle-class tax cut paid for with savings in the defense budget.

I would be amenable to that idea if this country were not facing $400 billion annual budget deficits. Under these circumstances, the only appropriate use of defense savings is to cut the budget deficit. Instead of pandering to the people of this country with broad-based tax cuts that we cannot afford, we should give them and their children a break by taking real steps to cut the growing mountain of Federal debt.

There are some things that this Congress and this President should be able to agree on to help stimulate the economy out of the recession.

The real estate and construction industry needs some relief from some of the excessively onerous provisions included in the 1986 Tax Reform law, especially in the area of passive loss rules.

I believe the $5,000 tax credit proposed by the President for first-time home buyers would help stimulate the economy and assist millions of Americans in realizing their dream of buying a home. Accelerated depreciation for businesses which proceed now with investments in new equipment would certainly help get the economy going, as would a properly targeted capital gains cut.

A limited tax package with provisions designed to stimulate the economy is worth enacting, and it is worth paying for with real tax increases, even tax increases on the wealthy.

Instead, we have before us a Democratic package which uses real tax increases and some gimmicks to pay for a scattershot of tax breaks providing little or no economic benefit, and an administration proposal of somewhat more carefully targeted tax breaks paid for almost entirely with gimmicks.

I considered combining the better elements of the two and offering an economic growth package which is truly deficit neutral. I have decided not to do so because it would be lucky to get five votes in the current political climate, and I am not interested in wasting the time of the U.S. Senate.

The two pending proposals are, in my view, worse than doing nothing. If we do nothing, economic experts agree that the economy will, albeit slowly, work itself out of the recession. Doing nothing, at least, has the virtue of not making things worse in an effort to score political points and show the American people that we care.

Rather than consuming the time of this body on proposals to add to the deficit, we should be explaining to the American people how serious the Federal fiscal situation is and developing a bipartisan plan to deal with it. One of the first votes that I cast on coming to the Senate in 1981 was on whether to raise the national debt ceiling to over $1 trillion. That was the debt accumulated from the time of the forming of the Republic until 1981. The deficit for fiscal year 1992 alone will approach $400 billion. And the national debt will rise to over $4 trillion.

Mr. President, here are some figures that I hope all of my colleagues will indelibly keep in mind, because they tell the story of an economic disaster facing America, unless we address it. Gross interest on the national debt will, this year, for the first time, exceed the amount spent on Social Security benefits. That is an incredible figure. Gross interest will only be about $1 billion less than Defense Department outlays, and next year, it will be higher. Net interest on the national debt, the amount paid to non-Government holders of Federal notes, has risen from $53 billion, or 9 percent of the budget in 1980 to $199 billion or 14 percent of the budget today.

Many complain about wasteful projects and foreign aid. But, if we eliminate all domestic discretionary spending—not the wasteful parts, but all of it—and all foreign aid in this fiscal year, we would still be left with a deficit of over $150 billion, an amount considered inconceivable a short 10 years ago when I came to the Senate.

Meanwhile, in what I regret to call a conspiracy of silence among all of the Presidential candidates and most Members of Congress, few of us are willing to talk about the real problem. Why? Because of the fear that, if you address the issues honestly, you will lose votes and possibly the election. The annual rate of growth in the Medicare program over the last 10 years has exceeded 15 percent. For Medicaid, it was over 10 percent alone last year. Other entitlement programs also grew by amounts exceeding the inflation rate and the growth in Federal revenues.

In the next five years, entitlement programs are projected to grow by 8.1 percent annually for a 5-year cumulative increase of $800 billion. I repeat, $800 billion. but there has been little discussion of this problem. Instead, the public debate has been about whether, in this same period, to cut defense by $50 or $100 billion and to figure out how to spend those savings five times over.

I wonder, Mr. President, if anyone in this Chamber is stopping to think of what we are doing to America. Forty percent of that projected growth in entitlements is above what can be attributed to inflation and population growth. As a result, the share of the Federal budget consumed by direct payment to individuals—Social Security, Medicare, Federal and veterans pensions, and so forth—will increase from 49 percent to over 60 percent in 1997.

It is time to be honest with the American people. We either take steps to cut the growth in these programs, raise the taxes to pay for them, or do a combination of the two. There is no easy way to address the budget deficit, but the future of this country depends on it.

In the interim, Mr. President, I will not vote to make the deficit worse. Accordingly, I oppose the Democratic plan, and I voted against the administration's package last night. As I expect the Democratic package to pass, I will vote to sustain the President's veto when the time comes.

Mr. President, I want to continue here for a minute with some personal thoughts. I have been here now for over 10 years and, with all due respect to the castigating and the pummeling that the Congress generally takes, I would have to say that I have never in my life, served with so many extraordinary people as I serve with in this body. There is almost no one here—in fact, there is no one here in whom I do not find some element of redeeming value. Some more than others. But the fact is that we are unable, institutionally, to do what has to be done. We are literally not watching the fiddler fiddle while Rome burns; we are watching the entire orchestra. How is it that in the early spring or late winter of 1992, with a Federal budget deficit reaching $400 billion, with a country in economic disarray; how can we responsibly stand on this floor and talk about doing anything that has even the slightest chance of adding, not a dime, but a penny to a budget deficit?

I think I have the answer. I think I have finally figured it out after 11 years. And that is that we are afraid to level with the American people, because they have been lied to for so long. Maybe "lie" is a strong word, Mr. President. Maybe we have simply not told them the whole truth. Look at the 1980 Presidential campaign, the 1984 campaign, the 1988 campaign, and look at the Republican loss of the U.S. Senate in the 1986 elections, following people on this side of the aisle being willing to stand up tall for a proposal offered by the then chairman of the Budget Committee, Senator DOMENICI, which, had it become law, this country would not be in recession today. We would not have these record deficits, and the Gramm-Rudman-Hollings law would never have been necessary to think of. But what happened, of course, was that there were screams from people in the other body, from both sides. The then Speaker and the then President sat down under an oak tree, or some sort of a tree down at White House, and they made a deal and they just cut the legs out from under those here on both sides who supported some rather draconian measures to address the issue.

Since that time, with the exception of the Gramm-Rudman-Hollings law, there has been no serious effort to address this deficit. Both Democrats and Republicans are to blame. Congress is to blame. We are all to blame.

We are here for a blink of time. No matter how lofty we think our positions are, and how well we are thought of, most of us will be long forgotten 2 years after we leave here, or maybe less than that.

And 10 years from now as we are in the early part of the new century, most of us who are here now will not be here. We will either have retired, been defeated, or passed on to our great reward.

For those of us who are still on this Earth, and we were here during the decade of the eighties and the early nineties, how are we going to feel as we look at what the economic picture of America is at the end of this century; with a national debt, which at that time will equal the gross national product ala the Third World, with deficits at $800 billion to $1 trillion and foreign governments sitting there with their hands folded and dictating to America the terms and conditions on which they will loan us money to support our past profligacy. That is really what we are talking about here.

Many of my friends here on both sides of the aisle have asked what I am going to do next year. One of the things I have truly enjoyed about this body is that it is a place where you truly can have friendships and alliances on your own side of the aisle and on the other. I had many of my Democratic friends and most of my Republican colleagues ask me, what are you going to do this year? You have not announced your intention; you have a reasonably good rating in your State. Are you going to run for reelection? And people tie it to all sorts of things, maybe lots of money and having more free time, and all of that is important, but it is really unimportant.

I did not plan to say this this morning but I am going to. The thing that has really been troubling me for the last 3 or 4 months, to try to determine whether to spend another 6 years of my life in this place with so many fine and wonderful people, is it worth it? Can you do anything? Can you accomplish anything? Can you make the country better? Are you part of a solution rather than part of the problem?

Mr. President, I believe that the American people are ready for straight talk. I greatly admire my former Senate colleague, Paul Tsongas. He is not doing terribly well, probably because he is telling the truth. That is not a good formulation for winning elections in America, because people have been misled for so long by this Government. They truly believe that what is really wrong is waste and mismanagement, when the fact is what is wrong is the transfer payments are eating us up alive.

But he has had at least the guts to say some hard things and he will probably lose.

I wonder whether there is enough will in this place in the next week or 10 days for people to come to the realization that individual political careers make no difference in terms of the security of America. If we were at war, I have no doubt that people would believe that, and people would rise to the height of patriotism. I look at the people in this Chamber, look at the occupant of the chair, and the Senator from Texas, the chairman of the Finance Committee; in time of war no one could give more or did. And yet, in a time when we are at war economically, when the security of America is being drained drop by drop, we cannot seem to get it together.

Is it not possible, with the extraordinary leadership that we have in this Chamber, with the Democratic leader, my friend from Maine, with the Republican leader, my friend from Kansas, with the distinguished chairmen and ranking members of committees, with the brilliance, with the good will, with the good sense, could we not all come together and say it is time to do something for America and stop this politics as usual, which is tearing the country apart and ruining it at the same time?

Mr. President, I have said a lot more than I wanted to say this morning. But it was time to say it. Is it possible in the next month or two—after what happens here is going to happen, we will have a bill passed the President will veto, the Republicans will sustain it, we will be at ground zero—could we possibly get together and address the single most important issue facing America; and that is to finally, finally, together as a group who care about our country and our future, address the deficit which is eating the fabric, the substance the values of a country which all of us hold dear?

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Michigan [Mr. LEVIN].

AMENDMENT NO. 1712

(Purpose: To reduce the Federal budget deficit, and to express the sense of the Senate that additional funds should be directed toward job training and transportation infrastructure improvements)

Mr. LEVIN. Mr. President, I send the amendment to the desk that I referred to before, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for himself, Mr. GRAHAM, Mr. DECONCINI, Mr. ROBB, and Mr. SIMON, proposes an amendment numbered 1712.

The PRESIDING OFFICER. The Chairman recognizes the majority leader.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it so ordered.

The amendment is as follows:

Strike line 1 on page 958 through line 17 on page 976, and insert in lieu thereof the following:

TITLE III—PAYMENT OF FAIR SHARE BY HIGH-INCOME TAXPAYERS

SUBTITLE A—TREATMENT OF WEALTHY INDIVIDUALS

SEC. 3001. INCREASE IN TOP MARGINAL RATE UNDER SECTION 1.

(a) GENERAL RULE.—Section 1 (relating to tax imposed) is amended by striking subsections (a) through (e) and inserting the following:

"(a) MARRIED INDIVIDUALS FILING JOINT RETURNS AND SURVIVING SPOUSES.—There is hereby imposed on the taxable income of—

"(1) every married individual (as defined in section 7703) who makes a single return jointly with his spouse under section 6013, and

"(2) every surviving spouse (as defined in section 2(a)),

a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $35,800	15% of taxable income.
Over $35,800 but not over $86,500.	$5,370, plus 28% of the excess over $35,800.
Over $86,500 but not over $175,000.	$19,566, plus 31% of the excess over $86,500.
Over $175,000	$47,001, plus 36% of the excess over $174,000.

"(b) HEADS OF HOUSEHOLDS.—There is hereby imposed on the taxable income of every head of a household (as defined in section 2(b)) a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $28,750	15% of taxable income.
Over $28,750 but not over $74,150.	$4,312.50, plus 28% of the excess over $28,750.
Over $71,150 but not over $162,500.	$17,024.50, plus 31% of the excess over $74,150.
Over $162,500	$44,413, plus 36% of the excess over $161,500.

"(c) UNMARRIED INDIVIDUALS (OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLDS).—There is hereby imposed on the taxable income of every individual (other than a surviving spouse as defined in section 2(a) or the head of a household as defined in section 2(b)) who is not a married individual (as defined in section 7703) a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $21,450	15% of taxable income.
Over $21,450 but not over $51,900.	$3,217.50, plus 28% of the excess over $21,450.
Over $51,900 but not over $150,000.	$11,743.50, plus 31% of the excess over $51,900.
Over $150,000	$42,154.50, plus 36% of the excess over $150,000.

"(d) MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—There is hereby imposed on the taxable income of every married individual (as defined in section 7703) who does not make a single return jointly with his spouse under section 6013, a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $17,900	15% of taxable income.
Over $17,900 but not over $43,250.	$2,685, plus 28% of the excess over $17,900.
Over $43,250 but not over $87,500.	$9,783, plus 31% of the excess over $43,250.
Over $87,500	$23,500.50, plus 36% of the excess over $87,500.

"(e) ESTATES AND TRUSTS.—There is hereby imposed on the taxable income of—

"(1) every estate, and

"(2) every trust,

taxable under this subsection a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $3,500	15% of taxable income.
Over $3,500	$525, plus 36% of the excess over $3,500."

(b) CONFORMING AMENDMENTS.—

(1) Section 541 is amended by striking "28 percent" and inserting "36 percent".

(2)(A) Subsection (f) of section 1 is amended—

(i) by striking "1990" in paragraph (1) and inserting "1992", and

(ii) by striking "1989" in paragraph (3)(B) and inserting "1991".

(B) Subparagraph (B) of section 32(i)(1) is amended by striking "1989" and inserting "1991".

(C) Subparagraph (C) of section 41(e)(5) is amended by striking "1989" each place it appears and inserting "1991".

(D) Subparagraph (B) of section 63(c)(4) is amended by striking "1989" and inserting "1991".

(E) Subparagraph (B) of section 68(b)(2) is amended by striking "1989" and inserting "1991".

(F) Subparagraphs (A)(ii) and (B)(ii) of section 151(d)(4) are each amended by striking "1989" and inserting "1991".

(G) Clause (ii) of section 513(h)(2)(C) is amended by striking "1989" and inserting "1991".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 3002. SURTAX ON INDIVIDUALS WITH INCOMES OVER $1,000,000.

(a) GENERAL RULE.—Subchapter A of chapter 1 (relating to determination of tax liability) is amended by adding at the end thereof the following new part:

"PART VIII—SURTAX ON INDIVIDUALS WITH INCOMES OVER $1,000,000

"Sec. 59B. Surtax on section 1 tax.
"Sec. 59C. Surtax on minimum tax.
"Sec. 59D. Special rules.

"SEC. 59B. SURTAX ON SECTION 1 TAX.

"In the case of an individual who has taxable income for the taxable year in excess of $1,000,000, the amount of the tax imposed under section 1 for such taxable year shall be increased by 10 percent of the amount which bears the same ratio to the tax imposed under section 1 (determined without regard to this section) as—

"(1) the amount by which the taxable income of such individual for such taxable year exceeds $1,000,000, bears to

"(2) the total amount of such individual's taxable income for such taxable year.

"SEC. 59C. SURTAX ON MINIMUM TAX.

"In the case of an individual who has alternative minimum taxable income for the taxable year in excess of $1,000,000, the amount of tentative minimum tax determined under section 55 for such taxable year shall be increased by 2.4 percent of the amount by which the alternative minimum taxable income of such taxpayer for the taxable year exceeds $1,000,000.

"SEC. 59D. SPECIAL RULES.

"(a) TREATMENT OF MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—In the case of a married individual (within the meaning of section 7703) filing a separate return for the taxable year, sections 59B and 59C shall be applied by substituting '$500,000' for '$1,000,000'.

"(b) COORDINATION WITH OTHER PROVISIONS.—The provisions of this part—

"(1) shall be applied after the application of subsections (h) and (i) of section 1, but

"(2) before the application of any other provision of this title which refers to the amount of tax imposed by section 1 or 55, as the case may be."

(b) CLERICAL AMENDMENT.—The table for parts for subchapter A of chapter 1 is amended by adding at the end the following new item:

"Part VIII. Surtax on individuals with incomes over $1,000,000."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 3003. EXTENSION OF OVERALL LIMITATION ON ITEMIZED DEDUCTIONS FOR HIGH-INCOME TAXPAYERS.

Section 68 (relating to overall limitation on itemized deductions) is amended by striking subsection (f).

SEC. 3004. EXTENSION OF PHASEOUT OF PERSONAL EXEMPTION OF HIGH-INCOME TAXPAYERS.

Section 151(d)(3) (relating to phaseout of personal exemption) is amended by striking subparagraph (E).

SEC. 3005. MARK TO MARKET INVENTORY METHODS FOR SECURITIES DEALERS.

(a) GENERAL RULE.—Subpart D of part II of subchapter E of chapter 1 (relating to inventories) is amended by adding at the end thereof the following new section:

"SEC. 475. MARK TO MARKET INVENTORY METHOD FOR DEALERS IN SECURITIES.

"(a) GENERAL RULE.—Notwithstanding any other provision of this subpart, the following rules shall apply to securities held by a dealer in securities:

"(1) Any security which is inventory in the hands of the dealer shall be included in inventory at market value.

"(2) In the case of any security which is not inventory in the hands of the dealer and which is held at the close of any taxable year—

"(A) the dealer shall recognize gain or loss as if such security were sold on the last business day of such taxable year, and

"(B) any gain or loss shall be taken into account for such taxable year.

Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence. The Secretary may provide by regulations for the application of this paragraph at times other than the times provided in this paragraph.

"(b) EXCEPTIONS.—

"(1) IN GENERAL.—Subsection (a) shall not apply to—

"(A) any security held for investment,

"(B) any security described in subsection (c)(2)(C) which is originated or acquired by the taxpayer in the ordinary course of a trade or business of the taxpayer and which is not held for sale, and

"(C) any hedge with respect to—

"(i) a security to which subsection (a) does not apply, or

"(ii) a position or a liability which is not a security in the hands of the taxpayer.

"(2) IDENTIFICATION REQUIRED.—Any security shall not be treated as described in subparagraph (A), (B), or (C) of paragraph (1), as the case may be, unless such security is clearly identified in the dealer's records as being described in such subparagraph before the close of the day on which it was acquired, originated, or entered into (or such other time as the Secretary may by regulations prescribe).

"(3) SECURITIES SUBSEQUENTLY HELD FOR SALE.—If, at any time after the close of the day on which any security described in paragraph (1) was acquired, originated, or entered into (or such other time as the Secretary may by regulations prescribe)—

"(A) such security is held for sale to customers in the ordinary course of a taxpayer's trade or business, or

"(B) such security is held as a hedge of a security to which subsection (a) applies,

such security shall not be treated as described in such paragraph as of such time.

"(4) SPECIAL RULE FOR PROPERTY HELD FOR INVESTMENT.—To the extent provided in regulations, subparagraph (A) of paragraph (1) shall not apply to any security described in subparagraph (D) or (E) of subsection (c)(2) which is held by a dealer in such securities.

"(c) DEFINITIONS.—For purposes of this section—

"(1) DEALER IN SECURITIES DEFINED.—The term 'dealer in securities' means a taxpayer who—

"(A) regularly purchases securities from or sells securities to customers in the ordinary course of a trade or business; or

"(B) regularly offers to enter into, assume, offset, assign or otherwise terminate positions in securities with customers in the ordinary course of a trade or business.

"(2) SECURITY DEFINED.—The term 'security' means any—

"(A) share of stock in a corporation;

"(B) partnership or beneficial ownership interest in a widely held or publicly traded partnership or trust;

"(C) note, bond, debenture, or other evidence of indebtedness;

"(D) notional principal contract, including any interest rate or currency swap, but not including any other commodity-linked notional principal contract;

"(E) evidence of an interest in, or a derivative financial instrument in, any security described in subparagraph (A), (B), (C), or (D), including any option, forward contract, short position, and any similar financial instrument in such a security (but not including any contract to which section 1256(a) applies); and

"(F) position which—

"(i) is not a security described in subparagraph (A), (B), (C), (D), or (E),

"(ii) is a hedge with respect to such a security, and

"(iii) is clearly identified in the dealer's record as being described in this subparagraph before the close of the day on which it was acquired or entered into (or such other time as the Secretary may by regulations prescribe).

"(3) HEDGE.—The term 'hedge' includes any position which reduces the dealer's risk from interest rate or price changes, or currency fluctuations.

"(d) SPECIAL RULES.—For purposes of this section—

"(1) CERTAIN RULES NOT TO APPLY.—The rules of sections 263(g) and 263A shall not apply to securities to which subsection (a) applies.

"(2) IMPROPER IDENTIFICATION.—If, under subsection (b)(2) or (c)(2)(F)(iii), a taxpayer at any time—

"(A) identifies any security or position as being described in such subsection and such security or position is not so described as of such time, or

"(B) a taxpayer fails to identify a security or position which is so described at the time such identification is required,

the provisions of subsection (a) shall apply to such security, except that only gain shall be taken into account for any taxable year.

"(e) REGULATORY AUTHORITY.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including rules to prevent the use of year-end transfers, related parties, or other arrangements to avoid the provisions of this section."

(b) CLERICAL ADMENDMENT.—The table of sections for subpart D of part II of subchapter E of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 475 Mark to market inventory method for dealers in securities.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to all taxable years ending on or after December 31, 1993.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer required by this section to change its method of accounting for any taxable year—

(A) such change shall be treated an initiated by the taxpayer,

(B) such change shall be treated as made with the consent of the Secretary, and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account ratably over the 10-taxable year period beginning with the first taxable year ending on or after December 31, 1993.

SEC. 3006. DISALLOWANCE OF DEDUCTION FOR CERTAIN EMPLOYEE REMUNERATION IN EXCESS OF $1,000,000.

(a) GENERAL RULE.—Section 162 (relating to trade or business expenses) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:.

"(m) CERTAIN EXCESSIVE EMPLOYEE REMUNERATION.—

"(1) IN GENERAL.—No deduction shall be allowed under this chapter for employee remuneration with respect to any covered employee to the extent that the amount of such remuneration for the taxable year with respect to such employee exceeds $1,000,000.

"(2) COVERED EMPLOYEE.—For purposes of this subsection—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'covered employee' means any employee of the taxpayer who is an officer of the taxpayer.

"(B) EXCEPTION FOR EMPLOYEE-OWNERS OF PERSONAL SERVICE CORPORATIONS.—The term 'covered employee' shall not include any employee-owner (as defined in section 269A(b)) of a personal service corporation (as defined in section 269A(b)).

"(C) FORMER EMPLOYEES.—The term 'covered employee' includes any former employee who had been a covered employee at any time while performing services for the taxpayer.

"(3) EMPLOYEE REMUNERATION.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'employee remuneration' means, with respect to any covered employee for any taxable year, the aggregate amount allowable as a deduction under this chapter for such taxable year (determined without regard to this subsection) for remuneration for services performed by such employee (whether or not during the taxable year).

"(B) REMUNERATION.—For purposes of subparagraph (A), the term 'remuneration' includes any remuneration (including benefits) in any medium other than cash, but shall not include—

"(i) any payment referred to in so much of section 3121(a)(5) as precedes subparagraph (E) thereof,

"(ii) amounts referred to in section 3121(a)(19), and

"(iii) any benefit provided to or on behalf of an employee if at the time such benefit is provided it is reasonable to believe that the employee will be able to exclude such benefit from gross income under section 132.

"(4) TREATMENT OF CERTAIN EMPLOYERS.—

"(A) IN GENERAL.—All employers treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (n) of section 414 shall be treated as a single employer for purposes of this subsection.

"(B) CLARIFICATION OF OFFICER DEFINITION.—Any officer of any of the employers treated as a single employer under subparagraph (A) shall be treated as an officer of such single employer."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1991.

"SEC. . DEFICIT REDUCTION TRUST FUND.

"(a) IN GENERAL.—Subchapter I of chapter 31 of title 31, United States Code, is amended by adding at the end thereof the following new section:

"Sec. 3114. Certain proceeds from increase in certain income taxes to reduce public debt.

"(a) There is established in the Treasury of the United States a trust fund to be known as the "Deficit Reduction Trust Fund".

"(b) The Secretary of the Treasury shall use the money in the Deficit Reduction Trust Fund solely to—

"(1) pay at maturity, or redeem or buy before maturity, an obligation of the Government included in public debt, and

"(2) pay for administrative costs in operating the Deficit Reduction Trust Fund.

"(c) Any obligation of the Government which is paid, redeemed, or bought with money from the Deficit Reduction Trust Fund shall be canceled and retired and may not be reissued.

"(d) CONFORMING AMENDMENT.—The table of sections for subchapter I of chapter 31 of title 31, United States Code, is amended by adding at the end thereof the following new item:

"Sec. 3114. Proceeds from increase in certain income taxes to reduce public debt".

"SEC. . SENSE OF THE SENATE ON REVENUE CREDITED TO THE DEFICIT REDUCTION TRUST FUND.

"(a) The Senate finds that:

"(1) Since the Federal budget deficit is projected still to be in the $200 billion range by 1997,

"(2) Since such deficits will hamper economic growth by reducing national saving, capital formation and well-paying job opportunities,

"(b) Be it resolved that it is the sense of the Senate that:

"(1) 25 percent of the revenue raised through title III (Payment of Fair Share by High-Income Taxpayers) that would otherwise offset revenue expended in title I, Section 1001 (Tax Credit for Children) should be credited to the Deficit Reduction Trust Fund both in fiscal year 1992 and in fiscal year 1993.

"(2) 100 percent of the revenue raised through title III (Payment of Fair Share by High-Income Taxpayers) that would otherwise offset revenue expended in title I, section 1001 (Tax Credit for Children) should be credited to the Deficit Reduction Trust Fund in fiscal year 1994 through fiscal year 1996."

"SEC. . SENSE OF THE SENATE ON SPENDING FOR JOB TRAINING AND TRANSPORTATION INFRASTRUCTURE.

"(a) The Senate finds that:

"(1) Since job training programs are key to improving the skills of the American work force;

"(2) Since job training programs are particularly important and timely in light of the transition in the manufacturing base as a result of the ending of the cold war;

"(3) Since the recession has resulted in large scale layoffs on workers who have been employed for many years in jobs requiring skills that may be different from the skills required in areas of likely new employment opportunities; and

"(4) Since additional spending on transportation infrastructure can provide economic stimulus in the current recession and assist in improving our national productivity.

"(b) Be it resolved that it is the sense of the Senate that:

"(1) 75 percent of the revenue raised through title III (Payment of Fair Share by High-Income Taxpayers) that would otherwise offset revenue expended in Title I, Section 1001 (Tax Credit for Children) should be used for job training programs in fiscal year 1992.

"(2) 75 percent of the revenue raised through title III (Payment of Share by High-Income Taxpayers) that would otherwise offset revenue expended in title I, section 1001 (Tax Credit for Children) should be used for job training programs and transportation infrastructure improvements in fiscal year 1993, with $500 million of that amount being directed toward job training."

Notwithstanding any other provision of this Act section 1001 regarding Tax Credit for Children is null and void.

AMENDMENT NO. 1713 TO AMENDMENT NO. 1712

Mr. MITCHELL. Mr. President, in behalf of Senator GRAHAM I offer a second-degree amendment.

The PRESIDING OFFICER. The clerk will report the second-degree amendment.

The legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL], for Mr. GRAHAM, for himself, Mr. LEVIN, Mr. DECONCINI, Mr. ROBB, and Mr. SIMON, proposes an amendment numbered 1713 to amendment No. 1712.

Mr. MITCHELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In the amendment strike all after the first word and insert the following:

III—PAYMENT OF FAIR SHARE BY HIGH-INCOME TAXPAYERS

SUBTITLE A—TREATMENT OF WEALTHY INDIVIDUALS

SEC. 3001. INCREASE IN TOP MARGINAL RATE UNDER SECTION 1.

(a) GENERAL RULE.—Section 1 (relating to tax imposed) is amended by striking subsections (a) through (e) and inserting the following:

"(a) MARRIED INDIVIDUALS FILING JOINT RETURNS AND SURVIVING SPOUSES.—There is hereby imposed on the taxable income of—

"(1) every married individual (as defined in section 7703) who makes a single return jointly with his spouse under section 6013, and

"(2) every surviving spouse (as defined in section 2(a)),

a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $35,800	15% of taxable income.
Over $35,800 but not over $86,500.	$5,370, plus 28% of the excess over $35,800.
Over $86,500 but not over $175,000.	$19,566, plus 31% of the excess over $86,500.
Over $175,000	$47,001, plus 36% of the excess over $173,000.

"(b) HEADS OF HOUSEHOLDS.—There is hereby imposed on the taxable income of every head of a household (as defined in section 2(b)) a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $28,750	15% of taxable income.
Over $28,750 but not over $74,150.	$4,312.50, plus 28% of the excess over $28,750.
Over $74,150 but not over $162,500.	$17,024.50, plus 31% of the excess over $74,150.
Over $162,500	$44,413, plus 36% of the excess over $161,500.

"(c) UNMARRIED INDIVIDUALS (OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLDS).—There is hereby imposed on the taxable income of every individual (other than a surviving spouse as defined in section 2(a) or the head of a household as defined in section 2(b)) who is not a married individual (as defined in section 7703) a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $21,450	15% of taxable income.
Over $21,450 but not over $51,900.	$3,217.50, plus 28% of the excess over $21,450.
Over $51,900 but not over $150,000.	$11,743.50, plus 31% of the excess over $51,900.
Over $150,000	$42,154.50, plus 36% of the excess over $150,000.

"(d) MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—There is hereby imposed on the taxable income of every married individual (as defined in section 7703) who does not make a single return jointly with his spouse under section 6013, a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $17,900	15% of taxable income.
Over $17,900 but not over $43,250.	$2,685, plus 28% of the excess over $17,900.
Over $43,250 but not over $87,500.	$9,783, plus 31% of the excess over $43,250.
Over $87,500	$23,500.50, plus 36% of the excess over $87,500.

"(e) ESTATES AND TRUSTS.—There is hereby imposed on the taxable income of—

"(1) every estate, and

"(2) every trust,

taxable under this subsection a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $3,500	15% of taxable income.
Over $3,500	$525, plus 36% of the excess over $3,500."

(b) CONFORMING AMENDMENTS.—

(1) Section 541 is amended by striking "28 percent" and inserting "36 percent".

(2)(A) Subsection (f) of section 1 is amended—

(i) by striking "1990" in paragraph (1) and inserting "1992", and

(ii) by striking "1989" in paragraph (3)(B) and inserting "1991".

(B) Subparagraph (B) of section 32(i)(1) is amended by striking "1989" and inserting "1991".

(C) Subparagraph (C) of section 41(e)(5) is amended by striking "1989" each place it appears and inserting "1991".

(D) Subparagraph (B) of section 63(c)(4) is amended by striking "1989" and inserting "1991".

(E) Subparagraph (B) of section 68(b)(2) is amended by striking "1989" and inserting "1991".

(F) Subparagraphs (A)(ii) and (B)(ii) of section 151(d)(4) are each amended by striking "1989" and inserting "1991".

(G) Clause (ii) of section 513(h)(2)(C) is amended by striking "1989" and inserting "1991".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 3002. SURTAX ON INDIVIDUALS WITH INCOMES OVER $1,000,000.

(A) GENERAL RULE.—Subchapter A of chapter 1 (relating to determination of tax liability) is amended by adding at the end thereof the following new part:

"PART VIII—SURTAX ON INDIVIDUALS WITH INCOMES OVER $1,000,000

"Sec. 59B. Surtax on section 1 tax.
"Sec. 59C. Surtax on minimum tax.
"Sec. 59D. Special rules.

"SEC. 59B. SURTAX ON SECTION 1 TAX.

"In the case of an individual who has taxable income for the taxable year in excess of $1,000,000, the amount of the tax imposed under section 1 for such taxable year shall be increased by 10 percent of the amount which bears the same ratio to the tax imposed under section 1 (determined without regard to this section) as—

"(1) the amount by which the taxable income of such individual for such taxable year exceeds $1,000,000, bears to

"(2) the total amount of such individual's taxable income for such taxable year.

"SEC. 59C. SURTAX ON MINIMUM TAX.

"In the case of an individual who has alternative minimum taxable income for the taxable year in excess of $1,000,000, the amount of the tentative minimum tax determined under section 55 for such taxable year shall be increased by 2.4 percent of the amount by which the alternative minimum taxable income of such taxpayer for the taxable years exceeds $1,000,000.

"SEC. 59D. SPECIAL RULES.

"(a) TREATMENT OF MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—In the case of a married individual (within the meaning of section 7703) filing a separate return for the taxable year, sections 59B and 59C shall be applied by substituting '$500,000' for '$1,000,000'.

"(b) COORDINATION WITH OTHER PROVISIONS.—The provisions of this part—

"(1) shall be applied after the application of subsections (h) and (i) of section 1, but

"(2) before the application of any other provision of this title which refers to the amount of tax imposed by section 1 or 55, as the case may be."

(b) CLERICAL AMENDMENT.—The table of parts for subchapter A of chapter 1 is amended by adding at the end the following new item:

"Part VIII. Surtax on individuals with incomes over $1,000,000."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 3003. EXTENSION OF OVERALL LIMITATION ON ITEMIZED DEDUCTIONS FOR HIGH-INCOME TAXPAYERS.

Section 68 (relating to overall limitation on itemized deductions) is amended by striking subsection (f).

SEC. 3004. EXTENSION OF PHASEOUT OF PERSONAL EXEMPTION OF HIGH-INCOME TAXPAYERS.

Section 151(d)(3) (relating to phaseout of personal exemption) is amended by striking subparagraph (E).

SEC. 3005. MARK TO MARKET INVENTORY METHOD FOR SECURITIES DEALERS.

(A) GENERAL RULE.—Subpart D of part II of subchapter E of chapter 1 (relating to inventories) is amended by adding at the end thereof the following new section:

"SEC. 475. MARK TO MARKET INVENTORY METHOD FOR DEALERS IN SECURITIES.

"(a) GENERAL RULE.—Notwithstanding any other provision of this subpart, the following rules shall apply to securities held by a dealer in securities:

"(1) Any security which is inventory in the hands of the dealer shall be included in inventory at market value.

"(2) In the case of any security which is not inventory in the hands of the dealer and which is held at the close of any taxable year—

"(A) the dealer shall recognize gain or loss as if such security were sold on the last business day of such taxable year, and

"(B) any gain or loss shall be taken into account for such taxable year.

Proper adjustment shall be in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence. The Secretary may provide by regulations for the application of this paragraph at times other than the times provided in this paragraph.

"(a) EXCEPTIONS.—

"(1) IN GENERAL.—Subsection (a) shall not apply to—

"(A) any security held for investment,

"(B) any security described in subsection (c)(2)(C) which is originated or acquired by the taxpayer in the ordinary course of a trade or business of the taxpayer and which is not held for sale, and

"(C) any hedge with respect to—

"(i) a security to which subsection (a) does not apply, or

"(ii) a position or a liability which is not a security in the hands of the taxpayer.

"(2) IDENTIFICATION REQUIRED.—Any security shall not be treated as described in subparagraph (A), (B), and (C) of paragraph (1), as the case may be, unless such security is clearly identified in the dealer's records as being described in such subparagraph before the close of the day on which it was acquired, originated, or entered into (or such other time as the Secretary may by regulations prescribe).

"(3) SECURITIES SUBSEQUENTLY HELD FOR SALE.—If, at any time after the close of the day on which any security described in paragraph (1) was acquired, originated, or entered into (or such other time as the Secretary may by regulations prescribe)—

"(A) such security is held for sale to customers in the ordinary course of a taxpayer's trade or business, or

"(B) such security is held as a hedge of a security to which subsection (a) applies,

such security shall not be treated as described in such paragraph as of such time.

"(4) SPECIAL RULE FOR PROPERTY HELD FOR INVESTMENT.—To the extent provided in regulations, subparagraph (A) of paragraph (1) shall not apply to any security described in subparagraph (D) or (E) of subsection (c)(2) which is held by a dealer in such securities.

"(c) DEFINITIONS.—For purposes of this section—

"(1) DEALER IN SECURITIES DEFINED.—The term 'dealer in securities' means a taxpayer who—

"(A) regularly purchases securities from or sells securities to customers in the ordinary course of a trade or business; or

"(B) regularly offers to enter into, assume, offset, assign or otherwise terminate positions in securities with customers in the ordinary course of a trade or business.

"(2) SECURITY DEFINED.—The term 'security' means any—

"(A) share of stock in a corporation;

"(B) partnership or beneficial ownership interest in a widely held or publicly traded partnership or trust;

"(C) note, bond, debenture, or other evidence of indebtedness;

"(D) notional principal contract, including any interest rate or currency swap, but not including any other commodity-linked notional principal contract;

"(E) evidence of an interest in, or a derivative financial instrument in, any security described in subparagraph (A), (B), (C), or (D), including any option, forward contract, short position, and any similar financial instrument in such a security (but not including any contract to which section 1256(a) applies); and

"(F) position which—

"(i) is not a security described in subparagraph (A), (B), (C), (D), or (E).

"(ii) is a hedge with respect to such a security, and

"(iii) is clearly identified in the dealer's record as being described in this subparagraph before the close of the day on which it was acquired or entered into (or such other time as the Secretary may by regulations prescribe).

"(3) HEDGE.—The term 'hedge' includes any position which reduces the dealer's risk from interest rate or price changes, or currency fluctuations.

"(d) SPECIAL RULES.—For purposes of this section—

"(1) CERTAIN RULES NOT TO APPLY.—The rules of sections 263(g) and 263A shall not apply to securities to which subsection (a) applies.

"(2) IMPROPER IDENTIFICATION.—If, under subsection (b)(2) or (c)(2)(F)(iii), a taxpayer at any time—

"(A) identifies any security or position as being described in such subsection and such security or position is not so described as of such time, or

"(B) a taxpayer fails to identify a security or position which is so described at the time such identification is required,

the provisions of subsection (a) shall apply to such security, except that only gain shall be taken into account for any taxable year.

"(e) REGULATORY AUTHORITY.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including rules to prevent the use of year-end transfers, related parties, or other arrangements to avoid the provisions of this section."

(b) CLERICAL AMENDMENT.—The table of sections for subpart D of part II of subchapter E of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 475. Mark to market inventory method for dealers in securities.".

(c) EFFECTIVE DATE—

(1) IN GENERAL.—The amendments made by this section shall apply to all taxable years ending on or after December 31, 1993.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer required by this section to change its method of accounting for any taxable year—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as made with the consent of the Secretary, and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account ratably over the 10-taxable year period beginning with the first taxable year ending on or after December 31, 1993.

SEC. 3006. DISALLOWANCE OF DEDUCTION FOR CERTAIN EMPLOYEE REMUNERATION IN EXCESS OF $1,000,000.

(a) GENERAL RULE.—Section 162 (relating to trade or business expenses) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) CERTAIN EXCESSIVE EMPLOYEE REMUNERATION—

"(1) IN GENERAL.—No deduction shall be allowed under this chapter for employee remuneration with respect to any covered employee to the extent that the amount of such remuneration for the taxable year with respect to such employee exceeds $1,000,000.

"(2) COVERED EMPLOYEE.—For purposes of this subsection—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'covered employee' means any employee of the taxpayer who is an officer of the taxpayer.

"(B) EXCEPTION FOR EMPLOYEE-OWNERS OF PERSONAL SERVICE CORPORATIONS.—The term 'covered employee' shall not include any employee-owner (as defined in section 269A(b)) of a personal service corporation (as defined in section 269A(b)).

"(C) FORMER EMPLOYEES.—The term 'covered employee' includes any former employee who had been a covered employee at any time while performing services for the taxpayer.

"(3) EMPLOYEE REMUNERATION.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'employee remuneration' means, with respect to any covered employee for any taxable year, the aggregate amount allowable as a deduction under this chapter for such taxable year (determined without regard to this subsection) for remuneration for services performed by such employee (whether or not during the taxable year).

"(B) REMUNERATION.—For purposes of subparagraph (A), the term 'remuneration' includes any remuneration (including benefits) in any medium other than cash, but shall not include—

"(i) any payment referred to in so much of section 3121(a)(5) as precedes subparagraph (E) thereof,

"(ii) amounts referred to in section 3121(a)(19), and

"(iii) any benefit provided to or on behalf of an employee if at the time such benefit is provided it is reasonable to believe that the employee will be able to exclude such benefit from gross income under section 132.

"(4) TREATMENT OF CERTAIN EMPLOYERS—

"(A) IN GENERAL.—All employers treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (n) of section 414 shall be treated as a single employer for purposes of this subsection.

"(B) CLARIFICATION OF OFFICER DEFINITION.—Any officer of any of the employers treated as a single employer under subparagraph (A) shall be treated as an officer of such single employer."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1991.

"SEC. . DEFICIT REDUCTION TRUST FUND.

"(a) IN GENERAL.—Subchapter I of chapter 31 of title 31, United States Code, is amended by adding at the end thereof the following new section:

"Sec. 3114. Certain proceeds from increase in certain income taxes to reduce public debt.

"(a) There is established in the Treasury of the United States a trust fund to be known as the 'Deficit Reduction Trust Fund'.

"(b) The Secretary of the Treasury shall use the money in the Deficit Reduction Trust Fund solely to—

"(1) pay at maturity, or redeem or buy before maturity, an obligation of the Government included in public debt, and

"(2) pay for any administrative costs in operating the Deficit Reduction Trust Fund.

"(c) Any obligation of the Government which is paid, redeemed, or bought with money from the Deficit Reduction Trust Fund shall be canceled and retired and may not be reissued.

"(d) CONFORMING AMENDMENT.—The table of sections for subchapter I of chapter 31 of title 31, United States Code, is amended by adding at the end thereof the following new item:

"Sec. 3114. Proceeds from increase in certain income taxes to reduce public debt".

"SEC. . SENSE OF THE SENATE ON REVENUE CREDITED TO THE DEFICIT REDUCTION TRUST FUND.

"(a) The Senate finds that:

"(1) Since the Federal budget deficit is projected still to be in the $200 billion range by 1997,

"(2) Since such deficits will hamper economic growth by reducing national saving, capital formation and well-paying job opportunities,

"(b) Be it resolved that it is the sense of the Senate that:

"(1) 25 percent of the revenue raised through title III (Payment of Fair Share by High-Income Taxpayers) that would otherwise offset revenue expended in title I, section 1001 (Tax Credit for Children) should be credited to the Deficit Reduction Trust Fund both in fiscal year 1992 and in fiscal year 1993.

"(2) 100 percent of the revenue raised through title III (Payment of Fair Share by High-Income Taxpayers) that would otherwise offset revenue expended in title I, section 1001 (Tax Credit for Children) should be credited to the Deficit Reduction Trust Fund in fiscal 1994 through fiscal year 1996."

"SEC. . SENSE OF THE SENATE ON SPENDING FOR JOB TRAINING AND TRANSPORTATION INFRASTRUCTURE.

"(a) The Senate finds that:

"(1) Since job training programs are key to improving the skills of the American workforce,

"(2) Since job training programs are particularly important and timely in light of the transition in the manufacturing base as a result of the ending of the Cold War,

"(3) Since the recession has resulted in large scale layoffs on workers who have been employed for many years in jobs requiring skills that may be different from the skills required in areas of likely new employment opportunities, and

"(4) Since additional spending on transportation infrastructure can provide economic stimulus in the current recession and assist in improving our national productivity.

"(b) Be it resolved that it is the sense of the Senate that:

"(1) 75 percent of the revenue raised through title III (Payment of Fair Share by High-Income Taxpayers) that would otherwise offset revenue expended in title I, section 1001 (Tax Credit for Children) should be used for job training programs in fiscal year 1992.

"(2) 75 percent of the revenue raised through title III (Payment of Fair Share by High-Income Taxpayers) that would otherwise offset revenue expended in title I, section 1001 (Tax Credit for Children) should be used for job training programs and transportation infrastructure improvements in fiscal year 1993, with $600 million of that amount being directed toward job training."

Notwithstanding any other provision of this Act section 1001 regarding tax credit for children is null and void.

The PRESIDING OFFICER. Who seeks recognition?

Mr. LEVIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBB. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. LEVIN). Without objection, it is so ordered.

Mr. ROBB. Mr. President, I rise in support of the amendment offered by the distinguished Senator from Michigan, the current occupant of the chair, and I would like to comment, if I may, just briefly on the eloquent remarks that were just delivered by the distinguished Senator from New Hampshire [Mr. RUDMAN]. I would confess that I have long admired the Senator's commitment to principle, and his ability to eloquently state what is important and to try to separate the wheat from the chaff.

Mr. President, I would say at this point that I plan to support the measure that the distinguished chairman of the Finance Committee has prepared and ultimately brought to the floor. It is an extraordinarily difficult task with virtually 100 Members having 100 different priorities in terms of how to solve a very difficult question that is facing the country. I think, under the circumstances, that the bill—given all of the compromises that are necessary—is basically a good bill and I think it is important that we provide a vehicle that, in conference with the House, we can send to the President and give this body an opportunity ultimately to act its will and the President to act his will. I think it is important for the country. I think it is important to this institution that we have a bill and that we be perceived—and, in fact, we do—something important.

With respect to the specific amendment offered by my friend from Michigan, let me say that my own priority is very much along the lines just expressed by the distinguished Senator from New Hampshire. I would like to see us address the question of deficit reduction. Fiscal responsibility is our first and foremost task.

I happen to believe that there is no more serious overall problem facing the Nation today than our inability or unwillingness to deal with the deficit. We are always willing to talk about good and worthwhile spending programs, and we do so frequently. Indeed, the number of needs in this country are great, and virtually all of the proposals to spend taxpayer money are well-intentioned and will bring about some good result.

But ultimately it is never time to address the question of whether or not we are going to pay for what we spend. Almost any time can be seen as the wrong time.

I believe that the amendment that has been offered by my friend from Michigan at least moves us in the right direction. It takes the money, which is going to be freed up by a more equitable distribution of the tax burden in this country which would be imposed on the very top income earners in this country, and it uses the money to create some jobs—which I know is very important and certainly important to other Members who worked with the author of this amendment on this particular proposal.

If we are going to spend money, it seems to me that spending money in the areas that have been identified in this amendment—and which is very much supported, I know, by the Senator from Florida, who will speak on it and offer another amendment along these same lines in due course—it seems to me, as noted by the distinguished Senator from Michigan, and certainly elaborated upon by the distinguished Senator from New Hampshire, that there are even more important ways. If we are going to spend money at this point, a reduction in the deficit and some model expenditures to bring about an immediate job creation is the right thing to do.

In a period of time when our deficit is currently exceeding $400 billion per year, with very little prospect in sight for any significant reduction, this is a modest contribution to that effort. For that reason, I very much support the efforts of the distinguished Senator from Michigan. I appreciate the comments, and would assume from his comments that the distinguished Senator from New Hampshire would also find this an appropriate opportunity to at least begin to move in that direction.

Although again I suggest that, if it is the will of this body to spend money in terms of stimulating the economy and to provide some sort of a targeted credit, the credit that has been identified by the Finance Committee is clearly the most important of those priorities.

With that in mind, Mr. President, I thank you personally for your leadership in this area and for giving me an opportunity to say a few words on behalf of this amendment, and for relieving me in the Chair.

With that, Mr. President, I yield the floor.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

(Mr. ROBB assumed the chair.)

Mr. GRAHAM. Mr. President, I share in the comments that have just been made by our colleague from Virginia relevant to the eloquent remarks of the Senator from New Hampshire. I hope that those remarks and the debate that we are having here today will help us to come to a new sense of the seriousness of what we are about the challenge us to meet this as Americans; not as Democrats or Republicans, not as elected Members of the Congress or the President, but a challenge that faces this Nation that should cause us to rise to a new level of statesmanship.

I support the amendment that has been offered by our friend from Michigan. I will also describe in a moment some steps that I would suggest we might take in the event that his proposal is improvidently not accepted by this body.

I start with the question: Why are we here today? Why on the 12th of March 1992 are we having a debate on the tax bill?

The answer to that is quite clear. The answer to that could be seen in virtually every community in America where people are in pain.

Mr. President, I suggest that the pain is being understated if we focus totally on the unemployment statistics. Let me give a real but unnamed citizen of my State that I met recently. This man, in his mid-forties had worked for the better part of 20 years for a major national airline. He had worked himself up into a position that he was earning $16 an hour. That airline is now bankrupt and liquidated.

For a year and a half, he was out of work. During the course of that year and a half of unemployment, he was divorced, he lost his house, and he lost most of his savings.

He got a job, finally, after 18 months, working for a rental car agency, driving cars from the lot to the airport. He was earning minimum wage at 25 hours a week. The significance of the 25 hours a week, Mr. President, was that meant he was not eligible for any of the benefits of his new employer, specifically health care, which meant that his continuing obligations to his two young children and his now divorced wife could not be met in terms of providing them with basic insurance for their health needs.

The man now has gotten a second job doing quite similar work to what he had done in his previous employment, working for an airline. Again he is working 25 hours a week, thus not eligible for his new employer's health benefits or other fringe benefits, earning slightly above minimum wage. He is working 50 hours a week, earning 40 percent of the weekly income that he had previously derived without most of the benefits that he had.

Now that man does not show up in the unemployment statistics, Mr. President. He is an employed person. In fact, he is a superemployed person, working 50 hours a week.

He is an example, Mr. President, of why we are here today, because our Nation, our citizens are in pain. They sense that this is not just an immediate problem that this man has gone from a $16-an-hour job for 40 hours a week to a minimum-wage job at 50 hours a week, but rather that this is a symptom of fundamental changes that have occurred in the American economy, that something different is going on than just the normal business cycle.

The American people are turning to their leaders for a sense of hope, vision, and direction. That is what we are about today, not a confrontation between politicians, among politicians, and between political parties.

What response should we make to this current situation that we are in today? I suggest that there ought to be some fundamental principles of that response. One is the admonition that is given to every young physician: do not harm. If you cannot do any good for the patient, at least do not hurt the patient. We should be cautious to do no harm.

Second, we should be aware that we have two issues to deal with.

One is a short-term issue: What are the tools available to us to try to move this economy out of its immediate recession? And second: What are the longer term things that we should be looking at for the next 10 or 20 years to rebuild a competitive American economy?

Mr. President, we recently received a report from a group that was established by Congress called the Competitiveness Policy Council. And on the first question of what could be done now in order to assist in moving the country out of its current recession, this is what the Competitiveness Policy Council, in its report dated March 1 of this year, had to say:

> As the Council submits its report in early 1992, concerns over fundamental aspects of the Nation's competitiveness fuse with the need for the earliest possible recovery from recession. The positive aspects of this fusion is that the difficulties of the present reinforce awareness of our more basic problems. The risk is that efforts to boost growth in the short term could ignore, even exacerbate, the basic difficulties. The Council believes that the right strategy at present is to devise a program to address the underlying weaknesses in the economy in ways that could also promote short-term recovery. For example, an acceleration of government spending on needed infrastructure projects would have desirable effects, both immediately and over time.

Thus, I believe our short-term approach within the concern about doing no harm should focus on those things that would create jobs in the next 6 to 18 months, while contributing to the longer range economic strength of America.

In the long term, we must rebuild a partnership of the private enterprise sector and Government so we can reinvigorate our economy, unleash the entrepreneurial spirit that has created the greatest economy in the history of the world. Those basic qualities are still in place. They need to be reignited.

What is the Federal Government's role?

I think the Federal Government's role includes, one, getting our own fiscal house in order. It is outrageous that we went from George Washington to Jimmy Carter and had a national debt of $900 billion, having fought a succession of wars around the world, defended democracy, contributed to the building of this great Nation and had done so over a period of almost 200 years and had a national debt in excess of $900 billion.

Since 1981, we have increased that deficit to verge on $4 trillion. Not only is that outrageous in terms of what it is saddling ourselves and our future generations with, but it has set a model of activity which unfortunately many of our citizens are taking for their own personal action. The fact that the escalation in debt at the Federal Government level has been paralleled by an escalation of debt in the business and private economies of individual Americans is not unexpected. We are setting a standard of profligate behavior that is permeating our culture. We must get our national financial house in order.

Second, we need to encourage long-term thinking in terms of what is in the interest of America. We need to move away from the era which looked at what is in our best interest 90 days from now or 6 months from now and ask the question what is going to be in our best interests 10 or 20 years from now; encourage the long-range view of investment.

Finally, we must invest in America, in our people, in education, in job training, and in rebuilding the fundamental public systems that support a strong, long-term economy.

Those are some of the things the Federal Government must do.

Mr. President, we are doing something that is not going to be very popular. We are suggesting there should be eliminated from this bill a tax credit for 25 percent of the middle class of America. Of course, giving tax relief is always popular and sometimes desirable. It is attractive.

Why are we saying no? We are saying no because we are making the statement that we are now in a time of no easy choices. We do not have a cornucopia of funds that we can say will adequately deal with education, will adequately deal with transportation, will adequately deal with reducing our deficit, will provide tax cuts. Those were the prescriptions of just a decade ago. They did not work then. They are not going to work today.

We have to make some difficult choices. Fairness in the tax system, which is the hallmark of support for the middle-class tax credit, is of course a goal we should always set. I assume in 1990 when the budget agreement was reached, an agreement which was supposed to be intact for 5 years, that fairness was a key factor in that. And the reason we are looking at modifying that 1990 agreement is because of the recession in which we currently find ourselves.

This bill, with the amendment as suggested, would still have substantial elements of increased fairness in our tax system. We would be raising the taxes on those who have benefited the most by the burgeoning, profligate activities of the 1980's. We would be making it easier for these same middle-American families to buy a home, to be able to secure health-care financing, and the education of those children. This bill has important benefits to the American family beyond that which is represented by the middle-class tax credit.

We need also, Mr. President, to ask, will this middle-class tax credit have the kind of economic stimulation that in the past we have associated with efforts of this ilk? It has been traditional, particularly traditional Democratic Party economic policy, that in a time of recession you try to place money in the hands of those Americans who would be most likely to spend it. They would, in fact, spend it. It would create a circle of expanding economic activities.

The retailer would have to refill inventory because of the sales that had been made. That would create orders back at the plant, and that would result in the employment of people who would be producing those goods. They, in turn, would create the jobs of the support industries.

One of the difficulties with that economic strategy, a strategy of the 1930's applied to the 1990's, can be seen when you go to the retail stores where Americans are most likely to be spending their middle-class tax credit. In the 1930's they would have been spending it on products with names like Emerson and General Electric and Westinghouse. Today they are most likely to be spending it on products that have names like Panasonic, and Sony, and Toshiba. The efficiency of the middle-class tax credit as an economic stimulator is substantially reduced because we are in a different economic circumstance than we had been in the past.

For those reasons I believe this is not the time to spend half of the proceeds that will be raised in this bill on the middle-class tax credit but, rather, to think what are the patterns of expenditure that would contribute to the two goals of stimulating job creation immediately and contributing to a stronger, long-term American economy?

In the event the wise proposal of Senator LEVIN is not adopted I will be proposing a similar but slightly expanded proposal which would have these elements, many of which are incorporated in Senator LEVIN'S proposal.

First, to focus for the next 18 months on three items: Admittedly modest deficit reduction; second, a substantial expenditure on job retraining in order to help those Americans like the Floridian I mentioned earlier to have retraining so they do not have to go from $16 an hour to minimum wage because they do not have the skills to get a job commensurate with that which they previously held and which no longer exists; and to put a substantial amount of funds into infrastructure.

I will be proposing we do this in two manners: One, by diverting some of the new revenue that will come as a result of the tax proposals and, also, by restructuring the 1991 Surface Transportation Act in such a way as to move funds from the end of the 6-year cycle into fiscal years 1993 and 1994 in order to create jobs when we need them now.

My assessment is that this program would result in the creation, in 1993, of over a half a million jobs of Americans, working in America, helping to strengthen America by building highways, enhancing our public transit system, enhancing our aviation system. That would be a significant, immediate contribution to moving us out of this recession while doing things that we would all agree are fundamental to our long-term economic well-being.

But most of the funds will be, as Senator LEVIN has proposed, committed to deficit reduction. I will propose that deficit reduction be used to buy down the current indebtedness which the General Treasury has to the Social Security trust fund. As Senator MOYNIHAN has said on so many occasions, we are engaged in either thievery or—as our dear, departed colleague, Senator HEINZ, described it—embezzlement, from the Social Security fund. This would begin a process of reversing and maybe making penitence and compensation for that thievery and embezzlement we have engaged in in the past.

Those are suggestions of what I hope will not come because Senator LEVIN'S wise amendment will be adopted and will make it unnecessary.

Mr. President, in conclusion, I have a dear friend who is also a close friend of our colleague from Wyoming, Senator SIMPSON, distinguished American historian, David McCullough. Mr. McCullough has asked this question: Where were they when important moral issues were before their society? Where were the Americans in the region of the country represented by the Presiding Officer and myself in the period prior to the Civil War as we saw the ravages of slavery? Where were good people who should have been standing up to that institution? Where were Americans, where was the world in the 1930's when we were aware of what was happening in Nazi Germany?

I suggest that our grandchildren are going to be asking the same questions of us and that is, where were we in the 1980's and the 1990's as we saw this great America move from being not only the military and political leader of the world, but a leader by example in terms of its economic policies, and was able to provide to each generation the hope and the reality that they would have a better life than all the generations of Americans who had preceded them?

How will we answer the question of our grandchildren when they ask: "Grandfather, where were you; what were you doing when you had the opportunity to influence the kind of life that I am going to live?"

Mr. President, I want to be able to answer that question that when I had the chance to do so, I made a contribution to dealing with the immediate pain, but I want to particularly be able to tell to my granddaughters that I was prepared to make a hard choice and to make a contribution to the long-term strengthening of America so that she could realize that American dream of constantly expanding opportunities.

I think that is the level of seriousness of the debate that we are having over these next few days. I recognize that what is probably going to happen is that this will be a small paragraph, maybe not even deserving of a paragraph in the history of our times because our actions will be dismissed by the President and we will not be able to overcome that rejection.

In a few days, we are going to be back at this business. The problems will not be easier; they will be more difficult because delay is adding to the cost, delay is exacerbating the pain of the American people. I hope that we will, as the Senator from new Hampshire has suggested, come together after this process with a new spirit of our responsibilities as Americans to provide for the well-being to the extent that the Federal Government is an important partner is providing hope and providing that cultural reality and dream of America that each generation will have a greater opportunity at personal growth and prosperity.

Thank you, Mr. President.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas [Mr. BENTSEN].

MODIFICATION OF COMMITTEE SUBSTITUTE

Mr. BENSTEN. Mr. President, on behalf of the committee, I modify the committee substitute with changes which I now send to the desk.

The PRESIDING OFFICER. The Senator has that right. The committee amendment is so modified.

The modification of the committee substitute amendment is as follows:

I. First change (to section 1001):

On page 641, line 14, strike "40,000" and insert "47,500".

On page 642, line 1, strike "40,000" and insert "47,500".

On page 642, line 2, strike "10,000" and insert "12,500".

II. Second change:

On page 910, line 17, change "1994" to "1993".

Mr. BENSTEN. Mr. President, I would like to make a couple of points. I listened to the distinguished Senator from New Hampshire, an eloquent, articulate man for whom I have a very high regard. I think he made some very salient points. But there are a couple of points I would like to make.

I keep hearing the administration talking about this bill as a tax increase, but what we have done is revenue neutral. We have matched the tax increases with tax cuts. I cannot help but recall back in 1986 when the administration was pushing their tax bill which increased taxes for some, and lowered others. They did not call it a tax increase bill then.

I also recalled the words of Lincoln referred to by some of my colleagues. No one here is talking about bashing the rich. Not at all. We are talking about the responsibility of all citizens to bear their fair share of the burden. Indeed, Ronald Reagan asked this very body to enact a bill which would have imposed a 35-percent rate for people making $70,000. That was his proposal.

By contrast, our bill would impose only a slight higher rate of 36 percent for individuals making over $175,000. A much smaller group of people than would have been their tax increased under the Reagan proposal. And then under our proposal only the top seven-tenths of 1 percent of people would face the higher rate. And even for those people, the rate would be lower than rates in countries that we compete against—West Germans, Japanese, or the United Kingdom.

What this bill addresses is sharing the responsibility for our Government. To do that, we have focused on those people who we think have taken the biggest hit in the 1980's. These are the people who read the supermarket ads and clip coupons before buying the families' groceries.

Those same people who when they have a child who starts running a fever and they have to take that child to a doctor or to a hospital, they realize that they are making not just a medical decision but they are making a financial decision at the same time.

These same people who if they have children old enough to go to college the first thing those parents do is reach financial aid information before the academic standards information.

The bill would provide a 25-percent tax cut for an average family of four. If they start putting the $300 a year aside for the child from the time he was born, compounded at 8 percent, they would have about $15,000 by the time that child is ready to go to college. Will that be enough? No, but it is a contribution and a significant one. With a family with two or three children the tax cut will even have a bigger impact on that family's future.

So we ought to keep these facts in mind as we address this significant piece of legislation. I will have more to say at a later time about the offer of my friend from Michigan. I understand his objectives. I am interested in those objectives. I share in those objectives. But this bill will accomplish deficit reduction of $9.5 billion. In the meantime, we are going to take care of some of the significant problems for middle-income people.

Mr. COHEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine [Mr. COHEN].

Mr. COHEN. Mr. President, I have been in the Senate a bit longer than the Senator from New Hampshire, but I must say his speech on the floor today was one of the most passionate, powerful, and compelling statements ever delivered on the Senate floor. He is not one who is known for dissembling or understatement, to say the least. I know he is going through a personally agonizing time on trying to determine whether he is going to return to this institution or not, and I truly hope that he will choose not to leave.

I think he is correct when he says that our presence here is fleeting; it is evanescent. But I do think while we are here, whatever contributions we make do, in fact, make a difference, for better or for ill.

Without in any way diminishing the significance of the contributions that have been made by many of my colleagues, I would have to say that during Senator RUDMAN's limited tenure in this institution, he has had as great an impact on as many different issues that could possibly come before this institution as any individual who has served here for a much longer time.

So I truly hope that he will, as he agonizes over whether or not he is going to return, be persuaded that this institution does, in fact, intend to measure up to its responsibilities.

Last night, after we closed the Senate for the evening, I went home and did what many of us do almost automatically and that is to turn on C-Span. As if one could not get enough of politics during the day, one should even digest more during the late hours of the evening. I watched a speech given by former President Richard Nixon regarding global security. Mr. Nixon said, in so many words—and they were very eloquent words—that unless the United States acts quickly and substantially to help Boris Yeltsin as he tries to lift his people out of the ash heap of communism, then we are likely to see Boris Yeltsin fail quite soon; that we are likely to see a return to an authoritarian dictatorship within the commonwealth of independent states, with competition among the individual states; that we are likely to see a re-emergence of a type of threat that we have been dealing with for the past 30 or 40 years, and that ultimately we will end up by forcing ourselves to re-arm, to increase rather than decrease defense expenditures; all to the detriment of our children and grandchildren.

And so, even though it is unpopular and even though President Bush is currently being pressed by a Republican rival, President Nixon suggested, indeed he called our for leadership in the field of foreign policy. And there are quite a few within this Chamber—I know of Senators LUGAR, NUNN, KASSEBAUM, BRADLEY, and others—who share the conviction that we have to make a substantial contribution to the former Soviet Union, in order to at least try to avoid what would otherwise be a catastrophic result.

Mr. Nixon, of course, was talking about the long term, suggesting that short-term politics can be very bad. No one wants to be seen as giving away money or contributing to another country's economic resuscitation at a time when our own country is in such deep economic stagnation. But I think we have to accept the challenge of helping Boris Yeltsin.

We have another challenge before us and that is how to lift America out of its economic stagnation and how to rescue our children from the ball and chain—Senator LEVIN called it the albatross—that we have hung around the necks of our children and grandchildren in the form of annual deficits now in the range of $400 billion. These deficits are scheduled to go down in the near term but, ultimately, toward the end of the decade, to go even higher, $700 billion, $800 billion, perhaps even approaching $1 trillion. Unfortunately we have lost the desire and the ability to discipline ourselves, and that blame is collective. It is bipartisan. As Senator RUDMAN pointed out, Democratic and Republican Congresses and administrations alike are at fault.

I remember when Jimmy Carter was President the deficit, as I recall the deficit was between $40 and $60 billion, and we on this side of the aisle were shaking our fingers in horror saying, "Imagine. Look what this man has done to this country's fiscal integrity—$50 billion. It is outrageous. Let us remove him from office."

Then we had Ronald Reagan. The deficit went up to $200 billion and many still said that it was not a problem. As a percentage of the gross national product, they said, the deficit was not something about which we should be concerned.

I spent a good part of yesterday rereading David Stockman's book, "The Triumph of Politics." It is very discouraging reading. What he said was that triumph of politics essentially amounted to the fact that we blocked spending cuts and we blocked revenue increases all the while preaching that the deficit really did not matter.

Back in 1985, when Senator DOMENICI, Senator DOLE, and others tried to put a Republican package together that called for some politically unpopular cuts, we were able to pass that with the help of now Gov. Pete Wilson by one vote. He was taken out of the hospital, wheeled on to the Senate floor, and in a very dramatic moment cast his vote in favor of the Republican alternative. But, before the echo of his vote had even faded from this Chamber, the vote was disavowed by President Reagan because it included Social Security.

I was here that evening and the next day in this room back here discussing this matter with Senators RUDMAN, GRAMM, and others. And we said, "What do we do now? What in the world do we do now?" This was, we felt, our best hope for getting control over a $200 billion deficit at that time. I remember one of us, quoting Thomas Jefferson, who said that, "Whenever one generation spends money and taxes another to pay for it, we are squandering futurity on a massive scale." That is precisely what we were doing back in 1985, and we have managed to even expand that squandering in the 1990's.

That night gave birth to Gramm-Rudman-Hollings. We said we have to do something. Senator RUDMAN said it was a bad idea whose time had come, and there were many who simply disavowed it, saying it was a meat ax; it was irresponsible; it usurped Congress' responsibility to make decisions and priorities. And we said, you are right, but we have run out of excuses; we have run out of mechanisms; we have run out of the ability to discipline ourselves, and so we will hold the guillotine above our heads and say, if we do not do our job, the blade will come down automatically.

Mr. President, the people in this country are angry. They are angry because they have not been led. They have actually been misled. They have been told over the years—and all of us must share the collective blame—that they could simultaneously have tax cuts and entitlements and a strong national defense. We swallowed rigged OMB numbers, while we prayed at the altar of a god that proved to be false. And we stood here and we cursed the tenacity and the longevity of the welfare state even as we nourished it. We promised the American people they could have more while paying less, and now they are angry as they see the results.

We have a stagnant economy. Jobs that are being lost. Factories that are being closed. Charges are being made that we are no longer competitive with the Japanese or West Europeans. So the American people are angry, and justifiably so, because we had the opportunity to lead and we chose not to.

One political philosopher, in talking about another age, said, "If you teach a people for 10 years that the character of its government is not greatly important, that political success is for those who equivocate and evade, if you tell them that acquisitiveness is the ideal, that things are what matter, that Mammon is God, you must not be astonished at the confusion in Washington. You cannot set up false gods to confuse the people and not pay the penalty."

We are paying the penalty. Those words, written by Walter Lippmann, at a time and in a different context about what we had done between 1920 and 1940, and he wrote,

> For myself, I like to think these days of the words of Washington when Governeur

> Morris reported, words spoken when the Constitutional Convention in Philadelphia seemed about to fail. * * * and Washington said, "If to please the people we offer what we ourselves disapprove, how can we afterward defend our work? Let us raise the standard to which the wise and the honest can repair."

What was the standard to which Washington was referring? He said:

> It is written, you took the good things for granted, and now you must earn them again. It is written, for every right that you cherish, you have a duty you must fulfill. For every hope that you entertain, you have a task you must perform. And for every good that you wish to preserve, you will have to sacrifice your comfort and your ease. There is nothing for nothing any longer.

Mr. President, I think we have reached that point in our political history when we have to come before the American people and tell them there is nothing for nothing any longer. I do not support the measure that has been brought forth by the Senate Finance Committee notwithstanding a number of provisions within it that individually I could support. The fact is, however, that it will do very little to stimulate this economy, to create jobs, or to reduce the deficit.

I am certainly not opposed to tax fairness. I am not opposed to raising taxes on the wealthy, provided that those tax increases go to reduce the deficit. I know that is a view not widely shared on this side of the aisle. But, that is not the reason I will oppose the finance committee's legislation.

I believe the single most important thing we can do for the long-term benefit of this country is to reduce the deficit. Every single economist coming before the committees has said two things: Do not look for quick fixes, and reduce the deficit. That will do more to help the future of this country than anything else you can possibly do. We have chosen, for the time being, to ignore that advice.

While I support Senator LEVIN's amendment, I would prefer to see 100 percent of any tax increase go for the deficit reduction. At least the 75 percent number that Senator LEVIN has called for is a significant contribution to doing what we should have been doing all along.

For that reason I intend to support the amendment of the Senator from Michigan.

I would like to also offer a few comments on the underlying bill.

Mr. President, these are difficult times for many Americans, especially the unemployed. I have met with many constituents in Maine who have given me first-hand accounts of how difficult the past 2 years have been for them.

Maine, like the rest of New England, enjoyed tremendous economic growth in the 1980's. This growth, however, came to a crashing halt in 1989. Since then the unemployment rate in Maine has more than doubled. On a national scale, it is clear that not everyone benefited from the economic growth of the 1980's. Indeed, for some segments of the population, wages have been stagnant for two decades.

Throughout the 1950's and 1960's, the annual rate of productivity growth averaged over 2.5 percent. This meant that each year the average worker became 2.5 percent more productive. At this rate, our standard of living will double every 15 years. When the economy was enjoying a 2.5-percent increase in productivity, we could safely expect our children to enjoy a better standard of living. In recent years, however, many fear that their children will not do as well. The reason for this relates to the fact that since 1973 the annual rate of productivity growth has dropped to about 1 percent. This has had a dramatic effect on our standards of living. If productivity had continued to grow at its pre-1973 rate, the average family income today would be $47,000 rather than $35,000.

The task for Congress is to understand why there was such a dramatic drop in productivity growth in 1973. Economists have been struggling with this question for two decades now. While some explanations have been offered, including the oil shocks of the early seventies, a decrease in the amount of public investment in infrastructure, increased competition from abroad, the cost of government regulation, there is still no consensus among economists as to the real causes.

Even if we do not fully understand the causes of the productivity slowdown, we certainly know the results, lower wages. In the face of lower wages, however, consumption was not reduced. Rather, we tried to find ways to accommodate for these lower wages.

First, we borrowed. Credit cards and other forms of debt increased significantly in the 1980's. Debt allowed us to maintain a higher standard of living but only for so long. By the end of the 1980's, the burden of an ever-increasing debt had become intolerable. One of the reasons the current recession has been so persistent is that consumers finally reached the point where they decided it was time to pay down their debt. I think some of the lack of consumer confidence we keep hearing about simply reflects an unwillingness by many Americans to go further into debt. It's an unwillingness that makes a lot of sense. It's regrettable that Congress does not have a similar aversion to debt.

Another way we tried to compensate for the decline in the growth of wages was to send another family member into the work force. In most families, both parents now work. Adding another income to a family obviously raises family income. But, like debt, it is not a cure-all for the underlying economic problem. Just as we have run out of credit cards, we have run out of spouses to send to the workplace.

So where does this leave us? Is there anything that can be done to improve the economic future? Yes.

The best remedy for our short-term problem—the recession—is through monetary, rather than fiscal, policy. Lower interest rates will spur the economy more effectively and more quickly than changes in the tax code. Fiscal policy is slow in its effects. By the time these effects would be felt, the recession would be behind us.

The best remedy for our long-term problem—economic growth and competitiveness—includes reducing the deficit and improving the skills of our workers.

Unfortunately, the bill before us does little in either respect.

It confounds logic that, in the face of a $400 billion deficit this year, we would implement a $31 billion tax cut. It is hard to believe that only 18 months ago we were struggling to raise taxes and cut spending in order to get a handle on the runaway Federal deficit.

The deficit is the single most damaging problem in our economy today. Our economy suffers from a lack of savings and a lack of investment. Both deficiencies are caused by excessive public borrowing. We seem completely unable to come to terms with this deficit. We all lament it and make speeches about it but we seem unwilling to do much about it.

Last week, Robert J. Samuelson, writing in the Washington Post offered the following insights:

> The larger task of politics—to help society deal with difficult choices and conflicts, has been all but lost. The massive apparatus of political persuasion is turned increasingly to mislead people. Our leaders won't discuss the limits of government, the excessive promises of the past or the inadequacies of present programs. Politics has become an unending advertising campaign in which symbols substitute for substance.

This criticism certainly applies to the bill before us. The bill has all the right symbols. The title includes redoubtable words like "fairness" and "economic growth." But the bill is likely to produce votes more than it will jobs.

On the fairness issue, let me say that it is misleading to suggest that the wage stagnation that many Americans experienced in the 1980's was due to an unfairness in the Tax Code. Perhaps, a new top rate is warranted. My complaint is not necessarily with a tax increase. My complaint is that unfairness in the Tax Code is being offered as a cause and a remedy for the wage stagnation that many experienced in the 1980's. Let's be clear: Eighty-three cents a day will not reverse the fortunes of American families. Suggesting that it will is a disservice insofar as it offers false hope to struggling Americans.

If we want to offer some real hope for American families, we should invest more in them—in education and in job-training. The National Center on Education and the Economy published a report in 1990 entitled, "America's Choice: High Skills or Low Wages." This report reached the same conclusion that many others have reached, namely that for America to continue to compete internationally and maintain the standard of living we would like, we must raise the skills level of our work force. I have no doubt that every Member of the Senate shares this goal. We must make the decisions today to make this a reality.

I think the American public knows that we cannot change the long-term economic prospects of this country around overnight. I think there is a willingness to face up to some difficult realities. Certainly, the recent poll showing that only 22 percent of the public give Congress a favorable rating should tell us that the American people are hungry for leadership.

Unfortunately, the bill before us will not lead us out of the valley of economic stagnation.

Despite its title, there is little in the bill that will promote economic growth. For the past 2 months we have called every respectable economist we know before one or another congressional committee. With few exceptions, most offered two suggestions. One, don't try to find a quick fix to the recession. And, two, if you really want to help the long-term economic growth of the economy, cut the deficit.

The advice has been conveniently ignored. Deficit reduction will wait for another year.

I do not criticize those who believe that a new top rate is warranted. My criticism lies with how these new revenues would be used. In the face of our looming Federal deficit, it would seem that any new revenues—if justified—should go to deficit reduction. Raising taxes for the sole purpose of reducing the deficit would do a lot more for long-term economic growth than using these revenues to fund a meager tax relief for the middle class.

So, Mr. President, I would encourage my colleagues to reject this tax bill and to resist broad-based and costly tax cuts that will provide little short-term stimulus to the economy and runs the risk of undermining our long-term economic growth.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER (Mr. KOHL). The Senator from Arizona.

Mr. DECONCINI. Mr. President, I wholeheartedly support the amendment before us by the Senator from Michigan, and compliment him, along with the Senator from Florida and others who have worked in this area.

This is really a fairness amendment because it is really fair to everyone. It is fair to the wealthy because they are only going to pay a fair share of their income. It is fair to the Americans who need work because it understands the problems that we are facing today in this country, the need for job training, and investment in job programs. It is fair to our children and our grandchildren whose future we must stop mortgaging.

That is the underlying fairness of all the fairnesses that are so perfectly stated in this amendment. It is fair to the middle-income Americans who are more frightened of the deficit than are their political leaders, I am afraid.

Wealthy Americans: Nothing is finer than for the capability of someone to inherit wealth in the United States and you can pass some of it on, to your children. But over the last 15 years the wealthiest 1 percent of taxpayers have seen their income increase dramatically and their tax rates decrease dramatically.

The wealthiest 1 percent of the taxpayers have had their incomes increase by 113 percent between 1977 and 1992, which is reflected on this chart. One percent of our population from 1977 to 1992 have seen their income increase by over 100 percent.

That is nice if you fall into that category. I understand that. Who would not want to be in that category.

In the same period of time from 1977 to 1992, that same 1 percent of the population has seen their Federal taxes plummet over 17 percent; Over a 17-percent tax decrease.

The poorest have had some tax decrease too, 8 percent, which is nothing to shake your head at, and not insignificant. And we have seen some slight increases in the middle-income areas. But the richest people in this country have had a 17.6-percent decrease in taxes.

That is what the distinguished Senator from Texas has attempted to demonstrate and explain time and time again on this floor, that it is time that we reverse this long period of inequity that we felt was going to bring us economic prosperity, and indeed has not.

This is just literally not fair. It is not wrong. It is not illegal. But it does not mean that we are not being fair in our tax system.

This amendment that is before us by the Senator from Michigan retains all of the increased taxes on the very wealthy in our society. Like the underlying bill, the top seven-tenths of 1 percent of Americans will see the tax increase, none other—just seven-tenths of 1 percent.

Who are the wealthiest seven-tenths of 1 percent in this country? Couples who are filing jointly with taxable income of $175,000. It is estimated that the gross income will be in the neighborhood of $225,000. Those are the wealthiest people in this country.

Single filers with taxable income of $150,000. It is estimated that their average gross income of $150,000. It is estimated that their average gross income would be $200,000. These are the individuals who, through hard work and because of our system of free enterprise, have profited by living in the freest nation in the world. It is a system that rewards hard work and rightfully so. They should be willing to equalize this, I think, without a howl or a scream, particularly when the underlying bill offers some incentives for jobs, and particularly more so with the underlying amendment that is before us today by the Senator from Michigan.

Among the Americans who need work today are those unemployed people, those untrained people. Our unemployment stands at 7.3 percent, the highest in more than 6 years. Over 9 million fellow Americans, people that we know in our communities, are unemployed in this country. They cannot find a job. In Arizona, the State jobless rate is 9.3 percent, the highest since 1983. The numbers are continuing to rise.

Between the end of November and the beginning of February, New York's unemployment claims increased by more than 26 percent.

As my friend from Florida knows. In Florida, it is more than double during that period of time.

Later during this debate on this bill, I will offer an amendment to partially address these unemployment problems. This amendment seeks to put people back to work. It will alleviate some of the pain.

My amendment will allow individuals who are receiving unemployment benefits for 12 weeks or longer to withdraw funds from their IRA accounts with no penalty. I am hopeful that the distinguished chairman might accept that amendment.

I feel so strongly, having experienced in Arizona a number of people who lost their jobs through bank mergers and S&L failures, competent, hard-working, capable people, who had savings and could not find employment; one of them for over a year; withdrew that savings to live on and had to pay the penalty. That is wrong. I will address that later.

This amendment before us today, by the Senator from Michigan, will help unemployed Americans in the following ways: It provides job training. Nothing is more fundamental than to have a work force that is prepared and capable of meeting the demands.

In fiscal year 1993, $5.3 billion for infrastructure projects including $2.3 billion for highway construction and maintenance, $1 billion for transit spending in that area, $2 billion for airport improvement programs.

Somehow in the debate here and in the President's State of the Union Address, interest in deficit reduction has disappeared. There are many of us who have stood on this floor for years talking about deficit reduction. We have voted for deficit reduction. That is what this amendment is all about—true deficit reductions.

We were all very concerned when the deficit, as the Senator from Maine pointed out a few minutes ago, was $30 or $40 or $50 billion during the Carter administration. My God, how can we tolerate this? When it reached $70 and $150 billion, and even $200 billion, we all pointed the finger at the administration, Congress, or somebody for letting this deficit get out of control.

We enacted this supposedly great discipline, Gramm-Rudman-Hollings, which turned out to be a joke, because we were not prepared to let the sequester come upon us. I understand the significance had that occurred, but nevertheless we dodged it when the time came.

And $399 billion deficit is the largest number we have ever had, and that is what we face today. Here are trivia questions for your kids regarding $399 billion, which is a lot of money. If counted in seconds, it is over 12,000 years. In dollar bills it is 38.5 million miles of dollar bills. It is astronomical; it is out of control. Something has to be done. Most of the $399 billion is money that our children and our grandchildren will have to pay, as it adds on and on to the multitrillion-dollar deficit, $3.7 trillion that we have incurred.

Since 1980, the Federal debt has increased over 400 percent. That is a big increase in 12 years. In 1980 the national debt was $900 billion. In 1992 it is over $3.7 trillion. By 1995, if we continue on this path that the Bush administration set out in the State of the Union Address in and its budget, it will be over $5 trillion.

The President glossed over the deficit of $399 billion in his State of the Union Address. He did not offer any deficit reduction. Since 1975 the amount spent on interest has doubled. In 1970, 7 percent of outlays went to interest on the debt, $14 billion. In 1990, 14.7 percent of outlays went to interest for the national debt, for a total of over $184 billion.

What can we do about the deficit? What are we going to do about stopping it? That is what the amendment of the Senator from Michigan is all about. In this amendment, 75 percent of the money, by eliminating the middle-income tax credit, goes to deficit reduction. No ifs, ands, or buts.

You will hear arguments saying you cannot really apply it to the deficit. Somebody will come in and offer an amendment that is a sweetheart, and everybody will spend the money.

I say that I do not think so. I think if this amendment is adopted, it will put this body on clear record that we want deficit reduction. We think that is just as important as jobs or anything else we can do in order to move the economy.

Everybody tells us what the middle class wants, and that they want a tax cut. That is what we hear. They want a tax cut.

I go to my State almost every weekend, and that is not what I hear—give me a tax cut.

I hear: "Why do not you get your act together in Washington and reduce the deficit?"

"By the way, Senator, you have been talking about it for a long time." I have to explain what I have done about it.

"So what are you going to do when the economic program comes before you? Are you going to support the President? He does not do anything to deficit reduction, or does he, Senator?"

I say, quite the contrary. As a matter of fact, last evening we turned down the President's proposal, because it adds $24 billion-plus to the deficit.

If there is anything that we do not want to send out of this body, it is that we do not care, we will just add it to the deficit. The President has the gall, a few blocks away, to criticize the Democratic Congress when he is willing to pile on $24 billion more of deficit.

This Senator, the Senator from Michigan, the Senator from Florida, the Senator from Illinois, and others who have joined in this amendment, want to apply that money—some $21 billion or more—to deficit reduction, direct deficit reduction.

An opinion poll done by Opinion Research Corporation, as Senator LEVIN has quoted here and inserted in the RECORD, needs to be restated. The question is really more important than even the question of this amendment, because the amendment does not touch anybody's taxable income until it reaches $150,000 or $175,000.

But the question is—and I wrote it down when the Senator read it to our caucus: "If taxes were raised on individuals with incomes of $100,000 or more, which of the following would be the best way for the Government to use the additional money?" And 44 percent said they believed it should be used to increase spending on domestic needs.

That is in the Senator's amendment. It is in the chairman's bill to do something about domestic needs. That is why this bill has a lot of good in it, even though it does not go to deficit reduction.

No. 2 is: 27 percent said it should be used to reduce the deficit. That is exactly what the Senator from Michigan has addressed in this amendment. And only 22 percent recommended a middle-income tax cut.

I am not suggesting that a $300 tax credit is insignificant. To someone making $35,000 with two children, getting a $600 tax credit, that is significant. But it is not what this country needs, nor is it what the country is calling for.

I do not think we can afford it today. With the imbalance of our tax system today as to 1 percent of our population, we have to do something to reverse that. Senator BENTSEN has found a combination that makes sense of how to invest some of the money that is going to be raised by equalizing the taxes on that 1 percent, things that I know he has worked on for a long time, such as capital gains, and increased savings, and passive losses in a restricted area—things that I have supported in the capital gains area for years—I am sure sometimes to his exasperation.

But he has molded a bill to include this, so that Senators like myself and others can proudly support such legislation. The only failure is that it does not apply enough to the deficit until the sixth year.

I compliment the distinguished chairman for trying his darnedest to balance this with an income tax credit. And I have talked to him over the years, and I know he is as committed to deficit reduction as anybody in this body. Nobody will convince this Senator otherwise.

The issue is fairness. We have to do something that equalizes it. The Finance Committee bill does that. We have to do something to reduce the deficit. The amendment of the Senator from Michigan speaks so clearly to that. I hope people will support this amendment across the board, Democrats and Republicans. It is not the death knell. It is not going to defeat this bill. It is going to make it stronger.

I would love to see a bill go to the President, because I think he has the capability of changing his mind again when it comes to deficit reduction. He changed his mind on the agreement of 2 years ago, the budget agreement, and he said he made a mistake. He can say he made a mistake now that he will go for fairness and deficit reduction. Is that political? Perhaps. But it is good for this country and for the people of this country to know that this Senate, this body, is prepared to reduce the deficit and do it today. I thank the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Indiana.

Mr. COATS. Mr. President, I want to begin by acknowledging the sincere efforts of the Senator from Michigan and those who have joined him in offering this amendment relative to their concern about the growing deficit, and their attempt to address that concern, at least in this small way, by modifying the current bill to acknowledge that there needs to be serious focus on the alarming increase in both our annual deficit and our national debt.

For those of us who for years on the Republican side like to label our colleagues across the aisle as the tax-and-spend party, it is heartening to see a number of them discuss, as I think we all should be discussing, the shocking increase in our national debt and the implications that that has not only for our near-term economic future but particularly for the long-term future of this country and the burden that it is placing on future generations.

So, I, in one sense, am encouraged by what I hear and see coming from the other side of the aisle relative to that acknowledgement and hope that this is the beginning of a serious effort by this Senate body and this Congress in addressing what I think is perhaps our No. 1 domestic concern.

What I am concerned about, however, in this particular amendment, is that it attempts to free money for deficit reduction by striking perhaps one of the most important fairness provisions incorporated in the legislation before us. For years it is the American family struggling to raise their children and pay the bills, the mortgage, and send their kids to school, meet transportation needs, and so forth, that have been at an extreme disadvantage within the Tax Code relative to the percentage of income that they pay as opposed to others.

So the elimination of the $300 credit as part of a way of achieving a pool of money to be used for deficit reduction I think is exactly the opposite way to go.

Most Members know that in 1948 the Congress, recognizing the fact that the American family needed help in support of raising children, instituted the personal exemption—setting that figure at $600 per year. By any measure, if you look at the increase in cost of living or the cost of raising a family, that exemption should be substantially higher than that.

Over the years, between 1948 and 1986, that exemption was gradually raised to the $1,000 level, and I was proud to be part of the effort in the Congress in 1986 to double the exemption in the 1986 Tax Reform Act. However, even with that doubling of the personal exemption, by any measure, it was at least two and some say four times less than what it ought to be if it had kept pace with the value or the earning power of that personal exemption in 1948.

While it may have only cost $600 per year to raise a child in 1948, the Family Economics Review estimates that the cost of raising a child born in 1989 and raising that child to the age of 17 in a medium-income family will average out to $8,452 per year. I expect for many families given their geographical location and special needs, annual expenses would be even higher than that.

So when we are looking at a situation in which a very modest attempt to recognize that disparity and address that element of unfairness is brought to this floor, even that is used as a basis for achieving another purpose.

So I think my reservation here relative to this amendment is the fact that while it seeks to achieve a very desirable end all, it does so on the backs of the very element and entity in our society that is most hard pressed. The American family is struggling today—we all know that. We know that more and more members of the family are working just in order to stay even.

According to the Economic Policy Institute, declining wages, increased work hours, and fewer vacations have created the overworked American of the 1990's.

The amount of time parents spend with their children has dropped roughly 40 percent since 1965. According to a recent poll, Americans believe parents having less time to spend with their families as a result of economic pressures is the single most important reason for the decline in the family in our society.

I think there are many reasons for the decline of family. There are many cultural, societal, and moral influences that are at work in our society that have contributed to this. But certainly one that we are directly charged with addressing.

Between 1969 and 1989, the annual time worked by an average American rose by 158 hours, adding nearly 1 month of work to a year. The upward trend in work hours has been most pronounced for women who have entered the work force in increasing numbers in the past two decades. Young parents are putting in even more hours at work since 1969—241 more hours per year for mothers and 189 more hours per year for fathers. The total work force for single, fully employed parents rose by 222 hours or 5.5 weeks per year between 1969 and 1989.

We have now more middle-income families with both parents working than the entire cumulative history of our Nation. And giving these trends, I believe it is time for Congress to find ways to better protect the family in our Tax Code. It is time to reassess our priorities, particularly our priorities in terms of how we provide fairness for families.

The current child-care tax credit of $300 which we are debating today is a small amount. I think many recognize that. It is limited by the resources that we have available to address this need at this particular time. It is a small step that we can take to help families in today's difficult economic climate.

I for one who have introduced a number of pieces of legislation in terms of increasing the personal exemption or dealing with this problem feel that the $300 tax credit is the very least that we ought to do. Yet here we are faced with an amendment that strikes that provision in its entirety, and takes away even that small step of helping bring some element of fairness to families.

Yes, it is a desirable goal. Yes, we need to focus on the deficit. but let us not do it on the back of those people who were treated most unfairly within the Tax Code.

While we are on this issue, I would like to also express in my strongest terms my concern over language in this bill which eliminates the supplemental young-child credit portion of the earned-income tax credit. This supplemental tax credit was an integral part of the child-care compromise that was included in the 1990 budget agreement.

What it provided for was taxpayers with incomes under $22,370 a year with children under the age of 1 can either claim the dependent-care tax credit if they are both working, or the supplemental young-child tax credit if one parent opts to stay home with the newborn child.

While those who endorse this repeal claim it is necessary to expand the earned-income tax credit, this action to strike is a tax on parents who want to stay home and play a greater role in the early development of their child.

Having served on the Children and Family Committee in the House, and serving on the Children and Family Committee in the Senate, if there is one message that has come through to use loud and clear from child care experts across the spectrum of ideology, it is that those first early months in particular are absolutely critical in terms of a parent relating and bonding to a child. Bonding takes place over a lifetime. We should not presume that simply 3 or 12 months or even 36 months is all that is needed by parents in order to form those critical relationships that are critical to the development of that child.

But, at the very least, we recognized under the supplemental tax credit the importance of a mother staying at home for at least the first 12 months, trying to provide some incentive for her to do that. Yet with this bill we are now taking away that opportunity.

If the young-child tax credit should be separated altogether from the earned-income tax credit, I think that is an approach we may want to take. Legislation introduced by Senator GRASSLEY of Iowa, which I have cosponsored, would do just that. It would also expand eligibility for the credit to families with earnings up to $50,000 for children under 5.

There are scores of programs like the earned-income tax credit designed specifically to help impoverished families, as there should be. This commitment is consent and important. But we must not forget that it is middle-income families who have not only been forgotten, but given extra financial burdens. It is time to target this group for additional help as we have done in the past for others.

Mr. President, our families are our future. I believe that very strongly. As we discuss methods by which we can improve our way of life through a strengthening of our national economy, let us keep in mind the importance of strengthening the family economy.

For decades, the family has contributed to the massive expansion of our Government. They have paid the bills. They have shouldered not only their share but more than their share. It is time that we acknowledge this contribution. It is time that we acknowledge the growing hardships and pressures on family life in America. It is time, I believe, to more fairly represent the family in our Tax Code.

Thus, while acknowledging the efforts of my colleagues to address the very serious question of the impact of our deficit on the family and children and future generations, I do not believe that the solution to the problem is to take away now this one modest attempt to bring about some equity and some fairness through the Tax Code in terms of how we treat the American family. That is not the way to deal with our deficit problem.

I hope that we will defeat this attempt. But I also hope that this discussion, yesterday and today, will prompt a continued, serious discussion about the impact of our deficit on our families, on our economy, and on our future as a Nation, and that we can step to the plate and make some serious efforts at dealing with what I consider a very serious problem.

Mr. President, I thank the Chair and I yield back my time.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Chair recognize the Senator from New Jersey.

Mr. BRADLEY. Mr. President, the bill before us is not perfect, but the amendment before us is seriously flawed. I rise to oppose the amendment of the Senator from Michigan. I think the Senator from Michigan is correct in aiming at deficit reduction and investment in infrastructure and education. But I think he goes about it the wrong way. In other words, his goal is correct but his mechanism is wrong. He leaves in the loopholes that are in the bill, but strikes the already limited relief for families which is in the bill.

You might say, well, the children's credit is not perfect. That is probably right, but it is better than no relief for children and for families. And I hope that any credit that would emerge from conference would be more inclusive by being refundable, among other things.

Mr. President, I support raising taxes on the rich. I introduced a bill to levy a millionaire's surtax and use the money to help families send their children to college.

I believe if Senator LEVIN had proposed an amendment that would have struck not the limited relief to middle-income families, but instead struck the loopholes that are in this bill, he would have had my support. It is one thing to take out the relief for middle-income families, but it is another thing to leave in the tax breaks for upper-income families. And that is precisely what this amendment does.

It makes the distributional effect of the bill worse, not better. It eliminates the tax credit for families earning from $15,000 to $47,500, and it leaves in the passive losses, capital gains, and IRA restoration. In my opinion, he should have proposed striking those loopholes. That is not what he did.

Mr. President, I believe that if he had done that, he would have been on the right track—because I think that these provisions are not in our country's long-term interest.

For example, we are supposed to pass a 10-percent investment tax allowance. This is a little bit of "do it today, pay for it tomorrow." You spend $2.7 billion in order to convince manufacturers to invest today instead of tomorrow. The biggest problem with the proposal is that it unjustifiably favors certain industries over others. And it makes taxpayers pick up the tab.

In 1986, when we did the tax reform legislation, the idea was to get Government out of the game of picking winners and losers. We wanted to set low rates, and let the market decide where the capital should flow, the most efficient allocation of resources. Yet, the proposal for the investment tax allowance favors capital-intensive industries over other industries; it favors companies which invest in new equipment over those that invest in retraining their workers; it favors manufacturing companies over service companies; it favors companies who can adjust their plans and shift their investments up to a current year over companies which have a steady rate of investment over time; and, finally, it favors existing companies over new, entrepreneurial companies.

Mr. President, I just do not think that temporary, quick-fix measures like a 1-year break for equipment purchases are the best way to get out of the current recession. Creating a window like the one this provision would create simply encourages a flurry of short-term activity. What we have to do is increase our long-term investment rates, and the best way to do that is to lower the cost of capital by reducing the deficit and increasing private savings. We should not ask the American taxpayers to send out $2.7 billion in checks to large corporations simply to make our economy look better in the next 9 months.

Then, Mr. President, there is the passive loss provision. Many claim that the passive loss change in this bill will help solve the crisis in real estate, the crisis caused by the 1986 Tax Reform Act. Well, Mr. President, let us be open and honest. The crisis faced by real estate in America today did not stem from 1986; it stemmed from the 1981 tax bill, which threw money and tax breaks at the industry and created a market divorced from economic fundamentals.

The 1981 tax bill allowed a taxpayer to depreciate a building in 15 years, no matter if it lasted 40 years. The 1981 tax bill allowed S&L companies, that were even then incurring big losses, to deduct those losses against their income in the previous 10 years, thereby postponing the day of reckoning for the S&L's, and encouraging profligate lending. So let us not mistake what the cause of the present problems in real estate was. It was the 1981 tax bill, not the 1986 tax bill.

And what happened after 1981? Well, we built more commercial real estate in the 1980's in America than was standing in America in 1979. Let me repeat that: Because of the incredibly generous tax benefit in the 1981 tax bill that essentially had the taxpayers pouring money into the coffers of the real estate industry, there were more commercial office buildings built in the 1980's than existed in total in America in 1979.

The problem in the real estate industry is not that the developers do not get to deduct their passive losses; it is a 20-percent vacancy rate and a 10-year supply of office space already out there. That is the problem. The drop in real estate prices has less to do with the Tax Code than with the lack of tenants.

And, to illustrate my point, the sale of Rockefeller Center might be the best sale ever made. There is not a chance that it could be sold today for what it was purchased for. And, who knows, probably an American will buy it back at a reduced price.

The fact of the matter is that the problems in real estate date back a decade to the original sin of the period, the 1981 tax bill. But we are supposed to pass a provision that sends $1.9 billion to wealthy investors—that is what the passive loss provision does. Note that many of these investors invested after 1986, meaning they made their investment with full knowledge that there were no passive losses to be had.

A number of times, I have encountered people coming in, lobbyists, saying "We need passive losses, we need passive losses."

I say, "When did you make your investment?"

"1988."

"Well, there were no passive losses in the law. So you made your investment with the full knowledge you were not going to get it?"

"Yes. But we still need them."

It only illustrates the point.

Mr. President, I want to help business, American business, but I do not think that ideally one industry should be favored over another industry. Note we already have a $25,000 exclusion for developers earning less than $100,000 a year. So that means the vast majority of this $1.9 billion is going to go to the wealthiest in our society. We are supposed to pass a bill where someone can spend 500 hours managing a real estate property, rental property—500 hours, that is all—and receive a large tax shelter. But every time that we do this sort of thing, cater to the narrow interests, America suffers longer term losses. It would be a fundamental mistake to try to solve a short-term recession by doing long-term damage to our structural needs and to our massive budget deficits. The best thing we can do for real estate, in my view, is to keep interest rates low and to return to fiscal responsibility, thereby freeing capital for private investment.

But this amendment does not strike the 10-percent investment tax allowance. This amendment does not strike the $1.9 billion that is going to a few real estate developers, mostly wealthy.

This amendment also does not strike the IRA restoration. I know it is a very popular political thing to go into a hall and say, "I want to restore your IRA." The fact of the matter is that 73 percent of all Americans today have a full and complete IRA. But, under this bill we are supposed to spend $5 billion to give full and complete IRA's to wealthy Americans.

I support the goal of increasing the private savings rate. I just do not think this measure is going to do it. Every American already has access to a tax-favored IRA—every American. What does that mean? That means you can take your money and you can go down to the bank; you can put it in the bank and interest is going to accrue and you do not pay a tax on that interest as it builds up. When you take the money out you pay tax.

Now, roughly 75 percent of all Americans can also go down to their bank, put the money in the bank and get the deduction for putting it in the bank. We just will not be able to get much leverage over our national savings rate by giving fully deductible IRA's to the top 25 percent of the American population.

It does not make sense to me, as well, to, on one side of the tax bill, raise taxes on the rich—we are all for raising those rates on the rich—and then on the other side give it right back to the rich in the form of the passive losses and the IRA exclusion. Most of this IRA is going to go to the top 10 percent of earners in the country. So, on the one hand we are telling people we are really taxing the rich, but there we are, giving it back with the other hand.

I also have some concerns about the IRA provisions long-term deficit costs. It includes a back-loaded IRA, which means you can put money into your IRA, you do not get the deduction now, and the interest will accrue over time. Then, in 10, 15 or 20 years, you can take money out of the IRA and pay no tax at all. Of course, when you take money out of the IRA and you pay no tax at all, that means there will be no money coming into the Federal Government. You will have had an interest-free buildup for 15 or 20 years. CBO has estimated that the eventual cost of this IRA proposal over future 5-year periods could be eight times its original cost. By the turn of the century, the provision could cost an additional $10 billion a year in deficits.

This amendment does not do anything about that. This amendment wants to cut deficits. That is why we are removing the middle-income tax cut. But it does not do anything about the 10-percent investment tax allowance. It does not do anything about passive loans. It does not do anything about IRA restoration.

Finally, the amendment does not do anything to eliminate the alternative minimum tax provisions, $2.2 billion. It is important to remember why we have an alternative minimum tax. We wanted to make sure, in 1986, that corporations could not zero out their tax liability by taking advantage of loopholes in the code. Take the loopholes, you avoid the tax; but if you manage to do that, here is an alternative net that will catch you and you will have to pay taxes, because everybody in America—all Americans, all corporations—should have to pay taxes. It worked pretty well. The number of corporations that got away with paying no tax dropped from about 50 in America prior to 1986 to about seven, latest count. It worked pretty well.

What does this do? Among the loopholes that were included in the alternative minimum tax to be counted toward tax liability were accelerated depreciation under ACRS. Also included was percentage depletion and expensing of intangible drilling costs. While I continue to think the best solution is not to put in the loopholes in the first place, we should not get in the practice of selectively taking these preferences, out of the alternative minimum tax. And, of course, that is what this provision does for depreciation and for intangible drilling costs.

But this amendment does not eliminate that provision of this bill. This amendment does not do anything about moving depreciation out of the alternative minimum tax. It does nothing about moving intangible drilling costs out of the alternative minimum tax. That would pick up $2.2 billion in deficit reduction.

Then, of course, there is the capital gains provision. We are asked to reinstate the preference. I think the Committee was creative in the way we put the capital gains preference back in. It is not the one we had to deal with from the Republicans last night, which was a $15 billion measure. This is a more creative measure; it only costs about $7.7 billion. But the fact remains that the average break for a filer making $200,000 will be $1,414 and the break for the average filer making $30,000 will be about $207.

The point is less whether we should have an across-the-boards capital gains or a skewed capital gains—the so-called progressive capital gains—but whether there should be a differential at all. All the economists that came into the Finance Committee said capital gains will do little, if anything, to increase our savings or investment rates. Yet there it is. The investment we need is in plant and equipment, research and development, training, and health care, but we end up with creative capital gains. I do not want to see us return to the days where tax lawyers made their living recharacterizing income as capital gains when it was really ordinary income.

Maybe the biggest simplification we have had was equating the income that you earn from the sweat of your brow as a farmer in the fields of North Dakota or as a worker in the orange groves of Florida or in the factories of Wisconsin—that the dollar you earned from that should be taxed the same as the dollar somebody earns because they had the advantage of having enough capital to invest in some stock and sell the stock. That is what the principle was: All income treated equally.

So, while this is a creative way to get back to capital gains, it still reinstates the exclusion, still eliminates that parity. But this amendment does not do anything about capital gains. That is $7.7 billion. This amendment does not strike capital gains, just as it did not strike the exclusions from the alternative minimum tax, just as it did not strike the passive losses, and just as it did not strike the 10-percent investment tax allowance.

Then, of course, there are the extenders. Our failure to deal with extenders in a real way—up or down, keep them or get rid of them—is one of the regrettable developments of the last several years because, in effect, we are just going to keep passing them along. We extend them for 6 months, for 12 months, for 18 months. We say if we extend them for 12 months, then it only costs $4 or $3 billion, but if we extend them permanently, it would cost $10 or $12 billion. Then we come back.

That creates a problem. On two levels. On one level it creates the illusion that the cost of this bill is what is actually said. It is not, because when you extend these provisions, the cost is going to be greater. The other problem is maybe if we just made them permanent or if we just eliminated them, we could save enough in lobbying costs over the next 5 years to pay for the extenders. At least that merits consideration instead of extending and extending and extending and extending.

But, once again, this amendment does not do anything about the extenders. No, Mr. President, the amendment does nothing about the loopholes that are in the bill that benefit primarily the wealthy and the corporations. It does nothing. No, this amendment knocks out the limited middle-income relief and people then say, "We are for deficit reduction." If you are deficit reduction, then you have to eliminate the $20 to $25 billion that is in the bill that is essentially the extension or continuation or creation of new or old loopholes.

So, Mr. President, in summary, I do not think it makes sense to raise taxes on the rich and turn around and give the benefits back through narrow provisions in the code. At the very least, this package should do no harm to our economy, but to me that means we have to pay for it fully. Increasing the long-term deficit, I think, would be a disservice.

So I agree with Senator LEVIN that deficit reduction should be a priority of this Congress. I also agree with him that the richest people in this country, the people who did the best over the past decade, should pay more for their share of the common good. I agree this country needs to make long-term investments in our future with public spending for education, roads, bridges, high-speed rail, but with all these areas of agreement, the amendment clearly has a major flaw.

What this amendment does in simplest terms is knock out the remnants of the middle class tax cut that still exist in the bill, and when we do that, yes, we are raising taxes on the rich but, as I said, we are giving a lot of that money right back to them in the form of tax breaks.

I ask myself from time to time, why do we not just keep things the way they are instead of going through the charade of taking money with one hand and returning it with the other? If the Senator from Michigan wanted to come back to the floor and do that, it would be a tough amendment to vote against. But why are we protecting the few narrow interests at the same time we are eliminating the very narrow tax relief that is in the bill for middle-income taxpayers?

Deficit reduction, I believe, has to be the agenda, but when we do deficit reduction, we should not be favoring the wealthy and the corporations over middle-class taxpayers, and that is what this amendment does. It says, middle class, sorry, we are taking yours; we want deficit reduction, but, real estate, capital intensive industry, oil and gas, IRA's, banks, whatever, no, no, no, we do not touch you; you get $20 or $25 billion in this bill, almost as much as the whole middle-income relief package.

So, Mr. President, I urge we defeat this amendment, and I hope that we will have the votes to do that.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Texas.

Mr. BENSTEN. Mr. President, I listened to my friend from New Jersey make very spirited defense of the 1986 Tax Code and I think it accomplished a lot. But I think it went overboard in some ways to the detriment of the economy. For example, in 1985, I could see the see-through buildings in Houston and Dallas and other parts around the country. To combat the oversupply of buildings, I thought, as a result of accelerated depreciation, we should extend the depreciation period for those buildings, as we are doing in the bill. But in 1985 the lobbyists came down on me like a ton of bricks and they defeated me.

In 1986, however, I objected to retroactively imposing the passive losses rules. I said then that that will be a disaster, because limited partners—the doctors, lawyers, bankers—have no personal liability. As a result of the retroactive passive loss rules, they drop the investment. It will then go right back to the general partners. What happens to the general partner? He goes broke. And then what happens? The investment reverts to the S&L and as a result they are in deep trouble. I prophesied exactly what would happen when the rules were imposal retroactively, and we are paying for that now.

With respect to IRA's you have to have a carrot to get people to save in this country. The IRA provides that. The 1986 reduced the IRA's coverage substantially. What happened to savings, personal savings? In 1987, the year after the IRA's were limited in scope, there was a 30-percent plunge in savings. What happened during this time in Canada? Canada expanded their IRA and doubled their savings rate. Prior to 1986, it had been relatively constant with the United States and their savings rate has been maintained at twice our rate.

Now with respect to who would benefit from a universal IRA. According to two familiar IRA researchers who updated the work for the National Bureau of Economic Research Venti and Wise, 60 percent of IRA accounts and 50 percent of the assets were held by households in 1986 with incomes less than $50,000. Those are the realities.

There are two ways to increase savings. One of them is to get the deficit down, and I can sympathize with that view on the part of my colleagues, but another way is to increase savings so we can have the kind of capital and the interest rates where we can build the new plants, where we can complete with 10-year average age industrial plants in Japan compared to 17 years in this country. That is why the IRA proposal is in the bill.

But in trying to balance out these objectives, we felt it was very important to help those people who have been hit the worst in the last decade. And that means targeting moderate-income families with children.

My colleague from Michigan wants to strike the middle income tax cut, use the revenue to increase domestic spending on infrastructure, job training, and reducing the deficit. Those are certainly goals I agree with. But this bill accomplishes many of these goals.

(Mr. BREAUX assumed the chair.)

Mr. BENTSEN. We could reduce the deficit in the 5-year budget under the incredible arcane budget rules that are such that there is no way we could isolate the reduction and protect it. We could not build a wall around it. There would be a honey pot waiting for anyone who wanted to come up with his amendment, and I promise you many would be rushing to the floor to tell us how to spend it. We would never get to deficit reduction.

But when we talk about a $300 credit for a child, for the average family of four with two children—and the average income in this country is $35,000 a year for a family—those families would get a 25-percent tax cut and that is meaningful. That is why it is important that we oppose this amendment.

In talking about protecting the money for deficit reduction, you have to work within the reconciliation rules. Without reconciliation protection, any excess revenue is a grab bag for others to spend and that is limited only by the imagination of the Members and their staffs. And if their imaginations are not creative enough, there are a lot of lobbyists out there who can give them other suggestions.

Moreover, this amendment would convert a revenue-neutral bill into a tax hike, and whether the tax increases go to additional spending or deficit reduction, we would be passing a tax increase bill.

The Finance Committee bill represents a very serious effort on our part to reconcile different points of views within the Senate, particularly with respect to the deficit. We have a number of Senators who strongly disagree with the idea of reducing the deficit at a time like this. They say the economy is bad. We have people out of work. This is the time to increase the deficit and create jobs. Never mind the budget agreement. And on the other side we have those who say let us cut the deficit.

What you have seen is the finance Committee working with those different points of view and bringing what we think is a balanced answer to the different concerns. I responded to the concerns of many by paying for tax cuts within tax increases. Originally I thought we could pay for the tax cuts with the peace dividend, and there are others who thought that. But I changed my position when I discovered that this wasn't enough of a dividend to be used for current domestic spending.

In addition, I share the desire of many to channel defense spending into domestic needs like infrastructure and education. So when Rob Reischauer from CBO testified that we will need $133 billion to maintain real domestic discretionary spending at the 1992 level, I decided to focus on tax increases as the only viable alternative to pay for tax cuts.

Mr. President, we cut the size of the middle-income tax cut to respond to the concerns raised, we cut the cost of the original in half—to approximately $30 billion. The original proposal would have cost $60 billion over 5 years.

I must stress that this bill provides for $9,9 billion in deficit reduction over 6 years. The Finance Committee bill is revenue neutral over 5 years. However, the bill reduces the deficit $9.9 billion over 6 years. That compares rather favorably with the House bill which has $13.9 in deficit reduction in a much larger bill.

The question is whether we should do more. I agree that the deficit is a problem, but it is not the only problem. We have to get the economy moving again, and a contractionary fiscal policy could stifle economic growth when we need it now in the middle of a long recession.

I have joined with those who worked hard over the years to achieve meaningful deficit reduction. I worked with them in the 1990 budget agreement, which I now see the President turn his back on, and I strongly disagree with him on that. I am proud I participated in that. It is the only discipline I see in trying to cut back on spending.

We should demonstrate our concern about the deficit by continuing to adhere to that budget agreement. I know there are a number of economists, those I respect, like Roger Brenner, Lester Thurow, who certainly agree with us the deficit should be reduced but that they think the first priority should be engineering a strong recovery. I think that should be Congress' near-term priority, too. And then we can deal with the long-term problem when the economy is strong and this election season is behind us.

I take second place to no one in recognizing the neglect of the 1980's. A decade that has left America with many unmet needs, including a deteriorating infrastructure. But I believe that working Americans are a very major component of that infrastructure and they took a big hit in the 1980's.

A major component of the committee's bill consists of proposals to provide fair treatment of working families. We are all familiar with the recent numbers documenting in very stark terms the decline of American working families. They are working longer hours. The latest numbers show that they are working a solid month longer than they did 15 years ago, they are working harder than their counterparts in any major European country, earning lower wages, and paying higher taxes.

One of the most disturbing facts is that the middle class is shrinking. According to the Census Bureau, the middle class fell from 71.2 percent of the population in 1969 to 63 percent in 1989.

A recent study shows that during the 1980's, America went from eighth to dead last among all advanced countries in equality of income distribution.

Well, this bill, to a modest degree, will help reverse that disturbing trend, by providing a permanent tax credit for each child for families of middle income.

Under the Finance Committee bill, a family would be entitled to a $300 credit for each child under the age of 16. This is a partial response to what has happened to them over the last decade.

With respect to some of the figures cited, CBO projects that even with a recovery this year, the real after-tax income of the top 1 percent of families will more than double between 1980 and 1992, rising by $243,000 apiece. In contrast, the real after-tax income of the typical middle-income family will be $747 lower in 1992 than in 1980.

Once again, some people say that we are really harming the top-income people. We ought to keep that in perspective. We are talking about a rate of 36 percent for families making over $175,000 a year in taxable income. That figure would rise considerably if we looked at gross income deductibles—$175,000.

If you examine the individual who is making $1 million a year, how tough have we been on him? The bill would impose about 39 percent. What do you think the top rate is on people in competing countries like West Germany and Japan and the United Kingdom—over 50 percent on those people.

What do you think the difference is in the rate in this country today between a person making $35,000 a year and one making $1 million a year? The difference in the rate—3 percent. That is it.

This bill concerns sharing responsibility of government by trying to restore some fairness in the tax system.

To make matters worse for these middle-income families, the cost of necessities has risen faster than general prices. The $1,600 fall in families' real incomes during the 1980's understates the financial hardships they confront because the cost of necessities has risen far faster than general inflation.

Last year, housing required 44 percent of the average family's income compared with 28 percent in 1970. No wonder home ownership fell for the first time since World War II during the 1980's. Families must now work 30 weeks to buy the average priced new auto—up from 23 weeks in 1980.

I think poor wage growth and soaring housing costs may also account for the 30-percent leap between 1980 and 1990 in young adults moving back in with their parents. More and more young couples have gone to live with mom and pop who really would rather be out on their own. Mom and pop thinking that is a pretty good idea, too.

This bill addresses these problems by expanding the IRA, letting people withdraw funds penalty free to buy that first home.

Will the bill produce a booming economy overnight for us? Of course not. We did not get into this kind of a situation overnight. It has been happening over the last decade, and it is going to take strength and time and courage on the part of the leadership of this country to turn it around. This is a modest first step in that direction.

For example, the bill contains educational assistance.

I was looking at the Senator presiding over us today, the distinguished Senator from Louisiana. We have his proposal in this bill providing for tax incentives for youth skills training, and educational programs.

My friend from New Jersey, contributed to this also with his self-reliance loan proposal; a deduction for student loan interest in the bill here; extension of the exclusion for employer-provided educational assistance and targeted jobs tax credit.

Sure, I would like to do more for job training and education. But we have the constraints of the budget. But we have the constraints of the budget. But we have taken some big steps in the right direction.

A vote for this underlying piece of legislation is one for tax fairness.

But a vote for this amendment, I think, bypasses our concern for middle-income Americans and their children. I would strongly urge my colleagues to vote against it.

UNANIMOUS-CONSENT AGREEMENT

Mr. President, I ask unanimous consent that the time until 2 p.m. today be the time remaining for debate on the pending amendments 1712 and 1713, with the time equally divided and controlled in the usual form; that at 2 p.m., without intervening action or debate, that Senator BENTSEN be recognized to move to table the Levin amendment; that should the tabling motion fail, there be no limitation on debate on the pending amendments, provided no points of order are waived by this agreement; that upon disposition of these amendments, Senator HELMS be recognized to offer an amendment.

The PRESIDING OFFICER. Is there objection?

Mr. EXON. Reserving the right to object, and I shall not object, but I think this is the most appropriate time for the Senator from Nebraska to review and urge once again the moving ahead with some form of expediency on the matter that is before us.

I have no objection to any Senator calling up any particular amendment that they think is absolutely essential by which they want to make a point on reducing the deficit, and this Senator has been working on that for 13-plus years here in the U.S. Senate.

I would simply say that taking as much time as we are taking on all of these amendments with the clock ticking away, 8 days remain from the magic March 20 date. For reasons that are obvious to all we should finish our work on this, regardless of what comes out, whether amendments are adopted or whether they are not. My best guess is that none will be adopted.

I think and hope that we would get to the merits of the case without over-debating and overdelaying a decision on this very important matter that is before the U.S. Senate. So I will not object, certainly, to the very reasonable proposal offered by the chairman of the committee of jurisdiction.

I only add that from 10 o'clock this morning until 1:20 now, and 2-something, when this will come up, or whenever, under the unanimous consent agreement that was just offered, is too long a time, in the view of this Senator. We have already wasted enough time on this. Even though I am not saying it is not a worthy subject for discussion, I think few, if any, votes are going to be changed one way or the other on this.

I made a statement yesterday that because I thought it was wise that we proceed in an expeditious fashion, that the amendments should be left to a minimum. There are amendments that this Senator and others feel very strongly about that could appropriately be brought up on this bill. But trying to practice what I am preaching, I have urged restraint in those matters, and I certainly say that I have no criticism at all of the unanimous consent agreement that has been offered, except to say that I hope that similar unanimous consent agreements would be offered posthaste, or immediately after, or as soon thereafter as possible, for any future amendments that Members of the Senate feel obliged to bring forth.

I do not object.

The PRESIDING OFFICER. Is there objection to the unanimous-consent agreement?

Mr. CONRAD. Mr. President, reserving the right to object.

Mr. President, I understand the desire to move expeditiously. I just say that it is one of the most important debates of the year. I have been here waiting 2 hours to have a chance to speak, and I do not begrudge my colleagues expressing themselves. I want to make certain I have a chance to express myself. I feel deeply about this subject, and I know the Senator from Illinois, who is a cosponsor, wants time to speak, and I assume that the mover of this amendment wants a chance to speak. I want to make certain that I have 10 minutes, or a close approximation thereto, to express myself.

So if we can work that out among those who are here, I would be happy not to object.

Mr. SIMON. Mr. President, if my colleague will yield, if it is part of the unanimous-consent agreement that we can get 10 minutes for the Senator from North Dakota and 10 minutes for the Senator from Illinois, I have no objection.

Mr. BENTSEN. Let us understand where the Senators are coming from, which side of the amendment.

Mr. SIMON. I am supporting the amendment.

Mr. CONRAD. I am supporting the amendment.

Mr. BENTSEN. Then it is up to my friend.

Mr. LEVIN. We need 24 minutes. So you want to go to 8 minutes.

Mr. PACKWOOD. Mr. President, reserving the right to object, Senator DOMENICI would like 10 minutes.

The PRESIDING OFFICER. Does the Senator from Texas modify his unanimous-consent request?

Mr. BENTSEN. I have a problem as far as having cleared it on that side; that is my concern.

Mr. PACKWOOD. We are clear.

Mr. BENTSEN. Mr. President, I ask unanimous consent that we have the vote at 2:15.

Mr. PACKWOOD. Can Senator DOMENICI have 10 minutes?

Mr. BENTSEN. With Senator DOMENICI having 10 minutes and the Senator from North Dakota having 10 minutes and the Senator from Illinois having 10 minutes. Those will be charged to the appropriate sides, of course.

The PRESIDING OFFICER. Is there objection to the request as stated? Hearing none, it is so ordered.

Under the regular order, the Senator from Michigan will control time in support of the amendment, and the manager of the bill will control the time in opposition.

Who yields time?

Mr. LEVIN. I yield to the Senator from Illinois 10 minutes.

Mr. SIMON. Mr. President, I want to express my high regard for the chairman of the Senate Finance Committee, who has worked very, very hard in an area that is complicated. It is easy for those of us who have been part of this negotiation to be on the sidelines and say that we think we can do better. If the Levin amendment is defeated, the Graham amendment, in moving more rapidly on the deficit, is moving in the direction in which we ought to be moving.

We are talking about how we can help middle-class America. The best way we can help middle-class, middle-income America is to get our industrial base going, to create jobs, to assure people of jobs. And that is not going to happen unless we pay more attention to the deficit than we now are paying.

Just one little set of statistics. This next fiscal year, the estimate is that the gross interest expenditure will be $316 billion. This next fiscal year, for the first time in the Nation's history, the No. 1 expenditure of the Federal Government will be interest rather than defense or some other area.

We just cannot continue that indefinitely. I heard the other day our colleague from New York, Senator MOYNIHAN, say we are going down the road toward monetizing the debt. I do not think there is any question about that.

We are heavily dependent right now on Social Security retirement funds. Starting about the year 2010, those numbers are really going to start going up dramatically. At that point, whoever is in Congress, whoever is President, has one of three choices to make. You can dramatically cut back on Social Security benefits, and you can guess how popular that would be; or you could dramatically increase taxes, and you could guess how popular that would be. Or the third option is to print more money. That is the politically easy way out, and it is the most dangerous of all three options, but that is the direction that we are headed in if we do not do something about it.

I asked the Congressional Budget Office and the Congressional Research Service what part of the trade deficit—we hear a lot about that here—is caused by the budget deficit. They came up with a series of studies, and 37 to 55 percent of the trade deficit is caused by the budget deficit. It means that every time we increase the deficit, we are taking away jobs from middle-income America. We just cannot continue that.

I like to be popular as much as anybody else. I would love to vote for a tax cut for people. But I believe that if you ask the people in this gallery or ask the people back home: If you have a choice of a tax cut in an election year—frankly, that has all the earmarks of we-know-what—or should we start reducing that deficit and provide our children and our grandchildren a better future? I know what the answer is going to be. They want a better future.

This amendment moves in that direction. I heard my friend from New Jersey, Senator BRADLEY, criticize this amendment because it did not go far enough here or there, and I agree with some of those criticisms. But there is the old Shakespeare line that "the best is the enemy of the good." If we wait for that perfect amendment, it is not going to be here.

Yes, there are inequities. I voted against the 1981 tax bill. Senator CARL LEVIN and I were two of three Members on the floor of the Senate who voted against the 1986 tax bill. We have reduced the tax on the wealthiest Americans since 1981 from 70 percent to 28 percent, believe it or not. Hard to believe.

We have to do something about it. We have to get moving on the deficit. I recognize the chances are slim that the Levin amendment or the Graham amendment will carry. But I hope enough of us will stand up and say we have to do better, we have to be looking long term, and that is what his amendment does.

Let me just describe briefly one part of the long term, and that is to put more money into training. We are going to have to train people. Economists do not agree on very much, but one thing they agree on, you are going to compete with the rest of the world either through higher skills or lower wages, and we are going down the lower wage route. What this amendment does, among other things, is it takes $500 million and puts it into job training programs, and $100 million of that goes into title II, a JTP program which is for the economically disadvantaged. Do you know what percentage of those who need training and retraining we are reaching right now in that particular part of the program? Five percent. And yet every study shows it pays off. That is one thing it does.

No. 2, $100 million for the summer youth program. I do not think I need to tell anybody here why that is necessary.

There is $150 million for the general retraining program for dislocated workers. What happens to these General Motors workers when they are out of work? We cannot just keep them on welfare for the rest of their life. They do not want that, and the Nation does not want that.

And, finally, $150 million for the Job Corps Program. The Job Corps Program takes at-risk youth and trains them. It is very interesting. These young people, who are right on the edge of getting into trouble, 84 percent of them learn trades, get jobs, and instead of ending up in prison and having all kinds of difficulties, causing difficulties for society, contribute a great deal.

The Levin amendment, it seems to me, moves in the right direction. I am pleased to be a cosponsor of it. I respect my colleagues who are on the other side on this. We should provide more tax fairness, but jobs and providing for the basic needs of our society, I think, have to be the top priority.

Mr. President, I yield whatever time I may have remaining to Senator LEVIN.

The PRESIDING OFFICER. The Senator yields back 2 minutes. Who yields time? The Senator from Michigan.

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senator from North Dakota be listed as a cosponsor.

I yield him 10 minutes.

The PRESIDING OFFICER. The Senator is recognized for 10 minutes.

Mr. CONRAD. I thank the Senator from Michigan, and I thank the chairman.

Mr. President, I believe we are engaged in the most important debate we are going to have this year. I believe this debate going on right now is critical to the future of the country.

Mr. President, our Nation is in trouble. What could be more clear? This country is in trouble. The economy is dead in the water, and the prospects for economic growth over the next 5 years are bleak. It is the time to act, and to act boldly. It is the time to act bravely. It is the time to make a departure from the past.

The President has sent us an economic growth plan. When the Director of the Office of Management and Budget, Mr. Darman, came before the Budget Committee, I asked him: What will happen according to your projections, if every one of the President's proposals is adopted? How much will it increase economic growth?

Mr. President, the answer, from the President's own budget, is that if we adopt every single one of his recommendations, economic growth will increase only one-half of 1 percent per year. Most economists say it will not do that. That is not good enough, one-half of 1 percent a year of increased economic growth, when this country is dead in the water. We have to do better.

One of the biggest reasons we will see only very weak economic growth is that we are buried in debt. This year we are going to run a $400 billion budget deficit. The President has sent us a 5-year budget plan that proposes adding another $2 trillion to a national debt which is now $4 trillion.

This must be stopped. This Congress and this President have to take control of the economy, and we have to show the courage of conviction to put this country on a different course. What could be more clear?

Mr. President, we have an opportunity this afternoon to begin this task. We have an opportunity right now to turn this country in a different direction.

We heard this morning from the Senator from New Hampshire, who spoke passionately about the opportunity we have. He fears we will miss this opportunity. He fears that none of us can alter the course upon which we have embarked. I hope he is wrong. I hope that somehow, in the next few moments, my colleagues will come to this Chamber and cast a vote that will demonstrate real courage and that will send a message to America that we are ready to move in a different direction.

What difference does it make if we keep adding debt to debt? The difference it makes is this dead weight of debt is holding this country back. What could be more clear? We have very low rates of growth in this country because we are not investing enough. Our competitors, Japan and Germany, are investing twice as much in new plant and equipment as we are, twice as much. The average age of plant and equipment in Japan and Germany is half as old as the plant and equipment in our country. Unfortunately, that means their plant is more efficient, more productive, and more competitive, and that is why America is losing position in this world economy, and we have to do something about it.

Mr. President, we are not investing enough because we do not have sufficient savings in this country. Japan and Germany are saving two and three times as much as we are. The Federal Government is a major culprit because the deficits we reduce the pool of societal savings that are available for investment. That is why this debate is so important.

The middle class deserves a tax reduction, absolutely. But the highest priority right now, the highest need for the middle class right now, the highest need for every class right now is a stronger economy, and the best way to assure a stronger economy is to reduce this dead weight of debt. We have a chance to do it by voting for the Levin amendment.

What the people of our country really need is an economy that is more competitive, more productive, and that provides a secure job for those who want to work. That is what this debate is all about. We have a chance, in just a very few minutes, to turn in a different direction, to show real courage and real leadership.

Mr. President, I brought this chart that shows what has happened to the gross Federal debt from 1980 and what it is projected to be in 1996. This chart tells it all. The debt is headed straight up, and that dead weight of debt is going to hold back this economy, to reduce the competitiveness of America, and to reduce jobs and living standards for Americans. There is only one answer, and that is to start making the tough choices in this Chamber, in the other Chamber, and at the other end of Pennsylvania Avenue that will send us in a different direction.

I support the Levin amendment, and I applaud the Senator from Michigan for his courage. This amendment is a good place to start, turning this country on a different course. We ought to support it.

I thank the Chair and I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan controls approximately 9 minutes. Who yields time?

The Senator from New Jersey controls 26 minutes.

Mr. BRADLEY. Mr. President, the Senator from New Mexico [Mr. DOMEN-

ICI] has requested 10 minutes of time. I see him on the floor now and I yield to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. BRADLEY. If I can inquire, which side will the Senator be speaking on behalf?

Mr. DOMENICI. I say to the Senator, I am not in favor of either this or the underlying bill, so perhaps I will speak against the amendment, though I will not go into a lot of details about it.

The PRESIDING OFFICER. The Senator is recognized for 10 minutes.

Mr. DOMENICI. Mr. President, I rise today first to call attention to the Senate and to those who are interested in our proceedings that we have another bit of good news. I am not so sure the way things are developing in our country, by way of how our people get information about the status of the economy, that they will find out about it, but essentially, consumers appear to be on their way back.

We now have another report with reference to retail sales. They rose 1.3 percent in February and 2.1 percent in January. That means the January figure that was estimated before, has been revised upward for a more modest six-tenths of a percent. These two increases are the strongest 2 months since 1985. I think that bodes good news for the recovery of the American economy.

But I choose today to speak on a second point, with reference to where the debt of this country is really going, and to compliment the distinguished Senator from New Hampshire, Senator RUDMAN, who spoke this morning. And I hope he spoke as much to the American people as to the Senators because essentially he shared with us the true status of America's fiscal policy; how we are running the business of handling our people's tax dollars and their money.

Frankly, he did not underestimate it one bit when he said, if we do not do something in this country to alter, amend, change, cap, or do something to stop the dramatic rise in the entitlement programs, sometimes referred to as mandatory programs, sometimes referred to, as they were this morning by the distinguished Senator from New Hampshire, as the exchange of income directly to the American people by the American Government, transfer payments. I will put it this way, we are now at about 66⅔ percent on automatic pilot.

Listen, Americans: The U.S. Congress acts like it has a lot to do with your tax dollars. We sound off like we do. But we have put your tax dollars and the Social Security trust fund and all the other revenues on two-thirds automatic pilot. We choose to have hands off as it pertains to that 66⅔ percent, part of it being the interest payments which we have to pay.

But essentially we sit, we rise, we speak, we talk, we make amendments as if we are really impacting the future of the United States of America. And we do nothing about the future. We do nothing to stop the enormous, enormous drag on the current economy and debt that the American people will pay later—almost nothing. And until we decide to do something about these transfer payments, we will indeed accomplish little here on the floor of the Senate.

I want to support what Senator RUDMAN said this morning and say to you, if we stay on the path we are on, with or without any of these bills that are being discussed—do them if you like; if you do not do them, it does not matter much—we will have annual deficits in about 7 years—7 years not 70 years—annual deficits will not come down, they will approach $700 billion a year. And by the year 2000 or 2002, which is not so long—my children will be alive; so will yours, I say to my friend from Florida—at that point in time, the debt of our country will equal the gross national product, almost one for one.

We have only done that one time in our lives, and that was in the enormous emergency to win a war, the Second World War.

Now, having said that, I submit that it is time for a number of us from both sides of the aisle to meet and talk about this problem, and to join arms and put some realistic caps on the entitlement programs of this Nation, put some caps on that are binding, that will give the committees that are supposed to have jurisdiction an opportunity to change those programs that are going to bankrupt America and leave nothing for our children. And if they do not do it, that we have some automatic cut mechanism in place similar to the sequester.

Now, having said that, let me suggest that it really does not matter much which bill passes here today, although it seems that the amendment at least purports to say, if you are going to raise taxes, put some of it on deficit reduction. And the reason I say "purports to say" is because I do not know if there is any way by a bill—and I have not seen it in this one—that you can actually take the taxes and make sure that the deficit is reduced. That is strange to say, but I think I know what I am talking about.

Having said that, the underlying bill, the so-called Democratic package, is nothing more than what we have had in the past. I have not said this yet with the bill, but it is clearly tax and spend. And let me take a moment to tell you why.

Tax and spend was the policy for years and years and it remains the policy of this bill. Anyone that would care to ask the clerk of the Senate to tell them how many Senators are now supporting a bill to tear down the defense wall, that is the military wall, tear it down and spend the money—how many are on that? Forty-seven Senators are on that. Of that 47, I believe 1 is a Republican, the rest are from the other side of the aisle. Tear the wall down and spend the money.

And then here is this bill, we tax the American people somewhere between $60 and $65 billion, and we spend the money. But this time we say we spend it to give some tax credits. So it seems to me the combination of that policy which is attempting to be kind of churned up here on the floor with this bill, and the one that will take away the protection for our defense expenditures from being put in one big pot and spent on everything and anything that anyone can imagine, you add those together and we have nothing more than again using the resources which we should be applying elsewhere, like getting the deficits of the country down, changing the policies that underlie that deficit, like capping entitlements.

We are busy spending more money, or at least planning to spend more money, raising more taxes, and then saying we are justified in spending those to give some other group a tax break when what we all need is a real break from the ongoing inevitable policies of $600, $700, or $800 billion deficits in a few years.

As my friend from New Hampshire said this morning, we will, if not already, soon be at the mercy of those who lend us money from far away countries. If they choose not to lend us money or we do not meet their conditions some years out, this great America that should be leading the world will be led by others.

I yield the floor, and I yield whatever time I have remaining.

The PRESIDING OFFICER. Who yields time? The Senator in opposition controls 17½ minutes. The proponents of the amendment control approximately 9 minutes.

Mr. BRADLEY. Mr. President, I wonder if the distinguished Senator from Michigan would respond to several questions.

Mr. LEVIN. I would be happy to try. Would this be on your time?

Mr. BRADLEY. This is on my time.

The amendment of the Senator, as I understand it, deletes the children's tax credit. Is that correct?

Mr. LEVIN. That is correct.

Mr. BRADLEY. The Senator's amendment, however, keeps in place the increased taxes; is that not correct? The increased taxes on income, in terms of keeping the 36-percent rate on incomes over $150,000? You keep the phaseout of the exemption? You keep the millionaires surtax? Is that correct?

Mr. LEVIN. The amendment I have offered retains the tax increase on seven-tenths of 1 percent of the wealthiest Americans that is already in the bill, but uses it in a different way.

Mr. BRADLEY. So that a vote for your amendment would be a vote for those increased taxes?

Mr. LEVIN. On the wealthiest seven-tenths of 1 percent of Americans. The Senator is correct. It does not touch a number of areas that the Senator from New Jersey apparently would like to touch and of course he is free to offer an amendment that would strike those areas. But it does not reiterate those areas the Senator objects to and I think his objection is to the underlying bill in that respect, not to my amendment, because my amendment is silent.

Mr. BRADLEY. I was interested to just obtain that information because I think there are probably some Senators who think they are voting simply to cut the middle-income tax cut. But they are not doing that. They are also voting when they vote for your amendment, for the increased taxes?

Mr. LEVIN. In order to be very clear on what the purpose is, it restates the committee action on the wealthiest seven-tenths of 1 percent, and then says, however, we would use that more for deficit reduction than for middle-income tax cuts. The Senator is correct.

Mr. BRADLEY. Mr. President, I suggest the absence of a quorum. I ask time be charged to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GORE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. Who yields time?

Mr. BRADLEY. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator controls 10 minutes in opposition.

Mr. BRADLEY. I yield 7 minutes to the distinguished Senator from Tennessee.

Mr. GORE. I appreciate the generosity of the manager.

Mr. President, I want to urge my colleagues to support the bill and oppose the pending amendments. I want to compliment the chairman and the committee for coming up with this bill.

I have some disagreements with the bill, let me be candid in saying. I feel very strongly that the child tax credit should be refundable in order to ensure that those who are at the lower end of the income ladder benefit sufficiently from this change. However, in spite of the fact that the committee chose not to include refundability, I retain some hope that coming out of the conference committee it might yet be added.

There is some sign of progress on that score, and even without it, I wish to enthusiastically support this bill. I feel very strongly about the principle of refundability, and I will continue to fight for it untiringly. But given the choice between this bill and the alternatives that are presented here, or the alternative of doing nothing, this bill is a major step forward, and I enthusiastically endorse it and support it.

I would like to show some graphs, Mr. President. Let me just point out that for the last 12 years, we have seen a major shift in the burden of taxation from those toward the upper part of the income ladder toward middle-income families and lower-income families. This bill helps to correct some of that injustice.

The fact that our Nation is in recession is partly due to the fact that we have had this major change in the distribution of the burden of taxation in this country.

Let me call the attention of my colleagues to this first chart which shows the percentage change in the share of national income that has taken place from 1977 to 1992. This is after taxes, after adjusting for inflation. The lowest 20 percent has seen a 25-percent decline in their share of the Nation's income. The next 20 percent, a 16-percent decline. All of the middle-income American families have seen their share of America's national wealth go down. The top 1 percent has seen its share of the national income go up 84 percent. It has almost doubled.

One of the reasons why this change has taken place is the change in the tax burden. This graph shows the changes in the distribution of the tax burden. All of the middle-income families in this country have seen their tax burden go up from 1977 until today. The top 1 percent has seen its share of the tax burden go down almost 20 percent.

What we need to do is, yes, stimulate productivity and investment and the committee bill does that, but we also need to correct this problem. We have followed the Reagan-Bush blueprint of giving a lot more money to the top 1 percent on the theory that they are going to invest it and supercharge the economy and it has not worked because these families that have had money taken away from them do not have money to spend on the things that are being made.

Here is what has happened to actual incomes after taxes, after you adjust for inflation, 1977 to 1992:

Middle-income families have seen their real incomes go down, a very slight increase in the top 20 percent, but look at the top 1 percent. Real incomes after taxes and after inflation adjustment have gone up 136 percent. That is fine if it does not come at the expense of the rest of the country, but what we have done is we have increased, more than doubled the income of the top wealthiest 1 percent by taking money away from middle-income Americans.

What this bill does is to partly correct that problem by saying people who do not have money to go into the stores to buy new shoes for their children, the families who, as Chairman BENTSEN says, look at the newspapers to find out where the sales are in which supermarket, these families will get spending money under this bill and it will come in part from taking back some of the unjust and excessive extravagant gift to the top 1 percent under the Reagan-Bush policies.

I strongly urge my colleagues on both sides of the aisle to support this committee bill. I strongly urge a vote against the pending amendments. I feel very strongly about this, Mr. President.

Mr. President, we are getting a clear and urgent message from the people we represent. Our constituents are living an economic nightmare that makes the American dream about as real as a bad cartoon. The voices of our constituents are ringing in our ears, their fear is tugging at our hearts, their hopes, fading but not quite lost, must move us to action.

There is a new urgency to get this economy moving, to create jobs, to reduce health care costs and expand health care coverage, and to put some money back in the hands of middle income families. If anyone doubted that these families are in trouble, if anyone doubted that American families are hurting, those doubts have been erased. My constituents, like yours, don't mince words. They can't afford to.

All across Tennessee, in open meetings in the heart of our cities, in the shadow of the Smoky Mountains and in the rural areas of west Tennessee, I have been hearing the same fear, the same anxiety, the same frustration. For my constituents, like yours, everything but their paychecks is going up—and that is if they have paychecks. Too many people are unemployed. Too many people are without health insurance. Too many people, even if they have jobs and health insurance, are worried about losing both.

I spoke recently with a family in middle Tennessee, just outside Nashville, where the father is working two jobs. He has to—the day job does not provide his family health insurance, the night job does. I spoke with a family in east Tennessee, just outside Knoxville, a young couple who are barely making ends meet for themselves and their two small children. The husband is out of work and cannot find a job. There are more layoffs than openings.

My constituents bring to our open meetings a sense of outrage along with their fear. Outrage because every day they face new pressures, higher bills, and less hope. Yet, it seems to them that no one understands, no one cares and no one is willing to help them out. They are willing to do their part. They work hard. They are involved and committed parents. They want more for their kids. They want more from the future. They want to know that the people they elect to represent them will work for them and for their families. To my constituents and to yours, George Bush is speaking a foreign language they can't understand.

But who can blame them? How could anyone believe or understand a President who persistently denied the very existence of a recession while millions of Americans were losing their jobs, their homes, their security? To these families, President Bush is not just out of touch. He is out to lunch.

It was not until plummeting poll numbers slapped him in the face that President Bush woke up. It was not the pain or suffering of American families that moved him, it was the fear of losing the New Hampshire primary. He has already lost the confidence of the American people. But lose an election? The guy who said he will do anything to win, was forced to do the unthinkable. President Bush was so afraid of losing his job, he finally had to break down and admit that America is in a recession. Problem is, "Better late than never" is not exactly a prescription for leadership.

Now, in a frantic effort at damage control, George Bush is scurrying around claiming he has an economic plan. But before we get too excited, we need to take a close look at what is behind the promises and the expectations.

Despite the flip-flop-flip on his "no new taxes" promise—in an election year confession, admitting he made a mistake by breaking his promise—where the economy is concerned, George Bush has not had a conversion. If nothing else, he is consistent. In this case, consistently pushing for tax breaks for the rich: more for those who already have more thanks to a decade of Reagan-Bush economics, and, thanks to Reagan-Bush economics, already pay less in taxes. Most Americans cannot pay their mortgage or afford health care and President Bush wants to reward those who have the extra cash to speculate on the stock market. For middle income families, George Bush offers warmed-over leftovers—and, he would make them wait months for them, serving his rich friends first. He still does not get it.

He probably did not hear the collective roar that came from hard working middle class families when they heard about a recent study confirming what they have known for years: the very rich have gotten even richer; they get the cake and everybody else shares the crumbs.

Mr. President, I want to praise our majority leader, GEORGE MITCHELL, and Senator BENTSEN, chairman of the Finance Committee, for their leadership and for demonstrating that even if President Bush does not understand what needs to be done, there are those in Congress who do. We are listening to our constituents. We understand. We are ready and committed to take action.

We will meet the President's deadline for action with real help for American families. President Bush puts them at the end of the line, in the back of the crowd; he will get around to them after his rich friends get theirs. We are saying, Mr. President, it is time your rich friends waited their turn and America's middle-income working families got the star treatment.

Tax cuts for middle-income families, not for the rich, must be a priority for this Congress. And, it is because we are serious about cutting taxes for middle-income families, that we are working to enact tax credits for children. The Finance Committee, under Senator BENTSEN'S leadership, wisely included tax credits for children as the centerpiece of their bill, and in doing that, they focused tax breaks where they are needed most—to families struggling to provide for their children.

Last spring, Congressman TOM DOWNEY and I introduced legislation calling for a tax credit for children because we believe strongly that this approach represents the most effective way to put money back in the hands of those families who for too long have been paying too much. Increasing the personal exemption keeps the Reagan-Bush tax train running up to the higher income taxpayers. Providing a tax credit for children, forces that train to stop in many more neighborhoods, helping families who have been left behind for too long.

Mr. President, American families need our help. In recent weeks, we've seen disturbing reports about the threats to our children and our families. Financial problems are creating other problems. Our children and our families are at risk. Our children are going hungry. Parents pray their kids won't get sick because if they do, there's no money for doctors or medicine. Our families are being forced to choose between health care and child care, between the mortgage payment and the grocery bills. A college education is becoming an unaffordable dream.

We must take action to strengthen these middle-income families, to let them know we understand how tough these times are for them and their kids. They are doing everything they can. It is time we stood shoulder-to-shoulder with them. It is time we joined their fight, did everything we can, to restore their hope, their future, and their dreams.

Mr. MACK addressed the Chair.

The PRESIDING OFFICER (Mr. DODD). The Senator from Florida.

Mr. MACK. Mr. President, I ask one of the managers for time, if I could have a moment or two, 2 minutes.

Mr. LEVIN. Which side is the Senator on?

Mr. MACK. I do not think I am on either side.

Mr. LEVIN. I reserve 5 minutes for myself and I will be happy to yield a half a minute of my 5 minutes. Maybe Senator BENTSEN would like to do the same. I will be happy to yield the Senator half a minute and cut my time down.

Mr. BENTSEN. Mr. President, I will yield a half, too. The Senator has himself a minute.

The PRESIDING OFFICER. The Senator from Florida is recognized for 1 minute.

Mr. MACK. Mr. President, I could not help respond because I got the impression the Senator from Tennessee indicated the problem the middle-income families are having is because of the shift in the tax burden in the 1980's, and I just wanted to say that according to the information that I have is that between 1980 and 1990, the top 1 percent tax burden increased from 18.2 to 25 percent of the overall tax burden.

So it just does not seem to me that is possible. I will say that the top 5 percent went from 36 to 44 percent. So it is very difficult for me to conclude that the problem of middle-income Americans is because this tax burden has been shifted away from the wealthiest to middle income. The figures that come from the Ways and Means green book published by CBO indicate again the top 1 percent tax burden, 1980, 18.2 percent; 1990, 25.4 percent.

I thank the Senators for yielding.

Mr. LEVIN. Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator from Michigan has 4 minutes 27 seconds.

Mr. LEVIN. I yield myself 4 minutes and 20 seconds.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, first let me say where I agree with the committee bill. It is time to achieve some equity in this Tax Code by raising the tax rates on the wealthiest seven-tenths of 1 percent who did so well during the eighties. The amendments that are pending maintain that increase, as they should, as fairness dictates. The issue is how do you use the revenues from that increase? That is the issue which this amendment will decide.

Surely, we ought to use those revenues to benefit middle-income people, working people, but that does not answer the question, what will most benefit middle-income people, working people? How do we spend these revenues in a way which will benefit working people in America? Should we provide the tax credit which is provided for in this bill or should we spend most of that money to reduce the deficit and to spend a portion on infrastructure and education?

That is the issue which this amendment raises and will be decided by this vote.

Working people want some relief, and the relief they want is they want to be secure in a decent job. If they are unemployed, they want a job. They want an economic future for their kids. That is what they are asking us. They are also telling us something else. More of them say they want us to cut the deficit, to get our economic house in order so that those goals can be achieved, than are saying provide me a tax cut.

They are right. The people of this country are right. They are asking us to get our house in order and to do it first. There is always a reason not to do it. But this is an opportunity to do it because we now have some revenues which are fair and equitable revenues, and the question is how do we best spend them for the future of this country. We are $4 trillion in debt. We are adding $400 billion more this year.

What will help our economy short term and long term? Will it be $30 billion in tax cuts that will be received by 25 percent of middle-income people; 1 in 4 middle-income people will receive the tax cut. Or is that money better spent 75 percent of it on deficit reduction and 25 percent on needed infrastructure, which has an immediate economic positive spinoff, and on retraining?

The $30 billion in tax cuts, make no mistake about it, said to be tax cuts for children, credits for children, are going to be borrowed from those children if we do not use it to reduce the deficit. So we should not kid ourselves as to what we are doing. We either can reduce the deficit or we necessarily will have to borrow more money from those very children whose future is in the hands of this Congress and the President.

We should not be neutral toward the deficit. During the 5 years of the committee bill that is covered by the Budget Act, it is revenue neutral and deficit neutral. We should not be neutral toward the deficit, any more than a baseball team that is behind 9-0 in the first inning can be satisfied by playing even the rest of the game. If we are ever going to make a dent in this deficit, if we are ever going to change the direction of this economy, if we are ever going to start saving and investing, we have to stop the tremendous drain on our resources that this deficit represents.

The CBO has warned us in one sentence. They say:

> Deficits of these magnitudes cripple economic growth by reducing national saving and capital formation.

I do urge the Senate to adopt this improvement on the committee bill, which is represented by this amendment, which has been cosponsored by six of us.

The PRESIDING OFFICER. The time of the Senator from Michigan has expired.

Mr. BENTSEN. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 2 minutes 25 seconds.

Mr. BENTSEN. I yield the remainder of my time to the distinguished Senator from Tennessee.

Mr. GORE. Mr. President, I am overwhelmed by the generosity, truly. I will try to save some of this time. My colleague, the Senator from Florida, who is a sincere, well meaning, well informed Member, threw out some statistics that seem at first glance to be dissident with the ones which I offered, and I seek to explain the difference.

Both sets of statistics are accurate. The explanation is that the incomes after taxes for the top 1 percent have gone up so incredibly, more than doubled over this period, that the actual dollars they pay in taxes have indeed gone up, but not nearly as rapidly on a percentage basis as their incomes. So the amount of money they pay in taxes has gone up, but the percentage of their incomes attributed to taxes has gone down.

Now, again, if we could accomplish that in a vacuum, that would be fine. But the cost of it is that the percentage share of national income from middle-income Americans has gone down, and as a direct consequence their effective Federal tax rate has gone up.

So, yes, the statistics offered by my colleague are technically accurate. But what has happened is middle-income families have paid more in taxes as a percentage of their income, and their share of the national wealth has gone down significantly.

Now, there is yet a third set of statistics we really ought to be talking about, and that has happened to the entire Nation's economy. We have been in the deepest recession since the Great Depression, and this disparity, this unjust distribution of the tax burden, has been in part responsible for this performance.

So when we talk about stimulating investment, yes, let us do it. But let us correct this terrible injustice, as the chairman's bill and the committee's bill does.

I yield back the remainder of my time. I thank the Chair.

Mr. KASTEN. Mr. President, I rise to oppose the Levin amendment. While I too believe we must reduce the budget deficit, I do not believe tax increases will work. Raising taxes in a recession is economic lunacy. Higher taxes will slow the economy. Moreover, history shows that higher taxes lead to more spending and higher deficits. From 1940 to 1990, every dollar Congress has raised in new taxes has generated $1.59 in new spending. In 1990, we enacted one of the largest tax increases in history, and budget deficits hit record levels. The only way to reduce the deficit is to limit the growth rate of Federal spending and enact growth incentives that will get our economy moving again.

The other reason I oppose the Levin amendment is because it eliminates the $300 tax credit for families with children. To ensure long-term economic growth, we need to begin reversing the growing tax burden on families. The Finance Committee's child credit is an important and responsible first step in providing profamily tax relief.

The PRESIDING OFFICER. The Senator from Texas has 14 seconds.

Mr. BENTSEN. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, all time has expired.

Mr. BENTSEN. Mr. President, I move to table the Levin amendment, No. 1712, and ask for the yeas and nays.

The PRESIDING OFFICER. Is there is a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment, No. 1712. The yeas and nays have been ordered. The clerk will call the roll.

The assistant bill clerk called the roll.

Mr. BYRD (after having voted in the negative). Mr. President, on this vote, I have a live pair with the distinguished senior Senator from Hawaii [Mr. INOUYE] who is ill. If he were present and voting, he would vote "aye." Having already voted "no", I withdraw my vote.

Mr. FORD. I announce that the Senator from Iowa [Mr. HARKIN] and the Senator from Hawaii [Mr. INOUYE], are necessarily absent.

I also announce that the Senator from Michigan [Mr. RIEGLE] is absent because of illness in the family.

On this vote, the Senator from West Virginia [Mr. BYRD] is paired with the Senator from Hawaii [Mr. INOUYE]. If present and voting, the Senator from Hawaii would vote "aye" and the Senator from West Virginia would vote "nay."

I further announce that, if present and voting, the Senator from Michigan [Mr. RIEGLE] would vote "aye."

Mr. SIMPSON. I announce that the Senator from Oklahoma [Mr. NICKLES] is necessarily absent.

The PRESIDING OFFICER (Mr. LIEBERMAN). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 57, nays 38, as follows:

[Rollcall Vote No. 40 Leg.]

YEAS—57

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Boren
Bradley
Breaux
Bryan
Bumpers
Burdick

Coats
Craig
Cranston
Daschle
Dixon
Dodd
Exon
Ford
Fowler
Glenn
Gore
Gramm
Heflin
Helms
Hollings
Jeffords
Johnston
Kasten
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Lieberman
Mack
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Sanford
Sarbanes
Sasser
Shelby
Specter
Symms
Wellstone
Wirth
Wofford

NAYS—38

Bond
Brown
Burns
Chafee
Cochran
Cohen
Conrad
D'Amato
Danforth
DeConcini
Dole
Domenici
Durenberger
Garn
Gorton
Graham
Grassley
Hatch
Hatfield
Kassebaum
Levin
Lott
Lugar
McCain
McConnell
Murkowski
Packwood
Pressler
Roth
Rudman
Seymour
Simon
Simpson
Smith
Stevens
Thurmond
Wallop
Warner

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Byrd, against

NOT VOTING—4

Harkin
Inouye
Nickles
Riegle

So the motion to table the amendment (No. 1712) was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. DASCHLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from North Carolina, Mr. HELMS, is recognized.

Mr. HELMS. Mr. President, this is a matter of pertinent interest. How long did this past vote consume in terms of the Senate's time?

The PRESIDING OFFICER. The Chair advises the Senator from North Carolina the vote went beyond the 15 minutes.

Mr. HELMS. First of all, I ask for the yeas and nays on the underlying committee substitute.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 1714

(Purpose: To express the sense of the Senate regarding the House bank)

Mr. HELMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration. I will say to the able clerk, I would like it stated in full.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS], for himself, Mr. DOLE, Mr. NICKLES, and Mr. SEYMOUR, proposes an amendment numbered 1714.

At the appropriate place in the amendment add the following:

The Senate finds that not only the House of Representatives, but the Congress as a whole is being held to account by the American public for the improper personal banking practices of its Members;

The Senate finds that only the House of Representatives provided for a system to collect the salaries of, and to honor checks written by, the Members of the House of Representatives;

The Senate finds that, while proposals to establish a similar system within the United States Senate have been suggested, they have never been agreed to by the Senate;

The Senate finds that no similar system has ever been in operation in the United States Senate;

The Senate finds that no Senate bank with characteristics similar to those of the former House bank will ever be established.

The Senate finds that the American public has not been made clearly aware of the differences in practices between the United States House of Representatives and the United States Senate, and that therefore,

It is the sense of the Senate that there should be full disclosure of all Members and former Members of the House of Representatives whose account balances at the House bank were insufficient to cover the amount of any check presented for payment.

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 1715 TO AMENDMENT NO. 1714

Mr. DOLE. Mr. President, I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant bill clerk read as follows:

The Senator from Kansas [Mr. DOLE] proposes an amendment numbered 1715.

Mr. HELMS. Mr. President, I believe the distinguished leader does not wish to have the amendment read. Therefore, I ask that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the first word and insert the following:

Senate finds that not only the House of Representatives, but the Congress as a whole is being held to account by the American public for the improper personal banking practices of its Members;

The Senate finds that only the House of Representatives provided for a system to collect the salaries of, and to honor checks written by, the Members of the House of Representatives;

The Senate finds that, while proposals to establish a similar system within the United States Senate have been suggested, they have never been agreed to by the Senate;

The Senate finds that no similar system has ever been in operation in the United States Senate;

The Senate finds that no Senate bank with characteristics similar to those of the former House bank will ever be established;

The Senate finds that the American public has not been made clearly aware of the differences in practices between the United States House of Representatives and the United States Senate, and that therefore,

It is the sense of the Senate that no later than March 30, 1992, there should be full disclosure of all Members and former Members of the House of Representatives whose account balances at the House bank were insufficient to cover the amount of any check presented for payment.

Mr. HELMS. I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second?

At the moment there is not a sufficient second.

Mr. HELMS. Very well. We will get it later, Mr. President.

The PRESIDING OFFICER. The Senator from North Carolina has the floor.

Mr. HELMS. Mr. President, I asked the able clerk to read my amendment in its entirety because if ever an amendment spoke for itself, it is this one. I might add, Mr. President, that if the disaster occurring in the House of Representatives at this moment affected only that body and its Members, I perhaps would not be offering this amendment now pending.

The enormity of the circumstances surrounding the hide-and-seek game thus far being played over in the House of Representatives has already been destructive in the minds of the American people—destructive to both the House and the Senate. There has been a cascade of protests by Americans across the country. People are utterly disgusted at the attempted coverup of the check-bouncing scheme that has been unfolding. Literally hundreds of calls are pouring into the offices of Senators from irate citizens who mistakenly assume that the same thing has been going on in the Senate, which, of course, it has not.

Mr. President, this is no time for the Senate to sit on its hands. This is no time for the Senate to look the other way. This is no time for Senators to keep silent. This is one of those instances when we will become a part of what we condone or what we try to ignore.

Mr. President, we all know that there was an attempt a few years ago to install in the Senate the same outrageous banking facility, to use the words loosely, that has been operating in the House of Representatives, with thousands of bogus checks bouncing around like ping-pong balls, checks totaling an astounding amount of money.

Mr. President, most of us know who proposed a similar facility for the Senate. Most of us know that this proposal was very wisely rejected by sensible Senators.

In any event, as the pending amendment makes clear, the Senate has never permitted such an operation and I pray never will. Still, we cannot wash our hands of this smelly mess. We either take a stand or we do not. And if we do not take a stand and speak out, the Senate will pay a perilous price.

The pending amendment—and the second-degree amendment which is virtually identical to the underlying amendment—proposes that the Senate speak out, take a stand and defend whatever is left of the people's respect for the Congress of the United States, which is diminishing rapidly.

Make no mistake, Mr. President, the American people understand this issue. They know they cannot bounce checks without paying a penalty. They know what would happen to them if they tried to bounce 800 checks totaling more than $100,000. So the scandal in the House of Representatives is a dead cat lying also on the doorsteps of the Senate in the minds of countless Americans.

That dead cat will continue to lie there on the steps of the Senate unless and until the Senate speaks out and takes a stand and heeds the advice of one of my historical heroes, Thomas Jefferson, who emphasized that "the whole art of Government consists in the art of being honest."

The pending resolution, in the form of an amendment, calls on the House of Representatives to release all the names, not just a few, not just half of them, not 90 percent of them, all the names. Further, it makes clear that the Senate is not associated in any way with this scandal.

Mr. President, the worst aspect is the appearance of a coverup. If the Democratic leaders of the House have their way, only 24 Members will be identified, just 24. This list includes only the most egregious check bouncers and the House Ethics Committee list of 24 includes a Member only if he or she had 8 months of overdrafts with a balance greater than the amount of the paycheck deposited in the account. What nonsense. I refuse to condone it, Mr. President, and I cannot believe that any Senator will condone it.

Without doubt, the American people smell a coverup and they do not like the stench. They are convinced that the House Ethics Committee is protecting dozens of other Members who abused the system and betrayed the confidence of the American people.

I do not know whether the C-SPAN camera can focus on this chart that I have, but these are the facts and figures thus far available. Look at the statistics. At least 66 Members of the House of Representatives wrote more than 200,000 bad checks totaling $10,800,000. There are 200 instances where overdrafts exceeded a Member's paycheck deposit, and overall about 300 current Members of the House of Representatives are involved.

As this chart demonstrates, the House Ethics Committee proposes to exclude one Member who bounced 851 checks totaling $166,400; another Member who bounced 739 checks totaling $134,419; and yet another who bounced 557 checks for $109,052.

I think I will conclude at this point, at least for the moment. But I will say this: Looking at this kind of thing, it is a small wonder that Congress cannot balance the Federal budget when so many Members of the House of Representatives cannot balance their own checkbooks.

I ask for the yeas and nays, Mr. President, on the second-degree amendment.

The PRESIDING OFFICER. is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. I thank the Chair.

I yield the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator, the President pro tempore [Mr. BYRD].

Mr. BYRD. Mr. President, I would hope that the distinguished Senator from North Carolina would withdraw his amendment. I understand his strong feelings. I understand his indignation. And I suppose that every Member of this body shares some or all of the feelings that have been expressed. But I think it is a serious mistake for the Senate to take action on a matter of this nature. It is extremely important that we preserve the comity that should exist between the House and the Senate at all times.

Under the precedents of the Senate, I think that the amendment and, as a matter of fact, the statement that has been made, are both very much out of order. I will not make a point of order. I will simply urge Senators to vote against the amendment if it goes to a vote.

This is a matter that the Members of the House are fully capable of dealing with. They have a responsibility to deal with it. And I believe that they will deal with it. The public will render its own accounting of the matter in due time, and I am confident that the public is already expressing itself and will continue to do so.

Let me refer to some precedents in the book on "Senate Procedure," and I call the attention of Senators to pages 595, 596, and 597. I shall read therefrom.

It is true that some of the precedents appear to be confusing. But I think that enough is said in these two pages in the book on procedures to make it very clear that the Senate ought not be taking action on an amendment of this nature.

Let me read all of the precedents on those two pages lest it be said that I left some out, and let Senators judge for themselves as to whether or not this is an approach that is quite contrary to the precedents as a whole, and is not calculated to maintain the comity and good feeling between the two Houses that are so necessary if we are to serve our people well.

I begin on page 595:

> There is no standing rule of the Senate—

That is true. The standing rules of the Senate do not make reference to this matter.

The Senate rules will be found in the book "Rules and Manual of the United States Senate," and Senators know that there are 42 standing rules of the Senate. But there is no standing rule of the Senate relating to comments upon proceedings in the House of Representatives, although such a provision is contained in "Jefferson's Manual."

Mr. President, there are a good many matters that are not covered by the Standing Rules of the Senate explicitly. The standing rules have, over the years, been fleshed out by the precedents of the Senate. So we have to go to the book of precedents when something is not explicitly found in the standing rules.

> There is no standing rule of the Senate relating to comments upon proceedings of the House of Representatives, although such a provision is contained in Jefferson's Manual.
>
> The rule in Jefferson's Manual is not actually regarded by the Senate as a question of order, but rather as a question of propriety or impropriety, and the Presiding Officer on one occasion expressed a reluctance to call a Senator to order for that alone where there was no breach of a positive rule of the Senate.
>
> The Presiding Officer (in 1913) expressed the opinion that as a self-governing body it was for the Senate to determine how far Senators might go in commenting upon language used in the other body.
>
> Jefferson's Manual not having been adopted as a part of the Rules of the Senate, a Senator may refer to proceedings in the House of Representatives, provided it is done in parliamentary language, but under Senate precedents it has been held not in order in debate for a Senate—

The word is "Senate," but it is obviously meant to be "Senator"—

> for a Senator to make reference—

Mr. President, may we have order in the galleries?

The PRESIDING OFFICER. The Sergeant at Arms will restore order in the gallery.

Mr. BYRD. Mr. President, I thank the Chair. And I thank the guests in the galleries.

> but under Senate precedents it has been held not in order in debate for a Senator to make reference to action by the House of Representatives, to read an extract from the proceedings of the House relating to a matter under discussion, to read from a speech made by a Member of the House during that particular Congress on the pending subject, to refer to or to make any allusion to or comment upon the proceedings of the House of Representatives, or to make reference to the proceedings in the House on the matter under consideration for the purpose of influencing the action of the Senate.
>
> It is out of order, as interfering with the independence of the two Houses, to allude to what has been done in the other House as a means of influencing the judgment of the one in which a question is pending.
>
> It has been held that "it was not competent for a Senator to make reference" to the House of Representatives, or to criticize that body.

In each instance, when I read a precedent here, I am not referring to the footnotes by which one will find the precedents if one wishes to research those footnotes. I am leaving out the references to the footnotes.

Continuing:

> References in debate to the proceedings of the House of Representatives on one occasion were ruled out of order, and the Senator was called to order for a violation of the rules.
>
> It has been held out of order in debate for a Senator to refer to the proceedings in the House, to read from the House proceedings as published in the Record, as ruled in 1923, or to refer to proceedings relating to action on a bill.
>
> It has also been held a violation of the privilege of the membership to refer to the individual character or to the acts or conduct of Members of the House.
>
> It has also been held improper for a Senator to make references to or reflect on Members of the House, to refer to a Member of the House by name, to criticize the action of the Speaker, or to refer in debate to a Member of the House in opprobrious terms or to impute to him unworthy motives.
>
> Under the precedents of the Senate, a Senator should not reflect unfairly on Members of the other body.

I say these are separate precedents, and I am going from one precedent to another, so that I will cover all that are in this chapter without referring to the footnote which is numbered at the end of each precedent.

> The reading of a telegram being interrupted by a point of order that it reflected upon a Member of the House of Representatives, the objectionable language by unanimous consent was stricken from the RECORD.
>
> In connection with the consideration of a resolution authorizing an inquiry into the failure of the Speaker of the House of Representatives to take prompt action on a Senate joint resolution passed by the Senate, the Vice President held that it was in the discretion of Senators as to what they might or might not say about proceedings in the House, provided they do not speak disrespectfully.

On another occasion, the House of Representatives sent a message to the Senate characterizing certain language by a Senator in debate as being improper, unparliamentary, and a reflection on the character of one of its Members; the Senate, subsequently, upon the request of that Senator, ordered the language expunged from the permanent RECORD.

> On another occasion, the Senate never took any action on such a House-passed resolution—the resolution alleged that certain language used by a Senator concerning a Member of the House was a reflection on him, and requested that the Senate take appropriate action in connection therewith.
>
> A resolution of the Senate declaring that certain language used by a Member of the House in debate concerning a Senator was unwarranted, unjust, and untrue, thus constituting a breach of privilege, was returned by the House on the ground that the resolution itself was a breach of privilege; the House, however, subsequently expunged from the permanent RECORD the remarks to which the Senate took exception.

Mr. President, I hope that Senators will, before they cast their vote on this matter, refer to pages 595, 596, and 597 in the book titled "Senate Procedure," written by Floyd M. Riddick, Parliamentarian emeritus.

Mr. President, I appeal to the distinguished Senator from North Carolina to withdraw his amendment. I do not think that the Senate ought to vote on this amendment. We all have strong feelings about the matter, I am sure. We are all capable of keeping up with the news—and I am sure we do. We know what is being said. But this is a matter that the House should decide. We would consider it out of order for the House to take action on a matter involving the Members of the Senate.

As the Senator from North Carolina stated, the Senate does not maintain a Senate bank. The record will show that. The Senate is not involved in any way in the matter about which we read in the newspapers. It clearly can, and probably will, do damage to the comity between the two Houses if the Senate proceeds to express itself on the matter that involves Members of the other body. I am advised that the House has moved today to fully disclose all 355 current and former House Members involved in bank overdrafts.

Mr. President, I think we ought to let it go at that. The House has taken the appropriate action to fully disclose all current and former House Members involved, so the House has, in its judgment, and in my judgment, acted properly.

I hope that we will not, in the Senate, engage in an action that will produce rancor and ill-feeling between the House and Senate, and I appeal to the sense of fairness and justice and responsibility of the distinguished Senator from North Carolina, to withdraw his amendment and let the matter take its course in the House, and let the people be the judge.

Mr. HELMS. Mr. President, first of all, let me describe how I feel about the distinguished President pro tempore of the Senate, the distinguished Senator from West Virginia [Mr. BYRD]. He is my friend, and he is as accomplished a Senator, in terms of rules, as I have ever seen.

Obviously, I disagree with him. I disagree with his interpretation.

I am looking at the same page or pages in the book of "Senate Procedure" that he read from. I suppose we can take the time to examine every jot and title. But I have checked with the distinguished Parliamentarian, and I am persuaded that the precedents cited are about the debate, not about amendments.

There is no rule, I say to my fellow Senators, about debate concerning the House of Representatives—no rule at all. Rule XIX, which governs debate, prohibits only those statements impugning the motives of Senators and criticizing the States of Senators. We could go down line by line, and we could debate for hours on this issue.

I hope that the Senator from West Virginia and the Senator from North Carolina can agree to disagree agreeably with me on the rule. I do not agree with him, I say respectfully. Furthermore, it needs to be said for the record that I have before me the 1988 report from Institutional Investor, Inc.; Bank Letter, dated October 17, 1988.

The headline says: "Senate Bank" Idea Nixed.

Then it says:

> Freshman members of the Senate were hoping the Senate leadership would go along with setting up a bank in the Capitol for senators, just as the House currently has one for House members, but the idea is a dead letter now, sources said. If the lawmakers could do their banking where they worked, proponents argued, time would be saved for the nation's business.

I am going to omit the name of the Senator who is said in this report to have "advanced the bank suggestion in 1987." I am just going to put out that it is a matter of record that this Senator "found Majority Leader Robert Byrd (D-WV), was against it, sources said. Last April"—the Senator in question—"and other freshman Senators sent a letter to the three candidates running to replace Byrd when he steps down from the leadership post next year and offered a number of ideas for modernizing the Senate bank.

Included on the list was the proposal for a Senate bank, but in view of BRYD's opposition, a spokeswoman for a Senator, whom I am not going to identify, "said last week the Senator is now discouraging further talk about it."

Mr. President, so I commend the Senator from West Virginia for nipping this in the bud, though I say I do not agree with him on the interpretation of the rules. He may be correct, but I do not read the rules the same way he does. Certainly, I do not read the precedents the same way.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I merely wish the RECORD to reflect that at 2:34 p.m. eastern standard time today, the Associated Press reported a story under the headline "House To Name All Bad Check Writers." And the story went on to report that the House leadership had decided earlier today—this wire service story appearing on the wires at 2:34 p.m., so it was sometime prior to that—the House leadership had decided to proceed with the naming of all back check writers.

The pending amendment was proposed at 3:18 p.m. I do not know whether the authors of the amendment were aware of the prior House action; and in any event, I know that there had been no claim or allegation that the House action bore any relation to the Senate resolution. I merely wanted to make clear that it did not and could not have, since the House action occurred earlier in the day, prior to 2:34 p.m., which is the time at which the wire service story appeared reporting on that event, and this amendment was proposed at 3:18 p.m.

So there is, of course, no causal relationship between the House action and this amendment, the House action having occurred well in advance of the time on which this amendment was introduced. And I am advised that, although the House has not yet voted formally, the decision was made earlier and they are proceeding to implement that decision.

Mr. President, I thank my colleagues and I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I do not intend to belabor the point. I have been in the Senate now going on 34 years, and I have never seen this type of action taken in these 34 years. I have heard from time to time a Member voice some criticism of a Member of the other body; even call him by name, perhaps, which was a violation of the Senate precedents, and if I had been in the chair at that time, I would have attempted to call the Senator to order, but I did not say anything on that occasion because it passed, and I hoped I would not have to experience it again. But I have never seen the Senate go this extreme before, and I think it is a mistake.

I have stood with the Senator from North Carolina on several occasions when he has offered amendments in this body that were not popular—perhaps popular out there beyond the beltway; but not popular within the beltway. I have voted with him on many occasions.

But I oppose this amendment and will vote against it, and I hope that Members will think very carefully before they cast this vote. I think we would all be incensed if the House of Representatives were to try to tell the Senate what it ought to do about inhouse matters involving Members of the Senate. We would say, well, we Senators are capable of making that decision. Members of the other body have no business telling us how to run the Senate, and, besides, it is against the rules.

As I stated when I first began, it cannot be found in the Senate rules, but I have read all the relevant precedents into the RECORD today, and they are as authoritative as are the printed rules themselves. Where the rules do not expressly state a matter, and where there are precedents on point that indicate what the Senate has decided in previous years or what the Chair has ruled on a point of order in previous years, or what the Chair has said in response to a parliamentary inquiry in previous years, those precedents are authoritative and will be followed.

I have asked the distinguished Senator to withdraw his amendment. I do not think he will do that based on his statement. I think the amendment is a mistake, and I am sorry.

This is not to say I do not feel as strongly as does the Senator from North Carolina about certain things that have been discussed on the floor here today. But for the reasons I have stated, I intend to vote against the amendment.

The PRESIDING OFFICER. Is there further debate? The Senate Republican leader is recognized.

Mr. DOLE. Mr. President, I do not disagree with the distinguished Senator from West Virginia nor with the majority leader, but I think there is a practical problem called the American public—not a problem; it may be part of the solution. I am getting mail in my office about Congressmen writing bad checks. We do not have a bank in the Senate, and the primary intent of this amendment—or one of the primary intents—is that we will not have a Senate bank.

There have been efforts to establish a Senate bank. Fortunately it did not occur, but I do not think the American public is making a distinction between House Members and Senators, or the Senate and the House. It is Congress and the bank, and if you have written any hot checks on the bank. I think that is the reason for the amendment.

I certainly agree with the Senator from West Virginia. It is certainly not customary; there is no precedent for interfering with what the House may do. But I think in a case where it sort of slops off over onto the Senate side, at least we ought to declare by a record vote that we certainly disagree with what may be happening and disassociate ourselves from it, and indicate very clearly this is not a Senate bank and there will not be a Senate bank.

That is the primary reason for the amendment. We have turned back efforts to create a bank that could have permitted this kind of activity; maybe it would not have. And I salute the leaders of the Senate who said no at that time.

Mr. President, I rise in support of the Helms amendment.

Despite the fact that the Senate does not have a bank which operates for the pleasure of its Members, I have received calls and letters from constituents who assume that the Senate is involved in the House bank scandal.

Most people do not know that in the Senate, we have turned back efforts to create a bank that would have permitted this kind of bogus activity, and I want to salute the Senate leaders who had the wisdom and courage to say no.

What the media often neglects to point out is that the House and the Senate are separate institutions with very separate practices. It is not Congress' bank; it is the House bank.

It seems to me the only way our reputation will bounce back from so-called rubbergate is to make two facts plainly clear and on the record—the U.S. Senate does not, has not, and—I cannot say never—hopefully never will have a bank similar to the House bank; and I think the U.S. Senate would endorse full disclosure if this matter involved the Senate of the United States. We demand full disclosure of everything else. I think we have full disclosure of nearly everything else. We demand it of the executive branch; we are not bashful around here to demand full disclosure, whether it was Watergate, Irangate, whatever it is. There are a lot of calls for full disclosure.

Certainly, some of these cases are going to be honest mistakes. And there ought to be some way to prevent everybody from being lumped together.

But it is just my view that this is not the Senate. We do not have a bank; we have not written any rubber checks on the Senate side, I think this amendment makes that clear. And the U.S. Senate endorses full disclosure of all Members and former Members of the House who bounced checks at their in-house bank.

I am certain that many check-bouncing cases resulted from nothing more than honest mistakes. But it should be up to the American people to decide if their Congressman's lack of sufficient funds should earn them a lack of sufficient votes. Only by full disclosure can this situation be put behind the House, and can both Houses of Congress go about regaining the good faith of the American people.

It is time to let the checks fall where they may.

Mr. President, I ask unanimous consent that editorials on this subject from the Topeka Capital-Journal and the Hutchinson News, as well as a table from today's Washington Times be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Topeka Capital-Journal, Mar. 12, 1992]

CALLED TO ACCOUNT

At the U.S. House of Representatives, where red ink is delivered by the barrel, there has been a debate over whether to make public the names of representatives who wrote worthless checks on accounts at the House's bank.

Well, if members are so worried about making their names public, why not do the safe thing? Why not order the names sealed until the year 2039, a la the Warren Commission?

Here's why not: The longer the names are kept secret, the greater the cynicism will grow over Rubbergate.

The House Ethics Committee has determined that 296 of the 435 House members, and 59 former House members, wrote at least one bad check during a certain 39-month period. But the committee endorses releasing the names of only the 24 worst offenders.

Indeed, The Washington Times has reported that the worst offender wrote nearly 1,000 worthless checks during the period, and that at least 100 members exceeded 45 bad checks.

But it is not enough to know only the worst offenders. The public deserves to see the entire roll call of check bouncers.

The bank has since closed. And it must be noted that the floated funds were members' and not the taxpayers'. But that is not the point. Rather, taxpayers have a right to know how responsibly or irresponsibly their legislators are acting in Washington, D.C. Though the scandalous national debt is one painfully obvious barometer of that, so is the members' use of the House bank.

If House members are better at reading the public mood than their checkbooks—and many of them should hope they are—they will release all the names associated with Rubbergate.

After all, no one can cover members' lost credibility the way the House covered their worthless checks.

[From the Hutchinson News, Mar. 7, 1992]

NAME NAMES

Is it any wonder that the nation's deficit is in the shape it's in when so many lawmakers can't even keep their personal checkbooks straight?

Unfortunately, that's not the worst of it as the U.S. House ethics committee sparsely revealed this week.

In the last three years, 355 current or former members of Congress bounced checks at the House bank. In one case, a congressman bounced checks nearly every month during the period studied.

Nowhere but in the privileged bosom of the House bank could such larceny have taken place without acquiring a prison term along the way.

The House is doubly fouling its nest by refusing to disclose all the names of all the elected check kiters and schemers whose irresponsible actions have once again added another layer of mistrust on top of the growing layers that are burying this government up to its collective neck in shameful acts.

The Japanese have called the American worker lazy and stupid. Now we all know where they got that notion. They merely read The Washington Post, the daily diary of dubious congressional dealings.

The House bank is a perk that House members and American taxpayers can do without. Let elected officials have to wade through the mean streets of Washington to kite their checks at traditional financial institutions, and let them cope with the real-life rules applied there, just as other Americans must. Let them cope with their bills as other Americans do, making do without engaging in illegal, immoral and unethical habits.

Lastly, name names. If the House leadership wants this scandal to go away, then names must be named and slates cleaned.

Kansans certainly want to know how their own elected officials fared, as do taxpayers and voters in all 50 states.

If the House ethics committee does not release names, then pressure should be brought to bear against its members to resign. They are not worthy of serving on such a committee.

It's time congressmen showed their bosses, the taxpayers, that they are worthy of their election to high office. Name names, and let the check kiters and schemers explain their actions to their constituents.

[From the Washington Times, Mar. 12, 1992]

WORST HOUSE CHECK-KITERS

[Sixty-six current and former lawmakers with accounts at the now-closed House bank cashed bad checks totaling $10,846,856 over a 39-month period ending Oct. 7. The House has not disclosed the names of lawmakers that match these accounts]

Account No.	Amount of bad checks	Number of bad checks	Highest negative balance	Days with negative balance
723[1]	$594,646	743	$23,019	917
168[1]	565,651	514	41,200	506
235[1]	552,447	388	20,743	1,003
784[1]	537,985	124	75,723	215
638[1]	351,609	972	27,398	642
116[1]	344,450	878	13,416	756
288[1]	296,681	716	9,474	1,005
595[1]	292,603	316	60,625	295
764[1]	277,101	53	39,557	380
520[1]	275,849	673	9,409	927
545[1]	273,361	819	10,746	1,052
670[1]	251,609	996	28,036	544
351[1]	227,598	217	18,515	219
576[1]	226,161	858	14,478	633
373[1]	218,994	397	13,978	711
800	215,285	119	57,555	226
918[1]	208,546	499	10,957	804
475	192,033	38	27,638	73
387	188,136	329	33,766	519
506[1]	188,016	439	25,078	379
397	180,251	481	9,838	393
321[1]	182,119	140	5,449	318
344[1]	176,503	344	12,964	560
354[1]	170,686	89	3,436	492
975	166,402	851	13,550	550
303	163,370	79	21,643	228
826	156,252	119	16,824	411
243[1]	143,857	81	22,190	230
143	134,119	739	6,910	437
702	133,419	92	8,165	370
814	128,738	399	8,602	318
547	128,229	551	8,097	499
752[1]	118,856	169	10,880	226
997	115,700	164	12,178	204
204	113,538	29	10,064	326
658	111,170	39	17,801	195
912	109,052	557	6,032	476
859[1]	108,386	273	7,319	489
639	107,263	9	80,068	14
796	103,968	300	9,573	284
212	103,946	121	9,544	317
852	103,623	93	5,721	430
270	100,967	3	92,158	3
442	97,167	88	15,786	151
394	95,450	83	21,568	129
198	94,343	150	22,582	273
180	93,395	45	63,150	69
223	87,050	575	7,711	355
837	86,338	57	18,153	292
693	82,811	151	8,209	253
759	78,948	27	5,712	193
781	77,624	191	6,152	283
426	74,939	89	6,183	325
560	72,951	209	4,869	268
473	70,484	128	5,310	196
890	70,039	126	23,048	241
540	69,511	125	5,015	213
207	67,637	106	16,406	235
501	62,455	64	4,319	131
317	55,523	125	4,711	231
533[1]	54,299	386	5,385	409
410	44,902	283	3,469	277
362	37,292	138	5,973	178
364	28,819	142	2,467	274
127	17,955	128	1,342	511
954	6,556	73	624	367

[1] These accounts would be the only ones publicly disclosed if the House ethics committee's recommendation is adopted.

Sources: General Accounting Office; House Committee on Standards of Official Conduct.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. I beg the indulgence of the Senate once more. Mr. President, I do not claim to be a sinless man. I do not even claim to be a righteous man. But I will put my honesty up against anybody else's, and I will put the Senate up against any other legislative body when one takes the broad sweep of the years and looks at the whole record across two centuries of time.

I am perfectly capable of informing my constituents in, response to letters, if any of them have any question as to whether or not the Senate has a bank, or as to whether or not I have ever written a bad check. I am perfectly capable of defending myself and laying it on the line if a question occurs.

If the President of the United States and others in the administration would quit pointing the finger at the Congress on everything and if he is going to talk about anybody—there is no rule, of course, there is no precedent with respect to what the Executive may say or the legislative branch may say each with regard to the other. But when he points his finger at the Congress, then perhaps it is he who is making it appear that the Senate is involved where it is not.

I simply call attention to the last paragraph of the amendment, which I think most violates the Senate precedents.

I am like the Republican leader in that I get a little tired of having Congress made the whipping boy all too often. But too many of us ourselves make the Congress a whipping boy, and we relish getting a big laugh or applause from the galleries by running down the very body of which we are members.

I have never done that in 34 years, and I do not intend to ever do it. It does not mean that I am incapable of finding fault with this body. I can find fault with it. I can criticize it constructively. But I never intend to hold it up to obloquy and scorn.

And I do know something about the rules and precedents. I have still a lot to learn. I will probably be one of the first to read the new and updated book on Senate procedures when the present Parliamentarian completes his work on it, which has been going on since the days when I was the leader of this party on this side of the aisle. I still have a lot to learn.

I am sorry that the Senate feels that it has to adopt this amendment to prove that it is spotless, honest, and above criticism. But I think, Mr. President, these things have a way—the worm will turn. The worm is capable of turning.

I have a deep appreciation for both the House and Senate. I have served in both bodies. I have a deep appreciation and understanding of the need for good will and comity between the two Houses. And it is in that spirit that I have taken the floor today. At least I want to call to the attention of my fellow Members what the precedents are, and I think a careful reflection on those precedents can explain to any Member why they are there. They reflect the wisdom of the Senate down through the years, and I hope we will heed them.

Mr. President, I yield the floor.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arkansas [Mr. PRYOR].

Mr. PRYOR. Mr. President, I am going to take just a few moments of the Senate. I know the distinguished managers of this bill want to get back to the regular bill.

I can very quickly see, I think, why the authors at this particular moment may want to distinguish the U.S. Senate from the House of Representatives in the way that we do or do not conduct our financial affairs in the Senate; that is, that we do not have a Senate bank as the House has a House bank.

But, Mr. President, having made that distinction—and I think that we can without including some of these later paragraphs in the resolution as proposed by the Senator from North Carolina and the Senator from Kansas.

I think, Mr. President, if I could suggest, if it was any compromise, that we might consider just taking three of the paragraphs. It would read:

> The Senate finds that only the House of Representatives provided for a system to collect the salaries of, and to honor checks written by, the Members of the House of Representatives;
>
> The Senate finds that, while proposals to establish a similar system within the United States Senate have been suggested, they have never been agreed to by the Senate;
>
> The Senate finds that no similar system has ever been in operation in the United States Senate.

Mr. President, in my opinion, that would stand on its face. It would suffice and it would preclude us from marching off where we have never marched before in an out-and-out mandate, if you will, or request of the House to do a certain act.

Mr. President, I join with the concern expressed by the distinguished President pro tempore, Senator BYRD, of West Virginia, who not only has a love for this institution but a depth of understanding for its history that is unequaled in this body.

I would like also to read the final paragraph, if our colleagues have not had the opportunity:

> It is the sense of the Senate that there should be full disclosure of all Members and former Members of the House of Representatives whose account balances at the House bank were insufficient to cover the amount of any check presented for payment.

Mr. President, a literal interpretation of that final paragraph means that we are talking about not a few former House Members; we are talking about hundreds and perhaps thousands of former House Members, some alive and hundreds and perhaps thousands deceased.

I think, Mr. President, this amendment accomplishes nothing. In fact, it accomplishes, I think, something that could be very wrong. It is the presumption expressed by this body that the House is incapable of addressing its own problems. I believe that the House is capable of addressing its own problems. The distinguished majority leader just read into the RECORD from the Associated Press the fact that the House of Representatives has just addressed this problem. They have just voted to disclose the names of those individuals who have written insufficient checks.

Mr. President, I do not see the distinguished Senator from North Carolina on the floor at this time, but if he were here, I would appeal, through the Chair, to his sense of decency and his sense of fairness.

I spent some numbers of years sitting at the same table with the distinguished Senator from North Carolina on the Senate Ethics Committee, and I can tell you, Mr. President, that the Senator from North Carolina, when an appeal is made to his fairness, to his decency, I have seen the Senator from North Carolina, on many occasions, do what is fair and what is decent.

Today, I would like to appeal, through the Chair, to our colleague from North Carolina to really withdraw or to perhaps accept these three paragraphs as suggested by myself or others who might take some time to craft some resolution that we might look at and might consider that would distinguish us and our system from that employed by the House.

I hope we can delay this a little bit, Mr. President, so we can have an opportunity to look at what we need to do and certainly not to do what we do not need to accomplish.

Mr. President, I thank the indulgence of my colleagues and I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, I first became aware of the existence of a House of Representatives bank in 1988, 8 years after I entered the Senate, when I sought the position of majority leader. There had been some suggestion that a Senate bank should be created, similar or identical to that which existed in the House of Representatives. And upon inquiry I learned that the then majority leader, Senator BYRD, had rejected the suggestion.

I consulted with the chairman of the Senate Rules Committee, Senator FORD, for whom I have the greatest respect, and he provided me with information about the operation of the House bank and recommended that I adopt a position identical to that which Senator BYRD had taken. I did so. There has not been any Senate bank created.

I welcome any statement by the Senate that no such bank should ever be established. But I wish to state clearly and for the record there is no possibility of that occurring in any event with or without this resolution so long as I am majority leader. I made that decision more than 3 years ago, prior to any knowledge, of course, of the current circumstances, and will adhere to that decision.

So the statement by the Senate encouraging that no such institution be created will have no effect, at least with respect to my decision, because that decision to that effect was made years ago. And while the human ability to predict future events is limited, I think it is fair to say that we are now engaging in an academic discussion, and that the likelihood of any Senator or any majority leader urging the creation of a bank is, to understate the case, highly unlikely, remote in the extreme, and in fact as a practical matter, not feasible or possible.

It has not occurred. It will not occur. And this resolution, therefore, will have no effect in that regard.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I ask unanimous consent that Senator SEYMOUR be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I am being exhorted to modify the amendment. Let me say that I have not yielded to the exhortations yet. Let me further say that if the House of Representatives ever catches the U.S. Senate doing the kind of thing that was going on in the House of Representatives, I hope they will blow the whistle on us and blow it loud. I do not think it will do any damage to comity. It certainly will not do any damage to the ever-diminishing respect that the American people have for the Congress of the United States.

But I will continue to think about that and I will confer with Senator DOLE, who is the author, of the pending amendment. The Dole amendment is identical to the Helms amendment, I confess, except for the change of a word or two.

I have obtained a copy of the Associated Press story to which the distinguished majority leader referred, and there may be some confusion about where the matter stands in the House of Representatives.

The House has not acted on the question of the House bank. And in a moment, I think it would be useful if I read into the RECORD precisely what the Associated Press story said, the story to which the distinguished majority leader referred.

Mr. President, I feel obliged to say again what I have said before on and off this floor; that I love the U.S. Senate with a fervor that is exceeded by no other Senator, not even my friend from West Virginia. He has been here longer and he is smarter than I am, but I expect that his feelings about the meaning and the intent and the purpose of the U.S. Senate are the same as mine.

I have been around this place off and on since the early 1950's. I first came here as an administrative assistant to a distinguished North Carolinian who was the Senator from North Carolina at that time, a Senator who, by the way, died in June of 1953.

The Governor of North Carolina asked me not to do what I had intended to do upon the death of Senator Willis Smith. I wanted to go home because in a sense with the death of my Senator, I was experiencing a traumatic episode and I wanted to go home. But Governor Hempstead persuaded me to stay with whomever he appointed to succeed Willis Smith, and I agreed to do so for a few months.

Mr. President, it is not a matter of lack of love for the U.S. Senate. I do not love everything about it, but I do love the original intent and the meaning of the Senate. It is the most unique legislative body in the history of the world. It is a place where a minority, even a minority of one, can stand as long as he is physically able or included and speak his piece. I have done that throughout my nearly 20 years in the Senate and will continue to do so however long the Lord lets me remain here. I do not regret even one position I have taken as a Senator.

Now let us get to the Associated Press story. I emphasize that the House has not acted on this matter. It is still an open question. It may be that the expectation is correct that the House will go along with what has been agreed to in the caucus, but we do not know that.

Furthermore, I was ready and prepared to offer my amendment last night and I agreed not to offer it because the distinguished majority leader informed me that there was an informal agreement between him and the Republican leader, Mr. DOLE, that there would be alternating recognition for Senators to offer amendments.

I came here this morning at 10 o'clock—prior to 10 o'clock, as a matter of fact—and I have been here since that time. So I would have offered the amendment last night. I would have offered it this morning. But we have a way of consuming of a great deal of time on amendments, and we are consuming a great deal of time on this one. I think a simply vote up or down, for or against, with me or against me would be the proper way to go.

Be that as it may, the Associated Press reported this afternoon as follows:

> WASHINGTON.—Democrats bowed to Republican charges of a coverup today and moved to publicly indentify the 355 current and former lawmakers who wrote bad checks at the House bank over a 39-month period. With a House vote scheduled for as early as this evening—

And I might say parenthetically that I doubt that it will happen this evening, it may—

> lawmakers who had long kept their silence about their check-writing practices were confessing in hopes of limiting the political damage.
>
> Representative Duncan Hunter, R-California, disclosed he had written an estimated 150 bad checks in the past 3 years.
>
> Representative Charles Wilson, D-Texas, said he wrote between 75 and 85 rubber checks at the House bank during the 39-month period under review. Wilson said he was taking advantage of a service that had existed for over 100 years.

I think he is wrong about that. I think it is closer to 200 years. I was not around 200 years ago or 100 years ago—sometimes I feel like it—but I think it was 1800 or thereabouts the bank in the House was established.

> Under the bank's procedures, checks written on insufficient funds were honored anyway, without a financial charge or penalty.
>
> Lawmakers nervously began detailing their financial secrets as House Speaker Thomas S. Foley reversed field and said he was working with Republicans on legislation providing a wider disclosure of the bad check writers. He had been backing release of the names of only 24 worst abusers.

Then the Associated Press story continues:

> "The position is being reassessed," Foley spokesman Jeffrey Biggs said, adding that the Speaker now was discussing ways to have a fair system for disclosing all the names.
>
> Democrats account for a majority of the House, and many Republicans accuse Democrats of trying to shelter their colleagues from political harm.
>
> The plan to release only 24 names failed to pass the public "smell test," charged Representative Jim Bunning, R-Kentucky.
>
> The House Ethics Committee, which devised the plan for naming only the 24 abusers, has more complete information on 66 account holders than on the others.
>
> Representatives Jon Kyl, R-Ariz. and Nancy L. Johnson, R-Conn., said after a meeting of all House Republicans that most Members spoke up for their proposal although no formal vote was taken.

Parenthetically, Mr. President, the matter is still up in the air. I do not know and I do not think any other Senator knows what will be the final outcome.

> "The vast majority supported full disclosure," Kyl told reporters. He added that some Democrats also have promised to fire House Sergeant at Arms Jack Russ, who ran the now-closed bank.
>
> The Ethics Committee said Russ misused his office by cashing his own bad checks at the bank and failed to carry out reforms.
>
> "If the Democratic leadership doesn't move, others will," Kyl said.

The rest of it is a review of all of the activities during the past 2 or 3 weeks. I think it is not relevant to the issue at hand.

Mr. President, let me say, in closing, that I wonder what action would have been taken in the caucuses today if Members of the House had not learned that the pending amendment would be brought up in the Senate. Instead of being regretful about the amendment, I think I am even prouder that I worked with Senator DOLE and others in its preparation.

I say that respectfully to all Senators who disagree with me, but we will see how it comes out.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the role.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JEFFORDS. Mr. President, like the sap run underway in my State of Vermont, tax bills have become something of an annual ritual. The result, of course, unfortunately, is not so sweet.

Tax bills, like all legislation, inevitably involve compromise. We often must make distasteful choices in the hope of advancing the general good. And just as inevitably, we find tax bills longer on promises than results, longer on politics than economics.

This round of the endless tax debate is no exception. This tax bill has been characterized as providing a great boost to the economy. It has been described as a boon to middle income taxpayers. It is sold as retribution for the 1980's tax giveaways to the rich.

It is none of the above. Our Tax Code is less progressive today more because of the payroll tax changes of the late 1970's than the income tax changes of the early 1980's. The vaunted tax relief for the middle class being proposed is significantly undermined by other, less publicized changes in the bill. And the only economic boost the bill provides is to a few campaign advertising consultants in need of some new material and 30 second spots.

Much has been made of the fact that this bill is deficit neutral. I am glad for that. But I wonder how a bill that does not affect spending in the aggregate will do anything to stimulate an economy that is static. How will a bill that rearranges a few billion in taxes haul a $5 trillion economy out of the mud?

This is not a novel question. It has been asked of one economist after another. And a remarkable consensus has emerged. Virtually all agree, and testified as much, that fiddling with the tax code will more likely do harm than good.

Everybody knows that economists can never agree on anything. Now that they finally do agree on something, we will not listen to them when they tell us to leave the Tax Code alone.

And with no offense to the economists, the people who count, my constituents, are telling me much the same thing.

In letter after letter from Vermont, people have either scoffed at the notion that small tax benefits will move a gigantic economy, or questioned how we can possibly afford a tax cut when we face a $400 billion deficit.

Those are not bad questions. You would think that even in Washington, DC, $400 billion would still be considered real money.

But you do not hear candidates talk about it much, if at all. It is abstract, and probably doesn't excite voters. But I think we underestimate those voters if we think they cannot see through the political posturing in progress.

The Democrats barely had the votes to pass this bill out of the House, and only bought the votes in the Senate Finance Committee by adding provisions to accommodate this Senator or that. I have no objection to that process. It is time-honored. But it does make the grandiose claims of fairness and equity sound a bit hollow.

And the Democratic party has no monopoly on partisanship. I was left scratching my head last night when we sought to waive the Budget Act to consider the President's package. I thought it was our party that wanted to preserve the budget agreement, and the other party that wanted to break down the limits on spending. But that is simply more fodder for the hustings.

The plain truth is that a $400 billion deficit does not give us the luxury, however tempting, of reducing revenues, not now, and not in the forseeable future. Yet this proposal incorporates proposals that would play the shell game of raising revenues in the short term while losing them in future years.

If you ask any lawyer, and that includes most of my colleagues, you will find that a tried and true tactic in class action cases is to put your strong cases out front and bury your weak ones. Tax bills work the same way. But unlike a trial, the verdict on a tax bill comes before the process of discovery, not after.

This bill is promoted as being designed for middle income families. I have no quarrel with making the tax code more progressive, and have voted in the past to increase the rates paid by the rich. But it is an odd collection indeed that is scurrying through the Senate, salted in the midst of the middle class.

This bill will expand tax breaks for oil companies. It will repeal the luxury tax on boats and planes, but not on cars. It will effectively charge utility customers in my State so that members of one union will enjoy retiree health benefits that most Vermonters can only dream about. We know, if I read the bill correctly, that our friends in Washington's foreign embassies will be able to buy beer without paying the excise tax. So much for all that talk about the shrinking middle class.

This bill is at odds with itself in far more fundamental ways than these few anecdotes indicate. This bill seeks to strengthen our economic foundation through increased savings, while fighting the recession through increased consumption.

How do you save and consume simultaneously, especially when you're broke to start with? We are telling the American people to go spend their money on a house, on durable goods, you name it. But at the same time we are telling them to save it in an IRA or invest it in small business. Much as we might like, we cannot have it both ways.

The American people are not stupid. If we should know anything, it is that they view Congress with great suspicion, especially in an election year. Tinkering with the Tax Code will not amount to a tinker's dam for the economy. They know it, and we know it.

I think there are many good provisions in this legislation. It makes some good changes to the earned income tax credit, some helpful changes in the area of health care, and several others.

But by and large, this bill is about politics, not economics. We all know, and the American people know, that this is a political exercise. We know the President will veto this bill, and that the House passed this bill by only a few votes. His veto will be sustained.

This bill will be rushed to the White House even though it will take an ambulance with life support. It is dead before arrival.

I do not begrudge the Democratic party for staking out its campaign proposals. But I do not think campaign proposals are either good tax policy or good economic policy. Both policies need some serious work. But if good policy were the aim of this bill, it would not be undertaken in a partisan fashion.

Serious work may be impossible in an election year. But our choices are not simply between the Republican and Democratic proposals. They are not limited to the lesser of two evils.

I do not think we need to choose either proposal, Republican or Democrat. I think we should choose instead to forget the politics and move on to the real issues—creating jobs strengthening our schools, making sound investments in our future, and staunching the deficit spending that jeopardizes our future and our children's future, and our grandchildren's future.

Mr. President, I speak with reluctance, as I see where we are going today, but I urge and hope that sometime in the not too distant future we will come forward with a responsible piece of legislation.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. MITCHELL. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. MIKULSKI). Without objection, it is so ordered.

The Senator from North Carolina is recognized.

Mr. HELMS. Madam President, Senator DOLE and I have been in consultation.

After consultation with Senator DOLE, we have decided in order to get a vote on this question to propose the following unanimous-consent agreement.

I ask unanimous consent that the Dole amendment be withdrawn with the understanding that no further second-degree amendment be in order. I further ask unanimous consent that it be in order to modify the underlying amendment.

The PRESIDING OFFICER. Is there objection to the Senator's request?

Without objection, the unanimous-consent request is agreed to.

So the amendment (No. 1715) was withdrawn.

AMENDMENT NO. 1714, AS MODIFIED

Mr. HELMS. Madam President, I have at the desk the modification and I ask for its immediate consideration. I ask the clerk to read it in its entirety.

The PRESIDING OFFICER. The clerk will report the modification.

The legislative clerk read as follows:

At the appropriate place, add the following:

The Senate finds that not only the House of Representatives, but the Congress as a whole is being held to account by the American public for the improper personal banking practices of its Members;

The Senate finds that only the House of Representatives provided for a system to collect the salaries of, and to honor checks written by, the Members of the House of Representatives;

The Senate finds that, while proposals to establish a similar system within the United States Senate have been suggested, they have never been agreed to by the Senate;

The Senate finds that no similar system has ever been in operation in the United States Senate;

The Senate finds that it has been reported that the House will vote to require a full disclosure of checks drawn upon accounts at the House bank or presented for payment at the House bank for which there were insufficient funds;

The Senate finds that such disclosure is the only means by which the full facts will reach the American public;

The Senate finds that the American public has not been made clearly aware of the differences in practices between the United States House of Representatives and the United States Senate and that therefore,

It is the sense of the Senate that no Senate bank with characteristics similar to those of the former House bank should ever be established.

Mr. HELMS. Madam President, the yeas and nays are still in order, inasmuch as this is a modification, is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. I am prepared to vote.

The PRESIDING OFFICER. Is there further debate?

If there be no further debate, the question is on agreeing to the amendment of the Senator from North Carolina, as modified.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Iowa [Mr. HARKIN] and the Senator from Hawaii [Mr. INOUYE] are necessarily absent.

I also announce that the Senator from Michigan [Mr. RIEGLE] is absent because of illness in the family.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 95, nays 2, as follows:

[Rollcall Vote No. 41 Leg.]

YEAS—95

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Bradley
Breaux
Brown
Bryan
Bumpers
Burdick
Burns
Chafee
Coats
Cochran
Cohen
Conrad
Craig
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Glenn
Gore
Gorton
Graham
Gramm
Grassley
Hatch
Hatfield
Heflin
Helms
Hollings
Jeffords
Johnston
Kassebaum
Kasten
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Robb
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Seymour
Shelby
Simon
Simpson
Smith
Specter
Stevens
Symms
Thurmond
Wallop
Warner
Wellstone
Wirth
Wofford

NAYS—2

Byrd
Cranston

NOT VOTING—3

Harkin
Inouye
Riegle

So the amendment (No. 1714), as modified, was agreed to.

MILEAGE COMPUTATION FOR RURAL POSTAL CARRIERS

Mr. DOMENICI. Madam President, day before yesterday, in analyzing the basic underlying bill, I went through a number of the provisions which I thought did not belong in a jobs bill, and I spoke about changes in the mileage computation for rural postal carriers.

If I said that the provision was not a good provision, and a good reform measure, I was mistaken, because it is. However, what I stand by is that we should not have this jobs bill filled with that kind of provision, and in that regard I believe my statement is accurate. But it is a good measure.

I have reviewed it at someone's request, and I think it would be good that we adopt it someday because it would help those who should be helped, and it would not in any way create any kind of preference, but it would be fair. I thank the Chair.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. HELMS. Madam President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Madam President, I voted "no" on the amendment. I thank the distinguished Senator from North Carolina [Mr. HELMS] and I thank the distinguished Republican leader for making the modifications that were made.

I want to state for the record again—so as not to be misunderstood—that I do not favor a bank in the Senate. I did not favor one when I was majority leader and I will not ever favor one.

But I think that the amendment as modified still violates the precedents of the Senate. I think it has been improved, but I still think it violates the precedents, and does not promote the comity that ought to exist between the two Houses.

Several Senators addressed the Chair.

Mr. BENTSEN. Madam President, if the Senators will defer for a moment, we have the problem of trying to finish this piece of legislation. Obviously we have been going at a snail's pace, hours and hours on very few amendments.

If we are trying to meet the deadline of March 20, it requires some cooperation. We have a situation where everyone wants to make his points on it, and we need to know how many are insisting that their amendments be considered. We need some time agreements.

So I would ask the membership to use some discipline. Let us have your feelings insofar as which amendments you feel are absolutely essential for you to offer, again, what you will agree to in the way of a time limitation. I have had people come up to me and say well, I want an hour. And I look at the number of amendments we have. No way can we finish tonight with that kind of an extravagance of the use of the time of the Senate.

But I would like you to report to the staff of the minority on the Finance Committee, as to which amendments you are insisting on presenting, and the time limitation on it; and that the staff of the majority of the Finance Committee let us get some limitations on it and move ahead in a better disciplined way; and try to get frequency or a series of the amendments that will be offered and the time limitations so we can better plan.

I defer to my colleague.

Mr. PACKWOOD. Madam President, we have a lot of amendments, unfortunately from my standpoint, but many of them are perfectly well-intentioned amendments. They want votes. Just tonight alone I have Senators SPECTER, MCCAIN, KASTEN, and I have others that are ready to go. Those are ready to go now. We are going back and forth. So that there will be only one at a time.

Very frankly, we are not going to finish tonight, or until 4 in the morning. Whether I can get time limits, I cannot tell. My guess would be on many of them the proponents, I find, are more often willing to give time agreements than the opponents because the proponents are the ones that want to vote and sometimes the opponents do not. But I cannot give any more assurance than that.

Mr. BENTSEN. If we can get as much information as we can, we will make a better judgment and decision on that.

With that I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

AMENDMENT NO. 1716

Mr. METZENBAUM. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM], for himself and Mr. ROTH, proposes an amendment numbered 1716.

Mr. METZENBAUM. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert:

(a) GENERAL RULE.—For purposes of chapter 1 of the Internal Revenue Code of 1986—

(1) any FSLIC assistance with respect to any loss of principal, capital, or similar amount upon the disposition of any asset shall be taken into account as compensation for such loss for purposes of section 165 of such Code, and

(2) any FSLIC assistance with respect to any debt shall be taken into account for purposes of section 166,158, or 593 of such Code in determining whether such debt is worthless (or the extent to which such debt is worthless) and in determining the amount of any addition to a reserve for bad debts arising from the worthlessness or partial worthlessness of such debts.

(b) FSLIC ASSISTANCE.—For purposes of this section, the term "FSLIC asssistance" means any assistance (or right to assistance) with respect to a domestic building and loan association (as defined in section 7701(a)(19) of such Code without regard to subparagraph (C) thereof) under section 406(f) of the National Housing Act or section 21A of the Federal Home Loan Bank Act (or under any similar provision of law).

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in the subsection—

(A) The provisions of this section shall apply to taxable years ending after March 4, 1991 but only with respect to FSLIC assistance not credited before March 4, 1991.

(B) If any FSLIC assistance not credited before March 4, 1991 is with respect to a loss sustained or charge-off in a taxable year ending before March 4, 1991, for purposes of determining the amount of any net operating loss carryover to a taxable year ending after on or after March 4, 1991, the provisions of this section shall apply to such assistance for purposes of determining the amount of the new operating loss for the taxable year in which such loss was sustained or debt written off. Except as provided in the preceding sentence, this section shall not apply to any FSLIC assistance with respect to a loss sustained or charge-off in a taxable year ending before March 4, 1991.

(2) EXCEPTIONS.—The provisions of this section shall not apply to any assistance to which the amendments made by section 1401(a)(3) of the Financial Institution Reform, Recovery, and Enforcement Act of 1989 apply.

Mr. METZENBAUM. Madam President, I rise today to offer an amendment to the tax bill that would stop the double dipping in the Tax Code by savings and loans receiving Government assistance. This amendment would require that assistance received from the Federal Government be taken into account for purposes of determining any loss or the worthlessness of a debt under the Tax Code.

The PRESIDING OFFICER. Will the Senator withhold? The Senate is not in order.

The Senator from Ohio may proceed.

Mr. METZENBAUM. I thank the Chair.

We are all too familiar with what happened at the former Federal Home Loan Bank Board during the last days and weeks of 1988. In the mayhem of around-the-clock negotiations and uncontrolled deal making, the bank board and the former Federal Savings and Loan Insurance Corporation known as FSLIC put together deals which amounted to nothing more than careless fire sales, and the American people were left holding the bag.

FSLIC resolved 199 insolvent thrift institutions into 96 Government-assisted transactions commonly referred to as the "1988 deals". Twenty-five of the deals were put together in the last 2 days of December 1988.

Madam President, may we have order in the Senate?

The PRESIDING OFFICER. The Senator is correct. Would Senators clear the aisle, please? Would those Senators involved in negotiations on the amendment please retire to the cloakroom? They are important negotiations

The Senator from Ohio.

Mr. METZENBAUM. I thank the Chair.

Some of our Nation's smartest and most aggressive financiers and corporate takeover artists, sensing an opportunity, got the deal of the century. For a relatively modest amount of money, investors acquired not only an S&L and its assets, but also huge sums of Government subsidies and guarantees spanning in most cases a 10-year period.

Let me give you an example of just how bad some of the deals were. My subcommittee investigated the deal for Bluebonnet Savings. James Fail purchased Bluebonnet Savings in December 1988. He invested only $1,000 of his own money in the deal. In return, the Government promised Fail and his thrift almost $3 billion in tax-free subsidies and guarantees over 10 years; $1,000 investment, $3 billion in tax-free subsidies and guarantees.

The deal was so lucrative that in the first year Bluebonnet became one of the most profitable thrifts in the United States, all from tax-free subsidies.

When our committee investigated this matter, it produced sufficient evidence to provide a basis for the Government to reopen and renegotiate the contract. Do you think the Government ever did so? Do you think the Government ever made an effort to do so? Of course not.

This Government agency has spent over $700 million in legal fees, but did not have enough lawyers to go back and reopen and negotiate a deal for which there was a legal basis, as evidenced by the hearings that we held in our committee.

Unfortunately, this is but one example of the questionable deals made by the bank board and the FSLIC in 1988.

The Bluebonnet deal, and most of the other deals, contained one or more different forms of Government subsidies.

The Government subsidies took three forms. First, FSLIC agreed to pay the acquirers the difference between the book value of the assets and the amount for which those assets are sold.

Second, because many of these assets were nonperforming, or troubled at the time the FSLIC sold them to the acquirer, the FSLIC guaranteed the acquirer a minimum return or yield on the value of the asset.

And the third subsidy is based on FSLIC's authority to order the acquirers to write-down the value of an asset on their books to reflect the fair market value of the asset. In exchange the acquirer would get a payment from the Government in the amount of the write-down.

All of those subsidies are tax free. FSLIC dangled these tax-free Government subsidies in front of the acquirers as an inducement to buy defunct thrifts. In facts, in many cases FSLIC targeted, as prospective acquirers, corporate entities and wealthy individuals who could utilize these tax benefits and accordingly would be willing to accept lower guaranteed yield rates on covered assets, lower interest rates on FSLIC notes, and similar terms.

Tax breaks became the glue that held many of the deals together. The tax breaks alone in many cases were equal to or greater than the investors paid to purchase the thrift.

(Mr. AKAKA assumed the chair.)

Mr. METZENBAUM. After having thanked the American taxpayer for the gold-gilded subsidies, now the 1988 deal acquirers are eager to exploit the Tax Code. Many acquirers have taken the aggressive position that even though their losses are reimbursed tax free by the Government, they still can deduct those losses for Federal income tax purposes.

The tax bonanza about which I am speaking has been known as double dipping, getting the benefit twice, dipping into the Federal Treasury twice.

Some of the smoothest and slickest businessmen in the country, with negotiating skills and other professional expertise far beyond those of the Government, want to further capitalize on the Government's misfortune of having made rotten deals, all at the expense of the American taxpayer. These deal makers receive tax-free Government assistance for assets sold at a loss, and now they want to deduct those same losses from their tax bills, as if they have not received one nickel in Government assistance.

A game of now you see it, now you don't with taxpayers' money. A form of hocus pocus with the Tax Code that bleeds the taxpayer for billions of dollars of tax deductions and escalates the savings and loan bailout costs to more than $500 billion in the past and over the next few years.

These are hard-earned tax dollars paid by the American people, and some of the slickest deal makers in the country are on the way to the bank constantly depositing those extra dollars. And the unfortunate part is that our Government is a party to their activity.

To add further insult to the American taxpayer, we now find that the losses experienced by the thrift are not only being used to reduce the taxable income of the thrift, but may also be used to shelter the taxable income of the parent company. Take, for example, the Perelman deal.

Ronald Perelman, chairman of Revlon, Inc., purchased several thrifts known as First Gibraltar. The losses of First Gibraltar can be deducted from the profits of MacAndrews & Forbes, the holding company through which the purchase was made. As a result of special tax benefits, MacAndrews & Forbes, and not the thrift, saved more than $121 million in 1989, in addition to the thrift's $129 million in profits.

As I predicted in 1988, the chaotic manner in which the 1988 deals were put together has indeed proven to be "shortsighted, irresponsible, and ultimately unfair to the American taxpayer."

Congress began addressing these tax issues with the passage of the 1989 FIRREA legislation. As part of the

FIRREA legislation, I sponsored an amendment that required the Resolution Trust Corporation to review and analyze the 1988 deals and actively review all means by which the cost of the deals could be reduced. This mandate included, among other things that the RTC evaluate the cost of the deals with regard to capital loss coverage, yield maintenance guarantees and tax consequences.

In March 1991, I sponsored legislation requiring the RTC to pursue all means by which the RTC can reduce both direct outlays and the tax benefits associated with the agreement, including, but not limited to, restructuring the deals to eliminate tax-free interest payments and to recapture a larger portion of the tax benefits.

Finally, after much discussion, the Treasury department has finally weighed in on this matter by issuing a report that settles this issue once and for all. The Treasury report concludes that there is no reasonable basis to allow double dipping by thrifts that receive Federal assistance.

The Treasury report recommended that Congress enact legislation clarifying that it did not intend to allow the deduction of losses that are reimbursed with tax-free assistance. That is exactly what this amendment does.

The House Committee on Ways and Means wisely followed Treasury's direction and included the Treasury's proposal in its tax package.

The amendment I offer today is the same language included in the Ways and Means Tax Fairness and Economic Growth Act of 1992.

This amendment is designed to stop the tax ripoff of double dipping. It clarifies that reimbursed losses received by thrifts from the Federal Government are not deductible. The amendment would apply to any assistance credited on or after March 4, 1991, which is the date of the Treasury report.

For those who would argue that this amendment is a retroactive change in the law, I say that is simply not the case. This amendment merely clarifies existing law.

As pointed out in the Treasury report: "Congress never intended to allow thrift acquirers to deduct losses when such losses are reimbursed by the Government."

The Tax Code was clear then, and it remains clear today. A taxpayer may claim a deduction for loss on the sale or disposition of an asset only to the extent that the loss is not compensated or reimbursed by insurance or otherwise.

This basic tax principle was not altered by the Congress at the time the 1988 deals were made and could not be legally altered by FSLIC or the bank board.

If you or I, or any other taxpayer, had a loss that was compensated for by insurance, or any other form of reimbursement, we would be required to take such compensation into account for tax purposes. Why should some of our country's wealthiest business persons and financiers not be required to do the same thing?

In a Washington Post article dated March 7, 1991, Treasury officials are quoted as saying that: "The savings and loan buyers are virtually the only taxpayers in the Nation who get to deduct losses even though they don't actually lose any money." Believe it or not, they get the right to deduct losses, even though the Government has already reimbursed them for the amount of those losses.

The President also agrees with this amendment. A similar proposal was contained in the President's tax package. There is not much that I agree with in the President's package but I agree with his position on double dipping. We must stop those who would exploit the incompetence of FSLIC and erode our tax system for their own personal gain and greed at the expense of the taxpayer.

According to the Treasury Department, this measure could save the American taxpayer over $900 million over the next 5 years. In this time of recession, can we really afford not to pass this clarifying amendment? If we should fail to pass this amendment, which I am certain we will not, how can we in good faith expect taxpayers to continue to pay billions of dollars to bail out the thrift industry?

As aptly pointed out by Bob McIntyre of Citizens for Tax Justice:

> There is no way that anyone could successfully explain to ordinary taxpayers—who pay tax on virtually all their earnings—that wealthy thrift operators can make hundreds of millions of dollars, guaranteed by the Government, not lose a penny, and still take artificial deductions for phony "losses."

I believe that this amendment is as right as any amendment could possibly be. I believe this is a major step in the right direction with some of the deals that have been negotiated by FSLIC.

It is this Senator's opinion that FSLIC and RTC have not been doing the job that they owe the American people. It is this Senator's opinion that they have thrown away hundreds of millions of dollars in paying lawyers and have not accomplished much for the Government.

But in this instance, this is a chance for we in the Congress to take some action that will save the taxpayers of this country an amount close to a billion dollars within the next 5 years.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. ROTH. Mr. President, I rise to join the Senator from Ohio to offer this amendment to put an end to what the Treasury Department called the perverse economic effects caused by allowing thrift institutions to receive Federal financial assistance at the same time that they deduct losses for the same money. This is what this amendment is meant to stop, the so-called double-dip by savings and loans.

On March 6, 1991, I introduced S. 583, which was designed to deal with this problem. The bill has eight cosponsors and is the only one addressing this problem, to my knowledge. It reflects the views of the Treasury report on the issue, released at about the same time.

It is a reasonable question to ask why anyone would think that they are entitled to deduct losses, while at the same time receiving insurance money from the FSLIC or RTC for the same loss. In reality, this is not a loss at all.

The tax benefits claimed by the S&L buyers are best explained with reference to an example. Assume that an asset has a book value of $100 in 1988, and is sold to a buyer in 1991 for $60. Under a typical FSLIC agreement, the buyer is entitled to an FSLIC payment of $40. Thus, the total amount received upon the sale of the asset is $100. But the buyers of these troubled S&L's claim that they are entitled to two tax benefits:

First, the $40 FSLIC payment is excluded from income under section 597; and

Second, the transaction generates a deductible loss of $40 assuming the buyer's tax basis is equal to the asset's book value.

Under this view, the FSLIC payment is both statutorily excluded from income and then ignored for purposes of the computation and deduction of loss.

Clearly, this is not right. Allowing tax deductions for losses on covered assets that are compensated for by FSLIC assistance gives thrift institutions a perverse incentive to hold these assets and to minimize their value when sold. The FSLIC or RTC, and not the institution, bears the economic burden. The tax benefit to the thrift and its affiliates increases as tax losses are enhanced, bringing rise to the axiom, "The more you lose, the more you make." This is a moral risk for the Government. The result is, the institution has an incentive to minimize the value of covered assets in order to maximize its tax loss and the resulting tax savings.

Take the example above, where the book value is $100, the FMV is $60 and the FSLIC payment is $40. The taxpayer will receive $60 from the sale, $40 from FSLIC and a $40 tax loss under the buyer reasoning. Assuming a 34-percent tax bracket the buyer gets $113.60 for the sale of his $100 asset.

Now assume that the buyer allows the property to decay and rot to lower its fair market value to $10. Assuming a 34-percent tax bracket, the buyer now will receive $10 from the sale, $90 from the FSLIC and $30.60 from the tax loss for a grand total of $130.60, thus increasing their profit by 15 percent by simply allowing the asset to rot. All of the risk falls on the Government, while the institution stands to profit.

The issue remains relevant because significant numbers of covered assets acquired in transactions closed in 1988 and 1989 have yet to be disposed of by the S&L buyers.

Some still argue that a deal is a deal and the Congress should not change the rules because they made a bad deal. I disagree. These people argue that Congress intended to allow the deduction of FSLIC-reimbursed losses when it enacted section 597 in 1981.

This does not stand up on review. Section 597 contains two operative provisions, the effect of each depending on the nature of the payment. In the case of a payment that would otherwise be included in income, section 597(a) renders the payment tax free. In the case of a capital contribution, section 597(b) suspends the rule requiring a basis reduction to the corporation's existing assets.

Neither the statute nor the legislative history of section 597 indicates that Congress intended to alter the rules for the computation of gain or loss—section 1001—or to suspend the existing statutory limitation on the deduction of losses that are compensated for by insurance or similar payments under section 165.

In short, I agree with the Treasury Department and their report dated March 1991, "Report on Tax Issues Relating to the 1988–89 Federal Savings and Loan Insurance Corporation Assisted Transactions." And the Treasury Department supports this amendment.

I also agree with an article from the Wall Street Journal dated July 10, 1991. This article outlines the perverse incentives caused by the interpretation by these thrift purchasers who claim this double-dip. I would ask unanimous consent that the Treasury report, the Wall Street Journal article and a similar New York Times article on this issue be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Department of the Treasury, March 1991]

Report on Tax Issues Relating to the 1988/89 Federal Savings and Loan Insurance Corporation Assisted Transactions

On September 18, 1990, the Resolution Trust Corporation (RTC), in accordance with the requirements of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), issued a report to the Congress and the Oversight Board of the RTC on the 1988/89 Federal Savings and Loan Insurance Corporation (FSLIC) transactions.[1] The RTC Report recommended further study of certain tax issues relating to the 1988/89 FSLIC transactions. The Treasury Department has examined whether legislation or other action is appropriate to address the tax issues raised by the RTC Report. This report analyzes the tax issues raised by the RTC Report and provides the Treasury Department's views on those issues.

I. INTRODUCTION

Until it was abolished by FIRREA, FSLIC insured the deposits of its member savings and loan associations and was responsible for insolvent member institutions. During 1988 and 1989, FSLIC resolved 199 insolvent financial institutions in 96 assisted transactions. The assistance agreements with respect to the 1988/89 transactions obligated FSLIC to make ongoing assistance payments to the 91 institutions remaining after the restructuring of the insolvent financial institutions that were involved in those transactions.

FIRREA abolished FSLIC and established the FSLIC Resolution Fund (FRF) to assume all of the assets and liabilities of FSLIC (other than those expressly assumed by or transferred to RTC). FRF is administered exclusively by the Federal Deposit Insurance Corporation (FDIC). Thus, under FIRREA, the FDIC (through FRF) has assumed responsibility for FSLIC's obligations under the 1988/89 assistance agreements.

It is estimated that the cost of assistance with respect to the 1988/89 transactions will exceed $69 billion without considering the tax benefits involved in those transactions.[2] In structuring the 1988/89 assisted transactions, FSLIC increased its reliance on long-term assistance. As a result, only a portion of the total estimated assistance with respect to these transactions has been paid thus far (approximately $14.6 billion as of January 1, 1991).

The most significant forms of continuing assistance provided in the 1988/89 transactions are described below.[3]

1. Promissory notes.—Promissory notes were provided to offset negative net worth and generally bear interest at a specified cost of funds index plus a spread.

2. Capital loss protection.—In virtually all of the larger 1988/89 transactions, FSLIC agreed to pay acquirers assistance in an amount equal to the difference between the book value of "covered assets" and the proceeds received upon disposition of the assets. This type of assistance is designed to protect the acquirer from losses incurred with respect to covered assets. The assistance agreements generally grant FSLIC the right to purchase covered assets at market or book value. In addition, many of the assistance agreements permit FSLIC to order the assisted institution to write down the value of covered assets on their books to fair market value in exchange for a payment in the amount of the write-down. Some assistance agreements limit the amount of such a write-down to a percentage of book value or by other factors.

Typically, covered assets are assets that were owned by the acquired institution and that were classified as nonperforming or troubled at the time of the assisted transaction. In some cases, covered assets include assets that were expected to become troubled within a relatively short period of time. Some assistance agreements specifically identify the covered assets and others identify these assets by category. Covered assets usually include some combination of real estate, loans in various stages of default, delinquent loans (*i.e.*, usually loans at least 90 days past due), noninvestment grade securities, and investments in subsidiaries. Most agreements also permit or require the assisted institution to provide financing to facilitate the sale of a covered asset. In some cases the assistance agreements provide for these purchase money loans to become covered assets.

3. Guaranteed yield maintenance.—FSLIC generally guaranteed the acquirer a minimum return or yield on the book value of covered assets. This type of assistance is designed to ensure that the acquirer would earn a minimum return over a base rate on covered assets. Any reduction in the amount of covered assets, whether by way of a write-down, purchase by FSLIC (now the FDIC), or other disposition, reduces the base on which yield maintenance payments are determined. In general, guaranteed yields exceed the amount of market yield that the institution could otherwise earn on the assets.

4. Indemnification and reimbursement from losses.—The assistance agreements generally obligate FSLIC to reimburse acquiring institutions for amounts incurred and paid in connection with the satisfaction, settlement or compromise of certain claims and for reasonable costs and expenses related to such claims. These claims include unreserved claims, challenges to the transaction, and claims involving unassumed or undisclosed liabilities and nonexistent assets. The agreements also require FSLIC to reimburse acquiring institutions for reasonable costs and expenses incurred by the institutions in pursuing related claims (*e.g.*, counterclaims) undertaken with FSLIC approval.

The timing and structure of the 1988/89 assisted transactions can be attributed to two factors. First, FSLIC did not have the financial resources required to liquidate insolvent institutions even where liquidation would have minimized the cost of resolving the institutions. Consequently, in order to resolve insolvent institutions, FSLIC resorted to long-term assistance. Second, the special tax benefits provided to troubled financial institutions were due to expire on December 31, 1988. This resulted in a increase in the number of assisted transactions completed in 1988.[1] The Technical and Miscellaneous Revenue Act of 1988 (TAMRA) postponed the expiration of these special tax benefits, but significantly reduced the amount of tax benefits available to assisted transactions occurring after 1988.

II. OVERVIEW OF SPECIAL TAX BENEFITS AVAILABLE IN CONNECTION WITH THE 1988/89 ASSISTED TRANSACTIONS

Prior to their repeal by FIRREA, the following three provisions of the Internal Revenue Code (the Code) provided the special tax benefits available in the 1988/89 transactions:

Under old section 597 of the Code, qualifying assistance payments to a financial institution acquired in an assisted transaction prior to January 1, 1989, are excluded from the institution's income, and the institution is not required to reduce the tax basis of its property or other tax attributes on account of the receipt of such assistance. In addition, the general rule disallowing deductions for expenses and interest relating to tax-exempt income (section 265) does not apply to deductions allocable to amounts excluded from gross income pursuant to old section 597. Generally, in the case of any assisted transaction after December 31, 1988, and before May 10, 1989 (the effective date of the repeal of tax benefits available to troubled financial institutions), the assisted institution is required to reduce its net operating losses, built-in losses, and interest expense deductions by 50 percent of any assistance paid to the institution.

Under section 368(a)(3)(D) of the Code, the acquisition of a troubled financial institution in a FSLIC-assisted transaction could qualify as a tax-free transaction without regard to the generally applicable requirement that the shareholders of an acquired corporation have a meaningful ownership interest in the acquiring corporation for the acquisition

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Footnotes at end of article.

to qualify for tax-free reorganization treatment.

Under section 382(l)(5)(F) of the Code, a corporation could acquire a troubled financial institution in a tax-free reorganization under section 368(a)(3)(D) without triggering the limitations that would otherwise apply to the net operating losses, built-in losses, and excess credits of the troubled financial institution.

Prior to the enactment of old section 597 in 1981,[5] the tax treatment of a payment from FSLIC to a financial institution was unclear. The payment could be treated as gross income or as a contribution to the capital of the institution. If treated as a contribution to capital, the payment was not included in gross income, but the institution was required to reduce the basis of its property by the amount of the contribution. After the enactment of old section 597, however, financial assistance payments made by FSLIC to certain troubled financial institutions were not included in the gross income of the institutions, and the institutions were not required to reduce the tax basis of property on account of the receipt of those payments.

The tax benefits available in 1988/89 assisted transactions represent a significant portion of the total cost of those transactions to the fisc. FSLIC estimated in early 1989 that the tax benefits attributable to the 1988/89 assisted transactions would equal $8.5 billion. After reducing this amount by FSLIC's estimate of the portion of those tax benefits that will accrue to its benefit under tax sharing agreements, FSLIC's total estimated cost to the Treasury of the tax benefits attributable to the 1988/89 assisted transactions is $4.2 billion in foregone revenues.[6]

III. TAX ISSUES RAISED BY RTC REPORT

The special tax provisions that applied to assisted transactions prior to FIRREA raise numerous tax issues. While many of these tax issues are not free from doubt, the resolution of most of them has not been controversial. The RTC Report, however, identifies a select set of tax-related issues that, depending on how they are resolved, may materially affect the cost of the 1988/89 transactions, most importantly:

1. The extent to which an assisted institution should be allowed to deduct losses and expenses even though the FDIC compensates or reimburses the institution for the losses or expenses; and
2. The extent to which the earnings on assets covered by yield maintenance guarantees are exempt from tax.

The remainder of this report analyzes these issues and provides the Treasury Department's views thereon.[7]

IV. DEDUCTIBILITY OF REIMBURSED LOSSES AND EXPENSES

The critical tax issue raised by the RTC Report is the extent to which financial institutions may deduct losses and expenses even though they receive assistance payments from the FDIC as compensation for those losses or expenses. In considering this issue, first this report provides an overview of the federal income tax considerations relating to the deductibility of covered losses and expenses, describing briefly the types of transactions in which covered losses and expenses arise. Second, the report considers the incentive effects of the deduction of covered losses and expenses on assisted institutions. Third, the report analyzes the arguments for and against the deductibility of covered losses and expenses. Finally, the report presents the Treasury Department's views on the appropriate response to this issue and considers potential legislative clarification.

A. Overview of Federal Income Tax Considerations

1. Sale or other disposition of covered assets

Generally, a taxpayer incurs a loss for tax purposes on the sale or other disposition of property to the extent that the taxpayer's adjusted basis for the property exceeds the amount realized on the disposition.[8] When an institution sells a covered asset, the question arises whether it is entitled to claim a tax loss to the extent the tax basis of the covered asset exceeds the proceeds from the sale even though it receives assistance payments to compensate for that loss. The following two types of transactions are at issue:

(i) Sale to third party.—If an institution sells a covered asset to a third party, the question is whether it may claim a tax loss even though it receives tax-free assistance payments from the FDIC to compensate for that loss and therefore experiences no economic loss. Assume, for example, that an institution sells a covered asset with a book value and tax basis of $100 to a third party for $40. Under the 1988/89 assistance agreement, the FDIC pays the institution $60 in tax-free assistance as compensation for the loss. The institution might nonetheless claim a $60 loss for tax purposes. Although, as the report discusses in detail, the issue is not free of doubt, the IRS has issued one unpublished ruling allowing the tax loss. The rationale for allowing the loss is that, under the law applicable to the 1988/89 transactions, assistance payments are excluded from income. The allowance of tax losses in such cases, even though the institution has experienced no economic loss, produces unintended and disadvantageous effects, which are described in the next section.

(ii) Sale to the FDIC.— Because it may be argued that all payments made with respect to covered assets constitute "assistance" provided under the 1988/89 agreements, institutions may claim that they are entitled to a tax loss equal to the entire tax basis of the covered assets if they sell the assets to the FDIC for market value or their book value. Assume, for example, that an institution owns a covered asset with a fair market value of $90 and a book value and tax basis of $100, and that the FDIC purchases that asset from the institution for its $100 book value pursuant to one of the 1988/89 agreements. The institution may argue for a $100 tax loss even though the institution receives $100 from the FDIC for the asset. The rationale for this view is that the entire amount paid by the FDIC should be treated as federal financial assistance and therefore disregarded in determining the institution's tax loss from the transaction. If this argument prevails, the covered asset would be treated as having been sold for $0 and the institution would be entitled to a loss equal to its entire tax basis in the asset. Alternatively, the institution might claim a $10 loss, on the ground that it would claim a loss in this amount had it sold the asset to a third party for its $90 fair market value and received $10 in assistance payments from the FDIC. In most cases, the FDIC's contractual rights to repurchase covered assets are at fair market value ($90 in the example), but in some cases the FDIC has a contractual right to repurchase covered assets at book value.

2. Write-down of covered assets

When an institution is ordered to write down a covered asset, the FDIC is generally required to make an assistance payment to the institution in the amount of the write-down. If the covered asset is a loan ("covered loan"), the issue is whether the institution must take the assistance payment into account in applying its method of accounting for bad debts. If an institution uses the reserve method of accounting for bad debts and the assistance payment made on account of the write-down is ignored for tax purposes, the institution may be entitled to charge the write-down against its reserve as a bad debt loss, potentially increasing the institution's addition to its reserve for bad debts and the deduction it may claim therefor.[9] If an institution uses the specific charge-off method of accounting for bad debts and the assistance payment made on account of the write-down is ignored for tax purposes, the institution maybe entitled to claim a bad debt deduction on the write-down of a covered loan.[10]

In the case of covered assets other than loans or covered loans with respect to which bad debt losses may not be claimed on the write-down, the issue is whether the assistance payment made in connection with the write-down must be taken into account in determining whether the institution is entitled to claim a loss on the subsequent disposition of the asset. As a result, in the case of an asset other than a loan, the tax considerations implicated by a write-down of the asset are similar to those raised above in cases where contemporaneous assistance payments are made to compensate for a loss on the sale or other disposition of a covered asset, although the legal analysis of the two transactions might diverge.

3. Reimbursed expenses

There is also an argument that expenses incurred but reimbursed by the FDIC should be deductible for tax purposes. Assume, for example, that an institution incurs legal expenses of $100 in connection with defending a claim relating to a covered asset and that these expenses are reimbursed by the FDIC. The institution has not, in reality, borne any expense in connection with defending the claim, but may nevertheless claim a deduction for the legal expense if the reimbursement is ignored for tax purposes.

In terms of the potential cost to the government, the deductibility of losses on the disposition of covered assets is much more important than the deductibility of reimbursed expenses. The policy considerations raised by the two issues, however, are quite similar.

B. Incentives

To the extent that tax deductions are allowed for losses on covered assets that are compensated by FDIC payments, institutions have a perverse incentive to hold covered assets and to minimize their value when sold. In the typical case, as long as an institution holds a covered asset, the yield guarantee protects the institution from any loss of income and on disposition the institution is guaranteed to receive book value through a combination of sales proceeds and FDIC payments. The FDIC, and not the institution, bears the economic burden corresponding to any reduction in value. Indeed, the institution and its affiliated corporations will tend to benefit as tax losses are enhanced. The institution therefore, has an incentive to minimize the value of covered assets in order to maximize its tax loss and the attendant tax savings. Similarly, to the extent that tax deductions are allowed for expenses that are reimbursed with FDIC payments, institutions have an incentive to maximize, rather than minimize, those expenses. Unless the tax rules are clarified to provide that covered losses and expenses are not deductible or such incentives effectively are reversed through renegotiations, only the exercise of the FDIC's contractual rights to repurchase covered assets can stop the potential waste.

C. Current Law: Arguments For and Against Deductibility

In the case of the sale or write-down of a covered asset, the assisted institution generally receives compensation from the FDIC for any loss. Similarly, the FDIC generally is required under the assistance agreements to reimburse institutions for a variety of expenses. The deductibility of these losses and expenses turns on the appropriate tax treatment of the financial assistance paid by the FDIC. However, the tax law is not clear.[11]

I. Considerations generally applicable to covered losses and expenses

Legislative background

The question whether covered losses and expenses reimbursed by the FDIC are nevertheless deductible for tax purposes depends upon a construction of the provisions of old section 597, enacted in 1981. Under old section 597, money or property received from FSLIC pursuant to section 406(f) of the National Housing Act is excluded from the gross income of a domestic building and loan association.[12] A companion rule in old section 597(b) prohibits a reduction in the tax basis of the assets of an assisted institution on account of the receipt of exempt assistance. Prior to the enactment of old section 597, the tax treatment of a payment from FSLIC to a financial institution was unclear. The payment could be treated as gross income or as a nonshareholder contribution to the capital of the institution. If treated as a nonshareholder contribution to capital, the payment was not included in gross income,[13] but the institution was required to reduce the basis of its property by the amount of the contribution.[14]

When Congress enacted old section 597, it decided that assistance payments should be excluded from gross income and should not be subject to the basis reduction rules applicable to nonshareholder contributions to capital. The statutory rule prohibiting basis adjustments apparently was intended to ensure that the exclusion from gross income provided by old section 597 would be permanent rather than temporary. It also appears that the special tax rules that applied to the acquisition of troubled financial institutions were designed to make the net operating losses of those institutions available to acquirers in assisted transactions.[15]

In enacting the special tax rules applicable to the acquisition of troubled financial institutions, Congress intended to facilitate the provision of financial assistance by FSLIC and to encourage the merger of troubled financial institutions into stronger institutions. The legislative history, however, does not suggest that Congress explicitly considered the implications of the basis adjustment prohibition beyond this point.[16]

The fundamental goal of the exclusion of income and the elimination of basis adjustments found in old section 597 was to ensure that FSLIC (and subsequently FDIC) assistance would not be reduced by the imposition of income taxes. There is no indication that Congress believed that the deductibility of covered losses and expenses was necessary either to fulfill this purpose or to facilitate the resolution of troubled financial institutions. Moreover, we suspect that Congress would have expressed a contrary view if it had explicitly considered the deductibility of covered losses and expenses and the perverse incentives associated with the deductibility of those losses and expenses. At the time of their enactment, old section 597 and the accompanying legislation to facilitate mergers and acquisitions of savings and loan institutions were estimated to produce an annual revenue loss of approximately $5 million. Old section 597 and its legislative background fail to provide conclusive authority for the deduction of covered losses and expenses.

Deductibility of losses: the amount realized

Under current law, a taxpayer is generally required to overcome two hurdles in order to claim a deduction for a loss on the sale of an asset. The first hurdle requires the taxpayer to establish that a loss was realized on the sale. As a general rule, a taxpayer realizes a loss on the sale or other disposition of property to the extent that the taxpayer's adjusted basis for the property exceeds the amount realized on the sale or other disposition.[17] A taxpayer's adjusted basis for an asset is generally determined by the cost of the asset.[18] A taxpayer's amount realized from the sale or other disposition of an asset generally equals the amount of money received plus the fair market value of any other property received on the disposition.[19] Therefore, an assisted institution would not be entitled to claim a tax loss on the sale or other disposition of a covered asset if assistance payments made to the institution as compensation for that loss are included in the amount realized from the sale. This treatment arguably is the most reasonable as it characterizes the transaction for tax purposes in accordance with its economic substance by denying the selling institution a deduction for a loss that it does not bear economically.

Upon any acquisition of covered assets, the acquiring institution acquired both the asset and FSLIC's agreement to provide compensation for any loss on the disposition of those assets. Consequently, the right of an institution to receive assistance on the disposition of a covered asset may be considered an integral part of that asset. Indeed, this view is consistent with private rulings that the IRS has issued holding that the right to receive assistance with respect to covered assets is taken into account in valuing those assets for purposes of determining whether the built-in deduction limitation of the consolidated return regulations applies to those assets.[20]

Old section 597 does not appear to prohibit the inclusion of assistance in amounts realized. By its terms, old section 597 only excludes from gross income amounts that would be gross income but for the exclusion. The amount realized on the sale of an asset is included in gross income only to the extent it exceeds the basis of the asset sold.[21] Therefore, old section 597 can reasonably be read to exclude only amounts of assistance that otherwise would produce taxable gain on the disposition of covered assets. In addition, the basis adjustment prohibition of old section 597 applies only to assistance that is excluded from gross income under old section 597. Thus, if assistance paid as compensation for a loss on the sale of a covered asset were treated as an amount realized on the sale, old section 597 would not apply to the assistance to the extent that it merely reduced the tax loss from the sale.

Perhaps the strongest argument of the proponents of deductibility is that disallowing a deduction for covered losses and expenses is tantamount to taxing the assistance, thereby denying the permanent exclusion that Congress intended. Under this argument, the basis adjustment prohibition of old section 597 is viewed as a prohibition of any reduction of tax attributes that would have the effect of taxing FSLIC assistance. Assume, for example, that an assisted institution sells an asset with a book value and an adjusted basis of $100 for $60, and that the FDIC pays the institution $40 of assistance to compensate for the loss. If a deduction for the $40 loss reimbursed by the FDIC is disallowed on account of the assistance payment, the institution is in the same position that it would have been in if it had realized $40 of taxable income from the assistance payment and recognized a $40 taxable loss on the sale of the property. Notwithstanding the superficial appeal of this argument, we do not believe that Congress intended the provisions of old section 597 to require deductibility of the reimbursed loss in such a case. It is quite reasonable to view that provision as prohibiting the reduction of FSLIC or FDIC assistance through taxation without, at the same time, reading the provision to create tax incentives for increasing losses and minimizing value in assisted transactions.

General principles governing the treatment of compensated losses and reimbursed expenses

If, contrary to the above analysis, assistance received from the FDIC as compensation for a covered loss is not treated as an amount realized, the selling institution will be treated as realizing a loss from the sale for tax purposes. The fact that the institution has realized a loss for tax purposes does not, however, necessarily mean that a deduction for the loss will be allowed. In order to claim a deduction, the institution must clear a second legal hurdle. Under section 165(a) of the Code, a deduction is allowed for any loss sustained during the year only if the loss is not compensated for by insurance or otherwise. In other contexts, this rule has been interpreted to bar a deduction for a loss that is compensated for by tax-free assistance.[22]

Similar principles apply to the deductibility of covered expenses. Generally, the Code allows taxpayers to claim a deduction for the ordinary and necessary expenses incurred in carrying on a trade or business.[23] It is well established, however, that ordinary and necessary business expenses are not deductible to the extent that they are reimbursed, even if the reimbursement payments are excludable, under specific provisions of the Code, from the recipient's income.[24] Amounts that are subject to reimbursement are in the nature of advances on the credit of the party responsible for making the reimbursement.[25]

Therefore, unless the provisions of old section 597 are interpreted to require that assistance payments be ignored in applying the principles that generally govern the deductibility of losses and expenses, the better view is that no deduction should be allowed for covered losses and expenses because those losses and expenses are compensated for or reimbursed with assistance payments. The proponents of deductibility, however, argue that assistance payments made with respect to covered losses do not represent compensation "by insurance or otherwise" within the meaning of section 165(a) of the Code because the assistance payments are not payments in the nature of insurance, but rather are part of an arm's length bargain that induced the acquirer to enter into the assisted transaction.[26]

While it is indisputable that the capital loss coverage provided in many of the 1988/89 transactions was part of an agreed package of consideration, that fact is not dispositive. First, loss reimbursements paid by the FDIC may qualify as compensation for purposes of section 165(a) even if the payments are not in the nature of insurance.[27] Second, even if the payments must resemble insurance, the assistance that FSLIC agreed to pay under the 1988/89 assistance agreements with respect to covered losses shifted the risk of those losses to FSLIC and, as such, bears a striking resemblance to insurance.[28] If, as part of one of the 1988/89 transactions, FSLIC had agreed to pay a third party to insure the assisted institution against some risk, would the fact that the insurance represented part of the consideration provided in connection with the acquisition of the assisted institution cause the insurance to be characterized as something other than insurance for tax purposes? We think not and cannot readily distinguish such a fact pattern from the one at hand.

Other considerations

The only existing administrative guidance explicitly addressing the deductibility of covered losses and expenses is an IRS technical advice memorandum.[29] This memorandum concludes that the assisted institution may deduct losses and expenses that are reimbursed with assistance payments from FSLIC. A technical advice memorandum, however, generally is not considered authoritative guidance.[30] Nonetheless, this ruling provides some support for the position of those arguing that covered losses and expenses are deductible.

Assisted institutions may also argue that the deduction of covered losses and expenses is supported by legislation enacted subsequent to the enactment of old section 597. For example, Congress enacted legislation in 1986 providing that an otherwise allowable deduction would not be disallowed under section 265(a)(1) solely because it is allocable to income that is exempt from tax under old section 597.[31] Generally, section 265 of the Code disallows a deduction for any expense that is allocable to exempt income. The purpose of section 265 in disallowing deductions for expenses incurred to earn exempt income is to prevent taxpayers from deriving a double tax benefit from an exclusion from income.[32] It may be argued that the legislative decision to exclude assistance exempt under old section 597 from the ambit of section 265 represents a decision to approve a double benefit analogous to the allowance of a deduction for covered losses and expenses, and that this decision supports the conclusion that Congress had a similar result in mind when it enacted old section 597.

As a matter of statutory interpretation, however, the situations in which postenactment expressions of intent by a subsequent Congress are relevant in ascertaining the intent of a prior Congress are limited. We believe that, in this case, the actions or intent of the 99th Congress in enacting statutory provisions related to old section 597 should not be accorded any weight in assessing the intent of the 97th Congress, when it enacted old section 597, regarding the treatment of covered losses and expenses since the 99th Congress did not directly consider the treatment of those losses and expenses.

Similarly, in 1988, Congress amended old section 597 to reduce the tax benefits associated with the exclusion of assistance payments from income.[33] This legislation, in general, required that certain tax attributes of an assisted institution be reduced to the extent of 50 percent of any assistance that is received by the institution and is excluded from gross income under old section 597 (the "attribute reduction rule"). Proponents of the deductibility of covered losses assert that this legislation indicates that Congress believed that covered losses and expenses are deductible because otherwise the attributes reduction rule would have the effect of reducing an assisted institution's tax attributes for assistance payments that provided the institution with no tax benefits. This argument, of course, assumes that the attribute reduction rule would apply to reimbursements of covered losses and expenses. The rule would apply, however, only if those reimbursements represent gross income that is exempt from tax under old section 597. If those reimbursements are treated either as an amount realized on the sale of an asset or as compensation for a loss, they would not be treated as gross income that is subject to exemption under old section 597.

In sum, while the subsequent legislative developments involving old section 597 do provide some measure of support to those asserting the deductibility of covered losses and expenses, that support is not determinative because Congress, when it enacted the subsequent legislation, did not provide a specific and official expression of its intent regarding the treatment of covered losses and expenses. Furthermore, we are impelled, once again, to state that, in our view, it seems likely that if Congress had specifically considered the issue, it would have expressed a contrary view.

2. Special considerations applicable to write down of covered assets

When an institution is ordered to write down a covered asset, the FDIC is generally required to make an assistance payment to the institution in the amount of the write-down. If the covered asset is a loan (*i.e.*, a covered loan), the issue is whether the institution may claim a bad debt loss on the write-down of the loan.[34]

Under the Code, a taxpayer is allowed a deduction for any debt that has become wholly or, to the extent provided in regulations, partially worthless during the year.[35] It is likely that assisted institutions will argue that they are entitled to claim a bad debt loss when they are ordered to write down covered loans. Under Treasury regulations, loans made by a bank or other regulated financial institution are conclusively presumed to be worthless to the extent that they are written off on the institution's books in response to an order of the institution's supervisory authority.[36] Arguably, the order to write down a covered loan represents an order that triggers a conclusive presumption under Treasury regulations that the debt is worthless to the extent of the write-down.

It does not appear, however, that a write-down ordered pursuant to rights granted under an assistance agreement should trigger the conclusive presumption of worthlessness. The purpose of the conclusive presumption is to conform tax and regulatory standards to the extent possible.[37] When an institution is ordered to write down a covered loan in accordance with the requirements of an assistance agreement, the write-down does not reflect an exercise of regulatory standards by the institution's supervisory authority in its capacity as such. Rather, the write-down is a product of rights and obligations created pursuant to an arm's length transaction between the institution and FSLIC.

If the conclusive presumption of worthlessness does not apply, all "pertinent evidence," including the value of the collateral and the condition of the debtor, are taken into account in determining worthlessness.[38] A taxpayer is not entitled to claim a deduction for a bad debt loss if the taxpayer has a reasonable prospect of being made whole of the loss.[39] Accordingly, it is appropriate in valuing a covered loan to take into account the institution's right to receive assistance compensating it for any loss on the disposition or write-down of the loan.[40]

D. Clarifying the Tax Treatment of Reimbursed Losses and Expenses

The RTC Report identified the acceleration of covered asset dispositions as one of the best options available for reducing the overall cost of the 1988/89 transactions.[41] The RTC Report also recognized the severe adverse impact that the deduction of covered losses and expenses could have on the cost of the 1988/89 transactions, stating that clarification of this issue is "vital." [42]

From the point of view of sound tax and financial policy, taking into account both the costs to the government and the appropriate economic incentives for assisted institutions, it is clear that assisted insitutions should not be allowed to deduct losses or expenses that are reimbursed by the FDIC. Unfortunately, as a legal matter, the deductibility of covered losses and expenses under existing law is less clear. Although the IRS has never taken a published position allowing these losses, it has issued at least one technical advice memorandum holding that the covered losses and expenses are deductible. In addition, IRS personnel apparently conveyed informally both to FSLIC and to potential acquirers that covered losses and expenses would be deductible. Material provided by FSLIC to prospective acquirers explicitly indicated that such losses would be deductible, although that same material indicated that the economic benefits of such deductions would flow to FSLIC and not the acquirers.[43] Under these circumstances, acquirers in the 1988/89 transactions regard the deductibility of covered losses as part of the consideration they received in connection with the acquisition of the troubled financial institutions involved in those transactions.[44] We are cognizant that denying institutions deductions for losses and expenses that are reimbursed by the FDIC will be perceived by some as a repudiation of the government's agreements.

Nonetheless, the Treasury Department has concluded that assisted insititutions should not be allowed to deduct losses and expenses that are reimbursed by the FDIC. In reaching this conclusion, the Treasury Department has carefully weighed the costs to the government of allowing institutions to deduct reimbursed losses and expenses against the costs of creating a perception that the government is not adhering to its bargain. The costs to the government of allowing assisted institutions to deduct covered losses and expenses is considerable. The costs of the perverse incentives that would accompany the deductibility of covered losses and expenses would likely dwarf the cost of the tax benefits associated with those deductions. Such perverse incentives are not only financially costly, but they also create the perception that the government is incapable of soundly managing the savings and loan failures. That the government may be perceived as reneging on its deal is unfortunate, but the costs of avoiding that perception are unacceptable.

Under these circumstances, the Treasury Department does not and should not feel bound by one technical advice memorandum and informal advice conveyed to acquirers by government personnel. The acquirers in the 1988/89 transactions were generally represented by sophisticated counsel who know well that they are not entitled to rely on informal advice either from the IRS or other government agencies or on technical advice memorandums or on private letter rulings issued by the IRS to other taxpayers. The failure of acquirers, for whatever reason, to obtain private rulings or closing agreements confirming the deductibility of their covered losses and expenses represents an assumption of the risk that the government might someday challenge those deductions. The Treasury Department does not believe that the American people should bear the burden of exculpating those taxpayers from their assumption of this risk. The IRS is prepared to challenge and litigate, if necessary, the deductibility of covered losses and expenses.

While the Treasury Department has determined that assisted institutions should not be allowed to deduct covered losses and expenses reimbursed by the FDIC, our decision does not settle the issue. Our view will surely be challenged in the courts and that litigation could drag on for a number of years. The uncertainty that this environment creates will make it very difficult for the RTC to implement measures to reduce the cost of the 1988/89 transactions. Therefore, congressional clarification of this issue is extremely desirable, if not essential. We do not believe that Congress, when it enacted the special tax benefits that were available in the 1988/89 transactions, intended to sanction the deductibility of covered losses and expenses. But, if so, Congress should tell us now so we can avoid costly litigation. Otherwise, Congress should enact clarifying legislation disallowing deductions for covered losses and expenses.

V. TREATMENT OF YIELD MAINTENANCE

A. Overview

In the 1988/89 transactions, FSLIC generally guaranteed the acquirer a minimum return or yield on the book value of covered assets. FSLIC agreed to pay yield maintenance to induce acquirers to purchase the assets (and thereby avoid the burden of purchasing those assets itself) because it believed that the acquiring institutions were better positioned to manage the assets properly. The guaranteed yield are based on a specified base rate (*e.g.*, the Texas Cost of Funds) plus additional amounts ranging up to 275 basis points. In most transactions, the additional basis points decline over the term of the assistance agreement. The guaranteed yields was set so as to provide the acquiring institution with sufficient income to cover high funding and operating costs, including the costs of managing the covered asset portfolio. In most cases, the guaranteed yield is significantly higher than the institution would receive on a market investment of an amount equal to the book value of the covered assets.[45]

B. Clarifying Tax Treatment of Yield Maintenance

Guaranteed yield maintenance has created incentives for institutions to engage in behavior that will tend to increase the costs to the government of the 1988/89 transactions.[46] First, yield maintenance gives the assisted institution an incentive to delay disposition of covered assets since the institution cannot readily replace the high tax-free guaranteed yields with comparable taxable yields. Second, the assisted institution has an incentive to minimize actual yield on these assets. This results in larger tax-free yield maintenance payments, thereby minimizing the taxable income of the institution or increasing tax losses that may be used to offset its other income or income of affiliated entities.[47] Apparently, the adverse incentives attributable to yield maintenance are being compounded by the fact that some assisted institutions are taking the position that actual yield on covered assets is not taxable to the assisted institutions, on the grounds that these institutions collect actual yield as agents of the FDIC.[48] This view, which in substance treats actual yield as if it were tax-free assistance, is at odds with both the language and purpose of old section 597(a). That provision defines assistance as amounts received from FSLIC (or the FDIC) pursuant to section 406(f) of the National Housing Act. The actual yield earned by an institution from its investment is not "received" from the FDIC and is therefore not received "pursuant to" section 406(f) of the National Housing Act.[49] The RTC Report recommends that appropriate authorities clarify that only the net difference between guaranteed and actual yield constitutes tax-free assistance income.[50] The Treasury Department will issue an administrative pronouncement holding that the actual yield on assets covered by a yield maintenance guarantee is taxable to the assisted institution. This result is sufficiently clear under present law that confirming legislation is not necessary.

FOOTNOTES

[1] *See Report to the Oversight Board of the Resolution Trust Corporation and the Congress on the 1988/89 Federal Savings and Loan Insurance Corporation Assistance Agreements* (RTC Report).

[2] *See* RTC Report (vol. I) at 9 and 68.

[3] For a more detailed discussion of the assistance provided in the 1988/89 transactions *see* RTC Report (vol. I) at 30–49.

[4] *See* RTC Report (vol. I) at 3–4.

[5] Old section 597 was enacted pursuant to the Economic Recovery Tax Act of 1981.

[6] *See Report to the Congress: Thrift Resolutions*, United States General Accounting Office (September 1990). For a more detailed discussion of the tax rules applicable to troubled financial institution *see* Staff of the Joint Committee on Taxation, *Current Tax Rules relating to Financially Troubled Savings and Loan Associations* (February 16, 1989).

[7] In the 1988/89 transactions, the assistance agreements generally require the assisted institutions to share a portion of their tax benefits with FSLIC. *See* RTC Report (vol. I), at 6, 47–49. Many assisted institutions that have entered into tax sharing arrangements with FSLIC are members of an affiliated group of corporations that files consolidated federal income tax returns. In many of those cases, the tax benefits that are subject to sharing are used by an affiliate of the assisted institution, rather than by the institution itself. In some cases, the other members of the affiliated group are not reimbursing the assisted institution for their use of its tax benefits. The RTC Report expressed concerns regarding these tax sharing arrangements and recommended that the FDIC and the Office of Thrift Supervision review the tax sharing arrangements to ensure that they are consistent with sound banking practices. *See* RTC Report (vol. I), at 118–120. As this does not raise issues of tax policy, this report does not address the issue.

[8] *See* I.R.C. §1001.

[9] *See* I.R.C. §593 and Treas. Reg. §1.593–7(b)(2).

[10] *See* I.R.C. §166.

[11] Many of the legal arguments discussed below are raised in one of the consultant's reports prepared and submitted to the RTC in connection with the preparation of the RTC Report. *See* RTC Report (vol. I), Appendix V. Contrary arguments have been presented by the law firms Skadden, Arps, Slate, Meagher & Flom and Johnson & Gibbs, which represent taxpayers who acquired thrift institutions in 1988. *See* letter dated November 6, 1990, from Skadden, Arps, Slate, Meagher & Flom to Kenneth W. Gideon, Assistant Secretary (Tax Policy); letter dated December 18, 1990, from Johnson & Gibbs to Michael J. Graetz, Deputy Assistant Secretary (Tax Policy).

[12] This exemption was extended to FDIC assistance to banks in 1988. *See* §4012(b)(2) of TAMRA.

[13] *See* I.R.C. §118.

[14] *See* I.R.C. §362(c).

[15] First, the exclusion of assistance payments from income without requiring a reduction in the acquired institution's net operating losses prevents those losses from being absorbed or otherwise reduced as a result of the assistance payments. Second, the special reorganization rules that were applicable to the acquisition of a troubled domestic building and loan association in an assisted transaction allowed the limitations of section 382 to be avoided in cases where it would have been impossible to do so otherwise.

[16] *See* H.R. Rep. No. 215, 97th Cong., 1st Sess. 283–4 (1981). *See also* Staff of the Joint Committee on Taxation, *General Explanation of the Economic Recovery Tax Act of 1981* 151–3 (December 29, 1981).

[17] I.R.C. §1001.

[18] I.R.C. §1012.

[19] I.R.C. §1001(b).

[20] *See, e.g.*, private letter rulings 8914021 (December 29, 1988) and 8914020 (December 29, 1988). There is little doubt that a payment received from the FDIC to purchase a covered asset constitutes an amount realized on the sale of the asset, at a minimum to the extent of the fair market value of the asset. As noted previously, because all FDIC payments with respect to covered assets arguably constitute "assistance" for purposes of old section 597, institutions may take the position that they are entitled to claim a tax loss equal to the entire tax basis of a covered asset when they sell the asset to the FDIC. The portion of the payment that does not exceed the fair market value of the covered asset, however, clearly represents consideration paid for the asset and must be treated as an amount realized for tax purposes.

[21] Under section 61(a)(3) of the Code, gross income includes gains derived from dealings in property. Under section 1001(a) of the Code, a taxpayer recognizes gain on the sale or other disposition of property only to the extent that the amount realized from the sale exceeds the basis of the property sold.

[22] *See* Rev. Rul. 76–144, 1976–1 C.B. 17 (disaster losses compensated for by tax-exempt disaster relief payments were not deductible). *See also Shanahan v. Commissioner*, 63 T.C. 21 (1974); Treas. Reg. §1.165–1(d)(2)(i). In addition, *see* note 24, below, for analogous authority regarding the deductibility of reimbursed business expenses under section 162 of the Code.

[23] *See* I.R.C. §162.

[24] *See, e.g., Manocchio v. Commissioner*, 710 F.2d 1400 (9th Cir. 1983) (flight training expenses were not deductible to the extent reimbursed by tax-free veterans assistance); Rev. Rul. 80–173, 1980–2 C.B. 60, 61 (similar facts, but stressing that in such a case a taxpayer "suffers no economic detriment and incurs no expense"); *Wolfers v. Commissioner*, 69 T.C. 975 (1978) (expenses for increased rent, moving costs and professional fees were not deductible to the extent reimbursed by tax-free relocation assistance); Rev. Rul. 78–388, 1978–2 C.B. 110 (moving expenses were not deductible where taxpayer had a fixed right to reimbursement with tax-free relocation assistance).

[25] *See, e.g., Manocchio, id.* at 1402, quoting *Glendinning, McLeish & Co. v. Commissioner, 61 F.2d 950, 952 (2d Cir. 1932).*

[26] This argument relies, in part, on *Idaho First National Bank v. Commissioner*, 95 T.C. 185 (1990), where the Tax Court stated that "[t]he FDIC insures depositors, not banks, and an FDIC assistance payment is not an insurance payment." Two points should be noted when considering the quoted passage. First, the passage appears in the opinion's findings of fact without any legal analysis and does not appear to be a finding that was required for the court to reach its decision. Second, the assisted transaction at issue in that case did not require the FDIC to reimburse or otherwise compensate the assisted institution for any losses incurred on the disposition of its assets. The FDIC assistance provided in that transaction took the form of a contribution to the assisted institution immediately prior to its acquisition. Under these circumstances, we do not believe that the Tax Court's decision in *Idaho First National Bank* should be accorded any precedential value with respect to the issue under consideration.

[27] *Compare Forward Communications Corp. v. United States*, 608 F.2d 485, 501 (Ct. Cl. 1979) (insurance is merely "one example" of the forms of compensation that will prohibit a deduction for a loss under section 165(a)) *with Shanahan v. Commissioner*, *supra* (the only form of compensation that will prohibit a section 165(a) deduction is compensation that is similar to insurance).

[28] The resemblance should be sufficient for capital loss coverage to be considered similar to insurance for purposes of section 165(a). *See, e.g. Estate of Bryan v. Commissioner*, 74 T.C. 725 (1980) (reimbursement of amounts embezzled from client out of trust fund maintained through annual contributions required of all practicing attorneys treated as compensation

similar to insurance for purposes of the estate tax counterpart to section 165(a)).

[29] *See* technical advice memorandum 8637005 (May 30, 1986). We also understand that the deduction of reimbursed covered losses was permitted in one closing agreement entered into by a taxpayer and the IRS.

[30] Generally, a technical advice memorandum (or private ruling) is not precedent and may be relied upon only by the taxpayer to whom it is issued. *See* I.R.C. §6110(j)(3); Treas. Reg. §301.6110–7(b).

[31] *See* §904(c)(2)(B) of the Tax Reform Act of 1986. Congress subsequently amended section 904(c)(2)(B) by striking out "Section 265(a)(1)" and inserting in its place "Section 265," thereby providing that the provision applied to all of section 265. *See* §4012(c)(2) of TAMRA.

[32] *See, e.g.*, Rev. Rul. 82–3, 1983–1 C.B. 72, modified by Rev. Rul. 87–32, 1987–1 C.B. 131.

[33] *See* old section 597(c), as amended by TAMRA.

[34] In the case of covered assets other than loans or covered loans with respect to which bad debt losses may not be claimed on the write-down, the issue is, whether the assistance payment made in connection with the write-down is taken into account in determining whether the institution is entitled to claim a loss on the subsequent disposition of the asset. Therefore, in those cases, the tax considerations implicated by a write-down of the asset are similar to those raised where contemporaneous assistance payments are made to compensate for a loss on the sale or other disposition of a covered asset.

[35] I.R.C. §166.

[36] *See* Treas. Reg. §1.166–2(d)(1).

[37] *See* Rev. Rul. 80–180, 1980–2 C.B. 66.

[38] *See* Treas. Reg. §1.166–2(a).

[39] *See e.g., Aerotron Grantor and Stockholder Trust v. Commissioner*, 56 T.C.M. 789 (1988); *Exxon Corporation v. United States*, 7 Cl. Ct. 347 (1985), *rev'd and remanded on other grounds*, 785 F.2d 277 (Fed. Cir. 1986). *See also* Treas. Reg. 1.166–2(b). *But see* Rev. Rul 80–24, 1980–1 C.B. 47, 48 (which relies on *Zeeman v. United States*, 275 F.Supp. 235 (S.D.N.Y. 1967), *remanded on other grounds*, 395 F.2d 861 (2d Cir. 1968)), for the proposition that a creditor may deduct a bad debt loss on a note, regardless of whether the creditor has a reasonable prospect of succeeding in a suit against the seller of the note for rescission of the sales contract, where the rescission suit does not deal with "the debt owed by the debtor to the creditor or with collateral, guarantees or indemnity contracts directly related to the debt as such". The FDIC's obligation to reimburse an institution for any loss on a covered loan, however, effectively constitutes a guarantee of that loan and, as such, should be taken into account in determining whether the loan is worthless.

[40] The IRS has taken into account an institution's right to assistance in valuing covered assets for other purposes. *See* authority cited at note 20, above.

[41] *See* RTC Report (vol. I), at 72.

[42] *See* RTC Report (vol. I), at 117–118.

[43] *See Information and Instructions for the Preparation and Submission of Proposals for the Acquisition of one or more Savings Institutions in the Southwest* (prepared by the Federal Home Loan Bank Board and FSLIC).

[44] Acquirers of troubled thrifts also take comfort from a statement by the Joint Committee on Taxation suggesting that such losses are deductible, even though that statement was made in February 1989 and therefore obviously not relied upon by taxpayers. *See* Staff of the Joint Committee on Taxation, *Current Tax Rules Relating to Financially Troubled Savings and Loan Associations* 38–39 (February 16, 1989).

[45] *See* RTC Report (vol. I), at 33–34 and 72–73, for a more detailed discussion of yield maintenance.

[46] *See* RTC Report (vol. I), at 73–74.

[47] Although assistance agreements provide for a declining yield spread over time, this has not yet materially reduced yield maintenance payments, and, therefore, has not thus far tended to mitigate the adverse incentives. *See* RTC Report (vol. I), at 74.

[48] *See* RTC Report (vol. I), at 116–117.

[49] *See, e.g.*, §406(f) (1) and (2) of the National Housing Act, 12 U.S.C. §1729(f) (1) and (2) (FSLIC is responsible for determining the terms and conditions of assistance received pursuant to section 406(f)).

[50] *See* RTC Report (vol. I), at 116–117.

[From the Wall Street Journal, July 10, 1991]

Left in Limbo: Thrift-Rescue Plan In Southwest Creates New Group of Victims

(By Christi Harlan)

AUSTIN, TX.—It is summertime, and the living should be easy for the 500 homeowners at the Circle C Ranch: To take the edge off the Texas heat, there is an Olympic-size swimming pool. For golfers, a championship course. And for the 1,180 elementary-school students who spent the past school year crowded into a building designed for 700, the prospect of a new school.

Unfortunately, the pool is open only because homeowners took up a collection to get the water flowing this summer; the golf course is still $400,000 away from completion, and the school, whose plans were begun in early 1989, won't open until September 1992 at the earliest.

Residents of the suburban enclave are furious. Beginning in 1987, they paid an average of $120,000 for their homes and expected to be enjoying the promised amenities well before this summer. "We're going to end up with mortgages on our homes that are higher than the value of the property," says a seething Susan Hoover, a Circle C homeowner for three years.

Such is life in a "covered asset"—a term coined by the federal government in 1988 in devising the so-called Southwest Plan for salvaging Texas thrift institutions by combining many defunct institutions into a few healthy ones. To lure buyers for the new thrifts, regulators offered to cover the losses on much of the institutions' bum real-estate loans through "yield maintenance" payments. Hence, the term "covered asset."

Although such inducements did persuade reluctant investors to buy the reconstructed thrifts, the Southwest Plan's many critics contend that they also encourage the buyers to simply sit on their covered assets and do little or nothing to improve the properties before the agreements expire in 1998. With taxpayer covering losses on operations and on eventual sales, a thrift institution is almost guaranteed a profit from its lucrative management fees and tax breaks. So why would a profit conscious thrift expend time and money to improve and market a project that, left alone, generates a guaranteed income stream?

The result: Throughout the Southwest, a lot of real estate, ranging from day-care centers to office buildings, is sitting in limbo. And these properties have created a new group of savings-and-loan victims. However sound financially the reconstructed thrifts' tightfistedness may be, it doesn't help people who live in or do business in the properties involved and who now see the value of their homes and businesses being strangled by a once-supportive lender and, by extension, by the government.

At Circle C, the target of the homeowners' anger—regularly expressed in news releases, letter-writing campaigns and meetings in the high-school cafeteria—is First Gibraltar Savings Bank, one of the products of the 1988 plan. That institution was created when Gibraltar Savings Association failed and was sold, along with four other defunct Texas thrifts, to a group of investors led by Revlon Inc. Chairman Ronald O. Perelman in December 1988.

Since then, Circle C residents estimate, First Gibraltar has collected at least $73 million in yield maintenance on their subdivision alone. The bank won't discuss Circle C, citing litigation with the developer.

"I think if average taxpayers understood how yield maintenance worked, they'd really be irate," Ms. Hoover says. "If you look at the numbers, this is a big ripoff for taxpayers."

As of Dec. 31, in fact, the government had doled out $14.5 billion in yield maintenance to the 1988 thrifts, in addition to billions of dollars in tax credits. The thrifts, now at least 2½ years into their 10-year government agreements, still hold $12.46 billion worth of covered assets.

The thrift owners argue that critics, including Congress, wrongly see yield maintenance as pure profit and don't consider that the payments offset losses on some spectacularly poor investments by the defunct thrifts and reimburse the new owners for managing and marketing the properties. "We would lose everything on one lousy piece of [repossessed property] if we didn't have yield maintenance," says Mark Mesec, general counsel for Amwest Savings Association, a Southwest Plan thrift.

Nevertheless, the size of the yield-maintenance payments and other breaks prompted Congress to call for renegotiation of Southwest Plan deals as a provision of the thrift-overhaul legislation of 1989. Now, 23 months later, the Resolution Trust Corp. is finally beginning those renegotiations, buying back notes issued to shore up the institutions' net worth and trying to trim fat off the payments for covered assets. But the latter maneuver hasn't been easy. One thrift, Bluebonnet Savings Bank, sued in Dallas Federal court early last month to protect its 1988 agreement, and other thrift owners have dropped thinly veiled threats that they, too, will go to court to protect their agreements.

Meanwhile, many homeowners and office-building tenants are wondering where all that money is going. In many cases, they complain, it certainly isn't going into keeping up the properties or marketing them aggressively. Punitive measures written into the agreements were supposed to prevent lackadaisical management, but the use of those measures has been spotty at best, mostly because oversight of the '88 thrifts has already passed through three agencies. In fact, the RTC has spent $4.6 million on legal and accounting advice on how to restructure the '88 thrift deals but is still trying to invent a yardstick for measuring the institution's efforts to sell covered assets.

Bluebonnet's marketing effort could be questioned under almost any measure. The bank has attracted congressional scrutiny because of the lobbying by a former aide to President Bush on behalf of the eventual buyer, James Fail. The Phoenix investor put up just $1,000 in cash to acquire Bluebonnet and borrowed another $35 million toward the purchase price.

Bluebonnet collected more than $177 million in yield maintenance last year alone. But the Dallas-based savings bank didn't list its $1.3 billion portfolio of covered assets with real-estate brokers for more than two years. Before that, it had tried to market its Texas properties with in house personnel and very little luck, according to brokers. The bank declines to discuss its government agreement.

Among Bluebonnet's holdings are 41,000 square feet in a strip shopping center in the Dallas suburb of Garland. The only tenants are a travel agency and a dry cleaner, separated by an abandoned photography studio. Several other tenants also have fled. The center is called Towngate Plaza, but you wouldn't know that from driving by: There is no sign except for the leasing agent's. "We had hoped that things would be a lot different than they are," says Debbie Day, fiscal operations manager for All About Travel Inc.

Prospective tenants have told the travel agency employees they can't persuade Bluebonnet to finance the finish-out of the vacant space, a fairly common arrangement in commercial real-estate deals. And while Towngate languishes, neighboring strip centers are filling up. "It's a shame because we know of people who want to move in," Ms. Day says.

A sales agent who represents Bluebonnet and other Southwest Plan thrift institutions says their unwillingness to finance improvements of vacant properties is driving away the "mom and pop" retailers whose presence could spur property sales. But a leasing agent says the thrifts simply want to reduce their risk. "The tenants who tend to gripe or tend to complain, it's usually because they don't have the credit to justify a finish-out," he adds.

That wouldn't seem to describe Larry Walker, owner of Walker Marine in Garland, who says his clean credit record was of little help in negotiating a finish-out of an abandoned cafeteria where he wanted to open a second sport boat dealership. Mr. Walker says he first sought to buy the building (originally financed for $1.2 million, now listed at $150,000), but gave up after several tries at renegotiating the appraised value. When he decided to lease instead, negotiations for $50,000 of remodeling dragged on for months, partly because the thrift needed government approval for the remodeling loan.

Not all Southwest Plan thrift institutions are as tight with a dollar, however. Amwest Savings sought and won government approval to spend $1.1 million on finishing out the Atrium at Collin Ridge, a five-story office building in Plano, another Dallas suburb. Just 22% of the glass and marble building was leased when Amwest took it.

But the Atrium also illustrates why the Southwest Plan deals appear so lucrative. The building was financed for $35 million by its original lender; it now is appraised at $8 million, according to Amwest's Mr. Mesec. The government will reimburse Amwest for finish-out costs and also pay the thrift the difference between the sale price and the original loan amount when the building is sold. "It's not profit," Mr. Mesec says. "It's recognizing a loss" from previous years.

By spending government money to attract tenants, Amwest hopes to raise the Atrium's occupancy rate and appraised value—and fulfill its contractual requirement of maximizing its value for the government, Mr. Mesec says. "There will still be a loss one of these days," he says, "but it will be less of a loss."

In many cases, however, '88 thrifts seem to have decided to play it safe and just collect their fees. Southwest Plan critics often single out First Gibraltar, whose tax breaks have been widely criticized. The institution held $1.23 billion in covered real-estate assets as of Dec. 31, 1988, the day it was created. It says that as of March 31, it had reduced its real estate assets 13.6%, to about $1.07 billion. Last year alone, First Gibraltar collected $198.9 million in yield maintenance, the largest amount of any Southwest Plan thrift.

First Gibraltar Chairman Gerald Ford (who isn't related to the former U.S. president) contends that the bank has done well in its sales of covered assets. "We want to sell," he says. "We're not hanging onto a piece of land so we can get yield maintenance for another year."

Mr. Ford and officials at other Southwest Plan thrifts say government approval for all marketing and management plans remains one of the biggest hurdles in the sales of covered assets. Mr. Ford says First Gibraltar would be willing to renegotiate its covered-asset agreement in exchange for more leeway from the government. "We're not wedded to a yield-maintenance concept," he says. "There probably is a better way to do it."

At Walden on Lake Houston, an upscale residential development northeast of Houston, First Gibraltar has yet to begin marketing property even though it foreclosed on the subdivision 18 months ago, according to a thrift executive's testimony in the Circle C bankruptcy proceedings. Nor is First Gibraltar selling any of its 2,000 available home lots there, according to real-estate brokers. New construction stands paralyzed. A First Gibraltar spokesman says a mangement company hired by the bank has been actively marketing individual home lots at Walden on Lake Houston, although the development as a whole hasn't been marketed.

Circle C residents, in voluminous correspondence with federal officials, accuse First Gibraltar of ignoring offers to purchase the subdivision while reneging on agreements to finance amenities such as the poolside snack bar, golf course and streets to the new elementary school. But most of the homeowners' energy is directed at pressuring federal thrift overseers into forcing First Gibraltar to revive construction at Circle C. With only 500 homes built out of a planned 8,000, residents face potentially crippling assessments for utilities, such as water and sewer lines, already in place.

First Gibraltar has told the homeowners that it isn't required to honor financing agreements struck by the defunct Gibraltar Savings, especially since the developer, Gary Bradley, defaulted on his loans. Mr. Bradley, in turn, blames the thrift for prematurely cutting off financing that would have allowed him to develop Circle C further and pay off the debt.

The lender-borrower dispute has landed in bankruptcy court in Austin, where Mr. Bradley's company sought refuge last fall when First Gibraltar moved to foreclose on Circle C. The Circle C homeowners have waded into that fray, too, petitioning to be in the disposition of the subdivision.

Federal regulators, though expressing sympathy for the homeowners, say they are satisfied with First Gibraltar's handling of Circle C. In a Feb. 15 letter to homeowners, Mary Creedon, an associate director of the Federal Deposit Insurance Corp., said the thrift and the agency "have an interest in maintaining and preserving the value of the collateral to prevent further loss, but we have no interest in funding capital improvements or acting as a developer unless such expenditures would realize more than a dollar-for-dollar return upon sale of the collateral."

Ms. Creedon's letter didn't mollify the homeowners, who are lobbying the FDIC and First Gibraltar to negotiate a settlement with the developer, Mr. Bradley, based on the bankruptcy court's assessed value of the property. In a reply to Ms. Creedon, Ms. Hoover wrote: "With the structure of the assistance agreement with First Gibraltar and the continuous funds that the FDIC must pay them to hold these notes [for Circle C], it is simply not possible that you will ever be able to maximize return on the investment."

The letter was signed by Ms. Hoover on behalf of the residents' association, the Organization of Unified Circle C Homeowners, better known as Oucch.

[From the New York Times, July 29, 1991]

U.S. RENEGOTIATES SOME S.&L. DEALS TO REDUCE COSTS

(By Leslie Wayne)

With an angry Congress complaining, Federal regulators have begun renegotiating some of the biggest sales of failed savings and loans to private investors and have started to withdraw many financial breaks granted to other investors.

The Government says it is trying to save taxpayers billions of dollars. Exercising some of its options has already produced savings of more than $1 billion, the regulators say, and the renegotiations could produce as much $2 billion more in savings.

But the investors, who put up millions of dollars to buy moribund savings and loans, say the regulators are violating the spirit of the sale agreements and could push some of them into insolvency.

Even though the Government is empowered under the contracts to take these actions, many investors say they never figured the regulators would have the will—or the cash—to do so.

ALWAYS A BUSINESS RISK

"There was always a business risk that the Government would buy back assets," said Richard K. Kneipper, a lawyer at Jones, Day, Reavis & Pogue in Dallas, whose clients have included investors in some Texas savings and loans. "But no one figured that they would actually do it."

Some investors question whether regulators are motivated by a desire to silence Congressional critics of the deals, which were completed in 1988. At that time a special Government insurance fund lacked enough money to close the growing number of failed savings institutions in the Southwest, so regulators offered investors generous monthly subsidies and high-paying Government notes to entice them to buy the institutions and keep them alive. About 200 deals were struck.

Critics in Congress and elsewhere have labeled these arrangements sweetheart deals that they say enriched the investors at the expense of taxpayers. The regulators at the time said the deals were the best available option, and the investors themselves say they answered the Government's call only to be roundly criticized ever since.

And now the investors say the Government's actions have had a chilling effect on further investment, making more people reluctant to do business with the Government.

"It looks to me like they are really trying to destroy this industry," said Joseph Matlock, chief executive of the Franklin Federal Bancorp in Austin, Tex., and chairman of the Texas Savings and Loan League. "They are making sure that no private capital comes into this industry again."

And Scott Shay, a managing director at Ranieri, Wilson & Company, which invested about $90 million in cash in Houston's insolvent United Savings Association, complained: "It's a modern-day witch hunt. This is going to bankrupt a good number of thrifts, and the costs to the Government are going to be higher."

Goverment regulators do not see it that way.

"This is being done because it saves taxpayer money," said William H. Roelle, director of the resolution and operations division of the Resolution Trust Corporation, the Government agency overseeing the savings and loan cleanup. "We are exercising rights we have under these contracts and we want to do it in a way that does not create insolvencies or damage these institutions to the point that their survival is at stake."

COST OF THE DEALS RISES

Since 1988, the price tag for the roughly 200 deals has grown to $65 billion, as the market value of the real estate in their portfolios continues to fall, which weakens the value of the savings institutions' assets.

As the cost to the Treasury mounted, so did the criticism in Congress, which saw these deals as an example of Governments largess and investor greed.

Among the deals being renegotiated are those with Ronald O. Perelman, the financier who is chairman of the Revlon Group; the Bass brothers of Texas, one of America's richest families, and Lewis S. Ranieri, the former vice chairman of Salomon Brothers. These discussions have just begun.

"We're in negotiation with all the big transactions, and as time has gone on the discussions are more intense," Mr. Roelle said. One main area is a plan to exchange warrants that the Government received to buy stock in these savings and loans for a reduction in some benefits—tax breaks and cash subsidies—that the Government provided.

EFFORT TO REDUCE SUBSIDIES

Aside from trying to renegotiate some deals, the Government is also exercising two cost-saving options it has under most contracts. It is forcing institutions to write down, or reduce the stated value, of their real estate portfolios to current market values. That action, in turn, reduces the amount of government "yield maintenance" subsidies investors receive. And it is prepaying high-cost Government notes given to investors to help provide capital for these savings and loans.

So far, the Government claims to have saved taxpayers $1.07 billion through these two options. And the swiftness and decisiveness with which the Government has moved is believed to be bringing the big investors to the negotiating table.

The largest renegotiation involves the acquisition of First Gibraltar Bank in Dallas, a $13 billion savings and loan bought by Mr. Perelman's group. Gerald J. Ford, chief executive of First Gibraltar, readily acknowledges that his group is satisfied with its existing agreement. It agreed to renegotiate, he said, "because of political sensitivities."

TO GET ON WITH OUR LIVES

Mr. Ford said he expected the negotiations to "cost us some money." But he added, "We are prepared to do that to get on with our lives" and to get out from under a cloud of uncertainty that limits First Gibraltar's ability to raise capital.

"We know that in attempting to minimize the cost to the government it will cost us money," Mr. Ford said. The Government has already reduced by about $400 million the value of First Gibraltar's assets. This reduces the "yield maintenance" subsidy the Government must pay, which is based on the value of the assets.

At American Savings Bank, a Bass brothers investment where the Government recently prepaid a $748 million note, negotiations began only two weeks ago. "We're willing to sit down and restructure if it is beneficial to the Government and doesn't basically change the financial arrangement of the deal," said Owen Blicksilver, a spokesman for the Basses.

In Texas, among the hundreds of smaller savings and loans, the Government's insistence on reducing asset values and the note prepayments are being greeted with dismay—and disbelief.

"If you own a thrift here, you are treated like you've got leprosy," said Mr. Matlock of Franklin Federal.

So far, the Government has forced institutions to reduce the value of real estate assets by $6.6 billion, which cuts the amount of subsidies received by these savings and loans by $372 million. The Government's actions strikes at the heart of many deals: a promise by the Government to protect the buyer of the institution against losses as he tries to sell troubled real estate assets. But critics of the deals have complained that in the difficult Texas real estate market many savings and loans have failed to market these assets and have instead been content to simply hold onto them and collect a Government check.

RETURN OF 9 PERCENT OR MORE

The subsidies have generally provided a turn of 9 percent or more on the value of the assets left unsold—a higher return than what Texas savings and loans could earn on most other investments.

Under the contracts, the Government was empowered to buy many of these assets, or reduce their value, but to do so required cash that the Government did not have. Recently Congress authorized $22 billion to meet Government obligations for these deals, and the Resolution Trust Corporation began to move.

These write-downs present savings institutions a series of business dilemmas, they say. For one, they reduce their subsidies, but the overhead costs for managing these real estate assets remain the same. And, in a peculiar twist, the Government is obligated to provide the savings and loan with a one-time check equal to the amount of the write-down—in accounting terms, it means that the loss is recognized today rather than at some point in the future. The institutions say they would rather have the subsidies than the one-time payment, which they say they cannot reinvest at the same high rate.

SAME OVERHEAD, LESS INCOME

"We've still got the same overhead, but we've got less income," said James Jarocki, chief executive of Americity Federal Savings Bank in Dallas, which is facing a $50 million write-down. "They are exercising their rights under the agreement and I cannot fault them for that. They are doing the right thing for the taxpayer.

"But now we are going to reinvest this money in loans, and there's a bit of a scramble going on where people are now tripping over themselves to put out loans."

Thomas P. Vartanian, a Washington lawyer and former general counsel of the Federal Home Loan Bank Board, said he thought the Government was being motivated by "political as well as economic realities." He said the "jury is still out" on the 1988 deals and the institutions might eventually be revived by a rejuvenated marketplace rather than cash spent by the Government.

But Mary A. Creedon, an associate director at the Resolution Trust Corporation, disagrees. "To save money, we have to spend up front and for us, there are a limited number of ways to save money," she said.

Mr. ROTH. Let me end by saying that we are offering the House proposal, which is substantially the same as the one included in the Bush administration's budget. The effective date in this amendment is the date of the Treasury report, March 4, 1991, in an effort to be fair to those who felt they were misled by Congress and the administration. I believe we could go back further, but I am willing to leave that to the courts to decide when the IRS pursues this their normal course of auditing these S&L purchasers.

I hope everyone will support this amendment, with the idea that it is the right thing to do and represents good government. Let us put an end to the incentive some have to allow assets to decay and have Uncle Sam pick up the tab.

Mr. President, I yield the floor.

Mr. DURENBERGER. Mr. President, I rise in support of the amendment offered by the Senator from Ohio. This proposal, which was included in the President's budget, would eliminate the double dipping abuse by thrifts which receive Federal assistance for taking on the troubled assets or properties of failed savings and loans.

In an effort to quickly resolve failed institutions, the Federal Saving and Loan Insurance Corporation guaranteed buyers of failed institutions a certain level of return for these troubled assets. These guarantees would either make up the difference when the purchaser adjusted the loan values to reflect current value or would supplement a certain promised level of return on nonperforming loans.

The double dipping problem arose, Mr. President, when the purchasers of failed thrifts not only accepted Federal assistance on the troubled loans, but also took a loss for the devaluation of the property on their income tax returns—even if that loss had been compensated by the Federal Government. If left unchecked, this double dipping would cost the taxpayers and the Government nearly $1 billion over the next 5 years.

This amendment, which was recommended by the Department of the Treasury, place purchasers of failed thrifts on the same level as all other taxpayers. It clarifies that thrift purchasers are not entitled to a tax deduction on losses which are compensated from other sources, such as insurance or from the Federal Government.

Mr. President, this amendment represents both good policy and simple fairness. I urge my colleagues to join me in support of this amendment.

Mr. BRADLEY. I rise in support of the amendment offered by Senator METZENBAUM. My only regret is that we have to once again be facing this issue.

There is no justification for allowing savings and loans and thrifts to get two bites at the tax apple—taking the loss against their income and treating the assistance provided by the Federal Savings and Loan Insurance Corporation under loss protection and yield guarantee agreements as nontaxable. Our lack of oversight has already led to the huge costs faced by taxpayers in the savings and loan bailout. This measure will at least prevent the taxpayers from having to pay twice for a portion of that cost.

I was one of the very few Senators who voted against the bill which brought us to this point. In 1988, the

Senate passed the Technical and Miscellaneous Revenue Act of 1988. That bill required thrift institutions to reduce certain tax attributes by one-half the amount of financial assistance received from the Savings and Loan Insurance Corporation. The other half, of course, received the unjustifiably favorable tax treatment which we are trying to put an end to today. When this provision was repealed by FIRREA, the thrifts took it as a green light to take the loss and exclude the assistance. The fact remains that we should have clarified this issue in 1988. I argued against such double dipping in 1988 and I support this amendment today. I am gratified that this time the proposal has the support of the Treasury and the House of Representatives. I hope that this time we get the equation right.

Mr. BENTSEN. Mr. President, this particular amendment has no budgetary effect. It is identical to the House provision. It will not add to the conference. It will be an agreed item in the conference. Having checked with the minority and the majority, I find it acceptable to each and therefore do not object to the amendment.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the amendment of the Senator from Ohio.

The amendment (No. 1716) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Mr. President, as I understand, it is now our turn on this side, and the Senator SPECTER has an amendment. And while he is on his way to the floor, I wonder if it might be all right for Senator SYMMS to make a short statement. He is not going to offer the amendment—just going to make a statement and not offer the amendment.

The PRESIDING OFFICER. The Senator from Idaho [Mr. SYMMS] is recognized.

Mr. SYMMS. Mr. President, I thank the Chair, and I thank my colleagues.

I was hopeful that today Senator GRAHAM from Florida and I would be offering an amendment to make a minor modification to the Tax Code which would have a substantial, positive impact on our country's transportation policy, environmental policy, and energy policy.

Our amendment would simply remove the 25 percent inclusion of tax-exempt bonds issued to finance intercity high-speed rail facilities from the state private activity bond cap.

High-speed rail facilities may be financed under current law with tax-exempt bonds. There are two conditions, however. First, the private owner must waive any claim to depreciation on the property purchased with the proceeds from issuing tax-exempt bonds. And, second, 25 percent of each bond issued must receive an allocation under the State's private activity bond cap.

And that is where the problem lies with current law. The amount of capital that must be raised for these projects is enormous, even a fraction smaller than the current 25 percent of all tax-exempt bonds would exceed state caps.

It is a similar problem, Mr. President, that we have now out in the West, in Washington State, with public utility companies needing to issue tax-exempt bonds to finance various improvements in their facilities in large part to meet some of the standards of the Clean Air Act mandates. But the trouble is they need too much capital to fit under the State's cap.

I want to make it clear that we are not offering this amendment today, but we do hope to be able to offer this amendment before the year ends on a more appropriate vehicle. I think it is important that Senators become aware of this issue. We want to perfect the existing policy. This is not a debate whether or not high-speed rail facilities should be financed through tax-exempt bonds. That issue has already been decided. Let me say this again. Current law allows for the high-speed rail facilities to be financed through tax-exempt bonds.

Currently, however, only airports and ports in lakes, rivers, and oceans are exempted from the State activity bond cap. These major transportation projects are too expensive to fit under any State cap. That is why they are exempt. For precisely the same reason, the high-speed rail tax-exempt bonds must be exempted from the cap. Our amendment that we will propose sometime later this year will accomplish this goal. It will put high-speed rail on a level playing field with those other important high-cost transportation projects.

The distinguished junior Senator from Washington State, Senator GORTON, has discussed with me the issue of public versus private ownership of these facilities. This issue is of great concern to him. And, I think it is something that deserves consideration and that we would be willing to work out with the chairman and other Members of the Senate.

Currently, airports are owned by a public entity, and the facilities are then leased to the private airlines that use those facilities. There have been some proposals in some of the States for high-speed rail where those facilities would be privately owned. I personally think it would be better policy if the law would allow for both types of ownership, private or pubic. But I think that is an issue that can be, worked out because those facilities, if they are publicly owned, can be leased to the private entity and then operated as though the ownership were in private hands.

But I think that is an issue that we have not quite resolved, and it is another reason why I will not offer this amendment today. Some will argue that this exemption for State bond caps for intercity high-speed rail is not comparable to the exemption already provided in law for airports and seaports. But let's look at the facts:

My colleagues may know the last major airport built in the United States was the billion dollar Dallas/Ft. Worth airport, completed in 1974. That facility, like nearly every other airport before it, was financed primarily with tax-exempt revenue bonds.

The Nation's next major airport will be a $4 to $4.5 billion project in Denver, for which, according to my information, nearly $3 billion in tax-exempt revenue bonds have already been sold. Now, the State bond caps did not exist when DFW was built and, of course, the Denver project is not subject to Colorado's bond cap, but the point is that neither of these projects—vital to the Nation's modern transportation system—would have been possible had the tax-exempt revenue bonds been limited by State bond caps which simply cannot accommodate capital construction projects of this magnitude.

In addition to the tax-exempt revenue bonds, airports built today are eligible to receive direct Federal support through the Federal-aid construction grant program. This grant program is funded with revenues collected from airport users around the country. Although these grants are unlikely to constitute anything close to a majority of the necessary construction funds, they are an important, direct source of supplemental Federal support.

By comparison, the infrastructure for high-speed rail—the right-of-way, the rail bed materials, the bridges, and other structures—can also be built with tax-exempt revenue bonds and are also high cost transportation projects of tremendous importance to our modern transportation network. Unlike airports, however, there is no program providing direct Federal subsidies for high-speed rail construction and the tax-exempt revenue bonds sold for high-speed rail projects must be counted against a State's bond cap.

In other words, current law creates an uneven playing field between competing modes of high-speed transportation by making it nearly impossible to finance high-speed rail construction using tax-exempt revenue bonds.

Senator GRAHAM of Florida introduced legislation to allow high-speed rail out from under the State's cap last year. I am a sponsor of that legislation as are many of my colleagues in the

Senate. It is an important piece of legislation that I think is important in the total intermodal transportation system that we are trying to help develop in the United States, and we will have to address it with this type of legislation, in a revenue piece of legislation. So I hope we will be able to do it before the year is over.

Now I want just talk a little bit about some of the criticisms that have been raised in the last week about this proposal.

Opponents of the amendment have suggested we are trying to subsidize the construction of rolling stock—meaning railcars and engines—whereas airplanes are constructed with such public support. Mr. President, there is no suggestion to support rolling stock with any revenue bond sales; just for the infrastructure that the rolling stock and the engines ride on.

Let me remind my colleagues, this amendment does not change current law with respect to the applicability of tax-exempt revenue bond financing for high-speed rail. Tax-exempt bonds can only be issued for high-speed rail infrastructure, which does not include the rolling stock. Our amendment does not change the law in that respect.

Rolling stock, just like airplanes, must be built without Federal participation; only the infrastructure to support these competing modes of transportation can be built using tax-exempt bonds. Our amendment would put high-speed rail infrastructure on a par with airports by exempting the rail bonds from the State bond caps. That is what the issue will be about when the Senate faces it later this year.

Mr. President, there is a problem, and I understand and I respect those people, many of whom are very good friends of mine and people I have a great of respect for, that have raised some opposition in the Senate and sent letters to all of us. I do not blame anyone for trying to keep out the competition.

But I think it also is true we need to go into this with open eyes. High-speed rail offers people a very good alternative for traveling relatively short distances. But it is competition. And particularly, competition that is made possible by improvements in technology in high-speed rail. And that should be something that we in the Congress should work toward, always making it possible to improve the ability of technology to progress and improve competition. It has been and it should continue to be a principle of our national economic policy.

This brings me to another argument that I have heard raised against the amendment. There is concern about removing the caps from privately owned facilities, about which I spoke to a little bit earlier because under current law, only publicly owned facilities are exempted from the State private activity bond cap.

But I want to remind the Senate—and I think that this is an issue where there is room to work something out to make it agreeable to all parties—but as ranking member on the Senate Subcommittee on Transportation and coauthor of last year's transportation legislation, we talked a great deal about this in the legislation.

One of the principal themes of the intermodal Surface Transportation Efficiency Act is the need for increased private participation in the development of private transportation infrastructure. We tore down, in that legislation, existing legal barriers and tried to provide financial and other incentives to get private capital in the transportation facilities and services.

I think the days of looking at transportation as purely a government enterprise are behind us. We must learn to think in terms of privatizing the encouraging private participation and bring in capital for new and better ways to move the people in the modern world in the next century. It is good for our competitiveness nationally, and it is good for our competitiveness in the transportation business itself. Our tax policy needs to be modernized and makes these little amendments as we go along, slight movements, so we can catch up with the transportation policy in that regard.

There will be a small revenue loss when this amendment is offered. We hope to have an offset when it comes so that will be taken care of and it will be able to comply with the Budget Act and comply with the 1990 budget agreement. But even if this were a slight revenue loss, I point out to my colleagues, of slightly over $100 million, according to the numbers, we would actually be buying a multibillion dollar investment that will create a tremendous amount of taxable income with a relatively small amount of Federal participation. Billions and billions of dollars will be unleashed into transportation infrastructure and investment in rolling stock and then profits, hopefully, made from the operation of these units, which would more than return the revenue back to the Treasury over the long haul.

Some people may say what is a Senator from Idaho doing, being interested in high-speed rail when Idaho will not be the place where the first high-speed rail projects will be built? I want to say this to my colleagues so they will know it is partly a constituent interest. Idaho happens to be the home base of Morrison-Knudsen Corp. They have won the contract to build the Texas high-speed rail system connecting Fort Worth, Dallas, San Antonio, Austin, and Houston. And I am only sorry we do not have the population base to have it built in our State. It is going to create $6.7 billion. Over 12,500 jobs will be created, and 2,500 when the system is operating in the State of Texas.

But, I think, looking at the big picture where the Nation is concerned, for the long haul, we made a big step last year with the passage of the transportation bill. We need to make this step this year so, going into the next century, we can see these projects facilitated like the British and the French as well as the rest of the world.

I have a chart here for those who are interested, to look at some of the routes that are taking place in Europe today. I have had the opportunity to visit the high-speed train in France and visit the Euro Tunnel connecting England and France. I say to my colleagues, if any of them get the opportunity to see what is happening over there. That application of technology can be applied in the United States in many of the high-density population areas at a great savings of energy, time, investment, and space.

It is very interesting that the space needed to build a 600-mile high-speed train in terms of acreage is less than that of the Dallas-Forth Worth Airport. The high-speed train in France with 600 miles of track laid that is now operating is less than the Charles de Gaulle Airport in terms of infrastructure. So it is a great space-saving mechanism for the future.

We are always hearing about the U.S. international competitiveness. Here we are again debating whether the United States should move forward on a project that the rest of the world has in place. Japan has their bullet train and the entire European Community is covered with high-speed rail lines and working on more. This chart I have on the floor illustrates the development of high-speed rail in the European Community. Is this yet another project that the United States wants to let slide by—so that in 10 years we can say we should have pursued high-speed rail?

Studies have shown that throughout the U.S. major transportation infrastructure will be needed through the next century to accommodate population growth. I am not from Florida, but we found from the hearings in the EPW Committee last year in the Transportation Subcommittee, in Florida, some people are projecting that they will need to build a 44-lane highway from Miami to Orlando to carry the new population. I think our two colleagues from Florida can tell you there simply is not room; that is not practical; that is not going to happen; it will not work. There has to be some alternative methods and we need to make it possible for those States feeling the impact of the population growth to be able to accommodate the people so they can move those people in a comfortable, safe, energy-efficient fashion. High-speed rail offers exactly that, an energy efficient, safe, environmentally sound way to move people. As I said, you can save space. A 600-mile high-speed rail system requires less space than the most recently built major airport. I think that is a phenomenal fact, when one looks at it.

Mr. President, I have a few more comments I wish to make on this. I will try to be as brief as I can with my colleagues, but I see some of my colleagues are on their feet. I cannot emphasize enough we are talking about a new transportation infrastructure that does not exist anywhere in the United States. This is probably the least amount of Federal participation in any major transportation system. Highways are, as we know, built with tax dollars and supported by the users of those highways. Airports are almost entirely funded by tax-exempt bonds.

I know some of my colleagues will be concerned about this amendment. They are going to say when it comes up, this will only benefit Texas. That is not the fact. It is true the first project ready to go happens to be in Texas, but there are about 10 high-speed rail systems that are being studied with the feasibility of these projects now. Some are:

A Chicago hub system linking Minneapolis, St. Louis, and Detroit;

A system linking Miami, Tampa and Orlando;

A Seattle hub system connecting Portland and Vancouver;

A System linking Pittsburgh and Philadelphia; and

A linkage between Las Vegas and Los Angeles.

In the past, every time one of these systems gets going in the United States, the financing breaks down. Access to capital is what has been holding back this technology from American consumers. If Congress does not pass this amendment this year, there will probably not be any high-speed rail systems in the United States until the turn of the century. These projects that I have just listed probably will not make it without something being done to adjust and conform our tax laws to make it possible to raise the capital.

This amendment has strong support. I might also say I clearly would predict to my colleagues that, if it does not happen down the road somewhere here in this Congress when people do finally decide it is the thing to do, it will cost the taxpayers a lot more money if direct appropriations are made to build these projects than if we allow private sector investment to be generated and matched and grown with it.

For example, in the Texas project, which is a $6.7 billion project, less than $2 billion of the project will be funded with tax-exempt bonds and the rest of it will be taxable bonds or straight out equity financing. So it is a very good mix. And I think it is very positive, and it is the best way to do it.

The environmental support is strong for this proposal. All of the major environmental organizations: Friends of the Earth, the National Audubon Society, the Sierra Club, the National Wildlife Federation, the Environmental Defense Fund, and the Natural Resources Defense Council.

The environmental groups support this legislation because high speed rail would get people out of their cars and into trains. Trains require one-third as much energy as cars and one-fourth as much as airplanes. And for every person traveling by high-speed rail rather than by car there would be enormous reductions in carbon monoxide, hydrocarbons, and nitrogen oxides.

CRITICISMS

I want to close by addressing two primary criticisms that have been raised against this amendment.

One is that this is a big tax subsidy. That is just not true. Even under current law, high speed rail may be funded using tax-exempt bonds. We are not changing that. The tax exempt status of these bonds is not at issue. What is at issue is whether 25 percent of those bonds are stuck under the State cap.

I want to repeat, again, in the first project to go, which will be in Texas if we make it possible here with what we do in Congress this year, over 60 percent of the bonds to be issued for the Texas project are taxable.

A second criticism is that the increased competition would cause current air carriers to reduce services to surrounding areas. That is nonsense.

Competition will cause air carriers to redirect their resources to provide more services to other markets. When a business loses market share in one market it looks to other markets. This makes particular sense in the West where air travel should be concentrated on longer trips.

Mr. President, I will have a lot more to say about this later as the year progresses. But I just want to say in conclusion that I hope my colleagues will look at this with a very broad view and a long-range view for a small change in our tax policy to make a very positive step forward in what we can do to offer a new, high-technology, safe, efficient way to move people.

This amendment is good economic policy, good transportation policy, good energy policy, and good environmental policy—and good tax policy, and I hope my colleagues will support it.

For those reasons that is why Senator GRAHAM introduced the bill last year and it is good tax policy. So I hope when the time comes that the Senate will be in a position where we will be on a bill where we are shooting real bullets, as the saying goes, and we can address this issue and discuss it at length, or over a short period of time, and agree to the amendment. I thank the chairman for his indulgence. I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. I speak with high esteem for the Senator from Idaho and his knowledge on this particular subject, his enthusiasm and expertise.

I previously suggested we hear from the Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I want to make a few brief comments on this bill before we vote on it, hopefully later tonight, maybe tomorrow. The debate over the past 2 days has left me with a sense of disappointment.

Disappointment that what should have been a debate about improving the future competitiveness of our economy instead has been turned by some into what seems destined to be a futile exercise of partisan politics.

That is unfortunate, because the people of our country are hurting. They are hurting from a recession that stubbornly drags on. And they are hurting from an economy that has lost its competitive edge.

And if we are honest with ourselves, we know the root cause. In the 1980's, we went on a spending binge. Only it was not tax and spend, it was charge and spend. Government, business, individuals. None were immune from this siren call.

We did not invest, we spent. We did not save, we spent. The question now is: Have we learned enough from the dissolute, aimless 1980's to rebuild the economy into something sound and solid—not just for today, but for tomorrow as well?

The true measure of leadership requires a willingness to do the right thing. After all, the U.S. economy will outlast the November election.

Let us also remember that our greatness was built upon investment. Every major advance in our history, from the Louisiana Purchase to biomedical research, was the result of one generation having sense enough to leave the keys under the doormat for the next one.

Each generation made investment for the next.

Now it is our turn. And with this bill, we can take a first step of securing a better standard of living not just for ourselves, but for our children and their children as well.

The chairman of our committee, Senator BENTSEN, has worked long and hard on this bill, and I commend him for his work and that of the staff.

This is a bipartisan bill. Or rather, it should be. It includes seven of the items proposed by the President earlier this year. And it also includes provisions to spur investments and give some relief to the beleaguered middle-class families across the country.

Unfortunately, during the course of this debate, some have turned a blind eye to all this. Instead, they have pursued a course of political demagoguery. In my view, that is not what the country needs. It breaks faith with the majority of Americans who want us to stop the bickering and work for the common good.

Of course, this bill does not include everything I think it should. For instance, it does not make permanent some of the key tax credits, such as the R&D tax credit, the targeted jobs tax credit, and the low-income housing tax credit.

I also believe the time is overdue to provide the owners of farms and small businesses relief from the capital gains tax similar to that we currently afford to homeowners.

But in total, the bill will start us down the path of what is right for our country. It will broaden the availability of the IRA, the individual retirement account, as a means to increase long-term saving and help bring down the high cost of capital.

It will encourage investment in new, innovative companies through creative, and progressive, changes in the capital gains tax.

The bill will invest in people by expanding educational opportunities for those who seek a college education. And it helps relieve some of the hardship of those paying off student loans by making the interest on them tax deductible.

The bill also makes some important advances in providing more affordable health care for small businesses and those with preexisting conditions.

Finally, America's middle-income families are bearing the brunt of the current recession. Many of them live from paycheck to paycheck. They pay their bills. Save what they can, and they need help. The chairman's bill provides it with a $300 per child tax credit.

Furthermore, the bill pays for all the investment incentives and middle-class benefits by making millionaires and other very wealthy people shoulder a fair share of the tax burden. In all, it would raise taxes on the richest 1 percent of all taxpayers.

Mr. President, the key to our economic future is pretty simple, It is people, It is investment. It is saving. And it is discipline. Those are the budget priorities that matter.

This bill is not perfect. No compromise ever is. But it is a step in the right direction, and I hope the Senate will shortly approve it, either later tonight or first thing tomorrow.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Florida [Mr. GRAHAM].

Mr. GRAHAM. Mr. President, I ask unanimous consent to proceed as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Florida is recognized.

Mr. GRAHAM. I thank the Chair.

(The remarks of Mr. GRAHAM pertaining to the introduction of S. 2350 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. GRAHAM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SHELBY). Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I have sought recognition to first make a relatively short statement about the pending legislation and then in an arrangement worked out by the majority and Republican sides to offer an amendment.

At the outset, Mr. President, I express my concern about the procedures which have been followed in reaching the point where we are in terms of the very substantial delays of the governing in addressing the very serious problems of the economic recession. I had stated back in November that I thought Congress should stay in session in January and also December to address these issues. After the President's State of the Union speech on January 28, I took the floor a few days later in January and expressed the view that I thought we ought to be working solidly through the February and March recesses.

I am glad that we are in session at the present time, as we have been scheduled for a recess, to address these issues. But it would have been my decisive preference that the Government would address these serious problems of the recession at a much earlier date because of the tremendous economic problems facing America as a result of a recession.

I note from my extensive travels in my own State of Pennsylvania the very serious problem of so many people being out of work. I know unemployment is replicated across the country. It is obviously a problem which requires corrective action to the extent it can be taken by the Federal Government.

Mr. President, it is my view that the problems which we face today did not start last year or the year before but have been growing over a very long period of time as a result of lack of productivity, as a result of lack of savings, as a result of lack of investment, and that these are very serious structural problems which really have to be addressed.

Mr. President, may I request that the Senate be in order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. SPECTER. Mr. President, I saw a few pages of advertisement not long ago which addressed the economic problems of the United States that said we have to look to the first quarter. There was a big date of January 1 and the year was 2025—looking to the first quarter of the next century. I believe that really has to be directed, in terms of efforts, at long-term savings, research and development, productivity, and education to make the United States No. 1.

In the short run, there are some things which can be done. I think they are being addressed in the revenue measures which are present today. However, I do not think that they go far enough.

The purpose of an amendment which I will soon be offering is directed to stimulating consumer purchasing power to take us out of this recession.

But I express the concern about the timeliness of the action—that it would have been much preferable to address these issues last November instead of this March. I express further concern at the partisanship which affects the Senate on both sides of the aisle.

What we are finding here, Mr. President, are party line votes, and it has been suggested that the Democratic proposal, which was adopted in the Finance Committee along strict party lines, will be adopted. The alternative proposal advanced by the Republican leader, Senator DOLE, was defeated largely along party lines.

Then when the bill has been vetoed, the governmental officials in the executive and legislative branch will sit down to some serious negotiations.

When will that occur, Mr. President? Well, no one really knows, but it looks like something in late March or early April. Or who knows when that will be. From the negotiations which occurred in 1990, it could be a very long time. I think that is a matter which is very unfortunate for the American people—that we have had these very, very long delays.

I would not be surprised, Mr. President, if the public response is a pox on all Houses, on the Congress, on the executive branch; a pox on the Democrats and the Republicans alike for failure to address the issues in a constructive manner, to try to bring some resolution; if it is to be a matter of negotiation, at an early date.

We cannot turn the clock back to last November or last December or last January or last February. We are here on March 12. It would be my hope, Mr. President, that we would see partisanship set aside, and an effort to deal with the differences between the Democrat proposal and the Republican proposal so that we could come to some terms.

Last week, a group of Pennsylvanians met with me, who were here for the National Association of Home

Builders convention. They were very anxious to see an economic recovery program put into effect so that they could move ahead with home building in America. The consensus of the group was that they preferred the Republican plan.

But they would rather have the Democrat plan as opposed to no plan at all because they wanted to see some help on passive losses; they wanted to get the $5,000 tax credit for new home purchases; and they wanted to move ahead with some form of a recovery program. I believe that their views reflect largely the views of America.

When I asked them about the increased taxes in the Democrat plan, they said they would prefer not to have those increased taxes. But if they had to take those taxes in order to get some congressional action, they would take that.

But here we are considering these two tax programs, passing like two ships in the night where it seems that we will pursue the course of having a partisan plan adopted by the Democrats in the Congress, have a veto by the President, have that veto sustained, and then perhaps we will get down to some serious negotiations.

I strongly feel that procedure is very much contrary to the public interest, and that the public is going to express its disdain and its dissatisfaction with what has gone on here in Washington on this important subject.

Mr. President, in taking a look at the serious economic problems last fall, I noted that there was a pending proposal for a so-called Super IRA which had been cosponsored by more than 70 U.S. Senators. The Super IRA contained a provision that the set-aside money would be used for items such as first-time home purchases, tuition, and medical expenses.

Noting the tremendous acceptance by more than 70 Senators who have cosponsored that concept, the thought crossed my mind that that might be a good approach to utilize the existing IRA funds and allied funds for such purchases. We could very substantially stimulate consumer purchasing power.

We faced a situation, Mr. President, where we had a straitjacket since we had a budget agreement where there could not be any additional Federal spending; that is, we cannot prime the pump.

But I took a look at the amount of money set aside in IRA's, and 401(k)'s, and Keogh, analogous kinds of plans, and there was some $800 billion set aside there in savings. This was in addition to the estimates provided to me that there were some $3 trillion set aside in other retirement programs.

The savings in IRA's and their allied kinds of plans were set aside as a matter for retirement, rainy day accounts. It seems to me that we have more than a rainy day on our hands.

I would suggest that we have a cloudburst out there with what was going on in the economic recession, and that that fund might well be used for the benefit of America by permitting some limited utilization of those IRA's to stimulate consumer purchasing power.

Senator DOMENICI and I conferred. Senator DOMENICI is the Republican expert on these budget matters. Together we crafted a proposal which we introduced in November as Senate bill 1984 which would allow middle-income Americans to withdraw from their IRA's $10,000, providing the funds were used within 6 months for the purchase of the three items which had gained such widespread approval as the super IRA proposal, plus new cars.

We defined middle-income Americans as individual taxpayers earning $75,000 a year, or married taxpayers earning $100,000. We structured legislation which would exempt any taxpayers from a penalty where they were under 59 years of age, which is ordinarily the case, and that we would then move forward and have no taxes paid in the year 1992. Taxes would be paid in the 4 succeeding years, or in the alternative, give the taxpayers an opportunity to replenish one-fourth of the amount withdrawn, or in the case of $10,000, to replenish their IRA with $2,500 in each year.

We offered that bill, Senate bill 1984, as an amendment to a pending appropriations bill, and we received a vote of about 61 in opposition and some 31 in support, which was a strong showing, considering the arguments by the chairman of the Appropriations Committee that we really ought not to legislate on an appropriations bill, and considering the opposition of the Finance Committee, which contended that this was not in accordance with the Constitution, because the revenue bills had to originate in the House.

Since the vote on S. 1984, as offered on the appropriations bill, the Finance Committee has come forward and has, in effect, adopted a key point of the proposals which Senator DOMENICI and I have made, in that the pending legislation provides that existing IRA's will be rolled over into the new super IRA's, and those funds may be used for the purchase of new homes by first-time home buyers, or tuition, or medical expenses. Whatever happens with this amendment, there will be some funds available for consumers to use existing IRA accounts to stimulate consumer purchasing power.

On what was a very pleasant surprise to me, Mr. President, the proposal which Senator DOMENICI and I had made was read about in the CONGRESSIONAL RECORD, which was quite a shock, that somebody actually reads the CONGRESSIONAL RECORD. One wonders how many people watch it on C-SPAN II, but wonders even more how many people pay attention to the CONGRESSIONAL RECORD.

But the CONGRESSIONAL RECORD was read by a man named Philip H. Geier, Jr., the chairman and CEO of the Interpublic Group of Companies, Inc., who wrote to Secretary of the Treasury Brady on December 24, 1991. Mr. Geier stated that his company thought the idea was a very unique one and a very worthwhile one, and had commissioned a survey, under a slight modification, on homes and new cars, and had found that the Specter-Domenici proposal would yield expenditures of about $120 billion, which would be estimated to be very, very helpful and stimulating to consumer purchasing power.

Last Friday, Mr. Geier and the Interpublic Group of Companies, Inc., placed a full-page advertisement in USA Today—which I am advised cost them something in the range of $57,000—a form of statement which is somewhat better read than the CONGRESSIONAL RECORD, and that that full-page ad sets forth the essence of the proposal and the essence of the argument in a rather succinct form.

I will read it, and show it to those who might be able to see it on C-SPAN II. In bold, black letters is the full-page ad. The survey of 1,000 people which they conducted probably cost in the range of $35,000, based on the surveys which I have seen for political purposes.

This is what the full-page ad in USA Today says:

> In the next 6 months, Congress can help Detroit sell more than a million more new cars, help builders sell more than 500,000 new homes, and American tradesmen improve millions of old homes, without costing the taxpayers a penny, and without waiting for a new tax bill.

Mr. President, on that score, I might say that this legislation could have come up separately, but that is difficult to do given the constraints of the calender. Senator DOMENICI and I have utilized the procedure, since we have a tax bill, and it is right in line with other matters in the tax bill, to offer it at this time.

Going on with the full-page ad in the USA Today, in the smaller print, it says this, referring to the legislative proposal:

> It is remarkable, it is immediate, and it is a conservative estimate, based on an independent market research response to an amended version of the Specter-Domenici bill, S. 1984. When asked whether they would use up $100,000 of their money currently in IRA's and/or 402(k)'s, if there were no penalty, for the purchase of a new home, to improve their current home, or buy an automobile or truck, Americans overwhelmingly answered yes.
>
> Indeed, 38 percent more people than are currently in the auto market said this would turn them from being bystanders into buyers. That is 4.8 million more people spending 65 billion new dollars out of a projected total of over $200 billion in purchasing power that this suggested amended bill could unleash. This does not include additional mortgage money generated, either.

Additionally, they understood the only time qualification was that they do this in the next 6 months, and return the money to their accounts within 5 years to reinstate tax-free benefits without a taxable event taking place. And because people did not plan on withdrawing the money anyway, there would be no loss of revenue to the Government from the loss of withdrawal penalties.

The ad goes on to say, referring to this legislative proposal:

> It is a provocative idea, a practical idea, and an affordable idea. Judging from the response to the market research, it is an idea for jump starting the economy whose time has come.

Then, in bold, black letters at the bottom, it says:

> Congress should support an amended Senate bill, S. 1984. Americans using their own money to invest in themselves and the Nation. This message paid for by Philip H. Geier, chairman, Interpublic Group of Companies, Inc.

Mr. President, the idea was presented to Chairman Alan Greenspan, Chairman of the Board of Governors of the Federal Reserve System, both informally, and at a hearing of the Banking Committee. Chairman Greenspan was asked for an evaluation, and he submitted one dated February 4, 1992, from the Board of Governors of the Federal Reserve System, Division of Research and Statistics, marked:

> Subject of Senator Specter's proposal regarding penalty free withdrawals from retirement accounts:
>
> In the course of this analysis, it was estimated that there would be a personal consumption expenditure in the range of some $40 billion.

Mr. President, it would be the preference of this Senator that we not spend money from the IRA's, that they stay in savings. But given the nature of the recession which we have here today, it is my judgment that it would be very useful overall to have this limited expenditure undertaken somewhere in the range of $40 billion, as the Federal Reserve System estimates, to $120 billion, as Interpublic estimates.

The stimulus to the economy will produce many new jobs, will produce much additional purchasing power, will produce much revenue for the United States, and will enable people to save considerably. How much is not easy to answer, but I think much more than the amount which would be withdrawn from the IRA's

When you talk about consumption, it is obviously an offset, a tradeoff, as to what the savings are. But as I take a look at the various proposals which are pending, the President's proposal, the Democrat proposal, the Republican proposal offered by Senator DOLE, there are useful items, but there is not an element which has an immediate likelihood of doing something which is significant today.

I suggest, Mr. President, that this idea would do just that, as the full page ad from the newspaper articulates and as the survey shows on what people would do if they had an opportunity to utilize their IRA's for a very, very limited purpose.

It may be that if the Democrat proposal is adopted and the old IRA's are rolled over into the new IRA's, that there will be a substantial body of consumer purchasing power which will be expended for homes, tuition, and medical expenses. But the addition of the automobiles is a very, very significant addition, and that would stimulate consumer purchasing power in many, many directions.

Mr. President, I filed this amendment on behalf of Senator DOMENICI and myself on March 10 as amendment 1707, and I have discussed informally with the Parliamentarian the issues relating to a point of order which might be raised, and I would make an inquiry of the Parliamentarian at this time as to—I understand it will have to be a reference, but I want to do this early on so we will have the figures if, as, and when a point of order is reached—what is the level of outlays attributable to amendment 1707, and I would make that parliamentary inquiry now.

The PRESIDING OFFICER. At this point the Chair has not received the official scoring of the amendment and is not aware of any budget points of order.

Mr. SPECTER. Mr. President, I ask the Chair, through the Parliamentarian, to make whatever inquiries are relevant so that those figures may be available.

I next make this parliamentary inquiry, Mr. President. Is it correct that amendment 1707 would not be subject to a point of order if it had no effect on outlays but only an effect on revenues?

The PRESIDING OFFICER. Would the Senator from Pennsylvania restate his question?

Mr. SPECTER. Would amendment 1707 be subject to a point of order under section 302(f) if there is no effect on outlays but there is an effect on revenues?

The PRESIDING OFFICER. The amendment at this point seems to be just an amendment to the Tax Code and would not involve spending. So any points of order that would lie would lie if the amendment caused revenue to be decreased below the revenue floor.

Mr. SPECTER. I was advised by the Parliamentarian informally, Mr. President, that a point of order lies under 302(f) only if it affects outlays and not if it affects revenues. My question is, Is the informal advice correct?

The PRESIDING OFFICER. Not the way the question has been stated. If the Senator wants to restate his question.

If the Senator will withhold, we will have the amendment scored. Then we will rule on it.

Mr. SPECTER. I asked that it be scored as to outlays and I ask that it be scored as to revenues, and while that scoring is being undertaken, I will restate a parliamentary inquiry: Is 1707 subject to a 302(f) point of order if it has no effect on outlays?

The PRESIDING OFFICER. If the outlays result in decreased spending, the Senator is correct.

Mr. SPECTER. If the outlays are the result of decreased spending, the Senator is correct, is that the answer?

The PRESIDING OFFICER. That is fine.

Mr. SPECTER. Well, there is to be no increased spending.

The PRESIDING OFFICER. If that is the case, then the Senator is right.

Mr. SPECTER. Then there is no point of order which lies under 302(f)?

The PRESIDING OFFICER. If that is the case that you state.

Mr. SPECTER. Fine. That is the case. There are no additional outlays. There would be an effect on revenues, which this Senator has been advised would be under $1 million. And the parliamentary inquiry is: Does a loss of revenues in the amount less than $1 million make 1707 subject to a point of order?

The PRESIDING OFFICER. The answer is "No."

Mr. SPECTER. I thank the Chair.

Mr. President, I had prepared a slightly modified version of 1707 to provide that there would be a change in the luxury tax on a specific item for a period of some 9 months to allow for additional revenues in the amount of $2 million, but I shall not submit that at this time. I am further advised that, in addition to the $3.5 billion above the revenue floor, there has been an additional $400 million added to that as a result of the acceptance of the last amendment. But in light of the rulings from the Chair on the absence of a point of order since there were no outlays, I will not proceed to modify 1707 in any way.

AMENDMENT NO. 1707

(Purpose: To provide an incentive for increased consumer spending and to provide a short-term economic stimulus by waiving the penalty under the Internal Revenue Code of 1986 on certain withdrawals from pension plans which are used to purchase first homes and new automobiles)

Mr. SPECTER. Mr. President, at this time, I call up amendment 1707 for consideration by the Senate.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

> The Senator from Pennsylvania [Mr. SPECTER], for himself and Mr. DOMENICI, proposes an amendment numbered 1707.

Mr. SPECTER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert:

SEC. —. PENALTY-FREE WITHDRAWALS FROM PENSION PLANS THROUGH 1992.

(a) IN GENERAL.—In the case of any qualified withdrawal—

(1) no additional tax shall be imposed under section 72(t)(1) of the Internal Revenue Code of 1986 with respect to such qualified withdrawal, and

(2) except as provided in subsection (b), any amount includible in gross income by reason of such qualified withdrawal (determined without regard to this section) shall be includible ratably over the 4-taxable year period beginning with the taxable year in which such qualified withdrawal occurs.

(b) ELECTION TO RECONTRIBUTE TO PLAN.—

(1) IN GENERAL.—The amount required to be included in gross income for any taxable year under subsection (a)(2) shall be reduced by any designated recontribution.

(2) DESIGNATED RECONTRIBUTION.—For purposes of paragraph (1), a designated recontribution is any contribution to any plan described in subsection (c)(1)(B)—

(A) which the taxpayer designates (in such manner as the Secretary of the Treasury may prescribe) as in lieu of all (or any portion of) any amount required to be included in gross income under subsection (a)(2) for a taxable year, and

(B) which is made not later than the due date (without extensions) for such taxable year.

(3) NO DEDUCTION ALLOWED FOR RECONTRIBUTION, ETC.—For purposes of the Internal Revenue Code of 1986, a designated recontribution shall not be treated as a contribution for any taxable year.

(c) LIMITATION BASED ON ADJUSTED GROSS INCOME.—

(1) IN GENERAL.—Subsection (a) shall not apply to any taxpayer if the adjusted gross income of the taxpayer for the taxpayer's first taxable year beginning in 1991 exceeds—

(A) $100,000 in the case of married individuals filing a joint return,

(B) $50,000 in the case of a married individual filing a separate return, and

(C) $75,000 in the case of any other taxpayer.

(2) SPECIAL RULE FOR GRANDPARENTS AND PARENTS.—If a withdrawal is used to pay qualified acquisition costs of a first-time homebuyer who is the child or grandchild of a taxpayer, paragraph (1) shall be applied by reference to the adjusted gross income of the child or grandchild (and, if applicable, their spouse).

(d) QUALIFIED WITHDRAWAL.—For purposes of this section—

(1) IN GENERAL.—The term "qualified withdrawal" means any payment or disribution—

(A) which is made to an individual during 1992,

(B) which is made from—

(i) an individual retirement plan (as defined in section 7701(a)(37) of the Internal Revenue Code of 1986) established for the benefit of the individual, or

(ii) amounts attributable to employer contributions made on behalf of the individual pursuant to elective deferrals described in section 402(g)(3) (A) or (C) or 501(c)(18)(D)(iii) of such Code, and

(C) which is used by the individual for a qualified acquisition not later than the earlier of—

(i) the date which is 6 months after the date of such payment or distribution, or

(ii) the date on which the individual files the individual's income tax return for the taxable year in which such payment or distribution occurs.

(2) QUALIFIED ACQUISITION.—The term "qualified acquisition" means—

(A) the payment of qualified acquisition costs with respect to a principal residence of a first-time homebuyer who is the taxpayer or the child or grandchild of the taxpayer, or

(B) the purchase of a new passenger automobile.

(3) DOLLAR LIMITATION.—The aggregate amount which may be treated as qualified withdrawals under paragraph (1) with respect to all plans and amounts of an individual described in subsection (c)(1)(B) shall not exceed $10,000.

(4) DEFINTIONS AND SPECIAL RULES.—For purposes of this subsection—

(A) QUALIFIED ACQUISITION COSTS.—The term "qualified acquisition costs" means the costs of acquiring, constructing, or reconstructing a residence. Such term includes any usual or reasonable settlement, financing, or other closing costs associated with such qualified acquisition costs.

(B) FIRST-TIME HOMEBUYER; OTHER DEFINITIONS.—

(i) FIRST-TIME HOMEBUYER.—The term "first-time homebuyer" means any individual if such individual (and if married, such individual's spouse) had no present ownership interest in a principal residence during the 2-year period ending on the date of acquisition of the principal residence to which this paragraph applies.

(ii) PRINCIPAL RESIDENCE.—The term "principal residence" has the same meaning as when used in section 1034.

(iii) DATE OF ACQUISITION.—The term "date of acquisition" means the date—

(I) on which a binding contract to acquire the principal residence to which this subsection applies is entered into, or

(II) on which construction or reconstruction of such a principal residence is commenced.

(C) SPECIAL RULE WHERE DELAY IN ACQUISITION.—If—

(i) any amount is paid or distributed from an individual retirement plan to an individual for purposes of being used as provided in paragraph (1), and

(ii) by reason of a delay in the acquisition of the residence, the requirements of paragraph (1) cannot be met,

the amount so paid or distributed may be paid into an individual retirement plan as provided in section 408(d)(3)(A)(i) of the Internal Revenue Code of 1986 without regard to section 408(d)(3)(B) of such Code, and, if so paid into such other plan, such amount shall not be taken into account in determining whether section 408(d)(3)(A)(i) of such Code applies to any other amount.

(D) DISTRIBUTION RULES.—Any qualified withdrawal shall not be treated as failing to meet the requirements of sections 401(k)(2)(B)(i) or 403(b)(11) of such Code.

(e) ORDERING RULES FOR INCOME TAX PURPOSES.—For purposes of the Internal Revenue Code of 1986—

(1) all plans and amounts described in subsection (c)(1)(B) with respect to an individual shall be treated as one plan, and

(2) qualified withdrawals from such plan shall be treated as made—

(A) first from amounts which are includible in gross income of the individual when distributed to such individual, and

(B) then from amounts not so includible.

Mr. SPECTER. Mr. President, I close with my statement that the amendment expands on the super IRA approach with the three items—new homes, tuition, medical expenses—by adding cars and makes a provision for utilization of stimulating consumer purchasing power as I have outlined during the course of my earlier remarks.

Mr. BENTSEN. Mr. President, will the Senator yield?

Mr. SPECTER. I yield.

Mr. BENTSEN. To give some peace of mind, the chairman of committee had no intent to make such a point of order and had already checked that point out very well. So we have no concern over that one.

Mr. SPECTER. I am sorry. I cannot hear the Senator.

Mr. BENTSEN. I am having trouble with my voice, having been through so many of these. But I said the chairman had no intention of filing such a point of order. We did not see the Senator in violation on that.

Mr. SPECTER. I thank the chairman for that comment. Anticipation of any problem is always a good idea, especially the way that matters proceed on issues of this sort. I just wanted to be sure of my legal standing. But I thank the chairman.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, I want to express my support for the amendment that has been offered by the Senator from Pennsylvania.

First, I think it must be emphasized that this is not an amendment that costs any revenue at all. It does not cost revenue and yet, as Senator SPECTER has pointed out, there have been various estimates as to how much economic activity would be triggered if the amendment became part of the law, estimates that have ranged from $40 billion on up to $120 billion. That is some effect from a single amendment. In fact, if the amendment accomplishes even a fraction of the lowest portion of that estimate, here would be an addition to the tax laws that truly would do some good in bringing the recession to an end.

I want to commend Senator SPECTER for the way in which he fashions this amendment. The ability to withdraw from IRA's under this amendment is limited in time. It would expire on December 31 of this year. This would not be a permanent addition to the law. This would be an effort to lead to consumer spending for the purchase of automobiles only during this calendar year.

Senator SPECTER said, and I agree, that I would prefer that people would keep money in their individual retirement accounts and not withdraw the money, except for two additional thoughts. The first is that when we think of the very heart of the recession in the United States, it is the automobile industry. There is no doubt that the U.S. auto industry is struggling now. It is struggling very, very badly and there is no doubt, for major areas in this country, a revival of the auto industry is the answer to a revival of the economy.

Second, with respect to the whole purpose of individual retirement accounts, I would argue that the effect of this kind of flexibility would be to increase rather than to reduce the attractiveness and hence the utilization of IRA's.

If Congress indicates that it recognizes that at certain points in an economic downturn people are not going to be frozen into their decisions, but rather that they will have flexibility to make certain decisions relating to their families and relating to their lives, to me that is a way to encourage people. Rather than reduce the amount of the use of IRA's, it is a way to encourage people to use IRA's.

The way the amendment is written, people would be further encouraged, after making the withdrawal, to put the money back in and to put the money back in the ensuing 4 years in order to avoid the payment of the taxes incurred by the withdrawal from the IRA's. So it seems to me that this is a carefully tailored amendment, one that is limited in time, one that is limited to a particular type of product, the automobile, which is crucial to so many areas of our country with respect to the health of the economy, and one that would have the effect not of discouraging IRA's, but encouraging IRA's.

So I am pleased to add my support to this amendment. I commend Senator SPECTER for offering it.

Mr. SYMMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. Mr. President, I wanted to inquire of the author of the amendment—and I think I got the answer from the distinguished senior Senator from Missouri—but did I understand correctly that if you withdraw the $10,000 and you purchase what is allowed, automobiles, et cetera, with this money that you can put back up to $2,000 each year for the next 5 years and replace the money; is that correct?

Mr. SPECTER. The statement made by my distinguished colleague from Idaho is correct, with a minor modification: It is $2,500 year over 4 years. The impact is the same, just over a shorter period of time. But the taxpayer does have the opportunity to replenish his or her IRA in full in that manner.

Mr. SYMMS. So it gives them that incentive then to restore their capital base that they are withdrawing for the durable goods purchase.

Mr. SPECTER. Yes, the Senator from Idaho is correct. The opportunity would be present for them to spend the money now, which has the effect of giving a very substantial boost to consumer purchasing power, and then to replenish their IRA.

If I might just add, before the distinguished Senator from Missouri leaves the floor, I very much appreciate his comments. They are especially meaningful in the light of Senator Danforth's stature on the Finance Committee and on the Commerce Committee—the Commerce Committee which he Chaired for a period of time, and the Finance Committee where he had chaired significant subcommittees and is a recognized expert in tax law. I know Senator Danforth does not accede to withdrawals from savings very lightly. This is something that weighs very heavily on him, but it will have the benefit of stimulating purchasing power.

The hour is late, but before my colleague left the floor I wanted to extend my thanks to him.

I also thank my colleague from Idaho for allowing me to do that.

Mr. SYMMS. Mr. President, I want to compliment my colleague from Pennsylvania for his persistence in bringing this matter up.

I might ask a further question. Was there any estimate done when this amendment was drawn about how many new automobiles might actually be purchased?

Mr. SPECTER. Well, that is a very good question. I believe that the survey which was conducted by Interpublic would bear on that. We might have to do just a little bit of mathematics, but their full-page advertisement in USA Today says that:

> Indeed 38 percent more people than are currently in the auto market said this would turn them from being bystanders into buyers. That is 4.8 million more people spending 65 billion new dollars.

So it would be a matter of arithmetic to make that computation.

The distinguished Senator from Idaho, being an experienced businessman, could probably make that calculation faster than a mere lawyer could.

Mr. SYMMS. Do not count on it.

Mr. SPECTER. But it is some 4.8 million more people spending 65 billion new dollars. So if we average a new car cost at $15,000 into the $65 billion, you immediately have the answer, I say to Senator SYMMS.

Mr. SYMMS. Well, of course, they can only take out $10,000, so they would make a down payment on the car. But they would buy the new car, that is correct.

Mr. SPECTER. That is a very good observation.

Mr. SYMMS. Another fact, I do not think it has been said here on the floor, but one of the things that we found in the work in the Environment Committee this past year—I guess it was in 1990, as the years fly by during all of the hearings on the Clean Air Act—I know that Senator ROTH and others here have worked on trying to make it possible for people to be able to purchase new automobiles so that the so-called clunkers can be removed from the American highways. There is an enormous difference between a new car and a car that is 10 years old in terms of air quality and emissions.

I do know—and I think that is a point we here in the Senate who have passed these requiring pieces of regulatory legislation to require the cities to reach certain standards of air quality—that an upsurge of new automobile purchases will have an indirect benefit to the country in terms of upgrading the fleet, so to speak.

And it has an enormous downstream flow, although there are no automobiles produced in States like mine. The automobile industry, the second market industry, the service industry for automobiles, the distribution and sales, leasing and so forth, is a very, very important part of the economy.

I compliment the Senator from Pennsylvania. I normally would not be in favor of an amendment like this but in view of the situation with respect to sales in this country, the need to stimulate some growth, this is money that can be put into the economy. It is private money. And then those people in order to enjoy those benefits will have a great incentive to restore their savings and in putting that $2,500 a year back in may get in the habit of continued saving and then we will gain on this thing. I compliment the Senator.

Mr. SPECTER. I thank my distinguished colleague from Idaho, and just by way of a brief comment before yielding to the distinguished Senator from Tennessee who signalled interest in making an inquiry, when the Senator from Idaho raised a question about how many cars would be involved and I referred to the survey made by Interpublic, and they had pointed out that some 65 billion new dollars would be spent, that means that there would be 6,500,000 people buying new cars with $10,000.

It means further that in addition to the $65 billion which would be spent from the IRA's, if the average cost of the car was $15,000, there would be $65 billion coming from other sources. The $10 billion would be a downpayment. So the leveraging is already immediately perceptible.

I thank my colleague from Idaho for his comments. I know in his prior statements and from more than a decade of work with Senator SYMMS, how concerned he is about savings and how resistant he is to consumption in terms of savings being the long-range benefit for long-term economic growth. His judgment that the tradeoff is worth it here I believe is very significant. He, too, is a distinguished member, as is Senator DANFORTH, of the Finance Committee, who has dealt in these issues for at least the 12 years he has been in the U.S. Senate.

Mr. BENTSEN. Does the Senator yield the floor?

Mr. SPECTER. I do.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, I have concerns about encouraging people to draw money out of their retirement accounts to buy a car. I think over the long run it could have a deleterious effect. If you do it for a car then which amendment comes next that wants to do it for something else?

It may provide the short-term boost and the economy certainly needs a boost. But at a long-term cost. This is a lot different from withdrawing money to make that first home purchase. That is an investment in the life of those people who do so; or the withdrawals for education, which are a long-term investment in your children.

The Finance Committee bill allows penalty-free withdrawals to buy that first home, to send your children to college and, of course, finally for your retirement. That is what pays off in the long run for our country.

What we are trying to do is build these savings up so we can have the capital and the low interest rates. So we can compete with the Japanese and the Germans. So we can invest in new factories and increase productivity in our country.

We need good, long-term solid growth. And that is what our bill currently does by encouraging savings through the fully deductible IRA, not by depleting existing savings for further consumption, but by providing a permanent change in allowing those withdrawals for first home purchases and education expenses. These are permanent changes that are prosavings—that will encourage Americans to save for those purposes and not to deplete their retirement savings.

We have done some other things for the long term in this bill. We have encouraged our real estate sector. That is long term. We started down the path to affordable and accessible health care for all Americans. That is long term. We encouraged investment in venture capital enterprises that can create jobs in the long term.

The fact is there is no magic elixir. This bill lays a solid foundation for future economic growth. We must proceed carefully with ideas that may sound attractive for the next few months but that could hinder long-term economic recovery and could hinder the long-term retirement security of Americans. That car will not be there when those people retire.

We go down a slippery slope on this one. Retirement assets should not be depleted lightly. Where does it stop? It is one thing to allow withdrawals for investments like a home or education. But I am not sure buying a new Honda is a particularly effective long-term investment.

I want to point out the Senator has certainly improved his amendment from what he had last year. Originally the amendment of the Senator would have allowed withdrawals for all durable goods, including stereo equipment, VCR's, and furniture, and I am glad to see the Senator has now limited his amendment to cars.

I also want to emphasize that the Senator has added a provision that allows recontribution of the retirement savings. That is also a considerable improvement. But as a general rule, a car is not an investment. A home is an investment. An education is one of the best investments we can make. But there are not many cars that you can sell for what you paid for them.

I am also concerned about the impact of this amendment on some of the financial institutions. What kind of a run do you have if Americans start closing down their IRA's to make withdrawals to buy consumer goods? For this proposal to work as a stimulant for the economy, it would literally require a run on the banks, as people withdraw their IRA funds.

I am concerned that this amendment is a questionable retirement policy.

Mr. President, I move to table the amendment.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the motion to table.

Mr. SPECTER. Mr. President, I wonder if the Senator would withhold the motion to table. Senator DOMENICI is here, and he wishes to speak. He is a cosponsor of the amendment. I also have a few additional remarks to make. I am not sure how long it will last but I would ask the Senator to withhold.

Mr. BENTSEN. The Senator has been speaking for some time now. We have a whole series of amendments waiting in the wings, and we are doing our utmost to see if we cannot finish tonight. It is my plan to proceed to table amendments expeditiously as we go through the evening. So I moved to table the amendment.

Mr. DOMENICI. Mr. President, will the Senator agree to an amount of time? Can the Senator have 10 minutes?

Mr. BENTSEN. I will be glad to do that if we have a limitation on the time. If I have a consent agreement that we limit it to 10 additional minutes I will withhold my motion to table. Do I have that agreement?

Mr. SPECTER. This Senator makes no agreement.

If the Senator from Texas wants to file a motion to table when there are Senators who wish to speak for a very brief period of time, I am surprised. I have not seen in my 12 years here a Senator denied an opportunity to speak when someone wants to make a tabling motion.

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President in further consideration, and discussing this with the leadership, the management on this side is prepared to take the amendment.

The PRESIDING OFFICER. The motion to table is pending. It has to be withdrawn.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the motion to table be withdrawn.

The PRESIDING OFFICER. Without objection, it is so ordered. Is there further debate on the amendment?

Mr. DOLE. Mr. President, I want to indicate the temporary manager on this side, in Senator Packwood's temporary absence, has cleared the amendment. I have discussed it with the distinguished Senator from Pennsylvania, and I thank my colleague from Texas.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, very briefly, I thank the chairman for his acceptance of the amendment. I had intended to make a very brief comment in response to what the Senator from Texas had said. I thank him for his comments that it is an improvement over the former amendment.

It builds upon legislation which the Senator from Texas had introduced on the three items: homes, tuition, and medical expenses, and makes one addition, the automobile. I think the acceptance of the amendment is very good. It will put the matter in conference. I believe that there is support building for this concept. I had not made this comment in the earlier statement, but I think at this juncture it is relevant to say that I have had a chance to discuss the issue with the President, who made no commitment on it but was favorably disposed when he asked how much it would cost and was told it would cost nothing.

Michael Boskin liked it. I think Chairman Greenspan had some favorable comments. With its acceptance and moving into conference, I believe we will have a chance for further consideration, and I thank the manager and the leader on the Republican side for its acceptance.

Mr. DOMENICI. Mr. President, Senator SPECTER and I are sponsoring an amendment which we believe will provide a needed short-term economic stimulus to the economy. Our legislation would allow individuals with incomes under $75,000 to withdraw up to $10,000, one time, from an IRA, 401k, or other elective income deferral plan. The withdrawal would be penalty-free provided the money is used to pay for a purchase of an automobile.

As is typical in business cycle downturns, our economy currently is suffering from too little consumption. Everyone agrees: More consumption now will energize the economy, particularly here in the next few months when we enter the traditional holiday buying season.

There are many ways to spur consumption; one of the most popular solutions, judging from what many of my colleagues are advocating, is a tax cut. Under certain circumstances, I support a tax cut that will not add to the long-term debt of this country. But, Mr. President, a tax cut that raises the Federal debt in order to provide economic stimulus is the last thing we need. The financial markets' nervousness at even the hint of tax cut discussions is testament to that.

The beauty of this proposal is that it would result in more consumption without materially affecting the Federal debt. New consumption will come from private, not public, savings. As many as 500,000 more cars could be purchased because of this proposal.

The current feeble consumption in our economy is a result of both long-term and short-term influences. The long-term influence is a response to the over-consumption and under-saving in the 1980's. I have repeatedly argued that there needs to be a long-term realignment of consumption to address the excessive debt that has resulted from too little saving. I would further argue that this realignment is healthy and should not be distorted by new long-run policies that favor consumption.

The short-term influence is the effect of poor consumer confidence. Currently, people apparently do not feel good about their personal financial situation for a variety of reasons, including an increase in unemployment and poor income gains over the past year-and-a-half. This situation is a direct result of the business cycle downturn. The Specter/Domenici amendment aims at reversing this short-term influence by shoring up confidence. This proposal frees up trapped savings. Consumers will feel that their economic situation is improved, have more cash available, and increase consumer expenditures in the near term.

There is a lot of money out there in retirement accounts. In 1990, IRA assets were nearly $455 billion. Keogh assets were $110 billion. In 1988, the latest data we have, there was $277 billion in 401k accounts. But let me make it clear, Mr. President. It is not our intention to have individuals raid their retirement accounts in order to pay for frivolous purchases. We simply want to make some of this money available to those who could really use it.

Neither is it my intention to distort the consumption versus saving decision over the long term. Rather, this legislation would provide the economy with a needed shot in the arm, without materially affecting the Federal deficit.

Individuals who withdraw money from their retirement accounts will not face a penalty under this proposal. They may pay regular income tax on that money, over a period of 4 years. Or they may instead replenish their retirement accounts and avoid income tax altogether.

Mr. President, this is good short-term stimulus that protects retirement saving over the long run. We should adopt it and get this economy on the upswing.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to amendment No. 1707.

The amendment (No. 1707) was agreed to.

Mr. BENTSEN. I move to reconsider the vote.

Mr. SPECTER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I would like, through the Chair, to make inquiry to the manager of the bill, the chairman of the Finance Committee.

The Senator from Nevada would ask if it is the intention of the Senator from Texas to offer a committee amendment, or would the Senator wish the Senator from Nevada to proceed with his amendment?

Mr. BENTSEN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1717

(Purpose: To make the 100 percent deduction for health insurance costs for self-employed individuals permanent)

Mr. BENTSEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant bill clerk read as follows:

The Senator from Texas [Mr. BENTSEN] proposes an amendment numbered 1717.

On page 711, line 17, strike "25 percent" thru the period at the end of line 21 and insert the following: "74 percent for taxable year beginning during 1992)".

(b) CREDIT MADE PERMANENT.—Section 162(l) is amended by striking paragraph (6).

Mr. BENTSEN. Mr. President, my amendment will make the 100 percent deduction for self-employed health insurance premiums permanent. It is a proposal that was included in the Better Access to Affordable Health Care Act that I introduced earlier this year. I am offering it now because we must control the amendment process. This amendment has the support of the NFIB, Small Business United, Small Business Legislative Council, and all small business groups.

Today, small business is at a disadvantage. Corporations can deduct 100 percent of health insurance premiums, but the owner of a hardware store can only deduct 25 percent, and that is just not fair to millions of small business owners. This amendment will increase that deduction to 100 percent.

This amendment includes the permanent extension that we originally proposed. We had to cut that back in the committee because of costs, but we have the funds available now in the budget, and under the legislation.

You have 3.1 million self-employed currently buying health insurance that would benefit immediately. There are a total of 12.4 million self-employed and their dependents, many of whom should benefit from this change. Eighty percent of the insured work in small businesses or are dependents of employees of small businesses. Twenty-two percent of self-employed are uninsured, compared to 16 percent of all workers. We have seen a serious decline in coverage, especially for dependents.

When I go back to Texas, the thing I hear time after time from businessmen and business women is that they just cannot afford health insurance. But to let the presidents of the big corporations have their health insurance 100 percent deductible and yet the small business person not have the full deductibility is just not fair.

It is important that we try to establish balance in this, and this brings fairness to the system. So I strongly urge its support.

Mr. REID. Mr. President, I rise this evening to offer an amendment in which all Members of this Congress have a stake, a matter which all Americans really have a stake. My amendment will eliminate the source tax. The source tax, of course, is an odd name, and let me explain. Citizens are forced to pay taxes in States in which they do not reside.

Mr. BENTSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1718

(Purpose: To make the 100 percent deduction for health insurance costs for self-employed individuals permanent)

Mr. REID. Mr. President, I did not realize that there was an amendment pending. I ask that this amendment be considered as it is sent to the desk. This is a second-degree amendment.

The PRESIDING OFFICER. Does the Senator intend to offer a second-degree amendment?

Mr. REID. The Senator has offered a second-degree amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant bill clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 1718 to Amendment 1717.

Mr. REID. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the matter proposed to be inserted insert the following: "75 percent: for taxable years beginning during 1992)".

(b) CREDIT MADE PERMANENT.—Section 162(l) is amended by striking paragraph (6).

Mr. REID. Mr. President, this amendment makes permanent the deduction for business health insurance premiums. I would ask for the chairman of the committee to respond, if there is further explanation required.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, this does not require much explanation. It is one that small businessmen have been fighting for years.

This is one that we put in the original affordable and accessible health care legislation and then found we did not have the funds to cover it. We now do. We were phasing it in.

We are now talking about putting it in at 100 percent and putting it in permanently.

I strongly urge the passage and the support of the amendment.

Mr. REID. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. There is not a sufficient second.

The Senator from Kansas.

Mr. DOLE. Mr. President, I hope we might avoid the yeas and nays on this amendment, but I do know a number of my colleagues on this side support the amendment. Is there any objection they be added as cosponsors?

Mr. BENTSEN. We would be delighted.

Mr. DOLE. I would add the Senator from California, Mr. SEYMOUR, and maybe others I will add at a later time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I withdraw the request for the yeas and nays.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. These amendments are coming at a rather rapid pace at the moment. Some of us are not aware of what is in them. I therefore suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Nevada, No. 1718.

The amendment (No. 1718) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now occurs on amendment No. 1717, as amended.

The amendment (No. 1717), as amended, was agreed to.

Mr. BENTSEN. I move to reconsider the vote by which the amendment, as amended, was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the tale was agreed to.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I would be happy to yield to the minority leader.

Mr. DOLE. Would this be the second amendment of the Senator from Nevada?

Mr. REID. This is the first amendment. I did not offer the first amendment. We were interrupted.

Mr. DOLE. Following that, there would be an amendment by the Senator from Arizona, two amendments?

AMENDMENT NO. 1719

Mr. REID. Yes. It is my understanding, for those Senators watching, that I am going to offer this amendment, and following me, Senator McCAIN is going to offer an amendment.

I rise tonight to talk about an amendment and to offer an amendment on behalf of myself and Senator BRYAN which all Members of Congress have a stake in; in fact, I think, a matter in which all Americans have a stake.

My amendment will eliminate the source tax. Let me explain. Citizens are forced to pay taxes to States in which they do not reside. Retirees pay taxes on their pensions. These pensions were all or partially established in the States where they spent all or part of their working years, and, despite the fact they no longer live there and do not participate in the programs which their taxes are funding, they do not participate in any of the programs that the State offers—medical assistance programs, senior centers—nor do they use the roads or public parks that these taxes are helping to fund. Most important of all, they do not even get to vote in their former State of residence. Yet they are still being forced to pay taxes to these States.

It has been said many times, and I would agree, this is clearly taxation without representation.

I would like to relate some examples of what is taking place in Nevada and every other State in the country. An older woman, for example, lives in Fallon, NV, has an annual income of about $12,000. This, of course, includes her pension. She is not rich, but she is surviving. One day the mail carrier delivers a notice from California that says that she owes taxes on a pension, plus the penalties and interest on those taxes. She cannot believe it, but, being an honest person, she tells California that she has never paid these taxes and asks why she is being assessed at this time. To make a long story short, California Franchise Tax Board went back to 1978 and calculated her tax to be about $6,000. This woman's own income is only $12,000 a year.

Another case is equally illustrative. After 27 years of service in the State of California, a widowed man retires. Listen to this. Subsequently, he marries a woman from New York and because she is still working in New York he moves there with her. After moving, this man discovers that California is claiming he owes them taxes on his pension income. However, the problem is he must pay those taxes based not only on the income that he is receiving from California, but based on all of his income and his wife's income. In addition, because New York allows tax credit for taxes paid to other States, it is missing out on revenues they could be paying for the services the State of New York provides this couple.

Mr. President, most citizens pay their taxes honestly and without much complaining. This is the voluntary system we have. But when they are taxed by a State where they do not reside, they begin to get upset with the system, to say the least.

This case, the one I am going to talk about, also illustrates this problem. In 1971, a Washington State resident went to work at the Federal penitentiary at McNeil Island, WA. He had already spent significant time in the military, none of which was in the State of California. In the late seventies, this man, who is employed by the Bureau of Prisons, learned that the Bureau of Prisons was going to close the facility where he worked and reduce, of course, the staff. It goes without saying. This left the man with two choices. He could resign and forfeit 9 years of retirement or transfer to a Federal center in San

Diego. He chose the latter and went to work in San Diego. As of a year ago he was still working there.

When this man retires, he plans to return to the State of Washington where he still owns a home. He wants to be near his children and grandchildren because they still reside in Washington. The State of Washington has no State income tax. But this man learned last year that he will be subject to California's source tax when he returns to Washington.

This man was prodded by the system to move to California because the Federal Government closed down the prison where he worked, the Federal prison. In order to maintain his income and continue building his pension, he moved, always intending to move back to his roots, to his family, in the State of Washington.

Without elaborating, this man is upset. He is mad. He is angry. Let me read part of letter that he wrote:

> The so-called source tax appears to be grossly illegal and contrary to the rights guaranteed by our constitution. That being the case, I am amazed that our Congress does not take immediate action to abolish such totally illegal state levies. I am sure you understand that people employed by the federal government could serve in numerous states throughout their careers before retiring to their home states. It is absolutely ridiculous, insidious and downright illegal for those states to levy an income tax against a nonresident. It is mind-boggling that a federal retiree (or any other retiree) living in a state that has no income tax could be paying income tax to as many as 13 other states.
>
> * * * (Couple this tax) with the ridiculously high cost of medical care, hospitalization and other fast-rising consumer costs, and it should be quite evident that people will not be able to survive on retirement incomes.

Mr. President, this issue was brought to my attention several years ago by a Nevadan by the name of Bill Hoffman. He told me about these cases and a multitude of other cases. He informed me that retirees were being harassed by States where they used to live for this tax, commonly called a source tax. He heard so many complaints that he and his wife, Joanne, organized Retirees to Eliminate State Income Source Tax [RESIST], truly a grassroots organization.

RESIST was founded in July 1988 in Carson City. In less than 4 years since the beginning, the membership has grown to tens of thousand of members. They are in everybody's State that serves in this body. It is a nonprofit grassroots organization which operates entirely through the work of volunteers. There are no paid or salaried members.

The credibility of this group has convinced other long established organizations, such as the National Association of Retired Federal Employees, NARFE, the National Association for Uniformed Services, with 60,000 members, to make a commitment to the prohibition of the source tax.

I ask unanimous consent that a partial list of the organizations that have joined RESIST of America in a coalition, be printed in the RECORD. It represents millions of people.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

Partial list of organizations that have joined RESIST of America in a coalition, which represent millions of people:

Air Force Association.
Air Force Sergeants Assn.
Air Line Pilots Assn.
Amer. Assn. of Foreign Service Women.
American Payroll Assn.
AMVETS.
Assn. of Military Surgeons of U.S.
Assn. of the U.S. Army.
Commissioned Officers Assn. of the U.S. Health Service, Inc.
COSSO (Council of Sacramento Senior Organizations).
CWO & WA Assn., U.S. Coast Guard.
Federal Managers Assn.
Fleet Reserve Assn.
Marine Corps League.
Marine Corps Reserve.
McDonald County Unit of the Retired Teachers Assn.—MO.
NARFE (Nat'l Assn. of Retired Federal Employees).
Nat'l Assn. of Uniformed Svcs.
Nat'l Assn. of Postal Supervisors.
Nat'l Guard Assn. of the U.S.
Nat'l Military Family Assn.
Nat'l Taxpayers Union.
Naval Reserve Assn.
Navy League of the U.S.
Nevada Taxpayers Union.
Non-Commissioned Officers Assn.
Pactel.
Reserve Officers Assn.
SCAN (Senior Co-operative Alert Network).
Society of Medical Consultants.
The Retired Enlisted Assn.
The Retired Officers Assn.
U.S. Army Warrant Officers Assn.
U.S. CG & Chief Petty Officers Assn.

Mr. REID. Mr. President, this list includes the Air Force Association, Air Force Pilots Association, Air Line Pilots Association, and approximately 35 other organizations. The Senior Cooperative Alert Network, Society for Medical Consultants, Retired Enlisted Association, Navy League of U.S., National Guard Association, National Association of Postal Supervisors, Retired Federal Employees. On and on with this list.

In addition, the Fund for Assuring an Independent Retirement, or FAIR, as it is called, also lent its support to the cause.

I ask unanimous consent that this list also be printed in the RECORD at this time.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

FAIR
(Fund for Assuring an Independent Retirement)

Vincent R. Sombrotto, Chairman.
Frederick H. Nesbitt, Secretary.
Patrick F. Smith, Treasurer.
American Federation of State, County and Municipal Employees.
American Foreign Service Assn.
American Postal Workers Union.
American Psychiatric Assn.
Assn. American Foreign Service Women.
Epsilon Sigma Phi.
Federal Executive/Professional Assn.
Federal Managers Assn.
Federally Employed Women.
Graphic Communications Int'l Union.
Nat'l Assn. of Fire Fighters.
Int'l Federation of Professional and Technical Engineers.
Int'l Union of Operating Engineers.
Military Sea Transport Union SIU.
Nat'l Assn. of Air Traffic Specialists.
Nat'l Assn. of ASCS County Office Employees.
Nat'l Assn. of Federal Veterinarians.
Nat'l Assn. of Gov't Employees.
Nat'l Assn. of Letter Carriers.
Nat'l Assn. of Postal Supervisors.
Nat'l Assn. of Postmasters of the U.S.
Nat'l Assn. of Retired Federal Employees.
Nat'l Federation of Federal Employees.
Nat'l Labor Relations Board Union.
Nat'l League of Postmasters of the U.S.
Nat'l Postal Mail Handlers Union/LIUNA.
Nat'l Rural Letter Carriers Assn.
Nat'l Treasury Employees Union.
Organization of Prof'l Employees of the Dept. of Agriculture.
Overseas Education Association/NEA.
Public Employee Department (AFL–CIO).
Service Employees Int'l Union.

Mr. REID. This list is as long and as illustrative and as important as the last list; American Federation of State, County and Municipal Employees, National Association of Retired Federal Employees, National Association of Postal Supervisors, National Association of Federal Veterinarians, National Association of Fire Fighters, Federal Managers, list after list of organizations that say this tax is unfair.

In the beginning, this issue affected mostly retired Government employees because of easy access to their records. As economic times became tougher and the State budgets are straining for revenues, the source tax is becoming an ever more popular revenue.

I have copies from the Ford and Rockwell Companies dated last year. They were sent to their retired employees telling them they must report tax liabilities in the State that collects source taxes. Other companies are following suit.

As a result, Mr. President, the American Payroll Association has recently joined the coalition that wants to prohibit this tax. They represent 9,000 professionals, payroll professionals responsible for issuing approximately 4 billion paychecks a year to over 100 million people in the United States work force. Here is what they have to say:

> In instances where an employee has worked in several states during his or her career, employers will not have adequate records to identify the earnings or years an employee was employed in a particular state.
>
> Without this information it will be impossible to determine an equitable calculation of the portion of pension that would be taxable in a particular state. Any attempt at developing the ability to determine this

through computer systems would be cripplingly expensive.

We are all aware of the increased mobility that Americans have come to know. Many people today plan to retire in places other than in the area they worked. The recent growth of Nevada is ample evidence of this.

There are many reasons for it. People might want to live in a warmer climate or a cooler climate, or possibly their families have moved and they want to join them. They may want to live part of the year here and part of the year someplace else. They spent their work years saving enough to be able to move to their chosen areas. You can imagine their shock and then their dismay when they receive notification that back taxes, along with interest and penalties, are owed to their old State of residence. The shock is from a tax for which they receive no services and no representation. The dismay, from the inability to pay a sometimes enormous tax, when one lives on a fixed income, is apparent in this issue.

Mr. President, it is also important to note that, as I mentioned in the case of the newlyweds living in New York, the State deriving the source tax is collecting the income not just based on the amount of pension income for the year, but on the entire income. Income that includes the amounts earned in the current State of residence. Income that could be used to fund the services that the State of residence is providing. In fact, of the States responding to a Federation of Tax Administrators [FTA] survey completed in May 1991, Maine and Utah do not provide a tax credit for source taxes paid to another State. Hence, someone living in one of these States that gets hit with a source tax would have to pay taxes on the same income to both States, or would be double taxed.

Mr. President, while the source tax may be bringing in revenues to one State, it can actually decrease the revenues to another State. As I just mentioned, there are only a couple of States that do not allow a tax credit for taxes paid to another State. Most States allow for it. The tax credit is fair as it prevents double taxation, but it means the State of residence is losing out on revenues. If I retire from California to Oklahoma, and California taxes my pension, Oklahoma will grant me a credit for the amount I owe California. But Oklahoma will still be the State providing me with services. Services such as medical assistance when I will most likely need it. Parks when I will have the opportunity to use and enjoy them. Senior services for me to participate in. As well as the streets I drive to get to these places. Not to mention, the right to vote. And Oklahoma will be providing these programs at so-called bargain basement prices because my tax dollars will be going to California.

To prohibit this unethical practice, I am offering an amendment which prohibits States from taxing pensions or retirement income of nonresidents. States are crossing State lines, collecting taxes from nonresidents, and offering nothing in return. State residents who conscientiously pay taxes on their pension have the privilege of voting in that State, and have access to all State funded services. Nonresidents just pay with no benefit of the services.

Mr. President, the bill that I introduced to prohibit this tax currently has 30 cosponsors. (See attachment C.) The list includes Senator SEYMOUR from California and Senator D'AMATO from New York. California and New York are the strongest proponents of the source tax. In addition, testimony has been heard at the Finance Committee, both at the full committee and subcommittee levels.

There is no cost to the Federal Government to prohibit the source tax. In fact, if anything, the prohibition will increase revenues to the Federal Government. Currently, those people who itemize deductions can use State income tax as a deduction. If someone moves to a State like Nevada, which has no State income tax, or a State with a lower income tax than the one they moved from, the State income tax deduction would either be reduced or nullified.

Some argue that my amendment is an infringement on State's rights. CRS has looked into this issue and determined that there is jurisdictional basis for this legislation. A memorandum written by them in June says:

> While there has been controversy of late with respect to the extent of congressional power to regulate the States as States, there is none about the power to displace state law in its impact upon private conduct. The precedents reviewed thus uniformly support the validity of S. 267.

Mr. President, I had a gentleman's agreement with the manager, the chairman of the committee, that I would use 35 minutes. I ask if the desk has kept track of how long I have spoken?

The PRESIDING OFFICER. I am advised the Senator used 13 minutes.

Mr. REID. I thank you very much.

Mr. President, according to the FTA survey of the States, there are currently 13 States with the authority to impose a source tax. Of those 13 States, 8 of them actually attempt to impose it. According to CRS there are 40 States that currently impose a State income tax. Conceivably every one of them could easily start to impose a source tax. And why wouldn't they?

The reason we are here today is because of the very difficult economic times this country is experiencing. We are here to debate the merits of a tax package that gives to some and takes away from others. However, we are held accountable for the choices we make. If our constituents don't like the way we vote, they have the opportunity not to vote for us. Would it not be ideal if we could find a revenue source from someone that did not vote?

I would like to have everyone here recognize that this is fairness. That is what we are talking about, basic fairness. And I respect and congratulate publicly Senators D'AMATO and SEYMOUR, two States that have the State tax, and they recognize the unfairness of this and they stepped forward and agreed to cosponsor this legislation.

AMENDMENT NO. 1719

(Purpose: To prohibit a State from imposing an income tax on the pension or retirement income of individuals who are not residents or domiciliaries of that State)

Mr. REID. Mr. President, I at this time send the amendment to the desk.

The PRESIDING OFFICER. The clerk will read the amendment.

The bill clerk read as follows:

The Senator from Nevada [Mr. REID], for himself, Mr. MURKOWSKI, Mr. STEVENS, Mr. DECONCINI, Mr. MCCAIN, Mr. BUMPERS, Mr. SEYMOUR, Mr. WIRTH, Mr. DODD, Mr. ROTH, Mr. GRAHAM, Mr. MACK, Mr. AKAKA, Mr. INOUYE, Mr. CRAIG, Mr. SYMMS, Mr. GRASSLEY, Mr. LOTT, Mr. BRADLEY, Mr. BURNS, Mr. BRYAN, Mr. RUDMAN, Mr. SMITH, Mr. BINGAMAN, Mr. DOMENICI, Mr. D'AMATO, Mr. BURDICK, Mr. HATCH, Mr. ADAMS, Mr. GORTON, Mr. KASTEN, and Mr. SIMPSON proposes an amendment numbered 1719.

Mr. REID. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1084, between lines 8 and 9, insert the following:

SEC. . LIMITATION ON STATE TAXATION OF PENSION OR RETIREMENT INCOME.

(a) IN GENERAL.—Chapter 4 of title 4, United States Code, is amended by adding at the end the following new section:

"§ 114. Limitation on State income taxation of pension or retirement income

"(a) No State or possession of the United States, or any political subdivision of either, may impose an income tax (as defined in section 110(c)) on the pension or retirement income of any individual who is not a resident or domiciliary of such State, possession, or political subdivision.

"(b) For purposes of subsection (a), the term 'State' includes the District of Columbia.".

(b) CLERICAL AMENDMENT.—The table of sections for such chapter 4 is amended by adding at the end thereof the following new item:

"114. Limitation on State income taxation of pension or retirement income.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

Mr. REID. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, I rise in support of this amendment, and I compliment the distinguished Senator from Nevada for proposing and articulating the need for this amendment.

It is not a problem of Nevada alone. It is a problem of many States, including my own, where there are countless citizens who have worked in New York, or Pennsylvania, and who then live in New Jersey when they retire. A little known fact, New Jersey has one of the highest senior citizen populations in the country and they draw pensions from the companies in New York, or Pennsylvania.

And the thing that has happened, that has just irritated thousands of my constituents, is that they are then taxed on the pension that they received; they are taxed by New York State, or Pennsylvania, or wherever was the source of their pension.

I think this amendment is enormously positive. It would say to senior citizens who receive pensions that they cannot be taxed by the State which was the source of their pension but only by the State in which they reside.

I think this is a very positive amendment. I know it affects many senior citizens in the State of Nevada. And all of those senior citizens tonight should express a debt of gratitude to Senator REID for proposing this amendment.

It will be good news for senior citizens in Nevada as well as in New Jersey. And this inequitable treatment will be ended by this amendment and I am very pleased to be a cosponsor.

The PRESIDING OFFICER. Is there further debate on the amendment?

The Senator from New York.

Mr. MOYNIHAN. Mr. President, like any measure that comes to the floor at this hour I might say to my distinguished friend from Nevada that one would wish this had been considered in the full committee. A hearing was held. I want to be clear in that regard.

On pure policy grounds this amendment ought not be adopted. It makes it impossible for States to obtain a tax on time and benefits which they have provided and which they had reason to expect would be taxable. It makes very, very difficult the avoidance of a collusive arrangement whereby partners in a large law firm arrange for their last 5 years' income to be put into a retirement fund and then immediately move to a State with no income tax, which happens and which has been litigated with differing outcomes.

On the other hand, the Senator from New York can count. There are only eight States which do this. The State most affected is California.

And at this late hour to demand a rollcall I think would be unavailing. If it is agreeable to the distinguished Republican leader we would be willing to accept this amendment. It is conferenceable. It is not in the House provision and would have to be decided in conference.

Mr. DOLE. Accept it.

Mr. MOYNIHAN. I see the junior Senator from Nevada has risen.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. If it is cleared with the minority, we would certainly have no objection. I would ask that there be time allowed for my colleague from the State of Nevada, Senator BRYAN, to be allowed to speak on this matter.

Mr. MOYNIHAN. Of course. I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I do not know anything about this amendment. I am not sure too many other Members on the floor know anything about this amendment. It was my understanding there were not going to be a whole host of amendments and it was not going to be a Christmas tree bill. I rise not to oppose the amendment because it may have a lot of merit to it, but it was not considered as I understand it in the Finance Committee, and——

Mr. REID. Mr. President, will the Senator yield?

Mr. METZENBAUM. I yield.

Mr. REID. I would indicate to the Senator from Ohio we had two hearings before the Finance Committee on this matter.

Mr. METZENBAUM. The Senator had two hearings in the Finance Committee?

Mr. REID. That is right.

Mr. METZENBAUM. Then I would have to say I guess it would be the Finance Committee which would have to explain to this body why after two hearings they did not see fit to include this amendment on the bill that is before us and yet is now going to be accepted on the floor of the Senate.

Again I want to say I am not opposed to the amendment. I do not know what it is. I do not understand enough about it. I think it takes many of us by surprise. And I think at 8:30 at night we get an amendment of this kind that was apparently considered by the Finance Committee, not included in the Finance Committee, and then to be accepted—I do not have any particular strong feeling whether it should be or should not be. But I raise the point.

I just heard Senator SPECTER'S amendment which was accepted, and I am not opposed to that, and I am not addressing myself to the merits of that. I am aware of the fact that the Senator from Ohio had an amendment that was accepted but it was fair too point out that the Senator from Ohio's amendment was well known as coming and that it was in the House bill and it was no particular surprise to anybody and was accepted.

I am raising a question only with respect to procedure, not in opposition to the amendment which very well may have much merit to it.

The PRESIDING OFFICER. Is there further debate?

The Senator from Nevada.

Mr. BRYAN. Mr. President, I yield to my distinguished colleague.

Mr. MOYNIHAN. Mr. President, I just make the point to the Senator from Ohio that I just said in my view this was not good tax policy. It comes as an amendment. I am not sure it would be accepted. I said I wished it were dealt with in the full committee. I mentioned there had been hearings. The Senators from Nevada have taken care to do that.

It would be something my State would not like. It precludes the States from dealing with collusive arrangements, whereby persons arrange to have their last 5 years' of income or whatever taken as pensions, and then paid to them after they moved to a State that does not have an income tax. It is not good federalism.

But this whole pattern is not good legislation in the first place. This bill is not going to be enacted. This bill is going to be vetoed.

I do not want to bring people away from home from their firesides, wives, loved ones, and dogs at this hour of night. I mean I thought we thought we were going to have no amendments and now we have nothing but. This is not serious legislation. We are going to have something, the only thing serious and I am sure the Republican leader agrees we must have this bill on the President's desk by March 20 so he can veto it.

Mr. DOLE. He can come up here.

Mr. MOYNIHAN. He can come up here and veto the bill. If we keep having rollcalls tonight we go past the point we have it on his desk so he can veto it by March 20. Accordingly I accept it. And it is good for Texas.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BRYAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRYAN. Mr. President, let me endorse the comments made by my senior colleague and express my appreciation to the very able distinguished senior Senator from New Jersey for making the point that the amendment which is being offered this evening by a number of us has a far broader impact than just the State of Nevada.

Mr. President, I rise in support of the amendment offered by the senior Senator from Nevada.

Our amendment would eliminate an outrageous form of taxation without representation: State source taxation of pension income.

The bill we are debating today has two main purposes: tax fairness and economic growth.

The amendment we are offering directly addresses this issue of tax fairness.

A bill identical to this amendment, S. 267, currently has 31 cosponsors here in the Senate; similar legislation in the House of Representatives has over 200 cosponsors.

In both the House and the Senate, our bill has a broad range of support, spread across both the Nation and across the ideological spectrum.

As we all know, many individuals choose to retire to States other than that where they spent their working life.

In Nevada alone, we have an estimated 100,000 retirees who have moved to our State from California.

There are many reasons for such moves, and I think we all agree that retirees have the right to live whereever they choose.

Unfortunately, some State tax boards disagree, and have embarked upon a policy of relentlessly pursuing retired former residents across the Nation.

When these roving tax agents locate one of these retirees, often many years after they have retired and moved away from the State, they present their former residents with huge tax bills.

Considering the longer lives we all hope to enjoy, this fact becomes especially shocking.

Eighty-five-year-old retirees are no longer uncommon: such an individual may well be paying taxes to a State from which he has derived no benefit for the past 20 years.

Why should our investment in pensions tie us forever to any particular State? Many pensioners move to Nevada with no regard, or awareness, of the tax status of their pensions.

One of the most distressing examples of the effects of this tax policy has been recounted in several newspaper articles over the years.

Ms. Gertrude Eberly, now 75 years old, moved to Nevada after working for the State of California for 31 years.

Like most retirees, she assumed that her tax liability to California ceased when she moved out of the State.

Nine years after moving to Nevada, Ms. Eberly was hit with a tax bill for $4,000 in delinquent taxes.

Over the next few years, the amount she supposedly owed to California slowly increased—her balance now stands at over $7,000.

Given her $13,000 annual income, it is hard to imagine that Ms. Eberly will be paying off this balance in the near future.

In the meantime, what does Ms. Eberly receive from California? Any government services she receives are provided by the State of Nevada, or the city of Fallon, where Ms. Eberly lives.

While Nevada has no State income tax, we do have property, sales, and other taxes to pay for government services.

Ms. Eberly, like other victims of the source tax in Nevada, pays taxes in Nevada to support the services she receives.

Nevertheless, the State of California believes that it also has a claim on her pension income.

What if Ms. Eberly decides she does not like the way her tax dollars are being spent? If we are talking about her Nevada taxes, or her Federal taxes, she can voice her opinion through the ballot box.

As a voter in Nevada, she is also provided access to the State's elected officials.

What about California? She is denied access to the ballot box, and I suspect she has very little access to the elected officials in California through other avenues.

This source taxation of nonresident pension income is unfair on several counts.

First, it is clearly taxation without representation, a concept that is antithetical to the very foundation of our democracy.

Second, source taxation requires pensioners to pay for services they cannot ever receive.

The problem this amendment addresses is much broader than a simple dispute between California and Nevada.

Several years ago, an outraged Nevadan, Mr. Bill Hoffman, started to organize an organization to fight this unfair taxation.

Today, this organization, RESIST, has membership in the tens of thousands, with members in each of the 50 States and several foreign countries.

In many cases, this source taxation is even more onerous than a reasonable person might expect.

Consider the situation described in a letter received by RESIST from a taxpayer in Concord, NH:

> I formerly lived and worked in California, for a private company which now pays me a small pension.
>
> I am now a permanent resident of New Hampshire, but the California Franchise Tax Board expects me to pay them income tax for the rest of my life.
>
> My pension is so small that the tax on it alone would be eliminated by the personal exemption allowed nonresidents.
>
> However, the Franchise Tax Board has devised tax forms which require me to calculate the tax on my total income, as if I were a resident.
>
> That figure is then multiplied by the ratio of my California income to my total income. Although I pay less than a resident, the amount never gets down to zero because of the bias in the tax tables.
>
> Isn't that an ingenious way to collect extra money from citizens who are not allowed to vote?

I have heard similar complaints from many of my own constituents as well—California insists that non-resident pensioners include non-California sourced income in their calculation of California tax liability.

The unfairness of this situation is pretty self-evident.

A letter from Corpus Christi, TX, provides another example of the type of hardship the source taxation of pensions can cause.

> I'm a widow of a Long Beach, California Police Officer, he retired in 1969, died in 1971. * * * I've lived the last 11 years in Texas, never gone back to California since then. I only live off my pension. I'm 72, don't work, now they say I must pay income tax. Will you send me information on what I am supposed to do. * * *

By most accounts, the individuals affected by this tax are not what we would consider tax evaders.

For the most part, these retirees are unaware of their obligation to pay source taxes until they hear from the tax collector, at which point penalties and interest have already accrued on their purported tax liability.

By the time the tax collectors finally find these retirees, these bills are often so large that no ordinary pensioner can hope to pay them off.

Unfortunately, each of the examples I have described have involved the State of California.

While California is the State I hear about the most, largely due to Nevada's geographic proximity to California, it is not alone in collecting this unfair tax.

While it is difficult to track down exactly which States authorize the collection of source taxes on nonresident pensions, a study conducted by the Federation of Tax Administrators, an opponent of this legislation, can shed some light.

The FTA, in testimony last June before the Senate Finance Committee, reported that 13 States responding to its survey stated that their income tax statute would authorize collection of State income tax on nonresident pension income.

Three of these States reported that they have a program in place to collect such income.

From this account, it appears that only a few States impose this type of tax; with the increasing pressures on States' finances, however, it seems likely that this number will only increase.

The collection of source taxes on pension incomes is obviously a great burden on many retirees.

Less obvious, however, are the burdens these taxes create in other areas.

While retirees living in States that do not impose a State income tax bear the greatest burden of this misguided tax policy, other States also feel an impact.

For example, most States allow a tax credit against income taxes paid to other States.

This reduces the tax revenue available to the State in which the retiree has residence, even though this State is responsible for providing Government services to the retiree.

Other taxpayers in the State necessarily bear the burden of replacing this lost revenue.

Of particular concern to me is the burden these taxes will place on private businesses.

I have here two letters from businesses to their retirees: one from Ford, and another from Rockwell International. Both of these letters advise retirees that the companies' pension plans are being required to report pension payments to for each of the States where a retiree had worked.

To quote from the Rockwell International letter:

> If you are a Rockwell retiree and worked in any of the above thirteen States during your working career with Rockwell (or its subsidiaries or predecessor companies), please check the appropriate box for each State in which you worked. * * *

Clearly, this source taxation has the potential to become a recordkeeping nightmare for companies that run pension plans.

It seems clear that if source taxation of pension income becomes the norm, businesses, or the companies administering their pension plans, will be required to construct detailed work histories of individuals showing when a person worked in each State, how much a person earned in that State, and how much of the retirees pension can be attributed to that income.

I do not think any business, large or small, is going to be enthusiastic about assembling this type of report for each retiree. This problem becomes even more acute when we consider the difficulties that might be encountered by retirees who had worked for more than one company during their career, a situation which in today's economy has become the norm. The potential cost to businesses of source taxation is the reason why the American Payroll Association has endorsed this legislation.

In addition, this legislation is supported by scores of employee, retirement, and tax fairness groups including such organizations as the National Association of Retired Federal Employees [NARFE], the National Association of Letter Carriers, the Retired Officers Association, the Retired Enlisted Association, the American Association of Foreign Service Women, the Air Force Sergeants Association, the Marine Corps League, the National Association of Postal Supervisors, the Naval Reserve Association, Common Cause, the National Taxpayers Union, the Federal Managers Association, the Airline Pilots Association, and the Air Force Association.

As a former Governor, I am well aware of the pressure on the States' finances.

I am also well aware of the need for the Federal Government to refrain from interfering in matters better left to the individual States.

Nevertheless, this is an issue that requires Federal action.

Nevada and several other States have attempted to take unilateral action to eliminate this unfair practice.

In 1989, the Nevada Legislature passed a bill, AB 154, which prohibits the seizure of property within the State of Nevada for the nonpayment of source taxes on pension or retirement income.

Washington and Florida have passed similar legislation, and Texas, Oregon, Alaska, Hawaii, Connecticut, and Arizona have bills pending in their legislatures which would accomplish the same purpose. Nevertheless, the Nevada law has not solved the problem for Nevada residents.

I have heard many accounts of retirees being harassed and threatened by collection agents working on behalf of out-of-State tax boards. As you may expect, these intimidation tactics often pay off, even retirees with knowledge of the Nevada law may be reluctant to place their property at risk when confronted by an aggressive tax collector.

This is a growing problem, one that can only get worse as States' fiscal problems continue to grow.

While I am always hesitant to interfere with States' rights, this is clearly a case where the only possible solution is Federal legislation.

Congress has placed limits on the States' ability to levy individual income taxes in the past.

For example, the Soldiers and Sailors' Relief Act of 1940 allows active members of the armed services to maintain their original State residency, and to avoid paying individual income taxes in the States in which they are stationed.

In more recent action, the 101st Congress, as part of the Amtrak reauthorization, prohibited States from taxing railroad workers and truck drivers who simply passed through their borders.

Both of these actions suggest that Congress, when it finds sufficient causes, can, and should, take action to limit States' ability to tax nonresident income.

The Congressional Research Service, in a report issued March 27, 1989, found that Congress did have the authority to enact such legislation.

Quoting the CRS Report:

> Should Congress determine that, as a matter of sound public policy, allowing the States to impose taxes on the retirement income of individuals who do not reside in such States is undesirable, it may have constitutional authority to enact preemptive legislative forbidding the imposition of some such taxes. Clearly, Congress does have some authority to limit State taxation of nonresidents.

In summary, this legislation is essential to provide fairness and protect the rights of thousands of retirees across the Nation.

While the taxes that could be collected from these pensioners is only a minor factor in the budgets of the States that collect them, they are a major burden for the retirees who are being harassed into paying them.

In the interest of fairness to retirees throughout the country, I urge you to vote in favor of the pending amendment.

I thank the Chair, and I thank my colleague from Nevada.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Mr. President, because of the quorum calls and intervening delays, it is not really definite how much time we had. The proposed unanimous-consent agreement that I made with the chairman of the committee is that we would have 35 minutes on this side and the chairman would control 25 minutes. I reserve the remainder of my time, which I estimate at about 5 minutes.

Mr. BENTSEN. I say to my colleague from Nevada, I only plan to use 2 or 3 minutes. I understand my colleague, the Senator from New York, has made the points. I would be delighted to have the Senator finish his time, and then I propose to move to table the amendment.

Has the Senator had enough time? If not, I will yield some of my time to him.

Mr. REID. If the Senator would allow me to complete my statement, and then I would look forward to the motion to table.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. The point that has been made by Senator BRADLEY, Senator BRYAN, and this Senator, is that this affects people in every State in the Union—thousands of people, tens of thousands of people—people who are being asked to pay money to a State where they do not live. This affects people who are pensioners—senior citizens. It does not affect people with large incomes. If it does, then there should be something else done to stop people who are cheaters. This does not affect that group of people.

State budgets are also experiencing economic hard times. It seems like every week I read or hear of another State that is either laying off State employees, or increasing taxes, or both. It won't take long for States other than the eight who impose a source tax to realize that taxing someone from another State is an easy way to increase revenues without paying the political price. In other words, unless we adopt my amendment to this bill, you can be sure that more and more States will begin to impose this unfair tax for which no one is held accountable.

The source tax is only scratching the surface of how States will go beyond their borders to collect revenues. A July 1991 article from the San Francisco Examiner points out that California is now taxing visiting pro athletes. I quote from the article:

> The next time Roger Clemens steps up to the mound at the Oakland Coliseum, you can bet someone in Sacramento will be rubbing

his palms and smiling the way that only a tax collector can. It means the state treasury has just grown by $2,605.

The article continues:

> Each time Michael Jordan takes the floor against the Golden State Warriors in Oakland, the State pockets another $3,285. And when Herschel Walker lines up in the Minnesota Vikings backfield at Candlestick Park, California will rake in a whopping $10,462.

According to the article California expects to collect $2½ million per year from out-of-State professional athletes. Wisconsin, Ohio, and New York pursue the same tax.

It seems that there is a new war between the States brewing on this issue. It is my understanding that Illinois recently instituted the out-of-State tax levy against athletes from any other State that collected such taxes. State Senator John Cullerton, the sponsor of the legislation, was quoted as saying, "The main purpose is not to raise money. This is about equity and fairness. Why should we be losing money to California."

It does not end here. Just last month an article in the San Diego Union-Tribune told of a California State Franchise Board proposal to broaden the State tax law in a way that could force military men and women stationed in California to pay State income taxes.

Another proposal I heard recently was a proposal to tax airline employees for the period of time they are flying within California's air space. There is literally no end to the possibilities.

By adopting my amendment to this tax bill we can not only prohibit the source tax, we can also diffuse this rampage of interstate taxation with a very clear message to the States that taxation without representation is not acceptable.

Mr. BENTSEN. Mr. President, I say to my two distinguished friends from Nevada, I sometimes would be concerned, but I do believe this is the type of legislation that would have a much better chance of becoming law, frankly if it was on a less controversial bill.

I would say, too, that this is one over which the Judiciary Committee would feel like it had jurisdiction, when we are talking about State laws.

So with that in mind, I now move to table the amendment.

The PRESIDING OFFICER. The question is on the motion.

Mr. REID. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the motion to lay on the table the amendment of the Senator from Nevada.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant bill clerk called the roll.

Mr. FORD. I announce that the Senator from Iowa [Mr. HARKIN] and the Senator from Hawaii [Mr. INOUYE] are necessarily absent.

The PRESIDING OFFICER (Mr. WELLSTONE). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 36, nays 62, as follows:

[Rollcall Vote No. 42 Leg.]

YEAS—36

Baucus
Bentsen
Bond
Boren
Breaux
Brown
Chafee
Cranston
Dole
Durenberger
Exon
Glenn
Gore
Hollings
Jeffords
Johnston
Kennedy
Kerrey
Kerry
Leahy
Levin
McConnell
Metzenbaum
Mitchell
Moynihan
Nunn
Pell
Riegle
Robb
Rockefeller
Sanford
Sarbanes
Sasser
Shelby
Wellstone
Wofford

NAYS—62

Adams
Akaka
Biden
Bingaman
Bradley
Bryan
Bumpers
Burdick
Burns
Byrd
Coats
Cochran
Cohen
Conrad
Craig
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Domenici
Ford
Fowler
Garn
Gorton
Graham
Gramm
Grassley
Hatch
Hatfield
Heflin
Helms
Kassebaum
Kasten
Kohl
Lautenberg
Lieberman
Lott
Lugar
Mack
McCain
Mikulski
Murkowski
Nickles
Packwood
Pressler
Pryor
Reid
Roth
Rudman
Seymour
Simon
Simpson
Smith
Specter
Stevens
Symms
Thurmond
Wallop
Warner
Wirth

NOT VOTING—2

Harkin
Inouye

So the motion to lay on the table the amendment (No. 1719) was rejected.

The PRESIDING OFFICER. The question now is on agreeing to the amendment of the Senator from Nevada.

The amendment (No. 1719) was agreed to.

Mr. REID. I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1720

(Purpose: To provide tax incentives for businesses locating on Indian Reservations, and for other purposes.)

Mr. McCAIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Arizona [Mr. McCAIN] for himself, Mr. SIMON and Mr. DOMENICI proposes an amendment numbered 1720.

Mr. McCAIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, insert the following new title:

TITLE VI—TAX INCENTIVES FOR ECONOMIC GROWTH ON INDIAN RESERVATIONS

SEC. 6001. SHORT TITLE.

This title may be cited as the "Indian Employment and Investment Act of 1992".

SEC. 6002. INVESTMENT TAX CREDIT FOR PROPERTY ON INDIAN RESERVATIONS.

(a) ALLOWANCE OF INDIAN RESERVATION CREDIT.—Section 46 (relating to investment credits) is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting "and", and by adding after paragraph (3) the following new paragraph:

"(4) the Indian Reservation Credit."

(b) AMOUNT OF INDIAN RESERVATION CREDIT.—

(1) IN GENERAL.—Section 48 (defining the Energy Credit and the Reforestation Credit) is amended by adding after subsection (b) the following new subsection:

"(c) INDIAN RESERVATION CREDIT.—

"(1) IN GENERAL.—For purposes of section 46, the Indian Reservation Credit for any taxable year is the Indian reservation percentage of the qualified investment in qualified Indian reservation property placed in service during such taxable year, determined in accordance with the following table:

"In the case of qualified Indian reservation property which is:	Indian reservation percentage is:
Reservation personal property	25
New reservation construction property	33⅓
Reservation infrastructure investment	33⅓

"(2) QUALIFIED INVESTMENT IN QUALIFIED INDIAN RESERVATION PROPERTY DEFINED.—

"(A) IN GENERAL.—The term 'qualified Indian reservation property' means property—

"(i) which is—

"(I) reservation personal property,

"(II) new reservation construction property, or

"(III) reservation infrastructure investment, and

"(ii) not acquired (directly or indirectly) by the taxpayer from a person who is related to the taxpayer (within the meaning of section 465(b)(3)(C)).

"(B) QUALIFIED INVESTMENT IN QUALIFIED INDIAN RESERVATION PROPERTY.—The term 'qualified investment in qualified Indian reservation property' means—

"(i) in the case of reservation infrastructure investment, the amount expended by the taxpayer for the acquisition or construction of the reservation infrastructure investment; and

"(ii) in the case of all other qualified Indian reservation property, the taxpayer's basis for such property—

"(C) RESERVATION PERSONAL PROPERTY.—The term 'reservation personal property' means qualified personal property which is used by the taxpayer predominantly in the active conduct of a trade or business within an Indian reservation. Property shall not be treated as 'reservation personal property' if it is used or located outside the Indian reservation on any regular basis.

"(D) QUALIFIED PERSONAL PROPERTY.—The term 'qualified personal property' means property—

"(i) for which depreciation is allowable under section 168,

"(ii) which is not—

"(I) nonresidential real property,

"(II) residential rental real property, or

"(III) real property which is not described in (I) or (II) and which has a class life of more than 12.5 years.

"(E) NEW RESERVATION CONSTRUCTION PROPERTY.—The term 'new reservation construction property' means qualified real property—

"(i) which is located in an Indian reservation,

"(ii) which is used by the taxpayer within an Indian reservation predominantly in the active conduct of a trade or business, and

"(iii) which is originally placed in service by the taxpayer.

"(F) QUALIFIED REAL PROPERTY.—The term 'qualified real property' means property described in clause (I), (II), or (III) of paragraph (2)(D)(ii).

"(G) RESERVATION INFRASTRUCTURE INVESTMENT DEFINED.—

"(i) IN GENERAL.—The term 'reservation infrastructure investment' means qualified personal property or qualified real property which—

"(I) benefits the tribal infrastructure,

"(II) is available to the general public, and

"(III) is placed in service in connection with the taxpayer's active conduct of a trade or business within an Indian reservation.

"(ii) PROPERTY MAY BE LOCATED OUTSIDE THE RESERVATION.—Qualified personal property and qualified real property outside an Indian reservation shall be reservation infrastructure investment only if its purpose is to connect to existing tribal infrastructure in the reservation. Examples of property which may be described in this paragraph include roads, power lines, water systems, railroad spurs, and communications facilities.

"(3) REAL ESTATE RENTALS.—For the purposes of this section, ownership (or leaseholding) of residential, commercial, or industrial real property within an Indian reservation for rental shall be treated as the active conduct of a trade or business in an Indian reservation.

"(4) DEFINITIONS.—For purposes of this subsection, the term 'Indian reservation' means a reservation, as defined in—

"(A) section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)), or

"(B) section 4(10) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903(10)).

"(5) LIMITATION BASED ON UNEMPLOYMENT.—The Indian reservation credit allowed under section 46 for any taxable year shall apply only in the event that the Indian unemployment rate on the applicable Indian reservation for which the credit is sought exceeds 300 percent of the national average unemployment rate at any time during such taxable year or in the immediately preceding taxable year. The requisite Indian unemployment rate shall be based upon those reservation Indians unemployed and able to work, and shall be certified by the Secretary of the Interior."

(2) LODGING TO QUALIFY.—Paragraph (2) of section 50(b) (relating to property used for lodging) is amended—

(A) by striking "and" at the end of subparagraph (C),

(B) by striking the period at the end of subparagraph (D) and inserting ", and," and

(C) by adding at the end thereof the following subparagraph:

"(E) new reservation construction property."

(c) RECAPTURE.—Subsection (a) of section 50 (relating to certain dispositions, etc., of investment credit property), is amended by adding at the end thereof the following new paragraph.

"(6) SPECIAL RULES FOR INDIAN RESERVATION PROPERTY.—

"(A) IN GENERAL.—If, during any taxable year, property with respect to which the taxpayer claimed an Indian reservation credit—

"(i) is disposed of, or

"(ii) in the case of reservation personal property—

"(I) otherwise ceases to be investment credit property with respect to the taxpayer, or

"(II) is removed from the Indian reservation, converted or otherwise ceases to be Indian reservation property, the tax under this chapter for such taxable year shall be increased by the amount described in subparagraph (B).

"(B) AMOUNT OF INCREASE.—The increase in tax under subparagraph (A) shall equal the aggregate decease in the credits allowed under section 38 by reason of section 48(c) for all prior taxable years which would have resulted had the expenditures taken into account with respect to the property been limited to an amount which bears the same ratio that the property was held by the taxpayer bears to the applicable recovery period under section 168(g)."

(d) BASIS ADJUSTMENT TO REFLECT INVESTMENT CREDIT.—Paragraph (3) of section 50(c) (relating to basis adjustment to investment credit property) is amended to read as follows:

"(3) SPECIAL RULE.—In the case of any energy credit, reforestation credit or Indian reservation credit other than with respect to or expenditure for new reservation construction property—

"(A) only 50 percent of such credit shall be taken into account under paragraph (1), and

"(B) only 50 percent of any recapture amount attributable to such credit shall be taken into account under paragraph (2)."

(e) BASIS ADJUSTMENT TO REFLECT INVESTMENT CREDIT.—Paragraph (4) of section 50(b) is amended by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F) and inserting new subparagraph (D) as follows:

"(D) EXCEPTION FOR RESERVATION INFRASTRUCTURE INVESTMENT.—This paragraph shall not apply for purposes of determining the Indian reservation credit with respect to reservation infrastructure investment."

(f) CLERICAL AMENDMENTS.—

(1) The caption of section 48 is amended by deleting the period at the end thereof and adding "; Indian Reservation Credit."

(2) The table of sections for subpart E of Part IV of subchapter A of Chapter 1 is amended by striking out the item relating to section 48 and inserting in lieu thereof the followings:

"Sec. 48. Energy Credit, reforestation credit; Indian reservation credit."

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 1991.

SEC. 6003. INDIAN EMPLOYMENT CREDIT.

(a) ALLOWANCE OF INDIAN EMPLOYMENT CREDIT.—Section 38(b) of the Internal Revenue Code of 1986 (relating to general business credits) is amended by striking "plus" at the end of paragraph (6), by striking the period at the end and of paragraph (7) and inserting ", plus", and by adding after paragraph (7) the following new paragraph:

"(8) the Indian employment credit."

(b) AMOUNT OF INDIAN EMPLOYMENT CREDIT.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end thereof the following new section:

"SEC. 45. INDIAN EMPLOYMENT CREDIT.

"(a) AMOUNT OF CREDIT.—For purposes of section 38, the Indian employment credit determined under this section with respect to any employer for any taxable year is 10 percent (30 percent in the case of an employer with at least 85 percent Indian employees) of the sum of—

"(1) the qualified wages paid or incurred during such taxable year, plus

"(2) qualified employee health insurance costs paid or incurred during such taxable year.

"(b) QUALIFIED WAGES; QUALIFIED EMPLOYEE HEALTH INSURANCE COSTS.—For purposes of this section:

"(1) QUALIFIED WAGES.—The term 'qualified wages' means any wages paid or incurred by an employer for services performed by an employee while such employee is a qualified employee.

"(2) QUALIFIED EMPLOYEE HEALTH INSURANCE COSTS.—

"(A) IN GENERAL.—The term 'qualified employee health insurance costs' means any amount paid or incurred by an employer for health insurance to the extent such amount is attributable to coverage provided to any employee while such employee is a qualified employee.

"(B) EXCEPTION FOR AMOUNTS PAID UNDER SALARY REDUCTION ARRANGEMENTS.—No amount paid or incurred for health insurance pursuant to a salary reduction arrangement shall be taken into account under subparagraph (A).

"(c) QUALIFIED EMPLOYEE.—For purposes of this section:

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term "qualified employee' means, with respect to any period, any employee of an employer if—

"(A) substantially all of the services performed during such period by such employee for such employer are performed within an Indian reservation, and

"(B) the principal place of abode of such employee while performing such services is on or near the reservation in which the services are performed.

"(2) CREDIT ALLOWED ONLY FOR FIRST 7 YEARS.—An employee shall not be treated as a qualified employee for any period after the date 7 years after the day on which such employee first began work for the employer.

"(3) INDIVIDUALS RECEIVING WAGES IN EXCESS OF $30,000 NOT ELIGIBLE.—An employee shall not be treated as a qualified employee for any taxable year of the employer if the total amount of the wages paid or incurred by such employer to such employee during such taxable year (whether or not for services within an Indian reservation) exceeds the amount determined at an annual rate of $30,000. The Secretary shall adjust the $30,000 amount contained in the preceding sentence for years beginning after 1991 at the same time and in the same manner as under section 415(d).

"(4) EMPLOYMENT MUST BE TRADE OR BUSINESS EMPLOYMENT.—An employee shall be treated as a qualified employee for any taxable year of the employer only if more than 50 percent of the wages paid by the employer to such employee during such taxable year are for services performed in a trade of business of the employer. Any determination as to whether the preceding sentence applied with respect to any employee for any taxable year shall be made without regard to paragraph (4) of subsection (e).

"(5) CERTAIN EMPLOYEES NOT ELIGIBLE.—The term 'qualified employee' shall not include—

"(A) any individual described in subparagraph (A), (B), or (C) of section 51(i)(1),

"(B) any 5-percent owner (as defined in section 416(i)(1)(B)), and

"(C) any person who is neither an enrolled member of an Indian tribe nor the spouse of an enrolled member of an Indian tribe.

"(d) EARLY TERMINATION OF EMPLOYMENT BY EMPLOYER. -

"(1) IN GENERAL. —If the employment of any employee is terminated by the taxpayer before the day 1 years after the day on which such employee began work for the employer—

"(A) no wages (or qualified employee health insurance costs) with respect to such employee shall be taken into account under subsection (a) for the taxable year in which such employment is terminated, and

"(B) the tax under this chapter for the taxable year in which such employment is terminated shall be increased by the aggregate credits (if any) allowed under section 38(a) for prior taxable years by reason of wages (or qualified employee health insurance costs) taken into account with respect to such employee.

"(2) CARRYBACKS AND CARRYOVERS ADJUSTED.—In the case of any termination of employment to which paragraph (1) applies, the carrybacks and carryovers under section 39 shall be properly adjusted.

"(3) SUBSECTION NOT TO APPLY IN CERTAIN CASES.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to—

"(i) a termination of employment of an employee who voluntarily leaves the employment of the taxpayer,

"(ii) a termination of employment of an individual who before the close of the period referred to in paragraph (1) becomes disabled to perform the services of such employment unless such disability is removed before the close of such period and the taxpayer fails to offer reemployment to such individual, or

"(iii) a termination of employment of an individual if it is determined under the applicable State unemployment compensation law that the termination was due to the misconduct of such individual.

"(B) CHANGES IN FORM OF BUSINESS.—For purposes of paragraph (1), the employment relationship between the taxpayer and an employee shall not be treated as terminated—

"(i) by a transaction to which section 381(a) applies if the employee continues to be employed by the acquiring corporation, or

"(ii) by reason of a mere change in the form of conducting the trade or business of the taxpayer if the employee continues to be employed in such trade or business and the taxpayer retains a substantial interest in such trade or business.

"(4) SPECIAL RULE.—Any increase in tax under paragraph (1) shall not be treated as a tax imposed by this chapter for purposes of—

"(A) determining the amount of any credit allowable under this chapter, and

"(B) determining the amount of the tax imposed by section 55.

"(e) OTHER DEFINITIONS AND SPECIAL RULES.—

"(1) INDIAN TRIBE DEFINED.—The term 'Indian tribe' means any Indian tribe, band, nation, pueblo, or other organized group or community, including any Alaska Native village, or regional or village corporation, as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"(2) INDIAN RESERVATION DEFINED.—The term 'Indian reservation' means a reservation, as defined in—

"(A) section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)), or

"(B) section 4(10) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903 (10)).

"(3) WAGES.—The term 'wages' has the meaning given such term by section 51 except that paragraph (4) of section 51(c) shall not apply.

"(4) CONTROLLED GROUPS.—For purposes of this section—

"(A) all employers treated as a single employer under section (a) or (b) of section 52 shall be treated as a single employer for purposes of this section, and

"(B) the credit (if any) determined under this section with respect to such employer shall be its proportionate share of the wages and qualified employee health insurance costs giving rise to such credit.

"(5) CERTAIN OTHER RULES MADE APPLICABLE.—For purposes of this section, rules similar to the rules of section 51(k) and subsections (c), (d), and (e) of section 52 shall apply."

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end thereof the following new section: "Sec. 45. Indian employment credit."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to expenses paid or incurred in taxable years beginning after December 31, 1992.

Mr. MCCAIN. Mr. President, I propose this amendment on behalf of myself, Senators SIMON, DOMENICI, and others.

Mr. President, before I describe the amendment, I would like to describe why I am proposing this amendment, and I apologize to my colleagues for the lateness of the hour. I remind my colleague that last night I was ready, and all day yesterday to propose these amendments, and I apologize for any inconvenience this may cause my colleagues.

I think it is an important issue. We are talking about America's poorest citizens, and I think if we are going to provide relief and comfort and economic benefit to all other parts of our society, Mr. President, our Native Americans deserve some consideration.

Mr. President, in 1953, the great Indian law scholar Felix Cohen wrote:

> Like the miner's canary, the Indian marks the shift from fresh air to poison gas in our political atmosphere; and our treatment of Indians, even more than our treatment of other minorities, reflects the rise and fall in our Democratic faith.

Mr. President, if those words are correct, then I would have to tell you that our atmosphere is clearly poisoned in America today as far as our treatment of minorities and Native Americans are concerned.

Statistics do not reveal adequately the situations that exist on Indian reservations across the country today. Let me cite several statistics: Alcoholism, 438 percent higher than the national average; tuberculosis, 400 percent higher than the national average; diabetes, 155 percent greater than the national average; accidents, 131 percent greater; homicide, 57 percent greater; pneumonia and influenzas, 32 percent greater; suicide, 27 percent greater.

Conditions on Indian reservations today are appalling. I have a very modest measure, a measure that in some form or another I and several of my colleagues have been working on for many years now to try to stimulate economies on these Indian reservations to give them an opportunity for economic well-being, education, and frankly, a small chance to realize the American dream.

The purpose of this amendment is to provide a program of employment and investment incentives that can attract capital and make the private sector a vital and permanent source of economic development on Indian reservations. Specifically, this amendment provides for two Indian tax credits, an investment tax credit and an employment tax credit. The Indian employment credit provides a 10-percent credit to the employer based on the qualified wages and health insurance costs paid to an Indian who is an enrolled member of a federally recognized tribe.

As an added incentive, a significantly higher employment credit of 30 percent is offered to reservation employers having an Indian work force of at least 85 percent. The amendment is limited to those employees who do not receive wages in excess of $30,000. The credit, which focuses on job creation, would be allowed only for the first 7 years of an Indian's employment.

The amendment also provides for an investment tax credit targeted to Indian country. This credit is geared specifically to Indian reservations where Indian unemployment levels are unconscionable, the credit being limited in its applicability to Indian reservations having an unemployment rate exceeding the national average by at least 300 percent.

Let me repeat, the credit is limited in its applicability to Indian reservations having an unemployment rate exceeding the national average by at least 300 percent.

This particular credit offers a higher percentage credit from investment in Indian country than would otherwise be available under a nationwide ITC. This differential is absolutely essential in order to help mitigate the problems endemic to investing in Indian country, particularly the lack of infrastructure, which is not commonly shared by other depressed areas.

Without such a differential, an ITC would be essentially useless for reservation-based economic development since Indian country, both historically and at the present time, cannot successfully compete with other areas in attracting businesses due to double taxation, infrastructure deficits, and related problems.

Mr. President, there is a document called Applicability of Federal Tax Incentives to American Indian Reservations that was compiled by the National Indian Policy Center. I would like to cite some economic statistics. The following statistics illustrates the current conditions for Indians both on and off reservations.

From 40 to 45 percent of reservation Indians and 22 percent of off-reservation Indians live below the poverty line. In 1985, the Bureau of Indian Affairs reported a 39 percent unemployment rate among its population. Fourteen percent of Indian reservation households, three times the rate for the United States as a whole, had an annual income under $2,500, and 25 percent of Indian reservation households are on food stamps.

Of the working-age population on Indian reservations only about 40 percent are employed more than 40 weeks of the year, and the majority of those who work earn less than $7,000 a year.

Among the reservation employed, 65.7 of Indian workers on reservations are employed in tribal, Federal, State, or local governments, and 20 percent work in tribal-owned business. Six out of 7 employable reservation adults have no regular contact with or experience in private enterprise. One-third of those who work must travel off reservation to work, et cetera.

Mr. President, I would like to point out that this amendment is strongly supported by the Navajo Nation in conjunction with the 130 American Indian and Alaskan Native villages who are members of the National Congress of American Indians.

A cost-benefit analysis of this amendment was issued on February 19, 1992. The study entitled "Investment In Employment Tax Credits For American Indian Reservation, Analysis of Benefits and Costs," prepared by Mr. William L. Stringer, former chief economist for the Senate Budget Committee, found in part because of conditions unique to Indian country a carefully targeted package of tax incentives for all reservation-based investments and employers would have a significant impact on tribal economies' employment and would do so at negligible cost to the Federal Treasury.

I would like to repeat that last sentence because I know there is going to be a budget point of order. According to the former chief economist for the Senate Budget Committee, this amendment would have "negligible cost to the Federal Treasury."

The same study, Mr. Stringer goes on to point out a broad macroeconomic stimulus package, without programs specifically targeted to the Indian reservation economy, will do little to improve their plight.

Mr. President, I harbor no illusions that this amendment is the panacea for all economic ills facing Indian reservations, but it does provide the opportunity to strengthen Indian reservation economies.

For over 200 years our Nation has influenced the course of human history. Our greatness, our progress, our honor, however, has been circumscribed by a persistent national failing. That failing is clearly evident in the longer and shameful story of abuse and neglect that is the record of our treatment of Native Americans.

Under our Constitution the Congress has ultimate authority for Federal Indian policy. For the better part of two centuries Congress so poorly exercised that authority that Federal Indian policy became infamous for its shortsightedness, inconsistency, and disruptive consequences.

Today we are faced with a litany of social problems on Indian reservations that have become depressingly familiar. I will simply recite a few of the basic statistics again.

The unemployment rate on reservations is typically in the range of 40 to 50 percent. On some of the poorer reservations it reaches 80 to 90 percent. A lack of jobs and economic opportunity on reservations is a major contributor to the high levels of alcoholism, high suicide rates, sense of helplessness, and other deep social problems that afflict all too many tribes.

The conditions on Indian reservations often more closely resemble a Third World underdeveloped nation than the mainstream economy in the society of the United States. I know that some in the Congress have been frustrated that earlier efforts to improve reservations conditions have not been as successful as we might have liked. But that is no excuse for inaction today.

Indeed, we have not only failed to intensify our efforts but spending by the Federal Government for Indian programs fell sharply in real terms over the last 15 years. One of the largest dropoffs was precisely in the area we are discussing: economic development. In constant 1990 dollars, BIA spending for economic development fell from $144 million in 1977 to only $36 million in 1990. A drop in real terms of 75 percent.

Mr. President, Senator INOUYE in his letter says, and I quote part of it:

> Tribal governments want to attain self-sufficiency and reduce the dependency of Indian country on Federal programs and services, but to do so tribal governments must attract businesses and jobs. These complementary investment and employment credits represent an innovative approach available to private sector developers and employers without establishing a new Government bureaucracy. These proposals hold the potential to stimulate at a modest cost the type of investment employment opportunities that are so critically needed on many Indian reservations.

I think it would be, and he says it at the end of his letter, a quote from Navajo President Peterson Zah, one of the truly great and outstanding leaders that I have had the opportunity of knowing:

> Helping American Indians to help themselves is neither a Democratic issue nor a Republican issue. It is not a conservative policy or a liberal policy. It is not even a special interest issue. Rather, it is a human issue that must and deserves to be addressed from a national perspective on a bipartisan basis and with a real sense of urgency warranted by the deplorable conditions existing in Indian country, conditions which are truly a national disgrace.

Those are the words of Navajo tribal President Peterson Zah.

There is no doubt in my mind that bold and innovative measures will be required to overcome the years of poverty, despair, and neglect that afflict the native American community. We have taken bold and innovative steps in the past to revitalize countries and continents the world over. In Europe it was the Marshall plan, in Puerto Rico it was Operation Bootstrap, and each year the Congress appropriates substantial funding to send foreign aid to a host of developing countries. It is time we made a similar commitment to native Americans.

Unlike past Federal approaches toward Indian policy, however, Indian tribal government itself must be closely involved in the development and implementation of programs intended for their well-being.

This amendment meets the threshold test of tribal government input. In this instance, this amendment is a result of recent efforts undertaken by the Navajo Nation to recommend Federal tax incentives which would provide Indian tribes with an additional economic tool to aid them in strengthening Indian reservation economies.

We believe for several reasons that a strategy of tax incentives such as this amendment proposes is the most effective way that the Federal Government can act to stimulate reservation economic development. Tax incentives do not depend for their effectiveness on the actions of Federal bureaucracies that are often slow moving and unimaginative. The incentives are usable only by viable businesses that expect to earn some profits and hence to have tax obligations against which credit and deductions can be used to diminish their tax obligation.

The Federal Government therefore does not spend anything until a real business is created on a reservation, and there exists real jobs and a real income generated for the benefit of reservation residents. Unlike direct spending programs, if there is no benefit, there is also no cost.

Similarly there is a minimum of Federal spending required for studies, planning impact analyses, and all the other ways in which substantial Federal funds can be exhausted and yet no businesses, no jobs, and no real economic development are in sight.

In all too many cases in the past, the real economic impact of direct Federal spending programs has been limited to the planning and other jobs connected to the Federal spending itself. This, or course, disappears once the Federal spending is gone. No long-term viable economy results, certainly not one that can be sustained.

As we all know, the reason the Congress is currently developing an economic growth package is due to our concern that the national unemployment rate is too high. Yet for many Indian tribes, 8 percent unemployment would be a godsend.

As Senator INOUYE has stated on another occasion, and I quote:

> The unemployment rate on the majority of Indian reservations is simply incomprehensible to the average American. During the heights of the Great Depression in the 1930's unemployment averaged 25 to 30 percent. In 1989 the average rate in Indian country is 52 percent.

It is unconscionable, Mr. President, for the Congress to allow these conditions to fester within the borders of this Nation. Moreover, we cannot in good conscience call the final product a national economic growth package unless we include Indian reservations.

I point out again, I do not understand how you can come before the Congress and the people of the United States and call it an economic growth package without one single, not one single solitary benefit, or tax benefit or any other incentive to take care of the poorest of our citizens.

Mr. President, this amendment provides the opportunity to stimulate the development of viable economies on Indian reservations in 33 States, and I will not read all of those States.

I will point out, particularly the Senators from those 33 reservation States that I will make part of the RECORD, that it should come as no surprise that as a result of our failure to adequately support the development of viable reservation economies, that Indian tribes have turned to other revenue-generating activities, such as gambling and the consideration of proposals to locate commercial waste facilities on their lands.

I ask my colleagues, what other choice have we given Native Americans? What does it say about us as a nation when the only choices for revenue-generating opportunities on Indian lands have come down to gambling or garbage? What does it say about us as a nation when the only choices for economic activity on Indian lands run the risk of infiltration by organized crime, or that unscrupulous parties can exploit Indian lands in the apparent belief that they can degrade the environment without regard to established environmental standards?

I challenge those Members who are concerned about Indian gaming and the potential for the introduction of environmentally unsound waste facilities on Indian lands to support this amendment.

I also challenge my colleagues to carefully consider the other measures now under consideration before the Select Committee on Indian Affairs which provide Indian tribes with other economic tools they can use to improve the quality of life for their people.

Over the long and tragic course of America's treatment of them, Indian leaders have persistently urged the Federal Government to work with them to arrive at sensible solutions to their problems. In 1961, at a meeting in Chicago of over 400 tribal leaders, that request was eloquently renewed in this urgent appeal:

> The answers we seek are not commodities to be purchased. * * * When Indians speak of the continent they yielded, they are not referring only to the loss of some millions of acres in real estate. They have in mind that the land supported a universe of things they knew, valued and loved.
>
> With that continent gone, except for the few poor parcels they still retain, the basis of life is precariously held; but they mean to hold the scraps and parcels as earnestly as every small nation or ethnic group was ever determined to hold identity and survival.
>
> What we ask of America is not charity, not paternalism, even when benevolent. We ask only that the nature of our situation be recognized and made the basis of policy and action.

In sum, Mr. President, we have broken nearly every promise we have made to the Indian people. Though I abhor its occurrence, I am not astonished that frustration occasionally erupts into violence in Indian country. What I do find astonishing is the depth of the enduring devotion of Indian people to this country. Nowhere in America is love of country more in evidence than among Indian communities. As a percentage of their population, no other segment of our society has served in our Armed Forces in such great numbers. Their unsurpassed dedication has survived the indifference of their countrymen. For the most part, the country has ignored their outstanding contributions to our national defense.

Mr. President, the time for action is now. as the Senate considers this amendment, I urge my colleagues to take to heart the following words of Peterson Zah, the president of the Navajo Nation:

> Indeed, helping the American Indians to help themselves is neither a Democratic issue nor a Republican issue; it's not a conservative policy or a liberal policy; it's not even a "special interest" issue. Rather, it is a "human" issue that must, and deserves to be, addressed from a national perspective on a bipartisan basis, and with a real sense of urgency warranted by the deplorable conditions existing in Indian country—conditions which truly are a national disgrace.

Let us debate. Let us examine other alternatives. But let us not ignore the very real human suffering that has been plaguing Native American communities for too long.

I do not want to take too much more time, but let me say that I understand that the hour is late. I understand that it is not part of the package. And I also understand there will be some objection raised to this amendment. I have tried before to get this and other incentives for Native Americans to be brought through the normal process.

I have testified before the Finance Committee. I have written letters, letters that I have here, urging the Finance Committee to consider this very modest or other modest proposals to try and help Native Americans.

Mr. President, I wish that all of our colleagues could spend one Saturday night in Gallup, NM, where you find a situation of men and women on the streets of that town in deplorable conditions, where you find in the faces of those brave and noble people a sense of hopelessness and despair, which drives them to resort to alcohol and other substances. And the reason why there is hope and despair in their eyes, Mr. President, is because there is no opportunity, and it is my profound conviction to provide that to all of our citizens.

I mention again what we are seeing take place on Indian reservations. Because of the lack of ability to attract businesses and private investment, Native Americans have basically turned to two enterprises: One is gaming, of which there is enormous amount of controversy, and will continue to be. The other, of course, is serving as a hazardous waste site. The latter is particularly offensive and egregious, because if there is one thing Native Americans treasure and value above all, it is their land.

Now, because of economic desperation, they are forced to use the most treasured part of their culture and heritage as a hazardous waste dump site for non-Indian communities.

I suggest, Mr. President, that this is not a huge earth-shaking amendment. It may not turn tribal economies around. It may have very little impact in some areas. But, Mr. President, I think that how we vote on this amendment, in some respects, is an indication of what we are all about.

It brings me back to Felix Cohen's statement about the miner's canary. He said in 1953:

> Like the miner's canary, the Indian marks the shift from fresh air to poison gas in our political atmosphere; and our treatment of Indians, even more than our treatment of other minorities, reflects the rise and fall in our democratic faith.

I hope my colleagues will seriously consider granting this small amendment and give those people, who deserve it so much, an opportunity.

Mr. BOREN. Mr. President, I rise in support of the amendment offered by my distinguished colleagues, Senators INOUYE and MCCAIN, the chairman and vice chairman of the Senate Select Committee on Indian Affairs. As I understand it this amendment embodies the provisions of S. 2254, the Indian Employment and Investment Act of

1992, a bill which I have cosponsored. This important tax proposal, promoted by the Navajo Nation as well as the Cherokee Nation and other tribes in my State of Oklahoma, provides essential tax credits for businesses that provide employment and invest in equipment and other property on or near Indian reservations. I am proud to support this legislation because I firmly believe that it will ameliorate the deplorable conditions in Indian country. It will help stimulate the development of viable reservation and other tribal economies and more fully integrate them with the national economy.

I have been asked by the Cherokee Nation of Oklahoma to approach the sponsors of this important tax legislation with a perfecting amendment supported principally by the tribes in Oklahoma. I believe the amendment is technical in nature and would not significantly alter the basic purpose and structure of the original proposal, introduced as S. 2254. That proposal generally would allow the Indian reservation credit, which is an investment tax credit, only when the Indian unemployment rate on a reservation exceeds 300 percent of the national unemployment rate.

I am told that the 300-percent requirement was intended to limit the credit to reservations which face the most severe economic circumstances in part because of the isolated, insular nature of particular Indian tribes' reservations. There are other Indian tribes, however, such as those in Oklahoma, which do not have large, isolated reservations but reside in rural areas designated as former reservations. Their tribal economies may or may not be partially integrated into the surrounding non-Indian economies, but in nearly all cases these tribes in Oklahoma and other States still suffer intolerably high unemployment rates. So, even though the unemployment rates of tribes on former reservations in Oklahoma or on Indian lands elsewhere may not exceed the 300-percent threshold for the Indian reservation credit in S. 2254 or the pending floor amendment, the unemployment rate is nearly as staggering and deserving of ameliorative action.

Mr. President, I would like to ask the sponsors of the amendment if they would consider at the appropriate time a perfecting amendment that would extend the benefits of an investment credit to Oklahoma tribes and other tribes similarly situated, by allowing one-half of the otherwise available credit on Indian reservations whose unemployment rate is between 150 to 300 percent of the national average. A full credit would remain available whenever the 300-percent threshold is exceeded.

Mr. McCAIN. I commend and thank the Senator from Oklahoma for his support of this floor amendment and his cosponsorship of S. 2254. Senator INOUYE and I would be happy to accommodate the request of the Senator and work out with him perfecting language that would ensure that the investment tax credit provisions will apply to the Cherokee Nation and other Oklahoma tribes.

Mr. BOREN. I thank the Senator for his commitment to work out perfecting language acceptable to the tribes in my State. I also offer my assistance in efforts to secure a revenue estimate for this critical legislation so that it can be duly considered and adopted by the Senate in the very near future.

In closing, I strongly urge all my colleagues to join me in supporting and voting for the floor amendment as perfected at the appropriate time in the future.

Mr. KASTEN. Will the Senator from Arizona yield?

Mr. McCAIN. Yes.

Mr. KASTEN. I thank the Senator. First of all, I would like to ask him if I can be made an original cosponsor of the amendment.

Mr. McCAIN. I ask unanimous consent that Senator KASTEN be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KASTEN. Let me just say that we in the State of Wisconsin have adopted enterprise zones, statewide, and we in the State of Wisconsin have State enterprise zones on Indian reservations in Wisconsin, and we believe that it is working. And the Indians believe it is working.

I simply want to commend the Senator on his amendment, particularly on his comments. I hope that his amendment will be agreed to this evening. It is an important step in the right direction.

I simply point out that where we have had the opportunity in Wisconsin to establish State enterprise zones, they have been established, and they are working on Indian reservations. This would be one more step. This would help us even more and help disadvantaged, economically, populations all across our State to continue to have the opportunities that the Senator refers to.

I thank him for his amendment, and I urge my colleagues to support the McCain amendment.

Mr. SIMON. Mr. President, I will speak very briefly. I think this is important legislation, and I speak specifically tonight at the request of Senator INOUYE, who is ill tonight and cannot be with us.

I commend the vice chair of the committee, Senator McCAIN, for his leadership on this, as well as Senator INOUYE, who has done an absolutely superb job. Any of us who are impressed by his work on the floor, let me tell you, serve on that committee, and you will understand his sense of dedication and what he has contributed.

Indian unemployment, according to a report made last year by Senator INOUYE, averages 56 percent on reservations. And this proposal by Senator McCAIN would say, Let us put some incentives out there to provide employment and jobs. And we provide those incentives only if unemployment is 300 percent times the national rate. We will not lose a penny if this does not work; if it works, everyone is ahead.

Late last year, we designated 1992 as the "Year of the American Indian." Let us make that more than simply a hollow gesture. Let us do something substantial to help American Indians. I hope we will pass this, Mr. President.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, is there not a time limit on this amendment?

The PRESIDING OFFICER. There is no time limit on this amendment.

Mr. DOMENICI. I was going to ask the sponsor to yield time to me. I will not use too much time. I want to speak to this amendment because I have been working on this issue for a long time, and I think we are going to, at least tonight, hopefully, make a concerted policy statement with reference to the need for jobs on Indian reservations.

Mr. DOMENICI. I thank the Chair.

Mr. President, for anyone that has a large population of American Indians in their States with large land that is part of their reservation they know the desperate need. If Senators have been there and talked with the Indian people and seen how they live they are moved by the dire conditions, and if because of that knowledge they have grown to worry about the Indian people.

Most of the privileges that we as Americans think are most important, almost birthrights to Americans are not available to Indians. The opportunity to have a good job if you are qualified, and to earn a living for yourself; to create independence for yourself because you can earn a living are beyond the grasp of American Indians on reservations. These are fundamental values that we concern ourselves with. We educate our children because we want them to be fulfilled and employed. We want them to earn a living and become independent. We work as families so we will be strong enough to go out and support ourselves and earn a living and pursue some exciting humanitarian purposes in this great society. Whatever you look at that we want for our children as they mature and grow up, most Indian people do not have.

Frankly, I do not chose to lay blame here on the floor of the Senate to the U.S. Government for this seriously sad happenstance. The truth of the matter is it is a problem that came about for a lot of reasons.

The Senator from New Mexico has tried diligently for some 15 years to have conferences on Indian lands with American businesses, to bring them there and talk about them moving there.

We have had training programs, saying maybe our Indian people need more training. Hopefully, then businesses will come there and hire Indians. Perhaps then Indian businesses, will flourish and hire their people. That has not happened—current policy is not working, and frankly it is too complicated to fix.

So I chose 4 years ago to say: Let us try to do something by way of incentive to invite businesses to locate on Indian lands. Then they will employ Indian people, either American business or Indian-American business that is owned by Indians, or a parts department that produces parts for Ford Motor Co., whatever it is.

But I have concluded that unless—unless—we change the economics on the Indian reservations by asking the tribes if they want development and jobs—do they want their reservation or reservation lands to be a piece of developed America nurtured by tax incentives? If not economic development will not come. I think their answer would be yes. In which case we invite business in with the special incentives included in this amendment.

No one around should be terribly worried about this law, because it is not going to put millions of people out of work, nor is it going to attract all the businesses from the surrounding States because we only have about 1.4 million Indians spread throughout America. We ought not to be worried about it. We ought to seize an opportunity.

Now, the approach the Senator from New Mexico has done heretofore is slightly different from this amendment. But I support it tonight because I hope for the first time we will indicate as the U.S. Senate that we want to try something significantly different for the livelihood of the American Indian, if they want it. We want to provide a tax incentive for business to locate on reservations and grow there and hire the Indian people there.

It seems to me that we have a model. We did this for Puerto Rico. I think we made a slight mistake in Puerto Rico because the section 936 tax provisions for Puerto Rico said go there and you get an income tax break on our corporate taxes. We are not doing that here. We say you get a break if you employ Indians. The tax break is based upon the employment to Indians and the salaries paid to Indians. It is a much more generous approach to businesses that will employ a large number of Indians instead of maximizing corporate profits. We hope that the incentives will also encourage capital investment too; but that would be perfect. But you will not get the maximum incentive if you just build a new building on the reservation with a couple of employees. In fact, you would not have much incentive to really do that. But if you employ Indian people, receive significant incentives.

There are a number of items not in this bill that I think eventually we will have to put in Indian policy, and I will tell you a couple of them. First of all, one of the problems with business moving to Indian country is the uncertain future of the taxes to be imposed by the tribal government. We all know that. We understand that they are a government and they can impose taxes. But American business will not invest there with extreme uncertainty about the future tax burden. They are frightened of it, and I must say with some justification.

Why not solve the problem instead of continuing to say it exists? I believe you must ultimately have in this policy—which I believe is a great first start—you must have, along with the agreement where the Indian policy say we want this, you have to have a provision that says when you get it, you do not raise the taxes on the business that came there. If you raise the taxes, you raise tribal taxes and diminish the value of the credit that the Federal Government provided.

So that cycle will have to be fixed some way or another. I do not think my friend from Arizona believes we are actually going to pass this amendment tonight, or even tomorrow.

We are trying to establish, and almost beg our fellow Senators go give consideration to a complete alternate Indian policy for America. Give it a try. That new policy is to try jobs for a change, try jobs, American style, on Indian reservations for Indian people.

If a tribe does not want jobs and economic development, they do not have to try it. If they try it and it works, it seems to me that we will have done a very, very positive thing for the most underprivileged group of Americans around. There can be no doubt about that. There are many well educated native Americans, earning a good living. But for the most part, our Indian people are having difficult economic times. They are having difficulty staying and preserving their culture. They are encouraged to leave from all sides.

And there we are, with islands of poverty and unemployment, in the midst of a growing and prospering Arizona and part of New Mexico. There is no question the Navajo reservation needs a lot of things, including roads, which we are prepared to give them as part of an economic development package on highways. If we now adopt policy changes into American law, and we can get out of the Indian Committee, we need some tax help for it. That is why we are here. We have a splendid Indian committee, the Committee on Indian Affairs. We did what we could. But we ran into a stone wall when it comes to incentives for jobs.

So let me repeat: There may be many ways to do this. Some may even be better, as we look through for the next few months, perhaps in preparation for a bill that is going to become final law. But for now, we ought to make a statement.

And for all of those who go home and say they want to be helpful to the Indian people in their States—and almost everyone tries that, and everyone works at it—I hope you do not go home to your State and not say to them: I voted to try a new policy, if you want it, which should lend itself to many new jobs for your young people right here at home, under your authority, to be located where you want it. They cannot destroy your reservations and your habitat of your community. But if you want economic development and jobs, this is the way to give it a try.

So, Mr. President, I congratulate the Senator from Arizona. I am pleased to join him. I thank Senator INOUYE for his great support with reference to the Indian people and hope we will give this a try tonight and at least send a positive statement of optimism to Indian leaders across the country and to their people.

Having completed my statement, I yield the floor.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I thank the senior Senator from New Mexico for not only his statement, which I think clearly lays out in compelling fashion the argument for the adoption of this amendment, but for more than 15 years the Senator from New Mexico has devoted thousands and thousands of hours of his life in trying to assist the native Americans not only in his State but all over this country. I think that his record of dedication is clearly reflected in the overwhelming support and appreciation that the native Americans in my State, as well as his, have extended to him time after time. I am very grateful to him.

I would also like to again echo his words about the distinguished chairman of the Indian Affairs Committee. I know of no American who is more committed to helping native Americans than our distinguished chairman. As we all know, he is not here tonight because of illness, and I know it is very difficult for me to speak as eloquently as he does on this or any other native American issue. But he has been an incredible role model, I think, to many of us in his willingness to give so much of himself for those native Americans who need it so much.

Mr. President, I will not go on too much longer. I do think it might be well to cite from the report of the Task Force on Indian Development, which report I think has some very important facts in it.

> As is widely know, Indians living on many reservations have suffered from relatively

low incomes, high unemployment, high poverty rates and other adverse socioeconomic circumstances, compared with the U.S. population as a whole. While standard socioeconomic measures are more difficult to apply and interpret on many Indian reservations, the low measures of Indian socioeconomic status accurately indicate the relative lack of economic development of Indian reservations. As found in the 1980 census, 14 percent of all Indian reservation households had incomes of less than $2,500 per year, as compared with 5 percent for the U.S. as a whole. Only 6 percent of reservation households had incomes greater than $30,000 per year, as compared with 20 percent for the U.S. as a whole. * * *

Forty-one percent of reservation Indians were living in households with incomes below the poverty level, as compared with 12 percent for the U.S. as a whole. Further reflecting low reservation incomes, 22 percent of reservation households were receiving income from public assistance, as compared with 8 percent for the U.S. as a whole.

Because conventional published measures of unemployment do not account for "discouraged workers" (who have left the labor force entirely), these measures are less relevant to the circumstances of Indian reservations. Accordingly, the task force calculated a "total unemployment rate" equal to the number of all people without a job, divided by the total population. As shown in Table 2, for Indian reservation males ages 20 to 64, the total unemployment rate, as shown by the 1980 census, was 58 percent. This rate compared with a total unemployment rate for all U.S. males in this age group of 18 percent. For Indian reservation males ages 30 to 54, the total unemployment rate was 64 percent, compared with a corresponding figure for U.S. males of 11 percent. * * *

The anti-poverty programs and other increased expenditures to promote Indian economic development had a major impact on Indian reservations, but they generally failed to achieve one of their basic purposes. Already in the early and mid 1970s, reviewers were finding that little progress was being made in developing viable Indian reservation economies that could stand on their own feet without continuing infusions of Federal funds. Considerable effort and attention then shifted to a new strategy, development of Indian natural resources as a basis for promoting Indian reservation economic development. * * *

There are many reasons for the absence of a larger business sector on Indian reservations. Reservations are often isolated, have poor quality land, and have harsh climates. In many tribes individual entrepreneurship and the pursuit of private profit have not been a valued and encouraged form of behavior. Because of the lack of previous economic development, the labor force on many reservations is not highly trained and sometimes lacks the experience that would instill work habits sought by modern industry. If individual Indians find the motivation and discipline to overcome these obstacles, they face major difficulties in obtaining investment capital from sources other than the Federal government. * * *

The most important long run actions that the Federal government can take to promote Indian economic development may well involve improvements in Indian education. Beyond education and most critical initiatives must come from Indian tribes and from individual Indian entrepreneurs. Nevertheless, the Federal government still has important roles to play in promoting economic development on Indian reservations.

Tax incentives offer an attractive mechanism for luring business to reservations. Tax advantages are automatic and do not require administrative selection among a pool of eligible candidates, avoiding the extensive politicizing of economic development assistance that often results when many applicants must apply for a limited amount of administratively granted funds or other support. Tax advantages also promote the private profit-making sector, because tax reductions are of benefit only to parties that have some tax obligations. Many Indian leaders have concluded that tribal governments should be less directly involved in business, and that reservation governments should seek to promote individual Indian entrepreneurship. Tax advantages would serve this purpose in that they would tend to equalize the tax status of tribal businesses (which are tax exempt) and individual Indian and non-Indian businesses on reservations. * * *

Tax incentives to encourage business to locate in Indian enterprise zones should include a full exemption from corporate income taxes, an investment tax credit, and an employee wage and training tax credit. * * *

Obviously all of that last paragraph is not in this amendment and this proposal.

Mr. President, I ask unanimous consent to add Senator WELLSTONE as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCAIN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MCCAIN. Unless, of course, Mr. President, the amendment would be accepted. I would be more than happy if that were the case.

Mr. BENTSEN. I did not hear the Senator.

Mr. MCCAIN. If the distinguished chairman would accept the amendment, I would certainly avoid that vote.

Mr. BENTSEN. Let me tell the Senator the dilemma he puts me in. This is the first time I have seen this amendment. I certainly sympathize with the concerns of the Senator from New Mexico and the Senator from Nevada insofar as the plight of the Indians on reservations and their problems and their concerns.

But I do not know what this is going to cost. I have no idea what it is going to cost. And if we are to consider the amendment for this bill, we need to know exactly what it is going to cost. We have no estimate on the revenue.

Now, I will say this. In looking at the amendment, I see that the incentives are quite generous in relation to other investment incentives.

I am sympathetic with what the Senator is trying to do. I wish I could be of help. If we take it here not knowing what it is going to cost—and we have virtually no cushion in the bill for this sort of thing—then you make the whole bill subject to a point of order. I have already checked, and I am so advised. I would be delighted to find out otherwise.

Mr. DOMENICI. Will the Senator yield to me—there is no time limit—and I will yield right back to him.

Frankly, were he not so serious, I was going to tell him kind of a delightful way to do it. I was going to suggest that we use the $3.5 billion that we have used three times already, just use it for the fourth time, because this bill will not cost anything like that. It is so small they cannot give you a number.

Mr. BENTSEN. Senator, we blocked out that $3.5 billion just to try to keep from having a whole series of things that we did not know how much they were going to cost. We have used that $3.5 billion.

Mr. DOMENICI. How many times has that been used?

Mr. BENTSEN. I tell you, when you fellows on the Budget Committee get through drafting some of those rules, it is quite difficult for me to understand.

Mr. DOMENICI. I see. Well, I think it has only been used three times.

Mr. BENTSEN. I am faced with a situation that I do not know what this is going to cost. Therefore, it could make the bill subject to a point of order, the entire piece of legislation. They tell me we have a minimal amount left in the bill. So with some reluctance, I am going to have to make that point of order.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Does the distinguished chairman yield?

Mr. BENTSEN. I am happy to yield.

Mr. MCCAIN. May I make a couple points to the distinguished chairman. First, there was a letter sent to the distinguished chairman on February 26 which basically is exactly what this amendment is. It is a letter from myself, Senator DOMENICI and Senator INOUYE, asking for your strong consideration of S. 2254, the Indian Employment and Investment Act of 1992, for inclusion into your package.

So, although the distinguished chairman may not recognize this amendment, it was embodied in a letter to you dated February 26, 1992, which lays out exactly what this amendment entails.

Second, I am sure the distinguished chairman remembers the testimony before his committee, the testimony before his committee by Mr. Marshall Plummer, the vice president of the Navajo Nation, which took place, I believe, on February 19, although I am not positive.

Mr. BENSTEN. You are quite right. I remember his testimony well.

Mr. MCCAIN. Mr. Chairman, the fact is that what he asked for and what he described in most eloquent terms is exactly what this amendment is. That was his exact testimony, his exact support of this legislation.

Also, if I might point out, as I did earlier in my statement, there is a study that was conducted, issued on February 19, 1992. This study is entitled "Investment and Employment Tax Credits for American Indian Reservations: An Analysis of Benefits and Costs."

That study was prepared by Mr. William L. Stringer, whom I believe the distinguished chairman is familiar with, former chief economist for the Senate Budget Committee. He found in part:

> * * * Because of conditions unique to Indian country, [a] carefully targeted package of tax incentives for all reservation based investments and employers would have a significant impact on Tribal economies and employment, and would do so at a negligible cost to the Federal Treasury.

I am sorry, I have lost the attention of the distinguished chairman, so when I have it back I will try it again. I yield to my colleague from New Mexico.

Mr. DOMENICI. Mr. President, might I have the attention of the chairman?

Mr. BENTSEN. I am now advised that I have to raise the point of order. I am advised of that.

Mr. DOMENICI. Let me see if I could suggest something. I understand the scorekeeping problem. I understand we could not in any way bind the scorekeeping here. But I wonder if we could consider a unanimous consent for a moment?

I would like to propose this kind of consent, if the Senator from Arizona would agree. I ask consent that it be in order after this amendment is adopted, if it is adopted, for the sponsor of the amendment to withdraw the amendment if anyone raises the point of order on the amendment before this bill is passed? I think that would do it.

Mr. BENTSEN. I am advised we have to raise the point of order. We cannot do it that way.

Mr. DOMENICI. We cannot do it that way?

Mr. BENTSEN. With some reluctance, I will have to do.

I thank the Senator. Has the Senator finished?

Mr. McCAIN. I have not, sir. I will be brief, though. I am sorry. I did not know any rules of the Senate require a budget point of order.

I want to make that perfectly clear. I know of no rule in this Senate that requires a budget point of order when we are trying to help the least privileged members of our society, the men and women who are suffering in poverty and agony. If there is any tax cut, any incentive that is justified in this Nation, it should go to them first.

I deeply regret that the chairman of the committee is compelled to lodge a budget point of order on what has been described in a study as a negligible effect. I quote from the former chief economist for the Senate Budget Committee. He found "it would do so at a negligible cost to the Federal Treasury."

There are 1.4 million of these people in this country who are experiencing unemployment rates of 80 and 90 percent in some areas. The cost is negligible. The chairman knows that. It is clear it is negligible.

If the chairman wishes to lodge a point of order, that is certainly his privilege to do so. I deeply regret—deeply, deeply, deeply regret he feels compelled to do so. Particularly in light of the fact that Marshall Plummer appeared before his committee advocating this particular legislation. A letter was sent to the distinguished chairman of the committee concerning this legislation. Clearly it is something that has been needed for many, many years.

I will make no further comment. I yield the floor.

Mr. BENTSEN. Let me say to the Senator I went to great lengths to make a place for Mr. Plummer to appear before the committee at the request of the other Senator from Arizona, and was pleased to hear his testimony.

Do I understand the Senator did not ask for an estimate from the Joint Tax Committee? Or he asked for one?

Mr. McCAIN. I might respond, Mr. Chairman. In a letter to you signed by Senator INOUYE and Senator DOMENICI and myself, I quote:

> We are also requesting your assistance in obtaining an expedited revenue analysis from the Joint Tax Committee.

It is part of the letter that was sent to the distinguished chairman.

Mr. BENTSEN. Unfortunately, we do not have knowledge of what that cost would be.

I make the point of order.

Mr. McCAIN. Mr. President, I move to waive the budget point of order. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there further debate on the motion? Senator BUMPERS.

Mr. BUMPERS. Mr. President, parliamentary inquiry. Is this a debatable point of order?

The PRESIDING OFFICER. The Senator is correct. The motion to waive the point of order is debatable.

Mr. BUMPERS. I am sorry?

The PRESIDING OFFICER. The motion to waive the point of order is a debatable motion.

Mr. BUMPERS. Are we still under a time agreement under control of the chairman?

The PRESIDING OFFICER. There is no time agreement.

Mr. BUMPERS. Mr. President, I just want to make this point. I will be very brief. I have worked in this Senate for 4 years to try to get the Senate's attention to one of the most pervasive disgraces in America, namely, the Mississippi Delta; 257 counties, from the southern tip of Illinois to the mouth of the Mississippi in New Orleans, both sides of the river, 257 counties with an average poverty rate of 40 percent.

That does not compare terribly favorably with some Indian reservations. We have already spent $2 million on a study, and the study did not reveal anything much that I did not already know. And that is, this pervasive poverty has existed for well over 100 years, since the Civil War, and it has been almost impossible to get anybody's attention focused on it.

These are people pleading for prisons. I talked the Bureau of Prisons last year into putting a very significant Federal prison facility in Forest City, AR, in the heart of the Arkansas Delta. It is going to be a tremendous economic stimulus. But you think about people pleading for prisons to create jobs, and they are tickled to death.

I have done a whole host of small things, but I am telling you, something like the Senator from Arizona is trying to do for Indian reservations; it is appropriate. I am not going to support the Senator because I do not know what it is going to cost. And I did not know he was going to offer it or I would have offered a second-degree amendment to cover the delta.

I would like to see investment tax credits in those 257 counties of the delta.

I would like to see all kinds of tax and other business incentives for any county that has had a pervasive poverty rate and unemployment rate of, say, over 10 percent for the past 2 years. Mississippi County—I made this speech during the base closing argument—Mississippi County, AR, where Eaker Air Force Base was located, is one of the 10 poorest counties in America and the administration said we are not taking economics into consideration on which bases to close. Mississippi County has not had less than a 10-percent unemployment rate in over 10 years.

So all I am saying is I think the thrust of what the Senator is trying to do makes some sense, but this ought to be thought out, it ought to have a cost figure on it and it certainly ought to include the delta. So for the time being, I am going to vote against this, even though I applaud the Senator for bringing it up. The kinds of poverty we have on Indian reservations in the area I am talking about ought not to be permitted in this great Nation of ours. I yield the floor.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I will be brief. The Senator from Arkansas had noted this investment tax credit would not apply unless the unemployment rate on an Indian reservation exceeded the national average by 300 percent. I will match that, I say to the Senator from Arkansas, with any of his delta counties that have "10 percent unemployment." I am sorry that the Senator from Arkansas is not aware that the average unemployment on an Indian reservation is somewhere around 56 percent.

Mr. BUMPERS. Will the Senator yield?

Mr. McCAIN. I will be more than happy to have my amendment second degree with the caveat that it is triggered when it is 300 percent times the national average. And I would really like the Senator from Arkansas to come out West with me and my friend from New Mexico sometime and we will show him why it is so important that we try to help these people, and we certainly do want to help his. When we are talking about unemployment rates of 10 percent, we are not even in the ball park. I yield.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I talked about a county that had over a 10-percent unemployment rate for 10 years. We have plenty of counties in my State with 15 and 20 percent unemployment, the kinds of unemployment the President of the United States did not see fit to even recognize. It took him over a year-and-a-half to even recognize this country was in a recession, and if the Senator wants to swap Indian reservations with some areas in my State, I will be glad; I will reciprocate. I will go look at Indian reservations and I will let him come down to the Mississippi, Arkansas, and Louisiana delta and show him some poverty.

Again, Mr. President, I state I am not going to support the amendment. I congratulate and applaud him for bringing it up.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, this is the problem we run into on a tax bill, a situation where we are trying to preserve some discipline and we have some nonmeritorious and some meritorious amendments. We have some that we do not even know what the cost is going to be and we get into a feeding frenzy on some of these.

Reluctantly I have to make that point of order. Mr. President, the amendment is not paid for and it violates section 311(a) of the Congressional Budget Act and, therefore, I urge that we do not waive the Budget Act.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, the argument of Senator BUMPERS would indicate somebody ought to have an amendment and have the whole country have a preferential treatment for anyone who wants to build anything there. It is absurd to talk about counties in Arkansas as if they had the impediments that an Indian reservation has.

Indian reservations are having trouble getting business because of the very nature of the trust land, and we are trying to create incentives to say let us try something different without having to declare them no longer American Indians.

With reference to the cost, I was in jest saying let us charge it to the $3.5 billion surplus. Now I will speak about it in seriousness. We have used it three times in the U.S. Senate: Twice on different unemployment bills and tonight to pay for insurance for the small businesses that have not been able to deduct health care. That is how we paid for it. That is three times. I think four times is just as good as three when the American Indians are at stake because it is all a sham.

The $3.5 billion is a sham. This bill will not cost $3.5 billion. I ask the Senate, what if they cannot even estimate the cost of this bill? Are we going to say the Indian people cannot have it? This situation is so different I would not trust the estimates of the Joint Tax Committee for more than 2 years.

How do we know? It may be one company; it may be none that try this. In fact, none of the Indian reservations might consent to it. Are we, nonetheless, to say with precision what it will cost or we ought to reject it tonight on a point of order? We will do that. We cannot get 60 votes.

We made our case, and I particularly want to thank the chairman, Senator BENTSEN, for the words he said about this. I thank him for it because I believe we will get a fair hearing even if we do not win tonight. At some point in the not too distant future, we will find some time before his committee. He will give it to us and we will bring some informed Indian people. We will make our case. Perhaps we can make it better there than we have made it tonight, but something like this is going to be tried or we are going to be neglecting these people. They are going to reach the point where they go well beyond saying we do not even think Christopher Columbus was a hero. They are beginning to say that because of their plight in life. They received nothing out of America, they are saying, and we ought to give them a chance. Let us vote.

The PRESIDING OFFICER. The question is on the motion to waive the Budget Act.

Mr. BENTSEN. I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have already been ordered. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. FORD. I announce that the Senator from Iowa [Mr. HARKIN], the Senator from Hawaii [Mr. INOUYE], and the Senator from Arkansas [Mr. PRYOR], are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 46, nays 51, as follows:

[Rollcall Vote No. 43 Leg.]

YEAS—46

Akaka
Bingaman
Bond
Brown
Burdick
Burns
Chafee
Coats
Cochran
Cohen
Craig
D'Amato
Daschle
DeConcini
Dole
Domenici
Durenberger
Garn
Gorton
Gramm
Grassley
Hatch
Hatfield
Helms
Kasten
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pell
Pressler
Sanford
Seymour
Simon
Simpson
Smith
Specter
Stevens
Symms
Thurmond
Wallop
Warner
Wellstone

NAYS—51

Adams
Baucus
Bentsen
Biden
Boren
Bradley
Breaux
Bryan
Bumpers
Byrd
Conrad
Cranston
Danforth
Dixon
Dodd
Exon
Ford
Fowler
Glenn
Gore
Graham
Heflin
Hollings
Jeffords
Johnston
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Packwood
Reid
Riegle
Robb
Rockefeller
Roth
Rudman
Sarbanes
Sasser
Shelby
Wirth
Wofford

NOT VOTING—3

Harkin
Inouye
Pryor

The PRESIDING OFFICER. Are there other Senators in the Chamber desiring to vote?

If not, on this vote there are 46 yeas and 51 nays. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

The amendment causes revenues to fall below the revenue floor, and so the motion is sustained.

The majority leader.

Mr. MITCHELL. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, Members of the Senate, it has become apparent that the Senate will not be able to complete action on this measure this evening, and will have to return to session tomorrow to resume action on this measure. Therefore, there will be no further rollcall votes this evening. There will be rollcall votes during the day tomorrow, beginning in the morning.

Mr. COATS. Mr. President, I wonder if I might inquire of the majority leader what his plans are for disposition of the bill during this week, or whether he intends to complete it tomorrow, or continue with the bill next week. Has he decided?

Mr. MITCHELL. It is not my intention to continue the bill into next week. My intention is to complete the bill this week.

There will be votes throughout the day tomorrow, and into the evening tomorrow, if necessary.

Mr. COATS. Until completion?

Mr. MITCHELL. If we can achieve that. Obviously, as we have seen over the past couple of days, any one Senator can prevent the Senate from acting.

Mr. COATS. Would the majority leader anticipate, if we were not able to complete the legislation tomorrow even if we go late into the evening, that we would be in session on Saturday?

Mr. MITCHELL. Yes.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The majority leader has the floor.

Mr. MITCHELL. I yield to the Senator from Arizona.

The PRESIDING OFFICER. The Senators will cease audible conversation. It is very difficult to hear.

Mr. MCCAIN. Mr. President, I ask the majority leader. It is my understanding that, since the previous two amendments by the Senator from Nevada, I had two amendments—does that mean I can bring my amendment up tomorrow morning?

Mr. MITCHELL. An inquiry, Mr. President, Did the Senator from Nevada have two amendments?

Mr. REID. To my friend from Arizona, I have two amendments; I have not offered one of them. I offered an amendment to a second-degree amendment on behalf of the committee. That was not mine. I was happy to do it.

Mr. BENTSEN. Let me say we had an agreement for two amendments on our side, and the understanding was Senator MCCAIN would have two amendments. He only had one. And I would quite agree to have the first amendment for tomorrow, but that then would have to be followed by a Democrat and then a Republican.

Mr. MCCAIN. I thank the Chair.

Mr. BENTSEN. Senator D'AMATO will be third under the agreement tomorrow morning.

Mr. MITCHELL. Mr. President, I yield to the Senator from Rhode Island.

Mr. CHAFEE. Is the distinguished majority leader able to inform us whether there are time agreements on these amendments? Is there any way?

Mr. MITCHELL. The manager and the distinguished Republican leader have been working for some time to prepare a list of remaining amendments on the bill, some of which have time agreements, some of which do not.

Mr. CHAFEE. Could we encourage people to reach time agreements?

Mr. MITCHELL. I encourage the Senator to encourage people to reach time agreements.

Mr. CHAFEE. I think if we all cooperate in that encouragement, we might get some results, hopefully.

Mr. MITCHELL. My experience has been that so long as a Senator is interested in doing so, he or she will be cooperative.

Mr. CHAFEE. What can we do to encourage cooperation?

Mr. DOLE. If the majority leader will yield, I hope that not only will we have shorter time agreements, but that we can eliminate some of these amendments. This bill is going to be vetoed and the veto is going to be sustained—unless you just want to practice. There is no need to offer these amendments on either side. My strategy from the start was to do this in wrapup at end of the day and get it out here and let the President veto it and sustain the veto, and we will see what happens. I hope we can work it out between now and tomorrow morning.

Mr. MITCHELL. Mr. President, as always, I think—not as always—but as often, I think the distinguished Republican leader has made good sense in that suggestion, and I regret that we are unable to have the Senate accept the suggestion. We are now moving toward the opposite extreme. I hope we can finish at a reasonable hour tomorrow. That is up to Senators. Everybody here knows what the cause of delay is, which is Senators. So we can proceed with dispatch, if Senators choose, or we cannot, as Senators choose.

Mr. President, we will come in at 9 and be back on the bill at 9:30 tomorrow. So Senators should be prepared for votes thereafter, after 9:30, and how rapidly we are able to complete action will depend upon Senators.

UNANIMOUS-CONSENT REQUEST

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the following list of amendments that I shall send to the desk be the only remaining first-degree amendments in order to this bill, that they be offered to the committee substitute—

Mr. SEYMOUR. Mr. President, I object.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from South Dakota was propounding a unanimous-consent request. The Senator from South Dakota retains the floor. The Senator from South Dakota.

Mr. DASCHLE. That they be subject to second-degree amendments that are relevant to the amendment to which they are offered; and where a time limitation is indicated with respect to an amendment, the time be equally divided and controlled in the usual form, with an identical time limitation in place on any second-degree amendment offered to the underlying amendment; that no motion to recommit be in order and that no budget point of order is waived by the entering of this agreement; that debate on any debatable motion be limited to 20 minutes evenly divided and controlled in the usual form; and that if any substitute amendment offered from the floor is agreed to, it be considered original text for the purpose of further amendment.

I now send the list to the desk.

The PRESIDING OFFICER. Is there objection?

Mr. SEYMOUR. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

COAL RETIREE HEALTH BENEFITS

Mr. WALLOP. Mr. President, the role of a legislator is a constantly challenging experience. A primary goal is to effectively serve one's constituents without creating any new financial burdens. For many Members, that is the ultimate triumph, comparable to winning the gold at the Olympics. Other legislators, lobbyists, and political junkies always marvel whenever someone accomplishes this feat. This tax package contains an amendment which attempts to win the gold. But, for many of us, this attempt does not merit a 10. Rather, it should receive a 2. I would give it a zero, but effort should be recognized.

This amendment not only protects a lucrative benefit for a privileged class, but also forces others to bear much of the cost. I refer not to tax relief from capital gains or luxury taxes but to the so-called Rockefeller amendment which provides free health insurance to retired members of the United Mine Workers.

Many Members of Congress have expressed concern over the rising cost of health care and the availability of health insurance. Many proposals have been drafted in response to these problems. I am a cosponsor of one. But, there is a most universal consensus that reform should include the principle of player participation. For those who receive benefits, this involves the requirement for copayments and deductibles as a gate to ensure appropriate use of benefits.

Yet, this amendment asks the Senate to endorse a program that rejects this principle. The benefits are first dollar coverage with no payments required by the participant. It is the most irresponsible approach to health care that anyone could advocate. Yet, here it is in this bill before the Senate. How can we take this legislation seriously with such a provision.

Not only does the amendment violate the basic principles of health economics, but it also violates the principles of collective bargaining, and frankly, of fairness. The amendment requires coal companies and their employees to bear the burden of funding this benefit.

This includes coal companies which have never been part of the BCOA-UMW Agreement.

This is a new, perverse form of labor law reform. A lucrative benefit is negotiated, but it is deliberately underfunded. Companies not party to the contract are then forced by the Federal Government to fund this private agreement. And, these companies cannot force changes in the contract to require a more fiscally responsible benefit.

The purported rationale of this bill is that UMWA retirees are an industry-wide responsibility. And indeed, the original legislation proposed by the Senator from West Virginia was a $.75-per-man-hour tax imposed on all coal companies, across-the-board. However, the more palatable legislation we are now being asked to consider exempts subbituminous and lignite coal such as is produced in Texas.

And, the amendment obviously has another most proposed mistake in that it has excluded one western coal producing State, Montana. No one need wonder why these exemptions are required. Votes for the package is in the Committee. This is not directly counter to the original intent and rationale of the legislation? In other words, should the industry bear the responsibility of contract between UMWA and BCOA or should we exempt those sectors which have the appropriate political clout?

In addition to this American industry-wide tax, this legislation imposes on imported bituminous coal a per-ton premium obligation, equivalent to the domestic obligation. As United States trade negotiators work toward concluding the Uruguay round of the GATT, I am hard pressed to figure out how the Finance Committee majority can possibly hold itself to any acceptable standards. This legislation will raise question regarding our current GATT obligations; and it will raise questions regarding our commitment to concluding the Uruguay round and the NAFTA successfully.

Section 21 of this legislation states that

> A last signatory operator shall have no liability * * * if as of January 1, 1992 * * * (the signatory has) ceased all involvement in the production, sale, distribution, transportation, or use * * * of bituminous or subbituminous coal.

This a major new exemption: In essence, it reverses the "reach back" feature of the original S. 1989.

The reach-back rules generally require companies that were once a part of the UMWA/BCOA contract and whose retirees are receiving benefits to pay for those retirees benefits. But in the amended bill, a special exception from reach-back or other premium obligations was added for a company which as of January 1, 1992, has ceased all bituminous or subbituminous production. This new exception just so happens to benefit any company which now mines only lignite, such as certain Texas producers.

One such company that would appear to benefit is north American coal which I understand mines lignite in Texas. North American is exempted from the produce tax by the lignite exemption. It will now also be exempted from paying a premium for any beneficiaries it contributed to the trust fund. According to the BCOA, North American is responsible for contributing more than 1,500 beneficiaries to the UMWA health trusts, but now has no obligation to them.

This means North American was a major contributor to the orphan problem, yet it has carefully managed to relieve itself of any financial obligation. In the meantime, other companies that did nothing to create this problem are being asked to foot the bill for companies like North American. Won't this result in non-UMWA companies' having to pay even more proportionately because many former signatories will not be required to accept responsibilities for their own retirees?

One of the more outrageous sections of this bill gives the newly created corporation—of BCOA and UMWA—the power to adjust the amount of the premiums imposed when necessary. This particular provision effectively confers on BCOA and UMWA the Congress' own power to raise taxes. In analyzing the revenue effect, the Joint Tax Committee assumes that the tax on eastern coal would increase from $.99 to $1.45 by 1996, with no estimates thereafter.

Never mind that Congress would be delegating the authority granted to it by our Constitution, the ability of the corporation to increase these taxes means coal companies are subject to potentially significant fluctuations in their cost of doing business. The corporation has absolutely no incentive to economize on health care costs for retirees. When the option of turning to the industry for more money is so accessible to them why make honest decisions.

Since this legislation makes a significant demarcation between Eastern and Western States as far as the taxation on bituminous coal, the definitions of Eastern and Western in this bill is significant. For this legislation, the term Western includes States from Alaska to Arkansas, from California to Kansas, from Wyoming to Missouri. But where's Montana?

My home town of Big Horn, WY is just a 25-minute drive from the Montana border. In fact, many folks in Big Horn drive over the border to work in Montana mines. So how is it that Montana is not included in the definition of Western States? How is it that Montana is the only Western State which is totally exempt from any taxation on bituminous coal? No one could be so crass as to suggest an accommodation—exemption for vote.

Laying aside concerns about obligations that are being imposed on companies which were not party to past agreements, let's look now at future benefits. What kind of retirees will receive benefits from this point forward were all companies to begin paying into the corporation? Would it include only UMWA retirees or all coal industry retirees?

Another fascinating provision of this bill is the eligibility requirements provision. Specifically those who worked in the bituminous, sub-bituminous or lignite coal industries are eligible to receive retiree medical benefits from a health care plan. So, sub-bituminous and lignite coal companies will be exempted for contribution purposes but will be counted in for eligibility.

Additional irregularities/problems:

This legislation establishes a medical peer review panel which shall determine standard of quality for managed care provider systems. In other words, BCOA and the UMWA retain the right to force all signatory companies to provide any health care program which the review panel agrees on, regardless of cost.

This legislation includes a provision which guarantees that should a UMWA signatory company ever fail to provide benefits to its retirees, then the Government plan—read: non-UMWA companies—will pay for such benefits. This is the worst kind of Government mandate: Force companies which had no role in negotiations to financially support any result of those negotiations. It is disgusting.

With regard to the disposition of excess pension assets, this plan zeroes current deficits for BCOA, saving them at least $115 million which they owe under the guarantee clause but have not paid. Additionally, $50 million of current pension fund assets plus any leftovers will be added to general assets, meaning their own retirees' benefits, rather than transferring it to the Government plan to pay for the orphans benefits.

This legislation would also place a huge burden on the potential buyer of signatory companies or their assets. It would require that the buyer be liable to provide lifetime health benefits to UMWA members who worked for the seller, including individuals who never ever worked for the buyer, irrespective of whether the buyer operated the property or signed a UMWA labor agreement.

It is a rare kind of politics which does not even pretend to be fair. It is clear some politicians have paid their union dues but at what cost? Don't add it up, Mr. President, it is truly expensive.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BOREN. Mr. President, I compliment our colleague from Wyoming for the concerns he just expressed about the amendment that is now included in this bill. It is my hope that, if the legislation moves forward and goes to the conference committee, a way will be found to correct this amendment and indeed to remove the essence of it from this bill.

It is as simple as this. We are here setting a precedent that companies that were not parties to a particular collective-bargaining agreement shall now have liabilities as a result of agreements that other parties entered into. It seems to me when we study contract law that one of the very fundamental things about the making of a contract or to taking on of an obligation is there has to be a meeting of the minds between the parties. An agreement is not binding to those who are not parties to it.

Here we are setting a terrible precedent, a terrible precedent, that parties who were not even subject to negotiations or to an agreement can be bound by an agreement that someone else entered into, perhaps entered into with an idea they would walk away from that agreement later on and hold other parties responsible.

Mr. WALLOP. If my friend will yield a minute, he is well aware of this cooperation between the United Mine Workers and Bituminous Coal Operators to provide these health benefits and they can on their own initiative without talking to any affected parties raise their contribution.

Mr. BOREN. The Senator is exactly right. That is the other principle violated by this provision. Not only are we violating a principle that a collective-bargaining agreement should bind only those parties who negotiated it, that an innocent bystander, who was not present at all during the negotiations, cannot now be bound.

Also, this particular amendment grants the authority to raise taxes to an entity not part of the Government of the United States, not elected by the people. This five-person commission established under this amendment will have the right to raise the tax on coal produced by parties that were not at all associated with this agreement, were not parties to the agreement.

Mr. WALLOP. Or can indeed not become a party to the agreement so they could defend themselves.

Mr. BOREN. Exactly.

We have an estimate now from the Joint Tax Committee that it will take a 99-cent tax on Eastern coal companies to fund these particular benefits this year. This tax is being collected, these fees being collected on companies that were not parties to the agreement. And the Joint Tax Committee estimated that by 1996, the commission will likely increase that tax to $1.45.

So here we have a provision that says that companies that were not parties to a collective-bargaining agreement, not parties to a contract, shall be bound by it. And a second provision that says an entity not elected by the people, not responsible to the Congress of the United States, shall have the power to increase taxes on private companies in this country.

So we have a violation of the principle that taxation should only be assessed by elected representatives of the people. We have the power to tax handed over to a quasi-private entity and we have a precedent set here that violates the principles of contract law: that parties who were not even part of the agreement process, not even present at the negotiations, are bound by agreements made by others.

This is a very, very dangerous precedent that we are establishing here. It should not remain in the law. I think there are a number of us who hope that the conference committee will act to remove this particular provision when the conference meets. At this point in time, we know it is very unlikely that this legislation will become law. But I think that if we visit this issue in the future, surely there is a better way of dealing with it.

All of us want to help those people who are in need of medical attention and health care. No one disagrees with that. In many ways these workers, retired workers who would have health needs, are the innocent victims of the process that was established. It is not their fault that companies entered into agreements that they now say they cannot keep. But it is also certainly not the fault of companies that were not participants in the negotiations that these agreements were entered into without an adequate mechanism for funding them.

Therefore, I think we need to go back to the drawing board, and find a way to deal with this problem. Yes, some of us have suggested transferring surplus pension funds of the companies affected to help take care of these health benefits. There are other avenues open to us as well, and it is my hope as we consider other legislation on this subject after the President's veto we will find a way to deal with this problem that will be fair, that will meet the needs of those that face these health emergencies and need this health care. But, we must also find a way that will not set a precedent, that, as far as I know, has never been set in this country before.

I do not know of my other instance in which people who are not parties to a negotiation, not party to an agreement, never entered into it, can be bound by two other private parties who entered into an agreement. And I am alarmed at the precedent of delegating to a private body the power to increase taxes on the private sector of this country without even requiring a vote of the Congress to ratify those tax increases. Surely there is a better way. And I certainly hope that when this matter does come before the conference committee, they will look at other alternatives.

Mr. WALLOP. I thank my friend from Oklahoma and I could not agree more. And worse still, this idea that somehow or another some companies who have contributed large numbers of retirees to this are now exempted from any obligation to contribute to those retirees' benefits, while those who had nothing to do with it are now forced to pay.

ALL MINERS AND COAL PRODUCERS DESERVE A FAIR SOLUTION

Mr. DOLE. Mr. President, while I have a great deal of respect for the distinguished Senator from West Virginia who has worked very hard to craft a solution to the coal retiree health benefits issue, I am opposed to his proposal which I believe sets a new standard in bad public policy.

No one disputes that we have a very difficult and serious problem here.

Nor does anyone dispute the very hard working conditions that these miners have endured and the great contribution that they have made in supplying this country with an essential domestically produced energy source.

On these matters we are in agreement, and that is why I voted present during markup on this issue.

What we disagree on is whether the legislation backed by the distinguished Senator from West Virginia is a fair solution to the problem.

And in this Senator's opinion unless the legislation is changed, it is not.

UNFAIR AND ANTIGROWTH

The legislation has nothing to do with tax fairness and economic growth. It discriminates against different coal employees depending on whether they are union employees; it discriminates against coal producers depending on where they are located and what type of coal they mine; and it discriminates against different geographic regions of the country with its arbitrary patchwork of special interest exemptions.

The taxes set forth in the bill are antigrowth and will produce job losses and higher utility prices for consumers.

Indeed, for me, the bottomline of this legislation is that it will create far more problems than it solves.

BCOA VERSUS NON-BCOA

The crux of the bill is that it relieves one group of companies—the Bituminous Coal Operators Association or BCOA—from contract obligations that they alone negotiated with the United Mine Workers.

Notwithstanding the fact that the 1988 reduction in fund contributions buy the BCOA created the current financial crisis, this legislation rewards the BCOA by rescuing them and sticking it to non-BCOA companies and nonunion employees who did not negotiate the contract, do not receive retiree health benefits from the trusts, and whose only—and I repeat only—connection to this dispute is that they coincidentally mine coal.

EAST VERSUS WEST

In bailing out the BCOA companies, the legislation imposes a hefty tax of 99 cents per hour per worker on bituminous coal mined east of the Mississippi River and a tax of 15 cents per hour per worker on bituminous coal mines west of the Mississippi.

I might add that the hefty 99 cents tax will become even heftier down the road when the newly established Government Benefit Corporation—empowered with Congress' authority to tax—will have to raise taxes. Estimates prepared by the Joint Committee on Taxation put the tax at $1.45 per hour by 1996.

What is even more interesting, Mr. President, is that the list of Western States leaves out bituminous coal production in Montana so that the tax applies to all States and the District of Columbia except for Montana.

Last time I checked, Mr. President, our flag still had 50 stars on it.

Indeed, while I can think of no good policy reason for the Mississippi River being the great divide for the purposes of levying a coal tax, the exclusion of Montana seems even more arbitrary and more discriminatory. I would also be interested to know what States like Kentucky, Virginia, Tennessee, and Maryland think of getting hit with the 99 cents tax while western BCOA companies who are dumping their obligations will get by with a 15 cents tax.

DIFFERENT TYPES OF COAL PRODUCERS

Another very unusual feature of this legislation is that it discriminates against different types of coal producers and their employees.

When this legislation was first introduced as S. 1989 last November, it taxed all coal by 75 cents per hour per worker.

Now, the legislation excludes lignite which has the effect of excluding from the tax 99.4 percent of the coal production in Texas and 100 percent of the coal production in Louisiana and North Dakota.

Sub-bituminous coal production also magically disappeared from the scope of the tax since the bill was first introduced. This special interest exclusion has the effect of shielding 99 percent of the coal production in Montana.

As I mentioned earlier, the remaining 1 percent of coal production in Montana is protected by a geographic exclusion applicable to all production in the State.

THIS IS NOT A WORKABLE SOLUTION

Mr. President, I hope it is obvious to Members that this legislation does not represent a workable solution to the problem.

It enriches one group of companies and one group of workers out of the pockets of others.

It is a power grab plain and simple—shifting the burden of paying for benefits to a group that bears no responsibility for the problem.

We all want to find a solution so that retiree health benefits are protected for our coal miners. But the solution does not lie in bailing out those who are responsible for the financial condition of the trusts by levying taxes on innocent bystanders.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I was not able to hear all the conversation that was produced by my colleagues from Wyoming and from Oklahoma. But I thought that I heard the Senator from Wyoming refer to these people who are retirees as a privileged class.

I found that interesting. Perhaps the Senator from Wyoming would like meet David Penell of Tulsa, OK. He is 78 years old. He has worked 24 years in the mines. He has black lung and he has arthritis. He takes 14 medicines before lunch alone. His daughter just had open-heart surgery. And they say they cannot make it without the benefits.

I was not born in West Virginia, but I have grown up there, so to speak. And if I know any one thing, it is that to work in the coal mines for 25 to 35 or 40 years, it puts you in a privileged class in terms of service to your country, in terms of building up this country. But to say that it puts you in a privileged class in what you have in resources and health is simply not understand what coal mining is all about.

The Senators from Oklahoma and Wyoming make a presumption that everybody in this country wants to take care of everybody else. I will only say, Mr. President, in defense of the bill which is in this tax package, and which is properly in this tax package, and which might not be in this tax package if one were to listen to those who are against it and believe what they had to say, it is not my presumption that people in this country are always disposed to take care of each other, and particularly those who are less fortunate.

Back after the Second World War, the President of the United States federalized the mines, sent the Federal troops into the mines. There was disruption and great chaos in the land. It was well understood that this was a crisis.

What happened, Mr. President, was that John L. Lewis, who was then the president of United Mine Workers, the father of the entire coal miner's history, and President Truman, in a sense, literally sat down and worked out an agreement. What they basically agreed upon that in return for the mechanization of the mines, allowing the mines to proceed to use fewer coal miners and more machinery which therefore placed hundreds of thousands of workers out of jobs, that there would be pension benefits and health benefits for these coal miners.

And up until this very day, Mr. President, the health benefits from that agreement has kept going, and it goes as we talk. But on April 13 it will stop, and for the first time in 45, 46, 47 years, there will be no more health benefits for the privileged class that my friend the Senator from Wyoming referred to.

These people, Mr. President, average 77 years old. They have sacrificed their lungs, their limbs, their lives, their health, in doing what is the most dangerous work under God's Earth.

All we attempt to do in this amendment is what ought to be done, is to put no burden on the U.S. Government, on the U.S. taxpayer, but to say that the coal industry, as has always been the case, should take care of its own. This has always been the case with the coal industry, and this should continue to be the case.

There are three classes, Mr. President, and I will only need to speak a moment.

There are retired miners who are being taken care of because they are retirees from companies that signed agreements with the United Mine Workers and that agreement is now in effect.

There is another class of companies that used to belong to those agreements but then went away and became nonunion. Nothing wrong with that. But they became nonunion and for the most part they simply dumped their retirees. They said we are not responsible for your retirement benefits and health benefits anymore, so you are on your own. They dumped them.

Then there is another class of people, that 75,000 people in this country who are orphans—we call them orphans because they belong to nobody, they are retired, they are on their own. There is no company to look out for them because the companies they worked for no longer exist, they are out of business, they went bankrupt, they went into something else. They are literally orphans. They are dependent for all of their health upon something called these health benefit trust funds.

So what we propose to do in our bill is to make sure that the coal industry does what it has always done and what it always must do: to take care of its own.

We have this saying, Mr. President, in the coal industry and in coal country, that the coal industry is required by Federal law to take care of the lands which it abandons, the lands surrounding the mines, the lands involving the coals mines. It has to take care of those mines. And we always say that if a company should have to take care of its abandoned mines and the lands associated with that, it certainly ought to take care of the miners who have been abandoned by so many of these companies.

And so we have set up a very simple mechanism in which all of the retirees, 120,000 of them, will be taken care of in a manner which is as equitable as we can see our way to. Is our mechanism perfect? No. But does it take care of the 120,000 retirees, these people who have given all these years? Yes, it does that.

And that is the point of the whole thing. The choice is there before us. Are we going to take care of these people who have been abandoned by others? Do we have that responsibility in America? Are we that kind of a country which walks away from these people because their companies have gone bankrupt and their agreement, all the way from the very beginning with Harry S. Truman, the U.S. Government, all of this certified the Elizabeth Dole Coal Commission very recently under the Bush administration.

We do not abandon these people. We make sure they keep their health benefits.

I have letters here from across this country that would tear the hearts out of Senators if I were to go into them and read them.

They are from people who are utterly dependent upon the benefits that come from these health trust funds set up by the United Mine Workers and the U.S. Government.

We take no tax money from the people of the United States. We take no tax money from the States or the localities. We simply say to the industry: As you have in the past, so you shall in the future, take care of your own.

These people have built this country. These people have sacrificed their health, and now they are older. They are in their declining years. They are lucky to be alive. They are dying at the rate of 6,000 a year, Mr. President. They die at the rate of 6,000 a year. There were 132,000 2 years ago when we started working on this, now there are 120,000. They die at 6,000 a year. That quickly. They are so fragile.

And not once in all of this conversation did I hear anything about the sorry about these people. Well, I worry about them. It strikes me as our obligation as citizens.

And so our amendment, which is in the tax package, and properly so, simply does that. We make sure that they will have their health benefits.

People criticize: well, they say, they have Medicare. Medicare does not give prescription drugs. The person I just described takes 14 prescription drugs before lunch. These people live among pills and prescriptions, many visits to the hospital and the doctors. And, in fact, in the typical coal mining family where there is a retiree, all of the earned income which he may get from whatever pension is more than used up by his health benefits over and above what he or she gets from Medicare.

So we are doing the right thing here, Mr. President. We are taking care of people who have done the hardest work under God's Earth, and now they are old, and now they are being abandoned, and on April 13 of this year, they will be dropped off the edge of a cliff. They have nobody to turn to, so they turn to the Congress, not for money, but so that the Congress will reaffirm what has been the condition in the coal field for all these years that the industry will take care of its own.

I am proud of this legislation. I am proud to have a chance to stand up for retired coal miners in 47 States all across this land who are weak, who have nothing and nobody to speak for them, who on April 13 will have absolutely nothing unless the Congress intervenes.

I am proud to do that. And we have done that. And there are many of us who look forward, if there were to be a chance for a vote, to show our strength and our commitment and the emotional need that we have as representatives to stand up for these poor people. And they are all poor, and they are all sick, and they are all hurting, and they all need us, and we shall not turn our backs on them.

I thank the Chair and I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. CONRAD). The Senator from Kentucky.

Mr. FORD. Mr. President, let me just say to my good friend, and he is my good friend, the junior Senator from West Virginia, that I stand with him in being proud of the position we have taken to take care of these so-called retirees or pensioners that have given so much to this country working in the coal fields.

He knows and I know that this bill will not become law because of the veto. I want to take care of these people but I also want to be sure that their children have a job. When the unfairness of the tax rate on the various States come into view, then we find that my State, for instance, is 600 percent higher in tax rate than the same type of operation in the Western States. And then we escalate that charge. The charge on Western States never goes over 15 cents. Kentucky's charge starts at $1 and escalates in 3 or 4 years to $1.50. The West never rises over 15 cents, and that was the deal to get it out of the Finance Committee.

I remember the distinguished Senator from Louisiana said, "A deal ain't a deal unless I am part of it." I think we have to protect the operators in the various States to be sure they can remain competitive. My State will be anywhere from 22 to 46 cents more per ton.

I am on the Senator from West Virginia's side for taking care of the retirees. I intend to see that we pass legislation that will take care of the retirees, that those benefits will not miss a beat. But I think there is somewhat an unfair difference when one State is paying a tax rate and another State is paying 600 percent more and escalating to 700, 900, 1,100 percent. I think there is something wrong with that kind of legislation, as it relates to fairness.

If you put coal out of business, then there are no jobs. If you cannot compete under this tax, then you go out of business. You are just flat out of business, and there are no jobs.

So we take care of the retirees, while their children lose their jobs? There is something about that, as we say down in west Kentucky, "ain't right."

Tomorrow, I will have more to say on this, but I wanted to be sure that we have the ability to take care of these people, that we never falter from that. But also, in reaching that goal, that we not have some States bear an undue burden, like 600 percent more than other States, who are then put out of competition.

I yield the floor and thank my distinguished friend, Senator BYRD from West Virginia, for allowing me to have a few minutes.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, is there an amendment pending at the moment dealing with the provisions of the bill that have been the subject of Mr. ROCKEFELLER'S remarks?

The PRESIDING OFFICER. The only amendment pending is the committee substitute.

Mr. BYRD. I thank the Chair. I will make my remarks very brief.

Mr. President, the focus of the debate in which the Senate is now engaged—the focus of the bill before us—is on taxes. For most, the key elements of this bill are the middle-class tax cuts, the upper-income tax increases, the savings and investment incentives, the capital gains tax reductions, and other tax-related provisions which it contains.

Yet, in my view, the most important provisions of the measure before us deal not with taxes. The most important provisions of this measure have not been the subject of numerous front page stories in the Washington Post or New York Times. No, the most important provisions of this measure are buried deep within the bill, found in three relatively obscure sections of the bill—sections 2281, 2282, and 2283. I do not doubt that many of my colleagues are probably unaware of what is contained in sections 2281–2283. Many are probably unaware of the critical importance of these sections of the bill. Yet, Mr. President, I say to my colleagues that no element of this bill is more important than these three easily overlooked sections, for the provisions contained therein would restore the financial integrity of the coal industry's retiree health care system.

Much has been said and written about the health care crisis that exists in America today. Health care costs are seemingly skyrocketing out of control. At the same time, millions of Americans have no health insurance that provides them access to affordable and adequate health care. And as we all know, our health care crisis is an economic burden that impairs our international competitiveness. Yet, unless we act to put the coal industry's retiree health care system back on sound financial ground, we will only be adding to the health care crisis that already exists in this Nation. We will be adding 120,000 more Americans to the rolls of those without private health insurance.

And who are these 120,000 Americans? They are retired coal miners—individuals who risked their lives to provide our Nation with the energy resources used to build America's industrial might. Mining coal is, and always has been, hard and dangerous work, posing great risk to both life and limb. Many mine workers never reached retirement. Their lives were cut short by accidents or ill health resulting from the work to which they devoted themselves. To turn our backs now on those who have reached retirement—those who have entered what we often think of as "the golden years"—after spending a lifetime toiling in the mines would be unconscionable.

Yet, if we do not act, and act quickly, to restore both the near-term and long-term solvency of the coal industry's retiree health care system, we will be turning our backs on retired coal miners across our Nation at a time of great need in their lives. The average beneficiary of the 1950 and 1974 United Mine Workers of America [UMWA] health benefit plans is 77 years old. Their health is often poor, certainly worse than that of those who did not spend years mining coal. For these retirees and their dependents, the importance of having adequate health care coverage cannot be overstated. Critics may charge that the UMWA health plans are excessive and overly generous. Yet, to the contrary, the broad coverage provided by the UMWA health plans simply attests to the importance that mine workers have historically placed on health care—a fact evidenced by their willingness over the years to accept lower wages and pension benefits in exchange for more comprehensive health benefits.

In years past, a promise was made to America's coal miners and their families—a promise of lifetime health care coverage. Now, the fulfillment of that promise is threatened by circumstances over which today's coal industry retirees have no control and for which they are in no way responsible. As we debate this bill today, the 1950 and 1974 UMWA health plans face large and growing deficits that threaten their ability to continue providing health care benefits. Absent action on our part, benefits could be cut off within a matter of weeks. The trustees of the funds have made clear that, without corrective action being taken, they are prepared to terminate benefits. In other words, if we let pass this opportunity to act, more than 120,000 retired miners, their wives, and their dependents could find their health benefits abruptly cut off.

If the bill now before the Senate, H.R. 4210, as approved and reported by the Senate Finance Committee, were to become law, however, the threat of a benefit cut off would be removed. The reason for this is that the bill before us contains a modified version of S. 1989, the Coal Industry Retiree Health Benefit Act, introduced by my colleague and good friend from West Virginia, Mr. ROCKEFELLER, last November, and the provisions contained in the bill now under consideration by the Senate would resolve the financial crisis that threatens the stability of the UMWA health funds. We urgently need to pass these provisions.

Mr. President, I am not entirely happy with the provisions of the bill approved by the Senate Finance Committee. On this particular issue, I regret that certain compromises had to be made to secure approval of the heart of S. 1989 by the Finance Committee. I am not happy that certain segments of the coal industry and certain regions of our country have been released from virtually any participation in helping resolve the crisis caused by a sharp rise in the number of orphan retirees, those coal industry retirees whose last employer is no longer in business and whose health care benefits are therefore not covered by any former employer. I am concerned about the impact the committee-approved provisions would have on coal operators, particularly small coal operators, in the East.

Yet, despite the reservations I have about some of the changes made in the Finance Committee, I stand here today in full support of the provisions that have emerged from the committee have been supported by my colleague, Mr. ROCKEFELLER, and are before us now. Despite knowing that this legislation is all but certain to be vetoed, I believe it is important that we preserve what the Finance Committee has agreed to with regard to the coal industry's retiree health care system. We need to act affirmatively on these provisions, if for no other reason than to send a signal that we are committed to helping resolve the financial crisis that threatens the health care benefits of retired coal miners across the Nation—benefits which they were promised long ago and on which they have come to depend. Even if this bill is unlikely to become law, I believe it is important that we, in the Senate, go on record in support of taking the steps necessary to avert a crisis.

In response to those opposed to S. 1989, and to the modified version of S. 1989 contained in the bill currently under consideration by the Senate, I believe one point must be made clear. Neither the purpose nor the effect of S. 1989, or of the relevant provisions of H.R. 4210, is to shift financial responsibility for retiree health benefits from one group of coal operators to another. In fact, the opposite is true.

What this effort is all about, and I commend my colleague for his hard work in bringing this legislation to the floor, is to ensure that those who are responsible assume their responsibility. Any company that is currently in business would be made to assume responsibility for the health care costs of its retirees, irrespective of whether it had previously succeeded in dumping liability for its retirees on others.

As to those coal companies that are not now, and never were, members of the Bituminous Coal Operators Association [BCOA] or signatories to any National Bituminous Coal Wage Agreement [NBCWA], they would be asked to participate only in providing health care coverage for true orphan retirees, those whose last employers are no longer in business. As with abandoned mine lands, these abandoned miners would become an industry-wide responsibility. I believe this approach is both fair and reasonable. In fact, if I were to have any objections to the provisions contained in H.R. 4210, it would be that, as a result of modifications made to S. 1989, responsibility for the industry's orphan retirees is not more equally shared by all within the coal industry.

Furthermore, despite any objections I might have, I believe it is most important that we begin moving toward a resolution of the problems which threaten the United Mine Workers of America benefit trusts and, thus, the coal industry's retiree health care system. Again, as I have stated before and as we are all aware, this bill faces an almost certain veto. We will undoubtedly have to revisit this issue, and I hope that we will do so quickly.

I am deeply concerned about what might follow from a cutoff in retiree health benefits. Clearly, such a cutoff would impose great hardships, as my colleague so ably stated, on beneficiaries, many of whom suffer from poor health and must stretch very limited financial resources to make ends meet. Moreover, terminating retiree benefits could also ignite tremendous labor unrest in and around our Nation's coalfields.

We ought to pause and think about what that will do to the economy, an economy that is already in deep recession. We might ponder as to the impact of such labor unrest, and it would almost be sure to take place.

Sending a signal to those who are looking to us for a solution to the problems confronting the coal industry's retiree health system might help temper any such reaction. To strike the provisions of this bill that would restore the solvency of the industry's retiree health system would send the wrong signal and would be a serious mistake. So I urge my colleagues to support the bill as reported, so that we might move forward on this issue, not backward.

The only reason I will support this bill is because of the provisions that are in the bill as a result of the very hard work that has been done by my able colleague, Senator ROCKEFELLER. That is the only reason I will support this bill.

I think those provisions are worthwhile and they are so important that I am constrained to vote for the bill which I otherwise would not be so constrained to do.

I compliment my colleague. He has proved time and time again that he does his committee work; he is dedicated to the committee. He has demonstrated his ability to work out compromises and, after all, legislation is the art of compromise. He has the welfare of these UMWA retirees at heart, and he has the welfare of the Nation at heart. I thank him and I thank the committee. I thank Senator BENTSEN and all others on the committee who have worked with him to make it possible for these provisions to be in the bill. I yield the floor.

Mr. WOFFORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. WOFFORD. Mr. President, it is a privilege to add my voice with that of the President pro tempore and Senator ROCKEFELLER of West Virginia who has given his heart and soul to this effort which is an effort to see that promises are fulfilled.

I ask my colleagues to support the bill as reported with this vital section in the bill because it provides a solution to a very complex and painful human problem facing thousands of retired coal miners and their families across our country.

America's retired coal miners have worked in dangerous, dirty and often unhealthy conditions. The coal the miners mine remains the single largest source of energy in the United States.

Like other Americans, coal miners went to work each day under the assumption that their health benefits would be there when they eventually retired. This legislation helps ensure that promise is kept.

For today, that promise is being broken for thousands of retired coal miners and their families. Not because they did not work hard enough. Not because they did not plan ahead. But because of economic forces over which they have no control.

Through no fault of their own, miners have become orphans in their retirement years. Their former employers have gone out of business or simply no longer make contributions to the existing health benefit trust funds. Now our miners have no place else to turn except here, to their Government. They played the game by one set of rules all their lives, and now somebody has changed the rules on them.

In large parts of Pennsylvania, miners have worked for over a century to bring coal out of the ground and provide the fuel that powered America's progress; in communities built by immigrants who came to this country looking for a better life for themselves and their children. Generation after generation, they were more than willing to work hard to fulfill the American dream: Of a secure retirement if you work hard; of helping your children go to college if they study hard; of owning your own home if you save; and of having a doctor if you need one.

They did not expect anything handed to them on a silver platter. But they also did not expect to have the rug pulled out from under their feet when they retired. For the miners and their families, losing what they thought were guaranteed health benefits, the safety net is broken. Congress can fix it and this legislation will do it.

In 1990, a commission appointed by then Labor Secretary Dole, and chaired by former Secretary William Usery, addressed the problem and reached a conclusion that ought to be a matter of common sense and basic fairness: that retired miners are entitled to the health care benefits they were promised and such commitments must be honored today.

The basic recommendations of the Dole Commission are contained in this legislation. It is time for us to enact them into law. It is time to commit our will and our wallet to taking care of these people—our own people—and their problems.

The health benefits provided to coal miners under this bill are nothing more than what they are due. They worked hard for their retirement years. They have earned some peace of mind and a decent, healthy quality of life. This is not a handout. This is no giveaway. This legislation represents nothing more than a promise kept, a commitment honored.

I urge my colleagues to keep this provision in the bill to vote for it with pride and to keep the promise made to America's coal miners.

I yield the floor, Mr. President.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I support the provisions of the pending legislation addressing the crisis affecting a large group of retired coal miners. These miners have relied upon commitments for health benefits and due to factors totally beyond their control, those benefits are at risk. I submit that coal miners are in a unique position because of the ultrahazardous work which they perform.

In my State of Pennsylvania, there are thousands of retired coal miners who have relied upon these benefits and who how live in fear that these benefits will be denied them. Earlier this year, I met with several hundred of these retired coal miners in Washington County, PA, and heard for several hours the details of their plan, of their suffering and of their concern about what would befall them if the health benefits that were promised them were lost.

In the course of my work in this body, I have had occasion to visit the mines. It is an awesome experience to go many stories—hundreds of feet—into the earth. Only then do you see the tenuous structures which hold up the small opening where these miners work. To wonder what the odds are of a cave-in, recalling eyewitness accounts and news reports of such cave-ins. What a frightening experience it is to be in the mine for a very, very short period of time, let alone work in one for decades.

Miners are also subjected to the risks of acquiring black lung. Simply stated our current remedies are insufficient to solve that problem.

A number of Senators have spoken tonight about the admitted need to help these miners but have searched for some other way to aid them.

I would be interested to hear what their alternatives are.

I have been contacted by many of my constituents—coal operators—who have raised questions about the cost which they will be subjected to and have raised concerns about their lack of responsibility for these specific obligations. I must say that this concern is understandable. But on many occasions in our society we structure our laws which help those who are in special need even though those who are making the payments do not have any direct responsibility. In our society, the laws do impose obligations on people to take care of those who are in great or are in extreme need.

The circumstances of these miners just cry out for some assistance. It may be that some way could be structured and the law could be fine-tuned in some manner to relieve some of those who are making the complaints. But until someone comes forward with some way to accomplish that, it seems to me that as a matter of public policy there ought to be some formula found for continuing these health benefits.

I compliment the Senator from West Virginia [Mr. ROCKEFELLER] for the prodigious work which he has done on this matter. I have talked to many of my colleagues about their views as to this kind of legislation, and it has been a difficult matter for many Senators who acknowledge the need but who have some doubts as to the specific remedy. Until a better remedy is proposed, however, it seems to me that the pending provisions ought to be supported.

I thank my colleague from Wyoming for his customary courtesy in yielding to me. I had not known this matter was coming up, but I saw it on television and came back to the floor to participate in these comments briefly.

I thank the Chair, and I yield the floor.

Mr. SIMPSON. Mr. President, we are on an issue which greatly touches the State of Wyoming. My colleague from Wyoming has spoken. Senator BOREN, from Oklahoma, has spoken. It has been a very good debate—Senator ROCKEFELLER, Senator FORD, and the two Senators from Pennsylvania. But I just want to bring this into a clearer perspective if we can get away from some of the individual anguish and pain which is going to be relieved one way or the other, but not this way, so that people are covered and no one is going to suffer. Not only Medicare is there, but this will be there because it will be paid for by the people who did the collective bargaining in the first place.

The coal tax provision in this bill is a singular attempt to bail out a privately negotiated union health plan in a fashion that would violate the most fundamental principles of collective bargaining and simultaneously turn inside out the economic dynamics of a highly competitive industry.

The supporters justify this proposal with a reference to a group of 120,000 or so retired miners, widows, and dependents, who will supposedly wind up out in the cold unless this Congress assumes the burden of looking after their retirement health care benefits and entitlements.

I use the word "entitlements" with a very clear purpose, for these miners are in every sense entitled to the health benefits that were promised them in collective bargaining by their employers. None of us here today disputes that.

What we take issue with is the disingenuous assertion that the only way to assure that those entitlements are honored is through some sort of congressionally sponsored private relief bailout. The fact is that a group of large wealthy corporations want to renege on a deal they no longer like—I am speaking as a Republican—and they are holding those 120,000 miners and widows hostage to their success.

But you do not do that in America. Every 4 years or so the United Mine Workers of America and the Bituminous Coal Operators Association renegotiate wages and benefit packages, including retirement benefit packages, health care, the whole works, for their miners through a collective bargaining process, and through that process the United Mine Workers and the BCOA have established a health benefit trust fund, a trust fund for their members.

Under terms of the agreement, the signatory companies agree to pay a certain dollar amount per labor hour into a trust fund, which then pays for the retirement health benefits of all of the collective retirees. And hear this. Also under the terms of the agreement, the health benefits of retired miners whose employer has gone out of business, broke, if you will, are still covered under the trust fund and financed by the remaining companies. That was the agreement reached between the coal companies and the union miners at the collective bargaining table. Please hear that.

Not all of the coal industry is represented by the United Mine Workers of America-BCOA. Existing Wyoming mines and their miners, for example, are not covered under that agreement. Wyoming coal miners and retirees receive their health benefits directly from the companies for which they work or worked and not from the general trust fund. Even the three Wyoming mines which are United Mine Workers-organized negotiate their own wage and benefit contracts separately from the Eastern-dominated UMWA and the BCOA agreement.

And then hear this. In 1988, when the BCOA and the United Mine Workers last renewed their collective bargaining agreement, the coal companies won a change in the contract which effectively reduced their contributions to the health care trust fund by 58 percent. That was in the collective bargaining agreement. When the United Mine Workers initially objected—and why would they not—they objected to the reduction in payment. And the companies said, in effect, "Hey, don't worry about it; we will make sure the fund is solvent." That clause is right there in the contract.

It should not surprise any soul here that with a 58 percent reduction the trust funds immediately began to show a deficit, and rather than make good on their promise to keep the fund solvent, the BCOA companies have now turned to Congress and asked us to bail them out of their obligation through a new coal tax on the rest of the industry.

What this means for my home State is that Wyoming coal companies would be assessed a coal tax on their labor to bail out a trust fund that they had no hand in creating and in which none of their own miners are enrolled. Wyoming coal operators would continue to pay for the health benefits of their own miners and retirees and then would, in addition, be thus forced to assume the health benefit obligations of their vigorous competitors in the East. The increased approximate costs will eventually find their way, of course, into the pocketbooks of electric utility ratepayers and mine employees. Meanwhile, under the legislation, the Eastern United Mine Worker-BCOA signatory companies could actually further reduce—further reduce—their current payments to the trust fund below even their currently inadequate levels. Now, what sense does that make?

Mr. President, I wonder whether the unions and the companies that support this legislation have really stopped to think what it is they are demanding.

Likewise, I wonder whether the Finance Committee that approved this legislation has really considered the Pandora's box it would open. The precedents established by this legislation certainly do organized labor no favors.

Under this proposal, Congress would be authorized to intrude at will into the fully ratified collectively bargained labor contract. Congress may subvert with impunity the binding legal commitments and obligations made to union workers by their employers, and Congress can enforce a new and patently unfair principle of coerced contributions from nonparties to an industry labor agreement.

Is this what the United Mine Workers really want? If employers believe that they can at will dump their employee obligations on somebody else who may or may not consent to assume them and get away with it, where is the security of the unions, any union at the bargaining table? On what faith would they accept the promise made?

This wholesale subversion of the principle of collective bargaining would smash—literally smash—the most venerated cornerstone of U.S. labor policy, which is collective bargaining.

And there are other unacceptable precedents in this bill. Under this proposal we have found some of the most creative applications for our constitutionally conferred taxing authority.

First, this legislation proposes to tax the people through higher utility rates to pay a private debt. Then it proposes to tax half the country at one rate, and half the country at another. Even more astonishing, the Finance Committee has discovered the immensely politically useful trick of exempting one State from any tax at all.

Where will that one stop?

Finally, this legislation proposes to first establish these ground rules and cede the Federal taxing authority to some new, independent corporation.

Come, come. We have all heard the horror story. Nobody is going to lose out in this. I have seen the postcards flowing out, and I tell my people throw them away. Nobody is going to leave you holding the sack. You are going to go back to collective bargaining and companies are going to pay. And whoever is terrifying you this way is joshing you and just trying to frighten you. That is a shame, and a poor way to do business.

For the record, in conclusion, two very recent court decisions have held that the United Mine Workers-BCOA signatory companies must increase their contributions to the United Mine Workers' health benefit trust funds to several levels sufficient to restore actuarial balance, which means solvency. Court decisions.

So we have the courts that have ruled that the BCOA signatory companies must indeed abide by this collective bargaining agreement, and this ruling would appear to negate the need for any industry tax.

A second rule is held that companies which have opted not to sign the successor United Mine Worker-BCOA agreements are still responsible for the health care costs of their miners who retired when the contract was in force. And if the BCOA and the United Mine Workers do not want to live with the results of their own 1988 agreement where one side swallowed a 58 percent reduction in contributions, then it is up to them to change that process, appropriately, through the collective bargaining process.

The new labor agreement must be ratified within the year. That would be a very good time for the United Mine Workers and the BCOA to review their mutual demands and obligations with respect to the retiree health benefit trust fund, and to be honest about it this time and not foist it off on us after collective bargaining has failed.

Thank you.

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I had not intended on continuing because I am sure that the Senate wants to close down.

The Senator from Wyoming has 432 retirees in his State, and I am trying to figure out what it is that he has in mind to do to help them. He says that the BCOA should take care of all of the 120,000. And indeed the BCOA has been doing so for, lo, these many years, some 46 years.

What he does not apparently understand is that the BCOA used to be more than 2,000 companies, and that because of the conditions of the coal fields, because of international competition, and because of many companies going nonunion and no longer bargaining, that now only about 300 companies represent the BCOA.

But then let us suppose his point was still correct, that the BCOA should go ahead and do it. Well, the BCOA has done this because it has been agreed to in the collective bargaining agreement.

What the Senator apparently does not understand is that the BCOA and the 300 companies that it represents is not only paying for all of its own retirees, which represent 25 percent of the 120,000, but it is paying for all of the rest of them, too; all the rest of them including companies that no longer belong to the BCOA, companies that once belonged to the BCOA but then decided to dump their retirees, including 75,000 retirees, average age 77 years old that do not belong to anybody anymore because all of their companies have gone out of business. There is nobody around to pay for them.

Well, the BCOA has been paying for them because of the contract, but guess what? The contract ends next February 1, 1993, and that is going to be the end of that arrangement. They are not going to make that agreement anymore, because they do not have to sign it, and they will not.

So this will not be a matter of the BCOA paying for all of the people who are retired in the State of Wyoming; doing it, taking care of all the people for free, and all of the people in the rest of the country for free because they are not going to do it. The contract will run out.

That is the point. That is the entire point. So then you come to the question of what do you do next? The BCOA will take care of its own people. That will be 25 percent of all of these retirees. But what about all the rest of them? They are going to be nowhere, out on the street, no help.

That is the point. That is why this is a crisis. That is why I reach out to my friend, the Senator from Wyoming, and say rather than using the extraordinary skills which he has to devastate, to tear arrangements apart, to take proposals to shatter them, and turn them into ridicule, but take some of those intellectual talents and spiritual talents and apply them to think to solve the problem.

As of April 13, these people are not going to have any health benefits. What would the Senator from Wyoming do? What would he do with these people? He knows perfectly what coal miners go through. He knows what their lives are like. He knows what these people mined 35, 40 years ago when they had pick and shovels. And that is what it was—people who spent their lives on their knees, under 3 feet of coal.

What does he propose they do? As of April 13, they will have nobody because there will be no more money in the health funds; there will be nothing left. Yes the BCOA will take care of theirs, but all of his they will be out on the street. What does he propose?

Mr. SIMPSON. Mr. President, I just have further thought.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I thank you. I greatly enjoy my friend from West Virginia. When he speaks he speaks with honesty and integrity.

No one is arguing that these people are not fully entitled to this. I am not. And Senator FORD says clearly, and others. I have not a qualm about that. They are fully entitled to what they have because of what they gave up in collective bargaining. They took lower wages to get this Cadillac package of health care benefits. It is an extraordinary package. That was collective bargaining.

The Senator from West Virginia will remember because of his tremendous work in this place with health care and his leading, and capably leading a commission, a group, to try to find these answers, that one of the answers was to go to appropriate copayments and deductibles and real things in health care contracts. And they are not in this.

The Senator asks how I would help them. I will help them. There is no need for them to worry about April 13, because there is an injunction. No court is going to allow the participants in collective bargaining to just dump their obligation.

And the things that the Senator talked about with regard to people are in here for free, people are going to go out of business, and when they go out of business, it is going to shrink the pool of employers; every bit of that was covered in the collective bargaining agreement. It was provided that as companies went out of business, the others would pick up the slack. They apparently believed each other. That was what happened.

Everything that the Senator from West Virginia has described as to what happened was in the collective bargaining agreement. It did not come from outer space or anywhere else. Their peers knew what was happening. The union knew what was happening. The bituminous operators knew what was happening.

So now we are faced with this situation. There will not be a gap on April 13. No one is going to allow that to happen.

There is an injunction already to prevent it by saying that they will get the money from the trust fund, and that they will use pension asset surpluses. And they will, because the court has said that.

No court in America is going to allow those that are still there on both sides, labor and management, to escape. It is not right, it is not fair. It is not collective bargaining. No one is that broke that they cannot go correct it.

So collective bargaining time is coming up again soon; time for them to sit down honestly, not let each other off of the hook, and certainly not put the burden on companies and individuals who never had a thing to do with the original agreement, not a thing. They are not going to sit still for that.

Mr. ROCKEFELLER. Mr. President, the injunction that my friend from Wyoming refers to does not exist. It is a temporary restraining order. It only lasts until March 16.

Nothing has been presented to the court. No decisions have been made. There is no mention of pension assets. There is nothing of the kind. It is an absolute invention of fabrication.

I hope he is right about February 13. I hope the court puts an injunction. If it does, it will not last very long, because the fund is broke.

My friend says we must let the BCOA do what it has always done. That is nice, but come February 1, 1993 the contract runs out, and they are not going to sign it again. That is what we keep coming back to.

They have been paying $1 for their own retirees and $3 for everybody else's. Ordinarily, in business one does not do that for a very long time. When the contract runs out, indeed they are going to stop doing that. All of these people are going to have no health benefits. That is simply the fact.

There is no injunction. April 13 is going to come, the health benefits are bankrupt, and they owe $100 million, plus another $80 million beyond that. And unless the Congress, not uses the taxpayers money, but comes up with a solution which puts these things back together again, these people will have no health benefits.

It is not very complicated. What it is is terribly discouraging.

What I say to my friend from Wyoming is that people are angry in America. The Senator from Pennsylvania was here earlier. He did not win on the issue in Pennsylvania called health care. He won because it appeared to the people of Pennsylvania that he was genuinely concerned about what was happening in their lives, and lives in which they are less satisfied with surrounded by all sorts of economic problems. It was the tip of the iceberg in the human condition which is deteriorating.

Government does not know where we are going, business is discouraged, and people are angry. I say to my friend, let us get together on this, as the Senator had indicated, as this bill will be vetoed, and this measure will be vetoed along with it. But we have a majority of the Senators that are determined that these coal miners are going to have their health benefits maintained. And we know it cannot be entirely through the BCOA, because the contract runs out next February 1.

My friend can hope it will be there, but it will not. They can hope for injunction of the court, but there is no injunction.

These are serious matters. I know that if this tax bill passes, this measure will pass with it, and it will go to the President, and the President will say he is going to veto it—having to do with yachts, furs, and upper-income tax increases, and all kind of things.

I ask of my friend from Wyoming, and indeed my friend from Kentucky, Mr. President, that we can sit down and reason together, get away from the hyperbole which is so much part of the coal industry anyway. There is hatred on both sides and extremism on both sides, and violence, both physical and in spirit. I hope we can sit down and work out a bill which is fair and recognizes the need for health care and which solves it.

The amendment which I have put in the tax bill does in fact do that. If my friend from Wyoming does not like it, let us reason together and try and make the situation work so that the retirees who have lived the most dangerous life anybody can live in this country will have their health benefits. That is not unreasonable, and I do not think he thinks it is unreasonable.

Mr. SIMPSON. Mr. President, I will conclude in 2 minutes. The acting majority leader could invoke the two-speech rule, but being a kind, compassionate and caring man, he will allow me 2 minutes.

I will work with the Senator from West Virginia. We will not see these people suffer. They will not lose their benefits.

There are many things that can happen. We will review the court proceedings. It is my understanding that the trustees obtained a court order that will force the companies to up their contribution rates to levels sufficient to make up the trust fund deficit before the year is out. We could authorize here pension assets, surplus transfer, continuation of benefits, things that could be beneficial.

I pledge to work with him and see if we can resolve it in a way that none of us are ever going to watch these people lose their coverage. This is the best health plan in America today, because it was obtained by good old collective bargaining.

Mr. President, I ask unanimous consent that the following "Dear Colleague" pertaining to the health benefits of retired coal miners be printed in the RECORD at this time.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, March 10, 1992.

DEAR COLLEAGUE: The tax legislation that will be taken up this week by the Senate contains a provision on health care for retired coal miners that we hope you will support. The purpose of the legislation is to stave off financial crisis in the funding of health care for these retirees and their widows and dependents. The provision is based on Senator Rockefeller's bill, S. 1989, cosponsored by Senators Byrd, Specter, Wofford, Riegle, Dixon, Simon, Akaka, Gore, Heflin, Inouye, Metzenbaum, and Shelby.

Health benefits have for decades been provided for retired coal miners through trust funds established under successive bargaining agreements derived from a 1946 agreement reached after President Truman seized the mines during a nationwide strike. The funds are facing a financial crisis because fewer and fewer coal companies are making contributions. Many employers stopped making contributions when they went out of business and others remain in business, but simply stopped making contributions, dumping their retirees on the funds. Under the legislation, each company with beneficiaries in the funds would be responsible for its own retirees and would also participate with the rest of the bituminous coal industry in paying for the retirees of companies that are out of business.

The legislation is based on the majority recommendations of a special Commission appointed by then Secretary of Labor Elizabeth Dole and chaired by former Labor Secretary William J. Usery, Jr. Secretary Dole said the commission was "charged with recommending long-term solutions for a 'financial crisis' facing retired coal miners' health care funds." In its report, the Dole Commission concluded that it "firmly believes that the retired miners are entitled to the health care benefits that were promised and guaranteed them and that such commitments must be honored."

This legislation to ensure that the commitments are kept has drawn vocal opposition. Fortunately, even before debate begins on the Senate floor, the opposition has conceded two thirds of the case in favor of the legislation. No one denies what the Dole Commission found—"that the retired miners are entitled to the health care benefits that were promised and guaranteed them." Second, virtually everyone agrees with the provisions of the legislation that say that if a company walked away from commitments and dumped hundreds of retirees on the funds, it should be required to meet its responsibilities.

What then remains at issue? Opponents of the legislation have criticized the part of the legislation that provides health care for orphan retirees—those whose companies are out of business and who therefore have no company to look to for health care payments. Under the legislation, current and former participating companies still in business are required to pay for their own retirees. Since the former employers of the orphans no longer exist, under the legislation funding for their health care comes from an industry-wide fee.

The principal critics are companies who do not wish to be subject to the industry-wide fee and who argue that this fee requires them to "pick up the tab" for companies who have responsibility for the orphans. The central flaw in this argument is simply that when the current collective bargaining agreement expires early next year, the program will be at an end and no one will have the legal responsibility to sustain it. The simple fact is that this is not a case of picking up someone else's tab, but of getting everyone to pick up a tab that soon will be no one's.

For years the current contributors have renewed the safety net for the orphan retirees, but the piling up of financial burdens on a smaller and smaller group of companies for the health care of people who are not their retirees cannot be sustained. We refer to this not to take the part of one or another economic interest. The point is simply that the current system is unworkable and won't last. If we are to preserve the promised health care for these retirees, we must move from an unworkable system to one that is workable.

The critics of the legislation have produced a blizzard of statistics, often misleading, to try to show that somehow the current deficits in the funds are the fault of the parties to the collective bargaining agreement. But this is a red herring because the legislation provides for a transfer of surplus pension assets to retire the current deficit. The miners themselves have said that they would contribute their own money out of their pension funds to moot the argument over the past. The issue is solely whether anyone will pay in the future to take care of the elderly and vulnerable people who earned, and who depend on the benefits.

Often, especially in the coal industry, we have established industry responsibility by law when such responsibility could not be adequately handled in collective bargaining. With whom do the coal miners bargain when companies have gone out of business or have left the bargaining unit? If we can require the entire industry to pay to reclaim abandoned minelands, the entire industry can pay to take care of abandoned people. As Secretary Dole said, during negotiations of a recent coal industry labor dispute, "it became clear to all parties involved that the issue of health care benefits for retirees affects the entire industry." She added that "a comprehensive, industry-wide solution is desperately needed."

Often lost in the technical and academic argumentation of the critics is an appreciation for the people involved, and the explosive nature of the subject of health care benefits in the nation's coalfields. Because of the financial condition of the trust funds, health benefits could be cut off within weeks, resulting in widespread labor strife. Retired coal miners are often in much worse health than other elderly people and, for that reason, retired coal miners have placed great importance on the promise of health care. In a not untypical case, monthly health costs covered only by the trust funds exceed the retiree's entire income from other sources. Without the benefits of the program, retirees could be devastated.

When the forerunner of the current program was established in 1946, the collective bargaining agreement covered most of the industry, while today it covers only a small and shrinking fraction. When the program was established, it was a model for the industrial world and an achievement in industry and government statesmanship. Rather than turning back the clock on that accomplishment, we should be proud as Americans of the achievement and ensure that it survives.

Opponents of the legislation are said to wish to strike it from the tax package or to cripple the legislation by locking in the current unworkable situation, limiting the funding to the current shrunken funding base. We appeal to your sense of fairness and compassion towards the 120,000 retired miners, widows and dependents.

We urge your support for the legislation contained in the tax package, and your opposition to any effort to strike or weaken this solution which is urgently needed to avert a human tragedy.

Sincerely,

Robert C. Byrd, Paul Simon, Howard M. Metzenbaum, Daniel K. Akaka, Donald W. Riegle, Jr., John D. Rockefeller IV, Harris Wofford, Al Gore, Howell Heflin, Arlen Specter.

Mr. FORD. Mr. President, I am delighted to hear the distinguished minority whip say he is willing to work with Senator ROCKEFELLER and myself to find a situation that would be amenable to both sides, and that we can find a solution to a problem that I think is desperate. And I intend to work as hard as I can. It may be that if we go off someplace and let the participants be represented, I think we can work out something that would be agreeable. I look forward to that.

AMENDMENT NO. 1707, AS MODIFIED

Mr. FORD. Mr. President, I ask unanimous consent that amendment 1707 be modified to reflect the last missing page which I now send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The foregoing amendment has been modified to reflect the above order.)

Mr. GRAHAM. Mr. President, I have a question regarding the issue of hospice care. I planned to offer an amendment to include hospice as a substitute benefit under the standard and basic benefit package required for all small employers in all blocks of business. However, I will not do so at this time. This provision is consistent with the hospice benefit included in a bill similar to S. 1227 considered by the Labor Committee. It is my understanding that the Finance Committee's standard benefit package was modeled after the bill's covered benefits. If so, a hospice benefit would be appropriate.

It is also consistent with the manner in which hospice is provided under Medicare law—only once a patient has waived all rights to curative care at a hospital and only receives palliative care. The cost-effective Medicare benefit is reimbursed on a fixed, per diem basis. It has improved the quality of life dramatically for terminally ill patients and their families.

It is my impression that Senator BENTSEN is supportive of this addition, and I look forward to working with him on this issue in the future.

Mr. BENTSEN. The Senator is correct that the standard benefit package is modeled after the benefit package offered by Senator MITCHELL and others in S. 1227. I have long been a supporter of hospice benefits under the Medicare and Medicaid Programs, and, in fact, Senator ROTH and I were responsible for the change in law that introduced hospice benefits under the Medicaid Program. It is my understanding that Senator MITCHELL is supportive of the change that the Senator from Florida is proposing. Therefore, if possible I will work to include this addition to the standard benefit package in the conference agreement

Mr. MITCHELL. I share the views expressed by Senators GRAHAM and BENTSEN about the importance of hospice benefits as part of a comprehensive benefit package. Hospice care can be an alternative to hospitalization which both improves the quality of life for the patient and limits or reduces costs to the health care system.

Mr. GRAHAM. I would like to comment on a provision of the health care package contained in the tax bill. As a cosponsor of S. 1872, I comment Senator BENTSEN on the health reform bill, which represents a consensus, bipartisan approach until Congress and the President agree on the direction of reform efforts.

I strongly support the bill's expansion of Medicare preventive services. Last year, I introduced a bill to provide an optional Medicare prevention benefit—a periodic health examination, screenings, immunizations, and health counseling. I hope to increase Medicare's coverage of preventive services and plan to push my legislative wherever appropriate. Although the Finance Committee's expansion is more narrow, I support all efforts to increase preventive services.

I originally planned to offer my preventive bill as an amendment to the tax bill's Medicare section. The Finance Committee's Medicare benefit, however, was limited during markup due to financing issues. For this reason, I will not offer my comprehensive Medicare measure at this time.

I also considered offering an amendment to increase the Medicare prevention demonstration authorization levels, to include health behavior counseling as an offered benefit and to require HCFA to consult with the U.S. Preventive Services Task Force when adding new services. However, I will not do so at this time.

When the Senate next considers S. 1872, I plan to introduce this amendment. It is my understanding that Senator BENTSEN is supportive of this amendment and will be supportive in the future.

Mr. BENTSEN. I share the Senator from Florida's concern about the limited scope of preventive care benefits currently available to Medicare beneficiaries, and I look forward to working with him to expand coverage of these services in the future.

As the Senator knows, Medicare generally covers only services that are necessary for the diagnosis and treatment of illness—which excludes coverage of services, such as immunizations, that avert illness, as well as "screening" tests for patients with no symptoms of a disease. This exclusion dates back to the beginning of the Medicare program and reflects an approach that was prevalent in private health insurance policies at that time.

Although Congress has made substantial progress in this area during the last few years—extending coverage to hepatitis B and pneumococcal vaccines, pap smears, and mammograms—much remains to be done.

S. 1872—the bill from which the health provisions of the pending legislation were drawn—originally included coverage for a broader array of preventive services, including colorectal screening and annual mammograms for women age 65 and over.

Under pay-as-you-go budget rules, however, the costs of any legislation expanding Medicare benefits must be offset in order to avoid across-the-board cuts under the Gramm-Rudman law. Because all of the available financing options raised concerns, the original benefit package had to be scaled back.

Beneficiary groups, such as the American Association of Retired Persons, have expressed opposition to financing the new benefits entirely through increased part B premiums, primarily because of the precedent this would set for financing other program improvements in the future. Likewise, provider groups expressed concern about financing the expansions with offsetting cuts in Medicare provider payments, such as those proposed in the President's fiscal year 1993 budget.

Faced with such fiscal constraints, the Committee limited its package of new preventive benefits to annual flu shots, tetanus-diphtheria boosters, and well-child care for the approximately 300 children who are eligible for Medicare because they have end-stage renal disease.

But the committee bill would also require the Secretary of Health and Human Services to conduct demonstration projects to evaluate other preventive services not yet covered by Medicare. In the current fiscal environment, it makes sense to begin testing the efficacy of such services in this manner.

If the results demonstrate that a particular service will save the program money by averting more costly medical interventions, the budgetary costs associated with legislation extending coverage to that service might be lower—which would enhance the chances for enactment. Equally important, the demonstration approach will also help ensure that the program covers preventive services that truly enhance the quality of care for Medicare beneficiaries.

I understand that the Senators from Florida would like to expand the scope of the demonstrations to include additional services, and I appreciate his willingness to refrain from offering an amendment at the present time. I will attempt to see that his concerns are addressed during the Senate-House conference on this bill, and, as I said at the beginning of my remarks, I look forward to working with him on the important issue of prevention in the future.

CHILDREN'S PROVISIONS IN TAX PACKAGE

Mr. ROCKEFELLER. Mr. President, this tax package, approved by the Senate Finance Committee, includes several important provisions designed to strengthen our country's investment in our most precious human capital—our children.

I applaud Senator BENTSEN's effort to focus middle-income tax relief on families with children by calling for a $300 child tax credit. Clearly, families struggling to raise children today face enormous pressures including, a greater tax burden. The average family with children pay 28 percent of its gross income in taxes, up from about 14 percent in 1970. This increase has significantly outpaced the tax increases borne by other groups of taxpayers.

In the name of fairness, investment and economic growth, America's families deserve a children's tax credit.

Critics of the children's tax credit will say that $300 means little to a family. But I strongly disagree. A $300 credit would provide real help for working families. Such a credit represents what an average family spends each year on health care for a child. Or it would cover one-third of what a family spends to feed an infant. It could also pay for more than half of the average cost of clothing for a preschooler in a low- or middle-income family.

For West Virginia families, and families across our country, this is genuine and needed support.

A child tax credit also sends a clear signal that our country values its children and supports families.

The National Commission on Children, in its unanimous report outlining a bold blueprint of ways to strengthen support for children and families, strongly recommended the concept of a tax credit for children. Our report called for an even greater investment with a $1,000-child tax credit, that would be refundable so that all working families would be included in the plan, and that would replace the exemption for dependents.

A children's tax credit, in my view, is far better than just increasing the personal exemption for children which has eroded over time. Reliance on the personal exemption alone dispropotionately favors wealthier families. A child tax credit is a better option for working families.

I was disappointed that the Senate Finance Committee did not direct the resources in the final package to make the children's tax credit refundable so that all working families would benefit.

Consequently, 8 million families will be excluded or shortchanged because the children's tax credit is not refundable. It's estimated that six million families would be completely excluded by a nonrefundable credit, and two-thirds of them include a parent who is working full time. Two million working families only get a partial amount of the credit they deserve because they simply don't owe enough taxes to reap the full benefit.

These are deserving parents struggling to raise their children on low-wage jobs. They pay the same amount for diapers, food, and school clothes as middle-income families. I believe they should be included in the tax credit by making it refundable.

In human terms, a nonrefundable tax credit would exclude a parent who is a child care worker, living on an average income of only $12,854. Such a worker who is raising two children does not have a tax liability, and will not receive a dime from a nonrefundable tax credit. It's sad because such a family clearly deserves our support. Hard working parents in low-wage jobs are playing by the rules. They are trying to do what's right for their children. They deserve a child tax credit just as much as middle-income families.

During the House-Senate conference, I hope that we can review this matter, and enhance the fairness of the children's tax credit by making it refundable.

But there is some good news in the Senate Finance package for low-income families with the improvements and expansion of the EITC, the Earned Income Tax Credit. The EITC, first established in 1975, has been an important tool to offer meaningful support to working families who are struggling to play by the rules. I have been proud to be part of the efforts to expand the EITC for families over recent years. In 1989, 11.9 million families received almost $6.7 billion through this work incentive. Estimates for 1990, indicate that nearly 13 million families participated in this valuable program.

The Finance Committee package improves the EITC in two ways. First it expands the credit to provide a larger credit for families with two or more children. This is a needed adjustment.

The measure also removes the problem of confusing interactions between the wee tot supplemental credit and the health care credit. With both of the supplemental credits, families now have to choose among several options and complicated calculations in filling out their tax forms. It is clear that the EITC form is far too confusing, and the options are a barrier and a hinderance rather than additional help. It is crucial to simplify the EITC form so families who qualify will not be discouraged from filing for the credit.

The Finance Committee tax package takes care of this problem by removing the interactions. The wee tot supplemental credit was established with good intentions, but in practice it has made the form too confusing for families so it will be repealed by this bill. The health care credit will be kept as part of the EITC, but there would no longer be problems caused by the interaction between various supplemental credits when we enact this change.

Expansion and improvement of the EITC was also strongly endorsed by the National Commission on Children as part of our overall package to provide families with greater income security.

These improvements are pieces of the Family Income Security Act, which I recently introduced. This comprehensive legislation reflects the specific recommendations of the National Commission on Children. It is a bold initiative to dramatically restructure how we offer support to families raising children. It states that all children deserve our support through a generous child tax credit, an improved EITC, a new Child Support and Insurance Program, and community employment waivers to help smooth the transition from welfare to work.

Enactment of this Family Income Security Act is my long-term goal. I believe it has great potential to lift children and their families out of poverty, restructure family support to prevent dependency on welfare, remove the stigmas of public assistance, and create strong incentives for all parents to join the work force.

The tax package approved by the Senate Finance Committee is not perfect. But with the child tax credit and the improvements in the EITC, it is a big step in the right direction toward the overall goal of basic income security for children and families.

BETTER ACCESS TO AFFORDABLE HEALTH CARE ACT

Mr. BRYAN. Mr. President, I strongly support the inclusion of the Better Access to Affordable Health Care Act (S. 1872) provisions, which I cosponsored, in this tax bill.

Over and over again, small business people in my home State of Nevada share with me their unfortunate experiences in trying to provide health care insurance for themselves, and for their employees.

Small businesses struggling to fight off the recession, and increased foreign competition are finding it harder and harder to provide health insurance for their employees. These are employers who want to be able to provide this benefit for their workers. But more and more, these same employers are finding that they either cannot afford to provide insurance at all, or can only provide the barest of coverage.

If we are ever to solve the health care problems that this Nation faces today, we must start by making it more affordable for small businesses to provide their employees with health insurance. The Better Access to Affordable Health Care legislation is a step in the right direction.

Self-employed individuals would be allowed to take a 100-percent tax deduction for health care insurance costs up from the current 25-percent deduction. Large corporations can already deduct 100 percent of their costs. It is wrong to think that a mom and pop store can better absorb the costs of health care insurance than a large corporation. We need to create a level playing field, and give the self-employed an even break.

For employees, the legislation also provides much needed help against joblock for employees. More and more employees are locked to their current job out of fear. Fear that if they take a new job, they will not only lose their current health care insurance, but will be unable to get new insurance coverage.

This legislation addresses joblock by prohibiting group health insurance, including self-insured employer plans, from excluding coverage for preexisting medical conditions for more than one 6-month period. Eligible employees, or their dependents, could not be excluded from coverage under a small group health insurance plan. Nor could insurance sold to small employers be canceled due to claims experience or health conditions. Health insurance policies would also have to meet minimum Federal standards for small employers.

Fear of losing one's health care insurance cannot continue to place a barrier impeding employee advancement. Employees need freedom from this fear to take advantage of better employment opportunities, not only to improve themselves; but to enable this country to ultimately improve its own competitiveness.

In Nevada, where we have some of the highest health care costs in the Nation, the importance of containing costs cannot be overstated. To help contain health care costs, this legislation establishes a Health Care Cost Commission to access public and private strategies for reducing growth in health spending, and recommend cost containment efforts.

Working families are also helped through limits on the maximum out-of-pocket expenses they are responsible to pay. The annual deductible could not exceed $400 for an individual, and $700 for a family in 1993; future deductible limits would be indexed to the consumer price index. Coinsurance payments would be limited to no more than 20 percent. An annual cap on the total deductibles and coinsurance would be set at $3,000 for individuals and families in 1993; future caps would also be indexed to the consumer price index.

Today, there are over 37 million Americans who are uninsured; many of whom have jobs—who are working Americans. It is imperative we make it affordable for employers to provide insurance to these people. Employers want to do the right thing, but in the current economic climate, they need our help to do it.

We all know that these important provision are not the solution to the health care crisis in America—but they are a positive beginning. We have a long way to go toward solving this Nation's health care problems. Many difficult decisions will still have to be made to ensure all Americans have access to affordable quality health care.

The reforms contained in this legislation, however, are changes we can make right away. They provide some much needed relief to small business employers and employees now. I hope my colleagues will join in supporting this legislation as the first of many steps we must take to solve our health care crisis.

GUILTY UNTIL PROVEN INNOCENT

Mr. REID. Mr. President, the Las Vegas newspapers have pointed out a potential problem in this tax bill we are considering today.

It seems that a provision slipped into the House bill in, of all sections, the taxpayers bill of rights 2 [T2]—legislation of which I am an original cosponsor. According to the articles, the provisions would overturn an appeals court decision ruling which states that IRS estimates of taxpayer income cannot be presumed correct when derived without any foundation whatsoever.

The appeals court decided that no longer was the IRS able to disallow what a taxpayer claims to be correct. It was a good decision. It would mean that the taxpayer would no longer be considered guilty until proven innocent.

I have discussed this issue with Senator PRYOR and he has assured me that this provision was not included in the bill before us today. He has worked hard to protect the rights of taxpayers and I am confident that he would not condone such an onerous provision. It would go against the very intent of the taxpayers bill of rights.

It is my hope that when this bill goes to the President, the taxpayers bill of rights does not include this onerous provision. It is my hope that when this bill goes to the President, it includes the provisions to protect the taxpayer from IRS abuse and does not weaken them.

In conclusion, I have to commend the Las Vegas newspapers for being so diligent in their duties to protect taxpayers. Not only Nevada taxpayers, but taxpayers across the Nation. I applaud their efforts, and ask unanimous consent that these articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Las Vegas Sun, Mar. 6, 1992]

HOUSE BILL SPELLS TROUBLE TO MANY ORDINARY CITIZENS

The Internal Revenue Service wants to weigh the game in its favor again, making taxpayers the losers.

The IRS has been lobbying hard for congressional legislation to overturn a court ruling that requires the agency to prove its case. The 5th Circuit Court of Appeals ruled the IRS must verify information it receives on a taxpayer before assuming he owes more taxes. Until now, the IRS has been comparing tax returns with documents on wages, interest and other income submitted by sources other than the taxpayer.

But the IRS does not check on data submitted. It assumes all documents about a taxpayer are correct and that the burden of proving them false lies with the taxpayer. The court of appeals said no. The IRS must substantiate any data it has in claiming a taxpayer owes money.

What the court said is that the IRS may not assume any data on a taxpayer is correct if it cannot be proved. A House bill would negate that requirement, and essentially put a taxpayer at the mercy of an IRS auditor.

That gives the service more power than a criminal prosecutor who must prove his case at every step of the way. No criminal court judge would allow an assumption by a district attorney to stand without verification. The rules of courtroom evidence would not permit it.

The House bill would let the IRS play the game by its own rules, and that is wrong. The bill has particular importance to service employees in Las Vegas who make their wages at least in part through tips. The tax service has based its estimates on tip income on a percentage of the gross income of a business. Many employees have complained their tips are nowhere near the IRS estimate.

Under the House bill, the IRS can continue this practice even though it places a hardship on many workers. A better way would be to devise a reasonable process for estimating tip income, one that both sides could live with. The IRS obviously does not want that.

The authors of the bill paid lip service to the court ruling, asking the IRS to take reasonable steps to verify its information. Then, however, they indicated that any failure by the IRS to verify its data would not invalidate its notices of tax deficiency. In other words, they told the IRS not to worry about details, like facts.

This bill flies in the face of the four-year-old Taxpayers Bill of Rights—co-sponsored by Sen. Harry Reid, D-Nev.—which was a forthright step to curb abuses by the organization. It defined exactly what the IRS must do and what rights the taxpayer has in audits. But now, under this House bill, all bets are off if the IRS doesn't have to substantiate its case.

The IRS has claimed it can't function without these special powers. We doubt that. It would be a rare prosecutor who would claim he can't convict someone if he has to use evidence.

There's a good chance President Bush may veto this bill because of other tax features such as higher taxes for the wealthy—a sore point for him in this election year.

He should veto it, not for his reasons, but to kill this potential assault on the ordinary taxpayer.

[From the Las Vegas Review-Journal, Mar. 9, 1992]

Guilty Until Proven Innocent

President Bush has ordered the IRS to withhold a little less from wage earners' paychecks this year. Presumably, this is supposed to have the same short-term effect as a tiny tax cut, making us all believe we have a little more to spend.

Problem is, we don't. The tax schedules haven't changed at all. What this little bit of leger-demain means is that those who normally expect refunds from their year-long payroll loans to the IRS will get a little less back in 1993.

Others, of course—including many who never paid before—will find they owe the IRS money 13 months from now. How much more? You may have to trust the IRS to tell you, in which case here's the bad news:

A Supreme Court decision last June challenged the long-standing (and hideous) legal assumption that when the IRS assesses a taxpayer for under-reporting income, the IRS is assumed to be correct, and the taxpayer in the wrong, unless the taxpayer can prove otherwise.

The case came out of the 5th Circuit, where Texas house painter Ramon Portillo contested an IRS estimate of his income from a job, although he admitted he had no records to prove their estimate wrong.

The Appeals Court ruled the IRS was wrong, that such IRS estimates cannot be presumed correct when derived "without any foundation whatsoever."

Sounds reasonable.

But IRS Commissioner Shirley D. Peterson, incredibly enough, testified last fall before subcommittees headed by Democrats J.J. Pickle of Texas and David Pryor of Arkansas that, "The entire tax system will eventually crumble" if the decision is allowed to stand.

So the Democrats dutifully inserted a late amendment in their current tax-cut bill last week, gutting the high court ruling by allowing that, "Failure (by the IRS) to comply (with reasonable steps to corroborate the accuracy of income estimates) . . . shall not invalidate any notice of deficiency or assessment of a deficiency."

In other words, taxpayers will once again be considered guilty unless they can prove themselves innocent.

So file your returns, everyone. But best keep a little kit with a spare toothbrush and a change of clothes next to the bed, anyway, just in case they come for you in the night.

Mr. KENNEDY. Mr. President, I am prepared to offer an amendment to the tax bill regarding the use of Customs Service asset-forfeiture funds. But the leadership has urged that floor amendments not be offered to the bill, and I am willing to relinquish my right to offer the amendment at this time if I have a reasonable expectation that there will be another opportunity to offer the amendment later in the session.

Let me explain the amendment. My proposal would use up to $30 million in unexpended money from the Customs Service Asset Forfeiture Fund to support drug treatment programs. If enacted into law, it would make a modest, additional sum of money available to activities that reduce the demand for drugs and thereby prevent crime.

This amendment does not take a single dollar out of the hands of law enforcement. Under current law, money that the Customs Service does not use for its own purposes reverts to the general treasury. I believe that a small amount of this money should be used to help fight the demand-side of the drug war.

It is appropriate that some assets seized from criminal defendants should be used for drug treatment because treatment reduces crime. Addicts who complete a treatment program are five times less likely to be arrested than those who are not afforded treatment. In a recent landmark study, the Institute of Medicine concluded that "[t]reatment reduces the drug consumption and other criminal behavior of a substantial number of people."

But the need for drug treatment services has never been greater. Treatment is available to only one in eight addicts who need it. Tens of thousands of addicts languish on waiting lists for treatment programs, and many of them commit crimes to support their addiction while waiting for an opportunity to get help.

In effect, this amendment adds money for the war on drugs, and provides that a modest portion of the billion dollars seized each year under the Federal forfeiture laws will be used to prevent crimes through drug treatment.

I have been advised by the Congressional Budget Office that this amendment does not violate the Budget Enforcement Act and will not count against the budget caps.

On July 9, 1991, I offered this amendment to S. 1241, the Violent Crime Control Act, and it passed the Senate by unanimous consent. It was not included in the crime bill conference report, however, because the House Ways and Means Committee opposed the inclusion of any revenue provisions in that bill. The pending tax bill is certainly a revenue bill, but it is my understanding that it is not likely to be the last revenue measure the Senate will consider in this Congress. May I ask the distinguished chairman of the Finance Committee if that is correct?

Mr. BENTSEN. The Senator is correct. Of course I cannot predict the business of the Senate with certainty, but I expect that there may be other revenue bills before the end of the 102d Congress.

Mr. KENNEDY. And may I ask the chairman his view of the amendment?

Mr. BENTSEN. I supported this amendment when it passed the Senate by unanimous consent last year, and I remain sympathetic to it.

Mr. HATCH. Mr. President, the tax bill before us today has two stated objectives—to stimulate economic growth and to promote tax fairness for American families. Both of these are goals that I believe all of us can agree upon. Unfortunately, neither objective is met in this legislation.

When I talk with my constituents in Utah, I am impressed with the fact that they view economic growth and tax fairness as one and the same. In other words, if we want tax fairness, we need to ensure that we pass measures that promote economic growth and provide opportunities for all of our citizens.

In viewing the economy today, I am reminded of the situation confronting the Nation during the inflation and stagnation of the late 1970's and early 1980's. That was a time of falling real incomes, rising unemployment, and diminished economic opportunities. While the situation today is one of much lower inflation, we are again faced with falling real incomes and rising unemployment compounded by an inadequate rate of investment in an increasingly competitive global environment.

Unfortunately, Mr. President, the old style politics of income redistribution and class warfare are not going to show us the way out of this mess. What we need to do today is what we did back then—work together to craft a bipartisan bill aimed squarely at promoting economic growth to benefit all Americans. I hope we can put politics aside and take advantage of this opportunity to change the Tax Code in a manner that will promote economic growth for the long term and make the economic expansion of the 1990's even longer than the record peacetime expansion of the 1980's.

In the late 1970's, the economy was brought to its knees by sharply higher marginal tax rates on work effort, saving, and investment. These higher rates were brought about by inflation. In spite of frequent increases in the personal exemptions and standard deductions between 1970 and 1980, inflation was permitted to drive taxpayers into higher tax brackets, reducing the incentive to save, work overtime, or invest in a small business. Inflation eroded the value of the capital recovery allowances, driving the cost of capital higher. Investment failed to keep up with the labor force, productivity slumped, and with it so did real wages and employment.

Two great policy shifts served to overcome these difficulties. The Federal Reserve curbed inflation by restraining money supply growth, and the Economic Recovery Tax Act of 1981 was passed. That act lowered individual marginal income tax rates across the board, which in turn reduced the tax on labor, saving, and investment. The act also provided more rapid capital cost recovery and an investment tax credit to further lower the cost of capital.

In 1981, both Congress and the administration recognized that incentives were the key to growth. The 1981 bill was a bipartisan effort. Both parties were moving away from credits and rebates and toward individual rate reductions. The business incentives in the bill owed much to the 10-5-3 depreciation proposal introduced by our distinguished colleague Senator **BENTSEN**. I was privileged to work with him on that pathbreaking effort as the Joint Economic Committee, under his leadership, held hearings and issued bipartisan reports on the need to stimulate the supply side of the economy.

The twin reductions in inflation and tax rates ushered in the longest peacetime economic expansion in our history, reversed the plunge in productivity and real wages, and created 20 million new jobs. Wages and family incomes, which fell between 1979 and 1982, turned around at all income levels and rose across the board during the recovery.

The tax reductions unleashed a tremendous burst of economic activity, some of it resulting from the diversion of economic activity out of tax shelters into more productive channels. The result was a sharp increase in the amount of taxable income generated by upper bracket taxpayers, who took on a substantially increased share of the income tax burden.

The Internal Revenue Service reports that the share of total income taxes paid by the top 1 percent of taxpayers jumped from 17.6 percent in 1981 to 27.5 percent in 1988. Even more significant, the share of the top 5 percent jumped from 35.1 to 45.5 percent in 1988. This means that the top 5 percent of all income earners paid nearly half of the total income taxes paid in this country in 1988. Moreover, the share of the lowest 50 percent actually dropped from 1981 to 1988—from 7.5 percent to 5.7 percent.

We can learn some great lessons from the results of the 1981 tax rate cuts, Mr. President, if we will but pay attention. The tax cuts demonstrate that marginal tax rates and incentives make the difference in promoting growth. There is no question that reducing tax rates at the margin on labor and capital does result in more growth and new jobs.

Tax cuts that are not related to work effort or that fail to reduce capital costs will not promote growth. The many attempts to prime the pump with government spending, tax rebates, and tax giveaways have not been successful in stimulating the economy. Unfortunately, we have before us yet another such measure today.

What we should have learned, Mr. President, is that productivity and economic growth are the keys to rising incomes and living standards.

Unfortunately, many of the lessons of the highly successful 1981 tax changes have been ignored or forgotten. As soon as the policy was in place, it came under attack. Tax rates on investment in equipment were raised in 1982, and on structures in 1984.

However, the biggest tax increases on capital formation came in the Tax Reform Act of 1986. This act further reduced income tax rates on individuals. Unfortunately, this positive move was more than offset by measures that raised the cost of capital, and that crippled the investment necessary to increase productivity and real wages. These measures included the lengthening of the recovery period for investment in business property and the repeal of the investment tax credit, the elimination of the exclusion of a portion of capital gains from taxable income, and the creation of passive loss rules for real estate investment.

On top of the negative impact of the 1986 tax act, the payroll tax rate was raised in stages. The latest percentage point increase in the tax rate on labor has cost the economy some three or four hundred thousand jobs.

Mr. President, we are faced with a decision here. There are two ways we can go in addressing the sluggish economy. We can undo some of the errors made in recent years and promote both economic growth and tax fairness, or we can get bogged down in a pointless debate about which economic class pays its so-called fair share.

Let's be very clear, Mr. President. The income tax cuts of the 1980's were fair. In 1981, taxes were cut across the board, and indexing favored the lower brackets. The Tax Reform Act of 1986 took 4 million Americans off the tax rolls.

The current Economic Report of the President reveals that in 1990, households in the top 20 percent of the pretax, pretransfer income distribution paid an average of just over $22,000 in taxes to Federal and State Governments. At the same time, average income for families in the lowest 20 percent increased by way of government transfers by over $8,800. As can be seen from this chart, there is a major redistribution of wealth from the top 20 percent of households to the bottom 20 percent of households. It is clear, Mr. President, that the combined effects of Federal and State taxes and transfers are highly progressive.

The President's Report also demonstrates that the progressivity of the income tax structure has clearly been maintained over time. In both 1980 and 1991, the average tax rate of families earning twice the median income was roughly 3 times that of families earning half the median income—18.3 percent versus 6 percent in 1980, 15.1 percent versus 5.1 percent in 1991.

Furthermore, as I mentioned earlier, the share of individual income taxes paid by the highest income groups has increased since 1981, while the share paid by the lowest income groups has declined. In fact, over 46 percent of the total income taxes paid into the Treasury in 1988 was paid by the highest earning 5 percent of families, up from 35 percent in 1981. At the same time, the bottom half of families paid only 5.7 percent of the total income taxes paid in 1988, down from 7.5 percent in 1981. This result is also reflected in figures released by the Congressional Budget Office that include the years 1980 to 1990.

Mr. President, some inequity does exist in our Tax Code today. The payroll tax is regressive and places an onerous burden on the American worker. In fact, many low- to middle-income workers pay more in payroll tax than in income tax. If we want to pass a tax bill to promote tax fairness and middle-income tax relief, let us cut the payroll tax rate.

The biggest inequity of all is that we have choked off growth. We need to restore growth. Unfortunately, the bill before us will not accomplish this. It does almost nothing to cut the cost of capital. The middle-income tax relief provisions will not lower the cost of labor nor promote employment. The investment incentives are a step in the right direction but are inadequate to offset the permanent damage done to investment incentives in 1986. While these provisions will fail to promote economic growth, the situation is made worse by the fact that they are paid for by raising marginal tax rates. Consequently, the bill will depress employment and the GNP.

The marginal tax rate increases in this bill are not confined to the upper income and are far more severe than a quick reading of the bill might indicate. In addition to the new 36-percent bracket, there is a 10-percent millionaire surtax which raises the top statutory rate to 39.6 percent. These rates are only the beginning. The phaseout of the tax credit for children adds another 3 percent to the marginal tax rate for a couple with two children and 6 percent for a couple with four children in the $50,000 to $70,000 adjusted-gross-income range. This is significant in Utah where large families are common. It seems ironic, Mr. President, that we would talk about increasing tax fairness for families while penalizing those with larger families by effectively increasing their tax rate.

The phaseout of the personal exemptions and itemized deductions for higher income families would effectively raise the 36-percent tax rate to 39 percent for a family of four and to 40 percent for a family of six. Again, we see large families penalized. At such high rates, history indicates that the revenue gain, if any, would be very small. Many people would be encouraged to shift their efforts into tax-sheltered activities. The effects of reduced GNP will be felt by all sectors of our economy and by all American families through job losses, fewer opportunities, and lower real incomes.

I ask my colleagues, Mr. President, "Is this tax fairness?"

The economy will fare no better under these taxes than it has under the luxury tax. This tax was also designed to soak the rich and make the tax system more fair. The effects, however, have been disastrous, and I doubt if there is one Member of this body who would not vote to repeal at least a portion of this ill-conceived tax. Time and time again, efforts to redistribute income through the Income Tax Code have backfired. Taxes on the rich have injured the poor and middle class.

If we were serious about growth and really wanted to get employment rising, we would take a lesson from the success of the 1981 tax reductions and reverse some of the damage that we have done in recent years. An effective package to do this would reduce the marginal tax burden on labor and reduce the cost of capital on a permanent basis and in a meaningful way.

Such a package would include:

A payroll tax reduction or an equivalent offset to the income tax

An enhancement of capital cost recovery allowances or reinstatement of the investment tax credit

A deep cut in the capital gains tax rate with short holding periods

A modification of the passive-loss limitation rules

A significant reform of the alternative minimum tax.

Such a package would generate growth, and growth would greatly alleviate the static revenue losses that would be projected to occur from these provisions. The one thing we can learn from the last two budgets is that failure to achieve economic growth has a devastating impact on the budget deficit. Even more important, we have learned that the failure to grow has a devastating impact on American families.

Mr. President, this bill will not become law. It does not deserve to become law because it is antigrowth and would end up hurting those whom it professes to help. When this bill is behind us, I hope we can pull together and come up with a progrowth tax bill that will create jobs, increase living standards, and propel our economy into the competitive position in which it should be.

DIRECT STUDENT LOAN PROPOSAL

Mr. HATCH. Mr. President, before we finish discussion of this bill, I would like to express some concerns about the direct student loan proposal contained in it. No one on the minority side is against a fair and thoughtful review of the pros and cons of a direct loan proposal. However, this proposal has only received one hearing called at the last minute without adequate time for concentrated thought and review.

I think all of us have listened to the many claims made by the proponents of direct loans. It is difficult not to be swayed by the arguments in favor of reducing defaults in the student loan program and of saving taxpayer dollars. However, we need to make sure that those claims are not inflated expectations that ignore many of the additional costs and potential problems involved in a direct loan program.

We passed the Higher Education Reauthorization Act last month in the Senate with only one dissenting vote and in only 1 day, largely because the proponents chose not to offer their amendment for direct lending on student loans. This proposal did not have adequate support last month because too many questions remain.

As I see it, there is plenty of time to review this proposal more adequately. The House has not yet passed its bill for higher education. Why then does the Senate need to rush this bill through without adequate consideration?

It seems to me that this freight train is moving down the track a bit too quickly. There simply is no deadline that is forcing us to rush this direct student loan provision through a process which is designed to allow the kind of deliberation necessary for a change of this magnitude. If this proposal is such a great idea, it ought to be able to withstand the scrutiny of closer examination by all parties involved in the current student loan program. I have always believed that if an idea is not a good idea tomorrow, then it is probably not a good idea today.

I can assure you that I am as eager as anyone else in this body to reduce the cost of the Student Loan Program. But, in that process we must not destroy the Student Loan Program and limit the ability of our students to obtain the higher education that is so vital.

This is not to suggest that we should not investigate a responsible direct loan proposal. While the proposal has been revised to meet some of the concerns raised at the hearing, I am not sure that it is yet ready for implementation.

In my view, Mr. President, the inclusion of this direct loan provision is just one more reason not to pass this tax bill into law.

ENERGY TAX POLICY

Mr. WIRTH. Mr. President, just a few short weeks ago, the Senate approved a historic energy bill that begins the vital move away from our dependence on an oil dependent economy. Senate passage of this energy bill is remarkable in many respects, not least among them is its comprehensive nature. Energy tax policy, however, was not addressed by the energy bill.

Consideration of the tax bill now before us presents an ideal opportunity to address energy tax policy questions—and it would have been my choice to do this. However, I recognize the tremendous pressures and constraints placed on the Finance Committee and its distinguished chairman in considering and reporting this bill, and how the fiscal straits we are in have prevented the Finance Committee from doing more on this front.

They have taken some very responsible steps on energy policy items in this bill. But I do not want to let this opportunity pass by without a brief discussion of some areas where I strongly believe we should be doing more.

UTILITY REBATES FOR ENERGY CONSERVATION IMPROVEMENTS

The first of these involves rebates utilities give their customers to encourage them to invest in energy efficiency improvements. Until its expiration in 1989, the National Energy Conservation Policy Act provided for the exclusion from a taxpayer's gross income of electric utility rebates offered to residential customers for the purchase of energy conservation measures.

But since that provision expired, the IRS has ruled that utility rebates are to be included in the calculation of a taxpayer's gross income. The utility industry argued strongly against the IRS ruling because of its discouraging effect on efforts to increase energy conservation. The environmental community also strongly opposed the ruling because of the profound environmental benefits of increased energy efficiency facilitated by rebate programs.

As interest and regulatory incentives for conservation have increased, utilities have begun initiating aggressive demand-side management programs. These programs often feature rebate programs through which the utility gives the consumer a cash incentive to purchase a more efficient water heater, air-conditioner, or more efficient lighting. Although cost effective, energy efficiency investments often require a substantial up front investment which discourages their purchase. To encourage investment in conservation, utilities have successfully used cash rebates to help defray the initial cost of these improvements.

In the last few years, a variety of proposals have been made by myself and Senators SYMMS, SPECTER, DASCHLE, and GRASSLEY to overturn the IRS ruling. The administration's national energy strategy also included a proposal to exclude certain utility rebates from gross income. The exclusion of utility rebates has gained such broad-based support because these programs work. They increase energy conservation, and therefore help the environment and our efforts to reduce dependence on imported oil.

We should continue the commitment the Senate made by passing a comprehensive energy bill by reinstating an expanded utility rebate tax exclusion to include rebates offered by gas, electric, and water utilities to residential, commercial, and industrial customers.

RENEWABLE ENERGY PRODUCTION TAX CREDIT

Senator DASCHLE'S bill, S. 2100, included the utility rebate measure I have just spoken about. It also included a production tax credit for renewable energy sources.

That tax credit would go a long way toward bringing new power generation from renewable energy sources such as solar, wind, and biomass. These are areas where we have an enormous potential, but they need help. We should be helping these technologies to establish themselves. It is important to breaking our reliance on imported oil. It is important to reducing the greenhouse effect. And it is important for us to develop these technologies here at home, because they will be hugely important for the future development of much of the rest of the world.

It would be pennywise and pound foolish for us to forgo giving these renewable energy technologies the help they need to develop here, and thus forgo the opportunity of exporting them to the developing world. The developing world is the export market of the future. We should be doing all we can to ensure that we develop the products and services that they will be needing.

REFORM OF THE ALTERNATIVE MINIMUM TAX

The last item I want to mention, Mr. President, may seem to some to be a strange match with the last two. It is modification of the way we tax independent oil and gas producers. But the three are closely linked—all of these are items that are essential to our future energy supply.

I strongly support the modification of the alternative minimum tax treatment of drilling costs for independent oil and gas producers included in H.R. 4210. These are the people who are searching for oil and gas here in the United States and they are in a crisis. American oil and gas production is in a free fall and last week's rig count, at 660, was one of the lowest in history. Over 300,000 jobs have been lost in this industry in the past 10 years, and things are not getting better.

This bill does make some changes in the tax treatment of oil and gas development, but I would urge our colleagues to consider doing far more.

The disincentives to drilling and the reduction in reinvestment dollars caused by the alternative minimum tax's discrimination against this industry must be eliminated. To get Americans back to work in this industry, drilling costs for independents must be deductible under the AMT, as they are for others who are not penalized by this tax.

In addition, I think it makes sense for us to make the depletion allowance deductible in calculating AMT as well. This wouldn't aid the big oil companies—but it would help the independent producers, the vast majority of whom are entrepreneurial, family owned businesses. By disallowing deductions for depletion, we encourage the premature abandonment of wells and the permanent loss of stripper well production.

A large part of the very progressive energy bill we passed a few weeks ago was intended to replace imported oil in our economy with domestically produced natural gas. If we are serious about making natural gas the fuel of the future, the fuel which can help us clean up the environment and reduce oil imports, we need to ensure that we maintain our supply source. And that is the independent driller.

To do that, all we have to do is treat the independent driller like any other businessman, and allow them to deduct their expenses before calculating their taxes. I hope the Members of this body will take a good look at this issue as we continue to work on tax policy for this country's future.

Mr. President, I want to recognize the tremendous job the chairman has done to craft a tax bill that is fair, balanced, and comprehensive. But it is becoming apparent that today's debate will not be the end of this matter, and I hope that in dealing with taxes after tonight my colleagues will carefully consider the merits of the energy items I have spoken about tonight.

LOW-INCOME HOUSING TAX CREDIT

Mr. ROCKEFELLER. Mr. President, I would like to call particular attention to several important housing provisions in the tax package designed to spur development of housing for low-income families. Our bill extends the Low-Income Housing Tax Credit [LIHTC] and the Mortgage Bond Program for 18 months.

Since 1987, the LIHTC has been an effective tool to provide reasonable priced rental units for low-income families, and to create jobs. Between 1987 and 1990, 316,000 unit nationally were constructed or rehabilitated under this program. This credit currently produces 120,000 units each year—94 percent of all low-income rental new construction, and nearly one-third of all multifamily housing new construction.

Beyond providing decent housing for struggling families, this tax credit also creates jobs—about 66,000 annually.

Another important tax credit to promote affordable housing is the qualified Mortgage Bond and Mortgage Credit Certificate Programs [MRB/MCC]. This provides affordable financing for first-time home buyers.

Clearly, these credits are worthwhile investments. But each year, the tax credits are in jeopardy of expiring. Currently, both expire in June 1992. Our package extends the programs for 18 months, which is good, but we really need to take action to make this credit permanent. A permanent credit would bring greater stability and security to these essential programs.

In West Virginia, hundreds of units have been created with the LIHTC and the Farmers Home section 515 program. These have greatly helped families in rural regions afford decent housing. Thousands of families in my State have achieved the American dream of homeownership under the MRB/MCC programs. These credits offer help and hope to families who are struggling to do the right thing on limited incomes.

As chairman of the National Commission on Children, I believe that our best bet to help children is to strengthen families. Providing decent, affordable housing should be part of our strategy for families and for economic growth. It's a winning proposition that creates jobs in the short term and helps families over the long term.

MORNING BUSINESS

Mr. FORD. Mr. President, I ask unanimous consent for a period of morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATOR CONRAD'S BIRTHDAY

Mr. FORD. Since it is 1 minute of 12, Mr. President, I want to wish you a happy birthday, because if we waited 1 more minute, it would be the next day, and it would not be your birthday. The occupant of the chair has been here—this is his sixth year here. You were a young man of about 38 when you arrived. You look like 68 now. So it indicates that you have been working tremendously hard in order to represent the great people of North Dakota and this country.

I compliment the Chair on reaching this birthday, and regret he is aging so fast. But we wanted the RECORD to reflect that just prior to midnight we were able to wish you a happy birthday and look forward to celebrating many more with you, at least six more birthdays with you. That is reelection.

SENDING AN AMBASSADOR TO BURMA

Mr. CRANSTON. Mr. President, today, after careful deliberation, the Foreign Relations Committee approved the nomination of Parker Borg to be Ambassador to Burma.

The committee report will state, however, that it is the view of the Foreign Relations Committee that the full Senate should consider this nomination only if the United States has taken the following actions: Issued a strong statement condemning Burma's ruling State Law and Order Restoration Council and stating that the decision to send an ambassador to Burma does not in any way constitute acceptance of the regime, removed the current military attaches from the United States Embassy in Rangoon, suspended its contacts with Burma's military attaches in Washington, agreed to support a U.N. arms embargo against Burma, and opposed further U.N. Development Program funding for Burma.

My colleagues and I have called for these steps so that the United States position on Burma would be clear: Burma's regime is deplorable. We do not want to send an ambassador to Burma at a time when such action would grant unwarranted legitimacy on this brutal regime. The strong measures we have recommended ensure that this appointment cannot be used in a way to enhance the junta's legitimacy. These steps will also encourage the United States to take a stronger role in urging international pressure for reform in Burma.

I have made my concerns about the situation in Burma well known. Conducting business as usual with a regime that continues to commit gross human rights violations would be irresponsible. At a hearing I held as chairman of the East Asian and Pacific Affairs Subcommittee, I made it clear that if the administration intended to send an ambassador to Burma then it should work to prevent Burma's rulers from exploiting the appointment.

As I noted to Mr. Borg during his confirmation hearing, his post will not be an easy one. Conditions inside Burma continue to deteriorate. There is no sign as to when the junta will step down. The State Department believes that it may well take years before civilian leadership is restored.

The regime continues to hold opposition leader and Nobel Laureate Aung San Suu Kyi under house arrest.

The regime continues to purchase arms from China and other Asian nations.

The junta is currently leading an attack on the Karen rebels in Manerplaw. According to news reports, it plans to wipe out the insurgency in time for Armed Forces Day on March 27. The regime is forcing Karen men, women, and children to serve as porters for the army and as human minesweepers.

Further, as many as 100,000 Rohingya Muslims from Burma's Arakan State have fled into Bangladesh to escape the regime's persecution. This group is also recounting chilling stories of killings, rapes, torture, and mass arrests of those who refuse to act as porters for the Burmese Army. The present attack on the Rohingyas is a sad reminder of the 1978 Burmese military campaign that forced 250,000 Burmese Muslims across the border into Bangladesh.

Given Burma's widespread repression, any United States Ambassador would be expected to make human rights promotion a priority. If confirmed, I hope that Mr. Borg will establish a dialog with the Burmese regime, Burma's allies, and the Burmese people to express United States concerns about Burma's human rights situation.

PIONEERING SPACE EXPLORATION

Mr. GARN. Mr. President, many members of this body will recall that, a few years back, I had the opportunity to spend a considerable amount of time at the Johnson Space Center, in Houston, TX. I was there primarily for training and preparation for a flight aboard the space shuttle *Discovery*, which I have occasionally discussed with my colleagues here on the floor and in our private conversations.

When I completed that flight and returned to Washington, I reported to this body in some detail about that entire experience, and what I learned as a space flight participant trainee and payload specialist aboard *Discovery*.

Among the most valuable by-products of that experience was the opportunity to see, firsthand, the day-to-day workings of the Johnson Space Center, as well as to gain an understanding of the incredible degree of planning and preparation necessary to successfully put an orbiter and its payload and crew into space, conduct a mission, and return to earth.

I learned much about the Nation's space program, from something more like an insider's view, than any amount of hearing testimony or reading reports could have taught me, and I believe that knowledge has been invaluable to me in the years since in maintaining an understanding of this Nation's space program, and what makes it tick. Perhaps the single most impressive thing I observed throughout that experience was the dedication, commitment, and talents of the people who comprise our Nation's space program.

Those who suggested after the tragedy of the *Challenger* accident that NASA personnel had exceeded their level of competence did not know the people that I came to know at JSC. Certainly, it was a more safety-conscious NASA, under somewhat different leadership, that returned to flight following that tragedy, but it was largely still the same folks in the trenches, making it happen, that put us back in space and have kept us flying safely since then. If they have changed, it is in the sense that they are even more dedicated and even more committed and even more highly skilled than they were 7 years ago.

Recently, I received a document which clearly illustrates that my assessment of the people at JSC is at least as accurate today as it was in 1985. That document is entitled "1992—Pioneering Space Exploration—The JSC Strategy".

Mr. President, it is no secret in this chamber how strongly I feel about this Nation's space program, and the inestimable value I believe it has in improving the lives of every human being on the face of the earth. I have said many times here that I believe it is essential for this body, the entire Congress, and the Nation as a whole to support and expand our space program and accept the challenges and seek the opportunities offered by humanity's next great frontier.

The JSC strategic plan represents one of the best expressions I have seen of what the true mission of our Nation's space program can be.

It was not by mere chance, Mr. President, that I received a copy of this document. As it happened, my former administrative assistant, Jeff Bingham, who served in that capacity for some 16 years, is now working under a support contract at JSC, as a senior policy analyst for Science Applications International Corp. In fact, he works for one of my crewmates from *Discovery*, Capt. Don Williams. Jeff's job is to support the strategic planning activity at JSC, and as such has been able to give me further insight into the development of this unique and important document.

This was not a document that someone went off into a room and wrote, based on his or her view of the future. This document is not simply a restatement of policy directives in the form of mission statements, goals, and objectives. Rather, this is the result of 7 months of exhaustive, intense and detailed self-examination by all the various principle elements of JSC, challenged with the task of defining their future role and mission. It reflects the collective thoughts of a wide range of individuals and organizations, and brings them together in a cohesive form with a very clear message.

I might also add that it is unique in yet another aspect. It is described as a "living document". It is not intended to be a one-time statement of intent, to be browsed through, shelved and forgotten. Its very physical makeup proves that point, Mr. President.

This is a loose-leaf document. It is laid out in a way that allows a reader to make notes, and is designed to be kept in a three-ring binder, where it can be updated with replacement pages, as the need arises.

This is a strategic plan that truly is worthy of its name, for a document cannot be considered strategic if it remains static in the midst of an ever-changing world, and an ever-changing policy environment, with the ebbs and flows of priorities and resources. With this document, rather than simply suggesting that it would be revised in a year or so, it is clear that replacement pages could be made up for it tomorrow, or next week, or next month, as more becomes known about what, for example, we here in Congress will do about NASA authorization and funding, or more is known about policy changes within NASA itself, or as a result of new Presidential directives.

Another thing significant about this document, Mr. President, is that it is only part of the strategic planning process now in existence at JSC. The same people who spent the past 7 months developing this document are now in the process of developing the specific detailed plans to implement their objectives they have established for themselves; the nuts and bolts of converting high-sounding words into concrete action.

Over the next few weeks and months, every single statement or objective in this document will be in the hands of a responsible officer at JSC who will have the specific responsibility for carrying it out and being accountable for it. There will be a detailed, step-by-step guide, which he or she will have developed with the help of his or her own staff, to take that assigned responsibility from beginning to end.

At the same time, JSC senior staff will be monitoring both the world around them and the internal workings of NASA and its centers for any possible change in direction that might be imposed upon them, or which they may wish to suggest themselves in order to better accomplish their goals. And they will have tools which will enable them to anticipate the requirements that might be imposed on them, or new resources that might be available to them, should any of those prospective changes become reality.

Mr. President, the men and women of NASA at Johnson Space Center know where they are going. They will very soon know precisely how they are going to get there, and if some policy shift or resource shortfall beyond their control forces a change, they will be ready to chart and begin moving along a new course without missing a beat.

The leadership at JSC, and more specifically Aaron Cohen, the JSC director, now has a tool at his finger-tips that he can instantly use to respond to any changes in his mandate or resources. He does not have to wait for some sort of indepth study to assess options and recommend choices, based on a review of JSC activities. He has an ongoing planning support and implementation process that he can tap into instantly and know, in about as much time as it takes to draft a paper, what his options are and what their relative impact will be on his center, because those issues and questions are being considered and evaluated on an ongoing basis.

I want to commend Aaron Cohen, and his excellent senior staff and all the employees and contract support staff at JSC for this most impressive undertaking. Their approach to strategic planning goes far beyond anything I have seen in the civilian side of government, and is a model that others should emulate. We now have this unique and valuable document that comes as a by-product of that new ongoing strategic planning process, and its clear contribution to the continual improvement of JSC capabilities. They have proven once again that they have what it takes to excel and succeed in the fulfillment of their duties, on behalf of all Americans and, as I have said before, to the lasting benefit of all the people of the world.

Mr. President, I want to conclude by saying that not only do I believe JSC has developed a process which gives new meaning to the term "strategic planning", but I also believe that, in coming to terms with their own vision of the future, they have demonstrated a clear and unmistakable understanding of the mission and future of our entire space program.

The title chosen for the document, "Pioneering Space Exploration," presents the core of the message. The JSC mission statement, on page 2, spells it out more completely:

> The Mission of the Johnson Space Center is the expansion of human presence in space through exploration and utilization for the benefit of all.

What better purpose could there be than that? What greater vision or purpose than one that expands, ennobles, and enhances the human species? With that message in mind, Mr. President, it becomes clearer to me, and I hope to my colleagues and to all Americans, why it is that we are building a space station; why it is that we continue to fly shuttle missions; and why it is we are beginning the early stages of returning to the Moon and eventually sending a manned expedition to Mars.

I have heard it said here that the space exploration initiative or SEI, is dead on arrival at Congress; that we will undertake no new ambitious program such as returning to the Moon and going on to Mars.

I understand the limitations on our resources just as well as anyone else, Mr. President, and I do not believe we will be able to expand the resources available to NASA nearly as much or as quickly as I would like, or as I believe we should. I am a realist. But there is a message in this JSC plan that takes us beyond that. There is a statement that simply leap-frogs over the objectors and the nay-sayers, and which I believe is one of the most salient points made in this document.

On page 5 it states:

> Exploration cannot be viewed simply as another specific program. Exploration is not a program. For us, it is an orchestrated process or sequence of steps designed to probe and use space for the benefit of all citizens of the United States and the Earth. The Space Shuttle, Space Station Freedom, settlement of the Moon and missions to Mars are all part of the ongoing exploration process, an integrated multi-program process that is the U.S. space program.

Mr. President, those words, for me, simply leap off the page! They tell me something that is so obvious that many of us have simply overlooked it in our focus on details and specifics. And for them to come from those who have the most immediate responsibility for those details and specifics, is remarkable. Clearly, they have learned to keep their eye on the ball, and have not been overwhelmed by the minutia and detail that they must deal with, and which they do so well.

Those who say "exploration is dead" or "don't bother with SEI", are missing the point, entirely.

What those words tell me is the clear truth of the matter: that we are already exploring, Mr. President! We have been exploring since we prepared ourselves to launch *Vanguard*. Everything we have been doing in NASA for the past 30 years is part of the exploration process.

We do not have a space shuttle just so we can have a space shuttle; it is not an end in itself; it is a tool, to be used to the best of its capabilities and then replaced with even better tools which improve our ability to explore.

Space Station Freedom is not a reason for our space program—it is another essential capability we need to continue along the historic and inevitable path of human exploration.

Somehow, Mr. President, we seem to have forgotten that basic concept of exploration. Somehow we have lost sight of the vision, and now, thankfully, the nuts and bolts specialists and technicians in the depths of NASA, at JSC, have handed it back to us on a silver platter: Exploration is us. It is what we are doing and what we have been doing and must continue to do. What a concept, Mr. President. What a notion to grasp and believe in and support, as I hope my colleagues will do as we press forward this year with our deliberations on NASA's authorization and appropriations.

Mr. President, there is much much more in this plan which I could discuss, and undoubtedly will have the opportunity to do so over the next several months. In the meantime, I believe my colleagues could benefit greatly from a review of this strategic plan. Therefore, I ask unanimous consent to insert, at this point in the RECORD, the entire JSC Strategic Plan, "Pioneering Space Exploration", and urge my colleagues to thoroughly examine this remarkable document.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION
Houston, TX, January 10, 1992.

To: ALL JSC TEAM MEMBERS.
From: *AA/Director.*
Subject: *JSC Strategic Plan.*

When I met with JSC's directors, program managers, key staff, and their deputies for our first Total Quality Management retreat in March 1991, the need for an updated strategic planning process was identified as the top business issue for the Center. To meet this need, the Senior Staff initiated a series of deliberations and reviews that resulted in the strategic plan presented here.

The enclosed document presents the framework that JSC's senior management will use to guide effective decision making to achieve our long-range goals while soliciting inputs from all levels of the Center. JSC's senior management is fully committed to leading this ongoing strategic planning process and is responsible for the implementation and revision of the plan.

Using the 1987 strategic plan as a starting point, this new plan was developed to allow us to meet head-on the responsibilities and challenges we have today while assuring that we are well prepared to meet the opportunities and challenges of tomorrow. In developing our strategy for the Center, we carefully considered all the various advisory group recommendations. The time had come, however, for us to define our own vision, to define a consistent and clear plan of action—a plan that will be read and acted on. It was time for us to review our objectives, our roles, our responsibilities, and our capabilities. It was time for us to define and articulate how we at JSC intend to support NASA's future.

The JSC strategy is closely aligned with the overall strategic direction currently being defined by the Agency. One of our major goals was to keep our plan and our process tightly focused but flexible enough so that as our national interests in the exploration of space evolve, so can JSC. A strategic planning process that supports the Agency's role in building our country's future in space also builds the career potential of the members of our team, civil servants and contractors alike. That is who this plan is for: It is for you, a member of the JSC Team.

This plan is intended to serve as a road map for the future—a road map that is subject to change as new waypoints and routes are selected over the course of time. You will notice as you read this plan that it is less formal than most official JSC publications. It is in a fairly plain three-hole punched format that is designed to be a working document. It is designed for you to put in a notebook and read with pen in hand.

As the JSC strategy evolves to take into account major resource or policy changes, updated pages will be issued. These revisions will be a result of changes in the Agency or JSC strategy. They will also be the result of your recommendations. In this way, the ongoing planning process becomes open to all of us at JSC, to our ideas, and to our participation. The goals and objectives stated in this plan offer each of us the opportunity to align our personal initiatives and commitments with those of the Center.

AARON COHEN.

JOHNSON SPACE CENTER

INTRODUCTION

The strategy presented in this plan is based on an exploration-focused future for JSC. Exploration, after all, is a fundamental element of our Nation's heritage. It is the heritage of this country's space program, and it is most certainly the heritage of JSC. Exploration is what NASA has been about for the last 30 years. It is our past. And it is our future. NASA has a presidential mandate telling us that we will continue to uphold that heritage. We will return to the Moon—and this time to stay. And we will continue on with a manned journey to Mars.

If we as a Nation are to continue to remain leaders on a global scale, we must stretch our scientific and technical capabilities to their limits. We must enhance this country's intellectual wealth and improve our economic health. We must stimulate new commercial ventures and provide a forum for increased international cooperation. We believe that the exploration of space is one of the best ways to achieve these things.

With our experience and requisite expertise as the Center that has led this Nation's manned space flight activities, JSC is the right center to lead this country's human space exploration endeavors. By incorporating an exploration focus into our strategic planning process, we can look beyond the near-term challenges associated with the Shuttle and Space Station. We can be adequately prepared for our role in NASA's future.

We know that, right now, we have to be extremely successful in fulfilling our role in the Shuttle and Space Station programs. Our emphasis on exploration enables us, however, to define a strategy that integrates all our responsibilities. It results in a clearer picture of the long-term role JSC can and should play for the Agency. Our emphasis on an integrated exploration strategy also reinforces our commitment to improving our current program processes as a means of finding the resources required to pursue that future.

PIONEERING SPACE EXPLORATION: THE JSC VISION

As a direct result of our Nation's commitment to a civilian space program, we possess a far greater understanding of our planet and universe than we had only 30 years ago. Every American has had some element of their day-to-day life enhanced by the U.S. space program. This country's manned space flight program was initially fostered by a national interest in maintaining scientific and technological preeminence in the world. It was founded on a pioneering spirit manifested in that basic human desire to explore the unknown and to search for means to improve the condition of our lives. The essence of that pioneering spirit is still very much with us as this country prepares to extend the boundaries of the space frontier and open new opportunities for America.

Pioneering Space Exploration: These three words succinctly summarize our vision of JSC's role in the future of the U.S. space program. At JSC, we are all pioneers charged with the enviable task of implementing the dreams that not too long ago existed only in the world of science fiction. JSC is homebase to the explorers of the new frontier—a frontier that continues to surprise and astound us, but also presents us with unimaginable opportunities to learn more about the universe in which we live and, hence, our home planet and ourselves. JSC will provide direction in the expansion of human activity in the exploration and utilization of space. We will continue to support and to improve the ways that we transport people to and in space. And we will provide the leadership for establishing frontier outposts where we will learn to use the resources unique to those environments.

We know all too well that the risks associated with this pioneering venture are great, and possibly costly. But, historically, the benefits have always been ultimately far greater and enriching. We at JSC stand willing to take the risks in what we see as our destiny—our destiny to reach out and explore the unknown, to bring back the returns on our investment in space to benefit the American people.

OUR GUIDING PRINCIPLES

The Mission of the Johnson Space Center is the expansion of human presence in space through exploration and utilization for the benefit of all.

The JSC mission is without a doubt incredibly challenging and broad reaching. And it is so intentionally. Historically, JSC has served as the proponent and leader for this country's manned space flight activities. We have the know-how to do manned space flight and to do it well. Our astronauts have flown every mission. We have excelled in engineering and science, mission operations, and project and program management. We are prepared to continue that leadership role as this country expands the presence of humans in space. That is JSC's mission.

At JSC, as we pioneer space exploration, we will strive to keep the following fundamental principles always to the fore.

Pursuit of Excellence

We will pursue excellence in all our efforts, striving to develop innovative, more effective approaches to managing and operating our programs.

We will emphasize safety in space and on the ground, while working to reduce the cost of space operations.

We will share our specialized expertise and facilities to assist other NASA centers, and rely on the specialized expertise and facilities of our NASA centers to aid us in our endeavors.

Respect for the Individual

We will enhance the experience level of our civil service staff.

We will foster individual empowerment and accountability.

We will provide avenues for open communication throughout our organization.

Public Trust

We will conduct a space program that benefits the U.S. public and promotes the transfer of technology and science to U.S. industry.

We will enhance our working relationships with other government agencies, academia, and industry.

We will inspire and support efforts to educate and prepare the U.S. work force for the future.

We will respect the environment of Earth, space, and other planets.

We will conduct the business of JSC in accordance with integrity and the highest professional standards.

OUR BASIC STRATEGY

As a vital part of the Agency, as the leader in human exploration activities, JSC has the potential for an incredibly exciting and rewarding future. In building that future, we as a Center are faced with one of our biggest challenges. We no longer have one specific flight program. We have multiple programs and several jobs to do. And we must do them all well.

Supporting several programs at various stages of development and operation is something that is still relatively new to us. If we are to do these multiple tasks well and support our larger exploration-focused mission successfully, we must seek opportunities to improve the way we currently manage our work and handle our responsibilities. We must think in terms of multi-program processes. We must plan and implement our work using processes that are not simply one-program specific, but that can be applied across a range of activities, all of which support our exploration focus. We must link our efforts together and evolve, not just transition. That is a simple statement for such a complex task, but it is fundamental to the future success of our manned exploration endeavors. And it is a new way for us to think and act at JSC.

We must begin to evaluate current and future strategies and options in terms of their usefulness across all program elements. We must find ways to perform new work with our available resources because increases in NASA's funding level are likely to be limited over the next several years. We are also likely to receive no major increase in our civil service work force. We must train and prepare the people we have to do the job.

Obviously, making adjustments like these in the way we operate as a Center is not going to be an easy task. It is going to take hard work and commitment on the part of everyone who works here.

WHAT WE'RE GOING TO DO AND HOW WE'RE GOING TO DO IT

To promote a long-range exploration perspective in our planning process, the Senior Staff considered an illustrative Moon and Mars exploration scenario to examine the roles JSC will play in the future. This strawman scenario, based on the Synthesis Group report, "America at the Threshold," allowed the Senior Staff to assess required elements, capabilities, technologies, and possible options as well as resource, schedule, and other challenges inherent in JSC's taking the leadership role in human space exploration.

One of the most significant understandings that emerged from these strawman scenario discussions was the criticality of linking all our programs and projects in support of space exploration. Exploration cannot be viewed simply as another specific program. Exploration is not a program. For us, it is an orchestrated process or sequence of steps designed to probe and use space for the benefit of all citizens of the United States and the Earth. The Space Shuttle, Space Station Freedom, settlement of the Moon and missions to Mars are all part of the ongoing exploration process, an integrated multi-program process that is the U.S. space program.

In the sections that follow we detail the specific steps we intend to take in the areas we've identified as crucial to our success during the 1990's and into the next century. Each area is a vital link in the overall exploration process. The areas are treated somewhat separately in the text to highlight specific initiatives that are the enabling capabilities for achieving our mission as NASA's leader in human space exploration.

Doing Business Differently

JSC has a marked record of success. To ensure that we maintain that record, we must pursue our future with a renewed gusto and commitment to finding new and even better ways of conducting our business. By adopting an interconnected, evolutionary approach to our work, we can better define long-term organizational roles and responsibilities and balance the program management, engineering, operations, and science roles of the Center. This new approach will also enable us to streamline our management, fine-tune our expertise, and improve those processes critical to our program activities.

Find Synergies in Current Programs

Finding synergies in our current programs will allow us to combine common support functions and to recover resources where there is overlap. To accomplish this, JSC will:

Identify Shuttle operations where efforts can be combined and made more efficient within JSC and implement changes as appropriate;

Identify areas of consolidation, clearly define roles and responsibilities, and set priorities in our Orbiter sustaining engineering efforts;

Identify opportunities to shift and consolidate functions between NASA centers and their contractors to reduce resource requirements across the Agency;

Promote consolidation of Shuttle and Space Station operations at the appropriate time;

Consolidate hardware and software development, flight certification, management of government-furnished and crew equipment, and information and data systems across all our activities; and

Establish cross-functional process analysis teams to streamline and improve the quality of our critical program activities.

Implement New Approaches to Major Programs

Programs that involve people actually living and working in space will demand entirely new approaches to how we think about programs, how we develop them, and how we operate them. Our current and future work offers JSC an opportunity to develop and refine new approaches to the multi-program, long-term operations challenges inherent in the reexploration process. To implement these new approaches, JSC will;

Manage and organize major programs on the basis of long-term ownership and the evolution of sustaining operations;

Strive to clearly define program interfaces between centers and contractors and emphasize simple standardized interfaces between technical elements;

Use common systems elements, including ground support systems, across major programs;

Build on existing hardware and capability rather than treating new programs as standalones;

Apply risk management strategies that make the most effective use of our resources to achieve acceptable levels of risk; and

Ensure wherever possible that our development processes and systems for any future program are designed and built to be used in effective sustaining operations.

Keep Our Civil Service Work Force on the Leading Edge

By shifting and consolidating our tasks, we can increase the number of civil servants who are available to work on our exploration-related activities. JSC is committed to making our in-house requirements definition and project management capabilities stronger. To accomplish this, JSC will:

Consolidate functions, shift personnel and resources, and continuously improve our performance on current activities to create a civil service work force wedge dedicated to new exploration roles;

Give the people who comprise this wedge opportunities to develop enhanced technical expertise and project management skills by defining, developing, and building in-house projects that fit within the scope of JSC's strategy for the future; and

Emphasize the critical role civil servants must play early in the life cycle of a project to ensure final delivery of a better, less-expensive product.

Cultivate Our Partnership with the Contractor Community

The JSC community of contractors is the largest segment of the JSC team. Our contractor partners are integral and invaluable to the success of our mission. To tap the expertise, innovation, and unique capabilities of these partners and to best use the collective creativity of our total team, we must effectively involve our contractors in the exploration process. To achieve this, JSC will:

Clarify the roles and responsibilities of civil servants and contractors to make the best use of our team during the entire life cycle of a project or program;

Define contractor tasks and management responsibilities to permit and facilitate the transfer of appropriate functions, including some aspects of major program sustaining operations; to a government-owned, contractor-operated mode, if this is to the advantage of the government;

Eliminate, wherever possible, barriers to consolidating services and economies-of-scale in procurement processes;

Use incentives to promote quality, productivity, and cost efficiency in our contracts;

Simplify statements of work to allow contractors to meet NASA requirements in the most cost-effective manner possible, which may mean using industry rather than NASA standards, systems, and processes. Use existing contractor reporting systems when possible; and

Examine pre-contract specifications and documentation requirements to make sure they are truly necessary to the successful implementation of the contract.

Build In Safety, Reliability, and Quality Assurance

Given the importance of safety, reliability, and quality assurance (SR&QA) to our overall mission, we must promote a culture at JSC that instills in every individual the responsibility for ensuring that quality is continuously built into everything we do. We cannot rely on testing and inspection alone as effective mechanisms to assure quality assurance. Quality and reliability must be goals during the entire life cycle of a project or program. To accomplish this, JSC will:

Involve SR&QA specialists early in the system engineering process to influence design decisions that will ultimately result in high reliability systems;

Develop a cadre of SR&QA-oriented expertise to work from the beginning with new initiatives and new technologies to ensure that quality is built into every process and product;

Stay up to date on industry standards and advocate their use in lieu of NASA-unique standards in those instances where equal or higher quality and reliability can be attained at a lower cost. Make it easier and less time consuming to use industry, military, and international standards; and

Apply quality management tools, such as concurrent engineering and integrated risk assessment, to achieve a total systems approach in our development organizations.

Improve Our Service Base

In the not-so-distant future, service capabilities will become increasingly important as multiple exploration programs result in an increase in the number of contracts, new partnerships with other centers and agencies, and joint ventures with the academic and private sector. Because of this, we must improve the processes we use to administer and support our program management and technical and scientific functions. Improving these processes will require an innovative and resourceful team effort on the part of all our service organizations. To improve our service base, JSC will:

Foster Centerwide continuous improvement initiatives already underway such as those in the procurement and budget processes;

Consolidate information systems and data bases and improve our accessibility to them;

Investigate using fee-for-service practices in our service organizations and develop efficient methods to use these where practical; and

Encourage and facilitate the use of available commercial off-the-shelf technologies, systems, and processes. Develop a much-improved data base of what is available.

Providing Access to Space

In fulfilling the Nation's space exploration objectives, JSC is responsible for ensuring that the U.S. has the capability to carry people and their equipment into space and to return them safely. As we fulfill our current responsibilities in conducting Shuttle missions safely and successfully, we must begin to think of those responsibilities as building blocks to the future. We recognize that the Shuttle is a vital link in the exploration process. With a focus on continued space exploration, we must also begin to consider long-term manned transportation strategies. We have to develop new ways to gain access to space that can extend our reach beyond low Earth orbit.

Fly the Space Shuttle Safely, More Effectively, and at Lower Cost

For our current access capability, our strategy is to continuously improve the Shuttle and flight preparation and operations processes. To accomplish this, JSC will:

Provide a Shuttle capability through the first 10 years of the next century, assuring that this capability can be extended, if needed, to the year 2020. This includes maintaining the capability to produce another Orbiter if required;

Evaluate and implement upgrades to the Shuttle system based on the following criteria: increased safety and reliability; cost effectiveness, including return on investment; extended vehicle operational lifetimes; and decreased technical obsolescence. We will also consider implementing upgrades based on their commonality with other programs;

Continue to implement the Office of Space Flight's continuous improvement initiatives for the Space Shuttle Program; and

Reduce our portion of Shuttle program costs by the 15 percent mandated by 1996 without compromising safety.

Ensure Continued Access to Space

For JSC to lead in the development of manned vehicles that will provide continued access to space, particularly as we explore beyond low Earth orbit, we must begin today to study long-term manned transportation systems. JSC is committed to providing the management capability, the technology base, and an environment that guarantees a well-balanced approach to our dependence on current systems as we develop future capabilities. As we examine various options for getting people to and from space, JSC will:

Evaluate programmatic needs, the availability and advantages of new technology, and the cost of replacement systems against the capabilities and the operational costs of the Space Shuttle;

Reduce the time it takes to develop human-rated systems;

Structure plans for long-term manned transportation systems that meet the access needs required for extended exploration of space and provide a way to respond quickly in the event of unforeseen factors such as technical obsolescence or attrition in the Orbiter fleet; and

Define the manned vehicle requirements for the developers of any future launch vehicle;

Living and Working in Space

Using the Space Shuttle, we can provide people access to low Earth orbit where they can live and work for a limited amount of time. As we pursue our exploration-focused future, JSC will articulate, advocate, and demonstrate the capabilities and benefits of humans living and working in space, on the Moon, or on their way to Mars.

Space Station Freedom will provide us unique and immeasurably valuable opportunities for advancements in engineering, science, and research. In addition, Spacelab, an extended duration capability for the Orbiter, and other space-based platforms all have unique aspects that will contribute to our eventual long-term habitation and use of the space environment. The experience we develop from these activities will be the foundation for further steps in the exploration process, just as Mercury and Gemini were the foundation for the Apollo program.

Conduct a Continuum of Life Science Research

Before we can extend the presence of humans in space, we must have a comprehensive understanding of how to sustain people in a healthy, safe, and productive condition for long periods of time in the harsh environment of space. Our research in human life sciences at JSC is critical to developing that understanding—without it, there simply can be no extended exploration of space by humans.

Our efforts in human life sciences research at JSC are, and must continue to be, extensive. We must understand the physiological and psychological impacts of being in the space environment and develop appropriate countermeasures. We must resolve every foreseeable health and safety issue. We must design effective life support systems, build technology that enhances human productivity, and develop operational procedures that make the most of human performance. We must provide food, clothing, and hygiene capabilities. We must have clear-cut radiation protection measures in place. We must be prepared to provide people with what they need to be healthy and productive as they learn to live and work outside Earth's boundaries. In addition, we have the opportunity to use biotechnology for basic research into the growth of cells in microgravity, a field of great potential benefit to both earth-based and space medical applications. To increase our understanding of human life science requirements and capabilities, JSC will:

Define the projected requirements for humans in space environments;

Develop a plan with specific objectives to verify equipment, methods, and effective countermeasures for keeping people healthy and productive. Have discrete phases of the plan address specific mission duration or environment exposure needs;

Conduct life science research on the Shuttle and Space Station to meet the specific objectives of the life science plan and to develop and verify countermeasures as early as possible for the longest duration flights anticipated; and

Conduct biotechnology research to grow cells in microgravity for potential health-related applications in space and on the ground.

Build and Operate Manned Facilities in Space

In addition to learning how people can live and work in space, we must also learn to operate systems and spacecraft for extended periods of time. Assembling the Space Station, bringing the facility into initial use, controlling it during unmanned periods, and achieving permanently manned operational status will provide us with a solid foundation we can build on to further our exploration activities. We can also find ways to use our space-based capabilities to accomplish scientific and technical research not possible here on Earth. To develop our expertise in building, operating, sustaining, and using our space-based capabilities, JSC will

Use the Shuttle to perform near-term exploration activities and to support verification of Space Station systems. Use the Space Station as a test bed to validate the longevity of systems and processes needed for future exploration activities;

Develop systems, flight techniques, and operations procedures to accomplish rendezvous, proximity operations, and robotics-assisted assembly of large structures in space using the Shuttle and Shuttle-based extravehicular activity;

Develop techniques to make optimal use of autonomous systems for operational activities in space. Design those autonomous systems carefully considering the needs of the people who will operate and maintain them and serve as backup to the automated functions;

Continue to design and develop an assured crew return capability as an essential safety requirement for Space Station Freedom;

Demonstrate the success of sustained international partnerships; and

Find ways for government, academic, or private sector users to take advantage of our assets in space and improve the methods we use to accommodate their specific requirements.

Extending Our Reach

As part of our exploration-focused future, we will extend our reach in space by returning to the Moon to explore, to live and work there, and to learn to use the resources available in space as we travel to Mars. Leading this country in the human exploration of space is what we at JSC intend to do. As we begin to travel, to live and work beyond low Earth orbit, JSC will lead the development and operation of all human-related transportation vehicles and surface systems. And that is a leadership role we must step up to today.

Develop the Strategy for Returning to the Moon and Traveling to Mars

President Bush presented America with the challenge of returning to the Moon to stay and conducting manned missions to Mars. In 1992, NASA will begin to define the specific course of action we need to take to accomplish what the President tasked us to do. JSC must play an important role in the development of these specific strategies. To fulfill this responsibility, JSC will:

Assist NASA Headquarters in developing a strategy to evolve the exploration architecture based on our national goals, identified constraints, and desired achievements. Retain the flexibility to respond to the realities of resource availability and to incorporate advantageous technologies and approaches as they are proven,

Identify and develop the technology requirements to accomplish our milestones and assure that development efforts begin when needed; and

Influence and support Agency decisions on establishing partnerships and assigning hardware responsibilities by developing a comprehensive technical understanding of available NASA, Department of Energy, and Department of Defense and other government capabilities; commercial services; university research; and foreign capabilities.

Develop Manned Vehicles and Human-Related Surface Systems

Consistent with JSC's demonstrated expertise, we will lead in developing the manned vehicles and human-related surface elements of the exploration architecture. The systems development associated with this will include responsibility for program management, systems engineering, flight testing, and operations. To accomplish this, JSC will:

Define the early project requirements and concepts for manned transportation vehicles and for human-related surface systems. Provide these requirements for inclusion in the overall exploration architecture,

Build mockups and test beds to develop and verify critical systems and technologies; and

Analyze early exploration projects, such as lunar landers and Mars sample return missions, and pursue the manned and unmanned efforts that best fit JSC's expertise and responsibilities in the exploration process. Perform selected precursor activities from requirements definition through fabrication, launch, and operations.

Assuring Technologies Are Ready When Needed

Meet the Technology Needs of Space Exploration

All future space missions will require systems that can operate for long periods of time with high reliability. Spacecraft systems will evolve from those being controlled and monitored from the ground to systems incorporating onboard autonomous control and space-based or surface systems needing minimal logistics support.

JSC will play two key roles in meeting the technology needs of space exploration: we will ensure that technologies are available when needed, and we will develop needed technologies which are unique to the Center's mission and in those areas where JSC has particular expertise, experience, or facilities. Figure 1 identifies critical technology areas which have already been identified for future JSC programs and those areas where JSC intends to lead in technology development and application.

To ensure the availability of technologies when they are needed, JSC will:

Identify requirements for technologies and capabilities to support exploration missions and advocate those technologies to organizations sponsoring technology development; and

Advocate and establish partnerships with other NASA centers, the Department of Defense, Department of Energy and the National Laboratories, other government research centers, academia, and the private sector to increase the effectiveness and efficiency of research and technology programs and to facilitate technology transfer at our Center initiatives.

JSC currently uses a Technology Coordinating Committee (TCC), comprised of senior representatives from all directorates and project offices across the Center, to coordinate and focus technology development at the Center. The TCC defines technology priorities for JSC based on current and future program requirements. To accomplish our role in developing technologies that are unique to our experience and abilities, JSC will:

Continue to use the special skills and services of the TCC to assure that technology work at JSC is closely coordinated with overall technology requirements definition activities; and

Review Center technology efforts at least annually and discontinue work in areas where the effort does not support the objectives of the JSC strategy.

FIGURE 1.—TECHNOLOGIES REQUIRED FOR FUTURE JSC PROGRAMS

Overview	Technologies and Capabilities
Human Support	
Technologies required for spacecraft systems and planet surface systems that will sustain human life and provide productive environment for mission operations.	Regenerative life support.[1] EVA suits and personal life support systems.[1] Low gravity countermeasures.[1] Human factors.[1] Crew health maintenance.[1] Radiation health research.[1] Thermal control.[1]
Mission Operations	
Technologies to integrate control of mission between ground, spacecraft and planet surface.	Space systems monitoring and control.[1] Automated training for crews and operators.[1] Software design/engineering/re-engineering.[1] Automation of flight design and mission preparation.[1] Operations engineering and support tools. Mission control display and graphics.[1] Tools for automated requirements design.
Spacecraft Systems	
Technologies necessary to build and operate higher quality human spacecraft with improved safety, reliability and cost effectiveness for longer duration missions.	Aerobraking.[1] Automated operating systems.[1] Vehicle health maintenance.[1] Adaptive guidance, navigation and control.[1] High definition video Automated on-orbit operations.[1] Autonomous landing.[1] Debris and meteoroid modeling and protection.[1] Advanced power and propulsion. High data rate communications.
Planet Surface	
Autonomous, highly reliable, long duration planetary surface system technologies providing capabilities for mission implementation.	Surface distributed systems concepts.[1] Survey, mapping and remote sensing. Surface guidance, navigation and control. Robotic tracking and control. Radiation protection.[1] In situ resource utilization.[1] System automation and maintenance. On-orbit/surface assembly and construction.[1] Science instruments. Surface dust countermeasures.[1]
Management Tools	
Technologies required to improve the efficiency and effectiveness of program management and center operations.	Requirements documentation and control Configuration control. Scheduling. Design knowledge capture. Budget management: Improved cost estimation algorithms. Real-time cost tracking. Correlation of technical and cost progress. Cost to completion estimates. Software commonality.

[1] JSC lead center or major contributor for technology development.

Foster U.S. Technological Competitiveness

JSC will foster the Nation's technological competitiveness by facilitating early application of technology development to future space activities as well as to the private sector. To accomplish this, JSC will:

Expand our efforts through the Technology Utilization network to disseminate information about ongoing and planned scientific and engineering activities which may provide valuable "spin-off" technology to ensure early transfer to and use of this technology by American industry, and

Work closely with the Mid-Continent Regional Technology Transfer Center and state agencies to facilitate access by the private sector to technologies from NASA, our aerospace contractors, and other Federal laboratories.

Helping Our People Reach Their Potential

Space is a marvelous motivator. Many of us who work at JSC came from faraway cities and states to be a part of the U.S. space program. Many of us have always dreamed of being a part of the space program. We feel proud when we tell people we work for NASA at the Johnson Space Center. We have a profound sense of purpose and community here that in and of itself gives us reason to do our jobs well.

JSC's proven success is directly related to its people and the dedication and pride they feel in their work. Our people are our most valuable resource. We know that our future success is dependent on continuing to provide our people with exciting work, a proper work environment, and the tools that allow them to be productive, innovative, and to reach their full potential.

Build the Talent, Knowledge, and Capability of Our People

Given the challenges of our future, we must put greater emphasis on developing the abilities of all members of the JSC team through job experience and varied training opportunities. To help our people obtain these skills, JSC will:

Perform selected projects in house to build the expertise required to handle the large-scale exploration projects;

Develop project management skills by requiring people to take greater responsibility for clear, concise definition of project requirements, followed by management of cost, schedule, and performance to meet those requirements;

Define job responsibilities and accountability for results to allow decision making at the lowest practical levels; and

Increase opportunities for rotational assignments both within JSC and to Headquarters, other centers and with other partners in space exploration, broadening job knowledge and enhancing understanding of cross-organizational processes.

Enhance the JSC Work Environment

As JSC actively pursues its exploration-focused future, we must ensure that we continue to provide a work environment that allows people to do their jobs the best they can. To accomplish this, JSC will:

Promote an environment of open communication that recognizes the contributions of all employees and that stimulates the transfer of our hard-learned corporate knowledge to the next generation of pioneers;

Attract, develop, and retain a high-caliber work force diverse in culture, race, and gender;

Use the rewards and recognition systems to acknowledge superior contributions from the JSC team and to encourage continuous performance and quality improvements that support our mission;

Reward innovators who succeed in making major changes in their work areas, and consider innovation as one of the factors in selecting people for leadership roles; and

Continue to provide opportunities for professional growth through multiple career paths.

Using Our Facilities Effectively

Promote Common Support and Evolution of Facilities

JSC has several unique facilities available for spacecraft and technology development, space life sciences, crew training, and mission operations. As we define and implement new projects and programs in the future, we will require new and upgraded facilities. New initiatives development organizations will work with the institutional facilities organizations to ensure that requirements for new or upgraded facilities are identified in a timely manner and that the best means of meeting these requirements are evaluated. To ensure that we are using our current and future facility resources most effectively, JSC will:

Inventory our existing facilities, their capabilities, and their projected use;

Define and implement a plan for multi-program, cross-organizational use of these specialized facilities wherever possible; and

Make optimal use of our existing facilities by allowing contractors access to them, to the extent possible, to avoid spending program dollars on creating their own, often duplicate, facilities.

Use White Sands Test Facility as a National Resource

The White Sands Test Facility (WSTF) represents a major asset to JSC engineering, program development, testing, and verification activities. Indeed, with its specialized propulsion, spacecraft systems, components and materials testing environment, it is a unique national asset. To ensure that we are using this resource to its full potential, JSC will:

Continue to use WSTF to serve a variety of users and be a model for reimbursable work agreements with other Federal agencies; and

Have all development organizations annually identify testing and verification procedures that can best be performed at WSTF.

Fostering Educational Outreach and Public Awareness

The public should be able to know not only what NASA is doing, but why we are doing it. JSC shares in the NASA-wide responsibility to ensure that the American public is fully informed about the activities of the Nation's space program and its efforts to meet the challenges of space exploration.

Enhance Educational Outreach and Public Awareness Programs

JSC must continue to expand its outreach activities both in education and public information to provide increased recognition of the value of the space program as a resource and incentive to return technical excellence to our Nation's educational system. JSC's unique facilities, talented work force, and challenging mission enable us to make an important contribution to the development of a talent pool that will enhance U.S. leadership in aeronautics, space science, and technology development. To increase educational outreach, JSC will:

Assess the current impact of NASA and JSC educational activities and better fulfill unmet needs

Expand the creative application of space-related knowledge and techniques to the classroom and campus environments

Expand the use of NASA Select Television educational programming, innovative audio-visual products, publications, and syllabus materials

Use our emphasis on exploration to inject excitement into educational programs; and

Reach beyond traditional aerospace industry and technical fields of study to establish partnerships in support of educational programs.

To foster public awareness of what we're doing and why, JSC will:

Structure public information programs to inform the public of NASA's emphasis on exploration;

Make more effective use of NASA Select and other special interest television systems and media resources;

Increase opportunities to involve the public directly in the adventure and excitement of space exploration through expanded access to the people and events behind our missions and programs;

Develop in the early stages of program or project definition the supporting rationale to foster public understanding of new exploration activities;

Incorporate imaging systems in basic vehicle and ground system designs so the public can participate in the exploration of space;

Continue and expand our efforts to demonstrate the many ways in which the new technologies and scientific requirements of our space program benefit Earth's inhabitants; and

Continue to cooperate with museums and visitor centers, such as Space Center Houston.

HOW THIS PLAN WILL BE IMPLEMENTED

Focusing on Exploration: A New Center Perspective

JSC has stepped up to the future. With a new focus on exploration, we will now look at our current activities with a slightly different view: Does our current work relate to our vision? What are the opportunities for use of our Shuttle and Space Station resources to further our exploration goals? How can we do our current jobs better and free resources to take on new work?

The JSC 1992 strategic plan that you have read begins the process of answering these questions. It takes a long-range view of where the Center wants to be during the 1990's and into the next century. On the last page of this strategic plan, you will find the signatures of all JSC senior-level managers and staff. They are committed to this plan and to implementing a process that will ensure its success. That process will include coordination of Centerwide goals and timetables and periodic review of the progress.

Many of the strategies defined in our JSC strategic plan are already being acted on. Many others, however, obviously go beyond our internal JSC organization and will have to be authorized by the appropriate people before we can implement them. We are committed to pursuing these approvals, where needed, to significantly change the way we are currently doing business. We simply have to. Our mission, our future as the lead center for human exploration, depends on it.

Establish a Formal, Ongoing Process

JSC will update our strategic plan annually. During the course of the year, however, several changes are likely to occur that will need proactive and timely action. As a result, JSC is establishing a formal strategic planning and action management process to assure that Center resources are applied to those activities that best support our mission.

A new JSC Executive Council will serve as the forum and decisionmaking body for implementing this planning and action management process. The Council will be chaired by the Center Director; its members will include the JSC Senior Staff. The Council will make resource allocation decisions and resolve any issues that arise as we implement this strategic plan. Additionally, the Council will authorize major changes resulting from continuous improvement in how we do business. Details of the process will be issued at a later date as a JSC Management Directive.

Decide What Activities to Take On

We have defined the vision, mission, and activities we will undertake to get JSC on the road to a vigorous future. Over the next several years, a number of opportunities will be identified and many of the tasks associated with these opportunities will be competing for our valuable resources. When we undertake new assignments, particularly with an emphasis on developing our civil service expertise, we have to look to a structured management process for the Center that can evaluate Center commitments and the deployment of Center resources. We must also evaluate the impact of potential new projects across the Center and evaluate the long-term effects of allocation decisions on the balance of JSC's program management, engineering, science, and operations responsibilities.

Illustrated in figure 2 is the strategic filter that the JSC Executive Council will use to set priorities and allocate resources between current and new activities. [Figure 2 was not reproducible for the RECORD.] The criteria in this filter are designed to allow us to pursue those activities that are in direct line with our stated mission. We will have to pass or stop work on those projects and activities that do not fit within the frame of our defined future.

Develop Individual Organization Implementation Plans

To assure deployment of our strategy at all levels, each JSC organization will develop its own implementation plan. Individual organizations will identify specific objectives, roles and activities, schedules, resource requirements, interfaces, and support needs that are consistent with the JSC plan. Each organization will provide its own characteristic and measurable milestones.

Implement and Update Plans and Processes

The Executive Council will review all organization plans to ensure that the total of these plans will enable JSC to achieve its goals. While putting their plans into action and measuring progress, individual organizations will also be asked to update their plans at least annually to reflect their progress and to add necessary changes.

Pioneering Space Exploration: Achieving Our Mission

As we implement this plan and new philosophy at JSC, many important changes will be made in the way we do business. To achieve our mission, we must be innovators, seeking new and better ways to manage our limited resources and to do our jobs. JSC welcomes innovation. As we work to make resources available to take on new activities, those of you who have demonstrated leadership in significantly improving the way we do business will be the people we look to to lead our future projects.

Because of the tremendous challenges ahead of us, our roadmap presented in this plan is bound to change over the course of time. Updated pages will be issued annually or as the situation warrants. We have encouraged you to use your pen while you have been reading this. This is, indeed, your plan. Please write down your ideas and send them via your management for review by the Executive Council.

JSC has already made significant progress in the past year. We have agreed on a vision and strategy for the future. We have established specific waypoints and routes on our roadmap to the future. We have established a formal Centerwide decisionmaking and analysis process that will enable us to better manage our resources and handle our external environment. By publication of this plan, we bring all JSC employees into the process.

For JSC to vigorously pioneer the future of human space exploration, everyone who works as a member of this Center's team must be willing to contribute their ideas, their expertise, and their enthusiasm to making the promise of our exploration-focused future a reality.

JSC STRATEGIC FILTER—FIGURE 2-TEXT DESCRIPTION (FOR USE IN LIEU OF BOX DIAGRAM ON PAGE 28)

Note: The Strategic Filter described below is a series of questions posed in the consideration of any new activity or the modification of a current activity which JSC may wish to pursue.

The Mission of the Johnson Space Center is the expansion of human presence in space through exploration and utilization for the benefit of all

Overall Strategy:

JSC is the lead center for human spaceflight, exploration and utilization;

JSC will concentrate on piloted vehicles, human systems, life sciences and related technology development; and

JSC will participate in selected unmanned precursor activities that will develop our expertise and experience required for human space exploration.

Filter Criteria

Issue raised: "Should JSC pursue this activity?"

It the activity appears to be desirable, the question is asked: "Is this activity consistent with JSC's mission and overall strategy?"

If it does not appear to be, it is subjected to a "Special Consideration" evaluation, where the question is asked: "If this is not specifically related to our mission and strategy, is it in the best interest of JSC to waive these filter criteria because of special considerations?"

If "yes", the activity is then subjected to the Resource Criteria evaluation, described below.

If the activity was deemed initially to be consistent with JSC's mission and overall strategy, it is subjected to the next criterion, where the question is asked: "Is this needed for the development and maintenance of our institutional excellence?"

If the answer is no, the activity is subjected to the "Special Considerations" evaluation, described above. If the answer is yes, it moves to the next level of consideration, where the question is asked: "Is this an area we want to be recognized for in the future?"

If the answer is no, the activity is referred to "Special Considerations". If "Yes", it is subjected to the next criterion, where the question is asked: "Can this be accomplished better elsewhere?"

If the answer is "Yes", the activity is referred or transferred to another, more appropriate organization. If the answer is "No", the activity is then subjected to a set of Resource Criteria.

Resource Criteria

The first question raised in this level of evaluation is: "Are the necessary resources currently available to support this activity?"

If "Yes", the activity is pursued. If "No", the question is asked: "Do we want to invest the necessary resources?"

If not, the activity is not pursued. If "Yes", the question is asked: "Are we willing to give up something else or do things differently in order to do it?"

If not, it is not pursued. If the answer is "Yes", then steps are taken to make whatever changes are necessary for JSC to pursue the activity.

TRIBUTE—MAJOR GEN. EUGENE J. YONNO

Mr. SPECTER. Mr. President, on Saturday, March 28, 1992, Maj. Gen. Eugene J. Yonno, Commanding General of the 79th U.S. Army Reserve Command, headquartered at Willow Grove, PA, will be honored at a retirement dinner, marking more than 35 years of service in the U.S. Army.

A graduate of Pennsylvania Military College, General Yonno began his military career with active service in the U.S. Army Engineers in Korea in 1957 and 1958. Subsequently he held numerous command and staff positions in the Army Reserve Program, including Company Commander, Battalion Commander, Brigade Commander and Commander of the 78th Maneuver Training Command. He also served as Deputy Commander of the 79th ARCOM before assuming command in March, 1988.

General Yonno has received numerous U.S. decorations, including the Meritorious Service Medal with three oak leaf clusters.

In his civilian capacity, he serves as Deputy Director, Public Works Division, Naval Aviation Supply Office, Philadelphia.

During Operation Desert Shield and Desert Storm, General Yonno supervised the mobilization of 15 units of the 79th ARCOM, four of which were deployed to Southeast Asia, with the remaining 11 performing duty in Europe and the United States.

Under his guidance, the 79th established regional and local family support centers. These assisted the families of mobilized soldiers, provided for their needs and offered places for families to meet and gain mutual support. With the conclusion of Desert Storm, General Yonno insured that his units were quickly demobilized and his soldiers returned to their families.

General Yonno has served the U.S. Army, his Nation and his fellow citizens in an exemplary manner. It is fitting, therefore, that the U.S. Senate take note of his excellent military career, commend him for his devotion to duty and wish him well as he concludes a lifetime of service.

FIGHTING BLUE HENS

Mr. ROTH. Mr. President, I would like to take a moment today to recognize a monumental achievement earned by one of the University of Delaware's sporting teams—the Fighting Blue Hens Men's Basketball Program. Last evening, this fine group of young men overcame the challenge of the Drexel University Dragons to capture the North Atlantic Conference crown in a hard-fought contest hosted on the Delaware Campus in Newark.

The enthusiastic capacity crowd witnessed Delaware's record 20th straight victory and first conference championship in over 40 years. The team displayed a near-perfect performance in each contest of the tournament, climaxing in last night's 92–68 victory. Alexander Coles, an outstanding leader of this club throughout the season, was named most valuable player for the tournament.

The next stop in the Blue Hen's magical mystery tour is the land of the unknown—the NCAA Tournament. As North Atlantic Conference Champions, Delaware has automatically ascended in the college basketball ranks to earn their first-ever appearance among the 64 top teams in the country. Coach Steinwedel and the entire team are to be commended on the dedication and commitment that has earned them a berth among the elite in college athletics.

The 1991–92 fighting Blue Hens cinderella season has brought endless hours of enjoyment for the many thousands of supporters throughout our small State. I am proud of these young men who have displayed the true sportsmanship and pride that make college sports at the University of Delaware so very special. I wish them luck in the NCAA Tournament.

For my colleagues from North Carolina, I have a message: Blue Devils beware, the Hens are on a roll!

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 12:50 p.m., a message from the House of Representatives, delivered by Mrs. Geotz, one of its reading clerks, announced that the House has passed the following joint resolutions; in which it requests the concurrence of the Senate:

H.J. Res. 272. Joint resolution to proclaim March 20, 1992, as "National Agriculture Day"; and

H.J. Res. 410. Joint resolution designating April 14, 1992, as "Education and Sharing Day, U.S.A."

MEASURES REFERRED

The following joint resolutions were read the first and second times, and referred as indicated:

H.J. Res. 272. Joint resolution to proclaim March 20, 1992, as "National Agriculture Day"; to the Committee on the Judiciary; and

H.J. Res. 410. Joint resolution designating April 14, 1992, as "Education and Sharing Day, U.S.A."; to the Committee on the Judiciary.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on March 11, 1992, he had presented to the President of the United States the following enrolled bills:

S. 1467. An act to designate the Federal building and the U.S. courthouse located at 15 Lee Street in Montgomery, AL, as the "Frank M. Johnson, Jr. Federal Building and United States Courthouse."

S. 1889. An act to designate the Federal building and the U.S. courthouse located at 111 South Wolcott Street in Casper, WY, as the "Ewing T. Kerr Federal Building and United States Courthouse."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PRYOR, from the Special Committee on Aging:

Special Report entitled "Developments in Aging, 1991" (Rept. No. 102–261).

By Mr. GLENN, from the Committee on Governmental Affairs:

Special Report entitled "Interim Report on Combatting Fraud and Abuse in Employer Sponsored Health Benefit Plans" made by the Permanent Subcommittee on Investigations (Rept. No. 102–262).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committee were submitted:

By Mr. BIDEN, from the Committee on the Judiciary:

Robert L. Echols, of Tennessee, to be United States District Judge for the Middle District of Tennessee, vice a new position created by Public Law 101–650, approved December 1, 1990.

John R. Padova, of Pennsylvania, to be United States District Judge for the Eastern District of Pennsylvania, vice a new position created by Public Law 101–650, approved December 1, 1990.

Jimm Larry Hendren, of Arkansas, to be United States District Judge for the Western District of Arkansas, vice a new position created by Public Law 101–650, approved December 1, 1990.

Ira DeMent, of Alabama, to be United States District Judge for the Middle District of Alabama, vice Truman M. Hobbs, retired.

By Mr. PELL, from the Committee on Foreign Relations:

Ints M. Silins, of Virginia, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Latvia.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Ints M. Silins.

Post: U.S. Embassy Riga (Latvia).

Contributions, amount, date, and donee:

1. Self, none.
2. Spouse, Elizabeth, none.
3. Children and spouses, names, Nicholas, Kate, Lucas, Matthew, none.
4. Parents, names, Mrs. Velta Ozolins, Leonids Silins (deceased), $20, 1988, Bush for President Campaign.
5. Grandparents, names, deceased.
6. Brothers and spouses, names, none.
7. Sisters and spouses, names, none.

Darryl Norman Johnson, of Washington, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Lithuania.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Darryl N. Johnson.

Post Vilnius, Lithuania.

Contributions, amount, date, and donee:

1. Self, none.
2. Spouse, n/a.
3. Children and spouses, names, Darawan Margo Johnson, Gregory Raman Johnson, Lauren Eugene Johnson, none.
4. Parents, names, Norman Boyd Johnson, $300, Laurell Eugenia Johnson, (deceased), every year, Rep.-Nat'l Comm., Cong. Comm., State Comm.
5. Grandparents, names, n/a.
6. Brothers and spouses, names, Brian Rolfe and Susan Johnson, Linn Valen Johnson, none.
7. Sisters and spouses, names, n/a.

Robert C. Frasure, of West Virginia, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Estonia.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Robert C. Frasure.

Post: Embassy Tallinn, Estonia.

Contributions, amount, date, and donee:

1. Self, none.
2. Spouse, Katharina, none.
3. Children, names, Sarah and Virginia, none.
4. Parents, names, deceased.
5. Grandparents, names, deceased.
6. Brothers and spouses, names, Maynard Frasure, none.
7. Sisters and spouses, names, none.

(The above nominations were confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SPECTER (for himself, Mr. ROCKEFELLER, Mr. THURMOND, Mr. WOFFORD, Mr. HELMS, Mr. HOLLINGS, Mr. RIEGLE, Mr. LIEBERMAN, Mr. DODD, Mr. HEFLIN, and Mr. DIXON):

S. 2345. A bill to extend the provisions of the Steel Import Stabilization Act for specialty steel and other purposes; to the Committee on Finance.

By Mrs. KASSEBAUM:

S. 2346. A bill to provide for comprehensive health care access expansion and cost control through standardization of private health care insurance and other means; to the Committee on Finance.

By Mr. MCCAIN (for himself and Mr. NICKLES):

S. 2347. A bill to improve the health of the Nation's children, and for other purposes; to the Committee on Finance.

By Mr. MACK:

S. 2348. A bill to reduce the growing cost imposed on State and local governments by unfunded Federal mandates; to the Committee on Governmental Affairs.

S. 2349. A bill to amend the Congressional Budget Act of 1974 to minimize the impact on State and local governments of unexpected provisions of legislation proposing the imposition of large unfunded costs on such governments; to the Committee on Rules and Administration.

By Mr. GRAHAM (for himself and Mr. MACK):

S. 2350. A bill to direct the Secretary of the Navy to develop a second homeport on the East Coast of the United States for nuclear-powered aircraft carriers; to the Committee on Armed Services.

By Mr. ADAMS (for himself and Mr. BINGAMAN):

S. 2351. A bill to provide for research to test the efficacy and cost-effectiveness of nutrition screening and intervention activities in populations of older individuals and to determine the extent of malnutrition in such populations; to the Committee on Labor and Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SPECTER (for himself, Mr. ROCKEFELLER, Mr. THURMOND, Mr. WOFFORD, Mr. HELMS, Mr. HOLLINGS, Mr. RIEGLE, Mr. LIEBERMAN, Mr. DODD, Mr. HEFLIN, and Mr. DIXON):

S. 2345. A bill to extend the provisions of the Steel Import Stabilization Act for specialty steel and other purposes; to the Committee on Finance.

SPECIALTY STEEL VOLUNTARY RESTRAINT AGREEMENT EXTENSION ACT

Mr. SPECTER. Mr. President, today, in conjunction with 10 other Senators, I am introducing legislation to extend the voluntary restraint agreements for specialty steel products until March 31, 1995, since the current VRA Program expires at the end of this month, on March 31, 1992.

So, on behalf of myself, Senator ROCKEFELLER, Senator THURMOND, Senator WOFFORD, Senator HELMS, Senator HOLLINGS, Senator RIEGLE, Senator LIEBERMAN, Senator DODD, Senator HEFLIN, and Senator DIXON, this important legislation is being introduced. It is my expectation, Mr. President, that others will be speaking on this subject either in morning business or later today as the business of the Senate permits because of the tremendous importance of this issue and the widespread support for the VRA extension as suggested by 10 initial cosponsors of this legislation.

Mr. President, the extension of VRA's is necessary as a method for stopping trade practices such as subsidies and dumping which violate the principles of free trade. The American steel industry has long been victimized by steel imports which are subsidized by foreign governments or which are dumped in the United States, both of these practices being in direct violation of free trade principles. We need free trade in this country and in this world, Mr. President, in order to have the maximum benefits that commerce provides, without shackles or without bonds. But the United States for too long has been the advocate of free trade while others do not practice free trade.

An essential element of free trade is reciprocity, which, unfortunately, is not present. Japan illustratively keeps their markets closed to United States products while the United States markets continue to be open. The dumping and subsidy of steel has been a major international scandal going beyond the past decade. The voluntary restraint agreements were initiated by President Reagan in 1985 and extended by President Bush in 1989, and they ought to be renewed, Mr. President.

There has been a lack of unity among the carbon steel producers because that situation is a little different from specialty steel. There is some anticipation among the carbon steel producers that the multilateral steel agreement negotiations may solve many of their problems in a reasonable way. Also, due to depressed demand, the VRA ceilings for carbon steel are 4 to 5 percent above current import levels. So the issue is not quite as critical for carbon steel as it is for specialty steel.

So, at this time, my cosponsors and I are directing our attention to the specialty steel industry alone, but it may well be that at some point in the very near future we will make an amendment asking that VRA's for carbon steel be extended as well. Two carbon steel producers from my home state, Bethlehem Steel and Lukens Steel, support the extension of VRA's for carbon as well as for specialty steel.

Mr. President, for those who do not know, the specialty steel industry in the United States comprises virtually all U.S. producers of stainless and alloy steels, heat-resisting steels, electrical steels, super alloys, and other high technology metals. The specialty steel industry employs approximately 35,000 people, with annual shipments of over $6 billion. Approximately 50 percent of the industry is located in my home State, the Commonwealth of Pennsylvania.

In undertaking open house town meetings when we adjourned immediately before last Thanksgiving, Mr. President, I noted tremendous concern among my constituents on unfair foreign imports which were taking so many jobs away from American workers. In response to that, I chaired Judiciary Committee hearings, arranged through the courtesy of Senator BIDEN, the chairman of the committee, in four Pennsylvania cities: Allentown, Harrisburg, Pittsburgh, and Philadelphia. And on February 20, this last month, Senator ROCKEFELLER, Senator WOFFORD, and I attended a Senate steel caucus hearing where we heard very important testimony, including that from Mr. Robert E. Heaton, chairman of the executive committee for the specialty steel industry of the United States.

The issue of extending VRAs for specialty steel goes beyond the matter of trade, Mr. President, because specialty steel is indispensable for national defense. In fact, in the gulf war, specialty steel products were indispensable for a variety of defense applications and the industry responded to the Department of Defense request to increase production for that very important purpose. If we allow other countries to take over on the production of specialty steels, Mr. President, we may well find ourselves without the essential ingredient for national defense to protect the United States of America.

We have seen recently a very substantial funding by other governments. For example, the British Government has channeled some 4.5 billion pounds into the British Steel Corp. during the past decade and an additional $5.6 billion has come from the European Community. Italy's largest steelmaker recently received a 350 billion lire—which is about $280 million—capital injection from its state-owned parent corporation. Its predecessor benefited from $10 million in subsidies during the past decade.

These are only illustrative, Mr. President, of the many problems associated with subsidized steel coming into the United States. The chairman of Lukens Steel of Pennsylvania, Mr. William Van Sant, testified on January 10 at judiciary trade hearings in Philadelphia, that the French Government recently provided $463 million from the State-owned bank for a 30-percent stake in a government-controlled steel producer in France.

All of this means, in essence, that the specialty steel industry is being victimized by foreign trade practices which violate the basic principles of free trade, because the steel is subsidized and steel is dumped in the United States.

For these reasons, the 10 Senators who are presenting this legislation today feel very strongly that as a matter of basic fairness, as a matter of seeing to it that there is justice for American workers, and as a matter of seeing to it that the United States has steel necessary for national defense, that the voluntary restraint agreements be extended.

One word in conclusion. In November 1988 when the VRA's were about to expire, my distinguished colleague, the late Senator John Heinz, and I were with then Vice President Bush at a political rally in Chester, PA, just 3 days before the election. At that time Senator Heinz, who was a great leader in so many ways in the U.S. Senate, presented then-Vice-President Bush with the importance of the extension of the voluntary restraint agreements, and on that Saturday received a commitment on VRA's from then-Vice-President Bush, which was later put into practice after Mr. Bush became President of the

United States. We will soon commemorate the passing of Senator Heinz in that terrible plane accident of last April 4, but I think in considering the extension of the VRA's it is appropriate to note his outstanding work in this respect.

To reiterate, Mr. President, today I am introducing legislation to extend until March 31, 1995, the voluntary restraint agreements [VRA's] for specialty steel imports. The current VRA Program expires on March 31, 1992. A VRA extension provides the most effective near-term means of preserving the significant advancements the specialty steel industry has made since the VRA Program was initiated by President Reagan in 1985 and extended by President Bush in 1989. Because of the continued dumping and subsidy practices employed by our overseas competitors, without a VRA extension, the specialty steel industry risks losing the competitiveness they have regained in recent years.

The specialty steel industry is not the only part of the domestic steel industry experiencing the burden of foreign unfair trade practices. The carbon steel producers are also exposed to dumping and subsidy practices which undercut their ability to compete in the global market. While a number of carbon steel producers such as Bethlehem Steel and Lukens Steel in my State support extension of the VRA's, at this juncture the carbon steel industry is not able to speak with a unified voice on this issue. In large part this stems from their desire to await the outcome of the Multilateral Steel Agreement negotiations before they take a position on VRA's. Moreover, due to depressed demand, the VRA ceilings for carbon steel are 4 to 5 percent above current import levels. Nevertheless, the foreign trade abuses continue. And as history has taught us when VRA's were lifted in the late seventies, when current restraints expire we are likely to witness a substantial rise in steel imports. If it becomes apparent in the upcoming weeks that the MSA has fallen short of its objectives, I am prepared to introduce legislation to extend VRA's for the carbon steel industry as well. In the meantime, I will focus my efforts on the specialty steel industry.

The specialty steel industry in the United States comprises virtually all U.S. producers of stainless and alloy steels, heat-resisting steels, electrical steels, superalloys, and other high technology metals. The industry employs approximately 35,000 people, with annual shipments of over $6 billion. Approximately 50 percent of the industry is located in the State of Pennsylvania. In January of this year I chaired Judiciary Committee hearings in Philadelphia, Pittsburgh, Harrisburg, and Allentown on the issue of unfair foreign trade practices. A number of representatives from the specialty steel industry testified during these hearings and all were able to cite specific instances of subsidies and dumping practices which were threatening our domestic specialty steel markets. I also joined my colleagues Senator ROCKEFELLER and Senator WOFFORD in a Senate steel caucus hearing in February 20, 1991, at which Mr. Robert E. Heaton, chairman of the executive committee for the Specialty Steel Industry of the United States argued for extending the VRA's.

Specialty steels are a critical part of our Nation's industrial base. They constitute the high value, high technology segment of the steel industry. With their high alloy content, technical properties and special processing techniques, specialty steels are highly sought after for critical applications in the automotive, power generation, chemical processing, marine and aerospace sectors of the economy. In addition, because of their environmental durability, specialty steel products are essential to the production of all major weapon systems, as well as aircraft and other defense-related equipment. During Operation Desert Storm, the specialty steel industry responded to urgent requests by the Department of Defense to supply materials on extremely short notice while halting commercial production schedules to meet the demands of the war effort.

Mr. President, the gains achieved by the specialty steel industry as a result of the VRA's could be lost as their schedule expires on March 31, 1992. Unfortunately, foreign government subsidization of specialty steel production continues unabated along with dumping of numerous specialty steel products. During the early 1980's, the specialty steel industry in the United States successfully brought antidumping and countervailing duty cases against a variety of stainless and alloy steel products from the United Kingdom, Spain, France, Germany, Brazil, and Sweden. With the establishment of the VRA Program, antidumping and countervailing duty cases on these specialty steel were terminated. While the level of import growth may have been restrained under the VRA's, unfair dumping and subsidization practices persisted. Now that VRA's are due to expire, foreign capacity additionally have increased by more than 3 million metric tons, much of it subsidized.

Mr. President, so that my colleagues can appreciate the extent to which unfair trade practices disadvantage our domestic specialty steel industry I will cite a few examples. During the 1980's, the British Government channeled 4.5 billion pounds into British Steel Corp. with an additional $5.6 billion coming from the European Community. British Steel is one of the world's largest producers of specialty steel. Italy's largest steel maker, Ilva Spa recently received a 350 billion lire—$277.7 million—capital injection from its state-owned parent. Its predecessor, Finsider, benefited from over $10 billion in subsidies during the 1980's. The principal specialty steel producer in Italy, Terni, is a subsidiary of Ilva and will be a direct beneficiary of the aid.

Finally, Mr. William Van Sant, chairman and CEO of Lukens, Inc., testified on January 10, 1992, at our trade hearings in Philadelphia that the French Government recently provided $463 million from the State-owned credit Lyonnais Bank for a 30-percent stake in Usinor Sacilor, a government-controlled steel producer in France. Usinor controls most of France's specialty steel production capacity and is the parent firm of Creusot Loire and Dillenger, a competitor in the global steel plate market with Lukens.

The dumping and subsidization practices carried out by foreign competitors combined with the extensive expansion of global capacity will undoubtedly disadvantage our domestic specialty steel producers. Efforts to address these problems in international trade negotiations have so far been unsuccessful. The Dunkel draft for the current GATT round and the multilateral steel agreement [MSA] negotiations either fail to address the dumping problems experienced by the specialty steel industry, or in the case of the GATT proposal, significantly weaken U.S. antidumping and subsidy laws.

While many policymakers remain sanguine that the MSA negotiations will provide a steel agreement which will eliminate most unfair trade practices, the reality is that the specialty steel industry will be left in a very vulnerable position. For example, subsidy practices for basic industrial research and applied research which are critical to the high technology end of the steel industry will be partially exempted from the subsidy prohibitions in the agreement. Moreover, the current version of the MSA strips the specialty steel producers of their ability to file countervailing duty cases against subsidies permitted by the agreement. A number of other controversial issues remain, among them preferential Government procurement practices, filing of antidumping cases, and a decision as to whether to include downstream products such as wire strand wire rope and couplings.

Mr. President, the proposed cessation of the VRA Program has always been viewed as being contingent upon a number of improvements in the global steel market which, unfortunately, have not taken place. While most foreign governments acknowledge that overcapacity is most likely the greatest impediment to a healthy global market, many have continued to subsidize further expansion in the specialty steel industry. This overcapacity has brought even more pressure on our domestic markets since the current recession has further weakened global demand for specialty steel. Given the current situation, it would make little sense to eliminate the VRA Program and once again expose an already fragile industry to the abuses of our foreign competitors. The specialty steel industry and the American steelworkers who operate this industry deserve our support. Accordingly, I urge my colleagues to join us in cosponsoring this legislation to extend VRA's for specialty steel until March 31, 1995.

I ask unanimous consent a full copy of the legislative proposal for the extension of VRA's be included, and that leave be obtained for any of the cosponsors to insert statements later today in the RECORD as if presented at this time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2345

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Specialty Steel Voluntary Restraint Agreement Extension Act."

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) Specialty steel products are critical to the national defense in that they are utilized in virtually every major weapons system as well as in aircraft and other defense-related equipment.

(2) Specialty steels are essential to the capital goods and consumer durable sectors of the U.S. economy. In many critical applications there are no available substitutes for specialty steel.

(3) The domestic specialty steel industry continues to suffer from a wide array of foreign unfair trade practices such as dumping and subsidies.

(4) The current voluntary restraint agreements (VRAs) on specialty steel products are due to expire on March 31, 1992.

(5) The domestic specialty steel industry invested over $1 billion in new capital and R&D during the VRA period, thereby preserving its position of technology leadership in the global market for specialty steel products.

(6) Notwithstanding the voluntary restraint agreements, imports of specialty steel have increased since 1988, despite a decline in apparent consumption in the same period. The combination of higher imports and lower apparent consumption have pushed import penetration levels for specialty steel to unprecedented levels.

(7) Despite increases in VRA ceilings for specialty steel products, VRA signatories have fully utilized or exceeded their VRA allotments.

(8) Worldwide capacity additions by foreign specialty steel producers are expected to exceed 3.0 million tons by March 31, 1992—an amount that exceeds total U.S. annual consumption of specialty steel. Much of this new capacity is believed to be targeted at the U.S. market upon termination of the VRA program.

(9) The MSA negotiations, even if concluded, will not address the structural overcapacity problems and pervasive dumping that continue to plague the specialty steel industry.

SEC. 3. SENSE OF THE CONGRESS REGARDING EXTENSION OF THE SPECIALTY STEEL VOLUNTARY RESTRAINT AGREEMENT PROGRAM.

It is the sense of the Congress that—

(1) The President should exercise his authority to extend the voluntary restraint agreements for specialty steel for three years ending March 31, 1995.

(2) The President, in exercising his authority to extend the voluntary restraint agreements, should ensure that the import ceilings negotiated should not exceed those levels in place as of March 31, 1992.

SEC. 4. EXTENSION OF STEEL IMPORT STABILIZATION ACT.

Section 806(a) of the Steel Import Stabilization Act (19 U.S.C. 2253 note) is amended to read as follows:

(a) IN GENERAL.—Section 805 shall terminate on March 31, 1995, unless the President, before such date, submits to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate (in writing and together with the reasons therefor) an affirmative annual determination described in subsection (b)."

• Mr. WOFFORD. Mr. President, I support this important legislation. The steel industry stands at a critical juncture. The impending expiration of the VRA's, the uncertain future of current trade negotiations, and the burden of a prolonged recession are producing a lot of understandable anxiety in the industry.

We in Congress share these concerns. The steel industry has always been the heart of industrial America. We cannot stay competitive without it. And our national security is dependent on a strong manufacturing base—and a strong specialty steel industry.

I am familiar with the impressive track record of specialty steel from my days as Secretary of Labor and Industry for Pennsylvania. The investments and upgrading of their facilities is only part of the success story—the industry is also a model for innovative labor-management cooperation.

The extension of the VRA's is critical for specialty steel, a highly competitive, high-technology industry with broad applications in sectors from health care to space to defense. Import limits of specialty steel have been reached or exceeded under the present agreements, and the expiration of the program could have dire consequences for the industry, its employees, and their families.

I look forward to working with my colleague from Pennsylvania, Senator SPECTER, and our fellow Senators to secure the 3-year extension of the VRA's for specialty steel.•

Mr. ROCKEFELLER. Mr. President, I am pleased to add my support to legislation that will extend the President's authority to maintain a voluntary restraint agreement program for steel imports. As Senators know, the current program of VRA's expires on March 31.

That program, which President Reagan began in 1984, was extended by President Bush in 1989 to fulfill a commitment he made to the late Senator John Heinz during the 1988 election. His letter to Senator Heinz promised renewal of the VRA program until such time as an international agreement had been reached that would bring an end to unfair trade practices in steel. As chairman of the Senate steel caucus I fought hard along with Senator Heinz and others to persuade the President to reject the recommendations of many of his advisers and instead honor his commitment and extend the VRA's.

To the President's credit, he has made a diligent effort to obtain such an agreement, and there is still a chance he may succeed in doing so before March 31. As of today, however, such an agreement is not in place, and there are indications from some foreign participants in the negotiations that they are unlikely to sign an agreement this month.

In addition, the multilateral steel agreement draft text that has been circulating contains some serious flaws and omissions. Its biggest flaw, in my judgment, is its explicit authorization for certain subsidies—plant closing, research, environmental, and worker adjustment—and its likely inclusion of a clause that precludes the American industry from using U.S. countervailing duty law against them. That means that if the United States signs the agreement, it will be denying to the domestic steel industry legal rights it has exercised under U.S. law for nearly 100 years and which have been sanctioned by the GATT since its inception. Permitting any subsidies is a serious mistake, in my judgment, but precluding access to U.S. law to obtain relief from them would be unconscionable.

Among the MSA's omissions are any language tightening up rules against dumping and an effective prohibition on subsidized financing for new steel capacity, which has been one of the major obstacles to our effort to promote market-based trade in steel over the past 15 years.

There are also other problems with the draft text, including in the areas of dispute settlement, product coverage, and government procurement, all of which taken together, tempt me to conclude that even if agreement is reached on this text, it will not be acceptable to the U.S. industry, and it should not be acceptable.

Thus it appears that when March 31 arrives, we will likely have either no MSA or an unacceptable MSA. In the absence of a VRA program, that will leave the industry with little choice but to file a large number of antidumping and countervailing duty cases in an effort to control unfairly traded imports.

They should have little trouble winning those cases, as dumping and subsidies are, by all accounts, endemic in the industry. The VRA program has kept imports down quantitatively, as has the recession, but serious price suppression has been occurring and most of the industry lost money in 1991.

Extension of the VRA Program, at least until an MSA is approved, would not only fulfill the President's commitment, it would provide a guaranteed cap on the extent to which foreign steel producers can use unfair trade practices to access our market. The alternative—numerous unfair trade complaints—would be expensive and time-consuming. No relief would be granted for 5 or 6 months, at least, and any duties would not become final until approximately 1 year after each case began. That is simply too long to wait to enforce trade rules in steel.

The VRA Program has also been important to my steel constituents at Wheeling-Pittsburgh and Weirton. Only yesterday, Senator BYRD and I, along with Congressmen MOLLOHAN and APPLEGATE, received a petition from Wheeling-Pittsburgh labor and management signed by over 4,000 people asking for extension of the VRA Program.

Mr. President, the legislation being introduced today makes particular reference to the specialty steel industry as being particularly in need of an extension. That is an important point. In contrast to some other product categories, VRA limits have regularly been met or exceeded in specialty steel—between 96 and 113 percent in 1991.

That should come as no surprise to anyone who has examined the industry closely. What often occurs during a period of quantitative restraints is a shift in the import mix toward higher value items. Specialty steels, which are the high value, special property steels, are the primary victims of such a shift.

This matters in more than just economic terms. Specialty steel is critical to our national security. It is no exaggeration to say that we cannot build a tank, a missile, an airplane, or a submarine in this country without specialty steel. The industry estimates that 20 percent of its shipments go to defense applications, and that figure could be as high as 40 percent for certain high performance alloys.

The importance of specialty steel was made dramatically clear during the gulf war. The industry willingly diverted its production from civilian products to items badly—and immediately—needed by the military to fight the war. Specialty steels can be found, for example, in the Patriot and Stinger missile systems, the F-117A, F-18, and F-14 aircraft, Apache and Blackhawk helicopters, the M-1 tank, and the Bradley fighting vehicle. Mr. President, I ask that a partial list of Desert Storm weapons systems that utilized specialty steel be included in the RECORD following my remarks.

Mr. President, we cannot let this industry that is vital both to our national security and our manufacturing infrastructure be seriously and permanently damaged. At present it appears that a VRA extension, at least until an acceptable multilateral steel agreement is negotiated, is the only policy that will prevent this disaster. I hope the President will be able to put aside the antisteel bias that has characterized his attitude toward this industry over the past 3 years, recognize its importance to our economy, and take the only action that makes sense at this time—renew the VRA Program.

There bring no objection, the text was ordered to be printed in the RECORD, as follows:

DEFENSE APPLICATIONS FOR SPECIALTY STEEL

Product category	Chemistry and treatment	Applications
Stainless angels	Various	Navy submarine components.
	Various	Critical shipboard systems.
Stainless wire	300-series	Springs for bomb, tanks, fuses.
Stainless rod	300-series	Welding materials for use with stainless plate.
Stainless flat-rolled	Dual-hardness armor plate.	Armor for planes, tanks, personnel carriers, ships, etc., to protect pilot, crew and on-board personnel from combat attacks.
	300-series plate	Floor plating for ships, missile holds.
	300-series plate	Supply tanker hulls and storage vessels for foodstuffs and/or fuels.
	300-series plate	Fuel storage tanks for national fuel reserve.
	300-series	Strip for hose clamps (engines).
	300-series	Vessels for nitro- glycerine manufacture.
	Various	Shipboard saltwater conversion plants; nuclear propulstion systems; shipboard power plants.
	625 alloy	Tanks (generator).
	718 alloy heat-resistant	Engine parts, fighter and bomber aircraft.
	Precipitated hardening 17–7, 15–5.	Landing gear, aircraft.
	625 alloy, 718 alloy	Honeycomb sections, surface to air missiles.
	AM355	Strap pack for helicopters.
	425 alloy (martensitic)	Bayonets.
	AL600	Tank engine parts.
	Nitronic 40	Hydraulic Tubing for pressure vessels.
		Fire extinguishers for fighter aircraft.
	PH 15–7 Mo	Transport aircraft honeycomb panels (engine exhaust) and missiles.
	15–5 PH	V-22 Osprey special transmission diaphragms.
	17–7 PH	Missile nose cones.
		Helicopter washers.
	27–4	Missile nose cones and warheads.
		Standard missile tubes.
	Hipernom sheet	Magnetic shielding, airborne radar.
	T–304, T–316, T304L, T–316L.	Naval shipyards equipment.
	T321	Aircraft jet engine cowlings.
High temperature	Ni-Co-Cr-Mo (double vacuum-melted).	Aircraft fasteners (commercial, military and NASA).
		Critical rotating aircraft engine components.
		Missile components.
		Aircraft engine combustors.
		Aircraft engine transmission ducts.
Maraging steel	Fe-Ni-Co-Mo	Rocket motor cases for missiles.
Aircraft bearing steel	Double vacuum-melted	Main aircraft engine bearings.
Aircraft structural steels.	Single vacuum-melted, high strength, high toughess steels.	Landing gear, structurals for flap blades, helicopter gearing.
Ultra-fine gauge wire	High-purity alloy steel (vacuum-melted).	Missile target tracking systems.
Special alloy steel	Vacuum-melted	Torsion bars for tanks.
Tool steel	High speed steel	Cutting and machining tools for production of components for tanks and other military equipment.
	Die steels	Dies for production of components for military equipment.
Stainless pipe and tube.	300-series	Nuclear propulsion; shipboard power plants; fuel lines for aircraft; intake manifolds for tank engines; substantial amount of military-specifications pipe and tube sold to distributors, with exact end-use unknown.
Electrical steel	CRNO	Generators, navy ships.
		Motors, M–1 tank.
		Various navy motor applications.
	RGO	Navy transformers.
		Armed Forces high-frequency radio equipment.
Stainless steel bar/billet.	Caralloy 255	Launch rails for aircraft carriers.
	Pyrowear 53	Gearing, V–22 Osprey aircraft.
	CTX (controlled thermal expansion).	Jet aircraft parts; welded overlays in space shuttle.
	WASP alloy	Jet engine parts.
	AF 1410	Arresting hooks, aircraft landing gear on aircraft carriers.
	Ex 100 (under development).	Landing gear, Navy fighters.
	Invar	Electronic gear, aircraft and missiles.
	Precipitated hard-grades 17–4.	Navy nuclear reactor components.
	Stainless grades 347/348.	Naval nuclear reactor components.
	Stainless T–304	Naval nuclear reactor components.
	Convar (high colbalt)	Gyroscopes, aircraft.
	Nickel/copper 400-series alloy.	Sonar arrays, nuclear submarines.
	Hiperco 50	Generators, aircraft.
	Nimark 3	Main shafts, jet engines.
	Bearings alloys	Main shaft bearings, jet engines.
	Nickel 200 alloy	Oxygen generators, nuclear submarines.
	CPM 10-V (powder metallurgy).	Fuel pumps, military aircraft.
	Custom alloy 455	Spreader beam, cargo bay of space shuttle.
	Payromet A286	Fasteners, space shuttle.
	EX 98 (in development)	Corrosion cracking prevention in space shuttle's main engine.
	Alloy 718	Torpedo straps, naval aircraft.
	MP 35N	Bomb hooks.
	Custom alloy 455	Cluster bomb hooks.
	Borated stainless steel	Spent nuclear fuel handling devices, Navy.
	JBK 75	Nuclear weapon components.

SPECIFIC APPLICATIONS RELATED TO DESERT STORM

Forging parts for engines	F–117A Stealth Fighter, F–18 Hornet, F–14 Tomcat, F–15, and F–16 fighters.
	Blackhawk helicopter.
	Engine of M–1 ABRAM's tank.
Flat bar	Multiple-launch Rocket system (MLRS).
Stainless/Special alloy bar/billets	Torsion bars for Bradley fighting vehicles.
	Helicopter transmissions.
	F–16 and F–18 transmissions.
	Engine shafts for A–10 Wart Hog and F–16 aircraft, F–18.
	Gun barrels for M16.
	F–18 engine rings.
	F–14 and F–16 high pressure turbine shafts.
	Compressor blades for F–15 and F–16 aircraft.
	F–14 and A–6E Intruder jet engine seals.
Sheet/strip	Land mine covers, razor ribbon and concertina wire fencing.
	Bomb and rifle magazine springs.
Plate	Baffles for tanks.
Tubing	Blackbird spy aircraft.
	Missile launcher for F–18 aircraft.
	Apache helicopter tail rotor support.
Other specialty steel	Permanent magnets for Stinger missile control systems.
	Recoil springs for tank and artillery cannons.

Mr. DODD. Mr. President, I rise to join in strong support of the legislation being introduced today to urge an extension of the voluntary restraint agreements on specialty steel imports. I am proud to be an original cosponsor of this bill and I want to commend my colleague from Pennsylvania, Senator SPECTER, for his work on this important piece of legislation.

Mr. President, as the recession continues its relentless assault on the working families of America, the only lifeline for many people is the security of a steady job. Today, the steel industry provides just such security to over 150,000 people, including 35,000 in the specialty steel industry. But the number is growing smaller with every passing day.

This shrinkage of our specialty steel capacity is particularly dangerous, Mr. President, when one considers the importance of the specialty steel industry to our national security. The specialty steel industry is critical to the production of all major weapons systems, as demonstrated during the Persian Gulf war when specialty steel makers went on emergency production to meet the increased demand.

We cannot afford to be dependent on foreign suppliers for this vital material. And that is why the legislation being introduced today is so important. It would give the President the statutory authority he needs to renegotiate and extend the voluntary restraint agreement with our major trading partners, keeping imports to a limit and keeping our domestic industry healthy.

Mr. President, the international market is a predatory jungle, where foreign competitors use unfair subsidies and market-distorting dumping practices to unfairly gain an edge. As a result of these unfair trade practices, our trade deficit in steel in 1990 was approximately 13 million tons.

In 1984, in response to predatory overseas practices, the President initiated a 5-year series of voluntary restraint agreements with a number of other nations to restrict imports into this country. In 1989, those VRA's were extended until March 31 of this year. If the President does not renegotiate them within the next few weeks, the VRA's will be gone.

The point of the VRA's, Mr. President, was to give our trading negotiators the time to negotiate fairness into the international system. Unfortunately, so far we have met not with fairness, but only obstinance—12 of the 24 nations that collectively account for over 50 percent of the foreign subsidies have continued their prior subsidies programs, and 11 of the remaining 12 have initiated new subsidies.

In addition, the Uruguay round, which was supposed to be the solution to our trading problems, has gotten mired down in half-baked compromises. The proposed draft text would significantly weaken, not strengthen, the antidumping laws and countervailing duties which are the last resort against foreign predatory practices. The current text of the multilateral steel agreement, now being negotiated along with the Uruguay round, is no better.

Finally, the newly liberated countries of Eastern Europe stand ready to test the waters of the international steel market, threatening to leave even less of a market share to the U.S. producers.

If the specialty steel VRA's are lifted before the proper time, the damage done to the domestic industry will be significant, Mr. President. And the damage done to domestic jobs, in a country with an unemployment rate of 7.3 percent, will be intolerable.

In the State of Connecticut, where 155,000 jobs have been lost since February of 1989, the specialty steel industry is one of the few industries that is now doing well. Today, specialty steel remains a steady source of employment for nearly 500 people at the Allegheny Ludlum plants in Wallingford and Waterbury.

That may not be a lot of people in terms of the global economy, Mr. President. But it is 500 people who have the security and stability of a steady income and a decent wage. And it is 500 people who would potentially be at risk if the VRA's were lifted at the end of this month.

On behalf of working men and women in my State and across the country, I urge the Senate to immediately adopt this important bill. And I urge the President to follow the recommendations in this legislation and extend the VRA's.

Mr. HEFLIN. Mr. President, I am pleased to rise today to support the extension of the voluntary restraint agreements for specialty steel. As my friend from Pennsylvania, Senator SPECTER, pointed out earlier this morning, these agreements, which were initiated in 1985 and extended in 1989, are set to expire at the end of this month.

Mr. President, the steel industry is certainly one of the most notoriously subsidized industries worldwide. Countries from Russia to Japan to Italy to Great Britain heavily subsidize their steel industries. Moreover, the practice of dumping by our foreign competitors continues to plague the health of our domestic steel industry. Make no mistake about it, our U.S. steel industry faces unfair competition in its strongest and most unabashed forms.

These voluntary restraint agreements are absolutely critical for the viability of our domestic steel industry, an industry which plays an essential role in most all major economic activities, including manufacturing, mining, construction, transportation, and agriculture.

Mr. President, in recent weeks, much of the attention of the Senate has been focused on the American economy and possible actions which we as legislators can take to improve the economic outlook for Americans struggling today. I would submit that the extension of the voluntary restraint agreements is one such action. The steel industry serves as a backbone for much of our economy and its health is, in a very direct way, tied to the health of our national economy. We simply cannot continue to watch our manufacturing base, of which steel is a vital part, erode without seeing the types of consequences we witness today.

As we are all painfully aware, the jobless rate between July 1990, when the recession began and January 1992 climbed from 5.5 to 7.1 percent. At the same time, the number of jobs has been falling due largely to weakness in the manufacturing and construction industries. If we are to ensure our Nation's short and long-term future, we must step forward and protect our bedrock industries from unfair foreign competition. We must ensure that our manufacturing sector does not disappear.

Mr. President, I urge all of my colleagues to take a hard look at the current state of manufacturing in our country today and at the unceasing efforts by foreign governments and steel companies to gain an unfair advantage over U.S. companies. If they do so, I believe that they will join me in offering their strongest possible support for the extension of voluntary restraint agreements for the steel industry, confident that this action will undoubtedly help our national economy.

By Mrs. KASSEBAUM:

S. 2346. A bill to provide for comprehensive health care access expansion and cost control through standardization of private health care insurance and other means; to the Committee on Finance.

BASICARE HEALTH ACCESS AND COST CONTROL ACT

Mrs. KASSEBAUM. Mr. President, I rise today to introduce legislation I believe offers a significant new alternative in the growing national debate on health care reform.

This legislation, the BasiCare Health Access and Cost Control Act, provides comprehensive expansion of health care access to the uninsured, as well as binding restraint of spiraling health care costs—and it does so in a way that is substantially different from existing proposals, both Republican and Democratic.

Mr. President, we will spend a staggering $871 billion on health care this year, which represents fully 14 percent of GNP, the highest such percentage of any country in the world. At the same time, health care costs continue to race upward at a pace two to three times the rate of general inflation. Already, such rising costs have priced health coverage out of the reach of more than 37 million Americans—and the number of such uninsured is certain to grow if medical costs are not soon brought under control. If present cost growth is allowed to continue, we will be spending 31 percent of our GNP on health care by the year 2020.

As this crisis deepens, proposals for serious reform are receiving renewed and much needed attention. There are those, for example, who say we should adopt a Canadian-style single-payer structure, under which all health care would be managed by the Government and financed by the taxpayers. Others, meanwhile, advocate a so-called play-or-pay system, under which employers would be forced either to offer coverage to their employees or to pay a special tax for a backup public program.

Additional proposals involving market incentives and individual tax credits for the purchase of health insurance are also under consideration, as are various plans for incremental reform in targeted areas, such as malpractice liability and the small group insurance market.

Mr. President, many of these plans have much to offer, and in some we may find solid ideas that can work for America. To my mind, however, nearly all carry serious—and possibly fatal—drawbacks.

The proposals for Government-run, single-payer systems, for example, would certainly guarantee coverage to everyone, but they could also seriously inhibit medical quality and innovation, as well as necessitate massive new tax increases. Similarly, the play-or-pay plans would assure coverage for most Americans, but they would do so only by shifting the spiraling health care cost problem onto the shoulders of American business. This is not only unfair, but it also threatens the security of American jobs and our competitiveness abroad.

At the other end of the spectrum, the administration's recent proposal to provide tax credits for the purchase of health insurance is also a very positive step, but I am worried that providing such credits without binding control of raging health care costs could, when all is said and done, make the problem worse, not better.

I am also very troubled by the fact that so many of the serious proposals put forward thus far are silent on the critical issue of financing, and that many of them avoid altogether the urgent need for coverage of long-term nursing home or home health care.

Mr. President, the bill I am introducing today seeks to fill in many of these gaps, and to offer a substantially different alternative to the plans already on the table. The BasiCare Health Access and Cost Control Act tackles head-on the twin challenges of tough cost control and comprehensive access expansion—and it does so without using either employer mandates or government-run single-payer coverage.

Let me take a few moments to outline some of the most important provisions in this plan.

First, the bill will create a single, nationally uniform BasiCare package of benefits that every insurer will have to offer and that every American will carry. The BasiCare package will be defined and standardized by the Government, but—importantly—its administration and financing will remain in the private sector.

The intent of this approach is to achieve much of the simplicity, stability, and cost control of a public single-payer system, but without giving up the private market incentives that have the quality and innovation of American medicine the best in the world.

Under this bill, the new BasiCare package will become standard across all health insurance carriers. That is, any insurance carrier wishing to sell health insurance will have to offer the BasiCare plan and adhere to its conditions, and he may not offer any other policies that duplicate BasiCare in any way. Insurers may, however, offer supplemental policies for persons wishing greater coverage beyond that provided by BasiCare.

Second, the content of the new BasiCare package will be developed by a full-time national commission of independent experts—and not by Congress. As under the current military base-closing system, Congress will have the power to vote up or down on the commission's recommendations, but not to amend them.

The eight-member, independent commission will also have significant and broad oversight authority over the health care system as a whole. In most cases, its recommendations to Congress will be considered only on a limited-debate, unamendable basis.

This approach represents a new direction in health care policymaking. It preserves ultimate congressional accountability for health care policy decisions, but it also leaves much of the very complex and sensitive work in the hands of experts. The purpose is to help assure that difficult tasks such as the development of a basic benefit package are not unduly distorted by congressional tinkering or by political pressure from specific interests.

Mr. President, something is clearly wrong with a system in which Members of Congress are legislating the dollar amounts of EKG payments or the cost of intraocular lenses. And yet, that is what we have been doing in Medicare and Medicaid for many years now. Unfortunately, we continue to fiddle and modify, but often with little indepth understanding of what we are doing or what is actually best for the system.

Congress should certainly continue to play a role in health care policy, but it should do so as an arbiter of decisions made by an independent and authoritative body. Our ailing health care system is crying out for disciplined, thoughtful change—and this bill offers us a constructive framework for achieving it.

Third, under my bill, BasiCare policies will be subject to strict rules protecting beneficiaries against denial of coverage or discriminatory rate hikes based on health status. Following a phasein period, all BasiCare premiums will have to be set according to equalized community rates, and insurance companies will be required to guarantee acceptance of all applicants.

No longer will insurers be allowed to raise a person's premiums just because he has been sick or to deny coverage because he has a preexisting medical condition.

Fourth, control of health care costs will be maintained by placing binding annual limits on the allowable percentage rate of increase in BasiCare premiums. This is a clean, straightforward approach designed to achieve binding cost control without the pitfalls of Government micromanagement of specific rates and provider fees.

This basic mechanism is adapted from an approach developed 2 years ago by the Kansas Employer Coalition on Health and published in the Journal of the American Medical Association last spring. I was also interested to hear the testimony of health care economist Stuart Altman before the Senate Labor and Human Resources Committee last week, in which he articulated a cost-control proposal not dissimilar to the one I am proposing today.

Under my bill, the annual percentage of allowed premium increase will be established by the BasiCare Commission, and it will be binding on all insurers. By setting a single maximum allowable percentage of increase, Government will be putting insurers themselves at risk for rising costs, thereby creating a powerful incentive for efficiency.

Combined with national standardization of a community-rated BasiCare package, these new cost parameters will induce insurers, doctors, and hospitals to compete based on who can provide services most efficiently and attractively to patients. In practice, what this is going to mean is that insurers will react to the new premium limits by forming organized care relationships with providers in order to share the financial risk with those providers. Under such arrangements, both insurers and providers will have strong incentives to hold down costs and to deliver care as efficiently as possible.

Fifth, health care access for the uninsured will be addressed by offering low-income persons nontransferable vouchers for the purchase of BasiCare policies. Such vouchers will be redeemable directly to BasiCare carriers or employer plans and will reflect an applicable percentage of BasiCare costs a person or family is eligible to receive.

This legislation specifies minimum income levels for which voucher assistance must be provided, but it leaves the Commission discretion to propose increases in these levels, as it may deem appropriate to correspond with the new BasiCare benefits package. At a minimum, persons below 100 percent of the Federal poverty line will receive full voucher assistance, and persons between 100 and 200 percent of poverty will receive assistance on a sliding scale based on income. Importantly, even persons receiving full voucher assistance will be required to pay a small perservice copayment to discourage overutilization.

The new voucher program will replace and expand upon the current Medicaid program.

Sixth, the new BasiCare system will be expanded over time to encompass Medicare, and coverage for long-term nursing home and home health care will be included in the BasiCare plan.

Mr. President, I fully recognize the logistical difficulty and the potential financial cost of including long-term care in a bill like this one. Nevertheless, I feel it is imperative that we not shut long-term care out of the picture as we struggle for a solution on health care reform. The cost of nursing home care now averages about $30,000 a year, more than all but the most wealthy of us can afford.

Under my bill, persons of all ages will carry BasiCare's long-term care coverage as part of their BasiCare package, thereby greatly spreading the cost of such coverage and minimizing the burden on any single individual or family. A significant problem in the current system is that very few persons buy long-term care insurance—and those that do usually do so at or near retirement age. The result, of course, is that such coverage is often prohibitively expensive, thus leaving most Americans very vulnerable to devastating out-of-pocket expenses when long-term care becomes necessary.

Seventh, this bill includes very tough Federal reform of malpractice liability laws, as well as a significant expansion of community health centers and other community-based primary care facilities.

Eighth, to increase the number of health care professionals in medically underserved areas, the bill also includes a significant expansion of funding for the National Health Service Corps, as well as targeted tax incentives to doctors, nurses, and other health care professionals practicing in underserved rural communities.

Ninth, this bill equalizes the health care tax treatment of the self-employed. Farmers and other self-employed persons have long received only a 25-percent tax deduction for the cost of their health insurance. Incorporated businesses, meanwhile, receive a 100-percent deduction.

Under my bill, both self-employed persons and incorporated firms will receive the same tax treatment with regard to health care—100-percent deductibility for the cost of the BasiCare package.

Mr. President, this bill's tough cost-control measures and its standardization of the market around a single insurance package will significantly restrain costs in the health care system, both to individuals and to businesses. Even as this is occurring, however, new public funds will clearly be necessary to provide coverage to those who are currently uninsured. This is something that is true of any serious reform plan, not just this one. Estimates for the cost of such expanded coverage vary greatly, but usually run between $30 to $40 billion a year.

The legislation I am introducing today is straightforward about how these costs will be paid for. I firmly believe we need to be honest with the American people about the inevitable costs and tradeoffs of the proposals we advance.

Under my bill, needed funding will come from three sources:

First, appropriation of existing Medicaid expenditures;

Second, limiting the current 100-percent tax deduction and exclusion for employer health benefit contributions to the cost of the BasiCare package; and

Third, a limited draw of funds from the current Social Security payroll tax, not to exceed 1 percent of the tax.

Mr. President, the Social Security payroll tax is now set at a level higher than is necessary to assure adequate security for present and future retirees. Indeed, working Americans and their employers are now each paying 6.2 percent of their earnings to build up a massive surplus account that is currently being used primarily to offset Federal deficit spending. It is appropriate that a modest portion of these resources be devoted to the very useful purpose of overhauling our declining health care system. Just 1 percent of the current tax would equate to $56 billion a year in 1996, and even more as time goes by. I will be placing in the RECORD a Washington Post editorial by Ron Pollack, director of the consumer advocacy group, Families U.S.A., discussing this issue.

Importantly, none of the financing measures I have just outlined will require the enactment of new taxes, and all of them will be used for the establishment of a greatly streamlined, cost-effective system that will assure basic health and long-term care coverage for every American .

Mr. President, this bill is the product of more than a year of meetings and consultations with health care providers, insurers, consumers, and academics, both in Kansas and around the country. Their advice and criticism has been critical to making this effort possible.

I make no claims that this bill is the perfect solution, and I very much look forward to comments and suggestions, as well as to working with my colleagues in moving this debate forward. I, for one, am hopeful that we can pass a comprehensive health reform bill some time next year.

The bill I am introducing today does represent a substantially new approach in the health care reform debate, but there are still significant parts of it which build on the able work of others. The provision on malpractice reform, for example, is a modification of bills by Senators HATCH, DURENBERGER, DOMENICI, and MCCONNELL. The work of Senators PACKWOOD and PRYOR on rural health car and Senator CHAFEE on community health centers has also been adapted and included in my legislation, as have the proposals of Senators DURENBERGER and BENTSEN on the issue of small insurance market reform.

Mr. President, I would like to conclude by stressing that the BasiCare Health Care Access and Cost Control Act offers a fresh way to capture some of the most attractive features of a Canadian-style, single-payer system, while at the same time retaining much of the private market innovation that has made the quality of health care in the United States the envy of the world.

This bill is a significant departure from the major health care reform proposals currently under consideration in Congress and elsewhere. It is also straightforward in design, tough on rising costs, comprehensive on access, and honest about financing. It is a solution that can work.

Mr. President, I ask unanimous consent that the following items be included in the RECORD following my remarks: First, a summary of the bill's provisions; second, an editorial by Ron Pollack of Families U.S.A. regarding health care and the Social Security trust fund; and, third, a copy of the legislation itself.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BASICARE HEALTH ACCESS AND COST CONTROL PLAN

Key components:

Establishes a single, nationally defined core benefits package (BasiCare), but leaves its administration and financing in private hands.

The BasiCare package will become standard across all health insurance carriers, and will be carried by all Americans. No insurance company can offer any plans that duplicate BasiCare benefits, although they may sell supplemental policies for persons wishing greater coverage.

The content of the BasiCare package will be determined by an independent expert Commission. As under the current military base-closing system, Congress will have the power to vote up or down on the Commission's recommendations, but not to amend them.

BasiCare will be community rated, and restrictions based on pre-existing conditions will be barred.

Control of health care costs will be maintained through broad limits on BasiCare's annual premium increases, as well as through administrative standardization of the single BasiCare package.

Incentives in health care competition will be refocused to maximize efficiency, rather than over-supply or risk-selection, as is often the case under the current system.

Health care access for the uninsured will be addressed by offering low-income persons non-transferrable vouchers for the purchase of BasiCare coverage. This system will replace and expand upon the current Medicaid program.

Medicare will also gradually assimilated into BasiCare, and long-term care coverage will be included in the BasiCare package.

Financing will be obtained through (a) a limited draw of funds from the current Social Security payroll tax, not to exceed 1 percent of the tax, (b) limiting the current 100 percent tax deduction and exclusion for employer health benefit contributions to the cost of a BasiCare package, and (c) appropriation of existing Medicaid expenditures.

The plan also includes malpractice reform, a significant expansion of low-income community health care services, and measures to increase the number of health professionals in underserved rural areas.

SUMMARY OF PROVISIONS

A. Creation of BasiCare

1. Congress will determine the broad foundations of the BasiCare package, but it will not be directly responsible for the details of the plan's composition. Among the foundations that Congress would require however, will be:

a. Basic hospitalization coverage;

b. Basic outpatient services;

c. Protection against catastrophic out-of-pocket costs;

d. Coverage against extraordinary long-term care costs; and

e. Coverage for preventive care services of significant proven and recognized value in averting serious and costly medical conditions.

2. Actual development of the BasiCare package will be conducted by an 8-member independent, expert commission. Half of the members will be appointed by the President, and the other half by the congressional leadership. All will serve on a full-time basis for five year terms.

3. The Commission will define a benefit plan which, in its judgment, represents a minimum but fair coverage package. At its discretion, the commission may recommend limited variation in plan structure to accommodate delivery of BasiCare services in a managed care setting, provided that such variation does not compromise the basic uniformity of the national BasiCare package.

4. As under the current system for closing military bases, Congress will have the power to approve or disapprove the Commission's recommendations, but only as an un-amendable package. The purpose of this mechanism is to help assure that the process of developing the benefit package is not unduly distorted by political pressure.

5. The BasiCare Commission will have authority to make adjustments in the plan's content, as needed, to reflect changes in technology or in the nation's health needs. It will also have significant oversight responsibility for the health care system as a whole.

6. The Commission will be charged with ongoing oversight of the quality of health care delivery—particularly as the system reacts to implementation of the new BasiCare structure. The Commission will be required to factor findings on quality into any recommendations it makes to Congress on the content or the cost of the BasiCare package. It will also be authorized to contract with local and regional entities for the collection and dissemination of health care quality and cost data to consumers.

B. BasiCare's role in the insurance market

1. All insurers in the health insurance market will be required to offer BasiCare and to accept its conditions.

2. Insurers will be barred from selling non-BasiCare policies that duplicate BasiCare benefits in any way. Supplemental policies, however, will be allowed (see Section F. below). Such supplemental policies will be permitted to cover only those benefits not covered by BasiCare.

3. When the program is fully implemented, BasiCare policies will be subject to strict rating and underwriting rules aimed at assuring availability and curbing risk selection. These will include:

a. Guaranteed issue and renewal: Insurers will be limited in applying pre-existing condition restrictions on the issuance of policies and will have to guarantee acceptance of all small groups and individuals wishing to purchase coverage. Similar standards will also be applied to policy renewal.

b. Community rating: Insurers will be required to set rates on the same terms to all BasiCare policyholders, both group members and individuals. Adjustments in community rating will be permitted for the age of enrollee, but will be held within limits, which will narrow over time. Community rating will apply both to group and individual policies.

c. Portability: Persons will no longer have to fear lack of access to coverage due to a change in employment.

4. Insurers failing to comply with the above reforms will be subject to a federal excise tax on gross premium income.

5. All persons will be required to carry a BasiCare policy, either through a group or individually. Low-income persons will receive direct public assistance for the cost of such coverage (see Section C below).

6. Employers will not be permitted to discriminate against employees based on health status.

7. Self-insured groups will be permitted to continue self-insuring, provided they can demonstrate that: 1) they are offering a BasiCare-equivalent benefit plan that adheres to all of BasiCare's conditions, 2) they can show that their costs do not differ substantially from those of insured BasiCare plans, 3) they can demonstrate sufficient financial reserves to assure solvency and protection of patient benefits.

8. "Stop/loss" coverage sold to self-insured groups will also have to follow the same rating, issue, and renewal standards specified for BasiCare (see above).

9. BasiCare policies will be exempt from all current or future state benefit mandates. The federal pre-emption for BasiCare would also apply to state legislation restricting the use of managed care.

10. The health insurance tax deduction for self-employed persons would become the same as that for incorporated group plans. Currently, the group deduction is 100 percent while the self-employed receive 25 percent. Under the new program, the deduction for both categories would be the same—100 percent for the cost of the BasiCare package (see Section E.2 below).

11. Insurers will likely find it desirable to coordinate the development of reinsurance mechanisms (risk pools) to better accommodate the rating and underwriting changes noted above. As under current law, state governments will also be permitted to create or contribute to such pools.

12. Timing: The above-described system for national standardization of the new BasiCare package will go into effect following congressional approval of the Commission-proposed BasiCare package. This should occur three years after enactment. Preceding this will be a phase-in-period, beginning at enactment, in which the small employer market will be subject to a variety of somewhat milder rating and underwriting reforms aimed at increasing fairness and availability of coverage in that market.

C. BasiCare coverage for low-income beneficiaries

1. The new BasiCare package will replace and supplant current Medicaid coverage. This will apply not only to Medicaid's acute care coverage, but to its long-term care coverage as well.

2. The low-income BasiCare assistance program will be administered through non-transferrable federal vouchers redeemable directly to BasiCare carriers or employer plans. Such vouchers will indicate the applicable percentage of BasiCare costs a person or family is eligible to receive. Amounts corresponding to that percentage will be credited to the carrier by the BasiCare program.

3. To facilitate "one-stop shopping" for recipients, the process of application and approval for assistance will be coordinated with actual enrollment in a BasiCare plan.

4. This legislation specifies minimum income levels for which voucher assistance must be provided, but it leaves the Commission discretion to propose increases in these levels, as it may deem appropriate to correspond with the new BasiCare benefits package. At a minimum, persons below 100 percent of the federal poverty line will receive full voucher assistance, and persons between 100 and 200 percent of poverty will receive assistance on a sliding scale based on income. Importantly, even persons receiving

full voucher assistance will be required to pay a small per-service copayment to discourage overutilization.

5. The switch from Medicaid to BasiCare will assure that medical providers are no longer reimbursed at a lower level for treating low-income patients, as they are under the current Medicaid system.

6. To provide for a smooth transition from Medicaid to BasiCare, the Medicaid program will be retained as an administrative unit for a period of 5 years following standardization of BasiCare. During this transition period, present Medicaid-eligible beneficiaries will continue to receive any current Medicaid benefits that may not be included in the new BasiCare package.

7. Federal matching funds for Medicaid benefits not included in the BasiCare package will be discontinued at the end of the transition period, unless the Commission has recommended—and Congress has approved—an alternate plan for disposition of such benefits.

8. Most federal and state funding currently going to Medicaid will be transferred to the BasiCare low-income assistance program (see Section E.1 below).

D. Cost-containment through BasiCare

The BasiCare system will put in place several levers for maintaining cost-control in the health care system. These include:

1. The benefit package itself: The BasiCare Commission will be charged with limiting the scope of benefits to a reasonable minimum. Recognizing that defining a core is necessarily a subjective and difficult task, the Commission will nevertheless be largely insulated from the strong provider and consumer pressure that has led, for example, to expensive state benefit mandates under the current system.

2. Global restraint of BasiCare premium increases: Insurers will be required to limit annual increases in BasiCare premiums to a federally defined maximum percentage. More specifically, the BasiCare Commission each year will set a maximum allowable percentage for such premium increases. This percentage will be binding on all insurers.

As it initiates this system of premium increase limits, the BasiCare Commission will also have authority to establish an average base premium for the BasiCare package from which future allowable increases will be measured. This is to guard against the possibility of insurers setting initial rates unreasonably high in anticipation of future increase limits. The Commission will be permitted to apply limited geographic variation in the base rate to reflect regional differences in the cost of providing the BasiCare package.

By establishing a single maximum allowable percentage of increase, government will be putting insurers themselves at risk for rising costs, thereby creating a strong incentive for efficiency. The government's role will be simply to set the overall budget parameters; responsibility for finding the best way to live within these means will be left to the health care system itself. Unlike other cost-control proposals, this approach will avoid the pitfalls of government micro-management of specific insurance rates and provider fees.

It is likely that insurers will react to the new budget controls by forming organized care relationships with providers in order to share the financial risk with those providers. Under such arrangements, both insurers and providers will have a direct financial stake in keeping costs down and delivering care as efficiently as possible.

3. Oversight of provider billing: It is anticipated that the BasiCare premium limits described above will create a market situation in which the only way either providers or insurers can survive financially will be to enter into organized networks of care with each other, under which provider payment would be limited to a negotiated amount.

However, to guard against the possibility of unreasonable provider overcharges to consumers, this plan also gives the BasiCare Commission clear authority to intervene with balance billing limitations in the event such charges do become a problem.

4. Paperwork standardization: All billing and claims paperwork associated with BasiCare will be standardized across carriers, and steps will be taken to provide for universal electronic billing.

E. Financing of BasiCare

The cost-controls noted above should create sizeable reductions in the out-of-pocket costs now paid by most Americans for health care. Unavoidably, however, these savings will be at least partially offset by new costs associated with expanding coverage to the currently uninsured (see Section C. above).

Revenue sources included in this bill are:

1. A limited draw of funds from the current Social Security payroll tax, not to exceed 1 percent of the tax: The Social Security payroll tax is now set at a level higher than is necessary to assure adequate reserves for present and future retirees. As the consumer group Families U.S.A. and others have argued, it is appropriate that at least a modest portion of these resources be devoted to the very useful purpose of overhauling our declining health care system. Just 1 percent of the current tax would equate to $56 billion a year in 1996, and even more as time goes by.

2. Limiting the tax deduction and exclusion for employer contributions to employee benefit plans: Under current law, 100 percent of employer payments to employee health plans are deductible to the employer and tax-exempt to the employee. This will be changed to allow such deduction and exemption only for contributions associated with BasiCare coverage. Additional payments for supplemental coverage will be taxable.

3. "Capturing" existing Medicaid funding: As Medicaid is replaced by BasiCare, its current funding will be redirected to the BasiCare program. At the federal level, this will be accomplished by posting existing Medicaid expenditures to BasiCare and indexing the amount upward each year according to inflation. Similarly, the states will be required to contribute to BasiCare an amount proportionate to their current Medicaid match. This too, will be indexed upward with inflation.

F. Role of supplemental insurance

1. As mentioned above, BasiCare will act as the primary health insurance source for all citizens, but persons or groups will be able to purchase supplemental policies for services not covered by BasiCare.

Leaving room in the market for a supplemental insurance market will serve a dual purpose. First, it will allow persons or groups the freedom of choice to tailor coverage to their own particular needs. And second, a private supplemental market will provide greater incentives for the development of innovative treatments than might be the case were BasiCare the only available option.

2. To guard against potential abuses of the supplemental market, the BasiCare Commission is given strong oversight authority to monitor behavior in the new supplemental market and to intervene with explicit consumer protection or cost controls should market abuses or unreasonable cost growth develop.

G. Assimilation of Medicare

1. The Commission will be directed to develop a comprehensive proposal for integration of the current Medicare program into the BasiCare system. Such proposal, in legislative form, will be required no later than the fifth year after the new BasiCare system has been implemented. Such proposal will be considered in Congress under the same terms of limited debate as the initial BasiCare package (see Section A, below).

2. CHAMPUS and FEHBP would also be assimilated into the BasiCare system.

H. Expansion of community health services

New federal funding will be allocated for Community Health Centers (CHCs) and for other state and local public health clinics. Such centers have a good record of providing inexpensive, cost-effective treatment to indigent and low-income persons. Authorizes $600 million annually in new funding for these programs.

I. Malpractice reform

1. Provides federal preemption for comprehensive medical liability reforms, including mandatory periodic payment of future awards, limits on awards for noneconomic ($250,000) and punitive damages (no greater than total award of compensatory damages), reducing awards by the amount of compensation from collateral sources, and court determination of reasonable attorneys' fees;

2. Establishes a program of grants to states to encourage implementation of alternative dispute resolution (ADR) systems, such as fault-based, no-fault, or binding arbitration. Authorization is $250 million annually for three years.

3. Establishes demonstration projects to test implementation of no-fault systems of compensation. Authorization is $20 million annually for three years.

J. Joint use of equipment and services

1. Clarifies antitrust law regarding joint service ventures to facilitate collaboration among hospitals for the purpose of sharing expensive high technology equipment or services.

2. Specifically, this provision amends the National Cooperative Research Act to allow joint service ventures by two or more hospitals for the delivery of costly services. It will apply the rule-of-reason standard to joint service ventures that are challenged, allowing the court to consider the competitive benefits of the venture.

K. Expanding the supply of health professionals in rural areas

1. Significantly expands funding for the National Health Service Corps, a program to place doctors and other health professionals in underserved areas in exchange for scholarship or loan repayment assistance. Authorization is $120 million for each of the next five years.

2. Physicians will be allowed a tax credit equal to $1,000 a month for practice in a rural health professions shortage area. Nurse practitioners and physician assistants will be eligible for a similar credit equal to $500 per month.

3. Provides additional tax incentives for rural practice, including deductibility of National Health Service Corps loan repayments and deductibility for the cost of basic medical equipment.

S. 2346

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "BasiCare Health Access and Cost Control Act".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—IMMEDIATE REFORMS

Subtitle A—Small Employer Health Insurance Market Reform

Sec. 101. General requirements.
Sec. 102. General issuance requirements.
Sec. 103. Specific contractual requirements.
Sec. 104. State compliance agreements.
Sec. 105. Definitions and other rules.
Sec. 106. Amendment to the Internal Revenue Code of 1986.
Sec. 107. Effective date.

Subtitle B—Community Health Services Expansion

Sec. 111. Establishment of grant program.
Sec. 112. Program to provide for expansion of federally qualified health centers.

Subtitle C—Expansion of Tax Incentives for Self-Employed Individuals

Sec. 121. Permanent increase in deductible health insurance costs for self-employed individuals.

Subtitle D—Expanding the Supply of Health Professionals in Rural Areas

Sec. 131. Expansion of National Health Service Corps.
Sec. 132. Tax incentives for practice in rural areas.

Subtitle E—Malpractice Reform

PART I—DEFINITIONS

Sec. 141. Definitions.

PART II—TORT REFORM OF HEALTH CARE LIABILITY ACTIONS

Sec. 142. Application to civil actions.
Sec. 143. Damages.
Sec. 144. Joint and several liability.
Sec. 145. Statute of limitations.
Sec. 146. Preemption.
Sec. 147. Effective date.

PART III—ALTERNATIVE DISPUTE RESOLUTION SYSTEMS

Sec. 148. Grants for alternative dispute resolution systems.
Sec. 149. Establishment of advisory panel.
Sec. 150. Authorization.

PART IV—DEMONSTRATION PROJECTS FOR NO-FAULT COMPENSATION PROGRAMS

Sec. 151. Demonstration projects for no-fault compensation programs.

Subtitle F—Joint Ventures

Sec. 161. Amendment of the National Cooperative Research Act of 1984.

TITLE II—LONG-TERM REFORMS

Subtitle A—Establishment of Commission and Advisory Board

Sec. 201. The Commission on National Health Care Access and Reform.
Sec. 202. National Advisory Board.
Sec. 203. Authorization of appropriations.

Subtitle B—Reform and Standardization of Private Insurance

Sec. 211. Defining goals and guidelines of Commission.
Sec. 212. Development and submission of legislative proposal.
Sec. 213. Continuing duties and responsibilities of the Commission.
Sec. 214. Basicare benefits package.
Sec. 215. Insurance responsibilities under Basicare.
Sec. 216. Basicare base premium rate.
Sec. 217. Employer responsibilities under Basicare.
Sec. 218. Individual responsibilities under Basicare.
Sec. 219. Self-insured plan requirements.
Sec. 220. Development of standards for managed care plans.
Sec. 221. Preemption of provisions relating to managed care.

Subtitle C—Low-Income Assistance

Sec. 231. Transfer from Medicaid to BasiCare.
Sec. 232. Low-income assistance with costs of BasiCare insurance

Subtitle D—Congressional Consideration of Commission Recommendation

Sec. 241. Rules governing congressional consideration.

Subtitle E—Enforcement Provisions

Sec. 251. Enforcement provisions for carriers, providers, and employers.
Sec. 252. Enforcement provision for individuals.

Subtitle F—Financial Provisions

Sec. 261. BasiCare Trust Fund.
Sec. 262. Tax treatment of costs of BasiCare insurance.

Subtitle G—Definitions

Sec. 271. Definitions.

TITLE I—IMMEDIATE REFORMS

Subtitle A—Small Employer Health Insurance Market Reform

SEC. 101. GENERAL REQUIREMENTS.

Any person issuing an accident and health insurance contract to any small employer shall meet the requirements of sections 102 and 103.

SEC. 102. GENERAL ISSUANCE REQUIREMENTS.

(a) GENERAL RULE.—The requirements of this section are met if any person issuing an accident and health insurance contract to any small employer meets—

(1) the mandatory policy requirements of subsection (b), and

(2) the guaranteed issue requirements of subsection (c).

(b) MANDATORY POLICY REQUIREMENTS.—

(1) IN GENERAL.—The requirements of this subsection are met if any person issuing an accident and health insurance contract to any small employer makes available to such small employer an accident and health insurance contract which provides benefits which are identical to the core benefits described in subsection (d).

(2) PRICING AND MARKETING REQUIREMENTS.—The requirements of paragraph (1) are not met unless—

(A) the price at which the accident and health insurance contract is made available is not greater than the price for such contract determined on the same basis as prices for other accident and health insurance contracts within the same class of business made available by the person to small employers, and

(B) the accident and health insurance contract is made available to small employers using substantially the same marketing methods and other sales practices which are used in selling such other contracts.

(c) GUARANTEED ISSUE.—

(1) IN GENERAL.—The requirements of this subsection are met—

(A) if the person offering accident and health insurance contracts to small employers issues such contracts to any small employer seeking to enter into such a contract, and

(B) if the person offers a managed care arrangement in a State, or a geographic area within a State, to employers that are not small employers, the person offers such managed care arrangement to small employers in the State or geographic area.

(2) FINANCIAL CAPACITY EXCEPTION.—Paragraph (1)(A) shall not require any person to issue an accident and health insurance contract to the extent that the issuance of such contract would result in such person violating any financial solvency standards established by the State in which such contract is to be issued.

(3) EXCEPTIONS FOR CERTAIN EMPLOYERS.—Paragraph (1)(A) shall not apply to a failure to issue an accident and health insurance contract to a small employer if—

(A) the small employer is unable to pay the premium for such contract, or

(B) in the case of a small employer with fewer than 15 employees, such employer fails to enroll at least 60 percent of the employer's eligible employees for coverage under such contract.

(4) SIZE LIMITS FOR MANAGED CARE ARRANGEMENTS.—Paragraph (1)(B) shall not apply to any person who ceases to enroll new small employer groups in a managed care arrangement if it ceases to enroll any new employer groups in such arrangement.

(d) BENEFITS.—

(1) CORE BENEFITS.—For purposes of this section, the term "core benefits" means benefits which are the same benefits provided as of the date of the enactment of this Act under title XVIII of the Social Security Act to individuals entitled to benefits under part A, and enrolled for benefits under part B of such title.

(2) DEDUCTIBLES AND COPAYMENTS.—An accident and health insurance contract shall not be treated as providing the core benefits described in paragraph (1) unless the following requirements are met:

(A) DEDUCTIBLE.—The accident and health insurance contract does not require a deductible amount for any contract year in excess of $500 per individual or $1,000 per family with respect to the core benefits.

(B) LIMIT ON OUT-OF-POCKET EXPENSES.—The accident and health insurance contract does not require out-of-pocket expenses for any contract year in excess of $2,000 per individual or $3,000 per family for the core benefits.

(C) CHILDREN.—

(i) NO DEDUCTIBLES OR COINSURANCE.—In the case of children, there shall be no coinsurance, deductibles, or copayments applicable to covered benefits described in clause (ii).

(ii) ADDITIONAL PREVENTIVE BENEFITS.—Subject to the periodicity schedule established under clause (iii), benefits shall be available for children under the accident and health insurance contract for the following items and services:

(I) Newborn and well-baby care, including normal newborn care and pediatrician services for high-risk deliveries.

(II) Well-child care, including routine office visits, routine immunizations (including the vaccine itself), routine laboratory tests, and preventive dental care.

(iii) PERIODICITY SCHEDULE.—The Secretary, in consultation with the American Academy of Pediatrics, shall establish a schedule of periodicity which reflects the general, appropriate frequency with which services listed in clause (ii) should be provided to healthy children.

(iv) CHILD DEFINED.—For purposes of this subparagraph, the term "child" means an individual who has not attained age 23.

(D) PREGNANCY-RELATED SERVICES.—

(i) NO DEDUCTIBLES OR COINSURANCE.—In the case of a pregnant woman, there shall be no coinsurance, deductibles, or copayments applicable to covered benefits described in clause (ii).

(ii) ADDITIONAL BENEFITS.—Subject to the periodicity schedule established under clause (iii), benefits shall be available for pregnant women under the accident and health insurance contract for the following items and services:

(I) Prenatal care, including care for all complications of pregnancy.

(II) Inpatient labor and delivery services.

(III) Postnatal care.

(IV) Postnatal family planning services.

(iii) PERIODICITY SCHEDULE.—The Secretary, in consultation with the American College of Obstetrics and Gynecology, shall establish a schedule of periodicity which reflects the general, appropriate frequency with which services listed in clause (ii) should be provided to pregnant women without complications of pregnancy.

(iv) PREGNANT WOMAN.—For purposes of this subparagraph, the term "pregnant woman" means a woman who has been certified by a physician (in a manner specified by the Secretary) as being pregnant and such woman shall be a pregnant woman for the purposes of this subparagraph until the last day of the month in which the 60-day period beginning on the date of termination of the pregnancy ends.

(3) PREEMPTION.—To the extent that the laws of any State or local government regulate or otherwise provide any requirement relating to the benefits to be provided under an accident and health insurance contract which are inconsistent with the provisions of this Act, they are preempted.

SEC. 103. SPECIFIC CONTRACTUAL REQUIREMENTS.

(a) GENERAL RULE.—The requirements of this section are met if any person issuing an accident and health insurance contract to any small employer meets—

(1) the coverage requirements of subsection (b), and

(2) the rating requirements of subsection (c).

(b) COVERAGE REQUIREMENTS.—

(1) IN GENERAL.—The requirements of this subsection are met with respect to any accident and health contract if, under the terms and operation of the contract, the following requirements are met:

(A) GUARANTEED ELIGIBILITY.—No eligible employee (and the spouse or any dependent child (as defined in section 102(d)(2)(C)(iv)) of the employee eligible for coverage) may be excluded from coverage under the contract.

(B) LIMITATIONS ON COVERAGE OF PREEXISTING CONDITIONS.—Any limitation under the contract on any preexisting condition—

(i) may not extend beyond the 6-month period beginning with the date an insured individual is first covered by the contract, and

(ii) may only apply to preexisting conditions which manifested themselves, or for which medical care or advice was sought or recommended, during the 3-month period preceding the date an insured individual is first covered by the contract.

(C) GUARANTEED RENEWABILITY.—

(i) IN GENERAL.—The contract must be renewed at the election of the small employer unless the contract is terminated for cause.

(ii) CAUSE.—For purposes of this subparagraph, the term "cause"—

(I) includes nonpayment of premiums, fraud or misrepresentation, noncompliance with contract provisions (including participation requirements), or misuse of network provisions, but

(II) does not include any reason related to risk characteristics.

(2) WAITING PERIODS.—Paragraph (1)(A) shall not apply to any period an eligible employee is excluded from coverage under the contract solely by reason of a requirement applicable to all employees that a minimum period of service with the employer is required before the employee is eligible for such coverage.

(3) DETERMINATION OF PERIODS FOR RULES RELATING TO PREEXISTING CONDITIONS.—For purposes of paragraph (1)(B), the date on which an insured individual is first covered by an accident and health insurance contract shall be the earlier of—

(A) the date on which coverage under such contract begins, or

(B) the first day of any continuous period—

(i) during which the insured individual was covered under 1 or more other health insurance arrangements, and

(ii) which does not end more than 120 days before the date employment for the employer begins.

(4) CESSATION OF SMALL EMPLOYER HEALTH INSURANCE BUSINESS.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, a person shall not be treated as failing to meet the requirements of paragraph (1)(C) if such person terminates the class of business which includes the accident and health insurance contract.

(B) NOTICE REQUIREMENT.—Subparagraph (A) shall apply only if the person gives notice of the decision to terminate at least 90 days before the expiration of the contract.

(C) 5-YEAR MORATORIUM.—If, within 5 years of the year in which a person terminates a class of business under subparagraph (A), such person establishes a new class of business which includes contracts within the class of business so terminated, the issuance of such contracts in that year shall be treated as a failure to meet the requirements of paragraph (1)(C).

(D) TRANSFERS.—If, upon a failure to renew a contract to which subparagraph (A) applies, a person transfers such contract to another class of business, such transfer must be made without regard to any risk characteristic.

(c) RATING REQUIREMENTS.—The requirements of this subsection are met with respect to any accident and health contract if the following requirements are met:

(1) LIMITATION ON VARIATION OF PREMIUMS BETWEEN CLASSES OF BUSINESS.—

(A) IN GENERAL.—The base premium rate for any class of business of a person issuing an accident and health insurance contract to a small employer may not exceed the base premium rate for any other class of business by more than 20 percent.

(B) EXCEPTIONS.—Subparagraph (A) shall not apply to a class of business if the applicable regulatory authority determines that—

(i) the class is one for which the person does not reject, and never has rejected, small employers included within the definition of employers eligible for the class of business or otherwise eligible employees and dependents who enroll on a timely basis, based upon their claims experience, health status, industry, or occupation,

(ii) the person does not transfer, and never has transferred, an accident and health insurance contract involuntarily into or out of the class of business, and

(iii) accident and health insurance contracts offered under the class of business are currently available for purchase by small employers at the time an exception to subparagraph (A) is sought by the person.

(2) LIMIT ON VARIATION IN PREMIUM RATES WITHIN A CLASS OF BUSINESS.—For a class of business of a person issuing an accident and health insurance contract to a small employer, the highest premium rates charged during a rating period to small employers with similar demographic characteristics (including age, sex, and geography and not relating to claims experience, health status, industry, occupation, or duration of coverage since issue) for the same or similar coverage, or the highest rates which could be charged to such employers under the rating system for that class of business, shall not exceed an amount that is 1.5 times the base premium rate for the class of business for a rating period (or portion thereof) that occurs in the first 3 years in which this subsection is in effect, and 1.35 times the base premium rate thereafter.

(3) CONSISTENT APPLICATION OF RATING FACTORS.—In establishing premium rates for any accident and health insurance contract offered to small employers—

(A) the person making adjustments with respect to age, sex, or geography must apply such adjustments consistently across small employers, and

(B) no person may use a geographic area that is smaller than a county or smaller than an area that includes all areas in which the first three digits of the zip code are identical, whichever is smaller.

(4) LIMIT ON TRANSFER OF EMPLOYERS AMONG CLASSES OF BUSINESS.—

(A) IN GENERAL.—A person issuing an accident and health insurance contract to a small employer may not transfer a small employer from one class of business to another without the consent of the employer.

(B) OFFERS TO TRANSFER.— The person may not offer to transfer a small employer from one class of business to another unless—

(i) the offer is made without regard to age, sex, geography, claims experience, health status, industry, occupation or the date on which the policy was issued, and

(ii) the same offer is made to all other small employers in the same class of business.

(5) LIMITS ON VARIATION IN PREMIUM INCREASES.—The percentage increase in the premium rate charged to a small employer for a new rating period (determined on an annual basis) may not exceed the sum of the percentage change in the base premium rate plus 5 percentage points.

(6) FULL DISCLOSURE OF RATING PRACTICES.—

(A) IN GENERAL.—At the time a person offers an accident and health insurance contract to a small employer, the person shall fully disclose to the employer all of the following:

(i) Rating practices for small employer accident and health insurance contracts, including rating practices for different populations and benefit designs.

(ii) The extent to which premium rates for the small employer are based on risk characteristics and on factors other than risk characteristics.

(iii) The provisions concerning the person's right to change premium rates, the extent to which premiums can be modified, and the factors which affect changes in premium rates.

(iv) The class of business within which the contract falls, including a description of the grouping of contracts within a class of business.

(B) NOTICE ON EXPIRATION.—A person issuing accident and health insurance contracts to small employers shall provide for notice, at least 60 days before the date of expiration of the accident and health insurance contract, of the terms for renewal of the contract. Such notice shall include an explanation of the extent to which any increase in premiums is due to actual or expected claims experience of the individuals covered under the small employer's accident and health insurance contract.

(7) ACTUARIAL CERTIFICATION.—Each person issuing an accident and health contract to a small employer shall file annually with the applicable regulatory authority a written statement by a qualified health actuary (or other individual acceptable to such authority) that, based upon an examination by the individual which includes a review of the appropriate records and of the actuarial assumptions of the person and methods used by the person in establishing premium rates for small employer accident and health insurance contracts—

(A) the person is in compliance with the applicable provisions of this subsection, and

(B) the rating methods are actuarially sound.

(8) RECORDKEEPING.—Each person issuing an accident and health insurance contract to a small employer shall retain for examination at its principal place of business a complete and detailed description of its rating and renewal underwriting practices and the information on which such practices are based, including the statement described in paragraph (7).

SEC. 104. STATE COMPLIANCE AGREEMENTS.

(a) AGREEMENTS.—The Secretary may, in the discretion of the Secretary, enter into an agreement with any State—

(1) to apply the standards set by the laws of such State for accident and health insurance contracts issued by any person to any small employer in lieu of the requirements of section 102, or

(2) to provide for the State to make the initial determination as to whether a person is in compliance with the provisions of section 102.

(b) STANDARDS.—An agreement may be entered into under subsection (a)(1) only if—

(1) the chief executive officer of the State requests such agreement be entered into,

(2) the Secretary determines that the State standards to be applied under the agreement will apply to substantially all accident and health insurance contracts issued to small employers in such State, and

(3) the Secretary determines that the application of the State standards will carry out the purposes of section 102.

(c) LIMITATION ON WAIVER.—Any agreement entered into under subsection (a)(1) shall not waive the mandatory policy requirements under section 102(b).

(d) TERMINATION.—The Secretary shall terminate any agreement if the Secretary determines that the application of State standards ceases to carry out the purposes of this section.

SEC. 105. DEFINITIONS AND OTHER RULES.

For purposes of this subtitle:

(1) ACCIDENT AND HEALTH INSURANCE CONTRACT.—

(A) IN GENERAL.—The term "accident and health insurance contract" means a contract under which a person authorized under applicable State insurance laws provides a health insurance plan or arrangement to a small employer. Such term does not include any self-insured plan of an employer.

(B) CERTAIN CONTRACTS NOT COVERED.—The term "accident and health insurance contract" does not include any contract—

(i) which provides for accident only, dental only, or disability only coverage,

(ii) which provides coverage as a supplement to liability insurance,

(iii) which provides insurance arising out of a workmen's compensation or similar law, or automobile medical-payment insurance, or

(iv) which provides insurance which is required by law to be contained under any self-insured plan of an employer.

(2) BASE PREMIUM RATE.—The term "base premium rate" means, for each class of business for each rating period, the lowest premium rate which could have been charged under a rating system for that class of business by the person issuing accident and health insurance contracts to small employers with similar demographic or other relevant characteristics (including age, sex, and geography and not relating to claims experience, health status, industry, occupation or duration of coverage since issue) for accident and health insurance contracts with the same or similar coverage.

(3) CLASS OF BUSINESS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term "class of business" means, with respect to a person, all of the small employers with an accident and health insurance contract issued by the person.

(B) DISTINCT GROUPS.—

(i) IN GENERAL.—Subject to clause (ii), a distinct group of small employers with accident and health insurance contracts issued by a person may be treated as a class of business by such person if all of the contracts in such group—

(I) are marketed and sold through individuals and organizations that do not participate in the marketing or sale of other distinct groups by the person,

(II) have been acquired from another person as a distinct group, or

(III) are provided through an association with membership of not less than 25 small employers that has been formed for purposes other than obtaining health insurance.

(ii) EXCEPTION ALLOWED.—Except as provided in subparagraph (C), a person may not establish more than one distinct group of small employers for each category specified in clause (i).

(C) SPECIAL RULE.—A person may establish up to 2 groups under each category in subparagraph (A) or (B) to account for differences in characteristics (other than differences in contract benefits) of accident and health insurance contracts that are expected to produce substantial variation in health care costs.

(4) MANAGED HEALTH CARE ARRANGEMENT.—The term "managed health care arrangement" means an arrangement which integrates the financing and delivery of health care services to covered individuals by employing the following:

(A) Contracts with selected health care providers to furnish health care services to members.

(B) The adoption of explicit standards for the selection and recertification of providers.

(C) An explicit, formal program for ongoing quality assurance and utilization review.

(D) Significant financial incentives for members to use the providers and procedures associated with the arrangement.

(5) CHARACTERISTICS.—

(A) IN GENERAL.—The term "characteristics" means, with respect to any insurance rating system, the factors used in determining rates.

(B) RISK CHARACTERISTICS.—The term "risk characteristics" means factors related to the health risks of individuals, including health status, prior claims experience, the duration since the date of issue of a health insurance plan or arrangement, industry, and occupation.

(C) GEOGRAPHIC FACTORS.—In applying geographic location as a characteristic, a person may not use for purposes of this subtitle areas smaller than Census Bureau designations of metropolitan statistical areas and nonmetropolitan statistical areas.

(6) ELIGIBLE EMPLOYEE.—The term "eligible employee" means, with respect to an employer, any employee who normally works at least 30 hours per week for that employer. For purposes of this paragraph, the term "employee" includes a self-employed individual as defined in section 401(c)(1) of the Internal Revenue Code of 1986.

(7) PERSON.—The term "person" includes a licensed insurance company, a prepaid hospital or medical service plan, a health maintenance organization, or in States which have distinct insurance licensure requirements, a multiple employer welfare arrangement.

(8) QUALIFIED HEALTH ACTUARY.—The term "qualified health actuary" means a member of the American Academy of Actuaries who is qualified by reason of prior and continuing education and relevant experience to render the actuarial opinion.

(9) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services, or the delegate of the Secretary.

(10) SMALL EMPLOYER.—The term "small employer" means, with respect to a calendar year, an employer who normally employs more than 1 but less than 51 eligible employees on a typical business day. For purposes of the preceding sentence, all employers covered under the same health insurance plan or arrangement covered by a contract shall be treated as 1 employer.

SEC. 106. AMENDMENT TO THE INTERNAL REVENUE CODE OF 1986.

(a) IN GENERAL.—Chapter 47 of the Internal Revenue Code of 1986 (relating to excise taxes on qualified pension, etc. plans) is amended by adding at the end thereof the following new section:

"SEC. 5000A. FAILURE TO SATISFY CERTAIN STANDARDS FOR HEALTH INSURANCE.

"(a) GENERAL RULE.—In the case of any person issuing an accident and health insurance contract to a small employer, there is hereby imposed a tax on the failure of such person to meet at any time during any taxable year the applicable requirements of section 101 of the BasiCare Health Access and Cost Control Act. The Secretary of Health and Human Services shall determine whether any person meets the requirements of such section.

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—The amount of tax imposed by subsection (a) by reason of 1 or more failures during a taxable year shall be equal to 35 percent of the gross premiums received during such taxable year with respect to all accident and health insurance contracts issued to a small employer by the person on whom such tax is imposed.

"(2) GROSS PREMIUMS.—For purposes of paragraph (1), gross premiums shall include any consideration received with respect to any accident and health insurance contract.

"(3) CONTROLLED GROUPS.—For purposes of paragraph (1)—

"(A) CONTROLLED GROUP OF CORPORATIONS.—All corporations which are members of the same controlled group of corporations shall be treated as 1 person. For purposes of the preceding sentence, the term 'controlled group of corporations' has the meaning given to such term by section 1563(a), except that—

"(i) 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a)(1), and

"(ii) the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.

"(B) PARTNERSHIPS, PROPRIETORSHIPS, ETC., WHICH ARE UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, all trades or business (whether or not incorporated) which are under common control shall be treated as 1 person. The regulations prescribed under this subparagraph shall be based on principles similar to the principles which apply in the case of subparagraph (A).

"(c) LIMITATION ON TAX.—

"(1) TAX NOT TO APPLY WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No tax shall be imposed by subsection (a) with respect to any failure for which it is established to the satisfaction of the Secretary that the person on whom the tax is imposed did not know, and exercising reasonable diligence would not have known, that such failure existed.

"(2) TAX NOT TO APPLY WHERE FAILURES CORRECTED WITHIN 30 DAYS.—No tax shall be imposed by subsection (a) with respect to any failure if—

"(A) such failure was due to reasonable cause and not to willful neglect, and

"(B) such failure is corrected during the 30-day period beginning on the first date any of the persons on whom the tax is imposed knew, or exercising reasonable diligence would have known, that such failure existed.

"(3) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive relative to the failure involved.

"(d) DEFINITIONS.—For purposes of this section the terms 'accident and health insurance contract', 'small employer', 'eligible employee', and 'person' shall have the same meanings given such terms under section 105 of the BasiCare Health Access and Cost Control Act.".

(b) NONDEDUCTIBILITY OF TAX.—Paragraph (6) of section 275(a) of such Code (relating to nondeductibility of certain taxes) is amended by inserting "47," after "46,".

(c) CLERICAL AMENDMENTS.—The table of sections for such chapter 47 is amended by adding at the end thereof the following new item:

"Sec. 5000A. Failure to satisfy certain standards for health insurance.".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a) and (c) shall take effect on the date of the enactment of this Act.

(2) NONDEDUCTIBILITY OF TAX.—The amendment made by subsection (b) shall apply to taxable years beginning after December 31, 1992.

SEC. 107. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in section 106 and subsection (b), this subtitle shall apply to contracts issued, or renewed, after the date of the enactment of this Act and before the effective date of the legislation described in section 212(a) or 213(a) of this Act.

(b) GUARANTEED ISSUE.—The provisions of section 102(c) shall apply to contracts which are issued, or renewed, after the date which is 12 months after the date of the enactment of this Act and before the effective date of the legislation described in section 212(a) or 213(a) of this Act.

Subtitle B—Community Health Services Expansion

SEC. 111. ESTABLISHMENT OF GRANT PROGRAM.

Subpart I of part D of title III of the Public Health Service Act (42 U.S.C. 254b et seq.) is amended by adding at the end thereof the following new section:

"SEC. 330A. COMMUNITY-BASED PRIMARY HEALTH CARE GRANT PROGRAM.

"(a) ESTABLISHMENT.—The Secretary shall establish and administer a program to provide allotments to States to enable such States to provide grants for the creation or enhancement of community-based primary health care entities that provide services to low-income or medically underserved populations.

"(b) ALLOTMENTS TO STATES.—

"(1) IN GENERAL.—From the amount available for allotment under subsection (h) for a fiscal year, the Secretary shall allot to each State an amount equal to the product of the grant share of the State (as determined under paragraph (2)) multiplied by such amount available.

"(2) GRANT SHARE.—

"(A) IN GENERAL.—For purposes of paragraph (1), the grant share of a State shall be the product of the need-adjusted population of the State (as determined under subparagraph (B)) multiplied by the Federal matching percentage of the State (as determined under subparagraph (C)), expressed as a percentage of the sum of the products of such factors for all States.

"(B) NEED-ADJUSTED POPULATION.—

"(i) IN GENERAL.—For purposes of subparagraph (A), the need-adjusted population of a State shall be the product of the total population of the State (as estimated by the Secretary of Commerce) multiplied by the need index of the State (as determined under clause (ii)).

"(ii) NEED INDEX.—For purposes of clause (i), the need index of a State shall be the ratio of—

"(I) the weighted sum of the geographic percentage of the State (as determined under clause (iii)), the poverty percentage of the State (as determined under clause (iv)), and the multiple grant percentage of the State (as determined under clause (v)); to

"(II) the general population percentage of the State (as determined under clause (vi)).

"(iii) GEOGRAPHIC PERCENTAGE.—

"(I) IN GENERAL.—For purposes of clause (ii)(I), the geographic percentage of the State shall be the estimated population of the State that is residing in nonurbanized areas (as determined under subclause (II)) expressed as a percentage of the total nonurbanized population of all States.

"(II) NONURBANIZED POPULATION.—For purposes of subclause (I), the estimated population of the State that is residing in nonurbanized areas shall be one minus the urbanized population of the State (as determined using the most recent decennial census), expressed as a percentage of the total population of the State (as determined using the most recent decennial census), multiplied by the current estimated population of the State.

"(iv) POVERTY PERCENTAGE.—For purposes of clause (ii)(I), the poverty percentage of the State shall be the estimated number of people residing in the State with incomes below 200 percent of the income official poverty line (as determined by the Office of Management and Budget) expressed as a percentage of the total number of such people residing in all States.

"(v) MULTIPLE GRANT PERCENTAGE.—For purposes of clause (ii)(I), the multiple grant percentage of the State shall be the amount of Federal funding received by the State under grants awarded under sections 329, 330, and 340, expressed as a percentage of the total amounts received under such grants by all States. With respect to a State, such percentage shall not exceed twice the general population percentage of the State under clause (vi) or be less than one-half of the States general population percentage.

"(vi) GENERAL POPULATION PERCENTAGE.—For purposes of clause (ii)(II), the general population percentage of the State shall be the total population of the State (as determined by the Secretary of Commerce) expressed as a percentage of the total population of all States.

"(C) FEDERAL MATCHING PERCENTAGE.—

"(i) IN GENERAL.—For purposes of subparagraph (A), the Federal matching percentage of the State shall be equal to one, less the State matching percentage (as determined under clause (ii)).

"(ii) STATE MATCHING PERCENTAGE.—For purposes of clause (i), the State matching percentage of the State shall be 0.25 multiplied by the ratio of the total taxable resource percentage (as determined under clause (iii)) to the need-adjusted population of the State (as determined under subparagraph (B)).

"(iii) TOTAL TAXABLE RESOURCE PERCENTAGE.—For purposes of clause (ii), the total taxable resources percentage of the State shall be the total taxable resources of a State (as determined by the Secretary of the Treasury) expressed as a percentage of the sum of the total taxable resources of all States.

"(3) ANNUAL ESTIMATES.—

"(A) IN GENERAL.—If the Secretary of Commerce does not produce the annual estimates required under paragraph (2)(B)(iv), such estimates shall be determined by multiplying the percentage of the population of the State that is below 200 percent of the income official poverty line as determined using the most recent decennial census by the most recent estimate of the total population of the State. Except as provided in subparagraph (B), the calculations required under this subparagraph shall be made based on the most recent 3-year average of the total taxable resources of individuals within the State.

"(B) DISTRICT OF COLUMBIA.—Notwithstanding subparagraph (A), the calculations required under such subparagraph with respect to the District of Columbia shall be based on the most recent 3-year average of the personal income of individuals residing within the District as a percentage of the personal income for all individuals residing within the District, as determined by the Secretary of Commerce.

"(4) MATCHING REQUIREMENT.—A State that receives an allotment under this section shall make available State resources (either directly or indirectly) to carry out this section in an amount that shall equal the State matching percentage for the State (as determined under paragraph (2)(C)(ii)) divided by the Federal matching percentage (as determined under paragraph (2)(C)).

"(c) APPLICATION.—

"(1) IN GENERAL.—To be eligible to receive an allotment under this section, a State shall prepare and submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may by regulation require.

"(2) ASSURANCES.—A State application submitted under paragraph (1) shall contain an assurance that—

"(A) the State will use amounts received under its allotment consistent with the requirements of this section; and

"(B) the State will provide, from non-Federal sources, the amounts required under subsection (b)(4).

"(d) USE OF FUNDS.—

"(1) IN GENERAL.—The State shall use amounts received under this section to award grants to eligible public and nonprofit private entities, or consortia of such entities, within the State to enable such entities or consortia to provide services of the type described in paragraph (2) of section 329(h) to low-income or medically underserved populations.

"(2) ELIGIBILITY.—To be eligible to receive a grant under paragraph (1), an entity or consortium shall—

"(A) prepare and submit to the administering entity of the State, an application at such time, in such manner, and containing such information as such administering entity may require, including a plan for the provision of services of the type described in paragraph (3);

"(B) provide assurances that services will be provided under the grant at fee rates established or determined in accordance with section 330(e)(3)(F); and

"(C) provide assurances that in the case of services provided to individuals with health insurance, such insurance shall be used as the primary source of payment for such services.

"(3) SERVICES.—The services to be provided under a grant awarded under paragraph (1) shall include—

"(A) one or more of the types of primary health services described in section 330(b)(1);

"(B) one or more of the types of supplemental health services described in section 330(b)(2); and

"(C) any other services determined appropriate by the administering entity of the State.

"(4) TARGET POPULATIONS.—Entities or consortia receiving grants under paragraph (1) shall, in providing the services described in paragraph (3), substantially target populations of low-income or medically underserved populations within the State who reside in medically underserved or health professional shortage areas, areas certified as underserved under the rural health clinic program, or other areas determined appropriate by the administering entity of the State, within the State.

"(5) PRIORITY.—In awarding grants under paragraph (1), the State shall—

"(A) give priority to entities or consortia that can demonstrate through the plan submitted under paragraph (2) that—

"(i) the services provided under the grant will expand the availability of primary care services to the maximum number of low-income or medically underserved populations who have no access to such care on the date of the grant award; and

"(ii) the delivery of services under the grant will be cost-effective; and

"(B) ensure that an equitable distribution of funds is achieved among urban and rural entities or consortia.

"(e) REPORTS AND AUDITS.—Each State shall prepare and submit to the Secretary annual reports concerning the State's activities under this section which shall be in such form and contain such information as the Secretary determines appropriate. Each such State shall establish fiscal control and fund accounting procedures as may be necessary to assure that amounts received under this section are being disbursed properly and are accounted for, and include the results of audits conducted under such procedures in the reports submitted under this subsection.

"(f) PAYMENTS.—

"(1) ENTITLEMENT.—Each State for which an application has been approved by the Secretary under this section shall be entitled to payments under this section for each fiscal year in an amount not to exceed the State's allotment under subsection (b) to be expended by the State in accordance with the terms of the application for the fiscal year for which the allotment is to be made.

"(2) METHOD OF PAYMENTS.—The Secretary may make payments to a State in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

"(3) STATE SPENDING OF PAYMENTS.—Payments to a State from the allotment under subsection (b) for any fiscal year must be expended by the State in that fiscal year or in the succeeding fiscal year.

"(g) DEFINITION.—As used in this section, the term 'administering entity of the State' means the agency or official designated by the chief executive officer of the State to administer the amounts provided to the State under this section.

"(h) FUNDING.—Notwithstanding any other provision of law, the Secretary shall use 50 percent of the amounts that the Secretary is required to utilize under section 330B(h) in each fiscal year to carry out this section.".

SEC. 112. PROGRAM TO PROVIDE FOR EXPANSION OF FEDERALLY QUALIFIED HEALTH CENTERS.

(a) IN GENERAL.—Subpart I of part D of title III of the Public Health Service Act (42 U.S.C. 254b et seq.) (as amended by section 111) is further amended by adding at the end thereof the following new section:

"SEC. 330B. PROGRAM TO PROVIDE FOR EXPANSION OF FEDERALLY QUALIFIED HEALTH CENTERS.

"(a) ESTABLISHMENT OF HEALTH SERVICES ACCESS PROGRAM.—From amounts appropriated under this section, the Secretary shall, acting through the Bureau of Health Care Delivery Assistance, award grants under this section to federally qualified health centers (hereafter referred to in this section as 'FQHCs') and other entities and organizations submitting applications under this section (as described in subsection (c)) for the purpose of providing access to services for medically underserved populations (as defined in section 330(b)(3)) or in high impact areas (as defined in section 329(a)(5)) not currently being served by a FQHC.

"(b) ELIGIBILITY FOR GRANTS.—

"(1) IN GENERAL.—The Secretary shall award grants under this section to entities or organizations described in this paragraph and paragraph (2) which have submitted a proposal to the Secretary to expand such entities or organizations operations (including expansions to new sites (as determined necessary by the Secretary)) to serve medically underserved populations or high impact areas not currently served by a FQHC and which—

"(A) have as of the date of enactment of the BasiCare Health Access and Cost Control Act, been certified by the Secretary as a FQHC under section 1905(l)(2)(B) of the Social Security Act;

"(B) have submitted applications to the Secretary to qualify as FQHCs under section 1905(l)(2)(B) of the Social Security Act; or

"(C) have submitted a plan to the Secretary which provides that the entity or organization will meet the requirements to qualify as a FQHC when operational.

"(2) NON-FQHC ENTITIES.—

"(A) ELIGIBILITY.—The Secretary shall also make grants under this section to any public or private nonprofit agency, or any health care entity or organization which—

"(i) meets the requirements necessary to qualify as a FQHC, except the requirement that such agency, entity, or organization has a consumer majority governing board,

"(ii) has submitted a proposal to the Secretary to provide those services provided by a FQHC as defined in section 1905(l)(2)(B) of the Social Security Act, and

"(iii) is designed to promote access to primary care services or to reduce reliance on hospital emergency rooms or other high cost providers of primary health care services,

provided that the proposal described in clause (ii) is developed by the agency, entity, or organization (or such agencies, entities, or organizations acting in a consortium in a community) with the review and approval of the Governor of the State in which such agency, entity, or organization is located.

"(B) LIMITATION.—The Secretary shall provide in making grants to entities or organizations described in this paragraph that not more than 10 percent of the funds provided for grants under this section shall be made available for grants to such entities or organizations.

"(c) APPLICATION REQUIREMENTS.—

"(1) IN GENERAL.—In order to be eligible to receive a grant under this section, a FQHC or other entity or organization must submit an application in such form and at such time as the Secretary shall prescribe and which meets the requirements of this subsection.

"(2) REQUIREMENTS.—An application submitted under this section must provide—

"(A)(i) for a schedule of fees or payments for the provision of the services provided by the entity or organization designed to cover its reasonable costs of operations; and

"(ii) for a corresponding schedule of discounts to be applied to such fees or payments, based upon the patient's ability to pay (determined by using a sliding scale formula based on the income of the patient);

"(B) assurances that the entity or organization provides services to persons who are eligible for benefits under title XVIII of the Social Security Act, for medical assistance under title XIX of such Act, or for assistance for medical expenses under any other public assistance program or private health insurance program; and

"(C) assurances that the entity or organization has made and will continue to make every reasonable effort to collect reimbursement for services—

"(i) from persons eligible for assistance under any of the programs described in subparagraph (B); and

"(ii) from patients not entitled to benefits under any such programs.

"(d) LIMITATIONS ON USE OF FUNDS.—

"(1) IN GENERAL.—From the amounts awarded to a FQHC or other entity or organization under this section, funds may be used for purposes of planning but may only be expended for the costs of—

"(A) assessing the needs of the populations or proposed areas to be served;

"(B) preparing a description of how the needs identified will be met; and

"(C) development of an implementation plan that addresses—

"(i) recruitment and training of personnel; and

"(ii) activities necessary to achieve operational status in order to meet FQHC requirements under 1905(l)(2)(B) of the Social Security Act.

"(2) RECRUITING, TRAINING AND COMPENSATION OF STAFF.—From the amounts awarded to an entity or organization under this section, funds may be used for the purposes of paying for the costs of recruiting, training, and compensating staff (clinical and associated administrative personnel (to the extent such costs are not already reimbursed under title XIX of the Social Security Act or any other State or Federal program)) to the extent necessary to allow the entity or organization to operate at new or expanded existing sites.

"(3) FACILITIES AND EQUIPMENT.—From the amounts awarded to an entity or organization under this section, funds may be expended for the purposes of acquiring facilities and equipment but only for the costs of—

"(A) construction of new buildings (to the extent that new construction is found to be the most cost-efficient approach by the Secretary);

"(B) acquiring, expanding, or modernizing existing facilities;

"(C) purchasing essential (as determined by the Secretary) equipment; and

"(D) amortization of principal and payment of interest on loans obtained for purposes of site construction, acquisition, modernization, or expansion, as well as necessary equipment.

"(4) SERVICES.—From the amounts awarded to an entity or organization under this section, funds may be expended for the payment of services but only for the costs of—

"(A) providing or arranging for the provision of all services through the entity or organization necessary to qualify such entity or organization as a FQHC under section 1905(l)(2)(B) of the Social Security Act;

"(B) providing or arranging for any other service that a FQHC may provide and be reimbursed for under title XIX of the Social Security Act; and

"(C) providing any unreimbursed costs of providing services as described in section 330(a) to patients.

"(e) PRIORITIES IN THE AWARDING OF GRANTS.—

"(1) CERTIFIED FQHCS.—The Secretary shall give priority in awarding grants under this section to entities and organizations which have, as of the date of enactment of the BasiCare Health Access and Cost Control Act, been certified as a FQHC under section 1905(l)(2)(B) of the Social Security Act and which have submitted a proposal to the Secretary to expand their operations (including expansion to new sites) to serve medically underserved populations for high impact areas not currently served by a FQHC. The Secretary shall give first priority in awarding grants under this section to those FQHCs or other entities or organizations which propose to serve populations with the highest degree of unmet need, and which can demonstrate the ability to expand their operations in the most efficient manner.

"(2) QUALIFIED FQHCS.—The Secretary shall give second priority in awarding grants to entities and organizations which have submitted applications to the Secretary which demonstrate that the entities or organizations will qualify as FQHCs under section 1905(l)(2)(B) of the Social Security Act before they provide or arrange for the provision of services supported by funds awarded under this section, and which are serving or proposing to serve medically underserved populations or high impact areas which are not currently served (or proposed to be served) by a FQHC.

"(3) EXPANDED SERVICES AND PROJECTS.—The Secretary shall give third priority in awarding grants in subsequent years to those FQHCs or other entities or organizations which have provided for expanded services and projects and are able to demonstrate that such entities or organizations will incur significant unreimbursed costs in providing such expanded services.

"(f) RETURN OF FUNDS TO SECRETARY FOR COSTS REIMBURSED FROM OTHER SOURCES.—To the extent that a FQHC or other entity or organization receiving funds under this section is reimbursed from another source for the provision of services to an individual, and does not use such increased reimbursement to expand services furnished, to expand areas served, to compensate for costs of unreimbursed services provided to patients, or to promote recruitment, training, or retention of personnel, such excess revenues shall be returned to the Secretary.

"(g) TERMINATION OF GRANTS.—

"(1) FAILURE TO MEET FQHC REQUIREMENTS.—

"(A) IN GENERAL.—With respect to any entity or organization that is receiving funds awarded under this section and which subsequently fails to meet the requirements to qualify as a FQHC under section 1905(l)(2)(B) of the Social Security Act or is an entity or organization that is not required to meet the requirements to qualify as a FQHC under section 1905(l)(2)(B) of the Social Security Act but fails to meet the requirements of this section, the Secretary shall terminate the award of funds under this section to such entity or organization.

"(B) NOTICE.—Prior to any termination of funds under this section to an entity or organization, the entity or organization shall be entitled to 60 days' prior notice of termination and, as provided by the Secretary in regulations, an opportunity to correct any deficiencies in order to allow the entity or organization to continue to receive funds under this section.

"(2) REQUIREMENTS.—Upon any termination of funding under this section, the Secretary may (to the extent practicable)—

"(A) sell any property (including equipment) acquired or constructed by the entity or organization using funds made available under this section or transfer such property to another FQHC, except that the Secretary shall reimburse any costs which were incurred by the entity or organization in acquiring or constructing such property (including equipment) which were not supported by grants under this section; and

"(B) recoup any funds provided to an entity or organization terminated under this section.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $600,000,000 for each of the fiscal years 1993 through 1997.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective with respect to services furnished by a federally qualified health center or other qualifying entity or organization described in this section beginning on or after the date of enactment of this Act.

Subtitle C—Expansion of Tax Incentives for Self-Employed Individuals

SEC. 121. PERMANENT INCREASE IN DEDUCTIBLE HEALTH INSURANCE COSTS FOR SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—Paragraph (1) of section 162(l) of the Internal Revenue Code of 1986 (relating to special rules for health insurance costs of self-employed individuals) is amended by striking "25 percent" and inserting "100 percent".

(b) PERMANENT DEDUCTION.—Section 162(l) of such Code is amended by striking paragraph (6).

(c) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years beginning after the date of enactment of this Act.

Subtitle D—Expanding the Supply of Health Professionals in Rural Areas

SEC. 131. EXPANSION OF NATIONAL HEALTH SERVICE CORPS.

Section 338H(b) of the Public Health Service Act (42 U.S.C. 254q(b)) is amended—

(1) in paragraph (1), by striking "and such sums" and all that follows through the end thereof and inserting "$120,000,000 for each of the fiscal years 1992 through 1996."; and

(2) in paragraph (2)—

(A) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively; and

(B) by inserting before subparagraph (B) (as so redesignated) the following new subparagraph:

"(A) IN GENERAL.—Of the amount appropriated under paragraph (1) for each fiscal year, the Secretary shall utilize 25 percent of such amount to carry out section 338A and 75 percent of such amount to carry out section 338B.".

SEC. 132. TAX INCENTIVES FOR PRACTICE IN RURAL AREAS.

(a) NONREFUNDABLE CREDIT FOR CERTAIN PRIMARY HEALTH SERVICES PROVIDERS.—

(1) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to nonrefundable personal credits) is amended by inserting after section 25 the following new section:

"SEC. 25A. PRIMARY HEALTH SERVICES PROVIDERS.

"(a) ALLOWANCE OF CREDIT.—In the case of a qualified primary health services provider, there is allowed as a credit against the tax imposed by this chapter for any taxable year in a mandatory service period an amount equal to the product of—

"(1) the lesser of—

"(A) the number of months of such period occurring in such taxable year, or

"(B) 36 months, reduced by the number of months taken into account under this paragraph with respect to such provider for all preceding taxable years (whether or not in the same mandatory service period), multiplied by

"(2) $1,000 ($500 in the case of a qualified primary health services provider who is a physician assistant or a nurse practitioner).

"(b) QUALIFIED PRIMARY HEALTH SERVICES PROVIDER.—For purposes of this section, the term 'qualified primary health services provider' means any physician, physician assistant, or nurse practitioner who for any month during a mandatory service period is certified by the Bureau to be a primary health services provider who—

"(1) is providing primary health services—

"(A) full time, and

"(B) to individuals at least 80 percent of whom reside in a rural health professional shortage area, "(2) is not receiving during such year a scholarship under the National Health Service Corps Scholarship Program or a loan repayment under the National Health Service Corps Loan Repayment Program,

"(3) is not fulfilling service obligations under such Programs, and

"(4) has not defaulted on such obligations.

"(c) Mandatory Service Period.—For purposes of this section, the term 'mandatory service period' means the period of 60 consecutive calendar months beginning with the first month the taxpayer is a qualified primary health services provider.

"(d) Definitions and Special Rules.—For purposes of this section—

"(1) Bureau.—The term 'Bureau' means the Bureau of Health Care Delivery and Assistance, Health Resources and Services Administration of the United States Public Health Service.

"(2) Physician.—The term 'physician' has the meaning given to such term by section 1861(r) of the Social Security Act.

"(3) Physician assistant; nurse practitioner.—The terms 'physician assistant' and 'nurse practitioner' have the meanings given to such terms by section 1861(aa)(3) of the Social Security Act.

"(4) Primary health services provider.—The term 'primary health services provider' means a provider of primary health services (as defined in section 330(b)(1) of the Public Health Service Act).

"(5) Rural health professional shortage area.—The term 'rural health professional shortage area' means—

"(A) a class 1 or class 2 rural health professional shortage area (as defined in section 332(a)(1)(A) of the Public Health Service Act) in a rural area (as determined under section 1886(d)(2)(D) of the Social Security Act), or

"(B) an area which is determined by the Secretary of Health and Human Services as equivalent to an area described in subparagraph (A) and which is designated by the Bureau of the Census as not urbanized.

"(C) a community that is certified as underserved by the Secretary for purposes of participation in the rural health clinic program under title XVIII of the Social Security Act.

"(e) Recapture of Credit.—

"(1) In general.—If, during any taxable year, there is a recapture event, then the tax of the taxpayer under this chapter for such taxable year shall be increased by an amount equal to the product of—

"(A) the applicable percentage, and

"(B) the aggregate unrecaptured credits allowed to such taxpayer under this section for all prior taxable years.

"(2) Applicable recapture percentage.—

"(A) In general.—For purposes of this subsection, the applicable recapture percentage shall be determined from the following table:

"If the recapture event occurs during: during:	The applicable recapture percentage
Months 1–24	100
Months 25–36	75
Months 37–48	50
Months 49–60	25
Months 61 and thereafter	0.

"(B) Timing.—For purposes of subparagraph (A), month 1 shall begin on the first day of the mandatory service period.

"(3) Recapture event defined.—

"(A) In general.—For purposes of this subsection, the term 'recapture event' means the failure of the taxpayer to be a qualified primary health services provider for any month during any mandatory service period.

"(B) Cessation of designation.—The cessation of the designation of any area as a rural health professional shortage area after the beginning of the mandatory service period for any taxpayer shall not constitute a recapture event.

"(C) Secretarial waiver.—The Secretary may waive any recapture event caused by extraordinary circumstances.

"(4) No credits against tax.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under subpart A, B, or D of this part.".

(2) Clerical amendment.—The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 25 the following new item:

"Sec. 25A. Primary health services providers.".

(3) Effective date.—The amendments made by this subsection shall apply to taxable years beginning after the date of the enactment of this Act.

(b) National Health Service Corps Loan Repayments Excluded From Gross Income.—

(1) In general.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items specifically excluded from gross income) is amended by redesignating section 136 as section 137 and by inserting after section 135 the following new section:

"SEC. 136. NATIONAL HEALTH SERVICE CORPS LOAN REPAYMENTS.

"(a) General Rule.—Gross income shall not include any qualified loan repayment.

"(b) Qualified Loan Repayment.—For purposes of this section, the term 'qualified loan repayment' means any payment made on behalf of the taxpayer by the National Health Service Corps Loan Repayment Program under section 338B(g) of the Public Health Service Act.".

(2) Conforming amendment.—Paragraph (3) of section 338B(g) of the Public Health Service Act is amended by striking "Federal, State, or local" and inserting "State or local".

(3) Clerical amendment.—The table of sections for part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the item relating to section 136 and inserting the following:

"Sec. 136. National Health Service Corps loan repayments.

"Sec. 137. Cross references to other Acts.".

(4) Effective date.—The amendments made by this subsection shall apply to payments made under section 338B(g) of the Public Health Service Act after the date of the enactment of this Act.

(c) Expensing of Medical Equipment.—

(1) In general.—Section 179 of the Internal Revenue Code of 1986 (relating to election to expense certain depreciable business assets) is amended—

(A) by striking paragraph (1) of subsection (b) and inserting the following:

"(1) Dollar limitation.—

"(A) General rule.—The aggregate cost which may be taken into account under subsection (a) for any taxable year shall not exceed $10,000.

"(B) Rural health care property.—In the case of rural health care property, the aggregate cost which may be taken into account under subsection (a) for any taxable year shall not exceed $25,000, reduced by the amount otherwise taken into account under subsection (a) for such year."; and

(B) by adding at the end of subsection (d) the following new paragraph:

"(11) Rural health care property.—For purposes of this section, the term 'rural health care property' means section 179 property used by a physician (as defined in section 1861(r) of the Social Security Act) in the active conduct of such physician's full-time trade or business of providing primary health services (as defined in section 330(b)(1) of the Public Health Service Act) in a rural health professional shortage area (as defined in section 25A(d)(5)).".

(2) Effective date.—The amendments made by this subsection shall apply to property placed in service in taxable years beginning after the date of enactment of this Act.

(d) Deduction for Student Loan Payments by Medical Professionals Practicing in Rural Areas.—

(1) Interest on student loans not treated as personal interest.—Section 163(h)(2) of the Internal Revenue Code of 1986 (defining personal interest) is amended by striking "and" at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting ", and", and by adding at the end thereof the following new subparagraph:

"(F) any qualified medical education interest (within the meaning of subsection (k)).".

(2) Qualified medical education interest defined.—Section 163 of such Code (relating to interest expenses) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) Qualified Medical Education Interest of Medical Professionals Practicing in Rural Areas.—

"(1) In general.—For purposes of subsection (h)(2)(F), the term 'qualified medical education interest' means an amount which bears the same ratio to the interest paid on qualified educational loans during the taxable year by an individual performing services under a qualified rural medical practice agreement as—

"(A) the number of months during the taxable year during which such services were performed, bears to

"(B) the number of months in the taxable year.

"(2) Dollar limitation.—The aggregate amount which may be treated as qualified medical education interest for any taxable year with respect to any individual shall not exceed $5,000.

"(3) Qualified rural medical practice agreement.—For purposes of this subsection—

"(A) In general.—The term 'qualified rural medical practice agreement' means a written agreement between an individual and an applicable rural community under which the individual agrees—

"(i) in the case of a medical doctor, upon completion of the individual's residency (or internship if no residency is required), or

"(ii) in the case of a registered nurse, nurse practitioner, or physician's assistant, upon completion of the education to which the qualified education loan relates,

to perform full-time services as such a medical professional in the applicable rural community for a period of 24 consecutive months. An individual and an applicable rural community may elect to have the agreement apply for 36 consecutive months rather than 24 months.

"(B) Special rule for computing periods.—An individual shall be treated as meeting the 24 or 36 consecutive month requirement under subparagraph (A) if, during each 12-consecutive month period within either such period, the individual performs full-time services as a medical doctor, registered nurse, nurse practitioner, or physician's assistant, whichever applies, in the applicable rural community during 9 of the months in such 12-consecutive month period. For purposes of this subsection, an individual meeting the requirements of the preceding sentence shall be treated as performing services during the entire 12-month period.

"(C) APPLICABLE RURAL COMMUNITY.—The term 'applicable rural community' means—

"(i) any political subdivision of a State which—

"(I) has a population of 5,000 or less, and

"(II) has a per capita income of $15,000 or less, or

"(ii) an Indian reservation which has a per capita income of $15,000 or less.

"(4) QUALIFIED EDUCATIONAL LOAN.—The term 'qualified educational loan' means any indebtedness to pay qualified tuition and related expenses (within the meaning of section 117(b)) and reasonable living expenses—

"(A) which are paid or incurred—

"(i) as a candidate for a degree as a medical doctor at an educational institution described in section 170(b)(1)(A)(ii), or

"(ii) in connection with courses of instruction at such an institution necessary for certification as a registered nurse, nurse practitioner, or physician's assistant, and

"(B) which are paid or incurred within a reasonable time before or after such indebtedness is incurred.

"(5) RECAPTURE.—If an individual fails to carry out a qualified rural medical practice agreement during any taxable year, then—

"(A) no deduction with respect to such agreement shall be allowable by reason of subsection (h)(2)(F) for such taxable year and any subsequent taxable year, and

"(B) there shall be included in gross income for such taxable year the aggregate amount of the deductions allowable under this section (by reason of subsection (h)(2)(F)) for all preceding taxable years.

"(6) DEFINITIONS.—For purposes of this subsection, the terms 'registered nurse', 'nurse practitioner', and 'physician's assistant' have the meaning given such terms by section 1861 of the Social Security Act.".

(3) DEDUCTION ALLOWED IN COMPUTING ADJUSTED GROSS INCOME.—Section 62(a) of such Code is amended by inserting after paragraph (13) the following new paragraph:

"(14) INTEREST ON STUDENT LOANS OF RURAL HEALTH PROFESSIONALS.—The deduction allowable by reason of section 163(h)(2)(F) (relating to student loan payments of medical professionals practicing in rural areas).".

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after the date of the enactment of this Act.

Subtitle E—Malpractice Reform

PART I—DEFINITIONS

SEC. 141. DEFINITIONS.

For purposes of this subtitle:

(1) ALTERNATIVE DISPUTE RESOLUTION SYSTEM.—The term "alternative dispute resolution system" means a system that is enacted or adopted by a State to resolve health care liability actions as an alternative to a judicial proceeding in a Federal or State court.

(2) CONCERTED ACTION AND ACTING IN CONCERT.—The terms "concerted action" and "acting in concert" mean the participation in joint conduct by two or more persons who agree to jointly participate in such conduct with actual knowledge of the wrongfulness of the conduct.

(3) ECONOMIC LOSSES.—The term "economic losses" means losses for health care provider and medical expenses, lost wages, lost employment, and other pecuniary losses.

(4) HEALTH CARE LIABILITY ACTION.—The term "health care liability action" means any civil action or proceeding in any judicial tribunal brought pursuant to Federal or State law against a health care provider alleging that injury was suffered by the claimant as a result of any act or omission by such provider, without regard to the theory of liability asserted in the action. Such term includes a claim, third-party claim, cross-claim, counter-claim, or contribution claim.

(5) HEALTH CARE PROVIDER.—The term "health care provider" means—

(A) any individual who provides health care services in a State and who is required by State law or regulation to be licensed or certified by the State to provide such services in the State; and

(B) any organization or institution that is engaged in the delivery of health care services in a State and that is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State.

(6) INJURY.—The term "injury" means any injury, illness, disease, or other harm suffered by an individual as a result of the provision of health care services by a health care provider.

(7) NONECONOMIC LOSSES.—The term "noneconomic losses" means losses for physical and emotional pain, suffering, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of companionship, consortium, and other nonpecuniary losses.

(8) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(9) STATE.—The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, and Guam.

PART II—TORT REFORM OF HEALTH CARE LIABILITY ACTIONS

SEC. 142. APPLICATION TO CIVIL ACTIONS.

This part shall apply to any health care liability action brought in any Federal or State court. This part shall not be construed to create or effect any cause of action or theory of liability recognized in any Federal or State proceeding.

SEC. 143. DAMAGES.

(a) LIMITATION ON NONECONOMIC DAMAGES.—The total amount of damages which may be awarded to an individual and the family members of such individual for noneconomic losses resulting from an injury which is the subject of a health care liability action may not exceed $250,000, regardless of the number of health care providers against whom such action is brought or the number of such actions brought with respect to the injury.

(b) PAYMENTS.—With respect to a health care liability action, no person may be required to pay more than $100,000 in a single payment for an award of damages for economic or noneconomic losses, but such person shall be permitted to make such payments on a periodic basis. The periods for such payments shall be determined by the court.

(c) MANDATORY OFFSETS FOR DAMAGES PAID BY A COLLATERAL SOURCE.—

(1) IN GENERAL.—The total amount of damages received by an individual in connection with a health care liability action shall be reduced, in accordance with paragraph (2), by any other payment which has been made or which will be made to such individual to compensate such individual for an injury, including payments under—

(A) Federal or State disability or sickness programs;

(B) Federal, State, or private health insurance programs;

(C) private disability insurance programs;

(D) employer wage continuation programs; and

(E) any other source of payment intended to compensate such individual for such injury.

(2) AMOUNT OF REDUCTION.—The amount by which an award of damages to an individual for an injury shall be reduced under paragraph (1) shall be—

(A) the total amount of any payments (other than such award) which have been made or which will be made to such individual to compensate such individual for such injury; minus

(B) the amount paid by such individual (or by the spouse, parent, or legal guardian of such individual) to secure the payments described in subparagraph (A).

(d) PUNITIVE DAMAGES.—

(1) LIMITATION.—With respect to a health care liability action, punitive damages may not exceed the sum of damages awarded for economic and noneconomic losses.

(2) DETERMINATION OF AMOUNT.—In determining the amount of punitive damages in a health care liability action, the trier of fact shall consider all relevant evidence, including—

(A) the severity of the harm caused by the conduct of the defendant;

(B) the duration of the conduct or any concealment of the conduct by the defendant;

(C) awards of punitive or exemplary damages to persons similarly situated to the claimant; and

(D) prospective awards of economic and noneconomic losses to persons similarly situated to the claimant.

(e) ATTORNEYS' FEES.—Compensation for reasonable attorneys' fees to be paid by each party in connection with a health care liability action shall be determined by the court after an evidentiary hearing and prior to final disposition of the action. Attorneys' fees shall be calculated on the basis of an hourly rate or as a percentage of the total damages awarded for economic and noneconomic losses and shall not exceed an amount that would be considered reasonable based on the following:

(1) The time, labor, and skill necessary to properly perform the legal services required by the action.

(2) The novelty and difficulty of the questions involved in the action.

(3) The likelihood, if apparent to the client, that the acceptance of employment with respect to the client's action will preclude other employment by the attorney.

(4) The fee customarily charged in the locality for similar legal services.

(5) The amount involved in the action and the results obtained.

(6) The time limitations imposed by the client or by the circumstances of the action.

(7) The nature and length of the professional relationship between the attorney or attorneys and the client.

(8) The experience, reputation, and ability of the attorney or attorneys performing the services in connection with the action.

(9) Whether the fee for services in connection with the action is fixed or contingent.

SEC. 144. JOINT AND SEVERAL LIABILITY.

(a) IN GENERAL.—With respect to a health care liability action, joint and several liability shall apply—

(1) to the liability of each defendant for damages for economic losses; and

(2) as between persons acting in concert where the concerted action proximately caused the injury for which one or more persons are found liable for damages.

(b) NONECONOMIC DAMAGES.—With respect to a health care liability action, joint and several liability shall not apply to the liability of each defendant for damages for noneconomic losses. A person found liable for damages for noneconomic losses in any such action may—

(1) be found liable, if at all, only for those damages directly attributable to the pro rata share of fault or responsibility of such person for the injury; and

(2) not be found liable for damages attributable to the pro rata share of fault or responsibility of any other person (without regard to whether that person is a party to the action) for the injury, including any person bringing the action.

SEC. 145. STATUTE OF LIMITATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), no health care liability action may be initiated after the expiration of the 2-year period that begins on the date on which the alleged injury should reasonably have been discovered, but in no event later than 4 years after the date of the alleged occurrence of the injury.

(b) EXCEPTION FOR MINORS.—In the case of an alleged injury suffered by a minor who has not attained 6 years of age, no health care liability action may be initiated after the expiration of the 2-year period that begins on the date on which the alleged injury should reasonably have been discovered, but in no event later than 4 years after the date of the alleged occurrence of the injury or the date on which the minor attains 8 years of age, whichever is later.

SEC. 146. PREEMPTION.

(a) IN GENERAL.—This part supersedes any state law only to the extent that state law establishes higher payment limits, permits the recovery of a greater amount of damages or the awarding of a greater amount of attorneys' fees, or establishes a longer period during which a health care liability action may be initiated.

(b) EFFECT ON SOVEREIGN IMMUNITY AND CHOICE OF LAW OR VENUE.—Nothing in this part shall be construed to—

(1) waive or affect any defense of sovereign immunity asserted by any State under any provision of law;

(2) waive or affect any defense of sovereign immunity asserted by the United States;

(3) affect the applicability of any provision of the Foreign Sovereign Immunities Act of 1976 (28 U.S.C. 1602 et seq.);

(4) preempt State choice-of-law rules with respect to actions brought by a foreign nation or a citizen of a foreign nation; or

(5) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss an action of a foreign nation or of a citizen of a foreign nation on the ground of inconvenient forum.

SEC. 147. EFFECTIVE DATE.

This part shall apply to any health care liability action initiated after the expiration of the 2-year period that begins on the date of the enactment of this Act.

PART III—ALTERNATIVE DISPUTE RESOLUTION SYSTEMS

SEC. 148. GRANTS FOR ALTERNATIVE DISPUTE RESOLUTION SYSTEMS.

(a) IN GENERAL.—The Secretary shall make grants to States from amounts appropriated under section 150 for the development and implementation of alternative dispute resolution systems, under such terms as the Secretary may require.

(b) APPLICATION.—

(1) IN GENERAL.—No grant may be made under this section unless an application is submitted to the Secretary. Any such application shall—

(A) be submitted to the Secretary within 1 year after the notification of availability of funds by the Secretary; and

(B) either—

(i) contain a certification by the chief executive officer of the State that, on the date the application is submitted, the State has enacted, adopted, or otherwise has in effect an alternative dispute resolution system; or

(ii) contain a certification by the chief executive officer of the State that, on the date the application is submitted, the State plans to develop an alternative dispute resolution system.

(2) SUPPORTING DOCUMENTATION.—The certification required—

(A) under paragraph (1)(B)(i) shall be accompanied by supporting documentation, including copies of relevant State statutes, rules, procedures, regulations, judicial decisions, and opinions of the State attorney general; and

(B) under paragraph (1)(B)(ii) shall be accompanied by supporting documentation, including a detailed plan of the alternative dispute resolution system to be developed by the State.

(c) REVIEW OF APPLICATIONS.—Within 90 days after receiving an application under subsection (b), the Secretary shall review and approve the application if, in the determination of the Secretary, the application demonstrates that—

(1) the State has enacted, adopted, or otherwise has in effect an alternative dispute resolution system; or

(2) the State has a plan to develop an alternative dispute resolution system.

(d) AMOUNT OF GRANT.—

(1) IN GENERAL.—The amount of a grant under this section shall be an amount that the Secretary finds reasonable and necessary for the development and implementation of the alternative dispute resolution system of the State.

(2) REDUCTIONS FOR EXPENSES OF SUPPLIES, EQUIPMENT, AND EMPLOYEE DETAIL.—The Secretary may reduce the amount of a grant by—

(A) the fair market value of any supplies or equipment furnished to the recipient by the Secretary;

(B) the amount of pay, allowances, and travel expenses incurred by any officer or employee of the Federal Government when such officer or employee has been detailed to the recipient; and

(C) the amount of any other costs incurred in connection with the detail of an officer or employee as described in subparagraph (B),

when the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience, and at the request, of such recipient and for the purpose of carrying out activities under the grant.

(3) OPTION TO REFUSE GRANT.—Not later than 90 days after the Secretary makes a grant under this section to a State, that State may send notice to the Secretary that it refuses the grant. At the time the State sends such notice, the State shall return any amounts paid to it under such grant to the Secretary.

(e) SUPPLEMENTAL GRANTS.—If amounts appropriated for grants under this section remain available because—

(1) a State has notified the Secretary that it refuses the grant made to the State;

(2) a State has notified the Secretary that it does not intend to use the full amount of a grant awarded to the State; or

(3) the amount paid to a State under a grant is reduced, offset, or repaid under subsection (d)(2),

the Secretary shall have the discretion to make supplemental grants to States, to the extent such amounts are available, for the implementation of alternative dispute resolution systems. A grant received by a State under this subsection shall be used by the State to further implement and evaluate the effectiveness of such a system.

(f) RECORDS.—

(1) IN GENERAL.—Each recipient of a grant under this section shall keep such records as the Secretary determines appropriate.

(2) AUDIT AND EXAMINATION OF RECORDS.—The Secretary and the Comptroller General of the United States shall have access to any books, documents, papers, and records of the recipient of a grant under this section, for the purpose of conducting audits and examinations of such recipient that are pertinent to such grant.

(g) REPORTS.—

(1) REPORTS ON COMPLIANCE.—

(A) SUBMISSION OF REPORTS.—Each State shall annually submit a report to the Secretary containing such information as the Secretary may require to determine whether the State is in compliance with the terms of the grant made under this section.

(B) DETERMINATION OF NONCOMPLIANCE.—If, after reviewing the report submitted under subparagraph (A), the Secretary determines that a State receiving a grant under this section is not in compliance with the terms of the grant, the Secretary shall provide the State with written notice of such determination. Such notice shall specify—

(i) the reasons for the determination of the Secretary;

(ii) that the Secretary will require the State, not later than 60 days after receipt of such notice, to return all funds provided to the State under the grant, unless the State—

(I) takes such corrective action as may be necessary to ensure that the State is in compliance with the terms of the grant; or

(II) requests a hearing under clause (iii); and

(iii) that the State may request a hearing on the record before an administrative law judge under section 554 of title 5, United States Code, concerning the allegations set forth in the notice.

(2) ADDITIONAL REPORTS.—Each State receiving a grant under this section shall, not later than 2 years after the approval of its application for such grant and every 2 years thereafter, prepare and submit to the Commission on National Health Care Access and Reform established under section 201 (hereafter in this subtitle referred to as the "Commission"), the Secretary, and the appropriate committees of Congress, a report and evaluation concerning the alternative dispute resolution systems implemented by the State, including information—

(A) on the effect of such systems on the cost of health care within the State;

(B) on the impact of such systems on the access of individuals to health care within the State; and

(C) on the effect of such systems on the quality of health care provided within the State;

SEC. 149. ESTABLISHMENT OF ADVISORY PANEL.

(a) In General.—The Commission shall make recommendations to the Secretary concerning the eligibility, approval, and review requirements for alternative dispute resolution systems described in applications submitted under section 148(b).

(b) Advisors.—The Commission shall—

(1) direct the National Advisory Board established under section 202 to assist in carrying out the Commission's activities under this section, or

(2) establish a panel of advisors to assist in carrying out the Commission's activities under this section.

(c) Members of the Advisory Panel.—If the Commission establishes an advisory panel under subsection (b)(2), the members of the advisory panel shall include representatives from each of the following:

(1) Patient advocacy groups.

(2) Groups representing State governments.

(3) Health care provider groups, including organized medicine.

(4) Health care insurers.

(5) Health care employers.

(6) Academic researchers from disciplines such as medicine, economics, law or health services, with expertise in alternative dispute resolution models.

(d) Duties of Advisors.—The advisors appointed under paragraph (1) or (2) of subsection (b) shall—

(1) assist in the development of criteria for alternative dispute resolution systems that States must meet to be eligible to receive grants under section 148 and make information on such criteria available to the States to assist such States in preparing applications for grants;

(2) as part of the criteria developed under paragraph (1), require that the alternative dispute resolution systems for which States receive grants under section 148—

(A) support access to health care;

(B) encourage improvements in the quality of care;

(C) enhance the patient-provider relationship;

(D) encourage innovation in health care delivery systems;

(E) provide prompt resolution and fair compensation;

(F) provide predictable outcomes; and

(G) operate efficiently in terms of costs and processes;

(3) provide advice and assistance to representatives from State governments concerning the establishment of alternative dispute resolution systems;

(4) not later than 7 years after the date of enactment of this Act, submit to the Commission, the Secretary, and to the appropriate committees of Congress, a recommendation on the feasibility of a national alternative dispute resolution system; and

(5) perform the duties set forth in part IV.

(e) Compensation.—All members of the advisory panel established under subsection (b)(2) shall be reimbursed by the Commission for travel and per diem expenses in lieu of subsistence expenses during the performance of duties of the Panel in accordance with subchapter I of chapter 57 of title 5, United States Code.

(f) FACA Not Applicable.—The provisions of the Federal Advisory Committee Act shall not apply to an advisory panel established under subsection (b)(2).

(g) Provision of Information by the Secretary.—The Secretary shall make available to the advisors appointed under paragraph (1) or (2) of subsection (b) any information concerning the grants made under section 148 that is necessary for such advisors to complete the duties set forth in subsection (d).

SEC. 150. AUTHORIZATION.

(a) In General.—There are authorized to be appropriated $250,000,000 for each of the fiscal years 1993, 1994, and 1995, for grants under section 148.

(b) Availability of Funds.—Amounts appropriated for grants under section 148 shall remain available until expended.

PART IV—DEMONSTRATION PROJECTS FOR NO-FAULT COMPENSATION PROGRAMS

SEC. 151. DEMONSTRATION PROJECTS FOR NO-FAULT COMPENSATION PROGRAMS.

(a) Establishment.—The Secretary shall establish a program to award grants to private entities for the development and implementation of demonstration no-fault compensation programs in the private sector.

(b) Application.—To be eligible to receive a grant under this section a private entity shall prepare and submit to the Secretary an application at such time, in such form, and containing such information as the Secretary may require including a description of the no-fault compensation program that the private entity intends to develop or implement.

(c) Review and Approval of Applications.—The Secretary shall review and approve applications received under subsection (b) in accordance with recommendations made by the Commission with the advice of the advisors appointed under section 149(b).

(d) Amount of Grant.—The amount of a grant to a private entity under this section shall be an amount that the Secretary finds reasonable and necessary for the development and implementation of the no-fault compensation program.

(e) Duties of Advisors.—

(1) In general.—The advisors appointed under section 149(b) shall—

(A) develop criteria for no-fault compensation programs in the private sector that private entities must meet to be eligible to receive grants under this section; and

(B) make information on such criteria available to the private entities to assist such entities in preparing applications for grants.

(2) Criteria.—As part of the criteria developed under paragraph (1), the advisors shall require that the no-fault compensation programs for which States receive grants under this section—

(A) provide that health care providers offer their patients a no-fault compensation scheme in exchange for a waiver of common law tort liability for all injuries;

(B) provide that patients are fully informed of the common law tort rights they are surrendering and the no-fault benefits they are eligible to receive; and

(C) provide that the health care facility operate an effective quality assurance program, including measures for reporting and accountability for all adverse events identified through this claims process.

(f) Reports and Recommendations.—

(1) Reports by recipients of grants.—Not later than 2 years after the approval of its application, each private entity that is a grant recipient shall prepare and submit a report to the Commission, the Secretary, and the appropriate committees of Congress, which contains—

(A) an analysis of the feasibility and desirability of developing and implementing no-fault compensation programs; and

(B) a recommendation for legislation on the development and implementation of no-fault compensation programs.

(2) Recommendations.—The Commission shall review the reports made by grant recipients pursuant to paragraph (1) and make recommendations to the Secretary regarding proposals for legislation to develop and implement national no-fault compensation programs.

(g) Authorization of Appropriations.—

(1) In general.—There are authorized to be appropriated for grants under this section $20,000,000 for each of the fiscal years 1993, 1994, and 1995.

(2) Availability of funds.—Amounts appropriated for grants under this section shall remain available until expended.

Subtitle F—Joint Ventures

SEC. 161. AMENDMENT OF THE NATIONAL COOPERATIVE RESEARCH ACT OF 1984.

(a) Definitions.—Section 2(a) of the National Cooperative Research Act of 1984 (15 U.S.C. 4301(a)) is amended by adding at the end the following new paragraph:

"(7) The term 'joint health care provider venture' means a group of activities, as determined by the Commission on National Health Care Access and Reform (established under section 201 of the BasiCare Health Access and Cost Control Act), by 2 or more hospitals for the provision or delivery of health care services.".

(b) Exclusions.—Section 2(b) of such Act (15 U.S.C. 4301(b)) is amended—

(1) in the matter preceding paragraph (1) by striking "excludes" and inserting "and the term 'joint health care provider venture' exclude"; and

(2) in paragraph (1) by striking "conduct the research and development that is" and inserting "carry out".

(c) Technical Amendments.—(1) Section 3 of such Act (15 U.S.C. 4302) is amended by inserting "or joint health care provider venture" after "joint research and development venture".

(2) Section 4 of such Act (15 U.S.C. 4303) is amended in subsections (a)(1), (b)(1), (c)(1), and (e) by inserting "or joint health care provider venture" after "joint research and development venture" each place it appears.

(3) Section 5(a) of such Act (15 U.S.C. 4304(a)) is amended in the matter preceding paragraph (1) by inserting "or joint health care provider venture" after "joint research and development venture".

(4) Section 6 of such Act (15 U.S.C. 4305) is amended—

(A) in the heading by striking "RESEARCH AND DEVELOPMENT";

(B) in subsections (a), (d)(2), and (e) by inserting "or joint health care provider venture" after "joint research and development venture" each place it appears; and

(C) in the first sentence of subsection (a) by inserting "(or in the case of a joint health care provider venture, the date of enactment of the BasiCare Health Access and Cost Control Act)" after "this Act".

TITLE II—LONG-TERM REFORMS

Subtitle A—Establishment of Commission and Advisory Board

SEC. 201. THE COMMISSION ON NATIONAL HEALTH CARE ACCESS AND REFORM.

(a) Establishment.—There is established an independent commission to be known as the Commission on National Health Care Access and Reform (hereinafter referred to as the "Commission").

(b) Duties.—The Commission shall carry out the duties specified for it in this title.

(c) APPOINTMENT.—

(1) COMPOSITION.—

(A) SIZE AND MANNER OF APPOINTMENT.—The Commission shall consist of—

(i) five members to be appointed by the President, by and with the advice and consent of the Senate, one of whom shall, at the time of appointment, be designated as Chairperson of the Commission;

(ii) two members to be appointed by the Speaker of the House of Representatives upon the recommendations of the Majority Leader and Minority Leader of the House of Representatives; and

(iii) two members to be appointed by the President pro tempore of the Senate upon the recommendations of the Majority Leader and Minority Leader of the Senate.

(B) POLITICAL AFFILIATION.—At no time shall more than three of the members appointed by the President, one of the members appointed by the Speaker of the House of Representatives, or one of the members appointed by the President pro tempore of the Senate be members of the same political party.

(C) MEMBERSHIP QUALIFICATIONS.—The membership of the Commission shall consist of individuals who are of recognized standing and distinction and who possess the demonstrated capacity to discharge the duties imposed on the Commission, and shall include persons possessing substantial knowledge or expertise in health care delivery, health care insurance, or health care economics. No individual who is otherwise an officer or full-time employee of the United States shall serve as a member of the Commission. No member while serving on the Commission may receive financial gain from direct investments, employment or associations from any entity with demonstrable financial interest in matters over which the Commission has jurisdiction.

(D) CHAIRPERSON.—The Chairperson of the Commission shall designate a member of the Commission to act as Vice Chairperson of the Commission.

(E) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number may conduct hearings.

(F) TERM.—Members of the Commission shall be appointed for a term of 5 years, except that with respect to the members first appointed—

(i) the Chairperson and 2 members, 1 each appointed under clauses (ii) and (iii) of paragraph (1)(A), respectively, shall be appointed for a term of 5 years;

(ii) 3 members, 1 each appointed under clauses (i), (ii) and (iii) of paragraph (1)(A), respectively, shall be appointed for a term of 4 years; and

(iii) the remaining members shall be appointed for a term of 3 years.

(G) VACANCY.—A vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment, but the individual appointed shall serve only for the unexpired portion of the term for which the individual's predecessor was appointed.

(2) EFFECTIVE DATE.—Appointments to the Commission shall be made no later than 90 days after the date of enactment of this Act.

(d) MEETINGS.—The Commission shall meet at the call of the Chairperson, or at the call of a majority of the members of the Commission; but meetings shall not be held less frequently than once in each calendar month which begins after a majority of the membership of the Commission has been appointed.

(e) HEARINGS.—In carrying out its duties under this section, the Commission, or any duly authorized committee thereof, is authorized to hold such hearings, sit and act at such times and places, and take such testimony, with respect to matters with respect to which it has a responsibility under this title, as the Commission or such committee may deem advisable. The Chairperson of the Commission or any member authorized by the Chairperson may administer oaths or affirmations to witnesses appearing before the Commission or before any committee thereof.

(f) PAY AND TRAVEL EXPENSES.—

(1) PAY.—

(A) MEMBERS.—Each member, other than the Chairperson, shall be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the actual performance of duties vested in the Commission.

(B) CHAIRPERSON.—The Chairperson shall be paid for each day referred to in subparagraph (A) at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level III of the Executive Schedule under section 5314 of title 5, United States Code.

(2) TRAVEL EXPENSES.—Members shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(g) STAFF.—

(1) APPOINTMENT.—Subject to paragraphs (2) and (3), the Chairperson, with the approval of the Commission, may appoint and fix the pay of additional personnel.

(2) INAPPLICABILITY OF CIVIL SERVICE LAWS.—The Chairperson may make such appointments without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and any personnel so appointed may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed shall receive pay—

(A) not less than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule, and

(B) no greater than the rate of basic pay payable for level IV of the executive schedule.

(3) DETAIL OF PERSONNEL FROM FEDERAL AGENCIES.—Upon request of the Chairperson, the head of any Federal department or agency may detail any of the personnel of that department or agency to the Commission to assist the Commission in carrying out its duties under this title.

(4) FEDERAL AGENCY ASSISTANCE.—The Comptroller General of the United States, the Secretary of Health and Human Services, and the Administrator of General Services shall provide assistance on a reimbursable basis, including the detailing of employees, to the Commission in accordance with an agreement entered into with the Commission.

(h) OTHER AUTHORITY.—

(1) CONSULTANT SERVICES.—The Commission may procure by contract, to the extent funds are available, the temporary or intermittent services of experts or consultants pursuant to section 3109 of title 5, United States Code.

(2) PROPERTY MATTERS.—The Commission may lease space and acquire personal property to the extent funds are available.

SEC. 202. NATIONAL ADVISORY BOARD.

(a) APPOINTMENT.—The Commission shall provide for appointment of a National Advisory Board (hereinafter referred to as the "Board") to advise the Commission on its activities.

(b) MEMBERSHIP.—The Board shall consist of 15 members who are representatives of employers, unions, health care providers, health care carriers, consumer organizations, State health programs, and public health professionals, as well as the general public. Such members shall serve for terms of 3 years, except that, in the initial appointment, 5 members shall be each appointed for terms of 1 year, 2 years, and 3 years.

(c) VACANCIES.—

(1) IN GENERAL.—The Commission shall fill any vacancy in the membership of the Board in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members to execute the duties of the Board.

(2) VACANCY APPOINTMENTS.—Any member appointed to fill a vacancy shall serve for the remainder of the term for which the predecessor of the member was appointed.

(3) REAPPOINTMENT.—The Commission may reappoint an appointed member of the Board for a second term in the same manner as the original appointment.

(d) CHAIRPERSON AND VICE CHAIRPERSON.—The Board shall select a Chairperson and a Vice Chairperson from among the members of the Board.

(e) COMPENSATION.—All members of the Board and the committees established under subsection (h) shall be reimbursed by the Commission for travel and per diem in lieu of subsistence expenses during the performance of duties of the Board in accordance with subchapter I of chapter 57 of title 5, United States Code.

(f) FACA NOT APPLICABLE.—The provisions of the Federal Advisory Committee Act shall not apply to the Board.

(g) DUTIES.—As directed by the Commission, the Board shall undertake such projects as the Commission may deem necessary. Such projects may include site visits and studies that are concerned with issues of access to health care services, utilization of health care services, consumer participation and satisfaction in the provision of health care services, education of health personnel, medical practice, medical technology, quality of insurance plans and health care delivery, and malpractice liability. The Board shall not undertake studies, visits, or projects, nor shall it issue recommendations, except at the request of the Commission.

(h) COMMITTEES.—The Board shall create such committees (composed of Commission members and others as appointed by the Chairperson) as necessary to enable the Board to meet its responsibilities and functions.

SEC. 203. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Commission such funds as are necessary to carry out its duties under this title. Such funds shall remain available until expended.

Subtitle B—Reform and Standardization of Private Insurance

SEC. 211. DEFINING GOALS AND GUIDELINES OF COMMISSION.

(a) DEFINING GOALS.—In carrying out the responsibilities assigned to it under this Act, the Commission shall at all times seek to—

(1) improve access to basic health coverage and services;

(2) control the cost of health care coverage and services;

(3) safeguard the quality of health care services;

(4) assure equity in the availability and cost of health care coverage and services; and

(5) minimize administrative complexity and duplication in the health care system.

(b) Guidelines.—In carrying out the responsibilities assigned to it under this Act, the Commission shall in developing or evaluating any health care proposal or modification be guided by the anticipated effect on—

(1) the cost of health care to medical consumers;

(2) the quality of health care services;

(3) access to health care services;

(4) the financial viability of health care providers;

(5) the financial viability of health care carriers;

(6) the provision of health benefits to employees by employers; and

(7) the administrative complexity of the health care system.

(c) Consultations.—In carrying out the responsibilities assigned to it under this Act, the Commission shall seek out and consider recommendations from a broad range of interested individuals and organizations, including organizations representing health care consumers, health care providers, health care carriers, representatives of State health programs, public health professionals, and the general public.

SEC. 212. DEVELOPMENT AND SUBMISSION OF LEGISLATIVE PROPOSAL.

(a) In General.—By not later than January 1, of the 2nd year following the date of enactment of this Act, the Commission shall develop and submit to Congress a legislative proposal which provides for the following:

(1) Basicare benefits package.—A uniform national health benefits package (hereinafter referred to as the "BasiCare benefits package") specifying minimum benefits applicable to all carriers which meets the requirements of section 214.

(2) Insurance responsibilities under basicare.—A national health care insurance reform plan which meets the requirements of section 215 and which shall apply to all carriers selling health insurance in the United States.

(3) Establishment of basicare base premium rate.—A base premium rate (hereinafter referred to as the "BasiCare base premium rate") to apply to the BasiCare benefits package, which meets the requirements of section 216.

(4) Employer responsibilities under BasiCare.—Employer responsibilities to offer the basicare health benefit plan as described in section 217.

(5) Individual responsibilities under basicare.—Individual responsibilities to obtain the BasiCare health benefit plan coverage as described in section 218.

(6) Self-insured requirements.—Self-insured plan requirements with respect to certification as described in section 219.

(7) Treatment of managed care plans.—Federal standards for managed care plans as described in section 220 and preemption of State provisions relating to such plans, as described in section 221.

(8) Low-income assistance.—A program to provide low-income individuals and families—

(A) an orderly transfer from medicaid program coverage under title XIX of the Social Security Act to BasiCare health benefit plan coverage, and

(B) financial assistance in obtaining BasiCare health benefit plan coverage,

as specified in subtitle C.

(b) Consideration.—The legislative proposal described in subsection (a) shall be considered by the Congress under the procedures for consideration of an "approval resolution" as described in subtitle D.

(c) Effective Date of Implementation.—The provisions of the recommendation shall become effective on January 1 of the year following the year of the date of approval of the Commission's recommendation (unless such period of time is less than 9 months, in which case such provisions shall become effective on January 1 of the second year following the date of approval of the Commission's recommendation).

SEC. 213. CONTINUING DUTIES AND RESPONSIBILITIES OF THE COMMISSION.

(a) Period for Resubmission of BasiCare Package and Base Rate in Case of Nonapproval.—If the recommendation of the Commission submitted under section 212 is not approved by Congress in a year, the Commission shall by not later than January 1 of each year thereafter, for a period not to exceed 2 years (unless such recommendation is approved in a year) submit a new recommendation to Congress subject to the guidelines and requirements of this title.

(b) Continuing Review of BasiCare Benefits Package and BasiCare Base Premium Rate.—

(1) Modifications in basicare benefits package.—The Commission may by not later than September 30 of any year following the effective date of implementation of the Commission's recommendation under section 212, subject to the guidelines and goals applicable to its initial recommendation, publish in the Federal Register revisions to the BasiCare benefits package, which revisions shall become effective on January 1 of the immediately following calendar year unless rescinded by Congress.

(2) Modifications to variations in basicare base premium rate.—The Commission may by not later than September 30 of any year following the effective date of implementation of the Commission's recommendation under section 212, subject to the guidelines and goals applicable to its initial recommendation, publish in the Federal Register revisions to any variations provided in the BasiCare base premium rate, which revisions shall become effective on January 1 of the immediately following calendar year unless rescinded by Congress.

(c) Establishment of Annual Allowable Rates of Increase in BasiCare Premium Rates.—The Commission shall by not later than September 30 of each year following the effective date of implementation of the Commission's recommendation under section 212, subject to the guidelines and goals applicable to its initial recommendation, publish in the Federal Register a percentage figure for a single allowable rate of increase in BasiCare premiums to become effective on January 1 of the immediately following calendar year unless such percentage figure is modified or rescinded by Congress. Such rate of increase shall be binding on all carriers offering benefits covered under the BasiCare benefits package, as provided in section 215.

(d) Oversight of Provider Participation and Billing.—

(1) In general.—The Commission shall conduct ongoing oversight of provider response to the imposition of annual limits in the allowable rate of increase in BasiCare premiums, as provided in this Act. The findings of such oversight shall be expressed in annual reports to Congress.

(2) Considerations.—Matters to be examined in such oversight shall include, but are not limited to, the following:

(A) The incidence of balance billing by providers to patients of amounts in excess of such payments as may be made to providers by BasiCare carriers.

(B) The effect of any such balance billing on the accessibility of affordable health care services to health care consumers.

(C) The incidence of participation (or nonparticipation) of health care providers in BasiCare health benefit plans.

(D) The effect of such participation (or nonparticipation) on the availability and affordability of health care services to health care consumers.

(E) The extent to which the incidence of provider balance billing or nonparticipation in BasiCare health benefit plans may vary according to professional specialty or region.

(3) Option for billing and participation requirements.—At any time following the standardization of the BasiCare health benefit plan under this Act, the Commission may submit to Congress a legislative proposal providing for one or both of the following:

(A) Such balance billing limits as the Commission may deem necessary to assure affordable access by health care consumers to services covered under the BasiCare health benefit plan.

(B) Such participation requirements as the Commission may deem necessary to assure a level of provider participation in BasiCare health benefit plans sufficient to assure affordable access to quality health care services by BasiCare enrollees.

(4) Congressional consideration.—Any proposal made to Congress under this subsection shall be considered by Congress under the procedures for consideration of an "approval resolution" as described in subtitle D.

(e) Oversight of Supplemental Health Insurance Market.—

(1) In general.—The Commission shall, upon implementation of the Commission's recommendations under section 212, commence an ongoing assessment of the condition of the supplemental health insurance market for insurance benefits which are beyond the scope of the BasiCare benefits package. The findings of such assessment shall be transmitted in annual reports to the appropriate committees of Congress.

(2) Considerations.—Matters to be addressed in such assessment shall include, but not be limited to—

(A) the rate of cost growth in the supplemental market, and the extent to which such growth may be contributing to growth in national health care expenditures;

(B) the affordability and availability of supplemental policies to employers, families, and individuals;

(C) the extent to which the terms and cost of coverage vary among beneficiaries based on health and claims status;

(D) the value of supplemental policies to beneficiaries, as measured by loss ratios;

(E) the extent of questionable marketing practices, such as misrepresentation of policy benefits or provisions, or the selling of policies that duplicate existing coverage; and

(F) the extent to which State insurance regulation is addressing perceived problems in the supplemental market.

(3) Recommendation to congress.—No later than January 1 of the second year following the effective date of implementation of the Commission's recommendations under this title, the Commission shall include in its annual report to Congress (under this subsection) a recommendation regarding the advisability of Federal regulation of the supplemental health insurance market. If the Commission's recommendation is that such

regulation is needed, the Commission shall prepare and submit to Congress draft legislation to carry out the terms of such regulation as it may deem necessary.

(4) SUBSEQUENT RECOMMENDATIONS.—At any time following submission of its recommendation to Congress under paragraph (3), the Commission may, based on the findings of its continuing assessment under paragraphs (1) and (2), submit additional recommendations or draft legislation to Congress regarding action it may consider advisable relative to the supplemental market.

(5) CONGRESSIONAL CONSIDERATION.—Proposals made to Congress under this subsection shall be considered by Congress under the procedures for consideration of an "approval resolution" as described in subtitle D.

(f) SAFEGUARDING QUALITY OF HEALTH CARE.—

(1) ANNUAL REPORT.—The Commission shall by no later than January 1 of each year following the date of enactment of this Act, submit an annual report to Congress assessing the quality of health care in the United States, and outlining areas of significant progress or decline in the delivery of or accessibility to health care. In preparing such reports, the Commission shall conduct such studies, hearings, or other evaluations as it deems necessary to accomplish a comprehensive and continuing evaluation of health care quality in the United States.

(2) CONTRACTS FOR PROVISION OF INFORMATION TO CONSUMERS REGARDING QUALITY OF HEALTH CARE SERVICES AND INSURANCE.—The Commission shall enter into contracts with public or private nonprofit entities in each State for the collection and dissemination to consumers of information regarding the quality and cost-effectiveness of services provided by health care providers and carriers in the State.

(3) REQUIREMENT TO CONSIDER HEALTH CARE QUALITY DATA.—Information regarding health care quality obtained through the activities described in this subsection shall be considered and incorporated by the Commission in carrying out the other continuing duties and responsibilities assigned to it under this section including setting annual premium limits and other rates as provided in this title.

(g) UNIFORM CLAIMS FORMS AND ELECTRONIC PROCESSING.—

(1) IN GENERAL.—The Commission shall develop in consultation with entities offering health insurance, health care providers, and the Secretary, a uniform claims form to be used by both private health plans and by the Medicare program under title XVIII of the Social Security Act.

(2) APPLICATION AND REVISION.—The Commission shall by no later than 1 year after the effective date of implementation of the Commission's recommendation under section 212, require that the uniform claims form developed under paragraph (1), be utilized by all carriers offering benefits covered under the BasiCare benefits package and under title XVIII of the Social Security Act. The Commission shall revise such form, as necessary, to reflect changes in the health care insurance market.

(3) UNIFORM REPORTING STANDARDS.—In developing the claims form under paragraph (1), the Commission in consultation with the entities described in such paragraph, shall develop standards for uniform reporting (while preserving individual patient identity) concerning—

(A) the types and amounts of required health services provided; and

(B) the costs of such facilities providing such services.

The Commission shall periodically collect, analyze, and disseminate information received under this paragraph.

(4) UNIVERSAL ELECTRONIC PAYMENT AND BILLING CARD.—In conjunction with development of the standard claims form under paragraph (1), the Commission shall develop, and all private and public health insurance programs shall be required to participate in, a program to provide a universal health insurance card to every individual or family which shall be accepted by all health care providers for purposes of payment and billing. Such cards shall be imprinted electronically with necessary and appropriate information concerning coverage and billing, and to the maximum extent practicable, with information to assist in the management of a uniform system of computerized patient records.

(h) LONG-TERM DISPOSITION OF MEDICAID BENEFITS AND PROGRAM.—

(1) IN GENERAL.—At any time following the effective date of implementation of the Commission's recommendation under section 212, the Commission may submit to Congress a proposed plan for long-term disposition of any benefits of the medicaid program not covered under or subsumed by the BasiCare benefits package.

(2) PROPOSED PLAN.—In preparing a proposed plan described in paragraph (1), the Commission shall consult with representatives of State medicaid programs, and shall follow the goals and guidelines described in section 211.

(3) CONGRESSIONAL CONSIDERATION.—Proposals made to Congress under this subsection shall be considered by the Congress under the procedures for consideration of an "approval resolution" as described in subtitle D.

(4) PERIOD FOR RESUBMISSION OF PROPOSAL.—If the recommendation of the Commission submitted under this subsection is not approved by Congress in a year, the Commission shall by not later than January 1 of each year thereafter, for a period not to exceed 2 years (unless such recommendation is approved in a year) submit a new recommendation to Congress subject to the guidelines and requirements of this title.

(i) ASSIMILATION OF MEDICARE INTO BASICARE SYSTEM.—

(1) IN GENERAL.—The Commission shall by no later than January 1 of the fifth year following the effective date of implementation of the Commission's recommendation under section 212, submit to the Congress draft legislation providing for the assimilation of the medicare program under title XVIII of the Social Security Act into the BasiCare system. The Commission shall include with such draft legislation, an accompanying report detailing and explaining the provisions of such draft legislation.

(2) CONGRESSIONAL CONSIDERATION.—Proposals made to Congress under this subsection shall be considered by Congress under the procedures for consideration of an "approval resolution" as described in subtitle D.

(3) PERIOD FOR RESUBMISSION OF PROPOSAL.—If the proposal of the Commission submitted under this subsection is not approved by Congress in a year, the Commission shall by not later than January 1 of each year thereafter, for a period not to exceed 2 years (unless such recommendation is approved in a year) submit a new proposal to Congress subject to the guidelines and requirements of this title.

(j) ASSIMILATION OF OTHER PROGRAMS INTO BASICARE SYSTEM.—

(1) IN GENERAL.—The Commission shall by no later than January 1 of the fifth year following the effective date of implementation of the Commission's recommendation under section 212, submit to the Congress draft legislation providing for the assimilation of the CHAMPUS program under title 10, United States Code, and the Federal employees program under chapter 89 of title 5, United States Code, into the BasiCare system. The Commission shall include with such draft legislation, an accompanying report detailing and explaining the provisions of such draft legislation.

(2) CONGRESSIONAL CONSIDERATION.—Proposals made to Congress under this subsection shall be considered by Congress under the procedures for consideration of an "approval resolution" as described in subtitle D.

(3) PERIOD FOR RESUBMISSION OF PROPOSAL.—If the proposal of the Commission submitted under this subsection is not approved by Congress in a year, the Commission shall by not later than January 1 of each year thereafter, for a period not to exceed 2 years (unless such recommendation is approved in a year) submit a new proposal to Congress subject to the guidelines and requirements of this title.

(k) OVERSIGHT OF SUCH UNCOMPENSATED CARE AS MAY REMAIN.—To the extent it deems necessary, and to the extent practicable, the Commission may provide to Congress recommendations for the establishment of national or regional compensation pools, or other mechanisms, for the payment of providers who furnish BasiCare-covered services to individuals who, through choice or inadvertence, fail to secure BasiCare coverage as provided in this Act.

(l) MEDICAL EDUCATION ASSISTANCE.—In conjunction with the duties assigned to it under section 212 of this Act, and in conjunction with its proposal to assimilate the medicare program into BasiCare under subsection (i) of this section, the Commission shall consider and develop methods to assure support for academic health centers and the provision of quality training to health professionals.

SEC. 214. BASICARE BENEFITS PACKAGE.

(a) CRITERIA.—In preparing the BasiCare benefits package described in section 212(a)(1), the Commission shall, subject to the requirements of this title, develop and recommend the BasiCare benefits package as it deems appropriate, adhering to the goals and guidelines described in this subtitle. The BasiCare benefits package developed and recommended by the Commission shall at a minimum provide for—

(1) basic hospitalization coverage;

(2) basic outpatient services;

(3) protection against catastrophic out-of-pocket costs;

(4) coverage against extraordinary long-term care costs; and

(5) coverage for preventive care services of significant proven and recognized value in averting serious and costly medical conditions.

(b) UNIFORMITY.—

(1) IN GENERAL.—Subject to the exceptions described in paragraph (2), the BasiCare benefits package recommended by the Commission shall provide for uniform national deductibles, copayments, and benefit applications and standards.

(2) LIMITED VARIATION ALLOWED.—In order to accommodate systems for providing health care in a managed system, the Com-

mission may provide for variations in the structure of BasiCare cost-sharing requirements for such systems, but only to the extent such variations do not significantly compromise the national uniformity of a single BasiCare benefits package.

(c) Flexibility Regarding Long-Term Care.—

(1) Modified benefit plan for medicare beneficiaries.—The Commission may include in its proposal under section 212 provisions for the establishment of a modified BasiCare long-term care benefits plan for persons currently enrolled in the medicare program under title XVIII of the Social Security Act. If the Commission includes such a plan, the plan shall—

(A) consist only of long-term care benefits included in the BasiCare benefits package, and

(B) be subject to the rules and requirements applicable to the BasiCare health benefit plan under this title, except as may be modified by the Commission in its proposal to Congress under section 212.

(2) Continuity of long-term care coverage.—The Commission may include in its proposal under section 212 such special provisions as it may deem necessary to assure portability of coverage consistent with the requirements of section 215.

(3) Interaction with other programs.—The Commission may include such provisions as it deems necessary to coordinate BasiCare long-term care coverage with coverage provided under the medicare program under title XVIII of the Social Security Act, and with coverage provided by the medicaid program under title XIX of the Social Security Act, as modified by the terms of this Act.

(d) Preference for Copayments in Cost-Sharing.—To the extent practicable, the Commission shall employ copayments rather than deductibles in providing for such cost-sharing requirements as may be included in the BasiCare benefits package under this section.

SEC. 215. INSURANCE RESPONSIBILITIES UNDER BASICARE.

(a) In General.—In developing the legislative proposal described in section 212(a)(2), the Commission shall provide that the requirements of this section are incorporated as part of its recommendation for national health care insurance reform.

(b) General Requirement.—Each carrier shall offer the BasiCare health benefit plan as specified in this section.

(c) Preemption of State Mandated Benefit Laws.—To the extent that laws of any State or local government regulate or otherwise provide any requirement relating to the benefits to be provided under contracts or policies of insurance issued to, or under, a BasiCare health benefit plan, such laws are preempted.

(d) Nonduplication of BasiCare.—Health benefit plans may be issued for benefits other than those covered by the BasiCare benefits package described in section 214, but no health benefit plans may be offered by any carrier in any State which duplicate, either in whole or in part, the benefits described in the BasiCare benefits package.

(e) Nondiscrimination Based on Health Status.—

(1) In general.—BasiCare health benefit plans offered by carriers may not deny, limit, or condition the coverage under (or benefits of) the plan based on the health status, claims experience, receipt of health care, medical history, or lack of evidence of insurability, of an individual.

(2) Treatment of preexisting condition exclusions for all services.—BasiCare health benefit plans provided by carriers may not exclude or otherwise discourage coverage with respect to services related to treatment of a preexisting condition.

(f) Registration With Applicable Regulatory Authority.—

(1) In general.—Each carrier shall register with the applicable regulatory authority for each State in which it issues or offers health benefit plans.

(2) No preemption of state information requirements.—Nothing in paragraph (1) shall be construed as preventing the applicable regulatory authority from requiring, in the case of BasiCare carriers that are not self-insurance carriers, such additional information in conjunction with, or apart from, the registration required under paragraph (1) as the applicable regulatory authority may be authorized to require under State law.

(g) Guaranteed Issue.—

(1) In general.—Subject to the succeeding provisions of this subsection, a carrier that offers a BasiCare health benefit plan (including a reinsurance plan) to groups or individuals located in a community must offer the same plan to any other group or individual located in the community, and shall participate in a program developed by the Commission for assigning high-risk groups or individuals among all such carriers.

(2) Treatment of health maintenance organizations.—

(A) Geographic limitations.—A health maintenance organization may deny coverage under a BasiCare health benefit plan to an individual or group whose members are located outside the service area of the organization, but only if such denial is applied uniformly without regard to health status or insurability.

(B) Size limits.—A health maintenance organization may apply to the applicable regulatory authority to cease enrolling new groups or individuals in its BasiCare health benefit plan (or in a geographic area served by the plan) if it can demonstrate that its financial or administrative capacity to serve previously enrolled groups and individuals (and additional individuals who will be expected to enroll because of affiliation with such previously enrolled groups) will be impaired if it is required to enroll new groups or individuals.

(3) Grounds for refusal to issue or renew.—

(A) In general.—A carrier may refuse to issue or renew or terminate a BasiCare health benefit plan under this part only for—

(i) nonpayment of premiums,

(ii) fraud or misrepresentation, and

(iii) failure to meet minimum participation rates (consistent with subparagraph (B)).

(B) Minimum participation rates.—A carrier may require, with respect to an employment-related group BasiCare health benefit plan, that a minimum percentage of full-time employees eligible to enroll under the plan be enrolled, so long as such percentage is enforced uniformly for all employment groups of comparable size.

(h) Minimum Plan Period.—A carrier may not offer, or issue a BasiCare health benefit plan with a term of less than 12 months.

(i) Guaranteed Renewability.—

(1) In general.—

(A) General rule.—Subject to the succeeding provisions of this subsection, a carrier shall ensure that a BasiCare health benefit plan issued to a group or individual be renewed, at the option of the policyholder, unless the plan is terminated for the reasons specified in subsection (h)(3)(A) or under subparagraph (B).

(B) Termination of business.—A carrier need not renew a BasiCare health benefit plan with respect to such a policyholder if the carrier—

(i) is terminating provision of all health insurance in the community; and

(ii) provides notice to the policyholder covered under the plan of such termination at least 90 days before the date of expiration of the plan.

In the case of such a termination, the carrier may not provide for issuance of any health benefit plan in such community during the 5-year period beginning on the date of termination of such block of business.

(C) Construction respecting additional state disclosure requirements.—Subparagraph (B)(ii) shall not be construed as preventing the applicable regulatory authority from specifying the information to be included in the notice under such subparagraph or in requiring such notice to be provided at an earlier date.

(2) Notice and specification of rates and administrative changes.—

(A) Notice.—A carrier offering BasiCare health benefit plans shall provide for notice, at least 30 days before the date of expiration of the health benefit plan, of the terms for renewal of the plan. Except with respect to rates and administrative changes, the terms of renewal (including benefits) shall be the same as the terms of issuance.

(B) Renewal rates same as issuance rates.—The carrier may change the terms for such renewal, but the premium rates charged with respect to such renewal shall be the same as that for a new issue.

(C) Rates cannot change more often than monthly.—

(i) In general.—A carrier may not change the premium rates established with respect to BasiCare health benefit plans in a community more often than monthly.

(ii) Application of new rates.—A carrier that offers BasiCare health benefit plans which become effective in a month, shall ensure that the premium rates established under clause (i) for that month shall apply to all months during the 12-month period beginning with that month. In the case of a plan renewal which is effective for a 12-month period beginning with a month, the premium rates established under clause (i) with respect to that month shall apply to all months during 12-month renewal period.

(3) Period of renewal.—The period of renewal of each health benefit plan offered by a carrier shall be for a period of not less than 12 months.

(j) Community Rating.—

(1) In general.—A carrier may not charge premium rates for BasiCare health benefit plans in excess of the average per capita cost of providing such coverage to all individuals covered under BasiCare policies issued by that carrier in a community. A BasiCare health benefit plan meeting such criteria will be considered "actuarially certified" for purposes of this subsection.

(2) Actuarially certified defined.—A BasiCare health benefit plan is considered to be "actuarially certified" if there is a written statement by a member of the American Academy of Actuaries or other individual acceptable to the applicable regulatory authority that a carrier is in compliance with this section, based upon the individual's examination, including a review of the appropriate records and of the actuarial assumptions and methods utilized by the carrier in

establishing premium rates for applicable health benefit plans.

(k) ADJUSTMENTS TO COMMUNITY RATING.—

(1) IN GENERAL.—A BasiCare health benefit plan offered by a carrier to a group or individual may provide for an adjustment to the average community rate based on the age of covered individuals. Any such adjustment shall be applied by the carrier consistently to all policyholders, and no other adjustments shall be permitted.

(2) LIMITATION ON ADJUSTMENT.—

(A) IN GENERAL.—The adjustment under paragraph (1) may not result, with respect to BasiCare health benefit plans offered by carriers to groups and individuals in the same community, in a premium rate for the most expensive age group exceeding the average community rate by more than the applicable percent (as defined in subparagraph (B)).

(B) APPLICABLE PERCENT DEFINED.—In subparagraph (A), the term "applicable percent" means—

(i) for the first effective year, 50 percent,

(ii) for the second effective year, 40 percent,

(iii) for the third effective year, 30 percent, and

(iv) for any subsequent year, 20 percent.

(l) APPLICATION OF STANDARDS TO REINSURANCE POLICIES.—The requirements of this section shall apply to all reinsurance policies sold by an entity to a carrier offering BasiCare health benefit plans through self-insured employment-related health benefit plans.

(m) APPLICATION OF BASICARE BASE PREMIUM RATE.—For the first year of standardization of the BasiCare health benefit plan under this Act, premiums charged for BasiCare health benefit plans may not exceed the BasiCare base premium rate, as provided in section 216.

(n) APPLICATION OF ALLOWED RATE OF INCREASE.—

(1) IN GENERAL.—A carrier may not charge premiums with respect to BasiCare health benefit plans in any calendar year which exceed the greater of—

(A) the previous year's rate plus the annual allowable percentage rate of increase for the year as provided in section 213; or

(B) the applicable base premium rate, as provided in section 213, plus amounts corresponding to the cumulative total of annual allowable percentage rates of increase up to the current year.

(2) EXCEPTION.—Notwithstanding paragraph (1)(B), in any single calendar year a carrier may not increase its premium with respect to a BasiCare health benefit plan by an amount exceeding 120 percent of the national annual allowable percentage rate of increase for that year, as provided in section 213.

(o) TREATMENT OF CERTAIN CARRIERS.—In preparing its recommendation to Congress under section 212 of this Act, the Commission may, as it deems necessary, provide for limited and temporary adjustments in the requirements under subsection (k) of this section for carriers who can demonstrate a continued and significantly disproportionate share of high-risk insureds among its policyholders.

SEC. 216. BASICARE BASE PREMIUM RATE.

(a) CRITERIA.—In developing the legislative proposal described in section 212(a)(3), the BasiCare base premium rate established and recommended by the Commission shall be based on the anticipated average cost of providing the BasiCare benefits package to an average group of beneficiaries (as determined by the Commission in consultation with the Board).

(b) LIMITED VARIATION ALLOWED.—In establishing the BasiCare base premium rate, the Commission may propose limited variations in such rate to accommodate geographic variables, or other variables as described in paragraphs (1) and (2).

(1) GEOGRAPHIC VARIABLES.—In order to accommodate differences in costs in delivering health care in different geographical areas, the Commission may provide for limited geographical variations in the BasiCare base premium rate to the extent such variations are—

(A) based on statistically verifiable differences in the cost of providing the BasiCare benefits package, and

(B) not provided for geographic areas smaller than areas that encompass at least—

(i) one or more adjacent metropolitan statistical areas (as defined by the Commission, in consultation with the Bureau of the Census); or

(ii) the total remaining area within a State not otherwise included in a geographic area described under clause (i).

(2) OTHER VARIABLES.—If the Commission has provided for variation in the BasiCare benefits package under paragraph (2) of section 214(b), the Commission may provide for variations in the BasiCare base premium rate to reflect such variations in the benefit package, to the extent such variations meet the criteria for allowing variations under paragraph (2) of such section. Also, to the extent that adjustments to community rating of BasiCare health benefit plans are permitted under section 215(k), the Commission may provide for corresponding variation in the BasiCare base premium rate to reflect such permitted adjustments. If variations are provided for in the BasiCare base premium rate, such variations shall be expressed in terms of percentage variation from a single standard national rate.

SEC. 217. EMPLOYER RESPONSIBILITIES UNDER BASICARE.

(a) NO DISCRIMINATION BASED ON HEALTH STATUS FOR CERTAIN SERVICES.—An employment-related BasiCare health benefit plan may not deny, limit, or condition coverage based on the health status, claims experience, receipt of health care, medical history, or lack of evidence of insurability, of an individual.

(b) TREATMENT OF PREEXISTING CONDITION EXCLUSIONS.—An employment-related BasiCare health benefit plan may not exclude or otherwise discourage coverage with respect to services related to treatment of a preexisting condition.

(c) TREATMENT OF WAITING PERIODS.—An employment-related BasiCare health benefit plan may not impose waiting periods of any length.

(d) NO DISCRIMINATION BASED ON INCOME LEVEL.—An employment-related BasiCare health benefit plan shall apply equally to employees of all income levels.

(e) EQUAL CONTRIBUTION LEVELS.—The total amount of an employer's contribution to the cost of coverage under an employment-related BasiCare health benefit plan for employees with incomes less than 200 percent of the income official poverty line (as described in section 232(g)(1)) shall equal or exceed such total amount for employees with incomes greater than 200 percent of such income official poverty line.

SEC. 218. INDIVIDUAL RESPONSIBILITIES UNDER BASICARE.

Subject to the provisions of subsections (h) and (i) of section 213, in developing the legislative proposal described in section 212(a)(5), the Commission shall require that to be eligible for benefits under a Federal program, an individual seeking benefits under such program shall certify to the administrator of such program that such individual and the dependents of such individual possess BasiCare health insurance coverage that meets the applicable minimum standards under this title. Except as may be provided by the Commission under section 214(c)(1), this section shall not apply to persons eligible for enrollment in the medicare program.

SEC. 219. SELF-INSURED PLAN REQUIREMENTS.

(a) IN GENERAL.—In developing the legislative proposal described in section 212(a)(6), the Commission shall require that no self-insured BasiCare health benefit plan may be offered on or after the effective date of implementation of the Commission's recommendation under this title, unless the plan has been certified by the Commission (in accordance with such procedures as the Commission establishes) as qualifying as a BasiCare health benefit plan. The Commission may enter into an agreement with the Secretary of Health and Human Services in providing for administration of certification under this subsection.

(b) LOOK-BEHIND AUTHORITY.—If the BasiCare Commission determines that a self-insured health benefit plan does not qualify on or after the effective date specified in subsection(a), no coverage may be provided under the plan to individuals not enrolled as of the date of the determination, and the plan may not be continued for plan years beginning after the date of such determination until the Commission determines that such plan so qualifies.

(c) CERTIFICATION REQUIREMENTS.—

(1) IN GENERAL.—In order to obtain certification as a BasiCare health benefit plan as provided in this section, a self-insured health benefit plan must demonstrate to the satisfaction of the Commission that—

(A) the benefits and conditions of such plan (including copayments and deductibles) are substantially equivalent to those of a BasiCare health benefit plan as provided under this Act;

(B) the self-insuring entity is adhering to nondiscrimination standards substantially equivalent to those provided for carriers in section 215 (insurance reform requirements) and described in paragraph (2);

(C) the average per capita cost of providing BasiCare equivalent benefits to enrollees in the self-insured plan differs no more than 10 percent (either above or below) from the average per capita cost of providing BasiCare benefits package to non-self-insured beneficiaries in the community (or communities) in which the self-insured group is located; and

(D) the self-insuring entity possesses adequate financial reserves, as determined by the Commission, to assure the immediate and long-term solvency of the entity and the benefits of individuals receiving coverage through such entity.

(2) STANDARDS DESCRIBED.—Standards described in this paragraph shall include (but are not limited to) the following:

(A) NO DISCRIMINATION BASED ON HEALTH STATUS.—No self-insured BasiCare health benefit plan may deny, limit, or condition the coverage under (or benefits of) the plan with respect to health status, claims experience, receipt of health care, medical history, or lack of evidence of insurability, of an individual or group.

(B) TREATMENT OF PREEXISTING CONDITIONS.—No self-insured BasiCare health benefit plan may exclude or otherwise discourage coverage with respect to services related to treatment of a preexisting condition.

(C) WAITING PERIODS.—No self-insured BasiCare health benefit plan may impose waiting periods of any length.

(d) NONAPPLICATION TO SUPPLEMENTAL INSURANCE.—The provisions described in this section shall apply only to coverage for benefit equivalent to the BasiCare health benefit plan and do not apply to other health benefits.

SEC. 220. DEVELOPMENT OF STANDARDS FOR MANAGED CARE PLANS.

(a) IN GENERAL.—In preparing the legislative proposal described in section 212(a)(7), the Commission, taking into account recommendations of the Managed Care Advisory Committee (as described in subsection (b)), shall develop recommended standards that carriers offering managed care plans should meet with respect to the benefits, coverage, and delivery systems provided under such plans. Such standards shall encompass the standards by which managed care entities operate.

(b) MANAGED CARE ADVISORY COMMITTEE.—

(1) ESTABLISHMENT.—There shall be established a Managed Care Advisory Committee (hereinafter referred to as the "Committee").

(2) MEMBERSHIP.—The Committee shall be composed of 5 members appointed by the Chairperson of the Commission, each member representing 1 of the following areas:

(A) Health care professionals.

(B) Managed care industry.

(C) Academia (with specific expertise in managed care plans).

(D) Business management.

(E) Organized labor.

(3) COMPENSATION.—

(A) IN GENERAL.—Members of the Committee shall serve without compensation.

(B) EXPENSES, ETC., REIMBURSED.—While away from their homes or regular places of business on the business of the Committee, the members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in Government service.

(C) APPLICATION OF ACT.—The provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the Committee.

(D) SUPPORT.—The Commission shall supply such necessary office facilities, office supplies, support services, and related expenses as necessary to carry out the functions of the Committee.

SEC. 221. PREEMPTION OF PROVISIONS RELATING TO MANAGED CARE.

In developing the legislative proposal described in section 212(a)(7), the Commission shall provide that in the case of a managed care plan meeting the recommended standards under section 220 that is offered by a carrier, the following provisions of State law are preempted and may not be enforced against the managed care plan with respect to a carrier offering such plan:

(1) RESTRICTIONS ON REIMBURSEMENT RATES OR SELECTIVE CONTRACTING.—Any law that restricts the ability of the carrier to negotiate reimbursement rates with health care providers or to contract selectively with one provider or a limited number of providers.

(2) RESTRICTIONS ON DIFFERENTIAL FINANCIAL INCENTIVES.—Any law that limits the financial incentives that the managed care plan may require a beneficiary to pay when a non-plan provider is used on a non-emergency basis.

(3) RESTRICTIONS ON UTILIZATION REVIEW METHODS.—

(A) IN GENERAL.—Any law that—

(i) prohibits utilization review of any or all treatments and conditions;

(ii) requires that such review be made by a resident of the State in which the treatment is to be offered or by an individual licensed in such State, or by a physician in any particular specialty or with any board certified specialty of the same medical specialty as the provider whose services are being rendered;

(iii) requires the use of specified standards of health care practice in such review or requires the disclosure of the specific criteria used in such review;

(iv) requires payments to providers for the expenses of responding to utilization review requests; or

(v) imposes liability for delays in performing such review.

(B) CONSTRUCTION.—Nothing in subparagraph (A)(ii) shall be construed as prohibiting a State from requiring that utilization review be conducted by a licensed health care professional, or requiring that any appeal from such a review be made by a licensed physician or by a licensed physician in any particular specialty or with any board certified specialty of the same medical specialty as the provider whose services are being rendered.

(4) RESTRICTIONS ON BENEFITS.—Any law that mandates benefits under the managed care plan that are greater that the benefits recommended under the standards developed under section 220.

Subtitle C—Low-Income Assistance

SEC. 231. TRANSFER FROM MEDICAID TO BASICARE.

(a) IN GENERAL.—In developing the legislative proposal described in section 212(a)(8)(A), the Commission shall provide for the orderly termination of medicaid program coverage under title XIX of Social Security Act, to the extent that such coverage duplicates the BasiCare benefits package.

(b) TRANSFER OF COVERED INDIVIDUALS FROM MEDICAID TO BASICARE.—Such proposal shall require each State—

(1) to notify medicaid beneficiaries of the impending transfer of coverage of such beneficiaries to the BasiCare program not later than 1 year prior to the date of transfer from medicaid to the BasiCare program; and

(2) to provide such information and assistance as may be necessary to assure the enrollment of all medicaid beneficiaries in BasiCare health benefit plans upon the establishment of such plans.

(c) PROVISIONAL TREATMENT OF MEDICAID BENEFITS NOT COVERED BY BASICARE.—Such proposal shall require—

(1) that for a period of 5 years following the termination of medicaid benefits that duplicate the BasiCare benefits package, the medicaid program shall continue to operate with respect to the provision of any existing benefits which are not covered under the BasiCare benefits package; and

(2) Federal rules and regulations regarding the medicaid program shall remain in effect during a transition period subject to such adjustments deemed necessary by the Commission to carry out the medicaid-to-BasiCare transfer described in this section.

(d) FINAL DISPOSITION OF MEDICAID BENEFITS.—Upon expiration of the 5-year transition period described in subsection (c)(1), Federal funding for any existing medicaid benefits which are not covered under the BasiCare benefits package shall be discontinued, unless Congress has approved a plan for alternate disposition of such benefits, as provided in section 213.

SEC. 232. LOW-INCOME ASSISTANCE WITH COSTS OF BASICARE INSURANCE

(a) IN GENERAL.—In developing the legislative proposal described in section 212(a)(8)(B), the Commission shall provide for a BasiCare public assistance program (hereafter in this section referred to as 'BasiCare Assist') which, at a minimum, meets the requirements of the following subsections of this section.

(b) ASSISTANCE FOR UNDER-POVERTY FAMILIES.—In the case of an individual who is a member of an under-poverty family, BasiCare Assist shall provide for payment of—

(1) premiums charged the individual for coverage under a BasiCare health benefit plan in which the individual is enrolled; and

(2) deductibles and other cost-sharing imposed on the individual under such plan, other than a per service copayment, not to exceed $5 per service, as determined by the Commission.

(c) ASSISTANCE FOR NEAR-POVERTY FAMILIES.—

(1) IN GENERAL.—In the case of an individual who is a member of a near-poverty family, BasiCare Assist shall provide for payment of the applicable percentage of any premiums, deductibles, and other cost-sharing charged the individual for coverage under a BasiCare health benefit plan in which the individual is enrolled.

(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term 'applicable percentage' means 100 percent reduced (but not below zero percent) by 10 percentage points for each 10 percentage point bracket (or portion thereof) such family's income equals or exceeds 100 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.

(d) ADJUSTMENT OF ASSISTANCE.—The Commission shall provide for appropriate adjustments to any assistance under this section to reflect partial family coverage under an employment-related BasiCare health benefit plan.

(e) APPLICATION FOR ASSISTANCE.—BasiCare Assist shall use a standard Federal application which shall be as simple in form as possible and understandable to the average individual, and shall require attachment of such documentation as deemed necessary by the Commission in order to ensure eligibility for assistance. Such application shall be available to any individual or family, may be filed at any time, and as provided in subsection (f), may initiate coverage under a BasiCare health benefit plan. The Commission shall use, as deemed practicable by the Commission, any existing forms employed for Federal income tax filings as an application for BasiCare Assist.

(f) ENROLLMENT AT POINT OF APPLICATION.—To the extent practicable, the Commission shall provide for the option of enrollment in a BasiCare health benefit plan as part of the application and approval process for assistance under this section. In providing for such an option, the Commission may require carriers of BasiCare Health benefit plans to provide such information and assistance as may be necessary.

(g) PAYMENT OF PREMIUMS, DEDUCTIBLES, AND OTHER COST-SHARING.—BasiCare Assist shall provide to an individual a voucher for the applicable percentage of BasiCare premiums, deductibles, and other cost-sharing for which such individual qualifies under subsection (b) or (c). Such voucher shall be remitted by the individual to the carrier of

BasiCare health benefit plans (or, in the case of an employment-related BasiCare health benefit plan, to the individual's employer) for payment by BasiCare Assist. Such carrier shall make proper adjustments in billing statements to reflect such individual's remaining premium obligations, deductibles, and other cost-sharing (if any).

(h) Documentation of Eligibility.—

(1) Requirement for Filing of Income Statement.—In the case of a family which is receiving assistance under BasiCare Assist for any month in a year, a member of the family shall file a statement with the Commission, at such intervals during such year as the Commission deems necessary, and by not later than April 15 of the following year. Such a statement shall provide information necessary to determine the family income and the number of family members in the family during the year.

(2) Reconciliation of Assistance Based on Actual Income.—Based on and using the income reported in the statement filed under paragraph (1) with respect to a family, the Commission shall compute the amount of assistance that should have been provided under BasiCare Assist with respect to the family in the year involved and make proper adjustments in future assistance. If the amount of such assistance computed is—

(A) greater than the amount of assistance provided, the Commission shall provide for payment to the family involved of an amount equal to the amount of the deficit, or

(B) less than the amount of assistance provided, the Commission shall require the family to pay to the Federal Government (to the credit of BasiCare Assist) an amount equal to the amount of the excess payment.

(3) Disqualification for Failure to File.—In the case of any family that is required to file an information statement under paragraph (1) for a year and that fails to file such a statement by the deadline specified by the Commission, no member of the family shall be eligible for assistance under this section after such deadline. The Commission shall waive the application of this paragraph if the family establishes, to the satisfaction of the Commission, good cause for the failure to file the statement on a timely basis.

(4) Penalties for False Information.—

(A) Interest for Understatements.—Each individual who knowingly understates income reported in an application for assistance under BasiCare Assist or any statement described in paragraph (1), or otherwise makes a material misrepresentation of information in such an application or statement shall be liable to the Federal Government for excess payments made based on such understatement or misrepresentation, and for interest on such excess payments at a rate specified by the Commission.

(B) Penalties for Misrepresentation.—Each individual who knowingly misrepresents material information in an application for assistance under BasiCare Assist or any statement described in paragraph (1) shall be liable to the Federal Government for $1,000 or, if greater, 3 times the excess payments made based on such misrepresentation.

(5) Notice of Requirement.—The Commission shall provide for written notice, in March of each year, of the requirement of paragraph (1) to each family which received assistance under BasiCare Assist in any month during the preceding year and to which such requirement applies.

(6) Transmittal of Information.—The Secretary of the Treasury shall transmit annually to the Commission such information relating to the total income of individuals and families for the taxable year ending in the previous year as may be necessary to verify the reconciliation of assistance under BasiCare Assist.

(i) Definitions and Special Rules.—For purposes of this section—

(1) Under-poverty Family.—The term "under-poverty family" means a family whose income is less than 100 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.

(2) Near-poverty Family.—The term "near-poverty family" means a family whose income equals or exceeds 100 percent of the income official poverty line (as described in paragraph (1)), but is less than 200 percent of such income official poverty line.

(3) Determinations of Income.—

(A) In General.—The term "income" means—

(i) adjusted gross income (as defined in section 62(a) of the Internal Revenue Code of 1986), determined without the application of paragraphs (6) and (7) of such section and without the application of section 162(l) of such Code, plus

(ii) the amount of social security benefits (described in section 86(d) of such Code) which is not includable in gross income under section 86 of such Code.

(B) Family Income.—The term "family income" means, with respect to an individual, the sum of the income for the individual and all the other family members.

(C) Family Size.—The family size to be applied under this section, with respect to family income, is the number of individuals included in the family for purposes of coverage of a BasiCare health benefit plan.

(D) Timing of Determination.—Income shall be determined in accordance with one of the following methods, at the option of the applicant, for coverage under this section:

(i) Multiplying by a factor of 4 the family income of the applicant for the 3-month period immediately preceding the month in which the application for assistance under BasiCare is made.

(ii) Determining the family income of the applicant for the month in which the application for such assistance is made.

(j) Effective Date.—The provisions of this section shall take effect on the effective date of the legislation described in section 212(a) or 213(a) of this Act.

Subtitle D—Congressional Consideration of Commission Recommendation

SEC. 241. RULES GOVERNING CONGRESSIONAL CONSIDERATION.

(a) Rules of House of Representatives and Senate.—This section is enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of approval resolutions described in subsection (b), and supersedes other rules only to the extent that such rules are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(b) Terms of the Resolution.—For purposes of section 212(b), the term "approval resolution" means only a joint resolution of the two Houses of the Congress, providing in—

(1) the matter after the resolving clause of which is as follows: "That the Congress approves the recommendations of the Commission on National Health Care Access and Reform as submitted by the Commission on ________________", the blank space being filled in with the appropriate date; and

(2) the title of which is as follows: "Joint Resolution approving the recommendation of the Commission on National Health Care Access and Reform".

(c) Introduction and Referral.—On the day on which the recommendation of the Commission is transmitted to the House of Representatives and the Senate, an approval resolution with respect to such recommendation shall be introduced (by request) in the House of Representatives by the Majority Leader of the House, for himself and the Minority Leader of the House, or by Members of the House designated by the Majority Leader of the House, for himself and the Minority Leader of the House, or by Members of the House designated by the Majority Leader and Minority Leader of the House; and shall be introduced (by request) in the Senate by the Majority Leader of the Senate, for himself and the Minority Leader of the Senate, or by Members of the Senate designated by the Majority Leader and Minority Leader of the Senate. If either House is not in session on the day on which such recommendation is transmitted, the approval resolution with respect to such recommendation shall be introduced in the House, as provided in the preceding sentence, on the first day thereafter on which the House is in session. The approval resolution introduced in the House of Representatives and the Senate shall be referred to the appropriate committees of each House.

(d) Amendments Prohibited.—No amendment to an approval resolution shall be in order in either the House of Representatives or the Senate; and no motion to suspend the application of this subsection shall be in order in either House, nor shall it be in order in either House for the Presiding Officer to entertain a request to suspend the application of this subsection by unanimous consent.

(e) Period for Committee and Floor Consideration.—

(1) In General.—Except as provided in paragraph (2), if the committee or committees of either House to which an approval resolution has been referred have not reported it at the close of the 45th day after its introduction, such committee or committees shall be automatically discharged from further consideration of the approval resolution and it shall be placed on the appropriation calendar. A vote on final passage of the approval resolution shall be taken in each House on or before the close of the 45th day after the approval resolution is reported by the committees or committee of that House to which it was referred, or after such committee or committees have been discharged from further consideration of the approval resolution. If prior to the passage by one House of an approval resolution of that House, that House receives the same approval resolution from the other House then—

(A) the procedure in that House shall be the same as if no approval resolution had been received from the other House; but

(B) the vote on final passage shall be on the approval resolution of the other House.

(2) COMPUTATION OF DAYS.—For purposes of paragraph (1), in computing a number of days in either House, there shall be excluded any day on which the House is not in session.

(f) FLOOR CONSIDERATION IN THE HOUSE OF REPRESENTATIVES.—

(1) MOTION TO PROCEED.—A motion in the House of Representatives to proceed to the consideration of an approval resolution shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(2) DEBATE.—Debate in the House of Representatives on an approval resolution shall be limited to not more than 20 hours, which shall be divided equally between those favoring and those opposing the bill or resolution. A motion further to limit debate shall not be debatable. It shall not be in order to move to recommit an approval resolution or to move to reconsider the vote by which an approval resolution is agreed to or disagreed to.

(3) MOTION TO POSTPONE.—Motions to postpone, made in the House of Representatives with respect to the consideration of an approval resolution, and motions to proceed to the consideration of other business, shall be decided without debate.

(4) APPEALS.—All appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to an approval resolution shall be decided without debate.

(5) GENERAL RULES APPLY.—Except to the extent specifically provided in the preceding provisions of this subsection, consideration of an approval resolution shall be governed by the Rules of the House of Representatives applicable to other bills and resolutions in similar circumstances.

(g) FLOOR CONSIDERATION IN THE SENATE.—

(1) MOTION TO PROCEED.—A motion in the Senate to proceed to the consideration of an approval resolution shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(2) GENERAL DEBATE.—Debate in the Senate on an approval resolution, and all debatable motions and appeals in connection therewith, shall be limited to not more than 20 hours. The time shall be equally divided between, and controlled by, the Majority Leader and the Minority Leader or their designees.

(3) DEBATE OF MOTIONS AND APPEALS.—Debate in the Senate on any debatable motion or appeal in connection with an approval resolution shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the approval resolution, except that in the event the manager of the approval resolution is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the Minority Leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of an approval resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal.

(4) OTHER MOTIONS.—A motion in the Senate to further limit debate is not debatable. A motion to recommit an approval resolution is not in order.

(h) POINT OF ORDER REQUIRING SUPERMAJORITY FOR MODIFICATIONS TO RECOMMENDATION ONCE APPROVED.—

(1) IN GENERAL.—It shall not be in order in the House of Representatives or the Senate to consider any amendment to the provisions of the BasiCare Health Access and Reform Act except as provided in paragraph (2).

(2) WAIVER.—The point of order described in paragraph (1) may be waived or suspended in the House of Representatives or the Senate only, by the affirmative vote of three-fifths of the Members duly chosen and sworn.

Subtitle E—Enforcement Provisions

SEC. 251. ENFORCEMENT PROVISIONS FOR CARRIERS, PROVIDERS, AND EMPLOYERS.

(a) IN GENERAL.—Chapter 47 of the Internal Revenue Code of 1986 (relating to excise taxes on qualified pension, etc. plans) is amended by striking section 5000 and section 5000A (as added by section 106) and inserting the following new sections:

"SEC. 5000. FAILURE OF CARRIERS WITH RESPECT TO BASICARE INSURANCE.

"(a) GENERAL RULE.—In the case of any carrier offering any health benefit plan, there is hereby imposed a tax on such carrier if such plan fails to qualify as a Basicare health benefit plan.

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—The amount of tax imposed by subsection (a) by reason of 1 or more failures during a taxable year shall be equal to 50 percent of the gross premiums received during such taxable year with respect to all health benefit plans issued by the carrier on whom such tax is imposed.

"(2) GROSS PREMIUMS.—For purposes of paragraph (1), gross premiums shall include any consideration received with respect to any health benefit contract.

"(3) CONTROLLED GROUPS.—For purposes of paragraph (1)—

"(A) CONTROLLED GROUP OF CORPORATIONS.—All corporations which are members of the same controlled group of corporations shall be treated as 1 carrier. For purposes of the preceding sentence, the term 'controlled group of corporations' has the meaning given to such term by section 1563(a), except that—

"(i) 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a)(1), and

"(ii) the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.

"(B) PARTNERSHIPS, PROPRIETORSHIPS, ETC., WHICH ARE UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, all trades or business (whether or not incorporated) which are under common control shall be treated as 1 carrier. The regulations prescribed under this subparagraph shall be based on principles similar to the principles which apply in the case of subparagraph (A).

"(c) LIMITATION ON TAX.—

"(1) TAX NOT TO APPLY WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No tax shall be imposed by subsection (a) with respect to any failure for which it is established to the satisfaction of the Secretary that the carrier on whom the tax is imposed did not know, and exercising reasonable diligence would not have known, that such failure existed.

"(2) TAX NOT TO APPLY WHERE FAILURES CORRECTED WITHIN 30 DAYS.—No tax shall be imposed by subsection (a) with respect to any failure if—

"(A) such failure was due to reasonable cause and not to willful neglect, and

"(B) such failure is corrected during the 30-day period beginning on the 1st date any of the carriers on whom the tax is imposed knew, or exercising reasonable diligence would have known, that such failure existed.

"(3) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive relative to the failure involved.

"(d) COMPLIANCE DETERMINATION.—

"(1) IN GENERAL.—The Commission on National Health Care Access and Reform (hereafter in this subsection referred to as the 'Commission' shall determine whether any health benefit plan qualifies as a BasiCare health benefit plan.

"(2) STATE AGREEMENTS.—

"(A) IN GENERAL.—The Commission may, in its discretion, enter into an agreement with any State to provide for the State to make the initial determination described in paragraph (1).

"(B) STANDARDS.—An agreement may be entered into under subparagraph (A) only if—

"(i) the chief executive officer of the State requests such agreement be entered into,

"(ii) the Commission determines that the State agreement will apply to substantially all health benefit plans issued in such State, and

"(iii) the Commission determines that the application of the State agreement will carry out the purposes of this section.

"(3) TERMINATION.—The Commission shall terminate any agreement if the Commission determines that the application of the State agreement ceases to carry out the purposes of this section.

"(e) DEFINITIONS.—For purposes of this section the terms 'health benefit plan', 'BasiCare health benefit plan', and 'carrier' shall have the same meanings given such terms under section 271 of the BasiCare Health Access and Cost Control Act.

"SEC. 5000A. FAILURE OF PROVIDERS WITH RESPECT TO BASICARE INSURANCE.

"(a) GENERAL RULE.—There is hereby imposed a tax on the failure of any person who provides any service under a BasiCare health benefit plan to comply with the requirements of section 213(d)(3) of the BasiCare Health Access and Cost Control Act.

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—The amount of tax imposed by subsection (a) by reason of 1 or more failures during a taxable year shall be equal to 50 percent of the gross income received during such taxable year with respect to all services provided by the person on whom such tax is imposed.

"(2) CONTROLLED GROUPS.—For purposes of paragraph (1)—

"(A) CONTROLLED GROUP OF CORPORATIONS.—All corporations which are members of the same controlled group of corporations shall be treated as 1 person. For purposes of the preceding sentence, the term 'controlled group of corporations' has the meaning given to such term by section 1563(a), except that—

"(i) 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a)(1), and

"(ii) the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.

"(B) PARTNERSHIPS, PROPRIETORSHIPS, ETC., WHICH ARE UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, all trades or business (whether or not incorporated) which are under common control shall be treated as 1 person. The regulations prescribed under this subparagraph shall be based on principles similar to the principles which apply in the case of subparagraph (A).

"(c) LIMITATION ON TAX.—

"(1) TAX NOT TO APPLY WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No tax shall be imposed by subsection (a) with respect to any failure for which it is established to the satisfaction of the Secretary that the person on whom the tax is imposed did not know, and exercising reasonable diligence would not have known, that such failure existed.

"(2) TAX NOT TO APPLY WHERE FAILURES CORRECTED WITHIN 30 DAYS.—No tax shall be imposed by subsection (a) with respect to any failure if—

"(A) such failure was due to reasonable cause and not to willful neglect, and

"(B) such failure is corrected during the 30-day period beginning on the 1st date any of the persons on whom the tax is imposed knew, or exercising reasonable diligence would have known, that such failure existed.

"(3) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive relative to the failure involved.

"(d) COMPLIANCE DETERMINATION.—

"(1) IN GENERAL.—The Commission on National Health Care Access and Reform (hereafter in this subsection referred to as the 'Commission') shall determine compliance with the requirements of section 217 of the BasiCare Health Access and Cost Control Act.

"(2) STATE AGREEMENTS.—

"(A) IN GENERAL.—The Commission may, in its discretion, enter into an agreement with any State to provide for the State to make the initial determination described in paragraph (1).

"(B) STANDARDS.—An agreement may be entered into under subparagraph (A) only if—

"(i) the chief executive officer of the State requests such agreement be entered into,

"(ii) the Commission determines that the State agreement will apply to substantially all providers of services under health benefit plans issued in such State, and

"(iii) the Commission determines that the application of the State agreement will carry out the purposes of this section.

"(3) TERMINATION.—The Commission shall terminate any agreement if the Commission determines that the application of the State agreement ceases to carry out the purposes of this section.

"(e) DEFINITIONS.—For purposes of this section the terms 'health benefit plan' and 'BasiCare health benefit plan' shall have the same meanings given such terms under section 271 of the BasiCare Health Access and Cost Control Act.

"SEC. 5000B. FAILURE OF EMPLOYERS WITH RESPECT TO BASICARE INSURANCE.

"(a) GENERAL RULE.—There is hereby imposed a tax on the failure of any person to comply with the requirements of sections 217 and 219 of the BasiCare Health Access and Cost Control Act with respect to any full-time employee of the person.

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—The amount of the tax imposed by subsection (a) on any failure with respect to a full-time employee shall be $50 for each day in the noncompliance period with respect to such failure.

"(2) NONCOMPLIANCE PERIOD.—For purposes of this section, the term 'noncompliance period' means, with respect to any failure, the period—

"(A) beginning on the date such failure first occurs, and

"(B) ending on the date such failure is corrected.

"(3) CORRECTION.—A failure of a person to comply with the requirements of sections 217 and 219 of the BasiCare Health Access and Cost Control Act with respect to any full-time employee of the person shall be treated as corrected if—

"(A) such failure is retroactively undone to the extent possible, and

"(B) the employee is placed in a financial position which is as good as such employee would have been in had such failure not occurred.

For purposes of applying subparagraph (B), the employee shall be treated as if the employee had elected the most favorable coverage in light of the expenses incurred since the failure first occurred.

"(c) LIMITATIONS ON AMOUNT OF TAX.—

"(1) TAX NOT TO APPLY WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No tax shall be imposed by subsection (a) on any failure during any period for which it is established to the satisfaction of the Secretary that none of the persons referred to in subsection (d) knew, or exercising reasonable diligence would have known, that such failure existed.

"(2) TAX NOT TO APPLY TO FAILURES CORRECTED WITHIN 30 DAYS.—No tax shall be imposed by subsection (a) on any failure if—

"(A) such failure was due to reasonable cause and not to willful neglect, and

"(B) such failure is corrected during the 30-day period beginning on the first date any of the persons referred to in subsection (d) knew, or exercising reasonable diligence would have known, that such failure existed.

"(3) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive relative to the failure involved.

"(d) LIABILITY FOR TAX.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the following shall be liable for the tax imposed by subsection (a) on a failure:

"(A) In the case of a BasiCare health benefit plan other than a multiemployer plan, the employer.

"(B) In the case of a multiemployer plan, the plan.

"(C) Each person who is responsible (other than in a capacity as an employee) for administering or providing benefits under the BasiCare health benefit plan and whose act or failure to act caused (in whole or in part) the failure.

"(2) SPECIAL RULES FOR PERSONS DESCRIBED IN PARAGRAPH (1)(C).—A person described in subparagraph (C) (and not in subparagraphs (A) and (B)) of paragraph (1) shall be liable for the tax imposed by subsection (a) on any failure only if such person assumed (under a legally enforceable written agreement) responsibility for the performance of the act to which the failure relates.

"(e) DEFINITIONS.—For purposes of this section, the terms 'BasiCare health benefit plan' and 'full-time employee' shall have the same meanings given such terms under section 271 of the BasiCare Health Access and Cost Control Act.".

(b) CLERICAL AMENDMENTS.—The table of sections for such chapter 47 is amended by adding at the end thereof the following new items:

"Sec. 5000. Failure of carriers with respect to BasiCare insurance.
"Sec. 5000A. Failure of providers with respect to BasiCare insurance.
"Sec. 5000B. Failure of employers with respect to BasiCare insurance.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the effective date of the legislation described in section 212(a) or 213(a) of this Act.

SEC. 232. ENFORCEMENT PROVISION FOR INDIVIDUALS.

(a) IN GENERAL.—Subsection (d) of section 151 of the Internal Revenue Code of 1986 (relating to allowance of deductions for personal exemptions) is amended by adding at the end thereof the following new paragraph:

"(5) EXEMPTION AMOUNT DISALLOWED FOR UNINSURED INDIVIDUALS.—The exemption amount for any individual for such individual's taxable year shall be zero, unless the policy number of the BasiCare health benefit plan (as defined in section 271 of the BasiCare Health Access and Cost Control Act) for such individual is included in the return claiming such exemption amount for such individual.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the effective date of the legislation described in section 212(a) or 213(a) of this Act.

Subtitle F—Financial Provisions

SEC. 261. BASICARE TRUST FUND.

(a) TRUST FUND ESTABLISHED.—There is hereby created on the books of the Treasury of the United States a trust fund to be known as the BasiCare Trust Fund (hereafter in this section referred to as the "Trust Fund"). The Trust Fund shall consist of such gifts and bequests as may be made and such amounts as may be deposited in, appropriated to, or credited to such Trust Fund as provided in this section.

(b) TRANSFER OF AMOUNTS EQUIVALENT TO CERTAIN TAXES.—

(1) IN GENERAL.—There are hereby appropriated to the Trust Fund amounts equivalent to 100 percent of—

(A) 1 percent of the wages (as defined in section 3121 of the Internal Revenue Code of 1986) paid on or after the first day of the calendar year following the date of the enactment of this Act, and reported to the Secretary of the Treasury or the Secretary's delegate pursuant to subtitle F of the Internal Revenue Code of 1986, and

(B) 1 percent of the amount of self-employment income (as defined in section 1402 of the Internal Revenue Code of 1986) reported to the Secretary of the Treasury or the Secretary's delegate on tax returns under subtitle F of the Internal Revenue Code of 1986 for any taxable year beginning on or after the first day of the calendar year following the date of the enactment of this Act.

(2) PENALTIES.—There are hereby appropriated to the Trust Fund amounts equivalent to 100 percent of the taxes imposed under sections 5000, 5000A, and 5000B of the Internal Revenue Code of 1986.

(3) ADDITIONAL REVENUES.—There are hereby appropriated to the Trust Fund amounts equivalent to the additional revenues received in the Treasury as the result of the amendments made by section 262 of this Act.

(4) TRANSFERS BASED ON ESTIMATES.—The amounts appropriated by paragraphs (1), (2), and (3) shall be transferred from time to time (not less frequently than monthly) from the general fund in the Treasury to the Trust Fund, such amounts to be determined on the basis of estimates by the Secretary of the Treasury of the taxes, specified in such subparagraphs, paid to or deposited into the Treasury; and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or were less than the taxes specified in such subparagraphs.

(c) TRANSFER OF ADDITIONAL FUNDS.—

(1) STATE SHARE OF MEDICAID FUNDING.—

(A) IN GENERAL.—On a fiscal year basis, each State shall remit to the Trust Fund the State's medicaid share for that fiscal year.

(B) STATE'S MEDICAID SHARE.—

(i) IN GENERAL.—With respect to any fiscal year beginning after the applicable effective date of the legislation described in section 212(a) or 213(a) of this Act, a State's Medicaid share shall equal the amount such State expended under title XIX of the Social Security Act for the fiscal year preceding such applicable effective date for benefits equal to the BasiCare benefits package, as determined by the Commission, in consultation with the Secretary of Health and Human Services and State Medicaid authorities. Such amount shall be adjusted each fiscal year by the increase in the Consumer Price Index (as determined by the Department of Labor) for the previous fiscal year.

(ii) AMOUNT UPON COMPLETE ASSIMILATION OF MEDICAID.—The amount otherwise determined under clause (i) for the fiscal year beginning after the applicable effective date of the legislation described in section 213(h) of this Act shall be increased by the amount such State expended under title XIX of the Social Security Act for the fiscal year preceding such applicable effective date.

(C) COMPLIANCE.—The requirements of this paragraph shall be subject to the provisions of section 1904 of the Social Security Act.

(2) FEDERAL SHARE OF MEDICAID FUNDING.—There are hereby appropriated for each fiscal year described in paragraph (1) the comparable Federal share expended under title XIX of the Social Security Act for such fiscal year, as adjusted under paragraph (1)(B)(i).

(3) MEDICARE FUNDS.—All amounts, not otherwise obligated, that remain in the Federal Hospital Insurance Trust Fund and the Federal Supplemental Medical Insurance Trust Fund on the applicable effective date of the legislation described in section 213(i) of this Act shall be transferred to the Trust Fund.

(4) ADDITIONAL FEDERAL FUNDS.—There are hereby appropriated to the Trust Fund for each fiscal year beginning after the applicable effective date of the legislation described in 213(j) of this Act, amounts equal to the amounts appropriated with respect to section 1079 of title 10, United States Code (CHAMPUS) and chapter 89 of title 5, United States Code, as in effect on the day before such applicable effective date, as adjusted under paragraph (1)(B)(i).

(5) APPROPRIATION OF ADDITIONAL SUMS.—There are hereby authorized to be appropriated to the Trust Fund such additional sums as may be required to make expenditures referred to in subsection (e).

(e) EXPENDITURES.—

(1) LOW-INCOME ASSISTANCE.—There are hereby authorized and appropriated such sums as are necessary in each fiscal year for the expenses of the program described in section 241.

(2) ADMINISTRATIVE EXPENSES.—There are hereby appropriated such sums as are authorized under section 203 for the administrative and other expenses of the Commission for each fiscal year.

(3) TITLE I EXPENDITURES.—Amounts in the Trust Fund shall be available, as provided in appropriation Acts, for authorized expenditures described in—

(A) sections 330A(h) and 330B(h) of the Public Health Service Act, as added by sections 111 and 112 of this Act, and

(B) sections 150 and 151(g) of this Act.

(e) INVESTMENT OF TRUST FUND.—

(1) IN GENERAL.—It shall be the duty of the Secretary of the Treasury to invest such portion of the Trust Fund as is not, in the Secretary's judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired—

(A) on original issue at the issue price, or

(B) by purchase of outstanding obligations at the market price.

The purposes for which obligations of the United States may be issued under chapter 31 of title 31, of the United States Code, are hereby extended to authorize the issuance at par of special obligations exclusively to the Trust Fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the Public Debt; except that where such average rate is not a multiple of one-eighth of 1 percent, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 percent next lower than such average rate. Such special obligations shall be issued only if the Secretary of the Treasury determines that the purchase of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States on original issue or at the market price, is not in the public interest.

(2) SALE OF OBLIGATION.—Any obligation acquired by the Trust Fund (except special obligations issued exclusively to the Trust Fund) may be sold by the Secretary of the Treasury at the market price, and such special obligations may be redeemed at par plus accrued interest.

(3) CREDITS TO TRUST FUND.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund shall be credited to and form a part of the Trust Fund.

(f) REPORT TO CONGRESS.—It shall be the duty of the Secretary of the Treasury to hold the Trust Fund, and (after consultation with the Commission) to report to the Congress each year on the financial condition and the results of the operations of the Trust Fund during the preceding fiscal year and on its expected condition and operations during the next fiscal year. Such report shall be printed as both a House and Senate document of the session of the Congress to which the report is made.

(g) CONFORMING AMENDMENT.—Paragraph (4) of section 201(a) of the Social Security Act (42 U.S.C. 401(a)) is amended by inserting "and section 261(1)(1) of the BasiCare Health Access and Cost Control Act" before the end period.

SEC. 262. TAX TREATMENT OF COSTS OF BASICARE INSURANCE.

(a) TAX EXCLUSIONS FOR EMPLOYER-PROVIDED HEALTH INSURANCE.—Section 106 of the Internal Revenue Code of 1986 (relating to contributions by employer to accident and health plans) is amended by striking "an accident or health plan" and inserting "a BasiCare health benefit plan (as defined in section 271(1) of the BasiCare Health Access and Cost Control Act)".

(b) BUSINESS EXPENSE DEDUCTION FOR HEALTH INSURANCE.—Section 162 of the Internal Revenue Code of 1986 (relating to trade or business expenses) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) GROUP HEALTH PLANS.—The expenses paid or incurred by an employer for a group health plan shall not be allowed as a deduction under this section unless the plan qualifies as a BasiCare health benefit plan (as defined in section 271(1) of the BasiCare Health Access and Cost Control Act).".

(c) RULES RELATING TO DEDUCTIONS FOR INDIVIDUALS.—Subparagraph (C) of section 213(g)(1) of such Code (defining medical care) is amended by striking "for insurance" and inserting "for a Basicare health benefit plan (as defined in section 271(1) of the BasiCare Health Access and Cost Control Act).".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to any taxable year beginning after the applicable effective date of the legislation described in section 212(a) or 213(a) of this Act.

Subtitle G—Definitions

SEC. 271. DEFINITIONS.

For purposes of this title:

(1) BASICARE HEALTH BENEFIT PLAN.—The term "BasiCare health benefit plan" means a health benefit plan which—

(A) offers the BasiCare benefits package described in section 214;

(B) applies the BasiCare base premium rate described in section 216; and

(C) meets the requirements of this title.

(2) HEALTH BENEFIT PLAN AND OTHER DEFINITIONS RELATING TO HEALTH PLANS.—For purposes of this section:

(A) HEALTH BENEFIT PLAN.—

(i) IN GENERAL.—The term "health benefit plan" means any hospital or medical expense incurred policy or certificate, hospital or medical service plan contract, health maintenance subscriber contract, other employee welfare plan (as defined in the Employee Retirement Income Security Act of 1964), or any other health insurance arrangement, and includes an employment-related reinsurance plan (as defined in paragraph (3)).

(ii) EXCLUSIONS.—The term 'health benefit plan' does not include—

(I) accident-only, credit, dental, or disability income insurance,

(II) coverage issued as a supplement to liability insurance,

(III) worker's compensation or similar insurance, or

(IV) automobile medical-payment insurance;

that is offered by a carrier.

(B) REINSURANCE PLAN.—The term "reinsurance plan" means any reinsurance or similar mechanism that underwrites a portion of the risk for a health benefit plan.

(C) SELF-INSURED HEALTH BENEFIT PLAN.—The term "self-insured health benefit plan" means a health benefit plan in which an employment-related group assumes the underwriting risk for the plan (whether or not there is any reinsurance or similar mechanism to underwrite a portion of that risk).

(3) CARRIER; HEALTH MAINTENANCE ORGANIZATION; AND OTHER DEFINITIONS RELATING TO CARRIERS.—For purposes of this title:

(A) CARRIER.—The term "carrier" means any person that offers a health benefit plan, whether through insurance or otherwise, including a licensed insurance company, a prepaid hospital or medical service plan, a health maintenance organization, a self-insurer carrier, a reinsurance carrier, and a multiple small employer welfare arrangement (a combination of small employers associated for the purpose of providing health benefit plan coverage for their employees).

(B) HEALTH MAINTENANCE ORGANIZATION.—The term "health maintenance organization" has the meaning given the term 'eligible organization' in section 1876(b) of the Social Security Act, as in effect on the date of enactment of this Act.

(C) REINSURANCE CARRIER.—The term "reinsurance carrier" means the entity assuming responsibility for underwriting under an employment-related reinsurance plan, but does not include a carrier insofar as it directly offers a health benefit plan.

(D) SELF-INSURER CARRIER.—The term "self-insurer carrier" means a carrier that is not a licensed insurance company, a prepaid hospital or medical service plan, or a health maintenance organization, that offers a health benefit plan directly with respect to an employment-related group.

(4) GENERAL DEFINITIONS.—For purposes of this title:

(A) APPLICABLE REGULATORY AUTHORITY.—The term "applicable regulatory authority" means, with respect to a health benefit plan offered in a State, the State commissioner or superintendent of insurance or other State authority responsible for regulation of health insurance.

(B) COMMUNITY.—The term "community" means a geographic area that encompasses at least—

(i) one or more adjacent metropolitan statistical areas (as defined by the Commission, in consultation with the Bureau of the Census); or

(ii) the total remaining area within a State not otherwise included in a geographic area described under clause (i).

(C) FULL-TIME EMPLOYEE.—The term "full-time employee" means, with respect to an employer, an employee who normally performs on a monthly basis at least 30 hours of service per week for such employer.

[From the Washington Post, June 3, 1991]

AVERTING THE NEXT CRISIS

(By Ron Pollack)

There is a growing consensus that the health care crisis deserves to be at or near the top of the congressional domestic agenda. As Senate Majority Leader George Mitchell said in his response to the State of the Union address, health care costs are too high and are unaffordable for too many Americans, and "we don't have any policy on what will be the crisis of this decade: long-term care for the elderly."

A successful congressional solution to the health care crisis would have to include two crucial elements: effective cost containment and universal access to acute and chronic care. While projected overall health spending would be significantly reduced under such a solution, government health spending would inevitably rise. This is because the costs of the uninsured, the poor and families needing long-term care would inevitably be borne, in a much larger way than they are today, by government.

This inescapable fact, in the context of federal fiscal woes and a reluctance to increase taxes, is the stumbling block to major congressional action. A growing number of health care bills are being offered in the House and Senate but, largely because of fiscal constraints, action on them is not scheduled.

The key question, therefore, is: how can Congress raise the necessary funds to facilitate comprehensive reform? A key answer may lie in a modified version of Sen. Daniel Patrick Moynihan's proposal for restructuring the Social Security payroll tax—a proposal recently defeated but likely to come up again and again in the years ahead.

By 1996, the Social Security trust funds are projected to reach a reserve balance equal to one and one-half times annual expenditures. These reserves would provide a totally adequate margin of safety to operate Social Security on a modified pay-as-you-go basis. Under the Social Security legislation of 1983, however, the trust funds are expected to grow well beyond this safety margin, and huge additional reserves will be accumulated.

Sen. Moynihan would eliminate this excess reserve by reducing the Social Security payroll tax from 6.2 to 5.2 percent and placing Social Security funding on a modified pay-as-you-go basis. A worker with $15,000 in income would save $150 in payroll taxes, and a $40,000 earner would save $400.

Reducing the payroll tax by one percent for employers and employees would cost the government $56 billion in lost revenues in 1996 (and even more in subsequent years)—an amount that might otherwise help pay government's increased costs for comprehensive health care reform. Wouldn't it be odd if Congress, with one hand, cut this $56 billion in taxes and then, with the other hand, sought to levy a new health care tax for a comparable amount? A far better alternative would be to shift one percent of the payroll tax to health care reform.

Almost everyone would benefit by the use of these funds to help make health care affordable for all. U.S. businesses are now spending as much on employee health care costs as they earn in profit. Labor is seeing hard-won health benefits erode with each new collective bargaining agreement. Consumers are increasingly denied insurance due to existing health problems. Almost no families except the very rich can afford to pay for long-term care. And startlingly, within the next three years, more than one out of every four Americans are likely to find themselves uninsured for a significant period of time.

For congressional leaders interested in health care reform but stymied by the politics of "no new taxes," the one percent shift in payroll taxes offers a sensible solution.

To be sure, such a shift in payroll taxes, like the Moynihan proposal, would require payroll tax increases beginning by 2010 to ensure undiminished Social Security benefits for baby boomers. It would also have an adverse impact on the federal budget by spending funds that would otherwise accumulate. But, unlike the Moynihan plan, it would dedicate these funds to highest priority domestic needs: the growing health care crisis. And, if the one percent shift commenced in 1996, it would occur when the federal budget is projected to have a $20 billion surplus—a huge change from the $318 billion deficit projected for this year.

America must contain its health care costs effectively, and it must do so while guaranteeing high-quality health care for all. The urgency of this agenda is real, and the payroll tax shift can help us achieve it.

(The writer is executive director of Families USA, a national advocacy organization focused on health and long-term care reform.)

By Mr. MCCAIN (for himself and Mr. NICKLES)

S. 2347. A bill to improve the health of the Nation's children, and for other purposes; to the Committee on Finance.

CHILDREN'S HEALTH CARE IMPROVEMENT ACT OF 1992

• Mr. MCCAIN. Mr. President, I rise today to introduce the Children's Health Care Improvement Act of 1992.

America is in the throes of a health care crisis, and most at risk are our children. This legislation, which has been more than a year in the making, directly addresses the problem of many American children lacking health care coverage.

While the quality of the American health care system is revered around the world, more than 37 million have no health care coverage—nearly 10 million of which are children. And, costs continue to go through the roof—with no apparent end in sight.

It was once said that "the strength and energy of a society may be measured today and predicted for tomorrow by the health of its children". Applying such a measurement today would reveal that we are clearly a nation at risk.

The medical chart on the end of the health system's bed reveals some grim realities about our current health system and children:

Nearly 10 million American children are without health care coverage, making up more than one-fourth of the uninsured;

There is a lack of access to primary and preventive care;

Many American children use the emergency room for their primary care because they lack insurance;

America's infant mortality rate exceeds that of every other industrialized country;

Some 24 percent of pregnant women in America lack access to pre-natal care; and

Of American children aged 2 and younger, 20–30 percent go without the necessary immunizations.

Without the excellent efforts of our Nation's Medicaid programs, these statistics would be even more grim. Medicaid, however, is not able to address the whole problem.

Today, after nearly a year's worth of work, I am introducing one of the final planks in my health reform agenda—a comprehensive children's health initiative.

The Children's Health Care Improvement Act of 1992 addresses the health care crisis facing our Nation's children head on. It will ensure access to coverage and bring down costs, while preserving quality and choice.

First, it would make a basic health insurance policy available to every child in our Nation's school system.

In the same way the school lunch program has guaranteed that no child will go without a nutritious lunch, this legislation would guarantee that no child has to go without health insurance.

In Arizona, Blue Cross and Blue Shield has developed a policy that could serve as a model for this program. There are also managed care plans that could serve as models.

Second, it would expand the excellent Community and Migrant Health Center program which provides ready access to primary and preventive care for lower income Americans, and those residing in underserved areas. In Arizona, last year, this excellent program accommodated nearly 700,000 patient visits—many of them children.

Third, to make sure all of our Nation's children are immunized, it would increase funding for the critical Childhood Immunization Program.

Fourth, to reach out and serve the needs of mothers and/or children at high risk for abuse and neglect, this legislation would provide funding to assist States in establishing a program to track at-risk children and pregnant women to ensure they are receiving the care and assistance they need.

And, fifth, it will eliminate needless bureaucracy by permitting States to combine the application and eligibility process for Medicaid, WIC, and Maternal and Child Health Programs. Together, these programs serve the nutritional, health screening, and basic health services needs of many low-income expectant mothers and children. As currently configured in most States, needy women and children face a redtape barrier to service because these programs usually operate independent of one another.

Together with a provision prohibiting discrimination based on preexisting conditions, and reform of the small employer insurance marketplace, which are contained in other pieces of my health reform package, and which have been reported out of the Finance Committee by Chairman BENTSEN, this initiative will ensure that all of our Nation's children have access to health coverage.

Before I close, I would like to take a moment to express my gratitude to Ms. Debbie Steelman, who headed the bipartisan and multigenerational Advisory Council on Social Security for her assistance with this initiative and the excellent work done by the Commission in this area.

One area not covered by this initiative is that of school nurses. As the Flynn Foundation put it, in a recent report on the health status of Arizona's children, school nurses are the MASH Unit of health care for children. So right they are. Currently, the Arizona Medical Association and the Arizona Nurses Association are working jointly on a project to expand the role and presence of school nurses. I look forward to working with them and supporting their efforts. And will be helpful where I can.

Does the initiative I am introducing today cost money? Sure it does. But, so, too, does sending a child to the emergency room for non-trauma cases, overusing the neo-natal care wards due to a lack of adequate prenatal care, and the like. If adopted, this legislation will actually end up reducing costs and ultimately holding costs in check by giving all children access to primary and preventive care.

For example, we know that every dollar spend on prenatal care saves $3 in the child's first year of life. Every dollar spend on immunization saves $10-$14 by reducing illness, disease and death. Poor children who have comprehensive primary and preventive care have been shown to have annual health costs 10 percent lower than those children who did not receive such care. We will save a great deal of money by delivering basic care outside of the emergency room.

Addressing this aspect of our health care crisis is a national imperative. The current situation just cannot continue. If this package is adopted in Congress, we will no longer risk sacrificing the future of this great country because of inadequate health care for our children. Under this initiative, all of our children will have access to health coverage.

Mr. President, I encourage my colleagues to review this legislation and consider joining me as a cosponsor. I look forward to continuing to work with all of my colleagues as we grapple with how best to address the critical problem of 10 million children who lack health care coverage.

I ask unanimous consent that the full text of the Children's Health Care Improvement Act of 1992 be printed in the RECORD.●

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2347

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Children's Health Care Improvement Act of 1992".

SEC. 2. FINDINGS.

Congress finds that—

America's children represent the hope and future of our country, and are a resource we cannot afford to squander.

Americans under 18 represent one fourth of those without health insurance, with nearly 9.8 million children completely uninsured.

Uninsured children are less likely to see a doctor for preventive or basic care and more likely to visit the more expensive emergency room setting for care when they become ill.

Uninsured children are more likely to miss school and may not learn as effectively as insured children.

Elementary and secondary schools provide a large applicant pool for insurance, much like that of university. Permitting children to join with their peers in purchasing insurance will result in lower rates.

The WIC, Medicaid, and Maternal and Child Health block grant programs each provide critical services to low income mothers and children, but barriers to services exist due to the fact that in most states these programs have individual eligibility processes.

Routine immunization of children against common disease is cost effective and an effective measure against disease proliferation.

Migrant and community health centers are a critical link to preventive and primary health care services, and there is a need for expansion of this critical program.

Early identification and monitoring of those children and mothers at risk of abuse or neglect to ensure that they have access to health and social services is cost effective.

TITLE I—SCHOOL-BASED HEALTH INSURANCE

SEC. 101. ESTABLISHMENT OF PROGRAM.

(a) IN GENERAL.—The Secretary of Education, in consultation with the Secretary of Health and Human Services, shall establish a program under which local educational agencies (as such term is defined in section 1471(12) of the Elementary and Secondary Education Act of 1965) shall offer basic health insurance coverage to eligible students in such schools.

(b) REQUIREMENTS.—

(1) APPLICABILITY.—The provisions of this section shall apply to each local education agency that receives Federal educational assistance.

(2) STATE EDUCATION DEPARTMENTS.—

(A) POLICIES.—The department of education for a State shall determine the types of health insurance policies that should be offered under this section by local education agencies of such State. In making such determination, the department shall ensure that coverage under a fee-for-service plan and a managed care plan is available to the local educational agencies in the State.

(B) ANNUAL REPORTS.—The department of education for a State shall annually prepare and submit to the Secretary of Education a report that describes the health insurance policies offered under this section in the public schools in such State.

(3) HEALTH INSURANCE COVERAGE.—The Secretary of Health and Human Services, shall determine the minimum requirements that any health insurance plan offered under this section must meet, including—

(A) the primary, preventative, medical, emergency and surgical care services and benefits to be covered under such plan; and

(B) any other matter determined appropriate by such Secretary.

(4) LOCAL ADMINISTRATION.—The department of education for a State shall administer the requirements of this section through the local educational agencies.

(c) ELIGIBLE STUDENTS.—To be eligible to be covered under a health insurance plan offered by a local educational agency, an individual shall—

(1) not be more than 18 years of age and reside in the school district;

(2) be uninsured for a period of not less than 6 months prior to the date on which coverage under the plan offered by such school would commence;

(3) not be covered or enrolled under title XIX of the Social Security Act or under any other public health insurance program; and

(4) meet any other requirements determined appropriate by the State department of education or the Secretary of Education.

(d) ENFORCEMENT.—If the Secretary determines that a local educational agency is not in compliance with the requirements of this section, the Secretary may withhold, or request a remittance, not to exceed 10 percent of the total amount of Federal educational assistance to be made available, or previously made available, to such local educational agency for the fiscal year during which such noncompliance is occurring.

(f) CONSTRUCTION.—This section shall not be construed as requiring the purchase of policies under this section.

(g) ADMINISTRATIVE SUPPORT.—The Secretary may provide assistance to local educational agencies to assist such agencies in off-setting the additional administrative costs to such agencies in complying with this section.

(h) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Secretary of Education shall promulgate regulations necessary to carry out this section.

SEC. 102. REFUNDABLE TAX CREDIT FOR CHILDREN'S HEALTH INSURANCE EXPENSES.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable personal credits) is amended by inserting after section 34 the following new section:

"SEC. 34A. CHILDREN'S HEALTH INSURANCE EXPENSES.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the qualified health insurance expenses paid by such individual during the taxable year.

"(b) QUALIFIED HEALTH INSURANCE EXPENSES.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified health insurance expenses' means amounts paid during the taxable year for medical care (within the meaning of section 213(d)(1)(C)) with respect to insurance policies issued pursuant to any program approved under section 101 of the Children's Health Care Improvement Act. For purposes of the preceding sentence, the rules of section 213(d)(6) shall apply.

"(2) DOLLAR LIMIT ON QUALIFIED HEALTH INSURANCE EXPENSES.—The amount of the qualified health insurance expenses paid during any taxable year which may be taken into account under subsection (a) shall not exceed $1,000 per qualifying child adjusted under regulations promulgated by the Secretary to reflect any increase in the consumer price index.

"(3) PHASEOUT.—In the case of any taxpayer whose adjusted gross income exceeds 100 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved, the dollar amount under paragraph (2) shall be reduced (but not below zero) by the percentage by which such income exceeds such poverty line.

"(4) ELECTION NOT TO TAKE CREDIT.—A taxpayer may elect for any taxable year to have amounts described in paragraph (1) not treated as qualified health insurance expenses.

"(5) COORDINATION WITH HEALTH INSURANCE PREMIUM CREDIT.—Paragraph (1) shall not apply to any amount taken into account in computing the amount of the credit allowed under section 32.

"(6) SUBSIDIZED EXPENSES.—No expense shall be treated as a qualified health insurance expense if—

"(A) such expense is paid, reimbursed, or subsidized (whether by being disregarded for purposes of another program or otherwise) by the Federal Government, a State or local government, or any agency or instrumentality thereof under title XIX of the Social Security Act, and

"(B) the payment, reimbursement, or subsidy of such expense is not includible in the gross income of the recipient.

"(c) QUALIFYING CHILD.—For purposes of this section, the term 'qualifying child' has the meaning given to such term by section 32(c)(3) (determined without regard to subparagraph (A)(iii)).

"(d) COORDINATION WITH ADVANCE PAYMENTS OF CREDIT.—

"(1) RECAPTURE OF EXCESS ADVANCE PAYMENTS.—If any payment in excess of the amount of the credit allowable under this section is made to the individual under 7524 during any calendar year, then the tax imposed by this chapter for the individual's last taxable year beginning in such calendar year shall be increased by the aggregate amount of such payments.

"(2) RECONCILIATION OF PAYMENTS ADVANCED AND CREDIT ALLOWED.—Any increase in tax under paragraph (1) shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit (other than the credit allowed by subsection (a)) allowable under this subpart.

"(f) REDUCTION OF CREDIT TO TAXPAYERS SUBJECT TO ALTERNATIVE MINIMUM TAX.—The credit allowed under this section for the taxable year shall be reduced by the amount of tax imposed by section 55 (relating to alternative minimum tax) with respect to such taxpayer for such taxable year.

"(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section."

(b) ADVANCE PAYMENT OF CREDIT.—

(1) IN GENERAL.—Chapter 77 of the Internal Revenue Code of 1986 (relating to miscellaneous provisions) is amended by inserting after section 7523 the following new section:

"SEC. 7524. ADVANCE PAYMENT OF CREDIT FOR CHILDREN'S HEALTH INSURANCE EXPENSES.

"(a) GENERAL RULE.—The Secretary of the Treasury shall make advance payments of refunds to which eligible taxpayers are entitled by reason of section 34A.

"(b) ELIGIBLE TAXPAYER.—For purposes of this section, the term 'eligible taxpayer' means, with respect to any taxable year, any taxpayer if the taxpayer furnishes, at such time and in such manner as the Secretary may prescribe, to the Secretary such information as the Secretary may require in order to—

"(1) determine if the individual will be eligible to receive the credit provided by section 34A for the taxable year, and

"(2) estimate the amount of qualified health insurance expenses (as defined in section 34A(b)) for the calendar year.

"(c) PAYMENTS.—The Secretary shall make payment of the amount determined under subsection (b)(2) upon receipt of the information described in subsection (b).

"(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section."

(c) CONFORMING AMENDMENT.—Section 213 of the Internal Revenue Code of 1986 (relating to deduction for medical, dental, etc., expenses) is amended by adding the following new subsection:

"(g) COORDINATION WITH HEALTH INSURANCE EXPENSES CREDIT UNDER SECTION 34A.—The amount otherwise taken into account under subsection (a) as expenses paid for medical care shall be reduced by the amount (if any) of the children's health insurance expenses credit allowable to the taxpayer for the taxable year under section 34A."

(d) TECHNICAL AMENDMENT.—Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting before the period "or from section 34A of such Code".

(e) CLERICAL AMENDMENTS.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 34 the following new item:

"Sec. 34A. Children's health insurance expenses."

(2) The table sections for chapter 77 of such Code is amended by inserting after the item relating to section 7523 the following new item:

"Sec. 7524. Advance payment of credit for children's health insurance expenses."

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

TITLE II—WIC PROGRAM, MATERNAL AND CHILD HEALTH SERVICES BLOCK GRANT PROGRAM, AND MEDICAID

SEC. 201. DEVELOPMENT OF UNIFORM APPLICATION FORM AND PROCESS.

(a) UNIFORM MODEL APPLICATION FORM AND PROCESS.—The Secretary of Health and Human Services (hereafter referred to in this title as the "Secretary"), working in consultation with the Secretary of Agriculture, shall develop a single model uniform application form and process to be utilized in applying for and obtaining benefits under the Special Supplemental Food Program under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), the Maternal and Child Health Services Block Grant Program under title V of the Social Security Act (42 U.S.C. 701 et seq.), and the medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et. seq.). The Secretary of Health and Human Services shall provide any waivers necessary to carry out this section.

(b) AVAILABILITY OF FORM AND PROCESS.—The single model uniform application form and process shall be made available to States electing to adopt such form and process for use in applying for and obtaining benefits under such programs.

(c) OUTREACH PROGRAM.—The Secretary, working in consultation with the Secretary of Agriculture, shall provide an outreach program for States electing to adopt the single model uniform application form and process. The outreach program shall be designed to inform recipients and potential recipients of benefits under the Special Supplemental Food Program under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), the Maternal and Child Health Services Block Grant Program under title V of the Social Security Act (42 U.S.C. 701 et seq.), and the medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et. seq.) of the option to apply for benefits under those programs using the single model uniform application form and process.

SEC. 202. DEMONSTRATION PROGRAM.

(a) IN GENERAL.—The Secretary shall make grants to not more than five States to enable such States to conduct demonstration projects for the purpose of encouraging women to obtain prenatal and well-baby care under the Special Supplemental Food Program under section 17 the Child Nutrition Act of 1966 (42 U.S.C. 1786), the Maternal and Child Health Services Block Grant Program under title V of the Social Security Act (42 U.S.C. 701 et seq.), and the medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(b) APPLICATION.—

(1) SUBMISSION OF APPLICATION.—To be eligible to receive a grant under this section a State shall prepare and submit to the Secretary an application at such time, in such form, and containing such information as the Secretary may require.

(2) Review and Approval of Application.—The Secretary shall review and approve each application submitted pursuant to paragraph (1) in accordance with such criteria as the Secretary finds appropriate.

(c) Amount of Grant.—The amount of a grant to a State under this section shall be an amount that the Secretary finds reasonable and necessary for the development and implementation of the State's demonstration program.

SEC. 203. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this title.

TITLE III—EXPANSION OF MIGRANT AND COMMUNITY HEALTH CENTER PROGRAM

SEC. 301. EXPANSION OF MIGRANT AND COMMUNITY HEALTH CENTER PROGRAM.

(a) In General.—There are authorized to be appropriated, $250,000,000 to enable the Secretary of Health and Human Services to award grants for the planning and development of additional migrant and community health centers under sections 329 and 330 of the Public Health Service Act (42 U.S.C. 254b and 254c) in medically underserved areas or areas in which there is a high concentration of medically underserved populations.

(b) Funding for Operations.—There are authorized to be appropriated, $290,000,000 in each fiscal year to enable the Secretary of Health and Human Services to provide operational assistance to migrant and community health centers developed under subsection (a).

TITLE IV—REVISION OF NATIONAL HEALTH SERVICE CORPS PRIORITIES

SEC. 401. MISSION OF THE CORPS.

Section 331(a) of the Public Health Service Act (42 U.S.C. 254d(a)) is amended by adding at the end thereof the following new paragraph:

"(4) It shall be a principal mission of the National Health Service Corps to increase the access to primary health care services of urban and inner-city poverty stricken target populations (particularly infants and children), rural residents, high-risk pregnant women, migrant workers and their families, substance abusers, and homeless individuals.".

SEC. 402. PRIMARY CARE PHYSICIAN STRATEGY.

(a) In General.—Subpart II of part D of title III of the Public Health Service Act (42 U.S.C. 254d et seq.) is amended by inserting after section 335, the following new section:

"SEC. 335A. PRIMARY CARE PHYSICIAN STRATEGY.

"(a) Establishment of Strategy.—The Secretary shall develop and implement, using amounts appropriated under section 338(c), a strategy to provide incentives to encourage primary care physicians to serve—

"(1) in migrant or community health centers or in related health programs; or

"(2) in medically underserved inner-city and rural areas.

"(b) Requirements.—The Secretary shall ensure that the strategy developed under subsection (a) requires the implementation of at least one of the programs described in paragraph (1) or (2) through the National Health Service Corps program.

"(1) Recruitment program.—Under the strategy developed under subsection (a), the Secretary shall establish a program under the National Health Service Corps to recruit individuals from medically underserved areas to serve as Corps members in the areas from which such individuals were recruited.

"(2) Continued service program.—Under the strategy developed under subsection (a), the Secretary shall establish a program under the National Health Service Corps to encourage Corps members to continue to serve in medically underserved areas after such individuals have discharged their service obligations to the Corps. In determining the method by which to encourage such individuals to continue such service, the Secretary shall evaluate the desirability of providing incentives for such individuals to start a private medical practice or join medical groups, hospitals, and health care systems operating in, or within a reasonable distance from, such medically underserved areas.".

(b) Authorization of Appropriations.—Section 338 of such Act (42 U.S.C. 254K) is amended by adding at the end thereof the following new subsection:

"(c) There are authorized to be appropriated to carry out section 335A, $100,000,000 for each fiscal year.".

TITLE V—CHILDHOOD IMMUNIZATIONS

SEC. 501. INCREASE IN AUTHORIZATION FOR CHILDHOOD IMMUNIZATIONS.

Section 317(j)(1)(B) of the Public Health Service Act (42 U.S.C. 247b(j)(1)(b)) is amended by striking out "such sums as may be necessary" and inserting in lieu thereof "$238,865,000 for fiscal year 1992, and $240,000,000 for each of the fiscal years 1993 through 1996".

TITLE VI—CHILDREN AT RISK

SEC. 601. ESTABLISHMENT OF HEALTHY START DEMONSTRATION PROGRAM.

(a) In General.—The Secretary of Health and Human Services shall establish a demonstration program to award grants to five States to enable such States to implement healthy start programs that would track mothers and children at high-risk of abuse and neglect, and at risk of not receiving necessary services and care and enable such services to be obtained.

(b) Eligibility.—To be eligible to receive a grant under this section a State shall prepare and submit to the Secretary of Health and Human Services an application at such time, in such manner, and containing such information as the Secretary may require, including a description of the program to be implemented in the State with amounts received under the grant.

(c) Program Requirements.—

(1) Distribution of funds.—In implementing a healthy start program with amounts received under this section, a State shall distribute funds through the State department of health to community health centers or other community social service programs that agree to perform identification and monitoring activities with respect to at risk children.

(2) Identification and tracking services.—In implementing a healthy start program with amounts received under this section, the department of health of a State shall develop and implement, either directly or through agreements with entities of the type described in paragraph (1), procedures to identify and track infants born in target areas designated by such department as areas in which children are more likely to be subject to abuse or neglect.

(3) Information.—In implementing a healthy start program with amounts received under this section, a State shall require that caseworkers providing services under such program to mothers provide such mothers with information concerning services or assistance available under the Special Supplemental Food Program under section 17 of the Child Nutrition Act of 1966, the Food Stamp Act of 1977, titles V and XIX of the Social Security Act and section 8 of the United States Housing Act of 1937.

(d) Model Screening Program.—The Secretary of Health and Human Services shall develop and implement, in States that receive assistance under this section, a screening program to identify children determined to be at risk of being subject to abuse or neglect.

(e) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

By Mr. MACK:

S. 2348. A bill to reduce the growing costs imposed on State and local governments by unfunded Federal mandates; to the Committee on Governmental Affairs.

S. 2349. A bill to amend the Congressional Budget Act of 1974 to minimize the impact on State and local governments of unexpected provisions of legislation proposing the imposition of large unfunded costs on such governments; to the Committee on Rules and Administration.

FEDERAL MANDATE RELIEF ACT OF 1992 AMENDMENT TO THE CONGRESSIONAL BUDGET ACT OF 1974

• Mr. MACK. Mr. President, since the 1970's, the cities and the States have been paying billions of dollars to comply with unfunded Federal mandates. The problem of unfunded Federal mandates has substantially stripped the ability of cities and States to establish their own spending priorities.

The Florida League of Cities estimates that cities and States throughout the country will spend up to 24 percent of their budgets complying with unfunded Federal mandates.

Today I will introduce two bills addressing the issue of unfunded Federal mandates:

First, a point-of-order bill which would create a speed bump in the process of passing unfunded Federal mandates. It would allow a Senator to raise a procedural point-of-order and stop any legislation on unfunded mandates from coming to the floor for a vote.

Second, a reimbursement bill which would place a disincentive on Congressional mandates by requiring the Federal Government to pay for the cost of mandates.

Coupled with the recession, unfunded Federal mandates have placed a profound burden on the budget of State and local governments.

According to the National Conference of State Legislatures [NCSL]:

There were 20 new mandates passed in the 101st Congress that will cost the States over $15 billion over 5 years. The bulk of the $15 billion cost comes from three expensive mandated changes: First, expanding the Social Security system to State and local employees not participating in a public retirement system, second, increasing the Medicare wage cap from $54,000 to $125,000, and third, changing the eligibility requirements for various Medicare and Medicaid Programs.

Seven major bills alone either just passed or currently moving through Congress would cost States more than $1.6 billion during fiscal year 1992, the projected cost for Florida, according to NCSL, is $87.5 million. These were: Child Welfare and Preventive Services Act (S. 4), Medicaid Expansion (S. 902), Resource Conservation and Recovery Act (S. 976), Homeless Mentally Ill Outreach Act of 1991 (S. 62), National Voter Registration Act (S. 250), Surface Transportation Efficiency Act (S. 1204), and National Literacy Act.

Over 115 Federal mandate bills were introduced in the first 4 months of the 102d Congress. Some examples: National Literacy Act, Family and Medical Leave, National Voter Registration Act, Clean Water Act, and Resource Conservation and Recovery Act.

The 1991 Budget Reconciliation Act alone will cost the States approximately $13.3 billion in unfunded mandates over the next 5 years.

In a State like Florida, the issue of unfunded Federal mandates is even more serious since we are already shortchanged on our fair share of Federal funds.

In addition, the depression in commercial real estate values will have a major effect on local revenue bases. Falling real estate values mean falling property tax revenues. Although we have yet to see the full effect of falling property tax revenues, but they will be felt soon. Falling revenues plus unfunded mandates amount to a double whammy on local budgets.

A recent study by DRI/McGraw-Hill indicates that significant tax increases would be required to maintain existing revenue levels in cities all over the country. In Florida, the study estimates that a Miami family of four could face a tax increase of $236 per year just to offset declining property tax values. The same family in Jacksonville would be hit with an extra $208; St. Petersburg, $88; and Tampa, $72.

Congress must break its bad habit of enacting laws and implementing regulations that unfairly saddle the cities and the States with excessive costs. What has happened is the Federal Government doesn't have the budget to cover these costs and it has found a clever way to force spending by requiring mandates on other jurisdictions.

In essence, Congress is mandating that State and local governments must raise taxes. It's a back door tax increase and it's wrong.•

By Mr. GRAHAM (for himself and Mr. MACK):

S. 2350. A bill to direct the Secretary of the Navy to develop a second homeport on the East Coast of the United States for nuclear-powered aircraft carriers; to the Committee on Armed Services.

DEVELOPMENT OF A SECOND HOMEPORT FOR NUCLEAR-POWERED AIRCRAFT CARRIERS

Mr. GRAHAM. Mr. President, I am introducing today, along with my colleague Senator MACK, legislation that directs the Secretary of the Navy to develop a second homeport on the East Coast of the United States for nuclear aircraft carriers. We are pleased to join in this effort, led by Congressman BENNETT who has already introduced identical legislation in the House.

Mr. President, while the Navy is continuing to implement a strategic homeporting strategy, the Secretary of the Navy is not implementing the strategic homeporting concept for the carrier fleet. Of our 14 carrier groups, 6 are nuclear powered. Two of six are on the east coast, both single-sited.

Single-siting our nuclear carriers on the east coast is a national security risk. In the wake of the breakup of the Soviet Union and the Eastern bloc, we obviously face a decreased security threat.

Nevertheless, simple military doctrine dictates that you minimize risk by dispersing your assets, not bottling them up at one site. This uncertain world does not lend itself to easy prediction.

The world has undergone tremendous change in a short time. But we cannot rule out the possibility of future threats. We also cannot forget that, threat or no threat, common sense tells us not to put our east coast nuclear carriers all in one port.

That is why our legislation directs the Secretary of Navy to develop a second homeport on the east coast. In doing so, the Secretary will obviously have to focus on key issues such as sea accessibility, port security and availability of training flight facilities.

Once a site is selected, the Department of Defense will have to determine the necessity for dredging of the berthing areas, channel, and turning basin, and whether pier upgrades, power upgrades, and new shore maintenance facilities are necessary.

I urge the Senate Armed Services Committee to give prompt consideration to this proposal. I look forward to working with my colleagues on this issue in the months ahead.

Mr. MACK. Mr. President, I rise today to offer legislation which is vital to the long-run national security interests of the United States.

Today, America has two aircraft carrier ports on the east coast—Mayport, FL and Norfolk, VA. However, right now only Norfolk is capable of handling nuclear carriers. Our Nation's carrier fleet is downsizing, from 15 to 12, with conventional carriers being phased out in favor of the newer nuclear-powered ships. As this occurs, our naval air stations, including Mayport, will need to be modernized to handle this evolving requirement. If we don't act in timely fashion, we will lose Mayport as an aircraft carrier base, and left with only Norfolk on the entire Atlantic coast.

Last week, my esteemed colleague in the House, Representative CHARLES E. BENNETT, offered similar legislation in recognition of this important gap. I am delighted to support his effort, and Senator GRAHAM and I urge our colleagues to adopt this measure swiftly, that we may begin corrective action as soon as possible.

By Mr. ADAMS (for himself and Mr. BINGAMAN):

S. 2351. A bill to provide for research to test the efficacy and cost-effectiveness of nutrition screening and intervention activities in populations of older individuals and to determine the extent of malnutrition in such populations; to the Committee on Labor and Human Resources.

NUTRITION SCREENING RESEARCH ACT

Mr. ADAMS. Mr. President, today I am introducing the Nutrition Screening Research Act. Malnutrition among the Nation's elderly is a serious problem. But in order to fight malnutrition in the elderly, we must first identify the individuals who are at risk so that action can be taken to prevent malnutrition. A promising approach to do this is through nutrition screening.

This bill provides for research to give us a clear picture of the extent of the problem of malnutrition in the elderly. It also provides for research of the efficacy and cost-effectiveness of nutrition screening and if reimbursement for nutrition screening should be made available.

The number of malnourished older individuals is shocking. A recent study by Peter D. Hart research associates estimated that 40 percent of elderly patients in acute care or long-term care facilities are malnourished. This legislation provides for a larger scale study to determine the extent of malnutrition in older people in hospitals and nursing homes, as well as in their own homes.

Nutrition screening is a low-technology, low-cost approach to preventing malnutrition. Through nutrition screening, individuals who are at risk of malnutrition can be identified and steps can be taken to prevent malnutrition and its complications. Nutrition screening is especially important for the elderly, who are at particular risk of malnutrition.

At a hearing I conducted last month on "Finding and Fighting Malnutrition in the Elderly," I heard tragic stories of malnourished seniors. Malnourished individuals have prolonged hospital stays, a higher incidence of complications from illness and accidents, and a higher mortality rate than do individuals who are adequately nourished. All this can translate into a lower quality of life for older people and massive health care costs.

The saddest part is that all this can be prevented. In a year in which we are giving so much attention to the health care of Americans, it is time we focus on the prevention of health care problems. Many preventable health problems are nutrition related.

I am honored to be joined by Senator BINGAMAN in introducing this bill. My distinguished colleague from New Mexico has a well-established record in the area of nutrition. His leadership in establishing the National Nutrition Monitoring System is particularly noteworthy.

I urge my other colleagues to join us in cosponsoring this important piece of legislation that can lead to a better quality of life for older individuals and lower health care costs. I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2351

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Nutrition Screening Research Act".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) many persons in the United States do not have adequate nutrition;

(2) a large segment of the United States population is elderly and the population of older individuals is at particular risk for malnutrition;

(3) by the year 2030, the number of persons in the United States age 65 or older will increase to more than 66,000,000 individuals;

(4) more than one in five individuals who are age 65 or older will be hospitalized in the coming year;

(5) preliminary data suggest that approximately 40 percent of elderly patients in acute-care or long-term care facilities are malnourished;

(6) malnourished patients have prolonged hospital stays, a higher incidence of complications, and a higher mortality rate;

(7) each reduction of 1 month in the average period of dependence of older individuals brings about a savings of up to $4,000,000,000 in health care costs;

(8) the nutritional problems of older individuals include overnutrition and toxicities;

(9) 85 percent of the population of older individuals has one or more chronic diseases that have been documented to benefit from nutrition intervention;

(10) persons age 65 or older represent over one-third of the $660,000,000,000 health care expenditures made annually by the United States;

(11) malnutrition is not only a health issue, but also a social one, with social services at the local, state and national levels being important in reducing malnutrition and improving health conditions; and

(12) a national study that would evaluate the efficacy and cost-effectiveness of nutrition screening and intervention activities for older individuals in the United States could provide the basis for the institutionalization of nutrition screening and intervention activities in the federally supported continuum of health care and social services systems, potentially saving billions of dollars annually and improving the quality of life for millions of older individuals.

(b) PURPOSE.—The purpose of this Act is to provide for a determination of—

(1) the efficacy and cost-effectiveness of nutrition screening and intervention activities for older individuals;

(2) a program to institutionalize the activities; and

(3) the extent of malnutrition in older individuals in the United States.

SEC. 3. RESEARCH.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of Health and Human Services (referred to in this Act as the "Secretary"), acting through the National Institute on Aging, coordinating with the Agency for Health Care Policy and Research and, to the degree possible, working in cooperation with the head of the National Nutrition Monitoring System, established under section 1428 of the Food and Agriculture Act of 1977 (7 U.S.C. 3178), shall conduct a 3-year nutrition screening and intervention activities study.

(2) EFFICACY AND COST-EFFECTIVENESS OF NUTRITION SCREENING AND INTERVENTION ACTIVITIES.—In conducting the study, the Secretary shall determine the efficacy and cost-effectiveness of nutrition screening and intervention activities conducted in the elderly health and long-term care continuum, and of a program that would institutionalize nutrition screening and intervention activities. In evaluating such a program, the Secretary shall determine—

(A) if health or quality of life is measurably improved for older individuals who receive routine nutritional screening and treatment;

(B) if federally subsidized home or institutional care is reduced because of increased independence of older individuals resulting from improved nutritional status;

(C) if a multidisciplinary approach to nutritional care is effective in addressing the nutritional needs of older individuals; and

(D) if reimbursement for nutrition screening and intervention activities is a cost-effective approach to improving the health status of older individuals.

(3) POPULATIONS.—The populations of older individuals in which the study will be conducted shall include populations of older individuals who are—

(A) living independently, including—

(i) individuals who receive home and community-based services or family support; and

(ii) individuals who do not receive additional services and support;

(B) hospitalized, including individuals admitted from home and from institutions; and

(C) institutionalized in residential facilities such as nursing homes and adult homes.

(b) MALNUTRITION STUDY.—The Secretary, acting through the National Institute on Aging, shall conduct a 3-year study to determine the extent of malnutrition in older individuals in hospitals and long-term care facilities and in older individuals who are living independently.

(c) REPORT.—The Secretary shall submit a report to the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives containing the findings resulting from the studies described in subsections (a) and (b), including a determination regarding whether a program that would institutionalize nutrition screening and intervention activities should be adopted, and the rationale for the determination.

(d) ADVISORY PANEL.—

(1) ESTABLISHMENT.—The Secretary, acting through the Director of the National Institute on Aging, shall establish an advisory panel that shall oversee the design, implementation, and evaluation of the studies described in subsections (a) and (b).

(2) COMPOSITION.—The advisory panel shall include representatives appointed for the life of the panel by the Secretary from organizations that include the Health Care Financing Administration, the Social Security Administration, the National Center for Health Statistics, the Administration on Aging, the National Council on the Aging, the American Dietetic Association, and the American Academy of Family Physicians.

(3) COMPENSATION AND EXPENSES.—

(A) COMPENSATION.—Each member of the advisory panel who is not an employee of the Federal Government shall receive compensation at the daily equivalent of the rate specified for level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day the member is engaged in the performance of duties for the advisory panel, including attendance at meetings and conferences of the panel, and travel to conduct the duties of the panel.

(B) TRAVEL EXPENSES.—Each member of the advisory panel shall receive travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

(4) DETAIL OF FEDERAL EMPLOYEES.—On the request of the advisory panel, the head of any Federal agency shall detail, without reimbursement, any of the personnel of the agency to the advisory panel to assist the advisory panel in carrying out its duties. Any detail shall not interrupt or otherwise affect the civil service status or privileges of Federal employee.

(5) TECHNICAL ASSISTANCE.—On the request of the advisory panel, the head of a Federal agency shall provide such technical assistance to the advisory panel as the advisory panel determines to be necessary to carry out its duties.

(6) TERMINATION.—Nothwithstanding section 15 of the Federal Advisory Committee Act (5 U.S.C. App.), the advisory panel shall terminate 3 years after the date of enactment of this Act.

SEC. 4 AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act, and not less than $3,000,000, for each of fiscal years 1993 through 1995.

ADDITIONAL COSPONSORS

S. 15

At the request of Mr. BIDEN, the name of the Senator from California [Mr. SEYMOUR] was added as a cosponsor of S. 15, a bill to combat violence and crimes against women on the streets and in homes.

S. 240

At the request of Mrs. KASSEBAUM, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 240, a bill to amend the Federal Aviation Act of 1958 relating to bankruptcy transportation plans.

At the request of Mr. D'AMATO, his name was added as a cosponsor of S. 240, supra.

S. 703

At the request of Mr. ROCKEFELLER, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of S. 703, a bill to amend the Harmonized Tariff Schedule of the United States to correct the tariff rate inversion on certain iron and steel pipe and tube products.

S. 843

At the request of Mr. GRASSLEY, his name was added as a cosponsor of S. 843, a bill to amend title 46, United States Code, to repeal the requirement that the Secretary of Transportation collect a fee or charge for recreational vessels.

S. 1100

At the request of Mr. KERRY, the name of the Senator from Tennessee [Mr. SASSER] was added as a cosponsor of S. 1100, a bill to authorize the Secretary of Housing and Urban Development to provide grants to urban and rural communities for training economically disadvantaged youth in education and employment skills and to expand the supply of housing for homeless and economically disadvantaged individuals and families.

S. 1261

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 1261, a bill to amend the Internal Revenue Code of 1986 to repeal the luxury excise tax.

S. 1398

At the request of Mr. REID, the name of the Senator from New Hampshire [Mr. SMITH] was added as a cosponsor of S. 1398, a bill to amend section 118 of the Internal Revenue Code of 1986 to provide for certain exceptions from certain rules for determining contributions in aid of construction.

S. 1574

At the request of Mr. RIEGLE, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 1574, a bill to ensure proper and full implementation by the Department of Health and Human Services of medicaid coverage for certain low-income medicare beneficiaries.

S. 1675

At the request of Mr. EXON, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 1675, a bill to amend title 49, United States Code, regarding the collection of certain payments for shipments via motor common carriers of property and household goods freight forwarders, and other purposes.

S. 1788

At the request of Mr. WIRTH, the name of the Senator from Texas [Mr. BENTSEN] was added as a cosponsor of S. 1788, a bill to establish the National Air and Space Museum Expansion Site Advisory Panel for the purpose of developing a national competition for the evaluation of possible expansion sites for the National Air and Space Museum, and to authorize the Board of Regents of the Smithsonian Institution to select, plan, and design such site.

S. 1989

At the request of Mr. ROCKEFELLER, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of S. 1989, a bill to amend certain provisions of the Internal Revenue Code of 1986 to improve the provision of health care to retirees in the coal industry, to revise the manner in which such care is funded and maintained, and for other purposes.

S. 2009

At the request of Mr. PACKWOOD, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 2009, a bill to amend the Internal Revenue Code of 1986 to modify certain provisions relating to the treatment of forestry activities.

S. 2106

At the request of Mr. CRANSTON, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 2106, a bill to grant a Federal charter to the Fleet Reserve Association.

S. 2244

At the request of Mr. THURMOND, the names of the Senator from South Carolina [Mr. HOLLINGS], the Senator from Utah [Mr. HATCH], the Senator from Georgia [Mr. NUNN], the Senator from Arkansas [Mr. BUMPERS], and the Senator from Michigan [Mr. RIEGLE] were added as cosponsors of S. 2244, a bill to require the construction of a memorial on Federal land in the District of Columbia or its environs to honor members of the Armed Forces who served in World War II and to commemorate U.S. participation in that conflict.

S. 2246

At the request of Mr. KENNEDY, the names of the Senator from Illinois [Mr. DIXON], the Senator from Pennsylvania [Mr. WOFFORD], and the Senator from California [Mr. CRANSTON] were added as cosponsors of S. 2246, a bill to suspend the forcible repatriation of Haitian nationals fleeing after the coup d'etat in Haiti until certain conditions are met.

S. 2290

At the request of Mr. WIRTH, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 2290, a bill to require public disclosure of examination reports of certain failed depository institutions.

S. 2334

At the request of Mr. WIRTH, the name of the Senator from Arkansas [Mr. PRYOR] was added as a cosponsor of S. 2334, a bill to extend the statute of limitations applicable to civil actions brought by the Federal conservator or receiver of a failed depository institution.

S. 2335

At the request of Mr. HATFIELD, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of S. 2335, a bill to amend the Solid Waste Disposal Act to require a refund value for certain beverage containers, and to provide resources for State pollution prevention and recycling programs, and for other purposes.

SENATE JOINT RESOLUTION 166

At the request of Mr. DOLE, the names of the Senator from Arkansas [Mr. BUMPERS] and the Senator from Idaho [Mr. SYMMS] were added as cosponsors of Senate Joint Resolution 166, a joint resolution designating the week of October 6 through 12, 1992, as "National Customer Service Week."

SENATE JOINT RESOLUTION 248

At the request of Mr. CONRAD, the names of the Senator from California [Mr. CRANSTON], the Senator from Pennsylvania [Mr. WOFFORD], the Senator from Tennessee [Mr. SASSER], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Wyoming [Mr. WALLOP], and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of Senate Joint Resolution 248, a joint resolution designating August 7, 1992, as "Battle of Guadalcanal Remembrance Day."

SENATE JOINT RESOLUTION 261

At the request of Mr. CRANSTON, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of Senate Joint Resolution 261, a joint resolution to designate April 9, 1992, as a "Day of Filipino World War II Veterans."

SENATE JOINT RESOLUTION 262

At the request of Mr. KASTEN, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of Senate Joint Resolution 262, a joint resolution designating July 4, 1992, as "Buy American Day."

SENATE JOINT RESOLUTION 263

At the request of Mr. SARBANES, the names of the Senator from Alabama [Mr. HEFLIN], the Senator from Arizona [Mr. DECONCINI], and the Senator from Ohio [Mr. GLENN] were added as cosponsors of Senate Joint Resolution 263, a joint resolution to designate May 4, 1992, through May 10, 1992, as "Public Service Recognition Week."

SENATE CONCURRENT RESOLUTION 17

At the request of Mr. HATCH, the names of the Senator from Montana [Mr. BURNS] and the Senator from Virginia [Mr. WARNER] were added as cosponsors of Senate Concurrent Resolution 17, a concurrent resolution expressing the sense of Congress with respect to certain regulations of the Occupational Safety and Health Administration.

SENATE CONCURRENT RESOLUTION 70

At the request of Mr. SANFORD, the names of the Senator from Nevada [Mr. REID] and the Senator from Indiana [Mr. COATS] were added as cosponsors of Senate Concurrent Resolution 70, a concurrent resolution to express the sense of the Congress with respect to the support of the United States for the protection of the African elephant.

SENATE CONCURRENT RESOLUTION 80

At the request of Mr. SIMON, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of Senate Concurrent Resolution 80, a concurrent resolution concerning democratic changes in Zaire.

SENATE RESOLUTION 246

At the request of Mr. DOLE, the names of the Senator from Texas [Mr. BENTSEN], the Senator from Missouri [Mr. BOND], and the Senator from Hawaii [Mr. AKAKA] were added as cosponsors of Senate Resolution 246, a resolution on the recognition of Croatia and Slovenia.

SENATE RESOLUTION 258

At the request of Mr. SIMON, the name of the Senator from New Jersey [Mr. BRADLEY] was added as a cosponsor of Senate Resolution 258, a resolution expressing the sense of the Senate regarding needed action to address the continuing state of war and chaos and the emergency humanitarian situation in Somalia.

SENATE RESOLUTION 264

At the request of Mr. SIMON, the names of the Senator from Mississippi [Mr. COCHRAN], the Senator from Louisiana (Mr. [JOHNSTON], and the Senator from Connecticut [Mr. DODD] were added as cosponsors of Senate Resolution 264, a resolution to express the sense of the Senate that people in the United States should plant more trees in their communities.

SENATE RESOLUTION 265

At the request of Mr. SIMON, the names of the Senator from Mississippi [Mr. COCHRAN], the Senator from Louisiana (Mr. JOHNSTON], and the Senator from Connecticut [Mr. DODD] were added as cosponsors of Senate Resolution 265, a resolution to express the sense of the Senate that the United Nations should designate 1993 as the "Year of the Tree" in order to encourage the citizens of the world to plant trees.

AMENDMENTS SUBMITTED

TAX FAIRNESS AND ECONOMIC GROWTH ACT

LEVIN (AND OTHERS) AMENDMENT NO. 1712

Mr. LEVIN (for himself, Mr. GRAHAM, Mr. DECONCINI, Mr. ROBB, and Mr. SIMON) proposed an amendment to the bill (H.R. 4210) to amend the Internal Revenue Code of 1986 to provide incentives for increased economic growth and to provide tax relief for families, as follows:

Strike line 1 on page 958 through line 17 on page 976, and insert in lieu thereof the following:

TITLE III—PAYMENT OF FAIR SHARE BY HIGH-INCOME TAXPAYERS

SUBTITLE A—TREATMENT OF WEALTHY INDIVIDUALS

SEC. 3001. INCREASE IN TOP MARGINAL RATE UNDER SECTION 1.

(a) GENERAL RULE.—Section 1 (relating to tax imposed) is amended by striking subsections (a) through (e) and inserting the following:

"(a) MARRIED INDIVIDUALS FILING JOINT RETURNS AND SURVIVING SPOUSES.—There is hereby imposed on the taxable income of—

"(1) every married individual (as defined in section 7703) who makes a single return jointly with his spouse under section 6013, and

"(2) every surviving spouse (as defined in section 2(a)),

a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $35,800	15% of taxable income.
Over $35,800 but not over $86,500.	$5,370, plus 28% of the excess over $35,800.
Over $86,500 but not over $175,000.	$19,566, plus 31% of the excess over $86,500.
Over $175,000	$47,001, plus 36% of the excess over $174,000.

"(b) HEADS OF HOUSEHOLDS.—There is hereby imposed on the taxable income of every head of a household (as defined in section 2(b)) a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $28,750	15% of taxable income.
Over $28,750 but not over $74,150.	$4,312.50, plus 28% of the excess over $28,750.
Over $71,150 but not over $162,500.	$17,024.50, plus 31% of the excess over $74,150.
Over $162,500	$44,413, plus 36% of the excess over $161,500.

"(c) UNMARRIED INDIVIDUALS (OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLDS).—There is hereby imposed on the taxable income of every individual (other than a surviving spouse as defined in section 2(a) or the head of a household as defined in section 2(b)) who is not a married individual (as defined in section 7703) a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $21,450	15% of taxable income.
Over $21,450 but not over $51,900.	$3,217.50, plus 28% of the excess over $21,450.
Over $51,900 but not over $150,000.	$11,743.50, plus 31% of the excess over $51,900.
Over $150,000	$42,154.50, plus 36% of the excess over $150,000.

"(d) MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—There is hereby imposed on the taxable income of every married individual (as defined in section 7703) who does not make a single return jointly with his spouse under section 6013, a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $17,900	15% of taxable income.
Over $17,900 but not over $43,250.	$2,685, plus 28% of the excess over $17,900.
Over $43,250 but not over $87,500.	$9,783, plus 31% of the excess over $43,250.
Over $87,500	$23,500.50, plus 36% of the excess over $87,500.

"(e) ESTATES AND TRUSTS.—There is hereby imposed on the taxable income of—

"(1) every estate, and

"(2) every trust,

taxable under this subsection a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $3,500	15% of taxable income.
Over $3,500	$525, plus 36% of the excess over $3,500."

(b) CONFORMING AMENDMENTS.—

(1) Section 541 is amended by striking "28 percent" and inserting "36 percent".

(2)(A) Subsection (f) of section 1 is amended—

(i) by striking "1990" in paragraph (1) and inserting "1992", and

(ii) by striking "1989" in paragraph (3)(B) and inserting "1991".

(B) Subparagraph (B) of section 32(i)(1) is amended by striking "1989" and inserting "1991".

(C) Subparagraph (C) of section 41(e)(5) is amended by striking "1989" each place it appears and inserting "1991".

(D) Subparagraph (B) of section 63(c)(4) is amended by striking "1989" and inserting "1991".

(E) Subparagraph (B) of section 68(b)(2) is amended by striking "1989" and inserting "1991".

(F) Subparagraphs (A)(ii) and (B)(ii) of section 151(d)(4) are each amended by striking "1989" and inserting "1991".

(G) Clause (ii) of section 513(h)(2)(C) is amended by striking "1989" and inserting "1991".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 3002. SURTAX ON INDIVIDUALS WITH INCOMES OVER $1,000,000.

(a) GENERAL RULE.—Subchapter A of chapter 1 (relating to determination of tax liability) is amended by adding at the end thereof the following new part:

"PART VIII—SURTAX ON INDIVIDUALS WITH INCOMES OVER $1,000,000

"Sec. 59B. Surtax on section 1 tax.
"Sec. 59C. Surtax on minimum tax.
"Sec. 59D. Special rules.

"SEC. 59B. SURTAX ON SECTION 1 TAX.

"In the case of an individual who has taxable income for the taxable year in excess of $1,000,000, the amount of the tax imposed under section 1 for such taxable year shall be increased by 10 percent of the amount which bears the same ratio to the tax imposed under section 1 (determined without regard to this section) as—

"(1) the amount by which the taxable income of such individual for such taxable year exceeds $1,000,000, bears to

"(2) the total amount of such individual's taxable income for such taxable year.

"SEC. 59C. SURTAX ON MINIMUM TAX.

"In the case of an individual who has alternative minimum taxable income for the taxable year in excess of $1,000,000, the amount of tentative minimum tax determined under section 55 for such taxable year shall be increased by 2.4 percent of the amount by which the alternative minimum taxable income of such taxpayer for the taxable year exceeds $1,000,000.

"SEC. 59D. SPECIAL RULES.

"(a) TREATMENT OF MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—In the case of a married individual (within the meaning of section 7703) filing a separate return for the taxable year, sections 59B and 59C shall be applied by substituting '$500,000' for '$1,000,000'.

"(b) COORDINATION WITH OTHER PROVISIONS.—The provisions of this part—

"(1) shall be applied after the application of subsections (h) and (i) of section 1, but

"(2) before the application of any other provision of this title which refers to the amount of tax imposed by section 1 or 55, as the case may be."

(b) CLERICAL AMENDMENT.—The table for parts for subchapter A of chapter 1 is amended by adding at the end the following new item:

"Part VIII. Surtax on individuals with incomes over $1,000,000."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 3003. EXTENSION OF OVERALL LIMITATION ON ITEMIZED DEDUCTIONS FOR HIGH-INCOME TAXPAYERS.

Section 68 (relating to overall limitation on itemized deductions) is amended by striking subsection (f).

SEC. 3004. EXTENSION OF PHASEOUT OF PERSONAL EXEMPTION OF HIGH-INCOME TAXPAYERS.

Section 151(d)(3) (relating to phaseout of personal exemption) is amended by striking subparagraph (E).

SEC. 3005. MARK TO MARKET INVENTORY METHODS FOR SECURITIES DEALERS.

(a) GENERAL RULE.—Subpart D of part II of subchapter E of chapter 1 (relating to inventories) is amended by adding at the end thereof the following new section:

"SEC. 475. MARK TO MARKET INVENTORY METHOD FOR DEALERS IN SECURITIES.

"(a) GENERAL RULE.—Notwithstanding any other provision of this subpart, the following rules shall apply to securities held by a dealer in securities:

"(1) Any security which is inventory in the hands of the dealer shall be included in inventory at market value.

"(2) In the case of any security which is not inventory in the hands of the dealer and which is held at the close of any taxable year—

"(A) the dealer shall recognize gain or loss as if such security were sold on the last business day of such taxable year, and

"(B) any gain or loss shall be taken into account for such taxable year.

Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence. The Secretary may provide by regulations for the application of this paragraph at times other than the times provided in this paragraph.

"(b) EXCEPTIONS.—

"(1) IN GENERAL.—Subsection (a) shall not apply to—

"(A) any security held for investment,

"(B) any security described in subsection (c)(2)(C) which is originated or acquired by the taxpayer in the ordinary course of a trade or business of the taxpayer and which is not held for sale, and

"(C) any hedge with respect to—

"(i) a security to which subsection (a) does not apply, or

"(ii) a position or a liability which is not a security in the hands of the taxpayer.

"(2) IDENTIFICTION REQUIRED.—Any security shall not be treated as described in subparagraph (A), (B), or (C) of paragraph (1), as the case may be, unless such security is clearly identified in the dealer's records as being described in such subparagraph before the close of the day on which it was acquired, originated, or entered into (or such other time as the Secretary may by regulations prescribe).

"(3) SECURITIES SUBSEQUENTLY HELD FOR SALE.—if, at any time after the close of the day on which any security described in paragraph (1) was acquired, originated, or entered into (or such other time as the Secretary may by regulations prescribe)—

"(A) such security is held for sale to customers in the ordinary course of a taxpayer's trade or business, or

"(B) such security is held as a hedge of a security to which subsection (a) applies,

such security shall not be treated as described in such paragraph as of such time.

"(4) SPECIAL RULE FOR PROPERTY HELD FOR INVESTMENT.—To the extent provided in regulations, subparagraph (A) of paragraph (1) shall not apply to any security described in subparagraph (D) or (E) of subsection (c)(2) which is held by a dealer in such securities.

"(c) DEFINITIONS.—For purposes of this section—

"(1) DEALER IN SECURITIES DEFINED.—The term 'dealer in securities' means a taxpayer who—

"(A) regularly purchases securities from or sells securities to customers in the ordinary course of a trade or business; or

"(B) regularly offers to enter into, assume, offset, assign or otherwise terminate positions in securities with customers in the ordinary course of a trade or business.

"(2) SECURITY DEFINED.—The term 'security' means any—

"(A) share of stock in a corporation;

"(B) partnership or beneficial ownership interest in a widely held or publicly traded partnership or trust;

"(C) note, bond, debenture, or other evidence of indebtedness;

"(D) notional principal contract, including any interest rate or currency swap, but not including any other commodity-linked notional principal contract;

"(E) evidence of an interest in, or a derivative financial instrument in, any security described in subparagraph (A), (B), (C), or (D), including any option, forward contract, short position, and any similar financial instrument in such a security (but not including any contract to which section 1256(a) applies); and

"(F) position which—

"(i) is not a security described in subparagraph (A), (B), (C), (D), or (E),

"(ii) is a hedge with respect to such a security, and

"(iii) is clearly identified in the dealer's record as being described in this subparagraph before the close of the day on which it was acquired or entered into (or such other time as the Secretary may by regulations prescribe).

"(3) HEDGE.—The term 'hedge' includes any position which reduces the dealer's risk from interest rate or price changes, or currency fluctuations.

"(d) SPECIAL RULES.—For purposes of this section—

"(1) CERTAIN RULES NOT TO APPLY.—The rules of sections 263(g) and 263A shall not apply to securities to which subsection (a) applies.

"(2) IMPROPER IDENTIFICATION.—If, under subsection (b)(2) or (c)(2)(F)(iii), a taxpayer at any time—

"(A) identifies any security or position as being described in such subsection and such security or position is not so described as of such time, or

"(B) a taxpayer fails to identify a security or position which is so described at the time such identification is required,

the provisions of subsection (a) shall apply to such security, except that only gain shall be taken into account for any taxable year.

"(e) REGULATORY AUTHORITY.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including rules to prevent the use of year-end transfers, related parties, or other arrangements to avoid the provisions of this section."

(b) CLERICAL AMENDMENT.—The table of sections for subpart D of part II of subchapter E of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 475 Mark to market inventory method for dealers in securities.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to all taxable years ending on or after December 31, 1993.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer required by this section to change its method of accounting for any taxable year—

(A) such change shall be treated an initiated by the taxpayer,

(B) such change shall be treated as made with the consent of the Secretary, and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account ratably over the 10-taxable year period beginning with the first taxable year ending on or after December 31, 1993.

SEC. 3006. DISALLOWANCE OF DEDUCTION FOR CERTAIN EMPLOYEE REMUNERATION IN EXCESS OF $1,000,000.

(a) GENERAL RULE.—Section 162 (relating to trade or business expenses) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) CERTAIN EXCESSIVE EMPLOYEE REMUNERATION.—

"(1) IN GENERAL.—No deduction shall be allowed under this chapter for employee remuneration with respect to any covered employee to the extent that the amount of such remuneration for the taxable year with respect to such employee exceeds $1,000,000.

"(2) COVERED EMPLOYEE.—For purposes of this subsection—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'covered employee' means any employee of the taxpayer who is an officer of the taxpayer.

"(B) EXCEPTION FOR EMPLOYEE-OWNERS OF PERSONAL SERVICE CORPORATIONS.—The term 'covered employee' shall not include any employee-owner (as defined in section 269A(b)) of a personal service corporation (as defined in section 269A(b)).

"(C) FORMER EMPLOYEES.—The term 'covered employee' includes any former employee who had been a covered employee at any time while performing services for the taxpayer.

"(3) EMPLOYEE REMUNERATION.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'employee remuneration' means, with respect to any covered employee for any taxable year, the aggregate amount allowable as a deduction under this chapter for such taxable year (determined without regard to this subsection) for remuneration for services performed by such employee (whether or not during the taxable year).

"(B) REMUNERATION.—For purposes of subparagraph (A), the term 'remuneration' includes any remuneration (including benefits) in any medium other than cash, but shall not include—

"(i) any payment referred to in so much of section 3121(a)(5) as precedes subparagraph (E) thereof,

"(ii) amounts referred to in section 3121(a)(19), and

"(iii) any benefit provided to or on behalf of an employee if at the time such benefit is provided it is reasonable to believe that the employee will be able to exclude such benefit from gross income under section 132.

"(4) TREATMENT OF CERTAIN EMPLOYERS.—

"(A) IN GENERAL.—All employers treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (n) of section 414 shall be treated as a single employer for purposes of this subsection.

"(B) CLARIFICATION OF OFFICER DEFINITION.—Any officer of any of the employers treated as a single employer under subparagraph (A) shall be treated as an officer of such single employer."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1991.

"SEC. . DEFICIT REDUCTION TRUST FUND.

"(a) IN GENERAL.—Subchapter I of chapter 31 of title 31, United States Code, is amended by adding at the end thereof the following new section:

"Sec. 3114. Certain proceeds from increase in certain income taxes to reduce public debt.

"(a) There is established in the Treasury of the United States a trust fund to be known as the "Deficit Reduction Trust Fund".

"(b) The Secretary of the Treasury shall use the money in the Deficit Reduction Trust Fund solely to—

"(1) pay at maturity, or redeem or buy before maturity, an obligation of the Government included in public debt, and

"(2) pay for administrative costs in operating the Deficit Reduction Trust Fund.

"(c) Any obligation of the Government which is paid, redeemed, or bought with money from the Deficit Reduction Trust Fund shall be canceled and retired and may not be reissued.

"(b) CONFORMING AMENDMENT.—The table of sections for subchapter I of chapter 31 of title 31, United States Code, is amended by adding at the end thereof the following new item:

"Sec. 3114. Proceeds from increase in certain income taxes to reduce public debt".

"SEC. . SENSE OF THE SENATE ON REVENUE CREDITED TO THE DEFICIT REDUCTION TRUST FUND.

"(a) The Senate finds that:

"(1) Since the Federal budget deficit is projected still to be in the $200 billion range by 1997,

"(2) Since such deficits will hamper economic growth by reducing national saving, capital formation and well-paying job opportunities,

"(b) Be it resolved that it is the sense of the Senate that:

"(1) 25 percent of the revenue raised through title III (Payment of Fair Share by High-Income Taxpayers) that would otherwise offset revenue expended in title I, Section 1001 (Tax Credit for Children) should be credited to the Deficit Reduction Trust Fund both in fiscal year 1992 and in fiscal year 1993.

"(2) 100 percent of the revenue raised through title III (Payment of Fair Share by High-Income Taxpayers) that would otherwise offset revenue expended in title I, section 1001 (Tax Credit for Children) should be credited to the Deficit Reduction Trust Fund in fiscal year 1994 through fiscal year 1996."

"SEC. . SENSE OF THE SENATE ON SPENDING FOR JOB TRAINING AND TRANSPORTATION INFRASTRUCTURE.

"(a) The Senate finds that:

"(1) Since job training programs are key to improving the skills of the American work force;

"(2) Since job training programs are particularly important and timely in light of the transition in the manufacturing base as a result of the ending of the cold war;

"(3) Since the recession has resulted in large scale layoffs on workers who have been employed for many years in jobs requiring skills that may be different from the skills required in areas of likely new employment opportunities; and

"(4) Since additional spending on transportation infrastructure can provide economic stimulus in the current recession and assist in improving our national productivity.

"(b) Be it resolved that it is the sense of the Senate that:

"(1) 75 percent of the revenue raised through title III (Payment of Fair Share by High-Income Taxpayers) that would otherwise offset revenue expended in Title I, Section 1001 (Tax Credit for Children) should be used for job training programs in fiscal year 1992.

"(2) 75 percent of the revenue raised through title III (Payment of Share by High-Income Taxpayers) that would otherwise offset revenue expended in title I, section 1001 (Tax Credit for Children) should be used for job training programs and transportation infrastructure improvements in fiscal year 1993, with $500 million of that amount being directed toward job training."

Notwithstanding any other provision of this Act section 1001 regarding Tax Credit for Children is null and void.

GRAHAM (AND OTHERS) AMENDMENT NO. 1713

Mr. GRAHAM (for himself, Mr. LEVIN, Mr. DECONCINI, Mr. ROBB, and Mr. SIMON) proposed an amendment to amendment No. 1712 proposed by Mr. LEVIN (and others) to the bill H.R. 4210; supra, as follows:

In the amendment strike all after the first word and insert the following:

III—PAYMENT OF FAIR SHARE BY HIGH-INCOME TAXPAYERS

SUBTITLE A—TREATMENT OF WEALTHY INDIVIDUALS

SEC. 3001. INCREASE IN TOP MARGINAL RATE UNDER SECTION 1.

(a) GENERAL RULE.—Section 1 (relating to tax imposed) is amended by striking subsections (a) through (e) and inserting the following:

"(a) MARRIED INDIVIDUALS FILING JOINT RETURNS AND SURVIVING SPOUSES.—There is hereby imposed on the taxable income of—

"(1) every married individual (as defined in section 7703) who makes a single return jointly with his spouse under section 6013, and

"(2) every surviving spouse (as defined in section 2(a)),

a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $35,800	15% of taxable income.
Over $35,800 but not over $86,500.	$5,370, plus 28% of the excess over $35,800.
Over $86,500 but not over $175,000.	$19,566, plus 31% of the excess over $86,500.
Over $175,000	$47,001, plus 36% of the excess over $173,000.

"(b) HEADS OF HOUSEHOLDS.—There is hereby imposed on the taxable income of every head of a household (as defined in section 2(b)) a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $28,750	15% of taxable income.
Over $28,750 but not over $74,150.	$4,312.50, plus 28% of the excess over $28,750.
Over $74,150 but not over $162,500.	$17,024.50, plus 31% of the excess over $74,150.
Over $162,500	$44,413, plus 36% of the excess over $161,500.

"(c) UNMARRIED INDIVIDUALS (OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLDS).—There is hereby imposed on the taxable income of every individual (other than a surviving spouse as defined in section 2(a) or the head of a household as defined in section 2(b)) who is not a married individual (as defined in section 7703) a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $21,450	15% of taxable income.
Over $21,450 but not over $51,900.	$3,217.50, plus 28% of the excess over $21,450.
Over $51,900 but not over $150,000.	$11,743.50, plus 31% of the excess over $51,900.
Over $150,000	$42,154.50, plus 36% of the excess over $150,000.

"(d) MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—There is hereby imposed on the taxable income of every married individual (as defined in section 7703) who does not make a single return jointly with his spouse under section 6013, a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $17,900	15% of taxable income.
Over $17,900 but not over $43,250.	$2,685, plus 28% of the excess over $17,900.
Over $43,250 but not over $87,500.	$9,783, plus 31% of the excess over $43,250.
Over $87,500	$23,500.50, plus 36% of the excess over $87,500.

"(e) ESTATES AND TRUSTS.—There is hereby imposed on the taxable income of—

"(1) every estate, and

"(2) every trust,

taxable under this subsection a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $3,500	15% of taxable income.
Over $3,500	$525, plus 36% of the excess over $3,500."

(b) CONFORMING AMENDMENTS.—

(1) Section 541 is amended by striking "28 percent" and inserting "36 percent".

(2)(A) Subsection (f) of section 1 is amended—

(i) by striking "1990" in paragraph (1) and inserting "1992", and

(ii) by striking "1989" in paragraph (3)(B) and inserting "1991".

(B) Subparagraph (B) of section 32(i)(1) is amended by striking "1989" and inserting "1991".

(C) Subparagraph (C) of section 41(e)(5) is amended by striking "1989" each place it appears and inserting "1991".

(D) Subparagraph (B) of section 63(c)(4) is amended by striking "1989" and inserting "1991".

(E) Subparagraph (B) of section 68(b)(2) is amended by striking "1989" and inserting "1991".

(F) Subparagraphs (A)(ii) and (B)(ii) of section 151(d)(4) are each amended by striking "1989" and inserting "1991".

(G) Clause (ii) of section 513(h)(2)(C) is amended by striking "1989" and inserting "1991".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 3002. SURTAX ON INDIVIDUALS WITH INCOMES OVER $1,000,000.

(A) GENERAL RULE.—Subchapter A of chapter 1 (relating to determination of tax liability) is amended by adding at the end thereof the following new part:

"PART VIII—SURTAX ON INDIVIDUALS WITH INCOMES OVER $1,000,000

"Sec. 59B. Surtax on section 1 tax.
"Sec. 59C. Surtax on minimum tax.
"Sec. 59D. Special rules.

"SEC. 59B. SURTAX ON SECTION 1 TAX.

"In the case of an individual who has taxable income for the taxable year in excess of $1,000,000, the amount of the tax imposed under section 1 for such taxable year shall be increased by 10 percent of the amount which bears the same ratio to the tax imposed under section 1 (determined without regard to this section) as—

"(1) the amount by which the taxable income of such individual for such taxable year exceeds $1,000,000, bears to

"(2) the total amount of such individual's taxable income for such taxable year.

"SEC. 59C. SURTAX ON MINIMUM TAX.

"In the case of an individual who has alternative minimum taxable income for the taxable year in excess of $1,000,000, the amount of the tentative minimum tax determined under section 55 for such taxable year shall be increased by 2.4 percent of the amount by which the alternative minimum taxable income of such taxpayer for the taxable years exceeds $1,000,000.

"SEC. 59D. SPECIAL RULES.

"(a) Treatment of Married Individuals Filing Separate Returns.—In the case of a married individual (within the meaning of section 7703) filing a separate return for the taxable year, sections 59B and 59C shall be applied by substituting '$500,000' for '$1,000,000'.

"(b) Coordination With Other Provisions.—The provisions of this part—

"(1) shall be applied after the application of subsections (h) and (i) of section 1, but

"(2) before the application of any other provision of this title which refers to the amount of tax imposed by section 1 or 55, as the case may be."

(b) Clerical Amendment.—The table of parts for subchapter A of chapter 1 is amended by adding at the end the following new item:

"Part VIII. Surtax on individuals with incomes over $1,000,000."

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 3003. EXTENSION OF OVERALL LIMITATION ON ITEMIZED DEDUCTIONS FOR HIGH-INCOME TAXPAYERS.

Section 68 (relating to overall limitation on itemized deductions) is amended by striking subsection (f).

SEC. 3004. EXTENSION OF PHASEOUT OF PERSONAL EXEMPTION OF HIGH-INCOME TAXPAYERS.

Section 151(d)(3) (relating to phaseout of personal exemption) is amended by striking subparagraph (E).

SEC. 3005. MARK TO MARKET INVENTORY METHOD FOR SECURITIES DEALERS.

(A) General Rule.—Subpart D of part II of subchapter E of chapter 1 (relating to inventories) is amended by adding at the end thereof the following new section:

"SEC. 475. MARK TO MARKET INVENTORY METHOD FOR DEALERS IN SECURITIES.

"(a) General Rule.—Notwithstanding any other provision of this subpart, the following rules shall apply to securities held by a dealer in securities:

"(1) Any security which is inventory in the hands of the dealer shall be included in inventory at market value.

"(2) In the case of any security which is not inventory in the hands of the dealer and which is held at the close of any taxable year—

"(A) the dealer shall recognize gain or loss as if such security were sold on the last business day of such taxable year, and

"(B) any gain or loss shall be taken into account for such taxable year.

Proper adjustment shall be in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence. The Secretary may provide by regulations for the application of this paragraph at times other than the times provided in this paragraph.

"(a) Exceptions.—

"(1) In general.—Subsection (a) shall not apply to—

"(A) any security held for investment,

"(B) any security described in subsection (c)(2)(C) which is originated or acquired by the taxpayer in the ordinary course of a trade or business of the taxpayer and which is not held for sale, and

"(C) any hedge with respect to—

"(i) a security to which subsection (a) does not apply, or

"(ii) a position or a liability which is not a security in the hands of the taxpayer.

"(2) Identification required.—Any security shall not be treated as described in subparagraph (A), (B), and (C) of paragraph (1), as the case may be, unless such security is clearly identified in the dealer's records as being described in such subparagraph before the close of the day on which it was acquired, originated, or entered into (or such other time as the Secretary may by regulations prescribe).

"(3) Securities subsequently held for sale.—If, at any time after the close of the day on which any security described in paragraph (1) was acquired, originated, or entered into (or such other time as the Secretary may by regulations prescribe)—

"(A) such security is held for sale to customers in the ordinary course of a taxpayer's trade or business, or

"(B) such security is held as a hedge of a security to which subsection (a) applies,

such security shall not be treated as described in such paragraph as of such time.

"(4) Special rule for property held for investment.—To the extent provided in regulations, subparagraph (A) of paragraph (1) shall not apply to any security described in subparagraph (D) or (E) of subsection (c)(2) which is held by a dealer in such securities.

"(c) Definitions.—For purposes of this section—

"(1) Dealer in securities defined.—The term 'dealer in securities' means a taxpayer who—

"(A) regularly purchases securities from or sells securities to customers in the ordinary course of a trade or business; or

"(B) regularly offers to enter into, assume, offset, assign or otherwise terminate positions in securities with customers in the ordinary course of a trade or business.

"(2) Security defined.—The term 'security' means any—

"(A) share of stock in a corporation;

"(B) partnership or beneficial ownership interest in a widely held or publicly traded partnership or trust;

"(C) note, bond, debenture, or other evidence of indebtedness;

"(D) notional principal contract, including any interest rate or currency swap, but not including any other commodity-linked notional principal contract;

"(E) evidence of an interest in, or a derivative financial instrument in, any security described in subparagraph (A), (B), (C), or (D), including any option, forward contract, short position, and any similar financial instrument in such a security (but not including any contract to which section 1256(a) applies); and

"(F) position which—

"(i) is not a security described in subparagraph (A), (B), (C), (D), or (E).

"(ii) is a hedge with respect to such a security, and

"(iii) is clearly identified in the dealer's record as being described in this subparagraph before the close of the day on which it was acquired or entered into (or such other time as the Secretary may by regulations prescribe).

"(3) Hedge.—The term 'hedge' includes any position which reduces the dealer's risk from interest rate or price changes, or currency fluctuations.

"(d) Special Rules.—For purposes of this section—

"(1) Certain rules not to apply.—The rules of sections 263(g) and 263A shall not apply to securities to which subsection (a) applies.

"(2) Improper identification.—If, under subsection (b)(2) or (c)(2)(F)(iii), a taxpayer at any time—

"(A) identifies any security or position as being described in such subsection and such security or position is not so described as of such time, or

"(B) a taxpayer fails to identify a security or position which is so described at the time such identification is required,

the provisions of subsection (a) shall apply to such security, except that only gain shall be taken into account for any taxable year.

"(e) Regulatory Authority.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including rules to prevent the use of year-end transfers, related parties, or other arrangements to avoid the provisions of this section."

(b) Clerical Amendment.—The table of sections for subpart D of part II of subchapter E of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 475. Mark to market inventory method for dealers in securities.".

(c) Effective Date.—

(1) In general.—The amendments made by this section shall apply to all taxable years ending on or after December 31, 1993.

(2) Change in method of accounting.—In the case of any taxpayer required by this section to change its method of accounting for any taxable year—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as made with the consent of the Secretary, and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account ratably over the 10-taxable year period beginning with the first taxable year ending on or after December 31, 1993.

SEC. 3006. DISALLOWANCE OF DEDUCTION FOR CERTAIN EMPLOYEE REMUNERATION IN EXCESS OF $1,000,000.

(a) General Rule.—Section 162 (relating to trade or business expenses) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) Certain Excessive Employee Remuneration.—

"(1) In general.—No deduction shall be allowed under this chapter for employee remuneration with respect to any covered employee to the extent that the amount of such remuneration for the taxable year with respect to such employee exceeds $1,000,000.

"(2) Covered Employee.—For purposes of this subsection—

"(A) In General.—Except as otherwise provided in this paragraph, the term 'covered employee' means any employee of the taxpayer who is an officer of the taxpayer.

"(B) Exception for Employee-Owners of Personal Service Corporations.—The term 'covered employee' shall not include any employee-owner (as defined in section 269A(b)) of a personal service corporation (as defined in section 269A(b)).

"(C) Former Employees.—The term 'covered employee' includes any former employee who had been a covered employee at any time while performing services for the taxpayer.

"(3) Employee Remuneration.—For purposes of this subsection—

"(A) In General.—The term 'employee remuneration' means, with respect to any covered employee for any taxable year, the aggregate amount allowable as a deduction under this chapter for such taxable year (determined without regard to this subsection) for remuneration for services performed by such employee (whether or not during the taxable year).

"(B) Remuneration.—For purposes of subparagraph (A), the term 'remuneration' includes any remuneration (including benefits) in any medium other than cash, but shall not include—

"(i) any payment referred to in so much of section 3121(a)(5) as precedes subparagraph (E) thereof,

"(ii) amounts referred to in section 3121(a)(19), and

"(iii) any benefit provided to or on behalf of an employee if at the time such benefit is provided it is reasonable to believe that the employee will be able to exclude such benefit from gross income under section 132.

"(4) Treatment of Certain Employers.—

"(A) In General.—All employers treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (n) of section 414 shall be treated as a single employer for purposes of this subsection.

"(B) Clarification of Officer Definition.—Any officer of any of the employers treated as a single employer under subparagraph (A) shall be treated as an officer of such single employer."

(b) Effective Date.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1991.

"SEC. . DEFICIT REDUCTION TRUST FUND.

"(a) In General.—Subchapter I of chapter 31 of title 31, United States Code, is amended by adding at the end thereof the following new section:

"Sec. 3114. Certain proceeds from increase in certain income taxes to reduce public debt.

"(a) There is established in the Treasury of the United States a trust fund to be known as the 'Deficit Reduction Trust Fund'.

"(b) The Secretary of the Treasury shall use the money in the Deficit Reduction Trust Fund solely to—

"(1) pay at maturity, or redeem or buy before maturity, an obligation of the Government included in public debt, and

"(2) pay for any administrative costs in operating the Deficit Reduction Trust Fund.

"(c) Any obligation of the Government which is paid, redeemed, or bought with money from the Deficit Reduction Trust Fund shall be canceled and retired and may not be reissued.

"(b) Conforming Amendment.—The table of sections for subchapter I of chapter 31 of title 31, United States Code, is amended by adding at the end thereof the following new item:

"Sec. 3114. Proceeds from increase in certain income taxes to reduce public debt".

"SEC. . SENSE OF THE SENATE ON REVENUE CREDITED TO THE DEFICIT REDUCTION TRUST FUND.

"(a) The Senate finds that:

"(1) Since the Federal budget deficit is projected still to be in the $200 billion range by 1997,

"(2) Since such deficits will hamper economic growth by reducing national saving, capital formation and well-paying job opportunities,

"(b) Be it resolved that it is the sense of the Senate that:

"(1) 25 percent of the revenue raised through title III (Payment of Fair Share by High-Income Taxpayers) that would otherwise offset revenue expended in title I, section 1001 (Tax Credit for Children) should be credited to the Deficit Reduction Trust Fund both in fiscal year 1992 and in fiscal year 1993.

"(2) 100 percent of the revenue raised through title III (Payment of Fair Share by High-Income Taxpayers) that would otherwise offset revenue expended in title I, section 1001 (Tax Credit for Children) should be credited to the Deficit Reduction Trust Fund in fiscal 1994 through fiscal year 1996."

"SEC. . SENSE OF THE SENATE ON SPENDING FOR JOB TRAINING AND TRANSPORTATION INFRASTRUCTURE.

"(a) The Senate finds that:

"(1) Since job training programs are key to improving the skills of the American workforce,

"(2) Since job training programs are particularly important and timely in light of the transition in the manufacturing base as a result of the ending of the Cold War,

"(3) Since the recession has resulted in large scale layoffs on workers who have been employed for many years in jobs requiring skills that may be different from the skills required in areas of likely new employment opportunities, and

"(4) Since additional spending on transportation infrastructure can provide economic stimulus in the current recession and assist in improving our national productivity.

"(b) Be it resolved that it is the sense of the Senate that:

"(1) 75 percent of the revenue raised through title III (Payment of Fair Share by High-Income Taxpayers) that would otherwise offset revenue expended in title I, section 1001 (Tax Credit for Children) should be used for job training programs in fiscal year 1992.

"(2) 75 percent of the revenue raised through title III (Payment of Fair Share by High-Income Taxpayers) that would otherwise offset revenue expended in title I, section 1001 (Tax Credit for Children) should be used for job training programs and transportation infrastructure improvements in fiscal year 1993, with $600 million of that amount being directed toward job training."

Notwithstanding any other provision of this Act section 1001 regarding Tax Credit for Children is null and void.

HELMS AMENDMENT NO. 1714

Mr. HELMS (for himself, Mr. Dole, Mr. Seymour, Mr. Nickles, and Mr. Grassley) proposed an amendment to the bill (H.R. 4210); supra, as follows:

At the appropriate place in the amendment add the following:

The Senate finds that not only the House of Representatives, but the Congress as a whole is being held to account by the American public for the improper personal banking practices of its Members;

The Senate finds that only the House of Representatives provided for a system to collect the salaries of, and to honor checks written by, the Members of the House of Representatives;

The Senate finds that, while proposals to establish a similar system within the United States Senate have been suggested, they have never been agreed to by the Senate;

The Senate finds that no similar system has ever been in operation in the United States Senate;

The Senate finds that no Senate bank with characteristics similar to those of the former House bank will ever be established;

The Senate finds that the American public has not been made clearly aware of the differences in practices between the United States House of Representatives and the United States Senate, and that therefore,

It is the sense of the Senate that there should be full disclosure of all Members and former Members of the House of Representatives whose account balances at the House bank were insufficient to cover the amount of any check presented for payment.

DOLE AMENDMENT NO. 1715

Mr. DOLE proposed an amendment to amendment No. 1714 proposed by Mr. Helms to the bill (H.R. 4210); supra, as follows:

Strike all after the first word and insert the following:

Senate finds that not only the House of Representatives, but the Congress as a whole is being held to account by the American public for the improper personal banking practices of its Members;

The senate finds that only the House of Representatives provided for a system to collect the salaries of, and to honor checks written by, the Members of the House of Representatives;

The Senate finds that, while proposals to establish a similar system within the United States Senate have been suggested, they have never been agreed to by the Senate;

The Senate finds that no similar system has ever been in operation in the United States Senate;

The Senate finds that no Senate bank with characteristics similar to those of the former House bank will ever be established;

The Senate finds that the American public has not been made clearly aware of the differences in practices between the United States House of Representatives and the United States Senate, and that therefore,

It is the sense of the Senate that no later than March 30, 1992, there should be full disclosure of all Members and former Members of the House of Representatives whose account balances at the House bank were insufficient to cover the amount of any check presented for payment.

METZENBAUM (AND OTHERS) AMENDMENT NO. 1716

Mr. METZENBAUM (for himself and Mr. Roth) proposed an amendment to the bill (H.R. 4210); supra, as follows:

(a) General Rule.—For purposes of chapter 1 of the Internal Revenue Code of 1986—

(1) any FSLIC assistance with respect to any loss of principal, capital, or similar amount upon the disposition of any asset shall be taken into account as compensation

for such loss for purposes of section 165 of such Code, and

(2) any FSLIC assistance with respect to any debt shall be taken into account for purposes of section 166, 585, or 593 of such Code in determining whether such debt is worthless (or the extent to which such debt is worthless) and in determining the amount of any addition to a reserve for bad debts arising from the worthlessness or partial worthlessness of such debts.

(b) FSLIC ASSISTANCE.—For purposes of this section, the term "FSLIC assistance" means any assistance (or right to assistance) with respect to a domestic building and loan association (as defined in section 7701(a)(19) of such Code without regard to subparagraph (C) thereof) under section 406(f) of the National Housing Act or section 21A of the Federal Home Loan Bank Act (or under any similar provision of law).

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in the subsection—

(A) The provisions of this section shall apply to taxable years ending after March 4, 1991 but only with respect to FSLIC assistance not credited before March 4, 1991.

(B) If any FSLIC assistance not credited before March 4, 1991 is with respect to a loss sustained or charge-off in a taxable year ending before March 4, 1991, for purposes of determining the amount of any net operating loss carryover to a taxable year ending after on or after March 4, 1991, the provisions of this section shall apply to such assistance for purposes of determining the amount of the new operating loss for the taxable year in which such loss was sustained or debt written off. Except as provided in the preceding sentence, this section shall not apply to any FSLIC assistance with respect to a loss sustained or charge-off in a taxable year ending before March 4, 1991.

(2) EXCEPTIONS.—The provisions of this section shall not apply to any assistance to which the amendments made by section 1401(a)(3) of the Financial Institution Reform, Recovery, and Enforcement Act of 1989 apply.

BENTSEN (AND OTHERS) AMENDMENT NO. 1717

Mr. BENTSEN (for himself, Mr. SEYMOUR, Mr. GRASSLEY, Mr. BOND, Mr. DURENBERGER, Mr. HATCH, and Mr. PRESSLER) proposed an amendment to the bill (H.R. 4210); supra, as follows:

On page 711, line 17, strike "25 percent" thru the period at the end of line 21 and insert the following: "74 percent for taxable years beginning during 1992)."

(b) CREDIT MADE PERMANENT.—Section 162(1) is amended by striking paragraph (6).

REID AMENDMENT NO. 1718

Mr. REID proposed an amendment to amendment No. 1717 proposed by Mr. BENTSEN to the bill (H.R. 4210); supra, as follows:

In lieu of the matter proposed to be inserted insert the following: "75 percent for taxable years beginning during 1992."

(b) CREDIT MADE PERMANENT.—Section 162(1) is amended by striking paragraph (6).

REID (AND OTHERS) AMENDMENT NO. 1719

Mr. REID (for himself, Mr. MURKOWSKI, Mr. STEVENS, Mr. DECONCINI, Mr. MCCAIN, Mr. BUMPERS, Mr. SEYMOUR, Mr. WIRTH, Mr. DODD, Mr. ROTH, Mr. GRAHAM, Mr. MACK, Mr. AKAKA, Mr. INOUYE, Mr. CRAIG, Mr. SYMMS, Mr. GRASSLEY, Mr. LOTT, Mr. BURNS, Mr. BRYAN, Mr. RUDMAN, Mr. SMITH, Mr. BINGAMAN, Mr. DOMENICI, Mr. D'AMATO, Mr. BURDICK, Mr. HATCH, Mr. BRADLEY, Mr. ADAMS, Mr. GORTON, Mr. KASTEN, and Mr. SIMPSON) proposed an amendment to the bill (H.R. 4210); supra, as follows:

On page 1084, between lines 8 and 9, insert the following:

SEC. . LIMITATION ON STATE TAXATION OF PENSION OR RETIREMENT INCOME.

(a) IN GENERAL.—Chapter 4 of title 4, United States Code, is amended by adding at the end the following new section:

"§ 114. Limitation on State income taxation of pension or retirement income

"(a) No State or possession of the United States, or any political subdivision of either, may impose an income tax (as defined in section 110(c)) on the pension or retirement income of any individual who is not a resident or domiciliary of such State, possession, or political subdivision.

"(b) For purposes of subsection (a), the term 'State' includes the District of Columbia.".

(b) CLERICAL AMENDMENT.—The table of sections for such chapter 4 is amended by adding at the end thereof the following new item:

"114. Limitation on State income taxation of pension or retirement income.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

McCAIN (AND OTHERS) AMENDMENT NO. 1720

Mr. MCCAIN (for himself, Mr. INOUYE, Mr. DOMENICI, Mr. BOREN, Mr. SIMON, Mr. MURKOWSKI, Mr. WELLSTONE, Mr. NICKLES and Mr. KASTEN) proposed an amendment to the bill H.R. 4210, supra, as follows:

At the end of the bill, insert the following new title:

TITLE VI—TAX INCENTIVES FOR ECONOMIC GROWTH ON INDIAN RESERVATIONS

SEC. 6001. SHORT TITLE.

This title may be cited as the "Indian Employment and Investment Act of 1992".

SEC. 6002. INVESTMENT TAX CREDIT FOR PROPERTY ON INDIAN RESERVATIONS.

(a) ALLOWANCE OF INDIAN RESERVATION CREDIT.—Section 46 (relating to investment credits) is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting "and", and by adding after paragraph (3) the following new paragraph:

"(4) the Indian Reservation Credit."

(b) AMOUNT OF INDIAN RESERVATION CREDIT.—

(1) IN GENERAL.—Section 48 (defining the Energy Credit and the Reforestation Credit) is amended by adding after subsection (b) the following new subsection:

"(c) INDIAN RESERVATION CREDIT.—

"(1) IN GENERAL.—For purposes of section 46, the Indian Reservation Credit for any taxable year is the Indian reservation percentage of the qualified investment in qualified Indian reservation property placed in service during such taxable year, determined in accordance with the following table:

"In the case of qualified Indian reservation property which is:	Indian reservation percentage is:
Reservation personal property	25
New reservation construction property	33⅓
Reservation infrastructure investment	33⅓

"(2) QUALIFIED INVESTMENT IN QUALIFIED INDIAN RESERVATION PROPERTY DEFINED.—

"(A) IN GENERAL.—The term 'qualified Indian reservation property' means property—

"(i) which is—

"(I) reservation personal property,

"(II) new reservation construction property, or

"(III) reservation infrastructure investment, and

"(ii) not acquired (directly or indirectly) by the taxpayer from a person who is related to the taxpayer (within the meaning of section 465(b)(3)(C)).

"(B) QUALIFIED INVESTMENT IN QUALIFIED INDIAN RESERVATION PROPERTY.—The term 'qualified investment in qualified Indian reservation property' means—

"(i) in the case of reservation infrastructure investment, the amount expended by the taxpayer for the acquisition or construction of the reservation infrastructure investment; and

"(ii) in the case of all other qualified Indian reservation property, the taxpayer's basis for such property—

"(C) RESERVATION PERSONAL PROPERTY.—The term 'reservation personal property' means qualified personal property which is used by the taxpayer predominantly in the active conduct of a trade or business within an Indian reservation. Property shall not be treated as 'reservation personal property' if it is used or located outside the Indian reservation on any regular basis.

"(D) QUALIFIED PERSONAL PROPERTY.—The term 'qualified personal property' means property—

"(i) for which depreciation is allowable under section 168,

"(ii) which is not—

"(I) nonresidential real property,

"(II) residential rental real property, or

"(III) real property which is not described in (I) or (II) and which has a class life of more than 12.5 years.

"(E) NEW RESERVATION CONSTRUCTION PROPERTY.—The term 'new reservation construction property' means qualified real property—

"(i) which is located in an Indian reservation,

"(ii) which is used by the taxpayer within an Indian reservation predominantly in the active conduct of a trade or business, and

"(iii) which is originally placed in service by the taxpayer.

"(F) QUALIFIED REAL PROPERTY.—The term 'qualified real property' means property described in clause (I), (II), or (III) of paragraph (2)(D)(ii).

"(G) RESERVATION INFRASTRUCTURE INVESTMENT DEFINED.—

"(i) IN GENERAL.—The term 'reservation infrastructure investment' means qualified personal property or qualified real property which—

"(I) benefits the tribal infrastructure,

"(II) is available to the general public, and

"(III) is placed in service in connection with the taxpayer's active conduct of a trade or business within an Indian reservation.

"(ii) PROPERTY MAY BE LOCATED OUTSIDE THE RESERVATION.—Qualified personal property and qualified real property outside an Indian reservation shall be reservation infrastructure investment only if its purpose is to connect to existing tribal infrastructure in the reservation. Examples of property which may be described in this paragraph include roads, power lines, water systems, railroad spurs, and communications facilities.

"(3) REAL ESTATE RENTALS.—For the purposes of this section, ownership (or leaseholding) of residential, commercial, or industrial real property within an Indian reservation for rental shall be treated as the active conduct of a trade or business in an Indian reservation.

"(4) DEFINITIONS.—For purposes of this subsection, the term 'Indian reservation' means a reservation, as defined in—

"(A) section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)), or

"(B) section 4(10) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903(10)).

"(5) LIMITATION BASED ON UNEMPLOYMENT.—The Indian reservation credit allowed under section 46 for any taxable year shall apply only in the event that the Indian unemployment rate on the applicable Indian reservation for which the credit is sought exceeds 300 percent of the national average unemployment rate at any time during such taxable year or in the immediately preceding taxable year. The requisite Indian unemployment rate shall be based upon those reservation Indians unemployed and able to work, and shall be certified by the Secretary of the Interior."

(2) LODGING TO QUALIFY.—Paragraph (2) of section 50(b) (relating to property used for lodging) is amended—

(A) by striking "and" at the end of subparagraph (C),

(B) by striking the period at the end of subparagraph (D) and inserting ", and," and

(C) by adding at the end thereof the following subparagraph:

"(E) new reservation construction property."

(c) RECAPTURE.—Subsection (a) of section 50 (relating to certain dispositions, etc., of investment credit property), is amended by adding at the end thereof the following new paragraph.

"(6) SPECIAL RULES FOR INDIAN RESERVATION PROPERTY.—

"(A) IN GENERAL.—If, during any taxable year, property with respect to which the taxpayer claimed an Indian reservation credit—

"(i) is disposed of, or

"(ii) in the case of reservation personal property—

"(I) otherwise ceases to be investment credit property with respect to the taxpayer, or

"(II) is removed from the Indian reservation, converted or otherwise ceases to be Indian reservation property, the tax under this chapter for such taxable year shall be increased by the amount described in subparagraph (B).

"(B) AMOUNT OF INCREASE.—The increase in tax under subparagraph (A) shall equal the aggregate decease in the credits allowed under section 38 by reason of section 48(c) for all prior taxable years which would have resulted had the expenditures taken into account with respect to the property been limited to an amount which bears the same ratio that the property was held by the taxpayer bears to the applicable recovery period under section 168(g)."

(d) BASIS ADJUSTMENT TO REFLECT INVESTMENT CREDIT.—Paragraph (3) of section 50(c) (relating to basis adjustment to investment credit property) is amended to read as follows:

"(3) SPECIAL RULE.—In the case of any energy credit, reforestation credit or Indian reservation credit other than with respect to or expenditure for new reservation construction property—

"(A) only 50 percent of such credit shall be taken into account under paragraph (1), and

"(B) only 50 percent of any recapture amount attributable to such credit shall be taken into account under paragraph (2)."

(e) BASIS ADJUSTMENT TO REFLECT INVESTMENT CREDIT.—Paragraph (4) of section 50(b) is amended by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F) and inserting new subparagraph (D) as follows:

"(D) EXCEPTION FOR RESERVATION INFRASTRUCTURE INVESTMENT.—This paragraph shall not apply for purposes of determining the Indian reservation credit with respect to reservation infrastructure investment."

(f) CLERICAL AMENDMENTS.—

(1) The caption of section 48 is amended by deleting the period at the end thereof and adding "; Indian Reservation Credit."

(2) The table of sections for subpart E of Part IV of subchapter A of Chapter 1 is amended by striking out the item relating to section 48 and inserting in lieu thereof the followings:

"Sec. 48. Energy Credit, reforestation credit;
Indian reservation credit."

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 1991.

SEC. 6003. INDIAN EMPLOYMENT CREDIT.

(a) ALLOWANCE OF INDIAN EMPLOYMENT CREDIT.—Section 38(b) of the Internal Revenue Code of 1986 (relating to general business credits) is amended by striking "plus" at the end of paragraph (6), by striking the period at the end and of paragraph (7) and inserting ", plus", and by adding after paragraph (7) the following new paragraph:

"(8) the Indian employment credit."

(b) AMOUNT OF INDIAN EMPLOYMENT CREDIT.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end thereof the following new section:

"SEC. 45. INDIAN EMPLOYMENT CREDIT.

"(a) AMOUNT OF CREDIT.—For purposes of section 38, the Indian employment credit determined under this section with respect to any employer for any taxable year is 10 percent (30 percent in the case of an employer with at least 85 percent Indian employees) of the sum of—

"(1) the qualified wages paid or incurred during such taxable year, plus

"(2) qualified employee health insurance costs paid or incurred during such taxable year.

"(b) QUALIFIED WAGES; QUALIFIED EMPLOYEE HEALTH INSURANCE COSTS.—For purposes of this section:

"(1) QUALIFIED WAGES.—The term 'qualified wages' means any wages paid or incurred by an employer for services performed by an employee while such employee is a qualified employee.

"(2) QUALIFIED EMPLOYEE HEALTH INSURANCE COSTS.—

"(A) IN GENERAL.—The term 'qualified employee health insurance costs' means any amount paid or incurred by an employer for health insurance to the extent such amount is attributable to coverage provided to any employee while such employee is a qualified employee.

"(B) EXCEPTION FOR AMOUNTS PAID UNDER SALARY REDUCTION ARRANGEMENTS.—No amount paid or incurred for health insurance pursuant to a salary reduction arrangement shall be taken into account under subparagraph (A).

"(c) QUALIFIED EMPLOYEE.—For purposes of this section:

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term "qualified employee' means, with respect to any period, any employee of an employer if—

"(A) substantially all of the services performed during such period by such employee for such employer are performed within an Indian reservation, and

"(B) the principal place of abode of such employee while performing such services is on or near the reservation in which the services are performed.

"(2) CREDIT ALLOWED ONLY FOR FIRST 7 YEARS.—An employee shall not be treated as a qualified employee for any period after the date 7 years after the day on which such employee first began work for the employer.

"(3) INDIVIDUALS RECEIVING WAGES IN EXCESS OF $30,000 NOT ELIGIBLE.— An employee shall not be treated as a qualified employee for any taxable year of the employer if the total amount of the wages paid or incurred by such employer to such employee during such taxable year (whether or not for services within an Indian reservation) exceeds the amount determined at an annual rate of $30,000. The Secretary shall adjust the $30,000 amount contained in the preceding sentence for years beginning after 1991 at the same time and in the same manner as under section 415(d).

"(4) EMPLOYMENT MUST BE TRADE OR BUSINESS EMPLOYMENT.—An employee shall be treated as a qualified employee for any taxable year of the employer only if more than 50 percent of the wages paid by the employer to such employee during such taxable year are for services performed in a trade of business of the employer. Any determination as to whether the preceding sentence applied with respect to any employee for any taxable year shall be made without regard to paragraph (4) of subsection (e).

"(5) CERTAIN EMPLOYEES NOT ELIGIBLE.—The term 'qualified employee' shall not include—

"(A) any individual described in subparagraph (A), (B), or (C) of section 51(i)(1),

"(B) any 5-percent owner (as defined in section 416(i)(1)(B)), and

"(C) any person who is neither an enrolled member of an Indian tribe nor the spouse of an enrolled member of an Indian tribe.

"(d) EARLY TERMINATION OF EMPLOYMENT BY EMPLOYER.—

"(1) IN GENERAL.—If the employment of any employee is terminated by the taxpayer before the day 1 year after the day on which such employee began work for the employer—

"(A) no wages (or qualified employee health insurance costs) with respect to such employee shall be taken into account under subsection (a) for the taxable year in which such employment is terminated, and

"(B) the tax under this chapter for the taxable year in which such employment is terminated shall be increased by the aggregate credits (if any) allowed under section 38(a) for prior taxable years by reason of wages (or qualified employee health insurance costs) taken into account with respect to such employee.

"(2) CARRYBACKS AND CARRYOVERS ADJUSTED.—In the case of any termination of employment to which paragraph (1) applies, the carrybacks and carryovers under section 39 shall be properly adjusted.

"(3) SUBSECTION NOT TO APPLY IN CERTAIN CASES.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to—

"(i) a termination of employment of an employee who voluntarily leaves the employment of the taxpayer,

"(ii) a termination of employment of an individual who before the close of the period referred to in paragraph (1) becomes disabled to perform the services of such employment unless such disability is removed before the close of such period and the taxpayer fails to offer reemployment to such individual, or

"(iii) a termination of employment of an individual if it is determined under the applicable State unemployment compensation law that the termination was due to the misconduct of such individual.

"(B) CHANGES IN FORM OF BUSINESS.—For purposes of paragraph (1), the employment relationship between the taxpayer and an employee shall not be treated as terminated—

"(i) by a transaction to which section 381(a) applies if the employee continues to be employed by the acquiring corporation, or

"(ii) by reason of a mere change in the form of conducting the trade or business of the taxpayer if the employee continues to be employed in such trade or business and the taxpayer retains a substantial interest in such trade or business.

"(4) SPECIAL RULE.—Any increase in tax under paragraph (1) shall not be treated as a tax imposed by this chapter for purposes of—

"(A) determining the amount of any credit allowable under this chapter, and

"(B) determining the amount of the tax imposed by section 55.

"(e) OTHER DEFINITIONS AND SPECIAL RULES.—

"(1) INDIAN TRIBE DEFINED.—The term 'Indian tribe' means any Indian tribe, band, nation, pueblo, or other organized group or community, including any Alaska Native village, or regional or village corporation, as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"(2) INDIAN RESERVATION DEFINED.—The term 'Indian reservation' means a reservation, as defined in—

"(A) section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)), or

"(B) section 4(10) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903 (10)).

"(3) WAGES.—The term 'wages' has the meaning given such term by section 51 except that paragraph (4) of section 51(c) shall not apply.

"(4) CONTROLLED GROUPS.—For purposes of this section—

"(A) all employers treated as a single employer under section (a) or (b) of section 52 shall be treated as a single employer for purposes of this section, and

"(B) the credit (if any) determined under this section with respect to such employer shall be its proportionate share of the wages and qualified employee health insurance costs giving rise to such credit.

"(5) CERTAIN OTHER RULES MADE APPLICABLE.—For purposes of this section, rules similar to the rules of section 51(k) and subsections (c), (d), and (e) of section 52 shall apply."

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end thereof the following new section:

"Sec. 45. Indian employment credit."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to expenses paid or incurred in taxable years beginning after December 31, 1992.

KASTEN (AND OTHERS) AMENDMENT NO. 1721

(Ordered to lie on the table.)

Mr. KASTEN (for himself, Mr. BURNS, Mr. SMITH, Mr. LOTT, and Mr. NICKLES) submitted an amendment intended to be proposed by them to the bill H.R. 4210, supra, as follows:

Beginning on page 630, line 1, strike all through page 1421, line 17, and insert the following:

SECTION 1. SHORT TITLE, ETC.

(a) SHORT TITLE.—This Act may be cited as the "Family Tax Fairness, Economic Growth, and Health Care Access Act of 1992".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) SECTION 15 NOT TO APPLY.—No amendment made by this Act shall be treated as a change in a rate of tax for purposes of section 15 of the Internal Revenue Code of 1986.

(d) UNDERPAYMENT OF ESTIMATED TAX.—No addition to tax shall be made under section 6654 or 6655 of the Internal Revenue Code of 1986 for the 1st required installment beginning in 1992 with respect to any underpayment to the extent such underpayment was created or increased by any amendment made by this Act. Any reduction in an installment by reason of the preceding sentence shall be recaptured by increasing the amount of the 1st succeeding required installment by the amount of such reduction.

(e) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title, etc.

TITLE I—FAIR TAX TREATMENT OF WORKING FAMILIES

Sec. 1001. Tax credit for children.
Sec. 1002. Simplification and expansion of earned income tax credit.
Sec. 1003. Extension of targeted jobs credit.

TITLE II—PROMOTION OF LONG-TERM ECONOMIC GROWTH

Subtitle A—Increased Savings

PART I—RETIREMENT SAVINGS INCENTIVES

SUBPART A—RESTORATION OF IRA DEDUCTION

Sec. 2001. Restoration of IRA deduction.
Sec. 2002. Inflation adjustment for deductible amount.
Sec. 2003. Coordination of IRA deduction limit with elective deferral limit.

SUBPART B—NONDEDUCTIBLE TAX-FREE IRAS

Sec. 2011. Establishment of nondeductible tax-free individual retirement accounts.

PART II—PENALTY-FREE DISTRIBUTIONS

Sec. 2021. Distributions from certain plans may be used without penalty to purchase first homes or to pay higher education or financially devastating medical expenses.
Sec. 2022. Contributions must be held at least 5 years in certain cases.

Subtitle B—Improved Educational Opportunities

PART II—WORKFORCE TRAINING

SUBPART A—STANDARDS OF EXCELLENCE IN WORKFORCE TRAINING

Sec. 2111. Purpose.
Sec. 2112. Amendment to Wagner-Peyser Act.

SUBPART B—YOUTH SKILLS TRAINING AND EDUCATION PARTNERSHIPS

Sec. 2113. Short title.
Sec. 2114. Tax exemption for contributions to youth skills training and education partnerships.
Sec. 2115. Augmented deduction for youth skills training and education contributions by businesses.

SUBPART C—STUDY

Sec. 2116. Joint Labor Department and Treasury Department study.

PART III—OTHER EDUCATION INCENTIVES

Sec. 2121. Credit for interest on education loans.
Sec. 2122. Income exclusion for education bonds expanded.
Sec. 2123. Employer-provided educational assistance.
Sec. 2124. Disclosures of information for veterans benefits.

Subtitle C—Better Access to Affordable Health Care

PART I—IMPROVEMENTS IN HEALTH INSURANCE AFFORDABILITY FOR SMALL EMPLOYERS

Sec. 2201. Increase in deductible health insurance costs for self-employed individuals.
Sec. 2202. Grants to States for small employer health insurance purchasing programs.
Sec. 2203. Study of use of medicare rates by private health insurance plans.

PART II—IMPROVEMENTS IN HEALTH INSURANCE FOR SMALL EMPLOYERS

SUBPART A—STANDARDS AND REQUIREMENTS OF SMALL EMPLOYER HEALTH INSURANCE REFORM

Sec. 2211. Standards and requirements of small employer health insurance.

SUBPART B—TAX PENALTY ON NONCOMPLYING INSURERS

Sec. 2221. Excise tax on premiums received on health insurance policies which do not meet certain requirements.

SUBPART C—STUDIES AND REPORTS

Sec. 2231. GAO study and report on rating requirements and benefit packages for small group health insurance.

PART III—IMPROVEMENTS IN PORTABILITY OF PRIVATE HEALTH INSURANCE

Sec. 2241. Excise tax imposed on failure to provide for preexisting condition.

PART IV—HEALTH CARE COST CONTAINMENT

Sec. 2251. Establishment of health care cost commission.
Sec. 2252. Federal certification of managed care plans and utilization review programs.
Sec. 2253. Additional funding for outcomes research.

PART V—MEDICARE PREVENTION BENEFITS

Sec. 2261. Coverage of certain immunizations.
Sec. 2262. Coverage of well-child care.
Sec. 2263. Demonstration projects for coverage of other preventive services.
Sec. 2264. OTA study of process for review of medicare coverage of preventive services.
Sec. 2265. Financing of additional benefits.

Subtitle D—Capital Gain Provisions

PART I—PROGRESSIVE CAPITAL GAIN RATES

Sec. 2301. Progressive capital gain rates.

Sec. 2302. Increase in holding period required for long-term capital gain treatment.
Sec. 2303. Recapture under section 1250 of total amount of depreciation.

PART II—SMALL BUSINESS STOCK

Sec. 2311. 50-percent exclusion for gain from certain small business stock.

Subtitle E—Investment in Real Estate

PART I—FIRST-TIME HOMEBUYER CREDIT

Sec. 2401. Credit for purchase of new principal residence by first-time homebuyer.

PART II—MODIFICATION OF PASSIVE LOSS RULES

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Sec. 5000. Short Title.

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Sec. 5101. Notification of reasons for termination or denial of installment agreements.
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Subtitle C—Interest

Sec. 5201. Expansion of authority to abate interest.
Sec. 5202. Extension of interest-free period for payment of tax after notice and demand.

Subtitle D—Joint Returns

Sec. 5301. Requirement of separate deficiency notices in certain cases.
Sec. 5302. Disclosure of collection activities.
Sec. 5303. Joint return may be made after separate returns without full payment of tax.
Sec. 5304. Representation of absent divorced or separated spouse by other spouse.

Subtitle E—Collection Activities

Sec. 5401. Notice of proposed deficiency.
Sec. 5402. Modifications to lien and levy provisions.
Sec. 5403. Offers-in-compromise.
Sec. 5404. Notification of examination.
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Sec. 5406. Safeguards relating to designated summons.

Subtitle F—Information Returns

Sec. 5501. Phone number of person providing payee statements required to be shown on such statement.
Sec. 5502. Civil damages for fraudulent filing of information returns.
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Subtitle G—Modifications to Penalty for Failure to Collect and Pay Over Tax

Sec. 5601. Trust fund taxes.
Sec. 5602. Disclosure of certain information where more than 1 person subject to penalty.
Sec. 5603. Penalties under section 6672.

Subtitle H—Awarding of Costs and Certain Fees

Sec. 5701. Commencement date of reasonable administrative costs.

Sec. 5702. Interim notice requirement.
Sec. 5703. Increased limit on attorney fees.
Sec. 5704. Failure to agree to extension not taken into account.
Sec. 5705. Effective date.

Subtitle I—Other Provisions

Sec. 5801. Required content of certain notices.
Sec. 5802. Relief from retroactive application of Treasury Department regulations.
Sec. 5803. Required notice of certain payments.
Sec. 5804. Unauthorized enticement of information disclosure.

TITLE I—FAIR TAX TREATMENT OF WORKING FAMILIES

SEC. 1001. TAX CREDIT FOR CHILDREN.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to personal credits) is amended by inserting after section 25 the following new section:

"SEC. 25A. CREDIT FOR CHILDREN.

"(a) GENERAL RULE.—In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to $300 multiplied by the number of qualifying children of the taxpayer for the taxable year.

"(b) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 1992, the dollar amount contained in subsection (a) shall be increased by an amount equal to—

"(1) such dollar amount, multiplied by

"(2) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins by substituting 'calendar year 1991' for 'calendar year 1989' in subparagraph (B) thereof.

If any increase determined under the preceding sentence is not a multiple of $50, such increase shall be rounded to the next lowest multiple of $50.

"(c) PHASE-OUT OF CREDIT FOR TAXPAYERS WITH INCOME OVER $50,000.—

"(1) IN GENERAL.—In the case of an eligible individual with an adjusted gross income in excess of $50,000 for any taxable year, the amount of the credit allowed under subsection (a) shall be reduced (but not below zero) by the amount determined under paragraph (2).

"(2) AMOUNT OF REDUCTION.—

"(A) IN GENERAL.—The amount determined under this paragraph equals the amount which bears the same ratio to the credit (determined without regard to this subsection) as—

"(i) the excess of—

"(I) the taxpayer's adjusted gross income for such taxable, over

"(II) $50,000, bears to

"(ii) $20,000.

"(B) ROUNDING.—Any amount determined under this paragraph which is not a multiple of $10 shall be rounded to the next lowest $10.

"(3) ADJUSTED GROSS INCOME.—Adjusted gross income of any taxpayer shall be determined—

"(A) after application of sections 86 and 469, and

"(B) without regard to sections 135 and 911.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) ELIGIBLE INDIVIDUAL.—The term 'eligible individual' has the meaning given to such term by section 32(c)(1) (determined without regard to subparagraph (B)).

"(2) QUALIFYING CHILD.—The term 'qualifying child' has the meaning given to such term by section 32(c)(3), determined—

"(A) without regard to subparagraph (C)(ii) thereof, and

"(B) by substituting '16' for '19' in subparagraph (C)(iii) thereof.

"(3) CERTAIN OTHER RULES APPLY.—Subsections (d) and (e) of section 32 shall apply."

(b) CONFORMING AMENDMENT.—The table of sections for such subpart A is amended by inserting after the item relating to section 25 the following new item:

"Sec. 25A. Credit for children."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 1002. SIMPLIFICATION AND EXPANSION OF EARNED INCOME TAX CREDIT.

(a) EARNED INCOME TAX CREDIT INCREASED.—Subparagraph (C) of section 32(b)(1) (relating to basic earned income credit) is amended to read as follows:

"(C) PERCENTAGES.—For purposes of this paragraph—

"(i) IN GENERAL.—Except as provided in clause (ii), the percentages shall be determined as follows:

"In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
1 qualifying child	23	16.43
2 or more qualifying children	26.75	19.10

"(ii) TRANSITION PERCENTAGES.—

"(I) For taxable years beginning in 1992, the percentages are:

"In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
1 qualifying child	17.6	12.57
2 or more qualifying children	20.15	14.39

"(II) For taxable years beginning in 1993:

"In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
1 qualifying child	18.5	13.21
2 or more qualifying children	21.25	15.17."

(b) REPEAL OF INTERACTION WITH MEDICAL EXPENSE DEDUCTION.—Section 213 (relating to medical, dental, etc., expenses) is amended by striking subsection (f).

(c) REPEAL OF INTERACTION WITH DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED.—Paragraph (3) of section 162(l) is amended to read as follows:

"(3) COORDINATION WITH MEDICAL DEDUCTION.—Any amount paid by a taxpayer for insurance to which paragraph (1) applies shall not be taken into account in computing the amount allowable to the taxpayer as a deduction under section 213(a)."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 1003. EXTENSION OF TARGETED JOBS CREDIT.

(a) IN GENERAL.—Paragraph (4) of section 51(c) (relating to termination) is amended by striking "June 30, 1992" and inserting "December 31, 1993".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to individuals who begin work for the employer after June 30, 1992.

TITLE II—PROMOTION OF LONG-TERM ECONOMIC GROWTH

Subtitle A—Increased Savings

PART I—RETIREMENT SAVINGS INCENTIVES

Subpart A—Restoration of IRA Deduction

SEC. 2001. RESTORATION OF IRA DEDUCTION.

(a) IN GENERAL.—Section 219 (relating to deduction for retirement savings) is amended by striking subsection (g) and by redesignating subsection (h) as subsection (g).

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subsection (f) of section 219 is amended by striking paragraph (7).

(2) Paragraph (5) of section 408(d) is amended by striking the last sentence.

(3) Section 408(o) is amended by adding at the end thereof the following new paragraph:

"(5) TERMINATION.—This subsection shall not apply to any designated nondeductible contribution for any taxable year beginning after December 31, 1992."

(4) Subsection (b) of section 4973 is amended by striking the last sentence.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 2002. INFLATION ADJUSTMENT FOR DEDUCTIBLE AMOUNT.

(a) IN GENERAL.—Section 219, as amended by section 2001, is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) COST-OF-LIVING ADJUSTMENTS.—

"(1) IN GENERAL.—If the cost-of-living amount for any calendar year is equal to or greater than $500, then each applicable dollar amount (as previously adjusted under this subsection) for any taxable year beginning in any subsequent calendar year shall be increased by $500.

"(2) COST-OF-LIVING AMOUNT.—The cost-of-living amount for any calendar year is the excess (if any) of—

"(A) $2,000, increased by the cost-of-living adjustment for such calendar year, over

"(B) the applicable dollar amount in effect under subsection (b)(1)(A) for taxable years beginning in such calendar year.

"(3) COST-OF-LIVING ADJUSTMENT.—For purposes of this subsection—

"(A) IN GENERAL.—The cost-of-living adjustment for any calendar year is the percentage (if any) by which—

"(i) the CPI for such calendar year, exceeds

"(ii) the CPI for 1991.

"(B) CPI FOR ANY CALENDAR YEAR.—The CPI for any calendar year shall be determined in the same manner as under section 1(f)(4).

"(4) APPLICABLE DOLLAR AMOUNT.—For purposes of this subsection, the term 'applicable dollar amount' means the dollar amount in effect under any of the following provisions:

"(A) Subsection (b)(1)(A).

"(B) Subsection (c)(2)(A)(i).

"(C) The last sentence of subsection (c)(2)."

(b) CONFORMING AMENDMENTS.—

(1) Section 408(a)(1) is amended by striking "in excess of $2,000 on behalf of any individual" and inserting "on behalf of any individual in excess of the amount in effect for such taxable year under section 219(b)(1)(A)".

(2) Section 408(b)(2)(B) is amended by striking "$2,000" and inserting "the dollar amount in effect under section 219(b)(1)(A)".

(3) Section 408(j) is amended by striking "$2,000".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 2003. COORDINATION OF IRA DEDUCTION LIMIT WITH ELECTIVE DEFERRAL LIMIT.

(a) In General.—Section 219(b) (relating to maximum amount of deduction) is amended by adding at the end thereof the following new paragraph:

"(4) Coordination with elective deferral limit.—The amount determined under paragraph (1) or subsection (c)(2) with respect to any individual for any taxable year shall not exceed the excess (if any) of—

"(A) the maximum amount of elective deferrals of the individual which are excludable from gross income for the taxable year under section 402(g)(1), over

"(B) the amount so excluded."

(b) Conforming Amendment.—Section 219(c) is amended by adding at the end thereof the following new paragraph:

"(3) Cross reference.—

"For reduction in paragraph (2) amount, see subsection (b)(4)."

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

Subpart B—Nondeductible Tax-Free IRAs

SEC. 2011. ESTABLISHMENT OF NONDEDUCTIBLE TAX-FREE INDIVIDUAL RETIREMENT ACCOUNTS.

(a) In General.—Subpart A of part I of subchapter D of chapter 1 (relating to pension, profit-sharing, stock bonus plans, etc.) is amended by inserting after section 408 the following new section:

"SEC. 408A. SPECIAL INDIVIDUAL RETIREMENT ACCOUNTS.

"(a) General Rule.—Except as provided in this section, a special individual retirement account shall be treated for purposes of this title in the same manner as an individual retirement plan.

"(b) Special Individual Retirement Account.—For purposes of this title, the term 'special individual retirement account' means an individual retirement plan which is designated at the time of establishment of the plan as a special individual retirement account.

"(c) Treatment of Contributions.—

"(1) No deduction allowed.—No deduction shall be allowed under section 219 for a contribution to a special individual retirement account.

"(2) Contribution limit.—The aggregate amount of contributions for any taxable year to all special individual retirement accounts maintained for the benefit of an individual shall not exceed the excess (if any) of—

"(A) the maximum amount allowable as a deduction under section 219 with respect to such individual for such taxable year, over

"(B) the amount so allowed.

"(3) Special rules for qualified transfers.—

"(A) In general.—No rollover contribution may be made to a special individual retirement account unless it is a qualified transfer.

"(B) Limit not to apply.—The limitation under paragraph (2) shall not apply to a qualified transfer to a special individual retirement account.

"(d) Tax Treatment of Distributions.—

"(1) In general.—Except as provided in this subsection, any amount paid or distributed out of a special individual retirement account shall not be included in the gross income of the distributee.

"(2) Exception for earnings on contributions held less than 5 years.—

"(A) In general.—Any amount distributed out of a special individual retirement account which consists of earnings allocable to contributions made to the account during the 5-year period ending on the day before such distribution shall be included in the gross income of the distributee for the taxable year in which the distribution occurs.

"(B) Ordering rule.—

"(i) First-in, first-out rule.—Distributions from a special individual retirement account shall be treated as having been made—

"(I) first from the earliest contribution (and earnings allocable thereto) remaining in the account at the time of the distribution, and

"(II) then from other contributions (and earnings allocable thereto) in the order in which made.

"(ii) Allocations between contributions and earnings.—Any portion of a distribution allocated to a contribution (and earnings allocable thereto) shall be treated as allocated first to the earnings and then to the contribution.

"(iii) Allocation of earnings.—Earnings shall be allocated to a contribution in such manner as the Secretary may by regulations prescribe.

"(iv) Contributions in same year.—Under regulations, all contributions made during the same taxable year may be treated as 1 contribution for purposes of this subparagraph.

"(C) Cross reference.—

"For additional tax for early withdrawal, see section 72(t).

"(3) Qualified transfer.—

"(A) In general.—Paragraph (2) shall not apply to any distribution which is transferred in a qualified transfer to another special individual retirement account.

"(B) Contribution period.—For purposes of paragraph (2), the special individual retirement account to which any contributions are transferred shall be treated as having held such contributions during any period such contributions were held (or are treated as held under this subparagraph) by the special individual retirement account from which transferred.

"(4) Special rules relating to certain transfers.—

"(A) In general.—Notwithstanding any other provision of law, in the case of a qualified transfer to a special individual retirement account from an individual retirement plan which is not a special individual retirement account—

"(i) there shall be included in gross income any amount which, but for the qualified transfer, would be includible in gross income, but

"(ii) section 72(t) shall not apply to such amount.

"(B) Time for inclusion.—In the case of any qualified transfer which occurs before January 1, 1994, any amount includible in gross income under subparagraph (A) with respect to such contribution shall be includible ratably over the 4-taxable year period beginning in the taxable year in which the amount was paid or distributed out of the individual retirement plan.

"(e) Qualified Transfer.—For purposes of this section, the term 'qualified transfer' means a transfer to a special individual retirement account from another such account or from an individual retirement plan but only if such transfer meets the requirements of section 408(d)(3)."

(b) Early Withdrawal Penalty.—Section 72(t), as amended by section 2021(c), is amended by adding at the end thereof the following new paragraph:

"(8) Rules relating to special individual retirement accounts.—In the case of a special individual retirement account under section 408A—

"(A) this subsection shall only apply to distributions out of such account which consist of earnings allocable to contributions made to the account during the 5-year period ending on the day before such distribution, and

"(B) paragraph (2)(A)(i) shall not apply to any distribution described in subparagraph (A)."

(c) Excess Contributions.—Section 4973(b) is amended by adding at the end thereof the following new sentence: "For purposes of paragraphs (1)(B) and (2)(C), the amount allowable as a deduction under section 219 shall be computed without regard to section 408A."

(d) Conforming Amendment.—The table of sections for subpart A of part I of subchapter D of chapter 1 is amended by inserting after the item relating to section 408 the following new item:

"Sec. 408A. Special individual retirement accounts."

(e) Effective Dates.—

(1) In general.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

(2) Qualified transfers in 1992.—The amendments made by this section shall apply to any qualified transfer during any taxable year beginning in 1992.

PART II—PENALTY-FREE DISTRIBUTIONS

SEC. 2021. DISTRIBUTIONS FROM CERTAIN PLANS MAY BE USED WITHOUT PENALTY TO PURCHASE FIRST HOMES OR TO PAY HIGHER EDUCATION OR FINANCIALLY DEVASTATING MEDICAL EXPENSES.

(a) In General.—Paragraph (2) of section 72(t) (relating to exceptions to 10-percent additional tax on early distributions from qualified retirement plans) is amended by adding at the end thereof the following new subparagraph:

"(D) Distributions from certain plans for first home purchases or educational expenses.—Distributions to an individual from an individual retirement plan, or from amounts attributable to employer contributions made pursuant to elective deferrals described in subparagraph (A) or (C) of section 402(g)(3) or section 501(c)(18)(D)(iii)—

"(i) which are qualified first-time homebuyer distributions (as defined in paragraph (6)); or

"(ii) to the extent such distributions do not exceed the qualified higher education expenses (as defined in paragraph (7)) of the taxpayer for the taxable year."

(b) Financially Devastating Medical Expenses.—

(1) In general.—Section 72(t)(3)(A) is amended by striking "(B),".

(2) Certain lineal descendants and ancestors treated as dependents.—Subparagraph (B) of section 72(t)(2) is amended by striking "medical care" and all that follows and inserting "medical care determined—

"(i) without regard to whether the employee itemizes deductions for such taxable year, and

"(ii) by treating such employee's dependents as including—

"(I) all children and grandchildren of the employee or such employee's spouse, and

"(II) all ancestors of the employee or such employee's spouse."

(3) Conforming Amendment.—Subparagraph (B) of section 72(t)(2) is amended by striking "or (C)" and inserting ", (C) or (D)".

(c) Definitions.—Section 72(t) is amended by adding at the end thereof the following new paragraphs:

"(6) Qualified first-time homebuyer distributions.—For purposes of paragraph (2)(D)(i)—

"(A) In general.—The term 'qualified first-time homebuyer distribution' means any payment or distribution received by an individual to the extent such payment or distribution is used by the individual before the close of the 60th day after the day on which such payment or distribution is received to pay qualified acquisition costs with respect to a principal residence of a first-time homebuyer who is such individual or the spouse, child, or grandchild of such individual.

"(B) Qualified acquisition costs.—For purposes of this paragraph, the term 'qualified acquisition costs' means the costs of acquiring, constructing, or reconstructing a residence. Such term includes any usual or reasonable settlement, financing, or other closing costs.

"(C) First-time homebuyer; other definitions.—For purposes of this paragraph—

"(i) First-time homebuyer.—The term 'first-time homebuyer' means any individual if—

"(I) such individual (and if married, such individual's spouse) had no present ownership interest in a principal residence during the 2-year period ending on the date of acquisition of the principal residence to which this paragraph applies, and

"(II) subsection (h) or (k) of section 1034 did not suspend the running of any period of time specified in section 1034 with respect to such individual on the day before the date the distribution is applied pursuant to subparagraph (A)(ii).

"(ii) Principal residence.—The term 'principal residence' has the same meaning as when used in section 1034.

"(iii) Date of acquisition.—The term 'date of acquisition' means the date—

"(I) on which a binding contract to acquire the principal residence to which subparagraph (A) applies is entered into, or

"(II) on which construction or reconstruction of such a principal residence is commenced.

"(D) Special rule where delay in acquisition.—If any distribution from any individual retirement plan fails to meet the requirements of subparagraph (A) solely by reason of a delay or cancellation of the purchase or construction of the residence, the amount of the distribution may be contributed to an individual retirement plan as provided in section 408(d)(3)(A)(i) (determined by substituting '120 days' for '60 days' in such section), except that—

"(i) section 408(d)(3)(B) shall not be applied to such contribution, and

"(ii) such amount shall not be taken into account—

"(I) in determining whether section 408(d)(3)(A)(i) applies to any other amount, or

"(II) for purposes of subclause (II) of subparagraph (A)(i).

"(7) Qualified higher education expenses.—For purposes of paragraph (2)(D)(ii)—

"(A) In general.—The term 'qualified higher education expenses' means tuition, fees, books, supplies, and equipment required for the enrollment or attendance of—

"(i) the taxpayer,

"(ii) the taxpayer's spouse, or

"(iii) the taxpayer's child (as defined in section 151(c)(3)) or grandchild,

at an eligible educational institution (as defined in section 135(c)(3)).

"(B) Coordination with savings bond provisions.—The amount of qualified higher education expenses for any taxable year shall be reduced by any amount excludable from gross income under section 135."

(d) Conforming Amendments.—

(1) Section 401(k)(2)(B)(i) is amended by striking "or" at the end of subclause (III), by striking "and" at the end of subclause (IV) and inserting "or", and by inserting after subclause (IV) the following new subclause:

"(V) the date on which qualified first-time homebuyer distributions (as defined in section 72(t)(6)) or distributions for qualified higher education expenses (as defined in section 72(t)(7)) are made, and".

(2) Section 403(b)(11) is amended by striking "or" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", or", and by inserting after subparagraph (B) the following new subparagraph:

"(C) for qualified first-time homebuyer distributions (as defined in section 72(t)(6)) or for the payment of qualified higher education expenses (as defined in section 72(t)(7))."

(e) Effective Date.—The amendments made by this section shall apply to payments and distributions after December 31, 1991.

SEC. 2022. CONTRIBUTIONS MUST BE HELD AT LEAST 5 YEARS IN CERTAIN CASES.

(a) In General.—Section 72(t), as amended by section 2011(b), is amended by adding at the end thereof the following new paragraph:

"(9) Certain contributions must be held 5 years.—

"(A) In general.—Paragraph (2)(A)(i) shall not apply to any amount distributed out of an individual retirement plan (other than a special individual retirement account) which is allocable to contributions made to the plan during the 5-year period ending on the date of such distribution (and earnings on such contributions).

"(B) Ordering rule.—For purposes of this paragraph, distributions shall be treated as having been made—

"(i) first from the earliest contribution (and earnings allocable thereto) remaining in the account at the time of the distribution, and

"(ii) then from other contributions (and earnings allocable thereto) in the order in which made.

Earnings shall be allocated to contributions in such manner as the Secretary may prescribe.

"(C) Special accounts.—For rules applicable to special individual retirement accounts under section 408A, see paragraph (8)."

(b) Effective Date.—The amendment made by this section shall apply to contributions (and earnings allocable thereto) which are made after December 31, 1992.

SUBTITLE B—IMPROVED EDUCATIONAL OPPORTUNITIES

PART II—WORKFORCE TRAINING

Subpart A—Standards of Excellence in Workforce Training

SEC. 2111. PURPOSE.

It is the purpose of this subpart to amend the Wagner-Peyser Act to—

(1) stimulate the adoption of a voluntary national system of occupational certification by establishing an independent national board to develop a system of industry-based, occupational proficiency standards and certifications of mastery for occupations within each major industry and occupations that involve more than 1 industry, for which no recognized training standards currently exist; and

(2) encourage the formation of youth skills training and education partnerships by establishing standards for youth skills training and education programs.

SEC. 2112. AMENDMENT TO WAGNER-PEYSER ACT.

The Wagner-Peyser Act (29 U.S.C. 49 et seq.) is amended—

(1) by inserting before section 1, the following:

"TITLE I—FEDERAL EMPLOYMENT SERVICE"

(2) by designating sections 1 through 15 as sections 101 through 115, respectively, and

(3) inserting at the end thereof, the following new title:

"TITLE II—WORKFORCE TRAINING

"Subtitle A—Professional and Technical Standards for Workforce Training

"SEC. 201. ESTABLISHMENT OF NATIONAL BOARD.

"(a) In General.—There is established a National Board for Professional and Technical Standards (hereafter referred to in this section as the 'National Board').

"(b) Composition.—

"(1) In general.—The National Board shall be composed of 24 members appointed in accordance with paragraph (2)(A), of which 8 members shall be representatives of business and industry, 8 members shall be representatives of organized labor, and 8 members shall be representatives of educational institutions and technical associations the expertise of which reflects a broad cross section of industries and occupations. Representatives of organized labor shall be selected from among individuals recommended by recognized national labor federations.

"(2) Membership.—

"(A) Appointments.—Members of the National Board shall be appointed as follows:

"(i) 6 members (2 from each class of appointees described in paragraph (1)) shall be appointed by the Speaker of the House of Representatives, upon the recommendations of the Majority and Minority Leaders of the House, respectively;

"(ii) 6 members (2 from each class of appointees described in paragraph (1)) shall be appointed by the President pro tempore of the Senate, upon the recommendations of the Majority and Minority Leaders of the Senate, respectively;

"(iii) 6 members (2 from each class of employees described in paragraph (1)) shall be appointed by the Secretary of Labor; and

"(iv) 6 members (2 from each class of appointees described in paragraph (1)) shall be appointed by the Secretary of Education.

"(B) Ex officio members.—The Secretary of Labor and the Secretary of Education shall serve as ex officio members of the National Board.

"(3) Term.—Each member of the National Board shall be appointed under paragraph (2)(A) for a term of 4 years, except that of the initial members of the Board appointed under such paragraph, 12 (3 from each class of appointees described in paragraph (1)) shall be appointed for a term of 2 years in the manner prescribed in clauses (i) through (iv) of paragraph 2(A).

"(c) Chairperson and Vice Chairperson.—The National Board shall elect a Chairperson and 2 Vice Chairpersons (each representing a different 1 of the classes of appointees described in paragraph (1)) from among its members described in subsection (b)(2)(A), each of whom shall serve for a term of 1 year. The position of Chairperson shall rotate among the classes of appointees described in subsection (c)(1).

"(d) COMPENSATION AND EXPENSES—

"(1) COMPENSATION.—Members of the National Board who are not regular full-time employees of the United States Government shall serve without compensation.

"(2) EXPENSES.—While away from their homes or regular places of business on the business of the National Board, members of such Board may be allowed travel expenses, including per diem in lieu of subsistence, as is authorized under section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

"(e) STAFF.—The National Board shall appoint an Executive Director who shall be compensated at a rate determined by the Board that shall not exceed the maximum rate of basic pay payable for GS-15 of the General Schedule, and who may appoint such staff as is necessary.

"SEC. 202. ADVISORY COMMITTEES.

"(a) ESTABLISHMENT.—The National Board shall establish advisory committees for each major industry and for major occupations that involve more than 1 industry, and shall appoint individuals to serve as members of such committees from among nominations submitted by participants in each such industry or occupation. Each such committee shall include equal numbers of representatives from each of the 3 classes of representatives described in section 201(b)(1). Representatives of organized labor shall be selected from among individuals nominated by recognized national labor organizations representing employees in such industry or occupation.

"(b) DUTIES.—Each advisory committee established under subsection (a) shall, for each major industry or occupation for which such committee is established—

"(1) develop recommendations for proficiency standards for occupations within such industry or for such occupation that are linked to internationally accepted standards, to the extent practicable;

"(2) develop assessments to measure competencies for such occupations;

"(3) develop and recommend 2- to 5-year curricula for achieving such competencies that include structured work experiences and related study programs leading to technical and professional certificates or associate degrees; and

"(4) evaluate the implementation of the proficiency standards, assessments, and curricula developed under this subsection and make recommendations for revision, where appropriate.

"(c) LIMITATION.—No advisory committee established pursuant to this section shall be authorized to develop proficiency standards, assessments, or curricula for any industry or occupation for which recognized apprenticeship standards exist.

"(d) FACA NOT APPLICABLE.—The provisions of the Federal Advisory Committee Act shall not apply to the advisory committees established under this section.

"SEC. 203. DEADLINES.

"(a) IN GENERAL.—Not later than December 31, 1993, the National Board shall identify at least 30 industrial or occupational categories and develop proficiency standards, assessments, and curricula for such industries or occupations.

"(b) COMPLETION OF CATEGORIES.—The National Board shall develop a program to ensure that the proficiency standards, assessments, and curricula for all remaining identified industrial or occupational categories are completed not later than January 1, 1997.

"SEC. 204. ATTAINMENT OF STANDARDS.

"Proficiency standards developed under this title shall be formulated in such a manner that the attainment of such standards is likely to meet the requirements for transferable credit and enable a student to continue such student's education and training, with a special emphasis on transferability among States.

"SEC. 205. AVAILABILITY.

"The proficiency standards, assessments, and curricula developed in accordance with this title for an industry or occupation shall be made available for voluntary use by institutions of postsecondary education offering professional and technical education, labor organizations, trade and technical associations, employers and labor-management organizations providing formalized training, private training providers, and any other organizations likely to benefit from such proficiency standards, assessments, and curricula.

"SEC. 206. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There are authorized to be appropriated to carry out this subtitle, $15,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1997.

"(b) AVAILABILITY.—Amounts appropriated under subsection (a) shall remain available until expended."

Subtitle B—Youth Skills Training and Education Programs

"SEC. 211. YOUTH SKILLS TRAINING AND EDUCATION PROGRAMS.

"(a) YOUTH SKILLS TRAINING AND EDUCATION PROGRAMS.—A program shall qualify as a youth skills training and education program under this subtitle for purposes of section 501(c)(26) of the Internal Revenue Code of 1986 if such program—

"(1) provides eleventh and twelfth grade students with the opportunity to voluntarily enter into a course of study that integrates academic instruction with supervised on-the-job training and instruction in the workplace in a curriculum designed to lead to a high school diploma and to qualify the student for further education or an advanced technical or professional training program;

"(2) provides each student, upon completing such program, with assistance in seeking post-program employment and further education and training in such student's program field;

"(3) is certified by a State or local educational agency as meeting the educational standards established and approved by such agency; and

"(4) is certified by a State agency responsible for occupational training as meeting the requirements of subsections (b) through (k).

"(b) TRAINING STANDARDS.—The requirements of this subsection are met if—

"(1) the program conforms with the relevant industrial or occupational proficiency standards and assessments established by the National Board for Professional and Technical Standards under subtitle A of this title, or, if such standards and assessments are not available, the program is likely to provide student participants with broad-based competencies and transferable skills suitable for career progression within the industries or trades in which the student is employed; or

"(2) the program provides training through an apprenticeship program registered with the Department of Labor, Bureau of Apprenticeship Training, or with a State apprenticeship agency recognized by such Bureau.

"(c) SCHOOL COORDINATOR.—The requirements of this subsection are met if the program provides that each participating school in such program designates a school official or counselor to coordinate the work and education aspects of each participating student's program and makes regularly scheduled visits to the work sites where participating students are employed.

"(d) WRITTEN TRAINING AGREEMENT.—The requirements of this subsection are met if the program provides that employers employing students in such program enter into written agreements signed by the student, the student's parent or guardian, the school official responsible for coordination of the program, and the employer, setting forth the type of work to be performed, the wages and benefits to be paid by the employer, the hours of work, the ratio of hours at work to hours in school, the type and amount of training to be provided by the employer, the type and amount of on-the-job supervision to be provided by the employer, the competencies and skills the student is expected to acquire, and any other goals and objectives of the training.

"(e) REVIEW AND EVALUATION.—The requirements of this subsection are met if the program provides for systematic review and evaluation of the student's progress in job performance, acquisition of work-related competencies and skills, and related academic instruction, and for the maintenance of appropriate progress records.

"(f) LABOR STANDARDS.—The requirements of this subsection are met if the program provides for the following:

"(1) WAGES.—The wage paid to participating students by the employer in the program is not less than the minimum wage prescribed by the Fair Labor Standards Act, unless a higher wage is required by other applicable Federal law, State law, respective regulations, or by a collective bargaining agreement.

"(2) BENEFITS AND WORKING CONDITIONS.—Students employed by participating employers are provided benefits and working conditions at the same level and to the same extent as other employees working a similar length of time and doing the same type of work.

"(3) WORKPLACE HEALTH AND SAFETY.—Students are provided with adequate and safe equipment and a safe and healthful workplace consistent with all health and safety standards established under applicable State and Federal law, and provides health and safety training for participating students on the job and in related coursework.

"(4) WORKERS' COMPENSATION.—To the extent that a State workers' compensation law is applicable, workers' compensation benefits in accordance with such law are available with respect to work-related injuries suffered by participating students. To the extent that such law is not applicable, insurance coverage of injuries suffered by such participants is secured in accordance with requirements prescribed by the organization administering the program.

"(5) PROHIBITED OCCUPATIONS.—No student participating in the program is assigned to work in any occupation prohibited for minors of the student's age under the Fair Labor Standards Act (29 U.S.C. 210 et seq.) and regulations promulgated thereunder, or any other applicable Federal, State or local law.

"(g) NONDISCRIMINATION.—The requirements of this subsection are met if the program provides that no individual is excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of, or in connection with, the program because of race, color, religion, sex, national origin, age, handicap, or political affiliation, or belief.

"(h) Nondisplacement.—The requirements of this subsection are met if the program provides that employment or use of a student participating in such program does not result in the displacement of any other employed worker (including partial displacement such as a reduction in hours of work, wages, or employment benefits), nor does the student perform any services or duties or engage in activities that were previously or would otherwise be assigned to or performed by any—

"(1) employee who is on layoff or is otherwise subject to a reduction in force; or

"(2) employee who is on strike or is involved in a lockout.

"(i) Records and Reports.—The requirements of this subsection are met if—

"(1) the name, address, and bylaws of the organization operating the program, the name and address of each school participating in such program, the name and address of each employer contributing to such program, copies of the certifications required under paragraphs (3) and (4) of subsection (a), and a copy of the registration required under subsection (j), if applicable, is kept at the State or local educational agency office;

"(2) a copy of the written training agreement for each student participating in the program is kept at the State or local educational agency office; and

"(3) the records required under paragraphs (1) and (2) are kept for a period of 3 years and are available for inspection or transcription to representatives of the Internal Revenue Service and to representatives of the Department of Labor, Wage and Hour Division.

"(j) Nonduplication.—The requirements of this subsection are met if the program does not establish, operate, maintain, or assist a training program for any trade, skill, craft, or occupation for which there is an existing apprenticeship or training program duly registered with the United States Department of Labor, Bureau of Apprenticeship Training, for the same or similar trade, skill, craft or occupation, unless such training program conforms with apprenticeship program standards published by the Secretary of Labor and is registered with and approved by the Bureau of Apprenticeship or a State apprenticeship agency recognized by the Bureau.

"(k) Qualified Use of Contributions.—The requirements of this subsection are met if the program prohibits the use of contributions to the organization administering the program for employment training expenses or compensation of student participants."

Subpart B—Youth Skills Training and Education Partnerships

SEC. 2113. SHORT TITLE.

This subpart may be cited as the "Youth Skills Training and Education Partnerships Act."

SEC. 2114. TAX EXEMPTION FOR CONTRIBUTIONS TO YOUTH SKILLS TRAINING AND EDUCATION PARTNERSHIPS.

(a) In General.—Subsection (c) of section 501 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by adding at the end thereof the following new paragraph:

"(26) Any organization if—

"(A) organized and operated solely for purposes of administering a program which qualifies as a youth skills training and education program under subtitle B of title II of the Wagner-Peyser Act,

"(B) controlled by a board of directors consisting of—

"(i) representatives of employers contributing to such program;

"(ii) for each employer representative, 1 representative of such employer's nonmanagerial, nonsupervisory employees, to be selected by the authorized bargaining representative of such employees (if any);

"(iii) representatives of schools and higher education institutions participating in the program; and

"(iv) representatives of State or local governments, and

"(C) such organization does not pay for, and prohibits the use of any contributions for employment training expenses or compensation for any student participating in such program.

The representatives described in clauses (i) and (ii) of subparagraph (B) shall not constitute more than 50 percent of the members of the board of directors."

(b) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 2115. AUGMENTED DEDUCTION FOR YOUTH SKILLS TRAINING AND EDUCATION CONTRIBUTIONS BY BUSINESSES.

(a) In General.—Section 170 (relating to charitable, etc., contributions and gifts) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) Treatment of Youth Skills Training and Education Contributions.—

"(1) In general.—For purposes of this section, in the case of an eligible business, 150 percent of any amount paid in cash to a youth skills training and education partnership shall be treated as a charitable contribution.

"(2) Definitions.—

"(A) Youth skills training and education partnership.—The term 'youth skills training and education partnership' means an organization described in section 501(c)(26).

"(B) Eligible business.—The term 'eligible business' means any corporation or partnership."

(b) Effective Date.—The amendments made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

Subpart C—Study

SEC. 2116. JOINT LABOR DEPARTMENT AND TREASURY DEPARTMENT STUDY.

Within 3 years of the date of the enactment of this Act, the Secretary of Labor, the Secretary of Education and the Secretary of the Treasury, or their delegates, shall jointly study the effects of the amendments made by this part and shall report the results of such study and any recommendations for further legislative action to improve such effects to the Committee on Labor and Human Resources and the Committee on Finance of the Senate and the Committee on Education and Labor and the Committee on Ways and Means of the House of Representatives.

PART III—OTHER EDUCATION INCENTIVES

SEC. 2121. CREDIT FOR INTEREST ON EDUCATION LOANS.

(a) In General.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 22 the following new section:

"SEC. 23. INTEREST ON EDUCATION LOANS.

"(a) Allowance of Credit.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 15 percent of the interest paid by the taxpayer during the taxable year on any qualified education loan.

"(b) Maximum Credit.—The credit allowed by subsection (a) for the taxable year shall not exceed $300.

"(c) Limitation on Taxpayers Eligible for Credit.—No credit shall be allowed by this section to an individual for the taxable year if a deduction under section 151 with respect to such individual is allowed to another taxpayer for the taxable year beginning in the calendar year in which such individual's taxable year begins.

"(d) Limit on Period Credit Allowed.—

"(1) Taxpayer and taxpayer's spouse.—Except as provided in paragraph (2), a credit shall be allowed under this section only with respect to interest paid on any qualified education loan which is allocable to the first 48 months during which interest accrued on such loan. For purposes of this paragraph, any loan and all refinancings of such loan shall be treated as 1 loan.

"(2) Dependent.—If the qualified education loan was used to pay education expenses of an individual other than the taxpayer or the taxpayer's spouse, a credit shall be allowed under this section for any taxable year with respect to such loan only if—

"(A) a deduction under section 151 with respect to such individual is allowed to the taxpayer for such taxable year, and

"(B) such individual is at least a half-time student with respect to such taxable year.

"(e) Definitions.—For purposes of this section—

"(1) Qualified education loan.—The term 'qualified education loan' means any indebtedness incurred to pay qualified higher education expenses—

"(A) which are incurred on behalf of the taxpayer, the taxpayer's spouse, or a dependent of the taxpayer,

"(B) which are paid or incurred within a reasonable period of time before or after the indebtedness is incurred, and

"(C) which are attributable to education furnished during a period during which the recipient was at least a half-time student.

Such term includes indebtedness used to refinance indebtedness which qualifies as a qualified education loan. The term 'qualified education loan' shall not include any indebtedness owed to a person who is related (within the meaning of section 267(b) or 707(b)(1)) to the taxpayer.

"(2) Qualified higher education expenses.—The term 'qualified higher education expenses' means the cost of attendance (as defined in section 472 of the Higher Education Act of 1965, 10 U.S.C. 1087*ll*, as in effect on the day before the date of the enactment of this Act) of the taxpayer, the taxpayer's spouse, or a dependent of the taxpayer at an eligible educational institution. For purposes of the preceding sentence, the term 'eligible educational institution' has the same meaning given such term by section 135(c)(3), except that such term shall also include an institution conducting an internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility which offers postgraduate training.

"(3) Half-time student.—The term 'half-time student' means any individual who would be a student as defined in section 151(c)(4) if 'half-time' were substituted for 'full-time' each place it appears in such section.

"(4) Dependent.—The term 'dependent' has the meaning given such term by section 152.

"(f) SPECIAL RULES.—

"(1) DENIAL OF DOUBLE BENEFIT.—No credit shall be allowed under this section for any amount for which a deduction is allowable under any other provision of this chapter.

"(2) SELF-RELIANCE LOANS.—For purposes of the credit allowed under this section and the deduction allowed under section 162(h)(2)(E), interest paid on a self-reliance loan (as defined in section 452(b)(2) of the Higher Education Act) shall be treated as paid in the taxable year beginning in the calendar year following the calendar year in which such interest was paid.

"(3) MARITAL STATUS.—Marital status shall be determined in accordance with section 7703."

(b) OPTIONAL DEDUCTION FOR INTEREST ON EDUCATION LOANS.—Paragraph (2) of section 163(h) (defining personal interest) is amended by striking "and" at the end of subparagraph (D), by redesignating subparagraph (E) as subparagraph (F), and by inserting after subparagraph (D) the following new subparagraph:

"(E) any interest paid on a qualified education loan (as defined in section 23(e)) during the period described in section 23(d), unless a credit or deduction is taken with respect to such interest under any other provisions of this chapter, and".

(c) CLERICAL AMENDMENT.—The table of sections for such subpart A is amended by inserting after the item relating to section 22 the following new item:

"Sec. 23. Interest on education loans."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to qualified education loans (as defined in section 23(e) of the Internal Revenue Code of 1986) the first payment on which is due in taxable years beginning after December 31, 1991.

SEC. 2122. INCOME EXCLUSION FOR EDUCATION BONDS EXPANDED.

(a) IDENTIFYING INFORMATION REQUIRED.—Section 135(b)(2) is amended to read as follows:

"(2) IDENTIFYING INFORMATION REQUIRED WITH RESPECT TO INDIVIDUAL FOR WHOM EXPENSES PAID.—No amount shall be allowed as an exclusion under subsection (a) unless the taxpayer includes the name, address, and taxpayer identification number of the person for whom qualified higher education expenses were paid on the return on which the exclusion is claimed."

(b) ELIMINATION OF AGE RESTRICTION.—Section 135(c)(1) (defining qualified United States savings bonds) is amended—

(1) by striking subparagraph (B),

(2) by inserting "and" at the end of subparagraph (A), and

(3) by redesignating subparagraph (C) as subparagraph (B).

(c) EXCLUSION EXPANDED TO ALL INDIVIDUALS.—Subparagraph (A) of section 135(c)(2) (defining qualified higher education expenses) is amended to read as follows:

"(A) IN GENERAL.—The term 'qualified higher education expenses' means tuition and fees required for enrollment or attendance of any individual at an eligible educational institution."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds redeemed after December 31, 1991.

SEC. 2123. EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE.

(a) IN GENERAL.—Subsection (d) of section 127 (relating to educational assistance programs) is amended by striking "June 30, 1992" and inserting "December 31, 1993".

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 103 of the Tax Extension Act of 1991 is hereby repealed.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years ending after June 30, 1992.

SEC. 2124. DISCLOSURES OF INFORMATION FOR VETERANS BENEFITS.

(a) IN GENERAL.—Section 6103(l)(7)(D) (relating to program to which rule applies) is amended by striking "September 30, 1992" in the last sentence and inserting "September 30, 1998".

(b) CONFORMING AMENDMENT.—Section 5317(g) of title 38, United States Code, is amended by striking "September 30, 1992" and inserting "September 30, 1998".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on September 30, 1992.

Subtitle C—Better Access to Affordable Health Care

PART I—IMPROVEMENTS IN HEALTH INSURANCE AFFORDABILITY FOR SMALL EMPLOYERS

SEC. 2201. INCREASE IN DEDUCTIBLE HEALTH INSURANCE COSTS FOR SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—Paragraph (1) of section 162(l) (relating to special rules for health insurance costs of self-employed individuals) is amended by striking "25 percent" and inserting "100 percent (25 percent for taxable years beginning during 1992)".

(b) EXTENSION.—Paragraph (6) of section 162(l) (relating to termination) is amended by striking "June 30, 1992" and inserting "December 31, 1994".

(c) CONFORMING AMENDMENT.—Section 110(a) of the Tax Extension Act of 1991 is amended by striking paragraph (2).

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 2202. GRANTS TO STATES FOR SMALL EMPLOYER HEALTH INSURANCE PURCHASING PROGRAMS.

(a) IN GENERAL.—The Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall make grants to States that submit applications meeting the requirements of this section for the establishment and operation of small employer health insurance purchasing programs.

(b) USE OF FUNDS.—Grant funds awarded under this section to a State may be used to finance administrative costs associated with developing and operating a group purchasing program for small employers, such as the costs associated with—

(1) engaging in marketing and outreach efforts to inform small employers about the group purchasing program, which may include the payment of sales commissions;

(2) negotiating with insurers to provide health insurance through the group purchasing program; or

(3) providing administrative functions, such as eligibility screening, claims administration, and customer service.

(c) APPLICATION REQUIREMENTS.—An application submitted by a State to the Secretary must describe—

(1) whether the program will be operated directly by the State or through one or more State-sponsored private organizations and the details of such operation;

(2) any participation requirements for small employers;

(3) the extent of insurance coverage among the eligible population, projections for change in the extent of such coverage, and the price of insurance currently available to these small employers;

(4) program goals for reducing the price of health insurance for small employers and increasing insurance coverage among employees of small employers and their dependents;

(5) the approaches proposed for enlisting participation by insurers and small employers, including any plans to use State funds to subsidize the cost of insurance for participating employers; and

(6) the methods proposed for evaluating the effectiveness of the program in reducing the number of uninsured in the State and on lowering the price of health insurance to small employers in the State.

(d) GRANT CRITERIA.—In awarding grants, the Secretary shall consider the potential impact of the State's proposal on the cost of health insurance for small employers and on the number of uninsured, and the need for regional variation in the awarding of grants. To the extent the Secretary deems appropriate, grants shall be awarded to fund programs employing a variety of approaches for establishing small employer health insurance group purchasing programs.

(e) PROHIBITION ON GRANTS.—No grant funds shall be paid to States that do not meet the requirements of title XXI of the Social Security Act with respect to small employer health insurance plans, or to States with group purchasing programs involving small employer health insurance plans that do not meet the requirements of such title.

(f) ANNUAL REPORT BY STATES.—States receiving grants under this section must report to the Secretary annually on the numbers and rates of participation by eligible insurers and small employers, on the estimated impact of the program on reducing the number of uninsured, and on the price of insurance available to small employers in the State.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 1993, 1994, and 1995, such sums as may be necessary for the purposes of awarding grants under this section.

(h) SECRETARIAL REPORT.—The Secretary shall report to Congress by no later than January 1, 1995, on the number and amount of grants awarded under this section, and include with such report an evaluation of the impact of the grant program on the number of uninsured and price of health insurance to small employers in participating States.

SEC. 2203. STUDY OF USE OF MEDICARE RATES BY PRIVATE HEALTH INSURANCE PLANS.

(a) IN GENERAL.—Not later than January 1, 1993, the Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall study and report to the Congress on the feasibility and desirability of the Secretary establishing payment rates, based upon medicare payment rules, for optional use by private health insurers. In developing the study, the Secretary shall take into account the findings and views of the Prospective Payment Assessment Commission and the Physician Payment Review Commission.

(b) PROVISIONS OF STUDY AND REPORT.—The study and report shall evaluate—

(1) the appropriateness of using medicare payment rules to determine payments for services furnished to non-medicare populations (with particular emphasis on services furnished to children);

(2) the potential impact on private health insurance premiums, national health spending, and access to health care services (by medicare beneficiaries and others) of requiring health care providers and practitioners to accept such payment rates as payment in

full if the optional use of such rates is available—

(A) to all private health insurance and employer health benefit plans, or

(B) only to private health insurance sold to small employers or small employer health benefit plans; and

(3) the advantages and disadvantages of alternative mechanisms for enforcing such rates when private insurers opt to use them.

PART II—IMPROVEMENTS IN HEALTH INSURANCE FOR SMALL EMPLOYERS

Subpart A—Standards and Requirements of Small Employer Health Insurance Reform

SEC. 2211. STANDARDS AND REQUIREMENTS OF SMALL EMPLOYER HEALTH INSURANCE.

The Social Security Act is amended by adding at the end the following new title:

"TITLE XXI—STANDARDS FOR SMALL EMPLOYER HEALTH INSURANCE AND CERTIFICATION OF MANAGED CARE PLANS

"PART A—GENERAL STANDARDS; DEFINITIONS

"APPLICATION OF REQUIREMENTS TO SMALL EMPLOYER HEALTH INSURANCE PLANS

"SEC. 2101. (a) PLAN UNDER STATE REGULATORY PROGRAM OR CERTIFIED BY THE SECRETARY.—An insurer offering a health insurance plan to a small employer in a State on or after the effective date applicable to the State under subsection (b) shall be treated as meeting the requirements of this title if—

"(1) the Secretary determines that the State has established a regulatory program that provides for the application and enforcement of standards meeting the requirements under section 2102 to meet the requirements of part B of this title; and

"(2) if the State has not established such a program or if the program has been decertified by the Secretary under section 2102(b), the health insurance plan has been certified by the Secretary (in accordance with such procedures as the Secretary establishes) as meeting the requirements of part B of this title.

"(b) EFFECTIVE DATES.—

"(1) IN GENERAL.—Except as specified in paragraph (2) and provided in paragraph (3), the standards established under section 2102 to meet the requirements of part B of this title shall apply to health insurance plans offered, issued, or renewed to a small employer in a State on or after January 1, 1994.

"(2) EXCEPTION FOR LEGISLATION.—In the case of a State which the Secretary identifies, in consultation with the NAIC, as—

"(A) requiring State legislation (other than legislation appropriating funds) in order for insurers and health insurance plans offered to small employers to meet the standards under the program established under subsection (a), or

"(B) having a legislature which does not meet in 1993 in a legislative session in which such legislation may be considered,

the date specified in this paragraph is the first day of the first calendar quarter beginning after the close of the first regular legislative session of the State legislature that begins on or after January 1, 1994. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular legislative session of the State legislature.

"(3) REQUIREMENTS APPLIED TO EXISTING POLICIES.—In the case of a health insurance plan in effect before the applicable effective date specified in paragraph (1) or (2), the requirements referred to in subsections (a) and (b) of section 2112 shall not apply to any such plan, or any renewal of such plan, before the date which is 2 years after such effective date.

"(c) REPORTING REQUIREMENTS OF STATES.—Each State shall submit to the Secretary, at intervals established by the Secretary, a report on the implementation and enforcement of the standards under the program established under subsection (a)(1) with respect to health insurance plans offered to small employers.

"(d) MORE STRINGENT STATE STANDARDS PERMITTED.—Except as provided in subsections (b)(8) and (c)(4) of section 2113, a State may implement standards that are more stringent than the standards established to meet the requirements of part B of this title.

"(e) LIMITED WAIVER OF RATING REQUIREMENTS.—The Secretary may waive requirements with respect to subsections (b) and (e) of section 2112 in the case of a State with equally stringent but not identical standards in effect prior to January 1, 1992.

"ESTABLISHMENT OF STANDARDS

"SEC. 2102. (a) ESTABLISHMENT OF STANDARDS.—

"(1) ROLE OF THE NAIC.—The Secretary shall request that the NAIC—

"(A) develop specific standards, in the form of a model Act and model regulations, to implement the requirements of part B of this title; and

"(B) report to the Secretary on such standards,

by not later than September 30, 1992. If the NAIC develops such standards within such period and the Secretary finds that such standards implement the requirements of part B of this title, such standards shall be the standards applied under section 2101.

"(2) ROLE OF THE SECRETARY.—If the NAIC fails to develop and report on the standards described in paragraph (1) by the date specified in such paragraph or the Secretary finds that such standards do not implement the requirements under part B of this title, the Secretary shall develop and publish such standards, by not later than December 31, 1992. Such standards shall then be the standards applied under section 2101.

"(3) STANDARDS ON GUARANTEED AVAILABILITY.—The standards developed under paragraphs (1) and (2) shall provide alternative standards for guaranteeing availability of health insurance plans for all small employers in a State as provided in section 2111(c).

"(4) GUIDELINES FOR DEMOGRAPHIC RATING FACTORS.—The standards developed under paragraphs (1) and (2) shall include guidelines with respect to rating factors used by insurers to adjust premiums to reflect demographic characteristics of a small employer group.

"(b) PERIODIC SECRETARIAL REVIEW OF STATE REGULATORY PROGRAM.—The Secretary periodically shall review State regulatory programs to determine if they continue to meet and enforce the standards referred to in subsection (a). If the Secretary initially determines that a State regulatory program no longer meets and enforces such standards, the Secretary shall provide the State an opportunity to adopt a plan of correction that would bring such program into compliance with such standards. If the Secretary makes a final determination that the State regulatory program fails to meet and enforce such standards and requirements after such an opportunity, the Secretary shall decertify such program and assume responsibility under section 2101(a)(2) with respect to plans in the State.

"(c) GAO AUDITS.—The Comptroller General of the United States shall conduct periodic reviews on a sample of State regulatory programs to determine their compliance with the standards and requirements of this title. The Comptroller General of the United States shall report to the Secretary and Congress on the findings of such reviews.

"DEFINITIONS

"SEC. 2103. (a) HEALTH INSURANCE PLAN.—As used in this title, the term 'health insurance plan' means any hospital or medical service policy or certificate, hospital or medical service plan contract, health maintenance organization group contract, or a multiple employer welfare arrangement, but does not include—

"(1) a self-insured group health plan;

"(2) a self-insured multiemployer group health plan; or

"(3) any of the following offered by an insurer—

"(A) accident only, dental only, vision only, disability only insurance, or long-term care only insurance,

"(B) coverage issued as a supplement to liability insurance,

"(C) medicare supplemental insurance as defined in section 1882(g)(1),

"(D) workmen's compensation or similar insurance, or

"(E) automobile medical-payment insurance.

In the case of a multiple employer welfare arrangement that is fully insured, the requirements of this Act shall only apply to the insurer of the arrangement.

"(b) INSURER.—As used in this title the term 'insurer' means any person that offers a health insurance plan to a small employer.

"(c) GENERAL DEFINITIONS.—As used in this title:

"(1) APPLICABLE REGULATORY AUTHORITY.—The term 'applicable regulatory authority' means—

"(A) in the case of a health insurance plan offered in a State with a program meeting the requirements of part B of this title, the State commissioner or superintendent of insurance or other State authority responsible for regulation of health insurance; or

"(B) in the case of a health insurance plan certified by the Secretary under section 2101(a)(2), the Secretary.

"(2) SMALL EMPLOYER.—The term 'small employer' means, with respect to a calendar year, an employer that normally employs more than 1 but less than 51 eligible employees on a typical business day. For the purposes of this paragraph, the term 'employee' includes a self-employed individual.

"(3) ELIGIBLE EMPLOYEE.—The term 'eligible employee' means, with respect to an employer, an employee who normally performs on a monthly basis at least 30 hours of service per week for that employer.

"(4) NAIC.—The term 'NAIC' means the National Association of Insurance Commissioners.

"(5) STATE.—The term 'State' means each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

"PART B—SMALL EMPLOYER HEALTH INSURANCE REFORM

"GENERAL REQUIREMENTS FOR HEALTH INSURANCE PLANS ISSUED TO SMALL EMPLOYERS

"SEC. 2111. (a) REGISTRATION WITH APPLICABLE REGULATORY AUTHORITY.—Each insurer shall register with the applicable regulatory authority for each State in which it issues or offers a health insurance plan to small employers.

"(b) GUARANTEED ELIGIBILITY.—

"(1) IN GENERAL.—No insurer may exclude from coverage any eligible employee, or the spouse or any dependent child of the eligible employee, to whom coverage is made available by a small employer.

"(2) WAITING PERIODS.—Paragraph (1) shall not apply to any period an eligible employee is excluded from coverage under the health insurance plan solely by reason of a requirement imposed by an employer applicable to all employees that a minimum period of service with the small employer is required before the employee is eligible for such coverage.

"(c) GUARANTEED AVAILABILITY.—

"(1) IN GENERAL.—Subject to the succeeding provisions of this subsection, an insurer that offers a health insurance plan to small employers located in a State must meet the standards adopted by the State described in paragraph (2).

"(2) STANDARDS ON GUARANTEED AVAILABILITY.—

"(A) IN GENERAL.—In order to implement the requirements of this title, the standards developed under paragraphs (1) and (2) of section 2102(a) shall—

"(i) require that a State adopt a mechanism for guaranteeing the availability of health insurance plans for all small employers in the State,

"(ii) specify alternative mechanisms, including at least the alternative mechanisms described in subparagraph (B), that a State may adopt, and

"(iii) prohibit marketing or other practices by an insurer intended to discourage or limit the issuance of a health insurance plan to a small employer on the basis of size, industry, geographic area, expected need for health services, or other risk factors.

"(B) ALTERNATIVE MECHANISMS.—The alternative mechanisms described in this subparagraph are:

"(i) A mechanism under which the State—

"(I) requires that any insurer offering a health insurance plan to a small employer in the State shall offer the same plan to all other small employers in the State or in the portion of the State established as the insurer's geographic service area (as approved by the State), and

"(II) requires the participation of all such insurers in a small employer reinsurance program established by the State.

"(ii) A mechanism under which the State—

"(I) requires that any insurer offering a health insurance plan to a small employer in the State shall offer the same plan to all other small employers in the State or in the portion of the State established as the insurer's geographic service area (as approved by the State), and

"(II) permits any such insurer to participate in a small employer reinsurance program established by the State.

"(iii) A mechanism under which the State requires that any insurer offering a health insurance plan to a small employer in the State shall participate in a program for assigning high-risk groups among all such insurers.

"(iv) A mechanism under which the State requires that any insurer that—

"(I) offers a health insurance plan to a small employer in the State, and

"(II) does not agree to offer the same plan to all other small employers in the State or in the portion of the State established as the insurer's geographic service area (as approved by the State),

shall participate in a program for assigning high-risk groups among all such insurers.

"(C) STATE ADOPTION OF CERTAIN STANDARDS.—A regulatory program adopted by the State under section 2101 must provide—

"(i) for the adoption of one of the mechanisms described in clauses (i) through (iv) of subparagraph (B), or

"(ii) for such other program that guarantees availability of health insurance to all small employers in the State and is approved by the Secretary.

"(D) STANDARDS FOR NONCOMPLYING STATES.—The Secretary, in consultation with the Secretary of the Treasury, shall develop requirements with respect to guaranteed availability to apply with respect to insurers located in a State that has not adopted the standards under section 2102 and who wish to apply for certification under section 2101(a)(2).

"(3) GROUNDS FOR REFUSAL TO RENEW.—

"(A) IN GENERAL.—An insurer may refuse to renew, or (except with respect to clause (iii)) may terminate, a health insurance plan under this part only for—

"(i) nonpayment of premiums,

"(ii) fraud or misrepresentation,

"(iii) failure to maintain minimum participation rates (consistent with subparagraph (B)), or

"(iv) repeated misuse of a provider network provision.

"(B) MINIMUM PARTICIPATION RATES.—An insurer may require, with respect to a health insurance plan issued to a small employer, that a minimum percentage of eligible employees who do not otherwise have health insurance are enrolled in such plan if such percentage is applied uniformly to all plans offered to employers of comparable size.

"(d) GUARANTEED RENEWABILITY.—

"(1) IN GENERAL.—An insurer shall ensure that a health insurance plan issued to a small employer be renewed, at the option of the small employer, unless the plan is terminated for a reason specified in paragraph (2) or in subsection (c)(3)(A).

"(2) TERMINATION OF SMALL EMPLOYER BUSINESS.—An insurer is not required to renew a health insurance plan with respect to a small employer if the insurer—

"(A) elects not to renew all of its health insurance plans issued to small employers in a State; and

"(B) provides notice to the applicable regulatory authority in the State and to each small employer covered under a plan of such termination at least 180 days before the date of expiration of the plan.

In the case of such a termination, the insurer may not provide for issuance of any health insurance plan to a small employer in the State during the 5-year period beginning on the date of termination of the last plan not so renewed.

"(e) NO DISCRIMINATION BASED ON HEALTH STATUS FOR CERTAIN SERVICES.—

"(1) IN GENERAL.—Except as provided under paragraph (2), a health insurance plan offered to a small employer by an insurer may not deny, limit, or condition the coverage under (or benefits of) the plan based on the health status, claims experience, receipt of health care, medical history, or lack of evidence of insurability, of an individual.

"(2) TREATMENT OF PREEXISTING CONDITION EXCLUSIONS FOR ALL SERVICES.—

"(A) IN GENERAL.—Subject to the succeeding provisions of this paragraph, a health insurance plan offered to a small employer by an insurer may exclude coverage with respect to services related to treatment of a preexisting condition, but the period of such exclusion may not exceed 6 months. The exclusion of coverage shall not apply to services furnished to newborns.

"(B) CREDITING OF PREVIOUS COVERAGE.—

"(i) IN GENERAL.—A health insurance plan issued to a small employer by an insurer shall provide that if an individual under such plan is in a period of continuous coverage (as defined in clause (ii)(I)) with respect to particular services as of the date of initial coverage under such plan, any period of exclusion of coverage with respect to a preexisting condition for such services or type of services shall be reduced by 1 month for each month in the period of continuous coverage.

"(ii) DEFINITIONS.—As used in this subparagraph:

"(I) PERIOD OF CONTINUOUS COVERAGE.—The term 'period of continuous coverage' means, with respect to particular services, the period beginning on the date an individual is enrolled under a health insurance plan, title XVIII, title XIX, or other health benefit arrangement including a self-insured plan which provides benefits with respect to such services and ends on the date the individual is not so enrolled for a continuous period of more than 3 months.

"(II) PREEXISTING CONDITION.—The term 'preexisting condition' means, with respect to coverage under a health insurance plan issued to a small employer by an insurer, a condition which has been diagnosed or treated during the 3-month period ending on the day before the first date of such coverage (without regard to any waiting period).

"REQUIREMENTS RELATED TO RESTRICTIONS ON RATING PRACTICES

"SEC. 2112. (a) LIMIT ON VARIATION OF PREMIUMS BETWEEN BLOCKS OF BUSINESS.—

"(1) IN GENERAL.—The base premium rate for any block of business of an insurer (as defined in section 2103(b)(1)) may not exceed the base premium rate for any other block of business by more than 20 percent.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to a block of business if the applicable regulatory authority determines that—

"(A) the block is one for which the insurer does not reject, and never has rejected, small employers included within the definition of employers eligible for the block of business or otherwise eligible employees and dependents who enroll on a timely basis, based upon their claims experience, health status, industry, or occupation,

"(B) the insurer does not transfer, and never has transferred, a health insurance plan involuntarily into or out of the block of business, and

"(C) health insurance plans offered under the block of business are currently available for purchase by small employers at the time an exception to paragraph (1) is sought by the insurer.

"(b) LIMIT ON VARIATION IN PREMIUM RATES WITHIN A BLOCK OF BUSINESS.—For a block of business of an insurer, the highest premium rates charged during a rating period to small employers with similar demographic characteristics (limited to age, sex, family size, and geography and not relating to claims experience, health status, industry, occupation, or duration of coverage since issue) for the same or similar coverage, or the highest rates which could be charged to such employers under the rating system for that block of business, shall not exceed an amount that is 1.5 times the base premium rate for the block of business for a rating period (or portion thereof) that occurs in the first 3 years in which this section is in effect, and 1.35 times the base premium rate thereafter.

"(c) CONSISTENT APPLICATION OF RATING FACTORS.—In establishing premium rates for health insurance plans offered to small employers—

"(1) an insurer making adjustments with respect to age, sex, family size, or geography must apply such adjustments consistently across small employers (as provided in guidelines developed under section 2102(a)(4)), and

"(2) no insurer may use a geographic area that is smaller than a county or smaller than an area that includes all areas in which the first three digits of the zip code are identical, whichever is smaller.

"(d) Limit on Transfer of Employers Among Blocks of Business.—

"(1) In general.—An insurer may not transfer a small employer from one block of business to another without the consent of the employer.

"(2) Offers to transfer.—An insurer may not offer to transfer a small employer from one block of business to another unless—

"(A) the offer is made without regard to age, sex, geography, claims experience, health status, industry, occupation or the date on which the policy was issued, and

"(B) the same offer is made to all other small employers in the same block of business.

"(e) Limits on Variation in Premium Increases.—The percentage increase in the premium rate charged to a small employer for a new rating period (determined on an annual basis) may not exceed the sum of the percentage change in the base premium rate plus 5 percentage points.

"(f) Definitions.—In this section:

"(1) Base premium rate.—The term 'base premium rate' means, for each block of business for each rating period, the lowest premium rate which could have been charged under a rating system for that block of business by the insurer to small employers with similar demographic or other relevant characteristics (limited to age, sex, family size, and geography and not relating to claims experience, health status, industry, occupation or duration of coverage since issue) for health insurance plans with the same or similar coverage.

"(2) Block of business.—

"(A) In general.—Except as provided in subparagraph (B), the term 'block of business' means, with respect to an insurer, all of the small employers with a health insurance plan issued by the insurer (as shown on the records of the insurer).

"(B) Distinct groups.—

"(i) In general.—Subject to clause (ii), a distinct group of small employers with health insurance plans issued by an insurer may be treated as a block of business by such insurer if all of the plans in such group—

"(I) are marketed and sold through individuals and organizations that do not participate in the marketing or sale of other distinct groups by the insurer,

"(II) have been acquired from another insurer as a distinct group, or

"(III) are provided through an association with membership of not less than 25 small employers that has been formed for purposes other than obtaining health insurance.

"(ii) Limitation.—An insurer may not establish more than six distinct groups of small employers.

"(f) Full Disclosure of Rating Practices.—

"(1) In general.—At the time an insurer offers a health insurance plan to a small employer, the insurer shall fully disclose to the employer all of the following:

"(A) Rating practices for small employer health insurance plans, including rating practices for different populations and benefit designs.

"(B) The extent to which premium rates for the small employer are established or adjusted based upon the actual or expected variation in claims costs or health condition of the employees of such small employer and their dependents.

"(C) The provisions concerning the insurer's right to change premium rates, the extent to which premiums can be modified, and the factors which affect changes in premium rates.

"(2) Notice on expiration.—An insurer providing health insurance plans to small employers shall provide for notice, at least 60 days before the date of expiration of the health insurance plan, of the terms for renewal of the plan. Such notice shall include an explanation of the extent to which any increase in premiums is due to actual or expected claims experience of the individuals covered under the small employer's health insurance plan contract.

"(g) Actuarial Certification.—Each insurer shall file annually with the applicable regulatory authority a written statement by a member of the American Academy of Actuaries (or other individual acceptable to such authority) certifying that, based upon an examination by the individual which includes a review of the appropriate records and of the actuarial assumptions of the insurer and methods used by the insurer in establishing premium rates for small employer health insurance plans—

"(1) the insurer is in compliance with the applicable provisions of this section, and

"(2) the rating methods are actuarially sound.

Each insurer shall retain a copy of such statement for examination at its principal place of business.

"REQUIREMENTS FOR SMALL EMPLOYER HEALTH INSURANCE BENEFIT PACKAGE OFFERINGS

"Sec. 2113. (a) Basic and Standard Benefit Packages.—

"(1) In general.—If an insurer offers any health insurance plan to small employers in a State, the insurer shall also offer a health insurance plan providing for the standard benefit package defined in subsection (b) and a health insurance plan providing for the basic benefit package defined in subsection (c).

"(2) Managed care option.—

"(A) In general.—Except as provided in subparagraph (B), if an insurer offers any health insurance plan to small employers in a State and also offers a managed care plan in the State or a geographic area within the State to employers that are not small employers, the insurer must offer a similar managed care plan to small employers in the State or geographic area.

"(B) Size limits.—An insurer may cease enrolling new small employer groups in all or a portion of the insurer's service area for a managed care plan if it ceases to enroll any new employer groups within the service area or within a portion of a service area of such plan.

"(b) Standard Benefit Package.—

"(1) In general.—

"(A) Package defined.—Except as otherwise provided in this section, a health insurance plan providing for a standard benefit package shall be limited to payment for—

"(i) inpatient and outpatient hospital care, except that treatment for a mental disorder, as defined in subparagraph (B)(i), is subject to the special limitations described in clause (v)(I);

"(ii) inpatient and outpatient physician services, as defined in subparagraph (B)(ii), except that psychotherapy or counseling for a mental disorder is subject to the special limitations described in clause (v)(II);

"(iii) diagnostic tests;

"(iv) preventive services limited to—

"(I) prenatal care and well-baby care provided to children who are 1 year of age or younger;

"(II) well-child care;

"(III) Pap smears;

"(IV) mammograms; and

"(V) colorectal screening services; and

"(v)(I) inpatient hospital care for a mental disorder for not less than 45 days per year, except that days of partial hospitalization or residential care may be substituted for days of inpatient care; and

"(II) outpatient psychotherapy and counseling for a mental disorder for not less than 20 visits per year provided by a provider who is acting within the scope of State law and who—

"(aa) is a physician; or

"(bb) is a duly licensed or certified clinical psychologist or a duly licensed or certified clinical social worker, a duly licensed or certified equivalent mental health professional, or a clinic or center providing duly licensed or certified mental health services.

"(B) Definitions.—For purposes of this paragraph:

"(i) Mental disorder.—The term 'mental disorder' has the same meaning given such term in the International Classification of Diseases, 9th Revision, Clinical Modification.

"(ii) Physician services.—The term 'physician services' means professional medical services lawfully provided by a physician under State medical practice acts, and includes professional services provided by a dentist, licensed advanced-practice nurse, physician assistant, optometrist, podiatrist, or chiropractor acting within the scope of their practices (as determined under State law) if such services would be treated as physician services if furnished by a physician.

"(2) Amount, scope, and duration of certain benefits.—

"(A) In general.—Except as provided in subparagraph (B) and in paragraph (3), a health insurance plan providing for a standard benefit package shall place no limits on the amount, scope, or duration of benefits described in subparagraphs (A) through (C) of paragraph (1).

"(B) Preventive services.—A health insurance plan providing for a standard benefit package may limit the amount, scope, and duration of preventive services described in subparagraph (D) of paragraph (1) provided that the amount, scope, and duration of such services are reasonably consistent with recommendations and periodicity schedules developed by appropriate medical experts.

"(3) Exceptions.—Paragraph (1) shall not be construed as requiring a plan to include payment for—

"(A) items and services that are not medically necessary;

"(B) routine physical examinations or preventive care (other than care and services described in subparagraph (D) of paragraph (1)); or

"(C) experimental services and procedures.

"(4) Limitation on premiums.—

"(A) In general.—Except as provided in subparagraph (B), an insurer issuing a health insurance plan providing for a standard benefit package shall not require an employee to pay a monthly premium which exceeds 20 percent of the total monthly premium.

"(B) Part-time employee excepted.—In the case of a part-time employee, an insurer issuing a health insurance plan providing for a standard benefit package may require that such an employee pay a monthly premium that does not exceed 50 percent of the total monthly premium.

“(5) LIMITATION ON DEDUCTIBLES.—

“(A) IN GENERAL.—Except as permitted under subparagraph (B), a health insurance plan providing for a standard benefit package shall not provide a deductible amount for benefits provided in any plan year that exceeds—

“(i) with respect to benefits payable for items and services furnished to any employee with no family member enrolled under the plan, for a plan year beginning in—

“(I) a calendar year prior to 1993, $400; or

“(II) for a subsequent calendar year, the limitation specified in this clause for the previous calendar year increased by the percentage increase in the consumer price index for all urban consumers (United States city average, as published by the Bureau of Labor Statistics) for the 12-month period ending on September 30 of the preceding calendar year; and

“(ii) with respect to benefits payable for items and services furnished to any employee with a family member enrolled under the standard benefit package plan, for a plan year beginning in—

“(I) a calendar year prior to 1993, $400 per family member and $700 per family; or

“(II) for a subsequent calendar year, the limitation specified in this clause for the previous calendar year increased by the percentage increase in the consumer price index for all urban consumers (United States city average, as published by the Bureau of Labor Statistics) for the 12-month period ending on September 30 of the preceding calendar year.

If the limitation computed under clause (i)(II) or (ii)(II) is not a multiple of $10, it shall be rounded to the next highest multiple of $10.

“(B) WAGE-RELATED DEDUCTIBLE.—A health insurance plan may provide for any other deductible amount instead of the limitations under—

“(i) subparagraph (A)(i), if such amount does not exceed (on an annualized basis) 1 percent of the total wages paid to the employee in the plan year; or

“(ii) subparagraph (A)(ii), if such amount does not exceed (on an annualized basis) 1 percent per family member or 2 percent per family of the total wages paid to the employee in the plan year.

“(6) LIMITATION ON COPAYMENTS AND COINSURANCE.—

“(A) IN GENERAL.—Subject to subparagraphs (B) through (D), a health insurance plan providing for a standard health benefit package may not require the payment of any copayment or coinsurance for an item or service for which coverage is required under this section—

“(i) in an amount that exceeds 20 percent of the amount payable for the item or service under the plan; or

“(ii) after an employee and family covered under the plan have incurred out-of-pocket expenses under the plan that are equal to the out-of-pocket limit (as defined in subparagraph (E)(ii)) for a plan year.

“(B) EXCEPTION FOR MANAGED CARE PLANS.—A health insurance plan that is a managed care plan may require payments in excess of the amount permitted under subparagraph (A) in the case of items and services furnished by nonparticipating providers.

“(C) EXCEPTION FOR IMPROPER UTILIZATION.—A health insurance plan may provide for copayment or coinsurance in excess of the amount permitted under subparagraph (A) for any item or service that an individual obtains without complying with procedures established by a managed care plan or under a utilization program to ensure the efficient and appropriate utilization of covered services.

“(D) EXCEPTIONS FOR MENTAL HEALTH CARE.—In the case of care described in paragraph (1)(E)(ii), a health insurance plan shall not require payment of any copayment or coinsurance for an item or service for which coverage is required by this part in an amount that exceeds 50 percent of the amount payable for the item or service.

“(7) LIMIT ON OUT-OF-POCKET EXPENSES.—

“(A) OUT-OF-POCKET EXPENSES DEFINED.—As used in this section, the term ‘out-of-pocket expenses’ means, with respect to an employee in a plan year, amounts payable under the plan as deductibles and coinsurance with respect to items and services provided under the plan and furnished in the plan year on behalf of the employee and family covered under the plan.

“(B) OUT-OF-POCKET LIMIT DEFINED.—As used in this section and except as provided in subparagraph (C), the term ‘out-of-pocket limit’ means for a plan year beginning in—

“(i) a calendar year prior to 1993, $3,000; or

“(ii) for a subsequent calendar year, the limit specified in this subparagraph for the previous calendar year increased by the percentage increase in the consumer price index for all urban consumers (United States city average, as published by the Bureau of Labor Statistics) for the 12-month period ending on September 30 of the preceding calendar year.

If the limit computed under clause (ii) is not a multiple of $10, it shall be rounded to the next highest multiple of $10.

“(C) ALTERNATIVE OUT-OF-POCKET LIMIT.—A health insurance plan may provide for an out-of-pocket limit other than that defined in subparagraph (B) if, for a plan year with respect to an employee and the family of the employee, the limit does not exceed (on an annualized basis) 10 percent of the total wages paid to the employee in the plan year.

“(8) LIMITED PREEMPTION OF STATE MANDATED BENEFITS.—No State law or regulation in effect in a State that requires health insurance plans offered to small employers in the State to include specified items and services other than those specified by this subsection shall apply with respect to a health insurance plan providing for a standard benefit package offered by an insurer to a small employer. A State law or regulation requiring the coverage of newborns, adopted children or other specified categories of dependents shall continue to apply.

“(c) BASIC BENEFITS PACKAGE.—

“(1) IN GENERAL.—A health insurance plan providing for a basic benefit package shall be limited to payment for—

“(A) inpatient and outpatient hospital care, including emergency services;

“(B) inpatient and outpatient physicians' services;

“(C) diagnostic tests; and

“(D) preventive services (which may include one or more of the following services)—

“(i) prenatal care and well-baby care provided to children who are 1 year of age or younger;

“(ii) well-child care;

“(iii) Pap smears;

“(iv) mammograms; and

“(v) colorectal screening services.

Nothing in this paragraph shall prohibit a basic health benefit package from including coverage for treatment of a mental disorder.

“(2) COST-SHARING.—Each health insurance plan providing for the basic benefit package issued to a small employer by an insurer may impose premiums, deductibles, copayments, or other cost-sharing on enrollees of such plan.

“(3) OUT-OF-POCKET LIMIT.—Each health insurance plan providing for a basic benefit package shall provide for a limit on out-of-pocket expenses.

“(4) LIMITED PREEMPTION OF STATE MANDATED BENEFITS.—No State law or regulation in effect in a State that requires health insurance plans offered to small employers in the State to include specified items and services other than those described in this subsection shall apply with respect to a health insurance plan providing for a basic benefit package offered by an insurer to a small employer. A State law or regulation requiring the coverage of newborns, adopted children or other specified categories of dependents shall continue to apply.”.

Subpart B—Tax Penalty on Noncomplying Insurers

SEC. 2221. EXCISE TAX ON PREMIUMS RECEIVED ON HEALTH INSURANCE POLICIES WHICH DO NOT MEET CERTAIN REQUIREMENTS.

(a) IN GENERAL.—Chapter 47 (relating to taxes on group health plans) is amended by adding at the end thereof the following new section:

“SEC. 5000A. FAILURE TO SATISFY CERTAIN STANDARDS FOR HEALTH INSURANCE.

“(a) GENERAL RULE.—In the case of any person issuing a health insurance plan to a small employer, there is hereby imposed a tax on the failure of such person to meet at any time during any taxable year the applicable requirements of title XXI of the Social Security Act. The Secretary of Health and Human Services shall determine whether any person meets the requirements of such title.

“(b) AMOUNT OF TAX.—

“(1) IN GENERAL.—The amount of tax imposed by subsection (a) by reason of 1 or more failures during a taxable year shall be equal to 25 percent of the gross premiums received during such taxable year with respect to all health insurance plans issued to a small employer by the person on whom such tax is imposed.

“(2) GROSS PREMIUMS.—For purposes of paragraph (1), gross premiums shall include any consideration received with respect to any accident and health insurance contract.

“(3) CONTROLLED GROUPS.—For purposes of paragraph (1)—

“(A) CONTROLLED GROUP OF CORPORATIONS.—All corporations which are members of the same controlled group of corporations shall be treated as 1 person. For purposes of the preceding sentence, the term ‘controlled group of corporations’ has the meaning given to such term by section 1563(a), except that—

“(i) ‘more than 50 percent’ shall be substituted for ‘at least 80 percent’ each place it appears in section 1563(a)(1), and

“(ii) the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.

“(B) PARTNERSHIPS, PROPRIETORSHIPS, ETC., WHICH ARE UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, all trades or business (whether or not incorporated) which are under common control shall be treated as 1 person. The regulations prescribed under this subparagraph shall be based on principles similar to the principles which apply in the case of subparagraph (A).

“(c) LIMITATION ON TAX.—

“(1) TAX NOT TO APPLY WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No tax shall be imposed by subsection (a) with respect to any failure for which it is established to the satisfaction of the Secretary that the person on whom the tax is imposed did not know, and exercising reasonable diligence would not have known, that such failure existed.

"(2) TAX NOT TO APPLY WHERE FAILURES CORRECTED WITHIN 30 DAYS.—No tax shall be imposed by subsection (a) with respect to any failure if—

"(A) such failure was due to reasonable cause and not to willful neglect, and

"(B) such failure is corrected during the 30-day period beginning on the 1st date any of the persons on whom the tax is imposed knew, or exercising reasonable diligence would have known, that such failure existed.

"(3) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive relative to the failure involved.

"(d) DEFINITIONS.—For purposes of this section:

"(1) HEALTH INSURANCE PLAN.—The term 'health insurance plan' means any hospital or medical service policy or certificate, hospital or medical service plan contract, health maintenance organization group contract, or a multiple employer welfare arrangement, but does not include—

"(A) a self-insured group health plan;

"(B) a self-insured multiemployer group health plan; or

"(C) any of the following:

"(i) accident only, dental only, vision only, disability only, or long-term care only insurance,

"(ii) coverage issued as a supplement to liability insurance,

"(iii) medicare supplemental insurance as defined in section 1882(g)(1),

"(iv) workmen's compensation or similar insurance, or

"(v) automobile medical-payment insurance.

In the case of a multiple employer welfare arrangement that is fully insured, this Act shall only apply to the insurer of the arrangement.

"(2) SMALL EMPLOYER.—The term 'small employer' means, with respect to a calendar year, an employer that normally employs more than 1 but less than 51 eligible employees on a typical business day. For the purposes of this paragraph, the term 'employee' includes a self-employed individual.

"(3) ELIGIBLE EMPLOYEE.—The term 'eligible employee' means, with respect to an employer, an employee who normally performs on a monthly basis at least 30 hours of service per week for that employer.

"(4) PERSON.—The term 'person' means any person that offers a health insurance plan to a small employer, including a licensed insurance company, a prepaid hospital or medical service plan, a health maintenance organization, or in States which have distinct insurance licensure requirements, a multiple employer welfare arrangement.".

(b) NONDEDUCTIBILITY OF TAX.—Paragraph (6) of section 275(a) (relating to nondeductibility of certain taxes) is amended by inserting "47," after "46,".

(c) CLERICAL AMENDMENTS.—The table of sections for such chapter 47 is amended by adding at the end thereof the following new item:

"Sec. 5000A. Failure to satisfy certain standards for health insurance.".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a) and (c) shall take effect on the date of the enactment of this Act.

(2) NONDEDUCTIBILITY OF TAX.—The amendment made by subsection (b) shall apply to taxable years beginning after December 31, 1991.

Subpart C—Studies and Reports

SEC. 2231. GAO STUDY AND REPORT ON RATING REQUIREMENTS AND BENEFIT PACKAGES FOR SMALL GROUP HEALTH INSURANCE.

(a) IN GENERAL.—The Comptroller General of the United States shall study and report to the Congress by no later than January 1, 1995, on—

(1) the impact of the standards for rating practices for small group health insurance established under section 2112 of the Social Security Act and the requirements for benefit packages established under section 2113 of such Act on the availability and price of insurance offered to small employers, differences in available benefit packages, the number of small employers choosing standard or basic packages, and the impact of the standards on the number of small employers offering health insurance to employees through a self-funded employer welfare benefit plan; and

(2) differences in State laws and regulations affecting the availability and price of health insurance plans sold to individuals and the impact of such laws and regulations, including the extension of requirements for health insurance plans sold to small employers in the State to individual health insurance and the establishment of State risk pools for individual health insurance.

(b) RECOMMENDATIONS.—The Comptroller General shall include in the report to Congress under this section recommendations with respect to adjusting rating standards under section 2112 of the Social Security Act—

(1) to eliminate variation in premiums charged to small employers resulting from adjustments for such factors as claims experience and health status, and

(2) to eliminate variation in premiums associated with age, sex, and other demographic factors.

PART III—IMPROVEMENTS IN PORTABILITY OF PRIVATE HEALTH INSURANCE

SEC. 2241. EXCISE TAX IMPOSED ON FAILURE TO PROVIDE FOR PREEXISTING CONDITION.

(a) IN GENERAL.—Chapter 47 (relating to taxes on group health plans), as amended by section 2221, is amended by adding at the end thereof the following new section:

"SEC. 5000B. FAILURE TO SATISFY PREEXISTING CONDITION REQUIREMENTS OF GROUP HEALTH PLANS.

"(a) GENERAL RULE.—There is hereby imposed a tax on the failure of—

"(1) a group health plan to meet the requirements of subsection (e), or

"(2) any person to meet the requirements of subsection (f),

with respect to any covered individual.

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—The amount of the tax imposed by subsection (a) on any failure with respect to a covered individual shall be $100 for each day in the noncompliance period with respect to such failure.

"(2) NONCOMPLIANCE PERIOD.—For purposes of this section, the term 'noncompliance period' means, with respect to any failure, the period—

"(A) beginning on the date such failure first occurs, and

"(B) ending on the date such failure is corrected.

"(3) CORRECTION.—A failure of a group health plan to meet the requirements of subsection (e) with respect to any covered individual shall be treated as corrected if—

"(A) such failure is retroactively undone to the extent possible, and

"(B) the covered individual is placed in a financial position which is as good as such individual would have been in had such failure not occurred.

For purposes of applying subparagraph (B), the covered individual shall be treated as if the individual had elected the most favorable coverage in light of the expenses incurred since the failure first occurred.

"(c) LIMITATIONS ON AMOUNT OF TAX.—

"(1) TAX NOT TO APPLY WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No tax shall be imposed by subsection (a) on any failure during any period for which it is established to the satisfaction of the Secretary that none of the persons referred to in subsection (d) knew, or exercising reasonable diligence would have known, that such failure existed.

"(2) TAX NOT TO APPLY TO FAILURES CORRECTED WITHIN 30 DAYS.—No tax shall be imposed by subsection (a) on any failure if—

"(A) such failure was due to reasonable cause and not to willful neglect, and

"(B) such failure is corrected during the 30-day period beginning on the first date any of the persons referred to in subsection (d) knew, or exercising reasonable diligence would have known, that such failure existed.

"(3) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive relative to the failure involved.

"(d) LIABILITY FOR TAX.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the following shall be liable for the tax imposed by subsection (a) on a failure:

"(A) In the case of a group health plan other than a self-insured group health plan, the issuer.

"(B)(i) In the case of a self-insured group health plan other than a multiemployer group health plan, the employer.

"(ii) In the case of a self-insured multiemployer group health plan, the plan.

"(C) Each person who is responsible (other than in a capacity as an employee) for administering or providing benefits under the group health plan, health insurance plan, or other health benefit arrangement (including a self-insured plan) and whose act or failure to act caused (in whole or in part) the failure.

"(2) SPECIAL RULES FOR PERSONS DESCRIBED IN PARAGRAPH (1)(C).—A person described in subparagraph (C) (and not in subparagraphs (A) and (B)) of paragraph (1) shall be liable for the tax imposed by subsection (a) on any failure only if such person assumed (under a legally enforceable written agreement) responsibility for the performance of the act to which the failure relates.

"(e) NO DISCRIMINATION BASED ON HEALTH STATUS FOR CERTAIN SERVICES.—

"(1) IN GENERAL.—Except as provided under paragraph (2), group health plans may not deny, limit, or condition the coverage under (or benefits of) the plan based on the health status, claims experience, receipt of health care, medical history, or lack of evidence of insurability, of an individual.

"(2) TREATMENT OF PREEXISTING CONDITION EXCLUSIONS FOR ALL SERVICES.—

"(A) IN GENERAL.—Subject to the succeeding provisions of this paragraph, group health plans may exclude coverage with respect to services related to treatment of a preexisting condition, but the period of such exclusion may not exceed 6 months. The exclusion of coverage shall not apply to services furnished to newborns.

"(B) CREDITING OF PREVIOUS COVERAGE.—

"(i) IN GENERAL.—A group health plan shall provide that if an individual under such plan is in a period of continuous coverage (as defined in clause (ii)(I)) with respect to particular services as of the date of initial coverage under such plan (determined without regard to any waiting period under such plan), any period of exclusion of coverage with respect to a preexisting condition for such services or type of services shall be reduced by 1 month for each month in the period of continuous coverage without regard to any waiting period.

"(ii) DEFINITIONS.—As used in this subparagraph:

"(I) PERIOD OF CONTINUOUS COVERAGE.—The term 'period of continuous coverage' means, with respect to particular services, the period beginning on the date an individual is enrolled under a health insurance plan, title XVIII or XIX of the Social Security Act, or other health benefit arrangement (including a self-insured plan) which provides benefits with respect to such services and ends on the date the individual is not so enrolled for a continuous period of more than 3 months.

"(II) PREEXISTING CONDITION.—The term 'preexisting condition' means, with respect to coverage under a group health plan, a condition which has been diagnosed or treated during the 3-month period ending on the day before the first date of such coverage without regard to any waiting period.

"(f) DISCLOSURE OF COVERAGE, ETC.—Any person who has provided coverage (other than under title XVIII or XIX of the Social Security Act) during a period of continuous coverage (as defined in subsection (e)(2)(B)(ii)(I)) with respect to a covered individual shall disclose, upon the request of a group health plan subject to the requirements of subsection (e), the coverage provided the covered individual, the period of such coverage, and the benefits provided under such coverage.

"(g) DEFINITIONS.—For purposes of this section—

"(1) COVERED INDIVIDUAL.—The term 'covered individual' means—

"(A) an individual who is (or will be) provided coverage under a group health plan by virtue of the performance of services by the individual for 1 or more persons maintaining the plan (including as an employee defined in section 401(c)(1)), and

"(B) the spouse or any dependent child of such individual.

"(2) GROUP HEALTH PLAN.—The term 'group health plan' has the meaning given such term by section 5000(b)(1).".

(b) CLERICAL AMENDMENT.—The table of sections for such chapter 47 is amended by adding at the end thereof the following new item:

"Sec. 5000B. Failure to satisfy preexisting condition requirements of group health plans.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 1992.

PART IV—HEALTH CARE COST CONTAINMENT

SEC. 2251. ESTABLISHMENT OF HEALTH CARE COST COMMISSION.

(a) IN GENERAL.—There is hereby established a Health Care Cost Commission (in this subtitle referred to as the "Commission"). The Commission shall be composed of 11 members, appointed by the President by and with the advice and consent of the Senate. The membership of the Commission shall include individuals with nationally recognized expertise in health insurance, health economics, health care provider reimbursement, and related fields. The President shall provide for appointment of individuals to the Commission within 6 months of the date of enactment of this Act and in appointing such individuals to the Commission, the President shall assure representation of consumers of health services, large and small employers, State and local governments, labor organizations, health care providers, health care insurers, and experts on the development of medical technology.

(b) TERMS.—

(1) CHAIRMAN.—The term of the Chairman shall be coincident with the term of the President.

(2) OTHER MEMBERS OF THE COMMISSION.—Except as provided in paragraph (1), members of the Commission shall be appointed to serve for terms of 3 years, except that the terms of the members first appointed shall be staggered so that the terms of no more than 4 members expire in any year.

(3) VACANCIES.—Individuals appointed to fill a vacancy created in the Commission shall be appointed only for the unexpired portion of the term for which the individual's predecessor was appointed.

(c) DUTIES.—

(1) ANNUAL REPORT.—

(A) IN GENERAL.—The Commission shall report annually to the President and the Congress on national health care costs. Such report shall be made by March 30 of each year and shall include information on—

(i) levels and trends in public and private health care spending by type of health care service, geographic region of the country, and public and private sources of payment;

(ii) levels and trends in the cost of private health insurance coverage for individuals and groups;

(iii) sources of high and rising health care costs, including inflation in input prices, demographic changes and the utilization, supply and distribution of health care services; and

(iv) comparative trends in other countries and reasons for any differences from trends in the United States.

(B) ASSESSMENT AND RECOMMENDATIONS.—The report shall also analyze and assess the impact of public and private efforts to reduce growth in health care spending, and shall include recommendations for cost containment efforts.

(2) NATIONAL UNIFORM CLAIMS FORMS AND REPORTING STANDARDS.—

(A) IN GENERAL.—As part of its first annual report, the Commission shall, taking into account recommendations by the Secretary of Health and Human Services, recommend—

(i) a national uniform claims form for use by health care providers and individuals in submitting claims to private health insurers and the Medicare and Medicaid programs;

(ii) national standards for reporting of insurance information including coverage benefits, copayments, and deductibles;

(iii) national standards for uniform reporting by health care providers of information including clinical diagnoses, services provided, and costs of services; and

(iv) a strategy and schedule for implementing national use of such claims forms and reporting standards by January 1, 1996.

(B) RELEVANT FACTORS.—In developing its recommendations, the Commission shall consider—

(i) the potential use of electronic cards or other technology that allows expedited access to medical records, insurance, and billing information;

(ii) the need for patient confidentiality; and

(iii) special implementation issues including those concerning providers in rural and inner-city areas.

(C) REPORT.—The Commission shall report annually and make recommendations with respect to—

(i) the progress made toward national implementation of uniform claims forms and reporting standards; and

(ii) other approaches to minimize the impact of administrative costs on national health spending.

(3) STANDARDS FOR MANAGED CARE.—The Commission shall make recommendations to the Secretary of Health and Human Services for the development and ongoing review of standards for managed care plans and utilization review programs (as defined under section 2114 of title XXI of the Social Security Act).

(d) MISCELLANEOUS.—

(1) AUTHORITY.—The Commission may—

(A) employ and fix compensation of an Executive Director and such other personnel (not to exceed 25) as may be necessary to carry out its duties (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service);

(B) seek such assistance and support as may be required in the performance of its duties from appropriate Federal departments and agencies;

(C) enter into contracts or make other arrangements, as may be necessary for the conduct of the work of the Commission (without regard to section 3709 of the Revised Statutes (41 U.S.C. 5)); and

(D) make advance, progress, and other payments which relate to the work of the Commission.

(2) COMPENSATION.—While serving on the business of the Commission (including traveltime), a member of the Commission shall be entitled to compensation at the per diem equivalent of the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code; and while so serving away from the member's home and regular place of business, a member may be allowed travel expenses, as authorized by the Chairman of the Commission. Physicians serving as personnel of the Commission may be provided a physician comparability allowance by the Commission in the same manner as Government physicians may be provided such an allowance by an agency under section 5948 of title 5, United States Code, and for such purpose subsection (i) of such section shall apply to the Commission in the same manner as it applies to the Tennessee Valley Authority.

(3) ACCESS TO INFORMATION, ETC.—The Commission shall have access to such relevant information and data as may be available from appropriate Federal agencies and shall assure that its activities, especially the conduct of original research and medical studies, are coordinated with the activities of Federal agencies. The Commission shall be

subject to periodic audit by the General Accounting Office.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 2252. FEDERAL CERTIFICATION OF MANAGED CARE PLANS AND UTILIZATION REVIEW PROGRAMS.

Title XXI of the Social Security Act, as added by title II of this Act, is amended by adding at the end the following part:

"PART C—FEDERAL CERTIFICATION OF MANAGED CARE PLANS

"FEDERAL CERTIFICATION OF MANAGED CARE PLANS AND UTILIZATION REVIEW PROGRAMS

"SEC. 2114. (a) VOLUNTARY CERTIFICATION PROCESS.—

"(1) CERTIFICATION.—The Secretary shall establish a process for certification of managed care plans meeting the requirements of subsection (b)(1) and of utilization review programs meeting the requirements of subsection (b)(2).

"(2) QUALIFIED MANAGED CARE PLAN.—For purposes of this title, the term 'qualified managed care plan' means a managed care plan that the Secretary certifies, upon application by the program, as meeting the requirements of this section.

"(3) QUALIFIED UTILIZATION REVIEW PROGRAM.—For purposes of this title, the term 'qualified utilization review program' means a utilization review program that the Secretary certifies, upon application by the program, as meeting the requirements of this section.

"(4) UTILIZATION REVIEW PROGRAM.—For purposes of this title, the term 'utilization review program' means a system of reviewing the medical necessity, appropriateness, or quality of health care services and supplies covered under a health insurance plan or a managed care plan using specified guidelines. Such a system may include preadmission certification, the application of practice guidelines, continued stay review, discharge planning, preauthorization of ambulatory procedures, and retrospective review.

"(5) MANAGED CARE PLAN.—

"(A) IN GENERAL.—For purposes of this title the term 'managed care plan' means a plan operated by a managed care entity as described in subparagraph (B), that arranges for the financing and delivery of health care services to persons covered under such plan through—

"(i) arrangements with participating providers to furnish health care services;

"(ii) explicit standards for the selection of participating providers;

"(iii) organizational arrangements for ongoing quality assurance and utilization review programs; and

"(iv) financial incentives for persons covered under the plan to use the participating providers and procedures provided for by the plan.

"(B) MANAGED CARE ENTITY DEFINED.—For purposes of this title, a managed care entity includes a licensed insurance company, hospital or medical service plan, health maintenance organization, an employer, or employee organization, or a managed care contractor as described in subparagraph (C), that operates a managed care plan.

"(C) MANAGED CARE CONTRACTOR DEFINED.—For purposes of this title, a managed care contractor means a person that—

"(i) establishes, operates or maintains a network of participating providers;

"(ii) conducts or arranges for utilization review activities; and

"(iii) contracts with an insurance company, a hospital or medical service plan, an employer, an employee organization, or any other entity providing coverage for health care services to operate a managed care plan.

"(6) PARTICIPATING PROVIDER.—The term 'participating provider' means a physician, hospital, pharmacy, laboratory, or other appropriately licensed provider of health care services or supplies, that has entered into an agreement with a managed care entity to provide such services or supplies to a patient covered under a managed care plan.

"(7) REVIEW AND RECERTIFICATION.—The Secretary shall establish procedures for the periodic review and recertification of qualified managed care plans and qualified utilization review programs.

"(8) TERMINATION OF CERTIFICATION.—The Secretary shall terminate the certification of a qualified managed care plan or a qualified utilization review program if the Secretary determines that such plan or program no longer meets the applicable requirements for certification. Before effecting a termination, the Secretary shall provide the plan notice and opportunity for a hearing on the proposed termination.

"(9) CERTIFICATION THROUGH ALTERNATIVE REQUIREMENTS.—

"(A) CERTAIN ORGANIZATIONS RECOGNIZED.—An eligible organization as defined in section 1876(b), shall be deemed to meet the requirements of subsection (b) for certification as a qualified managed care plan.

"(B) RECOGNITION OF ACCREDITATION.—If the Secretary finds that a State licensure program or a national accreditation body establishes a requirement or requirements for accreditation of a managed care plan or utilization review program that are at least equivalent to a requirement or requirements established under subsection (b), the Secretary may, to the extent he finds it appropriate, treat a managed care plan or a utilization review program thus accredited as meeting the requirement or requirements of subsection (b) with respect to which he made such finding.

"(b) REQUIREMENTS FOR CERTIFICATION.—

"(1) MANAGED CARE PLANS.—The Secretary, in consultation with the Health Care Cost Commission, shall establish Federal standards for the certification of qualified managed care plans, including standards related to—

"(A) the qualification and selection of participating providers;

"(B) the number, type, and distribution of participating providers necessary to assure that all covered items and services are available and accessible to persons covered under a managed care plan in each service area;

"(C) the establishment and operation of an ongoing quality assurance program, which includes procedures for—

"(i) evaluating the quality and appropriateness of care;

"(ii) using the results of quality evaluations to promote and improve quality of care; and

"(iii) resolving complaints from enrollees regarding quality and appropriateness of care;

"(D) the provision of benefits for covered items and services not furnished by participating providers if the items and services are medically necessary and immediately required because of an unforeseen illness, injury, or condition;

"(E) the qualifications of individuals performing utilization review activities;

"(F) procedures and criteria for evaluating the necessity and appropriateness of health care services;

"(G) the timeliness with which utilization review determinations are to be made;

"(H) procedures for the operation of an appeals process which provides a fair opportunity for individuals adversely affected by a managed care review determination to have such determination reviewed;

"(I) procedures for ensuring that all applicable Federal and State laws designed to protect the confidentiality of individual medical records are followed; and

"(J) payment of providers for the expenses associated with responding to requests for information needed to conduct a utilization review.

"(2) QUALIFIED UTILIZATION REVIEW PROGRAMS.—The Secretary, in consultation with the Health Care Cost Commission, shall establish Federal standards for the certification of qualified utilization review programs, including standards related to—

"(A) the qualifications of individuals performing utilization review activities;

"(B) procedures and criteria for evaluating the necessity and appropriateness of health care services;

"(C) the timeliness with which utilization review determinations are to be made;

"(D) procedures for the operation of an appeals process which provides a fair opportunity for individuals adversely affected by a utilization review determination to have such determination reviewed;

"(E) procedures for ensuring that all applicable Federal and State laws designed to protect the confidentiality of individual medical records are followed; and

"(F) payment of providers for the expenses associated with responding to requests for information needed to conduct a utilization review.

"(3) APPLICATION OF STANDARDS.—

"(A) IN GENERAL.—Standards shall first be established under this subsection by not later than 24 months after the date of the enactment of this section. In developing standards under this subsection, the Secretary shall—

"(i) review standards in use by national private accreditation organizations and State licensure programs;

"(ii) recognize, to the extent appropriate, differences in the organizational structure and operation of managed care plans; and

"(iii) establish procedures for the timely consideration of applications for certification by managed care plans and utilization review programs.

"(B) REVISION OF STANDARDS.—The Secretary shall periodically review the standards established under this subsection, taking into account recommendations by the Health Care Cost Commission, and may revise the standards from time to time to assure that such standards continue to reflect appropriate policies and practices for the cost-effective and medically appropriate use of services within managed care plans and utilization review programs.

"(c) LIMITATION ON STATE RESTRICTIONS ON QUALIFIED MANAGED CARE PLANS AND UTILIZATION REVIEW PROGRAMS.—

"(1) IN GENERAL.—No requirement of any State law or regulation shall—

"(A) prohibit or limit a qualified managed care plan from including financial incentives for covered persons to use the services of participating providers;

"(B) prohibit or limit a qualified managed care plan from restricting coverage of services to those—

"(i) provided by a participating provider; or

"(ii) authorized by a designated participating provider;

"(C) subject to paragraph (2)—

"(i) restrict the amount of payment made by a qualified managed care plan to participating providers for items and services provided to covered persons; or

"(ii) restrict the ability of a qualified managed care plan to pay participating providers for items and services provided to covered persons on a per capita basis;

"(D) prohibit or limit a qualified managed care plan from restricting the location, number, type, or professional qualifications of participating providers;

"(E) prohibit or limit a qualified managed care plan from requiring that items and services be authorized by a primary care physician selected by the covered person from a list of available participating providers;

"(F) prohibit or limit the use of utilization review procedures or criteria by a qualified utilization review program or a qualified managed care plan;

"(G) require a qualified utilization review program or a qualified managed care plan to make public utilization review procedures or criteria;

"(H) prohibit or limit a qualified utilization review program or a qualified managed care plan from determining the location or hours of operation of a utilization review, provided that emergency services furnished during the hours in which the utilization review program is not open are not subject to utilization review;

"(I) require a qualified utilization review program or a qualified managed care plan to pay providers for the expenses associated with responding to requests for information needed to conduct utilization review, other than as provided in standards for qualified managed care plans and qualified utilization review programs;

"(J) restrict the amount of payment made to a qualified utilization review program or a qualified managed care plan for the conduct of utilization review;

"(K) restrict access by a qualified utilization review program or a qualified managed care plan to medical information or personnel required to conduct utilization review;

"(L) define utilization review as the practice of medicine or another health care profession; or

"(M) require that utilization review be conducted (i) by a resident of the State in which the treatment is to be offered or by an individual licensed in such State, or (ii) by a physician in any particular specialty or with any board certified specialty of the same medical specialty as the provider whose services are being rendered.

"(2) Exceptions to certain requirements.—

"(A) Subparagraph (C).—Subparagraph (C) shall not apply where the amount of payments with respect to a block of services or providers is established under a statewide system applicable to all non-Federal payors with respect to such services or providers.

"(B) Subparagraphs (L) and (M).—Nothing in subparagraphs (L) or (M) shall be construed as prohibiting a State from (i) requiring that utilization review be conducted by a licensed health care professional or (ii) requiring that any appeal from such a review be made by a licensed physician or by a licensed physician in any particular specialty or with any board certified specialty of the same medical specialty as the provider whose services are being rendered.

"(3) Relationship to medicaid program.—Nothing in paragraph (1) shall be construed as prohibiting a State from imposing requirements on managed care plans or utilization review programs that are necessary to conform with the requirements of title XIX of the Social Security Act with respect to services provided to, or with respect to, individuals receiving medical assistance under such title.".

SEC. 2253. ADDITIONAL FUNDING FOR OUTCOMES RESEARCH.

Section 1142(i) of the Social Security Act is amended—

(1) in paragraph (1), to read as follows:

"(1) In general.—There are authorized to be appropriated to carry out this section—

"(A) $175,000,000 for fiscal year 1992;

"(B) $225,000,000 for fiscal year 1993;

"(C) $275,000,000 for fiscal year 1994; and

"(D) $300,000,000 for fiscal year 1995."; and

(2) in paragraph (2), by striking out "70 percent" and inserting in lieu thereof "50 percent".

PART V—MEDICARE PREVENTION BENEFITS

SEC. 2261. COVERAGE OF CERTAIN IMMUNIZATIONS.

(a) In General.—Section 1861(s)(10) of the Social Security Act (42 U.S.C. 1395x(s)(10)) is amended—

(1) in subparagraph (A), by striking "and, subject to section 4071 of the Omnibus Budget Reconciliation Act of 1987, influenza vaccine and its administration; and" and inserting a comma; and

(2) by adding at the end the following new subparagraphs:

"(C) influenza vaccine and its administration, and

"(D) tetanus-diphtheria booster and its administration;".

(b) Limitation on Frequency.—Section 1862(a)(1) of such Act (42 U.S.C. 1395y(a)(1)) is amended—

(1) in subparagraph (E), by striking "and" at the end;

(2) in subparagraph (F), by striking the semicolon at the end and inserting ", and"; and

(3) by adding at the end the following new subparagraph:

"(G) in the case of an influenza vaccine, which is administered within the 11 months after a previous influenza vaccine, and, in the case of a tetanus-diphtheria booster, which is administered within the 119 months after a previous tetanus-diphtheria booster;".

(c) Conforming Amendment.—Section 1862(a)(7) of such Act (42 U.S.C. 1395y(a)(7)) is amended by striking "and paragraph (1)(B) or under paragraph (1)(F)" and inserting "or under subparagraph (B), (F), or (G) of paragraph (1)".

(d) Effective Date.—The amendments made by this section shall apply to influenza vaccines administered on or after October 1, 1992, and tetanus-diphtheria boosters administered on or after January 1, 1993.

SEC. 2262. COVERAGE OF WELL-CHILD CARE.

(a) In General.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)) is amended—

(1) by striking "and" at the end of subparagraph (O);

(2) by striking the semicolon at the end of subparagraph (P) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(Q) well-child services (as defined in subsection (ll)(1)) provided to an individual entitled to benefits under this title who is under 7 years of age;".

(b) Services Defined.—Section 1861 of such Act (42 U.S.C. 1395x) is amended—

(1) by redesignating the subsection (jj) added by section 4163(a)(2) of the Omnibus Budget Reconciliation Act of 1990 as subsection (kk); and

(2) by inserting after subsection (kk) (as so redesignated) the following new subsection:

"WELL-CHILD SERVICES

"(ll)(1) The term 'well-child services' means well-child care, including routine office visits, routine immunizations (including the vaccine itself), routine laboratory tests, and preventive dental care, provided in accordance with the periodicity schedule established with respect to the services under paragraph (2).

"(2) The Secretary, in consultation with the American Academy of Pediatrics, the Advisory Committee on Immunization Practices, and other entities considered appropriate by the Secretary, shall establish a schedule of periodicity which reflects the appropriate frequency with which the services referred to in paragraph (1) should be provided to healthy children.".

(c) Conforming Amendments.—(1) Section 1862(a)(1) of such Act (42 U.S.C. 1395y(a)(1)), as amended by section 2261(b), is amended—

(A) in subparagraph (F), by striking "and" at the end;

(B) in subparagraph (G), by striking the semicolon at the end and inserting ", and"; and

(C) by adding at the end the following new subparagraph:

"(H) in the case of well-child services, which are provided more frequently than is provided under the schedule of periodicity established by the Secretary under section 1861(ll)(2) for such services;".

(2) Section 1862(a)(7) of such Act (42 U.S.C. 1395y(a)(7)), as amended by section 2261(c), is amended by striking "or (G)" and inserting "(G), or (H)".

(d) Effective Date.—The amendments made by this section shall apply to well-child services provided on or after January 1, 1993.

SEC. 2263. DEMONSTRATION PROJECTS FOR COVERAGE OF OTHER PREVENTIVE SERVICES.

(a) Establishment.—The Secretary of Health and Human Services (hereafter referred to as the "Secretary") shall establish and provide for a series of ongoing demonstration projects under which the Secretary shall provide for coverage of the preventive services described in subsection (c) under the medicare program in order to determine—

(1) the feasibility and desirability of expanding coverage of medical and other health services under the medicare program to include coverage of such services for all individuals enrolled under part B of title XVIII of the Social Security Act; and

(2) appropriate methods for the delivery of those services to medicare beneficiaries.

(b) Sites for Project.—The Secretary shall provide for the conduct of the demonstration projects established under subsection (a) at the sites at which the Secretary conducts the demonstration program established under section 9314 of the Consolidated Omnibus Budget Reconciliation Act of 1985 and at such other sites as the Secretary considers appropriate.

(c) Services Covered Under Projects.—The Secretary shall cover the following services under the series of demonstration projects established under subsection (a):

(1) Glaucoma screening.

(2) Cholesterol screening and cholesterol-reducing drug therapies.

(3) Screening and treatment for osteoporosis, including tests for bone-mass measurement and hormone replacement therapy.

(4) Screening services for pregnant women, including ultrasound and clamydial testing and maternal serum alfa-protein.

(5) One-time comprehensive assessment for individuals beginning at age 65 or 75.

(6) Prostate-specific antigen (PSA) testing.

(7) Other services considered appropriate by the Secretary.

Not more than one such service shall be covered at each site.

(d) REPORTS TO CONGRESS.—Not later than October 1, 1994, and every 2 years thereafter, the Secretary shall submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives describing findings made under the demonstration projects conducted pursuant to subsection (a) during the preceding 2-year period and the Secretary's plans for the demonstration projects during the succeeding 2-year period.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Federal Supplementary Medical Insurance Trust Fund for expenses incurred in carrying out the series of demonstration projects established under subsection (a) the following amounts:

(1) $4,000,000 for fiscal year 1993.

(2) $4,000,000 for fiscal year 1994.

(3) $5,000,000 for fiscal year 1995.

(4) $5,000,000 for fiscal year 1996.

(5) $6,000,000 for fiscal year 1997.

SEC. 2264. OTA STUDY OF PROCESS FOR REVIEW OF MEDICARE COVERAGE OF PREVENTIVE SERVICES.

(a) STUDY.—The Director of the Office of Technology Assessment (hereafter referred to as the "Director") shall, subject to the approval of the Technology Assessment Board, conduct a study to develop a process for the regular review for the consideration of coverage of preventive services under the medicare program, and shall include in such study a consideration of different types of evaluations, the use of demonstration projects to obtain data and experience, and the types of measures, outcomes, and criteria that should be used in making coverage decisions.

(b) REPORT.—Not later than 2 years after the date of the enactment of this section, the Director shall submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives on the study conducted under subsection (a).

SEC. 2265. FINANCING OF ADDITIONAL BENEFITS.

(a) PREMIUMS FOR 1993–1995.—Section 1839(e)(1)(B) of the Social Security Act (42 U.S.C. 1395r(e)(1)(B)) is amended—

(1) in clause (iii) by striking "$36.60" and inserting "$36.70",

(2) in clause (iv) by striking "$41.10" and inserting "$41.20", and

(3) in clause (v) by striking "$46.10" and inserting "$46.20".

(b) PREMIUMS FOR 1996–1997.—(1) Section 1839 of the Social Security Act (42 U.S.C. 1395r) is amended by adding at the end the following new subsection:

"(g) Except as provided in subsections (b) and (f), the monthly premium otherwise determined, without regard to this subsection, for each individual enrolled under this part shall be increased by 10 cents for each month in 1996 and 1997.".

(2) Section 1839 of such Act (42 U.S.C. 1395r) is amended—

(A) in subsection (a)(2), by striking "(b) and (e)" and inserting "(b), (e), and (g)",

(B) in subsection (a)(3), by striking "subsection (e)" and inserting "subsections (e) and (g)", and

(C) in subsection (b), by striking "determined under subsection (a) or (e)" and inserting "otherwise determined under this section (without regard to subsection (f))".

Subtitle D—Capital Gain Provisions

PART I—PROGRESSIVE CAPITAL GAIN RATES

SEC. 2301. PROGRESSIVE CAPITAL GAIN RATES.

(a) IN GENERAL.—Section 1(h) (relating to maximum capital gains rate) is amended to read as follows:

"(h) PROGRESSIVE CAPITAL GAINS RATE.—

"(1) IN GENERAL.—If a taxpayer has qualified capital gain for any taxable year, then the tax imposed by this section shall be equal to the sum of—

"(A) a tax computed at the rates and in the same manner as if this subsection had not been enacted on taxable income reduced by the amount of qualified capital gain, plus

"(B) the excess (if any) of—

"(i) a tax computed under the substitute table on taxable income, over

"(ii) a tax computed under the substitute table on taxable income reduced by the amount of qualified capital gain.

"(2) SUBSTITUTE TABLES.—

"(A) IN GENERAL.—In the case of any taxable year ending after January 31, 1992, the Secretary shall prescribe a substitute table for each of the tables under subsections (a), (b), (c), (d), and (e).

"(B) METHOD OF PRESCRIBING TABLES.—The tables under subparagraph (A) for any taxable year shall be the tables in effect without regard to this subsection, adjusted by—

"(i) substituting the capital gain rates for the rates of tax contained therein, and

"(ii) modifying the amounts setting forth the tax to the extent necessary to reflect the adjustments under clause (i).

"(C) CAPITAL GAIN RATES.—For purposes of subparagraph (B)(i), the capital gain rates shall be determined as follows:

"If the rate of tax is:	The capital gain rate is:
15 percent	5 percent
28 percent	19 percent
31 percent	23 percent
36 percent	28 percent.

"(3) QUALIFIED CAPITAL GAIN.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified capital gain' means net capital gain determined without regard to any gain taken into account in computing the exclusion under section 1202 (relating to gain from sale of small business stock).

"(B) TRANSITION RULE.—In the case of any taxable year beginning before February 1, 1992, and ending on or after such date, qualified capital gain shall be equal to the lesser of—

"(i) net capital gain, or

"(ii) net capital gain determined by taking into account only gain or loss properly taken into account for the portion of the taxable year after January 31, 1992.

If the amount under clause (i) exceeds the amount under clause (ii) for such taxable year, the rate of tax under this section shall not exceed 28 percent with respect to such excess.

"(C) SPECIAL RULE FOR PASS-THRU ENTITIES.—

"(i) IN GENERAL.—In applying subparagraph (B) with respect to any pass-thru entity, the determination of when gain is properly taken into account shall be made at the entity level.

"(ii) PASS-THRU ENTITY DEFINED.—For purposes of clause (i), the term 'pass-thru entity' means—

"(I) a regulated investment company,

"(II) a real estate investment trust,

"(III) an S corporation,

"(IV) a partnership,

"(V) an estate or trust, and

"(VI) a common trust fund."

(b) TREATMENT OF COLLECTIBLES.—

(1) IN GENERAL.—Section 1222 is amended by inserting after paragraph (11) the following new paragraph:

"(12) SPECIAL RULE FOR COLLECTIBLES.—

"(A) IN GENERAL.—Any gain or loss from the sale or exchange of a collectible shall be treated as a short-term capital gain or loss (as the case may be), without regard to the period such asset was held. The preceding sentence shall apply only to the extent the gain or loss is taken into account in computing taxable income.

"(B) TREATMENT OF CERTAIN SALES OF INTEREST IN PARTNERSHIP, ETC.—For purposes of subparagraph (A), any gain from the sale or exchange of an interest in a partnership, S corporation, or trust which is attributable to unrealized appreciation in the value of collectibles held by such entity shall be treated as gain from the sale or exchange of a collectible. Rules similar to the rules of section 751(f) shall apply for purposes of the preceding sentence.

"(C) COLLECTIBLE.—For purposes of this paragraph, the term 'collectible' means any capital asset which is a collectible (as defined in section 408(m) without regard to paragraph (3) thereof)."

(2) CHARITABLE DEDUCTION NOT AFFECTED.—

(A) Paragraph (1) of section 170(e) is amended by adding at the end thereof the following new sentence: "For purposes of this paragraph, section 1222 shall be applied without regard to paragraph (12) thereof (relating to special rule for collectibles)."

(B) Clause (iv) of section 170(b)(1)(C) is amended by inserting before the period at the end thereof the following: "and section 1222 shall be applied without regard to paragraph (12) thereof (relating to special rule for collectibles)".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to taxable years ending after January 31, 1992.

(2) COLLECTIBLES.—The amendments made by subsection (b) shall apply to dispositions after January 31, 1992.

SEC. 2302. INCREASE IN HOLDING PERIOD REQUIRED FOR LONG-TERM CAPITAL GAIN TREATMENT.

(a) IN GENERAL.—

(1) CAPITAL GAIN.—Paragraphs (1) and (3) of section 1222 (relating to other terms relating to capital gains and losses) are each amended by striking "1 year" and inserting "2 years".

(2) CAPITAL LOSSES.—Paragraphs (2) and (4) of section 1222 are each amended by striking "1 year" and inserting "2 years".

(b) CONFORMING AMENDMENTS.—The following provisions are each amended by striking "1 year" each place it appears and inserting "2 years":

(1) Section 166(d)(1)(B).

(2) Section 422(a)(1).

(3) Section 423(a)(1).

(4) Section 584(c).

(5) Subsections (a), (b), and (c) of section 631.

(6) Section 642(c)(3).

(7) Paragraphs (1) and (2) of section 702(a).

(8) Section 818(b)(1).

(9) Section 852(b)(3)(B).

(10) Section 856(c)(4)(A).

(11) Section 857(b)(3)(B).

(12) Paragraphs (11) and (12) of section 1223.

(13) Subsections (b), (d), and subparagraph (A) of subchapter (e)(4) of section 1233.

(14) Section 1234(b)(1).

(15) Section 1235(a).

(16) Subsections (b) and (g)(2)(C) of section 1248.

(c) TECHNICAL AMENDMENTS.—

(1) Section 7518(g)(3)(B) is amended by striking "6 months" and inserting "2 years".

(2) Section 1231 (b)(3)(B) is amended by striking "12 months" and inserting "24 months".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 2303. RECAPTURE UNDER SECTION 1250 OF TOTAL AMOUNT OF DEPRECIATION.

(a) GENERAL RULE.—Subsections (a) and (b) of section 1250 (relating to gain from disposition of certain depreciable realty) are amended to read as follows:

"(a) GENERAL RULE.—Except as otherwise provided in this section, if section 1250 property is disposed of, the lesser of—

"(1) the depreciation adjustments in respect of such property, or

"(2) the excess of—

"(A) the amount realized (or, in the case of a disposition other than sale, exchange, or involuntary conversion, the fair market value of such property), over

"(B) the adjusted basis of such property,

shall be treated as gain which is ordinary income. Such gain shall be recognized notwithstanding any other provision of this subtitle.

"(b) DEPRECIATION ADJUSTMENTS.—For purposes of this section, the term 'depreciation adjustments' means, in respect of any property, all adjustments attributable to periods after December 31, 1963, reflected in the adjusted basis of such property on account of deductions (whether in respect of the same or other property) allowed or allowable to the taxpayer or to any other person for exhaustion, wear and tear, obsolescence, or amortization (other than amortization under section 168 (as in effect before its repeal by the Tax Reform Act of 1976), 169, 185 (as in effect before its repeal by the Tax Reform Act of 1986), 188 (as in effect before its repeal by the Revenue Reconciliation Act of 1990), 190, or 193). For purposes of the preceding sentence, if the taxpayer can establish by adequate records or other sufficient evidence that the amount allowed as a deduction for any period was less than the amount allowable, the amount taken into account for such period shall be the amount allowed."

(b) MAXIMUM RATE ON RECAPTURE AMOUNT.—Section 1 (relating to tax imposed) is amended by adding at the end the following new section:

"(i) MAXIMUM RATE OF TAX ON SECTION 1250 RECAPTURE AMOUNTS.—If a taxpayer has any amount treated as ordinary income under section 1250 for any taxable year, then the tax imposed by this section shall not exceed the sum of—

"(1) a tax computed at the rates and in the same manner as if this subsection had not been enacted on the greater of—

"(A) taxable income reduced by the amount treated as ordinary income under section 1250, or

"(B) the amount of taxable income taxed at a rate below 31 percent, plus

"(2) a tax of 31 percent of the amount of taxable income in excess of the amount determined under paragraph (1)."

(c) LIMITATION IN CASE OF INSTALLMENT SALES.—Subsection (i) of section 453 is amended—

(1) by striking "1250" the first place it appears and inserting "1250 (as in effect on December 31, 1991)", and

(2) by striking "1250" the second place it appears and inserting "1250 (as so in effect)".

(d) CONFORMING AMENDMENTS.—

(1) Subparagraph (E) of section 1250(d)(4) is amended—

(A) by striking "additional depreciation" and inserting "amount of the depreciation adjustments", and

(B) by striking "ADDITIONAL DEPRECIATION" in the subparagraph heading and inserting "DEPRECIATION ADJUSTMENTS".

(2) Subparagraph (B) of section 1250(d)(6) is amended to read as follows:

"(B) DEPRECIATION ADJUSTMENTS.—In respect of any property described in subparagraph (A), the amount of the depreciation adjustments attributable to periods before the distribution by the partnership shall be—

"(i) the amount of gain to which subsection (a) would have applied if such property had been sold by the partnership immediately before the distribution at its fair market value at such time, reduced by

"(ii) the amount of such gain to which section 751(b) applied."

(3) Subsection (d) of section 1250 is amended by striking paragraph (10).

(4) Section 1250 is amended by striking subsections (e) and (f) and by redesignating subsections (g) and (h) as subsections (e) and (f), respectively.

(5) Paragraph (4) of section 50(c) is amended to read as follows:

"(4) RECAPTURE OF REDUCTION.—For purposes of sections 1245 and 1250, any reduction under this subsection shall be treated as a deduction allowed for depreciation."

(6) Clause (i) of section 267(e)(5)(D) is amended by striking "section 1250(a)(1)(B)" and inserting "section 1250(a)(1)(B) (as in effect on December 31, 1991)".

(7)(A) Subsection (a) of section 291 is amended by striking paragraph (1) and redesignating paragraphs (2), (3), (4), and (5) as paragraphs (1), (2), (3), and (4), respectively.

(B) Subsection (c) of section 291 is amended to read as follows:

"(c) SPECIAL RULE FOR POLLUTION CONTROL FACILITIES.—Section 168 shall apply with respect to that portion of the basis of any property not taken into account under section 169 by reason of subsection (a)(4)."

(C) Section 291 is amended by striking subsection (d) and redesignating subsection (e) as subsection (d).

(D) Paragraph (2) of section 291(d) (as redesignated by subparagraph (C)) is hereby repealed.

(E) Subparagraph (A) of section 265(b)(3) is amended by striking "291(e)(1)(B)" and inserting "291(d)(1)(B)".

(F) Subsection (c) of section 1277 is amended by striking "291(e)(1)(B)(ii)" and inserting "291(d)(1)(B)(ii)".

(8) Subsection (d) of section 1017 is amended to read as follows:

"(d) RECAPTURE OF DEDUCTIONS.—For purposes of sections 1245 and 1250—

"(1) any property the basis of which is reduced under this section and which is neither section 1245 property nor section 1250 property shall be treated as section 1245 property, and

"(2) any reduction under this section shall be treated as a deduction allowed for depreciation."

(9) Paragraph (5) of section 7701(e) is amended by striking "(relating to low-income housing)" and inserting "(as in effect on December 31, 1991)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to dispositions after January 31, 1992, in taxable years ending after such date.

PART II—SMALL BUSINESS STOCK

SEC. 2311. 50-PERCENT EXCLUSION FOR GAIN FROM CERTAIN SMALL BUSINESS STOCK.

(a) GENERAL RULE.—Part I of subchapter P of chapter 1 (relating to capital gains and losses) is amended by adding at the end thereof the following new section:

"SEC. 1202. 50-PERCENT EXCLUSION FOR GAIN FROM CERTAIN SMALL BUSINESS STOCK.

"(a) GENERAL RULE.—Gross income shall not include 50 percent of any gain from the sale or exchange of qualified small business stock held for more than 5 years.

"(b) QUALIFIED SMALL BUSINESS STOCK.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this section, the term 'qualified small business stock' means any stock in a corporation which is originally issued on or after February 1, 1992, if—

"(A) as of the date of issuance, such corporation is a qualified small business, and

"(B) except as provided in subsections (d) and (e), such stock is acquired by the taxpayer at its original issue (directly or through an underwriter)—

"(i) in exchange for money or other property (not including stock), or

"(ii) as compensation for services (other than services performed as an underwriter of such stock).

"(2) ACTIVE BUSINESS REQUIREMENT.—Stock in a corporation shall not be treated as qualified small business stock unless, during substantially all of the taxpayer's holding period for such stock, such corporation meets the active business requirements of subsection (d).

"(3) CERTAIN PURCHASES BY CORPORATION OF ITS OWN STOCK.—

"(A) IN GENERAL.—Stock issued by a corporation shall not be treated as qualified small business stock if such corporation has purchased or purchases any of its stock within the 2-year period beginning 1 year before the date of the issuance of such stock.

"(B) EXCEPTION WHERE BUSINESS PURPOSE.—Subparagraph (A) shall not apply where the issuing corporation establishes that there was a business purpose for the purchase of the stock and such purchase is not inconsistent with the purposes of this section.

"(C) MEMBERS OF AFFILIATED GROUP.—For purposes of this paragraph, the purchase by any corporation which is a member of the same affiliated group (within the meaning of section 1504) as the issuing corporation of any stock in any corporation which is a member of such group shall be treated as a purchase by the issuing corporation of its stock.

"(c) QUALIFIED SMALL BUSINESS.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified small business' means any domestic corporation if—

"(A) the aggregate capitalization of such corporation (or any predecessor thereof) at all times on or after February 1, 1992, and before the issuance did not exceed $100,000,000, and

"(B) the aggregate capitalization of such corporation immediately after the issuance (determined by taking into account amounts to be received in the issuance) does not exceed $100,000,000.

“(2) AGGREGATE CAPITALIZATION.—For purposes of paragraph (1), the term ‘aggregate capitalization’ means the excess of—

“(A) the amount of cash and the aggregate adjusted bases of other property held by the corporation, over

“(B) the aggregate amount of the short-term indebtedness of the corporation.

For purposes of the preceding sentence, the term ‘short-term indebtedness’ means any indebtedness which, when incurred, did not have a term in excess of 1 year.

“(3) LOOK-THRU IN CASE OF SUBSIDIARIES.—In determining whether a corporation meets the requirements of this subsection—

“(A) stock and debt of any subsidiary (as defined in subsection (d)(4)(C)) held by such corporation shall be disregarded, and

“(B) such corporation shall be treated as holding its ratable share of the assets of such subsidiary and as being liable for its ratable share of the indebtedness of such subsidiary.

“(d) ACTIVE BUSINESS REQUIREMENT.—For purposes of this section—

“(1) IN GENERAL.—For purposes of subsection (b)(2), the requirements of this subsection are met for any period if during such period—

“(A) the corporation is engaged in the active conduct of a trade or business,

“(B) substantially all of the assets of such corporation are used in the active conduct of a trade or business, and

“(C) such corporation is an eligible corporation.

“(2) SPECIAL RULE FOR CERTAIN ACTIVITIES.—For purposes of paragraph (1), if, in connection with any future trade or business, a corporation is engaged in—

“(A) start-up activities described in section 195(c)(1)(A),

“(B) activities resulting in the payment or incurring of expenditures which may be treated as research and experimental expenditures under section 174, or

“(C) activities with respect to in-house research expenses described in section 41(b)(4),

such corporation shall be treated with respect to such activities as engaged in (and assets used in such activities shall be treated as used in) the active conduct of a trade or business. Any determination under this paragraph shall be made without regard to whether a corporation has any gross income from such activities at the time of the determination.

“(3) ELIGIBLE CORPORATION.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘eligible corporation’ means any domestic corporation; except that such term shall not include—

“(i) any corporation predominantly engaged in a disqualified business,

“(ii) any corporation the principal activity of which is the performance of personal services,

“(iii) a DISC,

“(iv) a corporation with respect to which an election under 936 is in effect,

“(v) any regulated investment company, real estate investment trust, or REMIC,

“(vi) any cooperative, and

“(vii) in the case of a corporate shareholder, any corporation which at any time was a subsidiary (as defined in paragraph (4)(C)) of such corporate shareholder.

“(B) DISQUALIFIED BUSINESS.—The term ‘disqualified business’ means—

“(i) any banking, insurance, financing, or similar business,

“(ii) any farming business (other than the business of raising or harvesting trees), and

“(iii) any business of operating a hotel, motel, or restaurant or similar business.

“(4) STOCK IN OTHER CORPORATIONS.—

“(A) LOOK-THRU IN CASE OF SUBSIDIARIES.—For purposes of this subsection, stock and debt in any subsidiary corporation shall be disregarded and the parent corporation shall be deemed to own its ratable share of the subsidiary's assets, and to conduct its ratable share of the subsidiary's activities.

“(B) PORTFOLIO STOCK OR SECURITIES.—A corporation shall be treated as failing to meet the requirements of paragraph (1) for any period during which more than 10 percent of the value of its assets (in excess of liabilities) consist of stock or securities in other corporations which are not subsidiaries of such corporation (other than assets described in paragraph (5)).

“(C) SUBSIDIARY.—For purposes of this paragraph, a corporation shall be considered a subsidiary if the parent owns more than 50 percent of the combined voting power of all classes of stock entitled to vote, or more than 50 percent in value of all outstanding stock, of such corporation.

“(5) WORKING CAPITAL.—For purposes of paragraph (1)(B), any assets which—

“(A) are held for investment, and

“(B) are to be used to finance future research and experimentation or working capital needs of the corporation,

shall be treated as used in the active conduct of a trade or business.

“(6) MAXIMUM REAL ESTATE HOLDINGS.—A corporation shall not be treated as meeting the requirements of paragraph (1) for any period during which more than 10 percent of the total value of its assets is real property which is not used in the active conduct of a trade or business. For purposes of the preceding sentence, the ownership of, dealing in, or renting of real property shall not be treated as the active conduct of a trade or business.

“(7) COMPUTER SOFTWARE ROYALTIES.—For purposes of paragraph (1), rights to computer software which produces income described in section 543(d) shall be treated as an asset used in the active conduct of a trade or business.

“(e) STOCK ACQUIRED ON CONVERSION OF PREFERRED STOCK.—If any stock is acquired through the conversion of other stock which is qualified small business stock in the hands of the taxpayer—

“(1) the stock so acquired shall be treated as qualified small business stock in the hands of the taxpayer, and

“(2) the stock so acquired shall be treated as having been held during the period during which the converted stock was held.

“(f) TREATMENT OF PASS-THRU ENTITIES.—

“(1) IN GENERAL.—Any amount included in income by reason of holding an interest in a pass-thru entity shall be treated as gain described in subsection (a) if such amount meets the requirements of paragraph (2).

“(2) REQUIREMENTS.—An amount meets the requirements of this paragraph if—

“(A) such amount is attributable to gain on the sale or exchange by the pass-thru entity of stock which is qualified small business stock in the hands of such entity and which was held by such entity for more than 5 years, and

“(B) such amount is includible in the gross income of the taxpayer by reason of the holding of an interest in such entity which was held by the taxpayer on the date on which such pass-thru entity acquired such stock and at all times thereafter before the disposition of such stock by such pass-thru entity.

“(3) LIMITATION BASED ON INTEREST ORIGINALLY HELD BY TAXPAYER.—Paragraph (1) shall not apply to any amount to the extent such amount exceeds the amount to which paragraph (1) would have applied if such amount were determined by reference to the interest the taxpayer held in the pass-thru entity on the date the qualified small business stock was acquired.

“(4) PASS-THRU ENTITY.—For purposes of this subsection, the term ‘pass-thru entity’ means—

“(A) any partnership,

“(B) any S corporation,

“(C) any regulated investment company, and

“(D) any common trust fund.

“(g) CERTAIN TAX-FREE AND OTHER TRANSFERS.—For purposes of this section—

“(1) IN GENERAL.—In the case of a transfer of stock to which this subsection applies, the transferee shall be treated as—

“(A) having acquired such stock in the same manner as the transferor, and

“(B) having held such stock during any continuous period immediately preceding the transfer during which it was held (or treated as held under this subsection) by the transferor.

“(2) TRANSFERS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to any transfer—

“(A) by gift,

“(B) at death,

“(C) from a partnership to a partner of stock with respect to which the requirements of subsection (f) are met at the time of the transfer (without regard to the 5-year holding requirement), or

“(D) to the extent that the basis of the property in the hands of the transferee is determined by reference to the basis of the property in the hands of the transferor by reason of section 334(b), but only if requirements similar to the requirements of subsection (f) are met with respect to the stock.

“(3) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of section 1244(d)(2) shall apply for purposes of this section.

“(4) INCORPORATIONS AND REORGANIZATIONS INVOLVING NONQUALIFIED STOCK.—

“(A) IN GENERAL.—In the case of a transaction described in section 351 or a reorganization described in section 368, if a qualified small business stock is transferred for other stock, such transfer shall be treated as a transfer to which this subsection applies solely with respect to the person receiving such other stock.

“(B) LIMITATION.—This section shall apply to the sale or exchange of stock treated as qualified small business stock by reason of subparagraph (A) only to the extent of the gain (if any) which would have been recognized at the time of the transfer described in subparagraph (A) if section 351 or 368 had not applied at such time.

“(C) SUCCESSIVE APPLICATION.—For purposes of this paragraph, stock treated as qualified small business stock under subparagraph (A) shall be so treated for subsequent transactions or reorganizations, except that the limitation of subparagraph (B) shall be applied as of the time of the first transfer to which subparagraph (A) applied.

“(D) CONTROL TEST.—Except in the case of a transaction described in section 368, this paragraph shall apply only if, immediately after the transaction, the corporation issuing the stock owns directly or indirectly stock representing control (within the meaning of section 368(c)) of the corporation whose stock was transferred.

“(h) BASIS RULES.—

“(1) STOCK EXCHANGED FOR PROPERTY.—For purposes of this section, in the case where the taxpayer transfers property (other than money or stock) to a corporation in exchange for stock in such corporation—

"(A) such stock shall be treated as having been acquired by the taxpayer on the date of such exchange, and

"(B) the basis of such stock in the hands of the taxpayer shall in no event be less than the fair market value of the property exchanged.

"(2) Basis of S corporation stock.—For purposes of this section, the adjusted basis of stock in an S corporation shall in no event be less than its adjusted basis determined without regard to any adjustment to the basis of such stock under section 1367.

"(i) Regulations.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including regulations to prevent the avoidance of the purposes of this section through split-ups or otherwise."

(b) Exclusion Treated as Preference for Minimum Tax.—

(1) In general.—Subsection (a) of section 57 (relating to items of tax preference) is amended by adding at the end thereof the following new paragraph:

"(8) Exclusion for gains on sale of certain small business stock.—An amount equal to the amount excluded from gross income for the taxable year under section 1202."

(2) Conforming amendment.—Subclause (II) of section 53(d)(2)(B)(ii) is amended by striking "and (6)" and inserting "(6), and (8)".

(c) Conforming Amendments.—

(1)(A) Section 172(d)(2) (relating to modifications with respect to net operating loss deduction) is amended to read as follows:

"(2) Capital gains and losses of taxpayers other than corporations.—In the case of a taxpayer other than a corporation—

"(A) the amount deductible on account of losses from sales or exchanges of capital assets shall not exceed the amount includable on account of gains from sales or exchanges of capital assets; and

"(B) the exclusion provided by section 1202 shall not be allowed."

(B) Subparagraph (B) of section 172(d)(4) is amended by inserting ", (2)(B)," after "paragraph (1)".

(2) Paragraph (4) of section 642(c) is amended to read as follows:

"(4) Adjustments.—To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain described in section 1202(a), proper adjustment shall be made for any exclusion allowable to the estate or trust under section 1202. In the case of a trust, the deduction allowed by this subsection shall be subject to section 681 (relating to unrelated business income)."

(3) Paragraph (3) of section 643(a) is amended by adding at the end thereof the following new sentence: "The exclusion under section 1202 shall not be taken into account."

(4) Paragraph (4) of section 691(c) is amended by striking "1201, and 1211" and inserting "1201, 1202, and 1211".

(5) The second sentence of paragraph (2) of section 871(a) is amended by inserting "such gains and losses shall be determined without regard to section 1202 and" after "except that".

(6) The table of sections for part I of subchapter P of chapter 1 is amended by adding after the item relating to section 1201 the following new item:

"Sec. 1202. 50-percent exclusion for gain from certain small business stock."

(d) Effective Date.—The amendments made by this section shall apply to stock issued on or after February 1, 1992.

Subtitle E—Investment in Real Estate

PART I—FIRST-TIME HOMEBUYER CREDIT

SEC. 2401. CREDIT FOR PURCHASE OF NEW PRINCIPAL RESIDENCE BY FIRST-TIME HOMEBUYER.

(a) In General.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits), as amended by section 2121, is amended by inserting after section 23 the following new section:

"SEC. 24. PURCHASE OF NEW PRINCIPAL RESIDENCE BY FIRST-TIME HOMEBUYER.

"(a) Allowance of Credit.—

"(1) In general.—In the case of a first-time homebuyer, there shall be allowed as a credit against the tax imposed by this chapter an amount equal to 10 percent of the purchase price of an eligible principal residence purchased by the taxpayer during a portion of the taxable year which occurs within the eligibility period.

"(2) Maximum credit.—The credit allowed by subsection (a) to the taxpayer shall not exceed $5,000.

"(b) Eligible Principal Residence.—For purposes of subsection (a), the term 'eligible principal residence' means a principal residence—

"(1) the original use of which begins with the taxpayer, and

"(2) which is the first principal residence purchased by the taxpayer during the eligibility period.

"(c) First-Time Homebuyer.—For purposes of this section—

"(1) In general.—The term 'first-time homebuyer' means any individual unless such individual or such individual's spouse had a present ownership interest in any principal residence at any time during the 3-year period ending on the date of the purchase of the residence referred to in subsection (a).

"(2) Unmarried joint owners.—An individual shall not be treated as a first-time homebuyer with respect to any residence unless all the individuals purchasing such residence with such individual are first-time homebuyers.

"(3) Allocation of limits.—All individuals purchasing a residence shall be treated as 1 individual for purposes of determining the maximum credit under subsection (a), and such maximum credit shall be allocated among such individuals under regulations prescribed by the Secretary.

"(4) Certain individuals ineligible.—The term 'first-time homebuyer' shall not include any individual if, on the date of the purchase of the residence, the period of time specified in section 1034(a) is suspended under subsection (h) or (k) of section 1034 with respect to such individual.

"(d) Other Definitions.—For purposes of this section—

"(1) Eligibility period.—

"(A) In general.—The term 'eligibility period' means the period beginning after January 31, 1992, and ending before January 1, 1994.

"(B) Binding contracts.—A residence shall be treated as purchased during the eligibility period if—

"(i) during the eligibility period, the purchaser enters into a binding contract to purchase the residence, and

"(ii) the purchaser purchases and occupies the residence before the close of the 90-day period beginning on the date the contract was entered into.

For purposes of clause (i), a contract shall not fail to be treated as binding merely because it is contingent on financing or on the condition of the residence.

"(2) Purchase.—The term 'purchase' means any acquisition of property, but only if—

"(A) the property is not acquired from a person whose relationship to the person acquiring it would result in the disallowance of losses under section 267 or 707(b), and

"(B) the basis of the property in the hands of the person acquiring it is not determined—

"(i) in whole or in part by reference to the adjusted basis of such property in the hands of the person from whom acquired, or

"(ii) under section 1014(a) (relating to property acquired from a decedent).

"(3) Principal residence.—The term 'principal residence' has the same meaning as when used in section 1034.

"(4) Purchase price.—The term 'purchase price' means the adjusted basis of the residence on the date of its acquisition.

"(e) Carryover of Unused Credit.—

"(1) In general.—If—

"(A) the credit allowable under subsection (a) exceeds

"(B) the limitation imposed by section 26(a) reduced by the sum of the credits allowable under sections 21, 22, and 23,

such excess shall be carried to the succeeding taxable year and shall be allowable under subsection (a) for such succeeding taxable year.

"(2) 5-year limit on carryforward.—No amount may be carried under paragraph (1) to any taxable year after the 5th taxable year after the taxable year in which the residence is purchased.

"(f) Recapture of Credit for Certain Dispositions.—

"(1) In general.—Except as provided in paragraphs (2) and (3), if the taxpayer disposes of property with respect to the purchase of which a credit was allowed under subsection (a) and such disposition occurs at any time within 36 months after the date the taxpayer acquired the property as his principal residence, then the tax imposed under this chapter for the taxable year in which the disposition occurs is increased by an amount equal to the amount allowed as a credit for the purchase of such property.

"(2) Acquisition of new residence.—If, in connection with a disposition described in paragraph (1) and within the applicable period prescribed in section 1034, the taxpayer purchases a new principal residence, then paragraph (1) shall not apply and the tax imposed by this chapter for the taxable year in which the new principal residence is purchased is increased to the extent the amount of the credit that could be claimed under this section on the purchase of the new residence (were such residence the first residence purchased during the eligibility period) is less than the amount of credit claimed by the taxpayer under this section.

"(3) Death of owner; casualty loss; involuntary conversion; etc.—Paragraph (1) shall not apply to—

"(A) a disposition of a residence made on account of the death of any individual having a legal or equitable interest therein occurring during the 36-month period referred to in paragraph (1),

"(B) a disposition of the old residence if it is substantially or completely destroyed by a casualty described in section 165(c)(3) or compulsorily or involuntarily converted (within the meaning of section 1033(a)), or

"(C) a disposition pursuant to a settlement in a divorce or legal separation proceeding where the residence is sold or the other spouse retains the residence as a principal residence."

(b) Clerical Amendment.—The table of sections for subpart A of part IV of subchapter A of chapter 1, as amended by section 2121, is amended by inserting after the item relating to section 23 the following new item:

"Sec. 24. Purchase of new principal residence by first-time homebuyer."

(c) Effective Date.—The amendments made by this section shall apply to taxable years ending on or after February 1, 1992.

PART II—MODIFICATION OF PASSIVE LOSS RULES

SEC. 2411. MODIFICATION OF PASSIVE LOSS RULES.

(a) General Rule.—Section 469 (relating to passive activity losses and credits limited) is amended by redesignating subsections (l) and (m) as subsections (m) and (n), respectively, and by inserting after subsection (k) the following new subsection:

"(l) Special Rules for Real Estate Activities.—

"(1) Certain activities treated as not passive.—

"(A) In general.—If the taxpayer meets the requirements of paragraph (2) for the taxable year, all—

"(i) activities consisting of the performance of qualified real estate services, and

"(ii) rental activities with respect to qualified real property,

shall be treated as a single activity which is not a passive activity.

"(B) Exception.—

"(i) In general.—Paragraph (1) shall not apply with respect to any activity with respect to any real property originally placed in service after March 3, 1992 (whether or not by the taxpayer).

"(ii) Substantial renovations.—For purposes of clause (i), any real property substantially renovated after March 3, 1992, shall be treated as originally placed in service after such date. For purposes of this clause, property shall be treated as substantially renovated if, during any 24-month period beginning after such date, additions to basis with respect to the property exceed an amount equal to the adjusted basis of the property at the beginning of the 24-month period.

"(C) Limitation on income which rental activity losses or credits may offset.—The aggregate losses from all activities described in subparagraph (A)(ii) for which a deduction is allowed for any taxable year shall not exceed the sum of—

"(i) the aggregate income from such activities, plus

"(ii) the net income from passive activities to which this subsection does not apply, plus

"(iii) an amount equal to 80 percent of the lesser of—

"(I) the net income from activities described in subparagraph (A)(i), or

"(II) the taxable income of the taxpayer determined without regard to any item of income, gain, loss, or deduction allocable to activities described in subparagraph (A)(ii).

Any passive activity credits from activities described in subparagraph (A)(ii) shall not be allowed to the extent such credits exceed the regular tax liability of the taxpayer allocable to the amounts described in clauses (i), (ii), and (iii).

"(D) Treatment of suspended losses and credits.—In the case of any unused deductions or credits from activities described in subparagraph (A)(ii)—

"(i) subsection (f) shall not apply, but

"(ii) such deductions or credits shall be treated as from such activities for purposes of applying subparagraph (C).

"(2) Requirements.—A taxpayer meets the requirements of this paragraph for any taxable year if the taxpayer materially participates during such taxable year in activities referred to in subparagraphs (A) and (B) of paragraph (1) (as determined under subsection (h) by treating all of such activities as a single activity).

"(3) Qualified real estate services.—For purposes of this subsection, the term 'qualified real estate services' means services in the construction, substantial renovation, and management of real property or in the lease-up and sale of qualified real property.

"(4) Qualified real property.—For purposes of this subsection—

"(A) In general.—The term 'qualified real property' means any real property if during the taxable year the taxpayer actively participates in rental activities with respect to such property.

"(B) Active participation.—For purposes of subparagraph (A), active participation shall be determined under subsection (i)(6), except that subparagraph (A) thereof shall be applied by substituting 'a de minimis portion' for 'less than 10 percent (by value)'.

"(5) Special rule.—For purposes of this subsection—

"(A) Non-owner employees.—Qualified real estate services shall not include any services performed by an individual as an employee unless the employee owns more than a de minimis interest in the employer.

"(B) Closely held c corporations.—This subsection shall not apply to any interests held by a closely held C corporation."

(b) Effective Date.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1991.

PART III—PROVISIONS RELATING TO REAL ESTATE INVESTMENTS BY PENSION FUNDS

SEC. 2421. REAL ESTATE PROPERTY ACQUIRED BY A QUALIFIED ORGANIZATION.

(a) Modifications of Exceptions.—Paragraph (9) of section 514(c) (relating to real property acquired by a qualified organization) is amended by adding at the end thereof the following new subparagraphs:

"(G) Special rules for purposes of the exceptions.—Except as otherwise provided by regulations—

"(i) Small leases disregarded.—For purposes of clauses (iii) and (iv) of subparagraph (B), a lease to a person described in such clause (iii) or (iv) shall be disregarded if no more than 20 percent of the leasable floor space in a building is covered by the lease and if the lease is on commercially reasonable terms.

"(ii) Commercially reasonable financing.—Clause (v) of subparagraph (B) shall not apply if the financing is on commercially reasonable terms. For purposes of this clause, financing shall be treated on commercially reasonable terms if the downpayment is at least 15 percent of the sales price and the interest rate is at least 150 percent of the applicable Federal rate determined under section 1274(d).

"(H) Qualifying sales out of foreclosure by financial institutions.—

"(i) In general.—In the case of a qualifying sale out of foreclosure by a financial institution, except as provided in regulations, clauses (i) and (ii) of subparagraph (B) shall not apply with respect to financing provided by such institution for such sale.

"(ii) Qualifying sale.—For purposes of this clause, there is a qualifying sale out of foreclosure by a financial institution where—

"(I) a qualified organization acquires foreclosure property from a financial institution and the financial institution treats such property as property which is not a capital asset,

"(II) the stated principal amount of the financing provided by the financial institution does not exceed the amount of the outstanding indebtedness (including accrued but unpaid interest) of the financial institution with respect to the foreclosure property immediately before the acquisition referred to in clause (iv), and

"(III) the value (determined as of the time of the sale) of the amount pursuant to the financing that is determined by reference to the revenue, income, or profits derived from the property does not exceed 25 percent of the value of the property (determined as of such time).

"(iii) Financial institution.—For purposes of this subparagraph, the term 'financial institution' means—

"(I) any financial institution described in section 581 or 591(a),

"(II) any other corporation which is a member of an affiliated group (as defined in section 1504(a)) which includes an institution referred to in subclause (I) but only if such other corporation is subject to supervision and examination by the same Federal or State agency as the institution referred to in subclause (I), and

"(III) any person acting as a conservator or receiver of an entity referred to in subclause (I) or (II).

"(iv) Foreclosure property.—For purposes of this subparagraph, the term 'foreclosure property' means any real property acquired by the financial institution as the result of having bid on such property at foreclosure, or by operation of an agreement or process of law, after there was a default (or a default was imminent) on indebtedness which such property secured."

(b) Interests in Mortgages Not Treated as Real Property.—

(1) In general.—Paragraph (9) of section 514(c) is amended—

(A) by adding the following new sentence at the end of subparagraph (A): "For purposes of this paragraph, an interest in a mortgage shall in no event be treated as real property.", and

(B) by striking the last sentence of subparagraph (B).

(2) Exception.—Paragraph (9) of section 514(c), as amended by subsection (a), is amended by adding at the end the following new subparagraph:

"(I) Qualified mortgage interest treated as real property.—

"(i) In general.—The last sentence of subparagraph (A) shall not apply to any qualified mortgage investment during the 30-month period beginning on the date such investment is acquired.

"(ii) Qualified mortgage investment.—For purposes of this subparagraph, the term 'qualified mortgage investment' means any interest in 1 or more mortgages—

"(I) acquired after January 31, 1992, and before January 1, 1994, from a financial institution described in section 581 or 591(a) which is in conservatorship or receivership, or the conservator or receiver of such an institution,

"(II) with respect to which there is no acquisition indebtedness other than financing provided by the person described in subclause (I), and

"(III) the acquisition indebtedness provided by such person is less than 50 percent of the sales price with respect to such interest."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to acquisitions on or after February 1, 1992.

SEC. 2422. SPECIAL RULES FOR INVESTMENTS IN PARTNERSHIPS.

(a) MODIFICATION TO ANTI-ABUSE RULES.—Paragraph (9) of section 514(c) (as amended by section 2421) is amended by adding at the end thereof the following new subparagraph:

"(J) PARTNERSHIPS NOT INVOLVING TAX AVOIDANCE.—

"(i) DE MINIMIS RULE FOR CERTAIN LARGE PARTNERSHIPS.—The provisions of subparagraph (B) shall not apply to an investment in a partnership having at least 250 partners if—

"(I) interests in such partnership were offered for sale in an offering registered with the Securities and Exchange Commission,

"(II) at least 50 percent of each class of interests in such partnership is owned by individuals who are not disqualified persons, and

"(III) the principal purpose of partnership allocations is not tax avoidance.

The Secretary may disregard inadvertent failures to meet the requirements of subclause (II).

"(ii) DISQUALIFIED PERSONS.—For purposes of this subparagraph, the term 'disqualified person' means any person described in clause (iii) or (iv) of subparagraph (B) and any person who is not a United States person."

(b) REPEAL OF SPECIAL TREATMENT OF PUBLICLY TRADED PARTNERSHIPS.—Subsection (c) of section 512 is amended—

(1) by striking paragraph (2),

(2) by redesignating paragraph (3) as paragraph (2), and

(3) by striking "paragraph (1) or (2)" in paragraph (2) (as so redesignated) and inserting "paragraph (1)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership interests acquired on or after February 1, 1992.

SEC. 2423. TITLE-HOLDING COMPANIES PERMITTED TO RECEIVE SMALL AMOUNTS OF UNRELATED BUSINESS TAXABLE INCOME.

(a) GENERAL RULE.—Paragraph (25) of section 501(c) is amended by adding at the end thereof the following new subparagraph:

"(G)(i) An organization shall not be treated as failing to be described in this paragraph merely by reason of the receipt of any income which is incidentally derived from the holding of real property.

"(ii) Clause (i) shall not apply if the amount of gross income described in such clause exceeds 10 percent of the organization's gross income for the taxable year unless the organization establishes to the satisfaction of the Secretary that the receipt of gross income described in clause (i) in excess of such limitation was inadvertent and reasonable steps are being taken to correct the circumstances giving rise to such income."

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 501(c) is amended by adding at the end thereof the following new sentence: "Rules similar to the rules of subparagraph (G) of paragraph (25) shall apply for purposes of this paragraph."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 2424. EXCLUSION FROM UNRELATED BUSINESS TAX OF GAINS FROM CERTAIN PROPERTY.

(a) GENERAL RULE.—Subsection (b) of section 512 (relating to modifications) is amended by adding at the end thereof the following new paragraph:

"(16) Notwithstanding paragraph (5)(B), there shall be excluded all gains or losses from the sale, exchange, or other disposition of any real property if—

"(A) such property was acquired by the organization from—

"(i) a financial institution described in section 581 or 591(a) which is in conservatorship or receivership, or

"(ii) the conservator or receiver of such an institution,

"(B) such property is designated by the organization within the 6-month period beginning on the date of its acquisition as property held for sale,

"(C) such sale, exchange, or disposition occurs before the later of—

"(i) the date which is 30 months after the date of the acquisition of such property, or

"(ii) the date specified by the Secretary in order to assure an orderly disposition of property held by persons described in subparagraph (A), and

"(D) while such property was held by the organization, such property was not substantially improved or renovated and there were no substantial development activities with respect to such property.

For purposes of this paragraph, an interest in a mortgage shall be treated as real property."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to property acquired on or after February 1, 1992.

SEC. 2425. EXCLUSION FROM UNRELATED BUSINESS TAX OF CERTAIN FEES AND OPTION PREMIUMS.

(a) LOAN COMMITMENT FEES.—Paragraph (1) of section 512(b) (relating to modifications) is amended by inserting "amounts received or accrued as consideration for entering into agreements to make loans," before "and annuities".

(b) OPTION PREMIUMS.—The second sentence of section 512(b)(5) is amended by inserting "or real property" before the period.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received on or after February 1, 1992.

SEC. 2426. EXCLUSION FROM UNRELATED BUSINESS TAX OF CERTAIN HOTEL RENTAL INCOME.

(a) IN GENERAL.—Section 512(b)(3) (relating to rents) is amended by adding at the end the following new subparagraph:

"(D)(i) Notwithstanding subparagraph (B), there shall be excluded under subparagraph (A) all rents from any real property described in clause (ii).

"(ii) Property is described in this clause if it is a hotel or motel with respect to which the predominant portion of accommodations is used by transients and—

"(I) which is acquired on or after February 1, 1992, from a financial institution described in section 581 or 591(a) which is in conservatorship or receivership, or from the conservator or receiver of such an institution, and

"(II) which is designated by the organization within the 6-month period beginning on the date of its acquisition as property held for sale.

"(iii) Clause (i) shall not apply to any real property unless, during the 30-month period beginning on the date of acquisition—

"(I) the organization sells such property, or

"(II) the organization enters into a contract with an independent contractor to provide all related services in connection with the property, and such contract does not permit the organization to derive or receive any income from the independent contractor (within the meaning of section 856(d)(2)(C)).

"(iv) If clause (iii)(II) applies to any property, clause (i) shall apply to rents from such property only during the continuous period beginning with the date the property is acquired and ending on the earlier of—

"(I) the first date after the 30-month period described in clause (iii) on which a contract described in clause (iii)(II) is not in effect, or

"(II) the date on which the property is sold."

(b) EFFECTIVE DATE.—The amendment made by this section applies to property acquired after January 31, 1992.

PART IV—OTHER PROVISIONS

SEC. 2431. LOW-INCOME HOUSING CREDIT.

(a) EXTENSION.—

(1) IN GENERAL.—

(A) Paragraph (1) of section 42(o) (relating to termination of low-income housing credit) is amended—

(i) by inserting ", for any calendar year after 1993" after "paragraph (2)",

(ii) by striking "to any amount allocated after June 30, 1992" in subparagraph (A), and

(iii) by striking "June 30, 1992" in subparagraph (B) and inserting "1993".

(B) Paragraph (2) of section 42(o) is amended—

(i) by striking "July 1, 1992" each place it appears and inserting "1994",

(ii) by striking "June 30, 1992" in subparagraph (B) and inserting "December 31, 1993",

(iii) by striking "June 30, 1994" in subparagraph (B) and inserting "December 31, 1995", and

(iv) by striking "July 1, 1994" in subparagraph (C) and inserting "January 1, 1996".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to periods ending after June 30, 1992.

(b) MODIFICATIONS.—

(1) CARRYFORWARD RULES.—

(A) IN GENERAL.—Clause (ii) of section 42(h)(3)(D) (relating to unused housing credit carryovers allocated among certain States) is amended by striking "the excess" and all that follows and inserting "the excess (if any) of the unused State housing credit ceiling for the year preceding such year over the aggregate housing credit dollar amount allocated for such year."

(B) CONFORMING AMENDMENT.—The second sentence of section 42(h)(3)(C) (relating to State housing credit ceiling) is amended by striking "clauses (i) and (iii)" and inserting "clauses (i) through (iv)".

(2) 10-YEAR ANTI-CHURNING RULE WAIVER EXPANDED.—Clause (ii) of section 42(d)(6)(B) (defining federally assisted building) is amended by inserting ", 221(d)(4)," after "221(d)(3)".

(3) LIMITATION ON ELIGIBLE BASIS OF UNITS.—Paragraph (5) of section 42(d) (relating to special rules for determining eligible basis) is amended by adding at the end thereof the following new subparagraph:

"(D) MAXIMUM LIMIT PER UNIT.—

"(i) IN GENERAL.—Notwithstanding any other provision of this section, and before the application of subparagraph (C), the eligible basis of each unit of any building shall not exceed $124,875.

"(ii) INFLATION ADJUSTMENT.—For any calendar year beginning after 1992, the dollar amount referred to in clause (i) shall be increased by an amount equal to—

"(I) such dollar amount, multiplied by

"(II) the cost-of-living adjustment determined under section 1(f)(3), for such calendar year, by substituting 'calendar year 1991' for 'calendar year 1989' in subparagraph (B) thereof.

If any dollar amount after being increased under paragraph (1) is not a multiple of $10, such dollar amount shall be rounded to the nearest multiple of $10 (or, if such dollar amount is a multiple of $5, such dollar amount shall be increased to the next higher multiple of $10)."

(4) UNITS WITH CERTAIN FULL-TIME STUDENTS NOT DISQUALIFIED.—Subparagraph (D) of section 42(i) (relating to definitions and special rules) is amended to read as follows:

"(D) CERTAIN STUDENTS NOT TO DISQUALIFY UNIT.—A unit shall not fail to be treated as a low-income unit merely because it is occupied—

"(i) by an individual who is—

"(I) a student and receiving assistance under title IV of the Social Security Act, or

"(II) enrolled in a job training program receiving assistance under the Job Training Partnership Act or under other similar Federal, State, or local laws, or

"(ii) entirely by full-time students if such students are—

"(I) single parents and their children and such parents and children are not dependents (as defined in section 152) of another individual, or

"(II) married and file a joint return."

(5) TREASURY WAIVERS OF CERTAIN DE MINIMIS ERRORS AND RECERTIFICATIONS.—Subsection (g) of section 42 (relating to qualified low-income housing projects) is amended by adding at the end thereof the following new paragraph:

"(8) WAIVER OF CERTAIN DE MINIMIS ERRORS AND RECERTIFICATIONS.—On application by the taxpayer, the Secretary may waive—

"(A) any recapture under subsection (j) in the case of any de minimis error in complying with paragraph (1), or

"(B) any annual recertification of tenant income for purposes of this subsection, if the entire building is occupied by low-income tenants."

(6) BASIS OF COMMUNITY SERVICE AREAS INCLUDED IN ADJUSTED BASIS.—Paragraph (4) of section 42(d) (relating to special rules relating to determination of adjusted basis) is amended—

(A) by striking "subparagraph (B)" in subparagraph (A) and inserting "subparagraphs (B) and (C)",

(B) by redesignating subparagraph (C) as subparagraph (D), and

(C) by inserting after subparagraph (B) the following new subparagraph:

"(C) BASIS OF PROPERTY IN COMMUNITY SERVICE AREAS INCLUDED.—The adjusted basis of any building located in a qualified census tract shall be determined by taking into account the adjusted basis of property (of a character subject to the allowance for depreciation) used in functionally related and subordinate community activity facilities if—

"(i) the size of the facilities is commensurate with tenant needs,

"(ii) the use of such facilities is predominantly by tenants and employees of the building owner, and

"(iii) not more than 20 percent of the building's eligible basis is attributable to the aggregate basis of such facilities."

(7) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection shall apply to—

(i) determinations under section 42 of the Internal Revenue Code of 1986 with respect to housing credit dollar amounts allocated from State housing credit ceilings after June 30, 1992, or

(ii) buildings placed in service after June 30, 1992, to the extent paragraph (1) of section 42(h) of such Code does not apply to any building by reason of paragraph (4) thereof, but only with respect to bonds issued after such date.

(B) WAIVER AUTHORITY.—The amendments made by paragraphs (2) and (5) shall take effect on the date of the enactment of this Act.

SEC. 2432. QUALIFIED MORTGAGE BONDS.

(a) IN GENERAL.—Subparagraph (B) of section 143(a)(1) (defining qualified mortgage bond) is amended by striking "June 30, 1992" and inserting "December 31, 1993".

(b) MORTGAGE CREDIT CERTIFICATES.—Subsection (h) of section 25 (relating to interest on certain home mortgages) is amended by striking "June 30, 1992" and inserting "December 31, 1993".

(c) EFFECTIVE DATES.—

(1) BONDS.—The amendment made by subsection (a) shall apply to bonds issued after June 30, 1992.

(2) CERTIFICATES.—The amendment made by subsection (b) shall apply to elections for periods after June 30, 1992.

Subtitle F—Other Incentives

PART I—SPECIAL DEPRECIATION ALLOWANCE

SEC. 2501. SPECIAL DEPRECIATION ALLOWANCE FOR CERTAIN EQUIPMENT ACQUIRED IN 1992.

(a) IN GENERAL.—Section 168 (relating to accelerated cost recovery system) is amended by adding at the end the following new subsection:

"(j) SPECIAL ALLOWANCE FOR CERTAIN EQUIPMENT ACQUIRED IN 1992.—

"(1) ADDITIONAL ALLOWANCE.—In the case of any qualified equipment—

"(A) the depreciation deduction provided by section 167(a) for the taxable year in which such equipment is placed in service shall include an allowance equal to 10 percent of the adjusted basis of the qualified equipment, and

"(B) the adjusted basis of the qualified equipment shall be reduced by the amount of such deduction before computing the amount otherwise allowable as a depreciation deduction under this chapter for such taxable year and any subsequent taxable year.

"(2) QUALIFIED EQUIPMENT.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified equipment' means property to which this section applies—

"(i) which is section 1245 property (within the meaning of section 1245(a)(3)),

"(ii) the original use of which commences with the taxpayer on or after February 1, 1992,

"(iii) which is—

"(I) acquired by the taxpayer on or after February 1, 1992, and before January 1, 1993, but only if no written binding contract for the acquisition was in effect before February 1, 1992, or

"(II) acquired by the taxpayer pursuant to a written binding contract which was entered into on or after February 1, 1992, and before January 1, 1993, and

"(iv) which is placed in service by the taxpayer before July 1, 1993.

"(B) EXCEPTIONS.—

"(i) ALTERNATIVE DEPRECIATION PROPERTY.—The term 'qualified equipment' shall not include any property to which the alternative depreciation system under subsection (g) applies, determined—

"(I) without regard to paragraph (7) of subsection (g) (relating to election to have system apply), and

"(II) after application of section 280F(b) (relating to listed property with limited business use).

"(ii) ELECTION OUT.—If a taxpayer makes an election under this clause with respect to any class of property for any taxable year, this subsection shall not apply to all property in such class placed in service during such taxable year.

"(C) SPECIAL RULES RELATING TO ORIGINAL USE.—

"(i) SELF-CONSTRUCTED PROPERTY.—In the case of a taxpayer manufacturing, constructing, or producing property for the taxpayer's own use, the requirements of clause (iii) of subparagraph (A) shall be treated as met if the taxpayer begins manufacturing, constructing, or producing the property on and after February 1, 1992, and before January 1, 1993.

"(ii) SALE-LEASEBACKS.—For purposes of subparagraph (A)(ii), if property—

"(I) is originally placed in service on or after February 1, 1992, by a person, and

"(II) is sold and leased back by such person within 3 months after the date such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback referred to in subclause (II).

"(D) COORDINATION WITH SECTION 280F.—For purposes of section 280F—

"(i) AUTOMOBILES.—In the case of a passenger automobile (as defined in section 280F(d)(5)) which is qualified equipment, the Secretary shall increase the limitation under section 280F(a)(1)(A)(i), and decrease each other limitation under subparagraphs (A) and (B) of section 280F(a)(1), to appropriately reflect the amount of the deduction allowable under paragraph (1).

"(ii) LISTED PROPERTY.—The deduction allowable under paragraph (1) shall be taken into account in computing any recapture amount under section 280F(b)(2)."

(b) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Section 56(a)(1)(A) (relating to depreciation adjustment for alternative minimum tax) is amended by adding at the end the following new clause:

"(iii) ADDITIONAL ALLOWANCE FOR EQUIPMENT ACQUIRED IN 1992.—The deduction under section 168(j) shall be allowed."

(2) CONFORMING AMENDMENT.—Clause (i) of section 56(a)(1)(A) is amended by inserting "or (iii)" after "(ii)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service on or after February 1, 1992, in taxable years ending on or after such date.

PART II—MODIFICATIONS TO MINIMUM TAX

SEC. 2502. TEMPORARY REPEAL OF PREFERENCE FOR CONTRIBUTIONS OF APPRECIATED PROPERTY.

(a) TEMPORARY REPEAL.—

(1) IN GENERAL.—Paragraph (6) of section 57(a) is amended by adding at the end the following new subparagraph:

"(C) TERMINATION.—This paragraph shall not apply to any contribution during 1992 or 1993."

(2) CONFORMING AMENDMENT.—Subparagraph (B) of section 57(a)(6) is amended by striking the last sentence.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to contributions after December 31, 1991.

(b) ADVANCE DETERMINATION OF VALUE OF CHARITABLE GIFTS.—

(1) IN GENERAL.—The Secretary of the Treasury or his delegate shall develop and implement a procedure under which the Secretary's position as to the value of tangible personal property would be determined for Federal income tax purposes prior to the transfer of such property to a charitable organization.

(2) REPORT.—Not later than December 31, 1992, the Secretary of the Treasury shall re-

port to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives with respect to the development of the procedure under paragraph (1) and the timetable for its implementation.

(c) Study of Corporate Sponsorship Payments.—

(1) In general.—The Secretary of the Treasury or his delegate shall conduct a study of the tax treatment of corporate sponsorship payments received by tax-exempt organizations in connection with athletic and other events, including the ramifications of Announcement 92-15, 1992—5 I.R.B. 51.

(2) Report.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives the results of the study under paragraph (1).

SEC. 2503. MINIMUM TAX TREATMENT OF CERTAIN ENERGY PREFERENCES.

(a) Modification of Adjusted Current Earnings.—Clause (i) of section 56(g)(4)(D) is amended by striking "The" and inserting "In the case of an integrated oil company (as defined in section 291(b)(4)), the".

(b) Modifications of Energy Preference Adjustment.—

(1) In general.—Subparagraph (A) of section 56(h)(3) is amended to read as follows:

"(A) 50 percent of the intangible drilling cost preference, plus".

(2) Conforming amendments.—

(A) Paragraph (1) of section 56(h) is amended by inserting "(as defined in section 291(b)(4))" after "company".

(B) Paragraph (4) of section 56(h) is amended to read as follows:

"(4) Intangible drilling cost preference.—For purposes of this subsection, the term 'intangible drilling cost preference' means the amount by which alternative minimum taxable income would be reduced if it were computed without regard to section 57(a)(2)."

(C) Section 56(h) is amended by striking paragraph (6) and by redesignating paragraphs (7) and (8) as paragraphs (6) and (7).

(c) Net Income Limitation.—Subparagraph (A) of section 57(a)(2) is amended by adding at the end the following new sentence: "In the case of a taxpayer other than an integrated oil company (as defined in section 291(b)(4)), the preceding sentence shall be applied by substituting '70 percent' for '65 percent'".

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 2504. ELIMINATION OF ACE DEPRECIATION ADJUSTMENT.

(a) In General.—Clause (i) of section 56(g)(4)(A) (relating to depreciation adjustments for computing adjusted current earnings) is amended by adding at the end the following new sentence: "The preceding sentence shall not apply to property placed in service on or after February 1, 1992, and the depreciation deduction with respect to such property shall be determined under the rules of subsection (a)(1)(A)."

(b) Effective Dates.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to property placed in service on or after February 1, 1992, in taxable years ending after such date.

(2) Coordination with transitional rules.—The amendments made by this section shall not apply to any property to which paragraph (1) of section 56(a) of the Internal Revenue Code of 1986 does not apply by reason of subparagraph (C)(i) of such paragraph (1).

PART III—EXTENSION OF OTHER EXPIRING TAX PROVISIONS

SEC. 2505. EXTENSION OF RESEARCH CREDIT.

(a) In General.—Subsection (h) of section 41 (relating to credit for increasing research activities) is amended—

(1) by striking "June 30, 1992" each place it appears and inserting "December 31, 1993"; and

(2) by striking "July 1, 1992" each place it appears and inserting "January 1, 1994".

(b) Conforming Amendment.—Subparagraph (D) of section 28(b)(1) is amended by striking "June 30, 1992" and inserting "December 31, 1993".

(c) Effective Date.—The amendments made by this section shall apply to amounts paid or incurred after June 30, 1992.

SEC. 2506. EXTENSION OF SMALL ISSUE BONDS.

(a) In General.—Subparagraph (B) of section 144(a)(12) (relating to termination dates) is amended by striking "June 30, 1992" and inserting "December 31, 1993".

(b) Effective Date.—The amendment made by this section shall apply to bonds issued after June 30, 1992.

SEC. 2507. EXTENSION OF ENERGY INVESTMENT CREDIT FOR SOLAR AND GEOTHERMAL PROPERTY.

(a) In General.—Subparagraph (B) of section 48(a)(2) (relating to energy percentage) is amended by striking "June 30, 1992" and inserting "December 31, 1993".

(b) Effective Date.—The amendment made by this section shall apply to property placed in service after June 30, 1992.

SEC. 2508. EXCISE TAX ON CERTAIN VACCINES.

(a) Tax.—Paragraphs (2) and (3) of section 4131(c) (relating to tax on certain vaccines) are each amended by striking "1992" each place it appears and inserting "1994".

(b) Trust Fund.—Paragraph (1) of section 9510(c) (relating to expenditures from Vaccine Injury Compensation Trust Fund) is amended by striking "1992" and inserting "1994".

(c) Study.—The Secretary of the Treasury, in consultation with the Secretary of Health and Human Services, shall conduct a study of—

(1) the estimated amount that will be paid from the Vaccine Injury Compensation Trust Fund with respect to vaccines administered after September 30, 1988, and before October 1, 1994,

(2) the rates of vaccine-related injury or death with respect to the various types of such vaccines,

(3) new vaccines and immunization practices being developed or used for which amounts may be paid from such Trust Fund, and

(4) whether additional vaccines should be included in the vaccine injury compensation program.

The report of such study shall be submitted not later than January 1, 1994, to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

(d) Effective Date.—The amendments made by subsections (a) and (b) shall take effect on the date of the enactment of this Act.

SEC. 2509. CERTAIN TRANSFERS TO RAILROAD RETIREMENT ACCOUNT.

Subsection (c)(1)(A) of section 224 of the Railroad Retirement Solvency Act of 1983 (relating to section 72(r) revenue increase transferred to certain railroad accounts) is amended by striking "with respect to benefits received before October 1, 1992".

SEC. 2510. EXTENSION OF TAX CREDIT FOR ORPHAN DRUG CLINICAL TESTING EXPENSES.

(a) In General.—Subsection (e) of section 28 (relating to clinical testing expenses for certain drugs for rare diseases or conditions) is amended by striking "June 30, 1992" and inserting "December 31, 1993".

(b) Effective Date.—The amendment made by this section shall apply to taxable years ending after June 30, 1992.

PART IV—REPEAL OF CERTAIN LUXURY EXCISE TAXES; TAX ON DIESEL FUEL USED IN NONCOMMERCIAL MOTORBOATS

SEC. 2511. REPEAL OF LUXURY EXCISE TAXES OTHER THAN ON PASSENGER VEHICLES.

(a) In General.—Subchapter A of chapter 31 (relating to retail excise taxes) is amended to read as follows:

"Subchapter A—Luxury Passenger Automobiles

"Sec. 4001. Imposition of tax.

"Sec. 4002. 1st retail sale; uses, etc. treated as sales; determination of price.

"Sec. 4003. Special rules.

"SEC. 4001. IMPOSITION OF TAX.

"(a) Imposition of Tax.—There is hereby imposed on the 1st retail sale of any passenger vehicle a tax equal to 10 percent of the price for which so sold to the extent such price exceeds $30,000.

"(b) Passenger Vehicle.—

"(1) In general.—For purposes of this subchapter, the term 'passenger vehicle' means any 4-wheeled vehicle—

"(A) which is manufactured primarily for use on public streets, roads, and highways, and

"(B) which is rated at 6,000 pounds unloaded gross vehicle weight or less.

"(2) Special rules.—

"(A) Trucks and vans.—In the case of a truck or van, paragraph (1)(B) shall be applied by substituting 'gross vehicle weight' for 'unloaded gross vehicle weight'.

"(B) Limousines.—In the case of a limousine, paragraph (1) shall be applied without regard to subparagraph (B) thereof.

"(c) Exceptions for Taxicabs, Etc.—The tax imposed by this section shall not apply to the sale of any passenger vehicle for use by the purchaser exclusively in the active conduct of a trade or business of transporting persons or property for compensation or hire.

"(d) Exemption for Law Enforcement Uses, Etc.—No tax shall be imposed by this section on the sale of any passenger vehicle—

"(1) to the Federal Government, or a State or local government, for use exclusively in police, firefighting, search and rescue, or other law enforcement or public safety activities, or in public works activities, or

"(2) to any person for use exclusively in providing emergency medical services.

"(e) Inflation Adjustment.—

"(1) In general.—In the case of any calendar year after 1991, the $30,000 amount in subsection (a) and section 4003(a) shall be increased by an amount equal to—

"(A) $30,000, multiplied by

"(B) the cost-of-living adjustment under section 1(f)(3) for such calendar year, determined by substituting 'calendar year 1990' for 'calendar year 1991' in subparagraph (B) thereof.

"(2) Rounding.—If any amount as adjusted under paragraph (1) is not a multiple of $100, such amount shall be rounded to the nearest multiple of $100 (or, if such amount is a multiple of $50 and not of $100, such amount shall be rounded to the next highest multiple of $100).

"(f) Termination.—The tax imposed by this section shall not apply to any sale or use after December 31, 1999.

"SEC. 4002. 1ST RETAIL SALE; USES, ETC. TREATED AS SALES; DETERMINATION OF PRICE.

"(a) 1st Retail Sale.—For purposes of this subchapter, the term '1st retail sale' means the 1st sale, for a purpose other than resale, after manufacture, production, or importation.

"(b) Use Treated as Sale.—

"(1) In general.—If any person uses a passenger vehicle (including any use after importation) before the 1st retail sale of such vehicle,then such person shall be liable for tax under this subchapter in the same manner as if such vehicle were sold at retail by him.

"(2) Exemption for further manufacture.—Paragraph (1) shall not apply to use of a vehicle as material in the manufacture or production of, or as a component part of, another vehicle taxable under this subchapter to be manufactured or produced by him.

"(3) Exemption for demonstration use.—Paragraph (1) shall not apply to any use of a passenger vehicle as a demonstrator for a potential customer while the potential customer is in the vehicle.

"(4) Exception for use after importation of certain vehicles.—Paragraph (1) shall not apply to the use of a vehicle after importation if the user or importer establishes to the satisfaction of the Secretary that the 1st use of the vehicle occurred before January 1, 1991, outside the United States.

"(5) Computation of tax.—In the case of any person made liable for tax by paragraph (1), the tax shall be computed on the price at which similar vehicles are sold at retail in the ordinary course of trade, as determined by the Secretary.

"(c) Leases Considered as Sales.—For purposes of this subchapter—

"(1) In general.—Except as otherwise provided in this subsection, the lease of a vehicle (including any renewal or any extension of a lease or any subsequent lease of such vehicle) by any person shall be considered a sale of such vehicle at retail.

"(2) Special rules for long-term leases.—

"(A) Tax not imposed on sale for leasing in a qualified lease.—The sale of a passenger vehicle to a person engaged in a passenger vehicle leasing or rental trade or business for leasing by such person in a long-term lease shall not be treated as the 1st retail sale of such vehicle.

"(B) Long-term lease.—For purposes of subparagraph (A), the term 'long-term lease' means any long-term lease (as defined in section 4052).

"(C) Special rules.—In the case of a long-term lease of a vehicle which is treated as the 1st retail sale of such vehicle—

"(i) Determination of price.—The tax under this subchapter shall be computed on the lowest price for which the vehicle is sold by retailers in the ordinary course of trade.

"(ii) Payment of tax.—Rules similar to the rules of section 4217(e)(2) shall apply.

"(iii) No tax where exempt use by lessee.—No tax shall be imposed on any lease payment under a long-term lease if the lessee's use of the vehicle under such lease is an exempt use (as defined in section 4003(b)) of such vehicle.

"(d) Determination of Price.—

"(1) In general.—In determining price for purposes of this subchapter—

"(A) there shall be included any charge incident to placing the article in condition ready for use,

"(B) there shall be excluded—

"(i) the amount of the tax imposed by this subchapter,

"(ii) if stated as a separate charge, the amount of any retail sales tax imposed by any State or political subdivision thereof or the District of Columbia, whether the liability for such tax is imposed on the vendor or vendee, and

"(iii) the value of any component of such article if—

"(I) such component is furnished by the 1st user of such article, and

"(II) such component has been used before such furnishing, and

"(C) the price shall be determined without regard to any trade-in.

"(2) Other rules.—Rules similar to the rules of paragraphs (2) and (4) of section 4052(b) shall apply for purposes of this subchapter.

"SEC. 4003. SPECIAL RULES.

"(a) Separate Purchase of Vehicle and Parts and Accessories Therefor.—Under regulations prescribed by the Secretary—

"(1) In general.—Except as provided in paragraph (2), if—

"(A) the owner, lessee, or operator of any passenger vehicle installs (or causes to be installed) any part or accessory on such vehicle, and

"(B) such installation is not later than the date 6 months after the date the vehicle was 1st placed in service,

then there is hereby imposed on such installation a tax equal to 10 percent of the price of such part or accessory and its installation.

"(2) Limitation.—The tax imposed by paragraph (1) on the installation of any part or accessory shall not exceed 10 percent of the excess (if any) of—

"(A) the sum of—

"(i) the price of such part or accessory and its installation,

"(ii) the aggregate price of the parts and accessories (and their installation) installed before such part or accessory, plus

"(iii) the price for which the passenger vehicle was sold, over

"(B) $30,000.

"(3) Exceptions.—Paragraph (1) shall not apply if—

"(A) the part or accessory installed is a replacement part or accessory,

"(B) the part or accessory is installed to enable or assist an individual with a disability to operate the vehicle, or to enter or exit the vehicle, by compensating for the effect of such disability, or

"(C) the aggregate price of the parts and accessories (and their installation) described in paragraph (1) with respect to the vehicle does not exceed $200 (or such other amount or amounts as the Secretary may by regulation prescribe).

"(4) Installers secondarily liable for tax.—The owners of the trade or business installing the parts or accessories shall be secondarily liable for the tax imposed by this subsection.

"(b) Imposition of Tax on Sales, Etc., Within 2 Years of Vehicles Purchased Tax-Free.—

"(1) In general.—If—

"(A) no tax was imposed under this subchapter on the 1st retail sale of any passenger vehicle by reason of its exempt use, and

"(B) within 2 years after the date of such 1st retail sale, such vehicle is resold by the purchaser or such purchaser makes a substantial nonexempt use of such vehicle,

then such sale or use of such vehicle by such purchaser shall be treated as the 1st retail sale of such vehicle for a price equal to its fair market value at the time of such sale or use.

"(2) Exempt use.—For purposes of this subsection, the term 'exempt use' means any use of a vehicle if the 1st retail sale of such vehicle is not taxable under this subchapter by reason of such use.

"(c) Parts and Accessories Sold With Taxable Article.—Parts and accessories sold on, in connection with, or with the sale of any passenger vehicle shall be treated as part of the vehicle.

"(d) Partial Payments, Etc.—In the case of a contract, sale, or arrangement described in paragraph (2), (3), or (4) of section 4216(c), rules similar to the rules of section 4217(e)(2) shall apply for purposes of this subchapter."

(b) Technical Amendments.—

(1) Subsection (c) of section 4221 is amended by striking "4002(b), 4003(c), 4004(a)" and inserting "4001(d)".

(5) Subsection (d) of section 4222 is amended by striking "4002(b), 4003(c), 4004(a)" and inserting "4001(d)".

(3) The table of subchapters for chapter 31 is amended by striking the item relating to subchapter A and inserting the following:

"Subchapter A. Luxury passenger vehicles."

(c) Effective Date.—The amendments made by this section shall take effect on February 1, 1992.

SEC. 2512. TAX ON DIESEL FUEL USED IN NONCOMMERCIAL MOTORBOATS.

(a) General Rule.—

(1) Paragraph (2) of section 4092(a) (defining diesel fuel) is amended by striking "or a diesel-powered train" and inserting ", a diesel-powered train, or a diesel-powered motorboat".

(2) Paragraph (1) of section 4041(a) is amended—

(A) by striking "diesel-powered highway vehicle" each place it appears and inserting "diesel-powered highway vehicle or diesel-powered motorboat", and

(B) by striking "such vehicle" and inserting "such vehicle or motorboat".

(3) Subparagraph (B) of section 4092(b)(1) is amended by striking "commercial and noncommercial vessels" each place it appears and inserting "vessels for use in an off-highway business use (as defined in section 6421(e)(2)(B))".

(b) Exemption for Use in Fisheries or Commercial Navigation.—Subparagraph (B) of section 6421(e)(2) is amended to read as follows:

"(B) Uses in motorboats.—The term 'off-highway business use' does not include any use in a motorboat; except that such term shall include any use in—

"(i) a vessel employed in the fisheries or in the whaling business, and

"(ii) a motorboat in the active conduct of—

"(I) a trade or business of commercial fishing or transporting persons or property for compensation or hire, or

"(II) any other trade or business unless the motorboat is used predominantly in any activity which is of a type generally considered to constitute entertainment, amusement or recreation."

(c) Retention of Taxes in General Fund.—

(1) Taxes imposed at highway trust fund financing rate.—Paragraph (4) of section

9503(b) (relating to transfers to Highway Trust Fund) is amended—

(A) by striking "and" at the end of subparagraph (A),

(B) by striking the period at the end of subparagraph (B) and inserting ", and", and

(C) by adding at the end thereof the following new subparagraph:

"(C) there shall not be taken into account the taxes imposed by sections 4041 and 4091 on diesel fuel sold for use or used as fuel in a diesel-powered motorboat."

(2) TAXES IMPOSED AT LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.—Subsection (b) of section 9508 (relating to transfers to Leaking Underground Storage Tank Trust Fund) is amended by adding at the end thereof the following new sentence: "For purposes of this subsection, there shall not be taken into account the taxes imposed by sections 4041 and 4091 on diesel fuel sold for use or used as fuel in a diesel-powered motorboat."

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 1992.

PART V—OTHER PROVISIONS

SEC. 2513. TREATMENT OF EMPLOYER-PROVIDED TRANSPORTATION BENEFITS.

(a) EXCLUSION.—Subsection (a) of section 132 (relating to exclusion of certain fringe benefits) is amended by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting ", or", and by adding at the end thereof the following new paragraph:

"(5) qualified transportation fringe."

(b) QUALIFIED TRANSPORTATION FRINGE.—Section 132 is amended by redesignating subsections (f), (g), (h), (i), (j), and (k) as subsections (g), (h), (i), (j), (k), and (l), respectively, and by inserting after subsection (e) the following new subsection:

"(f) QUALIFIED TRANSPORTATION FRINGE.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified transportation fringe' means any of the following provided by an employer to an employee:

"(A) Transportation in a commuter highway vehicle if such transportation is in connection with travel between the employee's residence and place of employment.

"(B) Any transit pass.

"(C) Qualified parking.

"(2) LIMITATION ON EXCLUSION.—The amount of the fringe benefits which are provided by an employer to any employee and which may be excluded from gross income under subsection (a)(5) shall not exceed—

"(A) $60 per month in the case of the aggregate of the benefits described in subparagraphs (A) and (B) of paragraph (1), and

"(B) $160 per month in the case of qualified parking.

"(3) BENEFIT NOT IN LIEU OF COMPENSATION.—Subsection (a)(5) shall not apply to any qualified transportation fringe unless such benefit is provided in addition to (and not in lieu of) any compensation otherwise payable to the employee.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) TRANSIT PASS.—The term 'transit pass' means any pass, token, farecard, voucher, or similar item entitling a person to transportation (or transportation at a reduced price) if such transportation is—

"(i) on mass transit facilities (whether or not publicly owned), or

"(ii) provided by any person in the business of transporting persons for compensation or hire if such transportation is provided in a vehicle meeting the requirements of subparagraph (B)(i).

"(B) COMMUTER HIGHWAY VEHICLE.—The term 'commuter highway vehicle' means any highway vehicle—

"(i) the seating capacity of which is at least 6 adults (not including the driver), and

"(ii) at least 80 percent of the mileage use of which can reasonably be expected to be—

"(I) for purposes of transporting employees in connection with travel between their residences and their place of employment, and

"(II) on trips during which the number of employees transported for such purposes is at least ½ of the adult seating capacity of such vehicle (not including the driver).

"(C) QUALIFIED PARKING.—The term 'qualified parking' means parking provided to an employee on or near the business premises of the employer or on or near a location from which the employee commutes to work by transportation described in subparagraph (A), in a commuter highway vehicle, or by carpool.

"(D) TRANSPORTATION PROVIDED BY EMPLOYER.—Transportation referred to in paragraph (1)(A) shall be considered to be provided by an employer if such transportation is furnished in a commuter highway vehicle operated by or for the employer.

"(E) EMPLOYEE.—For purposes of this subsection, the term 'employee' does not include an individual who is an employee within the meaning of section 401(c)(1).

"(5) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 1992, the dollar amounts contained in paragraph (2)(A) and (B) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins by substituting 'calendar year 1991' for 'calendar year 1989' in subparagraph (B) thereof.

If any increase determined under the preceding sentence is not a multiple of $1, such increase shall be rounded to the next lowest multiple of $1.

"(6) COORDINATION WITH OTHER PROVISIONS.—For purposes of this section, the terms 'working condition fringe' and 'de minimis fringe' shall not include any qualified transportation fringe (determined without regard to paragraph (2))."

(c) CONFORMING AMENDMENT.—Subsection (i) of section 132 (as redesignated by subsection (b)) is amended by striking paragraph (4) and redesignating the following paragraphs accordingly.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to benefits provided after December 31, 1991.

(2) PARKING LIMIT.—The limitation of subparagraph (B) of section 132(f)(2) of the Internal Revenue Code of 1986 (as amended by this section) shall only apply to benefits provided for months beginning after the date of the enactment of this Act.

TITLE III—DEFENSE, DOMESTIC, AND INTERNATIONAL DISCRETIONARY SPENDING REDUCTIONS

SEC. 3001. REDUCTIONS IN DEFENSE, DOMESTIC, AND INTERNATIONAL DISCRETIONARY SPENDING.

(a) LIMITATION ON AMOUNTS OF PROPOSED OUTLAYS AND BUDGET AUTHORITY FOR DEFENSE DISCRETIONARY.—

(1) PRESIDENT'S BUDGET.—A budget submitted by the President under section 1105(a) of title 31, United States Code, for fiscal year 1993, 1994, 1995, or 1996 shall not propose outlays or budget authority for the defense discretionary category such that the aggregate amount of outlays or budget authority for that category for that year would exceed—

(A)(i) $292,000,000,000 in outlays for fiscal year 1993;

(ii) $284,000,000,000 in outlays for fiscal year 1994;

(iii) $283,800,000,000 in outlays for fiscal year 1995; or

(iv) $286,900,000,000 in outlays for fiscal year 1996; and

(B)(i) $281,600,000,000 in budget authority for fiscal year 1993;

(ii) $282,300,000,000 in budget authority for fiscal year 1994;

(iii) $285,000,000,000 in budget authority for fiscal year 1995; or

(iv) $286,300,000,000 in budget authority for fiscal year 1996.

(2) POINT OF ORDER.—Section 301 of the Congressional Budget Act of 1974 (12 U.S.C. 632) is amended by adding at the end thereof the following new subsection:

"(j) DEFENSE SPENDING LIMITS.—It shall not be in order in either the Senate or the House of Representatives to consider a concurrent resolution on the budget for fiscal year 1993, 1994, 1995, or 1996 that includes outlays or budget authority for the defense discretionary category such that the aggregate amount of outlays or budget authority for that category for that year would exceed—

"(1)(A) $292,000,000,000 in outlays for fiscal year 1993;

"(B) $284,000,000,000 in outlays for fiscal year 1994;

"(C) $283,800,000,000 in outlays for fiscal year 1995; or

"(D) $286,900,000,000 in outlays for fiscal year 1996; and

"(2)(A) $281,600,000,000 in budget authority for fiscal year 1993;

"(B) $282,300,000,000 in budget authority for fiscal year 1994;

"(C) $285,000,000,000 in budget authority for fiscal year 1995; or

"(D) $286,300,000,000 in budget authority for fiscal year 1996.".

(3) REDUCTION OF MAXIMUM DEFICIT AMOUNTS.—Notwithstanding any other law, the maximum deficit amounts under section 601(a)(1) of the Congressional Budget Act of 1974 (2 U.S.C. 665(a)(1)) shall be adjusted to include the reductions made by paragraph (2) for the purposes of the President's budget submitted pursuant to section 1105(a) of title 31, United States Code, and for the purposes of any concurrent resolution on the budget.

(b) LIMITATION ON AMOUNTS OF PROPOSED OUTLAYS AND BUDGET AUTHORITY FOR DOMESTIC AND INTERNATIONAL DISCRETIONARY ACCOUNTS.—

(1) PRESIDENT'S BUDGET.—A budget submitted by the President under section 1105(a) of title 31, United States Code, for fiscal year 1993, 1994, 1995, or 1996 shall not propose outlays or budget authority for—

(A) the domestic discretionary category as defined in section 250(c)(4) of the Balanced Budget and Emergency Deficit Control Act of 1985 such that the aggregate amount of outlays or budget authority for that category for that year would exceed—

(i) $216,200,000,000 in outlays; or

(ii) $189,000,000,000 in budget authority; and

(B) the international discretionary category as defined in section 250(c)(4) of the Balanced Budget and Emergency Deficit Control Act of 1985 such that the aggregate amount of outlays or budget authority for that category for that year would exceed—

(i) $20,100,000,000 in outlays; or

(ii) $21,300,000,000 in budget authority.

(2) POINT OF ORDER.—Section 301 of the Congressional Budget Act of 1974 (12 U.S.C.

632) is amended by adding at the end thereof the following new subsection:

"(j) DOMESTIC DISCRETIONARY SPENDING LIMITS.—It shall not be in order in either the Senate or the House of Representatives to consider a concurrent resolution on the budget for fiscal year 1993, 1994, 1995, or 1996 that includes outlays or budget authority for—

"(1) the domestic discretionary category as defined in section 250(c)(4) of the Balanced Budget and Emergency Deficit Control Act of 1985 such that the aggregate amount of outlays or budget authority for that category for that year would exceed—

"(A) $216,200,000,000 in outlays; or

"(B) $189,000,000,000 in budget authority; and

"(2) the international discretionary category as defined in section 250(c)(4) of the Balanced Budget and Emergency Deficit Control Act of 1985 such that the aggregate amount of outlays or budget authority for that category for that year would exceed—

"(A) $20,100,000,000 in outlays; or

"(B) $21,300,000,000 in budget authority.".

(3) REDUCTION OF MAXIMUM DEFICIT AMOUNTS.—Notwithstanding any other law, the maximum deficit amounts under section 601(a)(1) of the Congressional Budget Act of 1974 (2 U.S.C. 665(a)(1)) shall be adjusted to include the reductions made by paragraph (2) for the purposes of the President's budget submitted pursuant to section 1105(a) of title 31, United States Code, and for the purposes of any concurrent resolution on the budget.

(c) NO SEQUESTRATION.—Notwithstanding any other law, there shall be no sequestration under part C of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900 et seq.) as a result of any reduction in tax revenues caused by application of the provisions of and amendments made by this Act.

TITLE IV—SIMPLIFICATION PROVISIONS

Subtitle A—Provisions Relating to Individuals

SEC. 4101. SIMPLIFICATION OF RULES ON ROLLOVER OF GAIN ON SALE OF PRINCIPAL RESIDENCE IN CASE OF DIVORCE.

(a) TREATMENT IN CASE OF DIVORCES.—Subsection (c) of section 1034 is amended by adding at the end thereof the following new paragraph:

"(5) If—

"(A) a residence is sold by an individual pursuant to a divorce or marital separation, and

"(B) the taxpayer used such residence as his principal residence at any time during the 2-year period ending on the date of such sale,

for purposes of this section, such residence shall be treated as the taxpayer's principal residence at the time of such sale."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to sales of old residences (within the meaning of section 1034 of the Internal Revenue Code of 1986) after the date of the enactment of this Act.

SEC. 4102. PAYMENT OF TAX BY CREDIT CARD.

(a) GENERAL RULE.—Section 6311 is amended to read as follows:

"SEC. 6311. PAYMENT BY CHECK, MONEY ORDER, OR OTHER MEANS.

"(a) AUTHORITY TO RECEIVE.—It shall be lawful for the Secretary to receive for internal revenue taxes (or in payment for internal revenue stamps) checks, money orders, or any other commercially acceptable means that the Secretary deems appropriate, including payment by use of credit cards, to the extent and under the conditions provided in regulations prescribed by the Secretary.

"(b) ULTIMATE LIABILITY.—If a check, money order, or other method of payment so received is not duly paid, the person by whom such check, or money order, or other method of payment has been tendered shall remain liable for the payment of the tax or for the stamps, and for all legal penalties and additions, to the same extent as if such check, money order, or other method of payment had not been tendered.

"(c) LIABILITY OF BANKS AND OTHERS.—If any certified, treasurer's, or cashier's check (or other guaranteed draft), or any money order, or any other means of payment that has been guaranteed by a financial institution (such as a guaranteed credit card transaction) so received is not duly paid, the United States shall, in addition to its right to exact payment from the party originally indebted therefor, have a lien for—

"(1) the amount of such check (or draft) upon all assets of the financial institution on which drawn,

"(2) the amount of such money order upon all the assets of the issuer thereof, or

"(3) the guaranteed amount of any other transaction upon all the assets of the institution making such guarantee,

and such amount shall be paid out of such assets in preference to any other claims whatsoever against such financial institution, issuer, or guaranteeing institution, except the necessary costs and expenses of administration and the reimbursement of the United States for the amount expended in the redemption of the circulating notes of such financial institution.

"(d) PAYMENT BY OTHER MEANS.—

"(1) AUTHORITY TO PRESCRIBE REGULATIONS.—The Secretary shall prescribe such regulations as the Secretary deems necessary to receive payment by commercially acceptable means, including regulations that—

"(A) specify which methods of payment by commercially acceptable means will be acceptable,

"(B) specify when payment by such means will be considered received,

"(C) identify types of nontax matters related to payment by such means that are to be resolved by persons ultimately liable for payment and financial intermediaries, without the involvement of the Secretary, and

"(D) ensure that tax matters will be resolved by the Secretary, without the involvement of financial intermediaries.

"(2) AUTHORITY TO ENTER INTO CONTRACTS.—Notwithstanding section 3718(f) of title 31, United States Code, the Secretary is authorized to enter into contracts to obtain services related to receiving payment by other means where cost beneficial to the government and is further authorized to pay any fees required by such contracts.

"(3) SPECIAL PROVISIONS FOR USE OF CREDIT CARDS.—If use of credit cards is accepted as a method of payment of taxes pursuant to subsection (a)—

"(A) except as provided by regulations, subject to the provisions of section 6402, any refund due a person who makes a payment by use of a credit card shall be made directly to such person, notwithstanding any other provision of law or any contract made pursuant to paragraph (2),

"(B) any credit card transaction shall not be considered a 'sales transaction' under the Federal Truth-in-Lending Act (15 U.S.C. 1601 et seq.),

"(C) all nontax matters as defined by regulations prescribed under paragraph (1)(C), including billing errors as defined in section 161(b) of such Act, shall be resolved by the person tendering the credit card and the credit card issuer, without the involvement of the Secretary, and

"(D) the provisions of sections 161(e) and 170 of such Act shall not apply."

(b) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 64 is amended by striking the item relating to section 6311 and inserting the following:

"Sec. 6311. Payment by check, money order, or other means."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 4103. MODIFICATIONS TO ELECTION TO INCLUDE CHILD'S INCOME ON PARENT'S RETURN.

(a) ELIGIBILITY FOR ELECTION.—Clause (ii) of section 1(g)(7)(A) (relating to election to include certain unearned income of child on parent's return) is amended to read as follows:

"(i) such gross income is more than the amount described in paragraph (4)(A)(ii)(I) and less than 10 times the amount so described,".

(b) COMPUTATION OF TAX.—Subparagraph (B) of section 1(g)(7) (relating to income included on parent's return) is amended—

(1) by striking "$1,000" in clause (i) and inserting "twice the amount described in paragraph (4)(A)(ii)(I)", and

(2) by amending subclause (II) of clause (ii) to read as follows:

"(II) for each such child, 15 percent of the lesser of the amount described in paragraph (4)(A)(ii)(I) or the excess of the gross income of such child over the amount so described, and".

(c) MINIMUM TAX.—Subparagraph (B) of section 59(j)(1) is amended by striking "$1,000" and inserting "twice the amount in effect for the taxable year under section 63(c)(5)(A)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 4104. SIMPLIFIED FOREIGN TAX CREDIT LIMITATION FOR INDIVIDUALS.

(a) GENERAL RULE.—Section 904 (relating to limitations on foreign tax credit) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) SIMPLIFIED LIMITATION FOR CERTAIN INDIVIDUALS.—

"(1) IN GENERAL.—In the case of an individual to whom this subsection applies for any taxable year, the limitation of subsection (a) shall be the lesser of—

"(A) 25 percent of such individual's gross income for the taxable year from sources without the United States, or

"(B) the amount of the creditable foreign taxes paid or accrued by the individual during the taxable year (determined without regard to subsection (c)).

No taxes paid or accrued by the individual during such taxable year may be deemed paid or accrued in any other taxable year under subsection (c).

"(2) INDIVIDUALS TO WHOM SUBSECTION APPLIES.—This subsection shall apply to an individual for any taxable year if—

"(A) the entire amount of such individual's gross income for the taxable year from sources without the United States consists of qualified passive income,

"(B) the amount of the creditable foreign taxes paid or accrued by the individual during the taxable year does not exceed $200, and

"(C) such individual elects to have this subsection apply for the taxable year.

"(3) Definitions.—For purposes of this subsection—

"(A) Qualified passive income.—The term 'qualified passive income' means any item of gross income if—

"(i) such item of income is passive income (as defined in subsection (d)(2)(A) without regard to clause (iii) thereof), and

"(ii) such item of income is shown on a payee statement furnished to the individual.

"(B) Creditable foreign taxes.—The term 'creditable foreign taxes' means any taxes for which a credit is allowable under section 901; except that such term shall not include any tax unless such tax is shown on a payee statement furnished to such individual.

"(C) Payee statement.—The term 'payee statement' has the meaning given to such term by section 6724(d)(2).

"(D) Estates and trusts not eligible.—This subsection shall not apply to any estate or trust."

(b) Effective Date.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1991.

SEC. 4105. TREATMENT OF PERSONAL TRANSACTIONS BY INDIVIDUALS UNDER FOREIGN CURRENCY RULES.

(a) General Rule.—Subsection (e) of section 988 (relating to application to individuals) is amended to read as follows:

"(e) Application to Individuals.—

"(1) In general.—The preceding provisions of this section shall not apply to any section 988 transaction entered into by an individual which is a personal transaction.

"(2) Exclusion for certain personal transactions.—If—

"(A) nonfunctional currency is disposed of by an individual in any transaction, and

"(B) such transaction is a personal transaction,

no gain shall be recognized for purposes of this subtitle by reason of changes in exchange rates after such currency was acquired by such individual and before such disposition. The preceding sentence shall not apply if the gain which would otherwise be recognized exceeds $200.

"(3) Personal transactions.—For purposes of this subsection, the term 'personal transaction' means any transaction entered into by an individual, except that such term shall not include any transaction to the extent that expenses properly allocable to such transaction meet the requirements of section 162 or 212 (other than that part of section 212 dealing with expenses incurred in connection with taxes)."

(b) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 4106. EXCLUSION OF COMBAT PAY FROM WITHHOLDING LIMITED TO AMOUNT EXCLUDABLE FROM GROSS INCOME.

(a) In General.—Paragraph (1) of section 3401(a) (defining wages) is amended by inserting before the semicolon the following: "to the extent remuneration for such service is excludable from gross income under such section".

(b) Effective Date.—The amendment made by subsection (a) shall apply to remuneration paid after December 31, 1992.

SEC. 4107. EXPANDED ACCESS TO SIMPLIFIED INCOME TAX RETURNS.

(a) General Rule.—The Secretary of the Treasury or his delegate shall take such actions as may be appropriate to expand access to simplified individual income tax returns and otherwise simplify the individual income tax returns.

(b) Report.—Not later than the date 1 year after the date of the enactment of this Act, the Secretary of the Treasury or his delegate shall submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, a report on his actions under subsection (a), together with such recommendations as he may deem advisable.

SEC. 4108. TREATMENT OF CERTAIN REIMBURSED EXPENSES OF RURAL MAIL CARRIERS.

(a) In General.—Section 162 (relating to trade or business expenses), as amended by section 3006, is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) Treatment of Certain Reimbursed Expenses of Rural Mail Carriers.—

"(1) General rule.—In the case of any employee of the United States Postal Service who performs services involving the collection and delivery of mail on a rural route and who receives qualified reimbursements for the expenses incurred by such employee for the use of a vehicle in performing such services—

"(A) the amount allowable as a deduction under this chapter for the use of a vehicle in performing such services shall be equal to the amount of such qualified reimbursements; and

"(B) such qualified reimbursements shall be treated as paid under a reimbursement or other expense allowance arrangement for purposes of section 62(a)(2)(A) (and section 62(c) shall not apply to such qualified reimbursements).

"(2) Definition of qualified reimbursements.—For purposes of this subsection, the term 'qualified reimbursements' means the amounts paid by the United States Postal Service to employees as an equipment maintenance allowance under the 1991 collective bargaining agreement between the United States Postal Service and the National Rural Letter Carriers' Association. Amounts paid as an equipment maintenance allowance by such Postal Service under later collective bargaining agreements that supersede the 1991 agreement shall be considered qualified reimbursements if such amounts do not exceed the amounts that would have been paid under the 1991 agreement, adjusted for changes in the Consumer Price Index (as defined in section 1(f)(5)) since 1991."

(b) Technical Amendment.—Section 6008 of the Technical and Miscellaneous Revenue Act of 1988 is hereby repealed.

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 4109. EXEMPTION FROM LUXURY EXCISE TAX FOR CERTAIN EQUIPMENT INSTALLED ON PASSENGER VEHICLES FOR USE BY DISABLED INDIVIDUALS.

(a) In General.—Paragraph (3) of section 4004(b) of the Internal Revenue Code of 1986 (relating to separate purchase of article and parts and accessories therefor) is amended—

(1) by striking "or" at the end of subparagraph (A),

(2) by redesignating subparagraph (B) as subparagraph (C), and

(3) by inserting after subparagraph (A) the following new subparagraph:

"(B) the part or accessory is installed on a passenger vehicle to enable or assist an individual with a disability to operate the vehicle, or to enter or exit the vehicle, by compensating for the effect of such disability, or".

(b) Effective Date.—The amendments made by this section shall take effect as if included in the amendments made by section 11221(a) of the Omnibus Budget Reconciliation Act of 1990.

Subtitle B—Pension Simplification

PART I—SIMPLIFIED DISTRIBUTION RULES

SEC. 4201. TAXABILITY OF BENEFICIARY OF QUALIFIED PLAN.

(a) In General.—So much of section 402 (relating to taxability of beneficiary of employees' trust) as precedes subsection (g) thereof is amended to read as follows:

"SEC. 402. TAXABILITY OF BENEFICIARY OF EMPLOYEES' TRUST.

"(a) Taxability of Beneficiary of Exempt Trust.—Except as otherwise provided in this section, any amount actually distributed to any distributee by any employees' trust described in section 401(a) which is exempt from tax under section 501(a) shall be taxable to the distributee, in the taxable year of the distributee in which distributed, under section 72 (relating to annuities).

"(b) Taxability of Beneficiary of Nonexempt Trust.—

"(1) Contributions.—Contributions to an employees' trust made by an employer during a taxable year of the employer which ends with or within a taxable year of the trust for which the trust is not exempt from tax under section 501(a) shall be included in the gross income of the employee in accordance with section 83 (relating to property transferred in connection with performance of services), except that the value of the employee's interest in the trust shall be substituted for the fair market value of the property for purposes of applying such section.

"(2) Distributions.—The amount actually distributed or made available to any distributee by any trust described in paragraph (1) shall be taxable to the distributee, in the taxable year in which so distributed or made available, under section 72 (relating to annuities), except that distributions of income of such trust before the annuity starting date (as defined in section 72(c)(4)) shall be included in the gross income of the employee without regard to section 72(e)(5) (relating to amounts not received as annuities).

"(3) Grantor trusts.—A beneficiary of any trust described in paragraph (1) shall not be considered the owner of any portion of such trust under subpart E of part I of subchapter J (relating to grantors and others treated as substantial owners).

"(4) Failure to meet requirements of section 410(b).—

"(A) Highly compensated employees.—If 1 of the reasons a trust is not exempt from tax under section 501(a) is the failure of the plan of which it is a part to meet the requirements of section 401(a)(26) or 410(b), then a highly compensated employee shall, in lieu of the amount determined under this subsection, include in gross income for the taxable year with or within which the taxable year of the trust ends an amount equal to the vested accrued benefit of such employee (other than the employee's investment in the contract) as of the close of such taxable year of the trust.

"(B) Failure to meet coverage tests.—If a trust is not exempt from tax under section 501(a) for any taxable year solely because such trust is part of a plan which fails to meet the requirements of section 401(a)(26) or 410(b), this subsection shall not apply by reason of such failure to any employee who was not a highly compensated employee during—

"(i) such taxable year, or

"(ii) any preceding period for which service was creditable to such employee under the plan.

"(C) HIGHLY COMPENSATED EMPLOYEE.—For purposes of this paragraph, the term 'highly compensated employee' has the meaning given such term by section 414(q).

"(c) RULES APPLICABLE TO ROLLOVERS FROM EXEMPT TRUSTS.—

"(1) EXCLUSION FROM INCOME.—If—

"(A) any portion of the balance to the credit of an employee in a qualified trust is paid to the employee in an eligible rollover distribution,

"(B) the distributee transfers any portion of the property received in such distribution to an eligible retirement plan, and

"(C) in the case of a distribution of property other than money, the amount so transferred consists of the property distributed,

then such distribution (to the extent so transferred) shall not be includible in gross income for the taxable year in which paid.

"(2) MAXIMUM AMOUNT WHICH MAY BE ROLLED OVER.—In the case of any eligible rollover distribution, the maximum amount transferred to which paragraph (1) applies shall not exceed the portion of such distribution which is includible in gross income (determined without regard to paragraph (1)).

"(3) TRANSFER MUST BE MADE WITHIN 60 DAYS OF RECEIPT.—Paragraph (1) shall not apply to any transfer of a distribution made after the 60th day following the day on which the distributee received the property distributed.

"(4) ELIGIBLE ROLLOVER DISTRIBUTION.—For purposes of this subsection, the term 'eligible rollover distribution' means any distribution to an employee of all or any portion of the balance to the credit of the employee in a qualified trust; except that such term shall not include—

"(A) any distribution which is part of a series of substantially equal periodic payments (not less frequently than annually) made—

"(i) for the life (or life expectancy) of the employee or the joint lives (or joint life expectancies) of the employee and the employee's designated beneficiary, or

"(ii) for a specified period of 10 years or more, and

"(B) any distribution to the extent such distribution is required under section 401(a)(9).

"(5) TRANSFER TREATED AS ROLLOVER CONTRIBUTION UNDER SECTION 408.—For purposes of this title, a transfer resulting in any portion of a distribution being excluded from gross income under paragraph (1) to an eligible retirement plan described in clause (i) or (ii) of paragraph (8)(B) shall be treated as a rollover contribution described in section 408(d)(3).

"(6) SALES OF DISTRIBUTED PROPERTY.—For purposes of this subsection—

"(A) TRANSFER OF PROCEEDS FROM SALE OF DISTRIBUTED PROPERTY TREATED AS TRANSFER OF DISTRIBUTED PROPERTY.—The transfer of an amount equal to any portion of the proceeds from the sale of property received in the distribution shall be treated as the transfer of property received in the distribution.

"(B) PROCEEDS ATTRIBUTABLE TO INCREASE IN VALUE.—The excess of fair market value of property on sale over its fair market value on distribution shall be treated as property received in the distribution.

"(C) DESIGNATION WHERE AMOUNT OF DISTRIBUTION EXCEEDS ROLLOVER CONTRIBUTION.—In any case where part or all of the distribution consists of property other than money, the taxpayer may designate—

"(i) the portion of the money or other property which is to be treated as attributable to amounts not included in gross income, and

"(ii) the portion of the money or other property which is to be treated as included in the rollover contribution.

Any designation under this subparagraph for a taxable year shall be made not later than the time prescribed by law for filing the return for such taxable year (including extensions thereof). Any such designation, once made, shall be irrevocable.

"(D) TREATMENT WHERE NO DESIGNATION.—In any case where part or all of the distribution consists of property other than money and the taxpayer fails to make a designation under subparagraph (C) within the time provided therein, then—

"(i) the portion of the money or other property which is to be treated as attributable to amounts not included in gross income, and

"(ii) the portion of the money or other property which is to be treated as included in the rollover contribution, shall be determined on a ratable basis.

"(E) NONRECOGNITION OF GAIN OR LOSS.—In the case of any sale described in subparagraph (A), to the extent that an amount equal to the proceeds is transferred pursuant to paragraph (1), neither gain nor loss on such sale shall be recognized.

"(7) SPECIAL RULE FOR FROZEN DEPOSITS.—

"(A) IN GENERAL.—The 60-day period described in paragraph (3) shall not—

"(i) include any period during which the amount transferred to the employee is a frozen deposit, or

"(ii) end earlier than 10 days after such amount ceases to be a frozen deposit.

"(B) FROZEN DEPOSITS.—For purposes of this subparagraph, the term 'frozen deposit' means any deposit which may not be withdrawn because of—

"(i) the bankruptcy or insolvency of any financial institution, or

"(ii) any requirement imposed by the State in which such institution is located by reason of the bankruptcy or insolvency (or threat thereof) of 1 or more financial institutions in such State.

A deposit shall not be treated as a frozen deposit unless on at least 1 day during the 60-day period described in paragraph (3) (without regard to this paragraph) such deposit is described in the preceding sentence.

"(8) DEFINITIONS.—For purposes of this subsection—

"(A) QUALIFIED TRUST.—The term 'qualified trust' means an employees' trust described in section 401(a) which is exempt from tax under section 501(a).

"(B) ELIGIBLE RETIREMENT PLAN.—The term 'eligible retirement plan' means—

"(i) an individual retirement account described in section 408(a),

"(ii) an individual retirement annuity described in section 408(b) (other than an endowment contract),

"(iii) a qualified trust, and

"(iv) an annuity plan described in section 403(a).

"(9) ROLLOVER WHERE SPOUSE RECEIVES DISTRIBUTION AFTER DEATH OF EMPLOYEE.—If any distribution attributable to an employee is paid to the spouse of the employee after the employee's death, the preceding provisions of this subsection shall apply to such distribution in the same manner as if the spouse were the employee; except that a trust or plan described in clause (iii) or (iv) of paragraph (8)(B) shall not be treated as an eligible retirement plan with respect to such distribution.

"(d) TAXABILITY OF BENEFICIARY OF CERTAIN FOREIGN SITUS TRUSTS.—For purposes of subsections (a), (b), and (c), a stock bonus, pension, or profit-sharing trust which would qualify for exemption from tax under section 501(a) except for the fact that it is a trust created or organized outside the United States shall be treated as if it were a trust exempt from tax under section 501(a).

"(e) OTHER RULES APPLICABLE TO EXEMPT TRUSTS.—

"(1) ALTERNATE PAYEES.—

"(A) ALTERNATE PAYEE TREATED AS DISTRIBUTEE.—For purposes of subsection (a) and section 72, an alternate payee who is the spouse or former spouse of the participant shall be treated as the distributee of any distribution or payment made to the alternate payee under a qualified domestic relations order (as defined in section 414(p)).

"(B) ROLLOVERS.—If any amount is paid or distributed to an alternate payee who is the spouse or former spouse of the participant by reason of any qualified domestic relations order (within the meaning of section 414(p)), subsection (c) shall apply to such distribution in the same manner as if such alternate payee were the employee.

"(2) DISTRIBUTIONS BY UNITED STATES TO NONRESIDENT ALIENS.—The amount includible under subsection (a) in the gross income of a nonresident alien with respect to a distribution made by the United States in respect of services performed by an employee of the United States shall not exceed an amount which bears the same ratio to the amount includible in gross income without regard to this paragraph as—

"(A) the aggregate basic pay paid by the United States to such employee for such services, reduced by the amount of such basic pay which was not includible in gross income by reason of being from sources without the United States, bears to

"(B) the aggregate basic pay paid by the United States to such employee for such services.

In the case of distributions under the civil service retirement laws, the term 'basic pay' shall have the meaning provided in section 8331(3) of title 5, United States Code.

"(3) CASH OR DEFERRED ARRANGEMENTS.—For purposes of this title, contributions made by an employer on behalf of an employee to a trust which is a part of a qualified cash or deferred arrangement (as defined in section 401(k)(2)) shall not be treated as distributed or made available to the employee nor as contributions made to the trust by the employee merely because the arrangement includes provisions under which the employee has an election whether the contribution will be made to the trust or received by the employee in cash.

"(4) NET UNREALIZED APPRECIATION.—

"(A) AMOUNTS ATTRIBUTABLE TO EMPLOYEE CONTRIBUTIONS.—For purposes of subsection (a) and section 72, the amount actually distributed to any distributee from a trust described in subsection (a) shall not include any net unrealized appreciation in securities of the employer corporation attributable to amounts contributed by the employee (other than deductible employee contributions within the meaning of section 72(o)(5)). This subparagraph shall not apply to a partial distribution to which subsection (c) applies.

"(B) AMOUNTS ATTRIBUTABLE TO EMPLOYER CONTRIBUTIONS.—In the case of any lump sum distribution which includes securities of the employer corporation, subparagraph (A) shall apply to the net unrealized appreciation attributable to that part of the distribution which consists of securities of the employer corporation attributable to amounts other than the amounts contributed by the employee. In accordance with rules prescribed by the Secretary, a taxpayer may elect, on the return of tax on which a lump sum distribution is required to be included, not to have this subparagraph and subparagraph (A) apply to such distribution.

"(C) DETERMINATION OF AMOUNTS AND ADJUSTMENTS.—For purposes of subparagraphs (A) and (B), net unrealized appreciation and the resulting adjustments to basis shall be determined in accordance with regulations prescribed by the Secretary.

"(D) LUMP SUM DISTRIBUTION.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'lump sum distribution' means the distribution or payment within one taxable year of the recipient of the balance to the credit of an employee which becomes payable to the recipient—

"(I) on account of the employee's death,

"(II) after the employee attains age 59½,

"(III) on account of the employee's separation from service, or

"(IV) after the employee has become disabled (within the meaning of section 72(m)(7)),

from a trust which forms a part of a plan described in section 401(a) and which is exempt from tax under section 501 or from a plan described in section 403(a). Subclause (III) of this clause shall be applied only with respect to an individual who is an employee without regard to section 401(c)(1), and subclause (IV) shall be applied only with respect to an employee within the meaning of section 401(c)(1). For purposes of this clause, a distribution to two or more trusts shall be treated as a distribution to one recipient. For purposes of this paragraph, the balance to the credit of the employee does not include the accumulated deductible employee contributions under the plan (within the meaning of section 72(o)(5)).

"(ii) AGGREGATION OF CERTAIN TRUSTS AND PLANS.—For purposes of determining the balance to the credit of an employee under clause (i)—

"(I) all trusts which are part of a plan shall be treated as a single trust, all pension plans maintained by the employer shall be treated as a single plan, all profit-sharing plans maintained by the employer shall be treated as a single plan, and all stock bonus plans maintained by the employer shall be treated as a single plan, and

"(II) trusts which are not qualified trusts under section 401(a) and annuity contracts which do not satisfy the requirements of section 404(a)(2) shall not be taken into account.

"(iii) COMMUNITY PROPERTY LAWS.—The provisions of this paragraph shall be applied without regard to community property laws.

"(iv) AMOUNTS SUBJECT TO PENALTY.—This paragraph shall not apply to amounts described in subparagraph (A) of section 72(m)(5) to the extent that section 72(m)(5) applies to such amounts.

"(v) BALANCE TO CREDIT OF EMPLOYEE NOT TO INCLUDE AMOUNTS PAYABLE UNDER QUALIFIED DOMESTIC RELATIONS ORDER.—For purposes of this paragraph, the balance to the credit of an employee shall not include any amount payable to an alternate payee under a qualified domestic relations order (within the meaning of section 414(p)).

"(vi) TRANSFERS TO COST-OF-LIVING ARRANGEMENT NOT TREATED AS DISTRIBUTION.—For purposes of this paragraph, the balance to the credit of an employee under a defined contribution plan shall not include any amount transferred from such defined contribution plan to a qualified cost-of-living arrangement (within the meaning of section 415(k)(2)) under a defined benefit plan.

"(vii) LUMP-SUM DISTRIBUTIONS OF ALTERNATE PAYEES.—If any distribution or payment of the balance to the credit of an employee would be treated as a lump-sum distribution, then, for purposes of this paragraph, the payment under a qualified domestic relations order (within the meaning of section 414(p)) of the balance to the credit of an alternate payee who is the spouse or former spouse of the employee shall be treated as a lump-sum distribution. For purposes of this clause, the balance to the credit of the alternate payee shall not include any amount payable to the employee.

"(E) DEFINITIONS.—For purposes of this paragraph—

"(i) SECURITIES.—The term 'securities' means only shares of stock and bonds or debentures issued by a corporation with interest coupons or in registered form.

"(ii) SECURITIES OF THE EMPLOYER.—The term 'securities of the employer corporation' includes securities of a parent or subsidiary corporation (as defined in subsections (e) and (f) of section 425) of the employer corporation.

"(f) WRITTEN EXPLANATION TO RECIPIENTS OF DISTRIBUTIONS ELIGIBLE FOR ROLLOVER TREATMENT.—

"(1) IN GENERAL.—The plan administrator of any plan shall, when making an eligible rollover distribution, provide a written explanation to the recipient of the provisions under which such distribution will not be subject to tax if transferred to an eligible retirement plan within 60 days after the date on which the recipient received the distribution.

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) ELIGIBLE ROLLOVER DISTRIBUTION.—The term 'eligible rollover distribution' has the same meaning as when used in subsection (c) of this section or paragraph (4) of section 403(a).

"(B) ELIGIBLE RETIREMENT PLAN.—The term 'eligible retirement plan' has the meaning given such term by subsection (c)(8)(B)."

(b) REPEAL OF $5,000 EXCLUSION OF EMPLOYEES' DEATH BENEFITS.—Subsection (b) of section 101 is hereby repealed.

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 55(c) is amended by striking "shall not include any tax imposed by section 402(e) and".

(2) Paragraph (8) of section 62(a) (relating to certain portion of lump-sum distributions from pension plans taxed under section 402(e)) is hereby repealed.

(3) Paragraph (4) of section 72(o) (relating to special rule for treatment of rollover amount) is amended by striking "sections 402(a)(5), 402(a)(7)" and inserting "sections 402(c)".

(4) Paragraph (2) of section 219(d) (relating to recontributed amount) is amended by striking "section 402(a)(5), 402(a)(7)" and inserting "section 402(c)".

(5) Paragraph (20) of section 401(a) is amended by striking "qualified total distribution described in section 402(a)(5)(E)(i)(I)" and inserting "distribution to a distributee on account of a termination of the plan of which the trust is a part, or in the case of a profit-sharing or stock bonus plan, a complete discontinuance of contributions under such plan".

(6) Section 401(a)(28)(B) (relating to coordination with distribution rules) is amended by striking clause (v).

(7) Subclause (IV) of section 401(k)(2)(B)(i) is amended by striking "section 402(a)(8)" and inserting "section 402(e)(3)".

(8) Subparagraph (B)(ii) of section 401(k)(10) (relating to distributions that must be lump-sum distributions) is amended to read as follows:

"(ii) LUMP SUM DISTRIBUTION.—For purposes of this subparagraph, the term 'lump sum distribution' means any distribution of the balance to the credit of an employee immediately before the distribution."

(9) Section 402(g)(1) is amended by striking "subsections (a)(8)" and inserting "subsections (e)(3)".

(10) Section 402(i) is amended by striking ", except as otherwise provided in subparagraph (A) of subsection (e)(4)".

(11) Subsection (j) of section 402 is amended by striking "(a)(1) or (e)(4)(J)" and inserting "(e)(4)".

(12)(A) Clause (i) of section 403(a)(4)(A) is amended by inserting "in an eligible rollover distribution (within the meaning of section 402(c)(4))" before the comma at the end thereof.

(B) Subparagraph (B) of section 403(a)(4) is amended to read as follows:

"(B) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of paragraphs (2) through (7) of section 402(c) shall apply for purposes of subparagraph (A)."

(13)(A) Clause (i) of section 403(b)(8)(A) is amended by inserting "in an eligible rollover distribution (within the meaning of section 402(c)(4))" before the comma at the end thereof.

(B) Paragraph (8) of section 403(b) is amended by striking subparagraphs (B), (C), and (D) and inserting the following:

"(B) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of paragraphs (2) through (7) of section 402(c) shall apply for purposes of subparagraph (A)."

(14) Section 406(c) (relating to termination of status as deemed employee not to be treated as separation from service for purposes of limitation of tax) is hereby repealed.

(15) Section 407(c) (relating to termination of status as deemed employee not to be treated as separation from service for purposes of limitation of tax) is hereby repealed.

(16) Paragraph (1) of section 408(a) is amended by striking "section 402(a)(5), 402(a)(7)" and inserting "section 402(c)".

(17) Clause (ii) of section 408(d)(3)(A) is amended to read as follows:

"(ii) no amount in the account and no part of the value of the annuity is attributable to any source other than a rollover contribution (as defined in section 402) from an employee's trust described in section 401(a) which is exempt from tax under section 501(a) or from an annuity plan described in section 403(a) (and any earnings on such contribution), and the entire amount received (including property and other money) is paid (for the benefit of such individual) into another such trust or annuity plan not later than the 60th day on which the individual receives the payment or the distribution; or".

(18) Subparagraph (B) of section 408(d)(3) (relating to limitations) is amended by striking the second sentence thereof.

(19) Subparagraph (F) of section 408(d)(3) (relating to frozen deposits) is amended by striking "section 402(a)(6)(H)" and inserting "section 402(c)(7)".

(20) Subclause (I) of section 414(n)(5)(C)(iii) is amended by striking "section 402(a)(8)" and inserting "section 402(e)(3)".

(21) Clause (i) of section 414(q)(7)(B) is amended by striking "402(a)(8)" and inserting "402(e)(3)".

(22) Paragraph (2) of section 414(s) (relating to employer may elect to treat certain deferrals as compensation) is amended by striking "402(a)(8)" and inserting "402(e)(3)".

(23) Subparagraph (A) of section 415(b)(2) (relating to annual benefit in general) is amended by striking "sections 402(a)(5)" and inserting "sections 402(c)".

(24) Subparagraph (B) of section 415(b)(2) (relating to adjustment for certain other forms of benefit) is amended by striking "sections 402(a)(5)" and inserting "sections 402(c)".

(25) Paragraph (2) of section 415(c) (relating to annual addition) is amended by striking "sections 402(a)(5)" and inserting "sections 402(c)".

(26) Subparagraph (B) of section 457(c)(2) is amended by striking "section 402(a)(8)" in clause (i) thereof and inserting "section 402(e)(3)".

(27) Section 691(c) (relating to coordination with section 402(e)) is amended by striking paragraph (5).

(28) Subparagraph (B) of section 871(a)(1) (relating to income other than capital gains) is amended by striking "402(a)(2), 403(a)(2), or".

(29) Paragraph (1) of section 871(b) (relating to imposition of tax) is amended by striking "section 1, 55, or 402(e)(1)" and inserting "section 1 or 55".

(30) Paragraph (1) of section 871(k) is amended by striking "section 402(a)(4)" and inserting "section 402(e)(2)".

(31) Subsection (b) of section 877 (relating to alternative tax) is amended by striking "section 1, 55, or 402(e)(1)" and inserting "section 1 or 55".

(32) Subsection (b) of section 1441 (relating to income items) is amended by striking "402(a)(2), 403(a)(2), or".

(33) Paragraph (5) of section 1441(c) (relating to special items) is amended by striking "402(a)(2), 403(a)(2), or".

(34) Subparagraph (A) of section 3121(v)(1) is amended by striking "section 402(a)(8)" and inserting "section 402(e)(3)".

(35) Subparagraph (A) of section 3306(r)(1) is amended by striking "section 402(a)(8)" and inserting "section 402(e)(3)".

(36) Subsection (a) of section 3405 is amended by striking "PENSIONS, ANNUITIES, ETC.—" from the heading thereof and inserting "PERIODIC PAYMENTS.—".

(37) Subsection (b) of section 3405 (relating to nonperiodic distribution) is amended—

(A) by striking "the amount determined under paragraph (2)" from paragraph (1) thereof and inserting "an amount equal to 10 percent of such distribution"; and

(B) by striking paragraph (2) (relating to amount of withholding) and redesignating paragraph (3) as paragraph (2).

(38) Paragraph (4) of section 3405(d) (relating to qualified total distributions) is hereby repealed.

(39) Paragraph (8) of section 3405(d) (relating to maximum amounts withheld) is amended to read as follows:

"(8) MAXIMUM AMOUNT WITHHELD.—The maximum amount to be withheld under this section on any designated distribution shall not exceed the sum of the amount of money and the fair market value of other property (other than securities of the employer corporation) received in the distribution. No amount shall be required to be withheld under this section in the case of any designated distribution which consists only of securities of the employer corporation and cash (not in excess of $200) in lieu of financial shares. For purposes of this paragraph, the term 'securities of the employer corporation' has the meaning given such term by section 402(e)(4)(E)."

(40) Subparagraph (A) of section 4973(b)(1) is amended by striking "sections 402(a)(5), 402(a)(7)" and inserting "sections 402(c)".

(41) Paragraph (4) of section 4980A(c) (relating to special rule where taxpayer elects income averaging) is amended to read as follows:

"(4) ONE-TIME ELECTION FOR CERTAIN DISTRIBUTIONS.—If the taxpayer elects the application of this paragraph for any calendar year, paragraph (1) shall be applied for such calendar year as if the limitation under paragraph (1) were equal to 5 times such limitation determined without regard to this paragraph. No election may be made under this paragraph by any taxpayer if this paragraph applied to the taxpayer for any preceding calendar year."

(42) Subparagraph (C) of section 7701(j)(1) is amended by striking "section 402(a)(8)" and inserting "section 402(e)(3)".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

(2) ROLLOVERS.—The provisions of section 402(c) of the Internal Revenue Code of 1986 (as added by subsection (a)), and any amendment of any other provision of such Code relating to such provision, shall apply to distributions after the date of the enactment of this Act.

(3) RETENTION OF CERTAIN TRANSITION RULES.—Notwithstanding any other provision of this section, the amendments made by this section shall not apply to distributions to employees described in section 1122 (h)(3) or (h)(5) of the Tax Reform Act of 1986.

SEC. 4202. SIMPLIFIED METHOD FOR TAXING ANNUITY DISTRIBUTIONS UNDER CERTAIN EMPLOYER PLANS.

(a) GENERAL RULE.—Subsection (d) of section 72 (relating to annuities; certain proceeds of endowment and life insurance contracts) is amended to read as follows:

"(d) SPECIAL RULES FOR QUALIFIED EMPLOYER RETIREMENT PLANS.—

"(1) SIMPLIFIED METHOD OF TAXING ANNUITY PAYMENTS.—

"(A) IN GENERAL.—In the case of any amount received as an annuity under a qualified employer retirement plan—

"(i) subsection (b) shall not apply, and

"(ii) the investment in the contract shall be recovered as provided in this paragraph.

"(B) METHOD OF RECOVERING INVESTMENT IN CONTRACT.—

"(i) IN GENERAL.—Gross income shall not include so much of any monthly annuity payment under a qualified employer retirement plan as does not exceed the amount obtained by dividing—

"(I) the investment in the contract (as of the annuity starting date), by

"(II) the number of anticipated payments determined under the table contained in clause (iii) (or, in the case of a contract to which subsection (c)(3)(B) applies, the number of monthly annuity payments under such contract).

"(ii) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of paragraphs (2) and (3) of subsection (b) shall apply for purposes of this paragraph.

"(iii) NUMBER OF ANTICIPATED PAYMENTS.—

"If the age of the primary annuitant on the annuity starting date is:	**The number of anticipated payments is:**
Not more than 55	300
More than 55 but not more than 60	260
More than 60 but not more than 65	240
More than 65 but not more than 70	170
More than 70	120

"(C) ADJUSTMENT FOR REFUND FEATURE NOT APPLICABLE.—For purposes of this paragraph, investment in the contract shall be determined under subsection (c)(1) without regard to subsection (c)(2).

"(D) SPECIAL RULE WHERE LUMP SUM PAID IN CONNECTION WITH COMMENCEMENT OF ANNUITY PAYMENTS.—If, in connection with the commencement of annuity payments under any qualified employer retirement plan, the taxpayer receives a lump sum payment—

"(i) such payment shall be taxable under subsection (e) as if received before the annuity starting date, and

"(ii) the investment in the contract for purposes of this paragraph shall be determined as if such payment had been so received.

"(E) EXCEPTION.—This paragraph shall not apply in any case where the primary annuitant has attained age 75 on the annuity starting date unless there are fewer than 5 years of guaranteed payments under the annuity.

"(F) ADJUSTMENT WHERE ANNUITY PAYMENTS NOT ON MONTHLY BASIS.—In any case where the annuity payments are not made on a monthly basis, appropriate adjustments in the application of this paragraph shall be made to take into account the period on the basis of which such payments are made.

"(G) QUALIFIED EMPLOYER RETIREMENT PLAN.—For purposes of this paragraph, the term 'qualified employer retirement plan' means any plan or contract described in paragraph (1), (2), or (3) of section 4974(c).

"(2) TREATMENT OF EMPLOYEE CONTRIBUTIONS UNDER DEFINED CONTRIBUTION PLANS.—For purposes of this section, employee contributions (and any income allocable thereto) under a defined contribution plan may be treated as a separate contract."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply in cases where the annuity starting date is after December 31, 1992.

SEC. 4203. QUALIFIED PLANS MUST PROVIDE FOR TRANSFERS OF CERTAIN DISTRIBUTIONS TO OTHER PLANS.

(a) QUALIFICATION REQUIREMENT.—Section 401(a) (relating to requirements for qualification) is amended by adding after paragraph (30) the following new paragraph:

"(31) CERTAIN DISTRIBUTIONS MUST BE MADE IN FORM OF TRANSFER TO OTHER PLAN.—A trust shall not constitute a qualified trust under this section unless the plan of which it is a part meets the requirements of section 417A."

(b) TRANSFER REQUIREMENTS.—

(1) IN GENERAL.—Subpart B of part I of subchapter D of chapter 1 (relating to special rules) is amended by adding at the end thereof the following new section:

"SEC. 417A. REQUIRED TRANSFERS OF CERTAIN PLAN DISTRIBUTIONS.

"(a) GENERAL RULE.—A plan meets the requirements of this section only if all applicable distributions from the plan are made in the form of a direct trustee-to-trustee transfer to an eligible transferee plan.

"(b) APPLICABLE DISTRIBUTION.—For purposes of this section—

"(1) IN GENERAL.—The term 'applicable distribution' means any distribution from a

"(1) IN GENERAL.—The term 'applicable distribution' means any distribution from a plan in excess of $500 which, without regard to this section, would be distributed directly to a participant or to the beneficiary of a participant.

"(2) EXCEPTIONS.—The term 'applicable distribution' shall not include any of the following:

"(A) Any distribution described in section 72(t)(2)(A) (other than clause (i), (ii), or (v) thereof) or section 72(t)(2)(C).

"(B) Any distribution on or after the date the employee attains age 55.

"(C) Any distribution on or after the death of the employee other than to the surviving spouse of the employee.

"(D) In the case of a profit-sharing or stock bonus plan, a distribution upon hardship of the employee.

"(E) Any distribution of any employee contribution other than accumulated deductible contributions (within the meaning of section 72(o)(5)).

"(F) Any distribution the proceeds of which are used to repay any loan to the employee from the plan with respect to which the employee is in default.

"(c) ELIGIBLE TRANSFEREE PLAN.—For purposes of this section—

"(1) IN GENERAL.—The term 'eligible transferee plan' means an individual retirement plan designated by the employee in such form, and at such time, as the transferor plan may prescribe.

"(2) DESIGNATION BY PLAN.—

"(A) IN GENERAL.—Each plan shall provide a method for the designation of an eligible transferee plan if an employee does not designate a plan under paragraph (1).

"(B) DESIGNATION BY TRUSTEE.—The trustee shall designate the eligible transferee plan under the method prescribed under subparagraph (A) in cases—

"(i) where the employee does not designate, or

"(ii) where the transfer in accordance with an employee's designation is not practicable.

"(3) TRANSFERS TO QUALIFIED TRUSTS.—Except as otherwise provided in regulations, an eligible transferee plan shall include an employee's trust described in section 401(a) and exempt from tax under section 501(a) which is designated as provided in paragraph (2) and which—

"(A) is part of a defined contribution plan, and

"(B) provides for the acceptance of the distribution from the transferor plan.

"(d) SPECIAL RULES FOR TREATMENT OF TRANSFERS.—

"(1) WITHDRAWALS BEFORE DUE DATE.—

"(A) IN GENERAL.—For purposes of this title, if, during the distribution period with respect to any applicable distribution, the employee receives a distribution from the eligible transferee plan of any portion of the applicable distribution (and any income allocable thereto), the distribution from the eligible transferee plan shall be treated as if it were a distribution from the transferor plan in the taxable year of receipt by the employee.

"(B) DISTRIBUTION PERIOD.—For purposes of this paragraph, the term 'distribution period' means the period beginning on the date of the transfer and ending on the due date (including extensions) for the return of tax for the taxable year of the employee in which the date of transfer occurs.

"(2) SPOUSAL BENEFICIARIES.—For purposes of this section, in the case of an applicable distribution to the surviving spouse of an employee, the surviving spouse shall be treated in the same manner as an employee.

"(e) REPORTS.—

"(1) NOTICE TO EMPLOYEES.—The trustee of a plan shall notify each employee before any applicable distribution of the requirements of this section, including the time and manner of making a designation under subsection (c)(1).

"(2) AMOUNTS TRANSFERRED.—The trustee of a transferor plan shall notify the employee of the amount of any direct trustee-to-trustee transfer."

(2) CONFORMING AMENDMENT.—The table of sections for subpart B of part I of subchapter D of chapter 1 is amended by inserting after the item relating to section 417 the following new item:

"Sec. 417A. Required transfers of certain plan distributions."

(c) EXCLUSION FROM INCOME.—

(1) IN GENERAL.—Subsection (e) of section 402 (relating to taxability of beneficiary of employees' trust), as amended by section ______, is amended by adding at the end the following new paragraph:

"(5) DIRECT TRUSTEE-TO-TRUSTEE TRANSFERS.—In the case of a plan described in section 401(a) to which the requirements of section 417A apply, any amount transferred in a direct trustee-to-trustee transfer in accordance with section 417A shall not be includible in gross income for the taxable year of such transfer."

(2) DIRECT TRANSFERS FROM EMPLOYEE ANNUITIES.—

(A) QUALIFIED ANNUITY PLANS.—

(i) Paragraph (2) of section 404(a) (relating to employees' annuities) is amended by striking "and (27)" and inserting "(27), and (31)".

(ii) Subsection (a) of section 403 (relating to taxability of beneficiary under a qualified annuity plan) is amended by adding at the end the following new paragraph:

"(5) DIRECT TRANSFERS TO INDIVIDUAL RETIREMENT PLANS.—Rules similar to the rules of sections 402(e)(5) and 417A shall apply with respect to annuity contracts described in paragraph (1), and such contracts shall, for purposes of section 417A(c)(3), be treated in the same manner as a trust described in such section."

(B) ANNUITY CONTRACTS PURCHASED BY SECTION 501(C)(3) ORGANIZATIONS OR PUBLIC SCHOOLS.—Subsection (b) of section 403 (relating to taxability of beneficiary under annuity purchased by section 501(c)(3) organization or public school) is amended by adding at the end the following new paragraph:

"(13) DIRECT TRUSTEE-TO-TRUSTEE TRANSFERS.—Rules similar to the rules of sections 401(a)(31) and 417A and section 402(e)(5) shall apply with respect to annuity contracts described in paragraph (1), and such contracts shall, for purposes of section 417A(c)(3), be treated in the same manner as a trust described in such section."

(d) OTHER AMENDMENTS.—

(1) CERTAIN TRANSFERS NOT TREATED AS REDUCTIONS IN BENEFITS.—Section 411(d)(6)(B) (relating to accrued benefit not to be decreased by amendment) is amended by adding at the end the following new sentence: "Except as otherwise provided in regulations, the requirements of clause (ii) shall not be treated as violated solely by reason of a direct trustee-to-trustee transfer required by section 417A."

(2) SERVICE DISREGARDED WHERE DISTRIBUTION IS PERMITTED.—

(A) IN GENERAL.—Subparagraph (B) of section 411(a)(7) (relating to effect of certain distributions) is amended—

(i) in the matter preceding clause (i), by striking "he has received";

(ii) in clause (i), by inserting "the employee has received" after "(i)", and by striking "or";

(iii) in clause (ii), by inserting "the employee has received" after "(ii)", and by striking "receive." and inserting "receive, or";

(iv) by inserting after clause (ii) the following:

"(iii) a direct trustee-to-trustee transfer described in section 417A has been made from the plan."; and

(v) in the last sentence, by striking "Clause (ii)" and inserting "Clauses (ii) and (iii)".

(B) BUYBACK RULES.—Subparagraph (C) of section 411(a)(7) (relating to repayment of subparagraph (B) distributions) is amended by adding at the end the following new sentence: "For purposes of this subparagraph, a direct trustee-to-trustee transfer referred to in subparagraph (B)(iii) with respect to a participant shall be treated as a distribution received by the participant."

(3) NOTICE TO RECIPIENTS OF DISTRIBUTIONS ELIGIBLE FOR ROLLOVER TREATMENT.—Paragraph (1) of section 402(f) (relating to written explanation to recipients of distributions eligible for rollover treatment) is amended—

(A) by striking "when making an eligible rollover distribution, provide a written explanation to the recipient" and inserting "when making an eligible rollover distribution or a direct trustee-to-trustee transfer, provide to the recipient of the distribution or the person with respect to whom the transfer is made a written explanation of"; and

(B) by inserting ", or the income tax consequences of a direct trustee-to-trustee transfer provided in accordance with the applicable requirements of sections 417A, 403(e)(5), and 403(b)(13), respectively" before the end period.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions in plan years beginning after December 31, 1993.

SEC. 4204. REQUIRED DISTRIBUTIONS.

(a) IN GENERAL.—Section 401(a)(9)(C) (defining required beginning date) is amended to read as follows:

"(C) REQUIRED BEGINNING DATE.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'required beginning date' means April 1 of the calendar year following the later of—

"(I) the calendar year in which the employee attains age 70½,

"(II) the calendar year in which the employee retires.

"(ii) EXCEPTION.—Subclause (II) of clause (i) shall not apply—

"(I) except as provided in section 409(d), in the case of an employee who is a 5-percent owner (as defined in section 416) with respect to the plan year ending in the calendar year in which the employee attains age 70½, or

"(II) for purposes of section 408(a)(6) or (b)(3).

"(iii) ACTUARIAL ADJUSTMENT.—In the case of an employee to whom clause (i)(II) applies who retires in a calendar year after the calendar year in which the employee attains age 70½, the employee's accrued benefit shall be actuarially increased to take into account the period after age 70½ in which the employee was not receiving any benefits under the plan.

"(iv) EXCEPTION FOR GOVERNMENTAL AND CHURCH PLANS.—Clauses (ii) and (iii) shall not apply in the case of a governmental plan or church plan. For purposes of this clause, the term 'church plan' means a plan maintained by a church for church employees, and the term 'church' means any church (as defined in section 3121(w)(3)(A)) or qualified church-controlled organization (as defined in section 3121(w)(3)(B))."

(b) Effective Date.—The amendment made by subsection (a) shall apply to years beginning after December 31, 1992.

PART II—INCREASED ACCESS TO PENSION PLANS

SEC. 4211. MODIFICATIONS OF SIMPLIFIED EMPLOYEE PENSIONS.

(a) Increase in Number of Allowable Participants for Salary Reduction Arrangements.—Section 408(k)(6)(B) is amended by striking "25" each place it appears in the text and heading thereof and inserting "100".

(b) Modification of Participation Requirements.—Section 408(k)(2)(B) is amended to read as follows:

"(B) has at least 1 year of service (as determined under section 411(a)(5)) with the employer, and".

(c) Repeal of Participation Requirement.—Section 408(k)(6)(A) is amended by striking clause (ii) and by redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively.

(d) Alternative Test.—Clause (iii) of section 408 (k)(6)(A) is amended by adding at the end thereof the following new flush sentence: "The requirements of the preceding sentence are met if the employer makes contributions to the simplified employee pension meeting the requirements of sections 401(k)(11) (B) or (C), 401(k)(11)(D), and 401(m)(10)(B)."

(e) Effective Date.—The amendments made by this section shall apply to years beginning after December 31, 1992.

SEC. 4212. TAX EXEMPT ORGANIZATIONS ELIGIBLE UNDER SECTION 401(k).

(a) General Rule.—Subparagraph (B) of section 401(k)(4) is amended to read as follows:

"(B) State and local governments not eligible.—A cash or deferred arrangement shall not be treated as a qualified cash or deferred arrangement if it is part of a plan maintained by a State or local government or political subdivision thereof, or any agency or instrumentality thereof. This subparagraph shall not apply to a rural cooperative plan."

(b) Effective Date.—The amendment made by this section shall apply to plan years beginning on or after December 31, 1992, but shall not apply to any cash or deferred arrangement to which clause (i) of section 1116(f)(2)(B) of the Tax Reform Act of 1986 applies.

SEC. 4213. DUTIES OF SPONSORS OF CERTAIN PROTOTYPE PLANS.

(a) In General.—The Secretary of the Treasury may, as a condition of sponsorship, prescribe rules defining the duties and responsibilities of sponsors of master and prototype plans, regional prototype plans, and other Internal Revenue Service preapproved plans.

(b) Duties Relating to Plan Amendment, Notification of Adopters, and Plan Administration.—The duties and responsibilities referred to in subsection (a) may include—

(1) the maintenance of lists of persons adopting the sponsor's plans, including the updating of such lists not less frequently than annually,

(2) the furnishing of notices at least annually to such persons and to the Secretary or his delegate, in such form and at such time as the Secretary shall prescribe,

(3) duties relating to administrative services to such persons in the operation of their plans, and

(4) other duties that the Secretary considers necessary to ensure that—

(A) the master and prototype, regional prototype, and other preapproved plans of adopting employers are timely amended to meet the requirements of the Internal Revenue Code of 1986 or of any rule or regulation of the Secretary, and

(B) adopting employers receive timely notification of amendments and other actions taken by sponsors with respect to their plans.

PART III—NONDISCRIMINATION PROVISIONS

SEC. 4221. DEFINITION OF HIGHLY COMPENSATED EMPLOYEES.

(a) In General.—Paragraph (1) of section 414(q) (defining highly compensated employee) is amended to read as follows:

"(1) In general.—The term 'highly compensated employee' means any employee who—

"(A) was a 5-percent owner at any time during the year or the preceding year, or

"(B) had compensation for the preceding year from the employer in excess of $50,000.

The Secretary shall adjust the $50,000 amount under subparagraph (B) at the same time and in the same manner as under section 415(d)."

(b) Special Rule Where No Employees Treated as Highly Compensated.—Paragraph (2) of section 414(q) is amended to read as follows:

"(2) Special rule if no employee described in paragraph (1).—If no employee is treated as a highly compensated employee under paragraph (1), the highest paid officer for the year shall be treated as a highly compensated employee. The preceding sentence shall not apply for purposes of section 401 (k) or (m) and shall not apply with respect to employees of an employer described in section 457(e)(1)."

(c) Treatment of Family Members.—Paragraph (6) of section 414(q) is hereby repealed.

(d) Conforming Amendments.—

(1) Paragraphs (4), (5), (8), and (12) of section 414(q) are hereby repealed.

(2)(A) Section 414(r) is amended by adding at the end thereof the following new paragraph:

"(9) Excluded employees.—For purposes of this subsection, the following employees shall be excluded:

"(A) Employees who have not completed 6 months of service.

"(B) Employees who normally work less than 17½ hours per week.

"(C) Employees who normally work not more than 6 months during any year.

"(D) Employees who have not attained the age of 21.

"(E) Except to the extent provided in regulations, employees who are included in a unit of employees covered by an agreement which the Secretary of Labor finds to be a collective bargaining agreement between employee representatives and the employer.

Except as provided by the Secretary, the employer may elect to apply subparagraph (A), (B), (C), or (D) by substituting a shorter period of service, smaller number of hours or months, or lower age for the period of service, number of hours or months, or age (as the case may be) specified in such subparagraph."

(B) Subparagraph (A) of section 414(r)(2) is amended by striking "subsection (q)(8)" and inserting "paragraph (9)".

(3) Paragraph (17) of section 401(a) is amended by striking the last sentence.

(4) Subsection (l) of section 404 is amended by striking the last sentence.

(e) Effective Date.—The amendments made by this section shall apply to years beginning after December 31, 1992, except that an employer may elect not to have such amendments apply to years beginning in 1993.

SEC. 4222. ELECTION TO TREAT BASE PAY AS COMPENSATION.

(a) In General.—Section 414(s) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) Election to use base pay.—An employer may elect to determine an employee's compensation solely by reference to that portion of the employee's compensation attributable to such employee's base pay. Such election shall apply for purposes of all applicable provisions and to all employees and, once made, may be revoked only with the consent of the Secretary."

(b) Effective Date.—The amendment made by this section shall apply to years beginning after December 31, 1992.

SEC. 4223. MODIFICATION OF ADDITIONAL PARTICIPATION REQUIREMENTS.

(a) General Rule.—Section 401(a)(26)(A) (relating to additional participation requirements) is amended to read as follows:

"(A) In general.—In the case of a trust which is a part of a defined benefit plan, such trust shall not constitute a qualified trust under this subsection unless on each day of the plan year such trust benefits at least the lesser of—

"(i) 25 employees of the employer, or

"(ii) the greater of—

"(I) 40 percent of all employees of the employer, or

"(II) 2 employees (or if there is only 1 employee, such employee)."

(b) Separate Line of Business Test.—Section 401(a)(26)(G) (relating to separate line of business) is amended by striking "paragraph (7)" and inserting "paragraph (2)(A) or (7)".

(c) Effective Dates.—

(1) In general.—Except as provided in paragraph (2), the amendment made by this section shall apply to years beginning after December 31, 1991.

(2) Election.—A plan may elect to have the amendment made by this section apply as if such amendment was included in the amendment made by section 1112(b) of the Tax Reform Act of 1986. Such election shall be made at such time, and in such form, as the Secretary of the Treasury may prescribe.

SEC. 4224. NONDISCRIMINATION RULES FOR QUALIFIED CASH OR DEFERRED ARRANGEMENTS AND MATCHING CONTRIBUTIONS.

(a) Alternative Methods of Satisfying Section 401(k) Nondiscrimination Tests.—Section 401(k) (relating to cash or deferred arrangements) is amended by adding at the end thereof the following new paragraph:

"(11) Alternative methods of meeting nondiscrimination requirements.—

"(A) In general.—A cash or deferred arrangement shall be treated as meeting the requirements of paragraph (3)(A)(ii) if such arrangement—

"(i) meets the contribution requirements of subparagraph (B) or (C), and

"(ii) meets the notice requirements of subparagraph (D).

"(B) Matching contributions.—

"(i) In general.—The requirements of this subparagraph are met if, under the arrangement, the employer makes matching contributions on behalf of each employee who is not a highly compensated employee in an amount not less than—

"(I) 100 percent of the elective contributions of the employee to the extent such elective contributions do not exceed 3 percent of the employee's compensation, and

"(II) 50 percent of the elective contributions of the employee to the extent that such elective contributions exceed 3 percent but do not exceed 5 percent of the employee's compensation.

"(ii) RATE FOR HIGHLY COMPENSATED EMPLOYEES.—The requirements of this subparagraph are not met if, under the arrangement, the matching contribution with respect to any elective contribution of a highly compensated employee at any level of compensation is greater than that with respect to an employee who is not a highly compensated employee.

"(iii) ALTERNATIVE PLAN DESIGNS.—If the matching contribution with respect to any elective contribution at any specific level of compensation is not equal to the percentage required under clause (i), an arrangement shall not be treated as failing to meet the requirements of clause (i) if—

"(I) the level of an employer's matching contribution does not increase as an employee's elective contributions increase, and

"(II) the aggregate amount of matching contributions with respect to elective contributions not in excess of such level of compensation is at least equal to the amount of matching contributions which would be made if matching contributions were made on the basis of the percentages described in clause (i).

"(C) NONELECTIVE CONTRIBUTIONS.—The requirements of this subparagraph are met if, under the arrangement, the employer is required, without regard to whether the employee makes an elective contribution or employee contribution, to make a contribution to a defined contribution plan on behalf of each employee who is not a highly compensated employee and who is eligible to participate in the arrangement in an amount equal to at least 3 percent of the employee's compensation.

"(D) NOTICE REQUIREMENT.—An arrangement meets the requirements of this paragraph if, under the arrangement, each employee eligible to participate is, within a reasonable period before any year, given written notice of the employee's rights and obligations under the arrangement which—

"(i) is sufficiently accurate and comprehensive to appraise the employee of such rights and obligations, and

"(ii) is written in a manner calculated to be understood by the average employee eligible to participate.

"(E) OTHER REQUIREMENTS.—

"(i) WITHDRAWAL AND VESTING RESTRICTIONS.—An arrangement shall not be treated as meeting the requirements of subparagraph (B) or (C) unless the requirements of subparagraphs (B) and (C) of paragraph (2) are met with respect to employer contributions.

"(ii) SOCIAL SECURITY AND SIMILAR CONTRIBUTIONS NOT TAKEN INTO ACCOUNT.—An arrangement shall not be treated as meeting the requirements of subparagraph (B) or (C) unless such requirements are met without regard to subsection (l), and, for purposes of subsection (l), employer contributions under subparagraph (B) or (C) shall not be taken into account.

"(F) OTHER PLANS.—An arrangement shall be treated as meeting the requirements under subparagraph (A)(i) if any other plan maintained by the employer meets such requirements with respect to employees eligible under the arrangement."

(b) ALTERNATIVE METHODS OF SATISFYING SECTION 401(m) NONDISCRIMINATION TESTS.—Section 401(m) (relating to nondiscrimination test for matching contributions and employee contributions) is amended by redesignating paragraph (10) as paragraph (11) and by adding after paragraph (9) the following new paragraph:

"(10) ALTERNATIVE METHOD OF SATISFYING TESTS.—

"(A) IN GENERAL.—A defined contribution plan shall be treated as meeting the requirements of paragraph (2) with respect to matching contributions if the plan—

"(i) meets the contribution requirements of subparagraph (B) or (C) of subsection (k)(11),

"(ii) meets the notice requirements of subsection (k)(11)(D), and

"(iii) meets the requirements of subparagraph (B).

"(B) LIMITATION ON MATCHING CONTRIBUTIONS.—The requirements of this subparagraph are met if—

"(i) matching contributions on behalf of any employee may not be made with respect to an employee's contributions or elective deferrals in excess of 6 percent of the employee's compensation,

"(ii) the level of an employer's matching contribution does not increase as an employee's contributions or elective deferrals increase, and

"(iii) the matching contribution with respect to any highly compensated employee at a specific level of compensation is not greater than that with respect to an employee who is not a highly compensated employee."

(c) YEAR FOR COMPUTING NONHIGHLY COMPENSATED EMPLOYEE PERCENTAGE.—

(1) CASH OR DEFERRED ARRANGEMENTS.—Clause (ii) of section 401(k)(3)(A) is amended—

(A) by striking "such year" and inserting "the plan year", and

(B) by striking "for such plan year" and inserting "the preceding plan year".

(2) MATCHING AND EMPLOYEE CONTRIBUTIONS.—Section 401(m)(2)(A) is amended—

(A) by inserting "for such plan year" after "highly compensated employee", and

(B) by inserting "for the preceding plan year" after "eligible employees" each place it appears in clause (i) and clause (ii).

(d) SPECIAL RULE FOR DETERMINING AVERAGE DEFERRAL PERCENTAGE FOR FIRST PLAN YEAR, ETC.—

(1) Paragraph (3) of section 401(k) is amended by adding at the end thereof the following new subparagraph:

"(E) For purposes of this paragraph, in the case of the first plan year of any plan, the amount taken into account as the average deferral percentage of nonhighly compensated employees for the preceding plan year shall be—

"(i) 3 percent, or

"(ii) if the employer makes an election under this subclause, the average deferral percentage of nonhighly compensated employees determined for such first plan year."

(2) Paragraph (3) of section 401(m) is amended by adding at the end thereof the following: "Rules similar to the rules of subsection (k)(3)(E) shall apply for purposes of this subsection.".

(e) DISTRIBUTION OF EXCESS CONTRIBUTIONS.—

(1) Subparagraph (C) of section 401(k)(8) (relating to arrangement not disqualified if excess contributions distributed) is amended by striking "on the basis of the respective portions of the excess contributions attributable to each of such employees" and inserting "on the basis of the amount of contributions by, or on behalf of, each of such employees".

(2) Subparagraph (C) of section 401(m)(6) (relating to method of distributing excess aggregate contributions) is amended by striking "on the basis of the respective portions of such amounts attributable to each of such employees" and inserting "on the basis of the amount of contributions on behalf of, or by, each such employee".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1992.

PART IV—MISCELLANEOUS SIMPLIFICATION

SEC. 4231. TREATMENT OF LEASED EMPLOYEES.

(a) REPLACEMENT OF HISTORICAL TEST WITH CONTROL TEST.—Subparagraph (C) of section 414(n)(2) is amended to read as follows:

"(C) such services are performed by such person under the control of the recipient."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1983.

SEC. 4242. ELIMINATION OF HALF-YEAR REQUIREMENTS.

(a) IN GENERAL.—Each of the following provisions are amended by striking "age 59½" and inserting "age 59":

(1) Section 72(q)(2)(A).
(2) Section 72(q)(3)(B)(i).
(3) Section 72(q)(3)(B)(ii).
(4) Section 72(t)(2)(A)(i).
(5) Section 72(t)(4)(A)(ii)(I).
(6) Section 72(t)(4)(A)(ii)(II).
(7) Section 72(v)(2)(A).
(8) Section 401(k)(7)(C).
(9) Section 402(e)(4)(D)(i)(II).
(10) Section 403(b)(7)(A)(ii).
(11) Section 403(b)(11)(A).
(12) The heading for section 403(b)(11).
(13) Section 4978(d)(1)(B).

(b) OTHER PROVISIONS.—Each of the following provisions is amended by striking "70½" and inserting "70":

(1) Section 219(d)(1).
(2) The heading for section 219(d)(1).
(3) Section 401(a)(9)(B)(iv)(I).
(4) Section 401(a)(9)(C)(i)(I).
(5) Section 401(a)(9)(C)(ii)(I).
(6) Section 401(a)(9)(C)(iii).
(7) Section 408(b).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1992.

SEC. 4233. MODIFICATIONS OF COST-OF-LIVING ADJUSTMENTS.

(a) IN GENERAL.—Section 415(d) (relating to cost-of-living adjustments) is amended to read as follows:

"(d) COST-OF-LIVING ADJUSTMENTS.—

"(1) IN GENERAL.—The Secretary shall adjust annually—

"(A) the $90,000 amount in subsection (b)(1)(A), and

"(B) in the case of a participant who separated from service, the amount taken into account under subsection (b)(1)(B),

for increases in the cost-of-living in accordance with regulations prescribed by the Secretary.

"(2) METHOD.—

"(A) IN GENERAL.—The regulations prescribed under paragraph (1) shall provide for adjustment procedures which are similar to the procedures used to adjust benefit amounts under section 215(i)(2)(A) of the Social Security Act.

"(B) PERIODS FOR ADJUSTMENT OF DOLLAR AMOUNT.—For purposes of paragraph (1)(A)—

"(i) IN GENERAL.—The adjustment with respect to any calendar year shall be based on the increase in the applicable index as of the close of the calendar quarter ending September 30 of the preceding calendar year over such index as of the close of the base period.

"(ii) BASE PERIOD.—For purposes of clause (i), the base period is the calendar quarter beginning October 1, 1986.

"(C) BASE PERIOD FOR SEPARATIONS.—For purposes of paragraph (1)(B), the base period is the last calendar quarter of the calendar year preceding the calendar year in which the participant separated from service.

"(3) ROUNDING.—Any amount determined under paragraph (1) (or by reference to this subsection) shall be rounded to the nearest $1,000, except that the amounts under sections 402(g)(1) and 408(k)(2)(C) shall be rounded to the nearest $100."

(b) EFFECTIVE DATE.—The amendments made by this section apply to adjustments with respect to calendar years beginning after December 31, 1992.

SEC. 4234. PLANS COVERING SELF-EMPLOYED INDIVIDUALS.

(a) AGGREGATION RULES.—Section 401(d) (relating to additional requirements for qualification of trusts and plans benefiting owner-employees) is amended to read as follows:

"(d) CONTRIBUTION LIMIT ON OWNER-EMPLOYEES.—A trust forming part of a pension or profit-sharing plan which provides contributions or benefits for employees some or all of whom are owner-employees shall constitute a qualified trust under this section only if, in addition to meeting the requirements of subsection (a), the plan provides that contributions on behalf of any owner-employee may be made only with respect to the earned income of such owner-employee which is derived from the trade or business with respect to which such plan is established."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1992.

SEC. 4235. FULL-FUNDING LIMITATION OF MULTIEMPLOYER PLANS.

(a) FULL-FUNDING LIMITATION.—Section 412(c)(7)(C) (relating to full-funding limitation) is amended—

(1) by inserting "or in the case of a multiemployer plan," after "paragraph (6)(B),", and

(2) by inserting "AND MULTIEMPLOYER PLANS" after "PARAGRAPH (6)(B)" in the heading thereof.

(b) VALUATION.—Section 412(c)(9) is amended—

(1) by inserting "(3 years in the case of a multiemployer plan)" after "year", and

(2) by striking "ANNUAL VALUATION" in the heading and inserting "VALUATION".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1991.

SEC. 4236. ALTERNATIVE FULL-FUNDING LIMITATION.

(a) IN GENERAL.—Subsection (c) of section 412 (relating to minimum funding standards) is amended by redesignating paragraphs (8) through (11) as paragraphs (9) through (12), respectively, and by adding after paragraph (7) the following new paragraph:

"(8) ALTERNATIVE FULL-FUNDING LIMITATION.—

"(A) GENERAL RULE.—An employer may elect the full-funding limitation under this paragraph with respect to any defined benefit plan of the employer in lieu of the full-funding limitation determined under paragraph (7) if the requirements of subparagraphs (C) and (D) are met.

"(B) ALTERNATIVE FULL-FUNDING LIMITATION.—The full-funding limitation under this paragraph is the full-funding limitation determined under paragraph (7) without regard to subparagraph (A)(i)(I) thereof.

"(C) REQUIREMENTS RELATING TO PLAN ELIGIBILITY.—

"(i) IN GENERAL.—The requirements of this subparagraph are met with respect to a defined benefit plan if—

"(I) as of the 1st day of the election period, the average accrued liability of participants accruing benefits under the plan for the 5 immediately preceding plan years is at least 80 percent of the plan's total accrued liability,

"(II) the plan is not a top-heavy plan (as defined in section 416(g)) for the 1st plan year of the election period or either of the 2 preceding plan years, and

"(III) each defined benefit plan of the employer (and each defined benefit plan of each employer who is a member of any controlled group which includes such employer) meets the requirements of subclauses (I) and (II).

"(ii) FAILURE TO CONTINUE TO MEET REQUIREMENTS.—

"(I) If any plan fails to meet the requirement of clause (i)(I) for any plan year during an election period, the benefits of the election under this paragraph shall be phased out under regulations prescribed by the Secretary.

"(II) If any plan fails to meet the requirement of clause (i)(II) for any plan year during an election period, such plan shall be treated as not meeting the requirements of clause (i) for the remainder of the election period.

If there is a failure period described in subclause (I) or (II) with respect to any plan, such plan (and each plan described in clause (i)(III) with respect to such plan) shall be treated as not meeting the requirements of clause (i) for any of the 10 plan years beginning after the election period.

"(D) REQUIREMENTS RELATING TO ELECTION.—

"(i) IN GENERAL.—The requirements of this subparagraph are met if—

"(I) FILING DATE.—Notice of such election is filed with the Secretary (in such form and manner and containing such information as the Secretary may provide) by January 1 of any calendar year, and is effective as of the 1st day of the election period beginning on or after January 1 of the following calendar.

"(II) CONSISTENT ELECTION.—Such an election is made for all defined benefit plans maintained by the employer or by any member of a controlled group which includes the employer.

"(ii) TRANSITION PERIOD.—In the case of any election period beginning after December 31, 1991, and before January 1, 1994, the requirements of clause (i) shall not apply and the requirements of this subparagraph are met with respect to such election period if—

"(I) FILING DATE.—Notice of election is filed with the Secretary by December 31, 1992.

"(II) INFORMATION.—The notice sets forth the name and tax identification number of the plan sponsor, the names and tax identification numbers of the plans to which the election applies, the limitation under paragraph (7) (determined with and without regard to this paragraph), and a signed certification by an officer of the employer stating that the requirements of this paragraph have been met.

"(E) TERM OF ELECTION.—Any election made under this paragraph shall apply for the election period.

"(F) OTHER CONSEQUENCES OF ELECTION.—

"(i) NO FUNDING WAIVERS.—In the case of a plan with respect to which an election is made under this paragraph, no waiver may be granted under subsection (d) for any plan year beginning after the date the election was made and ending at the close of the election period with respect thereto.

"(ii) FAILURE TO MAKE SUCCESSIVE ELECTIONS.—If an election is made under this paragraph with respect to any plan and such an election does not apply for each successive plan year of such plan, such plan shall be treated as not meeting the requirements of subparagraph (C) for the period of 10 plans years beginning after the close of the last election period for such plan.

"(G) DEFINITIONS.—For purposes of this paragraph—

"(i) ELECTION PERIOD.—The term 'election period' means the period of 5 consecutive plan years beginning with the 1st plan year for which the election is made.

"(ii) CONTROLLED GROUP.—The term 'controlled group' means all persons who are treated as a single employer under subsection (b), (c), (m), or (o) of section 414.

"(H) PROCEDURES IF ALTERNATIVE FUNDING LIMITATION REDUCES NET FEDERAL REVENUES.—

"(i) IN GENERAL.—At least once with respect to each fiscal year, the Secretary shall estimate whether the application of this paragraph will result in a net reduction in Federal revenues for such fiscal year.

"(ii) ADJUSTMENT OF FULL-FUNDING LIMITATION IF REVENUE SHORTFALL.—If the Secretary estimates that the application of this paragraph will result in a more than insubstantial net reduction in Federal revenues for any fiscal year, the Secretary—

"(I) shall make the adjustment described in clause (iii), and

"(II) to the extent such adjustment is not sufficient to reduce such reduction to an insubstantial amount, shall make the adjustment described in clause (iv).

Such adjustments shall apply only to defined benefit plans with respect to which an election under this paragraph is not in effect.

"(iii) REDUCTION IN LIMITATION BASED ON 150 PERCENT OF CURRENT LIABILITY.—The adjustment described in this clause is an adjustment which substitutes a percentage (not lower than 140 percent) for the percentage described in paragraph (7)(A)(i)(I) determined by reducing the percentage of current liability taken into account with respect to participants who are not accruing benefits under the plan.

"(iv) REDUCTION IN LIMITATION BASED ON ACCRUED LIABILITY.—The adjustment described in this clause is an adjustment which reduces the percentage of accrued liability taken into account under paragraph (7)(A)(i)(II). In no event may the amount of accrued liability taken into account under such paragraph after the adjustment be less than 140 of current liability."

(b) ALTERATION OF DISCRETIONARY REGULATORY AUTHORITY.—Subparagraph (D) of section 412(c)(7) is amended by striking "provide—" and all that follows through "(iii) for" and inserting "provide for".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 4237. DISTRIBUTIONS UNDER RURAL COOPERATIVE PLANS.

(a) DISTRIBUTIONS AFTER CERTAIN AGE.—Section 401(k)(7) is amended by adding at the end thereof the following new subparagraph:

"(C) SPECIAL RULE FOR CERTAIN DISTRIBUTIONS.—A rural cooperative plan which includes a qualified cash or deferred arrangement shall not be treated as violating the requirements of section 401(a) merely by reason of a distribution to a participant after attainment of age 59½."

(b) Effective Date.—The amendments made by this section shall take effect as if included in the amendments made by section 1011(k)(9) of the Technical and Miscellaneous Revenue Act of 1988.

SEC. 4238. TREATMENT OF GOVERNMENTAL PLANS.

(a) Definition of Compensation.—

(1) Limitations on benefits and contributions under qualified plans.—Subsection (k) of section 415 (regarding limitations on benefits and contributions under qualified plans) is amended by at the end the following new paragraph:

"(3) Definition of compensation for governmental plans.—For purposes of this section, in the case of a governmental plan (as defined in section 414(d)), the term 'compensation' includes, in addition to the amounts described in subsection (c)(3), any amount which is contributed by the employer pursuant to a salary reduction agreement and which is not includible in the gross income of an employee under section 125, 402(e)(3), 403(b), 414(h)(2), or 457."

(2) Other uses.—Paragraph (2) of section 414(s) (defining compensation) is amended—

(A) by inserting "subsection (h) or" before "section 125", and

(B) by striking ", or 403(b)" and inserting ", 403(b), or 457".

(b) Compensation Limit.—Subsection (b) of section 415 is amended by at the end the following new paragraph:

"(11) Special limitation rule for governmental plans.—In the case of a governmental plan (as defined in section 414(d)), subparagraph (B) of paragraph (1) shall not apply."

(c) Treatment of Certain Excess Benefit Plans.—

(1) In general.—Section 415 is amended by inserting after subsection (l) the following new subsection:

"(m) Treatment of Qualified Governmental Excess Benefit Arrangements.—

"(1) Governmental plan not affected.—In determining whether a governmental plan (as defined in section 414(d)) meets the requirements of this section, benefits provided under a qualified governmental excess benefit arrangement shall not be taken into account.

"(2) Incoming accruing to plan.—For purposes of section 115, income accruing to a governmental plan in respect of a qualified governmental excess benefit arrangement (or to a trust maintained solely for the purpose of providing benefits under such arrangement) shall be treated as income derived from the exercise of an essential governmental function.

"(3) Taxation of participant.—For purposes of this chapter—

"(A) the taxable year or years for which amounts in respect of a qualified governmental excess benefit arrangement are includible in gross income by a participant, and

"(B) the treatment of such amounts when so includible by the participant,

shall be determined as if such qualified governmental excess benefit arrangement were treated as a plan for the deferral of compensation which is maintained by a corporation not exempt from tax under this chapter and which does not meet the requirements for qualification under section 401.

"(4) Qualified governmental excess benefit arrangement.—For purposes of this subsection, the term 'qualified governmental excess benefit arrangement' means a portion of a governmental plan if—

"(A) such portion is maintained solely for the purpose of providing to participants in the plan that part of the participant's annual benefit (otherwise payable under the terms of the plan) in excess of the limitations on benefits imposed by this section,

"(B) under such portion no election is provided at any time to the participant (directly or indirectly) to defer compensation, and

"(C) benefits described in subparagraph (A) are not paid from a trust forming a part of such governmental plan unless such trust is maintained solely for the purpose of providing such benefits."

(2) Conforming amendment.—Paragraph (2) of section 457(f) is amended by striking "and" at the end of subparagraph (C), by striking the period after subparagraph (D) and inserting ", and", and by inserting at the end thereof the following new subparagraph:

"(E) a qualified governmental excess benefit arrangement described in section 415(m)."

(d) Exemption for Survivor and Disability Benefits.—Paragraph (2) of section 415(b) is amended by inserting at the end the following new subparagraph:

"(I) Exemption for survivor and disability benefits provided under governmental plans.—Subparagraph (B) of paragraph (1), subparagraph (C) of this paragraph, and paragraph (5) shall not apply to—

"(i) income received from a governmental plan (as defined in section 414(d)) as a pension, annuity, or similar allowance as the result of the recipient becoming disabled by reason of personal injuries or sickness, or

"(ii) amounts received from a governmental plan by the beneficiaries, survivors, or the estate of an employee as the result of the death of the employee."

(e) Revocation of Grandfather Election.—Subparagraph (C) of section 415(b)(10) is amended by adding at the end thereof the following new sentences: "If all employers maintaining a plan consent, a plan may revoke an election under the preceding sentence if such revocation is filed with the Secretary not later than the last day of the 3rd plan year beginning after the date of the enactment of this sentence. Such revocation shall apply to all plan years for which the election was in effect, except that the limitations under this section for any amount paid by the plan in a taxable year ending after revocation of such election with respect to benefits attributable to a preceding taxable year during which such election was in effect shall be determined as if such amount had been received in such preceding taxable year."

(f) Effective Dates.—

(1) In general.—The amendments made by subsections (a), (b), (c), and (d) shall apply to taxable years beginning after the date of enactment. The amendments made by subsection (e) shall apply with respect to revocations adopted after the date of enactment of this section.

(2) Treatment for years beginning before date of enactment.—A governmental plan (as defined in section 414(d) of such Code) shall be treated as satisfying the requirements of section 415 of such Code for all taxable years beginning before the date of the enactment of this Act.

SEC. 4239. USE OF EXCESS ASSETS OF BLACK LUNG BENEFIT TRUSTS FOR HEALTH CARE BENEFITS.

(a) General Rule.—Paragraph (21) of section 501(c) is amended to read as follows:

"(21)(A) A trust or trusts established in writing, created or organized in the United States, and contributed to by any person (except an insurance company) if—

"(i) the purpose of such trust or trusts is exclusively—

"(I) to satisfy, in whole or in part, the liability of such person for, or with respect to, claims for compensation for disability or death due to pneumoconiosis under Black Lung Acts,

"(II) to pay premiums for insurance exclusively covering such liability,

"(III) to pay administrative and other incidental expenses of such trust in connection with the operation of the trust and the processing of claims against such person under Black Lung Acts, and

"(IV) to pay accident or health benefits for retired miners and their spouses and dependents (including administrative and other incidental expenses of such trust in connection therewith) or premiums for insurance exclusively covering such benefits, and

"(ii) no part of the assets of the trust may be used for, or diverted to, any purpose other than—

"(I) the purposes described in clause (i),

"(II) investment (but only to the extent that the trustee determines that a portion of the assets is not currently needed for the purposes described in clause (i)) in qualified investments, or

"(III) payment into the Black Lung Disability Trust Fund established under section 9501, or into the general fund of the United States Treasury (other than in satisfaction of any tax or other civil or criminal liability of the person who established or contributed to the trust).

"(B) No deduction shall be allowed under this chapter for any payment described in subparagraph (A)(i)(IV) from such trust.

"(C) Payments described in subparagraph (A)(i)(IV) may be made from such trust during a taxable year only to the extent that the aggregate amount of such payments during such taxable year does not exceed the lesser of—

"(i) the excess (if any) (as of the close of the preceding taxable year) of—

"(I) the fair market value of the assets of the trust, over

"(II) 110 percent of the present value of the liability described in subparagraph (A)(i)(I) of such person, or

"(ii) the excess (if any) of—

"(I) the sum of a similar excess determined as of the close of the last taxable year ending before the date of the enactment of this subparagraph plus earnings thereon as of the close of the taxable year preceding the taxable year involved, over

"(II) the aggregate payments described in subparagraph (A)(i)(IV) made from the trust during all taxable years beginning after the date of the enactment of this subparagraph. The determinations under the preceding sentence shall be made by an independent actuary using actuarial methods and assumptions (not inconsistent with the regulations prescribed under section 192(c)(1)(A)) each of which is reasonable and which are reasonable in the aggregate.

"(D) For purposes of this paragraph—

"(i) The term 'Black Lung Acts' means part C of title IV of the Federal Mine Safety and Health Act of 1977, and any State law providing compensation for disability or death due to pneumoconiosis.

"(ii) The term 'qualified investments' means—

"(I) public debt securities of the United States,

"(II) obligations of a State or local government which are not in default as to principal or interest, and

"(III) time or demand deposits in a bank (as defined in section 581) or an insured credit union (within the meaning of section 101(6) of the Federal Credit Union Act, 12 U.S.C. 1752(6)) located in the United States.

"(iii) The term 'miner' has the same meaning as such term has when used in section 402(d) of the Black Lung Benefits Act (30 U.S.C. 902(d)).

"(iv) The term 'incidental expenses' includes legal, accounting, actuarial, and trustee expenses."

(b) Exception From Tax on Self-Dealing.—Section 4951(f) is amended by striking "clause (i) of section 501(c)(21)(A)" and inserting "subclause (I) or (IV) of section 501(c)(21)(A)(i)".

(c) Technical Amendment.—Paragraph (4) of section 192(c) is amended by striking "clause (ii) of section 501(c)(21)(B)" and inserting "subclause (II) of section 501(c)(21)(A)(ii)".

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 4240. REPORTS OF PENSION AND ANNUITY PAYMENTS.

(a) Amendments Related to Definition of Information Return.—

(1) Subparagraph (A) of section 6724(d)(1) is amended—

(A) by redesignating clauses (iv) through (vii) as clauses (vi) through (ix),

(B) by inserting after clause (iii) the following new clause:

"(v) section 6047(d) (relating to reports by employers, plan administrators, etc.),",

(C) by redesignating clauses (i) through (iii) as clauses (ii) through (iv), and

(D) by inserting before clause (ii) (as so redesignated) the following new clause:

"(i) section 408(i) (relating to individual retirement account and simplified employee pension reports),".

(2) Paragraph (1) of section 6724(d) is amended by adding at the end thereof the following new sentence: "For purposes of clauses (i) and (v) of subparagraph (A), such term shall include only those statements filed with the Secretary with respect to information required to be supplied to both the Secretary and the recipient of the payment."

(b) Amendments Related to Definition of Payee Statement.—

(1) Paragraph (2) of section 6724(d) is amended—

(A) by redesignating subparagraphs (H) through (S) as subparagraphs (J) through (U),

(B) by inserting after subparagraph (G) the following new subparagraph:

"(I) section 6047(d) (relating to reports by employers, plan administrators, etc.),",

(C) by redesignating subparagraphs (A) through (G) as subparagraphs (B) through (H), and

(D) by inserting before subparagraph (B) (as so redesignated) the following new subparagraph:

"(A) section 408(i) (relating to individual retirement account and simplified employee pension reports),".

(2) Paragraph (2) of section 6724(d) is amended by adding at the end thereof the following new sentence: "For purposes of subparagraphs (A) and (I), such term shall only include statements with respect to information required to be supplied to both the Secretary and the recipient of the payment."

(c) Amendments Related to Reports of Designated Distribution.—

(1) Subsection (i) of section 408 is amended by inserting "aggregating $10 or more" after distributions".

(2) Section 6047(d)(1) is amended by adding at the end thereof the following sentence: "However, no returns or reports shall be required with respect to payments of designated distributions aggregating less than $10 to any person in any year."

(d) Technical Amendments.—

(1) Paragraph (1) of section 6047(f) is amended by striking "section 6652(e)" and inserting "sections 6652(e), 6721, and 6722".

(2) Subsection (e) of section 6652 is amended by adding at the end thereof the following: "However, failures to file returns and statements also described in section 6724(d)(1) or 6724(d)(2) shall be subject to penalties under part II of chapter 68B of this subtitle, and not under this section."

(e) Effective Date.—The amendments made by this section shall apply to returns and statements required to be filed after December 31, 1992.

SEC. 4241. CONTRIBUTIONS ON BEHALF OF DISABLED EMPLOYEES.

(a) All Disabled Participants Receiving Contributions.—Section 415(c)(3)(C) is amended by adding at the end thereof the following: "If a defined contribution plan provides for the continuation of contributions on behalf of all participants described in clause (i) for a fixed or determinable period, this subparagraph shall be applied without regard to clauses (ii) and (iii)."

(b) Effective Date.—The amendments made by this section shall apply to years beginning after December 31, 1992.

SEC. 4242. AFFILIATED EMPLOYERS.

(a) In General.—For purposes of Treasury Regulations section 1.501(c)(9)–2(a)(1), employers shall be deemed to be affiliated if they satisfy the requirements of subsection (b).

(b) Affiliation.—The requirements of subsection (b) shall be satisfied with respect to employers if—

(1) the employers are in the same line of business,

(2) the employers act jointly to perform tasks that are integral to the activities of each of the employers,

(3) the employers act jointly to such an extent that the joint maintenance of a voluntary employees' beneficiary association is not a major part of the employers' joint activities, and

(4) a substantial number of the employers are exempt from tax under subtitle A of the Internal Revenue Code of 1986.

(c) Effective Date.—The amendments made by this section shall apply to years beginning before, on, or after the date of the enactment of this section.

SEC. 4243. DISAGGREGATION OF UNION PLANS.

(a) In General.—Paragraph (3) of section 410(b) (relating to exclusion of certain employees) is amended by adding at the end thereof the following new sentence: "At the election of an employer, subparagraph (A) (and the exclusion of employees described in subparagraph (A) for purposes of section 401(a)(4) and 414(r)) shall not apply to a unit of employees who benefit under the plan on the same terms."

(b) Conforming Amendment.—Paragraph (4) of section 401(a) is amended by inserting "and except as provided in section 410(b)(3)," after "paragraph,".

(c) Effective Date.—The amendments made by this section shall apply to years beginning after December 31, 1992.

SEC. 4244. UNIFORM RETIREMENT AGE.

(a) Discrimination Testing.—Paragraph (5) of section 401(a) (relating to special rules relating to nondiscrimination requirements) is amended by adding at the end thereof the following new subparagraph:

"(F) Social security retirement age.—For purposes of testing for discrimination under paragraph (4)—

"(i) the social security retirement age (as defined in section 415(b)(8)) shall be treated as a uniform retirement age, and

"(ii) subsidized early retirement benefits and joint and survivor annuities which are based in whole or in part on an employee's social security retirement age (as so defined) shall be treated as being available to employees on the same terms."

(b) Effective Date.—The amendments made by this section shall apply to years beginning after December 31, 1992.

SEC. 4245. SPECIAL RULES FOR PLANS COVERING PILOTS.

(a) General Rule.—

(1) Subparagraph (B) of section 410(b)(3) is amended to read as follows:

"(B) in the case of a plan established or maintained by one or more employers to provide contributions or benefits for air pilots employed by one or more common carriers engaged in interstate or foreign commerce or air pilots employed by carriers transporting mail for or under contract with the United States Government, all employees who are not air pilots."

(2) Paragraph (3) of section 410(b) is amended by striking the last sentence and inserting the following new sentence: "Subparagraph (B) shall not apply in the case of a plan which provides contributions or benefits for employees who are not air pilots or for air pilots whose principal duties are not customarily performed aboard aircraft in flight."

(b) Effective Date.—The amendments made by subsection (a) shall apply to years beginning after December 31, 1992.

SEC. 4246. NATIONAL COMMISSION ON PRIVATE PENSION PLANS.

(a) Establishment.—There is hereby established a commission to be known as the National Commission on Private Pension Plans (in this section referred to as the "Commission").

(b) Membership.—

(1) The Commission shall consist of—

(A) 6 members to be appointed by the President;

(B) 6 members to be appointed by the Speaker of the House of Representatives; and

(C) 6 members to be appointed by the President pro tempore of the Senate.

(2) The appointments made pursuant to subparagraphs (B) and (C) of paragraph (1) shall be made in consultation with the chairmen of the committees of the House of Representatives and the Senate, respectively, having jurisdiction over relevant Federal pension programs.

(c) Duties and Functions of Commission; Public Hearings in Different Geographical Areas; Broad Spectrum of Witnesses and Testimony.—

(1) It shall be the duty and function of the Commission to conduct the studies and issue the report required by subsection (d) of this section.

(2) The Commission (and any committees that it may form) may conduct public hearings in order to receive the views of a broad spectrum of the public on the status of the Nation's private retirement system.

(d) Report to the President and Congress; Recommendations.—The Commission shall submit to the President, to the Majority Leader and the Minority Leader of the Senate, and to the Majority Leader and the Minority Leader of the House of Representatives a report no later than September 1, 1994, reviewing existing Federal incentives and programs that encourage and protect private retirement savings. The final report shall also set forth recommendations where appropriate for increasing the level and security of private retirement savings.

(e) Time of Appointment of Members; Vacancies; Election of Chairman; Quorum; Calling of Meetings; Number of Meetings; Voting; Compensation and Expenses.—

(1)(A) Members of the Commission shall first be appointed not later than December 31, 1992, for terms ending on September 1, 1994.

(B) A vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the vacant position was first filled.

(2) The Commission shall elect 1 of its members to serve as Chairman of the Commission.

(3) A majority of the members of the Commission shall constitute a quorum for the transaction of business.

(4) The Commission shall meet at the call of the Chairman.

(5) Decisions of the Commission shall be according to the vote of a simple majority of those present and voting at a properly called meeting.

(6) Members of the Commission shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the Commission.

(f) Executive Director and Additional Personnel; Appointment and Compensation; Consultants.—

(1) The Commission shall appoint an Executive Director of the Commission. In addition to the Executive Director, the Commission may appoint and fix the compensation of such personnel as it deems advisable. Such appointments and compensation may be made without regard to the provisions of title 5, United States Code, that govern appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title that relate to classifications and the General Schedule pay rates.

(2) The Commission may procure such temporary and intermittent services of consultants under section 3109(b) of title 5, United States Code, as the Commission determines to be necessary to carry out the duties of the Commission.

(g) Time and Place of Hearings and Nature of Testimony Authorized.—In carrying out its duties, the Commission, or any duly organized committee thereof, is authorized to hold such hearings, sit and act at such times and places, and take such testimony, with respect to matters for which it has a responsibility under this section, as the Commission or committee may deem advisable.

(h) Data and Information From Other Agencies and Departments.—

(1) The Commission may secure directly from any department or agency of the United States such data and information as may be necessary to carry out its responsibilities.

(2) Upon request of the Commission, any such department or agency shall furnish any such data or information.

(i) Support Services by General Services Administration.—The General Services Administration shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

(j) Authorization of Appropriations.—There are authorized to be appropriated through fiscal year 1994, such sums as may be necessary to carry out this section for each of fiscal years 1992, 1993, and 1994.

(k) Donations Accepted and Deposited in Treasury in Separate Fund; Expenditures; Gift or Bequest to or for Use of United States.—

(1) The Commission is authorized to accept donations of money, property, or personal services. Funds received from donations shall be deposited in the Treasury in a separate fund created for this purpose. Funds appropriated for the Commission and donated funds may be expended for such purposes as official reception and representation expenses, public surveys, public service announcements, preparation of special papers, analyses, and documentaries, and for such other purposes as determined by the Commission to be in furtherance of its mission to review national issues affecting private pension plans.

(2) For purposes of Federal income, estate, and gift taxation, money and other property accepted under paragraph (1) of this subsection shall be considered as a gift or bequest to or for the use of the United States.

(3) Expenditures of appropriated and donated funds shall be subject to such rules and regulations as may be adopted by the Commission and shall not be subject to Federal procurement requirements.

(l) Public Surveys.—The Commission is authorized to conduct such public surveys as it deems necessary in support of its review of national issues affecting private pension plans and, in conducting such surveys, the Commission shall not be deemed to be an "agency" for the purpose of section 3502 of title 44, United States Code.

SEC. 4247. DATE FOR ADOPTION OF PLAN AMENDMENTS.

If any amendment made by this Act requires an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after January 1, 1994, if—

(1) during the period after such amendment takes effect and before such first plan year, the plan is operated in accordance with the requirements of such amendment, and

(2) such plan amendment applies retroactively to such period.

Subtitle C—Treatment of Large Partnerships

PART I—GENERAL PROVISIONS

SEC. 4301. SIMPLIFIED FLOW-THROUGH FOR LARGE PARTNERSHIPS.

(a) General Rule.—Subchapter K (relating to partners and partnerships) is amended by adding at the end thereof the following new part:

"PART IV—SPECIAL RULES FOR LARGE PARTNERSHIPS

"Sec. 771. Application of subchapter to large partnerships.
"Sec. 772. Simplified flow-through.
"Sec. 773. Computations at partnership level.
"Sec. 774. Other modifications.
"Sec. 775. Large partnership defined.
"Sec. 776. Special rules for partnerships holding oil and gas properties.
"Sec. 777. Regulations.

"SEC. 771. APPLICATION OF SUBCHAPTER TO LARGE PARTNERSHIPS.

"The preceding provisions of this subchapter to the extent inconsistent with the provisions of this part shall not apply to a large partnership and its partners.

"SEC. 772. SIMPLIFIED FLOW-THROUGH.

"(a) General Rule.—In determining the income tax of a partner of a large partnership, such partner shall take into account separately such partner's distributive share of the partnership's—

"(1) taxable income or loss from passive loss limitation activities,

"(2) taxable income or loss from other activities,

"(3) net capital gain (or net capital loss)—

"(A) to the extent allocable to passive loss limitation activities, and

"(B) to the extent allocable to other activities,

"(4) tax-exempt interest,

"(5) applicable net AMT adjustment separately computed for—

"(A) passive loss limitation activities, and

"(B) other activities,

"(6) general credits,

"(7) low-income housing credit determined under section 42,

"(8) rehabilitation credit determined under section 47,

"(9) foreign income taxes, and

"(10) the credit allowable under section 29.

"(b) Separate Computations.—In determining the amounts required under subsection (a) to be separately taken into account by any partner, this section and section 773 shall be applied separately with respect to such partner by taking into account such partner's distributive share of the items of income, gain, loss, deduction, or credit of the partnership.

"(c) Treatment at Partner Level.—

"(1) In general.—Except as provided in this subsection, rules similar to the rules of section 702(b) shall apply to any partner's distributive share of the amounts referred to in subsection (a).

"(2) Income or loss from passive loss limitation activities.—For purposes of this chapter, any partner's distributive share of any income or loss described in subsection (a)(1) shall be treated as an item of income or loss (as the case may be) from the conduct of a trade or business which is a single passive activity (as defined in section 469). A similar rule shall apply to a partner's distributive share of amounts referred to in paragraphs (3)(A) and (5)(A) of subsection (a).

"(3) Income or loss from other activities.—

"(A) In general.—For purposes of this chapter, any partner's distributive share of any income or loss described in subsection (a)(2) shall be treated as an item of income or expense (as the case may be) with respect to property held for investment.

"(B) Deductions for loss not subject to section 67.—The deduction under section 212 for any loss described in subparagraph (A) shall not be treated as a miscellaneous itemized deduction for purposes of section 67.

"(4) Treatment of net capital gain or loss.—For purposes of this chapter, any partner's distributive share of any gain or loss described in subsection (a)(3) shall be treated as a long-term capital gain or loss, as the case may be.

"(5) Minimum tax treatment.—In determining the alternative minimum taxable income of any partner, such partner's distributive share of any applicable net AMT adjustment shall be taken into account in lieu of making the separate adjustments provided in sections 56, 57, and 58 with respect to the items of the partnership. Except as provided in regulations, the applicable net AMT adjustment shall be treated, for purposes of section 53, as an adjustment or item of tax preference not specified in section 53(d)(1)(B)(ii).

"(6) General credits.—A partner's distributive share of the amount referred to in paragraph (6) of subsection (a) shall be taken into account as a current year business credit.

"(d) OPERATING RULES.—For purposes of this section—

"(1) PASSIVE LOSS LIMITATION ACTIVITY.—The term 'passive loss limitation activity' means—

"(A) any activity which involves the conduct of a trade or business, and

"(B) any rental activity.

For purposes of the preceding sentence, the term 'trade or business' includes any activity treated as a trade or business under paragraph (5) or (6) of section 469(c).

"(2) TAX-EXEMPT INTEREST.—The term 'tax-exempt interest' means interest excludable from gross income under section 103.

"(3) APPLICABLE NET AMT ADJUSTMENT.—

"(A) IN GENERAL.—The applicable net AMT adjustment is—

"(i) with respect to taxpayers other than corporations, the net adjustment determined by using the adjustments applicable to individuals, and

"(ii) with respect to corporations, the net adjustment determined by using the adjustments applicable to corporations.

"(B) NET ADJUSTMENT.—The term 'net adjustment' means the net adjustment in the items attributable to passive loss activities or other activities (as the case may be) which would result if such items were determined with the adjustments of sections 56, 57, and 58.

"(4) TREATMENT OF CAPITAL GAINS AND LOSSES.—

"(A) EXCLUSION FOR CERTAIN PURPOSES.—In determining the amounts referred to in paragraphs (1) and (2) of subsection (a), any net capital gain or net capital loss (as the case may be) shall be excluded.

"(B) ALLOCATION RULES.—The net capital gain shall be treated—

"(i) as allocable to passive loss limitation activities to the extent the net capital gain does not exceed the net capital gain determined by only taking into account gains and losses from sales and exchanges of property used in connection with such activities, and

"(ii) as allocable to other activities to the extent such gain exceeds the amount allocated under clause (i).

A similar rule shall apply for purposes of allocating any net capital loss.

"(C) NET CAPITAL LOSS.—The term 'net capital loss' means the excess of the losses from sales or exchanges of capital assets over the gains from sales or exchange of capital assets.

"(5) GENERAL CREDITS.—The term 'general credits' means any credit other than the low-income housing credit, the rehabilitation credit, the foreign tax credit, and the credit allowable under section 29.

"(6) FOREIGN INCOME TAXES.—The term 'foreign income taxes' means taxes described in section 901 which are paid or accrued to foreign countries and to possessions of the United States.

"(e) SPECIAL RULE FOR UNRELATED BUSINESS TAX.—In the case of a partner which is an organization subject to tax under section 511, such partner's distributive share of any items shall be taken into account separately to the extent necessary to comply with the provisions of section 512(c)(1).

"(f) SPECIAL RULES FOR APPLYING PASSIVE LOSS LIMITATIONS.—If any person holds an interest in a large partnership other than as a limited partner—

"(1) paragraph (2) of subsection (c) shall not apply to such partner, and

"(2) such partner's distributive share of the partnership items allocable to passive loss limitation activities shall be taken into account separately to the extent necessary to comply with the provisions of section 469. The preceding sentence shall not apply to any items allocable to an interest held as a limited partner.

"SEC. 773. COMPUTATIONS AT PARTNERSHIP LEVEL.

"(a) GENERAL RULE.—

"(1) TAXABLE INCOME.—The taxable income of a large partnership shall be computed in the same manner as in the case of an individual except that—

"(A) the items described in section 772(a) shall be separately stated, and

"(B) the modifications of subsection (b) shall apply.

"(2) ELECTIONS.—All elections affecting the computation of the taxable income of a large partnership or the computation of any credit of a large partnership shall be made by the partnership; except that the election under section 901 shall be made by each partner separately.

"(3) LIMITATIONS, ETC.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), all limitations and other provisions affecting the computation of the taxable income of a large partnership or the computation of any credit of a large partnership shall be applied at the partnership level (and not at the partner level).

"(B) CERTAIN LIMITATIONS APPLIED AT PARTNER LEVEL.—The following provisions shall be applied at the partner level (and not at the partnership level):

"(i) Section 68 (relating to overall limitation on itemized deductions).

"(ii) Sections 49 and 465 (relating to at risk limitations).

"(iii) Section 469 (relating to limitation on passive activity losses and credits).

"(iv) Any other provision specified in regulations.

"(4) COORDINATION WITH OTHER PROVISIONS.—Paragraphs (2) and (3) shall apply notwithstanding any other provision of this chapter other than this part.

"(b) MODIFICATIONS TO DETERMINATION OF TAXABLE INCOME.—In determining the taxable income of a large partnership—

"(1) CERTAIN DEDUCTIONS NOT ALLOWED.—The following deductions shall not be allowed:

"(A) The deduction for personal exemptions provided in section 151.

"(B) The net operating loss deduction provided in section 172.

"(C) The additional itemized deductions for individuals provided in part VII of subchapter B (other than section 212 thereof).

"(2) CHARITABLE DEDUCTIONS.—In determining the amount allowable under section 170, the limitation of section 170(b)(2) shall apply.

"(3) COORDINATION WITH SECTION 67.—In lieu of applying section 67, 70 percent of the amount of the miscellaneous itemized deductions shall be disallowed.

"(c) SPECIAL RULES FOR INCOME FROM DISCHARGE OF INDEBTEDNESS.—If a large partnership has income from the discharge of any indebtedness—

"(1) such income shall be excluded in determining the amounts referred to in section 772(a), and

"(2) in determining the income tax of any partner of such partnership—

"(A) such income shall be treated as an item required to be separately taken into account under section 772(a), and

"(B) the provisions of section 108 shall be applied without regard to this part.

"SEC. 774. OTHER MODIFICATIONS.

"(a) TREATMENT OF CERTAIN OPTIONAL ADJUSTMENTS, ETC.—In the case of a large partnership—

"(1) computations under section 773 shall be made without regard to any adjustment under section 743(b) or 108(b), but

"(2) a partner's distributive share of any amount referred to in section 772(a) shall be appropriately adjusted to take into account any adjustment under section 743(b) or 108(b) with respect to such partner.

"(b) DEFERRED SALE TREATMENT OF CONTRIBUTED PROPERTY.—

"(1) TREATMENT OF PARTNERSHIP.—In the case of any contribution of property to which this subsection applies—

"(A) the basis of such property to the partnership shall be its fair market value as of the time of such contribution, and

"(B) section 704(c) shall not apply to such property.

"(2) TREATMENT OF CONTRIBUTING PARTNER.—

"(A) IN GENERAL.—In the case of any partner who makes a contribution of property to which this subsection applies—

"(i) such partner shall recognize the precontribution gain or loss from such property as provided in this paragraph, and

"(ii) appropriate adjustments to the basis of such partner's interest in the partnership shall be made for the amounts recognized under this paragraph.

"(B) CHARACTER.—The character of any gain or loss recognized under this paragraph shall be determined by reference to the character which would have resulted if the property had been sold to the partnership at the time of the contributions; except that any gain or loss recognized under subparagraph (C)(i) shall be treated as ordinary income or loss, as the case may be.

"(C) TRANSACTIONS AT PARTNERSHIP LEVEL.—

"(i) DEPRECIATION, ETC.—If any partnership deduction for depreciation, depletion, or amortization is increased by reason of an increase in the basis of any property under paragraph (1), the contributing partner shall recognize so much of the precontribution gain with respect to such property as does not exceed the increase in such deduction. If there is a precontribution loss, a similar rule shall apply to any decrease in such a deduction.

"(ii) DISPOSITIONS.—

"(I) IN GENERAL.—Except as otherwise provided in this clause, any precontribution gain or loss with respect to any property (to the extent not previously taken into account under this paragraph) shall be recognized by the contributing partner if the partnership makes any disposition of the property.

"(II) DISTRIBUTIONS TO CONTRIBUTING PARTNER.—No gain or loss shall be recognized under subclause (I) by reason of any distribution of the contributed property to the contributing partner (and subparagraph (D)(ii) shall not apply to any such distribution). In any such case, no adjustment shall be made under section 734 on account of such distribution and the adjusted basis of such property in the hands of the contributing partner shall be its adjusted basis immediately before the contribution properly adjusted for gain or loss previously recognized under this paragraph.

"(iii) YEAR FOR WHICH AMOUNT TAKEN INTO ACCOUNT.—Any amount recognized under this subparagraph shall be taken into account for the partner's taxable year in which or with which ends the partnership taxable year of the deduction or disposition.

"(D) TRANSACTIONS AT PARTNER LEVEL.—

"(i) IN GENERAL.—If the contributing partner makes a disposition of any portion of his interest in the partnership, a corresponding portion of any precontribution gain or loss which was not previously taken into account under this paragraph shall be recognized for the partner's taxable year in which the disposition occurs. The preceding sentence shall not apply to a disposition at death.

"(ii) TREATMENT OF CERTAIN DISTRIBUTIONS.—If—

"(I) the amount of cash and the fair market value of property distributed to a partner, exceeds

"(II) the adjusted basis of such partner's interest in the partnership immediately before the distribution (determined without regard to any adjustment under subparagraph (A)(ii) resulting from such distribution), the contributing partner shall recognize so much of any precontribution gain as does not exceed such excess.

"(iii) SPECIAL RULE.—Except as provided in clause (ii)(II), any basis adjustment under subparagraph (A)(ii) resulting from any gain or loss recognized under this subparagraph shall be treated as occurring immediately before the disposition or distribution involved.

"(E) SECTION 267 AND 707(b) PRINCIPLES TO APPLY.—No loss shall be recognized under subparagraph (C)(ii) or (D) by reason of any disposition (directly or indirectly) to a person related (within the meaning of section 267(b) or 707(b)(1)) to the contributing partner.

"(F) TREATMENT OF CERTAIN NONTAXABLE EXCHANGES.—

"(i) SECTION 1031 AND 1033 TRANSACTIONS.—If the disposition referred to in subclause (I) of subparagraph (C)(ii) is an exchange described in section 1031 or a compulsory or involuntary conversion within the meaning of section 1033—

"(I) the amount of gain or loss recognized by the contributing partner under such subclause (I) shall not exceed the gain or loss recognized by the partnership on the disposition, and

"(II) the replacement property shall be treated as the contributed property for purposes of this paragraph.

For purposes of the preceding sentence, the term 'replacement property' means the property the basis of which is determined under section 1031(d) or 1033(b), whichever is applicable.

"(ii) CONTRIBUTIONS TO CONTROLLED PARTNERSHIP.—If the disposition referred to in subclause (I) of subparagraph (C)(ii) is a contribution of the property to another partnership which is a controlled partnership—

"(I) the rules of subclause (I) of clause (i) shall apply, and

"(II) the partnership shall be treated as continuing to hold the contributed property so long as the other partnership continues to be a controlled partnership and continues to hold such property.

For purposes of the preceding sentence, the term 'controlled partnership' means any partnership in which the partnership making the disposition owns more than 50 percent of the capital interest or profits interest.

"(3) PRECONTRIBUTION GAIN OR LOSS.—For purposes of this subsection—

"(A) PRECONTRIBUTION GAIN.—The term 'precontribution gain' means the excess (if any) of—

"(i) the fair market value of the contributed property as of the time of the contribution, over

"(ii) the adjusted basis of such property immediately before such contribution.

"(B) PRECONTRIBUTION LOSS.—The term 'precontribution loss' means the excess (if any) of the amount referred to in clause (ii) of subparagraph (A) over the amount referred to in clause (i) of subparagraph (A).

"(4) CONTRIBUTIONS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to any contribution of property (other than cash) which is made by any partner to a partnership if—

"(A) as of the time of such contribution, such partnership is a large partnership, or

"(B) such contribution is to a partnership reasonably expected to become a large partnership.

This subsection shall not apply to any contribution made before the date of the enactment of this part.

"(c) CREDIT RECAPTURE DETERMINED AT PARTNERSHIP LEVEL.—

"(1) IN GENERAL.—In the case of a large partnership—

"(A) any credit recapture shall be taken into account by the partnership, and

"(B) the amount of such recapture shall be determined as if the credit with respect to which the recapture is made had been fully utilized to reduce tax.

"(2) METHOD OF TAKING RECAPTURE INTO ACCOUNT.—A large partnership shall take into account a credit recapture by reducing the amount of the appropriate current year credit to the extent thereof, and if such recapture exceeds the amount of such current year credit, the partnership shall be liable to pay such excess.

"(3) DISPOSITIONS NOT TO TRIGGER RECAPTURE.—No credit recapture shall be required by reason of any transfer of an interest in a large partnership.

"(4) CREDIT RECAPTURE.—For purposes of this subsection, the term 'credit recapture' means any increase in tax under section 42(j) or 50(a).

"(d) PARTNERSHIP NOT TERMINATED BY REASON OF CHANGE IN OWNERSHIP.—Subparagraph (B) of section 708(b)(1) shall not apply to a large partnership.

"(e) PARTNERSHIP ENTITLED TO CERTAIN CREDITS.—The following shall be allowed to a large partnership and shall not be taken into account by the partners of such partnership:

"(1) The credit provided by section 34.

"(2) Any credit or refund under section 852(b)(3)(D).

"(f) TREATMENT OF REMIC RESIDUALS.—For purposes of applying section 860E(e)(6) to any large partnership—

"(1) all interests in such partnership shall be treated as held by disqualified organizations,

"(2) in lieu of applying subparagraph (C) of section 860E(e)(6), the amount subject to tax under section 860E(e)(6) shall be excluded from the gross income of such partnership, and

"(3) subparagraph (D) of section 860E(e)(6) shall not apply.

"(g) SPECIAL RULES FOR APPLYING CERTAIN INSTALLMENT SALE RULES.—In the case of a large partnership—

"(1) the provisions of sections 453(l)(3) and 453A shall be applied at the partnership level, and

"(2) in determining the amount of interest payable under such sections, such partnership shall be treated as subject to tax under this chapter at the highest rate of tax in effect under section 1 or 11.

"SEC. 775. LARGE PARTNERSHIP.

"(a) GENERAL RULE.—For purposes of this part—

"(1) IN GENERAL.—Except as otherwise provided in this section or section 776, the term 'large partnership' means, with respect to any partnership taxable year, any partnership if the number of persons who were partners in such partnership in such taxable year or any preceding partnership taxable year beginning after December 31, 1992, equaled or exceeded 250. To the extent provided in regulations, a partnership shall cease to be treated as a large partnership for any partnership taxable year if in such taxable year fewer than 100 persons were partners in such partnership.

"(2) ELECTION FOR PARTNERSHIPS WITH AT LEAST 100 PARTNERS.—If a partnership makes an election under this paragraph, paragraph (1) shall be applied by substituting '100' for '250'. Such an election shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.

"(b) SPECIAL RULES FOR CERTAIN SERVICE PARTNERSHIPS.—

"(1) CERTAIN PARTNERS NOT COUNTED.—For purposes of this section, the term 'partner' does not include any individual performing substantial services in connection with the activities of the partnership and holding an interest in such partnership, or an individual who formerly performed substantial services in connection with such activities and who held an interest in such partnership at the time the individual performed such services.

"(2) EXCLUSION.—For purposes of this part, the term 'large partnership' does not include any partnership if substantially all the partners of such partnership—

"(A) are individuals performing substantial services in connection with the activities of such partnership or are personal service corporations (as defined in section 269A(b)) the owner-employees (as defined in section 269A(b)) of which perform such substantial services,

"(B) are retired partners who had performed such substantial services, or

"(C) are spouses of partners who are performing (or had previously performed) such substantial services.

"(3) SPECIAL RULE FOR LOWER TIER PARTNERSHIPS.—For purposes of this subsection, the activities of a partnership shall include the activities of any other partnership in which the partnership owns directly an interest in the capital and profits of at least 80 percent.

"(c) EXCLUSION OF COMMODITY POOLS.—For purposes of this part, the term 'large partnership' does not include any partnership the principal activity of which is the buying and selling of commodities (not described in section 1221(1)), or options, futures, or forwards with respect to such commodities.

"(d) SECRETARY MAY RELY ON TREATMENT ON RETURN.—If, on the partnership return of any partnership, such partnership is treated as a large partnership, such treatment shall be binding on such partnership and all partners of such partnership but not on the Secretary.

"SEC. 776. SPECIAL RULES FOR PARTNERSHIPS HOLDING OIL AND GAS PROPERTIES.

"(a) EXCEPTION FOR PARTNERSHIPS HOLDING SIGNIFICANT OIL AND GAS PROPERTIES.—

"(1) IN GENERAL.—For purposes of this part, the term 'large partnership' shall not include any partnership if the average percentage of assets (by value) held by such partnership during the taxable year which are oil or gas properties is at least 25 percent. For purposes of the preceding sentence, any interest held by a partnership in another partnership shall be disregarded, except that the partnership shall be treated as holding its proportionate share of the assets of such other partnership.

"(2) ELECTION TO WAIVE EXCEPTION.—Any partnership may elect to have paragraph (1) not apply. Such an election shall apply to the partnership taxable year for which made and all subsequent partnership taxable years unless revoked with the consent of the Secretary.

"(b) SPECIAL RULES WHERE PART APPLIES.—

"(1) COMPUTATION OF PERCENTAGE DEPLETION.—In the case of a large partnership, except as provided in paragraph (2)—

"(A) the allowance for depletion under section 611 with respect to any partnership oil or gas property shall be computed at the partnership level without regard to any provision of section 613A requiring such allowance to be computed separately by each partner,

"(B) such allowance shall be determined without regard to the provisions of section 613A(c) limiting the amount of production for which percentage depletion is allowable and without respect to paragraph (1) of section 613A(d), and

"(C) paragraph (3) of section 705(a) shall not apply.

"(2) TREATMENT OF CERTAIN PARTNERS.—

"(A) IN GENERAL.—In the case of a disqualified person, the treatment under this chapter of such person's distributive share of any item of income, gain, loss, deduction, or credit attributable to any partnership oil or gas property shall be determined without regard to this part. Such person's distributive share of any such items shall be excluded for purposes of making determinations under sections 772 and 773.

"(B) DISQUALIFIED PERSON.—For purposes of subparagraph (A), the term 'disqualified person' means, with respect to any partnership taxable year—

"(i) any person referred to in paragraph (2) or (4) of section 613A(d) for such person's taxable year in which such partnership taxable year ends, and

"(ii) any other person if such person's average daily production of domestic crude oil and natural gas for such person's taxable year in which such partnership taxable year ends exceeds 500 barrels.

"(C) AVERAGE DAILY PRODUCTION.—For purposes of subparagraph (B), a person's average daily production of domestic crude oil and natural gas for any taxable year shall be computed as provided in section 613A(c)(2)—

"(i) by taking into account all production of domestic crude oil and natural gas (including such person's proportionate share of any production of a partnership),

"(ii) by treating 6,000 cubic feet of natural gas as a barrel of crude oil, and

"(iii) by treating as 1 person all persons treated as 1 taxpayer under section 613A(c)(8) or among whom allocations are required under such section.

"SEC. 777. REGULATIONS.

"The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this part."

(b) CLERICAL AMENDMENT.—The table of parts for subchapter K of chapter 1 is amended by adding at the end thereof the following new item:

"Part IV. Special rules for large partnerships."

SEC. 4302. SIMPLIFIED AUDIT PROCEDURES FOR LARGE PARTNERSHIPS.

(a) GENERAL RULE.—Chapter 63 is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER D—TREATMENT OF LARGE PARTNERSHIPS

"Part I. Treatment of partnership items and adjustments.
"Part II. Partnership level adjustments.
"Part III. Definitions and special rules.

"PART I—TREATMENT OF PARTNERSHIP ITEMS AND ADJUSTMENTS

"Sec. 6240. Application of subchapter.
"Sec. 6241. Partner's return must be consistent with partnership return.
"Sec. 6242. Procedures for taking partnership adjustments into account.

"SEC. 6240. APPLICATION OF SUBCHAPTER.

"(a) GENERAL RULE.—This subchapter shall only apply to large partnerships and partners in such partnerships.

"(b) COORDINATION WITH OTHER PARTNERSHIP AUDIT PROCEDURES.—

"(1) IN GENERAL.—Subchapter C of this chapter shall not apply to any large partnership other than in its capacity as a partner in another partnership which is not a large partnership.

"(2) TREATMENT WHERE PARTNER IN OTHER PARTNERSHIP.—If a large partnership is a partner in another partnership which is not a large partnership—

"(A) subchapter C of this chapter shall apply to items of such large partnership which are partnership items with respect to such other partnership, but

"(B) any adjustment under such subchapter C shall be taken into account in the manner provided by section 6242.

"SEC. 6241. PARTNER'S RETURN MUST BE CONSISTENT WITH PARTNERSHIP RETURN.

"(a) GENERAL RULE.—A partner of any large partnership shall, on the partner's return, treat each partnership item attributable to such partnership in a manner which is consistent with the treatment of such partnership item on the partnership return.

"(b) UNDERPAYMENT DUE TO INCONSISTENT TREATMENT ASSESSED AS MATH ERROR.—Any underpayment of tax by a partner by reason of failing to comply with the requirements of subsection (a) shall be assessed and collected in the same manner as if such underpayment were on account of a mathematical or clerical error appearing on the partner's return. Paragraph (2) of section 6213(b) shall not apply to any assessment of an underpayment referred to in the preceding sentence.

"(c) ADJUSTMENTS NOT TO AFFECT PRIOR YEAR OF PARTNERS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), subsections (a) and (b) shall apply without regard to any adjustment to the partnership item under part II.

"(2) CERTAIN CHANGES IN DISTRIBUTIVE SHARE TAKEN INTO ACCOUNT BY PARTNER.—

"(A) IN GENERAL.—To the extent that any adjustment under part II involves a change under section 704 in a partner's distributive share of the amount of any partnership item shown on the partnership return, such adjustment shall be taken into account in applying this title to such partner for the partner's taxable year for which such item was required to be taken into account.

"(B) COORDINATION WITH DEFICIENCY PROCEDURES.—

"(i) IN GENERAL.—Subchapter B shall not apply to the assessment or collection of any underpayment of tax attributable to an adjustment referred to in subparagraph (A).

"(ii) ADJUSTMENT NOT PRECLUDED.—Notwithstanding any other law or rule of law, nothing in subchapter B (or in any proceeding under subchapter B) shall preclude the assessment or collection of any underpayment of tax (or the allowance of any credit or refund of any overpayment of tax) attributable to an adjustment referred to in subparagraph (A) and such assessment or collection or allowance (or any notice thereof) shall not preclude any notice, proceeding, or determination under subchapter B.

"(C) PERIOD OF LIMITATIONS.—The period for—

"(i) assessing any underpayment of tax, or

"(ii) filing a claim for credit or refund of any overpayment of tax,

attributable to an adjustment referred to in subparagraph (A) shall not expire before the close of the period prescribed by section 6248 for making adjustments with respect to the partnership taxable year involved.

"(D) TIERED STRUCTURES.—If the partner referred to in subparagraph (A) is another partnership or an S corporation, the rules of this paragraph shall also apply to persons holding interests in such partnership or S corporation (as the case may be); except that, if such partner is a large partnership, the adjustment referred to in subparagraph (A) shall be taken into account in the manner provided by section 6242.

"(d) ADDITION TO TAX FOR FAILURE TO COMPLY WITH SECTION.—

"For addition to tax in case of partner's disregard of requirements of this section, see part II of subchapter A of chapter 68.

"SEC. 6242. PROCEDURES FOR TAKING PARTNERSHIP ADJUSTMENTS INTO ACCOUNT.

"(a) ADJUSTMENTS FLOW THROUGH TO PARTNERS FOR YEAR IN WHICH ADJUSTMENT TAKES EFFECT.—

"(1) IN GENERAL.—If any partnership adjustment with respect to any partnership item takes effect (within the meaning of subsection (d)(2)) during any partnership taxable year and if an election under paragraph (2) does not apply to such adjustment, such adjustment shall be taken into account in determining the amount of such item for the partnership taxable year in which such adjustment takes effect. In applying this title to any person who is (directly or indirectly) a partner in such partnership during such partnership taxable year, such adjustment shall be treated as an item actually arising during such taxable year.

"(2) PARTNERSHIP LIABLE IN CERTAIN CASES.—If—

"(A) a partnership elects under this paragraph to not take an adjustment into account under paragraph (1),

"(B) a partnership does not make such an election but in filing its return for any partnership taxable year fails to take fully into account any partnership adjustment as required under paragraph (1), or

"(C) any partnership adjustment involves a reduction in a credit which exceeds the amount of such credit determined for the partnership taxable year in which the adjustment takes effect,

the partnership shall pay to the Secretary an amount determined by applying the rules of subsection (b)(4) to the adjustments not so taken into account and any excess referred to in subparagraph (C).

"(3) OFFSETTING ADJUSTMENTS TAKEN INTO ACCOUNT.—If a partnership adjustment requires another adjustment in a taxable year after the adjusted year and before the partnership taxable year in which such partnership adjustment takes effect, such other adjustment shall be taken into account under this subsection for the partnership taxable year in which such partnership adjustment takes effect.

"(4) COORDINATION WITH PART II.—Amounts taken into account under this subsection for any partnership taxable year shall continue to be treated as adjustments for the adjusted year for purposes of determining whether such amounts may be readjusted under part II.

"(b) PARTNERSHIP LIABLE FOR INTEREST AND PENALTIES.—

"(1) IN GENERAL.—If a partnership adjustment takes effect during any partnership taxable year and such adjustment results in an imputed underpayment for the adjusted year, the partnership—

"(A) shall pay to the Secretary interest computed under paragraph (2), and

"(B) shall be liable for any penalty, addition to tax, or additional amount as provided in paragraph (3).

"(2) DETERMINATION OF AMOUNT OF INTEREST.—The interest computed under this paragraph with respect to any partnership adjustment is the interest which would be determined under chapter 67—

"(A) on the imputed underpayment determined under paragraph (4) with respect to such adjustment,

"(B) for the period beginning on the day after the return due date for the adjusted year and ending on the return due date for the partnership taxable year in which such adjustment takes effect (or, if earlier, in the case of any adjustment to which subsection (a)(2) applies, the date on which the payment under subsection (a)(2) is made).

Proper adjustments in the amount determined under the preceding sentence shall be made for adjustments required for partnership taxable years after the adjusted year and before the year in which the partnership adjustment takes effect by reason of such partnership adjustment.

"(3) PENALTIES.—A partnership shall be liable for any penalty, addition to tax, or additional amount for which it would have been liable if such partnership had been an individual subject to tax under chapter 1 for the adjusted year and the imputed underpayment determined under paragraph (4) were an actual underpayment (or understatement) for such year.

"(4) IMPUTED UNDERPAYMENT.—For purposes of this subsection, the imputed underpayment determined under this paragraph with respect to any partnership adjustment is the underpayment (if any) which would result—

"(A) by netting all adjustments to items of income, gain, loss, or deduction and—

"(i) if such netting results in a net increase in income, by treating such net increase as an underpayment equal to the amount of such net increase multiplied by the highest rate of tax in effect under section 1 or 11 for the adjusted year, or

"(ii) if such netting results in a net decrease in income, by treating such net decrease as an overpayment equal to such net decrease multiplied by such highest rate, and

"(B) by taking adjustments to credits into account as increases or decreases (whichever is appropriate) in the amount of tax.

For purposes of the preceding sentence, any net decrease in a loss shall be treated as an increase in income and a similar rule shall apply to a net increase in a loss.

"(c) ADMINISTRATIVE PROVISIONS.—

"(1) IN GENERAL.—Any payment required by subsection (a)(2) or (b)(1)(A)—

"(A) shall be assessed and collected in the same manner as if it were a tax imposed by subtitle C, and

"(B) shall be paid on or before the return due date for the partnership taxable year in which the partnership adjustment takes effect.

"(2) INTEREST.—For purposes of determining interest, any payment required by subsection (a)(2) or (b)(1)(A) shall be treated as an underpayment of tax.

"(3) PENALTIES.—

"(A) IN GENERAL.—In the case of any failure by any partnership to pay on the date prescribed therefor any amount required by subsection (a)(2) or (b)(1)(A), there is hereby imposed on such partnership a penalty of 10 percent of the underpayment. For purposes of the preceding sentence, the term 'underpayment' means the excess of any payment required under this section over the amount (if any) paid on or before the date prescribed therefor.

"(B) ACCURACY-RELATED AND FRAUD PENALTIES MADE APPLICABLE.—For purposes of part II of subchapter A of chapter 68, any payment required by subsection (a)(2) shall be treated as an underpayment of tax.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) PARTNERSHIP ADJUSTMENT.—The term 'partnership adjustment' means any adjustment in the amount of any partnership item of a large partnership.

"(2) WHEN ADJUSTMENT TAKES EFFECT.—A partnership adjustment takes effect—

"(A) in the case of an adjustment pursuant to the decision of a court in a proceeding brought under part II, when such decision becomes final,

"(B) in the case of an adjustment pursuant to any administrative adjustment request under section 6251, when such adjustment is allowed by the Secretary, or

"(C) in any other case, when such adjustment is made.

"(3) ADJUSTED YEAR.—The term 'adjusted year' means the partnership taxable year to which the item being adjusted relates.

"(4) RETURN DUE DATE.—The term 'return due date' means, with respect to any taxable year, the date prescribed for filing the partnership return for such taxable year (determined without regard to extensions).

"(5) ADJUSTMENTS INVOLVING CHANGES IN CHARACTER.—Under regulations, appropriate adjustments in the application of this section shall be made for purposes of taking into account partnership adjustments which involve a change in the character of any item of income, gain, loss, or deduction.

"(e) PAYMENTS NONDEDUCTIBLE.—No deduction shall be allowed under subtitle A for any payment required to be made by a large partnership under this section.

"PART II—PARTNERSHIP LEVEL ADJUSTMENTS

"Subpart A. Adjustments by Secretary.

"Subpart B. Claims for adjustments by partnership.

"Subpart A—Adjustments by Secretary

"Sec. 6245. Secretarial authority.

"Sec. 6246. Restrictions on partnership adjustments.

"Sec. 6247. Judicial review of partnership adjustment.

"Sec. 6248. Period of limitations for making adjustments.

"SEC. 6245. SECRETARIAL AUTHORITY.

"(a) GENERAL RULE.—The Secretary is authorized and directed to make adjustments at the partnership level in any partnership item to the extent necessary to have such item be treated in the manner required.

"(b) NOTICE OF PARTNERSHIP ADJUSTMENT.—

"(1) IN GENERAL.—If the Secretary determines that a partnership adjustment is required, the Secretary is authorized to send notice of such adjustment to the partnership by certified mail or registered mail. Such notice shall be sufficient if mailed to the partnership at its last known address even if the partnership has terminated its existence.

"(2) FURTHER NOTICES RESTRICTED.—If the Secretary mails a notice of a partnership adjustment to any partnership for any partnership taxable year and the partnership files a petition under section 6247 with respect to such notice, in the absence of a showing of fraud, malfeasance, or misrepresentation of a material fact, the Secretary shall not mail another such notice to such partnership with respect to such taxable year.

"(3) AUTHORITY TO RESCIND NOTICE WITH PARTNERSHIP CONSENT.—The Secretary may, with the consent of the partnership, rescind any notice of a partnership adjustment mailed to such partnership. Any notice so rescinded shall not be treated as a notice of a partnership adjustment, for purposes of this section, section 6246, and section 6247, and the taxpayer shall have no right to bring a proceeding under section 6247 with respect to such notice. Nothing in this subsection shall affect any suspension of the running of any period of limitations during any period during which the rescinded notice was outstanding.

"SEC. 6246. RESTRICTIONS ON PARTNERSHIP ADJUSTMENTS.

"(a) GENERAL RULE.—Except as otherwise provided in this chapter, no adjustment to any partnership item may be made (and no levy or proceeding in any court for the collection of any amount resulting from such adjustment may be made, begun or prosecuted) before—

"(1) the close of the 90th day after the day on which a notice of a partnership adjustment was mailed to the partnership, and

"(2) if a petition is filed under section 6247 with respect to such notice, the decision of the court has become final.

"(b) PREMATURE ACTION MAY BE ENJOINED.—Notwithstanding section 7421(a), any action which violates subsection (a) may be enjoined in the proper court, including the Tax Court. The Tax Court shall have no jurisdiction to enjoin any action under this subsection unless a timely petition has been filed under section 6247 and then only in respect of the adjustments that are the subject of such petition.

"(c) EXCEPTIONS TO RESTRICTIONS ON ADJUSTMENTS.—

"(1) ADJUSTMENTS ARISING OUT OF MATH OR CLERICAL ERRORS.—

"(A) IN GENERAL.—If the partnership is notified that, on account of a mathematical or clerical error appearing on the partnership return, an adjustment to a partnership item is required, rules similar to the rules of paragraphs (1) and (2) of section 6213(b) shall apply to such adjustment.

"(B) SPECIAL RULE.—If a large partnership is a partner in another large partnership, any adjustment on account of such partnership's failure to comply with the requirements of section 6241(a) with respect to its interest in such other partnership shall be treated as an adjustment referred to in subparagraph (A), except that paragraph (2) of section 6213(b) shall not apply to such adjustment.

"(2) PARTNERSHIP MAY WAIVE RESTRICTIONS.—The partnership shall at any time (whether or not a notice of partnership adjustment has been issued) have the right, by a signed notice in writing filed with the Secretary, to waive the restrictions provided in subsection (a) on the making of any partnership adjustment.

"(d) LIMIT WHERE NO PROCEEDING BEGUN.—If no proceeding under section 6247 is begun with respect to any notice of a partnership adjustment during the 90-day period described in subsection (a), the amount for which the partnership is liable under section 6242 (and any increase in any partner's liability for tax under chapter 1 by reason of any adjustment under section 6242(a)) shall not exceed the amount determined in accordance with such notice.

"SEC. 6247. JUDICIAL REVIEW OF PARTNERSHIP ADJUSTMENT.

"(a) GENERAL RULE.—Within 90 days after the date on which a notice of a partnership adjustment is mailed to the partnership with respect to any partnership taxable year, the partnership may file a petition for a readjustment of the partnership items for such taxable year with—

"(1) the Tax Court,

"(2) the district court of the United States for the district in which the partnership's principal place of business is located, or

"(3) the Claims Court.

"(b) JURISDICTIONAL REQUIREMENT FOR BRINGING ACTION IN DISTRICT COURT OR CLAIMS COURT.—

"(1) IN GENERAL.—A readjustment petition under this section may be filed in a district court of the United States or the Claims Court only if the partnership filing the petition deposits with the Secretary, on or before the date the petition is filed, the amount for which the partnership would be liable under section 6242(b) (as of the date of the filing of the petition) if the partnership items were adjusted as provided by the notice of partnership adjustment. The court may by order provide that the jurisdictional requirements of this paragraph are satisfied where there has been a good faith attempt to satisfy such requirement and any shortfall of the amount required to be deposited is timely corrected.

"(2) INTEREST PAYABLE.—Any amount deposited under paragraph (1), while deposited, shall not be treated as a payment of tax for purposes of this title (other than chapter 67).

"(c) SCOPE OF JUDICIAL REVIEW.—A court with which a petition is filed in accordance with this section shall have jurisdiction to determine all partnership items of the partnership for the partnership taxable year to which the notice of partnership adjustment relates and the proper allocation of such items among the partners (and the applicability of any penalty, addition to tax, or additional amount for which the partnership may be liable under section 6242(b)).

"(d) DETERMINATION OF COURT REVIEWABLE.—Any determination by a court under this section shall have the force and effect of a decision of the Tax Court or a final judgment or decree of the district court or the Claims Court, as the case may be, and shall be reviewable as such. The date of any such determination shall be treated as being the date of the court's order entering the decision.

"(e) EFFECT OF DECISION DISMISSING ACTION.—If an action brought under this section is dismissed other than by reason of a rescission under section 6245(b)(3), the decision of the court dismissing the action shall be considered as its decision that the notice of partnership adjustment is correct, and an appropriate order shall be entered in the records of the court.

"SEC. 6248. PERIOD OF LIMITATIONS FOR MAKING ADJUSTMENTS.

"(a) GENERAL RULE.—Except as otherwise provided in this section, no adjustment under this subpart to any partnership item for any partnership taxable year may be made after the date which is 3 years after the later of—

"(1) the date on which the partnership return for such taxable year was filed, or

"(2) the last day for filing such return for such year (determined without regard to extensions).

"(b) EXTENSION BY AGREEMENT.—The period described in subsection (a) (including an extension period under this subsection) may be extended by an agreement entered into by the Secretary and the partnership before the expiration of such period.

"(c) SPECIAL RULE IN CASE OF FRAUD, ETC.—

"(1) FALSE RETURN.—In the case of a false or fraudulent partnership return with intent to evade tax, the adjustment may be made at any time.

"(2) SUBSTANTIAL OMISSION OF INCOME.—If any partnership omits from gross income an amount properly includible therein which is in excess of 25 percent of the amount of gross income stated in its return, subsection (a) shall be applied by substituting '6 years' for '3 years'.

"(3) NO RETURN.—In the case of a failure by a partnership to file a return for any taxable year, the adjustment may be made at any time.

"(4) RETURN FILED BY SECRETARY.—For purposes of this section, a return executed by the Secretary under subsection (b) of section 6020 on behalf of the partnership shall not be treated as a return of the partnership.

"(d) SUSPENSION WHEN SECRETARY MAILS NOTICE OF ADJUSTMENT.—If notice of a partnership adjustment with respect to any taxable year is mailed to the partnership, the running of the period specified in subsection (a) (as modified by the other provisions of this section) shall be suspended—

"(1) for the period during which an action may be brought under section 6247 (and, if a petition is filed under section 6247 with respect to such notice, until the decision of the court becomes final), and

"(2) for 1 year thereafter.

"Subpart B—Claims for Adjustments by Partnership

"Sec. 6251. Administrative adjustment requests.

"Sec. 6252. Judicial review where administrative adjustment request is not allowed in full.

"SEC. 6251. ADMINISTRATIVE ADJUSTMENT REQUESTS.

"(a) GENERAL RULE.—A partnership may file a request for an administrative adjustment of partnership items for any partnership taxable year at any time which is—

"(1) within 3 years after the later of—

"(A) the date on which the partnership return for such year is filed, or

"(B) the last day for filing the partnership return for such year (determined without regard to extensions), and

"(2) before the mailing to the partnership of a notice of a partnership adjustment with respect to such taxable year.

"(b) SECRETARIAL ACTION.—If a partnership files an administrative adjustment request under subsection (a), the Secretary may allow any part of the requested adjustments.

"(c) SPECIAL RULE IN CASE OF EXTENSION UNDER SECTION 6248.—If the period described in section 6248(a) is extended pursuant to an agreement under section 6248(b), the period prescribed by subsection (a)(1) shall not expire before the date 6 months after the expiration of the extension under section 6248(b).

"SEC. 6252. JUDICIAL REVIEW WHERE ADMINISTRATIVE ADJUSTMENT REQUEST IS NOT ALLOWED IN FULL.

"(a) IN GENERAL.—If any part of an administrative adjustment request filed under section 6251 is not allowed by the Secretary, the partnership may file a petition for an adjustment with respect to the partnership items to which such part of the request relates with—

"(1) the Tax Court,

"(2) the district court of the United States for the district in which the principal place of business of the partnership is located, or

"(3) the Claims Court.

"(b) PERIOD FOR FILING PETITION.—A petition may be filed under subsection (a) with respect to partnership items for a partnership taxable year only—

"(1) after the expiration of 6 months from the date of filing of the request under section 6251, and

"(2) before the date which is 2 years after the date of such request.

The 2-year period set forth in paragraph (2) shall be extended for such period as may be agreed upon in writing by the partnership and the Secretary.

"(c) COORDINATION WITH SUBPART A.—

"(1) NOTICE OF PARTNERSHIP ADJUSTMENT BEFORE FILING OF PETITION.—No petition may be filed under this section after the Secretary mails to the partnership a notice of a partnership adjustment for the partnership taxable year to which the request under section 6251 relates.

"(2) NOTICE OF PARTNERSHIP ADJUSTMENT AFTER FILING BUT BEFORE HEARING OF PETITION.—If the Secretary mails to the partnership a notice of a partnership adjustment for the partnership taxable year to which the request under section 6251 relates after the filing of a petition under this subsection but before the hearing of such petition, such petition shall be treated as an action brought under section 6247 with respect to such notice, except that subsection (b) of section 6247 shall not apply.

"(3) NOTICE MUST BE BEFORE EXPIRATION OF STATUTE OF LIMITATIONS.—A notice of a partnership adjustment for the partnership taxable year shall be taken into account under paragraphs (1) and (2) only if such notice is mailed before the expiration of the period prescribed by section 6248 for making adjustments to partnership items for such taxable year.

"(d) SCOPE OF JUDICIAL REVIEW.—Except in the case described in paragraph (2) of subsection (c), a court with which a petition is filed in accordance with this section shall have jurisdiction to determine only those partnership items to which the part of the request under section 6251 not allowed by the Secretary relates and those items with respect to which the Secretary asserts adjustments as offsets to the adjustments requested by the partnership.

"(e) DETERMINATION OF COURT REVIEWABLE.—Any determination by a court under this subsection shall have the force and effect of a decision of the Tax Court or a final judgment or decree of the district court or the Claims Court, as the case may be, and shall be reviewable as such. The date of any such determination shall be treated as being the date of the court's order entering the decision.

"PART III—DEFINITIONS AND SPECIAL RULES.

"Sec. 6255. Definitions and special rules.

"SEC. 6255. DEFINITIONS AND SPECIAL RULES.

"(a) DEFINITIONS.—For purposes of this subchapter—

"(1) LARGE PARTNERSHIP.—The term 'large partnership' has the meaning given to such term by section 775 without regard to section 776(a).

"(2) PARTNERSHIP ITEM.—The term 'partnership item' has the meaning given to such term by section 6231(a)(3).

"(b) PARTNERS BOUND BY ACTIONS OF PARTNERSHIP, ETC.—

"(1) DESIGNATION OF PARTNER.—Each large partnership shall designate (in the manner prescribed by the Secretary) a partner (or other person) who shall have the sole authority to act on behalf of such partnership under this subchapter. In any case in which such a designation is not in effect, the Secretary may select any partner as the partner with such authority.

"(2) BINDING EFFECT.—A large partnership and all partners of such partnership shall be bound—

"(A) by actions taken under this subchapter by the partnership, and

"(B) by any decision in a proceeding brought under this subchapter.

"(c) PARTNERSHIPS HAVING PRINCIPAL PLACE OF BUSINESS OUTSIDE THE UNITED STATES.—For purposes of sections 6247 and 6252, a principal place of business located outside the United States shall be treated as located in the District of Columbia.

"(d) TREATMENT WHERE PARTNERSHIP CEASES TO EXIST.—If a partnership ceases to exist before a partnership adjustment under this subchapter takes effect, such adjustment shall be taken into account by the former partners of such partnership under regulations prescribed by the Secretary.

"(e) DATE DECISION BECOMES FINAL.—For purposes of this subchapter, the principles of section 7481(a) shall be applied in determining the date on which a decision of a district court or the Claims Court becomes final.

"(f) PARTNERSHIPS IN CASES UNDER TITLE 11 OF THE UNITED STATES CODE.—The running of any period of limitations provided in this subchapter on making a partnership adjustment (or provided by section 6501 or 6502 on the assessment or collection of any amount required to be paid under section 6242) shall, in a case under title 11 of the United States Code, be suspended during the period during which the Secretary is prohibited by reason of such case from making the adjustment (or assessment or collection) and—

"(1) for adjustment or assessment, 60 days thereafter, and

"(2) for collection, 6 months thereafter.

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this subchapter, including regulations—

"(1) to prevent abuse through manipulation of the provisions of this subchapter, and

"(2) providing that this subchapter shall not apply to any case described in section 6231(c)(1) (or the regulations prescribed thereunder) where the application of this subchapter to such a case would interfere with the effective and efficient enforcement of this title. In any case to which this subchapter does not apply by reason of paragraph (2), rules similar to the rules of sections 6229(f) and 6255(f) shall apply."

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 63 is amended by adding at the end thereof the following new item:

"SUBCHAPTER D. Treatment of large partnerships."

SEC. 4303. DUE DATE FOR FURNISHING INFORMATION TO PARTNERS OF LARGE PARTNERSHIPS.

(a) GENERAL RULE.—Subsection (b) of section 6031 (relating to copies to partners) is amended by adding at the end thereof the following new sentence: "In the case of a large partnership (as defined in sections 775 and 776(a)), such information shall be furnished on or before the first March 15 following the close of such taxable year."

(b) TREATMENT AS INFORMATION RETURN.—Section 6724 is amended by adding at the end thereof the following new subsection:

"(e) SPECIAL RULE FOR CERTAIN PARTNERSHIP RETURNS.—If any partnership return under section 6031(a) is required under section 6011(e) to be filed on magnetic media or in other machine-readable form, for purposes of this part, each schedule required to be included with such return with respect to each partner shall be treated as a separate information return."

SEC. 4304. RETURNS MAY BE REQUIRED ON MAGNETIC MEDIA.

Paragraph (2) of section 6011(e) (relating to returns on magnetic media) is amended by adding at the end thereof the following new sentence:

"The preceding sentence shall not apply in the case of the partnership return of a large partnership (as defined in sections 775 and 776(a)) or any other partnership with 250 or more partners."

SEC. 4305. EFFECTIVE DATE.

(a) GENERAL RULE.—Except as provided in subsection (b), the amendments made by this part shall apply to partnership taxable years ending on or after December 31, 1992.

(b) SPECIAL RULE FOR SECTION 4304.—In the case of a partnership which is not a large partnership (as defined in sections 775 and 776(a) of the Internal Revenue Code of 1986, as added by this part), the amendment made by section 4304 shall only apply to partnership taxable years ending on or after December 31, 1998.

PART II—PROVISIONS RELATED TO TEFRA PARTNERSHIP PROCEEDINGS

SEC. 4311. TREATMENT OF PARTNERSHIP ITEMS IN DEFICIENCY PROCEEDINGS.

(a) IN GENERAL.—Subchapter C of chapter 63 is amended by adding at the end thereof the following new section:

"SEC. 6234. DECLARATORY JUDGMENT RELATING TO TREATMENT OF ITEMS OTHER THAN PARTNERSHIP ITEMS WITH RESPECT TO AN OVERSHELTERED RETURN.

"(a) GENERAL RULE.—If—

"(1) a taxpayer files an oversheltered return for a taxable year,

"(2) the Secretary makes a determination with respect to the treatment of items (other than partnership items) of such taxpayer for such taxable year, and

"(3) the adjustments resulting from such determination do not give rise to a deficiency (as defined in section 6211) but would give rise to a deficiency if there were no net loss from partnership items,

the Secretary is authorized to send a notice of adjustment reflecting such determination to the taxpayer by certified or registered mail.

"(b) OVERSHELTERED RETURN.—For purposes of this section, the term 'oversheltered return' means an income tax return which—

"(1) shows no taxable income for the taxable year, and

"(2) shows a net loss from partnership items.

"(c) JUDICIAL REVIEW IN THE TAX COURT.—Within 90 days, or 150 days if the notice is addressed to a person outside the United States, after the day on which the notice of adjustment authorized in subsection (a) is mailed to the taxpayer, the taxpayer may file a petition with the Tax Court for redetermination of the adjustments. Upon the filing of such a petition, the Tax Court shall have jurisdiction to make a declaration with respect to all items (other than partnership items and affected items which require partner level determinations as described in section 6230(a)(2)(A)(i)) for the taxable year to which the notice of adjustment relates, in accordance with the principles of section 6214(a). Any such declaration shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.

"(d) FAILURE TO FILE PETITION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), if the taxpayer does not file a petition with the Tax Court within the time prescribed in subsection (c), the determination of the Secretary set forth in the notice of adjustment that was mailed to the taxpayer shall be deemed to be correct.

"(2) EXCEPTION.—Paragraph (1) shall not apply after the date that the taxpayer—

"(A) files a petition with the Tax Court within the time prescribed in subsection (c) with respect to a subsequent notice of adjustment relating to the same taxable year, or

"(B) files a claim for refund of an overpayment of tax under section 6511 for the taxable year involved.

If a claim for refund is filed by the taxpayer, then solely for purposes of determining (for the taxable year involved) the amount of any computational adjustment in connection with a partnership proceeding under this subchapter (other than under this section) or the amount of any deficiency attributable to affected items in a proceeding under section 6230(a)(2), the items that are the subject of the notice of adjustment shall be presumed to have been correctly reported on the taxpayer's return during the pendency of the refund claim (and, if within the time prescribed by section 6532 the taxpayer commences a civil action for refund under section 7422, until the decision in the refund action becomes final).

"(e) LIMITATIONS PERIOD.—

"(1) IN GENERAL.—Any notice to a taxpayer under subsection (a) shall be mailed before the expiration of the period prescribed by section 6501 (relating to the period of limitations on assessment).

"(2) SUSPENSION WHEN SECRETARY MAILS NOTICE OF ADJUSTMENT.—If the Secretary mails a notice of adjustment to the taxpayer for a taxable year, the period of limitations on the making of assessments shall be suspended for the period during which the Secretary is prohibited from making the assessment (and, in any event, if a proceeding in respect of the notice of adjustment is placed on the docket of the Tax Court, until the decision of the Tax Court becomes final), and for 60 days thereafter.

"(3) RESTRICTIONS ON ASSESSMENT.—Except as otherwise provided in section 6851, 6852, or 6861, no assessment of a deficiency with respect to any tax imposed by subtitle A attributable to any item (other than a partnership item or any item affected by a partnership item) shall be made—

"(A) until the expiration of the applicable 90-day or 150-day period set forth in subsection (c) for filing a petition with the Tax Court, or

"(B) if a petition has been filed with the Tax Court, until the decision of the Tax Court has become final.

"(f) FURTHER NOTICES OF ADJUSTMENT RESTRICTED.—If the Secretary mails a notice of adjustment to the taxpayer for a taxable year and the taxpayer files a petition with the Tax Court within the time prescribed in subsection (c), the Secretary may not mail another such notice to the taxpayer with respect to the same taxable year in the absence of a showing of fraud, malfeasance, or misrepresentation of a material fact.

"(g) COORDINATION WITH OTHER PROCEEDINGS UNDER THIS SUBCHAPTER.—

"(1) IN GENERAL.—The treatment of any item that has been determined pursuant to subsection (c) or (d) shall be taken into account in determining the amount of any computational adjustment that is made in connection with a partnership proceeding under this subchapter (other than under this section), or the amount of any deficiency attributable to affected items in a proceeding under section 6230(a)(2), for the taxable year involved. Notwithstanding any other law or rule of law pertaining to the period of limitations on the making of assessments, for purposes of the preceding sentence, any adjustment made in accordance with this section shall be taken into account regardless of whether any assessment has been made with respect to such adjustment.

"(2) SPECIAL RULE IN CASE OF COMPUTATIONAL ADJUSTMENT.—In the case of a computational adjustment that is made in connection with a partnership proceeding under this subchapter (other than under this section), the provisions of paragraph (1) shall apply only if the computational adjustment is made within the period prescribed by section 6229 for assessing any tax under subtitle A which is attributable to any partnership item or affected item for the taxable year involved.

"(3) CONVERSION TO DEFICIENCY PROCEEDING.—If—

"(A) after the notice referred to in subsection (a) is mailed to a taxpayer for a taxable year but before the expiration of the period for filing a petition with the Tax Court under subsection (c) (or, if a petition is filed with the Tax Court, before the Tax Court makes a declaration for that taxable year), the treatment of any partnership item for the taxable year is finally determined, or any such item ceases to be a partnership item pursuant to section 6231(b), and

"(B) as a result of that final determination or cessation, a deficiency can be determined with respect to the items that are the subject of the notice of adjustment,

the notice of adjustment shall be treated as a notice of deficiency under section 6212 and any petition filed in respect of the notice shall be treated as an action brought under section 6213.

"(4) FINALLY DETERMINED.—For purposes of this subsection, the treatment of partnership items shall be treated as finally determined if—

"(A) the Secretary enters into a settlement agreement (within the meaning of section 6224) with the taxpayer regarding such items,

"(B) a notice of final partnership administrative adjustment has been issued and—

"(i) no petition has been filed under section 6226 and the time for doing so has expired, or

"(ii) a petition has been filed under section 6226 and the decision of the court has become final, or

"(C) the period within which any tax attributable to such items may be assessed against the taxpayer has expired.

"(h) SPECIAL RULES IF SECRETARY INCORRECTLY DETERMINES APPLICABLE PROCEDURE.—

"(1) SPECIAL RULE IF SECRETARY ERRONEOUSLY MAILS NOTICE OF ADJUSTMENT.—If the Secretary erroneously determines that subchapter B does not apply to a taxable year of a taxpayer and consistent with that determination timely mails a notice of adjustment to the taxpayer pursuant to subsection (a) of this section, the notice of adjustment shall be treated as a notice of deficiency under section 6212 and any petition that is filed in respect of the notice shall be treated as an action brought under section 6213.

"(2) SPECIAL RULE IF SECRETARY ERRONEOUSLY MAILS NOTICE OF DEFICIENCY.—If the Secretary erroneously determines that subchapter B applies to a taxable year of a taxpayer and consistent with that determination timely mails a notice of deficiency to the taxpayer pursuant to section 6212, the notice of deficiency shall be treated as a notice of adjustment under subsection (a) and any petition that is filed in respect of the notice shall be treated as an action brought under subsection (c)."

(b) TREATMENT OF PARTNERSHIP ITEMS IN DEFICIENCY PROCEEDINGS.—Section 6211 (defining deficiency) is amended by adding at the end thereof the following new subsection:

"(c) COORDINATION WITH SUBCHAPTER C.—In determining the amount of any deficiency for purposes of this subchapter, adjustments to partnership items shall be made only as provided in subchapter C."

(c) CLERICAL AMENDMENT.—The table of sections for subchapter C of chapter 63 is amended by adding at the end thereof the following new item:

"Sec. 6234. Declaratory judgment relating to treatment of items other than partnership items with respect to an oversheltered return.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 4312. PARTNERSHIP RETURN TO BE DETERMINATIVE OF AUDIT PROCEDURES TO BE FOLLOWED.

(a) IN GENERAL.—Section 6231 (relating to definitions and special rules) is amended by adding at the end thereof the following new subsection:

"(g) PARTNERSHIP RETURN TO BE DETERMINATIVE OF WHETHER SUBCHAPTER APPLIES.—

"(1) DETERMINATION THAT SUBCHAPTER APPLIES.—If, on the basis of a partnership return for a taxable year, the Secretary reasonably determines that this subchapter applies to such partnership for such year but such determination is erroneous, then the provisions of this subchapter are hereby extended to such partnership (and its items) for such taxable year and to partners of such partnership.

"(2) DETERMINATION THAT SUBCHAPTER DOES NOT APPLY.—If, on the basis of a partnership return for a taxable year, the Secretary reasonably determines that this subchapter does not apply to such partnership for such year but such determination is erroneous, then the provisions of this subchapter shall not apply to such partnership (and its items) for such taxable year or to partners of such partnership."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 4313. PROVISIONS RELATING TO STATUTE OF LIMITATIONS.

(a) SUSPENSION OF STATUTE WHERE UNTIMELY PETITION FILED.—Paragraph (1) of section 6229(d) (relating to suspension where Secretary makes administrative adjustment) is amended by striking all that follows "section 6226" and inserting the following: "(and, if a petition is filed under section 6226 with respect to such administrative adjustment, until the decision of the court becomes final), and".

(b) SUSPENSION OF STATUTE DURING BANKRUPTCY PROCEEDING.—Section 6229 is amended by adding at the end thereof the following new subsection:

"(h) SUSPENSION DURING PENDENCY OF BANKRUPTCY PROCEEDING.—If a petition is filed naming a partner as a debtor in a bankruptcy proceeding under title 11 of the United States Code, the running of the period of limitations provided in this section with respect to such partner shall be suspended—

"(1) for the period during which the Secretary is prohibited by reason of such bankruptcy proceeding from making an assessment, and

"(2) for 60 days thereafter."

(c) TAX MATTERS PARTNER IN BANKRUPTCY.—Section 6229(b) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) SPECIAL RULE WITH RESPECT TO DEBTORS IN TITLE 11 CASES.—Notwithstanding any other law or rule of law, if an agreement is entered into under paragraph (1)(B) and the agreement is signed by a person who would be the tax matters partner but for the fact that, at the time that the agreement is executed, the person is a debtor in a bankruptcy proceeding under title 11 of the United States Code, such agreement shall be binding on all partners in the partnership unless the Secretary has been notified of the bankruptcy proceeding in accordance with regulations prescribed by the Secretary."

(d) EFFECTIVE DATES.—

(1) SUBSECTIONS (a) AND (b).—The amendments made by subsections (a) and (b) shall apply to partnership taxable years with respect to which the period under section 6229 of the Internal Revenue Code of 1986 for assessing tax has not expired on or before the date of the enactment of this Act.

(2) SUBSECTION (c).—The amendment made by subsection (c) shall apply to agreements entered into after the date of the enactment of this Act.

SEC. 4314. EXPANSION OF SMALL PARTNERSHIP EXCEPTION.

(a) IN GENERAL.—Clause (i) of section 6231(a)(1)(B) (relating to exception for small partnerships) is amended to read as follows:

"(i) IN GENERAL.—The term 'partnership' shall not include any partnership having 10 or fewer partners each of whom is an individual (other than a nonresident alien), a C corporation, or an estate of a deceased partner. For purposes of the preceding sentence, a husband and wife (and their estates) shall be treated as 1 partner."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 4315. EXCLUSION OF PARTIAL SETTLEMENTS FROM 1 YEAR LIMITATION ON ASSESSMENT.

(a) IN GENERAL.—Subsection (f) of section 6229 (relating to items becoming nonpartnership items) is amended—

(1) by striking "(f) ITEMS BECOMING NONPARTNERSHIP ITEMS.—If" and inserting the following:

"(f) SPECIAL RULES.—

"(1) ITEMS BECOMING NONPARTNERSHIP ITEMS.—If",

(2) by moving the text of such subsection 2 ems to the right, and

(3) by adding at the end thereof the following new paragraph:

"(2) SPECIAL RULE FOR PARTIAL SETTLEMENT AGREEMENTS.—If a partner enters into a settlement agreement with the Secretary with respect to the treatment of some of the partnership items in dispute for a partnership taxable year but other partnership items for such year remain in dispute, the period of limitations for assessing any tax attributable to the settled items shall be determined as if such agreement had not been entered into."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 4316. EXTENSION OF TIME FOR FILING A REQUEST FOR ADMINISTRATIVE ADJUSTMENT.

(a) IN GENERAL.—Section 6227 (relating to administrative adjustment requests) is amended by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and by inserting after subsection (a) the following new subsection:

"(b) SPECIAL RULE IN CASE OF EXTENSION OF PERIOD OF LIMITATIONS UNDER SECTION 6229.—The period prescribed by subsection (a)(1) for filing of a request for an administrative adjustment shall be extended—

"(1) for the period within which an assessment may be made pursuant to an agreement (or any extension thereof) under section 6229(b), and

"(2) for 6 months thereafter."

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

SEC. 4317. AVAILABILITY OF INNOCENT SPOUSE RELIEF IN CONTEXT OF PARTNERSHIP PROCEEDINGS.

(a) IN GENERAL.—Subsection (a) of section 6230 is amended by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULE IN CASE OF ASSERTION BY PARTNER'S SPOUSE OF INNOCENT SPOUSE RELIEF.—

"(A) Notwithstanding section 6404(b), if the spouse of a partner asserts that section 6013(e) applies with respect to a liability that is attributable to any adjustment to a partnership item, then such spouse may file with the Secretary within 60 days after the notice and demand (or notice of computational adjustment) is mailed to the spouse a request for abatement of the assessment specified in such notice. Upon receipt of such request, the Secretary shall abate the assessment. Any reassessment of the tax with respect to which an abatement is made under this subparagraph shall be subject to the deficiency procedures prescribed by subchapter B. The period for making any such reassessment shall not expire before the expiration of 60 days after the date of such abatement.

"(B) If the spouse files a petition with the Tax Court pursuant to section 6213 with respect to the request for abatement described in subparagraph (A), the Tax Court shall only have jurisdiction pursuant to this section to determine whether the requirements of section 6013(e) have been satisfied. For purposes of such determination, the treatment of partnership items under the settlement, the final partnership administrative adjustment, or the decision of the court (whichever is appropriate) that gave rise to the liability in question shall be conclusive.

"(C) Rules similar to the rules contained in subparagraphs (B) and (C) of paragraph (2) shall apply for purposes of this paragraph."

(b) CLAIMS FOR REFUND.—Subsection (c) of section 6230 is amended by adding at the end thereof the following new paragraph:

"(5) RULES FOR SEEKING INNOCENT SPOUSE RELIEF.—

"(A) IN GENERAL.—The spouse of a partner may file a claim for refund on the ground that the Secretary failed to relieve the spouse under section 6013(e) from a liability that is attributable to an adjustment to a partnership item.

"(B) TIME FOR FILING CLAIM.—Any claim under subparagraph (A) shall be filed within 6 months after the day on which the Secretary mails to the spouse the notice and demand (or notice of computational adjustment) referred to in subsection (a)(3)(A).

"(C) SUIT IF CLAIM NOT ALLOWED.—If the claim under subparagraph (B) is not allowed, the spouse may bring suit with respect to the claim within the period specified in paragraph (3).

"(D) PRIOR DETERMINATIONS ARE BINDING.—For purposes of any claim or suit under this paragraph, the treatment of partnership items under the settlement, the final partnership administrative adjustment, or the decision of the court (whichever is appropriate) that gave rise to the liability in question shall be conclusive."

(c) TECHNICAL AMENDMENTS.—

(1) Paragraph (1) of section 6230(a) is amended by striking "paragraph (2)" and inserting "paragraph (2) or (3)".

(2) Subsection (a) of section 6503 is amended by striking "section 6230(a)(2)(A)" and inserting "paragraph (2)(A) or (3) of section 6230(a)".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

SEC. 4318. DETERMINATION OF PENALTIES AT PARTNERSHIP LEVEL.

(a) IN GENERAL.—Section 6221 (relating to tax treatment determined at partnership level) is amended by striking "item" and inserting "item (and the applicability of any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item)".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (f) of section 6226 is amended—

(A) by striking "relates and" and inserting "relates,", and

(B) by inserting before the period ", and the applicability of any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item".

(2) Clause (i) of section 6230(a)(2)(A) is amended to read as follows:

"(i) affected items which require partner level determinations (other than penalties, additions to tax, and additional amounts that relate to adjustments to partnership items), or".

(3)(A) Subparagraph (A) of section 6230(a)(3), as added by section 3317, is amended by inserting "(including any liability for any penalty, addition to tax, or additional amount relating to such adjustment)" after "partnership item".

(B) Subparagraph (B) of such section is amended by inserting "(and the applicability of any penalties, additions to tax, or additional amounts)" after "partnership items".

(C) Subparagraph (A) of section 6230(c)(5), as added by section 3317, is amended by inserting before the period "(including any liability for any penalties, additions to tax, or additional amounts relating to such adjustment)".

(D) Subparagraph (D) of section 6230(c)(5), as added by section 3317, is amended by inserting "(and the applicability of any penalties, additions to tax, or additional amounts)" after "partnership items".

(4) Paragraph (1) of section 6230(c) is amended by striking "or" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", or", and by adding at the end thereof the following new subparagraph:

"(C) the Secretary erroneously imposed any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item."

(5) So much of subparagraph (A) of section 6230(c)(2) as precedes "shall be filed" is amended to read as follows:

"(A) UNDER PARAGRAPH (1)(A) or (C).—Any claim under subparagraph (A) or (C) of paragraph (1)".

(6) Paragraph (4) of section 6230(c) is amended by adding at the end thereof the following: "In addition, the determination under the final partnership administrative adjustment or under the decision of the court (whichever is appropriate) concerning the applicability of any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item shall also be conclusive.

Notwithstanding the preceding sentence, the partner shall be allowed to assert any partner level defenses that may apply or to challenge the amount of the computational adjustment."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 4319. PROVISIONS RELATING TO COURT JURISDICTION, ETC.

(a) TAX COURT JURISDICTION TO ENJOIN PREMATURE ASSESSMENTS OF DEFICIENCIES ATTRIBUTABLE TO PARTNERSHIP ITEMS.—Subsection (b) of section 6225 is amended by striking "the proper court." and inserting "the proper court, including the Tax Court. The Tax Court shall have no jurisdiction to enjoin any action or proceeding under this subsection unless a timely petition for a readjustment of the partnership items for the taxable year has been filed and then only in respect of the adjustments that are the subject of such petition."

(b) JURISDICTION TO CONSIDER STATUTE OF LIMITATIONS WITH RESPECT TO PARTNERS.—Paragraph (1) of section 6226(d) is amended by adding at the end thereof the following new sentence:

"Notwithstanding subparagraph (B), any person treated under subsection (c) as a party to an action shall be permitted to participate in such action (or file a readjustment petition under subsection (b) or paragraph (2) of this subsection) solely for the purpose of asserting that the period of limitations for assessing any tax attributable to partnership items has expired with respect to such person, and the court having jurisdiction of such action shall have jurisdiction to consider such assertion."

(c) TAX COURT JURISDICTION TO DETERMINE OVERPAYMENTS ATTRIBUTABLE TO AFFECTED ITEMS.—

(1) Paragraph (6) of section 6230(d) is amended by striking "(or an affected item)".

(2) Paragraph (3) of section 6512(b) is amended by adding at the end thereof the following new sentence:

"In the case of a credit or refund relating to an affected item (within the meaning of section 6229), the preceding sentence shall be applied by substituting the periods under sections 6229 and 6230(d) for the periods under section 6511(b)(2), (c), and (d)."

(d) VENUE ON APPEAL.—

(1) Paragraph (1) of section 7482(b) is amended by striking "or" at the end of sub-

paragraph (D), by striking the period at the end of subparagraph (E) and inserting ", or", and by inserting after subparagraph (E) the following new subparagraph:

"(F) in the case of a petition under section 6234(c)—

"(i) the legal residence of the petitioner if the petitioner is not a corporation, and

"(ii) the place or office applicable under subparagraph (B) if the petitioner is a corporation."

(2) The last sentence of section 7482(b) is amended by striking "or 6228(a)" and inserting ", 6228(a), or 6234(c)".

(e) Other Provisions.—

(1) Subsection (c) of section 7459 is amended by striking "or section 6228(a)" and inserting ", 6228(a), or 6234(c)".

(2) Subsection (o) of section 6501 is amended by adding at the end thereof the following new paragraph:

"(3) For declaratory judgment relating to treatment of items other than partnership items with respect to an oversheltered return, see section 6234."

(f) Effective Date.—The amendments made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 4320. TREATMENT OF PREMATURE PETITIONS FILED BY NOTICE PARTNERS OR 5-PERCENT GROUPS.

(a) In General.—Subsection (b) of section 6226 (relating to judicial review of final partnership administrative adjustments) is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) Treatment of premature petitions.—If—

"(A) a petition for a readjustment of partnership items for the taxable year involved is filed by a notice partner (or a 5-percent group) during the 90-day period described in subsection (a), and

"(B) no action is brought under paragraph (1) during the 60-day period described therein with respect to such taxable year which is not dismissed,

such petition shall be treated for purposes of paragraph (1) as filed on the last day of such 60-day period."

(b) Effective Date.—The amendment made by this section shall apply to petitions filed after the date of the enactment of this Act.

SEC. 4321. BONDS IN CASE OF APPEALS FROM TEFRA PROCEEDING.

(a) In General.—Subsection (b) of section 7485 (relating to bonds to stay assessment of collection) is amended—

(1) by inserting "penalties," after "any interest,", and

(2) by striking "aggregate of such deficiencies" and inserting "aggregate liability of the parties to the action".

(b) Effective Date.—The amendment made by this section shall take effect as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

SEC. 4322. SUSPENSION OF INTEREST WHERE DELAY IN COMPUTATIONAL ADJUSTMENT RESULTING FROM TEFRA SETTLEMENTS.

(a) In General.—Subsection (c) of section 6601 (relating to interest on underpayment, nonpayment, or extension of time for payment, of tax) is amended by adding at the end thereof the following new sentence: "In the case of a settlement under section 6224(c) which results in the conversion of partnership items to nonpartnership items pursuant to section 6231(b)(1)(C), the preceding sentence shall apply to a computational adjustment resulting from such settlement in the same manner as if such adjustment were a deficiency and such settlement were a waiver referred to in the preceding sentence."

(b) Effective Date.—The amendment made by this section shall apply to settlements entered into after the date of the enactment of this Act.

Subtitle D—Foreign Provisions

PART I—SIMPLIFICATION OF TREATMENT OF PASSIVE FOREIGN CORPORATIONS

SEC. 4401. REPEAL OF FOREIGN PERSONAL HOLDING COMPANY RULES AND FOREIGN INVESTMENT COMPANY RULES.

(a) General Rule.—The following provisions are hereby repealed:

(1) Part III of subchapter G of chapter 1 (relating to foreign personal holding companies).

(2) Section 1246 (relating to gain on foreign investment company stock).

(3) Section 1247 (relating to election by foreign investment companies to distribute income currently).

(b) Exemption of Foreign Corporations From Accumulated Earnings Tax and Personal Holding Company Rules.—

(1) Accumulated earnings tax.—Subsection (b) of section 532 (relating to exceptions) is amended—

(A) by striking paragraph (2) and inserting the following:

"(2) a foreign corporation, or",

(B) by striking ", or" at the end of paragraph (3) and inserting a period, and

(C) by striking paragraph (4).

(2) Personal holding company rules.—Subsection (c) of section 542 (relating to exceptions) is amended—

(A) by striking paragraph (5) and inserting the following:

"(5) a foreign corporation,",

(B) by striking paragraphs (7) and (10) and by redesignating paragraphs (8) and (9) as paragraphs (7) and (8), respectively,

(C) by inserting "and" at the end of paragraph (7) (as so redesignated), and

(D) by striking "; and" at the end of paragraph (8) (as so redesignated) and inserting a period.

(c) Treatment of Certain Service Contracts Under Subpart F.—

(1) Paragraph (1) of section 954(c) (defining foreign personal holding company income) is amended by adding at the end thereof the following new subparagraph:

"(F) Personal service contracts.—

"(i) Amounts received under a contract under which the corporation is to furnish personal services, if some person other than the corporation has the right to designate (by name or by description) the individual who is to perform the services, or if the individual who is to perform the services is designated (by name or by description) in the contract.

"(ii) Amounts received from the sale or other disposition of such contract.

This subparagraph shall apply with respect to amounts received for services under a particular contract only if at some time during the taxable year 25 percent or more in value of the outstanding stock of the corporation is owned, directly or indirectly, by or for the individual who has performed, is to perform, or may be designated (by name or by description) as the one to perform, such services. For purposes of the preceding sentence, the attribution rules of section 544 shall apply, determined as if any reference to section 543(a)(7) were a reference to this subparagraph."

(2) Clause (iii) of section 904(d)(2)(A) is amended by striking "and" at the end of subclause (III), by striking the period at the end of subclause (IV) and inserting ", and", and by adding at the end thereof the following new subclause:

"(V) any income described in section 954(c)(1)(F) (relating to personal service contracts)."

SEC. 4402. REPLACEMENT FOR PASSIVE FOREIGN INVESTMENT COMPANY RULES.

(a) General Rule.—Part VI of subchapter P of chapter 1 (relating to treatment of certain passive foreign investment companies) is amended to read as follows:

"PART VI—TREATMENT OF PASSIVE FOREIGN CORPORATIONS

"Subpart A. Current taxation rules.

"Subpart B. Interest on holdings to which subpart A does not apply.

"Subpart C. General provisions.

"Subpart A—Current Taxation Rules

"Sec. 1291. Stock in certain passive foreign corporations marked to market.

"Sec. 1292. Inclusion of income of certain passive foreign corporations.

"SEC. 1291. STOCK IN CERTAIN PASSIVE FOREIGN CORPORATIONS MARKED TO MARKET.

"(a) General Rule.—In the case of marketable stock in a passive foreign corporation which is owned (or treated under subsection (g) as owned) by a United States person at the close of any taxable year of such person—

"(1) If the fair market value of such stock as of the close of such taxable year exceeds its adjusted basis, such United States person shall include in gross income for such taxable year an amount equal to the amount of such excess.

"(2) If the adjusted basis of such stock exceeds the fair market value of such stock as of the close of such taxable year, such United States person shall be allowed a deduction for such taxable year equal to the lesser of—

"(A) the amount of such excess, or

"(B) the unreversed inclusions with respect to such stock.

"(b) Basis Adjustments.—

"(1) In general.—The adjusted basis of stock in a passive foreign corporation—

"(A) shall be increased by the amount included in the gross income of the United States person under subsection (a)(1) with respect to such stock, and

"(B) shall be decreased by the amount allowed as a deduction to the United States person under subsection (a)(2) with respect to such stock.

"(2) Special rule for stock constructively owned.—In the case of stock in a passive foreign corporation which the United States person is treated as owning under subsection (g)—

"(A) the adjustments under paragraph (1) shall apply to such stock in the hands of the person actually holding such stock but only for purposes of determining the subsequent treatment under this chapter of the United States person with respect to such stock, and

"(B) similar adjustments shall be made to the adjusted basis of the property by reason of which the United States person is treated as owning such stock.

"(c) Character and Source Rules.—

"(1) Ordinary treatment.—

"(A) Gain.—Any amount included in gross income under subsection (a)(1), and any gain on the sale or other disposition of marketable stock in a passive foreign corporation, shall be treated as ordinary income.

"(B) LOSS.—Any—

"(i) amount allowed as a deduction under subsection (a)(2), and

"(ii) loss on the sale or other disposition of marketable stock in a passive foreign corporation to the extent that the amount of such loss does not exceed the unreversed inclusions with respect to such stock,

shall be treated as an ordinary loss. The amount so treated shall be treated as a deduction allowable in computing adjusted gross income.

"(2) SOURCE.—The source of any amount included in gross income under subsection (a)(1) (or allowed as a deduction under subsection (a)(2)) shall be determined in the same manner as if such amount were gain or loss (as the case may be) from the sale of stock in the passive foreign corporation.

"(d) UNREVERSED INCLUSIONS.—For purposes of this section, the term 'unreversed inclusions' means, with respect to any stock in a passive foreign corporation, the excess (if any) of—

"(1) the amount included in gross income of the taxpayer under subsection (a)(1) with respect to such stock for prior taxable years, over

"(2) the amount allowed as a deduction under subsection (a)(2) with respect to such stock for prior taxable years.

The amount referred to in paragraph (1) shall include any amount which would have been included in gross income under subsection (a)(1) with respect to such stock for any prior taxable year but for section 1293.

"(e) COORDINATION WITH SECTION 1292.—This section shall not apply with respect to any stock in a passive foreign corporation—

"(1) which is U.S. controlled,

"(2) which is a qualified electing fund with respect to the United States person for the taxable year, or

"(3) in which the United States person is a 25-percent shareholder.

"(f) TREATMENT OF CONTROLLED FOREIGN CORPORATIONS WHICH ARE SHAREHOLDERS IN PASSIVE FOREIGN CORPORATIONS.—In the case of a foreign corporation which is a controlled foreign corporation (or is treated as a controlled foreign corporation under section 1292) and which owns (or is treated under subsection (g) as owning) stock in a passive foreign corporation—

"(1) this section (other than subsection (c)(2) thereof) shall apply to such foreign corporation in the same manner as if such corporation were a United States person, and

"(2) for purposes of subpart F of part III of subchapter N—

"(A) any amount included in gross income under subsection (a)(1) shall be treated as foreign personal holding company income described in section 954(c)(1)(A), and

"(B) any amount allowed as a deduction under subsection (a)(2) shall be treated as a deduction allocable to foreign personal holding company income so described.

"(g) STOCK OWNED THROUGH CERTAIN FOREIGN ENTITIES.—Except as provided in regulations—

"(1) IN GENERAL.—For purposes of this section, stock owned, directly or indirectly, by or for a foreign partnership or foreign trust or foreign estate shall be considered as being owned proportionately by its partners or beneficiaries. Stock considered to be owned by a person by reason of the application of the preceding sentence shall, for purposes of applying such sentence, be treated as actually owned by such person.

"(2) TREATMENT OF CERTAIN DISPOSITIONS.—In any case in which a United States person is treated as owning stock in a passive foreign corporation by reason of paragraph (1)—

"(A) any disposition by the United States person or by any other person which results in the United States person being treated as no longer owning such stock, and

"(B) any disposition by the person owning such stock,

shall be treated as a disposition by the United States person of the stock in the passive foreign corporation.

"(h) COORDINATION WITH SECTION 851(b).—For purposes of paragraphs (2) and (3) of section 851(b), any amount included in gross income under subsection (a) shall be treated as a dividend.

"(i) TRANSITION RULES.—

"(1) INDIVIDUALS BECOMING SUBJECT TO U.S. TAX.—If any individual becomes a United States person in a taxable year beginning after December 31, 1992, solely for purposes of this section, the adjusted basis (before adjustments under subsection (b)) of any marketable stock in a passive foreign corporation owned (or treated as owned under subsection (g)) by such individual on the first day of such taxable year shall be treated as being the greater of its fair market value on such first day or its adjusted basis on such first day.

"(2) MARKETABLE STOCK HELD BEFORE EFFECTIVE DATE.—

"(A) IN GENERAL.—If any marketable stock in a passive foreign corporation is owned (or treated under subsection (g) as owned) by a United States person on the first day of such person's first taxable year, beginning after December 31, 1992—

"(i) paragraph (2) of section 1294(a) shall apply to such stock as if it became marketable during such first taxable year; except that—

"(I) section 1293 shall not apply to the amount included in gross income under subsection (a) to the extent such amount is attributable to increases in fair market value during such first taxable year, and

"(II) the taxpayer's holding period shall be treated as having ended on the last day of the preceding taxable year for purposes of allocating amounts under section 1293(a)(1)(A), and

"(ii) such person may elect to extend the time for the payment of the applicable section 1293 deferred tax as provided in subparagraph (B).

"(B) ELECTION TO EXTEND TIME FOR PAYMENT.—

"(i) IN GENERAL.—At the election of the taxpayer, the time for the payment of the applicable section 1293 deferred tax shall be extended to the extent and subject to the limitations provided in this subparagraph.

"(ii) TERMINATION OF EXTENSION.—

"(I) DISTRIBUTIONS.—If any distribution is received with respect to any stock to which an extension under clause (i) relates and such distribution would be an excess distribution within the meaning of section 1293 if such section applied to such stock, then the extension under clause (i) for the appropriate portion (as determined under regulations) of the applicable section 1293 deferred tax shall expire on the last day prescribed by law (determined without regard to extensions) for filing the return of tax for the taxable year in which the distribution is received.

"(II) REVERSAL OF INCLUSION.—If an amount is allowable as a deduction under subsection (a)(2) with respect to any stock to which an extension under clause (i) relates and the amount so allowable is allocable to the amount which gave rise to the applicable section 1293 deferred tax, then the extension under clause (i) for the appropriate portion (as determined under regulations) of the applicable section 1293 deferred tax shall expire on the last day prescribed by law (determined without regard to extensions) for filing the return of the tax for the taxable year for which such deduction is allowed.

"(III) DISPOSITIONS, ETC.—If stock in a passive foreign corporation is disposed of during the taxable year, all extensions under clause (i) for payment of the applicable section 1293 deferred tax attributable to such stock which have not expired before the date of such disposition shall expire on the last date prescribed by law (determined without regard to extensions) for filing the return of tax for the taxable year in which such disposition occurs. To the extent provided in regulations, the preceding sentence shall not apply in the case of a disposition in a transaction with respect to which gain or loss is not recognized (in whole or in part), and the person acquiring such stock in such transaction shall succeed to the treatment under this section of the person making such disposition.

"(iii) OTHER RULES.—

"(I) ELECTION.—The election under clause (i) shall be made not later than the time prescribed by law (including extensions) for filing the return of tax imposed by this chapter for the first taxable year referred to in subparagraph (A).

"(II) TREATMENT OF LOANS TO SHAREHOLDER.—For purposes of this subparagraph, any loan by a passive foreign corporation (directly or indirectly) to a shareholder of such corporation shall be treated as a distribution to such shareholder.

"(C) CROSS REFERENCE.—

"For provisions providing for interest for the period of the extension under this paragraph, see section 6601.

"(D) APPLICABLE SECTION 1293 DEFERRED TAX.—For purposes of this paragraph, the term 'applicable section 1293 deferred tax' means the deferred tax amount determined under section 1293 with respect to the amount which, but for section 1293, would have been included in gross income for the first taxable year referred to in subparagraph (A). Such term also includes the tax imposed by this chapter for such first taxable year to the extent attributable to the amounts allocated under section 1293(a)(1)(A) to a period described in section 1293(a)(1)(B)(ii).

"(3) SPECIAL RULES FOR REGULATED INVESTMENT COMPANIES.—

"(A) IN GENERAL.—If any marketable stock in a passive foreign corporation is owned (or treated under subsection (g) as owned) by a regulated investment company on the first day of such company's first taxable year beginning after December 31, 1992—

"(i) section 1293 shall not apply to such stock with respect to any distribution or disposition during, or amount included in gross income under this section for, such first taxable year, but

"(ii) such company's tax under this chapter for such first taxable year shall be increased by the aggregate amount of interest which would have been determined under section 1293(c)(3) if section 1293 were applied without regard to this subparagraph.

"(B) DISALLOWANCE OF DEDUCTION.—No deduction shall be allowed to any regulated investment company for the increase in tax under subparagraph (A)(ii).

"SEC. 1292. CURRENT INCLUSION OF INCOME OF CERTAIN PASSIVE FOREIGN CORPORATIONS.

"(a) PASSIVE FOREIGN CORPORATIONS WHICH ARE U.S. CONTROLLED.—

"(1) TREATMENT UNDER SUBPART F.—

"(A) IN GENERAL.—If a passive foreign corporation is United States controlled, then for purposes of subpart F of part III of subchapter N—

"(i) such corporation, if not otherwise a controlled foreign corporation, shall be treated as a controlled foreign corporation,

"(ii) the term 'United States shareholder' means, with respect to such corporation, any United States person who owns (within the meaning of section 958(a)) any stock in such corporation,

"(iii) the entire gross income of such corporation shall, after being reduced under the principles of paragraph (5) of section 954(b), be treated as foreign base company income, and

"(iv) sections 970 and 971 shall not apply.

Except as provided in regulations, the preceding sentence shall also apply for purposes of section 904(d).

"(B) SPECIAL RULES.—If any taxpayer is treated as being a United States shareholder in a controlled foreign corporation solely by reason of this section—

"(i) section 954(b)(4) (relating to exception for certain income subject to high foreign taxes) shall not apply for purposes of determining the amount included in the gross income of such taxpayer under section 951 by reason of being so treated with respect to such corporation, and

"(ii) the amount so included in the gross income of such taxpayer under section 951 with respect to such corporation shall be treated as long-term capital gain to the extent attributable to the net capital gain of such corporation.

"(2) U.S. CONTROLLED.—For purposes of this subpart, a passive foreign corporation is United States controlled if—

"(A) such corporation is a controlled foreign corporation determined without regard to this subsection, or

"(B) at any time during the taxable year more than 50 percent of—

"(i) the total combined voting power of all classes of stock of such corporation entitled to vote, or

"(ii) the total value of the stock of such corporation,

is owned directly or indirectly by 5 or fewer United States persons.

"(3) CONSTRUCTIVE OWNERSHIP RULES FOR PURPOSES OF PARAGRAPH (2)(B).—For purposes of paragraph (2)(B), the attribution rules provided in section 544 shall apply, determined as if any reference to a personal holding company were a reference to a corporation described in paragraph (2)(B) (and any reference to the stock ownership requirement provided in section 542(a)(2) were a reference to the requirement of paragraph (2)(B)); except that—

"(A) subsection (a)(4) of such section shall be applied by substituting 'Paragraphs (1), (2), and (3)' for 'Paragraphs (2) and (3)',

"(B) stock owned by a nonresident alien individual shall not be considered by reason of attribution through family membership as owned by a citizen or resident alien individual who is not the spouse of the nonresident alien individual and who does not otherwise own stock in the foreign corporation (determined after the application of such attribution rules other than attribution through family membership), and

"(C) stock of a corporation owned by any foreign person shall not be considered by reason of attribution through partners as owned by a citizen or resident of the United States who does not otherwise own stock in the foreign corporation (determined after the application of such attribution rules and subparagraph (A), other than attribution through partners).

"(b) TAXPAYERS ELECTING CURRENT INCLUSION AND 25-PERCENT SHAREHOLDERS.—

"(1) IN GENERAL.—If a passive foreign corporation which is not United States controlled is a qualified electing fund with respect to any taxpayer or the taxpayer is a 25-percent shareholder in such corporation, then for purposes of subpart F of part III of subchapter N—

"(A) such passive foreign corporation shall be treated as a controlled foreign corporation with respect to such taxpayer,

"(B) such taxpayer shall be treated as a United States shareholder in such corporation, and

"(C) the modifications of clauses (iii) and (iv) of subsection (a)(1)(A) and of subparagraph (B) of subsection (a)(1) shall apply in determining the amount included under such subpart F in the gross income of such taxpayer (and the character of the amount so included).

For purposes of section 904(d), any amount included in the gross income of the taxpayer under the preceding sentence shall be treated as a dividend from a foreign corporation which is not a controlled foreign corporation.

"(2) QUALIFIED ELECTING FUND.—For purposes of this subpart, the term 'qualified electing fund' means any passive foreign corporation if—

"(A) an election by the taxpayer under paragraph (3) applies to such corporation for the taxable year of the taxpayer, and

"(B) such corporation complies with such requirements as the Secretary may prescribe for purposes of carrying out the purposes of this subpart.

"(3) ELECTION.—

"(A) IN GENERAL.—A taxpayer may make an election under this paragraph with respect to any passive foreign corporation for any taxable year of the taxpayer. Such an election, once made with respect to any corporation, shall apply to all subsequent taxable years of the taxpayer with respect to such corporation unless revoked by the taxpayer with the consent of the Secretary.

"(B) WHEN MADE.—An election under this subsection may be made for any taxable year of the taxpayer at any time on or before the due date (determined with regard to extensions) for filing the return of the tax imposed by this chapter for such taxable year. To the extent provided in regulations, such an election may be made later than as required in the preceding sentence where the taxpayer fails to make a timely election because the taxpayer reasonably believes that the corporation was not a passive foreign corporation.

"(4) 25-PERCENT SHAREHOLDER.—For purposes of this subpart, the term '25-percent shareholder' means, with respect to any passive foreign corporation, any United States person who owns (within the meaning of section 958(a)), or is considered as owning by applying the rules of section 958(b), 25 percent or more (by vote or value) of the stock of such corporation.

"SUBPART B—INTEREST ON HOLDINGS TO WHICH SUBPART A DOES NOT APPLY

"Sec. 1293. Interest on tax deferral.

"Sec. 1294. Definitions and special rules.

"SEC. 1293. INTEREST ON TAX DEFERRAL.

"(a) TREATMENT OF DISTRIBUTIONS AND STOCK DISPOSITIONS.—

"(1) DISTRIBUTIONS.—If a United States person receives an excess distribution in respect of stock to which this section applies, then—

"(A) the amount of the excess distribution shall be allocated ratably to each day in the taxpayer's holding period for the stock,

"(B) with respect to such excess distribution, the taxpayer's gross income for the current year shall include (as ordinary income) only the amounts allocated under subparagraph (A) to—

"(i) the current year, or

"(ii) any period in the taxpayer's holding period before the first day of the first taxable year of the corporation which begins after December 31, 1986, and for which it was a passive foreign corporation, and

"(C) the tax imposed by this chapter for the current year shall be increased by the deferred tax amount (determined under subsection (c)).

"(2) DISPOSITIONS.—If the taxpayer disposes of stock to which this section applies, then the rules of paragraph (1) shall apply to any gain recognized on such disposition in the same manner as if such gain were an excess distribution.

"(3) DEFINITIONS.—For purposes of this subpart—

"(A) HOLDING PERIOD.—The taxpayer's holding period shall be determined under section 1223; except that—

"(i) for purposes of applying this section to an excess distribution, such holding period shall be treated as ending on the date of such distribution, and

"(ii) if section 1291 applied to such stock with respect to the taxpayer for any prior taxable year, such holding period shall be treated as beginning on the first day of the first taxable year beginning after the last taxable year for which section 1291 so applied.

"(B) CURRENT YEAR.—The term 'current year' means the taxable year in which the excess distribution or disposition occurs.

"(b) EXCESS DISTRIBUTION.—

"(1) IN GENERAL.—For purposes of this section, the term 'excess distribution' means any distribution in respect of stock received during any taxable year to the extent such distribution does not exceed its ratable portion of the total excess distribution (if any) for such taxable year.

"(2) TOTAL EXCESS DISTRIBUTION.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'total excess distribution' means the excess (if any) of—

"(i) the amount of the distributions in respect of the stock received by the taxpayer during the taxable year, over

"(ii) 125 percent of the average amount received in respect of such stock by the taxpayer during the 3 preceding taxable years (or, if shorter, the portion of the taxpayer's holding period before the taxable year).

For purposes of clause (ii), any excess distribution received during such 3-year period shall be taken into account only to the extent it was included in gross income under subsection (a)(1)(B).

"(B) NO EXCESS FOR FIRST YEAR.—The total excess distributions with respect to any stock shall be zero for the taxable year in which the taxpayer's holding period in such stock begins.

"(3) ADJUSTMENTS.—Under regulations prescribed by the Secretary—

"(A) determinations under this subsection shall be made on a share-by-share basis, except that shares with the same holding period may be aggregated,

"(B) proper adjustments shall be made for stock splits and stock dividends,

"(C) if the taxpayer does not hold the stock during the entire taxable year, distributions received during such year shall be annualized,

"(D) if the taxpayer's holding period includes periods during which the stock was held by another person, distributions received by such other person shall be taken into account as if received by the taxpayer,

"(E) if the distributions are received in a foreign currency, determinations under this subsection shall be made in such currency and the amount of any excess distribution determined in such currency shall be translated into dollars,

"(F) proper adjustment shall be made for amounts not includible in gross income by reason of section 959(a) or for which a deduction is allowable under section 245(c), and

"(G) if a charitable deduction was allowable under section 642(c) to a trust for any distribution of its income, proper adjustments shall be made for the deduction so allowable to the extent allocable to distributions or gain in respect of stock in a passive foreign corporation.

For purposes of subparagraph (F), any amount not includible in gross income by reason of section 551(d) (as in effect on January 1, 1992) or 1293(c) (as so in effect) shall be treated as an amount not includible in gross income by reason of section 959(a).

"(c) DEFERRED TAX AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—The term 'deferred tax amount' means, with respect to any distribution or disposition to which subsection (a) applies, an amount equal to the sum of—

"(A) the aggregate increases in taxes described in paragraph (2), plus

"(B) the aggregate amount of interest (determined in the manner provided under paragraph (3)) on such increases in tax.

Any increase in the tax imposed by this chapter for the current year under subsection (a) to the extent attributable to the amount referred to in subparagraph (B) shall be treated as interest paid under section 6601 on the due date for the current year.

"(2) AGGREGATE INCREASES IN TAXES.—For purposes of paragraph (1)(A), the aggregate increases in taxes shall be determined by multiplying each amount allocated under subsection (a)(1)(A) to any taxable year (other than the current year) by the highest rate of tax in effect for such taxable year under section 1 or 11, whichever applies.

"(3) COMPUTATION OF INTEREST.—

"(A) IN GENERAL.—The amount of interest referred to in paragraph (1)(B) on any increase determined under paragraph (2) for any taxable year shall be determined for the period—

"(i) beginning on the due date for such taxable year, and

"(ii) ending on the due date for the taxable year with or within which the distribution or disposition occurs,

by using the rates and method applicable under section 6621 for underpayments of tax for such period.

"(B) DUE DATE.—For purposes of this subsection, the term 'due date' means the date prescribed by law (determined without regard to extensions) for filing the return of the tax imposed by this chapter for the taxable year.

"(C) SPECIAL RULE.—For purposes of determining the amount of interest referred to in paragraph (1)(B), the amount of any increase in tax determined under paragraph (2) shall be determined without regard to any reduction under section 1294(d) for a tax described in paragraph (2)(A)(ii) thereof.

"SEC. 1294. DEFINITIONS AND SPECIAL RULES.

"(a) STOCK TO WHICH SECTION 1293 APPLIES.—

"(1) IN GENERAL.—Except as otherwise provided in this paragraph, section 1293 shall apply to any stock in a passive foreign corporation unless—

"(A) such stock is marketable stock as of the time of the distribution or disposition involved, or

"(B)(i) with respect to each of such corporation's taxable years which begin after December 31, 1992, and include any portion of the taxpayer's holding period in such stock—

"(I) such corporation was U.S. controlled (within the meaning of section 1292(a)(2)), or

"(II) such corporation was treated as a controlled foreign corporation under section 1292(b) with respect to the taxpayer, and

"(ii) with respect to each of such corporation's taxable years which begin after December 31, 1986, and before January 1, 1993, and include any portion of the taxpayer's holding period in such stock, such corporation was treated as a qualified electing fund under this part (as in effect on January 1, 1992) with respect to the taxpayer.

"(2) TREATMENT WHERE STOCK BECOMES MARKETABLE.—If any stock in a passive foreign corporation becomes marketable stock after the beginning of the taxpayer's holding period in such stock, section 1293 shall apply to—

"(A) any distributions with respect to, or disposition of, such stock in the taxable year of the taxpayer in which it becomes so marketable, and

"(B) any amount which, but for section 1293, would have been included in gross income under section 1291(a) with respect to such stock for such taxable year in the same manner as if such amount were gain on the disposition of such stock.

"(3) ELECTION TO RECOGNIZE GAIN WHERE COMPANY BECOMES SUBJECT TO CURRENT INCLUSIONS.—

"(A) IN GENERAL.—If—

"(i) a passive foreign corporation first meets the requirements of clause (i) of paragraph (1)(B) with respect to the taxpayer for a taxable year of such taxpayer which begins after December 31, 1992,

"(ii) the taxpayer holds stock in such company on the first day of such taxable year, and

"(iii) the taxpayer establishes to the satisfaction of the Secretary the fair market value of such stock on such first day,

the taxpayer may elect to recognize gain as if he sold such stock on such first day for such fair market value.

"(B) ADDITIONAL ELECTION FOR SHAREHOLDER OF CONTROLLED FOREIGN CORPORATIONS.—

"(i) IN GENERAL.—If—

"(I) a passive foreign corporation first meets the requirements of subclause (I) of paragraph (1)(B)(i) with respect to the taxpayer for a taxable year of such taxpayer which begins after December 31, 1992,

"(II) the taxpayer holds stock in such corporation on the first day of such taxable year, and

"(III) such corporation is a controlled foreign corporation without regard to this part, the taxpayer may elect to be treated as receiving a dividend on such first day in an amount equal to the portion of the post-1986 earnings and profits of such corporation attributable (under regulations prescribed by the Secretary) to the stock in such corporation held by the taxpayer on such first day. The amount treated as a dividend under the preceding sentence shall be treated as an excess distribution and shall be allocated under section 1293(a)(1)(A) only two days during periods taken into account in determining the post-1986 earnings and profits so attributable.

"(ii) POST 1986 EARNINGS AND PROFITS.—For purposes of clause (i), the term 'post-1986 earnings and profits' means earnings and profits which were accumulated in taxable years of the corporation beginning after December 31, 1986, and during the period or periods the stock was held by the taxpayer while the corporation was a passive foreign corporation.

"(iii) COORDINATION WITH SECTION 959(e).—For purposes of section 959(e), any amount treated as a dividend under this subparagraph shall be treated as included in gross income under section 1248(a).

"(C) ADJUSTMENTS.—In the case of any stock to which subparagraph (A) or (B) applies—

"(i) the adjusted basis of such stock shall be increased by the gain recognized under subparagraph (A) or the amount treated as a dividend under subparagraph (B), as the case may be, and

"(ii) the taxpayer's holding period in such stock shall be treated as beginning on the first day referred to in such subparagraph.

"(b) RULES RELATING TO STOCK ACQUIRED FROM A DECEDENT.—

"(1) BASIS.—In the case of stock of a passive foreign corporation acquired by bequest, devise, or inheritance (or by the decedent's estate), notwithstanding section 1014, the basis of such stock in the hands of the person so acquiring it shall be the adjusted basis of such stock in the hands of the decedent immediately before his death (or, if lesser, the basis which would have been determined under section 1014 without regard to this paragraph).

"(2) DEDUCTION FOR ESTATE TAX.—If stock in a passive foreign corporation is acquired from a decedent, the taxpayer shall, under regulations prescribed by the Secretary, be allowed (for the taxable year of the sale or exchange) a deduction from gross income equal to that portion of the decedent's estate tax deemed paid which is attributable to the excess of (A) the value at which such stock was taken into account for purposes of determining the value of the decedent's gross estate, over (B) the basis determined under paragraph (1).

"(3) EXCEPTIONS.—This subsection shall not apply to any stock in a passive foreign corporation if—

"(A) section 1293 would not have applied to a disposition of such stock by the decedent immediately before his death, or

"(B) the decedent was a nonresident alien at all times during his holding period in such stock.

"(c) RECOGNITION OF GAIN.—Except as otherwise provided in regulations, in the case of any transfer of stock in a passive foreign company to which section 1293 applies, where (but for this subsection) there is not full recognition of gain, the excess (if any) of—

"(1) the fair market value of such stock, over

"(2) its adjusted basis,

shall be treated as gain from the sale or exchange of such stock and shall be recognized notwithstanding any provision of law. Proper adjustment shall be made to the basis of property for gain recognized under the preceding sentence.

"(d) COORDINATION WITH FOREIGN TAX CREDIT RULES.—

"(1) IN GENERAL.—If there are creditable foreign taxes with respect to any distribution in respect of stock in a passive foreign corporation—

"(A) the amount of such distribution shall be determined for purposes of section 1293 with regard to section 78,

"(B) the excess distribution taxes shall be allocated ratably to each day in the taxpayer's holding period for the stock, and

"(C) to the extent—

"(i) that such excess distribution taxes are allocated to a taxable year referred to in section 1293(a)(1)(B), such taxes shall be taken into account under section 901 for the current year, and

"(ii) that such excess distribution taxes are allocated to any other taxable year, such taxes shall reduce (subject to the principles of section 904 and not below zero) the increase in tax determined under section 1293(c)(2) for such taxable year by reason of such distribution (but such taxes shall not be taken into account under section 901).

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) CREDITABLE FOREIGN TAXES.—The term 'creditable foreign taxes' means, with respect to any distribution—

"(i) any foreign taxes deemed paid under section 902 with respect to such distribution, and

"(ii) any withholding tax imposed with respect to such distribution,

but only if the taxpayer chooses the benefits of section 901 and such taxes are creditable under section 901 (determined without regard to paragraph (1)(C)(ii)).

"(B) EXCESS DISTRIBUTION TAXES.—The term 'excess distribution taxes' means, with respect to any distribution, the portion of the creditable foreign taxes with respect to such distribution which is attributable (on a pro rata basis) to the portion of such distribution which is an excess distribution.

"(C) SECTION 1248 GAIN.—The rules of this subsection also shall apply in the case of any gain which but for this section would be includible in gross income as a dividend under section 1248.

"(e) ATTRIBUTION OF OWNERSHIP.—For purposes of this subpart—

"(1) ATTRIBUTION TO UNITED STATES PERSONS.—This subsection—

"(A) shall apply to the extent that the effect is to treat stock of a passive foreign corporation as owned by a United States person, and

"(B) except as provided in paragraph (3) or in regulations, shall not apply to treat stock owned (or treated as owned under this subsection) by a United States person as owned by any other person.

"(2) CORPORATIONS.—

"(A) IN GENERAL.—If 50 percent or more in value of the stock of a corporation (other than an S corporation) is owned, directly or indirectly, by or for any person, such person shall be considered as owning the stock owned directly or indirectly by or for such corporation in that proportion which the value of the stock which such person so owns bears to the value of all stock in the corporation.

"(B) 50-PERCENT LIMITATION NOT TO APPLY IN CERTAIN CASES.—For purposes of determining whether a shareholder of a passive foreign corporation (or whether a United States shareholder of a controlled foreign corporation which is not a passive foreign corporation) is treated as owning stock owned directly or indirectly by or for such corporation, subparagraph (A) shall be applied without regard to the 50-percent limitation contained therein.

"(C) FAMILY AND PARTNER ATTRIBUTION FOR 50-PERCENT LIMITATION.—For purposes of determining whether the 50-percent limitation of subparagraph (A) is met, the constructive ownership rules of section 544(a)(2) shall apply in addition to the other rules of this subsection.

"(3) PARTNERSHIPS, ETC.—Except as provided in regulations, stock owned, directly or indirectly, by or for a partnership, S corporation, estate, or trust shall be considered as being owned proportionately by its partners, shareholders, or beneficiaries (as the case may be).

"(4) OPTIONS.—To the extent provided in regulations, if any person has an option to acquire stock, such stock shall be considered as owned by such person. For purposes of this paragraph, an option to acquire such an option, and each one of a series of such options, shall be considered as an option to acquire such stock.

"(5) SUCCESSIVE APPLICATION.—Stock considered to be owned by a person by reason of the application of paragraph (2), (3), or (4) shall, for purposes of applying such paragraphs, be considered as actually owned by such person.

"(f) OTHER SPECIAL RULES.—For purposes of this subpart—

"(1) TIME FOR DETERMINATION.—Stock held by a taxpayer shall be treated as stock in a passive foreign corporation if, at any time during the holding period of the taxpayer with respect to such stock, such corporation (or any predecessor) was a passive foreign corporation. The preceding sentence shall not apply if the taxpayer elects to recognize gain (as of the last day of the last taxable year for which the company was a passive foreign corporation) under rules similar to the rules of subsection (a)(3)(A).

"(2) APPLICATION OF SUBPART WHERE STOCK HELD BY OTHER ENTITY.—Under regulations—

"(A) IN GENERAL.—In any case in which a United States person is treated as owning stock in a passive foreign corporation by reason of subsection (e)—

"(i) any transaction which results in the United States person being treated as no longer owning such stock,

"(ii) any disposition of such stock by the person owning such stock, and

"(iii) any distribution of property in respect of such stock to the person holding such stock,

shall be treated as a disposition by, or distribution to, the United States person with respect to the stock in the passive foreign corporation.

"(B) AMOUNT TREATED IN SAME MANNER AS PREVIOUSLY TAXED INCOME.—Rules similar to the rules of section 959(b) shall apply to any amount described in subparagraph (A) in respect of stock which the taxpayer is treated as owning under subsection (e).

"(C) COORDINATION WITH SECTION 951.—If, but for this subparagraph, an amount would be taken into account under section 1293 by reason of subparagraph (A) and such amount would also be included in the gross income of the taxpayer under section 951, such amount shall only be taken into account under section 1293.

"(3) DISPOSITIONS.—Except as provided in regulations, if a taxpayer uses any stock in a passive foreign corporation as security for a loan, the taxpayer shall be treated as having disposed of such stock.

"SUBPART C—GENERAL PROVISIONS

"Sec. 1296. Passive foreign corporation.
"Sec. 1297. Special rules.

"SEC. 1296. PASSIVE FOREIGN CORPORATION.

"(a) IN GENERAL.—For purposes of this part, except as otherwise provided in this subpart, the term 'passive foreign corporation' means any foreign corporation if—

"(1) 60 percent or more of the gross income of such corporation for the taxable year is passive income,

"(2) the average percentage of assets (by value) held by such corporation during the taxable year which produce passive income or which are held for the production of passive income is at least 50 percent, or

"(3) such corporation is registered under the Investment Company Act of 1940, as amended (15 U.S.C. 80a-1 to 80b-2), either as a management company or as a unit investment trust.

A foreign corporation may elect to have the determination under paragraph (2) based on the adjusted bases of its assets in lieu of their value. Such an election, once made, may be revoked only with the consent of the Secretary.

"(b) PASSIVE INCOME.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'passive income' means any income which is of a kind which would be foreign personal holding company income as defined in section 954(c) without regard to paragraph (3) thereof.

"(2) EXCEPTIONS.—Except as provided in regulations, the term 'passive income' does not include any income—

"(A) derived in the active conduct of a banking business by an institution licensed to do business as a bank in the United States (or, to the extent provided in regulations, by any other corporation),

"(B) derived in the active conduct of an insurance business by a corporation which is predominantly engaged in an insurance business and which would be subject to tax under subchapter L if it were a domestic corporation,

"(C) which is interest, a dividend, or a rent or royalty, which is received or accrued from a related person (within the meaning of section 954(d)(3)) to the extent such amount is properly allocable (under regulations prescribed by the Secretary) to income of such related person which is not passive income, or

"(D) any foreign trade income of a FSC.

For purposes of subparagraph (C), the term 'related person' has the meaning given such term by section 954(d)(3) determined by substituting 'foreign corporation' for 'controlled foreign corporation' each place it appears in section 954(d)(3).

"(3) TREATMENT OF INCOME FROM CERTAIN ASSETS.—To the extent that any asset is properly treated as not held for the production of passive income for purposes of subsection (a)(2), all income from such asset shall be treated as income which is not passive income.

"(c) LOOK-THROUGH IN CASE OF 25-PERCENT OWNED CORPORATION.—If a foreign corporation owns (directly or indirectly) at least 25 percent (by value) of the stock of another corporation, for purposes of determining whether such foreign corporation is a passive foreign corporation, such foreign corporation shall be treated as if it—

"(1) held its proportionate share of the assets of such other corporation, and

"(2) received directly its proportionate share of the income of such other corporation.

"SEC. 1297. SPECIAL RULES.

"(a) UNITED STATES PERSON.—For purposes of this part, the term 'United States person' has the meaning given to such term by section 7701(a)(30).

"(b) CONTROLLED FOREIGN CORPORATION.—For purposes of this part, the term 'controlled foreign corporation' has the meaning given such term by section 957(a).

"(c) MARKETABLE STOCK.—For purposes of this part—

"(1) IN GENERAL.—The term 'marketable stock' means—

"(A) any stock which is regularly traded on—

"(i) a national securities exchange which is registered with the Securities and Exchange Commission or the national market system established pursuant to section 11A of the Securities and Exchange Act of 1934, or

"(ii) any exchange or other market which the Secretary determines has rules adequate to carry out the purposes of this part, and

"(B) to the extent provided in regulations, stock in any foreign corporation which is comparable to a regulated investment company and which offers for sale or has outstanding any stock of which it is the issuer and which is redeemable at its net asset value.

"(2) SPECIAL RULE FOR REGULATED INVESTMENT COMPANIES.—In the case of any regulated investment company which is offering for sale or has outstanding any stock of which it is the issuer and which is redeemable at its net asset value, all stock in a passive foreign corporation which it owns (or is treated under section 1291(g) as owning) shall be treated as marketable stock for purposes of this part. Except as provided in regulations, a similar rule shall apply in the case of any other regulated investment company.

"(d) OTHER SPECIAL RULES.—For purposes of this part—

"(1) CERTAIN CORPORATIONS NOT TREATED AS PASSIVE.—A corporation shall not be treated as a passive foreign corporation for the 1st taxable year such corporation has gross income (hereinafter in this paragraph referred to as the 'start-up year') if—

"(A) no predecessor of such corporation was a passive foreign corporation,

"(B) it is established to the satisfaction of the Secretary that such corporation will not be a passive foreign corporation for either of the 1st 2 taxable years following the start-up year, and

"(C) such corporation is not a passive foreign corporation for either of the 1st 2 taxable years following the start-up year.

"(2) CERTAIN CORPORATIONS CHANGING BUSINESSES.—A corporation shall not be treated as a passive foreign corporation for any taxable year if—

"(A) neither such corporation (nor any predecessor) was a passive foreign corporation for any prior taxable year,

"(B) it is established to the satisfaction of the Secretary that—

"(i) substantially all of the passive income of the corporation for the taxable year is attributable to proceeds from the disposition of 1 or more active trades or businesses, and

"(ii) such corporation will not be a passive foreign corporation for either of the 1st 2 taxable years following the taxable year, and

"(C) such corporation is not a passive foreign corporation for either of such 2 taxable years.

For purposes of section 1296(c), any passive income referred to in subparagraph (B)(i) shall be treated as income which is not passive income and any assets which produce income so described shall be treated as assets producing income other than passive income.

"(3) TREATMENT OF CERTAIN FOREIGN CORPORATIONS OWNING STOCK IN 25-PERCENT OWNED DOMESTIC CORPORATION.—

"(A) IN GENERAL.—If a foreign corporation owns at least 25 percent (by value) of the stock of a domestic corporation, for purposes of determining whether such foreign corporation is a passive foreign corporation, any qualified stock held by such domestic corporation shall be treated as an asset which does not produce passive income (and is not held for the production of passive income) and any amount included in gross income with respect to such stock shall not be treated as passive income.

"(B) QUALIFIED STOCK.—For purposes of subparagraph (A), the term 'qualified stock' means any stock in a C corporation which is a domestic corporation and which is not a regulated investment company or real estate investment trust.

"(4) TREATMENT OF CORPORATION WHICH WAS A PFIC.—A corporation shall be treated as a passive foreign corporation for any taxable year beginning before January 1, 1993, if, and only if, such corporation was a passive foreign investment company under this part as in effect for such taxable year.

"(5) SEPARATE INTERESTS TREATED AS SEPARATE CORPORATIONS.—Under regulations prescribed by the Secretary, where necessary to carry out the purposes of this part, separate classes of stock (or other interests) in a corporation shall be treated as interests in separate corporations.

"(e) TREATMENT OF CERTAIN LEASED PROPERTY.—For purposes of section 1296(a)(2)—

"(1) IN GENERAL.—Any tangible personal property with respect to which the foreign corporation is the lessee under a lease with a term of at least 12 months shall be treated as an asset actually held by such corporation.

"(2) DETERMINATION OF VALUE.—

"(A) IN GENERAL.—The value of any asset to which paragraph (1) applies shall be the lesser of—

"(i) the fair market value of such property, or

"(ii) the unamortized portion (as determined under regulations prescribed by the Secretary) of the present value of the payments under the lease for the use of such property.

"(B) PRESENT VALUE.—For purposes of subparagraph (A), the present value of payments described in subparagraph (A)(ii) shall be determined in the manner provided in regulations prescribed by the Secretary—

"(i) as of the beginning of the lease term, and

"(ii) except as provided in such regulations, by using a discount rate equal to the applicable Federal rate determined under section 1274(d)—

"(I) by substituting the lease term for the term of the debt instrument, and

"(II) without regard to paragraph (2) or (3) thereof.

"(3) EXCEPTIONS.—This subsection shall not apply in any case where—

"(A) the lessor is a related person (as defined in the last sentence of section 1296(b)(2)) with respect to the foreign corporation, or

"(B) a principal purpose of leasing the property was to avoid the provisions of this part.

"(f) ELECTION BY CERTAIN PASSIVE FOREIGN CORPORATIONS TO BE TREATED AS A DOMESTIC CORPORATION.—

"(1) IN GENERAL.—For purposes of this title, if—

"(A) a passive foreign corporation would qualify as a regulated investment company under part I of subchapter M if such passive foreign corporation were a domestic corporation,

"(B) such passive foreign corporation meets such requirements as the Secretary shall prescribe to ensure that the taxes imposed by this title on such passive foreign corporation are paid, and

"(C) such passive foreign corporation makes an election to have this paragraph apply and waives all benefits which are granted by the United States under any treaty and to which such corporation would otherwise be entitled by reason of being a resident of another country,

such corporation shall be treated as a domestic corporation.

"(2) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of paragraphs (2), (3), (4)(A), and (5) of section 953(d) shall apply with respect to any corporation making an election under paragraph (1).

"(g) SPECIAL RULES FOR CERTAIN TAXPAYERS.—

"(1) TAX-EXEMPT ORGANIZATIONS.—In the case of any organization exempt from tax under section 501—

"(A) this part shall apply to any stock in a passive foreign corporation owned (or treated as owned under section 1294(e)) by such organization only to the extent that a dividend on such stock would be taken into account in determining the unrelated business taxable income of such organization, and

"(B) to the extent that this part applies to any such stock, this part shall be applied in the same manner as if such organization were not exempt from tax under section 501(a).

"(2) TREATMENT OF STOCK HELD BY POOLED INCOME FUND.—If stock in a passive foreign corporation is owned (or treated as owned under section 1294(e)) by a pooled income fund (as defined in section 642(c)(5)) and no portion of any gain from a disposition of such stock may be allocated to income under the terms of the governing instrument of such fund—

"(A) section 1293 shall not apply to any gain on a disposition of such stock by such fund if (without regard to section 1293) a deduction would be allowable with respect to such gain under section 642(c)(3),

"(B) subpart A shall not apply with respect to such stock, and

"(C) in determining whether section 1293 applies to any distribution in respect of such stock, such stock shall be treated as failing to qualify for the exceptions under section 1294(a)(1).

"(h) INFORMATION FROM SHAREHOLDERS.—Every United States person who owns stock in any passive foreign corporation shall furnish with respect to such corporation such information as the Secretary may prescribe.

"(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this part, including regulations—

"(1) providing that gross income shall be determined without regard to section 1293 for such purposes as may be specified in such regulations, and

"(2) to prevent avoidance of the provisions of this part through changes in citizenship or residence status."

(b) INSTALLMENT SALES TREATMENT NOT AVAILABLE.—Paragraph (2) of section 453(k) is amended by striking "or" at the end of subparagraph (A), by inserting "or" at the end of subparagraph (B), and by adding at the end thereof the following new subparagraph:

"(C) stock in a passive foreign corporation (as defined in section 1296) if section 1293 applies to such sale,".

(c) TREATMENT OF MARK-TO-MARKET GAIN UNDER SECTION 4982.—

(1) Subsection (e) of section 4982 is amended by adding at the end thereof the following new paragraph:

"(6) TREATMENT OF GAIN RECOGNIZED UNDER SECTION 1291.—For purposes of determining a regulated investment company's ordinary income—

"(A) notwithstanding paragraph (1)(C), section 1291 shall be applied as if such company's taxable year ended on October 31, and

"(B) any ordinary gain or loss from an actual disposition of stock in a passive foreign corporation during the portion of the calendar year after October 31 shall be taken into account in determining such company's ordinary income for the following calendar year.

In the case of a company making an election under paragraph (4), the preceding sentence shall be applied by substituting the last day of the company's taxable year for October 31."

(2) Subsection (b) of section 852 is amended by adding at the end thereof the following new paragraph:

"(10) SPECIAL RULE FOR CERTAIN LOSSES ON STOCK IN PASSIVE FOREIGN CORPORATIONS.—To the extent provided in regulations, the taxable income of a regulated investment company (other than a company to which an election under section 4982(e)(4) applies) shall be computed without regard to any net reduction in the value of any stock of a passive foreign corporation to which section 1291 applies occurring after October 31 of the taxable year, and any such reduction shall be treated as occurring on the first day of the following taxable year."

(3) Subsection (c) of section 852 is amended by inserting after "October 31 of such year" the following: ", without regard to any net reduction in the value of any stock of a passive foreign corporation to which section 1291 applies occurring after December 31 of such year,".

(d) TREATMENT OF CERTAIN PREVIOUSLY TAXED AMOUNTS.—Subsection (e) of section 959 is amended—

(1) by adding at the end thereof the following new sentence: "A similar rule shall apply in the case of amounts included in gross income under section 1293 (as in effect on January 1, 1992).", and

(2) by striking "AMOUNTS PREVIOUSLY TAXED UNDER SECTION 1248" in the subsection heading and inserting "CERTAIN PREVIOUSLY TAXED AMOUNTS".

SEC. 4403. TECHNICAL AND CONFORMING AMENDMENTS.

(a) GENERAL RULE.—

(1) Paragraph (2) of section 171(c) is amended—

(A) by striking ", or by a foreign personal holding company, as defined in section 552", and

(B) by striking ", or a foreign personal holding company".

(2) Section 312 is amended by striking subsection (j).

(3) Subsection (m) of section 312 is amended by striking ", a foreign investment company (within the meaning of section 1246(b)), or a foreign personal holding company (within the meaning of section 552)" and inserting "or a passive foreign corporation (as defined in section 1296)".

(4) Subsection (e) of section 443 is amended by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(5) Clause (ii) of section 465(c)(7)(B) is amended to read as follows:

"(ii) a passive foreign corporation with respect to which the stock ownership requirements of section 1292(a)(2)(B) are met, or".

(6) Subsection (b) of section 535 is amended by striking paragraph (9).

(7) Subsection (d) of section 535 is hereby repealed.

(8) Paragraph (1) of section 543(b) is amended by inserting "and" at the end of subparagraph (A), by striking ", and" at the end of subparagraph (B) and inserting a period, and by striking subparagraph (C).

(9) Paragraph (1) of section 562(b) is amended by striking "or a foreign personal holding company described in section 552".

(10) Section 563 is amended—

(A) by striking subsection (c),

(B) by redesignating subsection (d) as subsection (c), and

(C) by striking "subsection (a), (b), or (c)" in subsection (c) (as so redesignated) and inserting "subsection (a) or (b)".

(11) Paragraph (2) of section 751(d) is amended by striking "subsection (a) of section 1246 (relating to gain on foreign investment company stock)" and inserting "section 1291 (relating to stock in certain passive foreign corporations marked to market)".

(12) Subsection (b) of section 851 is amended by striking the sentence following paragraph (4)(B) which contains a reference to section 1293(a).

(13) Subsection (d) of section 904 is amended by striking paragraphs (2)(A)(ii), (2)(E)(iii), and (3)(I).

(14)(A) Subparagraph (A) of section 904(g)(1) is amended to read as follows:

"(A) Any amount included in gross income under section 951(a) (relating to amounts included in gross income of United States shareholders)."

(B) The paragraph heading of paragraph (2) of section 904(g) is amended by striking "AND FOREIGN PERSONAL HOLDING OR PASSIVE FOREIGN INVESTMENT COMPANY".

(15) Section 951 is amended by striking subsections (c), (d), and (f), and by redesignating subsection (e) as subsection (c).

(16) Paragraph (1) of section 986(c) is amended by striking "or 1293(c)".

(17) Paragraph (3) of section 989(b) is amended by striking ", 551(a), or 1293(a)".

(18) Paragraph (5) of section 1014(b) is hereby repealed.

(19) Subsection (a) of section 1016 is amended by striking paragraph (13) and by redesignating the following paragraphs accordingly.

(20) Paragraph (3) of section 1212(a) is amended—

(A) by striking subparagraph (A),

(B) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively, and

(C) by amending subparagraph (D) to read as follows:

"(C) for which it is a passive foreign corporation."

(21) Section 1223 is amended by striking paragraph (10) and by redesignating the following paragraphs accordingly.

(22) Subsection (d) of section 1248 is amended by striking paragraphs (5) and (7).

(23)(A) Subsection (a) of section 6035 is amended by striking "foreign personal holding company (as defined in section 552)" and inserting "passive foreign corporation with respect to which the stock ownership requirements of section 1292(a)(2)(B) are met".

(B) The section heading for section 6035 is amended by striking "foreign personal holding companies" and inserting "closely held passive foreign corporations",.

(C) The table of sections for subpart A of part III of subchapter A of chapter 61 is amended by striking "foreign personal holding companies" in the item relating to section 6035 and inserting 'closely-held passive foreign corporations".

(24) Subparagraph (D) of section 6103(e)(1) is amended by striking clause (iv) and redesignating clauses (v) and (vi) as clauses (iv) and (v), respectively.

(25) Subparagraph (B) of section 6501(e)(1) is amended to read as follows:

"(B) CONSTRUCTIVE DIVIDENDS.—If the taxpayer omits from gross income an amount properly includible therein under section 951(a), the tax may be assessed, or a proceeding in court for the collection of such tax may be done without assessing, at any time within 6 years after the return was filed."

(26) Section 4947 and section 4948(c)(4) are each amended by striking "556(b)(2)," each place it appears.

(b) CLERICAL AMENDMENTS.—

(1) The table of parts for subchapter G of chapter 1 is amended by striking the item relating to part III.

(2) The table of sections for part IV of subchapter P of chapter 1 is amended by striking the items relating to sections 1246 and 1247.

(3) The table of parts for subchapter P of chapter 1 is amended by striking the item relating to part VI and inserting the following:

"Part VI. Treatment of passive foreign corporations."

SEC. 4404. EFFECTIVE DATE.

(a) GENERAL RULE.—Except as otherwise provided in this section, the amendments made by this part shall apply to—

(1) taxable years of United States persons beginning after December 31, 1992, and

(2) taxable years of foreign corporations ending with or within such taxable years of United States persons.

(b) DENIAL OF INSTALLMENT SALES TREATMENT.—The amendment made by section 3402(b) shall apply to dispositions after December 31, 1992.

(c) BASIS RULE.—The amendments made by this part shall not affect the determination of the basis of any stock acquired from a decedent in a taxable year beginning before January 1, 1993.

PART II—TREATMENT OF CONTROLLED FOREIGN CORPORATIONS

SEC. 4411. GAIN ON CERTAIN STOCK SALES BY CONTROLLED FOREIGN CORPORATIONS TREATED AS DIVIDENDS.

(a) GENERAL RULE.—Section 964 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new subsection:

"(f) GAIN ON CERTAIN STOCK SALES BY CONTROLLED FOREIGN CORPORATIONS TREATED AS DIVIDENDS.—

"(1) IN GENERAL.—If a controlled foreign corporation sells or exchanges stock in any other foreign corporation, gain recognized on such sale or exchange shall be included in the gross income of such controlled foreign corporation as a dividend to the same extent that it would have been so included under section 1248(a) if such controlled foreign corporation were a United States person. For purposes of determining the amount which would have been so includible, the determination of whether such other foreign corporation was a controlled foreign corporation shall be made without regard to the preceding sentence.

"(2) SAME COUNTRY EXCEPTION NOT APPLICABLE.—Clause (i) of section 954(c)(3)(A) shall not apply to any amount treated as a dividend by reason of paragraph (1).

"(3) CLARIFICATION OF DEEMED SALES.—For purposes of this subsection, a controlled foreign corporation shall be treated as having sold or exchanged any stock if, under any provision of this subtitle, such controlled foreign corporation is treated as having gain from the sale or exchange of such stock.".

(b) AMENDMENT OF SECTION 904(d).—Clause (i) of section 904(d)(2)(E) is amended by striking "and except as provided in regulations, the taxpayer was a United States shareholder in such corporation".

(c) EFFECTIVE DATES.—

(1) The amendment made by subsection (a) shall apply to gain recognition on transactions occurring after the date of the enactment of this Act.

(2) The amendment made by subsection (b) shall apply to distributions after the date of the enactment of this Act.

SEC. 4412. AUTHORITY TO PRESCRIBE SIMPLIFIED METHOD FOR APPLYING SECTION 960(b)(2).

(a) GENERAL RULE.—Paragraph (2) of section 960(b) is amended by adding at the end thereof the following new sentence: "The Secretary may prescribe regulations requiring the use of simplified methods set forth in such regulations for determining the amount of the increase referred to in the preceding sentence."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 4413. MISCELLANEOUS MODIFICATIONS TO SUBPART F.

(a) SECTION 1248 GAIN TAKEN INTO ACCOUNT IN DETERMINING PRO RATA SHARE.—

(1) IN GENERAL.—Paragraph (2) of section 951(a) (defining pro rata share of subpart F income) is amended by adding at the end thereof the following new sentence: "For purposes of subparagraph (B), any gain included in the gross income of any person as a dividend under section 1248 shall be treated as a distribution received by such person with respect to the stock involved."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to dispositions after the date of the enactment of this Act.

(b) BASIS ADJUSTMENTS IN STOCK HELD BY FOREIGN CORPORATION.—

(1) IN GENERAL.—Section 961 (relating to adjustments to basis of stock in controlled foreign corporations and of other property) is amended by adding at the end thereof the following new subsection:

"(c) BASIS ADJUSTMENTS IN STOCK HELD BY FOREIGN CORPORATION.—Under regulations prescribed by the Secretary, if a United States shareholder is treated under section 958(a)(2) as owning any stock in a controlled foreign corporation which is actually owned by another controlled foreign corporation, adjustments similar to the adjustments provided by subsections (a) and (b) shall be made to the basis of such stock in the hands of such other controlled foreign corporation, but only for the purposes of determining the amount included under section 951 in the gross income of such United States shareholder (or any other United States shareholder who acquires from any person any portion of the interest of such United States shareholder by reason of which such shareholder was treated as owning such stock, but only to the extent of such portion, and subject to such proof of identity of such interest as the Secretary may prescribe by regulations)."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply for purposes of determining inclusions for taxable years of United States shareholders beginning after December 31, 1992.

(c) DETERMINATION OF PREVIOUSLY TAXED INCOME IN SECTION 304 DISTRIBUTIONS, ETC.—

(1) IN GENERAL.—Section 959 (relating to exclusion from gross income of previously taxed earnings and profits) is amended by adding at the end thereof the following new subsection:

"(f) ADJUSTMENTS FOR CERTAIN TRANSACTIONS.—If by reason of—

"(1) a transaction to which section 304 applies,

"(2) the structure of a United States shareholder's holdings in controlled foreign corporations, or

"(3) other circumstances,

there would be a multiple inclusion of any item in income (or an inclusion or exclusion without an appropriate basis adjustment) by reason of this subpart, the Secretary may prescribe regulations providing such modifications in the application of this subpart as may be necessary to eliminate such multiple inclusion or provide such basis adjustment, as the case may be."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(d) CLARIFICATION OF TREATMENT OF BRANCH TAX EXEMPTIONS OR REDUCTIONS.—

(1) IN GENERAL.—Subsection (b) of section 952 is amended by adding at the end thereof the following new sentence: "For purposes of this subsection, any exemption (or reduction) with respect to the tax imposed by section 884 shall not be taken into account."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1986.

PART III—OTHER PROVISIONS

SEC. 4421. EXCHANGE RATE USED IN TRANSLATING FOREIGN TAXES.

(a) ACCRUED TAXES TRANSLATED BY USING AVERAGE RATE FOR YEAR TO WHICH TAXES RELATE.—

(1) IN GENERAL.—Subsection (a) of section 986 (relating to translation of foreign taxes) is amended to read as follows:

"(a) FOREIGN INCOME TAXES.—

"(1) TRANSLATION OF ACCRUED TAXES.—

"(A) IN GENERAL.—For purposes of determining the amount of the foreign tax credit, in the case of a taxpayer who takes foreign income taxes into account when accrued, the amount of any foreign income taxes (and any adjustment thereto) shall be translated into dollars by using the average exchange rate for the taxable year to which such taxes relate.

"(B) EXCEPTION FOR TAXES NOT PAID WITHIN FOLLOWING 2 YEARS.—

"(i) Subparagraph (A) shall not apply to any foreign income taxes paid after the date 2 years after the close of the taxable year to which such taxes relate.

"(ii) Subparagraph (A) shall not apply to taxes paid before the beginning of the taxable year to which such taxes relate.

"(C) EXCEPTION FOR INFLATIONARY CURRENCIES.—To the extent provided in regulations, subparagraph (A) shall not apply to any foreign income taxes the liability for which is denominated in any currency determined to be an inflationary currency under such regulations.

"(D) CROSS REFERENCE.—

"For adjustments where tax is not paid within 2 years, see section 905(c).

"(2) TRANSLATION OF TAXES TO WHICH PARAGRAPH (1) DOES NOT APPLY.—For purposes of determining the amount of the foreign tax credit, in the case of any foreign income taxes to which subparagraph (A) of paragraph (1) does not apply—

"(A) such taxes shall be translated into dollars using the exchange rates as of the time such taxes were paid to the foreign country or possession of the United States, and

"(B) any adjustment to the amount of such taxes shall be translated into dollars using—

"(i) except as provided in clause (ii), the exchange rate as of the time when such adjustment is paid to the foreign country or possession, or

"(ii) in the case of any refund or credit of foreign income taxes, using the exchange rate as of the time of the original payment of such foreign income taxes.

"(3) FOREIGN INCOME TAXES.—For purposes of this subsection, the term 'foreign income taxes' means any income, war profits, or excess profits taxes paid or accrued to any foreign country or to any possession of the United States."

(2) ADJUSTMENT WHEN NOT PAID WITHIN 2 YEARS AFTER YEAR TO WHICH TAXES RELATE.—Subsection (c) of section 905 is amended to read as follows:

"(c) ADJUSTMENTS TO ACCRUED TAXES.—

"(1) IN GENERAL.—If—

"(A) accrued taxes when paid differ from the amounts claimed as credits by the taxpayer,

"(B) accrued taxes are not paid before the date 2 years after the close of the taxable year to which such taxes relate, or

"(C) any tax paid is refunded in whole or in part,

the taxpayer shall notify the Secretary, who shall redetermine the amount of the tax for the year or years affected.

"(2) SPECIAL RULE FOR TAXES NOT PAID WITHIN 2 YEARS.—In making the redetermination under paragraph (1), no credit shall be allowed for accrued taxes not paid before the date referred to in subparagraph (B) of paragraph (1). Any such taxes if subsequently paid shall be taken into account for the taxable year in which paid and no redetermination under this section shall be made on account of such payment.

"(3) ADJUSTMENTS.—The amount of tax due on any redetermination under paragraph (1) (if any) shall be paid by the taxpayer on notice and demand by the Secretary, and the amount of tax overpaid (if any) shall be credited or refunded to the taxpayer in accordance with subchapter B of chapter 66 (section 6511 et seq.).

"(4) BOND REQUIREMENTS.—In the case of any tax accrued but not paid, the Secretary, as a condition precedent to the allowance of the credit provided in this subpart, may require the taxpayer to give a bond, with sureties satisfactory to and approved by the Secretary, in such sum as the Secretary may require, conditioned on the payment by the taxpayer of any amount of tax found due on any such redetermination. Any such bond shall contain such further conditions as the Secretary may require.

"(5) OTHER SPECIAL RULES.—In any redetermination under paragraph (1) by the Secretary of the amount of tax due from the taxpayer for the year or years affected by a refund, the amount of the taxes refunded for which credit has been allowed under this section shall be reduced by the amount of any tax described in section 901 imposed by the foreign country or possession of the United States with respect to such refund; but no credit under this subpart, or deduction under section 164, shall be allowed for any taxable year with respect to any such tax imposed on the refund. No interest shall be assessed or collected on any amount of tax due on any redetermination by the Secretary, resulting from a refund to the taxpayer, for any period before the receipt of such refund, except to the extent interest was paid by the foreign country or possession of the United States on such refund for such period."

(b) AUTHORITY TO USE AVERAGE RATES.—

(1) IN GENERAL.—Subsection (a) of section 986 (relating to foreign taxes) is amended by adding at the end thereof the following new paragraph:

"(3) AUTHORITY TO PERMIT USE OF AVERAGE RATES.—To the extent prescribed in regulations, the average exchange rate for the period (specified in such regulations) during which the taxes or adjustment is paid may be used instead of the exchange rate as of the time of such payment."

(2) DETERMINATION OF AVERAGE RATES.—Subsection (c) of section 989 is amended by striking "and" at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting ", and", and by adding at the end thereof the following new paragraph:

"(6) setting forth procedures for determining the average exchange rate for any period."

(3) CONFORMING AMENDMENTS.—Subsection (b) of section 989 is amended by striking "weighted" each place it appears.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxes paid or accrued in taxable years beginning after December 31, 1991.

SEC. 4422. ELECTION TO USE SIMPLIFIED SECTION 904 LIMITATION FOR ALTERNATIVE MINIMUM TAX.

(a) GENERAL RULE.—Subsection (a) of section 59 (relating to alternative minimum tax foreign tax credit) is amended by adding at the end thereof the following new paragraph:

"(3) ELECTION TO USE SIMPLIFIED SECTION 904 LIMITATION.—

"(A) IN GENERAL.—In determining the alternative minimum tax foreign tax credit for any taxable year to which an election under this paragraph applies—

"(i) subparagraph (B) of paragraph (1) shall not apply, and

"(ii) the limitation of section 904 shall be based on the proportion which—

"(I) the taxpayer's taxable income (as determined for purposes of the regular tax) from sources without the United States (but not in excess of the taxpayer's entire alternative minimum taxable income), bears to

"(II) the taxpayer's entire alternative minimum taxable income for the taxable year.

"(B) ELECTION.—

"(i) IN GENERAL.—An election under this paragraph may be made only for the taxpayer's first taxable year which begins after December 31, 1992, and for which the taxpayer claims an alternative minimum tax foreign tax credit.

"(ii) ELECTION REVOCABLE ONLY WITH CONSENT.—An election under this paragraph, once made, shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 4423. MODIFICATION OF SECTION 1491.

(a) GENERAL RULE.—So much of chapter 5 (relating to tax on transfers to avoid income tax) as precedes section 1492 is amended to read as follows:

"CHAPTER 5—TREATMENT OF TRANSFERS TO AVOID INCOME TAX

"Sec. 1491. Recognition of gain.
"Sec. 1492. Exceptions.

"SEC. 1491. RECOGNITION OF GAIN.

"In the case of any transfer of property by a United States person to a foreign corporation as paid-in surplus or as a contribution to capital, to a foreign estate or trust, or to a foreign partnership, for purposes of this subtitle, such transfer shall be treated as a sale or exchange for an amount equal to the fair market value of the property transferred, and the transferor shall recognize as gain the excess of—

"(1) the fair market value of the property so transferred, over

"(2) the adjusted basis (for purposes of determining gain) of such property in the hands of the transferor."

(b) CONFORMING AMENDMENTS.—

(1) Section 1057 is hereby repealed.

(2) Section 1492 is amended to read as follows:

"SEC. 1492. EXCEPTIONS.

"The provisions of section 1491 shall not apply—

"(1) If the transferee is an organization exempt from income tax under part I of subchapter F of chapter 1 (other than an organization described in section 401(a)),

"(2) To a transfer described in section 367, or

"(3) To any other transfer, to the extent provided in regulations in accordance with principles similar to the principles of section 367 or otherwise consistent with the purpose of section 1491."

(3) Section 1494 is hereby repealed.

(4) The table of sections for part IV of subchapter O of chapter 1 is amended by striking the item relating to section 1057.

(5) The table of chapters for subtitle A is amended by striking "Tax on" in the item relating to chapter 5 and inserting "Treatment of".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers after the date of the enactment of this Act.

SEC. 4424. MODIFICATION OF SECTION 367(b).

(a) GENERAL RULE.—Paragraph (1) of section 367(b) is amended to read as follows:

"(1) IN GENERAL.—In the case of any transaction described in section 332, 351, 354, 355, 356, or 361 in which the status of a foreign corporation as a corporation is a general condition for nonrecognition by 1 or more of the parties to the transaction, income shall be required to be recognized to the extent provided in regulations prescribed by the Secretary which are necessary or appropriate to prevent the avoidance of Federal income taxes. This subsection shall not apply to a transaction in which the foreign corporation is not treated as a corporation under subsection (a)(1)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to transfers after December 31, 1993.

Subtitle E—Other Income Tax Provisions

PART I—PROVISIONS RELATING TO SUBCHAPTER S CORPORATIONS

SEC. 4501. DETERMINATION OF WHETHER CORPORATION HAS 1 CLASS OF STOCK.

(a) GENERAL RULE.—Paragraph (4) of section 1361(c) is amended to read as follows:

"(4) DETERMINATION OF WHETHER CORPORATION HAS 1 CLASS OF STOCK.—For purposes of subsection (b)(1)(D), a corporation shall be treated as having 1 class of stock if all outstanding shares of stock of the corporation confer identical rights to distributions and liquidation proceeds. The preceding sentence shall apply whether or not there are differences in voting rights among such shares."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1982.

SEC. 4502. AUTHORITY TO VALIDATE CERTAIN INVALID ELECTIONS.

(a) GENERAL RULE.—Subsection (f) of section 1362 (relating to inadvertent terminations) is amended to read as follows:

"(f) INADVERTENT INVALID ELECTIONS OR TERMINATIONS.—If—

"(1) an election under subsection (a) by any corporation—

"(A) was not effective for the taxable year for which made (determined without regard to subsection (b)(2)) by reason of a failure to meet the requirements of section 1361(b) or to obtain shareholder consents, or

"(B) was terminated under paragraph (2) or (3) of subsection (d),

"(2) the Secretary determines that the circumstances resulting in such ineffectiveness or termination were inadvertent,

"(3) no later than a reasonable period of time after discovery of the circumstances resulting in such ineffectiveness or termination, steps were taken—

"(A) so that the corporation is a small business corporation, or

"(B) to acquire the required shareholder consents, and

"(4) the corporation, and each person who was a shareholder in the corporation at any time during the period specified pursuant to this subsection, agrees to make such adjustments (consistent with the treatment of the corporation as an S corporation) as may be required by the Secretary with respect to such period,

then, notwithstanding the circumstances resulting in such ineffectiveness or termination, such corporation shall be treated as an S corporation during the period specified by the Secretary."

(b) LATE ELECTIONS.—Subsection (b) of section 1362 is amended by adding at the end thereof the following new paragraph:

"(5) AUTHORITY TO TREAT LATE ELECTIONS AS TIMELY.—If—

"(A) an election under subsection (a) is made for any taxable year (determined without regard to paragraph (3)) after the date prescribed by this subsection for making such election for such taxable year, and

"(B) the Secretary determines that there was reasonable cause for the failure to timely make such election,

the Secretary may treat such election as timely made for such taxable year (and paragraph (3) shall not apply)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to elections for taxable years beginning after December 31, 1982.

SEC. 4503. TREATMENT OF DISTRIBUTIONS DURING LOSS YEARS.

(a) ADJUSTMENTS FOR DISTRIBUTIONS TAKEN INTO ACCOUNT BEFORE LOSSES.—

(1) Subparagraph (A) of section 1366(d)(1) is amended by striking "paragraph (1)" and inserting "paragraphs (1) and (2)(A)".

(2) Subsection (d) of section 1368 is amended by adding at the end thereof the following new sentence:

"In the case of any distribution made during any taxable year, the adjusted basis of the stock shall be determined with regard to the adjustments provided in paragraph (1) of section 1367(a) for the taxable year."

(b) ACCUMULATED ADJUSTMENTS ACCOUNT.—Paragraph (1) of section 1368(e) (relating to accumulated adjustments account) is amended by adding at the end thereof the following new subparagraph:

"(C) NET LOSS FOR YEAR DISREGARDED.—

"(i) IN GENERAL.—In applying this section to distributions made during any taxable year, the amount in the accumulated adjustments account as of the close of such taxable year shall be determined without regard to any net negative adjustment for such taxable year.

"(ii) NET NEGATIVE ADJUSTMENT.—For purposes of clause (i), the term 'net negative adjustment' means, with respect to any taxable year, the excess (if any) of—

"(I) the reductions in the account for the taxable year (other than for distributions), over

"(II) the increases in such account for such taxable year."

(c) CONFORMING AMENDMENTS.—Subparagraph (A) of section 1368(e)(1) is amended—

(1) by striking "as provided in subparagraph (B)" and inserting "as otherwise provided in this paragraph", and

(2) by striking "section 1367(b)(2)(A)" and inserting "section 1367(a)(2)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions in taxable years beginning after December 31, 1991.

SEC. 4504. OTHER MODIFICATIONS.

(a) TREATMENT OF S CORPORATIONS UNDER SUBCHAPTER C.—Subsection (a) of section 1371 (relating to application of subchapter C rules) is amended to read as follows:

"(a) APPLICATION OF SUBCHAPTER C RULES.—Except as otherwise provided in this title, and except to the extent inconsistent with this subchapter, subchapter C shall apply to an S corporation and its shareholders."

(b) S CORPORATIONS PERMITTED TO HOLD SUBSIDIARIES.—

(1) IN GENERAL.—Paragraph (2) of section 1361(b) (defining ineligible corporation) is amended by striking subparagraph (A) and by redesignating subparagraphs (B), (C), (D), and (E) as subparagraphs (A), (B), (C), and (D), respectively.

(2) CONFORMING AMENDMENTS.—

(A) Subsection (c) of section 1361 is amended by striking paragraph (6).

(B) Subsection (b) of section 1504 (defining includible corporation) is amended by adding at the end thereof the following new paragraph:

"(8) An S corporation."

(c) ELIMINATION OF PRE-1983 EARNINGS AND PROFITS.—

(1) IN GENERAL.—If—

(A) a corporation was an electing small business corporation under subchapter S of chapter 1 of the Internal Revenue Code of 1986 for any taxable year beginning before January 1, 1983, and

(B) such corporation is an S corporation under subchapter S of chapter 1 of such Code for its first taxable year beginning after December 31, 1991,

the amount of such corporation's accumulated earnings and profits (as of the beginning of such first taxable year) shall be reduced by an amount equal to the portion (if any) of such accumulated earnings and profits which were accumulated in any taxable year beginning before January 1, 1983, for which such corporation was an electing small business corporation under such subchapter S.

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (3) of section 1362(d) is amended—

(i) by striking "subchapter C" in the paragraph heading and inserting "accumulated",

(ii) by striking "subchapter C" in subparagraph (A)(i)(I) and inserting "accumulated", and

(iii) by striking subparagraph (B) and redesignating the following subparagraphs accordingly.

(B)(i) Subsection (a) of section 1375 is amended by striking **"subchapter C"** in paragraph (1) and inserting **"accumulated"**.

(ii) Paragraph (3) of section 1375(b) is amended to read as follows:

"(3) PASSIVE INVESTMENT INCOME, ETC.—The terms 'passive investment income' and 'gross receipts' have the same respective meanings as when used in paragraph (3) of section 1362(d)."

(iii) The section heading for section 1375 is amended by striking "**subchapter c**" and inserting "**accumulated**".

(iv) The table of sections for part III of subchapter S of chapter 1 is amended by striking "subchapter C" in the item relating to section 1375 and inserting "accumulated".

(C) Clause (i) of section 1042(c)(4)(A) is amended by striking "section 1362(d)(3)(D)" and inserting "section 1362(d)(3)(C)".

(d) ADJUSTMENTS TO BASIS OF INHERITED S STOCK TO REFLECT CERTAIN ITEMS OF INCOME.—Subsection (b) of section 1367 (relating to adjustments to basis of stock of shareholders, etc.) is amended by adding at the end thereof the following new paragraph:

"(4) ADJUSTMENTS IN CASE OF INHERITED STOCK.—

"(A) IN GENERAL.—If any person acquires stock in an S corporation by reason of the death of a decedent or by bequest, devise, or inheritance, section 691 shall be applied with respect to any item of income of the S corporation in the same manner as if the decedent had held directly his pro rata share of such item.

"(B) ADJUSTMENTS TO BASIS.—The basis determined under section 1014 of any stock in an S corporation shall be reduced by the portion of the value of the stock which is attributable to items constituting income in respect of the decedent."

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1991.

(2) SUBSECTION (d).—The amendment made by subsection (d) shall apply in the case of decedents dying after the date of the enactment of this Act.

PART II—ACCOUNTING PROVISIONS

SEC. 4511. MODIFICATIONS TO LOOK-BACK METHOD FOR LONG-TERM CONTRACTS.

(a) LOOK-BACK METHOD NOT TO APPLY IN CERTAIN CASES.—Subsection (b) of section 460 (relating to percentage of completion method) is amended by adding at the end thereof the following new paragraph:

"(6) ELECTION TO HAVE LOOK-BACK METHOD NOT APPLY IN DE MINIMIS CASES.—

"(A) AMOUNTS TAKEN INTO ACCOUNT AFTER COMPLETION OF CONTRACT.—Paragraph (1)(B) shall not apply with respect to any taxable year (beginning after the taxable year in which the contract is completed) if—

"(i) the cumulative taxable income (or loss) under the contract as of the close of such taxable year, is within

"(ii) 10 percent of the cumulative look-back taxable income (or loss) under the contract as of the close of the most recent taxable year to which paragraph (1)(B) applied (or would have applied but for subparagraph (B)).

"(B) DE MINIMIS DISCREPANCIES.—Paragraph (1)(B) shall not apply in any case to which it would otherwise apply if—

"(i) the cumulative taxable income (or loss) under the contract as of the close of each prior contract year, is within

"(ii) 10 percent of the cumulative look-back income (or loss) under the contract as of the close of such prior contract year.

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) CONTRACT YEAR.—The term 'contract year' means any taxable year for which income is taken into account under the contract.

"(ii) LOOK-BACK INCOME OR LOSS.—The look-back income (or loss) is the amount which would be the taxable income (or loss) under the contract if the allocation method set forth in paragraph (2)(A) were used in determining taxable income.

"(iii) DISCOUNTING NOT APPLICABLE.—The amounts taken into account after the completion of the contract shall be determined without regard to any discounting under the 2nd sentence of paragraph (2).

"(D) CONTRACTS TO WHICH PARAGRAPH APPLIES.—This paragraph shall only apply if the taxpayer makes an election under this subparagraph. Unless revoked with the consent of the Secretary, such an election shall apply to all long-term contracts completed during the taxable year for which such election is made or during any subsequent taxable year."

(b) MODIFICATION OF INTEREST RATE.—

(1) IN GENERAL.—Subparagraph (C) of section 460(b)(2) is amended by striking "the overpayment rate established by section 6621" and inserting "the adjusted overpayment rate (as defined in paragraph (7))".

(2) ADJUSTED OVERPAYMENT RATE.—Subsection (b) of section 460 is amended by adding at the end thereof the following new paragraph:

"(7) ADJUSTED OVERPAYMENT RATE.—

"(A) IN GENERAL.—The adjusted overpayment rate for any interest accrual period is the overpayment rate in effect under section 6621 for the calendar quarter in which such interest accrual period begins.

"(B) INTEREST ACCRUAL PERIOD.—For purposes of subparagraph (A), the term 'interest accrual period' means the period—

"(i) beginning on the day after the return due date for any taxable year of the taxpayer, and

"(ii) ending on the return due date for the following taxable year.

For purposes of the preceding sentence, the term 'return due date' means the date prescribed for filing the return of the tax imposed by this chapter (determined without regard to extensions)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contracts completed in taxable years ending after the date of the enactment of this Act.

SEC. 4512. SIMPLIFIED METHOD FOR CAPITALIZING CERTAIN INDIRECT COSTS.

(a) GENERAL RULE.—Subsection (i) of section 263A (relating to regulations) is amended by striking "and" at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting ", and", and by adding at the end thereof the following:

"(3) regulations providing that allocations of costs of any administrative, service, or support function or department may be made on the basis of the base period percentage of the current costs of such function or department.

For purposes of paragraph (3), the term 'base period percentage' means, with respect to any function or department, the percentage of the costs of such function or department during a base period specified in regulations which were allocable to property to which this section applies."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

PART III—TAX-EXEMPT BOND PROVISIONS

SEC. 4521. REPEAL OF $100,000 LIMITATION ON UNSPENT PROCEEDS UNDER 1-YEAR EXCEPTION FROM REBATE.

Subclause (I) of section 148(f)(4)(B)(ii) (relating to additional period for certain bonds) is amended by striking "the lesser of 5 percent of the proceeds of the issue or $100,000" and inserting "5 percent of the proceeds of the issue".

SEC. 4522. EXCEPTION FROM REBATE FOR EARNINGS ON BONA FIDE DEBT SERVICE FUND UNDER CONSTRUCTION BOND RULES.

Subparagraph (C) of section 148(f)(4) is amended by adding at the end thereof the following new clause:

"(xvii) TREATMENT OF BONA FIDE DEBT SERVICE FUNDS.—If the spending requirements of clause (ii) are met with respect to the available construction proceeds of a construction issue, then paragraph (2) shall not apply to earnings on a bona fide debt service fund for such issue."

SEC. 4523. AUTOMATIC EXTENSION OF INITIAL TEMPORARY PERIOD FOR CONSTRUCTION ISSUES.

Subsection (c) of section 148 (relating to temporary period exception) is amended by adding at the end thereof the following new paragraph:

"(3) EXTENSION OF INITIAL TEMPORARY PERIOD FOR CONSTRUCTION ISSUES.—If—

"(A) at least 85 percent of the available construction proceeds (as defined in subsection (f)(4)(C)) of a construction issue (as defined in such subsection) are spent as of the close of the initial temporary period (determined without regard to this paragraph), and

"(B) the issuer reasonably expects (as of the close of such period) that the remaining available construction proceeds of such issue will be spent within 1 year after the close of such period,

then such initial temporary period shall be extended 1 year."

SEC. 4524. AGGREGATION OF ISSUES RULES NOT TO APPLY TO TAX OR REVENUE ANTICIPATION BONDS.

Section 150 (relating to definitions and special rules) is amended by adding at the end thereof the following new subsection:

"(f) TAX OR REVENUE ANTICIPATION BONDS TREATED AS SEPARATE ISSUES.—For purposes of this part, if—

"(1) all of the bonds which are part of an issue are qualified 501(c)(3) bonds or bonds which are not private activity bonds, and

"(2) any portion of such issue consists of tax or revenue anticipation bonds which are reasonably expected to meet the requirements of section 148(f)(4)(B)(iii), then such portion shall, subject to appropriate allocations specified in regulations prescribed by the Secretary, be treated as a separate issue."

SEC. 4525. ALLOCATION OF INTEREST EXPENSE OF FINANCIAL INSTITUTIONS TO TAX-EXEMPT INTEREST.

(a) EXCEPTION FROM PRO RATA ALLOCATION OF INTEREST EXPENSE OF FINANCIAL INSTITUTIONS TO TAX-EXEMPT INTEREST FOR SMALL ISSUERS INCREASED TO $25,000,000.—

(1) IN GENERAL.—Subparagraphs (C) and (D) of section 265(b)(3) (relating to exception for certain tax-exempt obligations) are each amended by striking "$10,000,000" each place it appears and inserting "$25,000,000".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to obligations issued in calendar years beginning after December 31, 1992.

(b) DEDUCTIBILITY AVAILABLE TO PARTICIPANTS IN POOLED ISSUES.—

(1) IN GENERAL.—Subparagraph (A) of section 265(b)(3) is amended by inserting "and any qualified tax-exempt pooled obligation acquired after December 31, 1992," after "after August 7, 1986,".

(2) QUALIFIED TAX-EXEMPT POOLED OBLIGATION DEFINED.—Section 265(b)(3) is amended by adding at the end thereof the following new subparagraph:

"(G) QUALIFIED TAX-EXEMPT POOLED OBLIGATION.—For purposes of subparagraph (A), the term 'qualified tax-exempt pooled obligation' means a tax-exempt obligation—

"(i) which is issued after December 31, 1992,

"(ii) which is not a private activity bond (as defined in section 141),

"(iii) which is designated by the issuer for purposes of this paragraph, and

"(iv) the proceeds of which are used exclusively (other than to pay the issuance costs of such obligation) to acquire from the issuer obligations—

"(I) which satisfy the requirements of this paragraph but are not designated for purposes of this paragraph, and

"(II) the weighted average maturity of which equals or exceeds the weighted average maturity of such obligation."

SEC. 4526. TAX TREATMENT OF 501(c)(3) BONDS SIMILAR TO GOVERNMENTAL BONDS.

(a) IN GENERAL.—Subsection (a) of section 150 (relating to definitions and special rules) is amended by striking paragraphs (2) and (4), by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2) EXEMPT PERSON.—

"(A) IN GENERAL.—The term 'exempt person' means—

"(i) a governmental unit, or

"(ii) a 501(c)(3) organization, but only with respect to its activities which do not constitute unrelated trades or businesses as determined by applying section 513(a).

"(B) GOVERNMENTAL UNIT NOT TO INCLUDE FEDERAL GOVERNMENT.—The term 'governmental unit' does not include the United States or any agency or instrumentality thereof.

"(C) 501(c)(3) ORGANIZATION.—The term '501(c)(3) organization' means any organization described in section 501(c)(3) and exempt from tax under section 501(a)."

(b) REPEAL OF QUALIFIED 501(c)(3) BOND DESIGNATION.—Section 145 (relating to qualified 501(c)(3) bonds) is repealed.

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (3) of section 141(b) is amended—

(A) by striking "government use" in subparagraph (A)(ii)(I) and subparagraph (B)(ii) and inserting "exempt person use",

(B) by striking "a government use" in subparagraph (B) and inserting "an exempt person use",

(C) by striking "related business use" in subparagraph (A)(ii)(II) and subparagraph (B) and inserting "related private business use",

(D) by striking "RELATED BUSINESS USE" in the heading of subparagraph (B) and inserting "RELATED PRIVATE BUSINESS USE", and

(E) by striking "GOVERNMENT USE" in the heading thereof and inserting "EXEMPT PERSON USE".

(2) Subparagraph (A) of section 141(b)(6) is amended by striking "a governmental unit" and inserting "an exempt person".

(3) Paragraph (7) of section 141(b) is amended—

(A) by striking "government use" and inserting "exempt person use", and

(B) by striking "GOVERNMENT USE" in the heading thereof and inserting "EXEMPT PERSON USE".

(4) Section 141(b) is amended by striking paragraph (9).

(5) Paragraph (1) of section 141(c) is amended by striking "governmental units" and inserting "exempt persons".

(6) Section 141 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) CERTAIN ISSUES USED TO PROVIDE RESIDENTIAL RENTAL HOUSING FOR FAMILY UNITS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), for purposes of this title, the term 'private activity bond' includes any bond issued as part of an issue if any portion of the net proceeds of the issue are to be used (directly or indirectly) by an exempt person described in section 150(a)(2)(A)(ii) to provide residential rental property for family units.

"(2) EXCEPTION FOR BONDS USED TO PROVIDE QUALIFIED RESIDENTIAL RENTAL PROJECTS.—Paragraph (1) shall not apply to any bond issued as part of an issue if the portion of such issue which is to be used as described in paragraph (1) is to be used to provide—

"(A) a residential rental property for family units if the first use of such property is pursuant to such issue,

"(B) qualified residential rental projects (as defined in section 142(d)), or

"(C) property which is to be substantially rehabilitated in a rehabilitation beginning within the 2-year period ending 1 year after the date of the acquisition of such property.

"(3) SUBSTANTIAL REHABILITATION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), rules similar to the rules of section 47(c)(1)(C) shall apply in determining for purposes of paragraph (2)(C) whether property is substantially rehabilitated.

"(B) EXCEPTION.—For purposes of subparagraph (A), clause (ii) of section 47(c)(1)(C) shall not apply, but the Secretary may extend the 24-month period in section 47(c)(1)(C)(i) where appropriate due to circumstances not within the control of the owner.

"(4) CERTAIN PROPERTY TREATED AS NEW PROPERTY.—Solely for purposes of determining under paragraph (2)(A) whether the 1st use of property is pursuant to tax-exempt financing—

"(A) IN GENERAL.—If—

"(i) the 1st use of property is pursuant to taxable financing,

"(ii) there was a reasonable expectation (at the time such taxable financing was provided) that such financing would be replaced by tax-exempt financing, and

"(iii) the taxable financing is in fact so replaced within a reasonable period after the taxable financing was provided,

then the 1st use of such property shall be treated as being pursuant to the tax-exempt financing.

"(B) SPECIAL RULE WHERE NO OPERATING STATE OR LOCAL PROGRAM FOR TAX-EXEMPT FINANCING.—If, at the time of the 1st use of property, there was no operating State or local program for tax-exempt financing of the property, the 1st use of the property shall be treated as pursuant to the 1st tax-exempt financing of the property.

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) TAX-EXEMPT FINANCING.—The term 'tax-exempt financing' means financing provided by tax-exempt bonds.

"(ii) TAXABLE FINANCING.—The term 'taxable financing' means financing which is not tax-exempt financing."

(7) Section 141(f), as redesignated by paragraph (6), is amended—

(A) by adding "or" at the end of subparagraph (E),

(B) by striking ", or" at the end of subparagraph (F), and inserting in lieu thereof a period, and

(C) by striking subparagraph (G).

(8) The last sentence of section 144(b)(1) is amended by striking "(determined" and all that follows to the period.

(9) Clause (ii) of section 144(c)(2)(C) is amended by striking "governmental unit" and inserting "exempt person".

(10) Section 146(g) is amended—

(A) by striking paragraph (2), and

(B) by redesignating the remaining paragraphs after paragraph (1) as paragraphs (2) and (3), respectively.

(11) The heading of section 146(k)(3) is amended by striking "GOVERNMENTAL" and inserting "EXEMPT PERSON".

(12) The heading of section 146(m) is amended by striking "GOVERNMENT" and inserting "EXEMPT PERSON".

(13) Subsection (h) of section 147 is amended to read as follows:

"(h) CERTAIN RULES NOT TO APPLY TO MORTGAGE REVENUE BONDS AND QUALIFIED STUDENT LOAN BONDS.—Subsections (a), (b), (c), and (d) shall not apply to any qualified mortgage bond, qualified veterans' mortgage bond, or qualified student loan bond."

(14) Section 147 is amended by striking paragraph (4) of subsection (b) and redesignating paragraph (5) of such subsection as paragraph (4).

(15) Subparagraph (F) of section 148(d)(3) is amended—

(A) by striking "or which is a qualified 501(c)(3) bond", and

(B) by striking "GOVERNMENTAL USE BONDS AND QUALIFIED 501(C)(3)" in the heading thereof and inserting "EXEMPT PERSON".

(16) Subclause (II) of section 148(f)(4)(B)(ii) is amended by striking "(other than a qualified 501(c)(3) bond)".

(17) Clause (iv) of section 148(f)(4)(C) is amended—

(A) by striking "a governmental unit or a 501(c)(3) organization" each place it appears and inserting "an exempt person", and

(B) by striking "qualified 501(c)(3) bonds,".

(18) Subparagraph (A) of section 148(f)(7) is amended by striking "(other than a qualified 501(c)(3) bond)".

(19) Paragraph (2) of section 149(d) is amended—

(A) by striking "(other than a qualified 501(c)(3) bond)", and

(B) by striking "CERTAIN PRIVATE" in the heading thereof and inserting in lieu thereof "PRIVATE".

(20) Section 149(e)(2) is amended—

(A) by striking "which is not a private activity bond" in the second sentence and inserting "which is a bond issued for an exempt person described in section 150(a)(2)(A)(i)", and

(B) by adding at the end thereof the following new sentence: "Subparagraph (D) shall not apply to any bond which is not a private activity bond but which would be such a bond if the 501(c)(3) organization using the proceeds thereof were not an exempt person."

(21) The heading of subsection (b) of section 150 is amended by striking "TAX-EXEMPT PRIVATE ACTIVITY BONDS" and inserting "CERTAIN TAX-EXEMPT BONDS".

(22) Paragraph (3) of section 150(b) is amended—

(A) by inserting "owned by a 501(c)(3) organization" after "any facility" in subparagraph (A),

(B) by striking "any private activity bond which, when issued, purported to be a tax-exempt qualified 501(c)(3) bond" in subparagraph (A) and inserting "any bond which, when issued, purported to be a tax-exempt bond, and which would be a private activity bond if the 501(c)(3) organization using the proceeds thereof were not an exempt person", and

(C) by striking the heading thereof and inserting "BONDS FOR EXEMPT PERSONS OTHER THAN GOVERNMENTAL UNITS.—".

(23) Paragraph (5) of section 150(b) is amended—

(A) by striking "private activity" in subparagraph (A),

(B) by inserting "and which would be a private activity bond if the 501(c)(3) organization using the proceeds thereof were not an exempt person" after "tax-exempt bond" in subparagraph (A),

(C) by striking subparagraph (B) and inserting the following new subparagraph:

"(B) such facility is required to be owned by an exempt person, and", and

(D) by striking "GOVERNMENTAL UNITS OR 501(C)(3) ORGANIZATIONS" in the heading thereof and inserting "EXEMPT PERSONS".

(24) Section 150, as amended by section 4525, is amended by adding at the end thereof the following new subsection:

"(g) CERTAIN RULES TO APPLY TO BONDS FOR EXEMPT PERSONS OTHER THAN GOVERNMENTAL UNITS.—

"(1) IN GENERAL.—Nothing in section 103(a) or any other provision of law shall be construed to provide an exemption from Federal income tax for interest on any bond which would be a private activity bond if the 501(c)(3) organization using the proceeds thereof were not an exempt person unless such bond satisfies the requirements of subsections (b) and (f) of section 147.

"(2) SPECIAL RULE FOR POOLED FINANCING OF 501(C)(3) ORGANIZATION.—

"(A) IN GENERAL.—At the election of the issuer, a bond described in paragraph (1) shall be treated as meeting the requirements of section 147(b) if such bond meets the requirements of subparagraph (B).

"(B) REQUIREMENTS.—A bond meets the requirements of this subparagraph if—

"(i) 95 percent or more of the net proceeds of the issue of which such bond is a part are to be used to make or finance loans to 2 or more 501(c)(3) organizations or governmental units for acquisition of property to be used by such organizations,

"(ii) each loan described in clause (i) satisfies the requirements of section 147(b) (determined by treating each loan as a separate issue),

"(iii) before such bond is issued, a demand survey was conducted which shows a demand for financing greater than an amount equal to 120 percent of the lendable proceeds of such issue, and

"(iv) 95 percent or more of the net proceeds of such issue are to be loaned to 501(c)(3) organizations or governmental units within 1 year of issuance and, to the extent there are any unspent proceeds after such 1-year period, bonds issued as part of such issue are to be redeemed as soon as possible thereafter (and in no event later than 18 months after issuance).

A bond shall not meet the requirements of this subparagraph if the maturity date of any bond issued as part of such issue is more than 30 years after the date on which the bond was issued (or, in the case of a refunding or series of refundings, the date on which the original bond was issued)."

(25) Section 1302 of the Tax Reform Act of 1986 is repealed.

(26) Subparagraph (C) of section 57(a)(5) is amended by striking clause (ii) and redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively.

(27) Paragraph (3) of section 103(b) is amended by inserting "and section 150(f)" after "section 149".

(28) Paragraph (3) of section 265(b) is amended—

(A) by striking clause (ii) of subparagraph (B) and inserting the following:

"(ii) CERTAIN BONDS NOT TREATED AS PRIVATE ACTIVITY BONDS.—For purposes of clause (i)(II), there shall not be treated as a private activity bond any obligation issued to refund (or which is part of a series of obligations issued to refund) an obligation issued before August 8, 1986, which was not an industrial development bond (as defined in section 103(b)(2) as in effect on the day before the date of the enactment of the Tax Reform Act of 1986 (or a private loan bond (as defined in section 103(o)(2)(A), as so in effect, but without regard to any exemption from such definition other than section 103(o)(2)(A)))).";
and

(B) by striking "(other than a qualified 501(c)(3) bond, as defined in section 145)" in subparagraph (C)(ii)(I).

(f) EFFECTIVE DATE; SPECIAL RULE.—The amendments made by this section shall apply to bonds issued after December 31, 1992.

(2) SPECIAL RULE FOR CERTAIN BONDS ISSUED AFTER DATE OF ENACTMENT.—

(A) IN GENERAL.—The amendments made by this section shall not apply to any bond which—

(i) is issued after the date of the enactment of this Act, and

(ii) is part of an issue which is subject to any transitional rule under subtitle B of title XIII of the Tax Reform Act of 1986.

(B) ELECTION OUT.—This paragraph shall not apply to any issue with respect to which the issuer elects not to have this paragraph apply.

SEC. 4527. AUTHORITY TO TERMINATE REQUIRED INCLUSION OF TAX-EXEMPT INTEREST ON RETURN.

Subsection (d) of section 6012 (relating to tax-exempt interest required to be shown on return) is amended by adding at the end thereof the following new sentence: "The Secretary may by regulations provide that the preceding sentence shall not apply in any case in which the Secretary determines that the disclosure of such interest is not useful for tax administration."

SEC. 4528. REPEAL OF EXPIRED PROVISIONS.

(a) Paragraph (2) of section 148(c) is amended by striking subparagraph (B) and by redesignating subparagraphs (C), (D), and (E) as subparagraph (B), (C), and (D), respectively.

(b) Paragraph (4) of section 148(f) is amended by striking subparagraph (E).

SEC. 4529. EFFECTIVE DATE.

Except as otherwise provided, the amendments made by this subtitle shall apply to bonds issued after the date of the enactment of this Act.

PART IV—ELECTION OF ALTERNATIVE TAXABLE YEARS

SEC. 4531. ELECTION OF TAXABLE YEAR OTHER THAN REQUIRED TAXABLE YEAR.

(a) LIMITATIONS ON TAXABLE YEARS WHICH MAY BE ELECTED.—Subsection (b) of section 444 (relating to limitations on taxable years which may be elected) is amended to read as follows:

"(b) TAXABLE YEAR MUST BE SAME AS REPORTING PERIOD.—If an entity has annual reports or statements—

"(1) which ascertain income, profit, or loss of the entity, and

"(2) which are—

"(A) provided to shareholders, partners, or other proprietors, or

"(B) used for credit purposes,

the entity may make an election under subsection (a) only if the taxable year elected covers the same period as such reports or statements."

(b) PERIOD OF ELECTION.—Section 444(d)(2) (relating to period of election) is amended to read as follows:

"(2) PERIOD OF ELECTION.—

"(A) IN GENERAL.—An election under subsection (a) shall remain in effect until the partnership, S corporation, or personal service corporation terminates the election and adopts the required taxable year.

"(B) CHANGE NOT TREATED AS TERMINATION.—For purposes of subparagraph (A), a change from a taxable year which is not a required taxable year to another such taxable year shall not be treated as a termination."

(c) EXCEPTION FOR TRUSTS.—Section 444(d)(3) (relating to tiered structures) is amended by adding at the end thereof the following new subparagraph:

"(C) EXCEPTION FOR CERTAIN STRUCTURES THAT INCLUDE TRUSTS.—An entity shall not be considered to be part of a tiered structure to which subparagraph (A) applies solely because a trust owning an interest in such entity is a trust all of the beneficiaries of which use a calendar year for their taxable year."

(d) REGULATIONS.—Subsection (g) of section 444 (relating to regulations) is amended to read as follows:

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section, including regulations—

"(1) to prevent the avoidance of the provisions of this section through a change in entity or form of an entity,

"(2) to prevent the carryback to any preceding taxable year of a net operating loss (or similar item) arising in any short taxable year created pursuant to an election or termination of an election under this section, and

"(3) to provide for the termination of an election under subsection (a) if an entity does not continue to meet the requirements of subsection (b)."

SEC. 4532. REQUIRED PAYMENTS FOR ENTITIES ELECTING NOT TO HAVE REQUIRED TAXABLE YEAR.

(a) ADDITIONAL REQUIRED PAYMENT.—

(1) IN GENERAL.—Section 7519(b) (defining required payment) is amended to read as follows:

"(b) REQUIRED PAYMENT.—For purposes of this section—

"(1) IN GENERAL.—The term 'required payment' means, with respect to any applicable election year of a partnership or S corporation, an amount equal to the excess (if any) of—

"(A) the adjusted highest section 1 rate, multiplied by the net base year income of the entity, over

"(B) the net required payment balance.

For purposes of paragraph (1)(A), the term 'adjusted highest section 1 rate' means the highest rate of tax in effect under section 1 as of the close of the first required taxable year ending within such year, plus 2 percentage points.

"(2) ADDITIONAL PAYMENT FOR NEW APPLICABLE ELECTION YEARS.—

"(A) IN GENERAL.—In the case of a new applicable election year, the required payment shall include, in addition to any amount determined under paragraph (1), the amount determined under subparagraph (C).

"(B) NEW APPLICABLE ELECTION YEAR.—For purposes of this section, the term 'new applicable election year' means any applicable election year—

"(i) with respect to which the preceding taxable year was not an applicable election year, or

"(ii) which covers a different period than the preceding taxable year by reason of a change described in section 444(d)(2)(B).

If any year described in the preceding sentence is a short taxable year which does not include the last day of the required taxable year, the new applicable election year shall be the taxable year following the short taxable year.

"(C) ADDITIONAL AMOUNT.—For purposes of subparagraph (A), the amount determined under this subparagraph shall be—

"(i) in the case of a year described in subparagraph (B)(i), 75 percent of the required payment for the year, and

"(ii) in the case of a year described in subparagraph (B)(ii), 75 percent of the excess (if any) of—

"(I) the required payment for the year, over

"(II) the required payment for the year which would have been computed if the change described in subparagraph (B)(ii) had not occurred.

"(D) REQUIRED PAYMENT.—For purposes of this paragraph, the term 'required payment' means the payment required by this section (determined without regard to this paragraph)."

(2) DUE DATE.—Paragraph (2) of section 7519(f) (defining due date) is amended to read as follows:

"(2) DUE DATE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the amount of any required payment for any applicable election year shall be paid on or before May 15 of the calendar year following the calendar year in which the applicable election year begins.

"(B) SPECIAL RULE WHERE NEW APPLICABLE ELECTION YEAR ADOPTED.—In the case of a new applicable election year, the portion of any required payment determined under subsection (b)(2) shall be paid on or before September 15 of the calendar year in which the applicable election year begins."

(3) PENALTIES.—

(A) IN GENERAL.—Section 7519(f)(4) (relating to penalties) is amended by adding at the end thereof the following new subparagraph:

"(D) FAILURE TO PAY ADDITIONAL AMOUNT.—In the case of any failure by any entity to pay on the date prescribed therefore the portion of any required payment described in subsection (b)(2) for any applicable election year—

"(i) subparagraph (A) shall not apply, but

"(ii) the entity shall, for purposes of this title, be treated as having terminated the election under section 444 for such year and changed to the required taxable year."

(B) CONFORMING AMENDMENT.—Section 7519(f)(4)(A) is amended by striking "In" and inserting "Except as provided in subparagraph (D), in".

(4) REFUNDS.—Section 7519(c)(2)(A) (relating to refund of payments) is amended to read as follows:

"(A) an election under section 444 is not in effect for any year but was in effect for the preceding year, or".

(5) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 7519(c) is amended—

(i) by striking "subsection (b)(2)" and inserting "subsection (b)(1)(B)", and

(ii) by striking "subsection (b)(1)" and inserting "subsection (b)(1)(A)".

(B) Subsection (d) of section 7519 is amended by striking paragraph (4) and redesignating paragraph (5) as paragraph (4).

(b) OTHER DEFINITIONS AND SPECIAL RULES.—

(1) REFUND.—Paragraph (3) of section 7519(c) (relating to date on which refund payable) is amended in the matter preceding subparagraph (A) by striking "on the later of" and inserting "by the later of".

(2) DEFERRAL RATIO.—The last sentence of paragraph (1) of section 7519(d) is amended to read as follows: "Except as provided in regulations, the term 'deferral ratio' means the ratio which the number of months in the deferral period of the applicable election year bears to the number of months in the applicable election year."

(3) NET INCOME.—Paragraph (2) of section 7519(d) is amended by adding at the end the following new subparagraph:

"(D) EXCESS APPLICABLE PAYMENTS FOR BASE YEAR.—In the case of any new applicable election year, the net income for the base year shall be increased by the excess (if any) of—

"(i) the applicable payments taken into account in determining net income for the base year, over

"(ii) 120 percent of the average amount of applicable payments made during the first 3 taxable years preceding the base year."

(4) DEFERRAL PERIOD.—Paragraph (1) of section 7519(e) (defining deferral period) is amended to read as follows:

"(1) DEFERRAL PERIOD.—Except as provided in regulations, the term 'deferral period' means, with respect to any taxable year of the entity, the months between—

"(A) the beginning of such year, and

"(B) the close of the first required taxable year (as defined in section 444(e)) ending within such year."

(5) BASE YEAR.—

(A) IN GENERAL.—Paragraph (2)(A) of section 7519(e) (defining base year) is amended to read as follows:

"(A) BASE YEAR.—The term 'base year' means, with respect to any applicable election year, the first taxable year of 12 months (or 52-53 weeks) of the partnership or S corporation preceding such applicable election year."

(B) CONFORMING AMENDMENT.—Paragraph (2) of subsection (g) of section 7519 is amended to read as follows:

"(2) there is no base year described in subsection (e)(2)(A) or no preceding taxable year described in section 280H(c)(1)(A)(i)."

(c) INTEREST.—Section 7519(f)(3) (relating to interest) is amended to read as follows:

"(3) INTEREST.—For purposes of determining interest, any payment required by this section shall be treated as a tax, except that interest shall be allowed with respect to any refund of a payment under this section only for the period from the latest date specified in subsection (c)(3) for such refund to the actual date of payment of such refund."

SEC. 4533. LIMITATION ON CERTAIN AMOUNTS PAID TO EMPLOYEE-OWNERS OF PERSONAL SERVICE CORPORATIONS.

(a) CARRYOVER OF NONDEDUCTIBLE AMOUNTS.—Subsection (b) of section 280H (relating to carryover of nondeductible amounts) is amended to read as follows:

"(b) CARRYOVER OF NONDEDUCTIBLE AMOUNTS.—Any amount not allowed as a deduction for a taxable year pursuant to subsection (a) shall be allowed as a deduction in the succeeding taxable year."

(b) MINIMUM DISTRIBUTION REQUIREMENT.—Paragraph (1) of section 280H(c) is amended to read as follows:

"(1) IN GENERAL.—A personal service corporation meets the minimum distribution requirements of this subsection if the applicable amounts paid during the deferral period of the taxable year equal or exceed the lesser of—

"(A) 110 percent of the product of—

"(i) the applicable amounts paid during the first preceding taxable year of 12 months (or 52–53 weeks), divided by 12, and

"(ii) the number of months in the deferral period of the taxable year, or

"(B) 110 percent of the amount equal to the applicable percentage of the adjusted taxable income for the deferral period of the taxable year."

(c) DISALLOWANCE OF NOL CARRYBACKS.—Subsection (e) of section 280H (relating to disallowance of net operating loss carrybacks) is amended by striking "to (or from)" and inserting "from".

(d) CONFORMING AMENDMENT.—Subparagraph (A) of section 280H(f)(3) (relating to deferral period) is amended by striking "section 444(b)(4)" and inserting "section 7519(e)(1)".

SEC. 4534. EFFECTIVE DATE.

The amendments made by this Act shall apply to taxable years beginning after December 31, 1991.

PART V—COOPERATIVES

SEC. 4541. TREATMENT OF CERTAIN LOAN REQUIREMENTS.

(a) IN GENERAL.—Subparagraph (C) of section 501(c)(12) is amended by striking "or" at the end of clause (i), by striking the period at the end of clause (ii) and inserting ", or", and by adding at the end the following new clause:

"(i) from the prepayment of any loan under section 2387 of the Food, Agricultural, Conservation, and Trade Act of 1990 (as in effect on January 1, 1992)."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning before, on, or after the date of the enactment of this Act.

SEC. 4542. COOPERATIVE SERVICE ORGANIZATIONS FOR CERTAIN FOUNDATIONS.

(a) IN GENERAL.—Section 501 (relating to exemption from tax on corporations, certain trusts, etc.), is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) COOPERATIVE SERVICE ORGANIZATIONS FOR CERTAIN FOUNDATIONS.—

"(1) IN GENERAL.—For purposes of this title, if an organization—

"(A) is organized and operated solely for purposes referred to in subsection (f)(1),

"(B) is comprised solely of members which are exempt from taxation under subsection (a) and are—

"(i) private foundations, or

"(ii) community foundations as to which section 170(b)(1)(A)(vi) applies,

"(C) has at least 20 members,

"(D) does not at any time after the second taxable year beginning after the date of its organization, or, if later, the date of the enactment of this subsection, have a member which holds more than 10 percent (by value) of the interests in the organization,

"(E) is not controlled by any one member and does not have a member which controls another member of the organization, and

"(F) permits members of the organization to require the dismissal of any of the organization's investment advisors, following reasonable notice, upon a vote of the members holding a majority of interest in the account managed by such advisor,

then such organization shall be treated as an organization organized and operated exclusively for charitable purposes.

"(2) TREATMENT OF INCOME OF MEMBERS.—If any member of an organization described in paragraph (1) is a private foundation (other than an exempt operating foundation, as defined in section 4940(d)), such private foundation's allocable share of the capital gain net income and gross investment income of the organization for any taxable year of the organization shall be treated, for purposes of section 4940, as capital gain net income and gross investment income of such private foundation (whether or not distributed to such foundation) for the taxable year of such private foundation with or within which the taxable year of the organization described in paragraph (1) ends.

"(3) APPLICABLE EXCISE TAXES.—Subchapter A of chapter 42 (other than sections 4940 and 4942) shall apply to any organization described in paragraph (1)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 4543. TREATMENT OF CERTAIN AMOUNTS RECEIVED BY A COOPERATIVE TELEPHONE COMPANY.

(a) NONMEMBER INCOME.—

(1) IN GENERAL.—Paragraph (12) of section 501(c) (relating to list of exempt organizations) is amended by adding at the end thereof the following new subparagraph:

"(E) In the case of a mutual or cooperative telephone company (hereafter in this subparagraph referred to as the 'cooperative'), 50 percent of the income received or accrued directly or indirectly from a nonmember telephone company for the performance of communication services by the cooperative shall be treated for purposes of subparagraph (A) as collected from members of the cooperative for the sole purpose of meeting the losses and expenses of the cooperative."

(2) CERTAIN BILLING AND COLLECTION SERVICE FEES NOT TAKEN INTO ACCOUNT.—Subparagraph (B) of section 501(c)(12) is amended by striking "or" at the end of clause (iii), by striking the period at the end of clause (iv) and inserting ", or", and by adding at the end thereof the following new clause:

"(v) from billing and collection services performed for a nonmember telephone company.".

(3) CONFORMING AMENDMENT.—Clause (i) of section 501(c)(12)(B) is amended by inserting before the comma ", other than income described in subparagraph (E)".

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning before, on, or after the date of the enactment of this Act.

(5) NO INFERENCE AS TO UNRELATED BUSINESS INCOME TREATMENT OF BILLING AND COLLECTION SERVICE FEES.—Nothing in the amendments made by this subsection shall be construed to indicate the proper treatment of billing and collection service fees under part III of subchapter F of chapter 1 of the Internal Revenue Code of 1986 (relating to taxation of business income of certain exempt organizations).

(b) TREATMENT OF CERTAIN INVESTMENT INCOME OF MUTUAL OR COOPERATIVE TELEPHONE COMPANIES.—

(1) IN GENERAL.—Paragraph (12) of section 501(c) (relating to list of exempt organizations) is amended by adding at the end thereof the following new subparagraph:

"(F) In the case of a mutual or cooperative telephone company, subparagraph (A) shall be applied without taking into account reserve income (as defined in section 512(d)(2)) if such income, when added to other income not collected from members for the sole purpose of meeting losses and expenses, does not exceed 35 percent of the company's total income."

(2) PORTION OF INVESTMENT INCOME SUBJECT TO UNRELATED BUSINESS INCOME TAX.—Section 512 is amended by adding at the end thereof the following new subsection:

"(d) INVESTMENT INCOME OF CERTAIN MUTUAL OR COOPERATIVE TELEPHONE COMPANIES.—

"(1) IN GENERAL.—In determining the unrelated business taxable income of a mutual or cooperative telephone company described in section 501(c)(12)—

"(A) there shall be included, as an item of gross income derived from an unrelated trade or business, reserve income to the extent such reserve income, when added to other income not collected from members for the sole purpose of meeting losses and expenses, exceeds 15 percent of the company's total income, and

"(B) there shall be allowed all deductions directly connected with the portion of the reserve income which is so included.

"(2) RESERVE INCOME.—For purposes of paragraph (1), the term 'reserve income' means income—

"(A) which would (but for this subsection) be excluded under subsection (b), and

"(B) which is derived from assets set aside for the repair or replacement of telephone system facilities of such company."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 4544. TAX TREATMENT OF COOPERATIVE HOUSING CORPORATIONS.

(a) SECTION 277 NOT TO APPLY TO COOPERATIVE HOUSING CORPORATIONS.—Section 277(b) (relating to exceptions) is amended by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting a comma and "or", and by adding at the end thereof the following new paragraph:

"(5) which for the taxable year is a cooperative housing corporation described in section 216(b)(1) (determined without regard to section 143(k)(9)(E))."

(b) APPLICATION OF RULES RELATING TO TAX TREATMENT OF COOPERATIVES.—

(1) PATRONAGE EARNINGS MAY BE OFFSET ONLY BY PATRONAGE LOSSES.—Section 1388(a) is amended by adding at the end the following new sentence: "In no event shall any patronage losses of an organization described in section 277(b)(5) be used to offset earnings which are not patronage earnings."

(2) PATRONAGE EARNINGS AND LOSSES OF COOPERATIVE HOUSING CORPORATIONS.—Section 1388 is amended by adding at the end the following new subsection:

"(k) PATRONAGE EARNINGS OR LOSSES DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The terms 'patronage earnings' and 'patronage losses' mean earnings and losses, respectively, which are derived from business done with or for patrons of the organization.

"(2) SPECIAL RULES FOR COOPERATIVE HOUSING CORPORATION.—In the case of a cooperative housing corporation, the following earnings shall be treated as patronage earnings:

"(A) Interest on reasonable reserves established in connection with the corporation, including reserves required by a governmental agency or lender.

"(B) Income from laundry and parking facilities to the extent attributable to use of the facilities by tenant-stockholders and their guests.

"(C) In the case of a limited equity cooperative housing corporation, rental income from other than tenant-stockholders to the extent attributable to any project operated by the corporation.

"(3) DEFINITIONS.—For purposes of paragraph (2)—

"(A) COOPERATIVE HOUSING CORPORATION.—The term 'cooperative housing corporation' has the meaning given such term by section 216(b)(1) (without regard to section 143(k)(9)(E)).

"(B) LIMITED EQUITY COOPERATIVE HOUSING CORPORATION.—The term 'limited equity cooperative housing corporation' means a cooperative housing corporation with respect to which the requirements of clause (i) of section 143(k)(9)(D) are met at all times during the taxable year.

"(C) TENANT-STOCKHOLDER.—The term 'tenant-stockholder' has the meaning given such term by section 216(b)(2)."

(3) CONFORMING AMENDMENT.—Section 1388(j) is amended by striking paragraph (4).

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

(2) NO INFERENCE.—Nothing in the provisions of this section shall be construed as a change in the treatment of income derived by any cooperative housing corporation, or any corporation operating on a cooperative basis under section 1381 of the Internal Revenue Code of 1986, and the treatment of such income for any year to which the amendments made by this section does not apply shall be made as if this section had not been enacted.

SEC. 4545. TREATMENT OF SAFE HARBOR LEASES INVOLVING RURAL ELECTRIC COOPERATIVES.

(a) IN GENERAL.—In the case of a rural electric cooperative described in section 1381(a)(2)(C) of the Internal Revenue Code of 1986, any interest income in connection with a transaction involving qualified leased property which was treated as a lease under section 168(i) of the Internal Revenue Code of 1986 (as in effect before the amendments made by the Tax Reform Act of 1986) or any corresponding prior provision of law shall be offset by any rental expense in connection with such transaction before allocation of such income or expense to members and nonmembers of such cooperatives for purposes of such Code.

(b) EFFECTIVE DATE.—The provisions of subsection (a) shall apply to taxable years beginning before, on, or after the date of the enactment of this Act.

PART VI—EMPLOYMENT

SEC. 4551. CREDIT FOR PORTION OF EMPLOYER SOCIAL SECURITY TAXES PAID WITH RESPECT TO EMPLOYEE CASH TIPS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits) is amended by adding at the end the following new section:

"SEC. 45. CREDIT FOR PORTION OF EMPLOYER SOCIAL SECURITY TAXES PAID WITH RESPECT TO EMPLOYEE CASH TIPS.

"(a) GENERAL RULE.—For purposes of section 38, the employer social security credit determined under this section for the taxable year is an amount equal to the excess employer social security tax paid or incurred by the taxpayer during the taxable year.

"(b) EXCESS EMPLOYER SOCIAL SECURITY TAX.—For purposes of this section, the term 'excess employer social security tax' means any tax paid by an employer under section 3111 with respect to tips received by an employee during any month, to the extent such tips—

"(1) are deemed to have been paid by the employer to the employee pursuant to section 3121(q), and

"(2) exceed the amount by which the wages (excluding tips) paid by the employer to the employee during such month are less than the total amount which would be payable (with respect to such employment) at the minimum wage rate applicable to such individual under section 6(a)(1) of the Fair Labor Standards Act of 1938 (determined without regard to section 3(m) of such Act).

"(c) DENIAL OF DOUBLE BENEFIT.—No deduction shall be allowed under this chapter for any amount taken into account in determining the credit under this section."

(b) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—

(1) IN GENERAL.—Subsection (b) of section 38 of such Code (relating to current year business credit) is amended by striking "plus" at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting ", plus", and by adding at the end the following new paragraph:

"(8) the employer social security credit determined under section 45(a)."

(2) LIMITATION ON CARRYBACKS.—Subsection (d) of section 39 of such Code (relating to transitional rules) is amended—

(A) by redesignating the paragraph added by section 11511(b)(2) of the Revenue Reconciliation Act of 1990 as paragraph (1),

(B) by redesignating the paragraph added by section 11611(b)(2) of such Act as paragraph (2), and

(C) by adding at the end the following new paragraph:

"(3) NO CARRYBACK OF SECTION 45 CREDIT BEFORE ENACTMENT.—No portion of the unused business credit for any taxable year which is attributable to the employer social security credit determined under section 45 may be carried back to a taxable year ending before the date of the enactment of section 45."

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end the following new item:

"Sec. 45. Employer social security credit."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to tips received (and wages paid) after the date of the enactment of this Act.

SEC. 4552. ELIMINATION OF DEDUCTION FOR CLUB MEMBERSHIP FEES.

(a) IN GENERAL.—Section 162 (relating to trade or business expenses), as amended by sections 3006 and 4108, is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

"(o) CLUB MEMBERSHIP DUES.—No deduction shall be allowed under this chapter for amounts paid or incurred for membership in any club organized for business, pleasure, recreation, or other social purpose."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to dues paid after the date of the enactment of this Act.

SEC. 4553. CLARIFICATION OF EMPLOYMENT TAX STATUS OF CERTAIN FISHERMEN.

(a) AMENDMENTS OF INTERNAL REVENUE CODE OF 1986.—

(1) DETERMINATION OF SIZE OF CREW.—Subsection (b) of section 3121 (defining employment) is amended by adding at the end thereof the following new sentence:

"For purposes of paragraph (20), the operating crew of a boat shall be treated as normally made up of fewer than 10 individuals if the average size of the operating crew on trips made during the preceding 4 calendar quarters consisted of fewer than 10 individuals."

(2) CERTAIN CASH REMUNERATION PERMITTED.—Subparagraph (A) of section 3121(b)(20) is amended to read as follows:

"(A) such individual does not receive any cash remuneration other than as provided in subparagraph (B) and other than cash remuneration—

"(i) which does not exceed $100 per trip;

"(ii) which is contingent on a minimum catch; and

"(iii) which is paid solely for additional duties (such as mate, engineer, or cook) for which additional cash remuneration is traditional in the industry,".

(b) AMENDMENT OF SOCIAL SECURITY ACT.—

(1) DETERMINATION OF SIZE OF CREW.—Subsection (a) of section 210 of the Social Security Act is amended by adding at the end thereof the following new sentence:

"For purposes of paragraph (20), the operating crew of a boat shall be treated as normally made up of fewer than 10 individuals if the average size of the operating crew on trips made during the preceding 4 calendar quarters consisted of fewer than 10 individuals."

(2) CERTAIN CASH REMUNERATION PERMITTED.—Subparagraph (A) of section 210(a)(20) of such Act is amended to read as follows:

"(A) such individual does not receive any additional compensation other than as provided in subparagraph (B) and other than cash remuneration—

"(i) which does not exceed $100 per trip;

"(ii) which is contingent on a minimum catch; and

"(iii) which is paid solely for additional duties (such as mate, engineer, or cook) for which additional cash remuneration is traditional in the industry,".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to remuneration paid after December 31, 1992.

(2) SPECIAL RULE.—The amendments made by this section shall also apply to remuneration paid after December 31, 1984, and before January 1, 1993, unless the payor treated such remuneration (when paid) as being subject to tax under chapter 21 of the Internal Revenue Code of 1986.

PART VII—OTHER PROVISIONS

SEC. 4561. CLOSING OF PARTNERSHIP TAXABLE YEAR WITH RESPECT TO DECEASED PARTNER.

(a) GENERAL RULE.—Subparagraph (A) of section 706(c)(2) (relating to disposition of entire interest) is amended to read as follows:

"(A) DISPOSITION OF ENTIRE INTEREST.—The taxable year of a partnership shall close with respect to a partner whose entire interest in the partnership terminates (whether by reason of death, liquidation, or otherwise)."

(b) CLERICAL AMENDMENT.—The paragraph heading for paragraph (2) of section 706(c) is amended to read as follows:

"(2) TREATMENT OF DISPOSITIONS.—".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership taxable years beginning after December 31, 1991.

SEC. 4562. REPEAL OF SPECIAL TREATMENT OF OWNERSHIP CHANGES IN DETERMINING ADJUSTED CURRENT EARNINGS.

(a) GENERAL RULE.—Paragraph (4) of section 56(g) (relating to adjustments) is amended by striking subparagraph (G) and by redesignating the following subparagraph as paragraph (G).

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to ownership changes after December 31, 1991.

SEC. 4563. AUTHORIZATION FOR BUREAU OF LAND MANAGEMENT USE OF REFORESTATION TRUST FUND.

Section 303 of Public Law 96-451 (16 U.S.C. 1606a) is amended—

(1) in subsection (b)—

(A) in paragraph (2), by striking "$30,000,000" and inserting "$45,000,000"; and

(B) by adding at the end thereof the following new paragraphs:

"(4) Of the amounts transferred to the Trust Fund under paragraph (1) in any fiscal year—

"(A) $30,000,000 shall be allocated and made available to the Secretary of Agriculture; and

"(B) the remaining balance shall be allocated and made available to the Secretary of the Interior.

"(5)(A) If the remaining balance allocated and made available to the Secretary of the Interior under paragraph (4)(B) is less than $15,000,000 in any fiscal year, the Secretary of the Treasury shall transfer to the Trust Fund and make available to the Secretary of the Interior, in accordance with subparagraph (B), an amount equal to the difference between $15,000,000 and the remaining balance.

"(B) The amount transferred pursuant to subparagraph (A) shall be obtained as follows:

"(i) 93⅓ percent of the amount shall be taken from the Federal portion of the Bureau of Land Management timber receipt payments from the Coos Bay Wagon Road grant lands in Oregon; and

"(ii) the remainder of the amount shall be taken from the Federal portion of the Bureau of Land Management timber receipt payments from public domain lands in the States.";

(2) in the first sentence of subsection (c)(1) by inserting "and the Secretary of the Interior" after "Secretary of Agriculture";

(3) in subsection (d)—

(A) by striking "available" and inserting "available to the Secretary of Agriculture"; and

(B) by striking "amounts" and inserting "amounts that were available to the Secretary of Agriculture but"; and

(4) by adding at the end thereof the following new subsection:

"(e)(1) In accordance with paragraph (2), the Secretary of the Interior may obligate, in each fiscal year, such sums as are available to the Secretary of the Interior in the Trust Fund to supplement expenditures of the Bureau of Land Management for, in order of priority—

"(A) reforestation and forest development of public lands administered by the Secretary of the Interior acting through the Bureau of Land Management, including projects to improve the overall health and productivity of the forest ecosystem;

"(B) negotiation and implementation of cooperative relationships, including the acquisition of voluntary cooperative conservation easements, when such relationships promote or enhance successful reforestation or forest development or contribute to the long-term productivity of the forest ecosystem; and

"(C) properly allocable administrative costs of the Federal Government for the activities described in subparagraphs (A) and (B).

"(2) The Secretary of the Interior shall allocate the sums described in paragraph (1) as follows:

"(A) $14,000,000 for Oregon and California Railroad and Coos Bay Wagon Road grant lands in Oregon; and

"(B) $1,000,000 for public domain lands, to be allocated among the States in which the lands are located by taking into account, in order of priority—

"(i) the level of timber sales (measured in board feet) from the public domain lands within each State in the previous calendar year;

"(ii) the amount of reforestation backlog in the State;

"(iii) the need for planting as part of the reforestation program; and

"(iv) the need for forest development as part of the reforestation program."

SEC. 4564. REPEAL OF INVESTMENT RESTRICTIONS APPLICABLE TO NUCLEAR DECOMMISSIONING FUNDS.

(a) IN GENERAL.—Subparagraph (C) of section 468A(e)(4) (relating to special rules for nuclear decommissioning funds) is amended by striking "described in section 501(c)(21)(B)(ii)".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 4565. MODIFICATION OF CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.

(a) IN GENERAL.—Subparagraph (A) of section 29(c)(2) (relating to gas from geopressured brine, etc.) is amended by adding at the end the following new sentence: "If the Federal Energy Regulatory Commission ceases to make the determinations described in the preceding sentence, the Secretary shall make such determinations in accordance with section 503 of such Act."

(b) CONFORMING AMENDMENT.—Section 29(c)(2)(A) is amended by inserting "(as in effect before its repeal by the Natural Gas Wellhead Decontrol Act of 1989) after "Natural Gas Policy Act of 1978".

Subtitle F—Estate And Gift Tax Provisions

SEC. 4601. CLARIFICATION OF WAIVER OF CERTAIN RIGHTS OF RECOVERY.

(a) AMENDMENT TO SECTION 2207A.—Paragraph (2) of section 2207A(a) (relating to right of recovery in the case of certain marital deduction property) is amended to read as follows:

"(2) DECEDENT MAY OTHERWISE DIRECT.—Paragraph (1) shall not apply with respect to any property to the extent that the decedent in his will (or a revocable trust) specifically indicates an intent to waive any right of recovery under this subchapter with respect to such property."

(b) AMENDMENT TO SECTION 2207B.—Paragraph (2) of section 2207B(a) (relating to right of recovery where decedent retained interest) is amended to read as follows:

"(2) DECEDENT MAY OTHERWISE DIRECT.—Paragraph (1) shall not apply with respect to any property to the extent that the decedent in his will (or a revocable trust) specifically indicates an intent to waive any right of recovery under this subchapter with respect to such property."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to the estates of decedents dying after the date of the enactment of this Act.

SEC. 4602. ADJUSTMENTS FOR GIFTS WITHIN 3 YEARS OF DECEDENT'S DEATH.

(a) GENERAL RULE.—Section 2035 is amended to read as follows:

"SEC. 2035. ADJUSTMENTS FOR CERTAIN GIFTS MADE WITHIN 3 YEARS OF DECEDENT'S DEATH.

"(a) INCLUSION OF CERTAIN PROPERTY IN GROSS ESTATE.—If—

"(1) the decedent made a transfer (by trust or otherwise) of an interest in any property, or relinquished a power with respect to any property, during the 3-year period ending on the date of the decedent's death, and

"(2) the value of such property (or an interest therein) would have been included in the decedent's gross estate under section 2036, 2037, 2038, or 2042 if such transferred interest or relinquished power had been retained by the decedent on the date of his death,

the value of the gross estate shall include the value of any property (or interest therein) which would have been so included.

"(b) INCLUSION OF GIFT TAX ON GIFTS MADE DURING 3 YEARS BEFORE DECEDENT'S DEATH.—The amount of the gross estate (determined without regard to this subsection) shall be increased by the amount of any tax paid under chapter 12 by the decedent or his estate on any gift made by the decedent or his spouse during the 3-year period ending on the date of the decedent's death.

"(c) OTHER RULES RELATING TO TRANSFERS WITHIN 3 YEARS OF DEATH.—

"(1) IN GENERAL.—For purposes of—

"(A) section 303(b) (relating to distributions in redemption of stock to pay death taxes),

"(B) section 2032A (relating to special valuation of certain farms, etc., real property), and

"(C) subchapter C of chapter 64 (relating to lien for taxes),

the value of the gross estate shall include the value of all property to the extent of any interest therein of which the decedent has at any time made a transfer, by trust or otherwise, during the 3-year period ending on the date of the decedent's death.

"(2) COORDINATION WITH SECTION 6166.—An estate shall be treated as meeting the 35 percent of adjusted gross estate requirement of section 6166(a)(1) only if the estate meets such requirement both with and without the application of paragraph (1).

"(3) SMALL TRANSFERS.—Paragraph (1) shall not apply to any transfer (other than a transfer with respect to a life insurance policy) made during a calendar year to any donee if the decedent was not required by section 6019 (other than by reason of section 6019(a)(2)) to file any gift tax return for such year with respect to transfers to such donee.

"(d) EXCEPTION.—Subsection (a) shall not apply to any bona fide sale for an adequate and full consideration in money or money's worth.

"(e) TREATMENT OF CERTAIN REVOCABLE TRUSTS.—For purposes of this section and section 2038, any transfer from any portion of a trust with respect to which the decedent was the grantor during any period when the decedent held the power to revest in the decedent title to such portion shall be treated as a transfer made directly by the decedent."

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter A of chapter 11 is amended by striking "gifts" in the item relating to section 2035 and inserting "certain gifts".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to the estates of decedents dying after the date of the enactment of this Act.

SEC. 4603. CLARIFICATION OF QUALIFIED TERMINABLE INTEREST RULES.

(a) GENERAL RULE.—

(1) ESTATE TAX.—Subparagraph (B) of section 2056(b)(7) (defining qualified terminable interest property) is amended by adding at the end thereof the following new clause:

"(v)(i) TREATMENT OF CERTAIN INCOME DISTRIBUTIONS.—An income interest shall not fail to qualify as a qualified income interest for life solely because income for the period after the last distribution date and on or before the date of the surviving spouse's death is not required to be distributed to the surviving spouse or to the estate of the surviving spouse."

(2) GIFT TAX.—Paragraph (3) of section 2523(f) is amended by striking "and (iv)" and inserting ", (iv), and (vi)".

(b) CLARIFICATION OF SUBSEQUENT INCLUSIONS.—Section 2044 is amended by adding at the end thereof the following new subsection:

"(d) CLARIFICATION OF INCLUSION OF CERTAIN INCOME.—The amount included in the gross estate under subsection (a) shall include the amount of any income from the property to which this section applies for the period after the last distribution date and on or before the date of the decedent's death if such income is not otherwise included in the decedent's gross estate."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to the estates of decedents dying, and gifts made, after the date of the enactment of this Act.

(2) APPLICATION OF SECTION 2044 TO TRANSFERS BEFORE DATE OF ENACTMENT.—In the case of the estate of any decedent dying after the date of the enactment of this Act, if there was a transfer of property on or before such date—

(A) such property shall not be included in the gross estate of the decedent under section 2044 of the Internal Revenue Code of 1986 if no prior marital deduction was allowed with respect to such a transfer of such property to the decedent, but

(B) such property shall be so included if such a deduction was allowed.

SEC. 4604. TREATMENT OF PORTIONS OF PROPERTY UNDER MARITAL DEDUCTION.

(a) ESTATE TAX.—Subsection (b) of section 2056 (relating to limitation in case of life estate or other terminable interest) is amended by adding at the end thereof the following new paragraph:

"(10) SPECIFIC PORTION.—For purposes of paragraphs (5), (6), and (7)(B)(iv), the term 'specific portion' only includes a portion determined on a fractional or percentage basis."

(b) GIFT TAX.—

(1) Subsection (e) of section 2523 is amended by adding at the end thereof the following new sentence: "For purposes of this subsection, the term 'specific portion' only includes a portion determined on a fractional or percentage basis."

(2) Paragraph (3) of section 2523(f) is amended by inserting before the period at the end thereof the following: "and the rules of section 2056(b)(10) shall apply".

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendment made by subsection (a) shall apply to the estates of decedents dying after the date of the enactment of this Act.

(B) EXCEPTION.—The amendment made by subsection (a) shall not apply to any interest in property which passes (or has passed) to the surviving spouse of the decedent pursuant to a will (or revocable trust) in existence on the date of the enactment of this Act if—

(i) the decedent dies on or before the date 3 years after such date of enactment, or

(ii) the decedent was, on such date of enactment, under a mental disability to change the disposition of his property and did not regain his competence to dispose of such property before the date of his death.

The preceding sentence shall not apply if such will (or revocable trust) is amended at any time after such date of enactment in any respect which will increase the amount of the interest which so passes or alters the terms of the transfer by which the interest so passes.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to gifts made after the date of the enactment of this Act.

SEC. 4605. TRANSITIONAL RULE UNDER SECTION 2056A.

(a) GENERAL RULE.—In the case of any trust created under an instrument executed before the date of the enactment of the Revenue Reconciliation Act of 1990, such trust shall be treated as meeting the requirements of paragraph (1) of section 2056A(a) of the Internal Revenue Code of 1986 if the trust instrument requires that all trustees of the trust be individual citizens of the United States or domestic corporations.

(b) EFFECTIVE DATE.—The provisions of subsection (a) shall take effect as if included in the provisions of section 11702(g) of the Revenue Reconciliation Act of 1990.

SEC. 4606. OPPORTUNITY TO CORRECT CERTAIN FAILURES UNDER SECTION 2032A.

(a) GENERAL RULE.—Paragraph (3) of section 2032A(d) (relating to modification of election and agreement to be permitted) is amended to read as follows:

"(3) MODIFICATION OF ELECTION AND AGREEMENT TO BE PERMITTED.—The Secretary shall prescribe procedures which provide that in any case in which the executor makes an election under paragraph (1) (and submits the agreement referred to in paragraph (2)) within the time prescribed therefor, but—

"(A) the notice of election, as filed, does not contain all required information, or

"(B) signatures of 1 or more persons required to enter into the agreement described in paragraph (2) are not included on the agreement as filed, or the agreement does not contain all required information,

the executor will have a reasonable period of time (not exceeding 90 days) after notification of such failures to provide such information or signatures."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to the estates of decedents dying after the date of the enactment of this Act.

SEC. 4607. REPEAL OF CERTAIN THROWBACK RULES APPLICABLE TO DOMESTIC TRUSTS.

(a) ACCUMULATION DISTRIBUTIONS.—

(1) IN GENERAL.—Section 665 is amended by adding at the end the following new subsection:

"(f) ACCUMULATION DISTRIBUTIONS AFTER 1992.—For purposes of this subpart—

"(1) IN GENERAL.—In the case of a qualified trust, the accumulation distribution for any taxable year beginning after December 31, 1992, shall be computed without regard to any undistributed net income attributable to any taxable year beginning after December 31, 1992.

"(2) QUALIFIED TRUST.—For purposes of this subsection, the term 'qualified trust' means any trust other than—

"(A) a foreign trust, or

"(B) a trust created before March 1, 1984, unless it is established that the trust would not be aggregated with other trusts under section 643(f) if such section applied to such trust."

(2) CONFORMING AMENDMENT.—Subsection (b) of section 665 is amended by inserting "except as provided in subsection (b)," after "subpart,"

(b) PROPERTY TRANSFERRED TO TRUSTS.—Subsection (e) of section 644 is amended by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting ", or ", and by adding at the end the following new paragraph:

"(5) in the case of a qualified trust (as defined in section 665(f)(2)), any sale or exchange of property after December 31, 1992."

(c) EFFECTIVE DATES.—

(1) ACCUMULATION DISTRIBUTION.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1992.

(2) TRANSFERRED PROPERTY.—The amendments made by subsection (b) shall apply to sales or exchanges after December 31, 1992.

Subtitle G—Excise Tax Simplification

PART I—FUEL TAX PROVISIONS

SEC. 4701. REPEAL OF CERTAIN RETAIL AND USE TAXES.

(a) IN GENERAL.—Section 4041 is amended to read as follows:

"SEC. 4041. SPECIAL MOTOR FUELS AND NONCOMMERCIAL AVIATION GASOLINE.

"(a) SPECIAL MOTOR FUELS.—

"(1) IN GENERAL.—There is hereby imposed a tax on benzol, benzene, naphtha, liquefied petroleum gas, casing head and natural gasoline, or any other liquid—

"(A) sold by any person to an owner, lessee, or other operator of a motor vehicle or a motorboat for use as a fuel in such motor vehicle or motorboat, or

"(B) used by any person as a fuel in a motor vehicle or motorboat unless there was a taxable sale of such liquid under subparagraph (A).

"(2) RATE OF TAX.—The rate of the tax imposed by this subsection shall be the aggregate rate of tax in effect under section 4081 at the time of such sale or use.

"(3) CERTAIN FUELS EXEMPT FROM TAX.—The tax imposed by this subsection shall not apply to gasoline (as defined in section 4082), diesel fuel (as defined in section 4092), kerosene, gas oil, or fuel oil.

"(4) REDUCED RATES OF TAX ON CERTAIN FUELS.—

"(A) QUALIFIED METHANOL AND ETHANOL FUEL.—

"(i) IN GENERAL.—In the case of any qualified methanol or ethanol fuel—

"(I) the Highway Trust Fund financing rate applicable under paragraph (2) shall be 5.4 cents per gallon less than the otherwise applicable rate (6 cents per gallon less in the case of a mixture none of the alcohol in which consists of ethanol), and

"(II) the Leaking Underground Storage Tank Trust Fund financing rate applicable under paragraph (2) shall be 0.05 cent per gallon.

"(ii) QUALIFIED METHANOL OR ETHANOL FUEL.—The term 'qualified methanol or ethanol fuel' means any liquid at least 85 percent of which consists of methanol, ethanol, or other alcohol produced from a substance other than petroleum or natural gas.

"(iii) TERMINATION.—Clause (i) shall not apply to any sale or use after September 30, 2000.

"(B) NATURAL GAS-DERIVED METHANOL OR ETHANOL FUEL.—

"(i) IN GENERAL.—In the case of natural gas-derived methanol or ethanol fuel—

"(I) the Highway Trust Fund financing rate applicable under paragraph (2) shall be 5.75 cents per gallon, and

"(II) the deficit reduction rate applicable under paragraph (2) shall be 1.25 cents per gallon.

"(ii) NATURAL GAS-DERIVED METHANOL OR ETHANOL FUEL.—The term 'natural-gas derived methanol or ethanol fuel' means any liquid at least 85 percent of which consists of methanol, ethanol, or other alcohol produced from natural gas.

"(C) OTHER FUELS CONTAINING ALCOHOL.—

"(i) IN GENERAL.—Under regulations prescribed by the Secretary, in the case of any liquid at least 10 percent of which consists of alcohol (as defined in section 4081(c)(3)), the Highway Trust Fund financing rate applicable under paragraph (2) shall be the comparable rate under section 4081.

"(ii) LATER SEPARATION.—If any person separates the liquid fuel from a mixture of the liquid fuel and alcohol to which clause (i) applies, such separation shall be treated as a sale of the liquid fuel. Any tax imposed on such sale shall be reduced by the amount (if any) of the tax imposed on the sale of such mixture.

"(iii) TERMINATION.—Clause (i) shall not apply to any sale or use after September 30, 2000.

"(D) LIQUEFIED PETROLEUM GAS.—The rate of tax applicable under paragraph (2) to liquefied petroleum gas shall be determined without regard to the Leaking Underground Storage Tank Trust Fund financing rate under section 4081.

"(5) EXEMPTION FOR OFF-HIGHWAY BUSINESS USE.—No tax shall be imposed by paragraph (1) on liquids sold for use or used in an off-highway business use (within the meaning of section 6420(f)).

"(b) NONCOMMERCIAL AVIATION GASOLINE.—

"(1) IN GENERAL.—There is hereby imposed a tax on gasoline—

"(A) sold by any person to an owner, lessee, or other operator of an aircraft for use as a fuel in such aircraft in noncommercial aviation, or

"(B) used by any person as a fuel in an aircraft in noncommercial aviation unless there was a taxable sale of such gasoline under subparagraph (A).

The tax imposed by this paragraph shall be in addition to any tax imposed by section 4081.

"(2) RATE OF TAX.—The rate of the tax imposed by paragraph (1) on any gasoline is the excess of 15 cents a gallon over the sum of the Highway Trust Fund financing rate plus the deficit reduction rate at which tax was imposed on such gasoline under section 4081.

"(3) NONCOMMERCIAL AVIATION.—For purposes of this subsection, the term 'noncommercial aviation' means any use of an aircraft other than use in a business of transporting persons or property for compensation or hire by air. Such term includes any use of an aircraft, in a business described in the preceding sentence, which is properly allocable to any transportation exempt from the taxes imposed by sections 4261 and 4271 by reason of section 4281 or 4282.

"(4) EXEMPTION FOR FUELS CONTAINING ALCOHOL.—No tax shall be imposed by this subsection on any liquid at least 10 percent of which consists of alcohol (as defined in section 4081(c)(3)).

"(5) EXEMPTION FOR CERTAIN HELICOPTER USES.—No tax shall be imposed by this subsection on gasoline sold for use or used in a helicopter for purposes of providing transportation with respect to which the requirements of subsection (e) or (f) of section 4261 are met.

"(6) REGISTRATION.—Except as provided in regulations prescribed by the Secretary, if any gasoline is sold by any person for use as a fuel in an aircraft, it shall be presumed for purposes of this subsection that a tax imposed by this subsection applies to the sale of such gasoline unless the purchaser is registered in such manner (and furnished such information in respect of the use of the gasoline) as the Secretary shall by regulations provide.

"(7) GASOLINE.—For purposes of this subsection, the term 'gasoline' has the meaning given such term by section 4082.

"(8) TERMINATION.—Paragraph (1) shall not apply to any sale or use after December 31, 1995.

"(c) EXEMPTION FOR FARM USE.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, no tax shall be imposed under this section on any liquid sold for use or used on a farm for farming purposes (determined in accordance with paragraphs (1), (2), and (3) of section 6420(e)).

"(2) TERMINATION.—Except with respect to so much of the tax imposed by subsection (a) as is determined by reference to the Leaking Underground Storage Tank Trust Fund financing rate under section 4081, paragraph (1) shall not apply after September 30, 1999.

"(d) EXEMPTIONS FOR STATE AND LOCAL GOVERNMENTS, SCHOOLS, EXPORTATION, AND SUPPLIES FOR VESSELS AND AIRCRAFT.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, no tax shall be imposed under this section on any liquid sold for use, or used, in an exempt use described in paragraph (4), (5), (6), or (7) of section 6420(b).

"(2) TERMINATION.—Except with respect to so much of the tax imposed by subsection (a) as is determined by reference to the Leaking Underground Storage Tank Trust Fund financing rate under section 4081, after September 30, 1999, paragraph (1) shall not apply to exempt uses described in paragraph (4) and (5) of section 6420(b).

"(e) EXEMPTION FOR USE BY CERTAIN AIRCRAFT MUSEUMS.—Under regulations prescribed by the Secretary, no tax shall be imposed under this section on any liquid sold for use or used in an exempt use described in section 6420(b)(11)."

(b) CERTAIN ADDITIONAL PURCHASERS OF FUEL TREATED AS PRODUCERS.—

(1) IN GENERAL.—Subparagraph (C) of section 4092(b)(1) is amended to read as follows:

"(C) REDUCED-TAX PURCHASERS TREATED AS PRODUCERS.—Any person to whom any fuel is sold in a sale on which the amount of tax otherwise required to be paid under section 4091 is reduced under section 4093 shall be treated as the producer of such fuel. The amount of tax imposed by section 4091 on any sale of such fuel by such person shall be reduced by the amount of tax imposed under section 4091 (and not credited or refunded) on any prior sale of such fuel."

(2) CONFORMING AMENDMENT.—Subsection (b) of section 4093 is amended by inserting "(as defined in section 4092(b) without regard to paragraph (1)(C) thereof)" after "producer".

SEC. 4702. REVISION OF FUEL TAX CREDIT AND REFUND PROCEDURES.

(a) REFUNDS TO CERTAIN SELLERS OF DIESEL FUEL AND AVIATION FUEL.—

(1) IN GENERAL.—Paragraph (2) of section 6416(b) is amended by striking "4091 or 4121" and inserting "4121 or 4091; except that this paragraph shall apply to a person selling diesel fuel or aviation fuel for a use described in the first sentence if such person meets such requirements as the Secretary may by regulations prescribe".

(2) LIMITATIONS ON AMOUNT OF TAX ONLY HIGHWAY TRUST FUND FINANCING RATE TO BE REFUNDABLE.—Paragraph (2) of section 6416(b) is amended by adding at the end thereof the following new sentence: "This paragraph shall not apply to the taxes imposed by sections 4081 and 4091 with respect to any use to the same extent that section 6420(a) does not apply to such use by reason of paragraph (1) or (2) of section 6420(c)."

(b) CONSOLIDATION OF REFUND PROVISIONS; REPEAL OF CONSENT REQUIREMENT FOR REFUND OF FUEL TAXES TO CROPDUSTERS, ETC.—Section 6420 (relating to gasoline used on farms) is amended to read as follows:

"SEC. 6420. CERTAIN TAXES ON FUELS USED FOR EXEMPT PURPOSES.

"(a) IN GENERAL.—Except as otherwise provided in this section, if any fuel on which tax was imposed under section 4041, 4081, or 4091 is used in an exempt use, the Secretary shall pay (without interest) to the ultimate purchaser of such fuel the amount equal to the aggregate tax imposed on such fuel under such sections.

"(b) EXEMPT USES.—For purposes of this section, the term 'exempt use' means—

"(1) in the case of diesel fuel, use other than as a fuel in a diesel-powered highway vehicle or a diesel-powered motorboat,

"(2) in the case of aviation fuel, use other than as a fuel in an aircraft,

"(3) in the case of gasoline or aviation fuel, use in an aircraft other than in noncommercial aviation (as defined in section 4041(b)),

"(4) use by any State, any political subdivision of a State, or the District of Columbia,

"(5) use by a nonprofit educational organization (as defined in section 4221(d)(5)),

"(6) export,

"(7) use as supplies for vessels or aircraft (within the meaning of section 4221(d)(3)),

"(8) use on a farm for farming purposes (within the meaning of subsection (e)),

"(9) use in an off-highway business use (within the meaning of subsection (f)),

"(10) use in qualified bus transportation (within the meaning of subsection (g)),

"(11) use by an aircraft museum (within the meaning of subsection (h)),

"(12) use in a nonpurpose use (within the meaning of subsection (i)),

"(13) use in a helicopter for purposes of providing transportation with respect to which the requirements of subsection (e) or (f) of section 4261 are met, and

"(14) use in producing a mixture of a fuel if at least 10 percent of such mixture consists of alcohol (as defined in section 4081(c)(3)) and if such mixture is sold or used in the trade or business of the person producing such mixture.

Paragraph (14) shall not apply with respect to any mixture sold or used after September 30, 2000.

"(c) LIMITATIONS ON AMOUNT OF PAYMENT.—

"(1) NO REFUND OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND TAXES IN CERTAIN CASES.—Subsection (a) shall not apply to so much of the taxes imposed by sections 4081 and 4091 as are attributable to a Leaking Underground Storage Tank Trust Fund financing rate in the case of—

"(A) fuel used in a train, and

"(B) fuel used in any aircraft (except as supplies for vessels or aircraft within the meaning of section 4221(d)(3)).

"(2) NO REFUND OF DEFICIT REDUCTION TAX ON DIESEL FUEL USED IN TRAINS.—Subsection

(a) shall not apply to so much of the tax imposed by section 4091 as is attributable to a deficit reduction rate in the case of diesel fuel used in a diesel-powered train.

"(3) NO REFUND OF PORTION OF TAX ON DIESEL FUEL USED IN CERTAIN BUSES.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the rate of tax taken into account under subsection (a) with respect to diesel fuel used in qualified bus transportation (within the meaning of subsection (g)(1)) shall be 3.1 cents per gallon less than the aggregate rate of tax imposed on such fuel by section 4091.

"(B) EXCEPTION FOR SCHOOL BUS TRANSPORTATION.—Subparagraph (A) shall not apply to fuel used in an automobile bus while engaged in transportation described in subsection (g)(1)(B).

"(C) EXCEPTION FOR CERTAIN INTRACITY TRANSPORTATION.—Subparagraph (A) shall not apply to fuel used in any automobile bus while engaged in furnishing (for compensation) intracity passenger land transportation—

"(i) which is available to the general public, and

"(ii) which is scheduled and along regular routes,

but only if such bus is a qualified local bus.

"(D) QUALIFIED LOCAL BUS.—For purposes of this paragraph, the term 'qualified local bus' means any local bus—

"(i) which has a seating capacity of at least 20 adults (not including the driver), and

"(ii) which is under contract with (or is receiving more than a nominal subsidy from) any State or local government (as defined in section 4221(d)) to furnish such transportation.

"(4) ALCOHOL FUELS.—

"(A) IN GENERAL.—In the case of a fuel used as described in subsection (b)(14) and on which tax was imposed at regular tax rate, the rate of tax taken into account under subsection (a) with respect to the fuel so used shall equal the excess of the regular tax rate over the incentive tax rate.

"(B) REGULAR TAX RATE.—The term 'regular tax rate' means—

"(i) in the case of gasoline, the aggregate rate of tax imposed by section 4081 determined without regard to subsection (c) thereof,

"(ii) in the case of diesel fuel, the aggregate rate of tax imposed by section 4091 on such fuel determined without regard to subsection (c) thereof, and

"(iii) in the case of aviation fuel, the aggregate rate of tax imposed by section 4091 on such fuel determined without regard to subsection (d) thereof.

"(C) INCENTIVE TAX RATE.—The term 'incentive tax rate' means—

"(i) in the case of gasoline, the aggregate rate of tax imposed by section 4081 with respect to fuel described in subsection (c)(1) thereof,

"(ii) in the case of diesel fuel, the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (c)(1)(B) thereof, and

"(iii) in the case of aviation fuel, the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (d)(1)(B) thereof.

"(5) GASOHOL USED IN NONCOMMERCIAL AVIATION.—If—

"(A) tax is imposed by section 4081 at the rate determined under subsection (c) thereof on gasohol (as defined in such subsection), and

"(B) such gasohol is used as a fuel in any aircraft in noncommercial aviation (as defined in section 4041(b)),

the payment under subsection (a) shall be equal to 1.4 cents (2 cents in the case of gasohol none of the alcohol in which consists of ethanol) per gallon of gasohol so used.

"(d) TIME FOR FILING CLAIMS; PERIOD COVERED.—

"(1) GENERAL RULE.—Except as provided in paragraphs (2) and (3), not more than one claim may be filed under this section by any person with respect to fuel used (or a qualified diesel powered highway vehicle purchased) during his taxable year; and no claim shall be allowed under this paragraph with respect to fuel used (or a qualified diesel powered highway vehicle purchased) during any taxable year unless filed by the purchaser not later than the time prescribed by law for filing a claim for credit or refund of overpayment of income tax for such taxable year. For purposes of this subsection, a person's taxable year shall be his taxable year for purposes of subtitle A.

"(2) EXCEPTIONS.—

"(A) IN GENERAL.—If as of the close of any quarter of a person's taxable year, $750 or more is payable under this section to such person with respect to fuel used (or a qualified diesel powered highway vehicle purchased) during such quarter or any prior quarter of such taxable year (and for which no other claim has been filed), a claim may be filed under this section with respect to fuel so used (or qualified diesel powered highway vehicles so purchased).

"(B) TIME FOR FILING CLAIM.—No claim filed under this paragraph shall be allowed unless filed during the first quarter following the last quarter included in the claim.

"(3) SPECIAL RULE FOR GASOHOL CREDIT.—

"(A) IN GENERAL.—A claim may be filed for gasoline used to produce gasohol (as defined in section 4081(c)(1)) for any period—

"(i) for which $200 or more is payable by reason of subsection (b)(14), and

"(ii) which is not less than 1 week.

"(B) PAYMENT OF CLAIM.—Notwithstanding subsection (a), if the Secretary has not paid a claim filed pursuant to subparagraph (A) within 20 days of the date of the filing of such claim, the claim shall be paid with interest from such date determined by using the overpayment rate and method under section 6621.

"(e) USE ON A FARM FOR FARMING.—For purposes of subsection (b)(8)—

"(1) IN GENERAL.—Fuel shall be treated as used on a farm for farming purposes only if used—

"(A) in carrying on a trade or business,

"(B) on a farm situated in the United States, and

"(C) for farming purposes.

"(2) FARM.—The term 'farm' includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards.

"(3) FARMING PURPOSES.—Fuel shall be treated as used for farming purposes only if used—

"(A) by the owner, tenant, or operator of a farm, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife, on a farm of which he is the owner, tenant, or operator;

"(B) by the owner, tenant, or operator of a farm, in handling, drying, packing, grading, or storing any agricultural or horticultural commodity in its unmanufactured state; but only if such owner, tenant, or operator produced more than one-half of the commodity which he so treated during the period with respect to which claim is filed;

"(C) by the owner, tenant, or operator of a farm, in connection with—

"(i) the planting, cultivating, caring for, or cutting of trees, or

"(ii) the preparation (other than milling) of trees for market, incidental to farming operations; or

"(D) by the owner, tenant, or operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment.

"(4) CERTAIN FARMING USE OTHER THAN BY OWNER, ETC.—In applying paragraph (3)(A) to a use on a farm for any purpose described in paragraph (3)(A) by any person other than the owner, tenant, or operator of such farm—

"(A) the owner, tenant, or operator of such farm shall be treated as the user and ultimate purchaser of the fuel, except that

"(B) if the person so using the fuel is an aerial or other applicator of fertilizers or other substances and is the ultimate purchaser of the fuel, then subparagraph (A) of this paragraph shall not apply and the aerial or other applicator shall be treated as having used such fuel on a farm for farming purposes.

"(f) OFF-HIGHWAY BUSINESS USE.—For purposes of subsection (b)(9)—

"(1) IN GENERAL.—The term 'off-highway business use' means any use by a person in a trade or business of such person or in an activity of such person described in section 212 (relating to production of income) otherwise than as a fuel in a highway vehicle—

"(A) which (at the time of such use) is registered, or is required to be registered, for highway use under the laws of any State or foreign country, or

"(B) which, in the case of a highway vehicle owned by the United States, is used on the highway.

"(2) USES IN MOTORBOATS.—The term 'off-highway business use' does not include any use in a motorboat; except that such term shall include any use in—

"(A) a vessel employed in the fisheries or in the whaling business, and

"(B) for purposes of the tax imposed under section 4091, a motorboat in the active conduct of—

"(i) a trade or business of commercial fishing or transporting persons or property for compensation or hire, or

"(ii) any other trade or business unless the motorboat is used predominantly in any activity which is of a type generally considered to constitute entertainment, amusement or recreation.

"(g) QUALIFIED BUS TRANSPORTATION.—For purposes of subsection (b)(10)—

"(1) IN GENERAL.—Fuel is used in qualified bus transportation if it is used in an automobile bus while engaged in—

"(A) furnishing (for compensation) passenger land transportation available to the general public, or

"(B) the transportation of students and employees of schools (as defined in the last sentence of section 4221(d)(7)(C)).

"(2) LIMITATION IN THE CASE OF NONSCHEDULED INTERCITY OR LOCAL BUSES.—Paragraph (1)(A) shall not apply in respect of fuel used in any automobile bus while engaged in furnishing transportation which is not along regular routes unless the seating capacity of such bus is at least 20 adults (not including the driver).

"(h) Use by an Aircraft Museum.—For purposes of subsection (b)(11)—

"(1) In general.—Fuel is used by an aircraft museum if it is used in an aircraft or vehicle owned by such museum and used exclusively for purposes set forth in paragraph (2)(C).

"(2) Aircraft museum.—For purposes of this subsection, the term 'aircraft museum' means an organization—

"(A) described in section 501(c)(3) which is exempt from income tax under section 501(a),

"(B) operated as a museum under charter by a State or the District of Columbia, and

"(C) operated exclusively for the procurement, care, and exhibition of aircraft of the type used for combat or transport in World War II.

"(i) Use in a Nonpurpose Use.—For purposes of subsection (b)(12), fuel is used in a nonpurpose use if—

"(1) tax was imposed by section 4041 on the sale thereof and the purchaser—

"(A) uses such fuel other than for the use for which it is sold, or

"(B) resells such fuel, or

"(2) tax was imposed by section 4081 on any gasoline blend stock or product commonly used as an additive in gasoline and the purchaser establishes that the ultimate use of such blend stock or product is not to produce gasoline.

"(j) Advance Repayment of Increased Diesel Fuel Tax to Original Purchasers of Diesel-Powered Automobiles and Light Trucks.—

"(1) In general.—Except as provided in subsection (d), the Secretary shall pay (without interest) to the original purchaser of any qualified diesel-powered highway vehicle an amount equal to the diesel fuel differential amount.

"(2) Qualified diesel-powered highway vehicle.—For purposes of this subsection, the term 'qualified diesel-powered highway vehicle' means any diesel-powered highway vehicle which—

"(A) has at least 4 wheels,

"(B) has a gross vehicle weight rating of 10,000 pounds or less, and

"(C) is registered for highway use in the United States under the laws of any State.

"(3) Diesel fuel differential amount.—For purposes of this subsection, the term 'diesel fuel differential amount' means—

"(A) except as provided in subparagraph (B), $102, or

"(B) in the case of a truck or van, $198.

"(4) Original purchaser.—For purposes of this subsection—

"(A) In general.—Except as provided in subparagraph (B), the term 'original purchaser' means the first person to purchase the qualified diesel-powered vehicle for use other than resale.

"(B) Exception for certain persons not subject to fuels tax.—The term 'original purchaser' shall not include any State or local government (as defined in section 4221(d)(4)) or any nonprofit educational organization (as defined in section 4221(d)(5)).

"(C) Treatment of demonstration use by dealer.—For purposes of subparagraph (A), use as a demonstrator by a dealer shall not be taken into account.

"(5) Vehicles to which subsection applies.—This subsection shall only apply to qualified diesel-powered highway vehicles originally purchased after January 1, 1985, and before January 1, 1995.

"(6) Basis reduction.—For the purposes of subtitle A, the basis of any qualified diesel-powered highway vehicle shall be reduced by the amount payable under this subsection with respect to such vehicle.

"(k) Income Tax Credit In Lieu of Payment; Other Special Rules.—

"(1) Income tax credit in lieu of payment.—

"(A) Persons not subject to income tax.—Payment shall be made under this section only to—

"(i) the United States or an agency or instrumentality thereof, a State, a political subdivision of a State, or any agency or instrumentality of one or more States or political subdivisions, or

"(ii) an organization exempt from tax under section 501(a) (other than an organization required to make a return of the tax imposed under subtitle A for its taxable year).

"(B) Exception.—Subparagraph (A) shall not apply to a payment of a claim filed under paragraph (2) or (3) of subsection (d).

"(C) Allowance of credit against income tax.—

"For allowances of credit against the income tax imposed by subtitle A for fuel used by the purchaser in an exempt use, see section 34.

"(2) Applicable laws.—

"(A) In general.—All provisions of law, including penalties, applicable in respect of the tax with respect to which a payment is claimed under this section shall, insofar as applicable and not inconsistent with this section, apply in respect of such payment to the same extent as if such payment constituted a refund of overpayments of such tax.

"(B) Examination of books and witnesses.—For the purpose of ascertaining the correctness of any claim made under this section, or the correctness of any payment made in respect of any such claim, the Secretary shall have the authority granted by paragraphs (1), (2), and (3) of section 7602(a) (relating to examination of books and witnesses) as if the claimant were the person liable for tax.

"(3) Coordination with section 6416, etc.—No amount shall be payable under this section to any person with respect to any fuel if the Secretary determines that the amount of tax for which such payment is sought was not included in the price paid by such person for such fuel. The amount which would (but for this sentence) be payable under this section with respect to any fuel shall be reduced by any other amount which the Secretary determines is payable under this section, or is refundable under any other provision of this title, to any person with respect to such fuel.

"(4) Regulations.—The Secretary may by regulations prescribe the conditions, not inconsistent with the provisions of this section, under which payments may be made under this section.

"(l) Fuels—For purposes of this section, the terms 'gasoline', 'diesel fuel', and 'aviation fuel' have the respective meanings given such terms by sections 4082 and 4092.

"(m) Termination.—Except as otherwise provided in this section, this section shall not apply to any liquid purchased after September 30, 1999. The preceding sentence shall not apply to taxes attributable to any Leaking Underground Storage Tank Trust Fund financing rate."

SEC. 4703. AUTHORITY TO PROVIDE EXCEPTIONS FROM INFORMATION REPORTING WITH RESPECT TO DIESEL FUEL AND AVIATION FUEL.

(a) Returns by Producers and Importers.—Subparagraph (A) of section 4093(c)(4) (relating to returns by producers and importers) is amended by striking "Each producer" and inserting "Except as provided by the Secretary by regulations, each producer".

(b) Returns by Purchasers.—Subparagraph (C) of section 4093(c)(4) (relating to returns by purchasers) is amended by striking "Each person" and inserting "Except as provided by the Secretary by regulations, each person".

SEC. 4704. TECHNICAL AND CONFORMING AMENDMENTS.

(1) Sections 6421 and 6427 are hereby repealed.

(2) Section 34 is amended to read as follows:

"SEC. 34. EXCISE TAXES ON FUEL USED FOR EXEMPT PURPOSES.

"There shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the excess of—

"(1) the aggregate amount payable to the taxpayer under section 6420 (determined without regard to section 6420(k)(1)) with respect to—

"(A) exempt uses (as defined in section 6420(b)) during such taxable year, and

"(B) qualified diesel-powered highway vehicles purchased during such taxable year, over

"(2) the portion of such amount for which a claim payable under section 6420(d) is timely filed."

(3) Subsection (c) of section 40 is amended by striking "subsection (b)(2), (k), or (m)" and inserting "subsection (a)(4) or (b)(4)"

(4) Paragraph (2) of section 451(e) is amended by striking "section 6420(c)(3)" and inserting "section 6420(e)(3)".

(5) Clause (i) of section 1274(c)(3)(A) is amended by striking "section 6420(c)(2)" and inserting "section 6420(e)(2)".

(6) Sections 874(a) and 1366(f)(1) are each amended by striking "gasoline and special" and inserting "taxable".

(7) Paragraph (2) of section 882(c) is amended by striking "gasoline" and inserting "taxable fuels".

(8) Subsection (b) of section 4042 is amended by striking paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(9) Subsection (b) of section 4082 is amended by striking "special fuels referred to in section 4041" and inserting "special motor fuels referred to in section 4041(a)".

(10) Section 4083 is amended to read as follows:

"SEC. 4083. CROSS REFERENCE.

"For provision allowing a credit or refund for gasoline used for exempt purposes, see section 6420."

(11) Subsections (c)(2) and (d)(2) of section 4091 are each amended by striking "section 6427(f)(1)" and inserting "section 6420(b)(14)".

(12) Paragraph (1) of section 4093(c) is amended by striking "by the purchaser" and all that follows and inserting "by the purchaser in an exempt use (as defined in section 6420(b) other than paragraph (14) thereof)."

(13) Subparagraph (C) of section 4093(c)(2) is amended by striking "section 6427(b)(2)(A)" and inserting "section 6420(c)(3)(A)".

(14) Clause (i) of section 4093(c)(4)(C) is amended to read as follows:

"(i) whether such use was an exempt use (as defined in section 6420(b)) and the amount of fuel so used,".

(15) Section 4093 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) Use By Producer or Importer.—If any producer or importer uses any taxable fuel, then such producer or importer shall be liable for tax under section 4091 in the same manner as if such fuel were sold by him for such use."

(16) Subsection (f) of section 4093, as redesignated by paragraph (15), is amended to read as follows:

"(e) CROSS REFERENCE.—

"For provision allowing a credit or refund for fuel used for exempt purposes, see section 6420."

(17) Section 6206 is amended to read as follows:

"SEC. 6206. SPECIAL RULES APPLICABLE TO EXCESSIVE FUEL TAX REFUND CLAIMS.

"Any portion of a payment made under section 6420 which constitutes an excessive amount (as defined in section 6675(b)), and any civil penalty provided by section 6675, may be assessed and collected as if—

"(1) it were a tax imposed by the section to which the claim relates, and

"(2) the person making the claim were liable for such tax.

The period for assessing any such portion, and for assessing any such penalty, shall be 3 years from the last day prescribed for filing the claim under section 6420."

(18) Subparagraph (A) of section 6416(a)(2) is amended by striking "(relating to tax on special fuels)" and inserting "(relating to special motor fuels and noncommercial aviation gasoline)".

(19) Paragraph (2) of section 6416(b) is amended—

(A) in the matter preceding subparagraph (A) by striking "subsection (a) or (d) of section 4041" and inserting "section 4041(a)", and

(B) in subparagraph (F) by striking "special fuels referred to in section 4041" and inserting "special motor fuels referred to in section 4041(a)".

(20) Paragraph (9) of section 6504 is amended to read as follows:

"(9) Assessments to recover excessive amounts paid under section 6420 (relating to certain taxes on fuels used for exempt purposes) and assessments of civil penalties under section 6675 for excessive claims under section 6420, see section 6206."

(21) Subsection (h) of section 6511 is amended by striking paragraphs (5) and (6), by redesignating paragraph (7) as paragraph (6), and by inserting after paragraph (4) the following new paragraph:

"(5) For limitations in the case of payments under section 6420 (relating to certain taxes on fuels used for exempt purposes), see section 6420(d)."

(22) Subsection (c) of section 6612 is amended by striking "6420 (relating to payments in the case of gasoline used on the farm for farming purposes) and 6421 (relating to payments in the case of gasoline used for certain nonhighway purposes or by local transit systems)" and inserting "and 6420 (relating to certain taxes on fuels used for exempt purposes)".

(23) Subsection (a) of section 6675 is amended by striking "section 6420 (relating to gasoline used on farms), 6421 (relating to gasoline used for certain nonhighway purposes or by local transit systems), or 6427 (relating to fuels not used for taxable purposes)" and inserting "section 6420 (relating to certain taxes on fuels used for exempt purposes)".

(24) Paragraph (1) of section 6675(b) is amended by striking ", 6421, or 6427, as the case may be,".

(25) Section 7210 is amended by striking "sections 6420(e)(2), 6421(g)(2), 6427(j)(2)" and inserting "sections 6420(k)(3)(B)".

(26) Section 7603, subsections (b) and (c)(2) of section 7604, section 7605, and 7610(c) are each amended by striking "section 6420(e)(2), 6421(g)(2), 6427(j)(2)," each place it appears and inserting "section 6420(k)(2)(B)".

(27) Sections 7605 and 7609(c)(1) are each amended by striking "section 6420(e)(2), 6421(g)(2), or 6427(j)(2)" and inserting "section 6420(k)(2)(B)".

(28) Paragraph (1) of section 9502(b) is amended by striking "subsections (c) and (e) of section 4041 (taxes on aviation fuel)" and inserting "section 4041(b) (relating to taxes on noncommercial aviation gasoline)".

(29) Paragraph (2) of section 9502(d) is amended by striking "fuel used in aircraft" and all that follows and inserting "fuel used in aircraft, under section 6420 (relating to certain taxes on fuels used for exempt purposes)."

(30) Paragraph (1) of section 9502(e) is amended by striking "4041(c)(1) and".

(31) Subparagraph (A) of section 9503(b)(1) is amended to read as follows:

"(A) section 4041 (relating to special motor fuels and noncommercial aviation gasoline),".

(32) Paragraph (4) of section 9503(b) is amended to read as follows:

"(4) CERTAIN ADDITIONAL TAXES NOT TRANSFERRED TO HIGHWAY TRUST FUND.—For purposes of paragraphs (1) and (2), the taxes imposed by sections 4041, 4081, and 4091 shall be taken into account only to the extent attributable to the Highway Trust Fund financing rates under such sections."

(33)(A) Clause (i) of section 9503(c)(2)(A) is amended to read as follows:

"(i) the amounts paid before July 1, 1996, under section 6420 (relating to certain taxes on fuels used for exempt purposes) on the basis of claims filed for periods ending before October 1, 1995, and".

(B) For purposes of section 9503(c)(2)(A)(i) of the Internal Revenue Code of 1986, the reference to section 6420 shall be treated as including a reference to sections 6420, 6421, and 6427 of such Code as in effect before the enactment of this Act.

(34) Clause (ii) of section 9503(c)(2)(A) is amended by striking "gasoline, special fuels, and lubricating oil" each place it appears and inserting "taxable fuels".

(35) Subparagraph (D) of section 9503(c)(4) is amended by striking "section 4041(a)(2)" and inserting "section 4041(a)".

(36) Subparagraph (A) of section 9503(e)(5) is amended by striking "section 6427(g)" and inserting "section 6420(j)".

(37) Paragraph (1) of section 9508(b) is amended to read as follows:

"(1) taxes received in the Treasury under section 4041 (relating to special motor fuels and noncommercial aviation gasoline) to the extent attributable to the Leaking Underground Storage Tank Trust Fund financing rates applicable under such section,".

(38) Subparagraph (A) of section 9508(c)(2) is amended by striking "equivalent to—" and all that follows and inserting the following: "equivalent to—

"(i) amounts paid under section 6420 (relating to certain taxes on fuels used for exempt purposes), and

"(ii) credits allowed under section 34,

with respect to so much of the taxes imposed by sections 4041, 4081, and 4091 as are attributable to the Leaking Underground Storage Tank Trust Fund financing rates applicable under such sections."

(39) The table of sections for subpart C of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 34 and inserting the following:

"Sec. 34. Excise taxes on fuels used for exempt purposes."

(40) The table of sections for subchapter B of chapter 31 is amended by striking the item relating to section 4041 and inserting the following:

"Sec. 4041. Special motor fuels and noncommercial aviation gasoline."

(41) The table of sections for subpart A of part III of subchapter A of chapter 32 is amended by striking the item relating to section 4083 and inserting the following:

"Sec. 4083. Cross reference."

(42) The table of sections for subchapter B of chapter 65 is amended by striking the items relating to sections 6421 and 6427 and by striking the item relating to section 6420 and inserting the following new item:

"Sec. 6420. Certain taxes on fuels used for exempt purposes."

(43) The table of sections for subchapter A of chapter 63 is amended by striking the item relating to section 6206 and inserting the following new item:

"Sec. 6206. Special rules applicable to excessive fuel tax refund claims."

SEC. 4705. EFFECTIVE DATE.

The amendments made by this part shall take effect on January 1, 1993.

PART II—PROVISIONS RELATED TO DISTILLED SPIRITS, WINES, AND BEER

SEC. 4711. CREDIT OR REFUND FOR IMPORTED BOTTLED DISTILLED SPIRITS RETURNED TO DISTILLED SPIRITS PLANT.

(a) IN GENERAL.—Paragraph (1) of section 5008(c) (relating to distilled spirits returned to bonded premises) is amended by striking "withdrawn from bonded premises on payment or determination of tax" and inserting "on which tax has been determined or paid".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4712. AUTHORITY TO CANCEL OR CREDIT EXPORT BONDS WITHOUT SUBMISSION OF RECORDS.

(a) IN GENERAL.—Subsection (c) of section 5175 (relating to export bonds) is amended by striking "on the submission of" and all that follows and inserting "if there is such proof of exportation as the Secretary may by regulations require.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4713. REPEAL OF REQUIRED MAINTENANCE OF RECORDS ON PREMISES OF DISTILLED SPIRITS PLANT.

(a) IN GENERAL.—Subsection (c) of section 5207 (relating to records and reports) is amended by striking "shall be kept on the premises where the operations covered by the record are carried on and".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4714. FERMENTED MATERIAL FROM ANY BREWERY MAY BE RECEIVED AT A DISTILLED SPIRITS PLANT.

(a) IN GENERAL.—Paragraph (2) of section 5222(b) (relating to production, receipt, removal, and use of distilling materials) is amended to read as follows:

"(2) beer conveyed without payment of tax from brewery premises, beer which has been lawfully removed from brewery premises upon determination of tax, or".

(b) CLARIFICATION OF AUTHORITY TO PERMIT REMOVAL OF BEER WITHOUT PAYMENT OF TAX FOR USE AS DISTILLING MATERIAL.—Section 5053 (relating to exemptions) is amended by redesignating subsection (f) as subsection (i) and by inserting after subsection (e) the following new subsection:

"(f) Removal for Use as Distilling Material.—Subject to such regulations as the Secretary may prescribe, beer may be removed from a brewery without payment of tax to any distilled spirits plant for use as distilling material."

(c) Clarification of Refund and Credit of Tax.—Section 5056 (relating to refund and credit of tax, or relief from liability) is amended—

(1) by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) Beer Received at a Distilled Spirits Plant.—Any tax paid by any brewer on beer produced in the United States may be refunded or credited to the brewer, without interest, or if the tax has not been paid, the brewer may be relieved of liability therefor, under regulations as the Secretary may prescribe, if such beer is received on the bonded premises of a distilled spirits plant pursuant to the provisions of section 5222(b)(2), for use in the production of distilled spirits.", and

(2) by striking "or rendering unmerchantable" in subsection (d) (as so redesignated) and inserting "rendering unmerchantable, or receipt on the bonded premises of a distilled spirits plant".

(d) Effective Date.—The amendments made by this section shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4715. REPEAL OF REQUIREMENT FOR WHOLESALE DEALERS IN LIQUORS TO POST SIGN.

(a) In General.—Section 5115 (relating to sign required on premises) is hereby repealed.

(b) Conforming Amendments.—

(1) Subsection (a) section 5681 is amended by striking ", and every wholesale dealer in liquors," and by striking "section 5115(a) or".

(2) Subsection (c) of section 5681 is amended—

(A) by striking "or wholesale liquor establishment, on which no sign required by section 5115(a) or" and inserting "on which no sign required by", and

(B) by striking "or wholesale liquor establishment, or who" and inserting "or who".

(3) The table of sections for subpart D of part II of subchapter A of chapter 51 is amended by striking the item relating to section 5115.

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 4716. REFUND OF TAX TO WINE RETURNED TO BOND NOT LIMITED TO UNMERCHANTABLE WINE.

(a) In General.—Subsection (a) of section 5044 (relating to refund of tax on unmerchantable wine) is amended by striking "as unmerchantable".

(b) Conforming Amendments.—

(1) Section 5361 is amended by striking "unmerchantable".

(2) The section heading for section 5044 is amended by striking "UNMERCHANTABLE".

(3) The item relating to section 5044 in the table of sections for subpart C of part I of subchapter A of chapter 51 is amended by striking "unmerchantable".

(c) Effective Date.—The amendments made by this section shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4717. USE OF ADDITIONAL AMELIORATING MATERIAL IN CERTAIN WINES.

(a) In General.—Subparagraph (D) of section 5384(b)(2) (relating to ameliorated fruit and berry wines) is amended by striking "loganberries, currants, or gooseberries," and inserting "any fruit or berry with a natural fixed acid of 20 parts per thousand or more (before any correction of such fruit or berry)".

(b) Effective Date.—The amendment made by this section shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4718. DOMESTICALLY-PRODUCED BEER MAY BE WITHDRAWN FREE OF TAX FOR USE OF FOREIGN EMBASSIES, LEGATIONS, ETC.

(a) In General.—Section 5053 (relating to exemptions) is amended by inserting after subsection (f) the following new subsection:

"(g) Removals for Use of Foreign Embassies, Legations, Etc.—

"(1) In general.—Subject to such regulations as the Secretary may prescribe—

"(A) beer may be withdrawn from the brewery without payment of tax for transfer to any customs bonded warehouse for entry pending withdrawal therefrom as provided in subparagraph (B), and

"(B) beer entered into any customs bonded warehouse under subparagraph (A) may be withdrawn for consumption in the United States by, and for the official and family use of, such foreign governments, organizations, and individuals as are entitled to withdraw imported beer from such warehouses free of tax.

Beer transferred to any customs bonded warehouse under subparagraph (A) shall be entered, stored, and accounted for in such warehouse under such regulations and bonds as the Secretary may prescribe, and may be withdrawn therefrom by such governments, organizations, and individuals free of tax under the same conditions and procedures as imported beer.

"(2) Other rules to apply.—Rules similar to the rules of paragraphs (2) and (3) of section 5362(e) of such section shall apply for purposes of this subsection."

(b) Effective Date.—The amendment made by subsection (a) shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4719. BEER MAY BE WITHDRAWN FREE OF TAX FOR DESTRUCTION.

(a) In General.—Section 5053 is amended by inserting after subsection (g) the following new subsection:

"(h) Removals for Destruction.—Subject to such regulations as the Secretary may prescribe, beer may be removed from the brewery without payment of tax for destruction."

(b) Effective Date.—The amendment made by subsection (a) shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4720. AUTHORITY TO ALLOW DRAWBACK ON EXPORTED BEER WITHOUT SUBMISSION OF RECORDS.

(a) In General.—The first sentence of section 5055 (relating to drawback of tax on beer) is amended by striking "found to have been paid" and all that follows and inserting "paid on such beer if there is such proof of exportation as the Secretary may by regulations require."

(b) Effective Date.—The amendment made by subsection (a) shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4721. TRANSFER TO BREWERY OF BEER IMPORTED IN BULK WITHOUT PAYMENT OF TAX.

(a) In General.—Part II of subchapter G of chapter 51 is amended by adding at the end thereof the following new section:

"SEC. 5418. BEER IMPORTED IN BULK.

"Beer imported or brought into the United States in bulk containers may, under such regulations as the Secretary may prescribe, be withdrawn from customs custody and transferred in such bulk containers to the premises of a brewery without payment of the internal revenue tax imposed on such beer. The proprietor of a brewery to which such beer is transferred shall become liable for the tax on the beer withdrawn from customs custody under this section upon release of the beer from customs custody, and the importer, or the person bringing such beer into the United States, shall thereupon be relieved of the liability for such tax."

(b) Clerical Amendment.—The table of sections for such part II is amended by adding at the end thereof the following new item:

"Sec. 5418. Beer imported in bulk."

(c) Effective Date.—The amendments made by this section shall take effect on the 180th day after the date of the enactment of this Act.

PART III—OTHER EXCISE TAX PROVISIONS

SEC. 4731. AUTHORITY TO GRANT EXEMPTIONS FROM REGISTRATION REQUIREMENTS.

(a) In General.—The first sentence of section 4222 (relating to registration) is amended to read as follows: "Except as provided in subsection (b), section 4221 shall not apply with respect to the sale of any article by or to any person who is required by the Secretary to be registered under this section and who is not so registered."

(b) Effective Date.—The amendment made by subsection (a) shall apply to sales after the 180th day after the date of the enactment of this Act.

SEC. 4732. SMALL MANUFACTURERS EXEMPT FROM FIREARMS EXCISE TAX.

(a) In General.—Section 4182 (relating to exemptions) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) Small Manufacturers, Etc.—

"(1) In general.—The tax imposed by section 4181 shall not apply to any article described in such section if manufactured, produced, or imported by a manufacturer, producer, or importer who manufactures, produces, or imports less than 50 of such articles during the calendar year.

"(2) Controlled group.—Persons who are members of the same controlled group of corporations shall be treated as 1 manufacturer, producer, or importer. For purposes of the preceding sentence, the term 'controlled group of corporations' has the meaning given to such term by section 1563(a), except that 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in such section.".

(b) Effective Date; Refunds.—

(1) Effective date.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer after September 30, 1983.

(2) Waiver of statute of limitations.—In the case of any taxable year ending before the date of the enactment of this Act—

(A) the period for claiming a credit or refund of any overpayment of tax resulting from the application of the amendments made by this section shall not expire before the date which is 1 year after the date of the enactment of this Act, and

(B) if, after the application of subparagraph (A), credit or refund of any overpayment of tax resulting from the application of the amendments made by this section is prevented at any time before the close of such 1-year period by the operation of any law or rule of law (including res judicata), credit or refund of such overpayment (to the extent attributable to the application of the amendments made by this section) may, nevertheless, be made or allowed if claim therefor is filed before the close of such 1-year period.

SEC. 4733. REPEAL OF EXPIRED PROVISIONS.

(a) PIGGY-BACK TRAILERS.—Section 4051 is amended by striking subsection (d) and by redesignating subsection (e) as subsection (d).

(b) DEEP SEABED MINING.—

(1) Subchapter F of chapter 36 (relating to tax on removal of hard mineral resources from deep seabed) is hereby repealed.

(2) The table of subchapters for chapter 36 is amended by striking the item relating to subchapter F.

Subtitle H—Administrative Provisions

PART I—GENERAL PROVISIONS

SEC. 4801. SIMPLIFICATION OF DEPOSIT REQUIREMENTS FOR SOCIAL SECURITY, RAILROAD RETIREMENT, AND WITHHELD INCOME TAXES.

(a) IN GENERAL.—Subsection (g) of section 6302 (relating to deposits of social security taxes and withheld income taxes) is amended to read as follows:

"(g) DEPOSITS OF SOCIAL SECURITY, RAILROAD RETIREMENT, AND WITHHELD INCOME TAXES.—

"(1) GENERAL RULE.—Except as otherwise provided in this subsection—

"(A) employment taxes attributable to payments on Wednesday, Thursday, or Friday of any week shall be deposited on or before the following Tuesday, and

"(B) employment taxes attributable to payments on Saturday, Sunday, Monday, or Tuesday of any week shall be deposited on or before the following Friday.

"(2) SMALL DEPOSITORS.—

"(A) IN GENERAL.—If any person is a small depositor for any calendar quarter, such person shall make deposits of employment taxes attributable to payments during any month in such quarter on or before the 15th day of the following month.

"(B) SMALL DEPOSITOR.—For purposes of this subsection, a person is a small depositor for any calendar quarter if, for each calendar quarter in the base period, the amount of employment taxes attributable to payments made by such person during such calendar quarter was $12,000 or less. For purposes of the preceding sentence, the base period for any calendar quarter is the 4 calendar quarters ending with the second preceding calendar quarter.

"(C) CESSATION AS SMALL DEPOSITOR.—A person shall cease to be treated as a small depositor for a calendar quarter after any day on which such person is required to make a deposit under paragraph (3).

"(3) LARGE DEPOSITORS.—Notwithstanding paragraphs (1) and (2), if, on any day, any person has $100,000 or more of employment taxes for deposit, such taxes shall be deposited on or before the next day.

"(4) SAFE HARBOR.—

"(A) IN GENERAL.—A person shall be treated as depositing the required amount of employment taxes in any deposit if the shortfall does not exceed the greater of—

"(i) $100, or

"(ii) 2 percent of the amount of employment taxes required to be deposited in such deposit (determined without regard to this paragraph).

Such shortfall shall be deposited as required by the Secretary by regulations.

"(B) SHORTFALL.—For purposes of this paragraph, the term 'shortfall' means, with respect to any deposit, the excess of the amount of employment taxes required to be deposited in such deposit (determined without regard to this paragraph) over the amount (if any) thereof deposited on or before the last date prescribed therefor.

"(5) DEPOSIT REQUIRED ONLY ON BANKING DAYS.—If taxes are required to be deposited under this subsection on any day which is not a banking day, such taxes shall be treated as timely deposited if deposited on the first banking day thereafter.

"(6) EMPLOYMENT TAXES.—For purposes of this subsection, the term 'employment taxes' means the taxes imposed by chapters 21, 22, and 24.

"(7) SUBSECTION TO APPLY ONLY TO REQUIRED DEPOSITS.—This subsection shall not apply to employment taxes which are not required to be deposited under the regulations prescribed by the Secretary under this section.

"(8) REGULATIONS.—The Secretary may prescribe regulations—

"(A) specifying employment tax deposit requirements for persons who fail to comply with the requirements of this subsection,

"(B) specifying circumstances under which a person shall be treated as a small depositor for purposes of this subsection notwithstanding that such person is not described in paragraph (2)(B),

"(C) specifying modifications to the provisions of this subsection for end-of-quarter periods, and

"(D) establishing deposit requirements for taxes imposed by section 3406 which apply in lieu of the requirements of this subsection."

(b) CONFORMING AMENDMENT.—Section 226 of the Railroad Retirement Solvency Act of 1983 is hereby repealed.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts attributable to payments made after December 31, 1992.

SEC. 4802. SIMPLIFICATION OF EMPLOYMENT TAXES ON DOMESTIC SERVICES.

(a) THRESHOLD REQUIREMENT FOR SOCIAL SECURITY TAXES.—

(1) Subparagraph (B) of section 3121(a)(7) (defining wages) is amended to read as follows:

"(B) cash remuneration paid by an employer in any calendar year to an employee for domestic service in a private home of the employer, if the cash remuneration paid in such year by the employer to the employee for such service is less than $300. As used in this subparagraph, the term 'domestic service in a private home of the employer' does not include service described in subsection (g)(5);"

(2) Subparagraph (B) of section 209(a)(6) of the Social Security Act is amended to read as follows:

"(B) Cash remuneration paid by an employer in any calendar year to an employee for domestic service in a private home of the employer, if the cash remuneration paid in such year by the employer to the employee for such service is less than $300. As used in this subparagraph, the term 'domestic service in a private home of the employer' does not include service described in section 210(f)(5)."

(3) The second sentence of section 3102(a) is amended—

(A) by striking "calendar quarter" each place it appears and inserting "calendar year", and

(B) by striking "$50" and inserting "$300".

(b) COORDINATION OF COLLECTION OF DOMESTIC SERVICE EMPLOYMENT WITH COLLECTION OF INCOME TAXES.—

(1) IN GENERAL.—Chapter 25 (relating to general provisions relating to employment taxes) is amended by adding at the end thereof the following new section:

"SEC. 3510. COORDINATION OF COLLECTION OF DOMESTIC SERVICE EMPLOYMENT TAXES WITH COLLECTION OF INCOME TAXES.

"(a) GENERAL RULE.—Except as otherwise provided in this section—

"(1) returns with respect to domestic service employment taxes shall be made on a calendar year basis,

"(2) any such return for any calendar year shall be filed on or before the 15th day of the fourth month following the close of the employer's taxable year which begins in such calendar year, and

"(3) no requirement to make deposits (or to pay installments under section 6157) shall apply with respect to such taxes.

"(b) DOMESTIC SERVICE EMPLOYMENT TAXES SUBJECT TO ESTIMATED TAX PROVISIONS.—

"(1) IN GENERAL.—Solely for purposes of section 6654, domestic service employment taxes imposed with respect to any calendar year shall be treated as a tax imposed by chapter 2 for the taxable year of the employer which begins in such calendar year.

"(2) ANNUALIZATION.—Under regulations prescribed by the Secretary, appropriate adjustments shall be made in the application of section 6654(d)(2) in respect of the amount treated as tax under paragraph (1).

"(3) TRANSITIONAL RULE.—For purposes of applying section 6654 to a taxable year beginning in 1992, the amount referred to in clause (ii) of section 6654(d)(1)(B) shall be increased by 90 percent of the amount treated as tax under paragraph (1) for such taxable year.

"(c) DOMESTIC SERVICE EMPLOYMENT TAXES.—For purposes of this section, the term 'domestic service employment taxes' means—

"(1) any taxes imposed by chapter 21 or 23 on remuneration paid for domestic service in a private home of the employer, and

"(2) any amount withheld from such remuneration pursuant to an agreement under section 3402(p).

For purposes of this subsection, the term 'domestic service in a private home of the employer' does not include service described in section 3121(g)(5).

"(d) EXCEPTION WHERE EMPLOYER LIABLE FOR OTHER EMPLOYMENT TAXES.—To the extent provided in regulations prescribed by the Secretary, this section shall not apply to any employer for any calendar year if such employer is liable for any tax under this subtitle with respect to remuneration for services other than domestic service in a private home of the employer.

"(e) AUTHORITY TO ENTER INTO AGREEMENTS TO COLLECT STATE UNEMPLOYMENT TAXES.—

"(1) IN GENERAL.—The Secretary is hereby authorized to enter into an agreement with any State to collect, as the agent of such State, such State's unemployment taxes imposed on remuneration paid for domestic service in a private home of the employer. Any taxes to be collected by the Secretary pursuant to such an agreement shall be treated as domestic service employment taxes for purposes of this section.

"(2) TRANSFERS TO STATE ACCOUNT.—Any amount collected under an agreement referred to in paragraph (1) shall be transferred by the Secretary to the account of the State in the Unemployment Trust Fund.

"(3) SUBTITLE F MADE APPLICABLE.—For purposes of subtitle F, any amount required to be collected under an agreement under paragraph (1) shall be treated as a tax imposed by chapter 23.

"(4) STATE.—For purposes of this subsection, the term 'State' has the meaning given such term by section 3306(j)(1)."

(2) CLERICAL AMENDMENT.—The table of sections for chapter 25 is amended by adding at the end thereof the following:

"Sec. 3510. Coordination of collection of domestic service employment taxes with collection of income taxes."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to remuneration paid in calendar years after 1992.

SEC. 4803. USE OF REPRODUCTIONS OF RETURNS STORED IN DIGITAL IMAGE FORMAT.

(a) IN GENERAL.—Paragraph (2) of section 6103(p) (relating to procedure and recordkeeping) is amended by adding at the end thereof the following new subparagraph:

"(D) REPRODUCTION FROM DIGITAL IMAGES.—For purposes of this paragraph, the term 'reproduction' includes a reproduction from digital images."

(b) STUDY.—The Comptroller General of the United States shall conduct a study of available digital image technology for the purpose of determining the extent to which reproductions of documents stored using that technology accurately reflect the data on the original document and the appropriate period for retaining the original document. Not later than 1 year after the date of the enactment of this Act, a report on the results of such study shall be submitted to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

SEC. 4804. REPEAL OF AUTHORITY TO DISCLOSE WHETHER PROSPECTIVE JUROR HAS BEEN AUDITED.

(a) IN GENERAL.—Subsection (h) of section 6103 (relating to disclosure to certain Federal officers and employees for purposes of tax administration, etc.) is amended by striking paragraph (5) and by redesignating paragraph (6) as paragraph (5).

(b) CONFORMING AMENDMENT.—Paragraph (4) of section 6103(p) is amended by striking "(h)(6)" each place it appears and inserting "(h)(5)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to judicial proceedings pending on, or commenced after, the date of the enactment of this Act.

SEC. 4805. REPEAL OF SPECIAL AUDIT PROVISIONS FOR SUBCHAPTER S ITEMS.

(a) GENERAL RULE.—Subchapter D of chapter 63 (relating to tax treatment of subchapter S items) is hereby repealed.

(b) CONSISTENT TREATMENT REQUIRED.—Section 6037 (relating to return of S corporation) is amended by adding at the end thereof the following new subsection:

"(c) SHAREHOLDER'S RETURN MUST BE CONSISTENT WITH CORPORATE RETURN OR SECRETARY NOTIFIED OF INCONSISTENCY.—

"(1) IN GENERAL.—A shareholder of an S corporation shall, on such shareholder's return, treat a subchapter S item in a manner which is consistent with the treatment of such item on the corporate return.

"(2) NOTIFICATION OF INCONSISTENT TREATMENT.—

"(A) IN GENERAL.—In the case of any subchapter S item, if—

"(i)(I) the corporation has filed a return but the shareholder's treatment on his return is (or may be) inconsistent with the treatment of the item on the corporate return, or

"(II) the corporation has not filed a return, and

"(ii) the shareholder files with the Secretary a statement identifying the inconsistency,

paragraph (1) shall not apply to such item.

"(B) SHAREHOLDER RECEIVING INCORRECT INFORMATION.—A shareholder shall be treated as having complied with clause (ii) of subparagraph (A) with respect to a subchapter S item if the shareholder—

"(i) demonstrates to the satisfaction of the Secretary that the treatment of the subchapter S item on the shareholder's return is consistent with the treatment of the item on the schedule furnished to the shareholder by the corporation, and

"(ii) elects to have this paragraph apply with respect to that item.

"(3) EFFECT OF FAILURE TO NOTIFY.—In any case—

"(A) described in subparagraph (A)(i)(I) of paragraph (2), and

"(B) in which the shareholder does not comply with subparagraph (A)(ii) of paragraph (2),

any adjustment required to make the treatment of the items by such shareholder consistent with the treatment of the items on the corporate return shall be treated as arising out of mathematical or clerical errors and assessed according to section 6213(b)(1). Paragraph (2) of section 6213(b) shall not apply to any assessment referred to in the preceding sentence.

"(4) SUBCHAPTER S ITEM.—For purposes of this subsection, the term 'subchapter S item' means any item of an S corporation to the extent that regulations prescribed by the Secretary provide that, for purposes of this subtitle, such item is more appropriately determined at the corporation level than at the shareholder level.

"(5) ADDITION TO TAX FOR FAILURE TO COMPLY WITH SECTION.—

"For addition to tax in the case of a shareholder's negligence in connection with, or disregard of, the requirements of this section, see part II of subchapter A of chapter 68."

(c) CONFORMING AMENDMENTS.—

(1) Section 1366 is amended by striking subsection (g).

(2) Subsection (b) of section 6233 is amended to read as follows:

"(b) SIMILAR RULES IN CERTAIN CASES.—If a partnership return is filed for any taxable year but it is determined that there is no entity for such taxable year, to the extent provided in regulations, rules similar to the rules of subsection (a) shall apply."

(3) The table of subchapters for chapter 63 is amended by striking the item relating to subchapter D.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 4806. CLARIFICATION OF STATUTE OF LIMITATIONS.

(a) IN GENERAL.—Subsection (a) of section 6501 (relating to limitations on assessment and collection) is amended by adding at the end thereof the following new sentence: "For purposes of this chapter, the term 'return' means the return required to be filed by the taxpayer (and does not include a return of any person from whom the taxpayer has received an item of income, gain, loss, deduction, or credit)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

PART II—TAX COURT PROCEDURES

SEC. 4811. OVERPAYMENT DETERMINATIONS OF TAX COURT.

(a) APPEAL OF ORDER.—Paragraph (2) of section 6512(b) (relating to jurisdiction to enforce) is amended by adding at the end the following new sentence: "An order of the Tax Court disposing of a motion under this paragraph shall be reviewable in the same manner as a decision of the Tax Court, but only with respect to the matters determined in such order."

(b) DENIAL OF JURISDICTION REGARDING CERTAIN CREDITS AND REDUCTIONS.—Subsection (b) of section 6512 (relating to overpayment determined by Tax Court) is amended by adding at the end the following new paragraph:

"(4) DENIAL OF JURISDICTION REGARDING CERTAIN CREDITS AND REDUCTIONS.—The Tax Court shall have no jurisdiction under this subsection to restrain or review any credit or reduction made by the Secretary under section 6402."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 4812. AWARDING OF ADMINISTRATIVE COSTS.

(a) RIGHT TO APPEAL TAX COURT DECISION.—Subsection (f) of section 7430 (relating to right of appeal) is amended by adding at the end the following new paragraph:

"(3) APPEAL OF TAX COURT DECISION.—An order of the Tax Court disposing of a petition under paragraph (2) shall be reviewable in the same manner as a decision of the Tax Court, but only with respect to the matters determined in such order."

(b) PERIOD FOR APPLYING TO IRS FOR COSTS.—Subsection (b) of section 7430 (relating to limitations) is amended by adding at the end the following new paragraph:

"(5) PERIOD FOR APPLYING TO IRS FOR ADMINISTRATIVE COSTS.—An award may be made under subsection (a) for reasonable administrative costs only if the prevailing party files an application for such costs before the 91st day after the date on which the party was determined to be the prevailing party under subsection (c)(4)(B)."

(c) PERIOD FOR PETITIONING OF TAX COURT FOR REVIEW OF DENIAL OF COSTS.—Paragraph (2) of section 7430(f) (relating to right of appeal) is amended—

(1) by striking "appeal to" and inserting "the filing of a petition for review with", and

(2) by adding at the end the following new sentence: "If the Secretary sends by certified or registered mail a notice of such decision to the petitioner, no proceeding in the Tax Court may be initiated under this paragraph unless such petition is filed before the 91st day after the date of such mailing."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to civil actions or proceedings commenced after the date of the enactment of this Act.

SEC. 4813. REDETERMINATION OF INTEREST PURSUANT TO MOTION.

(a) IN GENERAL.—Paragraph (3) of section 7481(c) (relating to jurisdiction over interest determinations) is amended by striking "petition" and inserting "motion".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 4814. APPLICATION OF NET WORTH REQUIREMENT FOR AWARDS OF LITIGATION COSTS.

(a) IN GENERAL.—Paragraph (4) of section 7430(c) (defining prevailing party) is amended by adding at the end thereof the following new subparagraph:

"(C) SPECIAL RULES FOR APPLYING NET WORTH REQUIREMENT.—In applying the requirements of section 2412(d)(2)(B) of title 28, United States Code, for purposes of subparagraph (A)(iii) of this paragraph—

"(i) the net worth limitation in clause (i) of such section shall apply to—

"(I) an estate but shall be determined as of the date of the decedent's death, and

"(II) a trust but shall be determined as of the last day of the taxable year involved in the proceeding, and

"(ii) individuals filing a joint return shall be treated as 1 individual for purposes of clause (i) of such section, except in the case of a spouse relieved of liability under section 6013(e)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to proceedings commenced after the date of the enactment of this Act.

PART III—AUTHORITY FOR CERTAIN COOPERATIVE AGREEMENTS

SEC. 4821. COOPERATIVE AGREEMENTS WITH STATE TAX AUTHORITIES.

(a) GENERAL RULE.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new section:

"SEC. 7524. COOPERATIVE AGREEMENTS WITH STATE TAX AUTHORITIES.

"(a) AUTHORIZATION OF AGREEMENTS.—The Secretary is hereby authorized to enter into cooperative agreements with State tax authorities for purposes of enhancing joint tax administration. Such agreements may provide for—

"(1) joint filing of Federal and State income tax returns,

"(2) single processing of such returns,

"(3) joint collection of taxes (other than Federal income taxes), and

"(4) such other provisions as may enhance joint tax administration.

"(b) SERVICES ON REIMBURSABLE BASIS.—Any agreement under subsection (a) may require reimbursement for services provided by either party to the agreement.

"(c) AVAILABILITY OF FUNDS.—Any funds appropriated for purposes of the administration of this title shall be available for purposes of carrying out the Secretary's responsibility under an agreement entered into under subsection (a). Any reimbursement received pursuant to such an agreement shall be credited to the amount so appropriated.

"(d) STATE TAX AUTHORITY.—For purposes of this section, the term 'State tax authority' means agency, body, or commission referred to in section 6103(d)(1)."

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end thereof the following new item:

"Sec. 7524. Cooperative agreements with
State tax authorities."

TITLE V—TAXPAYER BILL OF RIGHTS 2

SEC 5000. SHORT TITLE.

This title may be cited as the "Taxpayer Bill of Rights 2".

Subtitle A—Taxpayer Advocate

SEC. 5001. ESTABLISHMENT OF POSITION OF TAXPAYER ADVOCATE WITHIN INTERNAL REVENUE SERVICE.

(a) GENERAL RULE.—Section 7802 (relating to Commissioner of Internal Revenue; Assistant Commissioner (Employee Plans and Exempt Organizations)) is amended by adding at the end thereof the following new subsection:

"(d) OFFICE OF TAXPAYER ADVOCATE.—

"(1) IN GENERAL.—There is established in the Internal Revenue Service an office to be known as the 'Office of the Taxpayer Advocate'. Such office, including all problem resolution officers, shall be under the supervision and direction of an official to be known as the 'Taxpayer Advocate' who shall be appointed by and report directly to the Commissioner of Internal Revenue. The Taxpayer Advocate shall be entitled to compensation at the same rate as the Chief Counsel for the Internal Revenue Service.

"(2) FUNCTIONS OF OFFICE.—

"(A) IN GENERAL.—It shall be the function of the Office of Taxpayer Advocate to—

"(i) assist taxpayers in resolving problems with the Internal Revenue Service,

"(ii) identify areas in which taxpayers have problems in dealings with the Internal Revenue Service,

"(iii) to the extent possible, propose changes in the administrative practices of the Internal Revenue Service to mitigate problems identified under clause (ii), and

"(iv) identify potential legislative changes which may be appropriate to mitigate such problems.

"(B) ANNUAL REPORTS.—

"(i) OBJECTIVES.—Not later than October 31 of each calendar year after 1991, the Taxpayer Advocate shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the objectives of the Taxpayer Advocate for the following calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information.

"(ii) ACTIVITIES.—Not later than December 31 of each calendar year after 1991, the Taxpayer Advocate shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the activities of the Taxpayer Advocate during the fiscal year ending during such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information, and shall—

"(I) identify the initiatives the Taxpayer Advocate has taken on improving taxpayer services and Internal Revenue Service responsiveness,

"(II) contain recommendations received from individuals with the authority to issue taxpayer assistance orders (within the meaning of section 7811(f)),

"(III) contain a summary of at least 20 of the most serious problems encountered by taxpayers, including a description of the nature of such problems,

"(IV) contain an inventory of the items described in subclauses (I), (II), and (III) for which action has been taken and the result of such action,

"(V) contain an inventory of the items described in subclauses (I), (II), and (III) for which action remains to be completed and the period during which each item has remained on such inventory,

"(VI) contain an inventory of the items described in subclauses (II) and (III) for which no action has been taken, the period during which each item has remained on such inventory, the reasons for the inaction, and identify any Internal Revenue Service official who is responsible for such inaction,

"(VII) identify any Taxpayer Assistance Order which was not honored by the Internal Revenue Service in a timely manner, as specified under section 7811(b),

"(VIII) contain recommendations for such administrative and legislative action as may be appropriate to resolve problems encountered by taxpayers, and

"(IX) include such other information as the Taxpayer Advocate may deem advisable.

"(3) RESPONSIBILITIES OF COMMISSIONER OF INTERNAL REVENUE SERVICE.—The Commissioner of Internal Revenue shall establish procedures requiring a formal response to all recommendations submitted to the Commissioner by the Taxpayer Advocate."

(b) CONFORMING AMENDMENTS.—

(1) Section 7811 (relating to taxpayer assistance orders) is amended—

(A) by striking "the Office of Ombudsman" in subsection (a) and inserting "the Office of the Taxpayer Advocate", and

(B) by striking "Ombudsman" each place it appears (including in the headings of subsections (e) and (f)) and inserting "Taxpayer Advocate".

(2) The heading for section 7802 is amended to read as follows:

"SEC. 7802. COMMISSIONER OF INTERNAL REVENUE; ASSISTANT COMMISSIONERS; TAXPAYER ADVOCATE."

(3) The table of sections for subchapter A of chapter 80 of subtitle F is amended by striking the item relating to section 7802 and inserting the following new item:

"Sec. 7802. Commissioner of Internal Revenue; Assistant Commissioners;
Taxpayer Advocate."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5002. EXPANSION OF AUTHORITY TO ISSUE TAXPAYER ASSISTANCE ORDERS.

(a) TAXPAYER'S HARDSHIP.—Section 7811(a) (relating to authority to issue) is amended by striking "significant".

(b) TERMS OF ORDERS.—Subsection (b) of section 7811 (relating to terms of taxpayer assistance orders) is amended—

(1) by inserting "within a specified time period" after "the Secretary", and

(2) by striking "cease any action" and inserting "cease any action, take any action".

(c) LIMITATION ON AUTHORITY TO MODIFY OR RESCIND.—Section 7811(c) (relating to authority to modify or rescind) is amended to read as follows:

"(c) AUTHORITY TO MODIFY OR RESCIND.—Any Taxpayer Assistance Order issued by the Taxpayer Advocate under this section may be modified or rescinded only by the Taxpayer Advocate, the Commissioner, or any superior of either."

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

Subtitle B—Modifications to Installment Agreement Provisions

SEC. 5101. NOTIFICATION OF REASONS FOR TERMINATION OR DENIAL OF INSTALLMENT AGREEMENTS.

(a) TERMINATIONS.—Subsection (b) of section 6159 (relating to extent to which agreements remain in effect) is amended by adding at the end thereof the following new paragraph:

"(5) NOTICE REQUIREMENTS.—The Secretary may not take any action under paragraph (2), (3), or (4) unless—

"(A) a notice of such action is provided to the taxpayer not later than the day 30 days before the date of such action, and

"(B) such notice includes an explanation why the Secretary intends to take such action.

The preceding sentence shall not apply in any case in which the Secretary believes that collection of any tax to which an agreement under this section relates is in jeopardy."

(b) DENIALS.—Section 6159 (relating to agreements for payment of tax liability in installments) is amended by adding at the end thereof the following new subsection:

"(c) NOTICE REQUIREMENTS FOR DENIALS.—The Secretary may not deny any request for an installment agreement under this section unless—

"(1) a notice of the proposed denial is provided to the taxpayer not later than the day 30 days before the date of such denial, and

"(2) such notice includes an explanation why the Secretary intends to deny such request.

The preceding sentence shall not apply in any case in which the Secretary believes that collection of any tax to which a request for an agreement under this section relates is in jeopardy."

(c) CONFORMING AMENDMENT.—Paragraph (3) of section 6159(b) is amended to read as follows:

"(3) SUBSEQUENT CHANGE IN FINANCIAL CONDITIONS.—If the Secretary makes a determination that the financial condition of a taxpayer with whom the Secretary has entered into an agreement under subsection (a) has significantly changed, the Secretary may alter, modify, or terminate such agreement."

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date 6 months after the date of the enactment of this Act.

SEC. 5102. ADMINISTRATIVE REVIEW OF DENIAL OF REQUEST FOR, OR TERMINATION OF, INSTALLMENT AGREEMENT.

(a) GENERAL RULE.—Section 6159 (relating to agreements for payment of tax liability in installments), as amended by section 5101, is amended by adding at the end thereof the following new subsection:

"(d) ADMINISTRATIVE REVIEW.—The Secretary shall establish procedures for an independent administrative review of denials of requests for, or terminations of, installment agreements under this section."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

Subtitle C—Interest

SEC. 5201. EXPANSION OF AUTHORITY TO ABATE INTEREST.

(a) GENERAL RULE.—Paragraph (1) of section 6404(e) (relating to abatement of interest in certain cases) is amended—

(1) by striking "any error or delay" each place it appears and inserting "any unreasonable and excessive error or delay",

(2) by striking "in performing a ministerial act" each place it appears,

(3) by striking "may abate" and inserting "shall abate (or refund)",

(4) by inserting "the taxpayer has fully cooperated in resolving outstanding issues," after "taxpayer involved,", and

(5) by adding at the end thereof the following new sentence: "In order to allow the taxpayer to develop the facts of such error or delay, the Internal Revenue Service shall provide to the taxpayer, within 30 days of the taxpayer's written request (in such form as the Secretary provides), all information and copies of relevant records in the possession of the Internal Revenue Service with respect to such taxpayer's case."

(b) CLERICAL AMENDMENT.—The subsection heading for subsection (e) of section 6404 is amended by striking "ASSESSMENTS" and inserting "ABATEMENT".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to interest accruing with respect to deficiencies or payments for taxable years beginning after the date of the enactment of this Act.

SEC. 5202. EXTENSION OF INTEREST-FREE PERIOD FOR PAYMENT OF TAX AFTER NOTICE AND DEMAND.

(a) GENERAL RULE.—Paragraph (3) of section 6601(e) (relating to payments made within 10 days after notice and demand) is amended to read as follows:

"(3) PAYMENTS MADE WITHIN SPECIFIED PERIOD AFTER NOTICE AND DEMAND.—If notice and demand is made for payment of any amount and if such amount is paid within 21 days (10 days if the amount for which such notice and demand is made equals or exceeds $100,000) after the date of such notice and demand, interest under this section on the amount so paid shall not be imposed for the period after the date of such notice and demand."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply in the case of any notice and demand given after the date 6 months after the date of the enactment of this Act.

Subtitle D—Joint Returns

SEC. 5301. REQUIREMENT OF SEPARATE DEFICIENCY NOTICES IN CERTAIN CASES.

(a) GENERAL RULE.—Paragraph (2) of section 6212(b) (relating to address for notice of deficiency) is amended to read as follows:

"(2) JOINT INCOME TAX RETURN.—In the case of a joint income tax return filed by a husband and wife, any notice of deficiency (described in paragraph (1)) may be a single joint notice, except that if—

"(A) such spouses did not file a joint return within each other for the most recent taxable year for which data are available on the master files of the Internal Revenue Service, or

"(B) the Secretary has been notified by either spouse that separate residences have been established,

then, in lieu of the single joint notice, a duplicate original of the joint notice shall be sent by certified mail or registered mail to each spouse at such spouse's last known address."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date 6 months after the date of the enactment of this Act.

SEC. 5302. DISCLOSURE OF COLLECTION ACTIVITIES.

(a) GENERAL RULE.—Subsection (e) of section 6103 (relating to disclosure to persons having material interest) is amended by adding at the end thereof the following new paragraph:

"(8) DISCLOSURE OF COLLECTION ACTIVITIES WITH RESPECT TO JOINT RETURN.—If any deficiency of tax with respect to a joint return is assessed and the individuals filing such return are no longer married or no longer reside in the same household, upon request in writing of either of such individuals, the Secretary shall disclose in writing to the individual making the request whether the Secretary has attempted to collect such deficiency from such other individual, the general nature of such collection activities, and the amount collected."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 5303. JOINT RETURN MAY BE MADE AFTER SEPARATE RETURNS WITHOUT FULL PAYMENT OF TAX.

(a) GENERAL RULE.—Paragraph (2) of section 6013(b) (relating to limitations on filing of joint return after filing separate returns) is amended by striking subparagraph (A) and redesignating the following subparagraphs accordingly.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 5304. REPRESENTATION OF ABSENT DIVORCED OR SEPARATED SPOUSE BY OTHER SPOUSE.

(a) IN GENERAL.—Section 7605 (relating to time and place of examination) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) REPRESENTATION OF ABSENT DIVORCED OR SEPARATED SPOUSE BY OTHER SPOUSE.—In the case of an examination of an individual with respect to a joint income tax return filed by such individual and the individual's spouse who is no longer married to such individual or no longer resides in the same household and is absent from such examination, the individual may not represent the absent spouse at the examination unless the absent spouse acknowledges such representation in writing."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

Subtitle E—Collection Activities

SEC. 5401. NOTICE OF PROPOSED DEFICIENCY.

(a) IN GENERAL.—Subchapter B of chapter 63 (relating to assessment) is amended by inserting after section 6211 the following new section:

"SEC. 6211A. NOTICE OF PROPOSED DEFICIENCY.

"(a) IN GENERAL.—If, after the examination of a return, the Secretary determines that there may be a deficiency in respect of any tax imposed by subtitle A or B or chapter 41, 42, 43, 44, or 45, the Secretary shall send a notice of proposed deficiency to the taxpayer by certified mail or registered mail to an address as determined under section 6212(b).

"(b) TIMING OF NOTICE.—

"(1) IN GENERAL.—The mailing of the notice of proposed deficiency shall precede any mailing of a deficiency notice under section 6212 by at least 60 days.

"(2) AGREEMENT TO SUSPEND PERIOD OF LIMITATIONS.—If less than a 6-month period remains in the period of limitations provided in section 6501, 6502, or 6229, the taxpayer may agree, in writing, to a period of suspension of such period of limitations in order to allow the Secretary to send a notice of proposed deficiency.

"(c) NO NOTICE IN JEOPARDY ASSESSMENT.—Paragraph (1) shall not apply if the Secretary makes a jeopardy assessment."

(b) CONFORMING AMENDMENT.—Section 6503 (relating to suspension of running of period of limitation) is amended by inserting after subsection (i) the following new subsection:

"(j) SUSPENSION PENDING NOTICE.—The running of the period of limitations provided in section 6501, 6502, or 6229 on the making of assessments or the collection by levy or a proceeding in court, in respect of any deficiency defined in section 6211A(a) shall be suspended for any period described in section 6211A(b)(2)."

(c) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 63 is amended by inserting after the item relating to section 6211 the following new item:

"Sec. 6211A. Notice of proposed deficiency."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect with respect to deficiencies determined on or after 1 year after the date of the enactment of this Act.

SEC. 5402. MODIFICATIONS TO LIEN AND LEVY PROVISIONS.

(a) WITHDRAWAL OF CERTAIN NOTICES.—Section 6323 (relating to validity and priority against certain persons) is amended by adding at the end thereof the following new subsection:

"(j) Withdrawal of Notice in Certain Circumstances.—

"(1) In general.—The Secretary may withdraw a notice of a lien filed under this section and this chapter shall be applied as if the withdrawn notice had not been filed, if the Secretary determines that—

"(A) the filing of such notice was premature or otherwise not in accordance with administrative procedures of the Secretary,

"(B) the taxpayer has entered into an agreement under section 6159 to satisfy the tax liability for which the lien was imposed by means of installment payments, unless such agreement provides otherwise,

"(C) the withdrawal of such notice will facilitate the collection of the tax liability, or

"(D) with the consent of the taxpayer or the Taxpayer Advocate, the withdrawal of such notice would be in the best interests of the taxpayer and the United States.

Any such withdrawal shall be made by filing notice thereof at the same office as the withdrawn notice.

"(2) Notice to credit agencies, etc.—Upon written request by the taxpayer with respect to whom a notice of a lien was withdrawn under paragraph (1), the Secretary shall promptly make reasonable efforts to notify credit reporting agencies, and financial institutions specified in such request, of the withdrawal of such notice. Any such request shall be in such form as the Secretary may prescribe."

(b) Return of Levied Property in Certain Cases.—Section 6343 (relating to authority to release levy and return property) is amended by adding at the end thereof the following new subsection:

"(d) Return of Property in Certain Cases.—If—

"(1) any property has been levied upon, and

"(2) the Secretary determines that—

"(A) the levy on such property was premature or otherwise not in accordance with administrative procedures of the Secretary,

"(B) the taxpayer has entered into an agreement under section 6159 to satisfy the tax liability for which the levy was imposed by means of installment payments, unless such agreement provides otherwise,

"(C) the return of such property will facilitate the collection of the tax liability, or

"(D) with the consent of the taxpayer or the Taxpayer Advocate, the return of such property would be in the best interests of the taxpayer and the United States,

the provisions of subsection (b) shall apply in the same manner as if such property had been wrongly levied upon, except that no interest shall be allowed under subsection (c)."

(c) Modifications in Certain Levy Exemption Amounts.—

(1) Fuel, etc.—Paragraph (2) of section 6334(a) (relating to fuel, provisions, furniture, and personal effects exempt from levy) is amended—

(A) by striking "If the taxpayer is the head of a family, so" and inserting "So", and

(B) by striking "$1,650 ($1,500 in the case of levies issued during 1989)" and inserting "$1,700".

(2) Books, etc.—Paragraph (3) of section 6334(a) (relating to books and tools of a trade, business, or profession exempt from levy) is amended by striking "$1,100 ($1,050 in the case of levies issued during 1989)" and inserting "$1,200".

(3) Indexed for inflation.—Section 6334 (relating to property exempt from levy) is amended by adding at the end thereof the following new subsection:

"(f) Inflation Adjustments.—

"(1) In general.—In the case of any calendar year beginning after 1993, each dollar amount referred to in paragraphs (2) and (3) of subsection (a) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3), for such calendar year, by substituting 'calendar year 1992' for 'calendar year 1989' in subparagraph (B) thereof.

"(2) Rounding.—If any dollar amount after being increased under paragraph (1) is not a multiple of $10, such dollar amount shall be rounded to the nearest multiple of $10 (or, if such dollar amount is a multiple of $5, such dollar amount shall be increased to the next higher multiple of $10)."

(d) Effective Dates.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) Exempt amounts.—The amendments made by subsection (c) shall take effect with respect to levies issued after December 31, 1992.

SEC. 5403. OFFERS-IN-COMPROMISE.

(a) General Rule.—Subsection (a) of section 7122 (relating to compromises) is amended by adding at the end thereof the following new sentence: "The Secretary may make such a compromise in any case where the Secretary determines that such compromise would be in the best interests of the United States.".

(b) Review Requirements.—Subsection (b) of section 7122 (relating to records) is amended by striking "$500." and inserting "$50,000. However, such compromise shall be subject to continuing quality review by the Secretary.".

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5404. NOTIFICATION OF EXAMINATION.

(a) In General.—Subsection (b) of section 7605 (relating to restrictions on examination of taxpayer) is amended by inserting "No examination described in subsection (a) shall be made unless the Secretary notifies the taxpayer in writing by mail to an address determined under section 6212(b) that the taxpayer is under examination and provides the taxpayer with an explanation of the process as described in section 7521(b)(1)." before "No taxpayer".

(b) Conforming Amendment.—Paragraph (1) of section 7521(b) (relating to safeguards) is amended by striking "or at".

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5405. MODIFICATION OF CERTAIN LIMITS ON RECOVERY OF CIVIL DAMAGES FOR UNAUTHORIZED COLLECTION ACTIONS.

(a) Standard of Conduct.—Subsection (a) of section 7433 (relating to civil damages for certain unauthorized collection actions) is amended by striking "recklessly or intentionally" and inserting "negligently, or recklessly or intentionally,".

(b) Dollar Limits With Respect to Standard of Conduct.—Section 7433(b) (relating to damages) is amended—

(1) by inserting ($1,000,000, in the case of reckless or intentional disregard)" after "$100,000", and

(2) by inserting "negligent, or" before "reckless or intentional" in paragraph (1).

(c) Effective Date.—The amendments made by this section shall apply to actions by officers or employees of the Internal Revenue Service after the date of the enactment of this Act.

SEC. 5406. SAFEGUARDS RELATING TO DESIGNATED SUMMONS.

(a) Standard of Review.—Subparagraph (A) of section 6503(k)(2) (defining designated summons) is amended by redesignating clauses (i) and (ii) as clauses (ii) and (iii), respectively, and by inserting before clause (ii) (as so redesignated) the following new clause:

"(i) the issuance of such summons is preceded by a review of such issuance by the regional counsel of the Office of Chief Counsel for the region in which the examination of the corporation is being conducted,".

(b) Notice Requirements for Issuance.—Section 6503(k) is amended by adding at the end thereof the following new paragraph:

"(4) Notice requirements.—With respect to any summons referred to in paragraph (1)(A) issued to any person other than the corporation, the Secretary shall promptly notify the corporation, in writing, that such summons has been issued with respect to such corporation's return of tax."

(c) Effective Date.—The amendments made by this section shall apply to summons issued after the date of the enactment of this Act.

Subtitle F—Information Returns

SEC. 5501. PHONE NUMBER OF PERSON PROVIDING PAYEE STATEMENTS REQUIRED TO BE SHOWN ON SUCH STATEMENT.

(a) General Rule.—The following provisions are each amended by striking "name and address" and inserting "name, address, and phone number of the information contact":

(1) Section 6041(d)(1).
(2) Section 6041A(e)(1).
(3) Section 6042(c)(1).
(4) Section 6044(e)(1).
(5) Section 6045(b)(1).
(6) Section 6049(c)(1)(A).
(7) Section 6050B(b)(1).
(8) Section 6050H(d)(1).
(9) Section 6050I(e)(1).
(10) Section 6050J(e).
(11) Section 6050K(b)(1).
(12) Section 6050N(b)(1).

(b) Effective Date.—The amendments made by subsection (a) shall apply to statements required to be furnished after December 31, 1992 (determined without regard to any extension).

SEC. 5502. CIVIL DAMAGES FOR FRAUDULENT FILING OF INFORMATION RETURNS.

(a) General Rule.—Subchapter B of chapter 76 (relating to proceedings by taxpayers and third parties) is amended by redesignating section 7434 as section 7435 and by inserting after section 7433 the following new section:

"SEC. 7434. CIVIL DAMAGES FOR FRAUDULENT FILING OF INFORMATION RETURNS.

"(a) In General.—If any person willfully files a false or fraudulent information return with respect to payments purported to be made to any other person, such other person may bring a civil action for damages against the person so filing such return.

"(b) Damages.—In any action brought under subsection (a), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the greater of $5,000 or the sum of—

"(1) any actual damages sustained by the plaintiff as a proximate result of the filing of the false or fraudulent information return (including any costs attributable to resolving deficiencies asserted as a result of such filing), and

"(2) the costs of the action.

"(c) Period for Bringing Action.—Notwithstanding any other provision of law, an action to enforce the liability created under this section may be brought without regard to the amount in controversy and may be brought only within 6 years after the filing of the false or fraudulent information return.

"(d) INFORMATION RETURN.—For purposes of this section, the term 'information return' means any statement described in section 6724(d)(1)(A)."

(b) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 76 is amended by striking the item relating to section 7434 and inserting the following:

"Sec. 7434. Civil damages for fraudulent filing of information returns.

"Sec. 7435. Cross references."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to false or fraudulent information returns filed after the date of the enactment of this Act.

SEC. 5503. REQUIREMENT TO VERIFY ACCURACY OF INFORMATION RETURNS.

(a) GENERAL RULE.—Section 6201 (relating to assessment authority) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) REQUIRED REASONABLE VERIFICATION OF INFORMATION RETURNS.—In any court proceeding, if a taxpayer asserts a reasonable dispute with respect to any item of income reported on an information return filed with the Secretary under chapter 61 by a third party and the taxpayer has fully cooperated with the Secretary, the Secretary, in presenting evidence of the deficiency based on such information return, shall present reasonable evidence of such deficiency in addition to such information return."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

Subtitle G—Modifications to Penalty for Failure to Collect and Pay Over Tax

SEC. 5601. TRUST FUND TAXES.

(a) IN GENERAL.—Section 6672 (relating to failure to collect and pay over tax, or attempt to evade or defeat tax) is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) PRELIMINARY NOTICE AND DECLARATORY JUDGMENT PROCEEDING.—

"(1) PRELIMINARY NOTICE.—No penalty shall be imposed under subsection (a) unless the Secretary notifies the taxpayer in writing by mail to an address as determined under section 6212(b) that the taxpayer shall be subject to an assessment of such penalty and provides the taxpayer with an explanation of the declaratory judgment process under paragraph (3).

"(2) TIMING OF NOTICE.—The mailing of the notice described in paragraph (1) shall precede any notice and demand of any penalty under subsection (a) by at least 60 days.

"(3) DECLARATORY JUDGMENT.—

"(A) IN GENERAL.—In a case of an actual controversy involving a determination by the Secretary with respect to the taxpayer's liability for the penalty imposed under subsection (a), upon the filing of an appropriate pleading, the Tax Court may make a declaration with respect to such liability. Any such declaration shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.

"(B) EXHAUSTION OF ADMINISTRATIVE REMEDIES.—The Tax Court shall not issue a declaratory judgment or decree under this paragraph in any proceeding unless it determines that the petitioner has exhausted administrative remedies available to the petitioner within the Internal Revenue Service.

"(C) TIME FOR BRINGING ACTION.—No proceeding may be initiated under this paragraph by any person unless the pleading is filed before the 31st day after the day the notice under paragraph (1) is mailed to such person."

(b) CONFORMING AMENDMENTS.—Section 6672 is amended—

(1) by striking paragraphs (4) and (5) of subsection (c) (as redesignated by this section), and

(2) by adding at the end thereof the following new subsections:

"(e) SUSPENSION OF RUNNING OF PERIOD OF LIMITATIONS ON COLLECTION.—The running of the period of limitations provided in section 6502 on the collection by levy or by a proceeding in court in respect to any penalty under subsection (a) shall be suspended for the period during which the Secretary is prohibited from collecting the penalty by levy or a proceeding in court.

"(f) JEOPARDY COLLECTION.—If the Secretary makes a finding that the collection of the penalty is in jeopardy, nothing in this section shall prevent the immediate collection of such penalty."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply in the case of failures after the date of the enactment of this Act.

SEC. 5602. DISCLOSURE OF CERTAIN INFORMATION WHERE MORE THAN 1 PERSON SUBJECT TO PENALTY.

(a) IN GENERAL.—Subsection (e) of section 6103 (relating to disclosure to persons having material interest), as amended by section 402, is amended by adding at the end thereof the following new paragraph:

"(9) DISCLOSURE OF CERTAIN INFORMATION WHERE MORE THAN 1 PERSON SUBJECT TO PENALTY UNDER SECTION 6672.—If the Secretary determines that a person is liable for a penalty under section 6672(a) with respect to any failure, upon request in writing of such person, the Secretary shall disclose in writing to such person—

"(A) the name of any other person whom the Secretary has determined to be liable for such penalty with respect to such failure, and

"(B) whether the Secretary has attempted to collect such penalty from such other person, the general nature of such collection activities, and the amount collected."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 5603. PENALTIES UNDER SECTION 6672.

(a) PUBLIC INFORMATION REQUIREMENTS.—The Secretary of the Treasury or the Secretary's delegate (hereafter in this section referred to as the "Secretary") shall take such actions as may be appropriate to ensure that employees are aware of their responsibilities under the Federal tax depository system, the circumstances under which employees may be liable for the penalty imposed by section 6672 of the Internal Revenue Code of 1986, and the responsibility to promptly report to the Internal Revenue Service any failure referred to in subsection (a) of such section 6672. Such actions shall include—

(1) printing of a warning on deposit coupon booklets and the appropriate tax returns that certain employees may be liable for the penalty imposed by such section 6672, and

(2) the development of a special information packet.

(b) BOARD MEMBERS OF TAX-EXEMPT ORGANIZATIONS.—

(1) VOLUNTARY BOARD MEMBERS.—The penalty under section 6672 of the Internal Revenue Code of 1986 shall not be imposed on unpaid, volunteer members of any board of trustees or directors of an organization referred to in section 501 of such Code to the extent such members do not participate in the day-to-day or financial operations of the organization.

(2) DEVELOPMENT OF EXPLANATORY MATERIALS.—The Secretary shall develop materials explaining the circumstances under which board members of tax-exempt organizations (including voluntary members) may be subject to penalty under section 6672 of such Code. Such materials shall be made available to tax-exempt organizations.

(3) IRS INSTRUCTIONS.—The Secretary shall clarify the instructions to Internal Revenue Service employees on the application of the penalty under section 6672 of such Code with regard to voluntary members of boards of trustees or directors of tax-exempt organizations.

(c) PROMPT NOTIFICATION.—To the maximum extent practicable, the Secretary shall notify all persons who have failed to make timely and complete deposit of any taxes of such failure within 30 days after the date on which the Secretary is first aware of such failure.

Subtitle H—Awarding of Costs and Certain Fees

SEC. 5701. COMMENCEMENT DATE OF REASONABLE ADMINISTRATIVE COSTS.

(a) IN GENERAL.—The second sentence of section 7430(c)(2) (defining reasonable administrative costs) is amended to read as follows:

"Such term shall only include costs incurred on or after the earlier of (i) the date of the notice of proposed deficiency under section 6211A or similar notice of assessment or proposed assessment, or (ii) the date of the notice of deficiency."

(b) CONFORMING AMENDMENT.—Clause (i) of section 7430(c)(7)(B) (defining position of United States) is amended to read as follows:

"(i) the date of the notice of proposed deficiency under section 6211A or similar notice of assessment or proposed assessment, or".

SEC. 5702. INTERIM NOTICE REQUIREMENT.

Paragraph (4) of section 7430(c) (defining prevailing party) is amended by adding at the end thereof the following new subparagraph:

"(C) INTERIM NOTICE.—Once a taxpayer substantially prevails as described in subparagraph (A)(ii) and in order to allow such taxpayer to develop the facts relating to the position of the United States, the Internal Revenue Service shall provide to the taxpayer, within 30 days of the taxpayer's written request (in such form as the Secretary provides), all information and copies of relevant records in the possession of the Internal Revenue Service with respect to such taxpayer's case and the substantial justification for the position taken by the Internal Revenue Service."

SEC. 5703. INCREASED LIMIT ON ATTORNEY FEES.

Paragraph (1) of section 7430(c) (defining reasonable litigation costs) is amended by inserting after clause (iii) the following:

"In the case of any calendar year beginning after 1981, the dollar amount referred to in clause (iii) shall be increased by an amount equal to such dollar amount, multiplied by the cost-of-living adjustment determined under section 1(f)(3), for such calendar year, by substituting 'calendar year 1980' for 'calendar year 1989' in subparagraph (B) thereof. If any dollar amount after being increased under the preceding sentence is not a multiple of $10, such dollar amount shall be rounded to the nearest multiple of $10 (or, if such dollar amount is a multiple of $5, such dollar amount shall be increased to the next higher multiple of $10)."

SEC. 5704. FAILURE TO AGREE TO EXTENSION NOT TAKEN INTO ACCOUNT.

Paragraph (1) of section 7430(b) (relating to requirement that administrative remedies be exhausted) is amended by adding at the end thereof the following new sentence: "Any failure to agree to an extension of the time for the assessment of any tax shall not be taken into account for purposes of determining whether the prevailing party meets the requirements of the preceding sentence."

SEC. 5705. EFFECTIVE DATE.

The amendments made by this subtitle shall apply in the case of notices made and proceedings commenced after the date of the enactment of this Act.

Subtitle I—Other Provisions

SEC. 5801. REQUIRED CONTENT OF CERTAIN NOTICES.

(a) GENERAL RULE.—Subsection (a) of section 7522 (relating to content of tax due, deficiency, and other notices) is amended by striking "shall describe the basis for, and identify" and inserting "shall set forth the adjustments which are the basis for, and shall identify".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to notices sent after the date 6 months after the date of the enactment of this Act.

SEC. 5802. RELIEF FROM RETROACTIVE APPLICATION OF TREASURY DEPARTMENT REGULATIONS.

(a) IN GENERAL.—Subsection (b) of section 7805 (relating to rules and regulations) is amended to read as follows:

"(b) RETROACTIVITY OF REGULATIONS.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), any temporary or proposed regulation issued by the Secretary shall apply prospectively from the date of publication of such regulation in the Federal Register.

"(2) CONGRESSIONAL AUTHORIZATION.—The prospective only treatment of paragraph (1) may be superseded by a specific legislative grant from Congress authorizing the Secretary to prescribe the effective date with respect to a statutory provision.

"(3) ELECTION TO APPLY RETROACTIVELY.—The Secretary may provide for any taxpayer to elect to apply any temporary or proposed regulation retroactively from the date of publication of such regulation in the Federal Register.

"(4) APPLICATION TO FINAL REGULATIONS.—The Secretary may provide that any final regulation relating to any temporary or proposed regulation take effect from the date of publication of such temporary or proposed regulation in the Federal Register."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to—

(1) any temporary or proposed regulation published on or after February 20, 1992, and

(2) any temporary or proposed regulation published before February 20, 1992, and published as a final regulation after such date.

SEC. 5803. REQUIRED NOTICE OF CERTAIN PAYMENTS.

If any payment is received by the Secretary of the Treasury or the Secretary's delegate (hereafter in the section referred to as the "Secretary") from any taxpayer and the Secretary cannot associate such payment with any outstanding tax liability of such taxpayer, the Secretary shall make reasonable efforts to notify the taxpayer of such inability within 60 days after the receipt of such payment.

SEC. 5804. UNAUTHORIZED ENTICEMENT OF INFORMATION DISCLOSURE.

(a) IN GENERAL.—Part I of chapter 75 of subtitle F (relating to crimes, other offenses, and forfeitures) is amended by adding at the end thereof the following section:

"SEC. 7217. UNAUTHORIZED ENTICEMENT OF INFORMATION DISCLOSURE.

Any officer or employee of the United States who defers or offers to defer, or forgives or offers to forgive, the determination or collection of any tax due to an attorney, certified public accountant, or enrolled agent representing a taxpayer, in exchange for information concerning such taxpayer, shall be guilty of a felony, and upon conviction thereof, shall be fined not more than $5,000, or imprisoned not more than 5 years, or both, together with the costs of the prosecution."

(b) CLERICAL AMENDMENT.—The table of sections for part I of chapter 75 of subtitle F is amended by adding at the end thereof the following new item:

"Sec. 7217. Unauthorized enticement of information disclosure."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to actions after the date of the enactment of this Act.

Amend the title so as to read: "An Act to amend the Internal Revenue Code of 1986 to provide tax fairness for families, incentives for increased economic growth, and improved access to health care, and for other purposes.".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 9:30 a.m., March 12, 1992, to consider agenda item No. 4, agenda item No. 13, and any other items ready for consideration.

BUSINESS MEETING AGENDA

AGENDA AND DATE PUT ON AGENDA

1. S. 484, to establish conditions for the sale and delivery of water from the Central Valley Project, California, a Bureau of Reclamation facility, and for other purposes; 7–19–91.

2. S. 106, to amend the Federal Power Act; 9–20–91.

3. S. 1501, to amend the Reclamation Reform Act of 1982, and for other purposes; 11–08–91.

4. H.R. 429, to amend certain Federal reclamation laws to improve enforcement of acreage limitations, and for other purposes; 11–08–91.

5. S. 1225, to designate certain lands in California as wilderness, and for other purposes; 11–08–91.

6. S. 979, to provide for strong Department of Energy support of research and development of technologies identified in the most recent National Critical Technologies Report as critical to U.S. economic prosperity and national security, and for other purposes; 11–15–91.

7. S. 1351, to encourage partnerships between Department of Energy Laboratories and educational institutions, industry, and other Federal laboratories in support of critical national objectives in energy, national security, the environment, and scientific and technological competitiveness; 11–15–91.

8. S. 1228, to provide for a comprehensive review by the Secretary of the Interior of western water resource problems and programs administered by the Geological Survey, the Bureau of Reclamation, and for other operations of the Department of the Interior, and for other purposes; 11–15–91.

9. S. 233, the Central Utah Project Completion Act; 2–21–92.

10. S. 927, to provide for a transfer of lands between the United States Forest Service and Eagle and Pitkin Counties in Colorado; 2–21–92.

11. S. 1156, to provide for the protection and management of certain areas on public domain lands managed by the Bureau of Land Management and lands withdrawn from the public domain managed by the Forest Service in the States of California, Oregon, and Washington; to ensure proper conservation of the natural resources of such lands, including enhancement of habitat; to provide assistance to communities and individuals affected by management decisions on such lands; to facilitate the implementation of land management plans for such public domain lands and Federal lands elsewhere; and for other purposes; 2–21–92.

12. S. 1625, to provide for the settlement of certain claims under the Alaska Native Claims Settlement Act, and for other purposes; 2–21–92.

13. S. 1882, to authorize extensions of time limitations in a FERC-issued license; 3–06–92.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON SMALL BUSINESS

Mr. FORD. Mr. President, I ask unanimous consent that the Small Business Committee be authorized to meet during the session of the Senate on Thursday, March 12, 1992, at 9:30 a.m. The committee will hold a full committee hearing on the Small Business Administration's fiscal year 1993 budget proposal, as well as the administration's fiscal year 1992 supplemental and reprogramming requests.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INTELLIGENCE

Mr. FORD. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, March 12, 1992, at 2 p.m. to hold an open hearing on intelligence reorganization.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Thursday, March 12, 1992, at 10 a.m.

AGENDA

I. Nominations

U.S. DISTRICT JUDGES

Robert L. Echols, to be U.S. district judge for the Middle District of Tennessee.

Jimm L. Hendren, to be U.S. district judge for the Western District of Arkansas.

John R. Padova, to be U.S. district judge for the Eastern District of Pennsylvania.

Ira DeMent, to be U.S. district judge for the Middle District of Alabama.

II. Bills

S. 1521. A bill to provide a cause of action for victims of sexual abuse, rape, and murder, against producers and distributors of hard-core pornographic material; McConnell.

S. 1941. A bill to amend the Immigration and Nationality Act for the purpose of reforming procedures for the resettlement of refugees of the United States; Kennedy.

S. 1985. A bill to establish a commission to review the Bankruptcy Code, to amend the Bankruptcy Code in certain aspects of its application to cases involving commerce and credit and individuals debtors and add a temporary chapter to govern reorganization of small businesses, and for other purposes; Heflin.

S. 1096. A bill to ensure the protection of motion picture copyrights, and for other purposes; Kohl.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Thursday, March 12, 1992, at 9:30 a.m., 10:30 a.m., and 11 a.m. At 9:30 a.m., the committee will hold a hearing on S. 523, the National African-American Memorial Museum Act; at 10:30 a.m., testimony will be received on Senate Joint Representatives 259, providing for the appointment of Barber B. Conable, Jr., as a citizen regent of the Smithsonian Institution; and at 11 a.m., a hearing will be held on the request of the Library of Congress to authorize the American Folklife Center for fiscal year 1993 through fiscal year 1997.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Thursday, March 12, 1992, at 2 p.m., in closed session, to receive testimony on the Department of Defense's "1994–1999 Defense Planning Guidance Scenarios."

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON GOVERNMENT INFORMATION AND REGULATION

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Government Information and Regulation be authorized to meet on Thursday, March 12, 1992, at 9:30 a.m. on the subject: "Technology Policy and Competitiveness: The Federal Government's Role."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, March 12, at 2 p.m., to hold a hearing on "The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal"—(Treaty Doc. 102–5).

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, March 12, at 4 p.m. to hold a business meeting to vote on pending nominations.

NOMINATIONS

Mr. Robert C. Frasure, of West Virginia, to be Ambassador to Estonia.

Mr. Darryl Norman Johnson, of Washington, to be Ambassador to Lithuania.

Mr. Ints M. Silins, of Virginia, to be Ambassador to Latvia.

Mr. Parker W. Borg, of Minnesota, to be Ambassador to the Union of Burma (Myanmar).

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, March 12, 1992, at 10 a.m. to conduct a hearing on the condition of the banking industry, the bank insurance fund, and its treatment in the President's budget.

The PRESIDING OFFICER. Without objection, it is so ordered.

BUDGET SCOREKEEPING REPORT

• Mr. SASSER. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under section 308(b) of the Congressional Budget Act of 1974, as amended. This report serves as the scorekeeping report for the purposes of section 605(b) and section 311 of the Budget Act.

This report shows that current level spending exceeds the budget resolution by $6.4 billion in budget authority and by $5.9 billion in outlays. Current level is $3 billion above the revenue target in 1992 and $3.5 billion above the revenue target over the 5 years, 1992–96.

The current estimate of the deficit for purposes of calculating the maximum deficit amount is $354.1, $2.9 billion above the maximum deficit amount for 1992 of $351.2 billion.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 10, 1992.

Hon. JIM SASSER,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report shows the effects of Congressional action on the budget for fiscal year 1992 and is current through March 6, 1992. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the Concurrent Resolution on the Budget (H. Con. Res. 121). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended, and meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32, the 1986 First Concurrent Resolution on the Budget.

Since my last report, dated March 3, 1992, there has been no action that affects the current level of budget authority, outlays or revenues.

Sincerely,

ROBERT D. REISCHAUER,
Director.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, 102D CONG., 2D SESS., AS OF MAR. 6, 1992

[In billions of dollars]

	Budget resolution (H. Con. Res. 121)	Current Level [1]	Current level +/− resolution
On-budget:			
Budget authority	1,270.6	1,277.0	+6.4
Outlays	1,201.6	1,207.5	+5.9
Revenues:			
1992	850.4	853.4	+3.0
1992–96	4,832.0	4,835.5	+3.5
Maximum deficit amount	351.2	354.1	+2.9
Debt subject to limit	3,982.2	3,754.2	−228.0
Off-budget:			
Social Security outlays:			
1992	246.8	246.8	
1992–96	1,331.5	1,331.5	
Social Security revenues:			
1992	318.8	318.8	
1992–96	1,830.3	1,830.3	

[1] Current level represents the estimated revenue and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 102D CONG., 2D SESS., SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1992 AS OF CLOSE OF BUSINESS MAR. 6, 1992

	Budget authority	Outlays	Revenues
ENACTED IN PREVIOUS SESSIONS			
Revenues			853,364
Permanents and other spending legislation	807,567	727,184	
Appropriation legislation	686,331	703,643	
Continuing resolution authority	13,992	5,454	
Mandatory adjustments [1]	(1,041)	1,105	
Offsetting receipts	(232,542)	(232,542)	
Total previously enacted	1,274,306	1,204,844	853,364
ENACTED THIS SESSION			
Emergency unemployment compensation extension (Public Law 102–244)	2,706	2,706	
American Technology Preeminence Act (Public Law 102–245)			([2])
Total current level	1,277,012	1,207,550	853,364
Total budget resolution	1,270,612	1,201,600	850,400
Amount remaining:			
Over budget resolution	6,400	5,950	2,964
Under budget resolution			

[1] Adjustments required to conform with current law estimates for entitlements and other mandatory programs in the concurrent resolution on the budget (H.Con.Res. 121).

[2] Less than $500,000.•

THE STATE OF HUMAN RIGHTS IN KUWAIT

• Mr. DECONCINI. Mr. President, as we have passed February 26, the first anniversary of the Al Sabah family's return to rule in Kuwait, the Senate should pause and reflect on these words from Middle East Watch's report on the Kuwaiti record of human rights.

Far from recognizing the importance of upholding human rights standards after witnessing the atrocities committed by Iraqi occupying forces, the reinstated Kuwaiti Government disregarded those standards as soon as it returned from exile on February 26, 1991.

While we have witnessed a decline in the most serious of the atrocities, such as killings, torture, arbitrary arrests, and deportations as a result of international pressure, Kuwait still suffers from serious civil and human rights abuses. Today's concerns about human rights in Kuwait stem from the treatment the stateless Palestinians, Kurds, and others who previously lived in Kuwait. Many of these people are long time residents of Kuwait; some were even born in Kuwait. Yet they have been denied citizenship because they are not Kuwaiti, and have been subjected to various forms of persecution and discrimination.

For example, at the outset of the Iraqi invasion, approximately 180,000 Palestinians, along with tens of thousands of Kuwaitis, understandably fled their homes in Kuwait—leaving behind all of their possessions—in order to avoid the harsh conditions of war and occupation. Almost without exception, the Kuwaiti Government has denied these people the right to return to their homes even for the purpose of retrieving their personal possessions. Furthermore, the Kuwaiti Government has allowed the landlords to remove these belongings at their discretion, thus reducing any future hopes for the Palestinians of regaining their personal property, much less their homes.

In addition, most expatriates, such as the Kurds who fled Iraq in order to escape Saddam Hussein's brutal regime, have been forced out of their jobs and their children have been denied the ability to return to school. These people are currently being refused the right to work and to feed their families because the Kuwaiti Government refuses to issue them a security card, a necessity for employment in Kuwait.

This Senator condemns the inexcusable behavior and policies of the apparently uncaring Government of Kuwait. This Senate should not sit silently by while these heartless actions continue to occur. I urge my colleagues to join me in bringing this issue to the attention of the President and his State Department. We did not expel one ruthless dictator from Kuwait only to have him replaced by another, albeit a somewhat more benign and discriminating one.●

DESALINATION

● Mr. SIMON. Mr. President, the November/December 1991 issue of World Watch carried an excellent article by Peter Weber entitled, "Desalination's Appeal Evaporates." Mr. Weber succinctly summarizes the benefits to be gained from desalination technology and the barriers that currently exist to wider application.

As the article states, "At $1,000 to $2,000 per acre-foot of desalted seawater, the price is well beyond the $300 per acre-foot that the world's average urban dweller pays for delivered water." The article then ends on what I view as a pessimistic note "* * * desalination will likely remain too expensive to be more than an occasional solution to water shortages." I believe we have the opportunity to prevent this last sentence from being an accurate forecast.

My legislation, S. 481, the Water Research Act, would get the Federal Government involved again in the business of supporting efforts to develop low-cost desalination technology. Sometimes research and development on new technologies takes a long time, so I encourage my colleagues to act on this legislation quickly once it comes to the Senate floor and get U.S. brain power to work again in this area.

I ask that the article be inserted into the RECORD.

The article follows:

[From World Watch, November–December 1991]

DESALINATION'S APPEAL EVAPORATES

(By Peter Weber)

In 1961, President John F. Kennedy said that if an inexpensive way could be found to extract fresh water from salt water, it "would really dwarf any other scientific accomplishments." Presumably, Kennedy foresaw that fresh water—once considered a limitless resource—would soon be in short supply. By comparison, the oceans are virtually limitless. Encouraged by the prospect of cheap nuclear energy to power the process, the U.S. committed tens of millions of dollars for desalination research over the next decade.

The U.S. push, however, failed to make the ocean a low-cost source of water. Nuclear power "too cheap to meter" never materialized to satisfy desalination's high energy demand, and technology improvements made desalting cheaper but not cheap enough. Federal funding ended in 1982.

Nonetheless, coastal communities from Virginia to California are now looking into building desalting plants to supplement existing supplies. California legislators, desperate to combat the drought and make way for continued growth, have introduced eight desalination bills in the state assembly, and the U.S. Congress is considering legislation to restart the federal research program. Is desalting making a comeback?

Currently, the world's 7,500 desalting plants have a capacity of just 3.9 million acre-feet per year. Pumping at full capacity, they would cover less than one-tenth of 1 percent of world water use.

Only the world's elite get their water from the sea. Saudi Arabia, whose embattled desalination plants made international news during the Persian Gulf War, is the largest producer, with 30 percent of the world's desalting capacity. Kuwait, the United Arab Emirates, and a few other oil-rich, water-poor Middle East nations account for another 30 percent. In other regions, ocean desalting is limited mainly to island tourist havens, such as the Virgin Islands, and military installations, such as the U.S. base at Cuba's Guantanamo Bay.

A smaller but growing portion (25 percent) of desalination capacity is applied to brackish waters, which are typically only a third as salty as seawater. The United States is the biggest brackish water desalinator, with nearly half of the world's capacity. Most of this is used by industry, either to make ultra-pure water or to detoxify industrial discharge. A smaller portion is used by households, mostly in southwest Florida, where rapid growth is drying up existing water supplies and an extensive, slightly salty aquifer is readily available.

Cost has been the single biggest factor preventing desalting from becoming a font of fresh water. At $1,000 to $2,000 per acre-foot of desalted seawater, the price is well beyond the $300 per acre-foot that the world's average urban dweller pays for delivered water. (Equal to 326,000 gallons, one acre-foot is double the average U.S. household's annual water use.) Farmers, by far the world's biggest water users, typically pay much less because of government subsidies.

Although water is essential for communities, industry, and agriculture, most people conserve before paying such high prices. Israel, a leader in desalination technology, recently closed its major desalting plant because it is cheaper at present to curtail irrigation and recycle water.

In principle, getting salt out of water is fairly simple. The most common and time-tested approach, distillation, involves boiling water, collecting the salt-free steam, and discharging the leftover brine. Alternatively, water can be forced through semi-permeable membranes, essentially filtering out the salt in a reverse osmosis process. Developed in the 1960s, reverse osmosis is the method of choice in the United States.

In practice, however, seawater desalination is expensive because boiling water or pushing it through membranes requires large amounts of energy—roughly 6,000 kilowatt-hours per acre-foot for the most efficient methods. Desalting 100 percent of a residential community's water would raise its electricity use by one-third, based on current electricity and water use in the U.S. Solar desalination would eliminate the big energy bills, but low output and high equipment costs make solar stills even more expensive.

Desalination costs are compounded by efforts to prevent corrosion and clogging of equipment. For instance, without anti-scaling chemicals, the distillation boiler becomes caked with a salty crust. Reverse osmosis's salt-filtering membranes are easily fouled if algae and other organic matter isn't first killed and removed. Disposing of the resulting pretreatment sludges and post-process brines adds still more to costs.

Compared to seawater desalting, brackish water desalting has somewhat better prospects. At $500 to $800 per acre-foot, it's the right method for regions where dwindling freshwater supplies are pushing up rates, such as southwest Florida. Its big savings come from the fact that removing less salt requires less energy—up to 80 percent less than when desalting ocean water.

Nonetheless, the brackish application has its downsides. Brine disposal is tricky without the ocean nearby, and brackish water supplies—unlike seawater—are usually in limited supply. The city of Virginia Beach, Virginia, for instance, was poised to start its own brackish water plant, says city water engineer Thomas Leahy III, until a groundwater study revealed that the plant would quickly draw down the region's water table.

The bottom line for both brackish water and seawater is that desalting is not going to relieve the water shortages now surfacing from Beijing to the Middle East. Jack Jorgensen, executive director of the National Water Improvement Association, notes that seawater capacity especially will not expand much now that the oil-producing Middle Eastern countries have enough capacity for present needs. In the foreseeable future, most new desalination plants will treat brackish water in Florida and a few other states and countries.

Desalting's future could be further compromised as the process comes under closer environmental scrutiny. Its high energy use runs contrary to the goals of reducing air pollution, acid rain, greenhouse gas emissions, and fossil fuel dependence. And according to Phil McGillivery, a marine biologist for the National Oceanic and Atmospheric Administration (NOAA), no scientist has ever studied the cumulative effects of drawing water from and discharging brine to the ocean.

So far, environmental concerns have not limited desalting—cost has. Despite its appeal—especially to politicians—desalination will likely remain too expensive to be more than an occasional solution to water shortages. "Put it this way," says Jorgensen; "it is never going to be cheap water."•

INDIAN HEAD'S HAZMAT VEHICLE

• Mr. SARBANES. Mr. President, I want to pay tribute to the outstanding personnel at the Indian Head Division, Naval Surface Warfare Center at Indian Head, MD, who have successfully implemented the principles of total quality leadership [TQL]. At a time when all of our military installations must do more with less, Indian Head has successfully used TQL to enhance its environmental protection efforts.

During my visits to this unique Navy installation, located on a peninsula between the Potomac River and the Mattawoman Creek, I have noticed a strong commitment to the environment which appears to go well beyond that required by law. The base's work force has demonstrated genuine concern for the environment through a diverse array of projects from comprehensive recycling to reintroduction of wild turkeys.

Because Indian Head's mission requires use of a number of hazardous chemicals and materials, Capt. Ed Nicholson, the commanding officer, and Roger Smith, the facility's technical director, have emphasized safety and environmental protection. In order to be ready for an accident that could endanger the environment or human lives, the leaders formed an emergency response team.

Under the direction of Lt. Comdr. Charles Moore, a team of well-qualified personnel established an emergency response capability using TQL. They rejected the conventional solution of purchasing a preequipped emergency response vehicle that would have been quite costly. Instead, using a large pool of volunteers, the response team purchased a 24-foot trailer for under $10,000. Specialized equipment already owned by Indian Head was installed in the trailer and customized by volunteer efforts. The base has estimated that more than $150,000 was saved by avoiding the purchase of a preequipped vehicle.

A response capability for accidents in the water was also established using three boats declared surplus by commands at Indian Head. Volunteers rebuilt the boats and rehabilitated a storage building near the water which has become the headquarters of the emergency response team. If the Navy had procured new boats to fulfill this need, the cost would have been over $125,000.

Last spring, I was pleased to participate in a ribbon-cutting ceremony at Indian Head celebrating the completion of the emergency response vehicle. I was impressed with its capability as well as the obvious pride and dedication for those associated with it.

Mr. President, total quality leadership paid big dividends at Indian Head. As a result of these efforts, the station has a well-trained, well-equipped emergency response team. It can quickly respond to on-base and off-base incidents and assess the resulting threat. The vehicles and equipment are customized to meet the unique requirements of the Indian Head Division and, most importantly, were completed at a fraction of usual procurement costs.

I want to thank all of the individuals who assisted in this effort which should serve as a model for other projects. By using total quality leadership the team developed a quality product at great savings to the American people. I urge my colleagues in the Senate to join me in saluting their efforts.•

THE UGLY GROWTH OF ANTI-SEMITISM IN RUSSIA

• Mr. SIMON. Mr. President, even as democracy begins to take root in the Russian Republic, there is a mounting backlash of discrimination and anti-Semitism that could subvert these new found freedoms. Russia, home to more than half a million Jews, has been a fertile ground for the growth of several major anti-Semitic movements.

A brief overview clearly illustrates that the recent rash of anti-Semitic violence and rhetoric has a firm foundation in history. Over four centuries ago, Czars Ivan III and Ivan IV in the 16th century held many anti-Semitic beliefs, asserting that Judaism was a subversive influence leading the Russian people astray from Christianity. Later, in the 18th century, the Russian Government developed a system of more than 1,000 laws intended to separate Jews from the rest of the population. The system resembled apartheid in present day South Africa.

Another major provision of Russian anti-Semitism has been to designate Jews as scapegoats. Everything from the Bolshevik Revolution and Stalin's purges to the fall of communism and the present state of economic, social, and political chaos has been pinned on the Jewish scapegoats.

Today, that tradition of scapegoating is particularly threatening to the Russian Jewish population. Most observers agree that what the Jews fear most now is the political and economic instability. And, in the present climate of uncertainty and suffering that has accompanied the transition to democracy and a free market system, there is the impetus for a new scapegoating movement. That onus has fallen on the Jews.

Emerging from nearing nine decades of Communist-imposed Soviet unity, distinct nationalistic movements have become the rule in the former Soviet Union. With the growth of these movements, the call for ethnic purity has been the warning to the minority Jewish populations throughout Russia. The call by many for a Russian national identity necessarily disregards Jews and opens the door for more persecution.

A pair of groups has taken the lead in the present Russian anti-Semitic movement, Pamyat and the Union of Writers of the Russian Republic.

Pamyat, which takes its name from the Russian word for memory, was founded in the early 1980's as a literary and historical society, but quickly came to its present form, that of an anti-Semitic, Russian nationalistic organization. Though egos and personalities have splintered the group into several different factions, Pamyat still maintains a significant power base among ultranationalist and other rightwing organizations.

Pamyat spreadsits message of hate in several distinct manners. The first mode is the distribution of propaganda such as the long-discredited "Protocols of the Elders of Zion" and pamphlets urging the removal of Jews from not only the government but also the country. For those of you unfamiliar with protocol, it is an infamous anti-Semitic work that played an important role in Adolf Hitler's rise to power. Another way Pamyat disseminates its message is through crimes of hate ranging from direct physical attacks, including numerous deaths, to desecration of Jewish cemeteries, destruction of personal property, and threats of renewed pogroms. A third manner in which Pamyat operates is by organizing protests that draw their strength from the growing social, political and economic upheaval facing the Russian state.

But perhaps the most threatening of Pamyat's modes of operation is the group's establishment of ties to powers within the dissolving Russian military structure. Best summarized by leader Dmitri Vasiliev, Pamyat's philosophy is, "If we have to, we will take up arms to defend our ideals." Not only have Pamyat leaders begun to call for the organization of armed patrols, but they have also recognized the potential for cooperation within the Russian military and KGB as those areas face an uncertain future. As a Newsweek magazine article of May 7, 1990, states:

> But they (Pamyat's followers) are plying for influence beyond their numbers. Pursuing allies among disgruntled soldiers and workers, they have cultivated the Soviet army and the United Workers Front, a rightwing labor group.

Pamyat is not alone. Among the other major anti-Semitic groups is the Union of Writers of the Russian Republic. Headed by such prominent anti-Semitic writers as Valentin Rasputin and Piotr Proscurin, the Union has emerged as one of the more powerful hate movements directed against Jews in the Russian Republic.

A pair of prominent Union leaders were, at one point, appointed to former President Gorbachev's Presidential Cabinet. Those appointments sent a clear message to members of the Russian Jewish community that these anti-Semitic movements, to some degree, had official backing. And though Gorbachev is no longer in control, the inroads and political power these two groups and others like them have established stand as a reminder of the constant threat facing the Russian Jewish population.

Over the course of the past 2 years, the number of large meetings and public demonstrations organized by these and other anti-Semitic groups has been on the rise. Intended to capitalize on the mounting difficulties facing President Yeltsin and the Russian government, many of these rallies have been successful in attracting crowds of anywhere from hundreds to tens of thousands.

These rallies have been held throughout Russia, including the 1991 May Day parade in Moscow and the rally in Red Square near the Kremlin in December of 1991, both supported by Pamyat and other anti-Semitic groups for the purpose of spreading their hostility. The American Association of Russian Jews has estimated that in 1989 alone there were at least 1,000 anti-Semitic demonstrations staged throughout the former Soviet Union. Experts assure us that number is not declining.

Probably the most telling of these anti-Semitic demonstrations was one held in June of 1991 in Leningrad as several candidates battled in the election for the presidency of the Russian Republic. Amidst the openly discriminatory slogans and placards of the rally, Vladimir Zhirinovsky, who ran on an openly nationalistic and anti-Semitic platform, emerged third in the election, with over 6 million votes.

For all of these reasons, I believe there is cause to worry about increased hostility toward Jews in Russia. There are many who disregard the warning signs and downplay the significance of what is happening. There are others who deny the very occurrence of many of the hate crimes and anti-Semitic movements.

Nevertheless, many of these instances have been substantiated and confirmed by various independent agencies and newspapers. I hope we all realize that people are being attacked and even killed, solely on the basis of their beliefs. This must be stopped.

There is some cause for hope, however. The news out of Russia is not all bad. In October of last year, then-President Gorbachev recognized publicly that anti-Semitism and persecution of Jews was still present in his country, and he condemned it. A leader of one of Pamyat's splinter groups, Konstantin Smirnov-Ostashvili, became one of only two people ever tried in a Russian court for violation of article 74 of the Russian Criminal Code. That article, which prohibits the incitement of national enmity or discord, became the focal point of Ostashvili's trial in July of 1990. In October of that same year, Ostashvili was convicted and sentenced to 2 years of hard labor for his role in stirring up ethnic hatred.

By publicly condemning anti-Semitism and by making Article 74 applicable to anti-Semitic harassment and physical abuse, the Russians are taking strides in the right direction to combat these rightwing groups. Nevertheless, there is much more to be done. For when the liberties of one people can so easily be threatened, whose freedom is truly safe?•

"HELENE C. MONBERG DAY" IN LEADVILLE, CO

• Mr. WIRTH. Mr. President, today is a very special day in Leadville, CO. Its mayor, Robert J. Zaitz, has proclaimed today as "Helene C. Monberg Day" in recognition of one of Colorado's truly inspirational and independent women.

Leadville is usually signified by its being the highest spot in the country as well as host to a tradition of independent women. Baby Doe Tabor and Molly Brown are a few who come to mind. Add to that list Helene Monberg whose life has also been a tremendous inspiration to Leadville and the West in many ways.

Although Helene has lived in Washington for many years—she arrived as one of the first female UPI Washington correspondents—she always makes it clear that the small mining town of Leadville is her home. Helene often talks about what a great childhood she had growing up there. "A kid couldn't have had a better place to grow up," she often says. Living under the grandeur of Mount Elbert and the Collegiate Peaks, whether snow covered and ablaze in the morning light of winter or swept with purples, golds, and whites of spring flowers, she developed a sense of the Western ethos—independence and an open spirit—which left her with a great appreciation for the West and the richness of its endowment of natural resources.

But her life in Leadville also showed her, as she often puts it, "the tragedy of natural resources mismanagement." To the west, she says, one would see the splendor of the mountains—vast frontiers yet to be conquered—yet closer to home there was the blatant evidence of the disregard for these resources; vast slopes potted with open-faced mines, mountains scarred by erosion.

It was probably her experiences as a child that led to her dedication to following and reporting on the evolution of Federal policy toward managing the West's natural resources. For the last several years, she has faithfully produced a weekly newsletter, Western Resources Wrap-up, which has provided westerners with a clear picture of water management and natural resources policy issues from Washington.

And there is another side to Helene. She has provided a deep, tireless commitment to volunteer service for the public good. Over the years, she has soley run a pioneering program, the Achievement Scholarship Program, to help ex-offenders obtain the training and guidance they needed to restart their lives. That meant cajoling friends and supporters for financial support again and again. She has raised more than $300,000 for the cause. That also meant gaining the trust and support of ex-offenders whose lives were mired in a pattern of criminal activity, arrests and imprisonment. Hundreds of ex-offenders have participated in this program which has proven to be a unique success story—over 200 students have successfully gone straight—one that has received several citations, including recognition from a local magazine, the Washingtonian.

She has also been a tremendous supporter of public education. A graduate of the University of Colorado, Helene will endow the university with scholarship funds to give disadvantaged students an opportunity to obtain a college education that would otherwise not be available. She has made personal sacrifices to ensure that the generation that will inherit this country's leadership positions have the same, if not better opportunities for public education that we and our forefathers had. She is making investments in our nation's future—our children and their children to come.

In closing, Mr. President, all who have worked with and come to know Helene feel very fortunate; for she becomes one of your greatest and most faithful friends. If someone loses a job, Helene is calling friends to help find another. If a friend's son is having a birthday, Helene insists on taking him to the toy store to buy a special toy. The list of generosities she shows towards friends, the West and the world makes it truly appropriate that she is being recognized in her home town of Leadville today.

So, I join with the town of Leadville and all Coloradans in sharing this special day with Helene.

I ask that Mayor Zaitz's proclamation be inserted in the RECORD.

The proclamation follows:

PROCLAMATION

Whereas, Helene C. Monberg is a native of Leadville, Colorado; and,

Whereas, she has always regarded and loved Leadville as "home", though she has spent many years away; and,

Whereas, she has maintained her affection for and interest in Leadville and its people by her frequent contacts with her close friends in Leadville; and,

Whereas, she has provided Leadville with valuable information and insight through her Herald Democrat column, "Washington Roundup", thereby bringing a national perspective to a local daily newspaper in her home-town; and,

Whereas, her love and respect for Leadville is a part of her larger, passionate devotion to the people, issues, and resources of the Great American West; and,

Whereas, her information and commentary on federal policy regarding the West, as founder and "guiding spirit" of Western Resources Wrap Up, is comprehensive, timely, knowledgeable, and invaluable to the people and businesses of the West; and,

Whereas, such dedication, scholarship, and love of tradition are true hallmarks of the Western American pioneer heritage,

Now, therefore, I, Robert J. Zaitz, Mayor of the City of Leadville, in the County of Lake, and State of Colorado, do, with all the gratitude, respect, and administration appropriate to this happy occasion, proudly declare Thursday, March 12, A.D. 1992, to be observed in Leadville as "HELENE C. MONBERG DAY" and call upon all citizens of Leadville to join in tribute to one who exemplifies the spirit of Leadville * * * of Colorado * * * and all the West.

I FURTHER DIRECT that the publication of this Proclamation be made by the Leadville Herald Democrat, in salute to Helene C. Monberg's many years of association therewith.

ROBERT J. ZAITZ,
Mayor.•

HATE CRIMES

• Mr. SIMON. Mr. President, I rise again to bring to the Senate's attention the nationwide increase in racially motivated crimes. As I mentioned last week, I intend to monitor incidents of hate crime and report about them in the Senate RECORD. Unfortunately, finding these incidents is not a difficult task. Last week, I spoke to you about the unprovoked murder of Yasuo Kato, a Japanese businessman in Camarillo, CA, who was stabbed to death apparently because of his nationality. It appears that his attacker blamed Japan for the recession and the loss of his job. It is an unfortunate fact that Mr. Kato's death is not an isolated incident. This is not just a California problem. While we await data now being collected by the FBI which should give us a very clear sense of the extent of the problem, newspaper accounts indicate that hate crimes are on the rise throughout the Nation.

Today, I wish to direct your attention to a racial attack against Myrtle Guillory and Johnnie McRae which occurred in Wheaton, MD—an incident so unbelievably appalling, that it is hard to fathom the level of hatred which motivated the attack against those two women.

In the early morning hours on Tuesday, March 3, the two women were accosted by John R. Ayers Jr., 21, of Rockville, and Sean T. Riley, 19, of north Wheaton. According to police reports, the two men yelled out "I'm going to kill you, nigger," and proceeded to chase after the women. Guillory managed to escape from her assailant, Sean Riley, and rushed to a nearby house to seek assistance. McRae was less fortunate. John Ayers chased her down and caught her, beat her on the head, ripped off her blouse, and dragged her onto an old bridge trestle. Then, in a truly inhuman act, he soaked Ms. McRae in lighter fluid and attempted to set her on fire. If the police had not intervened at this point, Johnnie McRae could have been burned alive.

Ayers and Riley were both arrested on the spot. According to police reports, they said they were out hunting for black people, because on the previous Friday night, three black men had called them "honkies." Riley, when caught and pinned down by the police, could only scream: "I hate niggers! I hate niggers!"

"I have never known any racial hate like this," Ms. Guillory said. "I felt like I was being judged just because I was black, and they were the judge, jury, and executioner."

Mr. President, we cannot let this inexplicable, yet overwhelming hatred go unnoticed. We must continue to keep these crimes in the forefront of our discussions. Through these weekly statements I intend to do just that. We need not only to be aware of the prevalence of this crime, but we also need to begin working together to address the problem. Montgomery County Executive Neal Potter has taken a step in the right direction by formally urging the criminal justice system "to send a clear message to all of our citizens that we will not tolerate these sick and unconscionable acts of hate and violence against any human being."

I am deeply impressed with the willingness of the Aspen Hill community residents to respond to this terrible incident in a positive fashion. It would have been easy to turn the attack on Ms. Guillory and Ms. McRae into an excuse for racial tension in this normally peaceful community. Yet nearly 20 neighbors marched in protest the following evening at the site of the attack, carrying signs which said: "Love thy neighbor no matter what color," "Stop Hating," and "WE the people." Mr. President, let us hope that the neighborhood's message of unity and peace will be heard. At least this one neighborhood can again be free from the evil of hate-related violence.•

MR. LAMARQUE'S PERSONAL GUARANTEE

• Mr. JOHNSTON. Mr. President, in the preceding few weeks we have heard a great deal of sound and fury from politicians, businessmen, and citizens alike, prompted by the enormous trade imbalance that currently exists between the United States and Japan. As we have all seen, our relationship with Japan, made tense simply by the brute fact of a trade deficit of over $40 billion, was made worse by the perception, accurate or not, of a President turned car salesman, and further damaged by the inflammatory remarks of some Japanese politicians. Not surprisingly, we have returned fire, and our responses have ranged from the public demolition of Japanese cars in Pennsylvania to threats of protectionist trade measures by politicians everywhere. Today, I rise to praise a Louisianian who has done more than merely talk; who has, in fact, put his money where a lot of other people have put their mouths.

Mr. Ronnie LaMarque owns a Ford-Lincoln-Mercury dealership in New Orleans, and employs about 250 people. Mr. LaMarque has reacted to the apparent crisis of confidence in American automobiles and the arrogance and intransigence of the Japanese leadership by offering an unprecedented personal guarantee on all cars sold at his dealership. This guarantee entitles buyers to a full refund of the purchase amount if they wish to return their car for any reason. Mr. LaMarque has undertaken this unprecedented measure completely on his own, with no backing from the manufacturer, and those who would be tempted to interpret his offer as a last-ditch effort to sell cars should note that his dealership's success in recent years has defied the current downturn in the industry as a whole. Mr. LaMarque's action, I believe, is a perfect example of the kind of medicine that will be required to heal the wounds that the recession has inflicted and which this latest and most severe round of mutual bashing by the United States and Japan has only exacerbated.

The harsh realities of global economic competition have made more evident the very tangible way in which the citizens of this country depend upon one another for their economic livelihood. We do ourselves no favors in the long run by purchasing goods, if they are substandard, simply because they are American made, and Mr. LaMarque makes no appeals on this ground. However, we certainly cannot do ourselves any greater disservice than by failing to choose U.S.-made products when they are equal in quality to foreign-made ones.

Mr. LaMarque's personal guarantee makes a simple, unvarnished statement: It does not call for protectionist measures that run counter to the American spirit of competition, nor join in xenophobic finger pointing that flies in the face of the basic American values of decency and fairness. It neither asks for sympathy nor begs for special favors. Rather, it is a bold and unequivocal statement of confidence in the quality of an American-made automobile made by a man who knows cars. Perhaps most significantly, it is not directed at either Japan or Detroit, but at the community that Ronnie LaMarque depends on and that, to a certain degree, depends on him. I commend and congratulate Ronnie LaMarque, wish him the best of luck, and sincerely hope that his example is not lost on other business leaders looking for creative ways to inspire confidence in the American consumer.•

HONORING CHARLES PHILIP HOLMES

• Mr. RIEGLE. Mr. President, today I rise to pay tribute to one of the truly outstanding leaders from my hometown community of Genesee County, MI, Charles Philip Holmes. He will retire this month after more than 20 years of leading our community in the fight against substance abuse.

Mr. Holmes organized and implemented Genesee County's Regional Drug Abuse Commission in 1971 and is to be commended for his irreplaceable service and commitment to helping the people of Genesee County with drug and alcohol problems.

In 1974, the Genesee County Regional Drug Abuse Commission was reorganized and expanded into the Genesee County Commission on Substance Abuse Services and became the designated coordinating agency for drug and alcohol programs within the county. Charles "Chuck" Holmes was appointed president and CEO and has been serving in that capacity ever since.

Under Mr. Holmes leadership, the Genesee County Commission on Substance Abuse Services gained the community's first nationally funded drug abuse grant for an 8-year period in the amount of $9 million. This grant enabled the commission to develop treatment, education, intervention, prevention, and outreach programs in the field of drug abuse.

Prior to coming to Genesee County, Mr. Holmes held various positions in the Oakland County Michigan Commission of Economic Opportunity. In addition, Mr. Holmes worked as executive director of the Fairborn branch of the Dayton, Ohio YMCA.

In addition to numerous awards and honors, including my own Key Volunteer Award, Mr. Holmes is one of only seven to receive the Michigan Governor's Leadership Award. He and his wife Phyllis are the parents of three adult children and are very active in the community and their church.

Again, let me commend Mr. Holmes for his longstanding dedication to the people of Genesee County. His tireless efforts and service have made our community a better place to live. I wish him a fulfilling retirement and hope that he finds it as rewarding and challenging as his working career.•

COSPONSORSHIP OF S. 240 THE AIRLINE BANKRUPTCY PASSENGER PROTECTION ACT OF 1991

• Mr. D'AMATO. Mr. President, I rise to add my name as a cosponsor of S. 240, the Airline Bankruptcy Passenger Protection Act of 1991. This important bill will ensure that passengers are not left with worthless airline tickets in the event of airline bankruptcies.

My distinguished colleague, Senator KASSEBAUM, introduced S. 240 on January 22, 1991. It is now pending in the Commerce Committee and has broad bipartisan support. This bill would ensure that passengers are not stranded, and that travel agents—many of them small businesses—are not left to foot the bill. S. 240 gives the airline industry 6 months to write a plan to either honor the tickets of insolvent carriers, or to provide for reimbursement. If the airline industry fails to act, or their plan is disapproved, then the Secretary of Transportation must issue rules within 90 days setting up a plan.

Congressman BOEHLERT introduced this legislation in the House on January 3, 1991. His bill is H.R. 66, and it has 102 cosponsors. Hearings were held last May on this legislation.

Airline ticket buyers should not have to address the situation on a case-by-case basis when airlines enter bankruptcy. Generally, passengers have not lost money on their tickets; however, it is unfair that the public, or travel agents, must sometimes pay the bill for airline mismanagement, or other circumstances. Clearly, airlines encourage the public to buy tickets in advance and the industry benefits from this practice. They also should accept responsibility for dealing with air carrier insolvencies with some degree of certainty for the traveling public. It is unfortunate that the industry has not seized the initiative to form a plan on its own.

I encourage my colleagues to add their names as cosponsors of this bill.•

THE UNINTENDED VICTIMS OF THE GULF WAR

• Mr. RIEGLE. Mr. President, last month marked the first anniversary of President George Bush's declaration of victory in the Persian Gulf war. Certainly we can be proud of the brave American men and women who served their country in the gulf. However, 1 year after the President declared Kuwait liberated, not only is Saddam Hussein still in power, but we have also lost sight of the war's unintended victims. In the wake of the war, there remain hundreds of thousands of displaced peoples from many ethnic groups including Palestinians, Kurds, Shiites, and Christian Chaldeans, and Assyrians.

This humanitarian problem has been deemed the "fastest growing refugee situation in modern history." (U.N. Chronicle, September 1991.) Since the end of the gulf war, it is estimated that over 5 million persons have been displaced. The mass exodus of the Kurds from Iraq, which received much media attention, and the expelling of non-nationals from Kuwait are only part of the current gulf refugee crisis.

Despite the Kuwaiti Government's assurances that there have been no general expulsions, hundreds of thousands of Egyptians, Yemenis, Palestinians, and other nationals are being evicted from Kuwait without any opportunity for deportation hearings and without any legal recourse to resist their expulsion. In fact, the al-Sabahs, the restored Kuwaiti royal family, seem to have forgotten that in their absence, many of those being deported stayed behind and resisted the cruel Iraqi regime while they fled the country.

Moreover, despite first-hand knowledge of Saddam Hussein's atrocities, the Kuwaiti Government has mandated the return of non-national workers carrying foreign passports to their country of origin. In many cases, those expelled are people who were born in Kuwait or had lived there for several decades. Moreover, they are being sent to countries without the capacity to absorb them, such as Jordan, or nations with poor human rights records, such as Iraq. Having fought for the liberation of Kuwait, many Americans are deeply disturbed by the Kuwaiti Emir's lack of respect for ethnic minorities living in his country.

Palestinian refugees, in particular, face a unique economic and political crisis. Prior to the gulf war over 400,000 Palestinians lived and worked in Kuwait. The majority of those were part of a highly educated work force that had lived in the emirate for decades. Until the gulf crisis, the Palestinians were considered valuable members of the Kuwaiti community.

Following Saddam's invasion of Kuwait, more than 230,000 Palestinians either fled or have subsequently been forced out of the country. Those who escaped during the invasion have been denied visas to allow them to return. Those who remained in Kuwait are now being forced to leave. For the Palestinian people, this mass expulsion has created a new trauma. Not only are they a people in diaspora around the Middle East, but Palestinians from Kuwait have been forced to leave their jobs and the homes in which they have lived for decades.

During the war, President Bush called upon Iraqi minorities, such as the Kurds and Shiites, to rise up and overthrow Saddam Hussein and his Ba'thist government. The uprisings failed to dislodge the Iraqi Government—and Saddam Hussein's response was swift and brutal. With his remaining tanks and infantry, Saddam crushed the popular rebellions with a ruthless application of military force.

Nevertheless, after calling on the Kurds and Shiites to overthrow Saddam, George Bush failed to support them in their moment of need—resulting in the waves of refugees flowing into Iran and Turkey. Not only have these people faced inhospitable mountain and desert terrain, but they remain entrenched in refugee camps, and have little food, medical, or fuel supplies. The Bush administration, moreover, has been unwilling to enforce Iraqi compliance with U.N. Security Council resolutions designed to alleviate the Kurds' deplorable conditions.

Other ethnic minorities also continue to suffer greatly in the wake of the Persian Gulf war. There are over 12,000 Christian Assyrians and Chaldeans, as well as other minorities, who fled Iraq during and after the war and remain refugees. Fearing negative consequences if they return to Iraq, they remain stranded in foreign lands.

Despite the Bush administration's proclamation of victory, for these forgotten victims, the gulf crisis persists. Those who continue to suffer in the aftermath of the gulf war must receive the full attention of the United States and must no longer be ignored by the current administration. On this 1-year anniversary of the end of the Persian Gulf war, while we should not forgo commemorations of America's victory, let us recall the war's unintended victims.•

HONORING LEROY NICHOLS

• Mr. RIEGLE. Mr. President, I rise this day to pay tribute to Mr. LeRoy Nichols, one of Flint and Genesee County, MI's most outstanding public servants. Mr. Nichols has served as executive director of the Genesee County Community Action Agency for 16 years. Before becoming executive director, Mr. Nichols was a senior community organizer with the agency.

Born in East Chicago, IN, Mr. Nichols is a graduate of Flint public schools. He received an honorable discharge from the U.S. Army, and attended all four of Flint's institutions of higher learning: Baker Junior College, Mott Community College, the General Motors Institute, and the University of Michigan-Flint.

Prior to Mr. Nichols' work with the Community Action Agency, he was employed by General Motors Corp. and was active in many United Auto Workers functions and committees. In addition to a number of appointed leadership positions throughout our community, Mr. Nichols is a member of numerous civic and fraternal organizations, and he is an ordained Baptist minister.

The Genesee Community Action Agency has admirably fought the war on poverty, and under the capable leadership of LeRoy Nichols, the agency has made Genesee County a better place to live for countless residents. I wish him the best in his retirement and hope it is as fulfilling and challenging as his working career has been.•

UNANIMOUS-CONSENT REQUEST

Mr. FORD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 a.m., Friday, March 13; that following the prayer, the Journal of Proceedings be deemed approved to date and the time for the 2 leaders be reserved for their use later in the day; that there then be a period for morning business, not to extend beyond 9:30 a.m., with Senators permitted to speak therein for up to 5 minutes each; with Senator BYRD recognized for up to 20 minutes and Senator SEYMOUR recognized for up to 5 minutes; that at 9:30 a.m., when the Senate resumes consideration of H.R. 4210, Senator MCCAIN be recognized to offer an amendment relative to super-majority for tax increase.

Mr. SEYMOUR. Mr. President, I object.

Mr. SIMPSON. There was an opportunity for him to object, and I think the Chair will indicate that, and the Senator has been here through the evening to do just that.

The PRESIDING OFFICER. Objection is heard.

Mr. FORD. Would we be allowed to recess? Can we go home without making objection? The Senator made a mistake and is sitting there exercising his prerogative, and that is fine. The majority leader and minority leader had an agreement.

We try to exercise that agreement. We get an objection. The Senator voted to increase taxes. How he does not want the RECORD to reflect it. It will under these circumstances when tomorrow arrives and he reads the RECORD and the name is there.

Mr. President, I ask unanimous consent, then that the Senate recess until——

Mr. SIMPSON. May he speak?

Mr. FORD. Yes, I was trying to get out of here.

Mr. SEYMOUR. I thank the Senator.

The PRESIDING OFFICER. The Senator from California.

Mr. SEYMOUR. Mr. President, I would just like to, perhaps, express my views relative to what the distinguished Senator from Kentucky was describing as my vote. It is mischaracterized. A vote that I cast is on the RECORD. It was a rollcall vote of some scheduled 15 minutes. That rollcall was kept open for, in my opinion, purely partisan purposes. And as I came through those doors wanting to correct the RECORD, the rollcall was shut down.

It certainly can be argued that rollcalls are often violated as far as the time rule goes, but I do not believe it is too often that it goes 45 minutes.

All I am asking for is equity. I can understand partisan politics and respect that process. I think, in this instance, it has been carried too far.

I do not mean and I do not want to disrupt these proceedings nor delay these proceedings, but I guess there are times when the Senator, in order to protect what he believes to be his intellectual record, has to stand. So I will continue to stand and withhold unanimous consent until I receive equity relative to this rollcall.

Mr. FORD. Will the Senator yield for a question?

Mr. SEYMOUR. Certainly.

Mr. FORD. Will the Senator allow us to go for the evening?

Mr. SEYMOUR. Sure.

ORDERS FOR FRIDAY

Mr. FORD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 a.m., Friday, March 13; that following the prayer, the Journal of the proceedings be deemed approved to date and the time for the two leaders be reserved for their use later in the day; that there then be a period for morning business not to extend beyond 9:30 a.m., with Senators permitted to speak therein for up to 5 minutes each, with Senator BYRD recognized for up to 20 minutes and Senator SEYMOUR recognized for up to 5 minutes; and that at 9:30 a.m., the Senate resume consideration of H.R. 4210.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

RECESS UNTIL 9 A.M. TOMORROW

Mr. FORD. Mr. President, if there be no further business to come before the Senate, I now ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 12:04 a.m., recessed until Friday, March 13, 1992, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate March 12, 1992:

DEPARTMENT OF DEFENSE

GREGORI LEBEDEV, OF VIRGINIA, TO BE INSPECTOR GENERAL, DEPARTMENT OF DEFENSE, VICE SUSAN J. CRAWFORD.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL ON THE RETIRED LIST UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. DAVID J. TEAL [redacted] U.S. AIR FORCE.

IN THE ARMY

THE FOLLOWING NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. JEROME B. HILMES [redacted] U.S. ARMY.

THE FOLLOWING NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. FRANK F. LEDFORD, JR. [redacted] U.S. ARMY.

THE FOLLOWING NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

LT. GEN. DAVID M. MADDOX, [redacted] U.S. ARMY.

THE U.S. ARMY RESERVE OFFICERS NAMED HEREIN FOR APPOINTMENT IN THE RESERVE OF THE ARMY OF THE UNITED STATES IN THE GRADES INDICATED BELOW, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 593(A), 3371 AND 3384:

To be major general

BRIG. GEN. WILLIAM C. COCKERHAM, [redacted].
BRIG. GEN. ROLLYN C. GIBBS [redacted].
BRIG. GEN. FRED E. MARQUIS [redacted].
BRIG. GEN. THOMAS E. MATTSON [redacted].
BRIG. GEN. JOHN C.C. ROTH [redacted].
BRIG. GEN. ROBERT L. RUTH [redacted].
BRIG. GEN. JOSEPH E. TURNER [redacted].

To be brigadier general

COL. WAYNE W. HOFFMAN, [redacted].
COL. KENNETH J. KAVANAUGH [redacted].
COL. GERALD L. DEBACKER, [redacted].
COL. DOUGLAS E. CATON, [redacted].
COL. RALPH L. HAYNES [redacted].
COL. JAMES C. SULLIVAN [redacted].
COL. PETER A. GANNON [redacted].
COL. JAMES D. SLAVIN [redacted].
COL. ANTHONY R. KROPP, [redacted].
COL. ROBERT H. BEAHM, [redacted].
COL. WILLIAM C. MERCURIO, [redacted].
COL. JOHN M. O'CONNELL, [redacted].
COL. EVO RIGUZZI, [redacted].
COL. CURTIS A. LOOP, [redacted].
COL. JORGE ARZOLA, [redacted].
COL. JOHN H. BECKROGE, [redacted].

IN THE NAVY

THE FOLLOWING-NAMED REAR ADMIRALS (LOWER HALF) IN THE STAFF CORPS OF THE U.S. NAVY FOR PROMOTION TO THE PERMANENT GRADE OF REAR ADMIRAL, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 624, SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW:

MEDICAL CORPS

To be rear admiral

REAR ADM. HAROLD MARTIN KOENIG, [redacted] U.S. NAVY.
REAR ADM. WILLIAM JAMES MCDANIEL, [redacted] U.S. NAVY.

SUPPLY CORPS

To be rear admiral

REAR ADM. PETER ALBERT BONDI [redacted] U.S. NAVY.
REAR ADM. JAMES PATRICK DAVIDSON, [redacted] U.S. NAVY.

IN THE COAST GUARD

PURSUANT TO THE PROVISIONS OF 14 USC, 729, THE FOLLOWING NAMED COMMANDERS OF THE COAST GUARD RESERVE TO BE PERMANENT COMMISSIONED OFFICERS IN THE COAST GUARD RESERVE IN THE GRADE OF CAPTAIN:

WILLIAM I. NORTON
DURHAM J. MONSMA
THOMAS D. LINCOLN
GEORGE A. WELLER
KIM I. MACCARTNEY
JOHN M. KINSEY
THOMAS E. CARROLL
KARL L. RUSSO
STEVEN E. BARTA
GORDON L. BELL
WILLIAM W. COTTER
ROBERT C. MARCOTTE
MICHAEL E. STANGO
PAUL H. MILLEWICH
GEORGE S. KARAVITIS

HOUSE OF REPRESENTATIVES—*Thursday, March 12, 1992*

The House met at 11 a.m.

The Reverend James Allen Milner, Sr., pastor, Chapel of Christian Love Missionary Baptist Church, Atlanta, GA, offered the following prayer:

Our Father and our Lord, it is with humble submission and deep gratitude that we bow before Thy holy presence. We thank You for allowing us to be in this land of liberty, freedom, and hope. We thank You for this House of Congress and the role it has played in the framing of this Nation. Be with each Member of this House and their supportive staff members, that their labor will be pleasing in Your sight. Give them insight and compassion that transcends the interest of their particular district. Give them a global view of the needs of all Your people as they approach their task of the day. Give them the wisdom of Solomon, the courage of David, the tenacity of Abraham, and the determination of Moses. Let their efforts be pleasing in Your sight that the world might be better for all. In the blessed name of all that is holy I pray.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Wisconsin [Mr. KLUG] please come forward and lead the House in the Pledge of Allegiance?

Mr. KLUG led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate has passed a bill of the following title, in which the concurrence of the House is requested:

S. 2344. An act to improve the provision of health care and other services to veterans by the Department of Veterans Affairs, and for other purposes.

THE REVEREND JAMES ALLEN MILNER, SR.

(Mr. LEWIS of Georgia asked and was given permission to address the House for 1 minute.)

Mr. LEWIS of Georgia. Mr. Speaker, I am pleased to say a few words about our guest chaplain, the Reverend James Allen Milner, Sr.

Reverend Milner is the senior pastor and founder of the Chapel of Christian Love Missionary Baptist Church in Atlanta, GA. He is also president of the Concerned Black Clergy of Atlanta.

A true leader, Reverend Milner serves on numerous boards and committees of community organizations. He has received several awards for his achievements, including the Outstanding Ministry Award from the Atlanta University Interdenominational Theological Center.

Several years ago, Reverend Milner led his congregation to establish Odyssey III, a community center and ministry for the homeless in downtown Atlanta. Since 1984, the Odyssey III ministry has served more than 500,000 free meals to the hungry and homeless.

A native of Atlanta, Reverend Milner did his undergraduate study in the University of Georgia system. He received his master's of divinity degree from the Interdenominational Theological Center in Atlanta.

Today, let us welcome Reverend Milner to the House of the People.

INTRODUCTION OF LEGISLATION TO ENHANCE AMERICAN AEROSPACE INDUSTRY

(Mr. ZIMMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ZIMMER. Mr. Speaker, during the cold war our Nation was involved in a crushingly expensive space race with the Soviet Union. The cold war is won, and we are facing unprecedented opportunities for cooperation with our former adversaries.

Just about every piece of Soviet space hardware and technology is on the block at fire sale prices, but because of bureaucratic redtape, NASA is not allowed to do anything but window shop.

Yesterday, I introduced legislation to give NASA immediate access to a storehouse of some of the world's finest space technology. We stand to make substantial gains in our civil space capabilities, and we can avoid the enormous cost of reinventing technology already developed by our former adversaries.

Gaining access to Soviet technology could allow the United States to achieve its goals in space far more cheaply than duplicating what the Soviets developed during the technology race of the cold war. By allowing the aerospace industry to tool up rapidly for the manufacture of products based on the best of both American and Soviet technology, we can put Americans back to work.

This legislation gives the American taxpayer an opportunity to get something tangible and valuable in return for the large amount of American aid going to the former Soviet Union.

I urge my colleagues to cosponsor H.R. 4447.

ENVIRONMENTAL EDUCATION CLEARINGHOUSE ACT OF 1992

(Mrs. LLOYD asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. LLOYD. Mr. Speaker, as keepers of this planet, we have every reason to be concerned about our deteriorating world environment. Ancient forests, disappearing coastlines, CFC's and the ozone layer, and wetlands protection are just a sampling of the environmental issues that are before us.

I am sure we all agree that actions are needed to combat the further deterioration of our diverse surroundings. I believe education gives us a great opportunity to prevent further degradation of the environment. That is why I am introducing the Environmental Education Clearinghouse Act of 1992.

My bill would establish an environmental education clearinghouse division within the office of environmental education at the EPA. The task of this division would be to consolidate all the existing environmental education programs throughout the Federal Government into one data base to be housed at EPA and encourage State and local governments to contribute information on any programs that they have developed and implemented in their State or town.

In creating this central resource at EPA, any individual, school, or community who seeks to establish an appropriate environmental education program of their own could consult this data base.

By educating the public, we are using the best resource at our disposal to preserve our environment. I invite my colleagues to cosponsor this bill.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

INTRODUCTION OF LEGISLATION TO AMEND PRIVILEGED RESOLUTION OF HOUSE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

(Mrs. JOHNSON of Connecticut asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. JOHNSON of Connecticut. Mr. Speaker, later today or tomorrow I, the gentleman from Arizona [Mr. KYL], my colleague, the gentleman from Kentucky [Mr. BUNNING], and the gentleman from Ohio [Mr. HOBSON], will introduce a privileged resolution that will have the effect of amending the privileged resolution introduced by the House Committee on Standards of Official Conduct to resolve the problems with our House bank.

The privileged resolution that we will introduce will require full direct disclosure of Members' and former Members' names and the pertinent account information associated with their names. This full disclosure privileged resolution I am introducing as a House resolution today, and I invite my colleagues to cosponsor. Many of my Republican colleagues have cosponsored because they had the information this morning.

I extend the same invitation to my Democrat colleagues. I know there is strong sentiment on both sides of the aisle for full disclosure. Please contact my office if the Members would like to cosponsor this resolution, which will go in, in about 4 or 5 hours.

WE MUST DENOUNCE AND ANNOUNCE THE BOUNCE

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, there are payors and payees. There are vendors and vendees. Now there are bouncers and bouncees.

That is right. In the House bank there are those individuals that are bouncers and they bounced checks to take advantage of short-term non-interest-bearing loans.

The tragedy is there are innocent bouncees that may get bounced because of the bouncers' bouncing ways.

I think Congress has only two choices: No. 1, denounce the bounce; No. 2, announce the bounce, and let those bouncers go home and explain whether or not they had a malice aforepay in their relationship with the House bank.

RESOLUTION OFFERED BY DISSENTERS ON COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT DESERVES MEMBERS' SUPPORT

(Mr. RIGGS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RIGGS. Mr. Speaker, later today those who believe in full disclosure in the matter of the House bank investigation will have exactly that opportunity by supporting the resolution to be offered by the gentlewoman from Connecticut [Mrs. JOHNSON] and her three Republican colleagues on the Committee on Standards of Official Conduct who dissented from that committee's recommendation to release only the names of the 24 most egregious abusers of the House bank check-cashing privileges.

Their resolution would cause to be released within 10 days the names of the egregious abusers and within 20 days the names of all those House Members who at one time or the other during that 39-month period may have bounced a check while also allowing those Members within that 20-day time period to challenge the accounting of the House bank.

□ 1110

Anything less than supporting this resolution will be a vote to deny the public's right to know. And all other mitigating considerations, sloppy management and accounting practices in the House bank, political considerations have to be set aside so that we can do the right thing and affirm the public's right to know.

The Gang of Seven, the seven Republican freshmen who have kept this issue alive since last summer, is now the gang of millions. I invite my colleagues to vote for full disclosure and join the gang of millions calling for full disclosure and affirm and uphold again the public's right to know.

DEMOCRATS WILL LEAD AMERICA BACK TO PROSPERITY

(Mr. BUSTAMANTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BUSTAMANTE. Mr. Speaker, America's families cry out for help in the middle of these difficult economic times.

We Democrats want to provide help. We want to provide education, health care, and the opportunity to work.

This is not too much for the American people to expect of its Government and leaders.

But where is the leadership coming out of the White House or from the other side of the aisle?

Where is a budget from the President that has any support from within his own party?

Where is the House Republican budget proposal?

We hear lots of recriminations and accusations from our Republican colleagues and the White House, but we hear nothing constructive.

We hear accusations of being obstructionist, of political posturing, of engaging in a political exercise.

I am here today to say that is bunk. Democrats are acting on the important economic issues that face us today.

Democrats are leading the fight against the Bush recession. And we will win this fight.

We will help put Americans back to work. We will see this economy get back on its feet. We will chart a course for this Nation's future.

Mr. Speaker, Democrats are in the business of leading and doing. That's why we're here in Congress. And that's what will beat this recession.

A NO VOTE URGED ON BUDGET PROCESS REFORM ACT OF 1992

(Mr. JAMES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JAMES. Mr. Speaker, no, I did not bounce a check, and I am for full disclosure. But today, I should comment this House will take up a bill eliminating one of the few remaining constraints against additional deficit spending. In the face of a $400 billion deficit, that is a frightening prospect.

Eighteen months ago Congress passed legislation capping discretionary spending for defense, domestic and international programs until fiscal 1994, and prohibiting the transfer of unspent funds from one category to another. This constrains spending, and safeguards against raids on the defense budget.

Now, we are being asked to cast these budget firewalls aside. If we do, the doors will open to a doubling of the President's defense cuts, another 20 percent cut in Navy ships on active duty, and premature weakening of our overall military capability.

Not only that, but if this bill passes, there will be no defense savings and no deficit reduction. Just more of the same old deficit spending that got us into this budget mess in the first place.

I urge a no vote on H.R. 3732.

FULL DISCLOSURE IN HOUSE BANK SCANDAL

(Mr. SANTORUM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SANTORUM. Mr. Speaker, I rise again today to request that the House vote for full disclosure. It looks like that is what is going to happen, and I want to commend the minority view report out of the House ethics committee and the minority for the work they have done in bringing forth hopefully this resolution to the floor today or tomorrow for a vote, and hopefully a positive vote.

I have been calling, as a lot of my colleagues have, for full disclosure for quite some time. And I have been listening in the last few months to what I think is probably the worst conduct of all. That is the administration of this House of Representatives, the House bank and the people who are really the folks who I think are to blame more, even more than the abusers, the people who ran this institution and knew what was going on with all of the abuses that were happening down there. It was mismanaging accounts so that what we are going to have in these 355 names that are going to be released are Members who had no idea what was going in their accounts and were not informed. The deposits were mismanaged and were delayed sometimes for weeks.

This was a horribly managed bank, very similar to the rest of this institution.

GETTING BACK TO ADDRESSING THE REAL ISSUES THAT FACE AMERICA

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute.)

Mr. APPLEGATE. Mr. Speaker, once we get this check bouncing out of the way I hope we can get back to the real issues that face America. That is rebuilding this country and bringing back good American jobs, putting money back into Americans' pockets.

This country is being povertized by bad fiscal policy and sending our jobs overseas. We have 9 million people out of work and we have tens of millions of people in this country who are unemployed, cannot put food on their table, cannot educate their kids, cannot buy health insurance, and we are talking about who bounced a check. I have 12 percent unemployed in my district. I have steelworkers, coal miners, I have farmers, pottery workers who face a bleak future.

I hope that when this check bouncing thing is out of the way that somebody does not find some other issue to hide the bad fiscal policies that are going on, and get down to addressing the real problems in this country. I am telling you, folks, this one ain't going to go away.

INTRODUCTION OF LEGISLATION TO AMEND PUBLIC LAW 100-321

(Mr. SMITH of New Jersey asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of New Jersey. Mr. Speaker, today I am introducing a bill which would add a rare form of cancer to the list of diseases presumed to be service connected for radiation-exposed veterans.

In the early days of the cold war, Mr. Speaker, many of our service personnel were exposed to deadly radiation and nuclear fallout during nuclear weapons tests. At the time, improper care was exercised to protect these soldiers, sailors, and airmen from the hazards associated with the tests.

When illnesses invariably arose, unfortunately the law could not accommodate their service-connected disabilities. However, recently the Federal Government, and this was at the behest of the gentleman from Ohio [Mr. APPLEGATE] the previous speaker, wisely recognized that certain diseases which occur among service personnel who participated in these nuclear tests were likely to be caused by radiation exposure.

Public Law 100-321, however, left out a very important type of cancer, a very deadly form of cancer, bronchioloalveolar carcinoma, and that ought to be rectified. My legislation would include that. It is a nonsmoker's cancer, and my legislation would include that among those that are presumed to be service connected, and I urge its prompt passage.

□ 1120

MEMBER NOTES ANNIVERSARY OF HIS ARRIVAL IN UNITED STATES, DELIVERY FROM HOLOCAUST

(Mr. WEISS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEISS. Mr. Speaker, we may have difficulty remembering other dates and anniversaries but all immigrants to this great country recall unfailingly the date of our arrival here. I do so today with great pride and gratitude.

Mr. Speaker, 54 years ago today, on March 12, 1938, I arrived in the United States aboard the S.S. *President Warren G. Harding* with my mother, of blessed memory, and my sister, Claire. The ship berthed at the Chelsea piers in New York harbor, where we were met by Samuel Weiss, my new stepfather-to-be, and other members of our new family. We were driven to their home in South Amboy, NJ, and became part of a large combined family of eight children one of whom was already married while the youngest, Claire, had not yet started grammar school.

I will be eternally grateful to Samuel Weiss who, from the moment we met him, treated us with the same love and concern that he gave his original family. He literally saved our lives from the holocaust which Hitler shortly thereafter visited upon the Jews of Europe, slaughtering in the process most of the family which we left behind in Hungary.

My gratitude extends too, to the people and Government of the United States for providing me a safe haven not only to survive but to grow and flourish—permitting me to achieve and occupy this exalted place in the American political system as a Member of the people's House of Representatives.

Thank you, America.

A WARPED VALUE STRUCTURE

(Mr. SCHEUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHEUER. Mr. Speaker, yesterday in this House we voted overwhelmingly yet once again to condition MFN trade with the People's Republic of China on significant changes in China's policies on human rights, weapons proliferation, and trade. Our vote was an overwhelming 357 to 61.

But unless things change in the Senate, we will not have the two-thirds necessary there as we do have here to override the President's veto of H.R. 2212.

Mr. Speaker, the President refuses to influence China's reprehensible and unacceptable policies, through economic pressure. Yet, at the same time, his Secretary of State insists on linking loan guarantees for Israel to provide the necessary substance to bring the remnants of the Russian Jewish community to Israel. He insists on linking them with a change in Israeli settlement policy.

On the one hand, President Bush fights to the last to attain leniency for the world's only remaining major ruthless totalitarian state, one which sells missiles to our and our allies' enemies, one which runs up a $10 billion trade surplus through unfair trade practices, using child, prison, and slave labor; one which slaughtered its own people in Tiananmen Square.

And yet, on the other hand, he turns the economic screws on the Middle East's only democracy, our ally Israel, with whom he has some policy differences but a democracy with which, on the broad range of issues we share identical views and values.

Mr. Speaker, I am bewildered and saddened by the President's warped value structure.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MCNULTY). Member are reminded to refrain from references to future actions by the other body.

CONGRESS SHOULD PASS THE ANTICRIME BILL

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, conventional wisdom says that in election years Congress will pass anticrime bills. I hope we do, despite the fact that the crime bill conference report we sent to the other body last autumn is still there and has not been acted on.

I supported that conference report. It weakened to some extent the exclusionary rule which bars introduction of evidence in certain kinds of trials; it weakens habeas corpus to put some reasonable limits on endless death-row appeals.

One aspect in the bill I was very much devoted to was the Brady bill, which puts a 5-day limit on handgun purchases.

This is one time, Mr. Speaker, where conventional wisdom should come to pass and be made correct by our actions, and so I would certainly hope that before the end of this year conventional wisdom again proves accurate that Congress will pass an anticrime bill in an election year.

WHERE WAS THE AMERICAN PRESS?

(Mr. DELLUMS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DELLUMS. Mr. Speaker and Members of the House, at a time when the world is changing in extraordinary fashion and the American people are feeling economic and social misery and unprecedented terms, demanding leadership, Members of this Congress across race, across sex, and across geography assumed the responsibility, after 3½ months of work and 8 hours of diligent debate on the floor of this Congress, to put before the American people a proposal to address the issue of jobs, employment, education, health, and other significant issues, asserting leadership, not one word of that 8 hours of debate was printed in the American press, not one word, Mr. Speaker.

You tell me: How is it not news when a significant portion of this Congress attempts to put a significant proposal before the American people, willing to expose that idea of 8 hours of debate and not one word? Was it because the Members of Congress were black that wrote the budget? Was it because progressive Members associated with us? Was it because distinguished women who came before this body to debate these issues were not qualified enough?

I challenge the American press: Why were they not there to say to the American people that there are some Members of Congress who are willing to get beyond demagogery, willing to get beyond absurdity, and try to lead this Nation? I challenge the American press to answer the American people why a significant band of groups who are black in this Congress offered a proposal to the American people that they would not dignify.

INTRODUCTION OF THE ENERGY TECHNOLOGY GROWTH ACT

(Mr. WALKER asked and was given permission to address the House for 1 minute and to extend his remarks and include extraneous matter.)

Mr. WALKER. Mr. Speaker, I rise today to introduce, with all six ranking Republican members of the Science Committee, the Energy Technology Growth Act—aimed at bolstering the President's national energy strategy and supporting the goal of 4 percent real economic growth by maximizing technological development, both Federal and private, and emphasizing market forces. This is the Science Committee Republican leadership's contribution to the energy package expected on the floor later this session.

The authorizations contained in this bill track the Science Committee Republican views and estimates signed by all 20 members and submitted to the Budget Committee. In total, the bill authorizes $5.413 billion in fiscal year 1993 for the Department of Energy research and development programs. This is $240 million over current funding, but $76 million under budget. We made tough choices and set hard priorities.

This bill also allows the Secretary of Energy to transfer up to half a billion dollars each year through the year 2001 to increase research and development on energy technologies with great commercial potential by requiring a 75 percent non-Federal match. This potential $5 billion energy R&D enhancement would be derived from lower priority DOE civilian activities.

Most bold, however, is a 15-percent investment tax credit to spur the use of advanced energy technologies. Increased use of oil and gas enhanced recovery and exploration equipment would qualify. Private sector spending on equipment to increase the accessibility and uses of natural gas would also earn the credit, as would clean coal technology equipment, renewable and nuclear generating equipment, and equipment used to make alternative fueled engines. Finally, the credit could be earned for increased energy efficiency in manufactured products.

This bill is for those who would say let's invest in our future. We have a vision to get technology to the market place sooner and an answer for those who say let's invest more in America. However, it doesn't do this by busting the budget or raising taxes—something I keep hearing suggested much too often around here.

Mr. Speaker, I submit with my statement a summary of the highlights of the bill for the Members' consideration.

ENERGY TECHNOLOGY GROWTH ACT

Supports the President's national energy strategy.

Supports the goal of 4 percent real economic growth through technological development by emphasizing market forces.

Authorizations track the Science Committee Republican views.

Represents an 11 percent increase for renewables ($19.7 million over the request).

26 percent increase for conservation ($2.3 million over the request).

8 percent increase for fusion ($5.9 million over the request).

Includes enhancements to the President's budget.

$33 million for enhanced oil recovery.

$3 million for certification program in standard light water design program.

$28 million for space power.

Nuclear R&D is still 8 percent lower than current funding.

Total authorization is $5.413 billion for DOE, $240 million over current funding, but $76 million under budget.

Ten year transfer authority. Allows the Secretary of Energy to transfer up to five hundred million dollars per year through 2001 to increase R&D on energy technologies with great commercial potential (requires 75 percent non-Federal match). This R&D enhancement would be derived from lower priority DOE civilian activities.

15 percent investment tax credit—to spur the use of advanced technology increased use of oil and gas enhanced recovery and exploration equipment would qualify. Private sector spending on equipment to increase accessibility and use of natural gas would also earn the credit, as would clean coal technology equipment, renewable and nuclear generating equipment, and equipment used to make alternative fueled engines. Finally, the credit could be earned for increased energy efficiency in manufactured products.

Contains no added fees, charges, or new taxes or tax increase proposals.

OBSERVANCE OF SHABBAT ZACHOR

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, I rise today to advise my colleagues that this Saturday Jews around the country will observe Shabbat Zachor, a Sabbath of Remembrance for four Jewish women who were brutally murdered while seeking to flee from Syria. I urge my colleagues to take this opportunity to reflect on the plight of the 4,000 Jews who live today in Syria, a small remnant of an ancient community with thousands of relatives and descendants around the world. There are around 30,000 Syrian Jews living in New York City, and in my own district in Brooklyn, they have established a thriving, successful community.

I wish that the Jews still in Syria were as fortunate. In the already hostile atmosphere of Hafez al-Assad's dictatorship, Jews are singled out for discrimination, and forbidden to leave. As I speak here today, Jews who have sought to leave Syria languish in prison without trial or sentence. I am thinking of the Swed brothers, who have been held without trial in underground cells since 1987, where they have been beaten and tortured.

Mr. Speaker, we in Congress must raise our voices against these travesties. Last year the Congress adopted House Concurrent Resolution 188, which condemned the treatment of Syrian Jews, and yet President Assad remains unmoved. Now is the time for President Bush and Congress to draw the line and insist on freedom for Syrian Jews. Let us think of this Shabbat Zachor as the year that Americans resolved to seek freedom for Syrian Jews as we have for so many people around the globe.

□ 1130

A NEW BUDGET PROPOSAL

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, everyone in the country knows by now that the fiscal year for the Congress of the United States and the Federal Government ends every single year on September 30 and the new one begins the very next day; yet for as long as I have been a Member of Congress, and as I understood many years prior to that, the Congress has failed to meet its own deadline for the finalization of the budget by September 30. What chaos that brings on is borne out in the CONGRESSIONAL RECORD, by the history books and by the memories of those who watch what the Congress does on a day-by-day basis.

I have introduced for several Congresses now and most recently before the Committee on Rules working in the present session of the Congress a simple resolution of that problem. My bill says that if the Congress of the United States has failed by September 30 of the given fiscal year to enact a budget, that the next day, October 1, automatically should be adopted the previous year's budget. That will enable sanity to come into the budget process.

WE NEED A BUDGET TO PUT PEOPLE TO WORK

(Mr. GEJDENSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEJDENSON. Mr. Speaker, the silence from the administration about American workers who have lost their jobs is astounding. As the President comes back from the South, still reeling from Buchanan's obvious incursions into his Republican base, it seems to me what the Republican President needs is not a rose garden strategy to hide, but one to come out and engage the problems we face as a country.

I have some 40 Electric Boat workers and people from the community here today trying to get Congress to do what the administration should do. We should find a way to make sure that we do not dispose of those people who gave us the technology that brought us victory in the Persian Gulf and victory over the Soviet Union.

There are tens of thousands of defense workers in my community and across this Nation with skills and abilities that could enrich this country.

Mr. Speaker, we need more than just a good-bye letter from the President or a line in the budget that takes away their jobs. We need diversification and conversion. We need an opportunity for these people to work so they can pay their mortgages and build a stronger America.

FISCAL RESPONSIBILITY

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, I did not hear the first half hour of the 1-minute speeches this morning. I assume some people spoke about the check scandal.

I think this is a big problem of perception here, not only outside but inside this Chamber about what is going to happen here this afternoon and all day tomorrow on the check kiting scandal. The reason that Americans are focusing in on this and are angry about it is because obviously the news media, this is their job, are going to take the list of check kiters and see who serves on the Ways and Means Committee, the Appropriations Committee, chairmanships of other committees. They are going to see who touches in any way, shape or form, taxpayer dollars in the Treasury of the United States.

During the budget debate last week, because we wanted our freshmen on this side to share in that fascinating discussion, I saved a speech for this week or next that is going to take some of my distinguished friends, like the gentleman from Mississippi, Mr. JAMIE WHITTEN, the distinguished gentleman from Mississippi who came here a month before Pearl Harbor, and discuss how big the deficit is, the national debt and all the fiscal problems of this country during the tenure of our senior leaders.

Mr. Speaker, we are in the minority over here. We do not have to take responsibility for that.

CBO NEEDS TO REGAIN ITS CREDIBILITY

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, I would like to call my colleagues' attention to some egregious errors committed by the Congressional Budget Office. Unfortunately, both the Democratic leadership and the media have ignored these errors and continue to pass bogus information to Members of this body and the public.

Our distinguished colleague from Texas, Congressman ARMEY published a study showing that the CBO had erred in its prediction of 1989 capital gains income by $75 billion. The study also maintained that this error would be built into the CBO's annual baseline figures, amounting to $375 billion in error over 5 years.

Several weeks ago, Congressman ARMEY revealed that the CBO admitted its forecast for capital gains income of $254 billion for 1990 missed the mark by $134 billion—an error of more than 105 percent.

Mr. Speaker, these errors undercut the premise of the Democratic leadership's class-war argument. They demonstrate that the data used to defeat the President's efforts for a job-creating capital gains tax cut are faulty. It is also important to note that the CBO never acknowledged these errors until Congressman ARMEY had the courage to expose them.

Currently, the CBO's personnel are appointed by the Democratic leadership with no Republican consultation or confirmation.

To bring some credibility back to Congress, I suggest we cleanup the CBO and make it a truly bipartisan organization.

PEOPLE OF THE COUNTRY CONCERNED AND UPSET OVER ACTIONS OF THE CONGRESS

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURTON of Indiana. Mr. Speaker, the people of this country are concerned and upset because of things that are going on here in the Capitol. There is an investigation going on right now dealing with drugs at the post office. There is an investigation going on down there that deals with the stealing of some money. There are other things that are throwing mud on this Capitol, that cause mud to be cast on this Capitol, and now we have the check bouncing issue.

I just would like to say to my colleagues, I was back in my district this week and my constituents are concerned about that. They want to know who the abusers are around this place and they want it cleaned up. They want them cleaned out. So all I can say to my colleagues is that we should make a clean breast of this. There should be full disclosure, no hiding, because it only discredits this place more and more.

The American people want to know. They want the facts. They want it all out in public and we should give it to them just as quickly as is humanly possible. That is the only way there is going to be credit brought back to the Capitol of the United States.

ONLY FULL DISCLOSURE SOLVES THE PROBLEM

(Mr. HERGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HERGER. Mr. Speaker, the American people deserve to know if Members of Congress were abusing the privileges afforded to them by the House bank. What is at stake today is the credibility of our institution, or what is left of it. This information will reach the public sooner or later, as well it should.

The real issue before us is whether the House has the courage to release this information itself, rather than waiting for pressure from the press and the public to force the issue.

Let us not compound the embarrassment of this incident by giving the appearance of covering up the truth. Let the public sort out the abusers from the merely careless or unlucky.

BUDGET PROCESS REFORM ACT OF 1992

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 394 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 394

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 3732) to amend the Congressional Budget Act of 1974 to eliminate the division of discretionary appropriations into 3 categories for purposes of a discretionary spending limit for fiscal year 1993, and for other purposes. The first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and which shall not exceed three hours, with two and one-half hours equally divided and controlled by the chairman and ranking minority member of the Committee on Government Operations and one-half hour equally divided and controlled by the chairman and ranking minority member of the Committee on Rules, the Committee of the Whole shall rise without motion. No further consideration of the bill shall be in order except pursuant to a subsequent order of the House.

The SPEAKER pro tempore (Mr. MCNULTY). The gentleman from California [Mr. BEILENSON] is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from New York [Mr. SOLOMON], pending which I yield myself such time as I may consume.

Mr. Speaker, during consideration of this resolution, all time yielded is for the purpose of debate only.

This House resolution is the first rule providing for consideration of H.R. 3732, the Budget Process Reform Act of 1992. A rule for further consideration of the bill and amendments to it will be considered sometime next week.

The resolution before us now provides 3 hours of general debate time, with 2½ hours equally divided and controlled by the chairman and ranking minority member of the Committee on Government Operations, and one-half hour equally divided and controlled by the chairman and by the ranking minority member of the Committee on Rules.

Mr. Speaker, the Committee on Rules has recommended this procedure so that the House may begin debate today on H.R. 3732. After general debate, the Committee on the Whole shall rise without the need of a motion, and no further consideration will be in order except pursuant to a future rule or other order of the House.

For the information of Members, the Rules Committee intends to meet next week, as I've said, to recommend another rule dealing with the consideration of amendments to the measure. In addition, the committee has extended the previously set deadline for filing amendments with the committee until noon on Monday next, March 16.

Mr. Speaker, H.R. 3732 would consolidate all Federal discretionary spending under a single spending cap in fiscal year 1993, in effect eliminating the so-called firewalls between the defense, domestic, and international categories. The bill would not change in any way the overall deficit limit imposed by the Budget Enforcement Act of 1990. The levels of spending in each of these categories are established through the annual appropriations process.

Mr. Speaker, to repeat and in conclusion, House Resolution 394 provides for general debate only. I urge the adoption of the resolution so that we may begin the consideration of H.R. 3732 today.

□ 1140

Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I must confess that I am more than a little ambivalent about this rule. All it does is authorize 3 hours of general debate on the so-called Budget Process Reform Act of 1992. That is the bill that tears down the spending firewalls and breaks all our promises.

Next week the Committee on Rules and the full House will consider a second rule that structures the amendment process for H.R. 3732, a very unusual procedure.

The chairman of the Committee on Rules yesterday announced the third deadline for filing amendments to this bill, the third deadline. This latest deadline is noon next Monday, March 16.

I guess all the Members have a chance now to put in more amendments. But we have to be clear that those amendments that have already been filed are still relevant and are still alive and do not have to be filed over again. I know that the ranking Republican on the Government Operations Committee was concerned about that.

Mr. Speaker, next week will be the third week this bill has been scheduled for floor consideration. The majority leadership is still not sure how it will scrape together enough votes to pass this bill. Presumably, the purpose of this third amendment deadline is to permit the majority leadership to file an amendment to their own bill that will somehow buy off enough votes to pass it. That is really what this is all about.

So I think my colleagues can understand why I am concerned about debating a bill that might be completely changed after we finish debating it, after we use 3 hours of general debate. We are liable to come back here next week and be asked to vote for something we have never seen, something that has never gone through a committee.

Mr. Speaker, our 3 hours of filler time today while we await a vote on another matter, which we all know about, may prove to be totally irrelevant to what we are eventually going to be asked to vote on next week.

Mr. Speaker, my colleagues, adopting this rule is like buying the proverbial pig in a poke. In fact, the further changes the Democrat leaders make in this bill, no matter how we slice it, still come out pork, pork, pork. That is what this whole firewall demolition debate is really all about: How the Democrats can break the budget agreement to buy more pork.

Mr. Speaker, the title of this bill is the most blatant example of false advertising I have seen in my 14 years here in Congress.

One thing this bill is not, Mr. Speaker, is budget reform. If Congress were subject to the Truth in Labeling Act, this bill should be entitled "The Budget Agreement Nullification and Betrayal Act," because that is what it is.

That is what the bill and this debate are all about here today. If we pass this bill, we are walking away from the budget agreement that was struck just 16 months ago. That agreement raised taxes, $140 billion in taxes, on the American people and imposed discretionary spending caps for one reason and one reason only: To bring down the deficit. That is what every one of the Democrat press releases said.

Now, instead of abiding by that agreement, which also requires that any savings in any discretionary categories go exclusively to deficit reduction, Democrats are calling for tearing down the spending firewalls and for increasing spending and increasing the deficit.

Mr. Speaker, how can those Members who voted for the 1990 budget agreement now turn around and support this bill to trash it? Do they tell their constituents that they really did not mean the part about spending controls and deficit reduction? Do they tell them that all they were really interested in was raising taxes and spending those revenues from those increased taxes?

Yes, Mr. Speaker, we heard all the excuses in the Committee on Rules yesterday as to why we should turn our backs on the American people and on that budget agreement. Yes, the cold war is over and we can begin to reduce our defense expenditures. Yes, we have all kinds of unmet social needs that cry out for increased spending on domestic programs. But, Mr. Speaker and my colleagues, the fact is the cold war was already history. It was already history at the time this budget agreement was struck back in 1990. The Berlin Wall had already been down for almost a year; the two Germanys had already been reunited earlier that month; and economic and political reform was already beginning to transform the Soviet Union.

We knew in October 1990 that there would be a peace dividend, but we still made a commitment in that budget agreement to apply any defense savings, any defense savings—that is what we voted for—to deficit reduction.

Has the deficit since then become so small that it no longer matters to Members? Of course it has not. The very fact is that the deficit has practically doubled since the House voted for the budget agreement, from $220 billion in October of 1990 to practically $400 billion today. Talk about bank overdrafts and fiscal responsibility, the deficit makes the House check-kiting scandal look like penny ante.

Congress decided in 1990 that the growing deficit was the No. 1 problem confronting the country, and that goes double today. That is what the deficit is, double today what it was then. Mr. Speaker, we are going to hear people claim that passing this bill will not increase the deficit by one penny. That is what they testified about yesterday before our Committee on Rules. Not one penny, they said.

I suppose technically they are right; it is not going to increase the deficit by one penny. It is going to increase the deficit by billions of dollars because the savings from defense will be going, instead, directly to new spending programs and not to reducing the deficit.

That is a fact that is already reflected in the Democrats' plan A budget, which was adopted last week. That plan A budget assumes enactment of this bill. That is right. Pass this bill and the plan A budget, which contains no firewalls, goes into effect and there is no deficit reduction.

So, do not listen to those who try to claim with a straight face that this bill is deficit-neutral. They are the same people who would have you believe that this bill is a budget reform act when, in truth, it is an act of budget busting.

Mr. Speaker, I have filed a real budget reform amendment to this bill that would give the President of the United States veto recission authority for this coming year. My amendment would reverse our present recission process which requires congressional approval of such Presidential recissions. That is the law today. If the President does not want to spend the money, then we have to take action and vote to give him the authority not to spend it.

My amendment, by requiring enactment of a disapproval bill instead, would force the Congress to act on recissions instead of sitting on our hands and doing nothing.

□ 1150

Mr. Speaker, according to a General Accounting Office report just this past January, if the President had had line-item veto power between 1984 and 1989, we could have reduced the deficit by $70 billion. The amounts ranged from $7 billion in 1985 to $17 billion in 1987.

For those of my colleagues who are truly interested in spending control and deficit reduction, my amendment should appeal to every one of you. But I suspect that the Committee on Rules will not allow me to offer that amendment next week, and that is a shame, my colleagues. It is just one more sign about where the Democrats in this House really stand on the issue of spending control and deficit reduction.

Mr. Speaker, I hope my colleagues will reject this firewall demolition bill so that they can keep the commitment made by the Democrats in 1990. There were 228 Democrats who voted for the 1990 Budget Enforcement Act and who promised their taxpayers back home that budget savings would be applied to the deficit.

Mr. Speaker, I hope we can vote this rule down so that we will not have to vote for a pig in the poke when the bill is considered. At the appropriate time I am going to ask something of my friend, the gentleman from Michigan [Mr. CONYERS] whom I have a great deal of respect for, the chairman of the Committee on Government Operations. With the understanding that my request is supported by the Republican leadership and by the gentleman from New York [Mr. HORTON], the ranking Republican member on the Government Operations Committee. I am going to ask the chairman if he will reserve some of the debate time, this 3 hours today, to be laid over until next week so that we can see what kind of bill we are going to be voting on.

Mr. HORTON. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from New York.

Mr. HORTON. Mr. Speaker, I did talk with the chairman the gentleman from Michigan [Mr. CONYERS], who I do not see on the floor at the moment, and he indicated his willingness to reserve time, and I have also indicated my willingness to reserve time. So, I am sure we can reserve at least an hour of time so that we will have additional time for debate when we come back next week to consider the amendments.

Mr. SOLOMON. Mr. Speaker, I ask the ranking member, "Do you have an agreement with the chairman that he will come to the Rules Committee?"

Mr. HORTON. We did not say anything about the Committee on Rules. We just said we would reserve the time today.

Mr. BEILENSON. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from California.

Mr. BEILENSON. Mr. Speaker, it was this gentleman's intention, I would say to my friend, the gentleman from New York [Mr. SOLOMON], whether or not such an agreement were arrived at today that it would be this gentleman's intention when the Committee on Rules meets again next week to urge at that time, along with making decisions available as to which amendments may or may not be in order, to again provide for some time of general debate that would be acceptable to our friends on the other side because I think the gentleman is quite correct. We are not yet sure perhaps. We do not know what the form of the bill will be at that time, and certainly, if the bill is in any different form at all from what it is or from how it appears before us today, both sides would be entitled to some additional general debate I would think.

Mr. SOLOMON. Mr. Speaker, the gentleman from California [Mr. BEILENSON] is one of the most respected members of the Committee on Rules, and I appreciate his assurance. If that is the case, it would seem to be that we might be able to save the membership some time. We could not use the entire 3 hours today, and we could reserve some time knowing that we are going to be able to debate possibly a revised bill next week. I really do thank the gentleman from California [Mr BEILENSON] for his assurance. That is very helpful.

Mr. Speaker, I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentleman from New York [Mr. WEISS].

Mr. WEISS. Mr. Speaker, let me express my appreciation to the distinguished gentleman from California [Mr. BEILENSON] for yielding this time to me, and, before I get into the discussion further, let me just emphasize the fact that there is nothing in this resolution, nothing in the underlying legislation, which in fact provides for an increase in the deficit. The legislation still maintains the ceilings. All it does is to break down the walls so that in fact we are allowed to shift money from one of three categories to another of the three categories. Anything to the contrary that has been said is totally and absolutely false.

Now, as to the debate, in 1932, when we were deep into what turned out to be the greatest depression this country ever had, the then-incumbent Republican President, a gentleman named Herbert Hoover, kept on arguing that there was no such thing as a depression and that the thing to do was to deal with the underlying deficit and to get the budget into balance. America was in the greatest pain in history, and yet they were still looking backward.

Mr. Speaker, today we have a repeat of that same situation. It is not Herbert Hoover. It is Herbert Walker Bush who is the President, a Republican incumbent who denied until just a bare couple of months ago that there was even such a thing as a recession, when all the world knew it, and certainly many millions of Americans. Estimates are that there are about 16 million who are unemployed and underemployed, who are without jobs, who have lost their jobs. They know that there is a recession, and yet the Republicans and the President keep on talking about deficit reduction.

Mr. Speaker, need I remind anyone that, when Ronald Reagan a dozen years ago came into office, that the annual deficit was under $60 billion a year, that the total national debt was under a trillion dollars, and today we are running deficits under this Republican administration of $400 billion a year, and the total national debt has run to $4 trillion. That is under a so-called conservative, prudent, budget balancing, Republican incumbent President.

The only way that we are going to have any chance at all of reducing that deficit and cutting back on the national debt is to put the millions of Americans who are out of work and who desperately want to work back to work, and that is going to require, when the private sector cannot do it, for the Federal Government to provide some of the infusion of those funds. God knows our infrastructure, both physical and social, desperately needs that infusion. Everyone knows the condition of our roads, and bridges, and rail systems. Everyone knows the problems with our health system and our education system. We need America to be spending money on itself, to be reinvesting in itself.

Mr. Speaker, what this legislation does is to take note of where we are, where America is today and where the rest of the world is today. In 1990, when that agreement was entered into, that summit agreement, which was not imposed upon the President; he was a willing, encouraging participant in that event; the Soviet Union was the great threat to the United States. There is no Soviet Union anymore, never mind threat. There is no Soviet Union. We refer to the "former" Soviet Union because it has been broken into 16 different republics.

Yes, this legislation is desperately needed at this point so we can go about the business of America, of reinvesting in America and the American people.

I hope that the Committee on Rules will make in order an amendment, which I have offered, which will make this legislation apply not just to fiscal year 1993, but also to fiscal year 1992, because the pain is on us now, and the people of this country want relief now. The legislation does not say how we are going to spend that money. It simply allows the Congress to work its will.

Mr. Speaker, I think it is good legislation. I hope the Members will support it. I thank again the gentleman from California [Mr. BEILENSON], my colleague, for yielding this time to me.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, before yielding 5 minutes to the gentleman from Pennsylvania [Mr. WALKER], let me just say that I do not know if I heard right or not. The gentleman from New York [Mr. WEISS] who just spoke said there is no threat. As my colleagues know, there are at least 10,000 nuclear warheads still aimed at American cities, including New York City where he comes from. There are at least 3 million Soviet troops still in uniform. Does the gentleman know that there are no less than ten hostile, anti-American countries right now which are working on developing nuclear warheads? Libya right now may have two submarines with the kind of capability to launch sneak attacks at American targets both at home and abroad. And there is no threat?

Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman from New York [Mr. SOLOMON] for yielding this time to me.

Mr. Speaker, I must admit that, as I stand here, I am very confused, and I am very concerned about where we are headed. This sounds to me like another phony process from a gang who cannot shoot straight and from leadership that cannot run the House right.

Now we have got literally millions of people across this country that are waiting for this House to debate the issue of check kiting because they are very concerned about the fact that this Congress has lost its moral compass.

□ 1210

What are we doing? We are evidently going to engage in a totally phony debate about a bill that does not even have a chance of coming to the floor for a vote. At least that is what I now understand, that the leadership over there has now taken a look at their whip counts and figured out, "Oh, my goodness, we may lose. This bill has been reported out of committee. It is a terrible piece of legislation. It can't get enough support from the Democratic side, there are no Republican votes for it, and we are going to lose this turkey. So, my goodness, what we have got to do now, we have got to retrench and we have got to get back to the Rules Committee and extend the time for amendments so that maybe we have got a chance of coming up with something that will win."

And guess what? That bill will not even have been before any committee. Whatever it is they come up with, and who knows what it will be, it will not have been before any committee, so we are going to be asked basically to vote blindly on it.

We on the minority side are used to voting with our hands tied behind our backs. All the rules that have been brought forward recently have just tied the minority's hands behind their backs in terms of debating bills. We are used to being gagged. We no longer have open rules in the Congress. On every rule that comes out here, we are told in advance what we are allowed to offer. So we are used to operate being gagged. I guess now we are going to have to operate with a blindfold on because this rule suggests we are going to have 3 hours of phony debate today, and maybe next week sometime we will come with another bill that has never been before any committee and maybe we will get some more time.

I think the gentleman from California is very honorable. He says we are going to have some more time to debate whatever it is they come up with next week. Good. That is wonderful. I say, "Thank you." It is nice that at least we might be able to find something out about the bill we are going to vote on.

But this is a horrible process. What amendments are going to be made in order? We have no idea what amendments we might be able to offer because we have no idea what the bill may be that we are going to vote on.

What a stupid process. What a phony process we are going to engage in. And what is it we are doing? We are trying to make certain we do not get around to debating check kiting. We are going to save that maybe until tomorrow so that we can have more caucus meetings about how we can cover up that issue.

Then they are talking about bringing forward another bill, the House administrator bill, that again the minority has not even been consulted about. We are going to create a House officer. The Speaker signed off on this, and we are going to have debate out here about creating a whole new scheme for the House of Representatives that the minority has not even been consulted about. So we are going to engage in 3 hours of phony debate so we do not get to the real debates.

This place has not only lost its moral compass, this House has totally lost its collective mind. We cannot even get to the real issues before the American people. I heard colleagues today talking about the fact that we ought to be debating jobs. Absolutely, we should be. This economy is in terrible shape. Yet what are we talking about here with this bill? We are talking about figuring out a way to spend more money. I love it when these gentlemen come to us and tell us, "Oh, we will break down the fire walls, but that doesn't mean more spending."

Look, who are they kidding? The American people know that every time we touch something it ends up spending more money. The American people are tired of pork barreling. They are tired of Government spending that has gone completely out of control. Then they look and they figure out that "These guys not only can't run the Federal budget, they can't even run their own budgets. They can't even run their personal checkbooks."

They are absolutely disgusted with what they see. Yet what do we do? We engage in a series of phony processes that are designed primarily to get the House off the hook. I am sick of it. I think the American people are sick of it. There are more and more Members on our side of the aisle who are growing sick of it, and it is about time we came to this floor with something a little more presentable than this particular rule.

Mr. Speaker, I would hope that Members would vote against this rule. This is a phony rule, and it ought not be supported by anyone.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 10 minutes to the gentleman from California [Mr. DELLUMS].

Mr. DELLUMS. Mr. Speaker, I thank the gentleman very much for this time.

Mr. WEISS. Mr. Speaker, will the gentleman yield briefly?

Mr. DELLUMS. I yield to my distinguished colleague, the gentleman from New York.

Mr. WEISS. Mr. Speaker, I only need about 30 seconds, and I really appreciate the gentleman's yielding.

The distinguished gentleman from New York [Mr. SOLOMON] had suggested a moment ago that we are still facing a great threat from within the former Soviet Union. So I would ask him where he thinks that threat is coming from, from Russia or from the Ukraine?

Mr. SOLOMON. Mr. Speaker, if the gentleman from California will yield, I would just like to ask the gentleman from New York: Can he tell me who is in power over there right now? Can he tell me who is going to be in power next week, next month, or next year? What happens if that whole Commonwealth arrangement falls apart?

Mr. WEISS. Mr. Speaker, I thought I had asked a fairly simple question.

Mr. Speaker, I thank the gentleman for yielding.

Mr. SOLOMON. Mr. Speaker, I just answered the gentleman's question.

Mr. DELLUMS. Mr. Speaker, let me say to the Members of the House that first I rise in support of the rule and, second, I would like to try to bring us back to the substantive issues that are before the House, and that is the proposition of whether or not we should bring down the so-called firewalls.

Let me for a moment recall history. This body adopted a 5-year budget proposal in 1990 that said that for 3 years the military budget would be protected from cuts that could be transferred to domestic programs for 3 years. We are now debating fiscal year 1993. As a matter of fact, this is the last year that so-called protection is there. Next year the wall would not be there, so we are really only debating 1 year.

Mr. Speaker, to bring the walls down is a very important proposition. Reasonable Members of this body can disagree on that matter. I have no problem with that. That is what this process is all about. I certainly would hope, as I have said on more than one occasion, that we would address the historic significance of this moment rather than, through partisan or political advantage, challenge each other on the issue. Let us come to grips cerebrally with what we are talking about.

Why do I support bringing down the walls? My reason is twofold. We adopted a budget in 1990, and No. 1, world events have overtaken the budget and, No. 2, the American people are feeling economic and social dislocation in unprecedented terms.

It seems to me that it is foolish for a society to keep walking in lockstep with the process when world events and national events have overtaken it. Reasonable people should step back and say that that was 1990 and the world and the Nation have changed significantly enough that we can now deal with that proposition.

Let us go to the first issue, that the world has changed in significant fashion. My distinguished colleague, the gentleman from New York, correctly points out that the Berlin Wall had come down and that the cold war was defined as over when we debated the 5-year budget resolution in 1990. But we are now in a post-Soviet Union environment, and this is an unprecedented moment in American history.

Most recently we had the President of Russia here saying not only that he was no longer interested in being our enemy but he wanted very desperately to be our friend, and he said parenthetically, "If you have any food, help us, because our people are starving."

The world has changed, I say to my colleagues, and we must change with it. The old thinking must now be abandoned. We have been spending $300 billion a year each year for the last 10 years for what purpose? Two major threats—the Warsaw Pact, which has now vanished from the radar screen, and the Soviet Union, which has significantly dissipated. Those two threats in the aggregate have caused us to spend between $150 and $210 billion per annum. Those threats are now gone or are significantly reduced. So what we are saying is, let us now bring down this so-called firewall because we do not need a $300 billion budget any longer.

□ 1210

Yes, we are prepared to put some of the money into the deficit. We are responsible people.

But what is the second part of my argument? It is that American people are suffering economic and social dislocation in unprecedented terms. People are unemployed in America in significant numbers. People who never thought that they could support welfare now find themselves in welfare lines.

Children are killing children on the streets of America. Babies are having babies in America. Senior citizens are concerned about health care in America.

There are American people who are afraid to walk the streets because our social and economic fabric is so thoroughly falling apart and violence is rearing its ugly head. These are the issues we need to be addressing.

So we are simply saying that a reasonable society, a reasonable group of people, yes, we came together for a 5-year budget agreement, but that was in 1990. The world has significantly changed and the pain in this country is extreme.

We have ripped off the dreams of our children. When you can pick up a newspaper and the newspaper says that children in this society do not believe that they will have a sufficient future, that should bring tears to the eyes of every human being in America. We have stolen the future from our children, and we are not addressing the issue.

Yes, reasonable people can differ about whether the walls go up or the walls go down. But let us not burlesque this moment. This is a real moment. It is disingenuous to suggest in some way that this is fraudulent.

For the last several months this gentleman has argued that we ought to get ourselves out of the straitjacket of the 1990 budget agreement. That is my right and my prerogative as a Member of this body. If you disagree, fine. But let us stop burlesquing each other. I believe American people deserve better.

Mr. Speaker, this is an important moment. The question of bringing down the walls is very real.

Finally, Mr. Speaker, we keep talking about this check scandal in relationship to what we are talking about here. Frankly, I think that whole issue is a fraud, and a phony, politically motivated issue that has nothing to do with reality.

The American people ought to be demanding that we get beyond that. But we have got a People magazine mentality in this country. So we do not even begin to deal with the substantive matters, while we play games, wearing bags over our heads in a body that should be distinguished for its diligent work.

Mr. Speaker, I think this is bizarre. We are probably going to spend more time debating that matter than debating the substantive issues of our time.

As I said earlier in the proceedings, members of the Congressional Black Caucus and the Progressive Caucus were the only people that were willing to put their budget on the floor in the full light of day for 8 consecutive hours of debate. A number of my colleagues on the other side of the aisle participated in that discussion, and I respect that fact.

But nobody wanted to put President Bush's proposal on the floor for 8 hours. No one wanted to put the other alternatives on the floor for 8 hours.

We said that after 3½ months of diligent work, we would put the proposal on the floor. The hallmark of that proposal was that we must bring down the walls so that we would not have to spend money on B-2 bombers, but spend money on better schools; we would not spend so much money building new weapons systems, but rather building an economic infrastructure in America that would generate millions of jobs. We said that we would get away from all this exorbitant spending on defense as we chase some shadow threat that no longer exists, when the real threat in America is economic and social insecurity, the fact that our children feel there is no future, and our people have no jobs.

So, yes, I stand here proudly in support of this rule. Second, I stand here, yes, as a defender of the proposition that the wall must come down. If the world had not changed until now, then, fine, let us continue to walk in lockstep. But if the world has changed, it seems to me for both reasons, substantial change in the international community and tremendous pain in America, it requires us to bring that wall down, to significantly reduce the military budget, and get on with enhancing this economy, stimulating the economy, protecting the environment, creating health, and expanding education.

Mr. DREIER of California. Mr. Speaker, I yield myself 6 minutes.

Mr. Speaker, I would like to compliment my fellow Californian [Mr. DELLUMS] for his remarks and say the gentleman remembers very well last week I stood here with him and argued in behalf of his right to have 8 hours to debate that budget when it came forward. If the gentleman recalls, I also argued for some of us to have the same right to offer the kind of proposals that we wanted to amendments that frankly were coming from his side of the aisle on that budget, by the gentleman from Missouri [Mr. SKELTON], the gentleman from Florida [Mr. BENNETT], and others.

So I supported the right of the gentleman from California [Mr. DELLUMS] to have 8 hours, and I think it should be made clear that we also wanted to give the right that we gave to the gentleman to every other Member in this House. But, unfortunately, that rule denied us that chance.

Mr. Speaker, I would like to respond for a moment to the question posed by the distinguished gentleman from New York [Mr. WEISS], who was asking the very important question where in the Soviet Union is this threat coming from?

Well, I think that every single Member in this House recognizes the fact that we have seen tremendous changes. There are cuts that are being made in the area of defense. We are now 3 years into a 5-year program to reduce by 25 percent the defense expenditures.

But, as the gentleman from New York [Mr. SOLOMON] said, we do have a great deal of uncertainty as we look at the former Soviet Union, now the Commonwealth of Independence States.

The gentleman from New York [Mr. WEISS] asked the question, is it from the Ukraine or from Russia?

Well, the fact of the matter is we all know, and the gentleman from California [Mr. DELLUMS], a member of the Committee on Armed Services, and most every Member of this House, are aware of the fact, that there are still today 27,000 nuclear warheads pointed at the United States from the Soviet Union.

I think we need to realize that one of the greatest threats is in fact from the Ukraine, because that is where over 4,000 nuclear warheads are today. Kazakhstan is another place where they are located. I think we need to recognize that point.

Mr. WEISS. Mr. Speaker, will the gentleman yield?

Mr. DREIER of California. I am happy to yield to my friend from New York.

Mr. WEISS. Mr. Speaker, does the gentleman support the effort that is emanating from the former Soviet Union Republics to in fact cut back drastically on their possession of nuclear weapons as well as ours?

Mr. SOLOMON. Mr. Speaker, if the gentleman will yield, I would say we are helping them to do it.

Mr. DREIER of California. Mr. Speaker, reclaiming my time, I would say absolutely. That is a priority item. I want to ensure that we play a role in making sure that those nuclear physicists who have the capability to involve themselves with other Third World countries are not going to do that. We are expending a great deal of resources right now trying to ensure that that threat is lessened.

One of the other things that President Bush included in his State of the Union Message here was to proceed with a strategic defense initiative, which is, again, a priority. The goal, of course, is to ensure that no nuclear warhead ever enters the atmosphere.

Mr. WEISS. Mr. Speaker, if the gentleman will yield further, does the gentleman from California [Mr. DREIER] acknowledge that the recession is more severe today than it was in 1990?

Mr. DREIER of California. Mr. Speaker, reclaiming my time, the question is, is the recession more severe today than it was in 1990? Yes. We are clearly emerging from a recession.

Mr. Speaker, we had this exchange in the Committee on Rules yesterday. I was trying to point out the fact that we have in fact seen improvement in the economy in the past several months. The gentleman from New York [Mr. WEISS] referred to the depression that we are now in when he was in the Committee on Rules. I have to say that I do not agree with that. We have seen some very positive economic signs which have emerged.

But the problem we have in the 1990 package that was put together, the goal was to eliminate the Federal deficit, to try to dramatically reduce it, as other legislative goals such as Gramm-Rudman and other items have tried to do. Unfortunately, we are today in a position where that deficit has continued to grow dramatically.

Mr. Speaker, I happen to believe that if we are going to see a lessening of expenditures in defense, it should be utilized for deficit reduction. Yes, the domestic problems that we have, as outlined by my friend, the gentleman from California [Mr. DELLUMS], are very serious. They are exacerbated in large part because of the irresponsible spending pattern which emanates from this House of Representatives. That is why I believe we have got to do everything that we can to turn the corner on that.

Mr. Speaker, I happen to subscribe to the belief that if we are going to continue to break down these walls and make other modifications of the budget summit agreement, we should in fact do something about what President Bush said he thought was a mistake in that summit agreement, incorporating that massive tax increase on the American people there.

Mr. Speaker, I have an amendment which when we come back next week I am going to try to get adopted here in the House, which would, as we look at changing the scoring process from the Office of Management and Budget to the Congressional Budget Office, that was a violation of the agreement. As we look at reducing the fire walls, that was clearly breaking that summit agreement.

My friend, the gentleman from California [Mr. DELLUMS], said he is in favor of unshackling that budget summit agreement. So I say yes, let us do it, with the amendment of the gentleman from New York [Mr. SOLOMON] on the line item veto, and I would like to see us do that when it comes to the tax increase question.

Mr. Speaker, this is a very serious problem. I happen to believe that the recession, which today may be worse than it was in 1990, is in large part because of this budget summit agreement.

☐ 1220

So that is why I support repealing the tax increase which has been imposed on the American people.

Mr. DELLUMS. Mr. Speaker, would the gentleman yield briefly to me?

Mr. DREIER of California. If I have any time remaining, I am happy to yield to the gentleman from California.

Mr. DELLUMS. Mr. Speaker, just quickly, the gentleman mentioned on several occasions the issue of the deficit. What has contributed to the deficit? A rapid rise in the military budget. We are trying to turn that around. Unequal distribution in our tax system with greater tax benefits going to the wealthy. We are trying to turn that around.

Mr. DREIER of California. Mr. Speaker, I happen to disagree with that.

Mr. DELLUMS. The gentleman may disagree.

One other contributing factor to the deficit has been the recession itself. When people are unemployed they cannot pay taxes. It does not go into the coffers.

Mr. DREIER of California. The recession came about because of the 1990 summit agreement.

Mr. DELLUMS. If the gentleman would continue to yield, we are arguing we have to have a program to turn around the recession.

Mr. DREIER of California. We do have a program to end the recession. The President asked that we, by March 20, get it to his desk. I hope very much we will do so.

Mr. BEILENSON. Mr. Speaker, I yield 6 minutes to the gentleman from New York [Mr. SCHEUER].

Mr. SCHEUER. Mr. Speaker, I yield to my colleague, the gentleman from California [Mr. DELLUMS].

Mr. DELLUMS. Mr. Speaker, I thank the gentleman for yielding to me.

What I was simply trying to say to my colleague is that there are those of us on this side of the aisle who are willing to contribute cash to try to bring down the deficit.

No. 2, because the military budget went up quickly it contributed to the deficit. We believe bringing the military budget down helps to deal with that.

No. 3, we said that providing major tax breaks, to the wealthy and the corporate elite contributed to the deficit.

No. 4, we said that the recession itself contributed to the deficit. Many of us had a program to try to turn around the recession.

There are two other remaining significant contributors to the deficit. One of them is the S&L crisis. I hope that is temporary. I hope that someday we will get beyond that. But what is the fourth and most significant contributor to the deficit that all of us know about is that we are spending in excess of $800 billion on skyrocketing costs of health, because health care costs are uncontrollable.

Many economists and many health professionals have suggested that if we do not get a handle on the costs of health, even if we find $1 trillion in peace dividends it would be soaked up by just trying to deal with that.

Mr. DREIER of California. If my friend, the gentleman from California, would yield on that point, I think it is important to realize that the second highest item in the budget is paying interest on that debt, so it gets right back to my point of trying to reduce this horrendous deficit.

Mr. SCHEUER. Mr. Speaker, I want to make one very simple point here today. That is that Congress, by that resolution that we passed in the fall of 1990, has crippled our ability to deal with the realities of life, today with the realities of the threats that face us now and the dangers that face us in the future.

We cannot afford to limit our choices and limit our options as we face each day's challenges. That is highlighted by the fact that with these limitations we are totally incapable of meeting the realities of today's challenge in a way that is sensible.

Since that agreement was made in the fall of 1990, the real threat to us, the reason we spend $300 billion a year, has disappeared, the existence of another superpower.

That does not mean there are not threats out there. There are. There is the threat of regional wars. There is the threat of a Saddam Hussein, of an Idi Amin, of the Khomeini, of an Assad. Of course there are regional threats out there, but there is no other superpower threat. That means that there is absolutely no justification for continuing to spend $300 billion a year on defense.

Now, nobody is talking about unilateral disarmament, nobody is talking about dismantling our present defense establishment. What we are talking about is the option that we have now not to spend additional hundreds of billions of dollars in creating new systems, new missiles, new ways of defending ourselves against another superpower.

We have a vast ability to meet with the regional threats that face us around the world today. I must say to my colleague, the gentleman from New York, when he enumerated the threats that faced us, I thought that was some kind of Kafkaesque synopsis that was facing us, some kind of Alice in Wonderland upside down world.

The elements of the former Socialist republic, the individual republics, the Ukraine, the Warsaw Pact, they are all rushing toward democracy.

Yes, they do have a legacy of the U.S.S.R., the now nonexistent U.S.S.R. They do have the legacy of those missile installations that were installed during that cold war spell.

If the Russians did not let one of those missiles loose on us during almost half a century when we were involved in a bitter confrontation, does anybody think that now in an era of peace, when they are asking us for food, when they are asking us for science and technology, when they are asking us for development aid, does anybody really think that those Russians, who are very conservative people, are going to loose a nuclear missile on us now? That is preposterous. It is utterly preposterous.

We cannot limit our choices. We have domestic needs of every kind that are pressing in on us. My colleague, the gentleman from California, articulated that.

Let me say one final word. It is time we started facing our real choices. We have to stop saying that we cannot afford to do this or do that when all we mean is that we cannot afford it within the rules of the game that we have arbitrarily established and agreed to play.

"Let us liberate ourselves to do what has to be done considering all the options out there." My friends, these are not my words. These words are words, testimony from Herbert Stein, the conservative Republican economist who served as President Nixon's chairman of his Council on Economic Matters. What has to be done is to educate America's kids, to make America more productive. That is the challenge of today. We should liberate ourselves from these chains of the past, to use our resources, to deploy today's resources in a way that makes sense for Amercia.

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana [Mr. BURTON], a very distinguished member of the Committee on Foreign Affairs with whom I served for many years.

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman for yielding time to me.

Lest we be confused, the issue here right now is not defense. It is what we do with the savings from defense. When we passed the budget summit agreement in 1990, there was a firewall erected and it said in the budget summit agreement that the moneys saved from defense were to go for deficit reduction, because we were running huge deficits. They were running about $220 billion a year.

In 1990 we raised the American people's taxes $181 billion to get control of the deficit. We erected these firewalls so that the defense spending savings would go into deficit reduction.

What happened? Because of the tax increase, the recession was exacerbated, and we do not have a $220 billion deficit anymore, it is $400 billion a year.

One of my colleagues over here said, "What are we doing to the kids of this country?" I want to tell the Members, we are really doing a lot to them. The deficit is $400 billion a year and going up. Now they want to blow the savings from defense on more pork barrel projects. That is not going to solve the problem. It is going to exacerbate the problem. The deficit continues to go up.

Ten years ago the national debt was $1 trillion. Now it is $4 trillion. It took us 200 years to get to $1 trillion and 10 years to quadruple it to $4 trillion. They are killing the future of the kids of this country.

The interest on the national debt is running well over $300 billion a year because we continue to spend ourselves into a terrible, terrible hole. We are not going to pay for that, the future generations are.

□ 1230

So we are borrowing today from our kids, and the kids are going to have to pay that back, and they are going to be unable to do so.

So what is going to happen? Their standard of living is going to go right down the tubes.

So what do we do? What should we do? We should not tear down these firewalls. What we should do is use the money from defense for reducing the deficit. In addition, we should cut taxes and put people back to work.

When we cut taxes under Ronald Reagan we created 21 million new jobs. They say the deficit was caused by Reagan. The fact of the matter is, when Reagan took office revenues coming into the Treasury were $500 billion a year. Do my colleagues know what they are now? They are $1.3 trillion, almost triple the revenue coming into the Treasury.

The problem is not that we do not have enough tax money. The problem is they are spending too much, and they want to spend more. They want to tear down those firewalls so that they can get at those defense savings that are supposed to reduce the deficit, that will help the future generations of this country not have to deal with more and more debt.

So I would just like to say to my colleagues, if they are concerned about the kids, if they are concerned about the future, if they are concerned about the future well-being and economic health for our kids, then let us get control of spending around here, not just raise more taxes and spend more, and spend more, and spend more. Get control of the spending if Members really care about the kids.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Michigan [Mr. TRAXLER].

Mr. TRAXLER. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, let me begin by telling Members that as chairman of the HUD-VA-Independent Agencies Subcommittee, this is a matter of considerable interest to me, because the outcome will affect very dramatically the kind of bill that the subcommittee will be bringing to the floor in the months to come. I can state very candidly and very forthrightly that unless we get some relief from breaking down the walls from the defense and foreign aid categories, and nobody knows where the money will come from, why not take it from foreign aid, we do not have to take all the money from defense, take it from foreign aid. That is what we are looking at and that is what I want. Unless we do that, I can assure Members that nobody will be happy with the bill that we will present because nobody will be able to produce a bill that will satisfy the Members or even a minority of the Members of this body. By that I mean we can look at the reductions that will be made in the National Science Foundation, the reductions that will be made in NASA, the reductions that will be made in Veterans, and the reductions that will be made in EPA enforcement programs. Nobody wants any of that. That affects every American in some fashion, directly or indirectly. I also neglected to mention public housing as well.

I cannot urge in stronger terms how important it is today that we enact a rule, and then go on to pass a resolution that will allow us to exercise the discretion of determining how all the Federal money in the discretionary areas is to be allocated among competing domestic needs. This is essential. The walls make no sense. They are coming down next year under the budget agreement anyway.

We are not adding to the deficit in this proposal. The deficit will remain the same. We are rearranging the deck chairs.

Some Member will say that this is the problem that this is really the *Titanic*. Guess what. I do not disagree with that. I disagree with the definition that was given to us recently as to how we got here.

We got here through borrow and spend. We got here through the Republican Presidents' borrow-and-spend tactics. Slash taxes, slash taxes, increase defense, that is what brought us here, and we borrowed that money.

Do Members not think the American public understands that? You built prosperity in the 1980's on the backs of your children and your grandchildren. You flooded the country with borrowed money, and you said this is prosperity.

Shame on you. Have you no conscience for lying to the American public? Do you think they are too stupid to understand those kinds of trickle-down economics?

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield?

Mr. TRAXLER. I am delighted to yield to my colleague, the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Speaker, can the gentleman explain one thing to me: How did we go from $500 billion a year in tax revenue to $1.3 trillion and be on credit? The problem is not revenues, it is your spending.

Mr. TRAXLER. Mr. Speaker, I will take back my time, and I will answer the gentleman. It came from Social Security increases. Fundamentally, I say to the gentleman, that is where it came from.

Let me also say we cannot slash taxes and increase defense dramatically, and if we had not cut taxes in 1981 we would not be in this problem. We would have enough money.

Mr. DREIER of California. Mr. Speaker, I yield 2 minutes to my friend, the gentleman from California [Mr. DOOLITTLE], a very distinguished member of the "Gang of Seven."

Mr. DOOLITTLE. Mr. Speaker, I thank the gentleman for yielding the time. I would like to commend my colleague from New York, Mr. SOLOMON, who is attempting to offer an amendment—which I support—which would allow for a legislative conferral of line-item veto authority to the President of the United States.

I happen to be one who believes the President inherently has that authority, and I have urged him to use it, and will continue to do so. But I would be delighted if the Congress would officially recognize that and give him the power to make spending reductions as Mr. SOLOMON and I are proposing. I think it is scandalous the amount of spending that has gone on over these past years.

I think for the decade of the 1980's—and it is worse now—but for the decade of the 1980's the annual average increase in inflation was 4 percent, and the annual average increase in revenues into the Federal Treasury was 7 percent, and the annual average increase in expenditures out of the Federal Treasury was 11 percent. So year in, year out, we are increasing spending by nearly 3 to 1 over the rate of inflation. That is absolutely amazing. And it is disastrous for our economy.

The line-item veto, I think, is what is needed to address the problem. I just hope that this House will revert to its antecedents which basically are true democratic rule with a small "d" where one can offer amendments and have them debated and considered on the floor and not bottled up in some rules committee denying the membership of this House the opportunity to make a reform that would be vital for the long-term financial well-being of the American people.

I urge the Rules Committee to let us debate and vote on the line-item amendment to be offered to the legislation which is the subject of this rule.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, throughout my congressional career I have voted to shift funds from defense to domestic spending, but today, reluctantly, I will not vote to lower the firewalls. I think it is a mistake, for the following reasons, and some of them are personal and relate to my own State:

First, I am concerned about the impact such a move will have on the deficit. If the firewalls remain in place, our deficit will be reduced by over $9 billion this fiscal year.

Second, I am concerned about the hundreds and thousands of people that will be losing their jobs in the defense industry. Nothing has been done to convert the defense industry into viable alternative post-cold-war activities that maintain these people livelihood. What is going to happen to them? They deserve an answer.

Third, Mr. Speaker, I have 15,000 New Mexicans dependent on the Los Alamos National Laboratories for their existence. While the labs are changing their focus from making bombs to environmental cleanup and research and other scientific priorities, that transition has not happened yet.

If our parents or our grandparents thought that the few dollars they scrimped and saved each paycheck wouldn't have made a difference in the long run—many of our parents and grandparents would not have had a house or a car to call their own or have been able to help their children through college. Without their foresight to plan and work toward these goals, few of us would have the opportunities we have today, we need to do the same for our children.

For these reasons, Mr. Speaker, I will not support lowering the firewalls.

Mr. SOLOMON. Mr. Speaker, as I understand it, there are no further speakers other than the closing speaker on the other side, and that being the case, I yield the balance of our time to the distinguished gentleman from California [Mr. DREIER], a member of the Committee on Rules.

The SPEAKER pro tempore (Mr. MCNULTY). The gentleman from California [Mr. DREIER] is recognized for 1½ minutes.

Mr. DREIER of California. Mr. Speaker, I thank my friend for yielding the time.

Mr. Speaker, as we close out this debate it is very clear what we are doing here is violating an agreement which I opposed in October 1990, and I know my friend, the gentleman from California [Mr. DELLUMS] did too. But frankly, a majority of this House supported it.

I think it was a mistake. But the fact of the matter is, the one good thing that was coming out of that, and I opposed it because of the tax increase, but the one good thing that came out of it was we were trying to deal with the deficit, and there are Members who are trying to convince us that this package is not going to be violated.

□ 1240

In fact, just yesterday in the Committee on Rules the very distinguished chairman of the full Committee on Government Operations said that this measure does not break the budget agreement; the budget deal remains intact. Well, Mr. Speaker, it seems to me if you believe that, you believe that Humpty Dumpty is a good egg and not scrambled eggs. It is broke, and I think it is a mistake.

We should adamantly oppose this kind of effort which is ultimately going to jeopardize the future of our Nation.

Mr. SOLOMON. Mr. Speaker, I have no further request for time, and I yield back the balance of my time.

Mr. BEILENSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this gentleman simply wants to remind his colleagues both in the offices and on the floor that this rule, if adopted, would provide for general debate of about 3 hours, up to 3 hours today. The Committee on Rules intends to come back with another rule next week, at which time we will determine which amendments may be made in order.

The gentleman would also like to point out in his opinion at least that there has been a very interesting discussion here today and would like to again point out to his colleagues that passing this rule would make available an additional 3 hours today for continuing this discussion as well as continue the discussion for another hour or more, several hours, in fact, next week when we come back with the second rule.

I urge Members to vote in favor of this resolution.

Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to House Resolution 394 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3732.

□ 1242

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3732) to amend the Congressional Budget Act of 1974 to eliminate the division of discretionary appropriations into three categories for purposes of a discretionary spending limit for fiscal year 1993, and for other purposes, with Mr. JENKINS in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Michigan [Mr. CONYERS] will be recognized for 1 hour and 15 minutes; the gentleman from New York [Mr. HORTON] will be recognized for 1 hour and 15 minutes; the gentleman from Massachusetts [Mr. MOAKLEY] will be recognized for 15 minutes; and the gentleman from New York [Mr. SOLOMON] will be recognized for 15 minutes.

The Chair recognizes the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, members of the committee, today, this afternoon, we deliberate a single straightforward change that would reflect new realities both at home and abroad. We must decide whether we stay on a cold-war footing or recognize that defense savings can be invested here at home for the first time in a half century.

To seize this historic moment, we must make a minor midcourse correction, and that is eliminating the firewall around military spending that was erected in the 1990 budget summit.

A year later, that military-spending firewall has become a statutory straitjacket that precludes the investment of any defense savings here at home. In effect, it prohibits us from realizing any peace dividend until fiscal year 1994.

Just as the fall of the Berlin Wall reflected the new reality in Europe, the elimination of the budgetary firewall that protects military spending would properly reflect this new reality. Without this simple and commonsense change, we will still have a cold-war budget process in a post-cold-war world.

This is a wakeup call to the Congress. Now is the time to make a modest change merely a year ahead of the time that is already provided in the Budget Enforcement Act.

This is a time that cries out for leadership in meeting the changes at home and abroad. Here, at home, our economy is in a period of economic stagnation. The supply-side economics practiced by the last two administrations have produced massive deficits, the worst recession since the Second World War, and a domestic economy that is on the ropes, with scant hope of meaningful growth.

In the face of this economic mismanagement with unemployment at 7.3 percent and rising, 9 percent in Michigan, 13 percent in the city of Detroit, the President of the United States offers us very little. His budget was resoundingly rejected by 119 House Members of the Republican Party and ridiculed as tissue paper by one of his Republican Presidential rivals. This is the same administration that proposes that this country needs more of the same.

In the meantime, we should presumably pray to the cyclical economic gods to solve our short- and long-term fiscal ills.

We need to change to meet the challenges of a changed world. The Democratic economic recovery program would both further reduce the deficit and make needed investment in jobs, particularly in communities devastated by military cuts, as well as investments for our children, our veterans, our senior citizens, and working Americans most hurt by the Bush recession. That is why the passage of the measure before us, H.R. 3732, the Budget Process Reform Act, has become so pivotal, so significant, so indispensable to the resolution of our economic crisis.

Our defense needs have changed, because the world has changed. With the end of the cold war and the collapse of the Soviet threat, there is wide bipartisan consensus that we can realize significant military savings. I repeat, there is wide bipartisan consensus that we can realize significant military savings. Indeed, even the President of the United States is united in this factual agreement.

But under the antiquated minicaps established by the 1990 budget summit, those savings cannot be intelligently reinvested for jobs and economic competitiveness. Yet, President Bush remains steadfast in his opposition to changing the now outdated law.

As a fiscal matter, the opposition shows how little the administration still refuses to recognize and confront the effects of the economic downturn it has created here at home.

As a practical matter, this opposition means that many more working and middle Americans will be out of work—as many as 400,000 who would otherwise be employed educating our children, retraining our workers, building our bridges, keeping our streets safe, and conducting our research and development so that we can better compete in the international marketplace. In short, if the administration prevails and this measure, H.R. 3732, is not passed, middle-class working Americans stand to be the biggest losers.

Eliminating the military spending firewall 1 year early is all that this bill does. Doing that accomplishes two complementary goals.

It prevents deep domestic cuts in the fiscal year 1993. CBO, the Congressional Budget Office, says that unless this measure is passed, outlays for domestic programs will be slashed $6.4 billion below 1992 levels.

□ 1250

It will also allow us to begin making longer-term investments here at home that will rebuild America and restore our competitive position internationally.

It will not affect defense spending. It will not affect defense spending. I am very happy to emphasize that fact, because under both the walls down plan that I advocate and the walls up plan, the budget authority and the budget outlays remain precisely the same.

Our bill thus addressed both our short-term and our long-term economic ills.

Now, we also understand the importance of both reducing the deficit and increasing investments in our future which have dramatically and dangerously declined in the past decade.

What we have here is an example in this chart of the shrinking share of the budget that is dedicated to Federal investment. We began at the beginning of the Reagan term with an investment of 13.8 percent of the budget for that fiscal year. These are investment programs dealing with community and regional education, employment and training, energy programs, environment and natural resources, health care, housing, science, space technology and transportation. This investment is an incredibly vital commitment that this Government, like any corporation in the private sector, has to make if it wants to continue to be viable and competitive.

So we understand the importance of both reducing the deficit and increasing investments in our future.

The current massive deficits are largely a creation of failed supply side economics, sponsored by a succession of Republican Presidents. Each year during the Bush and Reagan Presidencies have added as much to the deficit as all the previous budgets in our history. Without question, these deficits are decreasing our product capacity. That is why the humble proposal before the body today would cut the deficit below the benchmark set by President Bush at the 1990 budget summit.

These, Mr. Chairman, are the dire economic facts of life under the last two administrations, not only attested to by myself, but documented by the Joint Economic Committee.

We are currently in the longest recession since World War II, 18 months and still counting.

The Bush administration is the first in the post-World War II era to have a negative rate of economic growth.

During the Bush and Reagan years, the income of the wealthiest 20 percent of Americans grew by more than 20 percent, while the earnings of 60 percent of Americans who are middle and lower income actually declined.

In fact, income of the wealthiest 1 percent grew by 65 percent during this period, while the earnings of the poorest 20 percent among us declined by 6 percent. The rich are getting richer. The poor are getting poorer.

During the Bush and Reagan years, effective tax rates have gone up for the poorest Americans, while they have been slashed for the wealthy.

It is just not my belief, but these have been documented by the Joint Economic Committee and by public sector and private sector experts alike.

In the face of this economic crisis, President Bush submitted a budget full of gadgets and gimmicks. Indeed, the Joint Economic Committee estimates that the Bush budget accounting gimmicks would hide $61.3 billion in deficit increases over the next 5 years.

In contrast to this continued policy of economic neglect, our program addresses the key economic problems that we all must confront. In particular, the Budget Process Reform Act before you now would allow crucial strategic investments in our future.

This is the real world, Mr. Chairman. This Reform Act deals with the problems that we have to meet here in each of our districts.

We would create in terms of jobs as many as 400,000 new jobs more than the Bush budget.

It would create 220,000 more jobs than would be created with the walls down. Inside that 220,000 jobs that would be created with the walls down we would come up with 100,000 more highway jobs, 86,000 more housing jobs, 24,000 more mass transit, 6,000 more airport improvement jobs, 3,000 more Social Security jobs. Count them, 220,000 more kinds of employment that would be created with the budget walls down.

In addition, we would be helping education, which would be the biggest loser if these walls do not come down. With the walls down we could provide $2.7 billion in additional education aid. Impact Aid to assist the local school districts would be increased by $423 million.

We would increase Pell grants by $951 million.

We would allow the Head Start Program to enroll an additional 37,000 preschoolers.

Education is where we have got to invest more resources if we are to regain our competitiveness. Education is the hope for the future.

In terms of health, we would with the walls down allow 110,000 more veterans to get VA hospital care provided them. We would have 2.4 million veterans able to make more outpatient visits.

We would have 850,000 more low-income women who would receive primary and prenatal care through infant mortality initiatives and community health centers with the walls down. These are important concerns for programs that in my district and in many of yours, would benefit by having these additional services provided.

We would allow 200,000 more women, infants and children, to receive nutritional assistance under the WIC program with walls down.

We would allow $391 million more to be made available for the National Institutes of Health in biomedical research with the walls down, allowing for the funding of many more of the NIH research project grants and increasing the average grant amount.

There would be $318 million more available for AIDS programs with the walls down, including fully funding the Ryan White title I grants.

For the Alcohol, Drug Abuse and Mental Health Administration [ADAMHA] we would give $166 million more for their very vital work with the walls down.

□ 1300

And there is this whole problem to rebuild America to meet our new economic challenge. In this consideration, I urge you to join with me in supporting a walls-down provision that would invest $3.1 billion in rebuilding America's highways, bridges and deteriorating infrastructure. We would make $539 million in economic investments in jobs to help communities hit hardest by the recession, by the base closures and the defense cuts that we all acknowledge are coming. Ninety thousand additional dislocated workers would be assisted with walls down. $417 million more would be provided for energy programs with walls down, including energy research and development, conservation, State grant programs, the promotion of the conservation and alternative fuel conversion for cars and expanding the strategic petroleum reserve.

So, H.R. 3732 simply makes one commonsense adjustment in the budget process. It consolidates all discretionary spending under a single cap. Only the so-called minicaps are eliminated.

The bill would thus allow Congress greater flexibility to reduce the deficit and to help support all who will be displaced by military restructuring, to fight the immediate problems of the recession here at home and to begin reinvesting in America's long-term needs for economic growth.

Join me in this very important process measure that is before us and sleep comfortably in your beds at night knowing that this bill does not break the budget deal.

Mr. Chairman, this does not violate the budget agreement. The overall deficit limits in the Budget Enforcement Act are not changed in any way. Indeed, our current budget package would cut the deficit below the benchmark set by President Bush at the 1990 budget summit.

Now, the President is waving his veto pen at this jobs and investment strategy, just as he waved it at unemployment benefits and middle-income tax relief. I am real worried about that. We have to really get shook up.

The President, note, threatens yet another veto. Everybody that is afraid of that, you can take consolation in knowing that that happens on just about every important bill. It may be a measure of the value of this legislation. So, what I am saying is not to worry.

We recognize that there are two fundamental economic problems: a short-term one, brought on by the economic recession; and the long one, brought on by long-term economic neglect. Unless we make the right and forwardlooking investment decisions, we will not be able to confront both these dual problems.

There is only one way we can invest the savings at home and still reduce the deficit—eliminate the military spending fire wall. This measure would remove a budgetary straitjacket and allow a modest and prudent package of investments in America's future.

So, let us join this committee in doing the right thing. I urge our Members to give this budgetary process bill its very careful and favorable consideration.

Mr. AuCOIN. Mr. Chairman, will the gentleman yield to me?

Mr. CONYERS. I yield to the gentleman from Oregon [Mr. AuCoin].

Mr. AuCOIN. I thank the gentleman for yielding.

Mr. Chairman, I certainly appreciate the gentleman's outstanding leadership on this issue. The gentleman mentioned the prospect that we have heard of a Presidential veto on this bill. I would surmise from that that the President is threatening a veto because he is afraid that, if the firewalls are brought down, that Congress at some subsequent point would pass a piece of legislation that would authorize or appropriate spending for something with which he might disagree. For that reason, he is threatening to veto this bill that brings down the walls.

My judgment would be that what the President ought to do is let us bring down the walls so we can sensibly look at what our priorities are in this country and then take the subsequent actions to invest in those priorities. And then, if the President finds himself in disagreement, he can, can he not, veto those bills, veto any one of those bills?

Mr. CONYERS. If I might say to the distinguished gentleman from Oregon, he has put his finger on it. We have a pen-happy President, who is predisposed to threaten vetoes even in advance of the thought of having constructive legislation flow out on the budget process.

There would be ample time for us to receive his threats of veto as, one by one, Congress works its will on the programs, none of which is at the point of being brought to the President's desk at this point in time.

So, the President is premature in his threats. But it does serve to let us know that we might be on the road, it seems to me, I say to the gentleman from Oregon [Mr. AuCoin] of something very important here. In advance of any tangible evidence of these bills coming to him, he is telling us right now he will just veto the entire budget process, undoing the work of the Committee on the Budget and the Committee on Government Operations in one fell swoop, if we are to believe his threats. The gentleman's point is well taken.

Mr. AuCOIN. If the gentleman would yield further to me, that then seems to be a way of saying that the President is basically saying, "I don't even want to know what you might want to invest in in the United States. I don't even want to know, I am going to veto this right now so you don't get a chance to show us where you would like to invest in America and its domestic priorities."

That seems to be what the threatened situation on this legislation is. I think it is wrong. I think it does not serve the country.

Mr. CONYERS. The gentleman is correct. This one gentleman has been numbed by the number of veto threats, which are the largest number in my memory. So, I really measure the importance of our work here in the Congress by whether or not it has a threat, or the threat of a threat of a veto.

Mr. Chairman, I reserve the balance of my time.

Mr. HORTON. Mr. Chairman, would the gentleman yield before he reserves his time? I just wanted to ask a question.

Mr. CONYERS. I would be happy to grant myself additional time. I guess the gentleman is a little short already.

Mr. HORTON. No, no; I just want to ask a question.

The CHAIRMAN. Does the gentleman from Michigan [Mr. CONYERS] seek additional time?

Mr. CONYERS. Yes. I will take additional time, and I will yield to the ranking member, my good friend, the gentleman from New York [Mr. HORTON].

Mr. Chairman, I yield myself such time as I may consume.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from New York [Mr. HORTON].

Mr. HORTON. I thank the gentleman for yielding.

I just want to ask the gentleman from Michigan [Mr. CONYERS] a question.

Mr. Chairman, for some time the gentleman went through all of the items that would be served as a result of tearing down the firewalls. I was just curious as to an overall figure. As I listened to the gentleman, I came up with something like $90 billion, but that is just a guess. Does the gentleman have a figure for all of the items that he talked about that would be taken care of if this legislation were passed? I just want to know if he had an overall figure for that.

Mr. CONYERS. Mr. Chairman, I have not totaled it up, but it would probably be in the neighborhood of $6.5 billion.

Mr. HORTON. Well, I would think it would be a lot more than that, but I will accept the gentleman's statement.

Mr. CONYERS. This is in comparison to the President's budget.

Mr. HORTON. No; I was not comparing it to the President's budget.

The gentleman indicated there were certain items that would be taken care of if the walls were removed and certain jobs would be performed. He then went through a large number of items where he said, I remember one figure was $3.1 billion for highways. And there were others.

I just assumed that those amounts would be quite a substantial amount. In other words, there are a lot of people asking to get moneys, and much of it is warranted requests, but I was concerned as to the total amount because I do not think we are dealing with that much of an amount.

Mr. CONYERS. If I may reclaim my time, I can clear this up a little bit for my friend from New York—and I am yielding him all this time at the beginning, so I hope he will think kindly of me if I end up on the short side later on.

□ 1310

Mr. Chairman, there is a lot of budget authority in here, in addition to the budget outlays, so that it would not be all reflected in the fiscal year 1993.

Mr. HORTON. Mr. Chairman, I thank the gentleman from Michigan [Mr. CONYERS], and I yield myself 15 minutes.

Mr. Chairman, I would like to engage the chairman, the gentleman from Michigan [Mr. CONYERS], in a bit of a colloquy. I understand we have 2½ hours allocated to the Committee on Government Operations, which means that on the minority side we have 1 hour and 15 minutes, and I had talked to the chairman before, and I understood that we would reserve 1 hour of our time, one-half on his side and one-half on mine.

I have just been informed from the gentleman's side that there is a request that we not yield any of this time. I think we need 1 hour's time for next week. But I understand that there will be some time yielded to us for the general debate, if and when we get a rule for the amendment process.

So, Mr. Chairman, let me ask the gentleman, "What is the situation with regard to time here today?"

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I would be willing to agree that we should reserve some time, I say to my friend.

Mr. HORTON. Under the circumstances, Mr. Chairman, I would like to inform the Chair that we should save 1 hour's time, half an hour on this side and half an hour on the other side, and we will reserve that time today so that we will have an additional hour next week for the general debate.

Mr. Chairman, I thank the gentleman from Michigan [Mr. CONYERS].

The CHAIRMAN. The Chair states to the gentleman from New York [Mr. HORTON] that, when the motion to rise is made, if there is 1 hour left, 30 minutes on each side, then of course the gentleman is correct.

Mr. HORTON. We will reserve our time at that point, Mr. Chairman.

The CHAIRMAN. Then the gentleman is correct.

Mr. SOLOMON. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Chairman, I just walked onto the floor and was prepared to get into a colloquy to find out how we are going to do this.

Mr. HORTON. Mr. Chairman, I say to the gentleman, "That's what we're going to do, have half an hour on this side and half an hour on the other side."

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, we will probably, if we need more time, repair to the Committee on Rules for additional time, but under the circumstances of the day, and if it meets with the ranking minority member of the Committee on Rules who is on the floor, we would reserve a half hour of each of our allotted times.

Mr. HORTON. Mr. Chairman, I thank the gentleman from Michigan [Mr. CONYERS].

Mr. SOLOMON. Mr. Chairman, if the gentleman from New York [Mr. HORTON] will continue to yield, I think that is certainly more than fair. If the gentleman does intend to rise with 1 hour of debate left, that would guarantee us next Wednesday, or whenever, having at least 1 hour to debate whatever new bill may come forth. If that is the intention, I just would commend and thank the gentlemen for making that understanding.

Mr. HORTON. Mr. Chairman, this is an unusual situation because normally rules provide for general debate and then for whatever amendments are available, and under this rule all we have is a rule for general debate or 2½ hours for the Committee on Government Operations, equally divided between the chairman and myself as ranking minority member, and then a half hour for the Committee on Rules today, a half hour for the chairman and a half hour for the ranking member on this debate, and then it is my understanding that next week the Committee on Rules will go back and come up with a further rule which will provide for amendments. I will have an amendment and have an amendment before the Committee on Rules, and we will talk about that in just a few moments.

Mr. Chairman, back in 1990 this country was in a quandary about how it was going to get control of its huge budget deficit and its ever-increasing public debt. For months it seemed like the budget deficit was all we heard about. From spring until the fall, the administration, and Members from both houses and both parties, the leadership on both sides, met, not only on the Hill, but at the White House, and then they also met, as I understand it, at Andrews Air Force Base and spent many long hours trying to come up with a proposal which could be submitted, and ultimately at the negotiating table they came up with a proposal which came here, and it was basically to try to hammer out the details of a budget agreement that would take hold of the budget crisis, trying to inject some discipline into the way Congress spends money.

As everyone knows, including those who voted for it, the Budget Enforcement Act of 1990 was not a pretty sight.

I want to say at this point that I did not vote for it for several reasons, but one of them was not the reason we are going to talk about here: fire walls. I thought the fire walls part of the budget was very good.

The Budget Enforcement Act of 1990 was provided for taxing unemployment compensation, which I felt was wrong. It also provided for taxing of election commissioners, which I thought was wrong. It also provided a new provision for removing the ability of people to deduct real estate taxes. I thought that was wrong. It also added tax on the sale of boats on the use of boats, and automobiles and jewelry, and I thought that was wrong.

So, basically I thought the Budget Enforcement Act should have been defeated and we should have worked something out which would have been a better situation with regard to those taxes. But I did agree, and work in the conference, with regard to these budget walls.

So the act did have the virtue of continuing and improving the spending discipline put into place by Gramm-Rudman-Hollings in 1985 and 1987. The 1990 act like earlier budget laws, was enacted in an atmosphere of emergency. The grave seriousness of the deficit and debt problem was lost on no one. Everybody understood that the deficit was the big problem deficit, and what are we going to do about it, trying to balance our budget.

Our thinking was that a regime of discipline was the only way to keep hold of our resolve to lower the deficit. And by discipline I mean putting something in place that over time would force us to act to lower the deficit.

It is now 2 years later—and we still have a deficit. In fact, it is even higher than in 1990, although the deficit would be higher still without the discipline of the 1990 act. All the same arguments that made us unanimously concerned about the deficit in 1990 should be at least as powerful now. Now, in 1992, we are in the firm grasp of a long-term recession. Economic indicators affected by a high deficit, such as a low savings rate and an imbalance of trade, are all coming up wrong. The demand for Government-funded services is only increasing. And waste in Government spending continues to occur, although we do everything we can to try to avoid that and to try to cut back on the waste.

In this situation I fail to grasp how Congress could think that the battle has been won, that it is acceptable to forget about reducing the deficit. We have a $400 billion annual deficit, and it is growing every year. A little over a decade ago, about 10 years ago, the deficit was only about $70 billion. Now, 10 years later, the public debt is $3.6 trillion. We are obligated to take every opportunity that we can to work to reduce that public debt.

Mr. Chairman, the firewall provisions of the 1990 act were created precisely for this type of situation. It was designed to take care of this particular type of situation. That is why the firewalls were created. In the 1990 act, Congress made a crystal clear statement that if there were savings in any one spending area over the next 3 years, the savings could not be used as spending in another area.

□ 1320

That is what we said in 1990, 2 years ago, that for 3 years we were not going to have any of this money used in discretionary spending for anything except in those firewalls; if there were savings in any one of them, it would be used only—and I want to emphasize that—it would be used only to reduce the debt, the deficit. Reducing the deficit—that was the key word and that was the reason for establishing those firewalls. That is the reason we have had three deficit reduction laws in the last seven years, and that is how savings in the 1990 act had to be used, to reduce deficit.

I want to say parenthetically that what we did in our committee was a part of that process of the compromise or the conference. We agreed with regard to the enforcement that there would be these firewalls built up around three particular areas. One was defense, and there was a cap on it; one was domestic spending, and there was a cap on it; and one was international, and there was a cap on it. What we are trying to do now in this legislation is tear down the firewalls for 1993 and use the money, the discretionary spending money, notwithstanding what we did in 1990, tear the firewalls down and use whatever savings are available from the military because of the cutbacks in the military for domestic spending.

The fact that world conditions have changed since late 1990 does not change the fact that we have an enormous deficit which threatens the economic well-being of this country in a very fundamental way. That there will be some amount of savings in defense does not mean those savings should be turned right around to fund more programs.

There are many worthy Federal programs on which money could be spent. I have no doubt of that. As a matter of fact, I have a number of letters here, and all Members have received them, and every one of them makes a point for using the money we are talking about saving out of the defense bracket or firewall for very legitimate and good purposes.

For instance, we have here the American Federation of State, Government and Municipal Employees; here we have the UAW. The NEA wants to use the money for educational purposes, and the chairman listed a large number of those items that would be benefited as a result of tearing down these firewalls. They asked for education money. I understand that. I met with my educational people, and I know the needs that are out there.

I know also about the U.S. Conference of Mayors. We have a letter from them, and we have one from the legislative groups. The municipalities are concerned because they do not have enough money, and they should get some additional funds. We also have the National Committee To Preserve Social Security and Medicare. They are talking about moneys to help the older folks, and that is a good one. Then there is the American Library Association; the U.S. Student Association; the Committee for Education Funding; and the American Association of State Colleges and Universities.

The list goes on. I have a whole list of them here that signed one letter. The economists urged elimination of the budget laws, and here is one from the Council of Large Public Housing Authorities. Here we have the Service Employees; Leadership Council of the Aging Organization; and the National American Wholesale Grocers. On and on the list goes. I have a bunch of them. Their concerns are all worthwhile.

But what we have to remember is that we do not have this money. We are out of money. I have been in the Congress for 30 years, and we have never applied one dollar to the reduction of the deficit. Not one dollar has been applied to reducing the deficit. It seems to me that we have a wonderful opportunity now to apply whatever savings could be used, and I am told it is a figure between $7 and $13 billion, depending on who makes the estimate. That money in my book should go directly to deficit financing.

The gentleman from Michigan, the chairman of the Subcommittee on HUD, Housing and Urban Development, of the Appropriations Committee, made a very eloquent plea for additional money in the housing field. There is nobody in this Congress who has a better record on that than I do, and I will put my record up against anybody on providing additional funds for education, for the elderly, for our cities and communities, community development, for all of these programs. Nobody has a better record than I have, and I am proud of my record, and I have voted for additional funds to fund some of these very important programs. I know the need is out there now, but what I am saying is that this is the first opportunity we have had to dedicate some of those moneys to reducing the deficit. The time to do that has arrived and we should do it now.

I will offer an amendment when we take this up next week that would substitute deficit reduction language for the current text of the bill that is before us. That would assure that the walls stay up for this year, and that the peace dividend, whatever it is, would not be transferred into further deficit spending.

Mr. Chairman, I would urge all Members to oppose H.R. 3732 and vote to assure that there would be deficit reduction, not new domestic spending which would add to the deficit, but that we would have this money, whatever it is, applied to reducing the deficit.

Mr. Chairman, I reserve the balance of my time.

Mr. CONYERS. Mr. Chairman, I yield myself 1 minute merely to inform my friend, the ranking minority member of the Committee on Government Operations, that there is deficit reduction in this measure. I know he will be happy to know that. There has never been anything like this put in a measure of this kind before.

So if Members on his side of the aisle were persuaded by this debate to support the bill, they would have 25 percent of the deficit savings, some $2.6 billion, applied toward deficit reduction.

Now, is that not good and constructive news to deliver to the floor?

Mr. HORTON. Mr. Chairman, if the gentleman will yield, my point is that I would prefer to put all of the money into deficit reduction. This is the first chance we have had in 30 years to do it.

Mr. CONYERS. Mr. Chairman, I would suggest that the gentleman should be proud of the fact that we are putting anything into the reduction of the deficit.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. CONYERS] has expired.

Mr. CONYERS. Mr. Chairman, I yield 13 minutes to the distinguished chairman of the Committee on the Budget, the gentleman from California [Mr. PANETTA], who is one of the hardest working and most learned Members of the Congress on this budget.

Mr. PANETTA. Mr. Chairman, last week the House adopted a budget resolution that essentially set us on two paths, two guidelines. Plan A was based on the ability to use defense savings and invest those savings in certain domestic areas, deficit reduction and conversion. Plan B was based on the possibility that we would not be able to have that flexibility, that the walls would stay up and then we would define priorities within the caps that are established under the agreement.

My thanks go out to all Members who had the courage to vote for that budget resolution and try to establish some priorities as to where we need to go with the country. I respect all the Members who voted for that resolution. Regardless of how they decided to vote on this issue, at the very least they had the courage to say that we need to follow some paths here, and they did not vote for either of the resolutions, the way many of my colleagues unfortunately did.

So I want to pay my respects to those Members. Regardless of how they vote, I want to pay tribute to them for helping the House do its job.

We are here now at the vote which decides which paths we will take. There were some last week who were criticizing us by saying that by taking two paths we are not making a decision. We are making the decision now. We will make a decision on what path we follow next week when we vote on this bill.

□ 1330

So you decide whether or not we reinvest this money or whether or not we stay within the caps established by the budget agreement.

It is not an easy vote. This is not an easy vote. I have struggled with this issue, just like many of my colleagues I am sure have struggled with this issue. Indeed, I said to the chairman of the Committee on Government Operations, this bill ought not to come up until we have passed a resolution that defines how we want to spend this money, where we want to invest it, what our priorities are.

There was a lot of effort at the beginning of the year to say we ought to take up the walls issue immediately. I opposed that, because I said the first thing you need to do is to establish what are our priorities? Where do you want to make those investments? Then vote on the walls issue, knowing what those priorities are.

My thanks go to the leadership and the members of the Committee on Government Operations and the chairman for following that guidance. Now we know what that blueprint is.

This is not something you are going to grab out of the air. Plan A makes some very clear decisions about priorities. It makes very clear what direction we are going to take with the defense savings. This is not just a grab bag. We say if you are going to achieve additional defense savings, of that amount $6.4 billion will be invested in three key areas. Very specifically, education, both Head Start and elementary and secondary; health care, additional funds for the WIC Programs, health research, immunizations, AIDS, and veterans' health; and, lastly, on job and long-term economic growth, we invest in infrastructure; providing for full authorization of the highway bill, job training, housing, development issues such as CDBG and EDA, which are essential to conversion, and energy development. Those are the areas we define in the budget. This is not a grab bag. We said those are the priorities.

And $2.6 billion would be committed to deficit reduction. Out of that $10 billion, $6.4 billion goes into investment, $2.6 billion into deficit reduction, and $1 billion goes back to the committees for conversion.

That is the decision that we made when we adopted plan A, and that is how the savings would be spent and how they would be invested.

Let me make clear, as I did before the Committee on Rules, it probably would be more appropriate if we just adjusted the caps to reflect that investment, as opposed to simply taking the walls down. I have suggested that as a possible option here. Then at least you would reflect what you are taking from defense and what you intend to put into domestic.

But nevertheless we have the opportunity here now to provide the flexibility to make the investments that are necessary. Why do we do this? Why are we doing this?

This is a new era. We have heard the speeches time and time again. My god, the public understands this issue. This is a new era. Let us wake up and understand that.

There are new priorities that we have to establish in this country. We have got to confront the problems that are facing the people of this country.

Every other industrialized nation now is dealing with issues in their own economy and their own society. We have got to do the same thing, or we are going to lose out. We are going to lose out.

So that is why we need to reorder priorities. Everybody understands that. The American people understand the need to do it.

You have got to do it in a way that does three things. You have to be faithful to the spending limits in the budget agreement; you have to do it in a way that continues a commitment to deficit reduction; and you have to do it in a way in which you can make the investments that are important for this country.

I think we do all three of those. Let me explain that.

First of all, the ability to invest some of these defense savings maintains the fiscal discipline in the budget agreement. Nobody can argue differently. Why? Because under this approach, we stay within the overall discretionary cap established under the budget agreement. We do not breach that. We do not go through that. So the overall ceiling that is established for all discretionary spending, defense, domestic, international, is maintained.

So those that would argue that we increase the deficit, you are wrong. We do not. We simply take savings from defense, invest some of it in the domestic area, and invest some of it in deficit reduction, but we stay within the overall cap.

As a matter of fact, that is the approach that the budget agreement lays out for 1994 and 1995. That is exactly what we are going to do in 1994 and 1995. This bill says, let us do that in 1993. I think that makes sense.

Mr. Speaker, let me just, as someone involved with these budget issues, make clear I think it provides for a better transition to 1994 and 1995 to begin the process in 1993. Why do I say that? Because if you are going to try to maintain some of the domestic areas in the future, it means that you are going to have to make one hell of a cut in defense. That is the numbers.

CBO right now tells us we would have to cut $40 to $50 billion between 1994 and 1995 out of defense if we do not start acting this year.

Mr. Speaker, we know very well we are not going to do that. So if we are going to have a smooth transition into 1994 and 1995, begin it in 1993. It makes sense in terms of the priorities that we have to confront.

Second, we assign, as I said, $2.6 billion to deficit reduction. Let me tell you something that I honestly feel. I think there is a better chance to put $2.6 billion to deficit reduction than to keep the walls up and make the assumption that defense savings are going to go to deficit reduction.

Why do I say that? Because under plan A there are constituencies out there that will make very certain that we achieve those defense savings, because they know very well that if you do not achieve those defense savings, you are not going to be able to make those investments in education, health care, and jobs.

Third, they will put pressure, therefore, to achieve those numbers, and we will put pressure to ensure that $2.6 billion goes to deficit reduction.

What if you do not have that? What if you keep the walls up? You tell me where the incentive is going to be to achieve defense savings and then put that to deficit reduction.

You know very well what is going to happen. Those committees are going to say, "Well, it was a great idea, but we are going to spend that money. We are going to spend that money."

Mr. Speaker, we know that very well. The Committee on Armed Services, the Subcommittee on Defense of the Committee on Appropriations, they are going to say essentially, "Well, it was a nice thought that we would put this to deficit reduction, but if you think we are going to cut defense spending in order to just put it to deficit reduction, you are wrong. We are going to spend it."

So from my personal point of view, I think there is a better chance for deficit reduction when you make the investment both in the domestic area as well as committing a portion of it to deficit reduction. I think there is a better guarantee you are going to put some money toward the deficit.

Mr. Speaker, the last point I want to make is the need to invest in these areas that I have described in America. The gentleman from New York [Mr. HORTON], whom I have the greatest respect for, I think understands what I am saying. We have got to invest in this country. We have got to invest in this country.

My god, America has the highest infant mortality rate of any of the industralized countries. What a shame. What a tragic commentary on this country.

Children in this country are near the bottom of the world when it comes to math and science. What a shame. Our country, the greatest country in the world, cannot compete with these other nations when it comes to education.

Twenty percent of the children are growing up in poverty. Five million of our children are going hungry every day. Crime is in the streets. Sixteen million Americans are either unemployed or underemployed.

Mr. Speaker, we are rotting from the inside. We are rotting from the inside, and you cannot run away from those problems.

Mr. Speaker, as I said last week, when you make decisions on the budget, you are not making decisions just about numbers. You are making decisions about people.

We said that under plan A we could provide 400,000 jobs, largely because of the infrastructure number that is part of this. If you vote against the ability to make the investments that I am talking about, it is the difference between 400,000 jobs and maybe 100,000 jobs. It is the difference between whether you can provide 500,000 additional students with a Pell grant, or none. That is the choice you make when you make these decisions.

It is the choice between whether you provide 600,000 women, infants, and children with benefits from the WIC Program, or whether you cut that by 200,000. And it is the choice between whether you provide 135,000 kids with Head Start, or whether you cut that back to 98,000. It is the decision whether you provide 110,000 veterans with additional medical care, or none.

□ 1340

Those are the choices. Those are not just numbers. This is not just games. These are real people that we impact on when we make the decisions on the budget.

That is the choice that confronts this body. It is a fundamental choice.

Let me tell my colleagues that during the 1980's we saw what happened with priorities in this country. Defense spending went up 52 percent during the 1980's, 52 percent. And domestic programs were cut 15 to 20 percent. I did not hear any Members cry about that because we basically saw kids in school lunch programs, health care programs cut in order to provide more money for defense.

We made that choice, but the time has now come to restore some balance to this country and what took place in the 1980's has to be changed in the 1990's. So that is what we are trying to do in this budget and that is what we are trying to do here.

I do not know what will happen on this bill. The likelihood is obviously that the President will probably veto it. We would not be able to override it.

Some would use these savings for tax cuts; the other body is talking about the need to use this money for tax cuts. Some would talk about using gimmicks as a way to pay for anything.

This approach takes the responsible path. We say how much we want to target. We say where it needs to be invested. We are sending a clear message to this country that the times have changed, that we are aware of that and that all of us have to join together in strong leadership to say to the American people, "We care enough about this Nation, we care enough about these problems that are impacting our society that we are willing to commit ourselves to clear investments that need to be made, that we are willing to stay within the budget discipline that was established under the budget amendment and that we are willing to stay within the budget discipline that was established under the budget agreement and that we are willing to put some of it to deficit reduction."

My friends, that is the right path. Let us follow it.

The CHAIRMAN. The time of the gentleman from California [Mr. PANETTA] has expired.

Mr. HORTON. Mr. Chairman, I yield 6 minutes to the gentleman from California [Mr. PANETTA].

Mr. Chairman, if the gentleman would yield, I would like to ask the gentleman a couple of questions.

I want to say at the outset, I have the highest regard and respect for the gentleman from California, as he knows.

Mr. PANETTA. As I do for the gentleman from New York.

Mr. HORTON. Mr. Chairman, if the gentleman will continue to yield, he knows that I have supported many programs that he has already talked about here today, and I certainly understand what he is saying here today and the need is out there. I do not disagree with anything that the gentleman from California has said today with regard to the need.

I think he is one of the best, and we have had some excellent chairmen of the Committee on the Budget, I think he is one of the outstanding Members of this Congress, as far as the chairmanship of that Committee on the Budget. It is a tough job, and it is a very important job.

I did want to ask the gentleman, I know that he voted for the Budget Resolution Act of 1990, and I know that he is very familiar with the firewall part of that legislation.

Mr. PANETTA. Mr. Chairman, the gentleman is correct.

Mr. HORTON. And the gentleman knows that that was a very integral part of that budget agreement. I was in the conference, as the gentleman was. I was in the conference when we established that part of the program to establish these firewalls. It was for 3 years.

It is my understanding also that when we set that up we thought that there might be some savings in one of these, but we said, any of those savings would go to deficit financing.

That is correct, is it not?

Mr. PANETTA. Mr. Chairman, the gentleman is correct.

Mr. HORTON. We also said that that would be for 3 years, and then it is also my further understanding that at the end of the 3 years that whatever came out of that savings would go to deficit reduction; is that correct?

Mr. PANETTA. Mr. Chairman, the gentleman is correct, assuming that we got savings in any of these areas, that is correct.

Mr. HORTON. Mr. Chairman, if the gentleman will continue to yield, it seems to me, and this is the point where we are now, it seems to me that the American people are really asking us to do something about the reduction of the deficit.

What I am concerned about is and what I would like to ask the gentleman now is, what impact does he think would occur in this country and abroad if we devoted all of these savings, the so-called peace dividend to deficit reduction? What would be the gentleman's personal view with regard to the impact that that would have without regard for all these other needs? What impact would that have?

Mr. PANETTA. Mr. Chairman, I understand what the gentleman is saying. I have to say to the gentleman, I think whatever we could contribute to deficit savings would be regarded as a step in the right direction.

Let me just expand on that. I think that is the issue that we are confronting.

The problem right now is that when we stay within the walls, there is no incentive to reduce each area below the cap. There is not. It is certainly not true on domestic. We are not going to get more savings on domestic. We are not likely to get any more savings on defense.

So we are going to spend to the cap.

Mr. HORTON. Mr. Chairman, I disagree with the gentleman in that respect.

Mr. PANETTA. Mr. Chairman, we did not have any savings last year that went to deficit reduction, and we had the walls up last year.

Mr. HORTON. Mr. Chairman, that is true, but what we want to do now, what we are trying to do is to take the walls down. And my point is that if we do, we want to reduce the deficit, and that should be the highest priority.

I would like to read to the gentleman from the letter that I received from Richard Darman, the Director of the Office of Management and Budget, and there has been some controversy here about the threatened veto.

That is a procedure that has been historic in the Congress and the executive. Democrats or Republican Presidents have threatened vetoes. We have to know what they are going to propose to do so there is nothing wrong with that.

The President is just signaling or his advisers are signaling what the President might very well do with regard to this particular piece of legislation, and in the letter that I received from Director Darman, he said:

> If Congress were to abandon the mutually agreed discipline of the Budget Enforcement Act of 1990, it could trouble financial markets, cause interest rates to rise and, thus, prove counterproductive. That is, it could slow recovery and threaten job creation. Therefore, his senior advisers would recommend a veto.

I want to point out that the President is concerned about what may happen if we do not do something about the deficit reduction. And the gentleman's proposal that we had up here last week, plan A, would give, I think we said, $2.6 billion toward deficit reduction.

Mr. PANETTA. Mr. Chairman, that is correct.

Mr. HORTON Mr. Chairman, I do not disagree with that. I think that is a good step in the right direction.

What I want to do is enforce the budget discipline that we established in 1990 and make certain that all of the savings go to deficit reduction. I think that that would have a profound impact on America. If Democrats and Republicans could agree that we are going to take this money and we are going to reduce that deficit, I think that would have a profound impact.

Mr. PANETTA. Mr. Chairman, first of all I would be happy to join the gentleman if we could guarantee that the defense committees would provide the savings just for the purpose of deficit reduction. I would be more than happy to try to enforce that effort.

Mr. HORTON. Mr. Chairman, I would work with the gentleman in that respect.

Mr. PANETTA. With regards to Mr. Darman, maybe he ought to heed his own advice because in the budget that was submitted to Capitol Hill, Mr. Darman himself suggested the possibility of using defense savings for the purpose of providing tax cuts.

Mr. HORTON. Mr. Chairman, then we would have to veto that here.

Mr. SANTORUM Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman from Pennsylvania.

Mr. SANTORUM. Mr. Chairman, if I may ask the gentleman, my understanding of his logic for supporting the firewalls coming down right now is that he wanted the budget process to go through so we could establish the priorities so we know what we are voting on, and that is the reason he asked this to be delayed. And I know that is what he told us in the committee and now he is following through with that. I understand that, and I respect that.

My question, is, we do not know what resolution is going to come to the floor here from the Committee on Rules, and what it is going to look like.

My question to the gentleman is, if it comes to the floor with 75 percent for spending, 25 percent for deficit reduction, will the gentleman support that?

Mr. PANETTA. Mr. Chairman, I will not support any proposal that does not reflect the priorities that we laid out in plan A.

Mr. HORTON. Mr. Chairman, may I inquire how much time is left on each side?

The CHAIRMAN. The gentleman from New York [Mr. HORTON] has 54 minutes remaining, and the gentleman from Michigan [Mr. CONYERS] has 38 minutes remaining.

□ 1350

Mr. CONYERS. Mr. Chairman, I yield myself 1 minute, only to continue the discussion with the ranking member of our committee, because I wanted to ask the gentleman from the New York [Mr. HORTON], if I can gain his attention, I want to know under his proposal what he would do with the unemployed. The rate is 7 percent nationwide, 9 percent in Michigan, and what would the gentleman do with people that are going to be thrown out of jobs because of the base closure and weapons cutbacks?

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I am delighted to yield. What does the gentleman's proposal do about that?

Mr. HORTON. My point is that if we took all of this money that we are talking about saving in defense and applied it to the deficit reduction that would have a tremendous impact on the markets. I think that a lot of things that the gentleman is talking about would be solved as a result of that different outlook with regard to what the Congress can and cannot do. We will be signaling for the first time in 30 years that we are going to reduce the deficit, and that is what I think Americans are asking us to do.

Mr. CONYERS. Let me reclaim my time, sir.

I guess that what the gentleman is going to tell the unemployed in his area and those who are suffering unemployment from base closures and weapons cutbacks is that, "We put the money in the deficit and it is going to trickle back down again." I heard that somewhere before.

Mr. Chairman, I yield 5 minutes to my friend and colleague the distinguished gentleman from Michigan [Mr. FORD], chairman of the Committee Education on Labor.

Mr. FORD of Michigan. Mr. Chairman, I thank the gentleman for yielding me this time. I want to compliment him and the Committee on Government Operations for bringing us this legislation.

As the chairman of the Committee on the Budget has already indicated, there has been a great deal of concern since early in the year about when we would get to this subject matter, and there was an agreement by people to wait until a budget resolution was adopted that would identify for the American people and the Members of Congress where money transferred from the defense expenditure side of the budget would go if the walls were to come down.

I do not think this argument really ought to be partisan here, because, as I understand what we have before us in one form or another, the President has sent us a national health proposal which includes a recommendation that we remove the walls for the purpose of funding it. Removing the walls, as the chairman of the committee, and I would like to note for the record that as the chairman of the standing committee who never gets what he wants from the Committee on the Budget, I do not often come down here and praise the work they do, and I do not expect, even if we bring the walls down, we are going to get what we justly deserve to provide to the American people most in need. But we will do a lot better than we will if we do not bring the walls down.

I agree with everything that the gentleman from California [Mr. PANETTA] said when he spoke to us. I do not know when I have ever agreed with everything that he said at any time, but I certainly do agree with the fine presentation he made today.

I would like to just sort of refine it for the Members from the perspective of the Committee on Education and Labor. By removing the walls now instead of waiting for them to come down in the future, we can provide $3.7 billion more in discretionary education programs than last year's budget.

I might remind the Members that we intend before the end of this session to pass the President's Education 2000, and if we do not do this there will not be any money to fund it for him. I think we ought to at least give him his first shot at his one and only education initiative.

By removing the walls, we can provide Pell grants, as the gentleman from California [Mr. PANETTA] told us, to 500,000 more young people than the President's program will provide without doing it.

How do I know we can do these things? Because we adopted last week, plans A and B in the budget, and bringing down the walls will facilitate following the route of plan A instead of plan B, and in the budget resolution we adopted last week we earmarked the budget shifts for these purposes.

By removing the walls we will see 40,000 more children in Head Start this year. By removing the walls we are going to increase job training funds by $700 million to about six times what the President will spend otherwise. Removing the walls can provide aid to about 180,000 additional dislocated workers. By removing the walls we can open fully and fund 10 job training centers in the country. By removing the walls we can and will provide $50 million in aid to dislocated workers as a result of the Clean Air Act that we passed in the last Congress. By removing the walls we can provide twice as many women and children access to the Women, Infants, and Children's Program that we know as WIC.

For the past 11 years this Congress has been party to a costly reordering of priorities. The domestic agenda of this country, education, job training, housing, health, middle-income American families, has all taken a back seat to what Congress came to believe, under the leadership of the President, was more important, increased military spending.

As the gentleman from California [Mr. PANETTA] pointed out, military spending increased by more than twice as much as domestic spending was cut back. All of the giving has come from the American people, not from foreign aid, not from the military establishment, but from the American people, where it hurts in the quality of their lives.

In my opinion, Mr. Chairman, we must take down these walls now. I remind the Members taking down the walls now instead of waiting for them to crumble their own way in another year does not increase the amount of money available for committees like mine to spend out of the entire cap on the budget by one penny. We will not have a deficit that is one penny higher by taking the walls down than if we do not take them down.

Anybody who intends to vote against this bill and then try to justify this vote against all of these programs I have mentioned by saying, "But I am worried about making the deficit larger," does not understand what is going on here. That dog will not hunt. We will not affect the ultimate budget deficit of this year by our vote here today. Those caps are going to stay whether the walls come down or not.

The difference is that we keep spending the money, spinning our wheels in the same mud puddle we got ourselves into in the 1980's, and we will not be investing in the future of the American people, and they are going to know it. I intend to vote for Chairman CONYERS' bill. I thank him on behalf of all of the beneficiaries of the programs that my committee bears the responsibility for, because we will be sending a signal if we vote with the gentleman from Michigan [Mr. CONYERS], to people all over this country that we are realigning our priorities and we are saying that, "My children and grandchildren have a right to a better environment for the rest of their lives than they are going to have if we do not do this."

They are going to pay the debt off, and if we take down the walls we will give them some of the education and job training they will need to make the money to pay that debt off.

I rise in strong support for H.R. 3732, the Budget Reform Act of 1992. We must have the foresight to remove the walls between budget categories if we are to succeed in getting America ready for the future.

Removing the walls 1 year earlier than scheduled means that billions of dollars will be available for vital programs in the areas of education and labor.

By removing the walls we can provide $3.7 billion more for discretionary education programs than last year's budget. We can furnish working families with assistance in meeting college costs and expand access to chapter 1 and other elementary and secondary programs.

By removing the walls we can provide Pell grants to over 500,000 more young people than the President's program.

By removing the walls we can provide four times as much for science education programs.

By removing the walls we can add 40,000 more children to Head Start.

By removing the walls we can increase job training by almost $700 million, or six times the amount in the President's budget

By removing the walls we can provide aid to over 180,000 more dislocated workers.

By removing the walls we can open and fully fund 10 job training centers.

By removing the walls we can provide $50 million in aid to workers dislocated as a result of the Clean Air Act.

By removing the walls we can provide twice the WIC coverage than assumed in the President's budget.

For the past 11 years, this Congress has been party to a costly reordering of priorities. This Nation's domestic agenda—education, job training, housing, health, middle-income American families—has taken a back seat to a deficit fueled by 11 years of borrowing to promote military spending and tax cuts which coddled the rich. We now spend more to service the debt than we do on all domestic discretionary spending.

The time has come to reap the reward of the new peace. We must prepare our workers for the jobs of tomorrow. We must prepare our children and grandchildren for the challenges of a new day. The time to invest in America is now.

Mr. Chairman, we must take down these walls.

H.R. 3732 should not be a partisan issue. President Bush himself proposed bringing down the walls in his budget in order to pay for his tax bill.

In taking down the walls, H.R. 3732 would not abandon Congress' commitment to the 1990 budget agreement because H.R. 3732 does not break the overall cap on spending. All it does is take down the budget walls 1 year earlier than scheduled.

I intend to vote for Chairman CONYERS' bill because it is proinvestment and likely to accelerate our economic recovery. I urge my colleagues to join me in supporting this effort to take down the walls which restrict our access to our peace dividend.

Mr. ENGEL. Mr. Chairman, the debate we are having today is extremely important. Although what this bill does will be done next year whether we pass it or not, our domestic needs must be addressed now, not next year. People are hurting now and we should do what we can to help. Why do the Members on the other side of the aisle want to put off helping middle class America until next year when we can do it immediately?

It is not because this bill raises the overall spending caps, because that is not what this bill does. All this bill does is allow transfers from defense spending to domestic spending or to the foreign affairs account in 1993 instead of waiting until 1994. I think we owe it to the American people to try to help now instead of waiting a year.

One of the important ways we can help secure the future for America is to take advantage of the historic opportunities in what was the Soviet Union. Yesterday the Foreign Affairs Committee passed a bill authorizing $500 million to help bring Russia and the other republics into the family of democratic nations. Foreign aid is very unpopular right now, but if we ignore our overseas interests either in Russia or in the Middle East, we will regret it and we will probably regret it very soon.

The foreign affairs budget currently takes up less than 2 percent of our total budget. The defense budget on the other hand is currently approximately 20 percent of the budget. With these figures in mind, the foreign affairs account should not be the one to take the hit. Our allies around the world, like Israel, Egypt, and now Russia, must not be left out by cries for a new isolationism.

Finally, I want to emphasize my concern about the Federal deficit. This bill does not increase that deficit, it keeps the caps agreed to in 1990 in place.

However, to protect our children's future we must do more to address the deficit. Current Congressional Budget Office estimates indicate that we will add nearly $1 trillion to the public debt in just the 3 years 1992 to 1995. Unfortunately, the effects of the budget deficit are indirect and do not have the same immediate effect on middle income wage earners as, for instance, the monthly payment of Social Security taxes do. But as the public debt grows, just as surely as we all pay taxes every year, we will be paying what amounts to a budget deficit tax. In 1993, this tax will amount to approximately $856 for every man, woman, and child in the United States. A family of four will fork out $3,424 in 1993 to cover its share of interest on the public debt. For me and my constituents this is a lot of money and every year we do not get our budget deficit under control this amount will increase.

Mr. CONYERS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. JENKINS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 3732) to amend the Congressional Budget Act of 1974 to eliminate the division of discretionary appropriations into three categories for purposes of a discretionary spending limit for fiscal year 1993, and for other purposes, had come to no resolution thereon.

AUTHORIZING THE SPEAKER TO DECLARE RECESSES ON THIS LEGISLATIVE DAY

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that the Speaker be authorized to declare recesses subject to the call of the Chair on the legislative day of March 12, 1992.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

BUDGET PROCESS REFORM ACT OF 1992

The SPEAKER. Pursuant to House Resolution 394 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3732.

□ 1400

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3732) to amend the Congressional Budget Act of 1974 to eliminate the division of discretionary appropriations into three categories for purposes of a discretionary spending limit for fiscal year 1993, and for other purposes, with Mr. JENKINS in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, the gentleman from Michigan [Mr. CONYERS] had 31 minutes remaining, the gentleman from New York [Mr. HORTON] had 54 minutes remaining, the gentleman from Massachusetts [Mr. MOAKLEY] had 15 minutes remaining, and the gentleman from New York [Mr. SOLOMON] had 15 minutes remaining.

The Chair recognizes the gentleman from New York [Mr. HORTON].

Mr. HORTON. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. MCCANDLESS].

Mr. MCCANDLESS. Mr. Chairman, I thank the gentleman for yielding the time and rise in strong opposition to the bill before us this afternoon.

Mr. Chairman, I have a problem with this legislation. The sponsors keep referring to the savings we will realize when we reduce defense spending.

Mr. Chairman, that's like the person who has a huge credit card debt, but he shops all the sales, and keeps charging on his credit card because he's saving money.

Simply put, we cannot save money that we do not have.

The sponsors of this legislation are planning to take money from defense, and apply it to domestic discretionary spending. That is not saving. You cannot save by increasing debt.

The Congressional Budget Office projects the 1992 deficit at $352 billion. The national debt is an astounding $3.8 trillion, with interest on that debt alone amounting to nearly $200 million a year.

This money buys us nothing but our ability to keep on borrowing.

Given these facts, I ask my colleagues to seriously consider the effects of destroying the budget firewalls and of using defense cutbacks for any other purpose than deficit reduction.

We have a chance to protect America's future by actually reducing the deficit today. Please join me in that effort.

Mr. HORTON. Mr. Chairman, I yield 5 minutes to the gentleman from Pennsylvania [Mr. CLINGER].

Mr. CLINGER. Mr. Chairman, I thank the gentleman for yielding the time.

Mr. Chairman, I rise in very strong opposition to this bill. At the outset I would note that I listened very carefully to the chairman of the Budget Committee outlining the amounts that would be applied toward additional discretionary spending and that would be applied to deficit reduction. He indicated basically, and previously has indicated that about 60 percent would go for discretionary spending and the remaining 40 percent, the defense savings for deficit reduction. There is a discrepancy. We have looked at the figures and analyzed the documents and in plan A, which was being reduced to, we understand the defense budget authority was being reduced by $14 billion in spending, and of this reduction discretionary spending would be $12.9 billion and savings of $1.1 billion. The bottom line, Mr. Chairman, is that instead of the 60–40 split, as we look at the figures, it is more like a 92 percent amount going to discretionary spending and 8 percent on budget authority going to deficit reduction, which is a far different figure.

Mr. Chairman, 2 years ago Congress did come together to devote a large part of what is a normally very short attention span in this body to the question of how this country was going to get a handle on the huge deficit. The process lasted several agonizing months, from late spring until late fall, and it was attended by 1,000 compromises and tough calls. It was not a pretty or an enjoyable procedure that we went through, but we did it because I think there was a general recognition that we had to. Our economic markets were suffering from our inability to act, and we needed to send a very strong signal that Congress was going to support them, that Congress was not going to allow us to sink ever deeper into the deficit morass.

What resulted was the Budget Enforcement Act of 1990. This was truly, truly legislation that only a mother could love. And even so, love is not the first word I would say, Mr. Chairman, that would come to the mind of any of those of us who supported it when Congress passed it, though I must say I think that I along with all of the rest of us collectively closed our eyes and held our noses.

But for all of its ugly qualities, and they were many, the 1990 act brought with it the promise of something that had been sorely lacking, even after the 1985 and 1987 Gramm-Rudman laws. That thing was discipline.

The intent was to reduce the deficit. We needed to tighten the mechanism of spending discipline already in place under Gramm-Rudman, and we had to send a signal to the American people that we were serious and would stick with that agreement. We needed to find ways to prevent ourselves from spending more money than we had. We needed to have somebody say stop us before we spend again.

I was one of the 47 Republicans who voted for the Budget Enforcement Act of 1990. I did so reluctantly, and the President supported it, I think, because of the budget deal and the reforms that we got into that bill, which really ensured that we were going to get some handle on deficit reduction. So we had a spending discipline that the 1990 act brought to the budget process.

Under the act the three areas of spending were separated by what we called walls, which is what we are referring to here today, and each wall had a cap for the years 1991 to 1993. If the spending in any area fell below the cap, the savings were used to reduce the deficit, not for spending elsewhere.

The 1990 act might not have been pretty, and I think we would all agree it was not, but it did have the virtue of tying our hands and compelling deficit reduction whenever it was possible. This bill, by tearing down the walls, obliterates the most critical of all elements of this plan; to reduce the deficit. Its supporters claim that since world conditions have changed, but world conditions are always changing, that deficit savings should be used to fund needed domestic programs. What the supporters do not say is that our deficit is still and remains the most pressing problem we have in this country. In fact, the deficit is larger than ever, it is worse than it was in 1990. Anything we are saving now needs more than ever to go toward reducing the deficit.

Our economic markets are counting on us to stick to our agreement. The worst thing we could do at this point would be to break that agreement, because it would suggest that we have no credibility and that any deal we make can be broken with impunity.

So the markets are counting on us, I think, and the American people are counting on us to stick to our agreements when we make them. We all know that the economy is in a very precarious position now. Do we really want to make it worse?

It is argued that the bill will not increase the deficit. I think that is true. But the point is it is not going to decrease the deficit in any measurable form either.

So Mr. Speaker, I voted for this legislation, as I said, reluctantly in the past, this Budget Agreement Act, because I thought we were making a deal that we would stick to. And I think this was also why the President supported this deal, because he thought he was getting some budget reforms that were going to last. He has said he regrets that now. He regrets it because we are talking about breaking that agreement. We are talking about breaking the deal that we had, and I can understand why he would regret having supported this bill or having supported the Budget Control Act if the deal was going to be broken.

So, by tearing down the walls, Congress, I think, would lose all ability, any ability we have to say that we finish what we start.

So I urge all Members to oppose this bill and vote to assure that deficit reduction, not domestic spending and temporary tax cuts will be used to solve the deficit. I urge a no vote.

Mr. CONYERS. Mr. Chairman, I yield 9 minutes to the distinguished gentleman from New Jersey [Mr. ROE], chairman of the Committee on Public Works and Transportation, whose work in this area has been extremely outstanding.

Mr. ROE. Mr. Chairman, I want to thank the gentleman for his generosity in yielding me 9 minutes of time. I have been listening vigorously to the discussions going on today, and I made myself some notes. The note I made was that Joshua fought the battle of Jericho and the walls came tumbling down. So I suppose we could call this Operation Joshua.

I heard some comments here today, Mr. Chairman, that everybody is sending messages to the American people. But the time is long overdue for the people that are sending those messages to the American people to listen to what the American people are sending as messages coming back.

I rise in strong support to take down these walls, and let me share with the Members why.

For 1 year, and I mentioned this the other day, for 1 year we worked around the clock and used all of our forces of the Committee on Public Works and Transportation, and all of the efforts we had from our staff to produce an intermodal transportation bill, and we achieved that goal. I believe the vote in the House was 373 in favor of that legislation.

I am just sorry there are not more Members on the floor, because I could go from this side of the aisle, right down the center, and over to this side of the aisle and look in every eye in this place, all of our 435 Members, and I would get with each one, and I could speak to each Member about their cities, towns, States, and transportation needs, and the need for jobs for their constituents.

□ 1410

There is practically no one in this House who did not come to our committee and ask for help and direction.

Now, when we talk about the walls coming down, we are talking about a commitment to the American people. If you were to ask me what the signal is that the American people are sending back to the House, the signal I hear very loud and clear is: Who is for real around here? Who is making speeches? And then we make commitments, and the commitments are not carried out.

We said on the floor at that time that we had to put the trust back in the trust fund. The Committee on Public Works and Transportation played by the rules. The rules are the budget rules, Mr. Chairman, and the budget rules were based upon the point of view that if you are going to increase expenditures, you should raise the revenues to be able to do that, and we did just that. Many Members in this House, most of them, had the courage to come back when we could not get the nickel for America because there was not the support here to rebuild the infrastructure of this country and provide jobs, and after months of negotiations, we were able to get the additional 2½ cents, and we were able to get that job done.

What is happening here? The American people are told that if you pass a tax bill, either one of them that have been presented in this House, that it is going to put a lot of people back to work. I would like to tell my colleagues, which is probably heresy, but it is going to be said because I believe it, that the tax bill that has been presented to the American people is a fraud, and it is not going to put the people back to work. Anybody who is saying to the American people and sending them a message that a $200 reduction if you are single and a $400 reduction and a credit you are going to get to help the middle class, is going to change the process of the unemployment in this country is literally out of their minds, and I declare it a fraud.

The President of the United States, our President of the United States, joined with us in Texas when we signed the transportation bill, and our good President, not a Republican President, but the President of the United States made a couple of very telling statements, and one of the points he made in that speech in Texas is, "Don't define your missions," and I am quoting from the President of the United States, "Don't define your mission in isolation. We pursued this law because it moves closer to our three top domestic priorities," and the three top domestic priorities of the President of the United States, my President of the United States, and your President of the United States, was jobs, jobs, jobs. That is what the President of the United States said to us, and I support his statement in that direction.

He made another point which I want to share with Members, and I am going to quote again. He said, "This law culminates more than 2 years of hard work by my administration, and it illustrates my strategy for getting things done; first, define a mission and accomplishment." Early on we defined our mission, and I am quoting,

> To lay the foundation for the most significant revolution in American transportation history. We understand from day 1 that America cannot move ahead in the international marketplace any more rapidly than its infrastructure will allow.

What do we have before us? We have taken down the walls. The administration presented the budget to this House, and in that budget they reduced the transportation bill by $4 billion. They reduced the transportation funding by $4 billion which would mean 160,000 additional jobs would be lost under plan A, and I do not totally agree with the distinguished chairman of the Committee on the Budget.

After much negotiation, they returned the full amount to the highway program, but still shorted the transit program by $1 billion.

In plan B, we will lose $3.2 billion in the transportation program, and all of those added resources that the President spoke to in Texas that you voted for on this floor go down the tube.

So if anybody is being shrewd around here and are going to go back to their constituents and their people who are sending messages, tell them when you vote to take down the walls that you took $3.6 billion out of the transportation bill, that we raised the fee that they are paying 2½ cents more for their gasoline taxes, because we had a commitment to them. We had a commitment of faith to the American people, and the American people—recently in a poll—agreed, 63 percent in a Presidential poll, that they would pay another nickel if the money was to be utilized for what this Congress taxes them for.

It is wrong, it is wrong, it is unfair, it is unjust, and it is a fraud upon the American people, and that is what the problem is in this House. The people of this country are looking for the Members that are represented here to tell the truth.

If you are going to tax them for a gasoline tax and if it is to be used for their transportation system, then do not divert it for other purposes. That is a fraud upon the American people.

If you are sincere about trying to create the jobs and provide the jobs for the American people, then you have got to vote to take these walls down, or what you are telling them is, "Too bad, we honored you in May and we deceived you in December." And that is what the challenge is around here.

It is not necessarily the point of view of disagreement on priorities. In my judgment, it is what we do stand for. Either we stand for the point of things that we campaign on and our word should be our bond, and that goes for both political parties.

If the President of the United States signed this legislation, touted it as being one of the most important bills we passed, if we provided the opportunity for 2 million jobs and the only job bill you have going for them, then I declare to you not to take down those walls is a fraud upon the American people, and all of these 373 people that voted for this bill are being defrauded also.

So I would hope that when we stop looking at a lot of the nonsense and esoteric views around here we would come back and, yes, we will listen to messages. But it is time that this House listened to messages from the American people, because they are the ones who are going to vote to elect us or reject us.

In the meantime, the key issue is jobs, not a $200 reduction in a tax bill.

Mr. HORTON. Mr. Chairman, I yield 4 minutes to the gentleman from Ohio [Mr. GRADISON].

In yielding this time, Mr. Chairman, I want to commend the gentleman. He is the ranking Republican on the Committee on the Budget and also a member of the Committee on Ways and Means. He does an outstanding job, particularly as ranking member of the Committee on the Budget.

Mr. GRADISON. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in opposition to H.R. 3732, the Budget Process Reform Act of 1992.

This bill would do serious damage both to our economic security as well as to our national security. No wonder the White House opposes this legislation.

I find myself in a paradoxical position in opposing this bill. I originally voted against the Budget Enforcement Act because, in my view, it provided insufficient restraint on discretionary spending. Today I am compelled to oppose efforts to overturn a key element of the budget agreement in order to retain what little discipline the Budget Enforcement Act imposes on the discretionary spending.

Many of the proponents of this bill are in an even more awkward position than this Member. No fewer than 56 of the cosponsors of this legislation originally cast their votes in favor of the Budget Enforcement Act. The flip-flop roster is quite impressive.

Let me begin by clarifying that the purpose of H.R. 3732, this legislation, is a vehicle to circumvent the budget constraints on discretionary spending imposed as part of the Budget Enforcement Act. It would consolidate the three categories of Federal spending under one cap so that cuts in defense could be used to pay for a raft of new or expanded domestic spending initiatives. It makes no difference whether through amendment the firewalls between defense and discretionary spending are eliminated or the defense cap is adjusted downward and the domestic cap raised.

□ 1420

Either way, the bill would use legitimate defense savings to finance new spending instead of reducing the budget deficit.

H.R. 3732 is highly objectionable on both economic and national security grounds.

On economic grounds, it is ludicrous that we should be seriously debating a bill that would increase spending while budget deficits are at record levels. CBO's deficit estimates for fiscal year 1992, that is the current year, have climbed from $124 billion, an estimate made in March 1990, to an all-time high of $352 billion, which is the current estimate for today. Even with the spending caps, the budget deficit is expected to resume its relentless rise by the middle of the decade.

I cannot for the life of me get through my head why spending $1 billion a day more than we are taking in is not considered sufficient fiscal stimulus.

We would all do well to reflect on the damage posed by higher budget deficits. Increased government borrowing drives up interest rates as the Federal Government crowds out private investment and it signals the Federal Reserve that the Congress has lost its resolve to control spending. Higher interest rates retard investment and capital formation. Over the long term, chronic deficits translate into slower growth, with only a modest improvement in productivity and the standard of living. Chronic deficits mean less jobs in our society.

It is imperative that we not abandon the modest budgetary discipline provided by the Budget Enforcement Act. Only about 30 percent of the $480 billion of savings enacted as part of the Omnibus Budget Reconciliation Act of 1990, of which the Budget Enforcement Act was a part, was supposed to result from the 1993, 1994, and 1995 caps on discretionary spending. This bill would squander much of those savings. Of course, we will still be paying the tax increases that OBRA provided up front, and it looks like we will be paying those forever.

Proponents argue that the cap on discretionary spending is starving domestic programs. In fact, the cap on domestic discretionary spending allows fiscal year 1993 domestic discretionary outlays to reach a level that is 19 percent above that of 1986 in real, inflation-adjusted terms, and budget authority will exceed 1986 levels by 34 percent in real terms, adjusted for inflation.

H.R. 3732 is equally objectionable on national security grounds, because it would lead to deeper, more accelerated defense cuts than those that are already taking place. Members may find it irresistible to raid defense accounts to find funds for domestic purposes. Just last week, the House narrowly passed a budget resolution that would cut an additional $47 billion from the President's 5-year budget request.

Deep defense cuts must be taken from manpower and operations, because outlay savings from cutting defense budget authority will be realized very slowly. Therefore, it will be very hard to get any significant 1993 defense outlay savings unless the 1992 budget authority is rescinded. Yet during markup of the budget resolution, Democrats rejected a Republican amendment to revise the budget resolution for fiscal year 1992 to reflect a proposal to rescind, that is, to decrease defense spending this year by $7.7 billion.

But let me repeat, the only ways to get outlay savings from the 1993 defense caps are to make 1992 rescissions or to cut manpower and operations.

Mr. Chairman, in conclusion, my view is this. Defense should only be reduced to a level consistent with our national security. Any savings from defense should be used solely for deficit reduction.

Mr. Chairman, I urge my colleagues to vote no on H.R. 3237, as well as any amendments which would lower the defense cap and raise the domestic discretionary cap.

Mr. CONYERS. Mr. Chairman, I yield myself 30 seconds.

I have been impressed by the gentleman from Ohio from the time he served on these important committees, but as one who opposed the budget, he is the first one I know in this position who opposed the budget and who now would be its most strenuous interpreter. He opposes defense reductions but supports the President's bill which does reduce the defense budget as well. So the gentleman has left me thoroughly confused as to what it is the gentleman really stands for.

Mr. THOMAS of Wyoming. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I first want to say that I agree with the chairman of the Committee on Public Works who spoke a few minutes ago and said what we ought to be saying here to our folks at home, and I want to do that.

I want to tell you that the folks at home in Wyoming believe that the reduction of the deficit is the most compelling issue that we have before us, that the increasing deficit is the most damaging aspect of our budget that we have.

So, Mr. Chairman, I rise in opposition to tearing down these firewalls. Many of the speakers have talked in great detail, with great knowledge, and I do not have that great knowledge, but let me break it down into what I think are the basic issues here, and they are fairly simple.

One of them I believe is do you want to reduce defense spending at a degree much more rapid than what Mr. Cheney and Colin Powell and the President have described to us. I do not believe so. I think we have to have some sort of an orderly reduction, and I think we have that. This simply goes around that and says, "Hey, let's do it a different way and forget about what the people we ask to be experts in defense have said to us."

No. 2 is if indeed there are reductions in defense, as there should be, these reductions should go for reduction of the deficit or do we shift them over to domestic spending?

I serve on the Government Affairs Committee, and I admire the chairman. Also I think I have an idea where the chairman would go with a good deal of this money; $15 billion of it would go to support cities like New York and others. I do not support that idea, and $50 billion in the plan.

Finally, as these dollars go for domestic spending, I do not think there is any question but what as we increase spending this year, that that will have to increase and it increases the base line in subsequent years.

I did not vote for the budget agreement, but I thought the one redeeming features is that it did have some spending constraints. This as I understand removes those, and therefore I oppose this bill and urge my colleagues to do likewise.

Mr. HORTON. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. SANTORUM].

Mr. SANTORUM. Mr. Chairman, I thank the gentleman for yielding this time to me.

In the last several weeks, there has been a lot of criticism of the President for having admitted that he made a mistake on this budget agreement, that he made a mistake when he forgot how to read his lips, and that he walked back on his promise not to raise taxes.

Well, he went back on his promise in exchange for a promise from the leadership of the Democratic Party. The promise they made to the American public and to the President of the United States, a promise they said, "Read my lips, no new spending. Keep the firewalls up. Keep a handle on discretionary spending. We'll agree. We'll promise you, Mr. President, we will promise you, the American people, that we will restrain our appetite for more and more and more spending."

The American public knows the reason for the Federal deficit is because we spend too much. It is simple.

□ 1430

We spend too much here. So now we have an opportunity, and I supported Chairman PANETTA's plan B, I have supported the reductions in defense, so I can stand up here and say I supported lower defense numbers to put toward the deficit. We have an opportunity to reduce the deficit and uphold the promise that the people on this side of the aisle made to the President of the United States that they would not come back and ask for more spending. Read their lips, no new spending. Wrong, America.

Later tonight we are going to vote on an ethics question on the House bank. It is a question of character, a question of whether we can stand up and tell the truth. And here we are again; can the American public trust anything we do here? We come up here 14 months after we promised that we were not going to raise spending more, we were going to keep caps on these things, we were going to assure the markets and the country and the businesses that we were not going to soak up more debt. Fourteen months later, and we already forget our promise. I would hate to measure whether it actually took the President longer to forget his promise or the leaders of the House to forget their promise.

Mr. AuCOIN. Mr. Chairman, will the gentleman yield?

Mr. SANTORUM. I yield to the gentleman from Oregon [Mr. AuCOIN].

Mr. AuCOIN. I thank the gentleman for yielding.

Mr. Chairman, the gentleman knows that this resolution does not touch the caps. So, when the gentleman suggests that the caps are being removed by this resolution, he is engaged in something that is not candid. What we are talking about is eliminating the firewalls and the total aggregate amount of spending remains the same, and the gentleman knows that.

Mr. SANTORUM. The cap on discretionary spending is removed.

Mr. AuCOIN. Aggregate spending remains the same, and the gentleman knows that.

Mr. SANTORUM. Well, you are spending more money in discretionary spending than would be provided under the current cap. Is that not the case?

Mr. HORTON. Mr. Chairman, I yield 5 minutes to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Chairman, I had expected that we would have a high noon shootout today on the direction we wanted to take in our budget. To say that I was extremely disappointed and disturbed to hear that the vote had been delayed is to greatly minimize my reaction. I still believe that we should have a full debate on this issue today and then make our choice. By now Members have had an opportunity to consider the options offered by the budget resolution. The choice we face is very clear and quite simple. We can vote to reduce the deficit by keeping the firewalls in place and dedicating any peace dividend to deficit reduction, or we can vote to increase spending by tearing down these walls.

There have been claims that the planned reductions in defense spending have provided us with a peace dividend that can be transferred to domestic spending. Unfortunately, these proposals ignore the fact that the peace dividend does not represent found money, but simply less money that we need to borrow. A corporation that is $400 billion in debt cannot pay dividends.

The national debt has tripled in the last 10 years, and currently exceeds $3.6 trillion. We must deal with our deficit problem before it deals with our country in a very destructive way. We need more discipline in the budget process, not less. That is why 260 of our colleagues have joined me in cosponsoring House Joint Resolution 290, the balanced budget amendment to the Constitution. It is very likely that in the next few months we will have an opportunity to vote on this amendment after the other body passes the balanced budget amendment. If the balanced budget amendment is adopted, as I believe it will be, we must start making the tough choices to bring spending in line with revenues. The vote next week will be one of many tough votes that we must make if we are ever to balance our budget.

The proponents of this bill have argued that we need to take down the firewalls in order to make necessary investments in education, jobs, infrastructure, and health care. I agree that the programs that the proponents have been talking about are all very good programs and I would point out that plan B makes strong investments in priority programs. For example, under plan B, more than 200,000 additional women, infants, and children will receive nutritional assistance than currently receive these services. The funding for children's programs, for job training, health care, low-income assistance, and other priority programs is higher in plan B than the President proposed.

I do not pretend that plan B can compete with the funding levels in plan A. This is not because those of us who support plan B do not care about funding for programs which help individuals. It is because we believe that we must balance the short-term needs of today against the long-term needs of future generations. The most significant way that we can care for Americans, especially young Americans, is to take the burden of the deficit off their backs. This debt burden will cripple the ability of future generations to make the type of investments that we have been talking about.

Some people have argued that we need to break the firewalls in order to respond to the recession. We have been tempted to make a quick fix for the economy by increasing spending. This runs counter to the advice of numerous economists who have warned that the deficit does more to slow down our economy than any tax cut or infrastructure investment could begin to offset. Every time we increase the deficit we drive up interest rates and further delay an economic recovery. According to a study by the Federal Reserve Bank of New York, the massive deficits of the 1980s reduced the country's productive output by 5 to 10 percent. In addition, if we vote to loosen the discipline of the budget enforcement act, we will harm the economy by sending a message to the financial markets that we remain unwilling to control the Federal budget.

There is no question that this institution does not have a very good reputation with the American people. The public is frustrated with the unwillingness of policymakers to make tough decisions and take responsibility for our actions. There has been a failure of leadership in fiscal policy. Policymakers in Congress and the executive branch have been unwilling to make the tough choices necessary to keep the Federal budget under control. Now is the time for the House to demonstrate leadership and use this historic opportunity provided by the end of the cold war to make true and meaningful economic reform by confronting our deficit problem. Defeating this resolution will make only a small reduction in the deficit. But I believe that maintaining the firewalls will make one small step for deficit reduction, one large step for this institution and our country's economic future.

There are those who argue that this is not the time for deficit reduction. I disagree. I share the sentiments expressed by the Speaker when he urged the House to pass the budget agreement in 1990: "If not now, when; if not us, who?"

Mr. Chairman, I have a few questions in regard to H.R. 3732, the Conyers resolution breaking the budget firewalls:

Question: How will the Conyers Resolution increase the deficit, since the cap on total discretionary spending is maintained?

Answer: It is technically true that the Conyers bill will not allow spending to exceed the total levels set in the Budget Enforcement Act (BEA). In reality, however, the end of the Cold War resulted in general agreement that spending could be reduced below the total discretionary cap because of defense reductions. The Conyers bill will prevent his anticipated reduction in overall spending. Tearing down the walls and adopting plan A of the Budget Resolution would result in a deficit $6.5 billion higher than plan B, which assumes the walls stay in place.

Simply maintaining the total discretionary cap would be sufficient fiscal restraint if there was no need for any deficit reduction beyond that provided for in the 1990 summit agreement. Unfortunately, the Congressional Budget Office reports that, even with the BEA caps, deficits will exceed $200 billion well into the next century. Given these conditions, the opportunity for further deficit reduction provided for by the possibility of defense cuts should not be squandered.

Question: Shouldn't the Budget Enforcement Act be amended to reflect the changes in the world since 1990?

Answer: The caps placed in the Budget Enforcement Act were explicitly designed to be spending ceilings, not floors. The cap on defense spending was intended to set a maximum level for defense spending while allowing for further reductions if events warranted.

Despite the historic changes that have occurred since the enactment of the Budget Enforcement Act, the fact that was the driving force behind the BEA remains even truer today: federal deficits are placing an increasingly heavy burden on our economy.

Question: Don't we need to break down the walls in order to provide fiscal stimulus to the economy?

Answer: Numerous economists have warned that fiscal efforts to stimulate the economy would be counterproductive given our large structural deficits. By reducing the savings rate and increasing interest rates, the deficit does more to harm the economy than any public investment could offset. In addition, loosening the discipline of the Budget Enforcement Act would send a dangerous psychological message to the financial markets. Most economists agree that the most crucial action Congress could take to restore the long-term health of our economy would be to reduce the budget deficit.

Question: Won't deep cuts in domestic programs be required if the walls are maintained?

Answer: Obviously, spending for domestic programs will not be as high if the walls are maintained. Plan B recognizes that some short-term sacrifices must be made to address the long-term threat posed by the deficit. The most significant way we can care for Americans, especially young Americans, is to reduce the debt burden.

It is important to keep in mind, however, that even with the walls in place, $206.1 billion in Budget Authority and $224.7 billion in outlays will be available for domestic programs. Plan B is therefore able to make strong investments in health, jobs and other priority programs. Funding for high-priority programs such as WIC (Women, Infants and Children), Low-Income Home Energy Assistance, Childhood Immunization, and Job Training are funded to a much greater extent than the President proposed.

Question: Shouldn't Congress have the flexibility to set budget priorities within the budget without the restrictions of the categorical caps?

Answer: The Budget Enforcement Act was intended to place discipline in the budget process by making it more difficult to increase spending. The categorical caps were put in place to ensure that any spending reductions in any one category be applied to the deficit. Since the government was borrowing the money that had been spent on defense, the reductions in the defense budget do not represent "found money" that can be reprogrammed.

Question: Will taking down the walls result in additional cuts in defense?

Answer: Passage of H.R. 3732 alone will not result in deeper defense cuts. It will, however, increase pressure to raid the defense budget to meet discretionary spending demands without concern for security needs. Although the defense reductions are the same in plans A and B, there is no assurance that defense spending won't be cut deeper later in the process.

Question: Why is it important to maintain the firewall if doing so will only reduce the deficit by $6 billion?

Answer: While maintaining the firewalls is only the first step in improving our fiscal condition, this is not a justification for making the deficit worse. The deficit is too large for any one action to solve it alone. The summit agreement of 1990 was a positive step in dealing with the deficit. Passing the Conyers bill will represent a step backwards in that process and will make reaching compromises on future deficit reduction packages virtually impossible.

WHAT DO ECONOMISTS SAY ABOUT BREAKING THE FIREWALLS AND REDUCING THE DEFICIT?

"Reducing the call of the federal government on the nation's pool of savings is essential. Above all, I urge you to adhere to a budgetary strategy for FY1993 and beyond that is geared to the longer-run needs of the U.S. economy. At a minimum, maintaining a commitment to the elimination of the structural budget deficit over the coming years will help enormously to alleviate the concerns of the American people about our economic future."—Alan Greenspan, Chairman, Board of Governors of the Federal Reserve System, February 1992.

"Fiscal year 1991 closed with a record deficit of $269 billion, but 1992 and 1993 seem certain to exceed even that figure. CBO projects that, under current budgetary policies, the deficit will reach $352 billion this year and $327 billion in 1993. . . . The huge shortfalls will arise despite the stringent limits on discretionary spending that were imposed as part of the five-year, $500 billion deficit reduction agreement negotiated by the President and the Congress in 1990. . . . The deficit should return to the top of the political agenda in 1993. . . . Deficits of these magnitudes cripple economic growth by reducing national saving and capital formation. They also create a vicious cycle of more federal borrowing and higher debt service costs, which in turn make it still more difficult to reduce the deficit. Another round of spending reductions and tax increases, rivaling the $500 billion achieved in 1990, must come soon if the deficit is to be reduced to reasonable levels."—Robert D. Reischauer, Director, Congressional Budget Office, January 1992.

"In today's political climate temporary fiscal stimulus has about as much credibility as the tooth fairy. . . . The guiding principal behind any fiscal action taken at this point should be to adopt only measures that will still be useful several years hence."—Benjamin M. Friedman, Harvard University Department of Economics, January 1992.

"The country has a structural, 'consumption-driven' budget deficit from which it should be weaned. We can't afford all the private and public goods and services we're enjoying today; only escalating borrowing makes it temporarily feasible. We won't be able to enjoy these luxuries in future decades—unless we increase national savings by reducing the federal budget deficit and setting new expenditure priorities."—Roger E. Brinner, DRI/McGraw-Hill, December 11, 1991.

"The Federal government—executive and legislative branches alike—is perhaps most guilty of excessive short-term emphasis. Its huge and persistent budget deficits exhibit a shocking lack of discipline and concern for the future, creating a massive national debt that must be serviced if not repaid by future generations. That debt is now approaching $4 trillion, or about $50,000 for every American family. Productive private investment is crowded out and huge sums must be borrowed from abroad, adding further to America's status as the world's largest debtor nation."—Competitiveness Policy Council Bipartisan Panel Appointed by the Congress and the President, March 1992.

"In June 1991 the Committee for Economic Development (CED) recommended Congress should require that the entire budgetary saving arising from any further cuts in defense spending be used to reduce the deficit. However, instead of seizing this opportunity to reduce the deficit, political leaders are now proposing measures that threaten to raise the deficit or hinder its reduction. Congress has received numerous proposals for tax cuts and/or increases in domestic spending financed by further defense cuts . . . These proposals sharply conflict with the national priorities required to provide for future generations. Are we to be the first generation of Americans that not only does not sacrifice for our children but also places on them the burden of our profligacy?"—Roy L. Ash, Committee for Economic Development (An organization of 250 business and academic leaders), December 1991.

"Stein's first law of economics says that if something cannot go on forever, eventually it must stop. The only question is: what will it take to end this unsustainable pattern of deficits and debt, and when will it cease? . . . We need to lay the groundwork for future deficit reduction efforts. We need to devise meaningful, workable limits for entitlements and other mandatory spending. Don't breech the firewall between discretionary spending and pay-as-you-go. Pay-as-you-go discipline is the only thing standing between you and a takeover of the federal budget by burgeoning entitlement spending. The budget process will suffer a severe blow if Congress and the Administration choose to abrogate the agreement in order to serve short term desires to increase even worthwhile programs in this election/recession year."—Carol Cox Wait, Committee for a Responsible Federal Budget, February 1992.

Mr. HORTON. Mr. Chairman, I yield 4 minutes to the gentleman from Illinois [Mr. EWING].

Mr. EWING. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in very strong opposition to H.R. 3732, which would repeal the only mechanism we have in Congress to control spending and I believe would open the floodgates of new spending. It is time, Mr. Chairman, that we do something about the deficit instead of paying lip service to it. I believe this is one of the most important votes we will cast in this Congress, and how we vote on H.R. 3732 will indicate whether or not we can act responsibly with the taxpayers' money. Our vote on this bill will tell our children and grandchildren whether we really care or not about further mortgaging their future.

This legislation proposes to scrap the provision in the Budget Enforcement Act which prohibits transfers of funds from the defense, domestic, and international discretionary accounts. Under current law, any savings from one account, that is, the defense cuts being proposed by both the President and Congress, would be applied to deficit reduction. By repealing this important provision, the Democrats who control this body will be free to drastically increase spending elsewhere. If we allow this, we miss a rare opportunity to slash the Federal deficit.

Mr. Chairman, this country is facing a fiscal crisis of astounding proportions, and if we don't do something about it we will face total fiscal collapse. In the past decade our debt has almost quadrupled from $1 trillion to nearly $4 trillion because we in Congress have in part failed to control spending and have piled up huge deficits year after year. About 17 percent of our budget is now dedicated just to paying the interest on this crippling debt. With a budget of about $1.5 trillion and a deficit of $400 billion, over 26 percent of our whole budget is financed using borrowed money. This is absolutely irresponsible and totally unacceptable to the American people. Every working American in central Illinois and throughout the country must balance his or her checkbook at the end of the month. It is about time Congress starts doing the same.

I hear my friends on the other side of the aisle talking about, quote, "redirecting spending" and, quote, "increasing domestic investment levels." They talk about a, quote, "peace dividend." These are the terms they use. The Democrats are good at calling Reaganomics "voodoo economics." This legislation is real voodoo economics.

There is no peace dividend. We are living on borrowed money, Mr. Chairman. Under current law, if we responsibly cut defense spending, and I wholeheartedly support that, what we are actually doing is reducing the amount of money which we must borrow. What the big spenders in Congress want to do is to go ahead and borrow that money anyway, and spend it.

Make no mistake about it, adoption of this legislation means that the budget agreement, as weak as it may be, is dead and buried. Passage of H.R. 3732 will lead to a floodgate of new spending. The President recently said he made a mistake in signing an agreement with Congress to raise taxes and control spending. The fact that we are considering this legislation proves that he is right. The President got the message that a deal with the Democrats to raise taxes was a mistake. We got the tax increases, but we won't get the spending cuts.

Let's keep this little bit of spending discipline we have. Let's keep the firewalls up, let's apply defense cuts to deficit reduction, and let's send a message to our constituents that we really do care about cutting the deficit.

I urge my colleagues to vote for fiscal responsibility. Vote to keep the firewalls. Vote against H.R. 3732, whenever the Democrats in Congress decide to finally hold that vote.

□ 1440

Mr. HORTON. Mr. Chairman, I yield 4 minutes to the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Chairman, I rise to talk today about this bill, H.R. 3732, and it is entitled "The Budget Process Reform Act of 1992." I cannot think of a title that could be more misnamed than to call it a process reform act. We might call it "The Budget Rape Act of 1992," we might call it "The Budget Negation Act of 1992," or perhaps we could call it "The Guaranteed Runaway Deficit Increase Act of 1992," but it certainly is not process reform.

Mr. Chairman, I say that not having particularly liked the 1990 budget summit agreement. I voted for it the first time around. By the time it came back, I realized we were snookered and did not vote for it.

But I do also recognize that that budget act had at least some discipline. In fact, the only discipline that we have in this body on spending is in that budget act, that summit agreement of 1990.

It does separate the spending by categories, and we knew why we were doing that, in the event that there were more savings in defense, and nobody thought there was going to be savings in domestic, that if there were more savings, we would apply that to the deficit. That is why we have those separate budget caps, and that is why today we are trying to take them down, because now we have those savings, and we want to spend it on something else.

It has been pointed out here today that things have changed in the world, and, yes, the Soviet Union does not exist any longer, and, yes, our national security needs are different, and, yes, the President has come back with a defense figure that is less than had been anticipated 2 years ago.

But something else has changed around here. The deficit is worse today than it was then. We are talking about a deficit this year of $399 billion. That is more than $1 billion every day. My colleagues, that is more than $47 million of deficit spending every hour of the day.

Something else has changed. The deficit has risen to close to 7 percent of the gross national product. That is higher than any other major industrialized country in the West, and so here we are with $15 billion of savings in defense, and we just cannot wait to get our hands on it and spend it because it is free money to be spent on other programs.

Something else has not changed around here, and that is that this place cannot make a deal and keep a deal. We saw it 11 years ago with Gramm-Latta. As soon as it was in place, we tried to take it down. Gramm-Rudman, take it down; Gramm-Rudman II, tried to knock that deal down, and so here we are with the Budget Act of 1990, trying to take that down and do away with it.

Of course, there are important domestic needs out there, but what about the needs of the next generation? I just met a few minutes ago with a group of high school students, and I looked them in the eye and thought what is going to be their future when we are spending their money, we are spending their future, the way we are because we do not have the guts to make hard decisions today about our spending priorities.

Mr. Chairman, we are on a course that is leading to disaster. We are rapidly reaching a point of no return on the deficit where the interest cost of the deficit will be increasing so rapidly that no amount of budget discipline will be able to get that under control. And then what is the answer? Of course, the answer would then be hyperinflation to inflate that debt away, to eliminate it by hyperinflation.

Mr. Chairman, this is a defining moment in the history of the House of Representatives. I am not confident that we can ever control spending, even if we keep these budget caps in place, but I know with certainty that we will not if we do not keep the budget caps in place.

I urge my colleagues to defeat this resolution.

Mr. HORTON. Mr. Chairman, I yield 3 minutes to the gentleman from New Mexico [Mr. SCHIFF], and I want to commend the gentleman. He has been a member of the Committee on Government Operations and also a very important member of the legislative committee that handled this bill. He has done an outstanding piece of work in connection with this legislation, and I congratulate him.

Mr. SCHIFF. Mr. Chairman, I thank the gentleman from New York [Mr. HORTON] for yielding this time to me.

Mr. Chairman, I first want to say that it is a privilege to serve on the Committee on Government Operations with both the gentleman from Michigan [Mr. CONYERS] and the gentleman from New York [Mr. HORTON]. Both work very hard in the Government interest.

I want to say that I rise today to oppose H.R. 3732, Mr. Chairman. I voted in favor of the original budget agreement in November 1990 which became law. It was not a great agreement. But we needed an agreement. We must remember that at that time the United States was in the middle of an international crisis heading toward a war. It was my opinion that this was the best agreement that we could get, and we needed to resolve that issue so that we could concentrate on international affairs. But it was an agreement. All of the provisions that were placed into it, the firewall provisions and everything else, were a matter of give and take, compromise and back and forth.

Mr. Chairman, I think that it is wrong to change a part of an agreement. I understand the argument that is being made here today, that we have money that we could use instead for other purposes. I am personally willing to revisit the whole situation. I would support any bill that would repeal the entire budget agreement of November 1990, every single provision, and put us back to negotiating all of the terms over again, including the firewalls. But I am opposed to changing just a part of an agreement and leaving other parts in place that are only there because the firewalls were agreed to by the other side.

Frankly, Mr. Chairman, this is not the Budget Process Reform Act. This is the Let's Break a Budget Agreement Act, and it should be rejected.

Mr. CONYERS. Mr. Chairman, I yield such time as he may consume to the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Chairman, I urge my fellow colleagues in the House to vote "aye" today to eliminate the obsolete 1993 minicaps on defense, international, and domestic discretionary spending which were imposed as part of the 1990 budget summit at the insistence of President Bush to protect military spending. Removing these minicaps will not impact the overall limit on discretionary spending which will remain in effect as established in the budget summit agreement and be subject to sequester if exceeded.

By removing these caps, we will be able to cut the deficit and begin to put additional funds into successful investments that will work for America's future competitiveness.

According to the Federal Highway Administration, 144,000 or 25 percent of our Nation's bridges are unsafe; an additional 40 percent of the bridges are structurally deficient or functionally obsolete; and 260,000 miles of our Nation's highways have reached a critical level of disrepair. It is estimated that we waste 2 billion gallons of gasoline annually because of the state of our highways. Failure to respond to these demands will result in ever-increasing costs. Taking down the walls would permit these investments that will put America back to work and partially pay for themselves through increased tax revenues.

If the walls come down, we could spend considerably more on the Pell Grant Program. Currently, 3.8 million students receive Pell grants ranging from $200 to $2,400. We could provide Pell grants to 625,000 more students, and most of these students would be working students and students from middle-income families. Or if we use the money instead to increase the amount of Pell grants the currently eligible 3.8 million students receive, we could increase the maximum Pell award from $2,400 to $2,900, a $500 increase in the maximum award that would help us decrease the growing reliance low-income students have on student loans. Taking the walls down gives us this choice.

Taking the walls down would also enable us to provide Head Start benefits to more children. Currently 621,000 children receive Head Start services. This represents about 25 percent of children who are eligible for these services. We spend about $2.2 billion currently on Head Start. If we wanted to serve all of the children who are eligible for Head Starts, we would have to spend $7 billion. However, if the walls came down, we would take a giant step in that direction by serving 135,000 more children, taking us to the point we served one-third, not one-fourth of eligible Head Start children.

Currently, we serve 16 percent or 70,000 of our Nation's eligible youth in the Job Corps. We could easily serve another 50 percent more eligible youth by completing Job Corps 50–50 plan. By the year 2000, we could place 81,000 annually, compared to the 54,000 today.

Our infant mortality lags behind more than 20 other industrialized countries. This should be addressed by investments in our children. We can easily serve 600,000 more women, infants, and children in WIC. We can immunize all of our Nation's school children when the walls come down.

All of these are investments with immediate return. For every dollar invested in Job Corps, You get $1.46 returned to the Treasury. During their lifetime, the average college graduate pays $169,000 in taxes while the high school graduate pays $77,000, a net difference of $92,000 per graduate. For every dollar invested in Head Start, we get back $6 in terms of increased productivity, decreased crime, and juvenile delinquency. For every dollar invested in WIC, as much as $3.90 is saved in Medicaid spending on newborns.

Mr. CONYERS. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. TOWNS], the chairman of the Congressional Black Caucus and a distinguished member of the Committee on Energy and Commerce.

□ 1450

Mr. TOWNS. Mr. Speaker, by our own agreement, the walls are scheduled to fall in 1994. Some will say that we should wait. But we cannot afford the luxury of waiting an extra year. Ask the millions of Americans who are out of a job, out on the street and feel like they are out of luck to wait one more year? Surely we cannot be that callous.

We must change the economic direction of America. We can only do this by breaking down the artificial wall which we have imposed.

Americans are suffering with the highest unemployment rate since the end of World War II. The infrasturcture of our cities are crumbling. Our industries do not have the necessary capital to retool and compete in a global economy.

The threat posed by the Soviet Union and the Warsaw Pact countries is as dead as the ideology of communism which gave it birth. Yet this threat is rapidly being replaced by other threats to our national security; unemployment, homelessness, illegal drug trafficking, and violence. These threats are not on distant shores. These threats are in our homes, carried on the shoulders of our people, and living in the hearts of our children.

Americans are suffering with the highest unemployment rate since the end of World War II. It does not take a genius to realize that the unemployment opportunities of parents determine the fate of children.

Thirteen million American children go to bed with hunger pains in their stomachs every night. Many others have given up the dream of a college education and a decent life. We owe it to them to restore hope and improve reality.

Let us face it: The world has changed. We must have the courage and foresight to change with it. America has been a world leader in the 20th century. We can maintain our position of prominence if we use this moment to invest in our future through investing in education for our children, jobs for the displaced worker, and research, development, and capital for our industries.

We must knock down the walls and prevent further suffering. I urge Members to vote to knock down the walls. That is the vote to make.

Mr. HORTON. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. HOUGHTON], a member of the Committee on the Budget.

Mr. HOUGHTON. Mr. Chairman, I am not sure I am going to be able to give any wisdom to this debate, so much has been talked about. I do have a couple of thoughts though.

Really this is a moral issue. Is it moral to spend money on worthy projects, and is it immoral to save that money and put it toward deficit reduction? That really is the issue.

Mr. Chairman, I guess that I submit that since 1984, we have been spending the money. It has not worked. We have exceeded what we wanted to do by $1.8 trillion and I think we have come to the end of our rope.

Clearly we have got to have a budget, and it must be fair and it must mean something. But the one thing a budget says is this: Are you going to do what you say you are going to do? That is all it is. Are we going to abide by what we said we are going to do, or are we going to change that? Will we keep the structure set up, not by me, but by a bipartisan group of leaders of this House, that said over a 2 year period we will do what we said we would do? Or are we going to break it in half?

Now, do conditions change in the country? Of course they do. Was the 1990 5 year agreement the best we could find? Absolutely not. But what budget agreement is?

Would it be intellectually better to scrap the whole thing and start over again? Possibly. But, again, that is an intellectual argument. The reason it is an intellectual argument is because we have the agreement. We have told the American people about it. We hope they understand this. It provides that discipline that all of us have been talking about today.

Is discipline important? I happen to think it is. We had Gramm-Latta, and we broke it. We had Gramm-Rudman I, and we broke it. We had Gramm-Rudman II, and we broke it. Now we are coming up to the summit agreement only 2 years ago and we are thinking of breaking it.

In 1984, the majority leader of this House said, when we voted in Gramm-Rudman, "When you vote tonight, you are voting on whether you want to practice for excessive deficits, that trend, that set of facts, to continue."

In 1987, the chairman of the Committee on Ways and Means said, "We establish in the Gramm-Rudman portion of this bill now a reinvigoration of the process to reduce the deficit and set deficit reduction targets." We broke that agreement.

The chairman of the Committee on the Budget said in 1990, "This summit agreement is enforceable." Indeed, it is.

The gentleman from Michigan [Mr. CONYERS] himself said at that time, "For the next 3 years, and perhaps for the next 5, our hands will be tied tight."

Every time we make an agreement, we break it. Is this really what we want to do?

Mr. CONYERS. Mr. Chairman, I yield such time as he may consume to the gentleman from Indiana [Mr. JONTZ].

Mr. JONTZ. Mr. Chairman, I rise in support of the legislation.

Mr. CONYERS. Mr. Chairman, I am pleased to yield 3 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER] who serves with great distinction on the Committee on Armed Services.

Mrs. SCHROEDER. Mr. Chairman, I thank the gentleman for yielding, and I really salute his leadership in this area.

Mr. Chairman, this is one of the most important votes this House is going to have. It is very hard for me to stay in my seat and listen to person after person who did not vote for any budget agreement come down here and cling to it like it is the Holy Grail or the Great Tables, or whatever. If it is so great now, how come it was not great when we voted on it? That is amazing to me.

Second, it is incredible that we are clinging to an agreement made at a time when the world looked very, very different. The Soviet Union crumbled because it held on to 5-year plans, and it finally learned you do not make 5-year plans and then hang on to them no matter what happens.

Here we are. They have given up doing 5-year plans, and we are going to hang on to ours because somebody agrees to it.

Now, look, as one who has voted for a lot of budget agreements and not wanted to many times, but felt this place was better off with a budget than without a budget, I know why these walls are here. These walls are here because they were scared to death of the SCHROEDERS and the CONYERS and other people taking money away from defense to put into domestic programs, or taking money from maybe foreign aid to put into domestic programs.

Now, what are we talking about? We are not talking about lifting the amount of the budget. I get very tired of Members saying we are trying to lift the cap, break the budget, drive the deficit, and all that. Baloney. We are not talking about that at all. We are talking about being able to act sanely.

Mr. Chairman, let us use some of those tanks we bought in defense to crush this wall. Look, the Berlin Wall was up when this thing happened; it is now a speed bump. Can we not take this wall down and put some of the money over on the side of the priorities that we have been neglecting for so long?

Everything this House does should be based on are we getting ready to compete with Canada, Europe, and Asia, for the highly skilled, highly educated, well-paying jobs? Or are we getting ready to compete with the Third World?

If you want to do option A, then you had better vote to get these walls down. Because the four things we have got to do is focus on education, which right now we are getting an F in. We are not even making the commitments to our people we made in the sixties at the Federal level. You have to be the best in education. We are not. We cannot be unless we get the walls down.

You have to have the best infrastructure. As the gentleman from New Jersey [Mr. ROE] pointed out, if you do not bring the walls down, you cannot get in with the infrastructure.

You have to do flexible capital markets, and you have to move out to get the best innovation and best technology going. That means conversion.

Mr. Chairman, what happened was we did not listen to Eisenhower, and what he said came true. We became a military-industrial complex. Getting the walls down allows us to recycle money and change this to the kind of complex we can sell. This is very important to the future of America.

Mr. Chairman, I salute the bill of the gentleman from Michigan [Mr. CONYERS], and proudly support it. I hope we bring the walls down.

Mr. HORTON. Mr. Chairman, I yield 6 minutes to the gentleman from Georgia [Mr. GINGRICH], the Republican whip.

Mr. GINGRICH. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, let me say first of all that I am perfectly cheerful to stand up here and say I voted against the budget agreement at the time it was passed. I thought it was a bad agreement then. I think the Democratic leadership today is proving my case.

I said at the time we are going to have a $146 billion tax increase, and, at the first opportunity, the Democratic leadership is going to break its commitment to the President, tear down the walls, and raise spending.

□ 1500

The agreement ostensibly was to get closer to the deficit, to shrink the deficit.

Every Member who came down and voted for the agreement said, we have got to worry about the deficit.

First of all, if we look carefully at even under the agreement, domestic discretionary spending went up $12.9 billion the first year, $21 billion the second year, $8½ billion the third year. Every year domestic discretionary, which is essentially about spending by politicians in this building, went up.

Now, what do we hear? I am not here to defend the Pentagon's budget. I think we have won the cold war. I think we can shrink the Pentagon. I think we can spend less. That is not the issue here today.

The issue here today is twofold. First of all, if the Democratic leadership wants to break its agreement with the President, let us cut down the $146 billion in taxes and give those back to the American people. George Bush broke his pledge because he was told by the Democratic leadership they could keep their word. And he signed a tax increase, which was their charge, their fee, their tariff in order to get him to agree to spend more money domestically.

They said, we will protect defense, and we will protect the things we care about for 5 years.

What has happened? What they want to do now is break their agreement with the President but keep the tax money. So my first challenge is, do they want to take this bill back and put into it the $146 billion in tax cuts to give back to the American people what they extorted in return for what was supposed to be a set of walls? I will consider at that point cosponsoring the bill. At least then we will be back in a fair playing field.

They want to keep the $146 billion in tax increases and break down the restraints.

The second point, if we are going to cut defense spending, is the wisest use of that money to put it into the welfare state, into the bureaucracy, into Washington politicians, or is it better to reduce the deficit? Almost every American I know believes that we already have a government that is too big and does too much. Most Americans believe we already have a deficit that is too large. So if we say to them, we do not need to spend the money at the Pentagon, why do we not reduce the deficit so we are not borrowing the money from our children, most Americans would agree that a smaller deficit is more important than a bigger bureaucracy.

So the second point I would make is, if we do not need to spend it on defense, and I do think we can reduce defense spending, then let us actually cut Government spending, have a smaller deficit, borrow less from our children. And as a result, be a healthier economy.

That means lower interest rates, means we can sell more homes, can sell more cars, create more jobs. It means the whole country would be healthier.

Third, I want to go directly at my good friends who represent the welfare state and urge, government is a lousy buy. We had a very fine gentleman who I respect greatly from New York City who got up and talked about how many things we have to do.

Go and look at the Reader's Digest January article entitled "How the Unions Stole the Big Apple," look at a $57,000 public school janitor who is required to mop the floors three times a year. Why should we in Washington transfer more money to big city bureaucracies that are loaded with waste, loaded with crazy work rules? And my colleagues do not have to believe Reader's Digest.

Read the New York Times editorials in the last 2 months about the most recent sanitation workers contract that Mayor Dinkins signed, which allows workers to work 4 hours and then to get paid for 4 additional hours a day while doing no work.

I ask my colleagues, how can we, with a straight face, come down here and suggest that at $1.4 trillion, our problem is, we do not have enough money? How can we with a straight face take the New York City budget, which is $13.3 billion, and suggest that that is $13.3 billion in personnel costs alone and suggest that what we need to do is find a way to spend more money?

I would argue that the No. 1 challenge to the Congress is to overhaul and replace the welfare state, to have the courage to take on the bureaucracy and to be prepared to deal in a direct way with rethinking it.

For us to say, let us pour more money into a welfare state which is failing, I do not see how that makes any sense.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. GINGRICH. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, has the gentleman seen today's New York Times?

Mr. GINGRICH. Mr. Chairman, in fact, I have written a letter to the editor.

Mr. Chairman, I include for the RECORD the New York Times' misleading editorial on the next Willie Horton issue.

[From the New York Times, Mar. 12, 1992]

A GREAT-TASTING BUDGET BILL

Tastes great/Less filling. That false dichotomy sold a lot of beer. Today, the House of Representatives will vote on a similar dichotomy: Reduce the deficit/Increase domestic spending. Logic argues for a "yes" vote. Those goals may seem contradictory but in budgets as in beer, there's no reason the nation can't have both.

The vote will come on a bill sponsored by John Conyers, the Michigan Democrat, to remove firewalls in the 1990 budget law. Those barriers forbid Congress to switch money from defense to domestic programs. Once those barriers are down, Mr. Conyers and the Democratic leadership propose splitting the peace dividend saved from declining military budgets between deficit reduction and public investment.

In opposition, President Bush and Republican leaders argue that the only acceptable way to use the money is to reduce the deficit. They say only deficit reduction can spur growth and, besides, firewalls are needed for fiscal discipline. Mr. Bush and his allies are doubly mistaken.

Public investment is every bit as important to growth as private investment. And the Conyers bill would only shift spending among programs; it wouldn't raise the deficit a dime or erode discipline.

The 1990 budget law was designed to reduce the deficit by about $500 billion over five years through modest spending cutbacks and tax hikes. Without debate, Congress agreed to separate caps on domestic, international and defense programs. The amendment defaced an otherwise laudable bill, blocking Congress from doing what it's elected to do: make choices.

What was politically perverse in 1990 has now become fiscally irresponsible. The demise of the Soviet Union now makes frivolous tens of billions in proposed defense spending. But Congress has precious little incentive to capitalize on the golden opportunity. It can cut military spending but the entire saving must go to deficit reduction. Congress isn't likely to undertake painful tasks like closing bases on behalf of the grand abstraction of deficit reduction.

Besides, deficit reduction alone performs no magic. Smaller deficits help the economy because they mean the Government siphons less out of private capital markets. That leaves more money for entrepreneurs, leading to faster growth in investment, productivity and wages.

But there's another key to economic growth: Public investment in telecommunications networks, water treatment, education, training, research. These have been slighted in the Reagan-Bush years, yet study after study shows that such public investments produce returns as high as, or higher than, private investment.

Mr. Bush threatens to veto the Conyers bill because he assumes Congress will throw away the peace dividend on wasteful expenditures. That's a legitimate worry. But the remedy is not to veto Congress' capacity to choose; it is to veto wrong choices it might later make.

Deficit reduction; increased public investment. The economy needs both. Both taste great.

I would just say about that editorial, it is factually wrong. I just sent the New York Times a letter to the editor quoting their editorials, whch they have written in the last 2 months, about precisely the same absurd work rules and precisely the same absurd bureaucracy, which they condemn.

I am not going to back off an inch on this. Until we overhaul the big cities, I will mention Detroit in passing, until we overhaul the big city bureaucracies, the big city work rules, and the welfare state values, I do not see any reason why any working American should transfer another dime to the welfare state.

Mr. TOWNS. Mr. Chairman, will the gentleman yield?

Mr. GINGRICH. I yield to the gentleman from New York.

Mr. TOWNS. Mr. Chairman, I notice that the gentleman mentioned New York and he talked about a time where the walls are up. It would seem to me that he made an argument that we should knock the walls down because if all this is happening with the walls being up, then we should bring them down.

Mr. GINGRICH. Mr. Chairman, let me say to my good friend, whom I respect a great deal, my argument is simple. Until we replace the welfare state and until we thoroughly overhaul the big city bureaucracies, spending more money just increases the costs of the bankruptcy.

The reason we have a major problem in the major cities of this country is because the core values of the welfare state are destructive. The core structure of the big city bureaucracies is destructive. Until we are prepared to fundamentally overhaul the big city structures to replace their bureaucracies, to replace the crazy work rules and to go to a system that has values starting with workfare, requiring every able-bodied adult to work before they get money, until we are prepared to do that, I would say to my friend, we are not going to be able to improve the quality of life in places like New York.

Mr. CONYERS. Mr. Chairman, I yield 2 minutes to the gentlewoman from Hawaii [Mrs. MINK], an important member of the Committee on Government Operations.

Mrs. MINK. Mr. Chairman, I thank the chairman of the Committee on Government Operations for his excellent leadership in bringing what I regard to be the most important piece of legislation that has come before the Congress since I took office in September 1990.

I was here during that debate of that Budget Reconciliation Act, which imposed these artificial barriers, which restricted the Congress in making decisions as to how our government funds ought to be spent. And so now, after more than a year of being here, it seems to me that finally we have a chance to do what we are elected to do. And that is to come here and address honestly how the funds of this country ought to be spent and not to have to be restricted by these arbitrary restrictions.

I think that it is quite right that we have to hear so many speakers here regard this piece of legislation in terms of supporting some that they consider evil and, therefore, call it the welfare state.

It seems to me what we are dealing with here is the inability of the administration to understand that there are people in this country that are suffering from lack of jobs, lack of food, lack of adequate housing.

Our health system is in decay. Our educational system is not what it should be, when we want to boast to the world that we have the best in the world.

So what we are attempting to say is the country must now take this opportunity, and that is what the world has presented us, with the end of the cold war, an opportunity to reassess our priorities and to put our funds where it really counts, in the future security of this Nation, in things like the infrastructure, in rebuilding our society, in putting people back to work.

We have a bill also coming out of the Committee on Government Operations that intends to spend $15 billion each year to do something about our public works deficit and at the same time to put people back to work. I have a $25 billion bill in the House Committee on Education and Labor because I feel education is an important element to the investment of our country.

So my colleagues, this is what we are here for and this is the highest priority bill that we could consider this year.

Mr. HORTON. Mr. Chairman, may I inquire as to the remaining time?

The CHAIRMAN. The gentleman from New York [Mr. HORTON] has 12 minutes remaining, and the gentleman from Michigan [Mr. CONYERS] has 14½ minutes remaining.

□ 1510

Mr. HORTON. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Chairman, I rise to oppose the comments of the gentlewoman from Hawaii [Mrs. MINK], because she is looking for an opportunity to spend. I rise against this bill.

Mr. HORTON. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. BENNETT].

Mr. BENNETT. Mr. Chairman, I personally feel discipline is greatly needed. That is the reason I am opposed to this legislation.

Throughout the summer and fall of 1990, this Chamber saw a vigorous debate over the Omnibus Budget Reconciliation Act of 1990. That act separated Federal spending into three accounts; defense, international affairs and domestic. So called firewalls were used to prevent transferring money from one account into another and spending caps were placed on each account. Why? The answer is simple—to begin the arduous, but critical, task of controlling Federal spending and reducing our monster debt.

Today, however, that plan is in jeopardy. For the first time since the passage of the new budget agreement, we are considering a budget which authorizes less than the spending caps would allow. This gives us a great opportunity, not to shift money from one sector of the Government into another, but rather to reduce Federal spending and reduce the amount of money this country must borrow to continue operation. Some Members of this body want to remove the firewalls and lift the cap on Federal spending. I oppose this plan. Removal of the firewalls could not only cause further, dangerous, reductions in the defense budget, but could also preclude an opportunity to control Federal spending.

We have already voted to reduce the defense budget by $9 billion—an amount I consider to be too large. By removing the firewalls, the desire would be further enhanced to make even deeper cuts in defense. This would be a dangerous precedent. Despite the diminished Soviet threat in this post-cold war era, we still face potential hostilities from many third world nations. What assurance do we have that, one day, we will not have to defend ourselves against Iraq, Libya, China or others? Such threats compel us to maintain a strong national defense and one which will not imperil the United States in the future. Some reductions may, in fact, be necessary—but those cuts should help us solve the greatest domestic danger this Nation faces—Federal spending that is furiously out of control; spending that is forcing us to borrow more and more money and contribute to a debt which is larger than anyone's comprehension.

The responsibility is ours to resist the temptation to look upon the savings in the defense budget as a windfall—because nothing is further from the truth. Transferring money from the defense budget into other sectors of the economy would tragically perpetuate the dangerous trend that has, for too long, controlled our budget process. The American people are tired of the wasteful, irresponsible spending that we are all too often engaged in. Our citizens want from Congress the same spending discipline that they must endure each day. Today's vote is an opportunity to tell the American people that Congress is finally ready to get control of our spending habits. This vote is a defining moment for the 102d Congress and the time to send a message. Are you willing to be targeted as one who cannot control your desire to spend or one to seize this opportunity to apply self-restraint and tackle our incredible debt? The choice is clear and the opportunity is yours. Carpe diem my dear friends—seize the day.

Mr. HORTON. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. STEARNS].

Mr. STEARNS. Mr. Chairman, the questions at the heart of this bill affect every aspect of the budget process, and indeed would represent a fundamental change in the 1990 budget agreement. We need to put every aspect of that agreement on the table if this is to be a substantive debate and not just an exercise in politics.

Most importantly, Representative JERRY SOLOMON, on behalf of many Members submitted an amendment that could make this measure acceptable to the American people. The Solomon amendment would attach a line-item veto provision for 1993 to the dismantling of the budget walls. Unfortunately, the Rules Committee will have to rule this bill in order, if the House is to have the opportunity to vote on it. If making the budget process make sense is not germane, I don't know what is.

If the Democratic leadership is not prepared to make the Solomon amendment germane, we should offer it as a free-standing bill. I want to see if this House is serious about budget reform.

We know that President Bush will never sign the bill as reported. And he shouldn't. This Congress made a promise to the American people in 1990. I wasn't a party to that agreement. I voted against it. But I think we should not eliminate the one provision that we have in place to force us to do something about the Federal deficit.

The world situation has changed and our military needs have changed. The Pentagon told us last year that we didn't need a number of military items, but this Congress forced the military to fund them. There are cuts that could be made in the Armed Services budget if we could eliminate the pork in the budget, the weapons systems the Pentagon doesn't want, the military museums. We could eliminate these too with a line-item veto. We might even be able to fund a lot of the necessary social programs you have spoken of just by applying a line-item veto to the Pentagon budget.

Some of the items funded last year were an embarrassment to this institution: The million dollar bike paths, the marble floors in the House elevators, the searches for space aliens. We all know how these items get in the budget and I think the majority of Members in this House, given the opportunity, would like to get them out. We could all look at our children and know we have spent our public funds in their best interest.

Think about the big picture. We can have better use of our resources. We can fund programs crucial to our children. We can cut wasteful pork out of our budget and restore honor to this House. We can start toward real deficit reduction.

People in my district and your districts are suffering because of the economic stagnation. Let's not play politics, we should be honest with the American people. If the firewalls come down, we need a line item veto for fiscal sanity.

Let's work together for a change. Let's make this day the day when Congress turned the corner and started solving this Nation's problems and not worsening them. Then, maybe that 19 percent approval rating of this Congress will improve.

Mr. CONYERS. Mr. Chairman, I yield 3 minutes to the gentleman from New Jersey [Mr. PAYNE], a distinguished member of the Committee on Government Operations.

Mr. PAYNE of New Jersey. Mr. Chairman, as a member of the House Government Operations Committee, I would like to commend our distinguished chairman, Congressman JOHN CONYERS, for formulating this important legislation which we are considering today, the Budget Process Reform Act of 1991.

Passage of H.R. 3732 will allow us to respond in a responsible manner to the dramatic international events which have made our world a very different place than it was when the budget agreement of 1990 was reached.

With the dismantling of the Soviet Union and the dissolution of the Warsaw Pact, it simply does not make sense to continue the same defense strategy that was in place before the collapse of communism in the Soviet Union and Eastern Europe.

By removing the rigid firewalls between spending for defense and domestic discretionary programs, we will have the flexibility we need to address the most serious threat to our Nation's strength—our domestic problems.

It is ironic that the massive military buildup of recent years has in many ways made our Nation more vulnerable, as valuable resources have been siphoned away from such critical areas as education, job training, housing, and community development.

Mr. Chairman, in the Education and Labor Committee on which I serve, we continually hear disturbing testimony about the inadequate performance of American students compared with their counterparts in other nations.

In urban schools, conditions are nothing less than appalling. How can students excel academically when they are sent to dilapidated schools with outdated equipment and textbooks, in an atmosphere where drugs and violence are commonplace?

I am not antidefense; our country must defend itself, and I have the highest praise for our young men and women who choose to pursue careers in military service.

However, we have to ask ourselves some tough questions. What kind of example are we setting for the world, when we have men and women who fought in the Persian Gulf war who are now homeless? Last fall, Stars and Stripes newspaper ran an article about a report on homeless veterans conducted by the National Coalition for the Homeless. According to the report, more than 250,000 veterans of all wars may be homeless every night. Yet, only one-tenth of 1 percent of the VA's budget is dedicated to programs to provide services to homeless veterans.

Mr. Chairman, I believe that the Budget Process Reform Act will allow us to make our country stronger by addressing our urgent domestic problems which have worsened during this prolonged economic recession.

I want to stress that H.R. 3732 is a fiscally responsible measure. By replacing the separate spending caps for defense, domestic, and international affairs with a single cap on all discretionary spending, the bill does not affect the limit on total discretionary spending set by the budget agreement of 1990.

The Congressional Budget Office has determined that enactment of this legislation would result in no additional cost to the Federal Government.

Again, Mr. Chairman, I commend our chairman, Mr. CONYERS, for his leadership on this issue and I urge my colleagues to support the Budget Process Reform Act.

Mr. HORTON. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. UPTON].

Mr. UPTON. Mr. Chairman, I oppose removing the budget firewalls. No question about it.

During the past few weeks, I held a number of town meetings throughout my district. Everyone who attended overwhelmingly declared the best way to get our economy growing and restore consumer confidence is to cut Federal spending and reduce the deficit. I couldn't agree more.

A few weeks ago when the House voted on tax plans portrayed as economic growth stimulants, I voted against any effort to raise taxes and the Federal deficit. Spending money we don't have is a sure-fire way to stifle economic growth, not create it. Pushing the deficit even higher is probably the worst thing we can do.

We're killing our economy, hurting our ability to compete, and stealing funds that should be going to businesses and individuals for investing in our future. We have no right to spend our children's future standard of living and burden them with the high cost of paying off the debts we incur today. That is truly unfair.

Mr. Chairman, I opposed the infamous 1990 budget summit agreement because it raised taxes and it raised spending. The only good thing about it was the spending caps. We can't now remove those caps simply because their precise intent is taking effect. We must make the hard spending choices necessary to live within the firewalls. After all, when was the last time we had one vote that could stop the deficit from going up by $10 billion?

For every dollar we cut defense spending after World War II, domestic spending went up 8 cents. After the Korean war domestic spending went up 25 cents for every dollar cut from defense. After Vietnam, Congress spent $1.09 for every dollar cut. After President Reagan's defense buildup, we spent $2.30 for every dollar in defense savings. What do you think will happen this time if we take the firewalls down?

Mr. Chairman, taking down the firewalls just sends the deficit up. I will not vote to do that.

Mr. CONYERS. Mr. Chairman, it is my pleasure now to yield 5 minutes to the gentleman from Illinois [Mr. ROSTENKOWSKI], the chairman of the Committee on Ways and Means.

Mr. ROSTENKOWSKI. Mr. Chairman, I rise in support of H.R. 3732, the Budget process Reform Act of 1992, which eliminates the firewalls between domestic, international, and defense spending while maintaining the limit on total spending imposed by the 1990 Budget Enforcement Act.

The main issue before the House today is not whether to fund long-neglected domestic programs with an increase in the Federal deficit. Whether we approve H.R. 3732 or reject it, the "peace dividend" anticipated in the House budget resolution will shrink the deficit next year and for many years to come. The real issue before us is one of balance: how much deficit reduction should be achieved, and at what cost to Americans who are suffering today because of the recession?

My own answer is that H.R. 3732 strikes the right balance between deficit reduction and the pressing need to invest more in our economy, our people—our future. Of the $10 billion peace dividend called for in the budget resolution, H.R. 3732 would target one quarter, or $2.5 billion, for deficit reduction; $1 billion for economic conversion; and $6.5 billion for vital domestic programs. The additional domestic spending would fund new research and development, health care improvements, cleaner air and water, rejuvenation of our cities, and better education for our children.

In addition to addressing these urgent and neglected domestic priorities, there is another compelling reason to support H.R. 3732. It contains funds to prevent a major crisis at the Government agency that serves as a lifeline for so many elderly and disabled Americans—the Social Security Administration. As part of its comprehensive 1991 oversight initiative, the Committee on Ways and Means discovered that a 20-percent staffing cut made during the Reagan administration is causing serious problems for Social Security on several fronts.

The Social Security Administration's most critical failures affect disabled Americans. Because the agency cannot keep pace with the current level of applications for disability benefits, more than 800,000 Americans are now struggling to make ends meet while their claims sit awaiting action. Under the President's budget request, this backlog would rise by 70 percent during 1993, to an amazing—and intolerable—1.4 million applications.

The Reagan administration's legacy of staff cuts is causing other problems at SSA as well. Elderly and disabled individuals must wait 4 to 5 weeks just to file for benefits in some parts of the country. SSA's toll-free number is plagued by high busy rates, and the agency has failed to comply with a 1990 statutory mandate to restore the public's telephone access to local Social Security offices. Office waiting times are increasing, and some understaffed offices routinely turn away elderly and disabled people who arrive without an appointment, suggesting that they instead call the chronically busy 800 number.

To address these problems, H.R. 3732 includes an additional $500 million for Social Security administrative funding. These funds are desperately needed, and they provide one more strong reason to vote for this legislation.

Mr. Chairman, it is rare for this body to have before it a proposal that provides the best of both worlds; but I believe that H.R. 3732 does just that. It allows us to address our most pressing domestic needs and to reduce the deficit. The strength of the recession that is gripping our economy makes this the right course of action for 1993. To relieve the intolerable and unconscionable backlog of Social Security applications makes it imperative. I urge my colleagues to strongly support H.R. 3732.

Mr. HORTON. Mr. Chairman, I yield 3 minutes to the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Mr. Chairman, there is no peace dividend. This Nation has a Federal deficit approaching $400 billion. If there is anywhere in this national budget of ours where we can find room to cut, we ought to do the American taxpayers a favor and reduce the deficit with those savings.

It is absolute nonsense to cut the military budget, only to transfer every dime of those cuts or two-thirds of those cuts over to the domestic side of the ledger to spend that borrowed money.

People argue that we need this discretionary spending on higher priority domestic needs that will go unmet. We need this several billion dollars transferred from the Pentagon to domestic purposes or the recession will go on, and this funding, this deficit spending, is the only way to turn the economy around.

People argue that the domestic budget has been squeezed and crunched and squished and almost obliterated over the last number of years, and all of that is frankly a bunch of malarkey. We have plenty of room in the domestic budget without transferring a dime from the Pentagon budget, if we are willing to make choices.

We have to ask ourselves, among domestic spending items, what is most important to this Nation? Do we need a multibillion dollar space station more than we need veterans' health care, yes or no? Do we need a multibillion superconducting super collider more than we need clean water facilities or more than we need energy alternatives, yes or no? Do we need Economic Development Agency grants that go to some towns that have good grant writers on their staff more than we need funding for Head Start for our preschool children, yes or no?

Do we need direct Small Business Agency loans at low interest rates for some businesses while most businesses have to go to the private sector for loans, more than we need assistance in terms of children's health care, yes or no?

Those are the choices we ought to make on the domestic side. We will not make a single one of these choices if we crosswalk several billion dollars worth of Pentagon spending into the domestic agenda. We will go on funding everything and then a little more. It is time we woke up around here and leveled with the American public about the peace dividend being illusory.

When we have $400 billion worth of red ink, there is no dividend. We have to make choices that matter to America. Those choices will not be made if we transfer the money to domestic accounts.

□ 1525

Mr. CONYERS. Mr. Chairman, I am pleased to yield 3 minutes to the distinguished gentleman from Arkansas [Mr. THORNTON], a member of the Committee on Government Operations who served with me on the Judiciary Committee, and a past president of the University of Arkansas Law School.

Mr. THORNTON. Mr. Chairman, I want to first thank the distinguished chairman of the Government Operations Committee not just for yielding me time in support of this important legislation, but for his leadership in this committee as we seek to address the issues which have come into being, not because of a peace dividend, but because of the remarkable circumstance that once every 40 years or so the United States has had the opportunity to develop new strategies for a changing world. These events happen usually at the end of a war when the investment over a long period of time bears fruit and is harvested, giving an opportunity to look not at the past but at what the future needs of this country are as we address our need to remain militarily strong, but also to address the problems of a faltering economic strength which has resulted in unemployment for American workers and which has resulted in the neglect of the education and training of American students and adults who need to be retrained for jobs. This legislation provides that opportunity.

As I mentioned on the floor of this House almost a year ago, we have the opportunity to now develop new strategies for a changing world, to redirect some of our resources toward domestic challenges through a comprehensive, coordinated strategy as appropriate to our needs as the Marshall plan for Europe was to the needs of Europe following World War II. It is time, Mr. Chairman, to have a Marshall plan for America to address America's needs.

On April 24 of last year, I urged my colleagues to consider whether our national security was better served by maintaining hundreds of thousands of foot soldiers in Europe to defend against a nonexistent Warsaw Pact, or whether some of the expenditure could be redirected, and I am quoting from a year ago, "toward improving our country's competitive position in world trade and manufacturing." Strong efforts are needed now to provide the foundation upon which our economic strength can be advanced into the next century, and all of us know full well that our national security depends upon more than military might alone.

This Budget Process Reform Act makes the beginning of such a strategy possible. It will permit the redeployment of a small portion of our military savings to domestic economic investments while maintaining the spending caps required by the Budget Enforcement Act of 1990. This enables us to truly advance and enhance America's national security without raising the spending limits included in our budget agreements.

Mr. Chairman, I urge my colleagues to support this important measure.

Mr. HORTON. Mr. Chairman, I yield 3 minutes to the gentleman from Louisiana [Mr. MCCRERY].

Mr. MCCRERY. Mr. Chairman, did you ever hear your father tell you, "Son, just because you got money in your pocket you don't have to spend it. That money is not going to burn a hole in your pocket." I heard mine say that. The Democrats remind me of those children with money in their pockets and they just cannot wait to spend it.

There is a big difference though with the Democrats. They do not have any money in their pockets. It is not their money. It is not even the money of the American taxpayer today, because we have already spent all of the money we have collected from the taxpayers. The money they are trying to spend, the money they are in such a rush to spend is the money of today's children, and probably even their children because they are going to have to borrow that money. This $6.7 billion of extra money that is going to be freed up by the defense savings is not real money. It is only savings on paper. It still is money that is going to be borrowed if we spend it. That is the big difference.

There was a poll taken of the American people February 22 through 24 of this year. Earlier one of the Democrat speakers told us that the American people were not stupid. I agree with him. Let us hear what the American people said about this question.

The question was: If there are to be savings in defense, where should we put those savings?

Before the Democrats rise up with their paternalistic attitude and say, "Well, the American people really don't know what's best for them," one might say they would probably say give me some tax breaks for that money, reduce my taxes. Wrong. Only 26 percent of those surveyed said reduce my taxes. Only 18 percent of those surveyed said increase domestic spending, and 51 percent of Americans surveyed said if we get any savings from defense, please put it toward the deficit.

Americans know what the No. 1 problem is in this country today, and while we have many problems, and the Democrats have enumerated those today ad nauseum, the No. 1 problem is the deficit and the accumulation of that annual deficit that we call the debt, and the interest that we must pay on that debt every year. That is what is robbing our children today, the children of America, and we have to stop it right now.

Please vote "no" on the Conyers bill.

Mr. CONYERS. Mr. Chairman, I am pleased to yield 2½ minutes to the gentleman from Oregon [Mr. AUCOIN].

Mr. AuCOIN. Mr. Chairman, we just heard testimony on the floor about what the American public thinks about the use of the peace dividend that we have worked so hard to win. Let me show my colleagues what the American public thinks about this question.

Eighty percent of Democrats in this country believe that the peace dividend ought to go to investments in domestic needs. Of Independents, 72 percent believe that the peace dividend ought to go to investments in domestic needs. Of Republicans, 64 percent believe that the peace dividend ought to be invested here at home, in human capital and infrastructure.

Budget deficit? Sure, there is some sentiment for reducing the deficit. But look at what the public is telling us to do. Let's respond.

Let's talk about what this bill does and what it does not do. What it does not do is just as important as what it does do.

This bill does not worsen the deficit. It does not remove restraints, as the minority whip just said a few minutes ago. It keeps to the budget deficit reduction targets established in 1990 and goes one better. At least 25 percent of the savings in defense, under this resolution, will go to deficit reduction, and that, I would submit, does enhance the long-term strength of the United States of America.

My friends, we can do more to improve the long-term economic strength of the United States of America. We can make investments in our people, investments in America, and investments in education. Education and kids lose big unless we bring down these firewalls. These firewalls were put in place to protect military spending at a time when we were still fighting the cold war, before Eastern Europe became independent, and before the Soviet Union disbanded and broke apart.

Given those changes, after having this society fight that long twilight struggle of the cold war, as Jack Kennedy spoke of, now that it is won, why can't we invest in our kids? Why can't we invest in the education of our kids so that they will be fully competitive with kids in Japan and Europe? Why can't we immunize the kids in this country? We are not doing that today. Why can't we put kids in Head Start to prepare them for education? Why can't we make sure that middle-income kids are eligible for Pell grants? We are not doing that either.

If we want to compete in the global marketplace then we must make human investments a priority. We must work to produce a highly skilled, high performance work force, one that is fully capable of competing with our international competition.

This bill is necessary. We must break down the firewalls. We're not talking about exceeding the caps, only allowing us to make investments here at home at a time when Americans are asking for leadership.

Mr. HORTON. Mr. Chairman, I yield myself my remaining 2 minutes.

Mr. Chairman, I was very interested in what the gentleman from Oregon had to say, and I would just like to add this: He wanted to know what we are going to tell our people with regard to these programs. I think the big question is not that, but what are you going to tell your children and your grandchildren when their need for precisely these programs that the gentleman eloquently listed cannot be met because servicing the multitrillion-dollar debt is consuming the lion's share of Federal revenues.

These programs that they have been referring to all afternoon will not be around for their children or their grandchildren unless we show some discipline, and this is what I am talking about. I think it is very important. And this is the only opportunity we have had in the 30 years I have been in Congress to make some contribution toward deficit reduction.

But these are the numbers that we are talking about for servicing the public debt right now: In 1992 it is costing $293 billion just to service the debt; in 1993, $315 billion, and on into 1997, $388 billion. The President's budget for 1993 is $1.5 trillion.

□ 1540

The percentage that is going to just servicing the debt if we did away with all that, we could take care of all these programs we are talking about.

Well, the servicing of that debt is 21 percent, or about one-fifth of that total budget. That is what we are talking about when we talk about trying to do away with the deficit.

This is the first opportunity we have had to do that.

The firewalls were set in place 3 years ago as a disciplinary action. It was taken by this Congress. It was taken by the administration. The President signed the bill, as we have heard today, and now we want to change that discipline.

Well, I say if we are going to do it, let us do the same thing that we would do in 1993, apply those proceeds of savings to the reduction of the deficit.

Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. GOSS].

Mr. GOSS. Mr. Chairman, I rise in opposition to the measure.

Mr. Chairman, this House is grappling with a deep and powerful credibility problem. A majority of the American people do not trust us. An overwhelming majority disapprove of the job that Congress is doing. In fact, about 4 out of 5 do not approve. We are once again embroiled in a crisis—with talk of abuse of privilege, arrogance, scandal, and cover-up dominating the news.

So what are we doing here today? Are we taking responsible action toward shackling the spending monster? Are we making a serious dent in the colossal $400 billion budget deficit? Are we even trying to set priorities? Are we cutting waste? No. Today the majority leadership is asking us once again for permission to spend more money, to create new programs and to abandon all sense of fiscal responsibility. It comes down to this: Under these rules, there must be some restraint on spending. But this has become bothersome to some of my colleagues who seem to believe that instead of cutting spending to live within the rules, we just need to change the rules.

Mr. Chairman, let us open our eyes and look directly into the eyes of that budget-deficit-spending monster, and say "no". Vote no on H.R. 3732, and keep this monster firmly caged by the firewalls.

Mr. CONYERS. Mr. Chairman, I want to announce that there will be additional general debate on this matter. This does not close out our general debate, assuming that the Committee on Rules grants my desire and the desire of the ranking minority leader of the Committee on Government Operations.

Mr. Chairman, I am privileged to yield the remaining time to the gentleman from Maine [Mr. ANDREWS].

Mr. ANDREWS of Maine. Mr. Chairman, I support the Budget Process Reform Act of 1992, because our Federal budget needs reform. Our Nation is drowning in a sea of red ink, but the key to rescuing our Nation is economic growth and productivity. The Federal budget can help to create economic growth and productivity not only by cutting spending that we cannot afford, but by making public investments that our economy desperately needs.

The problem is that the budget categories and the walls that we are talking about today undermine our ability to do that by not distinguishing between these two types of spending. American families know the difference between borrowing money for a college education or a home and borrowing money for a vacation. One is an investment that can generate a return. The other is an expense that the family may or not be able to afford.

Every successful business in America knows the difference between an investment that creates wealth and an operating expense that simply cannot be afforded.

It is about time that the Federal Government begin to understand that difference and that that be reflected in the Federal budget and in our debate.

I think we can begin that process by taking down the firewalls around budget categories that are irrelevant to the task before us, which is rebuilding our economy.

Next, I think we should separate our budget into capital investments and operating expenses.

Third, I think we should analyze each of these categories of investment and spending on the basis of their impact on our economy, both short term and long term, and on future budgets.

Dr. David Aschauer, professor of economics at Bates College in my State of Maine, has reported that if we maintain our public infrastructure spending for the last 20 years at the rate that we did 20 years before then as a percentage of our gross national product, productivity growth would be up 50 percent higher than what it is today. The average profit rate of our businesses would be 22 percent higher and the rate of private investment would be 19 percent higher than it is today.

We do not need firewalls, Mr. Chairman, around obsolete budget categories. We need a productivity strategy for America that distinguishes between capital investment and operating expenses, that seeks to return to the taxpayers of tomorrow savings that can be achieved through investment and productivity today.

Let us begin the hard work of budget reform. Let us pass the Budget Reform Act of 1992, and let us go on with the budget process that will rebuild the strength of the American economy.

Mr. FAZIO. Mr. Chairman, I rise today in support of H.R. 3732, the Budget Process Reform Act, the bill that provides us with flexibility to meet our current needs, yet retains the discipline necessary for us to work within our financial limits.

H.R. 3732 updates the Budget Enforcement Act of 1990, which prevents any discretionary defense savings from being used to take care of necessities here at home. It frees us from a process that was set up 2 years ago to support a defense strategy that is now obsolete. It frees us to protect basic, critical programs in health care, job training, education, housing, nutrition, and mass transit. It frees us to put our money into preventive programs—in medical research, energy conservation, and small business financing—that will save us money down the road. If we do not pass this bill, we will be $6.4 billion short of what we need just to maintain our current levels in these areas.

Although H.R. 3732 is responsive to our needs, it holds us responsible to the discipline that is such an important part of the Budget Enforcement Act. H.R. 3732 does not increase overall discretionary spending. It does not increase the deficit. It does provide for deficit reduction.

Opponents of this bill will say that H.R. 3732 causes additional defense cuts, even though it does not. Overall defense spending in the budget resolution does not change as a result of H.R. 3732. But, the majority of any defense savings will be used to meet important demands here at home. And the remainder will be used to reduce the deficit.

Opponents of this bill will also say that we are just sacrificing deficit reduction for increased, compulsive spending. But this is not true. The situation that our country finds itself in is not that simple. We have multiple priorities that must be balanced.

American families are suffering under the weight of this recession. They have to balance paying off their debts with meeting their basic, everyday needs. And we are no different. We cannot afford to have tunnel-vision. We cannot afford to ignore one priority in favor of another.

We must attack this deficit that we have accumulated over the years. We must take care of today's basics. And we have to look toward the future. We have to responsibly focus our limited resources in all three areas, and we have to do it now. It is the only way we can regain our stability.

Mr. Chairman, I commend Chairman CONYERS and the members and staff of the House Government Operations Committee for their efforts in formulating the Budget Process Reform Act. I urge my colleagues on both sides of the aisle to support H.R. 3732, the tool that gives America the means to manage our different responsibilities and commitments.

Mr. SYNAR. Mr. Chairman, as Members of Congress, we all have a vested interest in the ability of Congress as an institution to fulfill its governmental responsibilities. In 1990, I was a conferee on the budget reconciliation conference for purposes of considering the budget process. I also was the named plaintiff in the original suit attacking the constitutionality of Gramm-Rudman-Hollings in 1986. The budget process always has been a matter of significant interest to me.

During the 2 weeks before Congress voted on the final reconciliation package in 1990, I repeatedly raised my concerns with the leadership, the conferees, and other Members about the passage of the budget process amendments. The amendments with which I had such concern are the subject of this debate today. In the atmosphere of extreme urgency that was pervasive since the failure of the original budget summit agreement in early October 1990, these doubts went unheeded.

It is no secret that I did not and do not like Gramm-Rudman-Hollings and believed it should have been repealed long before it finally died a slow death. The budget process amendments which set up new deficit reduction targets and implemented these budget walls contributed to the needed demise of Gramm-Rudman.

At the time, however, I believed that the alternative would prove to be worse and it has proven so. I did not sign the conference agreement in protest of the budget process amendments and the resulting firewalls between categories of spending.

The amendments to the budget process tended to validate the complaints against us that as Members of Congress we cannot govern. We continue to set up elaborate systems of procedure that eliminate the need for Members to vote on specific issues. At some point, the public may conclude that we truly are unnecessary.

Because of the present firewalls in the budget process, we have eliminated our ability to take care of national priorities on a comprehensive and cohesive basis. Instead of being able to set national priorities by evaluating all programs on an equal basis, we now have priorities set only within categories. Defense, international aid and domestic spending do not and can not operate separately without regard for the impact on each other category. All are necessarily intertwined in order to develop strong national policies and security.

Why do we, as Members of Congress, want to continue to accede to the diminution of our power? The process by which this legislation was approved, may provide a clue. Instead of hearings and careful consideration of such significant legislation, the amendments were presented basically as a done deal.

While no one could have accurately foreseen the incredible and welcome changes in the world, we also should be intelligent enough to acknowledge that history has never remained constant. We should never restrict our ability to respond to change, if and when it does occur.

While I wish deficit reduction were able to be put on automatic pilot, process mechanisms can not substitute for Member involvement. More importantly, turning over power in a budget process that is enforced through sequestration by unelected officials is constitutionally irresponsible.

The walls that we created through the adoption of the budget process amendments was wrong in 1990. It was wrong not only because of the reasons I have already stated. It was and is wrong because it does not permit Members of Congress to provide for the most critical needs of its citizens. We can not wait another year for an artificial barrier to be dropped. It must be done this year.

Mr. BLACKWELL. Mr. Chairman, I am honored to rise today in this noble Chamber to offer my strong support of H.R. 3732, the Budget Process Reform Act.

Mr. Chairman, the successful passage of H.R. 3732 will mean an additional $211 million to be attributed to hospital health care for approximately 110,000 veterans. The success of this long overdue bill means 500,000 additional Pell grants for higher education; and 37,000 additional slots for the Head Start Program.

Mr. Chairman, H.R. 3732 means additional food and nutritional aid for 116,000 women, infants, and children. This comprehensive legislation seeks an additional $303 million to fight crime in the streets. Mr. Chairman, the bill provides for $2.7 billion in new infrastructure investments; and $266 million in economic development for communities hit hard by defense cuts.

Mr. Chairman, I wholeheartedly support the recommendation of the Government Operations Committee that it is now time to remove the firewalls between spending for defense and domestic discretionary programs.

Mr. Chairman, it is time for us as lawmakers to take a leadership role in making that move right now. H.R. 3732 is a very effective means by which we can reach that objective. It is one of many attempts to put the American economy back on track that warrants our unwavering support. Mr. Chairman, I beg my colleagues to join with me in support of this legislation.

Mrs. COLLINS of Michigan. Mr. Chairman, we will be presented with an opportunity today to clear the path for the use of billions of dollars from our defense budget in our domestic economy. There is unequivocal bipartisan agreement that the time has come to cut this Nation's defense budget. These savings should be used for creating civilian jobs, for rebuilding this Nation's infrastructure and housing, for promoting education, and for championing a long-term solution to our economic woes.

We are constrained by an outdated law that prevents us from appropriating money currently in the defense budget for domestic applications. I urge my colleagues today to support H.R. 3732, the Budget Process Reform Act of 1992, that would allow us to employ much needed funds from the defense budget for a domestic recovery. In communities like my own district in Detroit, these funds mean nothing less than survival. Let's break down the budgetary walls.

Mr. McGRATH. Mr. Chairman, the budget process reform measure before us today has little to do with the budget process and contains even less reform. This measure does nothing to force Congress to spend less over the long haul, it merely allows us to shuffle money between programs and throws a small bone to deficit reduction.

True budget reform would eliminate the endless bickering we face each year in Congress. My colleague, Mr. CHRIS COX of California, introduced a bill to overhaul the Federal budget process and end the ceaseless, budget-driven debates which paralyzes Congress every year. I like to call the Cox measure the cut-the-B.S.-in-budgeting act.

This bill would establish true spending limits early in the year with the President's cooperation. Any spending above the preset limits would be subject to a two-thirds vote in each House and the President would have a type of line item veto to weed out ridiculous, wasteful spending projects.

Mr. Chairman, rather than consider today's measure we should be striving for ways to streamline the budget process.

Americans are tired of the constant squabbling and inaction in Congress. We are the object of scorn by Americans who must balance their checkbooks each month no matter what their economic situation.

To regain their faith, we must put responsibility into the budget process. Today's bill does nothing to address budgetary accountability. I urge consideration of the Cox budget reform bill. Congress is running out of time to show the American public that we can do something right.

Mr. STOKES. Mr. Chairman, I rise in support of H.R. 3732, the Budget Process Reform Act of 1992. I would like to commend the gentleman from Michigan [Mr. CONYERS] for the skill, foresight, and leadership he has exhibited in bringing this vital measure to the floor. I consider this legislation to be one of the most important measures to be considered by Congress this year. H.R. 3732 will give us the flexibility to make spending adjustments needed to address many of the economic and social problems facing our Nation.

As you know, the Budget Enforcement Act of 1990 established separate spending caps for three categories of discretionary spending—defense, international and domestic. Restrictions were placed on these accounts, the so-called firewalls, to prevent any transfer of funds among them until fiscal year 1994. The bill we have before us today would eliminate these walls and allow us to consolidate these separate categories into a single category for the 1993 fiscal year. Such action is essential if we are to successfully address the many domestic woes confronting our nation.

With the end of the cold war, the collapse of the Soviet threat and the persistent recession, we now have an opportunity to reduce defense spending and target these resources for funding of programs which are critical to meeting our needs here at home. Funding for these activities is needed now, more than ever.

The American economy dipped into a recession in July 1990 and appears to be in the longest downturn in this country's postwar history. Furthermore, most agree that failure in 1992 to adopt spending and tax policies which address the Federal debt, employment, health, education, housing, and other urgent needs will contribute to continued economic deterioration and will assure a sluggish and protracted recovery once the economy does hit bottom.

Mr. Chairman, data compiled by the House budget committee indicates that, during the Bush Presidency, our country has experienced one negative economic record after another. In fact, President Bush can take credit for setting several records during his tenure as they relate to our economy. For example:

Our Nation has seen the slowest economic growth during the first 3 years of a new administration. Currently, our Nation's economy has grown by only 0.7 percent over its 1989 level when President Bush took office. In fact, this is the worst record for the first 3 years in office of any administration since the Commerce Department began releasing this type of data in the late 1940's.

Americans have had reductions in real disposable income, which have fallen at an annual rate of 0.6 percent. This makes the Bush administration the only administration since World War II to preside over falling per capita real disposable income.

The Bush administration can claim the lowest level of housing starts for any administration since World War II. Residential construction has fallen at an annual rate of 8.59 percent.

Our Nation has the highest level of poverty since the beginning of the war on poverty which began in 1967. In 1990, the official poverty rate jumped to 13.5 percent.

In 1990, health care spending as a percent of GNP was 12.4 percent—the highest ever recorded, and also the highest share for any country in the world.

Moreover, under the Bush administration our Nation has seen the fastest growing budget deficit in its history. Building on the record of the Reagan Presidency, the current administration has increased the national debt to well over $3 trillion, or more than triple what it was in 1980. Interest on this debt is projected to increase from $196 billion fiscal year 1991 to $342 billion in 2001. In 1993, interest on the debt will be greater than total spending on domestic discretionary programs.

Mr. Chairman, in addition to the need to address these trends, elimination of the firewalls is required in order to maintain current services for many domestic programs. The Congressional Budget Office estimates that fiscal year 1993 domestic outlays will have to be cut $6.8 billion below 1992 levels if the budgetary firewalls are left standing.

It is for these reasons that I opposed the budget agreement in 1990. We should never have compromised our domestic needs. When we considered the budget agreement in 1990, our Nation was experiencing major domestic crises in crime, education, health, housing, to name a few. Today, we have the added burden of major corporations announcing massive layoffs. For those facing layoffs, thousands will join the ranks of the jobless or underemployed.

Mr. Chairman, in light of these matters, our mandate is clear. We must bring down the firewalls. I urge my colleagues to join me in support of H.R. 3732.

Mr. JONTZ. Mr. Chairman, I come to the floor to express my support for H.R. 3732 which will allow us to take money we no longer need to spend on defense and foreign aid and spend it at home where we need it so badly. While I agree with much my colleagues have said here in support of this resolution, I was to speak on behalf of a group of people who have not been mentioned here today. People who made it possible for us to stand here and debate what to do with money saved from a reduced defense budget. People to whom we owe a great debt of gratitude and much more—the men and women who serve in our Armed Forces, our military retirees, our veterans—the people who sacrificed so much to win the cold war and who deserve some of the benefits of that victory.

Our country depends on its career military personnel to maintain our defensive strength, and we make promises of pensions and medical benefits to encourage people to make a career of service. With the reductions in defense forces and the ongoing process of base closures, we are reneging on some of those promises. We promise career military personnel medical benefits for their retirement, but as we close bases we are closing the clinics and the commissaries. Military retirees are left to depend on the less generous resources of Medicare and the VA for their medical needs. Because of base closures, Indiana will soon be left with no active duty military facility, no clinics, no commissaries.

Our military retirees deserve better treatment than that, but the Defense Department will not consider alternatives. The DOD says it cannot justify and will not consider retaining clinics or commissaries solely for the use of retirees and reservists. So retirees who have depended on these facilities for medical care will become beneficiaries of Medicare and the VA. If we are going to save money on defense, why can't we use some of it to preserve these benefits for our military retirees? If the Defense Department refuses to maintain clinics for retirees and they have to rely on resources from the domestic side of the budget, let's pull down the walls and move some funds from the defense side to the domestic side to pay these additional costs.

And, Mr. Chairman, what about our veterans? Don't they deserve some of the benefits derived from reducing the defense budget? These people have fought our wars, sustained our wounds, won our peace, and secured our freedom. How can we justify continuing to fail to meet their needs? The VA's ability to meet its responsibility for the medical requirements of veterans—to provide quality patient care—has been compromised. The VA's facilities are aging; obsolete equipment is not being replaced; first-rate physicians, nurses, psychiatrists, psychologists, and physical therapists are harder to recruit and retain. Reports of substandard care and veterans frustrated by long hours in admitting rooms, clinics, and pharmacies have damaged the VA medical system's public image. The Independent Budget for Veterans Affairs suggests that we need about $3 billion more than is currently budgeted this year to start bringing VA medical care up to par. Can't we find that in a smaller defense budget?

One problem of great concern to me is the failure of the VA to adequately address the 500,000 Vietnam era veterans suffering from posttraumatic stress disorder. A recent study found that almost 70 percent of veterans with PTSD have never been treated. In the last few years, we have made some progress in meeting the needs of these forgotten vets, but there is a long way to go. We need additional funding for inpatient and outpatient PTSD programs, for research, and for training and sustaining PTSD clinical teams. The CBO tells me that we could initiate a 5-year program like the one in my bill, H.R. 841, to put us on track toward serving these vets for only $200 million. Let's find that money in a reduced defense budget.

Mr. Chairman, I, like everyone in this body, recognize the need to reduce our budget deficit, and with the passage of this resolution, the House budget will not only meet but exceed the deficit reduction required by the budget agreement. But while we meet the Nation's need for sound fiscal policy, let us also meet the needs of our veterans and military retirees who achieved our victory in the cold war and made defense budget reductions possible. For too long we have been telling our service people and veterans to wait. We have asked them to sacrifice in war and we have asked them to sacrifice in peace. We have asked them to hold on while we built up our defense establishment, while we built missiles and submarines, while we sent money overseas to shore up our allies, and to their credit they did wait, as we knew they would. We can no longer ask our veterans to wait. It is time to make good on our promises. The end of the cold war gives us opportunity to do that. This resolution gives us the means. I urge the passage of H.R. 3732.

Mr. MFUME. Mr. Chairman, I rise in support of H.R. 3732, the Budget Reform Act of 1992.

In 1990, when we reached what was then an agreeable balanced budget compromise, Congress imposed barriers between domestic, defense, and international operations expenditures.

In essence, Congress prohibited itself from reducing funding in one sector to supplement expenditures in another.

I say that the budget agreement of 1990 was agreeable because there were a number of us who predicted our national Government had reduced expenditures for vital domestic programs so severely, that we would soon witness a diminished return in our human and economic resources.

In fact, some Americans consider Congress is more concerned about building a Stealth Batmobile than they are in building homes and schools.

Some Americans consider Congress is more concerned about the future of Star Wars than domestic wars on poverty, drugs, and unemployment.

Mr. Chairman, as I look about my district and across this great Nation, I see that the situation has changed since 1990. Millions of people are out of work. Millions of jobs have gone overseas.

Thousands of people who never envisioned they would require social services are eagerly awaiting their stipends.

The primary reason for this occurrence is the slowdown in the mighty U.S. economy.

However, I am not here to assign blame to any one sector or party. Because when the everyday working man and woman on the street experiences economic pain, we as a nation suffer.

Already during the 2d session of the 102d Congress, we have passed an economic growth package and a budget blueprint that has proposed to eliminate the barriers between the three sectors.

The plan passed by the House last week calls for decreasing defense spending in order to provide 70 percent of the savings for domestic spending and the remaining 30 percent for deficit reduction.

Mr. Chairman, whenever economic conditions become strained in either our personal or professional endeavors, we are always forced to make tough decisions and balance one area of spending against the other. This task is not less difficult than with our current economic downturn.

However, I shudder to think how bad things can become if we do not infuse our economy with much needed investment in America and its fine people.

The 2d session of the 102d Congress is going to be a very busy and intense session.

Our mettle will be tested to its limits as the American people demand that we end the partisan bickering and fix the machine because it is indeed broke.

To close, I encourage our colleagues to support tearing down the walls so we may gain access to precious resources that can begin to augment the growth package we passed 2 weeks ago and restore dignity to all those persons who want to resume the business of making America strong, proud, and competitive.

The CHAIRMAN. Pursuant to the provisions of House Resolution 394, 30 minutes will be equally divided and controlled by the chairman and ranking minority member of the Committee on Rules.

The Chair recognizes the gentlewoman from New York [Ms. SLAUGHTER].

Ms. SLAUGHTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the purpose of H.R. 3732 is relatively simple. It amends the 1990 Budget Enforcement Act by eliminating the division of discretionary appropriations into three categories for the purposes of a discretionary spending limit for fiscal year 1993. These separate categories were to remain in place through fiscal year 1993 and then be folded together into a single, capped discretionary spending category for fiscal years 1994 and 1995.

H.R. 3732 is very narrow in its scope, it still maintains a cap on discretionary spending—it simply calls for combining the three categories into one single category—something that was already slated to happen under the BEA in fiscal year 1994. This measure just advances that process by 1 year. H.R. 3732 accelerates an existing mechanism in the statute to allow flexibility in the allocation of spending while continuing to maintain budgetary restraints with an overall cap in fiscal year 1993. It is not an indictment of the 1990 agreement or an attempt to dismantle that process, but rather a recognition that we must modify this well-intentioned, still workable, but partially out-of-date process if we are to properly address current budgetary needs.

The cold war thankfully is behind us. While there certainly are and will always be numberous threats to our national security, the enemy that has haunted our Nation for 40 years no longer exists. Of course we need to be prepared for any external dangers and potential harm to this great country, but we need to do this realistically. We are not endowed with unlimited financial resources. We can no longer neglect our domestic needs to overbuild our military establishment. Since 1981 our defense budgets have averaged over $300 billion annually. These enormous and unprecedented funding levels came amid fears of the Soviet Union defense buildup. While this may have been the prudent course to take at the time, we just can't continue this costly endeavor in the absence of the Soviet threat.

No one is suggesting that we abandon our laudable goals for a strong national defense—only that we approach them in a more fiscally realistic and responsible manner.

It is time to put aside partisan differences and fix this agreement to meet the needs of today, not the outdated priorities of the past.

Mr. Chairman, I reserve the balance of my time.

Mr. SOLOMON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I spoke at length earlier on the rule, so I will limit my remarks right now.

Mr. Chairman, when I hear the supporters of this bill calling for the destruction of the 1990 budget agreement firewalls, I am reminded of Joshua at the Battle of Jericho.

Here is how the Bible describes the final moments of that great battle:

> So the people shouted, and the trumpets were blown. As soon as the people heard the sound of the trumpet, the people raised a great shout, and the walls came tumbling down.

The difference between then and now is that today's Joshuas, who are shouting to bring down the budget firewalls, are shouting to a different trumpet. Their trumpet is sounding "Retreat": retreat from the budget agreement; retreat from deficit reduction; retreat from spending control; and retreat from their commitment to the American taxpayer. Shame.

And the other difference is that our modern-day Joshuas know that no matter how hard they may huff and puff, the firewalls are not going to come tumbling down, because George Bush is not going to allow it to happen. The President has promised to veto this bill and the Democrat leadership cannot even find a majority of Members to vote for this bill—let alone a two-thirds majority to override a veto.

So why are today's Joshuas blowing all this hot air at the firewalls? What is this exercise in hyperventilation all about? The answer is very simple, my friends: they are trying to put one over on the American people. They are trying to have it both ways, and it is not going to work.

The reason theirs is such an uncertain trumpet is that they are blowing out of both sides of their mouth.

The modern-day Joshuas would like to create the illusion that they are bringing down the firewalls so that they can promise the people the treasures of the city that lie beyond those walls.

That is why they are madly sending out letters to their colleagues and their special interest groups and all their friends promising the goods if the firewalls come down.

And you have heard it on the floor today for about 3 hours now: there will be so many more billions available for education, so many more billions available for transportation—pork, pork, pork—so many more billions available for welfare. Mr. Chairman, it goes on and on and on.

But the simple fact is that this is all funny money. They are making promises they cannot keep with money we do not have. The fact is that our national bank account is already overdrawn to the tune of $4.5 trillion, and you cannot get away from that, that is a fact.

We are swimming in a sea of red ink; and the Democrats would have us believe it is just red, red wine, and everything is fine.

□ 1550

Well, Mr. Chairman, everything is not fine, and the American people should call them on it. The Democrats want to blame the President for spoiling their big spending plans, and we Republicans are going to spoil it.

My colleagues, I was both amused and amazed last week when the Democrat leadership in this Congress expressed mock shock at the President's saying he now thought that agreeing to those tax increases in the 1990 budget agreement was a mistake.

Our distinguished Speaker, whom I have a great deal of respect for, was quoted as saying that the budget agreement "was one of the best judgments the President has made * * * a wise decision at the time and a wise decision today."

And then our distinguished majority leader, who is a Democrat, was quoted as saying the next day that the President "made a mistake in backing off something * * * that he stood for at one time."

But what these Democrat leaders ignore is the context of the President's statement, and it is easy to understand why. What the President said, my colleagues, was, and just listen because this is a quote:

> I am very disappointed with Congress. I thought this one compromise, and it was a compromise, would result in no more tax increases. I thought it would result in total control of domestic discretionary spending.

And he went on to say:

> And now we see Congress talking about raising taxes again. And some in Congress are talking about trying to break down the spending caps. And so I'm disappointed, and given all that, yes, a mistake.

In other words, Mr. Chairman, the President thinks the budget agreement was a mistake because the Congress has not been living up to its end of the bargain.

I told the President at 6:30 a.m. when he called me the day before the vote back in 1990 that this Congress would renege on those promises and that is why I could not give him a vote. By my count, the House of Representatives alone, with the full support of these same Democrat leaders, has abandoned, has broken, and has violated the 1990 Budget Enforcement Act on at least 11 occasions over the last 16 months. I hope the American people are listening, and I hope the press is listening because these violations are why the deficit has doubled in the last 16 months from $220 billion to over $400 billion. Not million, billion.

Mr. Chairman, let me tell my Democrat colleagues the reason why. I say to them, because you did it, Congress.

You did it on the very first day of this Congress, January 3, 1991, when you changed House Rules to shift pay-as-you-go scorekeeping from OMB to CBO.

You did it with illegally declared congressional emergency designations on four appropriations bills, one supplemental authorization bill, and two unemployment compensation bills.

You did it by abandoning the pay-as-you-go requirements in your own economic growth/tax increase bill that just passed the other day, on February 26.

You did it last Wednesday with your no firewalls budget resolution.

And here you go again, doing it today with this firewall demolition bill, and yet you wonder why the American people have no respect for this institution.

So, Mr. Chairman, for the Democrat leaders to be criticizing the President for calling the budget agreement a mistake when they themselves have already violated or ignored that agreement on at least 11 occasions in this Congress, is a little like the pot calling the kettle black.

Mr. Chairman, I ask my colleagues, "Do you remember the Peanuts comic strip? How many times does Lucy have to pull that football away at the last moment before Charlie Brown gets angry?"

Well, I am going to tell my colleagues something. The American people are more than just angry. They are damn mad, and they ought to throw us all out of here. This is a disgrace.

The problem with the breakdown in the budget agreement does not lie in the White House; the President has courageously vetoed bills that violate the agreement and he is going to keep doing it.

The problem lies right here in this House, where the pressure is always on to spend, spend, spend, more, and more, and more. And this bill is the final copout, betrayal, and license to spend more. That is why this bill ought to be defeated, and, if it is not, the President will veto it on behalf of the American people.

Mr. Chairman, I reserve the balance of my time.

Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. HAYES].

Mr. HAYES of Illinois. Mr. Chairman, I rise in support of H.R. 3732, the Budget Process Reform Act. However, I want to first commend my colleague, the gentleman from Michigan [Mr. CONYERS], for his efforts in bringing this bill to the floor. He is one who recognizes that this is not a partisan, political issue, as some want to make it. Rather it is a human issue. His commitment and vision are very timely, given the desperation that this country will face if we do not take the appropriate action today.

Mr. Chairman, passage of H.R. 3732 is an important step toward addressing the critical domestic concerns of this Nation. We cannot wait until 1994, to adjust our budgetary spending. Our cities are near collapse, and our citizens are suffering. Last year's budget agreement is no longer an adequate blueprint for this country's economic future. We must negotiate a different agreement that reduces the deficit as some of us seek to categorize our Nation as the world's only superpower, and they are ignoring the domestic needs of this country.

I am a sponsor of H.R. 3732, which eliminates the firewalls between spending for domestic and defense discretionary programs. Simply stated, the Budget Process Reform Act will give Congress the flexibility to make defense funds available for the true defense of this country—investment in the needs of this Nation's citizens.

It is now clear that structures set up in 1990 to reduce spending have failed, and budget priorities that reflected a 1990 bipartisan consensus are now hopelessly obsolete. Instead of continued emphasis on military spending at the expense of deserving domestic priorities, we should set forth a blueprint for reinvestment in education, health, employment, housing, and crime prevention programs.

Mr. SOLOMON. Mr. Chairman, in yielding back the balance of my time, let me just say that in looking at a page out of the Congressional Budget Office report, a forecast about what would happen if economic growth takes place and what kind of revenues that would bring into the Federal Government is made. I look back at what happened during the 1980's, and I can recall when we had revenues of $500 billion coming into the coffers. I should say we had taxes that brought in revenues of $500 billion. During the 1980's, in a 7-year period of growth, because 21 million new jobs were created, because hundreds of thousands of new businesses and small businesses, created most of those new jobs, revenues coming into the Federal coffers doubled without raising taxes at all. From just slightly over $500 billion to almost $1 trillion, tax revenues went up without tax rates having to be raised. And yet this Congress went out and spent almost twice that much, and that is how we have developed these huge deficits.

However, Mr. Chairman, as my colleagues know, we talk about whether or not we should invest these peace dividend savings in reducing the deficit or in spending programs; and there is no doubt some of it is needed in spending programs. But if we can agree to instill confidence in the American people and get this economy going again, economic growth will bring about the necessary revenue without raising tax rates. Just for example, with only 1-percent growth, and that is practically zero, the Federal Government receives an additional $35 billion. If the economy grows at 2 percent, that means an additional $70 billion. We hope it is going to grow somewhere between 2 and 3 percent in 1993, and that is almost $100 billion in new revenue.

So, when we hear it said that, if we do not take some of these peace dividend savings and shift them over to domestic spending we are not going to be able to help the veterans hospitals, or help Head Start, or help education, my colleagues, that is just a lot of baloney. By reducing the deficit with these savings, we are going to stimulate the economy and provide for economic growth.

□ 1600

God knows we might even get a little guts around here and pass a real economic growth package which would make the economy grow even more. But the main thing is to lower the deficit and to reinstill confidence in the American people and the private sector, and then all those things can be done that many Members want to do and that I want to do.

Mr. Chairman, that is why we have to defeat this bill. I have confidence that we have in this House enough good Democrats who will join all good Republicans to do just that and get this economy moving again.

Mr. Chairman, I commend the Members over there for being patient with me, and I yield back the balance of my time.

Mr. FRANKS of Connecticut. Mr. Chairman, I rise in opposition to H.R. 3732, the Budget Process Reform Act. This legislation would remove the spending caps placed on domestic and defense discretionary spending in the 1990 budget agreement.

Yes, the world has changed since the 1990 budget agreement was enacted. The Soviet Union has collapsed, the cold war has ended and we are closer to world peace than ever before. Given this victory, defense spending could be reduced, albeit carefully. Nothing in the 1990 budget agreement prevents spending cuts of any kind including defense cuts. However, the budget agreement does require that the savings go toward reducing the Federal deficit.

One thing that has not disappeared since 1990 is the deficit. It is still here and it continues to grow. Interest payments on the deficit also continue to grow, taking up money which could instead be spent on domestic programs. I believe that savings should go toward reducing the deficit. A reduction in the deficit will reduce interest payments and allow Congress to spend more on domestic programs in the future.

In light of the deficit and the interest payments, this country can not afford to increase spending in many domestic programs, no matter how worthy the program is. Increases now will result in less money in the future as interest payments on the Federal deficit continue to grow and consume more discretionary spending.

Again, Mr. Chairman, I will oppose passage of the Budget Process Reform Act. This legislation makes no reforms in the budget process. It will only increase the Federal deficit which will have a long-term negative effect on Congress' ability to fund essential domestic programs.

Ms. SLAUGHTER. Mr. Chairman, I reserve the balance of my time, and I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose, and the Speaker pro tempore (Mr. HAYES of Illinois) having assumed the chair, Mr. JENKINS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3732) to amend the Congressional Budget Act of 1974 to eliminate the division of discretionary appropriations into three categories for purposes of a discretionary spending limit for fiscal year 1993, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. CONYERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on H.R. 3732, the bill just debated.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

TRIBUTE TO LAGRANGE HIGH FOOTBALL TEAM

(Mr. RAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. RAY. Mr. Speaker, I rise today to pay tribute to the No. 1 high school football team in the country—the LaGrange High Grangers.

The Grangers compiled a record of 15 and 0 over the course of the regular season and the Georgia State playoffs, and we were ranked No. 1 in the USA Today newspaper's final 1991 poll.

Behind the coaching of Gary Guthrie, the Grangers had a perfect regular season and advanced to the 4–A State playoffs.

In the playoffs they beat Valdosta and McEachern, and faced Colquitt County for the Georgia State Championship.

With just minutes to play in the championship game, LaGrange made a magnificent drive down the length of field. They then kicked a 25-yard field goal with 13 seconds left to win the game 17 to 16.

This exciting finish capped a perfect season and one that will be remembered for many years to come.

Mr. Speaker, I congratulate everyone who played a role in the Grangers' national season, and I submit for the RECORD the names of the LaGrange players and coaches:

1991 LAGRANGE HIGH SCHOOL GRANGERS

Romano Dudley, Chris Jennings, Rodney Hudson, Scott Simons, Bernard Boyd, Deyano Martin, Trent Price, Diallo Burks, Jason Bray, Andre Short, Marcel Rachel, Demetric Shipman, Daryl Burks, Johnny Easter, Vernon Dardy, Balandor Flowers, Marcus Gates.

Quinton Cameron, James Read, Eric Daniel, Kenneth Spearman, Keyda Hardnette, Leon Robinson, LeQuincy Shepherd, Rico Riley, Tony Pettit, Walter Harris, Nate Hardnette, Desi Harrison, Benji Shepherd, Anthony Franklin, Issac Johnson, Dexter Fitzpatrick, Paul Pickett.

Mike Blom, Evans Crowder, Barron Wood, Billy Skipper, Ahmand Tinker, Byran Edmondson, Darrell Kelley, Carlos Williams, Bubba Scott, Lamont Cofield, Tommy Ware, Jacob Smrekar, Marcellus Gates, Skip Hale, Chris Hardnette, Russ Davidson, Darren Bailey.

LAGRANGE HIGH SCHOOL FOOTBALL COACHES,
1991–92

Gary Guthrie, Head Coach.

Jerry Batchelor, Johnny Berry, Donnie Branch, Kenny Moore, Sam Pickett, David Pleasants, John Revere, Rob Ridings, David Traylor, Ben Aderholt, Vince Allen, Steve Pardue.

REJECT SCAPEGOATING TO STOP THE BASHING

(Mr. FALEOMAVAEGA asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. FALEOMAVAEGA. Mr. Speaker, I want to share with my colleagues an article which appeared in the Los Angeles Times newspaper, and which is entitled, "Reject Scapegoating to Stop the Bashing," written by Mr. Stewart Kwoh, director of the Asian-Pacific American Legal Center of Southern California.

Mr. Speaker, Mr. Kwoh made some very salient points about the impact of our current Japan bashing on our Asian-American communities throughout the United States. Mr. Speaker, while Japan gets bashed, our Asian-Americans end up becoming the victims of racism and bigotry in several communities of our country.

Mr. Speaker, Mr. Kwoh offered several suggestions and challenges to the Asian-Pacific American communities not to isolate themselves from the problems, but be more involved with community activities and demonstrate to the American people that the Asian-Pacific American community is an integral part of our American democracy—that these Asian-Pacific Americans have also bled and died in defense of our great Nation—that they also pay taxes and pursue the American dream like all other ethnic groups who live in this country.

Mr. Speaker, I want to inform my colleagues in this Chamber that the largest foreign investor in this country is not Japan, but Great Britain—well over $100 billion. The second largest foreign investor in America is not Japan, but the Dutch—in excess of $80 billion. And yet, I have not heard one Member in this Chamber expressing fear and concern that the British and Dutch investments in our country should be restricted. Such hypocrisy, Mr. Speaker.

Mr. Speaker, let's stop the bashing and get on with the real issues of the day—let's find solutions to our economic problems, and not blame entirely other countries like Japan.

Mr. Speaker, attached herewith is Mr. Kwoh's article to be made part of the RECORD, and I recommend its reading by my colleagues:

[From the Los Angeles Times, Mar. 11, 1992]

REJECT SCAPEGOATING TO STOP THE "BASHING"

(By Stewart Kwoh)

Do Asian-Americans have cause to worry about the current round of Japan-bashing in the United States?

Emotions have run high during the debate on the Green Line train proposals. So many anti-Asian comments surfaced that it prompted Mayor Bradley to call for a stronger stand against racism and bigotry in Los Angeles.

Yet some have questioned whether the concern in the Asian-American community is exaggerated. After all, Asian-Americans constitute 40% of the entering class at UCLA, compose the largest bulk of minority-owned businesses in California and make up close to 20% of the professional and technical staff in several aerospace corporations.

However, rising violence and other indicators suggest that times are changing.

Two months ago, a Japanese-American community center in Norwalk was vandalized with racial epithets scrawled over the walls. A Japanese-American man who was incarcerated in 1942 commented that "It's happening all over again." Statistics support a disturbing elevation of this problem. The Los Angeles County Human Relations Commission reported a 150% increase in anti-Asian hate incidents in 1990, its latest reporting year, making Asian-Americans the second most victimized ethnic group in Los Angeles after African-Americans.

Other tensions have also fueled these incidents. Anti-immigrant sentiments continue to surface and will likely escalate. Friction between African-Americans and Korean-Americans arise from a complicated mixture of economic despair and cultural misunderstanding. This dynamic has led to positive efforts aimed at resolution, but also to an escalation of incidents where Asian-Americans are targeted simply because of their racial features. Recently, a Thai woman was pulled from her car and beaten because she was thought to be Korean.

The most vexing development flows from the growing estrangement between the United States and Japan as well as the countries in Asia.

Few other racial minority groups in the United States have been so dramatically affected by the changing relationships between countries as have Asian-Americans. From the exclusion of Asian immigrants, beginning with the Chinese in the 1880s, to the internment of Japanese-Americans in 1942, people of Asian heritage in this country have suffered grave losses of rights and abusive treatment as relations between the United States and Asian nations have deteriorated.

In these times, it would be a serious mistake to remain complacent. There are a number of steps that Asian-Americans can take to constructively meet the challenges posed by increasing racial tensions.

Asian-Americans must articulate a position against scapegoating and for increased investment in American jobs and workers. Particularly during discussions on trade and the economy, racial epithets and derogatory remarks made of any nationality should not be tolerated. Politicians, business leaders and the media should be closely monitored and criticized for such irresponsible remarks.

The unfair singling out of Japan or Asian countries as the prime culprit behind our economic problems must be challenged. Americans must examine our own contributions to troublesome economic developments. It is also important to note that the "bashing" rarely takes the form of anti-British or anti-Canadian activities, although the foreign investment in the United States by those two countries combined far exceeds that of Japan.

On the positive side it should be urged that political and economic action be taken to invest in America—its workers, industries and regions—rather than simply blocking foreign products and services. Our criteria for contracts or purchases should emphasize how they improve productivity rather than exclusive use of nationality.

Articulation of such a position should not be perceived as surrogacy for Asian corporations. In fact, Asian-Americans should be highly visible in encouraging and pushing Japanese, Chinese, Korean and other foreign-based companies to improve their community relations and business practices in the United States, particularly in hard-hit inner cities.

Asian-Americans must begin a concerted community relations and development strategy. The relative political and social isolation of many Asian-Americans from their communities must change. Education can strengthen our cohesiveness and improve our poor track record of reporting incidents of hate crimes instead of hiding from the problems. This effort must be matched by developing consistent ties with other ethnic and community groups. In this economic downturn, Asian-Americans are not the only ones being scapegoated.

In this process the values of Asian-Americans will be put to the test. Can our reverence for family be extended to others in our community? Can our hard work in education and business be matched by initiatives in bettering human relations?

Finally, the proactive outreach to other communities must be complemented by a strong response capability. Already a national network against anti-Asian violence has made an impact on cases and communities from North Carolina to California. Our legal center here has joined with our counterparts in San Francisco and New York to form the first national pan-Asian consortium focusing on legal initiatives to combat racial violence and tensions.

Rather than waiting to see if scapegoating once again dominates our politics, Asian-Americans must join with other Americans in ensuring that it never happens again.

URGING FULL DISCLOSURE OF HOUSE BANK RECORDS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa [Mr. LEACH] is recognized for 5 minutes.

Mr. LEACH. Mr. Speaker, in this awkward, institution-consuming debate that has wracked this body, I rise to stress one point. In a classic sense the House bank is not and never was intended to be a commercial bank. It is a nonbank bank, an institution of accommodation for Members staffed with publicly paid personnel. Hence, the issue before us is one of privilege, demanding disclosure, not privacy requiring respect for individual accounts.

This is not the biggest scandal in congressional history—the taxpayer after all, has lost little—but it stands out because the sin is measurable, because the average American lacks access to similar credit-flexible institutions, because loose personal banking is a reflection of loose fiscal leadership.

At issue is the honor of the House.

Accordingly, whatever the embarrassment, the least Congress can do is come clean. The public has made a proper demand for the fullest possible disclosure, the fullest possible reform of procedures, and the greatest possible individual accountability.

Perspective is difficult to apply to events of the day. The irony is that at the very time the rest of the world wants to copy our system, there has never been more self doubts about our own institutions. We appear to have lost confidence in ourselves. The American public has concluded something is rotten on Wall Street, something is askew in Washington.

A society that allows a Michael Milken to earn half a billion dollars in a single year, that finds Congress unable to withstand penny ante conflicts on interest, that abuses its own bank, is a society in need of reform.

In Chinese history there is a theory of revolution based upon a mandate of heaven. A government can stay in power until the mandate is removed as signaled by natural phenomena like droughts, floods, and hurricanes. My sense is that the American people are in the process of concluding that any mandate Congress might have presumptively thought existed for itself has long been removed. Man-made conflicts, after all, are far more inexcusable than natural events.

A House divided against itself, a House that cannot balance either the public's or its own checkbook, a House that bounces an average of 44 checks every working day, is a House that cannot stand.

What Congress needs today is a crusade that has nothing to do with political parties, nothing to do with conservatism or liberalism, but has everything to do with decency and competence, with an ethic of service rather than privilege.

A modest first step should be full disclosure.

RECESS

The SPEAKER pro tempore. Pursuant to the previous order of the House of today, the House will stand in recess subject to the call of the Chair.

Accordingly (at 4 o'clock and 5 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 2026

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 8'o'clock and 26 minutes p.m.

RESIGNATION AS SERGEANT AT ARMS AND APPOINTMENT OF SERGEANT AT ARMS OF THE U.S. HOUSE OF REPRESENTATIVES

The SPEAKER laid before the House the following communication from the Sergeant at Arms of the House of Representatives:

U.S. HOUSE OF REPRESENTATIVES,
OFFICE OF THE SERGEANT AT ARMS,
Washington, DC March 12, 1992

Hon. THOMAS P. FOLEY,
Speaker, U.S. House of Representatives, Washington, DC

DEAR MR. SPEAKER: I respectfully submit to you my resignation as Sergeant at Arms of the United States House of Representatives effective March 12, 1992.

It has been an honor and a pleasure to serve the Members of Congress and this institution for the past 25 years.

Thank you.

Sincerely,

JACK RUSS,
Sergeant at Arms.

The SPEAKER. Without objection, the resignation is accepted.

There was no objection.

The SPEAKER. Pursuant to the provisions of the legislative Reorganization Act of 1946, as amended (2 U.S.C. 75a–1), the Chair appoints Werner W. Brandt of Virginia, to act as and to exercise temporarily the duties of Sergeant at Arms of the House of Representatives.

SWEARING IN OF WERNER W. BRANDT AS SERGEANT AT ARMS OF THE HOUSE

The SPEAKER. Will Mr. Brandt present himself in the well of the House.

Mr. Brandt appeared at the bar of the House and took the oath of office, as follows:

Do you solemnly swear that you will support and defend the Constitution of the United States against all enemies, foreign and domestic; that you will bear true faith and allegiance to the same; that you take this obligation freely, without any mental reservation or purpose of evasion, and that you will well and faithfully discharge the duties of the office of Sergeant at Arms of the House of Representatives.

MAKING IN ORDER CONSIDERATION ON TODAY OR ANY DAY THEREAFTER OF HOUSE RESOLUTION 393 AND A SUBSEQUENT RESOLUTION RELATING TO THE INQUIRY INTO THE OPERATION OF THE BANK OF THE HOUSE OF REPRESENTATIVES

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that it be in order on Thursday, March 12, or any day thereafter, to consider the following two resolutions in the following order and manner:

First, House Resolution 393, to be debatable for not to exceed 2 hours, to be equally divided and controlled by the gentleman from New York [Mr. MCHUGH] and the gentleman from Utah [Mr. HANSEN], and the previous question shall be considered as ordered on the resolution to final adoption without intervening motion.

Second, immediately following disposition of House Resolution 393, it shall be in order to consider a resolution, if offered by Representative GEPHARDT of Missouri or Representative MICHEL of Illinois, said resolution shall be debatable for not to exceed 2 hours, to be equally divided and controlled by the gentleman from Missouri [Mr. GEPHARDT] and the gentleman from Illinois [Mr. MICHEL], and the previous question shall be considered as ordered on the resolution to final adoption without intervening motion.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

□ 2030

INQUIRY INTO THE OPERATION OF THE BANK OF THE SERGEANT AT ARMS OF THE HOUSE OF REPRESENTATIVES

Mr. MCHUGH. Mr. Speaker, pursuant to the direction of the Committee on Standards of Official Conduct, I call up a privileged resolution (H. Res. 393), and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 393

Whereas House Resolution 236 directed the Committee on Standards of Official Conduct to review the use and management of the Bank of the Sergeant-at-Arms of the House of Representatives for the period July 1, 1988 to October 3, 1991;

Whereas, after reviewing the operations of the House Bank and account information of Members, the Committee on Standards of Official Conduct has reported to the House that it has identified the accounts of Members and former Members who, on the basis of such review, abused the banking privileges during such period by routinely and repeatedly writing checks for which their accounts did not have, by a significant amount, sufficient funds on deposit to cover; and

Whereas that Committee has recommended that, after such Members and former Members have had the opportunity to be heard by the Subcommittee which conducted the inquiry, the names and pertinent account information of those Members and former Members who the Committee finds have abused the banking privileges be publicly disclosed: Now, therefore, be it

Resolved, That, after the expiration of ten days following adoption of this Resolution by the House, and after giving such individuals an opportunity to be heard by the Subcommittee which conducted the inquiry, the Committee on Standards of Official Conduct is authorized to publicly disclose the name and pertinent account information of any Member or former Member who the Committee finds, pursuant to House Resolution 236, has abused the banking privileges during the period July 1, 1988 to October 3, 1991; and be it further

Resolved, That the pertinent account information to be publicly disclosed for such period shall be the following: the number of insufficient funds checks written; the particular timeframe during which those checks were written; the number of such checks that the House Bank returned to the Member; the number of nonaccount checks that were cashed or caused to be deposited to the Member's account with insufficient funds to cover them; and the number of months that the negative balance in the Member's account exceeded the next month's net salary deposit; and be it further

Resolved, That the Committee on Standards of Official Conduct is directed to provide to any Member or former Member who so requests it in writing on or before December 31, 1992, the following information regarding the account of such Member or former Member at the House Bank during the period July 1, 1988 to October 3, 1991; the number of insufficient funds checks written; the particular time-frame during which those checks were written; and, where the information is available to the Committee, the number of months that the negative balance in the account exceeded the next month's net salary deposit.

Mr. MCHUGH (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER. Pursuant to the order of the House of today, the gentleman from New York [Mr. MCHUGH] will be recognized for 1 hour, and the gentleman from Utah [Mr. HANSEN] will be recognized for 1 hour.

The Chair recognizes the gentleman from New York [Mr. MCHUGH].

Mr. MCHUGH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have offered House Resolution 393 today on behalf of the

Committee on Standards of Official Conduct.

I would like to begin by thanking the members of the Committee for their cooperation, and by expressing my appreciation in particular to the members of the Subcommittee who for the past five months have worked very hard on a non-partisan basis to bring this matter to a just conclusion: Mr. HANSEN (of Utah), Mr. CARDIN (of Maryland), Mr. GRANDY (of Iowa), Mr. MCDERMOTT (of Washington), and Mr. GOSS (of Florida). I believe that all of us owe a special debt of gratitude to the Ranking Republican Member, Mr. HANSEN, for his leadership, common sense, and just plain decency throughout these proceedings.

As you know, Mr. Speaker, on October 3d of last year this House passed House Resolution 236 by vote of 390 to 8. The Resolution was prompted by widespread concern that there might be problems at the so-called House Bank operated by the Sergeant at Arms Office. This concern followed publication of an audit report by the General Accounting Office (GAO) which indicated, among other things, that over the 12-month period covered by the audit 134 House members had written 581 checks on their accounts at the Bank, which checks had face values of $1,000 or more but did not have sufficient funds in the accounts to cover them.

House Resolution 236 directed our Committee to conduct an inquiry into the use and management of the Bank. The inquiry was to cover a 39 month period, from July 1, 1988 to October 3, 1991. The Resolution instructed us to review the Bank's operations and determine whether its use or operation presented questions of potential violations of the House Rules or other applicable standards. In making this determination, the Committee was directed to consider, among other things, whether anyone "abused the banking privileges by *routinely and repeatedly* writing checks for which their accounts did not have, *by a significant amount*, sufficient funds on deposit to cover". (Emphasis added)

If the Committee determined that there were potential violations of House Rules or other applicable standards, House Resolution 236 further instructed the Committee to consider, if appropriate, initiating a preliminary inquiry, which is the first stage of a formal disciplinary proceeding under the Committee's Rules.

Shortly after passage of House Resolution 236, the Committee designated a Subcommittee to conduct the inquiry. I was privileged to chair that Subcommittee, and also to serve as Acting Chairman of the full Committee.

At the outset of our investigation it became readily apparent that the Bank's records were in primitive form and would have to be substantially reconstructed for our purposes. Ten people from GAO were detailed to our Subcommittee and, at our direction, began the tedious and time-consuming process of compiling the information we needed. We insisted that every piece of information the Subcommittee received be presented by GAO in coded form; that is, at no time did the Subcommittee or the full Committee know the identities of account holders. We preserved anonymity at all times so that it would be clear that all of our judgments were made without reference to personalities or party affiliation. That anonymity continues to this very moment.

The Subcommittee first requested from GAO a comprehensive list of accounts on which at least one bad check had been written during the 39-month period. To give us that list GAO had to examine each daily Settlement Sheet for the entire period; it was on the back of these sheets that the Bank tellers would note the overdrafts that came in each day. The name of the Member who wrote the check and its face amount would be listed.

The first list that we received from GAO showed that there were 355 Members and former members who had overdrafted their accounts at least once. In addition to the coded account number, the list indicated the total number of checks that had been overdrawn in each case and the aggregate of their face amounts.

It is important to emphasize that face amounts are irrelevant and misleading in judging the account practices of Members. To determine abuse of banking privileges one must know the deficiencies in an account, that is, the amounts by which the face amounts of checks exceed the funds in the account at any given time. In order to provide this information—essentially an account's running balance—GAO had to completely reconstruct an account's history check by check, deposit by deposit, for 39 months.

The Subcommittee concluded that it was neither necessary nor feasible to reconstruct the history of every account. On the basis of the preliminary information, it was clear that many Members had not abused their banking privileges. Moreover, if GAO were to reconstruct every account, this inquiry would have dragged on for many more months.

Therefore, on the basis of the preliminary information available, the Subcommittee instructed GAO to reconstruct complete histories for those accounts that we thought might potentially be the most problematic. Our selection was based primarily on the number of bad checks written, and the number of months the aggregate face amounts checks for each month exceeded the account's net salary deposit. It is important to emphasize that the accounts chosen for reconstruction were not designated abusing accounts. We did not have adequate information to make that judgment; most notably, we did not have the deficiencies for any account.

GAO was finally able to provide us with the complete account histories in early February of this year. While we waited for those records, the Subcommittee considered how we would specifically apply the criteria set forth in House Resolution 236. After receiving the records, we reviewed these carefully, applied the criteria, and decided upon the findings and recommendations we would present to the full Committee. All members of the Subcommittee, three Democrats and three Republicans, supported our report.

The full Committee met on Thursday of last week, March 5th, and voted in favor of the Subcommittee's report. The vote was 10 to 4. We have distributed the Committee Report to all Members and I hope that you have had a chance to read it. It describes in detail the history and practices of the House Bank, the process the Committee used, and our conclusions. I would now like to summarize those conclusions.

I.

The House Bank was actually not a bank, but a disbursing office that also provided check-writing and check-cashing services. The Bank's funds consisted of Members' salaries and other deposits. For at least 40 years, and perhaps for much longer, the Bank had a practice of honoring most overdrafts on Members' checking accounts. Past Sergeants at Arms justified the practice as a draw against the next month's net salary deposit. That salary deposit, as we all know, represents payment for the prior month's service.

Although it appears that no funds were lost as a result of account overdrafts, that is, all overdrafts were ultimately made good, the Committee concluded that the Bank's practice of routinely honoring overdrafts was unwise and should have been discontinued years ago.

II.

The management and operation of the House Bank were not professional. Its recordkeeping was haphazard, its internal accounting controls were lax, and its failure to promulgate and distribute formal guidelines and procedures to those who used the Bank contributed to the problems which are the subject of this inquiry. Although the Sergeant at Arms inherited the system, ultimate responsibility for poor management must rest with him. As the Committee Report points out, on a number of occasions he was given specific recommendations for reforming the Bank and they were not carried out in a timely or effective manner. Responsibility must also be shared by the Bank Director and the Committee on House Administration, which had oversight responsibility.

III.

The Committee found that there were 19 current Members and 5 former Members who abused their banking privileges. As I said earlier, we don't know their identities since the Committee has at all times made its judgments using coded account numbers only.

Pursuant to the direction of House Resolution 236, the Committee had an obligation to identify accounts where banking privileges were abused. Moreover, the Resolution defined abuse for the Committee as those cases where a Member repeatedly and routinely overdrew the account by a significant amount. We had the difficult job of putting flesh on those terms, and reasonable people might differ with our conclusions.

We defined a "significant amount" as an account deficiency which exceeded the Member's next monthly net salary deposit. That is clearly a significant amount. Beyond that, for many years Bank employees have considered it significant and testified that they communicated this by telephone to Members and their designated staff when such account deficiencies occurred. The only times the Bank ever bounced a check was when overdrafts caused the account deficiency to go over the next month's net salary deposit, and even then checks were not always bounced.

Having defined a "significant amount" of overdrafts, the Committee then had to decide when such overdrafts were repeated and routine. This was not easy, and the Committee simply had to choose a standard that would meet the test of reasonableness. It chose a 20 percent standard, that is, significant overdrafts were considered repeated and routine when they occurred in at least 20 percent of the months that a Member had an account at the Bank. Therefore, if one had an account for the full 39 month period of this inquiry, one would have to overdraw by the significant amount at least once in each of 8 months.

IV.

The Committee did not initiate formal disciplinary proceedings in any of these cases, but rather decided to submit to the House the Resolution I have offered today. As you know, the pending Resolution would direct the Committee to publicly disclose the names and pertinent account information for those found to have abused their banking privileges. The Committee believes that lengthy formal proceedings would be unlikely to develop much more of substance that this inquiry has already produced.

The pending Resolution would defer public disclosure for at least 10 days after passage. This would enable the Committee to privately notify those on the list and give them an opportunity to examine the records on which the Committee based its decision in their own case. Each person would also be afforded an opportunity, if requested, to be heard in executive session by the Subcommittee that conducted the inquiry. An individual would be taken off the list before public disclosure if it can be established that he or she was mistakenly put on the list.

The pending Resolution also provides that any Member or former Member not on the list can by December 31, 1992, request in writing from the Committee a letter setting forth that person's pertinent account information.

The account information to be revealed in both of these situations is set forth in the pending Resolution.

V.

Finally, Mr. Speaker, the Committee found that no non-Members abused their banking privileges by cashing at the Bank window checks drawn on other banks. Quite a few people presented overdrafts for cash, but the number and size of those checks did not rise to the level of abuse defined in House Resolution 236. The Committee did conclude, however, that the Sergeant at Arms and a former Bank teller misused their positions at the Bank by cashing several checks with insufficient funds to cover them.

Mr. Speaker, this has been a long and difficult investigation. As I mentioned, reasonable people might approach this somewhat differently, but a majority of the Committee believes that we have faithfully carried out the task assigned to us by House Resolution 236.

□ 2040

As the Members know, there will be a second resolution offered tonight after the vote on this resolution. It raises the question of full disclosure, and I have been asked as chairman why our resolution, the one pending before us now, did not provide for so-called full disclosure.

By full disclosure I mean publication of all of the names on the list of 355, together with the number of checks that were bad in each case. I would like to say briefly why we did not recommend so-called full disclosure.

First of all, it was not consistent with the instructions we received in House Resolution 236. That resolution instructed us, in effect, to identify abusers of banking privileges, not lay out all of the information about nonabusers.

Second, checking transactions are essentially private in nature. If someone did nothing wrong, if a Member did not abuse his or her banking privileges, we believed it would be wrong to violate the privacy of these transactions and disclose them. Under our proposal, members could do that on their own, if they chose to, by requesting a letter from the committee.

Third, disclosure of the number of checks is not full disclosure, despite it being called so publicly. The fact is that we do not have complete information with respect to any accounts but the 66 I have described. We have the number of checks, but that says nothing about deficiencies. And I think that this lack of information points out clearly why this is not full disclosure. We did not reconstruct any but those 66 accounts I mentioned earlier.

Finally, disclosure of the number of checks may not be accurate disclosure. As I indicated, the GAO constructed a comprehensive list of 355 accounts and the number of checks that were overdrawn for each account by looking at the back of the settlement sheets. GAO has reported that in reconstructing the 66 accounts, they discovered that the settlement sheets were sometimes inaccurate. They corrected those mistakes that the bank had made in the case of the 66 reconstructed accounts. But with respect to all other accounts, there are likely to be some mistakes. Disclosure of the remaining accounts and the Members on that list of 355 is likely to result in some error. I need not describe to Members the kind of misunderstanding that can develop in the public's mind as a result, the kind of damage that can be done to Members. This would not be a problem under the resolution we are offering now. There would not be disclosure of that kind of information, unless the Member requested it. It would be the Member's option. Under the next resolution, however, there would be no option. It would be mandatory disclosure. It would not be accurate in some cases.

Mr. Speaker, as I said, I believe the Committee fully implemented the instructions we received from this House in October. I would urge the Members to support and vote for this resolution.

Mr. Speaker, I reserve the balance of my time.

□ 2050

Mr. HANSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is, I hope, the conclusion of a very long and difficult investigation. I do not know anybody in this House who enjoys going down and being buried in the dungeon of this Capitol for 5 months at a time, spending literally hundreds of hours poring over all kinds of accounting procedures on things that we feel would possibly be detrimental or hurt Members of the House, but that is the job that you gave us, and if it can be enjoyable, I guess it was enjoyable because we had the opportunity of serving with people like the gentleman from New York [Mr. McHUGH], an honest, commonsense, reasonable, fine gentleman; serving with other members of the committee who did their very best to put aside partisan politics, to work at what in their hearts and minds they felt was right and correct and to come to some conclusion of this.

Mr. Speaker, many of these investigations start out, and they get a lot of publicity, and people talk about them for about 20 hours, and then they die, and one poor person has to suffer for months as we go through it.

Not in this one. In this one, almost every Member of the House has had to suffer. The public has had to suffer. The media has been interested in it. It has created an image different than any other investigation that I have been part of now in my 12th year in the House, and I have been on this committee for 12 years.

We have talked about the bank. And I think the acting chairman did an excellent job in outlining where we are going.

What kind of bank are we looking at? Come on, this is not a bank. This thing has been around since 1830. They started taking checks in 1889. This bank is a disbursing office. Those Members in those days had to find a way to get their money. They had to walk over to the Treasury and get a voucher in those days. They got a little tired of that. They said, "There has got to be a better way to do it." So the Speaker said, "We will work on it." They put together a group of people, and they called it a bank. It disbursed money.

Unfortunately, from that time to this time, people have been trying to figure out how do we really do this. We do not have any real good rules going back 100 years ago. It has not been delineated. It is awfully easy to cast aspersions against the leadership, against the Sergeant at Arms, against the people in the bank. Maybe that could go around to a lot of people. I think it is kind of a hollow argument, because the thing has not been looked at like a commercial bank.

The people of the United States of America want it to operate like a commercial bank. They want their bank settlements to show a negative and a positive balance. Here is a bank statement from the bank.

Now, for the 39 months we are looking at, you cannot find one of these with a negative balance on it. They did not do it.

Of course, we wonder who gave them those instructions. So what did they do when a check came in that was over? They put it aside. Let us say the man had $10,000, and the check was written for $11,000. That one would go aside. The next day one would come in for $4,000, and it would be paid, and one for $2,000, and it would be paid. That is not the way we do it in a commercial bank. It is very difficult for many Members to even know where they are going.

As we looked at this great bank we had down there, yes, it is very convenient. It is sure nice to walk down and cash a check and take care of things. I would hope that people would realize that this was not a bank. I would hope they would also take it upon themselves to read this report that we put out. It is very, very clear. The first part of it talks about the bank history.

If people would read that, they would see that we were operating a little differently than people thought we were. I just cannot buy the argument that we were playing with a bank. We were playing with an organization that was poorly run, did not have definite instructions, and, in effect, and I do not know why more people were not in trouble considering what we were working with.

I would be less than honest if I did not say that the people who work down there are not pretty good souls. A lot of those folks tried very hard to do what they could to be very attentive. How many banks are there in America that every accountholder's name is on the wall or a picture of him? You do not go into the First National Bank and see everybody's picture on the wall. We have got them all down there.

I think the people who were heading this bank tried to do what they thought was best. Their whole intent was this: take care of the Member; do not upset the Member; cater to the Member; kowtow to the Member. You could come into the bank if you were $20,000 overdrawn and if you wanted to cash a $5,000 check, and the teller knew it, he would still cash it for you. So we have made our mistakes, and now that bank is closed, and I hope the people of America realize that.

The intent of this investigation was not criminal. Every day people are calling saying, "Why do you not do something about this?" What do you do anyway in a situation where we look at a Member? We go through a preliminary investigation. Then we decide if it is necessary, if it is laudatory, if it is meritorious. Then we go through hundreds of hours and days and months working with that Member, and at the conclusion of that, we decide whether a letter of reproval, a reprimand, a censure, or an expulsion. Has anyone ever stopped to think what these things really are? A letter of reproval is really nothing, but we will spend hundreds of thousands of dollars to get to one. A reprimand, we stand up here for an hour, the person is reprimanded by the Speaker, and we go our way. A censure, he stands in the well, turns around and faces it. The one that has any clout is expulsion.

As we looked at this, the hard, difficult thing to handle, the easiest way we could see it to take care of what we thought would be discipline would be the 24 names, or, as the chairman has explained, coming up with those we thought were true abusers. I think it has been adequately covered. We have done it in our caucuses and other places, talking about repeat routine and significant.

We know how this should fall out.

Mr. Speaker, now, I dismiss the idea out of hand when the press has been saying that what we have is not disclosure. Very candidly, both of these are exposure and disclosure to the people involved.

Now, really if you want to be very candid about it, why do you now turn and look at the back page of the one we are talking about now? In there it talks about indirect disclosure. And what does it say? It says these people, from No. 25 to 355 can receive a letter, and that letter will have three things in it.

We are politicians here. Just ask yourself, be brutally candid about it, you are on the 355, that group I was just talking about. What do you think the press will do? What do you think your opponent will do? This goes on and on and on. You are going to live with this a long time.

It was very tough in a way. The one that will come up later I really think is a kinder and gentler one as far as getting it over for some people.

I noticed on "Good Morning, America" that somebody stated about this that it had overdraft protection. That is news to me. This bank had to overdraft protection. But people go in, and they say, "Well, you can do that at a commercial bank." You do not get overdraft protection. You do not have a line of credit. When you walked in there, I would really like to see this person, and we have had them all in front of the committee, who said to you as a Member, "You go ahead and overdraft for 2 months." They did not say that under sworn testimony in front of our group.

The defense we have heard, that we have had a 24-month contract, and so we, in effect, have our full salary for 24 months, but that is not the way it works. We get it month by month just like most other people do. Another defense is, "Nobody told me about this. I did not know I was doing this." I have a hard time accepting that.

Most of us learned to add and subtract in elementary school. If people followed that, I think they would have been OK, but I do not blame Members. I can see the feeling in their hearts and how uptight they are over some of these things, and some of them do have some very legitimate problems, and I am sure we will get a chance to look at that.

Mr. Speaker, our categories are basically abusers. Following abusers would be, in this resolution, the indirect exposure, and disclosure, and the next category would be those who did not bounce any checks, and the last category would be those who were not Members of this bank.

Keep in mind those categories were working.

I think the chairman adequately explained this. I appreciate the opportunity to briefly go over some of the issues that I felt were important.

Mr. Speaker, I reserve the balance of my time.

Mr. McHUGH. Mr. Speaker, I yield 5 minutes to the gentleman from Maryland [Mr. CARDIN], a very valuable member of our subcommittee.

Mr. CARDIN. Mr. Speaker, first, I want to thank my chairman for yielding me this time, and I want to point out to all of the Members of the House, I hope, our deep appreciation to the gentleman from New York [Mr. McHUGH] and the gentleman from Utah [Mr. HANSEN] for the work they have done in guiding the ethics committee in its work.

□ 2100

Both these gentleman have worked in a nonpartisan fashion to bring us a resolution that I think carries out House Resolution 236, a resolution that was passed by this House.

I think both of these gentleman have worked in the finest sense in the traditions of the Ethnics Committee to make sure that our finding represents a nonpartisan view as to how we should proceed whenever ethnical violations are brought against this House or any of its Members.

Mr. Speaker, as a member of the House Ethnics Committee, and one of the six members chosen to investigate the iregularities of the House Bank, I have been shocked and terribly disappointed by the degree to which a number of House Members took advantage of the system.

Our findings are very critical of this institution and its members. Let me quote from the report:

> The Committee finds that the long-standing practice of the House Bank in honoring overdrafts on Members' accounts was unwise and should have been discontinued years ago. * * * Responsibility for the overdraft practices of the Bank must be shared. A series of Sergeants-at-Arms and Bank Directors should have insisted upon a much more professional operation. The Committee on House Administration should have exercised more diligent oversight of the Sergeant-at-Arms Office. The House Leadership should have intervened in those earlier years when GAO was highlighting the problem. * * * In the final analysis, however, major responsibility must be borne by all those Members who, with some regularity, month after month, year in and year out, wrote significant overdrafts on their House Bank accounts."

The Ethnics Committee followed the instructions of the House as incorporated in H.R. 236, which was passed by the House on October 3, 1991 by a vote of 390 to 8. That resolution directed the Ethnics Committee to identify the abusers using the standard of those who "routinely and repeatedly" wrote checks for which they overdrew their accounts by a "significant amount."

There are those who argue that the standard used by the Ethics Committee should now be changed so that more members are labeled as significant abusers. Whatever line is drawn, reasonable people will differ over the logic of establishing culpability. Clearly, there are at least 24 Members and former Members who are the worst offenders and should be identified as abusers.

The Ethics Committee has followed the instructions given to it by H.R. 236. We have set a clear standard of behavior that meets the test of routinely and repeatedly abusing the system.

It was the job of the Ethics Committee to identify the most flagrant abusers. Now it is up to the voters to make their judgments, on those whom we have identified as abusers, and on every Member who has written even one check against insufficient funds.

I am a cosponsor and supporter of the resolution calling for full disclosure, for every Member who has written any insufficient checks. I believe it is consistent with the recommendation of the Ethics Committee. It is clearly consistent with the demands of the people of this Nation, who are outraged by what they have learned, and who want the facts.

It preserves the Ethics Committee's determination of the worst abusers, while providing for full disclosure of the rest of the individuals who bounced at least one check. These Members will need to deal with this issue in their own districts. It will now be up to our constituents to judge our actions and that is the way that our system should work.

Mr. HANSEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Iowa [Mr. GRANDY].

Mr. GRANDY. Mr. Speaker, I thank my friend and leader, the gentleman from Utah, for yielding me this time, and I thank both he and the distinguished gentleman from New York for their service to this committee and to this House.

This is undoubtedly the most unpleasant experience this Member has had for the last 5 months. It is also undoubtedly the finest working group that I have ever been privileged to work with, and that extends to the chairman, the ranking member, and all the members of the subcommittee.

Mr. Speaker, what normally happens when we bring an ethics resolution to the floor is it becomes a kind of grisly, but impersonal, spectator sport. Most of you sit in your seats and watch some Member twist in the wind as we record our findings and you sit in judgment of your colleague. Tonight you sit in judgment of yourself. I do not envy you this decision, because you have to do in just a few hours what the Ethics Committee has struggled to do for 5 months. We have tried to weigh incomplete, often inaccurate, and always circumstantial evidence, to find a common pattern of practice which we then can determine as abusive after the fact.

In other words, what we are doing tonight is defining the crime and then identifying the criminals. There is no precedent for this in U.S. statute. There is no precedent for this in the House rules. There is no ethics case to which you can refer to give you guidance. It is a process that is unfair. It is unkind, and for many of you it will be totally unbearable. And yet we have to do it. It must be done. The collective weight of years and years of sloppy banking practices, creative accounting, and abuse of privilege have brought the credibility of this institution to the brink of collapse. So we must fully disclose what we have done, how we did it, and why we did it. And we will. Today we will. You will have before you two complete resolutions, both of which advocate full disclosure, but are disagreed on the means to achieve that disclosure. But full disclosure is only half our charge.

We on the committee are empaneled to protect the institution from the individual, and so we will name publicly those individuals who we believe brought disrepute to the House of Representatives; but the other half of this job, Mr. Speaker, is to protect the individual from the institution.

So I hope tonight we will balance full disclosure with fair disclosure. This means that despite our zeal to restore credibility and to return integrity to the House, we must not lose sight of our responsibility to give every single Member due process and a fair hearing, based on the rules of evidence.

□ 2110

Unfortunately, this is the part that our constituents are not going to like and they probably will not understand it. I can guarantee you the press could not care less.

A few days ago a reporter asked me to explain how the Ethics Committee reached its conclusions, but before I could finish my lengthy discussion of the process, she interrupted me impatiently and said, "Congressman, excuse me, but my editor is pressing me for numbers. We want to know big numbers." Let me just say to all of you this is a disciplinary proceeding, it is not a telethon. Big numbers do not tell the tale.

When you look at 20,000 checks over 3 years, when you hear about $10.8 million in overdrafts for every Member, your press may be tantalized, your constituents may be shocked, but these numbers do not tell the tale of what happened. If you want to know what Members did, if you care, you have to look beneath the numbers to discover the patterns of behavior which run the absolute gamut from stupidity to willful deceit.

Now, 66 accounts were reconstructed by GAO. Why not more? Time.

If we had taken a complete profile of every single Member of the 355 that bounced even one check, we would not complete our work until autumn, much too long for this sorry scandal to drag on.

So, based on the last two audits which the GAO made of the bank, the subcommittee decided to breakout those accounts that appeared suspect either by the heavy volume of checks or by the size of overdrafts, or both. And we broke them down and went through them day by day, check by check. For those other 289 Members who bounced one or more checks, less detail was requested because a preliminary review of these accounts did not trigger the suspicion of the subcommittee. Indeed, over 100 of these individuals wrote 3 or fewer overdrafts.

So, we were trying to establish a potential population of abusers, and when we did that, the subcommittee's next task was to discover what standards were employed by the House bank. This was easy: None.

Every witness, from the Sergeant at Arms to the lowest bank teller, testified that the guiding principle of this bank was service. In other words, what the Member asked for the Member almost always got. And this meant, for example, any Member of Congress could go to the bank window on a Friday, and could appear with a check to deposit for $50, a check to cash for $1,000, and have 20 bucks in his account. All business was transacted courteously and quickly, no questions asked.

Perhaps the following Monday or Tuesday the Member would receive a call in his office informing him of his overdraft and requesting him to make up the difference. And some Members would respond immediately, some would delay indefinitely, and some would not even take the call.

Now, bank employees all concurred—under sworn testimony—that they constantly telephoned Members when they were overdrawn. So, we had reason to believe, in the subcommittee, that there was some haphazard, informal system of notification. But of all the 355 Members implicated in this affair, only 5 ever got a check back from the bank. Only five documented, incontrovertible instances of formal notification.

And yet the Ethics Committee has constantly been reminded that our list is too small, our selection is too lenient, and we are presiding over a coverup. Think what you like. This is not totally a court of law, this is also a court of public opinion, as you know. But certain individual rights must be preserved, and foremost among those is a Member's right to challenge the evidence before it is made public.

Given the practices of this, I will not call it a bank, I will call it a cash club, and the hopeless system of accounting which never at any time on any bank statement ever indicated that a Member was overdrawn, what could the subcommittee conclude that Members had reason to believe they could and could not do with their accounts? There was only one theme that emerged across the testimony, and that was you were not supposed to draw beyond your next month's net salary deposit. But even the generous standard of that cannot be fully understood by just looking at the raw data, which you have now seen leaked in the press.

I want to take two hypothetical accounts and consider them. They are not specific accounts, but they are indicative of the kinds of accounts we looked at, as we went month by month, day by day, check by check, through 39 months and through 66 Members.

Let us say there are two Members, and let us say that they both have overdrawn their accounts beyond their next month's salary three times in the course of 39 months. Most likely on that list of 66 which we originally broke out, the first Member has a huge overdraft, let us say $25,000. But on closer inspection we learned that his balance at the time was $23,000, he had a deposit of $4,000 which was made before the $25,000 check but credited after, causing him to be $2,000 in the red. The next day, the difference is made up, and the account is balanced.

Let us say this happened over a 39-month period, and let us say it happens at wide intervals over 3 years and in every instance the account is made good the next day.

Now, the committee cannot ascribe motives to nameless accounts. Our purpose was not to establish intent.

But I ask you, from what I have described, is this contrived manipulation or is this accidental bookkeeping for which the bank is partially responsible?

Now let us say there is another Member with three times over the next month's salary, but as we look into this Member's account, what we discover is all the questionable activity is taking place a few months prior to an election. And in this case the overdrafts are not made good until, let us say, the second Tuesday in November. Now, it would appear on the face of it that one individual is clearly using the time value of money, in other words, ripping off his fellow colleagues, and one is not. But if, as some recommend, we raise the threshold to 66, they are both on the list.

The point is the 20 percent threshold that we decided upon is arbitrary, but it is based on the individual profiles that emerged from every single account broken down and examined, and the choice was based on capturing those Members whose patterns indicated abusive activity.

We do not have every guilty Member, I am sure of that. This is not my personal threshold. But I am reasonably comfortable we have not trapped any innocent individual.

Now, again, this explanation is not going to sate the public appetite to post all the names on the doors of the Capitol, and in this highly charged atmosphere the Members of the House are going to get an opportunity to vote in favor of full and, in my opinion, very hasty disclosure over measured and fair disclosure, which is before you now.

We on the subcommittee understand that. It is not your job to define or defend the banking practices of the guy sitting next to you. That is the committee's job. And our task today is to establish an honest public record of abuses many of you do not yet know you have committed.

Now, because of this, the subcommittee decided that for the 411 Members who are not publicly identified as the worst-case abusers, a form of indirect full disclosure was the fairest way to proceed.

Since the spectrum of behavior ranged from abusers who might otherwise be on the dreaded list of 24 all the way out to those vestal virgins who never even used the bank, indirect disclosure was deemed the best way to make the punishment fit the crime.

A letter describing the number of checks overdrawn, the timeframe in which they were written and, where available, the number of times over the next month's salary, is available to every single Member who requests it.

Now, this form of self-discipline is going to be a Godsend for most of the individuals who wrote a couple of checks and want to divorce themselves from the agreed-upon public villains. And I expect the line to form outside the Ethics Committee tomorrow morning.

But for those offenders near the front of the list, indirect exposure borders on cruel and unusual punishment because based on what you have seen so far, the public pressure to release your letter will be overwhelming and you have to decide how bad your record is, and then whether to make that information public.

Will some Members stonewall? Well, of course. Will they survive? In some cases, yes. But except in those districts where individuals are terminally entrenched, when the combined efforts of your constituents, your opponent, and the press turn up the heat, you will be compelled to see the light and come clean with the information.

As you know from the phone calls in your offices, the press and your public do not like this idea. They do not like it because it splits the difference between their right to know and their responsibility to find out. But our ultimate judges are not in this room; they are in our districts. And the committee feels that if it comes to it, you should stand trial back home. But we also feel that it should be a fair trial and that is why we give all the accused the right to see the evidence, prepare their case, and then go public.

□ 2120

Now, if my colleagues choose later to accept the alternative version of direct disclosure by publication of a list with names and numbers, which will be their other choice here this evening, I can support their opportunity to make that choice. But do not think for a minute that this report, the subcommittee report, the full committee report, is letting someone off the hook. We are probably sticking them on one.

Mr. Speaker, as of today your talk show hosts have a topic, as of today your opponent has an issue, and your constituents have a reason to support term limitations.

I want to make one final point. No matter which version of full disclosure my colleagues may prefer, they may be assured of one thing, and in this rare instance I disagree with my distinguished ranking member, the gentleman from Utah [Mr. HANSEN]. This matter does not end here today with this vote. It begins. Individual inquiries will be made, complaints filed, appeals heard, and possibly even criminal investigations undertaken. But it is not now, nor was it ever, the responsibility of the Committee on Standards of Official Conduct to preside exclusively over individual Members' fates. We merely prepared the table of contents. All of us must write our own book.

Mr. Speaker, I say to my colleagues, keep your own counsel in this matter, but, as one of the few Members that has reviewed 66 account histories day by day and also looked at the supporting material on everyone else, I hope all of you individually will at least be guided by the words of Harry Truman: "Tell the truth. That way you don't have to remember what you said."

Mr. MCHUGH. Mr. Speaker, I yield 5 minutes now to the gentlewoman from California [Ms. PELOSI], a valuable member of the full committee.

Ms. PELOSI. Mr. Speaker, I thank the gentleman from New York [Mr. MCHUGH] for yielding me some time to participate in this debate this evening. As the chairman indicated, I am not a member of the subcommittee, only the full committee, and, as such, I wish to commend the Chair, the gentleman from New York [Mr. MCHUGH], and the ranking member, the gentleman from Utah [Mr. HANSEN], as well as the members of the subcommittee, for their very excellent work on behalf of the committee and on behalf of the House of Representatives. The gentleman from New York [Mr. MCHUGH] and the gentleman from Utah [Mr. HANSEN] were exemplary in the conduct of their duties as chair and ranking member of this committee, and I want to publicly commend and thank them for setting such a great standard for us. Their work was excellent. It was based on principle, and we owe them our gratitude.

Mr. Speaker, the members of the subcommittee who have spoken already have talked about the work of the subcommittee, and they have gone into some detail about the report of the Committee on Standards of Official Conduct, so I will not address those concerns in any depth except to recall that the House passed by a vote of 380 to 9 a resolution asking the Committee on Standards of Official Conduct to decide or make a list of those who had repeatedly and routinely in significant amounts written checks in excess, in significant excess, of what was in their account.

The House, when it did that, made a decision. We had a lot of hoopdeedoo around that time, and this body made a decision. It decided to ask the Committee on Standards of Official Conduct to work for all these months, and the subcommittee especially by far bore the brunt of this for all these months to point out who repeatedly, routinely and in significant amounts fit the bill and could be described as an abuser.

Mr. Speaker, we come here today with a report from our committee, a report which I think is worthy of the support of the Members of this body, and really not only of our vote, but of our respect, because it puts forth in a very fine and a very clear way what our colleagues asked the committee to do and also provided for disclosure, full disclosure, in a way that was determined by the committee, which was most familiar with the situation, a disclosure that fit the bill.

The House of Representatives has now changed its mind. It has said, "Yes, we wanted you to do that. We wanted the subcommittee to work for months and months, but now we've decided that that's OK, we want to release the whole list anyway," which is the House of Representatives' right to do.

Mr. Speaker, I just think in the future it might be a good idea to save everybody a lot of trouble and work if we would decide what it is we want to do and make the commitment to that decision, because again it could save a lot of time and trouble and, in this case, a lot of heartache on the part of some families that might be involved in this.

Later we will be able to vote on another version of full disclosure, which I fully support. However I warn the Members that that disclosure will be based on, not information that the GAO has gathered, or verified, or indeed even examined, but information that has been just picked up from the bank and will now be released to the public without any examination or verification and without the imprimatur of the GAO. But that will be the decision of this body, and, as I said, I support it. It could have taken us 5 minutes to do that 5 months ago.

Mr. Speaker, I hope that this is the end of it. It is a frustrating time. We have heard the other Members talk about criteria that related to Members not writing checks in excess of their next paycheck which was for work that they were doing now. This is not uncommon in Federal service, in the military, or in the Foreign Service and State Department, and my colleagues can check their list for that, and they might want to take a look at how others in the Federal Service are compensated and how they draw on the salary that they are earning at the moment.

I just think it is a great honor to serve in this body. I talked about two very excellent people, the gentleman from New York [Mr. MCHUGH] and the gentleman from Utah [Mr. HANSEN], and there are hundreds more, and it is very sad to see what is happening in the media in regard to this body where hundreds of people come, elected by their constituents to work for the people and for our country, and I think the country should know that one of the surprises for me when I came to this body was the caliber of the Members here because I believed some of the things I had read in the paper, and to my surprise I came and found people highly intelligent, very committed, with great integrity, working to make this country great, and I hope that we can get back with the business of governing the people once we put this issue behind us.

Mr. HANSEN. Mr. Speaker, I yield 5 minutes to the gentleman from Florida [Mr. GOSS].

Mr. GOSS. Mr. Speaker, it is customary to express plaudits to the chairman and ranking member after committee legislation makes it to the floor. In this case, I cannot do that, because simple plaudits would not adequately express my admiration for the way the gentleman from New York Mr. MCHUGH and the gentleman from Utah ranking member HANSEN conducted our work. The subcommittee worked tirelessly and maintained a scrupulously nonpartisan atmosphere. We had a very small, and I might add over-worked staff, limited resources, confusing facts, conflicting testimony, and widely differing views. We were even able to operate relatively leak free against a concerted press onslaught—at least until recently. These two men have done an outstanding job in dealing with House Resolution 236—which might better be described as "mission impossible." They deserve all of our gratitude and special recognition. They—and our whole subcommittee in my view—never have lost sight that our efforts should first and foremost be directed at restoring the credibility of the House. Mr. Speaker, I believe the committee report deserves support even though I also favor full disclosure—as apparently does just about everybody else in America. I will vote for the committee report as the door opener on this matter—and I will further vote for the resolution calling for full direct disclosure to fully open the door and provide the direct accountability that people across the country are demanding.

Right now, Congress' disapproval rating is at almost 80 percent—4 out of 5 people say we're not doing our job well, and 2 out of 5 strongly disapprove. In this matter, it does not take a Delphic Oracle to figure out what is wrong in the minds of our constituents.

First, we have a perk to deal with. That offends many.

Then we have abuse of that perk—actually a very startling abuse by any standard.

Then we have a perceived coverup or a perceived whitewash because the total information isn't being released right now, whether it is accurate or not.

All this is happening in an atmosphere of economic recession when average folks are hurting and many are without jobs. The perception of a "let-them-eat-cake" Congress writing themselves interest-free loans on demand is way too much to take. Many are understandably infuriated by the perception.

Then our constituents listen to the explanations like "everybody does it" or "we were doing what we were told was OK" which sounds a lot like "we were just following orders." The problem here is that everybody in the world with a checkbook knows that it is wrong to knowingly write a check when there are insufficient funds to cover it. Most people know the difference between right and wrong, why doesn't Congress? Almost any explanation at this point is labeled more beltway bologna; any lack of explanation suggests coverup or whitewash.

The truth is this payroll/check service facility we call a bank was very sloppily managed; too much deference, not enough oversight. In fact, oversight that seemed more like "overlook" than "look over"—ultracasual and nonprofessional procedures. In fact no Member can be sure tonight whether he or she is on the list of insufficiency because the bank practices were so loose, Members were not fully or consistently informed. Bank statements that Members received were deceptive and misleading. Yes there were abuses—and we could debate forever where the line should be drawn between an abuser and merely a Member with a large amount of insufficient checks.

I urge Members and all interested parties to read the full report of the committee—go behind the sensationalism and read the material. The report explains just how ineffective and unreliable procedures were. It notes the breakdown in proper oversight by the responsible House committee. It shows years of ignoring GAO audit reports about Members' insufficient funds checks. It shows, ironically, that this public scrutiny was triggered by check bouncing by the Sergeant at Arms, the very person responsible for running the bank. What the report does not show is evidence of criminal wrongdoing—not because we didn't find any, but because we didn't have the time, the staff, or the explicit authority to examine intent or motive behind the checks. We were fully occupied with an accounting-like approach to defining "routine, repeated," and "by significant amounts," the standard that the full House set in House Resolution 236, which instructed us to determine the worst abusers of the banking privilege. In the many months and long hours that we worked, we were able to reconstruct only a modest number of Members' accounts. By consensus—a very hard-won consensus—we came up with a standard some felt was too tough, others feel was not tough enough. Working under the constraints of House Resolution 236—which really tied our hands—we recommended full direct disclosure of 24 account holders who clearly abused the system. We also developed a process for full, indirect disclosure to provide individual members accurate data by letter which members could use as they see fit. Many feel this system would be long, drawn-out and painful. Others suggest it might allow some near-abusers to stonewall indefensible positions. Though I have serious reservations about where we drew the abuser line and about just how good our indirect disclosure system would be, I am pleased that we achieved consensus in our subcommittee and I recommend support of our work product as a meaningful first step in restoring credibility by proving that we can clean up our own mess.

☐ 2130

Mr. McHUGH. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Speaker, I very much support the official report of the Committee on Standards of Official Conduct. The task force that came out with a bipartisan report did an excellent job laying out the history of, and the operational problems at, the so-called House bank. Up until this point most Members were only vaguely aware of these problems.

The chairman of the committee, Mr. McHUGH, again tonight articulated the situation clearly and thoroughly. I hope people outside this Chamber will listen to what the chairman had to say and the facts he laid out.

Mr. Speaker, tonight two resolutions will pass: One, based on the excellent work of the committee and one calling for complete disclosure of all Members who had overdrafts and the number of their overdrafts. I support both resolutions and will vote for both resolutions.

I hope that tonight's actions will finally get this issue behind us and let us get on with dealing with the critical problems that confront our Nation.

Mr. HANSEN. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania [Mr. GOODLING].

Mr. GOODLING. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I want to compliment the committee because I think the committee did what the committee should have done in relationship to what the rules and regulations were for the operation of the cooperative. They did exactly what those rules were.

What were those rules? Well, 17 years ago when I joined that cooperative, I was told several things. First of all, I was told that I would not have FDIC insurance. It was my risk putting the money there.

Second, I was told that I would not receive any interest on my investment. Third, I was told I would not pay any interest when I used pool money. Fourth, I was told that I could write checks on the present months in which I was working up until the amount of that check.

That is what they judged the 24 people on, and that is the way it should have been done.

But, let me tell you, this is the only court in the world that I know of where now the rules are changed. Now we are all going to be judged based on what the press, the public, and some Members thought the rules should have been.

That is not very fair, in my estimation. As I said, it is the only court in the world where you could possibly get away with something of that nature.

Now, last September when we heard about this, I said to my constituents that no, I could not bounce a check because you could not bounce a check unless you went beyond that month's earnings. They said, "Did you ever do that?" I said yes, one time, to the best of my knowledge, and it was a mistake that I did it.

☐ 2140

And how many checks may that have been? Perhaps 16, perhaps 20. But now, as I said, the whole game has changed. Now we are going to be judged, if Members follow the second resolution, based on what Members thought the rules should have been. If the rules should have been different, why were we not told they should have been different? If GAO did not like the way the operation was run, why were we not told they did not like it? If the Speaker did not like it, why were we not told? If the Sergeant at Arms did not like it, why were we not told? I do not understand that kind of operation.

Most of us did exactly what was supposed to have been done, according to what we were told was the way the cooperative operated. Again, I have no problem whatsoever, if I am one of those 24, I deserve whatever I get because those were the rules by which the game was played. Those are the rules by which the cooperative was run. But I sure think it is total injustice to be judged now based on what somebody now thinks is the way that operation should have been run.

My hat is off to the committee for the way they handled the matter. I think that is where it should have stopped because that is justice done the way justice should be done. Anything beyond that could not happen in any court in this country. Now it means that we must go back and review thousands and thousands of checks and do that sometime and see about the sloppy operation. That is really interesting.

Sometimes if a deposit was not credited until the second, third, fourth, or fifth day of the month and, if a member wrote all their checks, like most people do, at the end of the month and assumed that they will be covered on the first of the month, all of a sudden we find the deposit was not put in until the second, third, fourth, or fifth of the month. Is that the way we should be judged? I hardly think so.

Again, no matter what we say, no matter what we do, we are now guilty. We are now convicted. It is just like trying to tell people that there is no such thing as a notch and all of my colleagues know there is not, but we sign a resolution because we know it will never come to the floor or it would break Social Security. This is the same thing.

We can go out and talk until we are blue in the face and as far as they are concerned, it has nothing to do with the operation. It has to do exactly with what members thought the operation should have been.

Again, I say what the committee did was fair and just. Anything beyond that is treating us in a manner no one else in this country would ever be treated in a court of law.

Mr. McHUGH. Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Mr. Speaker, first of all, I do want to express my admiration for the gentleman from New York [Mr. McHUGH] and the gentleman from Utah [Mr. HANSEN] and the others who serve in the unenviable position of sitting in judgment on these matters internal to the House. They have a tough job and no one here envies them. I appreciate what they have attempted to do over the last few months to bring some definition to this issue.

Their report does make it clear that there were some bad actors who evidently knew that they were playing games with the system. However, in another sense, they were given an impossible task. Because while they tried to make it clear that some abused and others did not, wherever one draws the line, the argument can be made that it is arbitrary.

I came to the conclusion sometime ago that the only way to approach this issue was with full disclosure. Initially, I was reticent to come forward and say that because I did not think I had any bounced checks, and I was a bit restrained by my sense that if I would come forward and insist on full disclosure, it would really be embarrassing to others. I did not want to put Members who had an inadvertent check problem in a bad light because they should not be put in that situation.

Last night I read the Ethics Committee report, after it was made available to all of us. Based on that report, I read for the first time about a red stamp in the corner of checks that was the only real indication that a Member might have a bad check. I had a little office account with an average of 130 bucks in it just to handle incidental office expenses. Until last night I was certain that there was not a problem with my account. But I told my office manager, "Check it again, because now I see this thing about a little red date that might be stamped."

Three were found. Three were found. Inadvertent, unintended, it might have been the bank's mistake. We do not really know.

But it did make me understand even more clearly how important it is that full disclosure occur. Every name must be exposed. The number of checks involved must be exposed, and every Member would be well-advised to talk openly and candidly about the circumstances involved.

That is the only way. That is the only way to clear this issue. That is the only way to restore this institution's reputation. That is the only way to deal with an American public that really has doubts about its elected leadership.

Tell the truth. It is going to hurt some. It is going to exonerate others. But tell the truth.

Mr. HANSEN. Mr. Speaker, I yield 2 minutes to the gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. Mr. Speaker, I am one, at the very first, when this came out, yes, I used the system. I have written checks. That is not so hard to say. If my colleagues feel good within themselves that they did nothing in their own mind that was wrong, then this is not a hard task.

I want to compliment the committee and the work of the gentleman from Utah [Mr. HANSEN] and the gentleman from New York [Mr. McHUGH] and the gentleman from Iowa [Mr. GRANDY] and the gentlewoman from Connecticut [Mrs. JOHNSON], all of my colleagues worked so hard because I think it was wrong for us to have that committee for 6 months in a hole in the ground making a good report and to have that report disregarded.

But I would like to speak on another aspect of this. I have read the report also. I do not agree with the committee in one aspect of it because the committee takes the Sergeant at Arms, Jack Russ, to great task.

Jack Russ served this House for 25 years and most of my colleagues in this House, and he served at the pleasure of the Speaker. I think it is very wrong to have Jack Russ blamed for what has happened in the payroll office.

This man has dedicated his life. He no longer has that job or that employment, but more than that, it hurts his family. He may have made a mistake. We all make mistakes. But I think it was wrong for the committee to pick him out as the villain in this whole sordid affair.

Each one of us in this room that has had the courage to say, yes, I have abused the system and, yes, I have written the checks and those that have not had the courage to say that, should not lay the blame on Jack Russ.

This is a young man that has dedicated his life to this House and is proud of working for this House, as we noted in his letter of resignation. So I do disagree with the committee on that, because it comes right down to the lead dog. If that lead dog is not leading the rest of his dogs, they never win the race.

So let us not blame the wheel dog or the swing dog. Let us blamed the lead dog.

Mr. McHUGH. Mr. Speaker, I yield myself 2 minutes.

I would like to respond to my friend from Alaska, if I may. I do hope the Members read the report because there has been no attempt in our report or in our committee to use Jack Russ, the Sergeant at Arms, as a scapegoat in this matter. Jack Russ was the Sergeant at Arms during this 39-month period.

□ 2150

We found that he did not exercise fully his responsibility to see that this bank was run in a more professional way. We did criticize him in that respect and we think the criticism is fully justified.

However, we also pointed out that Jack Russ did not create the system; he inherited it. He delegated much of the authority to the bank director, who must also assume responsibility, and we said so both in the report and, on the floor.

The Committee on House Administration had oversight responsibility, and as a task force of that committee pointed out earlier in a report of its own, that oversight responsibility was not effectively used. So there are a number of mitigating factors with respect to Mr. Russ. However, that does not relieve him of responsibility. He was told on a number of occasions to implement reforms. He undertook to do so, and they were not undertaken either in a timely or effective way. He delegated, he had said, to someone else in the bank, and indicated that that was, therefore, not his primary responsibility.

This is all laid out in the report, I think, in a balanced way, so I hope that the record will clearly indicate that while there was responsibility on his part, and we point that out, it is not fair for anyone to blame him exclusively for this problem.

Finally I would say in that respect that the Speaker of the House does not have authority to fire an officer of the House, the Sergeant at Arms, or any other officer of the House. They are elected by the House of Representatives. Therefore, it is not entirely fair to suggest that the Speaker, who actually followed up with the GAO recommendations on a number of occasions, was derelict in somehow not dealing with this issue.

Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. I ask the gentleman from New York [Mr. MCHUGH], as chairman, and the gentleman from Utah [Mr. HANSEN], as ranking minority member, this question: Was any taxpayer money lost during this episode?

Mr. MCHUGH. Will the gentleman yield?

Mr. GIBBONS. Yes, I yield to the gentleman.

Mr. MCHUGH. There was no taxpayer money lost as a result of the overdraft practices that we have identified with respect to the Members and their accounts.

Mr. GIBBONS. I would ask the gentleman from Utah [Mr. HANSEN], does he agree with that, that no money was lost?

Mr. HANSEN. Mr. Speaker, will the gentleman yield?

Mr. GIBBONS. I am glad to yield to the gentleman from Utah.

Mr. HANSEN. Absolutely. We investigated that as thoroughly as we could and there was no taxpayer money lost in this banking situation.

Mr. GIBBONS. Let me ask the gentleman another question, admitting that the episode did occur. Did the bank itself actually lose any money of the depositors in that bank?

Mr. MCHUGH. If the gentleman will continue to yield, at this bank, as in commercial banks, there are what are called underages and overages, which means that at the windows of the bank there are sometimes errors made by the cashiers. These errors are undertaken or have been in the normal course of business. In this case they had absolutely nothing to do with the overdraft practices associated with Members' use of the bank, but in that respect there have been over the years modest appropriations to make up for underages as a result of mistakes of the cashiers at the window.

Mr. GIBBONS. I would just ask the gentleman from Utah [Mr. HANSEN] the same question, does he know of any taxpayer money having been lost in this overall operation?

Mr. HANSEN. If the gentleman will yield, I agree with the comments of the chairman and point out that the amount we are talking about is absolutely minuscule. We are just talking about a few dollars. It is actually less than probably we would see in a commercial bank over the period of time we investigated this.

Mr. GIBBONS. May I ask the gentleman this question, was it a bank?

Mr. MCHUGH. If the gentleman will yield, I will indicate, as I did in my opening statement, that this was not a bank. This was a disbursing office that provided check-writing and check-cashing services for well over 100 years, but it was not a bank in any other sense.

Mr. GIBBONS. Did it have FDIC insurance?

Mr. MCHUGH. It had no FDIC insurance.

Mr. GIBBONS. May I ask the gentleman from Utah the same question?

Mr. HANSEN. If the gentleman will yield, let me say I agree with the gentleman. We did not have check protection, we could not get an overdraft card, we could not get a line of credit. It did not have those same amenities one would expect to get from a commercial bank.

Mr. GIBBONS. Mr. Speaker, I thank the two gentlemen for their responses.

Mr. MCHUGH. Mr. Speaker, I yield 4 minutes to the gentleman from Washington [Mr. MCDERMOTT], another valuable member of our subcommittee who worked extremely hard during the last five months.

Mr. MCDERMOTT. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I want to say first of all, as everyone has, but I think it needs to be repeated over and over again, the chairmen, Mr. MCHUGH and Mr. HANSEN, performed what I think is a service to this House that most people will probably never understand.

We were faced with a situation where most of us, our first concern was, was any public money lost? As we have just heard, there was no public money lost. Then, since that was taken care of, the question then was how do we decide what is unacceptable behavior?

I made the planning error of scheduling five community meetings last weekend when I went home, and I must tell the Members that this issue did not come up except on one occasion in five meetings. People wanted to know about the economy and a lot of other things. Then I went home and talked with my mother, who said, "How did this happen?"

I think when we think about how can we explain this whole situation is when the real problem comes. When we look at the history of 130 years of this bank and realize that the GAO has been auditing this bank, as it is called, really the House Disbursing Office is what we ought to call it, has been auditing it for 40 years, and I would commend everyone, and I know Members have plenty to read, but I would suggest they read this report.

On page 6 in the 1964 GAO report, the GAO says, "The Sergeant at Arms considers that the Members are drawing against their accruing salary which will be paid on the first of the following month."

What we are dealing with here tonight is not something that started yesterday or last year or 2 years ago. This has been going on and has been reported on for an extended period of time. In fact, we had a case, and I was not here, I was newly arrived, but the Committee on Standards of Official Conduct in this House dealt with a case where a Member used his campaign funds to pay overdrafts in the bank.

The committee ruled that it was inappropriate for him to use his campaign funds in that way, but made absolutely no statement whatsoever about the bank overdrafts or what was going on in the bank overdrafts or what was going on in the bank in the House of Representatives. This issue has been there and people have used it.

Many Members did not know. In fact, I think there are going to be some surprises on this floor when all these lists come out. When I came in here nobody told me what the banking privileges were. I was lucky. I asked could I do automatic payments of my mortgages. They said, "No, you have to go to a bank." I said, "Can I wire money to my kid at college?" They said, "No, you have to go to a bank." They did not pay interest. I said, "This is no bank. I am not putting my money in here." But most Members put their money in here because of the convenience and they wound up with this situation.

The way I explained it to my mother, and it is the only way I could figure it out, was to say it is as though a State patrolman stopped you on the highway and then asked you, "How fast were you going?" And you said, "I was doing 59." And he said, "Well, then, I am going to write you up for 14 miles over, because the speed limit is 45." And you say, "Where were the signposts?" And he said, "Well, I made it up right here. This is the rule."

That is what this committee struggled with. Anybody on this floor, including this Member, can argue with the standard we used. There was no way to come up with a rationale, coherent standard. We did the best we could, and I understand why Members are upset, but I think that the chairman and the ranking member made every effort to be fair to the Members, including due process.

I would encourage the Members to vote for this resolution.

□ 2200

Mr. HANSEN. Mr. Speaker, I yield 5 minutes to the gentleman from Florida [Mr. JAMES].

Mr. JAMES. Mr. Speaker, tonight, the very reputation of the House of Representatives is at stake.

Tonight, we vote on whether to disclose the names of all those Members and former Members who have written bad checks on their accounts at the so-called House bank.

The choice is clear; we should disclose the names of all those involved, along with the relevant information.

To do otherwise would cause the strain caused by this scandal to spread.

To do otherwise would leave the lasting impression of a cover-up.

To do otherwise would erode even further what little respect the public has left for this institution.

And to do otherwise would be patently unfair to Members, like me, who have never bounced a check, and to Members who may have innocently overdrawn their account by 20 bucks.

After all, it was their account balances that were used to cover the rubber checks and it is their reputations that are every bit as much at stake.

The public has every right to know how the taxpayers dollars were spent and who benefited from that spending. And taxpayers dollars were involved.

According to the committee report, five employees of the Sergeant at Arms office were involved in running the bank. Each of them was paid by the taxpayers.

And the bank was housed in the Capitol, the upkeep of which is provided for by the taxpayers.

Come to think of it, if this so-called bank hadn't had much of its overhead covered by the taxpayers, it wouldn't have been able to extend what amounted to interest-free loans to its customers. And we couldn't be in this mess.

But, we are in this mess and one reason we are is that the public wasn't told about it until last year—and then was told only enough to trigger an Ethics Committee investigation.

Prior to 1977, the General Accounting Office [GAO] alerted the Speaker to the problem but not the public; after 1977, reports were made public but they were not specific enough to alert people to the problem.

But now we can change all that—and we should. Now we can disclose all the pertinent information as to who was involved and to what extent there was a problem.

And the sooner we make such disclosure the better. It is not enough to close the bank. What is required is that we come clean as to who is responsible so that the public can pass judgment as it has every right to do.

The people have every right to know whether their Representative has been acting in a fiscally irresponsible manner. After all, if that Member is being fiscally irresponsible personally what does that say about his or her conception of fiscal responsibility for the Government.

Whatever it says, we should not be afraid of the people's judgment. After all, that is what freedom and democracy is all about.

Mr. Speaker, I urge adoption of the resolution calling for full disclosure.

Mr. Speaker, what I am very much concerned about is those innocent Members, and I believe there are some innocent Members that will appear other than innocent simply because of the practice of not telling them when a check bounced, and that concerns me a great deal. That is the biggest problem that we have.

What I would like to point out is it has been accepted that our leadership was responsible for the instructions to the Sergeant at Arms. Our leadership should explain specifically why there was not specificity directed toward all of us as to what was illegal, what was improper, what would be criticized in regard to these issues. I hear many contradictory statements about what was acceptable or not as far as an overdraft. Believe it, believe the Members who thought it was acceptable to draw into that extra month, even though it probably was an illegal loan. But where was our leadership? I think the leadership needs to explain why it was not corrected earlier, as early as 1977 or 1978 if that was the first they knew of it.

Members can check the annals and the case law and they will find that we have had problems with Sergeants at Arms through our whole history. It is not a new problem. As early as in the 1930s it was decided by a court very specifically, very clearly that those were public funds. You cannot get by with the argument that those were just funds of other Congressmen. The courts have ruled that, and it has been quite clear knowledge to all of the attorneys here on the Hill that have been advising us on these committees. The House Administration Committee has to take responsibility and the leadership, and the leadership from there on up have to take responsibility as well as the Members.

But unfortunately, it is those Members who knew the least about the problems and the sensitivity of it who will be punished the most, and that is indeed regrettable. But we must have full disclosure, and I encourage us all to vote on the proper course in that direction.

Mr. McHUGH. Mr. Speaker, I yield 4 minutes to the gentleman from Georgia [Mr. LEWIS].

Mr. LEWIS of Georgia. Mr. Speaker, I rise today to speak in support of the Ethics Committee report.

The chairman, the ranking member, and all of the committee members had a difficult task to perform. This committee has thoroughly conducted itself in a proper and appropriate manner to carry out H.R. 236, which was passed by this body on October 3, 1991. That resolution directed the Ethics Committee to determine whether the use or operation of the so-called House bank raised questions of potential violations of the rules and standards of the House.

The committee report concluded that the House bank was really not a bank. It was a disbursement office with check-writing and check-cashing services. In essence, this so-called bank was a cooperative. Only the funds of Members were involved. Not one penny of taxpayer's money was spent. In a sense, it was Members borrowing from Members.

According to the committee report, it appears that no funds were lost as a result of these overdrafts. There is no way, and there should be no attempt, to try to justify the practice which took place over many, many years. The so-called bank is closed, it does not exist anymore.

My colleagues, there is an old saying, "This, too, shall pass." I say, let the past be the past and let us begin anew.

I know there are some who are trying to use this predicament which we are in, for political gain. I do not quite understand the position of some who are hellbent on the idea that you must destroy the institution in order to save it. Now is the time for us to come together, not as Democrats, not as Republicans, but as Members of this House that we love. How, in good conscience, can we knock, kick, and attempt to destroy the institution which we are a part of.

Do not be sidetracked by those who see this as an opening, as an opportunity to beat up on the Congress or as a means to shift the attention from the difficult issues and problems facing this Nation.

As Members of Congress, we are public servants, not perfect servants—mistakes and blunders have been made. This committee has completed a most difficult task. Let me conclude by saying, as Members of Congress, we do not give up certain basic rights as citizens.

Something should be said about the right to privacy. Where is it going to stop? Personal financial matters today—will it be medical and dental records tomorrow? Will it be credit ratings next week? Will it be a urine specimen next month?

Now is the time for us to bring closure on this matter—let us do it now and do it once and for all.

Mr. HANSEN. Mr. Speaker, I yield 1 minute to the gentleman from Washington [Mr. CHANDLER].

Mr. CHANDLER. Mr. Speaker, I rise in support of the full disclosure resolution.

As a Member who never bounced a check at the House bank, I am appalled at the activities of some of my colleagues.

Regrettably, the U.S. Capitol has become our castle on the hill—the Potomac River, our moat that separates us from the people who elected us.

I'm saddened to say, but in the wake of bounced checks, unpaid restaurant tabs, and fixed parking tickets, it's apparent that some of our colleagues have forgotten what it's like out there in the real world.

Today's vote for full disclosure is a small but significant step we need to take to get ourselves back on track and regain the trust of the people who elected us.

But I wouldn't stop there.

We need to enact other reforms that will help us regain the trust of the American people who have given us this wonderful opportunity to serve in the U.S. Congress.

First, there was no choice but to release the names of all check bouncers. The American people are entitled to learn the full scope of this problem.

In my opinion, it is the only way that voters will be able to determine whether they have misplaced their trust in Members of Congress.

Second, we should review the privileges enjoyed by Members of Congress. Health insurance and pension, benefits similar to those offered in most corporations, are acceptable, but frills that make the public cynical serve only to undercut the credibility of this institution.

Third, we must pass the balanced budget amendment to the U.S. Constitution. Americans are anxious and angry about our Nation's $400 billion deficit.

Their anxiety and distrust of Congress will continue unless we undertake a serious effort to balance our books, and quit spending more money than is collected from taxpayers.

Fourth, the time has come for national term limits. Congress wasn't intended to be a lifetime job. It was envisioned as a place where farmers, merchants, teachers, and community leaders were sent to do the public's business for a few years, and then they were expected to return home to give someone else a chance.

And last, in light of the pressing domestic agenda, it is an embarrassment that the stated goal of the Democrats is to pass legislation that the President will have to veto * * * in order to embarrass him, rather than have the Congress argue and debate the merits of various proposals.

Democrats, let your candidates do the sparring with the President. That's why we have primaries and a general election in November.

We were elected to work together for solutions that will create jobs, dramatically reform our health care system, and provide retirement security to American families.

That is what the people sent us to do.

I urge the adoption of the full disclosure resolution, and urge us to take steps that will wash away the mistrust and anxiety most Americans feel about the Congress of the United States.

☐ 2010

Mr. HANSEN. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. LEWIS].

Mr. LEWIS of Florida. Mr. Speaker, I, too, want to commend the chairman of the subcommittee and also the ranking member for the fine job that they have done, but I also want to commend again the chairman of the subcommittee for the excellent demeanor that he displayed on television the other night in upholding the principles of this institution when the worst of demagogery was being placed upon him, and I think that his statesmanship was certainly something that we all can look to.

I rise this evening to support the efforts of my colleagues to force full and complete disclosure of the names of those Members who had insufficient funds to cover checks drawn on the House bank. I will be supporting both resolutions.

As this Nation faces significant economic challenges, it is time for Congress to dismiss the business as usual mentality. Members who knowingly and blatantly abused the bank privileges have further injured an already wounded reputation of this public institution.

Bank officials who knowingly and willingly allowed these abuses to continue should be immediately removed.

Mr. HANSEN. Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. BILIRAKIS].

Mr. BILIRAKIS. Mr. Speaker, I rise in support of full disclosure of the Ethics Committee inquiry into the operations of the House bank.

All Members of the House of Representatives have been tainted by the revelation that some Members regularly wrote checks for amounts in excess of their account balance without penalty. This is an outrageous example of special privilege that has led to further cynicism and lack of respect for our Government; and I am angry. Not angry toward those Members victimized by bank internal errors or by an isolated human mistake on their part—but darn angry at those continually taking advantage at the expense of the rest of us.

Because of this and other episodes, Congress is rapidly losing the respect of the American people. But I believe we are on the verge of losing much more. I believe that inaction in this matter risks the continued support of the American people for the very institutions of our democratic republic, the system of government which made our country great, and which carried this Nation through times of adversity.

Everyone here knows that the American public will not be satisfied with partial disclosure. Asking Members to vote on anything less than full disclosure is unfair because it puts us in the position of having to vote in favor of a resolution that the American people will view, plain and simple, as a coverup. I will vote for the partial disclosure because any type of disclosure has too long been delayed—but will also vote for and prefer full disclosure.

Nothing but full disclosure, nothing but a full list of names and actions, will stop the ongoing erosion of trust between the American people and their elected Representatives. I believe that people have the right to know the truth of this whole matter—and to make their own decisions based on the available evidence.

We were elected to do the people's business. It is an honor to be a Member of the U.S. House of Representatives. The honor brings with it the responsibility to act properly in both our public, and yes, certain private affairs. All Members need to remember that fact.

We are human. We make mistakes. We may use poor judgment at times or fail to fully appreciate the consequence of each and every action we take.

But we must put our faith in the American people to judge both our virtues—and our mistakes. We cannot shy away from this scrutiny any more than we can correct our past misdeeds.

In all this, in today's proceedings, we must act to restore this House and this institution. We must earn back the trust of those who elected us. If nothing else, we must show that this Congress has nothing to hide, that as we stand in the well of this House, we stand with our heads held high.

Indeed, to me, there is no choice but to have full disclosure. To do otherwise would violate the very faith and trust that our constituents placed in us when they cast their vote.

As in everything else, we must let the people decide. We must let the citizens of this country be the final judge of our actions. Thank you.

Mr. HANSEN. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, I am proud that a few members of the freshman class had the courage to push the banking issue. I was not one of those original members, but they, even then, got chastised.

I first asked for a letter and found one discrepancy, and I released that to the press. The press came back and said, "Well, how do we know that is all?" I got another letter and expressed in full disclosure to the press.

I know there are other Members that told the press that that information was not available. All they had to do was walk down and ask.

They say integrity is at stake. That is why people are mad. People are tired of Congress covering up, and let us admit it.

I ask my children to accept responsibility for their actions. The American people do not want the top 24 or the top 26. They want to know. Let them be the judge.

We say the rules have changed. Our game, our game should be the same game as the American public.

We said no, there are no taxpayer dollars invested. Well, the Capitol Building is paid for by taxpayer dollars. Who pays for the staff? There are 10 GAO auditors. Who pays them? And if we appropriate enough money to make this in a timely manner, that is going to cost taxpayers.

I was CO of a fighter squadron and used to hold captain's masts for indebtedness and bad checks. If I had to sit before those same troopers, I would like to be judged on the same merit that I judged them. This House is not.

People are tired of the 1986 tax raise, the 1990 tax raise, a Congress that spends $4 trillion and then contributes money from S&L's, and votes, and costs us another trillion dollars in junkets and leases cars at three times the norm so they can get kickbacks or even buy the car at the end with the taxpayer dollars.

When we talk about a fair game, all the public wants is the same game that we operate under.

We have got defense cuts looking at California. Let us get on with those; wetlands and endangered species, trade, and, yes, even Saddam Hussein. Our game should be the same game as the public, and full disclosure is the only answer, Mr. Speaker.

Mr. HANSEN. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of both resolutions that will guarantee full disclosure of check cashing records of all 435 Members—including me—and that's the way it should be. Mr. Speaker and Members, I'm the ranking Republican on the House Rules Committee and I'm glad that those who were urging my committee to block attempts to prevent a vote on full disclosure, did not succeed. We saw to that.

As for my own record, I don't know if I ever, in 14 years, ever had a check that wasn't covered. When this first came up last year, I wrote to the Sergeant at Arms and asked him if the GAO report showed any such checks in my name. He wrote back and said that their records did not indicate any checks for that period were not covered sufficiently. However, from what I've heard here tonight, I'm not sure that's accurate. Like every other Member, my paycheck is deposited in the House bank by the Sergeant at Arms and at the end of the month. I transfer most of that paycheck to my personal checking account in the Glens Falls National Bank in my hometown. Mr. Speaker, although I didn't know for sure, I'm now told that some of those transfers may possibly have been insufficient because the Sergeant at Arms may not have got around to depositing paychecks until sometime after the first of the month instead of at the end of the month which I thought they always did.

If that's the case, then I may also have some checks that appear on that list, even though none of them could ever have exceeded the amount of my paycheck. If any of them do appear on that list, I'd sure be embarrassed, but still, they should be made public, as should the record of all 435 Members.

That's why I hope both of these resolutions pass and I urge all of you to vote unanimously for them.

Mr. HANSEN. Mr. Speaker, I yield 1 minute to the gentleman from Missouri [Mr. COLEMAN].

Mr. COLEMAN of Missouri. Mr. Speaker, I have never had an account at the House bank, and when I tell that to the press, they are surprised. The think that all of us have to have an account at the House bank. But let the record show that some of us have never had an account there and, therefore, have a little bit different situation here tonight.

To me, full disclosure is the only answer, and full disclosure is what the House is going to vote for tonight.

I have heard a lot about my colleagues talking about the operation of the bank and how it was slipshod, how their deposits were not stamped correctly at the right time, how the information they got back on their accounts was sometimes late in arriving and really kind of an unprofessional way.

One of my colleagues referenced here the fact that maybe it is like somebody driving down the highway without any sort of signs posted for the speed limit. If there are not any signs posted, you are supposed to drive a prudent speed. A reasonable person should be driving a prudent speed down that highway, and a patrolman would not have stopped you.

It seems to me a lot of people here who now have problems should have and could have seen the imprudent operation of this bank downstairs through the years.

So, yes, the question as to whether or not our accounts and all the people here are in question, but the real question tonight is whether we can restore in some way confidence in the institution of the House of Representatives.

☐ 2220

Mr. HANSEN. Mr. Speaker, I yield 1½ minutes to the gentleman from New Jersey [Mr. ZIMMER].

Mr. ZIMMER. Mr. Speaker, I think that our constituents have become so infuriated by the House bank because it symbolizes what they hate about Congress: Its lack of accountability, its perks, and the double standards it sometimes lives by.

The full disclosure being voted on tonight, as painful as it is, will not restore the credibility of this institution unless it leads to a reexamination of the way we have come to do our business.

Let us bind ourselves by the same obligations that we impose on others. Let us not create special benefits for ourselves that are not available to our constituents. Above all, let us open up our activities to more public scrutiny. Sunlight is the best disinfectant.

Our constituents should not have to watch us like hawks, but they should be able to.

We are doing the right thing by ordering full disclosure of the bad checks tonight, but it is not enough. Unless we fundamentally reform this institution, we will relive tonight's humiliation again and again.

Mr. HANSEN. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of the full disclosure of those of our colleagues who have written overdrafts on their checking accounts in the House bank. Only if all the facts are fully revealed can the American public make an intelligent and informed decision on how to deal with this situation.

We should all bear in mind that when an individual, especially a Member of Congress, undertakes a career in public service, he or she is waiving a good portion of their right to privacy.

It must be further understood that the good of the Congress and the continuing good will of the American public for all our institutions of government far outweigh any personal embarrassment which individual Members of Congress may experience.

The Ethics Committee proposes that only the 24 most grievous offenders be revealed to the public. Many of us believe that is patently unfair. As has been pointed out by many constituents who have called my office, a great shadow of doubt will be over the heads of all Members of Congress unless disclosure is complete.

Mr. Speaker, there is no doubt the American people are concerned and angry about this issue. I sense that anger from the calls and letters to my office, as I know my colleagues have; however, as angry as they are, the American people are neither malicious nor are they stupid. Those individuals who overdrafted their accounts due to minor bookkeeping errors will find that the American public can readily discern between the type of accidental activity and a blatant disregard for propriety. The American people will readily understand the difference and will act accordingly in fair and judicious manner, but only if all the facts are presented to them.

I fully understand that the check depositing and cashing services of the Office of the Sergeant at Arms were not a bank in any traditional sense of that word. No interest was paid on deposits in the bank. No savings accounts or other customary services of banks were available. This, however, is no longer the point. The issue is what amounts to interest-free loans to Members of Congress is a matter of public concern and should be a matter of public record.

Several of us have used the argument that no taxpayer funds were involved with the House bank. Several of my constituents have pointed out that this is not correct. Who paid the salary of the Sergeant at Arms, his assistants, and staff?

No, there is no getting around the fact that taxpayer moneys were indeed involved and that this, accordingly, is a matter of public interest.

Mr. Speaker, I am confident that our colleagues will do the right thing, that the American people demand a full disclosure and that is what they deserve, and I urge my colleagues to vote in favor of it.

Mr. HANSEN. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman from Utah for yielding me this time.

I do not want to be redundant. I think everything that needs to be said has been said.

I was back in my district this past weekend and the No. 1 issue of concern is the credibility of the House. We have had a drug problem in the post office, and sale of drugs. We have had theft down there. We have the check kiting that they are talking about right now.

If we are going to restore the credibility of this House in any measure at all, we are going to have to have full disclosure. We could do it piecemeal, or we could do it all at once. I think the most painless way is to get it over, here, tonight. The American people are demanding it. The media is going to hound us until it is done, and so it needs to be done expeditiously.

So, Mr. Speaker, I say to my colleagues, the most painless way to deal with it is to get it over with tonight.

Mr. McHUGH. Mr. Speaker, I yield 2 minutes to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Speaker, this is a gut wrenching experience for those of us who both feel that we have to have full disclosure, as well as those of us who, after reading the committee report, have discovered that we may have in fact engaged in the inadvertent practice of having some overdrafts and, of course, looking at the records of the Ethics Committee will determine that.

This is not a time to be self-righteous. If we did those practices, it is time to admit carelessness, and if we are honest and open I think the folks at home will understand it.

But this can also be a time where we can make a constructive change in the operation of this institution. There has been no question that we have had a series over the last several years of problems of shoes dropping, whether it is restaurants or post offices or other kinds of things, some of which tend to be overblown by the media, but in many cases represent real problems in the way the House of Representatives has operated over the years. In some respects, we operate as if we are a feudal institution with operations of patronage and the kinds of things that do not belong in a 20th century institution.

So what I am hoping is after this is done and the great work of the gentleman from New York [Mr. McHUGH] and the gentleman from Utah [Mr. HANSEN] is appreciated and those of us who find that we have problems go home and explain them to the folks at home, after that is done, that what we then do is take a look at how we operate this institution, how it is managed, how it is organized, and make the kind of constructive improvements we need to make so that the public will not be looking at shoes dropping; instead, the public will be looking at energy bills and health bills and budget deficit reductions and doing the kinds of public business that the Founding Fathers had in mind.

This is a great institution with great Members. Let us use this earthquake that we are going through right now to change ourselves and change the institution so that generations to come will know that what we did tonight and what we will do in the next few months can make this place a better and more competent and a more humane institution of government.

Mr. HANSEN. Mr. Speaker, I yield the balance of the time on the minority side to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Speaker, this is not the darkest day this House has ever seen. We moved into this Chamber just a few months before this Nation was torn apart by the Civil War and the Members in this Chamber then were screaming "traitor" at one another. There were fistfights, and during the months of December and March of 1860 and 1861 as one State after another, starting with South Carolina, withdrew from the Union, half the Members left never to return.

This is not the greatest ongoing scandal even in this period, because I believe going into debt, this is if we hold the budget deficit to $400 billion, and remember that it was only President Kennedy who had a normal full budget that passed $100 billion, the whole budget in his second year. This is $400 billion of just deficit spending. That is $1,093,000,000 a day. That is a scandal far worst than what we are discussing now, but because of that other problem and the $4 trillion debt and the runaway spending and the expanding of our staff by six times just in the last 20 years or so, the American people are angry at us.

Now, I am going to vote for full disclosure, not because I had one and I released it 4 months ago, I am not feeling cocky about this at all. I could have had a lot more, because I did not know that such a perquisite, such a privilege existed, and there are a lot of friends involved now that I did not know about last night.

☐ 2030

And it hurts to see people that you planned on serving with for a few more years get into this kind of trouble. But as we said, as one of our members said at our caucus, so far we are handling this worse than a Republican White House handled Watergate. And something popped in my mind right away: John Dean was not a very big man, but he had a very deep voice, and I thought instantly of the one sentence that I remember more than any other out of the Watergate. He was telling the truth, appearing before a Senate committee, because it was confirmed by videotapes, those infamous audiotapes later. John Dean said, "Mr. President," to Nixon, "Mr. President, there is a cancer growing on the White House and it will destroy us unless we cut it out."

Well, no matter how this is perceived, and as we speak, the east coast is seeing Members interviewed very carefully with edited tape to make them look as bad as possible by Mr. Sam Donaldson, who I will bet has kited many a check in his day with his multimillion-dollar salary. And as is the wont with media, it will go to central time, then mountain time and play out in California at 3 hours, 2 hours from now, then in Hawaii, sweeping across the country, a firestorm, tearing this institution apart, building the cancer. The radio talk shows, the television talk shows, this is grist for their mill to beat up on this institution for weeks to come.

So, I went to one of my colleagues on the other side, JOHN LEWIS, and as far as I know, he and I were the only two when Martin Luther King spoke to us, JOHN spoke. I said, "JOHN, what do you recommend? You are not a bad man on ethics." He said, "Vote your conscience. We don't want to hurt friends, but let's get this behind us." Full disclosure is the way to do that, and I am going to try to vote my conscience.

Mr. McHUGH. Mr. Speaker, I would inquire if the time on the other side has fully expired.

The SPEAKER pro tempore (Mr. BONIOR]. The time of the gentleman from Utah [Mr. Hansen] has expired.

Mr. McHUGH. Mr. Speaker, to close debate on this side, I would like to recognize and give the balance of our time to the distinguished Speaker. In recognizing him, I would like to express my own personal appreciation for his support for this investigation. At no time did he intervene in any way in this investigation. His support was important to its credibility, and I want to express that publicly.

Mr. Speaker, I yield the balance of the time to our Speaker.

Mr. FOLEY. Mr. Speaker, the hour is growing late and we are only considering the first of two resolutions. But I would strongly urge that all Members of the House support the resolution, House Resolution 393, which is brought to us by the Committee on Standards of Official Conduct under the leadership of the gentleman from New York [Mr. MCHUGH] and the gentleman from Utah [Mr. HANSEN].

Mr. Speaker, I am not going to repeat, although it bears repeating, the justifiable credit that has been given here time and time again to the Committee on Standards of Official Conduct, to the subcommittee of six that spent so much time, hard work and effort on this report, and especially to the chairman, the gentleman from New York [Mr. MCHUGH], and to the ranking member, the gentleman from Utah [Mr. HANSEN].

Mr. Speaker, they served the House well.

And I think their report deserves our full support. We will reach another, later issue on the so-called full disclosure issue, and I suspect that that will also carry strongly.

This resolution before us carries out the instruction that was given to it by the House last October to identify not only the practices of the bank but those Members who may have consistently, repeatedly, significantly overdrawn their resources in the bank.

We call it a bank, but it was not a bank, as has been said time and time again. It did not accept deposits; you could not have a deposit unless you were a Member. It did not pay interest on those deposits. It did not provide overdraft coverage. It did not make loans; it was not insured by the FDIC; it was not under the regulations of the Comptroller of the Currency and Federal Reserve.

Mr. Speaker, words can be tyrannical, and the common practice of calling this a bank has created a misimpression in the country that is a serious problem by itself.

This was a disbursing office which began its operations in 1837, 1837. Prior to that time, Members were paid by the Treasury by messengers delivering their salary and allowances from the Treasury Department.

The Speaker was at that time the informal fiscal officer of the House of Representatives. Later, when the payroll function was moved to the House; the Speaker entrusted that responsibility to the Sergeant at Arms, without any particular authority. And by the action of the House in the 2d session of the 25th Congress, the House bank became the official disbursing office.

For many decades now since the 1950's, for 40 years, it has been the practice, right or wrong, to treat Members as having an accruing claim on their next month's income and salary because Members here are paid after the fact, not in the first part of the month for services to be rendered, but at the end of the month for services already rendered. And it became the practice of the bank to consider that as a kind of overdraft insurance that Members could meet if they did not exceed.

We have all heard reports, sad but true, that the practices of this bank were not to the standards of any commercial bank.

There was not only no interest paid to Members on their deposit, but sometimes the deposits themselves were not properly and timely credited. And there were mistakes made in the posting of checks and claims on a deposit that led to circumstances where Members had technical overdrafts that would never have been the case in a commercial bank.

Having said all that, the committee undertook the difficult responsibility of trying to determine what had been excessive abuse or abuse of that banking privilege. They undertook this responsibility without any rules or laws to guide them. They have done the best job that any six people could do, Democrats and Republicans, three on each side, the most upright and honest people we could find in both parties to serve in this committee.

And I think we owe them not only our thanks for the hard work that they have done, but recognition of the good job they have done in this report, by supporting it.

It is true that the House of Representatives has come under attack and under criticism, and we all sense that and feel a sense of responsibility and concern about it, as we should. We all have the honor of serving here.

But we should not misunderstand that when we take the next step, as we will, and we release the names of all Members together with their checks, as many urge that we do and as we clearly will, with an overwhelming vote on both sides of the aisle, there will be injustice done and unfairness done to some Members where checks will be listed as overdrafts even though they would never have been so listed if those accounts were in a commercial bank properly managed and undertaken.

That is one of the circumstances that we will have to face. But I hope it will be clear to the country, that we are not hiding any information, embarrassing as it may be, misleading as it may be, in many cases unjust to Members as it may be; we are going to release it.

This bank has been closed after 154 years, this bank has been closed as of January 1 by a bipartisan decision of this House. I think that was a wise decision.

This report comes to us as a result of a bipartisan resolution sponsored by the gentleman from Missouri [Mr. GEPHARDT] and the gentleman from Illinois [Mr. MICHEL], as will the next resolution. And we are going to adopt this and the next resolution, I am sure, by strong bipartisan majorities. We are going to take the actions mandated by the resolutions.

Let us not go on and take steps that many Members think, as Mr. GLICKMAN and others have called for, and should be undertaken, to modernize the operations of this House, to put them on a strong and stable and businesslike footing and to proceed to go back to work that we were elected to do, to the responsibility we were elected to undertake, to the concerns that we were elected to consider, to the value and goals that we seek to achieve. Let us put this matter behind us with the confidence that we have done the best we can. We are determined that this House will move forward in a better circumstance, toward a better and stronger operation. And let that be by joint decision of the majorities of our two parties.

□ 2240

Mr. Speaker, I want to say that I think it is very important that this committee's work be recognized, not only for the individuals involved here, but for the importance of the committee itself to the Congress. It is the only committee we have in which there is no majority other than a majority of conscience, and judgment, and concern and responsibility. Each party has seven Members that serve on this committee. As they undertake the most difficult and disagreeable responsibility we give to any Members, they deserve our respect and our support. They are an important part of this institution's reputation and character, and I think we ought to underscore today that we recognize that, respect it and admire the work that is being done in this case.

My colleagues, let us adopt this resolution by a strong majority and proceed to the next matter of business.

Mr. McHUGH. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BONIOR). All time having expired, pursuant to the order of the House of today the previous question is ordered.

The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. McHUGH. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 391, nays 36, not voting 8, as follows:

[Roll No. 44]

YEAS—391

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Archer
Aspin
Atkins
AuCoin
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Callahan
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Crane
Cunningham
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Dreier
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gingrich
Glickman
Goodling
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Mfume
Michel
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Nussle
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roe
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (TX)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff

NAYS—36

Allard
Allen
Applegate
Armey
Bacchus
Boehner
Bunning
Burton
Camp
DeLay
Doolittle
Dornan (CA)
Duncan
Gekas
Gilman
Gonzalez
Inhofe
James
Jones (GA)
Kyl
Lightfoot
Meyers
Nichols
Packard
Quillen
Riggs
Roberts
Roemer
Rohrabacher
Santorum
Smith (NJ)
Smith (OR)
Sundquist
Walker
Washington
Zimmer

NOT VOTING—8

Coleman (TX)
Collins (IL)
Collins (MI)
Dannemeyer
Miller (CA)
Moran
Savage
Whitten

☐ 2301

Mr. ROHRABACHER changed his vote from "yea" to "nay."

Messrs. ZELIFF, YOUNG of Alaska, and HERGER changed their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ADJOURNMENT TO MONDAY, MARCH 16, 1992

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Monday next.

The SPEAKER pro tempore (Mr. BONIOR). Is there objection to the request of the gentleman from Missouri?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that the business in order under the calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

FURTHER INQUIRY INTO THE OPERATION OF THE BANK OF THE SERGEANT AT ARMS OF THE HOUSE OF REPRESENTATIVES

Mr. GEPHARDT. Mr. Speaker, I send to the desk a privileged resolution (H. Res. 396), and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 396

Whereas House Resolution 236 directed the Committee on Standards of Official Conduct to review the use and management of the Bank of the Sergeant at Arms of the House of Representatives for the period July 1, 1988 to October 3, 1991;

Whereas the House has adopted H. Res. 393 relating to the release of account information for certain Members and former members: Now, therefore, be it

Resolved, That not less than ten days after the Committee completes the public disclosure ordered by the House in H. Res. 393, the Committee is directed to make public the following information regarding the account of each Member or former Member at the House Bank during the period July 1, 1988 to October 3, 1991: the name of any such Member or former Member and the number of insufficient fund checks written.

Mr. GEPHARDT (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The SPEAKER pro tempore. Pursuant to the order of the House of today, the gentleman from Missouri [Mr. GEPHARDT] will be recognized for 1 hour, and the gentleman from Illinois [Mr. MICHEL] will be recognized for 1 hour.

The Chair recognizes the gentleman from Missouri [Mr. GEPHARDT].

Mr. GEPHARDT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, last fall the House Committee on Standards of Official Conduct was directed by a bipartisan vote of the full House to review the operations of the bank and to identify routine and repeated abusers.

The committee followed the directions of the House, we closed the bank, and now we have set in motion the release of the names of the Members identified by the committee.

In about 10 days time, the identities of those Members—past and current—will be disclosed.

We have ratified the work of the committee, and I believe we owe them our thanks for a difficult job done well.

Our consideration of this second resolution in no way disparages or diminishes the excellent work performed by the Standards Committee.

At the same time, we now know more about the operations of the bank, and the extent of the abusive practices, than we knew in October when we initially authorized the investigation.

The committee has done its job, and now we must do ours.

We will now vote to have the committee disclose the names of all Members—all Members—who wrote checks—knowingly or inadvertently—with insufficient funds in their accounts.

Their names, and the number of instances this occurred, will be made public by the committee no less than 10 days following the release of the initial 24 names.

It is the belief of the bipartisan leadership that what the Members want, and what their constituents want, is full disclosure, and this resolution provides for full disclosure.

I will repeat for the record information with which Members are already familiar but nonetheless bears repeating. The bank was not a typical financial institution. It paid no interest on accounts. The accounts were not insured.

No taxpayer funds were at risk or lost. Records were not, in many cases, computerized, and they were maintained in an incomplete and shoddy manner.

The bank had no rules, and it never provided any written advice to Members on its overdraft and check-cashing policies.

The clerks and tellers did not exercise the same degree of diligence that employees in a commercial institution would apply when insufficiencies occurred. Members who inadvertently wrote checks against insufficient funds were often not told of overdrafts. The bank apparently operated in this manner for a century or more.

It is unfair, but it is nevertheless the case, that most Members are today being held responsible and accountable for a flawed system over which they had no control.

While this reality does not excuse the activity and behavior of Members who clearly abused the system, it does mean that Members with no insufficiencies in their records, and Members with inadvertent overdrafts, are caught in the same net.

That is why this process is so difficult and, to a large extent, unfair. There are complex and competing issues involved, and we are not able to untangle this predicament with the speed that Members and the general public would like this resolved.

And resolve it, we will, understanding the balance we are trying to strike.

We have an interest in treating Members fairly, but we have an equal interest in the principles of Member responsibility and institutional accountability.

We would like to deal with this promptly and protect the public's rights to know, but we have an equal interest in due process and protecting the Members' rights to privacy.

We know how the bank operated historically, but we have a larger interest in meeting the highest standard of conduct and behavior that we expect today.

And so we believe that we have an obligation to make a full disclosure and a responsibility to honor the procedural rights of Members as we do so. That's what this resolution does.

□ 2310

Mr. MICHEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I further ask unanimous consent that the gentleman from Utah [Mr. HANSEN] be given permission to allocate the time on our side after I have concluded my remarks.

Mr. SPEAKER pro tempore. (Mr. DERRICK). Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. MICHEL. Mr. Speaker, may I first compliment the House on that overwhelming vote in support of the committee's recommendation. I think it is a commendation to the members of the committee.

I know on our side, the distinguished gentleman from Utah [Mr. HANSEN] and the other members of the subcommittee, the gentleman from Iowa [Mr. GRANDY], the gentleman from Florida [Mr. GOSS], and the gentleman from New York [Mr. MCHUGH], the distinguished chairman of the subcommittee, and the gentleman from Maryland [Mr. CARDIN] and the gentleman from Washington [Mr. MCDERMOTT], those six Members who had to spend so much time going into this problem and matter, and how many times have I said that the most distasteful assignment we can give anybody in this body is to serve and be confined to that duty on the so-called Committee on Standards of Official Conduct.

Personally, I guess the most abhorrent part of this job, if there is one, is sitting in judgment on the ethical behavior of our contemporaries. I did not get elected to Congress in the first place to have that as an assignment. It is the most distasteful thing.

Here we are, Mr. Speaker. Once again the House of Representatives is grievously wounded, and once again the wounds are all the more painful for being self-inflicted. Scandal after scandal, abuse after abuse, headline after headline, the institution we love stumbles its way deeper into shame and dishonor. The American people will no longer tolerate explanations and excuses and rationalizations. Full disclosure is the only answer.

That is why the distinguished gentleman from Missouri [Mr. GEPHARDT] and I have coauthored, with the members of the Committee on Standards of Official Conduct, who chose to be coauthors, this addendum to what we have just passed.

Early on in this investigation I decided to keep my own counsel until I had the chance to sit with our members of the Committee on Standards of Official Conduct, who have done such a fine job, as I indicated.

Incidentally, this is rather unique, breaking new ground, because before the committee was dealing with individual cases of indiscretion of some kind or another. This, for all practical purposes, turned out to be a class action because of the numbers involved in our body and to have it so widespread in its implications.

When the subcommittee reported to the full committee, I got my first full-fledged briefing on the severity of the problem. Bear in mind that whatever was privy to the majority at one time over the course of the history of this thing, that I want to make the point that GAO reports are not automatically sent to the minority. They only go to one place. So this Member was in the dark, as the leader of this side, for a good long time.

I listened, though, after I heard of the subcommittee's report to the full committee. I learned. I was shocked and found it hard to believe what I was actually hearing.

This is my 44th year on the hill. I did the bookwork for my predecessor as his A.A., and all through those 8 years of my 36 years, never once did I hear that it was permissible to do anything other than keeping my books balanced with the so-called Sergeant at Arms. That was my understanding of how we operated here over the years. Others thought otherwise.

After listening to the members of the Committee on Standards of Official Conduct, I emerged with a feeling that limiting disclosure to the 29 egregious offenders was not enough, that we had to go beyond that number and probably settle for no less than full disclosure. We simply do not have the luxury of deciding if we are going to play peep show with the American people here. We cannot just lift the veil discreetly to display a titillating but limited glimpse of the bank scandal. That option has long since been taken out of our hands by the outrage and the revulsion of the American people.

That is why in this resolution we are calling for full disclosure. Let facts be submitted to a candid world, as Mr. Jefferson once put it.

There are three major problems that we are confronted with on this issue. First there is the problem of the big offenders. All of the facts about them have been covered by the Members who preceded me to the dais this evening. Let them explain their conduct, if they can.

The second is the problem of the other Members and former Members who knowingly or unknowingly have been perceived as bouncing checks. With full disclosure each Member or former Member will have to address the particular facts of his or her case.

I feel, I do feel, for those non-abusing Members who were laboring under a false illusion that they were doing nothing that was at odds with what came to be, I guess, an ill-defined, accepted practice around here.

The third problem, of course, is the inexcusable and ultimately disgraceful condition of the House bank itself before its unmourned demise.

The bank came to symbolize what happens when unchecked power runs amok. Yes, Mr. Speaker, let us have full disclosure. But what we really need is swift and total and immediate reform of the House.

Several Members have alluded to it earlier this evening. It is not a question of one side being sinners and the other side being saints. Members on both sides are involved in this episode, although in widely varying degrees.

I believe in my heart that the vast majority of Members who bounced a few checks were victims of the bank's stewardship. But none of that matters now. In the old Foreign Legion there was a slogan, "March or die." We might modify that for the reputation of the House tonight, "Reform or die."

I recall the day when I first stood on the floor of this House taking the oath of office with my buddy, the gentleman from Michigan, BILL BROOMFIELD, my newfound friend, who I had just come to know at that time 36 years ago. Yes, we are the only two left from that 85th class. I am sure that the gentleman from Michigan felt, just as I did, that sense of pride and exhilaration that we had at the time.

Now that we have reached this sorry state, one might ask, I guess, as the poet did, "Whither has fled the visionary gleam, where is it now, the glory and the dream?" I will tell you where the glory and the dream of this institution are for me. After all these years, they are still in my heart.

I love this institution. It has been my life for over 40 years.

□ 2320

I want to help it recover, and I extend my hand to the other side and say together let us begin to carry out the reform this great place needs and deserves. We have got to open up this House and come clean.

I would ask for your support in taking this first step that has to be taken now, tonight, by adoption of this resolution.

Mr. GEPHARDT. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan [Mr. BONIOR].

Mr. BONIOR. Mr. Speaker, I thank my leader for yielding the time and thank the committee for their hard work and their diligence.

It has all been said here tonight. This was a bank that was not really a bank. It paid no interest to depositors, it provided no insurance protection for depositors, and only the deposits of Members of Congress were accepted, and only the deposits of Members were at risk. No tax dollars were involved, and the Ethics Committee report indicates no dollars were ever lost.

Yet, clearly the management practices of the bank were a mess. It was a disaster. The GAO recommended changes, and those changes were never implemented.

Last fall we voted to shut the bank down so this kind of flagrant mismanagement would never ever be repeated again, and we voted to have the Ethics Committee review the situation. The committee was charged by this House to determine if there were Members who routinely and repeatedly overdrafted their accounts by significant amounts, and after months of sorting through the records the committee has found that as many as 24 current or former Members have abused the bank.

Tonight we will also vote shortly to disclose the names of all Members who had overdrafts at the bank.

My colleagues, for four decades thousands of elected officials, some whom may have gone on to be President, or Vice President, some of whom may have gone on to become senior officials in this administration or other administrations, people who are admired, people who are respected, people who are in fact individuals of very high principle have used this bank under the standards that have been applied year after year after year. And now the tables are being turned. Members who acted in good faith will now have their actions questioned according to a standard that was established after the fact.

We have heard all of the horror stories. We heard some during the previous 2 hours. Many Members were never, not even once, informed that they had insufficient funds. Checks that should have been recorded as deposits were not recorded for days and days after they should have been, and recordkeeping mistakes were made at the bank. Checks drawn on one account were charged to another. To this day the vast majority of these records have not yet been sorted out, and may not be able to be sorted out for months to come.

Accurate, full disclosure and detailed explanations will be very, very difficult. But in the end, I think most of us have come to the conclusion there is no other way. We must support full disclosure.

And each of us must take personal responsibility for our actions, and we as a whole must take responsibility for this institution. We must act to restore the people's confidence.

I have said that I have had overdrafts at the bank, and I take responsibility for them. I should have been more careful with my own account, and I am sorry.

But in the end, what does full disclosure mean? It means each of us will take our case to the people, to the people we represent. Each of us, no matter what our partisan differences, have sought public office because we wanted to serve people, and because when all is said and done we believe in the fair judgment of those people. We believe that even in the most trying times, sense will prevail, and when we vote for full disclosure we vote with the confidence that common sense will not be swept away by exaggerated headlines, and by cheap tabloid type tactics, or by petty partisan politicians who would gleefully use this sad situation for their own political advantage.

That is the bottom line. We enter political life because we trust people, and we vote for full disclosure today because we believe in the good sense and the good judgment of those people.

Let us vote for full disclosure. Let us get this issue out in the open once and for all. And as we vote tonight, let us remember still more Americans are wondering where their next paycheck will come from, still more families are wondering if health care is secure, and still more families are wondering if their company will survive until this economy gets moving again.

Let us vote for full disclosure, and let us get on with the business of this country.

Mr. HANSEN. Mr. Speaker, I yield such time as he may consume to the gentleman from South Carolina [Mr. SPENCE].

Mr. SPENCE. Mr. Speaker, I thank the gentleman for yielding the time and I rise in strong support of complete disclosure.

Mr. Speaker, I rise in support of the bipartisan resolution offered by my colleagues Messrs. MICHEL and GEPHARDT. I support the full and complete disclosure of all names of those members who have consciously or inadvertently abused the check cashing privileges at the office of the Sergeant at Arms, the House bank.

Mr. Speaker, this is not a vote that any of us takes lightly. At stake is the reputation of the institution in which we serve. And there is not one of us who is immune to its implications. However, in order to salvage that reputation and restore the confidence of the American people, we must request full disclosure. To do less is unacceptable. The American people have a right to know.

Mr. Speaker, it's time to clean house. The U.S. House of Representatives. It's time to remove the cobwebs of mismanagement. It's time to expose those who have swept the dirt under the rug by grossly and routinely abusing their check cashing privileges. In short, Mr. Speaker, it's time for Spring cleaning.

I hope my colleagues will join me in support of this bipartisan effort and vote for full disclosure.

Mr. HANSEN. Mr. Speaker, I yield 5 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise to support this resolution and to commend my chairman, the gentleman from New York, Mr. MATT MCHUGH, and my ranking member, the gentleman from Utah [Mr. HANSEN] and all of those on the subcommittee for their really outstanding work. This House, and it has been said before, owes our colleagues a great debt of gratitude. Painstakingly, over many months and many hours of meetings, these gentlemen developed the very best data they could to make the very difficult judgments they were required to make to assure that this House could hold itself to the highest ethical standard. I have great respect for the work they have done and voted for the resolution they proposed.

I will, however, vote for this resolution because I believe full, direct disclosure, even with all its very real problems, is preferable to indirect disclosure as provided by the committee. And remember, this is not a debate about full or partial disclosure. This is a debate about full, direct disclosure versus full, indirect disclosure.

I support full, direct disclosure for two reasons. First of all, it is the only equitable way. It means everyone will disclose, not just those pursued by energetic press. It means that disclosure will not be stopped by remarkable stonewalling capabilities which some Members possess. It means disclosure will be timely, and for all. Those are the strengths of direct disclosure.

The difficulties, the disadvantages of direct disclosure are equally real. Look at what we are disclosing, because it will impose very significant responsibilities on the citizens of our Nation and on the media of our Nation. We are disclosing in part because they want us to disclose, they have asked us to disclose, and we care what they think. We are giving them knowledge, and with knowledge comes responsibility and burdens.

□ 2330

And so it matters that we all understand what it is we are disclosing. We are disclosing so-called NSF checks, not sufficient fund checks. Do you know what those checks are? Those are checks in part that were returned because they were not signed, that were returned because they had no date, that were returned because the teller could not read the number, the amount of money on the check. They were not necessarily checks returned for insufficient funds but simply checks recorded on the daily settlement sheet for that day. That is important. While we hope to be able to rectify some of that data, we will not have the time or the ability to assure that only checks that bounced are reported. Therefore, it is critical to understand clearly how contaminated the data is that will be released.

Some of the data the committee collected, that has unfortunately been disclosed, is equally invalid and outright misleading. It was grossly irresponsible for a newspaper in this city to publish dollar figures that implied that anyone ever overdrew that amount, because no one ever did. We do not have one figure for one Member that represents a net overdraw amount.

If we are to disclose fully, which we have decided to do, it is incumbent upon the press to now take responsibility with us for the proper, fair, deliberate evaluation of the data to be disclosed. That means that the people of America must not only look at the numbers released but listen to the explanation of them. With knowledge does come responsibility.

I support full disclosure, because to restore the trust of the American people in this institution and, in fact, to restore our trust in our constituents, we must provide full disclosure and challenge America's people to look rationally at this information and listen fairly to the explanation of it. Sometimes they will be faced with a deposit slip that gives a date and a bank statement that shows that deposit was not made for 10 days.

Honesty matters. That is why we are doing this. Our constituents need to have a full disclosure. They need also to take responsibility for joining with us in honestly understanding that disclosed data.

Mr. GEPHARDT. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Speaker, I rise in support of this resolution for full disclosure.

My preference, I have to say at the beginning, would be that the Ethics Committee in its good judgment could have resolved this issue in a single resolution, but for whatever reason, that did not happen, and so we are left with the firestorm that is occurring throughout the country fed by the frustration of not only this issue but of problems that have gone unresolved and by a President and a Congress that somehow cannot find the solutions to those problems.

It leaves us really with only two realities that we have to confront now. The first is that there is no way that we can limit the information that needs to be provided on this issue.

The worst approach would be to have this information dribble out bit by bit, leak by leak, over the next few months, devastating Members and devastating this institution. That is why all of this information, as flawed as it may be, has to be released as soon as possible, because there is no other way.

The second reality is that this institution is no longer an issue for the Ethics Committee or for the House. It is an issue that belongs with the people. Ultimately we answer to only one group of people, and that is our constituents. We answer to them for our votes. We answer to them for our positions and for our behavior, and that is as it should be. That is really the only jury that ultimately counts.

All of us, all of us have to trust in their sense of fairness, their sense of decency, and their sense of justice that when they are given all of the facts they will make the right judgment. In this House of the people and in this democracy, that is as it should be, and for that reason this resolution should be supported.

Mr. HANSEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Nebraska [Mr. BARRETT].

Mr. BARRETT. Mr. Speaker, I rise in very strong support of the resolution.

Mr. Speaker, aside from the day I was married and the birthdays of my four children, I've probably never felt more proud and privileged, than the day I stood in this Chamber, and took the oath of office.

That day, only about 14 months ago, was followed almost immediately by one of the historic and most impressive debates of this body. The House enjoyed one of its finest hours, as we debated the Nation's course in the Persian Gulf.

The first votes I cast as a Member of Congress, other than the organizational votes as we got underway last January, were our votes to commit U.S. troops to war.

It was an intense and sobering initiation for those of us who were only 9 days into our congressional careers. But let me point out that no matter how tough that day, 14 months ago, I could feel good about the work we did in this Chamber, and how we represented our constituents and the interests of the Nation.

What a contrast, Mr. Speaker, with where this House stands now, and how I feel, taking the floor this evening.

I am saddened. I am mad. I am thoroughly frustrated with the way this Institution is run. I certainly have no sense of pride whatsoever, with the way in which we deal with the internal problems of the House.

I am saddened that scandal after scandal, whether real or only perceived by the public and media, has so deteriorated the reputation of Congress that the public has little, if any confidence or trust in their elected representatives.

I am frustrated that those running the House don't want to deal with this image problem and the scandals, head on. I am pleased that we now have a bipartisan agreement to vote on tonight, but why all the footdragging, agonizing, and maneuvering of the last few days.

I cannot help but note, that only when public pressure became unbearable, did the powers that be decide to do the right thing. Apparently, some of my colleagues only want to pitch congressional reform back home and do not like to translate their rhetoric into the votes needed to make reform a reality.

I wrote no bad checks at the House bank, and I am mad that I have had to defend my financial integrity because of the hesitancy to disclose the names of those who did.

While I am saddened that some of my good, honest, hard-working colleagues will be labeled check bouncers and check kiters, because of the slipshod banking operations run by the Sergeant of Arms, any chance has long passed to debate why the bank existed, its history, and the rationale behind its operations.

The bottom line is that the public wants and demands a full disclosure of the House bank. And for the future integrity of this institution, and our ability to do our work, there should never have been any doubt or hesitation, that full and immediate disclosure was the proper course of action.

When the names are released, individual Members can then explain to their constituents why and how they have a record of writing bad checks at the House bank. And for those Members who did not abuse the system, repeatedly and significantly, I believe their constituents will be understanding.

These scandals and internal problems, and the missteps in handling them, are distracting the Congress, public, and media. What is so tough about putting reforms in place, so we can operate in the manner that is expected by our constituents, and which they so rightly deserve?

It is long past time for reform—this scandal and the hesitancy in dealing with it, should be the convincing evidence.

Mr. Speaker, I join my many colleagues who have already spoken this evening in support of the bipartisan resolution for full and immediate accounting of each member who wrote bad checks at the banking operation run by the House Sergeant of Arms.

Full disclosure today, is a real step toward meaningful congressional reform, and perhaps its passage will clear the air enough for us to get on with our work on the economic issues, health care, trade, and the other real bread and butter issues that make a difference in the lives of our constituents.

Mr. HANSEN. Mr. Speaker, I yield 5 minutes to the gentleman from Kentucky [Mr. BUNNING], a great member of our committee.

Mr. BUNNING. Mr. Speaker, I am entering into the RECORD, dated January 3, 1978, the rules and regulations governing the House bank that was sent out by the Sergeant at Arms at that time in direct contrast to a lot of testimony we have had here today.

Mr. Speaker, I rise to voice my support for full disclosure. It is the least we can do—it is what we owe the American public. It is the right thing to do.

And I am proud that we won this battle for honesty—honor—and integrity.

Abraham Lincoln once said, "Public opinion is everything." And God bless him, he was right.

A week ago—this body was prepared to stonewall the American public on bad checks. The Committee on Standards of Official Conduct approved a resolution to set up that stone wall.

But fortunately, that resolution and that stone wall did not pass muster with the American people.

It didn't pass the smell test with the American public.

The American public decided that if it looks like a coverup and if it feels like a coverup and if it smells like a coverup—it must be time for a change.

And that opinion started things moving.

Public opinion moved the mountain—the mountain of congressional arrogance.

If you quit listening to the people—if you start thinking you are above the law—if you start to believe that you are too good, or too powerful, or too important—you are going to take a fall.

This vote tonight is also a major victory for this Institution. It was—and is—a tough issue. People are going to be hurt. Careers are going to be damaged. It is a painful episode in the history of this body. And personally painful for me, serving on the Ethics Committee.

But tonight, after this vote, at least and at last, we can hold our heads up high for the first time in months.

It started out as a trickle of falling stones in the Ethics Committee. But it turned into a groundswell of public opinion that set off an avalanche on that mountain. And this resolution tonight is the result.

Tonight, the arrogance of power in the U.S. House of Representatives has crumbled just a little. It is not gone—we still have to keep chipping away—but this resolution tonight has put some serious cracks in the surface.

And this resolution tonight broadcasts a pretty important meassage—the message is simple.

We can hold our heads up, because for the first time in months, the House of Representatives is being honest and open—the way it should be.

I urge my colleagues to support full disclosure.

U.S. HOUSE OF REPRESENTATIVES,
OFFICE OF THE SERGEANT AT ARMS,
Washington, DC, January 3, 1978.

Memorandum to Members.
Subject: BANK STATEMENT.

We ask that you examine your Bank Statement carefully and to help you understand some of the red symbols that may appear, we submit the following explanation:

A—after the balance. This means you have a stop payment on your account.

R—after the balance. Due to mechanical trouble, this balance had to be reconstructed to post a check.

EC—error correction. Amount deposit posted in error.

RT—returned check. This means that on this date you did not have sufficient funds to pay this check. The amount will appear in red. This check will be returned to the main office; you will be notified by phone the amount needed to cover the checks in question. Checks with the RT symbol for insufficient funds must be covered by a deposit within 24 hours or be returned the following day to the Federal Reserve Bank. We can not hold them for a future salary deposit if more than 24 hours.

We request you not to send out *post dated checks, unsigned checks* or *checks in excess of your deposit balance.* This will help us with our work load and save any embarrassment for you.

Mr. GEPHARDT. Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland [Mr. MFUME].

Mr. MFUME. Mr. Speaker, as a member of the committee, I rise in strong support of the resolution.

Mr. GEPHARDT. Mr. Speaker, I yield such time as he may consume to the gentleman from South Dakota [Mr. JOHNSON].

Mr. JOHNSON of South Dakota. Mr. Speaker, I rise in strong support of the full-disclosure motion.

Mr. Speaker, while the current controversy surrounding bounced checks at the Sergeant at Arms Office does not involve the loss of any public funds, the instances of mismanagement and abuse of checking privileges at that office are nonetheless outrageous. I am pleased that the checking account functions of the Sergeant at Arms office has now been totally abolished. Frankly, I find myself better served by a branch of the local Federal Employees Credit Union than I ever was by the Sergeant at Arms—at least now I have the benefit of interest earnings on my small deposit, as well as the confidence that the funds are professionally managed and accounted for.

But simply abolishing the old bank is not enough, and simply disclosing the names of only the worst offenders of the old system is not enough. Many Members, such as myself, had no bounced checks and others had only a few. Ironically, the Sergeant at Arms office was run so badly, that many Members were never told of their overdrafts, and deposits into Members accounts were often delayed by days, thus resulting in overdrafts that were not the fault of the Members. But still others, routinely and significantly abused the checking privileges at the Sergeant at Arms office.

The only way to clear the air and restore public confidence in this democratic institution, is to publically divulge the names of all Members who wrote overdrafts, along the number of checks and the amount by which they were deficient. Anything short of that full disclosure will be unsatisfactory and will cause this controversy to be needlessly draw-out.

The voters in each congressional district have a right to know with certainty how their own elected Representative has handled his personal financial affairs. It must ultimately be left to the citizens themselves to decide whether the conduct of their particular Representative has been satisfactory. The citizens of some districts may apply a more severe standard of financial rectitude than in others, but that simply reflects the diversity of views that naturally exists among our 435 congressional districts.

Besides the abolition of the House bank and full disclosure of past checking practices, we need still more reform in the way the administrative functions of the House of Representatives are managed. I support the establishment of a professional, nonpartisan chief operating officer to oversee all the administrative functions of the House, from dining rooms to postal services, et cetera. This new management, however, should not amount to yet another layer of costly administration for the House. The cost of a new bipartisan administrator ought to be offset by reductions or elimination in existing offices currently appointed by the Speaker. The administrative functions of the House of Representatives should be competently and efficiently run as a business, not as a vestige of the old days of political cronyism.

Mr. Speaker, we need full disclosure, but beyond that, we need full-blown reform of the administrative functions of the House.

□ 2340

Mr. GEPHARDT. Mr. Speaker, I yield such time as he may consume to the gentleman from Utah [Mr. ORTON].

Mr. ORTON. Mr. Speaker, I also rise in support of the resolution.

Mr. Speaker, with tonight's vote, we have begun to put behind us a most unfortunate matter. I have always thought that the best disinfectant is sunlight, and I feel that this notion applies today. At each moment in history when our Government appeared to be withholding the whole truth from its public, that public demanded information. We must begin to be our own best critic, our own best investigator, and our own best adjudicator. Hopefully, this is the beginning of that process.

Even though I have had no overdrafts at the House bank, I am deeply concerned about the loss of trust in this institution which this controversy has caused. It is clear that the anger of the American people at the handling of this matter goes far beyond the role of the House bank. It involves anger at what is perceived to be an abuse of privileges not accorded to average Americans and, as such, symbolizes in the minds of many the isolation of the Congress and the Government as a whole from the needs and concerns of the American people. The action taken by the House of Representatives when this scandal first surfaced to abolish the House bank was a positive step in eliminating unnecessary privileges. Tonight's vote to disclose the names of Members who overdrew their accounts was a necessary response to concerns that the House was attempting to conceal wrongdoing by some Members. Perhaps by the action we have taken here tonight, we have begun a larger process of increasing accountability which will, in time, help to restore public confidence in this institution.

The controversy surrounding overdrafts by some Members of Congress from the House bank has been widely misunderstood and misrepresented to the American people. The House bank was not a bank in the normal use of the term: Members were required to receive their pay through the House bank; the bank did not pay interest on accounts; the bank did not make loans; the bank was not FDIC insured; and no taxpayer money was involved—only the funds deposited by Members was drawn upon to cover overdrafts by other Members. However, this does not relieve Members from the need to be accountable to their constituents for abuse of privileges in their use of the bank.

From the first day that this issue was raised, my recommendation was full disclosure. The real issue here is what constitutes full disclosure and the method of that disclosure. I am concerned about the precedent we set in making private financial records public when no laws or rules of conduct were violated. However, the political fury surrounding this issue threatens to damage the House of Representatives as a institution. We have all taken the solemn oath attendant to this office and thereby assumed the sacred responsibilities of our office.

In my opinion, this resolution, which will result in the public disclosure of the names of Members and numbers of overdrafts, is the beginning of full disclosure. At the earliest possible date, the General Accounting Office should complete its audit of the accounts of each Member that had overdrafts, and the Ethics Committee should submit an audited statement of account to each member. Then each Member should accept responsibility for completing disclosure of their record in this matter to their constituents' satisfaction.

The damage done by disclosing Members' private financial records pales in comparison to the loss of credibility of the House of Representatives if the information were to be withheld.

Mr. GEPHARDT. Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia [Mr. RAY].

Mr. RAY. Mr. Speaker, I rise in support of the resolution.

Mr. Speaker, I support full disclosure of the names of each individual who overdrew their bank account during the audited period of time at the House of Representatives bank.

I would hope that each person's—whether they are Members, former Members, spouse, staff, press people, or others who utilized the bank—would be listed. Also, I would ask that the number of checks and total dollar amounts be identified.

It is becoming clear that the House bank under the Sergeant at Arms did not practice routine bookkeeping procedures. As a result, deposits were not posted on a daily basis, thus sometimes creating the appearance of overdrafts where deposited money actually covered the account. I believe each individual Member must be given the chance to call for a full review of their account by the General Accounting Office. This would exonerate those Members who suffered overdrafts due to sloppy banking procedures.

Mr. Speaker, the House of Representatives belongs to the people, and they deserve to know who has had overdrafts. Failure to provide full disclosure will place a cloud of suspicion over all Members, even those who did not routinely abuse the privileges afforded them. Currently, the public believes the House as a whole is guilty while, in truth, a majority are not.

The House should require full disclosure so there will be no questions about who was involved and the amounts of money involved.

To my knowledge, I have not overdrawn my account, and my records confirm that. The following letters, which I am submitting for the record, also indicate that I had no overdrafts.

HOUSE OF REPRESENTATIVES,
Washington, DC, September 30, 1991.

Hon. JACK RUSS,
Sergeant at Arms, U.S. House of Representatives, Washington, DC.

Dear Jack: I would like to request verification in writing from your office that I have never overdrafted my account in the House of Representatives bank.

The recent GAO report has disclosed large quantities of checks that have been covered without adequate funds. To my knowledge, there have been no incidences of this in my account, and I would like to verify this fact.

Please feel free to contact me with any questions. Thank you for your assistance in this matter.

Sincerely,

RICHARD RAY,
Member of Congress.

OFFICE OF THE SERGEANT AT ARMS,
Washington, DC, October 9, 1991.

Hon. RICHARD RAY,
U.S. House of Representatives, Washington, DC.

DEAR CONGRESSMAN RAY: As you have requested, my office has reviewed your bank account records for the period July 1, 1989 through June 30, 1990. These records indicate that the presentation for payment of checks drawn on your account did not in any instance exceed your available balance of funds on deposit with this office.

If I can be of further service to you, please contact me.

Sincerely,

JACK RUSS,
Sergeant at Arms.

Mr. GEPHARDT. Mr. Speaker, I yield such time as he may consume to the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Speaker, I rise in strong support of the resolution and in support of full disclosure.

Mr. Speaker, the credibility of this great institution, the U.S. House of Representatives has been shaken by the House bank scandal. The trust that has been bestowed upon every Member of this House hinges on our actions and what conclusion we bring to this matter.

Today I join in the effort calling for full disclosure of those Members who have abused the now defunct House bank, something I favored when the issue first came to my attention. The public has a right to know their names, the number of overdraft checks they wrote and the amount of the checks. No where else in this country can such practice be tolerated and it should not be tolerated here. To those who knowingly have chosen to misuse and abuse this House, I say let them defend their actions to those who elected them. Greed has its price and it is time for those Members to pay for it.

Not only did these Members apparently continue to write overdraft checks, they followed a policy, not known by many of us, that allowed them to write insufficient fund checks that amounted to their next payroll check. They knew the Sergeant at Arms would cover them until their next payroll check was deposited and in all cases without paying a penalty. This total disregard of a privilege established by the House in the early 1800's is an embarrassment to all Members of Congress.

The public has a right to know who made simple bookkeeping mistakes, as I did, but even more so to know those who took advantage by constantly writing checks they knew would bounce but would be covered.

I enjoy my service in this institution. I continue to be overwhelmed by being a part of this great Nation's history. But most of all, I am proud to serve the people of the Ninth District in Missouri. They, as all Americans, deserve a Representative they can trust.

The people who elected those Members to the House who have abused the system should be made aware of this abuse. It will take action by fellow colleagues to make this information known. The House should not delay this action. Those Members who abused this privilege now have to explain their actions. The task of restoring the ideals and tradition to this great institution should begin immediately and it will begin with those of us who still believe in preserving the integrity and honesty of the House of Representatives by not taking advantage of the system.

I hope my colleagues join with me in opening the records and cleansing this House of this scandal.

Mr. GEPHARDT. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. I thank the Leader for yielding this time to me.

Mr. Speaker, I served for 6 years on the Committee on Standards of Official Conduct. It was a great privilege and an honor to serve with people who were willing to devote so much of their personal time to the institution. Mr. Speaker, I pay tribute to the gentleman from Utah [Mr. HANSEN], and the gentleman from Iowa [Mr. GRANDY], with whom I served. They continue to serve this body with such distinction. And of course I echo the comments of my colleagues in their accolades for Mr. MCHUGH and his colleagues in the majority.

Mr. Speaker, we are all together tonight finally in a common conclusion that we need to trust the public enough to trust them with all the information about us. We cannot be sure they will judge us fairly, but we know that we have to give them the responsibility to judge us.

But something else exists in this chamber tonight that is very troubling to me, and that is a division which continues to be evident on this floor, as it was just a few moments ago during the remarks of the gentleman from Kentucky. And that is the test of this institution over the next several years.

Can we reform ourselves? Can we change ourselves in the way that has been discussed on both sides of the aisle tonight, by Mr. GLICKMAN and by the leader, Mr. MICHEL, and by the Speaker?

Can we do it without turning on each other, destroying further the credibility of this institution? Can we do it in a way that puts aside the vigilantism and the passionate partisanship that continues to infect our debate?

Because if we cannot do that, we will not exhibit the self-confidence and the self-respect, the mutual trust that the public demands of this institution. We cannot expect them to have much to say for us, we cannot expect them to trust us to do their business as the centerpiece of a representative democracy, if we cannot believe in ourselves, if we cannot trust the people to do the dirty work on the Ethics Committee, if we cannot trust our leaders to lead, if we cannot trust ourselves not to demagogue issues that we know cut to the quick, cut deeply into the core of this institution.

People know I am a partisan. There is nothing wrong with being partisan. But there is a lot wrong with destroying an institution to, in effect, say that any means are justified if the end itself is so worthy.

Victories are something all of us around here know well, and so is defeat. Those of us who do not know both are not well rounded and do not well serve ourselves, our institution, our public, our constituency.

But there is more to service in this institution than partisan victories. There is a lot more that is really at stake in trying to instill in the public a belief that we can do their business here.

And so I conclude my brief remarks tonight by saying to my friends who have led the charge on the Republican side, I congratulate you for, in effect, your willingness to confront something you thought was wrong. You brought us to a broader awareness tonight.

But, please, put away, put away the excessive zeal to root out evil, because this House is still full of good people. It is not a House of evil people, it deserves better from those privileged to serve here.

Mr. HANSEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Speaker, I rise in strong support of the resolution for full disclosure.

Mr. Speaker, yesterday a Washington Post-ABC news poll recorded a lowest ever 22 percent approval rating for Congress. Is it any wonder public confidence has been shaken so? For the last 6 months the House of Representatives has treated the Nation to a series of scandals worthy of daytime soap operas. But the resolution we will be considering today tops the charts.

Like everyone else in the country, I was both surprised and outraged to learn that Members of the House of Representatives had overdrafted thousands of personal checks totaling millions of dollars which were covered by other Members' deposits in an operation grossly mismanaged by its Sergeant at Arms. The feeble defense of this outrage has been that it wasn't a bank, everyone was doing it, or that Members were merely borrowing from one another. That just doesn't cut it. Mr. Speaker, this means that my balanced account shielded the abusers. It's the equivalent of having your local bank honor all the checks you write up to the amount of your next paycheck—enabling you to live constantly above your means on a float of other people's money.

Even more distressing is the lax and haphazard management of the House bank that occurred over the years—even after GAO, the Speaker, and outside consultants from the banking industry made concrete recommendations for reforming the system. The result is that now the entire House is impaled on the sword of public ridicule—even at the expense of those who never wrote a check with insufficient funds or did so without knowledge.

The first resolution today identifies only 24 of the 66 current and former Members of Congress who wrote about 20,000 bad checks totaling more than $10.8 million. The criteria used by the committee to define abuse is drawn too narrow. Scores of others who, by any commonsense standard would qualify as abusers, would escape designation and disclosure.

Fortunately, however, this resolution from the Ethics Committee is accompanied by another resolution, this one requiring full disclosure of every individual in the House and their record at the House Bank. I know that some Members, totally innocent, will find their names on this list, victims of the incompetence of the House Bank operation. Their checks might have been held because the bank failed to credit a deposit, or because a date was inadvertently wrong on the check. But I believe the public will be able to make a distinction between the pattern of abuse—and make no mistake about it, there is a pattern of abuse for some Members—and this occasional slip by the Member or mistake by the bank.

Mr. Speaker, we have no other choice. We must get this information to the public. We cannot proceed as "business as usual". Full disclosure is the only action that can be taken to restore a modicum of public confidence in this institution.

Let us get this behind us and let's get on with the business of the Nation, the business we were elected to do.

Mr. HANSEN. Mr. Speaker, I yield 5 minutes to the gentleman from Arizona [Mr. KYL], a member of the committee.

Mr. KYL. I thank the gentleman from Utah for yielding me this time.

Mr. Speaker, the most important thing we can do tonight is to begin to restore the credibility of the House. And that is why I strongly support this resolution for full disclosure.

There are two issues before us. The first is to try to define who may have abused bank privileges. Under the majority report of the committee, a definition was used which essentially revolved around one criterion, namely: Did a Member have overdrafts more than 8 months exceeding his next month's net salary deposit?

The result of that narrow definition was to identify 24 individuals, 19 current, 5 past Members, as having abused banking privileges.

Mr. Speaker, those of us who dissented from the majority report could not defend that result. I will not cite exact statistics; you have all heard some of the orders of magnitude involved. An individual who wrote over 850 so-called "bad checks" with a face value total of over $150,000 did not make that list of abusers. People who wrote over 700 checks, over 500 checks, over 400 checks, in many cases beyond $100,000 total face value, did not make the list of abusers.

And, with no joy, those of us in the minority felt that that simply was unacceptable and indefensible; and we had to dissent as a result.

Using all of the various criteria that the committee had available, we would have expanded the list to approximately 55 people. I voted against the first resolution for this reason, Mr. Speaker; it was too narrow in that regard.

By supporting this resolution, however, we can partially rectify that error, because, by laying on the public record the name and at least the number of so-call bad checks for every single Member of the body, the public can judge for itself who actually abused the banking privileges and who did not. That is why I have helped to author and cosponsor this resolution.

Now, we must understand that full disclosure does not include certain things that a lot of us would like to include.

For example, it does not include dollar amounts, because we do not have accurate dollar amounts. That has been pointed out before.

As a matter of fact, even the number of checks which will be exposed could well be an inaccurate number. We do not know what these records will show, because the records were so sloppy. In fact, I do not know what the records will show about my account. I have a letter which says that I wrote no bad checks. I do not believe I wrote any bad checks. But the bank records could show that I have had some checks held by the bank, frankly either because of my error or because of sloppy procedures or practices of the bank itself. And I am willing to make my records available even if it shows an error on my part in order to insure that those who were the real intentional abusers are exposed. And there are more than 24 who abused their banking privileges. I believe, frankly, that many of them would stonewall if it were strictly up to them. And that is what the original majority report would allow.

I could have moved to expand the list from 24 to 55, but we all know that that would have failed. So, the only way to insure full disclosure for the worst abusers is by this resolution which lays it all out for all of us. It is hard for any of us to expose ourselves to criticism if we have had any checks held up by the bank. But it is a price we must pay, and that I am willing to pay in order to begin to restore the credibility of the House. And, ultimately, that is more important than any one Member.

This House can no longer conduct business as usual.

While the imperfect bank records may be subject to misinterpretation, I have faith in my constituents and in your constituents that they can discriminate between honest errors and abuse, between bank errors and Member abuse of banking privileges.

And finally, Mr. Speaker, as one who helped lead this fight for full disclosure, I think I have the credibility to also urge that the media have a responsibility to report fairly that some of the overdrafts attributed to Members were not their fault, that they were the bank's fault. Members were rarely, if ever, told of any inadvertent overdraft by the bank. But, again, Mr. Speaker, if we do our part and the media continues to do their job, I am confident that the American people will respond by distinguishing between the inadvertent and the intentional. They would rather judge us on the basis of how well we respond to the big issues that really confront us as a nation, addressing issues dealing with the economy and the health care, just to name two.

By supporting this resolution for full disclosure, we begin to restore credibility and get this issue behind us. Mr. Speaker, I think that is what the American people really want.

Mr. Speaker, I urge my colleagues to support this resolution.

□ 2350

Mr. GEPHARDT. Mr. Speaker, I yield 2 minutes to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Speaker, I appreciate the majority leader yielding this time to me, and I rise in strong support of the resolution now before the House. I commend the gentleman from New York [Mr. MCHUGH] and the gentleman from Utah [Mr. HANSEN] and the members of this committee on nobility, and excellence and honor in the work that they did for us.

Mr. Speaker, as I said yesterday, the integrity of the House is at stake, and, therefore, as I said yesterday, a fuller, rather than a narrower, disclosure is necessary, and, therefore, I commend the gentleman from Missouri [Mr. GEPHARDT], our majority leader, and the gentleman from Illinois [Mr. MICHEL] on bringing forth full disclosure. This is very much to the credit of those two gentlemen and the House.

I will say this: I read every single word of the committee report, I read and listened to all of what took place in the caucus and the debate tonight, and it is shocking and really disquieting to learn of the lax, and unprofessional and error-ridden practices of the House bank.

It is clear to me that full disclosure means that many Members, and our friend, the gentleman from Arizona [Mr. KYL], said it, many Members with inadvertent errors on their part or for whom bank practices created errors in their accounts will hurt. They will suffer. They will be penalized. Some may lose their careers.

But, the people whom we represent are entitled to have full information about these accounts, their interests supersede our interests.

So, I intend to vote for full disclosure even though it may not be accurate disclosure.

I do hope the admonition of the gentleman from Arizona [Mr. KYL] to the press is listened to and is taken to heart by the press and by everyone and that they make discreet judgments here between intentional misuse of the bank and the innocent miscalculation.

Let me say this: I hope we have learned something from this sad affair. If we just go this far tonight and disclose, this will have been a wasted effort. We must reform the practices of the House, and there are many interesting suggestions before us to do that. We have to demand more professionalism of House employees, and of ourselves. The fullest measure of how well we serve the people who are observing these proceedings and the people whom we are honored to represent, the fullest test of that will be not be just fessing up tonight and making the disclosure. It will be how well we handle this change and make other changes for tomorrow.

Mr. Speaker, we have the opportunity to make this House better, to bring honor to this Chamber, and let us start tonight.

Mr. HANSEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. CLINGER].

Mr. CLINGER. Mr. Speaker, I rise in support of the resolution offered by the minority leader, Mr. MICHEL.

The reputation of this institution is already battered.To try to limit access to account information will only prolong and intensify public mistrust of the Congress and the Government.

Each and every Member of the House has a responsibility to conduct himself or herself in a manner that does not erode in any way the confidence of the American people in their Government. Those of our colleagues who failed to recognize this responsibility have tarnished the reputation of the House, probably for years to come.

As is often the case, there is plenty of blame to go around. Without diminishing the responsibilities of the Members of the House, we cannot ignore the fact that the officers and employees of the bank carried out their duties with gross negligence. The shoddy bookkeeping practices at the bank have immeasurably complicated this investigation. It has proven difficult to reconstruct the account records of those who clearly abused their privileges. It would be a travesty if these records suggest that one of our colleagues was financially careless when, in fact, he or she acted responsibly.

This resolution sets out the proper course of action. The bank is already closed. The Sergeant at Arms has resigned. Full disclosure of the records is at hand.

Mr. HANSEN. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Maryland [Mrs. BENTLEY].

Mrs. BENTLEY. Mr. Speaker, I rise in strong support of this resolution.

Mr. HANSEN. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. HOBSON], a member of the committee.

Mr. HOBSON. Mr. Speaker, as a freshman member of the House Ethics Committee, I must say that attempting to resolve this crisis has been a very difficult and painful process. The weight of this responsibility compares only to that in my first few days in office when I voted to support the President and send American men and women to the Persian Gulf. I have spent numerous hours in committee and many sleepless nights struggling with the most appropriate way to address abuses of the House bank.

This is a difficult situation. How this Congress handles this issue will dramatically affect the lives of certain past and present Members of Congress, as well as the integrity of this institution.

The House bank scandal has hung a cloud of doubt and distrust over the U.S. House of Representatives. The polls tell us that the majority of Americans have lost their faith that the individuals they elect to Congress act on behalf of the good of their district and the Nation. This cloud will not break until we disclose the names of those who abused the House bank privilege.

Secrecy only breeds suspicion. Therefore, we must shed light on this issue, so that we can begin to restore our public's trust.

I commend the Ethics Committee, particularly the subcommittee for their tremendous work. The subcommittee faced the difficult task of reconstructing Members' accounts and making recommendations on what they felt was the most appropriate manner to handle this situation.

As one of the dissenting Members of the full committee, I support the full, accurate disclosure of all the abusers of the House bank. The American people have a right to know—and have demanded to know—how the bank was operated, and the names of those who abused and betrayed the trust of this system. The names of those individuals who repeatedly and consistently bounced checks.

There are many who are concerned that full disclosure will hurt individuals who were not abusers, but had just a handful of checks for small amounts. However, I have faith that, when presented with all the facts, the American people will know the difference between the major abusers and those who made small mistakes.

The Ethics Committee's final report details the inadequate operations of the House bank. The report reveals the bank routinely failed to notify Members of overdrafts—and, in fact, as a general rule, only notified those Members who overdrew their accounts for amounts greater than their next months salaries. Clearly, the operation of the bank is a significant part of this entire scandal—and was the cause of many of the mistakes made by Members.

As a new Member receiving my first paycheck last February, I can personally attest to the problems in the bank. In my situation, the bank incorrectly calculated the amount of my first deposit. Since then, I have received a letter from the bank recognizing its mistake, accepting responsibility and apologizing for its error.

But these minor instances are not what led us to this debate today. This debate is over those who bounced checks repeatedly for large sums of money * * * those individuals who bounced more than 100 checks for more than $200,000 for 7 months. These are the cases that have ignited anger among the American people. These are the actions that the public has demanded come to an end.

Mr. Speaker, it is the tremendous respect I hold for this institution that draws me here to this debate tonight. As a Congressman who spends a great deal of time in his district with his constituents, I can tell you the public has had enough. They are demanding change and they are demanding accountability among their elected officials.

By passing this resolution tonight and granting the American people full disclosure, we can begin to rebuild the public's trust in this great institution. While this will affect many Members of this body, it is simply the right thing to do. Let's get this information out in the open and put this scandal behind us.

Mr. GEPHARDT. Mr. Speaker, I yield such time as I may consume to the gentleman from Florida [Mr. BENNETT].

Mr. BENNETT. Mr. Speaker, I rise in support of full disclosure as provided in this resolution. Full information on this issue can provide the facts to make proper judgments. Anything less than full disclosure would be a big mistake, in my opinion.

Mr. GEPHARDT. Mr. Speaker, I yield such time as I may consume to the gentleman from Nevada [Mr. BILBRAY].

Mr. BILBRAY. Mr. Speaker, I rise in support of the resolution.

Mr. GEPHARDT. Mr. Speaker, I yield 7 minutes to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Speaker, the highest honor that can be bestowed any individual in a democracy, except perhaps to be called to the priesthood, or to be a minister or a rabbi, is, in my view, to be called to public service.

Mr. Speaker, I do not talk about private things very often because I think public and private lives are very different. But I never thought that I would be here in a place like this.

I remember one Christmas when my family was so broke that we had to rely on groceries brought in by my mother's friends, and in times like that I never dreamed that I would be part of the greatest legislative body in the world, working with people like my colleagues on both sides of the aisle to try to make people's lives in this country better and to try to make our country better. And like the distinguished minority leader who spoke earlier tonight of his love for this institution, I revere this institution. Not for what we are and who we are. I revere it rather for who we represent, and I revere it because of the fact that people from the least of circumstances and the poorest of backgrounds can come to a place like this and participate in the most important decisions that affect the well-being of every single human being in this country, and very often the world. That is why this incident is so painful.

I want to personally thank the gentleman from New York [Mr. MCHUGH] and the gentleman from Utah [Mr. HANSEN] because they were given a very tough job along with the other members of that committee, and they were operating under a restriction imposed by the House in its first resolution which required them to focus on the need to distinguish between Members. That is a very tough thing to do. I supported that committee resolution because I think that the committee was given an obligation by the House to try to distinguish between the worst abusers and those who, through carelessness or inadvertence, find themselves in an embarrassing position.

But I also support this resolution for full disclosure of the names of all of the persons who wrote an overdraft because I think it is the fastest way, on a bipartisan basis, to get it out into the open and to then get us back to the business that we were elected to deal with on a day-to-day basis.

□ 2400

But I have several words of caution. In September, when we were reviewing the situation at the bank for 1990, I was, I believe, the first Member of Congress to reveal that I had had some checks that were overdrafts. I revealed, for instance, that I had written one fairly large check for airplane tickets, forgot to record it, and as a result caused a number of other smaller checks which we thought were fully good when we wrote them, to in fact, become overdrafts.

I would, therefore, urge Members to be careful about the numbers because these numbers are going to mean very different things to very different people.

Second, I would caution every Member to be careful because some of the numbers are simply not going to be accurate. For example, I found one $5.00 check which was written on December 29, 1988. It was stamped as having insufficient funds on December 13, 1988, some 16 days before the check was written, and it was found in the envelope from the bank for the month that contained all of the checks from January of 1990, not of 1989 but of 1990. If you can explain that one, you are a whole lot smarter than I am, and I do not think the bank can explain it.

So my point is, whatever kind of disclosure we have, I ask Members to recognize that the instrument is going to be imperfect and it is going to do some injustices to Members. I would urge you, as soon as you can, to get accurate information involving your own situation, get it out, and level with people.

Then I would urge Members to do two other things. I would urge you to follow up on the comments tonight that this House needs dramatic change in the way it is administered. I deeply believe that if this House had had a professional administrator, as was recommended to the House in 1977 by a commission which I chaired, I deeply believe that if we had adopted that resolution, then the House would be in a lot better position today.

The second thing I would urge us to do is to then get back to the business we were elected to deal with. This country is in trouble. People are desperate for jobs. They are desperate for some signal that their Government recognizes their fears and their pain about their economic future, about health care, and about the quality of education for their kids and their neighborhoods.

So, Mr. Speaker, I would urge Members to vote for this resolution tonight and get it behind us, get it behind the country. Let us end this distraction and get back to the work we were elected to perform on a bipartisan basis, not just in an election year but every single day and every single hour that this House is in session.

Mr. HANSEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Kansas [Mr. NICHOLS].

Mr. NICHOLS. Mr. Speaker, I thank the gentleman very much for this time.

Mr. Speaker, I rise in strong support of the resolution for full disclosure.

Yesterday, I stood here on this floor of the House of Representatives. I called upon my fellow Members of Congress to take a courageous stand on this problem of abuses at the House bank—a stand for full and complete disclosure.

I am certain there will be many Members of Congress who will be compelled to openly and honestly address their constituents regarding their abuses of the House bank. Unfortunatley, it appears most of these Members are only coming forth in the 11th hour when full disclosure is imminent.

This appalling situation was brought to the attention of the American people 6 months ago. They wonder why it has taken so long for these Members to come forward. At any time Members had the ability, and I believe responsibility, to check the records, and to be honest with their constituents. It appears to many, many people that these Members, sadly, placed their careers ahead of the truth.

I believe this speaks to an even larger problem in this Congress. Perhaps it is true that this scandal will be career-ending for many Members. But Congress was never meant to be a career. Our founding fathers envisioned a government of citizen legislators to come and serve the people and then return back to private life.

That is how it was meant to be, and that is how it should be again.

Mr. HANSEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Iowa [Mr.NUSSLE].)

Mr. NUSSLE. Mr. Speaker, I rise in strong support of full disclosure.

Mr. HANSEN. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Speaker, I, too, rise to express my appreciation for the work that has been done by the Ethics Committee. It has been a very, very difficult task, to say the least.

As most of the Members know, I have been a sponsor of a resolution for full and direct disclosure of the accounts of all of those Members who have had problems with the former House bank. That resolution was not designed simply to make certain that those who repeatedly abused the privilege of the bank have their records made public. Certainly the committee's work has gone a long way in that direction. We knew clearly that there were a number of Members who are concerned that perhaps enough names were not disclosed in their initial report, but there are a number of other reasons to consider going further, and there is a reason for this additional resolution that involves full disclosure of all Members who had problems with the bank.

First and foremost, for me it is the public's right to know. It is very apparent that this is the people's business, and the moment that the people heard we were about to display a problem with the bank and disclose only 24 names directly, the moment they heard there was additional information regarding others who might have abused the bank, they were outraged. But the outrage is not simply for the number but because most of our public believes deeply in this House, and they believe that if given proper information, they are perfectly capable of evaluating that information and separating those who are serious abusers from those who have made mistakes or errors in their bank accounts. They believe they should have the right to examine those differences.

Second, Mr. Speaker, full disclosure is important to me for another reason. There are a number of my colleagues who are put into a large basket and are there in part because of errors or mistakes that may have been inadvertent on their part or maybe even errors of the bank itself. It is my judgment that the best possible protection for those Members who are caught in this basket as a result of inadvertent error or even bank error is by way of having a vote for full disclosure. With that as a foundation, the credibility of one's explanation at home is much clearer to the constituencies to which we all have to speak.

Mr. Speaker, it is very apparent to me that this evening the Congress by voting for full disclosure is laying the foundation to allow the people to reestablish their confidence and belief in this institution.

Mr. GEPHARDT. Mr. Speaker, I yield 3 minutes to the gentleman from Oklahoma [Mr.SYNAR].

Mr. SYNAR. Mr. Speaker, when I was first elected to the U.S. Congress, I received some important advice from former Speaker Carl Albert from my great State of Oklahoma. He told me, "Always trust your constituency, they will find the truth."

It has been that charge that has directed my career. The truth is that this is a sad and embarrassing chapter in this institution's history. We cannot deny it, nor should we hide it. The truth is that this problem is serious, principally because it tears at the fabric of confidence in government that is essential for any democracy to be successful.

□ 0010

The truth is, is that once we have completed full and accurate disclosure—and begin to rebuild that public confidence—the public expects us to use that confidence to revive the economy, to develop an energy strategy, to provide affordable quality health care, and to build for this country's future. Then, and only then, will we have served our institution correctly, our constituents honorably, and our country and this precious democracy faithfully.

Mr. HANSEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Mr. Speaker, I rise in strong support of the full disclosure resolution.

This is not a happy occasion for anyone, but it is an opportunity to begin a process of restoring confidence in this institution.

Last October when we voted for the resolution to commence an inquiry, I told my constituency that I thought we'd find some serious abuse on the part of a few, and some honest mistakes on the part of many, mistakes lacking intent of wrongdoing. But I also said then and I say now that to achieve a restoration of confidence we would have to have full disclosure, because we should have full disclosure; because ultimately the people will be satisfied only if they know the full facts have been put before them. The people are discerning. They will distinguish between willful misdeed and poor arithmetic. Full disclosure is the only way to get where we want to be from where we now are, because it is the only right way.

Mr. HANSEN. Mr. Speaker, I yield 2 minutes to the gentleman from Kansas [Mr. ROBERTS].

Mr. ROBERTS. Mr. Speaker, I want to recognize and say I appreciate the remarks of the gentleman from California [Mr. FAZIO]. Lord knows we need some bipartisan cooperation in this House. But I want to remind my colleagues in the majority that part of what we are is what you allow us to be. With all due respect and all candor, I think what we have enabled you to do now is stand in the sunshine. So let us both stand in the sunshine as we go forward to public disclosure.

My second point is a memo dated January 3, 1978, 14 years ago. Tip O'Neill was Speaker. It states:

> Checks with a symbol for insufficient funds must be covered by a deposit within 24 hours or be returned the following day to the Federal Reserve Bank. We cannot hold them for a future salary deposit more than 24 hours. If you do this, it is going to save you any embarrassment.

This has not been going on for 40 years.

One other point: As a Republican on the Committee on House Administration, I have worked with House officers, the House officers you select. They do precisely what Members tell them to do. Think about that with the unfolding events of the day.

Mr. Speaker, I know my colleagues are worried about being judged in the same category as others who have actually abused the bank. I know that. And, listen, if there is anybody out there that has not checked their checks now, who somehow believes that the letter from the Sergeant at Arms is accurate, or that their bank statement is accurate, welcome to the party.

The main point is you have to trust the people back home. They will understand. They can comprehend the difference. If you have some questionable checks because of sloppy bookkeeping or personal errors and they are a small number, they are going to recognize the difference between the abusers and those who did not really abuse the system.

Mr. Speaker, the basic message I have for all of us is to trust the people back home. They can make that judgment. Support full public disclosure.

Mr. Speaker, seldom in this institution's history have events focused public opinion to the degree that this House cannot conduct its business. Yet that is where we are this evening and it is no wonder.

Incredibly enough, some Members just don't get the message. Mr. Speaker, this issue strikes to the very core of our honesty and integrity, individually and collectively, as Members of this institution. This House is suffering a crisis in public confidence.

What to do. The good news may be that with all of the differences of opinion as to how to get this mess behind us, we at least are united in concern and a sense of outrage. But, I submit there is only one course of action.

I know that many fear that full disclosure will result in many innocent Members being tarred and feathered with the same brush as those who abused the bank. Taking that one step further, there is fear of a full scale voter purge of House incumbents this November.

While that certainly is possible, I offer this certainty: Anything short of full disclosure this evening will result in damage to this institution's credibility so severe as to render the House impotent and sentence us all to shame. And, that is true in regard to the House bank, the restaurant or our current investigation of the Post Office, and with efforts to reform the system.

The answer is very basic and simple. We have to stop this internal handwringing and this bunker mentality and do what our founding fathers suggested: trust the people who sent us here.

I submit that attitude would go a long way toward curing most ills of the Congress, including this one. The people have the right to know, plain and simple.

In my years of public life, I have attempted to act within a principle that can be summed up generally as follows: Is this vote, this course of action, this decision something that I can take back to Dodge City, KS, and explain to the satisfaction of my friends, family and constituents? If the answer is "no", then the vote or the course of action or the decision must be reconsidered or abandoned.

Now, I know my colleagues are rightfully worried about being judged in the same category as those who truly abused the bank. Many are just now finding out that due to the questionable management practices of the bank, their bank statements are not accurate; and worse yet, the letter they received from the bank stating they have no problem is not accurate either.

The message I have for these folks is simple. Trust the people back home. If a Member has but a few checks with overdrafts or bookkeeping mistakes and a large part of that responsibility lies with the bank's past policy of operation, that is understandable and defensible. What they will not understand is continued stonewalling and whitewashing of this issue.

Mr. Speaker, full disclosure is the cleansing light of democracy. It ensures that our democratic institutions continue to survive with full public confidence. That confidence and trust is a two-way street. Let's trust the folks who sent us here, the folks who pay taxes and in return expect good government. Only then can we ask for their trust and, hopefully, a restored sense of confidence in the job we do here.

Mr. GEPHARDT. Mr. Speaker, I yield 4 minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I thank the majority leader for yielding.

Mr. Speaker, this is an unhappy night. The House and its Members have been the object of the anger and the opprobrium of the American people. And in their anger, they have understandably demanded to know the facts about a situation which has outraged them and many of us.

I supported, as almost everybody in the House did, the work of the House Committee on Standards of Official Conduct. Like so many others before, me, I want to say to the gentleman from New York [Mr. MCHUGH] and the gentleman from Utah [Mr. HANSEN], the House owes you a debt of gratitude, as well as to the Members who serve with you, who did a job well done. I believe these Members have responded to the charge that was given them. It provided for the disclosure of those it deemed to have abused their use of the House bank. None in this House would say that they were incorrect in what they did, but many would say and have said that they did not go far enough. As a result, we have wrestled with the balance between the right of a Member to have the privacy most Americans expect, and the very critical necessity to reassure our fellow citizens that we are committed to operating their House, the people's House, in a fashion that will increase their confidence, rather than erode it.

Frankly, I believe that in moving to close the House payroll offices that we call the bank and in initiating the investigation into the alleged abuses that have occurred, and with a bipartisan recommendation, supported by a significant bipartisan majority, we could accomplish that objective, the objective of stopping clearly unacceptable practices by Members, of identifying Members whose practice was such as to be clearly an abuse of this service, and, most importantly, to reassure our fellow Americans that their chosen Representatives are committed to operating their House in an honest manner. We have overwhelmingly adopted the committee's report, a testimony to their work.

It became, however, very clear that such action would not be sufficient to accomplish the lateral objective. Therefore, Mr. Speaker, I believe it is necessary that we do more. The full disclosure established by the Gephardt-Michel resolution responds to the need to let the American public have the facts, and, as so many have said, trust their good sense and judgment.

I have concluded that there is no way short of the full disclosure provided for by the Gephardt-Michel resolution that we can effectively move on with the confidence of the American people to the critical task of addressing the problems confronting our Nation and our people, its economic health and competitiveness, the health of our people, the soundness of our infrastructure, the integrity of our environment, the quality of our education, the safety and security of our people, and the critical objective of reducing our budget deficit.

Let us hope, Mr. Speaker, that each of us will learn from this unfortunate debacle, and that this House will again earn and enjoy the confidence of our people.

Mr. HANSEN. Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma [Mr. EDWARDS].

Mr. GEPHARDT. Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma [Mr. EDWARDS].

Mr. Speaker, I would just tell Members that the gentleman from Oklahoma will be explaining a motion he intends to make after the vote on this motion, and there will likely be a vote very soon after that.

The SPEAKER pro tempore (Mr. DERRICK). The gentleman from Oklahoma [Mr. EDWARDS] is recognized for 4 minutes.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I thank my friend, the gentleman from Utah [Mr. HANSEN] and the majority leader [Mr. GEPHARDT] for yielding.

Mr. Speaker, we have heard one Member after another tonight take the well and talk about how we are going to hold faith with the American people by revealing all, by full, fair, complete disclosure. That is what the American people deserve, it is what they demand, and it is what the Members deserve. But it is not what this resolution does.

Mr. Speaker, if any Member in this Chamber believes that they are about to vote for full and complete disclosure and intend to tell the people back home that they did that, I will tell you that that is not true.

This resolution would allow you to know two things: who had an overdraft, and how many they had. Not how much they were for, not how long they were held by the bank.

Mr. Speaker, that does not tell the American people what they want to know. It does not identify who the abusers were. It is not full disclosure. It is partial and selective disclosure.

Mr. Speaker, only 66 accounts out of 435 Members were reconstructed. We never had time, I am told, to get around to the others. Fairness requires full reconstruction and disclosure, and that can be done quickly by using outside, objective, independent auditing firms.

Mr. Speaker, this resolution, I repeat, is not full disclosure. If one Member, believing that he had overdraft protection under the rules and practices of the bank, wrote 40 or 50 checks in the amount of $10 $12, or $14, that Member will have been seen as having 50 checks, and that Member will be an abuser. Another Member who wrote 3 checks for $10,000 each, held by the bank for a year, will get off as somebody who had a minor miscalculation, because all the constituents will see is that that Member had 3 checks.

□ 0020

My resolution also, which I am going to ask for a vote on, would require a continued complete investigation of the bank practices and procedures, including the failure of bank employees to follow their procedures, and would force the release to Members of their own records. Have you tried to get your records back from a bank so that you can reconstruct them? Those are my records, and I want them back. I want a chance to see my own records.

So I am telling Members, I think the committee has worked hard, the committee has made a good effort. We have heard many good remarks here tonight about the need for full, open disclosure. But we cannot on the one hand attack the bank for poor management, which it certainly was guilty of, and then bring to the floor a report that even the Members of the committee admit is unfair, incomplete and inaccurate.

Members deserve due process and accurate comparisons with their colleagues, and the public deserves full, complete, total, honest disclosure. I hope that when the motion is made to table or refer my resolution that Members will vote no.

Mr. GEPHARDT. Mr. Speaker, I yield 2 minutes to the gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Speaker, last weekend as I was wrestling with this question, as many Members were in this Chamber, it became apparent to me that full disclosure was going to be the only answer. The outrage of the citizens and my constituents certainly required it. But more importantly, the integrity of the institution demanded it and any individual concerns had to give way to the integrity of this precious institution. And yes, early news stories and other accounts suggest a pattern of abuse by some, and there are going to be some who have never received a written communication from the Sergeant at Arms' bank, never received a telephone call on an overdraft, never saw it in their statements, had no indication for years. Yet, when they go through their checks they are going to see a little red date stamped on one of those checks, and that is going to mark for the first time an indication that they had a problem.

But full disclosure is the only way to sort through this now. Full disclosure of all overdrafts is what I support. Full disclosure is the best answer, the only answer not only for this institution, but full disclosure is the only answer for all of us as individual Members.

I hope that this full disclosure provides the momentum, and for the wrestling and the anxiety that all of us have gone through in this Chamber, I hope it provides momentum for full disclosure and a desire to take on other problems in this House and to confront those other things that are challenging the very integrity of this body and its ability to function, because there are a lot of other problems out there that the public wants settled. But they want to have full confidence in this body to believe that we can settle that.

Finally, I just harken to what a constituent told me Monday in Hurricane when I talked about full disclosure and I announced my support for it. She said, "BOB, the public is smart enough to handle it. We can figure out who abused the system, and we can figure out who made a mistake. Trust the public."

That is where it ought to be.

Mr. HANSEN. Mr. President, I yield such time as he may consume to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Speaker, I rise in strong support of full disclosure.

Mr. Speaker, full disclosure is the only way to go.

The real question at stake here is not just the banking habits of Members of Congress. The real question is whether or not we, as elected public officials, should be held fully accountable to the public.

My answer to that question is "absolutely yes!"

As Members of Congress, our greatest responsibility is to be fully accountable to the voters who freely chose to send us to Washington. Our accountability for our actions is the very foundation of the free election system.

No Member of Congress should be powerful enough to keep the truth from his or her constituents. To do so is truly the worst abuse of democratic power.

Telling the whole truth is not a delicate matter—it's just the truth.

I urge my colleagues to join me in supporting the full disclosure of any inappropriate behavior by Members of Congress regardinq the House bank. Our constituents deserve the full truth, and should not stand for any less.

This is the only way the American people can distinguish between those who were the real abusers and those who made inadvertent mistakes or are the victims of House bank mistakes.

It also is the only way the credibility and integrity of the House can begin to be restored.

I also urge my colleagues to join me in supporting an end to the abuses of power exercised by the Democratic majority in the House.

A Federal budget with a $400 billion deficit, a debt of over $4 trillion, and a House bank where the rules allowed for millions of dollars of bounced personal checks with no accountability—these are some of the results of 38 years of Democratic majority rule in the House.

Mr. HANSEN. Mr. Speaker, I yield 3 minutes to the gentleman from Colorado [Mr. ALLARD].

Mr. ALLARD. Mr. Speaker, as many of you know, I am wholeheartedly supporting efforts for full, public, and prompt disclosure of all those who bounced checks at the House bank.

Before I explain why, let me first tell the members of the Ethics Committee—you had a tough job. An almost impossible job. A lot of people forget why you're on that committee in the first place: Because of all your peers, you are entrusted to be the most fair and most ethical. There are very few people in this body I have come to respect more, for instance, than Representative HANSEN, the ranking minority member of the Ethics Committee.

Having said that however, I must tell you that the proposal to only disclose 24 names out of the hundreds who bounced checks at the House bank isn't going to sell.

Over the past several weeks many of my colleagues have mentioned that they cannot understand why people are so upset over the House bank.

Let me share my belief why this issue has festered to the point where it now dwarfs everything else we are doing. First, we keep dragging our feet and only acting after it is too late.

Second, but most importantly, the American public is zeroed in on the House bank because they understand the issue.

We spent most of the early part of today talking about the intricacies of the 1990 budget agreement—and that's something most people don't understand and can't relate to. I happen to believe that if people did understand what we did today they would be equally outraged, but that's a different subject.

The difference on the House bank is that almost every adult in America has a checking account. They know what it means to write a check for insufficient funds. And most of all, they know that they can't do it without penalty.

You know, throughout the course of this debate I've tried to maintain a reasonable position. I don't want to be perceived as a grandstander. I don't want to tar and feather another Member who may have bounced a couple of checks now and then. No one wants to violate people's privacy by forcing them to disclose financial information that's inappropriate.

But the opportunity for us to selectively police ourselves disappeared months ago. The flat out truth is that the public doesn't trust us to make the judgment call.

All over America people are watching to see what is going to happen. The venom. The anger. The feelings of betrayal are rampant among the American public and yet, here we stand tonight, debating the fine points of how to disclose a self defined group of worst offenders in the House bank.

We are all—worst—offenders. At least that's what the American public feels. By our inaction. By our slow action.

You know, in the interest of fairness, I would think that every Member would want full disclosure. The general public can distinguish between accounting mistakes and minor overdrafts.

But most importantly, less than full disclosure will lose elections.

It will lose elections for innocent and guilty alike. It lumps everyone together.

So, Mr. Speaker and Members of the House, this should be a simple vote. Let us vote to end it. Let us vote to get it over with.

We need to vote for full disclosure.

Mr. GEPHARDT. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. Mr. Speaker, I thank the majority leader for yielding the time. I, too, want to join my colleagues who preceded me in complimenting the gentleman from New York on his leadership and the gentleman from Utah for the manner in which both of them have conducted themselves on this issue.

We were, all of us, elected to Congress because the people trusted us to vote in their best interests on the public policy issues before this body, to use sound judgment and to conduct ourselves honorably. They also ask us to trust them.

If we appear to be withholding information, especially unpleasant information, our actions will be seen as failing that trust. Full disclosure, with all its shortcomings, and all of the incompleteness as described by other speakers repeatedly, is unpleasant. But it is the way to fulfill the trust vested in us and to say to our constituents in return that we trust you to judge us fairly on the merits, individually, and collectively as an institution.

I believe that the leadership has taken the responsible steps last fall in coming to this body when the problem was discerned and proposing corrective action. And this body voted, and corrective action was taken at that stage. A process was set in motion, and that process reaches its fulfillment today, thanks to the gentleman from New York and those who served on that committee.

By voting this next step we will complete the circle, restore and keep faith with the trust vested in us and that we expect of the people who elected us. So let us take, however unpleasant it may be, however incomplete it may be, this step and do the right thing for this institution and for the people that elected us.

Mr. HANSEN. Mr. Speaker, may I ask how much time we have remaining on both sides?

The SPEAKER pro tempore. (Mr. BONIOR). The gentleman from Utah [Mr. HANSEN] has 24 minutes remaining, and the gentleman from Missouri [Mr. GEPHARDT] has 22 minutes remaining.

Mr. HANSEN. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Speaker, there is only one overriding reason for full disclosure, and it has been stated many ways by different speakers this evening, and that is that the public demands it. That is it. The public demands it and we must do it. The same public that created the Congress in the first place, erected the buildings which house it and selected the Members of this institution are the ones who are saying we are holding you to a higher standard than we would expect of the ordinary citizen. We have elected you to do constitutional duties. We have given you a high honor of being an elected official in the Nation's Capitol. We demand full disclosure. That is it. We do not have to go any farther and try to find different kinds of rationales for full and fair disclosure.

But then, on a personal basis, each one of us has a different kind of reasoning that we can state for that full disclosure. The part of the public that happens to be in my district, the part which I represent I think have a right to know whether their representative has done any over drafting in this nonbank that we had known for so many years. For that purpose, no matter how often I tell them, no matter how often I display the letter I got from the Sergeant at Arms that says that I did not overdraft, they will not be satisfied I believe, nor will I be satisfied that they will be satisfied until there is full and fair disclosure so that they will have confirmation in the CONGRESSIONAL RECORD and as part of the public record that indeed public disclosure for their representative and for all has been accomplished.

□ 0030

Mr. GEPHARDT. Mr. Speaker, I yield 2 minutes to the gentleman from Oregon [Mr. KOPETSKI].

Mr. KOPETSKI. Mr. Speaker, I rise in support of this resolution, and I commend the chairman of the committee, the gentleman from New York [Mr. MCHUGH], and the committee for its work.

Mr. Speaker, it has been most distressing that some Members have chosen during this controversy to attack so viciously the institution in which we serve.

I recall that John Quincy Adams served in the House following his term as President, noting it was never a dishonor to serve in the people's House, and history tells us that a giant of this Nation such as Henry Clay could choose between service in the Senate and a variety of other posts, but always preferred the honor and privilege of the people's House.

Regardless of what other endeavors we as individuals may go on to pursue, election to the people's House is the capstone of our career. This is the institution where the economic, regional, and cultural diversities of our Nation come together for resolution. There is no more important calling in public service than service in the people's House.

Mr. Speaker, I am going to support this resolution requiring full disclosure, but I do so with some reservations, because I know that some Members will be unjustly listed as having bounced a check that they did not. This resolution will allow an opportunity for them to challenge that listing by giving them the time to analyze their records.

More importantly, however, Mr. Speaker, this resolution, I dearly pray, will allow us to begin the healing process. We must stop the erosion of the House's credibility. We do that by adopting this resolution and putting this incident behind us. We restore the credibility of the House, however, by doing the job for which we were sent to do, that is, to address the problems facing this Nation, to deliberate and to debate potential options for solution, and then finally to make a choice, to use the legislative process for which it was intended.

It is time to get back to the true work of the House.

Mr. HANSEN. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. McCANDLESS].

Mr. McCANDLESS. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I note that very little new can be said here. However, I would like to share with you a couple of thoughts, because I brought a prepared text which I think is inadequate and inappropriate in view of many of the remarks that have been made.

First, the ethics committee discharged its responsibility in conformance with what it was we told them we wanted them to do. They brought back their recommendations. We know what those recommendations are. I compliment those gentlemen and lady for what they did.

It is a problem here of the House that the House now feels that they want to go beyond what their original discharge was. We need to keep that in mind when we talk in terms of what we are doing here now and what the Ethics Committee has recommended to us, and that is why we go to the next step.

Our constituency out there has seen the straw that has broken their camel's back, one thing after another in recent times dealing with the House of Representatives, and now all of a sudden we have this.

The problem here then is a solution that is acceptable to the public which might put us back on the same track, and that solution is necessary, because when you and I were elected to public office, whether it was BOB MICHEL, during that period, or somebody since like myself, you automatically gave up your private life, whether you agreed to or not, and you are living in a fishbowl and, therefore, because you live in a fishbowl, you no longer have the rights and privileges of the average person that you say hello and goodbye to in a town hall. We need to accept that point, and, therefore, we cannot have a dual standard of conduct.

We have to have a conduct equal to or better than our constituency. An old-timer told me one time, "When you are in elective office and you are wondering whether to do it, don't," because that is the best decision you are going to make.

Here this evening I am going to support full disclosure, because it is kind of like a boil on the arm. Unless you completely lance that boil, there is no way that it is going to get cured unless you completely lance it, because if you do not, it will continue to fester, and we will continue to have problems.

I support the full disclosure.

Mr. GEPHARDT. Mr. Speaker, I yield 3 minutes to the gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, the hour is late, and as the previous speaker indicated, there is not much more I think that one could add to what has already been said.

But as the only independent in the Congress, the only Member who is not a Democrat or beholden to the Democratic leadership, or a Republican beholden to the Republican leadership, I just want to share a few views with you.

I rise in strong support of full disclosure. We have heard tonight over and over again how poorly this so-called bank was run, and I think that is true. We have heard that there are individuals who bounced checks who never knew about it. That is true. We have heard that the records being kept by the so-called bank were inaccurate. That is true. But we also know that there were people who for a number of years systematically abused the system.

It is appropriate that the sun shine in and let the people get all the facts. I strongly support full disclosure.

Mr. Speaker, there is no question, I think, that the people of this country are outraged. They are outraged at the U.S. Congress, the House, the Senate controlled by the Democrats; they are outraged at the President of the United States who happens to be a Republican.

What makes me very sad tonight and why this is a very sad evening is that I know what the headlines in the papers tomorrow will say. They will deal with what we are talking about tonight, and I know what the headlines will say for the next month. They will talk about Members bouncing checks.

Do you want to talk about banking? How many of you know, how many citizens know that the Committee on Banking, Finance and Urban Affairs voted another $25 billion bailout for the savings-and-loan institutions to fall back on the working people and poor people? It is not going to be in the papers tomorrow. This bank instance will be in the papers.

The people are outraged, and what they are feeling, what they are expressing about this issue is the tip of the iceberg.

Do you know why they are outraged? They are outraged because this country almost uniquely in the world does not have national health care, and we are talking about bounced checks right here. They are outraged that the rich get richer and do not pay their fair share of taxes.

If we want to be honest with the people, we need full disclosure. Let us bring this out. Let us get if over with.

Mr. Speaker, but we will never regain the confidence of the American people unless we have the guts to stand with working people, elderly people, and poor people, take on the moneyed interests that are dominating this country and this institution, and let us go forward. If we speak for the people, they will have respect for this institution.

Mr. HANSEN. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. DREIER].

Mr. DREIER of California. Mr. Speaker, the greatest deliberative body known to man is faced with a crisis of credibility. It seems to me if we are going to govern we must come forward with full disclosure.

Mr. HANSEN. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. DOOLITTLE].

Mr. DOOLITTLE. Mr. Speaker, I support full disclosure, because I believe in this institution and in the need to restore public confidence in it.

But after large tax hikes on people who can ill afford it, significant spending increases despite massive deficits and major job cutbacks throughout America is a recession, people do not appreciate what amounts to interest-free loans to House Members.

□ 0040

In addition to that controversy, allegations of unpaid restaurant tabs and allegations of drug dealing and other improprieties in the House post office and, perhaps most significantly, perhaps most significantly here, Mr. Speaker, congressional inaction on many of the most pressing problems that confront America have combined to give the Congress a historically low public approval rating by the American people.

Mr. Speaker, the House is a great institution in serious disrepair. The road to reform must begin with full disclosure. I urge an "aye" vote for this resolution.

Mr. GEHPARDT. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. WEISS].

Mr. WEISS. I thank the distinguished majority leader for yielding this time to me.

Mr. Speaker, I rise in strong support of this full-disclosure resolution. I too want to express my appreciation to the gentleman from New York [Mr. MCHUGH], the gentleman from Utah [Mr. HANSEN], and the Committee on Standards of Official Conduct for the work that they have done and to compliment the leadership on both sides of the aisle for bringing this resolution before us.

Mr. Speaker, I think it is quite clear that the people of this country demand full disclosure, and I think we have an obligation to give it to them.

Those of you who heard me at the opening of today's session know that this is the 54th anniversary of my arrival in this country, and what an exalted place I consider the people's House of Representatives to be.

I think we have a long way to climb back to justify our being considered worthy of serving in such an exalted place. I hope that, as full disclosure takes place, that the Ethics Committee would undertake one more difficult and onerous job, and that is to provide some guidance to the people who will be interpreting all of those records, the media, the press and the public at large.

Mr. Speaker, we have already created one category in the 24 people who were the subject of the first resolution. I hope you find it possible to create some other categories so that we know what the separations are between people who abuse and people who are caught up either because of bad bookkeeping by the bank, or by bad inadvertent bookkeeping by Members.

Again, I thank the distinguished leader for yielding time to me.

Mr. HANSEN. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. I thank the gentleman from Utah for yielding this time to me.

Mr. Speaker, I just came from a series of press conferences that I have done with my media from San Diego for the last 10 hours or so, telling them that I would strongly oppose the full disclosure because of what I saw, with respect to the damage that was going to be done to innocent families and to people who relied on a practice of using the House bank assuming that they had overdraft protection and having their overdrafts in fact protected, and now, those people are going to have that overdraft protection retroactively pulled away. That is going to hold them up to great danger, and difficulty in their communities.

Mr. Speaker, I have come from 10 or so press conferences. I in fact disclosed fully myself yesterday, and left the press knee-deep in my paperwork and requested the House bank for anything that they want. I have disclosed fully, and I did that so I could come out here today, right now, and oppose full disclosure.

Well, I heard 3 speeches. I heard BOB MICHEL'S speech when he said we have to open up this House of Representatives with this vote. I say to the gentleman from Illinois, "Thank you" for making that speech.

I heard my friend, the gentleman from Virginia, FRANK WOLF, in the back, along with the gentleman from California, DUKE CUNNINGHAM, and the gentlewoman from Maryland, HELEN BENTLEY, and several others tell me that I did not have the right regardless of how I feel about the unfairness—and there is unfairness in this vote—to make my son have to explain that vote. And finally, I heard a last speech, and it was a speech that occurred just a minute ago in the cloakroom when my model, my father, Robert Hunter, called me up and said these words. He said, "The issue is now public trust. Ye must vote 'yes.'"

Mr. Speaker, I am going to vote "yes."

Mr. HANSEN. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. JOHNSON].

Mr. JOHNSON of Texas. Mr. Speaker, what we are voting on tonight is not about bounced checks of some Members. I think the people already know about that. The real issue we are deciding upon tonight is America's right to know. For any member of any committee of the House to drag their feet or in any way hold up disclosure of this matter completely disregards the will of the people as well as the trust they place in this institution.

And do not try to kid the American public by saying that taxpayer dollars were not involved. That is an insult to their intelligence when Members say that. These funds were in an account at the U.S. Treasury, not the Members' treasury, the congressional treasury, but the U.S. Treasury. And the fact is taxpayer dollars were spent on the House bank. First, by GAO estimates, employee expenses associated with running the bank cost the taxpayers more than $720,000. Second, the Treasury Department, the U.S. Treasury, paid compensation to private banks that administered the Members' payroll accounts. How much that cost we do not know.

Third, between 1981 and 1991, the Committee on House Administration put more than $6,800 of public funds into the House bank to make up for shortfalls.

Those were taxpayer dollars, pure and simple, and I believe that we have to protect the taxpayer dollars.

You know, there are people who get put in jail for writing bad checks. Whether this thing was a legal bank or not is immaterial. When I was in the military, guys got kicked out of the military for writing bad checks. Today they are booted out of our academies for one bad check.

Here in this House it has been overlooked. You know, this is a great institution. The whole of this great Nation is greater than any of its parts. And likewise, this House of Representatives, I believe, is stronger than the Members in it.

This institution needs reform, and we need to bring the whole episode into light. Let us show faith in this country and vote for full disclosure.

Mr. GEPHARDT. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. CHAPMAN].

Mr. CHAPMAN. Mr. Speaker, I rise in support of the full-disclosure resolution.

Mr. GEPHARDT. Mr. Speaker, I yield 1 minute to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Speaker, I rise this evening just very briefly to express my personal appreciation to the gentleman from New York [Mr. MCHUGH] and the gentleman from Utah [Mr. HANSEN] and all the members of the Committee on Standards of Official Conduct who have worked so hard on it. I deeply appreciate what they have done.

Mr. Speaker, I rise in strong support of this resolution for full disclosure. I have eminent confidence in the common sense of the people of this country, their ability to look at all the information when it is given to them, and to arrive at a sensible conclusion.

I conclude by observing this is one Member who was told by officials in the bank, when I inquired about deposit and overdraft protection, that it was not available in the House. However, they went on to say that the practice was to advance a Member's pay for the next month. That is what this Member was told a number of years ago. I just want that to be very clear to some people here this evening, that some of us were told that was the overdraft protection plan of the House.

Mr. Speaker, I appreciate everybody's participation here this evening.herd

Mr. HANSEN. Mr. Speaker, I yield 2½ minutes to the gentleman from Texas [Mr. BARTON].

Mr. BARTON of Texas. I thank the gentleman for yielding this time to me.

Mr. Speaker, first let me commend my good friend, DUNCAN HUNTER, who just spoke, for what I think is one of the best speeches that he has ever made on the House floor. I would also like to commend many of my colleagues on both sides of the aisle who, after this vote, are in all probability going to be subjected to quite a bit of personal pain. But I must say, as I stand here, that each of us, each of the 435 Members of the House of Representatives represent approximately half a million Americans; and collectively we represent 250 million Americans. We have an obligation as Members, of what we proudly refer to as the people's body, to conduct ourselves as most of the people that we represent conduct themselves. We are here tonight to debate what to do about the operations and the disclosure of the individual accounts of what we commonly refer to as the House bank. The House bank was originally created as a convenience to Members so they would have a place to deposit their salary checks and draw on these checks because they did not have the time to go downtown to the Treasury Department.

□ 1250

What was originally a well-intentioned convenience became some sort of a monster in which many Members thought it was an acceptable practice to write checks that they knew they did not have sufficient funds to cover and that they knew, because of informal arrangements, those checks would be covered for an extended period of time.

Now I ask my colleagues, "How many Americans that we represent have that convenience?" Not many.

I also would ask my colleagues, based on the resolution that we have already passed, if those Americans would accept as a normal standard of abuse or of conduct 8 months in a 39-month period having over a month's salary extended. That is certainly a standard, but I do not think it is a normal standard.

Mr. Speaker, I am going to vote for the fullest disclosure possible, and in doing that I would like to point out something that no other Member has yet pointed out.

We are the first Congress, the 102d Congress is the first Congress, that is willing to do something about the imprudent checking practices that have been going on for years, and years, and years. This Congress should be commended for doing something that is long overdue.

Mr. HANSEN. Mr. Speaker, I yield 1 minute to the gentleman from Virginia [Mr. ALLEN].

Mr. ALLEN. Mr. Speaker, I rise again, as I did on Wednesday, in support of full public disclosure of all Members who are involved in the House bank scandal. While the majority has tried to forestall consideration of this very issue, if my colleagues believe in superstition, we have now ominously had this delayed until Friday the 13th. For this body, integrity is very important, and public trust is important. It is also important to clear the record for those Members who had nothing to do with any of this scandal.

Mr. Speaker, we need to attempt to improve the reputation of the House of Representatives, and the committee's resolution alone is unacceptable and must be replaced in attitude with this one which is requiring public disclosure. The people and the resolve of a few Members have embarrassed the ruling party into doing what is the right thing, which is full public disclosure.

Mr. Speaker, this is just the first step in a marathon of steps that will be necessary to reform this body and restore public trust.

Mr. HANSEN. Mr. Speaker, I yield the balance of our time to the gentleman from Georgia [Mr. GINGRICH], the minority whip.

The SPEAKER pro tempore. (Mr. BONIOR). The gentleman from Georgia is recognized for 9½ minutes.

Mr. GINGRICH. Mr. Speaker, I want to say to those who just hissed that I can get through in 6, and, if they want me to go on for 9½, they just feel free to start.

I rise to support full disclosure. I am going to talk of controversial things. I make no apology for this.

Mr. Speaker, I have been talking about ethics for 18 years, starting with my announcement in 1974 for Congress.

This House has a legitimate tradition of an honorable Ethics Committee, and I commend both the chairman and the ranking member for upholding that tradition. Compared with the other body we have been extraordinarily tough for over a decade, and I believe they honorably met that standard.

But this process tonight on this floor is just plain outrageous. The chutzpah, the hubris, the gall of Democratic leader after Democratic leader coming to the floor tonight and wrapping themselves in bipartisanship and referring to the, quote, bipartisan leadership, close quote.

Mr. Speaker, I say to my colleagues, "Possibly you have no idea how you behave. Possibly you truly are so overwhelmed by the arrogance of power to such a degree that you simply cannot understand the gap between your words and your actions."

While waiving the bipartisan banner, the Democratic leadership opened this evening's session with a purely narrow partisan action. The Democratic leadership tonight appointed an interim Sergeant at Arms. There was no consultation with the Republican leaders. There was no bipartisanship. Frankly, if we had been asked, we would have objected to the appointment of a man who may have been involved in actions stopping the Capitol Police from investigating cocaine selling in the post office.

Mr. Speaker, we were not consulted by the Democratic leadership, but, if their choice leads to another scandal, I am certain they will seek bipartisan cover to avoid responsibility.

This failure to be candid about power and responsibility extends to the generally fine report of the Committee on Standards of Official Conduct. On page 11 it states, and I quote:

> The Sergeant at Arms is an officer of the House elected by vote of all Members.

That sentence, Mr. Speaker, is simply misleading. The Sergeant at Arms is a Democratic patronage position appointed by the Democratic caucus and reporting to the Democratic Speaker. We Republicans had no choice, no control, and no oversight. But we Republicans become coresponsible during the cleanup, and many Republicans will be hurt by the actions of the Democratic leadership and the Democratic Sergeant at Arms.

Consider the case of my dear friend, the gentleman from Kentucky [Mr. HOPKINS], and I have his permission to talk about this. When the House bank scandal broke, LARRY was running for Governor and stated confidently that he had never written a bad check. Then he found, to his shock, that the Democratic Sergeant at Arms had never told him, but he had written checks with insufficient funds. The gentleman from Kentucky kept his word to the press and told the Kentucky reporters, and my colleagues may ask LARRY who is sitting on this floor. Then two reporters told him they had already been given the correct number by a Democratic source. So I say to my colleagues, "You want to know how bitter we are? You want to know how deeply we feel this? Talk to LARRY."

Tonight we have Democratic cosponsorship of full disclosure. Yet last fall the Democratic Speaker declared the matter closed. All this week the Democratic leadership tried to block full disclosure. Only when public outrage had mounted and the Democratic back benchers had rebelled did the Democratic leadership agree to full disclosure.

And I might say to those who just talked about the Washington Times that even that commitment to full disclosure was less than the original Johnston-Kyl resolution because the Democratic leadership told us the Washington Times has already printed the 66 accounts and we could match them up.

Tonight we have a post office cocaine selling scandal, a House banking scandal, and other scandals are coming, and those who are responsible hiss. Tonight we have heard partisan Democrats claim bipartisanship to get through the scandal. Yet we have already heard these same partisan Democrats talk about a new House Administrator. As currently proposed, that Administrator will be chosen by Democrats, report to Democrats, and be controlled by Democrats. Republicans will be consulted only after the next scandal, and then bipartisanship will be invoked to cloak the Democrats' responsibility for this scandal.

I feel sorry for the innocent who will be hurt in the disclosures and for the bank staff who will suffer because they obeyed the Democratic leadership's orders.

Tonight the Democratic leader called it, quote, a flawed system over which they had no control, close quote. That was simply not accurate. The Democratic leadership always had control over a flawed system which they maintained and protected.

Yet the Democratic leadership seeks scapegoats to sacrifice. They found one today in Jack Russ.

Back in 1989, when we were in the last cycle of House Democratic scandal, Meg Greenfield wrote a remarkably perceptive analysis. Let me quote Meg Greenfield.

> It always seems to me that the congressional punishers have got it exactly wrong. They undermine their own acts. And retroactively cast doubt on the integrity of their own motives when they say, as they nearly always do, God, that was enough, now let's just let the next ones go through to show what amicable souls we are. They highlight the arbitrariness of what they have done. They deprive it as standing and meaning. It sometimes seems to me as if we have a kind of neo-Aztec cast of mind in this city. Periodically we seem to need to perform a ritual political execution. Usually, though not always, there is a fairly respectable case against the unfortunate one, but there is a blood lust of sorts. Then it's over.

Greenfield closed by saying this:

> This habit itself is what accounts for much of the contempt in which our capital is held. The careful, and I think responsible indictment of Jim Wright will ultimately be judged by whether it helps to create new standards rather than merely to finish off another old pol.

We stand here tonight, and I beg of all my colleagues, Democrat, Republican, if we go down the same road to the same one-sided appointments, the same lack of accountability, the same secrecy, the same arbitrariness, we will be back at this same stand with another scandal, and another scandal, and another scandal.

□ 0100

But I am perfectly prepared if anybody on the other side wants to work together to talk through how we can truly open this place up. I know it is hard for you who have controlled this place since 1954, to contemplate it, but you cannot stand many more blows like in the last year. If you want them, you just keep being secretive, you keep it covered up, but the American people are not going to tolerate much more of this.

Mr. McCLOSKEY. Mr. Speaker, can we have the words taken down?

Mr. GINGRICH. Nice try, fellow. It doesn't work.

Mr. GEPHARDT. Mr. Speaker, I yield the balance of our time to the Speaker of the House, the distinguished gentleman from Washington [Mr. FOLEY].

Mr. FOLEY. Mr. Speaker, of all the events that have occurred in this Chamber in recent days, the one I regret most is the event that has just taken place. We can have an opportunity to disagree, we can disagree fundamentally on some philosophical issues, and we can disagree on policy, but at least we have usually had the decency not to attack an individual of blameless reputation and absolutely sterling service to this House as the gentleman from Georgia just made on Werner Brandt.

The law provides that I as Speaker have the responsibility to make an interim and temporary appointment in the event of any vacancy in the office of any of the officers of the House, pending election by the House of Representatives. To suggest some misbehavior without proof, without validation, and without cause by a man of sterling reputation is a despicable act. There is a point at which the patience of decent people ought to say: "Enough."

We should work together, but to suggest that we can work together in an environment of innuendo, suspicion, and suggestions of impropriety is not helpful.

I have the greatest respect for the Republican Minority, and during the time I have been in office I have said repeatedly that one responsibility of the Speaker is to deal fairly with both sides of the aisle.

I want to hope that we will not have a repetition of the kind of address that has just been made by the Republican whip. The suggestion that we have sought to block this resolution is patently untrue. It is patently untrue. I will ask the Republican leader of this House if we have not said from the beginning of our conversations that there would be a clear opportunity for a resolution to be offered for full disclosure. There was never any question that that would be offered on the House floor. There was never any question it would be voted tonight. The objection seems to be that it is bipartisan. The complaint seems to be made that the majority leader is joining with the distinguished Republican leader in its sponsorship. Is that wrong? Is that unwise? Is that unfair? Is that unprincipled?

We have the task of repairing the reputation of this House. We have the task to show to the American people that we intend to see that deficiencies in its operation are corrected. I am determined to see that that happens, and I am willing to work with anyone on the Republican side, including the whip from Georgia, if he is serious in his offer. But he ought to set aside the cruel and unfortunate tendency to blame and to confuse in his desire to seek political ends. If we can do that, then we can advance the interests of our body and the interests of the responsibility which we jointly share.

Mr. GEPHARDT. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. BRUCE].

Mr. BRUCE. Mr. Speaker, I rise in support of the resolution.

Mr. Speaker, I rise in support of the bipartisan resolution to disclose all overdrafts at the House bank. I would like to commend the distinguished majority and minority leaders for bringing this resolution to the floor. I was proud to support Ms. JOHNSON and Mr. KYL in their legislation to obtain full disclosure and commend them for their efforts.

It is important that the people of this Nation know what their Representatives are doing in Washington. I believe full disclosure is the only way to satisfy the questions the American people have about their Representatives.

Let the people decide who has abused the House bank.

The American people demand full disclosure.

The American people deserve full disclosure.

The American people should get full disclosure.

That is why I feel full disclosure is so important. We need to make sure that Members of Congress know that they are no different than their constituents at home. Full disclosure will ensure that Members will face the consequences of having written overdrafts. I have great faith that our constituents will be fair in determining which Members abused the house bank and which did not. I can think of no better standard than the judgment of the American people.

Mr. GEPHARDT. Mr. Speaker, I move the previous question on the resolution.

The SPEAKER pro tempore (Mr. BONIOR). Pursuant to the order of the House today, the previous question is ordered.

The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HANSEN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 426, nays 0, not voting 9, as follows:

[Roll No. 45]

YEAS—426

Abercrombie
Ackerman
Alexander
Allard
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Combest
Condit
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Crane
Cunningham
Darden
Davis
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier

Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Washington
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—0

NOT VOTING—9

Collins (IL)
Collins (MI)
Conyers
Dannemeyer
Lehman (FL)
Miller (CA)
Moran
Savage
Whitten

□ 0122

So, the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. CONYERS. Mr. Speaker, I missed the previous rollcall inadvertently. Had I been here, I would have asked to be recorded aye.

INSTRUCTING SPEAKER AND COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT TO TAKE CERTAIN STEPS TOWARD FULL DISCLOSURE IN THE MATTER OF INQUIRY INTO THE OPERATION OF THE BANK OF THE SERGEANT AT ARMS OF THE HOUSE OF REPRESENTATIVES

Mr. EDWARDS of Oklahoma. Mr. Speaker, I offer a privileged resolution (H. Res. 397), and I ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 397

Whereas, disclosure of the banking activities of House Members who held accounts in the House Bank during the period under investigation by the Committee on Standards of Official Conduct should be full and complete; and

Whereas, full disclosure is not possible now because not all accounts have been adequately reconstructed to reflect action taken by the account holder and by Bank officials and tellers; and

Whereas, the Report of the Committee on Standards of Official Conduct to accompany H. Res. 393 cited irregular and unprofessional practices by House Bank employees that may have contributed to the frequency of overdrafts; and

Whereas, a full accounting is needed of official House Bank policies, routine informal practices of House Bank employees that deviated from or were not covered by official rules, and each case in which employees failed to follow official or informal procedures, and the effect of such failures on Members' balances; and

Whereas, Members of Congress are now being denied access to their own personal bank records: Now, therefore, be it

Resolved, That (1) immediately upon passage of this resolution, the Speaker shall direct the House Sergeant at Arms, the General Accounting Office, and any other body under his control with information relevant to Members' House Bank account histories, to reconstruct the complete account histories of all Members and former Members who had accounts for the 39 month period beginning July 1, 1988 and ending October 3, 1991 that have not already been reconstructed in coordination with the Committee on Standards of Official Conduct, and

(2) that, after giving each Member an opportunity to be heard by the subcommittee which conducted the inquiry and 20 days after passage of this resolution, the Committee on Standards of Official Conduct is authorized to publicly disclose the reconstructed account history of every Member of the House, and

(3) that, within 20 days of passage of this resolution, the Speaker of the House shall direct the House Sergeant at Arms, the General Accounting Office, and any other body under his control with information relevant to Members' House Bank account histories or House Bank practices, to provide a full and complete report of the official policies of the House Bank over the 39 month period in question; a full and complete account of the procedures that were not official but were informally and routinely followed by bank employees (including instances where informal practices deviated from official policies), and a full and complete account of every instance in which the Bank failed to follow either its own official procedures or routine and regular informal procedures, and a case by case report of the effect that such deviations have had on Members' account balances, and.

(4) that, within 48 hours of the passage of this resolution, the Speaker of the House, through the House Sergeant at Arms, the GAO, and any other body under his control with information relevant to Members account histories, provide to each Member of the House a full disclosure of that Member's account history with the House Bank.

Mr. EDWARDS of Oklahoma (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. BONIOR). Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

The SPEAKER pro tempore. The resolution constitutes a question of privilege.

MOTION OFFERED BY MR. GEPHARDT

Mr. GEPHARDT. Mr. Speaker, I move to refer the resolution to the Committee on Standards of Official Conduct.

The SPEAKER pro tempore. The gentleman from Missouri [Mr. GEPHARDT] is recognized for 1 hour.

Mr. GEPHARDT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Oklahoma [Mr. EDWARDS] has spoken on the subject matter of this resolution during the debate on the previous resolution. This resolution concerns the manner in which the Committee on Standards of Official Conduct must operate regarding records of the House bank, and is appropriately referred to that committee.

Mr. Speaker, for purposes of debate only, I yield such time as he may consume to the gentleman from Oklahoma [Mr. EDWARDS].

Mr. EDWARDS of Oklahoma. Mr. Speaker, I thank the majority leader for yielding me the time.

Mr. Speaker, I will be brief. I addressed the House on this matter earlier.

I want to first explain to the Members what is involved here, and secondly to say it is my understanding that the gentleman from Missouri has moved to refer this to the committee, and I am going to ask the Members to vote against that motion to refer this resolution to the committee. I am going to do so because, as I said earlier, it is only this motion which gives the Members of the House an opportunity to vote for full disclosure.

The resolution that was just passed provides for the release of names of persons who had overdrafts and the number of overdrafts. My resolution would, both in fairness to the Members who deserve due process and to our constituents, add to that the number of checks and the amount of the checks that were overdrawn and the duration for which those checks were held so that our constituents can really tell the difference between those persons who were merely paying their bills, and those persons who were abusing the system for some other purpose.

I would say, because I have been asked about the delay that might result, my resolution calls for this to be done within 20 days, a full reconstruction of the accounts. The gentleman from New York [Mr. MCHUGH], who I respect enormously, and who chaired this committee, has let me know that even prior to this point the GAO, if only the GAO auditors had been involved, could have had this entire thing done by May. So I am saying it is possible by going to outside sources to have all these accounts reconstructed. I am not trying to get into a delay, but within 20 days all of this could be done, and then we would have not a partial disclosure but a full, complete, honest disclosure.

So I would urge the Members of the body to vote against the motion to refer.

Mr. GEPHARDT. Mr. Speaker, for purposes of debate only, I yield such time as he may continue to the gentleman from Utah [Mr. HANSEN].

Mr. HANSEN. Mr. Speaker, I appreciate the gentleman yielding time to me. I know the time is late.

Let me just say this: The resolution is very well intended, and I appreciate the comments made by the gentleman from Oklahoma. We spent an awful lot of time going through this, and I personally do not think that it would be possible for the GAO or any group to put this together in 20 days.

□ 0130

We have 10 auditors, and they are almost standing on each other. We have got only one set of books. We have got only so much we can work with. If we went ahead, we would find ourselves in the position of going all the way to Christmas, in my humble opinion, before we could put this together.

I know it is well intentioned. My heart goes out to you. I wish we could accommodate you, but I have to speak against this at this time.

Mr. GEPHARDT. Mr. Speaker, I yield such time as he may consume, for the purposes of debate only, to the gentleman from Iowa [Mr. GRANDY].

Mr. GRANDY. Mr. Speaker, I thank the majority leader for yielding.

Mr. Speaker, I reluctantly concur with our ranking member on the committee, although I have supported in my remarks tonight fair disclosure, and I think the gentleman from Oklahoma is trying very hard to achieve that.

Even 20 days hence reopens this very painful issue, and I think all of us who unanimously supported the last resolution would not look forward to that.

Remember, the burden of proof is now on every Member of this body to provide that information in his own local court of public opinion, and, yes, there will be problems with the full disclosure of only the number of checks, but it has been the unanimous decision of the House to go forward with that.

I think it would be the unanimous decision of the House to keep the process going for each individual Member, and I would ask the body to reject this resolution.

Mr. GEPHARDT. Mr. Speaker, for purposes of debate only, I yield such time as he may consume to the gentleman from Oklahoma [Mr. EDWARDS].

Mr. EDWARDS of Oklahoma. Mr. Speaker, I respect the gentleman from Utah and the gentleman from Iowa, and appreciate their concerns.

We are talking here about the lives and the careers and the reputations of every Member of this body. We are also talking about the rights of our constituents to know who did what, who abused the system, who merely made mistakes, you know, what happened.

I would suggest, first of all, it is ludicrous to say that this would take until Christmas. The gentleman from New York [Mr. MCHUGH] himself said that the GAO could do it much sooner.

One final point, if we are talking about getting it done today or getting it done in 3 weeks accurately, fairly, and completely, it seems to me that that is the way we ought to go. The public deserves, and all of these Members deserve, through the right of due process, a complete, accurate, full disclosure, and what we have passed so far is not full disclosure.

Mr. GEPHARDT. Mr. Speaker, I move the previous question on the motion to refer.

The previous question was ordered.

The SPEAKER pro tempore (Mr. BONIOR). The question is on the motion to refer offered by the gentleman from Missouri [Mr. GEPHARDT].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. EDWARDS of Oklahoma. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 150, noes 275, not voting 10, as follows:

[Roll No. 46]

AYES—150

Abercrombie
Ackerman
Alexander
Allen
Anderson
Andrews (TX)
Annunzio
Anthony
Aspin
Baker
Ballenger
Barnard
Blackwell
Bliley
Boehner
Bonior
Borski
Boxer
Brooks
Brown
Bustamante
Cardin
Clay
Clement
Coble
Coleman (MO)
Coleman (TX)
Conyers
Coyne
Darden
de la Garza
Dellums
Dicks
Dingell
Dixon
Donnelly
Dooley
Dornan (CA)
Dwyer
Edwards (CA)
Fascell
Fawell
Fazio
Feighan
Flake
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank (MA)
Gallo
Gaydos
Gejdenson
Gephardt
Gibbons
Gingrich
Goss
Grandy
Gunderson
Hansen
Hastert
Hayes (IL)
Hefley
Hefner
Hertel
Hobson
Holloway
Hutto
Jefferson
Jenkins
Johnson (CT)
Johnston
Jones (NC)
Kennelly
Kleczka
Kolbe
Kopetski
Kyl
Lantos
Laughlin
Levin (MI)
Lewis (GA)
Manton
Martinez
Matsui
Mavroules
Mazzoli
McCrery
McCurdy
McDade
McDermott
McHugh
McMillan (NC)
Meyers
Michel
Miller (OH)
Mollohan
Murtha
Natcher
Oberstar
Obey
Owens (NY)
Oxley
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Pickle
Price
Pursell
Rangel
Rhodes
Ridge
Riggs
Roe
Rose
Roth
Roukema
Rowland
Roybal
Sabo
Saxton
Scheuer
Schroeder
Serrano
Shays
Shuster
Skaggs
Smith (FL)
Smith (IA)
Stokes
Swett
Swift
Thornton
Torres
Torricelli
Towns
Traxler
Unsoeld
Vento
Visclosky
Vucanovich
Walker
Washington
Waters
Weiss
Wolpe
Young (AK)
Zeliff

NOES—275

Allard
Andrews (ME)
Andrews (NJ)
Applegate
Archer
Armey
Atkins
AuCoin
Bacchus
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
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Goodling
Gordon
Gradison
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Hall (OH)
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Hamilton
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Hayes (LA)
Henry
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Hoagland
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Jacobs
James
Johnson (SD)
Johnson (TX)
Jones (GA)
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McCandless
McCloskey
McCollum
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Ros-Lehtinen
Rostenkowski
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Santorum
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Smith (NJ)
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Solomon
Spence
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Staggers
Stallings
Stearns
Stenholm
Studds
Stump
Sundquist
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Traficant
Upton
Valentine
Vander Jagt
Volkmer
Walsh
Waxman
Weber
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Wheat
Williams
Wilson
Wise
Wolf
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Yatron
Young (FL)
Zimmer

NOT VOTING—10

Collins (IL)
Collins (MI)
Dannemeyer
Lehman (FL)
Miller (CA)
Moran
Savage
Stark
Whitten
Yates

□ 0154

Messrs. HAYES of Louisiana, McCLOSKEY, EVANS, MRAZEK, FROST and MONTGOMERY, Mrs. LOWEY of New York, Ms. SLAUGHTER, Mr. BRYANT, Mr. APPLEGATE, Mrs. BENTLEY, Mr. PORTER, Ms. DeLAURO, Messrs. ORTIZ, AuCOIN, RICHARDSON and GORDON, Mrs. PATTERSON, and Messrs. BOUCHER, HOCHBRUECKNER, DeFAZIO, MINETA, OWENS of Utah, HUGHES, MOAKLEY, LaROCCO, SPRATT, HOYER, and DERRICK changed their vote from "aye" to "no."

Messrs. McCURDY, RIGGS, McMILLAN of North Carolina, PAXON, and ROTH changed their vote from "no" to "aye."

So the motion to refer was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. BONIOR). The gentleman from Oklahoma [Mr. EDWARDS] is recognized for 1 hour.

Mr. EDWARDS of Oklahoma. Mr. Speaker, in claiming my time on this motion I will speak briefly on it, and then I would be glad to yield for a few minutes to the majority leader, the gentleman from Missouri [Mr. GEPHARDT], who, I am sure, will also want to be heard on it.

PARLIAMENTARY INQUIRY

Mr. GEPHARDT. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. GEPHARDT. Mr. Speaker, am I to understand that the gentleman from Oklahoma [Mr. EDWARDS] is in charge of the hour's time?

The SPEAKER pro tempore. The gentleman is correct. The gentleman from Oklahoma [Mr. EDWARDS] has the hour.

Mr. GEPHARDT. Mr. Speaker, we do have two or three speakers that we would like to have speak, if that would be all right with the gentleman from Oklahoma.

Mr. EDWARDS of Oklahoma. Yes, Mr. Speaker, I certainly will yield to Members.

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman from Oklahoma.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me begin by saying that I have heard a number of comments to suggest that some Members are concerned that we may be, by doing this, creating an undue delay in presenting the results. I want to make it very clear that there is no intention to have a delay. I have told the people in my district through my press that I intend to release as quickly as possible all of my records, and the resolution which I present instructs the Speaker to fully reconstruct the bank account history of every current and former Members' bank account within 20 days.

Now this is very interesting. When this House wants to move, to do things that it desires to do, it can move very quickly, but now we are being told, with Members' reputations and careers on the line, "Oh, God, we can't do that in 20 days. How can we do that in 20 days?"

I say to my colleagues, "Well, you can make copies. you could retain outside firms rather than the GAO and have outside independent auditors look at these records."

Mr. Speaker, I have made it clear, I will say to the gentleman from New York [Mr. McHUGH] that I said, when he told me that this could have been done by May, that he was referring to the GAO auditors. I understand that. But I am saying we are not limited to only using that operation and those people. The 20 days, I might say, is no longer than the period built into the previous resolution for Members to go through the appellate process.

Mr. Speaker, we do not have a curtain falling on us at midnight tomorrow night that says by midnight tomorrow night we act fair or unfair, accurate or inaccurate. It is a duty we owe to the people of this country, as well as to the members who deserve due process. It is a duty we owe for the people out there to know who wrote a small check to the local filling station or the local grocery store and who wrote a check for multiple tens of thousands of dollars held by the House bank for a year.

Mr. Speaker, what we have done earlier does not do any of that. It is not disclosure. It is partial, selective, tiny little bits of information that we hope will pacify the public and get them off of our backs. That is not what the purpose is here. The purpose is to give full, complete, public disclosure, and that is what they expect of us.

So, Mr. Speaker, having said that, I am going to yield such time as he may consume to the gentleman from New York [Mr. McHUGH], who had asked for some time, for the purposes of debate only.

Mr. McHUGH. Mr. Speaker, I thank the gentleman from Oklahoma [Mr. EDWARDS] for yielding this time to me.

First of all, Mr. Speaker, I share the gentleman's concern about the prior resolution, and I expressed this also on the floor in my opening statement because it is partial disclosure, and it does not show deficiencies, as the gentleman from Oklahoma has said.

But I must say to the gentleman for whom I have great respect, and I must say to the House that it is, on the basis of our experience, totally unrealistic to think that all of the account histories of the Members of the House, 435 Members, less the 66 that have already been reconstructed, can be done in anything close to 20 days.

□ 0200

Now, we have been at work, as Members know, on these 66 accounts for 4 or 5 months. We wanted to speed up the investigation because we understood that all the Members were under great anxiety to have this matter disposed of, and we asked the GAO, "Would it be helpful if you brought in more people, either GAO people or contract people, to speed up your reconstruction of these accounts?" And we were told by the GAO—I am not an expert but I am relating what they told us—that it would not help to bring in more than the 10 people they had because there were limitations in terms of using the information. This is a lot of information that is on microfiche. All the checks of Members were on microfiche. The monthly statements were on microfiche. There are limitations of space.

The fact of the matter is that I cannot assure the Members that it could be done in anything like 20 days, and based upon what I know, it seems to me highly unlikely that we could do anything like that.

They told us weeks ago that it would take until some time in May to have the 355 accounts, less the 66, reconstructed. The gentleman is now talking about a total of 435, less the 66. So it seems to me unrealistic, if I may say so, that this could be done in anything like 20 days.

Moreover, I do not have any idea of what this would cost. I share the gentleman's concern about disclosure. There will be mistakes. The gentleman is correct to express those reservations, but we are going to undertake an enormous amount of work which in my judgment will take a tremendous amount of time, and at what cost no one can say. Perhaps the gentleman has some estimate as to how much this would cost, assuming it could be done within the time limits.

But I think the Members have to appreciate that we are going into a black hole here in terms of work, time, and cost, and while in principle the gentleman raises an important point which I share, the inequity and unsatisfactory nature of what is called full disclosure under the prior resolution is, I am afraid, not the answer.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I thank the gentleman for his comments.

First of all, the gentleman probably has more trust in the GAO's ability than perhaps some of us on this side might have. But I might suggest that the 10 auditors of the GAO saw this as the only way to proceed, as I indicated, the GAO said they could, with their small army, their mini-army of people, have done this by May. That is only 51 days from now, and I am talking about 20. And that is with their little group of people.

The gentleman from New York and I are both on the Appropriations Committee, and I would say to the gentleman that I appreciate his concern. I appreciate his concern that this might have some cost involved in hiring a firm to go into determining what the facts are. Nonetheless, when this House passed its resolution in the first place, it held out to the public that it was going to investigate and report. We did not say to the public that was listening and watching when this was on the floor the last time, "Well, we will look at maybe 50 or 60 guys and we will see what we can find. Maybe we can draw a line, and then time may run out and we will stop at 66." That is not what they want. They want full disclosure.

Everybody knows the stories that have been going around about what has been involved in the procedures of the House Bank, and the gentleman cannot tell me that if we disclose only the people and the number of checks, we have disclosed anything. If we do not tell how big those checks were and for how long those checks were held, we have not disclosed anything.

Mr. CUNNINGHAM. Mr. Speaker, will the gentleman yield?

Mr. EDWARDS of Oklahoma. I am glad to yield to the gentleman from California.

Mr. CUNNINGHAM. Mr. Speaker, I thank my friend, the gentleman from Oklahoma, for yielding. I was one of the original ones who expressed the concern, and I still have the same concern. My question would be, what if at the end of 20 days we cannot complete this? What is the procedure? This could go on and on and on.

If I was an individual that had something to hide, I would want to extend it through December.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I might respond to my friend and say that if I was one who had something to hide, I would say, "Stop now. You haven't revealed anything about me. Let's call it off now."

Mr. CUNNINGHAM. What is the procedure, then, at the end of the 20 days?

Mr. EDWARDS of Oklahoma. It calls for it to be done in 20 days. The last time we did it, we put in a deadline. There are detailees. The committees have detailees from one agency after another over here. We have people we can put on this, and I am just saying, if you want to vote not to reveal all this other information, you have the right to do that, but you are going to have to explain it back home.

Mr. CUNNINGHAM. Mr. Speaker, will the gentleman yield further?

Mr. EDWARDS of Oklahoma. I yield to the gentleman from California.

Mr. CUNNINGHAM. Mr. Speaker, I agree with the gentleman, and I agree 100 percent that it should be disclosed. But my only concern is that at the end of the 20 days, if, as my friend over here says, it cannot be done or it possibly cannot be done, what is the procedure at the end of the 20 days so we can carry on with our business and get this resolved?

Mr. EDWARDS of Oklahoma. Mr. Speaker, let me tell the gentleman what I am willing to do. This is not part of the resolution, but if 20 days from now the gentleman from New York comes back to us and says: "With all the detailees that are available to us, with the entire Federal Government at our disposal, with the GAO and with the ability to appropriate money for Arthur Andersen or any other company to do this, we just somehow cannot get it done." If they say, "I'm sorry, guys, but we can't find the information," then I will be glad to try to bring a privileged motion to the floor and get it released at that time.

Mr. CUNNINGHAM. And revert to the original?

Mr. EDWARDS of Oklahoma. Sure. But I think anybody who does that will have to explain why there were somehow records of some Members we could not reconstruct, why there were a lot of other guys we just could not get done. I do not want to have to go home and explain that.

Mr. OBEY. Mr. Speaker, will the gentleman yield?

Mr. EDWARDS of Oklahoma. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Speaker, let me simply say that I think the gentleman makes a good argument when it comes to some issues such as face values, for instance, but let me simply say that I think if anybody in this House who voted for the previous two resolutions tonight thinks that face value for each Member is not going to come out, they are smoking something that is not legal, it is.

And let me say something else. I am deeply concerned that if this motion passes, it will result in delay for two reasons: First, because I think it is apparent that to try to produce the kind of information the gentleman is talking about is simply going to take a lot longer than 20 days; and, second, because of that, I think it is likely to stop what I expect to see, a flood of disclosures from all kinds of Members over the next week to 2 weeks. I see on the wires individual Members are already disclosing tonight. A lot of others are going to be doing it early next week.

It seems to me that Members are going to slow down if this passes tonight because they are not going to want to walk into a situation where they go out and explain what they think is their situation and then they find out that because someone has come in with a slightly different accounting procedure, a slightly different organizational structure, they wind up being made a liar on technicalities. So I think the result may very well be that we are going to have a lot of Members who will decide to wait. They will say, "I am just going to wait and see what happens." That will mean that a lot of Members who would otherwise have been disclosing over the next week or 10 days are going to be delaying for a long time. I do not think you want that.

□ 0210

Mr. EDWARDS of Oklahoma. Mr. Speaker, reclaiming my time, let me say to the gentleman, first of all the result of this partial and selective disclosure that the House has already voted for is that you are not likely to see very many of the people who had a small number of checks, even though they may have been for large amounts, rushing out to disclose anything, because they do not need to.

Mr. OBEY. Mr. Speaker, if the gentleman will yield further, I was simply going to say that that certainly is not what I expect. I think Members who have very little to worry about are going to be the first ones to disclose, and they would be smart to do so.

Mr. EDWARDS of Oklahoma. Mr. Speaker, reclaiming my time, let me also say there are two other parts of this resolution, as I explained earlier. One of those parts is to require that the people who have our bank records give them to us. Every member of the press is going to know that we can no longer say, "I can't tell you what I did. I don't know how many checks I had because I can't get my records." So the press can be on everyone's case, because you will be allowed to get your records back from the people who have them.

Mr. GRANDY. Mr. Speaker, will the gentleman yield?

Mr. Speaker, if the gentleman will yield, I offered to refer this motion to committee because I thought the ideas of the gentleman from Oklahoma [Mr. EDWARDS] were well-intentioned. But I want to bring to the attention of Members some structural flaws that I find in this resolution beyond the whole matter of delay.

First of all, as I understand the privileged resolution, and I will ask the Chair for a parliamentary opinion in a moment, but if this privileged resolution were to pass, this would preempt the previous privileged resolutions. Were that to be the case, then there is no provision in this privileged resolution to identify the 24 abusers that we have twice decided tonight deserve to be highlighted for their extreme abuse of banking practice. No provision is in this whatsoever.

Mr. Speaker, I would ask if that is in the resolution of the gentleman from Oklahoma [Mr. EDWARDS]?

Mr. EDWARDS of Oklahoma. Mr. Speaker, reclaiming my time, I would say that this does not in any way supersede the action that was taken previously, which instructs the release of the names and the accounts of the 24 Members.

Mr. Speaker, I might just say, I respect members of the Committee on Standards of Official Conduct, but it is amazing how after the vote we just had, all the members on the Committee on Standards of Official Conduct, look, we respect the work you did. We know the constraints you were under. But do not be so desperate to defend your work that you are going to stand up here and argue against full disclosure.

Mr. Speaker, I yield to the gentleman from Texas [Mr. BARTON].

Mr. BARTON of Texas. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, nobody is a paragon of knowledge tonight. We are in new territory. It appears to me that the committee that has the jurisdiction of which the distinguished gentleman from New York [Mr. McHUGH] is the chairman, has tried to bring to the floor a resolution that they felt fit the subject at hand. We have voted on that resolution in a positive way.

Wanting fuller disclosure, we have voted for the resolution that the gentleman from Missouri [Mr. GEPHARDT] and the gentleman from Illinois [Mr. MICHEL] brought to the floor.

Now the gentleman from Oklahoma [Mr. EDWARDS] has brought to the floor another resolution that goes to the fullest possible disclosure.

It is this gentleman's opinion that there is no harm done to wait another 20 days to try to get the fullest possible disclosure. I will give the gentleman from Oklahoma [Mr. EDWARDS] the benefit of the doubt. If the gentleman says he will come back on the floor at the end of the 20-day period, and the gentleman from New York [Mr. McHUGH] says they have not been able to accomplish the task, that he will offer another resolution to try to get the fullest possible disclosure available at that time.

Mr. Speaker, the world is not going to come to an end if we do not disclose everything we know, even if it is incomplete, tomorrow morning. So I would hope that we would vote for the resolution of the gentleman from Oklahoma [Mr. EDWARDS].

Mr. CARDIN. Mr. Speaker, will the gentleman yield?

Mr. EDWARDS of Oklahoma. I yield to the gentleman from Maryland.

Mr. CARDIN. Mr. Speaker, I want to thank my friend for yielding.

Mr. Speaker, I think I understand what the gentleman from Oklahoma [Mr. EDWARDS] is trying to do, and that is get the information relative to the amount of overdrafts for every Member, as well as to get the time that overdraft was outstanding.

But if I understand the charge that the gentleman has placed in his resolution, this is what I would ask, you would require the people to reconstruct the account of every Member, regardless of whether there are overdrafts or not, and to release information about their entire banking activities for 39 months, including the date and the amount of every check written for the past 39 months, the date and amount of every deposit made during the past 39 months, whether it is related or not to overdrafts or any irregularity in regard to the banking activities.

Mr. Speaker, I would ask the gentleman from Oklahoma [Mr. EDWARDS], am I correct that is the disclosure, the reconstruction and disclosure that the gentleman is seeking, that we reconstruct every check and every deposit, regardless of whether there are any insufficiencies during that period, for every Member and former Member of the House during the past 39 months?

Mr. EDWARDS of Oklahoma. Mr. Speaker, I would say to the gentleman from Maryland [Mr. CARDIN] that it is obvious on the face of it that is not what was intended. The committee itself went into reconstruction and the committee did not reveal and does not propose to reveal on those accounts that were reconstructed every deposit and every check, regardless of whether there were overdrafts. Mine does nothing any different than that.

Mr. Speaker, I have not seen this many red herrings in one place in a long time. It is amazing the lengths to which people will go to try to avoid disclosing what they did, for how long and for how much.

Mr. CARDIN. Mr. Speaker, I am just trying to get the intent of the gentleman.

Mr. EDWARDS of Oklahoma. Mr. Speaker, my intent is that those overdrafts will be revealed. If you have no overdrafts, do not worry about it. But the people that had overdrafts, how much and for how long, just as the committee proposes to do with those accounts they already reconstructed.

Mr. CARDIN. Mr. Speaker, if the gentleman will yield further, it is not the intent of this resolution to require what I indicated, that my reading of it, where it says we are supposed to disclose the reconstructed history for every Member of the House, the gentleman is only referring to it as it relates to overdrafts?

Mr. EDWARDS of Oklahoma. Mr. Speaker, absolutely. The reason that is not stated more clearly is that is the only purpose of this whole thing. That was the charge of the committee. It only refers to overdrafts, not where Members made their deposits or whatever.

Mr. KYL. Mr. Speaker, will the gentleman yield?

Mr. EDWARDS of Oklahoma. I yield to the gentleman from Arizona.

Mr. KYL. Mr. Speaker, I appreciate the gentleman yielding.

Mr. Speaker, my objection to the resolution goes to a different point. I wonder if I might ask the gentleman from Oklahoma [Mr. EDWARDS] a question.

On two occasions in the resolution it provides that the committee is instructed that it may release, and this is on the top of the second page, the names, and then toward the bottom of that page, under paragraph 2 of the last "Whereas" clause, it says that the committee is authorized to disclose. But nowhere is it provided that the committee shall disclose or is directed to disclose.

Moreover, in the very last paragraph of the resolution, under paragraph 4, it is provided that the committee provide each Member a full disclosure of the Member's account history with the House bank.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I might like to ask the staff for the minority leader to stop working on the resolution while the Members have a debate.

Mr. KYL. Mr. Speaker, if the gentleman will yield further, I have two questions then for the gentleman from Oklahoma [Mr. EDWARDS].

First of all, nowhere in this resolution is the committee directed or instructed to make this material public. They are only authorized that it may be done. In my mind that is not the kind of full disclosure that we adopted earlier and that I support.

Second, instead of providing for full public disclosure as a mandatory matter, the last paragraph provides that a letter can be written to each Member of the House, which is essentially the kind of indirect disclosure that was originally recommended by the committee.

Mr. Speaker, I would ask the gentleman from Oklahoma [Mr. EDWARDS], is that not correct?

Mr. EDWARDS of Oklahoma. Mr. Speaker, I would say to the gentleman from Arizona [Mr. KYL] that the intent is clear that the committee, which I do have great regard for, would be instructed to do that. The word probably should have been "instructed." It is clear that is what I intended to be done by the committee.

Mr. KYL. Mr. Speaker, if I might just clarify it, the intention of the gentleman from Oklahoma [Mr. EDWARDS] is that it be mandatory, and not discretionary.

Mr. LAFALCE. Mr. Speaker, if the gentleman will yield, the gentleman from Oklahoma [Mr. EDWARDS] has frequently referred to overdrafts. I am not sure what the gentleman intends by the use of that word. Is it the face amount of the check, $50,000, or is it the deficiency, which if you had $49,900 in your account, is simply $100? What is it that the gentleman intends to have revealed? The face amount, or the deficiency?

Mr. EDWARDS of Oklahoma. Mr. Speaker, I think that is a very valid question. I did not make any attempt to change the standard being used by the committee in its work to date. It is my own personal view, as one individual Member, that the overdraft is the extent by which you exceed the amount that you had.

Mr. Speaker, if a Member had a $50,000 check and had $49,000 in the bank, in my opinion that is a $1,000 overdraft. However, I have made no attempt to try to impose upon the committee any different standard than what it has been using. All I am talking about is how much they reveal.

☐ 0220

They are already planning to reveal that information about 24 people. All we are saying is make it everybody. That is all we are saying.

Mr. LAFALCE. Well which is it that would be revealed then, the face amount or the deficiency? You are saying they should reveal for all that which they will reveal for the 24. What is it then that will be revealed, the face amount or the deficiency? We ought to know.

Mr. EDWARDS of Oklahoma. I will get back to you in 1 minute.

Let me ask the gentleman from New York [Mr. MCHUGH], whose committee is investigating this and has reconstructed the accounts of other Members, and is planning to go forward with detailing the overdrafts of Members, and on the 24 to reveal more than just the names and the numbers of the checks, what do you plan to use as your standard? Is that standard the total face value of the check or the amount by which it exceeded the amount in the account?

Mr. MCHUGH. Mr. Speaker, will the gentleman yield?

Mr. EDWARDS of Oklahoma. I yield to the gentleman from New York.

Mr. MCHUGH. Mr. Speaker, the resolution that has been passed would direct the committee, after a period of appeal, to disclose for those who we find to have abused their accounts following due process, the number of checks during a 39-month period that were overdrafts, that is that overdrafted the account; second, the number of months that the Member's deficiency exceeded the next month's net salary deposit; third, any checks that the bank actually bounced; that is, returned to the Member for insufficient funds. And the bank did not often do that, but it did it in four or five cases. And fourth, if the Member bounced any nonaccount checks at the bank, that would also be disclosed.

One of my questions was the same as the gentleman from New York's question. In reading the gentleman's resolution, it would appear to me that we would be authorized to release publicly the full account history that has been reconstructed, however long it takes to reconstruct. But is the gentleman now telling us, despite what the resolution says, that he would be expecting us to release only what we release with regard to the 24 under the prior resolution?

Mr. EDWARDS of Oklahoma. What the gentleman from Oklahoma has said, a number of times, is that I want to expand the number who are covered by the release to all of the people who had overdrafts. And I want to release not just the names and the number of the checks, but for how much those checks were and for how long they were held by the bank. That is really not difficult.

Mr. LAFALCE. The gentleman has just answered my question. You have just said the face amounts of the checks as opposed to the deficiency, so that contradicts your earlier statement.

Mr. EDWARDS of Oklahoma. I said to the gentleman I consider, in my own personal opinion, that a fair interpretation of what an overdraft is the extent by which it exceeds the amount in the account.

Mr. LAFALCE. Now you have gone back to your first position.

Mr. MCHUGH. Would the gentleman continue to yield to me?

Mr. EDWARDS of Oklahoma. Mr. Speaker, I yield to the gentleman from California [Mr. THOMAS].

Mr. THOMAS of California. Mr. Speaker, I have sat on the sidelines and not participated in this, but I also believe it should be a fair fight. Would you please look at the resolution. I have just read it. It says that it instructs the Committee on Standards of Official Conduct that it may release the names and full account histories, and it seems to me that if we are interested in maintaining the honor and the integrity of the committee that within that "may" provision the committee itself, in its wisdom and judgment, can match up the information that is released, and more if they desire in this, or make sure it parallels the other resolutions. It is not "shall," it is "may."

Let us put the control back in the hands of the committee. This would simply tell them to do what they did on the other resolutions for every person who had an overdraft. Do not get into the game, please, at 2:30 in the morning of not reading the resolution, and then attempting to play word games. It says "may release all of the information." I think it is clear that the committee can release the information that it already has on the other Members, and it does not need to go into the full procedure if it chooses not to do so.

Let us leave the decision in the hands of the wise people on the standards committee.

Mr. EDWARDS of Oklahoma. Mr. Speaker, we have debated this for some time, early into the morning. We have heard the members of the committee defend their decisions, and I know agreements were made as to what we would go forward with and what we would not go forward with. But at this time, Mr. Speaker, I would like to move the previous question on the resolution.

Mr. FOLEY. Mr. Speaker, will the gentleman from Oklahoma withhold, and yield to me?

Mr. EDWARDS of Oklahoma. Of course I yield to the Speaker.

Mr. FOLEY. Mr. Speaker, I am sorry to interrupt, but I do appreciate the gentleman from Oklahoma yielding.

With the greatest respect, I think there is still some confusion about what the resolution requires. The gentleman has suggested that he wishes to have the same kind of information provided or that will be provided on the 24 for all Members, and the gentleman from California has just said that the resolution is discretionary and not mandatory.

The resolution also requires a complete review of each account, day by day, for all of the Members' accounts for 39 months to be accomplished in 20 days. That I think is an extraordinary mandate which I would suggest would be difficult for an army of accountants to provide, but the gentleman requires it.

Section 4 requires that within 48 hours of the adoption of this resolution, namely, if it is adopted, about 3 a.m. Sunday morning all Members are to receive their complete bank records from the House bank. At that point, of course, I think Members will have to be prepared by early Sunday morning to make disclosures of that information, whereas under the resolution we previously adopted the disclosure date is 10 days after the first 10-day disclosure has occurred so that Members will have a reasonable time to prepare an answer to their press and constituents about the nature of any overdrafts. This will present an effective deadline of 3 or 4 a.m. Sunday morning.

There is no parliamentary reason, in my view, why the gentleman cannot, if this matter is referred to the Committee on Standards, bring the matter up again, next week, or the following week, if he does not believe that the Committee on Standards is proceeding to seriously consider the recommendations that he has made in the resolution. By referring the resolution to the Committee on Standards, we do not kill it. We do not vote against it. We do not disapprove it. We let the Committee on Standards have an opportunity to see what can be accomplished in a reasonable way to try and meet the gentleman's intentions. And if the gentleman is not satisfied, a privileged resolution would be available to him at any time to reassert the resolution.

So I would respectfully suggest that at this late hour we not adopt a resolution which has somewhat confusing instructions, somewhat demanding instructions that may be completely impractical to achieve and may actually work to the detriment of Members in the very short time in providing an orderly explanation of their circumstances. Let the Committee on Standards have an opportunity to review this. The gentleman's rights will be protected if he wishes to reassert the resolution.

Mr. EDWARDS of Oklahoma. I respect the Speaker of this House a great deal as a person and as the Speaker. I cannot agree, however, after hearing the concerns expressed by so many Members, including Members on his side of the aisle, that this would unduly delay things, that perhaps I ought to wait a week or 2 weeks and bring it back again. It seems to me that that defeats the purpose.

Ordinarily, when we require that things be made available at a certain time or take place after a certain number of hours, we refer to working days. If it fell at 3 o'clock on a Sunday morning, I for one would certainly be willing to acknowledge that we would wait until after the weekend has passed. I do not think it is unreasonable for Members to be able to get their own bank records. I have reporters who come to me and ask what my bank records show. I do not know what they show. You have them and I cannot get them.

So, I think the issue is very simple: Do we disclose, do we tell the American people we are disclosing tonight the names of the people who had overdrafts, and how much, or do we give them the full information that enables them to determine who abused and who did not?

□ 0230

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

MOTION TO COMMIT OFFERED BY MR. GEPHARDT

Mr. GEPHARDT. Mr. Speaker, I move to commit the resolution to the Committee on Standards of Official Conduct.

The SPEAKER pro tempore (Mr. HUGHES). The question is on the motion to commit.

The question was taken; and the speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. EDWARDS of Oklahoma. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 244, noes 133, not voting 58, as follows:

[Roll No. 47]

AYES—244

Abercrombie
Ackerman
Alexander
Allen
Anderson
Andrews (ME)
Andrews (TX)
Anthony
Applegate
Archer
Baker
Ballenger
Bateman
Bentley
Bevill
Bilbray
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Bryant
Bunning
Burton
Byron
Camp
Cardin
Carper
Chandler
Clay
Coleman (TX)
Condit
Conyers
Cooper
Coughlin
Cox (IL)
Coyne
Cramer
Darden
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Doolittle
Dornan (CA)
Dwyer
Engel
English
Ewing
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Foley
Ford (MI)
Frank (MA)
Franks (CT)
Frost
Gallo
Gaydos
Gejdenson
Gephardt
Gibbons
Gilchrest
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Grandy
Green
Hammerschmidt
Hastert
Hayes (IL)
Hayes (LA)
Hefley
Henry
Herger
Hertel
Hoagland
Hobson
Holloway
Horn
Horton
Houghton
Hoyer
Huckaby
Hughes
Hutto
Inhofe
Ireland
Jefferson
Jenkins
Johnson (CT)
Johnson (TX)
Johnston
Jones (GA)
Kaptur
Kasich
Kennelly
Kildee
Kolbe
Kolter
Kopetski
Kyl
LaFalce
Lantos
LaRocco
Lehman (CA)
Levin (MI)
Lewis (GA)
Lightfoot
Lloyd
Lowey (NY)
Luken
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Morella
Morrison
Murphy
Murtha
Natcher
Neal (NC)
Nowak
Nussle
Oakar
Oberstar
Obey
Ortiz
Orton
Oxley
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickle
Rahall
Rangel
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roe
Rogers
Rohrabacher
Rose
Roth
Roukema
Rowland
Roybal
Sabo
Sanders
Sangmeister
Santorum
Sawyer
Saxton
Schaefer
Scheuer
Schroeder
Sensenbrenner
Serrano
Shaw
Shays
Sikorski
Skaggs
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Snowe
Spratt
Stallings
Stearns
Stokes
Swett
Swift
Synar
Tauzin
Taylor (NC)
Thomas (GA)
Thornton
Torres
Towns
Traficant
Unsoeld
Upton
Vento
Visclosky
Walker
Walsh
Waters
Weiss
Williams
Wilson
Wise
Wolpe
Wylie
Yatron
Zeliff
Zimmer

NOES—133

Allard
Andrews (NJ)
Armey
Atkins
AuCoin
Bacchus
Barnard
Barrett
Barton
Beilenson
Bennett
Bereuter
Berman
Bilirakis
Bruce
Callahan
Campbell (CA)
Carr
Chapman
Clement
Costello
Cox (CA)
Crane
Cunningham
Davis
DeFazio
DeLay
Dorgan (ND)
Downey
Dreier
Duncan
Durbin
Early
Eckart
Edwards (OK)
Edwards (TX)
Emerson
Erdreich
Espy
Evans
Fields
Gallegly
Gekas
Geren
Gilman
Guarini
Hall (OH)
Hall (TX)
Hamilton
Hancock
Harris
Hatcher
Hochbrueckner
Hopkins
Hubbard
Hunter
James
Johnson (SD)
Jontz
Kanjorski
Kennedy
Klug
Kostmayer
Lagomarsino
Lancaster
Levine (CA)
Lewis (FL)
Lipinski
Livingston
Long
Lowery (CA)
Machtley
McCollum
McEwen
McGrath
Miller (OH)
Mink
Moody
Moorhead
Mrazek
Myers
Nagle
Neal (MA)
Nichols
Olver
Owens (UT)
Packard
Pallone
Panetta
Perkins
Petri
Pickett
Porter
Poshard
Ramstad
Ravenel
Ray
Reed
Regula
Roberts
Roemer
Ros-Lehtinen
Rostenkowski
Russo
Sarpalius
Schiff
Schumer
Sharp
Sisisky
Skeen
Skelton
Smith (TX)
Solarz
Solomon
Spence
Staggers
Stenholm
Studds
Stump
Sundquist
Tallon
Tanner
Taylor (MS)
Thomas (CA)
Valentine
Vander Jagt
Volkmer
Waxman
Weldon
Wheat
Wolf
Wyden
Young (FL)

NOT VOTING—58

Annunzio
Aspin
Blackwell
Brown
Bustamante
Campbell (CO)
Clinger
Coble
Coleman (MO)
Collins (IL)
Collins (MI)
Combest
Dannemeyer
de la Garza
Dickinson
Dooley
Dymally
Edwards (CA)
Foglietta
Ford (TN)
Gillmor
Gradison
Gunderson
Hansen
Hefner
Hyde
Jacobs
Jones (NC)
Kleczka
Laughlin
Leach
Lehman (FL)
Lent
Lewis (CA)
Mavroules
McCandless
McCrery
McDade
Miller (CA)
Moran
Olin
Owens (NY)
Price
Pursell
Quillen
Savage
Schulze
Shuster
Stark
Thomas (WY)
Torricelli
Traxler
Vucanovich
Washington
Weber
Whitten
Yates
Young (AK)

☐ 0248

Mr. NICHOLS changed his vote from "aye" to "no."

So the motion to commit was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. DANNEMEYER. Mr. Speaker, I was unavoidably absent for rollcall votes 44 through 47. Had I been present during these votes I would have voted "yea" on rolecalls 44 and 45, "nay" on rollcall 46 and "yea" on rollcall 47.

COMMUNICATION FROM HON. NICHOLAS MAVROULES MEMBER OF CONGRESS

The SPEAKER pro tempore. (Mr. HUGHES), laid before the House the following communication from the Honorable NICHOLAS MAVROULES Member of Congress:

HOUSE OF REPRESENTATIVES,
Washington, DC, March 4, 1992.

Hon. THOMAS S. FOLEY,
Speaker, House of Representatives Washington, DC.

DEAR MR. SPEAKER: This is to notify you pursuant to Rule L (50) of the Rules of the House that I have been served with a subpoena issued by the United States District Court for the District of Massachusetts.

After consultation with the General Counsel to the Clerk, I will make the determinations required by the Rule.

Sincerely,
NICHOLAS MAVROULES,
Member of Congress.

COMMUNICATION FROM CHAIRMAN OF COMMITTEE ON THE BUDGET REGARDING CURRENT LEVEL OF SPENDING AND REVENUES FOR FISCAL YEARS 1992 THROUGH 1996

(Mr. PANETTA asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PANETTA. Mr. Speaker, on behalf of the Committee on the budget and as Chairman of the Committee on the Budget, pursuant to the procedures of the Committee on the Budget and section 311 of the Congressional Budget Act of 1974, as amended, I am submitting for printing in the CONGRESSIONAL RECORD the official letter to the Speaker advising him of the current level of revenues for fiscal years 1992. Spending levels for fiscal years 1993 through 1996 are not included because annual appropriations acts for those years have not been enacted.

This is the fourth report of the 102d Congress for fiscal year 1992. This report is based on the aggregate levels and committee allocations for fiscal years 1992 through 1996 as contained in House Report 102–69, the conference report to accompany House Concurrent Resolution 121.

The term "current level" refers to the estimated amount of budget authority, outlays, entitlement authority, and revenues that are available—or will be used—for the full fiscal year in question based only on enacted law.

As chairman of the Budget Committee, I intend to keep the House informed regularly on the status of the current level.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE BUDGET,
Washington, DC, March 11, 1992.

Hon. THOMAS S. FOLEY,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: To facilitate enforcement under sections 302 and 311 of the Congressional Budget Act, as amended, I am herewith transmitting the status report on the current level of revenues for fiscal years 1992 through 1996 and spending estimates for fiscal year 1992, under House Concurrent Resolution 121, the Concurrent Resolution on the Budget for Fiscal Year 1992. Spending levels for fiscal years 1993 through 1996 are not included because annual appropriations acts for those years have not been enacted.

The enclosed tables also compare enacted legislation to each committee's 602(a) allocation of discretionary new budget authority and new entitlement authority. The 602(a) allocations to House Committees made pursuant to House Concurrent Resolution 121 were printed in the statement of managers accompanying the conference report on the resolution (H. Report 102–69).

Sincerely,
LEON E. PANETTA,
Chairman.

Enclosures.

REPORT TO THE SPEAKER OF THE U.S. HOUSE OF REPRESENTATIVES FROM THE COMMITTEE ON THE BUDGET ON THE STATUS OF THE FISCAL YEAR 1992 CONGRESSIONAL BUDGET, ADOPTED IN HOUSE CONCURRENT RESOLUTION 121 REFLECTING COMPLETED ACTION AS OF MARCH 10, 1992

[On-budget amounts, in millions of dollars]

	Fiscal year 1992	Fiscal years 1992–96
Appropriate level:		
Budget authority	1,269,300	6,591,900
Outlays	1,201,600	6,134,100
Revenues	850,400	5,832,000
Current level:		
Budget authority	1,276,896	NA
Outlays	1,207,499	NA
Revenues	853,364	4,829,000
Current Level over (+)/under(-) appropriate level:		
Budget authority	+7,596	NA
Outlays	+5,849	NA
Revenues	+2,964	−3,000

ANA=Not applicable because annual appropriations acts for those years have not been enacted.

BUDGET AUTHORITY

Any measure that provides new budget or entitlement authority for fiscal year 1992 that is not included in the current level estimate for that year, if adopted and enacted, would cause the appropriate level of budget authority for that year as set forth in House Concurrent Resolution 121, to be exceeded.

OUTLAYS

Any measure that (1) provides new budget or entitlement authority that is not included in the current level estimate for fiscal year 1992, and (2) increases outlays in fiscal year 1992, if adopted and enacted, would cause the appropriate level of outlays for that year as set forth in H. Con. Res. 121, to be exceeded.

REVENUES

Any measure that would result in a revenue loss that is not included in the current level revenue estimate and exceeds $2,964 million for fiscal year 1992, if adopted and enacted, would cause revenues to be less than the appropriate level for that year as set forth in H. Con. Res. 121. Any measure that would result in a revenue loss that is not included in the current level revenue estimate for fiscal years 1992 through 1996, if adopted and enacted, would cause revenues to be less than the appropriate level for those years as set forth in H. Con. Res. 121.

DIRECT SPENDING LEGISLATION

[Fiscal years, in millions of dollars]

	1992			1992–96		
	BA	OLS	NEA	BA	OLS	NEA
House Committee:						
Agriculture:						
Appropriate level	0	0	0	3,720	3,540	4,716
Current Level	−2	−2	−1	−1	−1	(1)
Difference	−2	−2	−1	−3,719	−3,539	−4,716
Armed Services:						
Appropriate level	0	0	0	0	0	0
Current Level	0	−7	−7	0	−83	−83
Difference	....	−7	−7	....	−83	−83
Banking, Finance and Urban Affairs:						
Appropriate level	0	0	0	0	0	0
Current Level	28	28	0	177	177	0
Difference	+28	+28	....	+177	+177	....

DIRECT SPENDING LEGISLATION—Continued

[Fiscal years, in millions of dollars]

	1992			1992–96		
	BA	OLS	NEA	BA	OLS	NEA
District of Columbia:						
Appropriate level	0	0	0	0	0	0
Current Level	0	0	0	0	0	0
Difference						
Education and Labor:						
Appropriate level	0	0	56	0	0	20,153
Current Level	−46	−46	0	0	4	0
Difference	−46	−46	−56	0	+4	−20,153
Energy and Commerce:						
Appropriate level	0	0	0	0	0	0
Current Level	0	0	0	0	0	0
Difference						
Foreign Affairs:						
Appropriate level	0	0	0	0	0	0
Current Level	0	0	0	0	0	0
Difference						
Government Operations:						
Appropriate level	0	0	0	0	0	0
Current Level	0	0	0	0	0	0
Difference						
House Administration:						
Appropriate level	0	0	0	0	0	0
Current Level	0	0	0	0	0	0
Difference						
Interior and Insular Affairs:						
Appropriate level	0	0	0	0	0	0
Current Level	−2	−2	0	5	5	0
Difference	−2	−2		+5	+5	
Judiciary:						
Appropriate level	0	0	0	0	0	0
Current Level	0	0	0	16	16	16
Difference				+16	+16	+16
Merchant Marine and Fisheries:						
Appropriate level	0	0	0	0	0	0
Current Level	0	0	(1)	0	0	(1)
Difference			(1)			(1)
Post Office and Civil Service:						
Appropriate level	0	0	0	0	0	0
Current Level	0	0	0	0	0	0
Difference						
Public Works and Transportation:						
Appropriate level	16,358	0	0	117,799	0	0
Current Level	18,514	0	0	113,048	0	0
Difference	+2,156	0	0	−4,751	0	0
Science, Space, and Technology:						
Appropriate level	0	0	0	0	0	0
Current Level	0	0	0	0	0	0
Difference						
Small Business:						
Appropriate level	0	0	0	0	0	0
Current Level	0	0	0	0	0	0
Difference						
Veterans' Affairs:						
Appropriate level	0	0	484	0	0	6,811
Current Level	0	5	378	0	19	2,182
Difference	0	+5	−106	0	+19	−4,629
Ways and Means:						
Appropriate level	0	0	0	0	0	620
Current Level	7,036	7,036	8,036	7,458	7,458	9,098
Difference	+7,036	+7,036	+8,036	+7,458	+7,458	+8,478
Permanent Select Committee on Intelligence:						
Appropriate level	0	0	0	0	0	0
Current Level	(1)	(1)	(1)	(1)	(1)	(1)
Difference	(1)	(1)	(1)	(1)	(1)	+1

[1] Less than $500 thousand dollars.

DISCRETIONARY APPROPRIATIONS

[Fiscal year 1992—in millions]

	Revised 602(b) subdivisions		Latest current level		Difference	
	BA	O	BA	O	BA	O
Commerce-Justice-State-Judiciary	21,070	20,714	21,029	20,708	−41	−6
Defense	270,244	275,222	269,860	275,038	−384	−184
District of Columbia	700	690	700	690	0	0
Energy and Water Development	21,875	20,770	21,875	20,720	0	−50
Foreign Operations	15,285	13,556	14,262	13,200	1,023	−356
Interior	13,102	12,050	13,105	12,198	3	148
Labor, Health and Human Services, and Education	59,087	57,797	59,085	57,832	−2	35
Legislative	2,344	2,317	2,343	2,310	−1	−7

DISCRETIONARY APPROPRIATIONS—Continued

[Fiscal year 1992—in millions]

	Revised 602(b) subdivisions		Latest current level		Difference	
	BA	0	BA	0	BA	0
Military Construction	8,564	8,482	8,563	8,433	−1	−49
Rural development, agriculture, and related agencies	12,299	11,226	12,299	11,223	0	−3
Transportation	13,765	31,800	13,762	31,799	−3	−1
Treasury-Postal Service	10,825	11,120	10,824	11,119	−1	−1
VA-HUD-Independent agencies	63,953	61,714	63,942	61,711	−11	−3
Grand total	513,113	527,458	511,649	526,981	1,464	477

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 11, 1992.
HON. LEON E. PANETTA,
Chairman, Committee on the Budget,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended, this letter and supporting detail provide an up-to-date tabulation of the on-budget current levels of new budget authority, estimated outlays, and estimated revenues for fiscal year 1992 in comparison with the appropriate levels for those items contained in the 1992 Concurrent Resolution on the Budget (H. Con. Res. 121). This report is tabulated as of close of business March 10, 1992 and is summarized as follows:

[In millions of dollars]

	House current level	Budget resolution (H. Con. Res. 121)	Current level +/− resolution
Budget authority	1,276,896	1,269,300	+7,596
Outlays	1,207,449	1,201,600	+5,849

[In millions of dollars]

	House current level	Budget resolution (H. Con. Res. 121)	Current level +/− resolution
Revenues:			
1992	854,364	850,400	+2,964
1992 to 1996	4,829,000	4,832,000	−3,000

Since my last report, dated February 18, 1992, the President has signed the American Technology Preeminence Act (P.L. 102–245). This action did not change the estimates of budget authority, outlays and revenues.

Sincerely,

JAMES L. BLUM,
(For Robert D. Reischauer, Director).

PARLIAMENTARIAN STATUS REPORT, 102D CONGRESS, 2D SESSION, HOUSE ON-BUDGET SUPPORTING DETAIL FOR FISCAL YEAR 1992

[As of close of business Mar. 10, 1992]

	Budget authority	Outlays	Revenues
Enacted in previous sessions			
Revenues			853,364
Permanents and other spending legislation	807,617	727,237	
Appropriation legislation	686,331	703,643	
Continuing resolution authority	13,992	5,454	
Mandatory adjustments[1]	(1,208)	950	
Offsetting receipts	(232,542)	(232,542)	
Total previously enacted	1,274,190	1,204,743	853,364
Enacted this session			
Emergency unemployment compensation extension (P.L. 102–244)	2,706	2,706	
American technology preeminence (P.L. 102–245)			([2])
Total current level	1,276,896	1,207,449	853,364
Total budget resolution	1,269,300	1,201,600	850,400
Amount remaining:			
Over budget resolution	7,596	5,849	2,964
Under budget resolution			

[1] Adjustments required to conform with current law estimates for entitlements and other mandatory programs in the Concurrent Resolution on the Budget (H.Con.Res. 121).

[2] Less than $500,000.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. MORAN (at the request of Mr. GEPHARDT), for today, on account of illness in family.

SENATE BILL REFERRED

A Bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 2344. An act to improve the provision of health care and other services to veterans by the Department of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs.

SENATE ENROLLED BILL AND JOINT RESOLUTIONS SIGNED

The SPEAKER announced his signature to an enrolled bill and joint resolutions of the Senate of the following titles:

S. 2324. An act to amend the Food Stamp Act of 1977 to make a technical correction relating to exclusion from income under the food stamp program, and for other purposes;

S.J. Res. 176. Joint resolution to designate March 19, 1992, as "National Women in Agriculture Day"; and

S.J. Res. 240. Joint resolution designating March 25, 1992 as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy."

ADJOURNMENT

Mr. GEPHARDT. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 50 minutes a.m.), under its previous order, the House adjourned until Monday, March 16, 1992, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3080. A letter from the Railroad Retirement Board, transmitting a draft of proposed legislation to amend the Railroad Unemployment Insurance Act to remove an obsolete section of that act, and for other purposes; to the Committee on Energy and Commerce.

3081. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed Letter(s) of Offer and Acceptance [LOA] to Germany for defense articles and services (Transmittal No. 92-17), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3082. A letter from the Director, U.S. Information Agency, transmitting a draft of proposed legislation to amend section 235 of the Foreign Relations Authorization Act, fiscal years 1990 and 1991 (Public Law 101-246) and to amend section 701 of the U.S. Information and Educational Exchange Act of 1984, as amended (Public Law 80-402); to the Committee on Foreign Affairs.

3083. A letter from the Administrator, National Aeronautics and Space Administration, transmitting a report of activities under the Freedom of Information Act for calendar year 1991, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3084. A letter from the Secretary, Resolution Trust Corporation, transmitting a report of activities under the Freedom of Information Act for calendar year 1991, pursuant to 5 U.S.C. 552(e); to the Committee on Government Operations.

3085. A letter from the Secretary of the Interior, transmitting the "High Plains States Groundwater Demonstration Program 1991 Interim Report," pursuant to 43 U.S.C. 390g-2(c)(2); to the Committee on Insular Affairs.

3086. A letter from the Railroad Retirement Board, transmitting a draft of proposed legislation to amend the Railroad Retirement Tax Act and the Railroad Retirement Act to ease administration of those acts, and for other purposes; to the Committee on Ways and Means.

3087. A letter from the Secretary of Labor, transmitting a draft of proposed legislation to repeal the Trade Adjustment Assistance Program, and for other purposes; to the Committee on Ways and Means.

3088. A letter from the Assistant Secretary of Legislative Affairs, Department of State, transmitting a report regarding the economic policy and trade practices of each country with which the United States has an economic or trade relationship, pursuant to 15 U.S.C. 4711; jointly, to the Committees on Foreign Affairs and Ways and Means.

3089. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to authorize appropriation for fiscal year 1993 for the U.S. Coast Guard; jointly, to the Committee on Merchant Marine and Fisheries and Armed Services.

3090. A letter from the Department of the Army, transmitting a draft of proposed legislation to provide for the appropriations of funds from the harbor maintenance trust fund to the Department of the Army for payment of administrative expenses incurred in administering the port use fee and to clarify funding from the inland waterways trust fund for rehabilitation costs of existing and future projects for navigation on the inland and coastal waterways of the United States, and for other purposes; jointly, to the Committee on Public Works and Transportation and Ways and Means.

3091. A letter from the Army, transmitting a draft of proposed legislation entitled "Water Resources Development Act of 1992"; jointly, to the Committees on Public Works and Transportation, Interior and Insular Affairs, Merchant Marine and Fisheries, Science, Space, and Technology, and Energy and Commerce.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. FRANK of Massachusetts (for himself, Mrs. ROUKEMA, Mr. WYLIE, and Mr. KENNEDY):

H.R. 4449. A bill to authorize jurisdictions receiving funds for fiscal year 1992 under the HOME Investment Partnerships Act that are allocated for new construction to use the funds, at the discretion of the jurisdiction, for other eligible activities under such act and to amend the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 to authorize local governments that have financed housing projects that have been provided a section 8 financial adjustment factor to use recaptured amounts available from refinancing of the projects for housing activities; to the Committee on Banking, Finance and Urban Affairs.

By Mr. GONZALEZ (for himself and Mr. NEAL of North Carolina):

H.R. 4450. A bill to amend the Federal Reserve Act to require the Board of Governors of the Federal Reserve System, in conjunction with the Federal Reserve banks, to develop an automated access system for marketing U.S. securities, and for other purposes; jointly, to the Committees on Banking, Finance and Urban Affairs and Ways and Means.

By Mr. BOUCHER (for himself and Mr. MOORHEAD):

H.R. 4451. A bill to amend chapter 1 of title 17, United States Code, to include in the definition of a cable system a facility which makes secondary transmissions by microwave or certain other technologies; to the Committee on the Judiciary.

By Mr. DE LA GARZA (for himself and Mr. ENGLISH):

H.R. 4452. A bill to amend the Internal Revenue Code of 1986 to allow a credit to first-time farmers for purchases of farmland and farm equipment; to the Committee on Ways and Means.

By Mr. EVANS:

H.R. 4453. A bill to amend chapter 81 of title 10, United States Code, to extend certain guidelines for reductions in the number of civilian employees of the Department of Defense; to the Committee on Armed Services.

By Mr. LANTOS:

H.R. 4454. A bill to provide for the economic conversion and diversification of industries in the defense industrial base of the United States that are adversely affected by significant reductions in spending for national defense; jointly, to the Committees on Banking, Finance and Urban Affairs, Education and Labor, Small Business, Foreign Affairs, and Public Works and Transportation.

By Mrs. LLOYD:

H.R. 4455. A bill to amend the National Environmental Education Act to establish an environmental education clearing division to collect certain environmental information and make that information available to educational institutions in the United States and other interested persons; to the Committee on Education and Labor.

By Mr. McGRATH:

H.R. 4456. A bill to revise and extend the existing suspension of duty on certain small toys jewelry, and novelty goods; to the Committee on Ways and Means.

By Mr. RANGEL:

H.R. 4457. A bill to amend title XVIII of the Social Security Act to provide for coverage of qualified mental health professionals services under part B of the Medicare program; jointly, to the Committees on Energy and Commerce and Ways and Means.

By Mr. SMITH of New Jersey:

H.R. 4458. A bill to amend title 38, United States Code, to add bronchioloalveolar carcinoma to the list of diseases presumed to be service-connected for certain radiation-exposed veterans; to the Committee on Veterans' Affairs.

By Mr. TRAFICANT:

H.R. 4459. A bill to provide for a community health center for medically underserved populations in the northeastern portion of the State of Ohio; to the Committee on Energy and Commerce.

By Mr. WALKER (for himself, Mr. Morrison, Mr. Ritter, Mr. Boehlert, Mr. Sensenbrenner, Mr. Lewis of Florida, and Mr. Packard):

H.R. 4460. A bill to support full economic growth by maximizing U.S. energy supply and efficiency through technological innovation; jointly, to the Committees, on Science, Space, and Technology, Energy and Commerce, Ways and Means, and Interior and Insular Affairs.

By Mr. YOUNG of Alaska:

H.R. 4461. A bill to provide for efficiency in the performance of surveying and mapping activities in the Department of the Interior, and for other purposes; to the Committees on Interior and Insular Affairs.

By Mr. BARNARD:

H.R. 4462. A bill to amend the Water Resources Development Act of 1986 to direct the Secretary of the Army to permit certain persons to construct boat ramps and docks in the J. Strom Thurmond Lake, Georgia Lake, GA; to the Committee on Public Works and Transportation.

By Mr. DeFAZIO:

H.R. 4463. A bill to amend the Internal Revenue Code of 1986 to allow individuals a refundable credit for sewer connection expenses required under Federal or State law; to the Committee on Ways and Means.

By Mr. GUNDERSON (for himself, Mr. Roberts, Mr. English, Mr. Barrett, Mr. Stenholm, and Mr. Synar);

H.R. 4464. A bill to amend the Public Health Service Act to establish a program of grants for rural health outreach; to the Committee on Energy and Commerce.

By Mr. SPRATT:

H.R. 4465. A bill to amend the Solid Waste Disposal Act to improve public accountability and public safety in the management of hazardous waste facilities; to the Committee on Energy and Commerce.

H.R. 4466. A bill to amend the Solid Waste Disposal Act to improve public accountability and public safety in the management of hazardous waste facilities; to the Committee on Energy and Commerce.

By Mr. SUNDQUIST:

H.R. 4467. A bill to authorize the President to veto an item of appropriation in an act or resolution; to the Committee on the Judiciary.

H.R. 4468. A bill to amend the Internal Revenue Code of 1986 to provide a refundable credit for individuals who provide long-term care for family members at home; to the Committee on Ways and Means.

By Mr. MILLER of California:

H.J. Res. 440. Joint resolution designating April 9, 1992, as "Child Care Worthy Wage Day"; to the Committee on Post Office and Civil Service.

By Mr. FASCELL (for himself, Mr. Yatron, Mr. Torricelli, Mr. Hamilton, Mr. Solarz, Mr. Wolpe, Mr. Gejdenson, Mr. Dymally, Mr. Lantos, Mr. Berman, Mr. Levine of California, Mr. Feighan, Mr. Weiss, Mr. Ackerman, Mr. Owens of Utah, Mr. Johnston of Florida, Mr. Engel, Mr. Faleomavaega, Mr. Studds, Mr. Murphy, Mr. Kostmayer, Mr. Foglietta, Mr. McCloskey, Mr. Sawyer, Mr. Payne of New Jersey, Mr. Broomfield, Mr. Gilman, Mr. Lagomarsino, Mr. Leach, Mrs. Meyers of Kansas, Mr. Miller of Washington, Mr. Gallegly, Mr. Goss, and Mrs. Morella):

H. Con. Res. 292. Concurrent resolution expressing the sense of the Congress with respect to U.S. participation in the U.N. Conference on Environment and Development [UNCED]; to the Committee on Foreign Affairs.

By Mr. FASCELL (for himself, Mr. Torricelli, Mr. Broomfield, Mr. Lagomarsino, Mr. Leach, Mrs. Meyers of Kansas, Mr. Miller of Washington, Mr. Gallegly, and Mr. Goss):

H. Con. Res. 293. Concurrent resolution congratulating the Government and people of Venezuela on their demonstrated commitment to a broad-based and enduring democracy, and commending the agreement between the Action Democratica and COPEI parties to form a cabinet of national unity; to the Committee on Foreign Affairs.

By Mrs. JOHNSON of Connecticut (for herself, Mr. Bunning, Mr. Kyl, Mr. Hobson, Mr. Michel, Mr. Lewis of California, Mr. Stump, Mr. Solomon, Mr. Moorhead, Mr. Inhofe, Mr. Lagomarsino, Mr. Saxton, Mr. Gallo, Mr. Zimmer, Mr. Morrison, Mr. Hefley, Mr. McCrery, Mr. Walker, Mr. Ireland, Mrs. Vucanovich, Mr. Emerson, Mr. Ballenger, Mrs. Bentley, Mr. Hancock, Mr. McMillan of North Carolina, Mr. Gunderson, Mr. Lent, Mr. Fawell, Mr. Riggs, Mr. Cox of California, Mr. Smith of Oregon, Mr. Coble, Ms. Snowe, Mr. Hyde, Mr. Thomas of California, Mrs. Roukema, Mr. Gekas, Mr. Armey, Mr. Ravenel, Mr. Duncan, Mr. Chandler, Mr. Santorum, Mr. Kolbe, Mr. Fish, Mr. Wolf, Mr. Coleman of Missouri, Mr. Dreier of California, Mr. Ramstad, Mr. Smith of Texas, Mr. Bliley, Mr. Sensenbrenner, Mr. Spence, Mr. Rogers, Mr. Skeen, Mr. Barrett, Mr. Boehlert, Mr. Allard, Mr. Gilchrest, Mr. McEwen, Mr. Gilman, Mr. Henry, Mr. Upton, Mr. Packard, Ms. Molinari, Mr. Allen, Mr. Bereuter, Mr. Rhodes, Mr. Vander Jagt, Mr. DeLay, Mr. Ewing, Mr. Herger, Mr. Broomfield, Mr. James, Mr. Bateman, Mr. Gillmor, Mr. Shays, Mrs. Meyers of Kansas, Mr. Clinger, Mr. Roth, Mr. Taylor of North Carolina, Mr. Schaefer, Mr. Zeliff, Mr. Cunningham, Mr. Boehner, Mr. Nichols, Mr. Houghton, Mr. Bruce, and Mr. Slattery):

H. Res. 395. Resolution instructing the Committee on Standards of Official Conduct to disclose the names and pertinent account information of those Members and former Members of the House of Representatives who the Committee finds abused the privileges of the House Bank, and to make public other information regarding their House Bank accounts; to the Committee on Standards of Official Conduct.

By Mr. GEPHARDT (for himself, Mr. Michel, Mr. McHugh, Mr. Ackerman, Mr. Darden, Mr. Cardin, Mr. Pelosi, Mr. McDermott, Mr. Mfume, Mr. Hansen, Mr. Grandy, Mrs. Johnson of Connecticut, Mr. Bunning, Mr. Kyl, Mr. Goss, and Mr. Hobson):

H. Res. 396. Resolution instructing the Committee on Standards of Official Conduct to make certain further disclosure of account information of those Members and former Members of the House of Representatives who the committee finds had checks held by the Sergeant at Arms bank; considered and agreed to.

[March 13, 1992. (Legislative day of March 12, 1992)]

By Mr. EDWARDS of Oklahoma:

H. Res. 397. Resolution instructing the Speaker to within 20 days, fully reconstruct the 39-month bank account history of every current and former House Member's bank account at the House bank for the period beginning July 1, 1988, and ending October 3, 1991; provide Members the opportunity to appeal their records to the same subcommittee of the Committee on Standards of Official Conduct which was charged by House Resolution 236 to conduct the preliminary inquiry; within 20 days provide a complete report on the official and unofficial practices of the House bank and all instances during the 39-month period in which those procedures were not followed; and to provide, within 48 hours, to each Member of the House a complete accounting of his or here House bank account history; and instructing the Committee on Standards of Official Conduct that it may release the names and full account histories of all House bank account activities of Members and former Members of the House occurring during the period of July 1, 1988, and October 3, 1991; considered and committed to the Committee on Standards of Official Conduct.

By Ms. KAPTUR:

H. Res. 398. Resolution to authorize and direct the Speaker to contract with an independent public accounting firm to conduct audits of all Members accounts at the House bank for the period beginning on July 1, 1988, and ending on October 3, 1991; to the Committee on House Administration.

By Mr. SAXTON:

H. Res. 399. Resolution expressing the sense of the House of Representatives that the veterans health care system administered by the Department of Veterans Affairs should be maintained within that Department as a system uniquely charged with the mission of providing health care for the Nation's veterans; to the Committee on Veterans' Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

342. By the SPEAKER: Memorial of the Senate of the State of Michigan, relative to the Federal excise tax on vaccine production; to the Committee on Ways and Means.

343. Also, memorial of the House of Representatives of the State of Arkansas, relative to sexual harassment; jointly, to the Committees on House Administration, Education and Labor, and the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ABERCROMBIE:

H.R. 4469. A bill to clear certain impediments to the licensing of the vessel *Hazana* for employment in the coastwise trade of the United States; to the Committee on Merchant Marine and Fisheries.

By Mr. McGRATH:

H.R. 4470. A bill relating to the petition filed with respect to certain entries; to the Committee on Ways and Means.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 20: Mr. VANDER JAGT, Mr. MURPHY, Mr. PASTOR, Mr. NAGLE, Mr. RAMSTAD, and Mr. JEFFERSON.

H.R. 66: Mr. HAYES of Illinois, Mr. HYDE, Mr. DARDEN, Mr. KOSTMAYER, and Mr. KOLTER.

H.R. 606: Mr. ALLEN.

H.R. 662: Mr. EMERSON.

H.R. 722: Mr. KOPETSKI.

H.R. 723: Mr. KOPETSKI.

H.R. 841: Mr. SOLARZ.

H.R. 860: Mr. WISE.

H.R. 875: Mr. MORAN, Ms. HORN, Mr. WEISS, Mr. SCHUMER, and Mr. SHAYS.

H.R. 888: Mr. SENSENBRENNER.

H.R. 1468: Mr. OWENS of Utah.

H.R. 1551: Mr. ALLEN.

H.R. 1565: Mr. GUNDERSON.

H.R. 1598: Mr. FRANKS of Connecticut and Mr. SCHEUER.

H.R. 1623: Mr. BRYANT, Mr. OWENS of Utah, Mr. MARTIN, Mr. LEVINE of California, Mr. MARLENEE, and Mr. KLUG.

H.R. 1624: Mr. BRYANT, Mr. OWENS of Utah, Mr. MARTIN, Mr. LEVINE of California, Mr. GEREN of Texas, and Mr. KLUG.

H.R. 1704: Mr. PACKARD and Mr. CHAPMAN.

H.R. 1860: Mr. COBLE, Mr. HATCHER, Mr. TANNER, Mrs. LLOYD, and Mr. ROBERTS.

H.R. 1916: Mr. WISE.

H.R. 2037: Mr. KYL.

H.R. 2075: Mrs. BOXER and Mr. FASCELL.

H.R. 2200: Mr. BURTON of Indiana.

H.R. 2234: Mr. MOLLOHAN and Mr. MCMILLAN of North Carolina.

H.R. 2286: Mr. LOWERY of California.

H.R. 2492: Mr. MACHTLEY.

H.R. 2546: Mr. MCHUGH.

H.R. 2625: Mr. CAMP, Mr. DICKINSON, Mr. CAMPBELL of California, Mrs. LOWEY of New York, Mr. DOOLEY, Mr. RITTER, and Mr. STUMP.

H.R. 2650: Mr. BACCHUS, Mr. PERKINS, and Mr. JOHNSTON of Florida.

H.R. 2782: Ms. OAKAR, Mr. PALLONE, Mr. APPLEGATE, Ms. KAPTUR, Mrs. BOXER, Mr. CONDIT, Mr. FROST, Mrs. UNSOELD, Mr. EDWARDS of California, and Mr. KOLTER.

H.R. 2840: Mrs. UNSOELD.

H.R. 2872: Mr. HORTON.

H.R. 2936: Mr. HENRY and Mr. ANDREWS of New Jersey.

H.R. 3067: Mr. LAROCCO and Mr. FROST.

H.R. 3138: Mr. WEISS.

H.R. 3221: Ms. WATERS, Mr. GIBBONS, Mr. BLACKWELL, Mr. HAYES of Illinois, Mr. BEREUTER, Mr. ARMEY, Mrs. COLLINS of Michigan, Mr. OWENS of New York, Mr. JEFFERSON, Mr. SMITH of Iowa, and Mr. DARDEN.

H.R. 3222: Mr. SCHIFF.

H.R. 3290: Mr. ZIMMER, Mr. DORNAN of California, Mr. FAWELL, Mr. PACKARD, Mr. ZELIFF, Mr. DANNEMEYER, Mr. HERGER, Mr. DOOLITTLE, and Mr. DELAY.

H.R. 3373: Ms. NORTON, Mr. LIVINGSTON, Mr. DICKINSON, Mr. WEBER, and Mr. SHAYS.

H.R. 3380: Mr. NEAL of North Carolina, Mr. THOMAS of Wyoming, Mr. SABO, Mr. FORD of Tennessee, and Mr. FISH.

H.R. 3473: Ms. HORN and Mr. WILSON.

H.R. 3560: Mr. LIPINSKI, Mr. HEFNER, and Mr. YATES.

H.R. 3592: Mr. BATEMAN and Mrs. BENTLEY.

H.R. 3636: Mr. PARKER, Mr. HERTEL, Mr. CLEMENT, and Mr. OLIN.

H.R. 3642: Mr. FROST.

H.R. 3654: Mr. OWENS of New York and Mr. QUILLEN.

H.R. 3677: Mr. MACHTLEY.

H.R. 3702: Ms. HORN.

H.R. 3779: Mr. RAMSTAD and Mr. SIKORSKI.

H.R. 3780: Mr. CAMP.

H.R. 3794: Mr. ATKINS, Mr. BERMAN, Mr. BONIOR, Mr. DELLUMS, Mr. EDWARDS of California, Mr. JONTZ, Mr. KOSTMAYER, Mr. MOODY, Mr. MRAZEK, Mr. OBERSTAR, Mr. OLVER, Mr. PENNY, Mr. STARK, Mr. VENTO, Mr. YATES, and Mrs. BOXER.

H.R. 3857: Mr. HERGER.

H.R. 3864: Mr. SPENCE.

H.R. 3887: Mr. BEREUTER.

H.R. 3924: Mr. HAMILTON.

H.R. 3941: Mr. BILBRAY.

H.R. 3949: Mr. SANGMEISTER and Mr. EDWARDS of California.

H.R. 3958: Mr. KILDEE and Mr. CAMP.

H.R. 3986: Mr. KOPETSKI, Mr. FROST, and Mr. GREEN of New York.

H.R. 4040: Mr. BLILEY and Mr. DUNCAN.

H.R. 4077: Mr. MACHTLEY.

H.R. 4100: Mr. TORRICELLI.

H.R. 4121: Mr. SOLOMON.

H.R. 4163: Mr. ANDREWS of New Jersey.

H.R. 4178: Mr. OWENS of New York and Mr. HORTON.

H.R. 4207: Mr. SCHAEFER and Mr. GUNDERSON.

H.R. 4229: Mr. JONTZ.

H.R. 4277: Mr. JOHNSTON of Florida.

H.R. 4280: Mr. BAKER.

H.R. 4286: Mr. LIPINSKI, and Mr. HAYES of Illinois.

H.R. 4315: Mrs. PATTERSON, Mr. DOOLEY, Mr. CAMP, Mr. WALSH, and Mr. LAUGHLIN.

H.R. 4338: Mr. DARDEN, Mr. ANDREWS of New Jersey, Mr. STAGGERS, Mr. JOHNSON of South Dakota, Mr. YOUNG of Alaska, Mr. THORNTON, Mr. MARTINEZ, Mr. PAYNE of New Jersey, Mr. KOPETSKI, Mr. MURPHY, Mr. PERKINS, Mr. LEWIS of Georgia, Mr. SAWYER, Mr. GUARINI, Mrs. UNSOELD, Mr. MOORHEAD, Mr. SLATTERY, Mr. BILBRAY, Mr. HATCHER, Mr. WILLIAMS, Mr. DONNELLY, Mr. STARK, Mr. HUGHES, Mr. STALLINGS, Mr. PENNY, Ms. NORTON, Mr. ANDREWS of Maine, Mr. RICHARDSON, Mr. OBERSTAR, Mr. MCDERMOTT, Mr. RAHALL, Mr. BERMAN, Mr. HORTON, Mrs. SCHROEDER, Mr. DEFAZIO, Ms. SNOWE, Mr. FORD of Tennessee, Mr. FRANK of Massachusetts, Mr. MILLER of Washington, Mr. SMITH of New Jersey, Mr. MINETA, Mrs. LLOYD, Mr. TOWNS, Mr. ROWLAND, Mr. EDWARDS of California, Mr. JEFFERSON, and Mr. SIKORSKI.

H.R. 4352: Mr. KOPETSKI and Ms. HORN.

H.R. 4366: Mr. SERRANO, Mr. BERMAN, Mr. ABERCROMBIE, Ms. NORTON, Mr. DELLUMS, Mr. SCHUMER, Mr. FORD of Tennessee, Mr. OWENS of New York, Mr. KOSTMAYER, Mr. PENNY, Mr. ROYBAL, Mr. WHEAT, Mr. RANGEL, Mr. FAZIO, Mr. BLACKWELL, Mr. DWYER of New Jersey, Mr. ESPY, Mr. SANDERS, Mr. PAYNE of New Jersey, Mr. STOKES, Ms. DELAURO, Mr. WASHINGTON, Mr. HAYES of Illinois, and Mr. FROST.

H.R. 4399: Mr. BILIRAKIS.

H.R. 4405: Mr. OLVER, Mr. ANDREWS of New Jersey, Mr. DONNELLY, Mr. RANGEL, Mr. HOCHBRUECKNER, Mr. STAGGERS, Mr. OWENS of New York, Mr. KOPETSKI, and Mr. RUSSO.

H.J. Res. 334: Mr. HEFNER.

H.J. Res. 351: Mr. SPRATT.

H.J. Res. 371: Mr. ANDREWS of New Jersey, Mr. COYNE, Mr. ESPY, Mr. GALLEGLY, Mr. JONES of North Carolina, Mr. SCHAEFER, and Mr. SMITH of Florida.

H.J. Res. 388: Mr. MINETA and Mr. ABERCROMBIE.

H.J. Res. 399: Mr. CARPER.

H.J. Res. 412: Mr. FISH, Mr. MANTON, Mr. TANNER, Mr. VALENTINE, Mrs. VUCANOVICH, Mr. BENNETT, Mr. HALL of Texas, Mrs. BOXER, Mr. FAZIO, Mr. SKEEN, Mrs. MORELLA, Mr. WALSH, Ms. NORTON, Mr. MARTIN, Mr. MAVROULES, and Mr. GALLEGLY.

H.J. Res. 421: Mr. ABERCROMBIE, Mr. ANDREWS of Maine, Mr. ANNUNZIO, Mr. ATKINS, Mr. BEVILL, Mr. BLACKWELL, Mr. CLEMENT, Mr. CONYERS, Mr. COSTELLO, Mr. DE LA GARZA, Mr. DELLUMS, Mr. DINGELL, Mr. DORGAN of North Dakota, Mr. DURBIN, Mr. DWYER of New Jersey, Mr. ERDREICH, Mr. ESPY, Mr. EVANS, Mr. FALEOMAVAEGA, Mr. FASCELL, Mr. FAWELL, Mr. FROST, Mr. GONZALEZ, Mr. GREEN of New York, Mr. GUARINI, Mr. HUGHES, Mr. HUNTER, Mr. JAMES, Mr. JONTZ, Mr. KOLTER, Mr. KOSTMAYER, Mr. LAFALCE, Mr. LEACH, Mr. LEHMAN of Florida, Mr. LEWIS of Florida, Mr. MCMILLEN of Maryland, Mr. MCNULTY, Mr. MAZZOLI, Ms. MOLINARI, Mr. NEAL of Massachusetts, Mr. PANETTA, Mrs. PATTERSON, Mr. POSHARD, Mr. RANGEL, Mr. SCHUMER, Mr. SKEEN, Mr. TALLON, Mr. TORRES, Mr. TOWNS, Mr. TRAFICANT, Mr. TRAXLER, Mr. WALSH, Mr. WISE, Mr. MAVROULES, Mr. OWENS of New York, and Ms. HORN.

H.J. Res. 427: Mr. HUNTER, Mr. RAMSTAD, Mrs. MORELLA, Mr. DELAY, Mr. CRANE, Mrs. BENTLEY, Mr. SPENCE, Mr. MILLER of Washington, Mr. BERMAN, Mr. SMITH of New Jersey, Mr. WOLF, Mr. DONNELLY, Mrs. BOXER, Mrs. LOWEY of New York, Mr. MONTGOMERY, Mr. TRAFICANT, Mr. KLECZKA, Mr. MURPHY, Ms. DELAURO, Mr. GEKAS, Mr. ZELIFF, Mr. LIGHTFOOT, Mr. VANDER JAGT, Mr. DICKINSON, Mr. FIELDS, Mr. IRELAND, Mr. HASTERT, Mr. ROHRABACHER, Mr. INHOFE, Mr. RAVENEL, Mr. LIVINGSTON, Mr. HOBSON, Mr. MFUME, Mr. WHEAT, Ms. SLAUGHTER, Mr. WOLPE, Mr. CHAPMAN, Mr. KENNEDY, Mr. PICKLE, Mr. HERGER, Mr. ANDERSON, Mr. MCCOLLUM, Mr. MATSUI, Mr. RHODES, Mr. RITTER, Mr. ROBERTS, Mr. MCCLOSKEY, Mr. MOAKLEY, Mr. EARLY, Mr. NEAL of Massachusetts, Mr. DELLUMS, Ms. WATERS, Mr. LIPINSKI, Mr. DAR-

DEN, Mr. JENKINS, Mr. STARK, Mr. HAYES of Illinois, Mr. ACKERMAN, Mr. MAZZOLI, Mr. SCHEUER, Mr. MINETA, Mr. HOYER, Mr. KILDEE, Mr. CALLAHAN, Mr. STUMP, Mr. COBLE, Mr. SCHIFF, Mr. PACKARD, Mr. NOWAK, Mr. KOSTMAYER, Mr. BURTON of Indiana, Mr. PURSELL, Mr. HENRY, Mr. GRADISON, Mr. DUNCAN, Mr. QUILLEN, Mr. BENNETT, Mr. SIKORSKI, Mr. MORRISON, Mr. BLACKWELL, Mr. JONES of North Carolina, Mr. FORD of Tennessee, Mr. STUDDS, Mr. KOLTER, Mr. HUBBARD, Mr. DURBIN, Mr. HALL of Texas, Mr. CAMPBELL of Colorado, Mr. SARPALIUS, Mr. STALLINGS, Mr. OBERSTAR, Mr. LEVINE of California, Mr. NAGLE, Mr. PICKETT, Mr. OXLEY, Mr. VALENTINE, Mr. DOWNEY, Mr. RUSSO, Mr. DAVIS, Mr. MCEWEN, Mr. SOLARZ, Mr. RINALDO, Mr. SHAW, Mr. DORGAN of North Dakota, Mr. EWING, Mr. PORTER, Mr. SMITH of Texas, Mr. BROWN, Mr. KANJORSKI, Mr. SANDERS, Mr. LEWIS of Georgia, Mr. KOPETSKI, Mr. ORTON, Mr. BLILEY, Mr. ORTIZ, Mr. EDWARDS of Texas, Mr. OLIVER, Mr. PANETTA, Mr. EMERSON, Mr. SCHUMER, Mr. BEREUTER, Mr. NICHOLS, Mr. HOPKINS, Mr. ROSE, Mr. ENGEL, Mr. FORD of Michigan, Mr. SPRATT, Mr. WISE, Mr. VOLKMER, and Mr. BACCHUS.

H.J. Res. 433: Mr. ACKERMAN, Mr. BILBRAY, Mr. BLACKWELL, Mrs. BOXER, Mr. DEFAZIO, Mr. DOWNEY, Mr. DURBIN, Mr. ERDREICH, Mr. FRANK of Massachusetts, Mr. GUARINI, Mr. HEFNER, Ms. HORN, Mr. HYDE, Mr. LEHMAN of Florida, Mr. MCDERMOTT, Mr. MCMILLEN of Maryland, Mr. MARKEY, Mr. MAZZOLI, Mr. PANETTA, Mrs. PATTERSON, Mr. RAMSTAD, Mr. SKEEN, Mr. TOWNS, Mrs. UNSOELD, and Mr. WOLF.

H. Con. Res. 203: Mr. LEWIS of Florida, Mr. MACHTLEY, Mr. MOORHEAD, Mr. SWETT, Mr. SHAYS, Mr. LIPINSKI, and Mr. MARKEY.

H. Con. Res. 233: Mr. SPENCE, Mr. CRANE, Mr. DELAY, Mr. SWETT, Mr. YOUNG of Alaska, Mr. NUSSLE, Mr. ALLEN, Mr. KASICH, Mr. HOCHBRUECKNER, and Mr. BONIOR.

H. Con. Res. 246: Mr. MCMILLEN of Maryland, Mr. JONES of Georgia, Mr. RINALDO, Mr. COX of Illinois, Mr. BROWDER, Ms. DELAURO, Mrs. LLOYD, Mr. FASCELL, Mr. LEHMAN of California, and Mr. ALEXANDER.

H. Con. Res. 256: Mr. PALLONE and Mr. MAVROULES.

H. Con. Res. 285: Mr. BAKER, Mr. BARTON of Texas, Mr. BOEHNER, Mr. BUNNING, Mr. COX of California, Mr. CRANE, Mr. DANNEMEYER, Mr. DOOLITTLE, Mr. DORNAN of California, Mr. FAWELL, Mr. GILCHREST, Mr. GINGRICH, Mr. GOODLING, Mr. HASTERT, Mr. HOBSON, Mr. INHOFE, Mr. JOHNSON of Texas, Mr. LAGOMARSINO, Mr. LEACH, Mr. LOWERY of California, Mr. MCCRERY, Mr. NEAL of North Carolina, Mr. OXLEY, Mr. PACKARD, Mr. PAXON, Mr. RAVENEL, Mr. RHODES, Mr. RIGGS, Mr. SANTORUM, Mr. SAXTON, Mr. SCHULZE, Mr. SENSENBRENNER, Mr. SOLOMON, Mr. STEARNS, and Mr. STUMP.

H. Res. 321: Mr. ANNUNZIO and Mr. BLILEY.

H. Res. 370: Mr. CHANDLER, Mr. LEWIS of California, Mr. WOLF, Mr. ENGLISH, Mr. DOOLITTLE, Mr. GOSS, Mr. CLINGER, Mr. CAMPBELL of Colorado, Mr. KLUG, Mr. GOODLING, Mr. ALLEN, Mr. EWING, and Mr. GILLMOR.

H. Res. 376: Mr. LIVINGSTON.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

143. By the SPEAKER: Petition of the State of New Hampshire, Department of Education, relative to the New Hampshire-Maine Interstate School Compact; to the Committee on the Judiciary.

144. Also, petition of the State of Maine, Department of Education, relative to the New Hampshire-Maine Interstate School Compact; to the Committee on the Judiciary.

EXTENSIONS OF REMARKS

A SPECIAL TRIBUTE TO CHARLES R. PINZONE

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1992

Mr. STOKES. Mr. Speaker, I am honored to rise today to pay tribute to Charles R. Pinzone for his 22 years of service as executive secretary of the Greater Cleveland Building and Construction Trades Council. Mr. Pinzone, who is retiring, will be honored on Friday, March 20, 1992, at the Cleveland Marriott Society Center Hotel.

As executive secretary of the Building Trades Council, Mr. Pinzone was committed to providing fairness in the workplace. He listened to both union worker and employer in order to establish this balance. Not only was Mr. Pinzone a fair leader, but he successfully won the respect of those who came in contact with him.

Mr. Pinzone began his career as an apprentice with the Wood, Wire, and Metal Lathers Union. He utilized his skills and served as executive board member, secretary treasurer, and elected business representative of Lathers Local Union.

Mr. Pinzone remained equally devoted to serving the community. Mr. Pinzone, who won the 1938 Golden Gloves title, teaches the art of boxing to young men at the Charles Pinzone Boxing Club in Parma, OH. For 40 years, Mr. Pinzone worked vigorously to prepare young men for the grand fight in the ring and the ultimate fight in life.

In addition to his work with the Cleveland area youths, he remains an active member on many local boards such as the United Way Services, Greater Cleveland Growth Board, United Labor Agency, and Cuyahoga Community College.

Mr. Pinzone's hard work and dedication throughout the community has yielded him many honors and awards. He received the 1987 Leukemia Society Award of Appreciation; the 1979 Southwest Area C.O.P.E. Award for Outstanding and Dedicated Service; the 1988 Council for Economic Opportunities Leadership Award, and the 1980 Governors Award for Excellence of Achievement.

Mr. Speaker, Mr. Pinzone's strong leadership of the Greater Cleveland Building and Construction Trades Council will be greatly missed. He continues to be an asset to the city of Cleveland, and I wish him much continued success.

USE IT AND LOSE IT: $32,500 A YEAR FOR HEALTH INSURANCE

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1992

Mr. STARK. Mr. Speaker, a doctor from a Sunbelt State recently wrote, giving me one of the best examples I've ever seen of why we need national health care reform.

The letter speaks for itself:

HONORABLE REPRESENTATIVE STARK: I have been following the great debate which is going on regarding health insurance. I would like to bring to your attention the plight of probably millions of Americans who are systematically being forced to drop their coverage by their insurance companies because they were unlucky to develop a disease.

I have been with —— Insurance Company for a number of years without any claims. Unfortunately, in June of 1989, I had uneventful 2-artery coronary by-pass with complete recovery (total expense about $30,000.00). My insurance premiums, in 2½ years, have gone up from $735.00 per month for a group of 4 to $2170.00 per month for a group of 2; today I have received another notice that from 3/1/92 my premium will go up another 25%, bringing the premiums to about $2700.00 per month. I cannot obtain any other health insurance because of pre-existing conditions. I would like to know how many Americans can afford to pay $32,500.00 per year for their health coverage. I have not had even one $1.00 claim since June of 1989. As you can see, the free enterprise system is really at work here. If desired, I will be happy to provide the details and documentation of my case.

I know a number of my colleagues now are in favor of health reform and feel that some form of national health insurance is urgently needed as private insurance companies are extorting the public. I will be more than happy to do whatever is needed to advance its cause. In any event, I sincerely hope that, if and when any reform comes, the Americans with pre-existing conditions are not forgotten.

BIOGRAPHY OF CRAZY HORSE

HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1992

Mr. FALEOMAVAEGA. Mr. Speaker, through Public Law 102–188 (S.J. Res. 217, H.J. Res. 342), Congress and the President designated 1992 as the Year of the American Indian. This law pays tribute to the people who first inhabited the land now known as the continental United States. Although only symbolic, this gesture is important because it shows there is sympathy in the eyes of a majority of both Houses of the Congress for those Indian issues which we as a Congress have been struggling with for over 200 years. In support of the Year of the American Indian, and as part of my ongoing series this year, I am providing for the consideration of my colleagues a short biography of Crazy Horse, a Principle Chief of the Oglala Sioux tribe who is known for his skills as a warrior. This biography was taken from a U.S. Department of the Interior publication entitled "Famous Indians, A Collection of Short Biographies."

CRAZY HORSE (OGLALA SIOUX)

Crazy Horse (Tashunke Witko) a military figure of the Oglala Sioux tribe, came to power while still a young man in his middle twenties, during Red Cloud's War along the Bozeman Trail.

Unlike Red Cloud, Crazy Horse did not settle on Sioux lands established by the 1868 Fort Laramie Treaty, but with his followers, stayed out in the unceded buffalo country to the west.

Courageous, daring, skilled in the techniques of Indian warfare, the bold and implacable Crazy Horse never yielded in his hatred of the white man, and made it clear that he had no intention of abandoning hunting and fighting for reservation existence.

In December of 1875, the Indian Commissioner in Washington, alarmed by reports of Sioux hostilities, directed that all Indians in the area return to their agencies by January 31, 1876. When some Sioux bands, far afield in search of game, failed to meet this impossible deadline, Gen. George Crook was ordered to attack their winter settlements, and he sent Col. J. J. Reynolds to take Crazy Horse's village by surprise. Crazy Horse organized a counter-attack, recovered his warriors' scattered ponies, and drove off Crook's cattle. Without food, the General was forced to return with his men to his post.

Realizing that Crazy Horse was a more formidable adversary than he had thought, Crook planned a new strategy, and the following June, with 15 troops of cavalry and 5 of infantry, marched up the Bozeman Trail to the Tongue River. On June 17, his army ran headlong into 1,200 Oglalas and Cheyennes under Crazy Horse at the Rosebud River. At the end of a day-long battle, Crook was forced to withdraw with heavy losses, chagrined at his second defeat at the hands of the Sioux chief.

A week later, Gen. George A. Custer attacked the fugitive village where more than 3,000 Indian warriors were encamped along Montana's Little Big Horn River. Again Crazy Horse played a leading role. After the repulse of Maj. Marcus A. Reno's battalion by Indians under Sitting Bull and other chiefs, the braves concentrated almost their entire force on Custer and his men, some 4 miles away. In little more than an hour, the Sioux and Cheyennes had overrun Custer and his 224 men, slaughtering every one.

After their victory at the Battle of the Little Big Horn ("Custer's Last Stand"), the Indian bands dispersed. One by one, as more and more soldiers poured into their country, they surrendered.

In January of 1877, Gen. Nelson A Miles, surprising Crazy Horse's winter camp, scattered the Indians without food or adequate

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

clothing on the frozen plain. The following May, Crazy Horse and about 1,000 men, women, and children surrendered to the Sioux Chief's old adversary, General Crook, at Red Cloud Agency in Nebraska.

But the young warrior could not stand reservation life. Rumors flew that he was plotting escape, and on September 5, 1877, he was placed under arrest. When he realized that he was about to be locked up, Crazy Horse, desperate, drew his knife and tried to cut his way to freedom. He was bayonetted in the back by a white sentry, and died several hours later.

When the Oglalas left the Red Cloud Agency, Crazy Horse's remains went with them to Pine Ridge Agency. Legend has it that they were subsequently moved from their original burial place there, and given a final resting place near a spectacular butte close to Manderson, S. Dak., known as "Crazy Horse Butte."

No photograph has ever certainly been identified as that of the great Sioux warrior, although pictures of other Sioux who resembled him somewhat, have sometimes been claimed to be his.

CONGRESSMAN KILDEE SALUTES UAW SENIOR VICE PRESIDENT MRS. ODESSA KOMER

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1992

Mr. KILDEE. Mr. Speaker, I rise today to urge my colleages in the House of Representatives to join me in saluting Mrs. Odessa Komer, a woman who has dedicated a lifetime of loyalty and commitment to promoting the welfare of the American worker and the strength of the Nation's labor organization.

Mrs. Komer began her distinguished career on June 6, 1953, as an assembler at the Ford Sterling plant. She soon became a tireless advocate for workers. Her many accomplishments as a labor organizer and later as a national leader helped to break down barriers for women in the manufacturing industry and the labor movement. In recognition of her remarkable lifetime achievements, Odessa will be presented the Eleanor Roosevelt Award on March 14, 1992, at the sixth annual Jefferson-Jackson luncheon sponsored by the Michigan Democratic Women's Caucus.

As a member of UAW Local 228, Mrs. Komer became the first woman to serve in several leadership positions including, executive board member, district committee woman, National Ford Council delegate, subcouncil five delegate and full-time recording secretary. As a member of the local bargaining committee, she helped to obtain, from the Ford Sterling plant, a commitment to consider seniority when making job assignments. This provision was later incorporated into the national Ford agreement.

In 1967, Mrs. Komer was appointed to the international union staff as region 1 education director. She organized and conducted education programs for the 100,000 member again region which extends from the east side of Metropolitan Detroit to the Thumb area of Michigan. The professionalism and skill she displayed while in this position gained her the respect of the UAW's international membership. Accordingly, on June 5, 1974, she was elected to the post of international vice president at the union's 24th constitutional convention. Since 1974, she has been reelected to five consecutive 3-year terms.

As an international vice president, Mrs. Komer's responsibilities have included directing departments responsible for monitoring and managing the UAW's relationship with several corporations including, the Budd Department, the Allied (Bendix) Department, the Dochler-Jarvis/Farley Department, and the Rockwell Automotive Department. She directs the independents, parts and suppliers department, the women's department, the family department, the consumer affairs department and the conservation and recreation departments. Mrs. Komer also heads several intracorporation and national wage and hour councils. As the head of these councils, she is responsible for handling negotiations and addressing grievances with the involved corporations.

On January 14, 1988, UAW President Owen Bieber appointed Mrs. Komer, director of the union's aerospace department. This department is responsible for negotiations with several aerospace industry giants including McDonnell Douglas and Martin Marietta. She was also appointed to direct the Dana and Champion Departments.

A community activities and education advocate, Mrs. Komer has also served on the board of trustees of Macomb County Community College. She is a national officer of the Coalition of Labor Union Women and cochairs the National Coalition for the Reproductive Rights of Workers. She is a life member of the National Association for the Advancement of Colored People, a member of the National Organization for Women and served on President Jimmy Carter's Advisory Committee for Women.

Mrs. Komer resides in Sterling Heights, MI, with her husband, Leo. They have two children, Roger and Janet and five grandchildren.

Mr. Speaker, it is an honor for me to rise today on behalf of this remarkable woman. The contributions that Mrs. Komer has made in the effort to increase the standard of living for all Americans is incalculable. I ask you and my fellow Members of Congress to join me in paying tribute to UAW Senior Vice President Odessa Komer.

WHAT AMERICANISM MEANS TO ME

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1992

Mr. PEASE. Mr. Speaker, as in the past, I am pleased to call to your attention the three winning essays of the Americanism Foundation's annual contest. These essays, written by young Ohioans, address the subject "What Americanism Means to Me." The Americanism Foundation is located in my 13th District town of Norwalk.

A YOUNG AMERICAN'S CHALLENGE

(By Traci Shipman, Bucyrus High School)

As an American citizen, I am challenged to become a leader. I am challenged to lead my generation onto the battlefields of life as our nation enters the next century.

As an American citizen, I am challenged to accept my freedom to dream the impossible dream—to expand on the dreams that my forefathers dreamt hundreds of years ago when America was but an idea. After the Battle of Gettysburg, Lincoln said, "The world will little note nor long remember what we say here, but it can never forget what they did here." To leave my mark on America not in words but in actions is my challenge. As an American, I am challenged to speak out against what is wrong and set an example by doing what is right. To keep my name noble and proud is my challenge, for I am an American citizen.

My challenge is to fight to preserve freedom and liberty, our most valuable heirlooms. My challenge is to insure that no American citizen will ever have to purchase freedom at the price of chains and slavery again. Freedom is a necessity, not a luxury. Judge Learned Hand once said that "Liberty lies in the hearts of men and women; when it dies there, no constitution, no law, no court can save it." My challenge is to see that liberty remains alive in the hearts of every man, woman, and child. To see that freedom and liberty are passed to the next generation just as they were given to me is my challenge.

My challenge is to work for the betterment of this great nation. My challenge is to educate the uneducated, to feed the hungry, and to house the homeless. To search for the answers to the problems our country faces is my challenge. As David Livingstone once said, "I will go anywhere provided it be forward." I, too, will go forward in life because it is my challenge. My challenge is to become like the eminent leaders who founded this nation. When the challenges of life are set before me, I will not falter—for I am an American citizen!

WHAT AMERICANISM MEANS TO ME

(By Michael A. Halbisen)

Americanism is an extremely difficult word to define. The dictionary defines it as a devotion or pledge in support of the United States and it's economy. I would describe Americanism in two ways. First, I would say that it is the way you feel about America, and what it means to you. America is a country where everyone can prosper if they have the will to do so. As a student, Americanism is the right to learn; as a citizen, the obligation to work and to support; as a woman, the right to vote; and as a Christian, the privilege to worship and to believe. America represents the freedom of speech, freedom of the press, to go where I choose, to live where I choose, and, most importantly, to believe and to worship where I choose. I decide with whom I associate.

Our children grow up taking our country for granted, but as they get older, some of them will join the Armed Forces, others will make a huge success in the corporate world, and still others will settle down and raise a family. Many will choose to be doctors, nurses, lawyers, accountants, and journalists. Others will choose to be mailmen, factory workers, receptionists, janitors, and teachers. The career choices in America are almost numberless.

However, America is not necessarily perfect. We are being forced to look at the overwhelming amount of people abusing alcohol. America's drug problem is gradually becoming better, but is still threatening. And, also frightening, is the amazing illiteracy problem that we face. We are also forced to view the "touchy" subjects such as aids, abortion, and teenage pregnancy. We need to demote these things instead of promoting them through T.V., radio and the press.

But, let's look on the bright side, America is the land of opportunity and success. All we have to do is take advantage of it.

America is also a very advanced country. Radio, T.V., automobiles, and more, used correctly, are some things that contribute to the richness of our country. We need to continually work to achieve the mark of excellence.

When people leave our country to visit other countries, they are always glad to return home. Here, they can eat large portions of food, receive needed medical attention, and a warm welcome.

Americans need not to take their country for granted, but to embrace the overwhelming sense of pride that dwells here.

Second, I would use the dictionary's meaning. The devotion of our lives and ourselves to our country and it's government is one of the more important factors that helped to build our country to what it is today. We, too, must have the desire to back our country and remain true to it as our founding father's had.

The recent Gulf War has filled me and many others with pride and patriotism. Though we're not the largest, and perhaps not the wisest, we're still the best! I was born here, I grew up here, I will raise my children here, and I shall die here!

WHAT AMERICANISM MEANS TO ME

(By Martha Failor, Wayside Christian School)

To me, Americanism is being able to greet each day with the confidence of knowing that I live in the greatest country on earth. In what other country in the world can you practice the countless number of personal freedoms guaranteed by the Constitution, including the freedom of speech, the freedom of religion, and the greatest freedom of all, the freedom of thought, without worry of contradiction by the government. In America, we needn't fear retribution for voicing our opinions on controversial issues or speaking freely about our beliefs. In this great country of ours, we are able to worship freely the Lord who gave us the wonderful land we call "America". And most important of all, in America, we are granted the freedom to choose what we want to believe in. Our minds are not pumped full of propaganda meant to enslave us to a life that is not of our choosing. God gave us the freedom to choose and in America we are not hindered by the shackles of an oppresive government and are free to live the life we choose.

Americanism at its basest level is the freedom and ability to choose whatever life you wish to lead, as long as it does not bring harm to someone or something else. And since the aims of Americanism and the gifts given by God supply man with the means to achieve the same goal, happiness on earth, could it be luck that a struggling confederation, tenuously clinging to a vast untamed wilderness grew to be the most powerful and influential nation in the world? Somehow, I seriously doubt that we can accredit luck for America's greatness. How else then could you explain how America achieved its superiority, if not for the help of God?

Unfortunately, the majority of Americans have lost sight of what Americanism truly is. This is why America is falling behind the rest of the world in aptitude tests, this is why gang wars rage in the heart of the inner cities and this is why the drug problem is becoming a runaway crisis. How can Americanism flourish in a time when our own citizens systematically abuse the rights of their fellow countrymen by violating their personal freedoms? Now more than ever, we as Americans need to join together to champion Americanism. As the Iron Curtain falls and Eastern Europe is opened up to new ideals, we must present Americanism in its true form as our founding fathers intended it, and not in the hollow image our jaded society projects. In this way, we can offer the gift of Americanism to the world, and freedom will be given to all the people who walk upon the face of the earth.

A TRIBUTE TO THE MORGANS OF MARIANNA, FL

HON. PETE PETERSON

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1992

Mr. PETERSON of Florida. Mr. Speaker, I rise today to pay tribute to a truly remarkable family. On a 40-acre farm 6 miles from my hometown of Marianna, FL, Annie and Walter Morgan raised 18 children. On February 27, the Morgan family came to Washington to see one of their own retire from the Navy after a 20-year career, sister Daisy Morgan Hadley.

Mr. Speaker, I want to take this moment to honor the Morgans and most of all mother Annie Morgan who has done an exceptional job in raising this remarkable family. The Morgans are a very hardworking family who had nothing given to them. They are truly a family who has done it right and are an inspiration to us all.

I ask that the following article by Eric Morgenthaler, which appeared in the Wall Street Journal on February 25, 1992, be submitted in the CONGRESSIONAL RECORD.

A LIVING THING TO THE MORGANS: FLORIDA FAMILY HAD MEANS—SPIRITUAL NOT FINANCIAL—TO RAISE 18 CHILDREN WELL

(By Eric Morgenthaler)

MARIANNA, FL.—When she got married 46 years ago, Annie Morgan thought she and her husband, Walter, would have two children. Then she had a dream.

"I was sitting on a back doorstep," she says, recounting the dream. "And the yard was just full of children, like in a Sunday-school class. And I knew they were all mine."

Mrs. Morgan took the dream as a sign from God, for the Morgans recently had become born-again Christians. Over the next two decades, despite sometimes grinding poverty on their small farm near this Florida Panhandle town, the Morgans pursued their calling: They had babies.

GRAND TOTAL

First came Betty. The next year Elijah arrived. Then Isaiah and Walter, and then came the twins: Daisy and Hezekiah. Next was Zechariah, then Paul and John and Marie and Joseph. Then Samuel and Nepton and Randolph and Nadine. And Patricia and Geraldine. Finally, Nehemiah, who was born in 1968—the year Betty, the oldest, graduated from Bethune-Cookman College in Daytona Beach.

In all, the Morgans had 18 children: six girls and 12 boys.

"Lots of noise, lots of noise," Mrs. Morgan says, clasping her hands and laughing gaily, as she describes life with a houseful of kids—all born at home except Betty, who was born in a hospital. "Whenever they would go out and go for the school bus, it seemed like a storm had blown through. Lots of noise, lots of laughter, lots of chatter. But I endured it."

She did better than that. All 18 of the children graduated from high school. Ten went on to do at least some college work, largely with grants and loans. Today, even in a recession, all have good jobs. There are two brick masons, a carpenter, two chefs, an Army and a Navy noncom, a beautician, a postal clerk, a computer operator, a teacher and a corrections officer. Elijah, Isaiah and John are ministers in the Church of Christ Written in Heaven, the Pentecostal sect to which their parents belong. The four eldest of the Morgans' 46 grandchildren are now in college.

In 1978, after Mrs. Morgan got the last of her own children into elementary school (and thus out of the house) she went back to school herself, for she had dropped out of high school to marry. In 1980, she graduated from the local junior college, then began working in special education. Her husband, who is 76, is retired from his last wage work, as a custodian, but he still farms their 40 acres.

"The Lord blessed me," says Mrs. Morgan, a gracious, soft-spoken 65-year-old. "I have much to be thankful for."

The Morgans are notable for having successfully raised such a large family under difficult conditions. But their life also is a lesson in values. "We were raised different than a lot of families," says Nehemiah. "We were raised to work."

"I would go by that house and see them in the fields, and they were so little that when they hit that hoe they would bounce," says their 83-year-old neighbor Pandora Merritt.

The children were rousted out of bed as early as five in the morning, to do chores before school—milking cows, chopping peanuts, shelling peas, cleaning house. After school, there was more work to do. The boys, as well as the girls, ironed clothes and cooked; even the toddlers didn't get off scot-free.

"As soon as they started walking, when they threw something down, I'd teach them to pick it up," says Mrs. Morgan. "Because if they didn't do it, I was going to have to. I sure wasn't going to live in a dirty house."

The Morgans raised their family, and live today, deep in the pine woods, down a red-dirt road about six miles south of this little town near the Alabama line. Mossdraped live oaks shade the property, and near the house are pear, pecan, fig and peach trees. Mustard greens, English peas, broccoli and cauliflower are growing in the garden. Mr. Morgan still has a field of sugar cane, from which he makes syrup.

The farm is part of a close-knit black neighborhood known, after a church nearby, as the Jerusalem Community. As many as 40 families live in an area of about two square miles. Mr. Morgan's family has been in the county for at least three generations. He, himself, was one of 18 children. He and his wife settled here, on 40 acres he had purchased next to his father's farm, soon after their marriage. (They had met and married in Waco, Texas, her hometown, when he was in the Air Force.) Six of Walter and Annie's children have homes on family property, as do Mr. Morgan's three sisters.

Although the Morgans had some very hard years, their basic needs were always met.

"We didn't have a lot of money, but we always had food to eat, because we raised it," says Elijah, the oldest son.

BEHIND THE TIMES

However, they lived in something of a time warp. They plowed their fields behind mules until the 1950s, when they got a tractor. They took their corn to a mill to be ground; they put up canned goods. They had no electricity, running water or central heat until the 1960s, and they didn't have a telephone until nearly the end of that decade. When Mrs. Morgan wanted to get a message to a neighbor, she would send a note with one of the children. They got their first TV set in the early '70s.

They used to do their laundry on washboards—a big job with all those babies. "You talk about diapers," says Mrs. Morgan. "Oh man, we went through some diapers in those days. And when the weather was bad, we had to dry them indoors." Even when they got a washing machine, they had to haul well-water to fill it.

The children bathed in a big tin tub, with water heated on the kitchen stove. They never had bicycles and had few toys. They amused themselves outdoors, making castles of pine needles, or rolling old tires down country paths. "It was a lot of fun," says Elijah. "We always had someone to play with."

In 1957, just before Christmas, a kerosene stove exploded and the Morgans' house burned down. Nobody was injured, but Mrs. Morgan, who was seven months pregnant with her 11th child at the time, recalls the fire as "the worst thing that ever happened." The family moved into a tiny two-room house, with a tin roof and tar-paper siding that looked like brick. The six oldest boys slept in one bed.

The Morgans lived in the little house for two years, and two babies were born there. As the Morgans saved money they bought, and stockpiled materials to build a new home—the four-bedroom ranch-style house they live in today. They were hard years, but the children have happy memories.

"Even in that little house, we didn't feel poor or that we were missing anything," says Isaiah. "because we were all together and the bond of love was there—and that made the difference."

The children give their parents the credit for that. The Morgans were strict but loving. "Mamma was a person you could always talk to," says Zechariah. "She always had her arms open." The family always had daily prayers and Bible reading, went to Church on Sunday and conducted an at-home service every Wednesday night.

(Mr. Morgan was a disciplinarian. Recalling the only time a child of his ran away from home, for two or three days, he says: "He want to do his own thing. I said you won't do it here.")

SPREADING LOVE

The parental guidance extended to racial matters. "They taught us to love everyone." says Zechariah. "They never taught prejudice and hatred."

Before the civil-rights era, the Morgan children had few contacts with whites. Aside from the occasional visit to town, where segregation was strictly enforced, "Our only encounter was at the school-bus stop, when the white bus would pass and the kids would yell things at us out the window," says Zechariah. Betty says segregation "was something we just accepted, until the change came."

Daisy was the first in the family to attend school with whites, in the first year of integration at Marianna High School in the mid-60s. "Someone would make a slur or a comment, and you'd fight back." she says. "But I had double trouble because when I got home, I had to deal with Mom and Dad."

Now that her children are grown, Mrs. Morgan is still mothering. She works as a teacher's aide in a program for handicapped adults. "They need the same thing children at home need," she says. "They need love. They need to know somebody cares."

ADMINISTRATOR OF EPA TESTIFIES BEFORE HOUSE SUBCOMMITTEE

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1992

Mr. COUGHLIN. Mr. Speaker, this week the Administrator of the Environmental Protection Agency, William K. Reilly, testified before the House Appropriations Subcommittee on VA, HUD, and Independent Agencies.

In my 20 years of service on this subcommittee, I found Mr. Reilly's statement to be one of the finest I have heard. The Administrator cogently argued for the President's appropriations request, and enumerated the many environmental accomplishments of President Bush.

I commend Mr. Reilly's remarks to my colleagues at this point in the RECORD:

STATEMENT OF WILLIAM K. REILLY

INTRODUCTION

Mr. Chairman and members of the committee: I want to thank the members of the committee for the opportunity to present the President's 1993 Budget Request for the Environmental Protection Agency (EPA). The request affirms the President's commitment to restoring and protecting the environment.

THREE YEARS OF PROGRESS

Over the last three years, the Environmental Protection Agency has experienced an unprecedented amount of change as the Agency has embraced a risk-based concept of environmental protection. Increasingly, our critical decisions are grounded in sound science, as we attempt to target our resources to the areas of highest risk, even while we remain sensitive to the economy. This policy influences not only how we approach environmental protection, but also the FY 1993 budget and the future budgets of the Agency.

Mr. Chairman, I am pleased to say that the overall trend line for support for the environment during the Bush Administration has been outstanding. Looking back to 1989, we see significant increases across the board to support the President's major commitments to the environment. This is true for parks and wildlife; it's true for wetlands acquisition and protection; it's true for enforcement and environmental improvement. It's true for Superfund; it's true for clean air and water. We have an outstanding record of steadfast support in very difficult economic times for the environment.

Under President Bush, this Agency has assumed and implemented an increasingly broad range of responsibilities. The overall budget of EPA has increased from just over 4.9 billion dollars requested by the President in FY 1990 to 7 billion dollars in our current budget for FY 1993. We currently employ over 17,000 people. The budget is a measure of the degree to which we are succeeding in this Administration. If you look at the trend line from when President Bush came into office, you'll see that our overall budget is up 44 percent; the Agency's operating budget is up 54 percent over the same time to 2.7 billion dollars. We have program support: research is up to 35 percent, water is up 62 percent, enforcement is up to 70 percent, clean air is up 120 percent. The trust funds have also experienced increases, including a total of 2.5 billion dollars allocated for Construction Grants and 1.75 billion dollars allocated for Superfund.

In the President's proposal, the Agency will continue to find cost-effective and efficient ways to fulfill statutory mandates, to reduce risk to human health and to protect the environment. Increasingly, we find that the tools of the marketplace are creating important incentives for environmental protection.

OUR FY 1993 BUDGET IS DRIVEN BY 9 THEMES

Since 1970, EPA has been directed by Congress to fulfill large and evergrowing mandates. All told, Congress has enacted no fewer than twenty-five laws, from Clean Air and Pollution Prevention to Environmental Education, and despite the fact that these laws often impose short deadlines, present technically challenging tasks, and require major new initiatives in often unfamiliar programmatic territory, we approach them with commitment and ingenuity. In 1990, I asked the EPA Scientific Advisory Board to review a report from a previous Administration with the purpose of clarifying how the Agency's Professionals rank the risks associated with various environmental problems. The findings of the SAB were published in a 1990 EPA publication, called Reducing Risk. In this report, we promised to focus on certain key elements of environmental protection, ranked according to the risk that the problem poses to the environment.

We are responding to this report. We have structured our budget around nine major themes; these themes are major activities which cut across the Agency and in many ways represent the "bottom line" of our work. These themes represent a continued transformation of the Agency, first outlined in the President's 1992 budget, to move the Agency in a new direction and prepare us for the next century. Our proposal is based upon this Administration's solid record of accomplishment, yet builds up the Agency's science base, redirects activities away from traditional command and control approaches to more innovative, voluntary and market-based approaches, and specifically targets resources to the most serious environmental risks in the geographic areas of greatest environmental concern.

Overall, the themes represent 1.6 billion dollars of the budget. This excludes Trust Funds. Our key themes and other budget highlights are described as follows:

GEOGRAPHIC AND ECOLOGICAL

Geographic approaches, coupled with building state and local capacity, which results in ecologically, economically and enormously valuable resources providing jobs, has become the centerpiece of our efforts to engage the public in the Agency's move toward more risk-based cross-media approaches to environmental protection. The Agency is proposing to invest 710 million dollars in our operating and construction grants programs for FY 1993 to address geographic and ecological issues. Of this, 470 million dollars comes from geographically-targeted Construction Grants projects which build upon the Administration's FY 1992 initiative to target vulnerable coastal ecologies, and to improve the environment along the U.S. and Mexican border.

The budget proposal focuses on particular geographic areas where the Agency has taken an ecologically based, multimedia approach to risk reduction and environmental cleanup. This allows all levels of governments involved to target their efforts on a common national resource.

Our geographic initiatives will address environmental problems across the entire country, from New England to California and from the Caribbean and Florida to Puget Sound in Washington State. Specific examples of these initiatives include monies for already ongoing programs in the Chesapeake Bay and the Great Lakes, and a major new effort to develop integrated multi-media approaches to protect the Gulf of Mexico and the area along the Mexican Border.

Let me give you a few specific facts about these initiatives:

Chesapeake Bay

We are proposing to invest 66 million dollars in this critical, highly productive ecosystem, including 40 million dollars from the Agency's Construction Grants program. Activities will include increased enforcement and corrective actions involving hazardous waste sites, outreach to citizen groups and assistance to local governments, increased estuary monitoring, and improved sewage treatment capabilities for Baltimore.

Great Lakes

The FY 1993 proposed budget for the Great Lakes, which is thirty percent more than the President requested in FY 1989, builds upon our efforts to implement aggressively the Great Lakes Water Quality Initiative and Great Lakes Critical Programs Act. In FY 1993, we will continue to bring together resources from all parts of the Agency to develop multi-media solutions to restore the quality of the Great Lakes. The 61 million dollars program in FY 1993 will target "hot-spots" of contaminated sediments, strengthen air emission standards, and support development of state water quality standards in concert with the States. There will also be a major thrust to enlist the private sector's cooperation in pollution prevention—preventing problems before they are created.

Gulf of Mexico/Mexican border

In FY 1993, the Agency will bring the lessons learned from the integrated approach for the Great Lakes to the Gulf of Mexico. Our 21 million dollars program will focus on working closely with the States to achieve better control of toxic and hazardous pollutants which impair environmental quality in the Gulf region, and threaten the high biological productivity of the Gulf itself.

Our budget includes more than 170 million dollars for environmental infrastructure projects along the Mexican border including funding for San Diego sewage treatment. The United States and Mexico have worked intensively to develop a joint plan that will address major environmental problems in the border region, including air and water quality, hazardous waste management, and emergency planning. Released February 25, 1992, from EPA's Office of International Activities, this detailed plan will guide our efforts.

During the first two year phase, our proposal for the U.S./Mexico border will assure funding for sewage and wastewater treatment at major population centers, provide drinking water and wastewater treatment in communities along the U.S. side of the border that currently lack such services, expedite action on air quality problems in twin border towns, and develop a more aggressive enforcement posture against illegal hazardous waste management and disposal.

Specific Mexican border activities include significant resources for construction grants projects to support continued construction of the Tijuana sewage treatment plant (65 million dollars), address wastewater treatment needs in unincorporated subdivisions on the border, called the colonias (50 million dollars), continue construction of wastewater treatment facilities in San Diego (40 million dollars), and expand treatment capacity for the plant at Nogales, Arizona and start work to clean-up the New River in California (15 million dollars). In addition, the Agency will commit more than 12 million dollars in our operating programs to address air, water, and hazardous waste issues consistent with the U.S./Mexico Border Environmental Plan.

I might add that the Mexicans have committed significant sums as have our States. And we fully expect to see significant private resources as well, so this really is a well leveraged package.

ENFORCEMENT

Strong enforcement is an underlying principle in many of our budget themes, and the resources for those themes will support continued aggressive enforcement of the nation's environmental laws. EPA's Enforcement budgets under the Bush Administration have grown by over 70 percent. This investment has resulted in significant accomplishments. Last year, for example, EPA obtained more than forty-eight convictions and levied over fourteen million dollars in fines and penalties, which surpassed all previous records. In fact, we have collected more in fines and penalties under environmental statutes in the three years of the Bush administration than in the previous 17-year history of the Environmental Protection Agency.

Resources under our Enforcement theme target our ongoing multi-media and Federal Facility enforcement activities. The FY 1993 budget of 61 million dollars continues to build a strong environmental capability within EPA and at the state level. We are improving our strategies to ensure that regulated entities are in conformance with all environmental standards.

Multi-media efforts will target actions at generators with the greatest pollution prevention potential, and will help states implement enforcement programs on disposal of pesticides containers and groundwater protection programs. We will also continue to improve implementation of the Pollution Prosecution Act by increasing criminal and civil investigations and supporting the new National Enforcement Training Institute.

With regard to federal facilities cleanup, the President committed in his campaign a few years ago to ensure that federal facilities would be held to the same standards of cleanup and protection as private facilities. To make good on that commitment there has been in this Administration a threefold increase in funding for federal facilities cleanup and compliance. The FY 1993 President's Budget for the Energy Department, the Defense Department and other federal agencies is 9.5 billion dollars, an increase of 6.5 billion dollars over 1989 levels.

This level of funding will ensure that the agreements that have been reached around the country to clean up federal facilities can, in fact, be met, the milestones achieved, and all of the specific commitments confirmed.

NEW LEGISLATION

In FY 1993, the Agency will continue to devote an increasing level of resources to meeting statutory requirements from new and recently enacted legislation. Implementing the Clean Air Act Amendments remains one of the Administration's highest priorities. Additionally, the 1993 budget targets significant resource growth for the Safe Drinking Water Act and the Oil Pollution Act.

Clean Air Act

The new Clean Air Act is the centerpiece of the Administration's environmental agenda. I am pleased to say that progress to date on meeting the challenges of the Act has been notable. We have already proposed or promulgated rules that, when implemented, will remove almost two-thirds of the 56 billion pounds of air pollutants that the Clean Air Act will take out of the air by the year 2005. By the end of the current year, we will have put into place a toxics program that will achieve greater reductions by 1995 than EPA has been able to achieve in the past 20 years.

Continued Clean Air progress remains one of the Administration's highest priorities in 1993. The President's Budget provides an increase of 39 million dollars for a total of 543 million dollars. The 1993 budget increases investments in air toxics, state operating permits, and state grants, and will advance research on toxics and mobile source pollution.

Safe Drinking Water Act

In FY 1993 EPA will provide more than 31 million dollars, a forty percent increase, to implement the Safe Drinking Water Amendments. This will allow the Agency to continue to move forward on our commitment to provide safe drinking water for all Americans. The increase in 1993 will be targeted to increase State grant assistance.

Oil Pollution Act

The Oil Pollution Act of 1990 expands EPA's oil spill response authority and empowers the Agency to review and approve response plans of the regulated industry. In FY 1993, the Agency will commit almost 23 million dollars to the implementation of this Act, with emphasis on completing reviews of oil facility response plans.

IMPROVED KNOWLEDGE BASE

The Agency's FY 1993 budget includes 269 million dollars to improve the Agency's knowledge base to deal with increasing needs for complex econometric and environmental information to make decisions. The budget promotes sound science and data at EPA through investments to improve our assessments of health and ecological risk. The Agency increase of 34 million dollars will also be used to improve our ability to evaluate economic incentives to prevent pollution, to improve water quality data and management of complex geographic data bases using tools such as the Geographic Information System, and to expand the assessment of various ecosystems under our Environmental Monitoring and Assessment program, commonly called EMAP. The net result will be a better ability to use sophisticated computer visualization tools and broad-based research efforts to identify and explain risks and environmental trends more effectively.

Building the knowledge base is critical to environmental protection. EPA has often historically had to respond to statutory requirements before we have had ample time to research and develop fully all the scientific information that might assist in considering effective solutions. I want to see

EPA anticipate more the environmental challenges we face. We plan to invest in improving our science and knowledge base to ensure that the environment is benefitting from the programs we administer.

One potential avenue of how scientific knowledge could be improved is the concept of an Environmental Research Institute. We are currently funding a study with the National Academy of Sciences to determine the viability of such an institute.

Strong environmental science can facilitate breakthroughs in environmental technology or approaches which can be of enormous value to U.S. competitiveness. With the proposed increase, EPA will be able to continue its work in the European community and Eastern Europe by disseminating our technological information to assist in their environmental protection. The technologies most sought by other nations are often directly or indirectly the outcome of EPA-sponsored programs. Moreover, our commitment to building a better knowledge base is not limited to the natural sciences. In order to develop and implement market-based approaches, EPA must also improve our economic analysis capabilities, and this theme expressly recognizes the need.

Reliable, accurate scientific data are critical to ensure that efficient environmental protection strategies address the highest ecological and health risks. To provide such data, the Agency in 1993 will work with Federal and State agencies to identify quality data bases and improve overall efficiency of environmental monitoring, data collection and statistical information sharing. EPA will continue to develop and implement statistical methods, standards and criteria and will work to synthesize these efforts into formats useful for ecological risk assessment within the United States and international community. In addition, the Agency will continue to work with other agencies in the collection and dissemination of environmental data and statistics using such tools as EMAP and forecasting models.

POLLUTION PREVENTION AND RECYCLING

Pollution prevention remains an integral component of all EPA policy. This concept has been integrated into the FY 1993 President's Budget, providing a better framework for analyzing the complex sources of pollution and targeting our resources to the most critical areas. This effort cuts across all EPA programs and initiatives.

The FY 1993 President's Budget devotes 49 million dollars towards specific pollution prevention initiatives. Pollution Prevention initiatives are based on risk reduction and control of pollution through energy conservation, information management and state-wide implementation of projects targeting the industrial, transportation and agricultural sectors. Increases over 1992 will support the implementation of the Pollution Prevention legislation through state grants and improved data management; the Green Lights and other green programs; farm worker and ground water protection from pesticides in the agriculture sector, and; the expansion of the 33/50 voluntary, direct action toxic emissions reduction program.

The 33/50 toxic emissions reduction program and the Green Lights program have been especially successful under the Bush Administration. In the 33/50 program, since 1989, Toxic Release Inventory (TRI) facilities have reported 532 million pounds less of total on-site releases in either air, water, land or underground injections well than in 1988. Off-site releases dropped by 169 million pounds during this period. We are well on our way to reaching our goal to reduce emissions by 50 percent of the targeted set of seventeen chemicals by the end of 1995.

The Green Lights Program is a voluntary non-regulatory program that encourages U.S. corporations, utilities, states and local governments to adopt energy efficient lighting as a profitable means of pollution prevention. Emissions from power generators could be reduced to save 250 billion kilowatt hours per year, and a total of 20 billion dollars. Through these technologically advanced programs, we can maintain and even enhance the quality of life while using less energy and less of our natural resources.

EPA is working cooperatively with the private sector in the area of pollution prevention. In a review of twenty-nine chemical plants, an average reduction of sixty-eight percent was reported as a result of pollution prevention efforts. The total savings from these efforts exceed twenty-eight million dollars. The pollution prevention program allows the Agency to prevent potential disasters before they occur. This approach succeeds in a more effective way to protect the environment. In FY 1993, we will address recycling and related solid waste issues by improving consumer information on environmental effects or consumer choices rather than through regulatory activities.

INTERNATIONAL

A total of 95 million dollars is provided in the FY 1993 President's budget to focus on international issues. EPA is addressing international issues that affect the United States, and providing a coordinated and comprehensive response to these issues. Increased resources are dedicated to Technology Innovation and Trade activities, Global Climate Change, and EPA's efforts in Eastern Europe.

EPA has been active on an international level in numerous ways. These areas include the dissemination of information, working on joint ventures with various countries and, importantly, the cleanup of a relatively new form of terrorism.

During the war in the Persian Gulf, Iraq emptied millions of barrels of crude oil into the Gulf. The United States put together a task force of several government agencies to combat this form of terrorism. EPA was instrumental in this task force in determining if the releases would pose an immediate health threat to the people in the Gulf region.

EPA has also earned a reputation for its attempt to better the environment on a global scale. The United States, the European Community and Japan met in October with representatives of an international consortium of producers of substitutes for chlorinated fluorocarbons (CFC's) to determine their understanding of testing needed to assess the safety of a major class of chemicals being developed as alternatives to ozone-depleting CFC's.

In this hemisphere, the North American Free Trade Agreement has given the EPA a better understanding of Mexico's environment and better working relationship with their ministry for the environment. In cooperation with Mexico's Secretariat for Urban Development and the Environment (SEDUE), EPA has developed a master plan for bilateral cooperation on the full range of border environmental problems—water, air, hazardous waste, and enforcement.

With the opening of Eastern Europe, and the recent economic plans for Mexico, it is not surprising that we have devoted an entire theme to International interests. For the next several years, the U.S. will be called upon to provide technical assistance to other nations that do not have our experience in environmental protection. This is especially true of the new republics of the former Soviet Union.

CLUSTERS

The FY 1993 budget advances a new approach to environmental regulation by promoting the coordination of regulations across programs which affect particular sectors or pollutants. The budget dedicates 134 million dollars to this cross-media approach toward initiatives in the areas of Lead, Groundwater, Indoor Air, Contaminated Media, Paper and Pulp, Refineries and Small Communities. By "clustering" the Agency's activities around specific sectors or pollutants we are cutting across traditional office and program lines to reduce conflict and duplication in the coordination of environmental regulation.

Specifically, the Agency's lead initiative will increase efforts to reduce lead exosure to children by targeting high risk geographic areas through public outreach, education, implementation of environmentally sound and economically efficient recycling programs and reducing lead found in soil and dust. We will also begin site-specific ground water management plans through our grandwater initiative, and will pursue higher quality, more consistent and cost effective cleanups of contaminated soil, ground water and sediments in our contaminated media initiative.

FACILITIES AND MANAGEMENT

The heart of any organization is its employees. Without staff and adequate facilities in which employees can work, there would be no environmental protection. The Agency's FY 1993 budget proposes 194 million dollars to support the infrastructure of the Agency's facilities, to advance financial and management integrity, and internal oversight capabilities; and to build the Agency's human resources and Total Quality Management culture. Significant increases planned for FY 1993 include: funding for the new Headquarters building, and an administrative annex to our existing Cincinnati facility; continued implementation of the Chief Financial Officers' Act; and further application of Total Quality Management.

ENVIRONMENTAL EDUCATION

EPA supports a stronger national environmental ethic through our education efforts. In FY 1993, the Agency is dedicating 17 million dollars toward the environmental education initiative, including Federal grant assistance to education agencies and non-profit organizations involved in environmental education, environmental internship and fellowship programs and a new clearinghouse and education program on solid waste and recycling. Through the implementation of the new National Environmental Education Act and by focusing on public education in our other programs, EPA expects to play a significant role in the President's America 2000 education initiative. A focus on environmental education has been recognized by many educators as one of the best means for making science and math exciting to students. One of the more exciting programs is the minority fellowship programs we have with institutions such as Tufts in Massachusetts.

THEME CONCLUSION

I would like to conclude my discussion of the Agency's key budget themes in our operating programs by noting that close working relationships with our State partners are essential if we are to achieve the ambitious agenda we have set for ourselves in this budget. As the environmental challenges facing the nation and world grow and become increasingly complex, it becomes difficult and proportionally imperative that the people who develop and apply solutions are those located nearest the problems.

State and local governments are currently finding it difficult to fully fund their own environmental problems so EPA is lending a hand both financially, and managerially. We must build state capacities, encourage integrated, risk-based management approaches and, above all, promote efficency by minimizing duplication among Federal, state and local governments. Our FY 1993 budget recognizes this need; this is demonstrated by its growing investment in state/local grants. The funding for State/Local Grants will reach 532 million dollars in FY 1993. This represents an increase of 156 million dollars in the last three years.

CONSTRUCTION GRANTS

We are requesting 2.5 billion dollars in Construction Grants; 2 billion dollars to capitalize the State Revolving Funds (SRF) and almost 500 million dollars for targeted projects in sensitive coastal ecosystems and along the Mexican border. This is the highest level requested for this program in more than ten years.

This request will help America achieve its clean water goals, and constitutes an important and effective investment in the nation's environmental infrastructure. The Administration's proposed funding will fully utilize the authorized level of the State Revolving Funds, which will expedite achievement of secondary treatment standards while promoting economic growth and employment. If Congress enacts the President's request it will mean that 95 percent of the 18 billion dollars in Construction Grant funds authorized by the Water Quality Act of 1987 will have been appropriated through FY 1993.

I have already outlined some of the targeted coastal projects in my discussion under the geographic theme. Those and the other targeted projects will continue the Administration's commitment to provide cost-share grants for secondary or advanced treatment to the cities with the nation's largest unmet treatment needs.

SUPERFUND

The FY 1993 budget for Superfund, of 1.75 billion dollars, represents a strong and continued commitment on the part of the Agency to meet its responsibilities to protect human health and the environment. The 134 million dollars increase over the amount appropriated in 1992 continues to support the Agency's "enforcement first" strategy balanced with an increased investment in direct site cleanup. Under this Administration, the annual value of Superfund settlements compelling responsible parties to finance site work has tripled. They are now performing 60 percent of new remedial projects, and I will continue to maximize these settlements. I recently established a Superfund revitalization team to speed up the cleanup process and I am determined to complete a cumulative total of 200 sites by the end of 1993. The budget also supports my dedication to the oversight of Federal facility cleanups and military base closures.

CONCLUSION

We have looked at every theme and seen what can or cannot be done to ensure a high degree of risk-reduction. We have not only restructured programs, but also the entire budgeting system so that it more effectively aligns resources with program priorities and involves our field troops, the regional offices, in setting priorities and evaluating options. We focus our efforts on themes with the intent to avoid redundancy and provide a more informed, sensitive approach to environmental problems. This budget request provides the resources and leadership to continue our progress. Thank you.

TRIBUTE TO RALPH BROWN

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1992

Mr. TRAXLER. Mr. Speaker, I rise to give special recognition to Ralph Brown on his retirement from the Michigan Employment Security Commission [MESC] after 21 years of dedicated service. With his friends and coworkers, Ralph will mark the occasion on March 20, 1992.

Ralph's story is one that could be told about millions of Americans, and that is what makes it so special.

Ralph David Brown was born November 9, 1940 in Kalamazoo, MI, one of seven children in the family. His school years show him to be active in sports and involved in extracurricular activities. He played baseball, placed ninth in the State cross-country competition, was a quarter finalist on the debate team and student adviser to the school board. Ralph was president of his senior class; and prophetically, was voted "most likely to succeed."

Yes, he served in the military for 3 years in the sixties, and received a commendation for superior accomplishments while in the Signal Corps. During his assignment in Germany, he was a "Fahfinders" scoutmaster.

Ralph joined MESC in 1970 and has been a loyal, dedicated public servant for over 20 years. He has been recognized for his efforts in his career field as past president of IAPES [International Association of Personnel in Employment Security]; and as past president of MAGE [Michigan Association of Governmental Employees]. His early interest in teaching was a natural for his involvement in the Bay County Literacy Program where he served as president and still remains an advocate, and as a volunteer instructor in the "Chess for Kids" program at Kolb School. An avid chess player, Ralph is a member of the Bay City Chess Club.

His lovely family includes his wife, Wendy, and four daughters, Nancy, Heidi, Brixie, and Kristie.

Ralph Brown, student, soldier, public servant, community leader, volunteer, father, grandfather, coworker, and friend.

Please join me in wishing Ralph a well earned retirement, knowing that he will not be content to sit idly, but will continue to serve whenever and wherever he is needed.

HONORING BILL BRODERICK FOR OUTSTANDING SERVICE TO THE JEWISH COMMUNITY CENTER AND THE COMMUNITY OF BAYONNE

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1992

Mr. GUARINI. Mr. Speaker, I rise today to pay tribute to Bill Broderick, athletic director and head of the health and physical education department of the Bayonne Jewish Community Center for the past 30 years. A lifetime resident of Bayonne, Billy has contributed greatly to his community, serving his neighbors as an exemplary citizen. On March 21, 1992, the Bayonne Jewish Community Center will honor Bill for his outstanding service to the center and his contributions to the community.

Billy was born in May 1937 to the late Martin and Anna Broderick, grandson of the late Martin and Mary Broderick and Harold and Mathilda Smith. Billy is married to the former Ellen Fox, and his two brothers, Edward and Joseph, also live in Bayonne.

He attended kindergarten and first grade at the Woodrow Wilson School, then continued on at St. Vincent's de Paul where he graduated the eighth grade in 1951. He just recently attended his 40th year elementary school class reunion.

Billy's love of athletics and competition started at a young age and during the sixth, seventh, and eighth grades at St. Vincent's, Billy played on both the basketball and baseball teams. He was on the P.A.L. drum and bugle corps from 1947–52. He was a member of the St. Vincent's cadets from 1953–57 when they won several State and national championships.

Bill went on to St. Peter's High School in Staten Island where he excelled in basketball. In 1953, he played on the junior varsity team, and in 1954 and 1955, he played on the varsity basketball team at St. Peter's. He was named to the St. Peter's 1954–55 all-star basketball team—the only player to make the team 2 years consecutively. After his graduation in 1955, Billy worked for 3 years at Western Union.

His skill at basketball did not go unnoticed, and in 1958, he received a scholarship to Assumption College in Worcester, MA; where he graduated in 1962 with a B.A. in economics. Bill was active in his school—was senior class vice president—played both varsity basketball and varsity tennis—and, in his senior year, he captained the tennis team.

After graduation, Bill started working at the Bayonne Jewish Community Center as director of athletics, health, and physical education, but he continued to pursue his education. He attended Seton Hall University from 1962 to 1965, where he earned his certification in health and physical education. In 1971 and 1972, he attended Jersey City State College and received his education certification.

Through Billy's hard work and dedication, the Bayonne Jewish Community Center has earned the reputation as being one of the best facilities in the area. Bill's responsibilities include the coordination of all athletic programs, including basketball, tennis, volleyball, fitness programs, and any other activities within the department. He has guided hundreds and hundreds of boys and girls through their athletic careers, many of whom are now married with young children of their own. During his 25th year at the center, Billy brought back many of the high school varsity basketball players for a very special and memorable 25th reunion.

Among his outstanding accomplishments at the center over these 30 years are: Coaching of the high school boy's varsity basketball teams for 24 seasons without a losing season—427 wins, 126 losses; winning the national championship in 1973; and 12 State titles, and 14 league titles. His teams won over 35 high school JWB tournaments and a 1986 Metropolitan New York-New Jersey Championship. Under Bill's expert coaching, the fledgling seventh, eighth, ninth grade Metropolitan New York-New Jersey basketball team earned the 1989 championship title.

For the past 9 years, Billy has directed a very successful Jewish Community Center open tennis tournament with over 200 participants taking part each year in 20 or more different categories.

Bill has also been employed by the Bayonne Board of Education since 1971. His outstanding work has been recognized with the award of the New Jersey Governor's Teacher of the Year award. While at the Lincoln Community School as physical education teacher, he initiated and coordinated the very popular and successful Olympic Day which involves the entire school student body in various athletic competitions.

In 1978 and 1979, Billy coached the first Bayonne High School girl's tennis team leading them to their first county championship. Since 1978 to the present time, he has coached the Bayonne High School boy's tennis team, winning over 100 matches and six county titles.

Billy has been a member of the International Association of Approved Basketball Officials [IAABO] since 1964 and is recognized as one of the best basketball officials in Hudson County. He has officiated at Hudson County High School boy's championship and playoff games and has done many State tournament games.

In addition to teaching and coaching, Billy has remained active and involved in sports competitions in the community, winning many championships. He won the last city championship sponsored by the Bayonne County Park; he won three men's doubles Hudson County titles with Ray Brown; three Hudson County mixed doubles titles with Carol Demaria; and he won the City Friendship Day mixed doubles tournament with former high school player Maria Barberia.

When Billy can find a few spare hours away from all his responsibilities, you will find him out on the golf course working on those aces, birdies, and eagles.

As a testimony to his dedication and devotion to the Jewish Community Center and the people of Bayonne, Billy has turned down several job offers outside his hometown. He was offered a position as assistant varsity basketball coach at Hunter College in 1973 and in 1989 he was offered the job of head tennis pro at the Palm Aire Health Resort in Pompano Beach, FL. Instead of accepting these offers, Billy chose to remain in Bayonne to continue doing what he does best—playing sports, teaching sports, helping those who want to learn—and in doing so, Billy is and will continue to be one of the city's most outstanding educators and athletes.

Mr. Speaker, I ask you and my distinguished colleagues to join me in recognizing the valuable contributions of Bill Broderick who through his love of sports, his dedication to his community and his devotion to athletic excellence has made Bayonne, NJ, a better place in which to live.

UNITED STATES ASSISTANCE TO ISRAEL, EGYPT, AND TURKEY

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1992

Mr. HAMILTON. Mr. Speaker, I wish to draw the attention of my colleagues to information I have compiled from the Departments of State and Defense and other executive branch agencies regarding the total value of U.S. direct assistance, debt reduction, debt forgiveness, loans, loan guarantees, transfers, and other payments provided to Israel, Egypt, and Turkey—the three major recipients of aid in the jurisdiction of the Subcommittee on Europe and the Middle East.

These three recipients have benefited from assistance that substantially exceeds foreign assistance levels in annual foreign assistance appropriations. Preliminary calculations for fiscal year 1991 indicate:

A total of $4.114 billion for Israel, plus $400 million in loan guarantees;

A total of $4.233 billion for Egypt, plus an additional $402.3 million in other transfers and payments; and

A total of $1.008 billion for Turkey, plus $289 million in other transfers and payments, plus $168.6 million in loans and loan guarantees.

The list that follows includes fiscal year 1991 "all spigots" assistance:

UNITED STATES ASSISTANCE TO ISRAEL, EGYPT, AND TURKEY

ISRAEL

$1.2 billion in ESF grant assistance—all cash;

$1.8 billion in FMF grant assistance, of which $475 million is set aside for purchase of defense articles in Israel and $150 million for research and development in the U.S.;

$86.1 million additional benefit to Israel resulting from the provision of all ESF assistance within 30 days of the start of the fiscal year (adding $36.1 million in value of the aid) and the provision of $1.695 billion in FMF assistance within 30 days of the start of the fiscal year (adding more than $50 million to the value of the aid);

$650 million in supplemental ESF grant assistance for Israel as a result of the losses incurred during the Gulf war;

$45 million to help Soviet Jews settling in Israel;

$7.5 million to help finance Israeli development projects in Third World countries and for training in Israel of third country nationals;

$2.65 million for American institutions in Israel under the American Schools and Hospitals Abroad (ASHA) program;

$7 million for Israeli-Arab cooperative programs, of which approximately half ($3.5 million) is spent in Israel;

$43 million in Section 506(a) drawdown authority for equipment rushed to Israel last fall during the Iraqi crisis;

$80.695 million in excess defense equipment under the Southern Regional Amendment;

$150 million in savings for Israel in FY 91 related to restructuring of previous FMS debt, and therefore $150 million in reduced payments to the U.S.;

$42 million for development of the mutually beneficial ARROW antimissle defense system (with perhaps $200 million more over the next three years); and

$400 million in housing loan guarantees for the resettlement of Soviet Jews issued in the spring of 1991.

A preliminary total of all forms of assistance for Israel for Fiscal Year 1991 is $4.114 billion, plus an additional $400 million in loan guarantees. Other U.S. programs that have benefitted or may benefit Israel, which have not been fully implemented yet, include the following items:

Up to $700 million in U.S. defense equipment which may be drawn down by Israel, especially from U.S. units in Europe. Under this authority, a first installment of 10 F–15 A/B aircraft, valued at $45 million will be provided to Israel;

$300 million for stockpiles of U.S equipment in Israel, of which $100 million has been implemented to date; and,

$1 million in OPIC insurance investment in Israel.

In addition, Israel was the beneficiary of U.S. Navy ship visits, including the expenditure of funds for repairs, replenishment, and shore leave.

EGYPT

$909 million in ESF assistance;

$165.2 million in PL 480 Title I concessional food assistance;

$55 million in Section 416 food assistance;

$1.622 billion in FMF grant assistance;

$1.8 million in IMET military training assistance;

$1.1 million for American institutions in Egypt under the American Schools and Hospitals Abroad (ASHA) program;

$3.5 million in the Regional Cooperation Program; and,

Approximately $1.476 billion in one year savings in FY91 as part of a one-time U.S. forgiveness of Egyptian military debt. This debt forgiveness eliminated the outstanding $6.998 billion in FMS principal and interest arrearages owed by Egypt to the U.S.;

A preliminary total of all forms of assistance for Egypt for Fiscal Year 1991 is $4.233 billion. Egypt has also benefitted from other transfers and payments of $403.2 million including:

700 M60A1 tanks valued at $231 million that Egypt received in 1991 free of charge under the Southern Region Amendment—These tanks, valued at $330,000 apiece, were notified to the Congress in FY90 and were transferred during the course of FY90 and FY91. Transportation costs for moving the tanks to Egypt and costs for repairs and re-equipment are being funded within Egypt's FMF account;

$87,483,068 in fees for U.S. Government goods transiting the Suez Canal in U.S. Government ships;

$66,323,626 in fees for U.S. Government goods transiting the Suez Canal in non-U.S. Government ships;

$14.8 million in fees paid by the U.S. Navy in Fiscal Year 1991 for carriers and surface ships transiting the Suez Canal;

Other funds expended in Egypt in connection with U.S. military deployments to the Gulf region; and

$3.6 million OPIC insurance investment in Egypt.

TURKEY

$500 million in grant FMF assistance;

$50 million in ESF cash assistance;

$128 million in U.S. equipment transfers under the Southern Regional Amendment;

$3.4 million in IMET military training assistance;

$200 million Fiscal Year 1991 supplemental aid package for Turkey enacted in March 1991;

an $82 million emergency military package provided in January 1991;

$2.05 million in narcotics interdiction assistance;

$25 million in savings for Turkey related to restructuring of previous FMS debt;

$1.2 million in Fulbright educational exchanges;

$1.65 million for American institutions in Turkey under the American Schools and Hospitals Abroad (ASHA) program;

$4.4 million in population and family planning projects; and

$10 million in refugee relief assistance for the Bulgarian Turks.

A preliminary total of assistance for Turkey for Fiscal Year 1991 is $1.008 billion. In addition, the U.S. provided $289 million in payments to Turkey in FY 1991, and loans and loan guarantees totalling $168.6 million. Included here are:

$106 million in U.S. military payroll, of which a significant amount is spent in Turkey;

$80 million in Turkish workers' salaries;

$53 million in local expenditures including contracts;

$25 million for military construction;

$22 million for off-base housing, other rents and utilities;

$3 million for exercises and U.S. Navy ship visits;

$150 million in loan guarantees for the purchase of U.S. agricultural goods; and

$18.6 million in Eximbank loans and loan guarantees. (It should also be noted that in Fiscal Year 1990 the Eximbank approved $2.0 billion in loans to Turkey, including $1.4 billion for 200 helicopter kits authorized in September, 1990. Total Eximbank exposure in Turkey as of the end of Fiscal Year 1991 was $1.97 billion).

LIVERMORE LAB LINKS GENETIC DEFECT, MUSCULAR DYSTROPHY

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1992

Mr. STARK. Mr. Speaker, I am quite proud of the role the Department of Energy's Lawrence Livermore National Laboratory [LLNL] played in discovering the genetic defect linked with the most common form of muscular dystrophy. The discovery is the latest in scientific discoveries from the DOE's Livermore, CA facility and, I must say, a sign of things to come in a post-cold-war environment.

I am quite bullish on the lab's new focus on basic, real-life research. I expect we will be see many breakthroughs in health- and energy-related fields coming from the LLNL. I recommend the following article from DOE This Month, "Livermore Lab Links Genetic Defect, Muscular Dystrophy," to my colleagues:

LIVERMORE LAB LINKS GENETIC DEFECT, MUSCULAR DYSTROPHY

An international team of scientists from DOE's Lawrence Livermore National Laboratory and four other institutions has discovered the genetic defect linked with the most common form of muscular dystrophy. It is the first time a specific genetic abnormality has been linked to myotonic dystrophy, a disease that affects one in about 8,000 adults worldwide.

Leon Charash of the Muscular Dystrophy Association told a briefing at DOE Headquarters that the joint discovery marks an important advance in understanding the cause of myotonic dystrophy and could, in time, pave the way for possible approaches to treat the disease.

Secretary James D. Watkins termed the discovery at LLNL's Human Genome Center one of the first fruits of the Center. "There will be more discoveries to come and they will come at an ever faster pace," he said. "This finding is an example of how very basic research at the molecular level can hold true promise for improving the health of millions." He added that the development is a reminder that DOE laboratories "are truly an asset to the Nation."

Livermore scientists worked with collaborators at the University of Ottawa, the University of Nijmegen (the Netherlands), the University of Wales, and London's Charing Cross and Westminster Medical School.

Researchers do not yet know how the defect affects the expression of the myotonic dystrophy gene or genes, said Pieter de Jong who heads the eight-person Livermore team. But, he said, "we are confident that this discovery will lead to isolation of the gene or genes and the determination of myotonic dystrophy's exact cause."

Anthony Carrano, Director of the LLNL Human Genome Center who participated in the Washington briefing, noted that the center and other Livermore biomedical scientists have developed a full suite of resources to assist in identifying, isolating, and mapping genes.

These resources include: chromosome sorting technology, which can separate up to 250 chromosomes per second; recombinant DNA clones, which contain portions of the DNA of specific chromosomes; automated mapping technologies; and a computerized chromosome 19 data base available to collaborating researchers.

Most of the clones utilized in finding the myotonic dystrophy defect were supplied by Livermore Lab to its collaborators and about half of the mapping work was performed by Livermore scientists, Carrano said.

CONGRESSMAN KILDEE CALLS ATTENTION TO THE TRAGIC PLIGHT OF THE SYRIAN JEWS

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1992

Mr. KILDEE. Mr. Speaker, I rise today to call attention to the tragic plight of the 4,000 Syrian Jews who live in fear and isolation. They are denied basic civil liberties and human rights. They are prevented from emigrating freely and the few Jews who are permitted to travel abroad are required to put up a substantial monetary deposit and leave family members behind to assure their return.

Jews who have sought to leave the country, despite the restrictions, have been subject to severe reprisals. Those who are caught are usually tortured, imprisoned, and killed. In 1974, four single Jewish women trying to leave Syria were disfigured and murdered. At present, there are two people in prison, arrested for trying to leave Syria. They have been incarcerated since 1987.

Syria is a police state—not a democracy—and all Syrians suffer from the oppressive political system. But the Jews of Syria suffer from the special attention of the Syrian secret police, the Mukhabarat, only because they are Jewish. The Mukhabarat keeps files on all Jews, and the Jewish quarter of Damascus is under 24-hour surveillance. Their telephones are wiretapped and their mail is opened and read. As a means of reducing the financial liquidity which might make emigration possible, the secret police must approve the purchase and sale of property by Jews.

Jews are also prevented from instructing their children in Judaism. Instruction in Hebrew, as a language, oral or written, is absolutely prohibited. Elementary schools are supervised by Moslem headmasters and there are no secondary schools for Jewish education.

These are the Jews of Syria. They live a tenuous existence punctuated by arbitrary arrests, and torture, divided families, and police sponsored intimidation. Being a Jew in Syria means the denial of the right to freely emigrate to another country, which is a basic human right. The United Nations Declaration of Human Rights guarantees all people the right to emigrate. Syria has signed this U.N. charter and yet the Jews of Syria may not leave.

Mr. Speaker, now is the time to make it clear to the Syrian Government that holding thousands of Jews hostage is unacceptable. Although we are all anxious that the Middle East peace process go forward unimpeded and result in a genuine and lasting peace throughout the troubled region, we cannot allow the quest for peace to blind us to the harsh realities of Syrian human rights abuses. On the occasion of Shabbat Zachor, the Sabbath of remembrance for the captive Syrian Jewish community, let us pray for the rescue of the 4,000 Jews who remain trapped and oppressed in Syria.

AID AND THE CHANGING WORLD

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1992

Mr. PORTER. Mr. Speaker, the U.S. Agency for International Development is our Nation's agent of goodwill overseas. It is charged with coordinating our country's efforts to assist Third World nations develop their economies, provide health care for their populations, produce food to feed hungry mouths, and provide couples the means to limit and space the number of children they have.

In the years since AID's creation, AID's distinctive emblem—a red, white and blue shield with clasped hands over the worlds United States of America—has become a symbol of hope and help to people in developing nations. The emblem is affixed to all commodities that AID sends overseas.

Recently AID has decided to change the emblem's design to a stylized globe with the letters USAID.

A constituent of mine, Doris Wolfe of Winnetka, IL has written to me to share her concerns over AID's proposed change. The following are excerpts from her letter to me that I want to share with the Members of the House:

J.M. WRIGHT CO.,
Winnetka, IL.

Hon. JOHN E. PORTER,
Suite 410,
Deerfield, IL

DEAR CONGRESSMAN PORTER: * * * Because Dr. Roskens is further considering exactly how commodities for shipment overseas will be marked, could you suggest to him that the Agency continue to use the current Clasped Hands/United States of America emblems for Marking A.I.D. commodities. This would identify, specifically, the source of the commodities. It also would continue to capitalize on all the high recognition value of the current emblem which has been built up over the past 40 years of use.

My concern, as a taxpayer, was not about the expense of designing a new logo, as he mentioned. I feel rather that the present economy cannot afford to give up 40 years of valuable recognition for a new logo which has zero recognition value, and, in addition, does not say United States of America.

The A.I.D. official Dr. Roskens referred to, did tell me over the phone that I could use existing inventory to fulfill A.I.D. orders. However, the A.I.D. official subsequently has sent me the enclosed letter which directs the Missions to use their existing stocks (which doesn't help me) and then purchase new logo emblems, which I'm not sure I can economically stock until my existing supply is depleted. I'm in a Catch-22 situation. * * *

Given the current economic climate in the United States of America, I do not think a change of the logo used for marking Agency for International Development commodities is warranted. The United States of America should receive credit for the good that our country does. This is no time to be subtle. The letters USAID are not necessarily synonymous with United States of America.

Thank you for your interest and concern in this matter. I appreciate whatever you can do. I truly believe this is a very serious situation that was not thoroughly thought through and is still unsettled. Is Dr. Roskens now proposing to redesign the "new" logo? I am surprised that the Department of State is not more concerned about the Agency for International Development deleting United States of America from its commodity marking emblem.

Yours truly,
DORIS R. WOLFE.

CHILD CARE WORTHY WAGE DAY

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1992

Mr. MILLER of California. Mr. Speaker, today I introduced a House Joint Resolution to declare April 9, 1992, as Child Care Worthy Wage Day.

Last year, historic child care legislation was enacted that promised to help families pay for child care and improved child care options for families. But most importantly, this landmark law was to ensure high quality child care so that parents could work and children would be better prepared for school.

Despite the legislation's intent and to the detriment of children's well-being, child care teachers and providers continue to bear the burden of scarce child care resources by working for low wages and minimal benefits. According to a recently-released study funded by the Department of Health and Human Services, real earnings by child care teachers and family day care providers actually declined by nearly one-quarter since the mid-1970's.

Alarmingly, turnover in the child care profession has tripled over the last 15 years to over 40 percent. As the Select Committee on Children, Youth, and Families documented, the most important determinant of safe, reliable, and developmentally sound child care is the consistency and skills of those providing the care.

The Child Care and Development Block Grant has allowed a few States to study alternative strategies or improve training options to raise child care provider salaries, conduct salary surveys, or raise reimbursement rates:

California plans an Early Childhood Mentor Teacher Program to establish a career ladder for experienced child care teachers by allowing them to become mentors earning $2,000 for supervising student teachers in the classroom. Connecticut allocated a proportion of CCDBG funds to develop a plan for an integrated child care training program and salary scale.

Pennsylvania, New York, Louisiana, and Washington, are among the States that have raised or are planning to raise reimbursement rates.

Illinois, North Carolina, Oregon, Tennessee, Texas, and Wisconsin are among nine States which have established commissions or are planning studies to examine strategies for improving child care provider salaries.

Maryland, Washington, and Wisconsin provide or plan to provide direct grants or demonstration funds to help centers and communities improve child care provider working conditions and salaries.

But there is still a long way to go. Competing demands on the CCDBG have allowed most States to make only modest gains in improving compensation and working conditions for child care providers. Shrinking child care training funds at the Federal level also affect the child care work force, and hence the quality of care that many children receive. Last year, Congress deleted from the fiscal year 1992 Labor/HHS/Education appropriations bill $13 million for child care improvement grants to the States, half of which were to be spent on training. Further, President Bush's fiscal year 1993 budget proposal includes no funds for State dependent care grants, which provide critical support for school age child care and resource and referral services, which are often used for training.

To raise awareness about and celebrate what States are doing to enhance the professional status of child care providers, and to spur even greater involvement among government, schools, communities, businesses, and others concerned with guaranteeing high quality child care for families, I urge my colleagues to join me in cosponsoring this resolution to designate April 9, 1992, as Child Care Worthy Wage Day. The resolution follows:

H.J. Res. —

Whereas child care allows parents to provide for the economic well-being of their family and of the United States;

Whereas high-quality child care enables children to optimize their development;

Whereas high-quality child care is beyond the means of many families in the United States;

Whereas high-quality child care services require a well-trained and stable work force;

Whereas research continues to demonstrate that unskilled and inconsistent care of young children negatively affects their linguistic and social development;

Whereas even those child care workers who fulfill education and training requirements mandated by a State or the Federal Government earn between ⅓ and ½ of what comparably educated workers earn in other fields;

Whereas real wages for child care teachers and providers, when adjusted for inflation, have decreased over 25% the last 15 years;

Whereas poverty-level wages averaging $11,000 per year and the absence of health or retirement benefits fuel an alarmingly high turnover rate among child care teaching staff and family day care providers;

Whereas such turnover rate has tripled since the mid-1970s to an annual rate of over 40%;

Whereas it is important to recognize the significant contribution of the child care work force to the future academic achievement of children in the United States, the future productivity of the Nation, and the well-being of its children and families; and

Whereas it is important to acknowledge the need of the child care work force for higher wages and health benefits and the need of parents for assistance in covering such necessary costs: Now therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 9, 1992, is designated as "Child Care Worthy Wage Day", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the day with appropriate ceremonies and activities.

H.R. 4432, COMMEMORATING THE AMERICAN PHILOSOPHICAL SOCIETY

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1992

Mr. FOGLIETTA. Mr. Speaker, yesterday, I introduced H.R. 4432, a bill to authorize the striking of a medal commemorating the 250th anniversary of the founding of the American Philosophical Society and the birth of Thomas Jefferson.

The American Philosophical Society is truly a national treasure. APS promotes knowledge in the sciences and humanities through excellence in scholarly research, professional meetings, publications, library resources, and community service. Its members are elected for their scholarly and scientific accomplishments in all fields of learning, including mathematical and physical sciences, biological and medical sciences, social sciences, humanities, and public affairs.

The society's library is a major national center of research. It holds some 180,000 volumes and 6 million manuscripts specializing in the history of science in America and its European background. It also houses vast biographical archives and an outstanding collection of maps and prints. Its rare book collection is among the finest in the world.

APS also plays an important role in promoting research. It bestows awards upon those accomplished in such fields as jurisprudence, astronomy, and navigation. It also sponsors major research grant programs and has over the years given some $14 million to 11,000 individual scholars and scientists. More than $30 million has gone to other scholarly projects.

In 1743, Benjamin Franklin and other prominent colonial citizens founded the society to cultivate the finer arts and improve the common stock of knowledge. Its early members included most of the great founders of the Republic: Washington, Adams, Hamilton, and Paine. Membership was not limited to Americans, however. European scientists also proudly proclaimed membership in the society on the title pages of their books.

We owe an incalculable debt to the American Philosophical Society. Next year's anniversary coincides with the 250th anniversary of the birth of Thomas Jefferson, both member and third president of the society. The APS plans to commemorate both of these historic dates with special events in Philadelphia.

I trust my colleagues will agree that H.R. 4432 is fitting recognition for an organization which has contributed so much to the cultural and intellectual life of our Nation.

EXCELLENCE, EDUCATION, AND PERCEPTIONS: AN AFRICAN-AMERICAN CRISIS

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1992

Mr. STOKES. Mr. Speaker, one of the outstanding leaders in the Cleveland community is George Fraser who serves as the president of SuccessSource, Inc. Mr. Fraser is a superb businessman, who has used his talents to create a comprehensive network guide for African-American professionals.

Mr. Fraser is also an excellent speaker, and he is called upon to share his perspective on issues of importance. Just recently, Mr. Fraser addressed the Cleveland Teachers Union. In his remarks, he reinforced the importance of hard work, high achievement, and role models, as a means of countering the crisis facing the African-American community.

I am pleased to note that Mr. Fraser's speech was included in the publication "Vital Speeches of the Day." I think he makes some excellent points in his remarks, and I am pleased to share them with my colleagues.

EXCELLENCE, EDUCATION AND PERCEPTIONS: AN AFRICAN-AMERICAN CRISIS

(By George C. Fraser)

Good Afternoon and thank you so much for inviting me to speak. My congratulations go out to Cleveland Teachers Union for its vision, energy, leadership and commitment to excellence. Each of you should be proud and it is truly an honor to be here among you this afternoon.

I've been giving a lot of thought in recent weeks to what I ought to be saying to you. The obvious thing would be to praise you for your hard work and your accomplishments and encourage you as Black professionals and concerned parents to continue achieving at a very high level.

I thought about telling you that your individual and collective success provides our community with needed role models and that alone makes each of you indispensable.

But 20 years in corporate America taught me that your value, your worth, your indispensability is directly related to your usefulness, and your usefulness to others determines your level of achievement or success in life.

It is my opinion we are all here to be "used," not abused or misused, but used! And if you find yourself not being used, it could mean you are useless. The most important responsibility we have as black people is to succeed, to succeed in spite of racism, to succeed in spite of drugs, to succeed in spite of the odds against us. Our forefathers succeeded in the face of greater odds—it is our turn now, we are much better prepared. We must not and cannot and will not fail them. Can I get an Amen!

As each of us prepares ourselves for the new decade and the new century and ultimately the new millennium, we must include in our plans the goal of redefining the meaning of life for those of us that have gone astray!

Life is about happiness and happiness is not a new Cadillac, a shopping trip to the mall or an orgasm. Happiness includes the self respect that comes from accepting responsibility for one's life and earning one's way in the world.

All the great thinkers throughout history agree that happiness flows from realizing your full human potential, through doing productive work and overcoming ever more challenging obstacles. The driving force must be your own inner goals rather than the mere need to make a living!

Government cannot give you happiness: it can only ensure the conditions under which you can pursue it for yourself.

You cannot be happy on welfare and you cannot be happy with civil rights only!

Happiness isn't merely an individual matter. It has to be realized in the context of our community and culture. Within our own community and culture, sharing and acting on the same set of beliefs we construct the meaning of our lives. We do so by measuring up to the community's basic standards, by being good parents and good neighbors; by being good students and productive workers.

Within our culture we share in the tasks that make life human: Feeding the hungry, teaching our children, civilizing the uncivil, tending the sick, dealing with failure and celebrating success, all of this takes place in the face of some pretty remarkable odds.

It is at this point, that the definition of happiness seems to evade us in the context of white America. Something has gone seriously wrong and America perceives blacks as less than equal and really wishes that we would go away or at the very least—leave them alone * * * or maybe they're saying go get your own.

It is now time that we listen and react with a voice so loud that our actions drown out our words.

It is now time to circle the wagons and fight on the battlefield of excellence, self help, and economic empowerment.

It is now time to put aside our petty differences, our negative self image, and self hatred, our crab-in-the-barrel mentality and join forces to leverage more effectively our collective resources and intellectual capital.

It is now time to move from being the victim to being the victor.

And it is now time to look racism squarely in the face and say: you can't stop me, this is my country too and my place is anywhere my talents will take me.

Can I get an Amen!

Yes it is disheartening that so many think so little of black people in this country. The most extensive survey done on racial attitudes in America by the National Opinion Research Center published on the front pages of America's newspapers states that:

8 out of 10 white Americans believe we would prefer to live off of welfare and not to be self supporting.

6 out of 10 believed blacks are lazy.

5 out of 10 thought we are less intelligent.

6 out of 10 thought we are more violent.

5 out of 10 thought we are less patriotic.

After 300 years of building America and almost 30 years after the civil rights laws enacted in the 60's, it is amazing to me that so many white Americans know so little about black Americans.

The blame for these perceptions must fall squarely on the shoulders of the media. It is important to understand that these are perceptions. They are not reality. There are two dominant images of blacks in America. One is negative, which are images of poverty, crime and drugs. And the other is positive, and that is if you can sing, dance, play football, basketball, or baseball.

The vast majority of working class black America, whether it is blue collar, pink collar, white collar, gold collar, or no collar, you pick the collar, goes unnoticed and is taken for granted. You can say we are the silent minority.

Of the 31 million black people in America, the majority are not lazy and shiftless.

The most insidious thing about these extreme perceptions that are so pervasive in the mainstream media today, is that many blacks believe them too. So in many cases we are fighting two battles, one inside of our own culture and another outside our culture. I don't care what color you are—a constant feeding of those kinds of images and words and you would believe them also.

Question we must ask is * * * Why should we care about what people think about us? We should care because the impact on us is both subtle and not so subtle.

In many cases it has impacted our professional upward mobility. This is reflected in the glass ceiling many black professionals are now experiencing in the workplace.

It has impacted our ability to develop entrepreneurially and this is often reflected in the degree of difficulty we have in securing the necessary resources to start and build our own businesses.

It has impacted our children and how they see themselves and who they select as their heroes. We are raising a generation of children who want to be basketball players and rap singers; wearing billboard haircuts. The billboard haircut draws attention to the outside of the head to indicate there is nothing going on in the inside.

The most amazing thing that comes from all of this is that the overwhelming majority of African Americans from our generation have succeeded in spite of both overt and covert racism.

In the context of what I have just outlined, I would like to spend the balance of my time talking to you about:

How to use our intellectual capital, teamwork, and positive black images to address the educational crisis in our urban schools.

I would like to start by defining the concept of intellectual capital!

Intellectual Capital is the estimated dollar value of the formal education and professional training that black people have received over the last two decades. What I call the entitlement generation (1968–1988). Those of us who grew up benefiting from the civil rights laws enacted in the sixties.

I asked my research assistant to find out how many African Americans were enrolled in college from 1968–1988. We then totaled the number of hours of formal education for this group—it amounted to 19.5 billion hours.

We then did similar research to find the number of Black professionals in an executive, administrative, managerial, supervisory or professional specialties for the same 20 year period. I calculated the total number of hours of professional training and it amounted to 86.5 billion hours.

When you add both the formal education and professional training together it comes to 106 billion hours. That means we are the most educated Africans in the history of human kind. If you value this education and training at just $10 per hour, it means our intellectual capital is worth approximately $1.1 trillion. Therefore the next question is: What kind of return are we getting on this investment?

Total the sale of all the products and services produced by the 424,000 black businesses in America in 1990, and it amounts to $20 billion. If you then divide this $20 billion into the $1.1 trillion, it shows that we are getting less than a 2 percent return on our investment. Clearly we must do better, it is just not good enough. Clearly each of us in this category had some personal measure of gain, but what we didn't do effectively was leverage it in a way that would benefit our community.

You can say people like me were more focused on my own personal gain and performance and not on the team's performance; therefore in the total scheme of things, I didn't do as well and the team did even worse.

In real life there is no single success greater than the team. And we no longer have the luxury of being independent. We cannot have 31 million negroes running around here doing their own thing. We must become interdependent; linked together in a human bond of caring and sharing.

As long as there is one black person on welfare, living in a housing project, or denied a quality education—we are all there. Every culture in America understands that and acts on it, but us!

In my opinion, one of the top priorities for African Americans in the 90's is to find more productive and effective ways of reinvesting our collective resources back into our own communities and thus get a better return on our intellectual capital investment.

We must start by redoubling our efforts and by mobilizing and motivating the Black middle class to form an action oriented economic and educational agenda for the 90's. We must move from the bottom of the educational and economic ladder. A recent front page article in US Today shows black students at the bottom on SAT's, relative to all other ethnic groups in America.

We must encourage all sectors in our community to become more involved with a good faith effort. It is in everyone's best interest to more effectively utilize the diversity of this great country and not contribute to building a permanent underclass.

We must start by focusing on our role models and success models by encouraging, promoting, and recognizing professional and entrepreneurial excellence in our community. We can no longer afford to accept mediocrity from each other.

Your core values of work ethic, education, personal responsibility, self esteem, love, God and family must help replace hopelessness and despair.

The only way that is going to happen is if we take the responsibility for telling our story and sharing our values with those that are less fortunate.

We have an opportunity brothers and sisters to get involved—yes—each of us must find more to do with all that we have—remembering that there is as much joy and satisfaction in the journey as there is in reaching the destination.

All of this now brings me to the issue of education in this country in general and to urban America and black America specifically. Quite frankly all of what I just outlined pales in comparison to the educational challenge this country is facing.

What I do know is as a country we are becoming less competitive globally and we will all suffer because of this, if this does not change quickly.

What I do know is that part of this competitiveness problem can be traced to our primary and secondary educational system—this educational problem has evolved over time, it is systemic and it's as large and as complicated as any problem this country has ever faced—including its wars, depression, and going to the moon.

What I do know is that there is a "class of problems" so large that no one single person or thing can solve it.

What I do know is that we can solve this problem if everyone decides that it's our number one priority * * * and why shouldn't it be? Is there anything more important to a country than literacy and an educated work force? Why must we spend billions on weapons in a less threatening world when nobody can read the instructions on how to build it or use it?

As a businessman I can tell you that the workplace is changing dramatically. The Japanese really started the process of change when, right after WWII, this bombed-out, defeated country inspired and motivated its entire society to share a single goal of producing high-quality goods more efficiency than any other nation.

Thirty years ago the Japanese had a reputation for making cheap, low-quality, imitations—people snickered at Japanese products. Today, within our lifetime, they have a reputation for excellence, innovation and teamwork. Education was one of the key ingredients for that achievement.

The Japanese competitive spirit has dramatically impacted American industry. It has forced us to take a hard look at our size and efficiency and it has forced us to look at our work force and teamwork.

American industry is downsizing, merging and developing strategic alliances for greater strength and better utilization of resources. IBM and Apple Computer are partners, Food and Mitsubishi are partners. Ten years ago, they were throwing bricks at each other.

Everyone must now gear-up to compete in a global marketplace. Quality, excellence, and competitiveness will be the new battlefield. The country with the best educated and motivated work force will win big—the others will take what's left.

Being a minority will no longer give us a sustainable competitive advantage. It may get us in the door in some places but that's where it will end!

If you cannot read, write and compute which in turn will enable you to produce or contribute to producing the highest quality products or services, your opportunities will be very limited. The days of mediocrity or just getting by are over. An educated work force will be the key to our success.

John F. Kennedy understood very clearly the notion that there is a class of problems no single person can solve. He inspired the whole country with the challenge of going to the moon. He provided great vision, leadership, and resources to make this happen, to that end. There is no single person that knows how to get to the moon, what happened was thousands of people and hundreds of companies came together in strategic alliances to make it happen. Why can't we do that with education in this country?

Therefore I am proposing a series of three (3) strategic alliances that are specifically geared to improving the urban schools—where the problems appear to be magnified.

The conditions for these 3 alliances are that:

1. We must acknowledge that the current process and level of commitment is not working.
2. We must find a role for everyone.
3. In the short term, we will not save everyone.
4. This is a process and not a program.
5. While these ideas are not new, I believe they offer a fresh perspective.

Strategic Alliance #1—3 legged stool—Supply Side Government, Corporate and educational institutions

Government provides the vision and first level of leadership and makes education the nations #1 priority. The government must give education more than lip service and increase spending to a level that puts its money where its mouth is. Every educational program must be funded at new levels and new ones must be created.

Corporate America 2nd level of leadership contributes financial and human capital. Through a commitment backed up with some accountability corporate America helps to set some specific, measurable and achievable goals.

Educational institutions 3rd level of leadership and resources to initiate, train, motivate and inspire our teachers. That means inspired and committed leadership, state of the art training and techniques and at least decent and up-to-date facilities and tools to leverage their knowledge and new commitment. This alliance is responsible for: Vision, leadership, financial and human capital.

Strategic Alliance II—3 legged stool—Demand Side, The teacher, the parent, and the child.

We must demand that each one take full responsibility for the success or failure of the educational process.

The teacher must now take their commitment to education to a new level. Like the image of black people as generally portrayed by the media—your image is being destroyed. In many cases much of this is overstated by the media because it focuses on the—5 percent doing a bad job—and not the 95 percent doing a good job, the point is you can no longer accept mediocrity from your colleagues and peers, because it is transferred directly to you. As the teacher you must simply say "I care about my children and I'm going to take full responsibility for teaching them in spite of what they may want or support I get from their home.

As the parent we must say the same. "I care about my child and I'm going to take full responsibility for ensuring that they learn and get the best education possible regardless of the support I get from the school.

As the child we must teach them, the importance of, the fun, the joy and the rewards of learning, so that they will accept the challenge and responsibility of getting a good education.

If everyone individually and collectively said it's my responsibility, it's my job, the teacher, the parent, the child, the process will improve. We must stop finger pointing. It is no different than saying we cannot use racism as reason to fail, because if we do, guess what? We are going to fail.

Strategic Alliance III—Linking the black middle class to the school and student.

We must mobilize and motivate the black middle class to get involved. It is in our best interest. The majority of our wealth and intellectual capital is strategically positioned in this segment. There are nearly 2 million blacks in executive, managerial, supervisory, and professional specialty positions.

There are nearly 424,000 businesses. Together this is a pretty formidable army. The job we have to do is too important not to share what we have beyond our family and a small group of friends. The idea here is to get a lot of us doing a little as opposed to a few doing a lot. There has got to be more than 50 people in Cleveland who can do anything. When you look at who's involved we see the same 50 people. First it's not fair to them and second it is a gross underutilization of this massive resource of black intellectual capital.

There is no reason why this army of talented and committed black resources should not be called upon in a way that provides them an opportunity to demonstrate their concern, commitment and accountability to the contribution of solving this problem.

The key is to do it in a way that is consistent with their lifestyle. The key is to find something small that 2½ million people can consistently do.

That was the underlying principal I created when we broke the balloon release world record with over 1,500 students working together for 15 hours. When people work together we can make the impossible—possible.

We must have applied faith in the human spirit. The key word here is applied faith—because faith without work is fantasy. IQ without I can is fantasy. I know we can solve these problems.

I know that this step of getting every black middle class person personally involved in some way is not only important, it is possible. How do I know it's possible? I know it's possible because we have started the process of getting this part of the job done.

I know it's possible because I have committed the rest of my life and all of my intellectual capital to providing the vision, the mission, and the leadership necessary to get this part of the job done. That is not ego talking, ladies and gentlemen—it is commitment and concern and this commitment and concern is transferable to a larger body of black people who are successful and resourceful. Let me tell you how.

For the last 3 years I have been working on a guide to black resources in Greater Cleveland. It is called SuccessGuide. Samples of this product are on each table. In case you thought it was just another black magazine hustle—it is not—by any stretch of the imagination. There are five strategic reasons why this resource—this tool—this guide will begin the process of mobilizing the black middle class—the intellectual capital of our community in ways that each of you as educators and parents can utilize and leverage.

First: It will enhance the image and self-esteem of black people by recognizing and encouraging excellence in a high quality product. SuccessGuide is the best annual directory published in America, regardless of color. This will help offset and bring some balance to the negative images presented by the media. Yes it's David vs. Goliath but each community must start with something. I believe SuccessGuide is a good place to start.

Second: SuccessGuide will highlight the positive contributions and accomplishments of black professionals and entrepreneurs in our community. Let the media focus on the 20 percent unemployment in the black community—we will focus on the 80 percent that are gainfully employed and who are making significant contributions to building this great city.

Third: SuccessGuide will provide role models for our young people and success models for our adults. There is a human cry in our inner city schools for role models—especially black males. You now have nearly 6,000 you can call on and read about.

Fourth: SuccessGuide will provide a network for jobs, contacts, professional resources, products and services. Our young people can begin their networking process early.

Fifth: and finally, SuccessGuide will offer a low cost, high quality community based advertising vehicle for high quality messages, products and services that serve the needs of our community.

Our goal is to publish 25 SuccessGuides all across America and link together over 1 million top black professionals and entrepreneurs by 1995. By 1997 we will also include 4 countries: West Africa, the United Kingdom, the Caribbean, and Canada. Can you imagine the importance and power of 1 million black people talking to each other?

SuccessGuide is currently available in seven major cities this year: They are: Atlanta, Cincinnati/Dayton (as one market), Chicago, Cleveland, Detroit, New York, Washington, D.C. and we are adding Los Angeles in 1992:

Together these markets represent nearly 52 percent of the black professionals and entrepreneurs in America.

This collective effort represents over: 30,000 hours of work by over 250 people, 1,600 pages and 25,000 listees—$1.5 million, 15 lbs.

Finally, if SuccessSource is to succeed in this phase we will need your help and support. Just as you will need our help and support. There are four things you can do right now.

First: Use SuccessGuide as a resource in your class and school. Make sure your students and children review it, so they will see and understand the level of professional excellence right in their own community.

There are over 6,000 black role models listed—names, titles, business affiliation and phone numbers. Call them and ask them to serve as mentors, speakers or models for shadow programs or for the various career day, black history month and other specialized programs in your school or classroom.

Through SuccessGuide you now have a resource that will save you time and provide you quick access to some of Cleveland's best and brightest black talent.

Second: Help us get a full collection of seven guides in every school library. It is the only contemporary black reference source in America and we want our children to understand that there is African American professional and entrepreneurial excellence all over this country.

Third: We believe it would be ideal and important for every junior high and high school student to have a copy to keep in their home, to show to their friends, and relatives and to use at their leisure and begin their networking process. We have asked corporations that have adopted the various schools to invest in this annual resource and provide it to the schools for library, classroom and student distribution. Your voice and encouragement could make the difference in this request.

Fourth: Spread the word—talk about it—make sure your friends, relatives and colleagues in executive, managerial and supervisory positions, or, self employed professionals, leaders, and entrepreneurs are listed in it.

As black people we must visibly and vocally demonstrate a deep concern for the construction of a new educational system in this country. Our urban schools have lost the most and therefore we have the most to gain. It is in our best interest to get every interested party involved—right now!

As I outlined to you earlier, as black people we are under siege from all sides. Our image, our morals, our values, our education, our jobs, and our children are at great risk. We must return to and embrace excellence, self help, education, family, God and community, once again.

Our history tells us that we have built pyramids, and solved complex engineering problems when other cultures were living in huts. Today, we are the most educated and professionally trained generation of Africans in the history of the world. Surely we have the network and skills to solve our own problems.

I suggest we stop talking about it and just do it.

In the words of Benjamin Hooks at the most recent summit conference of Black Organizations in Washington, D.C., and I quote:

"African Americans have an aggregate annual income of more than $300 billion a year, the expertise of a growing professional and entrepreneurial class and the moral strength of a vast and powerful network of churches * * * We must now passionately but aggressively deploy these resources to salvage a struggling black community.

This responsibility, ladies and gentlemen, falls squarely on our shoulders. Everyone in this room has a vested interest. I know we can carry the load to the next level.

I am throwing the gauntlet down and asking each of you for a commitment to do more.—Now!

To become indispensable.

To vertically network by reaching down and lifting up and

To reach back and pull forward.

In closing, ladies and gentlemen, I say to you once again: We must redefine the meaning of life. Life is about happiness and happiness includes the self respect that comes from accepting responsibility for one's life and earning one's way in the world. We have all the tools we need, right here, right now.

Will you do me a personal favor right now—repeat after me * * *

Success lives in Cleveland
Because Success Lives Where I live
We must be willing to share our success and help others to succeed
Each One, Must Reach One, and Teach One.

Can I get an Amen. In closing I say, Let's Get Busy.

Thank you.

AFRICA'S UNPAYABLE DEBTS

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1992

Mr. DYMALLY. Mr. Speaker, I rise to express my regret over a recent decision by the Bush administration that once again proves its unwillingness to take the needs of the struggling nations of sub-Saharan Africa seriously. The recent unfortunate incident reveals all too clearly how reluctant the administration is to help Africa and how, even when Congress has given the administration specific authority to forgive debt, the administration's inflexible interpretation of this authority is defeating the Congress' desire to address Africa's pressing needs.

Under section 411 of the Agricultural Trade and Assistance Act of 1954, as amended, Congress has granted the President the authority to forgive the Public Law–480 debt of any least developed country if that country has a supervised agreement with the IMF or the World Bank, or if that country is pursuing economic policies which will promote democracy and free-market growth.

In September of last year the administration implemented this program for all African countries which is determined to be eligible. One of the countries considered for debt relief under this program was the Republic of Guinea, an exceedingly poor West African nation with a burdensome debt service. The Treasury Department, however, denied Public Law–480 debt relief to Guinea on the grounds that Guinea was not under an IMF or World Bank Program, and thus did not meet the requirements of section 411. And yet the World Bank made it explicitly clear to the administration that Guinea in fact was under a World Bank program, but that this program was simply on temporary "hold" pending agreement on certain implementation details.

Moreover, as the World Bank also made clear to the administration, and as any observer of African affairs would surely know, Guinea has a remarkable track record of successful economic reform, including widespread privatizations of former parastatals, civil service reductions, elimination of price controls, and liberalization of agricultural markets. Perhaps the Treasury Department should have read the Agency for International Development's fiscal year 1992 Congressional Presentation Document, which details these reforms. In addition, Mr. Speaker, Guinea has simultaneously been moving steadily, and peacefully, toward multiparty democracy.

During the Treasury Department's consideration of Guinea, Mr. Speaker, I rewrote to the administration urging flexibility. So that my colleagues might better understand the issue, I have included that letter with this statement.

One would think that Guinea would be regarded as one of the most deserving beneficiaries of a United States debt relief program. And yet because of its inflexible interpretation of section 411, and its generally recalcitrant attitude toward serious debt relief for sub-Saharan Africa, the administration denied Guinea the benefits of section 411 debt relief. The excuse was a typical accountant's excuse: the Treasury Department argued that because World Bank and IMF loans were unavailable to Guinea at that specific moment in time, Guinea should be ruled ineligible for debt relief. As if to underscore the absurdity of the administration's decision, the IMF—just 7 days after Guinea was denied debt relief by the United States—awarded Guinea a new Enhanced Structural adjustment facility based on Guinea's proven commitment to economic reform. This decision by the IMF would have made Guinea eligible for section 411 debt relief, but the fiscal year had ended on September 30, so the administration's determination process must now start over. Meanwhile, the people of Guinea continue to suffer.

Mr. Speaker, this is yet another example of the administration's failure to take Africa's problems seriously. At a time when the administration is moving forward on debt restructuring for the countries of Latin America, it is dragging its feet on debt relief to the world's most impoverished continent. It seems to me to be yet another case where Africa is getting the short end of the stick. Mr. Speaker, I would like to include with this statement a recent, enlightened article from the Economist, which argues strongly in favor of debt relief for Africa.

Mr. Speaker, when it comes to helping Africa, this Congress cannot wait for the Bush administration to take the initiative. I intend to seek a way to provide Guinea the relief it needs, and to ensure that other African countries receive the attention, support and flexibility this administration seems to apply everywhere in the world except Africa. I hope my colleagues will join me in this effort to bring about desperately needed debt relief for Africa.

[From the Economist, Nov. 3, 1991]

AFRICA'S UNPAYABLE DEBTS: THE CASE FOR FORGIVENESS IS TOO STRONG TO IGNORE

In April America persuaded the world's rich governments to write off half Poland's official debt. In May it did the same for Egypt. Meanwhile Britain proposes debt reduction for a group of mainly African countries, whose ability to repay is even weaker than Poland's or Egypt's. Sounds reasonable? Not to some American politicians. Unlike Poland, Africa's economic difficulties exercise few voters. Unlike Egypt, Africa played no role in resisting Iraq's dictator.

America's Treasury pleads that, under a new credit-reform law, Congress must make a special appropriation to cover further debt relief, and that this is time-consuming. Lame, for three reasons. The "appropriation" would be largely fictitious. Second, the poorest countries are not servicing their debts anyway, so the British proposal to cancel two-thirds of what they owe would cost creditors precious little. Indeed it might bring America extra money, since the deal would require that the remaining third of the debt should actually be serviced. Third, the British proposal dates back to September 1990. It has been aired frequently since then, including at July's G7 summit in London. The credit-reform law came into force only last month. Relief for the poorest has been nobody's priority.

This is understandable, if hardly defensible. Poland's huge debt threatened to wreck the hopes aroused by communism's collapse; Arab allies were essential to the anti-saddam coalition. But giving favors to friends threatens a central principle of economic aid: if help is not tied to sensible economic policies, it is likely to be useless. Relief for Poland and Egypt was made formally conditional upon market reform, but both countries knew that its real impetus was political. Countries in this position usually break their economic promises. Zaire's rulers simply banked much of the aid they received during their years as cold-war assets. In 1988 Argentina squandered the first tranche of a World Bank loan of $1 billion, granted after American arm-twisting. Poland has failed to meet the conditions set for its debt-relief package.

FOLLOW BRADY, MR. BRADY

Intellectually, the case for debt reduction in Africa is water-tight. In Latin America there were once respectable reasons for doubting it. In the mid-1980's the Latin countries that first threatened to default seemed capable, granted economic reform, of increasing their exports fast enough to catch up with repayments. Debt reduction therefore seemed unnecessary. It also looked damaging. It would create a moral hazard, encouraging other countries to default, and put off the time when the beneficiary had to live within its financial means. Lastly, debt reduction would hurt the banks, so they would be reluctant to lend to developing countries in the future.

Today none of these arguments is so convincing, least of all for Africa. Growth in the third world recovered only slowly in the 1980s, so debt burdens grew ever harder to support. Moral hazard became irrelevant as more countries fell behind with their repayments—and as it became clear that debt reduction could be successfully tied to economic reform. In recent months banks have proved willing once again to lend to Latin America's boldest economic reformers.

The weakening of the case against debt-reduction has already spawned the Brady plan, named after America's treasury secretary. In 1989 this scheme enabled Mexico to reduce its debt by $15 billion, helping to spur the economy to its present recovery. Given the will, other Latin American countries could follow. Black Africa's prospects are far grimmer. The region is hobbled by debts much heavier, in relation to economic strength, than Latin America's. Yet the Brady plan offers no help at all. It is designed to reduce commercial-bank debt, and Africa is in hock to development banks and governments.

The world's rich countries know that Africa cannot repay its debt. That is why their aid ministries have all but given up new lending in favor of straight grants. Yet they have chosen not to put their weight behind a debt-reduction scheme for the poorest countries that would match the Brady plan for the less desperate. The British proposal would fill this gap. By setting strictly economic criteria for eligibility, it would avoid the danger of political favoritism. Your shoulder please, Mr. Brady.

CONGRESSIONAL REFORM

HON. PAT ROBERTS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1992

Mr. ROBERTS. Mr. Speaker, during these difficult times of public frustration with Congress, many Members are offering quick-fix legislation to resolve the longterm difficulties of the House's administration. Unfortunately, most of this legislation is shortsighted and miss their mark.

As a member of the House Administration Committee, I have spent many hours working with the majority and minority on many facets of the House's operation. In my opinion, the House has many other institutional problems far beyond the House Bank, Restaurant and Post Office. Congress has become too large, too bureaucratic and too ineffective. Drastic steps have to be taken to resolve this situation.

However, the latest majority suggestion to create a fifth House officer, an Administrator to be solely appointed and controlled by the majority, fails to address the basic problem of the House. Congress has become too large, too bureaucratic and unable to effectively function.

I am submitting the RECORD a letter that Minority Leader BOB MICHEL sent to the Speaker on March 11, 1992. It outlines the difficulties before the House and measures that should be taken to better the situation.

The minority stands ready to work to solve the problems before the House. However, a bipartisan approach must be taken or the situations will only perpetuate themselves. I hope my colleagues are open to these suggestions.

The letter follows:

OFFICE OF THE REPUBLICAN LEADER,
Washington, DC, March 11, 1992.

Hon. THOMAS S. FOLEY,
Speaker of the House,
U.S. House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: I am aware of your desire to quickly bring to the Floor legislation that would create the position of House Administrator.

While I recognize the crisis of confidence in the House that has caused such a move, I want to take the opportunity to tell you, before a vote is taken, of my opposition to any such proposal without careful study and analysis. We would like to help solve the problems of the institution in an institutional way. But, the scandals of the last year demand that we make fundamental changes in the way this institution operates. I am not convinced that a newly-created House Administrator would make those changes.

I am, quite frankly, distressed that at this crucial time the Majority is bringing before the House such an important measure without a series of hearings. Yes, the entire system of House administration needs reform—but what is needed is sweeping reform. Let me suggest such an alternative.

My plan will remove the patronage that has brought us to this tragic state. In its stead will be competence and professionalism.

We currently have five elected officers of the House of Representatives: The Doorkeeper, the Postmaster, the Sergeant at Arms, the Clerk, and the Chaplain.

I would propose that we eliminate the Offices of the Doorkeeper and the Postmaster. The Office of the Doorkeeper is responsible for guarding the doors to the House. This function should be fulfilled by the Sergeant at Arms.

The Office of the Postmaster oversees the House Post Office. That function should be replaced by a professional postal operation.

Over the 38 years of total Democratic control of every aspect of the House, the functions of the Officers of the House have grown beyond their original legislative intent. I propose that they return to those original functions.

The Sergeant at Arms should be in charge of protecting the House Members, their staffs, and the Capitol and House Office buildings. He should have no financial role whatsoever.

I propose that we hire a nationally respected law enforcement professional as the Sergeant at Arms to carry out that role.

The Clerk should only be in charge of legislative activities: Making sure the Journal is kept, making sure the votes are tallied correctly, and making sure amendments are in order.

The Clerk should not have control over the financial activities of the House. There should be a clear demarcation between financial and legislative roles within the House.

Instead, a Chief Financial Officer of the House should be created to carry out those financial functions such as paying the Members, balancing the books, and disbursing health insurance. These would be the activities of the CFO.

It has been traditional to have the Majority Caucus nominate and elect all the Officers of the House.

My proposal would change that system.

I would remove the partisanship by requiring a two-thirds vote for the appointment and subsequent re-appointment of the Chief Financial Officer.

We must radically change the management of this House. A House Administrator may look good, but it doesn't go to the real heart of the problem.

I understand why the Majority wants to move quickly on this matter, but I must question the wisdom of acting too hastily.

Instinctively adding another layer of bureaucracy to an already over-bureaucratized House is no solution.

We need careful, long-term reform of this House, and I am doubtful that the hasty, partisan appointment of a House Administrator will achieve that goal.

Sincerely,

ROBERT H. MICHEL,
Republican Leader.

THE COMPULSORY LICENSE CLARIFICATION ACT OF 1992

HON. RICK BOUCHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1992

Mr. BOUCHER. Mr. Speaker, today I am pleased to be joined by the gentleman from California [Mr. MOORHEAD], the ranking member of the Subcommittee on Intellectual Property, in introducing the Compulsory License Clarification Act of 1992.

Our objective in introducing this legislation is to clarify Congress' original intent when it amended the Copyright Act in 1976 to create the "compulsory license," which permits cable systems to carry broadcast programming without incurring copyright liability. This clarification is needed because of a recent ruling by the Copyright Office which we believe interprets the 1976 amendments too narrowly, and would strip at least one emerging video technology, wireless cable, of its right to the license.

In 1976, Congress amended the Copyright Act with respect to cable system retransmission of broadcast signals. Recognizing that it would be impractical and unduly burdensome to require every cable system to negotiate with every copyright owner whose programming was retransmitted through the carriage of local broadcast signals on cable systems, Congress created a compulsory license scheme by which cable systems could meet their copyright responsibilities.

Under the Copyright Act, "cable systems" are eligible for the license. The language of the act shows that Congress did not intend to limit eligibility for the compulsory license to coaxial cable systems. In section 111(f) of the act a "cable system" is defined as "a facility, located in any State, territory, trust territory, or possession, that in whole or in part receives signals transmitted or programs broadcast by one or more television broadcast stations licensed by the Federal Communications Commission, and makes secondary transmissions of such signals or programs by wires, cables, or other communications channels to subscribing members of the public who pay for such service."

Although this language is clearly broad enough to encompass transmissions through wireless cable technology, in January of this year, the Copyright Office issued a final rule denying wireless cable systems the benefits of the compulsory license. The Copyright Office concluded that the phrase "other communications channels" was intended merely to extend the compulsory license to coaxial cable systems that utilize wireless technology to extend their signal into unwired areas—so-called hybrid systems. We do not believe this strained interpretation is supported by the plain language of the act. This view in effect reads an "and" into the statute where an "or" clearly exists.

Moreover, the legislative history of the 1976 amendments to the Copyright Act indicates that when Congress created the compulsory license, it intentionally used language flexible enough to include advances in technology, such as the emergence of wireless cable technology. For example, the House report accompanying the 1976 legislation states that the definition of the term "transmit" in section 101 "is broad enough to include all conceivable forms and combinations of wired or wireless communications media, including but by no means limited to radio and television broadcasting as we know them." (H. Rept. No. 1476, 94th Cong. 2d sess. 63, reprinted in 1976 United States Code Cong. & Admin. News 5659, 5678.) Clearly, Congress used broad language in the 1976 amendments to ensure that the act would be able to operate in the face of technological changes.

The fact that Congress enacted the Satellite Home Viewer Act of 1988 in order to extend the compulsory license to satellite carriers does not in any way argue against the interpretation of section 111(f) that we are advocating. Satellite carrier transmissions were clearly outside the scope of the definition of "cable system" contained in section 111(f) because they do not originate from "a facility, located in any State, territory, trust territory, or possession." Rather, they originate from a satellite in space. In contrast to satellite carrier transmissions, wireless cable transmissions do originate from a facility located within a State. In fact, a wireless cable system functions exactly like a coaxial cable system—it sells the same product to the same audience from a local site.

Recognizing that its decision to deny the compulsory license to wireless cable systems is a controversial one that could have a serious adverse effect on the wireless cable industry, the Copyright Office has delayed until January 1, 1994 the effective date of its rule. In granting this delay, the Copyright Office expressly intended to give Congress adequate time to adopt legislation clarifying the eligibility of wireless cable systems for the compulsory license.

The wireless cable industry has utilized the compulsory license since the first wireless system became operational in 1986. The future of the wireless cable industry depends upon the continued availability of the compulsory license. As a practical matter, without the compulsory license a wireless cable operator will be unable to clear the copyrights of each program it wishes to carry on an individual basis.

The Compulsory License Clarification Act will amend the definition of a "cable system" in the statute to ensure the availability of the compulsory license for wireless cable and "any other technologies employed for the local distribution of secondary transmissions of broadcast programming." This modest amendment will ensure that the compulsory license is available on a technology-neutral basis and will help ensure that alternative video transmission technologies will be able to provide competition to the cable television industry.

TRIBUTE TO EDWARD J. DONOHOE

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1992

Mr. McDADE. Mr. Speaker, it is with great sadness that I bring to the attention of my colleagues the death, on March 3, of Edward J. Donohoe, former managing editor of the Scranton Times and the Sunday Times.

Mr. Donohoe was an award-winning journalist whose editorial and reporting contributions for over 50 years helped to inform the people of northeastern Pennsylvania of local, national, and world events. He not only earned the respect of his colleagues and the community through his professional abilities, but he also left a lasting imprint on the newspaper business in my region of the country.

Mr. Donohoe's long and distinguished career got an early start when he published a weekly grade-school newspaper in Wilkes-Barre and delivered the papers to subscribers' homes. After high school graduation, he joined the staff of the Wilkes-Barre Times Leader. The 1934 Pulitzer Prize in journalism included a citation for Donohoe's year-long investigation of school board graft and corruption.

The Scranton Times added Donohoe to its news staff in 1940. He started as a general assignment reporter with economics and labor as his specialties. Donohoe was selected by Harvard University's Nieman Journalism Foundation for a 1-year on-campus residency.

In the 1948 Pulitzer Prize for Meritorious Public Service awarded to the Times, Donohoe was one of the staff members whose work was recognized for the newspaper's investigation of court corruption. A year later, he won a Heywood Broun Award in Journalism citation from the American Newspaper Guild for his coverage of a general milk strike.

He traveled throughout Western Europe following World War II as a winner of the New York Herald-Tribune's Reid Travel fellowship. His reporting on the wartime heroism of Dutch coal miners earned him the William the Silent Award in journalism.

Mr. Donohoe was a past president of the Pennsylvania Society of Newspaper Editors. He was a founder and president of the Wilkes-Barre Newspaper Guild and served as president of the Scranton Newspaper Guild. He was also active in church and civic activities.

My sympathies go to his widow, Helen, their daughter, Patricia, and other surviving family members.

TRIBUTE TO CHIEF MASTER SERGEANT RANDY D. MYERS

HON. DAVID L. HOBSON

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1992

Mr. HOBSON. Mr. Speaker, for the information of my fellow colleagues, I would like to enter into the RECORD a tribute to Chief Master Sergeant Randy D. Myers.

Mr. Speaker, in all the debate regarding America's defense requirements, little mention is made of one of the most important factors in America's defense readiness, the morale of our fighting people. There is little more important to the people of our Nation than those human factors which determine whether our Armed Forces can meet the challenges presented them.

Over the last 30 years and 27 days, the U.S. Air Force has enjoyed the faithful and dedicated service of one of my constituents, Chief Master Sergeant Randy D. Myers. Chief Myers enlisted in the U.S. Air Force in June 1962. Since that time, his responsibilities have been from base level security police, administrative specialist at Nakhon Phanom, Royal Thai AFB, Thailand, administrative superintendent at the Headquarters Strategic Air Command, Offutt AFB NE, operations, coordinator, American Embassy, Buenos Aires, Argentina, July 1982–August 1985, Chief, Military Personnel Division, Headquarters, Assistant Executive Officer, Logistics Operations Center, Assistant Executive Officer, Deputy Chief of Staff for Requirements and Chief, Administrative Division, Headquarters Air Force Logistics Command, Wright-Patterson AFB OH.

Make no mistake, Mr. Speaker, Chief Myers has had most demanding assignments. His devotion to service has won him numerous awards including the Bronze Star, Meritorious Service Medal, Joint Service Commendation Medal, and Air Force Commendation Medal with two Oak Leaf Clusters. I join Chief Myers' many friends and colleagues in saluting him for his dedicated support to our Nation's defense. His contributions exemplify the mission of the U.S. Air Force and will be missed. Thank you, Chief Myers, for serving your country so well.

COMMEMORATING THE 50TH ANNIVERSARY OF WORLD WAR TWO

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1992

Mr. SKELTON. Mr. Speaker, On the morning of December 7, 1941, United States involvement in the Second World War began when Japanese planes bearing the insignia of the rising sun swept down from the north and bombed Pearl Harbor.

As the central event of the 20th century, World War Two stands as a dividing line in American history. In many ways, it still defines who we are and what we stand for as a Nation.

It is important that we remember the sacrifices our veterans made 50 years ago—sacrifices which helped lead us to victory in the Persian Gulf and helped America win the cold war.

Over the next 4 years, the Department of Defense is commemorating the 50th anniversary of World War Two. The Secretary of Defense has established a special joint committee to direct the DOD to plan and conduct commemoration activities across the country. The executive director of the committee is C.M. (Mick) Kicklighter, Lieutenant General (Ret.) of the U.S. Army.

The purpose of this committee is two-fold: to honor our veterans, their families, and the homefront workers who turned America into the "arsenal of democracy"; and, to develop programs and materials to provide a better understanding of history and the lessons of World War Two.

The committee's main mission is to recognize the military's tremendous contributions to our Nation. It will also develop educational programs and materials to involve Americans in World War Two commemorative activities and highlight advances in technology, science and medicine due to military research. And as part of the 50th anniversary, the DOD will ask military departments and commanders-in-chief to take part in commemorative activities.

The committee also has three implied purposes. These are: first, to recognize the contributions and sacrifices made by our World War Two allies; second, to recognize the sensitivity of dealing with former adversaries and make this commemoration a healing process; and third, to establish an advisory committee and working groups to advise and assist in the commemoration activities.

The commemoration committee administers two special support committees: the Department of Defense advisory committee [DODAC] and the World War Two executive committee. The DODAC is comprised of senior representatives of the legislative and executive branches of government, civic leaders, academians and distinguished military retirees. The World War Two executive committee will meet several times a year to oversee the development of commemorative events.

Those who remember World War Two must pass their memories on to their grandchildren. World War Two taught America to never again be unprepared. It taught us to never again appease an aggressor or to isolate ourselves and pretend that the rest of the world's problems don't involve us. That lesson was best demonstrated when we sent a half million troops into the Persian Gulf to free Kuwait and protect its people from the ravages of Saddam Hussein.

During the next 4 years of commemoration, let us rededicate ourselves to the principles of democracy and freedom, the values for which our veterans so bravely fought. Let us extend thanks to all veterans and their families who have sacrificed to keep our Nation strong. And let us resolve and hope that World War Two will be the last world war written up in the history books.

PROTECT SOCIAL SECURITY

HON. TOM CAMPBELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1992

Mr. CAMPBELL of California. Mr. Speaker, Social Security is one of the most successful Federal programs in the United States. Created over a half a century ago, it has directly affected and benefitted more Americans than any other government program. It is a fundamental and important part of the lives of every citizen today.

When Social Security was enacted in 1935, only 15 percent of employed people in our country were covered by any type of retirement system. Universal coverage for the disabled and destitute was virtually unknown and health care costs were the complete responsibility of the individual. Today, over 40 million retirees, disabled workers, their spouses, and children receive a Social Security check every month. About two thirds of them rely on it for over half their income. And many elderly women today depend on it almost exclusively as their retirement income.

The success of Social Security has been very significant in terms of reducing poverty among the aged and improving their economic status. Whereas in 1960, 35 percent of the elderly were in poverty, today this figure is about 12 percent. A 1988 Census Bureau study found that Social Security was more effective in reducing poverty than government programs specifically designed for that purpose. Without it, the poverty rate for seniors would be about 51 percent.

Social Security provides something that no private retirement system can: the guarantee of the Federal Government. Any other guarantee is less, as the policy holders of Executive Life and the depositors of Lincoln Savings have learned. There is a role for government in the retirement income security—it is to relieve those who have worked hard all their lives of at least some of the uncertainty about whether they can make it in retirement. That's a role worth protecting.

DECISION REACHED IN COURT CASE

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1992

Mr. DE LA GARZA. Mr. Speaker, I am pleased to inform my colleagues that the Fourth Circuit Court of Appeals has reached a decision in the case of First South Production Credit Association versus the Farm Credit Administration, putting to rest litigation that was filed by First South more than 2½ years ago. The court's decision settles the issue of whether section 410 of the Agricultural Credit Act of 1987 authorized the Farm Credit Administration to force a merger of the Federal Intermediate Credit Bank of Jackson. However, the court's decision leaves open a number of issues regarding the authorities and responsibilities of the Federal Intermediate Credit Bank of Jackson.

The 1987 Act repealed the law authorizing the chartering and operation of the Jackson bank, leaving the bank to operate, and forcing the regulator to regulate the bank in a legal no-man's land. The uncertainty raised by the lack of a statute specifically governing the operations and regulation of the bank is unhealthy for the bank, its farmer-borrowers, and the Farm Credit System as a whole.

Legislation to address this issues, H.R. 3298, is awaiting action by the House. A number of Members have expressed concern about the specifics of this legislation, and on the advisability of legislating on this issue while the lawsuit was pending. Now that the obstacle of the litigation has been removed, it is time for Congress to clarify these issues through legislation.

I take this opportunity to inform the House that I intend to work toward the enactment of H.R. 3298 in this session of Congress. I hope that all interested Members will work with me to reach a fair and timely resolution to the issues presented by the inability of the Federal Intermediate Credit Bank of Jackson to merge under the provisions of the 1987 act, and the resulting uncertainty regarding the bank's legal status. The resolution of this matter will help to bring H.R. 3298 to the floor and allow the House to address the many other important issues in that legislation.

I invite all interested Members to work with me to resolve this issue in as timely a fashion as possible.

TRIBUTE TO ROBERT JOHN STASSER

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1992

Mr. TRAXLER. Mr. Speaker, I rise to salute Robert Stasser, a public servant, who is retiring on March 20, 1992, after many years of dedicated service to the State of Michigan Employment Security Commission [MESC].

Robert John Stasser was born July 27, 1938 in Detroit, where he attended parochial schools and later earned a bachelor of liberal arts degree in 1961 from the University of Detroit. He went on to earn a masters degree in library science from Wayne State University in 1969.

Bob's teaching career began at La Sallete Berkley, MI and Clarenceville Schools where he also coached the basketball team to an elementary championship. Even though his career of public service had begun in 1965, Bob's love of teaching caused him to take a part time faculty position at St. Clair County Community College from 1969 to 1973. Ever the teacher, Bob continues to the present, as a reference librarian for the Bay County Library System.

His long association with Michigan's Employment Security Commission began in 1964 as a counselor in the Port Huron office. Promotions soon followed, as a WIN unit supervisor, and then assistant manager. During this time in Port Huron, Bob wrote a column for a local paper, "The Clarion" and produced an informative MESC radio show for 8 years.

Through further promotions in 1979, Bob became WIN district manager and employment security supervisor in Bay City, Mount Pleasant, and later, manager in Port Huron, Corunna and Bay City MESC offices.

Bob was nominated for the Arthur Altmeyer fellowship on unemployment compensation in 1976 and again in 1977. His professional affiliations include the Chamber of Commerce Ambassador Club, COMPASS Partnership, Career Education Planning District Council, and the International Association of Personnel in Employment Security [IAPES], as well as, the Community Growth Alliance Board of Directors, Valley Society of Personnel Administrators, and the Delta College Management Education Advisory Committee.

Bob and his wife, Carol, have three children, Andrea, Eric and Eileen. All, imbued with their father's appreciation of education, are on their way to rewarding careers.

Please join me in wishing Bob Stasser a prosperous retirement and many years of good health and happiness.

IN TRIBUTE TO ELECTRIC BOAT'S WORKERS

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1992

Mr. MACHTLEY. Mr. Speaker, I rise today in tribute to the thousands of skilled, hard-working employees of the Electric Boat [EB] Division of General Dynamics Corp. Many of these employees are traveling to Washington this weekend to participate in a Save the *Seawolf* rally at Lafayette Park, facing the White House. The Metal Trades Council and the Marine Draftsmen Association, EB's two leading unions, are working to provide transportation for thousands of EB's employees traveling from Rhode Island and Connecticut. While I will unfortunately not be able to attend this timely event, I think its important to speak out to my colleagues on the importance of the U.S. Navy's Submarine Program, and in particular, the SSN-21 *Seawolf* Program. The livelihood of these employees has been put at risk with the administration's misguided proposal to cancel the *Seawolf* program.

There can be no question that EB is the pre-eminent submarine builder in the world, and has been for many years. From the first nuclear-powered submarine to the *Seawolf* lead ship, EB will have delivered 96 of the 191 nuclear-powered submarines in the U.S. Navy. The yard has designed 15 out of the last 19 combatant submarine classes, and 18 of 19 combatant submarine propulsion plants. EB is the sole designer of fleet ballistic missile [FBM] submarines, and is the sole builder of the Trident submarine.

Virtually all of the firsts in submarines were achieved or developed at EB. Included among these are the first welded hull, the first automated hull and modular construction facility, and the first vertical launch Tomahawk [VLS] cruise missile system, which was used with such effectiveness during the Persian Gulf war. The yard is truly a national strategic asset.

I was shocked by the administration's proposal to cancel the *Seawolf*, the latest in a long series of modern submarines designed and built by EB. The *Seawolf* will give the U.S. Navy the advantages in quieting, tactical speed, sensors, and firepower that it needs to respond to the many challenges it faces in the coming years. Although the threat of the Soviet Union and Eastern Europe has subsided, we must not forget that some 40 nations—many of them quite threatening—still possess some 400 very capable submarines. Without *Seawolf*, we risk losing the technological edge that has made our undersea force the most formidable in the world for many years.

More important than losing the advantages of *Seawolf* vessel itself is the fact that termination of this program may well mean the closing of EB, and throwing its unique, highly skilled work force out into the streets. Recently, we have all been celebrating the end of the cold war and the opportunity it has brought for a reduced defense budget. But let us not get so carried away in our euphoria that we forget to pay tribute to those whose hard work won the cold war, the people like those at EB. It was the welders, the engineers and all of EB's specialized craftsmen whose years of hard work gave our Navy the vessels it needed to keep the peace. Adversaries around the world did not dare take on our undersea force. They knew that doing so would surely spell defeat. It comes as no surprise that for many years, the Navy viewed antisubmarine warfare [ASW] as its top warfighting priority.

The end of the cold war does not mean that we can disarm and ignore the many threats that still must be addressed by our armed forces. Indeed, the many number of submarines in the arsenals of some very dangerous countries dictates that we maintain a strong undersea capability. It would be nothing less than a national tragedy were the Defense Department to allow EB to close down.

However, the administrator's desire to terminate *Seawolf* is only a proposal—Congress has the final say on how DOD spends its dollars. That is why we must all join together—in efforts such as this one today—to speak out in support of *Seawolf*, in support of Electric Boat, and most importantly, in support of EB's irreplaceable workers. You can count on my consistent and strong support here in Congress for reversal of this unwarranted proposal. EB must not be allowed to close down.

KENNECOTT CORP. MODERNIZATION

HON. WAYNE OWENS

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1992

Mr. OWENS of Utah. Mr. Speaker, yesterday was a banner day for Kennecott Corp., the State of Utah, and air quality in the Salt Lake Valley. A couple of months ago, Frank Joklik, the president of Kennecott, briefed me on what the company planned to do to clean up the air and modernize the plant. I am immensely gratified to see those plans announced now and those commitments made. Kennecott Corp., which currently operates one of the world's largest copper mines at Bingham Canyon in Utah, announced an $880 million modernization plan and construction of a new smelter that will capture 99.9 percent of the sulfur contained in copper concentrates. Kennecott has been a significant contributor to air quality problems in the Salt Lake Valley because its current capture rate is only 93 percent. The new smelter that will be built will probably be the cleanest in the entire world, and, if all goes according to plan, will significantly reduce PM-10 pollution, fine particulate matter, created from sulfates in the air.

This is also the largest single business investment in the history of the State of Utah and will lead to the creation of 3,300 jobs during construction. It also represents Kennecott's commmitment to Utah's economic future. I want to congratulate president Frank Joklik and Kennecott Corp. for this far-sighted decision. This reinforces what I truly do believe—that business efficiency, job creation, and economic growth can be natural allies of environmental protection. A modern cost-effective smelter is also necessarily a clean smelter. As Bob Yuhnke of the Environmental Defense Fund in Denver said yesterday, if these pollution controls turn out to be as effective as Kennecott believes they will be, this could be "the greatest single contribution to improving air quality in the Salt Lake Valley that anyone could dream up."

GERTRUDE HOFHEIMER WINS SCARSDALE'S OPEN DOOR AWARD

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1992

Mrs. LOWEY of New York. Mr. Speaker, I am very pleased to honor one of Scarsdale's finest and most giving citizens, Gertrude Hofheimer. Not only was she the first recipient of Scarsdale Family Counseling Service's Open Door Award, but now she joins the impressive list of Scarsdale Bowl Award recipients. The Scarsdale community has always stressed service toward others, and Gertrude Hofheimer clearly lives up to that tradition of civil responsibility. In fact, the mission statement of the Scarsdale Foundation, written nearly 50 years ago, seems to have been written with Gertrude Hofheimer in mind: "One who has given unselfishly of time, energy and effort to the civil welfare of the community."

We have all benefited from Gertrude Hofheimer's commitment to putting others before herself. The depth of her dedication is remarkable. She has devoted almost 35 years to the adult school, watching its enrollment and impact on the community grow. In recognition of all she has done for the school, in 1985 she was awarded a scholarship for life, and she continues to strive for her personal best and attends classes each term.

She has also extended her time and energy to Scarsdale seniors. She has chaired the Advisory Council on Scarsdale Seniors, and has been indispensable in seniors programming. Not content with that, she helped found the Scarsdale Citizens for Senior Housing, a group she now chairs which is working to respond to the special needs of senior citizens.

The Scarsdale Bowl is being awarded to Gertrude Hofheimer not only because of her longstanding work with the adult school, seniors groups, and other civil groups, but also to celebrate her infectious desire to "do things because I love to do them" and her instinctive love for helping people. "I am not looking for glory," she said, "it's just a pleasure to do." It is truly a pleasure to honor Gertrude Hofheimer for her untiring passion for helping her community.

Scarsdale is indeed a better village for her many years of service. I am pleased that Scarsdale has chosen to recognize Gertrude Hofheimer for her invaluable contributions, and I know all of my colleagues join me in wishing Gertrude Hofheimer all the best as she continues to serve the community. She has truly given unselfishly and enriched us all.

TWENTIETH ANNIVERSARY OF THE UNITED NATIONS VOLUNTEERS

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1992

Mr. FASCELL. Mr. Speaker, I am proud to report the U.N. Volunteers [UNV] program recently celebrated its 20th anniversary. I would like to congratulate the organization, the executive coordinator, Ms. Brenda McSweeney, a U.S. national, and especially the more than 8,000 volunteers, including approximately 1,000 Americans, who have served with the program during the past 20 years. The UNV program is perhaps the most cost effective and appreciated of all U.N. development activities, with the majority of volunteers serving in many of the world's least-developed countries.

Jennifer Baynes-Thande, a U.N. Volunteer from Brooklyn, NY, is typical of the 2,000 volunteers, including more than 60 Americans, now serving around the world. The Peace Corps selects and sponsors qualified U.S. citizens to serve with the UNV program. Ms. Baynes-Thande is helping develop health education materials at a medical training college in eastern Africa, under a project supported by the U.N. Development Program [UNDP] and the World Health Organization [WHO]. Before joining the UNV's, she earned a B.A. from the University of Massachusetts, completed a course in publishing at Howard University Press, and worked for Oxford University Press for 2 years. Collaborating closely with African medical specialists, Ms. Baynes-Thande is bringing the world of publishing to the work of health care in Africa, as she adapts and designs materials for use by local health workers. At the same time, she is imparting her skills to a colleague who will carry on the work after she completes her 2-year assignment.

The UNV program was created by the U.N. General Assembly in 1971 to serve as an operational partner in international development, providing a low-cost additional source of qualified human skills. UNV gives willing professionals a chance to contribute their energy and talents to worldwide development by working in U.N. agencies and member countries. UNV's have worked in over 100 countries and with 30 U.N. agencies during the organization's 20 year history.

UNV specialists are recruited from more than 100 developed and developing countries. Volunteers generally have a master's degree, a minimum of 2 years of work experience, and above all, a high degree of personal commitment. During a 2-year tour of duty, UNV's serve as doctors, teachers, agronomists, mechanics, and technicians. They provide as much as 20 percent of the long-term expatriate technical personnel in developing countries at one-fifth the cost of a regular U.N. expert.

"The U.N. Development Program is about human development, and no group has done more to underscore the human dimension of development than the U.N. team of volunteers," says William H. Draper III, Administrator of the UNDP. "They represent our frontline crusaders, living and working in the field with the poorest of the poor."

I am proud to join in a salute to the U.N. Volunteer Program as it enters its 21st year.

THE BUDGET PROCESS IS IN TOTAL DISARRAY

HON. CASS BALLENGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1992

Mr. BALLENGER. Mr. Speaker, I can honestly say in my 25 years in public life that I have not confronted an issue more frustrating than that of getting Federal spending under control. I am amazed at the way money is spent in Washington. Members of Congress vote for higher and higher spending, with little concern that the taxpayers are footing the bill.

When first elected to Congress, I believed that I could be part of the solution and end our budget problems. However, the Democratically controlled House Budget Committee continues to report budgets that perpetuate the problem rather than creating a solution.

The House budget resolution for fiscal year 1993 should be a guideline for spending. The budget resolution we considered last week fails miserably in that regard. What we had before us was a product that continues the same policies and is expected to produce a $400 billion deficit in 1993, and billions more in later years.

The fiscal year 1993 budget resolution clearly shows that the budget process is in total disarray. The committee reported a budget resolution that is actually two budgets. It seems the majority could not reach a decision, so the committee Democrats went with two options. The lack of unanimity has also resulted in a plan with few details on the committee's spending assumptions.

Option A assumes that Congress will break the 1990 budget agreement, which called for spending caps in exchange for the largest tax increase in American history. Option A continues the spending myth. Option B requires that Congress maintain at least a little discipline and stick with the original agreement. Both plans still reach a deficit of over $390 billion. This is simply unacceptable.

The House also considered the President's plan offered by Representative GRADISON, as well as several other spending options. The President's plan, while it is not without its flaws, made tough choices, and did not create multiple choice options. It at least offered a proposal that set some binding limits on congressional spending. The President's plan maintained budget discipline, and kept defense reductions consistent with national security interests, and recommended record levels of investment in R&D, infrastructure, Head Start, children's programs, education, and anticrime and drug provisions. What it did not do was reduce the deficit enough. I supported it reluctantly.

We continue to find ourselves with chronic budget deficits hovering in the $300 to $400 billion range. When a family finds that it has a deficit problem, generally the family will review the budget and make necessary changes. When a business finds itself with a chronic deficit, again, the company will make a realistic review of their budget and make changes. Congress has never, ever made a realistic review of the national budget. The time for this review is long overdue.

Much has been said about spending the peace dividend due to changing world politics, and the end of the so-called cold war. As a result, the President has proposed a $50 billion cut in defense spending over the next 5 years. However, some legislators, special interest groups, and individuals have come up with ways to spend the peace dividend. Under the Democratic budget option A around $14.5 billion is cut from defense and most of the so-called savings from defense are reapportioned to education, health, mass transit, highways, job training, and housing. Only $2.6 billion goes toward deficit reduction. Under option B, all defense savings are credited towards deficit reduction as required by the Budget Enforcement Act.

The Congress must face the task of using the defense savings wisely, especially since we are running an annual deficit of over $400 billion. We can not ignore the fact that the peace dividend does not represent extra money, but rather, it is simply less money than we need to borrow. Simply put, there is no defense savings and all funds must be credited towards the deficit.

Finally, I would like to point out that the national debt has tripled in the last 10 years and currently exceeds $3.6 trillion. The interest payments on the national debt are the fastest growing item in the Federal budget deficit. This one item takes needed funding away from education, health care, infrastructure, and other important programs.

We have an obligation to the taxpayers to stop the spending and take that first realistic step to reduce the bulging Federal deficit.

TRIBUTE TO TRI-COUNTY HIGH SCHOOL

HON. RICHARD RAY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1992

Mr. RAY. Mr. Speaker, I rise today to pay tribute to the home economics program at Tri-County High School in Buena Vista, GA, for its being conferred industry certification. This program, under the direction of Mrs. Deborah Ford, will be honored at a reception this afternoon.

The home economics industry certification assists in establishing industry guidelines to help students acquire the knowledge and skills essential for performing industry identified tasks. This provides quality instruction by educating students with state-of-the-art equipment and teaching materials. The result is a educated and skilled graduate who can enter the workforce prepared and disciplined. This certification not only assists the students, it also aids the teachers, the school, the local community, and our Nation's business and industry sector.

Mr. Speaker, as of this date, only one other program in the Nation has been so certified. It is a distinct honor for the program at Tri-County High School, and I am sure that all of my colleagues will join me in sending their best wishes for a great reception.

TRIBUTE TO DONNA BUTLER—CHRISTA McAULIFFE AWARD WINNER

HON. DICK SWETT

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1992

Mr. SWETT. Mr. Speaker, I rise today to pay tribute to the State winner of the 1992 Christa McAuliffe Federal Fellowship Award, Donna Butler of Enfield, NH.

Ms. Butler, who teaches music at the Bernice A. Ray Elementary School in Hanover, won the $34,000 fellowship award for her outstanding proposal. She plans to study how to integrate students with special needs into the mainstream classroom by exposing them to the arts. Her proposal includes plans to further her knowledge of the subject through graduate study. At the same time, she will work as a staff member at the Very Special Arts Center of New Hampshire.

This center is the State chapter of an international organization which offers arts opportunities to people with special needs. It also offers instruction to teachers on how to design and implement special needs programs.

Mr. Speaker, for 24 years Donna Butler has taught music to students ranging in age from kindergarten to college. She exemplifies the spirit of public service and giving to others for which Christa McAuliffe was so well-known and respected.

The Christa McAuliffe Fellowship Program was created in October 1984 to commemorate the Concord, NH native who inspired people throughout the world with her love of teaching and dedication to her students.

Although New Hampshire still mourns the loss of Christa McAuliffe, it is heartening to see that she has left a wonderful legacy as she continues to inspire other teachers like Donna Butler to follow in her footsteps.

Mr. Speaker, I ask my colleagues to join me in paying tribute to Donna Butler for being selected as the 1992 Christa McAuliffe Fellowship Award winner and to wish her well with her efforts to integrate students with special needs into the mainstream.

OBSERVANCE OF SHABBAT ZACHOR

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1992

Mr. KLECZKA. Mr. Speaker, I am pleased to join the American Jewish community in commemorating Shabbat Zachor on March 14, 1992. It is on Shabbat Zachor, or the Sabbath of Remembrance, that Jews pray for their threatened coreligionists around the world. This year, the focus of Shabbat Zachor is the suffering of Jews in Syria.

The Syrian Government, which is a signatory of the universal declaration of human rights, has grossly violated the terms of that agreement by denying Jews the right to emigrate. Now is the time to put pressure on the Syrian Government to allow its Jewish citizens to leave Syria so that they can live in freedom in other nations, including the United States. The Middle East peace negotiations are a perfect opportunity for Israel, and the cosponsors of the talks, the United States and Russia, to demand that Syria respect the fundamental human rights of Jews within its borders.

Congress and the Carter, Reagan, and Bush administrations have all raised the emigration issue with Damascus in their meetings with Syrian leaders. While there has been some progress, most significantly in the recent release of six Jews from Syrian prisons and the emigration of 14 unmarried Jewish women in 1977, the Syrian response has been erratic.

The Syrian Government has refused to heed calls from around the world to allow free emigration for its Jewish citizens. Moreover, attempts to leave Syria have also ended in tragedy. In 1974, for example, four Syrian Jewish women were raped, murdered, and mutilated by Syrian authorities when they attempted to emigrate to Lebanon. While no similar instances have occurred since that incident, the Syrian Government remains intransigent.

Mr. Speaker, we can no longer tolerate the Syrian Government's unwillingness to respect the fundamental rights of its Jewish population. I join Jews around the world in observing Shabbat Zachor, and I urge my colleagues to maintain pressure on Syria to reform its treatment of Jews so that one day all of its citizens will enjoy equal rights.

TRIBUTE TO THE 80TH ANNIVERSARY OF THE GIRL SCOUTS

HON. JOAN KELLY HORN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1992

Ms. HORN. Mr. Speaker, I rise today to pay tribute to the Girl Scouts on their 80th anniversary. While the majority of my colleagues in Congress cannot make a claim of past membership as a Girl Scout, I do so proudly today.

The Girl Scouts of Greater St. Louis, which I once belonged to, is one of the largest of the 335 councils in the United States today. The council serves almost 40,000 girls, ages 5–17, and over 12,000 adult volunteers in the St. Louis metropolitan area. Along with these individuals, I am excited to be celebrating the 80th anniversary of the Girl Scouts. We look forward to another 80 years.

Girl Scouting was introduced in 1912 as a way to introduce new experiences and adventure to young girls, while helping them develop a positive self-image and important leadership skills. The single-sex environment is important because it frees girls from the competition often felt in coeducational settings. The program helps girls grow in partnership with adults in troop government, community events, and activity planning.

In 1991, the Girl Scouts experienced the greatest increase of membership in 10 years. This reflects growing problems and pressures confronting youth today, such as teen pregnancy, sexual abuse, youth suicide, and gang violence. With all the challenges girls face in the nineties, they need a healthy outlet for self-development and free expression. Scouting provides this through strong, supportive peer networks which reach across racial, ethnic, and economic backgrounds.

With a focus on strong values, leadership opportunities, and positive role models, Girl Scouts can become the best kind of women. These young women can bring a much-needed focus on efforts to overcome alarmingly low rates of female business ownership, college graduation, and professional and executive employment—not to mention the meager 5½-percent representation of women in Congress.

I commend the Girl Scouts for their excellent work.

DEPARTMENT OF THE INTERIOR SURVEYING AND MAPPING EFFICIENCY AND ECONOMIC OPPORTUNITY ACT OF 1992

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1992

Mr. YOUNG of Alaska. Mr. Speaker, I am introducing today the Department of the Interior Surveying and Mapping Efficiency and Economic Opportunity Act of 1992. This bill is designed to bring some equity to the hundreds of private surveying and mapping firms in Alaska and the other 49 States who have very little opportunity to work as contractors to agencies of the Department of the Interior.

The Office of Management and Budget estimates the current annual Federal expenditure on surveying and mapping activities at approximately $1 billion. The Interior Department has 2,593 employees in professional and technician level positions in surveying and mapping and an annual expenditure of some $250 million, yet contracts for only $11.6 million or 4.6 percent.

This low percentage of utilization of the private sector for surveying and mapping services comes despite numerous studies that have found the private sector to be highly qualified and which have recommended increased contracting.

I have met with and toured firms in Alaska. I am impressed by the investment that has been made both in training of personnel and state-of-the-art equipment. These firms are concerned that agencies of the department have in-house surveying and mapping capabilities that are competitive with the private sector. Not only do these agencies perform surveying and mapping services for themselves, but they market these services to other agencies, and to State, local and foreign governments. This practice violates existing Federal law and procedure. The bill I am introducing today will help assure stronger enforcement of and compliance with these requirements.

In the 1990 budget submitted to Congress, the administration said use of the private sector "is an important management tool to raise productivity, cut costs and improve the quality of Government services" and went on to discuss the advantages, such as "efficiency, quality and innovation in the delivery of goods and services." It concluded that "specific areas where the Government could place greater reliance on private sector providers include * * * map-making activities."

Since 1955 it has been Government policy that "the Federal Government will not start or carry on any commercial activity to provide a service or product for its own use if such product or service can be procured from private enterprise through ordinary business channels."

Surveying and mapping is an activity in which the Government has failed to procure from private enterprise.

In 1973 the Office of Management and Budget released a report of its Task Force on Mapping, Charting, Geodesy and Surveying. It found "private cartographic contract capability is not being used sufficiently. We found this capacity to be broad and varied and capable of rendering skilled support—contract capability is a viable management alternative—its use should be encouraged in lieu of continued in-house build-up."

In 1980 the Appropriations Committee's Surveys and Investigations Staff looked at the BLM and Forest Service Cadastral Survey programs. That study also recommended increased use of contractors, and in its comments, the agencies concurred with that finding. However, these studies' recommendations have not been followed nor implemented by the agencies.

It is clear the current Federal policy, found in OMB Circular A–76, is not working. That circular requires Federal agencies to determine whether it is more cost effective to perform commercial activities in-house or by contract. No Interior agency has conducted such a study on a surveying or mapping function. The circular also requires that if a cost analysis has not been conducted and justified for continued in-house performance, "user agencies shall obtain the required services directly from a commercial source." Yet, many agencies do surveying and mapping work for other Federal agencies.

Additionally, the Intergovernmental Cooperation Act (31 U.S.C. 6505) requires services provided to State and local government "be consistent with and further the policy of the United States Government of relying on the private enterprise system to provide services reasonably and quickly available through ordinary business channels".

That provision of law is implemented by OMB Circular A–97. It established conditions under which Federal agencies can provide specialized or technical services to State and local government. The circular requires that "such services will not be provided unless the agency providing the services is providing similar services for its own use under the policies set forth in—Circular No. A–76—in addition, in accordance with the policies set forth in Circular No. A–76, the requesting entity must certify that such services cannot be procured reasonably and expeditiously by it through ordinary business channels". While several Interior agencies have the authority to provide advice, assistance and coordination to State and local government, there is no mandate that contractors not be included in such activities. Yet, no such certifications have been made.

While preventing Government competition and duplication of the private sector, this bill focuses on legitimate Government activities, such as research and development, standards setting, coordination and a limited production capability to keep current with state-of-the-art surveying and mapping techniques and to be able to knowledgeably monitor contractor performance.

The Department of the Interior inspector general (Map Production Requirements and Cartographic Equipment Utilization, National Mapping Division, U.S. Geological Survey, Report 90–56, March 1990) found that the National Mapping Division of the U.S. Geological Survey had failed to comply with OMB Circular A–76. The report was critical of equipment being purchased without regard for utilization levels, inadequate staffing plans, and a failure to consider the efficiency of using private mapping and surveying firms as contractors. It is my understanding many of the recommendations in that report are not being implemented.

The Department of the Interior Surveying and Mapping Efficiency and Economic Opportunity Act of 1992 creates a partnership between the Department and the private sector in surveying and mapping. It focuses both the Government and the private sector on those aspects of surveying and mapping activities each does best.

I invite my colleagues to cosponsor this bill and look forward to working with the members of the House and the Department of the Interior on this important issue.

MR. HSU HSIN-LIANG, CHAIRMAN OF TAIWAN'S DEMOCRATIC PROGRESSIVE PARTY

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1992

Mr. SOLARZ. Mr. Speaker, yesterday Mr. Hsu Hsin-liang, the chairman of Taiwan's opposition Democratic Progressive Party gave a speech to an audience here on Capitol Hill. He made a number of points concerning Taiwan's political evolution which deserve the attention of our colleagues. I insert his speech in the CONGRESSIONAL RECORD:

TOWARD A FULL-FLEDGED DEMOCRACY ON TAIWAN: THE ASPIRATIONS OF THE DPP

(Speech by Hsu Hsin-liang)

Ladies and gentleman, today I am most honored to appear before you to explain the key role the Democratic Progressive Party (DPP) has played and, hopefully, will continue to play in bringing democracy to Taiwan.

As you know, Taiwan's politics have been dominated by the Kuomintang (KMT) since after World War Two. Until recently, the KMT itself has been controlled by conservative mainlanders whose chief concern was not the development of Taiwan, but rather a triumphant return to mainland China.

The past forty-six years have been difficult for the people of Taiwan. Through no fault of our own, we became "a pawn in the game"—a people to exploit politically and economically for the gain of others. The KMT and Chinese Communists sought to use Taiwan as a "card" in their struggle for power.

Gradually, the people of Taiwan awakened to their rights and responsibilities. KMT resistance to this awakening was frightful indeed. In this room you have many who suffered greatly at the hands of the KMT under martial law. Some still cannot return to their homeland for fear of immediate arrest and imprisonment, or because they remain blacklisted.

Since 1986 we in the DPP have attempted to become the organized voice of the Taiwan people. Contrary to what many people believe, we are not a single-issue party. While many of us favor de jure Taiwan independence eventually, our immediate goal is to establish a true democracy on Taiwan so that our people are free to choose their own future.

Our decision in October 1991 to adopt a plank calling for plebiscite to determine the future of Taiwan should be seen in this light. We believe that in a democracy, the people should have a right to decide fundamental issues such as the direction of their country's future.

This is not a revolutionary idea to you, but on Taiwan—among the KMT—it has caused an uproar. Why? The KMT has introduced the trappings but not the essence of democracy. How can you have democracy if the people cannot choose their own future? We feel Taiwan no longer needs or wants the KMT to tell us what is right and what is wrong. We insist on a free choice, we can decide for ourselves.

The people of Taiwan, and certainly we in the DPP, are most grateful for the support of the American people and their representatives in pressuring the KMT to become more democratic. And to the credit of President Chiang Ching-Kuo and President Lee Teng-hui, as well as many reformers in the KMT, great strides have been made.

But we must not stop here. More needs to be done. Consider, for example, some of the experiences from the recent election for the National Assembly last December.

The people of Taiwan still do not have freedom of speech. There was great need for the public to be able to consider all sides of the key question of Taiwan's future in the elections. In fact, this issue is within the constitutional jurisdiction of the National Assembly whose members were being elected. But in vague restrictions found in Article 54 and other sections of the Public Officials Election and Recall Law, the censorship exercised over platforms by the Central Election Commission, and the refusal of television and other media to air or print certain points of view about Taiwan's future constituted severe and unnecessary restrictions on freedom of speech. Those who tried to break out of these restrictions still face possible charges of sedition!

The use of television is dominated by the KMT and should be made more equitable. On Taiwan, due to the tripartite (the government, the ruling party and the armed forces) monopoly of the existing television stations, KMT candidates have a grossly unfair advantage in terms of interviews, news coverage, commentary, and other forms of nonpaid exposure.

Individuals who contribute to opposition parties are often penalized. Do you know that on Taiwan, individuals and businesses try to keep their contributions to the DPP and other opposition parties a secret? If their assistance became known, they would almost certainly be subject to government audits and face discrimination on government contracts.

The principle of consent of the governed is not yet institutionalized. The electoral rules continue to favor the KMT at the expense of other parties.

1. We the people of Taiwan have been denied the rights to directly elect the President of their country, the Governor of Taiwan, or the mayors of the two largest cities, Taipei and Kaohsiung. The DPP has been calling for election of these offices by people's votes; I am happy to inform you that the KMT is stealing a major plank of the DPP platform.

In the Central Committee plenary session, on March 14-15, the KMT will be adopting a resolution supporting the direct, popular election of the President. We welcome that.

2. There is no independent body with the judiciary powers to ensure that electoral procedures do not give unfair advantage to any one party.

3. In the 1991 election, there were numerous complaints heard along these lines. For example:

The division of a small Taiwan into 58 election districts gave unfair advantage to the KMT.

The adoption of a non-transferable single ballot system unfairly benefited the KMT.

These are political injustices perpetuated by the KMT. In the economic realm, it has practiced outright nepotism and exploitation. The KMT owns enterprises capitalized at some two billion dollars, generating after-tax earnings of 550 million dollars per year. Their total assets amount to no less than 20 billion dollars. Where government-owned enterprises account for 3% of the economy in the U.S., and 7.8% in Japan, they account for 25% of economic activity in Taiwan. And to whom do the profits go? To the people? No, to the party that commands a vast political machine, the KMT. So vast and profitable is this KMT financial empire, that it has led an economist from National Taiwan University to ask: should we call the KMT a political party, or simply "The Enterprise?" Foreign observers, in failing to take these facts into consideration, often lose sight of the David-Goliath dimensions of the challenge that confronts the DPP.

From this it follows that the mission of the DPP is not simply to lay the political groundwork for freedom and democracy, but to restructure the economy on a more equitable footing as well. We hold that, in order to abolish outmoded political structures, these economic anachronisms must also be eliminated: the private sector must be restored to a position of preeminence and resources allocated in new directions; the cancer of state-run and party-run monopolies must be removed; all irrational and unfair restrictions and controls abolished; and modern systems of competition and pursuit of self-interest installed in their place.

For years the KMT has severely restricted foreign participation in Taiwan's markets and economy, Such practice has not only deprived the average people access to better products and service at lower price, but also has denied the U.S. and other foreign firms an opportunity to profit from our booming economy. The only beneficiary of such protectionism is the government and the KMT-controlled firms. They alone have reaped monopolistic profit. This has been especially true in insurance, banking, stock brokerage, telecommunications, information, public works projects and others. These sectors remain virtually monopolized by the government, the ruling party, and its political allies and clients. These are also precisely the sectors in which the U.S. firms are highly competitive. As believers in free trade, the DPP stands for the dismantling of tariff barriers and non-tariff barriers (NTB) against imports and allowing foreign participation in Taiwan's domestic economy. We have advocated and will continue to work for the entrance of the U.S. and other foreign firms into those sectors. While the U.S. firms will benefit from participating in our economic growth, we believe the biggest winners will be average citizens of Taiwan.

We are aware that many of you are suspicious of the DPP, regarding us as a bunch of unstable hot-headed radicals. Ladies and Gentleman, let me assure you, we DPP do not seek to be a "spoiler" in political processes on Taiwan. But we do seek a "level playing field" so that Taiwan can become more democratic and more respected in the international community.

I feel that I am among friends here, so let me be honest. The DPP needs your support to further democracy on Taiwan and to ensure that neither the KMT nor the Chinese Communist Party can undermine the democratization process.

Finally, it is important for me, as the chairman of the DPP and speaking on behalf of the DPP, to emphasize that the DPP is not trying to sabatoge the China policy of the United States, nor to disrupt the carefully balanced relationships Washington maintains with both Beijing and Taipei. On the contrary, we believe that a stable and just Taiwan-U.S.-P.R.C. triangular relationship best serves our security interest, and we will do our best to help maintain and manage it.

But there is the one principle the DPP will not compromise: we will not tolerate anyone of any power determining Taiwan's future for us without the consent of our people. Our people will have the final say regarding our own future.

We therefore appeal to your sense of fair play to make sure that, in discussions over the future of Taiwan, the views of the Taiwan people are heard and respected. In our opinion, this can best be accomplished if Taiwan is a full democracy.

On behalf of my countrymen, let me thank you most sincerely for the help the American people have extended to us over the past four difficult decades. Thank you again.

INEQUITY SUFFERED BY DYD

HON. RAYMOND J. McGRATH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1992

Mr. McGRATH. Mr. Speaker, the purpose of the bill I am introducing today and that is cosponsored by my colleague on the Committee on Ways and Means Trade Subcommittee, Congressman FRANK GUARINI, is to enact a technical correction to the U.S. tariff law to remedy errors admitted to have been made by the U.S. Customs Service. These errors threaten to result in a loss of $600,000 by an American company, DYD Co. [DYD]. The Customs Service has itself suggested the pursuit of the technical correction through legislation as the only way to remedy this inequity.

The facts of the case are fairly straightforward and are accepted by all the parties. In 1984, DYD was assessed duties on imported merchandise at approximately 13 percent more than what customs admits should have been the case. Due to a computer error unbeknownst to the import specialist as well as the importer, liquidation notices were issued on nine entries which were still under review by the import specialist in 1985. The Customs Service admits that these notices should not have been issued until this customs officer had completed review of data necessary to ascertain the correct duty to be assessed on the merchandise. A computer glitch removed the entries from consideration by Customs as live files before the appropriate time.

In 1990, the import specialist discovered that the liquidation notices were printed and related this fact to DYD. Shortly thereafter, a petition was filed with the U.S. Customs Service requesting that the notices be deleted so that liquidation could proceed at the correct rate of duty. As aforementioned, the amount of duties deposited at the time of entry was approximately 13 percent more than what admittedly should have been assessed.

Although fully agreeing that DYD has been inequitably treated, Customs claims that it is powerless to correct this error without specific legislation due to the amount of time between when the error occurred, and when it was discovered by the import specialist and notified by the Government to DYD.

We request your support of this bill to correct the inequity suffered by DYD. The bill would simply allow the correct amount of duties to be assessed on DYD's imports, with a refund of any overage to its parent company.

FRANK MENSEL RETIRING; LEAVES REMARKABLE LEGACY OF IMPROVED ACCESS TO EDUCATION

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1992

Mr. MONTGOMERY. Mr. Speaker, on June 30, a great American will step down from dual posts in which he has fought diligently to make educational opportunities, and thus enriched lives, accessible to thousands upon thousands of our citizens, many of whom otherwise could not have afforded it. Further, as a direct result of his special efforts and those of a relatively small group of individuals, the Armed Forces have the finest quality personnel in our history.

Frank Mensel has served American higher education in a unique role. Our community colleges, whose enrollments make them the largest branch of higher education, are represented by two national associations—the American Association of Community and Junior Colleges and the Association of Community College Trustees. Frank has led Federal relations activities for both, as AACJC's vice president for Federal relations and as ACCT's director of Federal relations.

It is in these capacities, and on one successful project in particular, that I came to know Frank Mensel: the man, his wisdom, his enthusiasm, and his energies.

The notion of a peacetime education assistance program, which we began to contemplate in the early 1980's, would have never gotten off the ground had it not been for Frank Mensel and others like him who recognized its potential. Frank led higher education's support for the proposal which, for the first time ever, would make college assistance available to National Guard and Reserve members in every State, as well as to active-duty recruits.

Frank joined the drive for a new GI bill in the early stages of development and, in the face of some formidable opposition from the administration and civilian ranks of the Pentagon, he stood tall with its congressional proponents in the struggle to sell it. Thanks in large part to the counsel and obstinacy of leaders such as Frank Mensel, the program was given wings, and we have since witnessed the Montgomery GI bill's remarkable success in attracting bright, goal-oriented personnel to our military ranks. Just as the original GI bill strengthened the social and economic fabric of our Nation, the Montgomery GI bill will sustain and improve productivity by placing the brass ring within grasp of those whose means otherwise would preclude it.

The Montgomery GI bill owes its very existence to Frank Mensel and those individuals who had the foresight to see its impact on education, on the military, and on American society in general. Since its implementation, he has continued to promote and explain the program to the education community, as well as to would-be enrollees.

Frank made a significant impact on another landmark education assistance program. He played a pivotal role in helping Senator CLAIBORNE PELL launch the Basic Educational Opportunity Grant Program, now Pell grants, in the Higher Education Act of 1972. Frank instigated the formation of the National Pell Grant Coalition, which has helped extend Pell grants to part-time students.

Frank was a cofounder of education's largest and most successful national coalition, the Committee for Education Funding. He was twice elected CEF's president—the first from higher education's ranks. In the 100th Congress, he chaired the national coalition that kept employee educational assistance in the Tax Code, a benefit that has enabled more than a million Americans each year to improve their career skills. He also served as executive director of the College and University Personnel Association, 1973–79, and as vice president for development of the Antioch University system. He is a founder and honorary life member of the National Council for Resource Development.

Frank's public service expertise is varied and extensive. His work with Congress began in 1959 when he served 6 years as staff director for former Utah Congressman David S. King. During 2 years, 1967–68, with the U.S. Small Business Administration, Frank directed its national staff in both congressional and public affairs and earned the SBA Silver Medal for Meritorious Service. He joined AACJC as Federal relations chief in 1968.

The most widely published writer in community college ranks over the last 20 years, Frank has authored regular columns for the AACJC Journal, the ACCT Adviser, and the biweekly Community, Technical, and Junior College Times. He made his start in journalism as the editor of the Provo, UT, Farrer Junior High School student newspaper, and later served as editor of the Provo High School newspaper. He was a Salt Lake Tribune reporter for 5 years before taking the city editorship of the Twin Falls (ID) Times-News. He returned to Salt Lake City as a Desert News writer, and joined the University of Utah staff in 1956. He is a graduate of Brigham Young University, with a master's degree in journalism from the University of Utah.

I know my colleagues join with me in offering Frank our deepest gratitude for the profound influence he has had on education in America and in extending to him, his wife Carol, and his children our very best wishes for happiness and good health.

TRIBUTE TO JAY P. ROLISON, JR.

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1992

Mr. FISH. Mr. Speaker, I rise today to recognize and pay special tribute to former New York State Senator Jay P. Rolison, Jr. Mr. Rolison is being honored by the Dutchess County Council, Boy Scouts of America at their annual Distinguished Citizen Award dinner in Poughkeepsie, N.Y. on March 20 in recognition of nearly a quarter century of distinguished public service.

I join his many friends and admirers and compliment Jay on being chosen to receive this honor. Throughout his life, he has displayed a resolve to enhance the quality of life in the Hudson Valley that has been matched only by his impressive record of professional and political successes.

First elected to the New York State Senate in 1966, Jay's illustrious career in that body spanned 24 years. During that time he served as chairman of five committees, including: Commerce and Navigation; Authorities; Local Government; and, Banks and Social Services. Jay also served as chairman of the Legislative Commission on Energy Policy, chairman of the Senate majority task force on volunteer emergency services and was a member of the Temporary State Commission on Water Supply Needs of Southeastern New York. From 1985 to 1988, he served as the assistant majority leader.

Jay has dedicated his life to preserving the environment. While in Albany, he sponsored numerous successful environmental initiatives including creation of the Greenway Council and the Conservation Easement. He was responsible for major welfare reform in New York State and consistently supported measures to reform and strengthen the reimbursement methodology for hospitals. Jay also fought for fair and equitable school aid for Dutchess County schools and was responsible for securing funding for the continuation of the Dutchess County Regional High School of Excellence Summer Program which, I might add, has been appropriately renamed the Jay P. Rolison, Jr., Summer Scholars Program.

Jay Rolison has given willingly of his time to serve his community and the people of Dutchess County through his active participation in many civic organizations. He currently serves on: the board of trustees of Marist College and Vassar Brothers Hospital; the Greater Hudson Valley Coordinating Council; the board of directors of Dutchess Community College Foundation; and, the advisory board of Dutchess Lighthouse to name just a few.

Many friends and neighbors will recall his lifelong interest in firemanics. Jay was chairman of the law commission of the Dutchess County Volunteer Fireman's Association and the Fire Protection Advisory Committee of Dutchess County College. He is a life member of the Crofts Corners Fire Co. of the Arlington Fire District.

Jay has returned to the practice of law since retiring from the State Senate last year. That should give him more time to spend with his wife Barbara, their two children, and one grandchild.

Mr. Speaker, I am well aware that the exceptional contributions that Jay Rolison has made over the years have benefited the citizens of Dutchess County. I am confident that he will continue to provide invaluable service to his community and the impact he has had on the mid-Hudson region will be felt for years to come.

TRIBUTE TO THE CAMPBELL SOUP CO. OF NAPOLEON, OH

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1992

Mr. GILLMOR. Mr. Speaker, it gives me great pleasure to take this opportunity to pay tribute to the Campbell Soup Co. in Napoleon, OH. I was happy to learn that the Campbell facility was recently given the Mid-America Food Processing Association Plant of the Year—Large Plant Award.

We live in a time when many Americans are deeply concerned about our ability to compete in the international marketplace and endure. We need to look no further than the Campbell Napoleon plant for encouragement. It is a fine example of American quality and hard work, proof of what we are capable of accomplishing as an enterprising people.

Since I have toured the Campbell plant before, it comes as little surprise to me that it has been singled out for this award. I was impressed by the commitment of the managers and workers that makes the place run so smoothly and efficiently.

That is why I consider it an honor to represent the people of the Campbell Soup Co. in Napoleon, and to congratulate them for the award they have received. I wish them all the best in the future.

BIRTHDAY TRIBUTE TO LANE KIRKLAND, AFL–CIO

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1992

Mr. RITTER. Mr. Speaker, today is the birthday of Lane Kirkland of the AFL–CIO. With the demise of Communism in Europe, the world has much to celebrate this year—and Lane Kirkland has helped to make it a better place. I would like to share with my colleagues the text of a letter I sent him today:

HOUSE OF REPRESENTATIVES,
Washington, DC, March 12, 1992.
Mr. JOSEPH LANE KIRKLAND,
AFL-CIO
Washington, D.C.

DEAR LANE: We have come to a watershed in history, not just because it is your 70th birthday, but because the world at last breathes more freely.

Over the years, from my vantage point here in Congress on the Helsinki Commission, I have admired your steadfast support for those struggling in freedom movements worldwide.

You, following in the footsteps of George Meany, stood in the forefront of the labor union movement. But, foremost in my mind is the memory of how you rose above domestic partisan policies—when it was sometimes very difficult or not in vogue—and came down on the side of those struggling against communist and totalitarian regimes in Poland, the Soviet Union and Central America.

Solidarity in Poland and the other brave men and women throughout the world who struggled against Communism could not have succeeded had people like you not fought to defend and support them here in Washington and in capitals the world over. The Freedom Revolution that we now reap would not have been possible without your and the AFL-CIO's yeoman efforts.

Happy Birthday!

Sincerely,

DON RITTER
Member of Congress.

P.S.—Thank you for the quality of your citizenship. You've worked hard for a better America and a better world.

A TRIBUTE TO DR. MOZAFFAR BAKHCHI AND MR. AZIZ HALIMI

HON. GARY L. ACKERMAN

OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Thursday, March 12, 1992

Mr. ACKERMAN. Mr. Speaker, I rise today to pay tribute to Dr. Mozaffar Bakhchi of Queens, New York City, who is being honored this weekend at a dinner given by the Sephardic Jewish Congregation of Queens. Dr. Bakhchi is being recognized for his many years of service as a doctor and community leader in Queens. As a man of medicine, as a humanitarian, and as a leader, Dr. Bakhchi has earned this honor many times over.

Indeed this is not the first time that I have risen in this House to pay tribute to Dr. Bakhchi. In 1983 it was my pleasure to report that Dr. Bakhchi had received the Humanitarian Award of the National Committee for Furtherance of Jewish Education. Among the many things I mentioned then was his instrumental role in helping over 1,000 Iranian children leave Iran after the fall of the Shah, helping them to settle in the United States and even providing free medical care. I told the House of Representatives then how Dr. Bakhchi was born in Iran, and educated at the Sorbonne in Paris. He has practiced pediatric medicine in New York since 1957, and also teaches at the Downstate Medical School of the State University of New York.

Dr. Bakhchi continues to set a shining example for the Sephardic community, and indeed for all of us in Queens. He still provides free medical care for those who cannot afford to pay a doctor, and continues to be a practitioner of ethical and compassionate medicine. It is not unusual for Dr. Bakhchi to call his patients late in the night, if necessary, to make certain that they are well. I know this, because Dr. Bakhchi was the pediatrician for my three children. His patients know and respect him as a doctor who truly believes in the nobility of what he does.

As a community leader, Dr. Bakhchi has been an inspiration to the Persian community, showing the value of hard work and traditional virtues. And Mozaffar Bakhchi's medical compassion spills over into other areas as well. Despite his busy professional schedule, he has never failed to make the time to come to the aid of others, even when it has meant personal sacrifice. He is also a man of deep religious feelings, and demonstrates that one can mix a professional life with a life of piety.

Along with Mozaffar Bakhchi, the Sephardic Jewish Congregation will be honoring Mr. Aziz Halimi. Mr. Halimi was also born in Iran, where he received a law degree from Tehran University. He then came to the United States to study, and attended New York University. Mr. Halimi has been in business in New York since the mid-1960's.

In that time, Mr. Halimi has selflessly helped new immigrants to the United States get settled, acting quietly as translator, adviser, and go-between for them. From the moment they got off the plane, he has, with little recognition, been there to help them pursue their own American dream. He has been both a victim and fighter of anti-Semitism here and in Iran, but has never lost his enthusiasm for helping others.

Dr. Bakhchi and Mr. Halimi are to be recognized as role models for youth and adults alike. In a time when so many people worry only about themselves, here are two people who have consistently put the welfare of others first. These men are truly among our national points of light.

Mr. Speaker, I ask all of our colleagues in the House of Representatives to rise and join me in wishing Dr. Mozaffar Bakhchi and Mr. Aziz Halimi the blessing that they will be presented with this Saturday—may Hashem grant them continued success in all their endeavors.

TRIBUTE TO BEATRICE EPPERSON RECIPIENT OF THE PRESIDENTIAL AWARD FOR EXCELLENCE IN SCIENCE TEACHING

HON. MIKE KOPETSKI

OF OREGON
IN THE HOUSE OF REPRESENTATIVES
Thursday, March 12, 1992

Mr. KOPETSKI. Mr. Speaker, I rise today to pay tribute to a talented, inspiring educator from my district, Beatrice Epperson. Ms. Epperson is a science teacher at McNary High School in Keizer, OR, where she teaches chemistry, accelerated chemistry, and science research to sophomore and junior students. This week she is in Washington to receive the Presidential Award for Excellence in Science Teaching. Ms. Epperson was selected to receive this award for her excellent teaching performance in the classroom, her educational experience, and science-related professional activities.

Her dedication to science is reflected in the honors she received from organizations in the field. Last year she received the Scientist of the Year Award from the Oregon Academy of Science. She also received the Sigma Xi Award for the Oregon teacher who best promotes science research. Ms. Epperson received this award in recognition for student achievement in science research. Her students won honors at State and national research competitions for the past 7 years. In 1987, Ms. Epperson received the OMSI–Tektronics Award for excellence in science teaching for Oregon. In 1985, she received the Oregon Science Teachers Association New Teacher of the Year Award. Mr. Speaker, with credentials such as these, I am certain that her students who aspire to a career in science will meet and exceed their goals.

In order for the United States to remain among the leaders in science, it is vital that our students receive the best science education at every grade level. The Science, Space and Technology Committee and the Education and Labor Committee recently held hearings on the importance of science and mathematics in education. The Science Subcommittee, on which I serve, has worked extensively to promote science and math education through high performance computing with the assistance of the National Science Foundation. I greatly appreciate Ms. Epperson's dedication to her students and the science field. She is an exemplary individual whom I am proud to represent in Congress. Of course, no one is more proud of Beatrice than her family. Her husband, Earl, and two of her three children, Diane and Russ, were able to join her in Washington to share with her this special time.

ST. PATRICK'S DAY 1992

HON. BENJAMIN A. GILMAN

OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Thursday, March 12, 1992

Mr. GILMAN. Mr. Speaker, I am pleased to rise again this year to call the attention of our colleagues to the fact that St. Patrick's Day is nearly upon us. This feast is not only the national holiday of the Republic of Ireland; it is also a special day for the Irish and the Irish at heart throughout the world; 1,500 years have gone by since St. Patrick converted the Emerald Isle to Christianity. It is altogether fitting and proper that St. Patrick be remembered on this day, for he has served as a constant inspiration to the Irish for the past 15 centuries.

Tragically, unemployment in Northern Ireland remains the highest in all of Western Europe. And while changes have been made in the Fair Employment Act, we must make certain that the deep rooted economic discrimination is ended.

For this reason, I continue to whole heartedly support the MacBride principles for American firms doing business in Northern Ireland. These principles of fair employment and antidiscrimination serve as a model for a future generation of employment opportunities.

Furthermore, since American companies provide for over 10 percent of employment in Northern Ireland, with the cooperation of those firms we have the opportunity and moral obligation to fight against the discrimination in Northern Ireland.

I am heartened that the talks between four of the major political groups—Social Democratic Labor Party, the Alliance Party, the Democratic Unionist Party and the Ulster Unionist Party—first initiated by Northern Ireland Secretary of State Peter Brooke, were held last summer, and may possibly resume very soon. I was pleased too that both Prime Minister Major and Labour Party Leader Neil Kinnock have committed to continuing the talks after the Westminster elections.

However, it is vital that the two Governments of Great Britain and Ireland express a willingness to consider the broad range of political views in Northern Ireland, and further that they consider that the peace talks are designed to stop the violence, and therefore should not ignore any of the parties to the conflict. However, it must be strongly emphasized that our Ad Hoc Committee for Irish Affairs continues its strong opposition to all forms of violence in Northern Ireland, whether it be civilian or official.

In September 1991, the Ad Hoc Congressional Committee for Irish Affairs and the Congressional Human Rights Caucus worked together to organize and hold a hearing on the shoot to kill incidents in Northern Ireland. It was altogether appropriate that these two organizations, which are dedicated to human rights and peace and justice, worked together to examine these disturbing incidents.

The shoot to kill incidents have been identified as a problem of great significance by such noted human rights organizations as Amnesty International, the Norwegian Helsinki Committee, which is a subdivision of the International Helsinki Federation for Human Rights and the United Nations Human Rights Commission. Additionally, the ad hoc committee has studied the issue for a number of years, and members of our committee have traveled to Northern Ireland for first-hand fact-finding missions. Amnesty International has stated that "the United Kingdom's handing of major human rights issues has seriously undermined confidence in this country's legal standards. Some of those standards in fact clearly fall short of international standards." In addition, Amnesty International concluded that "the laws and regulations governing the use of lethal force by security forces were inadequate to prevent and deter unlawful killings." It is clear that these human rights issues, and the failure in some cases to adequately address the issues, has contributed to tensions and distrust between the nationalist community and the security forces in Northern Ireland.

However, it is encouraging to note that the British Government has taken steps to address many of the issues that have been raised by the ad hoc committee. Our committee strongly supports the appointment of a Royal Commission on Criminal Justice to review all stages of the criminal justice system, particularly the law regarding the penalties for the use of lethal force by members of the security forces. Most recently, the director of public prosecutions has brought charges against two members of the royal marines for the murder of Fegal Caraher. Fegal's widow, Margaret Caraher, had traveled to Washington, DC to testify before the hearing on the shoot to kill incidents in September 1991. However, while this first important step has been taken, it is important that such travesties not be allowed to occur again.

On a less encouraging note, Joe Doherty was returned in February 1992 from the United States to the Crumlin Road Jail, from which he escaped 11 years ago. This marks the end of a bitter legal fight in the United States which lasted over 8 years and involved the unprecedented decisions of three Attorneys General to overturn the actions of the courts and administrative agencies.

After numerous favorable decisions of the Federal court and administrative agencies in Mr. Doherty's favor, Attorney General Thornburgh made an extraordinary decision to reverse the decision of the Board of Immigration Appeals that Joseph Doherty has the right to apply for asylum and withhold any impending deportation. And on January 15, 1992, the Supreme Court ruled that Attorney General Richard Thornburgh did not abuse his discretion in denying Joe Doherty a hearing on his claims for asylum and withholding of deportation. In a last ditch effort, members of our ad hoc committee met with Attorney General Barr to request that he exercise his discretion and grant Joe Doherty a fair hearing. Our request was ignored and we never received any response whatsoever from the Attorney General's Office.

One only has to turn to the current situation in the Crumlin Road Jail to note that the prison is out of control. Our Nation has returned Joe Doherty to a life threatening situation.

On November 24, 1991 a bomb planted by the IRA in the Crumlin Jail killed two loyalist prisoners and wounded seven others. Furthermore, there have been numerous fights between prisoners from both sides of the conflict in the visiting areas. The ad hoc committee will be closely monitoring Joe Doherty's treatment in Northern Ireland to insure that his rights are not abused.

We all continue to anguish over the allegations of human rights abuses by the British military presence in Northern Ireland. However, it has become clear that we must insure that our own judicial system is fair. I am concerned that the past decisions of Attorneys General Meese and Thornburgh have ignored the facts. These actions do not reflect the beliefs and values which established our country.

Mr. Speaker, let us on this St. Patrick's Day reflect on the events that have taken place throughout the world during the past 3 years, and to resolve to work toward a just and long-lasting peace for the too long-embattled Island of Ireland so that they too may enjoy the fruits of liberty, justice, and freedom.

TRIBUTE TO THE LATE CHARLES D. HERING, JR.

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1992

Mr. GILLMOR. Mr. Speaker, earlier this year, Charles D. Hering, Jr., of Tiffin, OH, passed away. Mr. Hering, in addition to being a dear friend of mine, was a respected citizen and a revered community leader.

I take this opportunity today to share with the House of Representatives the memory of such a fine man. Charles Hering, Jr., known to all as Bud, was the kind of man whose wise counsel every Member of this Congress would have loved to enjoy. He was kind, reasoned, and steeped in accomplishments in subjects as varied as law, athletics, politics, and education.

Bud Hering was a fine attorney, a patriotic veteran, and a loving husband, father, and grandfather, and a community leader for causes such as the Tiffin Charitable Foundation, Heidelberg College, and more. Most of all, he was a soft spoken man who allowed his decency to speak for him.

While Bud Hering's death continues to be a source of personal sadness, I am pleased to place into the CONGRESSIONAL RECORD of the United States this tribute to a distinguished man.

SELF-EMPLOYMENT PROGRAM HELPS MANY

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1992

Mr. MICHEL. Mr. Speaker, I would like to bring to the attention of our colleagues the wonderful self-employment program taking place in my community of Peoria, IL.

This program, created by Illinois Central College, is a self-employment training program. It has helped many people in our community to start small business operations, and, so far, all 40 businesses have been a success.

Michael F. Kuhns, the program coordinator, helps to find low-income or unemployed individuals and teach them how to start their own business. This is an example of the kind of program that so often proves to be effective because it has its roots in the community.

This program has been highly beneficial to our community and as Mr. Kuhns says "improves the social aspect of life." At this point I wish to insert into the RECORD an article by Marie Blood from the Observer of Peoria, IL, to further detail this great program.

ICC PROGRAM TEACHES SELF-EMPLOYMENT

(By Marie Blood)

Illinois Central College's Self-Employment Training Program has helped 90 people start small business operations in this area.

Michael F. Kuhns, program coordinator, helps pinpoint either unemployed or low-income individuals with employable skills, and teaches them how to start their own businesses. He has helped all types of people, from those with GED certificates to doctorates.

"Self-employment training is sweeping the country as a means of economic development," he said.

"The side effects also improve the social aspects of life, and it broadens the base in a community," said Kuhns, who recruits, screens, promotes, counsels, and puts together financial packaging.

He also teaches a six-week course to 15 people who are accepted quarterly into the program. Referrals for the program come from colleges and private industry councils.

The program is set up to monitor people for five years to see that they stay in business. The program has four parts: a six-week training program in the fundamentals of how to start a business, management consultation on which business will be successful in today's economy, setting up financing and overseeing SETNET (a support network made up of the program's graduates).

Kuhns said his main function is to help these people stay in business for five years from the day they started.

"One of the big reasons for small business failure is that people begin businesses for which they do not have a background," Kuhns said. "What we do is channel and help them select something that is consistent with their background."

"We have created over 40 new businesses, and at this point, we have no defaults or failures. We have reduced government subsidies by $250,000 in governmental funds," Kuhns said. Some of the people had previously been receiving various forms of governmental assistance.

The program is funded by the Department of Commerce and Community Affairs of the State of Illinois as well as receiving funds from the Illinois Community College Board, and the Economic Development Council for Illinois.

"It was started by Illinois Central College; however, within two years, we consider it to be Tri-County Micro-Business Development Program with ICC's portion being the core," Kuhns said.

This includes city and county governmental economic developmental agencies, community action agencies, private lending institutions and chambers of commerce.

The multi-component program starts with a six-week training course taught by Kuhns at the downtown ICC campus half days three days a week.

"It's purpose is not to make experts or CPA's, but give them enough information so they can communicate in the business world," Kuhns said.

Students are taught business fundamentals. In addition, in order to graduate, each student must have a viable business plan. Once they complete their business plan, they are eligible for the other components: including business management consulting support on an annually renewable basis up to five years, and money, some of which comes from ICC.

"They can also participate in SETNET which is a group of graduates that have set up their own support network. This program provides a monthly skill-enhancement seminar and the topics are determined by the participants.

"We will monitor them for five years if they wish. We do not pursue these people," Kuhns said.

After graduation, participants have one year to get started in business.

"The business can be either full or part-time; home-based or storefront," said Kuhns. "These are all micro-businesses. They are 'mom and pop' businesses. Success may be nothing more for them than no longer being on public aid," said Kuhns.

He has lectured all over the United States about his program.

The way we have developed this locally, by seeking the entire community's support, has made us a national model," he said.

Loan funds for the program are provided by local banks, grants from the city and counties, and there are differing guidelines for each particular program. Kuhns acts as a catalyst to help people find the funding they might need.

He is constantly looking for new ways to finance the participants as the state is cutting back on funding programs.

He is applying for consideration as one of 35 national models in the United States for creating new jobs. "It would potentially allow us to borrow $750,000 for small business startups if we could attain that status," he said.

Peoria city/county set loan funds provide a maximum of $15,000 loan guarantees so a client can secure funds from a commercial lender.

Under the Tri-County Regional Planning Commission Set Loan program the participants can borrow up to $7,500 in a no-equity loan.

"By commercial underwriting standards, these people are high risk borrowers. The maximum you can borrow is $10,000. Normally the interest is lower, but monitoring requirements are stringent," Kuhns said.

Minorities make up 35 percent of the program and Kuhns said women are starting new businesses at twice the rate of men.

"Sixty percent of the program participants are females. A lot of women go into marketing, desk-top publishing, house cleaning and service industries," Kuhns said.

One of the participants Kuhns has helped is Jane Gallagher, who with her sister Toni, started Stitch in Time located on North Prospect.

At their business Gallagher provides counted cross stitch materials along with Toni's expertise, which is cross stitch framing.

Stitch In Time opened July 1 and has grown so much that March 15 they are moving to a larger store next door at 4616 N. Prospect in the Goodie Two Shoes store. This will give them 600 more square feet of space.

Gallagher said the SETNET group meetings are quite helpful to her, although she has had an accounting business at home and has helped launch two restaurants.

"They have speakers on zoning laws and information on banks or insurance," she said. There was also a business fair at ICC where she met several of the other participants.

Gallagher, who was able to provide her own financing, claims that the program is specifically geared for minorities.

"It is for people who weren't born rich and who want to get started and lack informational areas. This course gives us that information and help," she said.

Another program success story is Johnnie Turner, who graduated from the program in August, 1990. He worked out of his home doing vehicle detail work, engine degreasing, interior shampooing and engine buffing on cars, vans and trucks.

He saved his money, and, on June 3, 1991, got the chance to move into his present facility at 1538 W. Lincoln Avenue.

Turner, who currently hires two people on commission to help him with certain work said, "Right now I'm still in the process of getting things smoothed out, but business is good.

"The customers are great, and I'm constantly looking for ways to give them the highest quality service."

He said SETNET has been a big help to him when opportunities presented themselves to expand his business.

Another program graduate, Rick Burnett, has opened Baseball Heaven in Metro Center, which specializes in baseball memorabilia.

Burnett, who saved his money for four years before opening his store in August, said the thoroughness of the program was great.

"If there was something you were doubtful about, it was answered," Burnett said. "The best part was the business plan."

Burnett had checked out several places before settling on that location.

Kuhns' wish list for his training program would include a small business resource center; a place where published materials could be available and a shared computer, possibly with a bookkeeper who could help them with various problems.

"Our goal is to make them taxpaying individuals," Kuhns said of his graduates.

RURAL HEALTH OUTREACH GRANTS AMENDMENTS ACT

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1992

Mr. GUNDERSON. Mr. Speaker, during the last decade, health care spending in the United States has more than tripled from $230 billion in 1980 to $738 billion in 1991, 13 percent of our gross national product. While health care costs have exploded over the past decade, access to primary care services has declined, particularly in rural America.

Twenty-five percent of the U.S. population currently reside in rural America. A 1991 study released by the Center on Budget and Policy Priorities found that there are only 97 physicians for every 100,000 rural residents compared to 225 per 100,000 urban residents. This same report also stated that two-thirds of rural counties do not have obstetricians and/or pediatricians. Western Wisconsin currently has seven communities and two county-wide federally designated health professional shortage areas.

Since the rural health care delivery system has many gaps, most health professionals and providers located in rural communities have been forced to make choices regarding the array of health care services offered to patients. Thus, many rural communities have developed alternative models for the delivery of care and implemented unique methods for recruiting and retaining health professionals.

For fiscal years 1991 and 1992, the Congress appropriated funds for a demonstration program supporting health care service delivery to rural communities that do not have access to such services. Although this program has received federal funds, it has yet to be authorized. Today, I am introducing legislation to authorize this unique program.

My legislation, the Rural Health Outreach Grants Amendments Act, would require the Secretary of the Department of Health and Human Services to award grants demonstrating innovative models of health care delivery to underserved rural areas. Grants will be awarded for the direct provision of health services to rural populations or to enhance access to and utilization of existing available services. Services will be delivered through a consortium arrangement among three or more separate and distinct entities. Consortium members may include, but would not be limited to: hospitals, public health agencies, home health providers, mental health centers, rural health clinics, social service agencies, health professional schools, educational institutions, emergency medical centers/providers, and nursing homes.

One of the first outreach grant awards was made to the Wisconsin Center for Public Representation. The center is working in conjunction with the Polk County Public Health Agency to administer the KIDS CARE project, a program providing preventive health care screenings for children without health insurance and not on medical assistance. KIDS CARE program services include visits to dentists, physicians, and vision specialists.

It is my hope that the Rural Health Outreach Grants Amendments Act will enable additional Polk County projects and other innovative delivery systems to be established throughout underserved rural communities.

TRIBUTE TO REV. DR. BOOKER T. McCOLLUM

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1992

Mr. TOWNS. Mr. Speaker, today it is my pleasure to acknowledge the accomplishments of Rev. Dr. Booker T. McCollum, pastor of the St. Anthony Baptist Church, who will receive the "Minister of the Year" award by the African American Religious Connection on April 7, 1992.

Reverend Dr. McCollum has a longstanding reputation within the religious community for being a man of truth, piety, and integrity. St. Anthony's Baptist Church has expanded under the leadership of this highly respected pastor. He is a man of the people, and is respected and loved by many. His counsel is often sought on religious matters.

Dr. McCollum is an advocate for entrepreneurial development and is therefore a most deserving choice for this award. Guests from around the country will be traveling to New York to participate in the award ceremony for a man who has given so much, and asked for nothing in return. I am delighted to highlight the achievements of this outstanding religious leader.

MICHAEL A. KELLY POST; VFW CELEBRATES 60TH ANNIVERSARY

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1992

Mr. RINALDO. Mr. Speaker, the Veterans of Foreign Wars represents about 2.9 million members who have served with distinction and courage in places that live in history.

The Veterans of Foreign Wars defeated the Japanese in the South Pacific, and served in the Navy, Marines, Army, and Air Force under the allied command of Gen. Dwight Eisenhower in World War II. A generation later, they turned back the invasion by North Korea. In the 1960's and 1970's, members of the VFW served with courage in Vietnam. Most recently, these veterans were part of Operation Desert Storm, where they routed the largest military force in the Persian Gulf.

Many of these veterans have won the highest military honors that a grateful nation can bestow on them. They are proud of their military service in wartime, and have not forgotten their comrades who have been wounded, crippled, and injured during their active service.

One of the VFW posts scattered throughout our Nation is in my home town of Union, NJ. The Michael A. Kelly Post 2433 is named in honor of one of the last American soldiers killed in World War I. Army Pvt. Michael A. Kelly died from wounds suffered in the Battle of the Argonne Forest, a few weeks before the Armistice. He is buried in the United States Army cemetery in France.

The post named in his honor was organized by John A. Davenport on April 4, 1932, in the midst of the Depression with 126 charter members. The post was composed of Spanish-American and World War I veterans. Herbert MacLusky was elected as the post's first commander. Thirteen years later, ground was broken by the late Mayor Edward Biertumpfel for its present home on High Street and Kirman Place that was built with the generosity of Max Schoenwalder, who did the heating and sanitary work, and Ernie DeHart and Rudy Rinderer, who directed the trade union construction workers who donated their labor.

The Michael A. Kelly Post received a perpetual charter on May 19, 1966, 4 years after it had retired the mortgage on its building.

Under Cmdr. Alfred Schleck, Post 2433 will celebrate its 60th anniversary on March 29, 1992, and I congratulate its officers and 460 members. Just as they have served our Nation in war, they also are contributing to their community and to America in peace in a variety of ways. They sponsor scholarships, the VFW Teener League, charitable activities, awards for heroism and service by police and firemen, and the Voice of Democracy contest, which is a nationwide program sponsored by the VFW to stimulate student interest and writing about our democratic traditions and institutions.

Mr. Speaker, I have talked with the men confined to our Veterans Hospitals at Lyons and East Orange, NJ, and there is nothing more important to our hospitalized veterans than the visits they receive from their families and from their comrades in the VFW and other veterans organizations. Members of Michael A. Kelly Post and its auxiliary, headed by its president, Mrs. Ann Gregory, regularly visit these veterans to encourage them and to let them know that they are not forgotten. The members of Michael A. Kelly Post do it out of a sense of duty and respect for our hospitalized veterans, and I salute them for their compassion to their comrades.

When a veteran or members of his family need help because of a health problem, unemployment, or in applying for benefits with the Veterans Administration, the service officers and members of Michael A. Kelly Post are ready to assist them. Equally important, the members of Michael A. Kelly Post are part of a formidable national network that watches over the shoulders of Congress and the administration in matters of national defense and the budget for the Department of Veterans Affairs. With their support, Congress has been expanding services for Vietnam and Persian Gulf veterans. One result is that our VA hospitals and clinics have been spared from drastic cutbacks in programs that serve our veterans.

On its 60th anniversary, members of Michael A. Kelly Post 2433 will honor the memory of their comrades who have served overseas since the Spanish-American War. The anniversary reminds us that our Nation has remained free because of the bravery and sacrifices of the men and women who gave their lives, their blood, and left their homes and families to defend our Nation. They deserve the thanks and congratulations of their fellow citizens, whose lives and liberties they have protected.

Mr. Speaker, I ask that Members of this House join me in this special tribute to Michael A. Kelly Post 2433 on its 60th anniversary.

SALUTE TO FIRE CHIEF LOWELL JOY

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1992

Mr. GILLMOR. Mr. Speaker, on behalf of the people of the Fifth Congressional District of Ohio, I am pleased to take this opportunity to recognize Fire Chief Lowell Joy on the occasion of his retirement after 28 years of distinguished service to the Lakeside Volunteer Fire Department.

Americans would not be able to enjoy the blessings of freedom without the brave work of those willing to sacrifice for their safety. It is for this reason that we owe a special debt of gratitude to people like Lowell Joy, who has done an outstanding job as fire chief. As Lowell Joy retires, he can have the satisfaction of knowing that his career will stand as a hallmark for others to emulate.

Whether it was his activism in establishing 911 in the area or his involvement with numerous fire and emergency medical organizations, Lowell Joy has shown an impressive dedication to the causes of public service, public health, and public safety.

Mr. Speaker, I salute Lowell Joy on the occasion of his retirement, and wish him all the best in the days and years ahead.

OHIO'S MR. CONSERVATIVE

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1992

Ms. OAKAR. Mr. Speaker, a prominent former member of the Ohio House and Senate has passed away. Tom Van Meter was a seasoned politician who was respected by Ohioans of all political philosophies. His lovely, fine wife and his wonderful daughters have lost a husband, father and friend. His parents have lost a great son. We all extend our deepest sympathy.

His friend Judge Paul Matia has lost a mentor and brother. I have lost a friend who was kind and a man of his word. The following is an article concerning the late Tom Van Meter:

OHIO'S MR. CONSERVATIVE

(By Mary Beth Lane)

ASHLAND, OH.—Conservative Republican Thomas A. Van Meter was eulogized yesterday as a man of deep conviction who inspired and nurtured a new generation of conservative activists in Ohio.

"The shadow he cast over Ohio's political landscape was longer and more clearly etched than many of his contemporaries," Gov. George V. Voinovich told hundreds of mourners assembled at the Park Street Brethren Church in Ashland.

Van Meter, who served in the Ohio Senate and House and unsuccessfully sought the GOP nomination for governor in 1982, died Saturday after a bout with cancer. He was 48.

Republican state lawmakers, county commissioners and party officials crammed into the church to pay their last respects to the man whom supporters warmly called "Mr. Conservative" and whom shuddering critics called the ringleader of the "Caveman Caucus."

Rep. John Kasich, R-12, of Westerville, drew chuckles when he said, "Tom Van Meter is truly to the right hand of God as he looks down on us today."

Kasich and Voinovich credited Van Meter with doing more than any other politician to draw young people to the Republican Party. A number of the proteges mourned in the church, including Rex Elsass, state GOP executive director; Douglas Preisse, a top Voinovich aide; and Robert Klaffky, who works in Van Meter, Ashbrook & Associates Inc., Van Meter's consulting firm.

Voinovich said Van Meter gave him sound political advice at a bleak point in his career.

"In late 1988, we ate at Top of the Town in Cleveland," Voinovich said, recalling when he had just badly lost his race for the Senate against Democrat Howard Metzenbaum. "He said, 'George, run for governor. Do it.' And we did. Without Tom's early support—and it was catalytic—I would not be governor today."

Voinovich named Van Meter to the Ohio Liquor Control Commission last year, but Van Meter stepped down in the wake of disclosures about his potential conflict of interest as a registered lobbyist.

Van Meter, an aggressive political tactician, was heading the GPO effort to capture majority control of the Ohio House when he died. He was credited with developing the master plan that eventually gave Republicans control of the Ohio Senate in the early 1980s.

Jim Underwood, The Plain Dealer's Columbus bureau chief, also eulogized Van Meter. He said it was a tribute to Van Meter's sense of humor that Van Meter wanted "a liberal, left-wing journalist" among the eulogists at his funeral.

Recalling the many political debates they shared over the years, Underwood said: "I suggested he learn more about liberal politics. He said it would be impossible to visit that many asylums."

Underwood said he would remember Van Meter as "the conservative centurion guarding the cause against all enemies."

The Rev. Arden Gilmer, the church pastor who led the mourners in prayer, said President Bush and former President Richard M. Nixon called Van Meter's widow, Nancy, Monday with their condolences.

F. Clifton White, director of the John M. Ashbrook Center for Public Affairs, which Van Meter founded in 1983 in memory of his mentor, said, "Tom was a politician and was proud of it." Ashbrook, who had been a congressman, died in 1982.

FULL DISCLOSURE OF MEMBER HOUSE BANK RECORDS

HON. LAMAR S. SMITH

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1992

Mr. SMITH of Texas. Mr. Speaker, my constituents sent me to Congress at the close of the 1980's to be a part of the solution to what is wrong in Congress.

Consistent with that mandate, I was one of those on October 3 last fall to first call for full disclosure of Member use of the House bank.

When the House decided to send the matter to the House Ethics Committee, I wrote the chairman of that committee and strongly urged that any members of the committee that had overdrafts recuse themselves from considerations of the matter. I also urged that the committee recommend full disclosure.

Again, when the leadership brought major legislation to reform the Nation's banking system to the House floor late last year, I wrote the Speaker urging that the House first act to fully disclose the activities of the House bank.

And again this month when the Ethics Committee made public its report, I wrote the Speaker to urge immediate full disclosure.

I am a cosponsor of a resolution to require full disclosure sponsored by Mr. BUNNING, Mr. KYL, Mr. HOBSON, and Mrs. JOHNSON that is expected to be voted on today.

I urge my colleagues to do the right thing for America.

Vote for full disclosure.

Our first concern must be the well-being of representative government. The House belongs to the American people.

We are charged with its care.

A government of laws and not of men or women cannot allow the credibility of its lawmaking to be drawn into question. We must act and act decisively to affirm that "Here, the people govern."

It is simple. We have no choice.

We shall do the right thing.

Arguments to do otherwise ring hollow.

No taxpayer dollars were involved.

Factually incorrect. After withdrawals exceeded the total amount deposited by Members in a given month, overdrafts were covered by appropriated funds in the Treasury account.

Further, taxpayers paid $1 million a year for bank staff salaries and facilities.

Members have a right to privacy under bank secrecy laws.

The so-called House bank, technically a payroll disbursing office, was not chartered as a bank. Bank secrecy laws do not apply.

The House bank was organized, funded, and managed as a part of the U.S. House of Representatives. It was a public institution. Its activities, including the activities of elected public officials who used the bank, must be subject to public scrutiny.

The House has no authority to release account information.

The House has over a period of several years released information about the account of its Sergeant at Arms. No legal action challenging those releases has been brought.

The Ethics Committee under advise of its counsel has concluded that it can release the names of 24 present and past abusers of the House bank.

By its own action the committee has further established the legal right of the House to release any names and account information it wishes to release.

It is unfair to release the names of members with an occasional overdraft with the names of serious abusers.

Actually, it is more unfair not to do so.

If the House were to release the names of the 24 most serious offenders, all other House Members with none or an occasion overdraft would be lumped together with 42 unnamed Members whose accounts were repeatedly and seriously overdrawn.

Likewise, if the names of the 66 top offenders were to be released, all other Members would be left in the position of being linked together with the additional 134 Members who had overdrafts on their accounts that exceeded the amount of their next month's pay at least once.

A Member's credibility is critical to effective representation. It is unfair to a Member and the institution to put any Member in such a position in order to protect wrongdoers.

This reflects only on the poor judgment of some Members.

It does that and more. It reflects directly on the House.

This House where the people govern cannot shelter an unchartered, unregulated bank where deposits and withdrawals are not subject to Federal banking and tax reporting requirements.

This House cannot operate at taxpayer expense a bank through which it was possible to launder illegal campaign contributions.

The peoples' House should not foster bank accounts that could be used to evade Federal and State tax laws.

The House bank and its activities reflect directly on the House, its leadership, and the credibility of the laws this body passes.

Only full disclosure can correct great harm already done this institution.

The cost of full disclosure to individual Members likely could include careers ruined, difficult political campaigns and personal embarrassment and shame. But these costs are as nothing compared to the costs of not coming together to protect the integrity of this House, mankinds' highest accomplishment in representative self-government.

I know we will do the right thing. When the American people are presented with the facts, we must trust that they will be fair and do the right thing.

REMARKS OF LINDA G. STUNTZ

HON. JOE BARTON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1992

Mr. BARTON of Texas. Mr. Speaker, I include the following:

Remarks of Linda G. Stuntz, Deputy Secretary of Energy (Acting), Before the International Industrial Symposium of the Super Collider

Thank you, Andy, for that flattering introduction.

You probably noticed the use of the word "Acting" in front of a lot of my titles. That is Washington talk meaning I have a lot more jobs to do but no increase in pay.

One of the benefits of having had so many jobs at the DOE is that I've learned about many of the things going on in the Department of Energy. I have to admit, however, that until recently the Super Collider was not on the top of my list of things to worry about. Indeed, as one of those dreaded lawyers, I must confess that I'm a bit like the English essayist Charles Lamb, who wrote, "In everything that relates to science, I am a whole encyclopedia behind the rest of the world."

Now that the SSC is an important responsibility of mine, I have been taking a crash course to learn about it. And the more I learn, the more excited I get about it.

Since you met last year in Atlanta, there has been tremendous progress on this project. Tonight, I'd like to take a few minutes to review that progress and where we are going.

The SSC is on schedule and on budget.

The SSC Laboratory has a staff of over 1,800 in place, and all key DOE/SSC positions are filled.

The State of Texas is meeting all of its financial commitments and is ahead of schedule in acquiring land for the project.

Technology transfer from Fermi and Brookhaven National Laboratories to General Dynamics and Westinghouse, our two magnet contractors, is proceeding on schedule; they have built and successfully tested 50 centimeter dipole magnets.

The magnet laboratory and central facility are both completed and in use. The string test building is completed and awaiting the first magnets for testing.

Babcock and Wilcox is designing and building the first quadrupole magnet for the collider.

A contract to design, build, and install the first cryogenic refrigeration system has been awarded. The building to house it is already in place.

The first contract for construction of 2.7 miles of the tunnel itself has been awarded—under budget, I might add.

Just yesterday, the seventh superconducting dipole or bending magnet assembled by the General Dynamics/Fermi/SSC team at Fermilab was tested. Results are outstanding. I'm told that magnet quenches occurred at 7300 Amps through four cycles. I'm not sure I know exactly what that means, but I believe it means that we have one robust magnet on the test stand at Fermi.

As has already been announced, the magnet team of Brookhaven, Westinghouse, and SSC has assembled and successfully tested three prototype dipole magnets at Brookhaven.

That brings the total to ten—ten consecutive successes. Five of these ten magnets will be installed for the accelerator system string test, scheduled to begin next summer.

In addition, we have just received word from Brookhaven on test results for the first prototype superconducting quadrupole magnet. The quadrupole magnet is the type that focuses the Collider's particle beam. Its cold mass—the central magnet core—was assembled at the Lawrence Berkeley Laboratories, in California, and its cryostat—or containment—was assembled at the SSC Laboratory with participation by employees of Babcock and Wilcox. It is scheduled for the accelerator system string test.

The quadrupole prototype passed its tests with flying colors. Initial quenches were at 7200 Amps and 7500 Amps, and then subsequent quenches plateaued at above 8000 Amps. Again, I'm told that this means we have one robust focusing magnet at the SSC.

That's quite a list of accomplishments, and I congratulate all those, in DOE, at the SSC Lab, and in industry who, together, are making the SSC happen. I also comment and thank all of those in the Congress who have consistently supported the SSC. It hasn't always been an easy vote, but it is truly a vote for America's future.

Given the level of effort and the very solid progress over the past three years, it would be nice if we could pause and savor our success. But we cannot. The next three years, and this year in particular, are likely to be even more challenging—in terms of technical, financial, and international issues to be managed successfully. As we move into these next years of heavy construction activity, we will face large capital requirements, a unique demand for precision engineering, the need for committed international partners, and for stout Congressional support in a time of extremely tight budgets.

The good news is that over the past three years we have laid a firm foundation for meeting these challenges. We have established standards of quality and performance excellence for the SSC project which should fortify its supporters and quiet its critics. But the greatest challenges are yet to come, and the critics have not gone away.

Tonight, I would like to address three areas of special importance to the future of the super collider: the outlook in Congress; the status of foreign participation; and development activity at the project site.

OUTLOOK IN CONGRESS

The President's budget in fiscal year 1993 requests $650 million for the super collider, with over $533 million of that going to capital equipment and construction. This very considerable sum translates directly into jobs and economic stimulus now. So far, the SSC has generated some 7,000 direct new jobs. As construction gets underway in earnest in these next years, the number of jobs, direct and indirect, from this project will grow substantially—not only in Texas but across the United States, as contracts are let and developmental research pursued in government, industry, and university laboratories.

Thus, the SSC is not just a "Texas" project, some abstract scientific quest devoid of practical benefits in the near-term. The SSC is the single largest construction project now underway in the United States. In addition, it is a major research effort that is generating economic activity and jobs across a broad spectrum of heavy industry, manufacturing, and academia throughout this country and the world. This message must get out as Congress considers the President's request for SSC funding in fiscal 1993.

As most of you know, Congressman Tom Bevill, Chairman of the important Energy and Water Development Subcommittee of the House Appropriations Committee, has been a good friend to this project, as has Bennett Johnston, Chairman of the Energy and Water Development Subcommittee of the Senate Appropriations Committee, and one of the craftiest legislators there is.

Still, this is going to be a tough budget year. Each of you here—all those whom you represent—must be prepared to work with Congressman Bevill, Congressman Myers, Senator Johnston, all the Appropriations Committee members on both sides of the Hill, and all your own contacts in Congress to support full funding for the SSC.

The SSC is now on schedule and on budget, with a superb project management team in place. They will meet critical milestones in a critical year if they have adequate funding. Our job is to see that they do.

STATUS OF FOREIGN PARTICIPATION

The Department continues to give priority attention to securing foreign partners for the SSC. We envision it as our largest international science project, and a model for future efforts. We are involved in various stages of discussions with several countries about participating in the SSC.

Japan is of particular interest because of the large potential for mutual benefit in such a partnership. Japan has world-class scientific, engineering, industrial, and financial capability to contribute to the collider project. In turn, the SSC offers Japan an ideal opportunity to help achieve its long-stated national research policy goal of increased support for basic research and international collaboration.

Over the past two years there has been ongoing dialogue at the highest levels between Japan and the United States, including several trips by senior DOE officials to meet with their counterparts in the Japanese government. We have repeatedly emphasized the need for a timely decision.

This January President Bush and Prime Minister Miyazawa agreed to establish a Joint Working Group to examine technical and other essential aspects of the SSC, including Japanese concerns about effective arrangements for partners in the project. Staff from both countries met for the first time last week in Tokyo, and will meet again later this month in Washington. The first full meeting of the Joint Working Group is expected in April. We intend to press Japan for a timely decision, so that they can be more fully involved in the design and construction of project components.

We have also established Joint Working Groups with Korea and the Russian Federation, which can each make significant contributions to the SSC.

The Koreans have committed to supply scientific, engineering, and technical manpower valued at $30 million. DOE has responded by inviting them to participate in the design and construction of prototype conventional magnets for the Medium Energy Booster. We are still working with them to determine the parameters of their contribution.

The former Soviet Union has world-class expertise in high energy physics which we hope to tap for the SSC project. In July 1991 a Joint Working Group was created and, despite the ensuing political turmoil, has met twice since then, with good progress.

The SSC Laboratory has signed an agreement to secure prototype magnets for the low Energy Booster from the Institute of Nuclear Physics in Novosibirk. Successful delivery and acceptance of the prototype magnets may lead to the Institute's providing most of the magnets for the Low Energy Booster. We believe the net savings to the United States could be at least 50 percent of the baseline cost estimate for these components. And, it provides challenging work and a source of hard currency for skilled scientists in the former Soviet Union at this critical time when their economy is in chaos.

We are also examining options for cooperation with the Peoples Republic of China. Our technical experts believe the Chinese have the capability and the desire to provide some conventional components to the SSC. A list of potential contributions has been identified, and we may enter into substantive discussions soon.

India has committed to contribute $50 million in resources for the SSC. By joint agreement, they will provide the radio frequency cavities for the collider itself and other components in the accelerator injector chain.

Negotiations will continue with these and other countries with the capability to contribute to the SSC. We remain committed to developing the SSC as a model international project for the 21st century, and believe that we are well on our way to that objective.

SSC DEVELOPMENT ACTIVITY

If our efforts to gain Congressional support for, and foreign participation in, the super collider have been largely positive, our progress at the SSC site itself has been positively large. Last year, we completed and occupied the first permanent facilities on the site. We built and successfully tested the first full-size 50 centimeter dipole magnets. And we brought the magnet development lab on line.

This year the pace of development will accelerate. Actual tunneling for the collider will begin in July. The first contract has been let, and more will follow this year. Extensive magnet development and testing work will go forward, culminating in a test of a string of magnets this summer which is the basic building block for the collider.

Federal funds are budgeted to include $63 million for capital equipment and $470.2 million for construction. The capital equipment request will provide mainly for laboratory tooling, test equipment, and computers. The construction request covers a number of areas, including: detailed design of technical systems, detectors, and conventional facilities; the magnet industrialization program for dipole, quadrupole, and High Energy Booster magnets; fabrication and installation of injector system components; and onsite construction of conventional facilities and tunnel sectors.

The largest share of the $233 million in non-federal contributions budgeted in fiscal year 1993 will come from the State of Texas. India, Russia, and Korea will also contribute. We can meet our non-federal funding objective in FY 1993 without the Japanese, but we continue to believe their early participation will add significantly to the overall strength of the project.

CONCLUSION

Another British author, Eden Philpotts, once wrote about science that, "The universe is full of magical things, patiently waiting for our wits to grow sharper." That is what the SSC is all about, sharpening our wits. But the SSC is also immediate and practical in terms of jobs, technology, and economic growth. It is a roadway to the technical proficiency and scientific excellence that will mark the most successful nations in the new century.

As important as that is, the SSC also represents something that I believe may be even more important: a test of our ability as a nation to complete what we have begun, to sustain a commitment to a project like the SSC over time, despite the buffeting of the political winds. That is a very difficult challenge, but we must not fail here; for if we do, our credibility to do anything will be justly suspect. And once that happens, once our commitments are shown to be fickle and unreliable, we will have irreparably damaged our ability to meet the challenges that face us in many areas.

Accordingly, let us reaffirm our shared commitment to make the SSC a success, not just in its own right, but as the most effective example of scientific partnership in a world of global peace.

THE AMERICAN CORN GROWERS ASSOCIATION

HON. CHARLES W. STENHOLM

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1992

Mr. STENHOLM. Mr. Speaker, the American Corn Growers Association [ACGA] is based in my home State of Texas. In 5 short years, it has grown to over 8,000 members in 23 corn producing States. I am proud of the work ACGA has done to bring producers into the political system who have previously not been involved in any commodity or general farm organizations. The attached article from ACGA, appearing in the February 26, 1992 edition of the St. Louis Post-Dispatch, is, I think, a thoughtful article on the need to strengthen America's farmers and to achieve fair rules on the international trading of U.S. agricultural commodities. I insert this article in the CONGRESSIONAL RECORD:

[From the St. Louis Post-Dispatch, Feb. 26, 1992]

SELLING FARMERS SHORT—ADMINISTRATION POLICIES, ESPECIALLY AT GATT TALKS, COULD HURT U.S. AGRICULTURE

(By John Ford)

When Post-Dispatch headlines proclaim that farmers do not believe they are getting attention during the election, all Americans should wake up, not just farmers.

The importance of agriculture to the strength of the country's economy has been overlooked too long. A strong agricultural policy is a jobs program.

The number of people directly involved in farming is small, about 2 percent of the population. But the number of jobs farmers create is immense.

St. Louis is a prime example. Almost 25 percent of the people in the metropolitan area work in some form or another of agricultural-related businesses. Some examples are well-known businesses such as Ralston Purina, Monsanto and Nestle. Add to this barge lines that ship agricultural commodities, major grocery chains, bakeries and a host of other businesses.

The St. Louis example is repeated across the country at grain processing and handling facilities, ethanol production plants and in many other ways. The success of many of these companies and the security of their employees depend on the American farmer operating at a profit.

My family has been involved in agriculture for years both in farming and food processing. I understand the frustration of farmers. The prices they receive for their crops are too low.

It should come as no surprise, however. After the passage of the 1985 farm bill, for which I directed congressional relations for the secretary of agriculture, some of us came to see that the act could only lead to continued economic problems for American farmers. Hence, I resigned by administration post.

Now, at a time of low prices and decreased exports for commodities, there should be an outcry of support for the American farmer. Ironically, many organizations supposedly set up to represent farmers' interests take positions that harm the farmer.

There are two pertinent examples of this. One is the continued insistence of certain commodity organizations upon strictly market-driven policies that they claim increase the price of corn. Another director-general of the Uruguay Round of the General Agreement on Tariffs and Trade (GATT).

The National Corn Growers Association, which claims to represent corn farmers but accepts more funding from agribusiness than it receives in membership dues, has for years offered market development as the cure-all for low prices. Its claim has traditionally been that every 100 million bushels of corn sold represents a nickel per bushel in the prices of corn. Since nearly 8 billion bushels of corn are used every year, that means farmers should enjoy $4 a bushel corn. Obviously, this has not happened. (The high price for corn Monday in St. Louis was $2.73.)

Now, this same organization has stated in a membership publication that "after a certain point," which is unspecified, each 100 million bushels of additional use will result in an increase of 12 to 15 cents per bushel. This unsupported position has been repeatedly criticized by the American Corn Growers Association.

The Dunkel proposal on GATT attempts to gain through trade negotiations what the Bush administration has been unable to get through legislation. It would allow farm policy to be directed by a Multilateral Trade Organization headquartered in Europe and headed by Dunkel. Member nations would have the right to do whatever was necessary within the borders of participating countries to carry out terms of the trade organization. This would, in effect, be the farm bill of the Bush administration, usurping congressional authority and U.S. sovereignty.

Just a brief glance at some of the provisions of the Dunkel memorandum shows what the impact would be upon the American farmer. Some of the provisions are a reduction of governmental supports to even lower levels than the current rate, or even further below the cost of production, funding for programs and immediately allowing more imports of other food products from other countries, decreasing markets for domestically produced food items.

The American public, not just the farmer, would be the loser if this happens. That is why the American Corn Growers Association has opposed the Uruguay Round of GATT since 1986. We were hopeful that other groups recognized the implications of the Uruguay Round when they moved closer to our position in a letter to the Bush administration expressing concern about GATT.

Unfortunately, this was not the case. Several organizations continue to support Uruguay Round and multilateral trade talks. We hope grass-roots sentiment will force a change.

We also hope that as public understanding of the importance of the rural economy increases, support for policies that strengthen the position of the American farmer will grow.

When that happens, instead of a losing situation the American public, including farmers, will be the winners. We will have a realistic farm policy. The American farmer will enjoy improved prices. Our food supply and independence will grow. American commodities will be more competitive in the world marketplace and exports will once again increase.

Jobs will be protected, and created, in response to the economic stimulus that a strong rural economy provides.

And finally, our domestic food security will be guaranteed. If GATT is approved a takeover of our domestic food markets by a flood of inferior, subsidized imports will drive more farmers off the land. This will make us dependent upon foreign sources for food. What we are proposing will strengthen America's farmers, who are the best in the world at their jobs.

It will make sure that we will remain the only nation in history that has been able to feed itself and the world inexpensive, safe and wholesome food.

AMERICAN WORK ETHIC ATTRACTS THESE JAPANESE FIRMS

HON. DON SUNDQUIST

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1992

Mr. SUNDQUIST. Mr. Speaker, I wish to share with my colleagues the experience of Memphis and the Midsouth, where Japanese business and investment are concerned. My good friend, Olin Morris, president of WREG Television and chairman of the Memphis Area Chamber of Commerce, has written an informative piece for The Journal of Commerce, in which he points out that—despite the rhetoric—Japanese firms are finding it to their advantage to make products here.

He also makes the important point that, while trade differences remain between the United States and Japan, our current trade relationship is important and profitable for both nations and is worth preserving.

I insert Mr. Morris' article in its entirety in the CONGRESSIONAL RECORD:

[From the Journal of Commerce, Feb. 25, 1992]

A SHARP ANSWER TO U.S. BASHING

(By Olin Morris)

All of the name-calling of late between the United States and Japan is enough to revive memories of Pearl Harbor—or maybe a shoot-out at the OK Corral.

But before America falls into a kind of herd mentality about United States-Japanese economic relations, leading to dangerous and costly protectionism, it's useful to look past politics and review specific companies and their business practices.

A case in point is the Sharp Corp. of Osaka, Japan, and its Memphis-based subsidiary/manufacturing facility. Currently, the plant employs more than 800 people and produced 1.2 million microwave ovens and 970,000 television sets in 1991.

The company's recent history refutes many commonly held views. Here are some examples:

Daily headlines tell us Japanese politicians think American workers are inferior. Yet Sharp has shown it is very satisfied with U.S. workers, expanding operations here nearly four-fold since 1979.

Many U.S. politicians tell us the Japanese are pulling money out of the United States and putting it into distant banks and holding companies. Yet Sharp already has invested more than $50 million in its Memphis plant and last month began a new $16 million expansion.

Japanese-owned companies with manufacturing facilities in America are frequently criticized for buying too many foreign parts. Yet Sharp has sought to expand domestic content, with a goal of boosting U.S. content to about 50% for products sold here.

Perhaps the greatest evidence of Sharp's satisfaction with America and the American worker came last year when it chose to shut down a key manufacturing operation in Asia in favor of a U.S. location.

In all, Sharp invested $11 million to allow television chassis to be produced in Memphis rather than continuing to import them from Asia.

The key reason for the "Malaysia to Memphis" transfer? It made good business sense.

Although labor is much cheaper in Malaysia, Sharp executives have explained the change as an economy move: shipping costs will be reduced, inventory will be easier to manage and the Memphis plant will be fully automated. That's good economics.

In addition, Sharp is jumping into exports using the United States as a base—not the sort of thing we usually expect of a Japanese company.

Instead of slowing or stopping production of microwave ovens in the face of U.S. market saturation, Sharp began building them for export in 1988 and is scheduled to ship up to 200,000 units to Germany, France, Italy and Luxembourg this year. That represents $17 million in foreign sales.

Is Sharp alone in the way it does business in the United States? Not at all. Here are two other brief examples from the mid-South.

Nisco Steel, a division of Nissho Iwai Corp., operates a metal slitting plant in a 70,000-square-foot facility. When it opened in 1984, the company planned to import most of its raw steel from Japan. But that changed. Today, Nisco purchases up to 90 percent of its raw material from mills in the United States.

Key reasons for the switch? The quality of U.S. steel has improved, the cost is competitive and on-time delivery of domestic steel is easier to manage than imported raw material.

In other words, it made good business sense to Nisco to use American-made steel.

Brother Industries USA, a subsidiary of Brother Industries Ltd. of Nagoya, Japan, is another case in point. Brother's manufacturing facility and its more than 600 American employees have built a strong reputation in the electronic typewriter industry—they now produce more than 5,000 units a day. The company exports more than 100,000 units each year to Germany, Finland, Australia and even a small number back to Japan.

It is specific cases like Sharp, Nisco, Brother and many other Japanese companies that employ some 360,000 workers in the United States that betray both the rhetoric of Japanese politicians and the foolhardiness of U.S. protectionist bravado.

Continuing trade talks between Japan and the United States are important, and there certainly are plenty of problems to iron out to achieve a fairer balance in trade. But we're not filming an old Western, with the good guys in the white hats shooting at outlaws in black.

Economically speaking, the global village is big enough for both countries.

FULL DISCLOSURE OF HOUSE BANK RECORDS

HON. HAROLD ROGERS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1992

Mr. ROGERS. Mr. Speaker, I rise tonight to call for full disclosure of the names of those Members who have repeatedly overdrawn their accounts on the House bank.

Congress is receiving a clear and consistent message, Mr. Speaker, and it is time we paid attention to what the American people are saying:

"Name the names and let us—the people—decide who made innocent mistakes and who abused the system."

Time and time again, the American people have said they are fed up with business as usual in Washington.

They're tired of our inability to get things done.

They're tired of the double standard in which Congress exempts itself from the laws it imposes on others.

The House bank scandal is just the latest example of this double standard. And it is easy to understand why it makes Americans so angry.

They hear that more than 350 current and former Members of this body bounced thousands of checks. And they know that, if they did the same, they would pay severely.

They hear talk of naming only a handful of the worst violators. And they know that, once again, Congress is protecting its own.

The stain from red ink in some Members' checkbooks must not become a blot on all of Congress. We cannot remove this stain by covering up the names of violators. We can erase it only through full disclosure.

So I urge my colleagues tonight to name names—all the names.

We owe it to this institution. We owe it to the American people.

FULL DISCLOSURE OF BANK RECORDS

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1992

Mr. PORTER. Mr. Speaker, it is a sad day for this institution and tragic that some Members, acting out of greed and avarice, have brought shame and disrespect to the Government and the Congress they were elected to serve.

Clearly, a number of Members have repeatedly and intentionally overdrawn their accounts, borrowing from their fellow Members without their permission or knowledge. The 24 individuals who have been marked for disclosure under the Ethics Committee resolution plainly are the worst abusers. But it is also plain that a number of others, at least 42 more as detailed in the Washington Times, are also abusers.

The remainder of the 355 Members who have had some overdrafts may be guilty not of a pattern of overdrawing their accounts, but only of occasional or inadvertant overdrafts that might accrue to any person using any banking system. The difficulty with this so-called bipartisan resolution is that the only information to be divulged about those who are not among the 24, is the number of checks which were overdrawn. Nothing is said about the amount or the pattern of overdrafts, so that the additional 42 individuals identified by full information on their account histories but not by name in the Washington Times piece, are simply included in the much larger group who have no pattern of overdrafts and no abuse of the system.

Last fall, I requested and received a letter from the House bank stating that I had no overdrafts in my account for the period July 1989 through June 1990, the term of the original GAO study. Under the Ethics Committee resolution, which I supported, there is a provision allowing Members to request of the Ethics Committee information or the entire 39-month period as to the number of overdraft checks and, if applicable, the number of months that the negative balance exceeded the next month's net salary deposit. I will immediately request this information of the committee in writing regarding my account and when received and verified make it public.

My constituents, and the constituents of every Member, are entitled to know the truth about how the Member used or abused his or her House bank account. Yes, there is no House rule that is broken by a Member making an overdraft. Yes, here is no taxpayer moneys involved and no loss to the public treasury as a result of any overdraft. yes, as everyone must surely now be aware, the bank was not a bank at all—did not pay interest, did not make loans, did not have overdraft protection. Nevertheless, the character of the individual Member is brought into question. Did that member intentionally, repeatedly and substantially use the funds of other Members to his own purposes? If so, the public has a right to know.

This resolution, Mr. Speaker, though flawed in failing to give more broad information than simply the number of overdrafts for all but the 24 most flagrant abusers, does provide for much greater disclosure and deserves the support of every member. This sad day must be put behind us as quickly as possible and great effort expended at bringing sound management practices to bear on all House operations as quickly as possible.

HOUSE RESOLUTION 396

HON. ROBERT F. (BOB) SMITH

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1992

Mr. SMITH of Oregon. Mr. Speaker, I rise today to support the resolution offered by Mr. MICHEL and Mr. GEPHARDT to fully disclose the names of those Members who bounced checks at the House of Representatives bank.

I do not rejoice over the misfortune of my colleagues, but I am deeply gratified tonight that this body has heeded the recommendations of the American people and will tonight demand that this information be fully disclosed.

I am, Mr. Speaker, amazed that it took this body this many months to realize what is clear to every American: that the House of Representatives—the people's House—will eventually be brought into the light of day, and that the people will forever guide this Government, as our constitution intends.

The days of back room deals—of coverups and innuendos, winks and nods—may at long last be at end. The American people see this disgraceful episode for what it is, and tonight have taken control of their Government.

This Nation, which we all love and cherish, was founded upon principles we teach in our schools, pass on to our children, and trust in our hearts will continue to guide us as they have since the days this republic was founded. For a few short moments, some in this body considered, if only briefly, that protection of the powerful and influential was somehow more important. Or perhaps they were not thinking at all.

But the American people were thinking, and tonight have demonstrated again that they know more about this Government—and care more about this Government—than many Members were willing to give them credit for. And for some, that may well be a miscalculation that the American people are unwilling to forgive.

But that, like everything else around here, is a judgment for the American people.

I urge all my colleagues to support the resolution without hesitation or regret. I know that the American people's judgment will be kind to the truth. If this legislature made any mistake, it is that it did not trust the American people sooner.

Mr. Speaker, I urge my colleagues to support the resolution, and I thank the Chair.

ETHICS COMMITTEE REPORT

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1992

Mr. DOWNEY. Mr. Speaker, the greatest honor ever conferred upon me has been the privilege of serving the people of the Second Congressional District of Long Island. As a Member of Congress for the past 18 years, I have openly and honestly addressed the concerns of my constituents because I view my office as a public trust.

That's why it has always been my policy to disclose my personal financial activities as fully as possible. Although not required by law, I have publicized a summary of my tax returns every year in the belief that my constituents have a right to this information.

Last October, when a report was published criticizing the activities of the House of Representatives Disbursing Office, I quickly responded. According to this report, it was the routine practice of this facility to cover any personal checks if there was a shortfall in the account of a Member of Congress. I discovered to my dismay, along with many of my colleagues, that in paying my household bills, I benefited from this practice from time to time. I publicly acknowledged my use of this service and voted to close the disbursing office and to turn this matter over to the House Ethics Committee.

Today we will have an opportunity to consider the report of the House Ethics Committee. For me, it is an opportunity to reaffirm my belief, both in word and deed, that serving as a Member of Congress is a public trust. That's why I will vote for full disclosure of all the names of those individuals involved in this practice and I will personally inform my constituents of the details of my own account when that information is available. In addition, I will strongly support legislation to establish a professional administrator to oversee the operations of the House of Representatives.

Ultimately, the people of the Second Congressional District will make their own judgments about this issue. But I think it is important that they have all the facts. First, the practices of the disbursing office did not involve the expenditure of any taxpayer dollars. Second, the facility involved in this problem was not a bank and it did not pay interest nor did it offer any overdraft protection as most banks do. Third, in most instances I was never notified that there was a cash shortfall in my account. When I was notified, I immediately deposited money in my checking account to cover any shortfall. At the same time, the records provided by the disbursing office were either inadequate or incomprehensible which made it impossible to determine my monthly balance. Fourth, the checks written from my personal account by myself or my wife never resulted in any of my outstanding financial obligations not being met. Fifth, the disbursing office is now closed and these past practices have ended.

I am personally embarrassed by this situation and I deeply regret that I did not pay closer attention to my personal fiances. But I hope that by addressing this issue in a comprehensive way, we can now move forward to concentrate on the pressing problems facing Long Island and the Nation.

HAWAIIAN HAZANA

HON. NEIL ABERCROMBIE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1992

Mr. ABERCROMBIE. Mr. Speaker, today I am introducing legislation to exempt Hazana, a 47-foot cutter-rigged yawl, from the provisions of 46 U.S.C. 289, which prohibits foreign-built vessels from carrying passengers between ports of the United States.

Hazana has a special history. Built in Holland in 1979, Hazana was severely damaged in a hurricane at sea in 1984. In turn, Jeff L. Hossellman, a U.S. citizen and resident of Hawaii, purchased the vessel from an insurance company as a total loss for $42,000. Mr. Hossellman has since rebuilt the vessel in the United States and can proudly claim she now has a market value of approximately $150,000.

Mr. Hossellman's intent is to use Hazana to carry passengers on cruises between the Hawaiian Islands of Oahu and Molokai. As there is no vessel currently active on this route, Hazana will be able to provide another view of Hawaii, one now only seen by a selected few.

One of the most impressive sights is the Hawaiian Islands viewed from the sea. It is easy for ocean passengers to imagine themselves as ancient Polynesians first arriving from far away lands. The coral reefs protecting Hawaii's fragile shores, with some of the steepest sea cliffs in the world as a backdrop, are awe inspiring. The smooth Kona winds fill the sails with grace and elegance carrying the yawl from one crest to the next—nothing can compare to the experience.

I want to emphasize that while this vessel was originally built overseas, it's "destruction" due to the hurricane allowed for its reconstruction in the United States by American labor for an American owner with the object of doing business in U.S. waters exclusively. For all intents and purposes, its foreign origin is technical in nature; its rebirth is by an American enterprise complying with the spirit of the law.

Thank you, Mr. Speaker, for allowing me an opportunity to comment on this special legislation.

B-1 TEST RESULTS SIT UP AND TAKE NOTICE

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1992

Mr. LEWIS of California. Mr. Speaker, the completion of the winter Olympics in Albertville, France reminds us of America's fascination with world records. I learned recently of some new world records that all Americans should take pride in. These records were set by an Air Force aircraft, one that we know very well, the often-criticized B-1 bomber.

During the last week in February at Grand Forks AFB in North Dakota, the B-1 bomber smashed eight world time-to-climb records. In several instances the B-1B cut the existing records in half and in others trimmed considerable time off existing records. These new world records involved climbing to 10,000, 20,000, 30,000, and 40,000 feet with three differing payloads. The B-1's in these record setting flights came from the 319th Wing and the supporting tankers were from the 905th Air Refueling Squadron.

Some of us have had to accept criticism from time to time for our role in encouraging the development and procurement of the B-1. These records demonstrate the professionalism of our military personnel and the superiority of their equipment. Those who have tried to play a constructive role in criticizing the B-1 have never hesitated to emphasize concerns about its performance. Every time the slightest thing goes wrong, it gets blown out of proportion. Last year, for example, there were reports about cracks in the plane's internal beams. Some critics said that fixing these problems would cost $1 billion. It cost $5 million to fix that problem. That is not the cost per plane but the cost to fix the entire fleet. That's about $50,000 per plane.

These records demonstrate world record performance and world class professionalism by every one who took part in these record breaking attempts. They once again demonstrate the B-1's tremendous operational capability and that is something that should make all of us sit up and take notice.

REPORT OF THE HOUSE ETHICS COMMITTEE

HON. MARTY RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1992

Mr. RUSSO. Mr. Speaker, the American people want the facts and they want the truth about the activities of the House bank. They want the opportunity to judge for themselves what is important. That's why I am in favor of full disclosure of the information regarding the personal accounts of Members of Congress at the House bank and that's why I am voting for the motion before the House tonight. I believe this is the only way we can restore confidence in this institution and it is the only way we can put this issue behind us and move forward in addressing the problems and concerns facing our Nation.

FULL DISCLOSURE BY ALL MEMBERS WHO HAD OVERDRAFTS AT THE HOUSE BANK

HON. JIM BACCHUS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1992

Mr. BACCHUS. Mr. Speaker, shortly after learning of the House bank practice of covering Members overdrafts, I discovered that a subtraction error in our family checkbook had resulted in three overdrafts totaling $155.93.

On October 7 of last year, more than 6 months ago, I told the people of my district all the details of these overdrafts in an address on the floor of this House. At the same time, I released all the records of my transactions with the House bank to full and public scrutiny. In addition, I paid to the House bank a sum consistent with the penalties that would have been assessed by a private commercial bank for such overdrafts. I believe all Members of this House who have had any overdrafts of any amount at the House bank should do the same.

I favor full and public disclosure of all the names, the amounts, and all the pertinent details of all overdrafts at the House bank. Nothing less will restore the trust of the people in this House.

I trust the people. I believe the public will be able to discern the difference between an innocent mistake and a pattern of chronic abuse. With full disclosure, I believe this House can begin to reclaim the confidence of the American people.

THE HOUSE BANK CONTROVERSY

HON. C. THOMAS McMILLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1992

Mr. McMILLEN of Maryland. Mr. Speaker, like many Members of this institution, I am dismayed by the completed report of the House Committee on Standards and Official Conduct regarding abuse in the House bank. It is clear from that report that operations at the House bank were lax, standards and procedures were not delineated, and oversight was lacking.

More important, however, I am greatly disturbed by reports that some Members of Congress consistently abused the banking privileges provided by the House Sergeant of Arms. Those Members who bounced checks for significant amounts should be held accountable for their actions. In addition, it is clear that we cannot begin to repair the reputation of the House of Representatives without a full accounting to the public of the activities of Members who bounced checks at the House bank.

Therefore, I plan to oppose the Ethics Committee recommendations for only a partial disclosure and will support any efforts in the House calling for a full disclosure of those who bounced checks. I am confident that the public will be able to determine whether a Member made only a small accounting error, or whether the individual consistently and flagrantly abused the House bank privileges.

SENATE—*Friday, March 13, 1992*

(Legislative day of Thursday, January 30, 1992)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable JOSEPH I. LIEBERMAN, a Senator from the State of Connecticut.

PRAYER:

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer.

Let us pray:

And he shall turn the heart of the fathers to the children, and the heart of the children to their fathers, lest I come and smite the earth with a curse.—Malachi 4:6.

Gracious Father in Heaven, these words by the prophet Malachi, the final words of the Old Testament, speak to our hearts at a critical time in our culture, when dysfunctional families are epidemic, when we are awakening to the peril with which our profligate consumer lifestyle threatens the future of our children, this prophetic word encourages our faith. Aware of the failure of our generation which has mortgaged dangerously the future of generations to come, we are beginning to realize our responsibility to our children and to our children's children.

Thank you, Father, for the possibility that Malachi's prophesy is being fulfilled in our time. Forgive our addiction to instantaneous gratification, to possessions, to acquisitions which rob our children of their legacy. Forgive our failure as parents which has disintegrated our families and demoralized our Nation. Turn our hearts to our children and theirs to us.

In Jesus' name who said, * * * *Suffer the little children to come unto me, and forbid them not: for of such is the kingdom of God*—.Mark 10:14.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 13, 1992.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOSEPH I. LIEBERMAN, a Senator from the State of Connecticut, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. LIEBERMAN thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, not to extend beyond the hour of 9:30 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

The Senator from West Virginia [Mr. BYRD] is recognized to speak for up to 20 minutes.

Mr. BYRD addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

THE TAX BILL

Mr. BYRD. Mr. President, I speak with reference to the tax bill that is pending before the Senate.

This will be a very difficult vote for me. I have repeatedly spoken out privately and publicly against a tax cut as a solution to our short- or long-term national economic problems.

Three days of hearings by the Appropriations Committee yielded testimony from five economists and others that a tax cut would not help the economy much in the short run and would be detrimental to the Nation in the long run.

I have the deepest respect and admiration for my friend and colleague, the chairman of the Finance Committee, LLOYD BENTSEN. He has a tough assignment and, as usual, has performed his task with dedication and diligence. Indeed, there are some provisions in this bill that might, over time, help the economy. No one can dispute that the Tax Code is skewed in favor of those in higher income brackets, and is not reflective enough of the needs of middle-American working families. But the cuts proposed here are not large enough to really help pull the economy out of its doldrums. Some of the other tax provisions in the legislation before us might actually prove harmful to the economy in the long run.

Additionally, this bill creates a new entitlement for higher education. Beginning in fiscal 1994, the Federal Government would fund loans of up to $450 million—$900 million in fiscal 1997—at 500 institutions selected by the Secretary of Education for postsecondary students of age 17 to 51, regardless of financial need. Each undergraduate student could receive a loan up to $5,000 a year and as much as $30,000 in his or her lifetime. Because the collection history of other Federal educational loans has been such a poor one, this proposal would require the loans to be repaid through the Federal income tax system under IRS enforcement. Although this program is limited to a 5-year trial period and the amounts loaned are capped, I am quite concerned that these limits would be lifted just as they were for Medicare years ago. We simply cannot afford another broad entitlement program.

This plan raises taxes on the wealthy. I have no problem with that. But instead of putting that sorely needed revenue toward deficit reduction or toward investment in America—something every economist who came before my committee said we had to begin to address—this plan parcels those revenues out to a rather narrowly drawn definition of the middle class.

This plan offers families with children a $300 nonrefundable credit per child under age 16, but less than a dollar a day for each child will hardly accomplish much for that child.

If we are going to raise taxes, it would be much better to direct those revenues toward reducing the deficit, with the hope that we could leave those children less saddled with debt when they grow up. Ten years ago, the Federal debt breached $1 trillion for the first time. This year, it will rise beyond $4 trillion. Among the kindest things that we could do for the Nation's children would certainly be to begin to pay off the horrendous debt that has been incurred during the past decade.

Starting to pay off that debt will mean making some hard choices. It will mean cutting back on spiraling entitlement programs, reducing wasteful spending, and, in all probability, raising taxes. Taxes are easy to cut but hard to raise.

I say if we are going to take the difficult step of raising taxes, we should not squander those precious revenues in small tax cuts that do the economy and the recipients of those cuts little good. At a time when the pink slip is as dreaded throughout the country as the leprosy, the American people want jobs.

We are not going to grow our way out of our deficit problem or tax cut our way out of our productivity problem. We have been hearing that old story for a decade. We have to face the fact that putting this country on the right track again will mean doing some difficult things.

We need to invest in this Nation—in its people and in its infrastructure. We are falling behind in the global competitiveness olympics, and much of the reason is because our people's skills, education and training, and our Nation's physical infrastructure—our roads and our bridges, our airports and mass transit, our sewer and water systems—are deteriorating and making for lost man-hours and general inefficiency in the economy. We have to rebuild these economic underpinnings or our economy will continue to lag. The lack of a Federal commitment to these goals for the last decade has caused the States and local governments to have to hike revenues or cut services. Last year, the States raised their taxes by an all-time record $16.2 billion. Therefore, any Federal tax cut we offer will likely not even be felt by those citizens who will have to turn right around and either pay higher local revenues or experience inadequate essential services.

No wonder the public is mad as hell. We politicians promise and promise and talk and talk, but the people do not see anything in their own lives that is improving.

Instead they see a Nation in decline and a falling standard of living.

Every economist who came before my committee testified that we had to invest in our people if we are ever going to see adequate growth. But the deficit has depressed our ability to make those important investments and it will continue to do so if we do not reduce it.

Likewise, our sluggish growth will worsen if we do not spend money on our own people to help them compete in the world.

There are those who will say that we are in a recession and that now is not the time to reduce the deficit. But we will not be in a recession forever, and if we do not start now, when will we begin?

I intend to do all that I can to try to salvage enough of the peace dividend to at least make some progress on rebuilding our crumbling national infrastructure and reeducating and retraining our people. That task will be complicated by opposition from the White House and by the practicalities of cutting back military personnel and military contracts in a recessionary, low-growth economy. But I believe that we can cut more deeply than the administration suggests, and I believe that there is plenty of fat and waste in that Defense Department budget.

Remember, wasteful Government spending is not confined just to domestic discretionary programs. Pentagon spending is Government spending, too. The Appropriations Committee heard graphic testimony of waste in defense department inventories. I believe that those dollars should be salvaged and should be dedicated to investments here at home.

I regret that instead of grappling with this country's real economic problems and long-term solutions to those problems, we are here today talking about income tax fairness. Certainly it is a topic worthy of discussion and consideration, but this is not the time. Our country is faced with serious long-term problems and is currently in the longest recession since the great depression. Unemployment stands at 7.3 percent, a 6-year high, but if we count unemployed and underemployed workers who want full-time work, unemployment is really 13.3 percent.

This legislation will do little to speed the recovery or address our declining competitiveness.

Having said all of that, I will reluctantly support the legislation. At the outset, I said that this would be a very difficult vote for me.

Feeling as I do, I find it very difficult to support this bill. I will support it for only one reason. It is a reason that I know will be labeled as parochial. I expect that. But it is not a solely parochial issue, because this provision could have severe impacts on an already sick national economy. The provision of which I speak is, of course, the provision involving health care for retired miners.

Health benefits promised to retired miners and their dependents are in great jeopardy. The United Mine Workers of America health and retirement funds face a financial crisis because fewer and fewer coal companies are making contributions to the funds. Many employers stopped contributing because they went out of business. Others remained in business but simply stopped contributing. Whereas the contribution base of the funds once covered 80 percent of all coal production, today it covers less than 30 percent. For each dollar that companies contribute to the funds for their own retirees, they also contribute $3 to cover the 90,000 beneficiaries who have been orphaned by other companies.

Under the provision in this bill authored by my friend and colleague, Senator JAY ROCKEFELLER, each company with beneficiaries in the fund will be responsible for its own retirees and will also participate, along with the rest of the industry, in paying for the retirees whose companies went out of business.

The program is not financed out of general tax revenues. Companies honoring current wage agreements will pay for their own retirees in a new 1991 UMWA Benefit Fund. Companies that are in business but which abandoned their retirees will pay for them through the Coal Industry Retirees Health Benefits Corp. Eastern State coal companies will pay a 99-cent-per-hour premium to the corporation to provide benefits to the orphaned retirees whose last employer is no longer in business. Western State companies will pay a 15 cent per-hour premium. This disparity between Eastern and Western companies seems unfair, but there are fewer signatories to the National Bituminous Coal Wage Agreement in the West, and this compromise was necessary to have the provision included in the bill.

The fund's current deficit of over $100 million will be eliminated by a transfer of excess assets from the overfunded UMWA pension plan. All benefits will be subject to mandatory cost containment, including managed care, preferred provider networks, generic drugs, and utilization review procedures.

Mr. President, without legislation of this nature, 120,000 miners and their dependents, most of them quite elderly and in poor health, could face a loss of their private health care coverage in the very near future. In West Virginia alone, there are 35,000 such retired miners and their beneficiaries.

Should such a cutoff occur, 120,000 retired miners and their families nationwide will be affected.

If such a cutoff should occur, I fear that widespread labor unrest will result in the Nation's coalfields. A strike involving all 50,000 UMWA members could mean lost earnings in the neighborhood of $160 million per month. Couple that with the over $1 billion per month in lost revenues from the coalfields and we have a recipe for disaster. With an economy already in trouble and struggling to rebound, massive coal strikes could be the straw that breaks the camel's back and sends our sickly economy into a further downward spiral.

It is only right that steps be taken to ensure that these elderly people be provided with the health care benefits they were promised and have been counting on.

Mining is a dirty, dangerous, difficult, but entirely necessary occupation. We cannot deliver a slap in the face to those who have given up so much to help supply the Nation's energy needs.

Former U.S. Secretary of Labor Elizabeth Dole appointed a Federal commission with members from coal, health insurance, law, medicine, and academia to examine issues related to retiree health care. The Commission's 1990 report called for Federal legislation to assure long-term financial solvency of the UMWA funds and the continuation of retiree health benefits. The Commission found: that "retired miners are entitled to the health care benefits promised and guaranteed them, and that commitment must be honored."

So I will honor that commitment. Because of this provision, I will vote for this piece of legislation, most of which I oppose. There is a moral obligation to these miners to take action, and I believe that, without this action, nationwide coal strikes could have a dangerous effect on an economy already down for the count.

I realize that this legislation will in all likelihood be vetoed. But still, it is important to have this rescue of retired miners health benefits in some legislative format if meaningful negotiations to resolve the problem are to occur. Make no mistake about it, absent legislative action, this problem will not be resolved, and on behalf of the coal miners of West Virginia and the Nation, I thank Senator BENTSEN and the Finance Committee for trying to do something about it.

It is a problem which is illustrative of the overall state of health care in our Nation—inadequate or nonexistent health benefits for millions of Americans.

Mr. President, during the 1980's the American people were told that it was "Morning in America." We were bombarded with feel-good images of sunrises, idyllic farms, happy children, and prosperous young families. Hollywood could not have done better, or, perhaps more accurately, we were simply witnessing Hollywood at its best.

Now we are in the decade of the 1990's, and it is morning in America again, but this time we are waking up to a head-pounding hangover—a hangover caused by the excesses of the 1980's. We have awakened to find that the "Morning in America" of the 1980's was nothing more than a slickly packaged dream, and, for the majority of Americans, a bad dream at that. We have awakened to find the Federal Government nearly $4 trillion in debt; to find our international economic competitiveness being challenged as never before; to find our children's educational achievements falling short of the mark; to find millions of Americans without access to adequate health care; and to find the Nation's core infrastructure suffering from a decade of neglect.

The much touted longest peacetime expansion in history has turned into the longest economic downturn since the Great Depression, and hope has been replaced by apprehension. Many Americans no longer feel that, given time, things will necessarily get better. Instead, there is a deep concern that our country has veered off course and is close to careening out of control.

Our people are looking for leadership. They want to know that Government understands, as they do, the enormous and growing challenges facing America. They want to know that America's leaders are willing to make the tough choices necessary to correct our course and put us on the right track again.

America is faced with nothing less than the awesome task of virtually reinventing itself. The Soviet Union is gone. A now over bloated military machine must be down-scaled, reshaped, and absorbed into a shaky domestic economy. We have to salvage what scarce resources we can muster and begin the rebuilding of our Nation's infrastructure and the reinvigoration of our people's skills. We have to make a start at reducing our enormous budget deficits and we have to craft some plan for dealing with the out-of-control growth of entitlement programs.

Those are the main events for this Nation and we had better turn our hands to the task quickly. No matter what the fate of this particular legislation, we have to get on with the enormous task of addressing our real problems. It is my hope that we can come to grips with a more pressing agenda—and the sooner the better.

Once again I commend Senator BENTSEN for his willingness to take on an impossible task and complete it with dignity and dedication. He skillfully crafted a bill that conforms with the pay-go provisions of the Budget Enforcement Act. He was determined to do that, and I commend him for that. He is entitled to great credit.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from California [Mr. SEYMOUR] is recognized to speak for up to 5 minutes.

THE CRIME BILL

Mr. SEYMOUR. Mr. President, I rise today to discuss again the conference report to H.R. 3371, the crime bill. Much has been discussed already, but it is important to emphasize that one person will be watching the upcoming vote with great interest: Robert Alton Harris.

My colleagues have heard his name before. Californians know him all too well. He is an occupant of California's death row. He is a living symbol of a Federal habeas corpus process that is not working. And if the crime bill conference report becomes law, he will be exhibit A as to why the conference report is even worse than current law.

For any law-abiding citizen, Robert Alton Harris' story is nothing short of a nightmare.

In July 1978, Robert Alton Harris and his brother were looking for trouble of the worst kind. Out on parole from California State Prison for voluntary manslaughter, Harris and his brother were looking for a car to use in a bank robbery. They came upon two boys, aged 15 and 16, who were sitting in a car eating hamburgers. Harris pulled out a gun and ordered them to drive to a deserted area.

When they arrived at a deserted spot, Harris assured the boys that he had no intention of harming them if they walked away from the car and agreed not to identify him.

The boys agreed and started to escape. But Harris began to shoot one of the boys repeatedly in the back. The other ran and Harris gave chase. He found the boy in the underbrush, crying and begging for his life. Harris shot the youth four times.

Harris then returned to his first victim and proceeded to shoot him a few more times. He strode to the stolen car, ate the dead boys' hamburgers and went on with the bank robbery. No remorse, Mr. President. Just business as usual for one of the most ruthless killers in California's history.

The police captured Harris and his brother. Both confessed to their heinous crimes. At his jury trial, Robert Alton Harris admitted he murdered the two boys and a jury wasted little time to convict him. And little time was needed to arrive at a sentence: Death.

In 1981, the California Supreme Court affirmed Harris' conviction and sentence of death. That in and of itself was historic, because it was one of the rare occasions that a majority of the California Supreme Court ignored then Chief Justice Rose Bird and agreed that such a ruthless killer deserved nothing less than death.

But for the next 10 years, Robert Alton Harris made a mockery of the habeas corpus process. During that time, Harris filed 11 habeas petitions—8 State and 3 Federal—and not one has been found to have the slightest degree of merit.

In March of 1990, Harris filed yet another habeas petition that was granted just hours before his scheduled execution, and that appeal was formally ended this week by the Ninth Circuit Court of Appeals.

Today, San Diego Superior Court Judge Frederic Link is scheduled to sign Harris' death warrant and set a date of execution, the first in California in 25 years.

Of course, we can expect Robert Alton Harris to try to delay his execution.

And that brings me once again to speak of the crime bill conference report. One of the worst things about this conference report is that it reverses the landmark Supreme Court ruling in Teague versus Lane and thus affords Mr. Harris even more opportunities to delay his sentence.

Indeed, unless his attorneys find yet another way to delay his sentence, I can find no other human being on this Earth who has a greater stake in this conference report than Robert Alton Harris. For him, this report is a matter of life and death.

Now the distinguished chairman of the Judiciary Committee believes that we should overlook the fact that this conference report could give Robert Alton Harris a new lease on life.

He has also urged us to overlook the fact that district attorneys and State attorneys general find the conference report's habeas provisions a sham.

And he has implicitly asked us to overlook the concerns of law-abiding citizens and crime victims. This I cannot do.

Mr. President, the crime bill conference report is not just about cold-hearted killers like Robert Alton Harris. It is about crime victims.

Mr. President, last week I received a copy of a letter to the chairman of the Judiciary Committee from Steve Baker. Steve Baker is a crime victim, Mr. President. He became a victim in 1978 when his son, Michael Baker, was murdered—murdered by Robert Alton Harris. You see, Mr. President, Michael Baker was one of the two youths gunned down that tragic day almost 14 years ago.

Steve Baker and all the members of the Baker family are crime victims. They have been forced to relive a tragic nightmare for 14 years—forced to relive the horror because of the endless delays that the habeas corpus process has afforded to Robert Alton Harris.

Our judicial system has caused this family enormous pain and sorrow. In Steve Baker's own words, "these ridiculous delays have caused great distress for our family * * * it is like an open wound that cannot heal."

The conference report will do nothing to heal the wounds of the Baker family, Mr. President, or other crime victims across this country. In fact, if this conference report were to become law, it would be like putting salt on the Bakers' open wound, because it is obvious that this report will only give Robert Harris more opportunities to delay, more opportunities to dodge death, more opportunities to make a mockery of a system in dire need of real reform.

I understand that there are many groups who are for and against this conference report. We have heard that the cops on the beat are for this conference report, but district attorneys and attorneys general are against it. But I ask my colleagues to look beyond these interests and focus on two individuals: Robert Alton Harris and Steve Baker. One hopes the Senate will continue to make the death penalty unenforceable. The other simply wants the Senate to let justice be done. The sad thing is, Mr. President, this conference report offers hope to the wrong person.

The choice is simple: We can vote to give hope to victims, or further victimize them. Well I intend not to victimize the law-abiding citizens of my State or any other State. I intend not to give the slightest degree of hope to Robert Alton Harris or any ruthless criminal on death row. For that reason I cannot support the conference report. And I urge my colleagues who truly are concerned with the rights of crime victims to do the same.

I thank the Chair and yield the floor.

Mr. GRASSLEY addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Iowa [Mr. GRASSLEY].

EXTENSION OF MORNING BUSINESS

Mr. GRASSLEY. Mr. President, since morning business time is just about up, I ask unanimous consent to extend morning business for 2 additional minutes so I can have my full 5 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. GRASSLEY. I thank the Chair.

(The remarks of Mr. GRASSLEY pertaining to the introduction of S. 2352 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

EXTENSION OF MORNING BUSINESS

Mr. ROTH. Mr. President, I ask unanimous consent that morning business be extended for 5 minutes.

The ACTING PRESIDENT pro tempore. Hearing no objection, it is so ordered.

THE MIDDLE CLASS BOOM OF THE 1980'S

Mr. ROTH. Mr. President, I come to the floor today to bring to my colleagues' attention an article in Thursday morning's Wall Street Journal. It is an important article because it sheds light on the misleading statistics and figures that are guiding our current debate on economic reform.

As I said earlier this week, I am not certain how we can expect to make responsible fiscal policy when the very foundation we are operating from is fatally flawed. What we are expecting to do is as impossible as an engineer trying to design an airplane with blueprints for a boat. Whatever results is not going to fly and it certainly is not going to float.

The attitude among many in Congress is that come what may, they are not going to let the facts get in the way of their politics. As a result they are using distortions and even misleading arguments to make a point for personal gain only and not for the well-being of America and Americans. Even last Wednesday night, using a point of order to kill President Bush's economic recovery plan, some of our colleagues resorted to CBO disinformation concerning the way the President's plan should be scored.

Let me tell the American people here and now, that depending on the CBO to be impartial in this debate is as futile as depending on the Democratic National Committee. It is hoping for what never has been and what never will be. Today's Wall Street Journal makes the case clearly, and I hope my colleagues committed to truth will take the time to look at it.

I ask unanimous consent that the article by the respected economist, Alan Reynolds, be placed in the RECORD immediately following my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. ROTH. Before I conclude, let me highlight six compelling points the article details:

First, the CBO income statistics being used in this debate are in error. The income data being used include gross mistakes—intentional or otherwise—that one nationally respected economist said would get a student flunked in elementary economics or statistics. What CBO did was misrepresent the data by failing to properly adjust their capital gains statistics for inflation. The result was a gross inflation of apparent income growth of those realizing capital gains.

Second, the CBO income statistics omit much of the capital gains of middle- and low-income families. They do this by ignoring much of the capital gains realized by these Americans in their homes and retirement assets.

Third, the CBO income data have included an estimate of capital gains income that is over 100-percent wrong. Despite the intensely partisan misuse of these data, CBO failed to disclose their error, either to the media or to the Members of Congress who depend on CBO. Even now these data, which contains a $134 billion error, is still being thrown about for the sole purpose of political gain.

One hundred and thirty-four billion dollars. That is not an error; that is an outrage. This error reveals the fact that CBO, for political purposes, makes the assumption in its economic models that people do not respond much to changing tax rates. Well, that is wrong. We know it is wrong. History has proven it wrong. CBO knows it, and it is outrageous that they continue to use failed methods.

Fourth, the CBO income data fully include capital gains but exclude a large portion of capital losses. In other words if you have two investors, one who makes $10,000 and the other who loses $10,000, CBO would count the former making the $10,000 while capping the losses of the latter at $3,000. Somewhere $7,000 goes unaccounted for and Congress ends up with patently partisan statistics.

Fifth, the CBO income statistics follow the usual liberal practice of combining the income meltdown of the Carter years with the growth years under Reagan, thereby blaming Carter on Reagan. For example, the massive income declines of the year 1980—the worst in the postwar period—are usually lumped in with the Reagan years in order to drag down measured income growth. Then these intentionally fabricated statistics are brought to the floor and used to justify more bad liberal policy—namely higher taxes for Americans.

Finally, the Census Bureau data, as opposed to the phoney CBO data, make it clear that if the middle-class shrunk in the 1980's, it shrunk upward into the higher income range. According to the Census Bureau, the percent of American families earning over $50,000 was 31 in 1990 versus 25 percent in 1980. Frankly, the middle-class economic crunch the liberals are trying to capitalize on in this election year, is nothing more than the fallout of the liberals' own record-setting tax increase of 1990. Do not try to hang the economic albatross and the responsibility for failed tax-and-spend policies around the neck of President Reagan's administration.

The American people know better. Just ask them: Were they better off following the Roth-Kemp tax cuts which resulted in the longest peacetime economic expansion in history and boosted real middle-class family income by 13 percent? Or are they better off now, following the Carter policies of 1980 and record-setting tax increase of 1990?

If some of my colleagues still are not certain of the answer, I suggest they just ask the folks back home. And for their benefit, I have printed the Wall Street Journal article in the RECORD.

EXHIBIT 1

[From the Wall Street Journal, Mar. 12, 1992]

THE MIDDLE CLASS BOOM OF THE 1980s

(By Alan Reynolds)

One of the more persistent myths about the previous decade is that a small number of people saw huge increases in their incomes, while middle-class incomes stagnated and the poor fell behind. A front page New York Times story last week, "The 1980s, A Very Good Time for the Very Rich," thus claims that 94% of all gains in real, after-tax income between 1977 and 1989 went to the most affluent 20% of families, with 60% of the gains supposedly concentrated among the top 1%.

The source of these figures is a December study prepared for the House Ways and Means Committee by the Congressional Budget Office. The CBO has once again tortured innocent statistics with typically creative agility. The biggest problems arise from using a "tax simulation model" to estimate capital gains. The largest capital gains for the middle class have been on houses and pensions, but such accrued gains are not taxable—so the CBO pretends they don't exist.

NOT ADJUSTED FOR INFLATION

Taxable gains, which alone are counted as income, are often realized on assets held for many years. Yet the CBO fails to adjust the basis of these gains for inflation, and fails to subtract non-deductible capital losses, and thus vastly overstates real income at the top. Since the CBO's estimates of realized, nominal gains in a single year are counted as regular income, the effect is to overstate grossly real gains at the top while excluding, by definition, most gains in the middle. And since more high-income taxpayers realized gains while the capital gains tax was reduced, such increased sales of assets automatically show up as increased "income."

To make matters worse, CBO estimates of capital gains for recent years have been enormously inflated. In 1989, the CBO estimated that capital realizations would total $254 billion in 1990. However, Rep. Richard Armey (R., Texas) notes that the actual figure came in at around $120 billion.

Census Bureau surveys are not concocted from tax returns and dubious estimates, and they reveal a far different picture. For all U.S. families, average real income rose by 14.9% from 1980 to 1989, compared to 8.3% in the previous decade. Such a huge increase could not possibly have been confined to a small fraction of families.

A recent Business Week story claims "the bottom 20% of wage earners lagged behind inflation through the 1980s." This is misleading on two counts. First of all, very few family heads in the bottom 20% are "wage earners." Half of the family heads in the lowest fifth didn't work at all in 1990, while only 21% worked full-time all year. By contrast, more than 83% of the families in the top fifth had at least two people working (the average was 2.3).

Second, the claim that the bottom 20% lagged behind inflation is justified by starting with the inflationary boom of 1979 and ending with the recession of 1990. Average real income among the poorest fifth of families fell by 14.5% from 1979 to 1982, but then rose 11.9% between 1982 and 1989. Using 1979 as a base year (or using 1977 as the CBO did), simply averages the Carter collapse against the Reagan recovery. Average real incomes rose in every income group from 1982 to 1989, and were still significantly higher in the recession year of 1990 than in 1980.

The graph shows the really interesting story about what happened in the 1980s. If the middle class is defined as those earning between $15,000 and $50,000, in constant 1990 dollars, then there was indeed a "vanishing middle class" in the 1980s. But this certainly did not mean that those in the middle earned less. On the contrary, it means that 5.3 million families left the middle class by earning a lot more money. What actually happened is not that a fixed percentage of families earned higher incomes, but rather that a much larger percentage of families earned higher incomes.

As the graph shows, 30.5% of American families earned more than $50,000 in 1990 (in constant dollars); only 24.7% earned that much in 1980. The percentage of families earning more than $100,000, in 1990 dollars, rose to 5.6% in 1989 from 2.8% in 1980, before slipping to 5.4% in 1990 (the "top 5%" thus included all families with incomes above $102,358, including all members of Congress).

It is impossible to describe accurately this increased percentage of families earning high incomes in terms of fifths (or "quintiles") of the income distribution. Because there were so many more families earning high incomes in 1990 than in 1980, it meant families now require a much higher real income to be averaged within the top 20%, top 5% or top 1%. In 1980, an income of $53,716, in 1990 dollars, would put a family in the top fifth. By 1990, though, that goal post had to be raised to $61,490. After all, it is not possible to fit 31% of all families into the top 20%.

Suppose some miracle had lifted the incomes of 60% of U.S. families above $61,490, rather than 31%. At first glance, this would seem to be a good thing. Certainly the families affected would think so. Yet the effect on income distribution statistics would infuriate habitual income levelers. Since the income currently defining the "top 20%" could not possibly accommodate 60% of all families, a family might then need an income of something like $200,000 to remain in the top fifth. Clearly, the average of all incomes above $200,000 is bound to be higher than the average of those above $61,490.

So, in this hypothetical widening of prosperity, there would doubtless be many hysterical stories reporting that average incomes rose sharply among the top 20%. Indeed, this must be true, by definition. However, incomes in this example would have risen sharply below the top 20% too, which is precisely why the minimum cutoff point defining the top 20% would have to be raised so high. This hypothetical example is simply an extreme illustration of what did, in fact, happen in the 1980s, and why it remains so widely misunderstood.

When statisticians added up all the incomes in the top 20% in 1990, they no longer included incomes between $53,716 and $61,490, which were included in the 1980 average. Any "average income" among the top fifth today is therefore certain to be much larger than before, simply because the supposedly comparable average in 1980 used to be diluted by lower incomes that no longer qualify. This is even more true of the top 5%, or top 1%, where the lowest cut-off point has risen far more sharply. In 1990 dollars, the top 5% included all families with incomes above $84,088 in 1980, but only those with incomes above $102,358 in 1990. Once again, we can scarcely be surprised that an average of all incomes above $102,358 is larger than an average of incomes above $84,088.

Averaging the incomes above two different income levels is particularly nonsensical at the top. This is because, unlike any other "fifth," the top has no ceiling. The middle fifth in 1990 consisted of families earning between $29,044 and $42,040, so the average in that group was roughly in the middle, $35,322.

Even if thousands of families in this group managed to raise their incomes above $42,040 in 1992, that would have very little impact on the average income of the group. Instead, families with increased incomes below the top fifth will simply move up into a higher fifth. If millions of families do that over time, the thresholds will gradually be pushed up a bit, raising the average. But the fact that every quintile below the top has a ceiling means it takes a very large number of families earning much larger incomes to create big gains in any of the lower four-fifths of the income distribution.

This is not so at the top, since all pay increases within a top income group must raise the average, rather than moving people into a higher group. At the top 1%, even a few hundred rock stars and athletes can boost the averages.

TAUTOLOGICAL CBO

Any average of "top" incomes—from "X" to infinity, where "X" must become larger as more families increase their incomes—is almost certain to grow faster than more narrowly defined income groups, where increases are limited by definition. CBO studies based on this simple tautology are no more enlightening than discovering that an average of all families earning more than $10,000 a year always experiences greater average income gains than families whose incomes are between zero and $10,000.

What happened in the 1980s is that a much larger percentage of U.S. families moved up above income thresholds that used to define "the rich." This pushed the thresholds up, necessarily raising the average above the higher top thresholds.

The much-lamented "vanishing middle class" may be a political problem, resulting in a shrinking audience for politicians who base their campaigns on class warfare. But a larger percentage of relatively affluent families is not an economic problem. And all the statistical confusion resulting from an increased percentage of families with high incomes going to the top fifth, or top 1%, quite misleading, if not absurd.

Mr. ROTH. I thank the President and yield back the floor.

PELL GRANTS AND PROPRIETARY SCHOOLS

Mr. HEFLIN. Mr. President, a few days ago, the Senate passed legislation which, among other things, expands eligibility for Pell grants and raises grant levels in order to help more poor families. This measure also increases the availability of grants and loans to middle-income families. As we know, it has been the middle-income families that have been left out over the years, those individuals who save and try to send their children to college with their own hard-earned funds. With this legislation, we have an opportunity to assist the average working American in their efforts to educate their children. I would assert that we have an obligation to do so.

I support the expansion of Pell Grant Program amounts, a very important mechanism for assisting low-income students after they complete high school. The higher education reauthorization legislation improves the program so that needy students are afforded the chance to pursue higher education. It also helps to decrease the high default rates we find with loans. The program must be maintained as a viable program to guarantee this opportunity for low-income students.

Likewise, strong technical and vocational education programs will encourage students to participate in many enhanced programs offered at junior colleges and proprietary schools. It is necessary for students to become computer literate and concentrate on performance skills offered by our important trades. Vocational and technical education gives them the opportunity to receive introductory training in technical skills so that they can compete successfully in the marketplace.

The need for a competent and highly trained work force is obvious. Our proprietary schools can play a vital role in preparing a skilled work force. We must continue Federal support for vocational and technical education programs and emphasize their importance to the economic development of our Nation.

The time has come for us to stress occupational education, which prepares young people and adults for the job market. Congress has an opportunity to continue and build upon the Federal investment in vocational and technical education as a means of promoting citizen's wage-earning ability.

For some time, we have been addressing the problems of student loans and other Federal financial assistance programs, but not usually from the student's vantage point. For example, there was a provision in the new Federal jobless benefits law requiring students 21 or older with bad credit ratings to have cosigners in order to obtain guaranteed student loans. Many of our trade school officials feel that this type of provision will prevent people who need loans the most from receiving them. These trade schools and proprietary schools educate students who may not have clean credit records.

In these tough days of economic recession, even fewer of these students enjoy perfect credit ratings. One of the reasons we guarantee the loan is to help those who have been unemployed or on welfare and want the opportunity to get further education and job training to improve their income levels.

There are numerous proprietary schools around the Nation, some of which have been in existence for over 50 years, with higher career field job placement rates than many of our traditional postsecondary educational institutions. For example, Alabama's Riley College has an overall career field placement rate of 81 percent, even with the high levels of unemployment that we have at the moment. In many cases, these students have left the welfare and ADC rolls behind, regained their pride, and started making valuable contributions to society. This, after all, is what the thrust of career educational skill training is all about.

We must realize the devastating impact that removing Pell grant eligibility from these students would have, not only on the proprietary school industry but on the lives of instructors, administrative personnel, and, most importantly, on the lives of the students that have been successfully served by these institutions for 55 years. In most cases, the proprietary school is the last, best hope for these citizens to enjoy a successful, fulfilling life.

I would like to share with my colleagues the illuminating story of a young unemployed woman who got a job at a manufacturing company in Alabama. Later, she decided to leave the job to pursue formal occupational training. This young lady, 32 years old and a single mother of two, enrolled at Riley College. Twenty-six weeks later, after graduating with a 95 average, she began a new career as a computer clerk. Now, she is employed at H&R Block as a data entry clerk, and is much better prepared to support her children as a result of her training.

Schools like Riley College, ones that have a track record of providing needed training for students, should not be placed at a disadvantage through ill-advised laws adopted by the Congress pertaining to student financial assistance.

These proprietary institutions provide instructors with actual experience in their areas of specialty. They receive excellent training, similar to that in the work place, enabling students who participate to get a start in a career in our highly competitive market. These training programs provide many with a needed advantage—not just individuals, but the businesses that employ them. In this way, these programs are investments that benefit our society as a whole. I have long believed that vocational and training educational programs provide a vital service to our country.

Mr. President, higher education is one of the cornerstones of American democracy. We are constantly striving to restore our schools to their rightful position of prominence among America's greatest institutions. Our educators are laying the groundwork for our future leaders.

Mr. President, this quest for excellence begins in the classroom, but must eventually proceed to the workplace. Federal educational assistance provides the vital training for a journey from unemployment to productivity for millions.

DR. LARRY McCOY AND SHOALS COMMUNITY COLLEGE

Mr. HEFLIN. Mr. President, today, I wish to congratulate and commend Dr. Larry McCoy, president of the Shoals Community College, for his outstanding work in making the institution a comprehensive academic and technical training facility. Dr. McCoy truly deserves the accolades he is currently enjoying from the area's educational, political, and civic leaders for his achievements at the school, whose main campus is located in Muscle Shoals, AL, near my hometown of Tuscumbia.

Those accolades include the recent dedication of Shoals Community College's new learning resources center, named in Dr. McCoy's honor. The new learning center has been described as part of the vision that Dr. McCoy and other college officials have for the school and its students. As dean of instruction, Dr. Randy Parker said, "It is a vision that started locally with the community. It is a vision to have the very best for our community and to take the high road, the road less traveled * * * a vision that has been presented, seen, and lived daily by our president."

The newly dedicated center includes a library, computer classrooms, and a parking lot with additional lighting. It will be used primarily to train students seeking a degree in a technical field. Future projects for Shoals include a mathematics and science classroom building, a fine arts building, an auxiliary gymnasium, physical education instructional programs, a hospitality house to be used by the continuing education department, and a music building at its Tuscumbia campus.

Shoals Community College stands as a shining example of an institution on the move. Thanks to the dynamic and innovative guidance of its president, Dr. Larry McCoy, Shoals has positioned itself at the forefront in offering quality programs in general education and career development to the citizens of this vibrant and fast-growing area.

TRIBUTE TO ISRAELI PRIME MINISTER MENACHEM BEGIN

Mr. GRASSLEY. Mr. President, Israel lost one of its founding fathers this week. Menachem Begin helped create the State of Israel and served as one of its Prime Ministers.

I had four or five opportunities to be involved in group discussions with Prime Minister Begin. But on only one of these was I able to intimately discuss things with Begin other than United States-Israel relations. This opportunity came in August 1981, in his office in Jerusalem. I did not keep a record of the discussion. But yet, 11 years later, I have a recollection of a deeply religious person, love of family, especially his wife, respect for the Sabbath, and reference to regular study of the Scriptures and time with family preparing for the Sabbath. I pray that every political leader of every nation would be so devoted to God, family, and country. What a peaceful world we would have.

He had an extraordinary life, one begun in hardship and suffering. He survived the Holocaust, although his parents and siblings did not. He endured a Soviet concentration camp during World War II. And he made his way to Palestine to help build a Jewish homeland.

In the prestate years, he fought British rule and Arab rebellion. The British viewed him as a terrorist. There was a $10,000 bounty on his head. But he survived to become one of Israel's foremost political leaders.

For the first 26 years, he was the head of the opposition party, but in 1977 the Likud Party swept into power and Begin became Prime Minister.

It was as Prime Minister that he achieved what most thought was impossible—peace between Israel and her biggest enemy, Egypt. Begin and Sadat shared courage and vision to lead their nations to peace.

The Camp David treaty was and continues to be a remarkable accomplishment. Israel returned an enormous land mass to Egypt, the Sinai Peninsula, with its valuable oil reserves and strategic air bases, as well as Israeli settlements. The world can never forget Begin's order to Israeli soldiers to remove Jewish citizens from the Sinai town of Yamit. In exchange, Israel got peace and a secure border.

Menachem Begin's life was devoted to his nation and his people. His memory should serve as inspiration as we continue the current peace process.

That peace process is no less historic or significant than the Camp David accords. Israel is engaged in discussions with her neighbors, Lebanon, Syria, and Jordan, as well as the Palestinian people who reside in the West Bank and Gaza, territories administered by Israel since 1967.

The parties are to be commended for their perseverance, despite their wide differences. The road to peace will be difficult, marked with many obstacles. And no one should think that the United States is capable of imposing a solution on the region, or delivering one of the parties to the other.

Peace must be made on terms acceptable to the parties. That's the way Begin and Sadat made peace. The United States didn't force concessions out of one side then, and the United States won't extract them now. So no one should be fooling themselves in this regard. The parties have to do the hard bargaining.

I would like to place in the RECORD an ad that recently appeared in some newspapers and magazines which reflects the correct approach to the peace process, and U.S. interests in the region. The ad is signed by a wide range of former policymakers who are committed to a genuine and enduring peace in the Middle East.

Mr. President, I started with a tribute to Menachem Begin, a man who led his country to a historic peace treaty. He possessed a devout nationalism and a firm belief in the survival of the Jewish people. He did not yield and he did not compromise his values. Understanding Begin should help us appreciate the difficult road to genuine peace between Israel and her neighbors.

I have no doubt Menachem Begin will be missed by all peace-loving people.

I ask that a statement by the Committee on U.S. Interests in the Middle East be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

COMMITTEE ON U.S. INTERESTS IN THE MIDDLE EAST

The undersigned believe that the essence of U.S. national security policy should be the protection and expansion of the community of nations that: (1) Safeguard the personal and property rights of their citizens, (2) Limit their own governments' powers within the rule of law, (3) Respect the rights of other nations and (4) Otherwise apply to themselves the standards of democracy that are the pride, but not the exclusive province, of Western civilization. In support of these objectives, we have joined together to form the Committee on U.S. Interests in the Middle East. We advocate support for a U.S. policy toward Israel that would—in contrast to current American policy—reflect the traditional, strong American support for the legitimacy, security and general well-being of the Jewish State: a proven, valuable, democratic friend and ally of the United States.

PRAGMATIC AND MORAL CONSIDERATIONS ARGUE FOR STRONG UNITED STATES-ISRAELI TIES

We reject the notion of moral equivalency that underlies current U.S. policy toward Israel and her Arab enemies. It is as inappropriate here as American "even-handedness" would have been between Iraq and Kuwait after Saddam's invasion. The target of aggressive designs is not equivalent to the aggressor.

Communism's demise should teach us that a moral compass is one of the most important, practical tools of U.S. foreign policy. American support for freedom, democracy and Western values over totalitarianism, tyranny and anti-Western ideologies should be the rule for U.S. policy, including the Middle East. As friendly as the United States is with many Arab states, when it comes to the Arab-Israeli conflict, the United States must be squarely on the side of the Israelis.

Commitment to the right of the Jewish people to a state in their ancient homeland—support for Zionism as the legitimate Jewish national liberation movement—has been American policy since World War I. While Arab powers have always rejected this view—opposing it through rioting, terrorism, war and diplomacy—the United States has always opposed their rejectionism. It should continue to do so today, and not deal "even-handedly" between Israel and its enemies.

FOCUS ON MAXIMIZING ISRAEL'S SECURITY—NOT TERRITORIAL CONCESSIONS

There can be *true* peace—as opposed to a simple balance of forces—only if neither side to the conflict intends harm to the other. This would require Arab rejectionists to change their minds fundamentally with regard to the right of the Jews to a state in Palestine. Undoubtedly, there are individual Arabs willing to make peace with Israel; unfortunately, they are not in charge in the Arab states and groups with whom Israel is now being asked to negotiate. Israel cannot simply assume that its long-time, bitter enemies have had a change of heart under present circumstances, when there is so much evidence to the contrary and when the costs of being wrong may be fatal to the Jewish State. No American leader should subject Israel to untoward security risks.

Hence the proper aim of the current negotiations should be establishing whether the Arab powers intend peace and, if so, what they can do to *demonstrate* their intent. This means not just issuing set-piece invocations involving the word "peace" and demands for militarily significant territorial concessions from Israel. To be constructive, the current talks should focus on the essence of the conflict: recognition of Israel's legitimacy—*not* on undermining Israel's security. Were Arab governments to concentrate on shoring up Israel's legitimacy with their publics, abandoning policies of belligerency and ceasing (at least for the time being) to press territorial demands that would increase Israel's military vulnerability, they would maximize the chances for peace. In this regard, American officials should not make the dangerous error of underestimating Israel's view of the strategic importance of the West Bank, Gaza and the Golan Heights under present and foreseeable circumstances. It puts wholly unwarranted faith in international law to expect that arms control agreements within peace treaties can ensure that these territories would continue to serve their defensive purposes if Israel were to relinquish control to another state.

What ultimately happens to the sovereignty over these disputed territories once there is a well-established, secure and workable peace is a matter the parties should sort out among themselves. It should not now be a preoccupation of the United States. Until then, moreover, America should not engage in pressure diplomacy against Israel that may bring on the war we are hoping to prevent. This applies in particular to efforts to foist on Israel territorial concessions that would, if accepted by the Israelis, create de facto—if not de jure—American security obligations that we are simply in no position to fulfill. It would be unwise for the United States to take a country (Israel) now in a position to defend itself and even to help us in certain regional contingencies and turn it into a state that relies on U.S. forces for its defense, something Israel has strenuously and properly resisted.

Michael Barnes, Former Member of Congress (D-MD).

William Bennett, Former Secretary of Education; former Director, Office of National Drug Control Policy.

William Brodhead, Former Member of Congress (D-MI).

Tony Coelho, Former Member of Congress (D-CA).

Jim Courter, Former Member of Congress (R-NJ).

Stuart Eizenstat, Former Assistant to the President.

Leonard Garment, Former Counsel to the President.

William Graham, Former Science Advisor to the President; former Chairman, President's General Advisory Committee on Arms Control.

George A. Keyworth II, Former Science Advisor to the President.

John F. Lehman, Jr., Former Secretary of the Navy.

Elliott Abrams, Former Assistant Secretary of State.

Morris Amitay, Former Foreign Service Officer.

Robert Andrews, Former National Intelligence Officer, CIA.

Stephen D. Bryen, Former Deputy Under Secretary of Defense.

Linda Chavez, Former Director, White House Public Liaison.

Kenneth DeGraffenreid, Former Special Assistant to the President.

Charles Fairbanks, Jr., Former Deputy Assistant Secretary of State.

Douglas J. Feith, Former Deputy Assistant Secretary of Defense

Frank J. Gaffney, Jr., Former Deputy Assistant Secretary of Defense.

Margaret Graham, Former Special Assistant to the Legal Advisory, Dept. of State.

James T. Hackett, Former Acting Dir., Arms Control and Disarmanent Agency.

Alan Keyes, Former Assistant Secretary of State.

Charles Kupperman, Former Special Assistant to the President.

Michael Novak, Former U.S. Amb. to the U.N. Human Rights Commission.

Myer Rashish, Former Under Secretary of State.

Eugene V. Rostow, Former Director, Arms Control and Disarmament Agency; former Under Secretary of State.

William Schneider, Former Under Sec. of State; former Associate Dir., OMB.

Bernard A. Schriever, General, USAF (ret.), Former Commander, Air Force Systems Command.

Donn A. Starry, General, USAF (ret.), Former Commander, Readiness Command.

Faith Whittlesey, Former U.S. Ambassador to Switzerland; former member, senior White House staff.

Richard S. Williamson, Former Assistant to the President; former Asst. Sec. of State.

Sinclair Melner, Lt. General, USA (ret.), Former Deputy Chairman, NATO Military Committee.

Michael Mobbs, Former Asst. Dir., Arms Control and Disarmament Agency.

William Murphy, Former Director of Research, Radio Free Europe.

Richard Perle, Former Assistant Secretary of Defense.

Bruce Porter, Former Executive Director, Board for International Broadcasting.

Roger W. Robinson, Jr., Former Senior Director, National Security Council.

Robert F. Shoultz, Vice Admiral, USN (ret.), Former Deputy Commander, U.S. Naval Forces, Europe.

William Van Cleave, Former Chairman, President's General Advisory Committee on Arms Control.

Dov Zakheim, Former Deputy Under Secretary of Defense.

AN INDEPENDENT QUEBEC?

Mr. **PELL**. Mr. President, the February issue of the "National Security Law Report" of the American Bar Association contains an article entitled, "An Independent Quebec?" In it the author Dwight Mason, a retired American diplomat and a former congressional fellow in my office, points out that important events are unfolding in Canada—that there is likely to be a devolution of some powers from the central government to the Provinces and that Quebec may decide to leave Canada. Matters are moving quickly. The Mulroney government plans to submit its proposals for new constitutional arrangements in mid-April, and Quebec is now scheduled to hold a referendum on its relationship with the rest of Canada by October 26, 1992.

Mr. Mason notes that while an independent Quebec is a practical possibility—by itself Quebec would rank among the world's top 20 economies—it would probably be costly for both Canada and Quebec and would affect American interests in that our vast relationship with Canada would have to be reworked.

What Canadians do with their polity and economy is their business. We certainly have no intention of interfering in that process. And we certainly would want close and friendly relations with Canada and with Quebec if that province were to become independent. What happens in Canada is important. We should watch developments there closely and sympathetically. After all many Americans have Canadian friends and relatives, and Canada is our most important trading partner, a member of the Group of Seven, of NATO and our partner in continental air defense.

Mr. President, I ask unanimous consent that the full text of Mr. Mason's article appear at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[National Security Law Report, February 1992]

AN INDEPENDENT QUEBEC?

(By Dwight N. Mason)

Canadians are seriously examining their future as a country. It is likely that the existing distribution of powers between the provinces and the central government will change in the direction of devolution toward the provinces. Quebec may well become independent.

After the conquest of Quebec by Britain in the 18th century, Britain allowed the French inhabitants of Quebec to retain their language and Roman Catholic religion—in effect, their identity as a distinct society. French Quebeckers have successfully maintained their language and their cultural distinctiveness to this day, and they are proud of this achievement. Their wish to do so in the future is the fundamental source of Quebec's drive for a different, more autonomous and perhaps independent relationship to the rest of Canada. There is a very strong consensus in Quebec on this principle.

The current crisis over Quebec's relationship to the rest of Canada is different and more serious than past ones. This is true for two reasons: first, independence is a practical possibility, and second, the rest of Canada is now willing to contemplate a future without Quebec.

An independent Quebec is a practical proposition. Quebec's population exceeds 6 million; it is increasingly well educated; and its business class is formidably entrepreneurial. Quebec's gross domestic product is about $140 billion, ranking Quebec among the world's top twenty economies. The value of its trade with the U.S. is about the same value as our trade with France. Current U.S. direct investment in Quebec is about $10 billion. Quebec is a key supplier of hydro-electric power to New England and New York. It is the home of world class companies, one of which may build Texas' high-speed rail system. Its government is competent and lives by free-market principles. Quebec's is one of the few governments that has conceived and successfully implemented a comprehensive economic and industrial development policy. Quebec would be well able to manage independence.

Now, for the first time, the rest of Canada is willing seriously to consider the idea of a Canada without Quebec. The origins of this new attitude are two: first, the traditional model of Canada as a country of two founding peoples is breaking down. The model was accurate in the 18th and 19th centuries but is no longer. Now about one-third of Canadians have neither French nor English immigrant backgrounds. Thus many citizens—particularly in the increasingly important prairie and western provinces—no longer see the country through the prism of Canada's origins.

Second, the issue of Quebec's place in Canada and of Quebeckers' claims for unique status seems less and less important and legitimate to more and more Canadians. Indeed, last year a majority study by a Canadian commission to which more than 350,000 Canadians contributed their opinions—the Citizens' Forum on Canada's Future—discovered that Canadians outside Quebec are not willing to agree to compromising provincial and individual equality if that is what it takes to keep Quebec in the Confederation. Furthermore Canada's native peoples have now become deeply engaged in this debate, and they have made it clear that they will not accept an outcome that ignores their interests and aspirations for some form of self-government.

Whether or not independence for Quebec would be a good thing is another matter and depends upon one's point of view. From our perspective, it would create a more complicated but still manageable relationship with our northern neighbors. How it would affect Canada is unclear, although there would be economic and political costs for Quebec and the rest of the country. It seems doubtful, however, that independence for Quebec would result in a breakup of the rest of the country or in attempts by some provinces to join the U.S. As the Citizens' Forum reported, "Outside Quebec, the vast majority of citizens . . . believe in a strong central government that can act with resolution to remedy the country's ills, unify its citizens and reduce division and discord among groups and regions. This is not to say that they don't also have an attachment to their provinces and regions, only that their attachment to Canada is stronger."

The critical period in this crisis is approaching. The Mulroney Government will make its constitutional proposals in mid-April. This will lead to a period of further debate. The tone of that debate could be decisive for Quebeckers who are now scheduled to vote on their province's political future in a referendum this fall.

TRIBUTE TO MRS. WILLIE JEAN WILSON

Mr. McCONNELL. Mr. President, I rise today to pay tribute to an outstanding American, Mrs. Willie Jean Wilson, who passed away January 29, 1992.

Mrs. Wilson was born on April 12, 1911, the daughter of the late William and Hettie Hodges. Before meeting her husband, Mrs. Wilson taught school and worked in the Bell County Courthouse. She was married in 1934 to Jimmy Wilson, a prominent attorney in Bell County.

Mrs. Wilson gained respect in Pineville by offering her time and services to its citizens. She taught Sunday school and was very active in the First Christian Church of Pineville. Mrs. Wilson also worked with the local Girl Scout troop, and was a hardworking homemaker and outstanding cook.

Mr. and Mrs. Wilson traveled the world. They visited Europe, Africa, Turkey, Greece, Mexico, and the Orient.

Mrs. Wilson was a well-read individual. This was evident in the ways she communicated with her family, friends, and strangers. Mrs. Wilson was also known for her manners, and southern hospitality.

Mrs. Wilson was a true lady, and I commend her for her values and principles.

TRIBUTE TO CONGRESSMAN BILL DICKINSON

Mr. HEFLIN. Mr. President, on Monday, March 9, Alabama Congressman BILL DICKINSON, the long-time voice of the State's Second Congressional District, announced his retirement after 28 years of continuous service. The Congressman's southeast district, which includes the State capital of Montgomery, is home to three of Alabama's major military installations—Maxwell Air Force Base, Gunter Air Force Base, and Fort Rucker. Bill Dickinson's superb record of leadership on behalf of both his district's needs and this Nation's important defense readiness is one in which the good people of this area can take great pride.

WILLIAM L. "BILL" DICKINSON was first elected to Congress in 1964, during the so-called Goldwater Sweep, when many Alabama voters supported Republican Barry Goldwater. Prior to his election, the Opelika native had established a private law practice and served as a judge of the city court, the court of common pleas, the juvenile court of Lee County, and of the Alabama Fifth Judicial Circuit. Bill is also a former vice president of Southern Railway in Montgomery and a Navy veteran of World War II.

As ranking Republican on the House Armed Services Committee, BILL DICKINSON, among Congress' most prominent cold war warriors, was one of the chief architects of the defense buildup that made our twin victories in the cold war and Persian Gulf war possible. He wielded an enormous amount of influence over the committee in the early 1980's, pushing hard for funding of the strategic defense initiative, the MX missile system, and many other high-tech weapons systems. Throughout his many years in Congress, BILL exercised great responsibility and true leadership in shaping national defense policy. He was even chosen by President Bush to be his personal representative at the Paris International Air Show in 1989. The Reserve Officers Association of the United States presented BILL with their most prestigious award, "Minuteman of the Year."

As supportive of this Nation's defense efforts as BILL DICKINSON has been, the Congressman has never been just a rubberstamp for either the Pentagon or the Republican administrations. The best interests of his Alabama district were always paramount in any decision BILL made or in any vote he cast on the House floor. His impressive list of accomplishments includes seeing aviation become a full-fledged branch of the Army and Fort Rucker becoming the permanent home of Army Aviation; getting the Nation's eighth Trident submarine named after Alabama; transforming Gunter Air Force Station in Montgomery into an Air Force base; securing authorization for military aircraft to fly civilian traffic and accident victims to hospitals; and helping to establish an Air Force School of Law at Maxwell Air Force Base in Montgomery and the Senior NCO Academy at Gunter.

Mr. President, BILL DICKINSON can be justly proud of his many years of excellent service in Congress on behalf of his Second District and, indeed, the entire Nation. The Alabama delegation will miss its senior Member's candor, tenacity, humor, and, most of all, his commonsense approach to national leadership. His constituents will miss him just as one misses an old familiar friend, for they have had one for many years in their Congressman, BILL DICKINSON.

I proudly commend and congratulate BILL on his life of exemplary public service, and wish him and his wife Barbara all the best as they return to Alabama next year.

TRIBUTE TO SENATOR S.I. HAYAKAWA

Mr. HEFLIN. Mr. President, I wish to extend my sincere condolences to the family of our former colleague Samuel Ichiye Hayakawa, who died on Thursday, February 27. I came to the Senate just 2 years after S.I., and remember him as a colorful and fiercely independent defender of ideals he deeply believed in. We all knew him as a master of the English language and unorthodox scholar of the first order.

Although Senator Hayakawa was best known for his words, his actions did not by any means go unnoticed. He came to prominence as president of San Francisco State University in 1968 during the turbulent student demonstrations there. Dubbed "Samurai Sam" when he wrestled a loudspeaker from protesters, his penchant for wearing multicolored tam-o'-shanters became his trademark.

I only served with S.I. for 4 short years, but in that time grew to regard him as a principled representative of his State's divergent interests. His service here livened up our proceedings in a unique way that hasn't been matched since.

I wish all the best for S.I.'s wife, Margedant, and their three children. I thank the Chair.

IRRESPONSIBLE CONGRESS? HERE'S TODAY'S BOXSCORE

Mr. HELMS. Mr. President, the Federal debt run up by the Congress stood at $3,848,674,554,294.26 as of the close of business on March 11, 1992.

As anybody familiar with the U.S. Constitution knows, no President can spend a dime that has not first been authorized and appropriated by the Congress of the United States.

During the last fiscal year, it cost the American taxpayers $286,022,000,000 just to pay the interest on spending approved by Congress—over and above what the Federal Government collected in taxes and other income. Averaged out, this amounts to 5.5 billion every week.

What would America be like today if there had been a Congress that had the courage and the integrity to operate on a balanced budget?

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

TAX FAIRNESS AND ECONOMIC GROWTH ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of H.R. 4210 which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4210) to amend the Internal Revenue Code of 1986 to provide incentives for increased economic growth and to provide tax relief for families.

The Senate resumed consideration of the bill.

The ACTING PRESIDENT pro tempore. The Senator from Arizona [Mr. McCAIN].

AMENDMENT NO. 1722

(Purpose: To require a 60-vote Supermajority in the Senate to pass any bill increasing taxes)

Mr. McCAIN. Mr. President, I have an amendment at the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Arizona [Mr. McCAIN] proposes an amendment numbered 1722.

Mr. McCAIN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following section:

SEC. . TAX FAIRNESS AND ACCOUNTABILITY.

(a) SUPERMAJORITY REQUIREMENT IN THE SENATE.—In the Senate, any bill or amendment increasing the tax rate, the tax base, the amount of income subject to tax; or decreasing a deduction, exclusion, exemption, or credit; or any amendment of this provision shall be considered and approved only by an affirmative vote by three-fifths of the Members of the Senate, duly chosen and sworn.

(b) AMENDMENT TO THE CONGRESSIONAL BUDGET ACT OF 1974 STRIKING 60-VOTE REQUIREMENT FOR REVENUE REDUCTION.—Section 311(a) of the Congressional Budget Act of 1974 is amended by adding at the end thereof the following: "Notwithstanding any other provision of this Act or any other law, a bill, resolution, or amendment that reduces the tax rate, the tax base, the amount of income subject to tax; or increases a deduction, exclusion, or credit shall be considered and approved by a simple majority of the Senate; Provided however, that a bill, resolution or amendment that reduces the tax for Social Security may only be considered and approved by an affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn.

Mr. McCAIN. Mr. President, let me begin by saying that I am aware that the amendment that I am about to propose is not a popular one in some areas.

I am keenly aware that some of the things that I will be talking about that has brought us to the present situation of the outrageous deficit and out-of-control spending that has become the trademark of Congress will not endear me to some of my colleagues.

I also am aware that my sponsoring of this amendment is doomed to failure, that we will not win this vote. But I also think that it is important—and I think it is important—Mr. President, because the American people as we know are dissatisfied in overwhelming numbers with the performance of the Congress of the United States.

Last week, there was a CBS-New York Times poll which gave Congress the lowest approval rating at any time in recent history since polls have been taken.

To be blunt, Mr. President, the American people have lost confidence in their elected representatives and in their ability to conduct their financial business and fiscal affairs in a responsible and mature fashion.

A $4 trillion deficit, a $400 billion deficit this year, and out-of-control spending practices results.

I think that it is very important that the Members of this body understand that I will continue to pursue this effort to reverse one of the most egregious and outrageous provisions of the 1990 budget summit agreement, and that provision is that it now requires 60 votes in this body in order to lower the taxes of the American people. These same American people who are carrying a higher tax burden, a higher tax burden than at any time in this Nation's history since World War II. And at the same time it requires only 51 votes in this body to raise the American people's taxes, something we have done with alacrity and abandoned to a degree which has now made every working man and woman in America last year work until May 8 paying off their State, Federal, and local taxes before a penny that they earned could go for themselves, their family, their education, their health, and all of the things that they need to use their salaries for in order to better their existence.

Mr. President, I hope my colleagues do not underestimate the anger, the dissatisfaction that exists amongst the American people about the tax burden that they are shouldering. Of course, I am doubly disappointed that last night that we could not give a small tax break to the neediest of Americans, our Native Americans.

But, in my view, unless we turn this Congress around and stop increasing the tax burden on the American people, we are going to cause an economic collapse in this Nation of unprecedented proportions. And, Mr. President, we cannot spend 13 cents out of every tax dollar to pay the interest on the national debt. It is an unacceptable situation when next year we are going to spend more money on paying the interest on the national debt than we are on national defense.

This situation is not tolerable, and when we institutionalize a system which makes it attractive and easy to raise the American people's taxes and incredibly difficult to lower them, then that situation must be reversed.

Mr. President, this amendment is simple: It repeals the provision in the 1990 budget deal that requires a 60-vote supermajority for taxes. It replaces that provision with a new supermajority requirement of 60 votes for the creation of new taxes or increase in existing taxes. A 51-vote simple majority will be required for tax cuts.

Let me emphasize, Mr. President, it continues to provide firewall protection for the Social Security trust fund. The Social Security tax cut would require a 60-vote supermajority. This amendment would protect the integrity of the Social Security trust fund from unwarranted raids that would adversely affect the long-term actuarially soundness of the fund. Finally, it requires a 60-vote supermajority to repeal any provision of this amendment.

Mr. President, let me talk for a few minutes about how we got where we are, the so-called budget summit agreement of 1990. I am very pleased, frankly, that the President of the United States has stated publicly that it was a mistake. I just wish that he had said it in more strong and powerful terms.

At the time, there were some of us, obviously a minority, who realized what a terrible thing and terrible outrage was perpetrated on the American people. An issue brief from the Tax Foundation, I will quote from, is by Mr. Paul Merski. He says, put simply, the budget deal of the century was not a good deal for the American taxpayer because it perpetuated the vicious cycle—higher expenditures, taxes, and debt on interests cost.

A fascinating thing about this so-called budget summit agreement as with every other budget summit agreement, there was wild miscalculation as to the size of the deficit. The original estimate of the deficit, as a result of the 1990 budget summit agreement for 1992, was $280.9 billion. Later, we discovered that it might be as high as $348 billion. Now we know that it is roughly $400 billion.

Mr. President, it is beyond my wildest imagination that such an incredible miscalculation can be made and, in my view, very frankly, somebody should be held accountable.

The latest Office of Management and Budget figures show that the cumulative deficit for fiscal years 1991 to 1995 will be $555 billion higher than promised a year before. The failure is largely due to the absence in that budget agreement that will restrain the largest and fastest growing components of the Federal budget. There is no hope of reducing the deficit as long as there are not the checks that are necessary.

The failure of that budget deal to control the spendthrift ways comes as no surprise to experienced observers of budget deals in 1982, 1984, 1985, 1987, and 1989. All fell far short of their stated goals. The deal of 1990 may be a different approach but its results have been the same: higher taxes, higher spending, and higher deficits.

Mr. President, the Defense Department will be considering next year base closures. I would hope that Andrews Air Force Base might be one of those considered so we cannot send a bunch of people out there and get together in a smoke-filled room and come up with an agreement such as this.

Ironically, the fiscal years not preceded by budget summits actually proposed the most real deficit reduction. In 1984, a year in which there was not a budget summit agreement, the deficit dropped $23 billion when spending growth was held to 5.4 percent—half the rate of revenue growth in fiscal year 1987 and spending rose only 1.4 percent enabling the budget deficit to fall a record of $71.5 billion.

Each budget summit had its own dynamics. Three reasons for their poor performance emerge. When the deficit reduction gets tougher, it is tougher to change the rules. Frustration with persistent budget deficit has broken the back of the original Gramm-Rudman-Hollings law that promised a balanced budget by 1991. But when the time came for the promised spending cut, lawmakers avoided tougher choices by raising taxes, rewriting Gramm-Rudman-Hollings, and promising a balanced budget 2 years down the road. In 1993, under Gramm-Rudman-Hollings II, when the bites in Gramm-Rudman-Hollings would have forced spending restraint, that was time to rewrite the rules again. And the promised balanced budget was pushed back to 1996. Tax increases which take effect immediately are pared with pledged spending reductions in future years.

This seems to be the MO lately of the budget summits. Every deal included significant tax increases and last falls $164 billion in additional revenues over 5 years was the second largest tax increase in history. This was balanced with large amounts of projected Government scrimping and saving but unlike new taxes which are collected as soon as they are enacted long-term spending cuts demand constant discipline and that has not happened over the past decade.

The only spending cuts that can be counted on are cuts in the current fiscal years not promised future cuts from built-in spending increases.

Finally, Government spending has outpaced both revenues and inflation. Between fiscal year 1981 and fiscal year 1991 revenues have grown at a hefty 78.3 percent but spending levels doubled rising 22 percent points faster than revenues, spending growth averages 7.9 percent annually a full 3.2 percentage points higher than needed to keep pace with the decade, a 4.7-percent average inflation rate.

Clearly, the deficit cannot be reduced if spending is allowed to outpace the growth in revenues and inflation.

Finally, Mr. President, only 10 of the last 63 budgets have paid their own way without deficit spending. It has been 23 years since the last balanced budget. As the vicious cycle of higher spending higher tax and deficit leads to higher debt and higher interest rates costs, the American taxpayer can only look back ruefully at the $164 billion budget deal of the century.

Mr. President, this amendment was proposed in the other body which refused to even debate it publicly. The companion legislation from the other body was introduced by Congressman SAXTON of New Jersey and failed on a party line vote of 6 to 4 before the Rules Committee on February 25. We have a process in place, thanks to this budget summit agreement that requires 60 votes in the Senate, to cut taxes while requiring 51 votes to raise taxes.

The conference report that accompanied the 1990 budget deal explains the provision that makes it easier for the Congress to raise taxes than to cut taxes. It states:

> Similarly the concurrent resolution on the budget sets a revenue floor and a point of order requiring 60 votes to waiver in the Senate and a simple majority to waiver in the House lies against any tax cutting legislation that would cause revenue to fall below the floor in the resolution.

Interestingly enough, this amendment will be challenged on that basis, and it will require 60 votes in order for this amendment to pass.

To those who live outside the beltway that is a fancy and disingenuous way to make it easier for the Congress to raise taxes on working Americans.

As I mentioned earlier, Mr. President, Americans last year worked until May 8 just to pay their taxes, and it will probably take an additional day or two or three this year. And I predict, Mr. President, on April 15, when the American people are required to file their income tax returns, I can say to you "You ain't seen nothing yet" when the American people see the incredible tax burden that has been levied upon them and is increasing year by year. We are going to hear from the American people—and we deserve to do so—because they are now carrying a higher tax burden than at any time since World War II, a time of grave national emergency.

Some, who are married to the budget summit agreement, may assert this agreement is crucial in preventing the increase in the deficit. The provision is neither crucial nor has it helped control the deficit. Tax cuts do not cause deficits, spending does.

For instance, it has been asserted in this body and the media that the Reagan tax cuts were the cause of and substantially add to the deficit. I do not think that is the case. What was the cause of the deficit is out-of-control spending.

Federal tax receipts increased after the Reagan tax cuts were fully implemented in 1984.

In 1984, Government receipts were $666.5 billion. In 1985, receipts totaled $734.1 billion. In 1986, they totaled $769.1 billion. By 1990, receipts totaled $1,031.3 billion. After the tax cuts were fully phased in, there was not a single year in which Federal receipts declined.

The tax cuts did not cause the explosion in debt. They triggered the largest peacetime economic expansion in history.

Thus, tax rates went down, receipts went up, the GNP grew, and the misery index plummeted. It should be clear by now that runaway spending is the cause of the burgeoning deficit.

I will remind Members of the distinguished President pro tempore's eloquent discourse on Anglo-American political history during the debate on the line item veto a few weeks ago. In particular, I would like to emphasize his comments on the Congress' power of the purse. He states:

> The power of the purse is the tap root of the tree of Anglo-American liberty. * * * It is not a power that should be shared by kings or presidents.

Congress' control over the purse has led to huge deficits. Irresponsible and reckless spending has left the Nation and future generations buried in debt.

I remind by colleagues again and again, there is now a $13,000 debt to be shouldered by every man, woman, and child in America. Frankly, Mr. President, that is an outrageous thing to do to the men and women in America, and we have to stop it.

While all spending bills have the President's signature, the annual deficits have Congress's fingerprints all over them. How many times were Presidents Reagan and Bush threatened with the choice of huge spending and tax increases or shutting the Government down?

It is not correct to state that tax cuts are the cause of the deficit. This fact brings into question the effectiveness of the provision I am amending. The fact is that last year taxes were increased, and the deficit will increase by perhaps as much as $150 billion as we all know to a total of over $400 billion.

Tax increases do not fund deficit reduction. They mask enormous spending increases that add to the deficit.

Federal spending increased by 12.6 percent alone in 1991.

The provision of the 1990 Budget Act that I am proposing to amend is antieconomic growth, prodeficit spending, and an abuse of the taxpayer. This provision in the 1990 budget deal only provides and institutional bias for more taxes, more spending, and more deficits.

Recent budgetary history validates my claim—tax increases are the route to fiscal dissolution.

If Congress wants to be fair to the taxpayer, it can vote in favor of this amendment, and protect the taxpayer from further tax increases, spending increases, and deficit increases.

Mr. President, I would now like to discuss the dynamics of Federal deficits. It will more clearly link tax increases to deficit increases.

Since 1983, as I mentioned earlier, there have been six budget summits. These summits were held to develop legislation to reduce the deficit. In five of these summits, tax increases lead to larger deficits. In 2 nonsummit years, taxes were not increased and the deficit fell.

Please, please, please, spare us another budget summit. We are all aware of what we are going through right now; and that is that we will pass a bill today or sometime next week, depending on how the process develops, and the President will veto this bill and the President's veto will be sustained.

At some point, there will be a movement, there will be some desire here on the part of Members of this body and the other body, to get together and have another budget summit agreement.

Please spare us from that this time. Please spare the American taxpayers, because in five of the last six summit agreements tax increases and ever increasing deficits have been the result.

And, I might add, that the 1990 budget deal was the worst of all these deals. It raised taxes by $166 billion over 5 years. It placed caps on discretionary spending after providing for generous increases. And, it promised $500 billion in deficit reduction.

Well, 2 years later the deficit is ballooning wildly out of control, we are again considering raising taxes by $57 billion, and we are mired in a prolonged recession.

If tax increases were the answer to our deficit problems, all the Congress would have to do is convene another summit at Andrews Air Force Base, a fate I do not wish on the American people.

To emphasize again, in five out of six of these summits, taxes went up, spending went up, and the deficit spiralled further out of control. If these tax increases went toward deficit reduction, why did the deficit dramatically increase instead of decreasing? Because tax increases only financed bigger deficits. The new tax dollars did not go toward deficit reduction. The fact that tax increases increase the deficit is the strongest argument in favor of my amendment which will make it more difficult to increase taxes and hence the deficit.

Furthermore, whenever the Federal tax bite surpasses 20 percent of GNP in peacetime, we have found ourselves in recession. In 1990 when 21.5 percent of GNP was consumed by Federal taxation, Congress decided that a budget deal including a 5-year tax increase was the answer to our economic problems. Is it any wonder that we have been in a slow-growth/recessionary period since?

Congress is the only body that believes that a $57 billion tax increase is the cure to our economic problems. With the focus off tax increases, the sun will shine on the real problem in Washington—runaway spending. Federal spending consumed 27 percent of GNP in 1990. If the flow of funds from taxpayers to big spenders in Washington is stopped, there will be no more tax increases to hide spending increases from the public.

Mr. President, I spent a lot of time a couple of weeks ago on the issue of the line-item veto and what we have done in the area of spending. And I focused my attention on the Defense appropriations bill, where we, in an incredible fashion, voted out a Defense appropriations bill attached to which was $6.3 billion of totally unnecessary and wasteful spending: $50 million for truck engines that the Pentagon can never use; $110 million a year earmarked for universities; $10 million earmarked for a college—that was over one-third of its budget to study stress on the military; a $50-million bailout for a shipbuilding company.

At the same time, at the very same time, we are telling thousands—tens of thousands—of young men and women in the military that they have to leave because we cannot afford to keep them. If that $6.3 billion of pork that we had appropriated had been spent on the men and women in the military, we would not be forcing men and women out of the military today.

If the false focus on tax fairness and tax increases ends, we can begin discussing the real issue of spending, deficits, and debts. Tax fairness is a mirage that rationalizes tax increases and obscures the real issue of debt fairness. Mr. President, who will pay for the extravagance of the Congress? Who is going to pay for the trillions of dollars of debt?

I fear that our children and even our children's children will finance congressional extravagance. Congress has presided over the largest intergenerational transfer of wealth in the history of the Nation.

But, when you rob those who cannot vote, what difference does it make?

I think this situation underlies much of the public's disgust with Congress. The inability to responsibly budget, and repeatedly raising taxes has eroded the faith of American's in their elected officials.

In Money magazine's seventh survey of "Americans & Their Money," 80 percent of Americans are against paying higher taxes to lower the deficit. They know tax increases do not reduce deficits. Deficits are reduced by cutting spending.

And, here we are again debating another Democratic tax increase.

The faith of Americans is further eroded by the funding of ridiculous pork barrel projects that I have just talked about earlier. Why was $2.7 million spent for Abraham Lincoln Research and Interpretive Center? Why was $148.5 million spent on a project to demonstrate methods of eliminating traffic congestion and to promote economic benefits?

These and many other projects which we have discussed—which I have discussed on this floor many times—why did we raise taxes by $166 billion over 5 years while we funded so much waste? If those new taxes were needed at all, they were needed for deficit reduction.

Mr. MITCHELL. Mr. President, will the Senator yield?

Mr. McCAIN. I will be glad to yield to the distinguished majority leader.

Mr. MITCHELL. I would not want the Senator to lose his right to the floor. I just want to make a point.

Mr. President and Members of the Senate, we attempted last evening, following some lengthy discussions among the managers, the distinguished Republican leader, and myself, to obtain an agreement identifying and limiting the remaining amendments to the bill. That effort was not successful. But in the process, it was determined that there remain several amendments to the bill.

It is my hope that not all will be offered, and I encourage those Senators who are considering offering amendments not to do so to permit us to complete action on the bill.

However, if a Senator is determined to offer an amendment, I ask and I urge that each of those Senators come to the floor and be ready to proceed with their amendments; to contact the managers of the bill to let them know, so we will have the minimum delay and interruption today. Because I know several Senators have other commitments that they want to make.

So I repeat, I expect we will be in session for quite a long while today, with this lengthy list of amendments. But I ask, in the interests of accommodating as many Senators as possible, that those who do intend to offer amendments come to the Senate floor, be prepared to proceed, notify the managers so we can keep it going with a minimum of delay between amendments, and hopefully, if possible, Senators will take only that amount of time necessary to make their case effectively and try to be as concise as possible.

Mr. PACKWOOD. Will the leader yield? Just to alert the people on our side—I understand we are going Republican, Democrat, Republican, Democrat. Senator McCAIN is up now. Then, in order, on our side, we have Senators KASTEN, D'AMATO, and GRASSLEY, and I told all three of them. So I assume as soon as a Democratic amendment comes up, they will be ready to go right afterward.

Mr. BUMPERS. Will the majority leader yield? Just to help the majority leader along, I ask unanimous consent, since the Democrats will offer the next amendment, I be recognized immediately after the vote on this to offer an amendment, to which Senator GRAHAM will have a second-degree amendment. The whole thing should not take over 30 minutes, just so there is no time lag.

Mr. BENTSEN. Let me ask the distinguished Senator from Arkansas—I am amenable to that. It would be a substantial help if we could get some kind of time agreement on it.

Mr. BUMPERS. I just wish Senator GRAHAM were here. I am willing to take 20 minutes equally divided on mine and probably I can cut it shorter than that, because the debate will be the same on both amendments. I cannot speak for Senator GRAHAM. I wish I could. I would like to enter a short time agreement and help the majority leader move this along.

Mr. BENTSEN. If there is no objection, we will have an agreement.

Mr. PACKWOOD. We have not seen the amendment. We will try to clear it very quickly. I hope to get time agreements.

Mr. BENTSEN. We hope to have time agreements on most of them. We do not have one on this one?

Mr. McCAIN. I would be glad to enter into a time agreement if the distinguished chairman seeks to do so. I have not been asked to.

Mr. BENTSEN. I then ask if we can get some limitation of time. We have been speaking for some time now. How much more time does the Senator require?

Mr. McCAIN. I would propose another half hour, equally divided.

Mr. BENTSEN. That is certainly agreeable on this side.

I would advise the Senator that I will be making a point of order on his amendment and that that would be a part of that agreement. If there is no objection, we will have a time limitation of 30 minutes. Is that equally divided? Is that what the Senator is suggesting?

Mr. McCAIN. Yes.

Mr. BENTSEN. That will be fine. That will include the point of order.

Mr. BYRD. Mr. President, reserving the right to object.

Mr. BENTSEN. I have been advised by the chairman of the Appropriations Committee that he wants to speak on the subject, and with that in mind——

Mr. McCAIN. Mr. President, until I have some idea as to the length of time that the distinguished chairman is going to speak——

Mr. BENTSEN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested the clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered

UNANIMOUS-CONSENT AGREEMENT

Mr. BENTSEN. Mr. President, after conferring with the author of the amendment and the distinguished chairman of the Appropriations Committee and subject to the ranking member of the Finance Committee and others who might object, I ask unanimous consent that the time on this amendment be allocated 30 minutes to the chairman of the Appropriations Committee, the distinguished Senator from West Virginia, an additional 15 minutes to the time already spoken by the Senator from Arizona, the author of the legislation, and 10 minutes to the manager of the bill on the majority side and no second-degree amendments in order.

The PRESIDING OFFICER. Is there objection? The Chair hears none——

Mr. BENTSEN. That includes time for a point of order.

The PRESIDING OFFICER. The Chair hears no objection. Without objection, the unanimous-consent agreement propounded by the Senator from Texas is agreed to. The Senator from Arizona is recognized.

Mr. McCAIN. Mr. President, it is my intention to use 5 minutes of my 15 minutes and more at the end.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. BRYAN). Is there a sufficient second?

The yeas and nays have been requested by the Senator from Arizona. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. McCAIN. Mr. President, I feel that the mood of the Nation today is remarkably similar to that of 18th century England as described by Thomas Paine. He stated:

> There are two distinct classes of men in the Nation, those who pay taxes and those who receive and live upon taxes. * * * When taxation is carried to excess, it cannot fail to disunite those two, and something of this is now beginning to appear.

I feel that repeated tax increases and a mountain of debt has disunited the people from their Government, that Congress has lived upon the American people excessively. In fact, we have lived so extravagantly that we have had to borrow $3.7 trillion.

As we all know, Mr. President, the Congress of the United States collects 20 cents of every dollar earned by Americans. I think a case could be made for earnings being private property. Thus, the Congress taxes private property in the form of taxation, but does the public receive just compensation?

Mr. President, I would like to at this time thank the many groups from Arizona and around the country that have added their support to this crucial effort and who have worked tirelessly to help enact this amendment. The groups include: United States Business and Industrial Council, the National Tax Limitation Committee, National Taxpayers Union, Citizens Against Government Waste, Citizens for a Sound Economy, dozens of locals of chambers of commerce in Arizona and around the country, the American Legislative Exchange Council, United States Federation of Small Businesses, Arizona Federation of Taxpayers, and other organizations including Enough, an antitax organization, and Cofire, and 38 member groups.

I quote from a letter from Cofire. It says:

> It is our contention that the current Senate procedures which demand a supermajority vote to lower taxes and a simple majority to raise taxes are neither equitable nor in the public interest.

From the National Taxpayers Union:

> The systematic bias towards higher taxes and spending has driven the Federal Government's share of gross national product over 25 percent while inflation adjusted tax collections have soared by 20 percent over the last 10 years. The McCain amendment would help reduce the tax-and-spend bias, giving the economy its best opportunity for real and sustained growth.

Mr. President, last Tuesday the people of Oklahoma decided to make a decision and take matters into their own hands. That, also, I think, may take place in my State of Arizona. I quote from an AP wire story of last Wednesday:

> After four major tax increases in less than a decade, Oklahoma voters pulled the purse strings tighter than in any other State. Voters approved a constitutional amendment that slaps the tightest restrictions in the Nation on the legislature's ability to raise taxes. The measure requires any tax increase passed with less than a three-fourths majority in both Houses of the legislature be put to the voters at the next election. It also gives voters time to mount a petition drive against a new levy.

Mr. President, the anger and dissatisfaction is out there. The people of this country deserve better. We have to start changing the way we do business if we have any hope not only for fiscal sanity but to regain the confidence of the American people.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BYRD. Mr. President, I have listened with great interest to the distinguished Senator from Arizona [Mr. MCCAIN] who has engaged in quite a bit of Congress bashing this morning. I recognize that Congress is a convenient target for all politicians these days, and that does not exclude those of us who are Members of Congress. As a matter of fact, I suppose some of the most vicious Congress bashing is engaged in by some of those who are Members of this body.

And I also suppose the problem has been to some degree the case in all generations since 1789 when Congress first met. I do know that Congress has been a target for criticism and lampooning, obloquy and scorn by cartoonists, editorial writers, and news reporters from the very beginning.

There is no gainsaying the fact Congress is not entitled to a considerable amount of criticism. I have been in this body now, I am in my 34th year. I was a Member of the other body for 6 years before coming to the Senate and a Member of both Houses of the State legislature for 6 years prior to that, so I have had an eye on Congress for a good many years. I have never seen, however, the amount of Congress bashing by Members of this body that I have witnessed during these past very few years in the Congress.

When I came to this body, there were men like Everett Dirksen, Richard B. Russell, John McClellan, John Stennis, Bob Taft. There were some giants on both sides of the aisle, and they were men who were entitled to the respect of their peers and to the respect of the Nation.

In those years, I do not recall ever having heard Members of this body rise day after day almost and point fingers at the very body of which they were Members. It just seems that Members in today's Senate get a great enjoyment out of fouling their own nest by poking scorn at the Congress. I say Congress is entitled to some criticism and, where it is due, it will be said. But to point the finger at Congress for purely partisan reasons, and that is pretty obvious, and try to put the blame on Congress, is wrong. There is enough blame to go around when it comes to Federal spending. When it comes to Government spending, there is enough blame to go around.

We are entitled to our share of criticism, but those of us in this body who like to point the finger at Congress as being the perpetrator and virtually the sole perpetrator, to hear them talk, is, I think demeaning to themselves and it should be obvious to any objective observer as to what is going on. They are being demagogs; that is what it amounts to, pure demagoguery.

There was something said here on the floor this morning to the effect of, let us see how we got where we are. Mr. President, I want to pick up on that theme. Let us see how we got where we are.

The massive budget deficits are portrayed on this chart, and those who observe this chart will note that there never was a triple-digit, billion-dollar deficit until Ronald Reagan became President of the United States. The facts show that.

Beginning in 1976, this chart shows deficits each year beginning with the first Ford year. These are fiscal years, and in the first fiscal year for which Mr. Ford was responsible, there was a $70 billion deficit. In 1977, there was a $50 billion deficit. That was Mr. Ford's second year.

Mr. Carter was sworn in as President, but the fiscal year did not begin in January as it once did when I first came here. Mr. Carter was responsible for four deficits, the first one being $55 billion in 1978; $38 billion in 1979; $73 billion in 1980; and $74 billion in 1981. Those were the deficits, according to CBO.

The first fiscal year for which Mr. Reagan was responsible, there was a $120 billion deficit. The first triple-digit, billion-dollar deficit was in Mr. Reagan's first fiscal year of responsibility, and from then on, we have seen repeated triple-digit, billion-dollar deficits.

Now if we want to say let us see how we got where we are, there it is on the chart. In the second year under Mr. Reagan, the deficit was $208 billion. The third year, $186 billion. The fourth year, $222 billion. The fifth year, $238 billion. The sixth year, $169 billion. The seventh year, $194 billion. The eighth year, $206 billion.

And then we came to the Bush administration. His first year, $277 billion. The next year, $321 billion. This year, according to CBO, the deficit will be $404 billion for fiscal year 1992. The administration says it will be $399 billion, on budget. There are the string of billion-dollar deficits. In fiscal year 1993, the deficit is predicted to reach $391 billion.

Now that is how we got where we are. Let anyone challenge the charts if they want to point the finger at Congress. And why has the President never sent up a balanced budget? Not once did President Reagan ever send up a balanced budget. If President Bush wants to send up a balanced budget, why does he not do it and why do those who point the finger at Congress not urge their President to send up a balanced budget for once, just for once?

The American people can see what happened and when it happened and to the degree that it happened. What were the causes of these massive deficits? Let us stay on this chart for a moment.

The Reagan tax cut in 1981 accounted for over $2 trillion over the decade. As a matter of fact, I have those figures in my hand.

Source: Budgets of U.S. Government. The revenue effects of major tax legislation beginning in 1982, the Economic Recovery Tax Act of 1981, $36 billion; 1983, $91 billion; 1984, $137 billion; 1985, $170 billion; 1986, $210 billion; 1987, $242 billion; 1988, $264 billion; 1989, $291 billion; 1990, $323 billion and 1991 would be higher. But the total just through 1990, the total cost of the 1981 Reagan tax cut—the Reagan tax cut—the total cost through 1990 amounted to $1.764 trillion. Now if we add 1991, which, as I say, was more than the $323 billion showing in 1990, the total cost of the 1981 Reagan tax cut to date is easily computed to be over $2 trillion.

I voted for that tax cut. So I am willing to share my part of the blame, but I regret it. But it is water over the dam.

What else happened? There was the massive military buildup during the Reagan years. I voted for that, too.

How much did that amount to during the Reagan years? Expenditures for national defense: In the first year of Mr. Reagan's fiscal year responsibility, $185,309,000,000; the second year, $209,903,000,000; the third year, $227,413,000,000; the fourth year, $252,748,000,000; the fifth year, $273,375,000,000; the next year, $281,999,000,000; the next year, $290,361,000,000; the next year, $303,559,000,000; 8 years totaling $2,024,667,000,000.

These caused the deficit, the massive military buildup, and the massive tax cut. I plead guilty. I say mea culpa, I voted for both—all of it. I am not just pointing a finger at someone else. I am pointing the finger both ways, at the executive and at the legislative, because I was a part of the legislative.

What was the result of these massive deficits that came about under leadership of President Reagan? A colossal national debt.

The next chart, still showing how we got where we are. January 20, 1981, when Mr. Reagan took office, our national debt was $932 billion, a lot of money, but still under a trillion dollars.

Mr. President, that was the total accumulation of debt for 192 years—total accumulation, all the deficits that had occurred during 192 years, and 39 administrations, under 38 Presidents—President Grover Cleveland, having been elected twice but not consecutively. One hundred ninety-two years; during that time we paid the Revolutionary War debts, the costs of the War of 1812, the costs of the war with Mexico, 1846–48; the Civil War, the war with Spain in 1898, the First World War, the Second World War, the war in Korea, the war in Vietnam, the panic of 1873, the panic of 1893, and the Great Depression of the 1930's.

So there you are, Mr. President, through the Presidencies of George Washington, John Adams, Jefferson, Madison, Monroe, John Quincy Adams, Jackson, Van Buren, William Henry Harrison, Tyler, Polk, Taylor, Fillmore, Pierce, Buchanan, Lincoln, Andrew Johnson, Grant, Hayes, Garfield, Arthur, Cleveland, Benjamin Harrison, Cleveland again, McKinley, Roosevelt, Taft, Wilson, Harding, Coolidge, Hoover, Roosevelt, Truman, Eisenhower, Kennedy, Johnson, Nixon, Ford, and Carter—all of these and still the national debt was under $1 trillion dollars.

But when Mr. Reagan hit town, the triple-digit, billion-dollar deficits hit town. The national debt stood at $932 billion. On January 20, 1989, when Mr. Bush took office, he inherited from Mr. Reagan a $2.683 trillion debt. By January 20, 1992, January 20 of this year, the national debt had grown to $3.694 trillion. The debt will reach over $4 trillion before the end of this year.

The net interest on the U.S. debt was $69 billion in fiscal year 1981 when Mr. Reagan took office; for fiscal year 1993, it is estimated to be $212.67 billion in interest.

So where are we going now? Let us see where that is taking us. Those of us who are Members of the Senate can take a considerable amount of credit for this, along with the administration. This is where we are going.

This chart shows that during the fiscal years 1981 through 1997, outlays in billions of dollars for domestic discretionary spending—that is what most Senators who criticize the Congress and most people on the outside who criticize Congress have in mind: domestic discretionary, nondefense, discretionary initiatives—will have been cut under baseline, under inflation, $655 billion; foreign operations will have been cut over these years, 1991–97, $27 billion; defense will have increased $733 billion, and entitlements and mandatories will have increased, will have increased $12,524,000,000,000.

Entitlements. That is where we have all been at fault. We have just willy-nilly voted for all of the entitlement and mandatory increases that have come along. I voted for those, too. I expect if every Senator here will look at his own voting record—and those who like to point to Congress—he will find his own voting record showing that he helped to increase this figure on the chart by the green and black bar, and which is representative of entitlements and mandatory.

That is where it is going to take some gall, and steel in the backbone, and a lot of political courage, not so much finger pointing but political courage to do something about that. Mr. President, for those who say "let us see how we got where we are," that is how we did it: namely, the 1981 Reagan tax cut; the colossal military buildup under Mr. Reagan; plus the savings and loan debacle and the current recession.

Now I want to talk just briefly about the budget summit. We have heard considerable excoriation of the budget summit. I was part of the budget summit. I hope I never have to attend another budget summit.

There were others here who were part of that summit, Mr. DOMENICI, Mr. HATFIELD, Mr. PACKWOOD, Mr. BENTSEN, Mr. SASSER, Mr. FOWLER, and the President's representatives were there, Mr. Sununu, Mr. Darman, and the Secretary of the Treasury, and of course representatives from the House on both sides of the aisle, the Speaker, the minority leader, the majority leader over there; also on this side, Majority Leader MITCHELL and Minority Leader DOLE.

We thought we did the best we could do and we thought, and I still think, that it was worthwhile.

Let me say about that budget summit that there has been a lot of deploring the fact that we went to a budget summit. Let me tell you why we went. In the "Initial OMB sequester report to the President and Congress for fiscal year 1991," issued on August 20, 1990, this is what we find on page 9:

> Under current estimates, the uniform percentage reduction is 32.4 percent for nondefense programs. For defense programs on August 10, 1990, the Director of OMB notified Congress of the President's intent to exempt the military personnel accounts from sequestration, as permitted by the Gramm-Rudman-Hollings Act. For the remaining defense programs subject to sequester, the uniform percentage reduction is 35.3 percent.

With that we were faced with a sequester. May I say to my friend from Arizona, the distinguished Senator, Mr. MCCAIN, that sequester was not just going to be in nondefense programs. According to this language I have just read, in defense programs we received the notification from the Director of OMB that the President intended to subject defense programs to a sequester amounting to a uniform percentage reduction of 35.3 percent.

The potential estimates for the October report indicated even higher uniform percentage reductions: 40.7 percent for nondefense programs, and 43.6 percent for defense programs.

Now we had to do something. If we had not had that summit there would have been a wholesale sequester, not just of nondefense discretionary but we were also faced with a cut in defense at that particular time, of 35.3 percent.

So there had to be negotiations, and the President of the United States was a part of the negotiations.

Mr. Bush has lately indicated that he is sorry for the tax increases he agreed to at the budget summit.

Mr. President, he has said he would do whatever it takes, whatever it takes, to be reelected. I personally like the President. But I am sorry he ever said that he would "do whatever it takes to be reelected."

So I guess when he said "mea culpa" with respect to the budget summit, he was doing "whatever it takes to be reelected." Yet, the President knew at the summit that in order to avoid a severe sequester of defense programs as well as nondefense discretionary, there had to be an agreement, and the summit agreement resulted in a package saving almost $500 billion over a period of 5 years.

You may say, well, the deficits are still going up and the debt is going up. That is true. But if we had not had that budget summit, the deficits would have amounted to $500 billion more. So the budget agreement has enabled us to exercise some discipline. We poor devils who had to go over there and spend those days away from home did the best we could and I think, through his representatives, the President did the right thing. We did the right thing. I hope I do not ever have to sit in another budget summit. But who knows? I may have to do it.

Mr. President, I will close shortly. The McCain amendment would tear apart the pay-as-you-go requirement of the Budget Enforcement Act of 1990 and would bring to a halt any legislation containing the slightest income tax increase, including, I might add, many administration proposals. It would open the floodgates for revenue-losing amendments to be paid for in an end-of-session sequester against programs that benefit farmers, veterans, the sick, and the poor.

This amendment attacks the tax increases of the past 10 years, but fails to recognize that these tax increases were dwarfed by the $2 trillion tax reduction made by the Reagan 1981 Economic Recovery Tax Act.

The 1990 budget summit agreement may not always be popular, but it has imposed genuine fiscal discipline. One keystone of that agreement was the pay-as-you-go provision, which requires tax reductions and entitlement increases to be paid for from within revenues and entitlements by the committees of jurisdiction. Prior to the Budget Enforcement Act of 1990, tax reductions and entitlement increases routinely forced spending reductions by sequesters of discretionary appropriations.

Since that agreement, tax changes have been revenue neutral. The McCain amendment would require a separate supermajority vote on every revenue-raising change in the income tax. It would wreck the pay-as-you-go principle. Every time the slightest income tax increase appears on any bill, a 60-vote majority would be required to consider and to adopt that provision.

Senators should understand what that implies. Look, for example, at the list of income tax proposals contained in the President's budget, which would require, on the tax increases proposed by the President in his budget, a 60-vote majority to be adopted, if the McCain amendment is adopted.

Here are some of the President's proposals: Capital gains reduction recapture of depreciation; Flexible individual retirement accounts; Simplify taxation of pension distributions; Modify taxation of annuities without life contingencies; Conform book and accounting rules for securities inventories; Prohibit double-dipping by thrifts receiving Federal financial assistance; Equalize the tax treatment of large credit unions and thrifts; Disallow interest deductions on corporate-owned life insurance [COLI] loans.

Under the amendment by Mr. McCAIN, 8 of the 33 income tax changes proposed by the administration would require a 60-vote supermajority to be adopted. This amendment would eliminate a 60-vote point of order, under section 311 of the Budget Act, against bills and amendments which would reduce income taxes.

Why is that? Why do we need a 60-vote point of order against amendments that would reduce income tax? It is necessary in order to remain true to the commitments made by the executive and legislative branches in relation to the budget agreement. It is easy to cut taxes, but it is hard to raise taxes. If we come in here willy-nilly with amendments that cut taxes—

The PRESIDING OFFICER. The Chair informs the Senator that the 30 minutes reserved for him under the previous unanimous-consent agreement has expired.

Mr. BYRD. Mr. President, I ask unanimous consent for 5 more minutes on each side.

Mr. PACKWOOD. Mr. President, I ask unanimous consent to reserve 10 minutes for myself to respond to some of the comments of the Appropriations chairman.

Mr. BENTSEN. In turn, I have only 10 minutes as manager of the bill, far less than anyone, so I ask for an additional 5 minutes to respond to some of the comments that I am sure will be made.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BYRD. I ask unanimous consent that I may have an additional 3 minutes to respond. I may not need it. I have made the record, as far as I am concerned. I just want a little extra insurance.

The PRESIDING OFFICER. The request is an additional 3 minutes to respond. Is there objection?

Mr. McCAIN. Mr. President, I request the same, an additional 3 minutes.

The PRESIDING OFFICER. If the Senator will suspend, we have an additional request for 3 minutes by the Senator from West Virginia, and an additional 3 minutes from the Senator from Arizona [Mr. McCAIN].

Without objection, the two requests are agreed to and made part of the unanimous-consent agreement.

Mr. BYRD. Mr. President, I hope that the Senator from Arizona will agree that if the Senator from West Virginia feels he does not need to take his 3 minutes, that the Senator from Arizona will not feel compelled to take his additional 3 minutes.

Mr. McCAIN. It is always educational to hear the distinguished Senator from West Virginia under any time agreement.

Mr. BYRD. The Senator did not answer my question, but I will go on.

The floodgates would be open every time a tax bill is considered here.

Every dollar of income tax reduction not paid for would be recouped by the end-of-session sequester, which would make the farmers, veterans, sick, and poor pay for the income tax reductions allowed by the amendment.

Why do we need this amendment? Do income tax increases pass so easily around here that we must restrain ourselves with a 60-vote super majority?

I have a list of the major income tax bills since 1981. It shows a number of acts which have raised income tax revenue. But these bills, as I have indicated, are overshadowed by the Economic Recovery Tax Act of 1981.

If this table were extended through 1991, it would show a cut of $2 trillion from Federal income tax revenues over the past decade resulting from the 1981 Reagan tax cut.

Mr. President, this amendment is nothing more than an attempt to game the Budget Act to further a political agenda. It is an irresponsible proposal, and it ought to be defeated. The President sends up tax increases every year in his budget, as I have already indicated. Senators want those to be subject to a 60-vote point in the Defense budget. Mr. McCAIN and the President want a line-item veto, but the biggest pork project of them all is the SDI. If Mr. Bush had the line-item veto, he would not touch that one. Other large "pork" items are the space station and the superconductor super collider. There might be a President in the White House one day who would go after all of these with his line-item veto pen.

Entitlement spending is out of control, as I have already indicated, but the line-item veto would not even touch that.

So in the budget summit, as I have indicated, the President was a player, and he signed on. If we completely eliminated all of the domestic discretionary spending, it would not cancel the deficit for this year. If we completely eliminated all of the nondefense discretionary spending for this year, it would not even pay the interest on the debt for this year.

The S&L bailout has had a lot to do with the growth of deficits in recent years.

I note that my friend from Arizona did not mention the S&L losses. We are one of the lowest taxed major industrial countries in the world. Nobody likes to pay taxes.

But lowering Federal taxes usually only causes local and State taxes to rise. Essential services have to be provided. There is no way to do that for free. If low taxes are good, then no taxes must be best of all, if we follow the logic of the distinguished Senator from Arizona. No taxes would be best of all. I agree, but we are not living in a dream world.

I, too, would like to live in a no-tax environment, but we have to have a little common sense in these matters. Anybody can see the ridiculosity of this argument if followed to its logical conclusion.

Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator from West Virginia has 4 minutes 18 seconds of the 8 minutes that he requested, the 5 being requested initially and then the 3 minutes. The Chair was uncertain as to how the Senator wished to use the remaining 3 minutes. The total is the 5 plus the 3.

Mr. BYRD. I reserve the remainder of my time.

Mr. McCAIN. Mr. President, I yield 4 minutes to the Senator from Mississippi.

The PRESIDING OFFICER. The Senator from Mississippi [Mr. LOTT] is recognized for 4 minutes.

Mr. LOTT. I thank the distinguished Senator from Arizona for yielding me this time, and I commend him for the effort he made both last year and this year in offering this very important amendment.

With all of the talk about budget summits and spending, I think maybe we have lost sight of what this amendment does. I would like to repeat it for a minute.

It repeals the provision in the budget deal that requires a 60-vote supermajority for tax cuts. It replaces that provision with a supermajority of 60 votes for the creation of new taxes or an increase in existing taxes. Therefore, there would be a 51-vote simple majority required for tax cuts. There is a firewall protecting Social Security.

You know, out in the real world, in our States that we represent, if you told people that it takes a supermajority to cut taxes, but you can raise taxes just by a 50-percent vote, I am convinced they would think we lost our minds, that we got it completely backward from what it ought to be. Why should we make it hard to cut taxes and easy to raise taxes? So we ought to have this reversed.

There has been a lot of talk about the budget summits.

The American people do not understand all this talk about whether this is Republican or Democrat, regional, political, partisan, institutional. I think they would say: a pox on all your houses. They blame the President, and they blame the Congress.

I agree with what has been said here today by the Senator from Arizona. The problem is not insufficient revenue. It is too much spending that we all participate in. That is right, we have all voted for it in domestic discretionary spending and entitlements.

The people say, "The heck with all of you. Get this under control, and do not do it by raising my tax." I have been in these budget summits, I am ashamed to say. I was in two when I was in the other body. I know it is tough. You have to give and take. But every time we have had these budget agreements, and we were going to control spending, spending went up. I do not understand that. And every time we raised taxes a dollar, spending went up $1.59.

Twice I was in the budget summits. Thank goodness, I was not in the one in 1990. I commend the people who were in there. I know it is tough. You have people of all kinds of political persuasions and regions, and you have to blend them. However, when you make budget agreements that allow spending to go up, raise taxes, and do not deal with the deficit, you are not doing your job. I think the people have had enough of it.

I think we should make it harder to raise taxes. Some of you can call it partisanship, political rhetoric, if you want to, but the fact is that we have been, continue to be, and I guess as long as we are all here in the makeup we now have, we are going to be a tax-and-spend organization. We should spend less, and we should not be raising taxes. We should make it tough to raise taxes. Sixty percent is what should be required. I certainly support this amendment.

If you want to talk about spending priorities, or where you would cut taxes, OK, we can debate that. But I am still astounded, more than anything else, that in that budget agreement in 1990 we made it tougher to cut taxes.

Right now I support that budget agreement, although I voted against it. I know the best possible effort was made, and I am also convinced that when we undo it it is going to get even worse.

I give credit to that line of thinking and that is the way I am going to try to vote.

But to turn around in that budget agreement and make it harder to cut taxes and easier to raise taxes, the American people do not understand that. We should support the amendment of the distinguished Senator from Arizona. It is the way we should go. And I guarantee you if you took a poll of the people we represent they would support the amendment of the Senator from Arizona.

Thank you, Mr. President.

The PRESIDING OFFICER (Mr. KOHL). Who yields time?

The Chair recognizes the Senator from Oregon.

Mr. PACKWOOD. Mr. President I believe I have 10 minutes reserved to myself; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. PACKWOOD. Mr. President, I would like to address some of the comments of the Appropriations Committee chairman and especially his charts. I wonder if he could put back up the chart that shows the deficit under the different years. I would appreciate it very much.

You will notice that the immense deficits started, first with President Reagan in 1983, and continued to go up under the Republican Presidents.

I believe the distinguished Senator from West Virginia and the Appropriations Committee chairman was indicating perhaps that it is more a Presidential fault than a congressional fault. I am not here to argue whether this was a Presidential fault or a congressional fault nor to bash Congress. But I do want to call to the attention of this body one thing: When we passed the tax cuts in the summer of 1981, the so-called Kemp-Roth bill, the so-called Reagan tax cuts—call it what you want—the Congressional Budget Office, not the Office of Management and Budget, was projecting immense surpluses.

Let me go back to those years shown in the charts, because we seem to have forgotten. First, the OMB projections and our CBO projections of President Jimmy Carter's budget—and then the Congressional Budget Office projections in the early Reagan years.

In January 1980, when President Carter was projecting his 1981 budget, he projected a surplus in 1985 of $158 billion. When the Congressional Budget Office in February 1980, did a baseline projection—and by baseline they mean if we do not change any laws—they predicted by 1985 a $178 billion surplus.

But now let us go on to the early Reagan months. Jimmy Carter's last budget, in January 1980, his OMB projection was $138 billion surplus by 1986. But the critical projections came in the summer of that year.

We passed the Reagan tax bill in late July 1981.

I want to give you the Congressional Budget Office—and this was not a Republican budget office—Alice Rivlin was still the director of it. She was director from 1975 continuing on into the early Reagan years.

In July 1981, before we passed any Reagan tax cuts, the Congressional Budget Office baseline report was as follows: In 1981, we would have a deficit of $48 billion; in 1982 a deficit of $30 billion; in 1983, a surplus of $18 billion; in 1984 a surplus of $76 billion; in 1985 a surplus of $138 billion; and in 1986 a surplus of $209 billion; if we made no change in the law.

Then, the Congressional Budget Office, looking at our congressional budget resolution, did a projection which included the Reagan tax cuts, and the spending cuts proposed by the congressional budget resolution—not the President's budget—our budget. They projected that, with the tax cuts, we would have a surplus of $1 billion by 1984; the deficits would go down from $59 billion in 1981, $38 billion in 1982, $19 billion in 1983, and then a $1 billion surplus in 1984. That's with the 1981 tax cuts.

Now, there are two things that they missed, and everybody else missed. We were then in the throes of 13, 14 percent inflation, and there was no projection that the inflation was going to drop rapidly. And no one projected the 1981–82 recession—nobody—not the Congressional Budget Office, not the Chase Manhattan Bank not anybody else.

So at the time we passed the tax cuts, the fear of the administration, and I think correctly, based upon past habits of administrations and Congresses, was that if we had this immense surplus, we would not give it back to the people; we would spend it.

And those tax cuts were premised on the fact of taking the surplus away from the Government and giving it back to the people. Now, what we hoped in our projections turned out to be wrong. But let us not go back now and have revisionist history and say that because of the tax cuts, we got the deficits. That was not our understanding—Congress' understanding—when we passed them.

Now, let us take a second set of figures and then try to ask ourselves what we are going to come to. And I am not blaming the Congress or the President. In 1950 in this country, in all of the governments of the United States—Federal, State, and local—we taxed about 21 percent of the gross national product. All of us—Federal Government, State government, school districts, water districts—taxed 21 percent of the gross national product. And we spent about 23 percent. We had a deficit. Forty years later, we are taxing close to 30 percent of the gross national product, all of our governments and we are spending 33 percent. We still have a deficit. The fact that the taxes have gone up has not narrowed the deficit. Taxes have gone up, and we spent the money.

The interesting comparison is the same thing has happened in every industrialized country of the world. They just started from a much higher base than we did of tax and spend, until today the Scandinavian countries are taxing in excess of 50 percent of their gross national product and spending a bit more than they are taking in. They have deficits, too.

And the question we ought to ask ourselves, not as an argument about deficits and who is responsible for them, but in 10 or 15 or 20 years, do we want to look like Sweden? Do we want to tax 45 or 50 percent of our gross national product, and spend 47 or 35 percent of it and still have a deficit? Because that is the direction we are headed.

And nothing is going to change that until we get a constitutional amendment to compel us to balance the budget. Whether that is the President's fault or Congress' fault, I am not sure. Maybe it is our collective fault. Maybe we ought to quit pointing the finger at each other and realize that for whatever reason—I am not going to call it lack of control or lack of foresight or lack of intelligence—but for whatever reason, we collectively have been unable to curb our taxing and then spending appetite.

Nothing we have tried in the 34 years that the Appropriations chairman has been in this body or the 24 years that I have been here—whether we had Republican Presidents or Democratic Presidents—nothing has worked.

The Senator will remember when we had in this body—I think in the early 1970's, and I voted against it—a resolution that would have allowed the President to cut the budget if spending exceeded $250 billion. He could impound anyplace he wanted to. I did not say deficits; I said spending. And we defeated it. We did not want to delegate that power to the President, and I voted not to delegate it.

The President could have cut spending where he wanted. He might cut projects that I did not like; he might cut projects the President pro tempore did not like. We denied it to him; and we have been a collective failure, Congress and the President, ever since.

I hope, considering that I am running for reelection this year, that that is not an argument to throw out of office all of those who have been here all that time, because we have collectively failed; but we have.

So let us quit blaming each other, and Republicans and Democrats, and Presidents and Congress, and realize whatever we tried in the past has failed. And until we have some constitutional compulsion that makes us balance the budget, either by reducing spending or increasing taxes, until we have that compulsion, we are not going to succeed. But what is irrevocably shown by the evidence in the past is that tax increases do not lead to reduced deficits; they lead to increased spending.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. McCAIN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 14 minutes remaining.

Mr. McCAIN. Mr. President, I, as always, listened with interest and respect to the eloquent statements of the distinguished chairman of the Appropriations Committee. I would like to respond to some of the points he made. He made reference at the beginning of his comments and at the end to demagoguery or political agendas or other motivation behind an amendment such as this.

I have to respond by saying, Mr. President, that when only 22 percent, or 17 percent in another poll that I saw, of the American people approve of what the Congress is doing, their major complaint being the spending, profligate spending practices and the failure to impose fiscal discipline, I suggest that it is not demagoguery. It is trying to respond to the cry of the American people who say we can no longer realize the American dream because of the burden of taxation that is being placed on us by the Federal Government.

I believe that the people of the State of Oklahoma acted last Tuesday and approved a constitutional amendment that slaps restrictions on the legislature's ability to raise taxes. In my own State, over 100,000 signatures to do basically what this amendment does in our State was gathered in a very short period of time.

Mr. President, the American people are fed up and they want some fiscal discipline. Now, as far as the responsibility is concerned—and I share the view of the Senator from Oregon, who said perhaps we should not place blame and point fingers but try to do something about it. And, by the way, that is the purpose of this amendment, to try to do something about the process, not the institution. If anyone interprets my criticism of this process as a criticism of the institution, then they are not accurately interpreting my remarks.

As far as the responsibilities of the President are concerned, I would just point out the U.S. Constitution, article I, section 9, says "No money"—shall be drawn from the Treasury, but in consequence of appropriations made my law." Let me repeat that. "No money shall be drawn from the Treasury, but in consequence of appropriations made by law." We know who appropriates the money. It is the Congress of the United States. The President proposes, the Congress disposes.

In recent conversation with former President Reagan, he told me the one tool that he wished he had when he was President of the States was a line-item veto. I think it is very clear that no penny of the taxpayers dollars can be expended without appropriations by the Congress. And that is why we have to reform the system that Congress is using today.

As far as the budget summit agreement is concerned, Mr. President, again I congratulate President Bush in agreeing that it was a serious mistake to agree to the budget summit agreement.

The distinguished chairman of the Appropriations Committee talked about fiscal discipline, how the budget deal created some fiscal discipline. I guess it is in the eye of the beholder. In 1991, there was a 12.6-percent increase in spending as a result of the 1990 budget summit agreement and there is a mandatory 8-percent increase in spending as a result of the budget summit agreement between 1991 and 1996. That, Mr. President, is not my view of fiscal discipline. It far exceeds inflation and continues to show us that, as a result of the budget summit agreement, spending continues out of control.

And, again, Mr. President, there was a great man that said those who ignore the lessons of history are doomed to repeat them. Five of the six previous budget summit agreements resulted in higher taxes, higher spending, higher deficits. I hope that at some point the lesson is that we do not need them. In the 2 years that we did not have budget summits, guess what? The deficit went down. I think we should pay attention to the lessons of history.

As far as the agenda of this Senator is concerned, my agenda is clear and simple. I believe that the greatest fear of the people that I represent is their economic future. They are going to pay more on April 15 than they have at any time since World War II in the form of State, Federal, and local taxes. They will work until sometime around the middle of May in paying off those State, local, and Federal taxes before they get a dime to spend on themselves, their children, their education, their homes, and, hopefully, for their way of life.

Mr. President, I think they need some relief. I think that before we increase the tax burden on the American people again, we should have a system where it is not easy to raise taxes. Clearly, a system where it is easier to raise their taxes than it is to lower their taxes, is wrong. Every single citizen in my State that I have told that, the first reaction is surprise and the second reaction is anger, because they do not think it should be easier to raise their taxes than to lower them. I think that makes perfect sense.

That is all this amendment is doing. That is simply all it does. It is not complicated; it is not complex. It is on one sheet of paper that is at the desk. I urge my colleagues to give it serious consideration.

I realize that we may lose on a budget point of order as a result of this process. Interestingly enough, we will be hung up on that. At the same time, I hope that we will be able to change this process, in fairness to the American taxpayer.

I reserve the remainder of my time.

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Texas.

Mr. BENTSEN. Mr. President, I hope this amendment will be defeated. It was defeated last time, and not by just a simple majority. There were only 37 votes in favor of the amendment.

There is another interesting aspect of this. I hear the distinguished Senator from Arizona speaking of his deep concern about increasing taxes. And it was just yesterday, just yesterday, in this body that I watched him join 32 other Republicans and vote for a $57 billion tax increase. Now that is what he did yesterday, along with 32 other Republicans.

As I look at this amendment, I think it has some superficial appeal. Why not require a 60-vote supermajority to be able to bring about a tax increase? Well, let me tell you how tough it is in the Finance Committee or on the floor of this Senate to get a majority to support any tax increase, even one that is intended to pay for a simultaneous tax cut. Do you think anyone wins political points back home for voting for a tax increase? Of course not. The popular thing to do is to vote for tax cuts and then not pay for them. And then you end up with deficit and national debt problems of the kind that the distinguished chairman of the Appropriations Committee has just described. He has just shown what has happened to us with the tax cuts that we have voted for in the past.

Pass this amendment and you will destroy the budget agreement of 1990. You will unleash runaway deficits. In 1990, we put in effect a key reform by establishing the pay-as-you-go principle. It requires new entitlements and increases in popular programs to be matched with taxes to pay for them. And that is not pleasant. This amendment would destroy that tough discipline that we added to the budget process only 2 years ago. As a result, this amendment would send the deficit right into the stratosphere.

We need the discipline of the budget agreement. I was a party to that budget agreement. I am delighted we did it. We do not have an alternative to it.

I strongly disagree with the President's decision to turn his back on the agreement. I congratulated him when he worked with us to try to put budget discipline into effect, constraining the administration and the Congress, the Democrats and the Republicans. If we had not acted, today's deficit would be greater by $500 billion—$500 billion—and interest rates would be higher, the recession deeper.

Let me emphasize the basic problem with this amendment. It is not deficit neutral. It is prodeficit. The catchall "notwithstanding" clause in this amendment allows a simple majority to increase the deficit by opening tax loopholes, eroding the tax base, or reducing existing taxes. However, this amendment would require a 60-vote super majority to pay for any of those changes. Under this amendment it would take 60 votes to enact a means for paying for an expansion of Medicare coverage but only a simple majority to pass a Christmas tree full of special-interest tax loopholes.

Is that the way we want the system to work? I do not think so. And that is why this amendment was voted down last time. It was voted down 6 months ago by a vote of 62 to 37.

Maybe deficits really do not bother some folks around here. Maybe they are not losing any sleep over these all-time record-high deficits. But fiscal discipline is important, now more than ever. That is why we enacted pay-as-you-go in 1990; why we have on the books longstanding points of order against deficit increases.

Oh, I hear the remarks, "Oh, they are going to use a point of order on me again; what a bore, what a nuisance." That was not done easily, putting in those points of order. But it is a discipline that is absolutely required of this Congress—points of order which can only be waived by a supermajority of the Senate.

Let me say, as chairman of the Finance Committee, I am also concerned about stacking the deck against my committee's prerogatives and responsibilities. It is hard enough to fill the requirements for deficit neutral legislation. But this amendment would say loopholes are just fine, but any offsetting revenues will have to have 60 votes. Frankly, I am not sure how this McCain amendment would work entirely in practice. But it could be construed to divide packages and allow points of order against revenue increases, while leaving the reduction undisturbed.

Let me give an example. I happen to support an extension of the R&D tax credit. So does the administration. I assume so does the Senator from Arizona. This bill provides for an extension of that tax credit. But that extension costs money, it costs revenue.

This amendment would let us pass that extension by a simple majority. But then we would have to find 60 votes to offset those losses to pay for it, to put it on a pay-as-you-go. And if we failed to bring about that supermajority, the credit would still be extended and that deficit would continue to widen.

This proposal also involves the jurisdiction of another committee, the Budget Committee, by amending the Budget Act—a 60-vote point of order against this amendment on the grounds it contains legislation within Budget Committee jurisdiction, but has not been reported by that committee. I am delighted to see the chairman of the Budget Committee here. I assume—if he does not, I will—at the appropriate time he will raise the appropriate point of order when all time has expired. I assume we still have some time left, do we?

I reserve the remainder of my time but I ask a clarification on the time left.

The PRESIDING OFFICER. The Senator has 6 minutes remaining.

Mr. BENTSEN. Will the Chair advise the manager of the bill of the time remaining for the others?

The PRESIDING OFFICER. The Senator from West Virginia has 4 minutes remaining, the Senator from Oregon 1 minute, and the Senator from Arizona has 8 minutes.

Mr. BENTSEN. I thank the Chair and reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time? The Chair recognizes the Senator from Arizona.

Mr. MCCAIN. Mr. President, I say to the chairman I am prepared to yield the remainder of my time and vote, if they are prepared to do so at this time. I wonder if the distinguished chairman of the Appropriations Committee is prepared to do so?

Mr. KASTEN. Mr. President, I rise in strong support for the McCain amendment to require a supermajority vote in Congress to approve tax increases.

This much-needed budget reform would prevent Congress from routinely raising taxes. This amendment would not bar tax increases. It simply requires 60 votes in the Senate to approve tax hikes.

Federal taxes are too high, not too low. As recently as 1948, a family of four at the median income level paid 2 percent of its income in Federal taxes. Today, the same family pays 24 percent of its income in Federal taxes.

Morever, tax increases are damaging to the economy; they destroy American jobs. History shows that new taxes generate new Federal spending. According to a recent report by the minority staff of the Joint Economic Committee, in the period from 1940 to 1990, every $1 in extra taxes have generated $1.59 in new spending. In 1990, Congress imposed one of the largest tax increases in history, and budget deficits have hit record levels.

In order to promote economic growth and deficit reduction, I think we need to put some firm limits on Congress' ability to increase taxes on the American people. I therefore urge my colleagues to support the McCain tax limitation

The PRESIDING OFFICER. Who yields time?

Mr. BYRD. Mr. President, I yield myself such time as I may require out of the allotted time remaining.

The PRESIDING OFFICER. The Chair recognizes the Senator from West Virginia.

Mr. BYRD. Mr. President, I ask unanimous consent that there be printed in the RECORD a table showing the "Regular Annual, Supplemental, and Deficiency Appropriation Acts Comparison of Budget Requests and Enacted Appropriations" for the years 1945 through 1991. These are calendar years.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REGULAR ANNUAL, SUPPLEMENTAL, AND DEFICIENCY APPROPRIATION ACTS COMPARISON OF BUDGET REQUESTS AND ENACTED APPROPRIATIONS

Calendar year	Administration requested	Enacted appropriations	Difference under (−)/over (+)
1945	$62,453,310,868	$61,042,345,331	−$1,410,965,537
1946	30,051,109,870	28,459,502,172	−1,591,607,698
1947	33,367,507,923	30,130,762,141	−3,236,745,782
1948	35,409,550,523	32,699,846,731	−2,709,703,792
1949	39,545,529,108	37,825,026,214	−1,720,502,894
1950	54,316,658,423	52,427,926,629	−1,888,731,794
1951	96,340,781,110	91,059,713,307	−5,281,067,803
1952	83,964,877,176	75,355,434,201	−8,609,442,975
1953	66,568,694,353	54,539,342,491	−12,029,351,862
1954	50,257,490,985	47,642,131,205	−2,615,359,780
1955	55,044,333,729	53,124,821,215	−1,919,512,514
1956	60,892,420,237	60,647,917,590	−244,502,647
1957	64,638,110,610	59,589,731,631	−5,048,378,979
1958	73,272,859,573	72,653,476,248	−619,383,325
1959	74,859,472,045	72,977,957,952	−1,881,514,093
1960	73,845,974,490	73,634,335,992	−211,638,498
1961	91,597,448,053	86,606,487,273	−4,990,960,780
1962	96,803,292,115	92,260,154,659	−4,543,137,456
1963	98,904,155,136	92,432,923,132	−6,471,232,004
1964	98,297,358,556	94,162,918,996	−4,134,439,560
1965	109,448,074,896	107,037,566,896	−2,410,508,000
1966	131,164,926,586	130,281,568,480	−883,358,106
1967	147,804,557,929	141,872,346,664	−5,932,211,265
1968	147,908,612,996	133,339,868,734	−14,568,744,262
1969	142,701,346,215	134,431,463,135	−8,269,883,080
1970	147,765,358,434	144,273,528,504	−3,491,829,930
1971	167,874,624,937	165,225,661,865	−2,648,963,072
1972	185,431,804,552	178,960,106,864	−6,471,697,688
1973	177,959,504,255	174,901,434,304	−3,058,069,951
1974	213,667,190,007	204,012,311,514	−9,654,878,493
1975	267,224,774,434	259,852,322,212	−7,372,452,222
1976	282,142,432,093	282,536,694,665	+394,262,572
1977	364,867,240,174	354,025,780,783	−10,841,459,391
1978	348,506,124,701	337,859,466,730	−10,646,657,971
1979	388,311,676,432	379,244,865,439	−9,066,810,993
1980	446,690,302,845	441,290,587,343	−5,399,715,502
1981	541,827,827,909	544,457,423,541	+2,629,595,632
1982	507,740,133,484	514,832,375,371	+7,092,241,887
1983	542,956,052,209	551,620,505,328	+8,664,453,119
1984	576,343,258,980	559,151,835,986	−17,191,422,994
1985	588,698,503,939	583,446,885,087	−5,251,618,852
1986	590,345,199,494	577,279,102,494	−13,066,097,000
1987	618,268,048,956	614,526,518,150	−3,741,530,806
1988	621,250,663,756	625,967,372,769	+4,716,709,013
1989	652,138,432,359	666,211,680,769	+14,073,248,410
1990	704,510,961,506	697,257,739,756	−7,253,221,750
1991	756,223,264,591	748,262,835,695	−7,960,428,896
Total	11,710,201,833,552	11,521,432,604,188	−188,769,229,364

Source: House Committee on Appropriations.

Mr. BYRD. Also, I ask unanimous consent that a table be printed in the RECORD titled "Regular Annual, Supplemental, and Deficiency Appropriation Acts Comparison of Budget Requests and Enacted Appropriations" for the calendar years 1977 through 1988, which would show the amounts requested by the Carter administration, the amounts enacted of appropriations, and the difference during those years. And, additionally it will show the same information for the Reagan administration years.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REGULAR ANNUAL, SUPPLEMENTAL, AND DEFICIENCY APPROPRIATION ACTS COMPARISON OF BUDGET REQUESTS AND ENACTED APPROPRIATIONS

Calendar year	Administration requested	Enacted appropriations	Difference under (−)/over
Carter administration:			
1977	364,867,240,174	354,025,780,783	−10,841,459,391
1978	348,506,124,701	337,859,466,730	−10,646,657,971
1979	388,311,676,432	379,244,865,439	−9,066,810,993
1980	446,690,302,845	441,290,587,343	−5,399,715,502
Total	1,548,375,344,152	1,512,420,700,295	−35,954,643,857
Reagan administration:			
1981	541,827,827,909	544,457,423,541	2,629,595,632
1982	507,740,133,484	514,832,375,371	7,092,241,887
1983	542,956,052,209	551,620,505,328	8,664,453,119
1984	576,343,258,980	559,151,835,986	−17,191,422,994
1985	588,698,503,939	583,446,885,087	−5,251,618,852
1986	590,345,199,494	577,279,102,494	−13,066,097,000
1987	618,268,048,956	614,526,518,150	−3,741,530,806
1988	621,250,663,756	625,967,372,769	4,716,709,013
Total	4,587,429,688,727	4,571,282,018,726	−16,147,670,001

Mr. BYRD. Mr. President, I yield back the remainder of my time.

Mr. McCAIN. Mr. President, I yield the remainder of my time.

Mr. BENTSEN. Mr. President, I yield the remainder of my time.

Mr. DURENBERGER. Mr. President, I want to take a few moments to speak in opposition to the amendment offered by my distinguished colleague from Arizona.

What this amendment does is establish a series of rules to govern Senate votes on substantive changes in the tax law. Under this amendment, a supermajority of 60 Senators would be needed to approve any tax increase. On the other hand, a simple majority of 51

Senators would be needed to approve any tax cut.

However, under the Senator's amendment, some tax cuts are easier to achieve than others. For the amendment provides that a supermajority of 60 Senators would be needed to approve any cut in the Social Security tax.

At a time when the Federal budget deficit is $400 billion; when the national debt is $3.8 trillion and growing at the rate of more than $1 billion a day, I cannot understand the rationale for this amendment unless the Senator is intent on seeing the Federal deficit rise to $500 or $600 billion.

When we adopted the pay-as-you-go budget agreement we established a rule providing that if a legislative proposal loses revenue, and thereby increases the deficit, the Senate must come up with sufficient offsetting revenue to pay for that proposal. If there is no offset, a revenue-losing legislative proposal can be enacted, but only if 60 Senators agree to waive the Budget Act. That is the discipline that prevents this body from further increasing the deficit.

What the pending amendment would do, is turn the budget agreement upside down. It would allow a simple majority of 51 Senators to pass legislation cutting taxes no matter the extent the budget deficit is increased. But it would require a supermajority of 60 votes to pass fiscally responsible legislation that might require a modest tax increase to pay for an emergency program or help reduce the deficit.

Mr. President, how did we get to this point today where our Nation is the largest debtor in the world? We got here because we spent the last decade expanding entitlements and domestic spending without having the will to pay for them with tax revenue. Every interest group that knocked on our door with their needs got something. And since we did not have the will to say no to spending increases, the national debt has grown to $3.8 trillion, and interest on the debt has jumped more than 400 percent from $52.5 billion in 1980 to more than $215 billion this year.

Mr. President, it is the rare elected official who wants to go back home and tell his constituents that taxes have to be raised to pay for spending. All of us prefer to promise lower taxes. Yet that is precisely why we face this extraordinary national debt.

The proposal before us will make it far more difficult for the Senate to adopt fiscally responsible tax legislation, while significantly diminishing our ability to control the deficit. Is that the legacy we want to leave to our children? More debt, more tax cuts, fiscally irresponsibility.

Mr. President, this amendment fundamentally alters the rationale and logic of the budget agreement. If we vote for this amendment, we are telling the American people that on our watch, we threw away any sense of fiscal discipline.

I urge my colleagues to oppose this amendment.

Mr. BURNS. Mr. President, I am pleased to be an original cosponsor of the McCain amendment and an original cosponsor of Senator McCAIN'S bill.

This amendment makes good common sense, Mr. President, and is crucial to future economic growth. The kind of growth that we are all trying to achieve with the various measures we believe in.

It is currently easier to enact laws that pay for more Federal spending by raising taxes than it is to enact laws that promote economic growth and generate more revenue for everybody.

The Congress is looking to the wrong solutions.

Every American, if they were aware of this predisposition to tax increases, would be angry and upset.

So I commend Senator McCAIN for introducing this amendment to require a 60-vote majority for any tax increase and a simple majority of 50 votes plus 1 for a tax cut.

Senator McCAIN'S amendment will change the way we operate here to favor the average American taxpayer.

It places a heavier burden on the U.S. Senate to control Government spending and does not allow the Senate to take the easy way out and just raise taxes.

This is an important change, and I urge my colleagues to vote for the McCain amendment.

Mr. KOHL. Mr. President, I rise in opposition to the McCain amendment. I do so, however, with mixed emotions. Senator McCAIN is absolutely correct when he says that Americans are angered; they believe their tax dollars are being misspent by the Federal Government. And he is absolutely correct that Congress needs to recognize and address that anger.

But I do not believe the way to address that anger is to restrict Congress' ability to make changes to the Tax Code. If Senator McCAIN'S amendment were to pass, this body would not be able to pass a millionaire's tax. We would not be able to pass a higher tax rate on the Nation's richest Americans. We would have even had trouble adopting an amendment to restrict the tax benefits given to sweeten the S&L sweetheart deals of the late 1980's.

In short, the McCain amendment would make it more difficult for Congress to address our runaway budget deficits. I cannot believe that our constituents are crying out for that.

Every economist I have heard or read agrees that our Federal deficit is a drag on our economic growth. It is no coincidence that economic growth has decelerated as the growth of Federal debt has accelerated. Each dollar of deficit spending is a dollar that is unavailable for private sector investment and job creation. Each dollar in interest that the Federal Government pays on its debt is a dollar unavailable for public investment in infrastructure, schools, health, or training.

Our giant deficits—$400 billion this year alone—are the 300-pound gorillas of the credit market. The Federal Government's insatiable need for debt, debt, debt keeps real interest rates high and constrains the Federal Reserve's ability to respond to the current recession. The deficit, through high interest rates, pushes us into a recession, and the deficit, by tying the Fed's hands, keeps us in a recession.

Why in the world would be want to adopt a policy that keeps us from doing something about this?

Senator McCAIN argues that his amendment is a simple matter of fairness—it takes 60 votes to cut taxes, so why not 60 votes to raise them?

To put the question in that form muddies the issue. The rule is not, as Senator McCAIN suggests, that it takes 60 votes to provide tax relief. The rule is that it takes 60 votes to do anything that would increase the deficit. That includes spending increases and tax cuts. Our rules not about making it easy to waste taxpayer money. Our rules are about making it harder to increase the deficit and thereby waste taxpayer money.

The No. 1 problem facing the people of this country today is our budget deficit. It is sucking capital out of the economy; it is sucking jobs out of the country; it is sucking funds out of public investment. We have rules in this body that require 60 votes—a supermajority—to increase the deficit. Senator McCAIN'S amendment would gut those rules; it would turn them on their head. For tax legislation, his amendment would require 50 votes to increase the deficit and 60 votes to decrease it. I cannot support that.

The PRESIDING OFFICER. The Senator from Oregon has 1 minute.

Mr. PACKWOOD. Mr. President, I yield back my 1 minute.

Mr. SASSER, Mr. President, parliamentary inquiry? Has all time been yielded back?

The PRESIDING OFFICER. Yes, all time has yielded back.

Mr. SASSER. Mr. President, at this point I raise a point of order that the pending amendment violates section 301 of the Congressional Budget Act of 1974.

Mr. McCAIN. Mr. President, I move to waive the Budget Act. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes Senator DOMENICI.

Mr. DOMENICI. Mr. President, that is debatable, is it not?

The PRESIDING OFFICER. It is not debatable under the unanimous-consent agreement.

Mr. DOMENICI. Oh, you have a unanimous-consent agreement? Excuse me.

The PRESIDING OFFICER. The question is on agreeing to the motion to waive section 306 of the Budget Act. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Iowa [Mr. HARKIN], the Senator from Hawaii [Mr. INOUYE], the Senator from Vermont [Mr. LEAHY], and the Senator from Illinois [Mr. SIMON] are absent on official business.

I also announce that the Senator from Michigan [Mr. RIEGLE] is absent because of death in the family.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 37, nays 58, as follows:

[Rollcall Vote No. 44 Leg.]

YEAS—37

Bond
Brown
Burns
Coats
Cochran
Craig
D'Amato
Dole
Garn
Gorton
Gramm
Grassley
Hatch
Helms
Hollings
Kassebaum
Kasten
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Packwood
Pressler
Roth
Seymour
Shelby
Simpson
Smith
Specter
Stevens
Symms
Thurmond
Wallop
Warner

NAYS—58

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Boren
Bradley
Breaux
Bryan
Bumpers
Burdick
Byrd
Chafee
Cohen
Conrad
Cranston
Danforth
Daschle
DeConcini
Dixon
Dodd
Domenici
Durenberger
Exon
Ford
Fowler
Glenn
Gore
Graham
Hatfield
Heflin
Jeffords
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Levin
Lieberman
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Rudman
Sanford
Sarbanes
Sasser
Wellstone
Wirth
Wofford

NOT VOTING—5

Harkin
Inouye
Leahy
Riegle
Simon

The PRESIDING OFFICER. On this vote, the yeas are 37, and the nays are 58. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The pending amendment would amend the Budget Act in a manner that changes the process by which the budgetary discipline is enforced. Since this matter is within the jurisdiction of the Budget Committee, and this bill was not reported from that committee, the point of order under section 306 of the Budget Act is sustained. The amendment falls.

Mr. DOLE addressed the Chair.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. DOLE. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate is not in order.

Mr. DOLE. Mr. President, I thank the Senator from Arkansas. I will take 1 minute.

A number of my colleagues have very important engagements in their States over the weekend. And I just urge my colleagues on this side and the other side. If we could agree to accept say 30 minutes on any amendment, or if we just agree to take them all, and go to conference, it would be better yet. We would get out of here about 1 o'clock. In any event, we have a lot of requests for an hour and a half, 2 hours and no time agreement.

It seems to me that we can accommodate a number of our colleagues on both sides of the aisles if we could agree to a lesser time, and if you really are good, really understand your amendment, you could describe it in 10 minutes as well as an hour. If you do not understand it, maybe an hour is not long enough.

So, in any event, I urge my friends to accommodate the rest of us, those of us who have to leave—I do not have to leave—and speed up the process.

Thank you.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Has the amendment been reported?

AMENDMENT NO. 1723

Mr. BUMPERS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant bill clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS] proposes an amendment numbered 1723.

Mr. BUMPERS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

The United States Department of Transportation reports that 39 percent of the bridges in the Federal-aid Highway System are "structurally deficient" and "functionally obsolete" and 42 percent of the rural interstate highways and 43 percent of the urban interstate highways are rated in either poor or fair condition; and

The Federal Highway Administration estimates that existing highway and bridge systems will carry 65 percent more travel in the year 2009; and

The Federal Highway Administration estimates that a total of $75 billion would be required annually through the year 2009 from all levels of government to eliminate all bridge and pavement deficiencies; and

The current Federal authorized spending is approximately $20 billion a year through 1997; and

State and local governments are unable to contribute the $55 billion annual difference necessary for the projected needs for bridge and pavement repair and upkeep; and

The national economy is currently depressed and faces a devastating period of economic stagnation which the release, over the next two fiscal years, of the $11.1 billion surplus highway trust funds could help alleviate; and

Upgrading roads and bridges is a sound and vital investment which could result in a dividend of long-range economic growth and improved efficiency; and

Spending trust fund revenues would benefit all sectors of the economy by stimulating industries ranging from manufacturing to service providers; and

Highway spending would immediately stimulate growth in a broad range of the American work force, both skilled and unskilled; and

The spending of $1 billion on the Nation's transportation infrastructure creates 52,000 jobs while spending $1 billion on defense creates only 30,000 jobs; and

No additional taxes and no new Federal regulations are necessary to accomplish this goal; and

Delaying road and bridge projects is shortsighted and would mean higher costs to the American taxpayer in the future; and

The General Accounting Office estimates that approximately 1.25 billion hours and 1.38 billion gallons of gasoline are wasted annually due to traffic congestion and the hours spent by Americans in traffic result in both a decline in productivity and an increase in air pollution; and

Americans have already paid for bridge and road improvements through the Federal gasoline tax, which cannot be lawfully spent for other purposes, and therefore deserve these improvements; Now, therefore, be it

It is therefore the sense of the Senate that Congress and the President should declare a state of emergency under the 1990 Budget Reconciliation Bill to authorize expenditure of $5 billion in 1992 and $5 billion in 1993, in excess of the allocations that are provided for by law, from the highway trust funds, to create jobs, ease the financial burden on State and local governments, stimulate the economy, and provide a safe and sound transportation infrastructure for our Nation's future.

Mr. BUMPERS. Mr. President, I am perfectly happy to enter into a time agreement.

Mr. FORD. Mr. President, I make a point of order that the Senate is not in order.

The PRESIDING OFFICER. The Senate will be in order.

Conversations will cease in the Senate. The Senate will be in order.

The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I ask unanimous consent that on my amendment, to which Senator GRAHAM will offer a second-degree amendment—that there be a time agreement on both amendments of 1 hour equally divided.

Mr. PACKWOOD. A total of an hour on both amendments equally divided?

Mr. BUMPERS. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, my comments will be very brief on my amendment. It is a very simple amendment.

Mr. MOYNIHAN. Mr. President, will the distinguished Senator from Arkansas yield for a query?

May we make a part of the agreement that the amendment of the Senator from Florida be the only second-degree amendment?

Mr. BUMPERS. I amend my request to ask that the second-degree of the Senator from Florida be the only amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, I have been advised that it would be appropriate for Senator GRAHAM to offer his second-degree amendment now so that the time can start running on both of them.

I yield to the Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida is recognized.

AMENDMENT NO. 1724 TO AMENDMENT NO. 1723

(Purpose: To make improvements in providing incentives for increased economic growth)

Mr. GRAHAM. Mr. President, for purposes of submitting a second-degree amendment on behalf of myself, Senator BOND, and Senator BUMPERS, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant bill clerk read as follows:

The Senator from Florida, [Mr. GRAHAM], for himself, Mr. BOND, and Mr. BUMPERS, proposes an amendment numbered 1724 to amendment 1723.

Mr. BUMPERS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, add the following:

TITLE —TRANSPORTATION

SEC. . FEDERAL-AID HIGHWAYS.

(A) OBLIGATION CEILING.—Section 1002(a) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 104 note) is amended—

(1) in paragraph (2), by striking "$18,303,000,000" and inserting "$21,800,000,000";

(2) in paragraph (3), by striking "$18,362,000,000" and inserting "21,362,000,000";

(3) in paragraph (4), by striking "$18,332,000,000" and inserting "$15,332,000,000"; and

(5) in paragraph (5), by striking "$18,357,000,000" and inserting "$15,357,000,000".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 1003(a) of the Intermodal Surface Transportation Efficiency Act of 1991 is amenmded—

(1) in paragraph (1)—

(A) by striking "$2,913,000,000 for fiscal year 1993," and inserting "$3,913,000,000 for fiscal year 1993,";

(B) by striking "$2,914,000,000 for fiscal year 1994," and inserting "$3,914,000,000 for fiscal year 1994,";

(C) by striking "$2,914,000,000 for fiscal year 1995," and inserting "$1,914,000,000 for fiscal year 1995,"; and

(D) by striking "$2,914,000,000 for fiscal year 1996," and inserting "$1,914,000,000 for fiscal year 1996,".

(2) in paragraph (2)—

(A) by striking "$3,599,000,000 for fiscal year 1993," and inserting "$5,599,000,000 for fiscal year 1993,";

(B) by striking "$3,599,000,000 for fiscal year 1994," and inserting "$5,599,000,000 for fiscal year 1994,";

(C) by striking "$3,599,000,000 for fiscal year 1995," and inserting "$1,599,000,000 for fiscal year 1995,"; and

(D) by striking "$3,600,000,000 for fiscal year 1996," and inserting "$1,600,000,000 for fiscal year 1996,".

(c) TECHNICAL CORRECTIONS.—Section 115 of title 23, United States Code, is amended—

(1) by striking the heading of subsection (a) and inserting the following new heading:

"SUBSTITUTE, CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT, SURFACE TRANSPORTATION, BRIDGE, PLANNING, AND RESEARCH PROJECTS.—"

(2) in subsection (a)—

(A) by striking clause (i) of paragraph (1)(A) and inserting the following new clause:

"(i) has obligated all funds apportioned or allocated to it under section 103(e)(4)(H), 104(b)(2), 104(b)(3), 104(f), 144, or 307 of this title, or";

(B) by striking subparagraph (A) of paragraph (2) and inserting the following new subparagraph:

"(A) prior to commencement of the project the Secretary approves the project in the same manner as the Secretary approves other projects, and"; and

(C) by striking paragraph (3);

(3) in the heading of subsection (b), by striking "PRIMARY" and inserting "NATIONAL HIGHWAY SYSTEM";

(4) in paragraph (1) of subsection (b), by striking "Federal-aid primary system" and inserting "National Highway System"; and

(5) in subsection (c), by striking "152,".

SEC. . MASS TRANSIT.

(a) TEMPORARY MATCHING FUND WAIVER.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Federal share of any qualifying construction project to be assisted under this Act shall be the percentage of the net project cost that the grantee requests, up to and including 100 percent, but not less than the applicable Federal share, as described in section 4, 9, or 18 of this Act.

(2) QUALIFYING CONSTRUCTION PROJECT DEFINED.—For the purposes of this subsection, the term "qualifying construction project" means a construction project approved by the Secretary of Transportation after the date of the enactment of this Act, or a project for which the United States becomes obligated to pay after such date of enactment, and for which the Governor of the State or other official submitting the project has certified, in accordance with regulations established by the Secretary of Transportation, that sufficient funds are not available to pay the cost of the non-Federal share of the project.

(3) APPLICABILITY.—This subsection applies to any project with respect to which the United States incurs an obligation, by way of a commitment, contingent commitment, full funding agreement, or otherwise, during the period beginning on October 1, 1991, and ending on September 30, 1993.

(b) MASS TRANSIT AUTHORIZATIONS.—Section 21 of the Federal Transit Act (49 U.S.C. App. 1617) is amended by striking subsections (a) and (b) and inserting the following new subsections:

"(a) FORMULA GRANT PROGRAMS.—

"(1) FROM THE TRUST FUND.—There shall be available from the Mass Transit Account of the Highway Trust Fund only to carry out sections 9, 11(b), 12(a), 16(b), 18, 23, and 26 of this Act, $450,000,000 for fiscal year 1992, $1,950,000,000 for fiscal year 1993, $1,990,000,000 for fiscal year 1994, $350,000,000 for fiscal year 1995, $310,000,000 for fiscal year 1996 and $1,920,000 for fiscal year 1997, to remain available until expended.

"(2) FROM GENERAL FUNDS.—In addition to the amounts specified in paragraph (1), there are authorized to be appropriated to carry out sections 9, 11(b), 12(a), 16(b), 18, 23, and 26 of this Act, and substitute transit projects under section 103(e)(4) of title 23, United States Code, $1,583,000,000 for fiscal year 1992, $2,055,000,000 for fiscal year 1993, $1,885,000,000 for fiscal year 1994, $1,925,000,000 for fiscal year 1995, $1,965,000,000 for fiscal year 1996, and $2,430,000,000 for fiscal year 1997, to remain available until expended.

"(b) SECTION 3 DISCRETIONARY AND FORMULA GRANTS.—

"(1) FROM THE TRUST FUND.—There shall be available from the Mass Transit Account of the Highway Trust Fund only to carry out section 3 of this Act, $1,450,000,000 for fiscal year 1992, $2,125,000,000 for fiscal year 1993, $2,185,000,000 for fiscal year 1994, $1,325,000,000 for fiscal year 1995, $1,265,000,000 for fiscal year 1996, and $2,880,000,000 for fiscal year 1997, to remain available until expended.

"(2) FROM GENERAL FUNDS.—In addition to the amounts specified in paragraph (1), there are authorized to be appropriated to carry out section 3 of this Act, $160,000,000 for fiscal year 1992, $305,000,000 for fiscal year 1993, $265,000,000 for fiscal year 1994, $325,000,000 for fiscal year 1995, $385,000,000 for fiscal year 1996, and $20,000,000 for fiscal year 1997, to remain available until expended.

SEC. . AUTHORIZATIONS SUBJECT TO THE AVAILABILITY OF APPROPRIATIONS.

Any amount authorized to be appropriated pursuant to this title is subject to the availability of appropriations.

Mr. BUMPERS. Mr. President, my amendment, the first-degree amendment, is a sense-of-the-Senate resolution. I had hoped that at least the sense-of-the-Senate resolution would be accepted by the floor managers, but apparently that is not to be. But here is the simple proposition.

I personally thought that President Bush missed a golden opportunity during his State of the Union Address in not doing exactly what Senator GRAHAM and Senator BOND and I are trying to do—accelerate highway construction. We are in a recession. The unemployment rate is the highest it has been since 1985. We are dealing with a bill here providing for tax credits, additional depreciation for business, and first-time home buyers, and the only thing in that bill that is calculated to put people to work right away is the amendment that would provide a $5,000 tax credit for first-time home buyers.

Here is an amendment that complies with what Dr. Reischauer said to the Budget Committee about the criteria we should use in how we stimulate the economy. He said, first of all, that it ought to be near term. We ought to be able to spend the money immediately and create jobs immediately.

No. 2, it should have a long-term effect, especially on our infrastructure.

And then he said highway construction meets both tests. How many times have you heard it said in this body in the last 30 to 60 days that for every $1 billion we spend on highways, you get somewhere between 50,000 and 60,000 jobs? I dare anybody in this body to tell me another single dollar that you can spend where you create more jobs with that dollar than you do with highway construction and repair.

These figures, obviously, could vary. But, essentially, for every $1 billion you spend on highway construction, you generate 52,000 jobs throughout the community, not just on highways, but equipment manufacturers, engineers, and a wide range of trades.

If you just do highway repairs, which we really could start immediately, you create thousands of jobs. Mr. President, compare that with $1 billion spent buying weapons in the Defense Department: 30,000 jobs. In short, there are between 20,000 and 30,000 more jobs per $1 billion spent on highways than on weapons. I am not making the argument pro or con about the necessity of purchasing weapons. I am simply drawing the comparison to say that this is the fastest, most efficient way to get people employed.

There are an awful lot of projects in this country that are ready to go right now, and an awful lot of them are sitting waiting for Federal money. There is over $11 billion in the highway trust fund right now. I can tell you, I have talked to my highway department, and Senator GRAHAM and Senator BOND have talked to theirs, and I promise you, every highway director in the country will tell you: Free up some of this money, and I promise you that we will create the jobs.

Why would anybody vote against my sense-of-Senate resolution? It only seeks to create jobs with trust fund money that cannot be spent for anything else. I am going to support Senator GRAHAM'S amendment and Senator BOND's amendment, which makes this mandatory. My sense-of-the-Senate resolution says that the Federal Highway Administration ought to spend an extra $5 billion in 1992 and an extra $5 billion in 1993. The Graham-Bond amendment provides for a $3 billion increase in fiscal year 1993 and fiscal year 1994, and it makes it mandatory to spend this money.

Maybe this is more realistic, but mine is not binding. It would simply urge them to spend up to $5 billion in each of the next 2 years.

Mr. President, here is another problem. I hate the word "infrastructure." When I first became Governor, staff members started talking to me about infrastructure. It was always offensive. I still hate it. But highways, which make up a part of this country's infrastructure, are what make things go in this country.

The point is that more than 576,000 bridges in this country—39 percent of those bridges—are functionally and structurally not capable of meeting the demand for which they were built. In my home State of Arkansas, 37 percent of our bridges are deficient, slightly below the national statistic of 39 percent. Functionally obsolete bridges are incapable of performing the way they are supposed to means they simply cannot handle the traffic demand. And 91,000 bridges fit into the category of functionally obsolete.

In 1989, 265,000 miles of our highways were below engineering standards for cost-effective travel; coupled with 3 billion man hours a year lost due to congestion. You calculate that, Mr. President. If that is $5 an hour, and it would certainly be a lot more, you are talking about $15 billion lost just due to congestion because we have not invested wisely in our nation's roads; 41.8 percent of the rural interstates—think of that; almost half of the rural interstates—42.6 percent of the urban interstates, almost half of all of the interstate highways in this country, are rated by the Federal Highway Administration as in either fair or poor condition.

After the 1991 highway reauthorization bill, we patted ourselves on the back and went out and said that we appropriated or authorized $151 billion in infrastructure spending over the next 6 years, although only $120 billion of that is for highways and the balance is for mass transit. But the Highway Administration says: We need $75 billion a year through the year 2009, just to eliminate all pavement and highway performance deficiencies. So we are only falling $55 billion short for the next 17 years in bringing our highways and bridges in this country up to satisfactory condition to eliminate the problems I have just discussed.

So, Mr. President, consider the man-hours we are wasting and how that translates into money that is lost forever because of congestion. Consider the cost to the country in trauma and misery and suffering and loss of revenues to the U.S. Treasury, because we are sitting on something called a highway trust fund and refusing to spend it. The argument is going to be made—I anticipate this right now—that if you put another $3 billion to $5 billion out there each year for the next 2 years, the price of the highway construction is going to go up, because it is more than the contractors can afford to handle.

Mr. President, when you consider the fact that the construction industry in this country has been on its hunkers now for 2 years, and tell me that they cannot handle an additional $3 to $5 billion a year in highway construction, that is absurd. Of course, they can handle it, and they can handle it on a competitive basis.

The argument, theoretically, makes sense. As a practical matter, it makes no sense. You either want to improve the highways and create jobs, or you do not.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. EXON. Mr. President, will the Senator yield me 2 minutes?

Mr. MOYNIHAN. I yield 2 minutes to the Senator from Nebraska.

Mr. EXON. Mr. President, I thank my friend from New York and the Presiding Officer.

I intend to support the sense-of-the-Senate resolution offered by my friend from Arkansas. I think that is a worthy endeavor. I said when this whole process started out I would be voting against the amendments here regardless of how worthy those amendments were and, therefore, while I am very sympathetic to the amendment that I understand is to be offered by my friend and colleague from Florida, my friend and colleague from Florida and this Senator, among others are still on this floor, because we felt we were not fairly treated with regard to the highway bill. So, under different circumstances, I would be supporting the amendment offered by the Senator from Florida.

I only say once again, as I have said three or four times during this debate, the key issue here is to act on this tax bill and not have it burdened down with amendments, even worthy amendments. The March 20 date is approaching very rapidly. I do not see how, even if we finish the bill now, we are likely to have a successful conference with the House and then have that conference back and reported favorably out of both the House and the Senate to meet the deadline imposed by the President.

I simply say, Mr. President, that I will be voting against amendments regardless of their worthiness. There is another place and another time for all of these amendments without holding up this very important measure that I think is essential that we get reported and laid on the President's desk by the deadline of March 20 that he gave us.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. EXON). The Chair recognizes the Senator from Florida.

Mr. GRAHAM. Mr. President, I have offered a second-degree amendment to the sense-of-the-Senate proposal of the Senator from Arkansas. I would first like to briefly describe the second-degree amendment and then to give some editorial endorsement for it.

The amendment would do the following: One, it would accelerate the ability of our appropriators to provide additional funding for highways and mass transit in fiscal years 1993 and 1994. It would do so—and I am using this chart to illustrate the highway component. Currently, in 1995 we are proposing an $18.5 billion obligation ceiling on highways, and in 1996 a $19.2 billion obligation ceiling on highways. What I am proposing to do is to take $3 billion from each of these years and move it forward to fiscal year 1993 and fiscal year 1994, as you can see, using the current red bars, which are the obligation ceilings that are in the 1992 Surface Transportation Act. That act is backloaded; that is, it proposes that we spend more transportation money both for public transit and highways during the last 3 years of the 6-year cycle than in the first 3 years. I am proposing that we adjust that by creating a greater capacity to build highways, repair highways, move forward with our public transit system in years 1993 and 1994.

The decision as to whether to use this authority is left with the Appropriations Committee. It will have its continuing responsibility to decide whether to take advantage of the opportunity that we are going to make available.

Beyond this, we are doing some other substantive things. For reasons that I think were largely reasons of oversight, an important provision which has been in the highway bill for the last decade or more called advance construction or accelerated construction was deleted from the 1991 Surface Transportation Act. What did that provision allow? That provision allowed a State that had a project that was eligible for Federal funding but which did not have, at that point, the Federal funds in the specific fiscal year to support that project, to commence construction with its own dollars, 100 percent State-funded, and then, when it reached the fiscal year in which there was Federal capacity available, it could be reimbursed up to its appropriate Federal share. It does not add any additional money to the Federal program, does not add any money to any individual State's obligation, but it does allow a State to start earlier to get the projects underway. That is particularly important in the structure of this amendment, because I am not proposing to add any money to fiscal year 1992, in part in order to avoid a budget point of order. But what I hope is that States, seeing the capacity that is going to be available in 1993 and 1994, would begin to move this year to take advantage of that by using the reinstated accelerated construction procedures.

Also, the Federal Urban Mass Transit Authority has asked for some clarification as to whether a provision in the 1991 Surface Transportation Act related to the temporary waiver of matching fund was intended to apply to public transit as well as highways. This would clarify it. That is the case, again, to facilitate a State's ability to start as rapidly as possible with public transit projects.

Mr. President, the goal of this program is to be able to create as many jobs as possible as quickly as possible in an area of activity that is fundamental to America's long-term economic competitiveness. If this program were to be adopted, at the multiplier of 35,000 to 60,000 jobs created by every billion dollars of expenditure in transportation, we would have the potential of creating 250,000 additional jobs in 1993 and again in 1994 beyond those which would currently be available.

Mr. President, that is a brief summary of what the second-degree amendment is.

Now, what are some of the reasons for this? First, infrastructure is a fundamental part of any nation's sustained economic growth. I will be referring to it later in the debate, but I bring to the attention of the Senate the report by the Competitiveness Policy Council that was published on March 1, 1989, entitled "Building a Competitive America." On page 2, there is a chart which indicates that investment in infrastructure by America reached a peak of approximately 2.1 percent of gross national product in the late 1950's, has been declining since then, and over most of the decade of the eighties has been in the range of 1.25 as a percent of gross national product. We have been reducing significantly our Nation's investment in infrastructure, and that has been one of the key reasons that we have seen a gradual reduction in our productivity.

Second, transportation has been consistently underfunded during the last decade, and the 1991 Surface Transportation Act will continue that underfunding. The level of funding in the current Surface Transportation Act will assure us that we will have worse roads, worse public transit systems in 1997 than we have today. We need to reverse that pattern of disinvestment.

Third, transportation expenditures, as the Senator from Arkansas has indicated, are quick-starting, they are labor-intensive, they are one of the best generators per dollar invested of a job created quickly. That is what I think we are largely about today, to be able to tell the American people that we have made some constructive contribution to the alleviation of this recession. I believe this is one of the most powerful ways that we can do so.

Next, there is a statement made that, as a result of the 1991 Transportation Act, we have been accelerating the amount of transportation spending. Transportation spending is a partnership of the Federal Government and the States. So to answer the question, Are we increasing our national effort, standing still, or going backwards, you have to look at the combination of the two.

As the Senator from New York pointed out in his debate last year on the Surface Transportation Act, one of the inhibitants in this whole area is that we do not have very good data. But I have gotten data from five States as to what their relative Federal and expected State expenditures are going to be.

And just to use, as illustrative, Arizona, the red bar being the State's bar, as you can see it is in a sharp decline. Substantially more than the modest increase in Federal funds. And so Arizona, for one State, is scheduled to spend significantly less money in 1992 and 1993 than it spent in 1990 and 1991 on transportation.

That is a pattern that you will see across the States, and the reason is because the States have been hammered with this recession that has affected their transportation funds and their ability to construct transportation.

So one of the arguments for this proposal is it will help redress some of the problems which the States are facing in their own ability to finance transportation.

Mr. President, anticipating an issue that is going to be raised—that is can this money be spent, is there the ability of the States, within the constraints in which they are operating, to match this additional $3 billion in 1993, $3 billion in 1994 for highways, and $1.2 billion in each of the years for public transit—Senator LAUTENBERG held a hearing of his appropriations subcommittee recently on that very issue. Let me report some of the testimony that was given there.

The question was: Can State and local agencies spend the money? Are projects ready to go? The answer to both is yes. Organizations representing highway transit and aviation sectors have testified to the ability of the State and local Governments to spend the money wisely and quickly and on projects that are labor intensive.

The American Association of State Highway Transportation Officials [AASHTO] reported the results of the Survey on Fiscal Year 1992 Obligation Authority Usage and Capability to Utilize Additional Fiscal Year 1992 Federal Funds. Forty-seven States were surveyed. The States indicated that they can spend an additional $3 billion this year in fiscal year 1992, representing 1,100 additional highway and bridge projects. These projects are on the shelf, ready to be built.

The American Public Transit Association argued that the transit agencies need and could quickly spend the additional $1.2 billion called for in this startup amendment and that would support 64,000 additional jobs.

Mr. President, I believe that we are going to be tested not on process but on performance. The question the American people ought to be asking the Congress and the President is, what have you done to contribute to getting us out of this recession without adversely affecting our opportunity to be competitive over the long run?

Mr. President, the Competitiveness Council that I cited earlier, in answer to the question, what should be the framework for action, contained this statement:

> The council believes that the right strategy for the Nation's competitiveness, and in this period of economic recession, the council believes that the right strategy is devise a program to depress the underlying weaknesses in the economy in ways that could promote short-term recovery. For example, an acceleration of Government spending on needed infrastructure projects would have desirable effects both immediately and over time.

Mr. President, I come from a State where you can build highways 12 months out the year. I have a sense of urgency to get on with it because we also have 9 percent of our people unemployed, some of whom would be benefited if we could accelerate these important transportation projects.

There are other Members in this body who come from States that do not have the kind of opportunity and, therefore, I believe are even under a greater sense of urgency to make the decision that we are going to accelerate these important constructions, do it now, get people to work as rapidly as possible so that we can make this contribution towards the alleviation of the recession.

Mr. President, I yield the remaining time to my colleague from Missouri, Senator BOND.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. BOND. I thank the Chair and I thank my friend from Florida.

I am pleased to be a cosponsor of the Graham amendment. To me, it takes exactly the right approach to help our economy and our long-term investment problems.

In my State of Missouri, highways are our lifeline. Missouri's economy rides on its highways. As my good friend the Senator from Florida has explained, this amendment would accelerate spending over the next 2 years for highways and mass transit by $8.4 billion. We would amend the obligation ceiling levels set by last year's surface transportation bill. Highway program funding would be increased by $3 billion for fiscal years 1993 and fiscal years 1994; mass transit funding would be increased for each of those years by $1.2 billion. We would pay for these increases by reducing fiscal years 1995 and 1996 levels by equal amounts.

Mr. President, there are several compelling reasons Senators should support our amendment. There is a crying need for this country to increase its long term economic investment. Our economy is now paying the price for our reliance on the short term, quick fix which gets us over today's crisis, only to make tomorrow's so much worse. Like Aesop's famous fable, we are paying the price of acting like the grasshopper instead of the ant.

(Mr. GRAHAM assumed the chair.)

Mr. BOND. As was pointed out earlier by the Senator from Arkansas, the fact that we have had an economic downturn means that there are people needing work and ready to go to work, and we can get the best return for our dollars by moving now.

A key component of long term investment is infrastructure—roads, bridges, airports, mass transit, rail. An economy simply cannot function without a well-maintained and interconnected transportation infrastructure—it is the oil which keeps all parts of our economic system running smoothly. Our backlog of infrastructure projects, both new and old, is in the tens, even hundreds of billions of dollars. We are seeing the direct effects of this disinvestment as businesses and jobs leave or cannot be attracted to both our rural and urban areas because inadequate roads prevent them from expanding or relocating.

Mr. President, I have spent most of my public service working on economic development and jobs. We have pressing needs in rural areas of our States where employment opportunities no longer exist. We are trying to bring jobs into these communities to stabilize our economy and the social structure of our State.

But I will tell you one thing, in talking to the economic development specialists today, they will not consider a town that does not have a four-lane highway. Without four lanes, you just do not get the jobs, and you see a further deterioration of our rural communities. We are trying to address this problem in Missouri by making construction of four-lane highways to all communities with more than a thousand people a top priority.

Our amendment would help this severe problem by providing more Federal dollars on an accelerated basis.

A second important reason to support our amendment is job creation. As the occupant of the Chair stated earlier, it is estimated that this increased spending would result in 460,000 new jobs. Our economy needs these jobs now not later—and the infrastructure improvements they will create. This is money invested to ensure our country's economic growth for the future, not money wasted on the whims or fads of the present.

Finally, Mr. President, our States need this additional money because they are being shortchanged by a terrible mistake contained in the highway and mass transit bill. The legislation provides almost $500 million in funding for a new courthouse in New York. Now, I am not opposed to new courthouses. I think they are important. However, I am opposed to paying for one at the expense of urgently needed highway funding for all 50 States. My understanding is that money for this courthouse has reduced each State's fiscal year 1992 funding by 5 percent—a substantial amount. My own State of Missouri will lose $18 million. I think this is terrible oversight which must be remedied as quickly as possible—it has now been almost 4 months since the bill was signed into law. This amendment can provide additional funds to help make up the shortfall while we wait for corrective action on the courthouse funding.

There has been a question raised as to whether States would be able to afford to go forward, would they be able to match these moneys? As has been pointed out, since this starts in 1993, many States, States with the greatest need, my State and other States, would clearly be able to.

There is also a provision in this measure which provides for the advance funding which is vitally important to get these projects moving when they are vitally needed.

The choice is clear. We can choose between creating jobs and investing in our infrastructure—roads, highways, mass transit—we can do it now or we can stand by and wait for 2, 3, 4 years to begin work on many of these projects.

With the issue so clear, Missourians who cannot find construction work in my State will not understand if this amendment fails. And I suggest residents in other States may face that same concern.

I strongly urge my colleagues to support this amendment. Mr. President, I reserve the remainder of our time.

The PRESIDING OFFICER. Who yields time? The Senator from New York.

Mr. MOYNIHAN. Mr. President, I yield such time to my colleague, friend, collaborator, the Senator from Idaho, as he may require.

The PRESIDING OFFICER. The Senator from Idaho [Mr. SYMMS].

Mr. SYMMS. I thank the distinguished Presiding Officer, and I thank my distinguished chairman of the Transportation and Infrastructure Subcommittee.

Mr. President, when the distinguished Senator from Florida mentioned this to me last night, on the surface it sounded like, well, that is not too serious a problem. It does not violate the Budget Act. It really does not upset anything. But on reflection over the evening—and I thought through what this does for us in looking at the charts over there, basically what we are talking about doing is ramping up spending for 2 years—we will ramp up spending for 2 years, then we will have to reduce the spending in the future 4 years from now.

So, it will put an increased pressure on hiring people, on ramping up.

It is true we might spend more money under this amendment, but whether we get more roads or good, sound, even-flow price for construction of these roads through the bidding process is another matter.

I know I do not need to tell the distinguished occupant of the chair, as a former Governor of his State, what happens with the construction infrastructure. I am talking about the private sector side, the construction companies themselves. They simply cannot absorb all this money.

I want to give some numbers here. In fiscal year 1991, we authorized $14.1 billion, the year we just came out of. The Appropriations Committee added an additional $2 billion in spending authority.

In fiscal year 1992, under the new transportation bill, we authorized $18.7 billion, a $3 billion increase in the first year. And our bill adds another $2 billion for fiscal year 1993.

That is a dramatic increase in spending. It is dramatic. It is a one-third increase in spending. What I am hearing in my office is that the States are having a difficult time raising the needed revenue to make the match. I think we should not overlook that.

CBO revenue estimates add another dimension, when looking at this amendment. Using the new revenue estimates based on lower fuel tax revenues, we could trigger the Byrd amendment which would require automatic reductions in highway spending sometime in 1995 if we authorize higher spending in 1993 and 1994. In my view that would not be a help to the overall program.

I would just say I have the greatest respect for my colleagues who have offered this amendment. I know their hearts are in the right place. They want to help get the roads built. They want to put people back to work. But I think overall, what we have done in our transportation bill is provide for an even-flow ramping up in the private sector construction industry, allowing the industry to make good bids so we get more highways per dollar.

This transportation bill is just that. It is a transportation bill. Oftentimes we call these things jobs bills in the political terminology. But in the sense of the economy of the country we are taking money from one part of the economy and putting it in transportation.

So it is true people work in the construction industry to build highways. But they probably would be working in some other industry if we were not taking capital out of the economy through fuel taxes and funneling that capital into transportation.

We have a good, sound program. It gradually increases the spending. This amendment—though I know its authors have the noblest of intentions—would only increase spending in the short term, cause a big pressure to spend this money whether it was as efficiently spent, as uniformly spent, as wise a use of these dollars as we provide in current law—and then turn right around to ramp back down, hit the Byrd amendment and have layoffs in the construction industry because of the slowdown of the dollars. This on-again, off-again spending is in my view just not a sensible way to do it.

I think that is all I have to say, Mr. President, and I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, my distinguished friend states that he has said all he has to say. I would like to suggest that that is all there is to be said. He has made it very clear. The Congress has just passed epic legislation in the field of transportation—the first new transportation legislation in a generation.

Slowly, this is being understood. Slowly we are saying this money is not to be consumed as if it were a free good, the only object of which is to get the benefit of the consumption. This money is an investment, meant to pay off. It is meant to take a sector, transportation, where productivity has been growing since 1979, according to the Council of Economic Advisers, at the rate of 0.2 percent per year. That is a medieval rate. It takes 350 years to double. That is what this bill will try to put an end to.

I was pleased to read in this morning's New York Times a front-page story about New Jersey, New York, and Connecticut, focused on New Jersey. The headline was, "New York Region Concludes: Don't Expand Transit; Fix It." It says:

> The theme of this effort is that the region's networks of roads, railroads, bridges and tunnels is essentially complete. The challenge to transportation planners in New York, New Jersey, and Connecticut is no longer what it has been for the last 200 years, building new routes across an ever-expanding megalopolis. Now, officials in Albany, Trenton, and Hartford say, the task is to build more efficiency into what already exists.

This is our theme: Efficiency, efficiency, efficiency.

Mr. Thomas Downs, the Transportation Commissioner in New Jersey said:

> We can no longer build our way out of traffic congestion. We must instead repair, modernize and better manage our existing system.

I would like, Mr. President, to read from the original text of our bill which begins with a statement of principles, in which it says that the enormous waste and delays associated with the Interstate Highway Program would be no more; that we were out to produce efficiency and productivity and cost accountability. And that is what we did. Not by spending less money. We are spending more. The specific declaration of policy, section 2 of the bill, says:

> The National Intermodal Transportation System—commonly known as NITS—must be operated and maintained with insistent attention to the concepts of innovation, competition, energy efficiency, productivity, growth and accountability.
>
> Practices that resulted in the lengthy and overly costly construction of the Interstate Defense and Highway System must be confronted and ceased.

You do not get language like that in our legislation often. That is a bill that came out of this Congress, the Senate, with only 8 votes in opposition: nearly unanimous, with that kind of language.

Our bill did not lower spending. To the contrary, it increased it greatly. And it directed spending in a different direction. Last year, fiscal 1991, the authorization for the Federal program of title I of the Transportation Act came to $13.5 billion. For fiscal 1993, we have authorized $20.5 billion, half again as much.

No, Mr. President, there is a problem which is that although the President in his State of the Union Message spoke glowingly of the Intermodal Surface Transportation Efficiency Act, the very next day his budget cut $3.6 billion from it. If there was someone who wanted to come to this floor and say we have a sense of the Senate that the moneys in the trust fund for the next fiscal year for this program, for transportation, should be fully provided, I would welcome that. But here we are with a budget that has $3.6 billion less than we have authorized, and we are going through the fantasy of acting like we can get more.

I can only hope, Mr. President, that there are not too many citizens watching us on C-SPAN today. Here we are with funny money making meaningless gestures or to the degree they have any meaning, they are ominous.

If this bill were to pass, I would certainly not want to be one of the class 2 Senators who in fiscal 1996 will find there is no money, that their State transportation programs are closing down because we spent the money earlier. And if we spend it earlier, we will spend it badly. Mr. President, you do not throw money at highways and transit unless you want to waste it. That is what we said in our statement of principle: Stop it; get some productivity out of it.

I would say, Mr. President, that, yes, there are some regions in the country where the Sun shines most of the year and they can build most of the year, and that is fine. But there are no grounds for them diverting moneys from parts of the country where it snows. In the end, this will be the result.

If we should put this amendment on this bill, and I hope we will not, we will very happily add to our conference on this bill the Committee on Environment and Public Works—Senator SYMMS, myself, and our beloved chairman, Mr. BURDICK—and the Banking Committees as well. We will be a conference of 90 before we are through. And this is supposed to be done by March 20.

Mr. SYMMS. Mr. President, I ask the distinguished chairman just to yield to me for a point.

Mr. MOYNIHAN. I will be happy to yield whatever time he desires.

Mr. SYMMS. I misspoke earlier and I want to correct it. I said this amendment would trigger the Byrd amendment. The CBO estimates, because of the slowdown of the economy and reduction in fuel taxes accruing to the trust fund, indicate the Byrd amendment will be triggered in 1995 under the current outlays. If this passes, it will be triggered in 1994.

Mr. MOYNIHAN. The Byrd amendment—if I may say so for clarifying purposes—refers to Senator Harry Byrd, our former esteemed colleague on the Finance Committee. Will the Senator agree that the Byrd amendment cutting back outlays automatically would come into effect just in time for the next downturn in the business cycle?

Mr. SYMMS. Probably so.

Mr. MOYNIHAN. Just in time to take a slight dip and make it a real plunge. Please, do not do this. We passed a bill we can be proud of.

Mr. President, I ask unanimous consent to print some of the statements about this legislation in the CONGRESSIONAL RECORD. These are from the Washington Times, a very fine, fascinating article by a former member of the Reagan administration, Donald Devine, entitled "On the Road to Efficiency"; a long editorial in the Wall Street Journal which had been rather disparaging of this bill thinking nothing would come of it, and then we passed it and to Senator SYMMS' and my considerable gratification, the Wall Street Journal said, wow, they are serious; they are talking cost efficiency; they are talking productivity; they are talking accountability.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Times, Feb. 10, 1992]

ON THE ROAD TO EFFICIENCY

(By Donald Devine)

Wonderful irony: Woodrow Wilson's quiet revolution in American politics may be ending at the Woodrow Wilson Bridge. For Wilson is the father of federal-government planning in America, and his philosophy is running out of steam over the inability of his powerful national government to build a modern, upgraded bridge.

The counterrevolution is being led by an unlikely hero. Sen. Daniel Patrick Moynihan has always been the most interesting Democrat in Congress, and now he is the most courageous. He has faced the most important public policy dilemma now before those honest and serious enough to recognize it—that there is not enough federal money (even in the most solvent trust funds) to finance essential projects, much less all the good things for which people might wish.

Mr. Moynihan stared at the unsettling fact that there are 250,000 unsafe bridges (and who knows how many roads) in the United States, and that even the Highway Trust Fund cannot support their repair. For members of Congress know they can cut ribbons for new roads but local officials or bureaucrats will get the blame for collapsing bridges needing repair.

In one of those rare acts of legislative responsibility, Mr. Moynihan insisted that the 1991 Highway reauthorization bill seriously address the problem. He first removed the U.S. prohibition for tolls being collected on bridges or roads built with its funds; and, second, allowed private firms into the highway business.

The former allows the local officials who will get the blame to protect themselves by obtaining a reliable source of funding for necessary repairs. The latter provides a means for the states to leverage their funds by lending up to 85 percent to private firms to build and manage toll roads that would eventually pay the bonds for roads that would revert to the state.

For the first time, states would be allowed to lend federal funds to private companies to build or repair roads or bridges by charging fees for their operation. As the accompanying table shows, by lending states can highly leverage their funds. At a $85 billion federal and $15 billion state expenditure, the value of roads built can be increased from $100 billion to $185 billion because they can reinvest the funds repaid from the private managers.

While market purists may object to government funds at all, this first step in radically reforming this long-time government monopoly business gets a private nose into the state's tent for a change.

Private operation of toll highways at the state level is already a reality. Former Reagan administration official, Ralph Stanley's granddaddy private tollway in Northern Virginia is on schedule. Not only will a necessary road be built and revert to the state, but it will be more user-friendly. Good old private initiative will remove the toll barrier for regular users, utilizing a decal on the car window that will automatically charge customers (no longer called commuters) for their trips.

Private revolutions are taking place all over the transportation business. Communities are demanding they be allowed to build new airports, and airlines are requesting authority to create a market by trading landing rights—so air travel can really be privatized.

Even the stodgy railroad business is having second thoughts about bigger-is-better. Burlington Northern Railroad is selling unprofitable branch lines to small businesses that are making profits. Local communities, too, are running commuter operations more efficiently than earlier federally supported operations. Somehow, the little guy can make it where the mammoth corporation utilizing government regulatory protection cannot.

And hold your hats for this. The American Trucking Association is making noises to buy all of the state toll highways in the East for itself. Sick of paying ever-higher taxes with no control over operations, ATA President Thomas Donohue said about his idea: "If we pay for the roads, we might as well own them."

Mr. Moynihan pronounced the 1992 Surface Transportation Bill as the beginning of the "post-Interstate era." More accurately, it is the end of the idea that big government can plan big projects. Highways and mass transit, two of the first sectors with massive government regulation, are the first to begin the long road back to the states, communities and private ownership. Being so vital to commerce, transportation is one of the first to feel the pull of decentralizing market forces away from government bureaucracy.

Perhaps the most interesting thing about this new era is that it was launched quietly. Moynihan snuck his provision into the bill at the last moment so that it survived congressional and Office of Management and Budget vetting. Even after the bill was passed, these two centers of obstruction did not know what it contained.

If the normal sentinels of the legislative process had been alert, there probably would have been no surface transportation revolution. Congress seems to act best when it does not know what it is doing. In this case, it literally ended the idea of a national government transportation policy, and no one knew until now.

The ultimate put-down to libertarian-conservatives used to be: "What do you want to do, sell the roads?" As a long-time sufferer on the Woodrow Wilson Bridge each morning, I can now say without hesitation, "Yes."

[From the Wall Street Journal, Dec. 17, 1991]

A PRIVATE JOBS BILL

President Bush has the opportunity to reshape America's transportation policy when he signs a $151 billion, six-year highway and mass-transit bill in Dallas tomorrow. Members of Congress were so busy using the bill to drag some pork back home that they barely noticed that it also included dramatic incentives to involve the private sector in rebuilding America's infrastructure.

The bill makes it federal policy to encourage private-sector financing of transit projects. For the first time since federal aid to highways began in 1916, states will be allowed to put tolls on existing and new federally funded bridges, tunnels and roads (other than interstates). The bill also allows all such facilities to be privately built and owned if a local public authority agrees. Private investors can qualify for federal matching grants for up to 50% of the cost of new roads or to rehabilitate bridges, roads and tunnels. Up to 80% federal participation will be allowed in building new private bridges or tunnels. In addition, toll revenue from the projects will count toward the required local share of transportation projects.

If properly implemented, the bill will have far-reaching effects. Carl Williams, the assistant director of California's transportation agency, says the law allows "states to lend federal bucks to private entities to build transportation facilities. If the states want to do this, it will blow the door off this industry." John P. Giraudo, a former general counsel to the President's Commission on Privatization, says the new law will "encourage many states to explore selling their bridges, roads and tunnels as well as encourage them to invite private-sector financing."

The nation badly needs such investment. When government at all levels began neglecting basic responsibilities in the 1960s in favor of new welfare and health programs, the nation's infrastructure suffered. Factoring in depreciation, the rate of nonmilitary investment in public works in the 1980s was only half that of the 1970s and just one-fourth that of the 1960s.

At this point, many state and local governments know they'll never get enough money out of the tax base to fix what's broken or add what's needed. They very much need private capital and innovative solutions. Traffic congestion, for example, might be eased with the off-peak pricing that a toll road allows. Even before this transportation bill passed, many states had already started experimenting with privatization.

Last year California contracted with four private companies to build $2.5 billion in new toll roads. Ground breaking for a 14-mile, private toll road near Dulles Airport in Virginia is set for the spring. Trucking associations are actively exploring the idea of purchasing and operating the New York State Thruway and the Massachusetts Turnpike. New technologies will let drivers use both new and old toll roads without stopping and pulling change out of their pickets. In Texas, bar-coded transit passes allow motorists to drive through toll gates at up to 45 mph.

So how did such a good idea get through Congress? Once the Members had stuffed 472 pork-barrel projects into the bill, many lost interest in its details. Democratic Senator Daniel Patrick Moynihan of New York then took the opportunity to insert a role for the private sector, which would allow states to leverage their federal grants into building additional projects, an idea that made both economic and political sense.

Sam Skinner, the former Transportation Secretary who is now George Bush's Chief of Staff, deserves credit for anticipating the role the private sector could play in rebuilding America. In February, he hoped the transportation bill would "embrace the private sector as a full partner of the public sector and as a for-profit player. We are saying to the investment community, come on in. There's money to be made in transportation."

But the private sector will participate only if the Bush administration clears away the roadblocks to private involvement. Highway bureaucrats are going to resist; some are already vowing to micromanage any private-public partnerships out of existence. Regional planning organizations are notoriously hostile to private-sector involvement.

We certainly hope that the Bush administration gives this initiative the push it deserves. The President has been touting the transportation bill as a jobs program, but it'd be nice to think that something more innovative was possible than just pouring concrete into pork-barrel projects. And certainly Senator Moynihan deserves credit for having the imagination to embrace a financing strategy that his own state needs desperately. The road to better infrastructure through private financing and management now exists on paper. The job now is for the political leadership to, well, lead.

LEVERAGING FEDERAL HIGHWAY FUNDS USING PRIVATE TOLL ROADS

[Before and after the 1991 highway reauthorization bill; in billions of dollars]

	Before	After
Federal funds	85	85
Direct Federal and State spending	100	15
State lending/private to repay	0	85
State reinvest private repaid funds	0	85
Total value of state roads	100	185

Note: Example uses conservative assumptions for the new bill; e.g., reinvested funds are not counted and interest payments are excluded, both of which could increase the funds states could reinvest in roads and bridges.

Mr. MOYNIHAN. That is not this. This is throwing money at it; create jobs and that is the end. We have doubled, we have increased by about half the spending here. The administration wants to go back to where we were. We want to stay where we are. This fantasy of more—if it is no more than a fantasy there is no harm, but should it ever become law, we will rush to spend money in the Sun Belt and that just bids prices up. And then under the Byrd amendment, under our rules, under the trust fund reality, spending will go down about 3 years from now just when you need it.

That, Mr. President, is not transportation planning. That is not the spirit of the ISTEA. If I could make this point, the Intermodal Surface Transportation Efficiency Act comes out as ISTEA and is being called "ice tea."

Let us leave well enough alone. Let us not disturb a job well done. Let us ask the administration to put the full funding in this coming fiscal year, in the budget we are now putting together, for the program. Let us not delude ourselves that we can get more than that. It is already the biggest public works program in history. Can we not let well enough alone and not pretend that we did not even know what we did?

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. EXON). Who yields time?

Mr. MOYNIHAN. I further apologize for the case of laryngitis and the flu which I hope will go away now that the daffodils have arrived.

The PRESIDING OFFICER. Who yields time?

Mr. GRAHAM. Mr. President, how much time is remaining to our side?

The PRESIDING OFFICER. The Senator from Florida is advised that the proponents of the measure have 2 minutes 11 seconds; the opponents have 10 minutes. The Chair will simply advise those managers of the time that there is no rule, requirement or mandate that all of the time be used and you would not be penalized if you chose to yield back time.

Mr. GRAHAM. I would like to preserve our time to conclude on our second degree and first-degree amendments. So we will defer until those who are in opposition have had an opportunity to make a statement.

The PRESIDING OFFICER. If no Senator yields time, the clock will equally run on each side.

Mr. BUMPERS. I wonder if the Senator from New York is prepared to yield back his time? We have 2 minutes left. The Senator from Florida wanted 1 minute and I wanted 1 minute.

The PRESIDING OFFICER. One minute 40 seconds remains.

Mr. GRAHAM. Mr. President, just briefly to respond to some of the objections that have been made, first, what are we about? Here is what the President of the United States said when he signed this bill:

> This bill keeps America on the move and helps the economy in the process but really it can be summed up in three words: Jobs, jobs, jobs.

That is how the President of the United States described this bill. That is what this amendment is intended to do, is create jobs, jobs, jobs when they are most needed.

Second, will this increase the cost of highway and transit construction? The fact is we are going to spend less on highways and transit this year as a result of the 1991 act and the recession that has racked our States than we spent in the last 2 years. This modest increase would help us having to discharge people who are currently employed in construction.

Third, there is no interstate competition here. No State gets a dime more than it would have otherwise received. We use the same formulas that are in the 1991 transportation act. All we are doing is trying to use the money more efficiently when we need the jobs desperately to help us get out of this recession.

I yield the remainder of my time to the Senator from Arkansas.

The PRESIDING OFFICER. All the time has expired for the proposers of the amendment.

Mr. MOYNIHAN. Mr. President, I yield a minute to the Senator from Arkansas.

Mr. BUMPERS. I thank my distinguished friend from New York.

Mr. President, I have a slight disagreement with my friend from New York. I wish everybody in America was watching C-SPAN and watching this debate. We have been on this bill most of this week, and in my opinion, we will be on it most of next week. We have told the American people we are going to use this bill to jump-start the economy and get us out of this recession.

Senator GRAHAM'S second-degree amendment is a simple opportunity to use $3 billion a year to create 400,000 jobs, the fastest way possible. This is money that cannot be spent for any other purpose except highways, and it will create 400,000 jobs. If we cannot approve this small amount compared to the $60 billion to $80 billion, we will spend in this bill that is not likely to generate many more jobs, then we are not serious about creating jobs.

Mr. President, I yield the floor.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I cannot let that pass. I have to say to my friend from Arkansas I do not suppose anyone was as disappointed as I was after hearing the President's State of the Union Message praising this legislation, and then finding the next morning when his budget arrived, that he had taken $3.6 billion of the authorized level for fiscal 1993. If it was such a good bill, why did he not request the money?

Now, had the Senator said let us spend all the money authorized and appropriated—our pattern is to provide contract authority, which is in effect to appropriate the money—I would have said, of course, I completely agree. But it is fantasy in the face of a $3.6 billion cut from the administration to say let us add $3 billion more. More to what? More to less? That is not going to happen. It is disappointing that the very able Senator from Florida spent so much time on the floor opposing the bill and now comes to us and asks to spend more money on it.

This was never an emergency program. We said we are changing transportation policy in our country. It will take years to turn around. We are going to see the effect. We put more money in, with very strict rules. We talked about productivity, performance, about getting more out of what you have. And here we are, back at it. This is why we are derided. This is why we have television programs such as we had on the MacNeill-Lehrer News Hour, in which this legislation was derided as pork.

It was not pork at all. It was the most serious transportation legislation in a generation and has been so acknowledged. It is not throw money at a subject. It is build infrastructure, invest.

My able friend, the former Governor of Missouri, spoke of our need to avoid the short-term quick fix. That is exactly what this is, the short-term quick fix. We have said stop that. The policy statement says—I will read it:

> The practices that resulted in the lengthy and overcostly construction of the interstate and defense highway system must be confronted and ceased.

That is to be put on every wall in every office at the Department of Transportation. It is to be given, handed, to every member of that department. It says:

I wish we could give it to each Member of the Senate.

Mr. BOND. Mr. President, will the distinguished Senator yield for a question?

The PRESIDING OFFICER. Does the Senator yield for a question?

Mr. MOYNIHAN. How much time have we?

The PRESIDING OFFICER. Four minutes twenty-seven seconds.

Mr. MOYNIHAN. Of course. I will be happy to yield.

Mr. BOND. Mr. President, I ask the distinguished chairman of the Environment and Public Works Committee if he has surveyed the State highway and transportation departments to find out whether they could use these funds. Because in our State of Missouri, increasing spending in 1993 and 1994 for long-term projects is not viewed as a short-term quick fix but, rather, an investment that will help our economy grow.

Perhaps other highway departments are not able, and perhaps other States are not. But I would say to the distinguished chairman that in my State, they clearly are able.

Mr. MOYNIHAN. The answer is some States can and some cannot.

Mr. SYMMS. Mr. President, if the chairman will yield, I say to my friend I have been told there are three States and the District of Columbia that have only used 10 percent of their allowable funds so far this fiscal year, and I think, as the Senator from New York said, there are some States that might be able to temporarily use more funds, but apparently some States cannot.

Most States are scrambling to get enough matching money to meet the new additional Federal funds they are getting. It is just the opposite of the problem presented in this amendment. Missouri may be an exception.

Mr. MOYNIHAN. Mr. President, just to conclude, thanking the Senators for their courtesy in this debate, we have a problem next year that the administration has proposed to make a 20-percent cut in the outlays already provided. That is our real problem, not any fantasy adding.

But if this fantasy should come true, in fiscal 1996 there will be a 20-percent cut, and you will see the business cycle deepening, inadvertently but quite predictably. Remember, we tried to say this is an investment program, not a recession program. Anyway, we are talking about things that might happen a year from now, and would in some places, would not in other places—they would not follow the standards of efficiency, productivity, and long-term perspective that the Intermodal Surface Transportation Efficiency Act decreed.

Mr. CHAFEE. Mr. President, the Graham amendment would front load spending for the Federal-aid Highway Program. It would also front load spending specifically for the Interstate Maintenance Program and the National Highway System categories within the highway program. The amendment does this by increasing the obligation ceiling by $3.5 billion in fiscal year 1993 and $3 billion in fiscal year 1994. The obligation ceiling is then reduced in fiscal years 1995 and 1996.

Mr. President, the Congress passed the Intermodal Surface Transportation Efficiency Act of 1991 [ISTEA] in November and the President signed it on December 19, 1991, just 3 months ago. The spending levels for this program were thoroughly debated and agreed to by an overwhelming majority of both Houses.

While the obligation ceilings are set in the ISTEA for each fiscal year through fiscal year 1997, the Appropriations Committees have traditionally reviewed them each year in the DOT appropriations bill. The Appropriations Committees have made adjustments when they were warranted. That opportunity will be made available shortly.

I have several major concerns with the amendment offered by my distinguished colleague, Senator GRAHAM.

First, the front loading of additional authorizations for the Interstate Maintenance Program and the National Highway System may hasten the triggering of the Byrd amendment because there will not be enough highway trust fund revenues coming in to cover all the authorizations made for the program. This will have no immediate effect, but when the deficiency occurs, the U.S. DOT will have to reduce the apportionments to the States accordingly. Projected gas tax revenues have decreased significantly because of the current recession. If the current rate of revenues continues, even the authorizations provided in the ISTEA could trigger the Byrd amendment as soon as 1995. This amendment will move that time up even sooner.

Second, the ISTEA already increases spending for the highway program by $3 billion from fiscal year 1992 to fiscal year 1993. An additional $3.5 billion above this increase is a major increase and cannot be absorbed by most States. Most States will not have projects ready to go or will not have sufficient State matching funds. This will put pressure on States to raise or divert revenue for transportation projects at the expense of other programs.

Third, finally, Mr. President, this amendment may look revenue neutral, but if there is additional spending in the highway programs in fiscal year 1993 and fiscal year 1994, and no offsets until fiscal year 1995 and fiscal year 1996, that means there will be less spending in some other program or we will add even more to the deficit in fiscal years 1993 and 1994.

I urge my colleagues to vote against this amendment.

Mr. President, if my colleague has no further need, I will yield back the remainder of our time and move to table the amendment.

I ask for the yeas and nays.

The PRESIDING OFFICER. To which amendment does the Senator from New York direct his motion to table?

Mr. MOYNIHAN. I move to table the Bumpers amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from Iowa [Mr. HARKIN], the Senator from Hawaii [Mr. INOUYE], the Senator from Vermont [Mr. LEAHY], and the Senator from Illinois [Mr. SIMON] are absent on official business.

I also announce that the Senator from Michigan [Mr. RIEGLE] is absent because of death in the family.

The PRESIDING OFFICER (Mr. ROBB). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 53, nays 42, as follows:

[Rollcall Vote No. 45 Leg.]

YEAS—53

Akaka
Baucus
Brown
Burdick
Chafee
Coats
Cochran
Cohen
Craig
Cranston
D'Amato
Danforth
Dole
Domenici
Durenberger
Exon
Garn
Gore

Gorton
Gramm
Grassley
Hatch
Heflin
Helms
Jeffords
Johnston
Kassebaum
Kerrey
Lieberman
Lott
Lugar
McCain
McConnell
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Packwood
Pressler
Roth
Rudman
Sanford
Sarbanes
Sasser
Seymour
Simpson
Smith
Stevens
Symms
Thurmond
Wallop
Warner

NAYS—42

Adams
Bentsen
Biden
Bingaman
Bond
Boren
Bradley
Breaux
Bryan
Bumpers
Burns
Byrd
Conrad
Daschle
DeConcini
Dixon
Dodd
Ford
Fowler
Glenn
Graham
Hatfield
Hollings
Kasten
Kennedy
Kerry
Kohl
Lautenberg
Levin
Mack
Metzenbaum
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Shelby
Specter
Wellstone
Wirth
Wofford

NOT VOTING—5

Harkin
Inouye
Leahy
Riegle
Simon

So the motion to lay on the table the amendment (No. 1723) was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote.

Mr. SYMMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who seeks recognition?

Mr. BENTSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New York is recognized.

Mr. D'AMATO. Mr. President, I intend to offer two amendments. Let me say to the distinguished chairman that I am amenable to a reasonable time agreement on one or both amendments, I just want to see that we get a vote on them.

Mr. BENTSEN. I say to my friend, his comment is a surprise to me because I had agreed there would be one amendment on each side. We are alternating this back and forth. So, let us discuss the time agreement and see if that can be accommodated.

Mr. D'AMATO. Let me say again that I have two amendments to offer, and if indeed after the conclusion of one of them, there will be some intervening time, fine, and then I will offer the second, but that was what I thought had been agreed upon, and we can save time.

Mr. BENTSEN. No; that had not been agreed on. We agreed to alternate amendments between the Republicans and Democrats. Last night we took two on the Democratic side and two on the Republican side. But it was one amendment on each side.

Mr. D'AMATO. So I will offer my second amendment after the intervening amendment. I will lay it aside.

Both amendments, and I will discuss them, which are in the nature of what we are attempting to do, are aimed at fundamental welfare reform.

We find ourselves today spending more and more money on welfare programs and, indeed, we are entrapping people in a system, and we do little to encourage them to become part of the mainstream.

I believe that Government has an absolute responsibility to help those who cannot help themselves. But when we have general assistance programs that are giving more than 1 million able-bodied recipients, throughout the Nation, over the age of 18 without children, money that they do not have to work for, money that they can continually collect without regulations, without restrictions, and without requirements to report for a job, or job training, then we are making a mockery and a sham of the basic principles for which that welfare had been established.

Indeed, in the State of New York in 1990, taxpayers spent almost a billion dollars, $913 million, to support 353,000 people who did not work.

This is outrageous. When we find in these times that we have Americans laboring, and barely making it trying to send their children to school and to make their mortgage payments, it is absolutely repugnant that we require no conditions for able-bodied recipients to report to work or training, to join the mainstream. Indeed, we have provided them an excuse and a reason not to become part of the American work tradition.

There must be mandatory workfare programs in effect, and if we fail to do that, the free ride will never end.

Mr. BENTSEN. Mr. President, if the Senator will yield for a moment, can we arrive at some time agreement? Would 30 minutes, 15 minutes on a side be acceptable to the Senator?

Mr. D'AMATO. It would be if we could have a vote and go right to the vote at the end of that period of time.

Mr. BENTSEN. That would be fine. I have no objection to that.

Mr. D'AMATO. Fine. Might I ask the chairman after the intervening colleague, after the amendment is taken up by the Democrat, I would like, for some continuity, to move to the second D'Amato amendment.

Mr. BENTSEN. That will be decided on the Republican side by the Republican manager of the bill. I personally have no objections.

Mr. President, I ask unanimous consent then that 30 minutes be allocated to this amendment, 15 minutes to a side, 15 minutes managed by the proponent of the amendment, and 15 minutes by the manager from the majority side.

The PRESIDING OFFICER. Is there objection?

Mr. BENTSEN. And no second-degree amendment.

Mr. D'AMATO. And there be no second-degree amendment?

Mr. BENTSEN. Yes.

Mr. D'AMATO. Fine.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request propounded by the Senator from Texas?

Mr. D'AMATO. No.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1725

(Purpose: To discourage States from providing general welfare assistance to able-bodied individuals unless such individuals are participating in a State workfare program)

Mr. D'AMATO. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New York [Mr. D'AMATO], for himself and Mr. NICKLES, proposes an amendment numbered 1725.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following:

SEC. . GENERAL WELFARE ASSISTANCE PROVIDED BY STATES TO ABLE-BODIED INDIVIDUALS.

(a) IN GENERAL.—Section 403 of the Social Security Act (42 U.S.C. 603) is amended by adding after subsection (b) the following new subsection:

"(c) Notwithstanding any other provision of law, if the Secretary certifies that any State is operating a general welfare assistance program during any calendar quarter—

"(1) which provides benefits to an able-bodied individual (as determined by the Secretary) who has attained age 18 and who has no dependents, and

"(2) which does not require such individual to participate in a State workfare program (meeting the requirements of the Secretary as provided in regulations to be issued by October 1, 1992),

the Secretary, upon such certification, shall reduce by 10 percent the amount that such State would otherwise receive in aid to families with dependent children under this part during such quarter."

(b) EFFECTIVE DATE.—

Subsection (a) shall apply to calendar quarters beginning on or after January 1, 1994.

The PRESIDING OFFICER. Who yields time?

Mr. D'AMATO. Mr. President, let me explain what this amendment does. This amendment requires able-bodied welfare recipients over 18 years of age, with no dependent children, to participate in a State workfare program.

What we are looking to do is to see to it that we provide a very real and meaningful opportunity for people to leave the welfare rolls. If left to their own now, there is no incentive to do so.

My amendment says that unless States adopt requirements to institute a workfare program as approved by the Secretary of HHS, they will lose 10 percent of the Federal share of funds that go into the AFDC Program.

This may seem to be harsh, but let me suggest to you that the States of this Nation must put forth a bona fide program of job training or actual employment. This must become available. We will give the States and the HHS until the end of next year. The Secretary of HHS must issue regulations by October 1 of this year, and States will have until January 1, 1994, to comply.

We provide an ample opportunity for States after the regulations are promulgated and approved to come forward with a workfare program.

In the State of New York, I can say to my colleagues that I believe that it will have a substantial impact, that will deal with one of the great nagging problems of our time; of breaking welfare dependency, when we have able-bodied recipients who can report to a job. They may not like the job, but if you are going to be drawing on public funds, why should one not have an obligation to earn his or her way if they have no impediment?

We are talking about able-bodied recipients. We are talking about people who do not have dependent children. We are talking about programs that will and can be developed in conformity with the State and the Secretary of HHS.

These are minimal requirements to resolve a nagging problem for those who find themselves entrapped in this cycle of dependency with little motivation, if any, to move off of the welfare roles or to become part of a regular routine of job training, or an actual job. Certainly, society has an obligation, when we are providing billions of dollars literally for these programs throughout our States, to expect this much.

I think that what we have come down to is that States will have to choose between freeloaders and families. I do not believe that there would be any State that would fail to enact a comprehensive workfare program and then employ it. Otherwise, they would face the loss, as this amendment calls for, of 10 percent of their Federal share of aid to families with dependent children.

They will have to choose between doing something to encourage people to work or losing 10 percent of the Federal share of their AFDC funds.

We have provided ample opportunity, ample time for them to undertake this requirement. It would be my hope that we would begin to put those people back into the mainstream who would otherwise simply continue receiving the public dole. It would be my hope, in addition to providing jobs and job training, that we would see people break that cycle of dependency who will then become taxpayers and wage earners, instead of increasing this incredible load.

Mr. President, it is a simple amendment. It is not going to solve all of our problems. As I have indicated, I have a second amendment that I believe is absolutely essential to keep people from shopping for higher welfare benefits.

And what it says—and I will just explain it before I sit down—is that you will not be able to move into a State simply to get higher welfare benefits; that anyone who had moved into a State in the last year—we have substantiated a minimum of 12,000 such cases in New York, with the number rising, that people are shopping for better benefits. They move into a State to get higher benefits. That is wrong. It is unfair to the people of that State.

Having said that, nearly 20 percent of new applicants from New York City were from out of State. This is unconscionable—where people are coming into an area just because they can get higher benefits.

What my second amendment says is that a recipient receive for 1 year, the lower of the two rates of welfare benefits, from either his or her old State or new State so that one cannot shop around for higher benefits. We have our border counties in New York—Niagara County and Erie County, and others along the southern tier, along the Pennsylvania border, that suffer because States are changing their welfare requirements. They are tightening them up. What we find is that recipients in some cases are actually being directed to come to a particular State. In the case of this Senator, it is New York. And so that will be the second amendment that I will offer.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from New York [Mr. MOYNIHAN].

Mr. MOYNIHAN. Mr. President, I yield myself such time as I may require.

The PRESIDING OFFICER. The Senator is recognized accordingly.

Mr. MOYNIHAN. Mr. President, on behalf of the managers of the legislation on our side, I rise in opposition to the measure, I rise to make a point that we are talking here about a subject of which we know very little. There are no national data on welfare.

With respect to my good friend and fellow New Yorker, his proposal which says that any State which provides benefit to an able-bodied individual who has attained age 18 and who has no dependents, there are 33 States that have such proposals. In New York it is called "home relief." In our State, in one form or another it goes back a century.

How many persons, however, receive home relief? Overall, nobody knows. We have no national data. It is no accident we have no national data. A great many well-intentioned but ill-advised people have thought if we did not have any data on welfare, the subject would go away.

Now they are finding out differently in this political season, as the Vice President goes up to New York City and denounces us in very un-Vice Presidential terms. We can not very well respond because we have not the basic data. If you have no information, what David Duke says, what anybody else says, might well be true because you do not know. We have passed—it took me 10 years to do it—but we passed in the Senate S. 1256. A bill that would establish an Annual Report on Welfare dependency. It is in the House and I hope the House will take it up. My friend, CHARLES RANGEL of New York, has said he is very much for it. We may yet do and we may yet learn something about the subject.

We do already know one specific. Almost one-third of American children will be on AFDC before they reach age 18. It is a historical fact. We know of the children born in the cohort, 1967, 1968, 1969, 22 percent were on welfare before they had actually reached age 18, 72 percent of the minority children.

Now that is a large problem, it is a national problem—there is no such equivalent.

However, this measure combines, in the most obscure way, apples and oranges. We start with home relief for able-bodied adults—usually males. How many, we do not know; we have not the slightest idea. It is a fair number, however, and it goes up. It is very sensitive to the business cycle.

But these are usually single men; sometimes single women. It is proposed by Senator D'AMATO that if a State does not provide a work program for those men, then the Federal moneys for children are cut, children who have no relationship to those men. We will cut title IV of the Social Security Act, the Aid to Families with Dependent Children by 10 percent, in order somehow to punish the State for not providing a Workfare program for unrelated adults. No Federal funds involved of any kind—none.

I will grant, Mr. President, that one of the disabilities I bring to the Senate is an early childhood education in the parochial schools of New York, which taught me, or tried to teach me, the language of the New Testament. I never really learned the language of the Old Testament. If you do not know the language of the Old Testament, it is very hard to discourse on the Senate floor.

But I do somewhere recall from Exodus the passage: "* * * visiting the iniquity of the fathers upon the children.* * *" The sins of the fathers shall be visited on the sons.

This is a proposal to have the sins of complete strangers—if they be sins—visited on infant children who have no relation whatever to them.

It would cost States an enormous amount of money. It would cost our State, sir, a lot. If you really think you can change the behavior of State governments by punishing children whose behavior is not at issue, well, this is the amendment for you. But, my goodness, we have cut benefits under the AFDC program by 42 percent since 1970. We have not actually cut them; we simply have not arranged for the cost-of-living increase that takes place in every other title of Social Security, every benefit title. We have not allowed that. So the real benefits are down 42 percent.

Currently, there are proposals in some State governments to actually cut AFDC benefits as against just letting them fall behind. But they are 42 percent behind now. To cut them further boggles the mind. Is welfare becoming a code word in this Presidential year?

But no doubt about it, the President was here in Washington Monday to address the League of Cities. I say to my friend, the distinguished chairman of the Finance Committee, he said welfare was threatening the international status of the United States as a competitive nation. He raised it to the level of an international issue.

His facts were not wrong. In the history of the Presidency, I do not think any President has ever said such things. That, for example, one child in four is now born out of wedlock; extramarital, as we say. We have about 4 million children a year born, about a million extramarital. Almost by definition, they are born in need.

Here is a measure that says we will provide less food and clothing for these children because someone on the other end of the State, who had no relation to them whatever, did not join a work program, or because the State legislature did not enact one.

That is punishment, this is a punishing amendment. There is a cost. My friend would not deny it. My friend from New York intends this to make States put a workfare program in place. And that is a good idea. But I think, looking at the State legislatures, not least our own, if the idea is to spend more money for workfare or get less Federal money for child welfare, they will choose the latter. All over the country, they are choosing it in one form or another.

Mr. President, we cannot be serious. I am glad Frances Perkins is not alive to see this. We will see more of it.

I will say, once again, one of the basic facts is we know little about the numbers involved—about nothing. We have passed a bill here in the House. The administration supports it. I hope the Democratic Party will wake up to what is happening here. That is a lot to ask, I know. It is a very great deal to ask. But it is necessary.

But how many times, how many speeches, how many amendments do you have to have before we recognize that a campaign is being directed against these children which is somehow intended to implicate us?

The first grandchild has appeared in the Moynihan family. A 15-month-old toddler. God, if you knew how great grandchildren are, you would have them first. But think. There but for the grace of God goes a welfare baby. Say to that welfare baby: You know something, somebody in Plattsburgh, NY, does not have a Workfare program. So we are going to feed you less. There will be one less bottle a day. To a child—a child. Not an adult, but a child, who does not even know what you are saying.

I am not going to speak more, Mr. President. How much time is remaining?

The PRESIDING OFFICER. The Senator controls 3 minutes and 44 seconds.

Mr. MOYNIHAN. Mr. President, I yield the remaining time to the distinguished chairman of the Committee on Finance, the manager of our legislation, Senator BENTSEN of Texas.

The PRESIDING OFFICER. The Senator from Texas, Senator BENTSEN, is recognized for the time remaining.

Mr. BENTSEN. Mr. President, how much time remains for the other side?

The PRESIDING OFFICER. The junior Senator from New York controls 8 minutes and 17 seconds.

Mr. BENTSEN. Let me say first, Mr. President, I know no one who is a greater authority on welfare legislation, and specifically, the effectiveness or ineffectiveness of such legislation, than the distinguished senior Senator from New York. That is why I asked him to discuss this issue.

If certain States choose to require general assistance recipients to participate in workfare programs, well, it is OK with me. I understand a number of States have adopted that approach. But I have to point out that the issue today is whether there is any basis for action or interference by the U.S. Senate in how States operate their general assistance programs.

The Federal Government plays no role in these programs. They are created and funded fully by State governments. It is up to the State legislatures, not the Congress, to decide how these programs are run. It is not our jurisdiction. And we should not preempt the State laws in that regard.

At the appropriate time, I will be moving to table the amendment.

The PRESIDING OFFICER. Who yields time? The Senator from New York [Mr. D'AMATO].

Mr. D'AMATO. Mr. President, let me see if I cannot follow the logic of how it is that this Senator would be doing something so terrible, when I am really proposing that States adopt the policy that says if one wants to get benefits, you have to report for work if you are able-bodied, or for a job training program.

I do not see this as being something cruel or inhuman. To the contrary, I think what we have done previously is to set up a system that costs this Nation tens of billions of dollars because people, even youngsters beat the system and become part of the welfare dole. What we are doing is entrapping them.

I would like to know what the statistics are—I will venture to say they are staggering—as to how many AFDC children are born from or are the products of those who were once able-bodied, who might have had a job, but who were never challenged to break the system.

So when we say there is no direct link, let me tell my colleagues, we are just looking the other way, in day-to-day life, there is a direct link between those who are able-bodied and who started out on these programs and those who became fully dependent upon the Federal Government and the State. We have built this huge system costing the Nation almost $20 billion a year. More than that, it is sapping the vitality of people who could be productive.

By the way, code word? Code word? Let me simply suggest that the leading Democratic Presidential candidate, Bill Clinton, backs a policy of workfare—and I did not bring this up. If we are going to suggest the President of the United States and Mr. QUAYLE—and by the way, Vice President QUAYLE was absolutely right when he came to New York and said as a result of welfare programs that have become entrapping and have been administered in a manner that is absolutely scandalous, we have become the "Cadillac of welfare States," and I am paraphrasing, we have entrapped people.

Since when is it wrong to say let us change the system? I wonder how it is that people begin to bring up this business about code words. How is it that no one says anything about the leading Democratic candidate proposing workfare, not welfare. I may not agree with Bill Clinton on many things, but when he says workfare, not welfare, he is right. We better wake up.

If a State chooses not to adopt a workfare program by 1994, as approved by HHS, then they have made the choice. They have made the choice that they are going to deprive benefits to young people. I cannot believe, though, that even the State legislature in New York, would permit this to take place. If they want to cut $100 million in benefits that would otherwise accrue to those who are truly needy, it is their choice. I may disagree with them at times, but I do not believe they would turn their backs on the truly needy because they did not have the gumption to stand up to the political pressure and say, workfare, yes, welfare, no. They cannot continue a policy that entraps people and is responsible for miring so many into this welfare trap.

That is not a code word. If it is a code word, then I would say that Governor Clinton has been using it, and one of the areas I do agree with him is that we do need workfare, not welfare.

We are looking to make all the social ills and all the economic ills a scapegoat for this. I did not bring it up for that purpose. I brought it up so that we would challenge our system, and the one in New York, that desperately has to be challenged so we can break the cycle of dependency, so we can stop the burgeoning AFDC rolls.

Mr. President, I think a lot of things can be said, but we are not going to improve the system if we do nothing. And if we want to do nothing, if we want to vote against this amendment, then we are saying let us continue with a system that continues to drag down people and entrap them and does not challenge them to join the mainstream.

The PRESIDING OFFICER. Who yields time? The Senator from New York [Mr. MOYNIHAN].

Mr. MOYNIHAN. Mr. President, as regards the specific issue before us, I say to my friend, and I think he would agree, this Senator has nothing against workfare. This body has nothing against workfare. The Family Support Act which requires workfare as a condition of receiving AFDC benefits, welfare benefits, passed this body 97 to 1 in 1988—97 to 1. And Governor Clinton, as my friend from New York says, was as chairman of the Governors Association very much in support. We say we had the governor's bill.

If you really want workfare to work, put up the money for it. We are putting up a billion dollars a year that gets nowhere near what we would need. We would need $5 billion a year.

I have a bill—work for welfare. I have asked the President, shall we not sign this bill; send it to the President and say either put up the money or stop using this code word. It would be money well spent, every dollar spent where you get a workfare program, you get returns on it and we would say, any welfare recipient signs up for welfare the day they sign up for AFDC or they do not get either. If you do not go into welfare, you lose your benefit. If we funded that statute, we might be better off. I think the Senator from Texas would like to make a motion.

The PRESIDING OFFICER. There are 5 seconds remaining on the time allocated to the opposition.

Mr. BENTSEN. Has all time been yielded back?

The PRESIDING OFFICER. All time allocated to the opponents has expired. The Senator from New York [Mr. D'AMATO], has 3 minutes 25 seconds remaining. Who yields time?

Mr. BENTSEN. I will not impose on his time.

Mr. D'AMATO. Would the Senator like time?

Mr. BENTSEN. The Senator can go ahead. I have made my point.

Mr. D'AMATO. Mr. President, let me explain what this amendment does. It says the States must adhere to a workfare program that will be promulgated by the Secretary of HHS after January 1994. It gives them ample opportunity to bring about a program that will require able-bodied recipients who do not have dependent children to participate.

We have counties and towns and villages and cities today that cannot meet the needs of its people. What better a way to encourage a young man, who otherwise would just sit back and collect a welfare check and not become part of the system, to help do those things that a city does not have a budget for, or to come into a job training program and learn the meaning and responsibility of work if he or she wants dollars that do not come from heaven. Right now, this money comes from hardworking middle-class families who are suffering.

It is not a code word. Not in the sense that some are ascribing to, and they are wrong. And if they are doing that, then they are saying Governor Clinton whose theme is workfare, not welfare—is a racist? Is that a code word? How dare those who come out and say, oh, the President, or the Vice President or anyone who says we need workfare not welfare, is using a code word. That is wrong.

It is about time we said able-bodied recipients should be required to undertake some job performance, if not training, some public service; and we give the ability to our States to decide what it can and what it should be. I am not suggesting nor does this legislation say that it has to be 40 hours a week or you have to report 5 or 6 or 7 days a week to work. It gives that discretion to HHS and to the States. It gives them ample opportunity.

Maybe some legislatures better wake up and maybe this body should wake up to the facts of what is taking place and how we are eroding the spirit of America's working middle-class families who turn around and see the kinds of abuses that take place and particularly in the State of New York. I think we should apologize to the people that we have not been pushing for these kinds of programs sooner. It is an outrage.

I urge my colleagues to support a program that will restore human dignity and give people an opportunity to become part of the American dream as opposed to entrapping them indefinitely.

Mr. KOHL. Mr. President, I rise in opposition to the amendment offered by the junior Senator from New York.

While I share the Senator's concern with welfare policy, especially his desire to educate, train, employ and in so doing empower the so-called underclass, I must strongly disagree with his approach.

As our other colleague from New York, the distinguished chairman of the Senate Finance Subcommittee on Social Security and Family Policy, so articulately stated: This amendment simply penalizes children for the sins of total strangers. Indeed, lacking adequate funding of the Federal Jobs Program, lacking State commitment to provide work programs, this amendment is purely punitive. And the victims of that punishment are children in AFDC families—children who have absolutely no control over the job opportunities of the general assistance programs administered by States.

Mr. President, once again I commend the subcommittee chairman for his leadership, his wisdom, and his insights. I associate myself with his remarks and urge my colleagues to support the motion to table the amendment.

The PRESIDING OFFICER. All time is yielded back.

Mr. D'AMATO. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays are ordered.

Mr. BENTSEN. Mr. President, I move to table the amendment, and request the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table amendment No. 1725. The yeas and nays have been ordered. The clerk will call the roll.

Mr. FORD. I announce that the Senator from Iowa [Mr. HARKIN], the Senator from Hawaii [Mr. INOUYE], the Senator from Vermont [Mr. LEAHY], and the Senator from Illinois [Mr. SIMON] are necessarily absent.

I also announce that the Senator from Michigan [Mr. RIEGLE] is absent because of death in the family.

The PRESIDING OFFICER (Mr. WELLSTONE). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 33, nays 62, as follows:

[Rollcall Vote No. 46 Leg.]

YEAS—33

Adams
Akaka
Baucus
Bentsen
Biden
Bradley
Breaux
Bryan
Burdick
Cranston
Daschle
Dixon
Durenberger
Exon
Ford
Glenn
Gore
Jeffords
Kennedy
Kerrey
Kohl

Mitchell
Moynihan
Pell
Pryor
Robb
Rockefeller
Sanford
Sarbanes
Sasser
Shelby
Wellstone
Wofford

NAYS—62

Bingaman
Bond
Boren
Brown
Bumpers
Burns
Byrd
Chafee
Coats
Cochran
Cohen
Conrad
Craig
D'Amato
Danforth
DeConcini
Dodd
Dole
Domenici
Fowler
Garn
Gorton
Graham
Gramm
Grassley
Hatch
Hatfield
Heflin
Helms
Hollings
Johnston
Kassebaum
Kasten
Kerry
Lautenberg
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Metzenbaum
Mikulski
Murkowski
Nickles
Nunn
Packwood
Pressler
Reid
Roth
Rudman
Seymour
Simpson
Smith
Specter
Stevens
Symms
Thurmond
Wallop
Warner
Wirth

NOT VOTING—5

Harkin
Inouye
Leahy
Riegle
Simon

So the motion to lay on the table the amendment (No. 1725) was rejected.

Mr. DOLE. Mr. President, I move to reconsider the vote.

Mr. D'AMATO. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the yeas and nays be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

All time for debate on the amendment has expired.

The question is on agreeing to the amendment.

The amendment (No. 1725) was agreed to.

Mr. D'AMATO. Mr. President, I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. Mr. President, without meaning in any way to be personal, may I say that the U.S. Senate has just, in one amendment, voted for the equivalent of child abuse, and in the following amendment, trashed the Constitution of the United States, as set forth by the Supreme Court in Shapiro versus Thompson, 1969.

AMENDMENT NO. 1726

(Purpose: To amend title IV of the Social Security Act to impose a new State plan requirement that limits the AFDC benefits available to new State residents)

Mr. D'AMATO. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant bill clerk read as follows:

The Senator from New York [Mr. D'AMATO] proposes an amendment numbered 1726.

Mr. D'AMATO. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following:

SEC. . ADDITIONAL STATE REQUIREMENT WITH RESPECT TO AFDC BENEFITS

(a) NEW STATE PLAN REQUIREMENT.—Section 402(a) of the Social Security Act (42 U.S.C. 602(a)) is amended—

(1) in paragraph (44), by striking "; and" and inserting a semicolon;

(2) in paragraph (45), by striking the period at the end thereof and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(46) provide that for a period of 1 year from the date an individual becomes a new resident in a State, such individual is eligible to receive aid to families with dependent children in an amount that does not exceed the lesser of—

"(A) the amount the individual received or could have received in the former State of residence, or

"(B) the amount the individual could receive in the new State of residence.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on the day which is 30 days after the date of the enactment of this Act.

Mr. D'AMATO. Mr. President, I do not intend to take a great deal of time, and I am going to move very expeditiously. Let me simply state that this amendment stops welfare shopping. It says that—

Mr. BENTSEN. I ask the Senator to yield for a minute.

Mr. D'AMATO. Certainly

Mr. BENTSEN. We have agreement there will be a total of 10 minutes on a side. And no second-degree amendment.

Mr. D'AMATO. I state to the chairman, who has been most courteous, I do not intend to use all of my time; only a small portion of it.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. Mr. President, what this amendment does is it stops one of the greatest abuses that have been taking place for decades. It stops welfare shopping. It stops people who literally look to see where they can get higher benefits and therefore come to a State to receive public assistance. They go right to the public assistance office. They are on public assistance in one State and when they find a State that offers greater benefits they move there.

Today, this amendment becomes more critical than any other time. Why do I say that? I say it because there are a number of States who are dealing in a meaningful way with the abuses that have taken place. They are saying that able-bodied recipients must report for a job, and they cannot stay on the rolls indefinitely.

What do we find? We find in those adjoining States, who have higher benefits and may have not taken this action, an influx of hundreds and hundreds of welfare shoppers. In little Niagara County in upstate New York, we had new enrollment records from out-of-State residents in 1990: 378 out-of-State residents came in, and the welfare commissioner and board up there are saying that this number is going to be much higher this year. In 1991, this one little county enrolled 600 out-of-State residents in the county's welfare programs.

The fact is that the border communities of these States are being inundated. This is wrong. We should not have a forum for welfare shopping. This legislation says if you move into a State, you keep the benefits you were receiving, lower benefits, for 1 year. It discourages welfare shopping.

I hope that we will adopt this. I think it is an amendment that is long overdue.

Mr. BENTSEN. Mr. President, I yield 5 minutes to the distinguished Senator from Minnesota.

The PRESIDING OFFICER (Mr. METZENBAUM). The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I thank the Senator from Texas. Let me speak to the amendment by the Senator from New York, and I will do this without a lot of opportunity for preparation.

But it does strike me that we do have a Constitution which guarantees equal treatment for all citizens, regardless of income. It is quite true that we have not had any hearings in any committee in the Senate, that I know of, where welfare mothers, poor, have had an opportunity to come in and testify. But, of course, they do not get that opportunity here very often.

What we have done is we just adopted one amendment that penalizes children. We adopted another amendment that I think is going to violate the Constitution of this country. We act as if there is no equal protection for citizens. Are we now going to say because people are low-income and on welfare, they do not receive any kind of constitutional protection whatsoever?

You would think by the kind of amendments that have been introduced here on the floor that the reason we are in such an economic mess here in this country is, of course, because of the welfare mothers. But, of course, they do not have the power to fight back. This is scapegoating. I think this is absolutely intolerable.

We talk about workfare and less welfare. But we do not talk about supporting affordable child care. We talk about workfare and less welfare, but we do not talk about how people are going to afford health care for their children. We talk about workfare and less welfare, but we do not talk about an economy that produces jobs for people at decent wages.

It does seem to me that somewhere, sometime, you have to draw a line. And as I read the Constitution—let us see what the court says. We have equal protection under the law for citizens, equal protection for citizens in this country. We cannot pass a law telling someone because they are low-income, that if they move to another State they are not entitled to the same benefits that are provided to citizens of that State.

I think this is unconstitutional; I think it is unconscionable; and I think it is scapegoating on a group of citizens who do not have all the economic clout and power, and therefore unfortunately, certainly do not have much of a voice or any representation here.

I yield the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BENTSEN. Mr. President, does the Senator from Nebraska request time? I yield 2 minutes to the distinguished Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, a week from today is March 20. It is the day that we have all been pointing to as the time when we have an obligation, which I thought from the first to do what the President asked us to do in his address to the Nation with regard to the state of the Nation.

I appeal once again that all of these extraneous amendments not dealing with the matter of the tax fairness bill be stopped. There are some good things embodied in many of the amendments that have been offered on the bill. But this Senator said from the very outset that I would be opposing amendments to the bill because, for the most part, I thought they had not been well thought through; for the most part, they have not had hearings.

I voted against the last amendment, although I must say that politically it was extremely attractive. I do not know, and I think very few in this body knew, what the full impact was of the measure that we just voted for overwhelmingly. I suggest that that came about primarily for politics.

But we are not going to reach the March 20 date. So I would say, despite the fact that in caucuses in the Democratic Party, at least, we have been asked to hold down amendments, I see that as being wholesale violated with votes that are cast on the floor of the U.S. Senate.

This Senator said I am going to oppose these amendments, because I thought that was the right thing to do if we are going to get something on the President's desk by a week from today. But I would simply say, in fairness to all Senators, with the last two or three votes, come on over and offer your amendments. Because if there is any political connotation to the amendment, it is going to pass, whether it has been thought through or not.

I think it is a sad way for us to reach into these kinds of amendments. Therefore, I simply say regardless of the merit of these amendments that have not been thought through, this Senator will continue to the commitment he made to vote against extraneous amendments that have not been thought through, which I think most of them have.

I yield back the time yielded to me by the chairman of the Finance Committee.

The PRESIDING OFFICER (Mr. WELLSTONE). The Senator from California is recognized.

Mr. SEYMOUR. Mr. President, I request 2 minutes from Senator D'AMATO'S time.

Mr. D'AMATO. I have no objection. I yield 2 minutes to the Senator from California.

Mr. SEYMOUR. Mr. President, I commend Senator D'AMATO for offering both the amendment that we just voted on, as well as this amendment, which represents true reform in welfare. The reason he has done this is that he wants to represent the working men and women of his State, the men and women who are paying the taxes and pulling the cart.

The reason I rise for this brief period is to say that I want to represent the people of California. You see, in California, our population is projected to grow during the 1990's by 6.3 million people. However, welfare in California is growing at 12 percent per year, 4 time faster than the rate of our population growth.

As a matter of fact, California, with 12 percent of the population of our country, bears the cost of 26 percent of our Nation's welfare costs. In fact, 7 percent of California's present welfare recipients did not live in our State 1 year ago. Therefore, California is a prime example of what the Senator from New York has referred to as welfare shopping.

I think this is good legislation. I think taxpayers are fed up with pulling the wagon. They are good, hardworking people, but we have gone off the deep end.

So I stand in support of the Senator from New York in his effort to make a small change, but perhaps a big difference in the attitude of those who choose to move to another State to increase their benefits from welfare.

I yield my time, Mr. President.

The PRESIDING OFFICER (Mr. WELLSTONE). Who yields time?

Mr. BROWN. Mr. President, I ask 1 minute of the time of the Senator from New York.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. BROWN. Thank you, Mr. President.

Part of the problem we face is a bit different than perhaps many Senators might think when they first look at this issue. Some States have literally bought welfare recipients bus tickets to go to another State where they are paid more in AFDC benefits.

I do not think there would be a Member of this body that would not be concerned about that policy, not only the policy itself, but the implication of that policy. Part of the problem for the receiving State is there are restrictions that prevent the States from providing lower initial benefits when this occurs. In other words, we have prevented some of the States from defending themselves when welfare shopping occurs.

So what this amendment really does is in effect give the States the ability to defend themselves and discourage this despicable practice.

I hope this measure will have a clear effect of giving some States some flexibility. I think that is the ultimate advantage here. That ought to be where we are going, so that States have some discretion in the way they develop their policy dealing with this problem. It will ultimately be a benefit to welfare recipients, as well.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. METZENBAUM addressed the Chair.

Mr. BENTSEN. Mr. President, how much time does the Senator from Texas have?

The PRESIDING OFFICER. The Senator has 4 minutes 40 seconds.

Mr. BENTSEN. I yield 2 minutes to the distinguished Senator from Ohio.

Mr. METZENBAUM. Mr. President, I rise in opposition to the amendment. There is something absurd about this amendment. This is a Nation of 50 States, and if we are suddenly going to get to the point that, when you cross a State line, you suddenly get lesser rights—are we just going to apply that to welfare? This apparently is the time in our history when everybody wants to jump on the person on welfare. What kind of humanity is that? What kind of inhuman approach to this Nation's challenges?

The Senator from California talks about the working men and women of his State. Let me tell you there are less working men and women in your State now than there were 11 years ago, and it has been going down constantly. What we ought to be concerning ourselves about on the floor of the Senate today is how to get people back to work so they do not have to go on welfare. And that is what this legislation we are considering is directed at.

But instead of that, no, we have to find a way to take care of those poor people who happen to move, for one reason or another—maybe their family is there, maybe that is where they came from originally—and they go back into the community and they are told, "Oh, no, you can't get what everybody else gets on welfare. You can only get what you were getting in the State from which you came."

I just think there is kind of an absurdity about this amendment. I think we ought to be out there fighting to get people back to work, which is what this legislation before us is all about. Instead of that, we pick on those who do not have a voice in the Senate. We pick on those who have nobody to speak for them, no lobbyist, and we want to see to it that we squeeze a few dollars out of the paltry sum they are receiving from welfare.

Go ahead and pass it and make yourself feel great. And then go home and tell your kids about it and ask them what they think about your vote today. This is an amendment that should be defeated overwhelmingly.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. I will take just 30 seconds of my time to reply.

Do you know who does not have a lobby? The working middle-class families of my State. The legislature will not do anything to protect them there. For years, we have been having thousands of people, and they buy tickets for them and send them up to New York to be put on the welfare rolls and tell them exactly where to go. You tell me that this is charity?

Who is going to protect my people? Who is going to protect the taxpayers who have the highest welfare burden of any State? Send them to New York. Yes, you can laugh. And they are coming from all over. And it is time we said, "If you want to come, fine. If you really want to live here, fine. We are not stopping your freedom of choice. But if you come to get increased benefits you won't get them." That is what it says. "We don't cut your benefits." But, by gosh, we won't allow one to move over the State line and get $200, $300, $400, or $500 a month more from the working people of that State. We cannot support this any longer because the property taxes and Medicaid costs in our State have outstripped the ability of the counties and the people to pay. We are higher than twice the national average.

Let me share it with you. New York had 18 million people in 1990. California had 30 million. And yet we paid almost twice as much, $11.6 billion in Medicaid as compared to $6 billion. If you want to talk about welfare and the benefits that go with it, where should people go? For better benefits, go to New York.

Am I attempting to do something to help my people? Yes, the working, middle-class families that have to shoulder that burden. Enough is enough.

Mr. President, I am ready to yield back the remainder of our time.

Mr. BENTSEN. Mr. President we yield back the remainder of our time.

Mr. KOHL. Mr. President, the amendment before us attempts to address a concern that has been discussed at great length in my own State of Wisconsin.

In 1990, Wisconsin provided a maximum $517 monthly AFDC benefit for a three-person family. By contrast, the State of Illinois provided a monthly benefit of $367. Minnesota, our neighbor to the northwest, provided a benefit of $532.

The question of whether or not certain individuals are migrating to Wisconsin for the purpose of welfare shopping, as my colleague from New York suggests they are, has been a very emotional one. It has been politically charged, and to date, unresolved.

Following my remarks is a very thoughtful and studied analysis, prepared by Dr. Thomas Corbett of the University of Wisconsin-Madison Institute for Research on Poverty, of the arguments and evidence surrounding the welfare magnet debate in Wisconsin. I highly recommend it to my colleagues as a less political and emotional basis on which to make policy.

It is my own sense that there may be a preferable way to deal with such migration, to the extent one can find evidence that it is benefit driven. And it is a quite simple and old one: establish a Federal uniform benefit level, regionally adjusted for cost-of-living. If what the Senator seeks to stop is welfare migration, and if indeed such migration is the result of disparity in AFDC benefit levels, then benefit uniformity would address that concern, would it not?

Several Wisconsin legislators have joined with some of their colleagues in neighboring States calling on the Federal Government to do just that. As several of my colleagues here today have indicated, there is a potential constitutional problem with erecting tollgates at State borders vis-a-vis fair and equal access to Federal benefits. given that legitimate concern, I would be happy to work with both of my colleagues from New York in considering the Wisconsin call for Federal uniform benefits.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

The Wisconsin Welfare Magnet Debate: What Is An Ordinary Member of the Tribe to do When the Witch Doctors Disagree?[1]

(By Thomas Corbett)

Thomas Corbett is an IRP affiliate and Assistant Professor, Division of University Outreach, Department of Governmental Affairs, University of Wisconsin-Madison. The author was a contributor to the 1986 study of the welfare magnet phenomenon commissioned by the Wisconsin Expenditure Commission that is discussed in this article. He has remained interested in the subsequent debate about the issue.

RATIONALITY AND THE DOING OF PUBLIC POLICY

Doing public policy well is a difficult undertaking. This is particularly true when dealing with what are termed wicked problems—when normative, theoretical, and technical contention is high. The welfare magnet issue, defined as the interstate relocation of low-income persons for the purpose of securing higher welfare benefits, is such a problem. Strongly held opinion dominates reasoned debate, even in Wisconsin, a state long associated with progressive and competent government.

A quarter century ago, confidence in government ran high. Faith in the capacity of social science to inform and shape public policy was widespread. Newly developed analytic techniques were expected to displace normative and ideological debate as the ordinary mechanism for conducting public affairs. "Logic, data, and systematic thinking were to compete with, if not dominate, 'politics' in the making of public decisions." Robert Haveman notes of this period.[2] It was anticipated that empirically based policy analysis would enable government to remedy the most refractory social problems, such as poverty.

The reign of rationality as the dominant public policymaking paradigm—even as an academic Illusion—was short-lived. by the mid-1970s confidence in rigorous analysis and proactive government had declined.[3] By the 1980's the role of government and its supportive analytic apparatus in alleviating social woes was judged to be incompetent at best[4] and perverse at worst.[5]

"Social myths thrive in environments without data," James Heckman asserts.[6] But in the real policy world it is equally plausible that myths thrive because of data—the very manner in which they are collected, presented, and interpreted. Policy analysis and political decisions are driven by preferred world views. Such views of how the world really operates are, in turn, expressions of deeply held values. Where issues are complex (e.g., poverty and public dependency), it is easy to engage in perceptual reductionism whereby large amounts of data are summarily reduced to a manageable size and conflicting interpretations are subject to theoretical simplification. For example, it becomes easier to select a portion of the poor to represent, or serve as a proxy for, the entire population, rather than deal with the practical and theoretical consequences of the diversity within the population. A simplified picture makes the policy-making task appear more manageable. Wicked problems seem to yield simple solutions when the complexity of the issue is minimized.

The so-called welfare magnet issue in Wisconsin is an example of the tenuous link between national analysis and the doing of public policy. The issue appears straightforward and amenable to empirical examination. Do low-income families relocate to Wisconsin to take advantage of the state's relatively generous benefits in the Aid to Families with Dependent Children (AFDC) program? As suggested in the abridged review of the Wisconsin welfare magnet debate presented below, it remains one of those wicked problems about which conflict and confusion abound respecting theory, evidence, and policy.

THE ISSUE AND ITS ORIGINS

Because the size of the AFDC guarantee—the amount a family without other income receives in benefits—is determined by each state, actual welfare payments vary greatly across jurisdictions. Though nominally based on what it costs to live in each state (the need standard), local political and other idiosyncratic factors play an important role in determining benefit size. In Mississippi, for example, a one parent family of three receives a maximum payment of $397 a month (in AFDC plus food stamps), whereas in Alas-

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Footnotes at end of article.

ka, the maximum payment to the same size family is $1141.[7] It has long been assumed that this variation in the size of welfare benefits causes poor and jobless people to move to those states that provide the most generous benefits; such states are therefore considered welfare magnets. This belief encourages states to lower their benefits, at least below the payments offered in adjacent states, in the hope of exporting rather than importing indigent families.

Fear of attracting the poor is nothing new. The English Poor Laws, upon which the American approach to public assistance was originally based, were designed to restrict the mobility of the poor. In this country, as early as the eighteenth century, harsh measures were employed to deal with poor migrants. These included "warning out" (actively evicting poor transients), residency requirements (requiring an individual to live in an area for a period of time as a condition for receiving aid), and "charge backs" (billing the recipient's prior jurisdiction for assistance provided). Replacing cash payments with poorhouses and workhouses was the nineteenth-century approach to the problem.

As cash programs designed to aid the poor expanded in the middle of the twentieth century and the population became more and more mobile, the magnet question reemerged with increasing frequency. Officials in large northern metropolitan cities worried about magnet effects in the 1950's, in the wake of the massive migration of blacks out of the rural South to industrial centers in the North after World War II.[8] And it resurfaced in the public policy literature in the 1960s. In his 1969 message on welfare reform, President Nixon asserted that "due to widely varying payments among regions, [the welfare system] has helped draw millions into the slums of our cities."[9] Not surprisingly, increasing public concern over this issue coincided with dramatic AFDC caseload increases that can be traced back to the mid-1960s.

Despite the long history of concern over welfare magnet effects, research has been inconclusive. In 1974 Larry H. Long reviewed the early migration literature and asserted that "no study has presented empirical evidence for the hypothesis that welfare payments themselves have attracted huge numbers of persons to states and cities with high benefit levels. Most factual analyses have considered the hypothesis and refuted it but the evidence presented has not been entirely convincing."[10] In contrast, Richard Cebula concluded in a comprehensive 1979 review that the better studies provided definitive support for the welfare magnet thesis.[11] Nathan Glazer, who reviewed the literature on welfare migration for the U.S. Department of Health and Human Services, concluded that "welfare influences [interstate migration] but rather modesty."[12] And Paul Peterson and Mark Rom stated that "when people make major decisions as to whether they should move or remain where they are, they take into account the amount of welfare provision a state provides and the extent to which that level of support is increasing. . . . While the weight of the argument has begun to shift [toward support of the welfare magnet hypothesis], each of the new studies leaves the issue unresolved."[13]

THE MAGNET ISSUE COMES TO WISCONSIN

The magnet issue arose in Wisconsin as the state's AFDC guarantee began to exceed benefit levels available elsewhere, especially in Illinois. In 1970 Wisconsin's AFDC guarantee for a three-person family was identical to that of the median state and less than the guarantee provided in neighboring states such as Illinois and Minnesota (see Table 1). But by the mid-1970s, this guarantee exceeded the median by almost one-half and, more important, exceeded what neighboring states were offering impoverished families. Sufficient concern about the magnet issue existed to warrant obtaining information on prior residential history from all new applicants for public assistance.

TABLE 1.—AFDC MAXIMUM MONTHLY BENEFIT FOR A THREE-PERSON FAMILY, BY SELECTED STATES AND FOR SELECTED YEARS

	1970	1975	1980	1985	1990
Wisconsin	$184	$342	$444	$533	$517
	(1.00)	(1.46)	(1.54)	(1.60)	(1.42)
Illinois	232	261	288	342	367
	(1.26)	(1.11)	(1.00)	(1.03)	(1.01)
Minnesota	256	330	417	524	532
	(1.39)	(1.40)	(1.45)	(1.58)	(1.46)
Mississippi	56	48	96	96	120
	(0.30)	(0.20)	(0.33)	(0.29)	(0.33)
Median	184	235	288	332	364

Note: ( )=Ratio of state's guarantee to median guarantee.

Source: U.S. House of Representatives, Committee on Ways and Means, "1990 Green Book" (Washington, DC: GPO, 1990), pp. 561–562.

The question was fully engaged in the 1980s. The national economy experienced singular difficulties in the early part of the decade. Some argued that the economy was undergoing a process of long-term restructuring. Rustbelt states like Wisconsin were thought to be particularly vulnerable, facing a declining manufacturing base, diminished fiscal resources, and reduced federal revenue sharing. In this context, relatively high public assistance expenditures were perceived as an insupportable state cost that could dissuade business executives from either remaining in or locating in a given state. Such a competitive environment exacerbated concerns about relative attractiveness and accelerated a self-reinforcing response among states to reduce social expenditures.

By 1985, for example, a family of three on AFDC living in Chicago could increase their cash monthly welfare benefits by almost $200 by relocating to Milwaukee, only ninety miles away (see Table 1). Various local officials pointed to increases in AFDC caseloads, particularly increases in new applicants from Illinois. It seemed obvious to some, and certainly plausible to others, that the increasing gap between the two state welfare programs had resulted in an influx of welfare-motivated in-migrants, especially from inner-city Chicago. This, in turn, was blamed for a worsening of such youth-related problems as school truancy, gang conflict, and drug trafficking.

Empirical work on the issue began in earnest in 1985. At the request of the Wisconsin Department of Health and Social Services (DHSS), Paul Voss of the University of Wisconsin's Applied Population Laboratory conducted a study. Using decennial census data, he estimated that although three AFDC families moved from Illinois to Wisconsin for every one moving in the opposite direction, the disparity could be explained by the size of the population pools in these tow areas.[14] According to Voss, "The probability of an AFDC mother living in northeastern Illinois moving to southeastern Wisconsin is no greater than that of an AFDC mother in southeastern Wisconsin moving to northeastern Illinois."[15] This conclusion did not, however, prove convincing to the believers in the magnet phenomenon.

The same year Governor Anthony E. Earl authorized the creation of a Wisconsin Expenditure Commission to examine the state's fiscal picture and to search for ways to make the state more fiscally competitive. This commission established a special committee to examine the welfare magnet issue in detail and resolve the question once and for all. The committee was composed of representatives drawn from several organizations with an interest in the topic: officials from two key state agencies (the Department of Administration and the DHSS); officials from several counties thought most affected by welfare-motivated migration; members of the commission; and members of a research team chosen for the task. Paul Voss headed the university-based research team, which did its work under the auspices of the Applied Population Laboratory. (The Wisconsin Expenditure Commission initially approached the Institute for Research on Poverty, which turned down the opportunity to do the study because of the anticipated political response to any research, no matter how well done, on this inflammatory topic.)

Because the prior work by Voss (and others who used secondary data analyses) revealed nothing about the motivation of those welfare applicants who relocated across state lines at some point before seeking help, the committee felt impelled to move beyond census-type data in search of something more conclusive. They commissioned Voss and his colleagues to carry out a telephone survey with a sample of AFDC applicants in the summer of 1986 to tap the reasons behind their interstate move. These survey data would be combined with data obtained from a brief self-administered questionnaire completed at the time the application process was initiated and with administrative data normally collected by the state. Cognizant that respondents would give "socially acceptable answers," the research team couched their questions in ways designated to obscure the intent of the survey.

The committee's preliminary results—which had to be published before all the data were in—were that between 7 and 20 percent of those who had migrated to the state within the previous five years and who were AFDC applicants in the spring of 1986 were "influenced" to migrate by welfare benefit differentials.[16] They estimated that perhaps 10 percent of all migrants and 30 percent of recent migrants to Wisconsin (those who had moved within three months of the interview) were "motivated" to move because of these differentials. In the pool of all applicants (not just migrants), approximately 3 percent were estimated to be migrants motivated primarily by the higher welfare guarantees in Wisconsin. Adjusting for the fact that not all applicants receive AFDC, it was estimated that those motivated by the welfare differential amounted to merely 50 cases a month.

The survey also revealed that people moved for a number of reasons; the relocation decision was not one-dimensional. Some reasons for relocating—proximity to family and friends, the desire for a better life, and the hope of finding a job—appeared significantly more important than the size of welfare payments. Furthermore, it was found that some areas of the state had reason for concern. The WEC Report noted that "migrants for whom welfare played some role in the migration process tend to settle disproportionately in Milwaukee County. Nevertheless, other counties such as Kenosha, Racine, Rock (and perhaps others yet) can be dramatically affected even by small numbers of newcomers."[17]

The welfare magnet committee's answer to the question—Do low-income families move to Wisconsin to avail themselves of relatively more generous welfare benefits?—was far from the crisp resolution of the problem that had been anticipated. The study concluded: "The welfare magnet argument is not without support."[18] In fact, the committee produced so much data that both proponents and opponents of the magnet hypothesis could find evidence supportive of their position. The committee concluded, however, that a statewide policy response was not warranted since freezing benefits would hurt Wisconsin natives as well as in-migrants, and any policy directed only at migrants would raise constitutional questions. In the end, nothing was resolved, and study of the problem was suspended—despite the insistence of the research team that the study was incomplete and the numerous methodological issues remained to be addressed.[19]

THE WITCH DOCTORS DISAGREE

The magnet debate did not disappear. Partly rationalized by fears of welfare-motivated in-migration, AFDC guarantees were reduced by 5 percent in July 1987. Moreover, calls continued for the enactment of some form of residency requirement, though few pursued this option seriously, given that the courts would almost certainly strike down such a provision. Advocates for some response to the migration problem began to focus on what was called the two-tiered solution. Inmigrants would be paid less in benefits than Wisconsin natives; they would receive the amount paid by the state from which they had moved for a period of six months.

As various ideological camps formed in light of the actual benefit cuts and proposals for a two-tiered welfare system, three distinguishable positions on the magnet issue emerged. Some, focusing on selected findings from the 1986 study, argued that AFDC inmigrants relocate for the same kinds of reasons that others do—community-specific attractions and economic opportunity. This might be called the quality-of-life argument. Others essentially dismissed the 1986 study, simply asserting the AFDC in-migrants must be coming for the higher benefits—what might be called the welfare-maximization argument. Still others argued that it makes no difference why migrants came; only the fact that they were here counted. We might call this the agnostic argument, since it implies that theory doesn't matter. All that matters is that undesirable families allegedly are moving into the state for a variety of reasons that may never be fully understood, and "something" must be done to alter this migration pattern.

Some of those not immediately involved in the emerging debate found the analysis in the "WEC Report" enlightening. In the summary of the welfare magnet issue literature, mentioned above, Nathan Glazer noted that "this study is unique and rich," and further described the analysis as "careful and persuasive."[20] Not all observers were as impressed. The debate picked up in 1988 when the Wisconsin Policy Research Institute (WPRI) published "Welfare In-Migration in Wisconsin: Two Reports." The first report in this document, prepared by James Wahner and Jerome Stepaniak, was a study of welfare in-migration patterns and consequences in our southeastern Wisconsin counties—Milwaukee, Racine, Kenosha, and Rock. The second report in the document was a critique of the "WEC Report", by Richard Cebula and Michael La Velle.[21]

Wahner and Stepaniak, in their "Four County Report," looked at the counties that were likely destinations for any welfare-motivated in-migrant because of their urban character and proximity to Chicago. The authors of the report made no attempt to tap the motivations behind the decision to relocate. All families who moved to Wisconsin for the first time and applied for AFDC at some future time were considered to be welfare in-migrants. Defined in this broad manner, the population of welfare in-migrants included nonnatives who had already lived for years in the state before applying for welfare.

Using this definition, Wahner and Stephaniak reported that between September 1985 and August 1988, 74,763 AFDC cases were opened in Wisconsin. Almost three in ten of these (29.3 percent) were cases involving a family head who had never before lived in Wisconsin. Furthermore, "some 46.5 percent of 10,809 of the newly opened cases in Milwaukee between September 1985 and August 1988 were nonresidents with no previous Wisconsin residency. This is a substantial number."[22] In point of fact, these were the same numbers reported by the Wisconsin Expenditure Commission, which had indicated that twice as many approved applicants for AFDC in Milwaukee were new residents (having moved to Wisconsin in the previous five years), compared to the rest of the state (47.7 percent vs. 23.6 percent),[23] and that three out of ten new applicants for welfare were in-migrants in that they had not been born in Wisconsin. Though no really new numbers were contained in Wahner and Stepaniak's report, the magnet question was transformed suddenly from a relatively small problem into a large and ominous one.

But it was and is unclear what these numbers actually mean. Were all these migrants motivated by the higher welfare payments? What would one find if one looked at a sample of applicants for welfare in Illinois? One might find that 30 percent of welfare applicants in Illinois had never lived in that state before. And what sort of interstate migration pattern would be found if one examined new applicants for, say, driver's licenses or bank accounts? If analysts found that 30 percent of applicants for new bank accounts were not Wisconsin natives, would they conclude that Wisconsin's superior banking practices had drawn them to the state? Figures such as "30 percent of applicants are not Wisconsin natives" are little more than sowhat numbers—rather meaningless unless they can be analyzed within a sound theoretical framework and in terms of appropriate comparative data. (As mentioned earlier, the authors of the WEC Report had wanted to pursue such questions but failed to obtain funding from DHSS.)[24]

Wahner and Stepaniak drew the conclusion that "254 AFDC in-migration cases" were added to the caseload each month in the four counties they examined. They also declared that 70 percent of new entrants to the Milwaukee public schools, 58 percent of new beneficiaries of housing assistance, and about 33 percent of arrested juveniles were born outside of Wisconsin. These patterns were interpreted to represent a public policy crisis.

Cebula and La Velle, the authors of the second report, "Re-Examination Report," claimed to look specifically at welfare-motivated applicants for welfare, defined as anyone who, in the 1986 telephone survey, mentioned welfare at all, even if categorizing it as "not very important." Their conclusion was that in Wisconsin 497 applicants each month were welfare magnet migrants. After adjusting for the fact that not all applicants received AFDC, they arrived at a monthly estimate of new magnet AFDC cases that was almost five times greater than the one suggested two years earlier by the Wisconsin Expenditure Commission.[25]

Based on their new estimate, they proposed that welfare benefit levels be frozen in Wisconsin until they were in line with the national average, that benefits should be maintained at that average, and that Wisconsin should consider imposing a three-to-six-month residency requirement for eligibility for welfare.

While politicians were debating a policy response to these alarming new numbers, another publication on welfare magnets was published by the Wisconsin Policy Research Institute. This document, title "The Financial Impact of Out-of-State-Based Welfare In-Migration on Wisconsin Taxpayers,[26] sought to spell out the fiscal consequences of welfare-motivated in-migration. The definition of welfare migration was widened once again. Now "out-of-state-based welfare inmigrants" included all those who had ever lived outside Wisconsin, no matter how long ago or under what circumstances they chose to move (or return) to Wisconsin. Like Wahner and Stepaniak, the author included, for example, a woman who moved to Wisconsin from Minnesota as a five-year-old and became a first-time applicant for AFDC twenty years later. But this study also included any Wisconsin native who left the state, if, upon returning, she eventually applied for welfare.

The estimated costs of this welfare in-migration phenomenon because truly frightening (see Table 2). According to these estimates 44 percent of the 10,000 AFDC entrants in 1988 were defined as out-of-state-based welfare in-migrants, presumably lured to Wisconsin by the welfare differential. This group, according to Cebula, generated additional costs amounting to $129 million in 1988: $52.9 million for increased benefits; $15.5 million for workers to manage the higher caseload; $54.6 million for educational costs and $6 million for law enforcement costs. The "Financial Impact" stressed that these costs were additive and probably underestimated the true impact of welfare migration. The reader was also left with the impression that the costs were cumulative; that is, each year another $129 million would be added to the taxpayers burden from welfare migrants.[27]

The AFDC costs in the paper raise questions rather than provide insights. Space permits me to touch upon only a few of these questions. The $52.9 million additional costs for benefits is based on the assumption that all in-migrants were on the welfare rolls from the first day of the calendar year and received a grant throughout the year. But analysts from the DHSS have pointed out that these migrants would have been absorbed onto the caseload over the course of the year and at least a third of them would have been off assistance for at least one month during the remainder of the year. The DHSS analysts conclude that an average stay on welfare of five months, not twelve months, be used in the computation. In their opinion the estimate in "Financial Impact" overstates the additional benefit expenditures by 140 percent.[28] Furthermore the study uses gross in-migration, ignoring the fact that people leave Wisconsin. The study also assumes that this population is chronically dependent—once on the rolls, always on the rolls. Yet the literature on welfare dynamics indicates that half of all recipients beginning a spell on AFDC leave welfare in a year or two, and only about one in three eventually become long-term dependents.[29]

TABLE 2.—SUMMARY OF INCREASED COSTS TO WISCONSIN TAXPAYERS IN 1988 AS ESTIMATED IN "FINANCIAL IMPACT", REPORT OF THE WISCONSIN POLICY RESEARCH INSTITUTE

[In millions of dollars]

	Never lived in Wisconsin before [1]	Returning to Wisconsin [2]	Total
AFDC-related costs:			
Benefits	$36.5	$16.4	$52.9
Personnel	10.7	4.8	15.5
Subtotal	47.2	21.2	68.4
Education-related costs:			
Direct	37.2	16.7	53.9
School lunch	0.5	0.2	0.7
Subtotal	37.7	16.9	54.6
Law enforcement costs (subtotal)	4.2	1.8	6.0
Grand total	89.1	39.9	[3] 129

[1] Defined as not born in Wisconsin but having maintained continuous residence after in-migrating. In-migration may have been in recent or distant past.

[2] Either born or lived in Wisconsin in past and has returned to the state either in the recent or distant past.

[3] State analysts have reestimated this figure. By making adjustments to inflow and exits based on available welfare data, they reduce this figure to about $46 million. They further adjust it by eliminating those in-migrants who did not obtain welfare within 6 months of moving to state and further reduce it to $24 million.

Source: The "Financial Impact of Out-of-State Based Welfare In-Migration on Wisconsin Taxpayers" (Milwaukee: Wisconsin Policy Research Institute, 1989).

Whether in fact in-migrants are more dependent than others is an open question. The fact that they have had the drive to relocate in search of a better life suggests that they are unlikely to remain on welfare. Yet their drive may extend only to finding the most generous handout. Data on this point are inconclusive, though early results from a new study by Voss and Dana Soloff indicate that welfare use is greater among those who indicated in the 1986 survey that welfare influenced their decision to move.[30]

The educational costs in the table are estimated the same way the AFDC benefits are, on the assumption that the children start school the first day of class and stay in the school system for the entire year. It is further assumed that all welfare migrants have school-aged children. (Even if these numbers were correct, it is obviously in the state's interest to educate poor children, no matter where they lived in the past. Wisconsin, like other states, faces a labor shortage in the next decade and will need an influx of educated young people.)

The rest of the numbers in the table are more perplexing even than the AFDC-benefit calculations. For example, the cost of personnel is based on the assumption that a new welfare worker must be hired for every seven to eight cases added to the rolls and, of course, that the AFDC caseload is increasing. Yet the actual number of cases per worker is 83 (Wisconsin's per-month/per-case total administrative cost is only $26)[31] and no data were provided on actual caseload size changes over the study period. The costs to Wisconsin taxpayers for the school lunch program are typical of the logic used in "Financial Impact." All AFDC children are eligible for free school lunches financed by the federal government. Whether a child eats that lunch in Chicago or Kenosha, the federal cost was $1.66 in 1988. Because of Wisconsin's efficiency in administering this program, the average cost of producing a school lunch was $1.26, substantially less than the $1.66 subsidy. So there is no increased school lunch cost to Wisconsin taxpayers if a child migrates from, say, the Illinois to the Wisconsin AFDC program. Rather, the federal reimbursement structure would actually help subsidize the cost of school-provided lunches for non-AFDC poor children in Wisconsin.

PERCEPTION AND REALITY

Tables 3 and 4 compare estimates of caseload size and costs from the "Financial Impact"—extrapolating from the 1988 table and assuming that the numbers are additive and cumulative—with actual AFDC caseload data. The estimates derived from the logic employed in the "Financial Impact" bear little relationship to reality. Rather than increasing by more than 30 percent over the period from January 1986 to the end of 1988, the AFDC caseload actually dropped by 17 percent, from 100,000 to 83,373. Based on the logic of the "Financial Impact," the estimated caseload at the end of the decade would be in excess of 140,000, whereas the actual figure was less than 80,000. Not surprisingly, expenditures on AFDC were dropping, abetted in part by the legislation in 1987 reducing the size of the welfare guarantee. Adjusting for this reduction in the predicted scenario would still put AFDC costs at over $64 million per month by the end of 1989, whereas the actual cost was $36,518,922—57 percent of the estimate based on the "Financial Impact."[32]

TABLE 3.—AFDC CASELOAD CHANGES: HYPOTHETICAL SCENARIO AND ACTUAL CASELOAD, 1986–1989

Year and month	Hypothetical scenario		Actual caseload
	Additional AFDC welfare migrant cases per quarter	Estimated cumulative caseload growth	
January 1986	0	100,000	100,000
By March 1986	1,838	101,838	99,915
By June 1986	2,800	104,638	98,660
By September 1986	2,802	107,440	97,529
By December 1986	2,812	110,252	95,158
By March 1987	2,732	112,984	97,198
By June 1987	2,763	115,747	95,565
By September 1987	2,725	118,472	92,876
By December 1987	2,695	121,167	89,312
By March 1988	2,616	123,783	90,920
By June 1988	2,577	126,360	86,888
By September 1988	2,852	129,212	85,870
By December 1988	2,190	131,402	83,373
By March 1989	2,470	133,372	83,503
By June 1989	2,610	136,482	81,244
By September 1989	2,904	139,386	79,838
By December 1989	2,332	141,714	79,359

Note: To derive the hypothetical size of the AFDC caseload, the monthly number of new AFDC cases (e.g., March 1986) is multiplied by 3 to give a quarterly figure and then multiplied by .44 (the percentage of new cases accounted for by out-of-state-based welfare in-migrants). It is assumed that no change occurs in the size of the Wisconsin native population on AFDC.

Source: Hypothetical scenario is based on "Financial Impact." Actual caseload from Wisconsin Department of Health and Social Services. Calculations by author.

Do these numbers mean that the suggested adverse fiscal impact of interstate migration is a fiction? Not necessarily. Other explanations could account for the discrepancy. For example, the aggregate caseload decline could be explained by a massive departure of Wisconsin natives from the welfare rolls, more than balancing the influx of out-of-staters. The administrative data maintained by DHSS, however, reflect no such scenario. The proportion of out-of-staters on the rolls has remained relatively constant, increasing only by 3 percentage points over the 1980s.

TABLE 4.—MONTHLY EXPENDITURES FOR AFDC: HYPOTHETICAL SCENARIO AND ACTUAL EXPENDITURES, 1986–88

	Per case expenditures (1)	Scenario caseload (2)	Scenario expenditures (3)	Actual expenditures (4)	Actual as percent of scenario (3/4 x 100)
Years:					
1986 [1]	$500	100,000	$50,000,000	$50,000,000	100
1986 [2]	498	110,000	54,780,000	47,356,943	86.4
1987 [2]	459	120,000	55,080,000	41,953,247	76.2
1988 [1]	459	130,000	59,670,000	38,277,811	64.1
1988 [2]	460	140,000	64,400,000	36,518,922	56.7

[1] January data.

[2] December data.

Source: Hypothetical scenario is based on "Financial Impact" numbers. Actual expenditures are from the Wisconsin Department of Health and Social Services. Calculations by author.

Another possibility is that the in-migrants are taking advantage of programs other than AFDC and food stamps. Perhaps legislation such as Learnfare and new work requirements have made AFDC less appealing, so new migrants are turning elsewhere, such as to the Food Stamp program, for assistance. But this assumption is also not borne out. Expenditures fell in the Food Stamp program just as they fell in AFDC. The only programs that expanded were Medicaid, where cost for health services historically outpaces inflation, and Supplemental Security Income, a program for the elderly, disabled, and blind poor.

During the height of the magnet debate, Wisconsin did not face a welfare crisis precipitated by an onslaught of out-of-staters rushing in to take advantage of generous AFDC benefits. Table 5 indicates that the proportion of new AFDC cases who had never before lived in Wisconsin has remained constant at about 29 percent. Likewise, the proportion of newcomers who applied for AFDC within three months of moving to the state has been constant over time—about 12 percent. These numbers are unaffected by swings in the AFDC rolls and even remained constant after a cut in the AFDC guarantee.

THE POLICY CONUNDRUM: WHOM TO BELIEVE

Welfare magnet debates tend to be intense and protracted. Irrespective of numbers, the underlying hypothesis remains viable, partly because it is so plausible and partly because it is supported by anecdotal evidence. Lacking precise definitions and data, analysts can build conflicting cases and draw wildly differing conclusions. The Wisconsin debate produced just such ambiguous numbers. By some estimates, three in five applicants lived elsewhere at some point in the past. Roughly one in three moved to Wisconsin for the first time within five years of their welfare application. About one in five are estimated to be recent migrants—to have moved to Wisconsin within three months of applying for assistance. Less than one in twenty are recent migrants who indicated that welfare played a substantive (though not necessarily dominant) role in their relocation decision. And only 1 percent of all AFDC applicants in spring 1986 both obtained welfare and fully admitted that they were drawn to Wisconsin primarily by the welfare differential.[33]

TABLE 5.—SUMMARY OF AFDC TRENDS OVER TIME: 1985–89

Year	Approved AFDC applications	First-time in-migrants		First-time in-migrants obtaining AFDC within 3 months	
		Number	Percent	Number	Percent
1985[1]	2,128	620	29.1	252	11.8
1986[2]	2,116	620	29.3	249	11.8
1987[2]	2,067	606	29.3	244	11.8
1988	1,938	554	28.6	234	12.1
1989	1,954	571	29.2	236	12.1

[1] Based on September and December data.

[2] Based on March, June, September, and December data.

Sources: "Financial Impact, WEC, Report." and DHSS administrative data.

How does one sort through such numbers and pick those that are policy relevant? For policymakers, the analytic context must have been confusing indeed. New studies and conclusions piled one upon another with little progress toward a definitive answer. Was the magnet problem large or small? Did welfare applicants move to Wisconsin primarily for higher benefits, primarily for quality-of-life factors, or for some combination of economic and noneconomic factors? What do the numbers mean?

Equally perplexing is the process by which the small numbers calculated in 1986 quickly got so large and frightening: Consider the continuing shift in conceptual definitions and research methodologies. In 1986, the focus was on estimating the numbers of "welfare-movitvated" in-migrants. A substantive test was employed; that is, what proportion of in-migrants who applied for AFDC were predominantly influenced by the welfare differential and, therefore, might respond to policies designed to diminish that differential? To answer this question, the intent behind the move had to be tapped. The researchers therefore relied upon a survey methodology. By the end of 1988, all in-migrants who had never before lived in Wisconsin were considered by some to be welfare-motivated in-migrants if they applied for welfare. Accessible administrative data could be used to estimate the magnitude of the phenomenon. A year later, the dominance of the agnostic perspective was reflected in the approach employed in the "Financial Impact." Any welfare applicant who had ever lived outside of Wisconsin, no matter how long ago or under what circumstances she chose to move (or return) to Wisconsin, was designated an out-of-state-based welfare in-migrant.

As suggested earlier, the link between policy making and policy analysis is tenuous at best. Those convinced of the magnet problem selected those data and interpretations of the data that supported their preexisting beliefs. Those with the opposite opinion did the same. How one chooses among the available numbers depends upon individual norms and perceptions about the poor. Those fearing a large magnet effect appear to assume that interstate migrants who apply for welfare are the chronically dependent: looking for the best welfare deal and intending to stay on the rolls. An overreliance upon what was intuitively obvious might explain why available caseload figures were not examined to verify whether, in fact, the AFDC caseload was increasing during that period when a large fiscal impact of the in-migration effect was being argued. It was simply assumed that the caseload and the supportive bureaucracy must be increasing. In policy analysis, the obvious—when examined carefully and dispassionately—can easily turn out to be not so obvious in the end. This is confusing not only to the ordinary members of the tribe but to the witch doctors themselves.

Those who wish to minimize the magnet effect are no less guilty. Indeed, they are likely to argue that, as conditions in the cores of big cities continue to deteriorate, migrants have much more pressing reasons to relocate than marginally higher benefits. Their very lives are at stake.[34] In focusing exclusively on quality-of-life explanations, such arguments tend to downplay the extent to which welfare-motivated migration does exist. Undoubtedly, both welfare-differential and quality-of-life issues explain part of what is going on.

Can rigorous policy analysis contribute anything to such a contentious issue? That might well depend on whether sufficient attention is paid to the following factors:

Achieving conceptual clarity.—It is imperative that the policy question be clearly articulated. Which issue is of preeminent policy concern: the in-migration of welfare-motivated persons? of those likely to end up on welfare irrespective of motivation? of the poor in general? or of minority families in particular? These are different questions and invite different processes for answering them as well as different policy responses. The point here is that we must get the question right and define our terms clearly. The debate in Wisconsin became incomprehensible because definitions of the target group kept shifting—from welfare-motivated families to welfare-influenced families to low-income migrants who might need welfare. A policy question cannot be addressed until we state it clearly.

Establishing standards of proof.—Would we recognize welfare magnetism if it existed? This is a more difficult issue than would appear on the surface. Namely, what is the threshold level at which a phenomenon becomes a concern, or a problem requiring some kind of response, or a crisis requiring immediate attention? For some, the magnitude of welfare-motivated in-migration measured in the 1986 study required an immediate policy response; for others, it was little more than a concern. Moreover, the consequences of a policy response determine the standard of proof that should be employed. If a policy change will adversely affect a broad class of individuals—all welfare recipients or all recipients who lived elsewhere—evidence that a significant problem exists should be evaluated according to a more rigorous standard.

Making an adequate investment.—More rigorous standards of proof require the use of methodologies capable of identifying causal relationships—not merely that X and Y are related but that X causes Y. In this instance, it must be demonstrated not only that higher welfare benefits are associated with the in-migration of welfare users but that the size of the benefits causes the migration. Some dispute will always exist about the kind of methodology required to establish causation. What is clear is that the analysis must go beyond the single numbers used in the past. As suggested earlier, finding that 30 percent of applicants are not Wisconsin natives is a "so what" number. Without appropriate comparisons, we cannot determine if that number is high or low. It takes careful investigation and the investment of sufficient resources to move from supposition to proof.

Clearly relating evidence to policy.—Even if the welfare magnet hypothesis were proved at a level that warranted a policy response, the appropriate policy response would not be clear. For some, any proof of the magnet hypothesis would buttress calls for further retrenchment of welfare at the state level. Others would use the same evidence to call for an expansion of welfare at the national level through the creation of uniform minimum welfare guarantees. There is no single policy implication to any given research outcome.

WHAT IS THE REAL PROBLEM?

Debates such as this may well distract the policy community from attending to more fundamental questions.

AFDC plays an increasingly marginal role in helping the poor. Nationwide, AFDC guarantees have declined in value by over 40 percent in the past two decades—though increases in in-kind supports (e.g., food stamps) have offset this drop by about one-half. The decline in the "real" value of AFDC benefits has been evidenced in virtually all states, those with high, medium, and low guarantees. Moreover, AFDC covers a smaller proportion of poor children, less than 60 percent now as opposed to 80 percent in the early 1970s. These trends could well continue as states, ever sensitive to the welfare magnet phenomenon, attempt to maintain their position vis-a-vis one another respecting the generosity of their public assistance programs.[35] While states compete to shove the problem under the rug (i.e., into another state), the proportion of all children who are poor has increased from about 15 percent in the mid-1970s to about 20 percent today.[36]

In short, welfare remains a terrible way to help the needy. It leaves children impoverished and encourages dependence. There must be a better way and the policy community would do well to focus its energies on funding innovative solutions to child poverty and welfare dependency.

FOOTNOTES

[1] Henry J. Arron, *Politics and the Professors* (Washington, D.C., Brooking Institution, 1978), p. 159. The "members of the tribe" refers to anyone who wants answers to complex social and political questions and the "witch doctors" refers to those who try to provide those answers.

[2] Haverman, *Poverty Policy and Poverty Research, 1965–1980: The Great Society and the Social Sciences* (Madison: University of Wisconsin Press, 1987), p. 33.

[3] See Arron, *Politics and the Professors.*

[4] Friedrich Hayek, *The Fatal Concern* (Chicago: University of Chicago Press. (1989).

[5] See, for example, Charles Murray, *Losing Ground: American Social Policy*, 1950–1980 (New York: Basic Books, 1984).

[6] Heckman, "Social Science Research and Policy," *Journal of Human Resources*, 25, no. 2 (Spring 1990), p. 301.

[7] U.S. House of Representatives, Committee on Ways and Means, 1991 Green Book (Washington, D.C.: GPO, 1991). p. 597.

[8] For a detailed account of the black migration to Chicago, see Nicholas Lemann. *The Promised Land* (New York: Alfred A. Knopf, 1991).

[9] Richard Nixon, "Proposals for Welfare Reform," U.S. House of Representatives, 91st Congress, 1st session, Document no. 91–146, p. 2.

[10] "Poverty Status and Receipt of Welfare among Migrants and Nonmigrants in Large Cities," *American Sociological Review* 39 (February 1974), 46–47.

[11] "A Survey of the Literature on the Migration Impact of State and Local Policies," *Public Finance* 34 (1979), 69–84.

[12] Nathan Glazer, *Migration and Welfare*, a report prepared for the U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation, Income Security Policy, under contract no. HHS–100–86–0021 (David Ellwood and Robert Lennan, principal investigators), Washington, D.C., 1987, p. 23.

[13] "Federalism and Welfare Reform: The Determinations of Interstate Differences in Poverty Rates and Benefit Levels," paper prepared for delivery at the 1987 Annual Meeting of the American Political Science Association, Chicago, September 3-6, 1987, p. 25. See also Paul Peterson and Mark Rom, *Welfare Magnets: A New Case for a National Standard* (Washington, D.C.: Brookings Institution, 1990); and Robert Moffitt, *Incentive Effects of the U.S. Welfare System: A Review*, IRP Special Report no. 48, University of Wisconsin-Madison, 1991. These works had not been published at the height of the Wisconsin debate.

[14] Voss, "Migration of Low-Income Families and Individuals," Applied Population Laboratory, Department of Rural Sociology, University of Wisconsin-Madison, 1985, pp. 13–14.

[15] Voss, "A Demographic Portrait of Wisconsin's People," in *State Policy Choices: The Wisconsin Experience*, ed. Sheldon Danziger and John F. Witte (Madison: University of Wisconsin Press, 1988), p. 92.

[16] Wisconsin Expenditure Commission. *The Migration Impact of Wisconsin's AFDC Benefit Levels: A Report to the Wisconsin Expenditure Commission by the Welfare Magnet Study Committee* (Madison: Wisconsin Department of Administration, 1986). This report is hereafter referred to as the *WEC Report*. It is useful to distinguish between the *welfare motivated* in-migrant and the *welfare-influenced* in-migrant. The former is likely to have moved to Wisconsin primarily—if not solely—for the higher AFDC benefits. The latter may have taken the higher benefits into consideration but was also influenced by other factors, such as labor market opportunities and quality-of-life considerations. The distinction is not a trivial one. Welfare-*motivated* in-migrants can be expected to respond to policy changes designed to reduce the magnet phenomenon. For the welfare-*influenced* in-migrant , the response would depend on how dramatic the new policy was (e.g., how deeply benefits were cut and for how long). And no effect can be anticipated among low-income migrants (who eventually apply for welfare) who move to Wisconsin without considering the welfare differential.

[17] *WEC Report*, Executive Summary, p. v.

[18] Ibid., p. iv.

[19] The authors of the report identified a number of defects in the survey. They had taken shortcuts in preparing and analyzing this data, and had no comparison data for other jurisdictions or time periods. Aware of the selectivity problems in the sample, they planned to replicate the survey at a later date with a broader sample, such as all low-income female-headed migrant families, rather than merely those applying for welfare. And they felt that to obtain a more complete understanding of the migration phenomenon, it was essential to track the applicants over time, to discover whether in fact they made use of welfare, where they resided, and if and when they obtained jobs.

[20] See Glazer, *Migration and Welfare*, p. 22.

[21] Wisconsin Policy Research Institute, *Welfare In-Migration in Wisconsin: Two Reports*. The first report, titled *Welfare In-Migration: A Four-County Report*, by James Wahner and Jerome Stepaniak, is hereafter cited as *Four-County Report*. The second report in this document, titled *The Migration Impact of Wisconsin's AFDC Benefit Levels: A Re-Examination*, by Richard Cebula and Michael La Velle, is cited hereinafter as the *Re-Examination Report*. Both were published by the Wisconsin Policy Research Institute, Milwaukee, Wis., 1988.

[22] *Four-County Report*, p. 7.

[23] *WEC Report*, Table 24, p. 104.

[24] Paul Voss and I submitted proposals to DHSS in 1987 and 1988, to no avail.

[25] *Re-Examination Report*, pp. 2, 3.

[26] Wisconsin Policy Research Institute, *The Financial Impact of Out-of-State-Based Welfare In-Migration on Wisconsin Taxpayers*, by Richard Cebula (Milwaukee, Wis.: WPRI, 1989). Hereafter cited as *Financial Impact*.

[27] *Financial Impact* states that the in-migration cases "are shown to result in an overall additional aggregate cost (burden) per year to Wisconsin taxpayers of approximately $129 million" (p. 37).

[28] This conclusion is based on conversations with Neil Gleason and Ed Mason, analysts in the Wisconsin DHSS, who had provided the data for the *Financial Impact*.

[29] See Mary Jo Base and David Ellwood, "Slipping into and Out of Poverty: The Dynamics of Spells," *Journal of Human Resources*, 21, no. 1 (Winter 1986), 1–23.

[30] An unpublished work in progress. Preliminary results suggest that those welfare applicants who said they came to Wisconsin in 1986 to seek better economic opportunities did, in fact, demonstrate a greater attachment to the labor force in subsequent years than those who did admit that the welfare differential motivated their move. Thomas Barton, while writing his Ph.D. dissertation at the University of Wisconsin-Madison, found that about 80 percent of AFDC entrants in Kenosha County, Wis., exited from the welfare rolls of that county at least once over the subsequent 30 months. The exit rate for nonnatives was higher than for those who always were Wisconsin residents. This finding, if confirmed, might explain a curious anomaly. Except for Milwaukee, the AFDC rolls in what were considered "magnet" counties—because of their size and proximity to Illinois—fell by 20 to 25 percent between 1986 and 1989. In Milwaukee, the caseload also fell, but only by 6 percent.

[31] Calculated from data included in the *1990 Green Book*.

[32] Actual caseload figures and expenditures are derived from Wisconsin DHSS management reports.

[33] Data from *WEC Report*.

[34] Officials in Dane County (the site of the state capital) have noted a dramatic influx of low-income minority families in the past several years. For example, public school officials note that the number of elementary school children who experience episodes of homelessness—80 percent of whom are minorities and in-migrants—has been doubling each year since 1987, when 70 children in the county became homeless. There is considerable speculation that the "new" migration flow is from those urban areas already infested with crack cocaine (e.g., Chicago, Milwaukee) to middle-size cities that look safer to economically disadvantaged parents. Some have labeled this the secondary-city migration pattern.

[35] Only one state, California, maintained the real value of its AFDC guarantee over the 1970–1990 period (*1991 Green Book*, p. 601).

[36] Ibid, p. 1051.

The PRESIDING OFFICER. All the time is yielded back. The question is on agreeing to the amendment.

The amendment (No. 1726) was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. D'AMATO. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

AMENDMENT NO. 1727

(Purpose: To provide a credit against tax for employers who provide on-site day-care facilities for dependents of their employees)

Mr. DECONCINI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant bill clerk read as follows:

The Senator from Arizona [Mr. DECONCINI] proposes an amendment numbered 1727.

Mr. DECONCINI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the end of title I, insert:

SEC. . ALLOWANCE OF CREDIT FOR EMPLOYER EXPENSES FOR CERTAIN ON-SITE DAY-CARE FACILITIES; INCREASE IN CORPORATE MINIMUM TAX RATE.

(a) ALLOWANCE OF CREDIT.—Subpart D of part V of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end thereof the following new section:

"SEC. 45. EMPLOYER ON-SITE DAY-CARE FACILITY CREDIT.

"(a) IN GENERAL.—For purposes of section 38, the employer on-site day-care facility credit determined under this section for the taxable year is an amount equal to 50 percent of the qualified investment in property placed in service during such taxable year as part of a qualified day-care facility.

"(b) LIMITATION.—The credit allowable under subsection (a) with respect to any qualified day-care facility shall not exceed $150,000.

"(c) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED INVESTMENT.—The term 'qualified investment' means the amount paid or incurred to acquire, construct, rehabilitate, or expand property—

"(A) which is to be used as part of a qualified day-care facility, and

"(B) with respect to which a deduction for depreciation (or amortization in lieu of depreciation) is allowable.

Such term includes only amounts properly changeable to capital account.

"(2) QUALIFIED DAY-CARE FACILITY.—

"(A) IN GENERAL.—The term 'qualified day-care facility' means a facility—

"(i) operated by an employer to provide dependent care assistance for enrollees, at least 30 percent of whom are dependents of employees of employers to which a credit under subsection (a) with respect to the facility is allowable,

"(ii) the principal use of which is to provide dependent care assistance described in clause (i),

"(iii) located on the premises of such employer,

"(iv) which meets the requirements of all applicable laws and regulations of the State or local government in which it is located, including, but not limited to, the licensing of the facility as a day-care facility, and

"(v) the use of which (or the eligibility to use) does not discriminate in favor of employees who are highly compensated employees (within the meaning of section 414(q)).

"(B) MULTIPLE EMPLOYERS.—With respect to a facility jointly operated by more than 1 employer, the term 'qualified day-care facility' shall include any facility located on the premises of 1 employer and within a reasonable distance from the premises of the other employers.

"(d) RECAPTURE OF CREDIT.—

"(1) IN GENERAL.—If, as of the close of any taxable year, there is a recapture event with respect to any qualified day-care facility, then the tax of the taxpayer under this chapter for such taxable year shall be increased by an amount equal to the product of—

"(A) the applicable recapture percentage, and

"(B) the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted if the qualified on-site day-care expenses of the taxpayer with respect to such facility had been zero.

"(2) APPLICABLE RECAPTURE PERCENTAGE.—

"(A) IN GENERAL.—For purposes of this subsection, the applicable recapture percentage shall be determined from the following table:

"If the recapture event occurs in:	The applicable recapture percentage is:
Years 1–3	100
Years 4	85
Years 5	70
Years 6	55

Years 7	40
Years 8	25
Years 9 and 10	10
Years 11 and thereafter	0.

"(B) YEARS.—For purposes of subparagraph (A), year 1 shall begin on the first day of the taxable year in which the qualified day-care facility is placed in service by the taxpayer.

"(3) RECAPTURE EVENT DEFINED.—For purposes of this subsection, the term 'recapture event' means—

"(A) CESSATION OF OPERATION.—The cessation of the operation of the facility as a qualified day-care facility.

"(B) CHANGE OF OWNERSHIP.—

"(i) IN GENERAL.—Except as provided in clause (ii), the disposition of a taxpayers' interest in a qualified day-care facility with respect to which the credit described in subsection (a) was allowable.

"(ii) AGREEMENT TO ASSUME RECAPTURE LIABILITY.—Clause (i) shall not apply if the person acquiring such interest in the facility agrees in writing to assume the recapture liability of the person disposing of such interest in effect immediately before such disposition. In the event of such an assumption, the person acquiring the interest in the facility shall be treated as the taxpayer for purposes of assessing any recapture liability (computed as if there had been no change in ownership).

"(4) SPECIAL RULES.—

"(A) TAX BENEFIT RULE.—The tax for the taxable year shall be increased under paragraph (1) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

"(B) NO CREDITS AGAINST TAX.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under subpart A, B, or D of this part.

"(C) NO RECAPTURE BY REASON OF CASUALTY LOSS.—The increase in tax under this subsection shall not apply to a cessation of operation of the facility as a qualified day-care facility by reason of a casualty loss to the extent such loss is restored by reconstruction or replacement within a reasonable period established by the Secretary.

"(e) SPECIAL ALLOCATION RULES.—For purposes of this section—

"(1) ALLOCATION IN CASE OF MULTIPLE EMPLOYERS.—In the case of multiple employers jointly operating a qualified day-care facility, the credit allowable by this section to each such employer shall be its proportionate share of the qualified on-site day-care expenses giving rise to the credit.

"(2) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

"(3) ALLOCATION IN THE CASE OF PARTNERSHIPS.—In the case of partnerships, the credit shall be allocated among partners under regulations prescribed by the Secretary.

"(f) NO DOUBLE BENEFIT.—

"(1) REDUCTION IN BASIS.—For purposes of this subtitle—

"(A) IN GENERAL.—If a credit is determined under this section with respect to any property, the basis of such property shall be reduced by the amount of the credit so determined.

"(B) CERTAIN DISPOSITIONS.—If during any taxable year there is a recapture amount determined with respect to any property the basis of which was reduced under paragraph (1), the basis of such property (immediately before the event resulting in such recapture) shall be increased by an amount equal to such recapture amount. For purposes of the preceding sentence, the term 'recapture amount' means any increase in tax (or adjustment in carrybacks or carryovers) determined under subsection (d).

"(2) OTHER DEDUCTIONS AND CREDITS.—No deduction or credit shall be allowed under any other provision of this chapter with respect to the amount of the credit determined under this section.

"(g) TERMINATION.—This section shall not apply to taxable years beginning after December 31, 1996."

(b) INCREASE IN CORPORATE MINIMUM TAX RATE.—Subparagraph (A) of section 55(b)(1) (relating to tentative minimum tax) is amended by striking "20 percent" and inserting "20.3 percent".

(c) CONFORMING AMENDMENTS.—

(1) Section 38(b) is amended—

(A) by striking "plus" at the end of paragraph (6),

(B) by striking the period at the end of paragraph (7), and inserting in lieu thereof a comma and "plus", and

(C) by adding at the end thereof the following new paragraph:

"(8) the employer on-site day-care facility credit determined under section 45."

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 45. Employer on-site day-care facility credit."

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to property placed in service on and after the date of the enactment of this Act.

(2) MINIMUM TAX.—The amendment made by subsection (c) shall apply to taxable years beginning after December 31, 1991.

Mr. DECONCINI. Mr. President, this amendment deals with a child care tax credit for businesses, for employers.

In 1990, the Congress passed the Child Care and Development Block Grant Program, which helps low-income parents afford child care. It also increases the number of child care slots available throughout this country, and it seeks to improve the quality of child care throughout this Nation. It is the first real major step, from the Federal level, to do something about child care. This is a landmark act, but it provides no incentives for businesses to offer child care services to their employees.

The measure before you now encourages private sector involvement by offering employers a tax credit to provide on-site or near-site child care for their employees. We are a country that has almost 6 million employers, 136,000 of which have 100 or more employees each. That is a figure from the Department of Labor. Of that number, only about 5,600 of those employers provide some kind of child care support to their employees, mostly in the form of child care information and referral. Only about 1,400 corporations fund on-site or nearby child care facilities for their employees.

The amendment that is before you would provide a tax credit of 50 percent, with a maximum limit of $150,000, a one-time tax credit, not every year, one time, for employers to provide on-site or near-site child care for the children of their employees. The credit will be used for expenses related to the acquisition, construction, rehabilitation or expansion of an on-site or near-site child care center.

The U.S. Government would recapture the cost, on a reducing scale, if the facility does not operate for a period of at least 10 years as a child care center.

As pointed out with this chart, if a business did not keep the building as a child care facility for more than 3 years, they would have to pay back the full 100 percent of the tax credit that they received. After 10 years, then they are off the hook. But in 10 years they will really have invested in the children of this country.

It is estimated by the Joint Economic Committee that the cost would be $400 million over a 5-year period. I would pay for this by increasing the corporate alternative minimum tax rate by three-tenths of 1 percent. The corporate alternative minimum rate is currently 20 percent. This amendment would raise it 20.3 percent, three-tenths of 1 percent.

Who would qualify? Who would be the employees who would qualify for this if the employer were encouraged to create such a center?

At least 30 percent of the children enrolled must be dependents of the company's employees. The center must be opened to children of all the employees, regardless of their income bracket. The facility must operate in compliance with the State laws and regulations of a licensed day care center and, in the case of multiple employers, the facility must be located on the premises of one of the employers and within a reasonable distance from the premises of the other employer.

Why do we need a tax credit? Even with the enactment of the 1990 child care legislation, there is an urgent need in this country for more child care availability. There are 20.8 million children in America under the age of 6 years whose mothers are currently in the work force. Although we have no hard data on the number of child care slots available in this country today, a 1990 Children's Defense Fund survey found that 3.8 million children can be cared for in the licensed child care centers we have in the Nation today. More than five times that number of children under 6 years of age have mothers who currently work. Over 58 percent of America's mothers with children under 6, are in the work force. That number is projected to increase significantly in the decades ahead, and so is the number of children who need child care.

In my State of Arizona we have only enough State-approved child care spaces to serve 42 percent of the 200,000 children under the age of 6 years who need child care. According to a recent study by the Department of Labor, at least 1.1 million mothers were not in the work force in 1986 because of a primary reason: They had problems finding child care. We could increase our output, we could increase our revenues, if more businesses became involved in child care services.

It is a business investment. We want to encourage business to invest in our children.

Harry L. Freeman, executive vice president of the American Express Co., said this about child care:

> American Express is involved because the child care problems in America have reached crisis proportions. Corporations cannot ignore their responsibility * * * not if they want to attract and retain productive employees * * * not if they want to do business in economically healthy communities. The private sector must operate as a partner with the public sector to see to it that the quality and supply of child care meet the growing needs of our Nation.

That is an officer of the American Express Co., saying that child care is good for America, good for their company, and good for competition. Most U.S. businesses have steered clear of child care. But those who do offer such services all report that their child care programs improve the retention, recruitment, attendance, morale, and productivity of those employees.

In a study by IBM, Sears, Delta Airlines, and Coca-Cola, productivity for middle management increased between 7 and 16 percent after the companies began offering child care services.

A company named Photo Corporation of America, a photography company in North Carolina, saved $30,000 in recruitment costs in 1 year because of the child care services that company offered. Because of PCA's on-site center they had 3,500 walk-in applicants in 1 year looking for jobs. Because of the child care center alone, those applicants walked in the door.

High employee turnover is a major factor contributing to lagging U.S. productivity. The Merck Co., which has offered near-site child care since 1979, reports that turnover among employees who use their child care centers is significantly lower than the turnover rate among those who do not use the center. In a 5-year study, Merck Co., computed the cost of turnover to be between 1.5 to 2 times the average salary of the professional position in question.

Sioux Valley Hospital opened a child care center at the hospital in 1980. The hospital estimates the value of the reduced absenteeism of child care users to be conservatively worth $90,000 per year. That is $90,000 this hospital saved each year.

In the most exhaustive cost-benefit study ever conducted on a corporate onsite child care center, Union Bank in Monterey Park, CA, reported an estimated savings of more than $4 for every $3 spent in the first year of the child care program. The savings came primarily from reduced turnover and absenteeism and shortened maternity leaves.

In a comprehensive survey of 415 businesses, most of which offered onsite or near-site child care, the companies overwhelmingly reported that their child care services provided tangible corporate payoffs. This is exactly displayed here in this chart, which shows 65 percent of the companies reported that child care had a positive effect on turnover. Sixty-five percent realized their investment in child care had a positive effect. Fifty-three percent reported it had had a positive effect on absenteeism—53 percent. Eighty-five percent reported it had a positive effect on recruitment. Ninety percent reported it had a positive effect just on the morale of its employees. And 49 percent reported a positive impact on productivity.

That is not bad, I would say. And to me that makes the case.

Mr. BENTSEN. Has the Senator yielded the floor?

Mr. DECONCINI. I yield the floor.

Mr. BENTSEN. I certainly agree with my distinguished friend from Arizona that Government should play a role in seeing that we have affordable and available care. That is one of the reasons I have always supported a dependent care credit and an exclusion for employee-provided care. Those two provisions cost the Federal Government $3 billion this year alone.

One of the things that worries me, though, is this 50 percent tax credit. That is a very generous subsidy. I am not convinced that a subsidy of this magnitude is needed to ensure affordable and available child care. In addition, the bill before us now already has in it a new $300 per child tax credit as a permanent middle-income tax cut. In addition, it expands and it simplifies the earned-income tax credit.

I should also note that the current subsidies are aimed at giving the tax relief to the family and not to the provider of the service. That is an essential point. Under this amendment, the subsidy goes to the provider of the service. In the past we have provided the tax benefit to the family in order to permit the consideration of a range of choice and the selection of the approach that best fits the family's situation. The studies have shown that a subsidy is more effective when given directly to the taxpayer rather than to the supplier of the service. This avoids some of the inefficiencies that are associated with subsidizing construction and development of facilities.

I also must say I have some concern about the mechanics of the bill. For instance, I am not sure that the prohibition against favoring higher income employees is a workable one.

Overall, I commend the leadership of my friend from Arizona on this issue. I think his credit idea is worthy of pursuit. However, I believe we ought to work with the concept to see if we cannot make it more cost-effective. Let us also find a revenue offset that will enjoy the support of the majority of this body. I know when we are talking about increasing the alternative minimum tax for corporations there is a great deal of concern expressed by the business community. So I will state with some reluctance that I oppose the amendment of the Senator.

The PRESIDING OFFICER (Mr. WOFFORD). The Senator from Arizona is recognized.

Mr. DECONCINI. Mr. President, the distinguished chairman is correct in saying that indeed a direct benefit to the families and children is more important, and it is very important. And, though I voted yesterday on a different side on what to do with taxing the wealthy of this country, I did it because I thought deficit reduction was more important.

But I applaud the Senator from Texas for his effort to give to the taxpayers, the parents of children, a tax credit. My amendment does not touch that. It does not touch it at all. And the offset by which the chairman is so scrutinizing, each amendment, and I understand why he does that, is taken from the corporations that will get the benefit.

So here we have a tax credit. Why do we want a tax credit? Why do we want the suppliers to have an incentive?

It seems to me most reasonable and in the spirit of corporate America, as well for the good for this country and for the good for the children of America, to provide incentives for employers to offer onsite and nearsite child care.

We did that in this body 9 years ago when we established a child care center for the children of Senate employees, and it has been successful. The Senate does not pay for the operations of it. The Senate did put up the starting seed money and does supply the place for it, but each person who puts their child there pays the full share unless they fall into a low-income bracket, and then there are some scholarships available for that.

To me that makes sense. Here the employee is going to pay for this center. What is the employer going to do? They are going to provide the space and that is all. They get an incentive to do that, a one-time tax credit.

Is that not a wise investment of our tax policy? Should not our tax policy promote child care, not only for the parents of the children, but for those who might provide it? I submit that it should. This is not a rich employee's amendment. The bill specifically prohibits any discrimination in favor of the wealthier employee. So all employees will be able to participate if the employer establishes an onsite or nearsite child care center.

We know from experience that onsite child care works and we have some companies that have done it without a tax credit. Very few companies offer it, but those companies realize the benefit that they receive from this service and they are willing to do it without the tax credit. But there are almost 6 million employers, and 136,000 employers with over 100 employees, who have not elected to provide child care assistance for the employees and the children of the employees. This amendment would help them do it if they so wished.

I hope the distinguished chairman will accept it. I have provided a reasonable offset, and I think it really is in the spirit of economic growth in this country to encourage the economy to move in the right direction. It certainly is beneficial to business and most of all it is beneficial to the most precious and most valuable asset that any society has, and that is its children.

I yield the floor.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. BENTSEN. Mr. President, I understand the Senator's concern about child care, and I share it with him. We are making substantial headway on this issue. However, I also know that the proposed means of paying for this amendment runs counter to some of the things we are trying to do in this bill. In this time of recession, we are attempting to ease some of the burden on business. That is particularly true with respect to the alternative minimum tax, I would say. The bill includes a provision—one that is also included in the President's budget—that would alleviate a current problem with the tax base for the alternative minimum tax. The provision would eliminate the separate depreciation schedule under the so-called adjusted current earnings, or the ACE provision of the minimum tax. This proposed amendment goes in the opposite direction and, frankly, I think in the wrong direction.

I would have liked to have considered further modifications to the minimum tax to try to help the economic recovery. But frankly, the funds were not there. I certainly do not want to see us go in the other direction on the minimum tax, particularly during a recession. That would cause me considerable concern.

I will say to the distinguished Senator from Arizona that the Senator from Oklahoma is very interested in participating in the debate and is on the way.

Mr. DECONCINI. Mr. President, will the Senator yield?

Mr. BENTSEN. Yes.

Mr. DECONCINI. I understand the Senator's remarks about going in a different direction and indeed this is a three-tenths of 1 percent increase to pay for child care. Is that asking a lot? I do not think it is.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, I ask unanimous consent to temporarily set aside the amendment pending for the consideration of a further amendment to be offered by the Senator from Arizona that will be received by the managers.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DeCONCINI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, what is the pending business?

The PRESIDING OFFICER. Amendment No. 1727 was set aside temporarily. A call for the regular order will bring it back.

Mr. BENTSEN. Mr. President, I call for the regular order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. How much time remains, to the manager?

The PRESIDING OFFICER. There is no time limit.

Mr. BENTSEN. We have no time limit.

The PRESIDING OFFICER. There is no time limit.

Mr. BENTSEN. I yield to the Senator from Oklahoma.

Mr. BOREN. Mr. President, I thank the distinguished chairman of the committee.

I have been listening to the discussion on the proposed amendment. Let me say it pains me that I cannot in conscience support this amendment because half of it I very strongly support: That is, the provision that would provide a child care tax credit for on-site facilities in businesses in this country. I cannot imagine anyone who would oppose that particular provision on its merits, standing alone. But I must oppose the proposed way to pay for this amendment, and I hope that the author will consider recrafting it.

Mr. President, it is very easy to say that corporations should pay some minimum amount of tax. That has a very popular ring to it. I do not think there is anyone in this Chamber who would not support requiring large corporations making a profit to pay some minimum amount of tax.

In 1986 the Finance Committee in the tax intended—and indeed, I believe it was the intent of all Senators—to do something in the 1986 act about the abuses that were prevalent at that time. However, because of the way that the alternative minimum tax was written, it has had some unintended results.

We have had a series of hearings in my subcommittee, the Tax Policy Subcommittee of the Finance Committee, on this very subject. Many knowledgeable witnesses about this particular tax have come before our committee to testify.

So I hope that my colleagues and their staff members who are listening will be alert to the potential consequences of this amendment in terms of an increase in the alternative minimum tax rate.

In 1986, it was felt that very few companies would fall under the alternative minimum tax. In fact, experience is now showing us that this expectation was incorrect. As more and more American companies are investing, buying new plant and equipment, as more and more American companies are meeting the new environmental standards which we have wisely required American industry to meet, they are having to spend more and more funds, invest more and more, to be competitive in the world marketplace. This is something which we want to see happen.

So as companies raise their level of investment, to be competitive, to make themselves up to date in terms of modern technology and equipment, and as companies raise their level of investment to meet acceptable environmental standards, more and more of them are falling under the alternative minimum tax. When you use tax incentives to invest, you then find yourself having used what is defined as a preference item under the alternative minimal tax, so you fall under that tax structure.

So instead of having 1, or 2, or 3, or 4 percent of American companies, especially major companies in the manufacturing area where we are having a desperate problem in terms of our ability to meet in the international marketplace, falling under the alternative minimum tax, we now have 40 to 60 percent of all large American companies falling under the alternative minimum tax.

So that is one thing we should bear in mind. We are not talking about a few large companies that have made large profits avoiding taxes that are now falling under the alternative minimum tax. Instead, we are talking about a very significant portion of all American manufacturers.

Now, something else has happened. Along came a recession. The effect of the recession on the alternative minimum taxpayer has really been debilitating. When a company pays the alternative minimum tax, it accumulates credits that can be applied against regular corporate tax liability. The rationale for this is that such companies have been charged additional minimum tax because they have made investments in new plant and equipment or new technologies to meet environmental standards, for example; so they are given credits for later use.

These credits can ultimately be applied against their normal corporate income tax. But here is the problem. The recession comes along, and now many of these companies that have had a very high rate of capital investment over the last 3 or 4 years, that have all of these preferences charged against them, find themselves not making a profit. Some of them are actually making a loss. This means they do not pay regular corporate tax because they are losing money. They cannot use their credits; in other words, they cannot recapture their investment costs under the regular corporate tax.

According to witness after witness, strong example after example, the irony is this: You have a company, an important manufacturing concern providing jobs in this country, now not making money. They are doing just what we want them to do to keep ourselves competitive in the world marketplace, investing in plant equipment and technology so they can compete in the world marketplace.

Along comes the recession. These businesses are no longer making money; perhaps they are struggling still to keep up the rate of investment, borrowing to do it, because they know when the recession is off they still have to be competitive. They are now being penalized under the alternative minimum tax, unable to recoup the cost of capital investment.

So those companies that most desperately need our help right now are being hit in a very unintended way by the alternative minimum tax.

So instead of adding to the burdens right now, it had been my hope, especially after the testimony we had in our subcommittee, that we could make some amendments to the alternative minimum tax to allow companies to be relieved from this unintended consequence—especially those companies being hurt by the recession, and those companies that are carrying on a high rate of capital investment—by allowing them perhaps to use those accumulated AMT credits against their alternative minimum tax liability instead of against their normal corporate income tax.

So all across the midsection of this country, including States like that of the distinguished Presiding Officer, we have company after company that have done what we asked them to do—invest in order to compete in the world marketplace; invest in order to meet environmental standards—that are now losing money, that are having terrible difficulties, that are now being hit the second time by the AMT in a way that no one ever thought they would be hit because we did not understand what would happen under the AMT during recession.

Just to give some examples of what this is doing in terms of our ability to compete in the world marketplace, I cite some studies done by the distinguished scholars at the University of Maryland that have indicated that of these companies—I have indicated 40 to 60 percent of our major manufacturing companies are now paying this tax—now have a decided disadvantage in terms of the cost of capital in the world marketplace.

Overall, the average manufacturer who is not paying AMT in the United States—this, I think spells it out graphically for all of my colleagues who are following this debate—the average company now paying AMT in the United States, if it makes an investment, buys a new piece of equipment, it will recover over 5 years 36 percent of the cost of that investment under the AMT—36 percent.

If the same company were to invest in the same piece of equipment in Brazil, for example, it would recover 67 percent of the cost of its investment in the same 5 years. In Germany, 87 percent in 5 years; in Japan, 64 percent; in Korea, 94 percent.

Mr. President, it is very clear for all to see that if we want to remain in the manufacturing business, if we want to be able to compete in the world marketplace, we cannot continue to have a tax code, especially in the middle of a recession, which negatively impacts the very companies that need to compete right. The AMT system has such negative effects because it allows them to recover less than half of the rate of the cost of their investment in the 5-year period as will be recovered in other countries.

To take a couple of specific examples: Again, in the University of Maryland study, which was discussed by many of our witnesses, the researchers looked at several different segments of the manufacturing business. They took several examples, 15, I believe. Let me discuss a couple of them.

Let us talk about robotic equipment in factories. If the American company invests in robotic equipment in factories to stay competitive, to stay in business, to take on the Germans and the Japanese, French and Italians, in the world marketplace, the American company will recover only 46 percent of the cost of its investment in 5 years. In Germany, it is 81 percent; in Japan, 60 percent. The Korean laws so encourage this kind of investment that they allow more than 100 percent recovery.

One conclusion is very clear; we are not going to be in the business of making robotic equipment and competing in the world marketplace very long with other companies able to recover so much more of their cost of investment.

Let us discuss scrubbers used to generate electricity. Again, we are talking about environmental equipment, making environmental investments. A company in the United States that makes this investment in environmental equipment will recover 17 percent of the cost of that investment in the first 5 years. In Germany, 53 percent; Japan, 64 percent; Brazil, 90 percent; and Korea, 98 percent.

I could go on with industry after industry. Engine blocks: Only about 35 percent of the cost of that investment of a company making engine blocks in this country is recovered over 5 years under the AMT. The same company making engine blocks in Germany will recover between 60 and 70 percent; in Japan, over 80 percent; in Korea, over 90 percent. So we are not going to be in the engine block business very long, either, unless changes in the AMT are made.

We sit here day after day and we talk about the inability of this country to compete with others in the world. We talk about the Japanese; we talk about the European Community; we talk about their unfair trade practices. And in some cases, there are unfair trade practices. We have to have a more level playing field.

But, for goodness sake, we ought to have the common sense to stop stacking the deck against ourselves with our own tax laws. When in the world are we going to wake up to the fact that we have to think internationally when it comes to our tax laws? If we are going to double the cost of capital investment in this country compared to Japan or Germany, of course, we will lose in that competition. That is not something anyone else did to us. That is something we are doing to ourselves. We have met the enemy, and it is us.

I am alarmed that we are considering making the AMT even slightly more burdensome, at a time when we have learned that the AMT is not working as it should; that it is not working specifically because of the recessionary period that we are in, bringing many more companies into the net than intended. Such a change would be debilitating to our ability to compete in world trade at a time when thousands of people are being laid off across this country.

We think about the restructuring of the large companies—the IBM's, GM's, companies in the manufacturing business all across this country. They are instituting massive restructuring, laying off of thousands of workers, people no longer able to have their health care coverage; we are all aware of the other problems in this country as a result of the restructuring of our economy. For us to consider doing something that would make the situation worse, when we need to be reforming the AMT, surprises me. Yes, we must make sure that no company uses a loophole to get out of paying taxes when they are making high profits. No one wants that to happen. Yes, we must keep the loophole closed, but we must also stop the unintended consequences.

Mr. President, I know that if I walked on this floor without knowing anything else other than the fact that you want to provide tax credit for child care, and you want to pay for it by raising something called the "minimum tax", if I walked in here without knowing anymore about it than that, I would vote for this amendment. And it is very hard for me to oppose this amendment, even knowing what I know about AMT, because of the strong feeling that I have for the need to provide more child care.

I salute the Senator from Arizona for his amendment. There has been no one in this body who has, year after year, fought harder to provide adequate child care for the people of this country, the children of this country, for working mothers and fathers. That is a noble endeavor on his part. He deserves the thanks of the American people for it.

But I must say to him that I wish he would consider withdrawing this amendment at this time, recrafting it to find some other way of paying for it. We are not going to have to worry about providing child care for those mothers and fathers if they do not have a job, and if they are not able to support their children.

We are locked in an economic struggle, and we must not—we must not—for any reason, do something that will inhibit our ability to compete. Please, I say to my colleagues, do not do this. Do not put something in this bill that will diminish its overall impact. There are many good things in this bill, some other changes in the AMT, some other incentives here, to encourage investments to create jobs and to help us compete again.

But for all of the rhetoric we hear on this floor about what can we do to start taking on our competitors on a level playing field—in Germany, Japan, and other places in Europe and around the world—for us to now shoot ourselves in the foot by doing something that will make it even harder for us to compete in the world marketplace would be a serious mistake.

So I appeal to my colleagues, those who are listening to me, and I appeal to those members of the staff to alert Members who might not be able to be listening to this debate because of other duties at this moment: Please think, before you vote on this amendment, about its real effect. Let us not just do what is easy to do. It is easy to vote for an amendment like this. But let us think before we do it, and think about the real economic interests and the need to build our economy, so that we can afford the social programs that we all want to have for our children and our grandchildren and for working parents. Let us think about it, and let us reject this amendment. Or let us find a way of recrafting this amendment to take care of the child care tax credits, without putting another weight on the back of those companies that are trying to compete, that are trying to invest, that are trying to meet environmental standards, at a very time when they need this help the most. In this way, we will save jobs for the workers who work in those facilities.

Mr. DECONCINI. Mr. President, I thank my friend from Oklahoma. I understand his deep commitment to providing incentives to business. He has been a leader in that area, there is no question about it.

His argument today is perhaps a very sound argument for altering the corporate alternative minimum tax that we are talking about raising three-tenths of 1 percent today. If there is a problem with that—and I understand, from what the Senator from Oklahoma said, there is, then we should look at it. I have heard some complaints. And the Senator from Oklahoma indicates that there have been hearings on this and something needs to be done. Today we are talking about raising the corporate alternative minimum tax three-tenths of 1 percent—is this going to be such a burden that it is going to make us uncompetitive with Japan, France, and Italy? I submit to you that it is not.

I submit to you that what it is is an investment in the children of the United States. What makes a country more competitive than to invest in the early years of our children's upbringing and education? I do not think anything equals this. In any study you look at, it is the early years that count in a child's development.

We are not tipping the balance in favor of Japan with my amendment. Japan has child care centers, and they use them to a far greater extent than we do in the United States. Maybe that is why they are more competitive than we are. The same is true in Germany and the Scandinavian countries.

Here we are not mandating anybody to do anything. What we are saying is that if you believe in investing in your employee's children, and if you think that it is going to help your productivity and your employees' morale and your rate of absenteeism, as I showed on the chart here a minute ago, then make the investment, and we are going to give you a little credit, 50 percent of what you invest. If you invest $1,000, you are going to get a $500 credit. This is what it does for you.

Is that not important when you think of what is happening with companies offering child care? The turnover, 65 percent less; the absenteeism, 53 percent less for child care centers that are onsite; recruitment, 85 percent more; morale, an almost 100-percent improvement.

So I hope that my colleagues will agree with this Senator that there is no better investment than the children of America, and this is the time to do it. We are not overburdening our corporations and businesses. If there is a problem with the alternative minimum income tax on corporations, then the Finance Committee will alter it or bring it out for debate. I am not totally convinced that that is a problem. I think companies should pay a minimum tax if they make money. That is the intent of it. If there are problems, this three-tenths of 1 percent is not accentuating the problem at all. It invests in the future of America, our children, and it also gives a tremendous incentive to the corporations, because their productivity alone is up 50 percent.

Mr. HATCH. Mr. President, I reluctantly rise today to voice my concern and opposition to the amendment of the Senator from Arizona [Mr. DECONCINI].

I applaud the leadership of Senator DECONCINI in seeking to extend the availability of child care facilities offered onsite by employers. This is to commend, and I join him in my concern that we offer employers incentives to establish such facilities.

Unfortunately, Mr. President, this worthy provision has been coupled with a very harmful offset, an increase in the alternative minimum tax rate for corporations. I must object strongly to this offset.

Many of this Nation's corporations are today struggling to stay profitable and competitive in today's difficult marketplace. Unfortunately, one of the biggest hurdles preventing many of these companies from recovering from the recession is the alternative minimum tax. This tax, while well intentioned when placed in the tax law in 1986, has had a very adverse impact on many American corporations, especially capital intensive companies such as those in most manufacturing industries.

The alternative minimum tax on corporations is already too onerous a burden on our corporations. It effectively places a higher marginal tax rate on those companies least able to afford it. To raise this tax rate, especially at a recessionary time like this, and on a bill such as this one where we are supposed to be finding ways to stimulate the economy, is exactly opposite from what we should be doing.

Moreover, the idea of using an increase in the alternative minimum tax, even a small one, for purposes of offsetting a child care credit is poor tax policy. By doing so, Mr. President, we would be asking every corporation that is paying the alternative minimum tax to subsidize other corporations who happen to have the wherewithal to establish a child care center. It is simply not fair to ask that portion of our corporate community who is currently struggling the most in the current recession to shoulder the entire burden of those companies who can afford to start these child care centers.

Again, Mr. President, I support what the Senator from Arizona is trying to do here with this tax credit. It is a good idea, and I pledge to work with him in finding a way to pass such an incentive. However, we cannot do it at the price of further limiting the ability of our most distressed companies in trying to compete and to lead us out of this recession. I urge my colleagues to oppose this amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. BENTSEN. Mr. President, I ask unanimous consent that we temporarily set this amendment aside and consider a further amendment to be offered by the Senator from Arizona.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, I thank the chairman for permitting me to proceed to another amendment.

AMENDMENT NO. 1728

(Purpose: To permit penalty-free distributions from qualified retirement plans for unemployed individuals, and for other purposes)

Mr. DECONCINI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant bill clerk read as follows:

The Senator from Arizona [Mr. DECONCINI], for himself, Mr. KOHL, and Mr. LAUTENBERG, proposes an amendment numbered 1728.

Mr. DECONCINI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 662, between lines 11 and 12, insert:

(e) PENALTY-FREE DISTRIBUTIONS FOR CERTAIN UNEMPLOYED INDIVIDUALS.—Paragraph (2) of section 72(t), as amended by subsection (a), is amended by adding at the end thereof the following new subparagraph:

"(E) DISTRIBUTIONS TO UNEMPLOYED INDIVIDUALS.—Distributions made to an individual after separation from employment, if—

"(i) such individual has received unemployment compensation for 12 consecutive weeks under any Federal or State unemployment compensation law by reason of such separation, and

"(ii) such distributions are made during any taxable year during which such unemployment compensation is paid or the succeeding taxable year."

On page 662, line 12, strike "(e)" and insert "(f)".

On page 961, line 24, strike "10 percent" and insert "10.04 percent".

Mr. DECONCINI. Mr. President, I rise to offer the following amendment to the tax relief bill. This amendment will waive the penalty for withdrawal of funds from qualified retirement plans for individuals who have received unemployment compensation for 12 consecutive weeks.

It seems as though each week, unemployment figures in States all across the country continue to escalate in the wake of the current economic recession.

The National unemployment rate in February increased to 7.3 percent, its highest level in 6 years. In my State of Arizona, the unemployment rate is even higher than that, at 9.3 percent, the highest that figure has been in almost 9 years.

A growing number of unemployed Americans are skilled workers and professionals who are finding themselves out of work for the first time in many years. Just yesterday, the Labor Department released its figures on the number of Americans who filed claims for unemployment for the first time. A staggering 459,000 Americans filed a new claim for jobless benefits.

The families of these newly unemployed workers, some of whom were previously earning healthy salaries of $2,000-$3,000 a month, cannot meet their household expenses on unemployment benefits which average $169 a month.

This amendment is aimed at providing some means of relief for those individuals who may have an individual retirement account or qualified retirement plan from which they can draw in an emergency. While these funds are intended to provide some security for the future, when you have been unemployed for 3 months or longer and are at risk of losing your home or your car you may not have a choice but to withdraw from them to meet your financial obligations. We can soften that blow by eliminating the penalty for early withdrawal from these accounts.

The revenue estimate of this amendment is $3 million, which can be offset by increasing the millionaire's surtax in this bill by four one-hundredths of 1 percent. That amounts to an average of $6 per millionaire.

Some experts are saying that we can expect to see an improvement in the unemployment rate later this year. In the meantime, there are an estimated 9.2 million Americans out of work, struggling to feed their families and keep their households running. I urge my colleagues to support this amendment.

Let me say quickly that this particular amendment expands what the chairman has done very wisely in the committee, in respect to penalties on IRA's. If you are unemployed for a period of 12 weeks, and need to cash in your IRA to buy food or pay rent or whatever, you are not going to have to pay the penalty.

The Senator from New Jersey, who is here on the floor, has worked on this for a long time, and we have joined hands on this amendment. I offer it on behalf of the Senator from New Jersey and myself.

Mr. KOHL. Mr. President, I rise in strong support of the pending amendment. The amendment is based on S. 693, introduced by Senator LAUTENBERG and myself last March. This bill would amend the Internal Revenue Code to exempt individuals who are involuntarily unemployed from the 10-percent surtax on early distributions from qualified pension plans and IRA's.

This makes sense in both economic and human terms. Workers, who are forced out of their jobs by layoffs or plant closings, may lose their houses, take their children out of college, forfeit their cars, or severely cut back on their purchases of basic goods and services—even though they have substantial savings in their retirement plans. The current penalties on withdrawing those savings needlessly intensify the decline in general economic activity experienced during a recession and the personal pain that a family endures when one of their breadwinners becomes unemployed.

Unfortunately, in the State of Wisconsin, this issue goes far beyond economic theory. The problem the pending amendment addresses was brought to my attention by an announcement last year that Uniroyal would shut down their Eau Claire tire production facility. Close to 1,400 Wisconsinites will lose their jobs in the plant closing.

The company has informed its employees that, when they are let go, they may discontinue retirement savings and use a termination allowance to meet current living expenses. However, if an employee chooses to take the immediate termination benefit, it will be subject to a 10-percent Federal penalty and a State of Wisconsin surtax equal to 33 percent of the Federal penalty.

Approximately 890 employees involved in the Uniroyal closing have accumulated savings that they cannot access without having to pay these Federal and State penalties. These are employees with years of service, with families to support, with mortgages, with the bills and obligations we all face. Many will have no choice but to take the termination allowance. Who is served when the Federal Government and the State government also take a large chunk of the money that these workers need to keep themselves and their families going?

The workers in Eau Claire are, unfortunately, not unique. Plant closings and layoffs have forced mature and skilled workers across the Nation into a financial stranglehold. The pending amendment could help loosen that.

Most of our debate today has been about how we get out of the present recession, and how to grow our economy in a way that avoids future recessions. This is an important and proper debate. However, it is not an excuse to forget the current victims of the current recession. And this amendment goes a long way toward helping them. I urge my colleagues to support it.

Mr. BENTSEN. Mr. President, I congratulate the Senator from Arizona on the amendment. I would also like to commend Senator LAUTENBERG for his leadership. I particularly appreciated his testimony before the committee last year. I think the authors of the amendment have done a good job in recognizing some of the concerns and problems in this time of recession. I have checked with the Republican side. They have no objection to it. We have no objection on this side.

[Mr. LAUTENBERG addressed the Chair.]

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. If the manager will yield, I say that I enthusiastically support this amendment. I have worked with the Senator from Arizona, as he described it, "hand in hand" because of our concerns about what happens when people are unemployed for long periods of time and have this reserve sitting there. We found rather creative ways of permitting the IRA's to be used in case of emergency, or in case of home ownership, or education, or long-term illness, and I encourage the passage of this. I was glad to hear the manager of the bill on this side say that, as far as he was concerned, it was accepted.

Mr. President, over 9 million Americans are now unemployed; 1.7 million have been out of work for more than 6 months.

In most cases, Mr. President, these Americans have been laid off not because they're poor workers, or because they don't try hard enough. They are simply the innocent victims of a troubled economy—of forces larger than themselves.

For those unlucky enough to be laid off, the experience is often traumatic. There is a sense of rejection and betrayal. There is anger. And, perhaps most importantly, there is fear—fear for oneself, and for one's family.

The fear is understandable. Because, while their short-term employment prospects are often bleak, the unemployed face enormous financial pressures. As mortgage and rent payments come due, and bills pile up, millions of American families find themselves trapped by high fixed expenses, and without a paycheck to make ends meet.

Mr. President, unemployment compensation can help, but it often falls far short of families' real needs. Even if a family manages to survive on unemployment compensation there may not be enough to overcome joblessness by relocating, or training for a new job.

Yet, in some cases, Mr. President, the unemployed do have their own savings in an IRA or other retirement plan. These savings can provide a financial life raft to get through this unexpected financial storm. Unfortunately, it's a life raft with a large hole, because, for those under age 59½ withdrawals generally trigger a stiff, 10-percent tax penalty.

Mr. President, Americans do not believe in hitting people when they are down. And I believe there is something fundamentally wrong with imposing a heavy penalty on those who want to gain access to their own money to cope with unemployment.

About 1 year ago, I introduced legislation, S. 693, cosponsored by Senators BINGAMAN, INOUYE, KERRY, KOHL, LEVIN, and LIEBERMAN, to allow the unemployed to make such penalty-free withdrawals. This amendment is essentially the same proposal, though it would require a somewhat longer waiting period before the unemployed become eligible.

Mr. President, I would point out that while the amendment's primary purpose is to provide relief to the unemployed, it also would increase the savings rate, by encouraging Americans to participate in IRA's and other retirement plans.

Currently, many people, particularly young people, are reluctant to tie up their money for decades in a retirement plan. They are concerned, understandably, that their savings would be inaccessible in an emergency, such as an unexpected period of unemployment, without the imposition of a heavy penalty.

Allowing greater flexibility during periods of involuntary unemployment, Mr. President, should reduce this concern. And that should lead to increased savings.

Mr. President, the bill before us allows for penalty-free withdrawals from retirement plans for specific compelling reasons, such as higher education, first-time home purchases and medical expenses. I hope my colleagues will agree that helping the unemployed is at least as important a goal.

Mr. BENTSEN. Mr. President, I congratulate the distinguished Senator from New Jersey for his part in the authorship of this legislation. It is some creative thinking in a time of national recession, and it is quite helpful.

I know of no objections to the amendment.

The PRESIDING OFFICER. If there is no further debate, the question is agreeing to the amendment.

The amendment (No. 1728) was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote.

Mr. DECONCINI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1727

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. Mr. President, I am prepared to proceed on the next amendment.

Mr. BENTSEN. There seems to be no further debate on the preceding amendment that we have for considering before this body, and I am prepared to vote on it.

Mr. President, I move to table the amendment and will be joined in by Senator BOREN on a tabling motion.

The PRESIDING OFFICER. Is there further debate?

The question is on the motion to table.

Mr. DECONCINI. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas to lay on the table the amendment of the Senator from Arizona.

On this question, the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Iowa [Mr. HARKIN] and the Senator from Vermont [Mr. LEAHY] are necessarily absent.

I also announce that the Senator from Michigan [Mr. RIEGLE] is absent because of a death in the family.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 62, nays 35, as follows:

[Rollcall Vote No. 47 Leg.]

YEAS—62

Baucus
Bentsen
Bingaman
Bond
Boren
Bradley
Breaux
Brown
Bumpers
Burdick
Burns
Chafee
Coats
Cochran
Cohen
Craig
Cranston
Danforth
Domenici
Durenberger
Exon
Ford
Garn
Glenn
Gore
Gramm
Hatch
Hatfield
Heflin
Helms
Hollings
Jeffords
Kassebaum
Kennedy
Lott
Lugar
Mack
McCain
McConnell
Mitchell
Moynihan
Nickles
Nunn
Packwood
Pressler
Pryor
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Seymour
Shelby
Simpson
Smith
Specter
Stevens
Symms
Thurmond
Wallop
Warner

NAYS—35

Adams
Akaka
Biden
Bryan
Byrd
Conrad
D'Amato
Daschle
DeConcini
Dixon
Dodd
Dole
Fowler
Gorton
Graham
Grassley
Inouye
Johnston
Kasten
Kerrey
Kerry
Kohl
Lautenberg
Levin

Lieberman
Metzenbaum
Mikulski
Murkowski
Pell
Reid
Robb
Simon
Wellstone
Wirth
Wofford

NOT VOTING—3

Harkin
Leahy
Riegle

So the motion to lay on the table the amendment (No. 1727) was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Wisconsin.

AMENDMENT NO. 1721

(Purpose: To provide a substitute amendment which removes certain revenue raisers and includes defense caps and a freeze on domestic and international discretionary spending)

Mr. KASTEN. Mr. President, I would like to call up amendment 1721 on behalf of myself, Senator BURNS, Senator LOTT, Senator NICKLES, and Senator SMITH, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wisconsin [Mr. KASTEN], for himself, Mr. BURNS, Mr. SMITH, Mr. LOTT, and Mr. NICKLES, proposes an amendment numbered 1721.

Mr. KASTEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed beginning on page 5394 in the RECORD of March 13, 1992.)

Mr. KASTEN. Mr. President, first of all, I ask unanimous consent that the time limit on this amendment be 40 minutes equally divided.

Mr. BENTSEN. That has been agreed to. There is no objection. And no second-degree amendments.

MODIFICATION TO AMENDMENT NO. 1721

Mr. KASTEN. Mr. President, I send a modification to the desk.

The PRESIDING OFFICER. The Senator is modifying his amendment. It is so ordered.

The modification to amendment (No. 1721) is as follows:

TITLE III—DEFENSE, DOMESTIC, AND INTERNATIONAL DISCRETIONARY SPENDING REDUCTIONS

SEC. 3001. REDUCTIONS IN DEFENSE, DOMESTIC, AND INTERNATIONAL DISCRETIONARY SPENDING.

(a) LIMITATION ON AMOUNTS OF PROPOSED OUTLAYS AND BUDGET AUTHORITY FOR DEFENSE DISCRETIONARY.—

(1) PRESIDENT'S BUDGET.—A budget submitted by the President under section 1105(a) of title 31, United States Code, for fiscal year 1993, 1994, 1995, and 1996 shall not propose outlays or budget authority for the defense discretionary category such that the aggregate amount of outlays or budget authority for that category for that year would exceed—

(A)(i) $291,900,000,000 in outlays for fiscal year 1993;

(ii) $284,000,000,000 in outlays for fiscal year 1994;

(iii) $283,800,000,000 in outlays for fiscal year 1995; or

(iv) $286,900,000,000 in outlays for fiscal year 1996; and

(B)(i) $281,600,000,000 in budget authority for fiscal year 1993;

(ii) $282,300,000,000 in budget authority for fiscal year 1994;

(iii) $285,000,000,000 in budget authority for fiscal year 1995; or

(iv)— $286,300,000,000 in budget authority for fiscal year 1996.

(2) POINT OF ORDER.—Section 301 of the Congressional Budget Act of 1974 (12 U.S.C. 632) is amended by adding at the end thereof the following new subsection:

"(j) DEFENSE SPENDING LIMITS.—It shall not be in order in either the Senate or the House of Representatives to consider a concurrent resolution on the budget for fiscal year 1993, 1994, 1995, or 1996 that includes outlays or budget authority for the defense discretionary category such that the aggregate amount of outlays or budget authority for that category for that year would exceed—

"(1)(A) $291,900,000,000 in outlays for fiscal year 1993;

"(B) $284,000,000,000 in outlays for fiscal year 1994;

"(C) $283,800,000,000 in outlays for fiscal year 1995; or

"(D) $286,900,000,000 in outlays for fiscal year 1996; and

"(2)(A) $281,600,000,000 in budget authority for fiscal year 1993;

"(B) $282,300,000,000 in budget authority for fiscal year 1994;

"(C) $285,000,000,000 in budget authority for fiscal year 1995; or

"(D) $286,300,000,000 in budget authority for fiscal year 1996.".

(3) REDUCTION OF MAXIMUM DEFICIT AMOUNTS.—Notwithstanding any other law, the maximum deficit amounts under section 601(a)(1) of the Congressional Budget Act of 1974 (2 U.S.C. 665(a)(1)) shall be adjusted to include the reductions made by paragraph (2) for the purposes of the President's budget submitted pursuant to section 1105(a) of title 31, United States Code, and for the purposes of any concurrent resolution on the budget.

(b) LIMITATION ON AMOUNTS OF PROPOSED OUTLAYS AND BUDGET AUTHORITY FOR DOMESTIC AND INTERNATIONAL DISCRETIONARY ACCOUNTS.—

(1) PRESIDENT'S BUDGET.—A budget submitted by the President under section 1105(a) of title 31, United States Code, for fiscal year 1993, 1994, 1995, or 1996 shall not propose outlays or budget authority for—

(A) the domestic discretionary category as defined in section 250(c)(4) of the Balanced Budget and Emergency Deficit Control Act of 1985 such that the aggregate amount of outlays or budget authority for that category for that year would exceed—

(i) $216,200,000,000 in outlays; or

(ii) $189,000,000,000 in budget authority; and

(B) the international discretionary category as defined in section 250(c)(4) of the Balanced Budget and Emergency Deficit Control Act of 1985 such that the aggregate amount of outlays or budget authority for that category for that year would exceed—

(i) $20,100,000,000 in outlays; or

(ii) $21,300,000,000 in budget authority.

(2) POINT OF ORDER.—Section 301 of the Congressional Budget Act of 1974 (12 U.S.C. 632) is amended by adding at the end thereof the following new subsection:

"(j) DOMESTIC DISCRETIONARY SPENDING LIMITS.—It shall not be in order in either the Senate or the House of Representatives to consider a concurrent resolution on the budget for fiscal year 1993, 1994, 1995, or 1996 that includes outlays or budget authority for—

"(1) the domestic discretionary category as defined in section 250(c)(4) of the Balanced Budget and Emergency Deficit Control Act of 1985 such that the aggregate amount of outlays or budget authority for that category for that year would exceed—

"(A) $216,200,000,000 in outlays; or

"(B) $189,000,000,000 in budget authority; and

"(2) the international discretionary category as defined in section 250(c)(4) of the Balanced Budget and Emergency Deficit Control Act of 1985 such that the aggregate amount of outlays or budget authority for that category for that year would exceed—

"(A) $20,100,000,000 in outlays; or

"(B) $21,300,000,000 in budget authority.".

(3) REDUCTION OF MAXIMUM DEFICIT AMOUNTS.—Not withstanding any other law, the maximum deficit amounts under section 601(a)(1) of the Congressional Budget Act of 1974 (2 U.S.C. 665(a)(1)) shall be adjusted to include the reductions made by paragraph (2) for the purposes of the President's budget submitted pursuant to section 1105(a) of title 31, United States Code, and for the purposes of any concurrent resolution on the budget.

(c) REVISION TO SPENDING CAPS.—Within 5 days of the enactment of this Act, the Office of Management and Budget shall issue revised discretionary caps under section 601 of the Congressional Budget Act of 1974 consistent with the changes made by this Act.

Mr. KASTEN. Mr. President, the substitute amendment which I sent to the desk provides us with a stark contrast to the Senate Finance Committee bill. Instead of raising taxes and increasing the deficit, my amendment cuts taxes, limits Federal spending, and reduces the budget deficit.

Let me repeat: The Kasten amendment cuts taxes, limits Federal spending, and reduces the budget deficit.

This amendment is very simple. It takes all the Finance Committee's tax cuts and tax incentives—in a sense all of the provisions which will help the economy create jobs—and strikes all of the committee's tax increases; in essence, all of the provisions that will hurt the economy.

This amendment finances the cost of the tax cuts with spending restraint, not tax increases. It calls for the President's defense savings of $20 billion in outlays through 1996, and $62.4 billion in domestic discretionary and international savings, generated by a freeze in these two categories through 1996. We do not have to cut a single dime in domestic spending to pay for these tax reductions.

Let me repeat: We do not have to cut one single dime in spending in order to pay for these tax reductions. We simply have to hold spending in place, spend the same amount, 1993 to 1996 as we did in 1992, and we do not touch Social Security and we do not touch Medicare. The amendment will reduce the budget deficit over the next 5 years. The $82 billion in spending limits more than offsets the tax cuts and provides billions for deficit reduction. By cutting taxes, limiting spending, and reducing the deficit, my amendment will create jobs for our workers.

I am offering this amendment because I think the American people have had enough of political gamesmanship. We all know the tax bill before us is a political document, not a serious economic game plan, right now at least, to create jobs.

I do not think there is one economist in the world who believes this tax bill will create jobs. In fact, most economists will tell you this is economic lunacy, to raise taxes in a recession. These so-called middle-class tax plans that raise taxes will end up costing middle class jobs. By raising the top tax rate to over 40 percent, the National Center for Policy Analysis estimates the Senate tax increase bill will cost us 233,000 jobs by 1966.

As a general proposition, I support profamily tax cuts. In fact, I have been fighting to restore the value of the personal tax exemption, because I believe we ought to reduce the growing tax burden on families with children. But I do not think a tax cut of what will amount to about 50 cents a day per family is going to do much to spark the kind of investment that is needed to create jobs for families.

I will tell you something that will destroy jobs: increasing income tax rates on sole proprietors, in particular, a driving force in our small business sector. Nine out of 10 businesses pay tax on the individual rather than the corporate tax rate schedule.

This bill, the bill before us, is a tax increase primarily on our small business sector. In fact, 89 percent of the revenue to be generated in the Democratic package comes from higher tax rates that will come from small business income.

Of all the taxpayers hit with a marginal rate increase, 71 percent have income from unincorporated businesses. The bottom line is you cannot create jobs if you destroy the job creators. Small businesses, the engine that drives the majority of job creation in America, will have far less money to pour into new jobs and new investment if the Finance Committee package is enacted.

It is time to put the partisan politics aside and do something constructive to help our economy and create jobs. It is hard to believe the Finance Committee could not find one dollar, one dime, one nickel in spending restraint out of a $1.4 trillion Federal budget. Instead of raising taxes, we ought to put a lid on deficit spending.

Last fall the chairman of the Finance Committee introduced a responsible tax bill in which he proposed that tax cuts be financed by the peace dividend, savings in defense. The chairman's original debate focused the debate on where it belonged, on spending restraint, not tax increases.

So today this amendment is an attempt to refocus the debate. We think the Senate ought to get back to the original position: Tax cuts should be financed with spending cuts, not tax increases. Moreover, my amendment does something about the budget deficit by limiting Federal spending growth. Uncontrolled spending has pushed the deficit into the $400 billion range.

The root cause of today's deficits and debt is too much spending, not too little tax revenues.

Raising taxes will not reduce the budget deficit. Tax increases slow the economy. History shows that for every $1 the Congress raises in new taxes, it spends $1.58. We have heard several speeches by Senators on the other side of the aisle about the need to reduce deficit spending. This amendment provides an opportunity to vote for deficit reduction, not just talk about it.

Mr. President, in offering this substitute amendment, I am by no means endorsing all of the different Finance Committee tax provisions. While I support many of the provisions, including the repeal of the boat tax, the health insurance provisions, the pro- family tax cuts, the expansion of IRA's, the first-time homebuyer tax credits, I would go much further in certain areas.

I would like to see a cleaner and more significant cut in the capital gains tax, one that will really get the entrepreneurial economy moving and creating jobs. We ought to cut it to 15 percent for both individuals and corporations with a 1-year holding period and indexed for inflation. Other countries, like Germany and Japan, are gaining ground on us because they tax capital gains much less than we do. Japan is 1 percent; Germany, South Korea, Taiwan, Singapore do not have a capital gains tax at all. How can we compete in world markets when we have the highest capital gains tax in the world?

The capital gains tax provision in the Finance Committee package would make the Tax Code more complex while doing, in my view, very little to help reincentivize the small business sector of our economy.

The President's capital gains tax is also too weak. It includes several provisions which will offset much of the progrowth economic impact. By spurring economic growth and small business starts, a sharp cut in the capital gains tax will actually help reduce the deficit. History shows lower capital gains means more revenue for the Treasury.

In offering this amendment, I want to make the point there are two ways to go. We in the Senate have a choice. We can raise taxes and increase the deficit, as the Finance Committee package would ask us to do; or we can cut taxes, limit spending, and reduce the deficit, as my amendment would do. We can destroy 233,000 jobs by adopting the Finance Committee's tax increase; or we can create thousands of jobs by adopting this amendment to cut taxes and to cut deficits.

Mr. President, I ask unanimous consent that a list of several hundred organizations from the Tax Reform Action Coalition be printed in the RECORD. These organizations oppose higher tax rates.

In addition, I ask unanimous consent that a letter from the U.S. Chamber of Commerce be printed in the RECORD, as well as a vote notice from the Citizens for a Sound Economy, and letters from the National Association of Wholesaler-Distributors and Family Research Council.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CSE KEY VOTE NOTICE—TAX BILL, H.R. 4210

MARCH 6, 1992.

DEAR SENATOR: On behalf of the 250,000 members of Citizens for a Sound Economy (CSE), I urge you to support the following votes that are expected to take place on the tax bill:

For the McCain Amendment, which requires a supermajority to raise taxes;

For the Kasten Amendment, which substitutes tax increases with spending restraint; and

For final passage if the Kasten Amendment passes, or if the Kasten Amendment fails, Against final passage.

CSE will count these as key votes to be reported to our members in your state. These key votes will be used to determine your eligibility for our Jefferson Award, to be presented at the conclusion of this Congress.

Sincerely yours,

PAUL BECKNER,
President.

TAX REFORM ACTION COALITION,
Washington, DC, March 6, 1992.

Hon. ROBERT KASTEN, JR.,
Hart Senate Building,
Washington, DC.

DEAR SENATOR KASTEN: The Tax Reform Action Coalition (TRAC) was a principal advocate of the compact which was the core of the Tax Reform Act of 1986—lower individual and corporate income tax rates in return for fewer preferences.

Since passage of this landmark legislation, dozens of other countries and many state governments have seen the wisdom of lowering marginal rates to encourage growth and competitiveness and to allow the marketplace, rather than the Federal Government, to allocate investment capital.

As we have written you previously, the logic of low Federal income tax rates in lieu of preferences remains compelling. By greatly reducing the impact of tax considerations, low rates provide a climate for sustained economic growth. The legislation adopted by the Senate Finance Committee contains a significant increase in the individual tax rate structure. For that reason, therefore, TRAC must strongly urge you to oppose the bill when it is considered by the full Senate.

Indeed, the most potent economic growth stimulus would be a reduction in corporate and individual rates.

Sincerely,

THE TAX REFORM ACTION COALITION.

Enclosure: TRAC Membership Roster.

TAX REFORM ACTION COALITION [TRAC]

STEERING COMMITTEE

American Business Conference.
American Dental Association.
American Home Products Corporation.
American Insurance Association.
Amway Corporation.
Apple Computer, Inc.
Associated Builders & Contractors.
ARCO.
BP America, Inc.
Beneficial Management Corporation of America.
Citizens for a Sound Economy.
Computer & Business Equipment Manufacturers Association.
Consolidated Freightways Incorporated.
The Dial Corporation.
Digital Equipment Corporation.
Du Pont Company.
E-Systems, Inc.
Electronic Industries Association.
Eli Lilly & Company.
Fleming Companies, Inc.
Florists' Transworld Delivery Association.
Food Marketing Institute.
Georgia-Pacific Corporation.
W.R. Grace & Company.
Grocery Manufacturers of America.
Harris Corporation.
Household International.
I B M Corporation.
International Mass Retailing Association.
Kellogg Company.
The Kroger Company.
Levi Strauss & Company.
McGraw-Hill, Inc.
Merrill Lynch & Company.
National-American Wholesale Grocers' Association.
National Association of Chain Drug Stores.
National Association of Independent Insurers.
National Association of Wholesaler-Distributors.
National Council of Chain Restaurants.
National Federation of Independent Business.
National Retail Federation.
National Soft Drink Association.
NYNEX.
PepsiCo, Inc.
Pharmaceutical Manufacturers Association.
Philip Morris Incorporated.
Printing Industries of America.
Procter & Gamble Manufacturing Company.
The Quaker Oats Company.
Ralston Purina Company.
RJR Nabisco, Inc.
Roadway Services, Inc.
Sara Lee Corporation.
Springs Industries, Inc.
Sun Company, Inc.
U.S. Tobacco.
United Technologies Corporation.
Wine & Spirits Wholesalers of America.
Winn-Dixie Stores Incorporated.
Xerox Corporation.
Yellow Freight System, Inc.

GENERAL MEMBERSHIP

Air Conditioning & Refrigeration Wholesalers.
Air Delivery Service Incorporated.
Air Transport Association.
Air Van North American.
Allentown-Lehigh (Pennsylvania) County Chamber of Commerce.
Altier & Sons Shoes Incorporated.
American Association of Advertising Agencies.
American Electronics Association.
American Express Company.
American Federation of Small Business.
American Foundrymen's Society.
American Furniture Manufacturers Association.
American Institute of Merchant Shipping.
American Machine Tool Distributors Association.
American Meat Institute.
American Movers Conference.
American Nurses Association.
American Paper Machinery Association.
American Pipe Fittings Association.
American Supply Association.
American Textile Manufacturers Institute.
American Traffic Safety Services Association.
American Veterinary Distributors Association.
American Wholesale Marketers Association.
Appliance Parts Distributors Association.
Ardmore (Oklahoma) Chamber of Commerce.
Arkansas Freightways.
Armstrong World Industries, Inc.
Associated Equipment Distributors.
Association for Suppliers of Printing and Publishing Technologies.
Association of American Railroads.
Association of Steel Distributors.
Atkinson Transfer Incorporated.
Automotive Parts Rebuilders Association.
Automotive Service Industry Association.
Aviation Distributors & Manufacturers Association.
B.F. Fields Moving & Storage.
Batesville Area (Indiana) Chamber of Commerce.
Bearing Specialists Association.
Beatrice Companies, Inc.
Beauty & Barber Supply Institute.
Bechtel Group, Inc.
Bicycle Wholesale Distributors Association.
Biscuit & Cracker Distributors Association.
Campbell Soup Company.
Can Manufacturers Institute.
Carlton Trucking Company Incorporated.
Carolina Freight Corporation.
Carr Truck Service Incorporated.
Ceramic Tile Distributors Association.
Chilton Corporation.
CIC Plan.
The Clorox Company.
Columbia Motor Express Incorporated.
Computer Dealers & Lessors Association.
Consolidated Papers Incorporated.
Contractual Carriers Incorporated.
Coors Brewing Company.
Copper and Brass Servicenter Association.
Coshocton (Ohio) Area Chamber of Commerce.
Council for Periodical Distributors Association.
Craig Transportation Company.
Crawford Fitting Company.
Criber Truck Leasing Incorporated.
Crouse Cartage Company.
Crowley Maritime Corporation.
Cyclops Corporation.
D. L. Merchant Transport Incorporated.
Dart Trucking Company Incorporated.
Dayton Hudson Corporation.
DeFazio Express Incorporated.
Dobson Mover.
Eddie Bauer Incorporated.
Edison Electric Institute.
Edmac Trucking Company Incorporated.
Electrical-Electronics Materials Distributors Association.
Elmer Buchta Trucking Incorporated.
Engine Service Association.
Equifax, Inc.
Fairmont Area (Minnesota) Chamber of Commerce.
Farm Equipment Wholesalers Association.
Federal Express Corporation.
Federated Department Stores Incorporated.
Federation of American Health Systems.
Fire Supression Systems Association.
Fluid Power Distributors Association.
FMC Corporation.
Food Industries Suppliers Association.
Foodservice Equipment Distributors Association.
Fort Howard Corporation.
Friedl Fuel & Cartage Incorporated.
GenCorp.
General Delivery Incorporated.
General Merchandise Distributors Council.
General Mills Incorporated.
General Nutrition Incorporated.
Grass Valley and Nevada County (California) Chamber of Commerce.
Greater East Dallas (Texas) Chamber of Commerce.
Greater Rochester (New York) Metro Chamber of Commerce.
Greater San Diego (California) Chamber of Commerce.
Greater Seattle (Washington) Chamber of Commerce.
Greater Syracuse (New York) Chamber of Commerce.
Greenfield Transport Incorporated.
Griffin Distributing.
Hardwood Plywood Manufacturers Association.
Hartford Dispatch & Warehouse Company Incorporated.
Health Industry Distributors Association.
Hewlett-Packard Company.
Hobby Industry Association of America.
Hospital Corporation of America.
Household Goods Forwarders Association of America.
Illinois State Chamber of Commerce.
Independent Laboratory Distributors Association.
Independent Medical Distributors Association.
Independent Xray Dealers Association.
Industrial Distribution Association.
Institute of Industrial Launderers.
Institutional and Service Textile Distributors Association.
Insulation Contractor Association of America.
International Association of Plastics Distributors.
International Communications Industries Association.
International Sanitary Supply Association.
International Snowmobile Industry Association.
International Truck Parts Association.
Irrigation Association.
K mart Corporation.
Kelly Services Inc.
Kemp Furniture Industries Incorporated.
Kent (Washington) Chamber of Commerce.
King Transfer Incorporated.
King Van & Storage Incorporated.
Krenn Truck Lines Incorporated.
Lacy's Express Incorporated.
Land Trucking Company Incorporated.
Larmore Incorporated.
Loctile Corporation.
Machinery Dealers National Association.
Manitowoc-Two Rivers Area (Wisconsin) Chamber of Commerce.
Material Handling Equipment Distributors Association.

Materials Research Corporation.
Matterson Associates Incorporated.
The Maxwell Company.
McCourt Cable Systems.
McRae's Incorporated.
Metal Purchasing.
Metro Milwaukee (Wisconsin) Association of Commerce.
Metropolitan Life.
Mid-West Truckers Association.
Minnesota Trucking Association.
Mississippi Chemical Corporation.
Monroeville Area (Pennsylvania) Chamber of Commerce.
Montana Power Company.
Moore & Son Trucking.
Motorcycle Industry Council.
Music Distributors Association.
National Aggregates Association.
National Appliance Parts Suppliers Association.
National Association of Brick Distributors.
National Association of Chemical Distributors.
National Association of Container Distributors.
National Association of Decorative Fabric Distributors.
National Association of Electrical Distributors.
National Association of Fire Equipment Distributors.
National Association of Floor Covering Distributors.
National Association of Flour Distributors.
National Association of Hose and Accessories Distributors.
National Association of Meat Purveyors.
National Association of Recording Merchandisers.
National Association of the Remodeling Industry.
National Association of Retail Druggists.
National Association of Service Merchandising.
National Association of Sign Supply Distributors.
National Association of Solar Contractors.
National Association of Sporting Goods Wholesalers.
National Association of Truck Stop Operators.
National Association of Water Companies.
National Association of Wholesale Independent Distributors.
National Beer Wholesalers Association.
National Building Material Distributors Association.
National Business Forms Association.
National Commercial Refrigeration Sales Association.
National Electrical Manufacturers Association.
National Electronic Distributors Association.
National Fastener Distributors Association.
National Food Brokers Association.
National Food Distributors Association.
National Frozen Food Association.
National Grocers Association.
National Independent Poultry and Food Distributors Association.
National Industrial Glove Distributors Association.
National Lawn & Garden Distributors Association.
National Locksmith Suppliers Association.
National Marine Distributors Association.
National Medical Enterprises.
National Moving & Storage.
National Paint Distributors.
National Paper Trade Association.
National Private Truck Council.
National Ready Mixed Concrete Association.
National Sash & Door Jobbers Association.
National School Supply & Equipment Association.
National Screw Machine Products Association.
National Solid Wastes Management Association.
National Spa & Pool Institute.
National Tire Dealers & Retreaders Association.
National Tooling & Machining Association.
National Transportation Incorporated.
National Truck Equipment Association.
National Utility Contractors Association.
National Venture Capital Association.
National Welding Supply Association.
National Wheel & Rim Association.
National Wholesale Druggists' Association.
National Wholesale Furniture Association.
National Wholesale Hardware Association.
NCR Corporation.
New Berlin (Wisconsin) Chamber of Commerce.
Newark (Ohio) Area Chamber of Commerce.
North American Heating & Airconditioning Wholesalers.
North American Horticulture Supply Association.
North American Wholesale Lumber Association.
Odisco Transportation.
Optical Laboratories Association.
Opricians Association of America.
Oracle Corporation-Government Affairs.
Outdoor Power Equipment Distributors Association.
PACCAR Incorporated.
Pennsylvania House.
Pet Industry Distributors Association.
Petroleum Equipment Institute.
Petroleum Marketers Association of America.
Plattsburgh & Clinton County (New York) Chamber of Commerce.
Power Transmission Distributors Association.
Precision Metalforming Association.
Preston Trucking Company.
Priority Freight System Incorporated.
Produce Marketing Association, Inc.
Red Lobster Inns of America.
Red Star Truck Lines.
Safety Equipment Distributors Association.
Safeway Stores Incorporated.
Salt Institute.
Servicestation and Automotive Repair Association.
Shared Medical Systems.
Shoe Service Institute of America.
Slidell (Louisiana) Chamber of Commerce.
Small Business of America Inc.
South Hills Movers Incorporated.
Specialty Equipment Market Association.
Specialty Tools and Fasteners Distributors Association.
Square D Company.
St. Lucie County (Florida) Economic Development Council.
Steel Service Center Institute.
Suspension Specialists Association.
The Talbots Incorporated.
Tarzana (California) Chamber of Commerce.
Telecommunications Industry Association.
Textile Care Allied Trade Association.
Tomahawk Services Incorporated.
Unifi Incorporated.
United Fresh Fruit & Vegetable Association.
United Pesticide Formulators and Distributors Association.
Valmont Industries, Inc.
W.H. Fitzgerald Incorporated.
Walgreen Company.
Wallack Freight Lines Incorporated.
Wallcovering Distributors Association.
Ward Transport Incorporated.
Ward Trucking Incorporated.
Warren Trucking Company.
Washington Walter Power Company.
Water & Sewer Distributors Association.
Waukegan/Lake County Chamber of Commerce.
Western Suppliers Association.
Wheeler Transport Service.
Whirlpool Corporation.
White Sulphur Springs Chamber of Commerce.
Wholesale Florists & Florist Suppliers of America.
Wholesale Stationers' Association.
The Williams Companies, Inc.
Winfield (Illinois) Chamber of Commerce.
Woodworking Machinery Distributors Association.
Woodworking Machinery Importers Association.
Zayre Corporation.

U.S. CHAMBER OF COMMERCE,
LEGISLATIVE AND PUBLIC AFFAIRS,
Washington, DC, March 10, 1992.

Members of the United States Senate:

On Wednesday, March 11, you will be asked to vote on one of the most important issues facing the 102nd Congress. The economy is stagnant, jobs are being lost, businesses are failing, and Americans are suffering. It is imperative that Congress act quickly to adopt a comprehensive package that will increase economic growth.

The package as approved by the Senate Finance Committee contains a number of positive provisions. However, it also contains almost $63 billion in new tax increases. Tax cuts in one area that are offset by tax increases in other areas may in the long run do more harm than good to the U.S. economy, still reeling from the major tax increases imposed by the Omnibus Budget Reconciliation Act of 1990. The U.S. Chamber of Commerce strongly urges you to vote against the package as passed by the Senate Finance Committee.

The Chamber specifically opposes proposals to increase individual regular income tax rates, to expand the 45-day interest-free period, and to limit proper business deductions. The Committee-approved legislation couples many temporary economic incentives with permanent tax increases. Adoption of such a plan would actually harm the economy in the long run.

The cost of any economic incentives included in legislation passed by the Senate should be offset with savings from defense and domestic discretionary spending programs. The Chamber strongly urges you to fund the package by dedicating the "peace dividend" to tax relief and by freezing domestic discretionary spending at 1992 levels. Adoption of such a funding measure will ensure that the modestly positive economic effects of the legislation are not negated by tax increases which would further hamper economic growth.

Sincerely,

DONALD J. KROES.

NATIONAL ASSOCIATION OF
WHOLESALER-DISTRIBUTORS,
Washington, DC, March 6, 1992.

Hon. ROBERT KASTEN, JR.,
U.S. Senate,
Washington, DC.

DEAR SENATOR: As you prepare to vote on the Senate amendments to H.R. 4210, may we again state that our message remains firm as it has always been: "Hold the Rates!"

The National Association of Wholesaler-Distributors (NAW), like our comrades-in-arms at NFIB and other trade associations, has a significant number of members which are Subchapter-S corporations. As you know, Subchapter-S corporations pay income taxes at the individual rate levels. If individual income tax rates are raised, therefore, considerable damage will be done to a large and vital segment of our economy. Contrary to popular opinion, raising individual rates does not "stick it to the rich." It "sticks it" instead to those entrepreneurs who are the linchpins of American business in every city and town across this country.

We respectfully urge you to vote against all proposals which increase individual income tax rates.

Thank you.

Sincerely,

DIRK VAN DONGEN,
President.
ALAN M. KRANOWITZ,
Senior Vice President—Government Relations.

OPPOSE THE TAX HIKE ON MOTHERS AT HOME—PASS THE KASTEN AMENDMENT

The tax bill passed by the Senate Finance Committee raises taxes on families that care for their own children by repealing the Supplemental Young Child Tax Credit portion of the EITC. This supplemental tax credit was originally proposed in the 101st Congress by Congressman Charlie Stenholm (D–TX) during the debate over child care legislation. It enjoyed the support of the Bush Administration (indeed, it was modeled after the President's original children's tax credit) and ultimately was part of the child care "compromise" included in the 1990 budget agreement.

The Supplemental Young Child (or "wee tots") Tax Credit provides up to $376 in tax relief to families with annual incomes below $22,370 who have children under the age of one. Importantly, taxpayers may elect to claim either this supplemental credit or the Dependent Care Tax Credit (DCTC). This "no double dip" provision is designed to address the tax code's bias against parental care of children during the critical early stages of child development. (The DCTC, which offers up to $1440 in tax savings for families with children under age 13, is available only to taxpayers who utilize market day care, not to families that care for their own children.)

Thus, the repeal of the Young Child Tax Credit amounts to a tax increase on families that care for their own children—a tax penalty for parental leave-taking during the first year of a child's life.

Proponents of the "wee tots" repeal claim that they are merely seeking to simplify the EITC and increase EITC benefits for working poor families with two or more children. While these are both laudable goals, they can be accomplished without repealing the "wee tots" credit, (indeed, far from proposing repeal of the "wee tots" credit, Senators Charles Grassley (R–IA) and Joseph Lieberman (D–CT) have introduced separate bills to expand the YCTC. Congressman Frank Wolf (R–VA) has introduced similar legislation in the House.)

When the full Senate considers the Finance Committee's tax gill, Senator Bob Kasten (R–WI) will offer an amendment to replace all tax increases—including the repeal of the "wee tots" credit—with spending outs. This measure deserves support. Families that care for their own children need per-child tax savings—not a poke in the eye from big spending liberals posturing as friends of middle-class families.

Mr. KASTEN. Parliamentary inquiry, Mr. President. How much time is available to our side?

The PRESIDING OFFICER. The Senator has 12 minutes, 17 seconds.

Mr. KASTEN. I would like to yield 4 minutes to the Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. I thank the manager of this amendment.

Mr. President, I think now we are on the right track. I am very proud today to state I voted against the 1990 tax agreement, and I do mean tax agreement because it raised taxes $142 billion. I said then that it would weaken this economy and it would be a disaster, and it was. The people knew it, and I think some of us knew it in this Congress.

While I am not a bragging man, I have a tendency to that every now and again. I still think I was right. Kind of like Dizzy Dean; he said: "It ain't bragging if you done it." Unfortunately, the viewpoints of the minority did not prevail. So here we go again debating this thing. But I think we are on the right track.

In 1990, we said we have to raise taxes to reduce the deficit; we did not have to do that. Here we are in 1992, saying we have to raise taxes to cut taxes. Again, that argument will not fly, either.

I have a quote, something I read out of the Heritage Foundation memorandum, because I think it describes this approach perfectly. It says: The bill before us simply raises taxes on Peter to pay Paul. Unfortunately, one result of taxing Peter in a recession is that he is likely to respond by giving Paul a pink slip. That we do not need.

I know many in this body who will deny the connection of taxing those who can afford to invest and to employ. The current state of our economy cannot stand the pressure. If we cannot accept the fact in theory, then I urge them to look at the facts surrounding the luxury tax that was agreed to in 1990, and the trickle down theory. It sure worked in that case. We put 10 percent on, and right away, there was unemployment in those industries. It just does not make sense to do this all over again.

If this economy is going to come out of its stagnation, it will be small business that does it. They will be the ones who will hire the majority of the people, to put them back to work. Why then all at once do we talk about the luxury tax? We are repealing it in this piece of legislation. The House Ways and Means Committee report accompanying their bill admits the surtax was a mistake. Robbing Peter to pay Paul resulted in Peter handing Paul that dreaded pink slip.

I think that example shows this is a bad bill, and this amendment offered by Mr. KASTEN of Wisconsin addresses some of that.

We could also argue about the specific economic growth provisions in the bill. We could cut the capital gains tax from 23 to 15 percent. Should we offer families a $300 tax credit per child or a $500 credit, or will we argue about them during the course of this debate? To me, those changes are marginal compared to the fundamental change in this package, and what it really means: That is, to replace the tax increases with spending restraints, and there are places that we can hold our spending intact. But as we offer in this amendment, we do not have to cut spending; we just freeze it. We just freeze it and look in those areas. It sounds something like the 4 percent that I offered a year ago; that you can allow the budget to grow 4 percent and no more. In 5 years, you would balance the budget and you would start working on the deficit.

We would like to provide tax relief to a lot of people. I do not like taxing working people because, in the first place, here we are trying to return some. And make no doubt about it, we should not have taken it away from them in the first place. The Kasten package that I am cosponsoring freezes domestic and international discretionary spending for fiscal year 1993 levels and uses the President's defense spending over the next 5 years to pay for that economic growth.

Taking this approach, we are giving the American people a waste dividend and a peace dividend.

The PRESIDING OFFICER. The 4 minutes yielded have expired.

Mr. BURNS. I thank the Senator from Wisconsin, and I yield the floor.

Mr. KASTEN. I would like to yield 3 minutes to the Senator from New Hampshire [Mr. SMITH].

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH. I thank the Senator for yielding. I rise in strong support of Senator KASTEN'S amendment. I want to stress there is not bipartisan support in America for tax increases. The underlying bill contains plenty of them. That is why the Kasten alternative is much more preferable.

Mr. President, I would like to take a moment to discuss the tax bill, not growth, but tax bill, that is before this body now.

I want to start by indicating my support for many of the measures in the bill. The tax bill includes: $300 tax credit for families with children; 100-percent deduction for health insurance premiums paid by the self-employed; and penalty-free withdrawals from IRA's for first-time homebuyers, medical and educational expenses.

There are many other worthwhile provisions that I support—I will not go through a laundry list of them * * * but I think the point that needs to be made is that there is bipartisan support for many of the provisions in the legislation.

That being said, I want to stress that there is not bipartisan support for tax increases, and this bill contains plenty of tax increases, permanent tax increases.

As has been stated before in this Chamber, those tax increases are the reason this bill will be vetoed.

This legislation is not about creating jobs. It is about redistributing wealth.

If you believe this is a jobs bill, then you believe that adding a fourth income tax bracket will create jobs.

If you believe this is a jobs bill, then you believe that a 10-percent surtax on millionaires will create jobs.

But the fact of the matter, Mr. President, is that the only jobs created by raising taxes will be at the IRS.

It has been said that we have to pay for the bill. I want to take a moment to address this point, because I think it is important that the American people clearly understand this issue.

You can pay for things in two ways. You can raise taxes, which this bill does, or you can cut spending. Kasten cuts spending pure and simple.

I have a study that was done by the minority staff of the Joint Economic Committee. The study looked at the history of tax increases from 1946 to 1990.

The report definitively concludes that each dollar that we have raised in new taxes resulted in $1.59 of new Government spending.

Let me repeat that. Over the past 45 years, ever dollar that the Federal Government has raised in taxes has been matched by $1.59 in new Federal spending. That is why I oppose tax increases.

Tax increases are not the responsible course of action. Tax increases do not reduce the deficit. To the contrary, tax increases result in even greater spending increases. Tax increases increase our national debt, not decrease our national debt.

Mr. President, the American people want three things from Washington. They want legislation that: First, creates jobs; Second, cuts Federal spending; and Third, provides tax relief.

I do not get much mail from constituents asking me to vote to raise taxes—even taxes on the rich.

I do get a great deal of mail from New Hampshire that says we should reduce spending and show some fiscal restraint for a change.

I submit that we can give the American people what they want. We can take these initiatives that have bipartisan support—family tax relief, enhanced IRA's capital gains, investment tax allowance * * *.

And we can pay for these initiatives by reducing Federal spending. Not just domestic spending but domestic, international, and defense.

The Bentsen tax cuts cost roughly $67 billion over 5 years.

That may sound like a great deal of money, but let us consider that over that same period of time, the Federal Government will spend more than $7.6 trillion.

That calculates outs to eight-tenths of 1 percent.

We would have to cut spending by eight-tenths of 1 percent over 5 years to pay for the bill before us.

A vote for the Bentsen tax increases is an admission that even the most modest spending cuts are too much. We cannot cut less than one penny for every dollar we spend. That is a pretty pathetic statement.

I think we can do it, and I think this amendment does it well.

First, we can get roughly $20 billion in savings just by using the President's proposed reductions in defense spending. I am not willing to use the savings to fuel more domestic and international spending, but I am willing to give it back to the American people and to use it to create jobs.

We then need an additional $47 billion to pay for the proposals. If we freeze domestic and international spending for 5 years, CBO estimates that more than $62 billion would be saved.

So we could pay for the Bentsen bill, and still have an additional $15 billion to apply toward the deficit.

It is that simple. Before I start hearing complaints about cutting Social Security or slashing Medicare, I want to be perfectly clear. Those calculations did not even consider entitlements.

We could achieve those savings * * * and still allow normal growth in Medicaid, and Medicare, and Social Security, and all of the other entitlement programs. * * *

I have a been a Member of Congress since 1985, and we have not cut spending once. Every now and then, we flirt with the idea of holding down the rate of growth. But in the end, the Congress caves in and we end up on a new spending spree.

At the same time, taxes have been raised nearly every year. The last tax increase * * * the 1990 agreement * * * also claimed to raise taxes on the rich in the name of "tax fairness". * * *

"Luxury taxes" sounded like a wonderful scheme to tax the rich, but ended up destroying jobs.

The President was right. When you aim for the rich, you usually end up hitting the little guy.

We can pay for these proposals with spending cuts * * * last night, we were told that these tax increases only affect the top 1 percent of taxpayers.

Well, we need to cut only eight-tenths of 1 percent of Federal spending over the next 5 years to pay for the tax cuts. That's what the American people don't hear.

I think the choice is clear. We can raise taxes—and remember, each dollar of those new taxes will result in $1.59 in new spending—or we can cut spending.

I urge my colleagues to reject higher taxes and support spending restraint.

Mr. KASTEN. Mr. President, how much time is remaining on our side?

The PRESIDING OFFICER. Five minutes and forty seconds remain.

Mr. KASTEN. Mr. President, I yield 3 minutes to the Senator from Mississippi.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I thank the distinguished Senator from Wisconsin for yielding me this time.

Now we are about to get it right. We have been working on this all week, but finally, here is a proposal to deal with the economy in the way we really should be dealing with it. The Kasten substitute amendment is what I have been waiting for and, I think, what the American people have been waiting for.

Here is what it does. First of all, it says no new taxes. It does not raise taxes. It does leave in place the tax cuts and economic growth incentives, but they are paid for by controlling spending. And there is one other kicker; it even has a $16 billion net deficit reduction.

Do not raise taxes. Do leave the growth incentives in there. Reduce the deficit and control spending. Now, what more could you ask for?

I want to emphasize, some are going to come in here and say, "My goodness, you are cutting spending; that is going to hurt somebody."

Well, let us look at what is included in this substitute amendment—$83 billion in budget savings, $67 billion to pay for revenue losers, and $16 billion in deficit reduction. How does the amendment propose to do this? By a combination of defense, domestic, and international caps. First, it would take the administration's defense cuts, 1992 through 1996, saving $19.7 billion. That is how much we should cut—not more. But we should use that money to pay for incentives in the economy to help offset some of the damage that will be done by the defense cuts. Second, the amendment would freeze domestic discretionary spending at the 1992 level. It would not cut it; it would freeze it. I think the American people could live with that. They would say, "OK" just as long as you are not giving it here and there, picking and choosing—a fair, across-the-board freeze at the 1992 level. They can live with that—for a savings of $58.7 billion. And, third, the amendment would freeze international spending at the 1992 level of $20.1 billion, for a savings of $4.4 billion.

Let me tell you, if you took a poll out in the country, the people would say "freeze spending." And that is not enough; they would say "cut it." But, at least, let us put some sort of cap on it.

I think we are finally heading in the right direction. The bill out of the Finance Committee, we all have to acknowledge—I know the distinguished chairman of the committee probably would love to have done it but he has to get the votes, and he has to work with what he has. But this bill raises taxes, and it raises spending. It does provide some temporary tax relief, but it implements permanent tax increases to pay for limited, temporary relief. It is claimed that their bill raises the top rate from 31 to 36 percent for individuals. In reality, the top individual tax rate is more than that. As I understand it, it is between 40 and 41 percent because of the limitation on itemized deductions and the so-called millionaires' surtax.

I urge my colleagues to take a look at this amendment. This is the way to go. Vote for the Kasten substitute amendment. I thank the Chair.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. BENTSEN. Mr. President, I keep hearing from some of my colleagues about how the underlying bill raises taxes. I never hear them refer to the fact it also lowers taxes. One of the points I made in the drafting of the legislation was that we match increases with a lowering of taxes. That is the same approach adopted by President Reagan in 1986. He brought down a lot of taxes and he raised some taxes. I can recall that in 1986 they were talking, at least initially, about a tax of some 35 percent on all people making over $70,000 a year. Under our bill, most of those people would be paying a 28 percent tax. We are only talking about increasing the tax by 5 percentage points on families making $175,000 or more a year.

Let us examine what this amendment does. What Senator KASTEN is proposing is diverting some $19 billion of the proposed peace dividend over the next 5 years to fund tax cuts. That peace dividend is a once-in-a-lifetime opportunity to redirect national priorities, whether we are talking about paying off more of the deficit, trying to rebuilt our infrastructure or take care of some of those needs that have been severely neglected in the way of education and research and development.

You are quite right that when I started out on this bill, I wanted to pay for it with the peace dividend. It seemed like the easy way to do it. And then Bob Reischauer, from CBO, came in and testified that we would need $133 billion just to maintain real domestic discretionary spending at 1992 levels. That is when I decided that we had to focus on tax revenues as the only viable alternative. I believe the sponsors of this amendment ignore that kind of a warning.

So the Kasten amendment is proposed to cap domestic discretionary spending in nominal dollars at about current levels. The Senator says he expects to save some $58 billion over the next 5 years, which translates into a real cut of about 20 percent in domestic discretionary programs.

I tell you, Mr. President, that will cut like a hot knife through critical national programs.

Let me give you some examples of where those cuts could well occur under this amendment as rising costs would force real cuts due to spending caps:

A $4 billion cut in Federal education assistance at the same time that virtually every expert is calling for higher education spending to meet world competition. Looking to the future, it is not a military confrontation we are expecting but instead heightened economic competition. A educated work force in this country is absolutely critical, essential to meet this challenge. With those kinds of cuts, the President's Education 2000 initiative would be doomed to failure.

A reduction of 20 percent in unemployment compensation program management funds.

A cut of up to $1 billion, or 20 percent, in funds used to administer and manage the Social Security and Medicaid programs. Such massive cuts could well require the firing of administrative personnel who field Medicare inquiries, those who man the computers writing benefit checks, who monitor spending by medical providers, and so on. Most assuredly, it would mean slower and less accurate Social Security and Medicare benefits.

A cut of $400 million in consumer and occupational health and safety spending. The Food and Drug Administration would not escape the cuts, with the result that efforts to speed up the drug approval process could fail.

A cut of $2.5 billion in health research by the National Institutes of Health and the Center for Disease Control. This would deliver a body blow to progress in conquering AIDS, cancer, and heart diseases.

A $4 billion, or 20 percent, cut in transportation programs, including nearly $2 billion from the FAA. This would kill airport expansion, and efforts to improve the air traffic control system, which are very much needed. This cut would eliminate many of the jobs created last fall by the Surface Transportation Act. This amendment would also cut rapid transit operating subsidies and construction spending by one-quarter.

A 20-percent cut in general science and basic research. Cutting the National Science Foundation's budget by 20 percent is not the way I would go in preparing America to meet the economic challenge of the 21st century.

A $4 billion cut in Justice Department programs. This would impede prison construction, hobble drug programs, dramatically slow drug interdiction efforts, result in the early release of many Federal prisoners, and cut the FBI budget by 20 percent. There would be champagne corks popping all through the Colombian drug cartels if we did that one.

Many veterans' programs would continue, but VA, hospital operating funds, other administrative outlays, have been cut by 20 percent, resulting in a serious deterioration of health care available to veterans. Should our veterans face delays in surgery, perhaps even the closing of some hospitals?

We ought to face up to the consequences of this amendment. We ought to pay for the tax relief in this bill with tax increases. The Finance Committee has financed this underlying bill by increasing the tax rates on taxpayers in the top seven-tenths of 1 percent of all income earners. That is a fair and a fiscally responsible way to pay to put some fairness back in the tax system.

What do you think the differential in the tax rates is in this country between a person making $35,000 a year and a person making $1 million a year? What is the differential between the rates applicable to these two types of taxpayers? How progressive is the tax system in this country? Well, today there is a 3-percentage point differential, 3 percentage points. No other country I know of in the world has such a minimal differential.

When we talk about raising the rate applicable to those making over $175,000 a year, we are actually talking about $175,000 after all the tax deductions are taken into account. That means that the taxpayers subject to the higher rate are earning something substantially above that. The rate would be increased 5 percentage points, to 36 percent. Even with the millionaires' surtax, which causes income in excess of $1 million to be taxed at up around 39 percent, our rates are still substantially below our major economic competitors. For example, Japan has a top rate of 50 percent, and the West Germans have a 53-percent top rate.

The best way and the fair way to proceed is to support the underlying bill and defeat this amendment.

If we are going to provide tax relief, let us pay for it in a manner that will not tie our hands and prevent us from addressing some of our very important domestic problems.

This amendment, of course, is subject to a point of order. It would violate the budget agreement. I certainly cannot let that happen. I was a party to that 1990 budget agreement. It was tough. I hope I never have to enter into another one. But it is the only discipline we have now around this place, and it is important that we observe it. I intend to keep this tax bill and any amendments to it from breaking that budget agreement. Therefore, I will raise that point of order at the appropriate time.

In the meantime, I urge my colleagues to vote against this amendment.

How much time do I have?

The PRESIDING OFFICER. The Senator from Wisconsin has 2½ minutes; the Senator from Texas has 10½ minutes.

Mr. BENTSEN. I withhold the remainder of my time.

Mr. KASTEN. Mr. President, I yield 1 minute to the Senator from Idaho [Mr. CRAIG.]

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I am pleased to rise in support of this amendment by my colleague from Wisconsin, because it is the only game in town if we are to restore vitality to this economy. We cannot raise taxes and at the same time continue to increase in an ever-expanding Federal budget, with the kind of debt overhang that we have created as a result of Federal spending today.

Most economists agree that even with the kind of tax cuts that are proposed in the underlying bill we cannot move this economy beyond a 1- to 1½-percent growth rate a year. Let me suggest that if we cannot accomplish something better than that, then the average working men and women of this country will not be able to produce the way they want to, to own the home they would like to own, to save the amount of money they would like to save to put their children into school, to have the kind of economic opportunity they want for their future.

I stand in support of this amendment, and I ask unanimous consent to revise and extend.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. BENTSEN. Is there any time left for the other side? I am prepared to yield the time.

The PRESIDING OFFICER. The Senator from Wisconsin has 1½ minutes.

Mr. KASTEN. Let me summarize. This amendment simply freezes spending. It does not reduce spending. The Senator from Texas has referred to cuts. I think most people at least outside the beltway understand that if you spend $236.3 billion this year and you freeze it to $236.3 billion next year, that that is not a cut. It is a freeze.

Yes, there are a number of programs that, within that overall freeze or within these caps, might go up and some of them might do down.

A number of the programs that the Senator referred to are programs that would probably go up under a cap. But this is not a cut. It is a freeze.

I am aware that a point of order will be raised. Frankly, I think the American people are tired of delay, they are tired of points of order, they are tired of all of the political ping pong that has been going on here. The fact is this amendment completely pays for the tax cuts in this package, and provides an additional $15 billion in net deficit reduction.

I urge adoption of this amendment.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BENTSEN. Mr. President, the realities are that when you freeze spending in nominal dollars and inflation takes place over the next 5 years, you will have a cut in real dollars. That is what I was talking about. This amendment, Mr. President, is not revenue neutral.

I yield the remainder of my time.

The PRESIDING OFFICER. All time has been yielded.

The question is on agreeing to the amendment.

Mr. BENTSEN. Mr. President, this amendment is not revenue neutral, and I raise a point of order that the amendment violates section 311(a) of the Congressional Budget Act of 1974.

Mr. KASTEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KASTEN. I move to waive the relevant section of the Budget Act as it relates to the consideration of the Kasten amendment.

Mr. BENTSEN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion by the Senator from Wisconsin to waive the Budget Act. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant bill clerk called the roll.

Mr. FORD. I announce that the Senator from Iowa [Mr. HARKIN] and the Senator from Maryland [Ms. MIKULSKI] are necessarily absent.

I also announce that the Senator from Michigan [Mr. RIEGLE] is absent becaue of death in the family.

The PRESIDING OFFICER (Mr. REID). Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 36, nays 61, as follows:

[Rollcall Vote No. 48 Leg.]

YEAS—36

Bond
Brown
Burns
Chafee
Coats
Cochran
Craig
D'Amato
Danforth
Dole
Garn
Gorton
Gramm
Grassley
Hatch
Helms
Kassebaum
Kasten
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Roth
Seymour
Shelby
Simpson
Smith
Stevens
Symms
Thurmond
Wallop
Warner

NAYS—61

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Boren
Bradley
Breaux
Bryan
Bumpers
Burdick
Byrd
Cohen
Conrad
Cranston
Daschle
DeConcini
Dixon
Dodd
Domenici
Durenberger
Exon
Ford
Fowler
Glenn
Gore
Graham
Hatfield
Heflin
Hollings
Inouye
Jeffords
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Metzenbaum
Mitchell
Moynihan
Nunn
Packwood
Pell
Pryor
Reid
Robb
Rockefeller
Rudman
Sanford
Sarbanes
Sasser
Simon
Specter
Wellstone
Wirth
Wofford

NOT VOTING—3

Harkin
Mikulski
Riegle

The PRESIDING OFFICER. On this vote there are 36 yeas and 61 nays. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The amendment of the Senator from Wisconsin would cause revenues to be less than the appropriate level of total revenues set forth in the budget resolution for the fiscal years 1992 to 1996.

The point of order is sustained. The amendment falls.

The Senator from Wisconsin.

AMENDMENT NO. 1729

(Purpose: To amend the Internal Revenue Code of 1986 to provide for rollover of gain from sale of farm assets into an individual retirement account)

Mr. KASTEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant bill clerk read as follows:

The Senator from Wisconsin [Mr. KASTEN], for himself, Mr. SHELBY, Mr. KOHL, Mr. BURNS, and Mr. LOTT, proposes an amendment numbered 1729.

Mr. KASTEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert:

SECTION 1. SHORT TITLE; REFERENCE TO INTERNAL REVENUE CODE.

(a) SHORT TITLE.—This Act may be cited as the Family Farm Tax Relief and Savings Act of 1991.

(b) REFERENCE TO INTERNAL REVENUE CODE OF 1986—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to or repeal of, a section or other provision the reference shall be considered to be made a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. ROLLOVER OF GAIN FROM SALE OF FARM ASSETS TO INDIVIDUAL RETIREMENT PLANS.

(a) IN GENERAL.—Part III of subchapter O of chapter 1 of the Internal Revenue Code of 1986 (relating to common nontaxable exchanges) is amended by inserting after section 1034 the following new section:

"SEC. 1034A. ROLLOVER OF GAIN ON SALE OF FARM ASSETS INTO ASSET ROLLOVER ACCOUNT.

"(a) Nonrecognition of Gain.—If a taxpayer has a qualified net farm gain from the sale of a qualified farm asset, then, at the election of the taxpayer, gain (if any) from such sale shall be recognized only to the extent such gain exceeds the contributions which—

"(1) are to 1 or more asset rollover accounts of the taxpayer for the taxable year in which such sale occurs, and

"(2) are not in excess of the limits under subsection (c).

"(b) Asset Rollover Account.—

"(1) General rule.—Except as provided in this section, an asset rollover account shall be treated for purposes of this title in the same manner as an individual retirement plan.

"(2) Asset rollover account.—For purposes of this title, the term 'asset rollover account' means an individual retirement plan which is designated at the time of the establishment of the plan as an asset or rollover account. Such designation shall be made in such manner as the Secretary may prescribe.

"(c) Contribution Rules.—

"(1) No deduction allowed.—No deduction shall be allowed under section 219 for a contribution to an asset rollover account.

"(2) Aggregate contribution limitation.—Except in the case of rollover contributions, the aggregate amount for all taxable years which may be contributed to all asset rollover accounts established on behalf of an individual during a qualified period shall not exceed—

"(A) $500,000 ($250,000 in the case of a separate return by a married individual), reduced by

"(B) the amount by which the aggregate value of the assets held by the individual (and spouse) in individual retirement plans (other than asset rollover accounts) exceeds $100,000.

"(3) Annual contribution limitations.—

"(A) General rule.—The qualified contribution which may be made in any taxable year shall not exceed the lesser of—

"(i) the qualified net farm gain for the taxable year, or

"(ii) an amount determined by multiplying the number of years the taxpayer is a qualified farmer by $10,000.

"(B) Spouse.—In the case of a married couple filing a joint return under section 6013 for the taxable year, subparagraph (A) shall be applied by substituting '$20,000' for '$10,000' for each year the taxpayer's spouse is a qualified farmer.

"(4) Time when contribution deemed made.—For purposes of this section, a taxpayer shall be deemed to have made a contribution to an asset rollover account on the last day of the preceding taxable year if the contribution is made on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (not including extensions thereof).

"(d) Qualified Net Farm Gain; Etc.—For purposes of this section—

"(1) Qualified net farm gain.—The term 'qualified net farm gain' means the lesser of—

"(A) the net capital gain of the taxpayer for the taxable year, or

"(B) the net capital gain for the taxable year determined by only taking into account gain (or loss) in connection with a disposition of a qualified farm asset.

"(2) Qualified farm asset.—The term 'qualified farm asset' means an asset used by a qualified farmer in the active conduct of the trade or business of farming (as defined in section 2032A(e)).

"(3) Qualified farmer.—

"(A) In general.—The term 'qualified farmer' means a taxpayer who—

"(i) during the 5-year period ending on the date of the disposition of a qualified farm asset materially participated in the trade or business of farming, and

(ii) 50 percent or more of such trade or business is owned by the taxpayer (or his spouse) during such 5-year period.

"(B) Material participation.—For purposes of this paragraph, a taxpayer shall be treated as materially participating in a trade or business if he meets the requirements of section 2032A(e)(6).

"(4) Rollover contributions.—Rollover contributions to an asset rollover account may be made only from other asset rollover accounts.

"(e) Distribution Rules.—For purposes of this title, the rules of paragraphs (1) and (2) of section 408(d) shall apply to any distribution from an asset rollover account.

"(f) Individual Required To Report Qualified Contributions.—

"(1) In general.—Any individual who—

"(A) makes a qualified contribution to any asset rollover account for any taxable year, or

"(B) receives any amount from any asset rollover account for any taxable year,

shall include on the return of tax imposed by chapter 1 for such taxable year and any succeeding taxable year (or on such other form as the Secretary may prescribe) information described in paragraph (2).

"(2) Information required to be supplied.—The information described in this paragraph is information required by the Secretary which is similar to the information described in section 408(o)(4)(B).

"(3) Penalties.—For penalties relating to reports under paragraph, see section 6693(b)."

(b) Contributions Not Deductible.—Section 219(d) of the Internal Revenue Code of 1986 (relating to other limitations and restrictions) is amended by adding at the end thereof the following new paragraph:

"(5) Contributions to asset rollover accounts.—No deduction shall be allowed under this section with respect to a contribution under section 1034A."

(c) Excess Contributions.—

(1) In general.—Section 4973 of the Internal Revenue Code of 1986 (relating to tax on excess contributions to individual retirement accounts, certain section 403(b) contracts, and certain individual retirement annuities) is amended by adding at the end the following new subsection:

"(d) Asset Rollover Accounts.—For purposes of this section, in the case of an asset rollover account referred to in subsection (a)(1), the term 'excess contribution' means the excess (if any) of the amount contributed for the taxable year to such account over the amount which may be contributed under section 1034A."

(2) Conforming amendments.—

(A) Section 4973(a)(1) of such Code is amended by striking "or" and inserting "an asset rollover account (within the meaning of section 1034A), or".

(B) The heading for section 4973 of such Code is amended by inserting "ASSET ROLLOVER ACCOUNTS," after "CONTRACTS".

(C) The table of sections for chapter 43 of such Code is amended by inserting "asset rollover accounts," after "contracts" in the item relating to section 4973.

(d) Technical Amendments.—

(1) Paragraph (1) of section 408(a) of the Internal Revenue Code of 1986 (defining individual retirement account) is amended by inserting "or a qualified contribution under section 1034A," before "no contribution".

(2) Subparagraph (A) of section 408(d)(5) of such Code is amended by inserting "or qualified contributions under section 1034A" after "rollover contributions".

(3)(A) Section 6693(b)(1) of such Code is amended by inserting "or 1034A(f)(2)" after "408(o)(4)" in subparagraph (A).

(B) Section 6693(b)(2) of such Code is amended by inserting "or 1034A(f)(2)" after "408(o)(4)".

(4) The table of sections for part III of subchapter O of chapter 1 of such Code is amended by inserting after the item relating to section 1034 the following new item:

"Sec. 1034A. Rollover of gain on sale of farm assets into asset rollover account."

(e) Effective Date.—The amendments made by this section shall apply to sales and exchanges after the date of enactment of this Act.

SEC. 3. REVENUE PROVISIONS.

(a) One-Year Extension of Customs User Fees.—Paragraph (3) of section 13031(j) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking out "1995" and inserting "1996".

(b) Elimination of the Statute of Limitations on Collection of Guaranteed Student Loans.—Section 3(c) of the Higher Education Technical Amendments of 1991 (Public Law 102-26) is amended by striking out "that are brought before November 15, 1992".

(c) Revision of Procedure Relating to Certain Loan Defaults.—

(i) Revision.—Section 3732(c)(1)(C)(ii) of title 38, United States Code, is amended by striking out "resale," and inserting in lieu thereof "resale (including losses sustained on the resale of the property)".

(ii) Effective Date.—The amendment made by subsection (a) shall take effect on October 1, 1991.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, the managers of the bill have agreed with the distinguished Senator from Wisconsin that we have 20 minutes on his amendment, equally divided, with no amendments thereto. I so ask unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Wisconsin.

Mr. KASTEN. Mr. President, I rise today on behalf of myself and Senators Shelby, Kohl, Burns, and Lott to offer the Family Farm Tax Relief and Savings Act as an amendment to the tax bill. This amendment would provide tax relief and a retirement savings program for families actively engaged in the business of farming.

Specifically, farmers would be permitted to roll over the proceeds from the sale of farm assets into an individual retirement account and thereby defer tax on those assets until the farmer or spouse begins withdrawing funds from the IRA after retirement.

Today, the tax code is particularly unkind to farmers. A Wisconsin dairy farmer, for example, who works his whole life on the farm and then sells part, or all of it, in order to retire, is subject to immediate taxation of his full profit at ordinary income tax rates. The Federal Government immediately taxes 28 percent of a lifetime's accumulated gain, and the State takes another chunk. The farmer is then left to retire on what remains.

There is no consideration for the fact that much of the farmer's profit is due solely to inflation, or that farmer's do not have access to company or government pension and retirement plans and therefore often rely on the farm sale proceeds to provide a comfortable retirement.

The Tax Code provides absolutely no protection from taxation on phantom inflation gains. This is perhaps the most objectionable aspect of our Tax Code's present treatment of capital gains.

Retirement can be particularly difficult for many farmers since they often receive less Social Security than workers in other fields. This is because farmer's need to plow much of the farm income back into the farm.

Consequently, many farmer's pay themselves low salaries and as a result receive lower Social Security benefits. This is despite the fact that as self-employed workers farmers actually pay payroll taxes of 15.3 percent rather than the 7.65 percent that employees of companies pay.

All of this adds up to high taxes, and an often difficult retirement for farmers who have spent their lives feeding America's families.

I believe farmers deserve better. My bill provides that farmers who sell farm assets would be permitted to defer capital gains taxation on the profit from those assets by rolling the profit into an individual retirement account. This not only defers the tax, but also allows the farmer and spouse to spread the eventual payment of tax out over a number of years as they gradually withdraw funds from the IRA.

Mr. President, I reserve the remainder of my time.

Mr. BENTSEN. Mr. President, I yield 4 minutes to the distinguished Senator from New Jersey.

The PRESIDING OFFICER (Mr. BINGAMAN). The Senator from New Jersey is recognized for 4 minutes.

Mr. BRADLEY. Mr. President, this amendment is ill-considered. As I understand the Senator's amendment, what it would do is allow someone who sells a farm to put up to $500,000 in an IRA account.

What possible basis could we have in any policy to allow a farmer to take $500,000 and put it in an IRA account? Aside from that point, there could be questions of equity involved in this. Why should we favor the farmer over the small businessman?

Let us say that you run a hardware store on Main Street. You sell the hardware store and you get some money, and under this amendment, you cannot put it into an IRA account. But if you are a farmer and you sell your farm, you can put it in an IRA account that allows it to earn interest tax free.

Now, I know that the Senator's intent is to try to provide some help to small farmers. But I urge him not to provide relief to small farmers to the exclusion of small business people; to the exclusion of other professionals. And I hope that we will be able to reject this amendment. I mean, up to $500,000 put in a tax-free savings account? I think, Mr. President, that this is the wrong direction to go on equity grounds and on fairness grounds with relation to other business people.

I urge this amendment be rejected.

The PRESIDING OFFICER. Who yields time?

Mr. BENTSEN. I yield 2 minutes to the distinguished Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for 2 minutes.

Mr. PELL. Mr. President, I rise in opposition to the amendment offered by the Senator from Wisconsin [Mr. KASTEN].

I do not fault the thrust of his amendment, but I do oppose the way in which he would seek to finance it. Part of the financing would come from removal of the statute of limitations on the collection of defaulted student loans.

The problem is that the Senate has already acted to remove the statute of limitations. When we passed S. 1150, the higher education reauthorization bill, we approved as a part of that legislation the removal of the statute of limitations. That provision was an integral and important part of our reauthorization bill. It produced savings that allowed us to live within the budget agreement, and to make important changes in student aid, changes such as the removal of home and farm equity in the determination of financial need for families with incomes of less than $50,000 a year.

The savings in question are by no means minimal. In the first year they would amount to $235 million, and would total another $250 million over the 4 remaining years of the bill.

If the Kasten amendment were adopted and were to become law before reauthorization of the Higher Education Act, we would lose those savings. This would leave us with a bill in violation of the budget agreement, and we could well be faced with having to eliminate some of the very favorable steps we have taken to help families finance a college education for their children.

I urge my colleagues to join me in opposing the Kasten amendment.

I yield the floor.

Mr. BENTSEN. Mr. President, I yield 2 minutes to the distinguished Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 2 minutes.

Mr. KENNEDY. Mr. President, just to add to what Senator PELL has stated, under the existing student loan statute of limitations, it is 10 years. We have extended it in the higher education to make it indefinite. Over a 5-year period, the revenues are $500 million.

We have taken that $500 million in the Higher Education Act and used it in the Guaranteed Student Loan Program to extend student loan programs for middle-income families. That is an additional source of revenue to be used by middle-income families to sent their sons and daughters on to higher education.

The Senator takes that money, which we have already allocated—we do not have trouble with the extension of the statute of limitations, because we have already supported it—but it takes that money out from being available to the sons and daughters of working families in this country—farmers' and workers' families—and effectively puts it over in another pot, as the Senator from New Jersey has mentioned, to individuals that sell their farms for $500,000 and put it in an IRA.

This is an equity issue and an educational issue. It is education because we are talking about accessibility and availability of higher education. It is an equity issue because we are taking money that would be available to the sons and daughters of working families and giving it to some of the wealthiest individuals in this country.

So for both those reasons, I hope that this amendment would be rejected.

The PRESIDING OFFICER. Who yields time?

Mr. KASTEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. KASTEN. Parliamentary inquiry. How much time is remaining?

The PRESIDING OFFICER. The Senator from Wisconsin has 7 minutes 37 seconds.

The Senator from Texas has 4 minutes 22 seconds.

Mr. KASTEN. Mr. President, my proposal has the support of the American Farm Bureau Federation, the Wisconsin Farm Bureau, and Communicating for Agriculture. The rollover of farm assets has been endorsed by the Corn Growers Association, the Soybean Growers, and the National and Regional Associated Milk Producers. I am proud to work with these groups in order to reduce the punishing tax burden placed on farmers when they sell assets.

I would, as the Senator from New Jersey suggested, consider providing this for different people who find themselves putting all their financial eggs in one basket, if you will. Farmers are unique in this way. They are forced to have all their financial eggs in this one basket, and then to pay the punishing capital gains tax.

We have offset the $837 million 5-year cost of this amendment, estimated by Joint Tax Committee which means that the amendment is revenue neutral.

I ask unanimous consent that a letter from the American Farm Bureau Federation supporting my amendment be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. KASTEN. Mr. President, I would like to note that five Senators have in fact cosponsored this legislation, and nearly 50 Members of the House of Representatives have sponsored this.

Mr. President, it is an important issue. This is a vote for retirement security for a number of people who are involved in agriculture, and I urge the Senate to adopt my amendment.

EXHIBIT 1

AMERICAN FARM BUREAU FEDERATION,
Park Ridge, IL, March 11, 1992.

The Hon. BOB KASTEN,
U.S. Senate, Washington, DC.

DEAR SENATOR KASTEN: The American Farm Bureau Federation supports your efforts to offer the "Farmer Individual Retirement Account" to the tax bill H.R. 4210. Many farmers have not been able to set aside retirement funds in a retirement plan like an IRA or Keogh plan, so the ability of a farmer to sell the property, tax deferred, to finance his or her retirement is an important retirement planning tool.

We understand that your amendment would permit a farmer to roll over the proceeds from the sale of capital assets into an individual retirement account. Tax on the proceeds would be deferred until the farmer begins to withdraw the funds from the IRA.

We are pleased to endorse the "Farmer IRA," and urge the Senate to vote for your amendment.

Sincerely,

JOHN C. DATT,
Executive Director,
Washington Office.

KASTEN FAMILY FARMS IRA AMENDMENT

Mr. BAUCUS. Mr. President, my remarks will be very brief. I am very sympathetic to the concerns that my colleague from Wisconsin has expressed. Those of us from farm States know that life on a farm or ranch is different from life in the city or suburbs in many ways.

One of those differences is that people save for their retirement more through building up their farm or small business than through payroll withholding. Their retirement nest egg consists of the value of that small business, or farm, or ranch. This is their IRA. And I think the Tax Code should recognize this fact.

In fact, I have been working with the Joint Tax Committee and the chairman to craft a proposal that would treat the sale of a farm like we already treat the sale of a principal residence. Namely, allow a one-time exemption from capital gains. And I expressed my support for that proposition yesterday. Unfortunately, the measure that my colleague from Wisconsin proposes today in its current form violates the Budget Act. I therefore cannot at this time support the amendment, even though I agree with its objective.

But despite my vote on this amendment, I intend to keep working to draft a provision that provides this needed relief to farmers and ranchers, while at the same time conforming to our budget rules.

Mr. BENTSEN. Is the proponent of the legislation willing to yield back his time?

Mr. KASTEN. Mr. President, I yield back the remaining time.

Mr. BENTSEN. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The Senator from Texas is recognized.

Mr. BENTSEN. Mr. President, this amendment is not budget neutral, it is not revenue neutral, and I raise the point of order that this amendment violates section 311(a) of the Congressional Budget Act of 1984.

The PRESIDING OFFICER. A point of order has been raised.

The Senator from Wisconsin.

Mr. KASTEN. Mr. President, will the Senator yield for 30 seconds? I ask unanimous consent I regain 30 seconds of my time. I want to ask the Senator a question.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. I have no objection.

Mr. KASTEN. Mr. President, we carefully worked his amendment in terms of the offsets: Joint Tax estimated $537 million. That was the 5-year cost of the amendment. With the various things that we included, we have covered these questions. I think there should be no question about that.

Mr. BENTSEN. What we are running into you are paying for revenues losses with spending cuts, and that is not allowed under the budget rules.

Mr. KASTEN. Mr. President, I move the relevant sections of the Budget Act be waived for purposes of consideration of the Kasten amendment.

Mr. BENTSEN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to waive section 311 of the Budget Act. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Iowa [Mr. HARKIN] is necessarily absent.

I also announce that the Senator from Michigan [Mr. RIEGLE] is absent because of death in the family.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 45 nays 53, as follows:

[Rollcall Vote No. 49 Leg.]

YEAS—45

Bond
Boren
Brown
Burdick
Burns
Coats
Cochran
Conrad
Craig
D'Amato
Danforth
Daschle
Dole
Domenici
Exon
Garn
Gorton
Gramm
Grassley
Hatch
Heflin
Helms
Kasten
Kerrey
Kohl
Leahy
Lott
Lugar
Mack
McConnell
Murkowski
Nickles
Pressler
Roth
Seymour
Shelby
Simpson
Smith
Specter
Stevens
Symms
Thurmond
Wallop
Warner
Wellstone

NAYS—53

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Bradley
Breaux
Bryan
Bumpers
Byrd
Chafee
Cohen
Cranston
DeConcini
Dixon
Dodd
Durenberger
Ford
Fowler
Glenn
Gore
Graham
Hatfield
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kennedy
Kerry
Lautenberg
Levin
Lieberman
McCain
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Packwood
Pell
Pryor
Reid
Robb
Rockefeller
Rudman
Sanford
Sarbanes
Sasser
Simon
Wirth
Wofford

NOT VOTING—2

Harkin
Riegle

The PRESIDING OFFICER. On this vote the yeas are 45, the nays are 53. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The amendment of the Senator from Wisconsin would cause revenues to be less than the appropriate level of total revenues set forth in the budget resolution for fiscal years 1992 through 1996, notwithstanding the fact that outlays are likewise reduced. Accordingly, the point of order is sustained and the amendment falls.

The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, I will be fairly brief. I had planned to offer an amendment to this bill to create incentives for businesses to hire the long-term unemployed. In deference to the chairman of the Finance Committee and colleagues, I am not going to offer this amendment, but I just wanted to take a few moments to discuss this proposal. I had a private discussion with the chairman of the Finance Committee. I testified on this in front of the Finance Committee, and I have assurance from the chairman of the committee, the manager, that he will examine closely this matter on a stand-alone bill.

Mr. President, over 1.7 million Americans have been jobless for more than 6 months. These Americans face enormous emotional and financial pressures, pressures with real consequences. They range from increases in family and medical problems, criminal behavior, even suicide. Compounding matters, the long-term unemployed face a catch-22. The longer they are out of work, the less attractive they become to prospective employers. It is a vicious cycle. It is very hard to escape.

Mr. President, we are looking at the long-term unemployed need of a helping hand to break out of that cycle. And that is what my proposal would have provided.

The concept is very simple. And it builds on a well-established, existing program, the targeted jobs tax credit, or TJTC.

Under current law, the TJTC is available to employers who hire from among nine targeted groups. These include economically disadvantaged youth, Vietnam-era veterans, ex-convicts, vocational rehabilitation participants, and AFDC recipients. The credit generally is calculated by taking 40 percent of the first $6,000 of qualifying first-year wages.

My proposal is to include the long-term unemployed as a new targeted group.

Under the proposal, employers who hire people who have been receiving unemployment compensation for at least 6 months would get the same benefits as those who hire ex-convicts or welfare recipients.

Mr. President, encouraging employment of the long-term unemployed is a matter of basic compassion. But it is also good economic and social policy.

The long-term unemployed represent what might be considered as wasted human capital—resources that should be contributing to economic growth, but are not. Putting these people back to work, and increasing their spending power, would help stimulate the economy to the benefit of all Americans.

Moreover, the long-term unemployed impose real costs on working Americans. When the unemployed stop paying taxes, those in the work force must make up the difference. And as joblessness increases, working Americans also bear burdens in paying for AFDC, food stamps, and other social support programs.

Of course, beyond humanitarian concerns, and any economic benefits, reducing long-term unemployment should reduce the many social problems associated with long-term joblessness. As I suggested earlier, these range from increased demands on medical institutions, to spousal and child abuse, and other violent crimes.

Mr. President, I will not suggest that this proposal is the cure-all to the problem of long-term unemployment. However, it does have significant advantages.

First, it can produce results quickly. It is simple. It is based on an established program. And it does not require a lot of planning or new regulations.

Second, the provision would not require the creation of an enlarged Government bureaucracy. That means greater efficiency and lower costs to taxpayers.

Third, the provision is well targeted. It helps those who have tried to help themselves. By limiting the legislation to those who have been receiving unemployment compensation, we ensure that those assisted are persons who were laid off against their will, and have been actively seeking employment.

Fourth, the provision proposes to reduce long-term unemployment directly. As the debate on taxes has developed, we have heard a wide range of proposals that would encourage people to do various things, and that would give special breaks to a variety of groups. Proponents typically argue that each break will indirectly trigger a chain of events that eventually results in reduced unemployment. In many cases, that may be true. But if we really want to reduce unemployment, why not address the problem head on? The more direct our approach, the more confident we can be that it will work, and work quickly.

Finally, I am hopeful that this proposal can win broad support from members on both sides of the aisle. The TJTC is supported by President Bush, and a bipartisan group of 53 Senators has cosponsored legislation to make the credit permanent.

Mr. President, I know the distinguished chairman of the Finance Committee gave this proposal serious consideration when this bill was being developed, and I want to thank him for that. While it was not included in the committee's bill, I hope the chairman will keep this in mind in the future. The needs of the long-term unemployed are very real, and, in my view, should be addressed directly.

I once again express my thanks and appreciation to the chairman of the Finance Committee, the manager of the bill, and look forward to having an opportunity for further review of this bill at a later date.

I yield the floor.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

AMENDMENT NO. 1730

(Purpose: Expressing the sense of the Senate supporting production tax credits and investment tax credits for renewable energy technologies)

Mr. GRASSLEY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY], for himself, Mr. FOWLER, Mr. PACKWOOD, Mr. BURNS, Mr. GORE, Mr. WELLSTONE, Mr. BRYAN, Mr. SIMON, Mr. WIRTH, Mr. AKAKA, Mr. KERRY, Mr. JEFFORDS, Mr. KERREY, Mr. LEAHY, Mr. HATFIELD, Mr. HARKIN, Mr. CONRAD, Mr. BROWN, Mr. KENNEDY, Mr. MCCAIN, Mr. CRANSTON, Mr. DASCHLE, Mr. INOUYE, Mr. LIEBERMAN, Mr. SANFORD, and Mr. ADAMS, proposes an amendment numbered 1730.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill insert:

SEC. . SENSE OF SENATE SUPPORTING TAX INCENTIVES FOR RENEWABLE ENERGY TECHNOLOGIES

(a) FINDINGS.—The Senate finds that—

(1) the use of America's most plentiful energy resources such as wind, solar, geothermal and biomass energy represents one of the most effective means of reducing our reliance on imported energy, increasing our international competitiveness, and creating stable employment for our workforce,

(2) these renewable energy sources currently contribute thousands of megawatts of electricity to our nation's energy supply,

(3) the increased use of renewable energy will displace polluting fossil fuels, thus reducing harmful air pollution and the emission of gases which contribute to environmental deterioration, and

(4) comprehensive tax incentives are needed to enhance our nation's renewable energy technologies.

(b) SENSE OF SENATE.—It is the sense of the Senate that our national energy tax policy include a production tax credit for renewable energy in conjunction with a permanent business energy tax credit.

Mr. GRASSLEY. Mr. President, along with a number of my colleagues, including Senators FOWLER, PACKWOOD, BURNS, GORE, WELLSTONE, BRYAN, SIMON, WIRTH, AKAKA, KERRY, JEFFORDS, KERREY, LEAHY, HATFIELD, HARKIN, CONRAD, BROWN, KENNEDY, MCCAIN, CRANSTON, DASCHLE, INOUYE, LIEBERMAN, SANFORD, and ADAMS, I am offering a sense-of-the-Senate amendment addressing a significant gap in our current energy strategy.

This void concerns the lack of stronger incentives in the strategy for our Nation to dramatically increase the production of renewable fuels. Any successful national energy and environmental policy must seriously move in the direction of shifting our reliance away from finite supplies of fossil fuels toward the infinite supply of alternative energy fuels.

The amendment we are offering today would express the necessity of providing a production tax credit for electricity created through renewable fuel technologies in conjunction with the current investment tax credit.

These technologies include solar, wind, photovoltaic, biomass and geothermal. Alternative energies are keys toward a cleaner and safer environment and a virtually unlimited supply of energy. Assisting these technologies will also help create thousands of jobs and strengthen our economy.

In the past, the Energy Department has recognized the need for these tax incentives for renewable fuels.

The war in the gulf only highlighted the dangerous reliance we have placed on oil—especially foreign oil—to fuel our Nation. Everyone seems to recognize that we need to lessen our dependence on oil. However, up to now, too much emphasis has been placed on further oil production.

In the 1990 budget reconciliation bill, a number of tax incentives for the oil industry amounting to billions of dollars was passed into law. In the bill before us, even more incentives for oil have been included.

I do not generally disagree with helping our domestic oil industry. However, our oil reserves are finite. So, we have got to be looking further ahead than just the next generation, or we're going to fail. If we can provide a few billion dollars in tax incentives to the oil industry, then we can be more forward looking and provide commensurate assistance to the energies of the future.

In considering the Senate energy strategy bill, both the chairman and ranking member of the Energy Committee, Senators JOHNSTON and WALLOP, recognized the need for tax incentives for alternative energies. It is time the Congress provided comprehensive tax incentives for our fledgling renewable energy industry.

Outside organizations that support this effort include the Sierra Club, the Wind Energy Association, the Natural Resources Defense Council, U.S. PIRG, Friends of the Earth, Union of Concerned Scientists, National Wildlife Federation, Environmental Defense Fund, the National Audubon Society, the Consumer Federation of America, Solar Energy Industries Association, and many more.

As the sponsor of S. 466, which creates renewable energy production credits and extends the investment tax credits, I look forward to working with the Finance Committee as I and the cosponsors of the bill and this amendment forge ahead.

I understand this amendment is acceptable on both sides.

The PRESIDING OFFICER. Is there further debate on the pending amendment?

If not, the question is on agreeing to the amendment——

Mr. BENTSEN. We have no objection.

Mr. PACKWOOD. I agree.

The PRESIDING OFFICER. Without objection, the amendment (No. 1730) is agreed to.

Mr. FORD. Mr. President, I come to the floor today to make it clear that I fully support efforts to protect the health benefits of retired coal miners and their families, and will work tirelessly to ensure that benefits are not interrupted.

But I must tell my colleagues that I come here today with a heavy heart. I am troubled by the prospect of a nationwide strike in our coal fields, and the possibility that over 15,000 Kentuckians may lose health-care benefits if we do not act. And yet I know that the answer contained in this bill is not in the best interest of my State and cannot be enacted into law.

The Finance Committee bill before us is a good bill. On balance, it is a progressive answer to providing both economic stimulus and tax fairness that this country so desperately needs—with the exception of one provision. That is the addition of an almost industrywide tax on coal to secure the health benefits of retired coal miners.

I have not attempted to derail this proposal. I have been working day and night to find an equitable solution to this problem that can be signed into law. But it is obvious to me, and I suspect to all parties involved, that we cannot find a solution to this today.

Let me be perfectly clear: As long as I can stand on this floor, I will fight for legislation to protect the health benefits of the over 15,000 retired miners and their families in my State. It would be morally wrong to turn our backs on their needs, and those of over 100,000 more just like them across this Nation.

But let me be just as clear: I cannot support efforts to protect these retirees' benefits at the expense of their children's and grandchildren's jobs in the Kentucky coal fields. And that is the exact result of this bill.

No one doubts that we are facing a crisis in the coal fields. The two benefit funds that are currently paying for the health benefits of these retirees have a combined deficit of over $100 million, growing to over $200 million by the end of the contract next year.

There are over 70,000 retirees for whom there is no contributing employer. The health benefits for these so-called orphan retirees are being borne exclusively by the remaining signatories to the Bituminous Coal Operators Association Agreement. At a current cost of $2,000 per beneficiary per year, this is a burden that the remaining signatory companies can no longer bear.

And let there be no doubt, if Congress does not resolve this issue before the end of the contract, current signatories will walk from negotiations and we will witness nationwide strikes in our coal fields, and widespread disruption in those industries that depend upon coal for energy. As Governor, I have lived through such a strike, and I can assure my colleagues that we cannot afford a nationwide strike next spring.

But this bill is not the answer. And I will tell my colleagues why it is not the answer. We have a nationwide problem that calls for a nationwide solution. We cannot sit by and watch our elderly miners, their widows, and their families lose health-care benefits promised to them 45 years ago in a contract negotiated by the Federal Government. But we cannot find that solution by pitting east against west and union against nonunion.

This bill only serves to divide, not unite. This bill finances the problem by taxing some western coal at 15 cents a man hour, most eastern coal at almost $1 an hour, and some coal not at all. As we say down in west Kentucky, something about that ain't right. Something about that just ain't right.

The fact is, under this bill, the average price of coal in my State increases at least 16 cents per ton. On the other hand, the average price of coal in neighboring States decreases by anywhere from 6 to 26 cents per ton. The resulting 22 to 42 cent differential makes my Kentucky coal noncompetitive and will cost active miners their jobs as the coal fields close down in my State. This pits my miners against their brothers in neighboring States.

Before this provision was amended by the Finance Committee, Kentucky coal was at least 21 cents per ton more expensive than western U.S. coal. That price differential will shut high-sulphur west Kentucky coal right out of the market.

Under the amended version of the bill that's before us now, the western coal that hasn't been completely exempted will never bear more than a 15-cent-per-hour tax. This means that Kentucky coal, taxed at about $1 per hour, will be taxed at a rate almost 600 percent higher than some western States which produce more coal than we do. And that figure will only grow.

This bill provides that this tax will not increase in the west. The entire increased cost of this fund in the future will be borne by eastern U.S. coal. That pits my State, and other Eastern States against Western States.

I compliment my good friend from West Virginia, Senator ROCKEFELLER, for getting this provision in the tax bill. We had to send a message to our retirees that we will protect their benefits, and we have done that. But mark my words, as long as this division exists, as long as we pit members of the coal family against one another, we are setting ourselves up for disaster, both in human and economic terms.

The road we are on now leads to nowhere. We all know this bill is going to be vetoed by the President, and we do not have the votes in this body to override that veto. So this issue will be back.

There is more than one way to skin a cat, and more than one way to solve this problem. And I am serving notice that I intend to find a fairer way that will not penalize Kentucky coal, and will serve to unite, instead of divide, this industry.

We are not going to turn our backs on these retirees. We cannot and we will not. United, we can find a solution that will not cost those still mining in the coal fields their jobs. United, we can find a solution that will not unfairly shift the burden of resolving this problem to only a few in the industry, or to those least responsible for the problem. We can solve this problem. And I will not rest until we do.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. BRADLEY. Mr. President, I must share my dilemma with the Senate because I face a real one. I think all of us face a real one.

All of us know that this tax bill is going nowhere. The President will veto it, and we are not going to be able to override the veto. And I suspect all of us know that the best tax policy for us in the short term is no tax bill at this time, or at least only a millionaire's surtax used for health and education.

There's a strong part of me that wants to get beyond the bill and get to work on the long-term solutions we all know we need—solutions that will lead to less consumption, more savings, more investment, more and better education and health care, and reduced deficits.

At the same time, I would like this bill to be a step in the right direction. Chairman BENTSEN has been fair, generous, and considerate in putting together a bill that tries to address some of the inequities of the last 12 years. I told the chairman in our first discussion my own reservations about the bill, and he has been unfailingly gracious in listening to my concerns, as he has been with every other Member of the body.

In the end, I have to weigh what I think is the right thing for the country. As I said in my opening statement, sometimes the best policy is the best politics.

Like other members of the Finance Committee, I fought to get into the bill that which I thought was good—self-reliance loans which would make up to $30,000 available for any American up to the age of 50 who agrees to pay a percentage of their future income back into an educational trust fund. I continue to believe that self-reliance loans are in the national interest. It will help all Americans to be able to go to college, which will, in turn, improve our economic productivity. And the chairman has been generous to include that provision in this bill, for which I thank him. I hope, if this bill is indeed vetoed and we're back to considering an economic package, that the Senate will favorably regard this proposal. If it does not, I will continue to push it in every forum I have because I believe it is in the long-term national interest.

There are other provisions in this bill that I support, such as Chairman BENTSEN's small-business health-care reform, an important step in the right direction toward comprehensive health-care reform, and such as the millionaire's surtax, which corrects some of the tax inequities of our original sin of tax policy in the 1980's, the 1981 Tax Act.

But I have to say that there are also problems with the bill. I believe that a tax bill should have one central coherent purpose. This bill addresses many important issues—the need for investment in health and education, the need for millionaires to pay more taxes, the need to bolster the economic resources of American families with children.

But a central goal is absent. The bill works at cross-purposes. You cannot say that you want to tax the wealthy and then give back $23 billion in special-interest loopholes that primarily benefit the wealthy and corporations. You cannot say you are fighting for the middle class with kids, much less the entire middle class, when 25 percent of the poorest children and millions of two-earner families with children cannot fully take advantage of the tax credit.

I fear that we are poised on the brink of providing the wrong solution to an imagined problem, instead of the right solution to a real problem. Some will say I am bailing out of a train that is already moving. That is correct. But I have to ask, is it better to bail out now, or later look back with regret for having voted for the bill?

In 1981, I opposed the major tax bill. I opposed it because, given the choice between no bill and that bill, no bill was a better idea.

Within the next 2 years, we will have a last chance to get the deficit under control. Then, we will have to raise taxes as well as cut spending. Then, those taxes will need to go not for funding new special interest loopholes or tax cuts, but to reduce the deficit.

People say, "so what is the conflict today? This bill will be vetoed. It will not become law—then we will have the money for deficit reduction."

But if our stated goal today is to help the middle class, how can we fail to make that a priority on the next bill without losing even more credibility with the skeptical middle class?

If we make middle-class tax cuts and special-interest loopholes the purpose of the next bill, then how will we reduce the deficit? On the other hand, if we do reduce the deficit, as we should, we will have gone back on the pledge to cut middle-income taxes embodied in this bill.

Mr. President, times are getting tougher in America every day, and working Americans are getting poorer in the context of the rich getting richer. What people need is the truth.

As the gravely ill patient said to the doctor, "Just tell me the truth." The truth is that this bill will not reduce the deficit. The truth is that it is too little too late to jump start the economy. The truth is that it will provide only limited tax relief to a very small percentage of taxpayers in New Jersey and the Nation. The truth is that it will open up new loopholes which primarily are used by wealthy Americans and corporations. And the truth is that given a choice between this bill and no bill, I choose no bill.

Therefore, I believe that even though this bill has some good things in it, I cannot vote for it.

Mr. MITCHELL. Mr. President, as we approach final enactment of this legislation, I think it is important that we review the general provisions, the intentions, and what we hope will be the effects of enactment of this legislation.

I support the bill. I believe it is a good, fair bill. I hope each Senator will weigh the provisions carefully and will vote for the bill. I commend the chairman of the committee for the diligent and constructive effort which he has expended in putting this bill together. I commend the ranking member for his cooperation in permitting his bill to proceed and be considered and completed this week.

This bill has several purposes, one of which is to promote economic growth. The bill accepts the seven growth incentives proposed by the President, some of them in modified and improved form.

So if the President's growth incentive package would have spurred growth, then this bill will do so, because it accepts the provisions proposed by the President, and in some of them, as I noted, improves them.

This bill goes beyond what the President proposed, to encourage fairness in our tax system. It raises income tax rates on the wealthiest seven-tenths of 1 percent of all Americans. The increase will not affect 99.3 percent of all Americans, and many of them, many of the 99.3 percent unaffected by the rate increase will receive a tax reduction, an overdue and fair reduction.

The middle class in America has been socked long enough. They were not helped by the tax bill of 1986. Benefits to that were primarily at the very bottom of the income scale, and to those at the very top of the income scale. The middle-class Americans have seen their incomes decline and their taxes rise. Restoring tax fairness to the code by reducing the tax burden on middle-income families and increasing the tax rates on the wealthiest seven-tenths of 1 percent is an appropriate objective of this legislation.

Some scoff at the size of the middle-income tax cut. But a 25-percent reduction in tax liability is nothing to scoff at or laugh at. No one laughed when people proposed to cut the tax burden of the very wealthiest by 25 percent. Why is it, then, funny to cut taxes of middle-income Americans by 25 percent?

So, Mr. President, I hope our colleagues will join in supporting this important legislation. I commend the chairman, and I hope every Senator will vote for it.

Mr. SEYMOUR addressed the Chair.

The PRESIDING OFFICER (Mr. AKAKA). The Senator from California is recognized.

AMENDMENT NO. 1731

(Purpose: To strike the rate increases)

Mr. SEYMOUR. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

> The Senator from California [Mr. SEYMOUR] proposes an amendment numbered 1731.
>
> On Page 958, strike all beginning with "Section 3001" through line 12 on page 961.

Mr. SEYMOUR. Mr. President, I offer this very simple direct amendment that strikes the tax rate increases out of the Finance Committee tax bill. We talk a lot around here about fairness and about creating jobs. Well, let's be plain the tax hikes in this bill are nothing more than a tax increase on small businesses and job creation. Sixty percent of all jobs created every year are created by small business, and most small businesses are taxed at individual income tax rates.

Once again, the Democrats' misguided soak-the-rich campaign is, in fact, socking the small businesses on Main Street, who are fighting for survival and struggling to create jobs. Boosting their tax burden will only force small employers to lay off workers, cut business investment, and all at a time when we want to boost investment and create jobs.

No wonder employers and employees are asking: Where is the fairness? Alone, these tax increases are a big burden for small business. But when you consider some of the other provisions in the Bentsen bill, the picture is even gloomier for our Nation's smaller employers.

In the Bentsen plan, the capital gains provision is a complicated monstrosity that provides little or no incentive for new investment and job creation.

Instead, it is a bonanza for the tax lawyers and accountants.

The small business stock proposal is geared solely toward new business ventures, excluding the millions of existing small businesses that are the backbone of our economy. That is why we need a capital gains provision like the President's proposal which is comprehensive and will help existing small businesses.

Mr. President, the Democrats' capital gains tax provision is not that great a deal for small business and farmers, who will be taxed at the highest rates if they realize a significant one-time gain on the sale of his or her only major asset.

It is another way of stiffing rural America at the expense of an election year gimmick. No wonder small businessmen and women are asking where is the fairness. So let's add it all up. It is pretty easy to claim some phony high ground on the so-called fairness issue, but when you put the hype to the test, it is pretty clear the Democrats are slapping themselves on the back for a soak-the-rich tax that really is a slap in the face of the very Americans that they claim they are helping, middle-income families, small businessmen, and small businesswomen, farmers, and honest taxpayers.

Let's face it. The Democrats want a nickel-and-dime tax cut package that tosses a few quarters a day to some of the so-called middle class and then raises taxes on just about everyone else, including, you guessed it, the middle class.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. SEYMOUR. Mr. President, I yield 3 minutes to Senator GRAMM, of Texas.

The PRESIDING OFFICER. There is no time agreement. The Senator from Texas may ask for his own time.

The Senator from Texas is recognized.

Mr. GRAMM. Mr. President, when Jimmy Carter was President, when the Democrats controlled both Houses of Congress, the top 1 percent of all income-earning families in America paid 18.2 percent of all the income taxes paid in this country. And our Democratic colleagues said the tax system needed to be changed so that rich people paid their fair share. And, in fact, what we did on a bipartisan basis was to lower rates and close loopholes. Today, the top 1 percent of all income-earning families in America pay 25.4 percent of all the taxes paid, up 40 percent from the days when Jimmy Carter was President and the Democrats controlled both Houses of Congress. And now they are saying rich people do not pay enough taxes.

Mr. President, what we have before us in the committee bill is a proposal to raise marginal tax rates by 16 percent and, by eliminating deductions on many working American families, to raise the effective marginal tax rate by up to 40 percent.

Mr. President, what is going to happen to the incentive for people to work, save, and invest when marginal tax rates are raised by 16 percent on high income Americans?

Let me tell you. You do not need a Ph.D. in economics to figure it out, but let me tell you what Ph.D's in economics say about it in a study by the National Center for Policy Analysis in Dallas. They looked at this bill with all the so-called incentives plus the increase in marginal rates and concluded:

> After all dynamic adjustments are made, higher taxes on investors would lower after tax investment income by only $4 billion over the next 5 years. Yet this would cause total investment in the economy to contract by $101 billion, resulting in lower wages and less revenues for Government.

They then estimated that the bill before us would cost Americans, by 1996, 233,000 jobs, would bring investment spending down $101 billion, would cost the average American family $650, and would raise the Federal deficit by $20 billion.

Mr. President, this is not a jobs bill we have before us. It is a job-destroying bill that has been put forward to poison the President's economic incentive program. It is a bill that tries to revive the politics of class struggle, which has failed in Eastern Europe, which has failed in the Soviet Union, and, obviously, some of our colleagues would seem to believe that because it is working in Havana, Cuba, they can make it work here.

Let me sum up by saying, Mr. President, that there is bad news and there is good news. The bad news is the Democrats control both Houses of Congress. They are proposing massive increases in tax rates that would cripple the American economy and put our people out of work. The good news is that under the Constitution, one man is empowered to stop this from happening, and his name is President George Bush, and he is going to veto this bill and prevent it from becoming the law of the land.

We have before us now the most important amendment that has been offered in this debate. This is an amendment that cuts through all of the phoniness and gets down to the bottom line. If you vote against this amendment, you are voting to raise tax rates. If you vote for a procedural motion to kill this amendment, you are voting to raise marginal tax rates on the people in this country. I am for this amendment. I congratulate our colleague from California for focusing in on the issue: Are you for raising taxes or are you against it? I am against it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. BENTSEN. Mr. President, this has been an interesting set of statements. I listened to the Senator from California talking about how he wants to cut rates. How short the memory is. It seems to me it was just yesterday I saw the Senator from California vote for over $50 billion of new taxes, and he joined many of his colleagues in doing it. That is not consistency.

When you are talking about what kind of a tax rate we are speaking of, we are talking about one at 36 percent, a 5-percentage point increase over today's top rate. This new rate would only apply to family incomes in excess of $175,000 a year. And the $175,000 figure is after all tax deductions, meaning that these families are making something over $200,000 a year. We are not talking about little mom-and-pop operations.

When I look at the top rates around the rest of the world and what they are for our major competitors, whether we are talking about Germany or talking about Japan, we are talking about top rates of 50 and 53 percent for those two countries.

Then I ask what is the top tax rate in this country for the person who is making $35,000 a year and the person making $1 million a year? The answer is that there is a difference of 3 percentage points between their tax rates. Are these 3 percentage points highly progressive tax rates we are speaking of? No. No, we are talking about bringing back some fairness to the system.

Concerned about a 36-percent rate? Remember the Republican President Reagan and what he offered in 1986? He was striving for a 35-percent rate for people that were making over $70,000 a year. 35 percent. And we are talking about a 36-percent rate that will not apply to the vast majority of those people between $70,000 and $175,000.

No. No. We are talking about fairness. We are talking about middle-income people. The median income for a family today is $35,000 in this country, and they are people that have taken the toughest hit in the past decade. They are the people who saw their taxes go up and their incomes go down over the last decade. The children have been hit, and young families with children. That is where we have directed the tax relief. Our bill provides $300 per child per year, and we are not talking about a temporary change but a permanent one.

You saw the President's approach. He would provide a $500 personal exemption, giving the better tax cut to the person making more income.

No, no. We made it a tax credit for each child, a dollar-for-dollar reduction in taxes owed.

What you are seeing with this proposal on the part of the Senator from California is to have a piece of legislation that would lose $43 billion. Yes, $43 billion. That is the sort of thing that got us into this kind of trouble—not paying for changes and not facing up to paying for that kind of a loss.

And then he talks about the capital gains rate and what it does. I looked at the President's proposal on capital gains, and I saw that two-thirds of the money to be gained in the tax savings would go to people making over $200,000 a year. In our bill we are talking about two-thirds of that money going to people making under $100,000 a year. Yes, it is time for some tax fairness. We coupled that with trying to work with the President by taking seven of his incentives for growth and investment. We felt it was important to try to encourage growth and investment in this country.

We added to that the IRA, in order to increase savings in our country. It is important that we have the capital to be able to compete. We must try to see that we have money to match what we are seeing in the building of factories in Japan and what we are seeing happening in West Germany. That is a part of this package.

Then the Senator did not speak of what we have tried to do to work out a bipartisan solution insofar as accessibility of health care and affordability of health care. I walked through many a shop, many a small business, talking to the employees, talking to the employers, listening to their problems. I was trying to see if they have health insurance for their employees. I heard them say, "we had to raise the deductible; we had a 24-percent increase last year and a 24-percent increase the year before," almost 50 percent. They raise the deductible, move to coinsurance, then they drop the dependents, and finally they drop the policy altogether. That is why we have 34 million people without health insurance in the country today.

This tries to address that kind of a problem. The President put in his package much of what was in the bipartisan bill that I introduced with Senator DURENBERGER. I think that is the ultimate compliment.

We have made substantial progress here in trying to address some of the concerns of the Nation. We will not turn the whole economy around overnight. I understand that. It will take time. We did not get into this kind of a trouble overnight and build these kinds of deficits. But this is a positive step in the right direction. It helps restore fairness while providing some incentives for investment. It encourages savings, and I think it is a step in the right direction. I urge my colleagues to defeat this amendment.

At the proper point I will be raising a point of order because this bill would have some $43 billion in losses if this amendment were added to it.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Is there a time agreement on this amendment?

The PRESIDING OFFICER. There is no time agreement.

Mr. DOLE. Is it the intention of the chairman to try to get a time agreement?

Mr. BENTSEN. I would be delighted to. In all candor, I was not going to debate this issue, and just raise the point of order. However, after some statements that have been made I could not accept that at all. I would be delighted to.

Mr. DOLE. It is our hope it would be 10 minutes on a side. We have a number of colleagues on both sides telling us they would like to get out of here. But if it is not the desire of the chairman——

Mr. BENTSEN. I would be delighted to. I would say another 5 minutes on each side.

Mr. DOLE. Each have 5 minutes more?

Mr. BENTSEN. I would be agreeable to that; and no second-degree amendments.

Mr. GORTON. Mr. President, reserving the right to object, I do wish 3 minutes on this, I say to my leader. If it is taken up by others, I will object to 5 minutes a side.

Mr. SEYMOUR. So 10 a side?

Mr. DOLE. Ten minutes on each side?

Mr. BENTSEN. We will take 10 on each side.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Reserving the right to object, might I say to the Republican leader, I do not need any time on this but I would like to inform the Senate that I have an amendment. It is relevant to discuss this issue on that amendment. So if the distinguished Senator who chairs the committee desires to debate the issue of fairness of his bill, he will have a chance again. And what the Republican votes yesterday meant when we voted again their package and for Mr. LEVIN'S, we will debate that one, too.

Mr. DOLE. Can we get the agreement?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Will the Senator yield?

Mr. SEYMOUR. I yield the minority leader 2 minutes.

Mr. DOLE. Mr. President, as I understand we have how many minutes remaining before the additional 10 minutes?

The PRESIDING OFFICER. The Chair understands there is 10 minutes on each side.

Mr. DOLE. Ten minutes from now on each side? Is that the understanding?

Mr. BENTSEN. That is agreeable.

The PRESIDING OFFICER. That was the Chair's understanding.

Mr. DOLE. Mr. President, first let me congratulate the Senator from California. This is the key amendment. This is the amendment we have been waiting for. This will make the distinction, as indicated by the Senator from Texas, between those who want tax increases and those who are opposed to tax increases.

There was some reference made to a vote yesterday. We certainly tried to kill the bill yesterday. We came very close to killing the bill yesterday. We had to wait 42 minutes—42 minutes after the 15-minute rollcall time expired—for my colleagues on the other side to round up enough vote changes, or this bill would have been history.

The bill that passes is history in any event. The President is going to veto it. The veto is going to be sustained.

We have had a lot of exercise, a lot of good speeches on both sides, some good amendments. This is the best amendment we have had so far.

It just seems to me when we talk about 1 percent, the rich people—keep in mind that 89 percent of that tax increase comes straight out of the pockets of American small business. This is because small business, such as sole proprietors, partnerships, and subchapter S corporations, file their taxes as individuals. So when we get out the charts and they talk about taxing the rich, they are talking about the people who are creating jobs, businessmen and businesswomen.

If that is what you want, to in effect destroy small business in their efforts to create more jobs, then you can vote for this procedural motion. If not, vote with Senator SEYMOUR, Senator GRAMM, and myself and others on this side. And hopefully some of the other side.

I look back at what happened in 1986; I think the bill passed this body 97 to 3. I did not see much agitation at that time to raise rates. We were trying to lower rates. We were trying to keep it down to three rates. Now we are back to the same old games, raising the rates, raising the rates, saying they are raised on the rich. But I must say, thanks to the Senator from New Mexico who furnished me this information, we are going after small business—small business men and small business women, the people who create about 80 percent of the jobs in America.

I am pleased we are nearing the end of this debate so we can get this political bill to the President, get it vetoed as it should be, and get on with the main event—a bill that will really help promote economic growth and jobs, without raising taxes.

Let us face it, the bill before us is another salvo in the majority Democrats' phony class warfare campaign—the mission, to seize the so-called fairness issue, defend the middle class, and try to embarrass the Republicans and the President as the defenders of the so-called rich.

In fact, the only party this bill is going to embarrass is the Democrat party, because the more you look at the Finance Committee bill, the more you realize it is not all it is cracked up to be. The bottom line is, their bill may be long on promises, but it is real short on fairness—across the board.

THE FACTS ABOUT THE MIDDLE CLASS TAX CUT

It is easy to make speeches about the middle class, but let us look at the facts, starting with the much ballyhooed middle-class tax cut, a $300 nonrefundable tax credit for children under the age of 16. It must come as a surprise to a lot of senior citizens that they have been left out of the middle-class, and left out in the cold. In addition, more than half of all American children live in families that are excluded from this so-called targeted tax credit. A lot of two income families—an urban police sergeant and a school teacher, for example—would get nothing under the Finance Committee proposal.

In fact, when you add it all up, less than 3 percent of the tax reduction would go to families with income under $20,000. And when the Democrats talk about soaking the rich, a lot of hard-working Americans may be surprised to learn that 89 percent of the revenue raised under the Democrat tax hike would come from individual taxpayers with unincorporated business income, hardly the bath the Democrats are promising for the high-earning fat cats.

So, let us not try to fool anyone. The middle-class is asking "Where's the fairness?"

HOMEBUYER TAX CREDIT EXCLUDES MOST FIRST-TIME BUYERS

One of the most innovative growth initiatives proposed by the President is the tax credit for first-time homebuyers. What the Democrats have done, however, is limit the $5,000 credit to the purchase of new homes only. I did some checking, and it turns out that more than 80 percent of all first-time homebuyers purchase existing homes. So, while the Finance Committee plan leaves more than 80 percent of first-time homebuyers out in the cold, it's a gold-plated subsidy for the big developers, at the expense of the 2 million American taxpayers trying to sell an existing home. The Finance Committee plan also discriminates against the areas that need help the most, our innercities, older neighborhoods, and rural areas looking for new blood in the absence of new construction. American home buyers, home sellers, and folks in rural America and all the innercities are asking—where's the fairness?

TAXING SMALL BUSINESS AND JOB CREATION

The Bentsen plan is just another big burden on small business. The tax hikes in this bill are a tax increase on small businesses and job creation. Most small businesses are taxed at individual rates, and 60 to 80 percent of all jobs created every year are created by small business. Just ask any business man or woman on main street, and they will tell you that higher taxes and job creation just do not mix. Times are tough enough without jacking up the tax burden on our Nation's primary employers. Let us face it, the American people are demanding paychecks, not higher taxes.

The Bentsen plan's small business stock and capital gains proposal is not only complicated, it provides little or no incentive for new investment and job creation. Sure, this provision may make more work for the tax lawyers and accountants, but by focusing solely on new business ventures, it excludes the millions of existing small businesses that are in the business of making jobs, too.

Is this the fairness American businesses and workers are demanding?

COAL TAXES

The Bentsen bill before us turns tax fairness on its head in yet another way. The Democrat package proposes an unprecedented bailout of two United Mine Workers health trusts, financed by a tax on imported and domestically produced bituminous coal. That means companies and workers who have absolutely nothing to do with the United Mine Workers and the Bituminous Coal Operators Association are being told to pay for benefits that they did not negotiate and do not receive.

That is right, nonunion coal workers subsidizing the health benefits of union retirees and their dependents to the tune of hundreds of dollars a year per worker, and millions of dollars total per year. And when you throw in all the special interest exemptions in this proposal, which I will discuss in detail at another time, it all adds up to job losses and lower wages for nonunion workers, and higher utility bills for consumers. I hope we can address the funding problems of retiree health plans for coal miners in a serious and responsible way, but when they see this, the American people are asking where is the fairness?

TRADE: ANTI-CONSUMER, INVITES RETALIATION

The Bentsen package also includes a major anticonsumer provision that could blow up in America's face at the ongoing world trade talks. By reclassifying so-called sport utility vehicles, the popular minivans so many families depend on, the Democrats would boost the tariff rate on these imported vehicles from 2.5 percent to a whopping 25 percent. This kind of ill-advised protectionism would sock American consumers with a $4,500 price hike on the purchase of a $20,000 van.

This measure might not only be a violation under our GATT obligations, but could also trigger a damaging trade war with our European and Japanese trade partners, who could increase duties on the $1.2 billion in American motor vehicles they import from us each year. That would be bad news for U.S. automakers, American auto workers, and all U.S. industries—including agriculture—with a major stake in the delicate GATT negotiations. Where's the fairness in that?

EDUCATION LOANS: WHERE'S THE PILOT?

Most folks do not know that the Bentsen bill wants to get Uncle Sam into the education loan business—not just insuring loans but making them—on an experimental basis. If you ask me, $2.6 billion is a lot of money to spend on an experiment, especially when there is no evidence to show that the Federal Government can manage student loan capital better than the private sector. A program of this magnitude runs the unacceptable risk of allowing unscrupulous proprietary schools to entice thousands of low income students to take on excessive debt burdens. While it may have a few attractive features—and the goal of promoting access to higher education is an admirable one—this program is really a pilot program without a pilot.

HEALTH CARE

On the health care front, the committee bill includes some worthwhile proposals. It is unfortunate that they are attached to a bill that has no discernible pulse and a life expectancy of about another week. The movement towards prevention in the Medicare program is commendable, and I have no doubt that we can agree on much needed reforms in the small group market of the insurance industry to make insurance more affordable to small businesses, but this bill is dead on arrival.

ELECTION YEAR BENEFITS FOR RULING CLASS

It seems to me that the biggest benefits from this bill are not going to go to the middle class. They are going to go to the ruling class—the Democrat incumbents who only want election year benefits for themselves.

In January, President Bush gave us a very reasonable deadline for action on an economic growth package. As I look at my calendar, I see that we have just 7 days remaining on the deadline. When the calendar hits zero—and we have nothing to show for it—the American people, and President Bush, will have no one to blame but Congress.

So I want to congratulate the Senator from California. And I want to congratulate all those who are going to support us. I hope we have a majority. We can still kill this bill. There is still time. This is the key amendment.

The PRESIDING OFFICER. Who yields time?

Mr. SEYMOUR. Mr. President, I yield 3 minutes to the Senator from Washington.

Mr. GORTON. Mr. President, a few moments ago the majority leader said that if the President's bill would spur economic development, this bill will. Mr. President, we can turn that statement into a true statement if, and only if, we accept the amendment of the Senator from California.

This bill as it exists now, increasing tax rates on the very people who will provide jobs, will do exactly the opposite. It will depress our economy.

As the minority leader has already eloquently pointed out, the great bulk, some 90 percent of our businesses, file their income tax statements as individuals because they are individuals or partners or members of subchapter S corporations. Between 80 and 90 percent of this tax increase in this bill, claimed to be so fair by the senior Senator from Texas, will come out of small businesses, small business people who do not spend their income on yachts or luxurious automobiles, but who plow it back into their own businesses in order to create and enhance job creation in this country, with some 80 percent of the job creation coming just precisely from the people who will be taxed by this bill without the Seymour amendment.

This is a fairness bill, only if fairness means misery loves company, and the present unemployed want another several million to join them. Except for that, it is not a fairness bill at all. It will be a bill which creates jobs if the amendment of the Senator from California is accepted.

The PRESIDING OFFICER. The Senator from California.

Mr. SEYMOUR. Mr. President, I yield 1 minute to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, as I said, I will speak in much more detail shortly, but on this issue, since the distinguished chairman questioned the vote of a number of Republicans yesterday, we were trying to get the taxes that they were raising applied to the deficit.

I would merely ask the distinguished chairman, why did he change his mind? He put a bill before the American people that would have used defense savings to give the increased deduction to families who have children. But when that got over here on the Democratic side, their typical tax-and-spend took over and even the distinguished chairman had to give up his idea. And he now explains that he is helping the economy in the very way that he was worried about just 2 months ago when he did not want to raise taxes.

The PRESIDING OFFICER. One minute has expired.

Mr. SEYMOUR. Mr. President, what is the remainder of my time?

The PRESIDING OFFICER. The Senator has 4 minutes.

Mr. SEYMOUR. I reserve the remainder of my time, Mr. President.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, let me reply to the Senator from New Mexico because I answered that in detail at length this afternoon. I said that was quite true, that I had started out hoping I could do it through the peace dividend. I would much have preferred to do that. But I must say when Bob Reischauer came in from CBO and said it was going to take $133 billion just to hold the numbers constant over the 5 years, that is when I realized we could not do it. We have lost ground over the eighties with respect to our infrastructure and what has happened to the education in our country. Therefore, I felt that we could not look to the peace dividend; there was no way we could. I made that statement very clear during this debate.

I yield 3 minutes to my distinguished friend from Maryland.

The PRESIDING OFFICER. The Senator from Maryland is recognized for 3 minutes.

Mr. SARBANES. Mr. President, we have heard a lot of thunder from the other side of the aisle on this issue, and I just want to try to get some facts out here.

The first thing I want to do is concede that the very wealthy, and I am now talking about the top 1 percent, have paid more taxes since 1977. I want to talk about the top 1 percent because essentially what this bill does is it places some additional taxes on less than the top 1 percent of the population in order to give a tax cut to middle-income people and to provide the money to fund some of the investment incentives that are contained in this bill.

The wealthy have paid more taxes since 1977. That is absolutely the case, and the reason the wealthy have paid more taxes is because the wealthy have gotten much more income. In fact, their increase in income has significantly exceeded their increase in taxes.

The logical extension of this would be if you had one person who had all the income and paid all the taxes. Something like that is at work in this country.

As this chart shows, the top 1 percent per family in constant dollars in 1977 had an average income of $315,000. In 1989, they had an average income of $560,000. That is an increase of 78 percent in their pretax income.

Their Federal taxes went up by 34 percent. So they paid $150,000 in Federal taxes when previously they paid $112,000. But their after-tax income increased from $203,000 to $410,000. So what you have is a tremendous increase in income, 78 percent, an increase in their taxes of 34 percent and their after-tax income more than doubled. It went up 102 percent.

So my colleagues are right when they say the wealthy are paying more taxes but they do not tell the full story. The whole story is this tremendous increase in income growth for the top 1 percent. As the New York Times said the other day, the top 1 percent of the income scale captured 60 percent of all the income tax growth between 1977 and 1989.

So there has been a tremendous boost in the amount of income growth. In fact, the top 1 percent in the country now get 13.5 percent of all income. The bottom 40 percent get 13 percent. So the top 1 percent, which is the only group affected by the additional taxes in this bill, get more of the income share than the bottom 40 percent of the income receivers.

All this bill does is it puts a little extra burden on the top 1 percent, seven-tenths of 1 percent. The ones who have reaped enormous benefits over the last decade and uses some of that money in order to lift the tax burden on middle-income people in this country.

I think that is an important fairness issue. It also founds the investment incentives that are contained in this bill.

Mr. President, I hear the wails and the weeping, but I just want to make the point that the people who are being affected have reaped an enormous increase in their pretax income and an enormous increase in their after-tax income.

Mr. President, in fact their after-tax income has gone up by more than their pretax income which tells you something about how the rate structure has worked over the last decade.

The PRESIDING OFFICER. Who yields time?

Mr. SEYMOUR. Mr. President, I yield 1 minute to Senator GRAMM of Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, let me begin by congratulating our Maryland colleague. He has discovered how we created 20 million jobs, and I now believe in economic miracles. Let me take him on a trip down memory lane.

He likes to start in 1978, but who was President in 1978? Jimmy Carter, and between 1978 and 1981 when Jimmy Carter and the Democrats who controlled Congress set policy, every income earning group in America became poorer. The poorest saw their income go down by 11 percent. The richest saw their income go down by 6.9 percent. But beginning in 1982 when the Reagan tax cut went into effect, since that time between 1982 and 1990 every income group has gone up, the poorest by 10.7 percent, the richest by 18 percent.

Mr. SARBANES. Will the Senator yield?

Mr. GRAMM. The only Democrat speaking in America today who knows anything about economics, former Senator Tsongas, has said, paraphrasing him, Democrats love investment but they hate investors. Democrats love jobs, but they hate people who create them. Well, Mr. President, that is political schizophrenia of the worst sort. I love investment and I love people who create jobs, and I love the American free enterprise system, and I thank God that it works, but I know there are some here whose policies would kill it dead.

The PRESIDING OFFICER. The Senator from California.

Mr. SEYMOUR. Mr. President, how much time do we have remaining?

The PRESIDING OFFICER. The Senator from California has 2 minutes and 15 seconds remaining.

Mr. SEYMOUR. Mr. President, I yield myself 1 minute.

Mr. President, I am shocked, dismayed, and disappointed in the senior Senator from Texas' comments relative to myself and my colleagues voting on a tax increase. The senior Senator from Texas knows more, or has forgotten more, I should say, about parliamentary procedure and the rules of this house and the way it operates and the partisan battles that take place than I will ever remember.

The senior Senator knows very well that what took place yesterday in that vote with myself and my colleagues was an attempt to kill the bill, which we have been doing since the beginning. We may not succeed but the President will.

I do not support tax increases, never have, and never will. So I am going to vote against the Democratic tax increase bill and then when the President vetoes it, I am going to vote to sustain his override.

What we are talking about is tax increases. I suggest, Mr. President, we ought to call things exactly as they are.

The PRESIDING OFFICER. The Senator's 1 minute has expired.

Mr. SEYMOUR. I reserve the remainder of my time.

Mr. BENTSEN. Mr. President, I yield 1 minute to the Senator from New Jersey.

Mr. BRADLEY. Mr. President, no matter how you cut it, Jimmy Carter is not causing the economic stress to the American public today. It is caused by the policies of Ronald Reagan and George Bush. They have been around for 12 years. They are the ones who have caused the problems that are out there today.

The thing I find most interesting about the Senator's amendment is what he left out. Of course, he wants to eliminate the rate increases, but he does not want to eliminate those things in the bill that benefit the special interests.

For example, he does not want to do anything about the billions of dollars that are stuffed into the pockets of real estate interests. He does not want to do anything about the billions of dollars that are stuffed into the pockets of oil and gas interests. He does not want to do anything about the billions of dollars that are spread over the whole corporate sector. No. He only wants to get the rate increase.

So, Mr. President, I think the important thing here is what was left out. The prediction is coming true. If you stick things back in, rates go up. And that is precisely what is happening. That is not caused by Jimmy Carter. That is caused by George Bush and the policies of the last 12 years.

The PRESIDING OFFICER. Who yields time?

Mr. BENTSEN. Mr. President, I yield 1 minute.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. I thank the Senator from Texas. I probably will not need a minute.

You can show graphs and charts and have all of this happy face talk about this great decade of the 1980's, but I think the problem with that is the experience of people's lives regardless of the graphs and charts just does not teach that to them.

People are hurting in our country; many people are out of work. People do not have jobs they can count on, decent wages with decent fringe benefits. People are worried that we have not minded the economic store, that we have not invested in our own economy.

All the graphs and charts you want to show on that side about how great it is for people in all income brackets just is not borne out by the experience of their lives. It is not credible and not believeable.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Texas.

Mr. BENTSEN. Mr. President, I am prepared to yield back the remainder of my time.

Mr. SARBANES. Mr. President, will the Senator let me make one observation?

Mr. BENTSEN. Yes.

Mr. SARBANES. The prosperity of the country was built by building a strong middle class. The whole difference on this issue is whether you are going to subscribe to trickle-down economics which believes in placing virtually all of the income growth at the very top of the scale and then hoping that somehow it will trickle down to everyone else or whether you are going to try to give economic viability to the middle-income and middle-class people in this country. That is what this bill is about.

The bill is an effort to help lift some of the burden that has fallen so unfairly and so heavily upon middle-income and middle-class people and place a small but reasonable burden, on the people at the very top of the income scale who have reaped enormous, disproportionate benefits over the last decade.

The PRESIDING OFFICER. The time of the Senator from Texas has expired.

The Senator from California has 1 minute remaining.

Mr. SEYMOUR. I thank the Chair.

Mr. President, this has been a healthy debate, but I think there is a lot of confusion. Senator BRADLEY suggested that this is President Bush's horrible bill. This is your bill. It is the Democratic bill. All we have been trying to do is kill it, and all I am trying to do is take the taxes out of it.

The problem here is we do not recognize what really makes this economy go. I can tell you; I was a small businessman for 17 years and 89 percent of the $57 billion taxes you want to put on the back of small business, that is where it is going to come out.

Small businesses pay—as individuals, they pay income tax, and so when they make $150,000 profit, do you think they are going to create more jobs? Do you think they are going to buy more equipment? Do you think they are going to expand their business? Absolutely not. What they are going to do is pay more in taxes.

So this debate has been healthy, Mr. President, but the line is divided.

The PRESIDING OFFICER. All time has expired.

Mr. BENTSEN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. All time has expired.

Mr. BENTSEN. Mr. President, I raise a point of order; the amendment loses revenue over the 5-year period from 1992 to 1996. I raise that point of order in section 311(a) of the Budget Act.

[Mr. SEYMOUR addressed the Chair.]

The PRESIDING OFFICER. The Senator from California.

Mr. SEYMOUR. I move, pursuant to section 904, to waive any section of the Budget Act of 1974, as amended, which provides a point of order against this amendment for the purpose only of waiving the provisions of the Budget Act with regard to the pending amendment.

I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Iowa [Mr. HARKIN] is necessarily absent.

I also announce that the Senator from Michigan [Mr. RIEGLE] is absent because of a death in the family.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 43, nays 55, as follows:

(Rollcall Vote No. 50 Leg.)

YEAS—43

Bond
Brown
Burns
Chafee
Coats
Cochran
Cohen
Craig
D'Amato
Danforth
Dole
Domenici
Durenberger
Garn
Gorton
Gramm
Grassley
Hatch
Hatfield
Helms
Kassebaum
Kasten
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Packwood
Pressler
Roth
Rudman
Seymour
Shelby
Simpson
Smith
Specter
Stevens
Symms
Thurmond
Wallop
Warner

NAYS—55

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Boren
Bradley
Breaux
Bryan
Bumpers
Burdick
Byrd
Conrad
Cranston
Daschle
DeConcini
Dixon
Dodd
Exon
Ford
Fowler
Glenn
Gore
Graham
Heflin
Hollings
Inouye
Jeffords
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Sanford
Sarbanes
Sasser
Simon
Wellstone
Wirth
Wofford

NOT VOTING—2

Harkin
Riegle

The PRESIDING OFFICER. On this vote the yeas are 43, the nays are 55. Three-fifths of the Senators duly chosen and sworn, not having voted in the affirmative, the motion is rejected.

The Chair is prepared to rule on a point of order.

Adoption and enactment into law of the pending Seymour amendment would cause revenues to be less than the appropriate level of revenues than the current resolution on the budget by $43 billion for the period of fiscal years 1992 through 1996, in violation of section 311(k) of the Congressional Budget Act.

The point of order is well taken, and the amendment falls. Who seeks recognition?

[Mr. DOMENICI addressed the Chair.]

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

AMENDMENT NO. 1732

(Purpose: To provide short-term economic growth incentives and for no other purpose)

Mr. DOMENICI. Mr. President, I have worked on economic growth packages. I know an economic growth producing package. Mr. President, the Finance Committee bill is no economic growth package.

Having said that, I send to the desk a real economic growth package. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report. The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI] proposes an amendment numbered 1732.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in todays RECORD under "Amendments Submitted.")

Mr. BENTSEN. Will the Senator yield for just a moment?

Mr. DOMENICI. I am pleased to.

Mr. BENTSEN. I agreed with the Senator from New Mexico that he would have 15 minutes and that I would have 5 minutes, and that would be the maximum time.

Mr. DOMENICI. Oh, yes, I have agreed to 15 minutes and the chairman will take no more than 5 minutes. I will not use up the 15 minutes. I assume the Senator will reduce his proportionately. I want everybody to gather around because you have all been telling me not to speak and I want you to listen.

I just got through telling you that this finance package is no economic growth package. And I have sent one to the desk.

Mr. BENTSEN. May we get that agreement?

Mr. President, I make that a unanimous-consent request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I am not going to repeat arguments that have been made against the democratic tax proposal, the tax and spend bill, as I see it, because they have been made eloquently by the minority leader, by Senator GRAMM from Texas, by Senator SEYMOUR and others.

But I am going to repeat one thing. There is a big mistake that is being made in using statistics about who is being taxed. Those statistics fail to recognize that the preponderant taxpayers in that tax increase are small business men and women in the United States who leave their money in their businesses. They do not take it out, and they are going to have their taxes increased by 16 percent. So they are going to wake up and say, we thought we were supposed to produce jobs and we just got whacked for something like a 16-percent tax increase.

How do I know that? Because 89 percent of the $38 billion tax increase due to raising the marginal rate brackets, according to the Treasury computers, is from small businesses and from subchapter S corporations that file taxes as individuals. It seems to me that cannot possibly be an economic growth package.

What I have done in this bill is given to all of you and the President a way to produce an economic growth package, and it is very simple. It is very simple. Take out capital gains, since it cannot pass unless there is a tax increase. That is the Democratic side position. Take it out. Take out the tax increase. Just take it out. Nobody is arguing that the tax increase and the cut in taxes for the middle class, nobody is arguing on that side that it is an economic growth package. It is a fairness issue. Take it out.

And put the other five items that the President had in his package, put them in and pay for them. That is what I did in that bill. And, frankly, you will produce about 1 million new jobs in the next 8 months; about 1 million, minimum.

You do not have to fret about the capital gains argument. Obviously it is not going to occur because the Democrats will not do it without raising taxes, the President will not sign it. Get rid of it.

Pass the $5,000 exemption for homebuyers, pass the IRA change, pass the passive loss, pass the investment tax allowance for business men and women of America, and you have a package, and it is very easy to pay for it.

I am going to withdraw mine because it cannot pass. It is subject to a very interesting point of order, even though

I pay for it. I did not pay for it by increasing taxes, I paid for it other ways. So it is subject to a 60-vote point of order. Oh it does not have a chance.

I submit to every Senator, you look for a formula, you get Democrats to be for it, I will get the President to be for it, and you will have an economic growth package very much like this one before the American people in 10 days. Having said that, I am pleased to have Senator RUDMAN as my cosponsor. He is a stern one and pretty difficult to please. And this will work and it does not add any burden to deficit of the United States.

I thank the Senators for listening and yield back the balance of my time and withdraw the amendment.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

The amendment (No. 1732) was withdrawn.

Mr. BENTSEN. Mr. President, I might say in response that the way the Treasury figured that is quite interesting insofar as what they did on subchapter S, what they did on independent businesses, and what they did on farmers. They took just partial interest in those returns to arrive at those kinds of numbers.

Frankly, I do not agree with the numbers at all. When you are talking about a tax that happens to families making over $175,000 a year, after all their deductions, I do not think there is reality in the Treasury's numbers.

I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. WIRTH). Are there further amendments to the substitute? If not the vote occurs on the substitute.

The Senator from New Jersey.

Mr. BRADLEY. Mr. President, last night, Senator RIEGLE'S father died. This morning he left to go to Michigan. This afternoon he called me and asked me if I would give him a live pair on vote. I intend to give Senator RIEGLE a live pair on this vote because he is in Michigan as a result of his father's death.

The PRESIDING OFFICER. The Senator from Nevada.

AMENDMENT NO. 1733

(Purpose: To amend section 118 of the Internal Revenue Code of 1986 to provide for certain exceptions from rules for determining contributions in aid of construction and for other purposes)

Mr. REID. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 1733.

Mr. REID. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 926, after line 19, insert the following:

SEC. TREATMENT OF CONTRIBUTIONS IN AID OF CONSTRUCTION.

(a) TREATMENT OF CONTRIBUTIONS IN AID OF CONSTRUCTION.—

(1) IN GENERAL.—Section 118 (relating to contributions to the capital of a corporation) is amended—

(A) by redesignating subsection (c) as subsection (d), and

(B) by striking subsection (b) and inserting the following new subsections:

"(b) CONTRIBUTIONS IN AID OF CONSTRUCTION.—

"(1) GENERAL RULE.—For purposes of this section, the term 'contribution to the capital of the taxpayer' includes any amount of money or other property received from any person (whether or not a shareholder) by a regulated public utility which provides water or sewerage disposal services if—

"(A) such amount is a contribution in aid of construction,

"(B) in the case of contribution of property other than water or sewerage disposal facilities, such amount meets the requirements of the expenditure rule of paragraph (2), and

"(C) such amount (or any property acquired or constructed with such amount) are not included in the taxpayer's rate base for rate-making purposes.

"(2) EXPENDITURE RULE.—An amount meets the requirements of this paragraph if—

"(A) an amount equal to such amount is expended for the acquisition or construction of tangible property described in section 1231(b)—

"(i) which was the purpose motivating the contribution, and

"(ii) which is used predominantly in the trade or business of furnishing water or sewerage disposal services,

"(B) the expenditure referred to in subparagraph (A) occurs before the end of the second taxable year after the year in which such amount was received, and

"(C) accurate records are kept of the amounts contributed and expenditures made on the basis of the project for which the contribution was made and on the basis of the year of contribution or expenditure.

"(3) DEFINITIONS.—For purposes of this section—

"(A) CONTRIBUTIONS IN AID OF CONSTRUCTION.—The term 'contribution in aid of construction' shall be defined by regulations prescribed by the Secretary, except that such term shall not include amounts paid as customer connection fees (including amounts paid to connect the customer's line to a main water or sewer line and amounts paid as service charges for starting or stopping services).

"(B) PREDOMINANTLY.—The term 'predominantly' means 80 percent or more.

"(C) REGULATED PUBLIC UTILITY.—The term 'regulated public utility' has the meaning given such term by section 7701(a)(33), except that such term shall not include any utility which is not required to provide water or sewerage disposal services to members of the general public in its service area.

"(4) DISALLOWANCE OF DEDUCTIONS AND INVESTMENT CREDIT; ADJUSTED BASIS.—Notwithstanding any other provision of this subtitle, no deduction or credit shall be allowed for, or by reason of, any expenditure which constitutes a contribution in aid of construction to which this subsection applies. The adjusted basis of any property acquired with contributions in aid of construction to which this subsection applies shall be zero.

"(c) STATUTE OF LIMITATIONS.—If the taxpayer for any taxable year treats an amount as a contribution to the capital of the taxpayer described in subsection (b), then—

"(1) the statutory period for the assessment of any deficiency attributable to any part of such amount shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may prescribe) of—

"(A) the amount of the expenditure referred to in subparagraph (A) of subsection (b)(2),

"(B) the taxpayer's intention not to make the expenditures referred to in such subparagraph, or

"(C) a failure to make such expenditure within the period described in subparagraph (B) of subsection (b)(2); and

"(2) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment."

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts received after the date of the enactment of this Act.

(b) DISALLOWANCE OF DEDUCTION FOR PERSONAL INTEREST.—

Mr. REID. Mr. President, I rise to offer an amendment to H.R. 4210. This amendment contains a badly needed reform to help boost the moribund housing industry. Adoption of my amendment will reduce the price of new homes by as much as $2,000 per unit without costing the Treasury a penny; in fact, it may actually raise a few extra million.

My amendment is very simple. It excludes from the gross income of water and sewage utilities contributions in aid of construction made by developers to the utility. These contributions, known as CIAC, were previously excluded from gross income by section 118(b) of the Internal Revenue Code which was deleted by the Tax Reform Act of 1986.

This change has been estimated by the Joint Committee on Taxation to lose approximately $136 million over 5 years. My amendment also includes a revenue offset concerning the reporting of seller-financed mortgages that raises $588 million over the same time period. Thus, my amendment is not revenue neutral. It brings in additional revenues.

Mr. President, the difference between the cost of my amendment and the offset that I have offered is over $450 million for the next 5 years. Not only do I pay for my amendment, I am offering over $450 million that will go to deficit reduction.

Before I explain this amendment further, I believe I should explain what a CIAC is. It is a concept widely employed by utilities but not well understood by others.

Utilities are capital intensive industries. Historically, they have received the capital for the construction of a utility extension directly from new customers, typically a developer. The customer contributes his property, or a cash equivalent, to the utility. In this way, utilities can reduce their financing requirements and eliminate the need to spread additional borrowing costs, in the form of rate increases, to the general body of customers.

Prior to enactment of the Tax Reform Act of 1986, CIAC were not included in the gross income of an investor-owned utility and therefore were not subject to Federal income tax. In addition, utilities could not earn, take tax depreciation or investment tax credits on CIAC.

The 1986 act repealed section 118(b) of the Internal Revenue Code and thus subjected CIAC to tax as gross income. As we all remember, the 1986 act had two basic premises as its core. One, the tax base would be broadened and rates would be lowered. Two, cuts in individual rates would be offset by increases in the corporate tax burden. Clearly the authors of the 1986 Act intended to ensure that the burden of corporate taxes was spread to all industries including utilities.

The removal of the exclusion from gross income of CIAC was intended as a tax on utilities. Had that been the result, I doubt very seriously that my colleagues or I would have shed anything other than crocodile tears for utilities and the deletion of section 118(b). But in practice, the CIAC tax is not a tax on utilities, but a tax on utility customers, primarily developers and home buyers.

State utility regulatory bodies, often referred to as PUC's, generally require utilities to pass tax costs on to their customers. This means utility customers must make a larger contribution in order to cover our tax costs. This is not a simple dollar-for-dollar charge. In order for a utility to be made whole, it must pay tax on the CIAC, plus a tax on the tax. This phenomenon is known as a "gross-up." Depending on the State, a gross-up can add as much as 70 percent to the customer's cost of the contribution. In other words, a contribution of water mains valued at $100,000 would cost a customer $170,000. The State PUC directs these additional costs to be either passed-on up front to the new customer or through rates to the existing customer base.

So you can see, utilities do not pay the tax, they pass it on. But passing the tax on has detrimental effects, not only on the utilities' ability to bring in new business, but on the environment and—most significantly—on the price of new housing and housing construction.

Any developer faced with a large gross-up will have to evaluate its effect on the bottom line. Depending on conditions in the local housing market, a developer will ultimately pass the cost of the CIAC and the gross-up on to the new home buyer. The National Association of Home Builders has estimated that the CIAC tax can increase the cost of new housing by as much as $2,000 a unit. This additional cost is enough to end the dream of home ownership for a young couple.

Even in those areas where the cost of this tax can be passed on, it is still a cost the developer must pay upfront. That can mean projects are scaled down. Where a developer was planning on constructing 100 units, maybe only 80 are built. In severe cases, it may cause a developer to scrub the project completely.

The effect of the CIAC tax is particularly severe on water and sewage utility customers because of their unique characteristics compared to electric and gas utilities. Capital costs for gas and electric utilities are lower than water and sewage, so the gross-up cost is less prohibitive. In addition, there are seldom alternatives to acquiring gas and electric service from an investor-owned utility. Investor-owned water utilities serve only 20 percent of the population, municipal water suppliers serve the balance. Remember, only investor-owned utilities pay taxes.

A developer must receive gas and electric service from the local utility. It is not economically feasible to set up an independent gas or electric supply. But there are alternatives to receiving water and sewage service from a privately owned utility. In some cases, it is cheaper for a developer to obtain water from a nearby municipality, establish an independent water system, or drill individual wells and septic tanks for each household. All of these alternatives deprive water companies of business opportunities and local, State, and the Federal Government of tax revenues.

It is also important to note that small water systems frequently pose problems for both EPA and the States. According to EPA, in fiscal year 1990, more than 90 percent of the violations of the Safe Drinking Water Act were made by systems serving less than 3,300 individuals. EPA has also indicated a willingness to work with Treasury to change the CIAC tax.

The cost to repeal the CIAC for water and sewer is quite low, only $136 million over 5 years compared to $690 million over the same period for all utilities. My amendment pays for this without raising taxes. It requires buyers and sellers using seller-financed mortgages to report each other's Social Security numbers on their respective returns along with the amount paid or received. The IRS has estimated that on 11 percent of seller-financed mortgages, interest was not correctly reported. According to the Joint Tax Committee, full compliance with this provision will raise $588 million over the next 5 years—not only enough to pay for my amendment, but enough to reduce this country's burgeoning deficit by over $450 million over that time period.

Some of my colleagues may still be skeptical about whether or not excluding CIAC from gross income is a good idea. After all, a payment by a customer to a utility seems like income. And income is subject to tax under our laws; therefore, why should CIAC "income" be treated differently? It should be treated differently for one simple reason. CIAC is not income. It is capital.

Utilities don't make money on this capital, only on the product sold through the capital. A water utility doesn't make money on installing water mains. It makes money when it begins selling water through the mains it has installed. If a development goes bankrupt, it could conceivably never make any money from the installation of a particular main. In addition, utility earnings are regulated by PUC's. PUC's permit utilities to earn on the sale of their products, they do not permit them to earn on CIAC.

CIAC increases the value of a company's capital, not its income. But don't take my word for it. The courts have ruled the same way. In the *Liberty Light* case (BTA, 1926), the court found that contributions are not payments for services rendered or to be rendered. Payment of CIAC does not establish a legal obligation to provide service. You pay the CIAC—then you must pay for the product conveyed via the capital asset.

Mr. President, section 118(b) of the Internal Revenue Code, exempting contributions in aid of construction from gross income, should be restored. It is a tax on capital not income. It is not a tax on utilities; it is a tax on their customers. The CIAC tax increases the price of new homes, leads to the development of environmentally unsound water and sewage facilities and reduces the tax base for all levels of government.

Most important in my opinion, elimination of the CIAC tax will help get the real estate market back on its feet. Not by fueling real estate speculation, but by removing another barrier to the purchase of a new home. Anyone who has bought a house recently knows you just don't pay the price of the house. You pay closing costs, title costs, title insurance fees, attorneys' fees, and points. And when you buy a house hooked up to privately owned utilities, you also pay the CIAC tax—as much as $2,000 a unit.

Eliminating the CIAC tax won't jump start real estate on its own. But combined with a tax credit for first-time home purchases and the use of IRA savings for a down payment, it will eliminate a powerful disincentive to young home buyers.

Repeal of the CIAC tax is supported by the National Association of Home Builders, the National Association of

Water Companies, the National Association of Industrial and Office Parks, and the National Association of Regulatory Utility Commissioners.

I urge my colleagues to support this amendment and the dream of home ownership. We can also take a step toward deficit reduction to the tune of almost one-half billion dollars.

Mr. SYMMS. Mr. President, I rise in support of this amendment offered by my colleague from Nevada. Contributions in aid of construction should be exempted from gross income. This is an unfair tax on capital, not income. It stifles economic growth and leads to price increases of new homes as well as water rates. And, also, leads to the development of environmentally unsound water and sewage facilities.

Once again, Mr. President, we are trying to level the playing field between investor-owned utilities and public utilities. Only investor-owned utilities pay taxes.

When a developer contributes water mains valued at $100,000 he is also permitted to reimburse the utility for the taxes paid on the contribution plus the tax on this tax. This can add as much as 70 percent to the customer's cost of the contribution. Thus, raising the original value of contribution from $100,000 to $170,000.

The State public utility commission says these costs must be passed on up front either to the new customer or through rate increases to the existing customer base. When this cost is passed on up front, a developer may have to reduce the size of a project, or abandon it completely, or pass the cost on to the new home buyers. The National Association of Home Builders has estimated the CIAC tax adds as much as $2,000 to the price of a new home.

In order to avoid this additional cost, a developer may seek an alternative from using water and sewage service from a privately owned utility. I understand it is sometimes cheaper for a developer to set up their own utility; build individual wells or septic tanks, or hook into a municipal system. All of these alternatives deprive the investor-owned water companies of business opportunities and deprives local, State, and Federal government of tax revenues.

In addition, these alternative small water and sewage systems are less environmentally sound to build. According to the EPA, in fiscal year 1990, more than 90 percent of the violations of the Safe Drinking Water Act were made by systems serving less than 3,300.

The CIAC tax increases the price of new homes, leads to the development of environmentally unsound water and sewage facilities and reduces the tax base for all levels of government.

Mr. President, I believe it is appropriate that this amendment is being offered to the Tax Relief Act. I hope that my colleagues will support this amendment that will provide relief to privately owned water utilities and additional relief to the housing industry.

Mr. MITCHELL. Mr. President, has the amendment been agreed to?

The PRESIDING OFFICER. Is there objection?

Mr. BENTSEN. Mr. President, there is no objection on this side.

Mr. PACKWOOD. There is no objection on this side.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

So, the amendment (No. 1733) was agreed to.

The PRESIDING OFFICER. Are there further amendments?

AMENDMENT NO. 1734

Mr. BENTSEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. BENSTEN] proposes an amendment numbered 1734.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following:

Amend section 120(e) of the Internal Revenue code of 1986 to strike "June 30, 1992" and insert in lieu thereof "December 31, 1993".

Mr. BENTSEN. Mr. President, this is an extension and amends section 120(e) of the Internal Revenue Code. That is the one extender we have not done. That has been cleared, as I understand, on the other side.

Mr. PACKWOOD. It has been cleared on this side.

Mr. BENTSEN. We have no objections.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

So, the amendment (No. 1734) was agreed to.

The PRESIDING OFFICER. Are there further amendments?

The majority leader.

Mr. MITCHELL. Mr. President, I yield to the distinguished chairman.

AMENDMENT NO. 1735

(Purpose: To amend the Caribbean Basin Economic Recovery Act to establish a center to study and support improved trade and economic relations among Western Hemisphere countries)

Mr. BENTSEN. Mr. President, I have another amendment I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Texas [Mr. BENTSEN] proposes an amendment numbered 1735.

Mr. BENTSEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . AMENDMENT TO THE CARIBBEAN BASIN ECONOMIC RECOVERY ACT.

(a) FINDINGS AND PURPOSES.—

(1) FINDINGS.—The Congress finds that—

(A) countries in the Western Hemisphere are currently considering more integrated and liberalized trade relations, including free trade agreements, free trade zones, restructured tariffs, debt relief, removal of foreign investment barriers, and other economic measures;

(B) Mexico and the United States have formally announced their plan to negotiate a possible bilateral free trade agreement similar to the agreement between the United States and Canada;

(C) a freer trade environment may improve the economies of Mexico and Latin American and Caribbean countries and in turn remove incentives for illegal immigration into the United States;

(D) the congressionally appointed Commission for the Study of International Migration and Cooperative Economic Development has recommended that the United States promote economic growth in Mexico, South and Central America, Canada, and the Caribbean, because the Commission believes such growth will decrease illegal immigration into the United States from these regions;

(E) the European economic integration process, which will be completed by 1992, demonstrates the benefits that can be derived if countries trade with and interact economically with other countries in the same hemisphere;

(F) solid economic relationships between the United States and other Western Hemisphere countries involve complex issues which require continuing detailed study and discussion;

(G) the economic interdependency of Western Hemisphere countries requires that a center be established in the southern United States to promote better trade and economic relations among the nations of the Western Hemisphere; and

(H) such a center should be established in the State of Texas because that State is the primary bridge through which Latin America does business with the United States.

(2) PURPOSES.—The purposes of this section are to—

(A) establish a center devoted to studying and supporting better economic relations among Western Hemisphere countries;

(B) give the center responsibility for studying the short- and long-term implications of freer trade and more liberalized economic relations among countries from North and South America, and from the Caribbean Basin; and

(C) provide a forum where scholars and students from Western Hemisphere countries can meet, study, exchange views, and conduct activities to increase economic relations between their respective countries.

(b) ESTABLISHMENT OF THE CENTER FOR THE STUDY OF WESTERN HEMISPHERIC TRADE.—The Caribbean Basin Economic Recovery Act (19 U.S.C. 2701 et seq.) is amended by inserting after section 218 the following new section:

"SEC. 219. CENTER FOR THE STUDY OF WESTERN HEMISPHERIC TRADE.

"(a) ESTABLISHMENT.—The Commissioner of Customs, after consultation with the International Trade Commission (hereafter in this section referred to as the 'Commission'), is authorized and directed to make a grant to an institution of higher education or a consortium of such institutions to assist such institution in planning, establishing, and operating a Center for the Study of Western Hemisphere Trade (hereafter in this section referred to as the 'Center'). The Center shall be established not later than December 31, 1992.

"(b) SCOPE OF THE CENTER.—The Center shall be a year-round program operated by an institution of higher education located in the State of Texas (or a consortium of such institutions), the purpose of which is to promote and study trade between and among Western Hemisphere countries. The Center shall conduct activities designed to examine negotiation of free trade agreements, adjusting tariffs, reducing nontariff barriers, improving relations among customs officials, and promoting economic relations among countries in the Western Hemisphere.

"(c) CONSULTATION; SELECTION CRITERIA.—The Commissioner of Customs and the Commission shall consult with appropriate public and private sector authorities with respect to palling and establishing the Center. In selecting the appropriate institution of higher education, the Commissioner of Customs and the Commission shall give consideration to—

"(1) the institution's ability to carry out the programs and activities described in this section; and

"(2) any resources the institution can provide the Center in addition to Federal funds provided under this program.

"(d) PROGRAMS AND ACTIVITIES.—The Center shall conduct the following activities:

"(1) Provide forums for international discussion and debate for representatives from countries in the Western Hemisphere regarding issues which affect trade and other economic relations within the hemisphere.

"(2) Conduct studies and research projects on subjects which affect Western Hemisphere trade, including tariffs, customs, regional and national economics, business development and finance, production and personnel management, manufacturing, agriculture, engineering, transportation, immigration, telecommunications, medicine, science, urban studies, border demographics, social anthropology, and population.

"(3) Publish materials, disseminate information, and conduct seminars and conferences to support and educate representatives from countries in the Western Hemisphere who seek to do business with or invest in other Western Hemisphere countries.

"(4) Provide grants, fellowships, endowed chairs, and financial assistance to outstanding scholars and authorities from Western Hemisphere countries.

"(5) Provide grants, fellowships, and other financial assistance to qualified graduate students, from Western Hemisphere countries, to study at the Center.

"(e) DEFINITIONS.—For purposes of this section—

"(1) WESTERN HEMISPHERE COUNTRIES.—The terms 'Western Hemisphere countries', 'countries in the Western Hemisphere' and 'Western Hemisphere' mean Canada, the United States, Mexico, countries located in South America, beneficiary countries (as defined by section 212), the Commonwealth of Puerto Rico, and the United States Virgin Islands.

"(2) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given such term by section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

"(f) FEES FOR SEMINARS AND PUBLICATIONS.—Notwithstanding any other provision of law, a grant made under this section may provide that the Center may charge a reasonable fee for attendance at seminars and conferences and for copies of publications, studies, reports, and other documents the Center publishes. The Center may waive such fees in many cases in which it determines imposing a fee would impose a financial hardship and the purposes of the Center would be served by granting such a waiver.".

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 for fiscal year 1993, and such sums as may be necessary in the 3 succeeding fiscal years to carry out the purposes of this section.

Mr. BENTSEN. Mr. President, I rise to offer an amendment to the tax bill which establishes the Center for the Study of Western Hemispheric Trade in Texas. The center will be an academic institution to help business leaders and policymakers understand what challenges lie ahead as the United States expands its trade ties with our neighbors in this hemisphere. I am pleased this amendment, which matches my previously filed bill, S. 423, has been accepted by both sides of the aisle.

This proposal comes at a major turning point in trade relations in this hemisphere. We are already seeing how the European Common Market is emerging as a trading force and Japan is increasing its ties with its Pacific rim neighbors. The United States is now engaged in negotiations to expand the force of a trading community with Mexico and Canada. If American workers and businesses are to reap the fullest benefit from increased trade with our neighbors in this hemisphere, they'll need the useful and insightful information that the center could provide.

The Hemispheric Trade Center will serve as a clearinghouse of information, employing leading scholars of international trade and related areas of study to help analyze the prospects for expanded trade. In addition to assessing the impact of trade on the U.S. economy, the center will study monetary reform, tariff changes, demographics, political development, and the implication of these changes with regard to trade. It will also provide scholarships and fellowships to students interested in these areas.

As the primary bridge through which Latin America does business with the United States, Texas is the obvious location for the center. Not only is the 889-mile Texas-Mexico border the largest of any State, more imports from Mexico pass through Texas than any other State. In 1989, approximately half of the $51 billion in United States-Mexican trade flowed through ports of entry in south Texas. The center will be affiliated with a Texas university or college to be selected by the U.S. International Trade Commission and the Customs Service.

My legislation authorizes $10 million in funding, for each of the next 3 years, to help establish and run the center. Although the initial Federal grant will help the center get started, it should be able to pay its own way within a few years through charges, businesses, scholars, and others will pay for the information it provides.

Mr. President, expanding our trade ties with our neighbors in this hemisphere promises a road to greater economic opportunities, but there are bound to be potholes along the way. The Center for the Study of Western Hemispheric Trade will help us chart a wiser and, hopefully, safer course to prosperity.

Mr. President, I want to express my gratitude to the Republican managers who have agreed to accept this amendment.

Mr. President, this has been cleared on both sides. This is my understanding.

Mr. PACKWOOD. That is correct.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

So the amendment (No. 1735) was agreed to.

Mr. KERRY. Mr. President, unfortunately, this is an election year tax bill, which the President has already made clear he will veto—because he is not willing to raise taxes on families earning $175,000 or more a year to help struggling American families who earn $30,000 to $50,000 a year.

President Bush and his advisers have obviously read the body language of some of the most retrograde elements of his political party, people who have had a large part in getting this country into the mess it is in today. That is why the President has repudiated his own budget deal of last October and vowed to vote against any tax bill that emerges if it increases taxes on anyone—be they millionaires, multimillionaires, or billionaires.

President Bush has told reporters he will do whatever is necessary to be reelected. The shame of it is, he is taking this approach in a year in which, more than ever, we need statesmanship and when he can least afford to be viewed as a President abdicating his responsibility on this issue.

What we see on the Senate floor is an entire political party forgetting the needs of the country to shield those earning more than $175,000 a year from paying their fair share to help our country.

I have been reminded so many times in recent days of an article that appeared in the Atlantic Monthly 5 years ago, written by an eminent Republican and former Commerce Secretary, Pete Peterson. Back then, at the height of the Reagan era, Mr. Peterson observed that the prevailing mood of booming prosperity masked what he called the most dangerous period of future-averting choices that he had ever known.

Even then, many of us warned that we had to make choices about our future, that Ronald Reagan's plan of a massive defense buildup and massive tax cuts for the rich was going to bankrupt our country. President Reagan denied it. George Bush denied it. The Republican majority then in control of the U.S. Senate denied it. Denied it they did, and we were powerless to stop them from implementing it. And today, we face the consequences. We have eaten our seed corn, ceded our economic leadership to Japan and to Germany, failed to educate our children, failed to train our workers, and today for many Americans, the future feels to be a gloomy one.

I remember when Tip O'Neill used to say that it was a crime that Ronald Reagan had ever become President. He said this long before we knew the dimensions of the S&L and banking disasters that President Reagan helped create—long before we knew the dimensions of the Federal budget disaster—the mismanagement at HUD, the defense contracting scandals at the Pentagon.

But Speaker O'Neill understood that there would be consequences to President Reagan's unwillingness to face reality—his unwillingness to make the choices for the future that had to be made.

We have been badly hurt as a nation by the failure to make those choices. We have lost a lot of time and a lot of money. But we can and must rebuild. We need still to invest in the productive capacity of this country in every form: Roads, bridges, highways, communications networks, new plant and equipment, research and development, worker skills, literacy, education of all forms.

Under President Reagan and President Bush, we have chosen not to make those investments. We made another choice instead, for debt. A debt that now increases at the rate of $8,000 per second, a debt that represents about $50,000 for every man, woman, and child in America. A debt that costs us nearly as much as national defense in the current budget—and will cost us more once defense spending is reduced.

In budgets as in life, not to choose is in fact to choose. We chose not to face the future—so now we must pay for the past.

I don't need to remind you about what that means: A dollar spent on retiring the dead weight of debt from the past is a dollar we will not return in tax cuts to working citizens, or a dollar we will not spend on education, or basic health care, or any of the critical investments for productivity that we must make. The price of noninvestment will be a continued erosion in wages, in our standard of living, in our ability to produce jobs.

It is a simple fact that for the last 12 years, as Wall Street boomed and Ronald Reagan proclaimed morning in America, real net investment in this country fell. We've simply worn out and used up the productive capacity of this country. If you want to know we're falling behind in the world, that's why.

What frustrates me is that we know what we have to do. We've known it for years. Let me put it very simplistically: We have got to invest in all those things that create wealth in this country. That means investing in the education and training of our people as well as investing in the new technologies they must learn how to master. It means investing in plant, equipment, roads, bridges, and a thousand other factors that combine to give the American economy whatever competitive edge it will have to face the world. It means investing now.

This is the approach taken by this piece of legislation. This tax bill has three goals: tax fairness, using the Tax Code for investment, and fiscal responsibility.

Let's look at each component, piece by piece.

First, tax fairness.

It is no secret that most American families who work for a living have fallen farther and farther behind during the 1980's, swimming in an ever deepening tide of debt. This has happened because real incomes have not increased. The way to make money in the 1980's was not to work for it, but to have money to invest in the stock market or in real estate. People with that money did exceptionally well. The Tax Code reinforced the economic differences between those whose primary income was from work and those whose primary income was from investments.

In fact, from 1977 through 1992, the effective Federal tax rates increased for all Americans other than the poorest 20 percent, and the richest 1 percent. Ironically, while taxes on the poorest fell by 8 percent, and increased by 2 to 3 percent on the middle class, the wealthiest taxpayers wound up getting a whopping 18-percent tax cut in this period.

In the meantime, wages for working Americans and the poor alike decreased year after year during the past decade. Since 1977, the poorest fifth of Americans have lost 12 percent in earning power. The next fifth of Americans, have lost 10 percent. The middle fifth, have lost 8 percent. Even upper middle income taxpayers treaded water in that period, gaining just 1 percent.

Where did all the money go?

All you have to do is look at what happened to the wealthiest Americans—their incomes rose by 136-percent in after-tax income between 1977 and 1992. That's right, a 136-percent increase in after-tax income for the wealthiest 1 percent of all Americans!

No wonder that so many Americans feel overtaxed by their Government—99 percent of us are literally subsidizing the other 1 percent. That subsidization has to end. And this bill does it by helping those who need the help most—taking money from the rich and giving it to families with children.

In his State of the Union Address, President Bush recognized this problem and recommended a middle class tax cut. Two weeks later, when he introduced his tax plan, that cut disappeared, pulverized by the President's need to placate high-dollar Republican fundraisers—the millionaires club that has so much influence in his party—and not just at the Presidential level, it appears from the opposition to this bill.

Working Americans know now that the tax changes of the 1980's worked against them. Favorable tax treatment for the wealthy was supposed to lead to a supply-side revolution that would create a more competitive America and a more secure job base. That did not happen. Meanwhile, the modest tax cuts that working Americans received were more than wiped out by Social Security. A middle class tax cut would be a small way to keep faith with working Americans—20 million of whom would benefit from this credit, which would reduce the tax bill of a family with two children by $600 a year.

We simply must begin to provide a better floor of support under children in this country if we expect both to live with our consciences and to maintain a functioning economy in the future.

These credits for children do not increase the budget deficit. They are revenue neutral, paid for by families who earn $175,000 a year or more. Thus, they are fiscally responsible, unlike the creative accounting in the President's plan, which according to the CBO would increase the deficit by $27 billion over the next 5 years.

But considering the state of our economy, we cannot simply enact a middle class tax cut and call it a day. I would not support a tax bill that simply cut income tax and ignored the critical need to give incentives for new investment in plant, equipment, and education.

Over the past 2 months, a group of us, meeting under the leadership of Senator BAUCUS, have met repeatedly to hammer out a program for long-term investment and economic growth, as part of this tax bill. Last month, we met with Senator BENTSEN, who graciously listened to our thoughts that this tax bill had to address American competitiveness for the long term. He agreed that long-term investment had to be one of the central planks of this bill.

Six years ago I had the pleasure of serving with several of my colleagues on a Democratic Task Force on Competitiveness. The experience fixed in my mind the chronic weaknesses that have developed in our economy over several decades. The most dangerous weakness is in investment; net investment in this country for both public and private purposes has lagged behind the rest of the world for years. We've simply worn out and used up the productive capacity of this country.

Again, I am referring here to all the forms of investment that generate productivity: investment in plant and equipment, investment in research and development, investment in worker skills, and investment in the public facilities that make the economy function. Without this investment you do not get productivity. If you don't get productivity you do not get sustainable wages that families can live on. If you cannot support families you get what we're getting—a Nation in decline.

The implications for our way of life are staggering; for example, economists tell us that fully 75 percent of our productivity in this country since World War II has been generated from advances derived from research and development. Yet while our spending on nondefense research and development has tacked up a leisurely trend line to somewhere that is still below 2 percent of our gross domestic product, Japan and Germany have opened up a gap that puts their expenditures 50 percent higher than ours in terms of gross domestic product.

The R&D gap accounts, at least partially, for the productivity gap. In the current climate of gloom and doom we often forget that American workers are still the most productive in the world by most measures of value produced for every hour of work. But we consistently lose the race in productivity growth. While our productivity growth hovers around 1 percent, our competitors' growth outdistances us by factors of two or three. When you lose that race year after year, you lose market share, you lose competitive edge, you lose markets, you lose jobs.

I believe a new national investment strategy begins with a targeted capital gains tax cut.

My original proposal was made 2 years ago and was a direct outgrowth of my service on the Democratic Task Force on Competitiveness. My bill has now been folded into this legislation in section 2311. This will provide a significant capital gains tax cut for investment in new, smaller businesses through providing a 50 percent reduction for capital gains held at least 5 years in companies worth $100 million or less.

This measure would help bring the cost of capital down and keep it down to a level comparable with that which Japan and Germany have offered their new enterprises for decades. The targeted capital gains cut sends a message out to both political parties and to the world, that America is serious about creating the incentives necessary to create jobs. By targeting the capital gains cut we are saying that we are not going to put tax policy at the service of financial speculation and manipulation and the kind of nonproductive investment we've had for 12 years in this country. We are going to put tax policy at the service of people who create jobs.

As a means to increasing our national savings, this bill also restores deductible individual retirement accounts, or IRA's. Just as we must get the economy jump-started by immediately putting back to work and putting some money back in their pockets, Government needs to start helping them put some money in their bank accounts as well. The Bush administration's approach to IRA's is to raid the Treasury through allowing people who already have such accounts to spend them without penalty as a means of stimulating the economy. The smarter approach—contained in this bill—is to eliminate current restrictions on IRA's so that every working American is able to put aside tax-free savings for the long-term toward retirement. Billions in new IRA contributions will do much to provide capital for long-term investment in America's future.

We also need long-term investment in our people, and this bill does that.

There are a lot of Americans today who simply cannot afford to go to school to complete their education. Some have parents who are out of work. Others work, and their families work, but there is not enough extra money to finance post-high-school education. The Government is in a unique position to make it possible for every American to get the education they need, through lending and guarantee programs. This bill contains an innovative program, developed by Senator BRADLEY, that would for the first time reach many who today are cut off from higher education—self-reliance loans under which students would be allowed to borrow money for education and repay it through the income tax system in installments, according to their income.

These self-reliance loans represent an important collective investment in our national future. But the man who calls himself the education President, Mr. Bush, has promised to veto it. He has no alternative plan to help families educate their children. He just wants to veto ours.

President Bush, I plead with you. There are things more important than getting reelected. One of them, surely, is making it possible for American students to go to college. Please reconsider your veto so that these young people can get the education they need.

This bill also sets up several education incentive programs, that allow taxpayers to take tax credits or deductions for interest on student loans, that expands educational savings bonds provisions, and excludes employer-provided education assistance from taxable income—changes which should increase access to education for millions of Americans.

This tax bill does something to help protect Americans in need of health care, too, by eliminating gaps in health insurance coverage when people change jobs, by allowing 100 percent deductibility for health care premiums for the self-employed, and by preventing businesses from canceling health care policies when someone gets sick. It is not the final solution to our health care problems—we need a comprehensive bill for that—but it is a beginning.

While addressing these real problems with real solutions, this bill does not increase the Federal deficit.

Unfortunately, one of the legacies this administration is leaving our country is a Federal budget deficit of $400 billion for this year, almost $4 trillion for the Federal Government in total. Every penny of that has been borrowed from the future—from our children, and from their children.

It amazes me how people can lose touch with the reality of these numbers. At current rates, we will increase the Federal debt to $5 trillion by 1995, according to the Congressional Budget Office—$25,000 for every man, woman and child in this country—over 25 percent of all the assets held by every American citizen, corporation, and interest in the entire United States. Within a few years, payments on the national debt will be larger than our defense budget.

President Bush has complained that "we are facing government by gridlock in Washington, with spending skyrocketing out of control * * * and a budget deficit looming over our children's children. Americans are fed up," charging that "the Congress [is] spending money it doesn't have. And I think now, given the magnitude of this problem, enough is enough."

The President's statement makes one wonder which lips we are supposed to read. Our tax bill would not increase the Federal deficit by a dime. His, according to the nonpartisan CBO, would cost the Government $27 billion in 5 years. Why does the President insist once again on spending money he does not have? Does he think the voters will not notice the wide distance between his rhetoric and his plans?

It is sad to see the administration continue to try to blame others for its mistakes. Those who preceeded us in government gave the generations of the future help for education, Social Security protection for their old age, a national highway and transportation system, parks, job training, and the strongest economy and national defense in the world. By contrast, we are now finding the Reagan and Bush administrations have left as an inheritance for the next generation little more than an ocean of debt and economic decay.

This tax bill is a modest approach to redressing some of the injuries experienced by working Americans as a result of past tax bills. It is a modest attempt to shift our Nation's resources back toward investing in long-term growth. It is a modest means to help middle-income Americans educate their children and get job training and some protection for health care insurance. Maybe it should do more, but that is difficult given the size of the Federal budget deficit. But the tragedy is, the President is offering Americans nothing more than the status quo.

I urge the adoption of this bill, and call on President Bush to reconsider his lipreading threat to veto it. The President and his party need not read the lips of the taxpayers of this country who are fearful about their future and who demand more from their government. You would have to be deaf and blind not to understand that they expect more than the deadend of a President governing by veto. We need leadership to get us out of this economic crisis, and leadership most of all from the President himself, which under the Constitution, George Bush, for the present, remains.

Mr. PELL. Mr. President, it is vitally important that the Congress act to help lift the economy out of the prolonged recession, to reduce unemployment, and restore prosperity. It is for this reason that I support the tax bill before the Senate.

Even as the national unemployment rate has climbed steadily upward during the past year, the jobless rate in Rhode Island has remained even higher. Bankruptcies are at record levels. Indeed nearly every measure of economic activity documents the hardship being inflicted by this long and deep recession. Action by the Congress is overdue. This economic recovery legislation, while not perfect, is needed and will help to restore economic health.

I strongly support the economic growth incentives included in the bill, including the investment tax allowance, the reduction in taxes on capital gains, the tax credit for new home purchases by first-time home buyers, the restoration of some real estate investment incentives by reforming of so-called passive loss rules, and the establishment of broad new individual retirement accounts with strong saving incentives for all Americans, and with new flexibility permitting the use of IRA funds without penalty for first-time home purchases, and for education and medical care.

Because of its impact on the boat-building and jewelry industries in Rhode Island I am particularly glad that the bill includes a repeal of the 10 percent "luxury" excise tax, a repeal which I joined in sponsoring. That excise tax played a part in the loss of thousands of boat-building jobs in Rhode Island, and the disappearance of some of our Nation's finest boat-building firms. The luxury tax never taxed the wealthy, but imposed a heavy penalty on workers in the boat-building industry. Good riddance to the boat tax!

As I said, however, the tax bill in my view is not perfect. I would have preferred, for example, a much greater reduction in the capital gains tax rate than is provided in this bill. The capital gains tax cut in this bill is severely limited in amount and consequently will be severely limited in the boost it might give the economy. I believe a significant cut in the capital gains tax rate for all Americans, regardless of income level, would provide a major and immediate economic stimulus. I have consistently advocated such a capital gains tax rate cut. Recognizing that a capital gains tax cut provides greater direct benefits to the wealthy, I have also advocated higher income tax rates on the wealthy as a matter of fairness.

I would also have preferred a stronger incentive for investment in business equipment and machinery—perhaps a direct investment tax credit instead of the limited depreciation allowance provided in the bill.

In addition to its economic impact, this legislation makes a start toward restoring greater fairness to our tax system. It provides a modest tax cut for middle-income families with children while increasing the share of the tax burden borne by the well-off. I would have preferred a broader middle-income tax cut that would provide relief to middle-income taxpayers without limiting the relief to those which children under 15 years of age.

Mr. President, this legislation also contains certain provisions that are intended to make the purchase of health insurance more affordable to small businesses. I support Chairman BENTSEN'S intent in this regard, as it is all too clear that many small businesses have long experienced serious disadvantages in their efforts to provide health insurance to their employees. I do have some concerns about the way this is accomplished, though I applaud the chairman for this efforts to address this difficult problem.

I have other concerns with the health section of this bill, including a provision that would preempt State laws requiring coverage of certain health problems. I am also concerned about the bill's establishment of two different health plans, and therefore two different levels of health care, to be provided to employees of small businesses.

Finally, Mr. President, I want to make clear that in my view, the health care section of this bill is no substitute for comprehensive health care reform. As Chairman BENTSEN himself noted in his opening statement, the health care section is simply a first step toward comprehensive health care reform. It is my hope that the Senate will consider comprehensive reform legislation this year, and will not feel content to rest should this legislation become law.

I hope that some of these defects will be removed and that the legislation generally will be improved during the conference with the House of Representatives.

Overall, however, the bill is a good one and one which I can and will support.

A FLAWED AND PARTISAN TAX BILL

Mr. HOLLINGS. Mr. President, I intend to vote against the Finance Committee's tax bill. Like the President's own antirecession plan, this bill is essentially a partisan, election year document. It has little to do with economic stimulus and everything to do with political stimulus. And, for that reason, it is destined for a veto—a veto that will be sustained. It is shameful for the White House and Congress to be indulging in this kind of partisan gamesmanship at a time when the American people are starving for economic leadership.

Mr. President, I also have a number of objections to specific elements of this bill. For starters, there is the inevitable smoke and mirrors. The bill seizes on the $3 billion in new revenue that is supposed to be earmarked for unemployment insurance, and it uses that $3 billion to finance other items in the bill. In addition, the bill admittedly adds to the deficit for the next 4 years; it is the same old story of play now, pay later, and, of course, later never comes.

In short, the Finance Committee's use of revenues is every bit as disingenuous as the President's outrageous gimmickry of accrual accounting. How many times are they going to spend and respend that $3 billion in new revenue that is supposed to cover unemployment claims? Both plans are chock-a-block with gimmickry and both of them add significantly to the deficit.

Beyond these general criticisms, I would point out that the bill's change in the current depreciation recapture rules would significantly increase the tax burden for most real estate transactions. By the Treasury Department's estimates, this provision would raise taxes on real estate by an additional $5.4 billion. It is outrageous that this proposal would be considered at a time when the real estate industry is already in severe recession.

The bill includes a tax credit for first-time home buyers that is only applicable to new houses. This is yet another example of a smoke-and-mirrors approach to tax reform. Bear in mind that 75 percent of first-time home buyers purchase existing houses. If you are truly interested in economic stimulus, it makes no sense to have a tax credit for first-time home buyers that is not applicable to existing structures.

Yet another weakness in the bill is that it doesn't go far enough in regard to passive loss restrictions. Both the President's proposal and the provisions in this bill are simply too restrictive. I support 100 percent repeal of passive loss restrictions and a return to pre-1986 law. The fact is that the passive loss restriction has been a key culprit in the decline of real estate prices and the weakening of the S&L industry. The losses we are witnessing today in the real estate industry are active losses, not passive losses. Accordingly, we need an active Government response, not the current passive resignation.

Mr. President, this Finance Committee bill does precious little to encourage long-term investment and savings, and several elements in the bill actually discourage investment and savings. In extraordinary testimony last week, Federal Reserve Board Chairman Alan Greenspan advised Congress to reject both the President's plan and the Democratic alternative. He argues that, given the obvious flaws in both alternatives, the best plan is no plan at all. I disagree.

There are significant and constructive things we can do to stimulate investment and job creation. Indeed, there are many good ideas in the Finance Committee's bill as well as in the President's plan. Better yet, once you cut through the political posturing, there is a striking agreement among Democrats and Republicans over what should be done: on capital gains, on encouraging private investment and boosting public-sector investment.

Given this essential agreement, why are we acting so disagreeable. After the veto of this bill is sustained, we need to cut out the election-year cat fight and move a credible, meaningful plan through Congress this spring.

My own druthers are for a 1-year package that cuts spending by $24 billion, and redirects that $24 billion to finance investment-oriented programs and tax incentives. I talked at length about my plan earlier this week, and I welcome the cosponsorship of Senators BOND, D'AMATO, EXON, and HEFLIN. This alternative plan can serve as the nucleus of a genuinely bipartisan plan to get the economy moving again. If we are going to demonstrate that Government can work together to deal with this recession, we must first rediscover the old truth that often the best politics is no politics.

Mr. NUNN. Mr. President, I will vote for the Bentsen bill on final passage. As is true with most tax packages, this is far from a perfect package. It will not end unemployment overnight, nor will it immediately right our economy. However, it does have positive features which will help us on both counts, including:

First, revisions in capital gains which would provide some measure of relief from current law;

Second, the Bumpers capital gains legislation which targets long-term investment in small businesses;

Third, new savings incentives provided in the individual retirement account measures;

Fourth, investment incentive provided by the investment tax credit and other provisions;

Fifth, a tax credit for first-time home buyers;

Sixth, provides partial relief to real estate developers through the relaxation of current passive loss rules;

Seventh, changes in current law to provide badly needed tax relief for middle-class families with children; and

Eighth, deficit neutrality over the next 5 years.

I believe that this last point is very important in light of the proposal President Bush requested that we act on before March 20. The seven-point package he submitted, plus the provision added by the Senate Republican leadership, would have raised the deficit by at least $24 billion over a 5-year period. This lack of fiscal discipline on the part of the President sets a poor precedent for maintaining fiscal discipline in the remainder of this session, for example when we consider the proposal to tear down the walls between the domestic discretionary and defense spending accounts.

The gigantic omission in the President's proposal, as well as the House bill and the Bentsen package, is the total failure to deal with the long-term problem of the Federal deficit. Of course, a recessionary period with high unemployment is not the time to dramatically cut spending or raise taxes. This is however the time to take concrete legislative steps to address the deficit in the out years by curbing the rampant growth in entitlement programs which are dooming to perpetual deficit spending.

Mr. President, there are two pressing problems our country faces—two factors that, unless corrected, are likely to condemn us to minuscule economic growth, continued loss of competitiveness in world markets and markets here at home, and a stagnating or declining standard of living for most Americans. These two factors are, first, our wholly inadequate rate of savings and investment in America's productive business enterprises—the chief mechanism for increasing both economic growth and growth in productivity—and, second, our out-of-control Federal deficit, that absorbs much of what Americans do save, and that increasingly acts as a drag on our economy. None of the tax packages before Congress aim to reduce the deficit, either now or later.

I am hopeful that this body will get serious about the deficit and about savings and investment this year, even though it is an election year. This country is in dire straits, and the responsibility for this state of affairs is widely shared. The national debt was still measured in billions back in 1980; it was a bit over $900 billion. That means it took this Nation over two centuries to pile up the first trillion dollars of debt. It has taken less than a dozen years for us to more than triple that. By the end of this fiscal year, the national debt will stand at nearly $4 trillion.

We have to pay interest on this debt every year—the bigger the debt the more we have to set aside in the Federal budget for interest on the debt, and the less we can spend on programs. The estimate for this item for next year is some $220 billion. Within 3 years, on current projections, interest on the debt, which is headed up, will pass defense spending, which is headed down.

Mr. President, the effects of the continuing deficits are felt far beyond the amount of interest we pay. Our huge debt soaks up the equivalent of two-thirds of all savings by American businesses and citizens. The Federal deficit competes for funds with American businessmen, restricting their ability to modernize plants and equipment. The Federal deficit keeps interest rates higher than they would otherwise be. The Federal deficit forces us to borrow from abroad—we have gone from the world's biggest creditor nation a scant decade ago to the world's biggest debtor nation. Our dependence on borrowing from foreigners restricts both our leadership status and our freedom of independence.

Let me offer a couple of examples. In 1990, according to a recent report in the New York Times, February 25, 1992, American business invested $524 billion in new plants and equipment, to improve their productivity. But Japanese firms invested $586 billion in their factories and production lines—$62 billion more invested by the Japanese than we did, although our gross national product [GNP] is nearly 50 percent larger than Japan's.

Mr. President, is it any wonder that U.S. productivity growth has averaged less than 1 percent a year since the 1970's while Japanese productivity has grown more than three times as rapidly? Should it come as a surprise that the Japanese economy has averaged nearly 5 percent a year growth, while ours has had trouble averaging only 2 percent?

We must implement some major changes here at home, if we are to regain our economic competitiveness and increase our standard of living. We need to save more and spend less on consumption. We need to get the Federal deficit under control. To do this, we must recognize, accept, and have the political courage to tell the American people what must be done. There will have to be sacrifices, because we cannot continue our profligate ways, as a nation or as individuals and families. Indeed, families, individuals, and businesses have all begun to recognize this, and to react. Both businesses and individuals are cutting back on their indebtedness, which grew sharply during the 1980's. Only the Federal Government seems to be indifferent to the need for change.

How do we begin to get the deficit under control? It's not very complicated, just very hard politically. We will have to begin to control the rampant growth in entitlement programs. Health care alone consumes 13 percent of our GNP—about twice the share of other industrialized countries, and it could reach 20 percent by the turn of the century. We will have to limit discretionary spending. Since we all recognize that there are significant unmet domestic needs that will require new or expanded programs, discretionary spending on lesser priority programs will have to be curtailed or terminated. Defense spending can be cut, and will be cut substantially. But we must do it without repeating the dramatic weakening of our forces which we have done after every war in this century. I believe we will end up with smaller and less costly forces than those that DOD now projects for its so-called base force—but we cannot get there next year, or in 2 years.

We will also need to increase revenues, since it is almost impossible to eliminate the deficit through reductions in entitlements and discretionary spending alone. But before we ask the American people to pay higher taxes, we must clearly and decisively demonstrate that we can discipline ourselves and make very substantial cuts in Federal spending.

Mr. President, these are the simple facts. There's no silver bullet, no magic key to making the deficit disappear. Sacrifices will be required. But we must do this, we must accept the need for some sacrifices, if we are to restore productivity, economic growth, and an increasing standard of living. As we grapple with options for spending cuts and revenue increases, I believe we need to implement a number of provisions that have been included in the various packages put before this body.

We also need to pursue options to promote growth. Although the capital gains provisions in the Bentsen package are a step in the right direction, I think we need broader tax relief on capital gains, either by indexing for inflation or by establishing reduced rates for qualifying gains from savings and investment held for a significant period of time, and encouraging productive reinvestment. I would also strongly favor additional provisions encouraging savings and investment in new plants and equipment, new production processes, and other facilities for making manufactured goods.

There are those who will assail this as too probusiness. But if American business can't compete effectively in the sale of products we make either abroad or at home, then we will end up exporting jobs—good jobs, manufacturing jobs—at the same time we buy our imported goods. Mr. President, we have no choice but to compete.

HISTORIC REHABILITATION TAX CREDIT

Mr. FOWLER. Mr. President, I rise today to discuss an important issue which, unfortunately, has not been addressed in the Senate Finance Committee tax bill: the historic rehabilitation tax credit. Action is desperately needed to revitalize and reinvigorate the successful incentive that has an admirable track record in reversing the serious problem of disinvestment in our Nation's aging cities and historic neighborhoods.

Congress has recognized since 1976 that the rehab of old and historic buildings needs tax preference if they are to compete with new construction in the marketplace. Congressional intent was to use the credit as a tool to attract investment to areas and projects which were highly desirable but unlikely to attract capital on their own because of the high risk, high cost, and low projected rate of return.

The historic rehab credit was a tremendous success nationally. The National Park Service reports that between 1976 and 1986, more than 16,000 buildings were rehabilitated as a result of the credits. This represents a private investment of more than $11 billion in quality, historically appropriate certified rehab. In addition, the Park Service found that, since 1981, 119,785 housing units have been created including 21,600 low an moderate income units.

Unfortunately, the 1986 tax reform passive loss rules have eliminated entirely any benefit from the credit and the Park Service reports that the number of historic rehab projects has declined by 80 percent to pre-1981 levels. The passive loss rules were intended to prevent individual taxpayers from using losses from certain activities to shelter income from wages, salaries, and other investment income. The passive loss rules also restricted the use of the rehab credit despite a limited exception to those rules in the 1986 act.

Clearly, the limited exception has not worked. The rehabilitation tax credit needs further relief from the passive loss rules. The time is right and while the passive loss rules have been amended for other real estate participants in this bill, other changes are needed to restore the vitality of the Historic Rehab Program.

My colleagues on the Senate Finance Committee, Senators BOREN, DANFORTH, and PRYOR have joined with me in urging that changes in the historic rehab credits be included in this bill. Regrettably, these changes were not included and I would offer an amendment today if I thought the process would allow it. Considering the constraints we are under, I instead rise to urge the Senate Finance Committee to give serious consideration to the historic rehab credit passive loss rule amendment in the next tax bill they consider. Let us not lose another opportunity to fix the historic rehab credit once and for all.

COAL RETIREE HEALTH BENEFITS

Mr. ROBB. Mr. President, the tax package pending before the Senate today contains a provision to ensure the continued solvency of two important trust funds that provide critical health care benefits to nearly 9,000 retired miners, spouses and dependents in the Commonwealth of Virginia. This issue was discussed at some length last night on the floor of the Senate. I wholeheartedly support the future viability of these trust funds and I am absolutely and unequivocally committed to ensuring their long-term financial strength and stability.

Having said that, Mr. President, I do have serious concerns about the specific financing mechanisms contained in the bill before us, which I believe are riddled with inequities. These inequities place a greater economic burden on my own State of Virginia and some other Eastern States than on most of the rest of the coal producing States affected by this legislation.

This bill's solution to the health benefits problem creates a whole set of new problems for my State, problems that, with a fair hand and with serious and thoughtful discussion, I believe can be resolved. The bottom line is this: We have a responsibility to our retired miners and their families to create a truly lasting solution to this problem. The way to do that is to preserve the viability of the trust funds and protect the health care benefits provided by them without wreaking disparate economic havoc on any one or two or five States.

Let me spend just a moment touching briefly on some of the inequities to which I have referred. Specifically, provisions in the bill before us create a new Coal Industry Retiree Health Benefit Corporation sponsored by the Federal Government and financed by a 25-cent-per-ton tax on imports and an hourly domestic production tax based principally on geography. Bituminous coal produced west of the Mississippi is taxed at 15 cents per hour worked, while bituminous coal produced east of the Mississippi is taxed at 99 cents an hour.

Subbituminous coal—located in the West—and lignite coal—the majority is found in Texas—are exempted altogether. To add to this regional disparity, the bill gives the Corporation, not the Congress, authority to raise any additional revenues needed through an increase in the 99-cent tax on Eastern coal and the 25-cent tax on imports only; Western coal is exempt from any future increases.

This means, Mr. President, that affiliates of signatories of the Bituminous Coal Operators Association [BCOA] located in Western States pay 15 cents per hour worked while independent operators in Virginia and other Eastern States with no current or historical BCOA affiliation pay nearly six times that much, with the clear possibility of future increases. I know that others share my confusion over the public policy rationale for the application of this tax.

In addition, while all bituminous coal companies contribute to the corporation, however unequally, only current BCOA orphans are eligible for immediate benefits. I have real questions in my mind about the equity of not extending coverage to current orphan miners with no BCOA affiliation, while taxing the independents for BCOA orphans.

Now, Mr. President, I want to touch briefly on just why this bill is particularly damaging to the Commonwealth of Virginia. Since my State has nearly 9,000 beneficiaries in the trust funds, you can imagine that our coal industry is a large one and that it is extremely important to the Commonwealth's economic strength and stability.

In 1990, the industry directly employed 10,265 Virginians and produced 46.5 million tons of coal, making the Commonwealth the seventh largest coal producing State in the Nation. Furthermore, these jobs and the tax base provided by the industry are concentrated in seven southwest Virginia counties, greatly increasingly the significance of the coal industry to these local rural economies, which have suffered significant and persistent unemployment and the lingering effects of a recent, bitter strike.

Without question, a large tax increase on Virginia's coal would negatively impact our strong export capacity and the economic vitality of our ports at Hampton Roads. Currently, the Commonwealth exports 38 percent of its coal into a tight, highly competitive international market. And, Virginia coal represents 32 percent of all of the coal exported through the ports of Hampton Roads. The ripple effects of an inequitable tax will affect not only the coal communities and our ports, but our railroads and utilities, as well.

The negative impact of this legislation on the exports of other Eastern States will compound the effect on our ports, which transship more coal than any other port in the United States today. The ports of Hampton Roads handle more than half of all U.S. coal exports. And in 1990, coal exports represented staggering 78 percent of the total commerce at the ports.

Two days ago, when bus loads of retired miners traveled from southwest Virginia to Washington to ask for my assistance in protecting their health care benefits, I reaffirmed my unequivocal commitment to rescuing the trust funds. No one, Mr. President, absolutely no one, could talk with these retired miners, listen to their very personal accounts of the need for this health care for themselves and their families, and not realize how important and compelling it is to solve this critical problem.

At the same time, Mr. President, I told the retired Virginia miners who visited my office that I have a responsibility to their children and grandchildren, as well. They know all too well that jobs in the coal fields are precious commodities. As a U.S. Senator from Virginia, I have to work to protect these jobs for the next generation of young Virginians whenever I can.

And I do believe we can find a way to protect both of the trust funds and to correct the regional disparities contained in the current legislation. In several recent discussions, the sponsor of this provision, Senator ROCKEFELLER, has committed himself to working with many of us to develop a more equitable solution to this problem that is, indeed, fair to Virginia and other Eastern States. I look forward to joining my colleague from West Virginia in crafting this important consensus.

My commitment to the thousands of retired miners and their families in Virginia who are affected by this legislation is unwavering, as is my strong belief that their promise of lifetime health benefits must—and will—be honored. It is the obligation of this Congress to ensure the future solvency of these trust funds, and I am absolutely dedicated to that final goal.

Mr. LIEBERMAN. Mr. President, I rise in support of H.R. 4210. This legislation addresses some of the fundamental needs of America's struggling economy: investment in education; tax incentives for American business; and a middle class tax cut to bring some equity back to the Tax Code.

Education is vital to our Nation's future. Without an educated work force, we cannot hope to keep up in a highly competitive global economy. H.R. 4210 has a number of provisions that will make it easier for students to gain the skills and knowledge they will need to compete.

I am particularly pleased this bill contain a Self-Reliance Scholarship Program based on legislation I have cosponsored. Parents and students are desperately searching for ways to make college more affordable. These loans will offer a new source of funds to pay for higher education, in exchange for a commitment by recipients to pay back the loans as a percentage of their incomes through the IRS. This would virtually eliminate any default problem connected with existing student loan programs, therefore, freeing up more money to enable students to get an education.

Since the repayment schedule is based on the percentage of income earned, students will also be freer to choose careers in public service, such as teaching. They will simply pay their loans back at a lower rate, and over a longer period of time, than those earning more money.

Most important, this Self-Reliance Scholarship Program will be open to anyone, regardless of income level. This makes college more affordable for many more middle income families—people who may make slightly more than the limits of existing loan and grant programs, but not nearly enough to pay the cost of higher education themselves.

Under this proposal, the Federal Government will provide funds for self-reliance loans to 500 schools across the Nation. The schools would award the loans to students requesting them. These loans are not intended as a replacement to the Guaranteed Student Loan Program, only as a supplement. But any student, regardless of family income, could borrow up to $5,000 as an undergraduate and $15,000 as a graduate student each year.

Our goal is clear: by helping students get necessary funding for higher education, we are investing in our Nation's future.

There are a number of other worthwhile provisions in the bill that will help improve access to education. This includes a choice of credit or deduction for interest on student loans, tax-exempt youth training organizations, employer-provided educational assistance, penalty-free withdrawals for higher education, and educational savings bonds.

As important as these provisions are, we must do more to improve our competitiveness. We need to take decisive action to stimulate economic growth. Our Nation is suffering from a deep recession, and parts of the Nation, like my home State of Connecticut, are experiencing their worst economic slump since the depression.

During the last 3 years, real GNP has grown at an annual rate of 0.5 percent, which is the worst rate since World War II. During that same period, GNP per capita has fallen at an annual rate of 0.6 percent, which is also the worst rate since the end of the war. Disposable income has increased at a rate of only 0.4 percent annually, the slowest it has been in over four decades.

Our savings rate as a percentage of disposable income has averaged a paltry 4.5 percent, the lowest in the post war period. Our overall rate of savings is one-third that of Japan. And without an increase in our savings rate, there will not be enough capital available to get the economy moving again.

Our housing industry is also suffering more than any time since the 1960's, when the Government began collecting data on the industry. During the past 3 years, housing starts have only averaged 1.2 million units per year, the worst for any period in the last three decades. Residential construction has fallen at an annual rate of 8.59 percent and real nonresidential construction has fallen at an annual rate of 7.53 percent, also the worst rates since the data was first collected.

If anyone believes that a recovery is on the way, I say let them come to Connecticut. My State is being hit hard by a housing slump, a credit crunch, and defense cuts which disproportionately affect State defense contractors. The Connecticut Department of Labor estimates that the State's unemployment numbers have been underestimated by as much as 30 percent. The real unemployment rate in the State is 7.5 percent, higher than the national average.

This legislation begins to address these and other related issues by putting in place programs that will help to stimulate short and long-term economic growth. This is achieved in several important ways. The bill would increase our pool of savings by making IRA's available for all Americans. It also eliminates penalties on withdrawals for the purchase of a first home, cost college education, and major medical expenses. These steps will make IRA's an even more attractive savings vehicles, further encouraging Americans to save.

But our problems go beyond our anemic savings rate. While there have been indications that venture capital funds may be on the upswing, we have lost a lot of ground over the past few years. According to Venture Capital Journal, venture investments are at their lowest level in a decade. Fund levels dropped by 40 percent between 1989 and 1990. This bill contains a targeted capital gains tax cut for small firms, which will help to fund new high-tech firms that are so important to our economic growth. The bill also contains a special accelerated depreciation allowance and an extension of the research and experimentation tax credit. Both of these provisions should help to make industry more competitive. Although I think we could have gone further in offering incentives to industry to promote job creation, I believe these provisions are, overall, positive first steps toward getting our economy moving again.

The bill also helps to stimulate a slumping housing industry by putting in place a tax credit for first time homebuyers, relaxing current law passive loss rules for real estate professionals, and extending the law providing tax credits for certain low income rental housing and mortgage revenue bonds. The bill by no means addresses all of the concerns of the real estate and housing industry, but it is my hope the some of issues of importance to the real estate and housing industry will be given a second look in conference. We must do what we can to assist the housing industry, since it is this industry that has traditionally led us out of past recessions.

This bill also begins to address the inequities found in our Tax Code. It is the middle class that has suffered disproportionately. They have seen their real income decline over the past several decades, while their tax burden has continued to rise. Only those families making $120,000 or more have experienced a substantial increase in real income over this time period and their tax burden has actually decreased. The children's tax credit provision of this bill is the first step toward restoring fairness and equity to the average working family in America.

By providing a $300 tax credit for children of families earning less than $50,000 and phasing the credit out for families earning up to $70,000, we are recognizing the enormous financial pressures middle class families are experiencing. The costs of feeding, clothing and housing our children has risen dramatically over the past two decades, taking up a much greater percent of take-home pay. Many families now need two wage earners in order to provide the basic necessities. Quality childcare is also costly, and families must worry both about caring for their children now and saving for the future and their college education.

I am pleased that this legislation provides this much needed assistance for America's working families. Families around the country and certainly in Connecticut have been suffering and the current economic crises has only made that suffering worse. We must provide these families with help and I am pleased that this bill begins to address the tax inequities they have been subject to over the past decade.

Investing in education, stimulating the economy, and bringing back fairness to the Tax Code must be our priorities this year and into the future. We have neglected our Nation's economic health for too long. America is at a crossroads. The cold war is over, signaling the end of an era. We must now chart a new course that will help us to remain as the most important economic force in an increasingly competitive global economy. This bill is an important part of the process of getting our economy moving. It does not provide all the answers. But It is a good start. Chairman BENTSEN and his staff are to be commended for their excellent work.

THE SECOND WORST TAX BILL THIS YEAR

Mr. WALLOP. Mr. President, the Senate has been debating one of the worst tax bills produced by this Congress. It is not the worst—the bill recently passed by the House of Representatives has that honor. To begin to understand how bad this bill is, let's be honest in admitting that this legislation, this debate is not about economic growth. We all know that we are engaged in pure politics. But it does provide an opportunity to define where people stand on tax increases, on budgets and deficits.

Other Senators have demonstrated that the higher tax rates will not be an incentive for economic growth. In fact, since 65 percent of the tax burden will fall on small business, the bill is a burden on job creation and economic wealth. That crucial point, uncovered by my colleague from New Mexico [Mr. DOMENICI] should stop this bill dead in its track—if we were truly serious about job creation. Most new jobs are generated by small business. My State's economy is dependent on small business. Wyoming has more per capita than any other State in the Nation. Yet, this bill would create new tax burdens for the small business community just as they are struggling out of a recession.

How does this bill reward those who take risks, who are willing to invest and work for a growth economy? There is a perverted version of the reduction in capital gains taxes, and inadequate changes in the alternative minimum tax. But, the obstacles and disincentives in our Tax Code still remain—vigorously debilitating to economic activity.

The bill drafted by the Democrats is further flawed in that it attempts the impossible. It seeks to ignite an economy through a quick tax fix. Yet, the economy is already growing. Even the Congressional Budget Office agrees that the recession is ending and the economy will grow at a rate of 3 percent over the next year. This tax bill will do nothing to stimulate or sustain the recovery. In fact, I am worried that this attempt to increase taxes may harm the long-term economic recovery.

This tax bill has a companion piece being produced by the Senate Budget Committee. This is the no-growth twin pack. The tax package would ensure that investment activity would continue to be heavily taxed. And, the budget package will break down the firewalls, the slight restraint we now have on increasing Federal deficit spending. This package will continue the congressional disruption of the economy which began with the 1986 tax increase and continued with the 1990 budget agreement.

Over the past 2 days, speakers have criticized the growth in the Federal debt over the past 12 years. In seeking a culprit, they fall back on the 1981 Reagan tax cuts. This is the sole real tax cut of the past decade, which encouraged one of the longest periods of economic growth in our history. Every tax bill passed since that 1981 legislation provided greater and greater tax increases. In fact, it became automatic that whenever we did a tax bill, we would have to describe it as the largest tax increase in our history.

During the Reagan years, tax revenues were actually higher than the post-World War II average. Revenues were $140 billion higher than if the tax burden had reflected the historic average. So, revenues were more than adequate to accommodate normal Federal spending.

The same critics claim that Federal spending was excessive due to the defense buildup. Yet, the fact is that defense spending increased in real terms from 1980 to 1984. Since then, the Defense budget has declined in real terms. This year, with everyone looking for the mythical "peace dividend," the defense budget will decline in real and nominal terms. The $4 trillion deficit was not created by defense spending.

Since 1981, Congress has aggressively avoided cutting Federal spending. Entitlement spending, the biggest area of the budget, has grown relentlessly. Though 80 percent of entitlement spending is not based on need, little effort has been expended by Congress in curtailing this spending. Domestic discretionary spending has also increased. The popular myth is that we have cut domestic spending. The reality is that we have temporarily slowed the increases. One, and only one fact intrudes on fantasy: Congress has refused to curtail Federal spending.

The real reason we have a $4 trillion deficit cannot be evaded by pretty political slogans, Congress, Congress, politics, politics. Oh sweet reason tell me about the decade of greed. It was the politics of reelection greed—not that of ordinary Americans who strove to improve their family's lot.

We know, especially the Finance Committee, knows that our budget situation will only become worse in coming years. There is no peace dividend to fund new Federal domestic spending. Defense spending has been curtailed since 1985. By 1996, the Defense budget will have declined by 26 percent. Domestic spending, on the other hand, is posed for another burst. Entitlement spending will increase by 33 percent by 1996 and discretionary spending will increase by 8 percent. And, it is obvious that it will be funded by new taxes and new deficit spending. Why is that American greed? Come on Congress. Come on Senate. It's reelection greed purely, simply, and it is paid for by placing a load of guilt on hard-working Americans.

Just look America! Your Democratic party proposes that, despite the tax increase, this package increases the deficit!! It increases each year through 1995, by at least $2 billion this year and similar amounts each year after. The economic incentives are not only inadequate, but devious and temporary. The investment tax allowance would run only through the end of the year, not even time enough for the IRS to draw the rules. And tax credits for research and development only last until after the next congressional election. Rather than this meager short term fix, we ought to institute long range investment growth incentives to promote economic growth over the long term. Do they—of course not. This is produced by the Democrats and they seem to dislike both growth and promise.

The supposed middle class tax-cut amounts to a maximum credit of $1 per day. It only lasts 2 years. The bill proponents are doing a sleight-of-hand trick to shift the tax burden and to make it even more complicated.

The bill's focus on supposed "middle income" tax relief comes at the expense of economic growth. This is because the package would have the perverse effect of encouraging upper-income individuals to cut down on worthwhile, productive activities. How? By ratcheting up the tax penalty imposed on them. Although they would directly bear the higher tax liability, the fall off in production and growth would be felt throughout the economy. For many taxpayers, the $300 child tax credit has a phase out that results in an increase in marginal tax rates for those outside the targeted income levels. How in the world does this improve savings and investment by middle-class families?

And to pay for these credits and other revenue-losing provisions, this bill would increase the top tax rate from 31 to 36 percent and would charge a 10-percent surtax on millionaires, punishing those members of our society whose capital has created investment, growth, and jobs.

The bill's proponents claim that this burden shifting is done in the name of tax fairness. Who can be against fairness? So let's look at who is carrying the tax burden and whether it is fair.

In the Congressional Budget Office's report on tax revenues from 1980 to 1990, we find something interesting. In 1980, the top 1 percent of income earners paid 18.2 percent of taxes. In 1990, they paid 25.4 percent—that's an increase of 40 percent. For lower income individuals, in 1980, the bottom 40 percent of income earners paid 3.6 percent of the tax burden. By 1990 that figure was down to 2.4 percent—a decrease of 33 percent. In short, the CBO report says that in the 1980's, the poor paid less taxes, the rich paid more.

By 1990, the top 10 percent were paying well more than half of all the income taxes collected by the IRS. As William Rusher put in the Washington Times, "Ten percent of American families pay more than half of all the defense expenditures, more than half of all welfare costs, more than half of our enormous debt service." Is it so unfair to ask the other 90 percent of us to pay the remaining 44 percent?

The capital gains tax cuts have all kinds of conditions, complications, and fences as to when one can and cannot benefit from a lower tax rate. Decisions about when to sell an asset should be regulated by the market and by individual needs, not Congress. Additionally, the capital gains provisions deliberately offer the least relief for people now paying the highest rates. In fact, taxpayers subject to the proposed new top rate would obtain no benefit from the proposed capital against tax reduction. Once again, the Wallop-Delay tax bill has a better answer, a simple rate reduction with no gimmicks.

Nothing in this bill was done to change the alternative minimum tax, created in 1986, treatment of percentage depletion allowances, and very little with regard to intangible drilling costs. Under the AMT, the major expenses that the independent producer incurs are penalized by this tax, resulting in fewer industry investments and discouraging domestic energy development. Such development would be a major factor in reducing our trade deficit.

This tax treatment has devastated independent producers, the backbone of our domestic industry—reducing our energy security and making us more dependent on foreign sources; 300,000 jobs have been lost in this industry since 1986. If the alternative minimum tax is not repealed, we should at least remove percentage depletion from the calculation.

Despite Congress' inability to act, the leading economic indicators, which are used to measure the state of the economy, are now improving. This means the trough of the recession has been passed, and the economy is in recovery.

The CBO has joined with other analysts in arguing that fiscal policy—tax policy—will have little immediate impact on the economic recovery. The recovery will occur whether or not we have a tax package this year. While a tax proposal will do little to push economic recovery, new tax incentives are necessary to sustain long-term economic growth. Tax reforms should focus on three objectives: Tax simplification, investment incentives, and reducing the tax burden on working Americans.

Poor America. Democratic politicians are at work with your money, or your neighbor's money, or the fellow behind the trees money to buy your vote—and promise never, never to reduce your deficit.

Mr. DECONCINI. Mr. President, I will vote for final passage of the tax bill. I will do this not because I think this is a perfect bill, or even a great bill, or perhaps even a good bill. But it is not a bad bill, and that is a big improvement over President Bush's proposal.

While this bill does not reduce the deficit as the amendments I supported sought; it also does not contribute to the deficit as the Republican alternative did. I had thought we had gotten away from the days of smoke and mirror accounting, but sadly those days have returned. The Republican proposal would have increased the Federal Deficit by $24 billion. We simply cannot afford this. I will not mortgage the future of America's children and grandchildren by further raising their debt responsibilities.

During earlier consideration of this bill, I cosponsored and supported Senator LEVIN's amendment which would have used the tax increase on the wealthiest 1 percent of taxpayers for deficit reduction and job creation. I am sorry that this amendment did not pass. Had it I could have been more enthusiastic about final passage.

Nonetheless, there is much that is good about this bill. First, it raises taxes only on the wealthiest 1 percent of all taxpayers. In order to fall into this category, a couple would need to have yearly income in excess of $225,000. These are the same individuals who have seen their family income rise by 113 percent over the last 15 years and their tax rate drop by over 17 percent. It is right and it is fair that these individuals be asked to contribute to this economy and I believe that many, if not most, of these individuals are willing to pay additional taxes.

There are many provisions in this tax bill that will help the American economy, will help middle-income taxpayers, and will help move this country forward. The bill provides preferential capital gains treatment, a proposal I have long supported. It provides some relief in the area of passive losses, a long overdue move. For first-time home buyers we have a generous $5,000 tax credit for purchase of new homes—an imperfect proposal but nonetheless one that moves us in the right direction and will create jobs.

Encouraging savings has been a consistent goal of mine in the U.S. Senate. In the early 1980's, I was a leader in implementing all savers certificates. I have consistently supported individual retirement accounts [IRA's] for all Americans. And last fall I introduced legislation that would have allowed up to $5,000 of tax-free interest. This bill does provide important savings incentives. It creates a new special IRA, which allows individuals to contribute up to $2,000 to the account but all interest earned on it will be tax free if it remains in these accounts and all interest earned would be tax free if held for 5 years. Additionally, the bill permits withdrawals from traditional IRA's without penalty for first-time home buyers, higher education expenses, and medical expenses.

During floor debate, I was successful in adding an amendment to the bill which allows unemployed individuals to withdraw from their IRA's and other qualified pension plans without penalty. Being unemployed is difficult, it is disheartening and it is discouraging. I believe that to add insult to injury by penalizing people for using their pension savings during such difficult times is wrong and the Senate agreed with me.

Also included in their bill are the extension of important provisions which I have supported including targeted jobs tax credits, mortgage revenue bonds, low income housing, research and experimentation tax credits, industrial development bonds, solar energy tax credits, and several others. These provisions are scheduled to expire on June 30 of this year if we don't act to extend them.

No, Mr. President, this is not a perfect bill. It is not the bill I would have written. But in our democracy compromise is necessary. This compromise is important because it will help the economy, it will help middle-income taxpayers and it will not further compromise our future by increasing the deficit.

Mr. SIMPSON. Mr. President, I rise in opposition to the tax bill which is pending before us.

Mr. President, this has been a particularly unusual and instructive political year. All of us in public service are used to a familiar pattern during election years—howls of discontent from unhappy elements off the body politic, followed nonetheless by a prompt and efficient return of the incumbents to office.

I do not think I am alone in sensing that this year is different. The American electorate is more than restless; they are dead serious about wanting real solutions, real answers. They are dead serious about wanting to be told the truth. They have had it with candidates and Congresses that promise them the world.

Every Presidential primary that passes hammers home that message. It is true regardless of where you are on the political spectrum. In a typical election year the candidacies of Paul Tsongas and Jerry Brown would have been extinguished long before now. One of them is running against the system itself. The other is putting the economic challenges before us in the harshest light—and, I might add, supporting many of the progrowth measures which the President has asked this Congress to pass. On the Republican side Pat Buchanan is surviving solely on a message of harsh discontent.

I mention the political environment because it is directly relevant to this particular tax debate. The bill before us takes no notice of the firmly expressed desire of the American people for responsible, progrowth, deficit-reducing tax legislation. Certainly there is much in this bill that is in the general category of things we ought to pass—expanded IRA's, first-time home buyer tax credit, alternative minimum tax relief, expansion of the earned-income tax credit. I have no quarrel with certain substantive portions of the bill, except that some are deftly diluted versions of measures I support.

However, it is truly unfortunate that these important progrowth policies must be held hostage to an inside-the-beltway political battle. We all know why the tax hikes are contained in this bill—and it's obviously not because it is any form of appropriate economic medicine. It is not even because it is what the American public is clamoring for. In fact, they are speaking out against that sort of pandering at the polls. It's in there only to guarantee a veto.

There isn't a Senator in this body that can't accurately predict the course of events that will follow from this debate. In some form—however amended—this tax bill will pass this body on a party line basis. The Senate will confer with the House and send to the President a tax bill with a major tax hike as its centerpiece. He will veto that bill, as he has promised. And so we will be back to square one here in a few days or weeks.

What really galls about all of this is the ironic fact that there are real points of bipartisan agreement concerning what needs to be done for the economy. Despite the sound and fury by Members of the Congressional majority that, "The President doesn't have a plan, but we do. We know what needs to be done". When you strip away the tax redistribution portions of this bill—which no one pretends will help the economy, one—what do you see? Watered-down versions of the capital gains tax cut, of the investment tax allowance. You see expanded IRAs and a $5,000 first-time home buyers' tax credit.

One can see in these provisions a twisted and sick sort of admission that the President's proposals—which receive so much shrill criticism around here as being inadequate, are exactly the right medicine—although they've had to be watered-down in this bill to make room for the rest of the authors' tax agenda. The result is a bill that aims to produce less growth but more votes.

This is the much-ballyhooed alternative to the President's policies. Those who have lambasted our President over the recession have argued that, given the chance, they would be able to provide the answer to our economic problems.

Well, this is it. This tax bill essentially tells us what the Democratic answer is to our economic problems. The bill tells us that they think it has nothing to do with the deficit—since none of the tax hike in this bill goes towards deficit reduction. The bill tells us that they don't believe the President, that national savings rates are a great problem—because his proposals for reduced capital gains rates and an investment tax allowance have been included only in diminished form.

This is their economic plan for America: raise taxes. Parcel out less than $1 a day from that tax hike to working Americans. Apply none of it to the Federal deficit. Try to squeeze some of the President's progrowth measures out of what is left.

The deficiencies of this tax legislation are self-evident. I will not belabor them further. I do want to close by saying that I do not mean to be totally jaded in my remarks about this legislation. There are things in it which surely need to be enacted. Senator BENTSEN has made many public remarks that I personally agree with—concerning our need for enhanced national savings, for example. He has worked hard to advance the cause of expanded Individual Retirement Accounts and other savings vehicles. In those efforts he has my full and sincere support.

But we can do better than this. There is a broad bipartisan consensus in favor of many progrowth, prosavings measures. Most of us here want to expand IRA's; to provide tax credits for first-time home buyers; and to reduce at least some capital gains taxes. We have at least $10 billion to work with in the form of the President's additional next-year defense cuts. We could be standing here with a tax bill that reflects these commonly held beliefs.

Instead, we are debating a bill which every member of this Chamber knows will be vetoed—indeed, which was crafted with that in mind. I have heard the majority leader defend this bill by saying "It is not partisan for the Democrats to advance their own tax legislation, as the President has advanced his." The point of my remarks is not to label the authors partisan or cynical—the point of my remarks is that, whether we attach those labels or not, no one out there is going to benefit from this exercise. And that is unfortunate, when we agree on much that we should do.

Therefore, I ask my colleagues to vote against this legislation and to keep tax increases off the table for the rest of the tax debate this year. The sooner we set about crafting progrowth tax legislation, the better off Americans will be. I thank my colleagues and I yield the floor.

HEALTH REFORM AND ECONOMIC STIMULUS PACKAGE

Mr. McCAIN. Mr. President, I rise today to provide my comments on the Family Tax Fairness, Economic Growth and Health Care Access Act of 1992. To suggest that this bill will lead to tax fairness and economic growth is misleading. I will elaborate on this assertion in a moment, but I would first like to touch on the health care component of this legislation.

I am a strong supporter of this portion of the bill. In fact, this portion of the bill is based on one piece of my health reform package—legislation I recently introduced with Senators BENTSEN, DURENBERGER, and others.

Mr. President, the American health care system is very much like a contagious patient, infecting us all.

While more than 80 percent of our citizens have health care coverage, and our system offers the highest quality care in the world, the conditions disclosed on the medical chart at the end of the health system's bed are nonetheless alarming:

Over 37 million uninsured;

Health expenditures for all—individuals, businesses, and Government—are rising rapidly;

Rural areas are facing health care provider shortages, while hospitals struggle to keep their doors open;

Nearly 25 percent of every dollar spent on health care is consumed by defensive medicine, due to the medical liability crisis;

Inadequate prenatal care for young mothers, and nearly 10 million children lacking access to health coverage;

Inadequate focus on basic primary and preventive care;

Unequal access to Medical services;

And, prohibitive costs of long-term care.

Our health care system is able to deliver high quality services to all Americans who need care in an equitable manner. The problem is, it just doesn't do it.

Our health care should reward innovative and efficient delivery of services. Instead, it encourages defensive medicine; shifts uncompensated care costs to private payors; and forces hospitals and clinics to compete in an unending medical arms race.

As a society, we have allowed enormous layers of bureaucracy to be layered into the physician patient relationship, resulting in tens of billions of health care dollars spent on nonpatient care activities.

Worst of all, by not encouraging healthy lifestyles and the appropriate use of health services, we are needlessly spending enormous amounts of money.

What has made this crisis so potent, and rocketed it to the top of our Nation's domestic priorities, is that it affects every American.

Contained in the legislation before us are provisions addressing one critical segment of the crisis—the fact that health insurance has become inaccessible and unaffordable for so many small businesses. This is borne out in the fact the vast majority of the uninsured either work for or are the dependents of employees who work for small businesses.

The bill before us would do a number of things:

Allow self-employed individuals to deduct 100 percent of the cost of health insurance premiums. Currently, only larger companies can deduct 100 percent of these costs.

Prohibit insurers from excluding individuals in a group from coverage, and from canceling policies due to claims experience or health status.

Prohibit insurers from denying coverage due to a preexisting health condition.

Limit annual insurance premium increases for small employer health plans to no more than 5 percent above the underlying increase in health care costs.

Limit the amount by which insurers can vary premiums for different groups.

Require insurers to offer small businesses at least two minimum health insurance packages, which would waive at least some of the State mandates.

This package also establishes an 11-member Health Care Cost Commission to collect and report data associated with public and private health costs in the United States and internationally, and make recommendations for health care cost containment.

The bill would also provide Medicare coverage of flu shots for the elderly.

I certainly would not suggest that if we adopt this bill we will have resolved the health care crisis, but this bill takes a significant step in the right direction. And, I believe Senator BENTSEN is to be commended for pushing these health care provisions through the process, and having the foresight and wisdom to see that we put aside the rhetoric and start reforming the system and resolving the uninsured problem.

Mr. President, it is certain that the Family Tax Fairness, Economic Growth and Health Care Access Act of 1992 will not become law. It is my hope that when we do ultimately put together legislation that will promote tax fairness and economic growth that this health package will be included. This is one Senator who plans to assist in making sure that it is.

I would now like to turn my colleagues' attention to the fact that this legislation is really not about tax fairness and will not do anything that results in economic growth.

The tax portion of this Democratic legislation claims to provide fairness for middle-class families. I think a close inspection would expose this bill as an election year gimmick that will not provide fairness or tax relief.

Chairman BENTSEN stated on March 10 that "enactment of this legislation is going to help middle-income families."

I must disagree. I feel that enactment of this legislation will only confuse many who thought that they were middle class, and thought they were going to get $300 per child.

This legislation effectively discriminates against children. The credit is phased out for taxpayers with adjust-able gross income between $47,500 and $60,000. Thus, for a couple with two children who claim the standard deduction, the phaseout of the tax credit would begin at a taxable income of under $35,000. The phase out would be completed at a taxable income of under $55,000.

The way the bill is written, those families that have two children and have a taxable income of between $35,000 and $55,000 are not middle class enough to receive the full credit of $300 per child—or less than $1 a day. That roughly equals the relief that the widely criticized proposal by President Bush to change the withholding tables would have provided.

The Office of Management and Budget [OMB] has studied the child tax credit, and determined that 40 percent of families with children would receive no benefit.

The phaseout provisions in the bill discriminate against children by producing a negative incentive effect. This occurs because the amount of credit decreases inversely with the number of children in the phaseout range. A large family would effectively receive less tax relief than a small family in the phaseout range.

The phaseout provisions raise the effective marginal tax rate by 1.5 percent per child. Thus, for one child in the phaseout range, a family effective marginal tax rate would rise from 28 to 29.5 percent. For two children, it would be 31 percent and so on.

Even though some tax relief is available for families—less than $1 a day per child if the family qualifies—the credit structure effectively discriminates against having children.

A family in the phaseout range would face an effectively higher marginal tax rate if they decided to have another child.

The phaseout provision is also strongly biased against productive activities. Specifically, a family under the phaseout level would have to consider the value of any rise in income against the loss in credit. This credit provides a disincentive to work, save, invest, or have more children.

I am not a tax expert. Most taxpayers are not experts. I fear that this credit is confusing. I would prefer a straight increase in the deduction allowable for qualified dependents.

The child tax credit also cleverly indexes the credit for inflation while not indexing the phaseout range. Thus, as the credit rises, the phaseout range is lowered by inflation and the amount of the phaseout increases.

This will effectively reduce the threshold for leaving the middle class and entering the realm of the wealthy at an adjusted gross income of $36,000.

So what does all this mean?

It means:

First, that many families who were led to believe that they would receive a $300 tax credit per child won't.

Second, the threshold for the phaseout of the credit will fall every year as a result of inflation and as the amount of credit lost increases, and

Third, finally, it will provide little relief, little fairness, an enormous amount of disappointment and anger among middle-class families.

It is unfortunate that this confusing, ill-conceived provision has mislead many working families. Many will not qualify for the full credit. Many will not qualify at all.

I would like to add that I am a cosponsor of S. 701, the Tax Fairness For Families Act. It is simple, straight-forward, and would provide dramatic relief for working American families. It would increase the amount of the exemption for dependent children under age 18 to $3,500. It would also index the exemption for inflation.

There are no confusing phaseout rules that provide negative incentives to American families. There is no false notion of distributional justice known as soaking the rich. In the Democratic bill, the soaking of the rich begins at a taxable income of $35,000 where the phaseout of the credit begins. Despite all the misleading rhetoric, the Democratic proposal is antifamily and antimiddle-class.

The Tax Fairness For Families Act is profamily, promiddle class, and provides more than $1 a day in relief. It is preferable to the legislation before us today.

Mr. President, I would like to discuss other provisions in the bill at this point.

I am particularly concerned about the unwarranted and counterproductive provisions that dramatically increase the marginal tax rates of many Americans who have realized the American dream of success.

Specifically, the Democratic legislation increases the statutory income tax rate from 31 to 36 percent on individual filers who earn over $150,000 and for couples earning over $175,000.

The Democrats also want to create a new tax rate of 46 percent on taxable income over $1 million. This new tax rate is disingenuously called a surtax. It is not a surtax. It is a third marginal tax rate. It is a powerful disincentive to work, save, and invest. It is a powerful incentive against success. It is an impediment to opportunity.

Given the choice of having 46 cents confiscated by Washington for every dollar earned beyond a taxable income of $1 million or simply doing anything but working; the incentive is not to send 46 cents to the money pit in Washington.

Mr. President, whether it is a taxable income of $20,000 or $1,000,000, it is not our money.

Higher marginal tax rates will not bring fairness or economic growth to our Nation. It will simply redistribute income in an election year gambit for votes. The policy of income redistribution is the road to economic and social dissolution. The Soviet Union tried for 70 years to redistribute income and control the economic destiny of her people. The politics of class warfare has brought the Soviet Union to economic and social dissolution. It is a failed policy that I do not support.

I must also contest the false charge that the so-called rich are not paying their fair share. As a result of the 1981 tax cut and the 1986 Tax Reform Act, the marginal tax rates for all Americans were reduced, but many credits, deductions, exclusions, and tax shelters were eliminated. Ultimately, a larger portion of upper income taxpayer's income was exposed to taxation.

Mr. President, let us see who shoulders the largest share of the tax burden as a result of the 1980's tax cuts that supposedly so benefited the wealthy.

According to the Congressional Budget Office [CBO], in 1980, the wealthiest 1 percent of taxpayers shouldered 18.2 percent of the total tax burden. In 1990, that burden had risen to 25.4 percent. That is a 40 percent increase in tax burden during the so-called decade of greed.

During that same decade, the tax burden for the bottom 60 percent decreased by 20 percent. For the bottom 20 percent, the tax burden dropped by a dramatic 150 percent.

The eighties were not a decade of greed. It was not a decade where the so-called rich escaped paying their fair share of the tax burden. The empirical data refutes the assertions of many Democrats. The wealthy clearly pay their fair share, and paid a greater share after the Reagan tax bills.

Mr. President, if we want to cut the tax burden on the middle class, we do not have to raise taxes on other Americans. We can simply cut spending to finance tax cuts.

One proposal to reduce spending that I support is S. 2093, the Ronald Reagan Peace Dividend Investment Act. Instead of raising taxes on one group of Americans to pay for cuts for other Americans, this bill cuts taxes for all Americans who paid for the 70-year fight against Communism—even that 1 percent of wealthiest Americans who pay for 25 percent of all Federal spending—by using cuts in defense spending to pay for tax cuts.

We won the cold war as a nation, we should share the benefits as a nation. The Peace Dividend Act would reduce taxes and the deficit by cutting defense spending without raising taxes on any other American.

Finally, I would like to turn to a few other provisions for comment. As a member of the Senate Republican Task Force on Real Estate, I am happy that this legislation addresses home buyer tax credits, the low-income housing tax credit, modification of the passive loss rules, a capital gains tax cut, and withdrawal from IRA accounts for home purchases. These provisions are crucial to improving the sluggish real estate market in our country. These provisions will help many Americans realize the American dream.

While I feel that the Congress could have been more aggressive with the capital gains tax cut, overall the provisions relating to real estate are an improvement in present law.

There is one other tax provision I would like to address. This legislation repeals all the luxury taxes except those on automobiles. Perhaps, the job losses in the auto dealership industry are insignificant to some in Congress. I strongly disagree with that exclusion, and I will continue to pursue the complete repeal of all luxury taxes imposed by the 1990 budget deal.

In conclusion, there are simply too many bad provisions in this bill. It is a bad bill because raising taxes by $57 billion is bad economic policy. The route to fairness and economic growth is not through tax increases. The route to fairness is through spending cuts, deficit reduction, and tax relief for all Americans.

I support the President's veto, and will uphold it on the floor of the Senate.

AFFORDABLE HEALTH CARE

Mr. McCONNELL. Mr. President, while I do not intend to support final passage of H.R. 4210, I would like to take a brief moment to express my support of provisions in this bill that seek to improve access to affordable health care. The provisions enjoy broad bipartisan support, and I regret they are included in legislation destined for certain doom.

The health care reforms offered in this bill would assist individuals who are self-employed or employed in small businesses by establishing: A 100-percent deduction of health insurance premiums for self-employed individuals; minimum requirements for State laws regarding the sale of insurance to small employers; limits on premium rates for small employers; Federal grants to help small businesses band together to negotiate favorable insurance contracts; and a Health Care Cost Commission to advise Congress and the President on strategies for reducing health care costs.

Mr. President, more than half of the 36 million uninsured people in America are in families of workers employed by small companies. The provisions in H.R. 4210 would help these deserving citizens by guaranteeing the eligibility and renewability of affordable health insurance, and by limiting out-of-pocket expenses.

I hope that in the days to come, the Senate will continue to discuss our Nation's health care needs. While I find many faults with H.R. 4210, I think it offers a step in the right direction toward sensible health care reform.

Mr. DODD. Mr. President, I rise today to voice my strong support for the comprehensive economic package, H.R. 4210, put forth by my distinguished colleague from Texas, Senator BENTSEN. This proposal responds to the cries of middle-class Americans for tax relief and fairness. I only regret that it was so long in coming and today faces a Presidential veto.

Politics aside, this bill achieves two important goals. It provides a much-needed tax break for middle-income families and it offers long-term investment incentives for the growth of American businesses and job expansion. Both are critical to stimulating America's economic recovery and ensuring our competitiveness in the world market.

The tax relief proposal contained in this package is targeted to the people who need it the most—the middle-income working families with young children.

To provide for meaningful tax relief we offer a $300 tax credit per child for families. With this, we reach out to 60 percent of all families in my home State of Connecticut. Families who find themselves in a financial vise—squeezed by greater tax burdens and rising costs. Any relief from this pressure would help maintain the integrity and prevent further erosion of the family unit.

Unfortunately, as this debate has progressed, the call for tax reform has been overshadowed by political gameplaying.

Just 2 months ago, during his State of the Union Address, the President joined the chorus in calling for a tax break for families. And as you know, he backed off from that position just a few days after his address and now has threatened to veto this measure. Moreover, since the President's call to action, he has been noticeably absent from this debate. He has provided no leadership—only blanket threats of a veto.

His threats have reduced this debate to an exercise in futility where, yes, we can voice our strong support for this proposal but we know we don't have the votes to override his veto.

This legislation deserves to be taken seriously, just as the problems and pressures facing the middle class deserve to be taken seriously. We owe it to our constituents—families and businesses alike—to offer real solutions, not false promises.

But false promises are all we can offer today. The President has left us no room for compromise. He has chosen to protect the richest 1 percent of Americans in place of tax fairness for the middle class.

And make no mistake, this stalemate and abundance of political game playing has been at the expense of families and businesses across the country.

Every time I return home to Connecticut, I see it in the eyes of my constituents. My constituents are faced with real financial pressures. And they deserve relief. This week the Connecticut unemployment rate for the month of January was released. Once again, the rate has climbed—this time to a seasonally adjusted rate of 7.5 percent. For the third straight month our rate has passed the national average and remains the highest rate since 1983.

But, Mr. President, working families are also feeling the economic pressures. They have watched their taxes soar while their incomes have plummeted. This inequity was confirmed in a recent CBO report—CBO reported that 60 percent of the growth of aftertax income of American families between 1977 and 1989 went to the wealthiest 1 percent of our population.

This is not the time to play politics. It's time to reverse the trend. It's time to shift the tax burden off the shoulders of the working middle-class Americans.

The President agreed to help the middle class. He agreed to help families with children. Why, then, is he not behind this proposal? As you know, the President does not agree with how we pay for this tax relief. We face a veto threat because we ask the richest 1 percent to pay more in taxes. The President wants to pay for this much-needed help by increasing the deficit by $27 billion. His proposal would leave this debt as a legacy for our children to pay.

The Democrats in Congress, however, under Chairman BENTSEN'S leadership, took the time to figure out a way to pay for this bill without sticking our children with the cost.

By adding a fourth tax rate for people who have joint taxable incomes in excess of $175,000, and single incomes in excess of $150,000, and by placing a 10-percent surtax on those whose incomes exceed $1 million, we are only asking the most affluent 1 percent to pay a little more in taxes. In doing so, we will liberate the majority of middle-class Americans who are long overdue for some type of tax relief.

Mr. President, in my view, asking the top 1 percent to pay a little more is a very small price to pay for restoring fairness and equity to our tax system. It is a small price to pay to help our nation's economy.

Most important of all, this bill is about putting people back to work. We in the U.S. Congress have the opportunity to promote social programs. However, I strongly believe that the best social program is a job. Mr. President, many of the effects of unemployment do not show up on a graph or a chart. But it doesn't take a chart to know that employed and productive Americans contribute to the overall well-being of this Nation.

For the first time since the Great Depression, thousands of hard-working Americans across my State of Connecticut and across the Nation are out of work. People who have never been without work before—people who are educated and skilled.

This is not a selective recession. It affects everyone from the blue-collar worker to the corporate executive. It affects families in our biggest cities and smallest towns.

To bring about these jobs and put people back to work, we must enhance our competitiveness and secure our prosperous future.

We must encourage long-term investments in our industries and job training. I firmly believe that the battle of the 21st century will be waged economically. We therefore need to pull ourselves out of this recession and prepare for the challenge of the next century.

We must reevaluate our priorities to include education and health care. We must invest in America because it is only through investing in America that we can thrive as a nation.

The second part of this measure includes provisions that encourage just that. It includes incentives to promote both the short-term and long-term economic growth this country needs. I would like to take the time to highlight just a few of the provisions included in this legislation.

A targeted jobs tax credit gives a tax break to businesses who hire less employable individuals who need training. A 10-percent investment tax credit for the purchase of new equipment, research and development credits, progressive capital gains tax credits, and a repeal of the luxury tax on boats all encourage economic stability and growth of businesses.

The repeal of the luxury tax is of particular concern to my constituents along the Connecticut shoreline. For many of them, the repeal of the luxury tax is crucial to reenergizing their depressed businesses.

Investment in our depressed real estate market is another key component to achieving economic stability and growth. By allowing a $5,000 tax credit for first-time home purchases as well as the penalty-free IRA withdrawals for first-time buyers, we can effectively provide the middle class with purchasing incentives and, at the same time, give the real estate market the push it needs to get back on its feet.

While, these credits only apply to new homes, they still promise to aggressively stimulate a stagnant, inactive real estate market. This is especially true for Connecticut, which has been suffering for 3 long years from a depressed real estate market. These provisions would not only help first-time home buyers but would have a positive effect on the entire building trades industry. It would generate activity within both the commercial and residential real estate market, which in turn would lead to new job opportunities.

I believe a restoration of the full deductible individual retirement accounts, lost with the passage of the 1986 Tax Reform Act, will encourage increased savings. This legislation allows penalty-free IRA withdrawals for such costs as education and emergency medical expenses. The Student Loan Interest Deduction and the employer-provided educational assistance tax credit are two more key provisions of this bill for improving the educational opportunities for all Americans.

This legislation also touches on some aspects of the health care crisis we are currently trying to remedy. The bill includes a 100-percent deduction for health insurance premiums for self-employed individuals and an orphan drug tax credit. The Small Employer Health Insurance Reform provision will help provide insurance for many of the underinsured and uninsured members of society since most are employed by small business.

If we pass this bill, with overwhelming support, we will respond to the concerns and problems facing our constituents. We are sending them the message that, yes, we hear you and, yes, we are doing something about it.

We are also responding to the concerns and requests of the President. This comprehensive tax bill includes the seven items the President proposed in his 7-point tax plan. It also includes the child tax credit the President originally supported and which I have pushed for since last spring. The President expressed his desire to work with Congress in passing an economic recovery package. This legislation represents a realistic melding of the two parties—it satisfies both the President's requests and the Democrats' call for fairness.

As I said earlier, this is not the time to play politics, Mr. President. People are suffering and they need our help.

The absence of real leadership has paralyzed our ability to provide real solutions. The strength of our country and the well-being of our people depend on the passage of this measure or one like it.

Our failure to accept such a viable and reasonable solution to pervasive problems in today's economy will only serve to weaken this country. It will weaken our ability to compete. And it will weaken our standard of living.

I regret that our efforts of the past year culminating in this piece of legislation are destined to face a veto. However, I believe this bill contains good policy. Bad politics, yes, but very good policy. A strong vote in favor of this package will send a message to the White House, loud and clear, that the middle class is sick and tired of politics and more than ready for some good policy.

For this reason, I strongly urge my colleagues to put politics aside and join me in supporting this bill.

INSURANCE PORTABILITY FOR THE SELF-EMPLOYED

Mr. PRYOR. As I believe the chairman knows, I have been working on an amendment to extend your important job-lock and other insurance market reform protections to people who want to start their own self-employed business but do not do so for fear of losing their current employer provided insurance. Particularly during a time of economic downturn, we do not want people to not start businesses simply out of fear of losing health insurance.

Since there are outstanding issues that have yet to be resolved on this amendment, I will not offer it today. I do strongly believe, however, that we should do everything possible to get this self-employed protection enacted into law.

Mr. BENTSEN. I am well aware of the Senator's interest in and hard work on this important matter. As he knows, I share his commitment to finding ways to extend portability and other important insurance market reforms to the self-employed of our Nation. I commend the Senator on his work and share his hope that we can work out any problems in this proposal. I look forward to working on this during the joint Senate/House conference on this bill or, if this is not feasible, later this session.

Mr. PRYOR. I thank the chairman. I, too, look forward to working with him in order to remove the barriers that presently exist in providing health insurance for our Nation's self-employed.

AGE LIMIT IN SELF-RELIANCE LOAN PROGRAM

Mr. BRADLEY. Let me first thank Chairman BENTSEN for seeing the merits of giving American families a better option to pay for higher education. The Self-Reliance Loan Pilot Program included in this bill is the most profitable investment we can make in economic recovery and confidence about the future.

I rise to discuss one component of the program that has presented a problem and suggest some ways we might achieve the same objectives in a different way. Self-Reliance will be particularly useful for the nontraditional student, the student who does not start a 4-year degree program at age 18, but who returns to develop more skills after raising a family or to get a better job. Because Self-Reliance requires borrowers, on average, to repay their loans within 25 years from the income they will gain from education, it was necessary to limit eligibility to those under 50, because they would be most likely to keep working for enough years to pay off the loans. But I know that there are many nontraditional students, displaced homemakers, and displaced workers, who are over 50 but need better education. I have always intended that if we could find a way to include them in this program, we would do so.

Before I describe an approach that will achieve that goal, let me make clear why it was necessary to limit eligibility based on age in the first place. That limit was not grafted on to the bill, but is intrinsic to a program that balances high- and low-earners so that the whole loan program is actuarially sound. Economists, such as Robert Reischauer, now head of the Congressional Budget Office, have referred to this as a "front-loaded social insurance program." Social Security and Medicare, traditional social insurance programs, provide a benefit after participants, on average, have paid for the benefits. Self-Reliance provides benefits first, then gives people up to 25 years to pay for them as their incomes grow over time.

Some people pay for all the Social Security they will receive by age 45, but we do not let healthy 45-year-olds collect Social Security. The social insurance concept would collapse if we did. In the same way, though some people over 50 might work long enough after going back to school to pay for their Self-Reliance benefits, most will not. After retirement, when much of their income will come from tax-exempt Social Security benefits, the fixed percentage of taxable income they would repay for their Self-Reliance borrowing will not be enough, on average, to repay the loans.

Mr. President, let me suggest a possible solution that is better than an age cap. Would the Senator consider adding language, before this bill goes to the White House, that would ask the Secretary of Education to develop special repayment schedules not just for borrowers close to or past retirement, but for all borrowers who might be likely to derive much of their income from tax-exempt sources. This would apply primarily to those 55 or older, because everyone, by age 70½, receives Social Security and most Social Security payments are tax exempt. They might have to pay back 4 percent of income each year instead of 3 percent, so as to complete payback in about 15 years where another borrower would have up to 25 years to repay.

Mr. BENTSEN. Does the Senator from New Jersey know whether this will affect the costs or the actuarial soundness of the Self-Reliance Loan Program?

Mr. BRADLEY. The Congressional Budget Office has advised us that it would have no effect on the 5 percent subsidy cost of Self-Reliance loans. The reality is that very few older people borrow heavily to go back to college, and we would have the alternative repayment schedule for those few who do. Let me ask the distinguished chairman of the Finance Committee whether he expects that we could make a change along these lines in conference.

Mr. BENTSEN. Assuming that the conferees agree to include Self-Reliance in the bill that goes to the President, this suggestion makes good sense.

Mr. BRADLEY. I thank the chairman for his continued interest in helping people obtain the education that is the only sure path to economic growth.

CLARIFICATION OF CAPITAL GAINS EXCLUSION ON CERTAIN SMALL BUSINESS STOCK

Mr. FOWLER. Mr. President, I would like to ask the chairman of the Finance Committee, the gentleman from Texas [Mr. BENTSEN], a question concerning section 2311 of the bill.

This section of the bill provides for a capital gains exclusion with respect to gains on certain small business stock. I commend the gentleman from Texas for helping small business in this way. As the distinguished chairman is aware, small businesses face an increasingly difficult time finding sources of equity capital and this provision is a needed incentive for long-term investment.

Mr. President, the Committee explanation of this capital gains incentive notes that qualified "small business stock" is that of a domestic C or S corporation. As I read the provision the stock of a minority enterprise small business investment company [MESBIC] could qualify under certain circumstances. I would ask the Senator from Texas if my understanding of the provision is correct.

Mr. BENTSEN. The Senator from Georgia is correct in his understanding of section 2311 of the bill. The stock of minority enterprise small business investment companies could qualify under certain circumstances.

Mr. FOWLER. I appreciate the chairman's response. As the Senator from Texas knows, a shortage of equity capital is particularly acute for minority small business. In 1970, Congress authorized the MESBIC Program as part of the Small Business Investment Act to help address this need. In the face of many obstacles, MESBIC's and the minority venture capital industry in general have made a real difference. For example, two MESBIC's are located in Georgia, one in Macon and the other in Atlanta. They have helped create new jobs in Georgia and our region by providing critical financing for startup companies and for more established firms.

I think it is very important that MESBIC's are eligible for the capital gains provision in the bill and I believe whenever possible we must consider additional ways to support this sector of the small business venture capital industry. In this regard, I note with great interest that the House of Representatives has developed similar legislation, H.R. 4221, the Minority Enterprise Development Act of 1992. This legislation provides limited deductions for purchases of small minority business stock, and a capital gains exclusion. I am carefully reviewing that bill and I encourage my colleagues to do likewise.

Again, I thank the distinguished chairman of the Finance Committee for his response to my question.

ACCELERATED DEATH BENEFITS

Mr. LIEBERMAN. Mr. President, individuals suffering from terminal illnesses are forced not only to confront the tragedy of their illness, but also the overwhelming economic consequences of their condition. AIDS and cancer patients often lose their jobs, access to health insurance, and their homes. Some are forced to forgo life-sustaining or life-improving care. Many of those who are seriously ill also find themselves completely destitute.

Their situation is tragic. Millions of Americans have carefully saved thousands of dollars over the years in life insurance plans. This money could provide terminally ill individuals access to needed medical care, a roof over their head, food to eat, and keep them off public assistance.

Many life insurance companies are offering the terminally ill an advance on their death benefits to ensure that they will have the funds needed to care for themselves. Insurance commissioners in all 50 States have now approved the addition of accelerated death benefits to life insurance policies, providing the terminally ill with critical financial resources in their final months.

While death benefits are excluded from income tax under current law, the law needs to be clarified with respect to the payment of accelerated death benefits to the terminally ill. Only with this clarification can we ensure that the terminally ill will have access to their own savings to enable them to live the remaining months of their lives as normally and comfortably as possible.

Mr. President, I understand that the distinguished chairman of the Finance Committee was unable to include this provision in this important economic growth package and I know that he supports this tax clarification because he has included it in his own long-term care legislation. But I note that The Living Benefits Act, S. 284, now has 73 cosponsors in the U.S. Senate, and I would ask the distinguished chairman of the Finance Committee, Mr. BENTSEN, if, at the earliest possible date, his committee will consider this needed and worthwhile tax clarification.

Mr. BENTSEN. Mr. President, I support legislation to clarify the tax treatment of accelerated death benefits and I realize its importance for those Americans affected. Let me say to the Senator from Connecticut that I applaud his efforts to help the terminally ill and I assure him that I will work with him to enact this legislation in this Congress.

VALUATION OF FAMILY FARM ESTATES

Mrs. KASSEBAUM. Mr. President, several years ago Congress decided family farms should remain in the family. Congress did not want those who inherit family farms to lose their land because of inflated land prices and speculation.

Accordingly, Congress passed a law providing that family farms could be valued at their income-producing value as opposed to their open market value. At the time, speculation had driven the farm prices well beyond the farm's income-producing capability. To prevent abuse, the special-valuation statute provided that if the farm was converted to a nonfarm use, or sold outside the family within 10 years from the date of the valuation, the heirs would be retroactively liable for estate taxes on the farm's market value at the time of the parents' or grandparents' death.

This antiabuse provision worked well until a ruling that the special-use valuation was not satisfied if family members cash rented the land to other family members.

Many families engaged in intrafamily cash rent arrangements believing they were fully complying with the special-use valuation requirement. You can imagine a family's frustration and dismay when the Internal Revenue Service began assessing them for retroactive estate taxes which, when coupled with penalties and interest, often exceeded the value of the farm.

To correct this problem, I introduced along with Senator CONRAD and Senator DOLE S. 1045 permitting cash rent arrangements between family members. The amendment would be retroactive and take effect as if included in section 6151(a) of the Technical and Miscellaneous Revenue Act of 1988. Moreover, the statute of limitations would be waived so that taxpayers could claim refunds resulting from the application of this amendment. A similar measure, S. 1061, has also been introduced.

It is my understanding that the Internal Revenue Service has suspended action on this issue for 6 months pending the legislative progress of S. 1045 and S. 1061.

I am prepared to offer these bills as amendments to this legislative package. However, it is my understanding that you believe that legislation allowing cash leases among family members is not objectionable on tax policy grounds and that you plan to review this issue in the Finance Committee at the next available opportunity.

Mr. BENTSEN. I would say to the Senator from Kansas that she makes some valid points. In 1988, we authorized cash leases by surviving spouses and I believe that cash leases among family members generally are not objectionable on tax policy grounds. However, I would very much prefer to consider this legislation when the Finance Committee acts on technical corrections legislation, perhaps as early as this summer. These bills both have merit and I look forward to working with Senator KASSEBAUM and Senator DOLE, who is a member of the Finance Committee, to resolve this issue. I understand that another member of the Finance Committee, Senator DASCHLE, is also very interested in this issue.

Mrs. KASSEBAUM. With this understanding, I will withhold offering these bills as amendments and look forward to having them considered as part of the anticipated technical corrections legislation. I would encourage the Department of the Treasury and the Internal Revenue Service to suspend action until we have a chance to act on this matter as part of the technical corrections measure. It will create unnecessary upheaval if families are forced to sell their farms to pay the retroactive taxes, interest and penalties if it is Congress' intention to correct this technical problem as part of an expected technical corrections bill. I know Senator CONRAD and Senator DOLE share these views.

Mr. DASCHLE. The distinguished chairman of the Finance Committee is correct that I, too, am very interested in resolving this issue. It is my intention to have the Subcommittee on Energy and Agricultural Taxation, which I chair, include this measure in a hearing to take place in the near future on farm tax issues. I sincerely hope that we can clarify this issue in legislation this year.

INDIAN TRIBE ELIGIBILITY

Mr. BOREN. Mr. President, I rise to seek clarification from the distinguished chairman of the Senate Committee on Finance, Senator BENTSEN. Mr. President, it has been brought to my attention that the Internal Revenue Service has determined that the Cherokee Nation of Oklahoma, a federally recognized Indian tribe, is a tax-exempt entity for purposes of IRC section K401(k)(4)(B) and therefore is not eligible under that section to establish a qualified cash or deferred arrangement. Section 4212(a) of the Senate bill retains the existing prohibition in IRC section 401(k)(4)(B)(i) against establishment of a cash or deferred arrangement by "a State or local government or political subdivision thereof, or any agency or instrumentality thereof." The bill eliminates, however, the prohibition in IRC section 401(k)(4)(B)(ii) against cash or deferred arrangements of "any organization exempt from tax" under subtitle A of the code which provides for Federal income taxes generally.

Under a long line of Internal Revenue Service rulings, federally recognized Indian tribes are not treated as States or local governments or political subdivisions thereof or any agency or instrumentality thereof. The only exception to this general rule is found in IRC section 7871, which treats Indian tribal governments as States for certain specified purposes of the code but not for purposes of IRC section 401(k). Accordingly, the prohibition against establishment of a cash or deferred arrangement by a State or local government and related entities cannot serve as a basis for denying eligibility to Indian tribes for such arrangements.

As I read the statutory language in section 4212(a) of the Senate bill, tax-exempt organizations, which currently are not eligible to establish cash or deferred arrangements, would become eligible after December 31, 1992. Therefore, employers, including Indian tribes previously denied eligibility on the grounds that they are a tax-exempt organization, should be eligible to establish a cash or deferred arrangement for their employees under the Senate bill. Is this the intent of section 4212(a) of the Finance Committee bill, Mr. Chairman?

Mr. BENTSEN. Yes, the Senator from Oklahoma is correct. The intent of the Finance Committee bill is to ensure that employers that are exempt from tax under subtitle A of the Internal Revenue Code, other than State or local governments or political subdivisions, agencies, or instrumentalities thereof, would be eligible to establish plans under section 401(k) for their employees.

INFORMATION REPORTING FOR CHARITIES

Mr. COATS. Mr. President, a proposal has been receiving some attention lately which would lower the IRS reporting requirement for charitable contributions to nonprofit organizations from $5,000 to $500 and, for the first time, apply this requirement to churches, synagogues, and mosques.

It is my understanding that the administration has reconsidered applying the reporting requirement to the above mentioned religious organizations, but it is important to clarify the devastating impact this proposal would have on charitable contributions as a whole and the resources upon which churches and nonprofit organizations now rely on for their good works.

Should this proposal become law, the magnitude of paperwork for churches would be astonishing. First, churches would have to maintain Social Security numbers for all of its donors. Second, because aggregate contributions would count, careful records of every individual donation would have to be kept in the event that any individual's total donations would exceed $500 in a year.

Clearly, Mr. President, this kind of reporting burden would force churches to hire staff and consume already scarce resources to comply with IRS requirements. This would divert funds from many of the charitable programs on which so many needy people rely including church food kitchens, hospices, homeless shelters, child care, school components, AIDS programs, and international hunger programs like Catholic Relief Services.

These same regulatory burdens would apply equally to nonprofit organizations who often have anywhere from 100,000 to millions of donors.

When the conferees consider this tax bill, Mr. President, I hope they will agree not to include this proposal.

Mr. PACKWOOD. Mr. President, I think the Senator from Indiana makes a very good point.

This proposal would cause administrative headaches for charities that they are currently not experiencing.

Mr. President, I agree with my friend from Indiana; I do not think this is a workable rule and I hope the conferees will not include this proposal.

Mr. BENTSEN. As the Senators are aware, this reporting requirement, proposed in the administration's budget, has not been included in this bill, nor is it included in the House bill. I have serious concerns about the application of the proposal to religious institutions, and I would certainly oppose that.

Mr. ROTH. Mr. President, as I have listened to the debate surrounding this tax increase—this tax increase disguised as economic reform—I have recalled that when Congress first passed the income tax amendment of 1909, it did so with the promise to the American people that the new Federal tax would never, ever exceed 5 percent.

Today, I've been thinking how those legislators would be aghast at what Congress has done with this vote. What's more ironic than the fact that this bill increases the top rate of taxation to over 36 percent—over 30 percent above the promised ceiling of 5 percent—is the fact that this legislation flies in the face of what Americans want; it flies in the face of what America needs. This tax increase is more than 12 percent above the highest tax rate just 2 short years ago—12 percent in 2 years.

It makes one wonder what Americans can expect in the next 24 months. What's worse, however, is that this tax increase has been passed by the majority in this body for no other reason than election year politics.

It's a tragedy, Mr. President. It's a tragedy not only because this tax increase comes at a time when our economy can ill afford it, but that it comes for nothing more than political reasons at a time when the American people are tired of politics. It comes at a time when the American people are concerned about the future—about economic growth and jobs. And yet this measure is the antithesis of what our country needs to create growth and jobs.

These past 3 days, I have listened to revisionist economic history from several of my big-spending liberal colleagues. I have heard them use discredited and partisan CBO statistics to make claims that are not only outrageous but dangerous. I have listened to them try to discredit the Reagan economic recovery—the longest peacetime economic expansion in history. I can only assume from their logic—as well as their willingness to use CBO's partisan disinformation—that they long for the economy our Nation suffered under during the Carter years.

They must long for those years of double-digit inflation, soaring unemployment, and economic misery. Because with the record-setting tax increase they imposed on the American people in 1990—the tax increase they levied with the promise that it would be the increase to end all increases—they welcomed those years back with open arms. Now—with this bill—they've invited those years to stay.

I don't say this with anger, Mr. President—not as much as I say it with sorrow and real concern. This bill clearly demonstrates that this Congress—at least the majority in this Congress—is unwilling to put people above politics. It demonstrates that the majority controlling Congress remains unwilling to make the hard choices that are necessary for good government; they are unwilling to break from their tax-and-spend-and-get-reelected ways.

Well, quite frankly, all I can say is that I'm glad this political charade is over. This so-called economic reform package can go to the President for his veto. With that veto, he can prove to the American people that he is sincere when he says the biggest mistake of his first administration was being sucked into the 1990 tax increase. Then, hopefully, we can come back here and work together to orchestrate real reform—revolutionary reform that builds on proven economic history—history that proves growth and jobs follow real tax cuts, just as growth and jobs followed Roth-Kemp in 1982—just as growth and jobs followed the Kennedy tax cuts 20 years earlier.

The revolution I'm talking about puts the taxpayer first. It puts the American family first—as well as the American worker. Real revolutionary reform has incentives to save, incentives to invest, incentives that encourage self-reliance and personal responsibility. What the majority in this Congress has tried to do with this package is tie a tiger with twine. It won't work. Quite simply, what America needs for real economic reform is the Bentsen-Roth super IRA to increase savings and promote self-reliance, home buying, and education. What America needs for real economic reform is a viable investment tax credit. What America cannot support—not under any circumstances—is a tax increase.

If we are to be successful in creating economic growth, prosperity, and a competitive position for America in the future global community, we must go beyond the politics that have resulted in the passage of this package today. We must put an end to the outrageous spending practices that bind this body to debilitating tax increases. Our spending cuts must be real. To make those cuts, our military must be brought into balance to reflect current needs. Our bureaucracies must be made more efficient and even reduced through attrition—including Congress. From top to bottom, old and wasteful programs must be done away with. And above all, Mr. President, our power to tax must be seen as a trusted stewardship and not as a mechanism for political gain.

The problem with this legislation, quite frankly, is that its vision does not go beyond the next election. We should not be here today thinking about November. We should be here doing what the people back home want us to be doing; we should be here thinking about how we can make America the No. 1 economic Nation now, throughout the 21st century, and even beyond. Any legislation that does not help us meet that end should be eliminated immediately. And this legislation does not help.

Mr. President, we stand at a historic moment. The world as we knew it even 2 years ago has been transformed. Opportunities await us—opportunities to make real reductions in Government expenditures—opportunities to use the new role we have as the world's one and only superpower nation to orchestrate real reform here at home—opportunities to set our course for the future as other nations are setting theirs. The degree of this current economic crunch Americans are feeling—exacerbated by the record-setting tax increase 2 years ago—has brought us to this watershed. Let's use it the way we should use it.

Let's use it for real reform—to do the things that until now we've only talked about—to do the things the American people want us to do. Let's not compromise for short-term political gain.

That's what this legislation does. It's my optimistic hope that when President Bush vetoes it—as certainly he will and certainly he should—that we will come back here—that we will put politics aside—and that we will do what really must be done for the benefit of all Americans.

INVESTMENT TAX ALLOWANCE

Mr. FOWLER. For the past several years, American exports have been far outstripped by our imports, creating persistent large U.S. trade deficits. Despite some improvements last year, we still had a $67 billion global trade deficit—$43 billion with Japan alone. Those persistent trade deficits have created a substantial accumulation of debt owed to other countries, and servicing that debt in turn has had a major effect on our economy. By reducing our trade deficit, we would be able to enhance investing spending here at home. That is bound to improve our economic climate—with positive effects on production and job opportunities.

One of the key objectives of the investment tax allowance included in this legislation is to spur that kind of domestic investment spending—thereby improving our economic climate and our employment opportunities. It is equally critical that the U.S. Senate also make another important point clear: as American purchasers make qualified investment decisions that allow this tax allowance to be utilized, they be encouraged to consider purchasing high-quality products made in the United States whenever feasible.

Mr. BENTSEN. The distinguished Senator from Georgia makes some important points about our trade deficits and the toll they take on our economic strength. I thank him for his leadership on this issue and for his thoughtful remarks concerning the role of the investment tax allowance in stimulating critically important domestic investment spending.

Mr. KERREY. Mr. President, I have examined and will vote against H.R. 4210, the Tax Relief for Americans Families Act.

Although I applaud the work done by the chairman of the Finance Committee and others who have worked hard on this piece of legislation, this entire debate should be taking place after the debate about American economic conversion and our economic future. There is an urgent need to change much of our Federal Government's structure and priorities. The entire national security state—built up over the last 45 years—will not adapt on its own; structural changes and technological needs must be addressed. We must fight to shape our economy differently or America will suffer the consequences. We need a vision of our economic future and then a tax policy that supports it.

Mr. President, one of the hazards of politics is a condition characterized by a dulling of the senses. You know you have the disease when things that smell to high heaven begin to go unnoticed. Passers by wonder how we can stand it, while we wonder cluelessly why all these good people are holding their noses.

We have recently witnessed a good example of growing accustomed to something that would gag the normal human—the events surrounding the bounced checks in the House of Representatives. Finally and fortunately they noticed the foul stench of a coverup and acted.

Mr. President, when I first heard about the check bouncing incident it struck me as a wonderful opportunity for Congress to demonstrate our understanding of the problems of the average Joe. He has grown accustomed to living at the financial margin. He knows the humiliation of calling a bank clerk to explain why a $2.98 check for toothpaste didn't clear.

But the odor of this disgrace is made less detectable by the pungent presence of so many well paid lawyers and lobbyists who have acquired an interest in the tax legislation being considered by both Houses. Their enthusiasm for the task at hand, like the smell that issues from a bushel basket of rotting fish, is all we should need to tell us not to jump in.

The Hill is alive with the sound of money. There are millions of dollars of fees and campaign contributions chasing billions in tax breaks. Each of these tax breaks is sold as a way to restore equity, or as a means to the objectives of growth, financial security, or the end of America's economic woes. In fact, parts of the bill are little more than a finely calibrated measurement of which organized interests are most powerful.

I first got wind of what was going on when the President gave his State of the Union Address. During that address the President improperly focused his attention on tax policy as a way to calm the recession-driven panic amongst American consumers. Having earlier mocked his purchase of three pairs of socks at Christmas, I now wished I had encouraged the President to buy more.

I watched the State of the Union Address from the home of an unemployed Buchanan supporter. The speech had been billed as a make or break address for George Bush. I had read an advance copy and on paper it looked quite good. I had marked the places where I thought he would be interrupted for applause and found the total to be more than satisfactory for the postspeech commentators to judge him with high praise.

Even though the President in that speech prematurely declared one fifth of the world's population liberated from the grip of communism and preternaturally evaporated one-fifth of America's population who live in the clutch of poverty, I thought he had a stylistic winner. It seemed to pass the sniff test.

However, less than 5 minutes into this speech the President's political deodorant began to fail him. The key moment came when a pair of two-word phrases elicited responses that I neither predicted nor initially understood. These two phrases turned a room full of stuffed shirts into a room of stale laundry.

The first phrase, Desert Storm, had been marked for a standing ovation. Instead the words were met with silence. At first I thought the President's tendency to string sentences together with the word "and" was the cause. I rationalized: the Members did not hear him.

Then, when the second phrase—"Passive Losses"—set off a raucous round of applause the entire scene changed before my eyes. The executive and legislative branches were in cahoots. Both had been lobbied heavily by the real estate industry and were answering the call.

I know the Finance Committee has worked hard on this bill. I know there are many good things in it. And, if its presentation followed a serious consideration of the new economic direction needed for America, I might reconsider my position.

The top priority of the American people is not selected tax incentives for legalistically defined transactions. Their top priority is jobs and economic security. Two of every three Americans are afraid they may lose their jobs this year. I seriously doubt that a similar percentage in Congress suffer the same terror. In fact, I have become convinced that job security in America is inversely proportional to job security in Congress. The best way to increase the former is to decrease the latter.

But if we are not ready to relinquish our posts, we should at least be willing to abandon any pretense that the tax bill before us will reduce the American people's economic insecurity. It won't, and it should not.

To increase economic security we should be focusing all of our attention on increasing American savings and investment. Our starting point should be our fiscal deficit. Just because President Bush is terrified of Pat Buchanan does not mean we should be too. One out of every $7 spent at the Federal level goes to pay interest on the Nation's debt. One out of every $4 we spend is borrowed money.

This means that 25 percent of every Federal check we write is paid for with new debt. One out of every $4 we spend is an overdraft known as the deficit. Perhaps we should agree to set a good example as elected representatives by agreeing not to accept any Federal money that is borrowed, then the deficit might move higher on our priority list.

If we want to reduce economic insecurity we need to begin now the difficult and exciting process of economic conversion and renewal. Our Federal Government now resembles the dinosaur; it must adapt quickly or we Americans will face serious consequences. Our technology and training strategy is frighteningly inadequate to meet the economic challenges of tomorrow. Our top down health care financing and energy systems are both excessively wasteful; we will need real courage to reform both.

If we want to reduce economic insecurity we must put the appalling status of our children at the top of our list. There is a war going on in our streets and we are losing it badly. Crime takes its greatest toll today on those we can least afford to lose.

If we want to reduce economic insecurity we should take former President

Nixon's advice: We have an opportunity to convert old enemies into new customers. No jobs can be created unless someone has a product or a service to sell. And no sales are possible unless your customers have the money to make the purchase.

Now more than ever before international sales offer the greatest potential for new American jobs and income. Unfortunately, Pat Buchanan has converted our former foreign policy President into a man with a bunker mentality. Now is not the time to go on the defensive; now is the time for an economic assault.

Mr. President, it is not this bill that stinks, but rather the process of taking up a tax bill before we take up issues far more important.

STUDENT LOAN PROVISIONS

Mr. BIDEN. Mr. President, there is a provision of this tax bill that did not receive much attention during the Senate's debate, but is an important first step in improving the Federal Student Loan Program. I am referring to the self-reliance loan proposal—a new program of income-contingent student loans.

In 1987, I introduced legislation to replace the existing Guaranteed Student Loan [GSL] Program, now known as Stafford loans, with an income-contingent loan repayment system. I continue to support such an overhaul. The reason is simple: on graduation day, a diploma is not all that college students receive; over half of the students are also saddled with a huge IOU. Because the current GSL system requires students to repay their loan in 10 years—regardless of income—our young people are burdened with an enormous debt. That burden is imposed before they ever find their first job and is imposed during the lowest earning years of their lives. This not only hurts students from lower middle-class families, but it also unnecessarily pushes our young people to pursue high-paying careers.

While there is certainly nothing wrong with pursuing a career that draws a large paycheck, there are thousands of young people who might choose equally worthy—but lower-paying alternatives—except for their student loan repayment burden. The spirit of service to community and country is not, contrary to popular myth, dead amongst our young people. But it is no secret that teachers, nurses, law enforcement officers, and social workers are not well paid. And, many of those young people who would like to serve society cannot do so because of their need to repay student loans.

Under the income-contingent loan repayment system in this bill, however, the amount of a person's loan repayment would depend on his or her post-graduation income. Therefore, those who chose a low-paying public service job would not be penalized. Their yearly repayment burden would be less than that for a high-income earner who can afford a far higher repayment schedule. Such a system will allow our young people to choose careers based on interest and social value rather than on loan repayment amounts. And, that's as it should be.

So, I welcome, and I strongly support, this proposal.

However, Mr. President, because of my long-time advocacy of an income-contingent student loan system, I have a few concerns about the details of this particular proposal. First, the Self-Reliance Loan Program, in addition to being an income-contingent approach, involves direct loans from the Federal Government. Direct loans, which do not involve the lending institutions that now participate in the GSL Program, are not a required component of an income-contingent approach.

My 1987 legislation would have required the Department of Education to report to Congress on the best mechanism for financing an income-contingent loan system. I am not yet convinced that the direct loan approach is the best way to go. My questions about a direct loan program involve not only the effect it would have on lending institutions, but also the burden it may impose on institutions of higher education. Perhaps this program will answer those questions.

Second, I support a more progressive repayment scheme than is contained in this proposal. Under the Self-Reliance Loan Program, Repayment will still depend, in part, on the amount borrowed. For those with low indebtedness, repayment would be 3, 5, or 7 percent of income. For middle-level borrowers, the repayment rate would be either 5 or 7 percent of income. And for those who borrowed a large amount of money, repayment would be 7 percent of income.

While this does not violate the underlying principle of an income-contingent loan repayment system—where repayment is a percentage of income rather than a fixed sum based on the amount borrowed—it still remains somewhat regressive. I would prefer to see a higher repayment percentage not for those who borrowed more while in school—as the current proposal does—but for those who earn more after school. Like the Tax Code, the higher one's income, the higher the repayment percentage should be.

Finally, while I have supported a complete overhaul of the student loan system, the self-reliance loan proposal included in this bill will be added to the existing student loan programs; it will not replace them. I understand the concerns about the need to test an income-contingent approach on a limited basis, so as not, at this time, to dismantle the entire structure of the existing system. I accept those concerns, and I welcome this as a first step. But, I hope that is not all it will be. I look forward to the day when an income-contingent repayment system is the basis for all Federal student loans.

Mr. President, our country faces serious economic problems. The slow growth and recession of the past few years and the challenges facing the economic future of the United States call for a comprehensive response.

These problems will require a program for economic stimulus that will pull us out of the present slump and put Americans back to work. They will also require a plan to guide us into a new world economy, a plan that will restore Americans' waning faith in the future.

Today, by passing the Tax Fairness and Economic Growth Act, the Senate has taken a first step to address those issues. This bill would restore a degree of equity to a Tax Code that in recent years has placed the greatest burdens on middle and lower income Americans while the top 1 percent has kept almost all the gains from economic growth.

The bill would provide needed tax relief for millions of Americans. Homebuyers, homebuilders, families, farmers, blue-collar workers, small businesses from boat builders to restaurants, all could be helped by the step we have taken.

Just as significant, the Senate has included reforms in health care and educational assistance that are important down payments for the future wellbeing of the Nation.

The Senate made the tough choice to pay for this help, openly and honestly, in a way that does not add to the deficit burden that threatens the long-term health of our economy.

The Senate will pay for this help by asking a small number of Americans, those who by all measures benefitted the most during the past decade, to shoulder their fair share of the burden, to help us through this difficult time and into the future.

This legislation includes each of the points called for by the President in his economic plan, but his proposal not only includes tax and fee increases on average Americans, but would actually increase the Federal deficit. The Senate plan is paid for, and paid for fairly.

No one believes that this plan alone is adequate to the difficult task of economic transformation ahead of us. Nevertheless, it begins the process of formulating the more comprehensive plan that the American public expects and demands from its leaders, both in Congress and in the White House.

Mr. SPECTER. Mr. President, I am voting against this bill because it has developed into a party-line matter. As noted in my previous floor statements, I had urged my colleagues to put partisan politics aside and to negotiate on legislation aimed at providing an economic recovery for America.

Last November, I urged my colleagues to cancel our December and

January recesses to legislate on an economic recovery program. Shortly after the President's State of the Union Address, I urged my colleagues to cancel the February and March recesses to legislate on an economic recovery program.

The Democrats passed this tax bill out of the Finance Committee on party lines. The prevailing strategy has been that the Democrats would pass this bill along party lines, that the President would veto it and then serious negotiations would begin.

As noted in my previous floor statements, I urged that those negotiations begin last November or at least last week without the intervening delays.

There are many parts of this bill which I like. The bill contains the Specter-Domenici amendment to stimulate consumer purchasing power with limited use of individual retirement accounts. This bill contains important provisions to maintain health insurance coverage for retired mineworkers. This bill contains important provisions to stimulate an economic recovery with investment tax credits for homebuilders, recognition of passive losses and other stimuli for the economy.

Last week, a group of homebuilders from Pennsylvania came to visit me to urge passage of the Democrat tax bill even though they preferred the Dole substitute without the tax increase. The homebuilders reasoned that it was preferable to have the tax increases embodied in the Democrat proposal in order to take some action to stimulate the economy.

I regret that the Congress and the administration have not moved ahead in a bipartisan fashion on the important economic problems facing America. In this context of a party-line vote, I am constrained to vote no.

SPECIAL PENSION RULE FOR AIRLINE PILOTS

Mr. PACKWOOD. Mr. President, the committee substitute attempts to undermine current law pension rules requiring employers to offer retirement benefits on a nondiscriminatory basis.

The Tax Code and ERISA contain rules which require employers who provide pension plans to cover at least 70 percent of all employees. This insures that an employer cannot discriminate against rank and file employees.

In determining who must be covered, the Tax Code and ERISA contain a special rule that permits members of a collective-bargaining group to be covered by the negotiated plan without running afoul of the nondiscrimination rules.

Collectively bargained workers pensions should be separately treated because the bargaining is an arms length negotiation of the workers' entire compensation package. In a noncollectively bargained situation, rank and file pensions are set unilaterally by the employer.

The special rule is needed to prohibit employers from limiting collectively bargained benefits.

The framers of ERISA never intended that pension laws should undermine the collective-bargaining process.

The Democratic committee substitute would exempt pension of noncollectively bargained pilots from the discrimination rules. This would permit airline employers to discriminate against other rank-and-file workers.

If we permit this proposal to be enacted, the pension rules protecting rank and file from discrimination will be severely undermined. Other nonunion employers will come to Congress to get a special exemption from the nondiscrimination rules certain categories of their employees. These employers will then be able to discriminate in favor of their highly paid employees and provide minimal benefits to rank and file.

I would like to ask unanimous consent to insert in the RECORD a letter from the chairmen of the relevant House committees of jurisdiction over this matter to the Speaker of the House, TOM FOLEY. The letter questions how the House Democratic tax package could include such a blatant antiunion measure when the Democratic party has historically opposed efforts to destroy collective bargaining.

I also understand that another letter is circulating from 30 to 40 Democratic Members of the House stating that they will not vote for any conference agreement on the tax bill that contains this provision.

I don't believe this special exemption is good tax policy, good pension policy, or good labor policy. When this bill is vetoed by the President, and if we take up tax proposals later this year, I hope my friends on both sides of the aisle who share my strong belief in the collective-bargaining process will join me in opposing any future attempts to pass this provision.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

HOUSE OF REPRESENTATIVES,
Washington, DC, February 24, 1992.

Hon. TOM FOLEY,
Speaker,
House of Representatives.

DEAR MR. SPEAKER: We are urging you to take whatever action is necessary to delete Section 4228 of H.R. 4287.

This provision, which amends a long standing tenet of law governing airline pilot pensions plans, undermines the collective bargaining process and should not be included in any legislative package that is labeled as a Democratic alternative. We don't believe that Democrats would ever support legislation that is being advanced at the request of one company, Federal Express, in order to dissuade its pilots from organizing for purposes of collective bargaining.

Under current law, airline pilot pension plans are exempt from the nondiscrimination rules of ERISA if and only if those benefits come as a result of bona fide collective bargaining. Section 4228 would alter this 17 year old provision by removing the requirement that the benefits flow from the collective bargaining process.

The proponents of this suggested change would argue that this is a question of fairness. However, Federal Express, which is the only airline seeking this change, used this issue in its campaign to defeat the recent organizing efforts of their pilots. Throughout the campaign, the pilots were told repeatedly by management to reject the union, the Air Line Pilots Association, because Congress, at the company's request, would change the law, thus eliminating the need for better pension benefits. We do not believe that the Congress, particularly House Democrats, should be used in this manner.

It is sad to note that this blatant antiunion measure is not included in any of the proposals put forward by the Administration and our Republican colleagues, but rather is part of the alternative put forward by our party which historically has strongly opposed efforts to destroy collective bargaining.

We hope you share our concern and will see to it that this provision is removed before we are asked to vote for it.

Sincerely,
Pete Stark, Pat Williams, C.B. Rangel, William L. Clay, Norman Y. Mineta, Brian Donnelly, Jim Moody, Robert A. Roe, Jim Oberstar, William D. Ford.

Mr. KENNEDY. Mr. President, I want to strongly associate myself with the remarks of my friend from Oregon, the distinguished ranking member of the Finance Committee.

The section of this bill at issue here amends a 17-year-old provision in the minimum coverage rules governing private pensions. That provision contains an exemption for plans covering airline pilots that are negotiated through bona fide collective bargaining. The fact that this exemption currently covers only collectively bargained plans reflects important public policy considerations that were carefully considered during the legislative process leading to the passage of ERISA.

To prevent companies from setting up pension plans that favor the owners and managers over other employees, the minimum coverage rules require that a plan must cover either a prescribed percentage of employees or a class of employees that does not discriminate in favor of officers, stockholders, or highly compensated employees, who are presumed to be the persons who have control over fixing the terms of the plan.

The exemption for collectively bargained plans covering airline pilots reflects Congress' recognition that although unionized airline pilots may technically fall within the definition of "highly compensated employees," they are not part of the management group and should be free, like any other group of employees, to use the collective bargaining process to negotiate the terms of their own retirement plans. Through the collective bargaining process, their interests are protected against discriminatory actions by employers and there is no need for the minimum coverage rules to apply.

Now suddenly, without benefit of hearings, debate, or the slightest consideration of the legislative history of the pilot exemption or the policy considerations that led to its creation, there suddenly appears, in this tax bill, a provision to extend the exemption to cover noncollectively bargained plans.

This provision has nothing to do with equity for taxpayers, or promoting economic growth, or any of the other goals we are supposed to be promoting in this bill.

This provision is here because pension benefits for certain airline pilots have become an issue in a union organizing campaign, and the employer believes that if Congress changes the pension laws, it will be easier for the employer to convince its employees not to vote for the union.

It is entirely inappropriate for Congress to be siding with an employer in an organizing campaign in which employees are exercising their statutory right to determine whether to be represented by a union. I want to assure my colleague from Oregon that I will work with him to ensure that this illconceived effort to use Congress as a pawn in the employer's campaign against the union is not enacted into law.

INCOME DEPENDENT EDUCATIONAL ASSISTANCE

Mrs. KASSEBAUM. Mr. President, I will vote in opposition to H.R. 4210 because I do not believe it will address the economic problems we now face—and, in fact, may do just the reverse. Moreover, I question whether it is possible to craft a sound tax package in the midst of the highly charged presidential campaign season.

Among the many concerns I have about this legislation is its establishment of a new income dependent education assistance loan program. Just last month the Senate approved legislation reauthorizing the Higher Education Act. That legislation was the product of well over a year of work on the part of the Labor and Human Resources Committee, and it was adopted by the full Senate with only one dissenting vote.

I believe the overwhelming support for this legislation was warranted, as it made significant steps toward strengthening program integrity, simplifying the process, and expanding aid to students. In particular, it increases the availability of loan assistance to students by increasing guaranteed student loan limits and by making supplemental loans for students [SLS] available to credit-worthy dependent students. These expansions were made within the framework of existing programs—rather than creating an entirely new program.

The new loan program proposed by this tax bill incorporates the concepts of direct lending, income-dependent repayment, and IRS loan collection. Although these general ideas have been around for some time, we have never gone beyond the surface appeal of these notions. The substantial philosophical, budgetary, and pragmatic problems with them have been either glossed over or lightly dismissed as being the self-serving cries of vested interests. The debate over a proposal with profound implications in areas including student indebtedness, college costs, Federal debt and obligations, and the integrity of student aid programs deserves far better than this.

The proposal included in this legislation simply has not received the type of scrutiny which is needed to offer confidence that it could be properly implemented. Any idea requires careful thought and planning to be put into successful practice.

It seems to me that we need the answers to several fundamental questions before proceeding in this direction. We need to give far more thought to the feasibility and desirability of institutions of higher education taking on a program which has them originating loans, submitting monthly lists of borrowers, reporting changes in enrollment status, transferring promissory notes, and counseling borrowers on complicated income-tax-based repayment options.

We also need to take a very close look at the capacity of the Department of Education to undertake supervision of an entirely new loan program, while administering all other existing aid programs. The Department is undertaking a long-needed revamping of its management of student aid programs. It is ironic to consider that, at the point when some of the improvements are starting to show results, we would be initiating a whole new set of potential problems. This proposal calls for the Department to conduct extensive tracking of self-reliance loan borrowers, to calculate their loan obligations, to establish a process for resolving disputes regarding those obligations, to devise repayment options, and to report all of this information to the Internal Revenue Service.

Many issues resolve around Internal Revenue Service involvement. It is my understanding that it would take a minimum of 5 years for the agency to be in a position to assume student loan collection responsibilities. At the same time we are making every effort to simplify student aid forms, we would be creating a nightmare for any borrower trying to submit a W-4 form or decipher a 1040.

Moreover, at a time when we worry about the accumulation of consumer debt, we are making it as attractive as possible for students to borrow even more. The notion of paying up to 7 percent of one's adjusted gross income for up to 25 years after graduation is an abstract notion at best to an 18-year-old entering college. This proposal makes no recognition at all that families able to do so should contribute to the education of their children. It makes it easier as well for colleges to raise their costs.

In short, I do not believe we are anywhere near being in a position to start up a new loan program of this nature. The questions I have raised are serious ones, and they must be adequately addressed before, not after, any new program is created.

Mr. MURKOWSKI. Mr. President, I rise today with a profound sense of regret. Mr. President, we should be speaking today about the best way to get this country moving again and to get the American people back to work. Instead, as everyone in this Chamber knows, and as everyone in the country knows, we are engaging in an empty debate. A debate over a bill that will go nowhere. Yes, there are good features in this bill but there are also features designed to serve as nothing more than partisan wedges; designed to pit constituency against constituency, American against American. Mr. President I do not know if that sort of partisan bickering is something that any Senator believes is helpful to our country but I can say this Senator, like the Alaskans I have heard from, expected more.

More, Mr. President, that would address the fact that last year, when thirty cents of the average American's dollar went to Federal taxes, the Government was still in the red by $348 billion. More, Mr. President, when the average American saves 6.7 percent of income while the average Englishman saves 9.8 percent, the average German saves 12.8 percent, and the average Japanese saves 18.4 percent. More, Mr. President, when the national debt of our country now exceeds $4 trillion. And what are we debating on the floor of the U.S. Senate? A bill that every Member of this body knows is going nowhere.

Mr. President, that is not to say there are not useful provisions in this bill. In fact, there is a great deal in this bill that could help get this country moving again. I strongly support the provisions dealing with Individual Retirement Accounts. The restoration of the fully deductible IRA is crucial to encourage Americans to save more of their earnings. Individual Americans already do far better than their Government in balancing their budgets but they do so in spite of a tax system that does far too much to discourage saving and investment. The IRA restoration is an important step back to a system which encourages long-term savings.

MIDDLE-CLASS TAX RELIEF

This bill also provides some badly needed tax relief for the middle class. Thirty cents of every dollar for Federal taxes is simple to much. I would hope all of my colleagues would agree that the fiscal problems of our Nation are not the result of the middle class paying too little in taxes. Middle class taxpayers have borne the brunt of the tax and spend policies that have become so popular inside the Beltway. What the tax and spend crowd must come to understand is that the middle class is the goose that laid the golden egg. The middle class is the engine that drives this Nation's economy and excessive taxation and regulation will stall this engine.

That said, Mr. President, I would prefer a bill that would follow the President's recommendation and increase the personal exemption by $500 for all rather than this bill which only provides a $300 tax credit for some. Estimates show that the $300 tax credit does not provide benefits to over 40 percent of American families with children under 19 years old. In future tax legislation I hope my colleagues will alter the middle class tax cut provisions to utilize the increase in personal exemption approach outlined in the President's plan.

HOME TAX CREDIT

Mr. President, this bill's provision of a tax credit for first-time home purchasers is also important. The real estate market in this country has been in the doldrums for far too long now, and this provision will not only stimulate the economy but it will give a badly needed break to those young, and maybe not so young, Americans trying to buy their first home. For most Americans, buying a first home is the fulfillment of the American dream. We need a tax policy that fosters these dreams.

Once again, Mr. President, I would rather see the President's proposal than this one because the President does not limit the credit to those who are buying new homes. Estimates show that less that 20 percent of first time home buyers will be able to take advantage of the credit as currently drafted. In my view, all sectors of the real estate market need help and, more importantly, all Americans buying their first home need help, not just those buying newly constructed homes. But, again, I could support this provision because it is a step in the right direction.

TAX INCREASED

Mr. President, while I support these important provisions I cannot support passage of this bill because this bill needlessly raises taxes. The bill's supporters say that it only raises taxes on the rich, and I agree that everyone in this country should pay their fair share. But let's look a little more closely at the Democratic plan. Mr. President, the Democratic plan raises taxes by $100 billion. Two-thirds of those who will bear the brunt of these tax increases are small business men and women. Some 95 percent of the private sector jobs in my State of Alaska are created by small businesses. Those people are having it tough enough as it is; I will not be a part of making it tougher.

Mr. President, we have been on this tax train before. First, raise the taxes on the so-called wealthy and then I can assure you that the tax raisers will be back. The Democrats in the House define "wealthy" as those that earn $85,000. And the tax-and-spend crowd have never been satisfied with one tax raise, they always come back for another and another. They will tax the top and the middle and the bottom and they will think of new ways to tax that boggle the imagination and stagger the spirit. I will not let this train of taxation leave the station. I will vote no on this bill and any other bill that raises taxes.

CAPITAL GAINS

And then there is capital gains. The opponents of capital gains tax relief like to call it a tax break for the rich. Mr. President, investment levels in this country are lower than they are in Canada, or France, or Germany, or Japan. And, Mr. President, capital gains tax rates in all of those countries are lower than ours. This is not rocket science, Mr. President. High capital gains tax rates bog down investment and cost this country jobs. The bill we are debating today, while it offers capital gains relief in name, is just too weak to support. To those in this Chamber who support this halfway bill, I say ask your constituents if they want halfway growth. Halfway jobs. We need real capital gains tax relief that will encourage long-term investment and stimulate the economy.

BUDGET IMPACT

Finally, Mr. President, this bill increases the budget deficit. Even with the tomfoolery that we all know goes on with revenue estimates, this bill still shows an increase in the budget deficit for fiscal year 1992 and 1993 and after that who knows. And if that happens, if the budget deficit is increased, OMB projects that a $4 billion pay-as-you-go sequester would be mandated. If a sequester is required, the Government will have to make across-the-board cuts in programs ranging from veterans' homes to unemployment benefits to Medicare. So what will we be left with? We will be left with a bill that has the dubious distinction of raising taxes, breaking the budget, and stealing from crucial domestic programs.

CONCLUSION

Mr. President, as we all know, this bill is going nowhere. This bill was drafted to be vetoed by the President and the President will correctly do so. This halfway bill simply does not deserve to become law. There are several amendments that this Senator is interested in offering but I will withhold these amendments until this body is serious about passing a tax bill. We will all have the opportunity to revisit these issues after the veto and I sincerely hope that at that time this body will come together in the spirit of compromise and pass meaningful tax legislation. I believe that we can do it, Mr. President, and I look forward to putting this bill behind us and moving forward to a real growth package.

OPPOSE ROCKEFELLER COAL TAX AMENDMENT

Mr. McCONNELL. Mr. President, I rise in opposition to a provision in the Democratic tax package that would impose a new tax on coal production. This provision—politically contrived and outrageously unfair to Kentucky coal—is simply unacceptable.

The question before us, Mr. President, is not who among us is most concerned with the health care needs of UMW retirees. Every Member of this body is concerned and wants the issue settled. The question, Mr. President, is whether or not the solution proposed by the Senator from West Virginia is the right solution.

The problem is fairly simple: for a variety of reasons, the health benefits fund for retired union coal miners may be running out of money.

The solution originally proposed would have recapitalized the health fund with a tax on all coal production in the United States—union and nonunion. This approach was justified by the claim that the ailing UMW health fund is an industrywide problem, and therefore needs an industrywide solution.

Whether you agree with that proposition or not, the proposal before us today is clearly not an industrywide solution.

This proposal, a deal cut in the Finance Committee, exempts from taxation most coal produced west of the Mississippi. No coal mined in Texas would be taxed. No coal produced in Montana would be taxed. Lignite and subituminous coal are not taxed. What happened to the industrywide solution to an industrywide problem? It appears to this Senator that what was really needed was a political solution to a political problem facing Democrats on the Finance Committee.

Beyond discriminating between eastern and western coal, the fundamentals of this provision troubled me.

In Kentucky, only about 20 percent of the coal is produced by union companies, and only about 15 percent of Kentucky miners are union. Eighty-five percent of my miners never had had, and probably never will have, any association with the UMW or its health fund. And yet the Senator from West Virginia wants to take 99 cents directly from the pockets of those miners, every single hour they work, to bail out that health fund.

This approach would cost MAPCO coal, which employs a thousand nonunion workers in my State, over two million dollars per year. It would cost Pike County Coal and Wolf Creek Coal, who between them employ 1,000 nonunion Kentuckians, over $2.5 million per year. The list of examples of how miners and coal companies in my State, that would be hurt by this provision goes on and on.

This provision is loaded with other problems: It is GATT illegal and could provoke retaliation by our trading partners. It raises the cost of electricity to middle-class families, and it sets a questionable precedent for future labor-management negotiations.

Mr. President, I firmly believe a solution to this problem is needed. UMW miners have been promised lifetime health benefits by their BCOA employers, and now it appears that promise may not be kept. The 15,000 UMW retirees in Kentucky have a right to be upset.

A large chunk of the problem may already have been taken care of. A recent court decision by Judge Thomas Hogan, U.S. District Court for the District of Columbia, will require every company which has signed a National Bituminous Coal Wage Agreement since 1978, to pay for retiree health care benefits. That's a major step toward a solution.

However, the solution proposed by the Senator from West Virginia is born of political necessity and is unacceptable. There are many reasons why President Bush should veto this entire Democratic tax package, but, in the opinion of this Senator, the Rockefeller provision alone is grounds for a veto.

When the President issued his tough March 20 deadline, in his State of the Union Address back in January, I must admit I was a bit apprehensive.

I thought, surely the other side is going to come back with a deal the President cannot refuse, laced with some poison he cannot swallow.

I thought the other side's plan would be so fiendishly clever that we would have no choice but to capitulate on their terms.

But I must admit, I never guessed that the other side would respond with humor. Talk about a sneak attack—no one could have predicted that the other side would come up with a funny bill.

How else can you describe a bill that raises taxes by $65 billion over the next 5 years?

How else can you describe a bill that busts open the Federal deficit?

What other response can there be to a bill that would almost certainly trigger a massive sequester and a $3 billion cut in Medicare?

This bill is not veto bait, it's "Tonight Show" material.

I keep waiting for the other side to break out in laughter and say, hey—we were just kidding. Here's the real economic growth package.

Maybe they're waiting for April 1 to do that.

In the meantime, this is the so-called economic growth package we have to deal with. So let us take a good look at this bill, Mr. President.

The only kind of person who could seriously call this a growth package is someone who lisps.

This is a gross package, Mr. President. It is a gross misrepresentation being made to the American public that this bill has anything to do with growth.

We need jobs, Mr. President. So what does this bill do? It raises taxes. Why is it, that whenever there's a problem, the answer from the other side is always to raise taxes?

Worst of all, this bill raises taxes specifically on those who are most likely to create new jobs: owners and operators of small businesses. Nearly two-thirds of those who will bear the brunt of this gigantic tax increase are small business people—the creators of new jobs and the backbone of our economy.

If this bill passes, it will tax away the earnings of successful, competitive small enterprises—earnings that could instead be plowed back into new products, new jobs, and new technologies.

Now, I do not want to give the impression that this bill is antigrowth in every respect. There is one area in which the other side's package is strongly progrowth. That area is the Federal deficit.

The other side claims that this package is paid for by a revenue surplus scored by CBO. In other words, the check is in the mail. The truth is that this so-called surplus has already been used up by the two recent unemployment bills.

As a result, this bill will massively increase the Federal deficit, triggering an end-of-season sequester in the billions of dollars.

What will that mean? It will mean devastating cuts in Medicare, unemployment compensation, crop payment to farmers, and social services block grants to States.

When you read through this bill, it sounds more and more like one of those "Top Ten Lists" from David Letterman: "Top Ten Terrible Things That Congress Could Do to the Economy." Or "Top Ten Reasons Why We Should Have Shorter Legislative Sessions."

Is there anything in this bill worth supporting? Of course there is. But these few decent morsels remind me of mushrooms—you can appreciate them only as long as you try to forget where they came from.

Take the $300 tax credit for working families. This amounts to under a dollar a day in tax relief. The President's assignment to Congress was to pass a progrowth tax package and what the other side ends up doing is passing the buck, literally.

They pass the buck, one buck a day, to America's working families.

Then, after giving with one hand, this bill takes away with the other. For example, it repeals the toddler tax credit for low-income working families that we passed as part of the child care bill.

This bill imposes a surtax on coal, in order to bail out a UMW health care plan. That may be an honorable goal, but the way it is constructed will eventually put thousands of Kentucky miners out of work—no job, no health care, nothing.

This bill also slaps a tax increase on imported minivans, which will almost certainly drive up prices on both imported and domestic minivans.

Minivans happen to be the vehicle of choice for young working families, the modern version of the station wagon.

So, Middle America, you'd better save that buck a day because this bill is going to take it out of your hides in a lot of other ingenious ways.

What should we do with this bill? We had better not ask the American taxpayer that question.

I recommend that we send this bill to Jay Leno; let him use it as a source of comedy material; and then we ought to get serious about improving the economic situation in this country.

First of all, we need a meaningful capital gains tax reduction—not an accountant's boondoggle.

Second, we need a first-time home buyer's tax credit that both stimulates new construction and brings up the value of existing property.

We need tax incentives to promote investment and growth—not tax increases that will only stifle economic growth.

Mr. LEVIN. Mr. President, I am voting for this tax legislation today, not because it is a finished masterpiece, but because it is a needed work-in-progress. I am still hopeful that either the bill which emerges from conference or the bill which may emerge after the Presidential veto will take a significant amount of the revenue raised from taxing the wealthiest seven-tenths of 1 percent of the taxpayers and direct it toward deficit reduction.

I believe that reducing the Federal budget deficit is more important to the children of our country than the relatively modest benefit that will be available to them through the $300 child tax credit contained in this bill. To quote from the Congressional Budget Office:

> The deficit is likely to exceed $200 billion for the foreseeable future and move higher toward the end of the 1990's. Deficits of those magnitudes cripple economic growth by reducing national saving and capital formation.

That is why I offered an amendment during the debate to strike the $300 per child tax credit and to use 75 percent of the money freed up for reducing the budget deficit and 25 percent for more investment in job training and transportation infrastructure. While the passage of the Levin-Graham amendment would not have transformed this bill into a masterpiece, nevertheless, would have made it a better bill than the one we are voting on today.

This bill starts off from a good foundation. The increase in the top marginal income tax rate from 31 to 36 percent and the surcharge for incomes over $1 million are essential steps in improving the fairness of the Tax Code. These provisions recognize that during the 1980's the top 1 percent of the taxpayers saw their after-tax incomes almost double, from $213,000 to $399,000. These taxpayers saw their share of the national income increase twice as much as the share of their tax burden.

This legislation also expands the eligibility for individual retirement accounts, reversing the mistake of the 1986 Tax Reform Act. At the same time, it allows greater flexibility for the removal of funds from IRA's for first-time home purchases, educational expenses, automobiles, and the unemployed. It also includes a tax credit for the first time purchase of newly constructed houses, although I would prefer the tax credit apply to both existing and new housing.

The extension of the research and development tax credit, the targeted jobs tax credit, the increased depreciation deductions for new investment in equipment, and the incentives for new investment in startup companies are growth oriented and good provisions. In addition, this legislation includes a number of interim reforms of our health care system that will improve access and affordability while we are working on developing a consensus for a more comprehensive solution.

We could have had these positive elements of the bill and others and also had almost $22 billion in deficit reduction if this bill did not include the tax credit, which will assist only 25 percent of middle-income families. I think we should help all middle-income families, and the best way to do that is to build the foundation for a healthy and expanding economy. It is not with the knowledge of what this bill is, but with the hope of what it could become that I will vote for final passage.

INCENTIVES FOR ECONOMIC GROWTH AND TAX RELIEF FOR FAMILIES

Mr. GLENN. Mr. President, I rise in support of the bill reported by the Senate Finance Committee. Although some had difficulty in recognizing this recession, everyone is now more than aware of the economic slump. The Bureau of Labor Statistics reports the nations unemployment rate is now 7.3 percent, a 6-year high. Other economic indicators show a decline in after tax per capita income for only the second time since World War II. Housing starts—the lowest since 1945, factory orders down 4.6 percent—the worst decline since 1982, 88,000 business failures. By the time of the State of Union Message, the President was ready to propose an economic recovery program. The Senate Finance Committee has included modified versions of all seven of the President's key proposals.

Although some people have criticized this plan Mr. President, this bill is important in Ohio. People in my State believe that they have been paying more and getting less. They are having trouble making ends meet. For median income families of four this bill provides $600, a 25 percent reduction in their Federal income tax. Perhaps this is not much money in Washington, DC, but in Washington Court House, OH, or Youngstown or Toledo it makes a difference. For families who are making ends meet, it makes a big difference.

This plan is constrained by our budget deficit. I have no doubt that without a $3 trillion national debt and a $400 billion deficit, we would be here today with a much more ambitious relief proposal. But this bill will not increase the deficit. By increasing rates on taxable income over $150,000, by placing a 10 percent surtax on taxable incomes over $1 million, and by limiting the corporate deduction for salaries over $1 million, this legislation will not increase our budget deficit.

This bill includes an important provision that I am pleased to have cosponsored, the reestablishment of the deduction for contributions to individual retirement accounts [IRA's]. I believe this is a valuable incentive to save and to provide for one's own retirement. Furthermore, this provision would provide penalty-free withdrawals for serious medical expenses, educational expenses, and for first-time home buyers.

In addition to IRA use by first-time homebuyers, this bill assists the real estate industry which often leads our economy out of recession. The bill provides a $5,000 tax credit for first-time homebuyers, allows passive losses relief for real estate developers, allows pension funds to invest in real estate, extends the low-income housing tax credit and extends the mortgage revenue bonds and certificate programs. I believe these incentives will help many families with the American dream of home ownership.

The bill provides for long-term investment by assisting students in their education. Provisions include the deductibility of interest on students loans, extension of the tax exclusion for employer-provided education, and modifications to the educational savings bond program.

Certainly, middle-class American families will feel the immediate benefit of this legislation. But American businesses will also receive tax incentives. Several incentives were proposed by the President including a capital gains provision. This bill repeals the luxury tax on boats, airplanes, jewelry, and furs. The bill creates a new income tax credit for employers for FICA taxes paid on employee tip income. The important research and experimentation tax credit is extended.

Although this legislation provides many incentives for economic growth, I believe that several disincentives remain in the Tax Code that may disadvantage American industry. It is my understanding that the Treasury Department has reported that the economic life of business-use passenger cars is 3.5 to 3.8 years, yet automobiles are classified in the 5-year depreciation category as opposed to the 3-year category. Furthermore, an owner of a business-use automobile is limited to $12,660 in depreciation over 5-years. No other business assets are subject to a depreciation cap. Domestic manufacturers produce 95 percent of business-use vehicles. Eliminating these disincentives would have a beneficial impact on the domestic auto industry and I would hope could receive attention as this bill is further considered.

Mr. President, this bill provides tax relief for middle-class families, stimulates economic growth for jobs, improves tax equity and fairness, and extends educational opportunities. I support the passage of this legislation.

Mr. KENNEDY. Mr. President, with the passage of this bill, we take an important step forward in correcting the tax inequities of the Reagan-Bush years. This legislation will provide tax relief for middle-income families; assistance to first-time home buyers; and expand the earned income tax credit for low-income families with children. In addition, the legislation extends important incentives for low-income housing construction, for employers to provide educational benefits to their workers, and for alternative energy.

The legislation accomplishes these goals in a fair and responsible way—by raising taxes on the wealthy, who benefitted so disproportionately from the Reagan-Bush tax cut bonanzas. The President says he will veto the legislation because of these tax increases. More than anything, that should tell the American people who is on their side.

This legislation does raise taxes—on less than 1 percent of the wealthiest American families—and it places a surtax on millionaires. This is a first step toward reducing the economic injustices of recent years. From 1977 to 1989, the top 1 percent of Americans received 77 percent of the income growth; 40 percent of American taxpayers actually lost income during those years.

President Bush wants to protect this tiny sliver of the wealthiest Americans and millionaires, while canceling any tax relief for the middle-class and working Americans. The President says that we should avoid class warfare. Well, as the income numbers show all too graphically, we had class warfare during the 1980's. And the wealthy won. Under Generals Reagan and Bush, the middle class and working Americans have been subjected to class war, and they were the losers.

This legislation is a downpayment on redressing that situation. More must be done. We must invest the peace dividend in America's critical needs in education, health care, job creation, and worker training. We must get this economy moving, and make the long-term investments needed so that all families can share the American dream.

Many of us would have liked to include greater economic stimulus and more long-term investments as part of this legislation. But that was not possible given the extraordinary public relations assault that the President is advancing against this bill.

As a result, additional legislation is needed to meet our other critical economic and social needs. We have met the President's challenge; if he vetoes this bill in order to protect his millionaire friends, so be it. The American people will know who is responsible.

This legislation does take some important steps in addition to tax fairness. It makes improvements in our inadequate health care system. It contains provisions to help students and working families finance their college educations. And it begins to bring some order to occupational and training standards, so American workers can be trained to world-class standards.

In particular, I commend Senator BENTSEN for including health care reforms in this legislation. The most important of these measures will reform the market for health insurance sold to small businesses and limit the pernicious practice of excluding preexisting health conditions from the scope of insurance coverage.

These reforms are long overdue. It has been clear for many years that the private insurance market is becoming a disaster area for small businesses and their employees.

Conditions have worsened rather than improved in recent years. Americans are increasingly concerned that if they change jobs—and even if they move to a business that covers its employees—unfair exclusions can leave them unprotected against the devastating cost of serious illness.

The health provisions of the tax bill will correct some of the worst of these abuses. Each state will have to assure that coverage is available for every small business to insure its workers. The ability to raise prices at renewal time for businesses with workers who have developed costly illnesses will be limited, and the ability to set prices based on the health condition of employees will also be limited. Most important, employed Americans will no longer be subjected to preexisting condition exclusions.

But while these proposals are an important first step toward a solution to the health care crisis, as Senator BENTSEN has recognized, they are no substitute for the comprehensive reform that is needed to meet two fundamental tests. It must guarantee adequate, affordable health insurance coverage for every American and it must impose strict controls on rising health costs. The American people deserve action on a comprehensive program and I look forward to working with Senator BENTSEN and Majority Leader MITCHELL and many other Senators to ensure that the Senate takes action this year on the kind of bold program needed to deal responsibly with the health care crisis.

The legislation also expands educational opportunity. We all know that education is the Nation's best hope for long-term social and economic progress. This bill, coupled with the Higher Education Act that has already passed the Senate, makes a major contribution to greater educational opportunity.

The legislation establishes a demonstration loan program, the Income Dependent Education Assistance Program, which will involve schools in direct administration of a supplemental student loan program. Borrowers will get a favorable interest rate, and loans will be repaid after graduation through the Internal Revenue Service.

If the demonstration program succeeds, I am confident that Congress will seek to expand it. A successful direct loan program could be of great value to students and families in financing higher education.

There are several other important education provisions in this bill. First, the legislation reestablishes the tax deductibility of interest on student loans, which will be a great help to young men and women struggling with the costs of educational borrowing. Second, the bill allows penalty-free withdrawals from IRA's to help finance education. Finally, the bill expands the eligibility for the Education Savings Bond Program, which invests in savings bonds for children's college education.

Finally, the legislation contains an important first step in advancing the goal of creating a more effective job system in the United States. There is a pilot training program for high school students to expose them to career options. And tied to that program is the development of world-class, nationally-recognized occupational standards.

Developing these standards is one of the principal recommendations of "America's Choice: High Skills or Low Wages," a bipartisan report from the commission co-chaired by former Labor Secretaries Ray Marshal and Bill Brock. Along with Senator HATFIELD, I have introduced S. 1790—the High Skills, Competitive Workforce Act—to implement the sweeping recommendations of this report. In the coming months, we will be pressing forward with this comprehensive legislation, which includes school-to-work transition programs, encouragement for businesses to provide training for their front-line workers, and incentives for State and local governments to revise their employment and training systems.

This current tax legislation represents an important step forward in reaching all of these important goals—tax fairness, health care, education, and job training. If the President carries out his threatened veto, he will once again tell Americans that he stands with the millionaires and the wealthiest 1 percent of families, and against the best interests of all other citizens. The American people will judge accordingly.

ECONOMIC RECOVERY

Mr. LAUTENBERG. Mr. President, I have decided to vote in favor of this legislation. I do not think it is going to work miracles. And, it seems very likely that the President will veto it. However, I don't believe it is necessarily an exercise in futility. It includes provisions with real promise to make a difference to the economy and to average Americans trying to make their way through this difficult time.

Mr. President, the national economy is in the dumps. The American people want action. I am tired of living with Government by veto threat. We represent the people. It is our responsibility to move forward and then the President will have to decide whether to veto this bill, or work with us to enact a bill to help the American people.

We have serious economic problems, Mr. President. We need to get on with it. It is going to take action on many fronts, over a period of time, both inside and outside of government, to revive our economic health and restore our economic leadership in the world.

The American people are hurting. They want economic recovery. Our job is to do our best to put in place the programs that can help us reach our goals.

The Congress and the President need to take action on many fronts to get America's economy repaired.

We need to provide a shot in the arm to this sick economy. We need to create incentives for long-term growth. We need to bring fairness back to our tax system. We need to get tougher on trade issues, insisting on reciprocal access to foreign markets and protection of our inventions from piracy abroad. We need to get health care costs under control, and provide access to affordable health care to our people and businesses. And, we must begin to reduce the deficit that is mortgaging our children's future.

The President set a deadline of March 20 for enactment of the package before us. We will come close to meeting that deadline, if we do not hit it on the head. But, what is the President saying? He is sitting in the White House, continuing to govern by veto threat. He tells the Congress: "I'll veto your tax bill if I don't get exactly what I want." Mr. President, we need cooperation between the Congress and the President, not confrontation.

The tax legislation we are considering today is not perfect, but it is a step forward in reaching our goals.

It provides meaningful tax cuts to millions of working American families.

It builds in incentives for research, development, investment and risk-taking.

It will help Americans buy and own their own homes.

It will encourage long-term savings for retirement, education, and unexpected health care costs.

It will improve America's ability to pay for health care.

It will also begin to restore fairness to our Tax Code.

These are proposals that will, on balance, help New Jersey and the Nation.

The $5,000 credit for first-time home purchases will help Americans struggling to buy their first home, and stimulate the sluggish housing market as well. While the credit would have a much more significant effect if it applied to existing homes, this at least is a positive step in the right direction.

The provisions that restore the deductibility of contributions to individual retirement accounts [IRA's] for all taxpayers also deserve mention. I am a cosponsor of the legislation on which these provisions were based, S. 612, and testified on behalf of the bill before the Finance Committee last year. The savings rate in this country is too low. If we can increase that rate, we will have substantially strengthened our economy in the long run. We will also be helping people prepare for a secure retirement.

The bill also contains several provisions to help Americans invest in their Nation's future by making it easier to get a higher education and to obtain health insurance. The bill provides a deduction or credit for the interest paid on student loans, helping to ease the burden of financing higher education.

It also contains a demonstration program to give loans to students regardless of family income. Under the new program, the Federal Government would provide the money for the loans directly to a school to help pay for a student's tuition. Any student could borrow up to $5,000 a year as an undergraduate and $15,000 a year as a graduate student. This provision, crafted by my distinguished colleague from New Jersey, Senator BRADLEY, could open the doors of higher education to Americans at all income levels and all ages.

I also support the health care provisions in this bill which would reshape, through Federal regulation, the private insurance market for small businesses so they can better afford to provide insurance to their employees.

H.R. 4210 would limit the cost of health insurance policies for businesses with 50 employees or less and prohibit insurers from denying coverage to employees or their dependents because of claims histories or preexisting conditions. H.R. 4210 would also allow self-employed individuals to deduct 100 percent of the costs of their health insurance from their income instead of the current 25 percent.

While I strongly support more comprehensive reform of our Nation's health care system, I think these provisions are a good first step in that direction.

In addition, the bill provides for the extension of several important expiring tax provisions. These include the low-income housing tax credit, which is being used very effectively by community-based groups around the country to provide affordable housing, the mortgage revenue bond program, which provides valuable assistance to first-time home buyers, and the research and development tax credit, which promotes the long-term investment so badly needed throughout our economy.

Finally, this bill begins to restore fairness to our tax system. Since 1977, taxes on the richest 1 percent of Americans have gone down by 18 percent, while taxes for the middle fifth of American families have increased.

While their tax burden has been going up, the middle class' after-tax income has been stagnant or declined. After-tax family incomes for middle-income families dropped by 8 percent since 1977, whereas the top 1 percent, with average incomes of over $675,000, have seen their after-tax incomes increase by 136 percent.

Under current law, a family with an income of $500,000 pays taxes at the same rate as one that makes $90,000. That just isn't fair.

Under this bill, Mr. President, families with gross incomes in excess of $200,000 will pay at a higher rate and those with incomes in excess of $1,000,000 will pay even more.

In return, middle class families will get a tax break that can make a real difference for families struggling to pay their bills and keep their heads above water.

Mr. President, while not a perfect piece of legislation, this is a good bill. But it is only the beginning. The next step is to revise the 1990 budget agreement which is now outdated.

I opposed the budget agreement in 1990 in part because I felt it would lead to excessive and wasteful defense spending. This legislation locked us into levels of spending for defense programs, for 3 years, at very high levels. I was in the minority in my opposition at the time. But by now it is clear that the agreement is obsolete. By blocking funding shifts between defense and domestic programs, the agreement is freezing into place the misplaced priorities of an earlier era.

The world was a very different place in 1990. While dramatic change was already well underway in the Soviet Union, many in the United States still feared that country, and still thought in cold war terms. Today, of course, the Soviet Union doesn't even exist. The cold war is in our past.

Yet, Mr. President, while the world around us has changed so dramatically, our budget priorities remain in a time warp. We are still spending close to $300 billion a year on defense. We still spend billions defending our European allies from a threat that most believe no longer exists. And we still are committed to a range of weapons programs that serve no useful purpose.

Meanwhile, our needs here at home are greater than ever. Our economy is in the longest recession since the Great Depression. Unemployment is over 7 percent. And ordinary, middle class Americans are finding it increasingly hard to pay their bills, send their kids to college, and make ends meet.

Mr. President, a primary reason why our economy is having trouble is that, for years, we have underinvested in our future. While our competitors have invested substantial sums in their infrastructure, and the education and training of their people, we have not. And we will be paying the price of that neglect for decades to come.

We need to focus on America's needs and America's future. That's going to require us to fundamentally reshape our priorities. More specifically, it is going to require us to spend considerably less on the defense of our allies and on outdated weapons systems, and considerably more on initiatives, like education and infrastructure, that will yield long-term dividends.

We must invest more in infrastructure because there are few things more critical to a sound economy, to job creation, to a solid and growing middle class, and to our economic standing in the world, than investment in infrastructure and transportation. Investing in infrastructure goes beyond just building new roads and highways. It means higher output, higher productivity, and greater economic growth throughout the country. It means building for our future.

Mr. President, I hope the Congress will move on my start-up proposal, to increase spending this year on infrastructure projects. I introduced this bill in January, after surveying State transportation officials for ready-to-go infrastructure projects—roads, rails, aviation. According to DRI, the nationally recognized forecasting firm, my proposal would create 180,000 jobs over the next 24 months.

We must invest in training and retraining for American workers throughout their careers. Because while American industry searches for skilled workers in Japan or Germany, we have legions of untrained, dispirited workers right here at home, desperate for jobs.

We must get tough on trade. To help American business remain competitive and to protect American jobs, we must ensure fair play by our trading partners, protect American technology and ideas, and redouble efforts to break down trade barriers. We must also support American manufacturing industries. American products are top-notch. Our domestic industries are not disadvantaged by fair foreign competition.

We also must invest in our children. Their health, education and welfare are the keys to our future quality of life. We have passed legislation to fund innovative new elementary and secondary schools, to increase access to higher education and to more fully fund successful education programs like Head Start. Despite our actions in these areas, our children's needs are still not being fully met.

We can have none of these things with our hands tied by an outdated budget agreement. If allowed to stand, that agreement will lead to continued excesses and waste in the Pentagon budget, and continue underinvestment in the economic foundation of our Nation.

With a revised agreement, we can better meet the needs at home and support the fledgling democracies abroad. And with economic recovery, we can begin to attack the budget deficit. For each 1 percent increase in unemployment beginning this January, the deficit next year would increase by $50 billion.

Mr. President, this deficit must be brought under control. It imposes huge economic burdens on us today and on our children tomorrow. The bill before us now does not reduce the deficit but neither does it add to Government debt. This is in sharp contrast to the President's plan, earlier rejected by the Senate, that would have added $27 billion of debt over 6 years.

This tax plan, combined with a more aggressive trade policy, a new budget agreement and a dramatic shift in Federal priorities, can speed our progress toward recovery and can place the Nation in a position to begin to tackle the deficit.

Today we can take the first step toward that goal. The President says "No." I say—"let us get on with it."

Mr. DODD. Mr. President, as we debate the economic growth package now before the Senate, I want to express my strong support for the health care reform provisions included by Chairman BENTSEN and the Finance Committee in this important legislation. As a cosponsor of S. 1872, the measure that forms the basis for these proposals, I believe these reforms are a critical piece of the overall economic strategy necessary to get the economy in my State and our Nation moving again.

As I travel throughout my home State of Connecticut, I see firsthand the tremendous pressures on working families—families caught in an economic squeeze between stagnant income, higher taxes, and the rising cost of basic necessities; families who for the first time in generations cannot count on a better life for their children.

For many of these families, access to affordable, quality health care is their first concern. They wonder how they would pay for treatment if a family member becomes ill. Many fear they are one step way from losing their jobs and their health insurance at the same time. The health care crisis is a stark example of the main threat facing working families today—an erosion of the basic margin of comfort between economic prosperity and potential destitution.

Mr. President, clearly we need a comprehensive health care policy that deals with the twin crisis of access to health insurance and spiraling health care costs. There are now between 34 and 37 million uninsured Americans; almost 300,000 lack insurance in Connecticut alone. Access to insurance is not just a problem for the poor. Fifty-six percent of uninsured adults are employed fulltime and 43 percent of all the uninsured live in families with incomes above $36,000.

According to the Connecticut State government, the cost of uncompensated care in my State will reach $430 million by next year, a 38-percent increase in just 2 years. All of us bear these costs. We see the burden in higher insurance premiums and payroll taxes for Connecticut businesses and workers. We also pay much more than necessary for health care services to compensate for the cost of this unpaid care.

Health care costs in general require decisive action. Health costs now consume 13 percent of our gross national product, double the cost per capita in Germany and Japan. In Connecticut, health care expenditures have increased 150 percent in just the last decade. According to a study released last December, the average Connecticut family spends $5,421 on health care payments, a 170-percent increase since 1980. The average businesss in my State spends $3,890 per family on health care payments, a 215-percent increase in the last 10 years.

The critical question facing us as policymakers is how to go about the ambitious task of comprehensive reform. The health care system clearly needs major surgery; the band-aid of quick fixes and incremental change will not suffice. But we simply cannot succumb to frustration and sanction a Government run, one-size-fits-all system that would stifle research and innovation and restrict access for most Americans to advanced medical procedures. This, I believe, our citizens do not want or need.

Mr. President, as reflected in the legislation now before the Senate, health care reform is a critical piece of a three-part strategy to get the economy in Connecticut and the Nation moving again. First, middle-income tax relief to restore fairness to the tax system and stimulate consumer spending. Second, growth incentives for capital formation and the creation of new jobs, particularly among small businesses. And third, health care reform that both improves access to care for working families and brings spiralling costs under control for businesses and families alike. Perhaps more than any other single factor, rising health care costs have crippled the ability of American businesses to create new jobs, increase wages, and remain competitive in the international marketplace.

For this reason, the comprehensive health care policy we develop must be fully consistent with the other components of our overall strategy for economic growth. For example, it makes little sense to impose major new Government mandates or taxes on small businesses under the guise of health care reform if it means stifling the creation of the very jobs through which most Americans obtain health insurance in the first place. Our employer-based health insurance system is not perfect, but, in many respects, it has served us well. The key to constructive reform is to broaden access to affordable care within this framework without negating the effect of these changes by crippling business productivity and job growth. In my view, the health reforms included in the pending legislation more than meet this critical test.

First and foremost, the bill takes important steps to make insurance more affordable for small businesses and their employees. Annual increases in insurance premiums would be limited to no more than 5 percent above the underlying trend in health care inflation, thus protecting small employers from large increases in premiums when individuals in their covered groups become ill. Modest limits also would be established to guard against variations in premiums for the same or similar benefits. And the tax deduction for health insurance purchased by small business owners and the self-employed would be increased from 25 to 100 percent.

The bill also would give States several options for improving the availability of insurance for small employers. These options include both guaranteed insurance availability to employers of 50 or fewer employees, and the establishment of either a mandatory or voluntary reinsurance program. Other options permit States to allocate high-risk groups among all insurers or to those that do not guarantee insurance to small employers. The bill also would prohibit insurers from excluding individuals in a small group or canceling policies because of claims experience or health problems. In addition, newly covered employees would generally be protected against exclusions based on preexisting conditions.

Mr. President, according to a 1991 New York Times/CBS poll, 3 out of every 10 Americans say that they or someone in their household have not changed a job because of the fear of losing essential health insurance coverage. The bill before the Senate would help prevent this job-lock by prohibiting group insurance plans from denying or limiting coverage on the basis of medical history or health status and by protecting those changing jobs from exclusions based on pre-existing conditions.

The health reforms in this growth package also include a number of provisions that would help us gain control of runaway costs. Particularly important is the bill's emphasis on managed care, with provisions to remove legal and regulatory impediments to managed care at the State level. In addition, a health care cost commission would be established to devise strategies to slow the growth of health care spending and to make recommendations that can curb administrative costs. Expanded funding for research on health care outcomes and effectiveness will move us closer to eliminating unnecessary and ineffective treatments and services.

As a long-time supporter of preventive health programs, I am also pleased to note the inclusion of several provisions to promote wellness and preventive care. The bill would expand Medicare benefits to include influenza and tetanus vaccinations. In addition to expanding coverage for these specific services, the bill would provide for ongoing demonstration projects to examine the appropriateness of covering additional preventive services. Together with a strategy of expanded funding for community health centers, childhood immunizations, maternal and child health and child nutrition, these provisions can help us make real progress in controlling acute care costs through cost-effective prevention programs.

Mr. President, Senate action on these provisions is but the first step in a long and arduous process of health care reform. But as the process moves forward from here, I hope we can concentrate on the need for real health care reform, not the political thirst of both parties in Washington for a campaign issue. If we lack consensus on a "grand solution" this year, we should still move forward with the measures on which we can agree—small business insurance market reform and increased investment in key forms of preventive care. These steps can make a real difference and in no way compromise a broader solution that may develop later as a broader consensus among the American people takes shape. Families in Connecticut and throughout the Nation need our help now and will not understand, or accept, a political stalemate on this critical issue.

Mr. MACK. Mr. President, the debate over this tax bill has been nothing less than a charade. The bill represents a purely partisan maneuver, and will immediately be vetoed by the President. However, it is still important to emphasize that the direction this tax bill takes is fundamentally the wrong one.

We have specific problems in the economy which this bill virtually ignores. There are many people hurting around the country, and particularly in my State of Florida, but this bill does nothing to address the circumstances that are causing this pain.

The bottom line is that credit—which is like oxygen to the economy—has dried up. Government, Congress and the regulators, are stepping on the oxygen hose. We have to get off that oxygen hose. And we must stop discouraging capital from flowing to businesses that will produce jobs and pull us out of our economic tailspin.

I have argued many times that the economic problems we face today are rooted in the real estate industry. About half of our Nation's net worth is in the form of real estate. And, when values go down, the equity that represents peoples' savings accounts, their retirement funds, or their nest eggs disappears.

Unfortunately, this industry has been in a depression for several years. Current commercial real estate values in many areas have fallen by at least 20 percent. In some markets, the drop has been closer to 50 percent. Residential real estate values in many areas are not far behind.

On the commercial side, regulators, stock market forces, credit rating agencies, and even bankers themselves are alarmed. Financial institutions have reduced their holdings of commercial real estate assets and have virtually stopped making new commercial real estate loans.

But banks cannot get rid of commercial real estate assets if neither they nor anyone else will make loans on such assets. The result is far more sellers than buyers, and commercial real estate values continue to plunge.

This has severely undermined the net equity capital positions of the Nation's banking system. According to the National Realty Committee, banks held about $385 billion of commercial real estate loans as of the end of 1990. This is an amount equivalent to nearly 175 percent of the banking system's net equity capital. This means that a 20-percent drop in commercial real estate values could slash the banking system's total net equity capital position by an even greater percentage.

The result has been, in my view, a frantic attempt on the part of the banking system to shore up its capital position. But it has been business loans in general that are bearing the brunt of this capital retrenchment. As economist John Rutledge has commented, "The reason why the credit squeeze has shown up in business loans is quite simple—they are easier to kill than property loans. * * * Canceling a revolving credit agreement with a small business is just a phone call away." As of late last year, commercial bank business loan portfolios had shrunk by more than 9 percent at an annual rate.

We need a reversal of the Government policies that are stifling the economy. But what have the Democrats on the Finance Committee produced? A package which does nothing more than tinker around the edges of the problem. A perfect example of this tinkering around the edges is the bill's treatment of capital gains.

No single effort we could make would have a better effect on the economy than a substantial cut in the tax rate on capital gains. The capital gains tax worsens the existing multiple taxation of saving and investment. Reducing it would entice people to invest more, move existing funds into promising new investments, and encouraging equity investments.

But this Finance Committee bill could end up raising the capital gains tax rate on certain kinds of assets—particularly real property. In addition, it fails to reduce the tax rate for those individuals who have large pools of capital. Keeping the tax rate high keeps that capital locked up and out of the hands of businesses who can grow and produce jobs.

The bill establishes four separate tax rates for capital gains, ranging from 5 to 28 percent—presumably because the Democrats feel people should be penalized for making wise investments. But the tax relief would be the greatest for those people in the 15 percent tax bracket. I find this interesting because the Democrats continue to argue that people at lower income levels don't have capital gains! They are wrong, of course, but it is extremely disingenuous that they would craft a capital gains tax cut for people who they don't believe can take advantage of it.

The bill also provides the least relief where the capital gains tax is doing the most damage to incentives. That damage is occurring at marginal income tax rates of 28 percent and above. This bill provides practically no reduction in the capital gains tax rate where these marginal income tax rates apply.

What's more, this bill allows the alternative minimum tax to apply to capital gains. As a result, many investors will find that the capital gains tax rate won't go any lower than 24 percent for them, but could go as high as 30 percent.

Another problem with this bill is that it changes current law on depreciation recapture. This means that some investing in real estate would discover the tax rate on capital gains rising to 31 percent from the current maximum of 28 percent. This will cause property values to take another hit.

I'm sure those in support of this bill will point to the special break for the investment in certain small business stock. But I'm amazed at our inability to learn from the experience of others. This business of picking winners and losers—centralized planning—failed miserably in the Soviet Union. Why do we want to set up an industrial policy here?

The net effect of these capital gains provisions is that they won't help real estate one bit, and are at best marginal as they affect the large investment pools that are necessary to fund job creation.

In another related area, this bill fails to adequately deal with current law on passive losses. The passive loss rules were enacted in 1986 to stop certain tax shelters, but the rules as they apply to rental real estate went too far and should be corrected. As it stands, real estate professionals are discriminated against. While other small businessmen can almost always take a tax deduction for out-of-pocket, necessary business expenses, real estate professionals often cannot because of the passive loss rules in the Tax Code.

Reforming passive loss rules the right way will encourage people to hold on to their property instead of walking away from it when it is losing money. This will keep performing loans instead of empty buildings on the books of banks.

But here again, the Finance Committee bill doesn't produce much real reform. Instead of treating all real estate professionals fairly by allowing them to take advantage of passive loss rules, this bill appears to exclude certain types, particularly brokers and appraisers. And instead of allowing rental real estate losses to be offset against all other income, this bill limits the offset only to 80 percent of real estate losses, and only against other real estate income.

Clearly, this provision will produce no effective increase in the value of real estate or encourage additional investment. It will continue the effect of the Tax Code and regulatory environment to make real estate an unprofitable investment.

If these flaws were not enough, the crowning blow of this bill is that it raise tax rates. Not only has the committee labored mightily and produced a mouse for economic growth, but it takes back this and more by raising taxes.

Raising taxes has never been, is not now, and never will be a stimulus to the economy. And raising taxes during a recession defies credulity.

Although the advertised top rate is 36 percent, it will actually be several percent higher than this—perhaps as much as 39 percent. This is because the bill also makes the phaseout of personal exemptions a permanent part of the Tax Code. This means that as these exemptions are taken away, the marginal tax rate, in effect, rises over certain levels of income.

This bill would take a larger bite out of rewards for work, saving, and investment. It would have the perverse effect of encouraging upper income individuals to cut down on worthwhile, productive activities by racheting up the tax penalty imposed on them. Although they would bear the added tax liabilities, the decline in production and growth would be felt throughout the entire economy and hurt everyone, such as occurred with the imposition of the luxury tax in 1990.

In summary, this bill is a mistake. I am convinced that it will never become law. But unfortunately, its existence is keeping the Senate from doing something truly worthwhile for jobs and economic growth.

TAXATION OF SPONSORSHIP PAYMENTS

Mr. BREAUX. Mr. President, I rise today in support of a provision in H.R. 4210 that would direct the Treasury Department to conduct a study on the taxation of sponsorship payments received by tax-exempt organizations. The need for this study arose because of congressional concerns regarding the recent issuance by the IRS of proposed examination guidelines, Announcement 92–15, 1995–5 I.R.B. 51, and a related technical advice memorandum, TAM 9147007. Through these releases, the IRS has embarked on a path leading to the taxation, as unrelated business income, of funds tax-exempt entities receive from corporate and other sponsors of their activities.

I am concerned about the potential adverse impact the IRS' attention in this area will have on the ability of all tax-exempt organizations to solicit funds. At a time when these organizations are facing severe Federal, State, and local funding limitations, it seems to me that corporate contributions should be encouraged, not discouraged.

When Congress wrote the rules requiring that tax-exempt organizations be taxed on their unrelated business income in 1950, they acted to protect taxable entities from unfair competition. Congress was concerned that a tax-exempt entity could operate a trade or business, similar to that of a taxable entity, without paying income taxes on that activity. For example, the legislative history to the Revenue Act of 1950 makes clear that athletic activities of schools are related to their exempt educational purpose and, therefore, do not give rise to unrelated business income upon which the school would be taxed. (H.R. Rept. No. 2319, 81st Cong., 2d Sess., reprinted in 1950–2 C.B. 380, 409; S. Rept. No. 2375, 81st Cong., 2d Sess., reprinted in 1950–2 C.B. 504.) Furthermore, the legislative history of the Tax Reform Act of 1969 clarifies that the unrelated business income tax "does not apply unless a business is 'regularly carried on' and therefore does not apply, for example, in cases where income is derived from an annual athletic exhibition." (S. Rept. No. 552, 91st Cong., 1st Sess., 67–68 (1969), reprinted in 1969 U.S. Code Cong., & Ad. News 2027, 2096; Staff of the Joint Comm. on Internal Revenue Taxation, 91st Cong., 1st Sess., Summary of H.R. 13270 (Tax Reform Act of 1969)).

Despite our clear statement of intent in this area, the IRS is aggressively moving forward in their attack on corporate sponsorship payments. This is true even in connection with annual athletic events, like college football bowl games, where the legislative history clearly states such activities are not regularly carried on businesses. As you know, I introduced legislation, S. 866, early last year to address the immediate problem of IRS efforts to tax income received by organizations which conduct amateur athletic events.

The Treasury Department study contained in this tax bill is intended to provide us with a framework for analyzing many of the important questions raised by the IRS' position. With this information, it is my hope that the Finance Committee will take further action, if appropriate, in this area. Specifically, I intend to work with the Treasury Department to obtain an analysis of at least the following four critical issues: First, how the "regularly carried on" requirement can be applied to payments received from sponsors of annual events; second, whether taxes should be imposed where the sponsor's products or services are not named; third, why the legislative history of the unrelated business income tax rules does not require a finding of unfair competition in order to tax sponsorship payments; and fourth, whether various forms of Government assistance will have to be increased to offset reduction of sponsorship payments to tax-exempt organizations resulting from this taxation.

As an example, I am particularly interested in Treasury's response to how the taxation of sponsorship income can be reconciled with the administration's thousand points of light goals. As Federal, State, and local budgetary restraints reduce the financing for social programs, we are turning more and more to the private sector and volunteerism to perform the services Government used to do. Corporate contributions are an important part of the financial backing of tax-exempt organizations that provide many invaluable services.

This is certainly not the time for the IRS to tax these contributions. The Treasury report is just a first step that Congress needs to take in this area. I look forward to working with all of you in an effort to address this issue in a way that will not hamper the efforts of all tax-exempt organizations to raise much needed funds in the 1990's.

Mr. DURENBERGER. Mr. President, tonight I am going to vote against this democratically crafted tax bill, just as I voted against the President's plan two nights ago. What we have here is simply politics, taxes and budget policy bringing out the absolute worst in each other, while breeding cynicism among the electorate.

Just last week, the New York Times conducted a poll on Americans' views on taxes. While a majority of Democrats, Republicans, and independents all favored a tax cut for the middle class, the same majority believed that the Democrats' middle-class tax cut was not designed to help the economy, but simply to get more votes.

Unfortunately, the same holds true for my President's capital gains proposal. A majority believed that the proposal is simply designed as a political move.

Mr. President, in the past 4 days we have heard a great deal of rhetoric about fairness, about, and the income tax burdens of the middle class and the wealthy. And we have heard a great deal about the children of the middle class.

But in this highly charged political year, what we have not heard much talk about is the extraordinary debt that we are piling on our children and our grandchildren at the rate of more than $1 billion a day.

Mr. President, we can talk in abstractions about fairness. We can weigh the pros and cons of giving a family an additional 82 cents a day for each of their children and about how that will help this economy.

But what I want to talk about is how we are being strangled by a $400 billion a year deficit. How, if you add in all the interest that is credited to the trust fund surpluses, debt service for this year alone accounts for more than $316 billion—more money than we ever spent on defense in a single year during the height of the 1980's military buildup.

Mr. President, in less than 5 weeks, Americans will be sitting down with their calculators to figure out how much personal income tax they owe for 1991. When all is said and done, the American people—low income, middle income, and upper income—are expected to pay the Federal Government nearly $480 billion in individual income taxes and $520 billion in the next fiscal year.

Most people assume that their income taxes are paying for the military, education, health care and assorted other Federal services. But the reality is that if you add up all the interest that will be paid to private and foreign investors in the next fiscal year, $215 billion, and add in the interest that will be credited to trust fund accounts, $101 billion, for every dollar of individual income taxes the Federal Government collects, 61 cents will be used to go for servicing the national debt and the current debt.

Even if you ignore the interest credited to the trust funds, and only consider the $215 billion in interest that will be paid to private investors, the fact remains that 41 cents of every dollar of individual income taxes goes to pay interest to private investors. In other words, every single income tax dollar collected in the first 149 days of this year, January 1–May 28, will be transferred to private investors who own Treasury debt. And we stand here talking of tax cuts?

Mr. President, Members on both sides of the aisle know that the tax components of this bill represent a political statement by the Democratic majority in Congress, and that the President will be forced to veto this bill. Even though this bill is dead on arrival at the White House, I want to take a few moments to discuss this measure and the President's plan.

The central financing mechanism for the Finance Committee bill is the increase from 31 to 36 percent in the top marginal tax rate. Along with the surcharge on millionaires, these two changes account for more than $51 billion of the $57 billion raised by this bill.

Mr. President, I do not object in principle to a higher marginal rate on the highest income brackets. In fact, when President Reagan proposed fundamental tax reform in 1985, he proposed a top rate of 35 percent. But what I do object to is incremental increases in the top marginal rate strictly for political purposes and pandering to the middle class.

When we passed tax reform out of the Senate in 1986, the top marginal rate was 27 percent. After conference, the rate increased 1 point to 28 percent. There it stayed until 1990 when the President and Congress engaged in the arduous 1990 budget accord. I was willing to support an increase to 31 percent because I felt it was a necessary tradeoff and compromise to achieve the spending caps that were the heart and soul of the 1990 budget agreement.

Now, less than 2 years later, the Democrats are proposing to increase the top rate to 36 percent. What for? For an 82 cents a day tax break for the middle class. And for a new set of tax incentives for real estate and other investors.

Mr. President, we are gradually moving ourselves back in the direction of the pre-1986 Code when the top marginal rate was 50 percent and the Code was riddled with loopholes for marginal activities. I just cannot support this gradual whittling away of the concepts embodied in tax reform.

Mr. President, although I object to the approach that is taken in the Democrats' tax bill, at least it is paid for. The same cannot be said for the President's plan and that is one of the key reasons that I voted against it.

I would also note that some of my colleagues proposed financing tax cuts out of savings from defense and other domestic programs. Over the past decade we have added more than $2 trillion to the national debt in order to finance a large part of the defense buildup and to maintain domestic spending. Now that the cold war appears to be over; now that this country can reduce the size of its military, I believe we should take the savings from defense and use those savings for one, and only one, purpose—reducing the deficit.

We should not be using defense savings to provide tax breaks to real estate investors. At a time when the deficit is $400 billion, we cannot afford to use those savings for any purpose except to reduce the deficit. It is morally irresponsible to our children and our grandchildren to take this money and use it for more consumption.

Mr. President, the first responsibility of leadership is to define reality. Reality in 1992 is that we need to lower the deficit and raise people's confidence that we are in charge of our future. The process we are engaged in here is almost certain to do the opposite—on both counts.

I think the public has told us that we do not need economic lollipops. Like 82 cent a day tax cuts for the middle class. We do not need big tax breaks for people who build private homes but do nothing for those who rent modest houses and apartments.

We definitely do not need quick fix investment incentives financed with debt—reductions in savings. Any economist will tell you that is really giving with one hand and taking away with the other.

And the last thing we need in these uncertain times in our country is a classic display of the same old Washington stuff: noisy, expensive futility. And with all due respect to my colleagues, I think there has been a great deal of that this past week.

Too much politics and too little discipline got us to where we are today: a billion dollar a day federal deficit.

How about these for national priorities: we spend $10 on interest for every one we spend on education.

We spend more to service the national debt today than we did to run the entire United States Government in 1974.

The reality is we need a new way to decide how to spend money, or not spend money, in this Government. And we need a new way to decide where to raise the money we need to run it.

But I am sure that we are not going to find those new ways—or the character to enact them—here, or anywhere this year.

So if we can't do any good, at least let's resolve not to do any further harm.

What good can we do for the economy and for the American people? We have in this package two very helpful steps to solve problems people tell us they care about unlike tax cuts.

There are two measures in this tax package that I would love to have supported with an aye vote on the tax package, and I hope we will have the opportunity to support it later in the year. I compliment my colleague from Texas, the chairman of the Finance Committee, for his authorship of one and his support for the other.

The first is the small group health insurance reforms that are urgently needed and included in this package.

First, we should adopt the small group health insurance reforms that are urgently needed and included in the Finance Committee package. It is the best substantive thing we can get done this year to improve American health care.

Mr. President the American people rely on the private health insurance market for protection from the spiraling costs of sickness. For employees of larger companies, the private insurance financing system works fairly well.

However, for companies with fewer than 50 workers—which is the fastest growing segment of the labor market—the private health insurance market is a dismal failure.

Presently, insurers engage in rating and coverage practices that introduce great inequity and instability in the small group market. Experience rating has led to a spiral of exclusion where insurers exclude risks not manage them. And, even if a policy is available to a small group, it is often priced higher than the business or the workers can afford.

The small group reforms included in this bill are designed to correct these market failures. Some would have us move faster along the path toward pure community rating. While this might be a laudable long-term goal, we must be cautious about moving too quickly in this direction, especially before we have significantly expanded the availability of insurance to those who currently have no insurance.

This bill addresses the worst abuses in experience rating without causing the younger healthier workers who have low rates now out of the marketplace altogether.

Also, we must be realistic about the need to tie insurance reform to a pared down benefit package. If we try to include all the frills that have burdened insurance through State mandates, we will have undermined the goal of the legislation. Small groups need access to health insurance, but there must be policies that are affordable. It is a cruel hoax to promise insurance reform and fail to make any policies affordable.

The Finance Committee bill walks the fine line between real reforms that will benefit small business and efforts to prevent market destabilization.

I have worked long and hard for small group insurance reform. As vice chairman of the U.S. Bipartisan Commission on Comprehensive Health Care, the Pepper Commission, I heard how insurance failure affects American families. I introduced a small group reform bill over 1½ years ago, S. 3260. It was reintroduced as S. 700 1 year ago almost to the day. I am proud to have joined the distinguished chairman of the Finance Committee in introducing S. 1872 last fall. It emerged from the Finance Committee intact last week.

It is very distressing to me to see this important piece of legislation attached to this politically inspired tax bill. But I am comforted in knowing that this tax bill is just the first act in a four-act play and when the curtain finally comes down, small companies will see this legislation enacted into law.

Second, we should adopt the education financing proposals included in the chairman's package. Senators SIMON, BRADLEY, and I have worked hard to find a way to ease the burden of higher education of American families and we think we've found it: the IDEA Self-Reliance proposal. It has bipartisan support and we can do it this year.

Mr. President, under this plan, college loans will be made available to students directly from the Government—eliminating millions of dollars in administrative expense and red-tape. And second, loan repayments will be based on postcollege income and will be made through the IRS—eliminating millions of dollars in defaults and vastly simplifying how loans get collected.

All the charts and graphs and calculations needed to explain and analyze the IDEA program can be boiled down to those two central features, those two sets of advantages, and those two calculations of savings.

Mr. President, we do not need a tax cut bill today. Neither the Finance Committee $300 tax credit, nor the President's short-term economic stimulus package should be under consideration in this political climate. Instead we should begin to lay the groundwork for fundamentally changing the way we raise revenue to pay for Federal spending.

After the political moment has passed in November, we can return next January and mark up tax legislation that lays out a path for the future of this country. Not a tax bill for the short term, but a Tax Code that will set this country on a path toward long-term investment, growth, and jobs.

We must consider providing incentives for real long-term investments. Long-term savings and planning are critical to the success of our country in the rapidly changing world economy. We are the only country in the developed world that has not imposed a value-added tax. We ought to consider a VAT as a means of lifting the tax burden off of savings and investment.

These are just a few ideas worth exploring. But everyone knows that these ideas will never become actors in this year's tax drama.

So in this Senator's view, the best thing I can do for this economy and for our future is to veto no on all the big tax bills. I urge my colleagues, and the administration to open their eyes, lay down their swords, and decide to limit the damage and do the good we can.

I will therefore vote against this legislation.

The PRESIDING OFFICER. The yeas and nays have been ordered on the substitute.

Mr. BENTSEN. Mr. President, I ask unanimous consent that we vitiate the yeas and nays on the substitute.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the committee amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read the third time.

The bill was read a third time.

The PRESIDING OFFICER. The majority leader.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, under the prior order there was to be following this vote a vote on the cloture motion to proceed to the conference report on the crime bill. Earlier this evening, the distinguished ranking member of the Judiciary Committee, Senator THURMOND, suggested to Senator DOLE and me that that be put off until next week and I checked with Senator BIDEN, and that is agreeable.

Accordingly, Mr. President, I ask unanimous consent that the cloture vote on the conference report on the crime bill, H.R. 3371 scheduled to immediately follow the vote on final passage of this bill be postponed and the majority leader after consultation with the Republican leader may schedule the vote to occur at any time prior to the close of business on Thursday, March 19, but not before Tuesday, March 17.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on final passage.

Mr. DOLE. Yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

On this question the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Iowa [Mr. HARKIN] is necessarily absent.

I also announce that the Senator from Michigan [Mr. RIEGLE] is absent because of death in the family.

On this vote, the Senator from New Jersey [Mr. BRADLEY] is paired with the Senator from Michigan [MR. RIEGLE].

If present and voting, the Senator from Michigan would vote "aye" and the Senator from New Jersey would vote "nay."

Mr. BRADLEY (after having voted in the negative). On this vote I have a pair with the distinguished Senator from Michigan [Mr. RIEGLE]. If the distinguished Senator from Michigan [Mr. RIEGLE] were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withdraw my vote.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 50, nays 47, as follows:

(Rollcall Vote No. 51 Leg.)

YEAS—50

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Boren
Breaux
Bryan
Bumpers
Burdick
Byrd
Conrad
Cranston
Daschle
DeConcini
Dixon
Dodd
Exon
Ford
Fowler
Glenn
Gore
Graham
Inouye
Johnston
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Sanford
Sarbanes
Sasser
Simon
Wellstone
Wirth
Wofford

NAYS—47

Bond
Brown
Burns
Chafee
Coats
Cochran
Cohen
Craig
D'Amato
Danforth
Dole
Domenici
Durenberger
Garn
Gorton
Gramm
Grassley
Hatch
Hatfield
Heflin
Helms
Hollings
Jeffords
Kassebaum
Kasten
Kerrey
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Packwood
Pressler
Roth
Rudman
Seymour
Shelby
Simpson
Smith
Specter
Stevens
Symms
Thurmond
Wallop
Warner

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Bradley, against

NOT VOTING—2

Harkin
Riegle

So the bill (H.R. 4210), as amended, was passed.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. SARBANES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. I yield to the majority leader.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses and that the Chair be authorized to appoint conferees.

There being no objection, the Presiding Officer (Mr. WIRTH) appointed Mr. BENTSEN, Mr. MOYNIHAN, Mr. MITCHELL, Mr. PACKWOOD, and Mr. DOLE conferees on the part of the Senate.

Mr. BYRD. Mr. President, as the Senate concludes action on this legislation, I commend the chairman of the Senate Finance Committee, Senator BENTSEN, for the job he has done in moving this bill to final passage. As each of my colleagues would certainly agree, putting together a bill as far-reaching and as complex as this bill is a most difficult task. Yet, the senior Senator from Texas has accomplished that task in a manner that merits much credit and praise.

As always, the Senator from Texas has displayed dignity, patience, knowledge, fairness, and extreme comity in shepherding this bill through the Senate. His extraordinary grace under pressure brings credit to this body.

As a Senator who served with Senator BENTSEN at the time we were both Members of the House of Representatives, I am proud to serve with him in this body and proud to call him my friend.

MAJOR HEALTH PROPOSALS

Mr. DOMENICI. Mr. President, as part of the bill that we just passed, there were certain new provisions with reference to our health programs and the deductibility of certain health costs.

I did not cosponsor the Bentsen proposals, not because I did not think they were good reform law, but I wanted to make a point that health policies of the United States are ignoring a very major part of America's population; that is, the seriously mentally ill.

So it seems to me that it is time for someone to indicate that all new major health proposals that come forth from the Congress are going to have to have proposals presented that will cover the seriously mentally ill in this country, those who are suffering from depression, schizophrenia, bipolar illness, and the like that require a hospitalization and certain kinds of very specific care that is evolving in the United States.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak therein for not to exceed 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

A NOBEL PRIZE FOR CYRUS VANCE

Mr. MOYNIHAN. Mr. President, on March 3, 1992 I asked that a New York Times article by Leslie Gelb be printed in the CONGRESSIONAL RECORD. Mr. Gelb commends former Secretary of State Cyrus Vance for his many contributions to world peace, attributing Secretary Vance's successes to his deep morality and tenacity. To quote from the article: "His persuasive power rests in his rectitude, in stubbornly knowing what is right and in stubbornly knowing that killing is almost always wrong." Significantly, Mr. Gelb asks, "Is this not a Nobel quality?"

In the current edition of Time magazine, Strobe Talbott answers with a second, powerful tribute to Secretary Vance. He emphasizes his efforts negotiating the Yugoslav cease-fire but notes that Secretary Vance's entire career is "a monument to pro bono publico." Mr. Talbott concludes, "if peace comes to the Balkans, Vance will have earned, in addition to his [nominal $1 United Nations] fee, a Nobel Peace Prize."

Mr. President, I wish to associate myself with Mr. Talbott's observations and I ask unanimous consent that his article be printed in the RECORD at this time.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Time Magazine, Mar. 9, 1992]

THE ULTIMATE TROUBLESHOOTER

(By Strobe Talbott)

Next week several hundred blue-helmeted United Nations troops are due to arrive in Yugoslavia. They are the vanguard of 14,000 soldiers from 30 countries, the first U.N. peacekeeping force ever deployed in Europe. Their mandate is to disarm the warring militias, monitor the withdrawal of the Serbian-dominated federal army from Croatia and protect the Serb minority in the breakaway republic.

The disintegration of Yugoslavia has already cost at least 6,000 lives, driven 650,000 people out of their homes and thwarted 14 cease-fires. No. 15 has been in effect since

Jan. 3. Last week Serbian President Slobodan Milosevic said "The conditions now exist for a peaceful and democratic solution." That is thanks largely to four outsiders: Javier Pérez de Cuéllar, the former U.N. Secretary-General, who laid the ground for the intervention last fall; his successor, Boutros Boutros-Ghali, who engineered the Security Council's decision two weeks ago to dispatch the troops; Lord Carrington, the chief envoy in the European Community's effort to broker an overall political settlement among the pieces of the shattered Yugoslav federation; and Cyrus Vance, who has labored for five months as the personal envoy of the Secretary-General to negotiate a cessation of hostilities durable enough to put the peacekeepers in place.

Vance, who will turn 75 this month, is the ultimate troubleshooter: fair-minded and tenacious, self-confident yet self-effacing, and utterly dedicated to the musty idea that a private citizen should engage in public service. Soon after World War II, he joined the old-line Wall Street law firm of Simpson Thacher & Bartlett. For decades, his partners have been granting him leaves so that he can devote long, unbillable hours to difficult tasks. His career is a monument to the concept of pro bono publico. As compensation for his current assignment, he has asked the U.N. for $1.

He first distinguished himself as a mediator in 1967, when looting and burning broke out in the ghettos of Detroit. Vance had just resigned as Deputy Secretary of Defense because of a ruptured disk. President Lyndon B. Johnson asked him to take command of the troops he was sending to quell the riots. Vance's back trouble was so incapacitating that he had to take his wife Gay with him to tie his shoelaces. His management of that crisis became a model for leaders in other cities during those long hot summers.

Later L.B.J. sent him to the eastern Mediterranean to head off a war between Turkey and Greece over Cyprus, then to Seoul to restrain President Park Chung Hee from retaliating against North Korea for a series of attacks against the South. In the spring of 1968, he helped keep the lid on Washington when the assassination of Martin Luther King Jr. touched off racial conflict.

I covered Vance in the late '70s when he was Jimmy Carter's Secretary of State. He was the most unquotable public figure I had ever encountered. He still is. He is allergic to the first person singular and prone to wooden understatement. He has little knack for explaining what he is up to in terms of grand theories of history, strategy or geopolitics. After a breakthrough in the nuclear arms talks, all Vance could muster for the press was that diplomatic progress was achieved "brick by brick, inch by inch."

In 1980 Vance tried to dissuade Carter from dispatching a military task force to rescue the U.S. hostages in Iran. After the mission ended in a debacle, he resigned on principle, one of the few American statesmen ever to do so. He left a solid legacy: The much maligned SALT II talks regulated the U.S.-Soviet missile rivalry until the end of the U.S.S.R. last December. Vance also played a key part in negotiating the Camp David agreements on the Middle East, and helped transform Rhodesia into Zimbabwe.

But lots of luck in getting him to say so. When I spoke to him at his law office for this column, he first tried to talk me out of writing it, then launched into a long encomium to his right-hand man for Yugoslavia, Herbert Okun, an old friend and veteran U.S. diplomat.

Vance's secretary, Elva Murphy, who has been with him for nearly 24 years, told me she was worried about his safety during five trips to the Yugoslav war zone. Once he had to cross a heavily mined no-man's-land in a minivan. When I asked him about the episode, he looked pained, then insisted that he had never been in real danger since his driver was skilled at spotting the filaments that trigger the mines.

What makes Vance a tough interview makes him a good mediator. Because he has so little interest in getting credit, the contending parties are more likely to trust him. He knows virtually everyone: he worked on the Camp David accords with Boutros-Ghali, then a senior Egyptian official, and on Rhodesia with Carrington, who was British Foreign Secretary. Vance is on a first-name basis with others in the Yugoslav drama, including Serbia's Milosevic and German Foreign Minister Hans-Dietrich Genscher. (Croatia's Franjo Tudjman prefers to be called "Mr. President.")

Vance's recipe for arbitration is "Master the facts of the situation; listen exhaustively to both sides; understand their positions; make sure they understand the principles that must dictate a solution; and don't give up." It doesn't exactly sing, but it works. If peace comes to the Balkans, Vance will have earned, in addition to his fee, a Nobel Peace Prize.

FOUR HUNDREDTH ANNIVERSARY OF TRINITY COLLEGE IN DUBLIN

Mr. KENNEDY. Mr. President, this month Trinity College in Dublin is celebrating its 400th anniversary, and I join many others in praising it as one of the world's greatest institutions of higher learning.

Ever since its founding, Trinity College has played a central role in the intellectual, economic, and political life of Ireland. Like the rich and complex history of Ireland itself, Trinity College today reflects the many outstanding facets of Irish tradition and achievement.

Numerous renowned leaders have passed through the world-famous arched entrance at College Green in Dublin. Edmund Burke, Wolfe Tone, Robert Emmet, Oliver Goldsmith, Henry Grattan, Oscar Wilde, and other great figures attest to their alma mater's high standard of educational excellence and social conscience. Ireland's current President, Mary Robinson, distinguished herself at the age of 25 by becoming the youngest professor of law at Trinity.

From its origin in the 16th century as an institution established by a British monarch, Trinity College has evolved to become an essential part of today's independent Ireland and a powerful presence in the city of Dublin. The college continues to welcome new generations of students from Ireland and many other lands.

Next week, as part of the anniversary celebration, a distinguished delegation from the Kennedy School of Government at Harvard, including executive dean Richard Cavanagh, Institute of Politics director Charles Royer, and adjunct research fellow John Cullinane will travel to Ireland to participate in a major colloquium on the ethical challenges facing international business enterprises in today's world economy. I commend their participation and I look forward to the results and recommendations of the colloquium.

I also want to take this opportunity to commend Trinity College on this auspicious anniversary. The college has had a great 400 years, and may the next 400 years be even greater than the first.

LOAN GUARANTEES: A MORAL CROSSROADS

Mr. DECONCINI. Mr. President, this country has reached a moral crossroads in its relationship with the only democracy in the Middle East. Yet, with all of the opportunities this presents to this country, I fear for the future. I feat for the future of Island and I fear for our future relationship with that valued friend and ally. I am also fearful of the U.S. losing its moral position in the Middle East.

With the disintegration of the Soviet Union, we are on the brink of achieving one of our longest held foreign policy goals—freedom of immigration for Soviet Jews. This policy was codified in the Jackson-Vanik amendment to the 1974 trade act which denied most-favored-nation trade status to the Soviet Union unless free and sustained immigration was allowed for all religious and other minorities. The long-awaited day has finally arrived, but for political and other short-signed reasons, the Bush administration seems willing to let this opportunity to slip through its hands.

One year ago, in the wake of the gulf war, Israel requested assistance in helping to resettle the hundreds of thousands of Jewish refugees fleeing persecution in the former Soviet Union. Because President Bush and Secretary Baker were attempting to forge a Middle East peace conference, they asked Israel to withhold its request until the end of that fiscal year. Understanding the problems which faced the President, Israel agreed to delay its request until September 1991.

In September, Israel renewed its request for these loan guarantees. At that time, the situation in Israel was getting desperate, anti-Semitism was on the rise in the former Soviet Union and help—this truly humanitarian assistance—was needed immediately. Again, the President wanted to delay action on this urgent request, this time for 120 days. He wanted no obstacles in the path of holding his peace conference by the end of October. Secretary Baker argued that the Arab States would balk at attending such a conference if Israel were to get loan guarantees to aid in bringing more Jews to Israel. He implied that the Arabs would stay away from the conference, a conference that could eventually bring peace to their troubled corner of the world, if the United States made a humanitarian gesture to assist in the resettlement of former Soviet and Ethiopian Jews in Israel.

So pressure was brought to bear on Israel. Pressure was also brought to bear on Congress, including the 68 senators who cosponsored the legislation to provide the guarantees, to delay for 120 days. Public pressure was also applied. At a news conference, President Bush complained that Americans of the Jewish faith were meeting that day with their elected officials in Congress and urging Congress' support for the loan guarantees. By attacking American citizens who at their own expense and acting out of their personal commitment to this issue were exercising their constitutional rights to express their views to their elected representatives, he reached a new low in his presidency. He complained that he was one lonely, little guy who was fighting against swarms of lobbyists on this issue.

Congress backed off. Action on this entire foreign aid bill was delayed until this year. The initial meeting of the peace conference was held in Madrid. Subsequent meetings between the Arabs and Israel have been held. Regretfully, no tangible progress has been made and none appears to be on the horizon.

Mr. President, I opposed any delays in consideration of this issue last fall. I urge my colleagues not to give in on this humanitarian issue. I wrote to the President, after he had succeeded in getting the delay and I urged him not to link consideration of the refugee guarantees to progress in the peace conference.

To his credit, he has not made this linkage. Instead, he has upped the ante. President Bush and his self-serving Secretary of State, James Baker, have crated a new linkage which I fear will set a very dangerous precedent. By establishing a linkage of refugee loan guarantees to the internal Israeli Government policy of settlements, Bush and Baker have directly thrust this country into the internal politics of Israel. Indirectly, they have indicated that they would prefer a different government headed by a different Prime Minister. The Shamir government has already fallen. Elections are scheduled for June 23. Apparently Bush and Baker feel they can get a more responsive leader with whom the United States can work after these elections.

I fear that this administration wants to Finlandize Israel in the same way that the former Soviet Union neutered the Independent nation of Finland. The Soviets were so successful in this that Finland had to look over its shoulder every time it thought about taking any steps which might disturb its neighbor. It appears to me that this is exactly the same type of relationship that Bush and Baker want to establish with Israel.

Secretary Baker tipped his hand on this point when he testified before a Senate committee stating that, "Nobody else is asking us for $10 billion in addition to the $3 billion to $4 billion we give every year with no strings attached." The linkage is obvious, either we do it the Bush and Baker way, or we won't do it at all. Mr. President, it would be better for Israel to leave this take-it-or-leave-it policy than to place its government in such a position. While I do not support the settlements in the West Bank and Gaza, and while I have made this point repeatedly to every leader of Israel since I came to the Senate in 1977, I strongly support the $10 billion refugee resettlement loan guarantee request with no compromise.

I believe it is wrong for Israel and for the Congress to compromise with the Bush administration on this issue. As I have already explained, it places both the United States and Israel in positions which could have grave consequences for the future.

I also support the loan guarantees because—contrary to public disinformation—they are good for this country and they will not cost us a penny of the foreign aid we provide to Israel each year, over 85 percent of it comes back to the United States in the form of payments, purchases, and job creation. For instance, when the United States extended $400 million in loan guarantees to Israel in 1990 to help build homes, former United States ambassador to Israel, William Brown said, "It all but rescued the U.S. housing industry, which sold thousands of units of prefab homes and components for Israeli builders." Extending the new loan guarantees will help create jobs in the United States in these desperate times here at home.

These guarantees will be underwritten—every cent of them—by the Israeli Government. Our Government will not spend any money to facilitate the loans. The record is clear. Israel has never defaulted on any loans which we have extended in the past. This record will not change because of the highly-educated and talented labor pool which has been immigrating to Israel from the former Soviet Union. Russian doctors and Ukrainian teachers and Kazakstani professionals are all coming to Israel. An economic boom in Israel can be expected, if only the Israeli Government can effectively resettle, house, and employ these refugees.

Finally, I believe it is in our own national security interests to support Israel in its time of greatest need and hope. Israel was created in 1948 as a safe haven for Jews who, over the centuries, had been scattered across the globe. This hope is being realized in the thousands of Jews from the former Soviet Union who are finally being allowed to emigrate freely. This has been a goal and a focus of U.S. foreign policy and U.S. law since the Nixon administration. A safe Israel, in secure borders, is the strongest deterrent to war—and to United States involvement in such a war in the Middle East. Prohibiting immigration to Israel by blocking the loan guarantees will only keep Israel relatively weak and underdeveloped. It will only keep Israel in the position of being a target for Arab hostility and Arab threats. It will not serve Israel's interests and it will not serve the cause we all seek, a lasting peace in the Middle East.

In conclusion, Mr. President, I call on President Bush and Secretary Baker to remove the United States from internal Israeli politics. I also call on the Congress to strongly support the Israeli request which is good for Israel and good for the United States. And, I call upon the American people to let their elected officials know that they will not allow politicians to demagog this moral and humanitarian issue.

In the abstract, foreign aid is unpopular, and understandably so. We have needs here at home that must be met and there are places where we can cut the foreign aid budget. But, the American people are a generous and caring people. When they are called upon, they open their hearts to those less fortunate in other parts of the world. Now is such a time. Now is the time when refugees from the former Soviet Republics want to emigrate and now is the time that Israel most needs our help. Now is a time for the American people to educate their politicians that they refuse to be pawns in a sad and misguided Bush administration policy. Let's approve the loan guarantees and get on with the business of the Nation.

I ask unanimous consent that editorials from the Wall Street Journal, and the New York Times be printed at this point in the RECORD.

[From the New York Times, Mar. 6, 1992]

HUMILIATING ISRAEL

(By William Safire)

WASHINGTON.—The depth of James Baker's anti-Israel animus was displayed last week when he complained to Congress, "Nobody else is asking us for $10 billion in addition to the $3 billion to $4 billion we give every year with no strings attached."

That was a lie twice over. Secretary Baker is a lawyer who weighs his every word. He knows that Israel asks only for a cosigner on a loan from private banks, has offered to pay the 2 or 3 percent set-aside costs and is by no means "asking us for $10 billion."

He knows, too, that $1.2 billion a year comes right back to us as repayment for military aid we "sold" Israel to offset our sales of advanced jets and tanks to its enemies. And most of the economic aid is for goods that must be purchased in the U.S. So much for "no strings" from an Administration that just forgave Egypt's $7 billion debt.

The Iceman of Foggy Bottom is prepared to practice such deception to accomplish one goal: to limit the settlement of the West Bank to Arabs only. The majority of Jews in Israel believe that would lead to an independent P.L.O. state at their jugular.

To this war-inviting end, Mr. Bush has taken two steps that would have been anathema to any previous U.S. President:

First, he has held hostage Jews fleeing from feared pogroms in Russia and Ukraine. Unless Israel knuckles under to Mr. Bush about the West Bank, there will be no help in borrowing money to house the refugees.

Second, he is unabashedly seeking to topple the Government of an ally. His message to Israelis is unmistakable: Vote out Mr. Shamir and his party of the right—or else.

How can he get away with this strong-arm stuff? Why isn't he concerned about public opinion and Congressional reaction?

Here's why: On the left, he has the editorial support of our leading liberal newspapers; on the right, he sees The Wall Street Journal's news pages savaging Israel's supporters in the U.S.

In the Congress, he euchred Senator Patrick Leahy, overseer of foreign aid appropriations, into what the Vermont Democrat thought was a compromise that would assert mutual interests: deducting from the loan guarantee the amount Israel chose to spend on settlements on disputed land.

But now President Bush's operatives are gleefully passing the word that they have compromised that compromise. They will let Congress authorize the loan guarantee—but only if it gives the President and Mr. Baker the power to withhold its use if Israel does not obey the Bush Administration's West Bank diktats.

Such an abdication of responsibility would transfer power from Congress to the executive branch concerning Mideast affairs (and be a step in the direction of a line-item veto, which every President seeks).

Too many supporters of Israel in the U.S. are persuaded that it's O.K. for Mr. Bush to direct a Labor victory, because they think Yitzhak Rabin will stop the settlements, hand over the West Bank and call that peace.

But Mr. Rabin is on the record against political settlements—not settlements needed for Israel's security, which he supported as Prime Minister in the 70's. He is no Peres patsy. If a Labor-Likud unity government emerges, as is likely, Mr. Bush would be infuriated at its refusal to accept his Solomonic decision to cut Israel's territory in half.

If Mr. Bush succeeds in turning the Leahy compromise into a Leahy double-cross, Mr. Baker will tell Israel: "Take it and leave it." Take the guarantee to borrow the refugee-housing money and leave the West Bank to exclusive Arab development—and, ultimately, Arab sovereignty.

No self-respecting nation can accept such a dishonorable deal. Better to withdraw the guarantee request and let the Russian refugees live in tent cities—call them "Bushvilles"—throughout the West Bank. Perhaps televised suffering will appeal to the world's conscience.

Mr. Bush put a leash on Israel when it wanted to respond to Iraqi Scud attacks. He has been trying to bring Israel to heel by electing his choice of a Prime Minister. And now he wants Congress to let him force the people of Israel—desperate to house refugees from feared religious persecution—to sit up and beg.

Too much. In trying to humiliate the only free nation in the Middle East, George Bush and his hatchetman at State demean us all.

[From the Wall Street Journal, Mar. 6, 1992]

THE UNITED STATES VERSUS ISRAEL

George Bush and James Baker are reputed to be subtle operators, but when it comes to Israel they have only one tone—blunt. Apparently they think this is the tone Israel deserves for participating in the peace process and enduring dozens of Scud-missile attacks during the Gulf War.

The substance of U.S. policy is astonishing. The Bush administration is trying to topple the only democratic government in the Mideast. Mr. Baker broadly hints to the Israeli electorate that if they want increased U.S. support they should vote for the Labor Party, ousting the ruling Likud, in the June Israeli elections.

Whatever his faults, Mr. Baker displayed amazing self-confidence in trying to outmaneuver Yitzhak Shamir in the Israeli political arena. But a few days after he dropped his lead-footed hints, the Likud Party handed him a sharp rebuff in its choice of an electoral slate. The politicians who did well in Sunday and Monday's voting were Ariel Sharon, Benjamin Netanyahu and Zeev B. Begin—those leaders who have been most outspoken about the Baker attacks. The leaders who did poorly in the vote were David Levy and Daniel Meridor, from the so-called dovish wing of the party.

Israel's election campaign is just getting under way. But knowing that they face hostility from not only Syria and the PLO, but also from George Bush and James Baker, Israelis may logically prefer a leader who will cling tenaciously to Israeli interests. The Bush ultimatum—that the U.S. would not guarantee loans to resettle Soviet emigres unless there was a freeze on West Bank settlements—was designed to be unacceptable to Likud. In reality, it is unacceptable across most of the Israeli political spectrum.

The Palestinians' fervent support for Saddam Hussein, the continuing Syrian arms buildup and the attacks by various guerrilla armies have persuaded the majority of Israelis that they cannot pull back to the insecure pre-1967 borders. Yitzhak Rabin, the Labor candidate Mr. Baker implicitly endorses, supports what he calls "security settlements" dotted throughout the West Bank, though he opposes "political settlements" in the densely populated Arab towns.

Israelis overwhelmingly support the annexation of Jerusalem and the retention of the majority of settlements. Most settlements, rather than the trailer parks with machine-gun toting zealots that some American journalists like to portray, are in fat bedroom communities, with pools and jogging facilities and satellite dishes. They house doctors and lawyers, who came for nonpolitical reasons.

On the other hand, there is healthy debate about how to give the Palestinians greater autonomy while still safeguarding Israel's right to exist. But with their persistent Israeli bashing, Messrs. Bush and Baker have taken the U.S. out of this discussion. They are demanding, in effect that Israel make a unilateral concession. Yet, if Israel were to halt settlements, it would be conceding the principle that Jews have no right to live in, say, Hebron, the town where Judaism was born.

If the White House has reversed longstanding U.S. policy that it doesn't support the creation of an independent Palestinian state on the West Bank, then that would be worth knowing.

The White House seems to be veering to the view that in the post-Cold War world Israel has diminished strategic importance, and the Arab regimes have increased importance. Far from this being a strategic vision for the future, it is merely a replay of the calculation that the British Foreign Office made through the first two-thirds of this century. In the U.S. some oil interests, in Texas and elsewhere, have long felt that alliances with Arab nations should take precedence. They opposed the creation of the State of Israel in 1948.

An Arabist policy led the British down a shameful path that had them training the Jordanian troops who attacked the fledgling Israeli state. For the U.S., the drift would mean replacing America's traditional support for democracy and freedom for a sham realpolitik.

The White House has gone out of its way to pick a fight with Israel. This fight allows Mr. Bush to demonstrate the U.S. drift toward Arabism. He has shown he can intimidate American Jewish organizations. But what are the motives for this turn? It does not advance peace. Israel, being a proud nation, will not be cowed by crude pressure. Perhaps Mr. Baker has been spending too much time with the despotic likes of Hafez Assad.

The PRESIDING OFFICER. The Senator from Minnesota.

PRESIDENT BUSH ABANDONS HIS CLEAN AIR ACT

Mr. DURENBERGER. Mr. President, President Bush announced today that he plans to abandon an important part of the 1990 Clean Air Act. This step is a betrayal of all those who worked so long and hard on this legislation to protect our Nation's air quality.

I thought long and hard before using the word, and I have come to the consensus it is the one that is the most appropriate: Betrayal.

The Clean Air Act requires automakers to increase the capacity of air pollution equipment on new cars to capture vapors from the gasoline tank when a car is refueled. This equipment is called an onboard canister. During the compromise process that led to the Clean Air Act, automakers reluctantly agreed to install this equipment in return for many very expensive concessions they fought for and on which many of us yielded. I give you reformulated gasoline in lieu of added emissions requirements as an example.

Now President Bush says that the rules to require onboard canisters will not be promulgated. That decision is totally contrary to the law that we passed and he signed.

Now, the automakers get what they always wanted and the American people get nothing in return. This decision will hurt the more than 100 million Americans who live in cities with dirty air.

In the meantime, much of the rest of the Clean Air Act languishes in a twilight struggle between White House aides and Environmental Protection Agency bureaucrats.

The American people deserve some answers:

Where is the Chemical Safety Board that is to investigate catastrophic accidents?

Where are the rules to eliminate hazardous mercury emissions from garbage incinerators?

Where are the guidelines to improve tailpipe inspection programs in our urban areas?

Where are the rules for cleaner burning fuels?

Where are the requirements for permits to assure that powerplants and oil refineries and steel mills comply with the law?

Where are the new standards to control toxic emissions from chemical plants?

The Clean Air Act was signed into law on November 15, 1990. Each of these items should be well underway by now. The Environmental Protection Agency has written rules to carry out the clear requirements of the law. But, the proposed rules are sitting on some desk down at the White House while the States, and the cities, and the industries of America struggle to implement their responsibilities under the law without the leadership of our National Government.

The possibility of claiming the Clean Air Act as an accomplishment, rather than apologizing for it as another misguided embarrassment, is fast slipping away. Each step toward implementing the law should be relished as another opportunity to remind the American people of the remarkable leadership that George Bush brought to this issue in 1989 and 1990. I wish he would continue that leadership in this, an election year.

Mr. President, I yield the floor.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

REFUGEE POLICY

Mr. SIMPSON. Mr. President, I wish to make a few comments. We are waiting for a couple of our Members to come to the floor, and then we can conclude the day.

But I want to share with the body that, for nearly 14 years, I have been deeply involved in our country's refugee policy.

I participated in every annual refugee consultation with the administration since the passage of the Refugee Act of 1980. This is the process that sets refugee admission levels each year.

I was chairman of the Refugee Subcommittee at a time when this Nation was accepting 14,000 refugees a month, when the total annual cost of our worldwide refugee program was nearly $2 billion.

I have at times expressed my dismay on this floor at the misuse of our refugee procedures, for instance, at times when groups could not qualify as refugees under the Refugee Act, and yet were accommodated through special legislation. But for the most part, I have been very proud of our country's traditional generosity toward persons fleeing political persecution in their homeland; and since I became a member of the subcommittee in 1981, we have admitted and resettled in the United States more than 1 million refugees.

Mr. President, in theory, we have admitted as refugees those persons of special humanitarian concern to the United States who could neither return safety to their homeland nor find resettlement in the neighboring region.

The international community as well as the United States considers safe repatriation to the homeland as the preferred solution to any refugee situation, with resettlement in the region being the next permanent solution.

Due in part to the cost and to the disruption to the refugee, and his or her family, resettlement in a third country such as the United States is the least preferred permanent solution to a refugee situation. Thus, efforts by the international community to make a nation safe for the return of its citizens deserves our whole-hearted support.

Mr. President, at this time we have a unique opportunity to address, in a very positive way, two very tough refugee problems which we have wrestled with for over a decade. I speak of the more than 300,000 Cambodian displaced persons in Thailand, and of the Haitian boat people. Although the majority of both groups are not refugees fleeing political persecution, they surely are members of two societies which have been wracked by unsettled economies, and unstable governments, and human rights abuses that have been prevalent for more than a decade.

The cost to the United States has been high in both instances. In addition to resettling nearly 150,000 Cambodians in the United States, at an estimated cost of $7,000 per refugee, the United States has contributed millions of dollars to the cost of the United Nations border operation, which provides food, shelter, and medical assistance to the displaced Cambodians.

With regard to the Haitian boat people, our Coast Guard has controlled the windward passage to interdict and rescue Haitian boat people for over 10 years at a cost today of more than $400,000 per month.

In addition, the United States military has operated a camp for the boat people at Guantanamo Bay, Cuba, since the increased outflow following the coup in Haiti last December. This operation costs us $1 million per week.

Third, about a third of the Haitians rescued at sea have been found to have a credible claim to rescue status, and these persons are brought to the United States in order to pursue that claim. As I mentioned earlier, it is estimated that the cost to the taxpayer for each person entering the United States, who receives refugee cash and medical assistance, is $7,000.

Mr. President, the international community stands poised to take a significant step toward bringing safety and stability to both Cambodia and Haiti. Such a step will greatly reduce the cost to the United States, and more than deal in a humane way with the people who flee these two countries.

A United Nations peacekeeping operation is just now getting underway in Cambodia. The success of the United Nations operation will not only bring peace and free elections to Cambodia, but it will allow the return to the homeland of those hundreds of thousands of displaced Cambodians on the Thai border who otherwise would continue their lives in camps supported by the international community or be resettled in third countries, such as the United States.

Last week, an agreement was signed by the leaders of the Haitian Parliament and President Jean-Bertrand Aristide, which contemplates the establishment of an OAS observer force in Haiti to assist that Government in reforming the military and establishing democratic institutions.

This international effort, if successful, would bring us stability, which would greatly reduce political persecution and economic devastation in that country. A stable government and a settled economy would also greatly reduce our expenditures for the Coast Guard interdiction, the camp at Guantanamo, and resettlement of Haitian boat people in the United States.

So, Mr. President, I call upon my colleagues to support the payment of our fair share of the cost of these particular international peacekeeping programs. It will not be cheap. We are asked to provide 30 percent of the United Nations peacekeeping costs in Cambodia, and we will be expected to provide a larger percent of the OAS costs in Haiti.

However, I urge my colleagues to keep in mind that we are not only providing a lifeboat to the long-suffering people of Cambodia and Haiti, but we are also doing our part in the international effort that could bring to an end the longstanding and continued cost to us of providing for the displaced persons of Cambodia and the boat people of Haiti. In short, we will then do well by doing good.

And important in these tight times we will be assuredly saving money. If these international efforts are not properly funded they will fail, and whatever is invested will then be lost.

This is at a time when the United States must demonstrate its traditional leadership in international humanitarian efforts and makes its full contribution, and on time. And we have the finest chance in a decade to restore the peace and establish democratic governments in these two fine countries. We must not lose that opportunity.

I very much thank my colleague, the acting majority leader, for his consideration of this additional time.

I yield the floor.

Mr. DOMENICI addressed the Chair.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar Nos. 535, 536, 537, and 538.

I further ask unanimous consent that the Senate proceed to their immediate consideration; that the nominees be confirmed en bloc; that any statements appear in the RECORD as if read; that motions to reconsider be laid upon the table en bloc; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations, considered and confirmed, en bloc, are as follows:

THE JUDICIARY

Robert L. Echols, of Tennessee, to be U.S. district judge for the Middle District of Tennessee.

John R. Padova, of Pennsylvania, to be U.S. district judge for the Eastern District of Pennsylvania.

Jimm Larry Hendren, of Arkansas, to be U.S. district judge for the Western District of Arkansas.

Ira DeMent, of Alabama, to be U.S. district judge for the Middle District of Alabama.

STATEMENT OF SENATOR HOWELL HEFLIN ON THE NOMINATION OF IRA DEMENT

Mr. HEFLIN. I rise today in support of the nomination of a very distinguished Alabamian, Ira DeMent III, to be a U.S. district judge for the Middle District of Alabama. Mr. President, I was privileged to chair his confirmation hearing. Mr. DeMent was rated qualified by a unanimous vote of the American Bar Association, and his nomination was unanimously approved by the Judiciary Committee.

Mr. DeMent was born in 1931, in Birmingham, AL, and he received his undergraduate and law degrees from the University of Alabama. In the ensuing 34 years, he has achieved an impressive career in the private practice of law as well as his service in the public sector. He has served as assistant attorney general for the State of Alabama, 1959; as assistant U.S. attorney for the Middle District of Alabama, 1959–61; and finally, as the U.S. attorney of the Middle District of Alabama, 1969–77.

I might add that Mr. DeMent has served in a variety of other capacities including an instructor for the U.S. Army Infantry School; instructor at Jones Law School; instructor for the Montgomery Police Department; and instructor for the University of Alabama Extension Service.

Mr. DeMent currently serves as general counsel for the Air War College Foundation; special counsel to the Alabama State Department of Youth Services; and as a hearing officer for Alabama Environmental Management Commission. Mr. DeMent has also had a distinguished career where he is currently a retired major general in the U.S. Air Force Reserves.

Mr. President, the public record of this outstanding Alabamian speaks for itself. Mr. DeMent has devoted his career to serving his country, his State and his community. Mr. DeMent has given a substantial amount of his time and talents to pro bono work on behalf of the disadvantaged. He has significant litigation experience in the Federal courts, and I am convinced that he is devoted to the rule of law and that he will be a fair and impartial district court judge.

I am therefore pleased to enthusiastically support his nomination to be a judge for the U.S. District Court for the Middle District of Alabama, and I urge my colleagues to join me in approving his confirmation pursuant to our responsibilities under the advise-and-consent clause of the U.S. Constitution.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on the Judiciary.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILL AND JOINT RESOLUTIONS SIGNED

At 9:30 a.m., a message from the House of Representatives, delivered by Mrs. Goetz, one of its reading clerks, announced that the Speaker had signed the following enrolled bill and joint resolutions:

S. 2324. An Act to amend the Food Stamp Act of 1977 to make a technical correction relating to exclusions from income under the Food Stamp Program, and for other purposes;

S.J. Res. 176. Joint resolution to designate March 19, 1992, as "National Women in Agriculture Day"; and

S.J. Res. 240. Joint resolution designating March 25, 1992, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy."

The enrolled bill and joint resolutions were subsequently signed by the President pro tempore [Mr. BYRD].

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–2773. A communication from the Secretary of Agriculture, transmitting a draft of proposed legislation to recover costs of carrying out Federal marketing agreements and orders; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2774. A communication from the Assistant Secretary of Defense (Production and Logistics), transmitting, pursuant to law, the 1992 Report on National Defense Stockpile Requirements; to the Committee on Armed Services.

EC–2775. A communication from the Secretary of Defense, transmitting, pursuant to law, the annual report of the Department of Defense Reserve Forces Policy Board for fiscal year 1991; to the Committee on Armed Services.

EC–2776. A communication from the Acting Comptroller of the Currency, transmitting, pursuant to law, the annual report on enforcement actions taken by the Comptroller of the Currency under the Financial Institutions Reform, Recovery, and Enforcement Act for calendar year 1991; to the Committee on Banking, Housing, and Urban Affairs.

EC–2777. A communication from the Chairman of the Federal Housing Finance Board, transmitting, pursuant to law, a report on the salary rates adopted by the Board for 1992; to the Committee on Banking, Housing, and Urban Affairs.

EC–2778. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report on a Presidential determination that South Africa has made significant progress toward the elimination of apartheid; to the Committee on Banking, Housing, and Urban Affairs.

EC–2779. A communication from the Secretary of Housing and Urban Development, transmitting a draft of proposed legislation to amend the United States Housing Act of 1937 to provide incentives for families with an absent parent to cooperate with State agencies administering the Child Support Enforcement program under part D of title IV of the Social Security Act to obtain child and spousal support, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

EC–2780. A communication from the Comptroller of the Currency, transmitting, pursuant to law, the annual report of consumer complaints filed against national banks and the disposition of those complaints for calendar year 1991; to the Committee on Commerce, Science, and Transportation.

EC–2781. A communication from the Secretary of Energy, transmitting, pursuant to law, the annual report on the Strategic Petroleum Reserve for calendar year 1991 and reporting requirements for the quarter October 1 through December 31, 1991; to the Committee on Energy and Natural Resources.

EC–2782. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC–2783. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC–2784. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC–2785. A communication from the Director of the Arms Control and Disarmament Agency, transmitting, pursuant to law, the Fiscal Year 1993 Arms Control Impact Statement; to the Committee on Foreign Relations.

EC–2786. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report on the economic policy and trade practices of each country with which the United States has an economic or trade relationship; to the Committee on Foreign Relations.

EC–2787. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the semiannual report on voluntary contributions made by the United States Government to international organizations for the period April–September 1991; to the Committee on Foreign Relations.

EC–2788. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report concerning human rights activities in Ethiopia covering the period July 12–October 14, 1991; to the Committee on Foreign Relations.

EC–2789. A communication from the President of the United States, transmitting, pursuant to law, a report relating to nuclear cooperation with the European Community; to the Committee on Foreign Relations.

EC–2790. A communication from the General Counsel of the Department of the Treasury, transmitting a draft of proposed legislation to amend the Asian Development Bank Act to authorize consent to and authorize appropriations for the United States contribution to the fifth replenishment of the resources of the Asian Development Fund, and for other purposes; to the Committee on Foreign Relations.

EC–2791. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a determination that it is in the national interest to draw down on defense articles and defense services to provide counter-narcotics assistance to Mexico; to the Committee on Foreign Relations.

EC–2792. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, notice of the exercise of Presidential authority with respect to assistance to Angola; to the Committee on Foreign Relations.

EC–2793. A communication from the Chairman of the Merit Systems Protection Board, transmitting, pursuant to law, a report entitled "Federal First-Line Supervisors: How Good Are They"; to the Committee on Governmental Affairs.

EC–2794. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled "Follow-Up Review of the Department of Housing and Community Development's Property Management Administration Systems of Maintenance Practices and Financial Controls: FY 1983–FY 1985"; to the Committee on Governmental Affairs.

EC–2795. A communication from the Secretary of the Resolution Trust Corporation, transmitting, pursuant to law, a report on a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC–2796. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a list of reports issued by the General Accounting Office during the month of January 1992; to the Committee on Governmental Affairs.

EC–2797. A communication from the Assistant Attorney General (Legislative Affairs), transmitting, pursuant to law, a report regarding the Department of Justice's activities pursuant to the Civil Rights of Institutionalized Persons Act during fiscal years 1990 and 1991; to the Committee on the Judiciary.

EC–2798. A communication from the Deputy Director of Communications and Legislative Affairs, Equal Employment Opportunity Commission, transmitting, pursuant to law, the annual report of the Commission under the Freedom of Information Act during calendar year 1991; to the Committee on the Judiciary.

EC–2799. A communication from the Chairman and Board Members of the Railroad Retirement Board, transmitting, pursuant to law, the annual report of the Board under the Freedom of Information Act for calendar year 1991; to the Committee on the Judiciary.

EC–2800. A communication from the Acting Secretary of Commerce, transmitting, pursuant to law, the annual report on the effect on domestic industry of the Omnibus Trade and Competitiveness Act for calendar year 1991; to the Committee on the Judiciary.

EC–2801. A communication from the Executive Director of the Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the annual report of the Corporation under the Freedom of Information Act for calendar year 1991; to the Committee on the Judiciary.

EC–2802. A communication from the Chairman of the Commodity Futures Trading Commission, transmitting, pursuant to law, the annual report of the Commission under the Freedom of Information Act for calendar year 1991; to the Committee on the Judiciary.

EC–2803. A communication from the Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, the annual report of NASA under the Freedom of Information Act for calendar year 1991; to the Committee on the Judiciary.

EC–2804. A communication from the Chairman of the Federal Labor Relations Authority, transmitting, pursuant to law, the annual report of the Authority under the Freedom of Information Act for calendar year 1991; to the Committee on the Judiciary.

EC–2805. A communication from the Director of Operations and Finance, American Battle Monuments Commission, transmitting, pursuant to law, the annual report of the Commission under the Freedom of Information Act for calendar year 1991; to the Committee on the Judiciary.

EC–2806. A communication from the Chairman of the Securities and Exchange Commission, transmitting, pursuant to law, the annual report of the Commission under the Freedom of Information Act for calendar year 1991; to the Committee on the Judiciary.

EC–2807. A communication from the Secretary of Education, transmitting, pursuant to law, final regulations—Javits Gifted and Talented Students Education Grant Program; to the Committee on Labor and Human Resources.

EC–2808. A communication from the Secretary of Education, transmitting, pursuant to law, final regulations—Training Program for Special Programs Staff and Leadership Personnel; Talent Search, Educational Opportunity Centers, Upward Bound, and Student Support Services Programs; and Student Assistance General Provisions; to the Committee on Labor and Human Resources.

EC–2809. A communication from the Secretary of Education, transmitting, pursuant to law, notice of final priorities for fiscal year 1992—Rehabilitation Long-Term Training; to the Committee on Labor and Human Resources.

EC–2810. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, proposed regulations governing the allocation of federal and non-federal expenses; to the Committee on Rules and Administration.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

H.R. 2507. A bill to amend the Public Health Service Act to revise and extend the programs of the National Institutes of Health, and for other purposes (Rept. No. 102–263).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. GRASSLEY:

S. 2352. A bill to provide a cause of action for parties injured in United States commerce as a result of anticompetitive barriers to United States competition abroad; to the Committee on the Judiciary.

By Mr. GORTON:

S. 2353. A bill to provide for a land exchange with the city of Tacoma, Washington; to the Committee on Energy and Natural Resources.

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. 2354. A bill to amend section 4214 of title 38, United States Code, to modify certain eligibility requirements for veterans readjustment appointments in the Federal service, and for other purposes; to the Committee on Veterans Affairs.

By Mr. FORD (for himself, Mr. BUMPERS, Mr. DECONCINI, Mr. WELLSTONE, Mrs. KASSEBAUM, Mr. MCCONNELL, Mr. PRYOR, and Mr. GRASSLEY):

S. 2355. A bill to permit adequately capitalized savings associations to branch interstate to the extent expressly authorized by State law, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DECONCINI:

S. 2356. A bill to limit agreements and cooperative agreements that promise reduced sentences or other benefits in exchange for cooperation by drug kingpins and others charged with extremely serious offenses; to the Committee on the Judiciary.

By Mr. DOMENICI (for himself and Mr. RUDMAN):

S. 2357. A bill to reduce and control the Federal deficit; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports the other Committee has thirty days to report or be discharged.

By Mr. THURMOND:

S.J. Res. 270. A joint resolution to designate August 15, 1992, as "82d Airborne Division 50th Anniversary Recognition Day"; to the Committee on the Judiciary.

By Mr. SIMPSON (for Mrs. KASSEBAUM (for herself, Mr. DOLE, Mr. SIMON, Mr. ROBB, Mr. KENNEDY, and Mr. PELL)):

S.J. Res. 271. A joint resolution expressing the sense of the Congress regarding the peace process in Liberia and authorizing reprogramming of existing foreign aid appropriations for limited assistance to support this process; considered and passed.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SIMPSON (for Mr. DOLE (for himself and Mr. MITCHELL)):

S. Con. Res. 101. A concurrent resolution authorizing the use of the rotunda of the Capitol by the American Ex-Prisoners of War for a ceremony in recognition of National Former Prisoner of War Recognition Day, considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRASSLEY:

S. 2352. A bill to provide a cause of action for parties injured in U.S. commerce as a result of anticompetitive barriers to U.S. competition abroad; to the Committee on the Judiciary.

ANTICOMPETITIVE BARRIERS TO U.S. COMPETITION ABROAD

Mr. GRASSLEY. Mr. President, at the end of last session I spoke on this floor of the need for Congress and the administration to do more to promote adherence in other nations to the principles of competitiveness embodied in our antitrust laws. While most of our industrial trading partners have similar laws to promote competition, few enforce those laws as rigorously as the United States does.

I am concerned that this absence of strong antitrust enforcement in foreign jurisdictions inhibits free trade and injures competition in the international marketplace. When a foreign country tolerates cartels in its domestic market, it limits the ability of businesses from other nations to compete in that market. The artificial absence of competition that results enhances the ability of the domestic cartel to compete abroad—all at the expense of consumers. An absence of consistent international antitrust enforcement interferes with competition worldwide, by keeping the international marketplace from being a level playing field. With the hope of promoting free foreign markets and international trade, I am introducing a bill today to promote the enforcement of antitrust laws across national boundaries.

There has been much discussion in recent months about the need for improved enforcement of competition laws in the international economy. Sir Leon Brittan, Director of Competition Policy for the European Economic Community, urges that GATT be amended to include a competition clause. This is a laudable goal. But new proposals for GATT must await resolution of current negotiations in the Uruguay round. Moreover, as the ABA's special committee on international antitrust notes in its recent report, there is reason to be skeptical about the possibility of reaching international agreement on an effective international competition law.

For the immediate term, the goal should be to promote better enforcement of the competition laws already in existence in most industrialized nations. The ABA reports that there is wide variance among nations in the enforcement of laws prohibiting collusive behavior among businesses. This skews the playing field in the international marketplace, injuring international competition and consumers, and hindering economic growth throughout the world.

Although the United States cannot dictate to other countries what their internal competition policies will be, we do have tools available to encourage other nations to effectively deter cartel behavior and other practices which injure free markets.

We can urge our trading partners to adopt stricter antitrust enforcement policies. The Bush administration has done this with the Japanese in the structural impediments initiatives, and had some success. SII has resulted in the adoption of new antitrust guidelines in Japan, and may result in increased fines for cartel behavior—something urgently needed in a country where the maximum fine for violations of the Anti-Monopoly Act is $40,000.

We can cooperate with other jurisdictions in antitrust enforcement, as with the recent agreement between the United States and the European Economic Community to consult each other on antitrust cases which affect both sides of the Atlantic.

We can also use the U.S. antitrust laws to challenge foreign conduct which has the direct intended effect of injuring competition in the U.S. economy.

This is allowed under current U.S. law, and Attorney General Barr has indicated his intent to begin bringing Sherman Act cases against foreign cartels. Hopefully, the administration will support him in this effort.

But even a strong extraterritorial antitrust enforcement policy would not reach all conduct that injures competition in international markets in which U.S. companies operate.

This was apparent in the Zenith antitrust litigation, where the Supreme Court held that our antitrust laws do not necessarily reach foreign cartels that promote export activity in the United States with monopoly profits that result from protection in their home market.

The bill I am introducing today will ensure that the benefits of foreign anticompetitive practices cannot be employed in a manner that injures competition in U.S. commerce.

The bill establishes a new cause of action under the antitrust laws for persons who are injured in the United States by restrictions of competition in another jurisdiction. Under the bill, participants in U.S. commerce who use the benefits of such anticompetitive practices to undercut efficient competitors in the United States can be sued for the damages that result.

For example, under this bill foreign firms who collude to charge monopoly prices in their home market and use their monopoly profits to support predatory pricing in the United States could be sued for the damages that result from such anticompetitive conduct. The bill would similarly apply to firms that agree to allocate foreign markets, or to refuse to supply technologically advanced goods to foreign firms, or to engage in any other anticompetitive conduct.

This bill seeks to promote competition and free market principles by ensuring that protectionist cartels are not used to gain competitive advantages in international trade. Such collusive behavior among firms—which protects domestic markets and subsidizes export trade—injures consumers, restricts international competition, and inhibits worldwide economic growth.

Until antitrust principles are integrated into international law, cartels and import barriers must be deterred and eliminated through the competition laws of individual nations. I urge my colleagues to join me in using antitrust law principles to promote free competition and free markets in the international economy.

I ask that the full text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2352

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds that—

(1) nations that tolerate or encourage unreasonable anticompetitive restraints that protect domestic producers from foreign competition injure consumers, restrict international competition, and inhibit worldwide growth in jobs, productivity, investment, and income;

(2) competitors that benefit from such restraints have an unfair and unreasonable advantage when competing with United States firms, thereby threatening United States jobs, productivity, investment, and income; and

(3) it is the policy of the United States to promote the enactment and vigorous enforcement by foreign states of their basic competition laws, and to encourage the elimination of both public and private barriers to entry, investment, and other forms of participation in foreign markets by United States and other foreign nationals.

SEC. 2. AMENDMENT OF THE SHERMAN ACT.

The Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890 (commonly known as the Sherman Act) (15 U.S.C. 1 et seq.), is amended by inserting after section 3 the following new section:

"ANTICOMPETITIVE BARRIERS TO UNITED STATES COMPETITION ABROAD

"SEC. 3A. (a) DEFINITION.—In this section, the term 'anticompetitive market protection' means conduct that—

"(1) violates the laws of a foreign jurisdiction that prohibit unreasonable restraints of trade; and

"(2) inhibits competition by United States persons in the foreign jurisdiction.

"(b) CIVIL CAUSE OF ACTION BY INJURED PERSON.—A person that—

"(1) obtains benefits from anticompetitive market protection; and

"(2) employs those benefits in interstate or import commerce of the United States,

and thereby causes injury to the business or property of another person engaged in import commerce or interstate commerce of the United States, shall be liable to the injured person for the actual damages sustained and the cost of suit, including a reasonable attorney's fee, in a civil action brought in any district court of the United States in the district in which the defendant resides or is found or has an agent.

"(c) INTEREST.—(1) In an action under this section, pursuant to a motion by a prevailing plaintiff promptly made, the court may award simple interest on actual damages for the period beginning on the date of service of the complaint and ending on the date of judgment, or for any shorter period, if the court finds that the award of interest is just in the circumstances.

"(2) In determining whether an award of interest under paragraph (1) is just in the circumstances, the court shall consider only—

"(A) whether the plaintiff or defendant made motions or asserted a claim or defense that was so lacking in merit as to show that the party acted intentionally for delay or otherwise acted in bad faith;

"(B) whether during the course of the action the plaintiff or defendant violated any rule, statute, or court order providing for sanctions for dilatory behavior or otherwise providing for expeditious proceedings; and

"(C) whether the plaintiff or defendant engaged in conduct primarily for the purpose of delaying the litigation or increasing the cost of the litigation.".

By Mr. GORTON:

S. 2353. A bill to provide for a land exchange with the city of Tacoma, Washington; to the Committee on Energy and Natural Resources.

LAND EXCHANGE WITH THE CITY OF TACOMA, WASHINGTON

Mr. GORTON. Mr. President, I am introducing legislation that will resolve a long-standing dispute between the Olympic National Park and the city of Tacoma over the relicensing of a dam at Lake Cushman. The park contends that a few acres of its land lies beneath the surface of the lake at its normal water level. When Tacoma City Light recently lowered the reservoir to do work on the dam, the park claimed that the acreage would be inundated if the reservoir were raised and that this would constitute an illegal trespass on park property. Tacoma offered to purchase the small parcel and the park demanded a land exchange instead. This legislation will establish a mechanism for completing that land exchange.

The residents of the Lake Cushman area, as well as the residents of the city of Tacoma who rely on power from the Lake Cushman Dam, have been anxiously awaiting the resolution of this dispute. The level of the reservoir has been kept at an unreasonably low level, decreasing the generation of power from the dam and leaving docks high and dry. I understand that the park and the city of Tacoma have been negotiating a land exchange and, once those negotiations are completed, the park will adjust its boundaries. The only remaining step is the passage of this legislation.

Congressman DICKS has introduced the same legislation in the House. We both hope that the appropriate committees of jurisdiction will act on this matter quickly.

I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2353

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PURPOSE.

The purpose of this Act is to settle a dispute involving Olympic National Park and the city of Tacoma's Lake Cushman Project in the State of Washington.

SEC. 2. LAND EXCHANGE.

(a) IN GENERAL.—(1) As soon as reasonably possible after the city of Tacoma, Washington, in a manner consistent with this Act, offers to transfer to the United States the lands identified in paragraph (2) in exchange for the lands described in paragraph (3), the Secretary of the Interior shall carry out such exchange.

(2) The lands to be conveyed to the United States by the city of Tacoma are approximately 40 acres of non-Federal lands located in the Soleduck area of Olympic National Park.

(3) The lands to be conveyed to the city of Tacoma are approximately 30 acres of land adjacent to Lake Cushman identified as lands to be transferred to the city of Tacoma as depicted on the map entitled "Proposed Boundary Revision of Olympic National Park" and dated May 22, 1991. Such map, and a legal description of the lands to be conveyed to the city of Tacoma, shall be on file and available for public inspection with the Director of the National Park Service, Department of the Interior.

(b) CONDITIONS.—(1) Any exchange of lands pursuant to this Act shall occur only if the city of Tacoma demonstrates to the satisfaction of the Secretary of the Interior that the city is able to deliver to the United States clear and unencumbered title to the lands identified in subsection (a)(2), and that after such exchange there will be no legal impediment to the management of such lands as part of Olympic National Park under all provisions of law applicable to Olympic National Park.

(2) The land exchange authorized by this section shall be subject to the laws and regulations applicable to exchanges involving lands managed by the Secretary as part of the National Park System.

SEC. 3. BOUNDARY ADJUSTMENT.

At the same time that the Secretary exchanges lands pursuant to this Act, the Secretary shall adjust the boundaries of Olympic National Park in the manner depicted on the map referenced in section 2(a)(3) so as to exclude from such unit of the National Park System the lands transferred to the city of Tacoma by the Secretary pursuant to such exchange.

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. 2354. A bill to amend section 4214 of title 38, United States Code, to modify certain eligibility requirements for veterans readjustment appointments in the Federal service, and for other purposes; to the Committee on Veterans' Affairs.

VETERANS READJUSTMENT APPOINTMENT AMENDMENTS OF 1992

Mr. MURKOWSKI. Mr. President, I rise today on behalf of myself and the distinguished senior Senator from Alaska, Senator TED STEVENS, to offer a bill that, if enacted, would restore an important Federal Government employment advantage for a small group of veterans of our armed services that earlier legislation unintentionally rescinded. This bill is offered on request of the administration.

The bill I introduce today would restore so-called veterans readjustment appointment eligibility for some Vietnam-era veterans on the same basis as for Vietnam in-theater and disabled veterans. It would also extend the termination date for Vietnam-era eligibility from the current 1993 sunset, for 2 additional years, to 1995. Finally, the bill would amend the definition of post-Vietnam service in such a way as to restore eligibility to veterans who continued their military service after the Vietnam era ended.

The distinguished senior Senator from Alaska and I have been contacted by veterans of our State. These veterans are concerned about a new barrier they are encountering in their efforts to secure Federal employment in Alaska. On hearing the facts, we believe they face an inequitable situation compared to other honorably discharged veterans. Thus, in our judgment, this bill must be viewed in this body as a matter of restoring equity of Federal employment opportunity for some of our Nation's veterans.

In 1970, Mr. President, Congress enacted legislation that permitted the executive branch to extend Federal employment opportunities to a certain group of veterans. This program, beginning during the Vietnam war, continues to serve as an important hiring option for the Federal Government.

Authority of Federal agencies to hire these veterans is commonly known as the veterans readjustment appointment authority, or VRA. The highly flexible VRA authority has enabled Federal agencies over the past 22 years to hire over 300,000 veterans into tailored training assignments. On satisfactory progress these trainees are granted career status.

Mr. President, the VRA program not only has provided an important veteran-oriented stimulus in hiring practices in the executive branch, but also has been used to employ and train many thousands of veterans who, without it, may not have been able to find gainful or suitable employment after honorably serving their country.

In recent years, Congress has twice modified this unique employment privilege. In 1989, Congress expanded the program to cover veterans who served on active military duty in the post-Vietnam period. The law limited Vietnam-era VRA appointments to those veterans who had served in a combat theater—that is, actually served in Vietnam—or had sustained a service-connected disability consequent to their active duty. These changes were made in evidence that these two groups—the in-theater and disabled veterans—were most in need of Federal readjustment assistance.

In March 1991, Mr. President, Congress again amended VRA—and thereby created consequences that cause me to rise today. In the act Congress unintentionally restricted VRA appointments to veterans who first entered active duty after the August 1975 close of hostilities with Vietnam. As a consequence of this measure, some Vietnam in-theater veterans—those who entered active duty before August 1975—and who continued on active duty beyond that date—actually lost their VRA eligibility. This was an unintended effect of an otherwise well-intentioned act.

I would urge my colleagues to join the senior Senator and me in supporting this correction in law, so that we may move it forward in an expeditious manner. In a time of economic recession, we should not complicate the rules for Federal employment—particularly when they deal with employing our Nation's veterans.

Mr. President, I would ask unanimous consent that the full text of our bill, as well as a letter of March 9, 1992, from the Director of the Office of Personnel Management, with enclosures, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2354

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans Readjustment Appointment Amendments of 1992".

SEC. 2. MODIFICATIONS OF ELIGIBILITY REQUIREMENT FOR READJUSTMENT APPOINTMENT.

(a) MODIFICATION.—Paragraph (2) of section 4214(b) of title 38, United States Code, is amended to read as follows:

"(2) This subsection applies to—

"(A) a veteran of the Vietnam era; and

"(B) a veteran who served on active duty after the Vietnam era and who is an eligible veteran under section 4211(4) of this title.".

"(b) EXTENSION OF APPOINTMENT PERIOD.—Paragraph (3)(A)(ii) of such Action is amended by striking out "December 31, 1993," and inserting in lieu thereof "December 31, 1995,".

U.S. OFFICE OF PERSONNEL MANAGEMENT,
Washington, DC, March 9, 1992.

Hon. DAN QUAYLE,
President of the Senate, Washington, DC.

DEAR MR. PRESIDENT: The Office of Personnel Management submits herewith a legislative proposal entitled the "Veterans Readjustment Appointment Amendments of 1992." This legislative proposal would modify certain eligibility requirements for veterans readjustment appointments in the Federal service. We request that it be referred to the appropriate committee for early consideration.

Under the veterans readjustment appointments (VRA) authority, eligible veterans can be hired noncompetitively into the Federal service and receive training in job skills. Since its inception in 1970 as a program for Vietnam-era veterans, the VRA program has been very successful. Over 300,000 veterans have entered the Federal service by means of the VRA, performing needed work in an effective manner, thus benefiting both the veterans and the Federal Government.

Until 1989, the VRA program applied only to veterans of the Vietnam era. In that year, the Congress amended the law to provide VRA eligibility to all veterans who served on active duty after the 1975 close of the Vietnam era. At the same time, the eligibility of Vietnam-era veterans was restricted to those veterans who served in a combat theater or were service-disabled, in view of evidence that these two groups were more in need of employment assistance than were other Vietnam-era veterans.

Under the 1989 act, the eligibility of Vietnam-era disabled and theater veterans was extended to 1991, or until four years after the veteran's discharge, whichever was later. In contrast, the eligibility of all other Vietnam-era veterans was terminated just two weeks after the law was enacted. However, those veterans whose active duty continued after the Vietnam-era were still able to qualify for the VRA program as post-Vietnam veterans.

In March of 1991, however, the VRA law was amended to restrict post-Vietnam eligibility to those veterans who first entered on active duty after the close of the Vietnam era. As a result, those Vietnam-era veterans who also had post-Vietnam service lost their VRA eligibility on the basis of post-Vietnam service.

We believe that VRA eligibility should be restored for those Vietnam-era veterans whose eligibility was terminated by the 1989 act. Not only was their Vietnam-era eligibility cut off on short notice, but the eligibility that many of them established on the basis of post-Vietnam service was later rescinded by the 1991 act. This contrasts sharply with the treatment of other veterans eligible for VRA. The eligibility of Vietnam-era disabled and theater veterans has now been extended to December of 1993, or 10 years after the veteran's discharge if later. All post-Vietnam veterans are eligible for VRA until the later of December 1999 or 10 years after discharge.

The enclosed legislative proposal would restore eligibility for all Vietnam-era veterans, on the same basis that is applicable to Vietnam-era theater and disabled veterans, and would extend the termination date for Vietnam-era eligibility from the current 1993 by two years, to 1995. The proposal would also remove the "first entered on duty" restriction from the definition of post-Vietnam service, so that Vietnam-era veterans who also have post-Vietnam service can be eligible for VRA on the basis of their post-Vietnam service.

We believe this proposal will provide fair treatment for all Vietnam-era veterans with respect to VRA eligibility. Further, enactment of this proposal will avoid the problems that have arisen from the "dual standards" for Vietnam-era eligibility. This will encourage Federal agencies to make the maximum use of VRA hiring, since, in our view, administrative simplicity of VRA hiring is essential to Federal agencies' support for the program and its consequent success.

The Office of Management and Budget advises that, from the standpoint of the Administration's programs, there is no objection to the submission of this proposal.

A similar letter is being sent to the Speaker of the House of Representatives.

Sincerely,

CONSTANCE BERRY NEWMAN,
Director.

SECTION ANALYSIS

To amend title 38, United States Code, to modify certain eligibility requirements for veterans readjustment appointments in the Federal service, and for other purposes.

The first section provides a title for the bill, the "Veterans Readjustment Appointment Amendments of 1992."

Section 2 amends section 4214(b) of title 38, United States Code, which provides eligibility requirements for veterans readjustment appointments in the Federal Government. Current law limits eligibility of Vietnam-era veterans to those who have a compensable disability, or who served on active duty during a period of war or in a campaign for which a campaign badge is authorized. The amendment would remove these restrictions, providing eligibility to all Vietnam-era veterans who served on active duty for more than 180 days and received other than a dishonorable discharge. Current law provides that eligibility of Vietnam-era veterans terminates on December 31, 1993, or 10 years after the veteran's last discharge from active duty, whichever is later. The amendment provides that all Vietnam-era veterans will be eligible until December 31, 1995, or 10 years after discharge if later.

Current law limits eligibility of post-Vietnam veterans to those who first entered on active duty after May 7, 1975, when the Vietnam era ended. The amendment provides instead that all veterans who served on active duty after the Vietnam era are eligible for veterans readjustment appointments, and makes explicit that post-Vietnam veterans are also subject to the requirement for more than 180 days of active duty service with other than a dishonorable discharge.

Section 3 provides that the amendments made by the Act take effect on the date of enactment.

By Mr. FORD (for himself, Mr. BUMPERS, Mr. DECONCINI, Mr. WELLSTONE, Mrs. KASSEBAUM, Mr. MCCONNELL, Mr. PRYOR, and Mr. GRASSLEY):

S. 2355. A bill to permit adequately capitalized savings associations to branch interstate to the extent expressly authorized by State law, and for other purposes; to the Committee on Banking, Housing and Urban Affairs.

SAVINGS ASSOCIATION INTERSTATE BRANCHING ACT OF 1992

Mr. FORD. Mr. President, I rise today along with Senator BUMPERS, Senator DECONCINI, Senator WELLSTONE, Senator KASSEBAUM, Senator MCCONNELL, Senator PRYOR, and Senator GRASSLEY to introduce legislation affecting interstate branching by Federal savings associations. It is truly unfortunate that this legislation is required today, at a time when Congress just recently debated the issue of interstate branching, at a time when the savings and loan industry is trying to return to stability, at a time when it is still responding to many recent changes in the law, and at a time when the industry does not need any more dramatic policy changes from its regulators.

But, Mr. President, this legislation is required today. It is required to preserve the status quo. It is required because the administration and the Office of Thrift Supervision are now trying to railroad through regulations which would allow unrestricted nationwide branching for federally chartered thrifts. In other words, the OTS regulation will allow Federal thrifts to branch interstate regardless of whether the affected State permits it. If President Bush is looking for a good example for applying his moratorium on new Federal regulations, I have one for him. A very good one.

I believe the OTS proposal has been poorly timed and poorly reasoned, and it is poorly supported as a result. Yet they have decided to go forward with a final rule. The OTS proposal on interstate branching ignores the rights of States, the legitimate franchise interests of small savings associations, and the effect it will have on the thrift industry and related financial services industries. Because of the manner in which this proposal has been pursued, I believe it will inject instability into an already volatile industry.

I am confused by the actions of the administration on interstate branching for thrifts. I have many questions. Why was this proposal rushed through so quickly? Why the "quick strike" philosophy? The proposed regulation was issued on Monday, December 30th, right in the middle of the holidays. It had only a 30-day comment period. OTS resisted calls by many interested parties—including 25 Senators—to extend this comment period. Now, 6 weeks later, and despite much opposition to the proposal, OTS has apparently decided to go forward. Perhaps they have tried to rush this through before too many noticed.

But where is the evidence that this will be helpful to the industry? What evidence has OTS presented? Mr. President, let me make clear that I am no opponent of interstate branching. But I do believe that any movement in this area can only be done with the recognition that we have a dual system of regulation of financial institutions in this country. No proposals for interstate branching can be fairly considered unless they are implemented through this dual system. There is a wide range of opinion on the benefits and costs of interstate branching. I believe the evidence on this issue is unclear at best.

The administration has done nothing to change this situation. They argue that consolidation will increase the efficiency and safety of the thrift industry through economies of scale and geographic diversity.

Yet critics of interstate branching argue that the largest institutions are often the least profitable, and pose greater dangers to taxpayers. Geographic diversity would not have prevented many recent failures. We have been told that mismanagement had more to do with many failures than anything. In addition, large, impersonal institutions run the risks of diverting funds from local communities, ignoring local economic development efforts and small businesses. They may impose more rigid lending standards that cannot adapt to local needs. And consolidation within any industry runs the risk of imposing needless costs on consumers.

So there are arguments on both sides worth hearing. And it is quite legitimate for different States to approach this issue differently. Some may want unrestricted entry, some may want interstate branching subject to certain conditions, and some may not want it at all.

Mr. President, why override the rights of States at this time? Why turn our current system of dual regulation on its head, as the administration wants to do? Why not let States evaluate the risks and benefits associated with interstate branching? Obviously, the administration has not persuaded enough States to see the issue its way. It now wants to destroy the rights of States to decide for themselves.

Which leads to my final question. Just who supports this new OTS regulation? Who is for it? Many small thrifts in my State and across the country are not for it. Many small banks are not for it. The IBAA is not for it. Many State banking organizations, including my own, are not for it. Many State regulators are not for it. Edward Hatchett, the commissioner of the Department of Financial Institutions in Kentucky, called the administration's proposal "a reckless and totally unwarranted departure from the measured relaxation of thrift and bank branching restrictions that Congress has upheld" as recently as last year. Commissioner Hatchett is not for this OTS regulation. The Conference of State Bank Supervisors is not for it. Consumer groups are not for it. Mr. President, who supports overriding State law on interstate branching? Apparently, only this administration.

The legislation which I am introducing today along with my colleagues will merely preserve the status quo. It preserves the situation which has existed for the last several years under Federal law and regulations. First, it permits federally chartered savings associations to branch across State lines only when the law of the affected States allow it for State-chartered thrifts. Second, the legislation makes clear that any terms and conditions imposed by States on branching will continue to apply. And third, only Federal savings associations which are adequately capitalized under Federal law will be permitted to engage in interstate branching.

As I stated before, Mr. President, it is unfortunate that this legislation is necessary today. However, the ill-considered and ill-advised administration rule for unrestricted nationwide branching by Federal savings associations, in my view, is contrary to congressional intent. It appears that the issue will only be remedied through legislation.

Mr. President, I yield the floor.

Mr. BUMPERS. Mr. President, I am pleased to introduce the Savings Association Interstate Branching Act of 1992 with my friend from Kentucky, Senator FORD.

Last November the Senate debated a comprehensive banking bill that included interstate branching for Federal banks. I opposed interstate bank branching and offered an amendment that would preserve the rights of States to control whether and under what circumstances interstate branching would be allowed. Senator FORD's amendment, which improved the original bill by allowing States to opt out of interstate branching, prevailed on the floor. Ultimately the States won when the final conference report, which like the House bill did not include any authority for interstate branching, was approved and finally became law.

Within weeks after the bill, which clearly indicated that Congress did not favor interstate branching, was signed into law, the Office of Thrift Supervision published notice of a proposed rulemaking in the Federal Register. The proposed rule would allow federally chartered thrifts to branch interstate regardless of State law. Despite the fact that 25 Senators signed a letter to the Director of the Office of Thrift Supervision objecting to the rule and requesting that the 30-day comment period be extended, the OTS refused to extend the comment period. I fully expect that the interstate branching rule will be published any day.

Mr. President, the purpose of the Savings Association Interstate Branching Act of 1992 is to preserve the rights of States to determine whether and under what circumstances interstate branching may take place. This bill will permit federally chartered thrifts to branch across State lines, but only if such branching is permitted by State law. The terms and conditions of interstate branching will continue to be within the control of States under this bill. In addition, federally chartered thrifts will only be permitted to branch if they are adequately capitalized.

Congress rejected Federal preemption of State laws on interstate bank branching just 4 months ago. The purpose of this bill is to maintain the current law by preventing the Office of Thrift Supervision from circumventing the will of Congress with the proposed rule.

By Mr. DECONCINI:

S. 2356. A bill to limit plea agreements and cooperative agreements that promise reduced sentences or other benefits in exchange for cooperation by drug kingpins and others charged with extremely serious offenses; to the Committee on the Judiciary.

PLEA AGREEMENTS AND COOPERATIVE AGREEMENTS WITH THOSE CHARGED WITH SERIOUS OFFENSES

• Mr. DECONCINI. Mr. President, I rise today to introduce legislation which, hopefully will put an end to this administration's misguided policy in prosecuting drug kingpins. Simply put, this bill precludes Federal prosecutors from giving sweetheart deals to drug kingpins for information to prosecute an individual charged with a lesser offense.

Recently, in the criminal trial of General Manuel Noriega, the Bush administration cut deals with some of the most notorious drug kingpins ever apprehended or convicted in this country. Its fear of losing this trial led the administration to breach its own prior announced policy of prosecuting drug traffickers to the fullest extent under the law. This reckless and misguided policy must stop.

Specifically, this bill prohibits the Government from entering into any agreement with criminals charged with or convicted of the following crimes: Crimes using guns in the act of manufacturing, distributing, or selling drugs; crimes of murder or attempted murder of drug enforcement agents or other Federal agents; crimes of kidnaping drug enforcement agents or other Federal agents; crimes involving a "continuing criminal enterprise", an essential statute in prosecuting drug kingpins; and crimes involving the import, distribution, and sale of large amounts of controlled substances.

This legislation is very limited in its scope but very broad in its message. The message to this administration is that bargaining with drug kingpins will not be tolerated. And in those instances where plea agreements are entered, the Justice Department will be accountable to the American people.

This legislation will not tie the hands of Federal prosecutors in entering plea agreements. In fact, my bill would not prohibit the Justice Department from entering into an agreement with a major drug kingpin for information against another drug kingpin being charged with the same offense. The Justice Department should have the flexibility to make that policy decision. Yet, because of the enormous policy ramifications of giving a break to a major drug kingpin, this legislation would require the Attorney General to personally approve such an agreement. My hope is that this is the current policy at Justice. However, in view of the confusion and delays surrounding my requests for information regarding the plea agreements entered into during the Noriega trial, I believe it is imperative that the Attorney General be required to account personally for such an important policy decision.

Mr. President, it has been the stated policy of this administration to prosecute drug traffickers to the fullest extent under the law. Unfortunately, the actions of this administration during the Noriega trial contravene that prior policy.

As a former prosecutor, I recognize the importance of and flexibility that plea agreements provide the criminal justice system. However, entering a pleas agreement with the likes of a notorious drug kingpin such as Carlos Lehder has tremendous ramifications beyond the benefit it would provide to another criminal prosecution. Such actions undermine the credibility of our Government, justice system, and commitment to the war on drugs around the world.

In its own national drug strategy released in January 1992, the administration declared that one of its principal objectives in the war on drugs would be to continue to urge the Andean nations, such as Colombia, to strengthen their laws and increase their prosecution against major drug traffickers. In addition, this administration has continued to press Colombia, Peru, and Bolivia to extradite its drug kingpins for prosecution in the United States.

How can we expect any cooperation from these countries when we are so willing to breach our own commitment?

Congress has a right to be notified when the administration is entering a plea agreement with tremendous policy ramifications. Under my legislation, before the administration enters a plea agreement like those dealt out in the Noriega trial, the Attorney General is required to personally approve such an agreement and must notify Congress 10 days before the agreement is finalized.

At a time when Congress is providing the administration with the prosecutorial tools to convict drug traffickers, the administration has chosen a more lenient path. Indeed, it is rather disturbing that at the same time the administration is cutting sweetheart deals with the likes of Carlos Lehder, President Bush is threatening to veto a crime bill under which Mr. Lehder would receive the death penalty.

Mr. President, I ask unanimous consent that the text of the legislation be printed at this point in the RECORD as well as a copy of the floor statement that I gave 2 weeks ago on the administration's plea agreement policy for drug kingpins.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2356

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LIMITATION ON PLEA AGREEMENTS AND COOPERATIVE AGREEMENTS WITH DRUG KINGPINS AND OTHERS CHARGED WITH EXTREMELY SERIOUS OFFENSES.

Section 3582 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(e) LIMITATION ON PLEA AGREEMENTS AND COOPERATIVE AGREEMENTS WITH DRUG KINGPINS AND OTHERS CHARGED WITH EXTREMELY SERIOUS OFFENSES.—

"(1) IN GENERAL.—In the case of an offender who is charged with, could be charged with, could have been charged with, or has been convicted of an offense described in paragraph (2), the court shall not approve a plea agreement, cooperative agreement, or other form of agreement between the Government and the offender under which—

"(A) the Government agrees to, or agrees not to contest, a request for a sentence of any particular length or for a reduction in sentence; or

"(B) any other benefit is to be made available to the offender,

in exchange for the cooperation of the offender in providing information or evidence that may lead to the conviction of another person of an offense other than an offense described in paragraph (2).

"(2) OFFENSES.—An offense is described in this paragraph is it is punishable under—

"(A) section 924 (c), (e), (g), or (h), 1114, or 1201(a)(5) of this title;

"(B) section 401(b) or 408 of the Controlled Substances Act (21 U.S.C. 841(b) and 848); or

"(C) section 1010(b) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)).

"(3) APPROVAL OF THE ATTORNEY GENERAL; NOTICE TO CONGRESS.—The Attorney General shall—

"(A) personally review and approve any agreement described in paragraph (1) with an offender under an offense described in paragraph (2) in exchange for the cooperation of the offender in proving information or evidence that may lead to the conviction of another person of an offense described in paragraph (2); and

"(B) not later than 10 days before any such agreement is entered into, provide to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives notice of the proposed agreement, which notice shall include the name of the offender with whom the agreement is to be made.".

STATEMENT OF SENATOR DECONCINI FEBRUARY 26, 1992

Mr. President, today President Bush and Drug Czar Martinez are in San Antonio for a two-day "Drug Summit" with the leaders of six Latin American nations. The White House claims that this summit will highlight the progress in the drug war.

I came to the Senate floor today to denounce in the strongest terms possible a misguided policy of the Bush Administration, which I am willing to bet will not be highlighted by President Bush at this summit.

In its effort to convict General Manuel Noriega, the Bush Administration adopted a policy of handing out a cascade of plea agreements to a host of notorious convicted drug kingpins.

Convicted drug traffickers and their lawyers anxiously awaited—and sometimes sought out—an invitation from the Justice Department to testify against Noriega. As the poster here illustrates [and these are but a few examples], what drug kingpin would not jump at the opportunity to testify in this trial?

The group the prosecution assembled in the Noriega trial reads like a list of who's who of drug kingpins in the Federal prison system.

Let me tell you about Colonel Del Cid. The former Noriega bagman faced 70 years in jail on 4 counts of drug trafficking and racketeering. Noriega prosecutors dropped 3 counts and recommended a maximum of 19 years on his remaining count. They have also promised not to deport him when he is released.

If you think this is bad it only gets worse. This is what Daniel Miranda's lawyer said when he went in to cut a deal with prosecutors for his client's testimony against Noriega.

"We made them a list of demands and they basically agreed to all of them."

Miranda flew cocaine shipments for Colombian drug lords. The prosecutors have also agreed to ask INS to give Miranda legal entry into the United States and for the FAA to restore his commercial license. This sweetheart deal is for a witness who had never even met Noriega.

Richardo Bil-O-Nick had been hunted for years by U.S. law enforcement officials for a 2,100 pound shipment of cocaine seized in 1984. Bil-O-Nick should have served 60 years in prison. Yet, with parole, he will be out in 7 years and maybe less. And shockingly, our Government has promised to urge other countries not to prosecute this drug kingpin.

Nevertheless, the biggest travesty of all is the sweetheart deal handed to Carlos Lehder by the Bush Administration. Lehder, one of the founding members of the Colombian drug cartel and an admirer of Adolph Hitler, is the most notorious cocaine trafficker ever apprehended.

More than any individual, Carlos Lehder was responsible for the development, growth and supplying of the cocaine market in the United States. At one time Lehder was responsible for 80 percent of the cocaine that entered the United States.

He is a vicious criminal who is responsible for thousands of deaths in Colombia. The tens of thousands of pounds of cocaine that he smuggled into this country has caused unprecedented violence and murder on the streets of America. It has created millions of drug addicts and crack babies.

In what was considered the most important drug trafficking trial in history, Lehder was convicted in 1988 to a sentence of life plus 135 years.

So how did this Narco-terrorist end up testifying for the Government? Lehder, himself, was lobbying for a spot in the Noriega trial less than a month after Noriega's arrest. He sent out letters and sought interviews after more than a year of silence.

Did he do it out of his love for the United States? I don't think so. His disdain for America is renowned. The prosecutor in his trial stated that Lehder was motivated by his hatred of the United States. He considered cocaine a "revolutionary weapon against North American imperialism." At the Noriega trial, Lehder, himself, stated that he was testifying in the hopes of winning a reduced sentence that would allow him to return to Colombia.

I still don't know the extent of the Lehder plea agreement. I wrote a letter last December to Attorney General Barr requesting a detailed explanation of it. However, it took 2 months for a response that was as vague as I have ever received.

I do know that in return for testifying against Noriega, Lehder was transferred out of our country's highest security prison—the Federal prison in Marion, IL. The Justice Department claims that he was moved for his own personal safety.

How can moving him out of the most secure prison in the United States improve the safety of this convicted drug kingpin?

We also know that the administration went along with Mr. Lehder's wishes and brought 8 members of Lehder's family to the United States to live under Federal protection. I wonder how much of this cost is being footed by the American taxpayer?

The Justice Department claims that Lehder is paying for this himself. My question is with what? Lehder can only be paying for these services with his drug profits.

Lehder, who was fined a paltry $350,000 when he was convicted, has acknowledged that he still has $8 million in property and assets throughout the world. These assets are from drug profits that he continues to earn interest on and which his family can benefit from.

This is disturbing in light of the fact that Lehder owes $98 million to the United States in taxes on his drug profits. And he has paid none of it.

At one time the motto of Colombian drug lords was "we prefer a grave in Colombia to a jail in the United States." With the new Bush policy on plea agreements, Colombian drug traffickers are requesting deals that will land them in the United States.

Colombian drug lord Pablo Escobar, who surrendered to the Colombian Government in June, is now sitting in his private, luxurious prison outside his home town. He continues to run his cocaine empire from prison and orders assassinations of his enemies.

In late December Escobar proposed his own deal to the United States Government. Escobar wants to provide evidence against Noriega in exchange for handing over all evidence we have against Escobar.

It was once the stated policy of this administration to prosecute drug kingpins to the fullest extent possible. Clearly, that policy has been replaced by a misguided policy that caters to the most notorious drug traffickers in the world. And this week, while the President will be attempting to extract demands from Andean nations to fight the war on drugs, the United States Government must defend its get soft policy on drug kingpins.

Mr. President, this policy—plain and simple—is wrong. It is indefensible. And it is detrimental to our relationships with our allies in the war on drugs.

We are sending the wrong message when we bargain with the likes of Carlos Lehder. Last November, we listened to President Bush threaten to veto a comprehensive crime bill that emerged from a House-Senate conference. Yet, under that bill there would be no opportunity to bargain with the likes of Carlos Lehder and Pablo Escobar. Instead, they would receive the death penalty. That is the message we should be sending our allies.

Mr. President, I plan to introduce legislation that will put an end to this plea agreement practice for drug kingpins. In the meantime, I call on the President to renounce this misguided policy this week at the drug summit.●

By Mr. DOMENICI (for himself and Mr. RUDMAN):

S. 2357. A bill to reduce and control the Federal deficit; pursuant to the order of August 4, 1977, referred jointly to the Committee on the Budget and the Committee on Governmental Affairs.

DEFICIT REDUCTION AND CONTROL ACT

Mr. DOMENICI. Mr. President, I am going to send to the desk tonight a bill. I choose to call it the Deficit Reduction and Control Act of 1992.

Essentially, it is an effort on my part to resolve a very serious dispute and a lingering problem; that is, what happens in 1993 to the tax that we have built into the Budget and Enforcement Act with reference to defense, with reference to foreign assistance, and domestic spending? It is obvious that there are going to have to be some changes.

On the other side of the aisle, 48 Democratic Senators and 1 Republican suggest that we just pull down the wall; that is, take the caps on defense, take them down and permit the spending of savings that we might make in defense, even if we follow the President's proposals, and that those be placed into the category of domestic spending. Obviously, that is not going to fly.

Yesterday, I inserted in the RECORD a letter which I sent to the President signed by 35 Senators saying: If that passes and goes to his desk, he should veto it and we will support his veto. That means we are going to have a stalemate on what happens in 1993 when we reduce spending somewhat because even the President is suggesting we should reduce it.

What are we going to do about the fact that the current law has a cap that is higher than the President's new numbers, and current law would put all of that savings into the deficit?

I am introducing a measure that will permit us to change the targets in 1993 and then adopt a change in the Budget Enforcement Act which would compel the Congress to adopt 2-year marks, 2-year numbers, for defense, and if we do not, we will have to settle for the previous year's defense numbers. It is time we understand that an orderly bill on defense requires that we have 2-year budgets and numbers that are mandatory, that are legislated. If we do not do that, we are going to pit defense spending in a builddown era against all of domestic spending. And it is obvious that that is pretty risky. Defense will come out a loser.

One of the landmark provisions of the Budget Enforcement Act of 1990 [BEA] was the creation of enforceable 5-year spending caps on discretionary spending categories. The BEA established spending caps for three categories for the period 1991 through 1993. For the last 2 years of the BEA—1994 and 1995—one aggregate spending category was established for all discretionary spending.

Modifications and an extension of the BEA are proposed that would continue the fiscal discipline established in the historic 1990 agreement and provide for an orderly and systematic procedure for establishing binding spending caps for defense and nondefense discretionary spending.

The major elements of the extension bill follow:

First, new lower spending caps for fiscal year 1992 would be set for defense spending, reducing budget authority by $7 billion and outlays by $1 billion. Savings would be dedicated to deficit reduction. Adoption of the President's defense rescission proposals for fiscal year 1992 would result in the new caps being met.

Second, new lower spending caps for fiscal year 1993 would be set for defense, lowering the fiscal year 1993 caps by $7.4 billion in budget authority and $4.9 billion in outlays. The deficit would be reduced by $4.9 billion from these lower caps.

Third, to ensure that the peace dividend would be devoted to deficit reduction, the bill would reduce the Gramm-Rudman deficit targets in each year, providing cumulative deficit reduction savings of $14 billion for the remainder of the budget agreement—including defense savings for fiscal year 1996 and 1997 and total deficit reduction amounts to $26.5 billion.

Fourth, for fiscal years beyond 1993, defense and nondefense spending caps would be established through the adoption of a congressional budget resolution setting the aggregate spending caps for 2-year intervals. For example, the adoption of the fiscal year 1994 congressional budget resolution would specify discretionary spending limits for defense and nondefense spending for 1994 and 1995.

Fifth, upon the adoption of the budget resolution, a joint resolution establishing the agreed-on spending caps would be deemed adopted and presented to the President for his signature or veto. If enacted, the new spending caps would be enforceable through the same procedures now existing in current law. For example, breeches in the spending caps would result in automatic across-the-board reductions to make the caps real.

Sixth, total discretionary spending for both defense and nondefense spending could not exceed the following amounts:

In fiscal year 1994: $507.6 billion in budget authority; $534.6 billion in outlays.

In fiscal year 1995: $514.0 billion in budget authority; $537.3 billion in outlays.

Seventh, if the Congress failed to adopt a budget resolution setting defense and nondefense spending levels, the most recent statutory spending caps could continue until such time as a budget resolution was adopted.

The seven provisions of the new extension and enforcement bill would continue the fiscal discipline established in the 1990 Budget Enforcement Act [BEA], allow for an orderly and systematic process for establishing new spending caps in 2-year intervals, and assure that defense spending levels are set with the full involvement of the Congress and the President.

I ask unanimous consent that the bill be referred to the appropriate committee, and that the comparison of spending caps be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMPARISON OF SPENDING CAPS

[In billions of dollars]

	1992	1993	1994	1995
CURRENT CAPS (WITH BEA ALLOWANCE)				
Defense:				
Budget authority	301.8	289.0	NA	NA
Outlays	309.3	296.8	NA	NA
International:				
Budget authority	22.2	22.7	NA	NA
Outlays	19.8	20.6	NA	NA
Domestic:				
Budget authority	202.7	206.1	NA	NA
Outlays	215.1	225.3	NA	NA
Total:				
Budget authority	526.7	517.9	515.3	522.1
Outlays	544.3	542.7	538.4	541.6
DOMENICI BILL				
Defense:				
Budget authority	294.8	281.6	(1)	(1)
Outlays	308.3	291.9	(1)	(1)
International:				
Budget authority	22.2	22.7	(1)	(1)
Outlays	19.8	20.6	(1)	(1)
Domestic:				
Budget authority	202.7	206.1	(1)	(1)
Outlays	215.1	225.3	(1)	(1)
Total:				
Budget authority	519.7	510.5	507.6	514.0
Outlays	543.3	537.8	534.6	537.3

[1] The Domenici bill provides a procedure whereby the budget resolution would establish defense and nondefense caps for fiscal years 1994 and 1995.

NA: Not applicable.

REDUCTION IN CAPS

[In billions of dollars]

Domenici bill	1992	1993	1994	1995
Defense:				
Budget authority	−7.0	−7.4	NA	NA
Outlays	−1.0	−4.9	NA	NA
International:				
Budget authority	0	0	NA	NA
Outlays	0	0	NA	NA
Domestic:				
Budget authority	0	0	NA	NA
Outlays	0	0	NA	NA
Total:				
Budget authority	−7.0	−7.4	−7.7	−8.1
Outlays	−1.0	−4.9	−3.8	−4.3

NA: Not applicable.

REDUCTION IN MAXIMUM DEFICIT AMOUNTS

[In billions of dollars]

Domenici bill	1992	1993	1994	1995
Current levels	371.2	419.4	304.9	300.5
Peace dividend	−1.0	−4.9	−3.8	−4.3
New levels	370.2	414.5	301.1	296.2

By Mr. THURMOND:

S.J. Res. 270. Joint resolution to designate August 15, 1992, as "82d Airborne Division 50th Anniversary Recognition Day"; to the Committee on the Judiciary.

82D AIRBORNE DIVISION 50TH ANNIVERSARY RECOGNITION DAY

Mr. THURMOND. Mr. President, I am pleased to introduce today a joint resolution which designates August 15, 1992, as "82d Airborne 50th Anniversary Recognition Day."

The 82d Airborne is so well known as an airborne division that its proud World War I heritage as a conventional infantry division is often overshadowed. The division was formed on August 25, 1917 and in nearly 2 years of fighting in the trenches of France, saw more continuous combat than any other United States division.

After World War I, the 82d was inactivated on May 27, 1919. For more than

20 years the 82d would live on only in the memories of the men who served in her ranks during the Great War. Following the attack on Pearl Harbor, the 82d Infantry Division was formed once again—this time on March 25, 1942, under the command of Gen. Omar Bradley.

The War Department, realizing the esprit of the 82d, chose it to become the first of a new type of infantry division—airborne. On August 25, 1942, under the command of Gen. Matthew B. Ridgway, the 82d began a legend that has continued to grow for 50 years. The 82d was deployed to North Africa in 1943, and from there they made parachute and glider assaults on Sicily and Salerno. Other combat jumps were at Normandy, during the D-Day invasion—where I landed with them—and later in Holland, during the Allied push across central Europe.

After the war, the 82d served occupation duty in Berlin, where they earned the title "America's Guard of Honor" after General Patton made the comment, "In all my years in the Army and all the honor guards I've seen, the 82d, honor guard is undoubtedly the best." After 5 months in Berlin, the 82d returned to the United States, marching in grand style down New York's 5th Avenue in a tickertape reception.

The division was added to the regular Army roles and assigned to Fort Bragg, NC, where it became the Army's strategic reserve and later part of the rapid deployment forces, ready to deploy worldwide within 18-hours of notification. Elements of the 82d have served with distinction in the Dominican Republic, Vietnam, Grenada, Panama and, most recently, the Persian Gulf, where as the first United States combat troops to deploy—they drew the line in the sand.

Mr. President, passage of this resolution will bring well-deserved national recognition to the 82d's tireless commitment to our Nation's defense and ideals, and I urge its adoption. I ask that the text of this resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 270

Whereas 50 years ago, brave men and women of the United States made tremendous sacrifices to defend freedom and to save the world from tyranny and aggression during World War II;

Whereas during World War II, the American paratrooper became a new type of fighting soldier;

Whereas from the drop zones of Sicily and Normandy to the desert sands of Iraq, the paratroopers of the 82d Airborne Division of the United States Army have distinguished themselves as being among those who were the first to answer the call to go in harm's way;

Whereas the 82d Airborne Division is recognized as an elite fighting force that continues to be on the cutting-edge of our Armed Forces;

Whereas today, as for the past 50 years, the 82d Airborne Division's ranks are filled with some of our Nation's best soldiers; and

Whereas it is appropriate that we recognize the 82d Airborne Division on the 50th anniversary of its formation and pay tribute to the gallant paratroopers, past and present, who wear the maroon beret: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That August 15, 1992, is designated as "82d Airborne Division 50th Anniversary Recognition Day." The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate programs, ceremonies, and activities acknowledging the many important contributions of the 82d Airborne Division of the United States Army over the past 50 years.

ADDITIONAL COSPONSORS

S. 88

At the request of Mr. DURENBERGER, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 88, a bill to amend the Internal Revenue Code of 1986 to make permanent the deduction for health insurance costs for self-employed individuals.

S. 89

At the request of Mr. DURENBERGER, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 89, a bill to amend the Internal Revenue Code of 1986 to permanently increase the deductible health insurance costs for self-employed individuals.

S. 640

At the request of Mr. KASTEN, the name of the Senator from New Mexico [Mr. DOMENICI] was added as a cosponsor of S. 640, a bill to regulate interstate commerce by providing for a uniform product liability law, and for other purposes.

S. 1451

At the request of Mr. BIDEN, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 1451, a bill to provide for the minting of coins in commemoration of Benjamin Franklin and to enact a fire service bill of rights.

S. 1883

At the request of Mr. HOLLINGS, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 1883, a bill to provide for a joint report by the Secretary of Health and Human Services and the Secretary of Agriculture to assist in decisions to reduce administrative duplication, promote coordination of eligibility services and remove eligibility barriers which restrict access of pregnant women, children, and families to benefits under the food stamp program and benefits under titles IV and XIX of the Social Security Act.

S. 2239

At the request of Mr. PRYOR, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of S. 2239, a bill to amend the Internal Revenue Code of 1986 to provide additional safeguards to protect taxpayer rights.

S. 2277

At the request of Mr. COHEN, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 2277, a bill to amend the Public Health Service Act to facilitate the entering into of cooperative agreements between hospitals for the purpose of enabling such hospitals to share expensive medical or high technology equipment or services, and for other purposes.

S. 2341

At the request of Mr. CRANSTON, the name of the Senator from Pennsylvania [Mr. WOFFORD] was added as a cosponsor of S. 2341, a bill to provide for the assessment and reduction of lead-based paint hazards in housing.

S. 2347

At the request of Mr. NICKLES, his name was withdrawn as a cosponsor of S. 2347, a bill to improve the health of the Nation's children, and for other purposes.

SENATE JOINT RESOLUTION 231

At the request of Mr. THURMOND, the names of the Senator from Alabama [Mr. SHELBY], the Senator from Georgia [Mr. NUNN], the Senator from Georgia [Mr. FOWLER], the Senator from Hawaii [Mr. INOUYE], the Senator from Connecticut [Mr. DODD], the Senator from Delaware [Mr. ROTH], and the Senator from Nebraska [Mr. EXON] were added as cosponsors of Senate Joint Resolution 231, a joint resolution to designate the month of May 1992, as "National Foster Care Month."

SENATE JOINT RESOLUTION 248

At the request of Mr. CONRAD, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of Senate Joint Resolution 248, a joint resolution designating August 7, 1992, as "Battle of Guadalcanal Remembrance Day."

SENATE JOINT RESOLUTION 257

At the request of Mr. LAUTENBERG, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of Senate Joint Resolution 257, a joint resolution to designate the month of June 1992, as "National Scleroderma Awareness."

SENATE JOINT RESOLUTION 266

At the request of Mr. THURMOND, the names of the Senator from Alaska [Mr. STEVENS], the Senator from Delaware [Mr. ROTH], and the Senator from New York [Mr. D'AMATO] were added as cosponsors of Senate Joint Resolution 266, a joint resolution designating the week of April 26 - May 2, 1992, as "National Crime Victims' Rights Week."

SENATE JOINT RESOLUTION 267

At the request of Mr. KENNEDY, his name was added as a cosponsor of Senate Joint Resolution 267, a joint resolution to designate March 17, 1992, as "Irish Brigade Day."

SENATE CONCURRENT RESOLUTION 94

At the request of Mr. DODD, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of Senate Concurrent Resolution 94, a concurrent resolution urging the Government of the United Kingdom to address continuing human rights violations in Northern Ireland and to seek the initiation of talks among the parties to the conflict in Northern Ireland.

SENATE CONCURRENT RESOLUTION 101—AUTHORIZING THE USE OF THE CAPITOL ROTUNDA

Mr. SIMPSON (for Mr. DOLE, for himself and Mr. MITCHELL) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 101

Resolved by the Senate (the House of Representatives concurring), That the rotunda of the Capitol may be used by the American Ex-Prisoners of War on April 9, 1992, from 11:00 o'clock ante meridian until 12:00 o'clock noon for a ceremony in recognition of National Former Prisoner of War Recognition Day. Physical preparations for the ceremony shall be carried out in accordance with such conditions as the Architect of the Capitol may prescribe.

AMENDMENTS SUBMITTED

TAX FAIRNESS AND ECONOMIC GROWTH ACT

MCCAIN AMENDMENT NO. 1722

Mr. MCCAIN proposed an amendment to the bill H.R. 4210 to amend the Internal Revenue Code of 1986 to provide incentives for increased economic growth and to provide tax relief for families, as follows:

At the end of the bill, add the following section:

SEC. . TAX FAIRNESS AND ACCOUNTABILITY.

(a) SUPERMAJORITY REQUIREMENT IN THE SENATE.—In the Senate, any bill or amendment increasing the tax rate, the tax base, the amount of income subject to tax; or decreasing a deduction, exclusion, exemption, or credit; or any amendment of this provision shall be considered and approved only by an affirmative vote by three-fifths of the Members of the Senate, duly chosen and sworn.

(b) AMENDMENT TO THE CONGRESSIONAL BUDGET ACT OF 1974 STRIKING 60-VOTE REQUIREMENT FOR REVENUE REDUCTION.—Section 311(a) of the Congressional Budget Act of 1974 is amended by adding at the end thereof the following: "Notwithstanding any other provision of this Act or any other law, a bill, resolution, or amendment that reduces the tax rate, the tax base, the amount of income subject to tax; or increases a deduction, exclusion, or credit shall be considered and approved by a simple majority of the Senate; Provided however, that a bill, resolution or amendment that reduces the tax for Social Security may only be considered and approved by an affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn.

BUMPERS AMENDMENT NO. 1723

Mr. BUMPERS proposed an amendment to the bill (H.R. 4210); supra, as follows:

The United States Department of Transportation reports that 39 percent of the bridges in the Federal-aid Highway System are "structurally deficient" and "functionally obsolete" and 42 percent of the rural interstate highways and 43 percent of the urban interstate highways are rated in either poor or fair condition; and

The Federal Highway Administration estimates that existing highway and bridge systems will carry 65 percent more travel in the year 2009; and

The Federal Highway Administration estimates that a total of $75 billion would be required annually through the year 2009 from all levels of government to eliminate all bridge and pavement deficiencies; and

The current Federal authorized spending is approximately $20 billion a year through 1997; and

State and local governments are unable to contribute the $55 billion annual difference necessary for the projected needs for bridge and pavement repair and upkeep; and

The national economy is currently depressed and faces a devastating period of economic stagnation which the release, over the next two fiscal years, of the $11.1 billion surplus highway trust funds could help alleviate; and

Upgrading roads and bridges is a sound and vital investment which could result in a dividend of long-range economic growth and improved efficiency; and

Spending trust fund revenues would benefit all sectors of the economy by stimulating industries ranging from manufacturing to service providers; and

Highway spending would immediately stimulate growth in a broad range of the American work force, both skilled and unskilled; and

The spending of $1 billion on the nation's transportation infrastructure creates 52,000 jobs while spending $1 billion on defense creates only 30,000 jobs; and

No additional taxes and no new federal regulations are necessary to accomplish this goal; and

Delaying road and bridge projects is shortsighted and would mean higher costs to the American taxpayer in the future; and

The General Accounting Office estimates that approximately 1.25 billion hours and 1.38 billion gallons of gasoline are wasted annually due to traffic congestion and the hours spent by Americans in traffic result in both a decline in productivity and an increase in air pollution; and

Americans have already paid for bridge and road improvements through the federal gasoline tax, which cannot be lawfully spent for other purposes, and therefore deserve these improvements; Now, therefore, be it;

It is therefore the sense of the Senate that Congress and the President should declare a state of emergency under the 1990 budget reconciliation bill to authorize expenditure of $5 billion in 1992 and $5 billion in 1993, in excess of the allocations that are provided for by law, from the highway trust funds, to create jobs, ease the financial burden on state and local governments, stimulate the economy, and provide a safe and sound transportation infrastructure for our Nation's future.

GRAHAM (AND OTHERS) AMENDMENT NO. 1724

Mr. GRAHAM (for himself, Mr. BOND, and Mr. BUMPERS) proposed an amendment to the bill (H.R. 4210); supra, as follows:

At the appropriate place, add the following:

TITLE —TRANSPORTATION

SEC. . FEDERAL-AID HIGHWAYS.

(A) OBLIGATION CEILING.—Section 1002(a) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 104 note) is amended—

(1) in paragraph (2), by striking "$18,303,000,000" and inserting "$21,800,000,000";

(2) in paragraph (3), by striking "$18,362,000,000" and inserting "$21,362,000,000";

(3) in paragraph (4), by striking "$18,332,000,000" and inserting "$15,332,000,000"; and

(5) in paragraph (5), by striking "$18,357,000,000" and inserting "$15,357,000,000".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 1003(a) of the Intermodal Surface Transportation Efficiency Act of 1991 is amended—

(1) in paragraph (1)—

(A) by striking "$2,913,000,000 for fiscal year 1993," and inserting "$3,913,000,000 for fiscal year 1993,";

(B) by striking "$2,914,000,000 for fiscal year 1994," and inserting "$3,914,000,000 for fiscal year 1994,";

(C) by striking "$2,914,000,000 for fiscal year 1995," and inserting "$1,914,000,000 for fiscal year 1995,"; and

(D) by striking "$2,914,000,000 for fiscal year 1996," and inserting "$1,914,000,000 for fiscal year 1996,".

(2) in paragraph (2)—

(A) by striking "$3,599,000,000 for fiscal year 1993," and inserting "$5,599,000,000 for fiscal year 1993,";

(B) by striking "$3,599,000,000 for fiscal year 1994," and inserting "$5,599,000,000 for fiscal year 1994,";

(C) by striking $3,599,000,000 for fiscal year 1995," and inserting "$1,599,000,000 for fiscal year 1995,"; and

(D) by striking "$3,600,000,000 for fiscal year 1996," and inserting "$1,600,000,000 for fiscal year 1996,".

(c) TECHNICAL CORRECTIONS.—Section 115 of title 23, United States Code, is amended—

(1) by striking the heading of subsection (a) and inserting the following new heading: "SUBSTITUTE, CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT, SURFACE TRANSPORTATION, BRIDGE, PLANNING, AND RESEARCH PROJECTS.—"

(2) in subsection (a)—

(A) by striking clause (i) of paragraph (1)(A) and inserting the following new clause:

"(i) has obligated all funds apportioned or allocated to it under section 103(e)(4)(H), 104(b)(2), 104(b)(3), 104(f), 144, or 307 of this title, or";

(B) by striking subparagraph (A) of paragraph (2) and inserting the following new subparagraph:

"(A) prior to commencement of the project the Secretary approves the project in the same manner as the Secretary approves other projects, and"; and

(C) by striking paragraph (3);

(3) in the heading of subsection (b), by striking "PRIMARY" and inserting "NATIONAL HIGHWAY SYSTEM";

(4) in paragraph (1) of subsection (b), by striking "Federal-aid primary system" and inserting "National Highway System"; and

(5) in subsection (c), by striking "152,".

SEC. . MASS TRANSIT.

(a) Temporary Matching Fund Waiver.—

(1) In general.—Notwithstanding any other provision of law, the Federal share of any qualifying construction project to be assisted under this Act shall be the percentage of the net project cost that the grantee requests, up to and including 100 percent, but not less than the applicable Federal share, as described in section 4, 9, or 18 of this Act.

(2) Qualifying construction project defined.—For the purposes of this subsection, the term "qualifying construction project" means a construction project approved by the Secretary of Transportation after the date of the enactment of this Act, or a project for which the United States becomes obligated to pay after such date of enactment, and for which the Governor of the State or other official submitting the project has certified, in accordance with regulations established by the Secretary of Transportation, that sufficient funds are not available to pay the cost of the non-Federal share of the project.

(3) Applicability.—This subsection applies to any project with respect to which the United States incurs an obligation, by way of a commitment, contingent commitment, full funding agreement, or otherwise, during the period beginning on October 1, 1991, and ending on September 30, 1993.

(b) Mass Transit Authorizations.—Section 21 of the Federal Transit Act (49 U.S.C. App. 1617) is amended by striking subsections (a) and (b) and inserting the following new subsections:

"(a) Formula Grant Programs.—

"(1) From the trust fund.—There shall be available from the Mass Transit Account of the Highway Trust Fund only to carry out sections 9, 11(b), 12(a), 16(b), 18, 23, and 26 of this Act, $450,000,000 for fiscal year 1992, $1,950,000,000 for fiscal year 1993, $1,990,000,000 for fiscal year 1994, $350,000,000 for fiscal year 1995, $310,000,000 for fiscal year 1996 and $1,920,000 for fiscal year 1997, to remain available until expended.

"(2) From general funds.—In addition to the amounts specified in paragraph (1), there are authorized to be appropriated to carry out sections 9, 11(b), 12(a), 16(b), 18, 23, and 26 of this Act, and substitute transit projects under section 103(e)(4) of title 23, United States Code, $1,583,000,000 for fiscal year 1992, $2,055,000,000 for fiscal year 1993, $1,885,000,000 for fiscal year 1994, $1,925,000,000 for fiscal year 1995, $1,965,000,000 for fiscal year 1996, and $2,430,000,000 for fiscal year 1997, to remain available until expended.

"(b) Section 3 Discretionary and Formula Grants.—

"(1) From the trust fund.—There shall be available from the Mass Transit Account of the Highway Trust Fund only to carry out section 3 of this Act, $1,450,000,000 for fiscal year 1992, $2,125,000,000 for fiscal year 1993, $2,185,000,000 for fiscal year 1994, $1,325,000,000 for fiscal year 1995, $1,265,000,000 for fiscal year 1996, and $2,880,000,000 for fiscal year 1997, to remain available until expended.

"(2) From general funds.—In addition to the amounts specified in paragraph (1), there are authorized to be appropriated to carry out section 3 of this Act, $160,000,000 for fiscal year 1992, $305,000,000 for fiscal year 1993, $265,000,000 for fiscal year 1994, $325,000,000 for fiscal year 1995, $385,000,000 for fiscal year 1996, and $20,000,000 for fiscal year 1997, to remain available until expended.

SEC. . AUTHORIZATIONS SUBJECT TO THE AVAILABILITY OF APPROPRIATIONS.

Any amount authorized to be appropriated pursuant to this title is subject to the availability of appropriations.

D'AMATO AMENDMENT NO. 1725

Mr. D'AMATO (for himself and Mr. Nickles) proposed an amendment to the bill (H.R. 4210); supra, following

At the appropriate place insert the following:

SEC. . GENERAL WELFARE ASSISTANCE PROVIDED BY STATES TO ABLE-BODIED INDIVIDUALS.

(a) In General.—Section 403 of the Social Security Act (42 U.S.C. 603) is amended by adding after subsection (b) the following new subsection:

"(c) Notwithstanding any other provision of law, if the Secretary certifies that any State is operating a general welfare assistance program during any calendar quarter—

"(1) which provides benefits to an able-bodied individual (as determined by the Secretary) who has attained age 18 and who has no dependents, and

"(2) which does not require such individual to participant in a State workfare program (meeting the requirements of the Secretary as provided in regulations to be issued by October 1, 1992),

the Secretary, upon such certification, shall reduce by 10 percent the amount that such State would otherwise receive in aid to families with dependent children under this part during such quarter."

(b) Effective Date.—

Subsection (a) shall apply to calendar quarters beginning on or after January 1, 1994.

D'AMATO AMENDMENT NO. 1726

Mr. D'AMATO proposed an amendment to the bill (H.R. 4210); supra, as follows:

At the appropriate place insert the following:

SEC. . ADDITIONAL STATE REQUIREMENT WITH RESPECT TO AFDC BENEFITS

(a) New State Plan Requirement.—Section 402(a) of the Social Security Act (42 U.S.C. 602(a)) is amended—

(1) in paragraph (44), by striking "; and" and inserting a semicolon;

(2) in paragraph (45), by striking the period at the end thereof and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(46) provide that for a period of 1 year from the date an individual becomes a new resident in a State, such individual is eligible to receive aid to families with dependent children in an amount that does not exceed the lesser of—

"(A) the amount the individual received or could have received in the former State of residence, or

"(B) the amount the individual could receive in the new State of residence.".

(b) Effective Date.—The amendments made by subsection (a) shall become effective on the day which is 30 days after the date of the enactment of this Act.

DECONCINI AMENDMENT NO. 1727

Mr. DeCONCINI proposed an amendment to the bill (H.R. 4210); supra, as follows:

At the end of title I, insert:

SEC. . ALLOWANCE OF CREDIT FOR EMPLOYER EXPENSES FOR CERTAIN ON-SITE DAY-CARE FACILITIES; INCREASE IN CORPORATE MINIMUM TAX RATE.

(a) Allowance of Credit.—Subpart D of part V of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end thereof the following new section:

"SEC. 45. EMPLOYER ON-SITE DAY-CARE FACILITY CREDIT.

"(a) In General.—For purposes of section 38, the employer on-site day-care facility credit determined under this section for the taxable year is an amount equal to 50 percent of the qualified investment in property placed in service during such taxable year as part of a qualified day-care facility.

"(b) Limitation.—The credit allowable under subsection (a) with respect to any qualified day-care facility shall not exceed $150,000.

"(c) Definitions.—For purposes of this section—

"(1) Qualified investment.—The term 'qualified investment' means the amount paid or incurred to acquire, construct, rehabilitate, or expand property—

"(A) which is to be used as part of a qualified day-care facility, and

"(B) with respect to which a deduction for depreciation (or amortization in lieu of depreciation) is allowable.

Such term includes only amounts properly changeable to capital account.

"(2) Qualified day-care facility.—

"(A) In general.—The term 'qualified day-care facility' means a facility—

"(i) operated by an employer to provide dependent care assistance for enrollees, at least 30 percent of whom are dependents of employees of employers to which a credit under subsection (a) with respect to the facility is allowable,

"(ii) the principal use of which is to provide dependent care assistance described in clause (i),

"(iii) located on the premises of such employer,

"(iv) which meets the requirements of all applicable laws and regulations of the State or local government in which it is located, including, but not limited to, the licensing of the facility as a day-care facility, and

"(v) the use of which (or the eligibility to use) does not discriminate in favor of employees who are highly compensated employees (within the meaning of section 414(q)).

"(B) Multiple employers.—With respect to a facility jointly operated by more than 1 employer, the term 'qualified day-care facility' shall include any facility located on the premises of 1 employer and within a reasonable distance from the premises of the other employers.

"(d) Recapture of Credit.—

"(1) In general.—If, as of the close of any taxable year, there is a recapture event with respect to any qualified day-care facility, then the tax of the taxpayer under this chapter for such taxable year shall be increased by an amount equal to the product of—

"(A) the applicable recapture percentage, and

"(B) the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted if the qualified on-site day-care expenses of the taxpayer with respect to such facility had been zero.

"(2) Applicable recapture percentage.—

"(A) In general.—For purposes of this subsection, the applicable recapture percentage shall be determined from the following table:

"If the recapture event occurs in:	The applicable recapture percentage is:
Years 1-3	100
Years 4	85
Years 5	70
Years 6	55
Years 7	40
Years 8	25
Years 9 and 10	10
Years 11 and thereafter	0.

"(B) YEARS.—For purposes of subparagraph (A), year 1 shall begin on the first day of the taxable year in which the qualified day-care facility is placed in service by the taxpayer.

"(3) RECAPTURE EVENT DEFINED.—For purposes of this subsection, the term 'recapture event' means—

"(A) CESSATION OF OPERATION.—The cessation of the operation of the facility as a qualified day-care facility.

"(B) CHANGE OF OWNERSHIP.—

"(i) IN GENERAL.—Except as provided in clause (ii), the disposition of a taxpayers' interest in a qualified day-care facility with respect to which the credit described in subsection (a) was allowable.

"(ii) AGREEMENT TO ASSUME RECAPTURE LIABILITY.—Clause (i) shall not apply if the person acquiring such interest in the facility agrees in writing to assume the recapture liability of the person disposing of such interest in effect immediately before such disposition. In the event of such an assumption, the person acquiring the interest in the facility shall be treated as the taxpayer for purposes of assessing any recapture liability (computed as if there had been no change in ownership).

"(4) SPECIAL RULES.—

"(A) TAX BENEFIT RULE.—The tax for the taxable year shall be increased under paragraph (1) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

"(B) NO CREDITS AGAINST TAX.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under subpart A, B, or D of this part.

"(C) NO RECAPTURE BY REASON OF CASUALTY LOSS.—The increase in tax under this subsection shall not apply to a cessation of operation of the facility as a qualified day-care facility by reason of a casualty loss to the extent such loss is restored by reconstruction or replacement within a reasonable period established by the Secretary.

"(e) SPECIAL ALLOCATION RULES.—For purposes of this section—

"(1) ALLOCATION IN CASE OF MULTIPLE EMPLOYERS.—In the case of multiple employers jointly operating a qualified day-care facility, the credit allowable by this section to each such employer shall be its proportionate share of the qualified on-site day-care expenses giving rise to the credit.

"(2) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

"(3) ALLOCATION IN THE CASE OF PARTNERSHIPS.—In the case of partnerships, the credit shall be allocated among partners under regulations prescribed by the Secretary.

"(f) NO DOUBLE BENEFIT.—

"(1) REDUCTION IN BASIS.—For purposes of this subtitle—

"(A) IN GENERAL.—If a credit is determined under this section with respect to any property, the basis of such property shall be reduced by the amount of the credit so determined.

"(B) CERTAIN DISPOSITIONS.—If during any taxable year there is a recapture amount determined with respect to any property the basis of which was reduced under paragraph (1), the basis of such property (immediately before the event resulting in such recapture) shall be increased by an amount equal to such recapture amount. For purposes of the preceding sentence, the term 'recapture amount' means any increase in tax (or adjustment in carrybacks or carryovers) determined under subsection (d).

"(2) OTHER DEDUCTIONS AND CREDITS.—No deduction or credit shall be allowed under any other provision of this chapter with respect to the amount of the credit determined under this section.

"(g) TERMINATION.—This section shall not apply to taxable years beginning after December 31, 1996."

(b) INCREASE IN CORPORATE MINIMUM TAX RATE.—Subparagraph (A) of section 55(b)(1) (relating to tentative minimum tax) is amended by striking "20 percent" and inserting "20.3 percent".

(c) CONFORMING AMENDMENTS.—

(1) Section 38(b) is amended—

(A) by striking "plus" at the end of paragraph (6),

(B) by striking the period at the end of paragraph (7), and inserting in lieu thereof a comma and "plus", and

(C) by adding at the end thereof the following new paragraph:

"(8) the employer on-site day-care facility credit determined under section 45."

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 45. Employer on-site day-care facility credit."

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to property placed in service on and after the date of the enactment of this Act.

(2) MINIMUM TAX.—The amendment made by subsection (c) shall apply to taxable years beginning after December 31, 1991.

DECONCINI AMENDMENT NO. 1728

Mr. DECONCINI (for himself, Mr. LAUTENBERG, and Mr. KOHL) proposed an amendment to the bill (H.R. 4210), supra; as follows:

On page 662, between lines 11 and 12, insert:

(e) PENALTY-FREE DISTRIBUTIONS FOR CERTAIN UNEMPLOYED INDIVIDUALS.—Paragraph (2) of section 72(t), as amended by subsection (a), is amended by adding at the end thereof the following new subparagraph:

"(E) DISTRIBUTIONS TO UNEMPLOYED INDIVIDUALS.—Distributions made to an individual after separation from employment, if—

"(i) such individual has received unemployment compensation for 12 consecutive weeks under any Federal or State unemployment compensation law by reason of such separation, and

"(ii) such distributions are made during any taxable year during which such unemployment compensation is paid or the succeeding taxable year."

On page 662, line 12 strike "(e) and insert "(f)".

On page 961, line 24, strike "10 percent" and insert "10.04 percent".

KASTEN AMENDMENT NO. 1729

Mr. KASTEN (for himself, Mr. KOHL, Mr. BURNS, Mr. LOTT, and Mr. SHELBY) proposed an amendment to the bill (H.R. 4210), supra, as follows:

At the appropriate place insert:

SECTION 1. SHORT TITLE; REFERENCE TO INTERNAL REVENUE CODE.

(a) SHORT TITLE.—This Act may be cited as the Family Farm Tax Relief and Savings Act of 1991.

(b) REFERENCE TO INTERNAL REVENUE CODE OF 1986—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to or repeal of, a section or other provision the reference shall be considered to be made a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. ROLLOVER OF GAIN FROM SALE OF FARM ASSETS TO INDIVIDUAL RETIREMENT PLANS.

(a) IN GENERAL.—Part III of subchapter O of chapter 1 of the Internal Revenue Code of 1986 (relating to common nontaxable exchanges) is amended by inserting after section 1034 the following new section:

"SEC. 1034A. ROLLOVER OF GAIN ON SALE OF FARM ASSETS INTO ASSET ROLLOVER ACCOUNT.

"(a) NONRECOGNITION OF GAIN.—If a taxpayer has a qualified net farm gain from the sale of a qualified farm asset, then, at the election of the taxpayer, gain (if any) from such sale shall be recognized only to the extent such gain exceeds the contributions which—

"(1) are to 1 or more asset rollover accounts of the taxpayer for the taxable year in which such sale occurs, and

"(2) are not in excess of the limits under subsection (c).

"(b) ASSET ROLLOVER ACCOUNT.—

"(1) GENERAL RULE.—Except as provided in this section, an asset rollover account shall be treated for purposes of this title in the same manner as an individual retirement plan.

"(2) ASSET ROLLOVER ACCOUNT.—For purposes of this title, the term 'asset rollover account' means an individual retirement plan which is designated at the time of the establishment of the plan as an asset or rollover account. Such designation shall be made in such manner as the Secretary may prescribe.

"(c) CONTRIBUTION RULES.—

"(1) NO DEDUCTION ALLOWED.—No deduction shall be allowed under section 219 for a contribution to an asset rollover account.

"(2) AGGREGATE CONTRIBUTION LIMITATION.—Except in the case of rollover contributions, the aggregate amount for all taxable years which may be contributed to all asset rollover accounts established on behalf of an individual during a qualified period shall not exceed—

"(A) $500,000 ($250,000 in the case of a separate return by a married individual), reduced by

"(B) the amount by which the aggregate value of the assets held by the individual (and spouse) in individual retirement plans (other than asset rollover accounts) exceeds $100,000.

"(3) ANNUAL CONTRIBUTION LIMITATIONS.—

"(A) GENERAL RULE.—The qualified contribution which may be made in any taxable year shall not exceed the lesser of—

"(i) the qualified net farm gain for the taxable year, or

"(ii) an amount determined by multiplying the number of years the taxpayer is a qualified farmer by $10,000.

"(B) SPOUSE.—In the case of a married couple filing a joint return under section 6013 for the taxable year, subparagraph (A) shall be applied by substituting '$20,000' for '$10,000' for each year the taxpayer's spouse is a qualified farmer.

"(4) TIME WHEN CONTRIBUTION DEEMED MADE.—For purposes of this section, a taxpayer shall be deemed to have made a contribution to an asset rollover account on the last day of the preceding taxable year if the contribution is made on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (not including extensions thereof).

"(d) QUALIFIED NET FARM GAIN; ETC.—For purposes of this section—

"(1) QUALIFIED NET FARM GAIN.—The term 'qualified net farm gain' means the lesser of—

"(A) the net capital gain of the taxpayer for the taxable year, or

"(B) the net capital gain for the taxable year determined by only taking into account gain (or loss) in connection with a disposition of a qualified farm asset.

"(2) QUALIFIED FARM ASSET.—The term 'qualified farm asset' means an asset used by a qualified farmer in the active conduct of the trade or business of farming (as defined in section 2032A(e)).

"(3) QUALIFIED FARMER.—

"(A) IN GENERAL.—The term 'qualified farmer' means a taxpayer who—

"(i) during the 5-year period ending on the date of the disposition of a qualified farm asset materially participated in the trade or business of farming, and

"(ii) 50 percent or more of such trade or business is owned by the taxpayer (or his spouse) during such 5-year period.

"(B) MATERIAL PARTICIPATION.—For purposes of this paragraph, a taxpayer shall be treated as materially participating in a trade or business if he meets the requirements of section 2032A(e)(6).

"(4) ROLLOVER CONTRIBUTIONS.—Rollover contributions to an asset rollover account may be made only from other asset rollover accounts.

"(e) DISTRIBUTION RULES.—For purposes of this title, the rules of paragraphs (1) and (2) of section 408(d) shall apply to any distribution from an asset rollover account.

"(f) INDIVIDUAL REQUIRED TO REPORT QUALIFIED CONTRIBUTIONS.—

"(1) IN GENERAL.—Any individual who—

"(A) makes a qualified contribution to any asset rollover account for any taxable year, or

"(B) receives any amount from any asset rollover account for any taxable year,

shall include on the return of tax imposed by chapter 1 for such taxable year and any succeeding taxable year (or on such other form as the Secretary may prescribe) information described in paragraph (2).

"(2) INFORMATION REQUIRED TO BE SUPPLIED.—The information described in this paragraph is information required by the Secretary which is similar to the information described in section 408(o)(4)(B).

"(3) PENALTIES.—For penalties relating to reports under paragraph, see section 6693(b)."

(b) CONTRIBUTIONS NOT DEDUCTIBLE.—Section 219(d) of the Internal Revenue Code of 1986 (relating to other limitations and restrictions) is amended by adding at the end thereof the following new paragraph:

"(5) CONTRIBUTIONS TO ASSET ROLLOVER ACCOUNTS.—No deduction shall be allowed under this section with respect to a contribution under section 1034A."

(c) EXCESS CONTRIBUTIONS.—

(1) IN GENERAL.—Section 4973 of the Internal Revenue Code of 1986 (relating to tax on excess contributions to individual retirement accounts, certain section 403(b) contracts, and certain individual retirement annuities) is amended by adding at the end the following new subsection:

"(d) ASSET ROLLOVER ACCOUNTS.—For purposes of this section, in the case of an asset rollover account referred to in subsection (a)(1), the term 'excess contribution' means the excess (if any) of the amount contributed for the taxable year to such account over the amount which may be contributed under section 1034A."

(2) CONFORMING AMENDMENTS.—

(A) Section 4973(a)(1) of such Code is amended by striking "or" and inserting "an asset rollover account (within the meaning of section 1034A), or".

(B) The heading for section 4973 of such Code is amended by inserting "ASSET ROLLOVER ACCOUNTS," after "CONTRACTS".

(C) The table of sections for chapter 43 of such Code is amended by inserting "asset rollover accounts," after "contracts" in the item relating to section 4973.

(d) TECHNICAL AMENDMENTS.—

(1) Paragraph (1) of section 408(a) of the Internal Revenue Code of 1986 (defining individual retirement account) is amended by inserting "or a qualified contribution under section 1034A," before "no contribution".

(2) Subparagraph (A) of section 408(d)(5) of such Code is amended by inserting "or qualified contributions under section 1034A" after "rollover contributions".

(3)(A) Section 6693(b)(1) of such Code is amended by inserting "or 1034A(f)(2)" after "408(o)(4)" in subparagraph (A).

(B) Section 6693(b)(2) of such Code is amended by inserting "or 1034A(f)(2)" after "408(o)(4)".

(4) The table of sections for part III of subchapter O of chapter 1 of such Code is amended by inserting after the item relating to section 1034 the following new item:

"Sec. 1034A. Rollover of gain on sale of farm assets into asset rollover account."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to sales and exchanges after the date of enactment of this Act.

SEC. 3. REVENUE PROVISIONS.

(a) ONE-YEAR EXTENSION OF CUSTOMS USER FEES.—Paragraph (3) of section 13031(j) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking out "1995" and inserting "1996".

(b) ELIMINATION OF THE STATUTE OF LIMITATIONS ON COLLECTION OF GUARANTEED STUDENT LOANS.—Section 3(c) of the Higher Education Technical Amendments of 1991 (Public Law 102–26) is amended by striking out "that are brought before November 15, 1992".

(c) REVISION OF PROCEDURE RELATING TO CERTAIN LOAN DEFAULTS.—

(i) REVISION.—Section 3732(c)(1)(C)(ii) of title 38, United States Code, is amended by striking out "resale," and inserting in lieu thereof "resale (including losses sustained on the resale of the property)".

(ii) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1991.

GRASSLEY (AND OTHERS) AMENDMENT NO. 1730

Mr. GRASSLEY (for himself, Mr. FOWLER, Mr. PACKWOOD, Mr. BURNS, Mr. WELLSTONE, Mr. GORE, Mr. BRYAN, Mr. SIMON, Mr. WIRTH, Mr. AKAKA, Mr. KERRY, Mr. JEFFORDS, Mr. KERREY, Mr. LEAHY, Mr. HATFIELD, Mr. KENNEDY, Mr. BROWN, Mr. MCCAIN, Mr. CONRAD, Mr. CRANSTON, Mr. DASCHLE, Mr. INOUYE, Mr. LIEBERMAN, Mr. SANFORD, and Mr. ADAMS) proposed an amendment to the bill (H.R. 4210); supra; as follows:

At the appropriate place in the bill insert:

SEC. . SENSE OF SENATE SUPPORTING TAX INCENTIVES FOR RENEWABLE ENERGY TECHNOLOGIES

(a) FINDINGS.—The Senate finds that—

(1) the use of America's most plentiful energy resources such as wind, solar, geothermal and biomass energy represents one of the most effective means of reducing our reliance on imported energy, increasing our international competitiveness, and creating stable employment for our workforce,

(2) these renewable energy sources currently contribute thousands of megawatts of electricity to our nation's energy supply,

(3) the increased use of renewable energy will displace polluting fossil fuels, thus reducing harmful air pollution and the emission of gases which contribute to environmental deterioration, and

(4) comprehensive tax incentives are needed to enhance our nation's renewable energy technologies.

(b) SENSE OF SENATE.—It is the sense of the Senate that our national energy tax policy include a production tax credit for renewable energy in conjunction with a permanent business energy tax credit.

SEYMOUR AMENDMENT NO. 1731

Mr. SEYMOUR (for himself, Mr. DOLE, and Mr. GRAMM) proposed an amendment to the bill (H.R. 4210); supra, as follows:

On page 958, strike all beginning with "section 3001" through line 12 on page 961.

DOMENICI (AND OTHERS) AMENDMENT NO. 1732

Mr. DOMENICI (for himself, Mr. RUDMAN, and Mr. SPECTER) proposed an amendment to the bill (H.R. 4210); supra, as follows:

In lieu of the language proposed, to be inserted, insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the "High Value Economic Growth Act of 1992".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents; amendment of 1986 Code.

TITLE I—ECONOMIC GROWTH INCENTIVES

Sec. 101. Passive loss equity for real estate professionals.
Sec. 102. Special depreciation allowance for certain equipment acquired in 1992.
Sec. 103. Real property acquired by a qualified organization.

Sec. 104. Special rules for investments in partnerships.
Sec. 105. Credit for first-time homebuyers.
Sec. 106. Penalty-free withdrawals from pension plans through 1992.

TITLE II—REVENUE OFFSETS

Subtitle A—General Provisions

Sec. 201. Elimination of the statute of limitations on collection of guaranteed student loans.
Sec. 202. Revision of procedure relating to certain loan defaults.
Sec. 203. Application of medicare part B limits to FEHBP enrollee age 65 or older.
Sec. 204. Disclosures of information for veterans benefits.

Subtitle B—Electromagnetic Spectrum Function

Sec. 211. Short title.
Sec. 212. Findings.
Sec. 213. National spectrum planning.
Sec. 214. Identification of reallocable frequencies.
Sec. 215. Withdrawal of assignment to United States Government stations.
Sec. 216. Distribution of frequencies by the Commission.
Sec. 217. Authority to reclaim reassigned frequencies.
Sec. 218. Competitive bidding.
Sec. 219. Definitions.

Subtitle C—Other Provisions

Sec. 221. Extension of current law regarding lump-sum withdrawal of retirement contributions for civil service retirees.
Sec. 222. One-year extension of customs user fees.
Sec. 223. Extension of the patent and trademark office user fee surcharge through 1996.

(c) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

TITLE I—ECONOMIC GROWTH INCENTIVES

SEC. 101. PASSIVE LOSS EQUITY FOR REAL ESTATE PROFESSIONALS.

(a) RENTAL REAL ESTATE ACTIVITIES OF PERSONS IN REAL PROPERTY BUSINESS NOT AUTOMATICALLY TREATED AS PASSIVE ACTIVITIES.—Section 469(c) (defining passive activity) is amended by adding at the end thereof the following new paragraph:

"(7) RULES FOR TAXPAYERS IN REAL PROPERTY BUSINESS TO END DISCRIMINATION.—

"(A) IN GENERAL.—If this paragraph applies to any taxpayer for a taxable year—

"(i) paragraph (2) shall not apply to any rental real estate activity of such taxpayer for such taxable year, and

"(ii) this section shall be applied as if each interest of the taxpayer in rental real estate were a separate activity.

Notwithstanding clause (ii), a taxpayer may elect to treat all interests in rental real estate as one activity.

"(B) TAXPAYERS TO WHOM PARAGRAPH APPLIES.—This paragraph shall apply to a taxpayer for a taxable year if more than one-half of the personal services performed in trades or businesses by the taxpayer during such taxable year are performed in real property trades or businesses in which the taxpayer materially participates.

"(C) SPECIAL RULES FOR SUBPARAGRAPH (B).—

"(i) CLOSELY HELD C CORPORATIONS.—In the case of a closely held C corporation, the requirements of subparagraph (B) shall be treated as met for any taxable year if more than 50 percent of the gross receipts of such corporation for such taxable year are derived from real property trades or businesses in which the corporation materially participates.

"(ii) PERSONAL SERVICES AS AN EMPLOYEE.—For purposes of subparagraph (B), personal services performed as an employee (other than as an owner-employee) shall not be treated as performed in real property trades or businesses."

(b) CONFORMING AMENDMENT.—Section 469(c)(2) is amended by striking "The" and inserting "Except as provided in paragraph (7), the".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 102. SPECIAL DEPRECIATION ALLOWANCE FOR CERTAIN EQUIPMENT ACQUIRED IN 1992.

(a) IN GENERAL.—Section 168 (relating to accelerated cost recovery system) is amended by adding at the end the following new subsection:

"(j) SPECIAL ALLOWANCE FOR CERTAIN EQUIPMENT ACQUIRED IN 1992.—

"(1) ADDITIONAL ALLOWANCE.—Except as provided in paragraph (2), in the case of any qualified equipment—

"(A) the depreciation deduction provided by section 167(a) for the taxable year in which such equipment is placed in service shall include an allowance equal to 15 percent of the adjusted basis of the qualified equipment, and

"(B) the adjusted basis of the qualified equipment shall be reduced by the amount of such deduction (without regard to paragraph (2)) before computing the amount otherwise allowable as a depreciation deduction under this chapter for such taxable year and any subsequent taxable year.

"(2) MAXIMUM FIRST-YEAR DEDUCTION.—Of the aggregate deduction allowable under paragraph (1)—

"(A) 0 percent shall be allowed for the taxable year in which the property is placed in service, and

"(B) 100 percent shall be allowed for the succeeding taxable year.

"(3) QUALIFIED EQUIPMENT.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified equipment' means property to which this section applies—

"(i) which is section 1245 property (within the meaning of section 1245(a)(3)),

"(ii) the original use of which commences with the taxpayer on or after February 1, 1992,

"(iii) which is—

"(I) acquired by the taxpayer on or after February 1, 1992, and before January 1, 1993, but only if no written binding contract for the acquisition was in effect before February 1, 1992, or

"(II) acquired by the taxpayer pursuant to a written binding contract which was entered into on or after February 1, 1992, and before January 1, 1993, and

"(iv) which is placed in service by the taxpayer before July 1, 1993.

"(B) EXCEPTIONS.—

"(i) ALTERNATIVE DEPRECIATION PROPERTY.—The term 'qualified equipment' shall not include any property to which the alternative depreciation system under subsection (g) applies, determined—

"(I) without regard to paragraph (7) of subsection (g) (relating to election to have system apply), and

"(II) after application of section 280F(b) (relating to listed property with limited business use).

"(ii) ELECTION OUT.—If a taxpayer makes an election under this clause with respect to any class of property for any taxable year, this subsection shall not apply to all property in such class placed in service during such taxable year.

"(C) SPECIAL RULES RELATING TO ORIGINAL USE.—

"(i) SELF-CONSTRUCTED PROPERTY.—In the case of a taxpayer manufacturing, constructing, or producing property for the taxpayer's own use, the requirements of clause (iii) of subparagraph (A) shall be treated as met if the taxpayer begins manufacturing, constructing, or producing the property on and after February 1, 1992, and before January 1, 1993.

"(ii) SALE-LEASEBACKS.—For purposes of subparagraph (A)(ii), if property—

"(I) is originally placed in service on or after February 1, 1992, by a person, and

"(II) is sold and leased back by such person within 3 months after the date such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback referred to in subclause (II).

"(D) COORDINATION WITH SECTION 280F.—For purposes of section 280F—

"(i) AUTOMOBILES.—In the case of a passenger automobile (as defined in section 280F(d)(5)) which is qualified equipment, the Secretary shall increase the limitation under section 280F(a)(1)(A)(i), and decrease each other limitation under subparagraphs (A) and (B) of section 280F(a)(1), to appropriately reflect the amount of the deduction allowable under paragraph (1).

"(ii) LISTED PROPERTY.—The deduction allowable under paragraph (1) shall be taken into account in computing any recapture amount under section 280F(b)(2)."

(b) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Section 56(a)(1)(A) (relating to depreciation adjustment for alternative minimum tax) is amended by adding at the end the following new clause:

"(iii) ADDITIONAL ALLOWANCE FOR EQUIPMENT ACQUIRED IN 1992.—The deduction under section 168(j) shall be allowed."

(2) CONFORMING AMENDMENT.—Clause (i) of section 56(a)(1)(A) is amended by inserting "or (iii)" after "(ii)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service on or after February 1, 1992, in taxable years ending on or after such date.

SEC. 103. REAL PROPERTY ACQUIRED BY A QUALIFIED ORGANIZATION.

(a) INTERESTS IN MORTGAGES.—The last sentence of subparagraph (B) of section 514(c)(9) is hereby transferred to subparagraph (A) of section 514(c)(9) and added at the end thereof.

(b) MODIFICATIONS OF EXCEPTIONS.—Paragraph (9) of section 514(c) is amended by adding at the end thereof the following new subparagraph:

"(G) SPECIAL RULES FOR PURPOSES OF THE EXCEPTIONS.—For purposes of subparagraph (B), except as otherwise provided by regulations, the following additional rules apply—

"(i) IN GENERAL.—

"(I) For purposes of clauses (iii) and (iv) of subparagraph (B), a lease to a person described in clause (iii) or (iv) shall be disregarded if no more than 10 percent of the leasable floor space in a building is covered by the lease and if the lease is on commercially reasonable terms.

"(II) Clause (v) of subparagraph (B) shall not apply to the extent the financing is commercially reasonable and is on substantially the same terms as loans involving unrelated persons; for this purpose, standards for determining a commercially reasonable interest rate shall be provided by the Secretary.

"(ii) QUALIFYING SALES OUT OF FORECLOSURE BY FINANCIAL INSTITUTIONS.—In the case of a qualifying sale out of foreclosure by a financial institution, clauses (i) and (ii) of subparagraph (B) shall not apply. For this purpose, a 'qualifying sale out of foreclosure by a financial institution' exists where—

"(I) a qualified organization acquires real property from a person (a 'financial institution') described in section 581 or 591(a) (including a person in receivership) and the financial institution acquired the property pursuant to a bid at foreclosure or by operation of an agreement or of process of law after a default on indebtedness which the property secured ('foreclosure'), and the financial institution treats any income realized from the sale or exchange of the property as ordinary income,

"(II) the amount of the financing provided by the financial institution does not exceed the amount of the financial institution's outstanding indebtedness (determined without regard to accrued but unpaid interest) with respect to the property at the time of foreclosure,

"(III) the financing provided by the financial institution is commercially reasonable and is on substantially the same terms as loans between unrelated persons for sales of foreclosed property (for this purpose, standards for determining a commercially reasonable interest rate shall be provided by the Secretary), and

"(IV) the amount payable pursuant to the financing that is determined by reference to the revenue, income, or profits derived from the property ('participation feature') does not exceed 25 percent of the principal amount of the financing provided by the financial institution, and the participation feature is payable no later than the earlier of satisfaction of the financing or disposition of the property."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to debt-financed acquisitions of real estate made on or after February 1, 1992.

SEC. 104. SPECIAL RULES FOR INVESTMENTS IN PARTNERSHIPS.

(a) MODIFICATION TO ANTI-ABUSE RULES.—Paragraph (9) of section 514(c) (as amended by section 131 of this Act) is amended by adding at the end thereof the following new subparagraph:

"(H) PARTNERSHIPS NOT INVOLVING TAX AVOIDANCE.—

"(i) DE MINIMIS RULE FOR CERTAIN LARGE PARTNERSHIPS.—The provisions of subparagraph (B) shall not apply to an investment in a partnership having at least 250 partners if—

"(I) investments in the partnership are organized into units that are marketed primarily to individuals expected to be taxed at the maximum rate prescribed for individuals under section 1,

"(II) at least 50 percent of each class of interests is owned by such individuals,

"(III) the partners that are qualified organizations owning interests in a class participate on substantially the same terms as other partners owning interests in that class, and

"(IV) the principal purpose of partnership allocations is not tax avoidance.

"(ii) EXCEPTION WHERE TAXABLE PERSONS OWN A SIGNIFICANT PERCENTAGE.—In the case of any partnership, other than a partnership to which clause (i) applies, in which persons who are expected (under the regulations to be prescribed by the Secretary), at the time the partnership is formed, to pay tax at the maximum rate prescribed in section 1 or 11 (whichever is applicable) throughout the term of the partnership own at least a 25-percent interest, the provisions of subparagraph (B) shall not apply if the partnership satisfies the requirements of subparagraph (E)."

(b) PUBLICLY TRADED PARTNERSHIPS; UNRELATED BUSINESS INCOME FROM PARTNERSHIPS.—Subsection (c) of section 512 is amended by striking paragraph (2) (relating to publicly traded partnerships), by redesignating paragraph (3) as paragraph (2), and by striking "paragraph (1) or (2)" in paragraph (2) (as so redesignated) and inserting "paragraph (1)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership interests acquired on or after February 1, 1992.

SEC. 105. CREDIT FOR FIRST-TIME HOMEBUYERS.

(a) IN GENERAL.—Subpart A of part IV of chapter 1 is amended by inserting after section 22 the following new section:

"SEC. 23. PURCHASE OF PRINCIPAL RESIDENCE BY FIRST-TIME HOMEBUYER.

"(a) ALLOWANCE OF CREDIT.—If an individual who is a first-time homebuyer purchases a principal residence (within the meaning of section 1034), there shall be allowed to such individual as a credit against the tax imposed by this subtitle an amount equal to 10 percent of the purchase price of the principal residence.

"(b) LIMITATIONS.—

"(1) MAXIMUM CREDIT.—The credit allowed under subsection (a) shall not exceed $5,000.

"(2) LIMITATION TO ONE RESIDENCE.—The credit under this section shall be allowed with respect to only one residence of the taxpayer.

"(3) MARRIED INDIVIDUALS FILING JOINTLY.—In the case of a husband and wife who file a joint return under section 6013, the credit under this section is allowable only if both the husband and wife are first-time homebuyers, and the amount specified under paragraph (1) shall apply to the joint return.

"(4) OTHER TAXPAYERS.—In the case of individuals to whom paragraph (3) does not apply who together purchase the same new principal residence for use as their principal residence, the credit under this section is allowable only if each of the individuals is a first-time homebuyer, and the sum of the amount of credit allowed to such individuals shall not exceed the lesser of $5,000 or 10 percent of the total purchase price of the residence. The amount of any credit allowable under this section shall be apportioned among such individuals under regulations to be prescribed by the Secretary.

"(5) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) shall not exceed the amount of the tax imposed by this chapter for the taxable year, reduced by the sum of any other credits allowable under this chapter.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) PURCHASE PRICE.—The term 'purchase price' means the adjusted basis of the principal residence on the date of the acquisition thereof.

"(2) FIRST-TIME HOMEBUYER.—

"(A) IN GENERAL.—The term 'first-time homebuyer' means any individual if such individual has not had a present ownership interest in any residence (including an interest in a housing cooperative) at any time within the 36-month period ending on the date of acquisition of the residence on which the credit allowed under subsection (a) is to be claimed. An interest in a partnership, S corporation, or trust that owns an interest in a residence is not considered an interest in a residence for purposes of this paragraph except as may be provided in regulations.

"(B) CERTAIN INDIVIDUALS.—Notwithstanding subparagraph (A), an individual is not a first-time homebuyer on the date of purchase of a residence if on that date the running of any period of time specified in section 1034 is suspended under subsection (h) or (k) of section 1034 with respect to that individual.

"(3) SPECIAL RULES FOR CERTAIN ACQUISITIONS.—No credit is allowable under this section if—

"(A) the residence is acquired from a person whose relationship to the person acquiring it would result in the disallowance of losses under section 267 or 707(b), or

"(B) the basis of the residence in the hands of the person acquiring it is determined—

"(i) in whole or in part by reference to the adjusted basis of such residence in the hands of the person from whom it is acquired, or

"(ii) under section 1014(a) (relating to property acquired from a decedent).

"(d) RECAPTURE FOR CERTAIN DISPOSITIONS.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), if the taxpayer disposes of property with respect to the purchase of which a credit was allowed under subsection (a) at any time within 36 months after the date the taxpayer acquired the property as his principal residence, then the tax imposed under this chapter for the taxable year in which the disposition occurs is increased by an amount equal to the amount allowed as a credit for the purchase of such property.

"(2) ACQUISITION OF NEW RESIDENCE.—If, in connection with a disposition described in paragraph (1) and within the applicable period prescribed in section 1034, the taxpayer purchases a new principal residence, then the provisions of paragraph (1) shall not apply and the tax imposed by this chapter for the taxable year in which the new principal residence is purchased is increased to the extent the amount of the credit that could be claimed under this section on the purchase of the new residence (determined without regard to subsection (e)) is less than the amount of credit claimed by the taxpayer under this section.

"(3) DEATH OF OWNER; CASUALTY LOSS; INVOLUNTARY CONVERSION; ETC.—The provisions of paragraph (1) do not apply to—

"(A) a disposition of a residence made on account of the death of any individual having a legal or equitable interest therein occurring during the 36-month period to which reference is made under paragraph (1),

"(B) a disposition of the old residence if it is substantially or completely destroyed by a casualty described in section 165(c)(3) or compulsorily or involuntarily converted (within the meaning of section 1033(a)), or

"(C) a disposition pursuant to a settlement in a divorce or legal separation proceeding where the residence is sold or the other spouse retains the residence as a principal residence.

"(e) PROPERTY TO WHICH SECTION APPLIES.—

"(1) IN GENERAL.—The provisions of this section apply to a principal residence if—

"(A) the taxpayer acquires the residence on or after February 1, 1992, and before January 1, 1993, or

"(B) the taxpayer enters into, on or after February 1, 1992, and before January 1, 1993, a binding contract to acquire the residence, and acquires and occupies the residence before July 1, 1993."

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of chapter 1 is amended by inserting after section 22 the following new item:

"Sec. 23. Purchase of principal residence by first-time homebuyer."

(c) EFFECTIVE DATE.—The amendments made by this section are effective on February 1, 1992.

SEC. 106. PENALTY-FREE WITHDRAWALS FROM PENSION PLANS THROUGH 1992.

(a) IN GENERAL.—In the case of any qualified withdrawal—

(1) no additional tax shall be imposed under section 72(t)(1) of the Internal Revenue Code of 1986 with respect to such qualified withdrawal, and

(2) except as provided in subsection (b), any amount includible in gross income by reason of such qualified withdrawal (determined without regard to this section) shall be includible ratably over the 4-taxable year period beginning with the taxable year in which such qualified withdrawal occurs.

(b) ELECTION TO RECONTRIBUTE TO PLAN.—

(1) IN GENERAL.—The amount required to be included in gross income for any taxable year under subsection (a)(2) shall be reduced by any designated recontribution.

(2) DESIGNATED RECONTRIBUTION.—For purposes of paragraph (1), a designated recontribution is any contribution to any plan described in subsection (c)(1)(B)—

(A) which the taxpayer designates (in such manner as the Secretary of the Treasury may prescribe) as in lieu of all (or any portion of) any amount required to be included in gross income under subsection (a)(2) for a taxable year, and

(B) which is made not later than the due date (without extensions) for such taxable year.

(3) NO DEDUCTION ALLOWED FOR RECONTRIBUTION, ETC.—For purposes of the Internal Revenue Code of 1986, a designated recontribution shall not be treated as a contribution for any taxable year.

(c) QUALIFIED WITHDRAWAL.—For purposes of this section—

(1) IN GENERAL.—The term "qualified withdrawal" means any payment or distribution—

(A) which is made to an individual during 1992,

(B) which is made from—

(i) an individual retirement plan (as defined in section 7701(a)(37) of the Internal Revenue Code of 1986) established for the benefit of the individual, or

(ii) amounts attributable to employer contributions made on behalf of the individual pursuant to elective deferrals described in section 402(g)(3) (A) or (C) or 501(c)(18)(D)(iii) of such Code, and

(C) which is used by the individual for a qualified acquisition not later than the earlier of—

(i) the date which is 6 months after the date of such payment or distribution, or

(ii) the date on which the individual files the individual's income tax return for the taxable year in which such payment or distribution occurs.

(2) QUALIFIED ACQUISITION.—The term "qualified acquisition" means—

(A) the payment of qualified acquisition costs with respect to a principal residence of a first-time homebuyer who is the taxpayer or the child or grandchild of the taxpayer, or

(B) the purchase of a new passenger automobile.

(3) DOLLAR LIMITATION.—The aggregate amount which may be treated as qualified withdrawals under paragraph (1) with respect to all plans and amounts of an individual described in paragraph (1)(B) shall not exceed $10,000.

(4) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

(A) QUALIFIED ACQUISITION COSTS.—The term "qualified acquisition costs" means the costs of acquiring, constructing, or reconstructing a residence. Such term includes any usual or reasonable settlement, financing, or other closing costs associated with such qualified acquisition costs.

(B) FIRST-TIME HOMEBUYER; OTHER DEFINITIONS.—

(i) FIRST-TIME HOMEBUYER.—The term "first-time homebuyer" means any individual if such individual (and if married, such individual's spouse) had no present ownership interest in a principal residence during the 2-year period ending on the date of acquisition of the principal residence to which this paragraph applies.

(ii) PRINCIPAL RESIDENCE.—The term "principal residence" has the same meaning as when used in section 1034.

(iii) DATE OF ACQUISITION.—The term "date of acquisition" means the date—

(I) on which a binding contract to acquire the principal residence to which this subsection applies is entered into, or

(II) on which construction or reconstruction of such a principal residence is commenced.

(C) SPECIAL RULE WHERE DELAY IN ACQUISITION.—If—

(i) any amount is paid or distributed from an individual retirement plan to an individual for purposes of being used as provided in paragraph (1), and

(ii) by reason of a delay in the acquisition of the residence, the requirements of paragraph (1) cannot be met,

the amount so paid or distributed may be paid into an individual retirement plan as provided in section 408(d)(3)(A)(i) of the Internal Revenue Code of 1986 without regard to section 408(d)(3)(B) of such Code, and, if so paid into such other plan, such amount shall not be taken into account in determining whether section 408(d)(3)(A)(i) of such Code applies to any other amount.

(D) DISTRIBUTION RULES.—Any qualified withdrawal shall not be treated as failing to meet the requirements of sections 401(k)(2)(B)(i) or 403(b)(11) of such Code.

(d) ORDERING RULES FOR INCOME TAX PURPOSES.—For purposes of the Internal Revenue Code of 1986—

(1) all plans and amounts described in subsection (c)(1)(B) with respect to an individual shall be treated as one plan, and

(2) qualified withdrawals from such plan shall be treated as made—

(A) first from amounts which are includible in gross income of the individual when distributed to such individual, and

(B) then from amounts not so includible.

TITLE II—REVENUE OFFSETS

Subtitle A—General Provisions

SEC. 201. ELIMINATION OF THE STATUTE OF LIMITATIONS ON COLLECTION OF GUARANTEED STUDENT LOANS.

Section 3(c) of the Higher Education Technical Amendments of 1991 (Public Law 102-26) is amended by striking out "that are brought before November 15, 1992".

SEC. 202. REVISION OF PROCEDURE RELATING TO CERTAIN LOAN DEFAULTS.

(a) REVISION.—Section 3732(c)(1)(C)(ii) of title 38, United States Code, is amended by striking out "resale," and inserting in lieu thereof "resale (including losses sustained on the resale of the property),".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1991.

SEC. 203. APPLICATION OF MEDICARE PART B LIMITS TO FEHBP ENROLLEE AGE 65 OR OLDER.

(a) FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM.—Subsection 8904(b) of title 5, United States Code, is amended:

(1) by amending paragraph (1) to read as follows:

"(b)(1)(A) A plan, other than a prepayment plan described in section 8903(4) of this title, may not provide benefits under this chapter, in the case of any individual enrolled in the plan who is not an employee and who is age 65 or older, to the extent that—

"(i) a benefit claim involves a charge by a health care provider for a type of service or medical item which is covered for purposes of benefit payments under both this chapter and title XVIII of the Social Security Act (42 U.S.C. 1395-1395ccc) relating to medicare hospital and supplementary medical insurance, and

"(ii) benefits otherwise payable under such provisions of law in the case of such individual would exceed applicable limitations on hospital and physician charges established for medicare purposes under sections 1886 and 1848 of the Social Security Act (42 U.S.C. 1395ww and 1395w-4), respectively.

"(B)(i) For purposes of this subsection, hospitals, physicians, and other suppliers of medical and health services who have in force participation agreements with the Secretary of Health and Human Services consistent with sections 1842(h) and 1866 of the Social Security Act (42 U.S.C. 1395u(h) and 1395cc), whereby the participating provider accepts medicare benefits in full payment of charges for covered items and services after applicable patient copayments under sections 1813, 1833 and 1866(a)(2) of the Social Security Act (42 U.S.C. 1395e, 1395l, and 1395cc(a)(2)) have been satisfied, shall accept equivalent benefit payments and enrollee copayments under this chapter as full payment for any item or service described under subparagraph (A) which is furnished to an individual who is enrolled under this chapter and is not covered for purposes of benefit payments applicable to such item or service under provisions of title XVIII of the Social Security Act.

"(ii) Physicians and other health care suppliers who are nonparticipating physicians, as defined by section 1842(i)(2) of the Social Security Act (42 U.S.C. 1395u(i)(2)) for purposes of services furnished to medicare beneficiaries, may not bill in excess of the limiting charge prescribed under section 1848(g) of the Social Security Act (42 U.S.C. 1395w-4(g)) when providing services described under subparagraph (A) to an individual who is enrolled under this chapter and is not covered for purposes of benefit payments applicable to those services under provisions of title XVIII of the Social Security Act.

"(iii) The Office of Personnel Management shall notify the Secretary of Health and Human Services if a hospital, physician, or other supplier of medical services is found to knowingly and willfully violate this subsection and the Secretary shall invoke appropriate sanctions in accordance with subsections 1128A(a)(2), 1848(g)(8), and 1866(b)(2) of the Social Security Act (42 U.S.C. 1320a-7a(a)(2), 1395w-4(g)(8), and 1395cc(b)(2)) and applicable regulations."; and

(2) by amending paragraph (3)(B) to read as follows:

"(B) For purposes of this paragraph, the term 'medicare program information' includes—

"(i) the limitations on hospital charges established for medicare purposes under section 1886 of the Social Security Act (42 U.S.C. 1395ww) and the identity of hospitals which have in force agreements with the Secretary of Health and Human Services consistent with section 1866 of the Social Security Act (42 U.S.C. 1395cc); and

"(ii) the annual fee schedule amounts for services of participating physicians and 'limiting charge' information for nonparticipating physicians established for medicare purposes under section 1848 of the Social Security Act (42 U.S.C. 1395w-4) and the identity of physicians and suppliers who have in force participation agreements with the Secretary consistent with subsection 1842(h) of the Social Security Act (42 U.S.C. 1395u(h).".

(b) MEDICARE AGREEMENTS WITH INSTITUTIONAL PROVIDERS.—Section 1866(a)(1) of the Social Security Act (42 U.S.C. 1395cc(a)(1)) is amended—

(1) by striking out "and" at the end of subparagraph (P);

(2) by striking out the period at the end of subparagraph (Q) and inserting ", and", and

(3) by inserting after subparagraph (Q) the following new paragraph:

"(R) to accept as payment in full the amounts that would be payable under this part (including the amounts of any coinsurance and deductibles required of individuals entitled to have payment made on their behalf) for an item or service which the provider normally furnishes to patients (or others furnish under arrangement with the provider) and which is furnished to an individual who has attained age 65, is ineligible to receive benefits under this part, and is enrolled, other than as an employee, under a health benefits plan described in paragraphs (1) through (3) of section 8903 and section 8903a of title 5, United States Code, if such item or service is of a type that is covered under both this title and chapter 89 of title 5, United States Code.".

(c) MEDICARE PARTICIPATING PHYSICIANS AND SUPPLIERS.—Section 1842(h)(1) of the Social Security Act (42 U.S.C. 1395u(h)(1)) is amended, after the second sentence, by inserting the following new sentence: "Such agreement shall provide, for any year beginning with 1993, that the physician or supplier will accept as payment in full the amounts that would be payable under this part (plus the amounts of any coinsurance or deductibles required of individuals on whose behalf payments are made under this title) for an item or service furnished during such year to an individual who has attained age 65, is ineligible to receive benefits under this part, and is enrolled, other than as an employee, under a health benefits plan described in paragraphs (1) through (3) of section 8903 and section 8903a of title 5, United States Code, if such item or service is of a type that is covered under both this part and chapter 89 of title 5, United States Code.".

(d) MEDICARE ACTUAL CHARGE LIMITATION FOR NONPARTICIPATING PHYSICIANS.—Section 1848(g) of the Social Security Act (42 U.S.C. 1359w-4(g)) is amended by adding at the end thereof the following paragraph:

"(8) LIMITATION OF ACTUAL CHARGES FOR ENROLLEES OF THE FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM.—(A) A nonparticipating physician shall not impose an actual charge in excess of the limiting charge defined in paragraph (2) for items and services furnished after 1992 in any case involving—

"(i) an individual who has attained age 65, is ineligible to receive benefits under this part, and is enrolled, other than as an employee, under a health benefits plan described in paragraphs (1) through (3) or section 8903 or section 8903a of title 5, United States Code; and

"(ii) an item or service of a type that is covered for benefits under both this part and chapter 89 of title 5, United States Code.

"(B) If a person knowingly and willfully bills for physicians' services in violation of subparagraph (A), the Secretary shall apply sanctions against the person in accordance with section 1842(j)(2).".

(e) EFFECTIVE DATES.—

(1) Except as provided in paragraph (2), the amendments made by this section shall be effective with respect to health care provider charges for items and services furnished to individuals enrolled in plans under chapter 89 of title 5, United States Code, in contract years beginning after December 31, 1992.

(2) The amendment made by subsection (b) applies to agreements for periods after 1991.

SEC. 204. DISCLOSURES OF INFORMATION FOR VETERANS BENEFITS.

(a) IN GENERAL.—Section 6103(l)(7)(D) (relating to programs to which rule applies) is amended by striking "September 30, 1992" in the last sentence and inserting "September 30, 1998".

(b) CONFORMING AMENDMENT.—Section 5317(g) of title 38, United States Code, is amended by striking "September 30, 1992" and inserting "September 30, 1998".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on September 30, 1992.

Subtitle B—Electromagnetic Spectrum Function

SEC 211. SHORT TITLE.

This subtitle may be cited as the "Emerging Telecommunications Technologies Act of 1992".

SEC. 212. FINDINGS.

The Congress finds that—

(1) spectrum is a valuable natural resource;

(2) it is in the national interest that this resource be used more efficiently;

(3) the spectrum below 6 gigahertz (GHz) is becoming increasingly congested, and, as a result entities that develop innovative new spectrum-based services are finding it difficult to bring these services to the marketplace;

(4) scarcity of assignable frequencies can and will—

(A) impede the development and commercialization of new spectrum-based products and services;

(B) reduce the capacity and efficiency of the United States telecommunications system; and

(C) adversely affect the productive capacity and international competitiveness of the United States economy;

(5) the United States Government presently lacks explicit authority to use excess radiocommunications capacity to satisfy non-United States Government requirements;

(6) more efficient use of the spectrum can provide the resources for increased economic returns;

(7) many commercial users derive significant economic benefits from their spectrum licenses, both through the income they earn from their use of the spectrum and the returns they realize upon transfer of their licenses to third parties; but under current procedures, the United States public does not sufficiently share in their benefits;

(8) many United States Government functions and responsibilities depend heavily on the use of the radio spectrum, involve unique applications, and are performed in the broad national and public interest;

(9) competitive bidding for spectrum can yield significant benefits for the United States economy by increasing the efficiency of spectrum allocations, assignment, and use; and for United States taxpayers by producing substantial revenues for the United States Treasury; and

(10) the Secretary, the President, and the Commission should be directed to take appropriate steps to foster the more efficient use of this valuable national resource, including the reallocation of a target amount of 200 megahertz (MHz) of spectrum from United States Government use under section 305 of the Communications Act to non-United States Government use pursuant to other provisions of the Communications Act and the implementation of competitive bidding procedures by the Commission for some new assignments of the spectrum.

SEC. 213. NATIONAL SPECTRUM PLANNING.

(a) PLANNING ACTIVITIES.—The Secretary and the Chairman of the Commission shall, at least twice each year, conduct joint spectrum planning meetings with respect to the following issues—

(1) future spectrum needs;

(2) the spectrum allocation actions necessary to accommodate those needs, including consideration of innovation and marketplace developments that may affect the relative efficiencies of different portions of the spectrum; and

(3) actions necessary to promote the efficient use of the spectrum, including proven spectrum management techniques to promote increased shared use of the spectrum as a means of increasing non-United States Government access; and innovation in spectrum utilization including means of providing incentives for spectrum users to develop innovative services and technologies.

(b) REPORTS.—The Secretary and the Chairman of the Commission shall submit a joint annual report to the President on the joint spectrum planning meetings conducted under subsection (a) and any recommendations for action developed in such meetings.

(c) OPEN PROCESS.—The Secretary and the Commission will conduct an open process under this section to ensure the full consideration and exchange of views among any interested entities, including all private, public, commercial, and governmental interests.

SEC. 214. IDENTIFICATION OF REALLOCABLE FREQUENCIES.

(a) IDENTIFICATION REQUIRED.—The Secretary shall prepare and submit to the President the reports required by subsection (d) to identify bands of frequencies that—

(1) are allocated on a primary basis for United States Government use and eligible for licensing pursuant to section 305(a) of the Communications Act;

(2) are not required for the present or identifiable future needs of the United States Government;

(3) can feasibly be made available during the next 15 years after enactment of this title for use under the provisions of the Communications Act for non-United States Government users;

(4) will not result in costs to the Federal Government that are excessive in relation to

the benefits that may be obtained from the potential non-United States Government uses; and

(5) are likely to have significant value for non-United States Government uses under the Communications Act.

(b) AMOUNT OF SPECTRUM RECOMMENDED.—

(1) IN GENERAL.—The Secretary shall recommend as a goal for reallocation, for use by non-United States Government stations, bands of frequencies constituting a target amount of 200 MHz, that are located below 6 GHz, and that meet the criteria specified in paragraphs (1) through (5) of subsection (a). If the Secretary identifies (as meeting such criteria) bands of frequencies totalling more than 200 MHz, the Secretary shall identify and recommend for reallocation those bands (totalling not less than 200 MHz) that are likely to have the greatest potential for non-United States Government uses under the Communications Act.

(2) MIXED USES PERMITTED TO BE COUNTED.—Bands of frequencies which the Secretary recommends be partially retained for use by United States Government stations, but which are also recommended to be reallocated and made available under the Communications Act for use by non-United States Government stations, may be counted toward the target 200 MHz of spectrum required by paragraph (1) of this subsection, except that—

(A) the bands of frequencies counted under this paragraph may not count toward more than one-half of the amount targeted by paragraph (1) of this subsection;

(B) a band of frequencies may not be counted under this paragraph unless the assignments of the band to United States Government stations under section 305 of the Communications Act are limited by geographic area, by time, or by other means so as to guarantee that the potential use to be made by which United States Government stations is substantially less (as measured by geographic area, time, or otherwise) than the potential United States Government use to be made; and

(C) the operational sharing permitted under this paragraph shall be subject to procedures which the Commission and the Department of Commerce shall establish and implement to ensure against harmful interference.

(c) CRITERIA FOR IDENTIFICATION.—

(1) NEEDS OF THE UNITED STATES GOVERNMENT.—In determining whether a band of frequencies meets the criteria specified in subsection (a)(2), the Secretary shall—

(A) consider whether the band of frequencies is used to provide a communications service that is or could be available from a commercial provider;

(B) seek to promote—

(i) the maximum practicable reliance on commercially available substitutes;

(ii) the sharing of frequencies (as permitted under subsection (b)(2));

(iii) the development and use of new communications technologies; and

(iv) the use of nonradiating communications systems where practicable;

(C) seek to avoid—

(i) serious degradation of United States Government services and operations;

(ii) excessive costs to the United States Government and civilian users of such Government services; and

(iii) identification of any bands for reallocation that are likely to be subject to substitution for the reasons specified in section 405(b)(2) (A) through (C); and

(D) exempt power marketing administrations and the Tennessee Valley Authority from any reallocation procedures.

(2) FEASIBILITY OF USE.—In determining whether a frequency band meets the criteria specified in subsection (a)(3), the Secretary shall—

(A) assume such frequencies will be assigned by the Commission under section 303 of the Communications Act over the course of fifteen years after the enactment of this title;

(B) assume reasonable rates of scientific progress and growth of demand for telecommunications services;

(C) determine the extent to which the reallocation or reassignment will relieve actual or potential scarcity of frequencies available for non-United States Government use;

(D) seek to include frequencies which can be used to stimulate the development of new technologies; and

(E) consider the cost to reestablish United States Government services displaced by the reallocation of spectrum during the fifteen year period.

(3) COSTS TO THE UNITED STATES GOVERNMENT.—In determining whether a frequency band meets the criteria specified in subsection (a)(4), the Secretary shall consider—

(A) the costs to the United States Government of reaccommodating its services in order to make spectrum available for non-United States Government use, including the incremental costs directly attributable to the loss of the use of the frequency band; and

(B) the benefits that could be obtained from reallocating such spectrum to non-United States Government users, including the value of such spectrum in promoting—

(i) the delivery of improved service to the public;

(ii) the introduction of new services; and

(iii) the development of new communications technologies.

(4) NON-UNITED STATES GOVERNMENT USE.—In determining whether a band of frequencies meets the criteria specified in subsection (a)(5), the Secretary shall consider—

(A) the extent to which equipment is commercially available that is capable of utilizing the band; and

(B) the proximity of frequencies that are already assigned for non-United States Government use.

(d) PROCEDURE FOR IDENTIFICATION OF REALLOCABLE BANDS OF FREQUENCIES.—

(1) SUBMISSION OF REPORTS TO THE PRESIDENT TO IDENTIFY AN INITIAL 50 MHZ TO BE MADE AVAILABLE IMMEDIATELY FOR REALLOCATION, AND TO PROVIDE PRELIMINARY AND FINAL REPORTS ON ADDITIONAL FREQUENCIES TO BE REALLOCATED.—

(A) Within 3 months after the date of the enactment of this title, the Secretary shall prepare and submit to the President a report which specifically identifies an initial 50 MHz of spectrum that are located below 3 GHz, to be made available for reallocation to the Federal Communications Commission upon issuance of this report, and to be distributed by the Commission pursuant to competitive bidding procedures.

(B) The Department of Commerce shall make available to the Federal Communications Commission 50 MHz as identified in subparagraph (A) of electromagnetic spectrum for allocation of land-mobile or land-mobile-satellite services. Notwithstanding section 553 of the Administrative Procedure Act and title III of the Communications Act, the Federal Communications Commission shall allocate such spectrum and conduct competitive bidding procedures to complete the assignment of such spectrum in a manner which ensures that the proceeds from such bidding are received by the Federal Government no later than September 30, 1992. From such proceeds, Federal agencies displaced by this transfer of the electromagnetic spectrum to the Federal Communications Commission shall be reimbursed for reasonable costs directly attributable to such displacement. The Department of Commerce shall determine the amount of, and arrange for, such reimbursement. Amounts to agencies shall be available subject to appropriation Acts.

(C) Within 12 months after the date of the enactment of this title, the Secretary shall prepare and submit to the President a preliminary report to identify reallocable bands of frequencies meeting the criteria established by this section.

(D) Within 24 months after the date of enactment of this title, the Secretary shall prepare and submit to the President a final report which identifies the target 200 MHz for reallocation (which shall encompass the initial 50 MHz previously designated under subparagraph (A)).

(E) The President shall publish the reports required by this section in the Federal Register.

(2) CONVENING OF PRIVATE SECTOR ADVISORY COMMITTEE.—Not later than 12 months after the enactment of this title, the Secretary shall convene a private sector advisory committee to—

(A) review the bands of frequencies identified in the preliminary report required by paragraph (1)(C);

(B) advise the Secretary with respect to—

(i) the bands of frequencies which should be included in the final report required by paragraph (1)(D); and

(ii) the effective dates which should be established under subsection (e) with respect to such frequencies;

(C) receives public comment on the Secretary's preliminary and final reports under this subsection; and

(D) prepare and submit the report required by paragraph (4).

The private sector advisory committee shall meet at least quarterly until each of the actions required by section 405(a) have taken place.

(3) COMPOSITION OF COMMITTEE; CHAIRMAN.—The private sector adviser committee shall include—

(A) the Chairman of the Commission, and the Secretary, or their designated representatives, and two other representatives from two different United States Government agencies that are spectrum users, other than the Department of Commerce, as such agencies may be designated by the Secretary; and

(B) Persons who are representative of—

(i) manufacturers of spectrum-dependent telecommunications equipment;

(ii) commercial users;

(iii) other users of the electromagnetic spectrum; and

(iv) other interested members of the public who are knowledgeable about the uses of the electromagnetic spectrum to be chosen by the Secretary.

A majority of the members of the committee shall be members described in subparagraph (B), and one of such members shall be designated as chairman by the Secretary.

(4) RECOMMENDATIONS ON SPECTRUM ALLOCATION PROCEDURES.—The private sector advisory committee shall, not later than 12 months after its formation, submit to the Secretary, the Commission, the Committee

on Energy and Commerce of the House of Representatives, and the Committee on Commerce, Science and Transportation of the Senate, such recommendations as the committee considers appropriate for the reform of the process of allocating the electromagnetic spectrum between United States Government users and non-United States Government users, and any dissenting views thereon.

(e) TIMETABLE FOR REALLOCATION AND LIMITATION.—The Secretary shall, as part of the final report required by subsection (d)(1)(D), include a timetable for the effective dates by which the President shall, within 15 years after enactment of this title, withdraw or limit assignments on frequencies specified in the report. The recommended effective dates shall—

(1) permit the earliest possible reallocation of the frequency bands, taking into account the requirements of section 406(a);

(2) be based on the useful remaining life of equipment that has been purchased or contracted for to operate on identified frequencies;

(3) be based on the need to coordinate frequency use with other nations; and

(4) avoid the imposition of incremental costs on the United States Government directly attributable to the loss of the use of frequencies or the changing to different frequencies that are excessive in relation to the benefits that may be obtained from non-United States Government uses of the reassigned frequencies.

SEC. 215. WITHDRAWAL OF ASSIGNMENT TO UNITED STATES GOVERNMENT STATIONS.

(a) IN GENERAL.—The President shall—

(1) within 3 months after receipt of the Secretary's report under section 404(d)(1)(A), withdraw or limit the assignment to a United States Government station of any frequency on the initial 50 MHz which that report recommends for immediate reallocation;

(2) with respect to other frequencies recommended for reallocation by the Secretary's report in section 404(d)(1)(D), by the effective dates recommended pursuant to section 404(e) (except as provided in subsection (b)(4) of this section), withdraw or limit the assignment to a United States Government station of any frequency which that report recommends be reallocated or available for mixed use on such effective dates;

(3) assign or reassign other frequencies to United States Government stations as necessary to adjust to such withdrawal or limitation of assignments; and

(4) publish in the Federal Register a notice and description of the actions taken under this subsection.

(b) EXCEPTIONS.—

(1) AUTHORITY TO SUBSTITUTE.—If the President determines that a circumstance described in section 405(b)(2) exists, the President—

(A) may, within 1 month after receipt of the Secretary's report under section 404(d)(1)(A), and within 6 months after receipt of the Secretary's report under section 404(d)(1)(D), substitute an alternative frequency or band of frequencies for the frequency or band that is subject to such determination and withdraw (or limit) the assignment of that alternative frequency or band in the manner required by subsection (a); and

(B) shall publish in the Federal Register a statement of the reasons for taking the action described in subparagraph (A).

(2) GROUNDS FOR SUBSTITUTION.—For purposes of paragraph (1), the following circumstances are described in this paragraph:

(A) the reassignment would seriously jeopardize the national security interests of the United States;

(B) the frequency proposed for reassignment is uniquely suited to meeting important United States Governmental needs;

(C) the reassignment would seriously jeopardize public health or safety; or

(D) the reassignment will result in incremental costs to the United States Government that are excessive in relation to the benefits that may be obtained from non-United States Government uses of the reassigned frequency.

(3) CRITERIA FOR SUBSTITUTED FREQUENCIES.—For purposes of paragraph (1), a frequency may not be substituted for a frequency identified by the final report of the Secretary under section 404(d)(1)(D) unless the substituted frequency also meets each of the criteria specified by section 404(a).

(4) DELAYS IN IMPLEMENTATION.—If the President determines that any action cannot be completed by the effective dates recommended by the Secretary pursuant to section 404(e), or that such an action by such date would result in a frequency being unused as a consequence of the Commission's plan under section 406, the President may—

(A) withdraw or limit the assignment to United States Government stations on a later date that is consistent with such plan, by providing notice to that effect in the Federal Register, including the reason that withdrawal at a later date is required; or

(B) substitute alternative frequencies pursuant to the provisions of this subsection.

(c) COSTS OF WITHDRAWING FREQUENCIES ASSIGNED TO THE UNITED STATES GOVERNMENT; APPROPRIATIONS AUTHORIZED.—Any United States Government licensee, or non-United States Government entity operating on behalf of a United States Government licensee, that is displaced from a frequency pursuant to this section may be reimbursed not more than the incremental costs it incurs, in such amounts as provided in advance in appropriation Acts, that are directly attributable to the loss of the use of the frequency pursuant to this section. The estimates of these costs shall be prepared by the affected agency, in consultation with the Department of Commerce.

(d) There are authorized to be appropriated to the affected licensee agencies such sums as may be necessary to carry out the purposes of this section.

SEC. 216. DISTRIBUTION OF FREQUENCIES BY THE COMMISSION.

(a) PLANS SUBMITTED.—

(1) With respect to the initial 50 MHz to be reallocated from United States Government to non-United States Government use under section 404(d)(1)(A), not later than 6 months after enactment of this title, the Commission shall complete a public notice and comment proceeding regarding the allocation of this spectrum and shall form a plan to assign such spectrum pursuant to competitive bidding procedures, pursuant to section 408, during fiscal years 1994 through 1996.

(2) With respect to the remaining spectrum to be reallocated from United States Government to non-United States Government use under section 404(e), not later than 2 years after issuance of the report required by section 404(d)(1)(D), the Commission shall complete a public notice and comment proceeding; and the Commission shall, after consultation with the Secretary, prepare and submit to the President a plan for the distribution under the Communications Act of the frequency bands reallocated pursuant to the requirements of this title. Such plan shall—

(A) not propose the immediate distribution of all such frequencies, but, taking into account the timetable recommended by the Secretary pursuant to section 404(e), shall propose—

(i) gradually to distribute the frequencies remaining, after making the reservation required by subparagraph (ii), over the course of a 10-year period beginning on the date of submission of such plan; and

(ii) to reserve a significant portion of such frequencies for distribution beginning after the end of such 10-year period;

(B) contain appropriate provisions to ensure—

(i) the availability of frequencies for new technologies and services in accordance with the policies of section 7 of the Communications Act (47 U.S.C. 157); and

(ii) the availability of frequencies to stimulate the development of such technologies; and

(C) not prevent the Commission from allocating bands of frequencies for specific uses in future rulemaking proceedings.

(b) AMENDMENT TO THE COMMUNICATIONS ACT.—Section 303 of the Communications Act is amended by adding at the end thereof the following new subsection:

"(u) Have authority to assign the frequencies reallocated from United States Government use to non-United States Government use pursuant to the Emerging Telecommunications Technologies Act of 1991, except that any such assignment shall expressly be made subject to the right of the President to reclaim such frequencies under the provisions of section 407 of the Emerging Telecommunications Technologies Act of 1991.".

SEC. 217. AUTHORITY TO RECLAIM REASSIGNED FREQUENCIES.

(a) AUTHORITY OF PRESIDENT.—The President may reclaim reallocated frequencies for reassignment to United States Government stations in accordance with this section.

(b) PROCEDURE FOR RECLAIMING FREQUENCIES.—

(1) UNASSIGNED FREQUENCIES.—If the frequencies to be reclaimed have not been assigned by the Commission, the President may reclaim them based on the grounds described in section 405(b)(2).

(2) ASSIGNED FREQUENCIES.—If the frequencies to be reclaimed have been assigned by the Commission, the President may reclaim them based on the grounds described in section 405(b)(2), except that the notification required by section 405(b)(1) shall include—

(A) a timetable to accommodate an orderly transition for licensees to obtain new frequencies and equipment necessary for their utilization; and

(B) an estimate of the cost of displacing the licensees.

(c) COSTS OF RECLAIMING FREQUENCIES.—Any non-United States Government licensee that is displaced from a frequency pursuant to this section shall be reimbursed the incremental costs it incurs that are directly attributable to the loss of the use of the frequency pursuant to this section.

(d) EFFECT ON OTHER LAW.—Nothing in this section shall be construed to limit or otherwise affect the authority of the President under section 706 of the Communications Act (47 U.S.C. 606).

SEC. 218. COMPETITIVE BIDDING.

(a) COMPETITIVE BIDDING AUTHORIZED.—Section 309 of the Communications Act is amended by adding the following new subsection:

"(j)(1)(A) The Commission shall use competitive bidding for awarding all initial licenses or new construction permits, including licenses and permits for spectrum reallocated for non-United States Government use pursuant to the Emerging Telecommunications Technologies Act of 1991, subject to the exclusions listed in paragraph (2).

"(B) The Commission shall require potential bidders to file a first-stage application indicating an intent to participate in the competitive bidding process and containing such other information as the Commission finds necessary. After conducting the bidding, the Commission shall require the winning bidder to submit a second-stage application. Upon determining that such application is acceptable for filing and that the applicant is qualified pursuant to subparagraph (C), the Commission shall grant a permit or license.

"(C) No construction permit or license shall be granted to an applicant selected pursuant to subparagraph (B) unless the Commission determines that such applicant is qualified pursuant to section 308(b) and subsection (a) of this section, on the basis of the information contained in the first- and second-stage applications submitted under subparagraph (B).

"(D) Each participant in the competitive bidding process is subject to the schedule of changes contained in section 8 of this Act.

"(E) The Commission shall have the authority in awarding construction permits or licenses under competitive bidding procedures to (i) define the geographic and frequency limitations and technical requirements, if any, of such permits or licenses; (ii) establish minimum acceptable competitive bids; and (iii) establish other appropriate conditions on such permits and licenses that will serve the public interest.

"(F) The Commission, in designing the competitive bidding procedures under this subsection, shall study and include procedures—

"(i) to ensure bidding access for small and rural companies,

"(ii) if appropriate, to extend the holding period for winning bidders awarded permits or licenses, and

"(iii) to expand review and enforcement requirements to ensure that winning bidders continue to meet their obligations under this Act.

"(G) The Commission shall, within 6 months after enactment of the Emerging Telecommunications Technologies Act of 1991, following public notice and comment proceedings, adopt rules establishing competitive bidding procedures under this subsection, including the method of bidding and the basis for payment (such as flat fees, fixed or variable royalties, combinations of flat fees and royalties, or other reasonable forms of payment); and a plan for applying such competitive bidding procedures to the initial 50 MHz reallocated from United States Government to non-United States Government use under section 404(d)(1)(A) of the Emerging Telecommunications Technologies Act of 1991, to be distributed during the fiscal years 1994 through 1996.

"(2) Competitive bidding shall not apply to—

"(A) license renewals;

"(B) the United States Government and State or local government entities;

"(C) amateur operator services, over-the-air terrestrial radio and television broadcast services, public safety services, and radio astronomy services;

"(D) private radio end-user licenses, such as Specialized Mobile Radio Service (SMRS), maritime, and aeronautical end-user licenses;

"(E) any license grant to a non-United States Government licensee being moved from its current frequency assignment to a different one by the Commission in order to implement the goals and objectives underlying the Emerging Telecommunications Technologies Act of 1991;

"(F) any other service, class of services, or assignments that the Commission determines, after conducting public comment and notice proceedings, should be exempt from competitive bidding because of public interest factors warranting an exemption; and

"(G) small businesses, as defined in section 3(a)(1) of the Small Business Act.

"(3) In implementing this subsection, the Commission shall ensure that current and future rural telecommunications needs are met and that existing rural licensees and their subscribers are not adversely affected.

"(4) Monies received from competitive bidding pursuant to this subsection shall be deposited in the general fund of the United States Treasury.".

(b) RANDOM SELECTION NOT TO APPLY WHEN COMPETITIVE BIDDING REQUIRED.—Section 309(i)(1) of the Communications Act is amended by striking the period after the word "selection" and inserting ", except in instances where competitive bidding procedures are required under subsection (j).".

(c) SPECTRUM ALLOCATION DECISIONS.—Section 303 of the Communications Act is amended by adding the following new subsection:

"(v) In making spectrum allocation decisions among services that are subject to competitive bidding, the Commission is authorized to consider as one factor among others taken into account in making its determination, the relative economic values and other public interest benefits of the proposed uses as reflected in the potential revenues that would be collected under its competitive bidding procedures.".

SEC. 219. DEFINITIONS.

As used in this subtitle:

(1) The term "allocation" means an entry in the National Table of Frequency Allocations of a given frequency band for the purpose of its use by one or more radiocommunications services.

(2) The term "assignment" means an authorization given by the Commission or the United States Government for a radio station to use a radio frequency or radio frequency channel.

(3) The term "Commission" means the Federal Communications Commission.

(4) The term "Communications Act" means the Communications Act of 1934 (47 U.S.C. 151 et seq.).

(5) The term "Secretary" means the Secretary of Commerce.

Subtitle C—Other Provisions

SEC. 221. EXTENSION OF CURRENT LAW REGARDING LUMP-SUM WITHDRAWAL OF RETIREMENT CONTRIBUTIONS FOR CIVIL SERVICE RETIREES.

(a) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8343a(f)(3) of title 5, United States Code, is amended by striking out "October 1, 1995" and inserting in lieu thereof "October 1, 1996".

(b) FEDERAL EMPLOYEES RETIREMENT SYSTEM.—Section 8420a(f)(3) of title 5, United States Code, is amended by striking out "October 1, 1995" and inserting in lieu thereof "October 6, 1996".

SEC. 222. ONE-YEAR EXTENSION OF CUSTOMS USER FEES.

Paragraph (3) of section 13031(j) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking out "1995" and inserting "1996".

SEC. 223. EXTENSION OF THE PATENT AND TRADEMARK OFFICE USER FEE SURCHARGE THROUGH 1996.

Section 10101 of the Omnibus Budget Reconciliation Act of 1990 (35 U.S.C. 41 note) is amended—

(1) in subsection (a) by striking "1995" and inserting "1996";

(2) in subsection (b)(2) by striking "1995" and inserting "1996"; and

(3) in subsection (c)—

(A) by striking "1995" the first place it appears and inserting "1996"; and

(B) by adding at the end the following new paragraph:

"(6) $107,000,000 in fiscal year 1996."

SEC. 3103. DISALLOWANCE OF INTEREST ON CERTAIN OVERPAYMENTS OF TAX.

(a) GENERAL RULE.—Subsection (e) of section 6611 is amended to read as follows:

"(e) DISALLOWANCE OF INTEREST ON CERTAIN OVERPAYMENTS.—

"(1) REFUNDS WITHIN 45 DAYS AFTER RETURN IS FILED.—If any overpayment of tax imposed by this title is refunded within 45 days after the last day prescribed for filing the return of such tax (determined without regard to any extension of time for filing the return) or, in the case of a return filed after such last date, is refunded within 45 days after the date the return is filed, no interest shall be allowed under subsection (a) on such overpayment.

"(2) REFUNDS AFTER CLAIM FOR CREDIT OR REFUND.—If—

"(A) the taxpayer files a claim for a credit or refund for any overpayment of tax imposed by this title, and

"(B) such overpayment is refunded within 45 days after such claim is filed,

no interest shall be allowed on such overpayment from the date the claim is filed until the day the refund is made.

"(3) IRS INITIATED ADJUSTMENTS.—Notwithstanding any other provision, if an adjustment, initiated by or on behalf of the Secretary, results in a refund or credit of an overpayment, interest on such overpayment shall be computed by subtracting 45 days from the number of days interest would otherwise be allowed with respect to such overpayment."

(b) EFFECTIVE DATES.—

(1) Paragraph (1) of section 6611(e) of the Internal Revenue Code of 1986 (as amended by subsection (a)) shall apply in the case of returns the due date for which (determined without regard to extensions) is on or after July 1, 1992.

(2) Paragraph (2) of section 6611(e) of such Code (as so amended) shall apply in the case of claims for credit or refund of any overpayment filed on or after July 1, 1992 regardless of the taxable period to which such refund relates.

(3) Paragraph (3) of section 6611(e) of such Code (as so amended) shall apply in the case of any refund paid on or after July 1, 1992 regardless of the taxable period to which such refund relates.

PART VI—OZONE-DEPLETING CHEMICALS

SEC. 2271. INCREASED BASE TAX RATE ON OZONE-DEPLETING CHEMICALS AND EXPANSION OF LIST OF TAXED CHEMICALS.

(a) IN GENERAL.—Paragrah (1) of section 4681(b) (relating to amount of tax) is amended to read as follows:

"(B) BASE TAX AMOUNT.—The base tax amount for purposes of subparagraph (A) with respect to any sale or use during a calendar year before 1996 with respect to any ozone-depleting chemical is the amount determined under the following table for such calendar year:

Calendar year	Base tax amount
1992	$1.85
1993	2.75
1994	3.65
1995	4.55."

(b) CONFORMING AMENDMENTS.—

(1) RATES RETAINED FOR CHEMICALS USED IN RIGID FOAM INSULATION.—The table in subparagraph (B) of section 4682(g)(2) (relating to chemicals used in rigid foam insulation) is amended—

(A) by striking "15" and inserting "13.5", and

(B) by striking "10" and inserting "9.6".

(2) FLOOR STOCK TAXES.—

(A) Subparagraph (C) of section 4682(h)(2) (relating to other tax-increase dates) is amended by striking "1993, and 1994" and inserting "1993, 1994, and 1995, and July 1, 1992".

(B) Paragraph (3) of section 4682(h) (relating to due date) is amended—

(i) by inserting "or July 1' after "January 1", and

(ii) by inserting "or December 31, respectively," after "June 30".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable chemicals sold or used on or after July 1, 1992.

"SEC. 475. MARK TO MARKET INVENTORY METHOD FOR DEALERS IN STOCK OR SECURITIES.

"(a) GENERAL RULE.—Each stock or security held for resale to customers in the ordinary course of the taxpayer's trade or business at the close of the taxable year shall be treated as sold for its fair market value on the last business day of such taxable year and any gain or loss shall be taken into account for that taxable year.

"(b) BASIS ADJUSTMENT REQUIRED.—Proper adjustment shall be made to the taxpayer's basis in each stock or security so that any gain or loss subsequently realized is not recognized to the extent such gain or loss was previously taken into account by reason of subsection (a).

"(c) DERIVATIVE FINANCIAL INSTRUMENTS HELD BY DEALERS..—A taxpayer that is required by subsection (a) to treat stocks or securities held for resale to customers in the ordinary course of the taxpayer's trade or business as sold for their fair market value on the last business day of the taxable year shall—

"(1) treat all derivative financial instruments held at the close of the taxable year as sold for their fair market value on the last business day of the taxable year, and

"(2) properly adjust the amount of gain or loss subsequently realized for gain or loss taken into account by reason of paragraph (1).

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) STOCK OR SECURITIES DEFINED.—The term 'stock or securities' shall include stock or securities as defined in section 851(b)(2), 1091(a), or 1236(c), and national principal contracts.

"(2) DEALERS OR TRADERS IN NOTIONAL PRINCIPAL CONTRACTS.—A dealer or trader in notional principal contracts shall be treated as holding such contracts for resale to customers in the ordinary course of its trade or business.

"(3) DERIVATIVE FINANCIAL INSTRUMENTS DEFINED.—The term 'derivative financial instruments' includes commodities, options, forward contracts, futures contracts, national principal contracts, short positions securities, and any similar financial instrument.

"(4) SECTION 263A SHALL NOT APPLY.—The cost capitalization rules of section 263A shall not apply to stock, securities, or derivative financial instruments accounted for under this section.

"(e) REGULATORY AUTHORITY.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including rules to prevent the use of year-end transfers, related parties, or other arrangements to avoid the effect of this section."

(b) CONFORMING AMENDMENT.—Subsection (b) of section 471 is amended to read as follows:

"(b) CROSS REFERENCES.—

"(1) For rules relating to the inventory method that conforms to the best accounting practice for dealers in stock or securities, see section 475.

"(2) For rules relating to capitalization of direct and indirect costs of property, see section 263A."

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part II of Subchapter E of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 475. Conform tax accounting to financial accounting for securities dealers."

(1) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to all taxable years ending on or after December 31, 1992.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer required by this section to change its method of accounting for any taxable year—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as made with the consent of the Secretary,

(C) the change in method of accounting shall be implemented by valuing each stock or security to which the amendments of this section apply at its fair market value on the last day of the first taxable year ending on or after December 31, 1992, and

(D) 10 percent of any increase or decrease in value by reason of subparagraph (C) shall be taken into account in each of the 10 taxable years beginning with the first taxable year ending on or after December 31, 1992.

REID AMENDMENT NO. 1733

Mr. REID proposed an amendment to the bill (H.R. 4210); supra; as follows:

On page 926, after line 19, insert the following:

SEC. . TREATMENT OF CONTRIBUTIONS IN AID OF CONSTRUCTION.

(a) TREATMENT OF CONTRIBUTIONS IN AID OF CONSTRUCTION.—

(1) IN GENERAL.—Section 118 (relating to contributions to the capital of a corporation) is amended—

(A) by redesignating subsection (c) as subsection (d), and

(B) by striking subsection (b) and inserting the following new subsections:

"(b) CONTRIBUTIONS IN AID OF CONSTRUCTION.—

"(1) GENERAL RULE.—For purposes of this section, the term 'contribution to the capital of the taxpayer' includes any amount of money or other property received from any person (whether or not a shareholder) by a regulated public utility which provides water or sewerage disposal services if—

"(A) such amount is a contribution in aid of construction,

"(B) in the case of contribution of property other than water or sewerage disposal facilities, such amount meets the requirements of the expenditure rule of paragraph (2), and

"(C) such amount (or any property acquired or constructed with such amount) are not included in the taxpayer's rate base for rate-making purposes.

"(2) EXPENDITURE RULE.—An amount meets the requirements of this paragraph if—

"(A) an amount equal to such amount is expended for the acquisition or construction of tangible property described in section 1231(b)—

"(i) which was the purpose motivating the contribution, and

"(ii) which is used predominantly in the trade or business of furnishing water or sewerage disposal services,

"(B) the expenditure referred to in subparagraph (A) occurs before the end of the second taxable year after the year in which such amount was received, and

"(C) accurate records are kept of the amounts contributed and expenditures made on the basis of the project for which the contribution was made and on this basis of the year of contribution or expenditure.

"(3) DEFINITIONS.—For purposes of this section—

"(A) CONTRIBUTIONS IN AID OF CONSTRUCTION.—The term 'contribution in aid of construction' shall be defined by regulations prescribed by the Secretary, except that such term shall not include amounts paid as customer connection fees (including amounts paid to connect the customer's line to a main water or sewer line and amounts paid as service charges for starting or stopping services).

"(B) PREDOMINANTLY.—The term 'predominantly' means 80 percent or more.

"(C) REGULATED PUBLIC UTILITY.—The term 'regulated public utility' has the meaning given such term by section 7701(a)(33), except that such term shall not include any utility which is not required to provide water or sewerage disposal services to members of the general public in its service area.

"(4) DISALLOWANCE OF DEDUCTIONS AND INVESTMENT CREDIT; ADJUSTED BASIS.—Notwithstanding any other provision of this subtitle, no deduction or credit shall be allowed for, or by reason of, any expenditure which constitutes a contribution in aid of construction to which this subsection applies. The adjusted basis of any property acquired with contributions in aid of construction to which this subsection applies shall be zero.

"(c) STATE OF LIMITATIONS.—If the taxpayer for any taxable year treats an amount as a contribution to the capital of the taxpayer described in subsection (b), then—

"(1) the statutory period for the assessment of any deficiency attributable to any part of such amount shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may prescribe) of—

"(A) the amount of the expenditure referred to in subparagraph (A) of subsection (b)(2),

"(B) the taxpayer's intention not to make the expenditures referred to in such subparagraph, or

"(C) a failure to make such expenditure within the period described in subparagraph (B) of subsection (b)(2); and

"(2) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts received after the date of the enactment of this Act.

(b) DISALLOWANCE OF DEDUCTION FOR PERSONAL INTEREST.—

BENTSEN AMENDMENTS NOS. 1734 AND 1735

Mr. BENTSEN proposed two amendments to the bill (H.R. 4210); supra, as follows:

AMENDMENT NO. 1734

At the appropriate place insert the following:

Amend section 120(e) of the Internal Revenue Code of 1986 to strike "June 30, 1992" and insert in lieu thereof "December 31, 1993".

AMENDMENT NO. 1735

At the appropriate place, insert the following new section:

SEC. . AMENDMENT TO THE CARIBBEAN BASIN ECONOMIC RECOVERY ACT.

(a) FINDINGS AND PURPOSES.—

(1) FINDINGS.—The Congress finds that—

(A) countries in the Western Hemisphere are currently considering more integrated and liberalized trade relations, including free trade agreements, free trade zones, restructured tariffs, debt relief, removal of foreign investment barriers, and other economic measures;

(B) Mexico and the United States have formally announced their plan to negotiate a possible bilateral free trade agreement similar to the agreement between the United States and Canada;

(C) a freer trade environment may improve the economies of Mexico and Latin American and Caribbean countries and in turn remove incentives for illegal immigration into the United States;

(D) the congressional appointed Commission for the Study of International Migration and Cooperative Economic Development has recommended that the United States promote economic growth in Mexico, South and Central America, Canada, and the Caribbean, because the Commission believes such growth will decrease illegal immigration into the United States from these regions;

(E) the European economic integration process, which will be completed by 1992, demonstrates the benefits that can be derived if countries trade with and interact economically with other countries in the same hemisphere;

(F) solid economic relationships between the United States and other Western Hemisphere countries involve complex issues which require continuing detailed study and discussion;

(G) the economic interdependency of Western Hemisphere countries requires that a center be established in the southern United States to promote better trade and economic relations among the nations of the Western Hemisphere; and

(H) such a center should be established in the State of Texas because that State is the primary bridge through which Latin America does business with the United States.

(2) PURPOSES.—The purposes of this section are to—

(A) establish a center devoted to studying and supporting better economic relations among Western Hemisphere countries;

(B) give the center responsibility for studying the short- and long-term implications of freer trade and more liberalized economic relations among countries from North and South America, and for the Caribbean Basin; and

(C) provide a forum where scholars and students from Western Hemisphere countries can meet, study, exchange views, and conduct activities to increase economic relations between their respective countries.

(b) ESTABLISHMENT OF THE CENTER FOR THE STUDY OF WESTERN HEMISPHERIC TRADE.—The Caribbean Basin Economic Recovery Act (19 U.S.C. 2701 et seq.) is amended by inserting after section 218 the following new section:

"SEC. 219. CENTER FOR THE STUDY OF WESTERN HEMISPHERIC TRADE.

"(a) ESTABLISHMENT.—The Commissioner of Customs, after consultation with the International Trade Commission (hereafter in this section referred to as the 'Commission'), is authorized and directed to make a grant to an institution of higher education or a consortium of such institutions to assist such institution in planning, establishing, and operating a Center for the Study of Western Hemispheric Trade (hereafter in this section referred to as the 'Center'). The Center shall be established not later than December 31, 1992.

"(b) SCOPE OF THE CENTER.—The Center shall be a year-round program operated by an institution of higher education located in the State of Texas (or a consortium of such institutions), the purpose of which is to promote and study trade between and among Western Hemisphere countries. The Center shall conduct activities designed to examine negotiation of free trade agreements, adjusting tariffs, reducing nontariff barriers, improving relations among customs officials, and promoting economic relations among countries in the Western Hemisphere.

"(c) CONSULTATION; SELECTION CRITERIA.—The Commissioner of Customs and the Commission shall consult with appropriate public and private sector authorities with respect to planning and establishing the Center. In selecting the appropriate institution of higher education, the Commissioner of Customs and the Commission shall give consideration to—

"(1) the institution's ability to carry out the programs and activities described in this section; and

"(2) any resources the institution can provide the Center in addition to Federal funds provided under this program.

"(d) PROGRAMS AND ACTIVITIES.—The Center shall conduct the following activities:

"(1) Provide forums for international discussion and debate for representatives from countries in the Western Hemisphere regarding issues which affect trade and other economic relations within the hemisphere.

"(2) Conduct studies and research projects on subjects which affect Western Hemisphere trade, including tariffs, customs, regional and national economics, business development and finance, production and personnel management, manufacturing, agriculture, engineering, transportation, immigration, telecommunications, medicine, science, urban studies, border demographics, social anthropology, and population.

"(3) Publish materials, disseminate information, and conduct seminars and conferences to support and educate representatives from countries in the Western Hemisphere who seek to do business with or invest in other Western Hemisphere countries.

"(4) Provide grants, fellowships, endowed chairs, and financial assistance to outstanding scholars and authorities from Western Hemisphere countries.

"(5) Provide grants, fellowships, and other financial assistance to qualified graduate students, from Western Hemisphere countries, to study at the Center.

"(e) DEFINITIONS.—For purposes of this section—

"(1) WESTERN HEMISPHERE COUNTRIES.—The terms 'Western Hemisphere countries', 'countries in the Western Hemisphere', and 'Western Hemisphere' mean Canada, the United States, Mexico, countries located in South America, beneficiary countries (as defined by section 212), the Commonwealth of Puerto Rico, and the United States Virgin Islands.

"(2) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given such term by section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

"(f) FEES FOR SEMINARS AND PUBLICATIONS.—Notwithstanding any other provision of law, a grant made under this section may provide that the Center may charge a reasonable fee for attendance at seminars and conferences and for copies of publications, studies, reports, and other documents the Center publishes. The Center may waive such fees in any case in which it determines imposing a fee would impose a financial hardship and the purposes of the Center would be served by granting such a waiver."

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 for fiscal year 1993, and such sums as may be necessary in the 3 succeeding fiscal years to carry out the purposes of this section.

NOTICE OF HEARINGS

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BUMPERS. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources.

The hearing will take place on Wednesday, April 1, 1992, beginning at 2 p.m. in room 366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on the following bills:

S. 1174, to establish the Cache La Poudre River National Water Heritage Area in the State of Colorado;

S. 1537, to amend the National Trails System Act to designate the American Discovery Trail for study to determine the feasibility and desirability of its designation as a national trail; and

S. 1704, to improve the administration and management of public lands, national forests, units of the National Park System, and related areas by improving the availability of adequate, appropriate, affordable, and cost effective housing for employees needed to effectively manage the public lands.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Subcommittee on Public Lands, National Parks and Forests, Committee on Energy and Natural Resources, U.S. Senate, 304 Dirksen Senate Office Building, Washington, DC 20510-6150.

For further information, please contact David Brooks of the subcommittee staff at (202) 224-9863.

SUBCOMMITTEE ON DOMESTIC AND FOREIGN MARKETING AND PRODUCT PROMOTION

Mr. LEAHY. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry Subcommittee on Domestic and Foreign Marketing and Product Promotion will hold a hearing on domestic origin requirements, end-use certificates legislation (S. 1993). The hearing will be held on Tuesday, March 24, 1992, at 10 a.m. in SR-332. Senator KENT CONRAD will preside.

For further information please contact Kent Hall at 224-2043.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Friday, March 13, 1992, at 9:30 a.m., in open session, to receive testimony from the unified, specified, and supporting commands on their military strategy and operational requirements, and the amended defense authorization request for fiscal year 1993 and the future year defense plan; and to consider the nomination of Gen. John M. Loh, USAF, to be commander of the U.S. Air Force Air Combat Command.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL TRADE

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on International Trade of the Committee on Finance be authorized to meet during the session of the Senate on March 13, 1992, at 10 a.m., to hold a hearing on structural impediments initiative.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE 100TH ANNIVERSARY OF THE DEDICATION OF OUR LADY OF GUADALUPE CHURCH, PERALTA, NM

• Mr. DOMENICI. Mr. President, I rise today to bring attention to a landmark date in the unique history of my home State of New Mexico. Today, March 13, the people of Our Lady of Guadalupe Parish in Peralta are celebrating the 100th anniversary of the dedication of their parish. I believe that the church of Our Lady of Guadalupe is a living testimony to New Mexico's diverse, multicultural history.

In the mid-1850's, the Baptist community in the area constructed a Protestant church directly adjacent to the Catholic Church. In fact, due to the hostile relations between these two religious groups, it is said that Protestants were found ringing the bells during the Catholic services as a method of disruption.

On Sunday mornings the wagons and buggies owned by local parishioners could be seen outside the church where people would walk for miles to listen to Father Ralliere, the first parish priest in 1872. Official construction of the church began in 1879 on donated land formally deeded to the church in 1878. Many destructive floods deterred the construction of the church, yet after 9 years, the parish was completed.

Traditionally, the Peralta churches are dedicated to Our Lady of Guadalupe. I think it is interesting to note that there are two stories associated with the vision of Our Lady of Guadalupe. According to one source, the word Guadalupe is of the Spanish-Nahuatl dialect, coming from the words "coatallope" or "tecoatlaxopenh" which means "the one who treads on snakes." This involves the vision a peasant Juan Diego had of the Virgin Mary at Tepeyac in 1531. The Catholic religion says the symbolism of Diego's vision is a representation of the Virgin Mary's victory over Original Sin.

Another theory is that the word Guadalupe derived from the Moors and came to the new world in the 16th century. Although there are many reproductions of it, the original picture of Our Lady of Guadalupe can currently be seen in the Basilica in Mexico City.

What makes the church in Peralta so unique are the beautiful cruciform buttresses, providing structural support for the main walls. Built on a hill to reduce flood damage, it was initially constructed of adobe and topped with woven branches and a manta which is a cheesecloth-like material soaked in flour and water, then insulated with a layer of soil. In 1892, the bell was purchased and it hung in the center of the church with the cord hanging outside the door. Father Ralliere reroofed the church in 1912 and the bell was enclosed. Choir lofts were added, insulation was improved, chandeliers were installed, wood stoves were replaced with gas furnaces, and new pews were donated.

Clearly this church is rich in history and serves as an important and cherished part of the community. Throughout the century that Our Lady of Guadalupe Parish has been serving its congregation, it has become an institute of faith and dedication to Peralta and New Mexico. The bell still rings every Sunday morning for Mass, yet this ringing no longer symbolizes rebellion, but the unity and sense of community spirit of over one thousand families who join together to hear the current Pastor, Monsignor Sipio Salas who continues to inspire the people of Peralta with the same enthusiasm Father Ralliere shared 100 years ago.

I know the congregation is very happy to celebrate this day and I send my warmest congratulations to Archbishop Sanchez, Father Salas, and Deacon Joe Trujillo on this momentous and very special occasion.•

SOCIAL SECURITY EARNINGS TEST

• Mr. McCAIN. Mr. President, I rise to address an issue that is of critical importance to our Nation's elderly, the Social Security earnings test.

As my colleagues will remember, on November 12, the Senate passed an amendment by voice vote during consideration of the Older Americans Act reauthorization bill that would repeal this onerous and discriminatory law. Yet, here we are 4 months later and the conference has yet to meet to address this issue.

The reason is the House leadership has not appointed conferees.

It is unconscionable that we have permitted 4 months to elapse without this critical issue being addressed. As a consequence, not only is the Social Security earnings test repeal being held hostage, so is the Older Americans Act reauthorization bill.

We are currently considering an economic growth package that deals with the Tax Code. The Social Security earnings test is a tax issue, plain and simple. It is an issue of fairness and discrimination.

For some time, I have been contemplating the possibility of offering an amendment to this bill to repeal the Social Security earnings test. It is a measure that has received overwhelming support in this body, and it would have been appropriate to attach it to this measure. But, the fact is, this measure is going nowhere—it is going to be dead on arrival when it gets the President's desk.

What is more, I believe the earnings test issue really ought to be dealt with within the context of the Older Americans Act. But, if action does not come soon, I indeed will be coming to the floor to move this issue on another bill.

Mr. President, I was deeply disappointed on March 11 when I opened the Washington Post to find a staff editorial titled the "Senate Attacks ET."

This editorial claimed that those of us pushing this measure, and this Senator in particular, were doing it on the assumption that the conferees will later bail us out. That may be the way some operate, but don't count this Senator among them. This is an issue about which I feel very strongly, and I am dead set on pursuing it through to its completion.

Mr. President, in spite of the views of the Washington Post editorial staff, this is an issue of fundamental fairness to those seniors who either want or have to work.

Under the Social Security earnings test, for every $3 earned by a retiree over the $10,200 limit, he or she will lose $1 in Social Security benefits this year.

Mr. President, most Americans are shocked and amazed to discover that older Americans are actually penalized for their productivity. No American should be discouraged from working. Every individual's desire and ability to contribute to society should be encouraged. Yet, the earnings test arbitrarily mandates that a person retire at age 65 or face losing benefits. This is plainly age discrimination; this is plainly wrong.

Most importantly, many of them must work to meet even the most basic expenses. A significant portion of the elderly population does not have private pensions or liquid investments—which, by the way, are not counted as earnings—from their working years. Low income workers are particularly hard hit by the earnings test for this reason. They are much less likely to be eligible for employer pension benefits and to have saved enough for retirement.

Those who did put aside savings or investments for their retirement years often see these funds dissipated overnight as a result of unanticipated circumstances, such as their own or a spouse's illness. Health care costs, rising at an astronomical rate, are an expense all Americans are having trouble meeting.

Mr. President, the earnings test effectively prevents our Nation's senior citizens from working to pay these costs, or indeed any others, such as food and shelter. The value of a $5 dollar an hour job, subject to the earnings test, plummets to only $2.20 after taxes. The earnings test translates into an effective tax burden of 33 percent. Combined with Federal, State, and other Social Security taxes, it can amount to a stunning tax bite of nearly 70 percent—Federal tax, 15 percent; FICA, 15.3 percent; earnings test penalty, 33 percent; State and local tax, 5 percent.

This type of harsh penalty is obviously a tremendous disincentive to work. No one who is struggling along at $15,000, $20,000, or $30,000 a year wants to face an effective marginal tax rate of almost 70 percent. And, in fact, almost half a million elderly individuals who do work earn annual incomes within 10 percent of the earnings limit. These people are desperately trying to get ahead, and to sustain a decent life in their retirement years, without hitting the limit.

It would not be costly to allow these people to work for the additional income they need. On the contrary, studies have found that eliminating the earnings test could net $140 million in extra Federal revenue. Furthermore, the earnings test is costing us $15 billion a year in reduced production. Taxes on that lost production could help to reduce the massive Federal budget deficit.

This is an issue of basic fairness. The earnings test is outdated, unjust, and clearly discriminatory. Over and over again, the Washington Post has editorially railed against discrimination, but I am baffled by the fact that they advocate for continuation of this most egregiously discriminatory policy.

Perhaps they ought to consider the diverse organizations which back eliminating the earnings test:

COALITION FOR REPEAL OF SOCIAL SECURITY EARNINGS TEST

(As of Jan. 22, 1992)

Coalition of nearly 40 seniors organizations and businesses and business groups, representing tens of millions of seniors and employees across this country.

SENIORS GROUPS

National Committee to Preserve Social Security and Medicare.
Seniors Coalition.
The Retired Officers Association.
National Association of Retired Federal Employees.
National Military Family Association.
Seniors Cooperative Alert Network.
Air Force Association.
United Seniors of America.
Air Force Sergeants Association.
Association of Military Surgeons.
Association of U.S. Army.
Enlisted Association of the National Guard of the U.S.
Fleet Reserve Association.
Jewish War Veterans of the U.S.
Marine Corps. League.
Marine Corps Reserve Officers Association.
National Association for Uniformed Services.
Naval Reserve Association.
Naval Enlisted Reserve Association.
Navy League of the U.S.
The Retired Enlisted Association.
U.S. Coast Guard CPO Association.

EMPLOYERS AND BUSINESS GROUPS

U.S. Chamber of Commerce.
Sears Roebuck and Company.
National Association of Temporary Services.
National Tax Limitation Foundation.
National Federation of Independent Business.
National Restaurant Association.
American Federation of Small Business.
National Technical Services Association.
Walgreens Company.
Retired Police Assn. of Chicago.
American Farm Bureau.
National Small Business United.
American Health Care Association.
Days Inn of America, Inc.
National Society of Public Accountants.
Citizens for a Sound Economy.
National Council of Chain Restaurants.

Mr. President, this is an issue of fairness. The Post asserts that this would be a windfall to the wealthy.

I will tell you what is a windfall to the wealthy. It is individuals like the former publisher and current chairman of the board of the Washington Post, who can collect full Social Security benefits in spite of her millions of dollars of stock holdings and other liquid investments. What is more, her Social Security benefits could well exceed $1,000 a month.

What is not a windfall is the situation of the lower or middle income senior, with little if any pension or investment income, trying to survive on $350 or $400 in Social Security benefits. When this person loses a portion of his or her Social Security benefits because he or she has to go back to work in order to pay the hospital bills of a sick spouse, they are not seeking a windfall. They are seeking the means to survive.

If the Washington Post wants to talk about the real issue of fairness with regard to the Social Security earnings test, perhaps it ought to focus on its own. But, perhaps that would not be as much fun.•

THE 50TH ANNIVERSARY OF THE ESTABLISHMENT OF THE U.S. CANINE CORPS

• Mr. MACK. Mr. President, I join my colleagues in the Senate today in paying tribute to the unique contributions made by the brave soldiers of the U.S. Canine Corps, which celebrates its 50th anniversary today. Together with their military dogs, these men and women have played a vital role in our Nation's military efforts to defend freedom at home and abroad.

Since the days of ancient Greece and Rome, man and dog have fought side by side on battlefields throughout the world. The Spanish used dogs to help them conquer the New World, and American troops have trained dogs for use in both World Wars. During World War II, many American families donated their dogs to help the war effort. More than 125,000 teams were mobilized for the Army, Marines, and Coast Guard. The teams were used for guarding, messenger work, transporting wounded soldiers from the front lines to medical units, and transporting freight. Following the war, the dogs were retrained as pets, and returned to their families.

Even in modern warfare, the special relationship between man and military dogs continues. In Operation Desert Storm, some 125 canines were stationed alongside American troops in Saudi Arabia, serving with every branch of the military. While soldiers have been training dogs for explosive detection since the early 1970's, this was their first use of detection dogs during wartime. Virtually every military aircraft and installation in the desert was inspected by the Canine Corps for the possibility of hidden bombs.

In addition, the Canine Corps played an invaluable role in patrol duty. Military dogs were used to detect intruders and subsequently defend the assigned area when their instructors commanded them to attack. The corps was used, both before the hostilities began and during the Allied offensive, to guard areas where aircraft, medical supplies, and ammunition were based to prevent enemy intrusion and theft. They were also called into action to guard the vast number of prisoners of war taken by Allied forces. It is also worth noting that there were no casualties, either soldiers or dogs, suffered by the Canine Corps.

Whether it is in the sporting field, leading the blind, guarding property and livestock, assisting the disabled, bomb and drug detection, or as a first-rate companion, dogs have served mankind in a variety of ways. The special relationship between dogs and the members of the Canine Corps is yet another example of why the dog is called "man's best friend." It is my pleasure to extend my congratulations to the Canine Corps as it celebrates its 50th anniversary of service to America.•

TRIBUTE TO FREDERICK W. BURKLE

• Mr. SHELBY. Mr. President, I rise today in recognition of CWO Frederick W. Burkle, of Foley, AL, who recently retired from the U.S. Naval Reserve after 37½ years of service.

On January 29, 1992, Warrant Officer Burkle officially retired from the Naval Reserve. Warrant Officer Burkle's career began in the Naval Air Reserve in New York in 1951 as a weekend warrior. Since that time, Mr. Burkle has served in active duty for the Navy and in the Naval Reserve in a number of different capacities over the years.

His military decorations include the Navy Enlisted Air Crew Wings, the Navy Achievement Medal, the Coast Guard Meritorious Unit Commendation with distinguishing device and gold star, the Navy Battle Efficiency "E" Ribbon, the Naval Reserve Meritorious Service Medal with one bronze star, the Coast Guard Special Operations Service Ribbon, the Navy and Marine Corps Overseas Deployment Service Ribbon, and the Armed Forces Reserve Medal with two hour glasses.

Mr. President, in addition to his distinguished military career, it is worth noting that Mr. Burkle has served his community of Foley, AL, with equal diligence and honor. He has served as chairman of the city of Foley Planning Commission, president of the Foley Volunteer Fire Department, and president of the Alabama State Firearms Association to name a few of his many contributions. To this day, Mr. Burkle continues to serve his community and country in many ways.

Perhaps Mr. Burkle's most impressive accomplishment is that upon his retirement in January, he was the most senior warrant officer in the entire U.S. Navy. Mr. Burkle is to be commended and admired for his valuable and inspirational service to the United States. The world has changed dramatically since Mr. Burkle enlisted in the military over 40 years ago, and his service has been vital to the success the United States has realized in defeating communism and winning the cold war.

Mr. President, because of men like CWO Frederick Burkle, future generations of soldiers and Americans will have a better world in which to live. I appreciate the legacy Mr. Burkle has left for posterity, and I wish him a long and enjoyable retirement.•

MINORITY SCHOLARSHIPS

• Mr. SIMON. Mr. President, this past Monday was the Department of Educations deadline for filing comments in response to the Department's proposed policy on minority scholarships. I am pleased that 20 of my colleagues joined me in submitting comments that express grave concern about the Department's proposal.

Federal agencies should not be raising barriers to colleges' efforts to promote campus diversity. Though minority scholarships are a very small fraction of overall financial aid and have virtually no impact on other students, they are an important welcome mat for minority students, particularly those interested in careers where there are few minority role models.

One important example is the teaching profession. Last September Illinois Gov. Jim Edgar signed a bill providing scholarships to encourage African-American and Hispanic college students to pursue teaching. This is not to say that minority students must have minority teachers. But there is such a death of minorities going into teaching particularly in certain disciplines, that it is possible for some students to go through elementary and high school in Illinois and never see or hear of a math or science teacher who is African-American or Hispanic. This sends a bad message to all students.

When the Secretary of Education issued the proposed policy in December, many of us were optimistic. His press release made it sound as if there would be no major change in the policy that had existed prior to the infamous Fiesta Bowl letter of the previous December. Unfortunately, when we looked at the details of the new proposed policy, there was little improvement, and some very disturbing additions.

In brief, the proposed policy:

First, ignores the Department's own regulations, as well as relevant case law, allowing voluntary measures to promote racial diversity and to address underrepresentation and historical discrimination;

Second, misconstrues Congress' intent in creating a number of Federal minority scholarship programs; and

Third, creates new loopholes, clearly not allowed by title VI, that could, in effect, provide a roadmap for wholesale violations of Federal civil rights laws.

We are not alone in these interpretations. In addition to a broad spectrum of education and civil rights organizations, the U.S. Commission on Civil Rights, an independent, bipartisan, factfinding agency of the executive branch, has also asked the Department to reconsider the misguided policy.

Mr. President, I ask that the comments that I submitted with my colleagues, as well as the comments and addendum submitted by the U.S. Commission on Civil Rights, be printed in the RECORD at this point.

The material follows:

U.S. SENATE,
Washington, DC, March 9, 1992.

MICHAEL WILLIAMS,
Assistant Secretary, Office for Civil Rights, U.S. Department of Education, Washington, DC.

DEAR MR. WILLIAMS: Attached please find our comments on the Proposed Policy Guidance on minority scholarships, in response to the Federal Register notice of December 4, 1991.

Cordially,

Edward M. Kennedy, Bill Bradley, Bob Graham, Tim Wirth, Christopher Dodd, Paul Simon, Paul Wellstone, Tom Harkin, Carl Levin, Claiborne Pell.

Jeff Bingaman, Barbara Mikulski, Bob Kerrey, John Kerry, Don Riegle, Brock Adams, Daniel Akaka, Howard Metzenbaum, Alan Cranston, Dennis DeConcini.

U.S. SENATE,
Washington, DC, March 10, 1992.

MICHAEL WILLIAMS,
Assistant Secretary, Office for Civil Rights, U.S. Department of Education, Washington, DC.

DEAR MR. WILLIAMS: I am writing to state my full support of the attached comments by twenty of my Senate colleagues to the Proposed Policy Guidance on minority scholarships, in response to the Federal Register notice of December 4, 1991.

Cordially,

AL GORE,
U.S. Senator.

COMMENTS BY CERTAIN MEMBERS OF THE U.S. SENATE ON THE DEPARTMENT OF EDUCATION'S NOTICE OF PROPOSED POLICY GUIDANCE

I. INTRODUCTION

The Department of Education's Proposed Policy Guidance on minority scholarship programs is fundamentally flawed and should not be adopted. It would signal a dramatic retreat from the bipartisan support for minority scholarships that has marked both Republican and Democratic administration alike for at least two decades, and which is reflected in the Department's own regulations. The need for minority scholarships is compelling, and they have little or no impact on non-minority students. Minority scholarships are and should continue to be legal and appropriate under Title VI of the Civil Rights Act of 1964.

The Department's decision to suddenly question the legality of minority scholarships is astonishing. It ignores the historic and tragic discrimination against and underrepresentation of racial minorities in institutions of higher education. Curiously, the Department has displayed no interest whatsoever in exploring the legality of the many scholarship funds based on national origin, which is also covered by Title VI, or of those based on gender, which is covered by Title

IX. Nor has the Department questioned the prevalence of scholarships which have the effect of discriminating against minorities. Only those scholarship funds which specifically benefit racial minorities have been called into question.

In its insistence on declaring minority scholarships illegal under Title VI, while still affirming the legality of some of those scholarships in certain circumstances, the Department is forced to embrace theories which threaten to undermine fundamental principles of civil rights law. The Proposed Policy Guidance would incorrectly restrict the legal ability of higher education institutions to take voluntary remedial or affirmative action in order to remedy past discrimination or historical underrepresentation, or to promote racial diversity. Moreover, the Proposed Policy Guidance would distort current civil rights law by: 1) finding minority scholarships discriminatory against non-minorities, but then explicitly encouraging practices that, by the Department's reasoning, would have a discriminatory impact on those non-minorities; and 2) inventing a distinction based on the source of funding for a program, in direct contradiction to the Civil Rights Restoration Act passed by Congress in 1988, in an apparent effort to protect scholarships that benefit other groups but exclude most racial minorities.

In sum, minority scholarships are legal, appropriate, and a valuable tool to address a compelling need. The Department's proposal to declare them illegal is without foundation. The Department's creation of loopholes to then render some minority scholarships legal again undermines fundamental principles of civil rights law. The Proposed Policy Guidance should be withdrawn.

II. THE PROPOSED POLICY GUIDANCE IS FUNDAMENTALLY FLAWED AND SHOULD NOT BE ADOPTED

A. Minority scholarships are lawful

Minority scholarships are lawful and appropriate, both as a voluntary remedial measure to overcome the effects of past discrimination and as an affirmative action measure to promote diversity and counter underrepresentation. Minority scholarships have been approved by the courts and by the Education Department's Office for Civil Rights (OCR) in administrative proceedings. OCR has explicitly stated, "[s]tudent financial aid programs based on race or national origin may be consistent with Title VI if the purpose of such aid is to overcome the effects of past discrimination." Memorandum to Presidents of Institutions of Higher Education Participating in Federal Assistance Programs, Summary of Requirements of Title VI of the Civil Rights Act of 1964 for Institutions of Higher Education (June 1972).

The Proposed Policy Guidance acknowledges that "[a] college may award race-exclusive scholarships when this is necessary to overcome past discrimination." However, this statement erroneously implies that this is the *only* justification for minority scholarship programs. In addition, the statement wrongly suggests that minority scholarships should be limited to situations where a court or administrative agency has made a *finding* of past or present discrimination. Such a limitation fails to address the problems caused by under-representation and lack of diversity at institutions not subject to such a finding. "[M]inority students are underrepresented * * * [at] most if not all, the universities that award minority scholarships." *Lost Opportunities* at 67. The proposed limitation simultaneously encourages class action litigation and discourages voluntary settlement because minorities would need to obtain a finding of discrimination or a court-approved settlement agreement in order to be entitled to minority scholarships.

The fact is that even in the absence of a showing of intentional discrimination, Supreme Court holdings and Title VI regulations support the use of minority scholarships to address underrepresentation caused by practices that have had the effect of limiting participation by minorities. *See Swann* v. *Charlotte Mecklenburg Board of Education*, 402 U.S. 1, 16 (1971) (approving broad discretion by school authorities to seek some racial balance as a matter of educational policy); *Guardians Association* v. *Civil Service Commission of New York City*, 463 U.S. 582, 608 (1983) (approving use of Title VI regulations to remedy practices that have had the effect of excluding minorities).

The Supreme Court has approved voluntary affirmative action measures where past discrimination or current practices have resulted in the continuing exclusion of minorities in a traditionally segregated field. *See Johnson* v. *Transportation Agency, Santa Clara County*, 480 U.S. 616, 632 (1987).

Furthermore, the Department's own regulations implementing Title VI specifically authorize both remedial and affirmative action programs:

"In administering a program regarding which the recipient has previously discriminated against persons on the ground of race, color, or national origin, the recipient must take affirmative action to overcome the effects of prior discrimination.

"Even in the absence of such prior discrimination, a recipient in administering a program may take affirmative action to overcome the effects of conditions which resulted in limiting participation by persons of a particular race, color, or national origin."—34 CFR § 100.3(b)(6)(i)–(iii) (1990).

Therefore, higher education institutions which have used admissions criteria or practices which exhibit racial or cultural bias, or recruitment procedures that limit or exclude participation by minority students, can institute and administer minority scholarships as a method of more effectively recruiting minority students. Where financial aid has been allotted on the basis of criteria which disproportionately exclude minorities, such as scholarships for students of a particular religion or ethnic background, minority scholarships are appropriate to address this bias and counter the funding deficit created by these programs. Many purportedly neutral scholarships have a disparate impact on minority students, such as scholarships for children of alumni at institutions where minorities have been historically underrepresented, and scholarships for students from states with low minority populations. *Cf. Sharif v. New York State Education Department*, 709 F. Supp. 345 (S.D.N.Y. 1989) (Regents and Empire State scholarships based solely on SAT scores discriminate against women; holding equally applicable to minorities). Because these scholarships, in effect, discriminate against minorities, minority students do not receive their fair share of other targeted funds.

B. Minority scholarships are appropriate

Even in the absence of past discrimination or current practices limiting minority participation, minority scholarships are an appropriate method of promoting diversity. *Bakke v. Regents of the University of California*, 438 U.S. 265 (1978). In *Bakke*, Justice Powell found the promotion of diversity was a "constitutionally permissible goal for an institution of higher education," *Id.* at 312, that justified the consideration of race as a competitive factor in a university admissions program consistent with Title VI. A diverse student body promotes the "atmosphere of 'speculation, experiment and creation'" that is "so essential to the quality of higher education * * *." *Id.* In promoting diversity, schools "must be viewed as seeking to achieve a goal that is of paramount importance in the fulfillment of [their] mission." *Id.* at 313. "[T]he 'nation's future depends upon leaders trained through wide exposure' to the ideas and mores of students as diverse as this Nation of many peoples." *Id.*

The Supreme Court recently reaffirmed that "a 'diverse student body' contributing to a 'robust exchange of ideas' is a 'constitutionally permissible goal' on which a race-conscious university admissions program may be predicated." *Metro Broadcasting, Inc. v. FCC*, 110 S. Ct. 2997 (1990). Diversity furthers a compelling government interest similar to the duty to desegregate, and serves important values protected by the First Amendment.

The Proposed Policy Guidance acknowledges that diversity is a legitimate goal, but only in the most general and trivial sense of the term. Minority scholarships would still be prohibited as a specifically targeted tool to promote racial diversity. Instead, race may only be recognized if it is one among many other factors weighed in an effort to promote a generalized vision of diversity. Diversity of "experiences" and "opinions" is just as important, under the Proposed Policy Guidance, as racial diversity, and must be included in any program intended to promote diversity. Not only is this contrary to settled law that race-conscious remedies are appropriate to promote diversity, but it leads to the ludicrous conclusion that a school's responsibility to promote racial diversity is on a par with the duty to recruit liberals to a traditionally conservative college campus. The legal affirmation of racial diversity as a compelling and legitimate interest is far more specific and concrete than the Proposed Policy Guidance recognizes.

The Department's theory seems to be that minority scholarships are an unlawful means of promoting diversity, analogous to the single-factor admissions quotas that failed to satisfy Justice Powell's inspection in *Bakke*. However, the *Bakke* distinction between affirmative action programs in which race is the single factor and programs in which race is only a "plus" factor is based primarily on the differences in the degree of burden that each type of program imposes. Resonating throughout Justice Powell's opinion is the idea that non-minorities excluded from a school through the operation of an admissions quota suffer a more concrete harm than those excluded by a flexible, goal-oriented program relying on plus factors. "[T]he applicant who loses out on the last available seat to another candidate receiving a 'plus' on the basis of ethnic background will not have been foreclosed from all consideration for that seat simply because he was not the right color or had the wrong surname." *Bakke*, 438 U.S. at 318.

There are fundamental differences between admission decisions and financial aid programs. An admissions decision is necessarily an all-or-nothing decision. The admission of one student precludes the admission of another; the admitted student therefore benefits at the expense of another. W. Bowen and N. Rubenstine, "Colleges Must Have the Flexibility to Designate Financial Aid for Members of Minority Groups," *Chronicle of Higher Education* B1, Jan. 9, 1991 ("Bowen &

Rubenstine"). In contrast, an institution-wide financial aid program does not involve "all-or-nothing" decisions. In allocating financial aid resources, and institution need not turn one student's gain into another's loss. *Id.* A financial aid program provides resources on the basis of need to all eligible students after the admissions decision is made. Scholarships, on the other hand, are designed to enhance recruitment and retention for specific targeted populations. Foreclosing a student from a minority scholarship does not affect that student's enrollment, and the student will remain eligible for a full financial aid package, drawn from the great majority of the school's other financial aid resources. Any burden that non-minorities bear as a result of minority scholarships is not comparable to the exclusionary result of the admissions quota system in *Bakke*.

Any impact that minority scholarships may have on non-minorities is minimal and greatly diffused among other students receiving financial aid. Minority scholarships have little or no impact on the amount of financial aid available to non-minority students. As the Department acknowledges, the scholarships that the Proposed Policy Guidance would prohibit are an exceedingly small percentage of the total aid available to students. The Supreme Court has ruled that "[w]hen effectuating a limited and properly tailored [plan] * * * a 'sharing of the burden' by innocent parties is not impermissible." *Wygant v. Jackson Bd. of Educ.*, 476 U.S. 267, 281 (1986).

Because of the significant differences between minority scholarships and admissions quotas, OCR after *Bakke* "concluded that no changes in the regulations [affecting minority scholarships] are required or desirable." OCR Affirmative Action Policy Interpretation 44 Fed. Reg. 58,509 (1979). Nothing has happened since 1979 to cast any doubt on this analysis. During the 1980's, OCR has twice relied on *Bakke* in reaffirming that minority scholarships did not violate Title VI. *See* Letter from Robert Randolph, Acting Director, OCR, Region I, to the Complainant in file number 01-80-2046 (September 30, 1981) (MIT minority tuition fellowship program); Letter from Antonio J. Califa, Director for Litigation, Enforcement and Policy Service, to Robert A. Randolph, Acting Director, OCR, Region I (September 11, 1981) (same); Letter from Joan Standlee, Deputy Assistant Secretary for Civil Rights, to Gilbert D. Roman, Regional Director, OCR, Region VIII (March 22, 1983) (University of Denver minority scholarship program). Prior to OCR's current campaign to curtail minority scholarships, OCR had never expressed the view that *Bakke* prohibits minority scholarships. Nor should *Bakke* now be so construed.

C. Minority scholarships are a valuable tool

The disparity in access to higher education between minorities and non-minorities remains intolerably high. These disparities have only grown worse in the last decade. Between 1981 and 1989, the percentage of bachelor's degrees awarded to blacks dropped from 6.5 to 5.7, and the percentage of doctoral degrees dropped from 5.8 to 4.6 American Council on Education, *Minorities in Higher Education: Ninth Annual Status Report* January 1991.

Minority scholarship programs are vital weapons in the fight against underrepresentation of minorities in higher education. Despite the fact that most financial aid is provided on the basis of need, there is still a significant gap between the college-going rate of minorities and non-minorities. *See* American Council on Education, *Minorities in Higher Education: Tenth Annual Status Report* 8-10 January 1992. In graduate programs, where need can be demonstrated by virtually every student, minority participation is even lower. *Id.* at 45. Retention in all programs is also particularly low for minority students. For example, while minorities constituted 20 percent of undergraduate enrollment in 1989, they received less than 13 percent of bachelor's degrees. There are similar patterns in graduate, professional and doctoral programs. *Id.* at 45-50. In a study of student retention, college officials cited "financial difficulties" more than any other factor as "very important" to students' decisions to leave without completing their degrees. Nearly two-thirds of the institutions surveyed said that financial assistance had a great impact on improving retention. See Planning and Evaluation Service, U.S. Department of Education, *Survey on Retention at Higher Education Institutions* 6 and 13 November 1991. Race-neutral, wholly need-based aid programs have not remedied underrepresentation or effectively enhanced diversity. *See* Citizens' Comm'n on Civil Rights, *Lost Opportunities: The Civil Rights Record of the Bush Administration Mid-Term* at 67 (1991) ("*Lost Opportunities*").

D. Congress intended to authorize minority scholarships

The Proposed Policy Guidance states that "Congress may create exceptions to Title VI." Although this is accurate, it is misleading. The Department seeks to characterize statutorily-created minority scholarships as "exceptions" to the general rule—that such programs are prohibited under Title VI. This mischaracterizes the statutory mandate. In enacting Titles VI and IX, Congress authorized minority and gender-based scholarships—not as "exceptions" to the general rule, but rather as examples of it. Congressionally-authorized minority scholarships are proof not only that Congress intended to allow such programs, but that Congress thought them an appropriate method of fulfilling the Congressional mandate of those statutes. The Department's position ignores this clear Congressional mandate. It also flies in the face of the general rule of statutory construction which requires that different statutes be read in a way that is harmonious and consistent, and which avoids unnecessary conflict between their respective provisions. *See generally United States v. Caldera-Herrera*, 930 F.2d 409, 144 (5th Cir. 1991); *Anderson v. FDIC*, 918 F.2d 1139, 1143 (4th Cir. 1990). It is much more consistent with this canon of statutory construction, not to mention the actual intent of Congress, to read Title VI as allowing minority-targeted scholarship programs of all sorts, whether or not Congressionally enacted. This is particularly true in light of OCR's decades-long construction of Title VI to permit such minority scholarships.

III. THE PROPOSED POLICY GUIDANCE CREATES LOOPHOLES THAT COULD UNDERMINE TITLE VI JURISPRUDENCE

A. The proposed policy guidance is confusing with respect to disparate impact analysis

In the Department's strained effort to apply title VI prohibitions to minority scholarships, the Proposed Policy Guidance would create a distinction between a scholarship that is for minorities on its face, which the Department considers illegal, and one that appears neutral but in practice goes only to minority students, which the Department encourages. Because the Department refuses to affirm minority scholarships as a legitimate affirmative action program, it is forced to recreate the distinction between *de jure* and *de facto* discrimination, even when intentional. We are concerned that longstanding policies against practices that have a disparate impact on minorities could be threatened by the Department's analysis. (For example, this reasoning could allow a college to give aid only to students from counties with low minority populations. While the college would arguably be in compliance with the Proposed Policy Guidance, Title VI was clearly written to root out this type of discrimination).

Upon release of the Proposed Policy Guidance, the Secretary stated that colleges can "make special efforts to grant scholarships to minority students." The first principle noted in the Proposed Policy Guidance itself says that "[c]olleges may make awards to disadvantaged students without regard to race even if that means that such awards go disproportionately to minority students." As this is the first and only time that the Proposed Policy Guidance uses the term *minority* instead of *race*, the Department must intend to allow programs with an intentional disparate impact if it benefits minorities. It would appear, then, that the Department agrees with our argument in part II of this comment: that colleges may take voluntary affirmative action through programs designed to benefit minority students where such students have faced historical discrimination or are otherwise underrepresented. This explanation is consistent with past OCR findings, Title VI regulations, and court decisions. In so doing, the Department effectively concedes any showing of "educational necessity" required under settled case law on disparate impact. Indeed, by condoning practices which are intentionally discriminatory, facially neutral, and have a disparate impact, the Department must presume an even greater showing of necessity than that required for a practice that is intended to be neutral. The Department essentially concedes a compelling educational necessity for a scholarship program intentionally but not facially targeted to minorities. Nonetheless, the Department maintains that the standard for allowing a minority scholarship has somehow not been met.

This explanation is at odds with the general position of this administration that civil rights laws apply equally to protect non-minorities against "reverse discrimination." It is possible, therefore, that the term "minority" has no special meaning in the proposed policy, and that it can be replaced with the term "race." If this is so, it raises the specter that the Department intends to condone any practice which has a disparate racial impact. This approach has no foundation in law, and invites violations of Title VI. Just as poll taxes appeared neutral but had pernicious effects, so too can many practices by educational institutions be placed in the same category. Title VI regulations make it clear that both discriminatory intent, and discriminatory effect, together or separately, are violations of the statute:

"A recipient * * * may not * * * on ground of race, color, or national origin * * * [d]eny an individual any service, financial aid, or other benefit * * *"—34 C.F.R. 100.3(b)(1)

"A recipient, in determining the types of services, financial aid, or other benefits, or facilities which will be provided * * * may not * * * utilize criteria or methods of administration which *have the effect* of subjecting individuals to discrimination because of their race, color, or national origin * * *" [emphasis added]—34 C.F.R. 100.3(b)(2)

The Supreme Court first addressed an "effects" or disparate impact test in *Guardians Ass'n v. Civil Services Comm'n.*, 463 U.S. 582 (1983), in which a majority held that Title VI regulations properly prohibit practices which have the effect of discriminating on the basis of race or national origin. This holding was unanimously reaffirmed later in *Alexander v. Choate*, 469 U.S. 287, 293–94 (1985).

Therefore, the Department's distinction between the "race-based" scholarships that it would ban under this policy, and scholarships that appear "race-neutral" but aren't, is a distinction without a difference in the context of Title VI.

Perhaps the most alarming aspect of the proposed policy is the Secretary of Education's accompanying press release which emphasizes that "[a] college president with * * * a minimum amount of good legal advice can provide minority students with financial aid * * *" While we would agree that this is true if the scholarships have a compensatory purpose, in the context of the proposed policy (which rejects voluntary, race-conscious affirmative acts) this suggests that colleges can *intentionally* design programs that have a discriminatory effect *regardless of the purpose.*

Given that the distinctions drawn in the proposed policy lack validity, the Department should acknowledge the diversity and remedial justifications for minority scholarships set forth in part II of this comment. Indeed, OCR has long encouraged colleges to engage in modest, race-conscious measures to improve minority recruitment and retention. For example, a pamphlet published by OCR *(Minority Recruitment, Admissions & Retention in Postsecondary Education*, December 1988) includes the following examples of intentionally race-conscious or race-exclusive "voluntary action * * * permitted under the Title VI regulation" to promote minority student recruitment and retention:

Conduct "financial aid nights" at high schools with substantial minority enrollments * * *

Develop cooperative programs with local companies to provide summer and part-time jobs for low-income minority students to assist in meeting their tuition costs.

Institute a minority student orientation to distribute special information packets to all first-time entering minority students informing them of available services and upcoming sociocultural events.

Implement an "early warning system" to track the progress of minority students and provide appropriate assistance when academic difficulties arise.

Develop a program designed to assist minority students in specific fields of study (e.g. engineering).

The list goes on and on. If Title VI outlaws all minority scholarships, as the Department argues, then Title VI would also outlaw these other services and activities designed specifically for minority students. (Title VI regulations apply equally to "any service, financial aid, or other benefit"). The more logical conclusion, of course, is that minority scholarships, as well as these other "race-exclusive" activities, are legal if they serve a compensatory purpose or to promote diversity as part of an overall program.

B. The policy guidance is clearly at odds with the Civil Rights Restoration Act

Principle Five is the most difficult to square with the statutory scheme of Title VI. It would allow a college "to administer private donor race-exclusive scholarships * * * where that aid does not limit the amount, type or terms of financial aid available to any students." In an apparent effort to protect the numerous individual scholarship funds established by families, community groups, and ethnic organizations which are restricted to students of a particular national origin, the Department distorts the overall structure of civil rights enforcement. Distinguishing between the college's institutional funds and private donor funds is simply impermissible under the Civil Rights Restoration Act. *See 42* U.S.C. §2000d–4a (for purposes of Title VI, "the term 'program or activity' means all of the operations of * * * a college, university, or other post-secondary institution, or a public system of higher education * * * any part of which is extended Federal financial assistance"). Accordingly, the legality of a minority-targeted scholarship program under Title VI cannot be made dependent on whether the funding source is institutional or privately designated. If the Department is willing to permit a college to administer privately-funded, minority-targeted scholarships, it must also permit such an institution to administer such scholarships if they were funded through institutional funds. To find otherwise would be to open a loophole in Title VI that would allow wholesale violations of the statute.

Finally, we note that the Secretary does not have the authority to create a four-year transition period to eliminate violations of Title VI. Transition periods for groups of recipients to come into compliance with the law only have been allowed when specified by Congress. *See e.g.*, Title IX of the Education Amendments of 1972 §901(a)(2). Congress has made no such specification with respect to violations of the Civil Rights Act.

IV. CONCLUSION

We urge the Department not to adopt the Proposed Policy Guidance. We are particularly disheartened to find the Department devoting scarce resources to this issue. Minority student achievement and representation in higher education is getting worse, not better. These students need more help, not more obstacles. OCR has not investigated financial aid programs that discriminate against racial or ethnic minorities, women, individuals with disabilities, or the elderly, all groups that Congress has found to be in specific need of protection. Instead, in its first major statement on the subject of financial aid discrimination in years, OCR has for some reason seen fit to reach out to a category of scholarships that represent a tiny fraction of the financial aid pool, to make certain that non-minorities are not technically discriminated against by these scholarships.

At the very least, the Department's priorities in this matter are misplaced. At worst, OCR has turned its own mission on its head, and targeted for close scrutiny *only* those scholarships that benefit those who Title VI was specifically written to protect. The Department should instead be using its resources to combat the discriminatory practices which continue to keep minorities from reaching their full educational potential.

OCR's current regulations favoring minority scholarships should not be changed. The Department's historic policy allows colleges and universities to achieve the compelling goals of alleviating minority underrepresentation and promoting student diversity. These scholarship programs do not violate Title VI, nor is there any evidence that they adversely impact the ability of non-minorities to obtain financial aid. As sound public policy with no adverse effect, OCR's longstanding position on this issue should, if anything, be strengthened, not repudiated.

U.S. COMMISSION ON CIVIL RIGHTS,
Washington, DC, March 9, 1992.

Re: Comments on the notice of proposed policy guidance; nondiscrimination in federally assisted programs; title VI of the Civil Rights Act of 1964.

Mr. MICHAEL L. WILLIAMS,
Assistant Secretary, Office for Civil Rights, U.S. Department of Education, Washington, DC.

DEAR MR. WILLIAMS: The United States Commission on Civil Rights (Commission) submits the following comments in response to the Department of Education's (Department's) request for comments on its proposed policy guidance on nondiscrimination in federally assisted programs under Title VI of the Civil Rights Act of 1964. The proposed policy guidance would not allow minority-targeted (or, under the Department's terminology, race-exclusive) scholarships unless the aid is privately funded, is the result of prior discrimination, or is subject to explicit statutory exceptions.

Appended is a copy of the Commission's letter to President Bush, dated January 23, 1991, in which we stated that "it is essential to important social, economic and educational interests of the nation that colleges and universities be allowed to continue to utilize [minority-targeted] scholarships as part of their affirmative effort to recruit and remain minority students."

At a time when an educated citizenry is becoming increasingly essential for the United States' world-wide economic competitiveness and when a college education is becoming increasingly necessary to obtain jobs that provide a decent standard of living, Black, Hispanic and some Asian American high school graduates are still less likely to attend college at all, and those who do enroll in college have much lower graduation rates than their white counterparts. Although minority youth have made much progress in closing the education gap with white youth over the past thirty years, the progress towards closing the gap seems to have ground to a halt and even reversed in recent years. For example, although some minority high school graduates attended college at the same rate as white graduates in the 1970s, their college attendance rates fell in the 1980s, as that of white graduates was rising. American Council on Education, *Tenth Annual Status Report on Minorities in Higher Education* (1992). We are only beginning to see African American attendance rates rise again. For many minorities, limited financial resources as well as increased racial and ethnic tensions on campus are critical factors impeding their ability to attend college and achieve a college degree.

With minorities still suffering the effects of extensive discrimination, cultural bias, and economic disadvantage, the Federal Government must remain resolute in its commitment to overcoming the effects of conditions which resulted in limiting participation by minorities in education. The Nation requires a firm public policy that is truly committed to ensuring that minorities receive benefits that have been denied them over the years. Any public action that interferes with this fundamental public policy defeats the purpose of the civil rights laws of the land and ignores the very reason for their existence.

This Nation, time and again, has demonstrated its sensitivity to ensuring that all Americans, particularly members of minorities that bear or have borne the brunt of discrimination, possess the opportunity to reach the highest levels of achievement that the Nation can offer. If the proposed policy guidance is adopted, the Commission believes that it will impose new and unnecessary restrictions on scholarships and, consequently, impede the progress of minorities.

The Commission objects, therefore, to the broad elimination of minority-targeted scholarships that the Department's policy guidance proposes. This policy stance is inconsistent with prior interpretations of the Department and runs counter to well-established formulations for affirmative action. Moreover, the many administrations since the Civil Rights Act of 1964 have aggressively moved to remedy the effects of discrimination and have reaffirmed their commitment to broad affirmative action measures, such as minority-targeted scholarships. Consequently, we find that there is no basis for the Department changing public policy on minority-targeted scholarships and undermining a long-standing approach under which either prior discrimination or the goal of diversity permitted reasonable use of minority-targeted scholarships. We respectfully request that the Department reconsider its decision to limit minority-targeted scholarships as outlined in the proposed policy guidance.

The Commission does not suggest that the minority-targeted scholarships are permissible under any circumstances. It is appropriate to review both the goals being pursued by such a plan and the specific means for accomplishing those goals. Accordingly, the plan's duration and the burden on nonminority students are appropriate considerations. However, the Commission does recognize that, under today's conditions, reasonably structured minority-targeted scholarships are an appropriate and direct means of ensuring a diverse student body, permitting minorities to expand their economic opportunities, and, as importantly, allowing the American economic structure to continue to grow.

We also do not suggest that scholarships based on economic disadvantage should be ended. Much of Federal student aid programs and some State programs already use economic disadvantage as a criterion. This emphasis should continue.

The Department has narrowly construed its own regulations on voluntary affirmative action. Specifically, 34 CFR 100.3(b)(6)(ii) states:

"Even in the absence of . . . prior discrimination by a [college or university receiving Federal financial assistance], a recipient in administering a program may take affirmative action to overcome the effects of conditions which resulted in limiting participation by persons of a particular race, color, or national origin."

The Department limits the scope of affirmative action under this provision to "race as a plus" (or what it narrowly terms diversity programs), that is, the consideration of race as one of many factors in determining scholarship eligibility. For inexplicable reasons, the provision is not interpreted as permitting the targeting of minority students for even a minuscule percentage of overall financial aid. The regulatory language is not so limiting and has not been interpreted that restrictively in the past. Voluntary affirmative action should permit minority-targeted scholarships. The Commission believes that the Department's policy is narrowly restricting the educational institutions' latitude in awarding such scholarships to achieve diversity. The use of minority-targeted scholarships is appropriate whenever a college or university reasonably determines that race-neutral alternatives or using race as a plus factor has not worked or will not work.

The Commission finds it inconsistent for the Department to take the position that affirmative action is permissible where there is no prior discrimination, but deny the application of this concept for scholarships to minorities whose economic status and restricted educational opportunities have limited the ability of such students to attend colleges and universities. Minority-targeted scholarships are appropriate. Clearly, the law permits educational institutions to make reasonable use of minority-targeted scholarships in either circumstance, and the Department's policy guidelines should reflect this.

The Commission is particularly concerned that per capita government financial resources traditionally accessible to minority students may not be as available today. As a result, the practical effect of such policy would significantly interfere with the ability of minorities to attend college. Without the government aid, educational institutions have to rely upon institutional funds to grant the same level of assistance to individuals. At a time when we are trying to encourage minorities to increase their attendance rates, this policy would limit the college's ability to meet this problem directly. Race-neutral or race as a plus programs only deal with the problem indirectly and, therefore, less effectively.

The Department's narrow interpretation of Title VI runs counter to the many instances of Federal public policy to provide direct assistance to minorities. It is ironic that Congress took action to increase aid to minority and female students in late 1990 when it enacted the Excellence in Mathematics, Science and Engineering Act. Noting that minorities and women are significantly underrepresented in the fields of mathematics, science and engineering, the act targeted programs for minorities and women in these fields. This act is only one of many demonstrated instances of Federal public policy to increase aid to minorities. Nevertheless, the Department's proposed policy guidance strays from this path by narrowing the availability of directed aid.

When diversity is discussed as a policy issue, it must be recognized that diversity includes a broad number of concerns. Colleges and universities already offer a large variety of targeted scholarships based on ethnicity, geography, and other concerns related to diversity. Representation on campus is the most obvious form of diversity. Different cultural and social perspectives are essential for growth in an intellectual climate. Diversity, however, reflects a broader landscape than merely the representation of different groups. For example, the presence of different perspectives and attitudes produced from the distinctive social, economic, and cultural values of members of the community are an important part of the learning process. An academic institution by definition must not be a haven for a single viewpoint. As important as other concerns on diversity is the impact of diversity for the future, not only of the students, but the country as a whole. We must educate all our people for the challenges of today and tomorrow. Diversity in an educational institution, therefore, has a profound effect upon the entire Nation. Specific minority-targeted scholarships assist in ensuring that this diversity, both on campus and in future roles, exists. Colleges and universities, therefore, must be given the opportunity to recruit the individuals necessary to develop this broad definition of diversity.

Perceptions. The Department's policy may be seen as a distressing signal to students, to minority groups, and to disadvantaged individuals that the Federal Government will not work earnestly to meet their reasonable needs. The voices of some suggest that many individuals see policymakers as disinterested in ensuring equality as a fundamental policy interest of the Nation. This dismal perception has dramatic impact upon members of minorities who still see the United States as providing an opportunity for individual advancement. Still engaged in the process of eliminating the vestiges of discrimination across the Nation, it is vital that the Federal Government lead the way in continuing the fight against discrimination and against economic disparity based on minority status. We believe that the Department must demonstrate its commitment and support for educational opportunities for the disadvantaged.

Privately Funded Minority-targeted Scholarships. We concur in the view that private funds administered by an educational institution may be minority-targeted. But we find the qualifying language puzzling and in need of clarification. Such aid is permitted if it "does not limit the amount, type or terms of financial aid available to any student." The language does not indicate what constitutes an impermissible limiting of aid. The educational institution cannot reliably administer such private funds without a reasonable understanding of what would constitute an impermissible limiting of funds.

Past Discrimination. While the Commission accepts the Department's conclusion that minority-targeted scholarships are permissible when necessary to overcome past discrimination, we take exception to the requirement that the determination of past discrimination must be made by a court or administrative agency or, so long as there is a strong basis in evidence identifying discrimination within its jurisdiction, by a State or local legislative body.

An authoritative body of a college or university knows best its own history and should have the authority to make such a determination under restricted conditions. More than any other group, a college or university will have the knowledge of the needs of its educational community, as well as the specific methods of allowing aid to remedy problems. The ability of a college or university to make such a determination is not the same as a decision on the existence of societal discrimination, which *Bakke* warns against. It does mean that the institution, in support of its efforts to seek affirmative action, has the authority to make determinations of the appropriateness of certain aid.

Proposed Actions of the Department in Supporting Minority-Targeted Aid. The effect of the proposed policy guidance will be to significantly limit the availability of minority-targeted aid by educational institutions. What action does the Department propose to ensure that adequate aid is received? Will the Department actively petition that the law be amended to overcome the limitations that it sees? Since the Department is the government agency committed to ensuring that Federal policy implements standards to assist minorities in achieving equality, we would share the disappointment of many if the Department did not energetically act to eliminate any impediment to minority-targeted scholarships. Faith in the ability of the Department to enforce the fundamental commitment to equality will be shattered by the Department's inaction. Indeed, many will understand the actions of the Department to be part of a policy to narrow the aid available to minority students. The Commission is concerned that the language of the policy guidance suggests that such action will not be taken by the Department. In referring to Congress' ability to establish exceptions to Title VI, no mention is made of any action on the part of the Department—only that specific legislation will be considered. We believe that, if the policy guidance remains, the Department should clearly state its position on the desirability of such aid and its commitment to working towards ensuring the availability of such aid.

In summary, the Commission believes that the proposed limitations on minority-targeted scholarships are not required by Title VI, and furthermore, that the draft policy sends a message, intentional or not, that the Federal Government is retreating from the vigorous and aggressive pursuit of equal educational opportunity for minorities. The Commission urges the Department to reconsider the policy in this light.

Sincerely,

ARTHUR A. FLETCHER,
Chairman.

U.S. COMMISSION ON CIVIL RIGHTS,
Washington, DC, January 23, 1991.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: We are writing to express our grave concern about the minority scholarship policy announced last month by the Education Department's Office for Civil Rights (OCR). This policy contradicts not only the priority you have established for education during your administration, but important, long-term national interests as well.

The Commission disagrees with OCR's sudden announcement that Title VI of the Civil Rights Act of 1964 prohibits the funding of minority-targeted scholarships by institutions receiving federal financial assistance. In our judgment, the law permits educational institutions to make reasonable use of minority-targeted scholarships when necessary to overcome the effects of discrimination or to achieve the legitimate and important goal of a culturally diverse student body.

Furthermore, the Commission is persuaded that it is essential to important social, economic and educational interests of this nation that colleges and universities be allowed to continue to utilize such scholarships as part of their affirmative efforts to recruit and retain minority students.

Finally, we believe that administration policy in this area of vital national concern is too critical to America's future to be relegated to subcabinet level pronouncements that leave an entire educational community confused.

Although OCR's new policy would permit institutions to administer privately funded minority-targeted scholarships, it would prohibit the use of an institution's general funds for the same purpose. This distinction is not only legally insupportable, but also provides little relief from the overall impact of the new policy. Because general funds provide most of the existing minority scholarships, this restriction, if allowed to stand, could have a devastating effect on the efforts of our colleges and universities to increase diversity and to remedy the effects of discrimination.

Minority students today continue to face serious barriers to equal educational opportunity on college campuses. Too often, minority students attending predominantly white institutions of higher learning encounter either indifference to their needs or outright racial hostility. On many campuses, they experience both. Institutions struggling to overcome the effects of racism on their efforts to recruit and retain minority students need the flexibility to design effective affirmative outreach programs. These institutions use minority-targeted scholarships as a means of letting minority students know that their presence and full participation in campus life is not merely accepted but sought after as a matter of important national and institutional interest. Many institutions have identified these scholarships as an essential tool, without which the effectiveness of their outreach efforts will be seriously impaired.

The role of institutions of higher education in achieving important national goals is well recognized. In a society such as ours—with a diverse and multi-cultural citizenry—these institutions can and must contribute to the achievement and maintenance of social strength and harmony. The education of a diverse student body, convened on common ground for common purposes, is their primary vehicle for making this contribution. To thwart their efforts by prohibiting even the very limited use of a tool so many have found essential can only help to perpetuate the racial and ethnic divisions within our society.

As we approach the year 2000, our economy requires a leadership role by colleges and universities to meet the demand for increasingly high education levels in the workforce. With a growing percentage of new minority entrants into the working population, the nation's economic vitality in the 21st century will depend on how well we educate minority youth. Facing these challenges, we can scarcely afford to abandon any tool that encourages minority students to pursue a college education, or that enables a college to educate its students in a culturally diverse environment.

OCR's reversal of prior policy has already brought confusion. Colleges and universities are reexamining their scholarship policies, and most can be expected to reconsider their minority scholarship programs against the likelihood of litigation fostered by the OCR announcement. Obviously, in this environment, many institutions may now feel compelled to drop their minority scholarship programs as the "safest" position. Meanwhile students and future students face the uncertainty this unfortunate situation has caused as to whether they will be financially able to continue their education. It is imperative that this damage be undone.

Mr. President, you have made strengthening this country's education system one of your top policy goals. Addressing the overwhelming educational needs of minority youth is essential to that task. We urge you, therefore, to take a strong stand in support of affirmative action in the recruitment of minority students, including the use of minority-targeted scholarships where necessary to achieve either of two important national interests—remedying the invidious effects of discrimination and attaining the benefits of a diverse student body.

We recommend further that you direct the Secretary of Education to promulgate, after consultation with the higher education community, clearly defined guidelines that implement that strong national policy of affirmative action. Finally, we urge that you take these steps forthwith, so as to avoid even greater uncertainty than OCR's actions have caused to date.

Respectfully,

ARTHUR A. FLETCHER,
Chairman.●

TRIBUTE TO LOUIS ANTHONY CONDO

● Mr. SIMON. Mr. President, next week will mark the year anniversary of the death of Louis Anthony Condo, a great leader in the American labor movement. Louis would be very proud to know that his son Joe Condo has since risen to become a vice president in the Transportation-Communications Union, the same union that Louis served so long and so well. Illinois is proud of Joe's contributions to our State.

At this time, I ask that a tribute to Louis Anthony Condo be printed in the RECORD:

The tribute follows:

A TRIBUTE TO LOUIS ANTHONY CONDO

Mr. President, on Friday, March 20, 1992 will be a year since Louis Anthony Condo, a great Italian-American labor leader and a proud New Yorker died at the Overlook Restaurant in Valhalla, New York. As he lived Louis died in characteristic style, just as he had completed a plate of linguini and clams with his favorite table wine.

Now that Louis is in another Valhalla looking down upon all of us, he can clarify which of the three I.D.'s he carried was the accurate one. But those for whom Lou worked, worked with or worked for didn't care whether he was 67, 57, or 37. They all loved and respected him and knew his age was the only thing upon which he fudged.

Whether as an official of his local union, credit union, the Allied Service Division of the Brotherhood of Railway, Airlines & Steamship Clerks (now Transportation-Communications Union) or in the position many of us came to know him best as that union's New York State Legislative Director he exercised and merited influence far beyond the positions themselves. He had the flair, the confidence, the dignity and the commitment that convinced you he was telling it as it was. Unlike the greens that garnished his frequent bowl of pasta, he did not embellish his position with oratory, but he sure gave you the cold hard facts.

Those who toiled in either Albany or Washington or both may have known him best as his union's State Legislative Director but railroad workers knew him as the man who could understand their fears, complaints and suggestions and respond with more than words. He treated all with respect and he was most obviously respected by one and all. Lou Condo was well known in corporate board rooms, government offices, railroad freight yards, loading platforms and railroad general offices throughout the state of New York, especially in new York City.

Workers named their kids after him, politicians told "Lou Condo" stories to demonstrate a point, dogs wagged their tails at him, children smiled at him and one immigrant street vendor upon becoming a citizen officially changed his name to Lou Condo in the hopes some of the charm would rub off on him.

New York congressman, Tom Manton, recently said, "The five boroughs were just a little more pleasant to live in when he was with us and he is already sadly missed by all of us."

On Friday night, March 20th in a little Italian restaurant in Greenwich Village, a group of friends and relatives will sit down in front of linguini and clams and tell "Lou Condo" stories. They may have lost a friend, but they've been blessed to keep the memories.•

CONSULTATION ON THE ENVIRONMENT AND JEWISH LIFE

• Mr. GORE. Mr. President, earlier this week, my colleague JOSEPH LIEBERMAN and I hosted a significant gathering of Jewish leaders, from every denomination, from diverse organizations and differing political perspectives, for an unprecedented "Consultation on the Environment and Jewish Life." For 2 days, this extraordinary group immersed itself in an intensive learning process about the ecological crises that threaten the Earth: Depletion of the ozone layer, global warming, massive deforestation, the loss of biodiversity, toxic chemical and nuclear wastes, exponential population growth. The purpose of this exercise was to explore, from the perspective of the Jewish faith, the spiritual dimensions of the environmental crises confronting our planet and to begin to formulate an appropriate Jewish response.

Mr. President, I am pleased to present, for inclusion in the RECORD, the statement issued at the end of the 2-day consultation—"On the Urgency of a Jewish Response to the Environmental Crisis." I commend the statement to the attention of my colleagues. It is a reaffirmation of the Jewish tradition of stewardship that goes back to Genesis, and an action plan for a Jewish community response to the environmental crisis.

Significantly, the statement recognizes, as I believe we all must eventually, that the crisis that threatens the global environment demands action that is rooted in the core values of a deeply religious outlook. In my own religious experience and training—I am a Baptist—the duty to care for the Earth is similarly rooted in the fundamental relationship between God, creation, and humankind. In the Book of Genesis, Judaism first taught that after God created the Earth, He "saw that it was good." In the 24th Psalm, we learn that "the Earth is the Lord's and the fullness thereof." In other words, God is pleased with His creation, and whatever is done to the Earth must be done with an awareness that it belongs to God.

My tradition also teaches that the purpose of life is "to glorify God." And there is a shared conviction within the Judeo-Christian tradition that believers are expected to "do justice, love mercy, and walk humbly with your God." But whatever verses are selected in an effort to lend precision to the Judeo-Christian definition of life's purpose, that purpose is clearly inconsistent with the reckless destruction of that which belongs to God and which God has seen as good. How can one glorify the Creator while heaping contempt on the creation? How can one walk humbly with nature's God while wreaking havoc on nature? The answer, Mr. President, is simply that one cannot.

Mr. President, the outlook I have expressed in this statement, I have illustrated in the context of the Judeo-Christian tradition. But I by no means deny the similar relevance of the other great religions of the world. It seems to me that all are rooted in the same essential elements of sound stewardship—of care and concern for all God's creations, of harmony and balance in our relationship with the Earth. The challenge that confronts each and every one of us now, in the face of such unprecedented threats as global warming, is to return to such basic convictions.

The statement follows:

THE URGENCY OF A JEWISH RESPONSE TO THE ENVIRONMENTAL CRISIS

We, American Jews of every denomination, from diverse organizations and differing political perspectives, are united in deep concern that the quality of human life and the earth we inhabit are in danger, afflicted by rapidly increasing ecological threats. Among the most pressing of these threats are: depletion of the ozone layer, global warming, massive deforestation, the extinction of species and loss of biodiversity, poisonous deposits of toxic chemical and nuclear wastes, and exponential population growth. We here affirm our responsibility to address this planetary crisis in our personal and communal lives.

For Jews, the environmental crisis is a religious challenge. As heirs to a tradition of stewardship that goes back to Genesis and that teaches us to be partners in the ongoing work of Creation, we cannot accept the escalating destruction of our environment and its effect on human health and livelihood. Where we are despoiling our air, land, and water, it is our sacred duty as Jews to acknowledge our God given responsibility and take action to alleviate environmental degradation and the pain and suffering that it causes. We must reaffirm and bequeath the tradition we have inherited which calls upon us to safeguard humanity's home.

We have convened this unprecedented consultation in Washington, DC, to inaugurate a unified Jewish response to the environmental crisis. We pledge to carry to our homes, communities, congregations, organizations, and workplaces the urgent message that air, land, water and living creatures are endangered. We will draw our people's attention to the timeless texts that speak to us of God's gifts and expectations. This consultation represents a major step towards:

Mobilizing our community towards energy efficiency, the reduction and recycling of wastes, and other practices which promote environmental sustainability:

Initiating environmental education programs in settings where Jews gather to learn, particularly among young people;

Pressing for appropriate environmental legislation at every level of government and in international forums;

Convening business and labor leaders to explore specific opportunities for exercising environmental leadership;

Working closely in these endeavors with scientists, educators, representatives of environmental groups, Israelis, and leaders from other religious communities.

Our agenda is already overflowing. Israel's safety, the resettlement of Soviet Jewry, antisemitism, the welfare of our people in many nations, the continuing problems of poverty, unemployment, hunger health care and education, as well as assimilation and intermarriage—all these and more have engaged us and must engage us still.

But the ecological crisis hovers over all Jewish concerns, for the threat is global, advancing, and ultimately jeopardizes ecological balance and the quality of life. It is imperative, then that environmental issues also become an immediate, ongoing and pressing concern for our community.

Rabbi Marc D. Angel, President, Rabbinical Council of America; Shoshana S. Cardin, Chairperson, Conference of Presidents of Major American Jewish Organizations; Rabbi Jerome K. Davidson, President, Synagogue Council of America; Dr. Alfred Gottschalk, President, Hebrew Union College-Jewish Institute of Religion; Dr. Arthur Green, President, The Reconstructionist Rabbinical College; Rabbi Irwin Groner, President, The Rabbinical Assembly; Walter Jacob, President, Central Conference of American Rabbis; The Honorable Frank R. Lautenberg, United States Senate.

Marvin Lender, President, United Jewish Appeal; The Honorable Joseph I. Lieberman, United States Senate; Sheldon Rudoff, President, Union of Orthodox Jewish Congregations of America; Rabbi Alexander M. Schindler, President, Union of American Hebrew Congregations; Dr. Ismar Schorsch, Chancellor, The Jewish Theological Seminary of America; Arden Shenker, Chairman, National Jewish Community Relations Advisory Council; The Honorable Arlen Specter, United States Senate; Alan J. Tichnor, President, United Synagogue of America.•

THE DOWNED ANIMAL PROTECTION ACT OF 1992

• Mr. AKAKA. Mr. President, I rise today to call the attention of my colleagues to S. 2296, the Downed Animal Protection Act of 1992, a bill I recently introduced to eliminate inhumane and improper treatment of downed animals at stockyards. This legislation will prohibit the sale or transfer of downed animals unless they have been humanely euthanized.

Downed animals are severely distressed recumbent animals that are so sick they cannot rise or move on their own. They are also referred to as nonambulatory animals. Once an animal becomes immobile and fails to stand, it is left to lie where it falls, often without receiving basic needs. Downed animals that survive the stockyard are finally slaughtered for human consumption. According to Farm Sanctuary, a nonprofit organization located in Watkins Glen, NY, in some States approximately 85 percent of downed animals end up in the human food chain.

These animals are extremely difficult, if not impossible, to handle humanely. They have very specific needs, they must be fed and watered individually, they require bedding and a separate pen, and they need veterinary attention. The suffering of downed animals is so severe that the only humane solution is immediate euthanasia.

Mr. President, the bill I have introduced provides for humane euthanasia of these hopelessly sick or injured animals by mechanical, chemical, or other means that rapidly and effectively renders animals insensitive to pain. Humane euthanasia of downed animals will limit animal suffering and will require the livestock industry to concentrate on improved management and handling practices to avoid this problem.

Downed animals comprise a tiny faction, roughly one-tenth of 1 percent, of animals at stockyards. Banning their sale or transfer would cause no economic hardship. The Downed Animal Protection Act will prompt stockyards to refuse to accept crippled and distressed animals and will make the prevention of downed animals a priority for the livestock industry. In this way the bill will be instrumental in reinforcing the livestock industry's commitment to humane handling of animals.

The downed animal problem has been addressed by major livestock organizations such as the United Stockyards Corp., the Minnesota Livestock Marketing Association, the National Pork Producers Council, the Colorado Cattlemen's Association, and the Independent Cattlemen's Association of Texas. All these organizations have taken strong stands against improper treatment of animals by adopting "no-downer" policies. I want to commend these and other organizations, as well as every responsible and conscientious livestock producer in this country, for their efforts to end an appalling practice that erodes consumer confidence.

In addition to the concern expressed about this problem by the livestock industry, Secretary of Agriculture Edward Madigan expressed his concern about the treatment of downed animals and promised that his agency would increase efforts to protect animal rights at livestock markets nationwide. On May 21, 1991, he was quoted as being "disgusted and repelled" at the way downed animals had been treated, and added that the Agriculture Department was going to be more aggressive and effective in dealing with animal welfare. In response, USDA's Packers and Stockyards Administration issued a recommendation for stockyards to take steps to assure that proper care and handling are provided to animals. Saner, more humane ways of handling downed animals were also the subject of a recent hearing by the House Subcommittee on Livestock, Dairy and Poultry.

Despite these actions and an unprecedented consensus among the industry, animal welfare movement, consumers and government that downed animals should not be sent to stockyards, this sad problem continues to exist, causing animal suffering and an erosion of confidence in the industry.

Mr. President, the legislation that I invite all my colleagues to support will complement the industry's efforts to address this problem by encouraging better care of animals at farms and ranches in the first place. Additionally, animals with impaired mobility will be treated better in order to avoid the possibility of them going down. The bill will remove the incentive for sending downed animals to stockyards in the hope of receiving some salvage value for such animals and would encourage greater care during loading and transport. By allowing 1 year for the legislation to come into effect, the bill will also end improper breeding practices which account for a significant percentage of downed animals. This will also be conducive to a gradual, phased-in introduction of more humane treatment policies.

My legislation would set a uniform standard throughout the States thereby removing any unfair advantages that might result from instituting differing State guidelines.

Another advantage of my legislation is that fewer Federal dollars would be required to monitor no downer policies than would be required if guidelines were instituted for moving downed animals through the livestock market process. Inspectors of the Packers and Stockyards Administration regularly visit stockyards to enforce existing regulations, so the additional regulatory burden on the agency and the stockyard operator will be insignificant.

Thank you, Mr. President. I urge all of my colleagues to join in supporting this legislation.

Mr. President, I ask unanimous consent that a number of articles relating to this problem be printed in the RECORD following my remarks.

The articles follow:

[From the Fort Wayne (IN), News-Sentinel, May 21, 1991]

STOCKYARD CONDITIONS CRITICIZED

DANVILLE.—Agriculture Secretary Edward Madigan said he was shocked by what he saw recently on videotape of treatment of sick and injured cattle at a St. Paul, Minn., livestock market.

"I was disgusted and repelled. The stockyard thing at St. Paul was a disgrace," he said. "We are going to be more aggressive and effective in dealing with animal rights."

Madigan promised yesterday that his agency will increase efforts to protect animal rights at livestock markets nationwide.

Madigan met with Indiana farm leaders at the livestock and grain farm of the John D. Hardin Jr. family near Danville.

The National Pork Producers Association also is concerned about animals' treatment at stockyards, Hardin said.

He is president of the association and raises about 6,000 head of hogs and 1,400 acres of grain yearly.

"The vast majority of farmers care for their animals properly," Hardin said. He said his association will work with those who need education about humane treatment.

The association's position says that if sick or injured animals are unable to be treated, they should be put to death humanely on the farm and not sent to market.

This position will be made known in mailings late this week to all livestock markets in the country, Hardin said.

The markets will be asked to refuse acceptance of downed animals, he said.

The controversy at South St. Paul began in April after videotape taken by Farm Sanctuary of Watkins Glen, N.Y., depicted downed cattle being unable to reach water and food for several days at the market and being dragged by chains.

After the publicity, United Stock Yards said it no longer would accept downed cattle, hogs and sheep.

[From the Eau Claire (WI) Country Today, Feb. 27, 1991]

THIS CONCERN IS LEGITIMATE

(By Tom Lawin)

If there is one term that gets the attention of most farmers it is "animal rights."

By and large, adherents of this philosophy (usually non-farmers) have as their goals (1) the elevation of animals to human status by claiming animals have certain "rights." In fact, they use the terms "animal rights" and "animal welfare" interchangeably. And (2) elimination of animal-based agriulure, in effect forcing everyone to join the wonderful world of eggplant and zucchini.

While virtually all farmers, particularly in tough economic times, readily endorse and practice animal welfare, they depart from those who insist on animal rights.

The goals of animal rightism were reaffirmed in Eau Claire last Saturday afternoon during a snowstorm that dumped eight inches on northwestern Wisconsin.

Gene Bauston, a Hollywood, Calif. native who now lives in upstate New York, and co-founded with his wife of Farm Sanctuary, a haven for mistreated animals he said he rescued from farm and livestock auction facilities, spoke to 18 persons, including the editor of this newspaper, about a rally he is attempting to organize for Memorial Day. The rally will take place at the South St. Paul (Minnesota) Stockyards as a protest over the sale of "downer" livestock at that huge auction market.

Mr. Bauston's appearance in Eau Claire was sponsored by a newly-formed group, the Cheppewa Valley Voice for Animals and comes on the heels of what Mr. Bauston said was a successful effort in gaining a pledge from a Lancaster County, Pa. stockyard to cease accepting downer livestock.

Literature handed out at the Saturday meeting here included copies of the "Sanctuary News" which carried news articles that may appear redundant to farmers, but which strike a nerve in town everytime they appear. A photo inside shows Ms. Bauston and a friend serving plates full of vegetarian food to five white turkeys standing around a table. It was an "adopt-a-turkey" promotion last Thanksgiving Day conducted by Mr. Bauston's Farm Sanctuary urging people not to eat turkeys.

The organization's pamphlet also urged readers to "go vegetarian! A vegetarian world by the year 2000? Why not? Anything is possible when there are dedicated people doing everything possible to bring a kinder 21st century. . . .

Then there were the "save a cow" and "veggie dinner parties" suggestions promoted by Mr. Bauston's Farm Sanctuary.

But the pamphlet also explained the reason for Farm Sanctuary's planned Memorial Day demonstrations and rally. And Mr. Bauston showed an 18-minute video taken last fall at South St. Paul, dwelling on the condition of downer livestock at that market. It wasn't pretty.

This will be the focus of Farm Sanctuary's rally in May and it just may be ground that farmers and animals rights advocates can share.

With the exception of a rare injury during trucking to a livestock auction house or slaughterhouse, most animals that cannot walk off a truck when it arrives at an auction point or slaughterhouse is an animal that was too ill to be shipped in the first place.

Few farmers and even fewer others would want to eat a slaughtered downer cow, lamb, steer or hog. Yet, there are downer animals sold at auction barns and to slaughter plants that escape the inspectors.

Seldom has the Country Today supported animal rights efforts, partly because the movement's adherents insist that animals, indeed, have rights. However, the attempt by Farm Sanctuary to encourage stockyards to refuse to accept downer livestock is sound and one that farmers should support.

It is indeed a bad image to agriculture to see video tape footage of downed animals being dragged from trucks by chains. If the fledgling Farm Sanctuary had sufficient funds to buy thousands of copies of its 18-minute video, "The Down Side of Livestock Marketing," for sure it would generate just the type of publicity and/or attitudes among the consuming public that agriculture does not need at this time. Surely, animal welfare is an issue that all farmers can support."

Here clearly is a justified case for either the State Department of Agriculture, Trade and Consumer Protection or the Legislature to address either with rules or laws that forbid the sale of downer livestock. As a matter of perception (and principle) the sale of downer animals to any place but a rendering company should be forbidden.

If Farm Sanctuary succeeds in attracting major publicity from its Memorial Day demonstration and rally at the South St. Paul stockyards, it is sure to gain some support from the consuming public.

Farmers have a great deal at stake in keeping ammunition from the guns of animal rights groups. Helping them resolve the downer livestock issue would be a good place to start.

[From the Hoard's Dairyman, July 1991]

THE INDUSTRY MUST STOP "DOWNER COW" ABUSE

The black eye the livestock industry got over the widespread "downer cow" publicity was self-inflicted. Frankly, we got what we deserved.

For those who missed the news, a company that owns stockyards in six cities said it no longer would accept downed animals. The announcement came after an animal care activist went public with a video from the South St. Paul yard including footage of downed animals.

Our big concern is that it took prime time TV exposure, national wire service reports and a threatened Memorial Day demonstration at the South St. Paul Stockyards to get the job done. Because of that unfortunate exposure, the image of livestock people has been tarnished, and consumers have yet another reason not to eat meat.

There's no excuse for shipping animals which cannot walk. We commend stockyards that will not accept crippled animals. We strongly encourage others to adopt this common sense policy.

To prevent problems with downers, owners simply will have to call their veterinarian, trucker or cattle dealer sooner. For downers that can't be avoided, most areas with sizable cattle populations still have rendering services.

All of the ways we care for, transport and market cattle will be scrutinized more carefully. Of everything we do with animals, we should ask, "How would this look to other people?"

[From the Meat & Poultry magazine, August 1991]

PRO-ACTIVE ACTIVISM

The NBC "Expose" show, featuring the deplorable conditions found at the South St. Paul stockyards in Minnesota (the show aired nationally May 19) made the public sick and horrified. My mother was revolted at the idea of eating some of those animals. The animals shown on the Becky Sanstedt video were emaciated, weak or had horrible infections. They should have been marketed weeks before they got into such terrible shape. Nine out of ten downer cattle are either weak or emaciated. Broken legs form a very small percentage of downer cows. The producers failure to market an animal promptly is the main cause of downer cattle.

Observations indicate that about 75 percent of downer cattle are dairy cows and the rest are beef animals. The best response for the packing industry to the NBC show would be for cow slaughter plants to send emaciated downer cows straight to rendering. If the producer realizes he will get nothing for a cow he will bring her in while she is still fit. The good dairies I've visited never have an emaciated, weak cow on the place. It is likely that five percent of the dairies are causing 95 percent of the problem. They retire old cows when they are still in good condition.

The United Stockyard Corporation and the National Pork Producers Association are to be commended for taking a strong stand on not accepting downers. It is my opinion that any animal which is emaciated or has an advanced cancer eye or infection should be euthanized on the loading dock of the market or plant. Even though the meat may be safe to eat, the animal looks so disgusting that it makes the public vomit. Producers will then be forced to bring prolapses and other problem animals into a market or plant before they become infected or weak. One sale barn in Canada euthanizes all advanced cases of cancer eye. Now the producers bring them in when they have just a little spot on the eye. In Colorado, downer animals are refused at the major auctions. The policy is: If the animal cannot walk through the ring then it can not be sold. Some auction markets in Minnesota and in Missouri have similar policies.

The dregs of the livestock industry are using the old terminal markets in South St. Paul, Minn., St. Louis, Mo. and other areas as a garbage can. The pig shown on NBC Expose with the grotesque swollen leg would never be seen in a "Big Three" (ConAgra, IBP, Excel) plant.

It's unfortunate that broken, dirty places like the South St. Paul Stockyard are near the big population centers. South St. Paul was one of the most broken and dirty places I have ever visited. I was informed by officials of the United Stockyards Corporation that the condition of the yard was even worse before they took it over two years ago.

The old terminal market is the only part of the livestock industry that many people see. They do not know about the beautiful plants and farms that exist outside the urban area. In the eyes of the public, state of the art plants such as Excel's in Fort Morgan, Colo., IBP's in Lexington, Neb., and Hatfield's in Hatfield, Pa., do not exist. The top management of the large companies with the good facilities need to take a much higher profile. Many management people forget the PR man's principle—perception is reality. In the Expose show, Long Prairie Packing's refusal to be interviewed made them look terrible. Their plant has recently been remodeled, but in the eyes of the public it was put in the same basket with the stockyard. Refusing an interview implies guilt, according to Mr. and Mrs. John Q. Public.

On May 10, 1991, all the leaders of the different industry groups got together to discuss the downer issue. It was unfortunate they did not take a strong stand against downers and emaciated weak animals. The Tylenol poisonings and other disasters have shown that being pro-active is the best defense. It is very shortsighted for industry leaders to drag their feet to protect a few shabby operators. It is unfortunate that in some cases the worst operations are represented on high level committees in a few segments of the industry.

All segments of the industry need to craft guidelines that will keep emaciated, weak and infected animals out of the market pipeline. Obviously, producers need to be able to market pigs with hernias, cows with prolapses and animals that fail to gain. This should be allowed if an animal is marketed promptly before it becomes debilitated. To solve the spraddle-leg problem in pigs, packing plants should fine pork producers who have a high percentage of downers. Spraddle-leg is an inherited condition. Hitting the pocket-book nerve is the best way to motivate change. A fine for spraddle-leg would achieve the goal of eliminating leg and hindquarter weakness problems in hogs.

Ninety percent of all downers are preventable. Since most downers can be prevented, the industry can eliminate downers by euthanizing them. An industry-wide no-downer policy could be phased in gradually to minimize financial hardship on producers. The NBC Expose show could have been defused if a tape describing a strong industry-wide no-downer policy had been sent prior to the broadcast. Let's get proactive before it is too late.

[From the Pork Report magazine, July-August 1991]

SEVEN MAJOR LIVESTOCK YARDS STOP ACCEPTING DISABLED HOGS

(Editor's Note: The National Pork Board contracts with NPPC to educate producers on their responsibilities regarding animal welfare, as well as to provide accurate information to consumers on various animal welfare/rights issues. The following is an example of how NPPC recently worked on the Pork Board's behalf to represent America's pork producers.)

United Stockyards Corporation, the company that operates the largest group of public livestock yards in the U.S., announced May 7 that it would no longer receive nonambulatory or "downed," livestock.

United Stockyards President Gail Tritle said that the new policy was the result of discussions with NPPC, Minnesota pork producers and other Minnesota livestock groups. United Stockyards operates yards at St. Paul, MN; Sioux City, IA; Sioux Falls, SD; Omaha, NE; St. Joseph, MO; Indianapolis, IN; and Milwaukee, WI.

NPPC had entered into discussions with United Stockyards following isolated reports of allegedly abusive treatment of downed livestock at the South St. Paul yards.

"Since the pork industry has had voluntary animal care guidelines for pork producers in place for over a year, we felt that we might be able to assist United Stockyards in finding a way to address a problem that obviously had the potential for damaging the entire livestock industry," said NPPC Vice President Karl Johnson, MN. "Gail Tritle and his associates were very receptive."

The pork industry is encouraging other livestock facilities to adopt a similar policy concerning hogs.

Producers also are reminded that hogs unable to walk or sick hogs that obviously will not recover should be humanely euthanized on the farm and not transported to market. Transport of hogs to market should be done in trucks with adequate ventilation and nonslip floors. (See the accompanying article for more tips on avoiding downed animals.)

"We feel a strong producer education program on all aspects of the care and treatment of livestock, whether on the farm or in transit to livestock markets, is our ongoing responsibility," said Norm Montague, a California pork producer who serves as the pork industry's Animal Welfare Committee Chairman. "We take our responsibilities in this regard very seriously indeed."

PORK INDUSTRY'S POLICY ON HANDLING DISABLED HOGS

1. Marketing facilities should stop accepting crippled swine unable to walk and make that policy known to all interested parties.
2. Swine that have become injured in transit should be handled in a humane manner and, depending on the animal's condition, be either euthanized or transported as quickly as possible for slaughter.
3. Stockyard employees should be instructed that any swine that become disabled or incapacitated in stockyard facilities be handled with humane care and, depending on the animal's condition, be either immediately euthanized in a humane manner or transported as quickly as possible to slaughter.
4. Hogs unable to walk or sick hogs that will obviously not recover should be humanely euthanized on the farm and not transported to market.

TAKE STEPS TO AVOID DOWNED HOGS

(By NPPC Producer Education Director Beth Lautner, D.V.M.)

(Editor's Note: The following information is derived in part from checkoff-funded research commissioned by the National Pork Board.)

Downers . . . physically impaired . . . incapacitated . . . cripples . . . disabled . . . immobile. All of these terms have been used to describe non-ambulatory animals. This article will use the term "downed" or "downer" to mean animals that fail to stand.

With the change in policy at many stockyards on acceptance of downed animals, prevention of these types of conditions is even more important. Some 75–90% instances of animals arriving at markets in a downed condition could be prevented.

Many have pre-existing conditions that contribute to the development of problems during transport to markets. Producers should not "push their problems" on trucks and hope to receive some salvage value for the animal or use the stockyards as a disposal system for this type of animal.

Every effort must be made to deliver animals to market in the best condition possible, not only for the sake of the individual animals, but to assure the consumers of a safe, wholesome food product.

There are many causes of downed animals. Producers need to review the type of downers seen on their farms with their herd veterinarian and discuss prevention programs. The downer condition may develop under a variety of housing and management systems and occur at any stage of production.

The four main areas of prevention management include nutrition, disease, environment and genetics.

WATCH FOR "DOWNER SOW SYNDROME"

The "downer sow syndrome" was more of a problem before the introduction of improved diet formulations for highly productive sows. However, problems are still seen in Parity 1 females that wean large litters.

Special attention needs to be paid to the parity 1 females while she is lactating, with the female on full feed throughout lactation. Some producers find they can get more total daily consumption if they feed three times daily in the farrowing room.

Nutrient density of the diet needs to be adjusted with consumption. If you have lower consumption in the summer, you should increase the protein, fat (if used), calcium, phosphorous and other nutrient levels.

Many producers are using daily feed consumption charts for lactating sows to emphasize feed consumption and as an aid when different people are responsible for feeding sows.

Use drippers in the farrowing rooms in the summer. Drippers have dramatically reduced the number of downer sows after summer weanings.

Some producers encourage more lactation feed consumption by using wet feeders or mixing water with the sow feed in conventional sow feeders.

Be sure to clean out the feeders regularly. Many times sow feeders have stale feed in the corners that decrease the sow's consumption. Watch storage times of mixed lactation feeds in the summer, especially if they are high fat diets.

Proper nutrition for all stages of production is important in the prevention of downed animals. Review your diets with your feed company and nutritional advisor at least once a year, or better yet, formulate diets on a seasonal basis based on feed consumption. It is especially critical to review calcium, phosphorus, Vitamin D, zinc and biotin levels.

Be sure to follow company recommendations and do not mix vitamin and mineral packs from different companies without first checking that you do not cause imbalances.

TAKE STEPS TO AVOID JOINT INFECTIONS

Another cause of downed animals is joint infections. There are many infectious agents that may cause lameness. If this is a significant problem for your operation, you need to work closely with your veterinarian and a diagnostic laboratory to determine the cause.

Strep infections are responsible for many of the joint infections in all ages of hogs. Prevention of strep starts back in the farrowing room. Make sure pigs intake colostrum to get immunity from the sow.

Clip the tips of all eight needle teeth, taking care not to damage the gum. This allows strep to enter the pig's system. Use different sidecutters to do teeth, tails and castrations, and disinfect sidecutters between pigs.

ATTENTION TO FLOORING PAYS OFF

Producers should also evaluate the effect of flooring on joint infections, and clean and disinfect farrowing rooms. If erysipelas is a problem, use an appropriate vaccination program.

With the trend toward more environmentally controlled housing, more attention needs to be paid to the effect of flooring on lameness in pigs.

Many of these facilities were built 10–15 years ago, and aspects of these buildings, such as rough concrete, worn or uneven slats, etc. will predispose pigs to traumatic and stress-induced injuries. Many times foot injuries are followed by infections.

To prevent foot problems, provide clean, dry, non-abrasive floors. Control environments to achieve good dunging habits to avoid damp, wet floors. It would be ideal to resurface or replace rough concrete floors.

TRANSPORTATION AND MOVEMENT CALL FOR SPECIAL HANDLING TIPS

Set up your facilities to take into account the behavior characteristics of the pig when being moved or transported. Besides reducing the incidence of downed animals, this will aid in handling, increase productivity, improve meat quality and help reduce stress when it comes time to transport hogs to market or to move hogs on the farm.

For example, fences should be solid on loading ramps, crowd pens and other hog handling facilities in order to prevent the animals from seeing distractions outside the fence.

The crowd gate in a pen also should be solid, or otherwise the hogs will attempt to turn back and rejoin their herdmates.

A portable solid panel is efficient for moving hogs. You can place the solid barrier in front of the hogs to keep them from turning back.

When you do want a hog to back up, a broom can be used. Sows will readily back out of their crates when tickled on the snout with a broom.

Because hogs have a strong escape response, funnel-shaped crowd pens used for cattle are not recommended. When two hogs become wedged in a funnel heading to a loading chute, both animals will keep pushing forward. A hog crowd pen should have an abrupt entrance to the chute to prevent jamming.

Watch for hazards when moving pigs through alleyways and down loading ramps, and avoid overcrowding pigs. Minimize moving and mixing to reduce injuries that could lead to downed animals.

When trucking hogs, safety and comfort should be of primary concern. Use truckers with a reputation for good handling practices.

Trucks should be properly bedded (straw when temperature is below 60° and wet sand or shavings when over 60°) to provide a nonslip floor.

Partitions should be used to separate hogs to reduce fighting and piling up. Truckers should be encouraged to stop and start smoothly to avoid hogs being knocked off their feet.

PURCHASE SOUND BREEDING STOCK

Hog breed affects behavior during handling, and within a breed, different genetic lines will vary in excitability and fearfulness of strange places and people. Genetic selection also is important in prevention of feet and leg problems that predispose to downers.

To avoid potential problems, select sound breeding stock. Watch for the tendency of breeding stock to spraddle leg or do "splits," and avoid "stress-susceptible" breeding stock. Attention should be paid to selection of breeding animals with even toe sizes.

FOLLOW SET GUIDELINES ON HANDLING DOWNED HOGS

Prevention is the key to the issue of downed hogs, however, there will still be instances when an animal becomes physically impaired on the farm. Visit with your veterinarian about guidelines for making decisions on disposition of such animals.

Be sure not to neglect these animals and "hope for a miracle." It is in everybody's interest and most of all the pig's to make a decision quickly to shorten any period of suffering. While the industry's focus is herd production, this is an instance where animal welfare has to be addressed on an individual basis.

Keep the animal well bedded and provide access to feed and water. Hand water if necessary to ensure adequate intake. Do not isolate the pig and forget about it because you are not sure what to do with the animal.

When you have an animal that is predisposed to going down, consult with your veterinarian on whether you should humanely euthanize on farm, attempt treatment, slaughter quickly or market through normal channels.

If euthanized on farm, you need to be sure that the pig is unconscious very quickly and remains unconscious until dead. The pig should not be handled roughly before being killed, and the method used should not endanger human life. The course of action you and your veterinarian choose needs to take into account the animal's welfare, public health concerns and economics.

When you find it necessary to treat an impaired animal, pay strict attention to medication withdrawals. (Enroll in the Pork Quality Assurance Program for additional treatment guidelines and antibiotic withdrawal charts. See page 22.)

Also, note if the pig has been on medicated feed with a withdrawal that must be observed. Culling sows directly from the farrowing rooms may be a problem if routine antibiotics are used that have long withdrawal times.

MINNESOTA LIVESTOCK
MARKETING ASSOCIATION,
Kansas City, MO, January 25, 1991.

MEMORANDUM

To: All Minnesota livestock markets.
From: Minnesota Livestock Marketing Association, Board of Directors.
Subject: Policy statement regarding the handling of downed and distressed livestock

Whereas, on occasion livestock sellers and/or producers deliver to livestock markets downed or severely distressed animals which are extremely difficult to unload and/or move; and

Whereas, the Minnesota Livestock Marketing Association Board of Directors believe that the handling of downed and severely distressed animals should be done in a humane manner; and

Whereas, it is near impossible to unload and/or move downed and severely distressed animals in a humane manner without first euthanizing them.

Therefore, be it resolved, That the Minnesota Livestock Marketing Association's Board of Directors strongly recommends that all Minnesota Livestock Markets adopt the following policy as well as take whatever steps are necessary to insure the humane treatment of downed and severely distressed animals:

1. No animal will be permitted to be unloaded at this livestock market unless such animal can walk off of the truck or trailer unassisted.

2. All animals which become immobile (i.e. cannot walk unassisted) after being unloaded will be euthanized by stockyard management in the sole discretion of stockyard management and the livestock market reserves the right to charge the cost of euthaznizing such animal to the owner thereof.

3. The decision whether or not an animal has become immobile and therefore must be euthanized shall be made in the sole discretion of the livestock market and/or commission firm owner and the livestock market veterinarian.

MAY 17, 1991.

To: All Hog Markets.
From: David Meeker, Ph.D., Vice President, Research and Education, NPPC.

You are probably aware that the livestock industry is receiving bad publicity from some video pictures taken at the South St. Paul Stockyards.

The video shows stockyards' personnel handling downed animals in a manner easily interpreted as inhumane. The people who filmed the incidents also alleged that downed animals sometimes went days without food and water.

After consultation with NPPC and several Minnesota livestock organizations, the South St. Paul Stockyards and United Stockyards Corporation's public stockyards at six other locations have announced a policy of not receiving downed livestock. The South St. Paul situation, and others, make it essential that the livestock industry address this issue to prevent erosion of consumer confidence in the livestock industry's commitment to humane handling. A reasonable, defensible position must be found for handling swine or we stand to lose greatly. To do nothing is unacceptable. Thus NPPC has outlined this position regarding swine:

The NPPC has outlined this position:

1. Marketing facilities should stop accepting crippled swine unable to walk, and they should make that policy known to all interested parties.

2. Swine that have become injured in transit should be handled in a humane manner, and depending on condition, be either immediately euthanized or transported as quickly as possible to slaughter.

This position is consistent with the producer guidelines NPPC established well over a year ago for swine handling in environmentally controlled housing.

NPPC will also be communicating the following position to pork producers; (1) Crippled swine unable to walk, or sick swine that will not receiver, should be humanely euthanized on the farm and not transported to market; (2) Transport of swine to market should be done in trucks with adequate ventilation and nonslip floors.

We hope we can count on you for help and cooperation in this matter. We must all work together to establish reasonable procedures for humane animal handling, or much more unacceptable standards will be forced upon us from outside groups. Thanks for your support.•

REGARDING BOYS TOWN'S 75TH ANNIVERSARY

• Mr. KERREY. Mr. President, this week, the Nebraska congressional delegation is commemorating the 75th anniversary of Father Flanagan's Boys Town. Since 1917, when Father Edward J. Flanagan first established a home for wayward boys in Omaha, Boys Town has provided a positive, nurturing environment for disadvantaged and neglected boys and girls.

Boys Town was originally established to care for a small number of abused and homeless boys. Father Flanagan affectionately welcomed boys of any race or religion. Today, the institution has grown to provide food, shelter, education, and spiritual growth for over 15,000 boys and girls a year, faithfully building self-confidence in youth who had little hope in their future.

Although Father Flanagan originally envisioned a residence for youth who were products of broken homes, Boys Town today embraces children from troubled homes, children with drug histories, victims of sexual abuse, youth who have attempted suicide, and youth with learning disabilities. While the composition and size of the community has changed, the mission has not. Its goal is to extend love and support to youth who have endured great hardships in their lives.

Boys Town is more than a caretaker for troubled adolescents. It offers comprehensive services including counseling for runaways, parent-training programs, surrogate parenting, and rehabilitation treatment. Importantly, Boys Town works to instill a sense of courage and determination in the youth that enter this community. Boys and girls leave Boys Town with a new strength of character, empowering them to meet the challenges of tomorrow.

The poignant illustration of a young boy carried on the back of a teenager, who says "He ain't heavy, Father, he's M' brother", depicts an image of the compassionate spirit fostered at this institution. Recognizing that adolescents need guidance to cope with daily problems, Boys Town simulates a family living environment in which each adolescent lives in a home with a married couple. These couples, referred to as family-teachers, teach the youth skills to prepare for adult life. In addition, they work with them to develop good manners and reliable work habits. Although these couples carry a heavy responsibility, most agree that it is the most rewarding job they have ever had.

While the family-teachers provide a stable environment at home, the youth can turn their attention to their future. Boys Town concentrates on enabling these boys and girls to acquire a skill and an educational foundation to lead more productive lives. In addition to requiring high school attendance, Boys Town equips interested students with a vocational trade.

Students also acquaint themselves with the American political system. Because youth are the backbone of Boys Town, the city government of Boys Town is run by the young residents. Student justices even oversee the court's handling infractions of village laws.

Based on its success in Omaha, Boys Town is expanding its services across the Nation. Boys Town has established or is planning to operate residential facilities in 9 states and the District of Columbia. Through this effort, troubled youngsters all across America will have the opportunity to make a new start.

On behalf of all Nebraskans, I would like to extend my appreciation for the contributions Boys Town has made to our State. Boys Town's work in providing opportunity to disadvantaged youth is to be commended. By addressing the conditions that produce indifference and despair, this historical institution will continue to enhance the drams of its residents. I join the rest of the Nebraska delegation in congratulating them on their 75th anniversary.•

THE SABBATH OF REMEMBRANCE

• Mr. KOHL. Mr. President, I would like to bring to my colleagues attention a very important day in the Jewish community, tomorrow, March 14, 1992, Shabbat Zacor, the Sabbath of Remembrance. This year, the American Jewish community will be remembering and praying for the threatened Syrian Jews.

There are 4,000 Jews living under unfortunate and intolerable circumstances in Damascus, Aleppo, and Kamishli. The Syrian Jews are denied their individual human rights. They are not allowed to leave their country, a right guaranteed to them in the Universal Declaration of Human Rights. They live in constant fear and insecurity, under consistent supervision by the Mukhabarat or secret police. This situation is unacceptable and must be both recognized and ended.

The Sabbath of Remembrance marks the anniversary of a horrible event, symbolic of the situation, which occurred in Syria. In 1974, four young Jewish women attempted to escape from Syria. Unfortunately they were caught by Syrian authorities who proceeded to rape, murder, and mutliate the young women. They then continued to put the bodies into sacks and throw them in front of their parent's homes in the Jewish ghetto of Damascus. These acts are unacceptable and must be prevented.

So this year we remember the fate of those four Syrian Jews and the fear of the 4,000 Jews who are trapped in a country they wish to leave. But we must also recognize that if Syria treats Jews who live in their country so harshly, then the Jews who live in Israel have reason to be concerned. And so do those who believe that American policy in the region is ignoring the nature of the Syrian regime.•

AUTHORIZING USE OF THE CAPITOL ROTUNDA FOR CEREMONY REGARDING EX-PRISONERS OF WAR

Mr. SIMPSON. Mr. President, I send a concurrent resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The concurrent resolution will be stated by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 101) authorizing the use of the rotunda of the Capitol by the American Ex-Prisoners of War for a ceremony in recognition of National Former Prisoner of War Recognition Day.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. FORD. Mr. President, this is a concurrent resolution on behalf of the distinguished minority leader and the majority leader.

Mr. SIMPSON. Mr. President, I also add that it is for the use of the rotunda of the Capitol for the American ex-prisoners of war ceremony.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (S. Con. Res. 101) was agreed to.

The concurrent resolution is as follows:

S. CON. RES. 101

Resolved by the Senate (the House of Representatives concurring, That the rotunda of the Capitol may be used by the American Ex-Prisoners of war on April 9, 1992, from 11:00 o'clock ante meridian until 12:00 o'clock noon for a ceremony in recognition of National Former Prisoner of War Recognition Day. Physical preparations for the ceremony shall be carried out in accordance with such conditions as the Architect of the Capitol may prescribe.

Mr. SIMPSON. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SENSE-OF-THE-CONGRESS RESOLUTION REGARDING LIBERIA

Mr. SIMPSON. On behalf of Senator KASSEBAUM and others, I send to the desk a Senate joint resolution regarding Liberia and ask for its immediate consideration.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The legislative clerk read as follows:

A joint resolution (S. J. Res. 271) expressing the sense of the Congress regarding the peace process in Liberia and authorizing reprogramming of existing foreign aid appropriations for limited assistance to support this process.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. The joint resolution is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

S.J. RES. 271

Whereas the civil war in Liberia, begun in December 1989, has devastated that country, killing an estimated 25,000 civilians and forcing hundreds of thousands of Liberians to flee their homes;

Whereas in an effort to end the fighting, the parties to the Liberian conflict and the leaders of the West African states signed a peace accord in Yamoussoukro, Cote d'Ivoire on October 30, 1991;

Whereas this agreement sets in motion a peace process, including the encampment and disarmament of the fighters and culminating in the holding of free and fair elections;

Whereas despite several difficulties, this peace process continues to proceed largely on track, including the recent opening of roads in Liberia and the initiation of the political campaigns by several parties; and

Whereas the election process outlined in the Yamoussoukro agreement is essential for reestablishing peace, democracy and reconciliation in Liberia, and limited U.S. assistance could plan an important role in promoting this process: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Congress—

(1) Strongly supports the peace process for Liberia initiated by the Yamoussoukro peace accord;

(2) Urges all parties to abide by the terms of the Yamoussoukro agreement;

(3) Commends and congratulates the governments of the Economic Community of West African States (ECOWAS) for their leadership in seeking peace in Liberia; and

(4) Extends particularly praise to President Babangida of Nigeria, President Houphouet-Boigny of Cote d'Ivoire, and President Diouf of Senegal for their efforts to resolve this conflict.

(b) AUTHORIZATION OF LIMITED ASSISTANCE—Notwithstanding section 691(a)(5) of the Foreign Assistance Act of 1961 or any similar provision, the President is authorized to provide—

(1) nonpartisan election and democracy-building assistance to support democratic institutions in Liberia, and

(2) assistance for the resettlement of refugees, the demobilization and retraining of troops, and the provision of other appropriate assistance to implement the Yamoussoukro peace accord;

Provided, That the President determines and so certifies to the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives that Liberia has made significant progress toward democratization and that the provision of such assistance will assist that country in making further progress and is otherwise in the national interest of the United States. A separate determination and certification shall be required for each fiscal year in which such assistance is to be provided.

Mr. SIMPSON. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MEASURE INDEFINITELY POSTPONED—S. 2325

Mr. FORD. I ask unanimous consent that Calendar No. 420, S. 2325, a bill making miscellaneous changes in the tax laws, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, I ask unanimous consent that Senator SPECTER be recognized to address the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I want to add to the statement which I have submitted my compliments to the distinguished Senator from New Mexico, Senator DOMENICI, from the proposals which he had advanced here this evening. I was sorry he did not propose an amendment on the tax bill, but he declined to do so. He declined to do so because of the lack of support and the lateness of the hour and the impossibility of changing the course of what was essentially to be a party-line vote here this evening.

But Senator DOMENICI has put forward an economic package which should be agreed to, I think, by a vest majority of the Senators and Members of the House of Representatives and signed into the law for the President.

As I have seen the matters evolve here, Mr. President, since last fall—and I have said this before and shall be very brief this evening—it was unfortunate that we did not move ahead to tackling the problems of the recession last fall. I had suggested on this floor that the December and January recesses be canceled, so that we take the time for legislation and for an economic recovery proposal.

Right after the State of the Union speech, I urged the cancellation of the February and March recesses. In fact, the March recess was canceled. It was this week that we moved ahead on this legislation. But it has unfortunately evolved into a party-line matter. The Finance Committee approved the tax bill on a straight party-line vote. It was largely party line here today, and I think that works to the disadvantage of the American people; but, when the strategy works through—with the party-line votes in the Congress, a Presidential veto—then perhaps we can move down to negotiate, to do something about the serious economic problems facing this country. I think that the proposal advanced by Senator DOMENICI should provide the framework to accomplish that.

I thank the Chair and yield the floor.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SIGNIFICANT AND POSITIVE ACTION

Mr. MITCHELL. Mr. President, before concluding I want to say, again, that I believe the Senate took significant and positive action today to assist economic recovery and long-term growth and fairness in our tax system earlier today. The President proposed seven growth incentives but did not offer any way to pay for them. If the President's plan had been enacted, the deficit would have been increased by $24 billion according to the Congressional Budget Office.

We accepted the President's proposals with respect to growth incentives—improved and modified some of them. We then proposed the means to pay for them. That means was raising the tax rate on the wealthiest seven-tenths of 1 percent of Americans. The revenue from that increase on the wealthiest seven-tenths of 1 percent of Americans is used under the bill to pay for the growth incentives which the President proposed and which we adopted with modification and improvement and to reduce taxes for a substantial number of middle-income Americans, thereby achieving the triple objective of not increasing the deficit by $24 billion as the President had proposed, passing the growth incentives which the President had proposed, which are intended to spur job creation and economic recovery, and at the same time achieving greater fairness in the Tax Code.

Mr. President, I believe each of those to be an appropriate, valid objective which is accomplished by this legislation. The President has said he will veto this bill, and he has said he will veto it because it raises taxes. It raises taxes on seven-tenths of 1 percent of the wealthiest Americans.

So what the President is saying is that he is protecting the wealthiest 1 percent of Americans at the expense of the other 99 percent, because many of those 99 percent would receive a reduction in their taxes under this bill in an effort to restore fairness to the tax system which was largely lost in the decade of the 1980's.

I believe, Mr. President, we need fairness in our tax system, and we do not have it now. I believe it is middle-income American families, who in the past decade have seen their incomes decline and their taxes rise, who most need and will benefit from fairness in our tax system.

I hope the President will change his mind and sign this bill because this bill promotes economic growth; it creates fairness in the tax system; it does not increase the deficit; and it will do all of those things in a manner that this country badly needs.

I especially hope that the President will not veto it on the grounds that he stated, and that is protecting the wealthiest 1 percent of all Americans at the expense of the other 99 percent. That is not right. It is not fair. It is not good for our country's long-term economic interests.

So, Mr. President, I am gratified by the Senate action today. I look forward to adopting the conference report on this tax bill next week, and I hope the President signs the bill.

ORDERS FOR TUESDAY, MARCH 17, 1992

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 2 p.m. on Tuesday, March 17; that following the prayer, the Journal of proceedings be deemed approved to date, and following the time for the two leaders, there be a period for morning business with Senators permitted to speak therein, with Senator DURENBERGER recognized for up to 15 minutes, Senator HEFLIN for up to 10 minutes, Senator SIMPSON or his designee for up to 5 minutes, and Senator BYRD for up to 1 hour.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. MITCHELL. Mr. President, the Senate will not be in session on Monday. The Senate will be in session on Tuesday, but there will be no rollcall votes on Tuesday. The earliest rollcall votes next week will occur on Wednesday, March 18. Senators should be advised that the session on Tuesday will be for purposes of morning business and such discussion as Senators wish to engage in but that there will be no rollcall votes.

During next week, it is my hope the Senate will be able to return to and complete action on the legislation reauthorizing the Corporation for Public Broadcasting. We will have a cloture vote on the conference report on the omnibus crime control bill. That is the cloture vote that had previously been scheduled for today but which, under the existing order, I will now schedule for sometime during next week. And that will occur on Wednesday or Thursday.

We will also, during next week, take up the override of the President's veto on the China MFN legislation. And of course we anticipate acting on the conference report on the tax and economic growth bill just passed by the Senate.

So, while I anticipate that there will be several votes and a busy session, I believe that under the circumstances it is appropriate, the Senate having remained in session for a very long time this week, up to and including here later than 8 p.m. on Friday, that there be no session on Monday, and that while there will be a session on Tuesday, that there not be any votes on that day. So Senators may adjust their schedules accordingly.

For the Democratic Senators, the conference luncheon regularly scheduled on Tuesday will now be moved to Wednesday, so that the caucus luncheon for Democratic Senators will occur next Wednesday at 12:30 p.m. I anticipate Senator DOLE will notify Republican Senators of plans with respect to the Republican conference now scheduled for Tuesday. I am not in a position to make a statement on that. That message will come from Senator DOLE.

RECESS UNTIL 2 P.M. TUESDAY, MARCH 17, 1992

Mr. MITCHELL. Mr. President, there being no further business to come before the Senate, I now ask unanimous consent the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 8:13 p.m., recessed until Tuesday, March 17, 1992, at 2 p.m.

NOMINATIONS

Executive nominations received by the Senate March 13, 1992:

DEPARTMENT OF JUSTICE

Vicki Ann O'Meara, of Illinois, to be an Assistant Attorney General, vice Richard Burleson Stewart, resigned.

COPYRIGHT ROYALTY TRIBUNAL

Edward J. Damich, of Virginia, to be a Commissioner of the Copyright Royalty Tribunal for a term of 7 years, vice J.C. Argetsinger, term expired.

CONFIRMATIONS

Executive nominations confirmed by the Senate March 13, 1992:

THE JUDICIARY

ROBERT ECHOLS, OF TENNESSEE, TO BE U.S. DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF TENNESSEE.

JOHN R. PADOVA, OF PENNSYLVANIA, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF PENNSYLVANIA.

JIMM LARRY HENDREN, OF ARKANSAS, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF ARKANSAS.

IRA DEMENT, OF ALABAMA, TO BE U.S. DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF ALABAMA.

HOUSE OF REPRESENTATIVES—*Monday, March 16, 1992*

The House met at 12 noon and was called to order by the Speaker pro tempore [Mr. MONTGOMERY].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
March 13, 1992.

I hereby designate the Honorable G.V. (SONNY) MONTGOMERY to act as Speaker pro tempore on Monday, March 16, 1992.

THOMAS S. FOLEY,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D. offered the following prayer:

With earnestness of heart, O gracious God, and with a diligence of our will, we pray that we will see more clearly the requirements of those who have great need. May our focus be on serving those who live in poverty or distress, on those who cannot support themselves and their families, on those who are ill and need care. Encourage us, O God, to hear Your strong word to us so we will do those things that bind us together as one people and bring us into a unity of purpose and strength. Bless us this day and every day, we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The Chair will ask the gentleman from California [Mr. EDWARDS] if he would kindly come forward and lead the membership in the Pledge of Allegiance.

Mr. EDWARDS of California led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ACTION TO REFORM HOUSE PROCEDURES NEEDED IN WAKE OF THE HOUSE BANK DEBACLE

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, I had probably one of the most dismaying and depressing weekends of my life, certainly of my professional life as a Member of Congress, this past weekend when I went home and talked with my constituents about the House bank debacle.

Certainly the people have a feeling of betrayal, and they have a feeling of lack of respect for this Congress and this body.

A step forward to regaining their respect and to reviving the feeling that this service in Congress is a truly honorable pursuit in behalf of the public good is to have done what we did the other night, and that is to demand a full disclosure of all the people who have misused the bank.

Mr. Speaker, we need to go further, we need to reorganize the House, and the way it does business. We have to try to get rid of all the patronage and perks and the other things which cause people to feel we are a privileged class. We must make sure that the drug episode in the post office is fully and vigorously prosecuted by outside forces if necessary, but more than that, Mr. Speaker, you must demand that the conference begin to meet on campaign reform. Until we eliminate political action committee funds or the influence they bring to bear in the political system, until we limit the amount of spending that can be done in Federal campaigns, we will always have the politics of this Nation run by money, not by people.

We want the people back in the system, Mr. Speaker. You have the opportunity to cause it by demanding a conference on campaign reform. The sooner the better.

TRIBUTE TO SLAIN FBI AGENT

(Mr. EDWARDS of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EDWARDS of California. Mr. Speaker, I rise to pay tribute today to FBI agent Stanley Ronquest, killed last week in Kansas City in a holdup attempt.

The work of FBI agents ranges from the tedious to the dangerous. It involves many sacrifices and places hardships on agents' families. Special Agent Ronquest was away from home when he was killed. He was assigned to FBI headquarters.

The Nation depends on the men and women of the FBI, and of all law enforcement agencies. The killing of Agent Ronquest reminds us of the gratitude we owe all law enforcement officers.

Public service is a noble calling, and law enforcement is one of the noblest forms of public service.

Mr. Speaker, I am sure you and all the Members join me in sending our condolences to the family of Stanley Ronquest. He died working to make this a better, safer Nation. We can all find inspiration in his commitment.

COMPLIMENTING THE SPEAKER ON SELECTION OF ACTING SERGEANT AT ARMS

(Mr. LEACH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEACH. Mr. Speaker, as the House knows from all the discussion last week, we live in a fishbowl; but it is very important that we not act like piranhas.

In this regard, I simply rise today to compliment the Speaker of the House for the selection of Werner Brandt as our acting Sergeant at Arms.

I worked in the same office with Werner for almost 2 years in the Department of State, where we shared similar assignments as fellow Foreign Service officers.

I consider Mr. Brandt to be a man of extraordinary ability, extraordinary competence, as well as very high values. The House is and has been fortunate to be so well served.

Whether or not the minority was consulted in the choice of Mr. Brandt, I would say without equivocation that if this Member of the minority had been asked, I would have noted that a better selection by the Speaker could not have been made.

By background, Brandt was one of the State Department's leading political/military affairs specialists. He was on a star track in the Foreign Service before coming to Capitol Hill in the early 1970's as a congressional fellow.

Today, he is a true legislative professional. I am confident he will be fair to the minority, and more importantly, serve the public honorably in his new position.

The choice by the Speaker of Werner Brandt to serve as Sergeant at Arms is a good first step in establishing credibility in the administration of the House.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

HOUSE BANKING SCANDAL A BIPARTISAN MESS

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, the House banking scandal is a bipartisan mess. Yet, there are some that may be trying to make some political hay out of a tragedy for this institution.

Some very interesting things have happened in the past few days, first, an unconscionable leak to the Washington Times detailing the code numbers of 66 House Members. I do not know of any Democrat that reads the Washington Times.

Second, this weekend there was another unconscionable leak naming the worst offenders. Interestingly, only the Democrats were in that leak.

Third, and perhaps the most regrettable, was a personal attack by the minority whip on the Speaker of the House, a man whose integrity and reputation is beyond reproach.

Mr. Speaker, this is a time for us not to tear each other apart but to come together. This institution needs rebuilding, not more recriminations.

□ 1210

FUNDAMENTAL ECONOMIC CHANGE NEEDED

The SPEAKER pro tempore (Mr. SKAGGS). Under a previous order of the House, the gentleman from Wyoming [Mr. THOMAS] is recognized for 5 minutes.

Mr. THOMAS of Wyoming. Mr. Speaker, I appreciate the opportunity to take a few minutes. I have been talking in this House for some time about change. It seems to me that fundamental change is something that we need to undertake.

We cannot continue to do things as we have been doing them, do more of what we have been doing and expect things to change. There are a number of things that the President can do if he is unable to get the cooperation of Congress. We will find out on the 20th of March whether or not this Congress has responded to the President's request for seven times to increase the economic activity in this country.

The Washington Times, and some of us do read the Washington Times, had an editorial yesterday and several of the items seem to me to be important with regard to change, and I would like to talk about them for just a minute.

One has to do with regulation and regulatory burdens.

The second has to do with control on the size and growth of Government.

The third is indexing gains for inflation.

And the fourth is the line-item veto.

The President has put into place a 90-day moratorium on regulations. I have to tell you that each time I go to Wyoming, and I just returned yesterday, I met on Friday afternoon, as I do with a number of people, in this case from Rock Springs, WY. The thing that is mentioned most often is the overburden of regulation. We are concerned, and properly, about the economy. We are concerned about providing jobs. Jobs come in the private sector. Jobs are created in the private sector, and yet I think it is certain that we have overburdened the private sector with regulatory problems. Some of them are in the banking area. Some of them have caused or continue to cause a shortage of credit and the credit crunch. Others in my part of the country have to do with the oil industry. We have almost lost domestic exploration in Wyoming, mostly because of regulatory burdens and costs. We have driven major companies to go into the foreign markets.

Agriculture—I could go on and on.

It seems to me that clearly we have to have regulations, but we need a balance. We need a balance between the regulatory protection that is required and what we can do in the economic field.

I think when regulations are put into place, we have an environmental impact statement. We ought to have in this case an economic impact statement as to what will be the cause and result of the regulations that we have put on.

Second, the President has asked for a ceiling on Federal employees. I have a bill that I introduced last year that would put a ceiling on. It would allow flexibility. It would allow people to be changed from one priority to another. It would not call for any reduction in current employees. It would simply have a reduction by attrition, and it would put a limit on the growth of the size of government.

Indexing capital gains for inflation. There is very little reason why an investor, someone who puts his money into something that creates a job and at the end of the time has a profit and has to pay taxes on that portion of it that is simply inflation. Surely we ought to be able to index inflation to encourage investment. We are the only industrialized country in the world that has an ordinary capital gains tax on profits made through investment.

Finally, a line item veto. I am persuaded there is no way in the world that we will ever control spending in this Congress unless we have a line-item veto. We had it in my State when I was in the legislature. Forty-three States I believe have it.

It simply politically is not possible for a Member from a district to vote against those kinds of things that go to their districts. The President is the only person in the country who has a broad enough political base to take pork barrel stuff out of a bill. This Congress bundles together all kinds of things that you have real reluctance or it is impossible to vote against the total bill because there are good things there, things everyone wants, but tucked in it, of course, are these kinds of pork barrel items.

The only person who can do anything about it is the President with a line item veto. We cannot seem to get a constitutional line item veto, which is my preference and is what we really ought to do. There are some other ways that we can do it in terms of rescissions and bring those rescissions right up on the floor and vote on those issues. Lots of those issues that are pork barrel hidden in these bills would not stand on their own if we provided a vote for them on this floor, and I am for that.

Mr. Speaker, we need some fundamental change. We are not happy with the economy. We are often not happy with education. We are not happy with crime, and yet we continue to do more of the same thing we have been doing and expect things to change.

Mr. Speaker, it is time we made some fundamental changes in this House.

AN ENVIRONMENTAL CRISIS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. EDWARDS] is recognized for 5 minutes.

Mr. EDWARDS of California. Mr. Speaker, I am speaking to my colleagues today because we are currently in the midst of an environmental crisis.

This crisis is the result of a steady decline in the Nation's wetlands habitat that has been quietly taking place over the years.

Two hundred years ago, this Nation had 221 million acres of wetlands. Today, that figure has been cut in half. This translates into losses of nearly 300,000 acres each year, 60 acres every hour or 1 acre every minute.

For some, these losses are not fast enough. A well-organized movement has developed over the last year, consisting of oil and gas companies, mining companies, and developers, that is seeking to roll back existing protections so that wetlands can be destroyed and developed more quickly. In the past year, several pieces of legislation have been introduced which would have a devastating impact on wetlands if enacted. Proponents of these bills claim they are looking for balance in the regulatory process. However, they define balance as relaxing regulations in favor of big business to the extent that only the wettest and most widely recognized wetlands shall be allowed to remain protected.

In addition to legislation, President Bush has abandoned his "no net loss of wetlands" pledge in favor of a policy that would accelerate wetlands losses. The Bush administration proposed revisions to the Federal Wetlands Delineations Manual that would drastically change the definition of wetlands, causing many wetlands to be dropped from Federal protection. Field testing by Federal agencies are showing these revisions could cause 50 to 70 percent of highly valuable wetlands to become unprotected.

In response to this environmental crisis, I have introduced H.R. 4255, the Wetlands Reform Act of 1992. This bill will offer relief to the small private landowner by reforming the regulatory process, but not sacrifice wetlands in the process.

Why is it so important to save our wetlands? Because we have come to realize that wetlands provide many important functions. They act as excellent flood control buffers, recharge ground water supplies, provide desperately needed habitat for fish and wildlife, including one-third of the world's threatened and endangered species. In addition, wetlands boost the quality of life of a region and create a more favorable business climate.

Ironically, some of the qualities which make wetlands so attractive have also contributed to their demise. Wetlands tend to be prime real estate locations, and for developers they represent opportunities for short-term profit. Wetlands also sustain many exploitable resources, such as oil and gas reserves.

But the filling and draining of wetlands is having a devastating impact on the environment and our lives. There are too many examples around the country of residential homes suffering severe flooding as a result of nearby wetlands being filled. In my home State of California, heavy rains have caused millions of dollars in flood damage and even some deaths—all of which could have been avoided through better land use practices which utilized wetlands instead of destroying them.

Wetlands-dependent wildlife have also suffered enormously from the destruction of their habitat. Waterfowl and fish populations have plummeted, with further declines anticipated.

H.R. 4255 responds to a need for a strong wetlands protection bill.

It keeps the authority to issue permits in the Army Corps of Engineers, and except in extraordinary circumstances the decision on the permit must be rendered in 90 days.

The Environmental Protection Agency, EPA, retains its veto power.

It gives the Fish and Wildlife Service and the National Marine Fisheries Service a stronger role in the permit process.

It tightens up the entire nationwide permit process so that loopholes are eliminated.

It requires a report to Congress each 2 years by the Corps of Engineers outlining the effects on wetlands of the permit activity.

It asks for an independent study within 1 year by the National Academy of Science on the proper methodology for identifying and delineating wetlands.

For small parcels of 1 acre or less it provides a fast-track Team, whose job it is to give 60-day service.

It protects farmers by maintaining present law. We don't interfere with normal farming practices.

□ 1220

This bill has the support of all the key environmental organizations. The National Wildlife Federation, the Audubon Society, the Sierra Club, the National Resources Defence Council, Friends of the Earth, Clean Water Action, the Izaak Walton League of America, Trout Unlimited, the American Oceans Campaign and the Campaign to save California Wetlands are all committed to fully supporting this bill.

It is vitally important that Congress demonstrate its deep concern over wetlands. I urge you to cosponsor the Wetlands Reform Act and signal your commitment to insuring that future generations will be able to enjoy the benefits of wetlands we take for granted today.

THE NATIONAL COUNCIL OF NEGRO WOMEN HONORS FOUR SPECIAL WOMEN OF WESTCHESTER

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York [Mrs. LOWEY] is recognized for 5 minutes.

Mrs. LOWEY of New York. Mr. Speaker, it is an honor to join with the National Council of Negro Women in honoring four very special women of Westchester. These women exemplify the National Council of Negro Women's devotion to Mary McLeod Bethune's commitment to "leaving no one behind." The International Division is committed to enhancing women's economic and social well-being in Africa and the Caribbean and to representing major black women's organizations.

As we celebrate Women's History month, we pay tribute not only to this fine organization that has brought so many women together in pursuit of such lofty goals, but also to the outstanding women who have tirelessly served others through their work with the council.

I am pleased to honor Cleopatra Hamlin Parson of Mount Vernon, whose musical talent is well known. She moved to Mount Vernon with her family and quickly took an active role within the community. She joined the AME Zion Church and has devoted her talents to the choir, the adult Bible class, and the Sunday school. In addition, she was a charter member of the Mount Vernon chapter of the NAACP and is involved with several seniors centers. Indeed, Cleopatra Hamlin Parson is working to leave no one behind.

Robena Ambrose Cotten, also of Mount Vernon, celebrated her 110th birthday last year. She was recognized by Mount Vernon Hospital for her special contributions. Her many years of teaching and work at the hospital have certainly provided a source of comfort and inspiration to thousands who have turned to the hospital in difficult times. And, yes, Robena Ambrose Cotten has done her part to leave no one behind.

Marcia Marie Brown has always put others before herself. She has worked tirelessly on behalf of our youth. She has targeted at-risk youth through Operation Clean Sweep and the literacy program for youthful offenders. Also, Marcia's commitment has been crucial in the development of the Girl Scouts of Westchester. She was one of the founding members and served as vice president of the Girl Scouts of Westchester-Putnam. Her dedication was recognized with the Thanks Badge, their highest honor, and she continues to work with young girls as a troop leader. We are grateful to her for her consistent belief in our children and her willingness to afford these youth the opportunity to achieve. Marcia Marie Brown has committed herself to leaving no one behind.

Dr. Olivia Hooker wanted to serve her country and refused to give up when prejudice would have denied her the opportunity. She became the first African-American SPAR in the U.S. Coast Guard in World War II and in that capacity she has been an important role model for many African-American women in our community. Not only did she nobly serve her country, but she has earned many academic honors through her work as a psychologist. Again, she has served as an inspiration to others to pursue educational opportunities as a means of strengthening their ability to help others. In so doing, she has worked to ensure that our society does its best at leaving no one behind.

Mr. Speaker, I salute these women for the strength of their convictions and for their outstanding accomplishments. Thanks to them, fewer in our society are being left behind.

REGULATION OF INTERNATIONAL MONEY

Mr. GONZALEZ. Mr. Speaker, today I will continue, of course, the discussions because of the pending nature of the need of legislation to get some control, which we really never had had, none of our regulatory agencies, over this tremendous amount of international money, so-called international money that amounts to about

$800 billion, even as I speak here, floating around where just a small portion of it can be highly leverageable for such things as anything from armaments procurement indirectly through other banks and such things as drug money laundering.

It is a great necessity that we must continue. We must also report what the Committee on Banking, Finance and Urban Affairs has had to confront within the last 2 years that we have been on this subject matter. There has been an absence of great concern expressed. But nevertheless that should not deter us from the fact that this Nation does not have—and it is the only Nation defined as a modern industrialized Nation that does not have—any kind of screening board or any real regulatory control over the financial and banking activities of other countries in our own.

We did amend the 1978 international banking law somewhat, this last November in the Banking Act which we approved. But it is not enough.

It was compromised, as all these have been. My personal relationship with this is that the 1978 International Banking Act, which was the first one in the history of our Congress to direct legislation, was born out of the 1975 hearings that, after a lot of pushing and shoving, I managed to get in my home district of San Antonio. And it was as a result of the startling revelations that those hearings brought out that we ended up 3 years later with the minimal, or less than minimal, 1978 International Banking Act.

In those 1975 hearings, which incidentally I will tell my colleagues if you are interested, I believe we still have some copies of the printed hearings; we can see since 1975 what now has been the big national headache, not only the banking and other financial institutions scandals as such but the dilemmas confronting our entire industry and the serious, and critical condition in which our country's financial institutions find themselves.

The fact that the perception still is not there does not decry the fact that it is.

So, today, I will report on the secret mechanism used by the Bush White House to frustrate, evade, and stifle congressional investigations of its failed Iraq policy.

I have already brought out ad infinitum for almost 2 years the lamentable use of the guarantees backed by taxpayers, of course, that led to such a shameful and catastrophic policy, to the detriment of our national interest. The White House created this mechanism to cover up embarrassing and potentially illegal activities of persons and agencies responsible for the United States-Iraq relationship.

In April of 1991 the National Security Council's legal adviser called a high-level interagency meeting to discuss congressional investigations of Iraq policy prior to the invasion of Kuwait on August 2, 1990. The meeting was chaired by Nick Rostow, the general counsel to the National Security Council. Mr. Rostow's previous experience includes playing a key role in the White House efforts to cover up the Iran-Contra scandal, which still needs to be exposed.

Also attending was President Bush's general counsel, Boyden Gray. Other persons at the meeting included the top lawyers for the Departments of Justice, Defense, State, Treasury, Commerce, Agriculture, Energy and the CIA. Each of their agencies had received requests for information from the Congress and the lawyers who were responsible for overseeing the collection and the submission of the information to the Congress. I will refer to this high-level legal team as the "Rostow gang."

Ostensibly, the function of the group was to review documents and information applicable to congressional requests for Iraq-related information and to establish a coordinated approach for the dissemination of that information.

A memo obtained by the committee explains the overt function of the National Security Council process as follows, and I quote:

> The NSC is providing coordination for the Administration's response to congressional document requests for Iraq-related materials. The process is intended to be a cooperative one.

While on the surface it appears the Rostow gang was created to assure cooperation with congressional investigations in relation, it gave the White House a direct hand in regulating the flow of information to the Congress, thus limiting oversight of Iraq policy.

The Rostow gang established a process whereby a congressional investigation had to hurdle a series of increasingly difficult barriers in order to obtain information from an executive branch agency.

The first step required an agency's lawyers to review and inventory all congressional requests for information, in order to determine if documents could be denied on the basis of executive privilege.

The Committee on Banking was denied certain important documents on this basis, and these document requests were on the basis of over 100 subpoenas for documents that our Committee on Banking had issued and still has outstanding.

The next hurdle involved denying documents to committees and, instead, offering briefings for Members and their staffs. In that way, an agency was able to put its own spin on its actions, without congressional staff or Members being able to question the veracity of the agency's statements.

If the congressional committee that jumped the first two hurdles still insisted on receiving documents, the next hurdle was actual access to the documents.

□ 1230

Under this scheme, before an agency could provide access to its documents, it was supposed to get a clearance from the Rostow gang. The April 8 memo states, and I quote:

> When access to documents may be recommended, such recommendation should be circulated to this group for a clearance.

This delay mechanism also gave the National Security Council the power to influence an agency's decision to provide access to documents.

The next hurdle in the chain discouraged committees from obtaining physical possession of Iraq-related documents, thus making it impractical to conduct an investigation. The April memo states, and I quote again:

> A recommendation to provide access should be restricted to members only, subject to these conditions. No document may be retained. Notes may be taken, but should be marked for classification by the department or agency in question.

As this quote indicates, the NSC even wanted to make it difficult for Members of Congress to look at Iraq-related documents. Agency lawyers used this hurdle, limit access to documents, by insisting that investigators not retain documents that they were permitted to review on the agency's premises.

The remedy to the Rostow bank process is, of course, subpoena power, but even faced with subpoenas, the administration has refused to turn over documents to the Congress; that is, to the committee and, thereby, the Congress. We follow the rules, and the rules mandate that, before a committee can issue subpoenas, it has to have the vote of the majority, and we not only had the majority, we had a total consensus of the membership of the Committee on Banking and Urban Affairs in issuing those documents which I have referred to before. Committees that did not seek the authority to use subpoena power to conduct investigations that were directed were much less of a threat to the Rostow gang. Without subpoena power a congressional committee that jumped all the hurdles, elected to limit their access to documents, was often denied the documents it requested. Committees that voted to authorize the use of subpoenas found documents more readily available.

However in the case of the Committee on Banking, Finance and Urban Affairs, even though it had served a subpoena on one agency, important related materials are still being withheld; that is, related to the Iraq question. In addition, the Committee on Banking, Finance and Urban Affairs found that several agencies conveniently could not locate documents the committee had requested and had spelled out a full description in our subpoena.

The following quote from a Commerce Department letter sheds light on how the administration planned to cooperate with Congress. In February 1991, a letter to the top lawyer at the Commerce Department, the former Under Secretary for Export Administration, stated, and I quote, "In sum the printout provided Mr. BARNARD"; Mr. BARNARD happens to be chairman, the gentleman from Georgia [Mr. BARNARD], of a congressional committee of the Committee on Government Operations; "is a summary reference document. The printout is also consistent with fifth floor." Well, that is Secretary Mosbacher's officer. That is the fifth floor is the Secretary's office floor. "Guidance and requests from both State Department and the National Security Council is that no additional information be provided that does not directly address the committee's request."

Translating this memo, "the fifth floor," "the National Security Council" and "State Department guidance" referred to in the letter means that, if a committee does not know that a document exists, the agency will not reveal it. The Rostow gang was established to delay congressional investigation and to permit the White House to regulate the flow of Iraq related information to Congress. In the case of the Commerce Department, the White House went beyond regulating the flow of information to Congress. The committee has gathered evidence showing the National Security involvement in a scheme to mislead the Congress about the licensing of military useful goods destined for Iraq. That is before the war. The Commerce Department has been wrongfully subjected to severe criticism for its role in the transfer of military useful technology to Iraq. The true responsibility for the transfer of United States technology to the Iraqi war machine lies with the White House and the State Department because they set technology transfer policy. The Commerce Department's role is merely to carry out the policies established by the White House and the State Department. As with the CCC—the Commodity Credit Corporation—and the Eximbank—the Export-Import Bank—programs, the National Security Council and the State Department viewed the export licensing process as a valuable tool of diplomacy. They need U.S. high technology transfer as an inducement to gain favor with Saddam Hussein.

That explains why the NSC and members of the Rostow gang became directly involved in a scheme to mislead the Congress and the American public thereby about the military nature of United States technology transfers to Iraq.

Beginning in September 1990, the House Subcommittee on Commerce, Consumer and Monetary Affairs, chaired by my colleague, the gentleman from Georgia [Mr. BARNARD], requested Iraq relate export licensing materials from the Commerce Department. The Commerce Department eventually provided export licensing information to the subcommittee, but press reports began to surface indicating that certain export information had been deleted prior to being submitted to the Congress.

In February 1991, the Commerce Department's general counsel, who happens to be a member of the Rostow gang, asked the former undersecretary of the Bureau of Export Administration, Dennis Kloske, to investigate press allegations that export licenses were deleted from Commerce Department files. In late February Mr. Kloske reported that in fact changes had been made to the export licensing information. As a result of Mr. Kloske's finding, the general counsel wrote the Commerce Department inspector general asking him to investigate the matter further.

On June 4, 1991, the Commerce Department inspector general issued reports based on its investigations. The report concludes, and I quote, "Changes were made to selected data on 66 approved export licenses to Iraq. Bureau personnel also changed permanent records, compromising the integrity of the Iraqi license records. Neither the changes to the data provided to the chairman," that is, the gentleman from Georgia [Mr. BARNARD], "nor the changes to the system data bases were adequately supported."

May I also add that the gentleman from Georgia [Mr. BARNARD] is not only the chairman of a subcommittee of the Committee on Government Operations. He is also a very illustrious member of the Committee on Banking, Finance and Urban Affairs.

The report goes on to state that it was bureau personnel that changed the export licensing records. The Kloske and inspector general investigations of the changes to the export licensing information were both seriously flawed. Both reports are silent on the issue of who ordered the changes to the exporting licenses information that was submitted to the Congress. Both reports are silent on that critical, important issue because the Commerce Department's general counsel deliberately avoided investigating the question of who was responsible for ordering the changes to the licensing data.

□ 1240

Could the changes have been ordered by the National Security staff? Well, despite the availability of evidence pointing in that direction, neither investigation was permitted to pursue that possibility. The Banking Committee has been informed by administration officials that the NSC legal staff went beyond reviewing the Commerce Department documents that were to be forwarded to Mr. BARNARD's subcommittee, and NSC staff lawyers actually took physical possession of various Commerce Department documents. On top of that, the Commerce Department lawyers did not prepare a control list for the documents so it could keep track of which licensing records they had supplied to the NSC.

The committee has also been informed that prior to the submission of the export licensing records to the Congress, the NSC staff had numerous contacts with the General Counsel of the Commerce Department as well as the general counsel of the BXA, the export licensing bureau.

Given that the NSC was instrumental in setting the export policy toward Iraq, it had a strong political motive to mislead the Congress as to the military nature of goods sent to Iraq. It did not want the public to know that the White House had provided aid to the Iraqi war machine.

Placed in that perspective, the fact that the NSC actually took physical control of Commerce Department documents and had numerous contacts with the Commerce Department lawyers, serious questions should be raised about whether or not the NSC altered the Commerce Department records or, more likely, effectively ordered the changes to the records. After all, it is highly unlikely that numerous Commerce Department bureaucrats would risk breaking the law and losing their jobs over a policy that they were not responsible for setting.

Another important question relates to the fact that the Commerce Department lawyer that limited the scope of the investigations also is a member of the Rostow gang. It is certainly plausible to think that the NSC or others ordered him or pressured him into limiting the scope of the Commerce Department's investigations so that attention would not focus on the NSC staff.

In addition, the circumstances surrounding Mr. Kloske's departure from the Commerce Department also raises suspicions. It was reported in the press that Mr. Kloske was forced out of his post at the Commerce Department because of derogatory comments he had made about the administration's export policy toward Iraq. Could the National Security Council have ordered him or pressured him into authorizing the changes to the export licensing information? That is a good question, and it should be asked. The question and its asking should be sustained.

On July 10, 1991, Mr. BARNARD wrote to then Attorney General Thornburgh asking him to investigate the possibility of criminal culpability relating to the Commerce Department's provision of false information to the Congress. To date, the Justice Department's probe has not returned any indictments. It is interesting to note that one of the Justice Department's top lawyers is also a member of the Rostow gang.

The Rostow gang process operates as a sort of Maginot Line. If congressional investigations pass the first barrier, they soon run up against the next. Under this strategy, the process of obtaining documents to investigate United States-Iraq policy is a painstaking, tedious, drawn-out process that ensures many months will pass before a congressional committee obtains documents needed to conduct Iraq-related investigations.

The mere fact that the White House established and directs a group to regulate congressional investigations of Iraq policy raises questions about the motives of the White House.

Some important questions that need to be asked are: What do congressional investigations of the preinvasion Iraq policy have to do with designing and carrying out the President's national security strategies? With the world changing by the minute and our national security strategies becoming outdated daily, why would the NSC devote scarce staff time to regulating congressional investigations, or at least attempting to and so far succeeding?

Since when did it become the responsibility of the National Security Council staff to involve itself in congressional investigations?

Well, someone like me would want to know. We asked that question, and we know what has been happening for many years. It goes back many years, and I had knowledge of a lot of things that at the time we found hard to believe.

The only other example that comes to mind is the Iran-Contra investigation.

Are the lawyers of the various agencies so incompetent that they need guidance on answering congressional requests for information? On the contrary, executive branch agencies process hundreds of congressional requests for information each year. The lawyers at these agencies are most competent, highly motivated people who do not need, nor usually receive, guidance from the White House in complying with these requests.

Given Mr. Rostow's close proximity to the coverup of the Iran-Contra scandal and the unique functions of the Rostow gang, it is not outside the realm of possibility that the White House is hiding something about its Iraq policy.

It used to be that coverup were sort of ad hoc events, a made scramble to provide damage control for the moment. The Rostow gang advances the notice that coverup mechanisms have become an integral cog in the machinery of this administration.

Officials of this administration have publicly stated that they would not use food as a political weapon, for example, and in testimony before the Congress these same officials often stated that the United States does not single out farm exports as a tool of foreign policy. In the case of Iraq, this administration violated both of these policies, and in the process they repeatedly mislead the Congress and thereby the American people.

The U.S. Department of Agriculture [USDA] offers a variety of programs designed to assist U.S. farmers to sell their products overseas. The biggest of these programs is the Commodity Credit Corporation's Export Credit Program. This was also the main United States program utilized by Iraq.

The goal of the CCC Program is to assist U.S. farmers to sell their agricultural products abroad by granting cash-strapped nations credit to purchase U.S. agricultural products. The CCC is required by regulation to allocate its credit on the basis of a foreign country's needs, its market potential, and, above all, the likelihood that those guarantees or loans will be repaid.

In the case of Iraq, those purely commercial conditions were relegated to secondary status. Achieving foreign policy objectives became and remained the prime goal of the CCC programs for Iraq.

I have shown in previous floor statements that from the beginning of the United States-Iraq relationship in 1982 until the Iraqi invasion of Kuwait, the CCC Program was the cornerstone of United States-Iraq relations. The CCC Program financed the sale of $365 million in U.S. agricultural products in 1983. That was the year that President Reagan took Iraq off the list of terrorist nations and opened the sluice gates for all of this interchange, and so forth, and by 1988 it had reached over $1 billion annually, all guaranteed by taxpayers, and the taxpayers have been left with a bag of over $2.5 billion just on these Iraq letters of credit financed through the CCC Guarantee Program.

□ 1250

The CCC Program was by far the largest U.S. Government program became the two nations. With the advent of the BNL scandal, that is, the Italian bank, the Banca Nazionale del Lavoro, which, incidentally, all these banks are government-owned, and all of these transactions are by the central bank of Iraq, for whatever that means. Of course, our regulators, the Federal Reserve Board, which is supposed to have prime jurisdiction says, "Well, of course, our reciprocity means we can't get behind these accounts of a central bank of another country."

But what about these other banks that are also owned? They may not be the central bank, but they are owned by that government. And how can the policies of our Government not be frustrated, on one hand expressed through the State Department and what not, and, on the other hand, canceled out by the banking arrangements?

As I have said, at the bottom of everything is financing. Banking. Money. As they say in Spanish, don denaro poderoso caballero, or, Mr. Money Bags, a mighty powerful individual indeed.

The BNL investigation uncovered the fact that top Iraqi Government officials were involved in this scheme.

Well, of course. We do not understand. It is not like our setup, any more than the setup of the central bank in these other nations is like ours, or the screening and the oversight and the regulating of their banking functions, both domestic as well as foreign, are comparable to our country.

Even the Europeans, German, French, we are not talking about the same thing. That does not seem to have dawned on our leaders in our country even now.

It also brought to light the abuses of the CCC Program toward Iraq. On top of the BNL scandal, Iraq's already precarious financial position took a turn for the worse in 1989, as it began to default on its loans to other creditor nations.

As a result of these factors, the Treasury Department and the Office of Management and Budget began to have serious doubts about extending CCC credits to Iraq. Pursuing friendships with Saddam Hussein, above all else, the State Department was not daunted by Iraq's poor financial condition or the pessimistic outlook of its sister agencies.

Based on purely foreign policy grounds, the State Department pressed the USDA, the Department of Agriculture, to give Iraq $1 billion in CCC credits for fiscal year 1990.

The invasion of Kuwait happened on August 2, 1990. This was despite the USDA's contention that the CCC Program should be held under $800 million.

Now, what I am not mentioning, but I have in the past, and maybe I should not regurgitate that, but I think I ought to remind my Members that these credits through the BNL were leveraged and led to the purchase of high technology from American corporations, such as the giant gun that was in the process of being developed, whose originator was assassinated in Belgium at the height of all this. Also chemical weapons and ingredients for chemical weapons.

They were all leveraged through these licensing credits through not only BNL, but BNL acts as a bank. It also acts as a syndicator.

What do we mean by syndicator? That is a fancy word. It means they do not do it alone. They bring in other banks. And they brought a host of not only American, but foreign banks, into these transactions.

Based on purely foreign policy grounds, the State Department pressed the United States Department of Agriculture to give that credit to Iraq. Iraq was aware that a CCC Program was in jeopardy. In a meeting in October 1989 between Secretary of State Baker and Iraqi Foreign Minister Aziz, on October 6, 1989, Mr. Aziz was paraphrased as saying:

> Food was a particularly explosive area because the government must feed its people. He [Aziz] said the Iraqi delegation was very concerned that failure to agree to the full [$1 billion] program now would force Iraq to search immediately for alternative suppliers and such suppliers were not available. U.S. actions will sour relations, he concluded.

After an intense lobbying effort, in November 1989 the State Department finally won approval for a $1 billion fiscal year 1990 CCC Program for Iraq. The other agencies did prevail in getting the program split into two $500 million installments. Under that approach the second $500 million could be withheld if additional problems were uncovered that warranted suspension of the program. Additional problems did arise.

As 1990 unfolded Iraq became increasingly belligerent toward the United States. As that belligerence grew, the State Department and NSC looked for leverage that could be used to modify Iraq's actions. They decided that the leverage would be the release of the second $500 million installment of CCC credit.

The United States Ambassador to Iraq, April Glaspie counseled against using food as a device to modify the actions of Iraq. In a May 18, 1990 cable to the State Department and the NSC, Ambassador Glaspie stated:

> My own thinking is that unless Agriculture has uncovered a legal hornets nest, we will want to proceed with the second tranche of credits. It remains unclear why we would want to use food as a weapon.

Later that month the NSC called a meeting to discuss potential strategies for dealing with Iraq. In preparation for that meeting the State Department formulated a list of policy options that could potentially be used as a tool to modify Iraq's actions. Regarding the CCC Program the paper states:

> CCC Program: This is the largest program we currently have with Iraq. All the sanctions legislation on the Hill, aside from Inouye-Kasten, exempts CCC. PRO: Since Iraq's record of repayment on CCC-guaranteed loans is good and USDA's review will probably give Iraq a fairly clean bill of health, suspension of CCC at this point would be a strong political statement. CON: It would violate our policy against using food as a political weapon and hit some U.S. agricultural exporters hard. It might also lead Iraq to default on CCC-insured loans. Other countries would sell these commodities to Iraq.

Now, have we learned anything? No; not at all. Even as I am speaking now, how many of my colleagues know that the United States, this administration, has entered into a 10-year treaty with Kuwait? Ten years for defense. How many know the tremendous amount of money that the Import-Export Bank has released for Kuwait? How many Members realize that at this time our home builders, those in areas in which masonry is not the big ingredient, but lumber, are finding that the cost of lumber is going up because it is being shipped to Kuwait? But under what conditions? Export-Import Bank guarantees.

So it looks like we have learned nothing, or at least our executive branch has not, or does not want to.

At the conclusion of the meeting it was decided that a strong message would be sent to Iraq—the second $500 million installment was not released. This too little, too late effort to get tough on Saddam Hussein was a violation of the Bush administration's own policy against using food as a political weapon.

The State Department, arguing against suspension, feared that suspending the CCC Program would cause Iraq to default on all its debts to the United States. The State Department was right on that account but that issue became moot when less than 3 months after the meeting Iraq invaded Kuwait and defaulted on its $2 billion in CCC debts.

The committee has many more documents showing that the administration used the CCC Program for Iraq as a foreign policy tool in an attempt to improve relations between our two nations. What is troubling is that the Bush administration repeatedly misled the Congress and the American public about how it was using the CCC Program. It did this to circumvent prudent controls that would have limited the amount of credit that would have been made available to Iraq. That deception has left the United States taxpayer holding a much inflated tab for Iraq's default.

□ 1300

Former Under Secretary of State for Near East and South Asia [NESA], John Kelly, was one of the chief lieutenants assigned to carrying out the United States policy toward Iraq. The committee has numerous documents written by Mr. Kelly showing that the State Department knowingly used the CCC Program as a foreign policy tool in order to achieve President Bush's decree to have close and friendly relations with Iraq.

To illustrate that point, when the BNL scandal threatened to cut off the CCC Program for Iraq, Mr. Kelly wrote in a February 1990 memo:

> Saddam Hussein's recent attacks on the U.S. underline the fragility of our relationship with Iraq. CCC is a key component of the relationship and failure to approve the second ($500 million) tranche will feed Saddam's paranoia and accelerate his swing against us. We need to move quickly to repair the damage to the U.S.-Iraqi relationship by getting this critical program back on track.

Part of Mr. Kelley's responsibility was to testify before Congress. While Mr. Kelly recognized and used the CCC's agricultural export promotion program as a tool of diplomacy, on several occasions he deliberately misled the Congress and the American public about the use of the program.

During hearings on Iraq on April 26, 1990, before the House Foreign Affairs Committee and on June 15, 1990, before the Senate Foreign Relations Committee Mr. Kelly stated:

> Regarding our agricultural programs, U.S. policy in both this administration and the previous one has been not to single out farm exports as a tool of foreign policy.

Not surprisingly, Mr. Kelly's memos never mentioned protecting the integrity of the CCC Program or protecting the American taxpayer from Iraqi default. Mr. Kelly was not the only Bush administration official that misled the Congress and American public about the United States policy toward Iraq.

USDA KNEW CCC PROGRAM FOR IRAQ WAS PRIMARILY A FOREIGN POLICY TOOL

I will now show how several USDA officials, including the former Secretary, repeatedly misled the Congress and the public about the foreign policy nature of the CCC Program for Iraq. USDA repeatedly denied before Congress that the CCC Program for Iraq was subject to foreign policy pressures and it also indicated that the CCC Program for Iraq was not mainly foreign policy based. Concrete evidence gathered by the committee contradict both those assertions.

The USDA was, in fact, well aware that the CCC Program for Iraq was foreign policy based. To illustrate that point consider a comment from a 1989 Agriculture Department memo related to the proposed $1 billion fiscal year 1990 CCC Program for Iraq. The memo states:

> * * * This program cannot be seen by the Iraqi side outside the context of the overall U.S.-Iraqi political relationship. The U.S. relationship with the most powerful of Arab states, both militarily and in terms of its oil reserves, has been carefully nurtured during the years of the Iran-Iraq war and more particularly, during the 10 months since the cease-fire. The CCC program, as the Ambassador's personal cables have emphasized, played a key role in this approach. The Ambassador's cables have stressed the threats to the overall political relationship that a cutoff in the (CCC) program would pose. More widely, the cutoff runs the risk of interpretation by the Arab countries collectively as a further signal of their second class treatment in U.S. foreign policy.

Does that sound like a statement from an agency that does not understand the foreign policy nature of the CCC Program for Iraq?

Despite knowing that the CCC Program for Iraq was being inflated to achieve foreign policy objectives, in testimony before the House Banking Committee in October 1990, the CCC's Paul Dickerson stated:

> It (the CCC program for Iraq) was a market driven agriculture-related program without reference to other issues.

The USDA attempted more than once to keep the true nature of the CCC Program from public scrutiny. In an April 26, 1990, Treasury Department memo describing a meeting between USDA, State, and Treasury, the USDA is paraphrased as stating:

> The USDA official said USDA is concerned that foreign policy considerations may cause curtailment of the (CCC) program, and is uncomfortable emphasizing foreign policy as the public rationale for making available the first tranche of the fiscal year 1990 Iraq CCC guarantees.

The USDA was fully aware of the commercial rationale for the CCC Program for Iraq and the conflicting reality caused quite a bit of worry among the program's managers. In preparation for the May 1990 NSC meeting that I mentioned earlier, the USDA sent a wishful background memo to Mr. Brent Scowcroft which stated:

> * * * It cannot be overemphasized that any constraint on CCC credit guarantees must not be based on a foreign policy rationale.

As we know, in order to send a strong political signal to Saddam Hussein, the program was suspended at that meeting.

USDA DENIES INTENSE PRESSURE

In my floor statement of March 2, I showed that the pressure on the USDA to approve the CCC Program for Iraq was intense. It was so intense that in late 1989, both Secretary of State James Baker and Deputy Secretary of State, Lawrence Eagleburger put the full weight of their offices behind winning approval for the CCC Program for Iraq. They lobbied the USDA and other agencies and neither minced words—they wanted the CCC Program for Iraq approved for foreign policy purposes.

During the period surrounding the 1989 debate on whether or not the CCC Program for Iraq should be approved, the USDA still strongly supported the program—albeit at a lower level than the State Department. Since Iraq had become a large market for United States agricultural products, the USDA feared that a sudden termination of the program would place too much of a burden on United States farmers.

As 1990 unfolded the USDA began to seriously doubt the wisdom of releasing the second $500 million installment of CCC credits to Iraq. The State Department detected the USDA's growing apprehension and it exerted considerable pressure on the USDA to win approval for the release of the second $500 million installment for Iraq.

The State Department's position is illustrated in a January 4, 1990, informational memo which states:

> * * * USDA may still be reluctant to proceed with the second tranche. CCC has been criticized heavily for mismanagement in recent months and may not want to risk pushing the second tranche at this time. We want to move ahead with the second tranche this month, as the Iraqis have requested. If it appears USDA is holding back, we may want to force the issue by bringing it before the NAC Deputies (Committee).

The State Department's position is further illustrated in a February 1990 memo to the Treasury Department calling for a NAC meeting to discuss the release of the second tranche. In the memo Mr. Kelly writes:

> USDA's present delay in releasing the second tranche damages the interests of U.S. producers that sell to Iraq as well as our political relationship with an important country (Iraq). I therefore request that you (Treasury Department) convene a meeting of the NAC deputies as soon as possible so that I can make State's case for immediate action.

A third example showing that the USDA was under intense pressure to approve the CCC Program is contained in a May 25, 1990, Treasury Department memo summarizing a meeting held between the USDA, Treasury, and State Department. The memo states:

> (The) meeting has been initiated by the NSC staff because they want to prevent the CCC program from being canceled as is would exacerbate the already strained foreign policy relations with Iraq. Agriculture had planned to put out a press release on May 21, 1990 that said the program was being suspended until the investigation into improprieties in the program were completed. The NSC prevailed on Agriculture to say only that their investigation showed the improprieties may have occurred and remained silent on the suspension. In fact there is a suspension in effect. * * *

□ 1310

Even though the USDA was under intense pressure from the State Department, on several occasions USDA officials deliberately misled Senator PATRICK LEAHY, the chairman of the Senate Agriculture Committee about those pressures.

In February 1990 Senator LEAHY took opportunity of hearings on the 1990 farm bill to question the USDA's Richard Crowder about allegations that the USDA was being pressured to approve the CCC Program based on foreign policy grounds. During the hearing Senator LEAHY stated:

> I assume you are getting some pressure, either from the State Department or elsewhere, within the administration to loan money to Iraq. Or is it just an internal decision made simply by the Department of Agriculture?

Mr. Crowder responded:

> We (USDA) are not getting undue pressure from anyone on either side, either for Iraq or anyone else at this time. If we did not agree with it we would not recommend it. If we thought it was appropriate, we would recommend it.

The Secretary of Agriculture even got into the act. On February 12, 1990, Senator LEAHY wrote to then Secretary of Agriculture, Clayton Yeutter, asking about the BNL scandal and the fiscal year 1990 $1 billion CCC Program for Iraq. In the letter, Senator LEAHY wrote:

> I am also disturbed by rumors that foreign policy pressures have encouraged the Department to give Iraq special treatment in this case."

On February 20, 1990, Secretary Yeutter answered Senator LEAHY and in letter he states:

> You mentioned that there were "rumors" that foreign policy pressures have encouraged the Department to give Iraq special treatment in this case. To the contrary, the extension of CCC guarantees in connection with sales to Iraq have recently been subject to special scrutiny because of the BNL investigation.

It is interesting to note that an earlier draft of Secretary Yeutter's reply was much more specific and misleading. The draft letter contained a flat denial, as opposed to the descriptive version that was actually sent. The draft letter states:

> You mentioned that there were "rumors" that foreign policy pressures have encouraged the Department to give Iraq special treatment in this case. I can assure you that there is no basis to this rumor.

The State Department directly intervened at least twice in USDA's operation of the CCC Program. First it raised the amount of the fiscal year 1990 CCC Program for Iraq from the USDA recommended amount of $800 million to $1 billion. Second, the State Department would not permit the USDA to suspend the CCC Program for Iraq in April 1990. The State Department sought to turn the program on and off for policy reasons, and nothing else.

Despite these and other pressures the USDA continued to mislead the Congress and the American public by insisting that the State Department was not applying undue pressure on the USDA. Given that high-level officials of the USDA were willing to mislead the Congress and public about the use of the CCC Program, one must be concerned about the integrity of the entire CCC Program.

How much of it is involved now in our lumber producers, lumber going to Kuwait, making our potential home buyers, who can afford one, pay a much higher price even now with so-called deflation?

One must be concerned. The CCC Program for Iraq is a prime example of how the State Department and the NSC use United States credit programs as a back-door means of financing your foreign policy objectives, often at the expense of the United States taxpayer, if not almost 100 percent. Because the administration strongly denies that these programs are used in this manner there is a decided lack of accountability over such use of the programs.

In 1989 and 1990 the State Department used the CCC Program for Iraq as a political weapon in a failed attempt to modify the actions of Saddam Hussein. That dubious effort cost the U.S. taxpayer, in one instance, as I said before, not necessarily CCC, $500 million, $500 million. With less than that amount we could target the needed improvements we have in the sorely reduced housing stock for the very poor, known as public housing.

The State Department clearly does not hesitate to misuse commercial export programs nor to lie about its actions.

Mr. Speaker, I include here the document and the records on the basis of which I have issued this report to my colleagues.

NATIONAL SECURITY COUNCIL,
Washington, DC, April 8, 1991.

Memorandum for: Jeanne S. Archibald, Treasury; C. Boyden Gray, White House; Fred Green; Michael Luttig, Justice; Terrence O'Donnell, DOD; Alan Raul, USDA; Elizabeth Rindskopf; Edwin Williamson, State; Wendell Willkie, Commerce.

Subject: Meeting on Congressional Requests for Information and Documents.

First of all, I apologize to Treasury and Agriculture for not inviting them to the meeting today on responding to congressional requests for information and documents pertaining to U.S.-Iraq policy prior to August 2, 1990. At the meeting, it became apparent that these departments should have been present. I shall schedule a meeting for tomorrow on requests pertaining to the BNL/CCC matters to which Agriculture and Treasury will be invited.

After reviewing the requests thus far received for information, today's meeting concluded that:

Department General Counsels should review and inventory all requests to determine which, if any, raise issues of executive privilege (deliberative process, foreign relations, national security, etc.);

Alternatives to providing documents should be explored (e.g., briefings);

When access to documents may be recommended, such recommendation should be circulated to this group for clearance;

A recommendation to provide access should be restricted to members only subject to these conditions: no document may be retained; notes may be taken but should be marked for classification by the department or agency in question. (FYI: our legislative affairs office recommends against insisting that members come to departments to read documents.); and

In any event, departments and agencies should seek guidance from this group in cases of doubt.

I hope you agree that this summary fairly represents where we came out.

NICHOLAS ROSTOW,
Special Assistant to the
President and Legal Adviser.

U.S. DEPARTMENT OF AGRICULTURE,
OFFICE OF THE GENERAL COUNSEL,
Washington, DC, April 17, 1991.

MEMORANDUM FOR THE SECRETARY

From: Alan Charles Raul, General Counsel.

Subject: Iraq-Related Document Requests; Response to Congressman Rose.

ISSUE

On April 15, Gene Bailey and I attended a meeting called by the NSC to discuss the Administration's response to Congressional requests for Iraq-related documents. USDA has received document requests from Congressman Gonzalez, Chairman of the House Banking Committee, and from Congressman Rose of the House Agriculture Committee.

Congressman Rose wrote to you on April 12, 1991 (copy attached), expressing his request for documents in rather forceful terms. A proposed reply for your signature is attached.

DISCUSSION

1. Background. The NSC's legal adviser and director of legislative affairs called an interagency meeting to discuss the Administration's response to numerous requests for Iraq-related documents. Boyden Gray attended the meeting, as did the Assistant Attorney General for the Office of Legal Counsel and the legal and congressional officers for State, Treasury, Commerce, and Energy Departments as well as the CIA, NSA and Joint Chiefs of Staff. Each agency reported on document requests it had received. The House Banking Committee, House Agriculture Committee, House Ways and Means Committee, General Accounting Office, perhaps the Foreign Relations Committees, as well as other committees, are requesting Iraq-related materials.

The Treasury Department reported that it had permitted Hill staff to review the National Advisory Council minutes regarding inter-agency consideration of the Iraq GSM request. The NAC minutes were reviewed in the offices of the Treasury Department; the Committee staff was not provided with any copies of the NAC minutes. Congressional staff members were not even permitted to take notes on any classified minutes.

2. Deliberative Materials. The Justice Department emphasized the need to determine which documents contained information that could be central to the Presidency, such as national security, diplomatic and other deliberative matters. The Assistant Attorney General also suggested that minority as well as majority staff members be included in whatever document review is allowed. He further suggested that, if appropriate, agencies should consider entering into confidentiality agreements with the Congressional committees or editing out the deliberate or advisory portions of potentially privileged documents.

3. Coordination and Review. The meeting concluded with NSC suggesting that the coordinating process would continue to be available so that agencies do not pursue inconsistent approaches. It was also noted that the objective is to cooperate with Congress while also ensuring that appropriate protections are accorded to deliberative materials. Also, the inter-agency nature of the subject should be recognized—therefore, agencies should not act unilaterally. In particular, an agency should not disclose documents in its files that were originated by another agency without advance consultation.

Finally, it was agreed that materials should be reviewed before being provided to the Congressional committees and that each agency should maintain a list or copies of the documents provided.

4. Suggested Guidelines. I proposed the following procedures and guidelines in response to these document requests within USDA:

1. Requests should be received in writing.

2. Party receiving request should forward copies to: a. Blumenthal/O'connor (Cage); b. Raul/Brosch (OGC); c. Crowder/Acker/Hovemale (LACP/FAS); D. Bailey (OCR); e. Snead (OIG).

3. OGC will review each request and provide advice.

4. Potentially responsive files and/or documents will be reviewed or evaluated by OGC.

5. To the extent requested and appropriate (within OGC advice), access to files may be provided.

6. Relevant agency will make copies of potentially responsive materials and provide to OGC.

7. Agency or OGC (to be decided after consultation) will provide copies to Committee with appropriate cover letter drafted by OGC.

SUMMARY

The NSC is providing coordination for the Administration's response to Congressional document requests for Iraq-related materials. The process is intended to be a cooperative one; it also recognizes the Executive Branch's appropriate confidentiality interests. Many Congressional committees are investigating the subject, including the House Banking Committee and House Agriculture Committee. These two committees have submitted document requests to USDA.

In connection with the request from the House Agriculture Committee, a proposed response to Congressman Rose's April 12 letter to you is attached.

DEPARTMENT OF COMMERCE, THE
UNDER SECRETARY FOR EXPORT
ADMINISTRATION,
Washington, DC, February 26, 1991.

Memorandum for: Wendell Willkie, General Counsel.

From: Dennis Kloske.

Subject: Iraq Printout.

At your request, I have asked the Office of Export Licensing staff to prepare a report on the preparation of the printout for Chairman Barnard. A copy of this report titled "Iraq Data Base Assessment" is attached, along with Qs & As and a case-by-case summary of any corrections made to the printout. I believe this fully responds to your memorandum to me of February 8. The first printout provided to the Committee is a summary reference document which is responsive to the Chairman's request concerning the history of exports to Iraq. The document also reflects Fifth Floor and White House guidance not to provide information that was not directly responsive to the Chairman's request. Please note that to date, four printouts have been provided to the Committee—the first two by ECCNs, and the other two by end-users.

I have also been informed that the list of four suspended cases to Iraq was not supplied to the Committee, although Mr. Jacobs, Barnard's Chief of Staff, was told about it during one of the briefing sessions. I have given instructions that the list be given to the Committee.

I would be happy to brief you on the report in greater detail.

IRAQ DATA BASE ASSESSMENT

Information on export license applications to Iraq is contained in the Export Control Automated Support System (ECASS) data base. That data base contains more than 1.5 million records dating back to 1980. There are more than 400 different computer programs that can be used to access the data base to obtain different information.

Records dating back to 1980 are very sketchy and cover little more than the date of receipt and final action. In the mid-1980s, the data base improved greatly but still contained many inaccuracies as data was imputed by key punch operators. In 1988, the data base accuracy increased once again as application information was entered either electronically from the exporter or by scanning applications with Optical Character Readers.

The actual data base can only be modified by the Director of the Office of Information Resources Management (OIRM) or by his

Deputy. No one in the licensing office nor any senior management official has the capability to access the computer and modify any existing data.

Congressman Barnard requested on September 28, 1990, a list of all export licenses to Iraq from 1985 to August 2, 1990. He asked for:

Disposition of each license application,
Requester of each license application,
Product to be exported,
Approximate value of sale,
End-Use,
End-User, and
Export Commodity Control Number (ECCN).

The Congressman stated in his request that he understood that "the requested information is on a computer data base and is readily accessible."

Accordingly, we decided to respond to the Congressman's request by preparing a printout generated by the ECASS data base. For the disposition of the export license application, we asked the computer to list whether the case was approved, rejected, returned without action, or embargoed. For the requester, we provided the name of the applicant—the exporter.

For the product to be exported, we used the description associated with the Export Control Commodity Number (ECCN) contained in the data base. We thought this would be more helpful to the Congressman rather than printing out the lengthy listing of technical specification and model numbers. Thus, for example, a product description read, "Electronic Computer and Equipment" rather than the specific model and technical details of the computer in the application.

For the value, we used the value submitted with the application. For the end-user, we asked for the ultimate consignee. For the end-use, we asked the computer to printout the end-use as listed in the data base. For the ECCN, we provided the ECCN.

In reviewing the printouts before their submission to the Congressman, we compared each entry for accuracy with information that was available on microfiche records. In 65 instances out of the 1,126 licenses processed for Iraq during this period, we found that the data base did not correctly reflect the disposition of the application. Not surprisingly, most of these instances were for applications before 1988. Based on concrete and specific documentation available on microfiche, we corrected the data base by including the additional information. These corrections are detailed case-by-case on the attachment. Generally, they included:

Additional information not reflected in the data base,

Updating other agency recommendations or adding positions where the most recent recommendations had not been entered into the data base, and

More detailed commodity or end-use descriptions where the information in the data base was insufficient or misleading.

All of the recommended corrections were forwarded to OIRM for entry into the data base. Again, no corrections were made by any licensing personnel or by any senior managers in the organization.

With respect to the data provided to the Congressman and the position of the other agencies, these reports were cleared with those agencies. All advisory agencies—Defense, State, Energy and the Subgroup on Nuclear Export Controls (SNEC)—have reviewed these reports and concur in the accuracy of Commerce's information and, with one exception noted below, in the manner which it appeared in the data base.

The one exception concerned the State Department, which requested a modification to the data presented to the Congressman. While Commerce's data base showed that several of the applications which had been referred to State had received a recommendation of approval, the State Department wished in those few cases to have the recommendation changed to one reflecting that State had raised no foreign policy objections. State contended that in these few cases there was not formal requirement to refer the application to State, and, thus, no formal opinion of approval from State was required. Commerce refused to alter the data base but did agree to footnote those few instances with State's preferred description of its position.

With the exception of the corrections noted above and in the attached case-by-case description, no changes were made to the data base. The printouts provided to the Congressman factually represent what is in the ECASS data base and what has always been in the ECASS data base. The ECASS system is one of exceptional security and was designed with internal safeguards and audit trails to preclude alteration.

In sum, the printout provided to Mr. Barnard is a summary reference document that is responsive to his September 28, 1990, request. The printout is also consistent with Fifth Floor guidance and requests from both State and the NSC that no additional information be provided that does not directly address the Committee's request.

DEPARTMENT OF COMMERCE,
THE INSPECTOR GENERAL,
Washington, DC, June 4, 1991.

Memorandum for: Robert A. Mosbacher, Secretary.
From: Frank DeGeorge, Inspector General.
Subject: Report on Iraqi Export License Information, Bureau of Export Administration.

At the request of the Department's General Counsel, we reviewed the releases of Iraqi export license information to the Chairman of the Subcommittee on Commerce, Consumer, and Monetary Affairs, House Committee on Government Operations. Our review disclosed no evidence that Bureau of Export Administration personnel deleted entire export license records before they submitted the information requested by the Chairman. However, we did confirm an initial report by the former Under Secretary for Export Administration that a small percentage of certain data of the Iraqi export licenses processed were changed in submissions to the Hill.

Bureau personnel, including the former Under Secretary, stated that while preparing printouts for submission to the Chairman, changes were made to selected data on 66 approved export licenses for sales to Iraq. Our review disclosed changes to data on two additional licenses concerning trucks. Bureau personnel also changed permanent records on the Export Control Automated Support System database, compromising the integrity of the Iraqi license records. Neither the changes to the data provided to the Chairman nor the changes to the system database were adequately supported. Our review disclosed that the former Under Secretary concurred with all changes to the data sent to the Chairman, but was unaware of any system database changes. With the exception of changes to five truck licenses to remove a reference to their potential military use, the changes were inconsequential and eliminated apparent inconsistencies in the license information.

This report contains recommendations to ensure the integrity of the export licensing data and any such data submitted to the Congress in the future. These recommendations have been discussed and agreed to by Bureau officials; we are therefore issuing this report in final form. Department Administrative Order 213-5 requires operating units to submit an audit report action plan, including a timetable for implementation of the recommendations, within 90 days of the date of the audit report. Accordingly, we request that the acting Under Secretary of the Bureau of Export Administration be directed to submit such a plan. We are providing a copy of this report to the acting Under Secretary and to the General Counsel.

INTRODUCTION

Beginning in September 1990, Congressman Doug Barnard, Jr., Chairman of the Subcommittee on Commerce, Consumer, and Monetary Affairs, House Committee on Government Operations, sent several requests to the former Under Secretary for the Bureau of Export Administration for lists of export license information on Iraq from 1985 through 1990. The former Under Secretary responded with computer printouts on October 10, October 24, and December 12, 1990.

The October 10 printouts did not show whether the licenses were referred to other departments under applicable licensing regulations. The regulations require BXA officials to submit certain license applications to the Departments of State, Energy, and Defense. The October 24 printout showed information on the referral to other agencies, but it did not show the other departments' responses or recommendations. The December 12 printouts showed all referral information, including the other department's recommendations.

On February 8, 1991, the Department's General Counsel asked the former Under Secretary to provide a report addressing whether (1) the printouts were misleading, (2) certain end users of the licensed commodities were deleted or changed, and (3) the characterizations of the licensing information had been materially changed from those originally in the system database. This information was requested because of media-reported allegations that export license information and records were deleted from the Bureau's files. The former Under Secretary provided the report on February 26, 1991, acknowledging that changes were made to the information given to the Chairman.

On March 11, following continued media reports that Iraqi export license information was deleted from the Bureau's files, the General Counsel asked the Office of Inspector General to review this matter.

PURPOSE AND SCOPE OF REVIEW

The purpose of our review was to determine (1) if any changes were made to the information prior to submission to the Chairman, (2) if any changes were made to the export control automated system database records, and (3) the accuracy and completeness of notations indicating the positions of other departments involved in reviewing licenses for exports to Iraq.

We interviewed Commerce officials involved in preparing the responses to the Chairman, including the former Under Secretary, and officials from the Defense, State, and Energy Departments. We reviewed the Bureau's support for the acknowledged changes to the printouts furnished the Chairman, and determined whether Bureau personnel had also changed other license information in the export license system database. Bureau officials did not maintain any copies of the printouts provided to the Chairman, so we obtained Iraqi license information stored on magnetic tape as of May 22, 1990, and provided last August by the Bureau to another government agency. The tape did not include archived export license data for fiscal years 1985 and 1986. We also obtained a copy of the printouts from the congressional committee that received the information. We compared the copies of the printouts submitted to the Chairman with the information provided on the May 22, 1990, computer tape. We also compared the data shown on the December 12 printout with the data from the May 22 magnetic tape to determine the reliability of the Iraqi information in the database—that is, whether export license records were deleted from the database.

We did not examine the internal controls over the input and maintenance of data in the export licensing system. Instead, we have initiated a separate review over these controls and will provided you with a copy of that report when that review is completed.

This review was performed at Bureau headquarters and at the Departments of Defense, State, and Energy in Washington, D.C. Except as noted above, the review was conducted in accordance with generally accepted government auditing standards and was performed under the authority of the Inspector General Act of 1978, as amended, and Department Organization Order 10-13, dated May 22, 1980, as amended.

BUREAU PERSONNEL CHANGED INFORMATION ON 68 LICENSES

In his report to the General Counsel, the former Under Secretary stated that Bureau personnel changed licensing data on 65 of the 1,126 licenses (later amended to 1,130) processed for Iraq from 1985 through August 2, 1990. Bureau personnel acknowledged one additional license data change as we began the audit. During our review, we identified two additional license data changes that were not previously acknowledged, bringing the total to 68.

The license data changes were as follows:

(1) Descriptions of trucks were changed on five license records to eliminate a reference to a design for military use.

(2) Notations were removed on 19 license records that had indicated referrals of licenses to another agency.

(3) Stated positions of other agencies that review or approve licenses were changed on 39 license records.

(4) End use statements were changed on five licenses. On four licenses for equipment used in a "magnetic media factory," the descriptions of end uses were expanded. The expansion added the phrase "to [manufacture] video tapes for consumer electronics." On one license, the exporter had inserted a comment that, "According to our information the end user is involved in military matters" in the end use field. Bureau personnel deleted the comment.

Changes to "Military Truck" Licenses Unjustified

The export regulations provide an export control commodity number and general description for each commodity to be exported. Bureau personnel changed the commodity description for trucks from "vehicles designed for military use" to "commercial utility cargo trucks" or "vehicles." The former term is consistent with the terms used in the export administration regulations as the general description of the trucks. We found no changes to general descriptions of other licensed commodities that made them inconsistent with the regulations.

A Bureau official told us the commodity descriptions were changed to clarify that the Bureau does not license the sale of military trucks. The official also said that the description changes were justified by a State Department letter to an exporter in 1983. The letter indicated that the exporter's trucks, which were intended for sale to Iraq, were classified as "commercial utility cargo truck(s)."

We disagree with both reasons for changing the commodity descriptions. The export administration regulations allow the Bureau to improve licenses for the sale of military trucks that are not on the U.S. Munitions List. Such vehicles are primarily transport vehicles designed for noncombat military purposes. Additionally, when we discussed the contents of the 1984 letter with Department officials, they informed us that the letter provides no justification for the description changes. It merely informed the exporter that the trucks are not on the munitions list and can be licensed by the Bureau. We conclude that the changes were unjustified and misleading.

Bureau personnel changed five licenses for trucks, including the two that we found. The total value of the licensed trucks were over $1 billion, or approximately ⅔ of the total value of the approved export licenses for Iraq during the period under review. In fact, more than 97 percent of the total value of the changed licenses is accounted for by changes to the truck licenses. Although the licenses were approved, Bureau personnel informed us that no licensed trucks have been shipped.

Justification for Deleting Computer Parts and Components Referrals Not Clear

Bureau personnel deleted 19 referral notations to other agencies; however, those actions were not clearly justified. Nine referrals to the Defense Department for computer parts and components were deleted, and ten other referrals for various other commodities were also deleted. Bureau personnel told us they deleted the notations related to the computer parts and components because the Licensing Officers' Operating Manual stipulates that parts and components licenses should not be referred to the Defense Department.

We reviewed the operating manual and found that it contained conflicting procedures as to whether licenses for computer parts and components should be referred to another agency. A dated procedure could be used to justify the referral notation deletions, but a more recent procedure required that the licenses be referred to the Defense Department for approval. Notwithstanding the position of Bureau personnel that computer parts and components need not be referred to the Defense Department, they were referred and licensing issues were settled among the appropriate agencies. Under the circumstances it would have been more appropriate to have included the referrals in the printouts and explain the resultant positions where necessary.

We did not review the entire manual to see if it contained other conflicting or confusing procedures. However, Bureau officials should perform such a review to ensure that licensing personnel have clear, unambiguous procedures to apply to each license application.

Adequate Documentation for Many Changes Not Provided by Bureau Personnel

We reviewed the 39 changes made to other agency positions to determine whether the changes were well documented and supported. Bureau personnel told us that the changes to other agency positions were "corrections" supported by export licensing regulations and files of original documents.

Our review of the documentation used to support the changes showed that 13 of the changes were based only upon the Bureau licensing officer's written notation that an agency position had changed. We also found that 31 of the 39 changes were not supported by reliable independent documentation. The licensing officers often did not base the changes on independent supporting documentation such as memoranda prepared by officials of other agencies.

Bureau personnel also did not provide adequate support for changes that removed notations indicating referral to other agencies. Additionally, each license application must include a statement on the end use of the commodity being exported. Bureau personnel did not provide adequate documentation to support the changes in the end use statements.

Bureau personnel stated that they had discussed all changes with officials of other agencies to confirm that the changes accurately reflected their positions. Bureau personnel further stated that these officials concurred with the changes.

We asked officials at the Energy, State, and Defense Departments to verify statements by Bureau personnel. The Energy Department official disagreed with three of 10 position changes. However, he did not indicate that additional action to correct the record was needed. A Defense Department official stated that approximately 30 percent of the licenses were approved "with conditions," while the Bureau's records indicated that the licenses were simply approved. Another Defense Department official stated that he told the committee staff that he was satisfied with the presentation of the Defense Department's positions on the printout. The State Department did not disagree with the stated positions. As a result of the other agency officials' comments, we consider the changes to the positions and the deletions of the referrals to have had little effect on the Iraqi license information given to the Chairman.

We found that the other agencies did not maintain complete records of the license applications submitted for their review. Defense Department officials told us they depended upon the Bureau's files to support the changes in their positions.

PERMANENT CHANGES TO THE EXPORT CONTROL AUTOMATED SUPPORT SYSTEM WERE MADE WITHOUT ADEQUATE SUPPORT

The Bureau maintains the Export Control Automated Support System, which provides license processing and historical information on export licensing activities. It also provides the data needed to support enforcement actions for export license violations. The system contains the official license application, the application tracking information, the license, and the follow-up actions.

The system allows changes to applications before they are approved; however, once a license is issued it becomes an historical record and no changes by licensing officers are permitted. The date of final action is entered automatically by the system and cannot be changed. Changes to the database can be made only by computer personnel within the Operations Division with the specific authorization of the Director, Office of Information Resources Management.

We found that Bureau personnel forwarded a list of the previously stated changes to BXA's Office of Information Resources Management, with a request to change the permanent licensing database. OIRM officials acknowledged that they changed the license records solely on the basis of the highlighted list and oral assurances by licensing officials that the changes were justified. They neither reviewed the documentation used to support the changes nor requested copies to maintain in case questions arose in the future.

OIRM officials should have required authorization and sufficient supporting documentation before changing permanent records in the system. Changing system data without support compromises the system's integrity and confidentiality.

RECOMMENDATIONS

We recommend that the acting Under Secretary for Export Administration take the following actions:

1. Ensure that any future changes to export license information submitted to Congress and to the Export Control Automated Support System are authorized and adequately supported with appropriate documentation.
2. Retain complete documentation of the positions of all agencies involved in processing export licenses.
3. Ensure that the system database accurately reflects all agency positions.
4. Clarify the procedures in the Licensing Officers' Operating Manual for the referral to the Defense Department of license applications for computer parts and components intended for shipment to specific countries.
5. Ensure that the Licensing Officers' Operating Manual is reviewed to eliminate other conflicting or confusing licensing procedures.

CONFERENCE REPORT ON H.R. 3337, WHITE HOUSE COMMEMORATIVE COINS

Mr. HUBBARD submitted the following conference report and statement on the bill (H.R. 3337) to require the Secretary of the Treasury to mint coins in commemoration of the 200th anniversary of the White House, and for other purposes:

CONFERENCE REPORT (H. REPT. 102–454)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3337), to require the Secretary of the Treasury to mint coins in commemoration of the 200th anniversary of the White House, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with amendments as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

TITLE V—COINS

SEC. 501. DESIGN CHANGES REQUIRED FOR CERTAIN COINS.

(a) IN GENERAL.—Section 5112(d) of title 31, United States Code, is amended by adding at the end the following new paragraph:

"(3) The design on the reverse side of the half-dollar and the quarter-dollar shall be selected for redesign. The 1-cent, 5-cent and dime coins shall be considered for redesign. The first redesigned coin shall have a design commemorating the two hundredth anniversary of the ratification of the Bill of Rights to the United States Constitution for a period of 2 years after issuance. After the 2-year period, the bicentennial coin shall have its design changed in accordance with the provisions of this subsection. All such redesigned coins shall conform with the inscription requirements set forth in paragraph (1) of this subsection.".

(b) Minting and Issuance.—The minting of the first coin selected for redesign under section 5112(d)(3) of title 31, United Stated Code, shall begin not later than one year after the date of enactment of this Act, and the issuance shall begin as soon as practical thereafter.

SEC. 502. SELECTION OF DESIGNS.

The design changes required by the amendments made by section 501 shall take place at the discretion of the Secretary of the Treasury and shall be phased in over 3 years after the date of enactment of this Act. After the expiration of one year after the second redesigned coin is put into circulation, the Congress may, at its discretion, direct the Secretary to reconsider the design of any redesigned coin. In selecting new designs, the Secretary shall consider, among other factors, thematic representations of the following concepts from the Bill of Rights: freedom of speech and assembly; freedom of the press; the right to due process of law; and other appropriate themes. The designs shall be selected by the Secretary upon consultation with the Commission of Fine Arts. All coins minted under section 501 shall bear the inscription "IN GOD WE TRUST" and such other inscriptions as are required by law.

SEC. 503. REDUCTION OF THE NATION'S DEBT.

Section 5132(a)(1) of title 31, United States Code, is amended by inserting after the 3rd sentence the following: "Any profits received from the sale of uncirculated and proof sets of such coins shall be deposited by the Secretary in the general fund of the Treasury and shall be used for the sole purpose of reducing the national debt.".

SEC. 504 NO NET COST TO THE GOVERNMENT.

The Secretary of the Treasury shall take such actions as may be necessary to ensure that the minting and issuance of the coins referred to in section 501 do not result in any net cost to the Government.

SEC. 505. DENOMINATIONS, SPECIFICATIONS, AND DESIGN OF COINS.

(a) IN GENERAL.—The fourth sentence of section 5112(d)(1) of title 31, United States Code, is amended by striking ", half dollar, and quarter dollar".

(b) TECHNICAL AMENDMENTS RELATING TO INSCRIPTION REQUIREMENTS.—Section 5112(d)(1) of title 31, United States Code, is amended—

(1) in the 1st sentence, by inserting "shall" before "have"; and

(2) in the 2nd and 3rd sentences, by striking "has" and inserting "shall have".

TITLE VI—JAMES MADISON COINS

SEC. 601. SHORT TITLE.

This title may be cited as the "James Madison—Bill of Rights Commemorative Coin Act".

SEC. 602. COIN SPECIFICATIONS.

(a) FIVE DOLLAR GOLD COINS.—

(1) ISSUANCE.—The Secretary of the Treasury (hereafter in this Act referred to as the "Secretary") shall mint and issue not more than 300,000 five dollar coins each of which shall—

(A) weigh 8.359 grams;

(B) have a diameter of .850 inches; and

(C) be composed of 90 percent gold and 10 percent alloy.

(2) DESIGN.—The design of the five dollar coins shall be emblematic of the first ten Amendments of the Constitution of the United States, known as the Bill of Rights. The Director of the United States Mint shall sponsor a nationwide open competition for the design of the five dollar coin beginning not later than 3 months after the date of the enactment of this Act. This Director of the United States Mint shall convene the Design Panel established under subsection (e) which shall select 10 designs to be submitted to the Secretary who shall select the final design.

(b) ONE DOLLAR SILVER COINS.—

(1) ISSUANCE.—The Secretary shall mint and issue not more than 900,000 one dollar coins each of which shall—

(A) weigh 26.73 grams;

(B) have a diameter of 1.5 inches; and

(C) be composed of 90 percent silver and 10 percent copper.

(2) DESIGN.—The obverse design of the one dollar coins shall be emblematic of James Madison, the fourth President of the United States. The reverse design shall be emblematic of James Madison's home, Montpelier, between the years 1751 and 1836. The Director of the United States Mint shall sponsor a nationwide open competition for the design of the one dollar coin beginning not later than 3 months after the date of the enactment of this Act. The Director of the United States Mint shall convene the Design Panel established under subsection (e) which shall select 10 designs to be submitted to the Secretary who shall select the final design.

(c) HALF DOLLAR SILVER COINS.—

(1) ISSUANCE.—The Secretary shall mint and issue not more than 1,000,000 half dollar coins each of which shall—

(A) weigh 12.50 grams;

(B) have a diamter of 30.61 millimeters; and

(C) be composed of 90 percent silver and 10 percent copper.

(2) DESIGN.—The design of the half dollar silver coins shall be emblematic of the first ten Amendments of the Constitution of the United States, known as the Bill of Rights. The Director of the United States Mint shall sponsor a nationwide open competition for the design of the half dollar coin beginning not later than 3 months after the date of the enactment of the Act. The Director of the United States Mint shall convene the Design Panel established under subsection (e) which shall select 10 designs to be submitted to the Secretary who shall select the final design.

(d) INSCRIPTIONS.—All coins minted and issued under this Act shall bear a designation of the value of the coin, an inscription of the year of issue and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(e) DESIGN PANEL.—The Design Panel referred to in subsections (a), (b), and (c) shall consist of the following members:

(1) The Chairperson of the Commission of Fine Arts.

(2) The president of the James Madison Memorial Fellowship Foundation.

(3) The Executive Director, National Numismatic Collection, the Smithsonian Institution.

(4) A representative member of the American Numismatic Association.

(5) A representative member of a national sculpture society or association.

(6) Two representatives of the United States Mint selected by the Director of the United States Mint.

The Secretary shall reimburse the members of the Design Panel for per diem expenses and other official expenses from the revenues received from the sale of the coins. The Design Panel shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.), and shall terminate following the selection process set forth in subsections (a), (b), and (c).

(f) LEGAL TENDER.—The coins issued under this title shall be legal tender as provided in section 5103 of title 31, United States Code.

SEC. 603. SOURCES OF BULLION.

(a) GOLD.—The Secretary shall obtain gold for minting coins under this title pursuant to the authority of the Secretary under existing law.

(b) SILVER.—The Secretary shall obtain silver for minting coins under this Act only from stockpiles established under the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.).

SEC. 604. ISSUANCE OF COINS.

(a) FIVE DOLLAR COINS.—The five dollar coins minted under this Act may be issued in uncirculated and proof qualities and shall be struck at the United States Mint at West Point, New York.

(b) ONE DOLLAR COINS AND HALF DOLLAR COINS.—The one dollar and half dollar coins minted under this Act may be issued in uncirculated and proof qualities, except that not more than one facility of the United States Mint may be used to strike any particular combination of denomination and quality.

(c) COMMENCEMENT OF ISSUANCE.—The coins authorized and minted under this title may be issued beginning on January 1, 1993.

(d) TERMINATION OF AUTHORITY.—Coins may not be minted under this title after December 31, 1993.

SEC. 605. SALE OF COINS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall sell the coins minted under this title at a price at least equal to the face value, plus the cost of minting and issuing the coins (including labor, materials, overhead, distribution, and promotional expenses).

(b) BULK SALES.—The Secretary shall make any bulk sales of the coins minted under this Act at a reasonable discount.

(c) PREPAID ORDERS.—The Secretary shall accept prepaid orders for the coins minted under this title prior to the issuance of such coins. Sale prices with respect to such prepaid orders shall be at a reasonable discount.

(d) SURCHARGES.—All sales of coins minted under this Act shall include a surcharge of $30 per coin for the five dollar coins, $6 per coin for the one dollar coins, and $3 per coin for the half dollar coins.

SEC. 606. FINANCIAL ASSURANCES.

(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this title will not result in any net cost to the United States Government.

(b) PAYMENT FOR COINS.—A coin shall not be issued under this Act unless the Secretary has received—

(1) full payment for the coin;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution the deposits of which are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board.

(c) REPORTS TO CONGRESS.—Not later than fifteen days after the last day of each month, the Secretary shall transmit to the Committee on Banking, Finance, and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report detailing activities carried out under this title during such month. The report shall include a review of all marketing activities and a financial statement which details sources of funds, surcharges generated, and expenses incurred for manufacturing, materials, overhead, packaging, marketing, and shipping. No report shall be required after January 15, 1994.

SEC. 607. DISTRIBUTION OF SURCHARGES.

The surcharges received by the Secretary shall be transmitted promptly to the James Madison Memorial Fellowship Trust Fund established in 1986 by the James Madison Memorial Fellowship Act (20 U.S.C. 4501 et seq.). Such transmitted amounts shall qualify under section 811(a)(2) of that Act as funds contributed from private sources. In accordance with the purposes of the James Madison Fellowship Program, the funds transmitted to the Trust Fund shall be used to encourage teaching and graduate study of the Constitution of the United States, its roots, its formation, its principles, and its development.

SEC. 608. AUDITS.

The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data as may be related to the expenditure of amounts transmitted under section 607 of this title. The expenditures and audit of surcharge funds deposited in the James Madison Memorial Fellowship Trust Fund under section 607 of this Act shall be done in accordance with section 812 of the James Madison Memorial Fellowship Act (20 U.S.C. 4511). Annual reports shall be submitted by the Chairman of the James Madison Memorial Fellowship Foundation to both Houses of Congress on all expenditures of surcharge funds.

SEC. 609. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this title.

(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not relieve any person entering into a contract under the authority of this title from complying with any law relating to equal employment opportunity.

On page 15, between lines 19 and 20 of the House engrossed bill, insert the following:

SEC. 400. SHORT TITLE.

This title may be cited as the "Frank Annunzio Act".

And the Senate agree to the same.

ESTEBAN EDWARD TORRES,
CARROLL HUBBARD,
DOUG BARNARD, JR.,
Managers on the Part of the House.

DON RIEGLE,
ALAN CRANSTON,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3337) to mint White House Commemorative Coins and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

The Senate amendment added a provision to redesign the reverses of the nation's circulating coinage and a provision to mint a James Madison/Bill of Rights Commemorative coin.

The House recedes from its disagreement to the amendment of the Senate by agreeing to a Senate amendment to Title V on coin redesign agreed to in conference, and agreeing to Title VI as passed the Senate. The Senate agreed to the House amendment to Title IV to rename the title "The Frank Annunzio Act".

The differences between the House bill and the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE V—COINS

H.R. 3337 passed the Houses and was referred to the Senate on November 26, 1991. H.R. 3337 was amended during floor consideration in the Senate. The Senate amendment contained a provision that would have required the Secretary of the Treasury to redesign the reverse sides of five circulating coins—the half dollar, quarter, dime, nickel and penny. The Senate amendment on coin redesign became Title V of H.R. 3337. The House and Senate conferees agreed to an amended Title V with the following changes:

Title V as reported out of conference requires the redesign of the reverse sides of two coins—the half dollar and the quarter. The designs will be phased in over a three year period and the minting of the first coin will commence one year from the date of enactment of the legislation.

Section 502, Design Changes Required for Certain Coins, includes new language that after the second permanently redesigned coin has been in circulation for at least one year then the Congress may direct the Secretary of the Treasury to reconsider the design on the coins.

A technical amendment has been added at the end of Title V to clarify existing law that no inscriptions, including "In God We Trust", can be removed from any circulating coins.

The conferees agreed to strike section 503, Design On Obverse Side of Coins, from Title V of H.R. 3337. Section 503 would have directed the Secretary of the Treasury to consider redesigning the head (obverse) side coins. Title V as amended contains no provision to redesign the obverse (head) side of coins. This section redesignates sections 504 and 505 as sections 503 and 504, respectively.

The conferees agreed to add a new section 505, Financial Assurances, to Title V that would ensure that there is no net cost to the federal government in implementing coin redesign. Both the Congressional Budget Office and the Office of Management and Budget estimate that coin redesign will produce a profit to the United States Treasury. The conferees intend that the United States Treasury implement the legislation in such a manner as to produce an overall budget savings to the federal government.

The House agreed to the Senate Amendment as amended by a three to two vote.

TITLE VI

H.R. 3337 was amended on the Senate floor to add Title VI, The James Madison Bill of Rights Commemorative Coins Act, which was not included in the House-passed measure. The conference report contains the Senate provision.

Objective: The Senate bill contained a provision not included in the House bill that would authorize in 1993 the minting and issuance of $5 gold coins, $1 silver coins, and half-dollar silver coins to commemorate James Madison and the first 10 Amendments of the Constitution, known as the Bill of Rights.

This Title authorizes the Secretary of the Treasury to mint and issue not more than 300,000 gold coins; 900,000 silver dollars; and 1,000,000 half dollars. These are the lowest mintage levels for a 3-coin commemorative program since the minting of commemorative coins was re-instated in the early 1980s.

Surcharges accrued from the sales of these coins will be transmitted to the James Madison Memorial Fellowship Trust Fund, established in 1986 by the James Madison Memorial Fellowship Act (20 U.S.C., 4501 et seq.). The Comptroller General of the United States shall have the right to examine such books and records related to the expenditure of these surcharges.

The surcharges will be used solely to fund fellowships for high-school teachers and potential high-school teachers of American history and American government. This is a national program and every state benefits equally.

This Title also requires that the program operate at no net cost to the Government. It requires the chairman of the Fellowship Foundation to submit annual reports to both Houses of Congress on all expenditures of surcharge funds.

ESTEBAN EDWARD TORRES,
CARROLL HUBBARD,
DOUG BARNARD, Jr.,
Managers on the Part of the House.
DON RIEGLE,
ALAN CRANSTON,
Managers on the Part of the Senate.

THE FEDERAL BUDGET DEFICIT: A SILENT CANCER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska [Mr. HOAGLAND] is recognized for 30 minutes.

Mr. HOAGLAND. Mr. Speaker, as Congress struggles to develop the fiscal year 1993 Federal budget, I want to take a few minutes to share some of my concerns. I am extremely alarmed at the size of the Federal budget deficit and the National debt. They both have reached all-time record highs.

Business as usual has got to stop. We must take some real steps to reduce the deficit because it is corroding our economy. It is a silent cancer eating away at our economic health.

THE MAGNITUDE OF THE DEBT

Appended at the end of my statement is a table from the House Budget Committee's analysis of President Bush's fiscal year 1993 budget which shows that the last time our Federal budget had a surplus was in fiscal year 1969, 24 years ago. When President Carter left office, the deficit was $70 billion. In the 1980's, the deficit literally exploded, reaching $221 billion in 1986.

We should stop to note that it took this Nation over 200 years to accumulate $1 trillion of debt. In just 5 years of the 1980's, we doubled that amount. According to James E. Lebherz in the February 9, Washington Post, during the 4 years of the Bush administration, 1988 to 1992, the Federal debt will have increased by $1.42 trillion, an average of $355 billion per year. He says:

> During President Reagan's 8 years in office (1980 to 1988), the Federal debt increased $1.69 trillion, or an average of $211 billion per year. This compares with the addition of $579 billion to the Federal debt through the administrations of Johnson, Nixon, Ford, and Carter, during the years 1963-80, an average of $35 billion per year.

And now we have before us President Bush's fourth budget, which proposes a deficit of $399 billion in fiscal year 1992, revised upward from $281 billion, a record high. And the figures would be higher, well over $400 billion, without the change to accrual accounting the Office of Management and Budget has requested. The budget also projects a deficit for the following fiscal year of $352 billion, a figure which is no doubt low if prior experience is a guide. All this from an administration that says it is in favor of a balanced budget but has never proposed one.

These figures are simply unacceptable. Our Federal Government, Congress and the President, have failed the American people in allowing this problem to develop.

Former Council of Economic Advisors Chairman Charles Schulze said:

> [W]e need to dispel the illusion that we have done enough or that the economy can grow its way out of the budget deficit. That deficit is still the nation's number one economic problem.

That was 1988. There is no doubt that the deficit is still the Nation's No. 1 economic problem and a root cause of the current recession.

THE ECONOMIC CONSEQUENCES OF HUGE DEBT

The most important reason to be concerned about the deficit and the national debt is the effect on the economy. The borrow-and-spend policies of the 1980's are bringing our economy to its knees. Real wages are declining. Our rate of productivity increase is declining. As a result, our standard of living is declining. Corporations and Government alike no longer save and invest. Instead they borrow and spend. We are in the middle of a long-term economic downturn caused by our collective lack of saving and investing.

These economic relationships are described extremely well in the testimony of Barry Bosworth of the Brookings Institution given in January to the Subcommittee on Economic Stabilization of the House Committee on Banking, Finance and Urban Affairs, which I have attached to my statement. I recommend Mr. Bosworth's views for your consideration. They succinctly state the case.

THE SHEER WEIGHT OF INTEREST PAYMENTS

Another major concern about our monstrous debt is that it has strapped us with huge interest payments. We are paying some $208 billion in interest payments in fiscal year 1992 which is some $2,000 per taxpayer. Interest payments in 1981 were 2.3 percent of GNP; today it is 3.5 percent. Not only are annual $208 billion in interest payments an astounding amount of money, it is money that could be better spent elsewhere. We have so many other deficits—social deficits—that need the attention of Government. We do not have money to pay for so many of the things we really need—better schools, improved infrastructure, cancer research, energy conservation R&D, long-term care, agricultural exports, to name a few. As our esteemed colleague, Congressman LEE HAMILTON, puts it, annual payments solely for interest are "the most useless kind of Government spending."

THE BUDGET COMMITTEE'S DEFICIT REDUCTION PLAN

How do we reduce the deficit? I believe we must rigorously support, and work to improve, the bold and thoughtful plan developed by the Budget Committee and outlined in its December 1991 report, "Restoring America's Future: Preparing the National for the 21st Century."

We must support those leaders in Congress who are committed to solving this problem. I congratulate the Budget Committee chairman for his leadership and pledge my support for his efforts.

The dynamics are clear. Our huge borrowing and escalating debt are corroding our economy. The economists and exports—I most certainly am not one—are in major agreement as to what we need to do. Barry Bosworth states it as well as it can be stated in testimony appearing at the end of my statement today.

Robert D. Reischauer, Director of the Congressional Budget Office, presented compelling testimony to the House Government Operations Committee during hearings on eliminating the barriers between the three categories of spending that are now in law. He testified that real private and public savings as a share of GNP averaged 7.3 percent from 1952 through 1979, but fell to 2.9 percent in 1980 through 1990. He cited a Federal Reserve Bank of New York study that found that the decline in saving during the 1980's reduced the productive capacity of our economy by 5 percent. He pointed out that if we do not improve our savings rate, the loss in potential GNP will grow to 10 percent by the end of the decade.

Further, I have introduced and hope Congress will consider H.R. 4060, a bill which would require the President to transmit to Congress, the budget committees to report, and the Congress to consider, a balanced budget each fiscal year. This bill attempts to put some discipline back into the process and to put the responsibility where it belongs, both with the President and with the Congress. It sounds so simple and yet, neither the President nor the Congress are producing balanced budgets.

But we know procedural solutions alone will not solve the problem. What we need most of all is the political will to implement unpopular solutions.

WHAT HAS BECOME OF THE AMERICAN SPIRIT?

This brings me to my final question: What has become of the American spirit?

What has made America great and strong has been a willingness of our people to sacrifice for the future and to invest in the future.

We have always been frugal. We have always invested in our economy and in our children. Where have we gone wrong? Where is that old American spirit?

We no longer save and invest. Instead we borrow and spend. The prescription is clear: We must shift our economy from one dependent on borrowing and spending to one driven by investment and exports. To do that, we must declare war on the Federal deficit and the national debt—now.

To find the spirit for this effort, we need not look forward to some magic solution. We need to simply look back to the old-time American values.

In "A Nation's Strengths," Ralph Waldo Emerson wrote:

Not gold, but only man can make
a people great and strong;
Men who, for truth and honor's sake
stand fast and suffer long.

Brave men who work while others sleep,
who dare while others fly,
They build a nation's pillars deep
and lift them to the sky.

Tax and spending policies enacted by the Congress over the last two decades simply do not reflect that spirit of America, which has always been ours. We need simply reclaim it.

STATEMENT OF BARRY P. BOSWORTH, THE BROOKINGS INSTITUTION BEFORE THE SUBCOMMITTEE ON ECONOMIC STABILIZATION OF THE COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS, JANUARY 28, 1992

Thank you for the opportunity to discuss some aspects of the current economic situation with the members of this committee. Clearly, the economic recovery that began in the Spring and seemed underway during the summer months has stalled out. Most economic forecasts now point to the Spring of 1992 as the earliest time at which we can expect any significant expansion of the economy. Even then the recovery will be unusually weak with the unemployment rate projected to remain above 7 percent throughout 1992. While I recognize that this is an election year and that there are strong pressures to find a quick fix before November, the current emphasis on short-term fiscal measures to stimulate consumer spending reflects a serious misdiagnosis of the country's economic problems. The business cycle recession is actually quite mild by historical standards and is best dealt with by relying on monetary policy to engineer a recovery. It is too late for fiscal policy to play a positive role in the short-term recovery, and it has become too immersed in ideological conflicts to be an effective stabilization tool. Temporary tax cuts are too likely to become permanent, worsening the structural imbalances in the U.S. economy. Instead, it is vital that the Congress and the President adopt a perspective that extends beyond the election and address the long-term fundamental problems of the economy.

The economic difficulties that the United States faces today are not new, they have little to do with a minor business cycle, they will not be solved by a tax cut, and they will not go away after the election. They include: (1) stagnant levels of real wages and family incomes, (2) a growing inequality of incomes, (3) excessively high levels of corporate and household debt, (4) a severely weakened financial system, (5) extremely low rates of national saving and capital formation, and (6) a government budget deficit that continues to spiral upward. None of these problems should come as a surprise to Americans or their elected representatives, and they are mistaken if they believe that they can be solved with another tax cut and more consumption. The evidence of decay has been around for many years, but the preferred response was to ignore it and any solution that hinted at the need for current sacrifice. After a decade or more in which Americans have been unwilling to invest in the future, they should not be surprised that the future looks a little grim.

The secular deterioration of the American economy is most evident in two key areas. First, the real income of the average American worker has been basically stagnant since the early 1970s. The fundamental reason is the collapse of productivity growth. As shown in Figure 2, output per labor hour grew by only 0.5–1.0 percent annually since 1973, compared to 2–2.5 percent annually in prior decades. That growth has barely been adequate to match the increased cost of health and other fringe benefit programs with the result that wage incomes have remained unchanged. The impact of slow wage growth on family incomes was offset for a time by the trend toward an increased number of workers per family. That option will largely vanish in the 1990s, as the two-earner family is now the norm, and female labor force participation rates are very similar to those of males.

The second problem is that wage incomes have become far more unequal. Workers in the top portion of the income distribution have continued to achieve real wage gains equal to or in excess of those of prior decades while wage rates have declined dramatically at the lower end of the wage distribution. I would not identify this with any concept of a hollowing out of the middle class because it is a relatively uniform pattern throughout the income distribution. The trend has been exacerbated for family incomes for several reasons. First, there appears to be an increasing tendency for likes to marry likes, men at the top of the wage distribution marry women at the top. Second, a growing proportion of families with children have a single parent. In 1990 24 percent of all families with children had a single parent compared with 11 percent in 1970. Finally, public policy has done less than in prior decades to offset income inequality through tax and transfer programs.

In trying to reverse the secular deterioration of the American economy let me say a few words about the things I believe we should avoid. First, current efforts to blame foreigners for our problems, while politically popular, are basically absurd. The problems that we have are the result of our own actions and will not be solved by pointing the finger at other countries. There are problems in the international economy, but 90 percent of the goods that Americans consume are produced by Americans and the living standards of Americans will be determined overwhelmingly by progress in improving productivity in the domestic economy. In fact, if anything we should use economic conditions in other countries as an example of how we could do better. Years ago we use to encourage other countries to become more like us. Today, they look at our economic and social problems and say no thanks.

Second, we should avoid a view of the situation as a crisis where the consequence of inaction is a near-term economic collapse. Without action the future of the U.S. economy is one of gradual economic decline relative to the performance of other economies and particularly relative to its own potential; but an emphasis on crisis can lead to ill-conceived policies which in the search for a quick fix actually make the situation worse. Having neglected evident signs of economic decay for nearly two decades, we must recognize that the benefits of corrective policies will take many years to become apparent.

Third, we need to understand the extent to which changes in the global system will require fundamental changes in the way we address economic policy options. The end of the cold war provides us with new opportunities but also problems. An appropriate analogy might be that the Soviet Union has collapsed, but the fight has also left us reeling against the ropes. We will be able to free up a large amount of resources that were previously devoted to national defense, but there is also a huge backlog of economic and social problems that we ignored for too long and will be very costly to fix. In addition, the restructuring of the defense sectors will itself be a painful process for many of the workers and communities most affected. In the world economy we have fallen from a position of dominance to one that is optimistically characterized as first among equals. We are still important to the rest of the world, but mainly as a market in which to sell good. We offer little in the way of products or services that cannot be obtained cheaper or with higher quality elsewhere. In other words, Americans face a far more competitive economic environment. In addition, with the emergence of a global capital market many of the benefits of Keynesian-style fiscal stimulus flow abroad, and there is a weakening link between increases in domestic saving and investment in domestic industries. Saving is important because it determines the future wealth of Americans; but, if we want investment to take place in America, we will have to offer something that is attractive to capital in terms of a well-trained workforce and an efficient economic infrastructure. Economic policies will have to be formulated with greater attention to competitive factors and a longer time horizon than the next election.

The most fundamental problem that we need to address is the decline in productivity growth. While changes in annual growth rates of 1–2 percent may seem small to most people, the cumulative effect of the slowdown, extending over the past 18 years, has cost the average American worker 30 percent of wage income. As we look ahead to the 1990s there is little reason to anticipate that productivity growth will improve on its own. Furthermore, much lower rates of labor force growth, in combination with the continued small increases in output per worker, will translate into smaller increases in aggregate GDP. The potential long-term growth rate of the economy has fallen to only 2–2.5 percent annually.

Although economists still differ on a full explanation of the decline in productivity growth since 1973, we do agree on the three basic determinants of high and rising living standards. They are: (1) the need for a large amount of modern capital per worker; (2) an emphasis on the creation and rapid introduction of new technologies, both in the form of new products and more efficient processes for producing existing products; and (3) a well-trained workforce. Improvements in these three areas account for an overwhelming portion of the growth of living standards. In contrast, issues like industrial and trade policy pale to insignificance. Yet, in all three of these dimensions I believe that the U.S. performs less well than it did in the past and less well than many other countries with whom we now compete in a global economic system.

Saving and Capital Formation. The first step to increasing the nation's rate of capital formation is to raise the national rate of saving. We need to recognize that Americans have been on a consumption binge throughout the 1980s, living way beyond their means. Today, Americans save less than 3 percent of the national income (Table 1). In addition, during the 1980s we borrowed from foreigners, or financed through the sale of assets, a cumulative total of $1 trillion dollars, equivalent to about 6 percent of national wealth. We have become the world's largest debtor nation. Should Americans really be surprised that they have problems competing with countries that save and invest 10-15 percent of their income?

The decline in saving is evident in both the private and the public sector. Private rates of saving have fallen by about 3 percent of national income, and increased public dissaving, the budget deficit, accounts for another 3 percent (See Table 1). Approximately two-thirds of private saving must be used to cover the deficit of the federal government, leaving very little for private capital formation. Within the private sector the decline occurred both in the corporate sector where businesses now pay out nearly all of their profits in the form of interest on debt and dividends, and within the household sector. Government policy has contributed to this problem by encouraging an excessive reliance on debt within the business sector; and, although they attract less attention, through policies to discourage the funding of broad-based employee retirement plans.

In this context, I find the current discussion of tax incentives to promote consumption symptomatic of the longer term economic problem. If there is one thing the American economy does not need it is more consumption, and one thing Americans don't deserve is a reduction in their taxes. For over a decade Americans have been consuming too much. National saving has plummeted and what little net investment takes place is heavily financed by borrowing from abroad. At the same time, the public sector deficit has ballooned as voters are unwilling to accept cuts in programs that benefit them or pay for them. The universal solution to the budget deficit is to cut someone else's program. While I understand the political popularity of a tax cut to promote consumption, it certainly seems absurd from an economic perspective. I recognize that the process of scaling back consumption to a level that the nation can afford on a long-term basis will be very painful, but the longer we delay the greater the future reductions.

The measures that government can undertake to encourage private saving are limited. In particular, I believe that various tax gimmicks that promise to increase private saving through painless tax cuts will fail. We have had several decades in which to observe that taxes have large effects on the composition of individuals' saving—where the invest it—without leading to significant effects on the total. Investment Retirement Accounts, for example, lead savers to shift their funds from taxable to nontaxable accounts but the net gain in national saving is very small. I interpret proposals to provide tax reductions for private saving as yet another example of the problem. We are still looking for painless answers—give me a tax cut and I will do good things with it.

In any case, I see no reason for government to seek to increase private saving at the cost of an increase in its own dissaving—further tax cuts which will have to be financed by more borrowing. Higher private saving, offset by larger budget deficit, offer no benefit to the country as a whole. While reductions in the budget deficit may seem like an old prescription and politically unattractive, the truth is that they are the only sure means of increasing national saving.

With respect to the budget deficit, I hope that the recently released CBO projections of the budget deficit will convince the Congress that the 1990 budget agreement was a meaningless piece of political gamesmanship and that the budget deficit will not cure itself. The basic problem is that growth built into existing programs requires an expansion of the economy and tax revenue, adjusted for inflation, of nearly 2.5 percent annually. Since the potential growth of the economy has declined to 2 to 2.5 percent, there is no growth dividend with which to finance new programs or reduce the deficit.

At the same time the notion that spending is out of control is also largely a myth. The term "entitlements" is basically a code word for social security, yet the social security program is temporarily generating a large surplus (Figure 5). It will also grow very slowly for several decades until the "baby-boom" generation begins to retire. The deficit is concentrated in the unified budget which excludes social security; and within that budget the growth of spending is concentrated in two programs, health care and interest on the public debt. The growth in medicare and medicaid costs is not a problem unique to government: the same phenomenon plagues private health insurance programs. And the explosion of interest payments can be traced directly to the failure to pay for past and current expenditures. In fact, increased interest payments account for nearly all of the growth in the budget deficit during the 1980s. The funds being spent on federal programs are actually a declining share of national income (Figure 7). Furthermore, many of the reductions of public spending have been concentrated in the investment accounts. When we speak of the importance of capital for raising productivity much of that involves the public infrastructure. The public sector is one area in which the United States has been investing too little, and the deterioration in the public infrastructure seems obvious.

Similarly, we are continuously bombarded with the notion that taxes have been rising rapidly. Yet, the national accounts tell quite a different story. Effective rates of taxation, combining those of federal, state and local governments, have been basically constant over the last two decades, and excluding social security the average rate has actually drifted down (See Figures 8 and 9). American families may be feeling pinched financially, but the reasons is a failure of their incomes to rise before taxes, not a rising tax burden. The Congress may be tempted to provide tax cuts as an offset to the stagnation of before-tax incomes; but if it does so, the decline in national savings, and productivity growth will simply accelerate.

I believe that the budget deficit can be eliminated only through a major increase in taxes. A continued focus on expenditure reductions alone or the elimination of waste has become an excuse for doing nothing. With respect to tax increases the major lesson from the economic research is the importance of emphasizing reliance on the broadest possible tax base with the lowest possible rates. For this reason the United States should follow other countries in introducing a value-added or consumption tax. A 5-percent value-added tax would raise $100-150 billion annually depending on precisely what consumption expenditures were covered. In addition, I believe there are very strong economic arguments for imposing an energy consumption tax equivalent to about 50 cents on a gallon of gasoline. Phasing in these measures over 5 year period, together with feasible reductions in expenditures would basically eliminate the budget deficit.

A reduction in the budget deficit would benefit the economy directly in two ways. The removal of the government as a major claimant on funds in capital markets would free up resources for capital formation. In addition, lower interest rates would reduce foreign financial investments in the United States and result in a significant decline in the value of the dollar. At a lower exchange rate American industry would be far more competitive in world markets and the trade deficit would disappear. The major beneficiaries would be workers in the manufacturing sector, precisely the area where the employment problems seem most severe.

However, with the emergence of global capital markets we can not be sure that an increase in national saving is sufficient to lead to a matching increase in capital investment in the U.S. economy. I believe that we may have to consider additional measures to increase the attractiveness of domestic investment. One unfortunate result of the 1986 tax reform was that it shifted the tax on capital from the capital income earned by Americans to the income from capital employed in the United States, penalizing domestic investment. Rather than repeating the mistakes of past tax incentives that resulted in serious distortions of investment, I would prefer more fundamental reforms of capital income taxation that built on the base of the 1986 act. In this respect the indexing of capital income to exclude the effects of inflation is preferable to capital gains preferences. In addition, we could expand investment incentives and eliminate the excessive emphasis on debt financing of American corporations by converting the corporate income tax to a tax on cash flows. This involves allowing businesses to deduct all investment outlays in the year they are made and eliminating the deductibility of interest payments on debt. One by-product of this reform would be to drastically reduce the attraction of corporate buy-outs.

Research and Development. Economic studies consistently find an extraordinarily high return on investments in R&D, ranging between 15 and 25 percent. It is something that the United States is very good at. It is also an activity in which the private sector is likely to under-invest because of the risks and an inability to prevent nonparticipants from benefiting. Thus, there is a strong argument for public financial support—particularly, in the case of basis research where the externalities are likely to be very large. In the past much of the public funding of R&D was funneled through the defense budget. While there were some obvious spillovers to the civilian sector, the increasingly specialized nature of defense procurement reduced the value of the research to the general economy. On the other hand, Americans probably would have been unwilling to finance the investments without a defense label. In any case, this type of activity will decline with the general reduction in defense spending. Outside of defense, the United States ranks below Germany and Japan in R&D spending despite our emphasis on high technology.

In general, private outlays on R&D are exempt from taxation, but in the past we have gone so far as to provide an additional tax credit. Such tax measures are fairly effective for promoting private development and commercialization of new technologies, but are less effective for basic research. It is also difficult to define R&D activities in the tax code in such a way that business will not distort the basic intent. I believe there is still a strong rational for direct public support of research activities that can be monitored by peer review processes. With the decline in Defense Department funding, the Congress should consider substantial increases in the funding of the National Science Foundation.

Education and Job Training. A major reason for the historically high living standards of American workers was that they were better educated than workers in other countries. That is far less true today. While the educational systems of other countries have improved, there is growing evidence that the American system has actually deteriorated over time, at least at the primary and secondary level. In any case, it is not enough to do as well as in the past. In a global economic system an American worker can expect to be paid no more than a worker of equivalent skills in other countries, and there is no longer a shortage of workers with the equivalent of an American high school education. This issue has nothing to do with immigration because if the workers don't come here, the capital and technology can still go to them.

Educational attainment is also a major factor accounting for the growing disparity of wage rates in the United States. The premium paid to workers with a college education is rising, while it is increasingly difficult to find employment for workers who cannot read or write. Most of the increased wage dispersion cannot be explained by changes in industrial structure because it is just as evident within industries as among industries. At all levels industry requires a more skilled workforce; and, as long as such workers remain scarce, their wages and job opportunities will expand relative to the less-skilled. I admit that there has also been a widening of wage rates for workers of equal educational attainment that we do not fully understand. Apparently employers have chosen to discriminate more sharply in the wages they offer to their best workers even among those of equal educational attainment. Still, I think that differences in job skills is the major factor behind the growing inequality of wages.

The United States can respond to this situation in one of two ways. We could attempt to stimulate the demand for workers with limited skills by protecting our older industries, or we can attempt to upgrade the skill level of the workforce. I believe that the first option is a losing proposition and that by attempting to slow down the restructuring of American industry we limit the potential for future growth in living standards. American workers are not threatened by cheap foreign labor. They are losing out in competition with workers in other advanced industrial countries who are actually paid as much or more than they.

Instead, we must find the means to accelerate the process of improving education and job training. While I fully agree that money alone will not solve this problem, Americans must recognize that upgrading of the education system will be costly. The higher education system is the envy of the rest of the world; but one reason is that it is extremely well financed. Primary and secondary education would perform much better if it had the kind of resources devoted to the college and university system.

Furthermore, even if a means of improving the educational system could be implemented, it would have no significant impact on the workforce for another twenty years. Thus, the United States has no choice but to expand its efforts to retrain the least-skilled of the existing workforce. Yet, over the last two decades we have essentially eliminated these programs. We devote a far smaller share of our public funds to job training than is common practice in other countries. One additional suggestion that might be explored would be to impose a general employment tax of 2 or 3 percent of wages and rebate it back to those employers who provide job retraining programs.

Finally, there is some emerging research suggesting that a significant part of America's problem with productivity growth and competitiveness is due to the failure of its managers. Productivity growth may have slowed down because too many American businessmen have ignored the production process and focused their attention on financial restructuring and marketing as the keys to success. Foreign automotive firms, for example, have been very successful using American workers and it would appear that management may be the distinguishing feature of the competitive outcome in that market. American firms are often criticized for an excessive focus on short-term benefits to stockholders and for ignoring longer-term factors, such as quality and relationships with their workers and customers. In reviewing the research on the internal structure of Japanese corporations, I believe that they may have a better idea. American workers would benefit from policies that seek to encourage foreign firms to locate in the United States. For example, Americans who work for Honda probably face a better job future than those who work for Chrysler or General Motors.

Let me conclude by simply restating my belief that the U.S. economy has been suffering from a secular deterioration of its performance relative to which the current recession is a minor problem. I also believe that most of this decline can be attributed to a failure to invest adequately in three key areas of physical capital, research and development programs, and the educational quality of our population. The solution to this problem is relatively simple, but it does involve some actions that are thus far unacceptable to the American public or their elected officials. Americans will have to make some sacrifices in terms of reduced consumption and they will have to pay more taxes.

TABLE 1.—NET SAVING AND INVESTMENT AS A SHARE OF NET NATIONAL PRODUCT, 1951–90

Item	Percent of net national product					
	1951–60	1961–70	1971–80	1981–85	1986–90	1990
NET SAVING[1]						
Private saving[2]	8.6	9.7	9.9	9.5	7.1	6.5
Government saving	−.7	−.9	−2.0	−4.6	−4.0	−4.1
TOTAL NATIONAL						
Saving-Investment	8.0	8.6	8.2	4.9	2.9	2.5
Net domestic investment	7.7	8.0	7.9	6.2	5.6	4.2
Net foreign investment	.3	.7	.3	−1.4	−2.8	−1.7
ADDENDA						
Capital consumption allowances[3]	9.0	8.4	10.0	11.8	11.0	10.8
Personal saving rate[4]	7.2	6.9	7.8	7.8	4.8	5.1

[1] Net saving and investment equal the gross flow minus capital consumption allowances. Net national product equals gross national product minus capital consumption allowances. The sum of the savings components differs from the total by the amount of the statistical discrepancy.

[2] Business and Household Saving. Employee pension funds of State and local governments are allocated to household saving to match the treatment of private pension funds.

[3] Percent of gross national product.

[4] Percent of disposable income.

Source: U.S. Department of Commerce, "Bureau of Economic Analysis, U.S. national income and product accounts."

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. THOMAS of Wyoming) to revise and extend their remarks and include extraneous material:)

Mr. RITTER, for 5 minutes, on March 17.

Mr. MILLER of Washington, for 60 minutes, on March 18.

Mr. RIGGS, for 60 minutes each day, on March 18, 19, and 20.

Ms. MOLINARI, for 60 minutes, on March 19.

Mr. THOMAS of Wyoming, for 5 minutes, today.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. EDWARDS of California, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. PANETTA, for 5 minutes, today.

Mrs. LOWEY of New York, for 5 minutes, today.

Mr. HOAGLAND, for 30 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. THOMAS of Wyoming) and to include extraneous matter:)

Mrs. MORELLA.

Mr. VANDER JAGT.

(The following Members (at the request of Mr. GONZALEZ) and to include extraneous matter:)

Mr. ANDERSON in 10 instances.

Mr. GONZALEZ in 10 instances.

Mr. BROWN in 10 instances.

Mr. ANNUNZIO in six instances.

Mr. HOYER.

Mr. LIPINSKI.

Mr. TRAFICANT in four instances.

Mr. MANTON.

Mr. FALEOMAVAEGA.

ADJOURNMENT

Mr. HOAGLAND. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 26 minutes p.m.), the House adjourned until tomorrow, Tuesday, March 17, 1992, at 12 noon.

EXPENDITURE REPORTS CONERNING OFFICIAL FOREIGN TRAVEL

Report of a committee of the U.S. House of Representatives concerning the foreign currencies used by them for official foreign travel during the fourth quarter of 1991, and various amendments to the third and fourth quarter 1991 consolidated report of travel authorized by the Speaker of the U.S. House of Representatives, pursuant to Public Law 95–354, are as follows:

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ENERGY AND COMMERCE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 1991

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
David Finnegan	12/15	12/21	Switzerland		1,326.00		3,275.70				4,601.70
Janina Jaruzelski	12/15	12/20	Switzerland		1,105.00		2,548.00				3,653.00
Jessica Laverty	12/16	12/20	Switzerland		884.00		2,551.90				3,435.90
John Shelk	12/15	12/21	Switzerland		1,326.00		2,548.00				3,874.00
John Orlando	11/2	11/7	France		1,012.00		3,217.80				4,229.80
Scott Cooper	11/2	11/8	France		1,265.00		3,217.80				4,482.80
Douglas Bennett	11/2	11/8	France		1,265.00		3,217.80				4,482.80
Stephen F. Sims	11/15	11/20	Hong Kong		1,260.00						1,260.00
	11/20	11/20	Indonesia		458.00						458.00
	11/22	11/23	Singapore				3,371.00				3,371.00
John Shelk	11/15	11/20	Hong Kong		1,260.00						1,260.00
	11/20	11/22	Indonesia		458.00						458.00
	11/22	11/23	Singapore				3,371.00				3,371.00
Alan Roth	9/28	9/30	Poland		950.00						950.00
	9/30	10/3	U.S.S.R				3,292.20				3,292.20
David Keaney	12/8	12/13	Bulgaria		908.00		3,657.50		227.00		4,792.50
Hon. Henry Waxman			Israel		440.00		4,155.00				4,595.00
Committee total					13,917.00		38,423.70		227.00		52,567.70

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JOHN D. DINGELL, Chairman.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO JORDAN, SYRIA, EGYPT, ISRAEL, MALAYSIA, AND HONG KONG, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN AUG. 6 AND SEPT. 2, 1991

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Jim McDermott	8/6	8/11	Jordan		744.00		3,187.00				3,931.00
	8/11	8/12	Syria		202.00						202.00
	8/12	8/13	Jordan		186.00						186.00
	8/14	8/16	Iraq								
	8/16	8/18	Jordan		372.00						372.00
	8/18	8/20	Egypt		329.34						329.34
	8/20	8/21	Jordan								
	8/21	8/24	Israel		660.00						660.00
	8/24	8/24	Germany				7,793.00				7,793.00
	8/25	9/1	Malaysia								
	9/2		Germany								
Charles M. Williams	8/6	8/11	Jordan		744.00		3,318.00				4,062.00
	8/11	8/12	Syria		202.00						202.00
	8/12	8/13	Jordan		186.00						186.00
	8/14	8/16	Iraq								
	8/16	8/18	Jordan		465.00						465.00
	8/18	8/20	Egypt		329.34						329.34
	8/20	8/21	Jordan								
	8/21	8/24	Israel		660.00						660.00
	8/24	8/24	Germany				5,930.00				5,930.00
	8/25	8/27	Malaysia								
	8/27	8/29	Hong Kong								
Committee total					5,079.68		20,228.00				25,307.68

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JIM McDERMOTT, Feb. 28, 1992.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO JAPAN, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN DEC. 6 AND DEC. 11, 1991

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Jim McDermott	12/6	12/9	Japan		900.00		4,405.00				5,305.00
	12/10	12/11	Australia		50.00						50.00
Werner Brandt	12/7	12/10	Japan		900.00		5,846.00				6,746.00
Committee total					1,850.00		10,251.00				12,101.00

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JIM McDERMOTT, Feb. 28, 1992.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3092. A letter from the Assistant Secretary for Financial Management, Department of the Army, transmitting a report on the value of property, supplies, and commodities provided by the Berlin magistrate for the quarter October 1, 1991 through December 31, 1991, pursuant to Public Law 101–165, section 9008 (103 Stat. 1130); to the Committee on Appropriations.

3093. A letter from the Secretary of Education, transmitting Final Regulations—Library Services and Construction Act State-Administered Program, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

3094. A letter from the Secretary of Education, transmitting Final Regulations—Javits Gifted and Talented Students Education Grant Program, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

3095. A letter from the Secretary of Education, transmitting Final Regulations—Training Program for Special Programs Staff and Leadership Personnel; Talent Search, Educational Opportunity Centers, Upward Bound, and Student Support Services Programs; and Student Assistance General Provisions, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

3096. A letter from the Secretary of Energy, transmitting the Department's 15th report, "Comprehensive Program and Plan for Federal Energy Education, Extension and Information Activities," pursuant to 42 U.S.C. 7373(2); to the Committee on Energy and Commerce.

3097. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

3098. A letter from the Deputy Assistant Secretary for Foreign Buildings, Department of State, transmitting notification of the award of a minority contract pursuant to section 8(a) of the Small Business Act; to the Committee on Foreign Affairs.

3099. A letter from the President, Overseas Private Investment Corporation, transmitting the annual report of the Corporation's activities and operations during fiscal year 1991, pursuant to 22 U.S.C. 2200 and 2197(c)(2); to the Committee on Foreign Affairs.

3100. A letter from the Assistant Administrator for Legislative Affairs, U.S. Agency for International Development, transmitting a summary of two activities proposed for funding in Peru during fiscal year 1992 by AID's Latin America and Caribbean Bureau, pursuant to 22 U.S.C. 2151u(e); to the Committee on Foreign Affairs.

3101. A letter from the Director of Operations and Finance, American Battle Monuments Commission, transmitting a report of activities under the Freedom of Information Act for calendar year 1991, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3102. A letter from the Director, Office of Personnel Management, transmitting a report of activities under the Freedom of Information Act for calendar year 1991, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3103. A letter from the Assistant Secretary of the Interior for Indian Affairs, transmitting materials on behalf of the Citizens Bank of Potawatomi Indians of Oklahoma, pursuant to 25 U.S.C. 1402(a) 1404; to the Committee on Interior and Insular Affairs.

3104. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a letter from the Chief of Engineers, Department of the Army, dated September 7, 1983, and a supplement letter dated September 23, 1985, submitting a report together with accompanying papers and illustrations (H. Doc. No. 102–203); to the Committee of Public Works and Transportation and ordered to be printed.

3105. A letter from the Assistant Secretary for Conservation and Renewable Energy, Department of Energy, transmitting notification that the report for the Electric and Hybrid Vehicles Program for fiscal year 1991 will be submitted in April, pursuant to 15 U.S.C. 2506(b)(4); to the Committee on Science, Space, and Technology.

3106. A letter from the Director, Office of Management and Budget, transmitting the 13th report on U.S. costs in the Persian Gulf conflict and foreign contributions to offset such costs, pursuant to Public law 102–25, section 401 (105 Stat. 99); jointly, to the Committee on Foreign Affairs and Armed Services.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. TORRES: Committee of Conference. Conference report on H.R. 3337 (Rept. 102–454). Ordered to be printed.

Mr. DINGELL: Committee on Energy and Commerce. Report on the Activity of the Committee on Energy and Commerce for the 102d Congress, 1st session (Rept. 102–455). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. FORD of Michigan (for himself, Mr. Goodling, Mr. Gaydos, Mr. Coleman of Missouri, Mr. Clay, Mr. Petri, Mr. Miller of California, Mr. Gunderson, Mr. Murphy, Mr. Barrett, Mr. Kildee, Mr. Martinez, Mr. Perkins, Mr. Sawyer, Mr. Payne of New Jersey, Mrs. Lowey of New York, Mrs. Unsoeld, Mrs. Mink, Mr. Andrews of New Jersey, Mr. Jefferson, Mr. Reed, Mr. Olver, and Mr. de Lugo):

H.R. 4471. A bill to amend and extend the Higher Education Act of 1965; to the Committee on Education and Labor.

By Mr. CAMPBELL of California:

H.R. 4472. A bill to amend the Public Health Service Act to facilitate the entering into of cooperative agreements between hospitals for the purpose of enabling such hospitals to share expensive medical or high technology equipment or services, and for other purposes; to the Committee on Energy and Commerce.

By Mr. KOSTMAYER (for himself, Mr. Murtha, and Ms. Horn):

H.R. 4473. A bill to amend the Agricultural Trade Act of 1978 to make modifications in the Market Promotion Program; to the Committee on Agriculture.

By Mr. RICHARDSON (for himself and Mr. Synar):

H.R. 4474. A bill to provide for the energy efficiency of Federal buildings through energy performance contracts and for other purposes; to the Committee on Energy and Commerce.

By Mr. WOLF:

H.R. 4475. A bill to increase the penalties applicable for transporting or importing goods made by convicts or prisoners, and for failure to mark packages of goods made by convicts or prisoners, and for other purposes; to the Committee on the Judiciary.

By Mr. SOLOMON (for himself and Mr. Richardson):

H. Con. Res. 294. Concurrent resolution relative to the role of the North Atlantic Treaty Organization; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

344. By the SPEAKER: Memorial of the General Assembly of the State of Illinois, relative to Federal Government revenue sharing programs; to the Committee on Government Operations.

345. Also, memorial of the Senate of the State of Alaska, relative to the restoration and augmentation of Federal funding for the Alaska Volcano Observatory; to the Committee on Interior and Insular Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 127: Ms. Oakar, Mr. Feighan, Mr. Allen, Mr. Taylor of North Carolina, and Mr. Hobson.

H.R. 1206: Mr. Skeen and Mr. Richardson.

H.R. 1306: Mr. Richardson.

H.R. 1310: Mrs. Johnson of Connecticut.

H.R. 1312: Mr. Campbell of California.

H.R. 1726: Mr. Jacobs.

H.R. 2089: Mrs. Schroeder.

H.R. 2385: Mr. Pastor and Mr. Myers of Indiana.

H.R. 2580: Mr. Berman, Mr. Lantos, and Mr. Kostmayer.

H.R. 2884: Mr. Solomon.

H.R. 3026: Mr. Crane.

H.R. 3138: Mr. Machtley.

H.R. 3281: Mr. Santorum.

H.R. 3405: Mr. Machtley.

H.R. 3472: Mr. Jontz.

H.R. 3810: Mr. Matsui and Mr. Frost.

H.R. 4061: Mr. Murtha and Mr. Hughes.

H.R. 4083: Ms. Horn, Mr. Traxler, Mr. Stallings, Mr. Machtley, and Mr. LaRocco.

H.R. 4206: Mr. Johnston of Florida, Mr. Vento, and Mr. Jontz.

H.R. 4212: Mr. Frost and Mr. Bustamante.

H.R. 4214: Mr. Wheat and Mr. Murphy.

H.J. Res. 430: Mr. Lent, Mr. Natcher, Mr. Vander Jagt, Mr. Frost, Mr. Camp, Ms. Oakar, Mr. Hughes, Mr. Bonior, Mr. Harris, Mr. Sabo, Mr. Hertel, Mr. Hubbard, Mrs. Unsoeld, Mr. Skeen, and Mr. Wolpe.

H. Res. 350: Mr. Martinez, Mr. Owens of New York, Mr. Andrews of Maine, Mr. Blackwell, Mr. Andrews of New Jersey, Mr. Swett, and Mr. Perkins.

H. Res. 359: Mr. KENNEDY.

H. Res. 377: Mr. SHAYS.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

145. The SPEAKER presented a petition of the Independent-Republican Caucus of the Minnesota House of Representatives, relative to support for the President's economic plan; which was referred to the Committee on Ways and Means.

EXTENSIONS OF REMARKS

SAN ANTONIO DRUG SUMMIT WATERSHED EVENT IN STRUGGLE AGAINST PRODUCTION AND TRAFFICKING OF ILLICIT NARCOTICS

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1992

Mr. COUGHLIN. Mr. Speaker, I want to congratulate President Bush for hosting the second drug summit on February 26–27 in San Antonio. His leadership, along with that of drug policy Director Martinez and Secretary of State Baker, has helped the U.S. forge an antidrug cartel with the drug summit participants.

During this summit, great progress was made in creating a real regional approach to counternarcotics operations in the Western Hemisphere. The summit participants—Bolivia, Colombia, Ecuador, Mexico, Venezuela, and the United States—agreed to establish regional training centers on counternarcotics, and announced their intention to expand reciprocal information sharing concerning the activities of organizations, groups and persons engaged in illicit drug trafficking.

Most encouraging, the summit participants stated they would establish channels of communication to ensure the rapid dissemination of information for the purposes of effective law enforcement. It is critical that the large amount of intelligence now gleaned by ourselves and our allies in the region is made available to those who can actually go out and make an arrest or a seizure. Progress at the summit will allow for increasing the effectiveness of cooperative counternarcotics law enforcement. There is no reason why the law enforcement and intelligence agencies of all the summit participants cannot regularly run operations to attack drug organizations that are jointly conceived, planned, and implemented.

As the ranking Republican on the Transportation Appropriations Subcommittee, and the author of legislation that would give the U.S. Coast Guard limited authority to shoot down drug trafficking planes, I am very concerned about the continuing problem of airborne drug trafficking. I am hopeful that the increased cooperation coming out of the San Antonio summit will lead to a major effort to shut down the air corridor between Peru's Upper Huallaga Valley and the coca processing laboratories in Columbia. Peru's Air Force has already forced down dozens of planes, but it needs to gain the capacity to operate at night and to expand its operations to additional areas of the UHV. Colombia needs the capability to pick up the trail as planes cross into its airspace and to force planes down on its end.

The summit participants addressed the air interdiction issued by recognizing that there is a need to exchange timely information on potential drug traffickers in and around each country's sovereign air space. Further, the countries agreed to provide one another with technical assistance in detecting, monitoring, and controlling aerial drug trafficking, when such assistance is requested in accordance with the domestic laws of each country and international laws. Another positive sign in this area is the promise by the participants to examine their domestic regulations pertaining to civil aviation in order to prevent the illicit use of aircraft and airports.

Although air interdiction is a bright spot in Peru's antidrug effort, overall the Peruvians have a long way to go toward putting together a comprehensive drug program. I am very concerned about the gathering strength of the Sendero Luminoso, Peru's Maoist, drug-fueled insurgency. The United States must begin to debate whether we want to provide Peru some desperately needed counter-insurgency military and economic aid, or risk the emergence of a genocidel Communist regime in the world's largest coca producing country. I was disappointed that the Congress failed to grant the President's request for $10 million in assistance for the Peruvian Army to run counternarcotics operations in the UHV. However, I am pleased that the Germans may be able to provide Soviet spare parts which the Peruvians can use in their antidrug effort.

In spite of the disappointments with the limited progress in Peru, President Fujimori's leadership is a substantial improvement over his predecessor's. Further, his participation in the summit process helps to highlight the need for Peru to pull its own weight in the regional antidrug fight.

It is natural and appropriate that our Nation take the occurrence of the drug summit as an opportunity to review the status of the overall antidrug efforts in this Hemisphere. Although there are problems in our antidrug fight, I believe we have come a long way. Just a few years ago, the democratically elected Government of Colombia was directly challenged by the drug traffickers, with the assassination of three Presidential candidates. Now, the major cartel leaders are dead, in jail, or on the run. Four years ago, the United States Senate decertified Mexico for failure to fully cooperate with the United States in fighting drugs. Now Mexico, under President Salinas' enlightened leadership, is a steadfast partner in the war against drugs. In the early 1980's, the drug traffickers, as part of a corrupt military dictatorship, ran Bolivia. Now, a democratic Bolivia is moving forward with a significant drug interdiction program, as well as judicial reform, economic reform, and debt reduction.

There is also progress evident in our own Nation's antidrug program. Interagency coordination, though still not perfect, is better than ever; the Pentagon has brought its considerable talents into the drug fight; new equipment is one line at the major drug law enforcement agencies; the drug budget is up 93 percent since President Bush took office; and the drug czar's office has produced a thrice updated comprehensive national drug control strategy to direct our overall effort.

There are some who criticize the drug strategy because it has not yet eradicated all drug production, trafficking and consumption, nor eliminated all domestic crime, violence, and poverty. They say that if our Government is serious, we should fight this struggle like war against Iraq last year. The analogy with the war in the Persian Gulf is completely misleading. If, as in that war, the United States could send 500,000 troops and 500 planes to the Andes, the war against drugs would be won in 24 hours. Of course, the nations of Latin America are very sensitive to a United States military presence and we have a policy of only sending troops where they would be welcome. We are providing assistance and training to the Andean nations so they can fight the war against drugs themselves. This is a difficult and time consuming process. Think of how long it would have taken to win the Persian Gulf war if we had to train the Kuwaiti and Saudi armed forces to do the whole job themselves.

We have to appreciate that our international and interdiction operations will not win the war against drugs. The center of gravity of this war is at home in our schools and our communities. Here, there are some important signs of progress. Most encouraging is the completely changed attitudes toward drugs by Americans, from almost complete tolerance in the 1970's, to today's recognition of the deadly nature of drugs. Another positive development is the declining drug use among youth on a national level. We still have work to do among the addicted population concentrated in our inner cities, but we have come a long way.

The objective of our international and interdiction programs is to harass drug traffickers by increasing their cost of doing business. By seizing drugs and money and arresting drug kingpins, we increase the risk involved in their illegal activities and provide some level of just punishment for their heinous crimes. Our only alternative to what we are doing now is to do nothing and let drug traffickers have free, unchallenged rein over all of the Western Hemisphere. This option would not only result in much more cocaine flooding our streets, but would allow the unrestrained power of drug trafficking organizations to threaten the democratic institutions now taking root in Latin America.

Many of the new problems we face in our international struggle are due to our successes and those of our Andean allies in the war against drugs. The drug enforcement operations of the Colombians, as well as the Bolivians, have pushed drug traffickers to diversify their activities to other nations and increase their cost of doing business. We have to be flexible and respond to changing circumstances as the drug traffickers do. For this

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

reason, the San Antonio summit was expanded from the original Cartegena four to include Ecuador, Venezuela, and Mexico.

It was indeed encouraging to watch all of the region's major producing, trafficking and consuming nations, which once pointed fingers at each other in futile attempts to assign blame for the drug problem, sit down as close allies battling a common foe.

It is certainly my hope that this drug summit process continues to evolve so that such meetings, on a variety of levels, become routine. Only by building on the united front that was established at Cartegena can real progress be achieved in the war against drugs.

Now that we are in an election year, there is increasing criticism of the President from the Congress. The American people, moreover, are not interested in political attacks. They want to see a cooperative that has proposed a solid drug budget and has several important treatment and education proposals to address the hardcore drug addiction problem awaiting congressional action. I hope we can work together in a cooperative fashion in Washington to enact these critical initiatives. Surely, if the leaders of seven very different nations can reach substantial agreement on major drug policy issues, the Congress ought to be able to work with this administration to provide the programs needed by our own citizens.

Finally, I am pleased to note that last week both Houses of Congress enacted a joint resolution I authored honoring those who have been killed in South America and North American in the struggle against drugs. The sacrifices of thousands of individuals, and their families, throughout our hemisphere is a reminder of the seriousness of this struggle and of the necessity to maintain our campaign to control the blight of drugs.

The full text of that resolution follows:

RESOLUTION

Whereas the Cartagena Summit, in which the leaders of the United States, Colombia, Bolivia, and Peru participated 2 years ago, resulted in progress toward the participants' common goal of stopping the cocaine trade:

Whereas cooperation between the United States and other countries on such diverse issues as control of precursor chemicals, port control, aerial interdiction, and investigation and prosecution of money laundering is necessary for an effective strategy on reducing the drug supply;

Whereas the Presidents of Colombia, Bolivia, Peru, Ecuador, Venezuela, and Mexico, will be hosted by President Bush and will meet on February 26 and 27, 1992, in San Antonio, Texas, to discuss increased cooperation in the hemispheric campaign to eliminate illicit growth of drug crops, drug processing, drug trafficking, street level drug distribution, and drug consumption;

Whereas drug traffickers throughout the Americas have used violent means to facilitate the production and sale of illicit drugs;

Whereas law enforcement officers, military personnel, journalists, and judges have been killed in the line of duty by drug traffickers because of their courageous, selfless, and patriotic efforts to oppose the illegal and immoral terrorism or intimidation of drug traffickers in South and North America;

Whereas the greatest tribute to those who have given their lives in the war against drugs is to complete the job they have begun by defeating the international scourge of drugs which still threatens the lives of millions of people around the world;

Whereas drug abuse and drug-related crime remain among the gravest social ills confronting the United States;

Whereas significant progress has been made in reducing overall drug use, especially drug use among young people, as shown by such diverse statistical sources as the National Household Survey, the Drug Abuse Warning Network, and the High School Senior Survey;

Whereas much work remains to be done to reduce the number of addicted drug users, especially drug users addicted to cocaine; and

Whereas, under the President's National Drug Control Strategy, interrupting the flow of cocaine into the United States is essential to reducing cocaine use: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (1) the President should build upon the success of the Cartagena Summit and use the upcoming San Antonio Summit—

(A) to reaffirm the mutual commitment of the participating countries to halting the international cocaine trade;

(B) to continue assisting the Andean Strategy nations in their efforts to curtail cocaine production;

(C) to encourage cooperation among the participating countries in dismantling drug trafficking cartels and arresting and incarcerating major traffickers;

(D) to strengthen the legitimate economies of the Andean Strategy nations through trade incentives and other assistance; and

(E) to motivate the participating countries, all of which are victims of drug use, to reduce consumption of illicit drugs within their borders, and thus remove the incentives for the existence of the drug trade; and

(2) the honored dead in the war against drugs deserve the recognition and appreciation of all the nations for their ultimate sacrifice.

Amend the title to read as follows: "Regarding the San Antonio Drug Summit".

TRIBUTE TO WARREN TRIBUNE-CHRONICLE EMPLOYEES

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1992

Mr. TRAFICANT. Mr. Speaker, today I rise to pay tribute to two employees of the Warren Tribune-Chronicle of Warren, OH, which is in my 17th Congressional District of Ohio. Specifically, I want to recognize Jim Kinter, who was chosen as district manager of the year, and A.J. Natale, who was selected as carrier of the year.

These two individuals, selected for their service and exemplary performance on the job, define the team spirit needed for producing a newspaper. These are people who subscribe to an ethic of hard work and family values. These are qualities that everyone thinks are vanishing from society, but not so in my 17th Congressional District. As is evident with these two fine gentlemen, it is alive and well in Ohio.

Mr. Speaker, it is with great pleasure that I rise on this occasion to congratulate Jim Kinter and A.J. Natale on their efforts for the Warren Tribune-Chronicle.

THE CONVICT LABOR PENALTIES ENHANCEMENT ACT OF 1992

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1992

Mr. WOLF. Mr. Speaker, I am introducing legislation which will raise the fine and punishment on businesses who are breaking U.S. trade law by importing prison made goods. This legislation which was developed by the U.S. Department of the Treasury, and has the support of Secretary Nicholas Brady, amends section 1761(a) of title 18 of the United States Code, which currently states that anyone who knowingly transports goods made wholly or in part by convicts or prisoners shall not be fined more than $1,000 or be imprisoned for more than 1 year.

Mr. Speaker, it is time to update the law; $1,000 is pocket change for companies which bring in boatloads of goods made in labor camps. The bill I am introducing would increase the penalties to $250,000 or 2 years in jail, thus making the crime a felony. Businesses which knowingly transport prison-made goods will take notice of these penalties, and will start to ask the simple question—were those goods made in forced labor camps?

It's time to get tough on U.S. firms that are not only breaking U.S. trade law, but are committing a moral crime. I think this legislation is a start and I urge my colleagues to join me in supporting it.

Mr. Speaker, it is an open secret that political prisoners are being kept away in forced labor camps in the People's Republic of China, producing goods for the international marketplace. I have expressed my concern about this topic on this floor several times. During a trip to China last year I visited Beijing Prison No. 1 where 40 pro-democracy demonstrators, arrested after the Tiananem protests, were and are still imprisoned. While there I picked up some socks made by the prisoners—clearly socks aimed at a Western market.

Many of you may have seen the 60 Minutes show last year in which Harry Wu, a Chinese citizen risking his very life by returning to China, and Ed Bradley exposed the ongoing human rights violations by Chinese officials in forced labor camps. Human rights groups estimate that the population of the champs is between 12 million to 16 million people, including hundreds of thousands of political prisoners.

No one knows the exact size of the Chinese prison export system but, according to experts, 50 percent of all prison goods are going overseas. They are shipping machinery, textiles, and agricultural goods—tucked away in China's burgeoning export sector. The PRC had about $60 million in export last year, and our trade deficit with China is between $12 billion and $13 billion.

It's not easy to determine if the goods entering U.S. markets are actually made with prison labor. Credit should be given to the U.S. Customs Service for their recent investigations and for their actions enforcing the ban on importing products made with slave labor. But even the most tenacious investigator would be thrown off track by the tangled web of Asian middlemen usually based in Hong Kong, the nucleus of China's export business.

Imagine a labor force of 12 million to 16 million, paid nothing, given minimal food and shelter, some prisoners are even beaten and whipped if they do not meet quotas. American companies should not have to compete against this sort of trade practice. And the fact is, this business is getting bigger and bolder.

When will the international community, led by the United States, which does far and away the most business with China, call a halt to China's gulag economy? We have heard about United States firms, and the Customs Service has identified many of them, that have hand-in-glove relationships with the Chinese labor camps. These relationships only serve to tighten the chains around the feet of men and women, young and old, who courageously took to the streets in 1989 to express their political convictions, an internationally recognized human right. You remember the pictures * * * the solitary man in front of the line of tanks, chanting students crowding into Tiananmen Square, only to be gunned down and then imprisoned.

As pointed out in Business Week recently, how can we morally accept and trade comfortably with a country that exploits a vast gulag labor supply, hundreds of thousands of which are prisoners of conscience?

H.R. 4475

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That

SECTION 1. SHORT TITLE.

This Act may be cited as the "Convict Labor Penalties Enhancement Act of 1992".

SEC. 2. INCREASED PENALTIES FOR TRANSPORTING OR IMPORTING GOODS MADE BY CONVICTS OR PRISONERS.

Section 1761(a) of title 18, United States Code, is amended—

(1) by striking "$1,000" and inserting "$250,000"; and

(2) by striking "one year" and inserting "two years".

SEC. 3. INCREASED PENALTY FOR FAILURE TO MARK PACKAGES MADE BY CONVICTS OR PRISONERS.

Section 1762(b) of title 18, United States Code, is amended by striking "$1,000" and inserting "$250,000".

BIOGRAPHY OF SITTING BULL

HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1992

Mr. FALEOMAVAEGA. Mr. Speaker, through Public Law 102–188 (S.J. Res. 217, H.J. Res. 342), Congress and the President designated 1992 as the "Year of the American Indian." This law pays tribute to the people who first inhabited the land now known as the continental United States. Although only symbolic, this gesture is important because it shows there is sympathy in the eyes of a majority of both Houses of the Congress for those Indian issues which we as a Congress have been struggling with for over 200 years. In support of the "Year of the American Indian," and as part of my ongoing series this year, I am providing for the consideration of my colleagues a short biography of Sitting Bull, a chief of the Hunkpapa Sioux Tribe who is known for his extraordinary ability to plan and organize. This biography was taken from a U.S. Department of the Interior publication entitled "Famous Indians, A Collection of Short Biographies."

SITTING BULL (HUNKPAPA SIOUX)

Tatanka Iyotake (Sitting Bull), known the world over as Sitting Bull, the most famous chief of the Teton or Western Sioux, today still ranks as the Sioux of Sioux. The acknowledged leaders of history's largest assembly of Plains warriors, a band chief in his own right, a shaman and a visionary with extraordinary ability to plan and organize, he exemplified in every respect the highest Sioux virtues of courage, generosity, and steadfast loyalty to tribal ideals.

Sitting Bull was born in what is now South Dakota about 1831, the son of a Hunkpapa Teton generally known as Jumping Bull. He was scarcely 10 years old when he went on his first buffalo hunt, and at 14, with a war party against Crow Indians, counted his first coup (a war honor involving the touching or striking of a living enemy). As a result of this great feat, his boyhood name—"Slow"—was formally changed to Sitting Bull. Sitting Bull told much of the story of his own life in a series of pictures, and this brave deed is the first of some 63 exploits preserved in his autobiographical drawings.

The Sioux chief believed that he had been divinely chosen to lead and protect his people, and established himself in this role while still a young man. A Crow bullet lamed him permanently when he was in his early thirties, but did not succeed in limiting his activities. Sitting Bull was on the warpath with his followers almost continuously in the years after 1866, and although other tribes of the northern Plains increasingly resigned themselves to reservation life, he remained with his people in the buffalo country, aloof, uncompromising, and quick to challenge white invaders.

In December of 1875, the Commissioner of Indian Affairs directed all Sioux bands to come onto reservations by end of January, or be declared hostile. Unable to meet this unrealistic deadline, Crazy Horse and his camp were attacked by troops under General Crook. The Indians dispersed, and Crazy Horse and his people eventually made their way to Sitting Bull's camp on the Rosebud River in the Valley of the Little Big Horn.

By the spring of 1876, around 3,000 Teton Sioux and Northern Cheyenne warriors had assembled at Sitting Bull's camp and had chosen him as their supreme commander. Although few whites then realized the strength of his army, the efficiency of his braves was well recognized. The Sioux, said Gen. Frederick W. Benteen, an Army officer of the time, were "good shots, good riders, and the best fighters the sun ever shown on."

Sitting Bull, whose insight and political judgment were as remarkable as his military skill, realized that the Sioux and other Plains tribes were about to face a battle for their very existence. In June of 1876, he vowed to perform the Sun Dance, which would give him a vision of what lay ahead for his people. He had often performed this dance, the Plains Indians' greatest and most important religious ceremony, and his chest and back were scarred by its torture.

For this great Dance, Sitting Bull gave 100 pieces of skin from his arms and shoulders. Then, bleeding heavily, he danced all of one day and night. Around noon the next day, becoming almost unconscious, he had the vision for which he had prayed: many white soldiers, falling upside down from the sky, would make war upon his people, but the Great Spirit would care for his Indians.

Sitting Bull's vision was quickly fulfilled. On June 16, more than 1,000 warriors under Crazy Horse met Gen. George Cook and 1,300 armed men at the Battle of the Rosebud. Although tired from the Sun Dance, Sitting Bull was there to urge the Indians on. At the end of an all-day fight, Crook was forced to retreat, with heavy losses.

Despite this victory, Sitting Bull knew that his vision had not yet been fulfilled, for it had showed him many white soldiers. The battle which followed June 25 was the spectacular Indian triumph known as "Custer's Last Stand," in which the General and every one of his 224 men were annihilated.

No trap had been laid for Custer and his forces, and no strategy planned ahead of time. The battle was a sudden defensive action.

The hostile Sioux and Cheyenne were constantly harrassed by troops under Col. Nelson A. Miles after the Battle of the Little Big Horn, and in the winter following their great victory, many of Sitting Bull's followers surrendered. Pursued by the Army, failing in his attempt to prevent the loss of hunting grounds in the Black Hills and Powder River country, Sitting Bull and his followers escaped to Canada.

Across the border, Sitting Bull pled with Canadians for a reservation, but without success. U.S. commissioners came to Canada to persuade him to return. Sitting Bull resisted, but when there was nothing left to eat, he led his followers south, and surrendered at Fort Buford, Mont., on July 19, 1881. Horses and arms were relinquished in exchange for a "pardon" for Sitting Bull's past.

For 2 years, the Sioux chief was a prisoner of war at Fort Randall. He had become a legend in his own time, and was deluged by fan mail. Lt. Col. G. P. Ahern, who handled Sitting Bull's letters, described him even then as "a very remarkable man—such a vivid personality . . . squared-shouldered, deep-chested, a fine head, and the manner of a man who knew his ground. For several months I was in daily contact with Sitting Bull and learned to admire him for his many fine qualities."

Placed on Standing Rock Reservation in 1883, Sitting Bull continued to regard himself as chief of his people. In doing so, he aroused the animosity and jealousy both of Agent James McLaughlin and of rival chiefs. For a year, the venerable chief went on tour with Buffalo Bill's wild west show, but most of the 1880's were spent feuding with McLaughlin.

When the Ghost Dance movement hit Dakota reservations in 1890, tensions between McLaughlin and Sitting Bull were accented. The Sioux chief had endorsed—although without enthusiasm—the new Indian religious movement, and in December of that year had been invited to visit Pine Ridge Agency "to greet the Messiah." McLaughlin used his request for a pass as a pretext that Sitting Bull planned to flee the reservation, and on December 15 sent a detachment of Indian police to arrest him.

Some of his faithful friends tried to prevent Sitting Bull's seizure but during the struggle he was killed by Sergeants Red Tomahawk and Bullhead. His 17-year-old son and six others also died in the skirmish.

Sitting Bull was buried in the Post Cemetery at Fort Yates, N. Dak. In 1953, 63 years after his death, his remains were exhumed and transferred across the Missouri River to Mobridge, S. Dak. A granite shaft marks the last resting place of the great Sioux chief.

ABANDONED BY OUR HEALTH CARE SYSTEM

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1992

Mr. STUDDS. Mr. Speaker, the Wood family of North Dartmouth, MA, recently wrote me to express their support for national health insurance, and to relate a personal tragedy which vividly illustrates a terrible injustice in America today: More and more people cannot afford basic health care.

As this letter so eloquently attests, the shortcomings of our health care system continue to take a devastating human to toll. Millions of parents lay awake at night wondering how they will cope if a loved one becomes suddenly ill. Now many more sleepless nights must be endured in our country before we take this problem head on by enacting national health insurance?

I commend this letter to my colleagues.

North Dartmouth, MA,
February 5, 1992.

Congressman Gerry E. Studds,
Cannon House Office Building,
Washington, DC.

Dear Congressman Studds, this is the first time I have written to you or any government official, but this is also the first time that my family has been in such very critical condition.

My husband and I have two small children ages 2 and 6. My husband is a chef who works very long, arduous hours for an extremely moderate salary. I was working part-time at Sears Roebuck but was laid off last year during the first phase of their major personnel cuts. I have not resumed employment and although we have certainly felt the "pinch" of the economy, up until this point, we have managed to get by.

Our personal crisis, one that is unfortunately common to more and more people every day, came the week before Christmas. My husband was notified by his employer that due to the rising costs of health care, they would no longer be able to offer us any health insurance. We are both very upset about this. Never before have we been in such a serious situation.

We have since priced private insurance coverage for our family, but at over $500.00 per month we absolutely cannot afford this. We are not poverty level and therefore do not qualify for welfare, so what do we do? With all due respect for our President, why can't he see the desperate needs of so many middle income families?

The payroll deduction that was taken from my husband's check goes into a separate bank account that we have set up for any medical emergencies that may arise, but this is no way to properly insure a family. Believe me when I say that my husband and I have many sleepless nights worrying about this situation.

Right now we are concerned about our children. Pediatric care is so expensive. Both of our children were ill last week and the visit to our pediatrician cost us $99.00.

We are desperately trying to find a solution to this problem. Obviously, my husband and I support National Health Insurance we just hope that something—anything can be done soon. We are both so very discouraged. This is a horrible way to live; in total fear of becoming ill.

We support your efforts. We truly need your help. Thank you very much for listening.

Sincerely,
Nancy and Christopher Wood.

THE 36TH "TEXAS" DIVISION, A PROUD HISTORY

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1992

Mr. VANDER JAGT. Mr. Speaker, during the coming year, some 52 years after its first components were transferred from the Texas National Guard and mobilized into the 36th Infantry Division, former members of that proud fighting unit will formally establish a museum memorializing its history in Brownswood, TX. Fittingly, for the members of this unit who went off to war to win the peace, the town of Brownswood has donated their train depot for the museum.

As a National Guard unit mobilized for duty, the 36th proudly wears its patch of a "T" on the arrowhead herald celebrating its Texas origins. We are proud to have folks in our home State of Michigan who have served valiantly with the 36th and who share in the desire to honor those who bore the burden of World War II. It is especially fitting that this museum be established as we look forward to the 50th anniversary of the end of that great conflict, and we look back at the last year, when we might say that the peace has finally taken hold.

It is my pleasure to bring to my colleagues' attention the proud history of the 36th Division, and to particularly recognize Mr. Frederick Ewald, now of Muskegon, MI, in Michigan's Ninth Congressional District, who served faithfully and who proudly seeks to assure that the contributions and sacrifices of the soldiers of the 36th are memorialized for history. A brief narrative of the 36th is offered herewith, and the thanks of a nation grateful for the contributions of all who served in the "Texas" Division and who proudly cherish the "T" patch of honor:

A History of the 36th Division

(Compiled by the 36th Division Pictorial History Team: Editor, Staff Sergeant Richard A. Huff; Associates, Corporal Robert Sieger and Sergeant Howard Jones; Supervising Officer, Captain Sumner S. Wilson.)

The war had ended. So had the career of a military intellectual who had chosen it as a lifetime profession. Field Marshall Albert Kesselring, the ace defensive specialist and a connoisseur of matters soldierly, sat hunched up on the corner of his cot, brooding in retrospect, and puffing on the last quarter of a bungled cigarette.

"Tell me. Field Marshall," persuaded Seymour Korman, Chicago Tribune war correspondent, "what do you consider the finest American Division to have opposed you?"

Without looking up and without a moment's hesitation, Kesselring sputtered, "Your 3rd and 36th Infantry Divisions. I've been continually amazed by their audacity, at their long flanking tactics and the way they turned up in so many different places. I've had to pit my best troops against them."

Even without tribute from captured enemy generals the "Texas" Division stands out as one of the truly veteran divisions of the Second World War. Girded with a spirit borne of fierce pride, the 36th made two amphibious assaults, at Salerno and on the Riviera, and saw intense action in four countries: Italy, France, Germany, and Austria during 366 days of combat operations.

Originally composed of Texas National Guardsmen, the 36th was mobilized into the Army of the United States on November 25, 1940, at Camp Bowie, Texas. Although Selective Service trainees later filled the Division to combat strength and reinforcements from all over the Nation gave it an All-American flavor, the citizens of Texas still regarded it as their own.

Prior to Pearl Harbor the Division was triangularized from four to three infantry regiments. With the advent of war, elements of the old 131st Field Artillery Regiment were sent to the Pacific and caught in the Japanese drive through Java early in 1942. (Survivors of the battalion, lost throughout the war, returned to the United States in October, 1945.)

In the formative years following, men of the Division bore the distaste of early army shortages, transformed a fledging muddy camp into habitable quarters, "fought" with General Walter Kreuger's Third Army in the swamplands of Louisiana. It moved overland to sandy Camp Blanding, Florida, in February, 1942, and there was primed for an early overseas shipment. But orders changed, and so did the Division as cadres departed and recruits were added. After extensive maneuvers in the warm Carolinas during the summer, the 36th moved to a Yankee station on Cape Cod, Camp Edwards, Massachusetts. Here, living in tent cities, Division men practiced the then new art of amphibious operations, launched a mock invasion on Martha's Vineyard in late October. It was cold-tested at twenty degrees below zero in a blustery winter on the Cape. Parts of the Division engaged in a final, quick mountain maneuver at Piney River, Virginia, in March. Then on April 2, 1943, having come together from staging areas at Camp Edwards and Fort Dix, New Jersey, a solemn 36th sailed out from the New York Port of Embarkation and by fast convoy arrived at Oran, Algeria, eleven days later.

North African spring flowers and green valleys surprised T-Patchers when the 40 and 8's carried them one hundred miles inland to a training ground at Magenta. Until Rommel's Afrika Corps was decisively whipped at Tunis and Bizerte, the Division was held in combat reserve. Then, in a political move to avert Spanish or German designs on French Morocco, the 141st and 143rd Regiments, Division Headquarters and Special Troops shuttled westward five hundred miles to spend a leisurely summer in the cork forests near Rabat and Casablanca. The 142nd went to Tiemcen, in Algeria, and patroled a wide area in search of stray Germans thought to be heading for the Spanish border from Tunisia, "captured" one prisoner in one month.

The Division formed the backbone of the newly organized Fifth Army. Serving as school-troops at the Army's Invasion Training Center on the Mediterranean at Arzew, it put through the paces the veteran 1st and green 45th Divisions before these shipped on the Sicily invasion. Then the 36th's own time came at Salerno, September 9, when all that the long months of training had prepared them for paid dividends as an unyielding 36th clung to the threatened beachhead. In so doing the 36th was justifying its proud heritage. Its history was one that dated back to 1835 and the Alamo when the 141st was born during the whirlwind of the Texas Revolution. In World War I the 36th "Lone Star" Division served in the Champagne sector during the Meuse-Argonne offensive, spent 23 days in active sectors, captured 813 men, 9 artillery pieces and 294 machine guns. Its record less brilliant than that of its 1943-45 counterpart, the 1918 36th fought in the same glorious tradition legendary with fighting men of Texas.

In World War II, in nineteen months of combat, in five major campaigns, and in two amphibious assaults, the 36th Infantry Division had expended the maximum in heroism and hardship. The 36th is proud of its 175,806 enemy soldiers captured, its 15 Congressional Medals of Honor, its 10 Presidential Unit Citations, and numerous other battle awards. At the same time its casualty list, third highest of any American division, numbered 27,343, of whom 3,974 were killed, 19,052 wounded, and 4,317 missing in action.

The 36th had had a tough time of it, but they had given more than they had taken.

WOMEN'S CONSTITUTIONAL RIGHTS MUST BE PROTECTED

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1992

Mr. EDWARDS of California. Mr. Speaker, as a woman's right to reproductive freedom is increasingly threatened, it is time for Congress to intervene and protect this right.

As you and my colleagues know, the Supreme Court will soon be hearing a case which could overturn the 1973 Roe versus Wade ruling which protected a woman's right to privacy in reproductive matters. Without congressional action, States could soon have the ability to enact very restrictive abortion laws, interfering with a woman's constitutional right to privacy. That is why over 130 of my colleagues have joined me in supporting H.R. 25, the Freedom of Choice Act. H.R. 25 will codify Roe versus Wade and protect a woman's reproductive rights. Hearings on H.R. 25 were held on March 4, and we hope to bring the bill to the floor of the full House within the next few months.

I call my colleague's attention to an editorial from the New York Times, an eloquent and accurate interpretation of why passage of H.R. 25 has become a necessity. I commend the article to the attention of my colleagues:

[From New York Times, Mar. 9, 1992]

HOW CONGRESS CAN PRESERVE CHOICE

Pro-choice advocates are understandably worried that the Supreme Court will soon overturn or narrow the 1973 Roe v. Wade decision protecting a women's right to choose abortion. They and their Congressional supporters are therefore moving to protect that right legislatively with a bill known as the Freedom of Choice Act. President Bush is already promising a veto.

Mr. Bush is hostile to liberty on two fronts. He first attacks on the judicial front, appointing Supreme Court justices likely to be unsympathetic to safeguards that have existed for nearly 20 years. Those justices want to force women to fight politically for their liberty. But then Mr. Bush says that even if women muster a political majority in Congress, their bill "will not become law as long as I am President."

Very well, let Congress work its will, and let President Bush work his. That would define the issue for the November elections regardless of how the Supreme Court decides the pending Pennsylvania abortion case. Such a political skirmish might help affirm that while nobody likes abortions, most people support the right to choose.

The bill says that states may not restrict that right at all before a fetus is viable. They may restrict the right after viability, but not when the woman's life or health is threatened. The Administration argues that this goes well beyond Roe v. Wade; the language may indeed need clarifying.

Congress has clear power to secure this freedom by Federal law. Section 5 of the 14th Amendment says Congress may enforce due process and equal protection of rights with appropriate legislation. The power to regulate interstate commerce is another strong basis; a Court decision giving individual states the power to decide—meaning that a woman's rights are defined by where she lives—could impose excessive burdens on states that provide abortions.

The only shadow on Congress's power comes from some of the newer Supreme Court justices and the Justice Department; both have questioned rulings by the Warren and Burger Courts sustaining, for example, the Federal Voting Rights Act. But the present crew of judges and lawyers, who seek to topple established gains in civil rights and liberties, are not yet in total command. Congress need not be intimidated.

The freedom of choice bill is a regrettable necessity. Congress should not have to protect rights recognized in Roe v. Wade. That decision vindicated a woman's right to control her own destiny yet accommodated the public's increased interest in potential life in late pregnancy. But given the hostility of the executive branch and the justices it has appointed, Congress is rightly summoned to exercise its legitimate power.

TRIBUTE TO THE VIETNAM VETERANS OF AMERICA CHAPTER 157; THE THOMAS A. MANGINO CHAPTER

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1992

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute both to a Vietnam Veteran Missing in Action and the Vietnam Veterans of America Post 157 of my 17th District in Ohio.

Mr. Speaker, we mourn the absence of Sgt. Thomas Mangino. He was reported missing in action 25 years ago. In honor of Sergeant Mangino, the Vietnam Veterans of America Chapter 157 has changed the name of their chapter. Their new name is the Vietnam Veterans of America Chapter 157, the Thomas A. Mangino Chapter.

I commend the members of this chapter who hold the memory of their friend so dear. Described as a friend to some and known to all, Mr. Mangino will be remembered now not only to the VVA members, but by me also.

Mr. Speaker, I pay tribute to the members of the VVA Post 157, the Thomas A. Mangino Chapter, and I remember Mr. Mangino, a great and honorable man in my eyes.

NARCO-DOLLARS RUIN COLOMBIA'S ECONOMY, CURRENCY

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1992

Mr. COUGHLIN. Mr. Speaker, there are some who believe that the Colombian Government is not fighting drug trafficking cartels wholeheartedly. Their reasoning seems based on the proposition that the Colombian Government cannot—in any truly meaningful way—pursue the cocaine cartels, because such a policy can only hurt the whole Colombian economy. This is simply not the case. To believe that the Colombian Government relies on drug profits as a crutch for a weak economy is to suggest falsely that the Colombian Government is in a partnership with the cocaine kingpins.

Approximately 8 or 9 percent of Colombia's GNP is represented by drug profits, but any economic benefit this might provide in the short term is more than outweighed by the cost of drug trafficking to Colombia. President Cesar Gaviria estimates that Colombia loses $1 billion in foreign investment because of the presence of the infamous drug trade. Further, hundreds of millions of dollars are spent each year on police military, and judicial drug enforcement programs to combat the drug trade.

The cost to the economy of Colombia, although great, does not even compare to the price Colombia has paid in blood. Over the last 5 years, 1,951 Colombian National Police officials have been murdered by drug traffickers; 747 last year alone. This does not count political leaders, judicial officials, journalists, and private individuals who have been threatened and killed by the drug traffickers. Of course, each time one person is injured or loses his or her life, it is not just that individual who suffers. Families—who must cope with the emotional and financial consequences of a lost loved one—also suffer.

The Colombian Government deserves great credit for helping to disrupt the drug trafficking business in our hemisphere, and for their leadership in supporting enhanced regional cooperation during the San Antonio drug summit. President Gaviria, in particular, has shown great personal courage in taking on the world's most violent and powerful criminal organizations. The drug trafficking cartels are still operating in Colombia, but they have been hurt by the Colombian Government's continuous attacks on all elements of their organizations.

Due to aggressive enforcement operations conducted by the Colombians, in conduction with the DEA, at least four key leaders of the Medellin cartel have been arrested and are in prison. Recent raids against the Cali cartel signify that Colombians campaign against the drug lords is far from over. By going after upper-echelon drug traffickers and their financial and material assets, Colombia is succeeding in disrupting the cartels' vast operations.

I am submitting for the RECORD today a copy of a Washington Times article, "Narcodollars Ruin Colombia's Economy, Currency," which describes the real price Colombia is paying in the war against drugs.

Colombia can't fight drug trafficking alone, and neither can we. In supporting the President's Andean strategy, we in Congress have an obligation to provide assistance to those nations that have demonstrated the will to dedicate their own resources in blood and treasure, to oppose the insidious operations of the world's most violent and powerful drug trafficking organizations. Colombia's leadership in the war against drugs makes it the foremost example of such a nation.

"NARCO-DOLLARS" RUIN COLOMBIA'S ECONOMY, CURRENCY

(By Ken Dermota)

BOGOTA, COLOMBIA.—The lure of easy money had distorted and nearly crippled the economy of this South American nation.

Ten years of cocaine trafficking have brought rampant corruption, tax evasion, soaring real estate prices and the undermining of domestic industries, local economists say.

They say the influx of "narco-dollars" has left the Colombian peso nearly worthless.

A recent study by economist Miguel Urrutia of the Fedesarrollo Foundation says drug profits represent 8 percent to 9 percent of Colombia's gross national product.

Mr. Urrutia says the troubled economy will be strengthened, not weakened, if drug profits continue to fall—something that has happened in the two years since the government began to battle the powerful Medellin cartel, once the source of 80 percent of the cocaine shipped to the United States.

Most economists put Columbia's yearly cocaine profits in the multi billion-dollar range.

President Cesar Caviria, an economist, says the country spends more than $1 billion annually fighting the drug war and loses another $1 billion in foreign investment, foreign exchange and taxes because of the cocaine traffic.

Mr. Urrutia goes further, saying great economic damage has been done by the traffickers who buy goods manufactured abroad with "hot" dollars and then smuggle them into Colombia, where they are quickly-dumped at bargain prices.

"The contraband competes with domestic production and diminishes the demand for industrial goods," Mr. Urrutia said "The result is closed businesses and unemployment"

And, of course, smugglers pay no taxes.

More significant are the effects of the "counter land reform," National University economist Jorge Child says.

For the past 10 years, peasants, pushed off their land flocked to the relative safety of Medellin, where drug trafficking provided the jobs that industry did not.

Diego Uribe, spokesman for the financial, tourism, and manufacturing sectors of Medellin, says drug trafficking provided perhaps 120,000 jobs in that city, but only temporarily.

HONORING MAYOR BEVERLY MCANALLY, THE ROMULUS CHAMBER OF COMMERCE'S "PERSON OF THE YEAR"

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1992

Mr. FORD of Michigan. Mr. Speaker, I rise today to ask my colleagues to join me in paying tribute to Beverly McAnally, the mayor of the city of Romulus, who was recently named the "Person of the Year" by the Romulus Chamber of Commerce.

Beverly McAnally started her career as a reporter for the Detroit News and has also written for the Romulus Roman and a number of other newspapers. It was reporting that got Mayor McAnally interested in politics, the work people were doing in the community, and it was reporting that eventually led her into a career in public service.

As mayor of Romulus, Beverly McAnally brings to her profession nearly two decades of political knowledge and experience. A former chairperson of the Washtenaw Cancer Society and a PTA president, she was one of the first women elected to the Romulus City Council and served there for three consecutive terms, including serving as the council's representative on the planning commission.

In 1973, Mayor McAnally was voted the "Outstanding Woman of the Year" by the Romulus Jaycettes in recognition of her outstanding community service.

In 1979, Beverly McAnally was elected treasurer of the city of Romulus and served with distinction in that position for two terms. During her tenure as treasurer, Mayor McAnally was instrumental in modernizing the functions of the finance department and the treasurer's office, and of developing investment procedures which enabled the city of Romulus to realize dramatically increased investment revenues.

In 1983, Beverly McAnally was elected the first female mayor in the history of the city of Romulus. Mayor McAnally has since been reelected four times. As mayor, Beverly McAnally has carefully overseen the growth of Metropolitan Airport, and of the city itself.

Throughout her career, Mayor McAnally has been a tireless advocate in the fight for increased educational opportunities for youth and the disadvantaged, senior citizen housing, job training and child care. Mayor McAnally's policies have contributed greatly to the quality of life in Romulus.

In addition to her service to the city of Romulus, Mayor McAnally has also lent her talents to improving the lives of all residents of southeast Michigan. Her involvement with governmental coalitions like the Conference of Western Wayne, and her election to the chair of the Downriver Community Conference rank not only as significant personal achievements, but as still another opportunity to contribute her efforts and energies to community service.

In addition to performing the duties of mayor, Beverly McAnally also lends her time to countless community organizations and committees, including the Romulus Downtown Business Authority, Romulus Historical Society, the Girl Scouts of America and the Southeastern Michigan Council of Governments.

Mr. Speaker, I am proud to call Beverly McAnally a colleague and a friend. Her two decades of devoted and unselfish service to the people of the city of Romulus and the State of Michigan are a credit to her, and an inspiration to all of us who serve in Government. As she is honored by the Romulus Chamber of Commerce, I urge my colleagues in the House to join me in congratulating Mayor McAnally on this much-deserved honor.

THE SITUATION IN NAGORNO-KARABAKH

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1992

Mr. HOYER. Mr. Speaker, the best, but most depressing, way to gauge the deterioration in the Nagorno-Karabakh conflict is to see estimates constantly rising on the numbers killed in the last 4 years. Until fairly recently, it was common to count hundreds of victims; now some newspaper editors have hiked their standard figures to about 2,000. The rise itself, and the short time span in which it took place, are extremely alarming. They graphically demonstrate the urgency of stopping the bloodshed before full-scale war breaks out between Armenia and Azerbaijan. The political instability in Azerbaijan after last week's resignation of President Mutalibov makes action even more critical.

Military experts would probably describe what has been happening in Nagorno-Karabakh as a low intensity conflict. Such conflicts have a nasty way of dragging on for years, as in Beirut. In the case of Nagorno-Karabakh, however, the hostilities would more probably rise sharply in intensity to dangerous levels. We have seen over the last 6 months a definite escalation in the quality and destructiveness of weapons used on both sides, including Grad missiles and armored personnel carriers. Armenian fighters this week held hostage troops of the Commonwealth of Independent States [CIS] stationed in Artik, Armenia. They demanded large amounts of weapons and ammunition in return for their release, eliciting threats of a blockade from the CIS military command. These troops have reportedly been set free. But Azerbaijan's Prime Minister Gasanov stated on March 11 that there is a 50–50 chance of an all-out war with Armenia. And to flesh out our worst nightmare scenarios, Russian Vice President Rutskoi announced the same day that tactical nuclear weapons are still located in Armenia and Azerbaijan. He hastily added that their use is 1,000 percent out of the question but that is scant assurance.

Another, more encouraging, way of measuring concern about Nagorno-Karabakh is to take note of the number of international diplomatic initiatives that aim at arranging a ceasefire and promoting negotiations. The Conference on Security and Cooperation in Europe [CSCE] has followed up its fact-finding mission of mid-February with new efforts coordinated by the NATO Cooperation Council, which has mandated a mediation mission to Nagorno-Karabakh. Iran, Turkey and Russia all are also engaged in mediation efforts and the United States State Department and the United Nations have been urged by the Helsinki Commission to take a more activist approach.

Mr. Speaker, the countries neighboring Armenia and Azerbaijan have justified concerns about the possible spread of hostilities into a regional war, the potential consequences of which would be disastrous. Armenia and Azerbaijan are now both members of international organizations, including the CSCE and the United Nations. It is time for coordinated international diplomatic action to make resolution of the Nagorno-Karabakh conflict a high-priority agenda item, before addressing the consequences of this war becomes the international community's No. 1 priority.

ENERGY SAVINGS PERFORMANCE CONTRACTS ACT OF 1992

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1992

Mr. RICHARDSON. Mr. Speaker, I am pleased to introduce today a bill to direct Federal agencies to conserve energy at their own facilities, to make Federal buildings more energy efficient. Indeed, many States have already experienced significant cost savings as a result of the utilization of these energy performance services contracts in schools and other public buildings within their communities.

Mr. Speaker, I salute my colleagues from Indiana and Oklahoma, Messers. SHARP and SYNAR, for their vision in presenting the House with major energy conservation legislation. This bill provides the opportunity to support a mechanism for Federal agencies to benefit from savings guaranteed by those commercial companies with expertise in this field. I want to especially commend my friend from Oklahoma [Mr. SYNAR] for his willingness to support a competitive acquisition process that is not constrained artificially by rules and regulations that currently do not permit the Government to take advantage of the combined technological advances and engineering systems available to enhance conservation in the commercial world. The three year test period will provide an opportunity for the Congress to monitor the effectiveness of these procedures.

Mr. Speaker, under this bill the Secretary of Energy will consult with the three agency heads who lead the Federal Acquisition Regulation Council—the Secretary of Defense, the Administrator of the National Aeronautics and Space Administration, and the Administrator of General Services Administration—in developing qualifications-based selection procedures for Federal agencies to utilize in obtaining these long-term energy performance services. The language in this bill also authorizes the Secretary to waive, change and/or override any existing procurement laws and regulations that impede the ability of commercial companies to provide their performance-based services to the Federal marketplace, including those procedures related to the submission of cost and pricing data and to the cost accounting standards requirements. It is appropriate that these provisions be excluded from the contracts as there are no net out-of-pocket costs to the Government, and significant unique custom design work for each building.

In addition the bill assures that Federal agencies can enter into these long term service agreements and make payments from annual appropriations for these ongoing services. It is anticipated that the contract would guarantee that the energy savings generated by the system would exceed the payments; otherwise the contractor would pay the difference to the Federal agency. Once the contract term is completed, all savings thereafter would be available to the agency. Under this bill contractors would finance their investment in the energy efficient system through a financial institution. The debt service amounts would not exceed the amount of the savings to the agencies. Accordingly, it is essential that agencies understand that utilization of this approach has no net cost to them and indeed guarantees them savings compared to their current level of energy costs.

Mr. Speaker, the bill provides also for monitoring of these special procedures by the General Accounting Office and requires regular reports to the Congress on the costs related to this program, the energy savings accounting, and the impact of the new acquisition procedures—compared to existing law. These oversight protections will allow the 3-year-test period to proceed in order to provide maximum energy savings to the Federal Government.

Mr. Speaker, by the adoption of this bill, the people of New Mexico, as well as all American taxpayers benefit. I look forward to the reports of progress on this program and again encourage my colleagues to support this bill.

TRIBUTE TO THE CLAYMEN FAMILY FOUNDATION, INC.

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1992

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to an outstanding foundation that honors high school scholars and unlocks the dreams of the future for high school seniors at Niles McKinley High School in my 17th District in Ohio.

I grasp this opportunity not only to pay tribute, but also to thank Mr. William Claymen, alumnus of McKinley High School and founder of the Claymen Family Foundation, Inc., Academic Scholarship Program. This program offers high school seniors scholarships for their college education. After six semesters as a full-time student, the members of the senior class are evaluated based on academic achievement. Annually, two students are awarded the scholarship. This excellent program also renews the scholarship annually, thereby encouraging the recipients to continue their record of achievement.

Mr. Speaker as the Claymen Family Foundation, Inc., academic scholarship prepares to award this year's scholarship recipients, I offer my thanks for their contribution to the field of academic excellence and pay tribute to the family and the students who win this year's scholarship award. Congratulations and thank you.

A TRIBUTE TO LOUIS ANTHONY CONDO

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1992,

Mr. MANTON. Mr. Speaker, on Friday, March 20, 1992, it will be a year since Louis Anthony Condo, a great Italian-American labor leader and a proud New Yorker died at the Overlook Restaurant in Valhalla, NY. As he lived Louis died in characteristic style, just as he had completed a plate of linguini and clams with his favorite table wine.

Now that Louis is in an another Valhalla looking down upon all of us, he can clarify which of the three ID's he carried was the accurate one. But those for whom Lou worked, worked with or worked for didn't care whether he was 67, or 57, or 37. They all loved and respected him and knew his age was the only thing upon which he fudged.

Whether as an official of his local union, credit union, the allied service division of the Brotherhood of Railway, Airlines & Steamship Clerks—now the Transportation-Communication Union—or in the position many of us came to know him best as that union's New York State legislature director he exercised and merited influence far beyond the positions themselves. He had the flair, the confidence, the dignity and the commitment that convinced you he was telling it as it was. Unlike the greens that garnished his frequent bowl of pasta, he did not embellish his position with oratory, but he sure gave you the cold hard facts.

Those of us who toiled in either Albany or Washington or both may have known him best as his union's State legislative director but railroad workers knew him as the man who could understand their fears, complaints, and suggestions and respond with more than words. He treated all with respect and he was most obviously respected by one and all. Lou Condo was well known in corporate board rooms, government offices, railroad freight yards, loading platforms and railroad general offices throughout the State of New York, especially in New York City.

Workers named their kids after him, politicians told Lou Condo stories to demonstrate a point, dogs wagged their tails at him, children smiled at him and one immigrant street vendor upon becoming a citizen officially changed his name to Lou Condo in the hopes some of the charm would rub off on him.

The five boroughs were just a little more pleasant to live in when he was with us and he is already sadly missed by all of us.

On Friday night, March 20 in a little Italian restaurant in Greenwich Village, a group of friends and relatives will sit down in front of linguini and clams and tell Lou Condo stories. They may have a lost a friend, but they've been blessed to keep the memories.

Louis was a proud man and he was proud of his wife Rose, his daughter Cissy and his son Joe. He sure would have been busting at the seams if he had been around this summer to see Joe elected as an international vice president of the same union he worked so well for in the trenches.

THE PLIGHT OF SYRIAN JEWS

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, today there are approximately 4,000 Jews still living in Syria. They are monitored 24 hours a day by the Syrian secret police because they are Jewish. Although Syrian Jews may have relative freedom of religion, they are continuously denied freedom of emigration and movement. They also endure repressive restriction of fundamental freedoms.

In the 1990 report, "Human Rights in Syria," Middle East Watch, "no other community in Syria faces such heavy surveillance and none is made to feel so completely powerless in the face of authorities." Yet, Assad continues to evade responsibility for living up to internationally recognized standards of human rights.

I will continue to heighten awareness on the plight of Syrian Jews, because no human being should have to experience life like this.

CONGRESSMAN KILDEE HONORS DAMIAN J. THORMAN

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1992

Mr. KILDEE. Mr. Speaker, I rise today to pay tribute to a young man who has done so much to improve the quality of life for the people of this Nation, Mr. Damian J. Thorman.

Mr. Speaker, oftentimes Members of Congress forget the important role of our staff in making this great institution function properly. They serve as our eyes and ears, and their work is rarely seen or noticed outside these halls. They negotiate into the wee hours of the morning, they meet with the many interest groups, they provide invaluable counsel, and they ensure that the laws we pass are drafted correctly.

Born in South Bend, IN, Damian and his family moved to Kansas City, MI, where his father established a weekly newspaper called the National Catholic Reporter. It is here that Damian began his interest in public policy. After a few years in college, Damian came to Washington, DC, for a short-term internship with Congressman ALAN WHEAT. But like so many before him, Damian caught Potomac fever and he stayed in Washington to work for Congressman BILL RICHARDSON, where he earned a reputation for being a strong supporter for Native Americans and Hispanic Americans.

For the last 4 years, Damian has worked on my staff as a legislative associate for the House Subcommittees on Human Resources and Elementary, Secondary and Vocational Education. In his work, Damian helped draft legislation that will impact millions of Americans.

Damian was a key player in the drafting of the Act for Better Child Care, a bill that provided Federal standards for child care providers, and financial assistance for families who desperately needed child care. Damian also helped write legislation to provide the largest reauthorization of the Head Start Program. In fact, over the years, Damian has become recognized as a national expert in the area of Head Start.

Damian epitomizes the perfect congressional staffer. He is intelligent, dedicated, loyal, politically astute, and most importantly, he deeply believes that Government can play a positive role in making our country a better place to live. Not only is he a trusted staffer, but Damian has become a dear friend.

After 9 years on Capitol Hill, Damian has decided to move on to new challenges in his life. He will begin working with the American Academy of Pediatrics. During this time, Damian has made many friends here on Capitol Hill. In fact, he met his future bride Jennice Fuentes on Capitol Hill, who works as a staffer in another congressional office. We will all miss Damian, and we wish him the best, but we feel comfortable knowing that he is leaving Capitol Hill to continue to fight for those who are the most economically vulnerable in our society.

SUPPORT H.R. 2070, FEDERAL CHARTER FOR FLEET RESERVE ASSOCIATION

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1992

Mr. CUNNINGHAM. Mr. Speaker, I rise in strong support of H.R. 2070 which would grant a Federal charter to the Fleet Reserve Association.

The FRA has 150,000 members, all of whom are active duty, retired, and reserve personnel of the U.S. Navy, Marine Corps, and Coast Guard. For 64 years, this outstanding association has provided many quality services for American military personnel. Approval of legislation granting the FRA a Federal charter would allow our military men and women to participate more fully in national activities for our Veterans.

Prompt approval of H.R. 2070 would grant the FRA the following privileges.

FRA would serve on the President's National Veterans Day Executive Committee and help plan and organize national ceremonies at Arlington National Cemetery;

FRA would serve on the Secretary of Labor's Veterans Advisory Council;

Official participation in the signing of Veterans bills into law;

Presentation of a national agenda before the annual joint session of the Veterans Affairs Committee; and,

Attendance in meetings called by the Secretary of Veterans Affairs for congressionally chartered veterans organizations.

Unfortunately, under a motion approved by the Subcommittee on Administrative Law and Governmental Relations on Feb. 23, 1989, a moratorium has been imposed on the granting of Federal charters.

As I have shown, members of the Fleet Reserve Association would benefit several ways if the Association was granted a Federal charter.

I urge my colleagues to support H.R. 2070 and waive the unnecessary moratorium against new Federal charters in the case of the Fleet Reserve Association.

TRIBUTE TO THE IRISH MAN AND WOMAN OF THE YEAR

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1992

Mr. TRAFICANT. Mr. Speaker, I rise to pay tribute to the honorees of the Ancient Order of Hibernians in America [AOH & LAOH]. These organizations have named Robert VanSickle as the "Irish Man of the Year" and Margaret O'Neil Lozano as the "Irish Woman of the Year."

Both of these individuals have demonstrated outstanding commitment to their community and to their Irish heritage.

Robert VanSickle is not only the "Irish Man of the Year," but also was honored as the grand marshal of the Pete Gabriel of St. Patrick' Day Parade in 1989 and was "Gael of the Year" in 1983. Mr. VanSickle is also a supporter of the Feis Society, the Irish Step Dancers and the Nick Johnson Foundation at Ursuline High School. Amidst such distinguished activity, Mr. VanSickle also established the all volunteer charitable fund known as the VanSickle for "R" Kids Foundation for children in need.

Margaret O'Neil Lozano, named this year's "Irish Woman of the Year," has also distinguished herself as founder of the Ladies AOH as well a participant in the charter and constitution committees. Such activity extended to the 1991 committee convention where she served as cochair of the convention overseeing hospitality. Mrs. Lozano was also elected the "Ladies Ancient Order of Hibernians Mistress-at-Arms and Sentinel." Additionally, Mrs. Lozano is a member of the Gaelic Bocce Team and the John F. Kennedy Democratic Women's Club.

Both of these individuals have demonstrated outstanding loyalty to those organizations in which they believe. In doing so, Mr. VanSickle and Mrs. Lozano have earned my utmost respect and congratulations on this occasion. I take my hat off to them both and wish them well in their endeavors.

Mr. Speaker, I rise today to pay tribute and to congratulate the AOH and the LAOH "Man and Woman of the Year," Mr. Robert VanSickle and Mrs. Margaret O'Neil Lozano from my 17th District in Ohio.

A TRIBUTE TO ROCKVILLE HIGH'S REGIONAL SCIENCE BOWL WINNERS

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1992

Mrs. MORELLA. Mr. Speaker, I rise to congratulate Rockville High School's National Science Bowl team, winners of the Germantown regional competition held on February 29. This question-and-answer tournament, sponsored by the Department of Energy and Cray Research Foundation, is a cooperative effort to motivate and reward students excelling in science and mathematics throughout the entire Nation.

Participating students answered questions such as: "What is the hydrolysis of a fat using a solution of a strong hydroxide called?" "What is the volume of a sphere of radius R?" "How many quarks make up a neutron?" The Science Bowl, a double-elimination tournament, tests astronomy, biology, physics, chemistry, and computer science.

In times when headlines are impugning the scholastic abilities of this Nation's youth, especially in science and math, I am particularly proud to commend Todd Westly, captain; John Hamilton; Sekhar Ramakrishnan; Jordan Smith; and David Hamilton, alternate. What makes their accomplishment even more deserving of praise is that this team had no coach. Donnis Crump, an academic counselor and English teacher at Rockville High School, relayed the information concerning the Germantown Regional Science Bowl to the students, and they completed the necessary paperwork, held practices, and obtained transportation to attend the competition.

Within the last several years, Secretary of Energy James D. Watkins has expanded the Department's education mission. One of the many DOE-funded education initiatives, the 1992 National Science Bowl, will be held in Washington, DC, on April 24–27; 12,000 students from 2,000 high schools will have competed in regional tournaments. I look forward to cheering for the Rockville High School team, and I encourage my colleagues to support similar efforts to motivate America's youth to excel. To maintain a competitive position in today's world, we need to educate our future leaders.

TRIBUTE TO SAINT JOSEPH'S MERCY AUXILIARY

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1992

Mr. BONIOR. Mr. Speaker, today, March 18, 1992, marks a proud day for those of us who live in Michigan's 12th Congressional District. On this occasion, the St. Joseph's Mercy Auxiliary celebrates its 40th anniversary.

The auxiliary is the result of a group of dedicated women who wanted to promote good will between the hospital and surrounding community. In 1952 they started out with just a card table where they sold candy and small items. They now have three gift shops which together generate over $70,000 annually.

Over the years the auxiliary has held many successful fundraising events, the proceeds of which are generously donated to the hospital. With this extra money the hospital has been able to purchase specialized and sophisticated equipment.

In closing, Mr. Speaker, the dedication and commitment of the auxiliary has had a considerable impact on the renovation and modernization of St. Joseph's Mercy Hospital

On this special occasion, I ask that my colleagues join me in congratulating St. Joseph's Mercy Auxiliary on its 40th anniversary.

MACEDONIA

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1992

Mr. TORRICELLI. Mr. Speaker, I am concerned about the Yugoslav Republic of Macedonia's move for recognition. The prospect of an autonomous Macedonia state in the Balkans is provoking unrest in many of the surrounding nations.

Macedonia is the name of a nation-state that once was part of Ancient Greece. The region produced many classical thinkers and statesmen, including Aristotle, King Philip II, and Alexander the Great. The territory of Macedonia has always shared cultural links with the state of Greece.

After World War II, the territory of ancient Macedonia was divided among Yugoslavia, Bulgaria, and Greece. Today, each of these states claims a region of Macedonia within its borders. Salonika, the capital of this ancient territory is located in northern Greece.

It is wrong to allow only a portion of this ancient nation-state to lay claim to its historical name. Such a move would deprive Greek and Bulgarian Macedonians of their historical heritage. Part of Yugoslav Macedonia, was once Serb territory partitioned by President Tito in 1945.

The independence movement in Yugoslav Macedonia has prompted nationalist groups like the Macedonian National Liberation Army to promote a greater Macedonia consisting of parts of Yugoslavia, Greece, and Bulgaria. Greek authorities report that these groups are broadcasting Macedonian unity propaganda into Greek Macedonia. Purported copies of the Yugoslav Macedonian independent currency bears the White Tower of Salonika on its face.

Moveover, the constitution of Yugoslav Macedonia espouses the protection of the rights of all Macedonian people outside of its borders and proposes the future union of all Macedonian provinces. This is a direct affront to the sovereignty and territorial integrity of Greece and neighboring nations.

Recognition of the republic of Macedonia would likely provoke outbreaks of social unrest in the Balkans. Recently, the European Community decided to postpone recognition of this republic, pending further deliberations. I urge President Bush and the rest of the world community to similarly consider the political ramifications and withhold recognition of an independent Macedonia.

TRIBUTE TO MEXICAN FOLKLORIC DANCE COMPANY OF CHICAGO

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1992

Mr. LIPINSKI. Mr. Speaker, I am pleased to rise today to salute the Mexican Folkloric Dance Company of Chicago on the occasion of their 10th anniversary.

The Mexican Folkloric Dance Company of Chicago was founded in 1982 to enable the Mexican community to preserve its culture for the citizens of Illinois through dance performances that reflect the authentic dance heritage from all areas of Mexico. Mexico's music heritage is rich from its pre-Columbian history as well as the influences of Spanish, African, and French cultures.

Dance Company performances are a showcase of Mexican culture through festive dancing, diverse musical melodies, and breathtaking costumes. Performances are fast paced and extremely entertaining. I am sure that each of my colleagues would truly enjoy a performance by the Mexican Folkloric Dance Company.

During the past 10 years, the company has toured Mexico and performed throughout the Midwest as well as numerous performances for dignitaries and special events. As the Mexican Folkloric Dance Company celebrates their 10th anniversary, I urge my colleagues to join me in commending the company for their role in bringing Mexican culture to America. Contributions such as theirs are what makes our Nation great.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, March 17, 1992, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MARCH 18

9:00 a.m.

Labor and Human Resources

Business meeting, to mark up S. 1275, authorizing funds through fiscal year 1997 for the Office of Educational Research and Improvement, Department of Education.

SD-430

9:30 a.m.

Armed Services

Defense Industry and Technology Subcommittee

To hold hearings on dual-use critical technology programs being undertaken by the Department of Defense and the Department of Energy.

SR-222

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To hold hearings to examine NASA's space station and launch issues.

SR-253

Energy and Natural Resources

Business meeting, to consider pending calendar business.

SD-366

Foreign Relations

Terrorism, Narcotics and International Operations Subcommittee

To resume hearings to examine alleged criminal activity concerning the Bank of Credit and Commerce International (BCCI).

SD-419

Select on Indian Affairs

Business meeting, to further mark up S. 1602, to ratify a compact between the Assinibone and Sioux Indian Tribes of the Fort Peck Reservation and the State of Montana, and to consider the nomination of Carl J. Kunasek, of Arizona, to be Commissioner on the Navajo-Hopi Relocation, Office of Navajo-Hopi Relocation; to be followed by oversight hearings on the implementation of the Indian Gaming Regulatory Act (IGRA).

SH-216

10:00 a.m.

Appropriations

Treasury, Postal Service, General Government Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of the Treasury, and the Executive Office of the President.

SD-116

Environment and Public Works

Water Resources, Transportation, and Infrastructure Subcommittee

To hold hearings on proposed legislation relating to water resources development.

SD-406

10:30 a.m.

Appropriations

Transportation Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Federal Highway Administration, Department of Transportation.

SD-192

2:00 p.m.

Appropriations

Energy and Water Development Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Tennessee Valley Authority.

SD-192

Foreign Relations

Terrorism, Narcotics and International Operations Subcommittee

To continue hearings to examine alleged criminal activity concerning the Bank of Credit and Commerce International (BCCI).

SD-419

MARCH 19

9:00 a.m.

Appropriations

Defense Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Defense, focusing on Guard and Reserve manpower and equipment requirements.

SD-192

Labor and Human Resources

To hold hearings on S. 2191, to create school atmospheres where children will learn lifelong health and fitness skills vital to developing a smart body and smart mind.

SD-430

9:30 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the National Science Foundation, and the Office of Science Technology Policy.

SD-124

Energy and Natural Resources

Public Lands, National Parks and Forests Subcommittee

To hold hearings on S. 684, to strengthen the preservation of the Nation's historic heritage and resources.

SD-366

10:00 a.m.

Appropriations

Interior Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Indian Health Service, Department of Health and Human Services.

SD-116

Banking, Housing, and Urban Affairs

Housing and Urban Affairs Subcommittee

To hold hearings on S. 2341, to reduce and eliminate lead-based paint hazards in older homes.

SD-538

Foreign Relations

To hold hearings to examine reports of mass killings in Iraq.

SD-419

Judiciary

Business meeting, to consider pending calendar business.

Room to be announced

10:15 a.m.

Appropriations

Commerce, Justice, State, and Judiciary Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Justice.

S-146, Capitol

2:00 p.m.

Foreign Relations

European Affairs Subcommittee

To hold hearings to examine the recommendations of certain United States non-profit organizations concerning U.S. assistance to the new independent states of the former Soviet Union.

S-116, Capitol

3:30 p.m.

Foreign Relations

African Affairs Subcommittee

To hold hearings to examine the United States response to the changing situation in the region of the Horn of Africa.

SD-419

MARCH 20

10:00 a.m.

Appropriations

Agriculture and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Agriculture, focusing on the Farmers Home Administration, the Federal Crop Insurance Corporation, the Rural Electrification Administration, and the Rural Development Administration.

SD-138

Veterans' Affairs

To hold hearings on S. 2322, to increase the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans, and S. 2323, to revise title 38, U.S. Code, to revise the rates of dependency and indemnity compensation payable to surviving spouses of certain service-disabled veterans, and to provide supplemental service disabled veterans' insurance for totally disabled veterans.

SR-418

MARCH 24

10:00 a.m.

Appropriations

Defense Subcommittee

To hold closed hearings on proposed budget estimates for fiscal year 1993 for the Department of Defense, focusing on classified programs.

S-407, Capitol

Environment and Public Works

To hold hearings on the President's proposed budget request for fiscal year 1993 for the Environmental Protection Agency.

SD-406

2:00 p.m.

Armed Services

Strategic Forces and Nuclear Deterrence Subcommittee

To hold hearings on proposed legislation authorizing funds for fiscal year 1993 for the Department of Defense, focusing on the Department of Energy's Environmental Restoration and Waste Management Program.

SR-222

MARCH 25

9:30 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Neighborhood Reinvestment Corporation, and the National Credit Union Administration.

SD-116

10:00 a.m.

Appropriations

Commerce, Justice, State, and Judiciary Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Federal Communications Commission, and the Securities and Exchange Commission.

S-146, Capitol

Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the National Highway Traffic Safety Administration, and the Research and Special Programs Administration, both of the Department of Transportation.

SD-138

Appropriations
Treasury, Postal Service, General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Internal Revenue Service, Department of the Treasury, and the U.S. Postal Service.

SD-116

Environment and Public Works
Toxic Substances, Environmental Oversight, Research and Development Subcommittee
To hold hearings on issues relating to the Toxic Substances Control Act.

SD-406

MARCH 26

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Environmental Protection Agency, and the Council on Environmental Quality.

SD-G50

Governmental Affairs
Oversight of Government Management Subcommittee
To hold hearings on S. 2279, to provide for the disclosure of lobbying activities to influence the Federal Government.

SD-342

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings to examine issues relating to voluntary military service, women in the military, and family life.

SD-192

Commerce, Science, and Transportation
To hold oversight hearings on national technology policy.

SR-253

2:00 p.m.
Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on S. 1439, to authorize and direct the Secretary of the Interior to convey certain lands in Livingston Parish, Louisiana, S. 1663, to authorize increased funding for the East Saint Louis portion of the Jefferson National Expansion Memorial, S. 1664, to establish the Keweenaw National Historical Park, S. 2079, to establish the Marsh-Billings National Historical Park in the State of Vermont, and H.R. 2790, to withdraw certain lands located in the Coronado National Forest from the mining and mineral leasing laws of the U.S.

SD-366

MARCH 27

10:00 a.m.
Appropriations
Agriculture and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Agriculture, focusing on the Animal and Plant Inspection Service, the Food Safety and Inspection Service, and the Agricultural Marketing Service.

SD-138

10:15 a.m.
Governmental Affairs
To hold hearings to examine health risks associated with lead in china tableware.

SD-342

MARCH 31

9:30 a.m.
Energy and Natural Resources
To hold oversight hearings on the implementation of the Department of Energy's civilian nuclear waste program mandated by the Nuclear Waste Policy Act.

SD-366

APRIL 1

9:30 a.m.
Select on Indian Affairs
To hold hearings on proposed legislation to authorize funds for programs of the Indian Health Care Improvement Act.

SR-485

10:00 a.m.
Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Commerce.

S-146, Capitol

Appropriations
Treasury, Postal Service, General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Office of National Drug Control Policy, and the U.S. Secret Service, Department of the Treasury.

SD-116

APRIL 2

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Federal Deposit Insurance Corporation, and the Resolution Trust Corporation.

SD-116

Commerce, Science, and Transportation
Consumer Subcommittee
To hold hearings on S. 664, to require that health warnings be included in alcoholic beverage advertisements.

SR-253

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Defense, focusing on manpower, personnel, and health programs.

SD-192

Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the National Transportation Safety Board.

SD-138

APRIL 3

10:00 a.m.
Appropriations
Agriculture and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Agriculture, focusing on the Agricultural Stabilization and Conservation Service, the Foreign Agricultural Service, the General Sales Manager, and the Soil Conservation Service.

SD-138

APRIL 7

10:00 a.m.
Appropriations
Agriculture and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Agriculture, focusing on the Commodity Futures Trading Commission, the Food and Drug Administration, the Farm Credit Administration, and the Farm Credit System Assistance Board.

SD-138

Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Federal Bureau of Investigation, and the Drug Enforcement Administration, Department of Justice.

S-146, Capitol

2:30 p.m.
Select on Indian Affairs
To hold hearings on S. 1752, to provide for the development, enhancement, and recognition of Indian tribal courts.

SR-485

APRIL 8

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the AMVETs, American Ex-POWs, Jewish War Veterans, Non-Commissioned Officers Association, National Association for Uniformed Services, and Society of Military Widows.

SD-106

10:00 a.m.
Appropriations
Treasury, Postal Service, General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Office of Management and Budget, the Office of Personnel Management, and the Executive Residence.

SD-116

APRIL 9

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Na-

tional Aeronautics and Space Administration.

SD–G50

10:00 a.m.

Appropriations

Defense Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Defense, focusing on strategic programs.

SD–192

Appropriations

Commerce, Justice, State, and Judiciary Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the National Oceanic and Atmospheric Administration, and the Small Business Administration.

S–146, Capitol

Appropriations

Transportation Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for Amtrak, and the Federal Railroad Administration, Department of Transportation.

SD–138

APRIL 19

10:00 a.m.

Appropriations

Defense Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Defense.

SD–192

APRIL 29

10:00 a.m.

Appropriations

Commerce, Justice, State, and Judiciary Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the U.S. Information Agency, and the Board for International Broadcasting.

S–146, Capitol

APRIL 30

9:30 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Housing and Urban Development.

SD–G50

10:00 a.m.

Appropriations

Transportation Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Federal Transit Agency, and the Washington Metropolitan Area Transit Authority.

SD–138

MAY 6

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To hold hearings on S. 2297, to enable the United States to maintain its leadership in land remote sensing by providing data continuity for the Landsat program, by establishing a new national land remote sensing policy.

SR–253

Select on Indian Affairs

To resume oversight hearings on the implementation of the Indian Gaming Regulatory Act (IGRA).

SR–485

MAY 7

9:30 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Veterans Affairs, and the Court of Veterans Affairs.

SD–124

10:00 a.m.

Appropriations

Transportation Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the U.S. Coast Guard, Department of Transportation.

SD–138

MAY 14

9:30 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Federal Emergency Management Agency.

SD–124

10:00 a.m.

Appropriations

Transportation Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Federal Aviation Administration, Department of Transportation.

SD–138

MAY 21

9:30 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the National Community Service, and the Points of Light Foundation.

SD–116

10:00 a.m.

Appropriations

Transportation Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the General Accounting Office.

SD–138

MAY 22

9:30 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Housing and Urban Development and certain related agencies.

SD–138

POSTPONEMENTS

MARCH 17

10:00 a.m.

Appropriations

Foreign Operations Subcommittee

Business meeting, to mark up H.R. 2621, making appropriations for fiscal year 1992 for foreign operations, export financing, and related programs.

S–128, Capitol

HOUSE OF REPRESENTATIVES—*Tuesday, March 17, 1992*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Remind us each day, O God, not only that the goals we seek in life should be tempered by the qualities of justice and truth, but also that the actions and words that we use in attaining our goals be words and actions that demonstrate respect for one another. With all the disagreements and quarrels and complaints that are a part of daily life we give thanks that we have the opportunity to do what we can to live together with reverence and honor to all people. Give us good and steadfast spirits, we pray, so we will be faithful stewards of the tasks before us. This is our earnest prayer. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. The Chair will ask the gentleman from Iowa [Mr. NUSSLE] if he would kindly come forward and lead the membership in the Pledge of Allegiance.

Mr. NUSSLE led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

LET'S PASS A GOOD CAMPAIGN FINANCE REFORM BILL

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, having spent the weekend at home, I can say that people of my community and the country feel betrayed by what happened in the House bank, and the disclosure of the names of the Members is only one part of the curing and healing process.

There is much more which needs to be done. One of the matters, which to your great credit, Mr. Speaker, you have constantly put your reputation on the line in behalf of, is campaign reform. And, one aspect of campaign reform that I would like to address briefly today is the issue of limited spending in congressional races.

Some races, as we know, for House seats will consume a million dollars or even more. The reform bill, which is pending in the conference committee with the other body, would put a limit of $600,000 for each election cycle, certainly enough to finance an adequate campaign and enough also to keep races from being noncompetitive to a challenger.

Mr. Speaker, among the many reforms in the way the House proceeds with its business adopted in the months ahead would be to change the way people get here, change the way elections are conducted and, Mr. Speaker, I ask that you continue your excellent efforts in behalf of moving a campaign reform bill to passage in this Congress.

COMPETITIVENESS COUNCIL

(Mr. THOMAS of Wyoming asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMAS of Wyoming. Mr. Speaker, overregulation and bureaucracy are among the major problems in the Government. Not only do they present unnecessary obstacles for citizens in their everyday lives—over-regulation has a devastating impact on competitiveness and our ability to create jobs in the country.

Not only does the Congress allow, indeed demand more and more regulation, it often opposes efforts to make reductions in the regulatory jungle. That will be the case with a government operations subcommittee this week.

In November, the Food and Drug Administration released a new policy recommendation to speed up the process of approving new drugs to treat a variety of needs. They do not circumvent safety, they do not circumvent the law. They simply test and get necessary drugs into the hands of patients sooner.

For some reason, however, the House Government Operations Committee leadership objects to simplified regulations and a safe, but speedy approval process. It continues to put obstacles in the way of getting critical drugs in the marketplace.

The FDA, following the recommendations of Vice President QUAYLE's Competitiveness Council, has made positive steps to keep regulations to a minimum. Drugs will still go through the regulatory process—they will not be hampered by unnecessary hoops to jump through. What is wrong with that?

Rather than blasting a good policy, Government Operations Committee should be praising the Vice President for helping people—which is really why we are here.

ELECTION OF RESIDENT COMMISSIONER TO COMMITTEE ON INTERIOR AND INSULAR AFFAIRS AND COMMITTEE ON FOREIGN AFFAIRS

Mr. HOYER. Mr. Speaker, I offer a privileged resolution (H. Res. 400) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 400

Resolved, That the Resident Commissioner from Puerto Rico be, and is hereby elected to the following standing committees of the House of Representatives: Committee on Interior and Insular Affairs: Antonio J. Colorado, Puerto Rico. Committee on Foreign Affairs: Antonio J. Colorado, Puerto Rico.

The resolution was agreed to.

A motion to reconsider was laid on the table.

FACE THE ISSUE

(Mr. EARLY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EARLY. Mr. Speaker, Members of this House, in my opinion an ethical investigation is supposed to be three things: private, confidential, and nonpartisan.

The investigation going on with the check incident is neither. Saturday night sitting in my house, the television released an AP release that identified 24 Members as the major check abusers.

I stand in this well saying that I do not think I have ever bounced one check. My name was included on that list. That was Saturday.

On Monday I had to attend a visitors' board at Harvard Medical School, so I spent all day there, so I was not available.

I have not been notified yet about this investigation.

Mr. Speaker, and he just left this floor, and I asked him to stay, he has handled this situation as a disgrace, as a disgrace.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MAZZOLI). The gentleman must proceed

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

according to the House rules. He must address the Chair.

Mr. EARLY. Mr. Speaker, I will do that. I apologize.

The SPEAKER pro tempore. Address the Chair rather than individuals.

Mr. EARLY. But I wish, if I am on that list, that I could be notified.

We voted last Thursday that every Member was to have 10 days if you are on that list. Mr. Speaker, I stand in the well, and I tell my constituents, I tell this gallery, I do not think I had one check.

I am not a rich man. I have eight children. My problem is this: When they said they used the standard that you would be overdrawn eight times in the 39-month period, Mr. Speaker, I sent seven of my eight kids through college. I am not copping any plea or making any excuses. I sent seven of my eight kids through college.

Each pay that I get, back in 1989, where all of America thinks the pays are excessive, my pay that is after the taxes and after the transfers for my kids' student loans is $2,700.

Now, again, as of today, my pay, my net pay, that goes into my account is $6,000.

I am reading in the paper that I have abused this. I can only say to my constituency, and I have got two groups that bother me most, two, well, three, all the United States, and I am concerned about what you people are thinking, but my wife and my kids, they are not entitled to this. My constituents are not entitled to this.

Mr. Speaker, face the issue.

PARENTS KNOW WHAT IS BEST FOR THEIR CHILDREN

(Mr. DELAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DELAY. Mr. Speaker, I have a simple question that I would like an answer to: Why are we not giving $700 million to schools that are working? Why are some Members of this body insisting on putting this money into educrats coffers to replenish a system that has failed? H.R. 4323 maintains the status quo. It does not provide for the reform that Americans are demanding. It does not provide for the reform our children so desperately need.

Parental choice in education is a simple, straightforward plan. It puts the power, the money, into parents' hands. From there the parents choose the best school, public or private, for their child. It is time for Government to remember that parents know what is best for their child—not the bureaucrats.

Mr. Speaker, this program is fair across the board. The poor and the middle class and the rich alike all receive the same amount of money, they all choose from the same selection of schools, they all are empowered to make the absolute best choice for their children.

By introducing competition to the public school system, genuine reform is brought about by creating incentives for schools. The money goes to the parents, it does not get lost in the bureaucracy. The schools and therefore the students, succeed because their only option is to improve.

□ 1210

HOMELESS RELIEF ACT OF 1992

(Mr. MCMILLEN of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MCMILLEN of Maryland. Mr. Speaker, I will be introducing legislation today to allow the deductibility of donated housing for the purpose of sheltering homeless people.

This legislation was spawned not just by the need for such a deduction, but also by the astonishment that such donated housing currently is not deductible.

The shortage of affordable housing in the United States is acute. The irony is that the home construction industry is stagnant, real estate inventory is high, and yet there remains an extreme shortage of affordable housing and a growing homeless population.

The legislation I introduce today will encourage the donation of existing housing to be used by low income and homeless people.

Specifically, the bill allows a tax paying entity to deduct the fair market rental value for the lease of real or related personal property to a nonprofit organization, 501(c)(3), as a cash charitable contribution deduction.

This bill will help redirect existing resources to those who desperately need it. While I make no claims that this is an ultimate solution, it is an important and necessary step in the right direction.

FACE THE ISSUE

(Mr. FRANK of Massachusetts asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FRANK of Massachusetts. Mr. Speaker, I yield to the gentleman from Massachusetts [Mr. EARLY].

Mr. EARLY. Mr. Speaker, I want to thank my colleague, the gentleman from Massachusetts, for yielding to me.

Mr. Speaker, I come to this microphone to clarify one thing that I said, because I do not want to mislead anyone.

When I made the point of where I was Monday, as far as I told you Saturday was when this all broke and Sunday it has been in every newspaper in my State and my district; but Monday when I was attending the Harvard Medical School Visitors' Board, I did get a call from the gentleman from New York [Mr. MCHUGH]. I did not get down here until 8 o'clock at night and I have not heard from the gentleman since, and that is the only point, because I want to be very clear in what I tell everybody.

DUCKING A VOTE ON THE BUDGET

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, I just think it is very important as we get back to the very serious business of this House this week and we discuss bringing down the walls in the budget that we point out there are many Members in this Chamber who voted for no budget at all. They did not vote for the President's budget. They did not vote for the gold standard budget. They did not vote for the Democratic budget, nor did they offer a budget.

Now, we have had all sorts of things going on here about people's personal budgets, but my goodness, I cannot think of anything worse than the Federal Government operating without any budget at all.

I think we are seeing people play all sorts of politics. It is so much easier to destroy than to build. Let us get back to the business at hand.

Let us point out that there are an awful lot of people who are just here to destroy, rather than build, and let us ask those Members who voted for no budget at all, why they even bothered to come if they do not care enough about the overall purpose of this institution, which is to direct this great country and set its priorities, and that is what a budget does.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV. Such roll call votes, if postponed, will be taken on Wednesday, March 18, 1992.

TECHNICAL AND MISCELLANEOUS CIVIL SERVICE AMENDMENTS ACT OF 1992

Mr. ACKERMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2850) to make technical and conforming changes in title 5, United States Code, and the Federal Employ-

ees Pay Comparability Act of 1990, and for other purposes as amended.

The Clerk read as follows:

H.R. 2850

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Technical and Miscellaneous Civil Service Amendments Act of 1992".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Amendments to title 5, United States Code.
Sec. 3. Amendments to the Federal Employees Pay Comparability Act of 1990.
Sec. 4. Amendments to relating to the Ethics in Government Act of 1978.
Sec. 5. Amendments to other provisions of law.
Sec. 6. Miscellaneous provisions.
Sec. 7. Effective dates.

SEC. 2. AMENDMENTS TO TITLE 5, UNITED STATES CODE.

Title 5, United States Code, is amended—

(1) in the analysis for part II by striking, in the item relating to chapter 12, "Individual Right of Action" and inserting "Employee Right of Action";

(2) by striking the heading for former section 1209 (the text of which was redesignated as sections 1205 and 1206 by paragraphs (9) and (10), respectively, of section 3(a) of the Whistleblower Protection Act of 1989 (Public Law 101–12; 103 Stat. 18));

(3) by striking the heading for former section 1204 (which was designated as section 1211(b) by section 3(a)(6) of the Whistleblower Protection Act of 1989 (Public Law 101–12; 103 Stat. 17));

(4) in section 1305 by striking "section 3105," and inserting "sections 3105,";

(5) in section 2302(b)(8)(B) by striking "Special Counsel of the Merit Systems Protection Board," and inserting "Special Counsel,";

(6) in section 2304(b) by striking "(b) the" and inserting "(b) The";

(7) in section 3104(a)—

(A) by striking "(not to exceed 517)"; and

(B) by amending the second sentence to read as follows: "Any such position may be established by action of the Director or, under such standards and procedures as the Office prescribes (including procedures under which the prior approval of the Director may be required), by agency action.";

(8) in section 3109(b) by striking "section 5332" and inserting "section 5376";

(9) by amending section 3152 to read as follows:

"§3152. Limitation on pay

"Members of the FBI–DEA Senior Executive Service shall be subject to the limitation under section 5307.";

(10) in section 3323(b)(1) by striking "annuitant as defined by section 8331 of this title" and inserting "annuitant, as defined by section 8831 or 8401,";

(11) in section 3324—

(A) by amending the heading to read as follows:

"§3324. Appointments to positions classified above GS–15"

and

(B) in subsection (a) by amending paragraph (1) to read as follows:

"(1) to which appointment is made by the Chief Judge of the United States Tax Court;";

(12) in section 3325(b) by striking "section 3104(a)(7) of this title" and inserting "section 3104(c)";

(13)(A) by striking section 3342; and

(B) in the table of sections for chapter 33 by striking the item relating to section 3342;

(14) by amending the heading for section 3373 to read as follows:

"§3373. Assignment of employees to State or local governments";

(15) in section 3401(1)(iv) by striking "Virgin Island" and inserting "Virgin Islands";

(16) in section 3594(c)(1)(A) by striking "5108,," and inserting "5108,";

(17) in section 4109 by striking subsection (d);

(18) in section 4302(a) by striking the semicolon at the end and inserting a period;

(19) in section 4505a—

(A) in subsection (b)(2) by striking "chapter 12 or under" and inserting "chapter 12, chapter 71, or";

(B) in subsection (c) by inserting "of Personnel Management" after "Office"; and

(C) by striking subsection (d) and inserting the following:

"(d) The preceding provisions of this section shall be applicable with respect to any employee to whom subchapter III of chapter 53 applies, and to any category of employees provided for under subsection (e).

"(e) At the request of the head of an Executive agency, the President may authorize the application of subsections (a) through (c) with respect to any category of employees within such agency who would not otherwise be covered by this section.";

(20) in the heading for subchapter III of chapter 45 by striking "OFFICER" and inserting "OFFICERS";

(21) by amending section 4521 to read as follows:

"§4521. Definition

"For the purpose of this subchapter, the term 'law enforcement officer' means—

"(1) a law enforcement officer within the meaning of section 5541(3) and to whom the provisions of chapter 51 apply;

"(2) a member of the United States Secret Service Uniformed Division;

"(3) a member of the United States Park Police;

"(4) a special agent in the Diplomatic Security Service;

"(5) a probation officer (referred to in section 3672 of title 18); and

"(6) a pretrial services officer (referred to in section 3153 of title 18).";

(22) in the table of sections for chapter 51 by striking the item relating to section 5108 and inserting the following:

"5108. Classification of positions above GS–15.";

(23) in section 5108(a)(2) by striking the semicolon at the end and inserting a period;

(24) in the table of sections for chapter 53—

(A) in the item relating to section 5379 by striking "repayment." and inserting "repayments."; and

(B) by striking "Sec." immediately before the item relating to section 5391;

(25) in section 5302—

(A) in paragraph (1) by amending subparagraph (C) to read as follows:

"(C) chapter 74 of title 38, relating to the Veterans Health Administration (other than a position subject to section 7451 of title 38);"; and

(B) in paragraph (8)—

(i) in subparagraph (A) by striking "and" at the end; and

(ii) by adding after subparagraph (B) the following:

"(C) in the case of an employee receiving a retained rate of basic pay under section 5363, the rate of basic pay payable under such section; and";

(26) in section 5304—

(A) in subsection (a)(3)—

(i) by striking "Subject to paragraphs (4) and (5)," and inserting "Subject to paragraph (4),", and by striking "a comparative payment" and inserting "a comparability payment";

(ii) in subparagraph (H) by inserting "and" after the semicolon; and

(iii) in subparagraph (I) by striking the semicolon and inserting a period;

(B) in subsection (d)(1)(A) by inserting "(disregarding any described in section 5302(8)(C))" after "General Schedule", and by striking "annual";

(C) in subsection (e)—

(i) in paragraph (1) by inserting after the second sentence the following: "However, members under subparagraph (A) may be paid expenses in accordance with section 5703."; and

(ii) in paragraph (2)(A)(ii) by striking "annual survey" and inserting "surveys of pay localities", and by striking "industries," and inserting "industries";

(D) in subsection (g) by amending paragraph (2) to read as follows:

"(2) The applicable maximum under this subsection shall be level III of the Executive Schedule for—

"(A) positions under subparagraphs (A)–(E) of subsection (h)(1); and

"(B) any positions under subsection (h)(1)(F) which the President may determine.";

(E) in subsection (h)—

(i) in paragraph (1)—

(I) by amending subparagraph (F) to read as follows:

"(F) a position within an Executive agency not covered under the General Schedule or any of the preceding subparagraphs, the rate of basic pay for which is (or, but for this section, would be) no more than the rate payable for level IV of the Executive Schedule;";

(II) in clause (i) by striking "or" at the end;

(III) in clause (ii) by striking the period at the end and inserting "; or"; and

(IV) by adding at the end the following:

"(iii) a position to which subchapter II applies (relating to the Executive Schedule).";

(ii) in paragraph (2) by adding at the end the following:

"(C) Notwithstanding subsection (c)(4) or any other provision of law, but subject to paragraph (3), in the case of a category with positions that are in more than 1 Executive agency, the President may, on his own initiative, provide that each employee who holds a position within such category, and in the locality involved, shall be entitled to receive comparability payments."; and

(iii) in paragraph (3) by amending subparagraph (B) to read as follows:

"(B) shall take effect, within the locality involved, on the first day of the first applicable pay period commencing on or after such date as the President designates (except that no date may be designated which would require any retroactive payments), and shall remain in effect through the last day of the last applicable pay period commencing during that calendar year;";

(27) in section 5306(a)(1)(B) by striking "166b–3" and inserting "166b–3a";

(28) in section 5314 by striking each of the following: "Under Secretary of Education."; "Under Secretary of Health and Human Services.", "Under Secretary of the Inte-

rior.", and "Under Secretary of Housing and Urban Development.";

(29) in section 5332 by amending subsection (a) to read as follows:

"(a)(1) The General Schedule, the symbol for which is 'GS', is the basic pay schedule for positions to which this subchapter applies. Each employee to whom this subchapter applies, except an employee covered by the performance management and recognition system established under chapter 54, is entitled to basic pay in accordance with the General Schedule.

"(2) The General Schedule is a schedule of annual rates of basic pay, consisting of 15 grades, designated 'GS-1' through 'GS-15', consecutively, with 10 rates of pay for each such grade. The rates of pay of the General Schedule are adjusted in accordance with section 5303.";

(30) in section 5347(g)—

(A) by striking "(g) Members" and inserting "(g)(1) Except as provided in paragraph (2), members";

(B) by striking the second sentence; and

(C) by adding at the end the following:

"(2) The position of Chairman shall be considered to be a Senior Executive Service position within the meaning of section 3132(a), and shall be subject to all provisions of this title relating to Senior Executive Service positions, including section 5383.";

(31) in section 5371(b)—

(A) by striking "chapter 73" and inserting "chapter 74"; and

(B) by inserting "subchapter V of chapter 55," after "61," each place it appears;

(32) in section 5372(c) by striking "shall," and inserting "shall";

(33) in section 5375(2) by striking "GS-8," and inserting "GS-8";

(34) in section 5377—

(A) in subsection (a)(2)—

(i) in subparagraph (C) by striking "and" at the end;

(ii) in subparagraph (D) by striking the period at the end and inserting a semi-colon; and

(iii) by adding after subparagraph (D) the following:

"(E) a position established under section 3104; and

"(F) a position in a category as to which a designation is in effect under subsection (i)."; and

(B) by adding at the end the following:

"(i)(1) For the purpose of this subsection, the term 'position' means the work, consisting of the duties and responsibilities, assignable to an employee, except that such term does not include any position under subsection (a)(2)(A)-(E).

"(2) At the request of an agency head, the President may designate 1 or more categories of positions within such agency to be treated, for purposes of this section, as positions within the meaning of subsection (a)(2).";

(35) in section 5383 by amending subsection (b) to read as follows:

"(b) Members of the Senior Executive Service shall be subject to the limitation under section 5307.";

(36) in subchapter IX of chapter 53 by striking the matter after the subchapter heading and before the heading for section 5391;

(37) in section 5401(1) by striking "(a)" and inserting "(A)", and by striking "(b)" and inserting "(B)";

(38) in section 5403(d) by striking "section 5305" and inserting "section 5303";

(39) in section 5519 by striking "section 6323(c) or (d) of this title" and inserting "section 6323(b) or (c)";

(40) in section 5541—

(A) in paragraph (1) by striking "and" at the end;

(B) in paragraph (2) by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(3) 'law enforcement officer' means an employee who—

"(A) is a law enforcement officer within the meaning of section 8331(20) OR 8401(17);

"(b) in the case of an employee who holds a supervisory or administrative position and is subject to subchapter III of chapter 83, but who does not qualify to be considered a law enforcement officer within the meaning of section 8331(20), would so qualify if such employee had transferred directly to such position after serving as a law enforcement officer within the meaning of such section;

"(C) in the case of an employee who holds a supervisory or administrative position and is subject to chapter 84, but who does not qualify to be considered a law enforcement officer within the meaning of section 8401(17), would so qualify if such employee had transferred directly to such position after performing duties described in section 8401(17) (A) and (B) for at least 3 years; and

"(D) in the case of an employee who is not subject to subchapter III of chapter 83 or chapter 84—

"(i) holds a position that the Office of Personnel Management determines would satisfy subparagraph (A), (B), or (C) if the employee were subject to subchapter III of chapter 83 or chapter 84; or

"(ii) is a special agent in the Diplomatic Security Service.";

(41) in section 5542—

(A) in subsection (a)(4)—

(i) by striking "officer (within the meaning of section 8331(20) or 8401(17))," and inserting "officer,"; and

(ii) by moving the indentation for the matter following subparagraph (B) 2 ems to the right; and

(B) in subsection (c) by amending the second sentence to read as follows: "In the case of an employee who would, were it not for the preceding sentence, be subject to this section, the Office of Personnel Management shall by regulation prescribe what hours shall be deemed to be hours of work and what hours of work shall be deemed to be overtime hours for the purpose of such section 7 so as to ensure that no employee receives less pay by reason of the preceding sentence.";

(42) in section 5544—

(A) in paragraphs (2) and (3) of subsection (a) by striking "2,080" each place it appears and inserting "2,087";

(B) by amending the last two sentences of subsection (a) to read as follows: "The first and third sentences of this subsection shall not be applicable to an employee who is subject to the overtime pay provisions of section 7 of the Fair Labor Standards Act of 1938. In the case of an employee who would, were it not for the preceding sentence, be subject to the first and third sentences of this subsection, the Office of Personnel Management shall by regulation prescribe what hours shall be deemed to be hours of work and what hours of work shall be deemed to be overtime hours for the purpose of such section 7 so as to ensure that no employee receives less pay by reason of the preceding sentence."; and

(C) by adding at the end the following:

"(c) The provisions of this section, including the last two sentences of subsection (a), shall apply to a prevailing rate employee described in section 5342(a)(2)(B).";

(43) in section 5547(c) by striking paragraph (3);

(44)(A) by striking section 5550;

(B) in the table of sections for chapter 55 by striking the item relating to section 5550;

(C) in section 5548(b) by striking "sections 5545(d) and 5550 of this title." and inserting "section 5545(d).";

(D) in section 6123(a)(1) by striking "5543(a)(1), 5544(a), and 5550" and inserting "5543(a)(1) and section 5544(a)"; and

(E) in section 6128—

(i) in subsection (a) by striking "5542(a), 5544(a), and 5550(2)" and inserting "5542(a) and 5544(a)"; and

(ii) in subsection (c) by striking "5544(a), 5546(a), or 5550(1)" and inserting "5544(a) or 5546(a)";

(45)(A) in subchapter VI of chapter 55 by adding at the end the following:

"§ 5553. Regulations

"The Office of Personnel Management may prescribe regulations necessary for the administration of this subchapter."; and

(B) in the table of sections for chapter 55 by adding after the item relating to section 5552 the following:

"5553. Regulations.";

(46) in the table of sections for chapter 57—

(A) by striking the item relating to section 5723 and inserting the following:

"5723. Travel and transportation expenses of new appointees and student trainees."; and

(B) by adding after the item relating to section 5754 the following:

"5755. Supervisory differentials.";

(47) in the heading for section 5702 by striking "employee" and inserting "employees";

(48) in section 5723—

(A) by amending the heading to read as follows:

"§ 5723. Travel and transportation expenses of new appointees and student trainees"

and

(B) by striking subsection (d) and redesignating subsection (e) as subsection (d);

(49) in section 5724(a)(3)(A) by striking "Service;" and inserting "Service or as a director under section 4103(a)(8) of title 38 (as in effect on November 17, 1988;";

(50) in section 5901(a) by striking "5902)." each place it appears and inserting "5902)";

(51) in section 5948—

(A) in the first sentence of subsection (a) by striking "provisions of this section" and inserting "provisions of this section, section 5307,";

(B) in subsection (g)(1)—

(i) by amending subparagraph (D) to read as follows:

"(D) section 5371, relating to certain health care positions;";

(ii) by striking "or" at the end of subparagraph (H);

(iii) by striking "and" at the end of subparagraph (I); and

(iv) by inserting after subparagraph (I) the following:

"(J) section 5376, relating to certain senior-level positions;

"(K) section 5377, relating to critical positions; or

"(L) subchapter IX of chapter 53, relating to special occupational pay systems; and";

(52) in section 6303(a) by amending the second sentence to read as follows: "In determining years of service, an employee is entitled to credit for all service of a type that would be creditable under section 8332, regardless of whether or not the employee is covered by subchapter III of chapter 83.";

(53) in the second sentence of section 6304(e) by striking "date of' and inserting "date";

(54) in section 7112 by redesignating subsection (a)(1) as subsection (a);

(55) in section 7113 by redesignating subsection (a)(1) as subsection (a);

(56) in section 7701(c)(1) by amending subparagraph (A) to read as follows:

"(A) in the case of an action based on unacceptable performance described in section 4303 or a removal from the Senior Executive Service for failure to be recertified under section 3393a, is supported by substantial evidence; or";

(57) in section 8331—

(A) in paragraph (1)—

(i) in subparagraph (L) by striking "section 8347(p)(1)" and inserting "section 8347(q)(1)"; and

(ii) in clause (ii) by striking "section 8347(p)(2)" and inserting "section 8347(q)(2)"; and

(B) in paragraph (7) by striking "Gallaudet College," and inserting "Gallaudet University,";

(58) in the last sentence of section 8332(b) by striking "paragraph (16)" and inserting "paragraph (16)";

(59) in section 8334(i) by redesignating the second paragraph (5) as paragraph (6);

(60) in section 8335(b) by amending the first sentence to read as follows: "A firefighter who is otherwise eligible for immediate retirement under section 8336(c) shall be separated from the service on the last day of the month in which such firefighter becomes 55 years of age or completes 20 years of service if then over that age.";

(61) in the second sentence of section 8337(a) by striking "if the employee if' and inserting "if the employee is";

(62) in section 8339 by redesignating the second subsection (o) as subsection (p);

(63) in section 8341 in subsections (b)(1) and (d) by striking "(o)," and inserting "(p),";

(64) in section 8347—

(A) by redesignating the second subsection (p) as subsection (q); and

(B) in paragraphs (1) and (2) of subsection (q) (as so redesignated) by amending subparagraph (A) of each to read as follows:

"(A) has not previously made an election under this subsection or had an opportunity to make an election under this paragraph;";

(65) in section 8421(a)(2) by adding a period at the end;

(66) in section 8423(a)(1)(B)(i) by striking "multipled" and inserting "multiplied";

(67) in section 8425(b)—

(A) by amending the first sentence to read as follows: "A member of the Capitol Police or firefighter who is otherwise eligible for immediate retirement under section 8412(d) shall be separated from the service on the last day of the month in which such member or firefighter becomes 55 years of age or completes 20 years of service if then over that age."; and

(B) in the second sentence by striking "become" and inserting "becomes";

(68) in section 8438(a)(7)(B) by striking "Federal Savings and Loan Insurance Corporation," and inserting "Federal Deposit Insurance Corporation,";

(69) in section 8440(a)(3) by inserting "section 401(k)(4)(B) of such Code and" after "subject to";

(70) in section 8440a(b)(1) by striking "subchapters III and VII of chapter 84 of this title" and inserting "this subchapter and subchapter VII";

(71) in section 8461(n)—

(A) in paragraphs (1) and (2) by amending subparagraph (A) of each to read as follows:

"(A) has not previously made an election under this subsection or had an opportunity to make an election under this paragraph;"; and

(B) paragraph (2)(D) by striking "section 8347(p)" and inserting "section 8347(q)";

(72) in section 8478(a)(2)(B)(iii) by striking "Corporation or the Federal Savings and Loan Insurance";

(73) in the analysis for chapter 85 by adding after the item relating to section 8508 the following:

"8509. Federal Employees Compensation Account.";

(74) in section 8706 by redesignating subsection (g) as subsection (f);

(75) in section 8901—

(A) in paragraph (3)(A)(iv) by striking "section 8347(p)(2)" and inserting "section 8347(q)(2)"; and

(B) in paragraph (10)(C)(ii) by inserting a comma after "section 8341(h)";

(76) in section 8904(a) by striking "this section" each place it appears and inserting "this subsection";

(77) in section 8905—

(A) in subsection (b) by striking "this subchapter." and inserting "this chapter"; and

(B) in subsection (c)(1) by inserting a comma after "8341(h)"; and

(78) in section 8906—

(A) in subsection (b)(3) by inserting a period after "Office)"; and

(B) in subsection (c) by striking "and except" and inserting "and (except".

SEC. 3. AMENDMENTS TO THE FEDERAL EMPLOYEES PAY COMPARABILITY ACT OF 1990.

The Federal Employees Pay Comparability Act of 1990, as contained in the Treasury, Postal Service and General Government Appropriations Act, 1991 (Public Law 101–509; 104 Stat. 1427), is amended—

(1) in each of paragraphs (1) and (2) of section 109(b) (104 Stat. 1451) by striking "section 5305" and inserting "section 5303";

(2) in section 203 (104 Stat. 1456) by striking "5545(D)" and inserting "5545(d)";

(3) in section 209(a) (104 Stat. 1460)—

(A) by striking "or' at the end of paragraph (1);

(B) by striking the period at the end of paragraph (2) and inserting "; or"; and

(C) by inserting at the end the following:

"(3) any combination of classes of positions described in paragraph (1) or (2) for which the President determines a recruiting difficulty exists.";

(4) in section 302 (104 Stat. 1462)—

(A) by striking "(A) DEFINITIONS.—" and inserting "(a) DEFINITIONS.—";

(B) by redesignating the second subsection (c) as subsection (d);

(C) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(D) by amending subsection (e) (as so redesignated) by striking "Code." and all that follows through the period and inserting the following: "Code (as in effect before the date of enactment of this Act), section 5305 of title 5, United States Code (as amended by section 101 of this Act), or any similar provision of law.";

(5) in section 403 (104 Stat. 1465) by striking "section 8331(20) or section 8401(17)" and inserting "section 5541(3)";

(6) in section 403(d) (104 Stat. 1465) by striking "section 303" and inserting "section 209";

(7) in section 404(a) (104 Stat. 1466) by striking "and any applicable special rate of pay under section 5305 of such title, as so amended, or any similar provision of law." and inserting "and, to the extent determined appropriate by the Office of Personnel Management, any applicable special rate of pay under section 5305 of such title, as so amended, or any similar provision of law (other than section 403).";

(8) in section 404(b) (104 Stat. 1466)—

(A) by striking "(b) Except" and inserting "(b)(1) Except";

(B) by striking "Trention" and inserting "Trenton"; and

(C) by adding at the end the following:

"(2) In the case of any area specified in paragraph (1) that includes a portion, but not all, of a county, the Office of Personnel Management may, at the request of the head of 1 or more law enforcement agencies, extend the area specified in paragraph (1) to include, for the purposes of this section, the entire country, if the Office determines that such extension would be in the interests of good personnel administration. Any such extension shall be applicable to each law enforcement officer whose post of duty is in the area of the extension."; and

(9) in section 405(a) (104 Stat. 1466) by striking "403 and 404" and inserting "403, 404, and 407".

SEC. 4. AMENDMENTS RELATING TO THE ETHICS IN GOVERNMENT ACT OF 1978.

(a) AMENDMENTS TO TITLE I OF THE ACT.—Title I of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended—

(1) in section 101(f)—

(A) in paragraph (3) by striking "whose position" and all that follows through "for GS–16" and inserting "who occupies a position classified above GS–15 of the General Schedule or, in the case of positions not under the General Schedule, for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule";

(B) in paragraph (6) by striking "whose basic rate of pay" and all that follows through "GS–16" and inserting "who occupies a position for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule";

(2) in section 109—

(A) in paragraph (8) by striking "who is paid" and all that follows through "Schedule" and inserting "who occupies a position for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule";

(B) in paragraph (13)(B)(i) by striking "who is compensated" and all that follows through "Schedule" and inserting "who, for at least 60 days, occupies a position for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule"; and

(C) in paragraph (13)(B)(ii) by striking "compensated" and all that follows through "Schedule" and inserting "who occupies a position for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule."

(b) AMENDMENTS TO TITLE V.—Title V of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended—

(1) in section 501(a)(1) by striking "whose rate of basic pay is equal to or greater than the annual rate of basic pay in effect for grade GS–16 of the General Schedule under section 5332 of title 5, United States Code," and inserting "who occupies a position classified above GS–15 of the General Schedule or, in the case of positions not under the General Schedule, for which the rate of basic pay is equal to or greater than 120 percent of

the minimum rate of basic pay payable for GS–15 of the General Schedule,";

(2) in section 501(a)(2) by striking "who becomes a Member or an officer or employee who is a noncareer officer or employee and whose rate of basic pay is equal to or greater than the annual rate of basic pay in effect for grade GS–16 of the General Schedule during a calendar year," and inserting "who during a calendar year becomes a Member or an officer or employee who is a noncareer officer or employee and who occupies a position classified above GS–15 of the General Schedule or, in the case of positions not under the General Schedule, for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule,"; and

(3) in section 502(a) by striking "whose rate of basic pay is equal to or greater than the annual rate of basic pay in effect for grade GS–16 of the General Schedule" and inserting "who occupies a position classified above GS–15 of the General Schedule or, in the case of positions not under the General Schedule, for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule".

(c) AMENDMENTS TO GIFT PROVISIONS.—Section 314(g) of the Legislative Branch Appropriations Act, 1992 (Public Law 102–90; 105 Stat. 470) is amended to read as follows:

"(g)(1) The amendments made by subsections (b) through (f) shall take effect on January 1, 1992.

"(2) The amendment made by subsection (a) shall take effect on January 1, 1993.".

SEC. 5. AMENDMENTS TO OTHER PROVISIONS OF LAW.

(a) OMNIBUS BUDGET RECONCILIATION ACT OF 1990.—The Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508; 104 Stat. 1388) is amended—

(1) in section 7101(c)(2) (104 Stat. 1388–332) by striking "took effect, subject to section 7104." and inserting "took effect."; and

(2) in section 7202(n) (104 Stat. 1388–340)—

(A) in paragraph (2) by striking "section 8347(p)(1)" each place it appears and inserting "section 8347(q)(1)"; and

(B) in paragraph (4) by striking "section 8347(p)(2)" and inserting "section 8347(q)(2)".

(b) FEDERAL PAY COMPARABILITY ACT OF 1970.—Section 5(a) of the Federal Pay Comparability Act of 1970 (2 U.S.C. 60a–2(a)) is amended by inserting "of title 5, United States Code," after "Whenever an adjustment under section 5303".

(c) PUBLIC LAW 100–446.—Section 8(c)(2) of Public Law 100–446 (2 U.S.C. 178g(c)(2); 102 Stat. 1786) is amended by striking the second sentence.

(d) PUBLIC LAW 102–198.—Section 7(c)(4) of Public Law 102–198 (105 Stat. 1625) is amended—

(1) in subparagraph (A) by striking "2440d" and inserting "8440d"; and

(2) in subparagraph (B) by striking "subchapter III of".

(e) AGE LIMITS FOR ORIGINAL APPOINTMENTS TO CERTAIN POSTAL POSITIONS.—Section 410(b)(1) of title 39, United States Code, is amended by inserting "section 3307(d)–(e) (age limits for original appointments to certain positions)," after "section 3110 (restrictions on employment of relatives),".

(f) PUBLIC LAW 102–233.—Section 21A(b)(9)(B)(i) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(9)(B)(i)), as amended by section 201 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 (Public Law 102–233; 105 Stat. 1765), is amended by striking the last 3 sentences.

SEC. 6. MISCELLANEOUS PROVISIONS.

(a) ELIMINATION OF DUPLICATIVE AMENDMENTS MADE BY THE DEFENSE ACQUISITION WORK FORCE IMPROVEMENT ACT.—Subsections (i) and (j) of section 1206 of the Defense Acquisition Work Force Improvement Act, as contained in the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1662, 1663), are repealed, and title 5, United States Code, shall read as if such subsections had not been enacted.

(b) PROVISIONS RELATING TO COMPARABILITY PAYMENTS IN 1994 AND 1995.—Notwithstanding section 5304 of title 5, United States Code, for purposes of any comparability payments scheduled to take effect under such section during calendar years 1994 and 1995, respectively—

(1) the report required by subsection (d)(1) of such section may be submitted not later than 1 month before the start of the calendar year for purposes of which it is prepared; and

(2) the surveys conducted by the Bureau of Labor Statistics for use in preparing any such report may be other than annual surveys, and shall, to the greatest extent practicable, be completed not later than 4 months before the start of the calendar year for purposes of which the surveys are conducted.

SEC. 7. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided in this section, this Act and the amendments made by this Act shall take effect as of the date of enactment of this Act.

(b) EXCEPTIONS.—(1) The amendment made by section 4(c) shall be effective as of December 31, 1991.

(2) The amendments made by section 5(d) shall be effective as of December 9, 1991.

(3) The amendments made by sections 2(13) and 2(17) shall be effective as of October 1, 1991.

(4) The amendments made by sections 2(11), 2(19), 2(29), and 2(38) shall be effective as of May 4, 1991.

(5) The amendments made by section 2(25) shall be effective as of February 3, 1991.

(6) The provisions of section 6(a) and the amendments made by sections 2(57)(A), 2(60), 2(64), 2(67), 2(71), 2(75)(A), 3(1), 3(4), 3(6), and 5(a) shall be effective as of November 5, 1990.

(7) The amendment made by section 2(52) shall be effective as of January 1, 1989, except that no amount shall become payable, as a result of the enactment of such amendment, under—

(A) subchapter VI of chapter 55 of title 5, United States Code, based on a separation that takes effect or an election that is made before the date of enactment of this Act; or

(B) section 5551(b) of title 5, United States Code, which is attributable to an individual's being excepted from subchapter I of chapter 63 of such title before the date of enactment of this Act.

(8) The amendment made by section 2(69) shall be effective as of November 10, 1988.

(9) The amendments made by sections 2(40), 2(41), 2(42), 2(43), and 3(5) shall be effective as of the first day of the first applicable pay period beginning on or after the date of enactment of this Act.

(10) The amendments made by section 2(28) shall be effective as of the first day of the first applicable pay period beginning on or after November 5, 1990.

(11) The amendment made by section 2(49) shall apply with respect to a separation that takes effect on or after the date of enactment of this Act.

(12) The amendment made by section 5(f) shall apply with respect to any action (described in subclause (I) or (II) of the provisions struck by such amendment) occurring on or after the date of enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. ACKERMAN] will be recognized for 20 minutes, and the gentlewoman from Maryland [Mrs. MORELLA] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. ACKERMAN].

GENERAL LEAVE

Mr. ACKERMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on H.R. 2850, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

The was no objection.

Mr. ACKERMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2850, the Technical and Miscellaneous Civil Service Amendments Act of 1992, was introduced on July 10, 1991, by Chairman CLAY, Mr. GILMAN, Mr. MYERS, and myself, at the request of the administration.

The bill is intended to correct technical flaws in title 5, United States Code and the Federal Employees Pay Comparability Act of 1990. H.R. 2850 would ease the implementation of pay reform.

On March 11, 1992, the Committee on Post Office and Civil Service ordered H.R. 2850 favorably reported with an amendment in the nature of a substitute.

The amendment consists of various additional technical amendments suggested by the Office of Personnel Management as well as the Office of Law Revision Counsel. The committee has been working closely with OPM on the amendment and OPM supports its adoption.

I urge my colleagues to support H.R. 2850.

Mr. Speaker, I reserve the balance of my time.

Mrs. MORELLA. Mr. Speaker, I yield myself such time as I may consume.

I am pleased to rise in support of H.R. 2850, the Technical and Miscellaneous Civil Service Amendments Act of 1992.

This bill was passed unanimously, by voice vote, on March 11, 1992 by the Committee on Post Office and Civil Service.

H.R. 2850 amends the Federal Employees Pay Comparability Act of 1990. These amendments to Title 5 of the United States Code are purely technical and noncontroversial. Furthermore, this bill was requested by the administration and has no pay-as-you-go ramifications.

Mr. PANETTA. Mr. Speaker, I would like to rise to express my strong concern regarding the Post Office and Civil Service's recommendation of H.R. 2850, making technical corrections to the Federal Employees Pay Comparability Act of 1990 [FEPCA].

In recognition of severe recruiting and retention problems, the Treasury, Postal Service and General Governments Appropriations Act for fiscal year 1991 provided Federal law enforcement officers in six consolidated metropolitan statistical areas [CMSA's] and two metropolitan statistical areas [MSA's] with special compensation increases ranging from 4 to 16 percent. On a number of occasions throughout the last year, I requested the Post Office and Civil Service Committee and the Office of Personnel Management [OPM] to closely examine and compare the Salinas-Seaside-Monterey MSA with these other eight areas—particularly the San Francisco consolidated metropolitan statistical area [CMSA] which borders Monterey—to include the Monterey MSA in future legislation. Because statistics show that comparisons of the public/private pay differentials and high cost-of-living between Monterey and the eight targeted areas are similar, I fought hard to include the Monterey MSA in H.R. 2850. Unfortunately, the committee would not add all deserving areas such as the Salinas-Seaside-Monterey MSA.

It is my understanding that following the enactment of the Federal Employees Pay Comparability Act of 1990, it became evident that a clearly unique situation existed which warranted technical corrections. The CMSA which contains the area in reference excludes a portion of a county that did not receive a special increase. This is where the New Haven, CT FBI regional office is located. The special increase to one portion of the county allowed some FBI personnel in Bridgeport, CT—who are on a lower pay schedule, and who report to the New Haven regional office—to receive an increase greater than those on a higher pay schedule in New Haven. The FBI has specifically indicated to the Office of Personnel Management [OPM] that this inequity is unacceptable. Following an exclusive agreement between the FBI and OPM, these new parameters were adopted by the Post Office and Civil Service Committee.

I believe that with the committee's adoption of OPM's recommendation making exception to certain areas previously not included under the Federal Employees Pay Comparability Act of 1990, the FEPCA deserves further examination.

Given the discrepancy involving the New Haven, CT, MSA, I am in agreement that this one area warrants a technical change. However, I also believe these specific parameters should not prohibit other deserving MSA's, such as the Salinas-Seaside-Monterey MSA, from making their case to the Committee on Post Office and Civil Service for a locality pay adjustment in the future.

It is my understanding that the Office of Personnel Management will be making recommendations to the Congress no later than January 1, 1993, to address the entire Federal pay system for special service employees. I would encourage my colleagues in the Committee on Post Office and Civil Service to urge OPM to expedite their proposal. It is my sincere hope that current continuing inequities between those MSA's granted an increase and other deserving areas that have been excluded from the deal made by the FBI and OPM will soon be corrected.

Mrs. MORELLA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ACKERMAN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. ACKERMAN] that the House suspend the rules and pass the bill, H.R. 2850, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

FEDERAL EMPLOYEE RESERVIST BENEFIT EXTENSION ACT OF 1992

Mr. ACKERMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3209) to amend title 5, United States Code, to ensure that the level of compensation for a Federal employee ordered to military duty during the Persian Gulf conflict is not less than the level of civilian pay last received; to allow Federal employees to make up any thrift savings contributions forgone during military service; to preserve the recertification rights of senior executives ordered to military duty; and for other purposes, as amended.

The Clerk read as follows:

H.R. 3209

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Employee Reservist Benefit Extension Act of 1992".

SEC. 2. DEFINITIONAL AMENDMENT

(a) IN GENERAL.—Subchapter II of chapter 35 of title 5, United States Code, is amended by adding at the end the following:

"§ 3552. Sources of authority for ordering an employee to active duty

"The provisions of law cited in this section, relating to sources of authority for ordering an employee to active duty (other than for training), are sections 672, 673, 673b, 674, 675, and 688 of title 10.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 35 of title 5, United States Code, is amended by inserting after the item relating to section 3551 the following:

"3552. Sources of authority for ordering an employee to active duty.".

SEC. 3. SPECIAL PAY DIFFERENTIAL.

(a) ENTITLEMENT.—(1) A Federal employee, permanent or temporary indefinite, who, under any of the provisions of law cited in section 3552 of title 5, United States Code, is ordered to active duty (other than for training), for duty during the Persian Gulf conflict as a member of a reserve component of the armed forces, and who is subsequently restored to or reemployed in a Government position pursuant to chapter 43 of title 38, United States Code, is entitled to a special pay differential for each month of such duty in which the monthly military compensation of that individual is less than the monthly civilian compensation of that individual.

(2) The amount of the special pay differential to which an individual is entitled under this section for a month is equal to the difference between the monthly civilian compensation of such individual and the monthly military compensation of such individual.

(3) A special pay differential under this section shall not be payable for any days for which the individual involved continues to receive pay by reason of any annual leave, military leave, or other form of paid leave taken from such individual's last civilian position with the Government of the United States.

(b) SOURCE AND NATURE OF PAYMENT.—(1) A special pay differential under this section—

(A) shall be paid, in a lump sum, by the agency of the United States in which the individual involved is restored or reemployed (as the case may be); and

(B) shall be paid out of funds or appropriations available for salaries and expenses of such agency.

(2) A payment under this section shall not be considered to constitute basic pay.

(c) REGULATIONS.—(1)(A) The Office of Personnel Management, in consultation with the Secretary of Defense, shall prescribe such regulations as may be necessary to carry out this section with respect to employees within the executive branch.

(B) Such regulations shall include provisions for the proration of amounts in cases in which the special pay differential is for less than the entirety of a month.

(2) Regulations necessary to carry out this section with respect to employees within the legislative or judicial branch may be prescribed by the appropriate appointing authority for the employees involved. To the extent practicable, any regulations under this paragraph shall be consistent with regulations prescribed under paragraph (1).

(d) DEFINITIONS.—For purposes of this section—

(1) the term "Federal employee" means—

(A) an employee, as defined by section 2105 of title 5, United States Code; and

(B) an employee of the United States Postal Service or the Postal Rate Commission;

(2) the term "active duty" has the meaning given that term in section 101(22) of title 10, United States Code;

(3) the term "Persian Gulf conflict" means the period beginning on August 2, 1990, and ending on the date prescribed by Presidential proclamation or by law;

(4) the term "reserve component" has the meaning given that term in section 101(24) of title 37, United States Code;

(5) the term "armed forces" has the meaning given that term in section 2101(2) of title 5, United States Code;

(6) the term "monthly civilian compensation" means the monthly amount resulting from averaging the net amount of basic pay (including any pay adjustment under section 302 or 404 of the Federal Employees Pay Comparability Act of 1990) received for service performed as a Federal employee over the 12-month period ending on the individual's last day of service as such an employee before entering upon active duty or, if employed for a shorter period, over the total period of service, with each amount weighted by the length of time over which it was received; and

(7) the term "monthly military compensation" means the amount of regular com-

pensation (as defined in section 101(25) of title 37, United States Code), special and incentive pays, and allowances paid under that title to the individual involved for a month.

(e) EFFECTIVE DATE.—This section shall be effective as of August 2, 1990, and shall apply with respect to compensation for active duty performed on or after that date.

SEC. 4. POSTPONEMENT OF SES RECERTIFICATION DEADLINES FOR FEDERAL EMPLOYEES WHILE SERVING ON ACTIVE DUTY.

Section 3393a of title 5, United States Code, is amended by adding at the end the following:

"(g)(1) For the purpose of this subsection, the term 'reserve component' has the meaning given that term in section 101(24) of title 37.

"(2) If a career appointee performs military service as a result of being ordered to active duty (other than for training) pursuant to any of the provisions of law cited in section 3552, the period of that military service shall be disregarded in determining—

"(A) the duration of such appointee's continuous employment as a senior executive (and the duration of any break in such employment) for purposes of determining whether the appointee is due for recertification;

"(B) in the case of a career appointee who is conditionally recertified, whether recertification occurs within the time required under subsection (e)(2)(D) in order to avoid removal; and

"(C) in the case of a career appointee who is conditionally recertified or not recertified, whether the appointee files a petition with the Merit Systems Protection Board to appeal that action, or to review a decision rendered by the Board or other authority under chapter 77 thereon, within the time prescribed.".

SEC. 5. THRIFT SAVINGS PLAN.

(a) IN GENERAL.—(1) Title 5, United States Code, is amended by inserting after section 8432a the following:

"§ 8432b. Contributions of persons who perform military service

"(a) This section applies to an employee who—

"(1) separates or enters leave-without-pay status in order to perform military service; and

"(2) is subsequently restored to or reemployed in a position which is subject to this chapter, pursuant to chapter 43 of title 38.

"(b)(1) Each employee to whom this section applies may contribute to the Thrift Savings Fund, in accordance with this subsection, an amount not to exceed the amount described in paragraph (2).

"(2) The maximum amount which an employee may contribute under this subsection is equal to—

"(A) the contributions under section 8432(a) which would have been made, over the period beginning on date of separation or commencement of leave-without-pay status (as applicable) and ending on the day before date of restoration or reemployment (as applicable)—

"(i) assuming a contribution rate of 10 percent; and

"(ii) not counting any amounts which would be attributable to any period during which such employee was not or would not have been eligible to contribute due to subparagraph (A), (B), or (C) of section 8432(b)(2) (except that section 8432(b)(2)(C) shall not be a basis for discounting any amounts if the election to terminate contributions involved is made within 2 months before commencing military service); reduced by

"(B) any contributions under section 8432(a) actually made by such employee over the period described in subparagraph (A) (in the matter before clause (i) thereof).

"(3) Contributions under this subsection—

"(A) shall be made at the same time and in the same manner as would any contributions under section 8432(a);

"(B) shall be made over the period of time specified by the employee under paragraph (4)(B); and

"(C) shall be in addition to any contributions then actually being made under section 8432(a).

"(4) The Executive Director shall prescribe the time, form, and manner in which an employee may specify—

"(A) the total amount such employee wishes to contribute under this subsection with respect to any particular period of military service (as referred to in paragraph (2)(B)); and

"(B) the period of time over which the employee wishes to make contributions under this subsection (not shorter than the period referred to in paragraph (2)(B) and not longer than 4 times such period).

"(c) If an employee makes contributions under subsection (b), the employing agency shall make contributions to the Thrift Savings Fund on such employee's behalf—

"(1) in the same manner as would be required under section 8432(c)(2) if the employee contributions were being made under section 8432(a); and

"(2) disregarding any contributions then actually being made under section 8432(a) and any agency contributions relating thereto.

"(d)(1) An employee to whom this section applies is entitled to have contributed to the Thrift Savings Fund on such employee's behalf an amount equal to—

"(A) 1 percent of such employee's basic pay (as determined under subsection (e)) for the period referred to in subsection (b)(2)(B); reduced by

"(B) any contributions actually made on such employee's behalf under section 8432(c)(1) with respect to the period referred to in subsection (b)(2)(B)

"(2) An amount under this subsection shall be paid—

"(A) by the agency to which the employee is restored or in which such employee is reemployed;

"(B) from the same source as would be the case under section 8432(e) with respect to sums required under section 8432(c); and

"(C) within the time prescribed by the Executive Director.

"(e) For purposes of any computation under this section, an employee shall, with respect to the period referred to in subsection (b)(2)(B), be considered to have been paid at the rate which would have been payable over such period had such employee remained continuously employed in the position which such employee last held before separating or entering leave-without-pay status to perform military service.

"(f)(1) For purposes of section 8432(g), in the case of an employee to whom this section applies—

"(A) a separation from civilian service in order to perform the military service on which the employee's restoration or reemployment rights are based shall be disregarded; and

"(B) such employee shall be credited with a period of civilian service equal to the period referred to in subsection (b)(2)(B).

"(2)(A) An employee to whom this section applies may elect, for purposes of section 8433(d), or paragraph (1) or (2) of section 8433(h), as the case may be, to have such employee's separation (described in subsection (a)(2)) treated as if it had never occurred.

"(B) An election under this paragraph shall be made within such period of time after restoration or reemployment (as the case may be) and otherwise in such manner as the Executive Director prescribes.

"(g) For purposes of section 8432(d), contributions made under this section shall be treated as if made under section 8432.

"(h) The Executive Director shall prescribe regulations to carry out this section.".

(2) The table of sections for chapter 84 of title 5, United States Code, is amended by inserting after the item relating to section 8432a the following:

"8432b. Contributions of persons who perform military service.".

(b) PRESERVATION OF CERTAIN RIGHTS.—(1) Section 8433(d) of title 5, United States Code, is amended by striking "subsection (e)." and inserting "subsection (e), unless an election under section 8432b(f)(2) is made to treat such separation for purposes of this subsection as if it had never occurred.".

(2) Paragraphs (1) and (2) of section 8433(h) are each amended by striking the period at the end and inserting ", or unless an election under section 8432b(f)(2) is made to treat such separation for purposes of this paragraph as if it had never occurred.".

(c) ELECTION TO RESUME REGULAR CONTRIBUTIONS UPON RESTORATION OR REEMPLOYMENT.—Section 8432 of title 5, United States Code, is amended by adding at the end the following:

"(i)(1) This subsection applies to any employee—

"(A) to whom section 8432b applies; and

"(B) who, during the period of such employee's absence from civilian service (as referred to in section 8432b(b)(2)(B))—

"(i) is eligible to make an election described in subsection (b)(1); or

"(ii) would be so eligible but for having either elected to terminate individual contributions to the Thrift Savings Fund within 2 months before commencing military service or separated in order to perform military service.

"(2) The Executive Director shall prescribe regulations to ensure that any employee to whom this subsection applies shall, within a reasonable time after being restored or reemployed (in the manner described in section 8432b(a)(3)), be afforded the opportunity to make, for purposes of this section, any election which would be allowable during a period described in subsection (b)(1)(A).".

(d) APPLICABILITY TO EMPLOYEES UNDER CSRS.—Section 8351(b) of title 5, United States Code, is amended by adding at the end the following:

"(11) In applying section 8432b to an employee contributing to the Thrift Savings Fund after being restored to or reemployed in a position subject to this subchapter, pursuant to chapter 43 of title 38—

"(A) any reference in such section to contributions under section 8432(a) shall be considered a reference to employee contributions under this section;

"(B) the contribution rate assumed under section 8432b(b)(2)(A)(i) shall be the maximum percentage allowable under subsection (b)(2) of this section; and

"(C) subsections (c) and (d) of section 8432b shall be disregarded.".

(e) EFFECTIVE DATE; APPLICABILITY.—This section and the amendments made by this section—

(1) shall take effect on the date of enactment of this Act; and

(2) shall apply to any employee whose release from military service, discharge from hospitalization, or other similar event making the individual eligible to seek restoration or reemployment under chapter 43 of title 38 occurs on or after August 2, 1990.

(f) RULES FOR APPLYING AMENDMENTS TO EMPLOYEES RESTORED OR REEMPLOYED BEFORE EFFECTIVE DATE.—In the case of any employee (described in subsection (e)(2)) who is reemployed or restored (in the circumstances described in section 8432b(a) of title 5, United State Code, as amended by this section) before the date of enactment of this Act, the amendments made by this section shall apply to such employee, in accordance with their terms, subject to the following:

(1) The employee shall be deemed not to have been reemployed or restored until—

(A) the date of enactment of this Act, or

(B) the first day following such employee's reemployment or restoration on which such employee is or was eligible to make an election relating to contributions to the Thrift Savings Fund,

whichever occurs or occurred first.

(2) If the employee changed agencies during the period between date of actual reemployment or restoration and the date of enactment of this Act, the employing agency as of such date of enactment shall be considered the reemploying or restoring agency.

(3)(A) For purposes of any computation under section 8432b of such title, pay shall be determined in accordance with subsection (e) of such section, except that, with respect to the period described in subparagraph (B), actual pay attributable to such period shall be used.

(B) The period described in this subparagraph is the period beginning on the first day of the first applicable pay period beginning on or after the date of the employee's actual reemployment or restoration and ending on the day before the date determined under paragraph (1).

(4) Deem section 8432(b)(2)(A) of such title to be amended, in the matter before clause (i), by striking "ending on the day before date of restoration or reemployment (as applicable)" and inserting "ending on the date determined under section 5(f)(1) of the Federal Employee Reservist Benefit Extension Act of 1992".

SEC. 6. CONTINUED ELIGIBILITY FOR LIFE INSURANCE AND HEALTH BENEFITS; EXTENSION RELATING TO AN ALTERNATIVE FORM OF ANNUITY.

(a) LIFE INSURANCE.—Chapter 87 of title 5, United States Code, is amended—

(1) in section 8706—

(A) by redesignating subsection (g) as subsection (f); and

(B) by adding at the end the following:

"(g)(1) Notwithstanding subsection (a), the insurance of an employee who enters on leave without pay as a result of being ordered to active duty (other than for training) pursuant to any of the provisions of law cited in section 3552 shall continue for so long as the employee remains in nonpay status, but not beyond—

"(A) the date on which active duty ends,

"(B) if reemployment or restoration rights are available after active duty ends, the last day on which such rights are available, or

"(C) the last day through which insurance would otherwise continue under subsection (a),

whichever is latest.

"(2) Upon termination of continued coverage under this subsection, the employee shall be afforded a temporary extension of life insurance coverage and the opportunity to convert to an individual policy of life insurance, to the same extent and in the same manner as if the insurance had stopped as provided by subsection (a).";

(2) in section 8714a(c), by adding at the end the following:

"(4)(A) The optional insurance of an employee who enters on leave without pay as a result of being ordered to active duty (other than for training) pursuant to any of the provisions of law cited in section 3552 shall continue for so long as the employee remains in nonpay status, but not beyond—

"(i) the date on which active duty ends,

"(ii) if reemployment or restoration rights are available after active duty ends, the last day on which such rights are available, or

"(iii) the last day through which insurance would otherwise continue under paragraph (1),

whichever is latest.

"(B) Upon termination of continued coverage under this paragraph, the employee shall be afforded a temporary extension of life insurance coverage and the opportunity to convert to an individual policy of life insurance, to the same extent and in the same manner as if the insurance had stopped as provided by paragraph (1).";

(3) in section 8714b(c), by adding at the end the following:

"(3)(A) The additional optional insurance of an employee who enters on leave without pay as a result of being ordered to active duty (other than for training) pursuant to any of the provisions of law cited in section 3552 shall continue for so long as the employee remains in nonpay status, but not beyond—

"(i) the date on which active duty ends,

"(ii) if reemployment or restoration rights are available after active duty ends, the last day on which such rights are available, or

"(iii) the last day through which insurance would otherwise continue under paragraph (1),

whichever is latest.

"(B) Upon termination of continued coverage under this paragraph, the employee shall be afforded a temporary extension of life insurance coverage and the opportunity to convert to an individual policy of life insurance, to the same extent and in the same manner as if the insurance had stopped as provided by paragraph (1)."; and

(4) in section 8714c(c), by adding at the end the following:

"(3)(A) the optional life insurance on family members of an employee who enters on leave without pay as a result of being ordered to active duty (other than for training) pursuant to any of the provisions of law cited in section 3552 shall continue for so long as the employee remains in nonpay status, but not beyond—

"(i) the date on which active duty ends,

"(ii) if reemployment or restoration rights are available after active duty ends, the last day on which such rights are available, or

"(iii) the last day through which insurance would otherwise continue under paragraph (1),

whichever is latest.

"(B) Upon termination of continued coverage under this paragraph, temporary extension of life insurance coverage and opportunity for conversion to individual policies of life insurance, shall be afforded to the same extent and in the same manner as if the insurance had stopped as provided by paragraph (1).".

(b) HEALTH BENEFITS.—Section 8906(e) of title 5, United States Code, is amended by adding at the end the following:

"(3)(A) In the case of an employee enrolled in a health benefits plan under this chapter who enters on leave without pay as a result of being ordered to active duty (other than for training) pursuant to any of the provisions of law cited in section 3552, coverage of the employee and coverage of members of the employee's family shall continue for so long as the employee remains in nonpay status, but not beyond—

"(i) the date on which active duty ends,

"(ii) if reemployment or restoration rights are available after active duty ends, the last day on which such rights are available, or

"(iii) the last day through which coverage would otherwise continue under paragraph (1),

whichever is latest.

"(B) During the period of continued coverage under this paragraph, the employee and Government contributions shall be paid by the employee's employing agency.".

(c) ALTERNATIVE FORM OF ANNUITY.—Sections 8343a(f)(2) and 8420a(f)(2) of title 5, United States Code, are each amended—

(1) in subparagraph (A), by striking the final "or";

(2) in subparagraph (B), by striking the period and inserting "; or"; and

(3) by adding at the end the following:

"(C) who is separated from Government service voluntarily and—

"(i) was a member of the armed forces who, before December 1, 1990, was ordered to active duty (other than for training) pursuant to any of the provisions of law cited in section 3552 in connection with Operation Desert Shield;

"(ii) is entitled to an annuity payable out of the Civil Service Retirement and Disability Fund, based on such individual's service, having a commencement date not later than the first day of the first month beginning at least 90 days after termination of that period of active duty; and

"(iii) would have been eligible to make an election under this section as of November 30, 1990.".

(d) EFFECTIVE DATES.—(1) Except as provided in paragraph (2), the amendments made by this section—

(A) shall take effect as of the 60th day after the date of enactment of this Act; and

(B) shall apply to any employee who enters on leave without pay as a result of being ordered to active duty (other than for training), pursuant to any of the provisions of law cited in section 3552 of title 5, United States Code (as amended by section 2), on or after August 2, 1990.

(2) The amendments made by subsection (c) shall take effect as of December 1, 1991.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. ACKERMAN] will be recognized for 20 minutes, and the gentlewoman from Maryland [Mrs. MORELLA] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. ACKERMAN].

GENERAL LEAVE

Mr. ACKERMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on H.R. 3209, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. ACKERMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, more than 17,000 Federal and postal employees were called to military service during Operation Desert Shield and Desert Storm.

We owe these brave men and women a debt of gratitude, and we should also recognize that many of these employees fought for our country at great financial sacrifice. The financial obligations which these individuals had incurred as civilian employees did not end when they were called to active duty.

Many State and local governments and private companies have recognized this sacrifice and provided benefits for their employees who were called to active military duty.

For example, New York State provided a wage supplement for its employees, the city of Chicago continued the salaries of its employees, and in the private sector the New York Power Authority, AT&T, IBM, General Electric, and GTE provided some pay differential for employees called to active duty.

The Federal Government should join with these, and other enlightened employees, to provide a financial safety net for military reservists.

H.R. 3209 would provide a special pay differential for Federal and postal employees. The differential will make up any disparity between an employee's civilian pay and his or her military pay and will come from funds already appropriated for salaries and expenses.

The bill also allows Federal and postal employees to make up contributions to the thrift savings plan missed because of military service, and extends health and life insurance to Federal and postal employees for the duration of the military callup instead of the 1-year extension in current law.

Mr. Speaker, the amendment to H.R. 3209 clarifies that the salary differential will be paid from funds already appropriated for salaries and expenses. The amendment also makes clear that Federal and postal employees who perform any kind of military service may make up missed contributions to the thrift savings plan, and that the make-up is not limited to those who served in the National Guard or Reserves.

Last, the amendment removes claims court judges, bankruptcy judges, and magistrates from those employees who would be eligible to make up contributions to the thrift savings plan. The Committee on Post Office and Civil Service has been advised that, because of the nature of their appointments, these employees are never placed in a leave without pay status and therefore have no need to make up contributions.

Mr. Speaker, I want to salute my colleagues Mr. SIKORSKI, Mr. DURBIN, Mrs. MORELLA, and Mr. SOLOMON, all of whom introduced bills to help Federal employees who served in the Persian Gulf.

I also want to point out that the American Legion, the Reserve Officers Association of the United States, as well as Federal and postal employee organizations support H.R. 3209, and I urge my colleagues to support the bill.

□ 1220

Mr. Speaker, I reserve the balance of my time.

Mrs. MORELLA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3209, the Federal Employee Reservist Benefit Extension Act and commend the chairman of the Subcommittee on Compensation and Employee Benefits for introducing this legislation and for shepherding it through the hearing process and through the Committee on Post Office and Civil Service where it passed 22 to 0 by recorded vote.

I am pleased to be an original cosponsor of this important bill. It is similar to H.R. 1308, legislation I had introduced to address concerns regarding Federal reservists. I am pleased that my chairman and I have similar goals to assist Federal employees.

Mr. Speaker, a year ago, our Nation was at war—a war in which our troops emerged victorious. At that time we gave our military the highest praise. We acknowledged that our volunteer military force was supported professionally by reservists who fought shoulder to shoulder in all aspects of that endeavor.

At the conclusion of that effort, in the private sector, some of our Fortune 500 companies, including IBM, Mobil, and General Electric sought to minimize their employees' financial anxiety by offering a monetary supplement to the reservists' military pay. Many Members felt that this gesture should be extended to reservists who are Federal employees. Mr. Speaker, H.R. 3209 provides this pay differential to Federal employee reservists; the differential is the difference between the employees' Federal pay and the amount paid to the reservist by the military.

The amount of money used to pay the differential is money already appropriated to Federal agencies for expenses. If this money is not spent on salaries, it could be spent by the agencies for other items, such as furnishings, supplies, and so forth. There is no mandate that this money has to be returned to the Treasury.

H.R. 3209 protects the recertification rights of Senior Executive Service employees who served in the Persian Gulf war. Additionally, the bill provides the mechanism for Federal employees to continue contributing to the thrift savings plan, which is an important component of the retirement system. Any loss of contributions may reduce, and therefore adversely affect, an employee's retirement benefits. This bill also provides for an alternative form of annuity to be paid to reservists under certain circumstances.

Mr. Speaker, the Federal Government should be a leader in protecting employee rights. It should do no less than some large private companies. In fact, the Federal Government should be a leader.

If we are to continue to attract reservists from the Federal Government, we cannot ask people to forfeit their regular salary for lesser compensation when called to active military service on behalf of this great Nation.

Almost 90 years ago, Theodore Roosevelt declared,

> A man (and in this era, a woman) who is good enough to shed his/her blood for (t)his country is good enough to be given a square deal afterwards.

Mr. Speaker, I again want to commend the gentleman from New York for his work in bringing H.R. 2903 to the floor and to the chairman of the Committee on Post Office and Civil Service for expediting this bill. I urge my colleagues to approve this legislation.

Mr. Speaker, I yield such time as he may consume, up to a maximum of 5 minutes, to my distinguished colleague, the gentleman from Arizona [Mr. RHODES].

Mr. RHODES. Mr. Speaker, I thank the gentlewoman from Maryland [Mrs. MORELLA] for yielding this time to me, and I assure her that I shall not go beyond my maximum 5 minutes.

Mr. Speaker, I reluctantly rise in opposition to this bill. I certainly recognize what it is that the committee is trying to do, and I do not necessarily disagree with it. But I have three basic problems with the bill, two of them related to process.

Mr. Speaker, I think this is an important piece of legislation, and I think that bringing it up under the Suspension Calendar, when the vast majority of the Members of the House are not here and not able to participate, is not an appropriate way to handle a bill such as this.

Second, we have the oft-recurring conflict as far as pay-as-you-go is concerned. The report filed by the committee, too, has an observation or a report by the Congressional Budget Office saying there is no increased direct spending and, therefore, no pay-as-you-go problems with the bill. On the other hand, the Office of Management and Budget says there is an increase in direct spending in the amount of some $13 million, and, as a consequence, there are pay-as-you-go implications. If there are, certainly a point of order would lie against the bill, but I have not discussed that issue with the gentlewoman from Maryland [Mrs. MORELLA] or the gentleman from New York [Mr. ACKERMAN]. I do not think it would be fair for me to raise a point of order at this time, not having given them the opportunity to prepare for that, so I will not raise a point of order.

My third issue is more substantive. As the report of the committee notes, approximately 245,000 reservists were called to active duty during the Persian Gulf crisis, and among those were approximately 17,000 Federal employees. The report goes on to note, and both the gentleman from New York [Mr. ACKERMAN] and the gentlewoman from Maryland [Mrs. MORELLA] have also noted, that certain public sector employees, such as the city of Chicago, and the State of New York, have provided some kind of wage differential compensation to their employees who were called up, that some large private sector employers, such as the New York Power Authority, AT&T, IBM, General Electric, and GTE, have provided, "some pay differential for employees called to active duty."

□ 1230

We do not appear, though, to have information as to how many of the 245,000 total reservists who were called up are in fact covered by either of those public sector or private sector employers. We have no indication that these wage differentials that have been provided by these employers in fact make the reservists whole, as if that reservist had not been called to active duty at all, and we certainly have no idea as to how many of the 245,000 persons called up are not covered by any such mechanism as this.

So the issue really is one of equity and fairness. Is it fair for us to use the Federal Treasury to make these 17,000 Federal employees completely whole, as if they had never been called to active duty, while the balance of the 245,000, or at least some large portion of them, will have to bear the financial burden in total? I certainly do not denegrate those who were called up either from private sector employers or public sector employers. I certainly do not belittle the effort they made on behalf of their country. I simply do not believe that it is appropriate or fair for us to set aside a certain class of individual reservists who were called to active duty, to set aside this class of employees and say they will be treated differently from any others and they will suffer no financial hardship as a result of being called to active duty. I do not think that is fair to the others. I think that is something the whole House ought to be concerned with.

Therefore, Mr. Speaker, I oppose the bill, and I will ask for a recorded vote on passage.

Mr. ACKERMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in response to my colleague's concern about OMB's estimate of H.R. 3209, let me say that the committee believes that we have provided an offset for the direct spending created by the special salary differential.

H.R. 3209 requires that agencies pay for the salary differential out of existing appropriations for salaries and expenses. The Congressional Budget Office estimate that appears in the committee report agrees that a sufficient offset has been provided. The CBO estimate states in part that any increase in direct spending "would be offset by a reduction in the agency's discretionary budget authority because the agencies would be required to pay the benefit out of existing funds * * *."

CBO states further that the net effect of the special salary differential on direct spending would be zero.

I believe that we have provided an offset that satisfies the requirements of the Omnibus Budget Reconciliation Act of 1990.

Mrs. MORELLA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I appreciate the gentleman's posing his concerns, and I want to associate myself with the comments of the gentleman from New York [Mr. ACKERMAN].

Actually, the $13 million comes about from the possibility of the pay differential, which originally they thought might be $39 million. So it is even less than that, and it would come out of the existing agency's appropriation. So there is absolutely no expenditure, and this is the way to go.

Mr. Speaker, this is a Tuesday. There is a full day of business here in the House, and I have no further requests for time.

Mr. Speaker, I yield back the balance of my time.

Mr. DURBIN. Mr. Speaker, I rise in support of this legislation, which will give Federal employees who served in the Persian Gulf the chance to make up for the significant financial losses they suffered because of their service to our Nation.

I introduced legislation early last year to grant Federal employees activated for duty in the Persian Gulf a pay differential when their civilian pay exceeds military pay. The 17,000 Federal workers who were activated during the Persian Gulf crisis and served their country as members of the National Guard or Reserves made significant sacrifices and important contributions to their country. I believe it was our duty, in return, to try to protect them as much as possible against financial hardship.

This legislation will pay these Federal workers a special pay differential for each month of military duty in which their monthly military compensation was less than their monthly civilian compensation.

Mr. Speaker, private sector and public sector employers around the country offered their activated workers a pay differential. Our Federal Government should do no less.

Three major surveys conducted in early 1991 showed that over half of the private corporations surveyed were giving some pay differential. Among the companies were AT&T, IBM, General Electric, Kimberly-Clark, BellSouth, Merck, Ford, General Motors, Chrysler, and, ironically, Honda, Nissan, and Toyota. And these companies are not exceptions.

While a majority of corporate America responded to the financial crisis facing its activated employees and provided relief, corporate America was not alone. Many public sector employers also came to the aid of their employees.

I conducted my own partial survey of State government to determine what they were doing. I found that many States wee providing continuing pay for employees during their call up. For instance, Arkansas, California, Florida, Illinois, Minnesota, New Jersey, New York, Ohio, Pennsylvania, Tennessee, and West Virginia were all granting a pay differential. Federal employees deserve the same treatment.

Mr. Speaker, our Nation relies on the volunteer service of our National Guard and Reserves as an important component of our armed forces. If that volunteer spirit is to endure, we must treat those volunteers fairly when they are called up for duty and deprived of the income they need to avoid financial hardship. This bill says that those who serve their country will not be left in the financial lurch.

I urge the passage of this bill.

Mr. GILMAN. Mr. Speaker, I rise in strong support of H.R. 3209, the Federal Employee Reservist Benefit Extension Act of 1992. This legislation grants relief to our Federal employee reservists who selflessly volunteered their services toward our victory in Operation Desert Storm. These employees suffered great financial hardship when they were called upon to serve our country in a military capacity. We should not punish their actions by denying them and their families needed financial support.

H.R. 3209 provides a pay differential for these reservists. This differential reflects the amounts in pay between the reservist salary and the Federal salary. The measure also contains a catchup provision for reservists to participate in the Federal Employees Retirement Thrift Savings Plan. In addition, employees called to active military duty would have his or her life insurance extended for the duration of the military callup, rather than for the first 12 months only. Health insurance benefits would also be extended in like manner.

H.R. 3209 represents sound legislation. I know that many private sector employers have already paid the differential to their respective employee-reservists. Companies such as Xerox, General Electric, Exxon, IBM, Mobil, Phillip Morris—I could go on with a whole laundry list if needed—have all offered the pay differential to their employee reservists. Apart from the humanitarian intent of this legislation, the benefits incorporated in H.R. 3209 are simply those an employer needs in order to compete for talented workers. And the Federal Government certainly can use every available tool when it comes to competing for the best and brightest work force.

My colleagues should be glad to see that H.R. 3209 meets the important budget standards of pay-as-you-go. According to the Congressional Budget Office, enactment of H.R. 3209 should not result in more than $500,000 of direct spending. This is accomplished by requiring that the pay differential be paid from the existing appropriations for the employing agency, meaning that agencies would have to use fiscal year 1992 moneys for service performed last year as well as any continuing service. Again, I stress that CBO estimates that the net effect of this section on direct spending would be zero.

I want to commend the chairman of the Subcommittee on Compensation and Employee Benefits, the gentleman from New York, Mr. ACKERMAN, for expertly combining the best provisions of several reservists bills, including those of the gentlelady from Maryland, Mrs. MORELLA, and our good friend from Minnesota, Mr. SIKORSKI.

Mr. Speaker, H.R. 3209 is good legislation which needs our support. Accordingly, I urge all of my colleagues to join me today in support of this legislation.

Mr. ACKERMAN. Mr. Speaker, I thank the gentlewoman from Maryland [Mrs. MORELLA], and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from New York [Mr. ACKERMAN] that the House suspend the rules and pass the bill, H.R. 3209, as amended.

The question was taken.

Mr. RHODES. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

AMENDING THE STEWART B. MCKINNEY HOMELESS ASSISTANCE AMENDMENTS ACT OF 1988

Mr. GONZALEZ. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4449) to authorize jurisdictions receiving funds for fiscal year 1992 under the HOME Investment Partnerships Act that are allocated for new construction to use the funds, at the discretion of the jurisdiction, for other eligible activities under such act and to amend the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 to authorize local governments that have financed housing projects that have been provided a section 8 financial adjustment factor to use recaptured amounts available from refinancing of the projects for housing activities.

The Clerk read as follows:

H.R. 4449

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AVAILABILITY OF NEW CONSTRUCTION FUNDS UNDER HOME INVESTMENT PARTNERSHIPS ACT.

Section 217(b)(1)(A) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12747(b)(1)(A) is amended by adding at the end the following new clause:

"(iii) Notwithstanding clauses (i) and (ii), any jurisdiction receiving amounts made available under such clause may, at the discretion of the jurisdiction, use such amounts for other eligible uses in accordance with section 212 if the jurisdiction determines that such use will better meet the housing needs within the jurisdiction. This clause shall be effective only with respect to funds provided under the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992 (Public Law 102–139; 105 Stat. 744), which suspends the requirement of contributions by participating jurisdictions, and shall become ineffective if such requirement is reimposed.".

SEC. 2 USE OF FUNDS RECAPTURED FROM REFINANCING LOCAL FINANCE PROJECTS.

(a) IN GENERAL.—Section 1012(a) of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (42 U.S.C. 1437f note) is amended—

(1) by inserting "or any local government or local housing agency financed project," after "State financed project"; and

(2) by inserting "or the local government or local housing agency initiating the refinancing, as applicable," after "located".

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply to any refinancing of a local government or local housing agency financed project approved by the Secretary of Housing and Urban Development for which settlement occurred after January 1, 1992.

(c) CONFORMING AMENDMENTS.—The Stewart B. McKinney Homeless Assistance Amendments Act of 1988 is amended—

(1) by striking the section heading for section 1012 (42 U.S.C. 1437f note), and inserting the following new section heading:

"SEC. 1012. USE OF FUNDS RECAPTURED FROM REFINANCING STATE AND LOCAL FINANCE PROJECTS.";

and

(2) in the table of contents in section 1(b), by striking the item relating to section 1012 and inserting the following new item:

"Sec. 1012. Use of funds recaptured from refinancing State and local finance projects.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. GONZALEZ] will be recognized for 20 minutes, and the gentlewoman from New Jersey [Mrs. ROUKEMA] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. GONZALEZ].

Mr. GONZALEZ. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I rise to offer H.R. 4449. This bill makes certain technical corrections to the HOME Program which communities across the country are preparing to implement. The HUD regulations for the Home Program were written to require communities to utilize certain HOME funds only for new construction. To avoid tying a community's hands or possibly having them lose their HOME funds, this bill is necessary.

Second, this bill would permit local housing authorities which have refinanced bond debt issued in the early 1980's for certain affordable housing to attain lower interest rates to share equally in any savings or recaptured funds with the Federal Government. This provision mirrors a provision already in law for bond debt issued by State housing finance agencies.

These provisions have been accepted by both sides of the aisle and by the administration and I urge adoption of H.R. 4449.

Mr. Speaker, the very distinguished gentleman from Massachusetts [Mr. FRANK] has been in the forefront of this effort to provide this very, very creative legislation, and I yield such time as he may consume to the gentleman because our distinguished ranking minority member has suggested that I yield to him first, and I do so with great pleasure and a debt of gratitude.

Mr. FRANK of Massachusetts. Mr. Chairman, I thank the chairman of the committee for his understated introduction. I appreciate very much his leadership in this matter.

Mr. Speaker, what we have here has been brought to us on a bipartisan basis, and I want to express my appreciation to the chairman and the majority staff, to the ranking minority member and the staff on the minority side, and the administration. This is responsive, I think, to the kinds of things people have asked us to do.

There has been a lot of discussion about entrepreneurial government and flexibility. People should know that this is a bill that, as we have been told by CBO, has zero negative budget impact. In fact, if anything, I think it probably has a positive impact. It provides flexibility and incentives. It is the kind of thing we on both sides of the Subcommittee on Housing have been working on for some time, and there have been other examples of this. I would cite the programs we created during the S&L legislation, the Federal Home Finance Board, under the chairman's leadership, and the RTC and FDIC, with the work of some of us.

What we are trying to do is maximize our ability to get a good bang from our buck. This is an example. We passed legislation known as the HOME Program, which is an innovative way of providing housing funds to municipalities, and we wanted to provide the maximum flexibility.

□ 1240

As we read the legislation as it emerged from a lengthy conference process, it is subject to the interpretation that some communities have no choice but to spend their Federal allocation on new construction.

Part of what this bill does is simply say to those communities that if they decide that they want to do new construction, they may. But if they decide they would be better off with acquisition, now, in many parts of the country we have had a real estate problem. As a result, there is housing that is on the market that is fairly low in price by historic standards.

In my own communities that I represent, it was the community development directors of the city of Newton and the town of Brookline, Steve Guttrell and Sara Wallace, who called this to my attention, there are properties we can probably buy at far less than it would cost to build new ones.

This bill simply allows the local communities to do that in that one provision. It is a model that I hope we will follow.

Second, and this was a part of it where the impulse came on the minority side, we have I think what the people who advocate entrepreneurial government should like and what we should encourage.

We have local agencies that have financed housing. Many of them, and I am reading now from a letter that was sent by John Murphy from the Association of Local Housing Finance Agencies, he thanks us for the bill. He says:

> I am pleased to advise you of the strong support of the Association of Local Housing Finance Agencies.

Mr. Murphy says it will save some money. He says:

> The Federal Government will benefit through recapture of its share of Section 8 savings, while additional low income persons will be housed by the Local Housing Finance Agencies' share of the Section 8 savings.

Mr. Speaker, what this does is to give the local authorities the incentive to refinance.

As they point out, nearly 1.5 billion dollars' worth of financing under a certain set of projects was financed during 1981 and 1983 when we had very high interest rates, 11 to 13 percent, they tell us, tax exempt.

Clearly there is a lot of savings that could be realized by refinancing. What this says to the local authorities is, refinance, and we will share the savings with you. Rather than refinance, and all the savings go to the Federal Government.

In a perfect world we would not need incentives. We would all do the right thing all the time. But until we get there, rational incentives make sense, and that is exactly what this does: It simply says to the local communities, maximize the savings, and we will share them with you.

So that is what this bill does. It is two pieces of flexibility that we think are an example of the way in which we ought to be going further.

Mr. Speaker, let me finally say at the suggestion of staff of the Subcommittee on Housing and Community Development, while we are technically amending in part the McKinney Act, this does not deal with those homeless programs under the McKinney Act. So those who have been legitimately protective of those should understand this is simply a provision that was included when we did the McKinney Act.

Mr. Speaker, in summary, this gives local communities the flexibility they ought to have to decide how to spend their home money, whether for new construction, rehabilitation, acquisition, or whatever.

It also would give local communities the incentive to refinance, save Government money, and share the savings.

Mr. Speaker, I very much appreciate the cooperation that we have had on both sides in doing this. I thank the gentleman from Texas [Mr. GONZALEZ] as well.

Mr. Speaker, for the RECORD I include the letter from the executive director of the Association of Local Housing Finance Agencies.

ASSOCIATION OF LOCAL
HOUSING FINANCE AGENCIES,
Washington, DC, March 16, 1992.

Hon. BARNEY FRANK,
House of Representatives,
Rayburn House Office Building,
Washington, DC.

DEAR CONGRESSMAN FRANK: I am pleased to advise you of the strong support of the Association of Local Housing Finance Agencies for H.R. 4449, legislation introduced by you, Reps. Roukema, Wylie, and Kennedy. This bill amends the HOME Investment Partnerships Act to permit communities qualifying for the new construction set-aside, at their discretion, to use as much or as little of funds allocated for that purpose for new construction. This amendment is necessary in order to avoid situations in which a HOME participating community may be allocated more funding for new construction than it can reasonably and expeditiously use. As you know a number of local governments are faced with such a situation, despite their identifying different needs in their Comprehensive Housing Affordability Strategies. Local governments need the essential flexibility which adoption of your bill would provide.

H.R. 4449 also amends the Stewart B. McKinney Act of 1988 to permit local housing finance agencies which have financed, using tax-exempt bonds, low-income multifamily housing projects and which received a financial adjustment factor (FAF) under Section 8 of the Housing Act of 1937 to recapture and use 50 percent of the savings, which result from refunding such bonds, for other low-income housing activities. A provision to this effect was inadvertently dropped in Conference from what became the National Affordable Housing Act of 1990. Section 1012 of the McKinney Act currently permits state housing finance agencies to retain 50 percent of any Section 8 savings which result from the refunding of bonds which financed FAF projects.

Nearly $1.5 billion of bonds financing FAF-assisted projects were issued by local housing finance agencies (under the authority of Section 11(b) of the Housing Act of 1937) during 1981 to 1983, a time of extremely high interest rates (generally 11 to 13 percent tax-exempt). Now that many of these bonds are approaching the date on which they may be refunded (generally 10 years from the date of issuance), there is an opportunity to take advantage of substantially lower interest rates and the corresponding savings in Section 8 subsidies. Your legislation would provide ample incentive for local housing finance agencies to refund these funds. In so doing, both the federal government and low-income persons will be the beneficiaries. The federal government will benefit through recapture of its share of Section 8 savings, while additional low-income persons will be housed by the local housing finance agencies' share of the Section 8 savings.

On behalf of ALHFA, I urge adoption by the House of H.R. 4449.

Thank you for your leadership and that of Rep. Roukema, Wylie, and Kennedy on this critical legislation.

Sincerely,

JOHN C. MUPRHY,
Executive Director.

Mrs. ROUKEMA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 4449, the HOME Improvement and Bond Refinancing Act, introduced by myself and the gentleman from Massachusetts [Mr. FRANK]. I would like to compliment the chairman, Mr. GONZALEZ and gentleman from Massachusetts for their leadership.

Since my colleague has already described the changes to the HOME Program relative to new construction allocations, a change which I support, I will address the second part of this bill—dealing with bond refinancings.

Between 1981 and 1984, at a time when the Reagan administration was cutting back on Federal spending on housing, HUD encouraged State housing finance agencies and local public housing authorities to issue tax-exempt bonds as a way to raise funds to meet local housing needs.

As an inducement, HUD agreed to pay the interest rates on these bonds issued by the authorities through a special financial adjustments factor [FAF] to the section 8 Federal housing subsidy program.

During this period, over 1 billion dollars' worth of these 11(b) bonds were issued which helped finance thousands of low-income housing units.

However, as my colleagues know, interest rates on tax-exempt bonds during the early 1980's averaged between 11 percent and 14 percent. This represented a sizable cost to HUD.

As interest rates began to fall in the mid-1980's, HUD began to encourage refinancing of these 11(b) bonds in order to recapture millions in section 8 subsidy. While some refinancings took place, most issuers found no reason to go through the process.

In 1988, when the Congress enacted amendments to the McKinney Act, it included a paragraph which permitted HUD to share 50 percent of any savings from refinanced bonds with State housing finance agencies. The legislation, I believe, inadvertently, omitted local housing authorities from the savings sharing provision.

In 1990, when the House passed the National Affordable Housing Act, it included a provision which would allow HUD to share cost savings with the local housing authorities. However, due to what we believe was a simple clerical error, this provision, while supported by the other body, was not included in the final version of the conference report.

This bill today reinstates that authority for HUD to share savings with local housing authorities.

Mr. Speaker, with millions of dollars at stake, this represents a good government initiative. With interest rates at an all-time low, we should be encouraging the refinancing of these bonds. And, even with the savings sharing inducement the Treasury and HUD stand to save a significant amount of money.

I believe we should authorize the sharing of the savings from refinanced FAF bonds and encourage HUD to resume the sharing of savings for pre-FAF bonds that are also being refinanced.

I urge the passage of this bill. The Administration [HUD] supports this bill. CBO indicates that there is no budget impact.

Mr. Speaker, I include the following documents for the RECORD:

STATEMENT OF ADMINISTRATION POLICY ON H.R. 4449, THE HOME PROGRAM IMPROVEMENTS AND BOND REFINANCING ACT

The Administration has no objection to enactment of H.R. 4449.

MEMORANDUM

To: Frank DeStefano, Attention: Dana Fischer.

From: Brent Shipp.

Subject: Potential budgetary effects of H.R. 4449.

As you know, the Budget Enforcement Act of 1990 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1995. Section 2 of the bill would reduce net federal spending and pay-as-you-go procedures would apply.

Section 1 of the bill would amend section 217(b) of the Cranston-Gonzalez National Affordable Housing Act (NAHA). Currently, section 215(b) requires that 15 percent of the funds made available for the HOME Investment Partnerships program (HOME) be used only to build or substantially rehabilitate affordable housing. H.R. 4449 would remove this requirement for funds appropriated for use in 1992. It is possible that this amendment could accelerate the disbursement of 1992 appropriations since more funds would be available for other faster-spending programs authorized by NAHA. The impact on the budget of this provision would be small. We would not assess a measurable shift in outlays as a result of the enactment of this language.

Section 2 of the bill would allow local housing agencies to keep 50 percent of the savings that would occur in the Department of Housing and Urban Development's (HUD) section 8 rental assistance program if certain outstanding tax-exempt bonds were refinanced. These bonds were issued to finance low-income housing during a period of high interest rates. If financing costs could be lowered, section 8 payments could be reduced. Total savings are estimated at about $20 million per year for the next 10 years. Under the provisions of H.R. 4449, half of the savings would benefit the refinancing jurisdictions and half would be recaptured by the federal government. These federal savings would appear as negative outlays on the pay-as-you-go scorecard. Under current law, HUD has no authority to provide refinancing incentives to local housing authorities. In the absence of incentives, the refinancing and resulting savings are not likely to occur.

STATE FAF SAVINGS ESTIMATES

In response to your request of March 13, 1992, the following lists local agency share of HAP contract savings by state. The universe estimate assumes that the legislation will cover all local agency closings on and after January 1, 1992. The numbers show 50 percent of savings for the remaining contract term not converted to present value. Savings are in millions of dollars, so add 000 after each entry.

AL	2,032
CT	3,429
GA	8,255
IN	2,032
MD	635
MO	635
NB	381
NY	6,858
RI	4,061
VA	1,016
AR	762
DC	2,413
HI	761
KS	1,143
ME	4,317
MS	762
NH	2,921
OH	11,049
SC	380
VT	508
AZ	2,031
DE	635
IA	508
KY	4,318
MI	2,794
NC	1,651
NJ	8,636
OR	380
TN	2,267
WA	2,920
CA	17,415
FL	7,366
IL	2,286
MA	2,287
MN	634
ND	380
NM	2,032
PA	10,414
TX	4,064
WV	761

Volume of potential savings does not necessarily match population in each state, because in some states nearly all FAF activity was done by the State Housing Finance Agency, and in other states most local agencies have already refunded their bonds.

Mr. GONZALEZ. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I neglected to mention one point that is important and which I want to emphasize. I had discussions about this bill with the gentleman from New York [Mr. SCHUMER], who was a sponsor of much of what became the HOME Program. The gentleman generously joined in. But we did want to emphasize, one of the things this bill says is the requirement that local communities do new construction is suspended by this bill in part because, by a separate action, the House and Senate suspended the varying matching requirements under this legislation. That is, when the legislation passed, if a community wanted to do new construction, it had to do more of a match than if it did not.

Mr. Speaker, that was suspended by the appropriations bill last year. Members on both sides have different views as to the match. Nothing about this bill commits anybody to any future position with regard to the matching requirement.

Mr. Speaker, I did want to take note, which is an important point for the gentleman from New York [Mr. SCHUMER], that this bill does suspend the requirement that there be new construction for the same period of time that the matching requirements are suspended. When we do the new bill this year, we will be revisiting the whole subject.

Mrs. ROUKEMA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GONZALEZ. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Texas [Mr. GONZALEZ] that the House suspend the rules and pass the bill, H.R. 4449.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 4449, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

REGARDING SIGNING OF AGREEMENTS FOR FORMAL CEASE-FIRE IN EL SALVADOR

Mr. FASCELL. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 391) expressing the sense of the House of Representatives regarding the signing of the agreements for a formal cease-fire in El Salvador, and for other purposes.

The Clerk read as follows:

H. RES. 391

Whereas the people of El Salvador have suffered twelve years of civil war, violence, and destruction, affecting an entire generation of Salvadorans and virtually every sector of society;

Whereas peace and reconciliation will permit the Salvadoran people to exert their productive capabilities in efforts to restructure their society, rebuild their economy, and further strengthen democracy;

Whereas El Salvador has achieved through negotiations a peaceful resolution to years of bloody and destructive armed conflict;

Whereas the government of President Alfredo Cristiani has successfully fulfilled its promise to the people of El Salvador made on its first day in office that it will bring peace to the country;

Whereas the signing of the formal cease-fire agreements represents not only the end of the armed conflict but the beginning of a process to consolidate peace and democracy in El Salvador;

Whereas the Salvadoran people have declared February 1, 1992, the date of the signing of the formal cease-fire, to be National Peace Day;

Whereas the success of the Salvadoran negotiating process, with the active and indispensable contribution of the United Nations, can provide a model for the resolution of other conflicts around the world;

Whereas the United States has played a significant role in El Salvador during the years of crisis; and

Whereas the people of El Salvador and its neighbors in Latin America will be the primary beneficiaries of peace: Now, therefore, be it

Resolved, That (a) the House of Representatives hereby—

(1) commends and congratulates all parties to the negotiations, the United Nations Secretary General Javier Perez de Ceullar, and the Salvadoran people for their persistence, commitment, and dedication to the task of achieving peace;

(2) extends particular praise to President Cristiani for the courage and determination of his personal efforts to bring peace to El Salvador;

(3) commends and congratulates the governments of Colombia, Mexico, Spain, and Venezuela for their important contribution as "friends" of the United Nations Secretary General in support of the negotiating process; and

(4) encourages the Salvadoran people and all sectors of Salvadoran society to commit themselves to the long-term process of consolidating peace, democracy, and economic and social development.

(b) It is the sense of the House that—

(1) the United States should commit itself to providing appropriate assistance to the government and people of El Salvador that promotes the process of reconstruction, reconciliation, and further strengthening of democracy and democratic institutions;

(2) the United States should commit itself to seeking and encouraging other members of the international community to contribute materially to this process in El Salvador; and

(3) the United States should commit itself to cooperating with United Nations efforts to monitor compliance with the peace agreements in El Salvador and other efforts pertaining to the United Nations role in post-war El Salvador.

The SPEAKER pro tempore (Mr. FRANK of Massachusetts). Pursuant to the rule, the gentleman from Florida [Mr. FASCELL] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. FASCELL].

□ 1250

Mr. FASCELL. Mr. Speaker, I would like to commend the gentleman from Pennsylvania [Mr. MURTHA] for introducing this legislation. He has been a leader in helping to craft the legislative package on assistance to El Salvador in the past, and so it is appropriate that he is the principal author of this particular resolution.

Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. MURTHA].

Mr. MURTHA. Mr. Speaker, I just want to compliment the gentleman from Florida [Mr. FASCELL] for his leadership in this, probably one of the most contentious subjects in the last 10 years. When I look back at all the problems we had with all the votes that we took, winning only by one or two votes, and the three of us, the gentleman from Florida [Mr. FASCELL] and the gentleman from Michigan [Mr. BROOMFIELD] and myself usually stood together on this issue. And I think we have prevailed.

I do not know how many trips I made to Central America, but now that it is over and we look back, we realize how important it was to not only our national security but to the welfare of the people of El Salvador.

I want to compliment President Cristiani, who really was in the forefront. And of course, going back to President Duarte, who struggled against the military attacks from both sides. They took a center road and because of our assistance they were able to prevail.

I do not think there was anybody that worked harder than President Duarte to achieve peace and, finally, President Cristiani was able to overcome so many obstacles. But an awful lot of that was due to the work of the gentleman from Florida [Mr. FASCELL], and the gentleman from Michigan [Mr. BROOMFIELD], and the gentleman from Massachusetts [Mr. MOAKLEY], who was involved in this from the very start.

We reached what I consider a legitimate compromise. I think it was something that nobody was completely happy with, but it moved both parties toward a negotiated settlement.

A lot of people never believed, because of the bitter war that went on, that they could ever sit down at a table. President Cristiani took on himself the dangerous, the physical danger, and the mental anguish of fighting against his own, some of his own supporters in order to take a moderate position that finally prevailed on this issue which has helped stabilize Central America.

It is hard to look back and not see the tremendous amount of contention. I remember former Speaker O'Neill sent me down to Nicaragua, and I remember at that time we were concerned about Lincoln Air Field and putting jets into Nicaragua. We were concerned about the security of the Panama Canal and the guerrilla forces moving between all those countries and finally destabilizing the whole of Central America.

And because of the work that we have done, we believe that is a better area. But I have to compliment both sides in this final agreement. FMLN, President Cristiani, all of them were so important to the final outcome of this. And even though here on the floor some of the votes were only by one or two, a positive vote of one or two, we finally were able to pass legislation that moderated the situation and brought it to a successful conclusion.

People say, how long does it take to pass a bill? Well, sometimes it only takes a few minutes to pass a bill. But this type of thrust that we set, the tone that we set over the years has been so important in the overall conclusion to these very bitter disputes down in El Salvador.

So I have to compliment all the people involved, even though we had some bitter disagreements on the floor and we had some heated arguments between all sides, I think the final conclusion is proof that in the end, if we keep putting pressure on and we move a proposition which is right, which respects human rights, which downplays the significance of the military, and that was such an important situation.

I kept saying the military is still in control and something has to be done to bring them under civilian jurisdiction. I think this finally happened.

President Cristiani finally was able to, as elected President, get them under control. And much of that was due to our influence up here.

So there is plenty of praise to go around. I want to thank the gentleman from Florida [Mr. FASCELL] for the tremendous amount of work that he has done and, of course, the gentleman from Michigan [Mr. BROOMFIELD] for the work that they have done because they have specialized in this area and have spent an awful lot of time.

It is a thankless task in many regards.

Mr. FASCELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to thank the gentleman from Pennsylvania for his leadership on this issue, and say that the purpose of this resolution, of course, is to express the feelings of the Congress of the United States where we have had our own disputes on a very difficult subject.

I am proud to say that with the cooperation of the ranking minority member of the Committee on Foreign Affairs, the gentleman from Michigan [Mr. BROOMFIELD], and other members of the committee, as well as the task force that was appointed by the Speaker, the Committee on Foreign Affairs last week unanimously agreed to a unified position on United States policy toward El Salvador, something that has eluded us all up to this time.

And while we are expressing our thanks to people, let us not forget the Secretary General of the United Nations, Javier Perez de Cuellar, who took a lead role in helping to bring about a settlement of this very, very difficult problem.

The ability to agree to the peace accords is even more amazing when we think of all the sides that were involved here—the military, the FMLN, and the Government of El Salvador which was in the middle of elections. Perhaps more important, however, is the fact that the Salvadoran people themselves proved their own desire by going to the polls time after time in overwhelming numbers to support the concept of democracy.

So this resolution is important for us to adopt, for it puts the Congress of the United States, a representative form of government, on record as recognizing the struggle of the people of El Salvador, a long, hard, bitter struggle. And we pray and hope that they will be successful in making the transition to democracy.

El Salvador now begins the difficult but positive task of implementing the peace accords and reconstructing the country. We, the United States, must stay as involved in this process as we have throughout their civil war. We must provide moral and financial assistance in order to ensure that the peace takes hold and the Salvadoran people have the opportunity to reconstruct their lives.

I urge Members to support the resolution we are considering today.

Mr. Speaker, I reserve the balance of my time.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

I would like to commend the gentleman from Pennsylvania [Mr. MURTHA] for sponsoring this resolution. He has played a very leading role in this whole question of El Salvador now for many years. The civil war has been going on for nearly 12 years.

Mr. Speaker, I strongly support House Resolution 391, a resolution congratulating Salvadorans on the conclusion of their tragic civil war.

I commend Chairman FASCELL for bringing this issue to the floor. Last week, the Foreign Affairs Committee marked up legislation authorizing reconstruction assistance for El Salvador.

After years of divisive debates, we were able to reach bipartisan agreement on legislation which supports the Salvadoran peace process, economic rebuilding, and the peacetime missions of the Salvadoran Armed Forces. Congressmen TORRICELLI and LAGOMARSINO, chairman and ranking Republican of the Western Hemisphere Subcommittee, deserve congratulations for their patient effort to build the consensus in our committee.

While the Congress has seen many political battles on El Salvador over the years, thousands of Salvadorans have been killed on the military battlefield. Fortunately, that is now behind us.

The FMLN guerrillas have finally decided to accept the democratic process and the Government of El Salvador made unprecedented concessions to meet FMLN concerns. Now that El Salvador is at peace, I would hope the United States Congress will not continue to fight old battles that are irrelevant to the task of peacemaking in El Salvador.

House Resolution 391 praises President Cristiani for his bold leadership in bringing peace to El Salvador. I have no doubt that without his courage and ability, a peace agreement would not have been possible. President Cristiani has earned the gratitude of all the people of the hemisphere. I congratulate him and the real beneficiaries of his work: the people of El Salvador. I urge my colleagues to support House Resolution 391.

Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Speaker, last week, the Foreign Affairs Committee reported two legislative items on El Salvador: Authorization legislation for reconstructions and the resolution before us today. I strongly support House Resolution 391, but would like to say just a few words about committee action on authorization legislation on El Salvador.

I have been involved in countless debates on El Salvador in my years as ranking Republican on the Subcommittee on Western Hemisphere Affairs, but last week was the first time we reached a bipartisan consensus on the issue.

Much of the credit goes to Chairman TORRICELLI, who as usual, was fair-minded in his search for consensus. It should go without saying the credit that is deserved and has been earned by JOHN MURTHA, DANTE FASCELL, BILL BROOMFIELD and many others, including Assistant Secretary of State Bernard Aronson is deserving of great credit, too.

I believe it is worthy of serious note that our committee—with some of the most liberal and the most conservative Members of this body—was able to reach agreement on one of the most contentious issues of the past decade. I hope our compromise legislation becomes the basis for congressional action on El Salvador this fiscal year.

This resolution is very similar to one which unanimously passed the Senate last month. It extends credit to where it is due: President Cristiana, the United Nations, and the people of El Salvador. I would add that restraint by Congress—in not sending the wrong signals and by refraining from actions which would have undermined the peace process—also aided El Salvador's historic achievement.

I never doubted President Cristiana's willingness and ability to bring peace to his war-torn land. And I am pleased to give credit to Members of this body who resisted the temptation to undertake precipitous action which could very well have undermined the peace negotiations at crucial junctures.

Once again, I thank my colleagues for doing what Salvadorans have done: Moving beyond the old arguments and taking on the new challenges of a country at peace. It is a very significant day for us when El Salvador is considered on this floor in a bipartisan atmosphere of comity. I urge my colleagues to support House Resolution 391.

□ 1300

Mr. FASCELL. Mr. Speaker, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Speaker, I thank the gentleman for yielding.

Let me express my appreciation to the gentleman from California [Mr. LAGOMARSINO], as the ranking member on the Western Hemisphere Affairs Subcommittee, for doing what we were able to do finally in arriving at a consensus. This would not have been possible without his hard work, his dedication, his leadership. It has been a long, hard struggle, one of the most contentious, I believe, that we have ever dealt with, but at long last finally both in Salvador and, hopefully, in the U.S. Congress we have achieved a measure that allows us to move forward in peace and in harmony.

I agree with the gentleman. I hope what we did in the Committee on Foreign Affairs will be the basis for continuation of the U.S. policy.

Mr. LAGOMARSINO. Mr. Speaker, I thank the gentleman for his kind words.

Mr. FASCELL. Mr. Speaker, I yield back the balance of my time.

Mr. BROOMFIELD. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. FRANK of Massachusetts). The question is on the motion offered by the gentleman from Florida [Mr. FASCELL] that the House suspend the rules and agree to the resolution, H. Res. 391.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

REGARDING THE U.N. CONFERENCE ON ENVIRONMENT AND DEVELOPMENT

Mr. FASCELL. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 292) expressing the sense of the Congress with respect to U.S. participation in the U.N. Conference on Environment and Development [UNCED].

The Clerk read as follows:

H. CON. RES. 292

Whereas global environmental and development issues such as climate change, depletion of the ozone layer, the disposal of hazardous chemicals, deforestation, the loss of biological diversity, marine pollution, threats to the world's supply of freshwater, and rapid population growth, are high priority concerns of the United States, affecting the security and well-being of present and future generations;

Whereas reducing poverty and promoting sustainable economic growth and sound environmental management in the developing world are also high priority concerns of the United States;

Whereas these urgent global environmental and developmental challenges will require increased international cooperation between developing countries and developed countries, as well as strengthened international institutions;

Whereas the United Nations Conference on Environment and Development, to be held in Brazil in June 1992, represents an important opportunity to reach agreements on such international cooperation;

Whereas the United Nations Conference on Environment and Development should be viewed as a milestone in a continuing process of improving the international response to the issues within its purview;

Whereas the role of the United States in negotiations on the United Nations Conference on Environment and Development is crucial to its success; and

Whereas the final Preparatory Committee meeting for the UNCED will be held during March and April of 1992: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that, consistent with national sovereignty considerations, the position of the United States at the United Nations Conference on Environment and Development should—

(1) place the highest priority on the success of the United Nations Conference on Environment and Development by participating actively in the UNCED, particularly through the personal participation of the President of the United States;

(2) negotiate international agreements that effectively reduce the threat of climate change and biological diversity loss;

(3) propose and/or support an initiative on financing global environmental cooperation efforts that—

(A) takes into account the additional costs of international environmental protection and the basic development goals of developing countries; and

(B) increases accountability for the use of funds provided for environmental purposes;

(4) seek to advance the development of a stronger international legal framework, and the creation of appropriate institutional mechanisms, for protecting the global environment, including a process for monitoring compliance by nations with environmental agreements in force and monitoring compliance by all multilateral institutions with requirements for environmental impact assessment;

(5) seek to initiate a process of regular, highlevel intergovernmental consultations on the issues that are under consideration at UNCED and to establish improved organizational and procedural means to implement the objectives of UNCED;

(6) support programs aimed at encouraging a global transition to efficient and environmentally sustainable energy systems, including priority on more efficient transportation systems and renewable sources of energy;

(7) support new programs and institutions to help developing countries become more energy efficient and otherwise increase their capacity for acquiring and using technology to make their economies more environmentally sustainable, such as training and research centers for energy efficiency and renewable energy sources;

(8) support global goals of slowing deforestation of primary forests, increasing worldwide forest cover, and preserving a specified amount of mature forests, and increase support for improved forest strategies that integrate all policy issues related to the loss of forests and eliminate economic incentives for deforestation;

(9) support the effective implementation of a global action plan to raise the economic, educational, and leadership status of women;

(10) support the development of new agreements to eliminate land-based sources of marine pollution and support cooperative efforts to address these sources of pollution at the regional level;

(11) support a process of international consultations involving relevant governments and multinational institutions aimed at identifying ways that poverty can be alleviated and natural resources better conserved through reduction of developing country debt burdens;

(12) support the development of a reformed system of national accounting that would reflect the full economic costs of environmental and resource degradation and the benefits of the sustainable use of natural resources;

(13) promote public participation in environmental and development decisions at all levels including a right for communities to be fully informed on the environmental threats to their well being; and

(14) support programs that provide maternal and child health care, education and training especially for women, and voluntary family planning.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. FASCELL] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Concurrent Resolution 292, expressing the sense of Congress with respect to U.S. participation in the U.N. Conference on Environment and Development [UNCED].

The text of the resolution was approved by the Committee on Foreign Affairs last week by a voice vote. A clean resolution was then introduced, which is now before the House in the form of House Concurrent Resolution 292. I would like to thank my distinguished subcommittee chairmen, the Honorable GUS YATRON of the Subcommittee on Human Rights and International Organizations, and ROBERT G. TORRICELLI of Western Hemisphere Affairs, for their original efforts at the subcommittee level which led to this resolution. In addition, I wish to acknowledge the support and leadership of the Honorable WILLIAM S. BROOMFIELD, ranking minority member of the committee, and that of the ranking members on the subcommittees, the Honorable ROBERT J. LAGOMARSINO, and DOUG BEREUTER. I commend all my colleagues on the committee for their commitment to this issue.

UNCED, which underscores the environment and development nexus, is expected to set the global agenda on these issues for well beyond the year 2000. Unless we act with alacrity, the UNCED agenda will be determined by others who may not have our best interests in mind. UNCED presents a major opportunity to forge a partnership among the nations of the world in addressing the panoply of issues and the immense challenges we face. The foundation for future cooperation on these issues is now being laid. The ultimate success of UNCED will be measured by how solid that foundation is, and how carefully that structure is crafted. It behooves us to have significant input into the architectural design of those plans.

The followup to UNCED will be even more important than the conference itself. The long-term success of UNCED will be measured not by the conference products alone, but by the global partnership that is shaped between the nations of the north and the south. Their shared commitment to action and sustainable management of the Earth's resources will be the enduring legacy of UNCED.

I am very pleased to say that House Concurrent Resolution 292 has broad bipartisan support. A total of 38 Members—34 from the Committee on Foreign Affairs—have cosponsored the resolution. During the various phases of formulating House Concurrent Resolution 292, the committee made a genuine and concerted effort to listen to and accommodate the concerns of all interested parties. The resolution now before us incorporates input from a number of Members and groups involved, including environmental and developmental groups, industry, and the administration.

In brief, House Concurrent Resolution 292 urges the United States to place the highest priority on the success of UNCED through U.S. leadership and active participation at the conference. It calls on the President to personally participate. The resolution highlights a number of issues for U.S. attention and leadership. Included among them are the negotiation of international agreements to reduce the threat of climate change and biodiversity loss. In fact, both of those conventions are being negotiated in fora outside of UNCED, but are to be ready to be signed at the Rio meeting. House Concurrent Resolution 292 also expresses support for strengthening institutional mechanisms and the inter-

national legal framework for dealing with the vast array of environment and development matters.

In addition, House Concurrent Resolution 292 urges the United States to propose or support an initiative for funding global environmental cooperation; and also to support a reformed system of national income accounting which incorporates environmental degradation into calculations of gross national product [GNP]. Other provisions advocate reducing deforestation and improving forest strategies; as well as promoting efficient energy and transportation, and renewable sources of energy. The resolution also highlights the need to effectively implement the global action plan to raise the status of women; and to promote public participation at all levels—local, national, and international. Finally, additional provisions address poverty alleviation and debt burdens; voluntary family planning, and maternal and child health care; as well as the need for cooperative efforts to eliminate land-based sources of marine pollution.

The U.N. Conference on Environment and Development is fast approaching. It is scheduled to take place June 1–12, 1992, in Rio de Janeiro, Brazil. I am very pleased to have been appointed to chair the House contingent to the official United States delegation to the Brazil meeting. UNCED occurs at a historic juncture in world politics, and as global cognizance of our planet's fragility intensifies. In the post-cold-war era, U.S. foreign policy will focus on the increasing interdependencies among nations, and transnational problems. UNCED arises two decades after the 1972 Stockholm Conference on the Human Environment. Further, it follows and builds on the 1986 United Nations Brundtland Commission report on Sustainable Development, chaired by Norwegian Prime Minister Gro Harlem Brundtland, which established the crucial links between environment and development.

I would like to include at this point correspondence between myself and the chairman of the Committee on Energy and Commerce on this resolution:

COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, February 19, 1992.
Hon. DANTE B. FASCELL,
Chairman, Committee on Foreign Affairs, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Your staff has kindly advised my staff that your Subcommittees and your full Committee plan this month to consider resolutions, such as H. Res. 130, H. Con. Res. 263, and H. Con. Res. 266, concerning the United Nations Conference on Environment and Development (UNCED) and the related climate change and other negotiations. As you know, H. Res. 130 has been jointly referred to this Committee and your Committee. The Parliamentarian has been made aware of our concern and interest in the other resolutions.

The House Resolutions, among other things, encourage the signing of "international agreements" that may grow out of the negotiations now in progress under the auspices of the United Nations and separate from the UNCED process. Many of the matters that could be a part of those agreements relate to matters and concerns of this Committee. In some cases, the resolutions relate to both national and international programs.

As you know, I am generally a supporter of the international negotiation process. However, I am concerned that some are looking at the success of the Montreal Protocol involving chlorofluorocarbons (CFCs) without considering the amount of time and work involved, as well as the very difficult process of balancing the concerns covered by that Protocol. They expect that success should be easily duplicated by the United Nations Conference on Environment and Development, including the development for signature of a framework convention on climate change separate from UNCED. However, unlike the Montreal Protocol negotiations, these UN matters cover many subjects and affect a wide range of activities and industries. The details of these agreements could have a significant impact on the United States and on its economy, its workers and on competition with our trading partners in the world. The House Resolutions are very general in terms. They do not consider important details, nor do they mention these possible impacts, which, as you know, are particularly important in the U.S. because of the current recession and attendant increasing unemployment. They should.

Enclosed is my letter of November 7, 1991 to the Secretary of State and the Department's reply of January 22, 1992. Also enclosed is the Department's "Summary" of the Fourth Session of the negotiations which are planned to reconvene in New York later this month. Additionally, enclosed are two statements by the developing countries. Both emphasize that (a) developed countries, such as the U.S., should contribute "new and additional funds" to an International Climate Fund, (b) such developed countries should provide "access to technologies and know-how required for compliance with this Convention on concessional, preferential, and most favorable terms, to developing countries," and (c) that the developing countries should not be subject to commitments to address climate change, unless their incremental costs are "met" by new, adequate and additional financial resources from the developed countries."

I am concerned that these conditions of the developing countries need to be resolved in order to have a successful convention. I am concerned that the Resolutions do not adequately recognize this lack of resolution or the significance of these conditions or the difficulties in resolving them satisfactorily. Rather, the Resolutions appear to encourage the Executive Branch to be differential to the developing countries. That is troubling for several reasons.

Those countries are seeking a substantial amount of new and additional money at a time when the U.S. is retrenching on many foreign programs in favor of domestic needs. Finding even a portion of such sums will not be easy. Gaining support for such sums in Congress could be difficult.

It is also my understanding that the increase in greenhouse gases will be significant from these developing countries. I do not think it wise to allow these countries unlimited, indefinite emissions or even a delay as provided by the Montreal Protocol.

The Resolutions should recognize our budgetary problems and call for fair, reasonable and flexible agreements that apply to all countries, not just the developed countries. I note that even now some significant countries, like India, are not parties to the Montreal Protocol or the London amendments. It is even more important that such countries are signatures to a climate agreement. Indeed, there is a question whether the U.S. should ever sign until China, India, and many more countries are Parties.

The Resolutions also appear to give broad support to a document being considered at the UNCED meetings, called "Agenda 21." Enclosed for your information is my letter of September 16, 1991 to the Secretary of State and the Department's November 25, 1991 reply concerning the actions of the UNCED Preparatory Committee (which is scheduled to meet a fourth and final time for 4 to 5 weeks in March) and the documents under consideration. The Department explains that the last PrepCom "focused primarily on the proposed text for Agenda 21." As to that document, the Department states:

> Delegates agreed on a format that will include objectives, activities, and means of implementation. The degree of progress on text that will comprise Agenda 21 varied among the topics.
>
> * * * * *
>
> At the urging of the UNCED Secretariat, the Preparatory Committee is working to complete drafts of two main products before the close of PrepCom 4. The first product will be a set of general principles. Its title, however, has not been decided; two alternatives are under consideration, "Earth Charter" and "Rio Declaration on Environment and Development." The general principles could appear as a separate declaration or be integrated into Agenda 21.
>
> The second product will be a detailed agenda for cooperative international action on the environmental and development lasting into the twenty-first century—Agenda 21. It will cover the gamut of environmental issues: atmosphere, land resources, desertification, forests, biodiversity, biotechnology, oceans, freshwater, toxic chemicals, and wastes; cross-sectoral issues would also be included: financial resources, technology cooperation, and institutional improvement are most often mentioned, along with poverty, human settlements, and economic policy as it intertwines with environmental policy.
>
> * * * * *
>
> A statement of principles and Agenda 21, as the name implies, could provide a comprehensive blueprint to shape thinking at national and international levels and lead to subsequent agreements, institutional improvements, programs, and other forms of action and cooperative effort subsequent agreements, institutional improvements, programs, and other forms of action and cooperative effort that would implement and give body to the results of UNCED. Neither a statement of principles nor a text of Agenda 21 will be concluded as a legally binding instrument. Nevertheless, some Latin American countries have argued that UNCED should conclude legally binding principles. Other governments have expressed the desire to see UNCED principles evolve into customary international law.
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> * * * * *
>
> At this stage, it is impossible to predict in any detail what commitments might be expressed or implied in a statement of principles or Agenda 21, other than that they will refer to the environmental, developmental, and cross-butting issues under consideration. In general, obligations with binding force

would have to await negotiation of new agreements, adherence of additional countries to existing agreements, institutional improvements, and other steps subsequent to UNCED.

I bring these matters to your attention because I believe they are important to the development and consideration of such Resolutions. I and my staff want to continue to work with you and your staff in these matters. If your staff has questions, they should talk to Mr. David B. Finnegan at 225-3147.

With best wishes.

Sincerely,

JOHN D. DINGELL,
Chairman.

COMMITTEE ON FOREIGN AFFAIRS,
Washington, DC, March 17, 1992.

Hon. JOHN D. DINGELL,
Chairman, Committee on Energy and Commerce, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter expressing your general concerns about the United Nations Conference on Environment and Development (UNCED) and your more specific concerns with several resolutions which express Congressional views on a number of global environmental issues.

Since your letter was received our respective staffs have talked and understand your concerns and the concerns that have also been expressed by several groups representing U.S. industry. I think that we have made a good faith effort to reach compromise language that all could agree upon. Even to the point of delaying our markup by over a week so that all sides could be heard. H. Con. Res. 292, which will go to the floor today under suspension of the rules, is the result of these efforts.

I want you to know that I certainly understand your concerns and appreciate your positions on these issues. Also, as the Chairman of the House delegates to the UNCED I will endeavor to keep those concerns in mind as we prepare for the UNCED.

With kindest regards I am.

Sincerely yours,

DANTE B. FASCELL,
Chairman.

Mr. Speaker, I urge the adoption of House Concurrent Resolution 292.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support this resolution, which expresses the sense of the House with respect to the upcoming U.N. Conference on Environment and Development. I am also proud to be a cosponsor.

First, however, I wish to commend the chief sponsor of the resolution, Chairman DANTE FASCELL of the Foreign Affairs Committee. Chairman FASCELL has demonstrated a keen interest in the environment and has always strongly supported international activities in this area.

I might also mention that Chairman FASCELL is the leader of the official group of observers designated by the leadership of the House for the upcoming conference. I am pleased to be able to join him as a member of this group.

Recognition is also due to the subcommittee chairmen and ranking Republican members who acted upon earlier versions of today's resolution. This includes Chairman YATRON and Congressman BEREUTER of the Human Rights and International Organizations Subcommittee and Chairman TORRICELLI and Congressman LAGOMARSINO of the Western Hemisphere Subcommittee.

The U.N. Conference on Environment and Development is being referred to as the Earth Summit. This is because it represents an important opportunity to begin a new international dialog on protection of the global environment.

This year marks the 20th anniversary of the U.N. Conference on the Human Environment. The Stockholm conference was a watershed event in promoting international understanding of the importance of protecting the environment.

In recent years, however, truly global environmental issues have been identified. Developments like the discovery of the ozone hole make us realize that human activities can actually affect the environment of the entire planet.

The upcoming conference will enable the nations of the world to address environmental issues in a comprehensive manner. Aside from the overall degradation of the environment, especially in the developing countries, this includes the new global issues. These key issues include the loss of the Earth's precious biological diversity, or biodiversity, and the possibility of global climate change.

While the Earth Summit will undoubtedly be a great event, it would be a mistake to raise our expectations too high. In my view, the conference will be a success if the participants are able to agree on basic principles as well as some significant new programs to implement them.

It is not necessary for the participants at the Earth Summit to work out a detailed action plan during the actual conference in Rio. More important is that the conference and its related negotiations serve as a catalyst for further progress.

The resolution before us expresses the sense of the House in support of the negotiations leading to the Earth Summit. The State Department supports these provisions, which are in line with administration policy toward the conference.

While expectations are high, I am confident that the administration will do what is necessary to make the Earth Summit a success. Thus, people everywhere are hoping that the upcoming conference will be the end of the beginning—and not the beginning of the end—for the world environment.

Mr. LAGOMARSINO. Mr. Speaker, will the gentleman yield?

Mr. FASCELL. I am happy to yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Speaker, I thank the gentleman for yielding to me.

I just want to also commend the chairman of the subcommittee, the gentleman from Florida [Mr. FASCELL] for introducing this legislation, and the gentleman from Michigan [Mr. BROOMFIELD] and others for bringing it forward.

I think what the gentleman from Michigan [Mr. BROOMFIELD] said is very, very important, that expectations are very high. No one knows exactly what will come out of the conference, but certainly what will come out of the conference is better than what goes into the conference. I think we are making progress by having the conference in the first place.

It also seems to me that it is very, very important that nations and groups not overpromise or promise things that they know that they will not be able to deliver.

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Mr. Speaker, I think if we look at this realistically and proceed cautiously but energetically, a lot of good can be achieved with the conference.

Mr. FASCELL. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. GONZALEZ].

Mr. GONZALEZ. Mr. Speaker, I rise merely to add my voice of approval and satisfaction and praise to the distinguished chairman of the Committee on Foreign Affairs who has been a Member here longer than I have, but in whose debt I want to announce we in our district are. When he was chairman of the subcommittee when I first came aboard he befriended and made it possible for my hometown of San Antonio to be the site of the first world's fair south of St. Louis, MO, in 1968, and it shows his commitment to this question we call foreign relations and matters.

I think that this resolution here is so important that I think those of us that are aware of these things ought to rise and express our support and our admiration for the chairman as well as the ranking minority member, the gentleman from Michigan [Mr. BROOMFIELD].

I also want to add that the chairman, the gentleman from Florida [Mr. FASCELL], has distinguished himself in many more ways that the record, I think, will reflect through the years, but most importantly, as a man who will be representing the United States at this all-important conference on the environment.

I think at this point I wish him Godspeed and total success.

Mr. FASCELL. Mr. Speaker, I thank the gentleman from Texas. That is a large burden.

Mr. TORRICELLI. Mr. Speaker, I would like to commend the chairman of the committee for bringing this resolution to the floor so quickly.

House Concurrent Resolution 292, based on a resolution I introduced in January, represents a true consensus. It includes provisions from a resolution introduced by my colleague from Pennsylvania, Mr. YATRON, and incorporates the ideas and concerns of other Members, numerous environmental and development groups, and the administration.

The resolution puts the Congress on record with respect to U.S. priorities for the U.N. Conference on Environment and Development to be held in Rio de Janeiro in June. It also calls for active U.S. participation, including President Bush's attendance in Rio.

I was disappointed to learn at a hearing last month that although every other G–7 leader has agreed to attend the Rio conference, President Bush has been advised to delay his decision on whether to attend until after the final preparatory meeting currently underway in New York. I assume this is because his advisors realize that the United States may not have anything to offer in Rio.

The UNCED is the most important conference on the environment since the Stockholm conference almost 20 years ago. The success of the UNCED is contingent upon active U.S. participation and is crucial to the protection of our world's shared environment.

The Earth summit has received little high-level attention from the U.S. Government and media. It is viewed as a conference in a faraway country in which the United States is going to be asked to finance environment and development programs abroad, and be pressured into making commitments and economic sacrifices to control the emission of greenhouse gases.

However, this view is dangerously flawed. The Earth summit represents an important opportunity for the United States to address one of the most serious issues affecting the health of American people and our national security.

The Earth summit will be the first opportunity in 20 years for the international community to reevaluate and address the environmental problems of our planet. And it is not too soon. Not only is ozone depletion growing rapidly, but half of the world's tropical forests have disappeared and continue to disappear at a rate of 20 million hectares per year. The world's population is expected to grow by 95 to 100 million people per year over the next decade. And land-based pollution continues to endanger oceans and marine life.

Unfortunately, the Congress has been rather quiet on the Earth summit as well. For that reason, I introduced House Concurrent Resolution 263, the original version of the resolution we are considering today.

The resolution before us today expresses the sense of Congress on several important issues. In addition to encouraging President Bush to attend and participate actively in Earth summit, it states that the United States should: Negotiate international agreements that effectively reduce the threats of climate change and biological diversity loss; propose or support a financing initiative for the global environment that takes into account the additional costs of environmental protection and the basic development goals of developing countries, and increases the accountability of the funds provided for environmental purposes; support programs aimed at encouraging a global transition to environmentally sustainable energy systems; support new programs to help developing countries become more energy efficient; support global goals of slowing deforestation, increasing worldwide forest cover, and preserving mature forests; support the development of new agreements to eliminate land-based sources of marine pollution; and promote public participation in environmental and development decisions at all levels.

The health of our planet is in the balance at the U.N. Conference in June. The Congress must take an active role in setting the Conference's agenda and ensuring that the interests of the American people are represented at the highest level. This resolution sets forth the Congress' priorities and I urge my colleagues to support it.

Mr. RITTER. Mr. Speaker, House Concurrent Resolution 292 expresses the view that the United States ought to place a high priority on the U.N. Conference on Environment and Development [UNCED] to take place this summer in Brazil. The UNCED Conference offers an important opportunity for international cooperation on protecting the global environment.

The bill before us calls for negotiation of an international agreement to effectively reduce the threat of global climate change. I rise today to point out that any such agreement must take into account the serious scientific uncertainties in global climate change.

We don't know much at the moment—and we certainly don't know enough to commit the United States to a program of reducing greenhouse gas emissions by a specific amount.

Some say there is a consensus that warming is occurring, that it is going to continue, and that it is going to be severe. Yet there is an already large and growing body of scientific literature, produced by some of the best minds at our premier universities and Government research institutions, that holds that it is not settled yet that global warming from human-generated greenhouse gas emissions is going to be substantial.

This is critical to the debate.

Prof. Patrick Michaels of the University of Virginia wrote recently that,

> There are now several compelling lines of evidence that indicate the chance of an ecologically or economically disastrous global warming is becoming more remote.

Scientists such as Dr. Richard Lindzen of MIT point to the following shortcomings of predictions of severe global warming:

Inadequacies in current climate models, that make it difficult, if not impossible, to predict future global conditions with any accuracy;

Our inability to fully understand the role of the clouds and oceans, which play a major role in global climate change; and

The inconsistency of predicting warming from temperature observations over the past 100 years.

In the face of massive scientific uncertainty, our national report to UNCED supports continued research to reduce the uncertainties, and actions to reduce potential global climate change that are justified for other economic, energy conservation, or environmental reasons. The United States has also committed $25 million for studies in developing countries on greenhouse gas emissions.

I support the prudent actions to which the administration has already committed, and I call upon our representatives to UNCED to do the same. Any more at this stage would be premature.

Before we rush to join certain other nations in adopting a treaty stabilizing—or even limiting—greenhouse gas emissions, the science must be in place. Right now, its very far off.

Mr. HOAGLAND. Mr. Speaker, the bill before us today, House Concurrent Resolution 292, calls on the United States to make a strong commitment to the U.N. Conference on Environment and Development, the Earth summit, scheduled for June 1992, when more than 100 world leaders will address many of the threats to the world's natural resources.

While some may characterize this as just a little bill, I must stress that this is an important bill because with congressional passage, it is the American people's way of expressing to the world the importance we place on working together to preserve the planet. It recognizes our increasing interdependence as a world people. The actions of one country can harm the environment of another. It only took the accident at Chernobyl and a spill into the Rhine River to show that pollution, for example, does not respect boundaries.

The June Conference comes at a time when the world is at a crossroads. The pressures of consumption—a growing world population increasingly using the planet's resources—is eroding the carrying capacity of our planet's soils, forests, waters, and atmosphere. In "Our Common Future," the 1987 report of the World Commission on Environment and Development, it was expressed this way:

> The planet is passing through a period of dramatic growth and fundamental change. Our human world of 5 billion must make room in a finite environment for another human world. The population could stabilize at between 8 billion and 24 billion sometime next century, according to U.N. projections * * *. Economic activity has multiplied to create a $31 trillion world economy, and this could grow five- or tenfold in the coming half century.

Authors of the World Resources Institute's 1992 "Environmental Almanac" write:

> The key issue facing the Earth Summit is growing concern that current trends are not sustainable: That the present pattern of human activity, if continued, will lead to a major decline in the condition of nature and the quality of human life.

In short, the world is out of sync. Environmental degradation is threatening our resources, possibly beyond repair. Here are a few examples:

The protective ozone shield is thinning twice as fast as scientists thought just a few years ago.

The concentration of carbon dioxide in the atmosphere has risen 25 percent since preindustrial times and present emissions trends could lead to a steady buildup of gases, resulting in significant global warming over the next century. More than half of greenhouse gases come from humans using energy. The seven warmest years on record have occurred since 1980. Global warming could cause unprecedented changes. According to an EPA report, global warming in the Great Plains could reduce wheat and corn yields. It could increase irrigation demands by 5 to 30 percent. Because farmers may have to use more pesticides, water quality could be threatened by more soil erosion and surface runoff.

The world's forests are disappearing at a rate of 17 million hectares per year. In the United States, especially in the East and Midwest, hardwood forests have been greatly reduced.

Over one-half of the Nation's original 221 million acres of wetlands have been lost; 95 percent of that loss is due to man's activities.

World population is growing by 92 million people annually, roughly equal to the country of Mexico.

The vast diversity of the world's biotic wealth is being eroded and destroyed rapidly. Again, according to WRI:

> Patterns of economic activity in the rich and poor countries are eroding the productivity and richness of natural resources and ecological systems. This trend, the increasing biological impoverishment of the planet, is causing some irreversible ecological changes, including the loss of part of the genetic heritage of the Earth built up by evolution over several billion years.

The United States is the largest consumer of resources and also the largest polluter, per capita, in the world: We are also the country with the most know-how and scientific resources. We should be taking the lead at the Earth summit to restore our international environmental problems.

I call on my fellow Members to vote "yes" today for this important resolution.

Mr. HOYER. Mr. Speaker, today I rise to support House Concurrent Resolution 292. Earlier in the year, I joined my colleague Mr. PORTER in introducing House Joint Resolution 394 which urges the President of the United States to lead our country's delegation to the U.S. Conference on Environment and Development [UNCED].

While the Foreign Affairs Committee has reported House Concurrent Resolution 292 instead, I was very happy to see that this resolution would request the President's attendance. Clearly, the President's attendance at the meeting in Rio de Janeiro, Brazil, is of utmost importance, and will demonstrate that the United States places the highest priority on UNCED's success. This is not only a symbolic gesture, but will likely lead to the participation of many more heads of state.

Many of my colleagues already know that UNCED offers the nations of the world the best opportunity they have to stop global environmental degradation. From holes in the ozone layer, to the pollution of the world's oceans, to the loss of tropical forests, it is clear that actions taken by only one country will not be sufficient to save the Earth's environment. The nations of the world must engage each other in cooperative efforts to save the environment. If the rain forests in South America disappear, Americans, Europeans, and everyone else will feel their loss, through probable changes in climatology and the loss of a significant source of today's pharmaceuticals. In this country alone, it is estimated that tropical plants contribute the basic elements for 25 percent of our prescription drugs.

House Concurrent Resolution 292 is a timely resolution which places a strong priority on the most controversial question facing the UNCED negotiators: How to finance global environmental projects. In addition to highlighting our country's support for addressing deforestation and climate change, House Concurrent Resolution 292 hopefully will put politics aside long enough for our country to do something for the health of future generations of Americans.

Mr. FASCELL. Mr. Speaker, I yield back the balance of my time.

Mr. BROOMFIELD. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. FRANK of Massachusetts). The question is on the motion offered by the gentleman from Florida [Mr. FASCELL] that the House suspend the rules and agree to the concurrent resolution (H. Con. Res. 292).

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

CONGRATULATING GOVERNMENT AND PEOPLE OF VENEZUELA FOR THEIR COMMITMENT TO DEMOCRACY

Mr. FASCELL. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 293) congratulating the Government and people of Venezuela on their demonstrated commitment to a broad-based and enduring democracy, and commending the agreement between the Accion Democratica and COPEI parties to form a cabinet of national unity, as amended.

The Clerk read as follows:

H. CON. RES. 293

Whereas Venezuela has been a leader in the development of democracy throughout the hemisphere, and for nearly 34 years has enjoyed the tradition of rules by popular consent;

Whereas the people of Venezuela overthrew a repressive authoritarian regime and restored democratic rule with elections in December 1958;

Whereas the democratic institutions of Venezuela have been reinforced by 6 successive transfers of power through free and open national elections since 1958;

Whereas in December 1988, Carlos Andres Perez became the first President of Venezuela to be elected to a second term;

Whereas an attempt to overthrow the legitimate and constitutional government of Venezuela was repelled on February 4, 1992;

Whereas the Venezuelan people have rejected facile and demagogic calls to solve serious economic and social problems through the installation of an authoritarian regime;

Whereas on March 5, 1992, the President of Venezuela announced the formation of a cabinet of national unity with the ruling Accion Democratica party and COPEI, the principal opposition political party;

Whereas the President of Venezuela also announced on March 5, 1992, that he will seek a referendum on the convocation of a national constituent assembly to strengthen the country's constitution and promote changes in the administration of justice; and

Whereas the resolve of the Venezuelan people to preserve their democratic institutions serves as an example to nations throughout the hemisphere that have recently elected democratic governments: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) congratulates the people of Venezuela on their demonstrated commitment to broad-based and enduring democracy;

(2) congratulates the Accion Democratica and COPEI parties on their agreement to form a cabinet of national unity;

(3) congratulates President Carlos Andres Perez on his swift and decisive actions to address the need for constitutional and judicial reform;

(4) reaffirms the commitment of the United States to pursue close relations only with representative, freely elected democratic governments throughout the hemisphere; and

(5) pledges to Venezuela and its people the support of the United States at this time of great challenge to democratic institutions and the rule of law.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. FASCELL] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this resolution expresses our support for what has happened in Venezuela just recently; that is, the formation of a cabinet of national unity bringing the ruling Accion Democratica and COPEI, the principal opposition party, into a coalition arrangement that strengthens the institutions of democracy.

Just a quick bit of history: let us remind ourselves that for over 160 years Venezuela was a military dictatorship. Then an arrangement was arrived at by the people which made it possible to hold elections and to have an elected government with the various parties taking turns at running the government. That worked fine, but, like every other government in the world, they had problems economically and socially.

For whatever reason, on February 4 a small group of renegade military officers attempted to stage a coup as a response to grievances over social and economic conditions currently plaguing Venezuela. It might have been very easy at the point for Venezuela to have slipped back to what existed before, as sometimes happens, and it would have been a very severe blow, in my judgment, to the efforts and the momentum of the democratic process that has taken hold throughout Central America and South America. This was a very important milestone: to have the two principal parties come together to form a coalition government to deal with the serious grievances that exist and to demonstrate that they wanted to respond to the people of Venezuela in a manner which would be better in their judgment than resorting to a military dictatorship.

This was a significant event in the course of history, as well as in the relationship between the United States and Venezuela and in the relationships between Venezuela and the other countries of Central and Latin America. It is only fitting for us in the Congress of the United States to take due note of the fact that it took great political skill and considerable courage to put this coalition together in order to stabilize the situation in Venezuela, not just for the people of Venezuela, but for the people of the hemisphere.

I would also note that this resolution commends President Carlos Andres Perez on his swift and decisive actions to address his country's need for constitutional and judicial reform. On March 5, he announced that he will seek a referendum of the convocation of a national constituent assembly this spring.

While we approve of the serious actions taken by the Venezuelan Government, we also want to urge them to quickly restore the full constitutional guarantees, including freedom of the press, that were suspended following the failed coup attempt.

Mr. Speaker, I urge my colleagues to unanimously agree to this resolution which is a pledge of support by the United States to the people of Venezuela at this time of great challenge to its democratic institutions and the rule of law.

Mr. Speaker, I reserve the balance of my time.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to support House Concurrent Resolution 293, a resolution congratulating the Government and people of Venezuela for their commitment to democracy.

I commend my chairman for bringing this issue to the floor. It was a shock to hear of the attempted coup by elements of the Venezuelan military last month. While we know the great democratic gains of the last decade are fragile, most of us would have expected a coup attempt in many places before Venezuela.

Venezuela has had six successful transfers of power since 1958—one of the longest streaks in our hemisphere. The attempted overthrow of democracy in Venezuela shows that we cannot become complacent in the post-cold-war era.

Threats to democracy which affect our interests still exist and continue to demand our attention. If it were not for key elements of the military remaining loyal, a military government would be in place today in one of the most important countries in our hemisphere.

Since the coup attempt, President Perez and his party have reacted forcefully to address key issues. Most notably, they reached agreement on a national unity government and have taken steps to address some of the issues which trouble Venezuelans. Venezuela's democratic future will depend on the success of these measures. Venezuelans need to know that the United States stands with them in their efforts to strengthen democracy.

House Concurrent Resolution 293 is an important expression of our confidence in Venezuelan democrats and I urge my colleagues to support its adoption.

Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Speaker, I rise in strong support of House Concurrent Resolution 293, which commends the Government and people of Venezuela for their commitment to democracy.

For over 30 years, Venezuela has been one of the most stable democracies in Latin America, transferring power peacefully to six new administrations. Although the February coup attempt was the largest in Venezuela's democratic history, its defeat illustrates the commitment that the leaders and the people of Venezuela have to continue its democratic system.

In offering our praise to the people of Venezuela for their continued support of democracy, I believe it is also essential to commend those elements of the Venezuelan military that refused to collaborate in the coup attempt. As the largest military attempt to overthrow the Government, it seems likely it could well have succeeded had other military units in Venezuela joined the cause. It is a credit to those units and commanders who resisted the call to help carry out the coup attempt.

As we discuss those in the military who supported democratic government, I think it is fair to say that the diplomatic-military relationship the United States has maintained with Venezuela over the years has been a positive influence, and I am sure it was a factor in reinforcing the commitment to democracy demonstrated by the majority in the Venezuelan military.

Part of that relationship has included the transfer of retired U.S. military equipment. Of particular interest to my constituents in Santa Barbara, CA, is the recent transfer of a U.S. Coast Guard cutter, the *Point Judith*. Many in Santa Barbara will remember that the *Point Judith* operated in the waters off our coast for a number of years performing valiant, service in safety, rescue, and antinarcotic activities. Its new home is in the Venezuelan Navy's Coast Guard; the transfer occurred on January 15 of this year, a scant 3 weeks before the coup attempt. It is probably stretching the point to say the *Point Judith* had a role in reinforcing the Venezuelan Navy's resistance to participating in the coup attempt, but I have no doubt that the long-term United States military relationship has been instrumental as a force for democracy.

Since the coup attempt, President Perez has shown his own continued commitment to democracy. Two weeks ago, President Perez announced that a special assembly has been formed to redraft the Constitution to meet the calls of the Venezuelan people for political change.

Economically, President Perez has answered the protests of his opposition by instituting an economic relief program. And while this program will quickly alleviate several problems in Venezuela, President Perez is committed to continue his needed free-market reforms.

The ruling party, Accion Democratica, has also agreed to something very few democratic parties would do: Forming a national unity cabinet with members of the opposition. This cabinet is yet another illustration of the commitment that the people and leaders of Venezuela have to solve democratically the problems of the country.

Mr. Speaker, the continuing democratic tradition in Venezuela should be an inspiration to the fledgling democracies throughout Eastern Europe, Asia, and Africa. Please join me in congratulating the people of Venezuela for their long-lasting commitment to democracy.

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Mr. BROOMFIELD. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. DREIER].

Mr. DREIER of California. Mr. Speaker, I rise simply to extend congratulations to the gentleman from California [Mr. LAGOMARSINO] who really is an unsung hero in this battle.

We are all enthused about the package which has come forward, put together between COPEI and Accion Democratica, and we hope that the road to democracy in Venezuela will continue; but frankly, the gentleman from California [Mr. LAGOMARSINO] is one who is not often recognized. He served throughout the decade of the 1980's as the ranking member of the subcommittee which deals with the Western Hemisphere. As such, I was hoping to stand up during the time that the resolution on El Salvador was debated, and unfortunately I was not here, but as we look at the entire hemisphere, the gentleman from California [Mr. LAGOMARSINO] has done a spectacular job. He has worked diligently. I have traveled many times with him to Latin America trying to encourage the democratic process. The gentleman served as Ronald Reagan's Congressman for years, and I think that the two of them clearly demonstrate the fact that we do have a tremendous opportunity to see self-determination work in this hemisphere, and I thank my friend for yielding me this time.

Mr. RANGEL. Mr. Speaker, I rise in support of House Concurrent Resolution 293, congratulating the Government and people of

Venezuela for their commitment to democracy. I would like to commend my distinguished colleague from Florida, the chairman of our Foreign Affairs Committee, Mr. FASCELL, for introducing this important resolution.

In January, I led a delegation of the Select Committee on Narcotics Abuse and Control to Venezuela to discuss the increasing drug produciton and trafficking problems in that nation. We met with President Perez and many fine members of his cabinet who demonstrated a great understanding of the threat posed by drug trafficking to their own national security.

Little did we know at the time that a coup was brewing among some of the lower level military ranks. We were shocked and saddened by this affront to a legitimate, freely elected government within one of the hemisphere's most stable democracies.

Mr. Speaker, many of my colleagues have already addressed the extremely important issues of freedom, democracy, and congressional support for brave efforts of President Perez, the Accion Democratica and COPEI parties, the new cabinet of national unit, and the people of Venezuela. I associate myself with their remarks, and would like to turn back to the issue of narcotics.

Until recently, many in Venezuela felt that they were immune to the narcotics scourge plaguing much of this hemisphere. However, with the crackdown against drug trafficking in Colombia, both production and trafficking have been shifting across the border into Venezuela. The Government leaders and the people fear what they call Colombianization of the country. They have seen and heard many accounts of the violence that accompanies this lucrative criminal enterprise, and want to avoid allowing the situation in Venezuela to reach that level before addressing it.

They also expressed concern about a growing drug abuse problem within their own borders. This is a phenomenon we have seen time after time: When drugs are readily available, as in transit countries where they spill over into the local population, a market is created. Along with the tragedies of drug use come the horrors of drug-related crime and violence.

The Perez government has signed a number of important counternarcotics agreements with the United States, many of which are firsts, and set important precedents for Latin America. These include a reciprocal shipboarding agreement that allows authorities of either country to board flag vessels of the other if they are suspected of carrying drugs; and the first Kerry amendment money-laundering agreement. In addition, the Perez administration is negotiating a number of other important narcotics control agreements which will cover asset sharing, radar for air interdiction, and chemical controls.

President Perez shared with us his personal commitment to international cooperation in the fight against drug trafficking and abuse. He fully recognized that this is a crisis which only can be met if the international community comes together and works collectively. He looked forward to participating in the San Antonio summit with six other heads of state from the hemisphere.

As you know, Mr. Speaker, President Perez was not able to personally attend the summit because of the coup attempt, but his government did participate.

I join the chairman of the Foreign Affairs Committee in strong support for freedom and democracy in Venezuela, and for President Perez and the new cabinet of national unity. May their efforts for constitutional and judicial reform, and our collective efforts to control the international narcotics traffic be successful.

I urge my colleagues to join me in support of House Concurrent Resolution 293.

Mr. BROOMFIELD. Mr. Speaker, I yield back the balance of my time.

Mr. FASCELL. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. FRANK of Massachusetts). The question is on the motion offered by the gentleman from Florida [Mr. FASCELL] that the House suspend the rules and agree to the concurrent resolution (H. Con. Res. 293), as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

The title of the concurrent resolution was amended so as to read: "Concurrent resolution congratulating the Government and people of Venezuela on their demonstrated commitment to a broad-based and enduring democracy, and commending the formation of a cabinet of national unity."

A motion to reconsider was laid on the table.

THE LION AND THE LIONESS

(Ms. PELOSI asked and was given permission to address the House for 1 minute, to revise and extend her remarks, and to include extraneous material.)

Ms. PELOSI. Mr. Speaker, it is a great pleasure for me to rise on this St. Patrick's Day to call to the attention of my colleagues a wonderful couple in San Francisco, Vincent and Vivian Hallinan. He is the perfect St. Patrick's Day hero, a romantic Irish iconoclast, who in another era would have been immortalized in epic poetry. He called her the most beautiful woman in San Francisco, and for 60 years she indeed has been considered in every way beautiful.

She was arrested with her sons while they were attending UC-Berkeley in the sixties, was tear-gassed, and was tear-gassed in Chile demonstrating for the release of political prisoners.

He successfully defended union leader Harry Bridges against the United States Government's attempt to send Harry Bridges back to Australia.

She has a wall of plaques extolling her efforts on behalf of the people of Nicaragua and El Salvador for peace in that area.

He at 95, she at 81, married for nearly 60 years, the parents of 5 sons, will be feted by the Irish-American community at a St. Patrick's Day celebration. Vincent and Vivian Hallinan have always fought for what they believed was right.

Mr. Speaker, I would like to submit for the RECORD an expanded article from the San Francisco, Examiner about their accomplishments, and call this to the attention of my colleagues on this St. Patrick's Day.

THE LION AND THE LIONESS

(By Joan Smith)

He's the perfect St. Patrick's Day hero, a romantic Irish iconoclast who in another era would have been immortalized in epic poetry.

Legendary San Francisco trial lawyer Vincent Hallinan—whose father fled Ireland after assassinating a British agent; who during World War I sent money for guns to the IRA; whose six fiercely loyal sons were all named for Irish patriots; whose second son (Terence "Kayo" Hallinan) is now a San Francisco supervisor mixing it up with conservative Irish Mayor Frank Jordan over Kayo's support for contemporary Gaelic martyrs—has lived it all. Historic victories in the courtroom and on the streets, persecution and imprisonment, a quixotic run for the presidency and, of course, true romance.

"She was the most beautiful woman in San Francisco," says Hallinan of the former Vivian Moore, whose nearly 60-year marriage to "the lion of the San Francisco courts" was once described by the late FBI Director J. Edgar Hoover as "a case of one warped personality marrying another."

Vivian Hallinan, who at 81 looks 20 years younger, says she has always been "the political one." It was Vivian, radicalized by the famous 1950 deportation trial of the late labor leader Harry Bridges (Vince successfully defended Bridges against the U.S. government's attempt to send him back to Australia as an alleged Communist), who talked her husband into running for president on the Progressive Party ticket in 1952.

It was Vivian who was arrested with her sons while they were attending UC-Berkeley in the 1960s. She was teargassed in Chile in 1986, protesting the torture of political prisoners. She's a member of San Francisco's Human Rights Commission (though as an Art Agnos appointee, she suspects she will be tossed out by Jordan). And one full wall of the Hallinans' Chestnut Street condominium is covered with plaques extolling her efforts on behalf of the people of El Salvador and Nicaragua.

(It was also Vivian, conversely, who made the family fortune, buying empty apartment buildings during the Depression and somehow rendering them both affordable and attractive enough to fill with tenants.)

At 95, her husband refuses to admit he might finally be slowing down. Scheduled to be feted by the Irish community March 26 at an Irish Forum St. Patrick's Day celebration, Vince still practices law and says he hopes to win his next big case when he's 100. "He's strong as a horse," Vivian says.

A former boxer who hired an Italian boxing champion to coach his sons in the ring he built for them at the family estate in Ross, Vince fought off three young muggers the year he was 77, and characteristically called a press conference to announce his victory. "This is the sort of thing that lets people know you aren't an easy target," he says proudly, pulling out newspaper clippings describing the event.

Vivian, the pacifist, says she thinks "boxing is a terrible sport. I believe people should know how to defend themselves, but beyond that it goes too far." But Vince says "women don't realize the tough time boys have in school, always someone lining you up wondering if he could beat you in a fight."

Vince Hallinan, who read everything from Dr. Spock to Rousseau to prepare himself for child-rearing, swung the babies around by their limbs to strengthen them, taught them to swim as infants, long before that practice was considered safe, and gave them nicknames he thought would convince them of their own toughness—Flash, Dynamite, Tuffy, Kayo, Dangerous and Butch. The Hallinans twice made "Ripley's Believe It Or Not!"—first in 1928, when Vince played every minute of 28 successive football games and later, when four of his sons won the UC boxing title.

Hallinan had perhaps more reason than most parents to believe his boys might need to defend themselves. Melvin Belli once described him as "an exquisite trial lawyer" whose "final arguments, like his opening statements, were works of art and young lawyers used to crowd into the San Francisco courtrooms to hear him."

Hallinan successfully defended some of the most notorious criminals of his day, including a San Francisco public defender who hired two hit men to kill the woman who left him her fortune and a death row inmate who'd been framed by prosecutors. But his wife believes his most brilliant performance was in 1945 on behalf of a San Francisco socialite who admitted fatally shooting and pistol whipping a nurse she believed was having an affair with her husband. Irene Mansfeldt served less than two years for manslaughter after Hallinan, famous for his memory and intensive trial preparation, convinced the jury of her insanity, humiliating an "expert" psychiatric witness by grilling him on the names of obscure parts of the brain the physician couldn't remember.

But Hallinan's penchant for unpopular causes, his stands against the Cold War and U.S. involvement in Korea, and his affiliations with Communists and black activists made the family something of a target in wealthy Marin County.

Neighbors were always slapping red paint on the fence around their estate, adorning it with hammers and sickles. Patrick, now one of San Francisco's most respected criminal lawyers, was dragged out of his car at a local hamburger stand when he was only 16 and badly beaten by a group of Marines just back from Korea who called him a Communist. The same Marines later broke into the house when Vivian was alone and tried to rape her. She talked them out of it by showing them a scar from her recent surgery for uterine cancer and persuading them that cancer was contagious.

Which sounds a lot like the self-possessed young woman who, at 20, once evaded a police officer who had forced his way into her apartment looking for Vince Hallinan by climbing out the bathroom window and over a few fences to meet the fugitive in his car two miles away. Vince, already a famously flamboyant trial lawyer of 35, was later arrested, just as the couple was leaving for their honeymoon, to serve his first sentence for contempt of court.

As Vivian wrote later in her memoir, "My Wild Irish Rogues," she couldn't help wondering if "maybe I had bargained for more than I could handle."

"We haven't thought about some of these things in a while," she said last week, poring over the detailed family scrapbooks. "But it was never dull, was it? We always had a lot of fun."

THE 225TH ANNIVERSARY OF THE BIRTH OF ANDREW JACKSON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee [Mr. CLEMENT] is recognized for 60 minutes.

Mr. CLEMENT. Mr. Speaker, it is a great honor to be here on the floor of this House to celebrate the 225th anniversary of the birth of Andrew Jackson. As you know, I have the privilege of being the 38th individual to represent the Tennessee congressional district first represented by Jackson.

Yesterday I participated in a wreath-laying ceremony at Jackson's tomb at his home, the Hermitage. President Bush was represented by Maj. Gen. Jerry Wyatt, the adjutant general of the State of Tennessee. He was accompanied by Mrs. Keith Cutchins DeMoss, the regent of the Ladies Hermitage Association. I would like to commend them for a very moving ceremony. As you know, Mr. Speaker, the Ladies Hermitage Association is dedicated to restoring and preserving Jackson's beautiful home and bringing to the American people a greater understanding of Andrew Jackson, his life, and the times in which he lived. They have done an outstanding job and I invite my colleagues to visit the Hermitage and see this magnificent house and its contents for themselves.

Mr. Speaker, on one of the exterior walls of the National Archives here in Washington is the phrase "Past is prologue." Few things are as true as this statement and we have the legacy of Andrew Jackson to prove it.

For the Age of Reform identified with Jackson's Presidency has many parallels with today's call for reform in our governing institutions. The political period preceding Jackson's election to the Presidency in 1828, was, like today in many respects, dominated by a narrow range of special interests. Participation in the political process was limited to a few and often concentrated in the internal workings of the political parties and institutions of government.

In the 1820's, access was limited by rules and laws governing suffrage and eligibility for public office. But with the admission of new States into the Union which had universal male suffrage, the dropping of property requirements as a qualification for voting, and with the economic panic of 1819, popular activity in politics was heightened.

Leaders of this movement are said to have directed popular resentment of closed political corporations against the caucus system of nominations. They branded this system as a flagrant usurpation of the rights of the people. They helped spread the conviction that politics and administration must be taken from the hands of a social elite or a body of bureaucratic specialists and opened to mass participation.

Historian Richard Hofstadter suggests that this trend toward greater involvement by a wider class of citizens converged upon the prominent figure of Jackson between 1815 and 1824. As Hofstadter states, "For the first time many Americans thought of politics as having an intimate relation to their welfare. Against this background, Jackson's star rose."

But whether we take Hofstadter's perspective on history or the perspective of such distinguished Jackson historians as Robert Remini, those who have studied Andrew Jackson and his career have all concluded that Jackson personified a new America—one that was confident, heroic, self-made, and determined.

With this persona, as Remini describes in his biography, Jackson, as President guided the country as it evolved from republicanism to democracy. In instituting what he called a program of reform retrenchment and economy, President Jackson attempted to establish democratic government. He saturated the language of his messages to Congress and other State papers with democratic intent. "The people are sovereign," he repeated many times, "their will is absolute."

Jackson's philosophy of government preached the simple message that the people govern, and that majority rule constitutes the only true means of preserving a free society.

As I stated at the outset, Mr. Speaker, the past is prologue, and it was no more evident than in last week's fiasco on the floor of the House of Representatives. The effort to limit disclosure of the check-bouncers to 24 individuals was immediately seized by citizens everywhere as an effort to hide a more serious scandal from the public.

But I believed, as did Jackson, that the people govern. That the people exercise their rightful and good judgment when they have all of the information. People are fair and understanding, but only when they have full information and believe they have been treated with respect. As many telephone callers told me, "we're all adults, treat us like one."

And, in the end, the political institution did, even if, for some, it did so grudgingly.

In my own personal style of public service, I have always believed that the more information that is available to the public, the easier it is for them to make a decision and the easier it is for me, as their Representative, to implement it.

In many other policy areas, our institutions of government, our institutions of education and business, are captured by individuals of arrogance, self-importance, and personal greed. But all this is in the process of changing.

Americans everywhere are awakening to the challenges ahead and demanding change in their Government, their schools, their employers, their society and, even, in their own personal lives.

We are looking for leaders like Jackson—individuals who have his innate intelligence, his sense of fair play and justice, and his confidence that the will of the people will bring goodness to all.

On this 225th anniversary, we truly look backward to the future. We see many parallels between the early 19th century and the late 20th century. Then, as now, our social institutions and our institutions of government are undergoing transition. A transition not only fostered by new world challenges, but a transition fostered by the demands of the American public for responsive leadership.

As one of Jackson's successors, I have inherited this legacy. It is a legacy born of our rich soil and the blood of those before us who have fought for democracy and freedom. Many Tennesseans, including my father, instilled it in me at an early age. It is a privilege to serve the Fifth District of Tennessee and I hope I do it in a fashion in which Andrew Jackson would be proud.

Thank you, again, Mr. Speaker, for permitting me to speak on this glorious anniversary of the birth of our seventh President—Andrew Jackson.

INTRODUCTION TO OLD HICKORY: A LIFE SKETCH OF ANDREW JACKSON

(By Robert V. Remini)

In the opinion of some Americans, Andrew Jackson was the most popular man this Nation had ever produced prior to the Civil War. George Washington, Thomas Jefferson, Patrick Henry, Benjamin Franklin, James Madison—all remarkable and beloved figures—could not compare to Old Hickory in their affections.

More popular than the "Father of His Country?" Could that be possible? Indeed so, Philip Hone, a New York merchant, confided to his diary in June 1833. President Jackson, he wrote, "is certainly the most popular man we have ever known. Washington was not so much so. His acts were popular . . . but he was superior to the homage of the populace, too dignified, too grave for their liking, and men could not approach him with familiarity." Although Hone opposed Jackson politically and preferred Henry Clay, he was forced to admit that the seventh President of the United States was "a gourmand of adulation . . . [and] no man ever lived in the country to whom the country was so much indebted. Talk of him as the second Washington! It won't do now; Washington was only the first Jackson."

Even after Old Hickory died, some men tried to vote for him for President during the crisis of 1860, as though by their collective vote they could raise him from the grave to help the nation escape the horrors of approaching disunion and civil war.

He was also a genuine celebrity. People came from miles around to see him when they heard that he might pass through their district. As his steamboat plied the Ohio River, taking him back and forth from his home in Tennessee to the capital, masses of shouting, waving, applauding people gathered along the river bank to call to him, salute him, and wish him success.

For his devoted followers, Andrew Jackson was the nation's finest image of itself during the first half of the nineteenth century. The original self-made man, he personified everything good and heroic and successful in American life. Although orphaned at an early age and burdened by poverty and a limited education, he rose to become a distinguished planter, lawyer, judge, military commander, and statesman.

Most important of all, Jackson won the Battle of New Orleans against tremendous odds. That victory alone enshrined him forever in the hearts of his countrymen. Throughout the War of 1812, the United States had suffered one military defeat after another. Its coastline was blockaded, its capital burned, its reputation besmirched throughout Europe. Some Americans actually feared for the survival of their experiment in liberty and republicanism.

Then came New Orleans. A rag-tagged conglomeration of militiamen, regular army enlistees, sailors, pirates, Indians, and a "colored battalion" met a superior force of invading British soldiers in a swampy area along the Mississippi River, just a short distance south of New Orleans. The Americans lined up behind a ditch that ran from the river to a cypress swamp, while the British army, in full regalia, with flags flying and martial music blaring, attacked. Wave after wave of redcoats assaulted the ditch. And wave after wave of British officers and men pitched to the ground, as the American sharpshooters picked them off one by one. As the "flashing and roaring hell" in front of them grew more intense, the invaders recoiled and then began a general retreat.

When the firing ceased and the Americans scaled the parapet protecting their ditch, the scene gave Jackson the "grand and awful" sense of what the resurrection might be like. "After the smoke of the battle had cleared off somewhat," he later wrote, "I saw in the distance more than five hundred Britons emerging from the heaps of their dead comrades, all over the plain, rising up, and still more distinctly visible as the field became clearer, coming forward and surrendering as prisoners of war to soldiers." The casualties among the British soldiers totaled 2,037; among Americans only 13 were killed, 39 wounded, and 19 missing in action.

It was a fantastic victory, the greatest feat of American arms in history up to that time. The British soldiers who had defeated Napoleon and forced his abdication had been decisively whipped by American regulars and frontiersmen who were fighting for their freedom and the security of their homeland.

Was it any wonder that General Andrew Jackson became the most beloved, admired, and respected man in the United States? He had restored to the American people their pride and self-confidence. Through his incredible victory, they had proved to the world the legitimacy of their independence, and that they could defend it against the mightiest power on earth. Never again did they need to prove to themselves or anyone else that they had a right to be free and independent. Americans alerted a hostile European world of kings and emperors that if they trifled with the sovereignty of the United States, they did so at their peril. Andrew Jackson had proven for all time the strength, vigor, and power of American life and institutions.

To a large extent, the extraordinary dimension of Jackson's military victory, as well as his success in overcoming personal handicaps and deficiencies, and in rising from the lowest to the highest social strata in the nation, resulted from unique character flaws and strengths. He was a complex of driving ambition, rigid personal discipline, strong loyalties, and ferocious hatreds. As commander of American forces at New Orleans, he demonstrated steely determination, supreme self-confidence, and extraordinary military skill, despite a near-total lack of experience or training. Later, as President of the United States, he displayed exceptional powers of understanding in grappling with national issues; an unshakable belief in the right of the American people to self-government; and an abiding love of the Union. As President he guided the country as it evolved inexorably from republicanism to democracy.

Jackson's parents had migrated to America from Carrickfergus, northern Ireland, in 1765, along with many other Scotch-Irish. Andrew and Elizabeth Hutchinson Jackson probably landed in Philadelphia and then moved southward to join relatives living in the Waxhaw settlement, located along the northwestern boundary North and South Carolina. They had two sons, Hugh and Robert, and they settled on land adjacent to the Twelve Mile Creek, a branch of the Catawba River. Then, in 1767, the father suddenly died, and not many weeks later Elizabeth gave birth to her third son on March 15, 1767, and named him after her late husband.

Elizabeth moved into the home of her sister, Jane Crawford, and her husband, where young Andrew and his brothers were raised. Since her sister was a semi-invalid, Elizabeth became housekeeper and nurse. Andrew received a meager education at an academy conducted by Dr. William Humphries and, a little later, at a school run by James Stephenson. He quit school with the outbreak of the American Revolution and accompanied Colonel William Richardson Davie, probably as a courier, during the attack on the British post of Hanging Rock. He was thirteen years of age at the time.

His older brother, Hugh, died after the Battle of Stono Ferry in 1780, probably from heat stroke, and shortly thereafter Andrew and his brother Robert were captured by the British and imprisoned at Camden. At the time of his capture, Andrew was ordered to clean British officer's boots, which he refused to do. Infuriated, the officer raised his sword and struck Andrew with it, leaving a deep gash on the boy's head and across several fingers.

At Camden, the brothers contracted smallpox. Their mother arranged their release in exchange for British prisoners, but Robert died before they arrived home. Andrew recovered, his face slightly marked with the scars of the disease. During his recovery, Elizabeth journeyed to Charleston to nurse American prisoners of war held in prison ships, and died from cholera a few months later.

An orphan at fourteen years of age, Andrew resided with relatives for a short time, drifted from one job to another, and finally moved to Salisbury, North Carolina, in 1784, to study law at the office of Spruce MacCay, a distinguished trial lawyer of the day. After obtaining a license to practice law in North Carolina, Jackson and several companions decided to migrate to the western end of the state, to what is now Tennessee. He built a successful practice in Nashville, married Rachel Donelson Robards, and participated in the convention that wrote the constitution by which Tennessee won admission as a state in the Union.

Over six feet tall and extremely slender, his face long and accentuated by a sharp and jutting jaw, Jackson always carried himself with military stiffness. His bristly dark hair stood nearly as erect as the man himself, and his bright, intensely blue eyes instantly signaled whatever passion surged within his cadaverous body.

As an extremely capable and hard-working lawyer with ties on his wife's side to one of the most important families in Tennessee, Jackson entered politics and rose quickly within the political hierarchy, thanks in large measure to the strong support of William Blount, the former territorial governor. Jackson served as the state's first representative to the United States House of Representatives, and later as United States senator. Resigning from the Senate after a single session, Jackson accepted appointment to the Tennessee Superior Court, where he served for six years. One biographer later described his decisions as a judge as "short, untechnical, unlearned, sometimes ungrammatical, and generally right."

Jackson supplemented his income from time to time by running a general store. He even sold boats to Aaron Burr without fully comprehending Burr's scheme to undertake a military operation down the Mississippi River, for which Burr was later tried and acquitted of treason.

When war broke out with Great Britain in 1812, Jackson had won election as major general of the Tennessee militia because of his popularity among the field officers of the militia and a considerable amount of politicking he accomplished beforehand. Despite a lack of military experience, he quickly developed into an excellent commanding general, and his men affectionately dubbed him "Old Hickory," because he was a tough, but caring, officer. He sometimes made impossible demands on his men, but he constantly showed them that he would work unceasingly for their safety and well-being.

The governor of Tennessee sent Jackson and his militia against the Creek Indians in 1813, after they had attacked American settlers along the southern frontier. Old Hickory decisively defeated the Indians at the Battle of Horseshoe Bend on March 27, 1814, wrested twenty-three million acres of land from the Creek Nation under the terms of the Treaty of Fort Jackson, and then hurried to New Orleans in time to repel a British invasion and inflict a devastating defeat upon the enemy. A few years later, he pursued the Seminole Indians into Florida and seized control of the area from Spanish authority. His actions triggered an international crisis, involving England as well as Spain, because of his execution of two British subjects, Alexander Arbuthnot and Robert Ambrister, for aiding and abetting Indian attacks against American settlers. The United States, nevertheless, succeeded in purchasing Florida from the Spanish and obtaining a western boundary for the Louisiana Territory that extended to the Pacific Ocean. By this single action, the United States was transformed into a potential transcontinental power.

In 1821 Jackson served as territorial governor of Florida for a short period in order to officiate at the transfer of ownership from Spain to the United States and establish civil government. Despite arbitrary actions and an impatience with Spanish temperament, Jackson provided an energetic and efficient government that facilitated the transition of a foreign land into the American political system.

As the most popular and beloved man in the nation, Jackson received a nomination from the Tennessee legislature to run for the presidency. The legislature also seated him in the United States Senate, where he again served a short term. Despite a popular and electoral plurality in the presidential election of 1824, he did not receive the constitutionally mandated majority of electoral votes. The choice of President was therefore decided in the House of Representatives in a contest between Jackson, Secretary of State John Quincy Adams, and Secretary of the Treasury William H. Crawford. The Speaker of the House, Henry Clay, regarded Jackson as a military chieftain who had very limited qualifications to serve as President, and he therefore threw his considerable support to Adams. The House election ended on the first ballot, with Adams chosen as President.

When Adams selected Clay as his secretary of state, Jackson exploded in indignation. He charged the two men with arranging a "corrupt bargain" in which Clay gave Adams sufficient votes in the House election to become President in return for appointment to the office of Secretary of State. Jackson resigned his Senate seat, returned to Tennessee, and began a campaign to win election to the presidency in 1828. With the help of Martin Van Buren and John C. Calhoun, he orchestrated the formation of an organization to support his election, which eventually became the Democratic party. With his popularity and the strength of his organization, and after a particularly vicious and sordid campaign—possibly the worst in American history for slander and misrepresentation—Jackson won a spectacular victory in 1828.

Jackson's tenure as President—1829 to 1837—extended over a period in which the United States underwent enormous political, economic, and cultural changes, changes by which the nation slowly began to emerge as an industrial democracy. In instituting what he called a program of "reform retrenchment and economy," President Jackson attempted to establish democratic government. He saturated the language of his messages to Congress and other state papers with democratic intent. "The people are sovereign," he repeated many times, "their will is absolute." His philosophy of government preached the simple message that the people govern, and that majority rule constitutes the only true means of preservating a free society.

A just government, declared Jackson in his celebrated veto of the bill to recharter the second National Bank of the United States, showers "its favors alike on the high and the low, the rich and the poor." He opposed government for and by an elite. "Every man is equally entitled to protection by law, but when the laws undertake . . . to make the rich richer and the potent more powerful, the humble members of society—the farmer, mechanics, and laborers— . . . have a right to complain of the injustice of their Government."

To advance his democratic ideals, he instituted what he called a program of rotation of office to bring in new blood and fresh ideas for the operation of government. No one has a vested right to government employment, he contended. His enemies, however, accused him of introducing a "spoils system" to Washington. As the Democratic senator from New York, William L. Marcy, boldly announced: "To the victor belong the spoils of the enemy."

Despite his democratic contentions, Jackson also expanded presidential powers during his tenure through his creative use of the veto (he vetoed more times than all of his predecessors put together) and his leadership of Congress and the Democratic party. He effectively intruded into the legislative process and materially increased the power of the chief executive to control and direct the operation of Congress.

One of Jackson's most unique contributions to constitutional ideas about the government and its operation was his belief that the Union was indivisible. In his Proclamation of December 10, 1832, written to the people of South Carolina after the state's convention had nullified the tariff laws of the country and threatened secession, he responded with the doctrine of the Union as a perpetual entity. He was the first American statesman to publicly declare that secession could not be invoked by any state to redress a supposed grievance. "Those who told you that you might peaceably prevent" the execution of federal law, he wrote, "deceived you. . . . Their object is disunion. But be not deceived by names. Disunion by armed force is treason. Are you ready to incur its guilt?" South Carolina ultimately backed down, and bloody civil war was postponed for nearly thirty years.

Jackson's extraordinary understanding of what is meant by "the United States" convinced Abraham Lincoln of the soundness of its constitutional argument. President Lincoln extracted from this Proclamation the basic justification he needed for his course of action to meet the secession crisis of 1861.

To Jackson's credit goes the distinction of having paid off the national debt. He had made the liquidation of the debt one of the goals of his administration, and he lived to see it happen in January 1835. It remains the only instance in American history when the nation owed nothing to anyone.

On a less happy note, the Jackson administration inaugurated the tragic history of Indian removal. The continued presence of the tribes within the several states caused mounting difficulties, including the shedding of blood, and had long defied solution by the national government. Thomas Jefferson hoped that through education the Indian might be integrated into white society. Failing that, he said, the tribes must be removed to the Rocky Mountains.

But many Indians resisted the idea of becoming cultural white men. They wished to remain as Indians, subject to Indian law, and preserving their heritage, language, and religion. The Cherokee Nation, for example, refused to obey Georgia law even though a large number of its people lived within the boundaries of that state.

Jackson contended that removal, such as Jefferson had suggested, would benefit both whites and Indians. It would prevent the annihilation of the Indian race, for one thing. More importantly, as far as Jackson was concerned, it would provide a greater degree of national security. Past Indian attacks, such as the Creek War just prior to the British invasion at New Orleans, jeopardized the safety of the American people. So Jackson prevailed upon Congress to pass the Indian Removal Act of 1830, by which lands held by the tribes within the states were exchanged for lands west of the Mississippi in an Indian territory that later became the state of Oklahoma. The government provided the transportation, but the removal turned into a death march because of the indifference and greed of those charged with executing it. The tribes were hastened along what the Cherokee called "The Trail of Tears." Thousands died along the way, and the entire operation disgraced the nation and blackened its history.

In foreign affairs, Jackson pursued an aggressive policy to force European governments to respect the integrity, sovereignty, and independence of the United States. Debts owed to the United States and incurred during the Napoleonic Wars had long been a source of irritation, because the European nations refused to pay what they legitimately owed. Jackson demanded pavement and succeeded in bringing about settlement of the claims. He nearly provoked war with France over the settlement, but the dispute was ultimately resolved with the payment by the French government of twenty-five million francs. Jackson also settled claims against Denmark, Spain, and the Kingdom of Naples.

Of particular value and importance to the United States was the conclusion of a treaty with Great Britain that resolved a longstanding dispute over trade with the West Indies. The treaty opened West Indian ports to the United States on terms of full reciprocity. The Jackson administration also signed the first treaty with an Asian nation in 1833, when Siam agreed to American trade on the basis of a most favored nation, a principle that became the basis of other treaties with South American countries and other Near Eastern countries.

After serving two terms as President, and designating Martin Van Buren as his successor, Jackson retired to his home at the Hermitage, just outside Nashville. For the remainder of his life, he took an active interest in national affairs. He favored the annexation of Texas and Oregon, even at the risk of war. And he helped his protégé, James K. Polk, win the Democratic nomination in 1844. The narrow victory of Polk in the election over Jackson's longtime enemy, Henry Clay, on a platform that called for the reannexation of Texas and reoccupation of Oregon, delighted the gravely ill old hero of New Orleans. "I thank my god," he wrote, "that the Republic is safe and that he had permitted me to live to see it, and rejoice."

Jackson died at the Hermitage at the age of seventy-eight on June 8, 1845, most likely from a heart attack. But he suffered so many different ills, acquired in the service of his country (as he liked to say), that modern physicians who delve into such matters are reluctant to pinpoint the exact cause of death. He was buried next to his beloved wife in the garden adjacent to his home.

A FURTHER REPORT ON THE BANKING SYSTEM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, I rise on this occasion to continue what I pledged to do when I was elected chairman of the U.S. House of Representatives Committee on Banking, Finance and Urban Affairs, and subsequently chairman of the Subcommittee on Housing and Community Development.

I have kept my pledge, beginning that first week on January 3, the opening of the Congress in 1989, and made a preliminary report at the time that we adjourned that we would commence hearings immediately, which we did. We had the first hearing—even though the House had adjourned—on January 10, 1989, at which time for the first time the chairman of the Home Loan Bank Board because of the joinder of our distinguished minority leader, the gentleman from Ohio [Mr. WYLIE] joining me in extending the invitation. I am almost sure that had I done that on my own initiative, it would have been spurned and avoided, but with the joinder of my distinguished minority colleague, we did bring him in on January 10.

It was a historic day. It was not noted that way, but it was historic because for the first time the Home Loan Bank Board came in and reported—beyond a press release—all of the deals that they had been concocting since 1988, very costly ultimately to the taxpayers, but done as today the FDIC, or the Bank Insurance Fund is doing in the name of saving money, but actually spawning deals and outmaneuvered by the most sophisticated and highest paid lawyers in the land, singlemindedly working on how to capitalize on the gullibility and inexperience or naivete of the regulator or even the employees of the Federal Government.

With great contempt, the chairman then, the doors burst open of the hearing room and in came attendants with six carts of boxes of documents, and with great contempt and some arrogance said, "Mr. Chairman, you have demanded that we give you information. Here it is. The only thing we ask is that this be held confidential."

And we said, "Oh, don't worry about that."

What they did not think was that we would look over those documents. In fact, we still are.

I want to report to my colleagues that we have not closed this out. As far as chairman of the Banking Committee, I said at the time that the only real power of a chairman which I would want and which should naturally be that of a chairman was merely to set the agenda. I did not want—and I have not exercised—the type of attempted control of a committee, such as I have seen others do. I am not casting judgment on them. These were my predecessor chairmen. They had their way. I have mine. And mine is rooted on a 100-percent democratic obedience to the rules of the House and responsive and accountable to my colleagues in the House, not just to the members of the committee, and that is why I continue my report generally on the situation confronting our country which has continued to be in a state of crisis with respect to our financial institutions and the safety and the soundness of our banking system.

□ 1330

Now we ought to really not forget that we have precedents in our history. Maybe the country was a lot different. Certainly it was smaller, but the issues were basically the same. They were issues of power, the issues as to whether or not, as the Constitution indicates, sovereignty or power would remain in the people or be subtracted therefrom through fine maneuvering and expert jiggery and pokery, which has, from the beginning of our Nation, been the case. The attempts have been made, but, up until the late 20th century, the leaders of our country were able to rise, as our system calls for, and not let those special vested interests take over, as indeed they have for some time.

I can say truthfully, my colleagues, that we in the House of Representatives, whether it is the Committee on Banking, Finance and Urban Affairs, or any other really, are the masters of our own fate, for we have allowed the moneychangers to enter and corrupt our vaunted and hallowed halls of democracy.

I want to evoke—because at this time I think it is very much in point, even though there may be some who think it is rather far-fetched—I want to evoke the memory of President Andrew Jackson and his veto of the bank bill of July 10, 1832. I am going to quote from the message he sent the Congress. The Members of the Senate at that time, and the House, thought they were playing politics, as, I guess, always will be the case and as we are seeing today plainly, and they thought they would extend the charter of the Second National Bank an additional 16 years and put Andrew Jackson on the spot in that election year. Jackson did not waste any time. He promptly vetoed the bill, and he sent his message, and I am going to quote:

> There are no necessary evils in government. Its evils exist only in its abuses. If it would confine itself to equal protection and, as heaven does it rain, shower its favors alike on the high and the low, the rich and the poor, it would be an unqualified blessing. In the act before me there seems to be a wide and unnecessary departure from these just principles.

What just principles? The fundamental principles in the American system, equal justice before the law, privileges for none, equal justice for all.

So, I will continue, and I am quoting again from that message:

> Many of our rich men have not been content with equal protection and equal benefits, but have besought as to make them richer by acts of Congress. By attempting to gratify their desires we have in the results of our legislation arrayed, section against section, interest against interest, and man against man, in a fearful connotation which threatens to shake the foundations of our Union.

He additionally charged that that bank's arbitrary control over the then-existing State bank system, which was preeminent from the beginning of our Government under the Constitution; State banks could issue everything, notes and what amounted to specie and legal tender; he charged that the bank's arbitrary control over State banks conspired to regulate discount rates and withhold loans, and its sales of capital stock to foreigners were inimical to the best interests of the Nation.

Well, what is it we have today? Every one of those conditions. We have tremendous financial foreign interests, which I reported yesterday, as I have now for almost 2 years. Eight hundred billion dollars; that is even as I am talking, is floating around this country, so-called foreign, banking or financial money, over which our institutions—that are supposed to be there to protect the public interest—have no control, and we cannot be told in the committee when and if they were willing to, and instead of, as I pointed out yesterday, raising these obstructions and hurdles; to what? To keep from Congress the information it must have in order to knowledgeably legislate. That is the only purpose we would have, and, properly under our constitutional authority, should and can properly exercise, and Supreme Court decision after Supreme Court decision has held that the right of the Congress to know is paramount; that is, for the purposes of legislation.

So, we are trying to legislate in order to bring for the first time a framework of reference whereby we can, through our Government and its regulatory authorities, try to have some adequate oversight. No other country has this laxity.

As a matter of fact, every other country, including even Canada, has screening boards before they allow the chartering of institutions from other countries. Now Canada waited until almost 50 percent of its banking interests were owned by foreign entities before it did, but it did. Up to now we know that the Japanese, for instance, have about 25-percent-plus ownership in financial institutions, and the British, we do not hear much about them, but they have about twice as much as far as direct investment, rights of ownership.

Therefore, Mr. Speaker, what do we have? We are confronted with a first class crisis without any perception as to the depth, the profundity, the extension, the complexity, the scope, the range of this crisis, either in our much vaunted press, or in the Congress, or among the banking industry. At least they do not evince such, and so the real issues for reform which have been crying out for over 30 years since the war have been avoided, and, therefore, the accumulation in such a manner, shape, and form that I have said, but have had very little attention paid to, that we now face the greatest crisis this country has ever faced insofar as the peril of its losing its financial, its economic, freedom is concerned.

I will enlarge a little bit on that. I just think that we ought to recognize the fact that, as Ecclesiastes says, nothing under the Sun is really new.

□ 1340

We know that all through mankind's history we have had those elements in humanity that will either be predatory or will seek constantly, at the expense of others or the so-called public interest, the enhancement of their own interest. In the words of Ecclesiastes:

> He that loveth silver shall not be satisfied with silver, nor he that loves abundance with increase.

That simply means what we say in common parlance, that with some the more they have, the more they want.

This is true of the most powerful interests we have in our country that now have the power to determine the allocation of credit, who and in what segment of our society shall get credit. How has that come about? Let me give a little history.

When the national banking system was born in a rough-hewn sort of way right at the end of the Civil War, with the issue being uppermost in the mind of President Lincoln at the time of his death, the big issue was the greenback issue or the specie issue, and the question was, how and who was going to pay for the Civil War? So you had the 1863 Specie Act, but then after the war you had the 1865 Currency Act, the National Currency Act. That was the beginning of the shaping of what we now call the national banking system. Then they had subsequent to that the crisis. After every war that we have, all the moral moorings seem to either disappear or people get separated from them. That happens after every war, and after the Civil War that was no exception.

The big issue that President Lincoln feared was exactly what happened, that these powerful interests would soon command the decisionmaking level. And that was as to what? The allocation of credit. That is exactly what President Jackson had worried about. That is exactly what happened when you had the first Continental Congress. That Congress had to have a banker, and the bankers in Philadelphia said, "Yes, we will, but this is what we are going to charge you." The difference was that they had men like Alexander Hamilton and, mostly, Jefferson, who recoiled at what all through the centuries was usury, usurious interest rates.

That, incidentally, is what has been flagellating our country now ferociously since the late 1970's, with the instability that is created, and the fact is that until that is resolved and is stabilized, I can assure you that we will get no place. But that is another story.

How did we get to the situation in which there is actually no control by the people's Representatives and the national policymaking body, not the executive branch nor the judiciary, but the only national policymaking body established under the Constitution, the Congress of the United States, which would have been either abdicating on its own its responsibilities or having its powers under the Constitution usurped? It has the power to coin money, to set the value thereof, and that is a constitutional mandate deposited exclusively in the Congress.

But that is not happening. The reasoning, as I see it, is what has happened almost imperceptibly, and particularly after 1945. We came out of that hot shooting phase of World War II with a system that was built and based and predicated on one that had been built during the Depression era in the 1930's. But banks were chartered under law, that is, national banks. If any individual or group wanted to establish a bank, they would have to come to the Office of the Comptroller, which incidentally was born out of the 1865 Currency Act after the Civil War. This Office of the Comptroller of the Currency goes back to 1865.

Our whole regulatory system is crumbling around us because it is antiquated, it is overlapping, it is conflicting in many areas, and we should have looked at that years ago. But we have not. I could go into that, but let us go back to the fundamental question.

It used to be that under the law you would come and seek a charter. This happened up until the Bank Merger Acts of the 1950's when, I think, the mischief began. The truth of the matter is that under the bank chartering laws anybody in the community who felt that there was a need could come up and oppose it, and usually the banks that were there before would come up and protest, but the Comptroller would then establish the need for a new bank based on public need and convenience. Those were the letters of the law. But today regulators put banks together, and so we have these gigantic bank mergers and we are headed to the more and more concentrated of banking interests in the hands of fewer and fewer.

Is that good? That calls for a broader vision, and I want to announce at this point that in a week's time from tomorrow, a week from now, we will have additional hearings on this merger question that is presenting itself to the country.

Now, we could not have had that kind of merger put together by regulators before the 1956 Bank Merger Act because before that, in order to create that bank you had to have a charter, and the charter had to demonstrably prove that there was a public need and convenience.

Now, the Federal Reserve Board is not a governmental agency. It is the creature of and amenable to the commercial banking system of the United States, the private commercial banks, not the Government. The President appoints members of the board, and perhaps the chairman for a longer fixed period of time, but then after the passage in 1913 of the Federal Reserve Board Act we had strange things happening 7 years later such as the information of the so-called Open Market Committee. The Open Market Committee can determine the downfall or the rise of any administration by fixing the Treasury bill rates and everything else.

But who accounts for that? Are these men elected by the people? Are they accountable to the people? Have the people any control through their elected agents? No, not really. But the point still remains that as long as bank entities are formed outside of the context of the primary reason why banks should be chartered—and that is for public need and convenience—what that means is that banks were supposed to be the financial backdrop to help fuel the furnaces of industry and production and manufacture.

□ 1350

That has not happened. Now, our banks since the late sixties have gone elsewhere, other than investing in America. I ought to know. After all, I am on the committee that has jurisdiction over all of these so-called guaranteed loans or bailouts, as they were called. I have been there from the beginning of the first one, the Penn Central, and then New York City, Continental, and Chrysler.

Why did Chrysler have to have guarantees from the Government? Because the banks would not give them the credit. Chrysler needed $3 billion. It had about half of that on its own, and it could not borrow the other half. The banks were not going to take any risk.

But this is unlike other countries. In Japan the banks still finance their manufacturers and their industry. So should we be mad at that, merely because ours have receded from doing that?

Instead, our bankers have gone, as we say, insatiably to where they will get the big, big fee, leveraged buyouts.

In R.J. Reynolds, for instance, there is over 25 billion dollars' worth of banking credit involved that is highly speculative.

Mr. DREIER of California. Mr. Speaker, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from California.

Mr. DREIER of California. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I would like to compliment the gentleman on his remarks. I would simply like to pose a question that has come to mind in light of the very eloquent remarks by the chairman of the Committee on Banking, Finance and Urban Affairs.

What prospects do we have of moving ahead with some kind of banking reform law this year? I would say to the gentleman from Texas [Mr. GONZALEZ] that we in the waning days of the first session of the 102d Congress tried diligently to move forward with banking reform legislation, and I was struck when the gentleman started mentioning Japan.

One of the goals that we have is to try and get the American financial deliverers of financial services into a position where they will be able to compete internationally.

That is one of the real tragedies here. Due to some of the antiquated laws to which the gentleman from Texas [Mr. GONZALEZ] was referring, the 1956 Bank Holding Company Act and a number of other pieces of legislation, we have seen an inability for U.S. financial institutions to compete internationally.

I know that President Bush has said that one of the things he wants to do is moved forward with banking reform legislation, and I hope very much that since the so-called compromise that we put together in the waning hours before we adjourned before Thanksgiving of last year, unfortunately does not move us in that direction satisfactorily enough.

Mr. Speaker, I wonder if the chairman could tell us if there are chances we could move ahead toward reform legislation?

Mr. GONZALEZ. Mr. Speaker, I think we must define terms. Some people who say "bank powers," also use that interchangeably as "reform." We have to make sure that we understand.

Mr. DREIER of California. Mr. Speaker, if the gentleman will yield further, I would say to my friend I do not use the term "bank powers." I use the term "consumer products and services," expanded opportunities for consumers to be able to utilize products and services which some deliverers of financial services are providing, and tragically others are not, because of these antiquated laws.

Mr. Speaker, I thank the gentleman for yielding.

Mr. GONZALEZ. Mr. Speaker, I would say to the gentleman that I think we could go into that. There are a lot of historical backdrops that we would have to define in order to understand the terms of our discussion. I think the gentleman from California [Mr. DREIER] may be assuming some things, such as, for instance, that there is a lack of competitiveness because of our restrictive laws. There are, and there are not, in some areas.

Mr. Speaker, the big problem today is I think reflected in the reasons given by the chairman of Citibank when he was asked, "To what do you attribute your problems? Is it that you don't have powers?"

He said no. The reason is that they all have those powers that the Federal Reserve has given to a select group of banks under the Bank Holding Act, and through their interpretation, or malinterpretation, of what they call section 20. But the central point is that this distinguished chairman said, "No, it isn't powers; it is that we made bad loans."

Well, of course the Congress cannot, as it has been asked to, through legislative action confer solvency.

Mr. Speaker, I can summarize my discussion for today by telling my colleagues that if you were to ask me what should be done that needs to be done immediately, I would say the absolute need to restore solvency to our American national life, whether it is in the private sector, where we have piled up a great indebtedness, or the corporate sector, where we have piled up an equal indebtedness, or governmental.

Mr. Speaker, we are insolvent. Until we reach solvency, we will be sort of wallowing in what I consider to be a very dangerous mire. Because in the meanwhile, there are forces, external to our shores, over which we no longer have any control that impact no matter what decisions we make domestically.

ANNOUNCEMENT REGARDING PREPRINTING OF AMENDMENTS ON H.R. 3553

(Mr. MOAKLEY asked and was given permission to address the House for 1 minute.)

Mr. MOAKLEY. Mr. Speaker, the Rules Committee has received a request from the Committee on Education and Labor for a rule to H.R. 3553, the Higher Education Amendments of 1992, that would require amendments to be printed in the CONGRESSIONAL RECORD prior to their consideration.

Although the Rules Committee has not decided upon this request, I wanted to alert Members on this possible requirement for H.R. 3553 so that they are prepared with their amendments. The Rules Committee is planning to meet on this bill Thursday afternoon, March 19. It is anticipated that this measure could come to the floor as early as the week of March 23. Therefore, to fully ensure Members' abilities to offer amendments under the requested rule, they should have those amendments appear in the CONGRESSIONAL RECORD no later than Monday, March 23, 1992.

The Education and Labor Committee has also requested that the text of H.R. 4471 be made in order as original text for the purposes of amendment. Therefore, all amendments should be drafted to that text. It is my understanding that this substitute is available from the document room.

RESOURCE CONSERVATION AND RECOVERY ACT REFORM INITIATIVE

The SPEAKER pro tempore (Mr. EDWARDS of Texas). Under a previous order of the House, the gentleman from Pennsylvania [Mr. RITTER] is recognized for 5 minutes.

Mr. RITTER. Mr. Speaker, I rise today to address the House on the Resource Conservation and Recovery Act, or RCRA, and the RCRA reform initiative recently proposed by EPA. As the ranking member of the Subcommittee on Transportation and Hazardous Materials, the Subcommittee of primary jurisdiction over RCRA, I am keenly aware of both the accomplishments and problems with the RCRA Program.

RCRA is achieving some of the goals which led to its enactment, like ensuring that hazardous wastes are managed in a way that will not pollute ground water. But RCRA is not achieving the goals that are found right in its name—resource conservation and recovery. RCRA regulations impose unnecessary costs on the American economy, meeting its goals at an extraordinarily high cost, wasting valuable resources, and not hindering the kind of environmental cleanup the American people want.

In response to the President's call for a thorough regulatory review, the EPA

Office of Solid Waste and Emergency Response has proposed a far reaching RCRA reform initiative. The reform imitative is one of the more interesting proposals to come out of EPA in a long time. In the true spirit of the President's initiative, it contains a series of proposed regulatory changes that could both save the American economy jobs and money, and actually benefit the environment.

EPA thinks we may be throwing away $1 billion each year to meet hazardous waste regulations, regulations that go far beyond what is needed to protect human health and the environment. One billion dollars per year. While I am concerned with how this situation developed, I, nevertheless want to personally commend Don Clay, the EPA Assistant Administrator for RCRA and Superfund, for the courage to stand up and identify not only the problem, but some solutions as well. Changes suggested by the reform initiative can benefit the economy, the environment, and create jobs and a more competitive America in the process. This is a win-win proposal.

While the cradle-to-grave coverage of the RCRA Hazardous Waste Program has provided significant environmental benefits, there is widespread agreement that the program is overly prescriptive and imposes unnecessary administrative burdens on the regulated community. It's time for improvement. I feel that we can meet the statutory requirement of protecting human health and the environment at a significantly lower cost to the economy, especially regulatory burdens that are not directly tied to reducing environmental or health risks.

Some RCRA regulations provide immediate benefit to our health and our environment. Some are an investment in the future state of the environment. But some are simply money down a rat hole. They damage our competitiveness, they weaken manufacturing, they cost working Americans their jobs. They actually hurt the environment by diverting our efforts away from real risks and impeding cleanup and recycling.

As a result, our economy, our competitiveness, our manufacturing workers' jobs suffer needlessly. We send manufacturing jobs overseas and the environment suffers.

Particularly in the area of cleaning up environmental damage from past mistakes, RCRA contains discincentives to doing the right thing. So does CERCLA, the Superfund law. Too many lawyers are getting rich on toxic tort litigation. So much of our scarce taxpayers' and consumers' resources are going into the hands of lawyers.

Our economy and our environment cannot afford regulation for regulation's sake. We should not impose costly burdens on taxpayers in States and localities, and workers in industry, in the futile search for a riskless society. Zero-risk is a tremendously costly illusion we can no longer afford.

We simply can't afford to ignore the costs of our actions. We can't afford it, and American workers, particularly in manufacturing, can't afford it. While we might pay more for the products we buy, the American worker might pay with his or her job.

For all these reasons, I am excited about the RCRA reform initiative. I believe all of what's proposed can be adopted in a form consistent with existing law.

This proposal seeks to separate the regulations needed to protect human health and the environment from those that simply impose unnecessary burdens; to separate the true investments in environmental protection from the regulations that are dead losses.

It focuses our resources on the risks posed, eliminates unnecessary burdens and duplication, stimulates technological innovation, and incorporates principles of total quality and continuous improvement into the regulatory program.

Our best chance to enhance the environment is to put our resources to work solving the real problems. The real obstacles we need to change are bureaucratic inertia and the fear of change. These can be powerful forces, and I recognize that the EPA will need the support of Members of Congress if it is to achieve the creative and far-reaching goals of the reform initiative. We cannot let inertia scuttle a bold initiative that could save the American people $1 billion a year and speed environmental cleanup. It deserves our support and needs our help.

☐ 1400

CRISIS OF CONFIDENCE

The SPEAKER pro tempore (Mr. EDWARDS of Texas). Under a previous order of the House, the gentleman from California [Mr. DREIER] is recognized for 60 minutes.)

Mr. DREIER of California. Mr. Speaker, I take the well this afternoon to discuss something that is not an issue which I like to address here and, frankly, I do not think it is one that I have ever really taken on down here in this well. I have certainly talked about it in California and around the country. I do not feel terribly comfortable talking about it here in the House.

But quite frankly, Mr. Speaker, the greatest deliberative body known to man is faced with a crisis of confidence. We have tragically gotten to a point where we have a difficult time being forthright with the American people , and it seems to me, Mr. Speaker, that if we cannot be forthright with the American people, how can we govern?

After all, the world continues to look to this, as I said, the greatest deliberative body known to man. And it is looking to us in ways that it has not looked to us in the past.

Why? Because there are more emerging democracies around the world than have ever been in the history of the world.

These people, and I have visited the emerging democracies of Eastern and Central Europe and Latin America, the now Commonwealth of Independent States, former Soviet Union, these people clearly look to us as an example of what it is they possibly can be. So when we have things like this week's Newsweek magazine with a cover that says "Follow the Bouncing Checks, the Congressional Bank Scandal," it seems to me, Mr. Speaker, that we really have no choice. If we are going to be that great example for the world, we have no choice other than to establish new management in the House of Representatives.

Mr. Speaker, what we have seen over the past several years is really incumbency run amok. We have cases of corrupt careerism here in the House of Representatives. What we have really are well-connected public officials who mirror a large panorama of corrupt practices.

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What kind of example does that set to young people in this country, who have every confidence in representative government, and, as I said, to those emerging democracies throughout the world? It is not a very good one.

Mr. Speaker, as we look at these kind of issues and the many perquisites of office which have been outlined in the national and international media over the past several days, it is clear that new management is the only way in which we can change that.

Mr. Speaker, I was born in 1952. That is the last time that we elected a Republican House of Representatives. It comes as a shock to most people when I say that we have looked at the failure of the Bolshevik revolution, which started in 1917, and basically have one-party Communist control of the Politburo and the Congress of the People's Deputies, as it was known under the Soviet Union.

We have seen our southern neighbor, the Institutional Revolutionary Party in Mexico, the PRI Party, which under Mr. Cardenas, in 1928, take power.

Since that time, Mr. Speaker, we have seen no other political party on the face of the Earth maintain control of its parliament, its legislative body, longer than the majority has managed this House of Representatives.

Mr. Speaker, as we look at this, we have seen the failure of the Bolshevik revolution. Now, with the exception of the Institutional Revolutionary Party in Mexico, there is no political party on the face of the Earth which has controlled its parliament longer than the majority, the Democrats, have controlled the House of Representatives.

We all know that the House of Representatives clearly is the most important legislative body in this Capital. I say that not just because I am a Member of the House, but article 1 of the Constitution begins with "the House of Representatives," and it is very clear from article 1, section 7, taxing and spending initiates right here in the House of Representatives. Again, it has been one-party rule for the past 38 years.

Mr. Speaker, if we are going to play a role in regaining the confidence of the American people and those throughout the world, I hope very much that the American electorate will not fall in lock step with that standard old line that is used in public opinion polls throughout: "I abhor the United States Congress," the American people say in public opinion polls, "but, you know, old Joe is really not a bad guy, and I am sure that he or she is not part of that problem that is going on in Washington."

It very clearly, Mr. Speaker, is one-party management. I am not going to stand here and say the Republican Party offers a panacea, the cure all for all the ailments of society. But I will say this, I believe that new management is the way to go and the only way real new management can take place is if we see a Republican majority emerging in January 1993 to take over the speakership, the chairmanship of every committee in the House, and in fact, management of all these House operations which have been so criticized over the past several weeks and months.

Mr. Speaker, as we look at this crisis of confidence, we must be forthcoming with the American people. We are bringing about full disclosure on this check-bouncing scandal. We are letting the American people see what it is that is taking place, as we are the people's representatives and this is the people's House.

It seems to me, Mr. Speaker, that as we look toward this coming November, I hope, and I have every confidence in the electoral process, that people will seize that opportunity which others around the world are now enjoying, the opportunity to vote and the opportunity to make this kind of change in the House of Representatives.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. DREIER of California) to revise and extend their remarks and include extraneous material:)

Mr. DREIER of California, for 60 minutes, today.

Mr. RIGGS, for 60 minutes, on April 29.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 60 minutes, today.

Mr. LEHMAN of California, for 60 minutes each day, on April 23 and 24.

Mrs. COLLINS of Illinois, for 5 minutes each day, on March 24, 25, 26, and 27.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend his remarks was granted to:

(The following Members (at the request of Mr. DREIER of California) and to include extraneous matter:)

Mr. GALLEGLY.

Mr. GINGRICH.

Ms. MOLINARI.

Mr. GUNDERSON.

Mr. MICHEL.

(The following Members (at the request of Mr. GONZALEZ) and to include extraneous matter:)

Mr. MONTGOMERY.

Mr. JOHNSON of South Dakota.

Mr. YATRON.

Mr. ROE.

Mr. DONNELLY.

Mr. FASCELL in two instances.

Mr. MAVROULES.

Mr. SOLARZ.

Mr. DOWNEY.

Mr. PANETTA.

ADJOURNMENT

Mr. DREIER of California. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 15 minutes p.m.) the House adjourned until tomorrow, Wednesday, March 18, 1992, at 2 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3107. A letter from the Defense Mapping Agency, Department of Defense, transmitting notification to study the potential conversion from partial in-house performance to full commercial contract of custodial services functions at the DMA Hydrographic/Topographic Center in Brookmont, MD, and the DMA Aerospace Center in St. Louis, MO, pursuant to Public Law 100-463, section 8061 (102 Stat. 2270-27); to the Committee on Armed Services.

3108. A letter from the Inspector General, Department of Commerce, transmitting evaluation of the United States and Foreign Commercial Service management of its Foreign Service Personnel System, pursuant to 15 U.S.C. 4721; to the Committee on Foreign Affairs.

3109. A communication from the President of the United States, transmitting the status of efforts to obtain compliance by Iraq with the resolutions adopted by the U.N. Security Council (H. Doc. No. 102-204); to the Committee on Foreign Affairs and ordered to be printed.

3110. A letter from the Assistant Secretary for Policy, Management, and Budget, Department of the Interior, transmitting a report of activities under the Freedom of Information Act for calendar year 1991, pursuant to 5 U.S.C. 552(e); to the Committee on Government Operations.

3111. A letter from the Chairman, Pennsylvania Avenue Development Corporation, transmitting a draft of proposed legislation to amend the Pennsylvania Development Corporation Act of 1972; to the Committee on Interior and Insular Affairs.

3112. A letter from the Forest Service, Chief, Department of Agriculture, transmitting the rehabilitation needs of each Forest Service region, resulting from disastrous forest fire damage during the previous year, pursuant to Public Law 101-286, section 202(1) (104 Stat. 174); jointly, to the Committees on Agriculture and Interior and Insular Affairs.

3113. A letter from the Secretary of Energy, transmitting a copy of the Clean Coal Technology Demonstration Program; Program Update 1991; jointly to the Committees on Appropriations, Energy and Commerce, and Science, Space, and Technology.

3114. A letter from the Secretary of Labor, transmitting a draft of proposed legislation entitled "Pension Security Act of 1992"; jointly to the Committees on Education and Labor, Ways and Means, and the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ROE: Committee on Public Works and Transportation. H.R. 2757. A bill to authorize the Board of Regents of the Smithsonian Institution to acquire land for watershed protection at the Smithsonian Environmental Research Center, and for other purposes; with an amendment (Rept. No. 102-456, Pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANDREWS of Texas:

H.R. 4476. A bill to amend the Internal Revenue Code of 1986 to provide for the use of unused alternative minimum tax credits, to repeal certain alternative minimum tax preferences for energy production, and for other purposes; to the Committee on Ways and Means.

By Mrs. LOWEY of New York (for herself, Mr. TOWNS, Mr. CONYERS, Mrs. JOHNSON of Connecticut, Mr. MORAN, Ms. PELOSI, Mrs. UNSOELD, Mr. BERMAN, Mr. COLEMAN of Texas, Mr. CAMPBELL of Colorado, Ms. NORTON, Mr. OWENS of New York, Mrs. BOXER, Mr. ACKERMAN, and Mr. WEISS):

H.R. 4477. A bill to prohibit grants under the community development block grant program to communities that fail to adopt a policy of enforcing laws that prevent the use or threat of force against individuals for exercise of abortion rights; to the Committee on Banking, Finance and Urban Affairs.

By Mr. MARTINEZ:

H.R. 4478. A bill to amend the Immigration and Nationality Act with respect to improvements in enforcement of antidiscrimination provisions of that act; to the Committee on the Judiciary.

By Mr. MCEWEN (for himself and Mr. GRADISON):

H.R. 4479. A bill to direct the Administrator of the Small Business Administrator to review criteria used to certify qualified development companies to ensure that application of such criteria does not adversely affect certification of qualified development companies in rural areas, and for other purposes; to the Committee on Small Business.

By Mr. MCMILLEN of Maryland:

H.R. 4480. A bill to amend the Internal Revenue Code of 1986 to allow taxpayers to deduct the value of a lease contributed to a charitable organization where property leased is to be used to provide housing for homeless or low-income individuals; to the Committee on Ways and Means.

By Mr. MONTGOMERY:

H.R. 4481. A bill to amend title 10, United States Code, to revise and standardize the provisions of law relating to appointment, promotion, and separation of commissioned officers of the reserve components of the Armed Forces, to consolidate in a new subtitle the provisions of law relating to the reserve components, and for other purposes; to the Committee on Armed Services.

By Mr. THOMAS of California:

H.R. 4482. A bill to amend title XVIII of the Social Security Act to provide a reduction in the premium assessed against an individual who buys into coverage under part A of the Medicare Program for quarters of coverage credited to the individual under title II of such act, and for other purposes; to the Committee on Ways and Means.

By Mr. HORTON (for himself, Mr. SCHEUER, Mr. LENT, Mr. SCHUMER, Mr. BACCHUS, Mr. WEISS, Mr. FISH, Mr. OWENS of Utah, Mr. LAFALCE, Mr. RINALDO, Mr. GUARINI, Mr. HUGHES, Mr. ERDREICH, Ms. NORTON, Mr. WALSH, Mr. MRAZEK, Mr. GILMAN, Mr. ACKERMAN, Mr. RANGEL, Mr. CARPER, Ms. MOLINARI, Mr. KOPETSKI, Mr. COOPER, Mr. FAZIO, Mr. FROST, Mr. SYNAR, Mr. GREEN of New York, Mr. BLILEY, Mr. HARRIS, Mr. BRYANT, Mr. WYDEN, Mr. HOUGHTON, Mr. DINGELL, Mr. MCMILLEN of Maryland, Mr. FORD of Tennessee, Mrs. MINK, Mr. MINETA, Mr. SKEEN, Mr. RICHARDSON, and Mrs. ROUKEMA):

H.J. Res. 441. Joint resolution commending the New York Stock Exchange on the occasion of its bicentennial on May 17, 1992; to the Committee on Post Office and Civil Service.

By Mr. YOUNG of Florida:

H.J. Res. 442. Joint resolution to designate May 16, 1992, through May 22, 1992, as "National Awareness Week for Life-Saving Techniques"; to the Committee on Post Office and Civil Service.

By Mr. HOYER:

H. Res. 400. Resolution electing the Resident Commissioner from Puerto Rico, Mr. Colorado, to the Committees on Interior and Insular Affairs and Foreign Affairs; considered and agreed to.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 20: Mr. CHAPMAN.

H.R. 78: Mr. MCGRATH and Mr. WYLIE.

H.R. 617: Mr. GOSS, Mr. FAWELL, Mr. SHARP, Mr. HUCKABY, and Mr. PEASE.

H.R. 1161: Mr. SHAYS.

H.R. 1536: Mr. JONTZ.

H.R. 1802: Mr. JEFFERSON.

H.R. 2916: Ms. SNOWE, Ms. ROS-LEHTINEN, and Mr. SWETT.

H.R. 3146: Mr. KLUG.

H.R. 3248: Mr. GEJDENSON, Mr. SHAYS, Mrs. JOHNSON of Connecticut, Mr. WEISS, Mrs. MINK, Mr. FRANKS of Connecticut, Ms. DELAURO, Mr. ABERCROMBIE, and Mr. JOHNSON of South Dakota.

H.R. 3258: Mr. ROE.

H.R. 3373: Ms. DELAURO, Mr. JONTZ, Mr. BACCHUS, Mr. ERDREICH, and Mr. COX of Illinois.

H.R. 3441: Mr. INHOFE.

H.R. 3598: Mr. JONES of North Carolina, Mr. DE LUGO, Mr. PETERSON of Minnesota, Mr. CLINGER, and Mr. DAVIS.

H.R. 3612: Mr. ZELIFF.

H.R. 3952: Mr. COOPER, Mr. FIELDS, and Mr. PERKINS.

H.R. 3967: Mr. TORRICELLI.

H.R. 3986: Mr. BURTON of Indiana, Ms. SLAUGHTER, Mr. LIVINGSTON, and Mr. BERMAN.

H.R. 4089: Mrs. LLOYD, Mrs. UNSOELD, Mr. LEHMAN of California, Mr. ANDREWS of Maine, Mr. SWETT, and Mr. JONTZ.

H.R. 4163: Mr. MANTON.

H.R. 4181: Mr. MCMILLEN of Maryland, Mr. KOPETSKI, Mr. SWETT, Mr. ATKINS, and Mr. BACCHUS.

H.R. 4220: Mr. VISCLOSKY.

H.R. 4300: Mr. ANDREWS of Maine, Mr. BERMAN, Mr. BLACKWELL, Mr. EDWARDS of California, Mr. DWYER of New Jersey, Mr. FASCELL, Mr. HAYES of Illinois, Mr. JOHNSTON of Florida, Mr. JONTZ, Ms. KAPTUR, Mr. KOPETSKI, Mr. MCCLOSKEY, Ms. NORTON, Mr. POSHARD, Mr. SWIFT, Mr. TOWNS, and Mr. WALSH.

H.R. 4312: Mr. COLEMAN of Texas, Mr. WASHINGTON, Ms. PELOSI, and Mr. MCDERMOTT.

H.R. 4351: Mr. BERMAN and Mr. ZELIFF.

H.R. 4471: Mr. ROEMER, Mr. HAYES of Illinois, Mr. KLUG, Mr. CUNNINGHAM, and Ms. MOLINARI.

H.J. Res. 371: Mrs. BENTLEY, Mr. BONIOR, Mr. CHAPMAN, Mr. FASCELL, Mr. FRANKS of Connecticut, Mr. MCCOLLUM, Mr. MCCRERY, Mr. MARTIN, Mr. MAVROULES, Mr. MILLER of Ohio, Mr. MURTHA, Mr. PICKETT, Mr. SANGMEISTER, and Mr. VENTO.

H.J. Res. 388: Mr. ROYBAL, Ms. SLAUGHTER, amd Mr. MORRISON.

H.J. Res. 406: Mr. CARPER, Mr. QUILLEN, Mr. COSTELLO, Mr. PALLONE, Mr. MAZZOLI, Mr. IRELAND, Mr. GRADISON, Mrs. LOWEY of New York, Mr. GONZALEZ, Mr. WOLPE, Ms. KAPTUR, Mr. BILIRAKIS, Mr. COX of California, Mr. MOODY, Mr. DURBIN, Mr. MONTGOMERY, Mr. BILBRAY, Mr. HEFNER, Mr. FASCELL, Mr. JOHNSTON of Florida, Mr. UPTON, Mr. SAXTON, and Mr. SISISKY.

H.J. Res. 407: Ms. KAPTUR, Mr. EMERSON, Mr. JONES of Georgia, Mr. KENNEDY, and Mr. LEVINE of California.

H.J. Res. 432: Mr. ESPY, Mr. STALLINGS, Mr. GUARINI, Mr. TRAXLER, Mr. WEBER, Mr. DWYER of New Jersey, Mr. TOWNS, Mr. WALSH, and Mr. ERDREICH.

H. Con. Res. 224: Mr. DELLUMS, Mr. GEJDENSON, and Mr. FOGLIETTA.

H. Con. Res. 256: Mr. JOHNSTON of Florida.

H. Con. Res. 257: Mr. DICKINSON, Mr. GINGRICH, Mr. KOSTMAYER, Mr. LEHMAN of California, Ms. OAKAR, and Mr. SUNDQUIST.

H. Con. Res. 274: Mr. JONTZ.

H. Con. Res. 292: Mr. MORRISON, Mr. BILBRAY, Mr. ANDREWS of Maine, and Mr. SCHEUER.

H. Con. Res. 293: Mr. BREWSTER.

H. Res. 153: Mr. HEFNER.

H. Res. 321: Mr. HORTON.

H. Res. 332: Mr. HERGER and Mr. TAYLOR of North Carolina.

H. Res. 368: Mr. BEREUTER and Mr. LIVINGSTON.

H. Res. 391: Mr. BROOMFIELD, Mr. LEACH, Mrs. MEYERS of Kansas, Mr. GALLEGLY, Mr. GOSS, Mr. MILLER of Washington, Mr. SMITH of New Jersey, Mr. FASCELL, and Mr. TORRICELLI.

SENATE—*Tuesday, March 17, 1992*

(Legislative day of Thursday, January 30, 1992)

The Senate met at 2 p.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. The prayer will be led by the Senate Chaplain, the Reverend Richard C. Halverson.

Reverend Halverson, please.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Come now, and let us reason together, saith the Lord: though your sins be as scarlet, they shall be as white as snow; though they be red like crimson, they shall be as wool.—Isaiah 1:18.

If we say that we have no sin, we deceive ourselves, and the truth is not in us.—I John 1:8.

Eternal God, in the light of Your reasonable, gracious, invitation given through Isaiah, forgive us for the stubborness and pride with which we deceive ourselves as we struggle to sustain the image of power and strength. Refusing to admit our weakness, our failure, our sin, we deprive ourselves of Your forgiving love and allow the corrosive action of guilt to enervate and debilitate. Daring not to admit our vulnerability, we make ourselves more vulnerable.

Help us, Lord, to be honest with ourselves and with You. Help us to come to You in our need and find in You the patient and compassionate love that heals and receives the sinner. Thank You for the promise, "If we confess our sins, He is faithful and just to forgive us our sins, and to cleanse us from all unrighteousness."

Receive us, Lord, in the sacrificial love and righteousness of Jesus, in whose name we pray. Amen.

The PRESIDENT pro tempore. The Senate will be in order.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the standing order, the majority leader is to be recognized, and the Republican leader is to be recognized.

Without objection, the time of the two leaders will be reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business with Senators permitted to speak therein; with the Senator from Minnesota [Mr. DURENBERGER] to be recognized to speak for up to 15 minutes; the Senator from Alabama [Mr. HEFLIN] will be recognized to speak for up to 10 minutes; and the Senator from Wyoming [Mr. SIMPSON] or his designee, will be recognized to speak for up to 5 minutes.

Several Senators addressed the Chair.

Mr. CRANSTON. May I make a unanimous-consent request?

The PRESIDENT pro tempore. Under the order, the Senator from Minnesota is listed first, to be recognized to speak for up to 15 minutes.

Mr. DURENBERGER addressed the Chair.

Mr. CRANSTON. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. DURENBERGER. I am pleased to yield to the Senator from California.

Mr. CRANSTON. I ask unanimous consent that I be added to the list and be granted 10 minutes.

The PRESIDENT pro tempore. Without objection, the Senator from California [Mr. CRANSTON] will be added to the list and will be recognized for 10 minutes.

Mr. DURENBERGER is recognized.

ORDER OF PROCEDURE

Mr. DURENBERGER. Mr. President, at this time I would like to yield 5 minutes from my time to my colleague from Montana for purposes of his speech as though in morning business.

The PRESIDENT pro tempore. The Senator from Montana [Mr. BAUCUS] is recognized for 5 minutes.

Mr. BAUCUS. Mr. President, I very much thank the Senator from Minnesota for yielding his time.

CLEAN AIR ACT—BUSH ADMINISTRATION DELAYS

Mr. BAUCUS. Mr. President, I want to bring my colleague's attention to what has become of the most significant environmental legislation to pass this body in some time.

There is a lot of talk these days about logjams in Washington, that very little actually gets done here, and a great deal of the criticism is coming from the White House. The President is campaigning on this issue, blaming Congress for being a barrier to progress.

I would like to ask the President, Mr. President, what happened to the Clean Air Act?

In 1988, then Vice President Bush promised to be the environmental President. In 1990, he signed the Clean Air Act into law, which he is touting as the most significant environmental achievement of his administration.

But now in 1992, the White House is stalling on the enforcement of the new Clean Air Act regulations, and actually helping industry avoid reducing emissions of air pollutants.

Mr. President, this may be a standard political flip-flop. But as far as the environment is concerned, it is just a plain flop.

Only 4 days before the Michigan primary, the President announced two proposals that were avidly sought by Detroit auto executives. Both these regulations are of questionable air quality benefit. Neither is required by the Clean Air Act, and in fact, one of them actually violates the act.

These proposals were approved by the administration only 2 days after the Environmental Protection Agency had sent them to the White House for review.

Meanwhile, 10 other critical Clean Air Act regulations have been languishing for months at the White House. These include important steps that will help to create a cleaner and safer environment for all Americans. But they are going nowhere at the moment.

For example, the Bush administration is delaying setting emissions standards for toxic air pollutants that cause cancer, birth defects, and other problems. This is a serious breach of George Bush's promise to the American people. The delay could have serious effects on the public's health, the environment, and even jobs.

Let me explain. In the 22 years since the Clean Air Act was first passed, EPA has regulated only seven toxic chemicals. To correct that situation, the Clean Air Act specified 189 other toxic chemicals the agency should set standards for.

EPA finished its regulation covering most of them 2½ months ago. They sent it to the White House and nothing has been heard of it since.

These organic chemical regulations would control over 1 billion pounds per year of toxic air emissions, or about one-third of the total amount expected to be controlled by the Clean Air Act. This means fewer cases of cancer, fewer health problems for those living near chemical plants, and lower health care costs for those affected Americans.

And in addition to the health benefits, these emission control regulations, if they were ever promulgated, would have economic benefits as well.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

According to a draft study prepared for EPA, full implementation of the air toxics provisions of the Clean Air Act would generate between 1.1 and 1.4 billion dollars' worth of revenue annually for pollution control companies between 1992 and 1995. And even more thereafter.

So while the industry would be spending money to comply with the law's public health requirements, it also would be creating new, good paying jobs for those who design and build pollution control equipment.

Another example of White House backtracking involves the requirement for cleaner fuel, known as reformulated gasoline to be sold in our Nation's most polluted cities.

The reformulated gasoline regulations were prepared as part of a new process called regulatory negotiation, in which representatives from the affected industries, States, and environmental groups all participated.

Even though all these participants signed an agreement on the production of cleaner gasoline, the administration still has not released the regulations. They have been sitting at the White House now for over 3 months.

Other regulations affecting the auto industry also have been delayed for months, including new operating permit rules, which are the key to effectively enforcing the Clean Air Act.

Similarly, EPA's guidance to States on how to meet air quality standards on time has also been stalled by the White House for months. Without this guidance, many States and cities will be left in the dark when it comes to writing their State implementation plans.

Also, industries in those States will now know what is expected of them and may not have sufficient leadtime within the deadlines provided in the act.

Mr. President, there is a clear pattern to me. Rules that implement the pollution control requirements in the act are being stalled, weakened, and quashed, while rules that provide exemptions, waivers, or bailouts move quickly.

These actions are reminiscent of the Reagan-Bush administration's repeated efforts to deregulate America.

The effect is that millions of families across America will face a greater risk of disease and higher health care costs because industry will not control its emissions of toxic chemicals and other pollutants.

And the businesses of the future—those that control pollution—could languish. Their jobs will not be created. America will lose its economic edge in pollution control technology.

Already, Japan and Germany are aggressively pursuing pollution control opportunities. If they succeed while we lag behind, developing nations in Eastern Europe, Africa, and beyond will buy Japanese, not American products. Countries facing public health and environmental problems will contact firms in Germany, not the United States. We can retain our leadership only by pressing ahead at home.

By turning our back on the future, we are repeating the mistakes of the past.

I could go on, Mr. President. But I wanted to thank my colleague from Minnesota for generously yielding his time. I have a lot more to say about this subject. The long and short of it is we have an opportunity to implement the act; we have an opportunity to develop the pollution control technologies for ourselves and to ship overseas. Otherwise, developing countries are going to buy them from Japan; they will buy them from Germany. That very, very much hurts America.

In summation, Mr. President, I just ask the President to live up to his promise to be the environmental President and set the White House regulatory review in motion so these regulations are put in place.

The Clean Air Act is now being dissected and diluted by a President who is breaking his promise to the American people. The result is that the public suffers while the President plays to short-term, nearsighted industry executives.

If the President is really serious about his promise of cleaner air for all Americans, he should get his administration to work on those parts of the Clean Air Act that really matter.

But if he wants to play Presidential primary politics instead, then the American people will have the right to hold President Bush accountable for promising one thing and delivering another.

I yield the floor.

Mr. DURENBERGER addressed the Chair.

The PRESIDENT pro tempore. The Senator from Montana yields back 7 seconds.

Mr. DURENBERGER. Mr. President, I thank my colleague from Montana for his statement. I will say, before he leaves the floor, two things. First, I compliment him for the leadership on the Clean Air Act. There would not have been one without him. Second, I made a very similar speech from this side of the aisle Friday night, and I asked the President the same question. I have not heard from him yet. I must say that I do not know that I will. I characterize what the President announced as "betrayal." He came out on June 21, 1989, and asked us to pass the Clean Air Act; helped us to bring both sides of this aisle together in the room right over here.

With the leadership of the Senator from Montana and the majority leader—and a lot of others—we did all our compromising. I remember that the President pro tempore was a major participant and won a major battle. This is the way the process works. You reach for a compromise and, if you cannot get it, you have the battle and conclude it, and you do not expect that a year later someone, somewhere, in the middle of a political campaign is going to undo years and years of work that it took to put that whole process together. What an example this is to the country, to have them do this. I hope the President was listening Friday night and, if he was not, I hope he is listening today.

Mr. BAUCUS. If the Senator will yield—I do not wish to take the Senator's time, but I want to thank the Senator for joining in making this point very strongly, because if more of us address ourselves to it, it is more likely we are going to get some results.

OMB DIRECTIVE ON WORKPLACE SAFETY

Mr. DURENBERGER. Mr. President, I want to express my strong concern about a story that appeared in the Washington Post this morning regarding workplace safety regulations that the Office of Management and Budget [OMB] allegedly has blocked.

Mr. President, there is a well-established procedure for finalizing administration regulations. The designated executive agency solicits information from the public on proposed regulations. Through the rulemaking procedures contained in the Administrative Procedures Act, the executive branch conducts a notice and comment process and publishes the proposed regulations in the Federal Register.

Before finalizing the regulations, however, OMB reviews the regulations to determine whether they are consistent with the President's program.

According to the Washington Post story, OMB has blocked new OSHA health standards that set permissible exposure limits [PEL's] for more than 1,000 substances in the construction, maritime and agriculture industries. These standards are supposed to protect workers from excessive exposure to dangerous workplace substances, and such standards were approved for other industries 4 years ago.

Mr. President, the Post story suggests a new approach to Federal regulation. The OMB theory is that because employers cannot pass the cost of additional Federal regulations on to consumers, employers must either lower wages or lower the number of workers they employ. Because higher paid workers take better care of themselves, lower wages, or increased unemployment, will lead to decreased health levels for American workers. What an incredible fantasy.

The Post article quotes OMB's acting director of information and regulatory affairs as stating:

> The positive effect of wealth on health has been established both theoretically and em-

> pirically. Richer workers on average buy more leisure time, more nutritious food, more preventive health care and smoke and drink less than poorer workers. Government regulations often have significant impact on the income and wealth of workers. * * * OSHA should estimate whether the possible effect of compliance costs on workers' health will outweigh the health improvements that may result from decreased exposure to the regulated substances.

OMB suggests that these OSHA regulations would cost employers $163 million, but every $7.5 million in regulatory expenditures results in an additional death from decreased employee income. OMB concluded that although the new permissible exposure limitation regulations might save 8 to 13 lives per year, the workers' lower standard of living might cause 22 deaths, the result being a net increase of 8 to 14 deaths each year.

Well, I have not been around here as long as many, but this is a whole new approach to implementing public policy. As I understand, the thrust of this new policy is that OMB has now directed the Occupational Safety and Health Administration and the Department of Labor to "compare the health effect of these income changes to the health benefits that OSHA attributes to reduced exposures."

Mr. President, I remain deeply concerned with the allegations contained in this Washington Post story. My office has contacted OMB and the Department of Labor to verify the information in that article, and until I can confirm that the administration has adopted this approach, I hesitate to criticize the new policy.

Nevertheless, Mr. President, I feel compelled at this time to state unequivocally for the record that I oppose this unusual approach to government regulation. When I was chief of staff for Minnesota Governor LeVander in the late 1960's, I helped to establish one of the first statewide OSHA programs. In Minnesota, we recognize the importance of workplace safety even before Congress passed the Occupational Safety and Health Act in 1970.

Since my involvement in the Governor's office with State based worker safety programs, I have consistently supported legislation that protects our workers from workplace hazards. The alleged OMB position turns back the clock on workplace safety, and that is simply unacceptable to this Senator.

The OMB approach, if true, would constitute flawed public policy. First, we owe it to our workers to guarantee them a safe environment to earn their living. Employees should not be asked to trade continued employment or current wages for workplace safety. The two are not exchangeable; to suggest the two are fungible is absurd. Government must mandate minimum acceptable standards for workplace safety, and it is unconscionable that we would sell out our workers in the name of trying to actually improve their job security.

We cannot sacrifice our workers' health and safety. Without standards for exposure to hazardous substances, we are asking our workers to assume the risk of danger in exchange for good money. Should adults be allowed to consent to inhale asbestos in shipyards because it would be cheaper to pay high wages than buy safety inhalation masks? I hope we have become a sufficiently civilized country that we would not place our workers in the position of having to be destroyed in their jobs in order to save themselves. That would be the Vietnam of the workplace.

Mr. President, I am deeply concerned that the alleged OMB policy is short-term thinking at its worst. Investment in safety pays big dividends to employers: through increased long-term productivity, decreased workers compensation costs, and lower health care premiums. Unfortunately, many businesses in this country has been slow to recognize the importance of this long-term investment in its work force.

Their short-term focus, the quarterly profit statement, is often not in their best interest nor in the interest of the country. And the U.S. Government has a responsibility to assure that corporate America does not simply focus on profit-loss ratios, because the long-term costs to our country can be enormous. Early prevention should be our touchstone.

In conclusion, Mr. President, I must state my concern with this new OMB policy, and, if true, urge the administration to reverse itself.

Mr. President, how much time is available?

Mr. METZENBAUM. Will the Senator from Minnesota yield?

The PRESIDENT pro tempore. The response to the Senator's request is that he has 3 minutes 55 seconds.

Mr. DURENBERGER. I have a limited amount of time available to me. If the Senator will abbreviate his question or comment.

Mr. METZENBAUM. I rise to commend the Senator from Minnesota for his astuteness in speaking out on this issue. We addressed the subject in the Labor Subcommittee this morning, and we will be sending a letter to the President, a number of the Members of this body. I hope the Senator from Minnesota will join us. I commend him for being alert and on the ball on this issue. I will speak more extensively to the subject later in the afternoon.

Mr. DURENBERGER. Mr. President, I am grateful to my colleagues.

Mr. President, I would like to speak on another subject.

The PRESIDENT pro tempore. The Senator from Minnesota is recognized.

Mr. DURENBERGER. I thank the Chair.

(The remarks of Mr. DURENBERGER pertaining to the introduction of S. 2360 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDENT pro tempore. The Senator from Alabama [Mr. HEFLIN] is recognized under the order for up to 10 minutes.

Mr. HEFLIN. I thank the Chair.

(The remarks of Mr. HEFLIN pertaining to the introduction of S. 2359 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

CARL ELLIOTT BOOK REVIEW

Mr. HEFLIN. Mr. President, the Birmingham News recently ran a book review of "The Cost of Courage: The Journey of an American Congressman," written by Carl Elliott, Sr. and Michael D'Orso. Many of my colleagues in both Houses remember former Alabama Congressman Carl Elliott, who served in the House of Representatives with distinction from 1949 until 1965.

While in Congress, Elliott served as chairman of the House Select Committee on Government Research and as a member of its powerful Rules Committee. He later was a candidate for Governor of Alabama, was active in the U.S. Department of Commerce, and practiced law until his retirement in 1986.

Carl Elliott served during the early social upheaval of the civil rights movement, a period when principled southern politicians faced internal crises of conscience over doing that which they knew to be right and just or doing what was then politically expedient. Elliott was one of those who ultimately did what was right and paid a heavy political price as a result. His autobiography describes the moral dilemmas he faced as a southern Congressman in the 1950's and 1960's and the consequences of his decisions in resolving those dilemmas. It is not necessarily an optimistic portrait, but it is one that contains lessons for all national leaders, particularly lawmakers who represent unique constituencies. I highly recommend it to my colleagues.

I ask unanimous consent that the Birmingham News book review of former Congressman Carl Elliott's new autobiography be printed in the RECORD.

There being no objection, the review was ordered to be printed in the RECORD, as follows:

[From the Birmingham News, Mar. 8, 1992]

FORMER U.S. REPRESENTATIVE ELLIOTT PAYS BIG PRICE FOR COURAGE

("The Cost of Courage: The Journey of an American Congressman," by Carl Elliott, Sr., and Michael D'Orso.)

It might have taken more courage than even Carl Elliott realized for him to write this autobiography.

The U.S. congressman from Jasper between 1948 and 1964 has reached political hero status on a reputation of having stood up for what he believes, even when it would get him knocked down.

Most notably, he tried futilely to keep the political debate in Alabama in 1966 off racial hatred and on economic advancement at a time when George Wallace built political invincibility out of promoting hatred.

But in pushing this point, the book also reveals that Elliott in fact didn't always stand up for his convictions. An underside slips into view: moments of sheer political timidity, others of calculatingly backing down purely to further his quest to keep his job.

Elliott recounts a day in May 1964 when he tried to kiss up to Wallace. Elliott lent Wallace his credibility by appearing with him on his failing presidential campaign trail.

"That was one of the lowest points of my life," Elliott writes. "Simply sitting on that stage, lending any kind of validity at all to George Wallace, made me realize how desperate I had become. It physically hurt."

Also, Elliott enjoys a reputation as a civil rights champion, and insists he always believed in equal rights for all people. Yet, he recounts how he voted against the landmark 1964 Civil Rights Act—and every other civil rights bill to come along—to help ensure his re-election to Congress.

He made that part of his "deal" with the Kennedy administration during its effort to "pack" the House Rules Committee in 1960. Elliott would get to sit on the powerful committee, and Kennedy would get a needed Southern supporter on it who would vote for all of Kennedy's reforms—except for any civil rights reforms.

"It was understood . . . that this would be the one area where I would have to vote the standard Southern position. And I did. . . . Mine was the key vote that killed a bill to create an urban affairs department" headed by a black man.

He even signed the "Southern Manifesto," a 1956 position statement by Southern politicians defending segregation as a cherished way of life for whites in response to *Brown v. Board of Education*.

"There were a select few southerners who refused to sign the thing . . . all had more political power and a stronger base than me—strong enough to stand against something like this and survive. I knew there was no way I would survive, and I hadn't achieved what I came to Congress to do."

Now he has second thoughts. "I'm proud of most of the things I did that hurt me politically—and I'm sorriest about some of the things that were supposed to help."

That said, more often than not, Elliott—known best for creating the 1958 law that launched cheap government loans and other federal efforts to open college to poorer people—displayed the conviction and courage found only in the best of people. No getting around that, even with the underside exposed.

Following his gritty, hustling, people-loving trail is a pleasure, from the backwoods of Franklin County as a child in the Great Depression to squatting in an abandoned building while scraping through the University of Alabama to the pinnacle moment when he received the first-ever John F. Kennedy Profile in Courage Award in 1990.

This book is loaded with humorous twists and chewy description—and enough behind-the-scenes gossip on several generations of some of Alabama's most prominent leaders—to earn Elliott another courage award, perhaps from Kitty Kelly.

There are drunken escapades starring former Gov. "Kissin' Big Jim" Folsom, hookers and bootleggers hired to campaign for Elliott by his opponent, and Rep. Tom Bevill's proverbial stab in Elliott's back by crossing over to join Wallace. There's even the time Elliott accidentally doused Lady Bird Johnson with a pitcher of water when he was a waiter in college.

Woven into his own story, Elliott draws a compelling and appropriately highly disturbing picture of this state's tortured, feudalistic history.

It contains more hatred (by others, not by Elliott, who claims he refused even to hate his nemesis Wallace), bigotry, violence and ignorance than the world ought ever to know.

It portrays more political ineptness, skulduggery, betrayal of the people and downright lawlessness and corruption by elected leaders than even the most cynical manipulator could imagine.

And, most disturbing of all, it provides little if any message of hope. Despite all the painful upheaval of the 1950s through now, it repeats again and again its theme that little has been resolved.

Good guys seem to finish last in this book, from the slaying of his heroes John and Robert Kennedy and Martin Luther King Jr. to the woeful, endless bankruptcy of the main hero himself, Elliott.

The bankruptcy is a lasting wound from Elliott's failed 1966 gubernatorial campaign against Lurleen Wallace, who surrogated for her husband. Elliott cashed in his congressional pension during that fight and still ended up $500,000 in debt.

In almost deadpan fashion, he points out how bankruptcy completes his life's cycle back to the poverty into which he was born. The upper-middle class Jasper home he owned at the height of his career, and now rents after its foreclosure, decays around him, slowly gaining some similarity to the log cabin he grew up in.

But that, too, took a certain courage to tell, didn't it?

Maybe optimism hinges on a postscript.

Elliott, 77, frail and confined to a wheelchair, has been broke for so long that surely most of his creditors have given up. But 26 years later, he still refuses to end the pain by filing for bankruptcy.

If enough copies of this book sold, Elliott might at least have the pleasure of paying off the debts, if not going his last few steps in comfort.

He certainly earned that much.—JOE NABBEFELD.

TRIBUTE TO MIKE RYLAND

Mr. HEFLIN. Mr. President, it is with a deep sense of regret that I rise today to pay tribute to Mike Ryland, the executive director of the Alabama Press Association [APA], who died on March 5, 1992, at the young age of 34. Although I had just met him last month at the Alabama Press Association meeting in Tuscaloosa, he impressed me as a friendly person who genuinely cared about the organization for which he worked. This same dedication and loyalty carried over to the individual newspapers and journalists that he represented throughout the State.

Mike once worked at the Atmore Advance for Bob Morrissette, the paper's former publisher and past president of the APA, who now runs my Mobile office. I know that Bob was extremely proud of Mike when he was named executive director of the organization last year.

During his years at the press association, Mike was always kind to my staff, particularly when they participated in the summer and winter conventions. They always informed me that he had made them feel welcome, encouraging them to take an active role in the APA.

Mike Ryland will be missed by so many people who knew and worked with him over the years. He was the kind of professional that the journalistic community was proud to call its own. I extend my sincerest condolences and best wishes to his wife Julie and their entire family.

TRIBUTE TO JOHN LEMLEY "LEM" MORRISON, SR.

Mr. HEFLIN. Mr. President, the young people of Alabama lost an old and dear friend on March 7 when John Lemley Morrison, founder of Greensboro's Dairyfresh Corp., died. Known simply as "Lem" throughout the State, Morrison was a long-time advocate of youth development in Alabama, especially in Mobile.

Lem Morrison was born in Greensboro, AL, and was a life-long resident there, but Mobile was his second home. He had been an influential figure in the Port City, serving as president of the Allied Arts Council of Metropolitan Mobile and vice president of the Mobile Area Chamber of Commerce in the 1970's. Dairyfresh, which now covers six Southeastern States, was begun during the postwar 1940's when Morrison purchased Dixie Dairies in Prichard, a suburb of Mobile. The renamed facility there is still considered the company's mother plant. He remained Dairyfresh's chairman of the board until his death at the age of 87.

As successful as Lem was in business, he devoted just as much of his energy to aiding the development of young children and young adults. For years, he would shun advertising for his company, using the funds instead of various youth organizations. He was instrumental in establishing the Pixie Players in Mobile and had served on the Mobile Advisory Council for the Boy Scouts. Probably his greatest interest, however, was in Alabama's 4-H Clubs.

Known affectionately as "Mr. 4-H," Lem was chairman of the Alabama 4-H Foundation from 1964 until his death. He was the one person primarily responsible for the construction of the 4-H facility on Lay Lake, near Clanton in the central part of the State. A close friend remarked that Lem Morrison was a philanthropist in the very best sense of the word. Indeed, he touched many young lives in a highly positive way.

Lem served in the National Guard during World War II, advancing to the rank of lieutenant colonel. After the war, he took $40, according to friends, and started his dairy business. A short time ago, Lem was named to the Cattlemen's Hall of Fame. He has always been held in high esteem at Auburn University, which awarded him an honorary doctor of science degree in 1983. "Lem Morrison Drive" at Auburn is a living memorial to his work in the field of dairy agriculture.

Mr. President, our children and young people today face societal difficulties of a magnitude that Lem Morrison could never have imagined when he began working on their behalf several decades ago. He truly made a difference in their lives, and leaves behind a legacy we can look to when searching for answers to these problems. There is no doubt that Lem was one of the points of light that President Bush has so often referred to in the last few years.

I join all those who admired his work on behalf of Alabama's youth and dairy industry in commending his life, career, and many accomplishments. I extend my sincere condolences to Lem's wife Beatrice, son John, and daughter Lemuel, and wish them well.

The PRESIDENT pro tempore. The Senator from Ohio [Mr. METZENBAUM].

Mr. METZENBAUM. I thank the Chair.

HEALTH STANDARDS

Mr. METZENBAUM. Mr. President, I rise to address a most serious problem that was described this morning in the Washington Post. According to that newspaper, last week the Office of Management and Budget blocked the adoption of health standards for 6 million construction, maritime, and agricultural workers, and sent the proposed regulations back to the Labor Department. OMB says it rejected the proposed rules because adopting health regulations might result in more workers dying. How absurd can you get?

The headline in the Washington Post says it all: "OMB's Logic: Less Protection Saves Lives." What a ridiculous, and cynical, explanation.

This is just the latest in a long line of affronts to the American people by the administration. Let us review the President's record in protecting the safety and health of American workers. Even without this latest delay, OMB's role in OSHA's standard-setting process has been a long nightmare of obstruction. As a consequence, many OSHA standards have taken 10 years or more to be issued. During this time, by OSHA's own estimates, thousands of workers have died or been injured or been crippled by occupational disease because the Federal Government had done nothing to protect them.

For example, OSHA has been formally considering a confined spaces standard since 1975. This standard would protect workers from toxic gases when working in confined areas—such as storage tanks—without adequate ventilation. OMB has studied the standard a number of times, including one review that lasted 2½ years, from December 1986 to April 1989. Since the time OSHA began formal consideration, by its own estimates, 884 workers have died and another 59,000 have been injured in accidents that could have been prevented if the proposed standard were in place. And 17 years later—yes, I said 17 years—it still has not been adopted. What is worse, more than half of the health standards OSHA has issued during the Reagan and Bush administrations have been compelled by Congress or by a court because that was the only way to get the administration to do its job.

As if the administration's embarrassing record was not bad enough, in January the President called for a 90-day moratorium on all proposed regulations. He allowed an exemption for imminent safety and health risks without indicating whether that would cover any of the pending OSHA regulations. In fact by the Department of Labor's own estimates, suspending the regulatory agendas of OSHA and MSHA for 90 days would cost 293 lives and 1.3 million workplace injuries and illnesses.

I am pleased that the Senator from Montana saw it appropriate to speak to the fact that the President, on his own, did a political job, made a political move, a move intended to gain votes, by going up to Detroit yesterday and indicating he was suspending the standards with respect to automobile emissions.

Come on, now, Mr. President. You talk about a thousand points of light, but you are showing us only a thousand points of darkness day in and day out.

The Secretary of Labor says she will not do anything to endanger the health and safety of American workers. You can buy that if you want, but I do not. But she told her staff the moratorium review would involve "considerable staff time" and that her staff should conduct a review "even if other efforts have to be slowed."

Oh, we have to slow down these regulations, we have to slow down the protective measures for the workers of this country because the President does not want the 90-day delay.

Whether it is formalized or not, these efforts of the President and the Secretary of Labor will inevitably eat up precious resources and slow the regulatory process, and that means, plain and simple, that more American workers will die waiting for their Government to help them.

More than 7 months ago, we introduced OSHA reform legislation, but the administration still has not completed its review of the bill or taken a position. In these 7 months, an estimated 6,000 workers have died on the job in accidents and perhaps as many as 50,000 have died of occupational illnesses.

Where is the compassion, Mr. President, where is that kindness that you spoke about when you talked about the thousand points of light?

And now, after the failure to do anything for so many months—so many years, in some instances—OMB has rejected health protections for 6 million construction, maritime, and agriculture workers, telling the Labor Department that it has to consider whether adopting these regulations will result in more workers dying because of the added regulatory cost. OMB's theory, as I understand it, is that added regulatory costs result in lower wages and fewer jobs, which might have a negative impact on workers' health. So OMB's bottom line is, as the Washington Post put it, "less protection saves lives."

This latest directive is an insult to the American people. It is an insult to every working man and woman in this country. Just this morning, at a hearing on the OSHA reform bill, one of my constituents told the Labor Subcommittee how her father, Linus Kriener, an employee of the city of Madeira, OH, died in a trenching accident less than 2 weeks ago. Although OSHA has trenching regulations that clearly would have prevented this tragedy, they do not apply to 8 million public sector workers like Mr. Kriener. As a result, no safety precautions were taken, the 10-foot-high walls of the trench collapsed, and Mr. Kriener was buried alive.

President Bush, do you really want to tell Mr. Kriener's family that less protection saves lives? Is that truly your message, Mr. President? Are you really saying, when you delay pollution controls up in Detroit, that that is good for the American people? Or are you playing some kind of a political game with the American people?

I intend to send a letter to the President today requesting that he take whatever action is necessary to ensure the release and publication of these proposed regulations as soon as possible.

I say to all of my colleagues, the letter has plenty of space on it for your signature to be added. I extend to you an invitation to join me in signing that letter.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. ADAMS). The Senator yields the floor.

The Senator from California [Mr. CRANSTON] is recognized for 10 minutes.

ROE VERSUS WADE: PROTECTING FREEDOM OF CHOICE

Mr. CRANSTON. Mr. President, on January 21, 1992, the Supreme Court announced that it would hear arguments in a Pennsylvania case in which the United States Court of Appeals for the Third Circuit held that Roe versus Wade was no longer the law of the land.

On March 6, I and nearly 150 Members of Congress joined in an amicus curiae brief filed before the Supreme Court urging the Court reaffirm, rather than reject, Roe versus Wade. The oral arguments in this case have been scheduled for April 22, very soon. A decision may be handed down by early July. Although I certainly hope that the Court will not use this opportunity to undermine further Roe versus Wade, I am not sanguine about the prospects. Both President Reagan and President Bush campaigned for the White House on a platform aimed at placing on the Supreme Court, and throughout the Federal court system, judges who could be counted on to overturn Roe versus Wade. By every indication, they have succeeded.

Mr. President, if the Court does carry out the Reagan-Bush agenda of stripping away from American women—whether all at once or bit-by-bit—the right to freedom of choice, the responsibility to protect and secure this right will shift to the legislative branch. The Congress of the United States will be called upon to enact legislation which will restrict individual States from interfering with the freedom of a woman to choose to terminate a pregnancy.

I have introduced legislation, S. 25, the Freedom of Choice Act, to accomplish this purpose. In the weeks ahead, I intend to speak on the Senate floor about the vital urgency of enacting the Freedom of Choice Act if Roe continues to be eroded or overturned.

This debate should begin with a very thorough understanding of what will happen in this country if the protections provided under Roe versus Wade are eliminated.

In those States where abortion is outlawed or restricted, women will still have abortions. What they will not have is access to safe and legal abortions. To see what is at stake, we need only look back to the era which preceded Roe.

When abortion was illegal, illegal abortions were an epidemic. Thousands of women died at the hands of back alley butchers or from self-induced abortions. Some of the most powerful testimony in support of the Freedom of Choice Act has come from physicians who know firsthand what will happen if abortion is made illegal.

Dr. William Peterson, the director of obstetrics and gynecology of the Washington Hospital Center described at a March 4 hearing on the Freedom of Choice Act his own experiences in the years before Roe. Dr. Peterson testified:

> I've been a physician for over 45 years * * * I have seen firsthand the horrors of illegal abortions that were performed without proper medical precautions or care. I know of women who were blindfolded and alone, moved by total strangers from place to place before they were brought to a secret place where the abortion was performed and then left on a street corner to find their way home.

Mr. President, in the years before Roe, virtually every major municipal hospital in this country had a septic abortion ward—a ward filled with women recovering from infections and aftermath of illegal abortions. A Texas physician, Dr. Robert Prince, who recently spoke at public forum in Dallas on the Freedom of Choice Act, described how early in his medical career he would see at least one case a night of a woman suffering from a botched illegal abortion.

If Roe is overturned, some States will outlaw abortion. Others will not. Some women will find ways to travel across State lines to communities where women still retain the right to have a safe and legal abortion. But many women will lack the resources or the ability to make these journeys. They will become the prey of the unlicensed, untrained, and unsavory opportunists or they will resort to self-induced abortions. The coathangers and knitting needles which had become ancient history will return, with tragic consequences.

Access to safe and legal abortion, like other basic civil rights, is a right which must be available to all women, regardless of the State in which they happen to live. With the demise of the constitutional protections provided under the Roe decision, Congress must establish Federal, statutory protections for all women who must face these very difficult, personal decisions. Enactment of the Freedom of Choice Act will provide those protections.

LEAKS

Mr. CRANSTON. Mr. President, the Senate investigation of the leaks in the Hill-Thomas sexual harassment matter is getting out of hand. Special Counsel Peter E. Fleming should be reined in.

I voted for the Senate resolution authorizing the investigation—despite deep misgivings.

I myself am a former newsman. I strongly support the right of reporters and editors to protect the confidentiality of their sources lest these sources dry up and the public is deprived of information it should have.

This is not merely a matter of press privilege. It goes to the very heart of the first amendment and the people's right to know what is going on in their Government.

As a matter of fact, during the Nixon administration I attempted to draft a so-called shield law that would have prohibited the Government from subpoenaing members of the press and badgering them into violating their pledge of confidentiality.

I abandoned that effort when I was persuaded that it would be best to continue to base press rights on the rock of the Constitution rather than on a piece of legislation that could be altered on a political whim.

I voted for the Senate resolution on the Hill-Thomas leaks because it also called for an investigation of certain leaks—most of them very, very, inaccurate—from the Ethics Committee. These leaks clearly were motivated not by any real concern for the public good but only by political and personal purposes and, perhaps, malice.

I was the main target of those leaks.

It was only natural that I wanted to see publicly exposed whoever it might be who was willing to violate committee rules, and the rules of common decency and fair play.

It was he or she I was after, not some reporter who was simply doing his or her job. I had not counted on Paul Rodriguez of the Washington Times being subpoenaed and grilled.

I sent word to Paul to stick to his guns, that he should stand by his constitutional rights and refuse to disclose his source even under threat of a contempt citation. He did so on his own, without needing my advice.

I was similarly disturbed when Nina Totenberg of National Public Radio and Timothy Phelps of Newsday were subpoenaed in connection with leaks from the Judiciary Committee in connection with the Anita Hill affair. I commend them for their courage in standing up to Mr. Fleming's attempts at intimidation.

But now Mr. Fleming has gone even beyond that outrage. He has taken steps to subpoena the home telephone records of Ms. Totenberg and Mr. Phelps, as well as information on calls made from their news organizations.

The investigation has degenerated into an unjustified criminal probe. No crime has been committeed, but Mr. Fleming is doing violence to the Constitution.

As CBS anchorman Dan Rather said at the National Press Club yesterday, "A process has been set in motion that leads from one first amendment violation to another, like falling dominos."

There is something about being a Senate special counsel that seems to go to a lawyer's head.

Mr. Fleming should be told to cool it.

If he does not, I urge the Senate Rules Committee to do so by rejecting his requests for subpoenas for the telephone records of reporters and their news organizations.

REARRANGING THE TAX TABLES ON THE TITANIC

Mr. CRAIG. Mr. President, reasonable persons can disagree on policy, priorities, and legislative approaches. Sometimes, however, reasonable persons of generally differing viewpoints can find themselves in agreement on significant matters. That is true of the editorial position of the Washington Post and the 47 Senators who voted last week against the tax shuffle bill, H.R. 4210.

I would like to commend to the Senate's attention to yesterday's Post editorial on the tax bill, and ask unanimous consent that the text of the editorial be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. CRAIG. The Post called the tax bill, a bad play to an empty theater. That characterization was too kind; passage of this bill was more like rearranging the tax tables on the *Titanic*. Last week's tax bill was an exercise in moving tax dollars around from one pocket to another, to another, and back again, in hopes of diverting the taxpayers' attention from the fact that they and the economy are getting a kick in the pants.

That assault on the health of the economy is not coming from undertaxation, spending restraint, or too little Government. While it does come from many sources, the principal, and growing, source of our current economic malaise is a spiraling public debt. And the fiscal history of the Federal Government demonstrates clearly the source of that debt is the growth in spending within the Government itself.

We often rhetorically luxuriate in Federal budget numbers. We love to play the numbers game because I think most people in Washington recognize few can understand it when we do it. It sounds something like this, Mr. President. You know, the marquee on McDonald's hamburger stand that says: "billions and billions." Well, let us say billions and billions collected in taxes, billions and billions more spent, into trillions of debt.

Did anybody really understand what I said? It is a cliche, and true, to say that the meaning of those figures is lost simply in their magnitude. We do not know what we are talking about anymore and the American people cannot even begin to track us or understand it. But it is possible to make sense out of these figures if we work at putting them into clear perspective.

In constant dollars, adjusted for inflation, this year, the Federal Government will spend about 40 percent more than in fiscal year 1981. Let us pause for a second and reconsider that figure: After more than a decade, we are told by many on the other side of the aisle and in the press, of the slashing of programs and bone crunching belt tightening efforts of the Federal Government. Yet it is 40 percent bigger, spends 40 percent more on goods, services, and transfer payments.

And on the revenue side? After that same decade of supposedly slashing taxes and enacting revenue giveaways, in constant dollars, in purchasing power drained from the pockets and purses of the American taxpayer, the Federal Government takes about 18 percent more of the money away from the private sector.

In other words, 18 percent more out of the pocketbook of the taxpayer. Today in real terms, the Federal spending machine is about twice as big as it was in 1970—at the climax of the guns and butter era of the sixties—and collects 50 percent more in taxes. Except for fiscal 1969, the year of the Vietnam surtax, the last year our budget was balanced was in 1960. Today, in inflation adjusted dollars in real terms, the Federal Government spends three times as much and takes in about twice as much.

Before any one of my colleagues comes running to the floor to decry those figures as masking over the huge defense buildup of the 1980's versus the slash and burn attack on domestic program, let me anticipate it and respond to those arguments in a similar fashion. In real terms, in real dollars that everybody can agree on, domestic discretionary spending has remained virtually unchanged since the last Carter budget in fiscal 1981.

After all the hue and cry about the budget meat ax of the eighties, we only really froze the purchasing power of discretionary domestic spending. However, then and now, the Federal Government spent and is spending about 50 percent more on these programs than in 1970 and 2½ times as much as 1962.

In entitlements, again in terms of constant dollars, real dollars today, we are spending about a third more than 11 years ago. Again, so much for the effectiveness of those entitlement cuts which we have all agonized over. It did not happen, Mr. President. We only say it did. We are now spending 2¾ as much as we did in 1970, and we are spending more than four real entitlement dollars for every one we spent in 1962. Those are the facts and they cannot be disputed.

The worst news, of course, comes with regard to the interest payments we are now having to make on that great public debt. Because of those spending increases I have just cited, because of the crushing debt that we have discussed for the last good number of weeks, real spending to serve the debt has doubled in 11 years—almost quadrupled since 1970 and increased more than 5½ times in 30 years, and that is a tragic, tragic number.

Commonly, we have made these arguments by comparing the growth of Government with the growth of the economy. The same general trends will show up in that analysis. After all, the Government has been growing faster than the economy, but I believe we focused too little on that type of constant dollar analysis of the budget trends. After all, there is nothing that gives the Federal Government an entitlement to grow at the same rate as the economy as a whole.

A constant dollar analysis of Federal spending trends allows us to compare apples with apples and ask quite simply: Is the Federal Government doing twice as much good for the American people as it did in 1970? Are the people getting three times as much service, compassion, and good stewardship out of their Government as they did 30 years ago?

Taking the long-term perspective, we can see readily that the burgeoning growth of Federal spending and indebtedness is not a partisan problem, not in the short run and certainly not in the long run. It is simply a problem of collectively being able to stop our spending appetite.

Last week, however, we did have the opportunity to take one small step in that direction and because of the pent up partisanship on this floor and collectively in the Congress itself, we opted not to do it. Instead, we took the option of shuffling the tax, playing the fiddle while the economy burned and we did that because of partisan politics. We did not reverse any trend. That is an opportunity we had and that my colleagues were offered with the Kasten amendment to the tax bill.

We could have paid for the tax cuts in H.R. 4210 with some spending restraints and done so for the good of everyone and especially for the working men and women who are now not working because of an economy that has placed them out of work. However, as the Post editorial notes and the Post points out that my friends on the other side of the aisle fully realize this, Mr. President, as well, we will have another opportunity, I hope, down the road to take a bite out of the apples that we are trying to compare at this moment.

Let us take that opportunity in the coming weeks to examine our fiscal past and our future in a long-term perspective that recognizes that debt overhang on this economy will do nothing but strangle it. While the rest of the world's economies emerge as growing and dynamic, we will find ours staggering, not producing the kind of job creation that we so vitally need to put our people back to work.

That kind of job creation will only come when we recognize tax policy that reduces the burden on the average taxpayer in this country, recognizes the value of investment, untaxed investment that will generally create jobs and return us to a productive economy. I ask that we recognize that in the coming months, if not for the sake of ourselves, for the sake of our young people's future and the future of this Nation and the economy.

EXHIBIT 1

[From the Washington Post, Mar. 16, 1992]

* * * AND THE IMPOSSIBLE

The tax bill is a bad play to an empty theater. If you wonder why the president and both parties in Congress enjoy so little public esteem, here is part of the explanation. The bill that the Senate held its nose long enough to pass last week 50 to 47 is one that hardly any senator believes in. It's a political gesture; almost everything about it is fake or wrong—and that's true of the rival proposals as well.

In the short run the Senate measure wouldn't stimulate the weak economy because it can't without breaking the budget rules and adding to a crippling deficit already much too large. In the long run, however, it would break the rules, or their spirit. It contains a huge backloaded gift to the better-off in the form of a new stream of tax-exempt investment income whose affordable effects have been carefully put beyond the five-year estimating period to which the budget strictures apply.

That's contradiction No. 1; No. 2 is that this new kind of IRA, or Individual Retirement Account, would also eventually vitiate the other supposed virtue of the bill, its progressive distributional effect in raising taxes on the rich to pay for a credit for the middle class. The measure would carelessly undo some aspects of tax reform as well.

The bill now goes to conference with the House, whose Democrats, with equal lack of enthusiasm or conviction, passed similarly self-contradictory legislation last month. The only serious difference is that, instead of the new IRA, the backloaded House giveaway is a capital gains tax cut that would be about as regressively generous and useless as the one for which the Democrats have indignantly castigated the president for the last three years. Who's on which side?

The third act in the set piece will be for the president to veto whatever the Democrats send him. That's the right result, but it, too, will be perversely reached; he'll do it for the wrong reasons. The tax increases to which he so objects on the rich are arguably the two bills' most defensible features, on fiscal and distributional grounds alike. The government needs the money (though for other things more than a tax cut for the middle class), and the increase standing alone would help restore the tax system's lost progressive edge.

The problem for both parties is the same. They have no money; they spent it all in the '90s. The deficit is now $400 billion a year, the debt has quadrupled to $4 trillion in the 12 short years of Reagan-Bush, and interest on the debt is a seventh of the budget, leaving that much less for everything else. These inheritors have no maneuvering room, whether it be to stimulate the economy, or come to the aid of U.S. states and cities or do the same for the former Soviet republics. They have mortgaged the ability to govern.

Tax cuts even if financed make little sense in such a setting, much less cuts financed as these and the president's both would be in part by technicolor accounting. The faster Congress removes itself and the president from temptation and adjourns in this election year, the greater the favor it will be doing the country. The risk of bad legislation from this session is much greater than the likelihood of any good. Go home.

The PRESIDING OFFICER. Who seeks recognition?

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

CORRECTING ENGROSSMENT OF H.R. 4210

Mr. DODD. Mr. President, I ask unanimous consent on behalf of the majority leader that in the engrossment of H.R. 4210, amendment No. 1733 be corrected by inserting page 6, which was inadvertently omitted which I now send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Mr. President, may I inquire what is the business before the Senate?

The PRESIDING OFFICER. The Senate is in morning business.

SEMIANNUAL REPORT OF THE FEDERAL RESERVE ON CREDIT CARD INTEREST RATES

Mr. DODD. Mr. President, yesterday the Federal Reserve issued its semiannual report on bank credit card plans, and I want to take a couple of minutes, if I can, to discuss that report. It contains both good and bad news for American consumers.

First of all, some bad news for consumers is contained in that report. Once again we find, Mr. President, that the largest issuers of MasterCards and Visa cards continue to offer new cardholders unduly high annual percentage rates with 6 of the top 10 issuers of these credit cards offering rates of 19.8 percent or higher and only 2 of those 10 offering a rate below 16 percent.

Moreover, Mr. President, according to the Nilson Report, 73 percent of all bank cardholders are still paying more than 17.99 percent on their balances.

Mr. President, I understand that credit card loans, and I think we all do, are not like other loans. They have higher acquisition and processing costs, as well as higher losses than other loans. So they figure to be more costly than mortgage or installment loans. I think we all appreciate that. But, Mr. President, with five drops in the Fed discount rate during 1991, credit card rates simply should not be this much more expensive than other loans.

Some have suggested that banks are simply making up on credit card loans what they are losing in other areas of lending, and I think those accusations are true. While there is nothing wrong with banks making profits, obviously they need to, a basic tenet of our free market system is that a competitive marketplace does not permit businesses to make higher profits in one area to offset losses in another.

At the same time, Mr. President, there is good news contained in this report, and I would like to get to that, if I could. This good news is that more banks are offering lower rates, few in the top 10, but when you get below the top 10, you find that banks are responding with some lower rates with many offering variable rates tied to the prime rate plus a margin, and I commend those banks for taking those steps.

Thus, as of April 1, AT&T Universal, the third largest bank card issuer, will be offering new customers and consumers a 15.4-percent APR. In addition, there continue to be a number of smaller banks, Mr. President, that offer better deals for creditworthy customers. In this regard, I was pleased to note that People's Bank of Bridgeport, CT, offers one of the lowest APR's in the country. As of March 1, its rate will be 11.5 percent, with a $25 annual fee and a 25-day grace period.

Compare that, Mr. President, with the 19.8 percent of 6 of the 10 largest credit card issuers in the country. Consumers have a choice here, and part of the rationale for this report that comes out twice a year is to let people know that they can shop; that they do not have to do business with those credit card companies that offer the highest rates.

There is nothing that prohibits a consumer from the State of West Virginia—I see my colleague here, the distinguished President pro tempore, and the distinguished Presiding Officer—or from the State of Minnesota from coming to Connecticut to do business, and we would like them to do that. They ought to shop around the country and find out what the best rates are for them. At any rate, this particular bank in my State is one of many that is dropping the rates.

The question might be asked, Mr. President, how much of a difference will a lower APR mean to consumers. Obviously, the answer to that question depends upon the size of the balance one rolls over from month to month. However, it is instructive to look at the average bank credit card balance that is rolled over in a month, which is roughly $3,000. That is a figure that is derived from dividing the total credit card balances outstanding by the number of accounts that do not pay off balances monthly. That number, we are told, nationwide, is roughly $3,000.

If that is the average, the cost of carrying over a $3,000 balance for 1 year at 19.8 percent, which is what those six largest banks are offering, is $594. At 11.5 percent, which is, as I pointed out, the rate at the People's Bank in Bridgeport, CT, that drops to $345, or an annual savings of $249.

Now, that may not sound like a lot, but recently, during the tax debate around here, we were told that in the House bill middle-income taxpayers were going to save $200 if they were single filers.

Here, by just shopping, by just looking round the country, you do not have to wait for a tax bill. If you are a credit card holder who is a good risk and you have a $3,000 annual balance, which is the national average, by just shopping you can save yourself and your family $250 a year, just on the interest being charged.

Moreover, Mr. President, the bank in Connecticut, People's Bank, is not alone, as I said, on this list. There are many other banks that have low APR's. The lowest happens to be the Simmons First National Bank of Pine Bluff, AR, offering a variable rate of 8.5 percent, 8.5 percent at the Simmons First National Bank of Arkansas.

Again, compare that with 19.8 percent, those two choices that you can make.

Of course, the consumer has to examine more than a card's APR to get a good deal. For people who pay off their full balances each month, which according to the American Bankers Association is roughly 30 percent of those who use credit cards—they do not allow any interest to accumulate, unless, of course, some banks charge interest from the moment of purchase forward—but for those users, low or no annual fee and a reasonable grace period are more important than a low APR. So if you are shopping, do not just look at the annual percentage rates; see whether or not that credit card issuer charges you interest from the minute you buy the product or the service. If they do, and you pay off your monthly balance every month, then you may want to look to those credit card issuers that provide a grace period, as many do, that allow a 25- or 30-day period before any interest is charged.

What I am suggesting here, Mr. President, is that people need to be good shoppers, smart shoppers. You need not be doing business with a credit card company that charges excessively high rates. There are choices for people out there.

What this Fed report does, of course, is give consumers a fighting chance, in my view, to get a lower credit card cost. It does not guarantee that consumers will get a low-cost card. Obviously, the issuers of such cards are looking for highly creditworthy customers. But it does assure the customer who is willing to do his or her homework the ability to identify the best available credit card plans, simply and cheaply.

There is more good news for credit card customers. According to the Nilson Report, the weighted average APR for consumers had declined from 19.04 percent in 1987 to 18.43 percent in November 1991. Moreover, profits have declined in recent years from 3.08 percent of year end outstandings in 1989 to 2.59 percent in 1990.

Nevertheless, as I indicated earlier, 73 percent of bank credit card holders are still paying more than 17.99 percent on balances and, frankly, that is far too high. You need not be doing that any longer if you just shop wisely.

Mr. President, my point is a simple one. Thanks to this Fed information, which was mandated under the Fair Credit and Charge Card Disclosure Act of 1988, which I had the honor of authoring in this body, and the availability of private sector services that provide such information on an ongoing basis, consumers do not need to accept costly credit cards. They can choose instead to say they will not pay those high prices and they can switch to cheaper cards.

Such consumer action would be the simplest and most direct way to bring down credit card rates. If card issuers will not compete on the basis of price, then consumers can exercise their right and switch and make them bring down those prices.

Mr. President, I commend the report to all of the consumers across this country who would like to pay less interest than are presently, and I hope that the media across the country will do their readers a favor and publish in very prominent, and clear, available space the information contained in this Fed report. It would be an invaluable service to consumers everywhere.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

The PRESIDING OFFICER (Mr. WELLSTONE). The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

A LINE-ITEM VETO IN THE CONSTITUTION? "IT IS NOT THERE"

Mr. BYRD. Mr. President, on February 27, the Senate, by a vote of 44 yeas to 54 nays, defeated a motion to waive a budget act point of order made by the able senior Senator from Tennessee [Mr. SASSER] against an amendment cosponsored by Senators MCCAIN and COATS, of Arizona and Indiana, respectively. The amendment sought to "grant legislative line-item veto rescission authority to the President of the United States to reduce the Federal budget deficit."

I spoke at some length against the granting of item veto and enhanced rescissions authority to the President, but I anticipate that line-item veto proposals, in one form or another, will be introduced in the Congress in one House or the other from time to time in the future as they have for over a hundred years in the past. I, therefore, wish to make some additional comments on the subject, even though the Senate has disposed of the matter at least temporarily and for the time being.

The McCain-Coats amendment's purported objective—"to reduce the Federal budget deficit"—is a laudable one. I quote that from the amendment to reduce the Federal budget deficit. However, the amendment was directed solely at appropriations bills—"regular or supplemental appropriations act[s] or a joint resolution making continuing appropriations."

I deplore the budget deficits, but I submit that the amendment was aimed at the wrong target. Appropriation bills have not created the deficits.

The huge triple-digit, billion-dollar deficits first appeared during the early years of the first Reagan administration. They were brought on by the 1981 tax cut, the rapid military buildup, and the explosive growth in entitlement and mandatory programs; that is, backdoor spending.

These deficits, beginning with the first Ford years, are shown on the chart to my left. This chart indicates the beginning of the plague of triple-digit, billion-dollar deficits in 1981 and their continuance to the present day and beyond. During the 192 years prior to Mr. Reagan's assumption of the Presidency in 1981, there had never been a triple-digit, billion-dollar deficit.

So, on the chart to my left, beginning with the first Ford years—and I am speaking of a fiscal year in this sense—the deficit was $70 billion in fiscal year 1976; two digits, but not three digits.

The next year, fiscal year 1977; the deficit was $50 billion. In fiscal year 1978, the first of the Carter years, the deficit was $55 billion. And the next year, it was $38 billion. The next year, the deficit was $73 billion; the next year, the last fiscal year under president Carter, it was $74 billion. Thus, I have shown thus far on the chart, the 2 Ford years and the 4 Carter years.

Observers will note that up to and through the final fiscal year for which Mr. Carter was responsible, none of the deficits were triple-digit, billion-dollar deficits. They were double-digit deficits. But beginning with fiscal year 1982, the first fiscal year for which Mr. Reagan was responsible, we saw for the first time in the history of this country triple-digit, billion-dollar deficits. Beginning with fiscal year 1982, the deficit amounted to $120 billion. It was no longer a double-digit deficit. It was a triple-digit deficit.

In fiscal year 1983, the deficit was $208 billion; in fiscal year 1984, the deficit was $186 billion; in fiscal year 1985, the deficit was $222 billion; in fiscal year 1986, the deficit was $238 billion; in fiscal year 1987, the deficit was $169 billion; in fiscal year 1988, the deficit was $194 billion; in fiscal year 1989—the last fiscal year for which Mr. Reagan was responsible—the deficit was $206 billion.

I have just particularized the triple-digit deficits during the 8 years of the Reagan administration.

In fiscal year 1990, Mr. Bush—that was his first year of direct responsibiltions rider, and [then] veto selected "resolutions" within a bill at his discretion. If Congress plays the game of 'form and name' to subvert the President, then the President must likewise defend himself. This is the point of Clause 3."

Stockslager has nothing to do with the line-item veto. The only relevant part of the court's opinion is that a joint resolution is identical to a bill; each measure must pass both Houses of Congress and be presented to the President for his signature or veto. If he signs it, or if his veto is overridden, the joint resolution or bill becomes public law. If the President decides to exercise the veto power, he must veto the entire joint resolution or the entire bill. Nothing in the Court's decision suggests that the President is at liberty to rummage around inside a joint resolution or bill and strike out offending sections and provisions. Certainly it is a giant step for Glazier to argue, "by extension," that a President can determine that a bill contains "implicit" joint resolutions for each line item or appropriations rider, and then veto selected joint resolutions within the bill. That argument totally garbles the *Stockslager* decision.

More indicative of how the courts would rule if a President exercised the line-item veto are two decisions, one in 1972 and the other in 1988. With regard to the first, when President Nixon signed a military authorization bill in 1971 he said that one of the sections (the "Mansfield Amendment" dealing with Southeast Asia) did not represent the policy of his administration. He regarded the section as "without binding force or effect," thereby exercising item-veto power. A federal court in 1972 rejected his position: "No executive statement denying efficacy to the legislation could have either validity or effect." Nixon's statement, said the court, was "very unfortunate."[2]

The more recent case involved a bill that President Reagan signed into law on July 18, 1984. In his signing statement, he objected to certain provisions as unconstitutional and instructed the Attorney General to inform executive agencies how they should comply with the provisions. The Justice Department issued a memorandum declaring that the dispute provision were unconstitutional and should not be enforced by the agencies. Attorney General William French Smith notified Congress that the Justice Department had instructed agencies not to execute the provisions. A month later, an OMB Bulletin instructed all agencies to carry out the law as though the challenged provisions were not contained in the statute.

When Edwin Meese III became Attorney General, he announced that the executive branch would not comply with a district court order upholding the provisions, nor even possibly a court of appeals decision. The provisions singled out by President Reagan were upheld by the Third Circuit and the Ninth Circuit. When the Ninth Circuit decided the case in 1988, the court agreed to award attorneys' fees to the party challenging the administration's action. It did this because it found that the administration had acted in "bad faith" by intentionally refusing to abide by the provisions.[3] The court argued that President Reagan's choice when receiving the bill in 1984 was to sign it or veto it. He had no power to sign the bill into law and then fail to carry out certain contested provisions:

Article I, Section 7 does not empower the President to revise a bill, either before or after signing. It does not empower the President to employ a so-called "line item veto" and excise or sever provisions of a bill with which he disagrees. The only constitutionally prescribed means for the President to effectuate his objections to a bill is to veto it and to state those objections upon returning the bill to Congress. The "line item veto" does not exist in the federal Constitution, and the executive branch cannot bring a de facto "line item veto" into existence by promulgating orders to suspend parts of statutes which the President has signed into law.[4]

Glazier also insists that the line-item veto is justified because Congress as resorted to passing omnibus bills that erode the President's regular veto power by "bunching up" disparate provisions. In self-defense, Glazier argues, the President "can unbunch such bills by vetoing line items and riders." Under recent practice, Congress has dispensed with the passage of thirteen separate appropriations bills. Instead, it rolls them all into a single continuing resolution. Glazier concludes: "Obviously, today's line item is yesterday's bill, and the President can veto either." Implicit in Glazier's argument is the belief that the early Congresses passed separate bills for discreet subjects, thereby maximizing the President's veto power. A review of the early Congresses, however, shows this belief is incorrect.

Mr. BYRD. Madam President, I yield the floor. I thank Senator DOMENICI and others who have been patiently waiting to speak.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, let me first say to the distinguished chairman of the Appropriations Committee that whether one agrees with his arguments or not—obviously, I have not studied this one—I must congratulate him on the depth of the research, the eloquence of his thoughts, and the reasonableness of what he has laid before the Senate. It is always a privilege to follow Senator BYRD on the floor of the Senate.

Mr. BYRD. Madam President, I thank my distinguished friend, who possesses one of the brightest minds that I have ever known in my 34 years in the Senate. He is a fair man and is a thorough man who studies a matter. We do not always agree, but many times I think he may be right when we disagree. I thank him again for his comment.

THE ECONOMY IS IMPROVING

Mr. DOMENICI. Madam President, I would like to talk with the Senate today about three things: First, good economic news. Second, what seems to this Senator to be a logical course of action based upon the good economic news that we have. Third, I would like to discuss for a few moments today the premise that I first raised on the tax bill that we passed here last week. I don't believe that the tax bill is an economic growth bill or a jobs bill.

I raised the proposition that we weren't really taxing the wealthy, but rather that we were increasing the taxes on those who produce jobs. So my third point will be a discussion of economic growth, meaning more jobs, not more taxes.

But first, before I do that, let me share some good news since we in the Senate and the American people have been hearing so much bad news about the economy. Here are the details of the most recent assessments of the American economy for the month of February:

One, housing starts rose at 9.6-percent in February, following a good 6.4-percent rise the previous month. Housing usually has led America out of recessions. I see no reason why they will not this time. And those 2 months, back to back, are a very good start in moving America in the direction of more jobs, more employment, less unemployment, and more economic growth, rather than less.

Second, the industrial production index, which measures production, the activity in our factories—about one-fourth of the economy—rose at six-tenths of 1 percent in February, turning around the downward trend of recent months. That does not seem like a lot, but just preceding it was a negative 0.9, and now we have a positive 0.6. It will be adjusted later. I assume, from what we have been experiencing in the last couple of months, when we get the final statistics, they will be adjusted up rather than down.

The industrial production index normally is the forebearer of industrial growth and, generally, Madam President, does not go up and down like some of the other indicators. It is a rather stubborn index, and when it finally kicks its stubbornness, it usually is sustained good news.

Inflation remains low in February—three-tenths of 1 percent—for a modest 3½ percent annual, and then add to it last week's news, which was on the side of the consumer, and indicated that retail sales rose 1.3 percent in February and 2.1 in January. Those 2 months, back to back, are the strongest 2 months since 1985. That is a pretty good indication that we are moving in the right direction.

During that same period of time, as one might expect from these numbers, including the industrial production index rise, new jobs rose at 164,000 in February. This is about as good an increase as we have seen since before the recession began in 1990. Even though the unemployment rate went up slightly, even with the new industrial jobs, that, historically, is rather appropriate and does not negate the positives, but rather is there because the new industrial jobs are kicking in slowly, but they are, very assuredly. So I rise to say things are getting better.

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[2] *DeCosta v. Nixon*, 55 F.R.D. 145, 146 (E.D.N.Y. 1972).

[3] *Lear Siegler, Inc., Energy Products Div. v. Lehman*, 842 F.2d 1102, 1117–18 (9th Cir. 1988).

[4] *Id.* at 1124. For the actions in the Third Circuit, *see Ameron, Inc. v. Army Corps of Engineers*, 6076 F. Supp. 962 (D.C.N.J. 1985); *Ameron, Inc. v. U.S. Army Corps of Engineers*, 610F. Supp. 750 (D.C.N.J. 1985); *Ameron, Inc. v. U.S. Army Corps of Engineers*, 787 F. 2d 875 (3d Cir.); *Ameron, Inc. v. U.S. Army Corps of Engineers*, 809 F. 2d979 (3d Cir. 1986).

I will now address the issue which I am being asked about by my constituents and others: Why is the economy recovering when you have done nothing in Congress? Well, let me suggest that we have regularly, in the past, kidded ourselves into thinking that we fix the economy in the Congress. In fact, we have a lot of Members thinking that we do that. Suffice it to say that we have not done anything wrong, because we have not done anything at all to help the economy. There are a number of good thinkers who said even 4, 5, 6 months ago, if Congress does not enact a tax bill, the people of America win. So, thus far, that is the result.

From what I have just said, about the economy—industrial growth starting up, housing starts not only starting up but increasing at 9.6 percent following a 6-percent-plus growth the month before—it seems to this Senator that we ought to stop politicking. The Democratic tax increase is not going to become law. That bill does not mean more jobs, it means more taxes. Since that is the case, and since it is not going to become law, we should start over and pass the incentives that are right in line with what the economy is already doing.

Why do we not pass the $5,000 tax credit for first-time home buyers? You see, we need to keep that housing momentum going.

The industrial growth is going up a bit. We talked about that. Why not pass the 15-percent investment tax allowance? That is a very stimulative investment incentive, suggested by the President to go into effect right now to encourage businesses to invest in new equipment of all types. This would push that industrial growth up again.

Madam President, the other side came to the floor with their tax bill and said over and over that they wanted the same thing as the President, except—of course, the excepts were very big. Leave the "excepts" out, leave the tax increases out, leave the tax cuts out, and leave the capital gains out. Leave the special interest provisions out. Pass what I have just discussed, plus the penalty-free withdrawal from IRA's, which encourages home building. Pass the passive loss provisions, which help the real estate professionals to keep real estate off the rolls of bankruptcies and out of the RTC's portfolio. Passive loss reform would help stop the flooding of the real estate market. It would strengthen the banks. It would make more credit available. We should also enact a provision to allow pension funds to invest in real estate. This is a long-term way of letting real estate get more funding.

This is the outline of a five-part tax bill which we could pass here quickly. The President could sign it and we would add some additional momentum.

There is no way, Madam President, that anyone would say we would be harming the economy by passing that. Those who said it will be good if Congress does nothing because they are worried that what we do will be bad for the economy, none of those voices will lend themselves to that accusation if we will just pass those five measures.

Now they are easy to pay for in terms of neutrality. They require no new taxes, and we could tell the American people not only did we not do any harm, we did some good.

Having said that, I would like now to move and talk a bit about my third point for the day.

I want to tell the Senate about one of my constituents who will be paying the new 36-percent tax rate contained in the Senate Finance Committee bill. This new rate is advocated by almost all Democrats on that side of the aisle and their leadership. This friend of mine in New Mexico has a small business that is expanding. If this bill becomes law the expansion will be slowed down. Instead of expanding at the current rate, he and his partner will be paying higher taxes and delaying their investment and job creation.

My idea of economic growth is more jobs. The other party's idea of economic growth is more taxes. I stated it before on the floor; other Republican Senators stated it. We exchanged information. The Treasury Department with their economic models produced the statistics. Eighty-nine percent of the 36-percent rate increase that was supposed to be a rate increase for the very wealthy will be paid by people with small business income. These are the entrepreneurs who have created 80 percent of the new jobs in the last 10 years, and they will do it again or we will not have sustained economic growth.

The tax increase will be paid out of the working capital and retained earnings of small job-creating businesses like the one I am going to talk about. The real bottom line of the 36-percent tax rate for small business is that Congress thinks the Federal Government can spend their money better than the small business person can invest it. I honestly doubt it.

Now, I will tell you about this proposed rate increase and how it will affect this small business in my State. And if I am able each day until we finally have a veto and sustain that veto, I will tell you about how a rate increase is the wrong thing to do. Each day, I will bring the Senate an example of a small businessman or woman in New Mexico who is going to be adversely affected by the new taxes imposed.

Today I want to talk about this constituent, who is 73 years old and perfectly willing to pay his fair share. He thinks the 36-percent tax rate is a bad idea. He knows it will slow down his company's expansion.

Last year, he opened three new stores, one in the city of Gallup, NM, a part of my State with high employment. Gallup is near a Navajo Reservation with an Indian unemployment rate of 35 percent. My constituent, the businessman, provided 15 new jobs in that new store. Ten of those jobs went to Indians, and he is doing this without any Federal tax incentives.

He also opened a store in Colorado Springs, producing 20 new jobs. And one in Tucson, AZ, with 20 more jobs. He has a vision as an entrepreneur. He has a younger but experienced partner who, like himself, is committed to the business. He has a 3-year, a 5-year, and a 10-year plan. He now has 17 stores. The 10-year plan has a goal of 100 stores and 2,000 jobs. In the near future he is planning to open another store is Las Cruces, NM, three in California by the end of the year, absent a retroactive 16-percent new income tax rate imposed on him and his business, 16-percent increase in the taxes if that bill becomes law for this entrepreneur and businessman and his partner. Each store is at least 20 new jobs. My constituent just opened a new headquarters office building and warehouse in my home city of Albuquerque, and 25 people were hired to run that new headquarters and warehouse.

Mr. President, all of these jobs we are talking about are private sector jobs brought to the marketplace by the vitality and risk-taking of two businessmen. This expansion included the purchase of high-tech equipment that supported some more jobs; several construction crews worked on renovating the building, an empty food chain store, more jobs. It was a community eyesore. It cleaned up the community. The carpet company, sign firm, office furniture merchants, all benefited from this expansion, adding a few more jobs and more economic growth. The renovation will be the headquarters for a healthy business that we can be proud of in my State.

This constituent projects there will be 150 good jobs at the headquarters in the next 3 years. Let me quote: "We will provide another 150 jobs if the Government will just let us. That 36-percent tax rate will make it a lot harder. It will slow us down."

I say to my friend from Oregon, that is what we have been saying about new taxes on small business. They are saying to us: "That 36-percent rate will make it a lot harder. It will make us slow down rather than grow."

My constituent continued: "You take away the incentive to invest and grow if you raise the tax rate. It is tempting to say stand back and sock the money away instead. Why take the risk?"

He is not the Donald Trump of Albuquerque. He came there with nothing.

He has never participated in a tax shelter. He has worked for over 30 years in the western wear business. If you want shirts, boots, pants, belts, scarves, he is the best. If you want your hat blocked or steamed, it is the place to go. It is good quality, great price, fair price. Over the years his philosophy has been as it is with his new partner, invest and reinvest the profits back into the company and make it grow. Let the community share by creating jobs.

That has been the secret, growth and expansion had led to the success of this constituent of mine. It is not what he takes home that puts him in the 36-percent bracket, it is the share of retained earning in the business that puts him in that category.

Three hundred families depend on this man and his partner for their paychecks every month. But he is worried that if the 36-percent tax rate goes into effect on his business that he might be cash devastated because they are in the middle of this big expansion.

He said they will still expand but at a slower rate. Think about that statement. Think about that result. The 36-percent bracket will slow the small business down.

The objective of an economic growth bill should be to speed up economic growth. The slowing down instead of speeding up is one reason the Finance Committee tax bill is misdirected and should not become law.

My constituent and his partner are really entrepreneurs. I wish I had a thousand of them in my little State because his hard work and spirit creates good jobs. If people like him are around they make our economy strong. We should listen to them, and they say the 36-percent tax rate is a bad idea. It slows down growth instead of causing growth. Growth means jobs. Slower growth means less jobs. I will tell you about another similar constituent tomorrow.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Madam President, first I commend my colleague from New Mexico, Senator DOMENICI. He has given us a very clear and concise analysis of the economics of the moment, the impact of the proposed legislation on those economic trends.

Madam President, I have been in the Senate for a number of years in which I have listened to economic analysis time after time. But there is no one, in my opinion, who has a greater skill to bring to a layman's understanding complex economic forces, trends, and statistics.

I commend him for his clarity in enunciating such subject matter and for giving us additional hope and expectation that we are building toward an economic recovery.

JAPAN-BASHING

Mr. HATFIELD. Madam President, in this election year, there is a distinct unwillingness to enter into thoughtful discussions on foreign affairs. Witness our reluctance to pass a foreign aid authorization or appropriations bill. And specifically, witness the difficulties we face in gaining approval for two extremely important causes: The relief effort to aid the Commonwealth of Independent States and the United States support for U.N. peacekeeping initiatives worldwide.

I feel the American public wants stability in the post-cold-war era, but we in Congress have done precious little to explain how our foreign relationships can improve that stability. I fear that in a climate of isolationism we will lose the chance of a generation to break the cycle of arms peddling and war.

One disturbing outgrowth of this turn inward is the tolerance of Japan-bashing. Our Nation of immigrants, the melting pot of the world, is dangerously close to providing a license to hate. The rhetoric which has been rising over the past few months is harming the Japanese-American community within our Nation and threatening our country's economic stability.

Listen to the Chairman of the U.S. Civil Rights Commission who recently warned us that:

> Japan-bashing is on the rise across the Nation, and there are signs that racial animosities toward Japanese Americans and other United States residents who trace their origin to many different Asian lands are increasing as well.

The Chairman is warning us that continued Japan-bashing may result in hate crimes against United States citizens. It already has hurt some Girl Scouts in Los Angeles—through the cruel remark of the man who said he would only buy cookies from American girls. This uncalled for swipe at these young Americans of Japanese descent ignored the fact that the troop members are no less United States citizens than he.

No matter how concerned the people of the United States may be about the trade balance with Japan, about the recession today in our country, or how unfamiliar they may be about Asian customs, I refuse to believe that this Nation, the birthplace of freedom, is willing to sacrifice the dignity and pride of young Girl Scouts or any other Japanese-American. Yet today we find ourselves—we, the keepers of the Bill of Rights—on a slippery slope toward racism.

Whatever role other Senators decide to play in the trade debate with Japan, I am hopeful that they each will reject the current tone. I fear that if we in the Senate and within Government do not set the standard, those who are truly racist will insert their own agenda into the debate. Bigotry cannot be allowed to cloak itself in the name of saving jobs, no matter how complicated our relationship with Japan becomes.

Do not get me wrong: I am well aware of the anti-Americanism of some Japanese, as well. I, too, was discouraged to hear the remarks of the speaker of the Japanese Diet. His remarks were uncalled for, unfair, and most importantly, inaccurate. All I have to do is look around me to know that American workers are the best in the world.

In Oregon, they have proven this to be true at, of all places, Fujitsu America, where after only 2 years of production the American subsidiary of that Japanese company was outproducing its parent—using identical production facilities in Portland, OR.

But the honor of the American worker aside, it is a fact that our country cannot benefit from the current climate of suspicion and anger toward the Japanese. There is much to lose. If election-year politics and the frustration and pain caused by the economic recession force us into isolation, then we will have missed out on enormous opportunities for cooperation in the global economy.

I call for an end to the indiscriminate hostility not simply because I happen to represent a State which enjoys a good trading relationship with Japan. It is much deeper than that. I stand there today as someone who has seen the American relationship with Japan turn from bitter enemies to allies and business partners. I fought against the Japanese in World War II. I was in the Navy, the branch of our Armed Forces which took the brunt of Japanese aggression in Pearl Harbor and all over the Pacific. I fought at Iwo Jima and Okinawa. And I was at Hiroshima only 1 month after the bomb was dropped. I know what it is to hate an enemy.

But time should heal the wounds of war. After that terrible conflict, Japan was given the opportunity to rejoin the world community. Democracy was established at America's insistence and it has taken hold. Our military relationship with Japan is firmly in place. And our economies have become inextricably intertwined.

Certainly the trade and cultural relationship with Japan varies State to State, but I want everyone here to know about the special relationship between Oregon and Japan because I think it will help my colleagues understand my perspective on this issue.

The first sister city relationship between an American city and a Japanese city was established between Portland and Sapporo. Tokyo International University operates a campus adjacent to my alma mater, Willamette University, only two blocks from our State capitol. Oregon is home to the North Pacific Studies Center, to a renowned Japanese garden in Portland, and to a memorial on the waterfront to the Japanese-Americans who were imprisoned by our Government during World War II. Now we are building Japanese-American cultural center in Ontario, OR. This year Portland will host a week-long observance highlighting the trade and cultural ties between our two great nations.

Japan is a good customer of Oregon's. It is Oregon's largest trading partner, exporting almost 3 billion dollars' worth of goods to Japan last year. Included in that total are the thousands of Hondas built in the United States by American workers, for the Japanese market. International trade represents nearly one-fifth of my State's GNP. Those who promote protectionism will be in for a surprise when they find that many of us will not follow their lead. Oregon, for one, simply cannot afford to do so, and neither can this Nation.

The contribution of Japanese-Americans in my State is very strong. One family the Naitos, has almost single-handedly revitalized a section of Portland, making it into a thriving part of that city. The largest travel agency is run by Americans of Japanese descent. Many of them are Oregon's best farmers. They have names like Teramura, Ohtani, and Kino. And they have some of the largest and most productive farms in potato and onion country. I am proud to say they are Oregonians. They are Americans. They are successful and they are loyal. And according to the United States Civil Rights Commission, they or their relatives may soon find themselves facing the fallout of the effort to turn Japan into our enemy for the 1990's.

One hundred and twenty-three thousand Japanese-Americans became the victims of overzealous patriotism and suspicion during World War II. They were driven from their homes and forced into internment camps. They left my classroom as fellow students that I had grownup with, the Takayamas, the Watanabes, and the Tanakas, and I could go naming many others. Are we prepared to allow a climate of suspicion to again be created against our own citizens? I think not, I pray not.

When I was a young man, the markings "made in Japan" meant, more often than not, that you were looking at a product in the local five and dime store. And for those of this generation, there was such a time when we had five and dime stores. "Made in Japan" was stamped on inexpensive and simple items. Not anymore. The symbol "Made in Japan" now stands for superb workmanship and technological expertise.

Japan has reason to be proud of their industrial output. It is the result of single-minded pursuit of quality and success.

That single-mindedness has resulted in practices which some argue are unfair. President Bush has made that argument. Many of my Senate colleagues have made that argument. I agree with them. Japan has barriers to United States products and those barriers must be removed. The President's trip to Japan—which was blindly labeled a failure before anyone had a chance to read the resulting agreements—highlighted some of the problems the United States is experiencing with its exports to Japan.

But our relationship with Japan is not all bad news. Even though the United States trade deficit with Japan has leveled off at $40 billion dollars, United States exports to Japan are on the rise. Progress has been made on several fronts. Negotiations on foreign construction led to Japan allowing American firms to be eligible for government-financed projects. And the continuation of the structural impediments initiative may lead to changes which affect the very core of Japanese trading practices, including the tradition of keiretsu which encourages exclusive business practices.

Let us be honest: America's economic hardship was not created by Japan and it will not be solved by bashing Japan. Our trade with that country ought to be barrier-free. But even open markets will not guarantee prosperity. Look at the auto industry. The Big Three's problems are bigger than trade barriers alone. United States auto makers are challenged by an intensely competitive marketplace and by high overhead. It is in our interest to take a look at the way our Federal laws, guidelines, and requirements help or harm American business. Who is responsible for our competitiveness? Not the Japanese. Not the Germans. We are.

The world of trade is complicated. It requires resolve and deft maneuvering. It requires hard-bargained agreements. And sometimes it takes the threat of retaliation to get the point across. But name-calling and finger-pointing are hardly the tools of world-class traders. Carrying on about the Japan problem ignores our own problems. It is replacing leadership with scapegoating.

Leadership is looking beyond country of origin and recognizing that Japanese ownership of the Seattle Mariners means that the team would finally have an owner who holds a Washington State's driver's license. Leadership is studying he successes of the Ford Motor Co.-Mazda partnership, the Chrysler-Mitsubishi agreement, or the Textronix-Sony relationship in my own State, and finding out how they make it work. Leadership is recognizing that the United States benefits from a strong relationship with her trading partners, including Japan.

The days when America's interests could be furthered by hostile threat are over. There is no Commodore Perry to send sailing into Tokyo Harbor to open up Japan's markets all over again. Instead of verbal sabre-rattling we need to show muscle in the boardrooms. Negotiation of free and fair trade is the work of Government officials and business leaders, not bigots. Let us refrain from using rhetoric which confuses the two. Our economic health and our loyal Japanese-Americans are depending on us to cool the scorching remarks before it is too late.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

SENATOR HATFIELD IS RIGHT—STOP JAPAN BASHING

Mr. BOND. Madam President, we have just heard a very important and a very thought-provoking message from our distinguished colleague from Oregon. Sometimes when we speak in morning business, people tend not to listen. I hope that all 97 of our colleagues who are not here, will either have watched this or see this or read it, when they have a chance. I hope it will be carried in the media. I hope it will be reported as the views of leaders of the U.S. Senate.

I believe that Senator HATFIELD has very appropriately identified a very dangerous practice in the United States, and that is abusing, downgrading, denigrating American citizens because of their national origin.

I had wanted to say something, and I was going to say something later on. I am here on another matter. But I want to associate myself with the remarks that the Senator from Oregon has made because I think they are very important. We do have trade disputes. We have to fight hard to make sure we end unfair trade practices. But we cannot do that and we cannot be competitive by discriminating against Japanese-American Girl Scouts. That is not what this country is about.

Mr. HATFIELD. Thank you.

The PRESIDING OFFICER (Mr. ROCKEFELLER). The Senator from Missouri is recognized.

Mr. BOND. I thank the Chair.

(The remarks of Mr. BOND pertaining to the introduction of S. 2361 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BOND. Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRACTICAL PROTECTION OF SPECIES

Mr. GORTON. Mr. President, last week the State of Washington took a drastic measure that will have far-reaching adverse impacts on families, jobs, and rural and urban communities in eastern Washington. Absent any sort of deliberative process and without notice, the Washington State Department of Ecology announced last Friday that all water rights applications in the Columbia River basin filed after December 20, 1991, will be suspended indefinitely. December 20, 1991, is the day the Snake River sockeye salmon was listed as endangered. This action will delay decisions on new water rights for irrigation, public water supply, domestic use, industry and other uses.

I have several quarrels with this decision.

Since petitions to list salmon stocks in the Northwest as endangered or threatened were filed in the spring of 1990, regional organizations have made concerted efforts to develop programs which will lead to increasing the stocks at risk. I support these efforts and I firmly believe that regional organizations are most capable and best suited to develop a comprehensive, biologically sound, and economically realistic salmon recovery plan. If regional efforts are continued, I expect there is a reasonable possibility that a viable, sensible solution may be developed.

But the State's actions are wholly inconsistent with this process. The decision to take this action was made anywhere but in an open, deliberative environment in which consensus prevails.

Until the decision was announced, few even knew that the State intended to take this action. In fact, most State legislators, who had just completed their work during the legislative session and were still in the State capital, were unaware of this decision. Certainly, the people this action will impact most directly had no opportunity to comment until after the decision had been made.

This action does not set a good precedent for subsequent decisions involving the State, especially those decisions that the State can take unilaterally. I hope that communication with those affected by decisions of this magnitude will be better in the future.

Second, I do not believe that this action needed to be taken at all. Mr. President, the Endangered Species Act requires that fairly Draconian measures be taken to protect species under its ambit. The resulting impositions are often unreasonable. We do not need State governments unilaterally adding to those burdens by taking unnecessary steps to protect species.

No law or Federal action required the State to place a moratorium on water rights. The National Marine Fisheries Service did not ask for this action. In fact, I believe, NMFS has been reluctantly drawn into this debate as a result of the State's action.

Mr. President, minimum flows already have been established on both the Snake and Columbia Rivers. Any water right that has been issued since the establishment of those minimum flows is junior to the minimum flows on the rivers. As a condition of every new water contract, water rights can be reduced or curtailed if they violate in any way either of the rivers' minimum flow requirements. A moratorium on water rights, therefore, is not necessary.

Finally, Mr. President, this action may not have been required by the ESA, but it was no doubt taken by the State in fear of the ESA. It is strikingly similar to direct effects of the ESA. It is another example of a law, or in this case a Government decision, that fails to balance the interests of people in a decision to protect nonhuman species. This moratorium implies that the potential effect this action may have for fish is more important than the impact it will have on people.

Water turned much of eastern Washington from desert to productive land. With the passage of the Water Reclamation Act in 1902, the Government made a promise to provide surface water to settlers in the West. Yet this decision by the State implies that the west, and eastern Washington in particular, has received enough water, and that for now economic development must take a back seat to species protection. Now, the State says, it is time to protect a narrow strain of a geographically distinct stock of fish—at the expense of and to the exclusion of people, jobs, families, and communities.

It is difficult to estimate the impact of this decision. On its face, though, it will bring new development in the region to a halt. For farmers who hope to modify their water rights, or for the company that wants to expand into or relocate to eastern Washington, the Department of Ecology's decision mandates an indefinite wait. But how long, even the State does not know.

It is difficult to understand this decision, especially coming on the heels of the Draonian measures regarding timber harvesting that have been imposed throughout the Northwest and have driven many timber communities into a 1930's-like depression. The State did not need to take this action; it simply chose fish over people.

Everyone I listen to around the State supports reasonable efforts to save species from extinction. And in fact, I have supported the regional process, which, if successful, is likely to result in somewhat higher power costs, and some reduction in water for irrigation and transportation. But what I oppose and what many other people oppose is unreasonable and unnecessary steps to save species at all costs to the exclusion of any concern for jobs, families, and communities.

This year, the ESA expires and debate on reauthorizing the law will begin here in Congress. This is the time to change the law. I will work to amend the act to put the interests of people first, coupled with realistic and practical protection of species so that decisions like this one, that does not consider people, will not be made in the future.

THE DEATH OF MENACHEM BEGIN: A LIFE OF EXAMPLES FOR US ALL

Mr. PRESSLER. Mr. President, today I rise to mourn the passing of a man of honor and courage. A Nobel Laureate in Peace, some said he was "combative," others "brilliant." No matter if inclined to agree with his views or not, few disagree Menachem Begin was a talented and courageous leader of a very courageous nation.

It was my privilege to meet Mr. Begin several times over his years of public service, both here in Washington and in Israel. I found him to be a man dedicated to a cause from which he never wavered. He believed his survival was a metaphor for the survival of the Jewish people. He never deviated from his quest to protect the people of Israel, no matter what twists and turns history handed him.

His last wish was not to be eulogized at his death, and I will not. I only wish to use this man's life and accomplishments as an example of strength, courage, and unflinching dedication to principle for us all.

"I survived 10 wars, two World Wars, Soviet concentration camp, 5 years in the underground as a hunted man, and 26 years in the opposition in the parliament," Begin once said of himself. He truly was a survivor. His life encompassed the birth and maturation of the nation of Israel. As a leader of the movement for an Israeli homeland, Begin was branded as a terrorist. As a result, years after escaping the Nazis, he found himself imprisoned by the Soviet Union for his anti-Communist activities.

Begin was a leader in the fight for the independence of Israel. After winning the fight for Israeli independence, he served many years as a virtual political dissident, on the right wing of Israeli politics. Yet, despite the perceptions of his opponents, no one deserves more credit for making progress toward peace in the Middle East than Begin. Sometimes unpopular at home, Begin worked to cement the peace between his nation and Egypt, changing forever the course of affairs in the Middle East.

But aside from his many accomplishments, Begin is best remembered for the personal qualities he exhibited, qualities which make him a fine example to us all.

No matter what his opponents said of him, none could claim Begin ever compromised his principles. In all the years on the edges of Israeli politics, Begin never altered the tenets of his politics. Not even during the difficult 1977 election campaign did Begin steer the middle road by pandering to the opposition to garner votes. This unwavering dedication to party and ideals represents a challenge for political leaders today. Many would be well served to follow Mr. Begin's example.

A humorous man, Begin had the rare ability to use his wit to amuse, and to help foster an atmosphere conducive to dialog. His reputation as a hard-nosed negotiator ensured that the people of Israel carried through with their promise to withdraw from the Sinai peninsula and abided by the Camp David accords.

Some will never agree with the end or even the means to which Menachem Begin dedicated his life. However, no one can dispute the fact that Begin lived his public life in the manner inscribed on the facade of Union Station here on Capitol Hill: "Let all ends thou aimst be thy country's, thy God's and Truth's."

NATIONAL INDIAN AMERICAN CHAMBER OF COMMERCE

Mr. PRESSLER. Mr. President, I rise today to make my colleagues aware of an important new organization of business leaders, the National Indian American Chamber of Commerce [NIACC]. I am proud to serve as honorary chair of the NIACC. This may be the first time you have heard of the NIACC, but I assure you, it will not be the last.

Almost 100,000 businesses in the United States today are owned and/or operated by Americans of Asian Indian heritage. Add to these the thousands of Indian American entrepreneurs, professionals, and executives and you have a powerful force in American business. The NIACC was crated to provide a network linking these individuals, a network which, among other things, will promote international trade between the United States and India.

Mr. President, I know firsthand the importance of such a linkage in today's world. During a recent visit to India, I met with numerous business leaders. I am pleased to report that my meetings were marked by a great new enthusiasm for better relations with the United States.

India's business leaders are anxious to improve relations between the United States and India. The increased trade and exchange of ideas that could result represent exciting new developments, developments that could greatly benefit both countries. The NIACC will play a vital role in this process.

As I mentioned, the primary mission of the NIACC is to provide a network for Indian American businesses and associations. Its goals in this regard include promoting trade between the Indian American business community and its American and Indian counterparts, expanding business opportunities and creating ties between the private and public sectors. The NIACC will also serve as an advocate for the Indian American business community in public arenas.

The NIACC has planned an ambitious agenda of initiatives to achieve its objectives. The group intends to implement national programs to assist in economic development. It will also work to promote the development of Indian American businesses and entrepreneurs by providing them with technical assistance. Another initiative aimed at promoting the growth of Indian American businesses is a program recognizing the achievements of Indian American businesses and professionals.

Mr. President, the NIACC will hold its first annual convention here in the Nation's Capital on May 1 and 2, 1992. The organization's talented and hard working president, K.V. Kumar, is putting together an excellent program which will include United States and Indian Government officials, corporate executives, and business leaders. I urge all my colleagues to participate in the convention and to support the NIACC and its various activities.

I commend the leaders of the NIACC for their vision of increased cooperation between the business communities of the United States and India. I wish them great success in seeing this vision become a reality.

NATIONAL AGRICULTURE WEEK, THE FARMER'S STORY NEEDS TO BE TOLD

Mr. PRESSLER. The wonders of American agriculture represent a story not told often enough. America's preeminence in agriculture is unique and unequaled in the world. In no other American workplace is there greater productivity, cooperation, neighborly concern, creative use of applied science, hard work, and independence than on the farm and ranch. The ability of American farmers to provide abundant and high quality food and fiber for all our citizens and millions throughout the world is a source of great pride. This is why I love to tell the story of the American farmer and rancher—truly a wonder of the modern world.

Orion Samuelson, farm service director for WGN Radio and Television, who is heard daily on his syndicated National Farm Report, recently was the keynote speaker at my State's first Livestock Congress in Brookings, SD. In his address, he stated, "When the final book is written, the true soldiers of peace are not the ones who fire the rockets or guns or drive the tanks. They are the ones who put food in hungry stomachs around the world." He went further to say that farmers must work to tell their story.

Agriculture provides the United States with 16.6 percent of its jobs, 17 percent of its GNP, and provides Americans and the world with the highest quality and most reasonable priced food and fiber. This great country of ours sprouted from the roots of agriculture and has continued to grow from a solid agricultural base. Simply put, the future of agriculture is the future of America.

The world economy, including agriculture, has become much more interdependent over the last several decades. The United States is the world's largest exporter of agricultural products, with 1 out of every 3 acres farmed for export products. Feed grains account for about 33 percent of exports. U.S. exports of high-value agricultural products, such as red meat and processed foods, have grown from 39 percent of U.S. farm trade in 1926–30 to about 51 percent in 1986–88.

USDA's analysts estimate that each dollar earned from agricultural exports stimulates another $1.52 of output in the U.S. economy. Thus, the $40 billion of export sales in 1989 roughly meant an additional $61 billion in support activities required to produce and transport products for export. Approximately 85 percent of this additional economic activity is earned by the nonfarm sector. In terms of employment, U.S. agricultural exports generated 1.06 million full time civilian jobs in 1989. Of these, around 426,000 farm workers—13 percent of the farm labor force—were producing for export.

Mr. President, this is the week we reflect and pay homage to those Americans involved in this country's agricultural industry. American farmers and ranchers power today's world, and our food and fiber system is the most efficient and productive in the world. America's strength and backbone can be found in its agricultural abundance.

Agriculture is this Nation's largest industry and employer. Farm assets total $853 billion, with equity totaling $714 billion. Nearly 20 million people are involved in the process, from growing food and fiber to selling it at the supermarket. All in all, our food and fiber system accounts for 17 percent of this Nation's gross national product.

One story that puts a human perspective on all these numbers is that of Burton Ode of Brandon, SD. Burton serves on my Agriculture Advisory Committee, and has provided me with invaluable advice and counsel throughout my years in the House and Senate.

Burton's farm, purchased by his grandfather for $11 an acre in 1887, entered its fourth generation when his son took over management in 1987. The farm is called Plowville, U.S.A., and it has a unique place in the history of American agriculture. Recently, Farm Journal ran an article on the Ode farm, and I ask unanimous consent, Mr. President, that the article be printed in the Record following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PRESSLER. The Ode family from my home county of Minnehaha has earned its living over the past century from the land and I am sure the family will continue its successful agricultural operation throughout the next century. The article indicates Mr. Ode has not participated in the Federal Farm Program since the late 1940's or early 1950's. He has made his living in the marketplace and has endured both the good and the hard times. The Odes have told me many times they have many things for which to be thankful. Mr. President, I think America should be thankful for farm and ranch families like Burton and Dorcas Ode of Brandon, SD.

Mr. President, I recently received a letter from a farm family in Bruce, SD, that tells yet another story seldom heard here in Washington, DC. Henry and Barbara Brands began farming in Brookings County in eastern South Dakota in 1975. The Brands were raised on the farm and they knew what time and monetary commitments it would take to begin their operation. The problem was they needed financial assistance to begin farming.

As the letter indicates, the Brands went to the Brookings County Farmers' Home Administration Office and applied for a loan. That FmHA loan got the Brands started and they have worked closely with their local county office over the years. The Brands have graduated from the FmHA program and now finance their operation through their local bank. Mr. President, I ask unanimous consent that a copy of the letter presenting the success story of Henry and Barbara Brands also be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. PRESSLER. It is the Brands' hope, and mine, that FmHA can continue to help young farmers get started in farming. This story shows there is a role for the Government in providing assistance to farmers and ranchers that enables them to make a living off the land.

As I stated before, the wonders of American agriculture represent a story that is not told often enough. It is a story of proud Americans doing their part in the world's most proficient industry. There are more stories that need to be told, and I will address some of them throughout this week in honor of the American men and women who contribute to the greatest story ever told, American agriculture.

EXHIBIT 1

[From the Farm Journal, December 1991]

FARM HOSTS TO THE FAMOUS

(By Sonja Hillgren)

Farmers and ranchers who live near cities and large airports become unpaid ambassadors for the benefit of all of agriculture. They are asked repeatedly to be hosts to schoolchildren, foreign guests, politicians and whomever gets a whim to visit a farm or ranch. And invariably, local radio, television and newspaper reporters call on them to react to agricultural news.

Among this fraternity of ambassadors, Burton Ode, a retired South Dakota farmer, takes the cake. Ode and his wife Dorcas, their son and two daughters have been hosts to three future presidents—one of whom even got stuck in the mud. They have welcomed senators, governors, a virtual United Nations of foreign guests and literally thousands more. Ode is a public-spirited conservationist and community leader, but that's not the only reason his farm has been such a magnet. His explanation: "We live on a real nice oil road close to Sioux Falls and 10 minutes from an airport."

In 1960, 160,000 people came to their 560-acre farm for a three-day National Plowing Contest. Both John Kennedy and Richard Nixon, presidential contenders that year, delivered their major farm addresses to those thousands of people stopping around on the Ode farm, named Plowville, U.S.A., for those three days. Kennedy had no small talk for his hosts. "I felt Kennedy was out of place out here in nowhere," recalls Ode. But Nixon and his wife Pat were more friendly. "They just came sauntering in."

Lyndon Johnson, who was running for vice president to Kennedy in 1960, preceded Kennedy and Nixon at the plowing contest. A 3" rainfall that morning was so heavy that a giant tent where Johnson spoke nearly collapsed after the speech. Two hundred cars got stuck in the fields, including the one carrying Johnson and his wife Lady Bird. But the sun came out at noon and the plowing contest proceeded.

Johnson was president by the time the Odes were hosts to the National Cornpicking Contest in 1964. LBJ didn't return, but his vice presidential running mate, Hubert Humphrey, delivered a major farm speech at the Ode farm. So did Barry Goldwater, the GOP presidential candidate that year. Both of them were talkative, showing interest and knowledge about farm issues.

In 1976, Sen. Robert Dole (R., Kan.), who was the GOP vice presidential running mate for President Ford, delivered a farm speech on Ode's farm. Other visitors have included at least four South Dakota governors and three U.S. senators from South Dakota, including George McGovern, the Democratic presidential candidate in 1972.

But the Odes' favorite guest was Charles Kuralt of CBS, who spent the 1986 election night around their kitchen table. The purpose was to beam farm reaction to the rest of the nation about the election in which Sen. Tom Daschle (D., S.D.) defeated former GOP Sen. James Abdnor. "We enjoyed Charles Kuralt the most of anyone," says Ode. "He's just an old shoe."

In addition to U.S. network television, the Odes are visited frequently by local Sioux Falls television stations. They also have played host to Danish, French and German television. They've had young workers on exchange programs from the Netherlands, Sweden, Switzerland and Japan. And other guests have come from Syria, South Korea, Malaysia, Jordan, Kuwait and Venezuela. That doesn't count their own relatives from Sweden and Norway.

In this day of specialization, all these guests have seen an atypical farm, which Ode's grandfather bought in 1887 for $11 an acre. They have a dairy herd and produce hogs and chickens, just because they would hate to live on a farm and buy eggs. Until recently, they produced beef cattle as well. They grow corn, soybeans, oats and hay in rotation. Ode hasn't participated in the federal farm program since the late 1940s or early 1950s. He has sold his crops through his livestock and grazed his cattle on his own pasture.

Three years ago, Ode retired and his son Thomas took over management of the farm. There's still enough work to keep everybody busy. People with less to do are "unhappier because they sit around all winter thinking the government isn't doing this for me or the government isn't doing that for me," says Dorcas Ode, who was a social worker before she married Burton.

Once when the Odes heard that singer Willie Nelson was giving Farm Aid money to farmers with not enough to eat, the Odes looked at their dinner table and noted that all the food on the table had been produced on their own farm—except the cauliflower.

EXHIBIT 2

BRUCE, SD, *February 14, 1992.*

Senator LARRY PRESSLER,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR PRESSLER: We began farming in Brookings County in March 1975. Since we had both grown up on a farm, we knew that farming was what we wanted to do. But we knew we had to have help getting started and FmHA gave us the help we needed.

In December 1975, we started financing through FmHA. We just recently "graduated" from FmHA this past December 1991 and are now with a local bank.

We have really enjoyed working with the Brookings County FmHA office these past 16 years. We have had excellent supervisors to work with, and the secretaries in the office were also very helpful, efficient and informative.

When we first started with FmHA, they helped us set up a budget and showed us how to project our income and plan our expenses. We have saved a lot of money in interest over the past years during the time when interest was so high because we were with FmHA.

We just wanted to let you know that we have nothing but praise for the Brookings County FmHA office as well as FmHA as a whole, and it has been a pleasure working with them these past 16 years. We hope FmHA can continue to help young farmers get started in farming as they have helped us.

Sincerely,

HENRY G. and BARBARA J. BRANDS.

Mr. PRESSLER. Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCAIN. Mr. President, I thank the Chair. I thank him for his patience late this afternoon.

NEW THREATS FOR OLD: THE CONSTANT PROBLEM OF PROLIFERATION

Mr. MCCAIN. Mr. President, there are many of my distinguished colleagues who look at President Bush's defense program and ask "Where is the threat?" There are others who ask why the United States should not celebrate the end of the cold war by cutting its forces overseas and retreating back to its borders.

There are a great many reasons why we cannot give up our military strength or abandon the world, but one of the key reasons is proliferation. We are, in many ways, trading new threats for old. As the Confederation of Independent States and the other former members of the Soviet Union turn toward peace, democracy, and economic development, other nations are turning toward biological, chemical, and nuclear weapons.

THE FUTURE THREAT FROM IRAQ

As Secretary Cheney has warned the world today, the threat posed by Iraq is not over. We must not confuse the United Nations very real progress in reducing Iraq's capabilities, or our progress in arms control, with an end to the problem of proliferation.

Robert Gates, the Director of Central Intelligence, has been warning us since January that once the United Nations leaves, Iraq could start work on biological weapons in a matter of weeks, will probably be able to renew the production of chemical weapons in a matter of months, and will be able to rebuild much of its nuclear technology in a matter of a few years.

THE FUTURE THREAT FROM IRAN

We face a similar threat from Iran. Last week, we saw a North Korean ship deliver North Korean missiles to Iran, and possibly the equipment to manufacture or assemble such missiles in Iran.

These missiles are a major redesign of the Scud missile. They have a range of over 500 kilometers, a payload of at least 500 kilograms, and greatly improved reliability and accuracy in comparison with Iraq's relatively crude conversions of the Scud B missile. Their performance capabilities, however, are only part of the story.

While the world's attention has been focused on Iraq, Iran has also pursued the path of mass destruction. It has continued to expand its production of chemical weapons and integrate them into its armed forces with only passing notice. It has almost certainly developed biological weapons to the same level of technical sophistication as Iraq. It has actively pursued the nuclear weapons development effort begun under the Shah, and there have been many unconfirmed reports that Iran is seeking nuclear materials or weapons from the U.S.S.R.

The missiles Iran has bought from North Korea have no value as conventional weapons, except as terror weapons against large cities. They have no purpose other than the delivery of weapons of mass destruction.

Like Iran's purchases of Su-24's from the Soviet Union, the new missiles give Iran the ability to strike at every major population center in Iraq, at Eastern Turkey, at cities in the CIS like Baku, and at every major target in the southern gulf. They give it the ability to strike at every target in Kuwait, in Bahrain, in Qatar, in the UAE, in Saudi Arabia's oil rich Eastern Province, and at the populated areas of upper Oman.

These missiles, and their chemical or biological warheads, will be able to threaten the populated areas that control over 50 percent of all the world's proven oil reserves. They will be in the hands of a nation that not only did as much to prolong the Iran-Iraq war as Saddam Hussein, but which showed that threats to strike at southern gulf states are not theoretical.

It was Iran, after all, that tried to attack tankers throughout the gulf during the Iran-Iraq war, that bombed Kuwait, that bombed targets in the UAE, and that forced Saudi Arabia to shoot down its attacking fighters.

THE FUTURE THREAT FROM SYRIA

The same missiles that have just been delivered to Iran have already been delivered to Syria. There are similar reports that North Korea is providing the equipment to manufacture these missiles and their launchers.

Syria already has regular Scud missiles with chemical warheads targeted on Israel. It has chemical bombs that can be delivered by its Su-25's and Mig-23's, and probably has chemical artillery shells and rockets.

The new North Korean missiles, however, will give Syria a missile with far greater range-payload characteristics. They will allow it to cover more of Israel, they will allow Syria to disperse its launchers over a much wider area and make them less vulnerable, and they will allow it to deliver more chemical agents.

These missile deliveries also raise new questions about Syria's biological weapons efforts. Israeli experts believe that Syria has at least two biological weapons research and production facilities and is capable of producing at least one active biological agent and one toxin. The details of this effort are far from clear, as is Syria's success in tailoring highly lethal agents, developing effective missile warheads and bombs, and developing the complex targeting and metrological systems necessary to use biological weapons with maximum lethality.

It should be noted, however, that biotoxins can theoretically be up to 100 times more lethal than the most lethal form of nerve gas, and that relatively limited amounts of biological agents can achieve many of the same killing effects as small nuclear weapons.

It may be a decade before Syria reaches this level of effectiveness, but it will almost certainly reach it if it continues down the path it is now pursuing. No one should have the illusion that the threat of proliferation is only a nuclear threat in view of such actions.

Syria's efforts to develop weapons of mass destruction also cannot be divorced from its conventional threat to Israel. Jane's Defense Weekly has just reported that the Czech Government lied when it said it was halting T-72 deliveries to Syria. Germany has just turned back a ship carrying additional Czech T-72's being sent from Poland to Syria.

Syria is using money it desperately needs for economic development to double its present inventory of T-72's. It is doing so in a way that it will give its first-line combat units near the Golan late model T-72's that are far more effective in attacking Israeli forces. In fact, the only scenario where these T-72's would be useful would be in a surprise attack on Israel, or one in which Israel could not successfully mobilize.

Syria lacks the conventional air power to make a surprise attack succeed in the face of Israeli airpower, and now must fear Israel's mobilization system. The only way in which this equation can change is if Syria takes the risk of tying such a surprise attack to the threat of using its missiles or to their actual use on Israeli air bases and mobilization assembly areas.

We cannot confuse the fact that Syria talks of peace with the fact it arms for war.

THE FUTURE THREAT FROM LIBYA

I do not want to glorify Colonel Qadhafi. I think we often distract the world's attention from the fact that the chief result of his massive military buildup has been to steadily lower the living standards of his own people, and that his actions have killed far more Arabs and Moslems than Westerners or Israelis.

The colonel is, however, still producing chemical weapons. He has at least 100 tons stockpiled and a new chemical warfare plant in construction. He has Su-24 strike aircraft that are roughly equivalent to our F-111's, and he can refuel them.

He has spent his entire time in power being a threat to his own people and the Arab world, and no one can dismiss the fact that he remains a potential threat to Tunisia, Egypt, Israel, and the West.

THE FUTURE THREAT FROM ALGERIA

Like Libya, the Algerian Government has so far been much more of a threat to its own people than to other nations. Algeria's socialist military junta has spent vast amounts of money on a conventional military buildup that has not been justified by any real world military threats and at a time when it has mismanaged every other aspect of the Algerian economy.

It is not certain that this same junta has initiated a major nuclear weapons effort, but the argument that a gas and oil rich—and cash-starved—Algeria needs nuclear powerplants is absurd. It is far more likely that the PRC-supplied nuclear reactor at Ain Oussera is the first step in a nuclear weapons program.

THE FUTURE THREAT FROM OTHER NATIONS

Mr. President, I have focused on the Middle East because I do not have time today to focus on all the threats posed by proliferation. Nor, on the other very real threats to peace and the United States. I do, however, want to remind my colleagues that other threats exist:

We face the day-to-day reality that the turmoil in the former Soviet republics may lead to the transfer of weapons systems, equipment, or technology for biological, nuclear, and chemical weapons to the developing world. We face an equal threat of the transfer of more long-range delivery systems—in fact, Su-24's are now being transferred to Iran. We also face the reality that this turmoil is not likely to have a stable and predictable outcome for at least the next decade.

There are two recent articles in the Economist and United States News and World Report that outline this threat in depth Mr. President, and I ask unanimous consent that they are included in the RECORD after my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. McCAIN. India and Pakistan are nuclear powers. Senior U.S. intelligence officers have said they have chemical weapons, they probably have biological weapons, and they are actively developing their own missiles and seeking missile technology from other states.

For all of its willingness to discuss nuclear safeguards, North Korea's nuclear weapons facility at Yongbyon has not been dismantled or subject to any inspection. North Korea almost certainly has a massive capability to manufacture and deliver chemical and biological weapons.

The People's Republic of China is a threat to world peace. In its search for hard currency, it has helped Iran in its nuclear weapons effort, has helped Algeria in its nuclear weapons effort, and has marketed missile technology throughout the developing world.

ARMS CONTROL AND POWER PROJECTION: PARTNERS IN AN ERA OF NEW THREATS

Mr. President, I do not wish to suggest for a moment that the only way to deal with these threats is to maintain and forward deploy U.S. military forces. I believe that arms control will play a critical role in helping to limit such threats.

I believe in international action like that of the U.N. Coalition and International Atomic Energy Agency. I believe we must strengthen the missile technology control regime, the Nuclear Nonproliferation Treaty and Biological Weapons Convention, and ratify the Chemical Weapons Convention.

Good intentions, however, require a partner to become effective. The world is only safe when good intentions are supported by strength, and there is no reliable source of strength other than the United States. There is also no practical prospect that our allies will contribute more than limited forces and money for at least a decade to come.

While Britain and France have been our allies in many critical peacekeeping and peacemaking efforts, they are already doing as much as they are likely to do, and their power projection forces may shrink. Germany and Japan are paralyzed in the effort to contribute even token forces.

This is why, Mr. President, I urge my colleagues to think long and hard about the threats I have outlined today. I also urge them to remember that if some of these threats are uncertain, or may take 5 to 10 years to become realities, it also takes that long to shape effective U.S. power projection forces.

Further, we have only begun to fund the kind of defense capabilities our power projection forces will need to defend against even today's threats from biological and chemical weapons, and long range missiles.

I believe that President Bush's base force concept is a sound foundation for the power projection strategy we need for the future, as we trade new threats for old. I believe that President Bush has already cut the fiscal year 1993 budget as much as it should be cut.

I also believe that if we rush down the slope to weakness, we will make effective arms control impossible. Worse, we will pay the price that democracies have always paid for expediency and moral and ethical weakness. We will pay in blood tomorrow for the money we save today.

EXHIBIT 1

[From U.S. News & World Report, Mar. 16, 1992]

THE NUCLEAR EPIDEMIC

(By Carla Anne Robbins)

Don't blame it on penurious Russian physicists selling their souls for 5,000 rubles and a Big Mac, or on accommodating German trading companies that are only too happy to ship sensitive electronic triggers under the label "automobile parts."

The North Koreans, who CIA Director Robert Gates recently warned may be only a few months away from building an atomic bomb, did it all by themselves. Saddam Hussein's Iraq got much closer to the bomb than anyone realized. And if the North Koreans and the Iraqis can do it, anyone can do it. "Things that were very difficult for the smartest people in 1943 are easy for ordinary people now," says Richard Garwin, a physicist at IBM's Thomas J. Watson Research Center and a former nuclear-weapons designer.

At the same time, the collapse of the Russian economy is unleashing a flood of uranium ore and other nuclear materials onto world markets: it may be only a matter of time before more dangerous products, including tons of plutonium from spent Soviet reactor fuel and perhaps even uranium-processing technology from Central Asian republics, reach the black market. The West's attempt to prevent the spread of nuclear weapons, based on the premise that a combination of secrecy, export controls and inspections of civilian nuclear reactors could thwart the world's nuclear wannabes, has failed, and a new and much more dangerous era of nuclear proliferation has begun.

LOST OPPORTUNITY

U.S. officials privately concede that the system has failed—and that America blew an important opportunity to strengthen it after the gulf war. "We should have pointed to Iraq as proof positive that the system doesn't work and that something much more aggressive must be in place—an assertive nonproliferation policy instead of the passive one we have now," admits a senior U.S. official.

Now America and its allies may be facing a painful choice: Either use military force to prevent North Korea and others from going nuclear, or learn to live in a world in which nearly every nation that wants nuclear weapons has them. U.S. officials fear that a North Korean bomb could destabilize all of Northeast Asia, triggering a nuclear arms race that could bring South Korea, Japan and Taiwan into the nuclear club as well. A white paper issued by the South Korean Defense Ministry last autumn ominously warned that North Korea's bomb program "must be stopped at any cost."

But it would be much harder to muster allies for an attack on North Korea than it was to round up support for driving Saddam Hussein out of Kuwait. A commando raid, a cruise missile attack or a Stealth bomber raid on the North's nuclear installations could trigger another Korean war. In addition to its million-man Army, North Korea has thousands of artillery pieces and hundreds of Scud missile launchers lined up just across the demilitarized zone—well within range of Seoul, just 35 miles away. Japan would be likely to oppose the use of bases on its soil for such a mission; using them anyway could jeopardize the U.S.-Japan Security Treaty and magnify the growing tensions between Washington and Tokyo. "We'd like to see a political solution to this," says U.S. Under Secretary of Defense Paul Wolfowitz. "It's not the time to start discussing military options. But we haven't ruled anything out."

THE WRONG DOOR

North Korea's approach to building the bomb is a case study of how a determined country can evade international controls—and without much outside help, either. The primary aim of the nuclear safeguards regime, first developed in the 1950s, was to let developing countries have commercial nuclear-power plants without allowing their byproducts to be funneled into bombs.

As a result, almost all of the International Atomic Energy Agency's inspection and monitoring efforts are devoted to keeping tabs on the uranium fuel that's fed into nuclear-power plants and on the plutonium-containing waste that comes out of them. Inspectors attach seals to the reactor vessel of a power plant after fuel is loaded or install cameras to monitor the cooling pools where spent fuel rods are kept after being removed from a reactor. The safeguards regime did not anticipate that instead of trying to divert nuclear raw materials from power plants bought from abroad, even technologically primitive countries such as North

Korea might simply build their own, complete nuclear infrastructures—in effect, reproducing the Manhattan Project.

In fact, every country that has built a bomb or even come close has done it the same way—not by hijacking the operations of a civilian reactor but by building a dedicated bomb-making complex. That means the IAEA safeguards are largely focused in the wrong direction.

The hardest part of building a bomb is obtaining plutonium or highly enriched uranium to fuel the explosive chain reaction. Neither substance exists in nature. Plutonium is formed when uranium fuel is bombarded by neutrons inside a nuclear reactor; it must be extracted from the spent fuel, a step called reprocessing. Highly enriched uranium made in an industrial process that selectively concentrates the isotope uranium-235 from 1 percent or less—its abundance in natural uranium ore—to the 20 percent, or ideally 90 percent, that is required for a nuclear explosive.

North Korea picked the plutonium route, which meant it needed a nuclear reactor IAEA rules control the sale of reactors, as well as the hard-to-come-by materials needed to fuel and operate most power-producing reactors; low-enriched uranium fuel, which is needed for the water-cooled reactors typical in the United States and Europe, and heavy water (a combination of deuterium—a heavy isotope of hydrogen—and oxygen), which is needed for reactors fueled by more easily obtainable natural, unenriched uranium.

The North Koreans sidestepped these obstacles entirely. The design they chose went back to the dawn of the nuclear age. It uses natural uranium fuel and, in place of heavy water, graphite—which North Korea has in abundance." The first reactor, which we built at the University of Chicago football field, was a graphite reactor, notes Michael Golay, a professor of nuclear engineering at MIT. "It was built by stacking blocks [of graphite]" on a wooden scaffold. North Korea, like just about every country in the world, also has its own source of uranium ore.

The North Korean reactor, completed in 1987, is tiny by commercial standards, with a power output of 30 megawatts compared with 1,000 megawatts for a typical electric power plant. Yet it can produce at least 20 pounds of plutonium a year—more than enough to build one nuclear weapon.

"If you're in a weapons program, you don't want to tie in to your electric power system; you want a reactor that's especially for that purpose," says A. David Rossin, a nuclear engineer and a former U.S. assistant secretary of energy. Trying to divert plutonium from a power reactor presents a host of technical hurdles. Fuel in a power reactor is left in the core for a long time to maximize energy production; that makes it highly radioactive and hard to handle. Then it has to be reprocessed by remote control behind heavy shielding.

Moreover, long irradiation leads to undesirable nuclear reactions that complicate the bomb maker's task. When the neutrons produced in a nuclear reactor strike uranium-238—the abundant and otherwise uninteresting isotope of natural uranium—it is converted to plutonium-239, the stuff that bombs are made of. But in subsequent reactions the Pu-239 can in turn capture more neutrons itself, forming Pu-240 and -241. These isotopes not only are highly radioactive, but because they tend to undergo nuclear fission spontaneously, they can cause the nuclear chain reaction of a bomb to begin a fraction of a second too soon—making a whimper instead of a bang. To overcome this problem, a bomb has to be designed so the conventional explosives that squeeze the plutonium together to create a critical mass do their job much more quickly, an extremely difficult technical challenge. "But if your whole thing is oriented to production of the bomb, you avoid some of the headaches," says Leonard Spector, an expert on nuclear proliferation at the Carnegie Endowment for International Peace.

The obstacles that secrecy and technical backwardness once presented to the world's would-be bomb makers have largely vanished, too. Perfectly legal assistance has provided countries such as North Korea with a cadre of skilled technicians. Technicians from the former Soviet Union are working in Libya and Algeria. North Korea even received technical aid from the IAEA in uranium mining and assaying, and had reactor operators trained by the Soviet Union as part of an IAEA-sanctioned deal during the 1960s in which the Soviets provided a small, safeguarded research reactor at Yongbyon, the site of North Korea's burgeoning nuclear complex.

Even designing a nuclear weapon, once the most closely guarded of secrets, is now not a terribly difficult task for a physicist anywhere. "What's classified today is how to build a good weapon," says Golay, "not how to build a weapon." Mathematical problems that challenged some of the best minds in the world during the Manhattan Project can now be solved on a personal computer. What's more, not all the best minds in the world are in the West anymore. Citizens of Taiwan, South Korea and India, for example, account for more than 2,600 of the science and engineering Ph.D.'s awarded annually by American universities.

The United States has been pressing its allies and the IAEA to tighten up export controls and inspection procedures to eliminate the kind of loopholes that North Korea exploited. All the major nuclear nations—with the notable exception of China—have now agreed that they will not sell any nuclear technology to a nation that refuses to open all its facilities to IAEA inspection—so-called full-scope safeguards. Under the nonproliferation treaty, the only obligation of a supplier nation is that the particular plant or material it sells be placed under safeguards. That loophole allowed Pakistan. India. Algeria and Israel, non of which have signed the treaty, to receive nuclear help from abroad while pursuing nuclear-weapons programs at uninspected sites.

Germany, embarrassed by the prominent role played by German companies in the legal, quasi-legal and blatantly illegal sales of nuclear technology to Pakistan, Iraq and other proliferators, has recently tightened its export controls. An a new IAEA policy announced late last month has affirmed the agency's right to conduct inspections at undeclared facilities in countries that have signed the treaty or otherwise accepted full safeguards. Such inspections might have detected Iraq's clandestine nuclear program, for example, and may be invoked soon in an IAEA demand to see North Korea's undeclared production reactor and reprocessing plant.

But with the equivalent of only 40 full-time inspectors to cover 1,000 declared nuclear installations, the IAEA has its hands full already. And what especially concerns many nuclear experts is the increasing ease with which a determined nation can gain direct access to the critical technologies needed to enrich uranium or reprocess plutonium, as well as to weapons-grade materials themselves. Once a nation has the ability to manufacture its own highly enriched uranium or plutonium, no inspection regime is worth very much. It takes only a few weeks to make plutonium from a sealed and monitored storage depot into a nuclear bomb. Argentina, Brazil, Pakistan, India, Israel and South Africa all have declared or undeclared reprocessing or enrichment plants in operation. "Good intentions in peaceful times last for years: plutonium lasts forever once it's separated into weapons-usable form," says Paul Leventhal of the private Nuclear Control Institute.

China continues to provide legal nuclear assistance to Iran, Algeria and Pakistan, insisting that the technology will be used only for "peaceful" purposes; it rejected as "totally groundless" charges that a 15-megawatt research reactor it provided Algeria could be used to make nuclear fuel for weapons. But the reactor, which Algeria agreed only last week to place under IAEA safeguards, is in theory capable of producing 12 pounds of plutonium a year, almost enough for one bomb. "At the center of the hub, again and again we see China," says one top U.S. official. "This is the kind of network which we really have no control of." U.S. officials fear that Algeria and Iran, following North Korea's lead, could use such legal help to build up indigenous nuclear weapons programs.

In the case of North Korea, U.S. officials are especially worried that Pyongyang may continue its foot dragging on allowing IAEA inspections just long enough to reprocess a couple of bombs' worth of plutonium, which it could then hide—or sell to the highest bidder.

But if the North Koreans try to peddle plutonium, they could face stiff competition. Russia has recovered at least 20 tons of plutonium from power reactors, in addition to military stockpiles of 115 tons of plutonium and 500 tons of highly enriched uranium, all of which the government is eager to sell as reactor fuel.

PEACEFUL USES?

"It could conceivably be sold to companies and consumers, as can any other valuable commodity. Hopefully it will be useful in a beneficial method," says Boris Nikipelov, first deputy minister of Russia's Ministry of Atomic Power and Industry. "We see no technical or political restrictions against utilizing the materials." The fact that they have a market value of close to $1 billion is no doubt a factor, too. The Soviet Union sold 12 million pounds of uranium in the United States last year, worth $110 million, nearly 30 percent of the entire U.S. consumption; Russian shipments reached as much as 5 million pounds in the first month of 1992 alone. American uranium producers have filed an antidumping suit against the Russian sales.

The plutonium trade, meanwhile, is getting a boost from Japan, which is reprocessing reactor fuel in France and Britain, and plans this year to ship a ton of plutonium aboard a freighter escorted by a single Japanese patrol boat armed with a light cannon and machine guns. Japan plans to reprocess a total of 100 tons of plutonium over the next 20 years.

"You have an impossible task of accounting for it all," says Leventhal, "and ensuring that the 15 pounds you need to blow up a city doesn't fall into the wrong hands" through theft, terrorism, or black-market sales.

Leventhal argues that a global ban on the production of weapons-grade material would shut this door. "We haven't produced any plutonium for two or three years because our production reactors are all unsafe or broken," adds physicist Richard Garwin, "and we haven't produced any highly enriched uranium since 1964." The only remaining use the United States has for HEU is as fuel for reactors in ships and submarines, a demand Garwin says could easily be met from the U.S. stockpile of 500 tons. Russia says it no longer makes HEU and will stop plutonium production by 2000.

But it is unclear whether France and Britain, eyeing lucrative Japanese reprocessing contracts, would go along. And even some U.S. officials, while acknowledging that the nation no longer needs to produce weapons-grade material, are apathetic about a ban on the production of weapons-grade nuclear fuel. "I don't believe that I see any downside to it," says Everet Beckner, an official at the U.S. Department of Energy who works on defense programs, "but there are more important problems to consider."

In any event, nuclear experts are virtually unanimous in believing that no "technical fix" alone can do the job. "It's effectively impossible to keep the lid on," says MIT's Golay. "The only way you're going to control these things is to make them uninteresting." Unfortunately, some of the most unsavory regimes in the world are just now discovering that their motives and their opportunities for going nuclear are converging.

[From U.S. News & World Report, Mar. 16, 1992]

THE X FACTOR IN THE PROLIFERATION GAME

(By Carla Anne Robbins)

For the right price almost anything is available in the former Soviet Union these days, including your own underground nuclear explosion. Or so claims the International Chetek Corp., a shadowy private company with strong ties to the Russian nuclear establishment and foreign representatives in Hamburg and Montreal.

In several slickly written brochures, Chetek—the name is an acronym from the Russian words for man, technology, and capital—is promoting the explosions as a "guaranteed and ecologically pure" way to dispose of toxic wastes, chemical weapons and nuclear warheads. Last May, Chetek was granted exclusive commercial rights to market the nuclear services of the then Soviet Ministry of Atomic Power and Industry. In December, the plan was publicly endorsed by Viktor Mikhailov, now the head of the new Russian Ministry of Atomic Energy. Mikhailov, four other top nuclear officials and Maj. Gen. Alexei Leonov, the first Soviet cosmonaut to walk in space, appeared the same month at a Chetek dinner in Moscow for U.S. environmentalists from the Natural Resources Defense Council.

It is not clear who is really behind Chetek. Its president describes his backers, improbably, as "Russian millionaires" while others believe Chetek is a front for either Mikhailov's atomic energy ministry or its senior staff. No one knows whether Chetek can deliver what it promises. But American officials found the company's sales pitch troubling enough to pursue the matter with the Yeltsin government. "The Russians say: 'This is a private company. To do what they intend to do, they need one of our nukes and we're not inclined to give them one.'" says a senior official who finds the Chetek affair "worrisome." Adds another top aide: "There's a certain Wild West capitalism out there. We're just not certain what's for sale or who's selling it."

The breakup of the world's other superpower poses the biggest proliferation threat facing the world today. "We're not just talking about Pakistan putting [a bomb] together," says a senior official. "The scale here is just tremendous."

In recent months, U.S. analysts have been deluged with reports of shopping expeditions to Russia, Kazakhstan and other former republics by delegations from Iraq, Libya and Iran and other nuclear wannabes. Cash-starved republican governments, and perhaps even some military officers, are already trying to sell off conventional weapons. The arms-control office at the Russian Foreign Ministry, for instance, is reorganizing itself to begin selling arms for hard currency. So is the Russian military's general staff, says one U.S. arms-control expert. Other parts of the Russian government are considering selling nuclear and chemical materials for peaceful purposes, such as servicing electric power plants or making fertilizer.

JOBS, JOBS, JOBS

So far, the U.S. intelligence community has not confirmed any leakage of sensitive nuclear, chemical or biological weapons—or the know-how or materiel needed to make them. "But absence of evidence doesn't necessarily mean evidence of absence," warns the top official, who admits that American monitoring of the chaos in the former Soviet Union is extraordinarily difficult.

The Bush administration is confident that Russian President Boris Yeltsin, who recently authorized special pay and privileges for nuclear scientists, is committed to controlling proliferation. But how much of his country's vast military-industrial complex does Yeltsin control? And how long will that control last if the economic situation continues to deteriorate? U.S. officials are not sure they can answer those questions.

American officials remain confident that Russia can corral and control the former Soviet Union's nuclear weapons (see box), but they are fearful that thousands of once cosseted and now desperately underpaid nuclear scientists and engineers can be wooed with cash. U.S. officials also say that the republics have almost no accounting system for their weapons-grade materials—tons of highly enriched uranium and plutonium that are the explosive components of a nuclear bomb—which could be siphoned off without anyone knowing. "They don't appear to know what they have," says a senior official. Andrei Kokoshin, the leading contender for the new position of Russian defense minister, told *U.S. News* last week that control over Russian's huge stock of weapons-grade material "disappeared for several months" while power was transferred from the defunct Soviet government to Russia.

Even under the best of circumstances, some leakage will be unavoidable, officials in both Russia and the United States concede. "We're not going to be able to have a commissar present in every unit," says a top American official. The goal instead, officials say, is to prevent wholesale hemorrhaging.

The Bush administration has mounted an aggressive diplomatic effort, linking American recognition and aid to the former republics to acceptable antiproliferation behavior. "We may be willing to look the other way on some issues, say a less-than-rigid definition of democracy or a free market," says one aide close to the negotiations. "But on nuclear thing the message never wavers." Keeping up the pressure may not be easy, however. Judging from recent experiences with Pakistan and China, monitoring compliance is at best problematic—even when friendly governments are involved. And in Russia, especially, the United States may quickly find its nonproliferation goals colliding with its desire for good relations with Yeltsin. Washington has pointedly looked the other way while China, Germany, France and others have sold nuclear technology around the globe.

The United States is also offering legal and technical advice to help republic leaders set up workable export controls as well as the computer hardware and software to keep track of their uranium and plutonium. And while the White House was less than enthusiastic last November when Congress reallocated $400 million in defense funds to help dismantle Soviet nuclear weapons, it has since embraced the plan. So far, however, it has pledged only a fraction of the funds allotted, and spent none of them. "We haven't got one dollar," complains Russia's new minister of atomic energy, Viktor Mikhailov, a Chetek supporter.

BULLETPROOF BLANKETS

In February, the United States pledged $25 million to help finance an international science and technology center that will employ several thousand top nuclear scientists and engineers who are the No. 1 targets for a brain drain. The United States also has promised 25 terrorist-proof railroad cars, bulletproof blankets and specialized containers to protect nuclear weapons and transport them to dismantling sites.

Is this enough, and will it arrive in time? Government and private experts give the administration high marks for the scientific center—if it gets started quickly. Evgeny N. Avrorin, chief scientist at Chelyabinsk-70 (Russia's Los Alamos), says his scientists will stay where they are—so long as their families aren't starving. "Would I sell my services to a Third World country?" he says. "Ask again in six months." U.S., Japanese and European officials will meet this week to work out the details of the center.

Critics worry that the administration is moving too slowly on nearly every front. The railroad cars may not be delivered before early summer, when all the tactical nuclear weapons are supposed to be back in Russia. Far more important, the administration has not reached an agreement on how to help finance and accelerate the dismantling of nuclear and chemical weapons and the storage of weapons-grade material.

Much of the fault lies with the Russians, who have been slow to respond to American requests for meetings and chary of American offers of collaboration in the dismantling process. Russia's military chiefs would clearly like the money, but they are balking at giving U.S. experts free run of their dismantling sites or the blueprints for their weapons. So far, the Americans are not pressing them.

A blunt nuclear chief Mikhailov told U.S. News that he won't accept congressional demands that American technical experts "supervise" the dismantling process or that limits be placed on future Russian military investments. "When I met Yeltsin recently, I told him 'If [these conditions] really exist, not only on paper, we cannot accept them,'" says Mikhailov. "I was told the conditions are more important for Bush's election . . . and they have nothing to do with us." In fact, Congress has asked only for American verification of weapons destruction, not supervision, and for limiting military modernization to defensive requirements.

NEW BUSINESSES

But Washington must also shoulder part of the blame for the slow start toward heading off a proliferation nightmare. Critics say the State Department, which has been running the program, has been relying on traditional arms-control negotiators who are only comfortable dealing with the highest levels of an extremely disorganized Russian government. A U.S. technical team is now in the former Soviet Union, and State Department officials expect to reach a series of agreements before Russian President Boris Yeltsin visits Washington in mid-June.

Perhaps the most disturbing development—and one that the United States hasn't publicly acknowledged—is the sudden appearance of a host of new commercial enterprises, such as Chetek, with friends in high places and ambitious moneymaking schemes. Chetek may now be negotiating a deal with South Korean officials to store spent nuclear fuel, for a reported price of $1 million per ton. "If one of these entrepreneurial centers can come to the government and say: 'We can get $100 million,' they may give them the go-ahead," warns Thomas L. Neff, a physicist and Chetek watcher at the Massachusetts Institute of Technology.

The U.S. Department of Energy's decision to hire Russian scientists in Moscow to research peaceful uses of nuclear fusion may give hope to thousands of others that help is on the way. But the one-year contract will pay a total of $90,000 to employ more than 100 scientists. And even if the West had billions to spend, it could not bail out all the former Soviet Union's thousands of weapons factories and laboratories. But before they go under, warns Russian Parliament member Col. Alexei Tsarjov, many defense contractors—once the jewels in the Soviet industrial crown—may try to follow the capitalist road, seeking protection from influential politicians and selling their wares to the highest bidder. "The defense industry will try to take the road of least resistance," he warns. That is a frightening prospect.

[From the Economist, Mar. 14, 1992]

A NICE RED AFTERGLOW

The end of Soviet communism was applauded almost everywhere except in China, Vietnam and Cuba. The replacement of the Soviet Union by the Commonwealth of Independent States has scared the world. A disintegrating nuclear-armed superpower is a nightmare.

Concern has focused on the ex-Soviet Union's nuclear weapons—about 27,000 of them, from artillery shells to warheads on missiles. Military officials claim that tactical nuclear weapons have been withdrawn from all former Soviet republics, except Ukraine and Belorussia. The remainder should be back in Russia by July. Dismantling them will cost several billions of dollars; America has offered $400m.

Strategic weapons are another matter. Russia, Ukraine, Kazakhstan and Belorussia have such weapons on their territory. All say they will give them up. Getting rid of nuclear weapons is a condition for getting out of the Commonwealth, and Ukraine is desperate to leave. Kazakhstan might be tempted to keep some, but its SS-18 missiles are under Russian control and their liquid fuel makes them difficult to maintain.

Like the United States, the Soviet Union built a vast industry to support its nuclear arsenal, including stockpiles of fissile material, laboratories, test sites, components factories, assembly plants, transport and storage facilities. Some 700,000 people work in the once-closed cities of the nuclear-weapons industry, although perhaps only 2,000–3,000 have access to the most sensitive secrets. Elaborate schemes are being concocted with western cash to provide new work, and thus to preserve scientists from temptation by secret bomb-builders, such as Libya and Iran.

Then there is the problem of what to do with the 100–150 tonnes of weapons-grade plutonium, and the 500–700 tonnes of highly enriched uranium (some of it now in weapons), thought to have been produced by the Soviet nuclear-weapons industry over the past 40 years. Both are valuable commodities. A small amount of uranium (probably ex-Soviet, and unsuitable for a weapon) was discovered recently in the boot of a car in Germany.

In the past the Soviet Union accounted for about half the world's uranium reserves (chiefly in Russia, Kazakhstan and Uzbekistan) and 20–35 percent of its enrichment and reprocessing capacity. Nuclear weapons-making was concentrated at a few sites, mostly in the Russian republic. Close-down and clean-up operations present horrendous problems.

Among the most difficult sites are: the huge reactor complex at Chelyabinsk-40, in the southern Urals just east of Kyshtym, where plutonium for the first Soviet atomic bomb was produced; the Siberian atomic-power station, north-west of the city of Tomsk, which also produced plutonium; and Dodonovo, a conglomeration of reactors and chemical plants on the Yenisey river in western Siberia. Of the 14 reactors at these three sites in 1987, producing plutonium and tritium for weapons-making, seven have been closed. Others will follow.

LETHAL POLLUTION

In addition, there are thought to be two main nuclear-weapons design laboratories (similar to America's Lawrence Livermore and Los Alamos National Laboratories), one at Sarova, 160 kilometres (100 miles) south-west of Nizhny Novgorod (formerly Gorky) and the other at Chelyabinsk-70, east of the Urals, just north of Kasli. Warheads were built at Nizhnaya Tura, north of Sverdlovsk, and possibly also at Chelyabinsk and Novosibirsk. Until both sites were closed as a result of protests by environmental groups, Soviet nuclear tests were carried out at Novaya Zemlya in the Arctic, and at Semipalatinski in Kazakhstan.

The accident at the Chernobyl civilian nuclear-power plant in Ukraine alerted the world to the poor standards of Soviet civilian reactors. Its weapons industry is scarcely better. Radioactive waste has been systematically pumped into rivers and lakes. According to a survey in the Bulletin of the Atomic Scientist (May 1991), Karachay Lake, near Chelyabinsk-40, has accumulated 120m curies of caesium-137 and strontium-90.

In 1989 Professor Alexei Yablokov, a Soviet biologist, claimed that 20 percent of the Soviet population lived in what he called "ecological disaster zones", and another 35–40 percent in badly polluted areas. In December 1991 Russia's new environment minister confirmed that much of the damage had been done by the weapons industry.

Earlier this year officials in Murmansk, home of the ex-Soviet Northern Fleet, suspended all unloading of nuclear fuel from decommissioned ships, after flagrant violations of safety regulations by the navy. For 20 years nuclear waste, including the damaged reactor core from a nuclear-powered icebreaker, has been dumped in the Barents and Kara Seas, off Russia's northern coast. Russia has no programme for coping with the damage, or for storing nuclear waste more safely in future.

DIMONA ET AL.

Proliferation has suited Israel. Its undeclared nuclear arsenal, put by outsiders anywhere between 60 and 300 warheads, is thought to have dissuaded the Iraqis from using chemical weapons in last year's Scud bombardment of Israeli cities. But Israel's nuclear monopoly is threatened from opposite directions: from potential enemies who want to go nuclear too, and from George Bush, who has made eliminating such weapons one of his chief aims for the post-war Middle East.

Although the United Nations suspects that Iraq may still be hiding an underground reactor and some enriched uranium, much of the Iraqi programme has clearly been destroyed. Attention is now switching to Iran and Algeria.

In 1984 China helped Iran build a nuclear-research centre at Isfahan. A Chinese research reactor may follow. China has also sent Iran on calutron, a tiny version of the machines the Iraqis secretly put to work enriching uranium. There are persistent reports of Chinese and Pakistani experts setting up uranium-enriching centrifuges at Moallem Kalayeh, north of Tehran, although inspectors from the International Atomic Energy Agency found nothing there in February. Iran has signed the Nuclear Non-Proliferation Treaty (NPT): it hopes to buy—from India, China or both—"a few" legitimate civil reactors soon.

For Algeria, the Chinese are building a large research reactor at Ain Oussera. This looks fishy. The Algerians kept it secret until it was spotted by satellites. They then said it had a capacity of only 15 megawatts (powerful enough to produce the plutonium for one bomb a year). The satellite photographs made it look at least twice as big. The Algerians, who have not signed the NPT, agreed to ad hoc inspections by the IAEA, whose people prowled around the reactor twice in January and found nothing to contradict the Algerian claims. A full inspection has yet to come, Rumours that the Algerians plan a reprocessing plant near the site would, if confirmed, set off a new panic.

The Iranians and Algerians naturally deny trying to build a bomb. After the Iraqi experience they are naturally disbelieved. But even if either is lying, both are considered at least five and maybe ten years away from building their own bombs. Unless a Middle Eastern country buys a nuclear weapon off the shelf, Israel's monopoly is probably secure for the time being.

The other threat to Israel's monopoly—Mr. Bush's arms-control plan for the Middle East—also looks remote. Last May the president called for a ban on the production and acquisition of bomb-grade fuel, to be followed later by the creation of a nuclear-weapons-free zone in the region. Under this plan Israel would close its Dimona reactor, keeping the weapons it has. In return for the capping of Israel's arsenal the Arabs would give up their right to produce nuclear fuel. Israel would eventually disarm altogether.

This idea got short shrift. The Arabs said it would preserve the Israeli advantage. The Israelis said they might welcome a nuclear-free zone, but only as part of a wider agreement. Israel self-servingly defines weapons of mass destruction as "all weapons capable of killing many people indiscriminately". It says it will talk about nuclear, chemical and conventional weapons simultaneously, but not solely about the nuclear bombs that it alone possesses. The debate is now tangled in the Arab-Israeli peace talks, which could ramble on for years.

ASIA'S POWERFUL UPSTARTS

Asia's one acknowledged nuclear power, China, has been in the club for so long that no one challenges its credentials. Not so North Korea, India and Pakistan, the three Asian upstarts at the door.

China exploded its first atomic bomb in 1964, a year before the turmoil of the cultural revolution. Its first hydrogen bomb, in 1967, came during the cultural revolution's full chaos. Yet despite China's instability, its bomb alarmed few Asians. It was intended mainly to counter the Soviet Union rather than India, with which China had fought a border war in 1962. It never seemed likely that hot-heads would get their fingers on China's nuclear trigger.

North Korea is a scarier proposition. Russia, China, Japan and the United States all have interests in the Korean peninsula. The balance between them is now roughly stable. If North Korea got the bomb, it would threaten Japan as much as the South. The Japanese are, for nuclear-energy purposes, now amassing the world's largest stockpile of plutonium. If threatened, they could well use it for weapons. A nuclear Japan would make all Asia jumpy.

North Korea is the world's most secretive and rigid regime. If may be beginning to starve, and is certainly facing an internal power struggle. Kim II Sung, the North's 79-year-old communist dictator, wants his son, Kim Jong II, to succeed him. Kim the younger is said to be loathed in the party and army. A bomb in his hands, or being tossed around while he and his rivals fought for power, would scare everybody witless.

Since last autumn America has sought to enlist Japan and China to press the North to comply with the NPT, sign a safeguards agreement with the IAEA, and open its facilities for inspection. The most troubling site is at Yongbyon, 100 kilometers (60 miles) north of the capital, Pyongyang. The Americans think the North produces weapons grade plutonium in a research reactor there.

Seeking to cajole the North into concessions, the Americans withdrew all their own nuclear weapons from South Korea late in 1991. North and South Korea did reach an agreement committing them to a nuclear-free Korea. The North signed an IAEA safeguards agreement in January, and says its parliament will rubber-stamp this in April. But it has stalled on international inspections, and this week again rejected the South's demand for mutual inspections.

A dispute broke into the papers this week between America's CIA, which counts the time to a Northern bomb in months, and the State Department, which counts in years. Whatever the timing, America and South Korea will have to consider a military strike against the North's nuclear capacity, if negotiations have not taken it out first.

SUBCONTINENTAL, NEAR-NUCLEAR

Both India and Pakistan have long dabbled in nuclear matters. The Indians exploded a "device" (peaceful, they insisted) in 1974; having made their point, they apparently put their nuclear programme into abeyance. Pakistan, having lost three wars with its neighbour since independence, has doggedly pursued its nuclear projects. Shahryar Khan, the country's foreign secretary, admitted in Washington in February that "the capability is there: elements which, if put together, would become a device."

In January Larry Pressler, an American senator, claimed that the American government believed Pakistan already had a bomb. The Bush administration does not confirm this, yet has since 1990 suspended American aid to Pakistan because President Bush felt himself unable to assure Congress, as he must if aid is to be given, that Pakistan "does not possess" a bomb.

There is no American law making aid to India dependent on the president's assurance that it does not have a bomb. Even so, America and Britain are pressing both India and Pakistan not to pursue nuclear ambitions. The neighbours are being urged to sign the NPT, and asked to attend a five-power conference (with Russia, America and China) to declare the subcontinent a nuclear-free zone.

India says it will not sign the NPT until Pakistan does, adding that anyway the treaty is discriminatory. Pakistan refuses to sign, but says it is ready to talk about a nuclear-free zone. India, having briefly seemed to soften, was insisting in January that better relations in general with Pakistan had to precede any talks about a nuclear-free subcontinent.

Both India and Pakistan would be worried if (as now seems less likely) nearby Kazakhstan were to inherit a nuclear arsenal from the Soviet Union. Some suspect that India is biding its time until the mid-1990s, when it will have missile technology to deliver nuclear weapons against China as well as against Pakistan. The Pakistanis, interested in alliances with Islamic neighbours like Iran, would find nuclear expertise useful for making friends as well as for keeping up with the Singhs.

Along the Pakistan-India front line itself, the bomb should not be too disturbing. If the conditions of Soviet-American nuclear stability can anywhere be duplicated in miniature, this is where: two antagonistic powers with a close understanding of each other and a deep interest in seeing that nothing goes wrong. Others in the neighbourhood may not see it that way.

THE LATIN SAFETY NETWORK

Democracy has saved Latin America a lot of trouble and expense with nuclear weapons. In 1967, when going nuclear was a far more expensive and remote option than it now is, a treaty made at Tlatelolco in Mexico declared the Americas a nuclear-free zone from the Rio Grande southwards, including the Caribbean. All nuclear plants there would be open to inspection both by the International Atomic Energy Agency, and by the treaty's own agents, on any reasonable request.

Two nations of the Americas took no part in the Tlatelolco treaty-making—Cuba and Russia's then sympathiser, tiny Guyana. When the Russians pulled out of Cuba last year, they took Latin America's only nuclear weapons capability with them.

The Tlatelolco deal was struck largely because the signatories wanted help from the United States in developing peaceful nuclear programmes—which, in the event, came to less than they had hoped for. Two of the treaty's 21 signatories stuck out. In Argentina and Brazil, anti-American military rules wanted to feel "strong", and to buy themselves status by making nuclear deals with other third-world regimes. More rationally, they argued that military and civil nuclear technology should go together, and that their scientists might to better if unconstrained by international anti-proliferation rules. The generals also found nuclear programmes a useful way of handing contracts to their friends.

Elected governments in both countries stopped the nonsense. President Raul Alfonsin (elected in Argentina in 1983) and President Jose Sarney (Brazil, 1985) began by talking about joint nuclear-weapons schemes, inviting each other to visit their hitherto secret installations. Their successors, Carlos Menem (Argentina, 1989) and Fernando Collor (Brazil, 1990), stopped the secret projects but kept up the visits. By inviting each other's specialists to drop in as often as they wanted, they in effect opened their nuclear industries to what less friendly rulers might call a challenge-inspection regime. Both presidents have recently promised to obey the IAEA and Tlatelolco rules.

Latin America is nuclear-free less because of treaties and inspection techniques than because its democratic rulers no longer want to nuke their neighbours.

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, the Federal debt run up by Congress stood at $3,854,493,181,967.94, as of the close of business on Friday, March 13, 1992.

As anybody familiar with the U.S. Constitution knows, no President can spend a dime that has not first been authorized and appropriated by the Congress of the United States.

During the past fiscal year, it cost the American taxpayers $286,022,000,000 just to pay the interest on spending approved by Congress—over and above what the Federal Government collected in taxes and other income. Averaged out, this amounts to $5.5 billion every week, or about $600 million every day.

What would America be like today if there had been a Congress that had the courage and the integrity to operate on a balanced budget?

FRIENDS OF IRELAND ST. PATRICK'S DAY STATEMENT—1992

Mr. KENNEDY. Mr. President, since 1981, the Friends of Ireland in Congress have joined together in an annual St. Patrick's Day statement which focuses on the problems that plague Northern Ireland.

The Friends of Ireland is a bipartisan group of Senators and Representatives committed to fostering the ties that bind the United States to Ireland. We are unequivocally opposed to violence and terrorism, and we advocate a peaceful, negotiated solution to the conflict that has claimed the lives of almost 3,000 people over the past two decades.

I believe that all our colleagues will find this statement of interest, and I ask unanimous consent that it may be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

ST. PATRICK'S DAY STATEMENT—FRIENDS OF IRELAND, U.S. SENATE AND HOUSE OF REPRESENTATIVES, MARCH 17, 1992

On this St. Patrick's Day, the Friends of Ireland in the United States Congress join friends of Ireland everywhere in urging all parties to the crisis in Northern Ireland to make a greater effort to reverse the ominous increase in violence and achieve a peaceful resolution of the conflict.

We are deeply concerned about the worsening violence and bloodshed in Northern Ireland. In recent months, we have witnessed new depths of terrorism and inhumanity in a further spiral of violence and atrocities which threaten the lives and well-being of everyone in Northern Ireland. The murderous activity of paramilitaries on both sides serves no purpose other than spreading fear, mistrust, division, hostility, and destruction. We unequivocally condemn all acts of violence and reiterate our strong conviction that true and lasting progress can only come about through a political process of negotiation and mutual trust.

The tragedies suffered daily in Northern Ireland underscore the need to reinvigorate the political process on all levels. The Friends of Ireland strongly support the Anglo-Irish Agreement and believe it must continue to be vigorously implemented until it can be superseded by more effective and mutually agreed arrangements. We commend the wisdom of the Irish and British Governments for approaching the issue of political talks on the broadest possible terms, embracing the three linked aspects of the crisis—relations between the Catholic and Protestant communities within Northern Ireland, relations between Northern Ireland and the Republic of Ireland, and relations between Britain and Ireland. The talks last June marked an important advance toward this goal. Their resumption last week is heartening for the cautious hope it engenders that the parties to the talks see the talks as the only path to peace and reconciliation. The Friends applaud the direct involvement of the British Prime Minister in assigning this process increased priority by gathering together representatives of the constitutional parties in the North to urge resumption of the talks.

While progress toward a negotiated settlement must remain the top priority, it should not detract from the need to make process on other issues in Northern Ireland. The recently published 1990 British Social Attitudes Survey for Northern Ireland vividly demonstrates the extent to which significant numbers of the Catholic community continue to lack confidence in the security forces of the British Government, including the police, the administration of justice and the court system. We urge the British Government to take urgent and ongoing steps to end this alienation.

In particular, we are concerned about the number of killings by British security forces in controversial circumstances. The case of Fergal Caraher illustrates the often unsatisfactory, slow and inadequate response by the British Government to the improper use of force by its security forces. Dissatisfied with the official inquiry into their son's death in December 1990, when British soldiers fired on his car at a checkpoint in Cullyhanna, Northern Ireland, Mr. Caraher's parents initiated their own independent investigation. Last month, largely because of international outrage about the incident, the work of the independent inquiry, and the efforts of the Director of Public Prosecutions, two soldiers were charged with the murder of Mr. Caraher. We welcome this development and we urge the British Government to institute more effective restraints on its security forces.

Our concerns about the British Government's record to human rights in Northern Ireland were heightened by the Amnesty International report in June 1991, which described examples of the abuse of detainees, inadequate inquests, the alleged shoot-to-kill policy of the security forces, and collusion between those forces and Protestant paramilitaries. We call on the British Government to more fully address these issues, and to demonstrate that human rights are not only respected in Northern Ireland, but are seen to be respected.

Our concern continues over job discrimination in Northern Ireland. We welcome the British Government's action in closing the significant loophole in fair employment legislation that had prohibited employers from disclosing the religious affiliation of an employee, thus preventing victims of religious discrimination from pursuing their case. We hope now that the backlog of discrimination cases will be dealt with expeditiously by the Fair Employment Tribunal. We will continue to monitor this process to ensure that the promise of the 1989 Fair Employment Act is fulfilled.

We also remain strongly committed to the International Fund for Ireland. In 1991, a record 600 projects were approved by the Fund. These real advances are enhanced by the impressive psychological impact of the Fund on communities where levels of unemployment are high and violence is commonplace. The role of the Fund in promoting economic and social progress is disadvantaged areas and in fostering contact, dialogue and reconciliation between Catholic and Protestant workers and communities brings hope and encouragement to many who have suffered most from the tragedy of Northern Ireland.

In the past year, we have witnessed both change and continuity in Ireland. It has been a privilege to work with Prime Minister Charles Haughey, who deserves great credit for his leadership, especially in the search for peace and reconciliation in Northern Ireland. We congratulate his successor, Albert Reynolds, on his recent election as Prime Minister and we look forward to working closely with him and continuing the close relationship between the United States and Ireland.

We also recognize the tireless efforts of the Secretary of State for Northern Ireland, Peter Brooke, for initiating and nurturing the latest round of talks in Northern Ireland and for bringing this most sensitive of efforts farther along than nearly anyone could have predicted at the outset. We also greatly appreciate the consistent efforts of the British and Irish Governments to keep the Friends informed of the progress of the peace process and we pledge our efforts to support that process in the coming year.

In 1991 as well, we were also honored to welcome President Mary Robinson of Ireland to the United States. President Robinson has long been an outstanding champion of social justice and equal opportunity for women. We admire her achievements, and we are impressed by the inspiration that her election as President has given to Ireland, to America, and to peoples throughout the world.

Lastly, this past year has seen the initiation of an immigrant visa program for Irish citizens proposed by the Congress and strongly supported by the Friends of Ireland which promises to both enrich and enliven the cultural diversity of this nation. We welcome these new arrivals to our shores and look forward to further Irish immigration in 1992.

The end of the Cold War marks the beginning of a new era for Ireland and all of Europe. We join the large numbers who marched for peace in Northern Ireland this past weekend, and we express our hope on St. Patrick's Day 1992 that as part of this new era, the benefits of peace, cooperation and reconciliation will come to all the people of Ireland, North and South.

THE "SECOND ANNUAL CHILDREN'S WATER FESTIVAL"

Mr. BROWN. Mr. President, today I would like to bring to the attention of the Senate a creative children's educational program designed for fourth and fifth graders in Greeley, CO.

On March 24, the Central Colorado Water Conservancy District will sponsor its Second Children's Water Festival to educate young people about the importance of water as a natural resource. Last year, the festival was the first of its kind in Colorado. It was so successful that several other cities in Colorado and in other States plan to hold similar festivals this year.

What makes this program so entertaining and informative for youngsters is its hands-on approach to learning about water. Throughout the day, the children will learn about the many organisms that live in water, how hydrologists measure and allocate water, and how we all can help to conserve this important resource.

In addition, the program encourages students to participate in "The Water Court" in order to learn about Colorado's effective water rights adjudication system. This unique and vital system has ensured that Colorado's water needs have been met while our streams and rivers have been protected.

Innovative educational programs such as the Children's Water Festival provide important interaction between students and local organizations. Creative activities stimulate a real desire to learn about issues, such as water, which are of great importance to Colorado. I commend the Central Colorado Water Conservancy District for its efforts in cooperation with Aims Community College for providing this outstanding program.

SADDAM HUSSEIN, THE KURDS, AND GENOCIDE

Mr. DOLE. Mr. President, this week marks the fourth anniversary of one of the most heinous acts of the 20th century. On March 17–18, 1988, the military forces of Saddam Hussein exterminated thousands of innocent women, children, and old men in a mountain village in Iraq called Halabja. This massacre was accomplished with chemical weapons, the same kinds of chemical weapons that the United Nations is seeking to find and destroy in Iraq today.

Since that awful moment in 1988, Saddam Hussein and his Republican Guard military units have struck repeatedly at the Kurdish people in northern Iraq with chemical weapons, with mass executions, with almost every form of torture imaginable.

These atrocities were shown to much of the world on television but somehow these matters are quickly forgotten. Just this month the television program "60 Minutes" covered the latest atrocities which Saddam Hussein's military has visited upon the Kurdish people. It seems the Iraqi troops had video cameras to record the slaughter so that they could be rewarded for their successes. The video footage has been captured along with thousands of pages of documentation. The graphic detail was horrifying—revolting. An estimated 60 million Americans watched "60 Minutes" and yet there is hardly a mention in Washington of what can only be called genocide in progress.

Even now the focus of the United States and the Western powers is on the technologies and the factories that produce weapons of mass destruction rather than the people who have been and may soon again become the victims of Saddam Hussein's weapons.

In the past week, news accounts have covered the arrogant and defiant stance of Saddam Hussein's Deputy Prime Minister as he tells the United Nations what Saddam will and will not allow with respect to the United Nations' search for weapons.

There is pressure building in both great Britain and the United States for some kind of military action. However, the hostile reaction to Saddam seems more motivated by an embarrassment that Saddam is thumbing his nose at the West than by a genuine outrage at the murderous, ongoing genocide against the Kurdish people in northern Iraq.

Where is the outrage? Have we not learned from Hitler's Holocaust, from the killing fields of Cambodia? Continued indifference to the determined and systematic genocide of the Kurdish people should not be permitted.

A TRIBUTE TO MENACHEM BEGIN

Mr. DECONCINI. Mr. President, Menachem Wolfovitch Begin was a man forged by the fires of two world wars and five Arab-Israeli wars. He was a man who first fought for the freedom of his people in Poland during World War II, and who went on to become a leader in the war to create a Jewish national homeland. Prime Minister Begin was a fighter almost all his life. For 30 years he was the leader of the Likud Party, then the opposition party in the Israeli Parliament. Though his battles were many, he always moved forward—never losing sight of his purpose—the greater good of the people of Israel. In the end, he won many victories, including the first ever Likud victory over the Labor Party. That victory enabled Likud to control the Knesset, and propelled him into the position of Prime Minister of Israel.

During his historic tenure, this former guerrilla fighter received the Nobel Peace Prize, while never sacrificing the fortune and safety of his people for personal glory.

Prime Minister Begin, a man of great courage, was not afraid to make a personal sacrifice. In 1939, while evading the advancing army of Adolf Hitler, Begin came into the possession of a visa that would have allowed him to go to Palestine. However, he gave his passport to a friend whom he thought would have even greater trouble than himself escaping the oncoming Russian and German forces. This selfless act of friendship and benevolence cost Begin 2 years in a Siberian prison.

On March 26, 1979, the Prime Minister made another great sacrifice that might have resulted in miseries for the Jewish people as a whole had not his bold gamble borne fruit. I am, of course, referring to the Camp David peace accords under which Israel and Egypt, led by Prime Minister Begin and President Anwar Sadat, boldly moved forward with vision and courage that cast a ray of hope in the vast darkness that had been the Arab-Israeli conflict.

As a tested and compelling orator he delivered his first public speech when he was 10 years old. Prime Minister Begin delivered a passionate speech in support of the peace accord declaring, "Why is this peace treaty so important? This is the first peace treaty Israel has ever signed, the first peace treaty after five wars in which we lost 12,000 of our people. Our aim, our yearning, and our dream is to smash this helix of hatred. We must sign this treaty because it is a human act of the highest degree."

Becoming Prime Minister of Israel was a dream that he envisioned early in his life. Traveling widely with his father as a young child, he was introduced to many Jews who spoke yearningly of a future Jewish nation. At the age of 15, he joined Betar, the Zionist revisionists' youth movement that prepared and recruited Jews for the purpose of creating their own homeland. Working with many of his soon-to-be countrymen, he opposed the British mandate of control of Palestine and eventually forced the world to approve the realization of their collective dreams—the creation of the independent and sovereign state of Israel in 1948.

In 1982, in the midst of one of the most difficult periods in his leadership of Israel, Menachem Begin lost Aliza, his wife of 43 years. Together they had endured the wars and his imprisonment in Siberia. This tragedy broke his powerful spirit. He resigned shortly after her death, and lived in seclusion there after. Thus, it was only fitting that on March 9, 1992, Mr. Begin was laid to rest next to his beloved wife.

Prime Minister Menachem Begin was a man of courage and conviction, and it was these very qualities that enabled him to forge for his young and proud country their first peace.

Mr. DECONCINI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

YEAR OF RECONCILIATION BETWEEN AMERICAN INDIANS AND NON-INDIANS; NATIONAL PUBLIC SAFETY TELECOMMUNICATIONS WEEK

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged, en bloc, from further consideration of the following joint resolutions:

Senate Joint Resolution 222, designating 1992 as "Year of Reconciliation between American Indians and Non-Indians" and House Joint Resolution 284 designating "National Public Safety Telecommunicators Week"; and that the Senate proceed, en bloc, to their immediate consideration, that the resolutions be deemed read a third time and passed and the motion to reconsider laid upon the table, and the preambles agreed to; further that any statements relating to these resolutions be placed in the RECORD at an appropriate place.

The PRESIDING OFFICER. Without objection, it is so ordered.

So, the joint resolution (S.J. Res. 222) was deemed read a third time and passed.

The preamble was agreed to.

The joint resolution with its preamble, is as follows:

S.J. RES. 222

Whereas 1992 will be recognized as the quincentennial anniversary of the arrival of Christopher Columbus to this continent;

Whereas this 500th anniversary offers an opportunity for the United States to honor the indigenous peoples of this continent;

Whereas strife between American Indian and non-Indian cultures is of grave concern to the people of the United States;

Whereas in the past, improvement in cultural understanding has been achieved by individuals who have striven to understand the differences between cultures and to educate others;

Whereas a national effort to develop trust and respect between American Indians and non-Indians must include participation from the private and public sectors, churches and church associations, the Federal Government, Tribal governments and State governments, individuals, communities, and community organizations;

Whereas mutual trust and respect provides a sound basis for constructive change, given a shared commitment to achieving the goals of equal opportunity, social justice and economic prosperity; and

Whereas the celebration of our cultural differences can lead to a new respect for American Indians and their culture among non-Indians: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That 1992 is designated as the "Year of Reconciliation Between American Indians and non-Indians". The President is authorized and requested to issue a proclamation calling upon the people of the United States, both Indian and non-Indian, to lay aside fears and mistrust of one another, to build friendships, to join together and take part in shared cultural activities, and to strive towards mutual respect and understanding.

So, the joint resolution (H.J. Res. 284) was deemed read a third time and passed.

The preamble was agreed to.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

SCIENCE AND TECHNOLOGY REPORT AND OUTLOOK—MESSAGE FROM THE PRESIDENT—PM 117

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Commerce, Science, and Transportation:

To the Congress of the United States:

I am very pleased to submit the *Science and Technology Report and Outlook: 1989–1990* as required by the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6615).

The report reinforces and highlights that strong and vigorous support for our Nation's science and technology has been one of the central policies of this Administration. In addition to providing a general record of accomplishments, the report also suggests a number of possibilities in the form of an outlook for the future in key areas of science and technology.

The Federal Government's science- and technology-related activities support our Nation's quest to ensure a high quality of life for current citizens and future generations by meeting national needs, investing for the future, exploring intellectual, social, and physical frontiers, building on the fundamentally international character of science and technology, and strengthening math and science education.

The various chapters illuminate selected areas essential for meeting national needs. There is a focus on international competitive advantage, national security, global environmental needs, foreign policy, biotechnology, and information technology. Each chapter describes the area's key features, its policy relevance, and major components for which detailed strategies, policies, programs, and budgets have been or are being designed and implemented.

Science, as Vannevar Bush pointed out nearly half a century ago, is an endless frontier. Exploiting the opportunities of that frontier has helped to strengthen this Nation and the entire world in the past and can continue to in the future. This Administration believes that seizing these opportunities in science and technology and securing their benefits to the United States require policies that are forward-looking and reflect a rapidly evolving world. This Administration also believes that these objectives require vigorous initiatives in the private sector, continued excellence in academic research, and sustained progress in education.

In many ways, investment in science and technology reflects a deep-seated American belief in the possibility of a better future. With concerted action, that future—that endless frontier—lies within our reach.

GEORGE BUSH.

THE WHITE HOUSE, *March 17, 1992*.

TEXT OF PROPOSED AGREEMENT FOR COOPERATION BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF POLAND—MESSAGE FROM THE PRESIDENT—PM 118

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which was referred to the Committee on Foreign Relations:

To the Congress of the United States:

I am pleased to transmit to the Congress, pursuant to sections 123 b. and 123 d. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2153(b), (d)), the text of a proposed Agreement for Cooperation Between the United States of America and the Republic of Poland Concerning Peaceful Uses of Nuclear Energy with accompanying annex and agreed minute. I am also pleased to transmit my written approval, authorization, and determination concerning the agreement, and the memorandum of the Director of the United States Arms Control and Disarmament Agency with the Nuclear Proliferation Assessment Statement concerning the agreement. The joint memorandum submitted to me by the Secretary of State and the Secretary of Energy, which includes a summary of the provisions of the agreement and various other attachments, including agency views, is also enclosed.

The proposed agreement with the Republic of Poland has been negotiated in accordance with the Atomic Energy Act of 1954, as amended by the Nuclear Non-Proliferation Act of 1978 and as otherwise amended. In my judgment, the proposed agreement meets all statutory requirements and will advance the non-proliferation and other foreign policy interests of the United States. It provides a comprehensive framework for peaceful nuclear cooperation between the United States and Poland under appropriate conditions and controls reflecting our strong common commitment to nuclear non-proliferation goals.

Poland has consistently supported international efforts to prevent the spread of nuclear weapons. It was an original signatory of the Non-Proliferation Treaty (NPT) and has strongly supported the Treaty. It is committed to implementing a responsible nuclear export policy, and declared in January 1978 that it intended to apply a full-scope safeguards nuclear export requirement. Poland supports the work of the NPT Exporters ("Zangger") Committee and adheres to the Nuclear Supplier Guidelines. It is a member of the International Atomic Energy Agency (IAEA) and has played a positive role in the Agency's safeguards and technical cooperation activities. It has also cooperated with the United States and other likeminded members in working to prevent the politicization of the Agency. Poland is a party to the Convention on the Physical Protection of Nuclear Material.

I believe that peaceful nuclear cooperation with Poland under the proposed agreement will be fully consistent with, and supportive of, our policy of responding positively and constructively to the process of democratization and economic reform in Eastern Europe. Cooperation under the agreement will also provide opportunities for U.S. business on terms that fully protect vital U.S. national security interests.

I have considered the views and recommendations of the interested agencies in reviewing the proposed agreement and have determined that its performance will promote, and will not constitute an unreasonable risk to, the common defense and security. Accordingly, I have approved the agreement and authorized its execution and urge that the Congress give it favorable consideration.

Because this agreement meets all applicable requirements of the Atomic Energy Act, as amended, for agreements for peaceful nuclear cooperation, I am transmitting it to the Congress without exempting it from any requirement contained in section 123a. of that Act. This transmission shall constitute a submittal for purposes of both sections 123b. and 123d. of the Atomic Energy Act. The Administration is prepared to begin immediately the consultations with the Senate Foreign Relations and House Foreign Affairs Committees as provided in section 123b. Upon completion of the 30-day continuous session period provided for in section 123b., the 60-day continuous session period provided for in section 123d. shall commence.

GEORGE BUSH.

THE WHITE HOUSE, *March 17, 1992.*

ENROLLED BILL AND JOINT RESOLUTIONS PRESENTED

The Secretary of the Senate reported that on March 16, 1992, he had presented to the President of the United States the following enrolled bill and joint resolutions:

S. 2324. An Act to amend the Food Stamp Act of 1977 to make a technical correction relating to exclusions from income under the food stamp program, and for other purposes;

S.J. Res. 176. Joint resolution to designate March 19, 1992, as "National Women in Agriculture Day"; and

S.J. Res. 240. Joint resolution designating March 25, 1992 as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy."

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2811. A communication from the President of the United States, transmitting, pursuant to law, a report on the status of efforts to obtain compliance by Iraq with the resolutions adopted by the U.N. Security Council; to the Committee on Foreign Relations.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. PELL (by request):

S. 2358. A bill to amend the Asian Development Bank Act to authorize consent to, and authorize appropriations for, the United States contribution to the fifth replenishment of the Asian Development Fund, and for other purposes; to the Committee on Foreign Relations.

By Mr. HEFLIN:

S. 2359. A bill to amend chapter 153 of title 10, United States Code, to permit the Secretary of Defense to provide certain property and services of the Department of Defense to certain educational entities; to the Committee on Armed Services.

By Mr. DURENBERGER:

S. 2360. A bill to amend the Solid Waste Disposal Act to encourage pollution prevention and to require additional reporting on the use and release of toxic chemicals; to the Committee on Environment and Public Works.

By Mr. BOND (for himself, Mr. DASCHLE, Mr. GRASSLEY, Mr. HEFLIN, Mr. MCCONNELL, Mr. DANFORTH, Mr. HARKIN, Mr. KASTEN, and Mr. DIXON):

S. 2361. A bill to enhance the competitiveness of United States processed and high-value agricultural products in export markets and expand domestic employment opportunities; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. MCCAIN (for himself, Mr. WIRTH, Mr. GRASSLEY, Mr. NICKLES, Mr. STEVENS, and Mr. BROWN):

S. 2362. A bill to amend title XVIII of the Social Security Act to repeal the reduced medicare payment provision for new physicians; to the Committee on Finance.

By Mr. KERRY:

S. 2363. A bill to develop, assist, and stabilize recycling markets; to the Committee on Environment and Public Works.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PELL (by request):

S. 2358. A bill to amend the Asian Development Bank Act to authorize consent to, and authorize appropriations for, the United States contribution to the fifth replenishment of the Asian Development Fund, and for other purposes; to the Committee on Foreign Relations.

REPLENISHMENT OF THE ASIAN DEVELOPMENT FUND

Mr. PELL. Mr. President, by request, I introduce for appropriate reference a bill to amend the Asian Development Bank Act to authorize consent to, and authorize appropriations for, the United States contribution to the fifth replenishment of the Asian Development Fund, and for other purposes.

This proposed legislation has been requested by the Department of the Treasury, and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD, together with the letter from the general counsel of the Department of the Treasury to the President of the Senate, which was received on March 9, 1992.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2358

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Asian Development Bank Act (Pub. L. 89-369, 80 Stat. 71), as amended, is further amended by adding at the end thereof the following new section:

"SEC. 30. (a) The United States Governor of the Bank is authorized to contribute, on behalf of the United States, $680,000,000 to the Asian Development Fund, a special fund of the Bank, except that any commitment to make such contributions shall be subject to the availability of appropriations.

"(b) In order to pay for the United States contribution provided for in subsection (a), there are authorized to be appropriated, without fiscal year limitation, $680,000,000 for payment by the Secretary of the Treasury.".

DEPARTMENT OF THE TREASURY,
Washington, DC, March 5, 1992.

Hon. DAN QUAYLE,
President of the Senate, Washington, DC.

DEAR MR. PRESIDENT: I am pleased to transmit herewith a draft bill, "To amend the Asian Development Bank Act to authorize consent to and authorize appropriations for the United States contribution to the fifth replenishment of the resources of the Asian Development Fund, and for other purposes."

The Asian Development Bank (Bank) is an extremely cost-effective vehicle for forwarding U.S. international economic priorities in the Asian region. The Asian Development Fund (Fund) is the soft loan window of the Bank, providing concessional resources to the poorest countries in Asia. Donors reached agreement on December 10, 1991 to replenish the resources of the Fund by $4.2 billion over four years, 1992–1995. The U.S. contribution to the replenishment is $680 million, or $170 million annually.

In the context of this replenishment, the United States was able to obtain important policy reforms that will improve the efficiency and quality of the Bank's lending operations, and promote U.S. economic policy objectives in the region. Specifically, the U.S. was successful in obtaining agreement to strengthen the Bank's environmental activities, increase Bank operations to stimulate private sector activities, allocate Fund resources based on the economic performance of the borrower, strengthen the Bank's efforts in the area of poverty reduction, enhance the role of women in development, and strengthen the Bank's efforts to promote economic growth-oriented policies. Donors also reached agreement that India and China will not have access to the resources of this replenishment.

The draft bill would add a new section to the Asian development Bank Act. Proposed section 30 would authorize the United States Governor of the Asian Development Bank to contribute $680,000,000 to the Asian Development Fund, subject to obtaining the necessary appropriations.

This legislation is important to U.S. foreign economic policy. It would be appreciated if you would lay the draft bill before the Senate. An identical proposal has been transmitted to the Speaker of the House of Representatives.

The Office of Management and Budget advises that there is no objection to the submission of the draft bill to Congress and that its enactment would be in accord with the President's program.

Sincerely,

JEANNE S. ARCHIBALD,
General Counsel.

By Mr. HEFLIN:

S. 2359. A bill to amend chapter 153 of title 10, United States Code to permit the Secretary of Defense to provide certain property and services of the Department of Defense to certain educational entities; to the Committee on Armed Services.

UNITED STATES SPACE CAMP

Mr. HEFLIN. Mr. President, in this era of global competition, cheap labor and government subsidies will not make us victors. Instead, we can only win through our leadership in the high-technology industries. But to ensure this victory, we must invest now in our children.

Preparation for high-technology careers often begins as early as the seventh or eighth grade, with courses like algebra, biology, and chemistry. Without a strong foundation in math and science, many high school students find that they don't have the option of pursuing engineering and science degrees in college. With numerous studies by independent educational and commercial organizations revealing that literacy in math and science among U.S. students rank far behind that of many other industrialized nations, the alarm goes off, warning us to act now to preserve America's leadership role in high technology.

President Bush, through his America 2000 education strategy, has stated that the well-being of America's education system will determine the future well-being of U.S. industry and Government. Among the strategy's goals is the aim to have our students ranking first in the world in math and science literacy. Achievement of this goal depends on the combined efforts of both the public and private sectors. Together, this team can create programs that stimulate students' interests, promote their awareness, and provide these future scientists with hands-on access to high-technology vehicles and machines that will fire their imaginations. Our goal in Congress must be to support these programs and to tear down any barriers that would prevent Government agencies from working in conjunction with private enterprise dedicated to teaching our youth.

Three private programs with this mission are the U.S. Space Camp, U.S. Space Academy, and Aviation Challenge. These programs use the wonder of NASA and military aviation to motivate students, grades 4–12, to prepare academically for high-technology careers. Camp, Academy, and Aviation Challenge creators and promoters have proven that hands-on education is a vital key to unlocking young potential and guiding students to the high-technology track. Consequently, trainees in these three programs not only spend time in lectures and classroom environments, they also spend a great deal of time in simulations training. As they become acclimated to a functioning, high-technology environment, students soon realize the importance of a solid foundation in math and science. Additionally, teachers who attend the academy programs for professional educators learn techniques to take the excitement of mission simulations back to their classrooms.

To maintain educational integrity and hands-on enthusiasm, Camp, Academy, and Aviation Challenge education staff continually work to update and enhance offerings and create new, more sophisticated agendas for advanced-level students. In this manner, program coordinators ensure that these curricula complement accelerated public education.

Mr. President, the U.S. Space Camp, Space Academy, and Aviation Challenge have gained widespread recognition for a job well done. For this reason, I am introducing legislation today that gives congressional endorsement of the programs, as well as grants their developers access to, at the Secretary of Defenses's discretion, certain properties and services of the Department of Defense. This access could include the temporary use of military housing, loan of military personnel as guests instructors, donated surplus equipment, and temporary use of training facilities for the enhancement of current programs and creation of anticipated advanced courses of study.

The key here is hands-on involvement. Field trips to Air Force and Navy installations will allow students to observe the actual training of military aviators and talk with them in person about their experiences. To meet these men and women, to touch their aircraft, will do more to inspire these young kids than a stack of books. They'll learn that the Air Force and Navy choose only the best to be aviators, reinforcing the lesson to these young students that the courses they choose and the grades they make will determine their future.

Mr. President, the success of this legislation will mean a victory for both industry and government, because it will help prepare our youth to face the future. With our eyes on this goal, I encourage my colleagues to support the quick passage of this bill.

By Mr. DURENBERGER:

S. 2360. A bill to amend the Solid Waste Disposal Act to encourage pollution prevention and to require additional reporting on the use and release of toxic chemicals; to the Committee on Environment and Public Works.

TOXICS RELEASE AND POLLUTION PREVENTION ACT

Mr. DURENBERGER. Mr. President, today I am introducing the Toxics Release and Pollution Prevention Act. If enacted, this bill will amend section 313 of the Emergency Planning and Community Right-to-Know Act to expand the toxics release inventory. It will also require each facility for which reports are filed under section 313 to prepare a pollution prevention plan every 3 years.

The toxics release inventory was first established under section 313 in 1986. It requires industrial facilities in the manufacturing sector of our economy to report on their pollution. Reports are filed annually. Each facility reports the amount of toxic chemicals that it discharges to surface waters, emits into the air or disposes on land. These reports are required for each of more than 300 toxic chemicals listed under the law. The facility reports are compiled by EPA and published as a national inventory of toxic pollution.

The first reports under section 313 were required for calendar year 1987 and were filed in July 1988. When EPA published the first national inventory in June 1989, the public was quite surprised by the very large numbers that were reported. Emissions of toxic substances to the air exceeded 2.7 billion pounds. Discharges to surface waters were 9.6 billion pounds in 1987, and total releases to all environmental media exceeded 22.5 billion pounds. Even the chemical industry expressed surprise at the magnitude of the releases.

The shock caused by the first toxics release inventory prompted action. Many facility owners tried to get ahead of the public relations problem and promised substantial reductions in their emissions to be implemented over the next few years. The voluntary pollution prevention plans that have been developed in response to the national toxics release inventory have the potential to substantially reduce risks to public health and to the environment, if they are implemented.

The section 313 reports have also prompted Government action. I believe that the air toxics title of the 1990 Clean Air Act amendments passed in part because the Congress and the Bush administration were convinced of the need as the result of the toxics release inventory. The Congress also passed the Pollution Prevention Act of 1990 which is directly based on section 313 and has been augmented by several State pollution prevention laws.

The bill I am introducing today is designed to build on the success of the Community Right-to-Know Program under section 313. It is not the only bill pending in the Congress on this subject. Last November I joined with Senator LAUTENBERG to introduce a bill that has similar provisions, and on the House side Congressman SIKORSKI from Minnesota has introduced H.R. 2880 with similar objectives.

There are three basic ways to expand the toxics release inventory to provide a right to know more. We can add more chemicals to the list. We can require more facilities to report. And we can require additional information on the use or release of each chemical from each facility.

Before discussing the specifics of the legislation, let me outline four considerations that ought to be weighed in the balance as we think about ways to expand the toxics release inventory.

The first consideration is the burden on EPA and the States and the size of the data base we are creating. TRI can be looked at as collection of discrete pieces of information that must be carefully and reliably managed and manipulated to produce any useful public understanding. The size of that data base is dependent on the number of chemicals listed, the number of facilities reporting and the information that must be reported on each chemical.

Under current reporting requirements, EPA is managing about 5 million data elements. The reporting amendments that were made by the Congress as part of the Pollution Prevention Act of 1990 will increase the data base to 8 or 9 million data points in 1993. That is 9 million. By way of comparison, EPA has estimated that other bills now pending on this subject would bring in well over 100 million pieces of information each year.

There is a limit to how fast and how far the data base can be expanded. We don't want a toxics release inventory so big that EPA and States take years to produce summary reports. We don't want to delay the publication of the information or its reliability in a quest to get every last scrap of information on toxic releases. There is a point of diminishing returns.

A second consideration is the burden on facilities that must report. That is not a serious problem under current requirements. There have not been serious complaints from industry to the Congress about the TRI paperwork burden. But it could become an issue in the future. We don't want to weaken public support for this program by requiring facilities to collect and report data that are not essential.

A third issue is the burden on those facilities that are covered by TRI because they are in a listed industrial category, but which do not have to report because they do not make or use the chemical in more than the threshold amounts. Even if they do not ultimately file a report, managers at these facilities may nevertheless be required to invest considerable effort to determine that right to know does not apply to them. We should only cover industrial categories that may present a real risk to public health or the environment.

A final consideration is on the benefit, not the burden, side. The world seems to have a 90–10, or maybe it is an 80–20, rule for toxic risks; 90 percent of the problem is at 10 percent of the facilities. You can get to most of the human health and environmental problems by working with a small percentage of the potentially regulated universe.

The costs you pay to get at the last 10 percent of the risk can be staggering and are often not justified by the incremental gain in public benefits that is realized. I firmly believe that this rule applies to the toxics release inventory. We can probably capture 90 percent, or 95 percent, or even 99 percent of the risk by requiring 40,000 facilities to report on 500 substances. To require 225,000 facilities to report on 1,000 chemicals, as other pending bills would do, likely provides very little additional public health benefit.

So, let me get to the specifics of the bill.

The first way to expand the toxics release inventory is to add chemicals. This bill requires EPA to prepare a list of the 250 toxic chemicals not already listed that present the greatest threat to human health and the environment. EPA will prepare the list based on an expert screening of health effects information that is now available. The 250 chemicals are grouped into high priority substances that will be added immediately and other substances to be added later when the data base can reliably be expanded to include them.

The bill requires that EPA propose this list of 250 additions before September 1, this year. It is unlikely that the bill would even be enacted by that date. By selecting September 1, I am sending the message that Congress should have an opportunity to review the list before the legislation is sent to the President. EPA promised us a list like this last summer and it has not yet appeared.

Now, let's move to facilities. There are various factors that determine whether a facility is required to report under current law. It has to report if it is in a standard industrial classification code between 20 and 39, the manufacturing sector of the economy, if it has more than 10 employees, and if it manufactures or imports more than 25,000 pounds or uses more than 10,000 pounds of a listed chemical each year. Based on these thresholds, 22,569 facilities filed reports for 1989. The General Accounting Office has determined that perhaps 29,000 should have reported.

Other bills that are pending on right to know more expand the toxics release inventory to cover all facilities in every industrial and commercial category. Every law firm, grade school, grocery store, beauty parlor, mortuary, and government agency in the country will be covered. If it has 10 employees, it must look for chemical uses.

EPA estimates that some 225,000 facilities might be covered by TRI under these other right to know more bills. But thousands more would experience the burden of the nonreporter—being covered and having to search the incoming shipments for TRI chemicals, even if they aren't there in threshold amounts.

Again, I am recommending a much more targeted approach. The bill I am introducing today selects specific 2-, 3- and 4-digit SIC codes where use, releases, and risks are likely to be high. My selections are based on studies done by several States to identify high risk industries.

Based on those studies this bill lists the SIC codes for mining, oil, and gas production, transportation services, drum reconditioning, petroleum handling, paint supply, wholesaling, laundries, exterminating services, photofinishing, solvent recovery, hospitals, research facilities, and all the facilities owned by the Federal Government.

In addition to listing specific SIC codes now, this bill also requires EPA to do a thorough screening of the remaining four digit codes and to submit a report and to take action to list those industries with a preponderance of facilities that have high use or emissions.

The third way to expand the toxics release inventory is to require more information from each facility. Since 1987, we have collected data on annual releases. Beginning in 1991, we will be getting new information on pollution prevention.

In 1986, when the community right to know law was enacted, one of the most hotly contested issues was the so-called mass-balance reporting requirement. Industry resisted the community right to know law because it feared that divulging mass-balance information might compromise trade secrets. Rather than require industry to report mass-balance data, the Congress asked for a report from the National Academy of Sciences on the mass-balance issue.

The report entitled "Tracking Toxic Chemicals at Industrial Facilities" is very helpful. It makes a distinction between mass-balance calculations from a chemical engineering perspective and what the NAS chose to call materials accounting or throughput data. The report indicates that there is some utility in looking at throughput data for facilities handling large volumes of toxic substances.

The report also suggests that the trade secret problem can be mitigated, if the data are reported on a per product basis. The most sensitive trade secret information is market position which might be revealed by reporting the total quantities of a chemical that flows through a plant. But stating the ratio of inputs and outputs per unit of product hides market position, while still allowing some understanding of efficiencies at the facility and the effectiveness of its pollution prevention efforts.

Using materials accounting on a per product basis solves some of the problems raised in the old mass-balance debate. But I also think industry will be more willing to accept this requirement today for another reason. At the same time that this bill expands the toxic release inventory, it also establishes new pollution prevention responsibilities for each facility.

There are a variety of pollution prevention options before the Congress.

We could require each facility to prepare pollution prevention plans. We could require each facility to submit to an outside pollution prevention audit and implement the findings. We could set industrywide pollution prevention goals or standards. We could phaseout particular chemicals or uses like we have with CFC's. We could tax chemical production, uses or releases—a step also applied to CFC's with stunning pollution prevention results.

Of all those options, industry prefers the voluntary, facility-by-facility planning process for obvious reasons. The bill I am introducing today has a second title that requires pollution prevention planning by each facility subject to section 313. The goals of the plan will be voluntarily set by the facility, but must be publicly announced. Specific methods, measures and timetables will be reported to the States. Annual updates on progress will also be required.

The pollution prevention planning requirement in my bill might be called pledge and review. Each facility will make a voluntary pollution prevention pledge to its home community. And over a 3-year period the facility will have to update the community on its progress.

If this kind of pledge and review approach to pollution prevention is going to work, the community needs to have a fair chance to determine whether the voluntary goal set by the facility is reasonable. That determination can only be made, if materials accounting, input and output information on the toxic chemicals used at the facility, is available.

If industry says no to materials accounting reports in 1992, as it did to mass—balance reports in 1986, then Congress cannot rely on voluntary plans as the foundation for pollution prevention. We would have to look at industrywide standards or taxes or audits instead.

Public availability of materials accounting data is a necessary foundation for a pledge and review approach to pollution prevention. They go hand in hand. That's the bottom line.

The pollution prevention goals for each plan will be up to the facility. I recognize that facilities have already made varying levels of effort and nationwide goals would not be fair to those who made an early start.

I also understand that we will not get good, aggressive plans if we apply penalties to those who fail to meet their own goals. Everybody would shoot low, if a penalty was attached to failure in a pledge and review system.

Mr. President, I would address one final item with respect to this bill, and that is the issue of toxics use reduction. For many years, the Congress has supported the vision reflected in the waste management hierarchy of the Resource Conservational and Recovery Act. Avoid producing a waste at the source, if you can. Recycle wastes that are produced, nevertheless. Treat the wastes that cannot be recycled to reduce volume and toxicity. Safely dispose of the residue. What part of that hierarchy qualifies as true pollution prevention?

The Pollution Prevention Act passed by the Congress in 1990 puts the emphasis on source reduction, measures like good housekeeping, process changes and product reformulations that avoid the production of wastes altogether.

In recent months, a new tier for the hierarchy has caught the public's imagination. It is toxic use reduction. Not only should our industrial facilities avoid making a waste, they should also avoid using toxic substances whenever possible. In addition to the pollution prevention advantages, toxics use reduction can also reduce risks to workers, consumers, and communities that can be affected by catastrophic spills of chemicals in commerce. To me there is a great deal of appeal in a management hierarchy that starts with toxics use reduction as the first priority.

But it is not quite so appealing to a company whose products are industrial chemicals listed under section 313. They don't look at a plan that reduces their marketable outputs as an unmitigated public benefit.

In fact, many in industry see recycling and even treatment as equally appropriate pollution prevention endeavors in some circumstances. So, we will have a debate on that—the definition of pollution prevention.

In the bill I am introducing, pollution prevention has a new and mixed definition. Pollution prevention is defined to include toxic use reduction, source reduction, and in-process recycling. Pollution prevention plans may include elements of all three, but the bill encourages each facility to look for ways to move up the hierarchy to reduce risks to workers, consumers, communities, and the environment.

Mr. President, I would ask that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2360

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Toxics Release and Pollution Prevention Act of 1992".

FINDINGS

SEC. 2. The Congress finds that:

(1) The Toxics Release Inventory established by section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11023) provides substantial public benefit. Broad dissemination of information from the Inventory has increased citizen awareness and understanding of the threat to human health and the environment posed by the release of toxic chemicals in their communities. The chemical-specific and multi-media characteristics of the reports required from each facility and reflected in the aggregated data are a significant strength of the Inventory. Because the total quantity of releases reported has been much larger than expected, the Inventory has prompted commitments by facility owners and operators and actions by the States and by the Federal Government to reduce releases and the associated threats in the near term.

(2) Notwithstanding such benefits, the full potential of the Toxics Release Inventory has not been realized. Many toxic chemicals posing substantial health and environmental threats as the result of releases are not on the list for which reporting is required. Many facilities outside the manufacturing sector of the economy have substantial releases of listed and other toxic chemicals but are not required to report. Many facilities releasing toxic chemicals and now covered by the reporting requirements do not comply with the law. Although the Administrator of the Environmental Protection Agency has authority to expand the Toxics Release Inventory by listing other toxic chemicals and requiring additional facilities to report, this authority has not been adequately exercised. Congress should now strengthen and improve the Toxics Release Inventory by listing additional chemicals, by requiring reports from facilities in additional industrial categories and by enhancing the enforcement authorities of the Federal Government and the States.

(3) The Congress, Federal agencies and the State have long recognized a hierarchy for the management of production byproducts that become hazardous and solid wastes. Wherever feasible, the generation of such byproducts should be reduced or eliminated at the source. Byproducts that are nevertheless generated should be recycled consistent with the protection of human health and the environment. Waste that cannot be recycled should be treated to reduce volume and toxicity. Waste that is disposed should be managed to prevent any threat to human health and the environment now and in the future. This hierarchy should now be augmented to recognize toxic use reduction as the first priority. In addition to reducing the threat to human health and the environment resulting from releases of byproducts as hazardous and solid waste, toxic use reduction also protects workers, consumers and the communities in which production facilities are located from the risks associated with toxic chemicals in commerce.

(4) Pollution prevention includes toxic use reduction, source reduction and in-process recycling that is integral to a production process or activity. Opportunities to reduce the toxic chemical threat to human health and the environment through pollution prevention are substantial, but often unrecognized or unrealized by facility owners and operators. In addition to reducing such threats, pollution prevention is typically associated with improved production efficiencies that save money and enhance competitiveness. The Federal Government and the States should play an active role in facilitating pollution prevention. In many cases pollution prevention will prove more effective and efficient than traditional pollution control measures directed toward the same goals.

(5) At the present time there is great variability in the capacity of individual facility

owners and operators to achieve reductions in the use, generation and release of toxic chemicals through pollution prevention. Federal agencies and the States are not now in a position to mandate the use of particular pollution prevention measures or to prescribe the attainment of pollution prevention performance standards for particular industries. For the near term, pollution prevention initiatives conducted by government agencies must be based on pollution prevention plans prepared by the owners and operators of industrial facilities and reflecting this variability. Pollution prevention plans should contain voluntary pledges for pollution prevention for each significant production unit or activity at a facility reflecting the hierarchy of toxic use reduction, source reduction and in-process recycling. The goals and measures pledged in such plans should be available for public review and comment.

(6) To assure that the public is able to effectively review and comment on the goals and measures pledged in pollution prevention plans, the Toxics Release Inventory should be expanded to include materials accounting data for covered facilities and information on toxic chemical use and byproduct generation for significant production units within such facilities. This information can be shared with the public through the Toxics Release Inventory and in plan summaries and progress reports that do not compromise trade secrets entitled to protection under Federal law.

TITLE I—COMMUNITY RIGHT-TO-KNOW MORE

SHORT TITLE

SEC. 101. This title may be cited as the "Community Right-to-Know More Act of 1992".

TOXICS RELEASE INVENTORY

SEC. 102. (a) Section 313(a) of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11023(a)) is amended by: (1) inserting "or released" after "was manufactured, processed or otherwise used"; (2) striking "quantity" and inserting in lieu thereof "quantities"; and (3) striking "releases" and inserting in lieu thereof "toxic chemical uses, releases and other information".

(b) Section 313(b)(1)(A) of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11023(b)(1)(A) is amended by: (1) inserting "or released" after "that manufactured, processed, or otherwise used"; and (2) by striking "quantity" and inserting in lieu thereof "quantities".

(c) Section 313(b)(1)(C) of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11023(b)(1)(B)) is amended by:

(1) adding at the end of clause (ii) the following:

"The term 'process' shall also include the use of any toxic chemical as a fuel to recover heat or energy or to combust a toxic chemical for the purposes of treatment or disposal or for any other purpose."; and

(2) adding at the end thereof the following new clauses:

"(iii) The term 'production unit' means a production line, method, activity, or technique, or combination or series thereof, which is integral to and necessary for the production of a product including storage of raw materials, maintenance, and finished goods handling, and does not include any waste management activities or out-of-process recycling.

"(iv) The term 'byproduct' means any toxic chemical other than a product (including fugitive emissions, process residues, or other nonproduct outputs that result from any manufacturing, extraction, servicing or other processing, including pollution control, or use of materials) that enters a waste stream or is otherwise released to the environment from a production unit prior to recycling, treatment, disposal, handling or release.

"(v) The term 'source reduction' means any practice which—

"(I) reduces the amount of any hazardous substance, pollutant, or contaminant entering any waste stream or otherwise released into the environment (including fugitive emissions) prior to recycling, treatment or disposal; and

"(II) reduces the threat to public health and the environment associated with the release of such substances, pollutants or contaminants.

The term includes equipment or technology modifications, process or procedure modifications, reformulation or redesign of products, substitution of raw materials, and improvements in housekeeping, maintenance, training, or inventory control. The term does not include any practice which alters the physical, chemical, or biological characteristics or the volume of a hazardous substance, pollutant, or contaminant through a process or activity which itself is not integral to and necessary for the production of a product or the providing of a service.".

(d) Section 313(b) of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11023(b)) is amended: (1) by striking "that are in" in paragraph (1)(A) and inserting in lieu thereof "that conduct any portion of their business in"; and (2) by redesignating paragraph (2) as paragraph (4) and by adding the following new paragraphs after paragraph (1):

"(2) Beginning with reports filed for calendar year 1993, the requirements of this section shall also apply to owners and operators of facilities that have 10 or more full-time employees and—

"(A) that conduct any portion of their business in Standard Industrial Classification Codes 0782 (lawn fertilizing services), 10 through 14 (mining, mineral and oil and gas extraction), 172 (painting and paper hanging), 40 (railroad transportation), 42 (motor freight transportation and warehousing), 44 (water transportation), 45 (air transportation), 46 (pipelines), 49 (electric, gas and sanitary services), 505 (metals and minerals (except petroleum) wholesaling), 507 (plumbing and heating equipment and supplies wholesaling), 508 (machinery, equipment and supplies wholesaling), 516 (chemicals and allied products wholesaling), 517 (petroleum and petroleum products wholesaling), 5191 (farm supplies wholesaling), 5198 (paints, varnishes and supplies wholesaling), 721 (laundry, cleaning and garment services), 7342 (exterminating services), 7384 (photo finishing), 7389 (solvent recovery), 7532 (auto body and paint shops), 7623 (air conditioning and refrigeration repair), 806 (hospitals), 807 (medical and dental laboratories), 822 (colleges, universities, professional schools, and junior colleges), 824 (vocational schools), 8734 (testing laboratories), and 9223 (correctional facilities);

"(B) that have combustion units (other than units operated principally to heat buildings at the facility and fueled with natural gas or petroleum products) with a heat input capacity exceeding 25 million Btu per hour for any unit or group of units located at the facility; and

"(C) that are facilities owned or operated by the Federal Government.

"(3) LISTING OF ADDITIONAL FACILITIES.—Not later than 24 months after the date of enactment of the Community Right-to-Know More Act of 1992, the Administrator shall propose additions to the list of facilities subject to this section including on such list facilities in each Standard Industrial Classification Code which present a threat of adverse effects to human health or the environment as the result of the use or release of toxic chemicals from facilities grouped under that Code comparable to the threats presented by facilities grouped under Codes listed in paragraphs (1) and (2). The Administrator shall promulgate such additions not later than the date 36 months after the date of enactment of the Community Right-to-Know More Act of 1992 and the owner or operator of each facility covered by the additions shall begin reporting under this section for the calendar year 1997.".

(e) Section 313(b)(4) of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11023(b)(4)), as redesignated by subsection (d), is amended by inserting "or releases" after "that manufacturers, processes, or otherwise uses".

(f) Section 313(b) of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11023(b)) is amended by adding at the end thereof the following new paragraph:

"(5) PRESIDENT EXEMPTION.—The President may exempt any facility of any department, agency or instrumentality in the executive branch from compliance with the requirements of this section, if the President determines it to be in the paramount interest of the United States to do so. Any exemption shall be for a period not to exceed one year, but additional exemptions may be granted if the President makes a new determination. The President shall report each January to the Congress all exemptions from the requirements of this section granted during the preceding year, together with the President's reason for granting each such exemption.".

(g) Section 313(c) of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11023(c)) is amended to read as follows:

"(c) TOXIC CHEMICALS COVERED.—

"(1) IN GENERAL.—The toxic chemicals subject to the requirements of this section are:

"(A) those chemicals on the list in Committee Print Number 99-169 of the Senate Committee on Environment and Public Works, title "Toxic Chemicals Subject to Section 313 of the Emergency Planning and Community Right-to-Know Act of 1986" (including any revised version of the list as may be made pursuant to subsection (d) or (e));

"(B) all class I and class II substances listed pursuant to title VI of the Clean Air Act (42 U.S.C. 7671 et seq.);

"(C) for calendar years beginning with 1993, those chemicals listed by the Administrator pursuant to paragraph (2)(A); and

"(D) for calendar years beginning with 1995, those chemicals listed by the Administrator pursuant to paragraph (2)(B).

"(2) ADDITIONAL LISTING.—Not later than September 1, 1992 the Administrator shall propose a revision of the list established pursuant to paragraph (1) (A) and (B) which would add 250 toxic chemicals to such list. The toxic chemicals proposed for addition under this paragraph shall be the 250 chemicals which, considering the factors outlined in subsection (d), present the greatest threat to human health and the environment as the result of use at or release from facilities subject to the requirements of this section. Such list shall be divided into—

"(A) the 100 toxic chemicals in the group of 250 presenting the greatest threat to human health or the environment as the result of release or use; and

"(B) the remaining 150 toxic chemicals included on the list.

The Administrator shall promulgate additions to the list established under paragraph (1) meeting the requirements of this paragraph not later than 270 days after the date of enactment of the Community Right-to-Know More Act of 1992.

"(3) If the Administrator fails to propose the additions required by paragraph (2) prior to September 1, 1992, then the list established by paragraph (1) (A) and (B) shall be modified by operation of law to include each of the following substances—

"(A) priority pollutants listed under regulations relating to steam electric power point source pollutants under the Federal Water Pollution Control Act (33 U.S.C. 1311 et seq.) (as listed in Appendix A of section 423 of title 40, Code of Federal Regulations, subject to any subsequent modifications of the list);

"(B) hazardous waste identified and listed under regulations promulgated under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) (as listed in Appendix A of sections 261.33(e), 261.33(f), and Appendix VIII of part 261 of title 40, Code of Federal Regulations, subject to any subsequent modifications of such lists);

"(C) any chemical or chemical category listed under section 112(b)(1), 112(r)(3), 602(a) or 602(b) of the Clean Air Act (42 U.S.C. 7412(b)(1), 7412(r)(3), 7671(a), and 7671(b));

"(D) any pesticide (as defined in section 2(u) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136u))—

"(i) with respect to which the registration has been denied, canceled (including voluntary cancellation following the special review process, as described in part 154 of title 40, Code of Federal Regulations) or is under suspension;

"(ii) that is undergoing special review (as described in clause (i)) or is undergoing other administrative review (including for cancellation of use pursuant to section 6 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136d)); or

"(iii) that is classified as a restricted use pesticide under section 3(d)(1) of such Act (7 U.S.C. 136a(d)(1)).

"(E) contaminants identified in section 1412(b)(1) of the Safe Drinking Water Act (42 U.S.C. 300g–1) and for which maximum contaminant levels have been proposed or promulgated;

"(F) chemicals identified by the Carcinogen Assessment Group of the Environmental Protection Agency, the International Agency for Research on Cancer, or the National Toxicology Program as known or probable human carcinogens;

"(G) extremely hazardous substances listed pursuant to section 302(a)(2) of this Act (42 U.S.C. 11002(a)(2)); and

"(H) chemicals listed in 90 California Regulatory Notice Register 990 (July 1990) as reproductive toxins.".

(h) Section 313(d)(2) of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11023(d)(2)) is amended by striking "The number of chemicals included on the list described in subsection (c) on the basis of the preceding sentence may constitute in the aggregate no more than 25 percent of the total number of chemicals on the list.".

(i) Section 313(d)(3) of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11023(d)(3)) is amended by striking "not sufficient evidence to establish any of the criteria described in paragraph (2)" and inserting in lieu thereof "sufficient evidence that the effects described by the criteria in paragraph (2) are not established."

(j) Section 313(f)(1) of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11023(f)(1)) is amended by adding at the end thereof the following new subparagraph:

(C) The Administrator is authorized to establish additional thresholds for reporting under this section based on the amount of any toxic chemical or chemicals released to the environment or transferred offsite from any facility. Thresholds established under this subparagraph shall reflect the relative risk of adverse health or environmental effects which may be associated with the release of the toxic chemical or chemicals for which a threshold is established and shall be consistent with the goals and requirements of this Act. The Administrator shall, not later than 18 months after the date of enactment of this subparagraph, report to the Congress with respect to the Administrator's implementation of the authority established by this subparagraph including in such report release and transfer thresholds which the Administrator intends to propose for various toxic chemicals.".

(k) Section 313(f)(2) of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11023(f)(2)) is amended by: (1) inserting "uses or" before "releases"; and (2) adding at the end thereof the following new sentences:

"Any release threshold established under authority of this subsection shall not supersede the thresholds established by paragraphs (1)(A) or (1)(B). Any authorized State may establish threshold amounts lower than the amounts in paragraph (1) for facilities in its jurisdiction.".

(l) Section 313(g) of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11023(g)) is amended by redesignating paragraph (2) as paragraph (4) and by inserting the following new paragraphs after paragraph (1):

(2) SOURCE REDUCTION.—The Administrator shall modify the toxic chemical release form for facilities covered by this section to require that the following information (in addition to information required by paragraph (1)) be reported for each toxic chemical listed pursuant to subsection (c) beginning for calendar year 1992—

"(A) The quantity of the toxic chemical entering any waste stream (or otherwise released to the environment) prior to recycling, treatment or disposal during the calendar year for which the report is filed and the percentage change from the previous year. The quantity reported shall not include any amount reported under subparagraph (G). When actual measurements of the quantity of a toxic chemical entering the waste streams are not readily available, reasonable estimates should be made on the best engineering judgment.

"(B) The amount of the chemical from the facility which is recycled (at the facility or elsewhere) during such calendar year, the percentage change from the previous year, and the process of recycling used.

"(C) The source reduction practices used with respect to each toxic chemical during such year at the facility. Such practices shall be reported in accordance with the following categories, unless the Administrator finds other categories more appropriate—

"(i) equipment, technology, process or procedure modifications;

"(ii) reformulation or redesign of products;

"(iii) substitution of raw materials;

"(iv) improvement in management, training, inventory control, materials handling, or other general operational phases of industrial facilities.

"(D) The amount expected to be reported under subparagraphs (A) and (B) for the two calendar years immediately following the calendar year for which the report is filed. Such amount shall be expressed as a percentage change from the amount reported under subparagraphs (A) and (B).

"(E) A ratio of production in the reporting year to production in the previous year. The ratio should be calculated to most closely reflect all activities involving the toxic chemical. In specific industrial classifications subject to this section, where a feedstock or some variable other than production is the primary influence on waste characteristics or volumes, the report may provide an index based on that primary variable for each toxic chemical. The Administrator is encouraged to develop production indexes to accommodate individual industries for use on a voluntary basis.

"(F) The techniques which were used to identify source reduction opportunities. Techniques listed should include, but are not limited to, employee recommendations, external and internal audits, participative team management, and material balance audits. Each type of source reduction listed under subparagraph (C) should be associated with the techniques or multiples of techniques used to identify the source reduction technique.

"(G) The amount of any toxic chemical released into the environment which resulted from a catastrophic event, remedial action, or other one-time event, and is not associated with production processes during the reporting year.

"(H) The amount of each toxic chemical from the facility which is treated (at the facility or elsewhere) during such calendar year and the percentage change from the previous year.

For the first year of reporting under this paragraph, comparison with the previous year is required only to the extent such information is available.

"(3) MATERIALS ACCOUNTING INFORMATION.—

"(A) Not later than 270 days after the date of enactment of the Community Right-to-Know More Act of 1992, the Administrator shall modify the uniform toxic chemical release form for facilities covered be this section to require that the following information (in addition to the information required by paragraphs (1) and (2)) be reported beginning with calendar year 1994 for each toxic chemical listed pursuant to subsection (c) and for each facility subject to the requirements of this section—

"(i) a compilation of annual input, accumulation, and output quantities of each toxic chemical at the facility, including the quantities produced, used, generated as by-product, consumed, recycled onsite but out-of-process, or transferred as a product or as a constituent in products (hereinafter referred to as "materials accounting");

"(ii) for each of the production units at the facility which in the aggregate account for not less than 90 percent of the toxic chemicals used at the facility—

"(I) the amount of each toxic chemical used per unit of product;

"(II) the amount of each toxic chemical generated as byproduct per unit of product;

"(III) the amount of each toxic chemical present in the product per unit of product;

"(IV) a description of the production unit, including the production process, product, and unit of product; and

"(V) the amount of product manufactured (or otherwise created) and used, expressed as a range.

"(iii) the three-year goals for pollution prevention at the production unit (as established in the most recent pollution prevention plan prepared pursuant to subtitle E of the solid Waste Disposal Act) including—

"(I) goals for the reduction in each amount reported under clauses (ii)(I), (ii)(II) and (ii)(III); and

"(II) goals for the reduction in the amount of each toxic chemical manufactured, processed, or otherwise used and generated as byproduct at the facility.

"(B) For any calendar year prior to the calendar year 1997, the Administrator may by rule limit the applicability of paragraphs (A)(ii) and (A)(iii) to—

"(i) the 20 toxic chemicals with the largest reported releases (aggregated for all media) for calendar year 1991;

"(ii) facilities in Standard Industrial Classification Codes 20 through 39; or

"(iii) facilities owned or operated by entities other than entities which are small business concerns as defined in the Small Business Act.".

(l) Section 313(h) of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11023(h)) is amended by inserting "the uses of toxic chemicals at covered facilities and" before "release of toxic chemicals to the environment".

(m) Subsections (k) and (l) of section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11023(k) and 11023(1)) are repealed.

INFORMATION GATHERING AND ACCESS

SEC. 103. Section 325 of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11045) is amended by adding at the end thereof the following new subsection:

"(g) INFORMATION GATHERING AND ACCESS.—

"(1) ACTION AUTHORIZED.—Any officer, employee or representative of the Administrator is authorized to take action under paragraph (2), (3) or (4) (or any combination thereof) at any facility subject to the requirements of this Act or other location described in paragraph (3) or (4). Any duly designated officer, employee or representative of a State carrying out the provisions of this Act is also authorized to take such action.

"(2) ACCESS TO INFORMATION.—Any officer, employee, or representative of the Administrator or a State described in paragraph (1) may require any person who has or may have information relevant to the identification, nature and quantity of materials including hazardous substances, extremely hazardous substances, toxic chemicals or other materials covered by this Act which may have been used, generated, treated, stored, disposed at or released or transferred from a facility subject to the requirements of this Act to furnish, upon reasonable request, information or documents pertaining to such matter. In addition, upon reasonable notice, such person either (A) shall grant any such officer, employee or representative access at all reasonable times to such facility or location to inspect and copy all documents and records relating to such matters or (B) shall copy and furnish to the officer, employee or representative all such documents or records, at the option and expense of such person.

"(3) ENTRY.—Any officer, employee, or representative described in paragraph (1) is authorized to enter at reasonable times—

"(A) any facility subject to the requirements of this Act; or

"(B) any other facility, establishment, or other place or property owned or operated by a person owning or operating a facility subject to the requirements of this Act where entry is needed to determine compliance with and enforce this Act.

"(4) INSPECTION AND SAMPLES.—

"(A) Any officer, employee, or representative described in paragraph (1) is authorized to inspect and obtain samples from any facility subject to the requirements of this Act or other location described in paragraph (3). Any such officer, employee or representative is authorized to inspect and obtain samples of any containers of toxic chemicals or other materials maintained at such facility. Each such inspection shall be completed with reasonable promptness.

"(B) SAMPLES.—If the officer, employee or representative obtains samples, before leaving the premises such officer, employee or representative shall give to the owner or operator of such facility a receipt describing the sample obtained and, if requested, a portion of each sample. A copy of the results of any analysis made of such samples shall be furnished promptly to the owner or operator of the facility.

"(5) COMPLIANCE ORDERS.—

"(A) ISSUANCE.—If consent is not granted regarding any request made by an officer, employee or representative under paragraph (2), (3) or (4), the Administrator may issue an order directing compliance with the request. The order may be issued after such notice and opportunity for consultation as is reasonably appropriate under the circumstances.

"(B) COMPLIANCE.—The Administrator may ask the Attorney General to commence a civil action to compel compliance with a request or order referred to in subparagraph (A). Where there is a reasonable basis to believe there may be a violation of this Act, the court shall take the following actions:

"(i) In the case of interference with entry or inspection, the court shall enjoin such interference or direct compliance with orders to prohibit interference with entry or inspection unless under the circumstances of the case the demand for entry or inspection is arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law.

"(ii) In the case of information or document requests or orders, the court shall enjoin interference with such information or document requests or orders or direct compliance with the requests or orders to provide such information or documents unless under the circumstances of the case the demand for information or documents is arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law.

The court may assess a civil penalty not to exceed $10,000 for each day of noncompliance against any person who unreasonably fails to comply with the provisions of paragraph (2), (3) or (4) or an order issued pursuant to subparagraph (A) of this paragraph.

"(6) OTHER AUTHORITY.—Nothing in this subsection shall preclude the Administrator or a State from securing access or obtaining information in any other lawful manner.".

GRANT PROGRAM

SEC. 104. The Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11001 et seq.) is amended by striking section 327 (42 U.S.C. 11047) and inserting in lieu thereof the following:

"SEC. 327. GRANT PROGRAM.

"(a) IN GENERAL.—

"(1) ESTABLISHMENT.—(A) The Administrator shall establish a grant program to assist States, local governments, local emergency planning committees and State emergency response commissions (as described in section 301) in carrying out the provisions of subtitles A, B and C of this Act.

"(B) The Administrator shall implement the grant program under this section in a manner fostering coordination among the various offices of the Environmental Protection Agency having responsibility for carrying out the provisions of this Act (including the Office of Pesticides and Toxic Substances and the Office for Solid Waste and Emergency Response) and the Administrator shall assure that the grant program established under this section shall be implemented in coordination with State emergency response commissions.

"(2) APPLICATIONS.—(A) Not later than six months after the date of enactment of this section, the Administrator shall accept applications for grants under this section.

"(B) The Administrator shall make a determination on a grant application not later than 45 days after the Administrator receives the application.

"(b) GRANT REQUIREMENTS.—

"(1) DISTRIBUTION.—The Administrator shall ensure that States shall make available to local governments or local emergency planning committees (as described in subsection (a)) an amount equal to 75 percent of the amount of the grant to the State under this section for the purposes of assisting local governments and local emergency planning committees in carrying out the provisions of subtitles A, B and C.

"(2) MATCHING.—(A) The amount of any grant awarded under this section shall not exceed an amount equal to 80 percent of the cost of carrying out the activities authorized under the grant program. The Administrator shall not require any State to match any grant awarded under this section in an amount that exceeds 50 percent of the cost of carrying out the activities authorized under the grant program.

"(B) The remaining percentage of such costs shall be funded from non-Federal sources. Such sources may include amounts appropriated by the State for State activities or to finance activities of local governments or local emergency planning committees carrying out subtitles A, B and C.

"(3) CRITERIA.—The Administrator shall award grants under this section in proportion to State and local needs, as measured by such factors as the extent to which chemical substances and mixtures are manufactured, processed, used, and disposed of in a State, the extent of potential exposure in a State of human beings and the environment to chemical substances and mixtures, and the population of the State. The Administrator shall assure that State awards to localities or local emergency planning committees are in proportion to local needs as measured by factors similar to those described in the preceding sentence, including such factors as presence of substances, extent of potential exposure and population.

"(d) AUTHORIZATION.—There are authorized to be appropriated to the Administrator for the purpose of carrying out this section $12 million for each of the fiscal years 1992 through 1996.".

DEFINITION OF PERSON

SEC. 105. Section 329 of the Emergency Planning and Community Right-to-Know

Act of 1986 (42 U.S.C. 11049) is amended by inserting "Federal agency," after "association,".

REPORTING METHODS

SEC. 106. (a) The Administrator shall conduct a study of methods for encouraging the reporting of information under section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11023) through the use of computer telecommunication and other means. Such study shall identify methods to—

(1) increase the rate at which such information is made available to the public;

(2) improve the accuracy of such information;

(3) improve public accessibilty to such information; and

(4) enhance the overall efficiency of the information reporting and collection process.

(b) Not later than 12 months after the date of enactment of this Act, the Administrator shall submit a report of the findings of the study described in subsection (a) and plans for implementing methods to improve reporting to the appropriate committees of the Congress.

TECHNOLOGY FOR PROVIDING INFORMATION

SEC. 107. (a) Not later than 12 months after the date of enactment of this Act, the Director of the Office of Technology Assessment (hereinafter in this section referred to as the "Director") shall, in consultation with the Administrator, conduct and complete a study of all matters relating to the provision to the public of toxic release inventory information described in section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11023) (hereinafter in this section referred to as "toxics release information").

(b) The study conducted by the Director shall include the following:

(1) A review of the methods by which toxics release information is made available to the public, with a concentrated emphasis on the computer data base described in section 313(j) of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11023(j)).

(2) A review of the efficacy and cost-effectiveness of each method described in paragraph (1).

(3) The development of recommendations for more effective means to disseminate toxics release information, and to promote ease of public access to such information.

(4) The development of recommendations for alternatives to basing the publicly accessible data base in the T.O.X.N.E.T. system of the National Library of Medicine.

(c) Upon completion of the study described in subsection (a), the Director shall submit to the Administrator and to the appropriate committees of the Congress a report containing a detailed statement of the findings and conclusions of the study, together with such recommendations for such regulations and administrative actions as the Director, in consultation with the Administrator of the Environmental Protection Agency, considers appropriate to make improvements in the provision of toxics release information to the public.

TITLE II—POLLUTION PREVENTION

SHORT TITLE

SEC. 201. This title may be cited as the "Pollution Prevention Act of 1992".

GOALS AND OBJECTIVES

SEC. 202. Section 1003(b) of the Solid Waste Disposal Act (42 U.S.C. 6902(b)) is amended to read as follows:

"(b) NATIONAL POLICY.—The Congress establishes the following hierarchy for the management of hazardous and solid wastes and other materials generated as byproducts of industrial and commercial processes. The hierarchy shall be implemented under this Act in a manner consistent with the protection of human health and the environment. Pollution prevention is the highest priority and includes toxic use reduction, source reduction and in-process recycling. Wherever feasible, wastes should be eliminated through changes in raw materials, production technologies and methods, products, or services to reduce the volume and toxicity of such wastes at the source. Wastes that are generated should be recycled consistent with the production of human health and the environment. Wastes that cannot be recycled should be treated to reduce volume and toxicity. Wastes that are disposed should be managed to prevent any threat to human health or the environment now and in the future.".

POLLUTION PREVENTION

SEC. 203. (a) The title of subtitle E of the Solid Waste Disposal Act is amended to read:

"Subtitle E—Pollution Prevention".

(b) Sections 5001 through 5006 of the Solid Waste Disposal Act are redesignated as sections 6010 through 6015 in part B of subtitle F.

(c) Subtitle E of the Solid Waste Disposal Act is amended by adding the following new section:

"SHORT TITLE

"SEC. 5001. This subtitle may be cited as the "Pollution Prevention Act".".

(d)(1) Subtitle E of the Solid Waste Disposal Act is amended by redesignating section 6002 of the Pollution Prevention Act of 1990 (Public Law 101–508) as new section 5002.

(2) Section 5002 of the Solid Waste Disposal Act, as redesignated by paragraph (1), is amended by:

(A) striking "source reduction" wherever it occurs and inserting "pollution prevention" in lieu thereof; and

(B) striking subsection (a)(5).

(e)(1) Subtitle E of the Solid Waste Disposal Act is amended by redesignating section 6003 of the Pollution Prevention Act of 1990 (Public Law 101–508) as new section 5003.

(2) Section 5003 of the Solid Waste Disposal Act, as redesignated by paragraph (1), is amended by:

(A) striking subsections (1) and (2);

(B) redesignating subsections (3) through (7) as subsections (1) through (5), respectively; and

(C) by adding the following new subsections:

"(6) The term "pollution prevention" means—

"(i) toxic use reduction;

"(ii) source reduction; or

"(iii) in-process recycling.

"(7)(A) The term "toxic use reduction" means any change in a practice, process, or activity involved in a facility or a production unit at a facility that reduces or eliminates the use of any toxic chemical, or the amount of any toxic chemical entering any waste stream, or otherwise released to the environment (including fugitive emissions and hazardous secondary materials), prior to recycling, treatment, disposal, handling, or release, without creating or increasing the threat of adverse health effects for the public, workers, consumers or the threat of adverse effects to the environment. The term includes equipment or technology modifications, changes in processes or procedures, reformulation or redesign of products, substitution of raw materials, and improvements in housekeeping, maintenance, training or inventory control.

"(B) The term "toxics use reduction" does not include (i) waste management activities or any other practice which alters the physical, chemical, or biological characteristics, or the volume, of a toxic chemical through a process or activity which itself is not integral to and necessary for the production of a product or the providing of a service, or (ii) the use of byproduct as product.

"(8) The term "in-process recycling" means a process whereby materials are—

"(A) returned to the original process or processes from which they were generated; and

"(B) reused in the production process in the following manner—

"(i) the process, through completion of reclamation, is enclosed by being entirely connected with pipes or other comparable enclosed means of conveyance; and

"(ii) the materials are stored in tanks and containers and are used or reused within twelve months.

"(9) The term "recycling" or "recycle" means any use, reuse, or reclamation of solid waste or other material for any purpose but does not include:

"(A) placement of any material that would otherwise be a hazardous waste on the land;

"(B) incineration for energy recovery;

"(C) speculative accumulation of material that would otherwise be a hazardous waste;

"(D) the treatment of hazardous waste prior to use, reuse or reclamation; or

"(E) the use, reuse or reclamation of materials in a manner constituting disposal.

"(10) The term "byproduct" means any toxic chemical (including fugitive emissions, process residues, or other nonproduct outputs that result from any manufacturing, extraction, servicing or other processing, including pollution control, or use of materials) other than a product that enters a waste stream or otherwise is released to the environment from a production unit prior to recycling, treatment, disposal, handling, or release.

"(11) The term "facility" means all buildings, equipment, structures, and other items which are located on a single site or contiguous or adjacent sites and which are owned or operated by the same person or by a person which controls, is controlled by, or is under common control with such person.

"(12) The term "production unit" means a production line, method, activity, or technique, or combination or series thereof, which is integral to and necessary for the production of a product including storage of raw materials, maintenance, and finished goods handling, and does not include any waste management activities or out-of-process recycling.

"(13) The term "materials accounting" means a compilation of the annual input, accumulation, and output quantities of each toxic chemical at a facility or production unit, including quantities produced, used, generated as byproduct, consumed, recycled onsite but out-of-process, transferred as product, or transferred as constituents in products.".

(f)(1) Subtitle E of the Solid Waste Disposal Act is amended by redesignating section 6004 of the Pollution Prevention Act of 1990 (Public Law 101–508) as a new section 5004.

(2) Section 5004 of the Solid Waste Disposal Act, as redesignated by paragraph (1), is amended by adding the following new sub-

section prior to subsection (a) and by redesignating subsections (a) and (b) as subsections (b) and (c), respectively:

"(a) IN GENERAL.—The Administrator, in promulgating or issuing regulations, guidance or guidelines concerning any standard, policy or other requirement, or in taking any other action under this Act; the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601 et seq.); the Toxic Substances Control Act (15 U.S.C. 2601 et seq.); the Clean Air Act (42 U.S.C. 7401 et seq.); the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.); the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. 136 et seq.); the Safe Drinking Water Act (42 U.S.C. 300f et seq.); the Emergency Planning and Community Right-to-Know Act (42 U.S.C. 11001 et seq.); and the Marine Protection, Research and Sanctuaries Act (33 U.S.C. 1401 et seq.), whether to be implemented by the Administrator, any other Federal department, agency or instrumentality, any State or municipality, or any other person and each State (and political subdivision, thereof) with responsibility for management of solid wastes under this Act, shall implement such authorities giving pollution prevention considerations the highest priority, consistent with the purposes of this Act to protect human health and the environment and other requirements of Federal law. Nothing in this section shall alter in any manner any otherwise legally applicable deadline or requirement established by law.".

(3) Section 5004 of the Solid Waste Disposal Act, as redesignated by paragraph (1), is amended by striking "source reduction" wherever it occurs and inserting in lieu thereof "pollution prevention".

(4) Section 5004(c) of the Solid Waste Disposal Act, as redesignated by paragraphs (1) and (2), is amended by:

(A) redesignating paragraphs (8) through (13) as paragraphs (7) through (12), respectively; and

(B) adding ", Federal departments and agencies, State departments and agencies, local governments and non-profit institutions" after "businesses" each time it appears.

(g)(1) Subtitle E of the Solid Waste Disposal Act is amended by redesignating section 6005 of the Pollution Prevention Act of 1990 (Public Law 101–508) as a new section 5005.

(2) Section 5005 of the Solid Waste Disposal Act, as redesignated by subsection paragraph (1), is amended by:

(A) striking "source reduction" wherever it occurs and inserting in lieu thereof "pollution prevention"; and

(B) by inserting ", State departments and agencies, local governments, and non-profit institutions" after "businesses" each time it appears.

(h)(1) Subtitle E of the Solid Waste Disposal Act is amended by redesignating section 6006 of the Pollution Prevention Act of 1990 (Public Law 101–508) as a new section 5006.

(2) Section 5006 of the Solid Waste Disposal Act, as redesignated by paragraph (1), is amended by:

(A) striking "source reduction" each time it appears and inserting "pollution prevention" in lieu thereof; and

(B) striking "6605" and inserting in lieu thereof "5005".

(i) Section 6007 of the Pollution Prevention Act of 1990 is repealed.

(j)(1) Subtitle E of the Solid Waste Disposal Act is amended by redesignating section 6008 of the Pollution Prevention Act of 1990 as a new section 5007.

(2) Section 5007 of the Solid Waste Disposal Act, as redesignated by paragraph (1), is amended by:

(A) striking "section 4(b)" and inserting in lieu thereof "section 5004(d)";

(B) striking paragraphs (10 and (2) of subsection (b) and redesignating paragraphs (3) through (9) as paragraphs (1) through (7), respectively;

(C) striking "source reduction" wherever it occurs and inserting lieu thereof "pollution prevention"; and

(D) striking "subtitle" in the first sentence of subsection (a) and inserting in lieu thereof "the Pollution Prevention Act of 1990".

(k) Subtitle E of the Solid Waste Disposal Act is amended by redesignating section 6009 of the Pollution Prevention Act of 1990 (Public Law 101–508) as a new section 5008.

POLLUTION PREVENTION PLANS

SEC. 204. Subtitle E of the Solid Waste Disposal Act is amended by adding the following new section at the end thereof:

"POLLUTION PREVENTION PLANS

"SEC. 5009. (a) IN GENERAL.—The owner or operator of each facility for which a toxic chemical release form is required to be submitted pursuant to section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11023) shall periodically prepare pollution prevention plans, pollution prevention plan summaries, and pollution prevention plan progress reports meeting the requirements of this section.

"(b) SCHEDULE.—

"(1) A pollution prevention plan shall be prepared for each such facility not less often than every three years beginning for the third full calendar year after the date of enactment of this section or the third full calendar year after a facility is first subject to the requirements of section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11023), whichever is later. The Administrator may phase in the planning requirement, provided that the initial pollution prevention plans for all facilities subject to the requirements of this section be completed for the year not later than the seventh full calendar year after the date of enactment of this section.

"(2) A pollution prevention plan summary for each such facility shall be prepared according to the same schedule for pollution prevention plans set forth in paragraph (1).

"(3) A pollution prevention plan progress report for each such facility shall be prepared annually according to the schedule for the submission of toxic release forms under section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11023), beginning for the first full calendar year after a pollution prevention plan has been prepared pursuant to paragraph (1).

"(c) CONTENTS OF PLAN.—Each plan shall include—

"(1) a statement of management policy for pollution prevention;

"(2) pollution prevention goals for the subsequent three-year period, including, as appropriate, toxic use reduction goals, source reduction goals and in-process recycling goals for specific toxic chemicals used or generated as byproducts at the facility for the facility as a whole and for each of those production units which in the aggregate account for not less than 90 percent of the toxic chemicals used at the facility;

"(3) a current and projected analysis (over the same three-year period) for each production unit covered by paragraph (2), including—

"(A) materials accounting; and

"(B) an assessment of the costs (including liabilities) associated with each toxic chemical used at or released or transferred from the facility and such production units;

"(4) an evaluation of options for reducing the use and byproduct generation of toxic chemicals for each production unit covered by paragraph (2), including—

"(A) a comprehensive search for pollution prevention options, including substitution of raw materials, reformulation or redesign of products, production unit modifications, improvements in operation and maintenance, and in-process recycling, but not including waste management activities;

"(B) a materials accounting and economic impact analysis of selected technically feasible options for the purposes of comparison with the results of paragraph (3);

"(C) any feasibility study required by the Administrator pursuant to section 5011;

"(5) a description and implementation schedule for the pollution prevention measures and activities that have been selected;

"(6) an analysis of the extent to which the plan will reduce risk of adverse effects on workers, consumers, the general public and the environment and affect production efficiencies including energy use;

"(7) the results of any pollution prevention audits that have been conducted for the facility or unit; and

"(8) for plans other than the first plan prepared under this section, a report on success at achieving past goals.

"(d) CONTENTS OF SUMMARY.—Each plans summary shall include for the facility as a whole and for each production unit for which a plan is required:

"(1) a description of the facility or unit;

"(2) the three-year pollution prevention goals for the facility of the unit;

"(3) a description of the techniques and measures that will be implemented to reach the goal;

"(4) such other information as the administrator shall require.

"(e) CONTENTS OF PROGRESS REPORTS.—Each plan progress report shall include for the facility as a whole and for each production unit for which a plan is required the information described in section 313(g)(3) of the Emergency Planning and Community Right-to-Know Act (42 U.S.C. 11023(g)).

"(f) GUIDELINES.—Not later than 24 months after the date of enactment of this section and after notice and opportunity for public comment, the Administrator shall publish guidelines for the preparation of pollution prevention plans, pollution prevention plan summaries and pollution prevention plan progress reports.

"(g) AVAILABILITY OF PLANS, SUMMARIES AND REPORTS.—

"(1) The pollution prevention plan for each facility shall be retained at the facility and shall be available to the Administrator, the State in which the facility is located and any local government agency given authority by the State to inspect the plans.

"(2) The pollution prevention plan summaries for each facility shall be submitted to the Administrator, to the State in which the facility is located and be made available to the public at the facility during normal business hours.

"(3) The pollution prevention plan progress reports for each facility shall be submitted to the Administrator and to the State along with the toxic release forms required under section 313 of the Emergency Planning and

Community Right-to-Know Act of 1986 (42 U.S.C. 11023) and shall be made available to the public at the facility during normal business hours.

"(h) REVIEW AND MODIFICATION.—The Administrator or a State may require the modification of pollution prevention plans and pollution prevention plan summaries to correct plan deficiencies. Any modification required by the Administrator or a State shall be completed by the owner or operator of the facility not later than 90 days after the Administrator or the State provides written notice that such modification is necessary.

"(i) TRAINING.—The Administrator may require that persons preparing plans for each facility or for facilities in particular industrial categories or subcategories receive training or attend seminars and workshops on the proper preparation of toxic release inventories and pollution prevention plans and on the pollution prevention measures that are available. The Administrator may contract with State or local government agencies, with colleges and universities, or with other institutions for higher education and research to provide training, seminars, and workshops in the preparation of toxic release inventories and pollution prevention plans and on available pollution prevention measures.".

REPORTS

SEC. 205. Subtitle E of the Solid Waste Disposal Act is amended by adding the following new section at the end thereof:

"REPORTS

"SEC. 5010. (a) POLLUTION PREVENTION REPORTS.—The Administrator shall report to the President and to the Congress not less often than every three years describing the pollution prevention plans that have been prepared pursuant to section 5009. The report shall contain statistical information on production efficiencies and pollution prevention plans for each industrial category or subcategory containing facilities subject to the requirements of section 5009.

"(b) INDUSTRIAL SECTOR REPORTS.—The Administrator shall, after consultation with State and local officials and persons from industry, academia and public interest organizations, periodically prepare reports with respect to specific industrial categories or subcategories of facilities and production units at facilities for which a pollution prevention plan is required under section 5009. Such reports shall include a description of the pollution prevention plans and activities for facilities or units in the category or subcategory, including a description of the pollution prevention goals and objectives adopted in plans, a description of the pollution prevention measures and schedules that have been selected to meet such goals, a percentile ranking by name for each facility or production unit in the category or subcategory according to the efficiency of current production practices (measured as use and byproduct generation of toxic chemicals per unit of production). The report shall also include a description of the pollution prevention measures that are available to facilities and units in the category or subcategory including detailed technical and economic data and specifications for such measures. Beginning four years after the date of enactment of this section, the Administrator shall publish reports for not less than 15 industrial categories and subcategories each year.".

FEASIBILITY STUDIES

SEC. 206. Subtitle E of the Solid Waste Disposal Act is amended by adding at the end thereof the following new section:

"FEASIBILITY STUDIES

SEC. 5011. (a) IN GENERAL.—The Administrator may require the owner or operator of each facility in a particular industrial category or subcategory required to file a pollution prevention plan under section 5009 to conduct a feasibility study with respect to—

"(1) the attainment of a specific pollution prevention performance standard for the facility or a production unit at the facility (which may be expressed as use or byproduct generation of a toxic chemical per unit of production);

"(2) the implementation of a particular pollution prevention measure at the facility or at a production unit within the facility; or

"(3) the use of out-of-process recycling as a compliment to pollution prevention for facilities in such industrial category or subcategory.

Any feasibility study required by the Administrator under this subsection shall be conducted according to a schedule established by the Administrator and the results of such study shall be included in the subsequent pollution prevention plan for the facility. Nothing is this section shall be interpreted, construed or applied to authorize the Administrator to require that particular pollution prevention measures be implemented or that pollution prevention performance standards be achieved at such facilities or units.".

RESEARCH

SEC. 207. Subtitle E of the Solid Waste Disposal Act is amended by adding at the end thereof the following new section:

"POLLUTION PREVENTION RESEARCH

"SEC. 5012. The Administrator shall establish a research program to assist the Agency's Office of Pollution Prevention in performing its functions. The program shall include—

"(a) basic research into technological barriers to reductions in the use of toxic chemicals and byproducts and the development of strategies for overcoming these barriers;

"(b) basic research into social, economic and institutional barriers to reducing the reliance of society on toxic chemicals and the development of strategies for overcoming these barriers;

"(c) developing, evaluating, and demonstrating methods to assess reductions resulting from toxic use of other source reduction methods; and

"(d) research or pilot projects to develop and demonstrate innovative technologies for source reduction and toxic use reduction methods. The research program established by this section shall be conducted in close cooperation with the States and shall rely principally on grants and contracts with colleges and universities.".

INFORMATION GATHERING

SEC. 208. Subtitle E of the Solid Waste Disposal Act is amended by adding at the end thereof the following new section:

"INFORMATION GATHERING AND ACCESS

"SEC. 5013. (a) ACTION AUTHORIZED.—Any officer, employee or representative of the Administrator is authorized to take action under subsections (b), (c) or (d) (or any combination thereof) at any facility subject to the requirements of this subtitle or other location described in subsections (c) or (d). Any duly designated officer, employee or representative of a State carrying out the provisions of this subtitle is also authorized to take such action.

"(b) ACCESS TO INFORMATION.—Any officer, employee, or representative of the Administrator or a State described in subsection (a) may require any person who has or may have information relevant to the identification, nature and quantity of materials including toxic chemicals or other materials covered by this subtitle which may have been used, generated, treated, stored, disposed at or released or transferred from a facility subject to the requirements of this subtitle to furnish, upon reasonable request, information or documents pertaining to such matter. In addition, upon reasonable notice, such person either (1) shall grant any such officer, employee or representative access at all reasonable times to such facility or location to inspect and copy all documents and records relating to such matters or (2) shall copy and furnish to the officer, employee or representative all such documents or records, at the option and expense of such person.

"(c) ENTRY.—Any officer, employee or representative described in subsection (a) is authorized to enter at reasonable times—

"(1) any facility subject to the requirements of this subtitle;

"(2) any other facility, establishment, or other place or property owned or operated by any person owning or operating any facility subject to this subtitle where entry is needed to determine compliance with and enforce this subtitle.

"(d) INSPECTION AND SAMPLES.—

"(1) Any officer, employee or representative described in subsection (a) is authorized to inspect and obtain samples from any facility subject to the requirements of this subtitle or other location described in subsection (c). Any such officer, employee or representative is authorized to inspect and obtain samples of any containers of toxic chemicals or other materials maintained at such facility. Each such inspection shall be completed with reasonable promptness.

"(2) SAMPLES—If the officer, employee or representative obtains samples, before leaving the premises such officer, employee or representative shall give to the owner or operator of such facility a receipt describing the sample obtained and, if requested, a portion of each sample. A copy of the results of any analysis made of such samples shall be furnished promptly to the owner or operator of the facility.

"(e) COMPLIANCE ORDERS.—

"(1) ISSUANCE.—If consent is not granted regarding nay request made by an officer, employee or representative under subsections (a), (b), or (c), the Administrator may issue an order directing compliance with the request. The order may be issued after such notice and opportunity for consultation as is reasonably appropriate under the circumstances.

"(2) COMPLIANCE.—The Administrator may ask the Attorney General to commence a civil action to compel compliance with a request or order referred to in paragraph (1). Where there is a reasonable basis to believe there may be a violation of this subtitle, the court shall take the following actions:

"(A) In the case of interference with entry or inspection, the court shall enjoin such interference or direct compliance with orders to prohibit interference with entry or inspection unless under the circumstances of the case the demand for entry or inspection is arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law.

"(B) In the case of information or document requests or orders, the court shall enjoin interference with such information or document requests or orders or direct compliance with the requests or orders to provide such information or documents unless under the circumstances of the case the demand for information or documents is arbitrary and capricious, an abuse of discretion, or otherwise not is accordance with law.

The court may assess a civil penalty not to exceed $25,000 for each day of noncompliance against any person who unreasonably fails to comply with the provisions of subsections (a), (b) or (c) or an order issued pursuant to paragraph (1).

"(f) OTHER AUTHORITY.—Nothing in this section shall preclude the Administrator or a State from securing access or obtaining information in any other lawful manner.

ENFORCEMENT

SEC. 209. Subtitle E of the Solid Waste Disposal Act is amended by adding the following new section at the end thereof:

"ENFORCEMENT

SEC. 5014. (a) COMPLIANCE ORDERS.—

"(1) Whenever on the basis of any information the Administrator determines that any person has violated, or is in violation of, any requirement or prohibition in effect under this subtitle (including any requirement or prohibition in effect under regulations under this subtitle), the Administrator may issue an order (A) assessing a civil penalty for any past or current violation, (B) requiring compliance immediately or within a specified time period, or (C) both, or the Administrator may commence a civil action in the United States district court in the district in which the violation occurred for appropriate relief, including a temporary or permanent injunction. Any order issued pursuant to this paragraph shall state with reasonable specificity the nature of the violation.

"(2) Any penalty assessed in an order under this section shall not exceed $25,000 per day of noncompliance for each violation of a requirement or prohibition in effect under this subtitle. In assessing such a penalty, the Administrator shall take into account the seriousness of the violation and any good faith efforts to comply with applicable requirements.

"(3) Any order issued under this subsection shall become final unless, not later than 30 days after the issuance of the order, the persons named therein request a public hearing. Upon such request, the Administrator shall promptly conduct a public hearing. In connection with any proceeding under this paragraph, the Administrator may issue subpoenas for the production of relevant papers, books, and documents, and may promulgate rules for discovery procedures.

"(4) In the case of an order under this subsection requiring compliance with any requirement of or regulation under this subtitle, if a violator fails to take corrective action within the time specified in an order, the Administrator may assess a civil penalty of not more than $25,000 for each day of continued noncompliance with the order.

"(b) CRIMINAL PENALTIES.—Any person who—

"(1) knowingly violates the requirements of or regulations under this subtitle; or

"(2) knowingly omits material information or makes any false material statement or representation in any record, report, or other document filed, maintained, or used for purposes of compliance with this subtitle or regulations thereunder

shall, upon conviction, be subject to a fine of not more than $50,000 for each day of violation, or imprisonment not to exceed 2 years. If the conviction is for a violation committed after a first conviction of such person under this subsection, the maximum punishment shall be doubled with respect to both the fine and imprisonment.

"(c) CIVIL PENALTIES.—Any person who violates any requirement of or regulation under this subtitle shall be liable to the United States for a civil penalty in an amount not to exceed $25,000 for each such violation. Each day of such violation shall, for purposes of this section, constitute a separate violation.

AUTHORIZATIONS

SEC. 210. (a) Subtitle E of the Solid Waste Disposal Act is amended by redesignating section 6010 of the Pollution Prevention Act of 1900 (Public Law 101-508) as a new section 5015.

(b) Section 5015 of the Solid Waste Disposal Act, as redesignated by subsection (a), is amended by adding the following new sentence:

"There is authorized to be appropriated to the Administrator $25,000,000 for each of the fiscal years 1994 through 1997 for the functions carried out under this subtitle (other than State grants), and $10,000,000 for each of the fiscal years 1994 through 1997 for grants to the States made pursuant to section 5005.".

TECHNICAL AMENDMENTS

SEC. 211. (a) The Table of Contents for subtitle E of the Solid Waste Disposal Act is amended to read as follows:

"Subtitle E—Pollution Prevention

"5001. Short title.
"5002. Findings and Policy.
"5003. Definitions.
"5004. EPA activities.
"5005. Grants to States for technical assistance programs.
"5006. Pollution prevention clearinghouse.
"5007. EPA report.
"5008. Savings provision.
"5009. Pollution prevention plans.
"5010. Reports.
"5011. Feasibility studies.
"5012. Research.
"5013. Information gathering.
"5014. Enforcement.
"5015. Authorizations.".

(b) The Table of Contents for subtitle F of the Solid Waste Disposal Act is amended:

(1) by inserting after the title the following:

"PART 1—GENERAL PROVISIONS"; and

(2) by inserting the following at the end thereof:

"PART 2—DUTIES OF THE SECRETARY OF COMMERCE

"6010. Functions.
"6011. Development of specification for secondary materials.
"6012. Development of market for recovered materials.
"6013. Technology promotion.
"6014. Nondiscrimination requirement.
"6015. Authorization of appropriations.".

By Mr. BOND (for himself, Mr. DASCHLE, Mr. GRASSLEY, Mr. HEFLIN, Mr. MCCONNELL, Mr. DANFORTH, Mr. HARKIN, Mr. KASTEN, and Mr. DIXON):

S. 2361. A bill to enhance the competitiveness of United States processed and high-value agricultural products in export markets and expand domestic employment opportunities; to the Committee on Agriculture, Nutrition, and Forestry.

EXPANSION OF PROCESSED AND HIGH-VALUE AGRICULTURAL EXPORTS AND EMPLOYMENT OPPORTUNITIES ACT

Mr. BOND. Mr. President, today I, along with Senators DASCHLE, GRASSLEY, MCCONNELL, HEFLIN, KASTEN, HARKIN, DANFORTH, and DIXON introduce the Expansion of Processed and High-Value Agricultural Exports and Employment Opportunities Act of 1992. This legislation sets a goal for the United States to gain 15 percent of the world market of processed and high-value agricultural products.

Mr. President, I would like to stand here today and tell you that everything is just fine with our role in international agricultural trade, but frankly, it is not. Plain and simple: The Europeans continue to drag their feet on reform while dumping huge subsidies into their exports.

It is time the administration recognizes that the United States is losing out when it comes to value-added exports. Worldwide processed and value-added products increased by more than 50 percent in the last decade and we can expect this demand to continue to grow. While our competitors have nearly doubled their value-added trade, U.S. trade in high-value agriculture products actually declined.

In fiscal years 1981–87 the United States had 19 percent of the world share for value-added products, but in fiscal year 1990 it was only 8 percent of the world share. However, during this same time period the EC's share was 38 and 40 percent.

For some who may not be familiar with what we mean by value-added products, I say along with sending raw products, corn, wheat or soybeans or brood stock for animal production, we also send hamburgers, ready-to-cook poultry, pork chops, soybean meal, soybean oil. The reason it is so important is because the processing, adding value, creates jobs in the United States. We need those jobs. We need those jobs to remain competitive in the world market.

To reach our goal of 15 percent of the share of world trade in processed agricultural products we must become more focused. We would do this by focusing our export assistance programs toward value-added products. These programs, which have concentrated on raw commodities, have been good for both farmers and our trade balance. However, now is the time to look at the opportunities to create jobs for American workers. We need to provide American farmers the opportunity to sell value-added processing operations here in the United States, and also to improve our international trade position.

Under the Export Credit Guarantee Program, the GSM–102 and 103, this bill requires that the Commodity Credit Corporation, to the extent practicable, use 35 percent of the total funds to promote exports of processed and high-value agricultural products.

In fiscal year 1988, 37.3 percent of U.S. export credit guarantees went to value-added products, but in fiscal 1991, only 23.6 percent went to value-added.

Under the export Enhancement Program, another program, this bill would require the CCC, to the extent practicable, to use 25 percent of the total funds to promote exports of processed and high-value agricultural products. In 1986, almost 40 percent went to value-added products. By 1991 that figure had dropped to only about 8 percent.

If we use these programs aggressively, with the Credit Guarantee Program and the Export Enhancement Program, we can create jobs for American workers, provide better markets for American farmers, and have the opportunity to gain new markets in the future. USDA's own Economic Research Service backs this up. If we can increase the U.S. share of high-value, processed, agricultural products to 15 percent, then we can create 1½ million jobs and increase our gross national product between $50 and $100 billion a year.

Agricultural exports are vital to the economic health of this Nation. More than one-third of our cropland moves into export channels. Last year, Missouri farmers produced more than $4 billion in farm marketings of which over $1.2 billion went overseas as farm exports.

The legislation we introduce today would provide economic growth in many sectors of the American economy, not just agriculture. Over 21 million jobs in America today are related to growing, transporting, processing, distributing, and marketing agricultural products. Efficiency and productivity have made American agriculture the envy of the world. To continue to be the envy of the world, the United States must be able to compete fairly with the EC on the world market. The European Community will continue to expand its value-added exports while United States exports continue to fall unless we take this aggressive action. The way to get ahead of the EC is to get behind the American producer. I urge my colleagues to support this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2361

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Expansion of Processed and High-Value Agricultural Exports and Employment Opportunities Act of 1992".

SEC. 2. SET-ASIDE IN EXPORT ASSISTANCE PROGRAMS FOR PROCESSED AGRICULTURAL PRODUCTS AND HIGH-VALUE AGRICULTURAL PRODUCTS.

(a) DECLARATION OF POLICY.—Congress declares that the export credit guarantee program and the export enhancement program required by sections 202 and 301 of the Agricultural Trade Act of 1978 (7 U.S.C. 5622 and 5651) should be administered by the Commodity Credit Corporation in a manner that contributes to the achievement of the objective that the United States share of world trade in processed agricultural products and high-value agricultural products shall not be less than 15 percent.

(b) DEFINITIONS.—Section 102 of the Agricultural Trade Act of 1978 (7 U.S.C. 5602) is amended by adding at the end the following new paragraphs:

"(8) PROCESSED AGRICULTURAL PRODUCT.—The term 'processed agricultural product' means a product of an agricultural commodity derived from a bulk or raw agricultural commodity that, as a result of the application of human labor, the use of machines, or other factors involved in a manufacturing process, or any combination thereof, is increased in value and made more appropriate for human consumption or use. The term includes livestock, dairy, and poultry products, wheat, flour, milled rice, refined sugar, vegetable oil, and prepared, preserved, canned, frozen, refrigerated and other processed food products.

"(9) HIGH-VALUE AGRICULTURAL PRODUCT.—The term 'high-value agricultural product' means an agricultural commodity the value of which, on a per unit or equivalent volume basis, is substantially higher than the value of bulk or raw agricultural commodities, such as grains and oilseeds. The term includes fresh, chilled and frozen meats and other livestock, dairy, and poultry products, eggs, breeder stock, plant seeds, and tobacco.".

(c) PROCESSED AND HIGH-VALUE AGRICULTURAL PRODUCT EXPORT CREDIT GUARANTEE PROGRAM.—Section 202 of such Act (7 U.S.C. 5622) is amended—

(1) in subsections (a) and (b), by inserting ", including processed agricultural products and high-value agricultural products," after "agricultural commodities" both places it appears; and

(2) by adding at the end the following new under this section, the Commodity Credit Corporation shall ensure that, to the extent practicable, 65 percent of the total funds expended under this section for a fiscal year are expended to promote the export of bulk or raw United States agricultural commodities and that, to the extent practicable, 35 percent of the funds are expended to promote the export of processed agricultural products and high-value agricultural products.".

(d) PROCESSED AND HIGH-VALUE AGRICULTURAL PRODUCT EXPORT ENHANCEMENT PROGRAM.—Section 301 of such Act (7 U.S.C. 5651) is amended—

(1) in subsection (a), by inserting ", including processed agricultural products and high-value agricultural products," after "agricultural commodities"; and

(2) in subsection (e)—

(A) by striking "(e) FUNDING LEVELS.—The" and inserting the following:

"(e) FUNDING LEVELS.—

"(1) IN GENERAL.—The";

(B) by indenting 2 ems the left margin of paragraph (1) (as amended by subparagraph (A)); and

(C) by adding at the end the following new paragraph:

"(2) SET-ASIDES.—For each such fiscal year, the Commodity Credit Corporation shall ensure that, to the extent practicable—

"(A) 75 percent of the total funds available under this section (or 75 percent of the value of any commodities employed) are expended to promote the export of bulk or raw United States agricultural commodities; and

"(B) 25 percent of the funds (or 25 percent of the value of any commodities employed) are expended to promote the export of processed agricultural products and high-value agricultural products.".

(e) COST-REVENUE AND EMPLOYMENT ANALYSIS OF EXPORT ASSISTANCE.—Section 303 of such Act (7 U.S.C. 5653) is amended to read as follows:

"SEC. 303. QUARTERLY AND ANNUAL REPORTS ON THE COST-REVENUE ANALYSIS AND EMPLOYMENT EFFECTS OF SUPPORTING THE EXPORT OF PROCESSED AND HIGH-VALUE AGRICULTURAL PRODUCTS.

"(a) QUARTERLY REPORTS.—

"(1) IN GENERAL.—Not later than 30 days after the end of each quarter of a fiscal year, the Secretary shall submit to Congress a report containing an estimate for the preceding quarter of the costs and imputed revenues, attributable to the export of processed agricultural products and high-value agricultural products and raw and bulk commodities under sections 202 and 301.

"(2) BASIS OF REVENUE ESTIMATE.—The revenue estimate under paragraph (1) shall be determined by Economic Research Service of the Department of Agriculture on the basis of the net effect on Federal tax receipts of exports under sections 202 and 301 on the personal and corporate income of persons directly and indirectly assisted.

"(3) EFFECT ON EMPLOYMENT.—The Secretary shall, after consultation with the Secretary of Labor, include in a report required under paragraph (1) an examination of the direct and indirect effect of the export efforts under sections 202 and 301 for the preceding quarter on employment levels and opportunities in the United States agricultural sector and related industries.

"(b) ANNUAL REPORT.—Not later than 30 days after the end of each fiscal year, the Secretary shall submit to Congress a report for the preceding fiscal year containing the information required under subsection (a).".

(f) APPLICATION OF SECTION.—

(1) IN GENERAL.—This section and the amendments made by this section shall become effective on the date of the enactment of this Act.

(2) FISCAL YEAR 1992.—The Commodity Credit Corporation shall apply this section and the amendments made by this section during fiscal year 1992 to the maximum extent practicable.

Mr. DASCHLE. Mr. President, America is losing a struggle for the future of our rural communities. Our competitors are gobbling up the growing market for processed, value-added, agricultural products, while we trail far behind. If we do not reverse this trend and increase our share of world trade in value-added agricultural products, our rural communities will wither like corn stalks in an August drought. This dismal prospect is not the result of the invisible hand of free markets, but the direct consequence of Government policy. It is time to change that policy.

Since 1983, global trade in high-value products has grown by 57 percent, while trade in raw commodities grew by only 4 percent. In 1989, high-value products accounted for almost 75 percent of world agricultural trade. Today, the value-added sector is a $140 billion market.

High-value products, such as wheat flour, vegetable oil and red meat, provide greater benefits to the exporting Nation than raw commodities because value-added processing creates jobs, boosts economic development and raises Government revenues. Every dollar received from agriculture exports stimulates another $1.51 worth of business activity for the rest of the economy. But all agriculture exports are not equal. Selling a ton of corn overseas does not create the same benefit for the American economy as selling a ton of red meat; selling a ton of wheat does not generate as much economic activity as selling a ton of wheat flour.

One million dollars of wheat exported in bulk form generates $5.21 million of economic activity, as well as jobs for 85 workers, and personal income of $1.25 million. The same quantity of wheat exported as flour generates $14.2 million in economic activity, 194 jobs and $3.14 million in personal income.

Meat and poultry exports generate even more economic activity, which leads to higher tax revenues. Exporting corn in the form of dressed poultry generates 9.3 times more gross national product and Federal tax revenues than exporting the corn. If fed to livestock for export, every $1 million worth of corn would produce $1.3 million in Federal tax revenues.

With the benefits of exporting value-added products so obvious, Mr. President, one would think USDA must be taking advantage of every tool at its disposal to promote our value-added products. Sadly, Mr. President, USDA is not doing all that it can or should do to expand our share of this important and growing market.

In September, the General Accounting Office called USDA unresponsive to the new challenges facing American agriculture. The GAO report says USDA has focused on increasing the production of raw commodities at low prices, while our competitors have been employing sophisticated marketing strategies to swallow up value-added markets. We are not matching their efforts. GAO says our Government has failed to recognize the changes in world trade. "The United States' continuing emphasis on lowering the production cost of bulk commodities disregards a decade-old shift in global trade from a relatively few major bulk commodities to profitable market opportunities in processed and consumer-oriented products."

USDA is on the sidelines in the trade game. Instead of running interference for our producers, and using its muscle to open holes for our products, our Government is watching from the stands. As our competitors dominate value-added markets, American farmers are forced to produce cheap raw commodities because that's the only markets left to them. That's a prescription for economic decline in rural America, not for economic prosperity.

During the 1980's, as the value-added market grew, the United States' share of the market stayed the same at about 8 to 9 percent. The EC, on the other hand, recognized early the opportunities in value-added markets. Today, the EC countries control a 50-percent market share, commanding $70 billion in value-added agricultural trade.

The value-added market is expected to grow through the nineties at 8 to 100 percent annually. If current trends continue, by the year 2000, the EC will control 50 percent of a $250 billion market, while the U.S. share will be about 10 percent at $25 billion, hardly enough to cover the potential declines in trade revenues from raw commodities and to provide growth for American agriculture.

Our second-place status in the high-valued market is no accident. We are being out-marketed. The EC pays export refunds on beef, veal, pork, and poultry products to help EC exporters stay competitive. EC pork producers export more than 600 million dollars' worth of their products, while American pork producers are able to export barely over 100 million dollars' worth of products.

The EC is moving aggressively into the markets of the Commonwealth of Independent States [CIS]. By demanding that the CIS buy EC value-added products, the EC dictates what products we can sell. The EC takes the main course, while we get the leftovers.

Mr. President, it's time we fought back. Today, I join with Senator BOND and several other Senators in introducing legislation to increase the share of Export Enhancement Program [EEP] funds for value-added exports. The 1990 farm bill calls for using at least 25 percent of EEP funds for value-added products. So far, only 7 percent of EEP funds have been devoted to processed products. This legislation puts new emphasis on the 1990 farm bill goal by directing USDA to make sure at least 25 percent of EEP funds are used to promote exports of value-added agricultural products.

While this legislation takes a major step in the right direction, there are likely to be more initiatives down the road to improve our Government's efforts to expand our share of world value-added trade. We must streamline the interagency review process for EEP initiatives, and review the State Department's role in EEP decisions. For years, agriculture has been a tool of foreign policy. That approach made no sense before and it makes no sense now. In too many cases, foreign policy considerations have overrode the need to increase sales of agricultural products through promotional programs. It is time to reevaluate the role of the foreign-policy establishment in agricultural trade policy.

We also must develop better marketing strategies. Instead of looking for ways to sell more of what we already produce, USDA wants to produce more. Production is not the problem, marketing is. We must set goals, target markets and set out to capture them. Producing more raw commodities at lower prices plays into European hands. If we continue to be the world's supplier of cheap grain, European farmers can grow prosperous satisfying the world's need for value-added products. They will reap the benefits of value-added production. Their rural communities will enjoy the jobs and economic growth food processing generates. Our rural communities will struggle to stay alive.

Under the 1990 farm bill, USDA is directed to develop a long-term trade strategy. This strategy will guide USDA trade programs for the future. What is USDA's strategy for value-added exports? Zero growth. That is right, Zero growth. What kind of strategy is that? I tell you what kind it is—a losing strategy.

We should set a goal of increasing our share of the value-added market by 5 percent and then get the job done. If we achieved this goal, by the year 2000, our trade revenue from the value-added market would be $39 billion instead of $25 billion.

Finally, we need to stop thinking of export programs as a cost to the Government. Money that is spent to increase revenues is money well spent. Value-added exports generate more tax revenue, paying for the cost of export assistance many times over. It is time we start seeing export promotion as a revenue gain, not a revenue loss.

Mr. President, our rural communities cannot grow on the production of raw commodities alone. We must develop our potential for value-added processing. The economic activity such processing will generate is the best hope for the future of rural America. The potential of this economic engine depends on increasing our share of world trade in value-added exports. I urge my colleagues to support this measure as the first important step in overhauling our agricultural trade policies.

By Mr. McCAIN (for himself, Mr. WIRTH, Mr. GRASSLEY, Mr. NICKLES, Mr. STEVENS, and Mr. BROWN):

S. 2362. A bill to amend title XVIII of the Social Security Act to repeal the reduced Medicare payment provision for new physicians; to the Committee on Finance.

REPEAL OF REDUCED MEDICARE PAYMENT PROVISION FOR NEW PHYSICIANS

Mr. McCAIN. Mr. President, I rise today with Senators WIRTH, GRASSLEY, NICKLES, STEVENS, and BROWN to introduce a bill which would eliminate discrimination in Medicare reimbursement practices for physicians. Current practices result in new physicians receiving less reimbursement for the same procedure than physicians who have been practicing for a longer period of time. This legislation is similar to that introduced by Representative ED TOWNS last year.

Specifically, the legislation I am introducing today will repeal the inequitable provision of existing law that reduces Medicare payment to so-called new physicians in their first 4 years of practice. With some limited exceptions, current law reduces the payment base or allowed amount by some 20 percent in the physician's first year of practice, 15 percent in the second year, 10 percent in the third, and 5 percent in the fourth year. My bill would repeal this discriminatory law.

The rationale behind this discriminatory law, which was enacted a couple of years ago, was to achieve budget savings at the expense of young physicians and physicians new to providing care for Medicare beneficiaries, under the assumption that a new physician's services are of less value—and therefore less worthy of full compensation—than those of a more experienced physician. However, the value of these physicians' services, as evidenced by the new Medicare physician payment system which bases reimbursement on a resource-based relative value scale [RBRVS], is not modified based on the experience of the physician providing the care. Furthermore, the RBRVS assigns a value to each service—and that service does not cost those designated as new physicians any less to perform than physicians who have been in practice for a longer time. Under the current law, the definition of a new physician is so general and so vague that physicians who have served in the military for years, but have not previously billed the Medicare Program, are viewed as new physicians. Payments for their services to Medicare beneficiaries are reduced during the first 4 years of civilian private practice. Clearly, the existing law does not reward these dedicated physicians on a level commensurate with their experience.

The current law reducing payments to new physicians violates the underlying concepts behind the landmark Medicare physician payment reform, which became effective as of January 1, 1992. It also ignores the financial reality facing new physicians of meeting high startup costs associated with building a new practice, and the skyrocketing costs of medical education. The provisions of the current law serve only to discourage new physicians from certain targeted specialties and providing care for Medicare beneficiaries, as well as causing group practices to steer Medicare beneficiaries away from those physicians defined under the law as new.

I urge support for this legislation, which will ensure that all physicians are treated fairly, and which corrects the inequities of the current law. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2362

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPEAL OF REDUCED MEDICARE PAYMENT PROVISION FOR NEW PHYSICIANS.

(a) IN GENERAL.—Section 1848(a) of the Social Security Act (42 U.S.C. 1395w-4(a)) is amended by repealing paragraph (4).

(b) BUDGET NEUTRALITY.—The Secretary of Health and Human Services shall provide that in carrying out the amendment made by subsection (a) that payments under section 1848 of the Social Security Act are no greater or lesser than what such payments would have been but for the provisions of this Act.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective with respect to physicians' services furnished on or after January 1, 1993.

By Mr. KERRY:

S. 2363. A bill to develop, assist, and stabilize recycling markets; to the Committee on Environment and Public Works.

NATIONAL RECYCLING MARKETS ACT

• Mr. KERRY. Mr. President, over the past 20 years, Americans have become increasingly conscious of the environment and of our collective obligation to protect it and save it for the future.

We have passed legislation to help protect our water and our air and to clean up toxic wastes. But to a great degree, we have yet to address the fundamental problem of waste—the waste produced by every American, which collectively is threatening to overwhelm us.

According to the Environmental Protection Agency's latest figures, in 1988, 180 million tons of municipal solid waste [MSW] was generated in the United States, a 71-percent increase in garbage in just 13 years. Mountains of garbage are being created at an ever-increasing rate. The average American dumps 4 pounds of garbage every day, up from 2.6 pounds a day 30 years ago.

According to a recent report by the League of Conservation Voters, roughly 73 percent of solid waste is disposed of in landfills across this Nation, causing growing environmental and health risks to neighboring communities.

In Massachusetts, for example, 13 communities have lost their public water supplies due to contamination by poorly sited or inadequately designed landfills, and nationally landfills make up over 20 percent of the sites on the national priority list in the Superfund program.

Landfills are closing at a rapid rate due to environmental damage and overloaded capacity. As a recent article in the Washington Post noted, the places to put waste are disappearing fast:

> Fewer than 4,000 of the 14,000 landfills nationwide in 1977 are still open and the number is expected to drop to 1,800 by the turn of the century.

In Massachusetts in the past 15 years, roughly 150 unlined municipal landfills have closed and the number continues to grow. With a limited landfill capacity, States, particularly States in the Northeast, have resorted to shipping tons of garbage outside their State borders. According to the National Solid Waste Management Association, between 1989 and 1990, the District of Columbia and 16 States exported more than 100 tons of waste across State lines.

We have arrived at a time when we must radically change this Nation's method of dealing with solid waste disposal. A comprehensive national waste management plan is badily needed.

We have no choice but to find ways today to minimize the waste we produce without thinking—minimize it at the source—and to reuse waste through recycling. As landfills are closed due to overcapacity or pollution fears, there will be strong and increasing pressures to deal with remaining waste by incineration, and that is going to be unacceptable.

Today I am introducing the National Recycling Markets Act of 1992 which I view as a crucial component of a national comprehensive solid waste plan. Recycling as a component of a comprehensive waste management plan holds the answer to many of our concerns. Recycling is an historic response to a new and ever-mounting environmental problem. We are borrowing—recycling, if you will—a practice that was commonplace during World War II.

Recycling not only will minimize pollution. It will reduce the number and contentiousness of issues surrounding the siting of incinerators, while at the same time it will save energy and create an entirely new industry in the United States.

Yet recycling will not happen on its own. The need for market development to provide impetus is essential if recycling is ever going to succeed. The issue of supply and demand is a major obstacle to the success of recycling. Simply mandating the collection of materials will not result in the actual recycling of the commodity. For example, newspaper collected at the curbside ostensibly destined for recycling have sat rotting in warehouses or, worse, have been dumped into landfills because of a lack of buyers. On the other side of the supply-demand equation, the lack of adequate, dependable, and uncontaminated supplies of recycled materials has resulted in manufacturers shying away from recycling.

Waste managers are slow to establish recycling programs for fear of being stuck with worthless commodities with no interested buyers. By developing markets, the demand for recovered materials will increase simultaneously.

The purpose of the National Markets Recycling Act is to generate profitable new markets for recycling efforts. Through the establish of a Bureau of Recyclable Commodities within the Department of Commerce, the legislation will promote, assist, and stabilize markets for recovered commodities diverted from the waste stream. The bill focuses on five recyclable materials: aluminum, glass, steel, plastics, paper and paper products.

The most important element in the bill, and certainly one that has generated a great deal of discussion, is the mandated minimum recycled content standards for products and packaging. In seems obvious that the surest way to guarantee end markets for recyclables is to require that a certain percentage of materials and products be made from secondary materials. To date, virgin products have had an economic competitive edge. Yet the energy used to produce them, and the environmental consequences related to developing virgin products, makes use of virgin materials a shortsighted venture that is bound to catch up with us in the very near future.

According to the Conservation Law Foundation, more energy is needed to extract and process virgin materials than to recycle and develop secondary materials.

For example, recycling aluminum is estimated to save 90 to 97 percent of the energy required to make aluminum from mined bauxite. Mandating minimum content will give manufacturers of recyclables the security they need to develop new recycling industries.

Furthermore, by requiring minimum content in packaging, producers for the first time will be partially responsible for the disposal of their products. In the past, the cost of MSW disposal was low, and municipalities could easily pass the cost along to local citizens. Today businesses and municipalities in the Northeast spend close to $3 billion in annual tipping fees. Minimizing packaging and requiring that products may be made by recycled materials is the only way I can see that is both realistic and responsible for the producers to absorb or limit the costs of disposal.

Streamlining the recycling process is the purpose of this bill. The legislation will standardize the definitions and grades of recovered materials. This would make it easier for producers and consumers to identify appropriate materials. The act also directs the Commerce Department to increase the flow of information about market prices, new technologies and other factors affecting recycling markets.

Creating financial incentives to stimulate industrial investment in recycling is key to its success. This legislation offers technical and financial assistance to industry, including low-interest loans and loan guarantees for purchasing, constructing, and operating facilities and for purchasing equipment for the collection, separation, and processing of recyclable materials.

Consumers are faced with a confusing array of terms in environmental packaging; "environmental friendly," the "green seal," the "green cross," and myriad representations about recycling content.

To reduce consumer confusion, the bill mandates labeling requirements. The words "recycled" or "recycled content" will be permitted to describe only those products or packages that meet the minimum content requirements.

The Commerce Department has an aggressive program to open foreign markets to U.S. businesses. Recycling is an area where we can export technology, and export recovered materials that can be used elsewhere in the world. To accomplish this, the legislation will establish efforts to identify and promote the development of new overseas markets for our U.S. industry.

The legislation also establishes recycling research centers to be housed at four to six universities across the Nation. And finally, the legislation creates a clearinghouse at the Department of Commerce to provide the latest information on all aspects of recycling.

Mr. President, most experts in the field of waste management agree that establishing a minimum content standard and mandating adherence to it is the only way to ensure security to new recycling industries and markets. In addition to addressing our growing waste disposal problem, recycling will provide economic benefits through the creation of jobs. The Conservation Law Foundation [CLF] estimates that one job is created in collection and processing for every 465 tons of material recycled annually. In the Northeast, CLF estimates that with a 10-percent recycling rate for recyclable materials, 11,800 jobs will be created; a 50-percent rate will result in roughly 59,000 jobs. The potential economic benefits are tremendous. Recycling has already provided jobs and economic development in the Northeast. A partnership formed by New England CRInc, which builds and operates Material Recovery Facilities [MRF's], and Wellman Inc., the largest recycler of postconsumer plastic bottles, is employing 2,700 people today, and that number is anticipated to expand as recycling efforts develop.

In summary, recycling and waste minimization not only are essential to deal with our waste problems, but in the long run are sound economics.

I look forward, Mr. President, to hearings on this legislation and the adoption of this or a similar plan when the Congress next addresses the problem of municipal waste.

I ask unanimous consent that the text of the bill, and a section-by-section summary, be printed following my remarks in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2363

Be it enacted by the Senate and House of Representatives of the United States in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Recycling Markets Act of 1992".

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SEC. 3. DEFINITIONS.

For purposes of this Act, the following definitions apply:

(1) SECRETARY.—The term "Secretary" means the Secretary of Commerce.

(2) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(3) ALUMINUM SCRAP.—The term "aluminum scrap" means any post-consumer refuse material composed of aluminum, including any discarded beer, soft drink, or other beverage container, food container, foil, or closure, any automobile scrap, and any construction scrap of that composition.

(4) COMPOSTABLE MATERIALS.—The term "compostable materials" means any product or package suitable for the production of compost.

(5) CONTAINER; PACKAGING.—The terms "container" and "packaging" mean any material which holds, wraps, or otherwise encloses a good that is sold or distributed in interstate commerce.

(6) DE-INKED MATERIAL.—The term "de-inked material" means printed or coated paper, the fiber of which must undergo a process in which most of the ink, filler, or other extraneous material is removed.

(7) DURABLE GOOD.—The term "durable good" means any automobile, household appliance, furniture, equipment, or other item that in normal use is likely to last longer than 3 years.

(8) FERROUS SCRAP.—The term "ferrous scrap" means any post-consumer refuse material composed of iron or steel, including

any discarded beer, soft drink, or other beverage container, food container, automobile, household appliance, furniture, and construction scrap of that composition.

(9) Food waste.—The term "food waste" means any discarded material composed of food, but does not include any such material discharged to a public or private sewage system.

(10) Lead scrap.—The term "lead scrap" means any post-consumer refuse material composed of lead, including any discarded automotive battery and construction scrap of that composition.

(11) Nondurable good.—The term "nondurable good" means any item that in normal use is likely to last 3 years or less, including any paper or paperboard product.

(12) Other nonferrous scrap.—The term "other nonferrous scrap" means any post-consumer refuse material composed of a nonferrous metal besides aluminum or lead, including any household battery, wire, household appliance, furniture, and construction scrap of that composition.

(13) Plastic scrap.—The term "plastic scrap" means any post-consumer refuse material composed of plastic, including any food or beverage container or packaging, automobile scrap, construction scrap of that composition.

(14) Post-consumer material.—The term "post-consumer material" means only those products generated by a consumer which have been made available for sale or have served their intended end-uses and have been separated or diverted from solid waste for the purpose of collection, recycling, and disposition. The term does not include wastes generated during production of an end-product, such as post-mill material.

(15) Post-mill material.—The term "post-mill material" means wastes generated during production which cannot be returned to the same production process, nor used by another company producing a similar product. The term includes de-inked material (in the case of paper) and all wastes generated during the intermediate steps in producing an end product by succeeding companies. The term does not include forest residues or mill broke.

(16) Recovered materials.—The term "recovered materials" means materials which—

(A) have a known use, resuse, or recycling potential;

(B) can be feasibly used, reused, or recycled; and

(C) have been diverted or removed from the solid waste stream for sale, use, reuse, or recycling (whether or not such materials require separation and processing).

(17) Recycled goods.—The term "recycled goods" means goods manufactured or composted using recovered materials diverted or separated from solid waste.

(18) Recycling.—The term "recycling" means the use of recovered materials diverted or separated from solid waste for use as raw materials or feedstocks in the manufacturer of goods sold or distributed in interstate commerce, or the reuse of such recovered materials as substitutes for goods made from virgin inputs.

(19) Reuse.—The term "reuse" means any cleaning, sterilizing, recharging, retreading, or other reprocessing for use in a similar function by the original manufacturer or distributor, or class of manufacturers or distributors.

(20) Rubber scrap.—The term "rubber scrap" means any post-consumer refuse material composed of rubber, including any discarded automotive tire.

(21) Solid waste.—The term "solid waste" means any durable or nondurable good, container, packaging, material, or other item that has reached its intended end use and has been discarded. The term does not include recovered materials, hazardous waste, radioactive waste, sewage, septage, sewage sludge, incinerator ash, used oils, or any mixtures containing these wastes.

(22) Waste glass.—The term "waste glass" means any post-consumer refuse material composed of glass, including any discarded beer or soft drink container, any wine or liquor container, any other beverage or liquid container, any food container, and any construction scrap of that composition.

(23) Yard waste.—The term "yard waste" means any discarded leaves, grass clippings, tree or shrubbery trimmings, gardening residues, or other similar refuse material composed of vegetative matter.

SEC. 4. BUREAU OF RECYCLABLE COMMODITIES.

The Secretary shall establish within the Department of Commerce a separate office to be called the Bureau of Recyclable Commodities. The principal purpose of the office shall be to promote the use of recovered materials diverted from solid waste. Unless otherwise specified, the office, at the direction of the Secretary, shall carry out the functions enumerated by this Act.

SEC. 5. IDENTIFICATION OF GRADES FOR RECOVERED MATERIALS AND REQUIREMENT TO CONFORM TO SUCH GRADES.

(a) Commodity Types and Grades.—Not later than 9 months after the date of the enactment of this Act, with assistance from the Administrator and after consultation with appropriate recycling industries and other potentially affected parties, the Secretary shall identify materials covered under section 19(a) and compostable materials that qualify as recovered materials and, to the extent practicable, standardize the types and grades of those materials. The Secretary may revise such types and grades from time to time as the Secretary considers necessary.

(b) Grade Determination.—To the extent practicable, identification under subsection (a) of suitable grades of recovered materials shall be based on—

(1) material grades currently accepted and in use by industries involved in recycling;

(2) material grades traded on commodity exchanges or markets;

(3) material grades used as raw materials or feedstocks in the manufacture of recycled goods; or

(4) material grades purchased or accepted for eventual recycling after further source-separation, collection, transport, stockpiling, processing, upgrading, or other handling.

(c) Subcategories of Types and Grades.—In identifying the types and grades of materials that qualify as recovered materials, the Secretary shall assign solid waste materials to subcategories of types and grades, where appropriate.

(d) Transition to Easily Recyclable Items.—

(1) Excluded items.—In identifying types and grades of materials that qualify as recovered materials, the Secretary may not include the following:

(A) Ceramic and glass mixtures.

(B) Multi-resin plastic packaging.

(C) Plastics that contain or are made through a process that involves chlorofluorocarbons.

(D) Plastics that contain heavy metals.

(E) Any other materials or combinations of materials contained within a product in a manner such that the materials cannot be recycled easily.

(2) Regulations to encourage development of alternatives.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall promulgate regulations to encourage the elimination of the production of the items listed in paragraph (1) and the development of alternatives to such items that are functionally equivalent but can be recycled easily.

(e) Requirements to Conform to Grades.—After grades of recovered materials have been identified under subsection (a), any person that produces materials or products that are likely to eventually be treated as recovered materials or become part of the municipal solid waste stream must ensure that such materials, or the materials within such products, conform to the specifications of an identified grade.

(f) Revisions.—Industries or local governments engaged in the collection, transport, stockpiling, processing, upgrading, or recycling of recovered materials may petition the Secretary for revision of applicable material grades as necessary to prevent or minimize interference with current recycling techniques. Not later than 90 days after receipt of the petition, the Secretary shall either deny the petition or approve the petition and make appropriate revisions to the applicable material grades.

SEC. 6. PERIODIC MARKET ANALYSIS.

(a) Price Information.—The Secretary shall prepare and make available to the public, on at least a quarterly basis, a report on prevailing market prices for recovered materials. The first such report shall be made available not later than 1 year after the date of enactment of this Act. The report shall include price information for both domestic and foreign markets.

(b) Recycling Rates.—On at least an annual basis, the Secretary shall prepare and make available to the public a report containing the statistics and other data collected by the Administrator on the prevailing national recycling rate for each recovered material. The first such report shall be made available not later than 1 year after the date of enactment of this Act. For the purpose of making the determinations, materials transported to foreign nations for recycling shall be considered to be recycled.

(c) Stimulation of Markets.—On at least an annual basis, the Secretary shall prepare and make available to the public a report analyzing the technical and economic factors that may influence future foreign and domestic markets for recovered materials. The first such report shall be made available not later than 1 year after the date of enactment of this Act. The analyses should consider the following:

(1) Technical, economic, and any other barriers to recycling.

(2) Future supplies of recovered materials.

(3) Available production capacity of recycling industries.

(4) Strength of existing markets for recovered materials and potential for development of new markets.

(5) Potential competition from substitute factors of production.

(6) Current consumption of recovered materials.

(7) Other market factors identified by the Secretary.

(d) Market Indices.—The Secretary may develop appropriate indices to measure and project market trends for recovered materials.

SEC. 7. REPORTS ON RECYCLING CAPACITY.

(a) Reports Required.—The Secretary, in consultation with the Administrator, shall prepare and submit to Congress the following reports:

(1) A report evaluating the potential for expanded recycling of recoverable paper and paperboard, rubber scrap, plastic scrap, yard waste, and food waste.

(2) A report evaluating the potential for expanded recycling of aluminum scrap, other nonferrous scrap, waste glass, ferrous scrap, and lead scrap.

(b) CONTENT OF REPORTS.—Each report required by subsection (a) shall include an analysis of the following:

(1) Techniques and systems used by industries and local governments to source-separate, collect, process, or upgrade the materials covered in the report, and supplies of materials generated by such techniques and systems.

(2) Adequacy of existing and planned industrial capacity for the manufacture of recycled goods from the materials covered in the report, and opportunities for expanding such capacity nationally and regionally by retrofitting existing industrial plants or building new recycling plants.

(3) Adequacy of existing equipment and facilities for transport of materials covered by the report to recycling plants and markets, and economic and technical barriers to the transport of such materials.

(4) Opportunities for the stockpiling of materials covered by the report that are not immediately remanufactured or reused.

(5) The extent of Federal subsidies (including tax expenditures) and other incentives provided for the manufacture of goods made from virgin materials that compete with goods made from materials covered by the report.

(6) Available options for influencing the timing and extent of private and government investment in—

(A) expanded industrial capacity for the manufacture of recycled goods;

(B) new equipment and facilities for the transport of materials covered by the report and recycled goods to recycling plants and markets; and

(C) new equipment and facilities for the stockpiling of materials covered by the report before remanufacture or reuse.

(7) Economic data comparing the costs and benefits of recycling various materials from the municipal solid waste stream with other management methods, such as landfilling and incinerating. The analysis should take into account the landfill and collection costs avoided by recycling, as well as the avoided environmental and other costs of mining, extracting, or otherwise producing virgin materials that would be necessary but for the availability of secondary materials in the marketplace.

(8) Information about state-of-the-art recycling methods, programs, or technologies, including the results of any recycling research or demonstration programs funded by the Federal Government.

(c) DEADLINES.—The report required by subsection (a)(1) shall be submitted to Congress not later than 9 months after the date of enactment of this Act. The report required by subsection (a)(2) shall be submitted to Congress not later than 18 months after such date of enactment.

SEC. 8 ASSISTANCE FOR RECYCLING OPERATIONS.

(a) ASSISTANCE.—The Secretary may provide technical and financial assistance, including low-interest loans and loan guarantees, to a person for the purpose of constructing or operating facilities and equipment for the collection, separation, or processing of recyclable materials (or any combination of those activities). No assistance (except technical assistance) may be made under this section unless an application is submitted to, and approved by, the Secretary. The application shall be in such form, be submitted in such manner, and contain such information as the Secretary may require.

(b) REGULATIONS.—The Secretary shall prescribe regulations not later than 6 months after the date of enactment of this Act to carry out this section.

SEC. 9. MINIMUM CONTENT STANDARDS.

(a) IN GENERAL.—

(1) REQUIREMENT.—Effective on the dates set forth in subsection (b), the amount of recovered material—

(A) in each covered item produced by a person or entity to which this section applies; or

(B) in the total amount of covered items produced at all facilities (when aggregated) by a person or entity to which this section applies;

shall be not less than the corresponding standard set forth in subsection (b). The Standards so set forth specify the minimum percentage of the total weight of each covered item or the aggregated amount of the items (as the case may be) that shall be post-consumer material, except that, in the case of paper, the standards specify the minimum percentage of the weight of the fiber content of each covered item or the aggregated amount of the items (as the case may be) that shall be post-consumer material.

(2) PROHIBITION.—A covered item that does not meet the standards set forth in subsection (b) may not be transported in interstate commerce.

(b) MINIMUM CONTENT STANDARDS.—

(1) ALUMINUM.—With respect to covered items made of aluminum, the minimum content standards are as follows:

(A) For packaging:

(i) 55 percent post-consumer material by January 1, 1997.

(ii) 60 percent post-consumer material by January 1, 2002.

(B) For building and construction materials:

(i) 25 percent post-consumer material by January 1, 1999.

(ii) 30 percent post-consumer material by January 1, 2002.

(2) GLASS.—With respect to covered items made of glass, the minimum content standards are as follows:

(A) For packaging:

(i) 40 percent post-consumer material by January 1, 1996.

(ii) 50 percent post-consumer material by January 1, 2000.

(iii) 65 percent post-consumer material by January 1, 2005.

(B) For fiberglass insulation:

(i) 30 percent post-consumer material by January 1, 1997.

(ii) 40 percent post-consumer material by January 1, 2002.

(3) STEEL.—With respect to packaging made of steel, the minimum content standards are as follows:

(A) 20 percent post-consumer material by January 1, 1997.

(B) 40 percent post-consumer material by January 1, 2001.

(4) PLASTICS.—With respect to covered items made of plastic, the minimum content standards are as follows:

(A) For packaging:

(i) 25 percent post-consumer material by January 1, 1995.

(ii) 40 percent post-consumer material by January 1, 1998.

(iii) 50 percent post-consumer material by January 1, 2002.

(B) For building and construction materials and for furniture materials:

(i) 20 percent post-consumer material by January 1, 1995.

(ii) 40 percent post-consumer material by January 1, 1998.

(iii) 50 percent post-consumer material by January 1, 2002.

(5) PAPER.—With respect to covered items made of paper, the minimum content standards are as follows:

(A) For newsprint:

(i) 30 percent post-consumer material by January 1, 1996.

(ii) 40 percent post-consumer material by January 1, 1998.

(iii) 50 percent post-consumer material by January 1, 2000.

(B) For printing and writing papers:

(i) 5 percent post-consumer material by January 1, 1996.

(ii) 20 percent post-consumer material by January 1, 2000.

(C) For tissue products, including paper towels,facial tissue, bathroom tissue, and wrapping and packaging tissue:

(i) 30 percent post-consumer material by January 1, 1996.

(ii) 45 percent post-consumer material by January 1, 1999.

(iii) 60 percent post-consumer material by January 1, 2002.

(D) For paper packaging, including paperboard, boxboard, linerboard, coated groundwood, kraft, fiber boxes, and corrugated:

(i) 35 percent post-consumer material by January 1, 1996.

(ii) 50 percent post-consumer material by January 1, 1999.

(c) APPLICABILITY.—

(1) IN GENERAL.—The minimum content standards required by this section apply to any person or entity that produces covered items.

(2) EXCEPTION IN CASE OF HEALTH HAZARD.—The minimum content standards required by this section shall not apply with respect to a covered item in any case in which meeting the applicable standard would result in a health hazard, as determined by the Secretary of Health and Human Services, acting through the Commissioner of Food and Drugs.

(d) COMPLIANCE ASSISTANCE.—The Secretary shall assist persons and entities to which this section applies in complying with the minimum content requirements of this section.

(e) MONITORING.—

(1) REPORTING REQUIREMENT.—

(A) REPORT TO SECRETARY.—The Secretary, in consultation with the Administrator, shall promulgate the necessary reporting requirements to monitor and evaluate compliance with the requirements of this section. At a minimum, such requirements shall require each person or entity to which this section applies (including paper manufacturers and manufacturers of glass, metal, and plastic bottles and containers), as well as major users of aluminum, glass, steel, plastic, or paper, to submit an annual report to the Secretary containing the information described in subparagraph (B). The first report under this paragraph shall be submitted on or before March 31, 1993. The Secretary, in consultation with the Administrator, shall define in regulations the term "major user" for purposes of this section.

(B) Contents of Report.—The report shall indicate, for each category of covered item produced or used (as the case may be) by the person or entity, the amount of items produced, the amount of post-consumer and post-mill recovered materials used in the items, and the average annual percent of post-consumer and post-mill recovered materials used in production of the items during the preceding calendar year. The report also shall include any other information required by the Secretary.

(2) Commodity List.—Not later than April 31, 1992, and annually thereafter, the Secretary shall compile and publish a list indicating, by commodity, the average annual amount of post-consumer and post-mill recovered materials used in the commodity, and the average annual percent of post-consumer and post-mill recovered materials for each of the following:

(A) Paper manufacturers, set forth separately by grade of paper.

(B) Manufacturers of glass bottles and containers.

(C) Manufacturers of metal containers and each type of metal container.

(D) Manufacturers of plastic bottles and containers.

(3) Circulation Statements of Newspaper Publishers.—Publishers of daily newspapers with an annual circulation of 25,000 or more shall publish, as part of their circulation statement, the average annual percent of post-consumer recovered material used in the production of the newspaper during the previous calendar year.

(f) Preemption.—No State or political subdivision of a State may, during the period beginning on the date of enactment of this Act and ending on January 1, 1998, establish or continue in effect a minimum content standard for a covered item unless such standard is identical to, or less stringent than, any standard in effect for such item under subsection (b).

(h) Covered Item.—In this section, the term "covered item" means a product, packaging for a product, a container for a product, or material that is made of aluminum, glass, steel, plastic, or paper.

SEC. 10. LABELING REQUIREMENTS.

(f) Prohibitions.—

(1) Labeling where content standards are not met.—A product, package, container, or material that does not meet the minimum content standards set forth in section 9 may not be labeled as "recycled" or containing "recycled content".

(2) Labeling where recycling rate goals are not met.—A product, package, container, or material that does not meet, within the distribution area of the item, the recycling rate goal set forth in section 18 may not be labeled as "recyclable" or "compostable".

(b) Authorized Practices.—

(1) Labeling where content standards are met.—A product, package, container, or material that meets the minimum content standards set forth in section 9 may be labeled with respect to its recycled content or having been recycled, but only if the label meets the requirements of subsection (c).

(2) Labeling where recycling rate goals are met.—A product, package, container, or material that meets, within the distribution area of the item, the recycling rate goal set forth in section 18 may be labeled with respect to its recyclability, but only if the label meets the requirements of subsection (c).

(c) Label Requirements.—The label requirements for purposes of subsection (b) are as follows:

(1) Recycled.—The word "recycled" or the words "recycled content" may appear on a product, package, container, or material, in capital or lower case letters and in bold or lightface print. The percentage of post-consumer material contained in the item also may appear on the item.

(2) Recyclable.—The word "recyclable" may appear on a product, package, container, or material, but not in all capital letters and only in lightface print, and only if accompanied by the name of the material that meets the recyclability qualifications.

SEC. 11. PLASTICS LABELING REQUIREMENTS.

(a) Labeling.—Each person who manufactures items which use plastic in the item or in the packaging of the item shall indicate on the item or packaging, by label or imprint, the type of plastic used in such item or packaging. The label or imprint shall conform to a uniform container coding system that meets the needs of the recycling and plastics industries.

(b) Regulations.—The Secretary shall promulgate regulations to carry out this section not later than 30 days after the date of enactment of this Act.

SEC. 12. PROMOTION OF OPPORTUNITIES IN FOREIGN MARKETS.

(a) Program for Sale of Recovered Materials in Foreign Commerce.—The Secretary shall develop a program to promote the sale in foreign commerce of recovered materials for recycling by foreign industries. As part of that program, the Secretary shall gather, and make available to the public, information identifying potential foreign buyers of recovered materials.

(b) Compilation of Statistics.—To assist local governments and industries seeking to sell recovered materials in foreign commerce, the Secretary shall compile, and make available to the public, statistics and information on the following:

(1) Specific recycling techniques employed by foreign industries.

(2) Available foreign markets for recovered materials.

(3) Specifications and test methods employed by foreign industries to assess commodity quality.

(4) Prevailing prices and demand in foreign markets for recovered materials.

(5) Other information on foreign markets collected by the Secretary under this Act.

(c) Program for Sale of Recycled Goods in Foreign Commerce.—The Secretary shall develop a program to promote the sale in foreign commerce of recycled goods produced in the United States, and to the extent practicable and useful, the Secretary shall integrate this program with other existing programs that promote the sale in foreign commerce of goods manufactured in the United States.

(d) Assistance.—Actions taken by the Secretary to implement this section shall include assistance in arranging favorable terms for sellers of recovered materials and products containing recovered materials.

SEC. 13. UNIVERSITY RECYCLING RESEARCH CENTERS.

(a) Research Grants.—The Secretary, in consultation with the Administrator, shall make grants to accredited institutions of higher education to establish and operate not fewer than four, and not more than six, recycling research centers in the United States. The Secretary shall establish those research centers equitably among the regions of the United States.

(b) Responsibilities.—

(1) In General.—The responsibilities of each recycling research center established under this section shall include, but are not limited to, the conduct of basic research relating to—

(A) innovative recycling processes to be employed in the manufacture of recycled goods;

(B) innovative processes to facilitate recycling, including techniques for source separation, collection, transport, stockpiling, processing, or upgrading of recovered materials;

(C) specifications and test methods to be employed in assessing the quality of recovered materials;

(D) potential end markets for the sale or distribution of recycled goods; and

(E) composition of solid waste.

(2) Publication and Dissemination of Research Results.—Each research center shall publish and disseminate the results of such research.

(3) Composting Projects.—Each research center shall carry out at least one project relating to recoverable paper and paperboard.

(c) Federal Share.—The Federal share of a grant under this section shall not exceed 80 percent of the costs of establishing and operating the recycling research center.

(d) Application.—Any institution of higher education interested in receiving a grant under this section shall submit to the Secretary an application in such form and containing such information as the Secretary may require by regulation.

SEC. 14. TECHNICAL ASSISTANCE FOR EDUCATIONAL PROGRAMS.

The Secretary shall provide technical assistance to State and local governments for the purpose of establishing and operating programs to educate (through means such as public service announcements, pamphlets, and newspaper advertisements) consumers, businesses, and other persons about the recycling and about waste reduction.

SEC 15. RECYCLING ADVISORIES.

(A) Recycling Advisory.—If the Secretary finds that a physical or chemical property, contaminant, or other characteristic of a recyclable materials is interfering with—

(1) current recycling techniques;

(2) marketing of recyclable material prior to recycling;

(3) handling of the recyclable material prior to recycling;

the Secretary shall issue a recycling advisory to the Administrator, State, local governments, manufacturers of the recyclable material, industries engaged in the collection, transport, stockpiling, processing, upgrading, distribution, importation, or recycling of the material, and other potentially affected parties.

(b) Contents of Advisory.—A recycling advisory issued under subsection (a) shall—

(1) describe the physical or chemical property, contaminant, or other characteristic contributing to interference with recycling, marketing, or handling of the commodity or other reason for its issuance; and

(2) identify any precautions of measures, if any, that may be taken to eliminate or minimize the interference, including the availability of substitute or alternative materials, mechanisms, or methods that do not present a danger.

(c) Availability to Public.—The Secretary shall publish, and make available to the public, recycling advisories (including the information specified in subsection (b)) issued pursuant to this section

SEC. 16. AVAILABILITY OF INFORMATION.

The information compiled and analyzed under this Act, including the identification of grades for recovered materials under section 5, shall be made available to the public. A toll-free telephone hotline shall be established and made available to members of the public seeking information from the Department of Commerce. To the extent feasible, the information should be computerized to facilitate analysis and provide for prompt retrieval.

SEC. 17. OVERSIGHT BY INSPECTOR GENERAL.

The Inspector General of the Department of Commerce shall report annually to Congress on the progress in implementation and compliance with this Act.

SEC. 18. ACCESS TO SUPPLY OF RECOVERED MATERIALS.

(a) RATES.—Each State, as its goal for recycling in each distribution area, shall ensure that, for each listed material and effective date, the following percentage of the total amount of products or packages distributed to consumers in the distribution area that contain the listed material are diverted out of the waste stream:

(1) For Glass—

(A) 35 percent by January 1, 1995.

(B) 50 percent by January 1, 1997.

(C) 65 percent by January 1, 1999.

(2) For aluminum—

(A) 50 percent by January 1, 1995.

(B) 65 percent by January 1, 1997.

(C) 80 percent by January 1, 1999.

(3) For ferrous metals and bimetal packaging—

(A) 50 percent by January 1, 1995.

(B) 65 percent by January 1, 1997.

(C) 80 percent by January 1, 1999.

(4) For plastics—

(A) 20 percent by January 1, 1995.

(B) 40 percent by January 1, 1997.

(C) 60 percent by January 1, 1999.

The goals in subparagraphs (A), (B), and (C) shall be applied separately to each plastic resin.

(5) For recyclable paper and paper products—

(A) 35 percent by January 1, 1995.

(B) 50 percent by January 1, 1997.

(C) 65 percent by January 1, 1999.

(6) For nonrecyclable compostables—

(A) 30 percent by January 1, 1995.

(B) 40 percent by January 1, 1997.

(C) 50 percent by January 1, 1999.

(b) LABELING.—A product or package may not be labeled as "recyclable" or "compostable" unless the product or package is of a type which meets the recycling rate goal set forth in subsection (a) in the distribution area of that product or package. Such a product or package shall be labeled in accordance with the requirements of section 10.

(c) MONITORING.—The Administrator shall set up a system to monitor compliance with the recycling rate goals set forth in subsection (a). The system shall, at a minimum, include monitoring at the stage at which used products or packages are collected and at the stage at which they are collected at landfills, incinerators, materials recovery facilities, and other waste materials management facilities.

(d) DEFINITION.—The term "distribution area", as used in this section, shall be defined in regulation by the Administrator.

SEC. 19. ANNUAL STATISTICS ON CERTAIN MATERIALS.

(a) MATERIALS COVERED.—The Secretary in conjunction with the Administrator shall gather statistics by validated methods of sampling in accordance with this section for solid waste and, at a minimum, the following types of recovered materials:

(1) Aluminum scrap.

(2) Lead scrap.

(3) Other nonferrous scrap.

(4) Ferrous scrap.

(5) Plastic scrap.

(6) Rubber scrap.

(7) Waste glass.

(8) Recyclable paper and paperboard.

(9) Nonrecyclable, compostable paper products.

(10) Yard waste.

(11) Food waste.

(b) STATISTICS.—For solid waste and for those recovered materials listed in subsection (a), the Secretary in conjunction with the Administrator shall collect statistics and information on the following:

(1) Quantities of durable goods, nondurable goods, containers, packaging, and other items that are sold for distribution in commerce and that are likely to become solid waste.

(2) Quantities of solid waste annually generated by households, office establishments, commercial establishments, and institutional establishments.

(3) Quantities of solid waste and recovered materials annually generated by industrial facilities.

(4) Quantities of recovered materials annually managed using techniques other than recycling, including incineration and landfilling.

(5) Quantities of, and the composition of, solid waste disposed of in incinerators, landfills, and other waste management facilities of local governments (set forth by type of facility).

(6) Inventories of recovered materials being stockpiled for possible recycling.

(7) Quantities of recovered materials annually used by industries.

(c) RECYCLING STATISTICS.—For materials being recycled (as determined under subsection (b)(6)), the Secretary in conjunction with the Administrator shall collect statistics and information on the following:

(1) Specific recycling techniques employed by industries, and quantities of recovered materials annually recycled using those techniques.

(2) Available markets (including domestic and export markets) for recycled goods, and quantities of recycled goods annually sold or distributed in interstate commerce.

(3) Existing industrial capacity for the manufacture of recycled goods.

(4) Specific techniques employed by households, local governments, and industries to source-separate, collect, transport, stockpile, process, or upgrade those materials for the purpose of recycling, and quantities of materials annually handled using those techniques.

(d) RECYCLING RATE DETERMINATION.—The Administrator shall analyze the statistics and information collected under this section and determine the prevailing national recycling rate for each recovered material.

(e) ANNUAL STATISTICS.—The Administrator shall collect and publish the statistics and information required under this section not later than 6 months after the date of the enactment of this Act. At a minimum, the Administrator shall update and publish such statistics and information on an annual basis.

(f) S.I.C. REVISION.—The Administrator shall revise the standard industrial classification system as necessary to facilitate the collection of statistics and other information on recycling and other related activities, including source-separation, collection, transport, stockpiling, processing, upgrading, and consumption of materials for the purpose of recycling. To the extent practicable and useful, the Administrator shall integrate necessary data collection activities required under this section with periodic surveys of industry or government conducted by the Department of Commerce.

(g) SUBMISSION OF INFORMATION TO SECRETARY.—The Administrator shall submit all of the statistics and information collected under this section to the Secretary, for distribution to the public under section 16.

(h) PRIVILEGED OR CONFIDENTIAL INFORMATION.—Nothing in this section shall be construed so as to authorize the Administrator to obtain privileged or confidential information that is described in section 552(b)(4) of title 5, United States Code.

SEC. 20. ENFORCEMENT.

Each person or entity who violates section 9, 10, or 11 during a calendar quarter is subject to the following penalties:

(1) NOTICE AND WARNING.—For a first violation, and for any violation that occurs after having achieved compliance during the previous 3 calendar quarters, the Administrator shall send the person or entity a letter notifying the person or entity that it is in violation of this section and warning the person or entity of additional penalties if the violation continues.

(2) CIVIL PENALTY.—For a violation that occurs any time within 1 year after the first violation that occurs any time within 1 year after the first violation or other violation covered by paragraph (1), the person or entity is liable for a civil penalty in an amount not to exceed $75,000 per quarter. The Administrator shall automatically assess such a civil penalty each time such a violation occurs.

(3) ORDER FOR REMOVAL FROM SALE IN INTERSTATE COMMERCE.—For a violation that occurs any time within 1 year after a violation covered by paragraph (2), the Administrator shall order the person or entity to remove the covered item from sale in interstate commerce. For each day a violator is not in compliance with such removal order, the Administrator may assess a civil penalty of not more than $50,000. Any such removal order shall not apply to any item offered for sale or otherwise entered into interstate commerce before the date of issuance of the order. A person or entity may resume sale of the covered item in interstate commerce only after the Administrator approves a restart plan submitted by the person or entity indicating how and within what period of time the person or entity will come into compliance.

THE NATIONAL RECYCLING MARKETS ACT OF 1992—SECTION-BY-SECTION ANALYSIS

Section 101: Bureau of Recyclable Commodities.

The Bureau of Recyclable Commodities would be created within the Department of Commerce. Its responsibilities will be to carry out the Department's duties under this act.

Section 102: Identification and use of Grades of Materials.

Commodity types and grades would be specified, including subcategories, where appropriate, and manufacturers would be encouraged to use materials which conform to these grades when producing products and packaging. This will ensure that recovered materials will be of types and grades that can, in fact, be identified and recycled.

Section 103: Periodic Market Analyses.

The Commerce Department will prepare reports for public use on market prices, recycling rates, and technical and economic factors that may influence markets in the future for recovered materials.

Section 104: Reports on Recycling Capacity.

The Commerce Department, in consultation with the EPA, will prepare reports for Congress on the progress of efforts, technology, planning and opportunities for recycling. The reports will also analyze the impact of certain government policies as well as industry policies and compare the costs of recycling with those landfilling and incinerating.

Section 105: Assistance for Recycling Operations.

Technical and financial assistance, including low-interest loans and loan guarantees, subject to appropriations, would be available for the purpose of constructing and operating facilities and equipment for the collection, separation, and processing of recyclable materials.

Section 106: Minimum Content Standards.

Companies manufacturing products, packaging and other materials made from aluminum, glass, steel, plastics and paper would be required to use at least certain specified percents of recovered materials. Different percents correspond to different materials and, in some cases, different uses of materials. The requirements would be phased in over many years. Items which, if they were to comply, would present an unsafe health hazard would be exempt. The stated standards would pre-empt state and local government minimum content standards. The Department of Commerce is to facilitate compliance as well as monitor and enforce the program, assisted by reporting requirements. Items that do not comply with the standards by the stated phase-in dates would not be able to be transported in interstate commerce.

Section 107: Labeling Requirements.

The words "recycled" or "recycled content" would not be placed on a product or package unless that item meets the minimum content requirements specified in Section 106. The words "recyclable" or "compostable" could not be placed on a product or package unless the material from which that item is made meets the recycling rate goal for that material as specified in Section 201. In addition to standardization of environmental marketing claims, the manner in which the words "recycled" and "recyclable" could appear on a product or package would be regulated so as to reduce consumer confusion.

Section 108: Plastics Labeling Requirements.

Plastic products and packaging would be required to be labeled as to the type of plastic used in that item (such as the S.P.I. system) to facilitate identification and recycling of plastics.

Section 109: Promotion of Opportunities in Foreign Markets.

The Department of Commerce would be directed to develop a program to promote the sale of non-hazardous recovered materials in foreign commerce. Statistics shall be compiled for the benefit of industry and local governments in order to help identify markets, prices and the types, grades and technologies employed by those markets.

Section 110: University Recycling Research Centers.

The Commerce Department, in consultation with the EPA, will make grants to universities to establish from four to six recycling research centers.

Section 111: Technical Assistance.

The Commerce Department is to provide technical assistance to state and local governments to promote education of consumers, business, and others about recycling and waste reduction.

Section 112: Recycling Advisories.

The Commerce Department is to issue recycling advisories when it finds that contaminants or characteristics of a recylable material are interfering with safe recycling or presenting a hazard and indicate precautions to be taken as well as alternative materials that are available.

Section 113: Availability of Information.

The information compiled and analyzed by the Department of Commerce is to be made available to the public by means such as a toll-free phone number and a computerized database.

Section 114: Oversight by the Inspector General.

Annual reports to Congress by the Commerce Department Inspector General on the progress in implementing this act shall be made.

Section 115: Access Requirement.

Recycling rate goals are established for the recycling of products and packaging made from glass, aluminum, ferrous metals, plastics, recyclable paper and paper products, and nonrecyclable compostables within each distribution area. The EPA would determine what constitutes a distribution area to include, in the case of nationally marketed products, a single, national distribution area.

Section 116: Annual Statistics.

The EPA is to gather statistics concerning the use, recovery rates, re-utilization and market characteristics of various recyclable or compostable materials. Statistics on the generation, quantity and types of waste shall also be compiled.●

ADDITIONAL COSPONSORS

S. 21

At the request of Mr. CRANSTON, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 21, a bill to provide for the protection of the public lands in the California desert.

S. 240

At the request of Mrs. KASSEBAUM, the name of the Senator from Arkansas [Mr. PRYOR] was added as a cosponsor of S. 240, a bill to amend the Federal Aviation Act of 1958 relating to bankruptcy transportation plans.

S. 703

At the request of Mr. ROCKEFELLER, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 703, a bill to amend the Harmonized Tariff Schedule of the United States to correct the tariff rate inversion on certain iron and steel pipe and tube products.

S. 1100

At the request of Mr. KERRY, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 1100, a bill to authorize the Secretary of Housing and Urban Development to provide grants to urban and rural communities for training economically disadvantaged youth in education and employment skills and to expand the supply of housing for homeless and economically disadvantaged individuals and families.

S. 1423

At the request of Mr. DODD, the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a cosponsor of S. 1423, a bill to amend the Securities Exchange Act of 1934 with respect to limited partnership rollups.

S. 1492

At the request of Mr. GRAHAM, the names of the Senator from Rhode Island [Mr. CHAFEE] and the Senator from New York [Mr. D'AMATO] were added as cosponsors of S. 1492, a bill to amend the Internal Revenue Code of 1986.

S. 1501

At the request of Mr. AKAKA, his name was withdrawn as a cosponsor of S. 1501, a bill to amend the Reclamation Reform Act of 1982, and for other purposes.

S. 1842

At the request of Mr. DASCHLE, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 1842, a bill to amend title XIX of the Social Security Act to provide for Medicaid coverage of all certified nurse practitioners and clinical nurse specialists services.

S. 1866

At the request of Mr. KENNEDY, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of S. 1866, a bill to promote community based economic development and to provide assistance for community development corporations, and for other purposes.

S. 1996

At the request of Mr. ROCKEFELLER, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 1996, a bill to amend title XVIII of the Social Security Act to provide for uniform coverage of anticancer drugs under the Medicare Program, and for other purposes.

S. 2064

At the request of Mr. HATFIELD, the names of the Senator from Michigan [Mr. LEVIN], the Senator from New York [Mr. MOYNIHAN], and the Senator from North Carolina [Mr. SANFORD] were added as cosponsors of S. 2064, a bill to impose a 1-year moratorium on the performance of nuclear weapons tests by the United States unless the Soviet Union conducts a nuclear weapons test during that period.

S. 2085

At the request of Mr. PRYOR, the name of the Senator from California [Mr. SEYMOUR] was added as a cosponsor of S. 2085, a bill entitled the Federal-State Pesticide Regulation Partnership.

S. 2103

At the request of Mr. GRASSLEY, the names of the Senator from South Dakota [Mr. DASCHLE], the Senator from Hawaii [Mr. AKAKA], and the Senator from South Carolina [Mr. HOLLINGS] were added as cosponsors of S. 2103, a bill to amend title XVIII of the Social Security Act to provide for increased Medicare reimbursement for nurse practitioners, clinical nurse specialists, and certified nurse midwives, to increase the delivery of health services in health professional shortage areas, and for other purposes.

S. 2104

At the request of Mr. GRASSLEY, the names of the Senator from South Dakota [Mr. DASCHLE], the Senator from Hawaii [Mr. AKAKA], and the Senator from South Carolina [Mr. HOLLINGS] were added as cosponsors of S. 2104, a bill to amend title XVIII of the Social Security Act to provide for increased Medicare reimbursement for physical assistance, to increase the delivery of health services in health professional shortage areas, and for other purposes.

S. 2106

At the request of Mr. CRANSTON, the name of the Senator from Georgia [Mr. FOWLER] was added as a cosponsor of S. 2106, a bill to grant a Federal charter to the Fleet Reserve Association.

S. 2109

At the request of Mr. BAUCUS, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 2109, a bill to amend the Internal Revenue Code of 1986 to permit certain entities to elect taxable years other than taxable years required by the Tax Reform Act of 1986, and for other purposes.

S. 2162

At the request of Mr. HARKIN, the name of the Senator from Colorado [Mr. WIRTH] was added as a cosponsor of S. 2162, a bill to amend the International Financial Institutions Act to advocate and promote policies to encourage developing countries to reduce military and military-related expenditures and to dedicate an equitable allocation of resources for health and education, and for other purposes.

S. 2201

At the request of Mr. DOLE, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 2201, a bill to authorize the admission to the United States of certain scientists of the Commonwealth of Independent States as employment-based immigrants under the Immigration and Nationality Act, and for other purposes.

S. 2205

At the request of Mr. LEAHY, the names of the Senator from Hawaii [Mr. INOUYE] and the Senator from Delaware [Mr. BIDEN] were added as cosponsors of S. 2205, a bill to amend the Public Health Service Act to provide for the establishment or support by States of registries regarding cancer, to provide for a study regarding the elevated rate of mortality for breast cancer in certain States, and for other purposes.

S. 2230

At the request of Mr. BREAUX, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 2230, a bill to amend title XVIII of the Social Security Act to provide coverage of outpatient education services under part B of the Medicare Program for individuals with diabetes.

S. 2235

At the request of Mr. MOYNIHAN, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 2235, a bill to extend until April 1993 the demonstration project under which influenza vaccinations are provided to Medicare beneficiaries.

S. 2244

At the request of Mr. THURMOND, the names of the Senator from Indiana [Mr. COATS], the Senator from Hawaii [Mr. AKAKA], and the Senator from Montana [Mr. BURNS] were added as cosponsors of S. 2244, a bill to require the construction of a memorial on Federal land in the District of Columbia or its environs to honor members of the Armed Forces who served in World War II and to commemorate United States participation in that conflict.

S. 2277

At the request of Mr. COHEN, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 2277, a bill to amend the Public Health Service Act to facilitate the entering into of cooperative agreements between hospitals for the purpose of enabling such hospitals to share expensive medical or high technology equipment or services, and for other purposes.

S. 2278

At the request of Mr. SHELBY, the names of the Senator from California [Mr. SEYMOUR] and the Senator from Utah [Mr. HATCH] were added as cosponsors of S. 2278, a bill to amend section 801 of the act entitled "An Act to establish a code of law for the District of Columbia," approved March 3, 1901, to require life imprisonment without parole, or death penalty, for first degree murder.

S. 2286

At the request of Mr. ROCKEFELLER, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 2286, a bill to provide support for enterprises engaged in the research, development, application, and commercialization of advanced critical technologies through a private consortium of such enterprises.

S. 2322

At the request of Mr. CRANSTON, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 2322, a bill to increase the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans.

S. 2327

At the request of Mr. HATFIELD, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 2327, a bill to suspend certain compliance and accountability measures under the National School Lunch Act.

S. 2334

At the request of Mr. WIRTH, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 2334, a bill to extend the statute of limitations applicable to civil actions brought by the Federal conservator or receiver of a failed depository institution.

S. 2339

At the request of Mr. DODD, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 2339, a bill to establish a program to provide child care through public-private partnerships, and for other purposes.

S. 2355

At the request of Mr. FORD, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of S. 2355, a bill to permit adequately capitalized savings associations to branch interstate to the extent expressly authorized by State law, and for other purposes.

SENATE JOINT RESOLUTION 166

At the request of Mr. DOLE, the names of the Senator from Oregon [Mr. PACKWOOD], the Senator from Rhode Island [Mr. PELL], and the Senator from Ohio [Mr. GLENN] were added as cosponsors of Senate Joint Resolution 166, a joint resolution designating the week of October 6 through 12, 1991, as "National Customer Service Week."

SENATE JOINT RESOLUTION 230

At the request of Mr. REID, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of Senate Joint Resolution 230, a joint resolution providing for the issuance of a stamp to commemorate the Women's Army Corps.

SENATE JOINT RESOLUTION 246

At the request of Mr. LIEBERMAN, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of Senate Joint Resolution 246, a joint resolution to designate April 15, 1992, as "National Recycling Day."

SENATE JOINT RESOLUTION 247

At the request of Mr. DOLE, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of Senate Joint Resolution 247, a joint resolution designating June 11, 1992, as "National Alcoholism and Drug Abuse Counselors Day."

SENATE JOINT RESOLUTION 261

At the request of Mr. CRANSTON, the names of the Senator from Delaware [Mr. BIDEN] and the Senator from New York [Mr. D'AMATO] were added as cosponsors of Senate Joint Resolution 261, a joint resolution to designate

April 9, 1992, as a "Day of Filipino World War II Veterans."

SENATE CONCURRENT RESOLUTION 17

At the request of Mr. HATCH, the names of the Senator from South Dakota [Mr. PRESSLER], the Senator from California [Mr. SEYMOUR], the Senator from Arizona [Mr. DECONCINI], and the Senator from Florida [Mr. GRAHAM] were added as cosponsors of Senate Concurrent Resolution 17, a concurrent resolution expressing the sense of Congress with respect to certain regulations of the Occupational Safety and Health Administration.

SENATE RESOLUTION 246

At the request of Mr. DOLE, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of Senate Resolution 246, a resolution on the recognition of Croatia and Slovenia.

SENATE RESOLUTION 259

At the request of Mr. MCCONNELL, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of Senate Resolution 259, a resolution promoting goodwill and cooperation between the Commonwealth of Independent States and the United States.

SENATE RESOLUTION 270

At the request of Mr. DECONCINI, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of Senate Resolution 270, a resolution concerning the conflict of Nagorno-Karabakh in the territory of Azerbaijan.

NOTICES OF HEARINGS

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding a markup on Wednesday, March 18, 1992, beginning at 9:30 a.m., in 216 Hart Senate Office Building, on S. 1602, the Fort Peck Indian Tribes Montana Compact Act of 1991, confirmation on the reappointment of Carl J. Kunasek to be Commissioner on the Navajo-Hopi Relocation, and for other purposes; to be followed immediately by an oversight hearing on the implementation of the Indian Gaming Regulatory Act.

Those wishing additional information should contact the Select Committee on Indian Affairs at 224-2251.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON THE JUDICIARY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, March 17, 1992, at 2 p.m. to hold a hearing on the nomination of Paul J. Kelly, Jr., to be U.S. circuit judge for the Tenth Circuit, J. Curtis Joyner, to be U.S. district judge for the Eastern District of Pennsylvania, Donald J. Stohr, to be U.S. district judge for the Eastern District of Missouri, and Ewing Werlein, Jr., to be U.S. district judge for the Southern District of Texas.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

FATHER RICARDO REZENDE'S HEROIC FIGHT AGAINST SLAVERY IN BRAZIL

• Mr. CRANSTON. Mr. President, yesterday I had the great pleasure of meeting with Father Ricardo Rezende, a leading figure in the struggle against rural violence and slavery in Brazil, particularly in the Amazon region.

For more than a decade Fr. Rezende has worked tirelessly, at great personal risk to help Brazil's dispossessed and landless rural workers in their struggle for land and justice.

A former national director of the Pastoral Land Commission [CPT] of the Council of Brazilian Bishops, Rezende has concentrated his work in the Tocantins-Araguaia region, one of the most lawless and bloodstained patches of territory in the Amazon.

The southern State of Para, where Rezende works, manifests the worst problems faced by those concerned about human rights and the plight of the environment in one of the world's richest areas of cultural and biological diversity.

Rampant deforestation, the concentration of land ownership in few lands, the exploitation of the poor by large landholders, and the impunity of military-run death squads—who have repeatedly massacred rural workers—have made this beautiful but isolated region a seeming chapter from a Dickens horror story.

At a briefing sponsored by my office as well as the Environmental Defense Fund and the Washington Office on Latin America, Rezende outlined the critical situation he and his organization face today.

Many of the leaders of the organizations Rezende works with have been killed, tortured or are the targets of assassination attempts.

In one case paramilitary forces abducted a 13-year-old girl, raped her, then burned her alive. Pregnant women have often been targeted, and children, too. Frequently the paramilitary groups force the public display of the bodies, a barbaric practice dating back to the time of Portuguese colonialization.

To make things worse, the police work in collusion with the illegal repression, often claiming that bodies are unidentified when in fact they are stripped of their identity documents at the local morgue.

The justice system is that in name only: Of the thousands of cases of murder, torture and rape committed in the past two decades against rural workers, only 26 trials have been held, and only 14 perpetrators found guilty.

Perhaps the most shocking was Rezende's documented presentation of the use of slave labor on the large estates.

Although slavery in Brazil was banished more than a century ago, the Pastoral Land Commission estimates that more than 9,000 men, women, and children have been used for slave labor in the Amazon outback. A Sao Paolo sociologist says the real number may be as high as 40,000.

Company stores charge new workers—lured by tales of good jobs at decent wages—extortionary prices designed to keep them in perpetual debt. Most of the workers do not know their rights under Brazilian law, and the geographic remoteness of where they work puts them beyond the normal reaches of civilization's protections.

Mr. President, Brazilian President Fernando Collor de Mello has worked hard to bring the benefits of democracy to his people and has fought to protect both his country's environmental inheritance as well as that of the native people who live within the vastness of the Brazilian wilds.

The benefits of democracy, however, have not reached those who are being victimized, through violence or forced labor, in the Brazilian Amazon.

I call on President Collor to once again exercise the leadership that has justly made him admired around the world, and take the following steps.

First, to guarantee immediately the safety of those threatened with death or harm by the vigilantes.

Second, to unleash the might of Brazil's criminal justice system against those who are perpetrating the violence and to bring as many cases as possible to trial in order to offer vivid examples that crime does not pay.

And finally, that those engaging in proven forced labor practices have their lands expropriated, as provided by the Brazilian law.

Mr. President, I salute Fr. Rezende and the wonderful work that he and his organization do, at the same time I pray for their safety and urge the Brazilian Government to take the necessary steps to ensure their well-being.•

IN OBSERVANCE OF SHABBAT ZACHOR

• Mr. DIXON. Mr. President, last Friday, March 14, 1992, was the observance of Shabbat Zachor, the Sabbath of Remembrance for Syrian Jews.

The plight of the Syrian Jews is well known. The Syrian Government does not allow the Syrian Jews the right to emigrate, and denies them the most basic human and civil rights. This is an intolerable situation.

I joined a number of my colleagues in October of 1990 in a letter to President Bush concerning the plight of Syrian Jews. Sadly, their situation has changed little since that letter.

With the end of the cold war, and the removal of many barriers to emigrate from the Soviet Union, it is ironic that similar restrictive, oppressive practices continue to this day in Syria.

No one, Mr. President, should be denied the right to live and worship as he or she chooses. That is not a uniquely American standard, but a basic human right. We in the United States must stand resolute with those for whom basic human rights remain elusive. Syrian Jews must know that they have a friend in the United States. I will continue to fight for their rights, and urge the administration to do the same.

I thank my colleagues.•

SMALL COMMUNITY ENVIRONMENTAL INFRASTRUCTURE ASSISTANCE ACT OF 1990 (S. 729)

• Mr. KERREY. Mr. President, today I rise to express my strong support for the Small Community Environmental Infrastructure Assistance Act (S. 729).

Since coming to the Senate, I have heard from many community leaders from small towns across Nebraska who are concerned about the growing number of mandates coming out of Washington. Regulations from the Environmental Protection Agency are of particular concern.

Community leaders do not object to the intent of the Safe Drinking Water Act, the Clean Water Act, subtitle I of the Resource Conservation and Recovery Act, or the subtitle D regulations to upgrade our country's solid waste facilities. In fact, they are in some ways more attuned to the consequences of environmental degradation than residents of our urban areas.

The problem is that many of these communities simply cannot afford the measures needed to comply with all of these laws. They do not have the financial base needed to construct and maintain the various infrastructure requirements. As they struggle to cope with the various requirements it is time for the Federal Government to help provide the resources needed to get the job done. I support tough environmental standards, but we must ensure that our mandates can be realized.

I have decided to cosponsor Senator BURDICK's legislation because it provides a mechanism to assist these communities by creating a State loan and grant fund to help finance waste water treatment, drinking water, and solid waste disposal facilities. The bill also will expand Federal programs to provide technical assistance and outreach to small communities. It also will direct the U.S. Army Corps of Engineers to construct essential wastewater treatment, drinking water, and solid waste facilities in economically distressed areas.

Mr. President, according to the EPA, residents of small communities face higher-than-average increases for environmental user charges and fees as a result of environmental requirements. We need to see that public and environmental health are protected, and we have an obligation to help small communities achieve that objective. I look forward to working with the chairman of the Environment and Public Works Committee to achieve that goal.•

THE PLIGHT OF JEWS IN THE FORMER SOVIET UNION STILL DENIED PERMISSION TO EMIGRATE ON STATE SECRECY GROUNDS

• Mr. DIXON. Mr. President, I rise today to call the Senate's attention to a little noticed story out of the former Soviet Union that should be of concern to us all. According to the Union of Councils for Soviet Jews, hundreds of people in the present-day Commonwealth of Independent States [CIS] who had worked in various Soviet agencies, are still being denied permission to emigrate on the basis of state secrets.

This intolerable situation continues despite the fact that much of the technology previously considered secret is now being hawked on the open market to the highest bidder, in the Commonwealth's relentless pursuit of hard currency.

This situation continues despite the so-called reforms in the Commonwealth on emigration. The cold, hard facts are that state secrecy is still used as an arbitrary catch-all mechanism to punish those people who wish to emigrate.

Mr. President, I have been working on behalf of free emigration for Soviet Jews throughout my career. As a past cochairman of the union's Congressional Call to Conscience Vigil, I know all too well the intransigence of the former Soviet system. The information from the union only confirms what many of us have long suspected about the Commonwealth and its leaders: The name may have been changed, but the attitudes and practices have not.

In conclusion, Mr. President, the administration must urge the Yeltsin government at every opportunity to lift the state secret status on these, and all other refuseniks. At this moment in Russia's history when their technology, heretofore considered secret, is on the auction block, there can be no justification for continuing the use of the state secrets category to deny people their fundamental right to emigrate.

I thank my colleagues.

I would ask that the list of refuseniks refused permission to emigrate on state secret grounds, be entered into the RECORD.

The list follows:

MOSCOW SOVIET-AMERICAN BUREAU ON HUMAN RIGHTS

[List of secrecy refuseniks who dealt in the past with the production of secret information which is now public knowledge or is the subject of trade between the CIS and the West, Jan. 1992]

Name, address, phone, ministry, and job description	Left secret position	First applied to emigrate	Last applied to emigrate	Refused in family
Alya, Solomon, Moscow, Typely Stan St., 4–1–15, (339–1230) [Defense]. Was a high-level military officer in the automobile division	77	90	90	2
Avramenko, Valentin, Zheleznodorozhny, Moscow region, Pionerskaya St., 3–137, (522–4512) [Defense]. Worked as a technologist and specialist on alloys for small armour-piercing-shells. Worked in the plant of the military-industrial complex	87	91	91	2
Beburishvili, Andrey, St. Petersburg, Dimitrovast, 31/1–465, (101–2130) [Radio Industry]. Worked as an engineer at the Central Science Industrial Corp., "Leninets." Implemented radio equipment for MIG–31's and was credited at the Paris aircraft and sattelite exhibition "Le-Burge"	88	90	91	1
Berenshtein, Yevgeny, St. Petersburg, Pushkin, Revolyutsii St., 20–15, (466–5953) [Radio Industry]. Designer of algorythms, programs and models for computers in the Institute of Radio-Electronic Systems. Now the foreign-economic concern is established on the basis of this Institute, which was represented at the Paris aircraft and sattelite exhibition "Le-Burge"	90	91	91	3
Bogod, Philipp, St. Petersburg, Razyezjaya St., 1–6, (3/15–8230) [Shipbuilding]. Worked as chief of the Technological Bureau on preparing for production of submarine hulls in the St. Petersburg Admiralteisky Amalgamation. One of his collegues from the plant left the country in 1989 for the United States	79	89	90	4
Brodksy, Valery, Kiev, Uritskogo St., 23–45, (276–7215) [Shipbuilding]. Worked as an engineer and specialist in electronic equipment. He designed the special facilities for figured processing of information and he tested and exploited an example of this equipment for the Defense Industry	89	90	91	6
Brusina, Vera, Moscow, Stalevarov St., 26–2–114 [Petrochemical Industry]. Worked as an engineer dealing with the technological process of refining oil wastes until 1972. Also worked as an engineer in the information department in the Institute of Oil Industry until 1985	85	90	90	1
Cherkassky, Abram, Moscow, Leningradsky, pr-t, 75b–12, (158–3642) [Electrotechnical Industry]. Worked as an engineer and designer while taking part in the testing of the sun batteries for satellites and other cosmi apparati such as "Meteor" and "Molnia" which are designed for long distance weather service. The Ministry of Defense was a client. Several others who previously worked there have emigrated: Mendzsheritszky and Khasin to Israel and Reznikov to the United States	90	90	91	2

MOSCOW SOVIET-AMERICAN BUREAU ON HUMAN RIGHTS—Continued

[List of secrecy refuseniks who dealt in the past with the production of secret information which is now public knowledge or is the subject of trade between the CIS and the West, Jan. 1992]

Name, address, phone, ministry, and job description	Left secret position	First applied to emigrate	Last applied to emigrate	Refused in family
Davydov, Sergey, Moscow, Domodedovskaya St., 23–1–92, (392–3289) [Chemical Industry]. Worked as a research scientist for the protection against mass strike weapons and for the disinfection of arms and military equipment	84	90	90	1
Dimant, Yakov, Troitsk, Moscow Oblast, Oktyabr'skiy, pr-t, 13–17, (334–0287). [Institute of USSR Academy of Sciences]. Worked at the Institute of Earth Magnetic, Ionosphere and Radiowaves of the USSR Academy of Science. This industry had no connection with the Defense Ministry	84	90	91	4
Dubnik, Zakhar, Volgodonsk, Gagarina St., 77–44 [Aviation Industry]. Took parts in defense works in the Pilot Design Bureau of the Kalinin Machine Building plant. Left his job in 1986	86	90	90	4
Furman, Gersh, Kazan, Gvardeyskaya St., 9–13, (760–745) [Radio Industry]. Worked first as an engineer and secondly as the chief engineer of the Special Design Bureau of the Kazan Writing Facility Plant. This plant produces periferic facilities for computers by order of the Defense Ministry	90	90	91	6
Gelfand, Anatoly, Chelyabinsk, Dzherzhinskogo St., 8–49, (347–724) [Defense]. Worked as an engineer-designer for electrical equipment for tanks in the Amalgamation "Rotor"	90	90	90	3
Gendler, Mikhail, Penza, Kommunisticheskaya St., 25–47, (620–537) [Electronic Industry]. Worked as an engineer programmer in the Department of Microelectronics at the Penza Polytechnic Institute. He was refused because of his studies in the Military Department while attending the Institute	87	90	90	2
Golub, Arkady, Moscovsk Oblast, Bolshevo-6, 3-D, (515–1931) [Defense]. Reserve Officer—built clubs and other social-cultural buildings in different military towns	88	90	90	4
Gorsky, Leonid, Moscow, Gen. Tyuleneva St., 15–142, (337–6969) [Defense]. Optic designer for tank telescopic sights of guided rockets in the Designer Bureau of Precise Machine Building	88	89	91	3
Goryachkovsky, Yury, Moscow, Gabrichevskogo St., 8–2–59, (190–7383) [Aircraft Industry]. Leading designer in the Amalgamation "Molnia." His articles were published in the open press and he has open invention certificates. His designs were also represented in Paris and Milan	84	90	90	1
Gut, Roman, St. Petersburg, Shevchenko St., 27/72–17 [Communication Means Industry]. Designer of the systems for military moving radio-communications, but his designs were not implemented in the industry. From 1974-on he only did theoretical work, with the results being published in the free press. He left his job in 1984	84	91	91	1
Ishutov, Yury, St. Petersburg, Prazhskaya St., 17–8, (269–5609) [Defense]. Was a student and then a specialist in special communications in the military district of SAVO (Central Asian Military District) from 1985–1987	87	90	90	3
Karp, Nikolay, Moscow, Akademika Pavlova St., 28–29, (149–4605) [Radio Industry]. Worked with defense problems and verified standard measuring equipment. He left his job which worked with secret documents in 1981	89	90	91	2
Kernes, Igor, N. Novgorod, Volodarskogo St., 7–1, (350–504) [Defense]. Took part in design preparations of the mechanical part of the antimissile complex S–300. A June 19, 1991 article featured in Izvestia stated that the design of this complex was featured at the "Burge-91" Paris exhibition	90	86	91	1
Kheyfets, Benissa, Moscow, Mira pr-t, 202–63, (187–6538) [Radio Industry]. She worked in the Commission group designed to check secret documents. She was a page counter	89	90	91	1
Khononov, Arkady, St. Petersburg, Lyeni Golikova St., 27–3–212, (152–8572) [Shipbuilding Industry]. Worked as an engineer in the Central Institute for Ship Machinebuilding, which is a defense organization. He worked in the technical department, which had the basic function of creating equipment of ship machinebuilding. This department did not develop or create specific facilities	91	91	91	1
Kodess, Vladimir, St. Petersburg, Shvernika pr-t, 11–16, (244–3651) [Communication Industry]. Worked at the Television Scientific Institute as an engineer-designer of television cameras. He also researched the introduction of the picture to the computer with further processing, which was done for the Defense Ministry	90	90	91	2
Kopzon, Semyon, St. Petersburg, 4th Krasnoy Konnitsy St., 12–23, (271–2085) [Shipbuilding Industry]. Worked as an engineer in the Amalgamation "Uran." He modelled computer algorythms for systems of navy arms equipment and took part in the testing of these systems in 1982, 1984 and 1987 and treated the test results	89	90	91	3
Kravchik, Vitaly, Kishinev, Kalya Eshilor St., 9–54, (625–411) [Defense]. Worked as Chief of the Bureau of Industry Preparation Plant, "Topaz"	90	90	90	4
Kurbatov, Igor, Moscow, Kazarmenny per, 8–2–55, (297–8512) [Defense Industry]. Worked as a designer of mechanical gears for infrasound generators for the Central Institute of Precise Machine Building	81	88	90	3
Kurikov, Vladimir, Moscow, 1-ya, Twerskaya-Yamskaya, 36–72, (251–6070) [Radio Industry]. Worked as a designer of electromechanical elements for measuring systems, which was displayed at international exhibitions	88	90	91	3
Kurshin, Vladimir, St. Petersburg, Krupskoy St., 24–2–21, (560–0484) [Shipbuilding Industry]. Worked as an engineer/designer for ice ship hulls in the Central Design Bureau, "Aisberg"	89	90	91	1
Leybovskaya, Galina, Moscow, Yasny pr. 14–66, (477–4153) [Chemical Industry]. She worked for GOSNIOKHT, or the Institute for Chemical Technology synthesizing new and intermediate chemical products for industry, including military	87	90	91	1
Likhovetsky, Mark, Moscow, Sedova St., 13–2–214, (189–4606) [Communication Industry]. He took part in the development of the processing of informational systems on the basis of standard micro-computers, and supplied such systems as "Segment" and "Vega" by programming materials. He defended his dissertation which was published in the open press. He had no connection with the defense industry	90	91	91	3
Mandrikov, Igor, Novosibirsk, B. Bogatkkova St., 249–47, (236–179) [Defense]. Worked as a gynocologist during his military service from 1978–1980. He then worked as a disinfection specialist in the Chekhov military unit No. 01181	80	90	90	1
Metlitzky, Alexander, Moscow, Osennyaya St., 26–13, (413–9116) [Radio Industry]. He created mathematic models of radio-technical facilities	89	90	91	3
Metric, Boris, St. Petersburg, Vyborgskoye Shosse, 7–1–192, (592–2092) [Aviation Industry]. First worked as a military representative and then as an engineer-technologist in a plant	91	91	91	1
Nemchenok, Lev, Moscow, Konenkova St., 5–78, (947–5544) [Defense]. Worked as an engineer-economist and then the head of the System of Automatical Ruling division at the Moscow Institute of Heat Engineering. He designed the computer programmes of planning and counting	89	90	91	3
Orlovetsky, Mark, Kiev, Novaya Pirogovskaya St., 27–77, (296–0206) [Radio Industry]. Worked as a radio equipment controller in the Amalgamation "Radar." This equipment is sold to three countries and was used in Iraq and Afghanistan	88	89	91	3
Pevzner, Dmitry, St. Petersburg, Veteranov, pr-t, 47–36, (152–5554) [Shipbuilding Industry]. Worked as controller for submarine equipment. He did not develop or test new equipment	91	90	91	3
Rozenblit, Evgeny, Ekaterinburg, Bebelya St., 152–96 [Aviation Industry]. Worked as a plant worker in the division of subsidiary production	90	90	91	4
Shilon, Vsevolod, St. Petersburg, Narodnogo Opolcheniya St., 231–83, (130–3982) [Communication]. He designed the models of electronic shemes for computers and synthesosed tests and implemented the test control systems in the Amalgamation "Signal."	....	90	91	2

MOSCOW SOVIET-AMERICAN BUREAU ON HUMAN RIGHTS—Continued

[List of secrecy refuseniks who dealt in the past with the production of secret information which is now public knowledge or is the subject of trade between the CIS and the West, Jan. 1992]

Name, address, phone, ministry, and job description	Left secret position	First applied to emigrate	Last applied to emigrate	Refused in family
Shtibina, Vladislava, St. Petersburg, Sikeyrosa St., 21–1–174, (511–8353) [Defense]. She has a non-technical education and did clerical work in the plant "LOMO."	88	90	91	4
Sidelnikov, Alexander, St. Petersburg, Altayskaya St., 12–60, (291–2560) [Radio Industry]. Tested equipment as a project leader of the Central Science Industrial Corp. "Leninets"	91	91	91	1
Sluchak, Vladimir, St. Petersburg, Budapeshtskaya St., 106–2–140, (176–3948) [Shipbuilding Industry]. He took part in hydrodynamic testing of submarines and other deep-sea apparati. He defended the dissertation "Acustic Characteristics of Torpedos." This research is out of date which is proved by pamphlets from the firm "Mitzui," german patents and other open materials	89	90	91	4
Sorkin, Roman, Penza, Mira St., 39–15, (630–815) [Communication Means Industry]. Worked as controller of radio-equipment in the plant "Elektropribor." He took part in producing communication apparati for the Navy. He left his job in 1983	83	88	90	2
Svyatkovsky, Lenoid, Ryazan, Tatarskaya St., 7–3–83, (766–953) [Defense]. Dealt with Defense Industry equipment and was credited at the Paris exhibition "Le Burge"	89	90	91	2
Vaysberg, Vitaly, Moscow, Stravropolskaya St., 12–21, (350–4018) [Defense Industry]. Designer of electronic schemes for systems of reconnaissance which were old during their designing in 1977–1979	80	90	90	1
Vykhodets, Avram, Moscow, Lodochnaya St., 31–1–46, (492–1897) [Aviation Ministry]. Vice-chairman of the Labor and Salary Department of the Tushino Plant of Machinebuilding. He knew the salaries of pilots who tested the planes SU, Yak and TU-MCG	89	90	90	2
Yudkovich, Leonid, N. Novgorod, Sverdlova St., 32–133, (332–994) [Communication Industry]. He was a programmer in the Institute of Radio Communication	88	90	91	1
Zaslavsky, Grigory, Murmansk, Shmidt St., 45–30, (752–87) [Defense]. Worked in the army for 21 years but never had contact with secret information	90	90	91	4•

FOUR YEARS AGO: SADDAM GASSES THE KURDS

• Mr. DECONCINI. Mr. President, long before Saddam Hussein's atrocities gained widespread notoriety, his brutal regime had waged a campaign to annihilate Kurds living in northern Iraq. Villages were razed, thousands were killed, and tens of thousands forced to flee their homes. Today marks the fourth anniversary of an episode in that brutal and ongoing campaign which horrified the world and foreshadowed Saddam's barbarous tactics of terror which we now know all too well. Four years ago the Iraqi dictator used chemical weapons on the residents of Kurdish villages, killing thousands of men, women, and children.

Mr. President, the vivid pictures of this massacre still haunt all who have seen the victims lying in the streets and homes of their villages. Whole families lay together frozen in death, and despite irrefutable evidence, the Iraqi regime to this day refuses to acknowledge its heinous actions. Even now Saddam's regime continues its attempts to destroy the Kurds with a strangling economic blockage and constant military pressure.

Saddam Hussein's willingness to use chemical weapons to slaughter his own citizens leaves little doubt about the depths of cruelty he will descend to in order to maintain his evil rule. The Kurds in northern Iraq have scheduled elections next month and the United States should support this effort to bring a measure of democracy to a country where freedoms have been abused for so long.

Four years ago much of the world remained silent, and indeed continued to support Saddam, in the aftermath of the gas massacres. Mr. President, we now realize that the Kurds are our natural allies against Saddam Hussein and they deserve our political and moral support, as well as continued humanitarian assistance. This grim anniversary should serve as a marker of this Nation's resolve to keep alive the hope of Kurds in Iraq struggling for freedom and democracy. Never again should they, or anyone else, have to suffer from the brutal hand of Saddam Hussein.•

COMDR. JOSEPH R. HEMS

• Mr. LAUTENBERG. Mr. President, I rise today to pay honor to a most distinguished resident of my home State of New Jersey, Joseph R. Hems, the National Commander of the Military Order of the Purple Heart. We in New Jersey are very proud of Comdr. Joseph Hems. He has spent many years working his way up through the ranks of veterans' organizations. Through his diligence and dedication he has helped move the concerns and issues of veterans to the forefront.

Born in Bayonne, NJ, in 1932, he joined the Army in 1949 and went to basic training at Fort Dix. He moved on to leadership school in Virginia and was assigned to a post engineering company.

When the Korean war broke out, Commander Hems was airlifted to Korea where he served as a member of E Company, 8th Cavalry Regiment. At the Walled City engagement on September 14, 1950, on Hill 570, a mortar round exploded causing Commander Hems to suffer a severe head wound. He was evacuated to Boston and he was not expected to live. He was discharged from the hospital after 18 months of grueling recovery.

Joseph Hems has spent nearly his whole life making personal sacrifices for his fellow servicemen and veterans. Most recently, Joe has been the driving force advocating the creation of the Korean War Veterans Memorial in Washington, DC. As chairman of the national committee to raise funds for the memorial, he has helped raise thousands of dollars which will help to ensure that the memories of sacrifices of the many Americans involved in the Korean war are not forgotten.

It is with great pride, Mr. President, that I salute Joseph R. Hems, a native New Jerseyite, not only on his personal courage and accomplishments but on his dedication to his fellow servicemen and veterans.•

VICTORY OF UNIVERSITY OF ARIZONA COLLEGE OF LAW

• Mr. DECONCINI. Mr. President, I rise today to congratulate the University of Arizona Law School on their victory in the International Moot Court Regional.

Members of the moot court team from the College of Law at the University of Arizona in Tucson, participating in the event for the first time ever, defeated the teams from 13 other law schools to win the southwest regional competition in the Jussup International Moot Court competition. This prestigious competition, held annually since 1959, attracted 200 teams from law schools around the world. Those teams participated in various regional events, and the winners will go to the finals. Eleven teams from the United States and 22 nations will be competing. Participants were required to argue both sides of the legal issues surrounding the gulf war, and they were judged on how well they performed the arguments.

The University of Arizona team consisted of law students: Joy Athena, Dar Crammond, Marcy Janes, and Paul Moors. The team's coach is law Prof. Lakshaman Guruswamy, assisted by Prof. Thomas Mauet.

The University of Arizona College of Law, other than being nationally recognized for graduating top scholars in the legal field, is also this Senator's alma mater.

Mr. President, I am proud of the accomplishments of the College of Law at the University of Arizona. Their commitment to excellence is well known. It is this commitment that has given many legal professionals the building blocks to construct strong and successful careers.•

THE 1992 GOVERNOR'S CONFERENCE ON WOMEN

• Mr. BREAUX. Mr. President, this week, women from all over Louisiana will gather in Baton Rouge to take part in an outstanding program to discuss and debate the important issues of our time.

The 1992 Governor's Conference on Women on March 19 and 20—sponsored by the Louisiana legislative women's caucus and Gov. Edwin Edwards—will feature many of the best, brightest, and most dynamic women in Louisiana. During the program they will do what they do on a daily basis with strength and leadership: confront crucial issues including the environment, education, health care, day care, insurance, and housing.

The conference participants are extraordinary people, and I would like to take this opportunity to recognize and thank them for their leadership and the long-overdue and creative approach they bring to public service.

As the junior Senator from Louisiana, I am proud that the constituents of my State have recognized the exceptional qualities of three women leaders in particular. The voters of Louisiana have placed their trust in these women by voting them into three of the State's highest elected offices—Louisiana Lt. Gov. Melinda Schwegmann, State treasurer Mary Landrieu, and Public Service Commissioner Kathleen Blanco. They are among the most progressive State officials in the United States, elected to office and recognized as talented and energetic public servants throughout America.

Melinda Schwegmann, Mary Landrieu, and Kathleen Blanco have entered the political world with the same strength of character as another incredible Louisiana woman who has changed the face of politics forever, Lindy Boggs. We all know that Lindy Boggs has provided unparalleled leadership and public service to Louisiana and the Nation, and I am confident that Melinda Schwegmann, Mary Landrieu, and Kathleen Blanco will continue her legacy.

However, they are not the only Louisiana women who have distinguished themselves in their service to the public. They are joined by other remarkable women who serve Louisiana: Employment and training secretary Gayle Truly, social services secretary Gloria Byrant-Banks, State Senator Diana Bajoie, and State Representatives Shirley Bowler, Irma Muse Dixon, Sydnie May Durand, Melissa Flournoy, Suzanne Krieger, Renee Pratt, Naomi White Warren, Sharon Weston, and Pinkie Wilkerson.

Without a doubt, these public servants represent the most influential and effective group of women who have ever held public office. They will continue to be recognized for their lasting commitment to Louisiana and their role in the emergence of women in public office.

I will join these State leaders this week in Baton Rouge and look forward to an insightful and challenging discussion. By participating in the conference, I hope to come away with increased understanding of the needs and concerns of our State and Nation as these knowledgeable and experienced women see them.

The Governor's Conference on Women offers a necessary forum which encourages women leaders to discuss their concerns and ideas regarding critical issues. As a fellow public servant, I realize the importance of this kind of interaction and hope to gain a broader understanding of the issues by participating and listening.

If we hope to find real solutions to today's problems, it is extremely important to engage in open dialog while exploring the issues, just the kind of opportunity that the Governor's Conference on Women offers.●

FOREIGN CURRENCY REPORTS

In accordance with the appropriate provisions of law, the Secretary of the Senate herewith submits the following report(s) of standing committees of the Senate, certain joint committees of the Congress, delegations and groups, and select and special committees of the Senate, relating to expenses incurred in the performance of authorized foreign travel:

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1991

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Charles Penry:									
United States	Dollar				1,828.000				1,828.00
Switzerland	Franc	1,849.80	1,326.00					1,849.80	1,326.00
Charles H. Riemenschneider:									
United States	Dollar				2,924.00				2,924.00
Switzerland	Franc	1,564.70	1,105.00					1,564.70	1,105.00
Portugal	Escudo	31,725	225.00					31,725	225.00
John J. Ziolkowski:									
United States	Dollar				2,934.00				2,934.00
Switzerland	Franc	1,564.70	1,105.02					1,564.70	1,105.02
Portugal	Escudo	47,145	334.36					47,145	334.36
Lynnett M. Wagner:									
United States	Dollar				1,828.00				1,828.00
Switzerland	Franc	1,849.80	1,326.00					1,849.80	1,326.00
Total			5,421.38		9,514.00				14,935.38

PATRICK LEAHY,
Chairman, Committee on Agriculture. Nutrition and Forestry, Jan. 30, 1992.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON ARMED SERVICES, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1991

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator John W. Warner:									
France	Franc	761.76	138.00					761.76	138.00
Belgium	Franc	7,473	227.00					7,473	227.00
United Kingdom	Pound	100.72	180.00					100.72	180.00
Judith A. Ansley:									
France	Franc	1,396.56	253.00					1,396.56	253.00
Belgium	Franc	20,542	624.00					20,542	624.00
United Kingdom	Pound	313.37	560.00					313.37	560.00

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ARMED SERVICES, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1991—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Sam Nunn:									
Federal Republic of Germany	Deutsche Mark	1,977.32	1,218.75					1,977.32	1,218.75
Spain	Peseta	94,245	915.00					94,245	915.00
France	Franc	6.906.90	1,265.00					6,906.90	1,265.00
Arnold L. Punaro:									
Federal Republic of Germany	Deutsche Mark	1,977.32	1,218.75					1,977.32	1,218.75
Spain	Peseta	94,245	915.00					94,245	915.00
France	Franc	6,906.90	1,265.00					6,906.90	1,265.00
Total			8,779.50						8,779.50

SAM NUNN,
Chairman, Committee on Armed Services, Jan. 31, 1992.

AMENDED CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ARMED SERVICES, FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1991

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Sam Nunn:									
Russia	Dollar		921.08		1,397.39				2,318.47
Robert G. Bell:									
Russia	Dollar		921.09		3,975.10				4,896.19
Total			1,842.17		5,372.49				7,214.66

SAM NUNN,
Chairman, Committee on Armed Services, Dec. 13, 1991.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1991

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Lamar Smith:									
Thailand	Baht	37,340	1,470.00			1,803	70.63	39,143	1,540.63
United States	Dollar				2,786.00				2,786.00
Carolyn Jordan:									
Thailand	Baht	37,340	1,470.00			1,803	70.63	39,143	1,540.63
United States	Dollar				2,786.00				2,703.00
Saul Singer:									
Thailand	Baht	37,340	1,470.00			1,803	70.63	39,143	1,540.63
United States	Dollar				2,703.00				2,703.00
John Walsh:									
Thailand	Baht	37,340	1,470.00			1,803	70.63	39,143	1,540.63
United States	Dollar				2,703.00				2,703.00
Jennifer Hillman:									
Thailand	Baht	37,340	1,470.00			1,803	70.63	39,143	1,540.63
United States	Dollar				2,703.00				2,703.00
Leslie Woolley:									
Thailand	Baht	37,340	1,470.00			1,803	70.63	39,143	1,540.63
United States	Dollar				2,703.00				2,703.00
Martin Gruenberg:									
Switzerland	Franc	926.88	663.00					926.88	663.00
United States	Dollar				708.00				708.00
Patrick Mulloy:									
Switzerland	Franc	617.90	442.00					671.90	442.00
United States	Dollar				708.00				708.00
Total			9,925.00		17,800.00		423,78		28,148,78

DONALD W. RIEGLE JR.,
Chairman, Committee on Banking Housing and Urban Affairs, Jan. 29, 1992.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ENERGY AND NATURAL RESOURCES, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1991

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Gary Ellsworth:									
Austria	Dollar		971.56		795.02		11.38		1,777.96
Senator Daniel Akaka:									
Micronesia, Marshall Islands	Dollar				1,573.00				1,573.00
Patrick McGarey:									
Micronesia, Marshall Islands	Dollar				1,573.00				1,573.00
Allen P. Stayman:									
Micronesia, Marshall Islands	Dollar				3,180.34				3,180.34
James O'Toole:									
Micronesia, Marshall Islands	Dollar				3,143.18				3,143.18

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ENERGY AND NATURAL RESOURCES, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1991—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
James P. Beirne:									
Micronesia, Marshall Islands	Dollar				3,143.18				3,143.18
Benjamin Cooper:									
Japan, Micronesia, Marshall Islands	Dollar				3,565.93				3,565.93
G. Robert Wallace:									
China, Micronesia, Marshall Islands	Dollar				2,460.84				2,460.84
Richard Grundy:									
Japan, China	Dollar		1,669.23		2,389.61		123.92		4,182.76
Total			2,640.79		21,824.10		135.30		24,600.19

J. BENNETT JOHNSTON,
Chairman, Committee on Energy and Natural Resources, Feb. 3, 1992.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1991

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Steve Symms:									
England	Pound	464.40	840.00					464.40	840.00
Belgium	Franc	8,653	266.00					8,653	266.00
Switzerland	Franc	309.75	221.00					309.75	221.00
France	Franc	2,322	430.00					2,322	430.00
United States	Dollar				653.90				653.90
J.D. Foster:									
England	Pound	464.40	840.00					464.40	840.00
Belgium	Franc	8,653	266.00					8,653	266.00
Switzerland	Franc	309.75	221.00					309.75	221.00
France	Franc	2,322	430.00					2,322	430.00
United States	Dollar				653.90				653.90
Claudia McMurray:									
Canada	Dollar	257.87	227.00					257.87	227.00
United States	Dollar				277.63				277.63
Total			3,741.00		1,585.43				5,326.43

QUENTIN BURDICK,
Chairman, Committee on Environment and Public Works, Jan. 28, 1992.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FINANCE, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1991

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Max Baucus:									
Switzerland	Franc	958.64	684.00					958.64	684.00
United States	Dollar				2,828.00				2,828.00
Deborah Lamb:									
Switzerland	Franc	969.50	652.00					969.50	652.00
United States	Dollar				708.00				708.00
Marcia Miller:									
Switzerland	Franc	1,198.30	855.00					1,198.30	855.00
United States	Dollar				708.00				708.00
Robert Kyle:									
Switzerland	Franc	1,198.30	855.00					1,198.30	855.00
United States	Dollar				1,497.00				1,497.00
Rolf Lundberg:									
Switzerland	Franc	958.64	684.00					958.64	684.00
United States	Dollar				727.00				727.00
Greg Mastel:									
Switzerland	Franc	958.64	684.00					958.64	684.00
United States	Dollar				727.00				727.00
Total			4,414.00		7,195.00				11,609.00

LLOYD BENTSEN,
Chairman, Committee on Finance, Jan. 29, 1992.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FINANCE, FOR TRAVEL AUG. 11–24, 1991

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Lloyd Bentsen:									
Mexico	Peso	220,000	72.46					220,000	72.46
Brazil	Cruzado	210,637.44	522.00					210,637.44	522.00
Argentina	Austral	6,690,113	678.00					6,690,113	678.00

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON FINANCE, FOR TRAVEL AUG. 11-24, 1991—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Chile	Peso	102,297.50	290.00					102,297.50	290.00
Venezuela	Bolivar	21,170.10	357.00					21,170.10	357.00
Senator David Durenberger:									
Mexico	Peso	166,600	54.87					166,600	54.87
Ecuador	Sucre	129	.12					129	.12
Brazil	Cruzado	210,637.44	522.00					210,637.44	522.00
Argentina	Austral	6,690,113	678.00					6,690,113	678.00
Chile	Peso	137,572.50	390.00					137,572.50	390.00
Venezuela	Bolivar	13,461.10	227.00					13,461.10	227.00
Senator Max Baucus:									
Mexico	Peso	66,900	22.03					66,900	22.03
Ecuador	Sucre	83,334	75.00					83,334	75.00
Brazil	Cruzado	210,637.44	522.00					210,637.44	522.00
Argentina	Austral	6,690,113	678.00					6,690,113	678.00
Chile	Peso	137,572.50	390.00					137,572.50	390.00
Venezuela	Bolivar	30,065.10	507.00					30,065.10	507.00
Vanda McMurtry:									
Ecuador	Sucre	150,001	135.00					150,001	135.00
Brazil	Cruzado	210,637.44	522.00					210,637.44	522.00
Argentina	Austral	6,690,113	678.00					6,690,113	678.00
Chile	Peso	137,572.50	390.00					137,572.50	390.00
Venezuela	Bolivar	30,065.10	507.00					30,065.10	507.00
Robert Kyle:									
Mexico	Peso	1,086,900	358.00					1,086,900	358.00
Ecuador	Sucre	150,001	135.00					150,001	135.00
Brazil	Cruzado	210,637.44	522.00					210,637.44	522.00
Argentina	Austral	6,690,113	678.00					6,690,113	678.00
Chile	Peso	137,572.50	390.00					137,572.50	390.00
Venezuela	Bolivar	30,065.10	507.00					30,065.10	507.00
Delegation Expenses:[1]									
Mexico							1,473.39		1,473.39
Ecuador							565.20		565.20
Brazil							3,575.93		3,575.93
Argentina							4,069.14		4,069.14
Chile							3,260.41		3,260.41
Caracas							1,267.75		1,267.75
Total			10,807.48				14,211.82		25,019.30

[1] Delegation expenses include direct payments and reimbursements to the State Department and to the Defense Department under authority of Sec. 502(b) of the Mutual Security Act of 1954, as amended by Sec. 22 of Public Law 95-384, and S. Res. 179, agreed to May 25, 1977. The following individual traveled with the Delegation under authorization as noted: Ms. Dee Bartley—Majority Leader. Report of her expenditures appears in the report of the authorizing source.

LLOYD BENTSEN,
Chairman, Committee on Finance, Dec. 19, 1991.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS, FOR TRAVEL FROM OCT. 1, TO DEC. 31, 1991

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Daniel P. Moynihan									
United Kingdom	Pound	823.52	1,400.00					823.52	1,400.00
Senator Frank H. Murkowski									
Taiwan	Dollar	27,610	1,073.50	874.48	34.00	17,335.30	674.00	45,819.78	1,781.50
Japan	Yen	144,170	1,109.00	5,330	41.00	116,818.2	1,360.14	161,181.2	2,510.14
Korea	Won	547,400	726.00	16,588	22.00	815,300	1,081.30	13,792,880	1,829.30
United States	Dollar				3,452.00				3,452.00
Senator Larry Pressler:									
Italy	Lire	1,271,172	1,036.00					1,271,172	1,036.00
United States	Dollar				4,918.80				4,919.80
Cuba	Dollar		600.00						600.00
Dominican Republic	Peso	3,988	316.00					3,988	316.00
Suriname	Dollar		174.00						174.00
David Hafemeister									
Soviet Union	Dollar		122.00						122.00
United States	Dollar				1,943.70				1,943.70
Jennifer Brick:									
Taiwan	Dollar	27,610	1,073.50	1,388.88	54.00	11,291.08	439.00	40,298.96	1,566.50
Japan	Yen	144,170	1,109.00	14,170	109.00	114,995.10	1,192.27	273,335.10	2,410.27
Korea	Won	547,400	726.00	45,994	61.00	649,948	862.00	1,243,342	1,649.00
United States	Dollar				3,452.00				3,452.00
Peter W. Galbraith:									
Yugoslavia	Dollar		1,795.00		84.00				1,879.00
Austria	Shilling	2,437.47	219.00					2,437.47	219.00
Albania	Dollar		784.00						784.00
Steven Phillips:									
Switzerland	Franc	2,979.95	2,104.45					2,979.95	2,104.45
United States	Dollar				681.90				681.90
Dan Nelson:									
Cuba	Dollar		600.00						600.00
Dominican Republic	Peso	3,988	316.00					3,988	316.00
Suriname	Dollar		174.00						174.00
John B. Ritch:									
Spain	Peseta	109,140	1,021.00					109,140	1,021.00
Bruce Rickerson:									
Dominican Republic	Peso	7,017	389.00		298.00			7,017	687.00
Suriname	Dollar		174.00						174.00
James P. Rubin:									
Austria	Shilling	2,437.47	219.00					2,437.47	219.00
Yugoslavia	Dollar		1,795.00						1,795.00
Albania	Dollar		784.00						784.00
United States	Dollar				3,659.70				3,659.70
Richard J. Kessler:									
Singapore	Dollar	736.56	340.00					736.56	340.00

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS, FOR TRAVEL FROM OCT. 1, TO DEC. 31, 1991—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Indonesia	Rupiah	708,840	358.00					708,840	358.00
Malaysia	Ringgit	1,356.56	496.00					1,356.56	496.00
United States	Dollar				1,868.00				1,868.00
Total			21,033.45		20,680.10		5,608.71		47,322.26

CLAIBORNE PELL,
Chairman, Committee on Foreign Relations, Jan. 31, 1992.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS, FOR TRAVEL FROM JULY 1, TO SEPT. 30, 1991

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator John F. Kerry:									
Thailand	Dollar		528.00						528.00
Vietnam	Dollar		768.00						768.00
Cambodia	Dollar		188.00						188.00
Austria	Shilling	1,981.59	161.00					1,981.59	161.00
United States	Dollar				7,227.00				7,227.00
Senator Mitch McConnell:									
Hong Kong	Dollar	4,041.32	522.00					4,041.32	522.00
Thailand	Baht	3,033	116.00					3,033	116.00
United States	Dollar				5,151.00				5,151.00
Senator Larry Pressler:									
Italy	Lire	1,962,114	1,507,00			390,000	308.79	2,352,114	1,815.79
Finland	Finnmark	681.00	160.00					681.00	160.00
Sweden	Krona	9,718	1,515.00			448	70.05	10,166	1,585.05
Soviet Union	Dollar		2,009.00						2,009.00
United States	Dollar				3,956.33				3,956.33
Jennifer Brick:									
Thailand	Baht	13,522	528.00	1,800	72.00	13,594.81	543.80	15,394.81	1,143.80
Vietnam	Dollar		1,152.00		524.90		333.00		2,009.90
United States	Dollar				2,950.33				2,950.33
Peter W. Galbraith:									
Turkey	Lira	2,092,277	455.00					2,092,277	455.00
United States	Dollar				4,387.00				4,387.00
Frances Zwenig:									
Thailand	Dollar		528.00						528.00
Vietnam	Dollar		768.00		160.00				928.00
Cambodia	Dollar		188.00		250.00				438.00
United States	Dollar				3,263.00				3,263.00
Steven M. Polansky:									
Switzerland	Franc	2,905	1,322.80					2,905	1,322.80
United States	Dollar				708.00				708.00
Brian J. Riendeau:									
Hong Kong	Dollar	4041.32	522.00					4,041.32	522.00
Thailand	Baht	3033.00	116.00					3,033.00	116.00
United States	Dollar				5,336.00				5,336.00
Anne Smith:									
Italy	Lire	382,665	291.00					382,665	291.00
Finland	Finnmark	681.10	160.00					681.10	160.00
Sweden	Krona	9,718	1,515.00				70.05	9,718	1,585.05
Soviet Union	Dollar		2,009.00						2,009.00
United States	Dollar				2,125.97				2,125.97
Nancy H. Stetson:									
Thailand	Dollar		528.00						328.00
Vietnam	Dollar		768.00		160.00				928.00
Cambodia	Dollar		188.00		250.00				438.00
United States	Dollar				4,412.00				4,412.00
Peter Cleveland:									
Ivory Coast	Franc	123,968	416.00					123,968	416.00
Ethiopia	Birr	464.40	227.00					464.40	227.00
Kenya	Shilling	8,039.55	250.00					8,039.55	250.00
South Africa	Rand	1,465.23	507.00					1,465.23	507.00
Cape Verde	Dollar		150.00						150.00
William L. Triplett:									
Taiwan	Dollar	24,944	936.00					24,944	936.00
Hong Kong	Dollar	11,743.70	1,513.00					11,743.70	1,513.00
United States	Dollar				2,908.00				2,908.00
Tracy E. Usry:									
Korea	Won	294,390	408.88					294,390	408.88
Richard L. McCall:									
Mexico	Peso	1,634,091	537.00					1,634,091	537.00
El Salvador	Colone	5,992.50	799.00					5,992.50	799.00
United States	Dollar				851.00				851.00
Frances Zwenig:									
Thailand	Baht	10,587	413.39					10,587	413.39
Vietnam	Dollar		791.00		161.00				952.00
Malaysia	Dollar		125.00		78.00				203.00
Hong Kong	Dollar		225.00						225.00
United States	Dollar				3,411.06				3,411.06
Senator Charles S. Robb:									
Ivory Coast	Franc	123,968	416.00					123,968	416.00
Ethiopia	Birr	858.77	418.00					858.77	418.00
Kenya	Shilling	6,610.30	150.00					6,610.30	150.00
South Africa	Rand	650.25	189.00					650.25	189.00
Cape Verde	Dollar		150.00						150.00
Adwoa Dunn-Mouton:									
United Kingdom	Pound	156.04	253.00					156.04	253.00
Nigeria	Naira	7,371,000	426.00					7,371.00	426.00
Ivory Coast	Franc	236,360	760.00					236,360	760.00
United States	Dollar				3,913.00				3,913.00
Sandra Mason:									
Ivory Coast	Franc	123,968	416.00					123,968	416.00

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS, FOR TRAVEL FROM JULY 1, TO SEPT. 30, 1991—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Ethiopia	Birr	464.40	227.00					464.40	227.00
Kenya	Shilling	8,039.55	250.00					8,039.55	250.00
South Africa	Rand	1,465.23	507.00					1,465.23	507.00
Cape Verde	Dollar		150.00						150.00
Daniel A. Nelson:									
Italy	Lire	382,665	291.00					382,665	291.00
Finland	Finnmark	681.10	160.00					681.10	160.00
Sweden	Krona	9,718	1,515.00					9,718	1,515.00
Soviet Union	Dollar		2,009.00						2,009.00
United States	Dollar				2,125.97				2,125.97
Adwoa Dunn-Mouton:									
Ivory Coast	Franc	123,968	416.00					123,968	416.00
Ethiopia	Birr	464.40	227.00					464.40	227.00
Kenya	Shilling	8,039.55	250.00					8,039.55	250.00
South Africa	Rand	1,465.23	507.00					1,465.23	507.00
Cape Verde	Dollar		150.00						150.00
Senator Paul Simon:									
Ivory Coast	Franc	91,810	288.48					91,810	288.48
Ethiopia	Birr	885.45	433.00					885.45	433.00
Kenya	Shilling	6,610.30	150.00					6,610.30	150.00
South Africa	Rand	176.29	61.00					176.20	61.00
Cape Verde	Dollar		150.00						150.00
Total			6,730.55		54,381.56		1,325.69		92,437.80

CLAIBORNE PELL,
Chairman, Committee on Foreign Relations, Nov. 12, 1991.

AMENDED CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384–22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Amendment to 3d quarter of 1990:									
Senator Paul S. Sarbanes:									
Bulgaria	Dollar		175.00						175.00
Czechoslovakia	Dollar		196.00						196.00
Germany	Deutsche Mark	327.42	214.00					327.42	214.00
Amendments to 2d quarter of 1991:									
Senator Richard G. Lugar:									
Czechoslovakia	Dollar		520.00						520.00
Latvia	Dollar		146.00						146.00
Finland	Finnmark	1,038.60	255.00					1,038.60	255.00
Poland	Zloty	3,515	370.00					3,515	370.00
Switzerland	Franc	330.65	226.00					330.65	226.00
Kenneth A. Myers:									
Hungary	Forint	19,029	250.00					19,029	250.00
Czechoslovakia	Dollar		520.00						520.00
Latvia	Dollar		146.00						146.00
Finland	Finnmark	1,038.60	255.00					1,038.60	255.00
Poland	Zloty	3,515	370.00					3,515	370.00
Switzerland	Franc	330.65	226.00					330.65	226.00
Amendments to 3d quarter of 1991:									
Senator Richard G. Lugar:									
Switzerland	Franc	1,052.95	678.00					1,052.95	678.00
Kenneth A. Myers:									
Switzerland	Franc	1,052.95	678.00					1,052.95	678.00
Senator Orrin Hatch:									
Poland	Zloty	2,565,000	270.00					2,565,000	270.00
Czechoslovakia	Dollar		390.00						390.00
Hungary	Dollar		148.00						148.00
Soviet Union	Dollar		474.00						474.00
Latvia	Dollar		114.00						114.00
Total			6,621.00						6,621.00

CLAIBORNE PELL,
Chairman, Committee on Foreign Relations, Jan 31, 1992.

AMENDED CONSOLIDATED REPORT OF EXPENDITURES OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS, THIRD QUARTER OF 1989

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Charles S. Robb:									
Germany	Deutsche Mark	32,742	214.00					32,742	214.00
Tunisia	Dinar	2,449.70	310.00					2449.70	310.00
Algiers	Dinar	12,100	75.00					12,100	75.00
Total			599.00						599.00

CLAIBORNE PELL,
Chairman, Committee on Foreign Relations, Nov. 8, 1991.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY SEC. 22, P.L. 95–384—22 U.S.C. 1754(B), COMMITTEE ON GOVERNMENTAL AFFAIRS, FOR TRAVEL FROM APR. 1 TO JUNE 30, 1991

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
R. Ian Butterfield:									
The Netherlands	Guilder	2,784.50	1,448.00					2,784.50	1,448.00
United States	Dollar				963.00				963.00
Total			1,448.00		963.00				2,411.00

JOHN GLENN,
Chairman, Committee on Governmental Affairs, Dec. 18, 1991.

AMENDED CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON THE JUDICIARY, FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1991

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Cecilia Swensen:									
United States	Dollar				2,055.02				2,055.02
Estonia	Dollar		255.00						255.00
Austria	Dollar		211.00						211.00
Lithuania	Dollar		255.00						255.00
Soviet Union	Dollar		178.00						178.00
Soviet Union	Dollar		564.00						564.00
Germany	Dollar		174.00						174.00
Total			1,637.00		2,055.02				3,692.02

JOSEPH R. BIDEN, JR.,
Chairman, Committee on the Judiciary, Nov. 5, 1991.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), SELECT COMMITTEE ON INTELLIGENCE, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1991

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Blythe Thomas			1,372.00		2,871.70				4,243.70
Arthur Grant			1,244.00		2,871.70				4,115.70
Connell Sullivan			1,284.00		2,871.70				4,155.70
Christopher Straub			1,333.91		4,865.80				6,199.71
John Moseman			1,298.11		4,865.80				6,163.91
Don Mitchell			1,364.15		4,867.60				6,231.75
Marvin Ott			1,282.00		3,466.00				4,748.00
Christopher Mellon			1,112.00		3,466.00				4,578.00
Zachariah Messitte			945.00		4,041.70				4,986.70
Timothy Carlsgaard			945.00		4,041.70				4,986.70
Terrence Ryan			945.00		4,041.70				4,986.70
Total			13,125.17		42,271.40				55,396.57

DAVID L. BOREN,
Chairman, Select Committee on Intelligence, Jan. 16, 1992.

AMENDED CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE MAJORITY LEADER FROM JULY 1 TO SEPT. 30, 1991

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Dee Bartley:									
Mexico	Peso	1,086,900	358.00					1,086,900	358.00
Ecuador	Sucre	150,001	135.00					150,001	135.00
Brazil	Cruzado	210,637	522.00					210,637	522.00
Argentina	Austral	6,690,115	678.00					6,690,115	678.00
Chile	Peso	137,572	390.00					137,572	390.00
Venezuela	Bolivar	30,065.50	507.00					30,065.50	507.00
Total			2,590.00						2,590.00

GEORGE J. MITCHELL,
Majority Leader, Feb. 5, 1992.

NEWLY APPOINTED POLICE CHIEF

• Mr. DECONCINI. Mr. President, I am honored to have this opportunity to rise today in recognition of Elaine S. Hedtke, a fine police officer and newly appointed police chief for the city of Tucson. Chief Hedtke is the first woman police chief in Tucson history and is among the first woman chiefs in the country. She has displayed outstanding leadership and dedication. It is this Senator's opinion that having the ability to dedicate one's life to the service of others is not only noble, but selfless. The men and women that become police officers know that they are risking their lives daily in order to protect the lives of others.

Elaine Hedtke has been with the Tucson Police Department for the last 17 years. During this time she has been a succession of firsts. In 1982, she became the department's first female lieutenant. In 1986, she became the first female captain. Most recently, Mrs. Hedtke was named the first female assistant police chief in 1989.

I appreciate this opportunity to congratulate Chief Hedtke. She has spent near 20 years serving the city of Tucson; I have no doubt that the police department is under superb leadership. I wish the Hedtke family the very best and congratulate the city of Tucson on their decision to appoint such a dedicated and talented individual.●

ORDERS FOR TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:45 a.m., Wednesday, March 18; that following the prayer, the Journal of Proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day; that there then be a period for morning business, not to extend beyond 10:30 a.m., with Senators permitted to speak therein for up to 5 minutes each, with Senator JEFFORDS recognized for up to 20 minutes and Senators HATFIELD and LEVIN for up to 10 minutes each; that under the authority granted to me in a previous unanimous-consent agreement and following consultation with the Republican leader, that at 10:30 a.m., Wednesday, March 18, the Senate proceed to the consideration of the veto message on H.R. 2212, MFN status for China; further that the Senate stand in recess from 12:30 p.m., to 2:30 p.m., for the respective party conference luncheons.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL TOMORROW AT 9:45 A.M.

Mr. MITCHELL. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 5:58 p.m., recessed until Wednesday, March 18, 1992, at 9:45 a.m.

NOMINATIONS

Executive nominations received by the Senate March 17, 1992:

DEPARTMENT OF STATE

EDWARD JOSEPH PERKINS, OF OREGON, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE THE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE UNITED NATIONS WITH RANK AND STATUS OF AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY, AND THE REPRESENTATIVE OF THE UNITED STATES OF AMERICA IN THE SECURITY COUNCIL OF THE UNITED NATIONS.

DEPARTMENT OF AGRICULTURE

BETTY JO NELSEN, OF WISCONSIN, TO BE AN ASSISTANT SECRETARY OF AGRICULTURE, VICE CATHERINE ANN BERTINI.

BETTY JO NELSEN, OF WISCONSIN, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE COMMODITY CREDIT CORPORATION, VICE CATHERINE ANN BERTINI.

EXTENSIONS OF REMARKS

FAMILY AND CAREGIVING: AN OVERVIEW

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1992

Mr. DOWNEY. Mr. Speaker, as the chairman of the House Select Committee on Aging's Subcommittee on Human Services, I have a deep concern for the future of America's families. With the rising costs of health care, and various other health-related dilemmas affecting our society—among these Alzheimer's disease, AIDS, infant mortality, lack of adequate child care—it is time that we stopped to recognize the important role that families play in caring for their loved ones. When we talk about long-term care, we must keep the family unit foremost in our minds, because without the care and support from family members, many people in our society—the aged, the chronically ill, the disabled and the very young—would not be able to survive.

I am taking the liberty of sharing with you an excellent article written by a Mary Brugger Murphy, a reknowned specialist in family caregiving who provides good solid data that I know will be of interest to my colleagues:

FAMILY AND CAREGIVING: AN OVERVIEW

(By Mary Brugger Murphy, consultant, National Council on the Aging, Inc.)

Of the many demographic trends appropriate for consideration in a conference such as this, I believe that one succinct summation of trends in the United States deserves special attention. That is the simultaneous aging of the population, the aging of the workforce, and the feminization of the workforce. Taken together, these three trends mean that traditional roles and relationships must change in future years. Even if we were to decide, for example, that the "traditional" role of the woman as full-time homemaker, mother, and caregiver to elders is absolutely appropriate and necessary, we would still need to find a way to support her in those roles—because she is also, by necessity, employed full-time outside the home. As a society, and as participants in this conference, we have the opportunity to look beyond traditional roles at what actually needs to be done, who can do it, and what help and support are required. We can try out new configurations of roles and responsibilities.

To begin with, who has the responsibility for child care? If the mother is employed (as the majority of mothers of small children now are), who will take care of the children? Why not mature, experienced, reliable individuals with time on their hands, a need for added income, and a need for human interaction and affirmation? Why not, then older workers?

There are many reasons to consider employing older workers in child care. One major reason is that they can make a contribution to the labor force by performing much-needed child care services. A second is that they can provide a very positive influence in the lives and development of the children. That wish to attract older worker will have to promote the special benefits they can offer—for example, the satisfaction that comes from making a contribution to the well-being of a new generation; and the feeling of usefulness and enhanced self-esteem and self-respect that comes with working in a nurturing role.

The benefits to the older person of working or re-entering the labor force in later years have been documented. According to data from a number of child care programs in Pennsylvania, in which older persons were aides or volunteers working with younger staff, two-thirds of the 108 older adults who completed their first year reported improvement in their feelings of being valued, 64 percent reported greater happiness, and 55 percent reported improvement in their general satisfaction with life (University of Pittsburgh, n.d.).

Another study—of 35 older workers in five child care centers in Memphis, San Francisco, and Pittsburgh—revealed that the intergenerational experience had a positive impact on their lives. The older workers reported an increase in feelings of being needed (76 percent), self-worth (75 percent), satisfaction with life (69 percent), gain of new knowledge (69 percent), and happiness (64 percent)(Newman and Riess, in press).

There are also special benefits to the programs that hire older workers. A study conducted by the American Association of Retired Persons (AARP) Worker Equity Program (1986) documented that older workers characteristically exhibit good attendance and punctuality, commitment to quality, loyalty, dedication, practical knowledge, solid experience, a good performance record, reliability, compatibility, and emotional stability on the job. Older workers also bring to any job a lifetime of experience and special skills which can be tapped.

It has also been claimed that older workers are especially suited to child care because of their willingness to take time with a child, to focus concentrated attention on that child, to listen carefully, and to proceed in all things with great patience. This may or may not be true. I have, in fact, observed some older workers who exhibit such traits in child care settings. It is necessary, however, to treat all such generalizations with caution—especially those that might be personality-related rather than age-based. While older workers can be positive and desirable members of the workforce in the child care arena, some very practical steps should be taken before hiring new entrants to the workforce in any field. These include creative recruiting, careful screening, and thorough, sensitive training.

Once the older worker is on staff, how can she (or he, as is sometimes the case) be used most effectively? What unique attributes does an older person offer to the program? How do these individuals serve as a positive force in the lives of the children?

First, it is important to recognize that these new hires are individuals with their own extensive life experiences. All of them have had an opportunity to learn, to do, and to experience something special in their lives. It is important to take the time to get to know these recruits as individuals, and to find out what special skills or talents they have, and then to make room for those skills and talents to be used in the program.

What else do older workers have to offer the children? They offer children an opportunity to feel positive about aging. By getting to know these older persons as individuals—as productive and contributing individuals—the children gain experience with positive role models to counter the widespread negative images of aging and to prepare for their own aging.

Today, one in nine Americans is 65 or older, by the year 2020 the aging population will have more than doubled, and the population over age 85 will have tripled. There will be no room for negative stereotypes and biases.

The presence of older persons in child care programs offers children a sense of the continuity of life. In times of rapid and dramatic changes we all need something constant to hang on to. When children are exposed to people of all ages, and at various stages in the life cycle, there can be a sense of continuity and linkage among the generations.

Older persons can provide nurturing to the children, and one-on-one attention that helps a child know how special and valued he or she is. Though parents in two-career families—some 60 percent of all American families today—may try to spend "quality time" with their children after work, there is so much to be done in the short period of time they do spend at home with their children that "special time" in the day care setting can be very valuable to the child.

Older persons can provide non-judgmental support. In the words of the authors of Generations Together's Share It With The Children: "No longer directly responsible for outcomes of a child's development, elders can give up their need to control behaviors. Since their self-esteem is less closely tied to child performance, they tolerate the minor mistakes children make" (Mack and Wilson, 1989, 3). Separation from parental expectations can be very helpful to the child.

Sometimes the older person can serve as a substitute grandparent. Especially in an area like metropolitan Washington, D.C., most children live far away from their biological grandparents and see them infrequently. Forming special rapport with an older person on a regular basis can offer some of the special aspects of the grandchild/grandparent bond. The older person can also develop a positive relationship with the young child through fulfilling very similar needs—that is, establishing (or reestablishing) one's identity, identifying one's place in the world, and deriving self-esteem from both of these.

Do such bonds just naturally form over time? Sometimes they do, but they can also be fostered through child care programs and through using some of the excellent curriculum guides now available.

I would like now to describe very briefly one special program that I was fortunate enough to be part of—a preschool classroom staffed entirely by older persons. In updating myself on the progress of the classroom dur-

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

ing the last two years, I learned that this program, called Side by Side, received a higher score than a number of centers that evaluated themselves using a self-assessment instrument developed by the National Association for the Education of Young Children (Jantz *et al.*, 1976). This was the case even though Side by Side had faced a significant number of unanticipated, unpredictable, and unavoidable problems. Despite these problems, the program was still able to thrive. Its older workers stayed on, and they, too, thrived.

Information is available on a number of intergenerational child care programs. Persons interested in starting their own programs are strongly encouraged to seek out those who have already done so and benefit from their experiences. Some of the variations include child care for infants, child care for infants with AIDS (Acquired Immune Deficiency Syndrome) (obviously very demanding and requiring very "special" older persons to work in such settings), child care centers located in nursing homes and retirement communities, and even child care combined with adult day care.

Many established programs other than child care also use or replicate the grandparent and grandchild relationship. The most well-known of these is the Foster Grandparent Program, begun in 1965 and originally designed for "exceptional" children or those with special needs in an institution. Over the years, the program has expanded. Variants even include working with convicted felons. Again, there are many programs that have been established and from which much can be learned.

Of the other types of programs in existence today, I would like briefly to mention the demonstration program known as Family Friends (Wolfe, this volume). Begun in 1986 and funded by the Robert Wood Johnson Foundation, Family Friends is a demonstration program in eight metropolitan communities administered by the National Council on the Aging. It began by taking on an incredibly difficult challenge, and has resulted in incredible benefits.

Through the Family Friends program, older volunteers assist chronically ill and disabled children and their families. The volunteer visits the child in the family home, becomes a surrogate grandparent to the child, and often a surrogate parent to the child's parent(s). Older persons are an excellent source of potential volunteers for this program because of their wealth of experience. Many of them have had personal experiences with physical limitations, grief, and social stigmatization. They themselves also may be searching for surrogate families because their own family members may be physically dispersed.

The children served in the Family Friends program have very severe handicaps—conditions that are not primarily psychiatric, but which limit the child and are very stressful for the family. Many of the children may also face the added handicap of impoverished and unstable home environments. Volunteers often work with the entire family, as well as with the mothers, who need direction and support to learn good parenting skills (if their children are to progress at all).

The National Council on the Aging was funded initially to provide technical assistance to the eight sites. It continues to be involved and is an excellent source of further information.

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HONORING BRUCE C. VAN DUYNE FOR 31 YEARS OF SERVICE WITH RUTGERS COOPERATIVE EXTENSION SERVICE

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1992

Mr. ROE. Mr. Speaker, it is with the greatest pride that I rise today to pay special tribute to an extraordinary man from my Eighth Congressional District in New Jersey. A man who has given his time, his talent, and his heart to improving his community and making a positive difference in the lives of those around him. Mr. Bruce C. Van Duyne has served for 31 years with the Rutgers University Cooperative Extension Service.

On March 25, he will be the guest of honor at a special dinner recognizing his long service and retirement on April 1, 1992. This festive event will be held at the Paris Inn in Wayne, NJ. The evening is being hosted by the Passaic County Board of Agriculture: Carl Quazza, president; David Flitcroft, vice president; James Demon, secretary; and Leonard Dujets, treasurer. Bruce has been the Passaic County agricultural agent since 1964.

Mr. Van Duyne received both his bachelor of science—1957—and master of science—1964—degrees from Rutgers University where he is now a tenured full professor and has been the head of the Cooperative Extension Program at the university's Cook College since 1977. This program is a vital component of the State of New Jersey's agricultural community and Bruce's capable and dedicated leadership has been a guiding light to that community.

Bruce has also captured the attention of northern New Jersey residents through his award winning news columns and television program. He hosted 305 half-hour television programs from 1975 to 1991 for United Artists Cablevision in Clifton. The show, entitled "Enjoying Your Yard and Garden," reached over 175,000 homes in 53 towns. Bruce won two national awards for his efforts in media, the 1980 National Association of County Agricultural Agents bestowed upon him their national award in the television show category of public information awards; this was followed in 1983 by the NACAA's national award for a feature news story in that same category. He consistently received honors year in and year out for his efforts at both the State and regional level. He continues to tape a weekly radio show for WKER in Pompton Lakes which he has done since 1964.

Mr. Speaker, in addition to his formal lectures through Cook College, Bruce has devoted a great deal of his time to a multitude of local civic groups and organizations. He has been very active in both the NACAA, the Agricultural Agents Association of New Jersey, serving as president of the State organization in 1978, and many other local affiliations.

From his start in the nursery and landscaping business, Bruce has dedicated his life to the creation and nurturing of human understanding of the living environment which surrounds us. Coming from one of the most urban areas of the country, it is easy to assume that agriculture and gardening are foreign to the residents which he has served for so many years. This is precisely why the work that Bruce has done is so vitally important. The patches of green and open spaces maintained in northern New Jersey and indeed throughout the Garden State are cherished bastions of nature and Bruce has given a deal of himself in helping others to know and enjoy them.

I am very pleased to have this opportunity to join with Bruce's wife Annmarie, his daughter Lynn and son Gary, and his parents Charles and Pauline and brother Craig in celebrating his many accomplishments and distinguished career.

Mr. Speaker, it is persons such as Mr. Bruce C. Van Duyne that have kept what is best about America alive and vital. It is an honor and a privilege to represent a man his character and dedication. I am sure you and all my colleagues here in the House join with me in extending our admiration and wishes for continued success.

FORDHAM UNIVERSITY BASKETBALL TEAM GAINS SPOT IN NCAA TOURNAMENT

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1992

Mr. ENGEL. Mr. Speaker, this Tuesday evening was a time of great celebration on the campus of Fordham University in my district in the Bronx. For the first time in 21 years, the Rams basketball team gained a spot in the NCAA tournament when they defeated Bucknell University to capture the Patriot League tournament crown.

The story of the Fordham University basketball team is a lesson in persistence and second effort. Last year, even though they won 25 games during the season, the Rams were told they were not NCAA tournament material. Although coach Nick Macarchuk and his squad were heartbroken, they refused to complain about this oversight. They set their sights on the next season and strove for a record of success that could not be denied. And in the end, they proved that they are indeed worthy to play in the big tournament.

No matter how far the Rams advance in the tournament, they will treasure their accomplishments forever. Their victory is the essence of amateur sports—playing for pride, not money, and putting individual desires aside in order to improve the team. It is an inspiring example for their fellow students and, in fact, for any person who is told they are not good enough to belong at the top.

TRIBUTE TO ALAN AUGENBRAUN: DEDICATED CIVIL SERVANT

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1992

Mr. SOLARZ. Mr. Speaker, I rise today to pay tribute to Mr. Alan Augenbraun, branch manager of the Bay Ridge Social Security office located in my congressional district. Throughout his 18 years of public service, Mr. Augenbraun has served as an exemplary government manager for the Social Security Administration and has selflessly offered his skillful service to the Brooklyn community.

A born leader, Mr. Augenbraun began his public service career in 1974 as a social insurance representative with the Avenue X District Office. During his 5 years there, Mr. Augenbraun assisted many of my constituents with the development and adjudication of important benefit claims and postentitlement requests.

Mr. Augenbraun continued his outstanding work as operations supervisor for the Bay Ridge office in 1979. In that capacity, he had oversight responsibility for every aspect of the supplemental security income [SSI] program. With his timely, courteously processed claims and his responsive evaluations of overpayments, Mr. Augenbraun has not treated Brooklynites as mere numbers or statistics. Instead, he has shown great concern and patience for the individuals in the community he serves.

If the quality of a manager is at all measured by the performance of his staff, Mr. Augenbraun should be recognized as one of the best government managers the Social Security Administration has ever seen. Since he was promoted to branch manager in 1990, Mr. Augenbraun's leadership has brought the Bay Ridge office and its staff of 29 to a level of performance that has been recognized by the Social Security Administration as among the highest in Brooklyn.

For his ongoing accomplishments and the high level of service he provides to the Boro Park and Bay Ridge communities, it gives me great pleasure to pay tribute to Mr. Alan Augenbraun, a dedicated and invaluable civil servant. I am proud to recognize him before my colleagues and fellow citizens.

IN HONOR OF WILLIAM F. GALLOGLY

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1992

Ms. DELAURO. Mr. Speaker, this week Americans all across the country will join Irish-Americans in celebrating St. Patrick's Day. As New Haven celebrates the 150th anniversary of its first St. Patrick's Day Parade, I would like to take this occasion to pay tribute to the memory of the late William F. Gallogly, Sr., who made this wonderful tradition possible through his untiring dedication, faith, and hard work.

In 1956, Mr. Gallogly, then president of the Connecticut chapter of the Ancient Order of Hibernians, played a vital role in reviving the grand tradition after a gap of several years. Gallogly, originally from Ballinamore in County Leitrim, worked tirelessly to make the parade a success, undaunted even when the worst blizzard in 7 years struck New Haven the day before the parade.

On that day and over the subsequent 36 years, similar faith and devotion have made this day a grand and fitting tribute to the Irish-American community, which has contributed so very much to New Haven throughout its history. As people from across Connecticut and across the country gather together to celebrate, we owe our deep gratitude and a special place in our hearts to the memory of William F. Gallogly, Sr.

SALUTE TO HUMANA HOSPITAL—WEST HILLS

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1992

Mr. GALLEGLY. Mr. Speaker, I am proud to salute Humana Hospital—West Hills in West Hills, CA, for earning the highest level of accreditation from the Joint Commission on Accreditation of Healthcare Organizations.

For 75 years, the joint commission has been the principal organization inspecting the Nation's hospitals, with the mission of improving the quality of health care provided to the public.

The joint commission has a published list of more than 2,000 standards upon which 5,400 American hospitals are surveyed. Only 3 percent of California hospitals surveyed since January 1991—those that received no major recommendations for improvement—have achieved the level of accreditation with commendation.

As the joint commission guidelines state, "Accreditation with Commendation is a significant achievement—one that recognizes exemplary performance by your organization." Clearly, Humana Hospital—West Hills has shown a commitment to working effectively to provide high-quality health care to the residents of the San Fernando Valley.

Mr. Speaker, I ask my colleagues to join me in saluting the administration, doctors, nurses, and all the other employees at Humana Hospital—West Hills for providing outstanding care to its patients.

MARCH MADNESS AND THE LADY HURRICANES

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1992

Mr. FASCELL. Mr. Speaker, I rise to congratulate the University of Miami's Lady Hurricanes for their Big East Conference Championship and wish them luck as they begin the annual drama known as March Madness. In their first season of competition in the Big East Conference, they did what no other Big East basketball team has ever done: finish unbeaten in conference play. The Lady 'Canes did not stop there, they went on to win the Big East tournament and earn an invitation to the NCAA tournament.

After a successful Big East season, coach Ferne Labati and the Lady 'Canes travel to Charlottesville, VA, to compete for a trip to Los Angeles for the Final Four. While I know that folks in Charlottesville are partial to the University of Virginia, they had better beware because a "Hurricane Warning" has just been posted.

I wish to share with our colleagues the editorial from the March 12 edition of the Miami Herald.

LADY 'CANES: TRUE CHAMPS

March madness is an apt description of college basketball's climactic month. In much of the nation's heartland, ordinarily sane folks abandon their mundane pursuits and become totally wrapped up in their favorite school's quest for a national championship.

Indeed, many fans eagerly pay exorbitant sums and travel long distances through blizzards and gales just to watch Podunk State meet Boondocks Tech in one of the many regional and district tournaments. College basketball's playoffs have some of the hottest tickets in sports.

Yet all of this fuss and bother in the upper 49 states has seemed as remote from South Florida as an earthquake in Asia—until now. Finally, though, a local team has put college basketball's postseason excitement on glorious display here.

So here's a toast to the University of Miami's *women*. The "Lady Hurricanes" have managed to do what no other Big East Conference team—female *or* male—has ever done: They finished the regular season unbeaten in conference play.

But the 'Canes of Coach Ferne Labati weren't about to stop there. This week they also won the Big East Tournament with a 56-47 victory over Connecticut—on Connecticut's home court. This gives the Hurricanes, ranked sixth in the Associated Press poll, an automatic berth in the NCAA Tournament. The second round is expected to begin here on March 20 or 21.

This is a tribute to Coach Labati's skill and to unselfish players who understand the value of teamwork. When Connecticut triple-teamed UM's star scorer Frances Savage, for instance, teammates Vicki Plowden, Dellareese Wilson, and Jeannie Hebert took up the slack. Four of the team's five seniors began their college careers when Ms. Labati began coaching at UM in 1988. They learned to win together.

They are an eclectic group, those seniors. Merren Armour hails from Australia, Vicki Bowers from Ohio, Sherri Eyer from Pennsylvania, and Jeannie Hebert from Alaska. Frances Savage, who will try out for the U.S. Olympic basketball team, is a native of Fort Lauderdale.

Even before the tournament begins, the seniors, their teammates, and their savvy coach have given themselves a championship season to savor. Thanks to them, South Florida finally is catching "March Madness." How sweet it is.

TRIBUTE TO DR. BORY STEINBERG

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1992

Mr. ROE. Mr. Speaker, I wish to pay a sincere and heartfelt tribute today to Dr. Bory Steinberg, who is retiring this month after more than 30 years of dedicated and distinguished service to the American public with the Army Corps of Engineers.

Through my many years working closely with the Corps of Engineers, I have been truly impressed by Dr. Steinberg's professionalism, integrity, and competence. I believe he has been the epitome of what a public servant should be.

From his position in the Office of the Chief of Engineers since 1968, Dr. Steinberg has played a key and vital role in shaping the water resources development policy of our Nation. His impressive knowledge, ability, and energy have been critical during the past two decades in virtually every major decision on water policy issues.

Dr. Steinberg's varied and significant accomplishments have been commemorated by many awards, including the Presidential Meritorious Service Award, numerous Senior Executive Service Performance Awards and a Meritorious Civilian Service Award.

A native of Brooklyn, NY, Dr. Steinberg retires from the Corps of Engineers as chief of the Project Management Division of the Directorate of Civil Works. In this position since 1989, he has developed and implemented a project management system for use throughout the Corps of Engineers, as well as heading the corps' training programs for civil works, military, and environmental programs.

He had previously been chief of the Programs Division and chief of the Policy, Review, and Initiatives Division in the Chief of Engineers Office.

In 1979 and 1980, Dr. Steinberg served as chief of the Planning and Coordinating Office in Tel-Aviv, Israel where he played a critical role in the expedited construction of two air bases.

Prior to leaving for Israel, Dr. Steinberg had been with the Chief of Engineers Office for 11 years. He reached the position of chief of the Programs Division before his service in Israel.

Dr. Steinberg joined the Corps of Engineers in 1962 as a civilian in the engineering division of the New York District. He had previously served 6 years as an officer in the Corps of Engineers, serving in Korea and Japan.

He received a doctorate in public administration in 1984, a masters in public financial management and budgeting in 1973, both from George Washington University, and a civil engineering degree from Rutgers University in 1956.

Dr. Steinberg's work with the Corps of Engineers for three decades has made a significant contribution to the improvement and upgrading of our Nation's infrastructure. With Dr. Steinberg's retirement, the American people are losing a dedicated and valuable public servant who will be impossible to replace.

On behalf of the Public Works and Transportation Committee, I offer Dr. Steinberg the most appreciative and sincere congratulations for an illustrious and distinguished career at the Corps of Engineers. He has made tremendous and longlasting contributions to the Nation. I wish Bory, his wife, Naomi, and their lovely daughter, Daphna, all the best in the future.

STATUS OF OPERATION DESERT SHIELD/DESERT STORM COSTS OFFSET BY FOREIGN CONTRIBUTIONS

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1992

Mr. MURTHA. Mr. Speaker, I wish to share with my colleagues the status of foreign contributions received to offset the U.S. costs of Operation Desert Shield/Desert Storm. We have received $52.9 billion in cash and in kind contributions thus far to pay the United States costs associated with our Persian Gulf operations. There are about $1 billion in pledged contributions still outstanding but the Department of Defense fully expects this balance to be paid in full. I insert a table showing the details of these contributions in the CONGRESSIONAL RECORD:

OPERATION DESERT SHIELD/DESERT STORM FOREIGN GOVERNMENT CONTRIBUTIONS TO OFFSET U.S. COSTS

[In millions of dollars]

Contributor	Receipts			Future receipts
	Cash [1]	In-kind [1]	Total	
Saudi Arabia	12,002	3,984	15,986	853
Kuwait	16,015	42	16,057	
UAE	3,870	218	4,088	
Japan	9,437	571	10,008	4
Germany	5,772	683	6,455	
Korea	150	101	251	104
Others	8	22	30	
Total	47,254	5,621	52,875	961

[1] Cash received as of Mar. 5, 1992; In-Kind as of Jan. 30, 1992.

A TRIBUTE TO AN OUTSTANDING WOMAN: CELEBRATING THE 109TH BIRTHDAY OF JULIA ASHER

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1992

Mr. SOLARZ. Mr. Speaker, I am delighted to rise to pay special tribute to Ms. Julia Asher on the occasion of her 109th birthday. It is rare that I rise to pay tribute to a single individual, but for this unique lady I am proud to do so.

Julia Asher was born in 1883 and left her native Turkey for the United States in 1913. With three young children and a baby in her arms, she traveled through Greece and then across the ocean to join her husband, Joseph, who had emigrated 1 year earlier to find work as a tinsmith. Ms. Asher's beautiful children, grandchildren, great-grandchildren, and great-great grandchildren are evidence of her wonderful achievements in this Sephardic-American immigrant experience.

To celebrate this very special day, the friends and family of Ms. Asher will gather to honor and rejoice with them on this magnificent occasion.

This milestone event, while a source of joy for the Asher family and friends and the residents of the Sephardic Home for the Aged, is also an inspiration for all of us and well deserving of our praise and congratulations. I am pleased to extend my personal best wishes to Julia Asher. I wish also to proclaim nationally the respect that Brooklyn has for this kind and benevolent lady and pray for her health, well-being, and happiness for many more years.

THE 150TH ANNIVERSARY OF NEW HAVEN'S ST. PATRICK'S DAY PARADE

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1992

Ms. DELAURO. Mr. Speaker, on this St. Patrick's Day, I would like to pay tribute to the Irish-American community of Connecticut's Third Congressional District. Sunday, March 15 will mark the 150th anniversary of New Haven's first St. Patrick's Day parade. This parade has grown to be Connecticut's largest spectator event, attracting crowds of more than 150,000 people from across the State of Connecticut.

The people of New Haven have achieved this level of success through many years of untiring dedication on the part of many outstanding Irish-American leaders and groups. These dedicated people have ensured that this unique pageant draws the participation of a vast array of ethnic groups, clubs, organizations, and individual participants. The festive costumes, the music and dance, the school bands, the cheering spectators that line the streets—these have all become part of a treasured St. Patrick's Day tradition in New Haven. I look forward to once again joining in this wonderful celebration by marching in the parade this Sunday.

Year after year, this parade has given us all cause to celebrate. For this, we owe a debt of gratitude to the outstanding individuals who have kept it going—bigger and better every year. The New Haven Gaelic Football and Hurling Club, the Knights of St. Patrick, the Ancient Order of Hibernians, and the West Haven Irish American Club work tirelessly each year to organize and support the 130 marching units that participate.

The parade's executive committee of 80 men and women, led by this year's grand marshal, Lawrence G. McGivney, are to be commended for their untiring efforts in planning this year's parade. Putting on New England's only noncommercial, self-supporting parade is a formidable task, but it is one which they have accomplished with devotion and talent, in the fine tradition established over the past 150 years.

It is events like the St. Patrick's Day parade that enable us to remember our Nation's ethnic heritage. As Americans we are all descendants of immigrants and our pride in being Americans is greatly enriched by our pride in our ethnic roots.

Among the earliest immigrants to the New Haven area, Irish-Americans have played a critical role in establishing the cities and towns of our community. From the factories to the railroads, from the architecture to the government, Irish-Americans have contributed to every aspect of our community life. I look forward to this Sunday, when the entire community will once again have a chance to pay tribute to their accomplishments and share in the festivities. As we march together on Sunday, people of all ethnicities will feel a little bit Irish, and proud of it.

SALUTE TO VIRGINIA MAYO, JANE RUSSELL, AND MONTIE MONTANA

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1992

Mr. GALLEGLY. Mr. Speaker, I rise today to honor three of Hollywood's best who will be honored this weekend for their contributions to that American classic, the Western.

Virginia Mayo, Jane Russell, and Montie Montana will be honored during the 10th Annual Santa Clarita Valley Walk of Western Stars awards program in Newhall, CA—a true Western town both in real life and in film as the home base for the old Tom Mix movie ranch.

For a decade now, the Walk of Western Stars has commemorated the heroes that generations of Americans grew up with. This year's inductees continue in the grand tradition of such former honorees as John Wayne, Clayton Moore, Roy Rogers, Dale Evans, and Gene Autry.

Virginia Mayo began acting at the tender age of 6 in family productions, and made her professional debut in 1943. She quickly rose from small parts to stardom as the romantic interest for Danny Kaye in 1944's "Up in Arms." Mixing musicals with adventure, she appeared in several top movies, including "The Best Years of Our Lives," "The Secret Life of Walter Mitty," and "A Song is Born."

She also appeared in many Westerns, including "Colorado Territory," "The Big Land," "The Tall Stranger," and "Fort Dobbs Westbound." I am especially pleased that she is a constituent of mine in Thousand Oaks, CA, where she pursues her interest in oil painting and her grandchildren.

Jane Russell will be forever linked to the Western because of her first major performance, Howard Hughes' "The Outlaw," which catapulted her to stardom. While waiting for the movie to finally be released, she starred in a different form of Western—"The Paleface," with Bob Hope.

In all, she appeared in more than 30 motion pictures, many of them Westerns.

This year's third inductee, Montie Montana, not only grew up to be a cowboy, he's also a screen entertainer, rodeo professional, and one of the most famous trick-roping artists in the world. A 63-year veteran of show business, he has some 60 movies to his credit, along with countless radio and television appearances. In southern California, he's still well known for his 20-year TV show, "Weber's Rodeo Ranch," in which he performed for more than 400,000 schoolchildren.

Mr. Speaker, the Western was a key part of our American identity this century, just as the lure of the West has always beckoned our most industrious and ambitious citizens. I ask my colleagues to join me in saluting Virginia Mayo, Jane Russell, and Montie Montana for helping make the Western the art form it was.

PLIGHT OF SYRIAN JEWRY

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1992

Mr. FASCELL. Mr. Speaker, late last year, the House unanimously adopted House Concurrent Resolution 188, which called upon the Syrian Government to respect the internationally recognized human rights of all its citizens and drew particular attention to the plight of the beleaguered Jewish minority in Syria.

Unfortunately, despite the continued warming in United States-Syrian relations, the dismal human rights situation in that country has not improved. The State Department's "Country Reports on Human Rights Practices for 1991" describes "torture, arbitrary arrest and detention, lack of a fair trial in security cases, and the denial of freedom of speech, press, association, the right of citizens to change their government, and certain worker rights" as among Syria's "major human rights problems." Middle East Watch, the independent human rights organization, in its 1991 book "Syria Unmasked: The Suppression of Human Rights by the Asad Regime," reports that "Security forces operate with impunity, censors insist on conformity, minorities face continued persecution and discrimination, torture is a standard feature of interrogation, and thousands languish as political prisoners."

Syrian Jews in particular are subjected to widespread discrimination and restrictions of their movements and activities. The right to emigrate is routinely denied and those who have attempted to leave without permission have been imprisoned. In its description of the 4,000-member Jewish community, Middle East Watch said, "No other community in Syria faces such heavy surveillance and none is made to feel so completely powerless in the face of the authorities."

Mr. Speaker, these egregious violations of internationally recognized human rights by the Syrian Government deserve to be strongly condemned. The administration, in its quest for Syrian participation in the Middle East peace process, must not be blinded to the deplorable Syrian record of abuse and authoritarian rule. The United States must take every available opportunity to press the Syrians to improve their human rights record and allow the tiny Jewish minority to exercise the rights to freedom of travel and emigration. Respect for human rights and democratic freedoms should be a chief objective of our policy toward Syria and its neighbors. And we in the Congress must pledge to continue to speak out until the day comes when Syria joins the ranks of the ever-growing community of democratic nations that respect the rights of all their citizenry.

POETIC JUSTICE IN CONFUSION COURT

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1992

Mr. OWENS of New York. Mr. Speaker, the greatest scandal of this decade and this century is the savings and loan swindle perpetrated by millionaire crooked bankers acting in collusion with corrupt regulators and corrupt public officials. This is the scandal that by the most conservative estimates will cost $500 billion with every American family paying an extra $5,000 in taxes to replace what the swindlers stole. This scandal is further magnified by the fact that most of the perpetrators have never been punished. The Congress has never conducted a special investigation with a demand that these white-collar criminals be appropriately punished and the Justice Department has clearly pursued a policy of minimum prosecution.

Billions of dollars are still being spent on the S&L bailout. Twenty-five billion dollars more for the bailout is being proposed in legislation on its way from the Banking Committee to the floor of the House. Commercial banks are also now among the billion dollar defendants. America's banking scandal is the greatest and most costly scandal in its history. Not the House of Representatives bank but the Federal Deposit Insurance Corporation banks have generated the greatest scandal of our times.

Congress is guilty of failing to prosecute the millionaire white-collar crooks who carried out the multiplicity of conspiracies which resulted in the necessity for the taxpayers to assume the burden of a $500 billion bailout. Congress is an accessory to the bookkeeping tricks which presently hide the monstrous cost of the banking bailouts from the American taxpayers. From Silverado Bank in Denver to Lincoln Savings on the west coast, Continental Bank of Illinois in the middle and the Bank of New England on the east coast, Congress has allowed the FDIC and the Justic Department to minimize the extent of the criminal conspiracies while prosecuting the smallest possible number of perpetrators.

Even now while billions more are being proposed for appropriations to bail out the banks, the Congress is not demanding accountability from the Justice Department. In our democratic society, before the eyes of millions of Americans, a giant coverup has been made respectable. Our Nation's free press and electronic media have bowed to advertisers and other hidden financial forces to act in collusion with the banking conspirators. Talk show hosts rage on-and-on about the pennies in free loans which Congress persons took from each other while they deliberately close their eyes to the billions that the FDIC insured banks are stealing from the taxpayers. The free press and electronic media have refused to properly and fully report the greatest scandal of our time.

Because it refused to compensate for the laxity of the free press and the planned foot dragging of the Justice Department, Congress is guilty. Congress should have assumed the role of prosecutor of the banking thieves. Congress had—and still has—a duty to show the American people what true justice should be. The worst and most costly crimes of the century should be exposed and punished. The failure of Congress to follow this course has resulted in a collapse of standards and a grossly distorted voter perspective. Nobody knows who the real enemy is any more. At best we wait for Oliver Stone to tell us. At worst we wait for the midget minds of talk show hosts to finger the villains.

Congress is guilty of not fully investigating, exposing, and prosecuting the Iran-Contra traitors who operated from the basement of the White House. Congress is guilty of not fully investigating the connection between Noriega and the CIA, a connection which resulted in the flow of greater amounts of drugs into the neighborhoods of our cities. Congress is also guilty of not launching an investigation of the drug-dealer financing, money-laundering Bank of Commerce and Credit International [BCCI]. The head of this multinational criminal conspiracy met regularly with a director of the CIA and hobnobbed with U.S. Presidents and Washington celebrities while facilitating the wholesale dumping of drugs into our communities.

In all of the above instances where monstrous crimes were committed which threaten the fabric of our legal and social structures while victimizing millions Congress should have become the ultimate prosecutor. Congress should have offered new examples of how justice can be achieved in a democratic society. Congress should have set high standards for law and order in the new world order.

Because Congress refused to act responsibly and compensate for the laxity of the executive branch and the timidity of the free press, our Nation's citizens and voters have no framework, no points of reference for judging which phenomena have wrecked our economy and exposed our children to the very real and present dangers of drugs and byproducts of violent crime spawned by the drug culture. Blindly the angry American people cry out for justice. The call now is to crucify Congress!

In the topsy-turvy, reverse, perverse, upside down, logic of our complex modern society, the American people have pinpointed the correct target. Those who have the power to prosecute evil and refuse to use that power for the good of the people rightly deserve to be accused as the ultimate defendants. This is a cruel and painful poetic justice.

CONFUSION COURT

Where are the charges
What are the counts
In billions of dollars
Read all the amounts
Defendants
Must all now rise
The court commands
That 435 prosecutors
Wipe the tears
From elite weeping eyes
Reason now dies
Restrain the loud cranks
Ignored by the ranks
The holdup of banks
Now haunts hallowed halls
Great hammers will fall
Just who are the crooks
No committees took looks
Where are the charges
What are the counts
In billions of dollars
Read all the amounts
Defendants
Must all now rise
Confess the huge ugly lies
No committees took looks
At vicious S&L crooks
Thornburgh took a dive
Denver swindlers stayed alive
True perpetrators went free
No voters could see
What real justice should be
Real perpetrators have fled
Loud crowds crucify
435 prosecutors instead
Reason is dead
Logic stands on its head
S&L billions
Are under the bed
The judges now ride
435 prosecutors can't hide
Armored talk show tanks
Launch the attack of the cranks
But S&L crooks
The real defendants are free
Congress never let voters see
What real justice should be
Now reason is dead
Logic stands on its head
Where are the charges
What are the counts
In billions of dollars
Read all the amounts
Real defendants have fled
Loud crowds crucify
435 prosecutors instead.

BIOGRAPHY OF WOVOKA

HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1992

Mr. FALEOMAVAEGA. Mr. Speaker, through Public Law 102–188 (S.J. Res. 217, H.J. Res 342), Congress and the President designated 1992 as the Year of the American Indian. This law pays tribute to the people who first inhabited the land now known as the continental United States. Although only symbolic, this gesture is important because it shows there is sympathy in the eyes of a majority of both Houses of the Congress for those Indian issues which we as a Congress have been struggling with for over 200 years. In support of the Year of the American Indian, and as part of my ongoing series this year, I am providing for the consideration of my colleagues a short biography of Wovoka, a spiritual leader who started a cult known as the Ghost Dance, which was to spread among Indian tribes from the Missouri River to the Rocky Mountains and beyond. This biography was taken from a U.S. Department of the Interior publication entitled "Famous Indians, A Collection of Short Biographies."

WOVOKA (PAIUTE)

In 1888, a young Northern Paiute Indian named Wovoka, seriously ill with a fever during a total eclipse of the sun, had a vision. Recovering, he told of a revelation from the Great Spirit.

"When the sun died I went up to Heaven and saw God and all the people who had died a long time ago" he reported to his tribesmen. "God told me to come back and tell my people they must be good and love one another, and not fight, or steal, or lie.

"He gave me this dance to give my people."

Wovoka's message began a cult known as the Ghost Dance, which was to spread among Indian tribes from the Missouri River to the Rocky Mountains and beyond.

A medicine man and dreamer whose father, Tavibo, had also been a medicine man, Wovoka was born around 1858 in Mason Valley, Nev. When Tavibo died, the 14-year-old Wovoka was taken into the family of a local rancher, David Wilson, as a farmhand, and given the name "Jack Wilson," by which he became generally known. The spiritual leanings Wovoka inherited from his father were enhanced by the Wilsons' practice of reading the Bible aloud, and the young Indian boy was strongly impressed by accounts of Jesus and His miracles.

Wovoka did not claim divinity after his vision, but quickly became accepted among Indians as the Messiah who would carry the Great Spirit's message. His doctrine, an explicitly peaceful one, promised that Indian lands would be restored; that Indian dead would arise; and that buffalo, deer, elk, and other game would once again roam the plains in abundance. All Indians would be saved by dancing the sacred Ghost Dance.

The first major performance took place near Wovoka's home in early 1889. Visitors to subsequent ones from dozens of western tribes became eager disciples who carried the Ghost Dance far beyond Nevada.

The dance was an extremely simple one, in which for 5 consecutive nights, participants joined hands in a circle and shuffled slowly to the left, while chanting especially composed songs of hope and delivery. Dancers usually wore shirts (often of Government-issue muslin) painted with mystic designs which some tribes believed would be proof against the white man's bullets.

Wovoka's message was perfectly timed for special appeal to western Indians. Plains tribes, confined to reservations, unable to hunt their own food or practice the traditional Sun Dance which for countless years had been their source of spiritual help, took up the Messiah cult and sometimes danced until they collapsed. Among its most enthusiastic followers were the Sioux, who by 1889 were dancing near several South Dakota agencies. Troops were sent in for the protection of apprehensive settlers who feared the new ceremony as a preparation for war.

In December of 1890, about 500 men of the 7th Cavalry (Custer's old regiment) were sent to round up a party of Miniconjou Sioux from Cheyenne River Agency. The party pitched camp at Wounded Knee Creek, about 25 miles from Pine Ridge Agency.

On December 29, having surrounded the Indians, a battery of guns trained upon their tipis, soldiers began to disarm Sioux warriors. During the search for concealed weapons a gun was fired, probably by one of the Sioux. It may have been a signal, for at once other braves threw off their blankets and attacked. White soldiers immediately responded with deadly gunfire. Within half an a hour almost all the Sioux warriors had been slaughtered; then guns were turned on the Indian women and children, mowing them down in flight. About 25 soldiers, and more than 200 Indians lost their lives in the dreadful Massacre of Wounded Knee, which ended, for all time, Sioux armed resistance to whites.

Wovoka was dismayed by news of Wounded Knee, since his message had never counseled bloodshed. Although his messianic doctrine persisted for a decade after Wounded Knee, he altered his prophecies as the years went by, and repeatedly called upon his people to follow the white man's road. In 1926, Col. Tim McCoy, then a star of motion pictures and wild west shows, and a friend of the American Indian, went to visit the old prophet. "I found a man unusually vigorous for nearly 70," McCoy said. "He talked readily of the ghost dance religion, and still declared he had visited and talked to God."

Wovoka died quietly in 1932, and was buried in the Indian graveyard at Mason Valley, Nev.

MARIA BENITEZ TRIBUTE

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1992

Mr. RICHARDSON. Mr. Speaker, it is with great joy that I call my colleague's attention to an outstanding constituent of mine who excels in the field of dance. Santa Fe's Maria Benitez is the coartistic director of the Institute for Spanish Arts and the Maria Benitez Spanish Dance Co. Ms. Benitez has performed with large national Spanish dance companies as well as small flamenco groups. She has toured Europe, North Africa, South America, and the United States.

She has been described as "Extraordinary" by the New York Times, "Smoldering Brilliance" by the Kansas City Star, "Sensational" by the San Francisco Examiner, and "Absolute Perfection" by Volkblatt (Berlin). Most recently, she was featured in the January 6, 1992, edition of New York magazine which referred to Ms. Benitez's dancing as "an incendiary event."

Maria is a dear friend, a proud New Mexican, and a magnificent artist. I am attaching a copy of the New York magazine article so that my colleagues can familiarize themselves with Ms. Benitez's work.

[From the New York Magazine, Jan. 6, 1992]

BENÍTEZ'S DANCING IS AN INCENDIARY EVENT

Anyone in charge of the upbringing of a young, impressionable girl couldn't do better than take her to see the Spanish dancer Maria Benitez—recently with her company at the Joyce. In performance, Benítez is a terrific female role model: a fusion of strength and feeling.

She moves from a center that seems to be equal parts steel and silence; everything—even her most raucous, impulsive outbursts of action—is sprung from that indomitable, mysterious core. (It's perhaps not irrelevant that her ethnic heritage is American Indian and Latino.) As for eroticism—one of the twin pillars of Spanish dance, along with the proud defiance of death—Benítez doesn't so much act it as embody it. She is intrinsically so sensual, you can imagine her transforming the neutral task of mailing a letter into a voluptuous experience. These factors make her dancing an incendiary event; combining them with the evidence of a multilayered interior existence, she puts you in touch with life.

The ambitious new work in her recent program, *Aires de Silencio*, is one of those bastard affairs Spanish dance companies are always attempting, amplifying the abstract solo and duet work that is their province with narrative playlets dependent on the strategies of old-fashioned ballet and modern dance. This example, choreographed by Joaquín Ruíz (real Spanish dancing is improvisatory within a generic framework and doesn't need choreographers), has an unusual and striking subject. Benítez, its heroine, plays a woman more than old enough to have daughters disporting themselves with lovers. As in real life, the young arrogantly assume they are the sole custodians of romance and sex. Thus, they remain willfully innocent not only of the relationship that shaped the elder woman into the person she has become but of the rich range of the personality itself.

The idea is outlined suggestively, not literally (the central incident is played out in smoke-clouded flashback), yet in a fashion simple enough to make its point clear. The supporting players—especially the junior women, lush and disdainful—add style, and Benítez gives the whole business a complex and moving psychological truth. You'd think she was in a play by García Lorca.

All told, Benítez's show is a handsome package, well balanced and running without a hitch—to a point where it will seem too sleek to those who've experienced flamenco more authentically: as a raw, spontaneous act performed in a gritty café. Benítez offers a sanitized theatricalized presentation—no crude Rioja at the bar in the Joyce lobby—that is excellent of its kind. If the lighting is melodramatic to a fault, the stunning costumes are at once lavish and tasteful: Benítez's limp-ruffled opening ensemble suggests blood and flowers; in *Aires de Silencio*, she wears a claret velvet number effectively cut to excite lust and envy; her apotheosis—young again, in a solo of damn-it-all gaiety—takes place in subtly draped slate silk, the traditional shawl of her trade reduced to a fringe of flame slanting over her hips.

Every performer in her chamber-size group is able and distinctive. Ruíz isn't successful as Benítez's partner in *Aires de Silencio* because he's an elf of a dancer, not the macho type needed to match mature female passion. But elsewhere, alone in an extended display of Alegrías, he's wonderful in his own maverick fashion—sharp, swift, and full of crazy tricks. Angel Atienza, featured in a Taranto, is even more satisfying, emphasizing the contrast between the bluntly muscular work of the thighs and the fleet agility in the lower legs and feet. He may not have Benítez's mediative dimension, but he's her equal in matters of incisive shape and smoldering fire.

IN HONOR OF FRANCIS V. McMANUS

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1992

Ms. DELAURO. Mr. Speaker, this week Americans all across the country join Irish-Americans in celebrating St. Patrick's Day. As New Haven celebrates the 150th anniversary of its first St. Patrick's Day parade, I would like to take this occasion to pay tribute to Chief Francis V. McManus who, throughout his lifetime, was a source of great pride to this community.

New Haven's St. Patrick's Day parade, Connecticut's largest spectator event, owes a great deal to the work of Chief McManus. As the parade's grand marshal in 1964, and chairman of the parade's executive committee, he was a motivating force behind the parade's success. He served Connecticut with untiring devotion in his 13 years as New Haven's police chief. We were all proud of his leadership throughout the State and the world as he went on to become cofounder of the Police Chiefs Association of Connecticut and president of the International Police Chiefs Association.

New Haven, CT, and the entire country have benefited enormously from the service of many distinguished Irish-Americans. As we remember them this week, we offer our gratitude and a special place in our hearts to the memory of Chief Francis V. McManus.

NATIONAL AWARENESS WEEK FOR LIFE-SAVING TECHNIQUES

HON. C.W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1992

Mr. YOUNG of Florida. Mr. Speaker, the National Safety Council reports that more than 850,000 Americans of all ages die every year as the result of accidents and heart disease.

Many of these lives, however, can be saved if more Americans are aware and able to perform some of the most basic life-saving techniques such as rescue breathing and cardiopulmonary resuscitation, commonly referred to as CPR, or the Heimlich maneuver.

Especially disconcerting to me is that many victims of accidents are children. In fact, statistics show that accidents are the leading cause of death for children and youth from 1 to 24 years of age and drowning and choking are a leading cause of accidental death for children under the age of 5.

Information and training about life-saving techiniques are available in virtually every community throughout our Nation. The American Red Cross, the American Heart Association, the YMCA, and many other national organizations, as well as community hospitals and civic organizations, have placed the highest priority on educating the American people of all ages about the simple techniques that can save a life.

Learning a life-saving technique is simple, requires little time, and the courses are often free or of minimal cost. While nearly 10 million Americans have already taken advantage of this opportunity, many more have not. We must do all we can to educate as many people as possible about these simple life-saving techniques because they may be called upon at any moment to breath life into a family member, neighbor, or a complete stranger who is the victim of an accident or heart attack. Performing CPR during those first moments of crisis are crucial and often times make the difference between life and death.

Mr. Speaker, legislation I have introduced today, the text of which follows my remarks, designates the week of May 16 through 23 as National Awareness Week for Life-Saving Techniques. It is my hope that through this effort to acknowledge the threat of accidents and heart disease, particularly to our children, that more Americans will recognize and understand the contribution life-saving techniques make to reducing this threat and the importance of learning the basic skills. In calling attention to these techniques, we can improve public awareness about the wide range of opportunities available to learn them and thereby increase the number of Americans trained to greatly reduce the death rate due to accidents and heart disease.

Mr. Speaker, accidents and heart attacks occur without warning but we can be prepared for them by learning the basic life-saving techniques. The small investment that is made in taking the time to learn these skills could someday mean the difference between life and death.

H.J. RES. 442

Whereas the National Safety Council reported that about 850,000 Americans died in 1990 as a result of accidents and heart disease;

Whereas accidents are the leading cause of death for children and youth ages 1 to 24 years;

Whereas drowning and choking are a leading cause of accidental death in children under the age of 5 years;

Whereas Rescue Breathing and Cardiopulmonary Resuscitation, commonly referred to as CPR, are life-saving techniques that significantly reduce the incidence of sudden death due to accidents and heart disease;

Whereas it is critical that more Americans learn such basic life-saving techniques in order to reduce the number of deaths related to accidents and heart disease;

Whereas the opportunity to learn basic life-saving techniques is available to all Americans through the American Red Cross, the American Heart Association, the YMCA, and other national organizations; and

Whereas the death rate due to accidents and heart disease would be greatly reduced if more Americans received training in basic life-saving techniques: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That May 16, 1992, through May 22, 1992, is designated as "National Awareness Week for Life-Saving Techniques". The President is authorized and requested to issue a proclamation calling on the people of the United States to observe the week with appropriate ceremonies and activities designed to encourage training in life-saving techniques for Americans.

MAJ. GEN. JAMES W. HOLSINGER, JR., RETIRES FROM U.S. ARMY RESERVE

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1992

Mr. MONTGOMERY. Mr. Speaker, in an impressive Pentagon ceremony attended by approximately 100, Maj. Gen. James W. Holsinger, Jr., retired yesterday from an illustrious career in the U.S. Army Reserve. Active in the health care field over the past 30 years, General Holsinger is known to most of us for his work in another public service arena: He is the Chief Medical Director of the Department of Veterans Affairs and is responsible for overseeing the Nation's 172 veterans' hospitals, 340 outpatient clinics, 129 nursing homes, 196 veteran readjustment centers, and 35 domiciliaries. Over 200,000 health care employees are under his charge.

For the past 1½ years, Dr. Holsinger has very capably guided VA's health care system and, as the following biographical information will attest, is exceptionally well qualified in the field of medicine, particularly as it pertains to our service personnel and veterans.

Prior to his retirement, Major General James W. Holsinger, Jr. was the Assistant to the Director for Logistics (Medical Readiness), Individual Mobilization Augmentee. He was responsible to the Director for Logistics, the Joint Staff, Washington, D.C. for providing the Reserve Component perspective regarding the development and implementation of mobilization and contingency plans for health services support. He coordinated with the Chairman and the Joint Chiefs, senior officials of the Department of Defense, the three Services Surgeons General and the Medical Officer of the Marine Corps, and the Command Surgeons of the unified and specified combatant commands. He was the only Reserve Component flag/general officer assigned to the Joint Staff.

Major General Holsinger was born in Kansas City, KS on May 11, 1939. He graduated from the Duke University Medical School in 1964, completing a surgical internship, residency in general surgery and fellowships in thoracic surgery and anatomy at Duke University. In 1968, he completed a Ph.D. with a major in anatomy and minor in physiology at Duke University. He also completed a residency in general surgery and a fellowship in cardiology at the Gainesville VA Medical Center and the University of Florida (Shands Teaching Hospital). In 1981, he completed a master's degree program in hospital management at the University of South Carolina.

Major General Holsinger began his military career as a medical administrative assistant in 1961 and 1965, became an Army general surgeon. From 1968–71, he commanded the 441st Medical Clearing Company. In 1972, he became chief of general surgery at the 5501st US Army Hospital, then served as state surgeon with the Nebraska Army National Guard in 1973. Dr. Holsinger held hospital command and division surgeon positions prior to serving as medical consultant to the Surgeon General of the Army in 1978. He became the 382d Field Hospital commander in 1981. In 1982, he became command surgeon for the 81st Army Reserve Command (ARCOM). He served as deputy commander of the 818th Hospital Center from 1982–85 and was promoted to brigadier general May 1, 1986, while commanding the 2290th US Army Hospital. In March 1988, he was assigned as the Assistant to the Director for Logistics (Medical Readiness), Individual Mobilization Augmentee, J4, the Joint Staff, and was promoted to major general March 16, 1989.

Major General Holsinger is the first presidentially appointed chief medical director in the Department of Veterans Affairs (VA). Prior to his August 1990 appointment, Dr. Holsinger was director of the McGuire VA Medical Center, Richmond, Va. He was the first VA medical center director assigned from the VA executive medicine program. In Richmond, he also served as a professor of medicine and professor of the health care administration at the Medical College of Virginia. In 1985, Dr. Holsinger was appointed assistant vice president for health sciences at Virginia Commonwealth University. He is the author of over 80 professional books, papers, and abstracts.

Major General Holsinger's military decorations and awards include the Legion of Merit, the Meritorious Service Medal with two oak leaf clusters, Army Commendation Medal, Army Achievement Medal, National Defense Service Medal, Armed Forces Reserve Medal with two ten-year devices, Army Reserve Components Achievement Medal with three oak leaf clusters, Army Reserve Components Overseas Training Ribbon with Numeral 2, Army Service Ribbon, Joint Meritorious Unit Award, Nebraska National Guard Service Medal with ten-year device, the Order of Military Medical Merit, and Expert Field Medical Badge.

Major General Holsinger is married to the former Barbara Jenn Craig of Durham, NC. They have four daughters, Anna, Ruth, Sarah, and Rachel.

A VICTORY FOR PARENTAL CHOICE IN EDUCATION

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1992

Mr. GINGRICH. Mr. Speaker, I hope all my colleagues read the following article that appeared in the Wall Street Journal on March 10. I admire and praise Polly's efforts to help bring the education of our children back into the parents' control.

POLLY'S VICTORY

Polly Williams and the hundreds of kids she has helped secure a chance at a better education can finally relax. Last week, the Wisconsin Supreme Court declared that the nation's first educational-choice program that also includes private schools is constitutional. The court's decision ends a two-year struggle that pitted a few parents and kids along with Mrs. Williams, the Milwaukee state legislator who sponsored the choice plan, against the state's entire educational establishment.

The Milwaukee case highlights what could be one of the most fascinating new political battles to appear in a long time—poor parents vs. the educational unions. The names on the lawsuit tell the story.

Those asking that the choice program be upheld included Lonzetta Davis and her daughter Sabrina; Velma Frier and her daughter Shavonne; and Thais Jackson and her daughter Tamika. Joining them were the Harambee Community School, the Urban

Day School and the Juanita Virgil Academy, three innovative schools with a history of educational achievement. The opposition included the Wisconsin Association of School District Administrators, the Wisconsin Federation of Teachers, the Milwaukee Teachers Education Association and the Wisconsin Congress of Parents and Teachers.

The court decision will allow 554 low-income students to continue attending nonsectarian private schools using a state scholarship worth $2,500 a year. That's less than half of what it costs to educate a child in Milwaukee's public schools. An outside evaluation of the 18-month-old program recommended it be continued. The parents involved are highly pleased, which is crucially important for the kids' attitudes toward school.

Writing for the 4-to-3 majority, Justice William J. Callow cited the conclusion of Brookings Institution scholars John Chubb and Terry Moe that "autonomy from bureaucracy is capable of making the difference between effective and ineffective" schools. The court also dismissed arguments that choice schools would be unaccountable. "Parents generally know their children better than anyone," wrote Justice Callow. "If the private school does not meet the parents' expectations, the parents may remove the child. * * * In this way, parental choice preserves accountability for the best interests of the children."

Justice Louis J. Ceci went even further in his concurring opinion. He wrote that the choice program "attempted to throw a life preserver to those Milwaukee children caught in the cruel riptide of a school system floundering upon the shoals of poverty, status-quo thinking, and despair." He concluded his opinion by asking the state to "give choice a chance."

Polly Williams's victory is not hers alone. Parents and business leaders are joining forces across the country to propose choice programs. In Indianapolis, the Golden Rule Insurance Co. is helping 600 low-income students attend local private schools. An educational-choice initiative is headed for California's November ballot, if it can survive an extremely aggressive effort by the teachers' unions to block the collection of signatures.

Other parents will now no doubt be inspired by Mrs. Williams's court victory and the gains made by her choice program. Wisconsin Governor Tommy Thompson, who was instrumental in making choice possible in Milwaukee, says, "The country has been watching Wisconsin for a signal. Now they've got it."

APPLES REVISITED

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1992

Mr. RITTER. Mr. Speaker, the following editorial, entitled "Apples Revisited," appeared in the Wall Street Journal on March 16, 1992. I would like to have it inserted into the CONGRESSIONAL RECORD.

[From the Wall Street Journal, Mar. 16, 1992]

APPLES REVISITED

Alar used to help apples stay good for a year after they were picked. The political and press battle over the agricultural chemical's demise has an even longer shelf life.

Elizabeth Whelan and her American Council on Science and Health have not let the matter rest, because they regard the demise of Alar three years ago, amid a media scare generated by the Natural Resources Defense Council, to be a classic case of fear winning over facts.

Apple growers, after taking a big hit, filed a big suit but otherwise have moved on. The makers of a stigmatized product such as Alar could never hope to regain a market for it. So what's the point of Dr. Whelan's efforts? It's to prove a point, so that next time the response to inconclusive evidence of toxic risk is not to sweep the supermarket shelves and pull the fruit from school lunches.

Dr. Whelan's campaign has taken her to former Surgeon General C. Everett Koop, who recently stated that Alar "did not pose a health hazard," and to the American Medical Association, which basically agreed. With persistence, she got Richard Adamson, the ranking etiologist at the National Cancer Institute, to equate the risk from a treated apple to that from a peanut-butter sandwich.

Where the effort has gotten nowhere is with CBS News and the Environmental Protection Agency. The Alar reports on "60 Minutes," the nation's most-watched television show, started the panic and sealed the fate of the chemical, and the program's executive producer says it won't revisit the issue unless the EPA does. The agency, despite its recent turn-around on another farm additive known as EBDCs, won't budge from its finding that Alar poses an "unacceptably high" carcinogenic risk.

In a letter to Dr. Whelan last week, however, Assistant Administrator Linda Fisher wrote, "EPA disagreed strongly with the message and with some of the information communicated by CBS and NRDC" and, further, seeks to "change or eliminate the so-called Delaney Clause which bars certain pesticide tolerances if they are associated with any positive cancer study ... without consideration of benefits or calculation of actual exposure and risk."

Significant scientific dissents from the Alar-peril theory had arisen without Dr. Whelan's instigation. The issue is, at the least, a contentious one in the profession. A few respected scientists continue to hold to their initial association with the NRDC's alarm.

As in all findings based on the observation of laboratory rats—and that really is the crux of this dispute, and its importance for future cases—the scientist may choose to deal only in absolutes. It falls to policy makers, aided by a lay specialists such as those in the media, to assess relative risks and measure them against costs.

Even without ultimate vindication of Alar, those who attest to the basic safety of the food supply—and of American life in general—may be turning a corner. The skepticism toward the apocalyptics that has been evident for some time in learned publications such as Science and Nature is finding its way into the mainstream. Even the avowedly "environmentalist" Time magazine carried an article recently on "The Danger in Doomsaying." For that matter, "60 Minutes," given an open-minded segment producer, can come up with a challenging piece such as last year's look at acid rain.

But what about the lawmakers? An agency such as the EPA responds both to the Congress and to the presidency (as well as sometimes to the courts). Further progress on that front depends on those branches being held accountable by a people who want agencies to focus on true hazards, not costly, marginal non-problems. Dr. Whelan's crusade may have some time yet to run.

IN HONOR OF JAMES J. DINNEN

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1992

Ms. DELAURO. Mr. Speaker, this week Americans all across the country join Irish-Americans in celebrating St. Patrick's Day. As New Haven celebrates the 150th anniversary of its first St. Patrick's Day parade, I would like to take this occasion to pay tribute to James J. Dinnen, who has been a source of great pride to this community for many years.

New Haven's St. Patrick's Day parade, Connecticut's largest spectator event, owes a great deal to Mr. Dinnen. As a former grand marshal and current member of the parade's executive committee, he has consistently been a motivating force behind the parade's success. For his leadership and vision, the people of Connecticut owe him their deep gratitude and admiration.

New Haven, CT, and the entire country have benefited enormously from the service of many distinguished Irish-Americans. As we celebrate with them this week, we offer our congratulations and our thanks to James J. Dinnen.

THE IMPORTANCE OF THE EPSCoR PROGRAM TO RURAL AMERICA

HON. TIM JOHNSON

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1992

Mr. JOHNSON of South Dakota. Mr. Speaker, in 1980 a program was created with the goal of helping States receiving little or no Federal research dollars become more competitive for that grant money. That program started out with 5 States and a little over $3 million, and now has grown to 18 States including Puerto Rico, and $50 million. The program is called the Experimental Program to Stimulate Competitive Research [EPSCoR]. The idea behind EPSCoR is twofold: The first that it will provide some money to help universities build an infrastructure that will allow them to become competitive with the larger institutions in the bigger States for greater sums of grant money. The second, that the research, which is focused on technology and innovation, will produce something marketable that will bring profits to the State and universities and bolster overall U.S. competitiveness. Five Federal agencies, have active EPSCoR or EPSCoR-like programs, the National Science Foundation being the key player in this group. Others are DOE, EPA, USDA, and NASA. Combined these agencies provide $50 million in EPSCoR money which is divided among the 18 participating States and Puerto Rico. The States then match this funding to varying degrees, and the universities also come up with matching funds. It really is a joint effort on the part of all involved, and that means everybody is dedicated toward making the program work.

South Dakota became involved in the EPSCoR Program in 1989, and I have only praise for how things have worked out. The State has matched the Federal outlays on a 1 to 1 basis, as have the universities involved. One of the unforeseen benefits of this program has been achieving an unprecedented level of cooperation among the universities receiving EPSCoR funding. Universities usually have a very competitive attitude toward one another, which stems from everything from institutional jealously to fighting for scarce funding. Now that they are forced to cooperate—the together we stand theory—they are finding they can be much more effective in achieving their research goals. This is a pattern repeated in all the EPSCoR States, and I believe it is a beneficial change.

I would urge my colleagues to continue to support full funding of this unique program. We increasingly hear warnings that the United States is falling behind in global fields of technology and innovation. EPSCoR is a program that directly addresses this problem by creating more areas where research can take place to bolster competitiveness.

TRIBUTE TO THOMAS P. GRATER

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1992

Mr. YATRON. Mr. Speaker, I rise today to pay tribute to a good friend and esteemed public servant from Ephrata, PA, Mr. Thomas P. Grater. Tom has been my close friend since our high school days. We played on the varsity football team together for Reading High School and Tom also participated in track, specializing in shotput and discus. Since then, Tom has given the Ephrata community 37 years of diligent service and leadership, and I am proud to be able to come before the House and tell you about this outstanding American.

Prior to his appointment as executive director of the Ephrata Recreation Center in 1955, Tom served in the Navy for 3 years. He graduated cum laude from East Stroudburg University in 1953 and obtained his master's degree from Pennsylvania State University in 1955. Tom then returned to Reading and worked in the Reading Recreation Department until beginning his 37-year career of distinguished service in Ephrata.

Because of his cooperative attitude and tremendous leadership abilities, Tom has helped to make the Ephrata Recreation Center a model establishment within the community. His outstanding accomplishments include planning and operating outdoor pools, parks, and playgrounds, and cooperating with school authorities in the use of all their lands, building, and programs.

It was not uncommon to see Tom on the job at 4 a.m., doing relief work as a snow plower, or speaking at civic organization meetings on behalf of Ephrata Recreation and Parks. State officials in the Department of Community Affairs describe Tom as a personality and cite his drive behind the project to fund and build Ephrata's recreation center. Tom's efforts to better the community have been tireless, and thus Tom is an integral part of the community's success.

Because of his dedicated leadership and hard work on behalf of his fellow citizens, Tom has received numerous awards. Included in his awards are a Presidential Citation from the Pennsylvania Recreation and Parks Society in 1964, Ephrata's Outstanding Community Award, and the Legion of Honor Award from the Chapel of the Four Chaplains, just to name a few.

Mr. Speaker, I am proud that Tom has been my friend over the years. More importantly, Tom Grater has been a true and dear friend to the people of Ephrata. The citizens of Ephrata, PA are very fortunate to have had a man like Tom–he has given so much to the community the past 37 years. Now that Tom is retiring, I know that my colleagues here in the House join me in wishing him a retirement filled with good fortune and blessed with good health. I wish him well in his retirement and sincerely thank him for many, many years of outstanding public service.

ALTERNATIVE MINIMUM TAX RELIEF

HON. MICHAEL A. ANDREWS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1992

Mr. ANDREWS of Texas. Mr. Speaker, the alternative minimum tax [AMT], dramatically restructured in 1986, has had a devastating impact on capital formation and economic growth in this country. The AMT is a second layer of taxation, imposed on both individuals and corporations. The AMT significantly increases the cost of capital and reduces the amount of after-tax dollars that can be reinvested in the economy. It seems particularly inequitable that the harsh impact of the AMT is most pronounced during recessionary times when revenue decreases relative to costs. It has been estimated that between 40 and 60 percent of all U.S. businesses will pay the AMT in 1991. In essence, the AMT has become a new form of capital punishment imposed on the American people.

Today I am introducing a bill that would reduce the burden of the AMT in three significant ways. First, it would allow taxpayers who have consistently been subjected to the AMT to use accumulated minimum tax credits to reduce their current AMT liability. Currently, the credit can only be used to offset regular tax liability. This proposal is consistent with the Congress' original intent—the AMT was never intended to permanently deny the deduction of legitimate business expenses. Because of the AMT, U.S. firms paying the AMT recover their investment costs in capital assets much more slowly than do companies located in all of our major trading partners. This legislation does not change the underlying structure of the AMT, but provides targeted relief to those taxpayers that need it most.

Second, the bill would eliminate the punitive AMT treatment of intangible drilling costs [IDC] and percentage depletion—the primary ordinary and necessary business expenses of oil and natural gas producers. This vital sector of our economy has probably suffered most under the AMT. IDC's—the noncapital costs of preparing the site, drilling the well, and cleaning the drillsite afterwards—often comprise 80 percent of the cost of drilling an exploratory well and percentage depletion is critical to the maintenance of production from the over 450,000 marginal domestic properties. Under the AMT, these expenditures are often nondeductible. The AMT has literally acted as a cap on the amount of drilling taking place in this country and has been responsible in part for the collapse of the drilling rig count last week to the lowest point in recorded history. It is estimated that almost 70 percent of this country's independent oil and natural gas producers are subject to the AMT and the minority who are not are carefully monitoring their drilling activity to avoid the AMT. I believe that removing the punitive AMT treatment of these costs will remove the cap the AMT has placed on drilling and will create significant new drilling activity and jobs.

Finally, the bill would also eliminate the unfavorable tax treatment received under the AMT by costs associated with investments in assets that improve the environment. Oddly enough, as the United States has become increasingly concerned about the quality of its environment, it has simultaneously imposed significant tax disincentives on capital invested for environmental reasons. Compared with Taiwan, Singapore, Korea, Canada, and Brazil, domestic environmental investments are not a competitive use of capital. This provision would help alleviate the burden associated with environmental compliance and once again would reduce the AMT squeeze that American business is subjected to as revenues fall and costs rise.

HOMELESS RELIEF ACT OF 1992

HON. C. THOMAS McMILLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1992

Mr. McMILLEN of Maryland. Mr. Speaker, I rise today to introduce legislation which will allow the deductibility of housing donated to nonprofit groups for the housing of homeless persons. This legislation was spawned not just by the need for such a deduction, but also by the astonishment that such donated housing currently is not tax deductible.

The shortage of affordable housing in the United States is acute. In many cities today, there are waiting lists of 2 or more years for a HUD subsidized home. In some cases HUD will no longer even take names for those lists. Furthermore, the leading cause of contemporary homelessness is the lack of affordable housing.

The irony of this situation is that there exists a glut in the residential housing market. The construction industry is stagnant, real estate inventory is high, prices depressed, but still, there remains an extreme shortage of affordable housing and a growing homeless population. The irony of this situation would be comical were it not so tragic.

What I am proposing today is legislation to encourage the donation of existing housing to be used by low-income and "homeless" people. Specifically, the bill allows a taxpaying entity to deduct the fair market rental value for the lease of real or related personal property to a nonprofit organization—501(c)(3)—dedicated to providing housing for homeless families, as a cash charitable contribution deduction.

The intent of this legislation is to encourage the provision of suitable housing for low-income and homeless persons by providing a tax incentive to those who would donate the use of the dwelling, while allowing the donor to retain ultimate ownership and deduct only the value of the lease or mortgage payments. The administration and control of the property would fall to the nonprofit.

In an attempt to ensure that this tax incentive is not abused, strict guidelines have been included in the bill to ensure that the housing is used by low-income persons, and that exorbitant deductions will not be taken. A full summary of the provisions is listed below.

It is important to realize that the "homeless" refers to more than just those individuals who we see day to day on our streets. This population includes those who live in public or private shelters, squatters who live in abandoned buildings or automobiles, or those who rely upon relatives or friends for temporary shelter. Essentially, it is those who fall between the cracks.

This bill is not an ultimate solution, but it is a part of an effort to deal with an existing situation. It is a step in the right direction.

I would like to thank the people at Social Awareness For Everyone [SAFE] Inc., for their help in putting together this legislation. Without their insight and recognition of the need for this deduction, as well as their efforts in shaping the proposal, the bill may never have been introduced.

SUMMARY

(1) The Internal Revenue Service (IRS) would allow the taxpayer to deduct the value of a lease between a 501(c)(3) and the taxpayer on an annual basis for a house, apartment, condominium, or mobile home. Campers, travel trailer, motor homes, tents or any other recreational vehicles would quality for a deduction.

(2) The value of rent to be charged for a home should be sent by an individual who meets certification requirements for residential appraisers of the state in which the property is located. A donor could only deduct the value of the residence and not its surrounding land. The value of rent for furnished homes and homes specially equipped for the handicapped will be determined through appraisal.

(3) A lease value cap will be placed on any one home, regardless of its market value. This will be determined by the IRS, and will take into account regional considerations.

(4) No donor or his/her immediate family could live in a unit donated to the 501(c)(3) by that donor.

(5) Property would only be allowed to be taken as a charitable deduction after it meets all requirements for the occupancy of a housing unit of the local jurisdiction, and the lease has been executed between the donor and the 501(c)(3). It also will be exempt for local rent control laws.

(6) If a donor allows the property to go into foreclosure, no deduction in the year of said foreclosure can be taken. Any deduction already taken in that year would be subject to full recapture plus penalties.

(7) The lease donated to a 501(c)(3) corporation for housing purposes should be considered as cash for charitable contribution purposes. Further, the amount of such a deduction should be an exemption to the 50 percent adjusted gross income limitation. 100 percent should be permitted without regard to whether the income active or passive, just as the low-income housing tax credit rules are currently written.

(8) Deductions should apply to both corporate, partnership and individual taxpayers. All mortgage holders would allow a residence to be donated to a 501(c)(3) by the mortgagee, for the purpose of this lease proposal as long as the mortgage was current and remained so. Federal and/or State, insured and/or uninsured financial institutions and/or their holding companies shall not be allowed charitable tax deductions of their housing units.

(9) The 501(c)(3) will give a letter to the donor stating that monies received from the rentals of said properties will go to the furtherance of housing supplies and programs to aid the needy, whether through construction, renovation or purchasing of housing stock for the aid of low-income individuals and families in the 501(c)(3)'s area of service.

(10) Under no condition or situation could a 501(c)(3) charge a low-income person or family more than 30 percent of their adjusted gross income. 501(c)(3)'s will use HUD income guidelines in setting rents for its tenants.

(11) All out of pocket costs incurred by the donor for this proposal would be deductible in the year those expenses are made. Deductible expenses include, but are not limited to the following: attorney fees, accountant fees, real estate broker fees, real estate appraisal fees, financial consultants fees, tax practitioners fees, maintenance fees, management fees, insurance and real estate taxes, similar to current law affecting deductibility of expenses for rental properties.

TRIBUTE TO BALDASSERO "BUSTER" CELESTINO

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1992

Mr. ACKERMAN. Mr. Speaker, I rise today with particular pleasure in order to pay tribute to Mr. Baldassero "Buster" Celestino, who is to be honored this week by the entire Queens, NY, community. When I say the entire community, Mr. Speaker, I mean just that. This will not be a case of one organization or another honoring a contributor. The scope of Buster's work is far wider than that. He has touched us all. He has made all of us better people for his touch, and we are all using the opportunity of his retirement to pay our respects.

What can one say of a man who, every year, helps to organize a party in the Queens Botanical Garden for handicapped children? He has donated the use of his own catering company and catering hall for other events for the handicapped, is deputy regional director of the Order of Alhambra, dedicated to aiding the mentally retarded and serves on the Board of St. Vincent's Home for Boys. Buster Celestinc has done all these things, and still finds time to be an important business and civic leader at the same time. He has been a board member of the Flushing Council on Culture and the Arts, president of the Queens Chapter of the New York State Caterers Restaurant Association, vice president of the Astoria Civic Association, and has served with far too many other organizations to mention here.

Buster Celestino was born in Manhattan, and moved to Astoria, Queens, in 1955. It was there that he entered the restaurant business, which he has been in ever since as owner of Kneer's Golden Pheasant Caterers. The restaurant business made Buster Celestino a very successful man in conventional terms, but it was not enough for a man of his energy and compassion. Buster is someone of whom it can truly be said, that no one has ever said a bad word against him. He is always ready to extend a helping hand to friends and strangers alike, and he knew early on that he wanted to give something back to the Queens community. So he began giving his time to worthy causes, and has been giving ever since.

Buster Celestino has never asked for anything in return from Queens, and there is little that we could give him. He already has the love and devotion of his wife, Marie, and their three children. In 1989, he received the annual "COCA" Award from the Flushing Council on Culture and the Arts. This Friday, over 200 family, friends, and admirers will attend a surprise party and roast in his honor. There he will receive citations from the city council, the State assembly, the Governor of New York, and even a Papal Blessing.

I have known Buster Celestino for many years, and it has been my pleasure to work with him and profit from the experience. I believe that I can say that none of these awards and citations mean as much to Buster as the satisfaction of knowing he has helped those who needed it. Mr. Speaker, I ask all of our colleagues in the House to rise and join me in wishing Baldassero Celestino a happy retirement, and many more years of pleasure in serving the Queens community.

A CALL ON BEHALF OF SYRIAN JEWS

HON. WILLIAM J. JEFFERSON

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1992

Mr. JEFFERSON. Mr. Speaker, I rise today to call attention to an ongoing violation of the most basic human rights of Jews living in Syria. Whereas the Soviet Union has finally allowed large numbers of Jews to emigrate freely, Syria continues to keep its population of 4,000 Jews captive. In violation of the International Covenant on Civil and Political Rights, to which Syria is a signatory, Syrian Jews are denied the right to emigrate freely. Those who are granted permission to travel abroad must post an onerous monetary deposit and leave family members behind, as assurance of their return.

Syrian Jews live under effectively totalitarian conditions—under the constant surveillance of the Syrian secret police, the Mukhabarat, who closely monitor their communications, correspondence, and contacts. Those who attempt to leave the country are subject to harsh imprisonment—often without trial—and torture. Family members of Jews who have succeeded in leaving are themselves targeted for harassment, imprisonment, and torture.

During the period around March 14, we call attention to the plight of this community as we remember the case of four young Jewish women who, 18 years ago, were murdered by agents of the Syrian Government, their mutilated bodies dumped onto the doorsteps of their parents' homes. Their offense: Attempting to flee the torment, fear, and isolation of daily life as Jews in Syria.

But this barbarity is not limited to a single incident in 1974. Today, in 1992, two Jewish brothers, Eli and Selim Swed, remain in prison where they have been held since 1987. Their offense: Visiting Israel. Last June, these two men were sentenced to a 6½-year term, in addition to the 3½ they have already served. They remain in prison to this day, and have been brutally tortured while incarcerated.

As a member of the caucus on Syrian Jewry and a cosponsor of House Concurrent Resolution 188, I condemn in the strongest terms this continued violation of basic human rights by the government of President Hafez al-Assad, and I call on my colleagues in Congress, on the administration, and the international community to demand that Syria immediately grant Syrian Jews their internationally recognized rights to freedom of immigration and movement and release all Syrian Jews imprisoned for their attempts to exercise these most fundamental rights.

SYRIAN JEWRY

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1992

Mr. CARDIN. Mr. Speaker, I rise today on the occasion of Shabbat Zachor or Sabbath of Remembrance to remind the Members of this body of the terrible conditions in which the 4,000 remaining Jews in Syria must live. A climate of fear and fundamental insecurity pervades the Syrian Jewish community in Damascus, Aleppo, and Kamishli. Emigration is nearly impossible. Prior to being given permission to leave, Jews must post large, monetary deposits and leave close relatives behind to assure their return. These Jews live under constant surveillance of the Mukhabarat, secret police.

Each year, during the Sabbath of Remembrance, the Jewish people around the world are enjoined to remember the genocidal threat to the Jewish people. For several years, this Sabbath has been dedicated to the memory of four young Jewish women from Damascus who were brutally murdered in March 1974 while trying to escape from Syria. The mutilated bodies of Laura Sebbagh, Mazal Sebbagh, Farah Sebbagh, and Eva Saad were dumped in sacks outside their families' homes in Damascus. This heinous crime has gone unpunished to this day. How, in a civilized age, can it be a crime to attempt to reunite with loved ones?

Since 1987, two Jewish brothers, Eli and Selim Swed, have been held without being formally notified of the charges against them. They were recently tried in camera and sentenced to 6½ years imprisonment. Early reports indicated the two brothers were charged with espionage and accused of visiting relatives abroad, whom they had not seen for 30 years. Few other details of the trial proceedings or verdicts are known. After their sentencing, the two brothers conducted a desperate hunger strike, an unprecedented act in that country. The hunger strike has ended, but the brothers remain imprisoned.

During this Sabbath of Remembrance, Americans and particularly those of us in Congress must speak out against the human rights violations against the remaining Jews in Syria. The tragic Holocaust made it absolutely clear that men and women of good conscience must not be silent. The world's conscience must be aroused to the tragedy taking place each day in Syria.

At this historic time for peace in the Middle East, Syrian President Hafez El-Assad should show the good faith and commitment to peace by fully observing human rights for Syrian Jews.

SUPPORT HUMAN RIGHTS FOR SYRIAN JEWS

HON. TIMOTHY J. PENNY

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1992

Mr. PENNY. Mr. Speaker, I wish to raise an issue of great concern to me and many of my colleagues and constituents, the plight of Syrian Jews being deprived of their internationally recognized human rights to freedom of emigration and movement.

As a signatory to the Universal Declaration of Human Rights, Syria has committed itself to respect the rights of all citizens to emigrate freely. In practice, Syria's small, 3,600-member Jewish community, like other groups, does not have the right to change its government legally and peacefully, and cannot publicly criticize the Government for human rights violations.

Unlike other minorities, however, the passports and identity cards of Syrian Jews note their religion. Emigration from Syria is largely forbidden, but Jews in particular are signed out for additional prohibitions and restrictions. When Syrian Jews wish to leave the country, they must post an onerous monetary deposit and leave family members behind as assurance for their return. In fact, there are at present six Syrian Jews in prison for attempting to leave Syria, two of which have been incarcerated since 1987.

Syrian President Hafez al-Assad has ignored the repeated efforts of the President of the United States, the State Department, and Members of Congress to secure freedom of emigration for the Syrian Jewish community. I think the plight of Syrian Jews should be recognized in the context of the American human rights agenda. Peace in the Middle East must begin with a genuine respect for the human rights of all the peoples of the region, including the Syrian Jews.

HAZEL FRITZ: AN AMAZING PEORIAN

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1992

Mr. MICHEL. Mr. Speaker, I would like to bring to the attention of our colleagues one of my amazing constituents, Hazel Fritz.

Hazel is 63 years old and filled with the vitality and gusto of youth. She donates a large portion of her time to the Peoria Farm Bureau, sitting on the bureau board as the sole female member. Hazel is a full-time Ace Hardware employee and a devoted farmer. In her spare time she chairs the education committee for her church, and is the member of the tricounty land planning committee. She is also an election judge, a beautician, and the corresponding secretary for Dunlap High School Alumni Association. That is what I call a contribution to the community.

At this point I would like to insert into the RECORD an article from Peoria, IL, by Douglas Fruehling of the Peoria Journal Star, "Hazel Keeps on Going and Going," to further detail Hazel Fritz' outstanding work for Peoria and many others.

[From the Peoria Journal Star]

HAZEL KEEPS ON GOING AND GOING

(By Douglas Fruehling)

DUNLAP.—Hazel Fritz fidgets nervously, shifting from the edge of the back of her living room chair and clasping and loosening her hands.

She clearly doesn't enjoy sitting still for a one-hour interview.

"I'm not a person who can sit down and play cards like some people," she said. "That would drive me bananas to sit down and play cards four or five days a week."

Fritz, at 63 years old, has more energy than a restless youngster in church.

She devotes much of her time to the Peoria County Farm Bureau, where she represents Radnor Township as the only woman on the 23-member farm bureau board.

And keeping track of Fritz's other appointments, meetings and obligations is like tracking a Democratic presidential contender.

She works full time at Ace Hardware in Dunlap, a couple of miles from where she lives with her husband, Lee Fritz, 68, Hazel and Lee farm about 400 acres every year.

Then—in her spare time—she chairs the education committee for her church and serves as a member of a Tri-County land planning committee. She's also an election judge, a beautician and the corresponding secretary for the Dunlap High School Alumni Association.

About the only thing the life-long Peoria County resident and grandmother of seven has ruled out is a run for public office.

"If I was younger, I probably would," Fritz said. "But not at this point in my life."

But while she draws the line at political office, Fritz is treading where few women have ventured before. Despite her tiny frame, she stands as a tower of strength in a farm organization dominated by men.

As head of the farm bureau's state women's committee, she was an advisory member on the Illinois Farm Bureau board. When her term there expired, she ran for Radnor Township representative for the county, becoming only the second woman to hold such a position.

Her husband, who was president of the Peoria County Farm Bureau in the late '70s, encourages her involvement in the organization.

"Peoria County is one of the lowest on the totem pole for involvement of women," Lee said. "And that's a crying shame."

Fritz, who chairs the farm bureau legislative committee, keeps bureau directors up to date on bills in the legislature that affect agriculture.

She also schedules "meet-your-candidate" meetings and plans trips to Springfield for members.

"She knows what's happening politically, socially and marketing-wise," said farm bureau President Terry Baer. "She puts out a real sincere effort to accomplish what she believes in."

About 12 years ago, Hazel and Lee appeared in WMBD-TV's production of "The Twelve Days of Harvest," a short segment by farm director Colleen Callahan showing a husband and wife team working during harvest.

All this—and Fritz never even intended to enter the agriculture industry or marry a farmer.

"When I was small, I never thought I would marry a farmer because they worked too many long hours and they didn't do dinner well," she said. "But after I was married, I wouldn't trade it for anything."

VOTE FOR DEMOCRACY IN SOUTH AFRICA

HON. LUCIEN E. BLACKWELL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1992

Mr. BLACKWELL. Mr. Speaker, as 3.3 million white South Africans go to the polls today to cast unquestionably the most important vote in the nation's 350 year history, I would like to voice my disappointment at a missed opportunity by the United States.

I do not need to stand here today Mr. Speaker, and recite the ideology by which South Africans have lived, because we are all painfully aware that this nation has sustained itself on the food of racism and the drink of apartheid, a diet that has left millions of black South Africans in a state of utter poverty, pain, and conflict. To quote the President of South Africa, F.W. DeKlerk, the country has reached "a final point of no return," and will now make the decision on whether to continue white-minority rule, or to allow a "nonracial democracy" to flourish.

Here in our own country, racism and business clearly do not mix. One need look no further than a lost Superbowl for the State of Arizona who would not make Martin Luther King's birthday a national holiday, or the threat of lost business that loomed over the State of Louisiana when David Duke as Governor seemed to be a grim possibility. For these reasons, I am disheartened that our foreign policy does not reflect our beliefs and our practices here at home.

Mr. Speaker, I would like to remind my colleagues that the United States has only one major sanction still leveled against South Africa. I firmly believe, as do my constituents, that the lifting of sanctions against the nation of South Africa was entirely premature. We have sent a message—without conditions—to the white minority of South Africa, that we are satisfied with the progress thus made, even though this same minority may very well vote today to deny the black majority equal rights.

I certainly hope Mr. Speaker, as do my colleagues, that the promise of democracy will soon be realized by all South Africans, regardless of skin tone. I would hate to think however, that the premature enthusiasm shown by our Nation has undermined the possible end of minority rule in this torn, and oppressive country.

TRIBUTE TO THE GIRL SCOUT GOAL AND SILVER AWARD RECIPIENTS OF THE RIVERLAND GIRL SCOUT COUNCIL

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1992

Mr. GUNDERSON. Mr. Speaker, I rise today to recognize the members of the Riverland Girl Scout Council who will receive the Girl Scout Gold Award, the highest award bestowed by the Girl Scout Organization, and the Girl Scout Silver Award, the second highest award in Girl Scouting.

In order to earn the coveted Gold Award, senior Girl Scouts must complete interest projects designed to promote growth and knowledge in areas such as business and technology, arts and humanities, cultures and global relations, energy conservation, personal well-being, the outdoors, and the environment.

The Gold Award recognizes a senior Girl Scout's commitment to excellence as she gains the experience needed to overcome the present and future challenges in her life.

To obtain the Silver Award, cadette Girl Scouts must show a commitment to work towards a goal through use of planning and decision-making skills.

This award recognizes a cadette Girl Scout's determination and desire to learn new skills and to serve her community.

For 61 of the Girl Scouts Organization's 80-year history, the Riverland Girl Scott Council has been helping girls develop the skills and values needed to excel in life. Because of these efforts, I am confident the future of western Wisconsin is in good hands.

I extend my sincerest congratulations to these future leaders of America.

CALL FOR PEACE IN IRELAND

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1992

Mr. MAVROULES. Mr. Speaker, I rise today to honor the legacy of St. Patrick and to call on the hostile factions in Northern Ireland to bring peace to this war-torn region.

Many centuries past, St. Patrick brought Christianity to Ireland, casting out the snakes and spreading a faith based upon the commandment that "Thou shalt love thy neighbor as thyself."—Matthew 22:39.

For more than two decades, secular violence has torn Northern Ireland. The indiscriminate bombings, shootings, and other terrorist attacks are deplorable. Despite the efforts of many Irishmen and Englishmen, the conflict continues to take the lives of the innocent, both in Ireland and abroad.

Today, it is my fervent hope that the opposing factions will sit at the peace table and agree to a fair and lasting settlement to this conflict. Each side must lay down its arms and discuss the matter seriously.

Already a generation has grown to adulthood knowing only a life of bloodshed and bitterness. Each faction must recall proud Christian tradition that has marked Ireland for centuries and strive to live in peace with his neighbors, if only to offer the children of Northern Ireland the opportunity to live in a land of peace and harmony.

Using a simple, green, ubiquitous weed, St. Patrick taught the pagan tribes of Ireland that the Father, Son, and Holy Spirit could exist together as one. Let us today look to St. Patrick's symbol, the shamrock, to represent the world's hopes for Ireland: that peace tolerance, and prosperity may once again inhabit the entire isle of green.

VARIETY WEEK ON STATEN ISLAND AT THE ATRIUM

HON. SUSAN MOLINARI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1992

Ms. MOLINARI. Mr. Speaker, recently the Atrium Shopping Complex in my district has become a sponsor to Variety, the Children's Charity of New York. As a sponsor, the Atrium has offered the use of their center to raise funds for Variety, which in turn will be used for children's health projects on Staten Island.

On the evening of March 20, 1992, there will be a kick-off event declaring Variety Week on Staten Island at the Atrium. Fundraising efforts will be conducted throughout the week, concluding with a Variety telethon on April 5, 1992 on Fox TV.

Mr. Speaker, on behalf of the residents of Staten Island, I would like to thank the Atrium Shopping Complex for offering their services to this important event, and for bringing Variety, the children's charity, to Staten Island. This is an organization dedicated to raising funds to better the lives of our children, and there is nothing that could be more important or more commendable.

A TRIBUTE TO MORRIS FREEDMAN OF RANDOLPH, MA

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1992

Mr. DONNELLY. Mr. Speaker, it is with great pleasure that I rise today to pay tribute to a very special man, Morris Freedman. He is an outstanding individual who has been providing entertainment to current and former members of our Armed Forces through his humorous publication, "The Bean Press."

Mr. Freedman's creation has lifted the spirits of members of our Armed Forces since World War II, and has most recently provided tremendous support and enjoyment to our troops in the Persian Gulf. Today his publication continues to brighten the days of many disabled veterans across the country. This contribution to the morale of the men overseas and the veterans across the country should be greatly commended.

Morris Freedman sends copies of The Bean Press throughout the country and has received an overwhelming response from many branches of the Armed Forces. Colin L. Powell, chairman of the Joint Chiefs of Staff thanked him for providing "moments of levity for our men and women in Operation Desert Storm." He has received similar thanks from such distinguished military personalities as John J. Closner, major general, USAF, chief of the Air Force Reserve, and A.M. Gray, general, U.S. Marine Corps, Commandant of the U.S. Marine Corps. Victor S. McCoy, Sr., national president of the Paralyzed Veterans of America, thanked Mr. Freedman for devoting "so much time and creativity to bringing a smile and a little happiness" into the lives of veterans and military personnel across the country."

Perhaps Earl J. Kruse, international president of the United Union of Roofers, Waterproofers, and Allied Workers put it best when he said, in a letter to Mr. Freedman, "A true patriot is one that not only believes in what his country stands for * * * he also shows concern for those who share his values and ideals." Morris Freedman certainly fits that description.

The time and effort Mr. Freedman has put forth in this selfless pursuit, certainly embody the true spirit of American pride.

CELEBRATING THE SPIRIT OF VOLUNTARISM OF MS. MARIE JOE BROWNE, A 90-YEAR-OLD WONDER

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1992

Mr. HOYER. Mr. Speaker, it is with great pleasure that I recognize the great spirit of voluntarism of Ms. Marie Joe Browne who is celebrating her 90th birthday today.

Ms. Browne, by any description is not usual or ordinary, she is an extraordinary person. Her beautiful spirit and enthusiastic outlook on life make her a joy to all who surround her. Her 20 years of volunteer work at the board of education of St. Mary's County have enriched the lives of many students and employees. Ms. Browne is more than just a secretary. She is a friend and confidant to many students who love and respect her and to many adults who wonder where she gets the strength and energy to do so much when it would tire someone half her age. At 90 years of age, Ms. Browne seldom misses a day at the board of education. Ms. Browne's hard work, dedication, and spirit of volunteerism are what make all of the people of southern Maryland so proud.

In addition to her many years at the board of education of St. Mary's County, Ms. Browne is an active member of her church. She continues to play the organ every Sunday. Her love for music was enhanced and nurtured with the help of such greats as Count Basie, Louis Armstrong, and Ethel Waters; whom she worked for as a personal secretary.

Ms. Browne was born in Virginia on March 17, 1902, to parents of African-American descent. At the age of 6 Ms. Browne found hardship and sorrow when she lost both her parents. With the help of her extended family Ms. Browne refused to let the setback of her parent's untimely death hinder her or break her will to do better. This spirit of perseverance is what makes Ms. Browne such a dynamic person.

Mr. Speaker, it is with pleasure that I commend Ms. Browne for her undying perseverance, commitment, and volunteerism in guiding all who strive for excellence.